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federal register

Wednesday
January 27, 1982

Highlights

3934 **Handicapped** ATBCB amends accessibility provisions for public telephones. (Part II of this issue)

3939 ATBCB proposes minimum guidelines and requirements for Federal and federally-funded buildings and facilities. (Part II of this issue)

3905 **Treasury Notes** Treasury announces interest rate on Series N–1984.

3763 **Natural Gas** DOE/FERC issues incremental pricing acquisition cost thresholds.

4022 **Budget Rescissions and Deferrals** OMB issues report to the President. (Part IV of this issue)

4016 **Public Health** HHS/PHS issues regulations on abortion services provided by the Indian Health Service. (Part III of this issue)

3821–3823 **Grant Programs—Education** ED seeks applicants for new projects under Challenge, Special Needs, and Strengthening Programs. (3 documents)

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Kuwait Airways Corp.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Kuwait Airways Corporation to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: December 21, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with Kuwait Airways Corporation on December 21, 1981 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

This agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendments merely make editorial changes to the listing of transportational lines.

In accordance 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, 8 CFR Part 238 is amended as follows:

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by:

1. Adding in alphabetical sequence, "Kuwait Airways Corporation."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: January 21, 1982.

Alan C. Nelson,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 82-1978 Filed 1-26-82; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 82-008]

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Area Quarantined; Orange County, Calif.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Orange County in California because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Orange County in California on January 18, 1982. Therefore, in order to prevent the dissemination of exotic Newcastle disease, it is necessary to quarantine the affected area.

EFFECTIVE DATE: January 21, 1982.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Energency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." Also, the emergency nature of this action makes it impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule.

The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. J. K. Atwell, Deputy Administrator, USDA, APHIS, VS, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. This amendment is necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health

Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because the quarantine imposed due to the existence of exotic Newcastle disease affects only one premises, and that premises is not owned by a small entity.

This amendment quarantines a portion of Orange County in California because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, new paragraph (c)(3) is added to read:

§ 82.3 Imposition and removal of quarantine.

* * * * *

(c) * * *

* * * * *

(3) *California.* (i) The premises of John Nichol, 8581 Bayonne Drive, Huntington Beach, Orange County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141))

Done at Washington, D.C., this 21st day of January 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-2069 Filed 1-26-82; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1262

Implementation of the Equal Access to Justice Act in Agency Proceedings

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule with request for comment.

SUMMARY: This regulation implements the Equal Access to Justice Act (Pub. L. 96–481, 94 Stat. 2325) requirement for procedures for the award of fees in administrative proceedings, and is based on the final model regulations of the Administrative Conference of the United States (46 FR 32900, June 25, 1981). Comments which have been considered by the Administrative Conference should not be resubmitted in commenting on this Agency's regulations; rather, the comments should be limited to the particular situation of the National Aeronautics and Space Administration (NASA) as specified in the rules.

DATES: Interim rule effective October 1, 1981. Comments must be submitted in writing on or before February 26, 1982.

ADDRESS: Office of General Counsel, Code GS–1, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Richard J. Wieland or Sara Najjar, Telephone (202) 755–3920.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act authorizes, in pertinent part, the award of attorney fees and other expenses to eligible parties who prevail against the United States in Agency proceedings which are adversary adjudications—proceedings under 5 U.S.C. 554 of the Administrative Procedure Act, in which the position of the Agency is represented by counsel or otherwise. The Act becomes effective October 1, 1981, and applies to adversary adjudications pending at anytime between October 1, 1981, and September 30, 1984.

E.O. 12291 Federal Regulation

The Administrator has determined that this is not a major rule for the purposes of Executive Order 12291 (46 FR 13193, February 19, 1981).

Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980, 5 U.S.C. 601 et seq.).

The Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

14 CFR is amended by adding a new Part 1262, reading as follows:

PART 1262—EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart 1261.1—General Provisions

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1262.305 Settlement.
1262.306 Further proceedings.
1262.307 Decision.
1262.308 Agency review.
1262.309 Judicial review.
1262.310 Pay of award.

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (Oct. 21, 1980)—5 U.S.C. 504; Sec. 203(c)(1) of the National Aeronautics and Space Act of 1958, as amended—42 U.S.C. 2473(c)(1).

Subpart 1262.1—General Provisions

§ 1262.101 Purpose of these rules

The Equal Access to Justice Act, 5 U.S.C. 504 (hereinafter "the Act") provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications"). An eligible party may receive an award when it prevails, unless the Agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the National Aeronautics and Space Administration (NASA) will use in determining awards.

§ 1262.102 When the act applies.

The Act applies to any adversary adjudication pending before NASA (hereinafter "Agency") at any time between October 1, 1981, and September 30, 1984. This includes proceedings begun before October 1, 1981, if final Agency action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final Agency action occurs. It does not include proceedings which are covered by a compromise or settlement agreement.

§ 1262.103 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Agency. These are adjudications under 5 U.S.C. 554 in which the position of NASA or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Any proceeding in which this Agency may prescribe a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise adversary adjudications. At this time, the Agency has no proceedings within the Act's ambit. A 30-day notice in the **Federal Register** will be issued for any prospective proceeding to be governed by this part.

(b) NASA may also designate a proceeding as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The Agency's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§1262.104 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses the applicant must be a party to the adversary adjudication for which an award is sought. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart 1262.2.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§1262.105 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency, which may avoid an award by showing that its position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§1262.106 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available, without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which this Agency pays expert witnesses, which is $20 an hour (2 hours maximum) or maximum daily rate of $100.00 (three days maximum). However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the adjudicative officer shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar service, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the application;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 1262.107 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special

circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Agency may adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in some or all of the types of proceedings covered by this part. This Agency will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act (5 U.S.C. 553).

(b) Any person may file with the Agency a petition for rulemaking to increase the maximum rate for attorney fees. The petition should be addressed to the General Counsel, NASA Headquarters, Washington, D.C. 20546; should identify the rate the petitioner believes the Agency should establish and the types of proceedings in which the rate should be used; and should also explain fully the reasons why the higher rate is warranted. The Agency will respond to the petition within 60 days after it is filed, by initiating a rulemaking proceeding or denying the petition, or taking other appropriate action.

§ 1262.108 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before NASA, the award or an appropriate portion of the award shall be made against that agency if it had taken a position that is not substantially justified.

§ 1262.109 Delegation of authority.

(a) The NASA Administrator hereby delegates authority to the General Counsel or his/her designee to take final action on matters pertaining to the Act.

(b) The NASA Administrator may, in particularly specified matters under the Act, delegate authority to officials other than those listed in paragraph (a) of this section.

Subpart 1262.2—Information Required From Applicants

§ 1262.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if the applicant:

(1) Attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) States that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expense for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this Agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty or perjury that the information provided in the application is true and correct.

§ 1262.202 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1262.104(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficent to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The materials in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Agency's regulations under the Freedom of Information Act, at 14 CFR Part 1206.

§ 1262.203 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement, accompanied by an oath or affirmation under penalty of perjury (28 U.S.C. 1746), shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount paid or payable by the applicant or by any other person or entity for the services provided. The adjudicative officer may, in addition, require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 1262.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Agency's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final

disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the latter of (1) the date on which the adjudicative officer's initial decision or other recommended disposition of the merits of the proceeding is issued; (2) the date on which an order is issued disposing of any petitions for reconsideration; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) the date of a final order or any other final resolution of the proceeding, such as a settlement or a voluntary dismissal, which is not subject to a petition for reconsideration.

Subpart 1262.3—Procedures for Considering Applications

§ 1262.301 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 1262.202(b) for confidential financial information.

§ 1262.302 Answer to application.

(a) Within 30 calendar days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believes that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 calendar days, and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1262.306.

§ 1262.303 Reply.

Within 15 calendar days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1262.306.

§ 1262.304 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 calendar days after it is served or on an answer within 15 calendar days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 1262.305 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 1262.306 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary to full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 1262.307 Decision.

The adjudicative officer shall issue an initial decision on the application within 90 calendar days after completion of proceedings on the application. The decision shall include written findings and conclusions on such of the following as are relevant to the decision: (1) The applicant's eligibility and status as a prevailing party; (2) whether the Agency's position was substantially justified; (3) whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust; and (4) the amounts, if any, awarded for fees and expenses with an explanation of the reasons for any difference between the amount requested and the amount awarded. Further, if the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 1262.308 Agency review.

(a) Within 30 calendar days of the receipt of the adjudicative officer's initial decision on the fee application, either the applicant or agency counsel may seek reconsideration of the decision; or, the NASA Administrator, upon the recommendation of the General Counsel, may decide to review the decision based on the record. Whether to review a decision is solely a matter within the discretion of the NASA Administrator. A 15-day notice of such review will be given the applicant and agency counsel, and a determination made not later than 45 days from the date of notice. The Administrator may make a final determination concerning the application or remand the application to the adjudicative officer for further proceedings.

(b) If neither the applicant nor agency counsel seek reconsideration, and the NASA Administrator does not on his/her own initiative take a review, the adjudicative officer's initial decision on the fee application shall become a final decision of the Agency 45 days after it is issued.

§ 1262.309 Judicial review.

Judicial review of final Agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 1262.310 Payment of award.

(a) An applicant seeking payment of an award shall submit to the paying agency a copy of the Agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The submission to NASA should be addressed as follows: Director, Financial Management Division, NASA Headquarters, Washington, D.C. 20546.

(b) Subject to the availability of funds appropriated for this purpose, the

Agency will pay the amount awarded to the applicant within 60 days, if feasible, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

James M. Beggs,

Administrator.

January 7, 1982.

[FR Doc. 82-1979 Filed 1-26-82; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: On September 15, 1981, at 46 FR 45890, the National Oceanic and Atmospheric Administration (NOAA) issued regulations, effective October 15, 1981, to implement certain provisions of the Deep Seabed Hard Mineral Resources Act (Pub. L. 96-283, "the Act"). NOAA reserved Subpart C at that time in order to ensure compatibility between domestic and international seabed mining procedures. This rulemaking is meant to notify potential applicants that, despite the fact that Subpart C is incomplete, NOAA will begin accepting license applications for deep seabed mining exploration from pre-enactment explorers on January 25, 1982. The remainder of Subpart C will be published upon the completion of an international seabed mining agreement.

EFFECTIVE DATE: This rule is effective on January 25, 1982.

ADDRESS: Inquiries, applications and other supporting documents should be directed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235, Telephone: (202) 653-7695.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Room 410, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235. Telephone: (202) 653-7695.

SUPPLEMENTARY INFORMATION: 15 CFR Part 970, Subpart C, which will set forth rules pertaining to dates and procedures for the filing of deep seabed mining pre-enactment explorer and initial new entrant applications and for resolving conflicts between overlapping applications, involves issues which are currently being considered by the U.S. and other seabed mining nations likely to become "reciprocating states" under section 118 of the Act. NOAA had previously reserved Subpart C when it published the rest of its final regulations (46 FR 45890, September 15, 1981), because of its desire to adopt final domestic regulations addressing the above matters which would be compatible with the equivalent concepts and procedures ultimately agreed to by the other seabed mining nations. Although a reciprocating states agreement is nearly complete, NOAA does not wish to publish the final version of Subpart C until the final draft of the international agreement has been agreed upon. However, because of the progress made in the international discussions, NOAA has decided to begin accepting applications from pre-enactment explorers for licenses to engage in deep seabed mining exploration activities as of 8:30 a.m. EST on January 25, 1982. NOAA anticipates that, following the conclusion of the reciprocating states agreements, applications seeking a pre-enactment explorer priority of right will not be accepted after 5:00 p.m. EST on February 19, 1982, or such later date as the Administrator may establish based on the status of the reciprocating states negotiations. Under such a procedure, all applications submitted during this time period will be deemed to have been filed at 5:00 p.m. EST on February 19, 1982, or such later date established by the Administrator, for the purpose of determining pre-enactment explorer priorities of right.

Classification Under Executive Order 12291

NOAA determined that the overall regulations for deep seabed mining exploration should be considered as major under Executive Order 12291 of February 17, 1981, because they will foster and govern development of the United States deep seabed mining industry. Thus, NOAA prepared a final regulatory impact analysis for the regulations, pursuant to section 3 of the Executive Order, which was transmitted to the Office of Management and Budget. The Administrator of NOAA determined that these final rules are clearly within the authority delegated by law and are consistent with Congressional intent. The rules are authorized by section 308 of the Act, and respond to specific provisions or requirements found in sections 101 through 118 of Title I of the Act.

Since the final regulatory impact analysis has already considered the criteria and procedures relating to pre-enactment explorers found in Subpart C and since Subpart C is only a small part of the deep seabed mining regulations, NOAA further has determined that, under the criteria in section 1(b) of the Executive Order, this Subpart C, alone, is not a major regulation.

The final regulatory impact analysis was done in such a way as to include a final regulatory flexibility analysis as required by the Regulatory Flexibility Act, Pub. L. 96-354. Copies of the analysis may be obtained by writing to the Director, Office of Ocean Minerals and Energy, NOAA, at the address specified in the ADDRESS section of this preamble.

Paperwork Reduction Act, Pub. L. 96-511

Because of the limited number of persons initially subject to the regulations (historically there have been four consortia with U.S. companies participating which are involved in deep seabed mining development, and these four are expected to apply to NOAA for exploration licenses), NOAA believes the regulations do not contain "collection of information" requests within the meaning of 44 U.S.C. 3502(4) and 3502(11). Accordingly, § 970.906 of the final regulations, issued on September 15, 1981, contains a statement that the information requested is not subject to the requirements of 44 U.S.C. 3507. NOAA plans to review these regulations periodically, and to revise them if necessary based on that review. During the review, or earlier if necessary, NOAA will review its projections of the expected number of license applications and take any actions necessary under the Paperwork Reduction Act on that basis.

Environmental Impact Statement

Pursuant to section 109(c) of the Act and the National Environmental Policy Act of 1969, NOAA has prepared a final programmatic environmental impact statement (PEIS) assessing the environmental impacts of exploration and commercial recovery in the area of the oceans in which such activities by any United States citizen will likely first occur under the authority of the Act. The PEIS has been filed with the Environmental Protection Agency. Copies may be obtained by writing the Director, Office of Ocean Minerals and

Energy, NOAA, at the address specified in the ADDRESS section of this preamble.

EFFECTIVE DATE: In order that U.S. pre-enactment explorers be allowed to file applications in a timely manner compared to pre-enactment explorers filing applications with foreign governments likely to become reciprocating states under § 118 of the Act, and in order to allow compatibility with the schedule for processing pre-enactment explorer applications as agreed to by the United States Government and the governments of prospective reciprocating states, and for other foreign policy reasons, procedures in this Subpart C must become effective immediately. Accordingly, NOAA finds that good cause exists under 5 U.S.C. 553(d) to make these regulations effective on January 25, 1982.

Dated: January 22, 1982.

John V. Byrne,

Administrator.

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

Accordingly, a new Subpart C is added to Title 15, Part 970 of the Code of Federal Regulations. The text of Subpart C follows:

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980; Resolution of Conflicts Among Overlapping Applications; Applications by New Entrants

§ 970.300 Applications seeking pre-enactment explorer priority of right.

(a) On January 25, 1982 at 8:30 a.m. EST, the Administrator will begin accepting, at the address specified in § 970.200(b), applications, based on pre-enactment exploration, for licenses to conduct deep seabed mining exploration activities.

(b) The Administrator anticipates that applications seeking a pre-enactment explorer priority of right for issuance of a license will not be accepted after 5:00 p.m. EST on February 19, 1982 (or such later date and time as the Administrator may establish following the conclusion of reciprocating states agreements reached pursuant to section 118 of the Act).

(c) All applications submitted to the Administrator at or after 8:30 a.m. EST on January 25 and at or before 5:00 p.m. EST on February 19, 1982, (or such alternative closing date and time established by the Administrator pursuant to paragraph (b) of this section), will be deemed to have been filed at 5:00 p.m. EST on February 19, 1982 (or on the above alternative closing date) for the purpose of establishing a pre-enactment explorer priority of right.

(d) Prospective applicants are advised that, following the conclusion of the reciprocating states arrangements now under negotiation, the Administrator will issue additional regulations applicable to the filing of applications seeking a pre-enactment explorer priority of right.

(30 U.S.C. 1401 et seq.)

[FR Doc. 82-2155 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Issued: January 21, 1982.

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978, Docket No. RM79-14; order of the Director, OPPR.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(l) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of February 1982 is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental pricing threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.818	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.785	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.898	1.915	1.929	1.943
130 Pct of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.500
Calendar Year 1981												
Incremental pricing threshold	$1.891	$1.908	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA section 102 threshold	2.687	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA section 109 threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 Pct of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.660	8.700	8.930	9.000

TABLE I—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES—Continued

	January	February	March	April	May	June	July	August	September	October	November	December
					Calendar Year 1982							
Incremental pricing threshold	$2.057	$2.071										
3.003NGPA section 102 threshold	3.003	3.033										
NGPA section 109 threshold	2.128	2.143										
130 Pct of No. 2 fuel oil in New York City threshold	9.190	9.340										

[FR Doc. 82-1980 Filed 1-26-82; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2025-3]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rule.

SUMMARY: The purpose of today's rulemaking is to announce final approval of a revision to Rule 336.1220 in Michigan's State Implementation Plan (SIP). Michigan has requested approval of its revision to Rule 336.1220 which requires offsets in ozone nonattainment areas to exempt nonreactive volatile organic compounds identified by EPA. In addition, Michigan has revised R336.1220 to clarify its policy on the use of emission offsets in the southeast Michigan ozone nonattainment area. The basis for this rule change is EPA's policy allowing exemptions of nonreactive volatile compounds from control requirements.

EFFECTIVE DATE: This action will be effective on March 29, 1982, unless notice is received within 30 days that someone wishes to submit critical or adverse comments.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: On July 22, 1980, EPA published a notice in the **Federal Register** (45 FR 48941) announcing its determination that several halogenated organics had negligible reactivity in terms of photochemical ozone production. EPA stated that as a result of this determination, it need not approve or enforce controls on these compounds as part of a federally enforceable ozone State Implementation Plan (SIP). On September 1, 1981, the State of Michigan, pursuant to EPA's notice of July 22, 1980, submitted a revision to its Rule 336.1220, which requires emission offsets in ozone nonattainment areas to exempt those compounds listed in EPA's notice. The revised R336.1220 was approved by the Michigan Air Pollution Control Commission (Commission) on July 21, 1981, and became effective August 21, 1981. R336.1220 contains the following elements:

(1) A provision that prohibits the use of a nonreactive compound at an existing source as an emission offset for the installation of a source which would emit reactive volatile organic compounds;

(2) Exemptions of the same organic compounds listed in the July 22, 1980 (45 FR 48941) notice, and

(3) A provision that prior to start-up of the proposed construction, a reduction (offset) of the total hourly and annual volatile organic compound emission from existing sources equal to 110 percent of allowed emissions for the proposed equipment shall be provided. The emission offset for a source locating in Wayne, Oakland, Macomb, St. Clair, Washtenaw, Livingston, and Monroe Counties (those in the southeast Michigan ozone nonattainment areas) shall be secured from sources in any of those counties. The emission offset for a source locating in any other ozone nonattainment county may be secured from any ozone nonattainment county in Michigan, except Wayne, Oakland, Macomb, St. Clair, Washtenaw, Livingston, and Monroe Counties. The purpose of this change is to clarify the intent that emission offset for new sources in these seven county areas may be obtained from any of those counties, not just the county where the new source is locating.

In addition, R336.1220(e)(x) permits the commission to exempt any other volatile compound which can be demonstrated to be nonreactive in the formation of ozone. Any exemption obtained pursuant to (e)(x) must be submitted to EPA as a SIP revision.

EPA takes action today to approve amended R336.1220 as a revision to the federally approved Michigan SIP. Approval of the revisions to R336.1220 will not interfere with attainment and maintenance of the ozone National Ambient Air Quality Standards. EPA believes that this action is a noncontroversial rulemaking, since the revised rule simply affirms a State action. This action will be effective March 29, 1982. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a new rulemaking will propose this action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that approvals of SIPs under section 110 or 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Today's action approves a State action for Michigan R336.1220 under Section 110 of the Act. It imposes no requirements beyond those which the State has already imposed.

This regulation was exempted from review by the Office of Management and Budget (OMB) under Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of January 27, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal

proceeding brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director of Federal Register on July 1, 1981.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(44) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(44) On September 1, 1981, the State of Michigan, Department of Natural Resources (MDNR) submitted to USEPA a revision to its R336.1220 requiring offsets in ozone nonattainment areas to exempt the same compounds listed in EPA's Federal Register of July 22, 1980 (45 FR 48941). The revised R336.1220 also allows offsets of emissions for new sources in any of the seven counties in the southeastern Michigan ozone nonattainment area to be obtained from any of those counties, not just the county in which the new source is locating (Wayne, Oakland, Macomb, St. Clair, Washtenaw, Livingston, and Monroe).

[FR Doc. 82-2093 Filed 1-26-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2024-7]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In the October 26, 1981, Federal Register (46 FR 52140), EPA proposed to approve a revision to the Michigan State Implementation Plan (SIP) in the form of a Consent Order (07–1981) issued by the Michigan Air Pollution Control Commission (Commission) for the Boulevard Heating Plant of Detroit Edison. The Consent Order provides for a reduction in total daily particulate emissions from the plant's four coal-fired boilers. No public comments were received on EPA's proposed rulemaking. The purpose of today's notice is to announce final approval of this revision to the Michigan SIP.

EFFECTIVE DATE: This final rulemaking is effective on February 26, 1982.

ADDRESSES: Copies of these SIP revisions are available for review at the following addresses:

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On May 1, 1981, the State of Michigan submitted Consent Order 07–1981 for the Boulevard Heating Plant of Detroit Edison as a revision to the Michigan SIP. The submittal was submitted in accordance with Michigan's commitment to develop abatement orders for sources contributing to violations of the particulate standards in the Detroit nonattainment area (45 FR 29790). The Boulevard Heating Plant is located in the City of Detroit, Wayne County, and is a small part of a Detroit Edison grid that supplies steam to various institutions. The plant contains four coal-fired boilers and is located within the Detroit primary nonattainment area.

Michigan's amended Rule 336.1331 restricts the Boulevard Heating Plant to a particulate emission limit of 0.45 pounds of particulate per 1000 pounds flue gas or an equivalent of 410 tons per year. Consent Order 07–1981 represents a site-specific variance from Rule 336.1331(d) of the federally approved SIP and provides an emission reduction schedule for the Plant by restricting its operation. The Boulevard Heating Plant can satisfy the required emission limitation of 410 tons per year contained in Rule 336.1331 of the Michigan SIP and yet retain its previous emission rate of up to 0.65 pounds particulate per 1000 pounds of flue gas while it is in operation. The overall effect is to reduce the plant's current actual emission rate from 410 tons per year to 10 tons per year. The Boulevard plant will satisfy the reasonably available control technology (RACT) requirement by restricting its operation rather than by installing add-on control equipment.

On October 26, 1981, Federal Register (46 FR 52140) EPA proposed approval of Consent Order 07–1981 for the Boulevard Heating Plant as a revision to the Michigan SIP. No public comments were received. EPA has reviewed Consent Order 07–1981 and determined that this SIP revision does not interfere with attainment and maintenance of the particulate standards in the Detroit area by the December 31, 1982 statutory deadline. Therefore, EPA approves Consent Order 07–1981 for the Boulevard Heating Plant as part of the Michigan SIP.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator on January 27, 1981, (46 FR 8709) certified that approvals of SIPs under Section 110 or 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Because this final action approves a State action taken pursuant to Sections 110 and 172 of the Clean Air Act, it falls within this certification. Further, it imposes no new requirements beyond those which the State has already imposed.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director of Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act)

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(48) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(48) On May 1, 1981, the State of Michigan, Department of Natural

Resources (MDNR) submitted Consent Order 07–1981 for the Boulevard Hearing Plant of Detroit Edison located in the City of Detroit, Wayne County. The Consent Order represents a site-specific variance from Rule 336.1331(d) by allowing the plant to continue emitting particulates at its current 0.65 pounds per 1000 pounds of flue gas, but restricting its operation and total particulate emissions in order to meet the required 410 tons of particulate per year emission limit. Under this Order the plant is now limited to 10 tons per year of particulate emissions.

* * * * *

§ 52.1175 [Amended]

2. Section 52.1175(e) (table) is amended by adding a compliance schedule for the Boulevard Heating Plant.

MICHIGAN

Source	Location	Regulations involved	Date schedule adopted	Final compliance
		Wayne County		
Boulevard Heating Plant	Wayne County	R336.1331	Apr. 28, 1981	Dec. 31, 1982.

[FR Doc. 82–2063 Filed 1–26–82; 8:45 am]
BILLING CODE 6560–38–M

40 CFR Part 52

[A–6–FRL 2029–7]

Approval and Promulgation of Revisions to Texas State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 11, 1973, the Governor of Texas, after adequate notice and public hearing, submitted a revision to the Texas Air Pollution Control Implementation Plan (SIP). The submission concerned a revision to General Rule 9—Sampling, of the Texas SIP, which requires sampling of air emissions by any source in the State if requested by the Texas Air Control Board (TACB). This notice approves Texas' revision to General Rule 9 and amends 40 CFR 52.2270.

EFFECTIVE DATE: This rulemaking will be effective on March 29, 1982, unless notice is received by February 26, 1982, that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to J. Ken Greer, Jr. of the EPA Region VI Air Programs Branch (address below). Copies of the materials submitted by Texas may be examined during normal business hours at the following locations:

EPA, Region 6, Library, 1201 Elm Street, Dallas, Texas 75270.
EPA, Public Information Reference Unit, Library Systems Branch, 401 M Street SW., Washington, D.C. 20460.
The Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, Jr., State Implementation Plan Section, Air & Waste Management Division, EPA, Region VI, 1201 Elm Street, Dallas, Texas, 75270, (214) 767–1518, FTS 729–2742.

SUPPLEMENTARY INFORMATION:

I. Background

On December 11, 1973, the Governor of Texas submitted to EPA a revision to the State's SIP which revised General Rule 9—Sampling. The revised Rule 9 requires sampling of air emissions from any source in Texas if requested by the State agency. The revised rule is more specific than before in that sampling is required by any source upon request by TACB to determine opacity, rate, composition, and/or concentration of emissions. The sources which conduct sampling are required to attest to and report results to TACB, and are required to keep the test results on file for at least five years after the sampling. The revised Rule 9 also allows a source to request approval from TACB of alternative sampling techniques other than those specified by TACB.

The State submitted to EPA on October 7, 1976 additional information which addressed the applicability of the revised Rule 9 in relation to revised EPA requirements for monitoring of point source emissions. The October 7, 1976 letter clarified that the revised Rule 9 did include the authority for the State to require continuous emission monitoring and reporting by sources as required by EPA in regulations published on October 6, 1975 (40 FR 46247).

II. Approval of SIP Revision

EPA has reviewed Texas' revision to General Rule 9 and has prepared an Evaluation Report which is available for public review at the locations listed in the ADDRESSES section of this notice. The State's submission includes validation that a public hearing was held and adequate time was allowed for public comment. EPA's review of the State's revision to General Rule 9 indicates that the revision meets the requirements of 40 CFR 51.19 by providing for legally enforceable procedures for requiring owners or operators of sources to monitor and report to the State sampling data on the emissions from the sources. In addition, the revised rule authorizes the TACB to require periodic testing of sources and requires the sources to maintain files of all monitoring information. The Texas revised Rule 9 meets EPA requirements for a source surveillance regulation and the State submittal includes the necessary information for approval of the SIP revision.

EPA's Actions

EPA approves the SIP revision as submitted by Texas which revises General Rule 9—Sampling of the Texas Air Pollution Control Implementation Plan.

The public should be advised that this action will be effective 60 days from the date of publication (March 29, 1982). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the

appropriate circuit within 60 days of the date of publication (March 29, 1982). Under section 307(b)(2) of the Clear Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that this notice will not have a significant economic impact on a substantial number of small entities since it imposes no new regulatory requirements. This action only approves a revision to an existing State regulation.

Note.—Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Office of the Federal Register on July 1, 1981.

(Sec. 110(a) of the Clean Air Act, as amended 42 U.S.C. 7410(a))

Dated: January 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding Subparagraph (33) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(33) A revision to General Rule 9—Sampling, as adopted by the Texas Air Control Board on October 30, 1973, was submitted by the Governor on December 11, 1973.

[FR Doc. 82-2082 Filed 1-26-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 60

[AD-FRL-1890-1]

Standards of Performance for New Stationary Sources; Stationary Gas Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 10, 1979, EPA promulgated a new source performance standard (NSPS) limiting atmospheric emissions of NO_x from stationary gas turbines (44 FR 52792). On April 15, 1981, as a result of petitions for reconsideration submitted by Dow Chemical Company, PPG Industries, Inc., and Diamond Shamrock Corporation (Dow, et al.), EPA proposed (46 FR 22005) to revise the standard for stationary gas turbines by rescinding the NO_x emission limit for large gas turbines in industrial use and pipeline gas turbines (used in oil and gas transportation or production) located in metropolitan statistical areas (MSA's).

As a result of public comments, EPA is rescinding the NO_x emission limit for large (>30 MW) industrial gas turbines and is including an NO_x emission limit of 150 ppm based on the use of dry control technology for gas turbines in industrial use and pipeline gas turbines of 30 MW or less for which construction, reconstruction, or modification is begun after today's date. This notice also adds an exemption from the 150 ppm NO_x emission limit for regenerative cycle gas turbines with a heat imput less than 107.2 gigajoules per hour (100 million Btu/hr) and an exemption for all gas turbines when they are using an emergency fuel.

EFFECTIVE DATE: January 27, 1982.

Under section 307(b)(1) of the Clean Air Act, judicial review of this revision of a new source performance standard can be initiated *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: *Docket.* A docket, number A-81-10, containing information used by EPA in development of the promulgated revision is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5578.

SUPPLEMENTARY INFORMATION:

The Standards

The proposed revision to the new source performance standard published in the April 15, 1981 **Federal Register** would have rescinded the NO_x emission limit of 75 ppm promulgated in the September 10, 1979, **Federal Register** for (1) industrial gas turbines having a heat input greater than 107.2 gigajoules per hour (100 million Btu/hr or approximately 7.5 MW), and (2) pipeline gas turbines in metropolitan areas with a heat input greater than 107.2 gigajoules per hour. Industrial gas turbines are characterized as having less than one-third of their rated electrical output sold to a utility power distribution system. The 75 ppm standard was based on the use of wet controls to reduce NO_x emissions.

This promulgation rescinds the NO_x emission limit for industrial and pipeline turbines with a base load (normal operating load as opposed to peak load) greater than 30 megawatts (MW) and revises the NO_x emission limit from 75 to 150 ppm for the turbines mentioned above with a base load equal to or less than 30 MW. This promulgation also exempts turbines subject to the 150 ppm limit from the NO_x standard when emergency fuel is used and also exempts all regenerative cycle gas turbines having a heat input less than or equal to 107.2 gigajoules per hour (100 million Btu/hour) from the 150 ppm NO_x standard. The rationale for these changes to the proposed revision is contained in the section of this preamble entitled *Significant Comments and Changes to the Proposed Revision.*

Public Participation

The revision was proposed April 15, 1981, in the **Federal Register**. The proposed revision requested public comments and also provided the opportunity for a public hearing. The public comment period extended from April 15, 1981, to May 15, 1981.

Twelve comment letters were received, but a public hearing was not requested. These comments have been carefully considered; and where determined to be appropriate by the Administrator, changes have been made to the standards of performance.

Significant Comments and Changes to the Proposed Regulation

Comments on the proposed revision to the standard were received from electric utilities, chemical companies, oil and gas producers, gas turbine manufacturers, and private citizens.

One commenter stated that since pipeline turbines operate continuously regardless of location, the NO_x emission limit should be rescinded for all such turbines.

The standards of performance as promulgated on September 10, 1979, required pipeline turbines operated in metropolitan areas to meet an NO_x emission limit of 75 ppm (based on wet controls) and permitted the same

turbines operated outside metropolitan areas to meet an NO_x emission limit of 150 ppm (based on dry controls). The difference in emission limits was intended to accommodate a potential lack of water for wet controls on pipeline turbines in rural areas.

The April 15, 1981, proposed revision to the standard would have rescinded the 75 ppm NO_x emission limit for all industrial turbines and pipeline turbines located in metropolitan areas. The proposed rescission had been based on uncertain and possible adverse economic consequences of using wet control systems on turbines with long-term continuous operating requirements at or near maximum capacity. Dow et al. claimed that operation at or near maximum capacity for one year or more between internal inspections is required in industrial applications. They also claimed that shutdown several times a year for inspection or maintenance causes unacceptable economic consequences. These considerations also apply to pipeline turbines.

There was no suggestion in the comments received, nor is there any reason to believe, that the use of dry controls (which requires a different combustor design) would have any adverse impact on the maintenance of industrial or pipeline turbines. Dry control systems have achieved an NO_x emission limit of 150 ppm on turbines of a size less than 30 MW and would add little to the capital and operating costs if required for all turbines in this size range. The 150 ppm emission limit on these turbines with dry control technology is supported by data contained in the original standard support and environmental impact statement (EPA–450/2–77–017a), by recent information obtained from gas turbine manufacturers, and by recent emission tests of turbines in the field. In the tests five gas turbines, ranging in size from about 9 to 16.5 MW and using dry controls, emitted approximately 40 to 80 ppm NO_x.

The Agency has no test data showing that the 150 ppm NO_x emission limit has been achieved by dry controls when installed on industrial turbines greater than 30 MW and for that reason did not propose an NO_x emission limit of 150 ppm based on dry controls in the April notice.

EPA did not propose an NO_x emission limit of 150 ppm for industrial turbines less than 30 MW or pipeline turbines less than 30 MW in metropolitan areas in the April notice. This created an inconsistency, based on location of the turbine, which is not justifiable. Accordingly, the standard is being promulgated to require all industrial and pipeline turbines with outputs less than 30 MW to achieve an NO_x emission limit of 150 ppm.

Since industrial and pipeline turbines in MSA's were required by the September 10, 1979, promulgation to apply water injection technology, some operators may have to equip these turbines with new combustors if they want to discontinue water injection and still meet the 150 ppm NO_x standard now required. Because of the potentially high cost of new combustors, this promulgated revision exempts from complying with an NO_x emission limit all pipeline turbines inside MSA's and industrial turbines less than or equal to 30 MW, which were constructed, modified, or reconstructed between October 3, 1977 (the proposal date of the original standard), and today's date. Turbines in this size range constructed, modified, or reconstructed after today's date must achieve an NO_x emission limit of 150 ppm.

The standards of performance for gas turbines as promulgated required all gas turbines between 10.7 and 107.2 gigajoules per hour that were constructed, modified, or reconstructed after October 3, 1982, to achieve an NO_x emission limit of 150 ppm. Today's promulgated revision has no impact on this requirement.

One commenter felt that if nitrogen oxide controls are not required for large industrial turbines, which operate continuously at or near maximum capacity, then they should not be required for electric utility turbines, which operate less and emit less nitrogen oxides. The commenter stated that if nitrogen oxide controls were not needed on a full-time turbine, then there appears to be even less need for use on a part-time turbine.

The 75 ppm NO_x emission limit for industrial and pipeline turbines inside MSA's was not rescinded because of the lack of environmental benefit from controlling them. Instead, the rescission was based on the uncertain impacts on maintenance of the turbines and possible adverse economic consequences.

The NO_x emission limit was not rescinded for utility gas turbines because wet control systems have been demonstrated to achieve the 75 ppm NO_x emission limit and because utilities do have the opportunity to shut down their turbines several times a year for inspection and maintenance.

Another commenter stated that base load utility gas turbines should be exempted from having to meet an NO_x emission limit since these turbines may be required to operate for one year or more between internal inspections.

The EPA position is that unlike utility turbines, industrial turbines in some instances may represent the sole primary energy source for a major industrial process. Such a turbine could not be shut down more frequently without an unacceptable economic consequence. The unacceptable economic consequence could be that an entire plant or process depends on the continuously running gas turbine. This is not the case for utility turbines, however, since other electric generators on the grid can restore lost capacity caused by turbine down time. Inspection and maintenance can be scheduled for a low load period when full generating capacity is not needed. Since inspection and maintenance of continuously running utility turbines is not economically unreasonable, the NO_x emission limit for these turbines has not been rescinded.

Another commenter stated that the action to rescind the NO_x emission limit is not consistent with section III and section 307(d) of the Clean Air Act, in that the notice of April 15, 1981 (46 FR 20005), did not state the proposed rule's basis and purpose.

The basis of the April revision was the lack of data concerning the use of wet control systems on turbines operating continuously at or near maximum capacity and possible unreasonable economic impacts. Because of this lack of data, EPA is not concluding that wet control systems are best demonstrated technology for control of NO_x emissions from these gas turbines. The purpose of the April 15 proposal and today's promulgation is to make the standard consistent with this conclusion. The April 15 proposal was consistent with this conclusion in that it rescinded the 75 ppm NO_x limit based on wet control systems. Today's promulgation is also consistent with this conclusion in that the 150 ppm NO_x limit now required for industrial and pipeline turbines less than or equal to 30 MW is based on dry controls rather than wet controls. It is also consistent with this conclusion in that industrial turbines greater than 30 MW are no longer required to meet an NO_x emission limit and therefore do not have to use wet controls.

One commenter also stated that Dow et al. offered no evidence to support their claim that industrial gas turbines must operate for long periods of time.

Dow et al. did supply information to the Agency in letters requested to be held confidential and included in the docket (II–33 (a), (b), (c)) that indicates that operation at or near maximum capacity for periods of a year or more is

required of gas turbines in present use. The data in these letters were considered by the Administrator in reaching the conclusions stated in the preamble to the April 15 proposal.

A commenter also stated that the revision should have been written to include only continuously operating gas turbines rather than all industrial and pipeline gas turbines.

The Agency investigated the option of establishing a minimum number of hours to define "continuous operation" and using this definition to determine which industrial and pipeline turbines would be impacted by this revision. The Agency determined that to include only those turbines running continuously, some arbitrary number of hours would have to be included in the standard to define continuous running. The owners or operators of these gas turbines would then be required to project the number of hours per year their turbine would operate to determine their operating category. The actual operating times could vary considerably from the projections because some unexpected circumstances may occur, such as curtailment of plant operation, unforeseen plant maintenance, or any other unforeseen circumstances that have nothing to do with the ability of the turbine to operate continuously. If the number of hours projected is less than the actual number of hours operated, those turbines that did not operate as projected for one year could not be expected to install wet control systems. In the very next year they may be able to meet the operating time projection. Industrial turbines usually run more hours after initial 1 to 2 year break-in periods. Since defining "continuous operation" and projecting exactly how many hours a turbine will operate is difficult and since most of the turbines affected by the revision operate continuously, the Administrator decided not to attempt to restrict this revision to continuously operating industrial and pipeline gas turbines.

Several commenters stated that the Agency's definition of electric utility gas turbine should be made consistent with the "Power Plant and Industrial Fuel Use Act of 1978" (FUA) and the "Public Utility Regulatory Policies Act of 1978" (PURPA) to allow one half of the electric output capacity of a cogeneration unit to be sold to a utility power distribution system.

The Acts mentioned by the commenters were designed to encourage cogeneration. The new source performance standard for stationary gas turbines is not intended to encourage or discourage cogeneration, but is designed to distinguish between electric utility gas turbines and industrial gas turbines. Specifically, in the context of this revision the definition distinguishes between those gas turbines that can be shut down for maintenance without resulting in shutdown of a dependent industrial process and those turbines without backup. For a turbine operating as part of a cogeneration system and selling up to 50 percent of its electrical output to a utility grid, PURPA requires the utility to sell back-up power to qualifying cogeneration facilities when needed. Consequently, the definition of electric utility gas turbine has not been revised to allow for a gas turbine selling up to 50 percent of its power to a utility power distribution system.

Another commenter pointed out that some models of pipeline turbines used outside of MSA's cannot meet the 150 ppm emission limit with the current combustor design (dry control) without also using wet control systems. The commenter suggests that the category of sources including pipeline turbines outside MSA's be exempt from meeting an NO_x emission limit.

A new source performance standard, as required by section 111 of the Clean Air Act, must reflect "the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction and any nonair quality health and environmental and energy requirements) the Administrator determines has been adequately demonstrated." Those models of pipeline turbines that cannot meet the 150 ppm limit with their current combustor design (dry control) do not reflect best technology. There are other models of pipeline turbines that can meet the 150 ppm limit using dry controls without any unreasonable impacts. Also, these turbines can perform the same function as those models that cannot meet the 150 ppm limit. Therefore, the fact that some models within a category of gas turbines cannot meet a standard is not sufficient reason to exempt the entire category, especially when turbines capable of performing the same function while at the same time complying with the standard are available. There is no provision in the gas turbine standard, however, that prevents an owner or operator from using wet controls to comply with the 150 ppm limit if he so chooses.

One commenter stated that small (less than 107.2 gigajoules/hour) regenerative cycle gas turbines should be exempted from the 150 ppm NO_x emission limit. According to the commenter, dry controls that can meet the 150 ppm level have not been developed for these small regenerative cycle gas turbines, and the cost to do so would be exorbitant because these turbines are only a small portion of the small gas turbine market. (These turbines are currently not required to meet the 150 ppm NO_x emission limit until October 3, 1982.) Because of the exorbitant cost associated with developing dry controls for small regenerative cycle gas turbines, manufacturers would discontinue these turbines from their product line rather than develop the dry control. Small regenerative cycle gas turbines compete with stationary internal combustion (I.C.) engines; and, if these turbines are dropped from product lines, I.C. engines would be sold in their place rather than small simple cycle turbines. Since controlled I.C. engines emit between two to four times as much NO_x as do uncontrolled small regenerative cycle gas turbines, the net effect of requiring small regenerative cycle gas turbines to meet the 150 ppm NO_x emission limit would be an increase in NO_x emissions.

Additional investigation of small regenerative cycle gas turbines revealed the commenter's assessment of the situation to be correct. Consequently, the standard is being revised to exempt regenerative cycle gas turbines of less that 107.2 gigajoules/hour from complying with the 150 ppm NO_x emission limit.

Another commenter stated that many gas turbines that normally operate on natural gas can be operated on distillate oil when natural gas is unavailable. These turbines can meet a 150 ppm NO_x emission limit when operating on natural gas, but not when they are operating on distillate oil. The commenter felt, therefore, that gas turbines should be exempt from complying with the standard during periods when an emergency fuel is being used.

Upon further investigation, the Agency learned that many turbine models can meet the 150 ppm NO_x emission limit only when operating on natural gas, which is almost always available. Since operation with an emergency fuel is expected only rarely and dry controls would continue to reduce the emissions during periods when distillate oil is fired, gas turbines operating on an emergency fuel are being exempted from the 150 ppm NO_x emission limit. The exemption will not apply if the emergency fuel is fired solely because it is less costly than natural gas.

This revision was submitted to the Office of Management and Budget

(OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are included in docket number A–81–10. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this revision to the standard would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be a major rule. In fact, since this revision consists of a relaxation of the standard originally promulgated, it will result in less costs. Some turbines covered by the original standard will now be exempt. Others will be required to meet a less restrictive standard based on less expensive dry controls rather than wet controls. The Agency has therefore concluded that this regulation is not a "major rule" under Executive Order 12291.

The Administrator certifies that a regulatory flexibility analysis under 5 U.S.C. 601 et seq. is not required for this rulemaking because the rulemaking would not have a significant impact on a substantial number of small entities.

Dated: January 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

For the reasons set out in the preamble, Part 60 of Chapter I, Title 40, Subpart GG, Code of Federal Regulations is amended as shown.

1. In § 60.331, paragraphs (q), (r), and (s) are added to read as follows:

§ 60.331 Definitions.

* * * * *

(q) "Electric utility stationary gas turbine" means any stationary gas turbine constructed for the purpose of supplying more than one-third of its potential electric output capacity to any utility power distribution system for sale.

(r) "Emergency fuel" is a fuel fired by a gas turbine only during circumstances, such as natural gas supply curtailment or breakdown of delivery system, that make it impossible to fire natural gas in the gas turbine.

(s) "Regenerative cycle gas turbine" means any stationary gas turbine that recovers thermal energy from the exhaust gases and utilizes the thermal energy to preheat air prior to entering the combustor.

2. Section 60.332 is amended by revising paragraphs (a), (b), and (d), and adding paragraphs (j), (k), and (l) to read as follows:

§ 60.332 Standard for nitrogen oxides.

(a) On and after the date of the performance test required by § 60.8 is completed, every owner or operator subject to the provisions of this subpart as specified in paragraphs (b), (c), and (d) of this section shall comply with one of the following, except as provided in paragraphs (e), (f), (g), (h), (i), (j), (k), and (l) of this section.

* * * * *

(b) Electric utility stationary gas turbines with a heat input at peak load greater than 107.2 gigajoules per hour (100 million Btu/hour) based on the lower heating value of the fuel fired shall comply with the provisions of § 60.332(a)(1).

* * * * *

(d) Stationary gas turbines with a manufacturer's rated base load at ISO conditions of 30 megawatts or less except as provided in § 60.332(b) shall comply with § 60.332(a)(2).

* * * * *

(j) Stationary gas turbines with a heat input at peak load greater than 107.2 gigajoules per hour that commenced construction, modification, or reconstruction between the dates of October 3, 1977, and January 27, 1982, and were required in the September 10, 1979, **Federal Register** (44 FR 52792) to comply with § 60.332(a)(1), except electric utility stationary gas turbines, are exempt from paragraph (a) of this section.

(k) Stationary gas turbines with a heat input greater than or equal to 10.7 gigajoules per hour (10 million Btu/hour) when fired with natural gas are exempt from paragraph (a)(2) of this section when being fired with an emergency fuel.

(l) Regenerative cycle gas turbines with a heat input less than or equal to 107.2 gigajoules per hour (100 million Btu/hour) are exempt from paragraph (a) of this section.

3. Section 60.334 is amended by adding paragraph (c)(4) as follows:

§ 60.334 Monitoring of operations.

* * * * *

(c) * * *

(4) *Emergency fuel.* Each period during which an exemption provided in § 60.332(k) is in effect shall be included in the report required in § 60.7(c). For each period, the type, reasons, and duration of the firing of the emergency fuel shall be reported.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c–9))

[FR Doc. 82–2092 Filed 1–26–82; 8:45 am]

BILLING CODE 6560–25–M

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40 CFR Part 162

[OPP–30056; PH–FRL–2031–3]

Pesticide Chemical Active Ingredients; Registration Standards Ranking Scheme Results

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the document containing the order in which EPA has ranked the use clusters containing all pesticide active ingredients to be reviewed under the Registration Standard Program. The ranking order of clusters of chemicals with similar use patterns was based on the production and exposure of pesticide active ingredients within each cluster.

FOR FURTHER INFORMATION CONTACT: Arty Williams, Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Environmental Protection Agency, Rm. 722, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–3043).

Copy of the document may be obtained through the person named above.

SUPPLEMENTARY INFORMATION: Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA is required to review the approximately 40,000 pesticide products currently registered in order to determine whether they pose unreasonable effects on man or the environment. EPA issued an Advance Notice of Proposed Rulemaking (ANPR) published in the **Federal Register** of December 26, 1979 (44 FR 76311) entitled "Registration Standards for the Registration of Pesticides" which indicated that it would review these products based on their active ingredients. EPA then proposed a registration standard ranking scheme to order the registration standard reviews of pesticide active ingredients based on the production and exposure of clusters of chemicals with similar use patterns. This ranking scheme was published in the **Federal Register** of November 14, 1980 (45 FR 75488).

The administrative record for the Registration Standards Ranking Scheme for the Registration of Pesticides, including comments, is available for public review in the Document Control Office, Rm. E–107, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

Dated: December 23, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–1445 Filed 1–26–82; 8:45 am]

BILLING CODE 6560–32–M

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40 CFR Part 180

[PP 1E2499/R391; PH–FRL 2036–8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Atrazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide atrazine and its metabolites in or on the raw agricultural commodities orchardgrass and orchardgrass hay. This regulation to establish the maximum permissible level for the combined residues of atrazine in or on the commodities was requested by the Interregional Research Project No. 4 (IRA).

EFFECTIVE DATE: Effective on January 27, 1982.

ADDRESS: Written comments may be submitted to the Hearing Clerk, Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22022, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of November 4, 1981 (46 FR 54771) which announced that IR–4, New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903 on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Oregon, had submitted a pesticide petition (PP 1E2499) proposing that 40 CFR 180.220 be amended by the establishment of tolerances for the combined residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-*s*-triazine) and its metabolites 2-amino-4-chloro-6-ethylamino-*s*-triazine, 2-amino-4-chloro-6-isopropylamino-*s*-triazine and 2-chloro-4,6-diamino-*s*-triazine in or on the raw agricultural commodities orchardgrass and orchardgrass hay at 15 parts per million (ppm).

There were no comments received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated. The toxicology and chemistry pertaining to this regulation were given in the notice of proposed rule (46 FR 54771, November 4, 1981).

The herbicide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before February 26, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: January 27, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: January 13, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.220(b) is amended by adding and alphabetically inserting the commodities orchardgrass and orchardgrass hay to read as follows:

§ 180.220 Atrazine; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
* * * * *	
Orchardgrass	15
Orchardgrass, hay	15
* * * * *	

[FR Doc. 82–3091 Filed 1–26–82; 8:45 am]

BILLING CODE 6560–32–M

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40 CFR Part 180

[PP 6E2075, 9E2219/R392; PH–FRL 2036–7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Oryzalin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide oryzalin and its metabolites in or on the raw agricultural commodities sweet potatoes and peas (succulent). This regulation to establish the maximum permissible level for residues of oryzalin in or on the commodities was requested by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on January 27, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM# 2, 1921 Jefferson Davis

Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rule published in the **Federal Register** of November 3, 1981 (46 FR 54584) which announced that the IR–4, New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903 had submitted pesticide petitions (PP OE2075) on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia; and (PP 9E2219) on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Michigan, Minnesota, New York, and Wisconsin, proposing that 40 CFR 180.304 be amended by the establishment of tolerances for residues of the herbicide oryzalin (3,5-dinitro-*N*4, *N*4-dipropylsulfanilamide) in or on the raw agricultural commodities sweet potatoes (PP 8E2075) and peas (succulent) PP 9E2219) at 0.05 part per million (ppm).

There were no comments received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated. The toxicology and chemistry data pertaining to this regulation were given in the notice of proposed rulemaking (46 FR 54584, November 3, 1981). In that notice, the acceptable daily intake (ADI) and maximum permissible intake (MPI) were listed incorrectly; the ADI is calculated to be 0.0094 mg/kg bw/day and the MPI for a 60–kg person is calculated to be 0.5625 mg/day. The reference to a May 11, 1979 **Federal Register** notice should be deleted since that notice discussed a 1 percent incremental increase in the theoretical maximum contribution (TMRC) whereas the November 3, 1981 proposed rule was discussing a 1 percent increase in the percentage of ADI utilized.

The herbicide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before February 26, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: January 27, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: January 13, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.304 is amended by adding and alphabetically inserting the commodities sweet potatoes and peas (succulent) to read as follows:

§180.304 Oryzalin; tolerances for residues.

* * * * *

Commodity	Parts per million
Peas (succulent)	0.05
* * * * *	
Sweet potatoes	0.05

[FR Doc. 82–2060 1–26–82; 8:45 am]

BILLING CODE 6560–32–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Alaska et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (final) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how

high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Alaska	Petersburg (city), Wrangell-Petersburg Division, FEMA-6121.	Frederick Sound	300 feet east from the intersection of Sandy Beach Road and Quarry Road.	**21
			200 feet north from the intersection of Sandy Beach Road and Boundary Street.	**27
		Wrangell Narrows	50 feet west from the intersection of Harbor Way and F Street.	**21
Maps available for inspection at City Shop, 2nd Street, Petersburg, Alaska.				
** Mean Lower Low Water Datum.				
Alaska	Sitka (city & borough), Sitka Division, FEMA-6121	Sitka Sound, Thimbleberry Bay to Starrigavan Bay.	100 feet west from the intersection of Siginaka Way and Katlian Avenue.	**15
			At the intersection of Halibut Point State Road and Harbor Mountain Road.	**25
			200 Feet southeast from the intersection of Marine and Lincoln Streets.	#1
		Indian River	At the center of the Sawmill Creek Road crossing of Indian River.	**25
Maps available for inspection at City Hall, 304 Lake Street, Sitka, Alaska.				
** Mean Lower Low Water Datum.				
Arizona	Navajo County (unincorporated areas), FEMA-6124	Billy Creek	30 feet upstream from center of Peterson Road crossing.	*6707
		Black Canyon Wash	At the intersection of State Highway 260 and Black Canyon Wash.	*6479
		Buckskin Wash	50 feet upstream from center of State Highway 260 crossing.	*6431
		Little Colorado River	At the intersection of Interstate Highway 40 and Little Colorado River (vicinity of Winslow).	*4855
			At the intersection of Canary Avenue and Little Colorado River (vicinity of Woodruff).	*5159
		Pinedale Wash	At the intersection of Pinedale Road and Pinedale Wash.	*6408
		Porter Canyon Draw	50 feet upstream from center of McLaws Road crossing.	*5073
		Silver Creek	At the intersection of Shumway Road and Silver Creek	*5672
		Show Low Creek	1070 feet upstream from confluence with Meadow View Wash, at the intersection of Show Low Creek and City of Show Low corporate limit.	*6345
		Town Wash	At the intersection of Old State Highway 260 and Town Wash.	*6309
		Walnut Gulch Creek	At the intersection of Nadeem Drive and Walnut Gulch Creek.	*5937
		Whiting Creek	30 feet downstream from center of McLaws Road crossing.	*5095
			30 feet upstream from center of McLaws Road crossing.	*5097
Maps available for inspection at Department of Planning and Building, South Highway 77, Holbrook, Arizona.				
California	Eureka (city) Humboldt County, FEMA-6129	Martin Slough	Fairway Drive crossing the channel (downstream crossing).	*10
		Martin Slough Tributary C	Upstream side of Campton Road over the channel	*14
			Approximately 550 feet upstream from mouth	*13
Maps available for inspection at Department of Community Development, 531 K Street, Eureka, California.				
California	Suisun City (city), Solano County, FEMA-6129	Suisun Slough	Intersection of Elwood and School Street	*7
			Intersection of Alder and Cherry Streets	*7
			Dolphin Court	*7
		Laurel Creek	Intersection of Merganser Drive and Sunset Avenue	*12
			Intersection of Snow Drive and State Highway 12	#1
		McCoy Creek	North side of State Highway 12 crossing the channel	*8
		Pennsylvania Avenue Creek	Intersection of Southern Pacific and Pennsylvania Avenue.	#1
		Union Avenue Creek	Marina Center crossing the channel	*7
Maps available for inspection at Public Works Department, 701 Cedar Street, Suisun City, California.				
California	Tehama County (unincorporated areas), FEMA-6094	Sacramento River (Near Tehama)	Intersection of River Avenue and Tehama and Vina Road.	*221
		Sacramento River (Near Red Bluff)	Intersection of Peach Tree Lane and Gilmore Ranch Road.	*267
		East Sand Slough	Intersection of White Road and Dale Lane	*272
		Samson Slough	Intersection of Williams Avenue and Karel Avenue	*289
		Paynes Creek Slough	Intersection of Dale Avenue and Hunt Avenue	*289
		Sacramento River (Near Bend)	At the western end of South Wallen Road	*319
		Sacramento River (Near Lake California).	Intersection of North Marina Drive and Banner Way	*340
		Brickyard Creek	Along the center of Baker Road just north of the City of Red Bluff corporate limits.	*315

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
		Reeds Creek	At the upstream limit of detailed study, just upstream (west) of the City of Red Bluff corporate limits.	*276
		Grasshopper Creek	Area between 200 and 1200 feet upstream of County Route 8A, and just south of the City of Red Bluff corporate limits.	*[illegible]
		Jewett Creek	50 feet downstream from center of Houghton Avenue	*274
Maps available for inspection at Department of Public Works, Road Dept., San Benito Avenue, Gerber, California.				
Connecticut	Stafford, town, Tolland County (Docket No. FEMA-6147).	Furnace Brook	Downstream Corporate Limits	*522
			Approximately 2,700' upstream of Corporate Limits	*540
			Orcutville Road (upstream)	*[illegible]
			Leonard Road and Riverside Dam (upstream)	*[illegible]
			Pinney School Road (upstream)	*592
			Hydeville Road (upstream)	*621
			State Route 19 (East Street) (first crossing, upstream)	*635
			State Route 19 (East Street) (second crossing, upstream).	*661
			Approximately 1,010' upstream of Upper Road	*[illegible]
		Middle River	Downstream Corporate Limits	*505
			State Route 190 (West Stafford Road) (upstream)	*513
			Approximately 100' upstream of Central Vermont Railway.	*526
		Edson Brook	Confluence with Middle Brook	*505
			Cooper Lane (upstream)	*511
			Machine Shop Road (upstream)	*520
			Confluence with Crystal Lake Brook	*535
		Crystal Lake Brook	Confluence with Edson Brook	*535
			2nd Dam (upstream) approximately 1,930' upstream of confluence with Edson Brook.	*577
			State Route 30 (Crystal Lake Road) (upstream)	*587
			Approximately 2,700' upstream of State Route 30 (Crystal Lake Road).	*612
			Approximately 2,280' upstream of Handel Road	*622
Maps available for inspection at the Stafford Zoning Office, 1 Memorial Town Hall, Stafford Springs, Connecticut.				
Connecticut	Stafford Springs, borough, Tolland County (Docket No. FEMA-6147).	Willimantic River	Corporate limits	*452
			Filter Corporation Bridge (upstream side)	*[illegible]
			Confluence of Furnace Brook and Middle River	*[illegible]
		Furnace Brook	Confluence with Willimantic River	*[illegible]
			Cyrill Johnson Mill Dam (upstream side)	*[illegible]
			Corporate limits	*522
		Middle River	Confluence with Willimantic River	*[illegible]
			West Street (downstream side)	*[illegible]
			Corporate limits	*505
Maps available for inspection at the Stafford Springs Zoning Office, 1 Memorial Town Hall, Stafford Springs, Connecticut.				
Florida	City of Brooksville, Hernando County (FEMA-6143)	Ponding Area 1	Approximately 300 feet south of Piccadilly Street and Lakeside Drive intersection.	*77
		Ponding Area 2	Approximately 450 feet northwest of Howell Avenue and Summit Drive intersection.	*[illegible]
		Ponding Area 3	Approximately 450 feet north and 75 feet east of Kelly Street and Bell Avenue intersection.	*[illegible]
		Ponding Area 4	Just east of intersection of Seaboard Coast Line Railroad and Oak Dale Avenue extended.	*110
		Ponding Area 5	Intersection of Palm Avenue and Lamar Avenue	*100
		Ponding Area 6	Approximately 300 feet east of Main Street and Russell Street intersection.	*129
		Ponding Area 7	Approximately 300 feet north of U.S. Route 41 and Summit Road intersection.	*112
		Ponding Area 8	Just east of U.S. Route 41 and I Street intersection	*113
		Ponding Area 9	Approximately 225 feet east of intersection of Candlelight Boulevard and corporate limits.	*[illegible]
		Ponding Area 10	Just northwest of U.S. Route 41 and State Road 577 intersection.	*[illegible]
		Ponding Area 11	Approximately 450 feet northeast of U.S. Route 41 and State Road 577 intersection along U.S. Route 41.	*[illegible]
		Ponding Area 12	Just northwest of U.S. Route 41 and State Road 577 intersection.	*90
Maps available for inspection at City Hall, 26 South Brooksville Avenue, Brooksville, Florida 33512.				
Georgia	Unincorporated areas of Lowndes County (FEMA-6143).	Withlacoochee River	Approximately 1500' upstream of U.S. Highway 84 and 221.	*114
			Just downstream of Interstate Highway 75	*130
			Approximately 600 feet downstream of U.S. Highway 41 and State Highway 7.	*133
			Just downstream of State Road	*139
		Little River	Approximately 200 feet downstream of State Highway 31.	*128
		Mud Swamp Creek	Just downstream of Johnson Road	*156
			Just upstream of Southern Railway	*167

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Just downstream of State Highway 31	*171
			Just upstream of Interstate Highway 75	*183
		Airport Tributary	Just downstream of Copeland Road	*174
		Dukes Bay Drainage Canal	Just downstream of Southern Railway Spur	*168
		Knights Creek	Just upstream of County Road 19	*188
			Just upstream of U.S. Highway 221 (State Highway 31).	*196
Maps available for inspection at Lowndes County Courthouse, Patterson Street, Valdosta, Georgia 31601.				
Georgia	Unincorporated areas of Tift County (FEMA-6143)	Little River	Just upstream of U.S. Highway 319	*249
			Just downstream of U.S. Highway 82 (State Highway 50).	*262
			Just upstream Seaboard Coast Line Railroad	[illegible]
		New River	Just upstream of County Road 92	*314
			Just downstream of Ferry Lake Road (County Road 72).	*322
		Channel A	Just downstream of Bill Bowen Road	*316
			Just upstream of Old Ocilla Road (FAS 1981)	*337
		Gum Creek	Just upstream of State Highway 125	*310
			Just upstream of Vernon Road	*325
Maps available for inspection at Tift County Administration Building, 225 Tift Avenue, Tifton, Georgia 31793.				
Illinois	(V) Carbon Cliff, Rock Island County (Docket No. FEMA-6129).	Rock River	Just downstream of State Route 84	*575
			Just upstream of State Route 84	*576
			About 1.4 miles upstream of Chicago, Rock Island and Pacific Railroad.	*577
Maps available for inspection at the Clerk's Office, Village Hall, 106 First Avenue, Carbon Cliff, Illinois.				
Illinois	(V) Lisbon, Kendall County (Docket No. FEMA-6144)	North Arm Saratoga Creek	About 150 feet downstream of earth dam	*655
			Just upstream of earth dam	*661
			Upstream corporate limits	*670
Maps available for inspection at the Lisbon Implement Company, Lisbon, Illinois.				
Illinois	(V) Millington, Kendall and LaSalle Counties (Docket No. FEMA-6129).	Fox River	About 3150 feet downstream of Bridge Street	*555
			About 1300 feet upstream of Bridge Street	*557
		Clear Creek	Mouth at Fox River	*557
			About 1450 feet upstream of Burlington Northern Railroad.	*562
Maps available for inspection at the Clerk's Office, Millington, Illinois.				
[illegible]	(V) Newark, Kendall County (Docket No. FEMA-6144)	Clear Creek	At downstream corporate limits	*618
			About 750 feet upstream of Chicago Road	*646
			At upstream corporate limits	[illegible]
Maps available for inspection at the Municipal Building, Newark, Illinois.				
Illinois	(V) Oswego, Kendall County (Docket No. FEMA-6129).	Fox River	About 2800 feet downstream of Washington Street	*598
			About 2700 feet upstream of Washington Street	[illegible]
		Waubansee Creek	Mouth at Fox River	*602
			Just upstream of dam near Madison Street	*621
			About 180 feet upstream of U.S. Route 34	[illegible]
Maps available for inspection at the Clerk's Office, Village Hall, 113 Main Street, Oswego, Illinois.				
Illinois	(C) Yorkville, Kendall County (Docket No. FEMA-6129).	Fox River	About 1.2 miles downstream of Bridge Street	*575
			Just upstream of Glen D. Palmer Dam	*579
		Blackberry Creek	About 1500 feet upstream of Glen D. Palmer Dam	[illegible]
			At confluence with Fox River	*576
			About 600 feet upstream of River Road	[illegible]
			Just downstream of U.S. Route 34	[illegible]
			About 4300 feet upstream of U.S. Route 34	*615
Maps available for inspection at the Clerk's Office, Water Tower, 610 Tower Lane, Yorkville, Illinois.				
Indiana	(C) Jasper, DuBois County (Docket No. FEMA-6129)	Patoka River	About 0.5 mile downstream of U.S. Route 231	*452
			About 0.25 mile downstream of State Route 162	*459
			About 3.45 miles upstream of 15th Street	*466
		Straight River	Just upstream of confluence with Patoka River	*454
			About 0.39 mile upstream of Meridian Road	*455
		Jahn Creek	Just upstream of confluence with Straight River	*455
			Just downsteam of Hope Street	*465
			Just upstream of State Route 162	[illegible]
			Just downstream of Meridian Road (about 0.34 mile upstream of State Route 162).	[illegible]
Maps available for inspection at the City Hall, 606 Main Street, Jasper, Indiana.				
Indiana	(C) Portage, Porter County (Docket No. FEMA-6124)	Crisman Ditch	At confluence with Willow Brook	*619
			About 150 feet upstream of confluence with Willow Brook.	*623
			Just downstream of Central Avenue	*627
			Just upstream of Central Avenue	*633
			About 700 feet upstream of Central Avenue	*633

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
		Willow Creek	At mouth	*594
			About 1100 feet upstream of Melton Road	*600
			Just downstream of Conrail	*610
			Just upstream of Interstate 80 and 90	*615
			About 1300 feet upstream of Mulberry Avenue	*620
			Just upstream of Stone Avenue	*625
			About 4000 feet upstream of Lute Road	*634
		Lenburg Ditch	At mouth	626
			About 0.39 mile upstream of mouth	*628
			About 140 feet downstream of Stone Avenue	*630
		Robbins Ditch	Just downstream of Earth Dam	*610
			Just upstream of Earth Dam	*622
			Just upstream of Interstate 80 and 90	*626
			About 600 feet upstream of Airport Road	*632
		East Arm Little Calumet River	Just upstream of Samuelson Road	*594
			About 0.52 mile upstream of confluence of Salt Creek	*596
		Burns Waterway	Mouth at Lake Michigan	*584
			Just upstream of Indiana Harbor Belt Railroad	*589
		Little Calumet River	At confluence of East Arm Little Calumet River	*591
			At confluence of East Arm Little Calumet River	*591
			About 0.2 mile upstream of confluence of Willow Creek	*595
		Salt Creek	At confluence with East Arm Little Calumet River	*595
			About 500 feet upstream of Interstate 94	*602
			Just downstream of Porter Road	*606
			Just downstream of Interstate 80 and 90	*617

Maps available for inspection at the City Engineer's Office, Town Hall, 6070 Central Avenue, Portage, Indiana. Send comments to Honorable John Williams, Mayor, City of Portage, Town Hall, 6070 Central Avenue, Portage, Indiana 46368.

Iowa	(C) Crescent, Pottawattamie County (Docket No. FEMA-6129).	Crescent Creek	About 400 feet downstream of Unnamed Street	*1,005
			About 350 feet upstream of State Highway 183	*1,015
			About 0.45 mile upstream of State Highway 183	*1,024
		Shallow Flooding (Overflow From Pigeon Creek).	Within corporate limits	[illegible]

Maps available for inspection at the City Clerk's Office, City Hall, Crescent, Iowa.

Iowa	(C) Minden, Pottawattamie County (Docket No. FEMA-6124).	Keg Creek	About 2,300 feet downstream of County Road L-66	*1,181
			About 2,000 feet upstream of County Road L-66	*1,186

Maps available for inspection at the City Hall, Minden, Iowa.

Iowa	(C), Underwood, Pottawattamie County (Docket No. FEMA-6129).	Mosquito Creek	About 1.0 mile downstream of Third Street	*1,057
			About 3,000 feet upstream of Third Street	*1,065
		Mosquito Creek Bypass	At confluence with Mosquito Creek	*1,064
			At upstream corporate limits	*1,066

Maps available for inspection at the City Hall, P.O. Box 40, Underwood, Iowa.

Kansas	(Uninc.), Shawnee County (Docket No. FEMA-6129)	Kansas River	Approximately 0.2 mile downstream of the east county boundary.	*861
			Approximately 2.9 miles upstream of the east county boundary.	*871
			Just downstream of the east corporate limit of the City of Topeka.	*876
			Approximately 1.2 miles downstream of the west corporate limit of the City of Topeka.	*892
			Approximately 4.6 miles upstream of the west corporate limit of the City of Topeka.	*906
			Just downstream of the west county boundary	*931
		Wakarusa River	Just upstream of the Kansas Turnpike	*1,016
			Approximately 9,400 feet upstream of the Kansas Turnpike.	*1,020
		North Branch Wakarusa River	At the mouth	*1,017
			Approximately 100 feet upstream of 89th Street	*1,020
			Approximately 9,300 feet upstream of 89th Street	*1,043
		Halliday Creek	Approximately 2,250 feet downstream of Northwest 35th Street.	*887
			Approximately 500 feet upstream of the downstream Chicago, Rock Island and Pacific Railroad.	*904
			Approximately 250 feet downstream of the upstream Chicago, Rock Island and Pacific Railroad.	*931
			Approximately 100 feet upstream of Northwest 62nd Street.	*942
			Just upstream of Northwest 78th Street	*979
			Approximately 2,800 feet upstream of Northwest 86th Street.	*1,019
			Just downstream of the north county boundary	*1,046
		Indian Creek	At the corporate limits of the City of Topeka	*862
			Approximately 500 feet downstream of Northeast 43rd Street.	*910
			Just upstream of Northeast 43rd Street	*915
			Approximately 500 feet upstream of Northeast 58th Street.	*959
			Approximately 500 feet upstream of Northeast 62nd Street.	*984
			Approximately 200 feet upstream of Topeka Avenue	*982

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
			Approximately 3,400 feet upstream of Northwest 74th Street.	*1,020
			Approximately 2,600 feet upstream of Northwest 82nd Street.	*1,071
		Shunganunga Creek	At mouth	*874
			Just downstream of the corporate limits of the City of Topeka.	*877
			Approximately 4,700 feet downstream of Wanamaker Road.	*946
			Just downstream of Wanamaker Road	*954
		Stinson Creek	At mouth	*874
			Approximately 150 feet downstream of U.S. Route 40	*874
			Approximately 100 feet upstream of U.S. Route 40	*950
			About 150 feet downstream of Interstate 70	*906
			Approximately 350 feet upstream of Interstate 70	*920
			Approximately 200 feet upstream of the upstream crossing of Tecumseh Road.	*960
		Tecumseh Creek	At the mouth	*872
			Approximately 200 feet downstream of Laurel Road	*873
			Approximately 100 feet upstream of Laurel Road	*879
			Approximately 300 feet downstream of Interstate 70	*899
			Approximately 250 feet upstream of Interstate 70	*912
			Approximately 150 feet downstream of Southeast 29th Street.	*935
			Approximately 200 feet upstream of Southeast 29th Street.	*939
			Approximately 4,500 feet upstream of Southeast 29th Street.	*944
			Approximately 200 feet upstream of Southeast 37th Street.	*973
			Approximately 6,500 feet upstream of Southeast 37th Street.	*988
		Cross Creek	At the mouth	*916
			Approximately 350 feet upstream of the upstream corporate limit of the City of Rossville.	*930
		Shallow Flooding (Overflow From Cross Creek).	Intersection of Rossville Road and Northwest 54th Street.	#3

Maps available for inspection at the Zoning Commission, County Courthouse, 7th and Quincy, Topeka, Kansas.

Massachusetts	Douglas, Town, Worcester County (Docket No. FEMA-6147).	Mumford River	Downstream Corporate Limits	*321
			Upstream of North Street	*341
			Downstream of Cook Street	*364
			Upstream of Mechanic Street	*378
			Upstream Corporate Limits	*388
		Southwick Brook	Confluence with Mumford River	*377
			Upstream of Hunt Pond Dam	*407
			Upstream of Corporate Limits	*425

Maps available for inspection at the Douglas Town Hall, Main Street, East Douglas, Massachusetts.

Massachusetts	Hancock, Town, Berkshire County (Docket No. FEMA-6012).	West Branch Green River	Corporate Limits	*1,001
			Approximately 2,900' upstream Corporate Limits	*1,029
			First Private Drive (upstream)	*1,065
			Approximately 2,500' upstream of first Private Drive	*1,107
			Second Private Drive (Upstream)	*1,142
			Approximately 4,600' upstream of second Private Drive	*1,215
		Kinderhook Creek	Corporate Limits	*955
			Downstream crossing State Route 43 (Upstream)	*986
			Private Drive (Upstream)	*1,020
			Upstream crossing State Route 43 (Upstream)	*1,024
			Potter Mountain Road	*1,035

Maps available for inspection at the Town Hall, Route 43, Hancock, Massachusetts.

Massachusetts	Lee, Town, Berkshire County (Docket No. FEMA-6147).	Housatonic River	Downstream Corporate Limits	*834
			Willow Mill Dam (Upstream)	*847
			Meadow Street (Upstream)	*851
			Approximately 3,000' downstream of confluence with Goose Pond Brook.	*861
			Confluence with Goose Pond Brook	*870
			Interstate 90 (Upstream)	*879
			Conrail Bridge (Upstream)	*889
			Columbia Mill Dam (Downstream)	*903
			Columbia Mill Dam (Upstream)	*916
			Confluence of Washington Mountain Brook	*925
			Valley Mill Dam (Upstream)	*955
			Upstream Corporate Limits	*956
		Goose Pond Brook	Confluence with Housatonic River	*870
			Footbridge (Downstream)	*894
			First Private Drive (Downstream)	*915
			Second Private Drive (Downstream)	*963
			Approximately 300' upstream of Second Private Drive	*971
		Barnes Brook	Confluence with Housatonic River	*880
			Private Drive (Upstream)	*885
			Maple Street (Upstream)	*900
			Greylock Street (Upstream)	*916
			Approximately 2,500' upstream of Greylock Street	*944
			East Street (Upstream)	*970
		Mad River	Approximately 1,200' upstream of confluence with Hop Brook.	*855

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Approximately 2,800' upstream of confluence with Hop Brook.	*878
		Hop Brook	Confluence with Housatonic River	*855
			Corporate Limits	*855

Maps available for inspection at the Lee Town Hall, Main Street, Lee, Massachusetts.

Massachusetts	Stoughton, Town, Norfolk County, (Docket No. FEMA-5725).	Steep Hill Brook	Downstream of Erin Road	*114
			Upstream of Mill Street	*128
			Upstream of Bituminous Road	*146
			Confluence of Tributary to Steep Hill Brook	*155
			Upstream of Southworth Pond Dam	*173
			Upstream of Britiona Pond Dam	*183
			Downstream of Sheehan Street	*187
		Tributary to Steep Hill Brook	Confluence with Steep Hill Brook	*155
			Approximately 1,000' upstream of West Street	*157
		Redwing Brook	Downstream corporate limits	*183
			Upstream of Private Drive	*192
			Approximately 1,000' upstream of Pine Drive	*205
		Dorchester Brook	Downstream corporate limits	*180
			Approximately 3,300' upstream of downstream corporate limits.	*192

Maps available for inspection at the Office of the Town Engineer, Town Hall, Stoughton, Massachusetts.

Massachusetts	Sudbury, Town, Middlesex County (Docket No. FEMA-8012).	Sudbury River	Downstream Corporate Limits	*122
			Upstream Corporate Limits (furthest upstream crossing).	*124
		Hop Brook	Confluence with Sudbury River	*123
			150' downstream of Boston Post Road	*130
			Upstream of Codjer Lane	*139
			Upstream of Dutton Road Dam	*159
			Downstream of Dutton Road (Upstream crossing)	*168
			Upstream of Carl Road Dam	*187
			Downstream of Calvin Howe Pond Dam	*189
			Upstream Corporate Limits	*213
		Lanham Allowance Brook	Downstream Corporate Limits	*123
			Upstream Corporate Limits	*134
		Dudley Brook	Confluence with Hop Brook	*139
			Upstream of Horse Pond Road	*149
			Approximately 900' upstream of Bent Road	*155
		Run Brook	Confluence with Hop Brook	*148
			Upstream of Hudson Road	*168
			Approximately 178' downstream of Fairbanks Road	*175
		Pantry Brook	Confluence with Sudbury River	*122
			Approximately 100' upstream of Marlborough Road	*142

Maps available for inspection at the Office of the Sudbury Town Clerk, Sudbury, Massachusetts.

Massachusetts	Sutton, Town, Worcester County (Docket No. FEMA-8147).	Blackstone River	Downstream Corporate Limits	*318
			Downstream Chase Road	*329
			Upstream Corporate Limits	*341
		Dark Brook	Confluence with Mumford River	*438
			Downstream Tucker's Pond Dam	*444
			Upstream end of Tucker's Pond	*459
		Mumford River	Downstream Corporate Limits	*312
			Sutton/Douglas Corporate Limits	*318
			Uxbridge/Sutton Corporate Limits	*389
			Upstream Mumford Road	*397
			Upstream side of upstream crossing of Manchaug Road.	*455
		Spring Brook	Confluence with Blackstone River	*327
			Downstream Boston Road	*372
			Approximately 200' upstream of second dam	*391

Maps available for inspection at the Sutton Elementary School, Sutton, Massachusetts.

Massachusetts	Wayland, Town, Middlesex County (Docket No. FEMA-8023).	Sudbury River	Downstream Corporate Limits	*122
			Upstream Corporate Limits	*126
		Pine Brook	Confluence with Sudbury River	*123
			Upstream of the confluence with Hayward Brook	*129
		Mill Brook	Confluence with Pine Brook	*123
			Downstream of Claypit Hill Road	*130
		Hayward Brook	Confluence with Pine Brook	*129
			Downstream of Boston Post Road	*127
			Upstream of Boston Post Road	*137
			Upstream of Rich Valley Road	*146
			Upstream of Boston and Maine Railroad	*157
		Snake Brook	Upstream of Commonwealth Avenue (downstream crossing).	*139
			Upstream of Main Street	*148
			Downstream of Commonwealth Avenue (Upstream crossing).	*160
			Upstream of Commonwealth Avenue	*166
			Thompson Street	*172

Maps available for inspection at the Wayland Town Clerk's Office, Town Hall, Wayland, Massachusetts.

Massachusetts	West Brookfield, Town, Worcester County (Docket No. FEMA-8066).	Quaboag River	Downstream Corporate Limits	*603
			Upstream Corporate Limits	*606
		Mill Brook	Confluence with Quaboag River	*605
			Directly downstream of Shay Road	*607
			Directly downstream of Tyler Road	*617
			Approximately 2,100' upstream of Tyler Road	*627
			Directly upstream of Farm Bridge	*634
			Downstream of Wickaboag Valley Road (Upstream crossing).	*638
			Upstream Corporate Limits	*644
		Coye Brook	Confluence with Quaboag River	*606
			Upstream of Conrail	*609

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W).
			Upstream of Conrail	*809
			Upstream Corporate Limits	*817
Maps available at the Office of the Planning Board, Town Hall, West Brookfield, Massachusetts.				
Massachusetts	West Stockbridge, Town, Berkshire County (Docket No. FEMA-6012).	Williams River	Upstream Great Barrington Road (State Route 41)	*864
			Downstream Main Afford Road	*868
			Approximately 450' upstream of Logging Road	*880
		Cone Brook	Upstream Hotel Street	*893
			Downstream Cone Hill Road	*914
			Approximately 600' upstream Farm Road	*924
Maps available for inspection at the Town Hall, Main Street, West Stockbridge, Massachusetts.				
Michigan	(V),Brooklyn, Jackson County (Docket No. FEMA-6144).	River Raisin	About 100 feet downstream of Mill Street	*945
			Just downstream of Brooklyn Dam	*951
		Goose Creek	At downstream corporate limit	*945
			At upstream corporate limit	*946
Maps available for inspection at the Village Hall, 300 School Street, Brooklyn, Michigan.				
Michigan	(C), Luna Pier Monroe County (Docket No. FEMA-6144).	Lake Erie	Within corporate limits	*576
Maps available for inspection at the City Hall, 4357 Buckeye Street, Luna Pier, Michigan.				
Michigan	(V),Ravenna, Muskegon County (Docket No. FEMA-6144).	Crockery Creek	About 900 feet downstream of Conrail	*837
			About 0.7 mile upstream of Main Street	*844
Maps available for inspection at the Village Hall, 12090 Methany Street, Ravenna, Michigan.				
Michigan	(C), Tecumseh, Lenawee County (Docket No. FEMA-6144).	River Raisin	Just upstream of East Russell Road	*744
			Just downstream of Standish Dam	*756
			Just upstream of Standish dam	*764
			Just downstream of Tecumseh Dam	*787
			Just upstream of Tecumseh Dam	*781
		Swans Creek	Just downstream of Globe Dam	*752
			Just upstream of Globe Dam	*784
			About 2,000 feet upstream of Globe Dam	*786
			About 300 feet downstream of Conrail	*789
			Just upstream of Union Street	*796
			Just upstream of Occidental Highway	*816
Maps available for inspection at the City Hall, 309 East Chicago Boulevard, Tecumseh, Michigan.				
Michigan	(C), Walker, Kent County (Docket No. FEMA-6144)	Grand River	About 0.9 mile downstream of State Highway 11	*606
			About 2.4 miles upstream of State Highway 11	*606
			About 1.9 miles downstream of North Park Street	*617
			About 0.4 mile upstream of North Park Street	*619
Maps available for inspection at the Building Department, City Hall, 4343 Remembrance Road, N.W., Grand Rapids, Michigan.				
Michigan	(Twp.), Washington, Macomb County (Docket No. FEMA-6144).	Yates Drain	Just upstream of 26 Mile Road	*654
			Just upstream of 27 Mile Road	*676
		Taft Drain	At confluence with Yates Drain	*676
			Just downstream of 26 Mile Road	*701
		Tributary No. 1	At confluence with Yates Drain	*674
			Just downstream of Van Dyke Road	*722
			Just upstream of Campground Road	*735
		Healy Drain	Just upstream of Grand Trunk Western Railroad	*751
			About 900 feet upstream of Sission Street	*815
		Bliss Brook	Just upstream of Grand Trunk Western Railroad	*749
			Just upstream of Killarney Lane	*777
			Just upstream of Kildare Lane	*827
			Just downstream of Campground Road	*852
		Price Brook Tributary No. 1	At confluence with Price Brook	*799
			Just downstream of Earth Dam	*822
			Just upstream of Earth Dam	*826
			Just downstream of Campground Road	*851
		McClure Drain	About 1,400 feet upstream of Snell Road	*817
			About 2,700 feet upstream of Snell Road	*823
Maps available for inspection at the Town Hall, 155 South Rawles, Romeo, Michigan.				
Minnesota	(C), Adrian Nobles County (Docket No. FEMA-6130)	Tributary to Kanaranzi Creek	Just downstream of Main Avenue	*1,520
			Just upstream of Main Avenue	*1,525
			About 200 feet upstream of Pearl Street	*1,531
			Just downstream of Eighth Street	*1,568
Maps available for inspection at the City Hall, P.O. Box 187, Adrian, Minnesota.				
Missouri	(C), Carl Junction, Jasper County (Docket No. FEMA-6074).	Center Creek	About 700 feet downstream of Joplin Street	*856
			At confluence of Cooley Branch	*864
			About 2,000 feet upstream of State Highway 171	*872
			About 1.75 miles upstream of State Highway 171	*878
		Cooley Branch	Just upstream of County Highway Z	*864
			About 1,800 feet upstream of County Highway Z	*878
		Briar Brook	Just upstream of Briarbrook Drive	*858
			About 800 feet upstream of Briarbrook Drive	*866
Maps available for inspection at the City Hall, P.O. Box 447, Carl Junction, Missouri.				
Missouri	(C), Dexter, Stoddard County (Docket No. FEMA-6144).	Dexter Creek	About 900 feet downstream of State Highway 114	*320
			Just downstream of Stoddard Street	*326
			About 0.4 mile upstream of McCollum Street	*350
		Shallow Flooding from Dudley Main Ditch.	About 0.25 mile downstream of Two Mile Road	*357
			At intersection of U.S. Route 60 and West Elk Street	*369
Maps available for inspection at the City Administration Building, Dexter, Missouri.				
Missouri	(C), Lebanon, Laclede County (Docket No. FEMA-6130).	Holman Branch	About 1,900 feet downstream of St. Louis-San Francisco Railroad.	*1,196
			Just downstream of Seminole Avenue	*1,221

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W).
			Just upstream of Seminole Avenue	*1,229
			Just downstream of Interstate 44	*1,233
		Dry Auglaize Creek	At downstream corporate limits	*1,185
			Just downstream of St. Louis-San Francisco Railroad	*1,205
			Just upstream of St. Louis-San Francisco Railroad	*1,210
			About 100 feet downstream of Elm Street	*1,216
			About 100 feet upstream of Elm Street	*1,222
			Just downstream of Interstate 44	*1,251
		Radio Tower Branch	At western corporate limits	*1,195
			Just downstream of State Route 32	*1,226
			Just upstream of St. Louis-San Francisco Railroad (downstream of Kansas Street).	*1,236
			Just downstream of West Elm Street	*1,243
			About 800 feet upstream of West Elm Street	*1,258
			Just downstream of Interstate 44	*1,258

Maps available for inspection at the Planning and Zoning Department, City Hall, P.O. Box 111, Lebanon, Missouri.

Missouri	(C), Webb City, Jasper County (Docket No. FEMA-6074).	Center Creek	At confluence of Sunset Creek, just upstream of County Road.	*884
			About 5,000 feet upstream of confluence of Sunset Creek.	*886
		Sunset Creek	Just downstream of County Road	*907
			Just downstream of Carl Junction Road	*917
			Just upstream of Carl Junction Road	*922
			Just upstream of Broadway Street	*944
			About 125 feet downstream of St. Louis-San Francisco Railway.	*956
			About 100 feet upstream of St. Louis-San Francisco Railway.	*957
			Just downstream of Madison Street	*958
		Southwest Creek	About 800 feet upstream from mouth	*945
			About 100 feet upstream of State Highway 171	*953
		Mine Branch	About 250 feet downstream of Missouri Pacific Railroad.	*940
			Just downstream of Daugherty Street	*952
			About 1,850 feet upstream of Daugherty Street	*958

Maps available for inspection at the City Hall, P.O. Box 80, Webb City, Missouri.

Nebraska	(V), Talmage, Otoe County (Docket No. FEMA-6130)	Little Nemaha River	About 1.4 miles downstream of State Highway 67	*970
			About 1.4 miles upstream of State Highway 67	*982

Maps available for inspection at the City Hall, Talmage, Nebraska.

Nevada	Caliente (City), Lincoln County (FEMA-6130)	Meadow Valley Wash	100 feet upstream from center of U.S. Highway 93	*4,354
		Dry Wash Runoff	Intersection of Rowan Drive and Depot Avenue	*4,356
		Clover Creek	100 feet upstream from center of Union Pacific Railroad.	*4,401
		Antelope Canyon Wash	150 feet upstream from center of U.S. Highway 93	*4,426

Maps available for inspection at City Clerk's Office, City Hall, Caliente, Nevada.

New Jersey	Carneys Point, Township, Salem County (Docket No. FEMA-6146).	Delaware River	Entire Shoreline within the corporate limits	*9

Maps available for inspection at the Office of the Construction Official, Municipal Building, D & Walker Streets, Carneys Point, New Jersey.

New Jersey	Palisades Park, Borough, Bergen County (Docket No. FEMA-6146).	Overpeck Creek	Downstream Corporate Limits	*9
			Upstream Corporate Limits	*9

Maps available for inspection at the Borough Hall, 275 Broad Avenue, Palisades Park, New Jersey.

New Jersey	West Deptford, Township, Gloucester County (Docket No. FEMA-6122).	Delaware River	Downstream Corporate Limits	*10
			Upstream Corporate Limits	*10
		Mantua Creek	Confluence with the Delaware River	*10
			New Jersey Turnpike (Upstream side)	*10
			State Route 45 (Downstream side)	*11
		Woodbury Creek	Confluence with the Delaware River	*10
			Upstream Corporate Limits	*10

Maps available for inspection at the Office of the Township Administrator, West Deptford Municipal Building, Thorofare, New Jersey.

New York	Cleveland, Village, Oswego County (Docket No. FEMA-6146).	Oneida Lake	Entire shoreline	*373

Maps available for inspection at the Village Hall, Cleveland, New York.

New York	Marcellus, Village, Onondaga County (Docket No. FEMA-6124).	Nanemile Creek	Downstream Corporate Limits of downstream segment through community.	*604
			Downstream face of dam No. 6	*611
			Upstream face of dam No. 6	*618
			340' upstream of North Street Bridge	*622
			Upstream face of abandoned Railroad Bridge (Upstream crossing).	*636
			Downstream face of dam No. 7	*639
			Upstream face of dam No. 7	*653
			1,800' downstream of Platt Road	*662
			Downstream face of Platt Road Bridge/Corporate Limits.	*667

Maps available for inspection at the Marcellus Village Hall, 6 Slocomb Street, Marcellus, New York.

New York	Port Byron, Village, Cayuga County (Docket No. FEMA-6130).	Owasco Lake Outlet	Downstream Corporate Limits	*382
			Upstream side of Green Street	*384
			Downstream of Dam	*396
			Upstream of Dam	*404
			Upstream Corporate Limits	*405
		East Branch Owasco Lake Outlet	Downstream confluence with Owasco Lake Outlet	*387
			Downstream Dam	*398
			Upstream Dam	*404
			Upstream confluence with Owasco Lake Outlet	*404

Maps available for inspection at the Village Hall, 66-68 Utica Street, Port Byron, New York.

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) **Elevation in feet (MLLW).
New York	Skaneateles, Town, Onondaga County (Docket No. FEMA-6146).	Skaneateles Creek	Downstream Corporate Limits	*589
			Irish Road (Upstream side)	603
			Stump Road (Upstream side)	*670
			Upstream side of Dam located approximately 1,800' upstream of downstream crossing of Jordan Road.	*721
			Sheldon Road (Upstream side)	*755
			Upstream side of Skaneateles Short Line Railroad crossing approximately 2,700' downstream of Old Seneca Turnpike.	*816
			Upstream Corporate Limits	*857
		Skaneateles Lake	Entire shoreline within community	*867
Maps available for inspection at the Skaneateles Town Hall, 24 Jordan Road, Skaneateles, New York.				
North Carolina	City of Goldsboro, Wayne County (FEMA-6143)	Neuse River	Just upstream of State Road 1915	*71
			Just upstream of U.S. Highways 117 and 13 Sound Bound Lane.	*73
		Little River	Approximately 1,500 feet upstream State Highway 581	*74
			Just downstream of U.S. Highway 70	*75
		Big Ditch	Just upstream of Seaboard Coastline Railroad (near George Street).	*78
			Just downstream of Park Avenue	*84
		Stoney Creek	Just upstream of Slocumb Street	*75
			Just upstream of Wayne Memorial Drive (State Road 1554).	*83
		Richland Creek	Just downstream of Buckley Boulevard	*101
		Billy Budd Creek	Just upstream of Beast Road (State Road 1565)	*100
			Just upstream of State Road 1567	*105
		Reedy Branch	Just upstream of State Road 1003	*104
		Howell's Branch	Just upstream of Wayne Memorial Drive (State Road 1556).	*83
			Just downstream of State Road 1525 (Patetown Road)	*102
Maps available for inspection at City Hall, Goldsboro, North Caroline 27530.				
Ohio	(Uninc.), Hamilton County, (Docket No. FEMA-6124)	Great Miami River	At confluence with Ohio River	*480
			Just upstream of Chessie System Railroad (about 600 feet upstream of confluence of Paddys Run).	*530
			About 4,900 feet upstream of State Route 126	*556
		Little Miami River	About 1.4 miles downstream of Beechmont Avenue	*501
			Just downstream of confluence of East Fork River	*511
			At upstream county boundary	*567
		Whitewater River	At confluence with Great Miami River	*480
			About 7,100 feet upstream of confluence of Jameson Creek (state boundary).	*513
		Dry Fork Whitewater River	At confluence with Whitewater River	*480
			Just upstream of Kilby Road	*486
			Just upstream of West Road	*544
			At upstream county boundary	*584
		Ohio River	Just downstream of confluence of Great Miami River	*490
			About 1.0 mile upstream of confluence with Eight Mile Creek.	*504
		Howard Creek	At confluence with Dry Fork Whitewater River	*558
			About 550 feet downstream of Oxford Road	*566
			Just downstream of Oxford Road	*568
		East Fork Mill Creek	At City of Cincinnati corporate limits	*519
			At City of Reading corporate limits	*540
		West Fork Mill Creek	Just upstream of Woodlawn corporate limits	*614
			Just downstream of West Fork Dam Outlet Structure	*638
			Just downstream of Covered Bridge Road	*702
			Just downstream of Dam No. 1	*710
			Just upstream of Dam No. 1	*716
			Just upstream of Dam No. 3	*724
			Just upstream of Ripplebrook Drive	*748
			About 500 feet downstream of Compton Road	*765
			Just downstream of Pippin Road	*776
		Winton Woods Creek	About 8,450 feet downstream of Diane Lynn Road	*704
			About 7,230 feet downstream of Diane Lynn Road	*718
			About 950 feet downstream of Daly Road	*755
			Just downstream of Daly Road	*759
		West Fork Sycamore Creek	At City of Indian Hill corporate limits	*685
			Just upstream of Miami Avenue	*719
			Just downstream of Galbraith Road	*764
			At Galbraith Road	*771
		McCullough Run	At confluence with Little Miami River	*501
			At Village of Newton corporate limits	*501
		Fork of McCullough Run	At confluence with McCullough Run	*501
			At Village of Newton corporate limits	*508
		Congress Run	About 610 feet downstream of Caldwell Drive	*625
			At City of Cincinnati upstream corporate limits	*623
			About 2,900 feet downstream of North Hill Lane (downstream of culvert exit).	*766
			About 2,800 feet downstream of North Hill Lane (just upstream of culvert exit).	*763
			Just downstream of North Hill Lane culvert outlet	*841
			Just upstream of North Hill Lane culvert outlet	*851
		Raiders Run	At confluence with West Fork Sycamore Creek	*701
			Just upstream of Montgomery Road	*709
			Just downstream of Interstate 71 outlet	*752
			Just upstream of Interstate 71 inlet	*760
		Wulff Run	Just upstream of Delhi Road (downstream crossing)	*755
			Just downstream of Monvue Avenue	*799
			Just upstream of Monvue Avenue	*803
		Clough Creek	At confluence with Little Miami River	*501
			About 1,020 feet upstream of State Route 125	*527
			Just upstream of Corbly Road	*562

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Just upstream of Clough Pike (about 660 feet upstream of Berkshire Road).	*811
			About 2,000 feet downstream of Five Mile Road (just upstream of Clough Pike).	*666
			About 1,420 feet downstream of Five Mile Road (just upstream of private drive).	*675
			Just downstream of Five Mile Road outlet structure	*696
			Just upstream of Five Mile Road outlet structure	*729
			Just downstream of State Road	*756
			About 620 feet upstream of State Road	*759
		Muddy Creek	Just upstream of Village of Addyston corporate limits	*493
			Just downstream of Beechcreek Road	*748
			Just upstream of Muddy Creek Road (about 1,350 feet upstream of Beechcreek Road).	*762
			Just upstream of Sidney Road	*781
			About 1,080 feet upstream of Sidney Road	*782
		Newton (Clear) Creek	At confluence with Little Miami River	*501
			At Village of Newton corporate limits	*501
			Just downstream of Anderson Ferry Road	*825
Maps available for inspection at the Planning Department, Hamilton County Courthouse, 1000 Main Street, Cincinnati, Ohio.				
Oregon	Cave Junction (City), Josephine County (FEMA-6143)	East Fork Illinois River	250 feet downstream from center of Redwood Highway (U.S. Highway 199).	*1,202
Maps available for inspection at City Hall, 222 Lister, Cave Junction, Oregon.				
Oregon	Dayton (City), Yamhill County (FEMA-6130)	Yamhill River	Intersection of Water Street and Ferry Street	*103
		Palmer Creek	Intersection of creek and Dayton-Salem Highway	*102
Maps available for inspection at City Recorder's Office, 416 Ferry Street, Dayton, Oregon.				
Oregon	Josephine County (Unincorporated Areas) (FEMA-6124).	Rogue River	40 feet downstream from center of Robertson Bridge	*630
			100 feet north along Roguelea Lane from intersection with Lower River Road.	*804
		Jumpoff Joe Creek	60 feet downstream from center of Merlin Galice Road	*684
		Louse Creek	40 feet downstream from center of Monument Drive	*1,002
			30 feet downstream from center of Southern Pacific Railroad Bridge.	*852
			10 feet downstream from center of Monument Drive	*1,122
		Applegate River	80 feet upstream from center of U.S. Highway 199 (Redwood Highway).	*936
			75 feet downstream from center of State Highway 238 (Williams Highway).	*1,045
		State Creek	40 feet downstream from center of Fish Hatchery Road.	*919
		Murphy Creek	Intersection of stream and center of Southside Road (Williams Highway).	*1,072
		Illinois River	210 feet upstream from center of Finch Road	*1,251
			50 feet downstream from center of Pomeroy Dam	*1,279
		East Fork Illinois River	Intersection of stream and center of U.S. Highway 199 (Redwood Highway).	*1,293
			20 feet downstream from center of Waldo Road	*1,523
		West Fork Illinois River	150 feet downstream from center of downstream crossing of U.S. Highway 199 (Redwood Highway).	*1,320
			80 feet downstream from center of upstream crossing of U.S. Highway 199 (Redwood Highway).	*1,415
		Deer Creek	Intersection of stream and center of Old Redwood Highway (old U.S. Highway 199).	*1,300
Maps available for inspection at Planning Office, 510 NW 4th, Grants Pass, Oregon.				
Pennsylvania	Allentown, City, Lehigh County (Docket No. FEMA-6124).	Lehigh River	Downstream Corporate Limits	*245
			Confluence of Little Lehigh Creek	*249
			Hamilton Street downstream	*255
			Tilghman Street downstream	*264
			Upstream Corporate Limits	*267
		Tributary to Lehigh River	Confluence with Lehigh River	*266
			Approximately 2,800' upstream of confluence with Lehigh River.	*282
		Little Lehigh Creek	Upstream Corporate Limits	*293
			Confluence with Lehigh River	*246
			Basin Street upstream	*252
			Confluence of Jordan Creek	*257
			Ward Street upstream	*260
			Park Drive upstream	*276
			Bogarts Road upstream	*278
			Fish Hatchery Road upstream	*289
			Devonshire Road upstream	*303
			Upstream Corporate Limits	*306
		Trout Creek	Confluence with Little Lehigh Creek	*252
			Upstream East Susquehanna Street	*257
			Upstream Conrail bridge	*286
			South Delaware Street upstream	*306
			Downstream of culvert at Dixon Street	*326
			Upstream 2nd Street	*345
			Corporate Limits	*356
		West Branch Trout Creek	Confluence with Trout Creek	*304
			Upstream Vine Street	*330
			Upstream South 10th Street	*348
			Approximately 110' upstream of culvert under Emaus Avenue.	*363
			Approximately 970' upstream of Roy Street	*419
		Jordan Creek	Downstream State Route 309	*456
			Confluence with Little Lehigh Creek	*257
			Tilghman Street upstream	*263
			North 4th Street upstream	*267
			7th Street upstream	*272
			Upstream Corporate Limits	*274

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) **Elevation in feet (M.L.W.)
		Cedar Creek	Confluence with Little Lehigh River	*262
			Mosser Street upstream	*266
			Hamilton Street upstream	*277
			30th Street upstream	*286
			Cedar Crest Boulevard upstream	*292
		Little Cedar Creek	Confluence with Cedar Creek	*290
			Tilghman Street upstream	*325
			Upstream Corporate Limits	*346
			Approximately 300' upstream of the Corporate Limits	*352
Maps available for inspection at the Office of the City Clerk, City Hall, 435 Hamilton Street, Room 510, Allentown, Pennsylvania.				
Pennsylvania	Daugherty, Township, Beaver County (Docket No. FEMA-6147).	Beaver River	Downstream Corporate Limits	*734
			Upstream Corporate Limits	*737
		Blockhouse Run	Downstream Corporate Limits	*606
			Confluence of Tributary to Blockhouse Run	*635
			Private Drive (Upstream side) approximately 1,230' upstream of confluence of Tributary to Blockhouse Run.	*653
			Approximately 5,660' upstream of confluence of Tributary to Blockhouse Run.	*816
		Tributary to Blockhouse Run	Confluence with Blockhouse Run	*805
			Blockhouse Run Road (Upstream side)	*859
			Frishkorn Road (Upstream side)	*916
			Silver Spring Road (Upstream side)	*981
			Approximately 700' upstream of Silver Spring Road	*1,031
Maps available for inspection at the Daugherty Municipal Building, New Brighton, Pennsylvania.				
Pennsylvania	Ellwood City, Borough, Lawrence and Beaver Counties (Docket No. FEMA-6146).	Johnson Run	Confluence with Connoquenessing Creek	*771
			Line Avenue (Upstream side)	*873
			Approximately 1,580' upstream of Line Avenue	*910
			Approximately 2,725' upstream of Line Avenue	*938
		Duck Run	Confluence with Connoquenessing Creek	*813
			Approximately 940' upstream of Private Drive	*845
			Approximately 920' downstream of upstream Corporate Limits	*894
			Upstream Corporate Limits	*914
Maps available for inspection at the Municipal Building, 525 Lawrence Avenue, Ellwood City, Pennsylvania.				
Pennsylvania	Hollidaysburg, Borough, Blair County (Docket No. FEMA-6147).	Beaverdam Branch Juniata River	Upstream State Route 36	*943
			Upstream Allegheny Street	*951
			Corporate Limits, approximately 1,800' upstream Allegheny Street.	*955
			Upstream Corporate Limits	*967
		Brush Run	Upstream Scotch Valley Road	*942
			Upstream Edgar Street	*953
			Approximately 2,300' upstream Penn Street	*990
			Upstream Corporate Limits	*996
Maps available for inspection at the Borough Municipal Building, Hollidaysburg, Pennsylvania.				
Pennsylvania	Milford, Township, Bucks County (Docket No. FEMA-6124).	Unami Creek	Downstream Corporate Limits	*415
			Trumbauersville Road bridge (upstream side)	*430
			Allentown Road bridge (upstream side)	*463
			Milford Square Pike bridge (upstream side)	*485
			Bralech Lane bridge (downstream side)	*501
Maps available for inspection at the Milford Township Building, Spinnerstown, Pennsylvania.				
Pennsylvania	North Sewickley, Township, Beaver County (Docket No. FEMA-6146).	Beaver River	Downstream Corporate Limits	*753
			Pennsylvania Turnpike upstream	*757
			Upstream Corporate Limits	*760
		Connoquenessing Creek	Approximately 3,520' downstream of State Route 65 bridge.	*857
			Approximately 100' upstream of State Route 65 bridge	*962
			Upstream Corporate Limits	*970
		Brush Creek	Confluence with Connoquenessing Creek	*868
			Approximately 2,260' upstream of Bilboberry Road	*875
			Approximately 5,175' upstream of Bilboberry Road bridge.	*882
Maps available for inspection at the North Sewickley Municipal Building, R.D. 2, Beaver Falls, Pennsylvania.				
Pennsylvania	Pulaski, Township, Beaver County (Docket No. FEMA-6147).	Tributary to Blockhouse Run	Downstream Corporate Limits (Upstream side of Private Drive)	*741
			Approximately 1,310' upstream of Corporate Limits	*820
			Rochester Road (Upstream side)	*899
			Upstream Corporate Limits	*957
Maps available for inspection at the Pulaski Municipal Building, New Brighton, Pennsylvania.				
Pennsylvania	Susquehanna, Township, Juniata County (Docket No. FEMA-6147).	Susquehanna River	Downstream Corporate Limits	*405
			Confluence of West Mahantango Creek	*409
		West Mahantango Creek	Confluence with Susquehanna River	*425
			Approximately 1,300' upstream of Township Route 425	*412
			Upstream Route 104 (Upstream)	*428
		West Branch Mahantango Creek	Approximately 90' downstream of confluence of Tributary A.	*453
			Dam (Upstream)	*471
			Township Route 462 (Upstream)	*488
			Approximately 750' upstream of Legislative Route 34012.	*496
		Tributary A	Confluence with West Branch Mahantango Creek	*464
			Township Route 431 (Upstream)	*492
			Approximately 1,840' upstream of Township Route 431	*520
		Dobson Run	Confluence with West Branch Mahantango Creek	*460
			Legislative Route 34012 (Upstream)	*478

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Approximately 5,270' downstream of Township Route 417.	*503
			Township Route 417 (Downstream)	*533
		Tributary B	Confluence with Dobson Run	*478
			Approximately 2,640' upstream of Dobson Run	*499
		Leiningers Run	Confluence with West Branch Mahantango Creek	*469
			Township Route 416 (Downstream)	*496
Maps available for inspection at the residence of the Township Secretary, Ms. Gay Stitzing, R.D. 1, Liverpool, Pennsylvania.				
Texas	*City of Watauga, Tarrant County (FEMA-6143)	Singing Hills Creek	Just upstream of Mackneal Drive	*564
			Just downstream of Chapman Road	*618
			Just upstream of Starnes Road	*654
		Bunker Hill Creek	Just upstream of Maurie Drive	*586
			Just upstream of Chapman Road	*613
			Just Upstream of Prewett Road	*637
		Whites Branch	Just upstream of Watauga Smithfield Road	*580
Maps available for inspection at City Hall, 7107 Whitley Road, Watauga, Texas 76148.				
Washington	Bothell (City), King County (FEMA-6124)	Sammamish River	At intersection of Sammamish River and Burlington Northern Railroad.	*20
		North Creek	At intersection of North Creek and Northeast 195th Street.	*29
Maps available for inspection at Planning Department, City Hall, 18305 101st Avenue N.E., Bothell, Washington.				
Washington	Centralia (City), Lewis County (FEMA-6130)	Chehalis River	100 feet downstream from center of Mellen Street	*173
		Skookumchuck River	Intersection of Denny Way and Alexander Street	*173
			Intersection of Eureka Avenue and Noel Avenue	*197
		Coffee Creek	200 feet upstream from center of Roanoke Street	*185
		China Creek	Intersection of Cedar Street and Plum Street	*173
		Salzer Creek	Intersection of Fair Street and Kresky Avenue	*178
Maps available for inspection at City Hall, Pearl & Maple, Centralia, Washington.				
Washington	Hamilton (Town), Skagit County (FEMA-6143)	Skagit River	Intersection of Baker Street and Ashford Street	*100
			Intersection of Washington Street and Noble Avenue	*102
Maps available for inspection at Town Hall, Noble Street, Hamilton, Washington.				
West Virginia	Cedar Grove, Town, Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*610
			Upstream Corporate Limits	*611
		Kellys Creek	Confluence with Kanawha River	*611
			Downstream of Private Drive	*624
			Upstream Corporate Limits	*631
Maps available for inspection at the Town Office, Cedar Grove, West Virginia.				
West Virginia	Chesapeake, Town, Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*602
			Upstream Corporate Limits	*604
		Fields Creek	Confluence with Kanawha River	*604
			Upstream Corporate Limits	*604
Maps available for inspection at the Town Offices, Chesapeake, West Virginia.				
West Virginia	Dunbar, City, Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*591
			Approximately 1,200' downstream Interstate 64 bridge	*5822
			Upstream Corporate Limits	*593
Maps available for inspection at the City Hall, 12th and Myers Avenue, Dunbar, West Virginia.				
West Virginia	East Bank, Town, Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*606
			Upstream Corporate Limits	*610
		East Bank Tributary	Upstream of Chessie System	*620
			Upstream of Ferry Street	*625
			Downstream of State Route 61	*642
			Approximately 1,240' upstream State Route 61	*692
			Upstream Corporate Limits	*756
Maps available for inspection at the Town Offices, East Bank, West Virginia.				
West Virginia	Montgomery, City, Fayette and Kanawha Counties (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*620
			Confluence with Morris Creek	*622
			Montgomery Bridge (downstream side)	*624
			Upstream Corporate Limits	*628
		Morris Creek	Confluence with Kanawha River	*622
			Old State Route 61 bridge (upstream side)	*629
			Approximately 600' upstream of Old State Route 61	*638
Maps available for inspection at the Office of Public Works, City Hall, 133 Fifth Avenue, Montgomery, West Virginia.				
Wisconsin	(V), Twin Lakes, Kenosha County (Docket No. FEMA-6130).	Lake Mary	Within corporate limits	*795
		Lake Elizabeth	Within corporate limits	*795
		Bassett Creek Tributary	At downstream corporate limits	*751
			About 2,900 feet upstream of corporate limits	*792
Maps available for inspection at the Office of the Clerk, Village Hall, 108 East Main Street, Twin Lakes, Wisconsin.				
Wisconsin	(C), Whitewater, Walworth County (Docket No. FEMA-6144).	Whitewater Creek	About 1,400 feet downstream of Stein Road	*800
			Just downstream of East Main Street	*807
			At upstream corporate limits	*824
		Crawath Lake	Shoreline	*815
		Tripp Lake	Shoreline	*823
		Spring Brook	Just upstream of Franklin Street	*816
			At upstream corporate limits	*849
Maps available for inspection at the Office of the Building Inspector, City Hall, 312 West Whitewater Street, White water, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 22, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-1662 Filed 1-26-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 81-499; FCC 82-7]

Practice and Procedure; Equal Access to Justice Act Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC adopts rules to implement the Equal Access To Justice Act (EAJA). The EAJA provides for the award of attorney's fees to qualified parties who prevail over the government in certain administrative proceedings.

The EAJA requires each government agency to establish uniform procedures for implementing the Act.

The rules provide instructions to eligible parties who seek to recover attorney's fees from the Commission.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Sue Preskill, Office of General Counsel, Federal Communications Commission, Washington, D.C. (202) 632–6990.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: January 13, 1982.

Released: January 22, 1982.

1. A Notice of Proposed Rulemaking in this proceeding was released on August 24, 1981, FCC 81–386, 46 FR 43068 (August 26, 1981). This Notice proposed rules to implement the Equal Access to Justice Act (EAJA), 5 U.S.C. 504. The EAJA provides for the award of attorney's fees and other expenses to qualified parties who prevail over the Federal Government in certain administrative and court proceedings.

2. Comments on the proposed rule were submitted by a number of parties, as noted below. No reply comments were received. Based on these comments, we are adopting the proposed rules with slight modifications.

3. The Administrative Conference of the United States and the National Association of Broadcasters (NAB) suggest that we clarify the rule dealing with coverage of the EAJA to note that revocation proceedings fall within the scope of the Act. Since this will carry out congressional intent, we are modifying Rule 1.1503 as suggested. We believe this modification will sufficiently clarify the scope of the rules so that it is unnecessary to list the proceedings covered, as suggested by the Administrative Conference and the National Radio Broadcasters Association (NRBA).

4. The NRBA and Putbrese & Hunsaker raise concerns that the goals of the EAJA might be frustrated by limiting coverage of the rules to revocation proceedings, while most of the Commission's enforcement efforts are carried out in renewal proceedings. The NRBA suggests that, since both revocation and renewal proceedings are based on the same types of alleged misconduct, exclusion of renewal proceedings is inequitable and contrary to the results apparently intended by Congress. In response, we note that the statute itself excludes from coverage "an adjudication * * * for the purpose of granting or renewing a license * * * " 5 U.S.C. 504(b)(1)(C). We therefore lack authority to award attorney's fees in such proceedings.[1] Putbrese and Hunsaker suggest that the Commission use revocation proceedings to adjudicate a licensee's character qualifications and that the Commission designate all pending renewal proceedings as revocation proceedings. However, the determination to proceed against a licensee in the context of a renewal or revocation proceeding is based on a number of factors, including the nature of the alleged misconduct [2], and the timing of the alleged misconduct. Nothing in the EAJA suggests that agencies are obligated to restructure their proceedings in order to bring more adjudications within the purview of the Act. Since the intent of Congress, as expressed in the statute, clearly was to exempt renewal proceedings from the scope of the Act, to redesignate pending renewal proceedings as revocation proceedings would in itself circumvent the statute.

5. The Maryland-District of Columbia-Delaware Broadcasters Association, Inc. (MDCD) suggests that the ceiling on hourly attorney's fees of $75 is unreasonable in today's market. However, Congress set that ceiling, and it cannot be changed "unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys * * * justifies a higher fee." 5 U.S.C. 504(b)(1)(A)(ii). There is no evidence in the record to support such a determination at this time [3], and we therefore decline to disturb the congressionally-set maximum.

6. MDCD also submits that the agency "which has wronged a licensee" should not "pass final judgment on the amount of reimbursement * * *" Comments of MDCD at 2. It suggests that the Administrative Law Judges' decisions should be final. The EAJA states, however, that the ALJ's decision "shall be made a part of the record containing *the final decision of the agency* * * *" 5 U.S.C. 504(a)(3) (emphasis added). This reflects a congressional determination that the agency itself has the authority to make the final determination to award appropriate fees.[4] The decisions of Administrative Law Judges consititute initial decisions, subject to review. 5 U.S.C. 557, 47 CFR 1.267. In response to MDCD's concern that the Commission may not treat EAJA claims objectively, we state that we intend to carry out our responsibilities under the Act, as under all statutes, fully and objectively.

7. Finally, we are modifying Rule 1.267(c) to ensure that the Administrative Law Judge who presided over the underlying proceeding will retain jurisdiction to rule initially on EAJA applications.

8. Since the EAJA went into effect on October 1, 1981, immediate implementation of these rules is appropriate. Thus, good cause is

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[1] The EAJA is an exception to the "American Rule," whereby each party is responsible for the payment of his own attorney's fees and other expenses incurred during litigation. Unless otherwise provided by statute, the United States is not liable for attorney's fees. *See* H.R. Rep. No. 96-1418, 96th Cong., 2d Sess. 8-9 (1980). Thus, except to the extent provided by the EAJA (or other laws), we are not authorized to award attorney's fees in Commission proceedings.

[2] *Compare* 47 U.S.C. 309, *with* 47 U.S.C. 312.

[3] The rules provide for rulemaking proceedings to increase the maximum rate for attorney's fees *See* Rule 1.1507.

[4] This determination is subject to judicial review. 5 U.S.C. 504(c)(2).

established for waiver of the 30 day effective period. 5 U.S.C. 553(d).

9. Authority for these rules is contained in sections 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 4(i), 303(r); and the Equal Access to Justice Act, 5 U.S.C. 504(c)(i).[*]

Accordingly, it is ordered, that, effective January 25, 1982, § 1.267(c) of the Commission's rules, 47 CFR 1.267(c), is amended, and Subpart K, §§ 1.1501–1.1530, 47 CFR 1.1501–1.1530, are added as set forth in the attached appendix.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communication Commission.

William J. Tricarico,

Secretary.

Appendix

PART 1—PRACTICE AND PROCEDURE

1. In § 1.267, paragraph (c) is revised to read as follows:

§ 1.267 Initial and Recommended Decisions.

* * * * *

(c) The authority of the Presiding Officer over the proceedings shall cease when he has filed his Initial or Recommended Decision, or if it is a case in which he is to file no decision, when he has certified the case for decision: Provided, however, That he shall retain limited jurisdiction over the proceeding for the purpose of effecting certification of the transcript and corrections to the transcript, as provided in §§ 1.260 and 1.261, respectively, and for the purpose of ruling initially on applications for awards of fees and expenses under the Equal Access to Justice Act.

2. A new Subpart K is added to read as follows:

Subpart K—Implementation of the Equal Access to Justice Act (EAJA) in Agency Proceedings

General Provisions

Sec.

1.1501 Purpose of these rules.
1.1502 When the EAJA applies.
1.1503 Proceedings covered.
1.1504 Eligibility of applicants.
1.1505 Standards for awards.
1.1506 Allowable fees and expenses.
1.1507 Rulemaking on maximum rates for attorney fees.
1.1508 Awards against other agencies.

Information Required From Applicants

1.1511 Contents of application.
1.1512 Net worth exhibit.
1.1513 Documentation of fees and expenses.
1.1514 When application may be filed.

Procedures for Considering Applications

1.1521 Filing and service of documents.
1.1522 Answer to application.
1.1523 Reply.
1.1524 Comments by other parties.
1.1525 Settlement.
1.1526 Further proceedings.
1.1527 Decision.
1.1528 Commission review.
1.1529 Judicial review.
1.1530 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart K—Implementation of the Equal Access to Justice Act (EAJA) in Agency Proceedings

General Provisions

§ 1.1501 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the EAJA" in this subpart), provides for the award of attorney's fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Commission. An eligible party may receive an award when it prevails over the Commission, unless the Commission's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Commission will use to make them.

§ 1.1502. When The EAJA applies.

The EAJA applies to any adversary adjudication pending before this agency at any time between October 1, 1981, and September 30, 1984. This includes proceedings begun before October 1, 1981, if final agency action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final agency action occurs.

§ 1.1503 Proceedings covered.

(a) The EAJA applies to adversary adjudications conducted by the Commission. These are adjudications under 5 U.S.C. 554 in which the position of this or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Coverage of the EAJA begins at designation of a proceeding or issuance of a show cause order. Any proceeding in which the Commission may establish or fix a rate is not covered by the EAJA. Proceedings to grant or renew licenses are also excluded; but proceedings to revoke licenses are covered if they are otherwise "adversary adjudications."

(b) The Commission may designate a proceeding as an adversary adjudication for purposes of the EAJA by so stating in an order initiating the proceeding or designating the matter for hearing. The Commission's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the EAJA; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the EAJA and matters specifically excluded from coverage, any awards made will include only fees and expenses related to covered issues.

§ 1.1504 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the EAJA, the applicant must be a party, as defined in 5 U.S.C. 551(3), to the adversary adjudication for which it seeks an award. The applicant must show that it meets all conditions of eligibility set out in this paragraph and in paragraph (b) of this section.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable association as defined in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees;

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was designated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the

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[*] By letter dated August 24, 1981, the Office of Management and Budget was informed that the Commission estimates that the number of applicants requesting awards will be less than ten per year. Thus, the Paperwork Reduction Act, P.L. 96–511, does not apply to this proceeding. *See* 44 U.S.C. 3502(4)(A).

applicant prevails are related primarily to personal interests rather than to business interests.

(e) The number of employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the Administrative Law Judge determines that such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, the Administrative Law Judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 1.1505 Standards for awards.

(a) An eligible prevailing applicant shall receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the Commission over which the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the appropriate Bureau (see § 1.21 of this chapter) whose representative shall be called "Bureau counsel" in this subpart. The Bureau may avoid an award by showing that its position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 1.1506 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Commission pays expert witnesses. However, an award may also include the reasonable expenses of the attorney; agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges its clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the Administrative Law Judge shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the service provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(e) Fees may be awarded only for work performed after designation of a proceeding or after issuance of a show cause order.

§1.1507 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorney's qualified to handle certain types of proceedings), the Commission may adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in some or all of the types of proceedings covered by this part. The Commission will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act.

(b) Any person may file with the Commission a petition for rulemaking to increase the maximum rate for attorney fees, in accordance with Subpart C of this chapter. The petition should identify the rate the petitioner believes this agency should establish and the types of proceedings in which the rate should be used. It should also explain fully the reasons why the higher rate is warranted. This agency will respond to the petition by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

§1.1508 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Commission and takes a position that is not substantially justified, the award for an appropriate portion of the award shall be made against that agency. Counsel for that agency shall be treated as Bureau counsel for the purpose of this subpart.

Information Required From Applicants

§ 1.1511 Contents of application.

(a) An application for an award of fees and expenses under EAJA shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual; the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty

of perjury that the information provided in the application is true and correct.

§ 1.1512 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1.1504(f) of this part) at the time the proceeding was designated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The Administrative Law Judge may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the Administrative Law Judge in a sealed evelope labeled "Confidential Financial Information", accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosue of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on Bureau counsel, but need not be served on any other party to the proceeding. If the Administrative Law Judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act, §§ 0.441–0.466 of this chapter.

§ 1.1513 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which and award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing hours spent in connection with the proceeding by each individual, a description of this specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The Administrative Law Judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 1.1514 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Commission's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the later of (1) the date on which an initial decision or other recommended disposition of the merits of the proceeding by an Administrative Law Judge or the Review Board becomes administratively final; (2) issuance of an order disposing of any applications for review or petitions for reconsideration of the Commission's order in the proceeding; (3) if no application for review or petition for reconsideration is filed, the last date on which such an application or petition could have been filed; (4) issuance of a final order by the Commission or any other final resolution of a proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for reconsideration, or to a petition for judicial review; or (5) completion of judicial action on the underlying controversy and any subsequent Commission action pursuant to judicial mandate.

Procedures for Considering Applications

§ 1.1521 Filing and service of documents.

Any application for an award or other pleading relating to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 1.1512(b) for confidential financial information.

§ 1.1522 Answer to application.

(a) Within 30 days after service of an application Bureau counsel may file an answer to the application. Unless Bureau counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award request.

(b) If Bureau counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the Administrative Law Judge upon request by Bureau counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of Bureau counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, Bureau counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1.1526.

§ 1.1523 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1.1526.

§ 1.1524 Comments by other parties.

Any party to a proceeding other than the applicant and Bureau counsel may file comments on an application within 30 days after it is served or an answer within 15 days often it is served. A commenting party may not participate further in proceedings on the application unless the Administrative Law Judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 1.1525 Settlement.

The applicant and Bureau counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and Bureau counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the

proposed settlement. If the Administrative Law Judge approves the proposed settlement, it shall be forwarded to the Commission for final approval.

§ 1.1526 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or Bureau counsel, or on his or her own initiative, the Administrative Law Judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the Administrative Law Judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 1.1527 Decision.

The Administrative Law Judge shall issue an initial decision on the application as soon as possible after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the Commission's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 1.1528 Commission review.

Either the applicant or Bureau counsel may seek Commission review of the initial decision on the fee application, or the Commission may decide to review the decision on its own initiative, in accordance with §§ 1.276–1.282 of this Chapter. Except as provided in § 1.1525, if neither the applicant nor Bureau counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the Commission 50 days after it is issued. Whether to review a decision is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the Administrative Law Judge for further proceedings.

§ 1.1529 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 1.1530 Payment of award.

An applicant seeking payment of an award from the Commission shall submit to the General Counsel a copy of the Commission's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts, or a copy of the court's order directing payment. The Commission will pay the amount awarded to the applicant unless judicial review of the award or the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

[FR Doc. 82-2068 Filed 1-26-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-239; RM-2859; FCC 81-583]

Operation of Television Broadcast Stations by Remote Control

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its rules by deleting the requirement that TV stations operated by remote control transmit vertical interval test signals. The specific test signals listed in the rules were also deleted. The deletion will permit greater operating flexibility and reduce costs for these TV systems.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Herbert Zeiler, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: December 17, 1981.

Released: January 14, 1982.

In the matter of amendment of Part 73, Subpart E of the Commission's Rules and Regulations concerning the operation of television broadcast stations by remote control; Report and Order, Proceeding terminated.

1. On April 9, 1981, the Commission adopted a *Notice of Proposed Rule Making* [1] in the above entitled matter. The *Notice* proposed to amend §§ 73.676, and 73.699, and 73.1820 of the rules by deleting the specific vertical interval test signals (VITS) for remotely controlled television stations and the accompanying mandatory transmission requirement.

2. Comments were received from American Broadcasting Companies, Inc. (ABC), the National Association of Broadcasters (NAB), National Broadcasting Company, Inc. (NBC), CBS, Inc. (CBS), and the Consumer Electronics Group of the Electronic Industries Association (EIA). Reply comments were received from the Public Broadcasting Service (PBS).

3. This proceeding was initiated in response to a petition for rule making submitted by ABC. The petition proposed amending the rules to specify the use of two VITS having different configurations and characteristics from the four VITS presently required. Under the ABC proposal, the amount of space in the vertical blanking interval used for VITS would be reduced from two lines to one.

4. The Commission's *Notice* carried this proposal one step further, it proposed to delete the requirement to transmit VITS. Thus under this concept a station could transmit whatever test signal it chose whenever it chose, as long as there was no harmful interference.

5. Our proposal, while different from what was requested in the petition, was unanimously supported by the comments. The view of ABC was typical:

> ABC wholeheartedly supports this sensible deregulatory approach which recognizes technological advances and the efficacy of the marketplace in ensuring high quality television transmissions.

6. The Commission is persuaded that the present rules should be amended as proposed. The comments have confirmed our perception, as stated in the *Notice*, that the "specific VITS requirements may no longer be necessary" (paragraph 9). To retain them would not be in the best interests of either licensees or the general public since they constitute a burden without benefit.

7. By deleting the specific VITS standards and the mandatory transmission requirements, however, we are in no way relieving the licensee of its responsibility to take appropriate measures to insure quality transmissions. As stated in the *Notice*, we expect all licensees to perform tests

[1] FCC 81-170, released April 22, 1981.

and observations as necessary to insure proper performance.

8. **Regulatory Flexibility Act Final Analysis**

I. *Need for Rule.*

The Commission believes that the mandatory requirement that television stations operated by remote control continuously transmit Commission specified test signals during the vertical blanking interval is no longer necessary.

II. *Purpose of Rule.*

The purpose is to lessen the regulatory burden on television stations operated by remote control and allow, to a greater extent, the broadcast marketplace to regulate licensee conduct.

III. *Flexibility Issues Raised in the Comments.*

None.

IV. *Significant Alternatives Not Adopted.*

The Commission considered maintaining the status quo, however, this would keep an unnecessary burden on television stations operated by remote control.

9. Accordingly, it is ordered, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules is amended effective February 22, 1982 as set forth in the attached Appendix. It is further ordered, that the proceeding in BC Docket No. 81-239 is hereby terminated.

10. For further information contact Herbert Zeiler, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—RADIO BROADCAST SERVICES

§ 73.676 [Amended]

1. Section 73.676 is amended by removing paragraph (f) in its entirety.

§ 73.699 [Amended]

2. Section 73.699 is amended by removing Figures 13, 14, and 15, and marking them [Reserved].

§ 73.1820 [Amended]

3. Section 73.1820 is amended by removing paragraph (a)(4)(i)(C) in its entirety.

[FR Doc. 82-2086 Filed 1-26-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[FCC 82-25]

Reregulation and Oversight of Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends certain broadcast station rules in Volume III, Part 73 of the rules of the Federal Communications Commission. These amendments are made to contemporize certain requirements, delete regulations that are no longer necessary and make corrections and editorial revisions as needed for purposes of clarity and ease of understanding.

DATE: Effective March 5, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Philip Cross, John Reiser, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1982.

Released: January 25, 1982.

1. In this *Order*, the Commission considers the reregulation and oversight of its radio and TV broadcast rules. Modifications are made in this *Order* to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) Section 73.653, Operation of TV aural and visual transmitters, requires complete integration of audio and video transmissions and prohibits separate transmitter operation or the presentation of non-related program material. There are three exceptions to the requirements:

(1) For emergency fills due to either visual or aural equipment failures;

(2) For equipment tests or experimental operation; or

(3) For graveyard hours transmissions between sign-off of one day and sign-on of the next (no earlier than midnight; no later than 6:00 a.m.) when the transmitters may be operated separately, with either (i) no aural transmissions or (ii) aural transmissions of non-related, different program material.

This rule fails to serve certain needs of STV operators. These licensees, in order to provide an unscrambled signal, at minimum cost, in installing decoders and orienting receiving antennas, desire to transmit at other than graveyard hours, a crawl on the visual transmitter accompanied by music on the aural—a clear violation of the requirement to present completely related, integrated material in non-graveyard hours.

Waivers have been received and granted, permitting this practice on STV stations. Since the public interest is served by permitting this practice, and since case-by-case requests by licensees, and review and response by FCC staff is time consuming and costly, the rule will herein be amended and relaxed to permit such visual-crawl, aural-music, non-integrated transmissions in such STV operational circumstances. (See Appendix, item 1).

(b) STV operational procedures have also occasioned the consideration, and granting, of a waiver of one of the requirements of another FCC rule—station identification. Petitioners have asked for relief from applicability of the hourly station I.D. requirement during STV programming. The sole purposes of station identification are to advise the public of the station it is viewing and to aid in resolving interference problems. Monthly fee clients, viewing the STV program, know which station to which they are tuned. Non-subscribing viewers receive encoded (scrambled) signals, so any I.D. broadcast would be unintelligible to them. So hourly I.D.'s serve no useful purpose in these circumstances. Thus, the requirement to identify the station hourly during scrambled transmissions has no public interest benefit. The rule will still require the station to present non-scrambled I.D.'s hourly, during non-STV periods, and before and after STV programs. (See Appendix, item 2).

(c) From time to time the staff is queried on the exact meaning of this proviso in paragraph (a) of § 73.1930, Political editorials: "Where such editorials are broadcast within 72 hours prior to the day of the election, * * *". The question posed is, does the 72 hour period exclude election day, or does the rule mean election day and the 72 hours preceding it? The proper interpretation is the latter. It is the 72 hours prior to the day of election plus election day. The Commission made this interpretation quite clear in Bel Air Broadcasting Company, Inc., *Memorandum Opinion and Order*, In the Matter of Liability of Bel Air Broadcasting Co., Inc., Licensee of Radio Station WVOB, Bel Air, Md. For Forfeiture. 47 FCC 2d 985. In that judgment, the Commission based its decision to issue a Notice of Apparent Liability on certain "apparent facts" including: "that the editorial was broadcast on each of the three days prior to the election as well as on election day and thus well within the 72-hour period established by the Rule during which licensees broadcasting such editorial oppositions must meet the Rule's affirmative obligations. * * *"

§ 73.1930(a) will be amended to clarify its meaning in this respect. (See Appendix, item 3.)

(d) Two elements of the FCC's multi-faceted policy pertaining to combination advertising rates and joint sales practices have recently been subject to Commission action:

The Commission letter to Ben Lomond Broadcasting Company, Inc. clearly defining (for the first time) the amount of common ownership required under the combination rate policy to permit stations to sell in combination, and,

In another action, that part of this policy which prohibited sales representation of a station by a representative owned wholly or partially by a licensee of a competing radio or TV station in the same service in the same area was repealed July 30, 1981. In *Report and Order* in BC Docket 80–438,[1] these two restrictions were eliminated and representation of a station in a market by a sales rep owned by a rival station was thereafter permitted. The Report and Order is herein stated in § 73.4065, Combination advertising rates; joint sales practices. (See Appendix, item 4.)

(e) The procedures to be followed in comparative broadcast hearing cases in consideration of specialized programming formats is stated in *Memorandum Opinion and Order* released February 7, 1980, 75 FCC 2d 721. For many years Commission policy in this matter was found in *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965); and *Commercial Radio Institute, Inc.*, 48 FCC 2d 323 (Rev. Bd 1974). However, in *George E. Cameron, Jr. Communications*, 71 FCC 2d 461 (1979), we retreated from our longtime approach and announced a revision in this policy area. Subsequent to *Cameron*, the Commission adopted the Report and Order in General Docket 79–137, *Revised Procedures for the Processing of Contested Broadcast Applications*, 72 FCC 2d 202, where we initiated certain procedural reforms, one of which created a contradiction between the new procedure and the *Cameron* policy. The Declaratory Ruling was given clarifying the matter in the subject Memorandum Opinion and Order. The appropriate addition is made to the Policy listings via this Order. (See Appendix, item 5.)

(f) In adopting the Report and Order in Docket 19571, 41 FCC 2d 534, the Commission elected to set policy rather than adopt a rule change in the matter of restricting transmission of the stereophonic pilot subcarrier by FM stations during periods of monophonic program transmission. Via this Order, the policy is listed as "Stereophonic pilot subcarrier use during monophonic programming. It is numbered as § 73.4246 in the Policy listings in Part 73. (See Appendix, item 6.)

(g) With the adoption of the *Second Report and Order* in Docket 21502, 65 FCC 2d 631, the Commission established a policy that mutually exclusive applications for new TV stations, where one or more propose subscription television (STV) service, will only be compared using traditional criteria such as media diversification, integration of ownership and management, and efficient spectrum use. We herein add the policy to the Policy listings in Part 73 and designate it as § 73.4247, STV: competing appliations. (See Appendix, item 7.)

(h) In notice of Inquiry on part-time programming, BC Docket 78–355, 43 FR 55804, the Commission "solicited comments on incentives to foster time brokerage arrangements and thereby further encourage minority group involvement in broadcasting." That proceeding was terminated with the issuance of a Policy Statement, 82 FCC 2, 107, encouraging time brokerage arrangements which have the potential to foster healthy program competition and enhance diversity of programming. The Policy Statement is added to the Policy listings in Part 73 as § 73.4267, Time brokerage. (See Appendix, item 8.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public.

3. We conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest, and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Inasmuch as a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's Rules and Regulations are amended as set forth in the attached Appendix, effective March 5, 1982.

6. For further information on this Order, contact Steve Crane, John Reiser or Philip Cross, Broadcast Bureau, (202) 632–9660.

[1] FCC 81–371, 87 FCC 2d ——.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—RADIO BROADCAST SERVICES

1. Section 73.653 is amended to add new paragraph (d) as follows:

§ 73.653 Operation of TV aural and visual transmitters.

* * * * *

(d) During the non-encoded operating hours of a *Subscription TV station*, between the regularly scheduled sign-on and sign-off times in which it presents such non-encoded programming, the aural and visual transmitters shall not be operated separately, or to present different or unrelated program material, except in the following case:

(1) During installation of decoders and orientation of receiving antennas, at subscriber locations, non-integrated, different or unrelated material may be presented to aid installers in their function.

2. Section 73.1201 is amended to add new paragraph (d) as follows:

§ 73.1201 Station identification.

* * * * *

(d) *Subscription television stations (STV).* The requirements for official station identification applicable to TV stations will apply to Subscription TV stations except, during STV-encoded programming such station identification is not required. However, a station identification announcement will be made immediately prior to and following the encoded Subscription TV program period.

3. Section 73.1930, paragraph (a), is revised to read as follows:

§ 73.1930 Political editorials.

(a) Where a licensee, in an editorial,

(1) Endorses or,

(2) Opposes a legally qualified candidate or candidates, the licensee shall, with 24 hours after the editorial, transmit to, respectively,

(i) The other qualified candidate or candidates for the same office or,

(ii) The candidate opposed in the editorial,

(A) Notification of the date and the time of the editorial,

(B) A script or tape of the editorial and

(C) An offer of reasonable opportunity for the candidate or a spokesman of the candidate to respond over the licensee's

facilities. Where such editorials are broadcast on the day of the election or within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

* * * * *

4. Section 73.4065 is amended to designate the present text paragraph (a), and add new paragraphs (b) and (c) as follows:

§ 73.4065 Combination advertising rates; joint sales practices.

(a) See Report and Order, Docket 19789, FCC 76–190, adopted February 26, 1976. 59 FCC 2d 894; 41 FR 24719, June 18, 1976.

(b) See letter to Ben Lomond Broadcasting Company, Inc., adopted January 16, 1981, FCC 81–16. 84 FCC 2d 899.

(c) See Report and Order, Docket 80–438, FCC 81–371, adopted July 30, 1981. 87 FCC 2d ——, 46 FR 43681, August 31, 1981.

5. New § 73.4082 is added to the Policy listing in Subpart H, Part 73 to read as follows:

§ 73.4082 Comparative broadcast hearings—specialized programming formats.

(a) See Memorandum Opinion and Order, FCC 80–33, adopted January 30, 1980. 75 FCC 2d 721.

(b) See Report and Order, Docket 79–137, FCC 79–331, adopted June 1, 1979. 72 FCC 2d 202.

(c) See Memorandum Opinion and Order, FCC 79–206, adopted March 30, 1979. 71 FCC 2d 460.

6. New § 73.4246 is added to the Policy listing in Subpart H, Part 73, to read as follows:

§ 73.4246 Stereophonic pilot subcarrier use during monophonic programming.

See Report and Order, Docket 19571, FCC 73–680, adopted June 21, 1973. 41 FCC 2d 534; 38 FR 17021, June 28, 1973.

7. New § 73.4247 is added to the Policy listing in Subpart H, Part 73, to read as follows:

§ 73.4247 STV: Competing applications.

See Second Report and Order, Docket 21502, FCC 81–13, adopted January 8, 1981. 85 FCC 2d 631; 46 FR 19937, April 2, 1981.

8. New § 73.4267 is added to the Policy listings in Subpart H, Part 73, to read as follows:

§ 73.4267 Time brokerage.

See Policy Statement, Docket 78–355, FCC 80–621, adopted October 21, 1980. 82 FCC 2d 107.

[FR Doc. 82–2085 Filed 1–26–82; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 351

Whaling; Amendments to Schedule of the International Convention for Regulation of Whaling

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Section 916k of the Whaling Convention Act, 16 U.S.C. 916 et seq., requires that the Secretary of Commerce publish the Schedule of the International Convention for the Regulation of Whaling, 1946, in the **Federal Register**, so that the Schedule will "become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations * * *" This final rule publishes the most recent amendments to the Schedule of the International Convention for the Regulation of Whaling as required even though 50 CFR Part 351 (except as provided for in § 351.36) relates to commercial whaling which is currently proscribed for all persons and vessels subject to the jurisdiction of the United States. Subsistence whaling by U.S. citizens will be the subject of a separate rulemaking to be published in 50 CFR Part 230.

EFFECTIVE DATE: The amendments to the Schedule became effective on November 10, 1981. This final rule becomes effective January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, NOAA, Department of Commerce, Washington, D.C. 20235, Telephone—(202) 634–1792.

SUPPLEMENTARY INFORMATION: At its 33rd Annual Meeting held in Brighton, England, July 20–25, 1981, the International Whaling Commission (IWC) adopted amendments to the Schedule to establish catch limits for the 1981–82 pelagic and 1982 coastal whaling seasons and to extend the ban on the commercial use of cold grenade (nonexploding) harpoons to kill minke whales from the beginning of the 1982–83 pelagic and 1983 coastal whaling seasons.

Notification of amendments to the Schedule was made by the Secretary of the IWC on August 11, 1981, and clarifications to the notice were made on September 24, 1981. By terms of the convention, the amendments become effective at the end of a 90 day objection period except for any to which one or more Contracting Parties file objection. If any amendment is the subject of an objection, it becomes effective with respect to all Contracting Parties which have not objected to it at the conclusion of a second 90 day objection period or 30 days after the last objection is filed, whichever is later.

At the conclusion of the initial objection period, November 9, 1981, two Schedule amendments had been the subject of objection: That extending the ban on the commercial use of cold grenade harpoons to kill minke and that relating to the catch limit on the Western Stock of sperm whales in the North Pacific. This publication incorporates all other amendments to the Schedule that were adopted by the 33rd Annual Meeting and therefore became binding on the United States as of November 10, 1981.

Regulations under the Whaling Convention Act relating to the 1982 harvest of bowhead whales by Alaskan Natives will be published at a later date and will appear in 50 CFR Part 230.

16 U.S.C. 916k requires the Secretary to promulgate IWC Schedule amendments. These amendments result from a process in which NOAA provided ample opportunity for public comment in the development of the U.S. position for the most recent IWC meeting. Because of the perfunctory nature of this publication and in view of the public's participation in preparing for the IWC meeting that produced the subject Schedule amendments, I for good cause find that a delay of 30 days in effectiveness under 5 U.S.C. 553 is impracticable and contrary to the public interest. Also, this promulgation is exempt from the NEPA environmental document requirements pursuant to Section 6(c)(3) of the revised NOAA Directive (NDM 02–10; 45 FR 49312–49321) implementing NEPA because it constitutes a programmatic function with no potential for significant environmental impact.

The Administrator has reviewed this final rule in accordance with the specifications of Executive Order 122291, "Federal Regulation," and the Department guidelines implementing that Order and determined that it has no

impact on competition, employment, investment, or productivity. Accordingly, no regulatory impact analysis is required.

The Administrator has certified that this rule will not have a significant economic impact on a substantial number of small entities because it would regulate activities that are otherwise prohibited with the exception of aboriginal whaling allowed under 50 CFR 351.36. This exception will be the subject of a separate rulemaking to be published in 50 CFR Part 230. Accordingly, no regulatory flexibility analysis is required. Finally, this action does not increase the Federal paperwork burden for agencies, individuals, small businesses, or other persons. Therefore, the Paperwork Reduction Act of 1980 does not apply.

Dated: January 21, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 351—WHALING

For reasons set out in the preamble, Part 351 of Title 50, Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 351 reads as follows:

Authority: Article 5, 62 Stat. 1718, sec. 2–14, 64 Stat. 421–425; 16 U.S.C. 916 et seq.

2. By adding an entry for §351.30 to the table of contents for Part 351 that reads as follows:

Sec.

* * * * *

351.30 Humane Killing.

* * * * *

3. By adding a new §351.30 to read as follows:

§ 351.30 Humane Killing.

The killing for commercial purposes of whales, except minke whales, using the cold grenade harpoon shall be forbidden from the beginning of the 1980/81 pelagic and 1981 coastal seasons.

4. By revising paragraphs (d) and (e) of §351.33 to read as follows:

§ 351.33 Classification of areas and divisions.

* * * * *

(d) Geographical boundaries in the North Pacific. The geographical boundaries for the sperm and Bryde's whale stocks in the North Pacific are:

Sperm Whale Stocks

Western Division

West of a line from the ice-edge south along the 180° meridian of longitude to 180°, to 50°N, then east along the 50°N parallel of latitude to 160°W, 50°N, then south along the 160°W meridian of longitude to 160°W, 40°N, then east along the 40°N parallel of latitude to 150°W, 40°N, then south along the 150°W meridian of longitude to the Equator.

Eastern Division

East of the line described above.

Bryde's whale stocks

East China Sea Stock, West of the Ryuku Island chain.

Western Stock, West of the 160°W meridian of longitude (excluding the East China Sea stock area).

Eastern Stock, East of the 160°W meridian of longitude (excluding the Peruvian stock area).

(e) Geographical boundaries for Bryde's whale stocks in the Southern Hemisphere.

Southern Indian Ocean, 20°E to 130°E, south of the Equator.

Solmon Islands, 150°E to 170°E, 20°S to the Equator.

Western South Pacific, 130°E to 150°W, south of the Equator (excluding the Solomon Islands stock area).

Peruvian, 100°W to the South American coast, 10°S to 10°N.

Eastern South Pacific, 150°W to 70°W, south of the Equator (excluding the Peruvian stock area).

South Atlantic, 70°W to 20°E, south of the Equator (excluding the South African Inshore stock area).

South African Inshore, 30nm seawards off the southwest coast of South Africa from 25°S latitude down and around the coast to 25°E longitude.

5. By revising Tables 1, 2, and 3 which follow Subpart D to read as follows:

Table 1. Baleen Whale Stock Classifications and Catch Limits (excluding Bryde's whales)

[Southern Hemisphere—1981–82 pelagic season and 1982 coastal season]

Area	Longitudes	Sei		Minke		Fin		Blue	Humpback	Right, Bowhead, Pygmy Right	Gray	
		Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Classification	Classification	Classification	Catch limit
I	120° W–60° W	PS	[illegible]	—	850	PS	0	PS	PS	PS	—	—
II	60° W–0° W	PS	[illegible]	—	1,249	PS	0	PS	PS	PS	—	—
III	0° –70° E	PS	[illegible]	—	[illegible]	PS	0	PS	PS	PS	—	—
IV	70° E–130° E	PS	0	—	1,625	PS	0	PS	PS	PS	—	—
V	130° E–170° W	PS	[illegible]	—	1,187	PS	0	PS	PS	PS	—	—
VI	170° W–120° W	PS	[illegible]	—	1,317	PS	0	PS	PS	PS	—	—
Total catch not to exceed					8,102		0	0	0	0		
Northern Hemisphere—1982 season												
Arctic		—	—	—	—	—	—	—	—	PS	—	—
North Pacific												
Whole region		PS	0	—	—	PS	0	PS	PS	PS		—
Okhotsk Sea-West Pacific Stock		—	—	SMS	[1]421	—	—	—	—	—	—	—
Sea of Japan—Yellow Sea—East China Sea Stock		—	—	[2]SMS	[2]940	—	—	—	—	—	—	—
Remainder		—	—	IMS	[3]0	—	—	—	—	—	—	—
Eastern Stock		—	—	—	—	—	—	—	—	—	SMS	[4]179
Western Stock		—	—	—	—	—	—	—	—	—	PS	0
North Atlantic												
Whole region		—	—	—	—	—	—	PS	PS	PS	—	—
West Greenland Stock		—	—	SMS	[5]444	[6]SMS	6	—	—	—	—	—
Newfoundland—Labrador Stock		—	—	—	—	IMS	90	—	—	—	—	—
Canadian East Coast Stock		—	—	—	[7]0	—	—	—	—	—	—	—
Nova Scotia Stock		PS	0	—	—	PS	0	—	—	—	—	—
Central Stock		—	—	SMS	320	—	—	—	—	—	—	—
East Greenland—Iceland Stock		—	—	—	—	SMS	194	—	—	—	—	—
Iceland—Denmark Strait Stock		SMS	[8]100	—	—	—	—	—	—	—	—	—

Table 1. Baleen Whale Stock Classifications and Catch Limits (excluding Bryde's whales)—Continued

[Southern Hemisphere—1981-82 pelagic season and 1982 coastal season]

Area	Longitudes	Sei		Minke		Fin		Blue	Humpback	Right Bowhead Pygmy Right		Gray	
		Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Classification	Classification		Classification	Catch limit
Spain—Portugal—British Isles Stock		—	—	—	—	SMS	210	—	—	—		—	—
Northeastern Stock		—	—	SMS	1,790	—	—	—	—	—		—	—
West Norway—Faroe Islands Stock		—	—	—	—	PS	0	—	—	—		—	—
North Norway Stock		—	—	—	—	SMS	61	—	—	—		—	—
Eastern Stock		—	0	—	—	—	—	—	—	—		—	—
Northern Indian Ocean		—	—	IMS	0	—	—	PS	PS	PS		—	—

[1] The total catch of minke whales shall not exceed 1,678 in the five years 1980 to 1984 inclusive.
[2] Provisionally listed as SMS for 1982.
[3] The total catch of minke whales shall not exceed 3,634 in the five years 1980 to 1984 inclusive.
[4] Pending a satisfactory estimate of stock size.
[5] Available to be taken by aborigines or a Contracting Government on behalf of aborigines pursuant to paragraph 13b
[6] The total catch of minke whales shall not exceed 1,778 in the five years 1981 to 1985 inclusive.
[7] Pending submission of data leading to an adequate assessment.
[8] The total catch of sei whales shall not exceed 504 in the six years 1980 to 1985 inclusive.

TABLE 2. BRYDE'S WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

[Southern Hemisphere and Northern Indian Ocean 1981-82 pelagic season and 1982 coastal season]

	Classification	Catch Limit
South Atlantic Stock	—	0
Southern Indian Ocean Stock	IMS	197
Solomon Islands Stock	IMS	0
Western South Pacific Stock	IMS	237
Eastern South Pacific Stock	IMS	188
Peruvian Stock	SMS	[1] 244
		[2] 76
South African Inshore Stock	—	0
North Pacific—1982 season:		
Eastern Stock	IMS	[3] 0
Western Stock	IMS	507
East China Sea Stock	[4] SMS	19
North Atlantic—1982 season	IMS	[3] 0
Northern Indian Ocean—1982 season	—	0

[1] Available to be taken in a six month period starting in November 1981.
[2] Special remainder from 1981 coastal season that may be taken in a six month period starting in November 1981 making a total of 320 whales which may be taken during this period pursuant to this footnote and footnote 1.
[3] Pending a satisfactory estimate of stock size
[4] Provisionally listed as SMS for 1982.

Table 3. Toothed Whale Stock Classifications and Catch Limits

[Southern Hemisphere 1981-82 pelagic season and 1982 coastal season]

		Sperm		Sei Whales
		Classification	Catch limit	Classification
1	60° W-30° W	—	0	—
2	30° W-20° E	—	0	—
3	20° E-60° E	—	0	—
4	60° E-90° E	—	0	—
5	90° E-130° E	—	0	—
6	130° E-160° E	—	0	—
7	160° E-170° W	—	0	—
8	170° W-100° W	—	0	—
9	100° W-60° W	—	0	—
Northern Hemisphere—1982 season				
North Pacific				
Western Division		—	—	—
Eastern Division		—	0	—
North Atlantic		—	[1] 0	[2] PS
Northern Indian Ocean		—	0	—

[1] Provided that the remainder of 130 male sperm whales from the 1981 coastal season may be taken during the 1982 coastal season.
[2] Provisionally listed as PS for 1982 pending the accumulation of sufficient information for classification.

6. By revising § 351.35 to read as follows:

§ 351.35 Catch limits for baleen whales.

(a) The number of baleen whales taken in the Southern Hemisphere in the 1981/82 pelagic season and the 1982 coastal season shall not exceed the limits shown in Tables 1 and 2. However, in no circumstances shall the sum of the Area catches exceed the total catch limit for each species.

(b) The number of baleen whales taken in the North Pacific Ocean and dependent waters in 1982 and in the North Atlantic Ocean in 1982 shall not exceed the limits shown in Tables 1 and 2.

7. By revising § 351.39 to read as follows:

§ 351.39 Catch limits for sperm whales.

Catch limits for sperm whales of both sexes shall be set at zero in the Southern Hemisphere for the 1981/82 pelgaic season and 1982 coastal seasons and following seasons, and at zero in the Northern Hemisphere for the 1982 and following coastal seasons; except that the catch limits for the 1982 coastal season and following seasons in the Western Division of the North Pacific shall remain undetermined and subject to decision by the Commission following special or annual meetings of the Scientific Committee. These limits shall remain in full force until such time as the Commission, on the basis of the scientific information which will be reviewed annually, decides otherwise in accordance with the procedures followed at that time by the Commission.

Appendix A—[Amended]

8. By amending Appendix A to Part 351 by insertion of the following title page between the captions "Appendix A" and "Table 1.—*Daily Record Sheet*":

International Convention for the Regulation of Whaling 1946, Schedule Appendix A—Title Page

(One logbook per catcher per season)

Catcher name———— Year built———
Attached to expedition/land station ————
Season ————
Overall length———— Wooden/steel hull
Gross tonnage ————
Type of engine———— H.P.———
Maximum speed———— Average searching speed———
Asdic set, make and model no. ————
Date of installation ————
Make and size of cannon ————
Type of first harpoon used ——— explosive/electric/non-explosive
Type of killer harpoon used ————
Length and type of forerunner ————
Type of whaleline ————
Height of barrel above sea level ————
Speedboat used, Yes/No
Name of Captain ————

Number of years experience
Name of gunner
Number of years experience
Number of crew

[FR Doc. 82-2102 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Increase in fishing time.

SUMMARY: This notice increases the allowable fishing time from 12 to 24 hours per week for fishing vessels harvesting surf clam within the mid-Atlantic area of the fishery conservation zone. Action is taken to allow vessel operators sufficient fishing time to harvest the quarterly allocation of surf clams. This action should increase the opportunity of fishermen to harvest surf clam in the mid-Atlantic area. .

EFFECTIVE DATE: January 3, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Plan Coordinator, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097; telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: The emergency interim rule implementing portions of Amendment 3 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries FMP requires the Secretary of Commerce at the beginning of each calendar fishing quarter to publish in the **Federal Register** the allowable fishing time for the quarter so that fishing for surf clam may be conducted throughout the entire quarter with the minimum number of changes to fishing times (§ 652.22(a)(3)).

The Regional Director has reviewed harvest statistics from the latter part of 1981 and has determined that fishing time for surf clams should be increased from the 12 hours per week currently in effect to 24 hours, to facilitate the harvest of the full quarterly quota for surf clams, expected to be approximately 585,000 bushels. The Regional Director recognizes that harvest rates fluctuated dramatically during the last year, and intends continually to review progress toward attainment of the quarterly quota so that he can make timely adjustments to the allowable fishing time.

This management action is prescribed under § 652.22(a)(3) of the regulations and as such is exempt from Sections 3, 4, and 7 of Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

Date: January 21, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-2008 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 654

Stone Crab Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rulemaking amending the regulations for the Stone Crab Fishery of the Gulf of Mexico. This amendment changes the size of the biodegradable panel on stone crab traps and provides the Regional Director with the authority to allow research activities otherwise prohibited in the management area. The amendment will minimize alteration of commercial traps, by fishermen and dealers; consequently reducing regulatory compliance costs.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Harold B. Allen (Acting Regional Director, NMFS), 813-893-3141.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Stone Crab Fishery (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on March 19, 1979. Final regulations, were effective September 30, 1979 (44 FR 53519). The Secretary of Commerce published on August 6, 1981 (46 FR 40062), a proposed rulemaking amending regulations, with the public comment period ending September 21, 1981. No comments were received during this period.

These regulations reduce the size of the biodegradable panel required in wooden stone crab traps fished in the fishery conservation zone from 4" by 6½" to 2½" by 5". This smaller size panel still allows escapement of crabs from traps that become severed from trot or buoy lines (ghost traps). Commercially constructed traps may be adapted more easily to meet the proposed opening by removing only one slat instead of the two as previously required.

A new section allows the Regional Director, National Marine Fisheries Service, to authorize certain otherwise prohibited activities for the purpose of scientific research.

The Assistant Administrator for Fisheries, NOAA, has determined that this amendment to the regulations complies with the national standards, other provisions of the Magnuson Fisheries Conservation and Management Act, and other applicable law.

The Administrator, NOAA, has determined that this amendment is not a major rule requiring the preparation of a regulatory impact analysis under Executive Order 12291.

Finally, this amendment does not call for additional information and thus does not increase the Federal paperwork burden for individuals, small businesses, or other persons as defined by 44 U.S.C. 3501 *et seq.*

Dated: January 20, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 654—STONE CRAB FISHERY

50 CFR Part 654 is amended as follows:

1. The authority citation for Part 654 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 654.2 is amended by revising the definition of Biodegradable Panel to read as follows:

§ 654.2 Definitions.

* * * * *

Biodegradable Panel means a panel constructed of wood or cotton material and located on the trap, at least two slats above the bottom, or on the top of the trap, which, when removed, will leave an opening in the trap measuring at least 2½" x 5".

* * * * *

3. A new § 654.24 is added to read as follows:

§ 654.24 Specifically authorized activities.

The Regional Director may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 82-2007 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 18
Wednesday, January 27, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness for Research and Test Reactors; Extension of Submittal Dates; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule extending the submittal dates by which a licensee must submit emergency plans for research and test reactors published December 31, 1981 (46 FR 63315).

DATES: Comment period expires February 1, 1982. Comments received after this date will be considered if it is practical to do so, but assurance of consideration may not be given except as to comments received on or before this date.

ADDRESS: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Steve L. Ramos, Technical Assistant to the Director, Division of Emergency Perparedness, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301–492–9802).

SUPPLEMENTARY INFORMATION: The following corrections are made in the proposed rule published in the Federal Register on December 31, 1981 on page 63315.

1. The DATES entry is corrected to read as set forth above.

2. The first sentence in the fourth paragraph in the third column on page 63315 is corrected to read:

"The other proposed change offered for public consideration is in the thermal power level threshold—from 500 KW to 2 MW—which governs the applicable date for submittal of emergency plans."

3. On page 63316, the second sentence in the paragraph immediately preceeding the Regulatory Flexibility Certification is corrected to read: "For licensees under 500 KW thermal, the submittal date of November 3, 1982 would remain unchanged."

Dated at Bethesda, Md. this 18th day of January, 1982.

For the Nuclear Regulatory Commission,
William J. Dircks,
Executive Director for Operations.

[FR Doc. 82-2276 Filed 1-26-82; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1982–1]

Communications; Advertising

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking

SUMMARY: The Commission requests comments on the proposed revision of 11 CFR 110.11 (Communications; advertising) to clarify when disclaimer notices must be included on solicitations and on communications which expressly advocate the election or defeat of a clearly identified Federal candidate. This revision is intended to more closely conform the regulation to the Federal Election Campaign Act and to incorporate recent advisory opinions issued by the Commission.

DATE: Comments must be received on or before February 26, 1982.

ADDRESS: Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W., Washington D.C. 20463

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, (202) 523–4143 or toll free at (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is considering several proposed changes in 11 CFR 110.11(a), to clarify certain aspects of that section and to follow recent advisory opinions issued by the Commission. The proposed rules being published today include revisions which would require that the appropriate disclaimer notice be displayed on posters and on solicitations or express advocacy communications that are paid for by "any person" but are not authorized by any candidate. The proposed rules would also make clear that no disclaimer is necessary on solicitations made by a separate segregated fund to its permissible class of solicitees under 11 CFR Part 114.

Posters are a commonly used form of general public political advertising and solicitation. Persons seeking to comply with the Act and the Commission's regulations have not always been certain, however, whether posters are required to contain the disclaimer notice. The proposed rules would specifically include posters on the list of media which must include the disclaimer notice when used for solicitations or express advocacy communications.

The proposed rules would revise current § 110.11(a)(1)(iv) to conform with the Act and the remaining provisions of § 110.11(a)(1) by requiring that solicitations and express advocacy communications paid for by "any person," which communications or solicitations are not authorized by a candidate, include the appropriate disclaimer notice. *See* proposed § 110.11(a)(1)(iii).

A second revision contained in proposed § 110.11(a)(1)(iii) would add the phrase "or in opposition to", to make clear that independent expenditure advertisements which expressly advocate the election or defeat of a clearly identified candidate must carry the required notice.

The proposed regulations would also state that a solicitation by a separate segregated fund made to its permissible class need not contain a disclaimer notice. This revision would follow a recent Commission advisory opinion in this area, AO 1980–71.

Finally, a proposed addition to § 110.11(a)(2) has been drafted. This new provision would provide a second exception from the requirement to display a disclaimer notice. The new exemption would apply to advertisements on very tall structures, such as water towers, and for skywriting since the disclaimer would be unreadable.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

It is proposed to revise 11 CFR 110.11(a) as follows:

§ 110.11 Communications; advertising.

(a)(1) Except as provided at 11 CFR 110.11(a)(2), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, direct mailing or any other form of general public political advertising, a disclaimer meeting the requirements of paragraph (a)(1) (i), (ii), (iii) or (iv) of this section shall appear or be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for or who authorized the communication. Such person is not required to place the disclaimer on the front face or page of any such material, except on communications, such as billboards, that contain only a front face.

(i) Such communication, including any solicitation, if paid for and authorized by a candidate, an authorized committee of a candidate, or its agent, shall clearly state that the communication has been paid for by such authorized political committee; or

(ii) Such communication including any solicitation, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but paid for by any other person, shall clearly state that the communication is authorized by such candidate, authorized committee or agent and is paid for by such other persons; or

(iii) Such communication including any solicitation, if made on behalf of or in opposition to a candidate, but paid for by any other person and not authorized by a candidate, authorized committee of a candidate or its agent, shall clearly state that the communication has been paid for by such person and is not authorized by any candidate.

(iv)(A) For solicitations directed to the general public on behalf of an unauthorized political committee, such solicitation shall clearly state the full name of the person who paid for the communication.

(B) For purposes of this section, whenever a separate segregated fund solicits contributions to the fund from those persons it may solicit under the applicable provisions of 11 CFR Part 114, such communication shall not be considered a form of general public advertising and need not contain the disclaimer set forth in paragraph (a)(1)(iv)(A) of this section.

(2) The requirements of 11 CFR 110.11(a)(1) do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed. The requirements of paragraph (a)(1) of this section do not apply to skywriting, watertowers or other advertisements of such a nature that the use of a disclaimer is impracticable.

* * * * *

Certification of no Effect Pursuant to 5 U.S.C. 605(b) Regulatory Flexibility Act

I certify that the attached proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that no entity is required to make any expenditures under the proposed rules.

Dated: January 21, 1982.

Frank P. Reiche,

Chairman, Federal Election Commission.

[FR Doc. 82-2000 Filed 1-26-82; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Cuyahoga Valley National Recreation Area; Alcoholic Beverages

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of this regulation is to establish restrictions on the consumption of beer and alcoholic beverages within Cuyahoga Valley National Recreation Area, to reduce the adverse impact on the park resources and to ensure the safety of park visitors.

DATE: Written comments, suggestions, or objections will be accepted until February 26, 1982.

ADDRESS: Comments should be directed to: Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264.

FOR FURTHER INFORMATION CONTACT: Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, Telephone: (216) 650-4414.

SUPPLEMENTARY INFORMATION:

Background

This regulation being proposed by the National Park Service, is designed to provide greater resource and visitor protection. Cuyahoga Valley National Recreation Area was established to preserve the scenic, cultural, natural, and historic qualities of the Cuyahoga river valley for all time and for the benefit and enjoyment of the people. Visitors from throughout the States come to rediscover the beauty of nature, the peace of the countryside or the substance of the past, relax in the open spaces set aside for recreation, and enjoy the cultural experiences available in the park.

With increasing regularity, persons who visit the park to enjoy the natural setting find that many of the available parking spaces are occupied by persons pursuing interests not compatible with the stated purposes of the park. The open consumption of beer and alcoholic beverages has had an adverse impact on the use and enjoyment of the park as an important natural and historic area. The excessive levels of this activity seem to be partially caused by prohibitions against consuming alcoholic beverages in State and local parks, and the strict enforcement of these prohibitions by local law enforcement agencies. Given these circumstances, Cuyahoga Valley National Recreation Area has become an attraction to many people simply because it is a park where consumption of alcoholic beverages is not prohibited.

Additionally, the use of alcohol leads, in many cases, to disruptive behavior which conflicts with other uses of the park. Possession of marijuana and other controlled substances, vandalism, motor vehicle violations, unsafe acts, obstreperous behavior and disorderly conduct are all associated with the consumption of alcoholic beverages in the park to the detriment of the visitor who would benefit from the park's legislated program. Violations of the liquor laws and related incidents in the visitor use areas. In 1979, 605 written warnings or courtesy tags were written in Virginia Kendall, the only developed unit for visitor use operated by the NPS. Of these, 358 were for alcohol violations. The same year, 190 citations were written, and of these, 56 were for violations of the liquor laws. Six disorderly conduct cases, all related in the consumption of alcohol, occurred in 1979.

The implementation of this proposal restricting the consumption of alcoholic beverages will significantly reduce problems associated with heavy use of the park. This will have the effect of making the park more readily usable by visitors who want to relax in the pristine, natural environment and will produce a more peaceful atmosphere

complimentary to the natural and historic setting.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulation to the address noted at the beginning of the rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Robert J. Byrne, Chief Ranger; Gordon Wissinger, Park Ranger; and Judith L. Chovan, Resource Management Technician.

Compliance with Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared a draft environmental assessment. Copies of the environmental assessment are available for public review and comment in the office of the park superintendent.

This rulemaking contains no provisions that would entail the collection of information in such manner as would be subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, February 19, 1981), and that this rulemaking would not have a "significant economic effect on a substantial number of small entities," nor will they require the preparation of a regulatory analysis within the meaning of the Regulatory Flexibility Act, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*).

(Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3))

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by the addition of a new section as follows:

§ 7.17 Cuyahoga Valley National Recreation Area, Ohio.

(a) *Alcoholic beverages.* (1) *Possession.* The possession of a bottle, can, or other receptacle, containing an alcoholic beverage which has been opened, or a seal broken or the contents of which have been partially removed is prohibited, except in residence or other areas specifically authorized by the superintendent as to time and place.

(2) *Definition.—Alcoholic beverages.* Any liquid beverage containing ½ to 1 percent or more of alcohol by weight.

[FR Doc. 82-2091 Filed 1-26-82; 8:45 am]
BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PH-FRL-2036-1; PP 9E2220/P210]

Sodium Chlorate; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that the defoliant, desiccant, and fungicide sodium chlorate be exempted from the requirement of a tolerance for residues when used on the raw agricultural commodity guar beans. This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment to the regulation would eliminate the need to establish a maximum permissible level for residues of sodium chlorate in or on guar beans.

DATE: Written comments must be received on or before February 26, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 9E2220 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arizona, Oklahoma, and Texas.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of an exemption from the requirement of a tolerance for residues of sodium chlorate in or on guar beans when it is used in accordance with good agricultural practice as a desiccant in guar bean (seed) production.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

The only part of the guar plant which is consumed by humans is a gum which is extracted from the seeds and used as a stabilizer in ice cream. After the gum is extracted, the remaining part of the seed is used as an animal feed supplement in a manner similar to that of cottonseed meal in livestock rations. Residues have been found on guar plants but they are of no concern because the plants are left in the field and will not be grazed or fed to livestock. No detectable residues are expected in guar seeds or processed products of guar seeds, nor secondary residues in meat, milk, poultry, or eggs. Any increase in human dietary exposure from this use would be nominal.

The metabolism of sodium chlorate in plants is adequately understood for the proposed use. The analytical method is nonspecific and unsuitable for enforcement purposes. However, little need for enforcement action is anticipated under an exemption and the analytical method is suitable for determination of gross misuse. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the exemption from the requirement of a tolerance for residues of sodium chlorate in or on guar beans established by amending 40 CFR 180.1020 would protect the public health. It is proposed, therefore, that the exemption be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before February 26, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 9E2220/P210]". All written comments filed in response to this petition will be available in the Emergency Response Section at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from

the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Dated: January 12, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1020 be revised by adding and alphabetically inserting the raw agricultural commodity guar beans to read as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues in or on chili peppers, corn fodder, corn forage, corn grain, cottonseed, grain sorghum, guar beans, rice, rice straw, safflower seed, sorghum fodder, sorghum forage, soybeans, and sunflower seed when used as a defoliant, desiccant, or fungicide in accordance with good agricultural practice in the production of chili peppers, corn, cotton, guar beans, rice, safflower seed, sorghum, soybeans, and sunflower seed.

[FR Doc. 82-1650 Filed 1-26-82; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15 and 90

[Gen. Docket No. 82-9; RM-3747; FCC 82-4]

Regulatory Recognition of Power Line Carrier Operations of Electric Utilities Operating in a Certain Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission is proposing to revise its Rules in response to a petition for rulemaking to provide regulatory recognition for power line carrier (PLC) operations of electric utility companies. PLC systems are designed to provide protection and control for the electric transmission systems which supply the nation's electrical power needs and presently operate on an unlicensed basis. This action will not alter the present unlicensed and unallocated status of PLC's. The proposed changes involve the initiation of a notification procedure and associated data base to interface operations with licensed users of the spectrum. The need to establish a Frequency Table Footnote is also discussed. The rulemaking should benefit all concerned by helping establish a mechanism to help anticipate and avoid mutual interference problems.

DATES: Comments are due by April 6, 1982 and replies by May 6, 1982.

ADDRESS: Federal Communications Commission, 2025 "M" Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Tropea/Mr. George Sarver, Office of Science and Technology, 2025 "M" Street NW., Washington, D.C. 20554, (202) 653-8167.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1982.

Released: January 29, 1982.

In the matter of amendment of Parts 2, 15 and 90 of the Commission's Rules to provide regulatory recognition for power line carrier operations of electric utilities in the bands 10-490 kHz, Gen. Docket No. 82-9, RM-3747.

I. Introduction

1. The Commission has under consideration a petition in the above-entitled matter filed by the Utilities Telecommunications Council [1] (hereinafter UTC). The petition requests that Parts 2, 15 and 90 of the Commission's Rules be amended to provide appropriate regulatory recognition for electric power utility Power Line Carrier (PLC) systems in the 10 to 490 kHz frequency band. The petition also suggests the establishment of a data base and a notification procedure so that band occupants can cooperate in minimizing or eliminating mutual interference.

2. Sixty-three Comments and three Reply Comments were filed in the proceeding. Both supportive and opposing Comments were received and a list of the commenters is contained in Appendix A. One late Comment was accepted for filing two days after the February 4, 1981, closing date for submission of Reply Comments.

II. System Description

3. Power Line Carrier (PLC) is a telecommunications technique used by the electric power utility entities for protective relaying, general supervision of their power systems, and voice communications. The technique uses the power transmission lines as the propagation medium for the radio frequency signals with the PLC transmitters and receivers being coupled to the power transmission lines by means of matching networks. PLC systems serve to protect, control, and operate the bulk power systems from the generating plants to the load centers. Because power transmission lines and equipment are subject to lightning damage, storm disruption, insulation failure and other fault causing conditions, PLC systems are needed as the communications link for quick and automatic isolation of malfunctions from the rest of the power system.

4. The electrical power system includes the electric transmission system which transport the energy from the generating plant to the substation segment and the electric distribution system which connects the substation to the customer. The petitioner, in his November 4, 1980 Reply Comments to AT&T, agreed that distribution and transmission systems could be considered separately and for the purpose of this proceeding Commission action will be limited to consideration of electric transmission systems.

5. PLC systems operate between 10 and 490 kHz using low power transmitters. Both Government and non-Government PLC systems operate in this band and there are more than 2000 electrical entities using approximately 20,000 PLC terminals. In addition to delivering energy to various points in the U.S., transmission lines also transport energy between the U.S. and Canada and between the U.S. and Mexico and, accordingly, the use of the PLC techniques does have international implications.

III. Regulatory History

6. While PLCs have operated on an unlicensed basis, the Commission has had much contact with these systems. The Commission's rules with regard to low power devices including carrier current systems date from 1938. Formal rulemaking proceedings commenced on August 26, 1938. The Commission invited interested parties to comment on proposed regulations governing the operation of low power devices and to

[1] UTC is the national representative on telecommunications matters for the nation's electric, gas, water and steam utilities.

attend an informal conference on September 19, 1938. On November 21, 1938 [2] the Commission adopted Rules and Regulations concerning the operation of low power radio frequency electrical devices. That rulemaking action established Part 25 of the Rules which in 1939 was renumbered Part 2, and in 1948 became what is now Part 15 of the Commission's Rules. In the early years, while the need to regulate low power devices was accentuated by a growing problem with interference, the governing principle of regulation was that if the low power devices in question limited radiation to a level that would not cause harmful interference to established radio services, there would appear to be no engineering reason to suppress their use.

7. In an information bulletin [3] concerning low power radio frequency electrical devices for control purposes, dated October 27, 1939, the term "carrier current systems" was used in discussing energy coupled to power lines. Again in the NPRM in Docket 9288 adopted April 13, 1949 [4] carrier current systems were classified as restricted radiation devices [5] and it was proposed that they be allowed to operate between 10 to 200 kHz. That Docket also recognized that many types of unlicensed low power operation existed including those power line maintenance.

8. A Further Notice of Proposed Rule Making [6] in Docket 9288 adopted on April 14, 1954, noted opposition to limiting carrier current devices to the 10–200 kHz band and proposed to permit their use between 10 to 425 kHz. The Commission in its Third Notice of Proposed Rule Making [7] in Docket 9288, adopted on November 8, 1956, proposed to define a "low power communications device" as a restricted radiation device used for the transmission of signs, signals (including control signals), writing, images and sounds or intelligence of any nature by radiation of electromagnetic energy. Operation of low power communications devices below 500 kHz was proposed between 10–490 kHz. The Third Report and Order [8] in Docket 9288 adopted on July 18, 1957, adopted this definition and provided for the operation of unlicensed low power communications devices in the band 10–490 kHz.

9. On April 14, 1976, the Commission adopted a Notice of Proposed Rule Making [9] in Docket 20780 to amend Part 15 of the Rules to redefine and clarify the rules governing restricted radiation devices and low power communications devices. Paragraph 12 of that proceeding states in part:

> "Public utilities use carrier current systems extensively for performing a number of switching and controlling functions. Typically these systems are designed to have minimal interference effects. Experienced technicians maintain these systems, performance is checked periodically and any interference problem caused by such operation receives immediate attention."

While that rulemaking proceeding has not been finalized as yet, the document recognizes the importance of the functions performed by carrier current systems and suggests the need for specific rules concerning their operation.

IV. Problems Confronting PLC Systems

10. Power line carriers technically operate as wireline systems since they superimpose signals on electrical transmission lines. At the same time they do radiate and receive radio frequency energy and, thus, there is the possibility of interference between PLC and other radio systems operating on the same frequencies. As restricted radiation devices under Part 15 of the Commission's Rules, PLC systems can only operate on an unprotected, noninterference basis to licensed stations and receive no protection from licensed radio stations. UTC states that because of the low power used by PLC systems, interference from PLC to other users in the band will normally occur within about one mile or less from the transmission line. It is anticipated that this interference can be minimized if advance information is made available regarding the frequency of operation and the location of the other radio facility.

11. On the other hand, UTC also states that interference to PLC systems from high powered radio communication and radio navigation systems operating on the same frequency is possible at much greater distances, up to 150 miles. In most cases the only remedial course of action available to the utility company is to shift its PLC system to a different frequency than that used by the interfering station. Locating an available frequnecy, if any, and making the necessary equipment modifications can have a substantial cost effect on the electric utility company.

12. The matter of interference potential between PLC and other users of the 10 to 490 kHz band has been highlighted by the establishment of an Ad Hoc Group by the Interdepartment Radio Advisory Committee (IRAC) to investigate the matter. The Group, designated as Ad Hoc 162, was formed by IRAC to address interference problems among carrier current systems, existing radio systems and proposed radio systems below 535 kHz. Ad Hoc 162 has submitted a report dated April 7, 1981, to IRAC recording its findings and recommendations concerning PLC. The recommendations and information contained in that report are discussed below in paragraph 28 et seq.

V. Action Requested by Petitioner

13. In an effort to provide a resolution to the mutual interference problems between PLC and radio users of the band, UTC's petition proposes a regulatory framework so most interference situations can be anticipated and avoided. At the same time UTC recosgnizes that PLC operation in the band is only on an unprotected, noninterference basis and it does not propose that electric utilities be afforded allocation status. In this regard the petitioner acknowledges that PLC systems will still be required to change frequencies in those cases where such action is the only reasonable way of solving an interference situation with licensed users. Accordingly, without seeking allocation status, UTC proposes that means be considered to make band occupants aware of the presence of PLC systems and the important function they serve in fulfilling the nation's power utility needs and thereby achieve some measure of cooperation to resolve interference situations.

14. UTC in its petition suggested that the following four options were available to the Commission in the matter:

a. Maintain status quo—do nothing.
b. Include PLC systems in a frequency data base and require informal prior notification of new radio communications or radio navigation stations.
c. Provide co-equal allocation status for PLC.
d. Add a U.S. Footnote to the allocation table to recognize and protect PLC systems.

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[2] The date was determined from FCC Press Release No. 30678, dated 11/21/38.

[3] FCC release number 37186 entitled "Information Relative to the Operation of Radio Controlled Phonograph Record Players and Other Types of Low Power Radio Frequency Electrical Devices Used for Control Purposes Over Very Short Distances."

[4] FCC Notice of Proposed Rule Making, April 23, 1947 (14 FR 203).

[5] A restricted radiation device is an unlicensed device in which the generation of radio frequency energy is intentionally incorporated into the design and in which the radio frequency energy is conducted along lines or is radiated.

[6] Further Notice of Proposed Rule Making, April 21, 1954 (19 FR 2319).

[7] See Third Notice of Proposed Rule Making, November 16, 1956 (21 FR 8950).

[8] See Third Report and Order, July 25, 1957 (22 FR 5855).

[9] See Notice of Proposed Rule Making, April 29, 1976 (41 FR 17938).

UTC indicated its preference was the fourth option since a U.S. Footnote in the Table of Allocations would provide the necessary recognition of the importance of PLC, and suggested a draft footnote to reflect its concerns. In a letter dated April 20, 1981, UTC, by its attorneys, suggested a modification of its proposed footnote which incorporates provisions of the second and fourth options together. The letter suggests that the draft footnote provide recognition of PLC systems along with the provision that applicants for new or revised radio and PLC systems provide each other with prior notification concerning proposed facilities and cooperate in minimizing potential interference to the degree practicable.

15. To effect the prior notification procedure, UTC suggests the establishment and maintainence of a national PLC data base to oversee the notification process. Prior notification would include the submission of information by the utilities to a notification activity which would advise the Government radio licensing agencies (for both Government and non-Government authorized users) of plans to install new or modified PLC facilities. Conversely, the process would include prior notification to the notification activity by the Government licensing agencies of plans to install new or modified licensed facilities.

VI. Summary of Comments

16. All supporting comments expressed agreement that PLC regulatory recognition is essential to insure continued reliability of electric service. The Department of Energy indicated its support for the petition and said it agrees with UTC regarding the use of PLC, how it works, the functions PLC's perform, their importance, and the continuing and growing need for PLC to protect and control electric transmission systems. The Tennessee Valley Authority (TVA) stated that there are inadequate regulatory provisions in the present Commission's Rules for PLC and the Union Electric Company submitted that this is an important use of the spectrum and vital to providing electric power to the public. The Southern California Edison Company indicated that PLC operation is in the public interest and that other systems such as those using microwave communications are not a viable alternative, particularly in congested urban areas. In this regard, the Northern States Power Company stated that it is critical to protect energy transmission lines and that PLC is the only practical and economic alternative that offers the needed protection. Commenters such as the New York State Electric and Gas Company, and the Public Service Electric and Gas Company stressed that future growth in usage of electricity will require more generating and transmission facilities resulting in the need for increased PLC usage. Some commenters, e.g. the Allegheny Power System, stressed the importance of the technical operation aspects of PLC such as the isolation of electrical faults in 50 to 100 milliseconds to prevent damage to transmission facilities thereby maintaining power system stability and enhancing reliability of service to customers. The National Electric Manufacturers Association agreed that recognizing the existence and importance of PLC operation in the 10 to 490 kHz band is necessary and that a prior notification procedure would be beneficial to PLC system planning.

17. Opposing comments were filed by licensed users of the band, unlicensed low power users of the band including The American Telephone and Telegraph Company (AT&T) and the Atlantic Research Corporation. Aeronautical Radio Incorporated (ARINC), Air Transport Association of America (ATA), and the Airline Operators and Pilots Association expressed the concerns of aircraft users that depend on nondirectional radiobeacons (NDB) operating in the 190 to 415 kHz band for navigational information during flight. These concerns include opposition to allocation status for PLC's, delay of license processing for NDB's due to coordination requirements, and possible impediment to the licensing of new users due to PLC recognition. In this regard, Atlantic Research also expressed its concern over the effect PLC recognition would have on existing and potential new users of the band. In addition, the United States Coast Guard (USCG), while it supports the idea of entering PLC's into a data base, expressed its concerns regarding PLC's effects on Omega. LORAN, radiobeacon and radio directional finding stations. Megapulse, Inc., also expressed its concern for possible interference to LORAN–C operations and suggested that PLC operation be excluded from operating between 90–110 kHz.

18. The majority of the opposing comments were submitted by unlicensed low power radio remote control device users who operate under Part 15 of the Rules. The comments of Dynascan Corp., which manufactures and sells radio remote control devices to control overhead traveling bridge cranes and other equipment to move heavy materials, are representative of the problems anticipated by the low power users. The concerns include the possiblity of interference to radio remote control devices by PLC operations, the eventual institution of licensing requirements to regulate presently unlicensed operations, and the unfair advantage that would be afforded to PLC over other low power users of the 200–490 kHz band. Finally, AT&T in its comments stated that while it does not oppose a footnote regarding PLC use for transmission facilities, it does object to the use of PLC for power distribution facilities. In this regard AT&T contends that the UTC does not address the different problems and needs of distribution PLC's or the interference potential to local telephone subscribers.

19. Reply Comments were filed by UTC and the Electronics Industry Association (EIA) in support of the petition and by the Manufacturers Radio Frequency Advisory Committee, Inc. (MRFAC) in opposition to the petition. MRFAC is a trade association representing licensees in the Manufacturers Radio Service and its comments reiterated the concerns stated by Dynascan Corp. regarding low power remote controls of material handling equipment. MRFAC restated its concerns that interference from PLC operations could result in malfunctioning of the lift equipment or could result in a hazard to safety of life and property. It also commented that the low power, unlicensed, efficient and cost effective use of the spectrum by remote control type equipment deserves recognition by the Commission and should not be disrupted by PLC systems. The Ad Hoc Power Line Communications and Load Management Committee of the EIA Communications Division indicated its support for the UTC petition as it concerns transmission facilities applications. However, EIA also stated that it shares some of the concerns of the opponents of the measure and that the rights of the other spectrum users in the band need to be protected.

20. UTC in its Reply Comments responded to the concerns of the airline industry by reaffirming that it is not seeking co-equal allocation status and that throughout the 10–490 kHz band it desires and intends to retain a secondary status for PLC systems when they would interfere with existing or needed radio communication or radionavigation systems. While UTC originally requested a type of "permitted" status for PLC's, it did modify its request to continue operations on a noninterference basis. Concerning AT&T's comments, UTC had no objection to handling PLC

distribution systems in a separate rulemaking action. Here again, UTC originally intended to include both PLC distribution and transmission systems in its petition, but, as mentioned earlier, in its reply comments it agreed that distribution and transmission systems could be considered separately. UTC also cited some test results made in New Jersey by an AT&T subsidiary, the equipment manufacturer and Bell Labs. The test allegedly demonstrated that when the distribution power line carrier system and the telephone company system were both operated under normal operating conditions there was no detectable harmful interference to telephone services. In reply to the USCG and Megapulse comments, UTC stated that in the record of the proceeding there is no documented evidence of interference into LORAN–C maritime radionavigation operations from PLC systems. UTC further points out its proposals are intended to provide a mechanism to anticipate and avoid interference and not to cause interference by PLC systems. Responding to the comments of unlicensed remote control device users such as Dynascan, UTC stated that no documented cases of interference from PLC were cited. It also pointed out that most transmission line PLC systems would be sufficiently distant from the areas where the control devices would be in use. Further, it said that control device users in large industrial areas are served by dedicated transformer banks that heavily attenuate PLC signals. In addition, UTC stated that its petiton should not result in the licensing of remote control devices and that in regard to interference concerns, access to the proposed data base would be available to control device users and could help in anticipating and avoiding interference situations.

VII. Discussion

A. Recognition of PLC

21. The Commission recognizes the importance of PLC operations in monitoring and protecting the electrical transmission systems that supply energy to the nation's homes and businesses. We also agree that because of the nationwide functions performed by PLC operations more regulatory provision is desirable and in the public interest. However, since PLC has operated under the unlicensed provisions of Part 15, the Commission's first concern is that any recognition of PLC systems not be interpreted as the promotion of PLC at the expense of other unlicensed Part 15 users. Further, we agree with the comments of the Atlantic Research Corp. that regulatory action must not deny the use of the band 10–490 kHz either to new radio users, or to improved facilities by existing users. In addition, the Commission is in agreement with the coments that request avoidance of regulatory action that results in licensing delays.

22. The Commission is concerned with the problems confronting PLC operators and seeks a solution that abates the problems experienced by power companies as well as being equitable to other users of the spectrum. UTC in its reply comments stated that it does not seek allocation status and the Commission agrees that continued operation in the band must be on an unprotected, moninterference basis to licensed users and at the same time on an equal basis to other unlicensed users operating under Part 15 provisions. Accordingly, the Commission agrees that regulatory recognition of PLC systems is desirable provided that a framework can be established that is equitable to all band occupants. On this basis, we will evaluate UTC's request that a U.S. Footnote to the Table of Allocations and a notification procedure be enacted as the basis for recognizing PLC systems.

B. Interference Concerns

23. The major concern of commenters both from licensed and unlicensed users of the 10–490 kHz band involved the question of alleged interference from PLC operations. The U.S Coast Guard in its comments indicated that it operates four radionavigation systems susceptible to interference in the band—OMEGA (10–14 kHz); LORAN (90–110 kHz); Radiobeacons (285–325 kHz), and Radio Direction-Finding (405–415 kHz). The aircraft interests expressed their concerns regarding the interference potential from PLC's to the aeronautical radionavigation aids operating between 190–415 kHz. Likewise, MRFAC and the low power equipment handling devices use the frequencies between 200–400 kHz and suspect that increased interference from PLC systems may occur.

24. According to the Department of Energy, some of the findings apparent from the investigation conducted by IRAC Ad Hoc 162, previously mentioned, indicate that:

1. There are no specific cases showing PLC disruptive interference to existing radio communication and navigation systems. Military, LORAN–C, and OMEGA are specifically mentioned.

2. There has been only one identifiable case of interference to an aeronautical beacon. The beacon was installed after the PLC system was already in service so the power company could not predict the problem.

3. A frequency separation of 4 kHz and appropriate geographical separation between NDB and PLC systems would preclude interference problems.

4. Some errors in Automatic Direction Finding (ADF) compasses in aircraft may be due to electric transmission lines, but not necessarily to PLC systems.

5. Since PLC systems operate at low powers the probability that they will cause interference to authorized radio services is low.

The Commission considers the information submitted by DOE to be an affirmative indication that PLC and other radio or radionavigation systems can continue to operate compatibly. In addition, it would appear that compatibility would be further served by a prior notification procedure designed to anticipate and avoid interference situations before they arise. The USCG in its comments also recommended and agreed to cooperate in the establishment of an information exchange mechanism to reduce the economic and scheduling burdens on PLC and other carrier current system users.

25. Concerning the interference to radio remote control devise users, it appears the petitioner has helped mitigate those concerns by agreeing to limit its proposals to transmission line PLC systems by withdrawing its proposals pertaining to distribution line PLC for the purpose of this rulemaking. The radio remote control devices in question have an effective operating range of 150 feet or less and most transmission line PLC systems would therefore be sufficiently distant from the areas where control devices would be in use. In addition, if most plants in industrial areas are serviced by single customer transformer banks, the PLC would be attenuated by 30 to 40 db according to UTC's reply comments. Also, careful frequency selection and higher receiver sensitivity levels could be effective measures in avoiding interference.

26. In regard to interference from PLC operations, several favorable observations can be noted for PLC. First, the near absence of reported interference from PLC systems appears to indicate that the present operations are reasonably compatible with other users of the band. Secondly, the petitioner is not proposing any modification to the existing mode of operation, i.e., increased operating power; or to operating authority, i.e., licensing of PLC systems. Lastly,

operation will continue on an unprotected, noninterference basis to licensed users and on an equal basis with unlicensed users. We also realize that the near absence of documented interference complaints does not guarantee that there haven't been more interference problems or that there will be none in the future. However, continued operation on a noninterference basis along with implementation of a notification procedure as proposed should help alleviate interference concerns even in view of expected increases in band usage.

27. At the same time, the Commission proposes to consider any data regarding the effects of PLC on LORAN-C and OMEGA operations to determine if adequate protection is provided. Should future information so indicate, the Commission could consider halting future expansion of PLC in the 10–14 kHz[10] and 90–110 kHz band segments or even gradually eliminate PLC from those segments if justifiable. Specific comments are requested regarding the need and effects of continued use of these bands by PLC systems.

C. IRAC Input

28. Because the frequencies between 10 to 490 kHz are allocated for Government as well as non-Government users, IRAC comments on behalf of Government users are considered to be very important to the proceeding. As indicated earlier, the IRAC appointed a special committee designated Ad Hoc 162 to study, among other things, carrier current systems in the LF band. The Committee had representation from the Departments of Army, Navy, Air Force, Interior (Tennessee Valley Authority), Energy, and Transportation; The U.S. Coast Guard, The Federal Aviation Administration, the National Telecommunication and Information Administration and the FCC. In its report to the IRAC which was adopted with some amendments, Ad Hoc 162 listed sixteen findings that it considered "major" based on information presented to the Committee. The following findings are listed because of their importance to this proceeding:

a. PLC systems have an important and continuing impact on the national use of the spectrum below 535 kHz.

b. Projections of growth for radio and PLC systems in this band show that usage will increase substantially in the future in most portions of the band.

c. There have been a number of known and/or suspected cases of interference from PLC systems to radio services; however, only four cases (two in the U.S. and two international) have been adequately documented before the IRAC.

d. Theoretical and experimental studies as referenced in this report confirm that the potential for mutual interference between PLC systems and authorized radio services exist and the number of cases of interference is expected to increase as the number of all types of systems using the band grows.

e. While PLC systems are regulated under NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management Chapter 7 and Part 15 of the FCC Rules and Regulations, no formal procedures exist within the spectrum management community to resolve conflicts and to coordinate the use of frequencies between PLC systems and the authorized radio services since PLC have no allocated status.

f. If there is to be technical regulation of PLC systems, the provisions of NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management Chapter 7 and FCC Part 15 are inadequate for technical regulation of PLC systems.

g. There does not exist within Government or industry a centralized data base containing the location and technical characteristics of each existing PLC system. All Government frequency assignments are documented.

The Ad Hoc Group recommendations included establishment of a data base for PLC systems in which all members agreed. The recommendations also included discussion of whether a footnote should be added to the National Table of Allocations to provide for recognition of PLC systems. The military members of the group objected to the inclusion of a footnote because they considered it would confer some type of allocation status for PLC. Regarding frequency provisions for PLC's, DOI/TVA and DOE recommended allowing PLC continued access to the entire band on a noninterference basis. The majority of the Ad Hoc Group members recommended that PLC have access to the entire 10–490 kHz except those portions allocated to OMEGA and LORAN-C (10–14 kHz and 90–110 kHz, respectively).

29. While a consensus was not reached within IRAC regarding the Ad Hoc 162 Report, NTIA advised the Commission that the vast majority of the IRAC members concur in the following NTIA recommendation that:

a. As a matter of general policy, allocation status should not be provided to uses which have been developed on an unprotected non-interference basis under Part 15 of the FCC rules or Chapter 7 of the NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management.

b. PLC system may continue to operate on an unprotected, noninterference basis under existing FCC and NTIA rules and regulations.

c. The use of frequencies by PLC's will be made known to radio service users in advance of such usage.

d. Assignments of frequencies by the FCC and NTIA to radio service users will be made known to PLC users in advance of such use.

e. Both PLC and radio service users will consider the exchanged data and will cooperate to the extent practicable to prevent major disruptions to services being conducted by each other.

f. In the event of conflicting use of the spectrum, the PLC users will adjust to meet the requirements of the radio service users, or accept any interference as now required under existing rules and regulations.

g. Language be placed in the appropriate portions of the FCC Rules and Regulations and the NTIA Manual of Regulations and Procedure for Federal Radio Frequency Management. (The recommended language appears later on in this notice. See paragraph 32.)

h. New uses of the spectrum by PLC systems in the bands 9–14 and 90–110 kHz shall be discouraged because of the contemplated expanded use of the OMEGA and LORAN systems in these bands.

i. These procedures have been developed as an exception, recognizing the importance of PLC systems to the electric utilities in providing power to the U.S. These exceptions shall not be a precedent to other users under FCC Part 15 and NTIA Chapter 7.

j. PLC users be encouraged to continue to develop and employ alternate means to transmit the necessary control of communications signals.

30. The work of Ad Hoc 162 and the NTIA recommendations emphasize the importance of this proceeding and the need for regulatory action to deal with the situation. The Commission also believes it is in close agreement with the recommendations of Ad Hoc 162 to IRAC concerning the need for a data base and notification procedure to minimize spectrum utilization problems.

[10] If the Final Acts of the 1979 World Administrative Radio Conference are adopted as proposed, the radionavigation band would become 9–14 kHz.

As we have previously indicated, any such action should not be interpreted to afford allocation status to PLC and they would continue to operate on a unprotected, noninterference basis.

D. Footnote Implementation

31. UTC in its petition and subsequent revisions thereto [11] suggests that a footnote be included in the Table of Frequency Allocations and recommended the following wording:

U.S.———. In the band 10–490 kHz, electric utilities operate Power Line Carrier (PLC) systems under the provisions of Part 15 of the Federal Communications Commission's Rules and Regulations and Chapter 7 of the National Telecommunications and Information Administration's Manual of Regulations and Procedures for Federal Radio Frequency Management on a noninterference basis to Services operating in accordance with the Table. These PLC systems utilize Hertzian waves conducted on power transmission lines for the purpose of telecontrol, teleprotection, telemetry and other communications important to the reliability and security of electric service to the public. Licensed users and prospective licensees in these bands as well as the electric utilities should be aware that their operations can cause mutual interference. Applicants for stations to be licensed in this band and electric utilities shall provide each other with prior notification of proposed new or modified facilities and will cooperate in minimizing potential interference. Nothing in this Footnote shall be construed to afford PLC systems allocation status.

32. As indicated in the NTIA recommendations, the majority of the IRAC members favor appropriate language regarding PLC to be placed in the FCC and NTIA rules. While there is no unanimity whether the language should be in the form of a footnote or a remark to the allocation table or in some other rule part, IRAC suggests the following wording for such language:

"In the spectrum below 490 kHz, electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. These PLC systems operate under the provisions of Part 15 of the Federal Communications Commission's Rules and Regulations or Chapter 7 of the National Telecommunications and Information Administration's Manual of Regulations and Procedures for Federal Radio Frequency Management, on an unprotected, noninterference basis to authorized radio services. Notification of intent to place new or revised radio assignments or PLC frequency uses in the bands below 490 kHz shall be made in accordance with the Rules and Regulations of the FCC or NTIA, and users are urged to minimize potential interference to the degree practicable. Nothing in this remark shall be construed to afford PLC systems allocation status."

33. IRAC members opposing the implementation of a U.S. Footnote expressed their concern that such action would provide a measure of allocation status to PLC systems. On the other hand, they could agree to the placement of an NG (Non-Government) Footnote in the Commission's rules along with similar language added to the NTIA Manual. The Commission's feeling is that an NG note is, by definition, a stipulation applicable only to non-Government stations (See § 2.105(h)(3)). Also, it would remain unclear how this proposal would establish any permanent obligation on the part of the Government users to implement any changes with regard to PLC systems. The Commission therefore sees this alternative to be inadequate to accomplish the intended purpose.

34. Accordingly, while the Commission agrees that descriptive language is necessary in specific FCC and NTIA rule parts, particularly with regard to the requirements and procedures for notification, we also consider it desirable to reference or initiate awareness to the specific rules by the use of a U.S. footnote in the FCC or NTIA frequency allocation tables. The purpose of such a footnote would not be to confer allocation status to PLC systems but rather to inform table users of the presence of PLC systems and to clearly set forth the basis for their usage of the frequencies. A footnote could possibly provide the most abbreviated and least cumbersome means of informing users of the affected portions of the radio spectrum of the presence of PLC systems in the band. Further, it would appear desirable to use the strength of a footnote to assure authorized users that PLC operation must be conducted on an unprotected, noninterference basis to services with allocated frequencies. Additionally, the language of the NTIA remarks has been agreed upon by a consensus of authorized government radio users and closely resembles the UTC language suggested. The Commission considers it appropriate for use if a U.S. Footnote were implemented. For these reasons the Commission believes the use of a U.S. Footnote as the mechanism to clearly set forth the basis for the recognition of PLC oprations in the 10–490 kHz band would be advantageous.

E. Notification Procedure and Data Base Implementation

35. The proposed footnote and remarks as discussed above state that notification be given of intent to establish new or revised radio assignments or PLC uses. The purpose of notification is to provide a mechanism through which both PLC and radio service users can exchange particulars of their proposed station operations prior to commencement of operation. By cooperating in this notification procedure a means can be established to resolve frequency usage conflicts and to prevent major disruption to services. Cooperation between parties should be to the extent practicable and, in any event, the PLC users must realize that in the event conflicts on spectrum usage cannot be resolved on a cooperative basis, their operation on a nonallocated basis must adjust to meet the requirements of the authorized radio services.

36. A two-way notification procedure is considered necessary for the approach to be effective. First it would require that the use of frequencies by PLC systems would be revealed to radio service users in advance of such use. To do this, notification of intended PLC frequency usage could be provided to the frequency liaison office for the FCC and NTIA by some notification activity for the utilities. Secondly, it would also require that the assignment of frequencies by the FCC (for non-government users) and NTIA (for government users) be made known to PLC users in advance of such use. The FCC and NTIA could supply appropriate application and licensing information concerning the radio user to the notification activity for the utilities as a means of notification. Thirdly, the procedure should be as simple and unburdensome as possible to the filer and the intended user should be able to expect to be alerted to a possible problem in a reasonable amount of time. The detailed procedure, including the handling of classified assignments, would be developed jointly by the FCC and NTIA.

37. To effect this notification procedure, it is proposed that the FCC and NTIA jointly designate a notification activity to establish a central point for the receipt and assembling of data regarding frequency usage. Since the FCC does not possess the resources to fulfill this function and since the services to be provided will be of great benefit to the power companies, they have indicted a willingness to assume this responsibility through a representative agency. The establishment of a data base would help the users of PLC systems anticipate and avoid interference situations and minimize the cost of changing frequency when interference results. This

[11] UTC in its reply comments dated 11/4/80 and in a letter dated 4/20/81 submitted modifications to language contained in its petition.

procedure would provide for the expeditious dissemination of frequency usage information and avoid unnecessary FCC or NTIA regulatory involvement with an unlicensed user, which is consistent with current deregulatory objectives. Specific comments are invited concerning the proposed notification procedure and the notification activity discussed.

F. Conditions of Operation

38. Although not specifically identified, PLC Systems are subject to the general operating and noninterference requirements of a restricted radiation device under Part 15 of FCC Rules. These systems, in general, have not been a source of harmful interference to radio reception, due in part to the cooperation and degree of responsibility shown by public utilities to correct identified radio interference problems. Therefore, we will continue to require the operation of these systems on a noninterference basis; i.e., the public utility will be held responsible for correcting radio interference problems. To make it clear that these systems are subject to this condition of operation, we are proposing a new § 15.8 for PLC operation. UTC in its petition did not propose specific technical standards for PLC operations. However, the Commission is aware of activities being conducted by the Power Engineering Society of the Institute of Electrical and Electronics Engineers concerning technical standards for PLC operations. Part of the objective of this new voluntary standard is to include specific technical guidelines to minimize the interference potential of PLC systems to other users of the radio spectrum. The Commission welcomes this efort by the industry and is hopeful that these standards can serve as guidelines to minimize interference. Thus, the Commission is not proposing additional standards at this time since allocation status is not being requested and continued operation on an unprotected, noninterference basis is contemplated for PLC's under a new rule section in Part 15 of the rules.

VIII. Proposals

39. Because PLC's provide protection and control to the electric transmission systems essential to supplying the nation's electrical power needs, the Commission considers regulatory recognition of these systems to be in the public interest. To effect this recognition, the Commission proposes to amend Parts 15 and 90 of its rules to cover non-government entities. Changes involving government stations would be implemented by the NTIA in their Manual of Regulations and Procedures for Federal Frequency Management. No rule change will be proposed that requires the licensing of PLC or other Part 15 users. Specifically, the Commission proposes to permit a notification activity to be created to exchange the operating parameters of PLC and licensed radio users in the band below 490 kHz; to develop those rules necessary to establish a notification procedure, and to maintain PLC's in an unlicensed status operating on an unprotected, noninterference basis to licensed users but on an equal basis to other unlicensed users who are authorized to operate under the provisions of Part 15.

40. Although the Commission as discussed earlier considers the U.S. Footnote approach to have merit, the Commission is hesitant to propose the establishment of a U.S. Footnote without the support of IRAC since the majority of the users affected are Government administered. Accordingly, the Commission is requesting comments from the public on the proposed need and impact of a Footnote governing PLC operations. Specifically, the Commission is requesting comments regarding the following alternatives:

a. Establish a U.S. Footnote to afford regulatory recognition to PLC's.

b. Establish an NG Footnote to afford regulatory recognition to PLC's with similar language placed in the NTIA manual.

c. Establish no footnote but incorporate the language and necessary elements of the footnote into Parts 15 and 90 of the Commission's rules as proposed and into the NTIA manual.

The Commission will also consider other alternatives that may be submitted. Based on the comments received, the Commission will evaluate the response to the alternatives and determine the course of action necessary with regard to footnote implementation and modification of Part 2.

41. Accordingly, it is proposed to amend Part 2, § 2.106, on the basis of the alternatives sugggested above regarding PLC systems if public response so warrants. It is also proposed to amend Parts 15 and 90 of the Commission's rules as follows:

A. Section 15.3 is amended to indicate general operating conditions involving PLC systems.

B. Section 15.7 is amended to exclude PLC devices.

C. A new § 15.8 is added to Subpart A titled Operation of a PLC System.

D. Section 90.63 is amended to add a new paragraph (h) to govern the notification and data base requirements applicable to PLC systems.

IX. Procedural Matters

42. For further information concerning procedures to follow with respect to this rulemaking proceeding, contact Sam Tropea (202) 653–8167.

43. The proposed amendments to Parts 15 and 90 of the rules as set forth in Appendix B, are issued pursuant to the authority contained in sections 4(i) and 303(c), (h) and (r) of the Communications Act of 1934, as amended.

44. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before April 6, 1982, and reply comments on or before May 6, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

45. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceedings. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes and oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation, on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official

receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

46. The rulemaking action contained herein does not propose any change to the present use of the frequencies in the 10–490 kHz band and since operation by PLC users will continue to be on an unprotected, noninterference basis to all present and potential licensed users, large or small, no significant impact on primary users is expected. Accordingly, the Commission certifies that sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. See U.S.C. 605(b). It is ordered, that a copy of this Notice shall be sent to the Chief Council for Advocacy of the Small Business Administration.

47. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

(Secs. 4, 303, 307, 48 Stat., as amended 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments Filed By:

Aeronautical Radio Inc. (ARINC) and Air Transport Association of America (ATA)
Airline Operator and Pilots Association (AOPA)
Alabama Power Company
Alleghany Power Company
Allis—Chalmers Corporation
Alumax Mill Products, Incorporated
American Electric Power Service Corporation
American Steel Foundries
American Telephone and Telegraph Company (AT&T)
Art Iron, Incorporated
Arvin Automotives
Atlantic Research Corporation
Bridgeport Brass Company
Butler Manufacturing Company
Carolina Power and Light Company
The Cleveland—Cliffs Iron Company
The Cleveland Electric Illuminating Company
Colt Industries
Cyloops Corporation
Detroit Edison Company
Department of Energy
DRW Chemical, USA
Dynascan Corporation
Edison Electric Institute
Enamel Products and Plating Company
Eveleth Mines
General Electric Company (Fairfield, CN)
General Electric Company (Pittsfield, MA)
Intalco Aluminum Corporation
Iowa Electric Light and Power Company
Jemez Mountains Electric Cooperative, Incorporated
Kerr—McGee Corporation
Libbey—Owens—Ford Company
Lukens Steel Company
Marmon/Keystone Corporation
The Master Products Company
Megapulse, Incorporated
Midco—Pipe and Tube, Incorporated
National Electric Manufacturers Association
New York State Electric and Gas Corporation
Northern States Power Company
Patapsco and Back Rivers Railroad Company
Pittsburgh Tube Company
Power Engineering Society, IEEE
Public Service Electric and Gas Company
Revere Copper Products, Incorporated
Roberton and Swartz Incorporated
Sholtz Equipment and Sales Company, Incorporated
Southern California Edison Company
The Stacey Manufacturing Company
Standard Tube of Detroit Corporation
Tennessee Valley Authority (TVA)
True Temper
Union Camp Corporation
Union Electric Company
United Illuminating Company
United States Coast Guard (USCG)
VARCO Prudent Metal Building Systems
Virginia Electric Power Company
Weyerhanser Company
Weeling Pittsburg Steel Corporation
The Wild Goose Association

Reply Comments Filed By:

Electronics Industry Association (EIA)
Manufacturers Radio Frequency Advisory Committee (MRFAC)
Utilities Telecommunications Council (UTC)

Late Comments Filed By:

Bethlehem Steel Corporation

Appendix B

Parts 15 and 90 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 15—RADIO FREQUENCY DEVICES

1. Section 15.3 is revised to read as follows:

§ 15.3 General conditions of operation.

Persons operating restricted or incidental radiation devices (including Power Line Carrier Systems) shall not be deemed to have any vested or recognizable right to the continued use of any given frequency by virtue of prior registration or certification of equipment, or on the basis of prior notification of use pursuant to § 90.63(h) of this chapter. Operation of these devices is subject to the conditions that no harmful interference is caused and that interference must be accepted that may be caused by other incidental or restricted radiation devices, industrial scientific or medical equipment, or from any authorized radio service.

2. In § 15.7, the note is revised to read as follows:

§ 15.7 General requirement for restricted radiation devices.

(e) * * *

Note.—Radio receivers, cable television systems, Class I TV devices, low power communications devices, and power line carrier systems are regulated elsewhere in this chapter and are not regulated by this section.

3. A new § 15.8 is added to Subpart A to read as follows:

§ 15.8 Operation of a Power Line Carrier System.

(a) A Power Line Carrier System is a system of telecommunications used by the electric power utility entities for protective relaying, telemetering, general supervision of the power system and voice communications and operates by the transmission of radio frequency signals in the 10 to 490 kHz band by conduction over the power transmission lines of the system.

(b) A power utility proposing to add a Power Line Carrier System or to make changes in an existing system shall submit the details of such installation or change to a notification activity as set forth in § 90.63(h) of this chapter. No notification to the FCC is required.

(c) The operating parameters of a Power Line Carrier System (particularly the frequency) shall be selected to achieve the highest degree of compatibility with licensed users of the radio spectrum. A Power Line Carrier System shall operate on an unprotected, noninterference basis in acordance with § 15.3 of this Part. If interference occurs, the power utility shall discontinue or adjust its operation, as required, to remedy the interference.

(d) Power Line Carrier System apparatus shall be operated with the minimum power possible to accomplish the desired purpose.

(e) The best engineering principles shall be utilized in the generation of radio frequency currents by Power Line Carrier Systems so as to guard against

interference to established radio services, particularly on the fundamental and harmonic frequencies.

(f) Power Line Carrier System apparatus shall conform to such engineering standards as may from time to time be promulgated by the Commission.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.63 is amended by the addition of a new paragraph (h) to set forth the frequencies available for and the limitations placed on the use of power line carrier systems as follows:

§ 90.63 Power Radio Service.

* * * * *

(h) The frequencies 10–490 kHz are used to operate electrio utility Power Line Carrier (PLC) Systems on power transmission lines for communciations essential to the reliability and security of electric service to the public, in accordance with Part 15 of this chapter. Any electric utility fulfilling requirements in paragraph (a)(1) of this section may operate PLC systems and shall supply to a Federal Communications Commission/National Telecommunications and Information Administration recognized notification activity, information on all existing and proposed systems for inclusion in a data base, such as the frequency, power, location of transmitter(s), and other technical and operational parameters, which would characterize the system's potential both to interfere with users in authorized radio services, and to receive destructive interference from these users. The notification activity shall notify the National Telecommunications and Information Administration and the Commission of these system characteristics prior to implementation of any proposed PLC system. The Federal Communications Commission and National Telecommunications and Information Administration shall supply appropriate application and licensing information to the notification activity regarding licensed radio stations operating in the band. PLC systems in this band operate on a noninterference basis to radio systems assigned frequencies by the NTIA or licensed by the FCC and are not protected from interference due to these radio operations.

* * * * *

[FR Doc. 82-2087 Filed 1-26-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[BC Docket No. 81-793]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; Current Policy and Procedure; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: The FCC extends the time for filing reply comments by two weeks in order to allow adequate time for comment on the merits of a petition for rule making filed by the Cetec Vega Corporation concerning re-channelization of certain frequencies available pursuant to Subpart H of Part 74 of the Commission's Rules. It is felt that the Cetec Vega petition does not warrant an individual rule making proceeding and it has been included as a comment in this matter. However, due to a clerical oversight, the Cetec Vega petition was not placed in the BC Docket No. 81–793 file until five days after the comment period. The two week extension, made on the Commission's own motion, should afford all interested parties an adequate reply comment period.

DATES: The period for filing reply comments is hereby changed from January 19, 1982, to and including February 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven D. Linn, Broadcast Bureau, (202) 632–7698.

SUPPLEMENTARY INFORMATION:

Adopted: January 11, 1982.

Released: January 13, 1982.

In the matter of revision of Subparts D, E, F and H of Part 74 of the Commission's rules to reflect current policy and procedure; order extending time for filing reply comments.

1. On November 12, 1981, the Commission adopted a *Notice of Proposed Rule Making* (FCC 81–535) in the above-entitled matter which was released on November 25, 1981, and published in the **Federal Register** (46 FR 60222) on December 9, 1981.

2. Subsequently, the Commission received a petition for rule making dated December 7, 1981, by Earnest W. Pappenfus, President, Cetec Vega Corporation (Cetec Vega). Cetec Vega is a manufacturer of wireless microphones operated as low power auxiliary stations pursuant to Subpart H of Part 74 of the Commission's Rules.

3. Cetec Vega notes that presently § 74.802(b) of the Commission's Rules provides for assignment of channels in 200 kHz increments starting 600 kHz above the lower edges of Channels 7 through 13 and ending 600 kHz below the upper frequency limits of these channels. This yields 24 assignable frequencies per TV channel for low power auxiliary station operation; but in practice, the number of channels usable at a given location is limited to 6 due to adverse effects of transmitter and receiver intermodulaiton products. The number of usable channels can be doubled, says Cetec Vega, if certain midband channels are offset by 25 kHz or multiples thereof. For example, twelve intermodulation-free channels within TV Channel 7 (174–180 MHz) could be assigned as follows: 174.600, 174.800, 175.025, 175.275, 175.550, 175.850, 176.175, 176.550, 176.950, 177.400, 178.275 and 178.825 MHz. It should be noted that the present 200 kHz minimum spacing between assignable frequencies would be satified under this proposal.

4. In a December 22, 1981, letter to Cetec Vega, the Commission noted that while it has not yet had an opportunity to verify the calculations in the petition, the overall approach seemed straightforward and noncontroversial. Accordingly, rather than originate another rule making proceeding in response to the petition, it would be included as a comment in the above-mentioned proceeding, where its merits could be addressed in comments and reply comments.

5. However, due to clerical oversight, the Cetec Vega petition and the Commission's December 22nd reply letter, were not placed in the BC Docket 81–793 file until January 9, 1982, five days after the close of the comment period.

6. We wish to solicit reply comments on the merits of the Cetec Vega petition but we believe that the present reply comment period, which expires on January 19, 1982, is inadequate for this purpose; and that the public interest would be served by a two week extension.

7. Accordingly, it is ordered, that the time for filing reply comments in BC Docket 81–793 is extended to and including February 2, 1982.

8. This action is taken pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Martin A. Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-2089 Filed 1-26-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed quotas and request for comments.

SUMMARY: Quotas for the surf clam and ocean quahog fisheries for 1982 are proposed for public review and comment. The quotas have been selected from a range defined as the optimum yield for each fishery. The quotas establish allowable harvests of surf clams and ocean quahogs from the fishery conservation zone in 1982.

EFFECTIVE DATE: Comments will be accepted for 30 days, through February 26, 1982.

ADDRESS: Comments should be sent to: Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097. A copy of a report on establishing the quotas is available for public inspection at this address; copies may be requested in writing.

FOR FURTHER INFORMATION CONTACT: Frank Grice, (Chief, Management Division), 617-281-3600.

SUPPLEMENTARY INFORMATION: Portions of Amendment 3 to the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries were implemented by emergency interim regulations published on October 28, 1981 (46 FR 53181). One of the provisions of the amendment directs the Secretary, in consultation with the Mid-Atlantic Fishery Management Council, to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges which have been identified as optimum yield for each fishery.

The harvest of surf clams during 1981 exceeded the adjusted annual quota for the year by approximately 525,000 bushels. Resource managers and scientists recognized that this overharvest would occur, but believed that available information on harvests and the status of the resource showed that while optimum yield as specified was exceeded, harvest was consistent with the availability of the resource and the ability of the stock to sustain further, and perhaps greater, removals in the furture. A retroactive increase in the 1981 quota to accommodate the overharvest was considered, but was found to be impractical and of little real value. To permit management to proceed with a clean slate under the provisions of the recent comprehensive amendment, the overharvest in 1981 will not be deducted from quotas for the 1982 fishing year. The 1982 quotas were developed with full knowledge of the expected 1981 overharvest, and reflect the ramifications of that harvest on the condition of the resource. NOAA believes this action to be consistent with the requirements for conservation of the resource, and the intent and desire of the Council.

To implement this regulatory provision for establishing quotas, the Regional Director has considered the following information: stock assessments; catch records and other relevant information concerning exploitable biomass and spawning biomass; fishing mortality rates; incoming recruitment; projected effort and catches; and areas likely to be reopened to fishing. Proposed quotas based on the information are published here for public review and comment:

(Quotas in bushels)

Fishery	1982 quota
Mid-Atlantic Surf Clam	2,350,000
New England Surf Clam	50,000
Ocean Quahog	4,000,000

Much of the increase in the mid-Atlantic surf clam quota for 1982 is attributed to the Regional Director's expectation that portions of the area now closed to surf clam fishing off Atlantic City, New Jersey will be reopened during the year, and that significant amounts of surf clams will be taken from the reopened portions.

Comments on these proposed quotas will be accepted for 30 days, through the date given above. Comments will be considered by the Secretary, who will determine appropriate final annual quotas for each fishery and publish those quotas in the **Federal Register**.

A final supplement to the Environmental Input Statement was filed with the Environmental Protection Agency on January 8, 1982.

Classification

This action is a prescribed management action taken under 50 CFR 652.21 and is exempt from Sections 3, 4, and 7 of Executive Order 12291.

The action is expected to have an incremental effect on the economy of less than $1 million annually, and is not expected to lead to an increase in costs or prices of more than 10 percent. The action will not adversely affect competition, investment, or productivity. Each of the recommended management measures is likely to produce net benefits to the fishery, the region, and the national economy. The measures have positive general impacts in that they tend to increase stability in the fishery and encourage the highest value use of the resource.

The Administrator certified that Amendment 3 does not have a significant economic impact on a substantial number of small business entities and, therefore, does not require a regulatory flexibility analysis. This action is prescribed by Amendment 3, and consequently, is covered by the certification of Amendment 3. The conclusion of the regulatory impact review prepared for Amendment 3 was that determination of annual quotas is expected to result in net benefits to the fishery (i.e., small businesses), the region, and the national economy.

No reporting and recordkeeping requirements are imposed by this action.

(16 U.S.C. 1801 et seq.)

Dated: January 21, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-2009 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 18
Wednesday, January 27, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 82-1-94]

Application of Reeve Aleutian Airways for Certificate Amendment Under Subart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (82-1-94).

SUMMARY: The Board is proposing to authorize Reeve Aleutian Airways to provide all-cargo air transportation in Alaska between and among the points listed in its application.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate amendment shall file, and serve upon all persons listed below no later than February 16, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40266, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Reeve Aleutian Airways; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5335.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-1-94 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-1-94 to that address.

By the Bureau of Domestic Aviation: January 20, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2003 Filed 1-26-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination; Astec Air East, Inc., et al.

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order, Applicant and Response Date

82-1-75, Astec Air East, Inc. d.b.a. Astec Air East, Inc. and Republic Air Charter, February 8, 1982.
82-1-76, Gold Coast Air, Inc., February 8, 1982.
82-1-79, Bemidji Aviation Service, Inc. d.b.a. Bemidji Airlines, February 8, 1982.
82-1-86, Interstate Airlines, February 9, 1982.
82-1-87, Trans-Mo Airlines, Inc., February 9, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82-1-75-76, -86, and -87 with the Special Authorities Division, Room 915, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428 for Orders 82-1-76, 79, & 87: Mr. J. Kevin Kennedy, (202) 673-5918, for Order 82-1-75: Mr. John McCamant, (202) 673-5082, and for Order 82-1-87: Ms. Patti Szrom, (202) 673-5088.

By the Civil Aeronautics Board: January 21, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2002 Filed 1-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40269]

Visit USA Fare/Export Inland Contract Rate Investigation; Postponement of Prehearing Conference

On January 19, 1982, Japan Air Lines Company, Ltd., Lufthansa German Airlines, Philippine Airlines, Inc., Singapore Airlines, Limited, and Swissair, Swiss Air Transport Company, Ltd., (collectively "Foreign Carriers"), moved for an extension of time to file their prehearing conference submissions. They request this extension in light of their pending petition for reconsideration of Board Order 81-11-182, which could affect the scope of this proceeding, and the length of time needed for consultation with overseas clients. Their motion states that counsel for each of the U.S. carriers in this proceeding, for the other foreign carrier, and for the Bureau of International Aviation are aware of the motion and do not object to the extension of time provided the filing date for their submissions would also be extended.

Accordingly:

Notice is hereby given that the prehearing conference in the above-entitled matter scheduled to be held on January 28, 1982 (46 FR 60866, December 14, 1981) is hereby postponed until February 11, 1982, at 9:30 a.m. (local time) in Hearing Room "A", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned administrative law judge.

The Bureau of International Aviation has already submitted its prehearing conference materials. All other parties shall submit their prehearing conference materials on or before February 5, 1982. Their submissions shall be limited to points on which they differ with the Bureau's submission and shall use the marking and lettering used by the Bureau to facilitate cross-referencing. The February 5 date is for actual delivery of materials and is not a mailing date.

Dated at Washington, D.C., January 19, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-2004 Filed 1-26-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Florida Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 1:00 p.m., and will end at 6:00 p.m., on February 26, 1982, at the Howard Johnson, 200 Second Avenue, South East, Miami, Florida 33131. The purpose of this meeting is to conduct orientation for the new members; discuss program planning for fiscal year 1982; and appoint members to subcommittee(s).

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Teresa Saldise, 815 South West, 13th Court, Miami, Florida, (305) 856-1363 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia 30303, (414) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 22, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-2008 Filed 1-26-82; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 10:00 p.m., on February 22, 1982, at the Northwest Indiana Open Housing Center, 650 South Lake Street, Gary, Indiana, 46403. The purpose of this meeting is to present an update of the Commission's and Committee's program plans and budget status; and discuss the Indiana Housing Discrimination study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Acting Chairperson, Lotte Meyerson, 650 North Tippecanoe Street, Gary, Indiana, 46403, (219) 938-3910 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 22, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-2006 Filed 1-26-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 6-82]

Proposed Foreign-Trade Zone and Subzone, Portsmouth, New Hampshire; Application and Public Hearing

Notice is hereby given that the New Hampshire State Port Authority has submitted an application to the Foreign-Trade Zones Board (the Board) for authority to establish a general-purpose foreign-trade zone in Portsmouth, New Hampshire, within the Portsmouth Customs port of entry, and requesting special-purpose subzone status for Nashua Corporation facilities in Nashua and Merrimack, New Hampshire, adjacent to the Lawrence, Massachusetts, Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 22, 1982. The applicant is authorized to make this proposal under Section 271-A:11 of the New Hampshire RSA.

The general-purpose zone will cover 10 acres within the Port Authority's deep water port facility at 555 Market Street on Portsmouth Harbor. Two multi-purpose buildings totaling 50,000 square feet are available for warehousing, display and processing operations. Open space is also available for the construction of new facilities. The Port Authority plans to operate the zone initially, but may select an independent operator as the project develops.

The application contains evidence of the need for general zone services in the Portsmouth area. Prospective tenants have indicated an interest is using the zone for warehousing, distribution, testing and processing of industrial machinery, business machines and equipment, cable, electrical instruments, electronic items and leather goods.

The proposed subzone sites are at Nashua Corporation's facilities in Nashua and nearby Merrimack. The corporation is an international manufacturer and distributor of photocopier and computer products and supplies, with its headquarters in Nashua. Its Nashua facility covers 14 acres at 44 Franklin Street, Nashua, and the one in Merrimack, some 5 miles distant, is located on a 101-acre parcel on Daniel Webster Highway, both being used for processing and international distribution. Zone procedures would be used mainly to assist the company in its reexport of service parts for copiers it has sold abroad and in the storage of chemicals used in the production of carbonless paper. The savings will help the company resist cost pressures to move these operations overseas.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consist of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110; and Colonel C. E. Edgar, III, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

As part of its investigation, the Examiners Committee will hold a public hearing on February 25, 1982, beginning at 9:00 a.m., in the City Council Chambers, City Hall, 126 Daniels Street, Portsmouth. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377-2862) by February 19, 1982. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through March 29, 1982. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

New Hampshire Port Authority, 555 Market Street, Portsmouth, New Hampshire 03801

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721,

14th and E Streets, NW., Washington, D.C. 20230

Dated: January 22, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-2069 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Ceramic Wall Tile From the United Kingdom; Preliminary Results of Administrative Review of Antidumping Finding and Intent To Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and of intent to revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on ceramic wall tile from the United Kingdom. The review covers the one known exporter of this merchandise to the United States covered by the finding and the period January 1, 1980 through March 20, 1981. All sales by this exporter, H & R Johnson, Ltd., were made at not less than fair value for the above period. There is no indication of any sales at less than fair value since that time.

As a result of this review the Department intends to revoke the finding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2704/2496).

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its first administrative review of and tentative determination to revoke the antidumping finding on ceramic wall tile from the United Kingdom. The review covered the period December 1, 1975 through December 31, 1979. On June 11, 1981, the Department published the final results of the administrative review and announced its intent to conduct the next administrative review by the end of May 1982 (46 FR 30841). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that administrative review.

Scope of the Review

Merchandise covered by this review is glazed ceramic wall tile, currently classifiable under item 532.2400 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one exporter of ceramic wall tile from the United Kingdom to the United States still covered by the finding. That firm is H & R Johnson, Ltd. The review covers the period January 1, 1980 through March 20, 1981, the date of the Department's tentative determination to revoke.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act. Purchase price was based on the F.O.B. packed price to unrelated purchasers. Where applicable, we deducted cash discounts and U.K. inland freight from this price. Exporter's sales price was calculated on the basis of the delivered price from the related U.S. party to unrelated U.S. purchasers. Where applicable, deductions were made for cash discounts, U.K. inland freight, ocean freight, U.S. duty insurance, and U.S. selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. H & R Johnson sold 86% of its total production in the home market during the covered period. The home market prices here are based on delivered prices with adjustments, where applicable, for cash discounts, U.K. inland freight, and a packing differential. Where appropriate, we made adjustments, based on differences in value, for physical differences in merchandise, under 19 CFR 353.16. Adjustments for differences in circumstances of sale, in accordance with § 353.15 of the Commerce Regulations, were made for the costs of technical services and assumption of purchasers' advertising. When home market price was compared to exporter's sales price, we made an additional adjustment for home market selling expenses as an offset to selling expenses paid in the U.S. market, in accordance with § 353.15(c) of the Commerce Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we have concluded that there were no sales at less than fair value by H & R Johnson, Ltd. for the period January 1, 1980 through March 20, 1981. There is no indication of any sales at less than fair value by this firm since March 20, 1981.

As provided for in § 353.54(e) of the Commerce Regulations, H & R Johnson, Ltd. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that ceramic wall tile produced by H & R Johnson and thereafter imported into the United States is being sold at less than fair value.

Intent To Revoke

As a result of our review we intend to revoke the finding on ceramic wall tile from the United Kingdom. If the finding is revoked it shall apply to unliquidated entries entered, or withdrawn from warehouse, on or after March 20, 1981. Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing. The Department will issue appraisement instructions for this exporter directly to the Customs Service.

This administrative review, intent to revoke, and notice are in accordance with section 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 22, 1982.

[FR Doc. 82-2070 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

Elemental Sulphur From Canada; Final Results of Administrative Review and Partial Revocation of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review and Partial Revocation of Antidumpting Finding.

SUMMARY: On April 9, 1981, the Department of Commerce published the preliminary results of its administrative review of and tentative determination to revoke in part the antidumping finding on elemental sulphur from Canada (46 FR 21214). The review covered 5 of the 52 known exporters: Canadian Superior Oil, Ltd., Chevron Standard, Ltd., Hudson's Bay Oil & Gas, Ltd., Shell Canada, Ltd., and Gulf Oil Canada, Ltd. For Shell Canada and Hudson's Bay Oil & Gas, the review covered the period January 1, 1977 through February 8, 1979. For Chevron Standard, Canadian Superior Oil, and Gulf Oil Canada, the review covered the period May 1, 1977 through February 8, 1979. This notice covers two of the five exporters: Shell Canada, Ltd., and Canadian Superior Oil, Ltd. The remaining three companies will be covered in a separate notice. Interested parties were provided an opportunity to submit written comments on request disclosure and/or a hearing. Based on comments made by the petitioner in the course of a public hearing, the Department reviewed additional information from Shell Canada on shipments made during our period of review pursuant to contracts entered into prior to that period. After review of that submission, the Department still finds that all sales by Shell Canada and Canadian Superior Oil were made at not less than fair value. Accordingly, we are revoking the finding with respect to these firms.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger of Robert Maranick, Office of Compliance, International Trade International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2074/2496).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, a dumping finding with respect to elemental sulphur from Canada was published in the **Federal Register** as Treasury Decision 74–1 (38 FR 34655). On April 9, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of and tentative determination to revoke the finding (46 FR 21214) with respect to five firms.

The Department has now completed its administrative review of the finding for two of those firms.

Scope of the Review

Merchandise covered by this review is elemental sulphur, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA). The review is limited to Shell Canada, Ltd, and Canadian Superior Oil, Ltd. For Shell Canada the review covers the period January 1, 1977 through February 8, 1979. For Canadian Superior Oil the review covers the period May 1, 1977 through February 8, 1979.

Analysis of Petitioner's Comments

(1) *Comment:* Petitioner argued that the issue whether these two firms had made home market sales at less than the cost of production in 1975 and 1976 had never been resolved.

Position: The Treasury Department had prevouosly determined that no sales at less than cost had been made for that period. The Department's review is limited to a later period for which no allegation of less than cost sales has been made. As a result, the Department did not solicit additional cost of production information from the companies for the current period of review.

(2) *Comment:* Petitioner objected to the lack of adequate non-confidential summaries for our review period from these two companies.

Position: In view of the subsequent release of the companies' confidential submissions under administrative protective order, we believe this issue has been adequately resolved. For Canadian Superior, we have adequate non-confidential versions of the response material for the Treasury review period from January through April 1977.

(3) *Comment:* Petitioner requested that for Shell Canada the Department conduct sales comparisons for shipments made pursuant to contracts entered into prior to the Department's period of review.

Position: After reviewing information from this firm, the Department made these comparisons, and still finds that no sales were made at less than fair value by this firm.

(4) *Comment:* Petitioner also requested a written agreement, required by § 353.54(e) of the Commerce Regulations, from Canadian Superior along the lines of that submitted by Shell Canada.

Position: The Department is satisfied that the agreement filed by Canadian Superior is consonent with our current standards. The Shell Canada agreement is less precise than those now required, having been submitted at an earlier time. Nonetheless, it is also acceptable to the Department.

(5) *Comment:* Petitioner objected to the Department's failure to request additional information from the companies for the period since February 8, 1979.

Position: Section 353.54(a) of the Commerce Regulations gives the Department discretion to determine whether to revoke an antidumping finding. Section 353.54(b), which requires that two years of no sales at less than fair value be demonstrated, does not require that the two year period immediately precede the date of publication of the notice of proposed revocation. It has been the practice of the Department to view earlier Treasury notices of tentative revocation as valid, and as fixing the effective date of revocation unless substantial evidence is presented to the contrary. Petitioner has not shown that any sales at less than fair value are currently being made by these firms.

Final Results of Review

After analysis of the comments and supplemental information received, we conclude that all sales were made at not less than fair value by Shell Canada, Ltd., for the period January 1, 1977 through February 8, 1979, and that all sales were made at not less than fair value by Canadian Superior Oil, Ltd., from May 1, 1977 through February 8, 1979. For Canadian Superior Oil, prior review by the Treasury Department demonstrated no sales at less than fair value from July 1, 1976 through April 30, 1977.

Determination

As a result of this review, the Department revokes the antidumping finding on elemental sulphur from Canada with respect to Canadian Superior Oil, Ltd., and Shell Canada, Ltd.

This revocation applies to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 8, 1979. Since all sales by Shell Canada between January 1, 1977 and February 8, 1979, and all sales by Canadian Superior Oil from May 1, 1977 through February 8, 1979 were made at not less than fair value, the Department shall instruct the Customs Service to liquidate all entries in those periods without regard to dumping duties. The Department will issue appraisement instructions directly to the Customs Service.

This administrative review, revocation in part, and notice are in accordance with sections 751(a)(1) and

(c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 22, 1982.

[FR Doc. 82-2071 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

Kraft Condenser Paper From Finland; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On October 14, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on kraft condenser paper from Finland. This review covers the only known exporter of this merchandise to the United States, Tervakoski Osakeyhito, for two consecutive periods from February 20, 1979 through August 31, 1980.

Interested parties were given an opportunity to submit oral or written comments or request a hearing on the preliminary results. On December 2, 1981, we held a public hearing and, based on comments received, we have made adjustments which result in new weighted average margins for both periods.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT:

F. Patrick Pope or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4697/2657).

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1979, a dumping finding with respect to kraft condenser paper from Finland was published in the **Federal Register** as Treasury Decision 79-245 (44 FR 54696-7). On October 14, 1981, the Department of Commerce ("the Department") published in the **Federal Register** as Treasury Decision 79-245 (44 FR 54696-7). On October 14, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 50576). The Department has now completed that administrative review.

Scope of the Review

The imports covered by this review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80% or more by weight chemical sulphate or soda wood pulp based on total fiber content. Kraft condenser paper is currently classifiable under items 252.4000, 252.4200 and 256.3080 of the Tariff Schedules of the United States Annotated (TSUSA). Tervakoski Osakeyhito is the only known exporter to the United States of Finnish kraft condenser paper. This review covers two consecutive time periods from February 20, 1979, the date of suspension of liquidation, through August 31, 1980.

Analysis of Comments Received

1. Tervakoski requests that the Department make an overall adjustment to the foreign market value for "broke" (wastage due to slitting) in those comparisons where an adjustment was made to the United States price for broke.

Position: Tervakoski has furnished requisite data to make the adjustment and we agree that an adjustment is appropriate.

2. The domestic industry agrees that broke is a cost commonly associated with the manufacture and slitting of kraft condenser paper. However, they are concerned that the amounts claimed by Tervakoski are "implausibly high" and thus would result in an excessive adjustment to foreign market value. In addition, they believe that the sample rates selected by Tervakoski are not properly representative and actually vary for substantially identical products.

Position: Because we did not verify the broke percentages by paper size submitted by Tervakoski, we have decided to make the adjustment to Tervakoski's foreign market value using information submitted by respondent on its overall "broke" for the periods involved, that is 15 percent. This is lower than the rates of concern to petitioners.

3. Tervakoski claims that the preliminary margin for the second period that was to be used to establish the estimated duty deposit rate (0.7381 percent) is *de minimis* and that the Department should declare it so because there is no fixed policy for determining what is *de minimis*.

Position: We disagree. The Department has consistently used 0.50 percent as its benchmark for establishing a *de minimis* margin. The Department knows of no reason why a different standard should be used for this industry. At the same time, because of our recalculations the rate for the second period is now less than 0.50 percent and therefore *de minimis*.

4. The domestic industry claims that the Department's circumstance of sale adjustment for differences in credit terms is improper because it fails to take into account interest expenses incurred between the date of shipment from Finland and the date of sale in the United States.

Position: We disagree. Expenses incurred for maintaining merchandise in inventory prior to sale, including the time during which the merchandise is in transit, are not directly related to the sale of that merchandise and, therefore, are not a circumstance of that sale. However, the Department recognizes that Tervakoski, U.S.A., Inc. (TUSA) has incurred an indirect expense relative to holding the merchandise from the time it was received by TUSA until it was sold and shipped in the United States. We have calculated the weighted average and deducted that expense as a part of the General, Administrative and Selling Expenses.

Final Results of Review

As a result of adjustments made based on comments received, and our subsequent analysis, we determine that the following margins exist on shipments by Tervakoski Osakeyhito:

Time period	Percent margin
Feb. 20, 1979 to Dec. 31, 1979	2.03
Jan. 1, 1980 to Aug. 31, 1980	0.02

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on applicable entries made with purchase dates or export dates, as appropriate, during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions for this exporter directly to the Customs Service.

The Department has decided to waive the cash deposit requirement, as provided for in § 353.48(b) of the Commerce Regulations, since the most recent weighted-average margin is less than 0.5 percent and therefore *de minimis*. This waiver shall apply to all entries, or withdrawals from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 22, 1982.

[FR Doc. 82-2072 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

Metal-Walled Above Ground Swimming Pools From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of Administrative Review of Antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on metal-walled above ground swimming pools from Japan. The review covers the four known manufacturers/exporters and various periods from April 4, 1977 through August 31, 1980. This review indicates the existence of dumping margins for all firms with shipments during the review periods.

As a result of this review, the Department has preliminarily determined to assess dumping duties for two firms equal to the calculated differences between purchase price and foreign market value on shipments during the periods of review. Where company-supplied information was inadequate, the Department has used the best information available to establish the margins shown in this notice. The Department has preliminarily determined not to assess dumping for a third firm pending receipt and analysis of additional data. The margin shown in this notice for that firm will be used only for cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3814/5289).

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1977, a dumping finding with respect to metal-walled above ground swimming pools from Japan was published in the **Federal Register** as Treasury Decision 77-223 (42 FR 44811). On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 ("the 1921 Act") with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-20512) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the finding on metal-walled above ground swimming pools from Japan. The substantive provisions of the 1921 Act and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of Japanese metal-walled above ground swimming pools, currently classifiable under item numbers 657.2560 and 774.5500 of the Tariff Schedules of the United States Annotated (TSUSA).

Metal-walled above ground swimming pools exported from third countries which contain components manufactured in Japan are within the scope of the finding if the pool parts, as shipped to the third country, are capable of functioning as a pool.

The Department knows of four firms engaged in the manufacture and exportation of Japanese metal-walled above ground swimming pools to the United States. The Department has preliminarily determined not to assess dumping duties for Asahi Chemical Industry Co., Ltd. ("Asahi"), pending receipt of additional data. The margin shown in this notice for Asahi will be used only for cash deposit purposes. Another firm, Kenny, had no shipments during its review period. The rate for cash deposit purposes will be based on Kenny's last shipments. A third firm, Seiwa Sangyo Co., Ltd., provided an adequate response for the period April 4, 1977 through March 1978. Since Seiwa Sangyo was non-responsive for the period April 1978 through August 1980 we shall use the rate from the prior period for assessment and cash deposit purposes. A fourth firm, Hakuyo Sangyo, Ltd., was non-responsive for the entire period. Since it was not investigated during the original fair value investigation and we have no previous information on the firm, we shall use, for both assessment and cash deposit purposes, the highest current rate for responding firms, since it is higher than the sole fair value rate.

Eleven third-country firms possibly transshipped Japanese pools and/or pool parts to the U.S. and will be covered in a subsequent review. This review covers various periods from April 4, 1977 through August 31, 1980. Treasury reviewed all prior periods.

The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by previously issued appraisement instructions ("master lists"), is under review. Liquidation has been suspended pending disposition of the issue.

Purchase Price

Purchase price, as defined in section 203 of the 1921 Act, was based on the ex-factory, packed price to unrelated purchasers in the United States. No adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 205 of the 1921 Act. The home market prices were based upon ex-factory, packed prices. No adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of purchase price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Asahi Chemical Industry Co., LTd...	11/1/77-10/31/78	43 74
Seiwa Sangyo Co., Ltd	4/4/77-3/31/78	72 00
	4/1/78-8/31/80	72 00
Kenny	2/18/78-8/31/80	[1] 3 5
Hakuyo Sangyo	4/4/77-8/31/80	72 00

[1] No shipments during this period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties, where appropriate, on all entries of metal-walled above ground swimming pools manufactured/exported by any of the above-listed firms, except Asahi Chemical Industry Co., Ltd., with purchase dates during the time periods involved. The Department shall issue appraisement instruments separately on these firms directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments by these four firms of metal-walled above ground swimming pools from Japan entered, or withdrawn from warehouse, for consumption or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 21, 1981.

[FR Doc. 82-2073 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement; Louisville, Ky., SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982, in the Louisville, Kentucky, SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 04-10-82013-01.

Applicants shall be required to contribute at least 10% the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 26, 1982.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. McMillan, Regional Director, (404) 881-4091.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be servd in terms of the needs of minority businesses and past ongoing relationships with local, public, and private entities that can possibly enhance the BDC program effort i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully

explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. Cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution.*—Cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—A fee will be charged to clients for assistance provided by BDC.

C. *In-Kind contribution.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the above address on February 12, 1982, at 1:00 p.m.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: January 18, 1982.

Charles F. McMillan,

Regional Director.

[FR Doc. 82–1962 Filed 1–26–82; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcement; Memphis, Tenn., SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982, in the Memphis, Tennessee, SMSA. The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 04–10–82001–01.

Applicants shall be required to contribute at least 10% the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 26, 1982.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. McMillan, Regional Director, (404) 881–4091.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right

when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: Outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. Cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution.*—Means cash that is contributed or donated by the receipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of managment and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification for all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the above address on February 12, 1982, at 1:00 p.m.04

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: January 18, 1982.

Charles F. McMillan,

Regional Director.

[FR Doc. 82–1981 Filed 1–26–82; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcement; Nashville/Davidson County, Tenn.; SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the Nashville/Davidson County, Tennessee SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 04-10-82007-01.

Applicants shall be required to contribute at least 10% the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 26, 1982.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. McMillan, Regional Director, (404) 881-4091.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organization, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. Cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution.*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Cost.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the above address on February 12, 1982, at 1:00 PM.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: January 18, 1982.

Charles F. McMillan,

Regional Director.

[FR Doc. 82–1982 Filed 1–26–82; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Advisory Committee for International Legal Metrology; Open Meeting

The Advisory Committee for International Legal Metrology will meet from 9:30 a.m. to 5:00 p.m. on Tuesday, February 16, 1982, and from 9:00 a.m. to 12:00 noon on Wednesday, February 17, 1982. The meeting will be held in Lecture Room A, Administration Building, National Bureau of Standards, Gaithersburg, Maryland.

The Committee, initially established in March 1974 (39 FR 6136), advises the Department, through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS' assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government, professional metrologists, national standards bodies, industry and trade associations, and consumers.

The purpose of the February meeting of the Committee is to establish U.S. positions for the 18th Meeting of the International Committee of Legal Metrology (CIML) to be held March 24–26, 1982, in Paris, France. The agenda includes the following items:

1. Update of OIML activities since last meeting of the Committee:
   (a) Report on results of the 1980 International Conference of Legal Metrology.
   (b) Highlights of OIML Technical Program.
   (c) Report on Joint BIPM, ISO, IEC, OIML International Measurement Vocabulary.
2. 18th CIML agenda and issues:
   (a) Changes to "Working Methods of Secretariats".
   (b) Creation of new secretariats.
   (c) Examination of the status of certain secretariats.
   (d) Use of work from other organizations.
   (e) Establishment of OIML certification system.
3. U.S. priorities in OIML for 1982–83.
4. Guidelines for U.S. delegations to OIML meetings.

The meeting will be open to public observation, and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before February 9, 1982. Other public statements regarding committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David E. Edgerly, Office of Domestic and International Measurement Standards, National Bureau of Standards, Washington, D.C. 20234, telephone: 301–921–3307.

Dated: January 21, 1982.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 82–1985 Filed 1–26–82; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Increase in the Import Restraint Level for Certain Cotton Textile Products From Pakistan

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by 50,000 dozen the level of restraint for women's, girls' and infants' cotton shirts, other than T and sweatshirts, in Category 339pt. (only T.S.U.S.A. numbers 382.0669 and 382.0671), produced or manufactured in Pakistan and exported during the eighteen-month period which began on January 1, 1981. The adjusted level will be 374,270 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), and October 27, 1981 (46 FR 52409).)

SUMMARY: The Governments of the United States and Pakistan have agreed to amend the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, to increase the level of

restraint for cotton textile products in Category 339pt. (only T.S.U.S.A. numbers 382.0669 and 382.0671) during the agreement period which began on January 1, 1981 and extends through June 30, 1982.

EFFECTIVE DATE: January 20, 1982.

FOR FURTHER INFORMATION CONTACT:
Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–2184).

SUPPLEMENTARY INFORMATION: On December 24, 1980, there was published in the **Federal Register** (45 FR 85140) a letter dated December 19, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, including Category 339 and its subceiling, produced or manufactured in Pakistan and exported to the United States during the eighteen-month period which began on January 1, 1981 and extends through June 30, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements, pursuant to an amendment to the bilateral agreement, directs the Commissioner of Customs to increase the level for Category 339pt. (only T.S.U.S.A. numbers 382.0699 and 382.0671) to 374,270 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 19, 1980 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports in the United States of certain cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 20, 1982, and for the eighteen-month period beginning on January 1, 1981 and extending through June 30, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 339pt.[1], produced or manufactured in Pakistan, in excess of 374,270 dozen.[2]

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-1983 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

Adjusting Import Restraint Levels for Certain Cotton and Man-Made Fiber Apparel Products From the Dominican Republic

January 22, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing the levels of restraint established for men's and boy's woven cotton shirts in Category 340 from 139,678 dozen to 130,968 dozen and man-made fiber brassieres in Category 649 from 1,500,000 dozen to 1,453,501 dozen to account for carryforward used during the twelve-month period which began on June 1, 1980 and extended through May 31, 1981. These adjustments apply to Categories 340 and 649, produced or manufactured in the Dominican Republic and exported during the current agreement year which began on June 1, 1981.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic provides, among other things, for the borrowing of yardage from the following agreement year (carryforward) with the amount used being deducted from the level in the following year. In accordance with the terms of the bilateral agreement, the import restraint levels established for Categories 340 and 649 are being adjusted for carryforward used during the previous agreement year.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT:
Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On May 26, 1981, there was published in the **Federal Register** (46 FR 28206) a letter dated May 20, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established import restraint levels for certain specified categories of cotton and man-made fiber textile products, including Categories 340 and 649, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on June 1, 1981 and extends through May 31, 1982. In accordance with the terms of the agreement, the Chairman of the Committee for the Implementation of Textile Agreements, in the letter published below, directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 340 and 649 in excess of the adjusted levels of restraint.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

January 22, 1982.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: On May 20, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption, during the twelve-month period which began on June 1, 1981 and extends through May 31, 1982 of cotton and man-made fiber textile products in certain specified catetories, produced or manufactured in the Dominican Republic, in excess of designated levels of restraint. The

[1] In Category 339, only T.S.U.S.A. numbers 383.2730 and 383.2731.

[2] The level of restraint has not been adjusted to account for any imports after December 31, 1981.

Chairman further advised you the levels of restraint are subject to adjustment.[1]

Effective on January 22, 1982, the levels of restraint established for Categories 340 and 649 in the directive of May 20, 1981 are adjusted to the following:

Category and Adjusted Twelve-Month Level of Restraint [2]

340—130,968 dozen
649—1,453,501 dozen

The actions taken with respect to the Government of the Dominican Republic and with respect to imports of cotton and man-made fiber textile products from the Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-2074 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Cancellation of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and AR 15-1, Committee Management, notice of cancellation of a meeting of the Army Science Board on January 28 and 29, 1982 (47 FR 843, January 7, 1982) is hereby given.

Due to extenuating circumstances the meeting of the Army Science Board Summer Study Group on Science and Engineering Personnel was called off and is being rescheduled.

Helen M. Bowen,

Administrative Officer.

January 21, 1982.

[FR Doc. 82-2054 Filed 1-26-82; 8:45 am]

BILLING CODE 3710-08-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic, which provide, in part, that: (1) specific limits may be exceeded by designated percentages to account for swing with comparable amounts being deducted from other specific limits; (2) specific limits may also be increased for carryover and carryforward up to 11 percent of applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The levels of restraint have not been adjusted to account for any imports after May 31, 1981.

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: February 16, 1982 and February 17, 1982

Times: 0830-1700 hours (Closed)—February 16, 1982; 0830-1500 hours (Closed)—February 17, 1982

Place: Pentagon Room 3A486, Washington, DC

Proposed Agenda: The Army Science Board Group conducting a Summer Study on Science and Engineering Personnel will meet to present and receive briefings and hold discussions. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-2055 Filed 1-26-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Direct Grant Programs; Application Notices for Fiscal Year 1982; Correction

AGENCY: Department of Education.

ACTION: Amendments to application notices for direct grant programs for fiscal year 1982.

The Secretary of Education makes changes in certain application notices previously announced for fiscal year 1982.

On October 28, 1981 a notice containing application announcements for certain direct grant programs was published in the **Federal Register** (46 FR 53278-53317). For various reasons, changes are made to the following notices.

(1) 84.060—*Indian Education Grants to Local Educational Agencies and Tribal Schools*—Closing date: December 4, 1981

The closing date for transmittal of applications for new and noncompeting continuation projects under the Indian Education Program entitlement grants to local educational agencies and tribal schools is extended to February 12, 1982.

(2) 84.003A—*Bilingual Education Act—Desegregation Support Program*—Closing date: January 15, 1982

Although the original application notice correctly listed $768,000 as the total amount of money available for new awards, the amount of money listed as available for the two types of projects supported under this program were incorrect and are corrected as follows:

The amount of money available for bilingual-bicultural curriculum development projects (34 CFR 520.10(a)) is $200,000.

The amount of money available for implementation of instructional programs of bilingual-bicultural education (34 CFR 520.10(b)) is $568,000.

(3) 84.101—*Programs for Indian Tribes and Indian Organizations—New Projects*—Closing date: January 11, 1982

The competition for this program is cancelled for fiscal year 1982 due to funding limitations.

T. H. Bell,

Secretary of Education.

January 20, 1982.

[FR Doc. 82-2031 Filed 1-26-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Special Needs Program; Application Notice for New Projects for Fiscal Year 1982

Applications are invited for new projects under the Special Needs Program.

Authority for this program is contained in sections 321-324 and 341-347 of Title III of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1060-1063, and 1066-1069c)

The Special Needs Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and non-renewable development grants to eligible two and four year, public and private institutions of higher education. The purpose of the planning grants is to assist institutions to develop their long-range plans. The purpose of the development grants is to assist institutions to implement portions of their long-range plans, thereby becoming self-sufficient.

Closing Date for Transmittal of Applications: An application for a planning or development grant must be mailed or hand delivered by April 2, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center,

Attention: 84.031B, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information

General. In general, the Secretary will accept an application for a planning grant or a development grant from any institution designated eligible for the Special Needs Program in Fiscal Year 1982.

Planning Grants

1. The Secretary will not accept an application for a planning grant from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

2. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Requests for Designation as an Eligible Institution: Potential applicants must submit a request for designation as an eligible institution by the established date published separately in the **Federal Register**. Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1982 will not be considered for funding.

Available Funding: The Third Continuing Resolution, which expires on March 31, 1982, authorizes $57,600,000 to be made available for the Special Needs Program for Fiscal Year 1982. Although processing of applications will proceed on this basis, it should be noted that these estimates do not bind the Department of Education. Final resolution of spending limits for FY 1982 may result in a change of available funds.

The Secretary intends to award not less than $27,035,000 of the amount available to institutions with special needs that have historically served substantial numbers of black students. Further, the Secretary intends to award not less than 30 percent of the amount available to junior or community colleges with special needs. Approximately $384,000 will be used to fund planning grants.

Planning grants will range between $10,000 and $25,000 while development grants will range between $100,000 and $800,000 per year. These estimates, however, do not bind the Secretary as to the minimum amount of any grant.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 26, 1982. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to the program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 626; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions), except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements. These parts were previously codified as 45 CFR Part 100a and 45 CFR Part 100c respectively.

Parts 624 and 626 of Title 34 of the Code of Federal Regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Further Information: For further information contact Dr. Claude A. Mayberry, Director, Division of Institutional Development, U.S. Department of Education (Room 3919, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202–3311. Telephone: (202) 245–9691.

(20 U.S.C. 1060–1063 and 1066–1069c)

Dated: January 21, 1982.

(Catalog of Federal Domestic Assistance No. 84.031B—Special Needs Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82–2077 Filed 1–26–82; 8:45 am]

BILLING CODE 4000–01–M

Strengthening Program; Application Notice for New Projects for Fiscal Year 1982

Applications are invited for new projects under the Strengthening Program.

Authority for this program is contained in sections 311–313 and 341–347 of Title III of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1057–1059, and 1066–1069c)

The Strengthening Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and renewable and non-renewable development grants to eligible two and four year, public and private institutions of higher education. The purpose of the planning grants is to assist institutions to develop an institutional long-range plan or an application for a development grant. The purpose of the development grants is to assist institutions to implement portions of their long-range plans to enable them to move toward or achieve self-sufficiency.

Closing Date for Transmittal of Applications: An application for a planning or development grant must be mailed or hand delivered by March 30, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031A, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information:

General. In general, the Secretary will accept an application for a planning grant or a development grant from any institution designated eligible for the Strengthening Program.

Planning grants.

1. The Secretary will not accept an application for a planning grant solely to develop an application for a development grant unless the applicant submits, as part of its application, its long-range plan containing all the elements required in § 624.22 of the Institutional Aid Programs General Provision Regulation (34 CFR 624.22) published in the Federal Register of January 5, 1982, 47 FR 540, 543–544.

2. The Secretary will not accept an application for a planning grant to develop a long-range plan from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

3. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Development grants.

An institution may not apply for both a renewable and a non-renewable development grant under this program either individually or as part of a cooperative arrangement.

Requests for Designation as an Eligible Institution: Potential applicants must submit a request for designation as an eligible institution by the established date published separately in the Federal Register. Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1982 will not be considered for funding.

Available Funding: The Third Continuing Resolution, which expires on March 31, 1982, authorizes $57,600,000 to be made available for the Strengthening Program for Fiscal Year 1982. Although processing of applications will proceed on this basis, it should be noted that these estimates do not bind the Department of Education. Final resolution of spending limits for FY 1982 may result in a change of available funds. The Secretary intends to award not less than 24 percent of the amount available to eligible junior or community colleges.

Planning grants will range between $10,000 and $25,000, renewable development grants will range between $50,000 and $200,000 per year, and non-renewable development grants will range between $100,000 and $800,000 per year. These estimates, however, do not bind the Secretary to the minimum amount of any grant.

Seventy-five percent of the amount available will be set-aside to fund non-renewable development grants. Approximately $384,000 will be used to fund planning grants.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 26, 1982. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to the program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 625; and

(c) the Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR 77 (Definitions), except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements. These parts were previously codified as 45 CFR Part 100a and 45 CFR Part 100c respectively.

Parts 624 and 625 of Title 34 of the Code of Federal Regulations were published in the Federal Register of January 5, 1982, 47 FR 540–557.

Further Information: For further information contact Dr. Claude A. Mayberry, Director, Division of Institutional Development, U.S. Department of Education (Room 3919, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202–3311. Telephone: (202) 245–9691.

(20 U.S.C. 1057–1059, and 1066–1069c)

Dated: January 21, 1982.

(Catalog of Federal Domestic Assistance No. 84.031A—Strengthening Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-2078 Filed 1-26-82; 8:45 am]

BILLING CODE 4000-01-M

Challenge Grant Program; Application Notice for New Projects for Fiscal Year 1982

Applications are invited for new projects under the Challenge Grant Program.

Authority for this program is contained in sections 331–332 and 341–347 of Title III of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1061–1069c)

The Challenge Grant Program assists eligible institutions of higher education to seek alternative sources of funding to become self-sufficient. To this end, the Secretary awards grants to eligible institutions of higher education including, two-year and four-year, public and private institutions, graduate institutions, and institutions providing medical education programs.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by April 5, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031C, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Applications for new grants will be accepted from all institutions designated as eligible under the Institutional Aid Programs in Fiscal Year 1982. However, in awarding grants under this part, the Secretary gives preference to applications from institutions that are receiving grants under the Strengthening Program or the Special Needs Program.

Requests for Designation as an Eligible Institution: Potential applicants must submit a request for designation as an eligible institution by the established dated published separately in the **Federal Register**. Those institutions that are not designated by the Secretary as eligible to apply for a grant in FY 1982 will not be considered for funding.

Available Funding: The Third Continuing Resolution, which expires on March 31, 1982, authorizes $9,216,000 to be made available for the Challenge Grant Program for Fiscal Year 1982. Although processing of applications will proceed on this basis, it should be noted that these estimates do not bind the Department of Education. Final resolution of spending limits for FY 1982 may result in a change of available funds. Awards will range between $150,000 and $800,000 per year.

However, these estimates do not bind the Secretary as to the amount of any grant.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 26, 1982. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to the program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Parts 625 and 626;

(c) The regulations in 34 CFR Part 627; and

(d) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR 77 (Definitions). These parts were previously codified as 45 CFR Part 100a and 45 CFR Part 100c respectively.

Parts 624, 625, 626 and 627 of Title 34 of the Code of Federal Regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Further Information: For further information contact Dr. Claude A. Mayberry, Director, Division of Institutional Development, U.S. Department of Education (Room 3919, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202–3311. Telephone: (202 245–9691.

(20 U.S.C. 1064–1069c)

Dated: January 21, 1982.

(Catalog of Federal Domestic Assistance No. 84.031C—Challenge Grant Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82–2079 Filed 1–26–82; 8:45 am]

BILLING CODE 4000–01–M

Strengthening Program, Special Needs Program, and Challenge Grant Program; Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1982

Institutions of higher education that wish to apply for a grant under the Strengthening Program, the Special Needs Program or the Challenge Grant Program, collectively known as the Institutional Aid Programs, are invited to apply for designation as an "eligible institution" under one or more of those programs by submitting a "Request for Designation as an Eligible Institution" form. The Institutional Aid Programs are authorized under section 301–347 of Title III of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1051–1069c)

The Institutional Aid Programs assist eligible institutions to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management and fiscal capabilities.

Institutions of higher education that wish to apply for a grant for any of the Institutional Aid Programs must first be designated as an eligible institution under that program in accordance with the applicable regulations.

Closing Date for Transmittal of Requests: A "Request for Designation as an Eligible Institution" form must be mailed or hand-delivered by February 16, 1982.

Requests Delivered by Mail: A request sent by mail must be addressed to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

Proof of mailing must consist of one of the following:

1. A legibly dated U.S. Postal Service postmark.

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

3. A dated shipping label, invoice, or receipt from a commercial carrier.

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its request will not be considered.

Requests Delivered by Hand: A request that is hand-delivered must be taken to the Evaluation Section, Division of Institutional Development, Room 3045, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. Hand delivered requests must be receipted by the staff of the Evaluation Section.

The staff of the Evaluation Section will accept and receipt hand-delivered requests between 9:00 a.m. and 4:30 p.m. (Eastern Time) daily, except Saturdays, Sundays and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on February 16, 1982.

Request Forms: Eligibility request forms are expected to be ready for mailing by January 26, 1982. They may be obtained by writing to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

Applicable Regulations: Regulations applicable to the eligibility process include §§ 624.2, 624.3 and 624.20 of the Institutional Aid Programs—General Provisions Regulations, 34 CFR 624.2, 624.3, and 624.20; §§ 625.2 and 625.3 of the Strengthening Program Regulations, 34 CFR 625.2 and 625.3; §§ 626.2 and 626.3 of the Special Needs Program Regulations, 34 CFR 626.2 and 626.3; and § 627.2 of the Challenge Grant Program Regulations, 34 CFR 627.2. These regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Program Information: The Secretary will use award year 1979–80 (July 1, 1979–June 30, 1980) as the base year for calculating the variables used to determine an institution's eligibility under § 625.2(a) (2) and (3) of the Strengthening Program, § 626.2(a) (2) and (3) of the Special Needs Program, and § 627.2(d)(2) of the Challenge Grant Program. These variables include for the Strengthening Program (1) the percentage of full-time equivalent (FTE) undergraduate students that received Pell Grants that were enrolled in the institution and (2) the average Pell Grant award per recipient. For the Special Needs Program the variables include (1) the percentage of FTE undergraduate students that received Pell Grants, Supplemental Educational Opportunity Grants (SEOG), College Work-Study (CWS) employment, and National Direct Student Loans (NDSL) that were enrolled in the institution and (2) the average amount of such assistance per recipient. For the Challenge Grant Program, the base year variable relates to whether a medical institution had an enrollment in the base year of at least 35 percent minority and educationally disadvantaged students.

The base year to be used for calculating the variables in §§ 625.2(a)(4) and 626.2(a)(4) will also be 1979–80. These variables, for the Strenthening and Special Needs Programs, include the educational and general (E&G) expenditures per FTE undergraduate student at the institution. Institutions are to submit E&G expenditure data for the 12-month period on which they reported in the "Higher Education General Information Survey (HEGIS XV), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1980."

The Department of Education will use Pell Grant data currently on file in the Department in making its determinations under the financial aid eligibility criteria in 34 CFR 625.2 and 626.2. The Department will use the figures as they have been corrected and updated as of March 2, 1982.

Conversion tables which explain how the Secretary assigns points to institutions applying for eligibility designation are published as an appendix to this Notice.

Under the Challenge Grant Program Regulations, § 627.2(e), the Secretary is authorized to waive requirements set forth in § 624.2(b)(2) of the Institutional Aid Programs—General Provisions. In Fiscal Year 1982, the Secretary chooses not to waive these requirements.

Eligibility forms will be processed and reviewed by the Evaluation Section in the order in which they are received. Institutions that provide only statistical data under Part I of the request form and do not complete items 6a and 6b, thereby indicating that they are not reconciling Pell Grant data with the Office of Student Financial Assistance (OSFA) of the U.S. Department of Education, will be notified of their designation status no later than March 1, 1982. Institutions that are requesting a waiver of certain eligibility requirements or special designation status under Part II of the request form, or that are reconciling Pell Grant data with the OSFA will be notified as soon as possible.

An institution that does not submit its eligibility form by February 16, 1982, will not be eligible to apply for an Institutional Aid Program grant and will not be eligible for Institutional Aid Program assistance in Fiscal Year 1982.

Further Information: For further information, contact the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024. Telephone: (202) 245–2338.

(20 U.S.C. 1051–1069c)

(Catalog of Federal Domestic Assistance Number: 84.031—Institutional Aid Programs)

Dated: January 21, 1982.

T. H. Bell,

Secretary of Education.

BILLING CODE 4000-01-M

NATIONAL STANDARDS FOR DETERMINING INSTITUTIONAL ELIGIBILITY FOR THE TITLE III INSTITUTIONAL AID PROGRAMS

THRESHOLD CHART

Categories of Potentially Eligible Institutions	Minimum Thresholds			
	Strengthening Program		Special Needs Program	
	Overall Threshold	Waiver Threshold	Overall Threshold	Waiver Threshold
Two-Year Public Institutions	148	99	90	45
Two-Year Non-profit Private Institutions	145	97	91	46
Four-Year Public Institutions	188	125	123	62
Four-Year Non-profit Private Institutions	194	129	128	64
*Graduate Public Institutions				26
*Graduate Non-profit Private Institutions				76

*Institutions that do not award bachelor's degrees but do award graduate, postgraduate or professional degrees may request designation for the Challenge Grant Program under the eligibility criteria for the Special Needs Program.

V47/18/JA 27/82 UMI

PART-A : CONTINUE
PART-A : STRENGTHENING
2 YR PUBLIC

PART-A : STRENGTHENING

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0350	1 - 77	8224+
2	0.0351 -0.0652	78 - 392	8223 - 6762
3	0.0653 -0.0807	393 - 440	6761 - 6390
4	0.0808 -0.0938	441 - 479	6389 - 5798
5	0.0939 -0.1016	480 - 489	5797 - 5437
6	0.1017 -0.1076	490 - 495	5436 - 5283
7	0.1077 -0.1208	496 - 502	5282 - 5096
8	0.1209 -0.1289	503 - 509	5095 - 4929
9	0.1290 -0.1344	510 - 513	4928 - 4777
10	0.1345 -0.1392	514 - 519	4776 - 4669
11	0.1393 -0.1446	520 - 524	4668 - 4587
12	0.1447 -0.1480	525 - 528	4586 - 4487
13	0.1481 -0.1530	529 - 532	4486 - 4373
14	0.1531 -0.1582	533 - 537	4372 - 4311
15	0.1583 -0.1642	538 - 539	4310 - 4211
16	0.1643 -0.1700	540 - 544	4210 - 4160
17	0.1701 -0.1723	545 - 546	4159 - 4094
18	0.1724 -0.1749	547 - 550	4093 - 4011
19	0.1750 -0.1805	551 - 555	4010 - 3980
20	0.1806 -0.1857	556 - 556	3979 - 3889
21	0.1858 -0.1872	557 - 562	3888 - 3839
22	0.1873 -0.1975	563 - 564	3838 - 3798
23	0.1976 -0.2046	565 - 568	3797 - 3781
24	0.2047 -0.2087	569 - 572	3780 - 3707
25	0.2088 -0.2134	573 - 575	3706 - 3649
26	0.2135 -0.2176	576 - 577	3648 - 3599
27	0.2177 -0.2233	578 - 583	3598 - 3567
28	0.2234 -0.2271	584 - 585	3566 - 3537
29	0.2272 -0.2315	586 - 590	3536 - 3490
30	0.2316 -0.2364	591 - 592	3489 - 3463
31	0.2365 -0.2418	593 - 594	3462 - 3454
32	0.2419 -0.2490	595 - 596	3453 - 3416
33	0.2491 -0.2536	597 - 597	3415 - 3385
34	0.2537 -0.2577	598 - 602	3384 - 3360
35	0.2578 -0.2589	603 - 607	3359 - 3332
36	0.2590 -0.2631	608 - 610	3331 - 3314
37	0.2632 -0.2667	611 - 612	3313 - 3295
38	0.2668 -0.2705	613 - 617	3294 - 3265
39	0.2706 -0.2736	618 - 619	3264 - 3240
40	0.2737 -0.2780	620 - 623	3239 - 3220
41	0.2781 -0.2797	624 - 625	3219 - 3193
42	0.2798 -0.2857	626 - 627	3192 - 3147
43	0.2858 -0.2951	628 - 628	3146 - 3130
44	0.2952 -0.3008	629 - 630	3129 - 3104
45	0.3009 -0.3027	631 - 633	3103 - 3081
46	0.3028 -0.3067	634 - 634	3080 - 3054
47	0.3068 -0.3114	635 - 636	3053 - 3023
48	0.3115 -0.3154	637 - 638	3022 - 2994
49	0.3155 -0.3221	639 - 640	2993 - 2982
50	0.3222 -0.3248	640 - 640	2981 - 2965

PART-A : CONTINUE

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3249 -0.3265	641 - 643	2964 - 2944
52	0.3266 -0.3310	644 - 645	2943 - 2920
53	0.3311 -0.3357	646 - 648	2919 - 2900
54	0.3358 -0.3390	649 - 652	2899 - 2861
55	0.3391 -0.3436	653 - 654	2860 - 2847
56	0.3437 -0.3479	655 - 656	2846 - 2819
57	0.3480 -0.3541	657 - 658	2818 - 2795
58	0.3542 -0.3588	659 - 661	2794 - 2783
59	0.3589 -0.3613	662 - 663	2782 - 2765
60	0.3614 -0.3635	664 - 665	2764 - 2744
61	0.3636 -0.3669	666 - 669	2743 - 2726
62	0.3670 -0.3714	670 - 671	2725 - 2711
63	0.3715 -0.3755	672 - 674	2710 - 2694
64	0.3756 -0.3837	675 - 675	2693 - 2677
65	0.3838 -0.3876	676 - 678	2676 - 2658
66	0.3877 -0.3919	679 - 683	2657 - 2638
67	0.3920 -0.3997	684 - 688	2637 - 2621
68	0.3998 -0.4032	689 - 691	2620 - 2602
69	0.4033 -0.4083	692 - 693	2601 - 2588
70	0.4084 -0.4154	694 - 696	2587 - 2577
71	0.4155 -0.4190	697 - 698	2576 - 2557
72	0.4191 -0.4237	699 - 702	2556 - 2544
73	0.4238 -0.4268	703 - 705	2543 - 2527
74	0.4269 -0.4291	706 - 708	2526 - 2510
75	0.4292 -0.4377	709 - 711	2509 - 2492
76	0.4378 -0.4456	712 - 714	2491 - 2486
77	0.4457 -0.4506	715 - 718	2485 - 2442
78	0.4507 -0.4567	719 - 722	2441 - 2420
79	0.4568 -0.4643	723 - 725	2419 - 2396
80	0.4644 -0.4717	726 - 728	2395 - 2377
81	0.4718 -0.4777	729 - 731	2376 - 2367
82	0.4778 -0.4860	732 - 735	2366 - 2347
83	0.4861 -0.4956	736 - 740	2346 - 2320
84	0.4957 -0.5037	741 - 746	2319 - 2288
85	0.5038 -0.5209	747 - 749	2287 - 2260
86	0.5210 -0.5294	750 - 755	2259 - 2202
87	0.5295 -0.5444	756 - 759	2201 - 2180
88	0.5445 -0.5584	760 - 764	2179 - 2160
89	0.5585 -0.5674	765 - 773	2159 - 2123
90	0.5675 -0.5865	774 - 778	2122 - 2108
91	0.5866 -0.5976	779 - 787	2107 - 2060
92	0.5977 -0.6089	788 - 790	2059 - 2008
93	0.6090 -0.6471	791 - 798	2007 - 1977
94	0.6472 -0.6608	799 - 803	1976 - 1938
95	0.6609 -0.6929	804 - 815	1937 - 1896
96	0.6930 -0.7204	816 - 826	1895 - 1878
97	0.7205 -0.7513	827 - 832	1877 - 1825
98	0.7514 -0.8661	833 - 845	1824 - 1735
99	0.8662 -0.9438	846 - 863	1734 - 1611
100	0.9439+	864+	1610 - 1

UMI 28 72 AC 81 74 V

PART-B : SPECIAL NEEDS

2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 -0.0220	1 - 8	6762+
2	0.0221 -0.0479	9 - 473	6761 - 5798
3	0.0480 -0.0688	474 - 501	5797 - 5283
4	0.0689 -0.0744	502 - 520	5282 - 4929
5	0.0745 -0.0848	521 - 536	4928 - 4669
6	0.0849 -0.0904	537 - 554	4668 - 4487
7	0.0905 -0.0992	555 - 563	4486 - 4311
8	0.0993 -0.1059	564 - 571	4310 - 4160
9	0.1060 -0.1128	572 - 582	4159 - 4011
10	0.1129 -0.1176	583 - 586	4010 - 3889
11	0.1177 -0.1215	587 - 593	3888 - 3798
12	0.1216 -0.1292	594 - 598	3797 - 3707
13	0.1293 -0.1364	599 - 606	3706 - 3599
14	0.1365 -0.1422	607 - 612	3598 - 3537
15	0.1423 -0.1488	613 - 619	3536 - 3463
16	0.1489 -0.1529	620 - 623	3462 - 3416
17	0.1530 -0.1614	624 - 629	3415 - 3360
18	0.1615 -0.1660	630 - 635	3359 - 3314
19	0.1661 -0.1724	636 - 640	3313 - 3265
20	0.1725 -0.1770	641 - 644	3264 - 3220
21	0.1771 -0.1818	645 - 648	3219 - 3147
22	0.1819 -0.1873	649 - 652	3146 - 3104
23	0.1874 -0.1914	653 - 659	3103 - 3054
24	0.1915 -0.1965	660 - 664	3053 - 2994
25	0.1966 -0.2023	665 - 669	2993 - 2965
26	0.2024 -0.2079	670 - 673	2964 - 2920
27	0.2080 -0.2134	674 - 678	2919 - 2861
28	0.2135 -0.2205	679 - 686	2860 - 2819
29	0.2206 -0.2254	687 - 692	2818 - 2783
30	0.2255 -0.2291	693 - 696	2782 - 2744
31	0.2292 -0.2394	697 - 701	2743 - 2711
32	0.2395 -0.2489	702 - 705	2710 - 2677
33	0.2490 -0.2487	706 - 712	2676 - 2638
34	0.2488 -0.2586	713 - 718	2637 - 2602
35	0.2587 -0.2661	719 - 724	2601 - 2577
36	0.2662 -0.2716	725 - 731	2576 - 2544
37	0.2717 -0.2810	732 - 737	2543 - 2510
38	0.2811 -0.2889	738 - 745	2509 - 2486
39	0.2890 -0.2967	746 - 749	2485 - 2420
40	0.2968 -0.3047	750 - 754	2419 - 2377
41	0.3048 -0.3202	755 - 764	2376 - 2347
42	0.3203 -0.3390	765 - 772	2346 - 2288
43	0.3391 -0.3520	773 - 784	2287 - 2202
44	0.3521 -0.3693	785 - 792	2201 - 2160
45	0.3694 -0.3968	793 - 803	2159 - 2108
46	0.3969 -0.4150	804 - 813	2107 - 2008
47	0.4151 -0.4537	814 - 833	2007 - 1938
48	0.4538 -0.4816	834 - 846	1937 - 1878
49	0.4817 -0.5310	847 - 867	1877 - 1735
50	0.5311+	868+	1734 - 1

PART-A : STRENGTHENING

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0500	1 - 659	13653+
2	0.0501 -0.0588	660 - 683	13652 - 8388
3	0.0589 -0.1355	684 - 753	8387 - 8280
4	0.1356 -0.1446	754 - 769	8279 - 7890
5	0.1447 -0.1532	770 - 776	7889 - 7549
6	0.1533 -0.1930	777 - 782	7548 - 6939
7	0.1931 -0.1971	783 - 785	6938 - 6818
8	0.1972 -0.2022	786 - 788	6817 - 6088
9	0.2023 -0.2210	789 - 810	6087 - 5834
10	0.2211 -0.2327	811 - 834	5833 - 5734
11	0.2328 -0.2350	835 - 837	5733 - 5323
12	0.2351 -0.2432	838 - 839	5322 - 5248
13	0.2433 -0.2479	840 - 843	5247 - 5147
14	0.2480 -0.2704	844 - 845	5146 - 5124
15	0.2705 -0.2733	846 - 858	5123 - 5058
16	0.2734 -0.2816	859 - 872	5057 - 4967
17	0.2817 -0.2940	873 - 875	4966 - 4911
18	0.2941 -0.3146	876 - 879	4910 - 4792
19	0.3147 -0.3203	880 - 887	4791 - 4596
20	0.3204 -0.3287	888 - 893	4595 - 4559
21	0.3288 -0.3333	894 - 902	4558 - 4487
22	0.3334 -0.3395	903 - 908	4486 - 4387
23	0.3396 -0.3528	909 - 914	4386 - 4230
24	0.3529 -0.3580	915 - 919	4229 - 4038
25	0.3581 -0.3743	920 - 925	4037 - 4006
26	0.3744 -0.3808	926 - 928	4005 - 3979
27	0.3809 -0.3838	929 - 932	3978 - 3777
28	0.3839 -0.3846	933 - 940	3776 - 3765
29	0.3847 -0.3859	941 - 942	3764 - 3738
30	0.3860 -0.3916	943 - 945	3737 - 3704
31	0.3917 -0.4000	946 - 950	3703 - 3681
32	0.4001 -0.4048	951 - 951	3680 - 3604
33	0.4049 -0.4088	952 - 956	3603 - 3533
34	0.4089 -0.4206	957 - 958	3532 - 3497
35	0.4207 -0.4303	959 - 960	3496 - 3491
36	0.4304 -0.4317	961 - 963	3490 - 3397
37	0.4318 -0.4347	964 - 968	3396 - 3392
38	0.4348 -0.4430	969 - 970	3391 - 3363
39	0.4431 -0.4524	970 - 970	3362 - 3342
40	0.4525 -0.4578	971 - 973	3341 - 3301
41	0.4579 -0.4694	974 - 979	3300 - 3233
42	0.4695 -0.4718	980 - 983	3232 - 3191
43	0.4719 -0.4818	984 - 986	3190 - 3164
44	0.4819 -0.4933	987 - 989	3163 - 3102
45	0.4934 -0.4973	990 - 991	3101 - 3081
46	0.4974 -0.5000	992 - 992	3080 - 3008
47	0.5001 -0.5115	993 - 996	3007 - 2997
48	0.5116 -0.5142	997 - 999	2996 - 2976
49	0.5143 -0.5160	1000 -1000	2975 - 2887
50	0.5161 -0.5269	1001 -1001	2886 - 2844

PART-A : CONTINUE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0500	1 - 659	13653+
2	0.0501 -0.0588	660 - 683	13652 - 8388
3	0.0589 -0.1355	684 - 753	8387 - 8280
4	0.1356 -0.1446	754 - 769	8279 - 7890
5	0.1447 -0.1532	770 - 776	7889 - 7549
6	0.1533 -0.1930	777 - 782	7548 - 6939
7	0.1931 -0.1971	783 - 785	6938 - 6818
8	0.1972 -0.2022	786 - 788	6817 - 6088
9	0.2023 -0.2210	789 - 810	6087 - 5834
10	0.2211 -0.2327	811 - 834	5833 - 5734
11	0.2328 -0.2350	835 - 837	5733 - 5323
12	0.2351 -0.2432	838 - 839	5322 - 5248
13	0.2433 -0.2479	840 - 843	5247 - 5147
14	0.2480 -0.2704	844 - 845	5146 - 5124
15	0.2705 -0.2733	846 - 858	5123 - 5058
16	0.2734 -0.2816	859 - 872	5057 - 4967
17	0.2817 -0.2940	873 - 875	4966 - 4911
18	0.2941 -0.3146	876 - 879	4910 - 4792
19	0.3147 -0.3203	880 - 887	4791 - 4596
20	0.3204 -0.3287	888 - 893	4595 - 4559
21	0.3288 -0.3333	894 - 902	4558 - 4487
22	0.3334 -0.3395	903 - 908	4486 - 4387
23	0.3396 -0.3528	909 - 914	4386 - 4230
24	0.3529 -0.3580	915 - 919	4229 - 4038
25	0.3581 -0.3743	920 - 925	4037 - 4006
26	0.3744 -0.3808	926 - 928	4005 - 3979
27	0.3809 -0.3838	929 - 932	3978 - 3777
28	0.3839 -0.3846	933 - 940	3776 - 3765
29	0.3847 -0.3859	941 - 942	3764 - 3738
30	0.3860 -0.3916	943 - 945	3737 - 3704
31	0.3917 -0.4000	946 - 950	3703 - 3681
32	0.4001 -0.4048	951 - 951	3680 - 3604
33	0.4049 -0.4088	952 - 956	3603 - 3533
34	0.4089 -0.4206	957 - 958	3532 - 3497
35	0.4207 -0.4303	959 - 960	3496 - 3491
36	0.4304 -0.4317	961 - 963	3490 - 3397
37	0.4318 -0.4347	964 - 968	3396 - 3392
38	0.4348 -0.4430	969 - 970	3391 - 3363
39	0.4431 -0.4524	970 - 970	3362 - 3342
40	0.4525 -0.4578	971 - 973	3341 - 3301
41	0.4579 -0.4694	974 - 979	3300 - 3233
42	0.4695 -0.4718	980 - 983	3232 - 3191
43	0.4719 -0.4818	984 - 986	3190 - 3164
44	0.4819 -0.4933	987 - 989	3163 - 3102
45	0.4934 -0.4973	990 - 991	3101 - 3081
46	0.4974 -0.5000	992 - 992	3080 - 3008
47	0.5001 -0.5115	993 - 996	3007 - 2997
48	0.5116 -0.5142	997 - 999	2996 - 2976
49	0.5143 -0.5160	1000 -1000	2975 - 2887
50	0.5161 -0.5269	1001 -1001	2886 - 2844

PART-B : SPECIAL NEEDS

PART-A : CONTINUE

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.5270 -0.5314	1002 -1004	2843 - 2810
52	0.5315 -0.5515	1005 -1010	2809 - 2742
53	0.5516 -0.5625	1011 -1015	2741 - 2719
54	0.5626 -0.5656	1016 -1019	2718 - 2684
55	0.5657 -0.5740	1020 -1022	2683 - 2622
56	0.5741 -0.5825	1023 -1026	2621 - 2613
57	0.5826 -0.5891	1027 -1027	2612 - 2602
58	0.5892 -0.5920	1028 -1029	2601 - 2558
59	0.5921 -0.5979	1030 -1032	2557 - 2520
60	0.5980 -0.6023	1033 -1033	2519 - 2511
61	0.6024 -0.6036	1034 -1034	2510 - 2484
62	0.6037 -0.6150	1035 -1039	2483 - 2447
63	0.6151 -0.6204	1039 -1039	2446 - 2425
64	0.6205 -0.6250	1040 -1040	2424 - 2387
65	0.6251 -0.6275	1041 -1042	2386 - 2299
66	0.6276 -0.6294	1043 -1051	2298 - 2285
67	0.6295 -0.6378	1052 -1062	2284 - 2245
68	0.6379 -0.6446	1063 -1067	2244 - 2211
69	0.6447 -0.6528	1068 -1076	2210 - 2170
70	0.6529 -0.6553	1077 -1086	2169 - 2156
71	0.6554 -0.6596	1087 -1087	2155 - 2132
72	0.6597 -0.6615	1088 -1093	2131 - 2119
73	0.6616 -0.6722	1094 -1097	2118 - 2116
74	0.6723 -0.6813	1098 -1103	2115 - 2065
75	0.6814 -0.6939	1104 -1116	2064 - 2036
76	0.6940 -0.6996	1117 -1117	2035 - 2018
77	0.6997 -0.7047	1118 -1120	2017 - 2004
78	0.7048 -0.7360	1121 -1124	2003 - 1970
79	0.7341 -0.7551	1125 -1129	1969 - 1954
80	0.7552 -0.7594	1130 -1130	1953 - 1884
81	0.7595 -0.7831	1131 -1136	1883 - 1808
82	0.7832 -0.7852	1137 -1140	1807 - 1766
83	0.7853 -0.8031	1141 -1152	1765 - 1702
84	0.8032 -0.8377	1153 -1156	1701 - 1689
85	0.8378 -0.8538	1157 -1160	1688 - 1541
86	0.8539 -0.8552	1161 -1163	1540 - 1535
87	0.8553 -0.8635	1164 -1165	1534 - 1489
88	0.8636 -0.8660	1166 -1169	1488 - 1469
89	0.8661 -0.8854	1170 -1173	1468 - 1430
90	0.8855 -0.9137	1174 -1176	1429 - 1366
91	0.9138 -0.9745	1177 -1181	1365 - 1333
92	0.9746 -1.0114	1182 -1185	1332 - 1315
93	1.0115 -1.0633	1186 -1200	1314 - 1199
94	1.0634 -1.0856	1201 -1215	1198 - 1120
95	1.0857 -1.1596	1216 -1223	1119 - 1109
96	1.1597 -1.1858	1224 -1242	1108 - 1004
97	1.1859 -1.2534	1243 -1275	1003 - 937
98	1.2535 -1.3204	1276 -1285	936 - 733
99	1.3205 -1.4031	1286 -1329	732 - 594
100	1.4032+	1330+	593 - 1

PART-B : SPECIAL NEEDS

2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 -0.0250	1 - 2	8388+
2	0.0251 -0.0726	3 - 676	8387 - 7890
3	0.0727 -0.0985	677 - 691	7889 - 6939
4	0.0986 -0.1230	692 - 707	6938 - 6088
5	0.1231 -0.1407	708 - 739	6087 - 5734
6	0.1408 -0.1566	740 - 749	5733 - 5248
7	0.1567 -0.1672	750 - 759	5247 - 5124
8	0.1673 -0.1814	760 - 766	5123 - 4967
9	0.1815 -0.2152	767 - 776	4966 - 4792
10	0.2153 -0.2194	777 - 783	4791 - 4559
11	0.2195 -0.2283	784 - 798	4558 - 4387
12	0.2284 -0.2466	799 - 819	4386 - 4038
13	0.2467 -0.2583	820 - 829	4037 - 3979
14	0.2584 -0.2672	830 - 846	3978 - 3765
15	0.2673 -0.2767	847 - 855	3764 - 3704
16	0.2768 -0.2873	856 - 871	3703 - 3604
17	0.2874 -0.3005	872 - 873	3603 - 3497
18	0.3006 -0.3113	874 - 880	3496 - 3397
19	0.3114 -0.3208	881 - 893	3396 - 3363
20	0.3209 -0.3272	894 - 898	3362 - 3301
21	0.3273 -0.3416	899 - 905	3300 - 3191
22	0.3417 -0.3434	906 - 911	3190 - 3102
23	0.3435 -0.3623	912 - 923	3101 - 3008
24	0.3624 -0.3736	924 - 929	3007 - 2976
25	0.3737 -0.3873	930 - 932	2975 - 2944
26	0.3874 -0.3930	933 - 938	2943 - 2742
27	0.3931 -0.4089	939 - 945	2741 - 2684
28	0.4090 -0.4151	946 - 957	2683 - 2613
29	0.4152 -0.4229	958 - 965	2612 - 2558
30	0.4230 -0.4514	966 - 970	2557 - 2511
31	0.4515 -0.4599	971 - 980	2510 - 2447
32	0.4600 -0.4688	981 - 988	2446 - 2387
33	0.4689 -0.4925	989 - 997	2386 - 2285
34	0.4926 -0.5026	998 -1002	2284 - 2211
35	0.5027 -0.5128	1003 -1007	2210 - 2156
36	0.5129 -0.5200	1008 -1016	2155 - 2119
37	0.5201 -0.5226	1017 -1026	2118 - 2065
38	0.5227 -0.5355	1027 -1043	2064 - 2018
39	0.5356 -0.5400	1044 -1049	2017 - 1970
40	0.5401 -0.5669	1050 -1067	1969 - 1884
41	0.5670 -0.5949	1068 -1082	1883 - 1766
42	0.5950 -0.6044	1083 -1094	1765 - 1689
43	0.6045 -0.6327	1095 -1125	1688 - 1538
44	0.6328 -0.6717	1126 -1138	1537 - 1469
45	0.6718 -0.7040	1139 -1153	1468 - 1366
46	0.7041 -0.7647	1154 -1173	1365 - 1318
47	0.7648 -0.8000	1174 -1208	1317 - 1120
48	0.8001 -0.8940	1209 -1231	1119 - 1004
49	0.8941 -0.9808	1232 -1243	1003 - 733
50	0.9809+	1244+	732 - 1

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PART-A : STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0001	1 - 502	21585+
2	0.0002 -0.0959	503 - 624	21584 -17693
3	0.0960 -0.1225	625 - 657	17692 -14758
4	0.1226 -0.1383	658 - 665	14757 -12566
5	0.1384 -0.1500	666 - 678	12565 - 9946
6	0.1501 -0.1617	679 - 689	9945 - 9213
7	0.1618 -0.1699	690 - 699	9212 - 8646
8	0.1700 -0.1787	700 - 709	8645 - 7758
9	0.1788 -0.1833	710 - 723	7757 - 7201
10	0.1834 -0.1891	724 - 726	7200 - 7088
11	0.1892 -0.1937	727 - 732	7087 - 6770
12	0.1938 -0.2017	733 - 739	6769 - 6537
13	0.2018 -0.2060	740 - 743	6536 - 6316
14	0.2061 -0.2089	744 - 749	6315 - 6234
15	0.2090 -0.2192	750 - 759	6235 - 6037
16	0.2193 -0.2235	760 - 762	6036 - 5833
17	0.2236 -0.2274	763 - 763	5832 - 5775
18	0.2275 -0.2309	764 - 767	5774 - 5728
19	0.2310 -0.2390	768 - 772	5727 - 5614
20	0.2391 -0.2424	773 - 778	5613 - 5545
21	0.2425 -0.2449	779 - 781	5544 - 5435
22	0.2450 -0.2488	782 - 789	5434 - 5371
23	0.2489 -0.2492	790 - 793	5370 - 5325
24	0.2493 -0.2519	794 - 794	5324 - 5261
25	0.2520 -0.2564	795 - 798	5260 - 5161
26	0.2565 -0.2580	799 - 799	5160 - 5049
27	0.2581 -0.2611	800 - 806	5048 - 4944
28	0.2612 -0.2649	807 - 810	4943 - 4897
29	0.2650 -0.2659	811 - 813	4896 - 4734
30	0.2660 -0.2685	814 - 815	4733 - 4665
31	0.2686 -0.2708	816 - 817	4664 - 4582
32	0.2709 -0.2716	818 - 820	4581 - 4511
33	0.2717 -0.2742	821 - 825	4510 - 4424
34	0.2743 -0.2758	826 - 828	4423 - 4361
35	0.2759 -0.2789	829 - 830	4360 - 4326
36	0.2790 -0.2816	831 - 831	4325 - 4305
37	0.2817 -0.2835	832 - 833	4304 - 4264
38	0.2836 -0.2856	834 - 835	4263 - 4223
39	0.2857 -0.2883	836 - 836	4222 - 4187
40	0.2884 -0.2922	837 - 840	4186 - 4107
41	0.2923 -0.2964	841 - 842	4106 - 4080
42	0.2965 -0.2990	843 - 843	4079 - 4032
43	0.2991 -0.3009	844 - 849	4031 - 4016
44	0.3010 -0.3030	850 - 851	4015 - 3959
45	0.3031 -0.3070	852 - 855	3958 - 3925
46	0.3071 -0.3087	856 - 858	3924 - 3836
47	0.3088 -0.3147	859 - 860	3835 - 3801
48	0.3148 -0.3194	861 - 862	3800 - 3761
49	0.3195 -0.3210	863 - 863	3760 - 3733
50	0.3211 -0.3246	864 - 866	3732 - 3702

PART-A : CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3247 -0.3287	867 - 867	3701 - 3665
52	0.3288 -0.3315	868 - 868	3664 - 3648
53	0.3316 -0.3336	869 - 871	3647 - 3626
54	0.3337 -0.3372	872 - 873	3625 - 3599
55	0.3373 -0.3419	874 - 875	3598 - 3562
56	0.3420 -0.3437	876 - 877	3561 - 3548
57	0.3438 -0.3460	878 - 878	3547 - 3454
58	0.3461 -0.3488	879 - 879	3455 - 3441
59	0.3489 -0.3506	880 - 880	3440 - 3410
60	0.3507 -0.3560	881 - 885	3409 - 3364
61	0.3561 -0.3613	886 - 886	3363 - 3334
62	0.3614 -0.3673	887 - 889	3333 - 3313
63	0.3674 -0.3712	890 - 890	3312 - 3298
64	0.3713 -0.3742	891 - 893	3297 - 3257
65	0.3743 -0.3761	894 - 895	3256 - 3224
66	0.3762 -0.3782	896 - 899	3225 - 3213
67	0.3783 -0.3802	900 - 901	3212 - 3199
68	0.3803 -0.3853	902 - 904	3198 - 3187
69	0.3854 -0.3877	905 - 907	3186 - 3169
70	0.3878 -0.3929	908 - 909	3168 - 3117
71	0.3930 -0.3964	910 - 911	3116 - 3077
72	0.3965 -0.4055	912 - 915	3076 - 3057
73	0.4056 -0.4130	916 - 918	3056 - 3032
74	0.4131 -0.4157	919 - 921	3031 - 2976
75	0.4158 -0.4259	922 - 923	2975 - 2957
76	0.4260 -0.4332	924 - 925	2956 - 2942
77	0.4333 -0.4356	926 - 927	2941 - 2901
78	0.4357 -0.4460	928 - 930	2900 - 2857
79	0.4461 -0.4506	931 - 932	2856 - 2814
80	0.4507 -0.4565	933 - 934	2813 - 2764
81	0.4566 -0.4738	935 - 938	2763 - 2743
82	0.4739 -0.4817	939 - 940	2742 - 2680
83	0.4818 -0.4925	941 - 945	2679 - 2658
84	0.4926 -0.5034	946 - 948	2657 - 2644
85	0.5035 -0.5247	949 - 949	2643 - 2633
86	0.5248 -0.5336	950 - 953	2632 - 2561
87	0.5337 -0.5359	954 - 955	2560 - 2547
88	0.5360 -0.5451	956 - 969	2546 - 2532
89	0.5452 -0.5652	970 - 978	2531 - 2471
90	0.5653 -0.5836	979 - 983	2470 - 2456
91	0.5837 -0.6125	984 - 991	2455 - 2400
92	0.6126 -0.6569	992 - 997	2399 - 2338
93	0.6570 -0.6866	998 -1009	2337 - 2282
94	0.6867 -0.6948	1010 -1021	2281 - 2250
95	0.6949 -0.7283	1022 -1028	2249 - 2159
96	0.7284 -0.7708	1029 -1033	2158 - 2124
97	0.7709 -0.8410	1034 -1046	2123 - 2054
98	0.8411 -0.8523	1047 -1089	2053 - 1911
99	0.8524 -0.8752	1090 -1118	1910 - 1802
100	0.8753+	1119+	1801 - 1

PART-B : SPECIAL NEEDS

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0001	1 - 502	21585+
2	0.0002 -0.0959	503 - 624	21584 -17693
3	0.0960 -0.1225	625 - 657	17692 -14758
4	0.1226 -0.1383	658 - 665	14757 -12566
5	0.1384 -0.1500	666 - 678	12565 - 9946
6	0.1501 -0.1617	679 - 689	9945 - 9213
7	0.1618 -0.1699	690 - 699	9212 - 8646
8	0.1700 -0.1787	700 - 709	8645 - 7758
9	0.1788 -0.1833	710 - 723	7757 - 7201
10	0.1834 -0.1891	724 - 726	7200 - 7088
11	0.1892 -0.1937	727 - 732	7087 - 6770
12	0.1938 -0.2017	733 - 739	6769 - 6537
13	0.2018 -0.2060	740 - 743	6536 - 6316
14	0.2061 -0.2089	744 - 749	6315 - 6234
15	0.2090 -0.2192	750 - 759	6235 - 6037
16	0.2193 -0.2235	760 - 762	6036 - 5833
17	0.2236 -0.2274	763 - 763	5832 - 5775
18	0.2275 -0.2309	764 - 767	5774 - 5728
19	0.2310 -0.2390	768 - 772	5727 - 5614
20	0.2391 -0.2424	773 - 778	5613 - 5545
21	0.2425 -0.2449	779 - 781	5544 - 5435
22	0.2450 -0.2488	782 - 789	5434 - 5371
23	0.2489 -0.2492	790 - 793	5370 - 5325
24	0.2493 -0.2519	794 - 794	5324 - 5261
25	0.2520 -0.2564	795 - 798	5260 - 5161
26	0.2565 -0.2580	799 - 799	5160 - 5049
27	0.2581 -0.2611	800 - 806	5048 - 4944
28	0.2612 -0.2649	807 - 810	4943 - 4897
29	0.2650 -0.2659	811 - 813	4896 - 4734
30	0.2660 -0.2685	814 - 815	4733 - 4665
31	0.2686 -0.2708	816 - 817	4664 - 4582
32	0.2709 -0.2716	818 - 820	4581 - 4511
33	0.2717 -0.2742	821 - 825	4510 - 4424
34	0.2743 -0.2758	826 - 828	4423 - 4361
35	0.2759 -0.2789	829 - 830	4360 - 4326
36	0.2790 -0.2816	831 - 831	4325 - 4305
37	0.2817 -0.2835	832 - 833	4304 - 4264
38	0.2836 -0.2856	834 - 835	4263 - 4223
39	0.2857 -0.2883	836 - 836	4222 - 4187
40	0.2884 -0.2922	837 - 840	4186 - 4107
41	0.2923 -0.2964	841 - 842	4106 - 4080
42	0.2965 -0.2990	843 - 843	4079 - 4032
43	0.2991 -0.3009	844 - 849	4031 - 4016
44	0.3010 -0.3030	850 - 851	4015 - 3959
45	0.3031 -0.3070	852 - 855	3958 - 3925
46	0.3071 -0.3087	856 - 858	3924 - 3836
47	0.3088 -0.3147	859 - 860	3835 - 3801
48	0.3148 -0.3194	861 - 862	3800 - 3761
49	0.3195 -0.3210	863 - 863	3760 - 3733
50	0.3211 -0.3246	864 - 866	3732 - 3702

PART-A : STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0001	1 - 502	21585+
2	0.0002 -0.0959	503 - 624	21584 -17693
3	0.0960 -0.1225	625 - 657	17692 -14758
4	0.1226 -0.1383	658 - 665	14757 -12566
5	0.1384 -0.1500	666 - 678	12565 - 9946
6	0.1501 -0.1617	679 - 689	9945 - 9213
7	0.1618 -0.1699	690 - 699	9212 - 8646
8	0.1700 -0.1787	700 - 709	8645 - 7758
9	0.1788 -0.1833	710 - 723	7757 - 7201
10	0.1834 -0.1891	724 - 726	7200 - 7088
11	0.1892 -0.1937	727 - 732	7087 - 6770
12	0.1938 -0.2017	733 - 739	6769 - 6537
13	0.2018 -0.2060	740 - 743	6536 - 6316
14	0.2061 -0.2089	744 - 749	6315 - 6234
15	0.2090 -0.2192	750 - 759	6235 - 6037
16	0.2193 -0.2235	760 - 762	6036 - 5833
17	0.2236 -0.2274	763 - 763	5832 - 5775
18	0.2275 -0.2309	764 - 767	5774 - 5728
19	0.2310 -0.2390	768 - 772	5727 - 5614
20	0.2391 -0.2424	773 - 778	5613 - 5545
21	0.2425 -0.2449	779 - 781	5544 - 5435
22	0.2450 -0.2488	782 - 789	5434 - 5371
23	0.2489 -0.2492	790 - 793	5370 - 5325
24	0.2493 -0.2519	794 - 794	5324 - 5261
25	0.2520 -0.2564	795 - 798	5260 - 5161
26	0.2565 -0.2580	799 - 799	5160 - 5049
27	0.2581 -0.2611	800 - 806	5048 - 4944
28	0.2612 -0.2649	807 - 810	4943 - 4897
29	0.2650 -0.2659	811 - 813	4896 - 4734
30	0.2660 -0.2685	814 - 815	4733 - 4665
31	0.2686 -0.2708	816 - 817	4664 - 4582
32	0.2709 -0.2716	818 - 820	4581 - 4511
33	0.2717 -0.2742	821 - 825	4510 - 4424
34	0.2743 -0.2758	826 - 828	4423 - 4361
35	0.2759 -0.2789	829 - 830	4360 - 4326
36	0.2790 -0.2816	831 - 831	4325 - 4305
37	0.2817 -0.2835	832 - 833	4304 - 4264
38	0.2836 -0.2856	834 - 835	4263 - 4223
39	0.2857 -0.2883	836 - 836	4222 - 4187
40	0.2884 -0.2922	837 - 840	4186 - 4107
41	0.2923 -0.2964	841 - 842	4106 - 4080
42	0.2965 -0.2990	843 - 843	4079 - 4032
43	0.2991 -0.3009	844 - 849	4031 - 4016
44	0.3010 -0.3030	850 - 851	4015 - 3959
45	0.3031 -0.3070	852 - 855	3958 - 3925
46	0.3071 -0.3087	856 - 858	3924 - 3836
47	0.3088 -0.3147	859 - 860	3835 - 3801
48	0.3148 -0.3194	861 - 862	3800 - 3761
49	0.3195 -0.3210	863 - 863	3760 - 3733
50	0.3211 -0.3246	864 - 866	3732 - 3702

PART-B : SPECIAL NEEDS

4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 -0.0001	1 - 865	17693+
2	0.0002 -0.0940	866 - 702	17692 -12566
3	0.0941 -0.1075	703 - 751	12565 - 9213
4	0.1076 -0.1229	752 - 749	9212 - 7758
5	0.1230 -0.1320	750 - 768	7757 - 7088
6	0.1321 -0.1394	769 - 772	7087 - 6537
7	0.1395 -0.1472	773 - 784	6536 - 6236
8	0.1473 -0.1555	785 - 797	6235 - 5833
9	0.1556 -0.1636	798 - 799	5832 - 5728
10	0.1637 -0.1713	800 - 806	5727 - 5545
11	0.1714 -0.1767	807 - 810	5544 - 5371
12	0.1768 -0.1802	811 - 816	5370 - 5261
13	0.1803 -0.1872	817 - 826	5260 - 5049
14	0.1873 -0.1940	827 - 829	5048 - 4897
15	0.1941 -0.1993	830 - 832	4896 - 4665
16	0.1994 -0.2044	833 - 838	4664 - 4511
17	0.2045 -0.2079	839 - 842	4510 - 4361
18	0.2080 -0.2107	843 - 850	4360 - 4305
19	0.2108 -0.2139	851 - 854	4304 - 4223
20	0.2140 -0.2174	855 - 861	4222 - 4107
21	0.2175 -0.2221	862 - 865	4106 - 4032
22	0.2222 -0.2260	866 - 871	4031 - 3959
23	0.2261 -0.2291	872 - 877	3958 - 3836
24	0.2292 -0.2356	878 - 883	3835 - 3761
25	0.2357 -0.2409	884 - 887	3760 - 3702
26	0.2410 -0.2465	888 - 895	3701 - 3648
27	0.2466 -0.2498	896 - 898	3647 - 3599
28	0.2499 -0.2557	899 - 903	3598 - 3548
29	0.2558 -0.2614	904 - 907	3547 - 3441
30	0.2615 -0.2674	908 - 912	3440 - 3364
31	0.2675 -0.2737	913 - 920	3363 - 3313
32	0.2738 -0.2820	921 - 929	3312 - 3257
33	0.2821 -0.2876	930 - 936	3256 - 3213
34	0.2877 -0.2949	937 - 943	3212 - 3187
35	0.2950 -0.3042	944 - 952	3186 - 3117
36	0.3043 -0.3162	953 - 961	3116 - 3057
37	0.3163 -0.3239	962 - 969	3056 - 2976
38	0.3240 -0.3385	970 - 982	2975 - 2942
39	0.3386 -0.3481	983 - 988	2941 - 2857
40	0.3482 -0.3585	989 -1001	2856 - 2764
41	0.3586 -0.3780	1002 -1015	2763 - 2680
42	0.3781 -0.3900	1016 -1029	2679 - 2644
43	0.3901 -0.4228	1030 -1043	2643 - 2561
44	0.4229 -0.4376	1044 -1056	2560 - 2532
45	0.4377 -0.4690	1057 -1072	2531 - 2456
46	0.4691 -0.5055	1073 -1098	2455 - 2338
47	0.5056 -0.5724	1099 -1115	2337 - 2250
48	0.5725 -0.6098	1116 -1171	2249 - 2124
49	0.6099 -0.6986	1172 -1212	2123 - 1911
50	0.6987+	1213+	1910 - 1

PART-A : STRENGTHENING

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 -0.0141	1 - 24	17564+
2	0.0142 -0.0855	25 - 756	17563 -14201
3	0.0856 -0.1156	757 - 821	14200 -11486
4	0.1157 -0.1292	822 - 850	11485 -10273
5	0.1293 -0.1501	851 - 884	10272 - 9584
6	0.1502 -0.1614	885 - 900	9583 - 9000
7	0.1615 -0.1715	901 - 912	8999 - 8557
8	0.1716 -0.1808	913 - 921	8556 - 8305
9	0.1809 -0.1901	922 - 931	8304 - 7993
10	0.1902 -0.2007	932 - 937	7992 - 7806
11	0.2008 -0.2049	938 - 946	7805 - 7566
12	0.2050 -0.2110	947 - 951	7565 - 7326
13	0.2111 -0.2159	952 - 954	7325 - 7140
14	0.2160 -0.2227	955 - 959	7139 - 6993
15	0.2228 -0.2303	960 - 962	6992 - 6838
16	0.2304 -0.2361	963 - 967	6838 - 6706
17	0.2362 -0.2429	968 - 968	6705 - 6598
18	0.2430 -0.2503	969 - 972	6597 - 6471
19	0.2504 -0.2558	973 - 975	6470 - 6334
20	0.2559 -0.2585	976 - 978	6333 - 6155
21	0.2586 -0.2618	979 - 980	6154 - 6048
22	0.2619 -0.2654	981 - 984	6047 - 5978
23	0.2655 -0.2718	985 - 988	5977 - 5880
24	0.2719 -0.2763	989 - 990	5879 - 5803
25	0.2764 -0.2801	991 - 995	5802 - 5722
26	0.2802 -0.2842	996 - 997	5721 - 5683
27	0.2843 -0.2908	998 -1000	5682 - 5590
28	0.2909 -0.2968	1001 -1003	5589 - 5516
29	0.2969 -0.3016	1004 -1006	5515 - 5452
30	0.3017 -0.3054	1007 -1008	5451 - 5398
31	0.3055 -0.3110	1009 -1010	5397 - 5320
32	0.3111 -0.3158	1011 -1015	5319 - 5255
33	0.3159 -0.3197	1016 -1017	5254 - 5196
34	0.3198 -0.3225	1018 -1020	5195 - 5155
35	0.3226 -0.3250	1021 -1022	5154 - 5104
36	0.3251 -0.3278	1023 -1025	5103 - 5050
37	0.3279 -0.3324	1026 -1027	5049 - 4981
38	0.3325 -0.3371	1028 -1029	4980 - 4908
39	0.3372 -0.3434	1029 -1029	4907 - 4842
40	0.3435 -0.3483	1030 -1031	4841 - 4802
41	0.3484 -0.3521	1032 -1034	4801 - 4761
42	0.3522 -0.3592	1035 -1037	4760 - 4720
43	0.3593 -0.3647	1038 -1039	4719 - 4677
44	0.3648 -0.3686	1040 -1043	4676 - 4630
45	0.3687 -0.3725	1044 -1046	4629 - 4597
46	0.3726 -0.3777	1047 -1048	4596 - 4548
47	0.3778 -0.3807	1049 -1050	4547 - 4519
48	0.3808 -0.3865	1051 -1052	4518 - 4479
49	0.3866 -0.3906	1053 -1055	4478 - 4444
50	0.3907 -0.3938	1056 -1057	4443 - 4415

PART-A : CONTINUE

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3939 -0.3967	1058 -1060	4414 - 4370
52	0.3968 -0.4017	1061 -1064	4369 - 4325
53	0.4018 -0.4075	1065 -1067	4324 - 4279
54	0.4076 -0.4137	1068 -1070	4278 - 4238
55	0.4138 -0.4185	1071 -1073	4237 - 4201
56	0.4186 -0.4231	1074 -1075	4200 - 4174
57	0.4232 -0.4275	1076 -1078	4173 - 4145
58	0.4276 -0.4339	1079 -1080	4144 - 4111
59	0.4340 -0.4381	1081 -1084	4110 - 4067
60	0.4382 -0.4430	1085 -1088	4066 - 4025
61	0.4431 -0.4498	1089 -1092	4024 - 3988
62	0.4499 -0.4530	1093 -1095	3987 - 3931
63	0.4531 -0.4561	1096 -1098	3930 - 3882
64	0.4562 -0.4634	1099 -1103	3881 - 3847
65	0.4635 -0.4682	1104 -1105	3846 - 3802
66	0.4683 -0.4728	1106 -1108	3801 - 3766
67	0.4729 -0.4746	1109 -1111	3765 - 3735
68	0.4747 -0.4813	1112 -1114	3734 - 3704
69	0.4814 -0.4861	1115 -1117	3703 - 3672
70	0.4862 -0.4931	1118 -1119	3671 - 3627
71	0.4932 -0.4958	1120 -1121	3626 - 3565
72	0.4959 -0.5004	1122 -1127	3564 - 3541
73	0.5005 -0.5066	1128 -1130	3540 - 3503
74	0.5067 -0.5111	1131 -1134	3502 - 3452
75	0.5112 -0.5169	1135 -1139	3451 - 3407
76	0.5170 -0.5248	1140 -1143	3406 - 3331
77	0.5249 -0.5312	1144 -1147	3330 - 3282
78	0.5313 -0.5360	1148 -1150	3281 - 3253
79	0.5361 -0.5389	1151 -1154	3252 - 3202
80	0.5390 -0.5458	1155 -1161	3201 - 3164
81	0.5459 -0.5521	1162 -1174	3163 - 3095
82	0.5522 -0.5591	1175 -1181	3094 - 3066
83	0.5592 -0.5696	1182 -1189	3065 - 3000
84	0.5697 -0.5765	1190 -1193	2999 - 2928
85	0.5766 -0.5899	1194 -1199	2927 - 2857
86	0.5900 -0.5981	1200 -1208	2856 - 2818
87	0.5982 -0.6140	1209 -1220	2817 - 2767
88	0.6141 -0.6237	1221 -1237	2766 - 2698
89	0.6238 -0.6364	1238 -1252	2697 - 2620
90	0.6365 -0.6596	1253 -1284	2619 - 2517
91	0.6597 -0.6726	1285 -1296	2516 - 2425
92	0.6727 -0.7042	1297 -1311	2424 - 2343
93	0.7043 -0.7297	1312 -1325	2342 - 2219
94	0.7298 -0.7586	1326 -1361	2218 - 2120
95	0.7587 -0.7984	1362 -1385	2119 - 2015
96	0.7985 -0.8466	1386 -1405	2014 - 1887
97	0.8467 -0.9187	1406 -1445	1886 - 1707
98	0.9188 -0.9706	1446 -1493	1706 - 1512
99	0.9707 -1.0197	1494 -1604	1511 - 1292
100	1.0198+	1605+	1291 - 1

PART-B : SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 -0.0070	1 - 1	14201+
2	0.0071 -0.0938	2 - 760	14200 -10273
3	0.0939 -0.1318	761 - 824	10272 - 9000
4	0.1319 -0.1504	825 - 849	8999 - 8305
5	0.1505 -0.1625	850 - 873	8304 - 7806
6	0.1626 -0.1782	874 - 893	7805 - 7326
7	0.1783 -0.1924	894 - 912	7325 - 6993
8	0.1925 -0.2030	913 - 925	6992 - 6706
9	0.2031 -0.2166	926 - 940	6705 - 6471
10	0.2167 -0.2258	941 - 953	6470 - 6155
11	0.2259 -0.2338	954 - 962	6154 - 5978
12	0.2339 -0.2409	963 - 974	5977 - 5803
13	0.2410 -0.2473	975 - 983	5802 - 5682
14	0.2474 -0.2558	984 - 993	5682 - 5516
15	0.2559 -0.2636	994 -1003	5515 - 5398
16	0.2637 -0.2701	1004 -1013	5397 - 5255
17	0.2702 -0.2764	1014 -1022	5254 - 5155
18	0.2765 -0.2856	1023 -1030	5154 - 5050
19	0.2857 -0.2924	1031 -1036	5049 - 4908
20	0.2927 -0.3028	1037 -1046	4907 - 4802
21	0.3029 -0.3108	1047 -1056	4801 - 4720
22	0.3109 -0.3161	1057 -1063	4719 - 4630
23	0.3162 -0.3221	1064 -1071	4629 - 4548
24	0.3222 -0.3284	1072 -1078	4547 - 4479
25	0.3285 -0.3368	1079 -1086	4478 - 4415
26	0.3369 -0.3463	1087 -1096	4414 - 4325
27	0.3464 -0.3555	1097 -1105	4324 - 4238
28	0.3556 -0.3622	1106 -1113	4237 - 4174
29	0.3623 -0.3692	1114 -1121	4173 - 4111
30	0.3693 -0.3782	1122 -1131	4110 - 4025
31	0.3783 -0.3896	1132 -1141	4024 - 3931
32	0.3897 -0.3998	1142 -1152	3930 - 3847
33	0.3999 -0.4079	1153 -1160	3846 - 3766
34	0.4080 -0.4142	1161 -1169	3765 - 3704
35	0.4143 -0.4225	1170 -1178	3703 - 3627
36	0.4226 -0.4322	1179 -1189	3626 - 3541
37	0.4323 -0.4391	1190 -1201	3540 - 3452
38	0.4392 -0.4455	1202 -1216	3451 - 3331
39	0.4456 -0.4545	1217 -1229	3330 - 3253
40	0.4546 -0.4697	1230 -1247	3252 - 3164
41	0.4698 -0.4839	1248 -1261	3163 - 3066
42	0.4840 -0.5011	1262 -1288	3065 - 2928
43	0.5012 -0.5234	1289 -1314	2927 - 2818
44	0.5235 -0.5506	1315 -1342	2817 - 2698
45	0.5507 -0.5706	1343 -1381	2697 - 2517
46	0.5707 -0.5934	1382 -1417	2516 - 2343
47	0.5935 -0.6353	1418 -1489	2342 - 2120
48	0.6354 -0.6949	1490 -1515	2119 - 1887
49	0.6950 -0.7926	1516 -1605	1886 - 1512
50	0.7927+	1606+	1511 - 1

PART-B : SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
51	0.7927 -0.8000	1 - 1	14201+
52	0.8001 -0.8066	2 - 760	14200 -10273
53	0.8067 -0.8125	761 - 824	10272 - 9000
54	0.8126 -0.8189	825 - 849	8999 - 8305
55	0.8190 -0.8250	850 - 873	8304 - 7806
56	0.8251 -0.8312	874 - 893	7805 - 7326
57	0.8313 -0.8374	894 - 912	7325 - 6993
58	0.8375 -0.8437	913 - 925	6992 - 6706
59	0.8438 -0.8500	926 - 940	6705 - 6471
60	0.8501 -0.8562	941 - 953	6470 - 6155
61	0.8563 -0.8625	954 - 962	6154 - 5978
62	0.8626 -0.8687	963 - 974	5977 - 5803
63	0.8688 -0.8750	975 - 983	5802 - 5682
64	0.8751 -0.8812	984 - 993	5682 - 5516
65	0.8813 -0.8875	994 -1003	5515 - 5398
66	0.8876 -0.8937	1004 -1013	5397 - 5255
67	0.8938 -0.8999	1014 -1022	5254 - 5155
68	0.9000 -0.9062	1023 -1030	5154 - 5050
69	0.9063 -0.9125	1031 -1036	5049 - 4908
70	0.9126 -0.9187	1037 -1046	4907 - 4802
71	0.9188 -0.9250	1047 -1056	4801 - 4720
72	0.9251 -0.9312	1057 -1063	4719 - 4630
73	0.9313 -0.9374	1064 -1071	4629 - 4548
74	0.9375 -0.9437	1072 -1078	4547 - 4479
75	0.9438 -0.9500	1079 -1086	4478 - 4415
76	0.9501 -0.9562	1087 -1096	4414 - 4325
77	0.9563 -0.9625	1097 -1105	4324 - 4238
78	0.9626 -0.9687	1106 -1113	4237 - 4174
79	0.9688 -0.9750	1114 -1121	4173 - 4111
80	0.9751 -0.9812	1122 -1131	4110 - 4025
81	0.9813 -0.9875	1132 -1141	4024 - 3931
82	0.9876 -0.9937	1142 -1152	3930 - 3847
83	0.9938 -0.9999	1153 -1160	3846 - 3766
84	1.0000 -1.0062	1161 -1169	3765 - 3704
85	1.0063 -1.0125	1170 -1178	3703 - 3627
86	1.0126 -1.0187	1179 -1189	3626 - 3541
87	1.0188 -1.0250	1190 -1201	3540 - 3452
88	1.0251 -1.0312	1202 -1216	3451 - 3331
89	1.0313 -1.0375	1217 -1229	3330 - 3253
90	1.0376 -1.0437	1230 -1247	3252 - 3164
91	1.0438 -1.0500	1248 -1261	3163 - 3066
92	1.0501 -1.0562	1262 -1288	3065 - 2928
93	1.0563 -1.0625	1289 -1314	2927 - 2818
94	1.0626 -1.0687	1315 -1342	2817 - 2698
95	1.0688 -1.0750	1343 -1381	2697 - 2517
96	1.0751 -1.0812	1382 -1417	2516 - 2343
97	1.0813 -1.0875	1418 -1489	2342 - 2120
98	1.0876 -1.0937	1490 -1515	2119 - 1887
99	1.0938 -1.0999	1516 -1605	1886 - 1512
100	1.1000+	1606+	1511 - 1

PART-B : SPECIAL NEEDS

GRADUATE PRIVATE

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 -0.0158	1 - 1
2	0.0159 -0.0195	2 - 304
3	0.0196 -0.0339	305 - 481
4	0.0340 -0.0472	482 - 509
5	0.0473 -0.0608	510 - 659
6	0.0609 -0.0746	660 - 694
7	0.0747 -0.0777	695 - 707
8	0.0778 -0.0913	708 - 714
9	0.0914 -0.1053	715 - 735
10	0.1054 -0.1190	736 - 755
11	0.1191 -0.1221	756 - 758
12	0.1222 -0.1222	759 - 760
13	0.1223 -0.1250	761 - 920
14	0.1251 -0.1281	921 - 936
15	0.1282 -0.1392	937 - 975
16	0.1393 -0.1514	976 - 981
17	0.1515 -0.1574	982 -1005
18	0.1575 -0.1686	1006 -1012
19	0.1687 -0.1695	1013 -1041
20	0.1696 -0.1872	1042 -1104
21	0.1873 -0.1932	1105 -1107
22	0.1933 -0.1944	1108 -1108
23	0.1945 -0.2026	1109 -1155
24	0.2027 -0.2030	1156 -1180
25	0.2031 -0.2125	1181 -1232
26	0.2126 -0.2148	1233 -1315
27	0.2149 -0.2190	1316 -1325
28	0.2191 -0.2253	1326 -1369
29	0.2254 -0.2264	1370 -1397
30	0.2265 -0.2341	1398 -1426
31	0.2342 -0.2346	1427 -1432
32	0.2347 -0.2390	1433 -1435
33	0.2391 -0.2442	1436 -1460
34	0.2443 -0.2566	1461 -1466
35	0.2567 -0.2754	1467 -1495
36	0.2755 -0.2787	1496 -1509
37	0.2788 -0.2800	1510 -1604
38	0.2801 -0.2822	1605 -1787
39	0.2823 -0.2927	1788 -1794
40	0.2928 -0.3070	1795 -1875
41	0.3071 -0.3103	1876 -1912
42	0.3104 -0.3346	1913 -1921
43	0.3347 -0.3706	1922 -1978
44	0.3707 -0.4303	1979 -2017
45	0.4304 -0.4366	2018 -2080
46	0.4367 -0.4469	2081 -2088
47	0.4470 -0.4510	2089 -2188
48	0.4511 -0.4834	2189 -2274
49	0.4835 -0.4970	2275 -2433
50	0.4971+	2434+

PART-B: SPECIAL NEEDS

GRADUATE PUBLIC

POINT	NEED PERCENT	NEED DOLLARS
2	0.0001 - 0.0029	1 - 1179
19	0.0030 - 0.2189	1180 - 1306
32	0.2190 - 0.3952	1307 - 2200
49	0.3953 - 0.4180	2201 - 2250
50	0.4181+	2251+

[FR Doc. 82-2080 Filed 1-26-82; 8:45 am]
BILLING CODE 4000-01-C

DEPARTMENT OF ENERGY

Energy Information Administration

American Statistical Association Committee on Energy Statistics; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the American Statistical Association's Committee on Energy Statistics will meet with representatives of the Energy Information (EIA) on Friday, February 12, 1982, at the Hotel Washington, 15th and Pennsylvania Avenue, NW., Washington, D.C., from 9:00 a.m. to approximately 3:30 p.m., in the Capitol Room.

The purpose of the meeting is to enable the EIA to utilize the American Statistical Association's Committee on Energy Statistics to obtain advice on EIA programs and to benefit from the Committee's expertise concerning other energy statistical matters.

The tentaive agenda is as follows:

A. Opening Remarks.

B. Major Topics:

1. Production Decline of U.S. Surveillance Oil Fields.

2. A Methodology for EIA's 1982 Evaluation Report of the Accuracy of Principal Energy Data Series.

3. A simplified Approach to Extending Short-Term Projections for the Next Five Years.

4. Problems in Estimating World Oil Inventories.

5. Quick Response Capabilities for Use Prior to and During a Supply Interruption.

6. EIA's Changing Role in Light of New Directives.

C. Other Business:

1. Topics for Future Meetings.

2. Public Comments.

The meeting is open to the public. Any member of the public may file a written statement with the EIA for forwarding to the Committee, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Mr. Bruce D. Dwyer, EIA Committee Liaison, (202) 252–6460, or Dr. Fred C. Leone, Executive Director of the American Statistical Association, (202) 393–3253, at least five days prior to the meeting and reasonable provisions will be made to include their presentations on the agenda. Subsequent to approval by the Committee, minutes and an executive summary of the meeting will be available for public review and copying at the Office of Planning and Resources, EI–32, EIA, 1000 Independence Avenue, SW., Room 2H055, Washington, D.C, 20585, (202) 252–6460, between the hours of 8:00 a.m. and 4:40 p.m., Monday through Friday.

Issued at Washington, D.C., on January 21, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 82–1984 Filed 1–26–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER82–215–000]

Bangor Hydro-Electric Co.; Filing

January 20, 1982.

Take notice that the Bangor Hydro-Electric Company (Bangor) on January 8, 1982 tendered for filing as a rate schedule an executed agreement dated as of November 1, 1981 between Bangor and Fitchburg Gas and Electric Light Company (Fitchburg). The agreement provides for sale of unit power by Bangor to Fitchburg from January 1, 1982 through January 31, 1982, according to Bangor.

Bangor requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Bangor states that copies of this filing have been mailed to Fitchburg.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–1930 Filed 1–26–82; 8:45 am]

BILLING CODE 6717–01–M

Project No. 3584–000]

Continental Hydro Corp.; Surrender of Preliminary Permit

January 21, 1982.

Take notice that Continental Hydro Corporation (Continental), Permittee for the Trenton Dam, Project No. 3584, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 3584 was issued on May 21, 1981, and would have expired on November 1, 1982. the project would have been located on the Republican River in Hitchcok County, Nebraska.

Continental's review of the reconnaissance estimates on the energy potential of the site, as well as the flow records supplied by the Nebraska State Department of Water Resources indicates that the releases are relatively low and irregular, and that the release period is less than 3 months each year. Continental concluded that these findings suggest that the sites is not feasible for hydropower development.

Continental filed its request for Project No. 3584 on October 28, 1981, and the surrender of Project No. 3584 has been deemed accepted as of the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–1931 Filed 1–26–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–217–000]

Detroit Edison Co.; Proposed Tariff Change

January 21, 1982.

The filing Company submits the following:

Take notice that the Detroit Edison Company (Detroit) on January 4, 1982, tendered for filing an Amendment to the Interconnection Agreement between the City of Detroit and Detroit. This amendment will increase the rates for Emergency Power, Short Term Power, and Displacement Power, and Transmission Service to normal current industry levels and also will bring the agreement into compliance with the Commission's Rule 84B.

Detroit states that the proposed changes are desirable by the parties to assure adequate and fair compensation for services rendered and to encourage the availability of the full range of service. Detroit proposes an effective date of January 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D.Cashell,

Acting Secretary.

[FR Doc. 82-1932 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-219-000]

Florida Power & Light Co.; Filing

January 20, 1982.

The filing Company submits the following:

Take notice that on January 11, 1982, Florida Power & Light Company (FP&L) tendered for filing an initial rate and executed contract entitled "Contract for Interchange Service Between Florida Power & Light Company and Sebring Utilities Commission." FP&L states that under the contract, FP&L and the Sebring Utilities Commission will engage in the interchange of electric capacity and energy indirectly through the electric transmission systems of other utilities.

FP&L requests that the proposed Contract be made effective no later than 60 days from the date of filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1933 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-218-000]

Idaho Power Co.; Filing

January 20, 1982.

The filing Company submits the following:

Take notice that on January 8, 1982, the Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during November, 1981, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1934 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5786-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

January 21, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on December 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5786 to be known as the Circle Creek Power Project located on Circle Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th NE., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) multiple diversion structures on Circle Creek; (2) a 7,000-foot long diversion conduit; (3) a powerhouse with a total installed capacity of 2.4 MW; and (4) a 115-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 15.0 GWh. The proposed project is located entirely on U.S. Forest lands owned by Snoqualmie-Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies; and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the

Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1935 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-214-000]

Nevada Power Co.; Filing

January 20, 1982.

The filing Company submits the following:

Take notice that on January 8, 1982, Nevada Power Company (Nevada) tendered for filing an Interconnection Agreement between it and the City of Riverside (Riverside) dated July 15, 1980. Nevada states that the primary purpose of this Interconnection Agreement is to provide for the exchange of generating capacity and energy between the electric systems of the parties.

Nevada further states that service may be provided under three Service Schedules:

1. Service Schedule A—Emergency Assistance
2. Service Schedule B—Economy Energy Interchange
3. Service Schedule C—Banked energy

Nevada requests an effective date of July 15, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Nevada's jurisdictional customer, the CP-National Corporation and upon the Public Service Commission of Nevada and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1936 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-213-000]

Nevada Power Co.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 8, 1982, Nevada power Company (Nevada) tendered for filing an Interconnection Agreement between it and the City of Anaheim (Anaheim) dated June 17, 1980. Nevada states that the primary purpose of this Interconnection Agreement is to provide for the exchange of generating capacity and energy between the electric systems of the parties.

Nevada states that service may be provided under three Services Schedules:

1. Service Schedule A—Emergency Assistance
2. Service Schedule B—Economy Energy Interchange
3. Service Schedule C—Banked Energy

Nevada requests an effective date of June 17, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Nevada's jurisdictional customer, the CP-National Corporation, and upon the Public Service Commission of Nevada and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1937 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-212-000]

Nevada Power Co.; Filing

January 20, 1982.

The filing Company submits the following:

Take notice that on January 28, 1982, Nevada Power Company (Nevada) tendered for filing an Interconnection Agreement between it and the City of Vernon (Vernon) dated December 15, 1981. Nevada states that the primary purpose of this Interconnection Agreement is to provide for the exchange of generating capacity and energy between the electric systems of the parties.

Nevada further states that the service may be provided under three Service Schedules:

1. Service Schedule A—Emergency Assistance
2. Service Schedule B—Economy Energy Interchange
3. Service Schedule C—Banked Energy

Nevada requests an effective date of January 1, 1982, for this Agreement.

Copies of this filing were served upon Nevada's jurisdictional customer, the CP National Corporation, and upon the Public Service Commission of Nevada and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this ffling are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1938 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5649-000]

The Bar 717 Ranch, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 21, 1982.

Take notice that on November 16, 1981, The Bar 717 Ranch, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 5649) would be located at Corral Creek in Trinity County near Hayfork, California. Portions of the proposed project would be located within the Trinity National Forest. Correspondence with the Applicant should be directed to: Mr. J. M. Noda, Sverdrup & Parcel and Associates, Inc., 417 Montgomery Street, San Francisco, California 94104.

Project Description—The proposed project would consist of:

(1) A 5-foot high diversion structure;

(2) An 11,000-foot long, 48-inch diameter, low pressure steel pipe;

(3) A 3,500-foot long, 36-inch diameter penstock;

(4) A powerhouse with a total installed capacity of 4,600 kW; and

(5) A 0.75-mile long transmission line interconnecting with an existing Pacific Gas and Electric transmission line.

The Applicant estimates that the average annual energy output would be 8.1 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Services, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevent to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 10, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (b) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 10, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representataive of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1939 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-127-000]

Transcontinental Gas Pipe Line Corp., and United Gas Pipe Line Co.; Application

January 22, 1982.

Take notice that on December 18, 1981, Transcontinental Gas Pipe Line Corporation (Transco) , P.O. Box 1478, Houston, Texas 77251, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-127-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Transco and United entered into an agreement dated September 24, 1981, which would assist them in receiving into their respective systems natural gas from various production sources. Under the agreement Transco and United would exchange up to 6 billion Btu equivalent of gas per day and could exchange additional quantities tendered if capacity therefor is available. United's gas would be delivered to Transco from Tarton Oil and Gas Company's T.N. Menefee Estate No. 1 well, Wharton County, Texas, Howell Petroleum Corporation's Thibodaux Field, LaFourche Parish, Louisiana, and Texas Oil and Gas' Adcock #2, #3, and #4 wells, Richard Adcock Field, Victoria County, Texas, with redelivery at an existing interconnection between Esperanza Transmission Company and Transco in Wharton County, Texas, at Exxon's Thibodaux Plant, LaFourche Parish, Louisiana, and at Transco's measuring and regulating station, Victoria County, Texas. Transco's gas would be delivered to United at the Tomlinson Interest, Inc. #1 Crosby 6-10 and #1 Southern Minerals wells, Pistol Ridge Field, Forrest County, Mississippi, with redelivery at an existing delivery

point in Forrest County, Mississippi. Any balancing required would be accomplished on a thermal basis monthly with Transco's delivering balancing gas to United at the existing interconnection between their systems near Inez, Victoria County, Texas, and United's delivering balancing gas to Transco at the existing interconnection between Transco and U–T Offshore System near Johnson's Bayou, Cameron Parish, Louisiana.

It is further stated that the agreement provides that additional supply sources could be added as necessary to facilitate exchanges of other production-area gas. Transco and United therefore request blanket authority to exchange gas from such additions without further authorization from the Commission. It is stated that any minor connection facilities required, if not within the the gathering exemption of the Natural Gas Act, would be constructed and operated under Transco's and United's respective budget-type authorizations.

It is stated that there would be no charge to either party by the other because the benefits derived from the exchange are substantially equal and mutually beneficial.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve ot make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1940 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-125-000]

Transcontinental Gas Pipe Line Corp.; Application

January 22, 1982

Take notice that on December 18, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-125-000 an application pursuant to Sections 3 and 7(c) of the Natural Gas Act for authorization to import natural gas from Canada and for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities necessary therfor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import from Canada into the United States 300,000 Mcf of natural gas per day which it has contracted to purchase from TransCanada Pipe Lines Limited (TransCanada), for a term of 10 years and 75,000 Mcf of gas per day which it has contracted to purchase from Sulpetro Limited (Sulpetro) for a term of eight years.

In order to facilitate such importation of natural gas from Canada, Applicant proposes to construct and operate approximately 158 miles of primarily 42-inch pipe (the Transco Niagara Pipeline System) extending from a point on the United States-Canada border near Niagara Falls, New York, to Applicant's existing system at the Leidy Storage Field near Tamarack, Pennsylvania. It is stated that the proposed pipeline would traverse Niagara, Erie, Wyoming, Allegany, and Cattaraugus Counties, New York; and McKean, Potter, and Clinton Counties, Pennsylvania. In addition, Applicant proposes to construct and operate two compressor stations, one of 38,000 horsepower near Lewiston, New York, and one of 19,000 horsepower near Tamarack, Pennsylvania, along with appurtenant metering and regulating stations.

Applicant submits that in addition to the above described purchased gas the Transco Niagara Pipeline System would be utilized to transport up to 600,000 Mcf per day of storage withdrawal gas for which Applicant has contracted in Michigan and Ontario, Canada, with ANR Storage Company and Union Gas Limited, respectively.

Applicant States that the maximum daily throughput at the point of importation would be 413,000 Mcf of purchased gas and 600,000 Mcf of storage withdrawal quantities. Applicant further indicates that the maximum throughput capability of the proposed facilities would be 1,162,830 Mcf of gas per day under the above-described conditions; but that with the installation of additional compression the ultimate capacity of the proposed pipeline would be in excess of 2,000,000 Mcf of gas per day which capacity would be utilized for transportation of additional Canadian supplies which may be arranged by Applicant or others.

Applicant estimates the cost of the proposed facilities to be $405,305,000 which would be financed initially by revolving credit agreements, with permanent financing to be undertaken as part of an overall long-term program at a later date.

Applicant states that it intends to reflect the cost of gas purchased from TransCanada and Sulpetro in subsequent purchased gas adjustment filings by Applicant and requests that the Commission specifically approve such method of recovery of purchased gas costs.

Applicant asserts that the proposed importation of natural gas and the construction and operation of the facilities are needed to augment Applicant's total gas supply available to its customers as well as to make available to Applicant's customers an important new storage service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or the participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1941 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-209-000]

Tucson Electric Power Co.; Filing

January 20, 1982.

The filing Company submits the following:

Take notice that Tucson Electric Power Company (Tucson) on January 7, 1982, tendered for filing Amendment No. 1 to the "Tucson-Edison 1980 Nonfirm Energy Agreement" between Tucson and Southern California Edison Company (Edison). Tucson states that the primary purpose of Amendment No. 1 is to extend the term of the Agreement by advancing the termination date from December 31, 1981, to May 31, 1982.

Tucson further states that copies of the filing were served upon Edison.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1942 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER78-522]

Virginia Electric and Power Co.; Compliance Filing

January 20, 1982.

The filing Company submits the following:

Take notice that on January 8, 1982, Virginia Electric and Power Company (VEPCO) filed a revised refund report in compliance with the Commission's order of October 21, 1981. The report consists basically of VEPCO's original calculations plus a revised calculation showing compound interest and a summary sheet.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 5, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1943 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-216-000]

The Washington Water Power Co.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 6, 1982, The Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a "Letter Agreement" dated October 1, 1981, between Washington and Southern California Edison Company, which applies to the sale of energy from Washington's purchase from Arizona Public Service Company.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to October 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1944 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5062-000]

Diamond Power Corp.; Application for License (5 MW or Less)

January 22, 1982.

Take notice that the Diamond Power Corporation (Applicant) filed on June 22, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Quinebaug—Five Mile Pond Project No. 5062. The project would be located on the Quinebaug and Five Mile Rivers in Windham County, Connecticut. Correspondence with the Applicant should be directed to: Mr. Peter Kasch, Barkan Properties, 1330 Boylston Street, Chestnut Hill, Massachusetts 02167.

Project Description—The proposed project would consist of: (1) two existing dams, the Rojak Dam being 14 feet high and 250 feet long and the Five Mile Pond Dam being 16.5 feet high and 135 feet long; (2) two old canals, one 20 to 30 feet wide, 7 feet deep and 450 feet long and one 30 feet wide, 7 feet deep and 900 feet long; (3) a new penstock 72 inches in diameter and 420 feet long; (4) three new powerhouses, the two major ones containing units totaling 1,960 kW and 238 kW and the minor one having one 75-kW unit; (5) two new 2.3-kV transmission lines, one 120 feet long and one 250 feet long; and (6) appurtenant facilities.

Purpose of Project—The project's annual generation of 1.68 million kWh would be sold to the Connecticut Light and Power Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal

Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservatiion Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 5, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–1947 Filed 1–26–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5627–000]

Energenics Systems, Inc.; Application for Preliminary Permit

January 21, 1982.

Take notice that ENERGENICS SYSTEMS, INC. (Applicant) filed on November 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5627 to be known as the Orwell Dam Project to be located at the U.S. Army Corps of Engineers' Orwell Dam and reservior, a flood control project, on the Otter Tail River near Fergus Falls, in Otter Tail County, Minnesota. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, ENERGENCIS SYSTEMS, INC., 1727 Q Street, NW., Washington, D.C. 20009.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservior. Project No. 5627 would consist of: (1) A proposed penstock extending from the outlet works; (2) a proposed powerhouse located on the northwestern bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be approximately 2 MW, and the annual energy outout to be 7 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Otter Tail Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments, and recommendations relevant to the project. The Applicant estimates the cost of the work studies would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before March 3, 1982, the competing application itself [See 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [See 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each

representataive of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1948 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5770-000]

Energenics Systems Inc.; Application for Preliminary Permit

January 21, 1982

Take notice that Energenics System Inc. (Applicant) filed on December 15, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5770 to be known as the Keyhole Dam Project located on the Belle Fourche River in Crook County, Wyoming. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Thomas H. Clarke, Jr., Energenics System, Inc., 1727 Q Street NW., Washington, D.C. 20009.

Project Description—The Applicant would utilize an existing dam and reservior owned by the United States under the jurisdiction of the Bureau of Reclamation. The proposed project would consist of: (1) A proposed powerhouse with an installed generating capacity of 900 kW; (2) a proposed 1.5-mile long transmission line; (3) a proposed 120-foot long penstock; (4) a proposed 75-foot long tailrace; and (5) appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary State and Federal permits, and to develop designs of the project. The Applicant estimates the cost of the proposed studies would be $30,000.

Competing application—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 3, 1982, the competing application itself [see: 18 C.F.R. 4.30 et seq. (1981]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 C.F.R. 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the approprite action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commissioin's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1949 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5665-000]

Essex County Industrial Development Agency; Application for Preliminary Permits

January 22, 1982.

Take notice that Essex County Industrial Development Agency (Applicant) filed on November 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5665 to be known as the Alice Falls Water Power Project located on the Ausable River in Essex and Clinton Counties, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: County of Essex, New York, Ms. Barbara Boster, Executive Director, Essex County Industrial Development Agency, Church Street, Elizabethtown, New York 12932.

Project Description—The proposed run-of-the-river project would consist of: (1) The existing stone masonry dam with a height of 50 feet and a length of 215 feet owned by the New York State Electric & Gas Corporation; (2) the existing reservoir having a surface area of less then 20 acres, with a normal maximum surface elevation of 350 feet m.s.l.; (3) two new 9-foot diameter steel penstocks; (4) a proposed powerhouse with two generating units with a total installed capacity of 2,800 kW; (5) a proposed 600-foot long transmission line; and (6) appurtenant facilities. The applicant estimates that the annual energy output would be 12,000,000 kWh. Project energy would be used to offset energy costs of the local citizenry.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which the Applicant would perform a study to determine feasibility, of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. The Applicant estimates the cost of the studies under the permit would be $75,000.

Competing Applications—This application was filed as a competing application to the preliminary permit for the Alice Falls Project No. 4696 filed on May 18, 1981, by New York State Electric & Gas Corporation. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the

Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent of to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981) as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street N.E.,Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representataive of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1950 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5690-000]

Groveton Papers Co.; Application For Preliminary Permit

January 22, 1982.

Take notice that Groveton Papers Company (Applicant) file on November 25, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5690 to be known as the Brooklyn Dam Project located on the Upper Ammonoosuc River near the Town of Northumberland in Coos County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George Pascale, Vice President, Groveton Papers Company, c/o Diamond International Corporation, 733 Third Avenue, New York, New York 10017.

Project Description—The proposed run-of-river project would consist of: (1) the Applicant's existing rock crib dam, 90 feet long, creating no storage or pondage but providing 13 feet of head when topped by 3-foot flashboards; (2) an existing powerhouse on the east bank housing two 250 kW units; (3) a 620-foot long, 4.16-kV transmission line; and (4) appurtenant facilities.

The average annual generation of 2.0 million kWh would probably be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for prelimary permit must submit to the Commission, on or before May 3, 1982 the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 2, 1982, and should specify the types of application forthcoming. Application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1951 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5692-000]

Groveton Papers Co.; Application for Preliminary Permit

January 22, 1982

Take notice that Groveton Papers Company (Applicant) filed on November 25, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5692 to be known as the Weston Project located on the Upper Ammonoosuc River near the Town of Northumberland in Coos County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George Pascale, Vice President, Groveton Papers Company, c/o Diamond International Corporation, 733 Third Avenue, New York, New York 10017.

Project Description—The proposed run-of-river project would consist of: (1) The Applicant's existing rock crib dam, 115 feet long, creating no storage or pondage but providing 11 feet of head when topped by 4-foot flashboards; (2) a new powerhouse built on the site of a previously washed away powerhouse on the west bank housing two 250-kW horizontal turbine/generator units; (3) a new 0.75-mile long, 4.16-kV transmission line; and (4) appurtenant facilities.

The average annual generation of 1.9 million kWh would probably be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, inclucing an environmental report. Applicant estimates the cost of studies under the permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 3, 1982, the competing application itself [see 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1952 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5661-000]

Hydro Management, Inc.; Application for Preliminary Permit

January 21, 1982.

Take notice that Hydro Management, Incorporated (Applicant) filed on November 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5661 to be known as the Kopsi Creek Power Project located on Kopsi Creek in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. M. H. Edelman, III, president, Hydro Management, Incorporated, Route 1, Box 169, Ronan, Montana 59864.

Project Description—The proposed project would consist of: (1) an 18-foot long, 3-foot high diversion structure on Kopsi Creek; (2) an 11,600-foot long, 12-inch diameter penstock; (3) a powerhouse with a total installed capacity of 500 kW; and (4) a 5,000-foot long, 14.4-kV transmission line from the powerhouse to the Blue Sky Creek transmission line. The Applicant estimates that the average annual energy production would be 3.024 million kWh. The proposed project is located entirely on Federal lands owned by Kootenai National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $5,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to

submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1953 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

Project No. 5408-000

Richard K. Linville; Application for Preliminary Permit

January 21, 1982.

Take notice that Richard K. Linville (Applicant) filed on September 22, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5408 to be known as the Mann Creek Dam Project located on Mann Creek in Washington County, Idaho, on lands of the United States. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard K. Linville, 7021 Sand Point Way, NE., #B-305, Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) The existing Mann Creek Dam and reservoir; (2) new 1,000-foot long penstock; (3) a powerhouse containing generating equipment with a capacity of 1225 kW and annual energy production of 2.52 GWh; (4) transmission line; and (5) appurtenant facilities. Generated power would be sold to the Idaho Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which time engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of these activities is $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license of exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person for file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests of other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1954 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5793-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

January 21, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on December 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5793 to be known as the Owl Creek Power Project located on Owl Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th NE, Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) multiple diversion structures on Owl Creek; (2) an 11,200-foot long diversion conduit; (3) a powerhouse with a total installed capacity of 1.1 MW; and (4) a 115-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 6.8 GWh. The proposed project is located entirely on U.S. Forest lands owned by Snoqualmie-Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies; and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be persumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10. (1980). In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1955 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5440-000]

Lawrence J. McMurtrey; Application for Preliminary Permits

January 22, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 39, 1981, and revised on November 30, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5440 to be known as the Upper Troublesome Creek Project located on East Fork and West Fork Troublesome Creeks in Snohomish County, near Index, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) an intake structure placed in the bed of; (2) Blanca Lake, a natural lake; (3) two intake structures placed in the streambed of West Fork and East Fork Troublesome Creeks; (4) 20,000 feet of combination pipeline and penstock; (5) a powerhouse to contain two turbine-generating units with a total rated capacity of 4.8 MW; and (6) a 2-mile long, 115-kV transmission line. The project would be located within the boundaries of the Snoqualmie-Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month permit to study the feasibility of constructing and operating the proposed project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 2, 1982 either the competing application itself or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 2, 1982 and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit

comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1966 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5788-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

January 22, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on December 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5788 to be known as the Crystal Creek Project located on Crystal Creek, in Snohomish County, Washington in the Snoqualmie-Mt. Baker National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122-196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) a 36-inch concrete inlet structure in the streambed at elevation 3,000 feet; (2) a diversion pipeline 5,000 feet long; (3) a powerhouse containing a turbine generator with 1.47 MW capacity and 9.1 GWh annual energy output; and (4) transmission line. The potential market for project-generated power includes Puget Sound Power & Light Company and the Snohomish Public Utility District.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support an application for an FERC license to construct and operate the project. The estimated cost of permit activities is $20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 4, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1967 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5767-000]

Pigeon Cove Power Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 21, 1982.

Take notice that on December 15, 1981, Pigeon Cove Power Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 5767) would be located on LQ and LS Drains near the town of Twin Falls, in Twin Falls County, Idaho. Correspondence with the

Applicant should be directed to: Mr. Paul C. Turnipseed, Box 128, Filer, Idaho 83328 and Mr. John Lorain, Jr., Rte. 2, Filer, Idaho 83328.

Project Description—The proposed project would consist of: (1) a 5-foot high inlet structure and 3-foot high inlet structure; (2) a 42-inch diameter, 1,700-foot long penstock and an 18-inch diameter, 1,000-foot long penstock leading to; (3) a powerhouse to contain three generating units with a combined rated capacity of 1,790 kW; and (4) a 1.25-mile long, 12.5-kV transmission line. The average annual energy output would be 11 million kWhs.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the grating of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 10, 1982 either the competing license application that proposes to develop at least 7.5 Megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit coments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 10, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1958 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5219-000]

Spring River Power Developers and the City of Searcy, Arkansas; Application for Preliminary Permit

January 21, 1982.

Take notice that Spring River Power Developers and the City of Searcy, Arkansas (Applicants) filed on August 11, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5219 to be known as the Dam No. 3 Project located on the Spring River near Mammoth Spring in Fulton County, Arkansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicants should be directed to: Mr. Glenn N. Sink, P.O. Box 1052, Searcy, Arkansas 72143.

Project Description—The proposed project would consist of: (1) An existing concrete dam owned by the Arkansas Power & Light Company, 150 feet long and 30 feet high; (2) an impoundment with a storage of approximately 350 acre-feet at an elevation of 240 msl; (3) new trash racks and inlet works; (4) a rehabilitated wood frame powerhouse, 20 by 30 feet, containing two turbine/generating units with a total capacity of 350 kW; (5) a rehabilitated switchyard at the east end of the dam; and (6) an existing 33-kV transmission line 200 yards long. The average annual generation of 1.5 million kWh would probably be sold to the Arkansas-Missouri Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicants seek issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicants estimate the cost of the studies under the permit would be $19,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982 and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the

Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION ", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1999 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5704-000]

James H. Stephens; Application for Preliminary Permit

January 22, 1982.

Take notice that James H. Stephens (Applicant) filed on December 1, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5704 to be known as the Stephens Project located on Sweetwater Creek, in Garfield County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Eric Reus Jacobsen, Hydro-West/Colorado, Box 2162, Grand Junction, Colorado 81502.

Project Description—The proposed project would occupy lands administered by the Bureau of Land Management and would consist of: (1) The existing Stephens diversion, 12 feet long and 4 feet high, formed by a loose fill rock weir and headgates; (2) a new 21-inch, 1,200-foot long steel penstock; (3) a new 8- by 10-foot powerhouse containing one 90-kW turbine/generator unit operating under an effective head of 92 feet; (4) a 600-foot long, 4.4-kV transmission line; and (5) appurtenant facilities.

The average annual generation of 1.2 million kWh would be sold to the Holy Cross Electric Association.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $27,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 9, 1982, and should specify the type of application forthcoming. Application for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1900 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5244-000]

Western Hydro Electric Inc.; Application for Short-Form License (Minor)

January 22, 1982.

Take notice that Western Hydro Electric Incorporated (Applicant) filed on August 18, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Causey Hydro Project No. 5244. The project would be located on the South Fork of the Ogden River in Weber County, Utah. Correspondence with the Applicant should be directed to: J. Kirk Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Causey Dam and Reservoir, operated and maintained by the Weber Basin Water Conservation District, and would consist of: (1) A 42-inch diameter steel penstock utilizing the existing outlet works near the left dam abutment and leading to (2) a new powerhouse containing two generating units having a rated capacity of 300 kW and 1,100 kW, respectively, for a total rated capacity of 1,400 kW; (3) a tailrace; (4) new and replacement 12.5-kV transmission lines; (5) a switchyard; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 5,393,760 kWh.

Purpose of Project—Project energy would be sold to the Utah Power and Light Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 2, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-1961 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-229-000]

Alabama Power Co.; Proposed Tariff Change

January 21, 1982.

The filing Company submits the following:

Take notice that Alabama Power Company (Alabama) on January 18, 1982, tendered for filing the proposed changes in its FERC Electric Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $9,430,610 based on the calendar year 1982.

Alabama states that the rate increase is necessary to cover the increased cost of providing service to its distribution cooperative and municipal customers. Alabama cites increased expenses, increased utility plant investment and increased cost of capital, as the major reasons for the requested increase. Alabama requests an effective date of March 19, 1982.

Copies of the filing were served upon the affected distribution cooperatives and municipalities, Alabama Public Service Commission and Southeastern Power Administration.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2034 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-228-000]

Allegheny Power Service Corp.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation, (Allegheny) on January 15, 1982, tendered for filing on behalf of Monongahela Power Company, the Potomac Edison Company and West Penn Power Company, the electric utilities which make the integrated Allegheny Power System, Amendment No. 5 dated January 1, 1982, to the Power Supply Agreement dated January 1, 1968 between Monongahela Power Company, the Potomac Edison Company and West Penn Power Company, designated Monongahela Rate Schedule FERC No. 27, Potomac Edison Rate Schedule FERC No. 29 and West Penn Rate Schedule FERC No. 25.

Allegheny states that Amendment No. 5 increases the rates, after provision for federal and state income taxes, so as to provide an overall rate of return of 10.7% rather than the 9.1% factor presently included in the Agreement.

Allegheny further states that since capacity equalization charges depend upon the load capacity situations of each of the parties from time to time, it is impossible to estimate the increase in revenue of each of them which would result from Amendment No. 5.

Allegheny requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

According to Allegheny the change proposed is for the purpose of reflecting increased costs of financing incurred by the companies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2035 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-592]

Allegheny Power Service Corp.; Compliance Filing

January 21, 1982.

The filing company submits the following:

Take notice that on January 11, 1982, Allegheny Power Service Corporation filed a revised Schedule-A Emergency Service in compliance with the Commission's order of December 18, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 12, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2036 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-227-000]

Central Illinois Light Co.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 15, 1982, Central Illinois Light Company (CILCO) tendered for filing Modification No. 3, dated December 15, 1981 to the Interconnection Agreement between CILCO and the City of Springfield, Illinois (Springfield) (CILCO Rate Schedule FERC No. 21).

Modification No. 3 increases the demand rates for Scheduled Maintenance, Short-Term Firm and Short-Term Non-Firm Power in Service Schedules C, E and F to the Interconnection Agreement.

CILCO requests waiver on the Commission's notice requirements in order to allow for an effective date of March 15, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2037 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-224-000]

Cincinnati Gas & Electric Co.; Proposed Tariff Change

January 21, 1982.

The filing Company submits the following:

Take notice that The Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on January 12, 1982, a Fourth Supplemental Agreement dated as of October 1, 1981 to the Interconnection Agreement dated September 15, 1969, between Cincinnati and the City of Hamilton, Ohio designated Cincinnati's Rate Schedule FPC No. 32.

Cincinnati states that the Fourth Supplemental Agreement increases the Demand Charge for Short-Term Power from $0.70 per kilowatt per week to $1.05 per kilowatt per week, increases the Capacity Charge for Capacity Reservation Power Service from $3.75 per kilowatt per month to $5.50 per kilowatt per month and adds a provision that the costs of Capacity Reservation Energy purchased by Cincinnati from a third party shall be Cincinnati's out-of-pocket costs for such purchased Energy plus 1 mill per kilowatt-hour. There is no estimate of increased revenues from the proposed charges since Short-Term Power and Capacity Reservation Power Service transactions will occur only as load and capacity conditions dictate.

Cincinnati further states that the reason for the increase is to establish equitable rates for Short-Term Power and Capacity Reservation Power Service for the City of Hamilton.

Cincinnati requests an effective date of October 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2038 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5641-000]

Hydro Resource Co.; Application for Preliminary Permit

January 22, 1982.

Take notice that Hydro Resource Company (Applicant) filed on November 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project

No. 5641 to be known as the Harlan Creek Project located on Harlan Creek, near Skykomish, within the lands of Snoqualmie National Forest in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, Hydro Resource Company, P.O. Box 485, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) An 8-foot high, 50-foot long concrete gravity dam; (2) a reservoir with no active storage and less than 1-acre surface area; (3) a 3,800-foot long, 24-inch diameter pipeline; (4)a 1,850-foot long, 24-inch diameter penstock, (5) a powerhouse with total installed capacity of 2,000 kW and (6) a 20,000-foot long, 345-kV transmission line from the powerhouse to an existing powerline. The Applicant estimates that the average annual energy production would be 17.5 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $150,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commisison, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commisison on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretry.

[FR Doc. 82–2039 Filed 1–26–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–210–000]

Mid-Continent Area Power Pool; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 7, 1982, Mid-Continent Area Power Pool (MAPP) tendered for filing Amendment No. 14 to the Mid-Continent Area Power Pool Agreement.

MAPP states that this filing is on behalf of the following who are the jurisdictional parties of the subject Agreement:

Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Lake Superior District Power Company
Minnesota Power and Light Company
Montana-Dakota Utilities Company
Northwestern Public Service Company
Otter Tail Power Company

MAPP further states that Amendment No. 14 is the result of review of Pool Service Schedules by the Rates Subcommittee of the Pool Administrative Committee. Specifically Agreement Amendment No. 14 revisions can be summarized as follows:

1. Increase the demand charge rate for Service Schedule B.

2. Increase demand charge rates for Service Schedule K.

MAPP proposes an effective date of May 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–2040 Filed 1–26–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER81–779–000]

Pennsylvania Power Co.; Order Accepting for Filing and Suspending Revised Rates, Waiving Regulations, Denying Motions for Summary Disposition, Granting Intervention and Establishing Price Squeeze and Hearing Procedures

January 21, 1982.

On October 7, 1981, Pennsylvania Power Company (Penn Power) tendered for filing a proposed two-step increase in wholesale rates, comprised of Rate Level A and Rate Level B, for service to

five customers.[1] The proposed Level A rates would result in increased revenues of approximately $1,671,950 (40.1%) for the twelve-month period ending December 31, 1981. The proposed Level B rates would result in an additional increase in revenues of approximately $652,870. Penn Power requests that the Level A rates be permitted to become effective, subject to refund, on January 23, 1982. The company further requests waiver of the requirements of § 35.13(d)(3)(ii)(A) of the Commission's regulations since the proposed effective date is more than nine months from the commencement of Period II. The company, however, seeks to implement the Level B increase prospectively only, with that increase of any other increase above Level A found to be justified on the basis of an Initial Decision in this proceeding, to become effective from the date of such Initial Decision and subject to refund pending Commission determination of the just and reasonable rate level. The stated purpose of this bifurcated rate request is to reduce Penn Power's potential refund liability.

Notice of the filing was issued on October 19, 1981, with responses due on or before November 9, 1981. On November 9, 1981, the Boroughs of Ellwood City, Grove City, Wampum, New Wilmington and Zelienople (Boroughs) filed a petition to intervene, protest and motion to reject the filing as patently discriminatory and anticompetitive.[2] Boroughs allege price squeeze and move for summary disposition of certain issues.[3] In addition, Boroughs requests a five month suspension and an order compelling the company to file complete justification and explanation of the claims presented by its filing. Also, Boroughs request that the price squeeze issue not be phased.

Penn Power filed an answer on December 8, 1981, in which the company challenges Boroughs' motions for summary disposition, disputes the claim of price squeeze, and states that the issues raised by Boroughs are proper for consideration at hearing.

Discussion

Initially, we find that participation in this proceeding by Boroughs is in the public interest. Therefore, we shall grant the petition to intervene.

We decline to grant Boroughs' motion to require the filing of additional information of their motion to reject the filing as anticompetitive and discriminatory because the submittal substantially complies with the Commission's filing requirements [4] and because the issues which have been identified present questions of fact which should be addressed on the basis of an evidentiary record. Further, we shall deny the motions for summary disposition inasmuch as each of the issues raised requires analysis of a hearing record. However, with respect to the tax adjustment clause which has been challenged by the Boroughs, we note that implementation of this provision will require timely notice and filing pursuant to § 35.13 of the Commission's regulations.

As noted, Penn Power has requested waiver of that portion of § 35.13 which provides that the test period shall begin no earlier than nine months prior to a utility's proposed effective date. According to the company, it has selected a calendar year 1981 test period and a January 23, 1982 proposed effective date so that both the test year and the effective date would correspond precisely to those proposed for purposes of its retail rates. The intent of the company is to thereby alleviate concerns which have previously arisen regarding anticompetitive effects stemming from disparite effective dates. Under these limited circumstances, we find that good cause exists to grant the request for waiver.

Our analysis indicates that Penn Power's proposed rates have not been shown to be just and reasonable and that they may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances are presented here. While the intervenors have raised issues warranting further inquiry at hearing, our preliminary review of the filing suggests that Penn Power's Level A rates may not produce excessive revenues. The company has agreed to collect these rates subject to refund and has proposed to collect the Level B rates only after a hearing. Accordingly, we shall suspend the Level A rates for one day, to become effective on January 24, 1982, subject to refund. In accordance with Penn Power's request, the Level B rates will be set for hearing along with the Level A rates, with the rates found by an Initial Decision in this proceeding to be just and reasonable to become effective from the date of such Initial Decision, subject to refund pending final Commission order.

We shall deny the Boroughs' request not to phase the price squeeze issue and, in accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979), we shall phase the proceeding so that the matter of price squeeze may be considered following a determination of the otherwise just and reasonable rates. As we have previously noted, we believe that the proper rates to be analyzed for purposes of cost-revenue price squeeze comparisons are those rates which would be considered just and reasonable in the absence of a price squeeze. Thus, it is necessary for a decision first to be reached on the cost of service, capitalization, and rate of return issues.[6] If, in the view of the

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[1] See Attachment A for rate schedule designations.

[2] In support of the motion to reject, Boroughs state that the proposed rates exacerbate the price squeeze found to exist by the initial Decision in Docket No. ER77-277 which is currently before the Commission for decision.

[3] The requests for summary disposition address Penn Power's: (1) Use of a rate tilt in the rate design; (2) inclusion of a tax adjustment clause in the proposed rates; (3) a rate schedule provision which allows Penn Power sole discretion to refuse to increase the capacity of service facilities in order to furnish off-peak demands; (4) a rate schedule provision which allows Penn Power sole discretion to change peak periods for billing demand purposes; (5) a rate schedule provision which requires that Penn Power only attempt and not guarantee to supply continuous service to Boroughs; (6) inclusion of permanent and interim nuclear fuel disposal costs in the cost of service; (7) inclusion of decommissioning costs (reflecting a total dismantlement method of decommissioning) in the cost of service; (8) inclusion of amortization costs for cancelled nuclear units in the cost of service; (9) the recovery of above-market coal costs in the fuel adjustment clause; and (10) the recovery of replacement power costs due to outages of Beaver Valley Unit No. 1.

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F2d 1341 (D.C. Cir. 1971).

[5] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488, (August 22, 1980) (one day suspension).

[6] This is true notwithstanding the Boroughs' reliance on the earlier Initial Decision in Docket No. ER77-277. That decision remains under

Continued

intervenors or staff, a price squeeze persists following the preliminary portion of this proceeding, a second phase of the proceeding may follow.

The Commission Orders

(A) The Boroughs' motions for rejection or summary disposition are hereby denied.

(B) Penn Power's reqest for waiver of § 35.13(d)(3)(ii)(A) of the Commission's regulations is hereby granted.

(C) Penn Power's proposed Level A rates are hereby accepted for filing and are suspended for one day, to become effective on January 24, 1982, subject to refund.

(D) Penn Power's proposed Level B rate increase is hereby accepted for filing, with the rates found by an Initial Decision in this docket to be just and reasonable to become effective from the date of that Initial Decision, subject to refund pending final Commission order in this proceeding.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act, and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR Chapter I], a public hearing shall be held concerning the justness and reasonableness of Penn Power's rates and rate schedule provisions.

(F) Boroughs are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* That the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before January 22, 1982.

(H) A presiding administrative law judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within approximately fifteen (15) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(I) Penn Power is hereby informed that implementation of its tax adjustment clause will require timely notice and filing with the Commission pursuant to section 35.13 of the regulations, together with appropriate cost data to support such change.

(J) We hereby order initiation of price squeeze procedures and further order that this proceeding shall be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commisson's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment A—Pennsylvania Power Co. Rate Schedule Designations

[Docket No. ER81-779-000]

Filed: October 7, 1981

Designation	Other party	Description
Supplement No. 2 to rate schedule FPC No. 30 (supersedes supplement No. 1)	New Wilmington	Rate level A.
Supplement No. 2 to rate schedule FPC No. 31 (supersedes supplement No. 1)	Wampum	Rate level A.
Supplement No. 2 to rate schedule FPC No. 32 (supersedes supplement No. 1)	Zelienople	Rate level A.
Supplement No. 2 to rate schedule FPC No. 33 (supersedes supplement No. 1)	Ellwood City	Rate level A.
Supplement No. 2 to rate schedule FPC No. 34 (supersedes supplement No. 1)	Grove City	Rate level A.
Supplement No. 3 to rate schedule FPC No. 30 (supersedes supplement No. 2)	New Wilmington	Rate level B.
Supplement No. 3 to rate schedule FPC No. 31 (supersedes supplement No. 2)	Wampum	Rate level B.
Supplement No. 3 to rate schedule FPC No. 32 (supersedes supplement No. 2)	Zelienople	Rate level B.
Supplement No. 3 to rate schedule FPC No. 33 (supersedes supplement No. 2)	Ellwood City	Rate level B.
Supplement No. 3 to rate schedule FPC No. 34 (supersedes supplement No. 2)	Grove City	Rate level B.

[FR Doc. 82-2041 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-225-000]

Resources Recovery (Dade County), Inc.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 12, 1982, Resources Recovery (Dade County), Inc., (RRD) tendered for filing pursuant to 18 CFR 35.1 and 35.12 proposed FERC Rate Schedule No. 1, applicable to sales of energy and capacity to Florida Power and Light Company (FPL) from a solid waste resource recovery facility operated by RRD in Dade County, Florida.

RRD proposes that the rates under its rate schedule shall be the full avoided costs as determined by the Florida Public Service Commission for FPL purchases from qualifying facilities in Florida under Orders 9970, 10198 and 10331 of the Florida Public Service Commission, and generally applicable orders amending those orders. For the period from October 1, 1981 through March 31, 1982, the Florida Public Service Commission mandates the following rates for purchases of energy by FPL from qualifying facilities with installed capacity of 0.1 megawatts or more: (1) on peak at 6.492¢ per kWh, (2) off peak at 5.093¢ per kWh, and (3) average at 5.443¢ per kWh. Under Florida Public Service Commission orders, those are minimum payment rates, subject to upward true-revisions to reflect the hourly actual decremental

consideration by the Commission and, in any event, will pertain to a locked-in period. Penn Power has since filed to increase both its wholesale and retail rates, thus necessitating renewed rate comparisons.

We note, however, that the procedures adopted in *Arkansas Power & Light Company* permit the presiding judge to exercise scheduling discretion where good cause exists.

costs. These true-ups are to be determined every six months in conjunction with FPL's semiannual fuel adjustment hearing.

RRD requests waiver of the Commission's notice requirements so that the rate schedule may take effect as of the date of RRD's initial delivery to FPL.

Additionally, RRD seeks waiver of the Commission's regulations regarding cost of service documentation, accounting practices, reporting requirements, and annual charges, as well as waiver as to property dispositions and consolidations, securities issuances or assumptions of liability, the holding of interlocking positions and such other matters as the Commission deems appropriate.

Copies of the filing were served upon the Florida Power & Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2042 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-38]

Tennessee Gas Pipeline Co.; Informal Conference

January 21, 1982.

On October 23, 1981, Tennessee filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing interruptible sales of excess natural gas to Tennessee's existing on-system customers. On November 13, 1981, Equitable Gas Company filed a petition for leave to intervene and requested a hearing be held in this proceeding. On December 17, 1981, New England Customer Group filed a petition for leave to intervene, a protest, and a request for an informal conference. In an answer filed December 23, 1981, Tennessee requested an informal conference be convened for the purpose of discussing the issues raised by the petitions to intervene.

Take notice that an informal conference in the above-captioned docket will be convened at 10:00 a.m., on February 3, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2043 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-223-000]

Washington Water Power Co.; Proposed Tariff Change

January 21, 1982.

The filing Company submits the following:

Take notice that The Washington Water Power Company (WWP) on January 12, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff, Schedule 61. The proposed changes would increase revenues from jurisdictional sales and service by approximately $997,000 based on the 12-month period ending September 30, 1981.

WWP states that the proposed rate change is submitted for the purpose of compensating The Washington Water Power Company for increases in its cost of capital, labor, materials, supplies and taxes.

WWP requests an effective date of March 13, 1982.

Copies of the filing have been served upon the five WWP wholesale customers affected by this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2047 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-23-001]

West Texas Utilities Co.; Compliance Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 13, 1982, West Texas Utilities Company filed revised rate schedules in compliance with the Commission's December 15, 1981 order.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before February 12, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2048 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-222-000]

Wisconsin Power and Light Co.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 12, 1982, Wisconsin Power and Light Company (WPL) tendered for filing supplements and amendments to Service Schedules B and D (Emergency Energy and Short Term Power respectively) dated December 1, 1981 between the Wisconsin Public Service Corporation and WPL. WPL states that this filing constitutes an amendment and supplement to the Service Schedules between the parties on file with the Commission.

WPL requests an effective date of December 1, 1982, and therefore requests waiver of the Commission's notice requirements.

WPL further states that copies of the filing were sent to the Wisconsin Public Service Corporation and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest this filing should file a petition to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2044 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-221-000]

Wisconsin Power and Light Co.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 12, 1982, Wisconsin Power and Light Company (WPL) tendered for filing supplements and amendments to Service Schedules B and D (Emergency Energy and Short Term Power respectively) dated December 1, 1981 between the Wisconsin Public Service Corporation, Madison Gas and Electric Company and WPL. WPL states that this filing constitutes an amendment and supplement to the Service Schedules between the parties on file with the Commission.

WPL requests an effective date of December 1, 1981, and therefore requests waiver of the Commission's notice of requirements.

WPL further states that copies of the filing were sent to the Wisconsin Public Service Corporation, Madison Gas and Electric Company and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. In accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2045 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-220-000]

Wisconsin Power and Light Co.; Filing

January 21, 1982.

The filing Company submits the following:

Take notice that on January 12, 1982, Wisconsin Power and Light Company (WPL) tendered for filing supplements and amendments to Service Schedules B and D (Emergency Energy and Short Term Power respectively) dated December 1, 1981 between the Madison Gas and Electric Company and WPL. WPL states that this filing constitutes an amendment and supplement to the Service Schedules between the parties on file with the Commission.

WPL requests an effective date of December 1, 1981, and therefore requests waiver of the Commission's notice requirements.

WPL further states that copies of the filing were sent to the Madison Gas and Electric Company and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2046 Filed 1-26-82; 8:45 am]

BILLING CODE 6717-01-M

UMI 28 72 AC 8-1746

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********									
-AMERICAN PENN ENERGY INC				RECEIVED:		12/22/81 JA: NY			
8212093		3101315877	103			BOSWELL UNIT #1 (F#1332)	DEWITTVILLE	25.0	COLUMBIA GAS TRAN
8212098	2141	3101315878	103			BOSWELL UNIT #2 (F#1333)	DEWITTVILLE	25.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:		12/22/81 JA: NY			
8212080	2149	3101316052	103			C & M PARK UNIT #1	RIPLEY-MINA	30.0	COLUMBIA GAS TRAN
8212078	2147	3101316086	103			G & C BOARDMAN UNIT #3	RIPLEY-MINA	30.0	COLUMBIA GAS TRAN
8212081	2148	3101316084	103			G F BOARDMAN UNIT #2	RIPLEY-MINA	25.0	COLUMBIA GAS TRAN
8212086	2121	3101316066	103			LESTER DAMON #1	GERRY	40.0	COLUMBIA GAS TRAN
8212089	2137	3101316296	103			N Y S REFORESTATION AREA #10 - #8	GERRY	25.0	COLUMBIA GAS TRAN
8212083	2151	3101316433	103			S ANDERSON #3	GERRY	35.0	COLUMBIA GAS TRAN
8212087	2122	3101316067	103			V BARMORE UNIT #1	GERRY	40.0	COLUMBIA GAS TRAN
-BLOSSOM GAS CO				RECEIVED:		12/22/81 JA: NY			
8212095	2050	3101314403	103			WESTFIELD TIMBER PRODUCTS 3134	LAKE SHORE	128.0	NATIONAL FUEL GAS
-CHAUTAUQUA ENERGY INC				RECEIVED:		12/22/81 JA: NY			
8212085	2124	3101316325	103			CROSSMAN #1	LAKESHORE	12.0	NATIONAL FUEL GAS
8212082	2125	3101315867	103			HAMMERMILL #1	LAKESHORE	12.0	COLUMBIA GAS TRAN
8212084	2123	3101315868	103			HAMMERMILL #2	LAKESHORE	12.0	COLUMBIA GAS TRAN
-CUMBERLAND OIL CORP				RECEIVED:		12/22/81 JA: NY			
8212088	2138	3101315909	103			D FAIRBANKS #1	FORESTVILLE	20.0	NATIONAL FUEL GAS
8212091	2139	3101316267	103			D FAIRBANKS #3	FORESTVILLE	20.0	NATIONAL FUEL GAS
8212073	2227	3101316313	103			LYLE SAGER #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-DESERT GAS EXPLORATION CO INC				RECEIVED:		12/22/81 JA: NY			
8212098	2176	3101315012	103			KIRYLENKO DG 120	LAKESHORE	0.0	NATIONAL FUEL SUP
8212099	2170	3101316026	103			SMITH UNIT #1 DG 129	LAKESHORE	0.0	NATIONAL FUEL GAS
8212097	2169	3101316027	103			SMITH UNIT #2 DG #130	LAKESHORE	0.0	NATIONAL FUEL GAS
8212103	2179	3101315645	103			TRI VAL FARMS #1 #1	LAKESHORE	0.0	NATIONAL FUEL GAS
8212101	2177	3101315656	103			TRI VAL FARMS #4 DG 128 #4	LAKESHORE	0.0	NATIONAL FUEL GAS
8212100	2178	3101315655	103			TRI VAL FARMS DG #127 #3	LAKESHORE	21.0	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:		12/22/81 JA: NY			
8212072	2166	3101315566	103			A KOPTA #4	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8212094	2221	3101315337	103			J SVENTEK #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8212096	2165	3101316228	103			N Y S REF AREA #5/#19	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8212092	2219	3101315953	103			W GILL #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
-LENAPE RESOURCES CORP				RECEIVED:		12/22/81 JA: NY			
*8212112	2263	3112113964	103			LRC #16 - F CZWORKA #1	DANLEY CORNERS	20.0	NEW JERSEY NATURA
*8212075	2264	3112113992	103			LRC #42 - B MORAN #1	DANLEY CORNERS	20.0	NEW JERSEY NATURA
*8212074	2265	3112113995	103			LRC #43 - T GEITNER #1	DANLEY CORNERS	20.0	NEW JERSEY NATURA
*8212077	2266	3112113998	103			LRC #46 - P BARBERO #1	DANLEY CORNERS	20.0	NEW JERSEY NATURA
*8212076	2267	3112113994	103			LRC #49 - C STEDMAN JR #1	DANLEY CORNERS	20.0	NEW JERSEY NATURA
*8212079	2268	3112113993	103			LRC #50 - C STEDMAN JR #2	DANLEY CORNERS	20.0	NEW JERSEY NATURA
-SINCLAIRVILLE PETROLEUM CORP				RECEIVED:		12/22/81 JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212110	1480	3102915625		103		NEWTON #1	WILDCAT	18.0	NATIONAL FUEL SUP
-SUNRISE RESOURCES INC				RECEIVED:		12/22/81 JA: NY			
8212105	2248	3101316527		103		RICHTER #1	LAKESHORE	20.0	NATIONAL FUEL GAS
8212102	2246	3101316528		103		RICHTER #3	LAKESHORE	20.0	NATIONAL FUEL GAS
-VILLANOVA NATURAL GAS CORP				RECEIVED:		12/22/81 JA: NY			
8212106	2238	3101316220		103		STATE REFORESTATION AREA 6 #1		0.0	NATIONAL FUEL GAS
8212111	2244	3101316221		103		STATE REFORESTATION AREA 6 #2	LAKESHORE	0.0	NATIONAL FUEL GAS
8212109	2240	3101316237		103		STATE REFORESTATION AREA 6 #3	STOCKTON	0.0	NATIONAL FUEL GAS
8212107	2236	3101316309		103		STATE REFORESTATION AREA 6 #4	WILDCAT	0.0	NATIONAL FUEL GAS
8212108	2242	3101316311		103		STATE REFORESTATION AREA 6 #6	WILDCAT	0.0	NATIONAL FUEL GAS
8212104	2234	3101316310		103		STATE REFORESTATION 6 #5	WILDCAT	0.0	NATIONAL FUEL GAS
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AMERICAN EXPLORATION CO				RECEIVED:		12/21/81 JA: OH			
8211847		3405921946		108		G MYERS #1		10.0	LIBBEY OWENS FORD
8211848		3412723696		108		R MASTERSON #1		10.0	
-APPALACHIAN PETROLEUM CORP				RECEIVED:		12/21/81 JA: OH			
8211849		3416726075		103		E PABST #1	ADAMS	3.5	COLUMBIA GAS TRAN
-ATLAS ENERGY GROUP INC				RECEIVED:		12/21/81 JA: OH			
8211858		3415521728		102-2	107-TF	J S & B B MITCHELL #1	HARTFORD	18.0	NATIONAL FUEL GAS
8211853		3415521428		103	107-TF	KLINGAMAN UNIT #1	BROOKFIELD	18.0	NATIONAL FUEL GAS
8211859		3415521753		102-2	107-TF	KOSTOFF #1	HARTFORD	31.0	NATIONAL FUEL GAS
8211856		3415521611		103	107-TF	MCKAY #1	BROOKFIELD	16.0	NATIONAL FUEL GAS
8211855		3415521608		102-2	107-TF	MCKAY #2	BROOKFIELD	21.0	NATIONAL FUEL GAS
8211854		3415521557		103	107-TF	MCMULLIN UNIT #2	BROOKFIELD	0.0	NATIONAL FUEL GAS
8211852A		3415520683		102-2		OHIO WATER SERVICE #1	HARTFORD	54.0	NATIONAL FUEL GAS
82118528		3415520683	D	107-TF		OHIO WATER SERVICE #1	HARTFORD	54.0	NATIONAL FUEL GAS
8211851A		3415520682		102-2		OHIO WATER SERVICE #2	HARTFORD	7.0	NATIONAL FUEL GAS
82118518		3415520682	D	107-TF		OHIO WATER SERVICE #2	HARTFORD	7.0	NATIONAL FUEL GAS
8211850		3415520681		102-2	107-TF	OHIO WATER SERVICE #3	HARTFORD	21.0	NATIONAL FUEL GAS
8211857		3415521723		102-2	107-TF	RUIHLEY #2	HARTFORD	43.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:		12/21/81 JA: OH			
8211872		3415520632	D	108		CREED-GIFFORD UNIT #1	LIBERTY	4.2	EAST OHIO GAS CO
8211871		3415520630	D	108		CREED-GIFFORD UNIT #2	LIBERTY	12.0	EAST OHIO GAS CO
8211869		3415520628	D	108		CREED-GIFFORD UNIT #3	LIBERTY	12.0	EAST OHIO GAS CO
8211870		3415520629	D	108		CREED-GIFFORD UNIT #4	LIBERTY	12.0	EAST OHIO GAS CO
8211867		3411925845		103	107-TF	G RICHEY #3	UNION	0.0	COLUMBIA GAS TRAN
8211861		3411924484	D	108		H & K BRILL #1	RICH HILL	9.4	COLUMBIA GAS TRAN
8211874		3415520736	D	108		H SCHLACT #1	FARMINGTON	2.5	EAST OHIO GAS CO
8211875		3415520766	D	108		H SCHLACT #2	FARMINGTON	2.5	EAST OHIO GAS CO
8211876		3415520781	D	108		H SCHLACT #3	FARMINGTON	4.9	EAST OHIO GAS CO
8211873		3415520735	D	108		H SCHLACT #4	FARMINGTON	2.5	EAST OHIO GAS CO
8211862		3411924406	D	108		J & B BALL #1	RICH HILL	15.0	COLUMBIA GAS TRAN
8211863		3411925726		103	107-TF	J YAW #1	UNION	8.8	COLUMBIA GAS TRAN
8211865		3411925766		103	107-TF	L GOFF #2	UNION	0.0	COLUMBIA GAS TRAN
8211878		3415520792	D	108		R A STILLWAGON #1	LIBERTY	12.0	EAST OHIO GAS CO
8211877		3415520791	D	108		R A STILLWAGON #2	WEATHERSFIELD	20.1	EAST OHIO GAS CO
8211868		3413321172	D	108		W & H MANGOLD #1	RANDOLPH	3.1	EAST OHIO GAS CO
8211866		3411925808		103	107-TF	W CUBBISON #1	UNION	0.0	COLUMBIA GAS TRAN
8211864		3411925739		103	107-TF	W HERRON #3	SALT CREEK	0.0	COLUMBIA GAS TRAN
-CALTEK MINERALS CORP				RECEIVED:		12/21/81 JA: OH			
8211881		3416723990		103		HAROLD TORNES #1	WATERTOWN	11.0	GAS TRANSPORT INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8211882		3416724528		103		ISAAC WEST #1	LIBERTY	18.0	COLUMBIA GAS TRAN
-CARLTON OIL CORP				RECEIVED:		12/21/81 JA: OH			
8211880		3412122527		103		WANGER #1	JACKSON	58.0	
-CLINTON OIL CO				RECEIVED:		12/21/81 JA: OH			
8211887		3415723573		103	107-TF	ARCHINAL #1-624	LAWRENCE	30.0	
8211884		3411924158		108		L SWINGLE #1		10.0	COLUMBIA GAS TRAN
8211883		3411924156		108		PAUL MILLER #1		10.0	COLUMBIA GAS TRAN
8211886		3413322591		107-TF		STREETSBORO #2-669	STREETSBORO	30.0	
8211885		3411925917		103	107-TF	WILLIAM BEE #1-648	FALLS	10.0	
-CRYSTAL ENERGY				RECEIVED:		12/21/81 JA: OH			
8211889		3410322498		103	107-TF	KENNETH & ELLEN BREYLEY #2	SPENCER	36.0	
-DORAN & ASSOCIATES INC				RECEIVED:		12/21/81 JA: OH			
8211890		3407522972		103	107-TF	DAN HERSHBERGER #1	PAINT	12.0	COLUMBIA GAS TRAN
8211891A		3412724971		103		HOUSEHOLDER #3B	JACKSON	12.0	COLUMBIA GAS TRAN
8211891B		3412724971	D	107-TF		HOUSEHOLDER #3B	JACKSON	12.0	COLUMBIA GAS TRAN
8211892A		3412725287		103		PAMELA SIDWELL #2	JACKSON	12.0	COLUMBIA GAS TRAN
8211892B		3412725287	D	107-TF		PAMELA SIDWELL #2	JACKSON	12.0	COLUMBIA GAS TRAN
-EARTH RESOURCES EXPL DEV CORP				RECEIVED:		12/21/81 JA: OH			
8211894		3413322688		103	107-TF	CALLEN UNIT #1	WINDHAM	10.0	
8211893		3413322685		103	107-TF	SCHWAN-SFERO #1	WINDHAM	5.0	
-ELAN ENERGY INC				RECEIVED:		12/21/81 JA: OH			
8211898		3416923066		107-TF		ANDY MILLER #1	PAINT	25.0	COLUMBIA GAS TRAN
8211895		3416922992		107-TF		GINGERICH/WENGERD #1	PAINT	25.0	COLUMBIA GAS TRAN
8211897		3416922995		107-TF		GORDON NUSSBAUM #1	PAINT	25.0	COLUMBIA GAS TRAN
8211896		3416922993		107-TF		SIMON MILLER #1	PAINT	25.0	COLUMBIA GAS TRAN
-EMERGY DEVELOPMENT CORP				RECEIVED:		12/21/81 JA: OH			
8211899		3400721722		103	107-TF	BRINKER UNIT #2	ORWELL	15.0	
-EVERFLOW EASTERN INC				RECEIVED:		12/21/81 JA: OH			
8211900		3413322578		103	107-TF	BRONCO ASSOCIATES #1	EDINBURG	0.0	
8211901		3413322578		103	107-TF	BRONCO ASSOCIATES #1	EDINBURG	0.0	
-FINEK OIL & GAS CO				RECEIVED:		12/21/81 JA: OH			
8211902		3412725189		103		SWEENEY #1	JACKSON	0.0	
-FUTURE ENERGY CORPORATION				RECEIVED:		12/21/81 JA: OH			
8211903		3411521842		107-TF		P BRAGG #1	MALTA	128.0	COLUMBIA GAS TRAN
8211904		3411521963		107-TF		R PENROSE #1	PENN	75.0	COLUMBIA GAS TRAN
8211905		3411522079		107-TF		R PENROSE #2	PENN	128.0	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED:		12/21/81 JA: OH			
8211907		3407322415		103	107-TF	GRAVES #1	STARR	20.0	COLUMBIA GAS TRAN
8211909		3413322520		103	107-TF	ISLER UNIT #1	WINDHAM	20.0	
8211908		3413322498		103	107-TF	RUBINO - SPENCER UNIT #2	WINDHAM	20.0	EAST OHIO GAS CO
8211906		3407322414		103	107-TF	SEEL-GRAVES UNIT #1	STARR	20.0	COLUMBIA GAS TRAN
8211911		3413322640		103	107-TF	TIMMONS #3	WINDHAM	20.0	
8211910		3413322544		103	107-TF	VAILL-NEWHOUSE UNIT #2	RAVENNA	20.0	
-GEO ENERGY INC				RECEIVED:		12/21/81 JA: OH			
8211912		3403124403		103		LANGE #3A	MONROE	2.0	COLUMBIA GAS TRAN
-GREEN GAS COMPANY				RECEIVED:		12/21/81 JA: OH			
8211913		3405922922		103	107-TF	ROLLING HILL SCHOOL DISTRICT #3	JACKSON	10.0	COLUMBIA GAS TRAN
-HELEN & J L COATS				RECEIVED:		12/21/81 JA: OH			
8211888		3405320692		103		H C & ANNA M WAUGH #2	ADDISON	0.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED:		12/21/81 JA: OH			
8211924		3410522189		103		BOB BRANHAM #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8211915		3410522072		103		FELIX ALKIRE #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8211923		3410522184		103		GUY HARPER #1	SCIPIO	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8211916		3410522097		103		HOWARD THOMA #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8211918		3410522154		103		HUGH MITCHELL #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8211921		3410522178		103		KENNETH EBLIN #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8211920		3410522176		103		LARRY PICKENS #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8211917		3410522098		103		RICHARD RUSSELL #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8211919		3410522156		103		ROBERT RICHARDS #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8211922		3410522179		103		ROLAND MORRIS #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8211914		3405320677		103		ROY E MOONEY #1	ADDISON	0.0	COLUMBIA GAS TRAN
8211925		3410522202		103		WILLIAM NIGHTHOUSE #1	SALISBURY	0.0	COLUMBIA GAS TRAN
-HILLTOP DEVELOPMENT CORP				RECEIVED:		12/21/81 JA: OH			
8211926		3411925885		103		W WAGNER #1	CASS	3.0	NATIONAL GAS & OI
-HOPCO RESOURCES INC				RECEIVED:		12/21/81 JA: OH			
8211928		3411925504		103	107-TF	GARY HOPKINS #1	FALLS	12.0	COLUMBIA GAS TRAN
8211927		3411925492		103	107-TF	TATHAM #1	LICKING	12.0	COLUMBIA GAS TRAN
-I R D CORP				RECEIVED:		12/21/81 JA: OH			
8211929		3410322442		103	107-TF	HOGE #3	HARRISVILLE	0.0	
-IRVIN PRODUCING COMPANY				RECEIVED:		12/21/81 JA: OH			
8211930		3411925781		103	107-TF	FRANK GIBSON #2	SPRINGFIELD	10.0	COLUMBIA GAS TRAN
-J-R DEVELOPMENT CO				RECEIVED:		12/21/81 JA: OH			
8211931		3412725173		107-TF		CROSSAN #1	FULTONHAM WEST	20.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:		12/21/81 JA: OH			
8211972		3403124040		103		AUDRA SCHEETZ UNIT #1-15	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED:		12/21/81 JA: OH			
8211944		3415320974		103	107-TF	FIELDMAN UNIT #1	NORTHAMPTON	0.0	
8211941		3415320961		103	107-TF	HOSTERMAN UNIT #1	BOSTON	0.0	LIBBY OWENS FORD
8211940		3415320904		103	107-TF	MCCULLOUGH-SENEFF #1	NORTHAMPTON	0.0	
8211937		3415320890		103	107-TF	MULDOWNEY #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8211938		3415320891		103	107-TF	MULDOWNEY #2	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8211939		3415320903		103	107-TF	NORTHAMPTON BAPTIST CHURCH #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8211945		3415320978		103	107-TF	SABINO UNIT #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8211935		3415320661		103	107-TF	SEASONS #2	STOW	0.0	EAST OHIO GAS CO
8211932		3415320657		103	107-TF	SEASONS #3	STOW	0.0	EAST OHIO GAS CO
8211933		3415320658		103	107-TF	SEASONS #4	STOW	0.0	EAST OHIO GAS CO
8211936		3415320663		103	107-TF	SEASONS #7	STOW	0.0	EAST OHIO GAS CO
8211934		3415320660		103	107-TF	SEASONS #8	NORTHAMPTON	0.0	LIBBY OWENS FORD
8211943		3415320967		103	107-TF	SHAW UNIT #1	NORTHAMPTON	240.0	
8211942		3415320966		103	107-TF	STAHL #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
-L & M PETROLEUM INC				RECEIVED:		12/21/81 JA: OH			
8211947		3412725298		107-TF		CLAYCRAFT #12	SALT LICK	18.3	COLUMBIA GAS TRAN
8211946		3412724991		107-TF		CLAYCRAFT #15	SALT LICK	12.0	COLUMBIA GAS TRAN
8211948		3412725300		107-TF		CLAYCRAFT #16	SALT LICK	18.3	COLUMBIA GAS TRAN
8211949		3412725373		107-TF		CLAYCRAFT #17	SALT LICK	12.0	COLUMBIA GAS TRAN
-L & S OIL & GAS				RECEIVED:		12/21/81 JA: OH			
8211950		3411522385		103	107-TF	SNIDER #1 2385	SNIDER-DEERFIELD TWP	0.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED:		12/21/81 JA: OH			
8211952		3410322452		107-TF		F & M & G & R KUNGL #1	SPENCER	10.0	COLUMBIA GAS TRAN
8211953		3410322454		103	107-DP	F & M & G & R KUNGL #2	SPENCER	10.0	COLUMBIA GAS TRAN
8211954		3410322557		107-TF		GLEN CROSS #1	SPENCER	10.0	COLUMBIA GAS TRAN
8211951		3410322336		107-TF		JAMES ST VINCENT #2	SPENCER	10.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED:		12/21/81 JA: OH			
8211955		3411925866		107-TF		HALL-KIRKBRIDE #1	YOUNG HICKORY	50.0	
-LEADER EQUITIES INC				RECEIVED:		12/21/81 JA: OH			
8211962		3411925644		103	107-TF	BRENNEN #1	MUSKINGHAM	15.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8211961		3411522490		103	107-TF	COYLE #1	MEIGSVILLE	15.0	
8211963		3411925921		103	107-TF	FULKS #1	CASS	16.0	
8211957		3411522334		103	107-TF	HANN 1-A	MEIGSVILLE	12.0	
8211960		3411522487		103	107-TF	HARMAN #2	MEIGSVILLE	15.0	
8211956		3411522243		103	107-TF	OLIVER #1	MEIGSVILLE	15.0	
8211958		3411522350		103	107-TF	T JOHNSON #1	MEIGSVILLE	15.0	
8211959		3411522384		103	107-TF	T JOHNSON #2	MEIGSVILLE	15.0	
-LOMAK PETROLEUM INC				RECEIVED:		12/21/81 JA: OH			
8211966		3413322661		107-TF		GREER #1	SHALERSVILLE	6.0	PARK OHIO INDUSTR
8211965		3411924614		107-TF		N MOORE #2	BLUE ROCK	12.0	WILLISTON OIL COR
8211964		3411924612		107-TF		N MOORE #4	BLUE ROCK	12.0	WILLISTON OIL COR
-MCCORMICK OIL & GAS CO				RECEIVED:		12/21/81 JA: OH			
8211969		3405923813		107-TF		PAUL & ELSIE GRAY #1		35.0	EAST OHIO GAS CO
-NEW FRONTIER EXPLORATION INC				RECEIVED:		12/21/81 JA: OH			
8211976		3410322584		103	107-TF	H A PORTERFIELD #1	WADSWORTH	22.0	
8211977		3410322585		103	107-TF	H A PORTERFIELD #2	WADSWORTH	22.0	
-NOBLE OIL CORP				RECEIVED:		12/21/81 JA: OH			
8211978		3413322457		107-TF		GEIB #2	EDINBURG	20.0	GENERAL ELECTRIC
8211979		3415123556		107-TF		MOLEDOR-RAFFERTY #1	LEXINGTON	20.0	AMERICAN ENERGY S
-OILTECH INC				RECEIVED:		12/21/81 JA: OH			
8211988		3407522397		107-TF		G M & N HIPP #1	HARDY	8.0	COLUMBIA GAS TRAN
-ORION ENERGY CORP				RECEIVED:		12/21/81 JA: OH			
8211981		3415123168		107-TF		RUEGG #3	TUSCARAWAS	20.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:		12/21/81 JA: OH			
8211984		3411522552		103		ALBERT HIVNOR #1	DEERFIELD	12.0	
8211985		3411925191		108		CLARENCE STONE #1		2.0	NATIONAL OIL & GA
8211991		3412724195		108		FRANK HILL #1-A		12.0	NATIONAL OIL & GA
8211986		3412723365		108		REBECCA GRIFFITH #1		3.0	NATIONAL OIL & GA
8211988		3412723923		108		REBECCA GRIFFITH #2		3.0	NATIONAL OIL & GA
8211990		3412724865		108		REBECCA GRIFFITH #3		3.0	NATIONAL OIL & GA
8211987		3412723548		108		TEMPLE RAMBO #1		4.0	NATIONAL OIL & GA
8211989		3412723994		108		TEMPLE RAMBO #2		4.0	NATIONAL OIL & GA
8211983		3411521985		108		TEMPLE-HARTLEY #1		1.0	NATIONAL OIL & GA
8211982		3411520316		108		TEMPLE-HUGHES #1		4.0	NATIONAL OIL & GA
-PIONEER OIL COMPANY INC				RECEIVED:		12/21/81 JA: OH			
8211995		3412725165		103	107-TF	R BEESE (KURZ) #2	CLAYTON	10.0	NATIONAL GAS & OI
8211996		3412725242		103	107-TF	R WOODWORTH #1	MADISON	10.0	NEWZANE GAS CO
-POI ENERGY INC				RECEIVED:		12/21/81 JA: OH			
8211994		3415320749		107-TF		HOPKINS #2	HUDSON	10.0	
8211993		3415320700		107-TF		PADDOCK #2	RICHFORD	10.0	
8211992		3413322218		103	107-TF	WEINGART #1	FRANKLIN	35.0	
-QUAKER STATE OIL REFINING CORP				RECEIVED:		12/21/81 JA: OH			
8212011		3407321848		108		SUNDAY CREEK COAL #10R		1.3	COLUMBIA GAS TRAN
8212012		3407321861		108		SUNDAY CREEK COAL #11R		1.3	COLUMBIA GAS TRAN
8212014		3407321870		108		SUNDAY CREEK COAL #12R		1.3	COLUMBIA GAS TRAN
8212013		3407321868		108		SUNDAY CREEK COAL #13R		1.2	COLUMBIA GAS TRAN
8212015		3407321903		108		SUNDAY CREEK COAL #15R		1.2	COLUMBIA GAS TRAN
8212016		3407321912		108		SUNDAY CREEK COAL #16R		1.2	COLUMBIA GAS TRAN
8212017		3407322000		108		SUNDAY CREEK COAL #23R		1.2	COLUMBIA GAS TRAN
8212018		3407322001		108		SUNDAY CREEK COAL #24R		1.2	COLUMBIA GAS TRAN
8212019		3407322017		108		SUNDAY CREEK COAL #25R		1.2	COLUMBIA GAS TRAN
8211997		3400921816		108		SUNDAY CREEK COAL #26R		4.7	COLUMBIA GAS TRAN
8212020		3407322021		108		SUNDAY CREEK COAL #27R		1.3	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8211998		3400921848		108		SUNDAY CREEK COAL #29R		4.7	COLUMBIA GAS TRAN
8212021		3407322060		108		SUNDAY CREEK COAL #34R		1.2	COLUMBIA GAS TRAN
8212022		3407322085		108		SUNDAY CREEK COAL #37R		3.5	COLUMBIA GAS TRAN
8211999		3400921871		108		SUNDAY CREEK COAL #39R		4.7	COLUMBIA GAS TRAN
8212006		3407321722		108		SUNDAY CREEK COAL #4R		1.3	COLUMBIA GAS TRAN
8212023		3407322097		108		SUNDAY CREEK COAL #40R		3.5	COLUMBIA GAS TRAN
8212000		3400921890		108		SUNDAY CREEK COAL #41R		4.7	COLUMBIA GAS TRAN
8212001		3400921891		108		SUNDAY CREEK COAL #42R		4.7	COLUMBIA GAS TRAN
8212002		3400921910		108		SUNDAY CREEK COAL #44R		4.7	COLUMBIA GAS TRAN
8212005		3400921914		108		SUNDAY CREEK COAL #45R		4.7	COLUMBIA GAS TRAN
8212004		3400921913		108		SUNDAY CREEK COAL #46R		4.7	COLUMBIA GAS TRAN
8212003		3400921912		108		SUNDAY CREEK COAL #47R		4.7	COLUMBIA GAS TRAN
8212007		3407321756		108		SUNDAY CREEK COAL #5R		1.3	COLUMBIA GAS TRAN
8212008		3407321781		108		SUNDAY CREEK COAL #6R		1.3	COLUMBIA GAS TRAN
8212009		3407321803		108		SUNDAY CREEK COAL #7R		1.3	COLUMBIA GAS TRAN
8212010		3407321828		108		SUNDAY CREEK COAL #9R		1.3	COLUMBIA GAS TRAN
-R D MILLER				RECEIVED:		12/21/81 JA: OH			
8211971		3411925717		103	107-TF	WM & CAROL BRAKE #1	ROSEVILLE	20.0	NATIONAL GAS & OI
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:		12/21/81 JA: OH			
8211879		3405320269	D	108		BAIRD UNIT #1		11.0	COLUMBIA GAS TRAN
-RESOURCE EXPLORATION INC				RECEIVED:		12/21/81 JA: OH			
8212024		3406720260		108		JAMES OLDS #1	WASHINGTON	2.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM PROGRAM LTD 81-1.				RECEIVED:		12/21/81 JA: OH			
8212025		3407522785		103		WEAVER #1	PRAIRIE	5.0	COLUMBIA GAS TRAN
8212026		3407522801		103		WEAVER #2	PRAIRIE	5.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:		12/21/81 JA: OH			
8212029		3416726754		103		CHARLES ALLOWAY #1	GRANDVIEW	10.0	
8212028		3416726475		103		GLENDA MICHAELS #2	WASHINGTON	8.8	
8212027		3416726368		103		NORMAN RIDGEWAY #6	GRANDVIEW	11.2	
-SCHRIMSHER OIL & GAS EXPLORATION				RECEIVED:		12/21/81 JA: OH			
8212031		3415320926		103	107-TF	BECKER-CARPENTER UNIT #1	HUDSON	20.0	
8212030		3410322678		103	107-TF	VALASEK UNIT #1-A	GRANGER	20.0	COLUMBIA GAS TRAN
-SKY PETROLEUM CORP				RECEIVED:		12/21/81 JA: OH			
8212032		3410322521		103	107-TF	WM & ELAIN GOTTWALD #I	WEST SPENCER	36.0	
-TEXACAN ENERGY INC				RECEIVED:		12/21/81 JA: OH			
8212033		3407523068		103	107-TF	ANDY C YODER #1	BERLIN	12.0	COLUMBIA GAS TRAN
-THE BENATTY CORPORATION				RECEIVED:		12/21/81 JA: OH			
8211860		3400922222		103		W PAE #1	ATHENS	40.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:		12/21/81 JA: OH			
8211974		3411122521		103		CHRISTMAN #1-M	SENECA	5.0	COLUMBIA GAS TRAN
8211973		3411122386		103		G BAKER #3M	FRANKLIN	10.0	COLUMBIA GAS TRAN
8211975		3415320877		103	107-TF	LIPPMAN #2	NORTHAMPTON	5.0	GO JO INDUSTRIES
-TOWNER PETROLEUM CO				RECEIVED:		12/21/81 JA: OH			
8212049		3405923023		103	107-TF	A & C WEAVER #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212048		3405922911		107-TF		ALLEN #3	GUERNSEY	0.0	
8212046		3405923008		103	107-TF	ARMSTRONG #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212044		3405923018		103	107-TF	C & A CRAMBLETT #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212047		3405923009		103	107-TF	CRISLIP #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212050		3405923029		103		CUNNINGHAM #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212051		3405923031		103	107-TF	D BETTS #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8211858		3412122388		107-TF		G RICHEY #1	WAYNE	0.0	
8212043		3405922947		107-TF		HATFIELD #3	GUERNSEY	0.0	
8212041		3405922933		107-TF		K DEIOMA #1	GUERNSEY	0.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212038		3405922575		107-TF		KELLER #2	GUERNSEY	0.0	
8212039		3405922840		103	107-TF	KING #1	GUERNSEY	0.0	
8212053		3405923041		103		LYONS #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212052		3405923040		103	107-TF	LYONS/ALBAUGH #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212042		3405922946		107-TF		PADEN/PADEN #1	GUERNSEY	0.0	
8212054		3405923048		103	107-TF	R BOND #2	GUERNSEY	0.0	TENNESSEE GAS PIP
8212057		3412122037		107-TF		R BURNS #4	WAYNE	0.0	
8212059		3412122397		107-TF		R SCHAFER #1	OLIVE	0.0	
8212060		3412122638		107-TF		SCHROEDER #1	OLIVE	0.0	
8212056		3405923064		103		SELLE #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8212045		3405922980		107-TF		TOTH #1	GUERNSEY	0.0	
8212044		3405922978		107-TF		WRIGHT #1	GUERNSEY	0.0	
8212055		3405923053		103		YODER #2	GUERNSEY	0.0	TENNESSEE GAS PIP
-VICTOR MCKENZIE				RECEIVED:		12/21/81 JA: OH			
8211970		3412725284		103	107-TF	RUTH SCHULTZ #1	HARRISON	15.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED:		12/21/81 JA: OH			
8212064		3415123587		103	107-TF	G & K MARKLE UNIT #1	WASHINGTON	30.0	
8212065		3415123588		103	107-TF	G & K MARKLE UNIT #2	WASHINGTON	30.0	
8212063		3415123349		103	107-TF	KANNEY/FORESTER UNIT #2	PARIS	30.0	
8212061		3409921254		107-TF		RABUZZI UNIT #2	SMITH	30.0	AMERICAN STEEL FO
8212062		3413322615		103	107-TF	THOMAS UNIT #8	EDINBURG	30.0	
-W J LYDIC INC				RECEIVED:		12/21/81 JA: OH			
8211967		3412724951		103	107-TF	EMMERT #1	READING	14.0	
8211968		3412724952		103	107-TF	EMMERT #2	READING	16.0	
-WILLIAM N TIPKA				RECEIVED:		12/21/81 JA: OH			
8212034		3405923054		103	107-TF	ARON #2	WASHINGTON	30.0	
8212036		3410322615		103	107-TF	EVELYN MILLER #1	MINCKLEY	30.0	COLUMBIA GAS TRAN
8212037		3415723575		107-TF		MISKIMEN-BROWN-MULLANE #2	WASHINGTON	0.0	COLUMBIA GAS TRAN
8212035		3410322565		103	107-TF	SAM MYERS #1	WADSWORTH	0.0	EAST OHIO GAS CO
-WILOCK INC				RECEIVED:		12/21/81 JA: OH			
8212066		3410322363		103	107-TF	WILLIAMS UNIT #1	GRANGER	20.0	
-WITCO CHEMICAL CORP				RECEIVED:		12/21/81 JA: OH			
8212067		3409921226		107-TF		R PHILLIS #1	DAMASCUS	18.0	
8212068		3409921274		107-TF		W TODOR #1	DAMASCUS	10.0	
-WRAY PETROLEUM CORP OF OHIO				RECEIVED:		12/21/81 JA: OH			
8212071		3413322499		103	107-TF	STROUP #3	NELSON TOWNSHIP	18.0	EAST OHIO GAS CO
8212070		3413322595		103	107-TF	VAN OSS UNIT #1	NELSON	18.0	EAST OHIO GAS CO
8212069		3413322221		103	107-TF	WORK #1	NELSON	18.0	EAST OHIO GAS CO
** U.S. GEOLOGICAL SURVEY - METAIRIE,LA									
-ARCO OIL AND GAS COMPANY				RECEIVED:		12/22/81 JA: LA 3			
8212148	G1-2406	1778040383		102-1		OCS-G-3496 WEST CAMERON BLK 206 #A*	WEST CAMERON	6205.0	NORTHERN NATURAL
8212166	G1-2405	1778040383		102-1		OCS-G-3496 WEST CAMERON BLOCK 206 *	WEST CAMERON	6205.0	NORTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:		12/22/81 JA: LA 3			
8212120	G1-2220	1772240024		102-5		OCS-G-2184 A-1	SOUTH PASS	84.0	TENNESSEE GAS PIP
8212118	G1-2225	1772240063		102-5		OCS-G-2184 A-11	SOUTH PASS	801.0	TENNESSEE GAS PIP
8212119	G1-2223	1772240050		102-5		OCS-G-2184 A-8	SOUTH PASS	1811.0	TENNESSEE GAS PIP
8212122	G1-2398	1772640010		102-1		OCS-G-4123 #1	BRETON SOUND	117.0	MISSISSIPPI POWER
8212124	G1-2399	1772640011		102-1		OCS-G-4123 #2	BRETON SOUND	44.0	MISSISSIPPI POWER
-CONOCO INC				RECEIVED:		12/22/81 JA: LA 3			
8212162	G1-2155	1772440180		102-5		MAIN PASS BLOCK 311 #A-16	MAIN PASS	0.0	SOUTHERN NATURAL
8212158	G1-2084	1772440179		102-5		MAIN PASS BLOCK 311 #A-17	MAIN PASS	50.0	SOUTHERN NATURAL

JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212159	G1-2118	1772440148	102-5	MAIN PASS BLOCK 311 #A-6	MAIN PASS BLOCK	58.0	SOUTHERN NATURAL
8212160	G1-2119	1772440148	102-5	MAIN PASS BLOCK 311 #A-6D	MAIN PASS BLOCK	58.0	SOUTHERN NATURAL
8212129	G1-2152	1772440149	102-5	MAIN PASS BLOCK 311 #A-7	MAIN PASS	50.0	SOUTHERN NATURAL
8212161	G1-2250	1772440149	102-5	MAIN PASS BLOCK 311 #A-7D	MAIN PASS	50.0	SOUTHERN NATURAL
8212163	81-2182	1772440152	102-5	MAIN PASS BLOCK 311 #A-8	MAIN PASS	50.0	SOUTHERN NATURAL
8212128	G1-2141	1772440186	102-1	MAIN PASS BLOCK 312 #A-19	MAIN PASS BLOCK	0.4	SOUTHERN NATURAL
8212140	G1-2251	1772440186	102-1	MAIN PASS BLOCK 312 #A-19D	MAIN PASS BLOCK	50.0	SOUTHERN NATURAL
-EXXON CORPORATION			RECEIVED:	12/22/81 JA: LA 3			
8212157	G1-2211	1771540407	102-5	OCS-G 1251 #E-11	SOUTH TIMBALIER	2900.0	TRUNKLINE GAS CO
8212123	G1-2376	1771540417	102-1	OCS-G 4237 #F-1	SOUTH TIMBALIER	750.0	TRUNKLINE GAS CO
8212143	G1-2208	1771940146	102-5	OCS-026 # J-25	WEST DELTA	14.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION			RECEIVED:	12/22/81 JA: LA 3			
8212125	G1-2331	1771540403	102-5	OCS-G 2624 #B-17	SOUTH TIMBALIER	400.0	TEXAS EASTERN TRA
8212135	G1-2305	1771540386	102-5	OCS-G 3336 #D-16	SOUTH TIMBALIER	580.0	TEXAS EASTERN TRA
8212136	G1-2243	1771540200	102-5	OCS-G 3336 #D-6	SOUTH TIMBALIER	0.0	TEXAS EASTERN TRA
-MOBIL OIL EXPLORATION & PROD S E			RECEIVED:	12/22/81 JA: LA 3			
8212165	G1-2233	1771340094	102-5	SOUTH PELTO 10 #14A	SOUTH PELTO	190.0	TRANSCONTINENTAL
8212156	G1-2212	1771340090	102-5	SOUTH PELTO 9 #8A	SOUTH PELTO	50.0	TRANSCONTINENTAL
8212153	G1-2213	1771340090	102-5	SOUTH PELTO 9 #8D (ALT)	SOUTH PELTO	50.0	TRANSCONTINENTAL
-OCEAN PRODUCTION CO			RECEIVED:	12/22/81 JA: LA 3			
8212141	G1-2231	1771340096	102-5	OCS-073 #37B	SOUTH PELTO 20 FIELD	550.0	TRANSCONTINENTAL
8212131	G1-2232	1771340096	102-5	OCS-073 #37C	SOUTH PELTO 20 FIELD	1095.0	TRANSCONTINENTAL
-SONAT EXPLORATION COMPANY			RECEIVED:	12/22/81 JA: LA 3			
8212132	G1-2317	1770340193	102-5	G-3287 C-5 (SIDETRACK)	EAST CAMERON	1643.0	SOUTHERN NATURAL
8212127	G1-2318	1770340193	102-5	G-3287 C-5D	EAST CAMERON	567.0	SOUTHERN NATURAL
8212134	G1-2315	1770340179	102-5	G-3288 C-1	EAST CAMERON	986.0	SOUTHERN NATURAL
8212133	G1-2316	1770340179	102-5	G-3288 C-1D	EAST CAMERON	1232.0	SOUTHERN NATURAL
8212126	G1-2319	1770340190	102-5	G-3288 C-6	EAST CAMERON	1312.0	SOUTHERN NATURAL
-SUN OIL COMPANY (DELAWARE)			RECEIVED:	12/22/81 JA: LA 3			
8212121	G1-2038	1770440477	102-5	OCS-G-2063 #B-13	EAST CAMERON	196.0	TRUNKLINE GAS CO
8212155	G1-2033	1770440450	102-5	OCS-G-2063 #B-3	EAST CAMERON	146.0	TRUNKLINE GAS CO
8212113	G1-2034	1770440442	102-5	OCS-G-2063 #B-4	EAST CAMERON	254.0	TRUNKLINE GAS CO
8212116	G1-2035	1770440456	102-5	OCS-G-2063 #B-7	EAST CAMERON	126.0	TRUNKLINE GAS CO
8212115	G1-2036	1770440461	102-5	OCS-G-2063 #B-9	EAST CAMERON	177.0	TRUNKLINE GAS CO
8212114	G1-2037	1770440470	102-5	OCS-G-2063 #B10	EAST CAMERON	137.0	TRUNKLINE GAS CO
-SUPERIOR OIL CO			RECEIVED:	12/22/81 JA: LA 3			
8212164	G1-2418	1773140008	107-DP	OCS-G-4144 #E-2	SABINE PASS	700.0	UNITED GAS PIPELI
8212130	G1-2190	1770040275	102-5	OCS-0244 #17	WEST CAMERON	730.0	MICHIGAN-WISCONSI
-UNION OIL COMPANY OF CALIF			RECEIVED:	12/22/81 JA: LA 3			
8212149	G1-2408	1770540461	107-DP	OCS 0548 #6	VERMILION	9125.0	COLUMBIA GAS TRAN
8212150	G1-2409	1771540424	102-1	OCS-G 4000 #A-11	SOUTH TIMBALIER	91.0	TENNESSEE GAS PIP
8212151	G1-2410	1771540423	102-1	OCS-G 4000 #A-12	SOUTH TIMBALIER	91.0	TENNESSEE GAS PIP
8212152	G1-2411	1771540429	102-1	OCS-G 4000 #A-14	SOUTH TIMBALIER	91.0	TENNESSEE GAS PIP
-PENNZOIL OIL & GAS INC			RECEIVED:	12/22/81 JA: TX 3			
8212145	G1-2216	4270940468	102-5	PENNZOIL CO OCS-G 2384 HIGH ISLAND*	HIGH ISLAND AREA	622.0	UNITED GAS PIPELI
*8212138	G1-2203	4271140473	102-5	PENNZOIL CO OCS-G 2416 HIGH ISLAND*	HIGH ISLAND AREA EASE	1640.0	MICHIGAN WISCONSI
*8212139	G1-2204	4271140486	102-5	PENNZOIL CO OCS-G 2416 HIGH ISLAND*	HIGH ISLAND AREA EASE	1667.0	MICHIGAN WISCONSI
*8212154	G1-2201	4271140473	102-5	PENNZOIL CO OCS-G 2416 HIGH ISLAND*	HIGH ISLAND AREA EASE	2718.0	MICHIGAN WISCONSI
*8212142	G1-2200	4271140457	102-5	PENNZOIL CO OCS-G2416 HIGH ISLAND *	HIGH ISLAND AREA EASE	2571.0	MICHIGAN WISCONSI
-PENNZOIL PRODUCING COMPANY			RECEIVED:	12/22/81 JA: TX 3			
8212146	G1-2218	4270940536	102-5	PENNZOIL CO OCS-G 2384 HIGH ISLAND*	HIGH ISLAND AREA	84.0	UNITED GAS PIPELI
8212147	G1-2217	4270940511	102-5	PENNZOIL CO OCS-G 2384 HIGH ISLAND*	HIGH ISLAND AREA	130.0	UNITED GAS PIPELI
*8212117	G1-2205	4271140487	102-5	PENNZOIL CO OCS-G 2416 HIGH ISLAND*	HIGH ISLAND AREA EASE	3441.0	MICHIGAN WISCONSI

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JD NO	JA DKT	API NO	D SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
*8212137	G1-2202	4271140473	102-S PENNZOIL CO OCS-G 2416 HIGH ISLAND*	HIGH ISLAND AREA EASE	1413.0	MICHIGAN WISCONSI
*8212144	G1-2206	4271140489	102-S PENNZOIL CO OCS-G 2416 HIGH ISLAND*	HIGH ISLAND AREA EASE	2616.0	MICHIGAN WISCONSI

OTHER PURCHASERS VOLUME NO :581

8212074	ELIZABETHTOWN GAS CO
8212075	ELIZABETHTOWN GAS CO
8212076	ELIZABETHTOWN GAS CO
8212077	ELIZABETHTOWN GAS CO
8212079	ELIZABETHTOWN GAS CO
8212112	ELIZABETHTOWN GAS CO
8212117	UNITED GAS P L CO
8212137	UNITED GAS PL CO
8212138	UNITED GAS P L CO
8212139	UNITED GAS P L CO
8212142	UNITED GAS PL CO
8212144	UNITED GAS PL CO
8212154	UNITED GAS PL CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before February 11, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–1967 Filed 1–26–82; 8:45 am]

BILLING CODE 6717–01–M

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ALEXANDER G KASPAR				RECEIVED:	12/23/81	JA: TX			
8212179	F-08-029091	4210331979		103		ATLANTIC HARNSLEY #1	SAND HILLS (JUDKINS)	193.0	EL PASO NATURAL G
-AMMEX PETROLEUM INC				RECEIVED:	12/23/81	JA: TX			
8212308	F-03-048996	4205131441		102-2	103	LISA GAY #1	GIDDINGS (AUSTIN CHAL	638.0	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	12/23/81	JA: TX			
8212327	F-08-042094	4200332457		103		MIDLAND FARMS UNIT #548	MIDLAND FARMS	4.0	AMOCO PRODUCTION
8212328	F-08-042096	4200332497		103		MIDLAND FARMS UNIT #549	MIDLAND FARMS	4.4	AMOCO PRODUCTION
-APACHE CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212296	F-10-040771	4248300000		107-TF		KEY #1	STATE LINE	3500.0	PERRY GAS TRANSMI
-B & N PETROLEUM INC				RECEIVED:	12/23/81	JA: TX			
8212247	F-09-038298	4249700000		103		HOPKINS #1	PARK SPRINGS CONGL	0.0	NATURAL GAS PIPEL
-BISON EXPLORATION CO				RECEIVED:	12/23/81	JA: TX			
8212330	F-78-042123	4243300000		103		WINDSOR #1	N W OLD GLORY (BEND C	18.0	CITIES SERVICE CO
-CAG PETROLEUM CORP				RECEIVED:	12/23/81	JA: TX			
8212255	F-03-039207	4205131529		102-2		LAMPE #1	GIDDINGS - AUSTIN CHA	0.0	CLAJON GAS CO
-CARTER EXPLORATION CO				RECEIVED:	12/23/81	JA: TX			
8212238	F-02-037527	4223931371		102-4		A SBRUSCH #2	CORDELE (2610)	120.0	TRANSCONTINENTAL
-CASSELL OIL CO				RECEIVED:	12/23/81	JA: TX			
8212280	F-78-034383	4204931880		102-4	103	MURDOCH #1	JETT (DUFFER)	20.0	ODESSA NATURAL CO
8212282	F-78-034391	4204931655		102-4	103	O B BYRD #1	PALO DAVIS (DUFFER)	109.5	ODESSA NATURAL CO
8212281	F-78-034398	4204932076		102-4	103	O B BYRD #2	PALO DAVIS (DUFFER)	66.0	ODESSA NATURAL CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/23/81	JA: TX			
8212227	F-03-036778	4205131511		102-2	103	A HAJOVSKY JR #1	CALDWELL N E (GEORGET	0.0	FERGUSON CROSSING
8212272	F-03-039983	4205100000		102-2	103	EDWIN ZGABAY D #1	GIDDINGS	0.0	FERGUSON CROSSING
8212232	F-7C-037248	4223531727		102-2	103	H W CLARK #3	H W CLARK (CANYON SAN	67.0	
8212288	F-04-040519	4235300000		108		S A J S L B A #3 U	STRATTON	22.0	TENNESSEE GAS PIP
-CLAYTON W WILLIAMS JR				RECEIVED:	12/23/81	JA: TX			
8212287	F-03-040461	4205100000		102-2		BENN-CHARANZA UNIT I-A	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8212183	F-01-030926	4217700000		102-2		BMW LTD #1	WAELDER SOUTH	335.8	VALERO TRANSMISSI
8212275	F-03-040816	4205100000		102-2		LEONARD BRYANT -A- #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8212252	F-03-038736	4205100000		102-2		LEONARD BRYANT UNIT #1	GIDDINGS	0.0	VALERO TRANSMISSI
8212283	F-03-040371	4205100000		102-2		LEONARD BRYANT UNIT B #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8212314	F-03-041565	4205100000		102-2		LOIS GRAHAM A #3	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8212274	F-03-040014	4205100000		102-2		STANLEY HOUDEK #2	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8212317	F-03-041594	4205100000		102-2		VELMA URBANOVSKY #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CNG PRODUCING COMPANY				RECEIVED:	12/23/81	JA: TX			
8212270	F-04-039854	4221531092		102-4		J S HUDNALL #1	ARROWHEAD RANCH	900.0	VALERO INTERSTATE
-COMBINED AMERICA PRODUCING INC				RECEIVED:	12/23/81	JA: TX			
8212254	F-01-039147	4211730580		102-2	103	PLOEGER #3	GONZALES (AUSTIN CHAL	1825.0	TIPPERARY CORP
-COMINCO AMERICAN INC				RECEIVED:	12/23/81	JA: TX			
8212288	F-10-040314	4229500000		102-4		STUART RANCH #10	LADY (MORROW UPPER)	0.0	NORTHERN NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CONNIE OIL & GAS INC				RECEIVED:	12/23/81	JA: TX			
8212278	F-03-040203	4205131638		102-2		MARY BALCAR #1	CALDWELL (AUSTIN CHAL	200.0	CLAJON GAS CO
-CONOCO INC				RECEIVED:	12/23/81	JA: TX			
8212354	F-08-042774	4230130222		103		CONTINENTAL TXL #1 ID #86776	CENTRAL PINAL DOME (W	310.6	TRANSCONTINENTAL
-CPC EXPLORATION INC				RECEIVED:	12/23/81	JA: TX			
8212347	F-03-042679	4214931001		102-2		REINHARDT M LEASE #14394	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
-CRB OIL & GAS INC				RECEIVED:	12/23/81	JA: TX			
8212263	F-03-039542	4214931017		102-2		WIEMKEN UNIT #1	GIDDINGS (AUSTIN CHAL	3.0	CLAJON GAS CO
-CROWN EXPLORATION CO				RECEIVED:	12/23/81	JA: TX			
8212335	F-78-042296	4235308000		102-4		RAY 1A	RAY 1A	0.0	LONE STAR GAS CO
-DAMERON PETROLEUM CORP				RECEIVED:	12/23/81	JA: TX			
8212197	F-7C-033517	4210532374		102-2	107-TF	W P HOOVER #3011A	AMERICAN (CANYON)	65.0	EL PASO NATURAL G
-DAMSON OIL CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212261	F-06-039476	4240100000		103		DANIEL MENEFEE GAS UNIT #1	OAK HILL (COTTON VALL	226.0	DELHI GAS PIPELIN
-DELTA DRILLING CO				RECEIVED:	12/23/81	JA: TX			
8212282	F-7C-040361	4210500000		108		FRIEND A #1-T 19114	OZONA (ELLENBERGER)	0.0	NORTHERN NATURAL
8212319	F-06-041798	4242300000		103		O B JOHNSON "B" #1	CHAPEL HILL (WILDCAT)	0.0	ETEXAS PRODUCERS
-DELTA OIL & GAS CO				RECEIVED:	12/23/81	JA: TX			
8212321	F-78-041932	4242931872		103		J R COODY A RRC #14884	PIT RM (CONGL ZONE A)	0.0	LONE STAR GAS CO
8212341	F-78-042436	4242932032		103		R M ROGERS ESTATE G #15141	STEPHENS COUNTY REGUL	0.0	
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212344	F-10-042548	4239330849		103		LOIS WEBB #4-83	MENDOTA NW (DOUGLAS)	2.0	
-DISCOVERY OPERATING INC				RECEIVED:	12/23/81	JA: TX			
8212256	F-7C-039277	4241331046		102-2	103	UNIVERSITY D #1	UNIVERSITY 54 (CANYON	115.2	CRA INC
8212256	F-7C-039277	4241331046		107-TF		UNIVERSITY D #1	UNIVERSITY 54 (CANYON	115.2	CRA INC
-DYNAMIC PRODUCTION INC				RECEIVED:	12/23/81	JA: TX			
8212268	F-03-039450	4205131427		102-2		ANTHONY #1	GIDDINGS (AUSTIN CHAL	36.0	FERGUSON CROSSING
8212259	F-03-039449	4205131208		102-2		BROOKS #1	GIDDINGS (AUSTIN CHAL	36.0	FERGUSON CROSSING
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/23/81	JA: TX			
8212191	F-7C-032174	4243519232		108		THOMSON E #1	SONORA CANYON UPPER	21.0	EL PASO NATURAL G
8212355	F-10-042794	4217923763		108		YOES A #1	PANHANDLE WEST	28.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	12/23/81	JA: TX			
8212331	F-09-042205	4249731632		103		B A SMITH #3-T	BOONSVILLE	20.0	LONE STAR GAS CO
8212306	F-05-041167	4221300800		107-PE		C W CORLEY B #1-T	OPELIKA	313.0	LONE STAR GAS CO
8212315	F-09-041577	4249732118		103		CRAFT WATER BOARD UN 21 #4	BOONSVILLE	292.0	LONE STAR GAS CO
-EXPANDO OIL CO				RECEIVED:	12/23/81	JA: TX			
8212318	F-09-041649	4207731854		102-4		CRUMP #2	BLUEGROVE SOUTH BRYSO	15.0	FAGADAU ENERGY CO
8212203	F-02-034426	4246900000		102-4		EDWARDS UNIT #1 86432	VIC-WITT (2020')	36.5	VALERO TRANSMISSI
-EXXON CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212304	F-08-041155	4210332609		103		J B TUBB A/C 2 #245L	SAND HILLS (TUBB)	13.0	EL PASO NATURAL G
8212305	F-08-041156	4210332609		103		J B TUBB A/C 2 #245U	SAND HILLS (MCKNIGHT)	21.0	EL PASO NATURAL G
8212281	F-08-040327	4210332602		103		J B TUBB C #29L	SAND HILLS (TUBB)	11.0	EL PASO NATURAL G
8212289	F-08-040599	4200300000		108		J E PARKER A/C 3 #57	GOLDSMITH N (SAN ANDR	2.1	PHILLIPS PETROLEU
-FAGADAU ENERGY CORP				RECEIVED:	12/23/81	JA: TX			
8212169	F-09-027230	4223732608		102-4		WORTHINGTON-EDWARDS A #1	JACKSBORO N (UPPER AT	8.8	SOUTHWESTERN GAS
-FERGUSON & BOSWORTH				RECEIVED:	12/23/81	JA: TX			
8212245	F-04-037769	4224931328		102-4		FILANCZYK	ORANGE GROVE WEST (47	182.5	UNITED GAS PIPE L
-FOREST OIL CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212320	F-04-041856	4221531118		103	107-TF	A A MCALLEN #23	MCALLEN RANCH (VICKSB	492.0	VALERO TRANSMISSI
8212298	F-04-040876	4247933041		102-2	107-TF	VAQUILLAS RANCH CO LTD #11	GATO CREEK (LOBO 1)	350.0	UNITED TEXAS TRAN
8212229	F-04-036926	4247932868		102-2	107-TF	VAQUILLAS RANCH CO LTD #8	GATO CREEK (9800')	360.0	UNITED TEXAS TRAN
-GAGE & CO				RECEIVED:	12/23/81	JA: TX			
8212246	F-08-038073	4235330988		103		FOSTER S PRICE #1 (26637)	JAMESON NORTH (STRAWN	0.0	SUN OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-GERONIMO OIL CO				RECEIVED:	12/23/81	JA: TX
8212340	F-04-042406	4240931507		103		MARILYN MORRIS #1
-GETTY OIL COMPANY				RECEIVED:	12/23/81	JA: TX
8212310	F-03-041305	4205100000		102-2		BAKER B #1
8212325	F-03-042071	4205100000		102-2		C J SEBESTA JR A #1
8212309	F-03-041304	4205100000		102-2		C R HENSON #1
8212188	F-03-031491	4205100000		102-2		GRACE E KEELS #1
8212276	F-03-040898	4205100000		102-2		H VAJDAK #1
8212311	F-03-041306	4205100000		102-2		LOUISE PORTER A #1
8212279	F-03-040277	4205100000		102-2		M L LEWIS #1
8212253	F-03-038815	4205131442		102-2		MABLE SMITH #1
8212324	F-03-042878	4205100000		102-2		SETTEGAST OPERATIONS A #1
-GO-TEX OIL & GAS CO				RECEIVED:	12/23/81	JA: TX
8212230	F-04-036952	4224931217		102-4		ROBERT F BIERSTEDT #1
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/23/81	JA: TX
8212267	F-04-039837	4224930950		103		STELZIG ZWERNEMAN #9
-GRAHAM PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212297	F-03-040833	4248132159		102-4		G B RUST ESTATE #1
-GULF COAST OIL & MINERALS				RECEIVED:	12/23/81	JA: TX
8212294	F-02-040745	4246900000		103		MILTON E SEALE #1-A
-GULF OIL CORPORATION				RECEIVED:	12/23/81	JA: TX
8212236	F-09-037416	4221813075		102-4		R M PICKENS #3
-GULF SANDS OIL CO				RECEIVED:	12/23/81	JA: TX
8212239	F-02-037530	4202531211		102-4		CLARISSA WELLEK #1
-HENRY PETROLEUM CORP				RECEIVED:	12/23/81	JA: TX
8212209	F-01-034964	4249300000		102-2		PRUSKE A #1
-HETCO OIL & GAS CO INC				RECEIVED:	12/23/81	JA: TX
8212299	F-03-040877	4208931230		102-4		GUY STOVALL #2
-HILLIN PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212334	F-08-042289	4237133519		103		I R T 29 #1
-HINTON PRODUCTION COMPANY				RECEIVED:	12/23/81	JA: TX
8212360	F-06-042896	4240131198		102-4		MARGUERITTE JACKSON #1
-HNG OIL COMPANY				RECEIVED:	12/23/81	JA: TX
8212353	F-7C-042746	4243532524		103 107-TF		SHANNON "51" #3
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	12/23/81	JA: TX
8212359	F-7C-042815	4210533445		102-4		UNIVERSITY 29-30E #2
8212358	F-7C-042814	4210533430		102-4		UNIVERSITY 29-5 #1
-J E CONNER				RECEIVED:	12/23/81	JA: TX
8212241	F-7B-037688	4224932827		103		K STOKER B #1
-JACKSON EXPLORATION INC				RECEIVED:	12/23/81	JA: TX
8212303	F-7C-041122	4238332830		103		SUGG #1
-JAH INC				RECEIVED:	12/23/81	JA: TX
8212167	F-02-011802	4212330804		103		THIGPEN #1
-JOE MCGUIRE				RECEIVED:	12/23/81	JA: TX
8212346	F-7C-042667	4210533382		102-4 103		JOE F BEAN D #1
8212346	F-7C-042667	4210533382		107-TF		JOE F BEAN D #1
-JOHN L COX				RECEIVED:	12/23/81	JA: TX
8212198	F-08-033927	4231700000		103		MABEE RANCH C #1
-JONES CO				RECEIVED:	12/23/81	JA: TX
8212243	F-7B-037711	4241700800		102-4		W B CLAUSELL #1 (59925)
-K&H LTD				RECEIVED:	12/23/81	JA: TX
8212302	F-04-041896	4250531305		102-4		BERTA VELA CAVAZOS #2
-KILLAM & HURD LTD				RECEIVED:	12/23/81	JA: TX

FIELD NAME	PROD	PURCHASER
MIDWAY (6200)	146.0	VALLEY PIPELINES
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	470.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	80.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	8.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	125.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	962.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	567.0	FERGUSON CROSSING
WADE CITY (2350*)	250.0	UNITED GAS PIPE L
AMARGOSE (2700)	144.0	NATURAL GAS PIPEL
WHARTON WEST (FRIO 45	146.0	NATURAL GAS PIPEL
PROPOSED VICTORIA N (	90.0	TENNESSEE GAS PIP
N E SOUTHMAYD	10.0	LONE STAR GAS CO
LITTLE JOHN (3970)	182.0	GULF STATES EQUIT
PRUSKE (BUDA)	0.0	
NADA (YEGUA 6350) FIE	238.0	TEXAS EASTERN TRA
PECOS VALLEY (YATES)	122.4	INTRATEX GAS CO
MT ENTERPRISE (PETTIT	250.0	TEXAS GAS CO
SAWYER CANYON	365.0	INTRATEX GAS CO
UNIVERSITY 29 (STRAWN	210.0	PHILLIPS PETROLEU
UNIVERSITY 29 (STRAWN	150.0	PHILLIPS PETROLEU
STEPHENS COUNTY REGUL	25.0	WARREN PETROLEUM
CALVIN (DEAN)	30.0	UNION TEXAS PETRO
CUERO S (2100)	300.0	LOVACA GATHERING
PIKES PEAK DRAW (CANY	41.7	PERMIAN CORP
PIKES PEAK DRAW (CANY	41.7	PERMIAN CORP
LACAFF (DEAN)	20.0	NORTHERN NATURAL
D J (CONGL)	189.0	DELHI GAS PIPELIN
EL GRULLO (7300)	0.0	INTRASTATE GATHER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-KIMBELL OIL CO				RECEIVED:	12/23/81	JA: TX
8212337	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-KING RESOURCES CO				RECEIVED:	12/23/81	JA: TX
8212333	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-KOCH EXPLORATION CO				RECEIVED:	12/23/81	JA: TX
8212332	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LAMAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212335	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LEWIS PETRO PROPERTIES INC				RECEIVED:	12/23/81	JA: TX
8212331	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCING CO				RECEIVED:	12/23/81	JA: TX
8212336	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212338	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212339	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212330	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212329	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212328	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212327	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212326	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212322	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212321	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212320	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212319	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212318	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212317	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212316	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212315	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212314	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212313	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1
-LONE STAR PRODUCTION CO				RECEIVED:	12/23/81	JA: TX
8212312	F-03-042289	4205100000		102-2		MARY ANN MCCLURE #1

FIELD NAME	PROD	PURCHASER
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212212	F-04-035680	4247932896		102-4	107-TF	BRUNI MINERAL D #3	JUANITA (LOBO)	0.0	HOUSTON PIPE LINE
-L TEXAS INC				RECEIVED:		12/23/81 JA: TX			
8212218	F-01-036561	4217730697		102-2	103	FLOYD #1	PEACH CREEK (AUSTIN C	0.0	VALERO TRANSMISSI
-LADD PETROLEUM CORPORATION				RECEIVED:		12/23/81 JA: TX			
8212336	F-7B-042382	4236731951		103		CRAVENS #3	TOTO (CADDO CONGLOMER	159.5	LONE STAR GAS CO
-LIVEOAK PRODUCTION CO				RECEIVED:		12/23/81 JA: TX			
8212277	F-7B-040121	4208332465		102-4		A FREEMAN #1 (95523)	TRICKHAM (CROSSCUT LO	5.0	LONE STAR GAS CO
-M-TEX INC				RECEIVED:		12/23/81 JA: TX			
8212199	F-01-034258	4232330234		107-PE		R C CAGE 28 #2	EL INDIE N (ESCONDIDO	55.0	TEJAS GAS CORP
-MARTIN OIL & GAS CO				RECEIVED:		12/23/81 JA: TX			
*8212234	F-03-037336	4205100000		102-2		SMITH-JONES #1	CALDWELL (AUSTIN CHAL	0.0	FERGUSON CROSSING
-MCCORMICK OPERATING CO				RECEIVED:		12/23/81 JA: TX			
8212265	F-06-039755	4240131140		102-2	107-TF	MALONEY GAS UNIT #4	OAK HILL (COTTON VALL	250.0	HYDROCARBON TRANS
-MCFARLANE OIL CO INC				RECEIVED:		12/23/81 JA: TX			
8212206	F-02-034762	4239100000		103		BEN SHELTON #2	WEST LAKE PASS	0.0	TENNECO CHEMICALS
-MCMAHON-BULLINGTON DRLG CO				RECEIVED:		12/23/81 JA: TX			
8212210	F-7B-035070	4223731160		107-PE		CLAYTON #11 NEW	GRAFORD (BEND CONGL)	182.0	TEXAS UTILITIES F
-MCMILLAN OPERATING CO				RECEIVED:		12/23/81 JA: TX			
8212359	F-7B-042369	4209330848		103		RODGERS-FILES UNIT #1	MITTIE (MARBLE FALLS)	73.0	LONE STAR GAS CO
-MCMORAN EXPLORATION CO				RECEIVED:		12/23/81 JA: TX			
8212249	F-04-038493	4221531050		102-4		JONES #1U	MCALLEN SO	547.0	TRANSCONTINENTAL
-MCMURREY GATHERING SYSTEM INC				RECEIVED:		12/23/81 JA: TX			
8212178	F-7B-028743	4213332186		103		J SQUIRES #1 DRILLING PMT #070843	EASTLAND COUNTY REG	216.0	LONE STAR GAS CO
-MEADCO PROPERTIES				RECEIVED:		12/23/81 JA: TX			
8212301	F-7C-041088	4223531561		102-2		E SUGG 21 #2	ELA SUGG (WOLFCAMP)	90.0	NORTHERN NATURAL
-MGF OIL CORP				RECEIVED:		12/23/81 JA: TX			
8212181	F-7C-029934	4210532810		108		MELBING 18 #2 (078852)	OZONA (CANYON SAND)	8.3	NORTHERN NATURAL
-MIDWAY OIL CORP				RECEIVED:		12/23/81 JA: TX			
8212312	F-03-041315	4205100000		102-4		SETH HILL UNIT #1	CALDWELL (AUSTIN CHAL	0.0	FERGUSON CROSSING
-MITCHELL ENERGY CORPORATION				RECEIVED:		12/23/81 JA: TX			
8212180	F-03-029274	4228700000		103		BECKER #1	GIDDINGS (BUDA)	0.0	
8212237	F-05-037509	4229330556		103	107-TF	M V CROFT #1	FALLON (COTTON VALLEY	195.0	SOUTHWESTERN GAS
8212358	F-09-042357	4223700000		108		P M GRACE #4 84548	BOONSVILLE (BEND CONG	7.4	LONE STAR GAS CO
8212204	F-09-036527	4223700000		108		R H MASSIE #1 SW-W 70	GRESHAM EAST (MISS)	12.8	SOUTHWESTERN GAS
8212185	F-09-031194	4249732013		103		READ HEIRS #2-A	BOONSVILLE (BEND CONG	1220.0	SOUTHWESTERN GAS
8212187	F-09-031479	4249731994		103		W L MACKEY #5	BOONSVILLE (BEND CONG	320.0	NATURAL GAS PIPEL
8212177	F-09-028323	4223700000		108		W S WALKER #3	MARVETTA (ATOKA 5700)	2.0	SOUTHWESTERN GAS
8212233	F-09-037322	4249731834		103		WAGGONER (MAYNARD) #23	BOONSVILLE (BEND CONG	125.0	NATURAL GAS PIPEL
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:		12/23/81 JA: TX			
8212307	F-04-041263	4247932968		102-4		HUBBERD EE #1	LIZ (8400)	358.4	TENNESSEE GAS PIP
-MORAN EXPLORATION INC				RECEIVED:		12/23/81 JA: TX			
8212225	F-08-036754	4217331182		103		HALFMANN #1	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
8212226	F-7C-036755	4223531558		103		ROCKER B-R #1	SPRABERRY (TREND AREA	0.0	NORTHERN NATURAL
-MOSBACHER PRODUCTION CO				RECEIVED:		12/23/81 JA: TX			
8212316	F-03-041583	4205131476		102-2		F W MARESH #1	GIDDINGS (AUSTIN CHAL	10.0	CLAJON GAS CO
-NUCORP ENERGY INC				RECEIVED:		12/23/81 JA: TX			
8212363	F-01-042909	4217730594		103		ALMA SPIECKERMAN #06822	PILGRIM (AUSTIN CHALK	14.0	TIPPERARY GATHERI
8212368	F-03-042920	4228730908		102-2		G SPACEK #1	GIDDINGS (AUSTIN CHAL	353.0	PHILLIPS PETROLEU
8212362	F-01-042908	4217730583		103		RUFUS KING "A" #06868	PILGRIM (AUSTIN CHALK	12.0	TIPPERARY GATHERI
-PARKER & PARSLEY INC				RECEIVED:		12/23/81 JA: TX			
8212186	F-08-031312	4232930935		103		FASKEN G #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PENNZOIL PRODUCING COMPANY				RECEIVED:		12/23/81 JA: TX			
8212349	F-02-042702	4217331454		102-4		G A RAY #91	PETTUS (8,950')	637.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PETRO-LEWIS CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212213	F-09-036002	4249731811		103		BURK #2	BOONSVILLE BEND	133.0	NATURAL GAS PIPEL
8212351	F-08-042705	4210332433		103		J B TUBB STATE #15	SAND HILLS (MC KNIGHT	86.0	EL PASO NATURAL G
8212352	F-08-042707	4210332436		103		J B TUBB STATE #17	SAND HILLS (MC KNIGHT	75.0	EL PASO NATURAL G
-PETROLEUM ACQUISITIONS CORP				RECEIVED:	12/23/81	JA: TX			
8212308	F-08-041279	4231732318		103		H G ORSON #3 (RRC#	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	12/23/81	JA: TX			
8212326	F-02-042088	4217531382		102-2		WALTER DIETZEL #1	COLLETTOVILLE CREEK (	37.2	
-PETROLEUM EQUITIES CORP				RECEIVED:	12/23/81	JA: TX			
8212215	F-7C-036349	4243532450		103	107-TF	SCHULTZ #4	INTERSTATE (CANYON)	73.0	PRODUCERS GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/23/81	JA: TX			
8212192	F-08-032380	4200305189		108		GS ANDECTOR #J-01	GOLDSMITH (CLEARFORK)	6.0	EL PASO NATURAL G
8212211	F-10-035109	4217900000		108		JOHNSON CC #18	PANHANDLE GRAY	0.0	
8212190	F-10-032079	4220530119		103		MODINE #2	WEST PANHANDLE	0.0	EL PASO NATURAL G
-PITTS OIL CO & DALLAS PROD INC				RECEIVED:	12/23/81	JA: TX			
8212361	F-06-042907	4242330488		102-4		WALTON HEIRS #1	CHAPEL HILL NE (TRAVI	256.0	EAST TEXAS PRODUC
-Q R G OPERATIONS INC				RECEIVED:	12/23/81	JA: TX			
8212240	F-03-037581	4205131159		102-4	103	ROBERT D LEACHMAN #1	WELLBORN S (AUSTIN CH	0.0	CLAJON GAS CO
-QUEST PETROLEUM INC				RECEIVED:	12/23/81	JA: TX			
8212332	F-09-042221	4249732200		103		CARAWAY UNIT A-2	BOONSVILLE (BEND-CONG	146.0	NATURAL GAS PIPEL
-QUINTIN LITTLE CO				RECEIVED:	12/23/81	JA: TX			
8212365	F-01-042915	4217731862		102-2		CARLA UNIT #1 (LEASE #07257)	GIDDINGS (AUSTIN CHAL	8.0	VALERO TRANSMISSI
8212367	F-03-042917	4214931062		102-2		DORER UNIT #1 (LEASE #14668)	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
8212366	F-01-042916	4217731071		102-2		MISS VICKIE UNIT #1	GIDDINGS (AUSTIN CHAL	365.0	VALERO TRANSMISSI
-R A W ENERGY CORP				RECEIVED:	12/23/81	JA: TX			
8212216	F-09-036446	4236732009		103		DUNAWAY	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-R H ENGELKE				RECEIVED:	12/23/81	JA: TX			
8212182	F-02-030001	4246931417		108		WARREN BALL #1	VICTORIA NORTH (5300)	18.3	TENNESSEE GAS PIP
-R LACY INC				RECEIVED:	12/23/81	JA: TX			
8212343	F-06-042541	4236531300		103		J W COOKE UNIT 2 #5	CARTHAGE SOUTH (TRAVI	356.0	NATURAL GAS PIPEL
-REALITOS ENERGY CORP				RECEIVED:	12/23/81	JA: TX			
8212251	F-03-038641	4248132062		102-4		E LONG #1	WILDCAT	185.0	
8212364	F-02-042911	4246931756		102-4		MUSSELMAN #1	WILDCAT-PROPOSED TELF	565.0	TRUNK LINE GAS CO
-RETANCO INC				RECEIVED:	12/23/81	JA: TX			
8212337	F-03-04230	4214930973		103		MARTIN SCHULZ UNIT #1	GIDDINGS (AUSTIN CHAL	1.0	PHILLIPS PETROLEU
-ROBERT CARGILL				RECEIVED:	12/23/81	JA: TX			
8212313	F-06-041391	4218330493		103		JEFFREY UNIT #5	WILLOW SPRINGS (BODEN	120.0	ARKANSAS LOUISIAN
-ROYAL OIL & GAS CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212285	F-04-040425	4235531647		102-4	103	R D BLUNTZER #1	AGUA DULCE (8020)	30.0	DELHI GAS PIPELIN
-SAMEDAN OIL CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212231	F-04-037235	4270230144		102-2		STATE TRACT 818-L NO 8-3	SAMEDAN FRIO	1350.0	EL PASO NATURAL G
-SCANDRILL CO				RECEIVED:	12/23/81	JA: TX			
8212224	F-09-036744	4223733453		103		HENDERSON #1	JACK COUNTY REGULAR	451.1	SUN GAS GATHERING
8212228	F-09-036869	4250333999		103		PEARL T KURK #11	YOUNG COUNTY REGULAR	7.3	SUN GAS GATHERING
8212223	F-09-036742	4250334669		103		RAGLAND #1	BRAZEEL (CADDO)	18.3	SUN GAS GATHERING
-SHELL OIL CO				RECEIVED:	12/23/81	JA: TX			
8212189	F-10-031606	4221131196		103		HOBART RANCH #870	HEMPHILL (GRANITE WAS	114.0	CITIES SERVICE GA
-SOUTHERN NATURAL GAS COMPANY				RECEIVED:	12/23/81	JA: TX			
8212205	F-06-034554	4241930321		103		O L GUY #2	JOAQUIN FIELD (TRAVIS	580.0	SOUTHERN NATURAL
-SPARKMAN PRODUCING CO				RECEIVED:	12/23/81	JA: TX			
8212257	F-04-039388	4224900000		102-4	103	GALLIMORE & LINDER #1-T	MAGNOLIA CITY N (5480	168.0	ESPERANZA TRANSMI
-SPINDLETOP OIL & GAS CO				RECEIVED:	12/23/81	JA: TX			
8212262	F-78-039520	4236332337		102-4		JOHNSTON #1	MCCLISH-STONE	100.0	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/23/81	JA: TX			
8212208	F-08-041279	4231732318		103		H G ORSON #3 (RRC#	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-SUN OIL CO				RECEIVED:	12/23/81	JA: TX			
8212324	F-02-042088	4217531382		102-2		WALTER DIETZEL #1	COLLETTOVILLE CREEK (	37.2	
-SUNDOWN ENERGY INC				RECEIVED:	12/23/81	JA: TX			
8212217	F-7C-036349	4243532450		103	107-TF	SCHULTZ #4	INTERSTATE (CANYON)	73.0	PRODUCERS GAS CO
-SUNRISE OIL CO				RECEIVED:	12/23/81	JA: TX			
8212196	F-08-032380	4200305189		108		GS ANDECTOR #J-01	GOLDSMITH (CLEARFORK)	6.0	EL PASO NATURAL G
8212214	F-10-035109	4217900000		108		JOHNSON CC #18	PANHANDLE GRAY	0.0	
8212194	F-10-032079	4220530119		103		MODINE #2	WEST PANHANDLE	0.0	EL PASO NATURAL G
-SUPERIOR OIL CO				RECEIVED:	12/23/81	JA: TX			
8212227	F-09-036744	4223733453		103		HENDERSON #1	JACK COUNTY REGULAR	451.1	SUN GAS GATHERING
8212229	F-09-036869	4250333999		103		PEARL T KURK #11	YOUNG COUNTY REGULAR	7.3	SUN GAS GATHERING
8212225	F-09-036742	4250334669		103		RAGLAND #1	BRAZEEL (CADDO)	18.3	SUN GAS GATHERING
-TEXACO INC				RECEIVED:	12/23/81	JA: TX			
8212187	F-10-031606	4221131196		103		HOBART RANCH #870	HEMPHILL (GRANITE WAS	114.0	CITIES SERVICE GA
-TEXAS OIL & GAS CORP				RECEIVED:	12/23/81	JA: TX			
8212202	F-06-034554	4241930321		103		O L GUY #2	JOAQUIN FIELD (TRAVIS	580.0	SOUTHERN NATURAL
-TEXAS PACIFIC OIL CO INC				RECEIVED:	12/23/81	JA: TX			
8212254	F-04-039388	4224900000		102-4	103	GALLIMORE & LINDER #1-T	MAGNOLIA CITY N (5480	168.0	ESPERANZA TRANSMI
-TEXAS PACIFIC OIL CO INC				RECEIVED:	12/23/81	JA: TX			
8212259	F-78-039520	4236332337		102-4		JOHNSTON #1	MCCLISH-STONE	100.0	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-STALLWORTH OIL & GAS INC		RECEIVED: 12/23/81 JA: TX							
8212207	F-06-034829	4242330443		102-4	107-TF	STALLWORTH-HOLLEY GAS UNIT #1	CHAPEL HILL (COTTON V	0.0	UNITED GAS PIPELI
8212208	F-06-034830	4242330429		102-4	107-TF	STALLWORTH-V L SHOFNER GAS UNIT #2	CHAPEL HILL (COTTON V	0.0	UNITED GAS PIPELI
-STEVE JERNIGAN INC		RECEIVED: 12/23/81 JA: TX							
8212350	F-10-042704	4229530943		103		DAISY GRAVES #2		0.0	PHILLIPS PETROLEU
-STROUBE & REIFF		RECEIVED: 12/23/81 JA: TX							
8212174	F-7B-028163	4215131037		103		FIELDS #2 15945	RAVEN CREEK (CANYON S	10.8	PALO DURO PIPELIN
8212173	F-7B-028162	4225331358		103		MURPHEE #1 15986	RAVEN CREEK (CANYON S	10.8	PALO DURO PIPELIN
8212175	F-7B-028164	4225331486		103		MURPHEE A #1 16317	NOODLE WEST (REEF)	10.8	PALO DURO PIPELIN
8212172	F-7B-028160	4225331361		103		TINER #1 15985	RAVEN CREEK (CANYON S	10.8	PALO DURO PIPELIN
-STROUBE EXPLORATION INC		RECEIVED: 12/23/81 JA: TX							
8212171	F-7B-028159	4214131031		103		FIELDS #1-A 16423	NOODLE N W (CANYON SA	10.8	PALO DURO PIPELIN
-SUN OIL COMPANY (DELAWARE)		RECEIVED: 12/23/81 JA: TX							
8212244	F-04-037762	4221500000		103		J D JEFFRESS #11	JEFFRESS	1000.0	
-SUPERIOR OIL CO		RECEIVED: 12/23/81 JA: TX							
8212271	F-03-039868	4205131630		102-2	103	CLEM LEDNICKY #1	GIDDINGS (AUSTIN CHAL	0.0	
8212273	F-03-039997	4205131666		102-2	103	R W EDWARDS A #1	GIDDINGS (AUSTIN CHAL	0.0	
-TARTAN OIL & GAS		RECEIVED: 12/23/81 JA: TX							
8212242	F-03-037699	4248100000		102-4		WITTIG #1	CRESCENT (FRIO 5360)	100.0	ESPERANZA TRANSMI
-TEE OPERATING CO		RECEIVED: 12/23/81 JA: TX							
8212250	F-03-038622	4204130559		102-2		VARISCO #1	GIDDINGS (AUSTIN CHAL	0.0	
-TENNECO OIL COMPANY		RECEIVED: 12/23/81 JA: TX							
8212170	F-04-028022	4235531392		103		W W BOGEL #1	AGUA DULCE (8250)	37.0	
-TEXACO INC		RECEIVED: 12/23/81 JA: TX							
8212295	F-08-040640	4243130949		103		C B COPE #2	CONGER SW (PENN)	331.0	
8212333	F-8A-042252	4221933108		103		MONTGOMERY EST DAVIES NCT-2 #77	LEVELLAND	6.9	AMOCO PRODUCTION
-TEXAS AMERICAN OIL CORP		RECEIVED: 12/23/81 JA: TX							
8212266	F-08-039773	4232930968		102-4		S W MIDLAND #1	MIDLAND S W (MISSISSI	73.0	MOBIL PRODUCING T
-TEXAS INTERNATIONAL PET CORP		RECEIVED: 12/23/81 JA: TX							
8212258	F-06-039447	4240131166		103	107-TF	BEALL UNIT #1	DIRGIN (COTTON VALLEY	68.0	DELHI GAS PIPELIN
8212217	F-05-036539	4228930390		107-DP		GUS LANIER #1	WILDCAT	1460.0	
-TEXAS OIL & GAS CORP		RECEIVED: 12/23/81 JA: TX							
8212264	F-05-039648	4216130645		103	107-TF	AYCOCK #1	WILDCAT	0.0	
8212248	F-06-038424	4240131043		103	107-TF	BENNETT #1	OAK HILL (COTTON VALL	0.0	
8212269	F-05-039842	4216130644		103	107-TF	BLAIR #1	BEAR GRASS NE (COTTON	0.0	
8212268	F-7C-039839	4210533261		103		BULLOCK #2	WORLD WEST (STRAWN)	0.0	DELHI GAS PIPELIN
8212290	F-05-040609	4216100000		103	107-TF	HILL G #1	REED (HAYNESVILLE)	0.0	DELHI GAS PIPELIN
8212295	F-05-040768	4234931648		102-4	107-TF	INMON "B" #1	KERENS SOUTH (SMACKOV	0.0	
8212196	F-02-032945	4228531281		102-4		STOVALL O #1	S W SPEAKS (2180')	0.0	TEXAS EASTERN TRA
8212291	F-03-040610	4220131194		103		WALKER O #2	DECKERS PRAIRIE (BAYE	0.0	
-THE DOW CHEMICAL COMPANY		RECEIVED: 12/23/81 JA: TX							
8212345	F-06-042634	4207330426		103		J O HUGGHINS GAS UNIT #1	WHITE OAK CREEK (TRAV	275.0	DELHI GAS PIPELIN
-TRAVELERS OIL CO		RECEIVED: 12/23/81 JA: TX							
8212194	F-10-032654	4217900000		108		CARPENTER E #1 87654	EAST PANHANDLE	4.0	TRANSWESTERN PIPE
8212195	F-10-032653	4217900000		108		DUNIGAN A #2 87328	EAST PANHANDLE	13.0	TRANSWESTERN PIPE
8212193	F-10-032652	4217900000		108		MOLAR #1 88794	EAST PANHANDLE	1.0	TRANSWESTERN PIPE
-TXO PRODUCTION CORP		RECEIVED: 12/23/81 JA: TX							
8212176	F-10-028306	4219530738		103		BLODGETT A #1-L	HANSFORD (MORROW LOWE	440.0	DELHI GAS PIPELIN
8212342	F-10-042513	4229530673		103		PHILLIPS G #1	KIOWA CREEK NE (TONKA	40.0	NORTHERN NATURAL
8212184	F-7C-031142	4223500000		103		WINTERBOTHAM J #1	DOVE CREEK (CANYON C)	300.0	COLUMBIA GAS TRAN
-U S OPERATING INC		RECEIVED: 12/23/81 JA: TX							
8212214	F-03-036017	4205131315		102-2		HEATHER UNIT #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-UNION TEXAS PETROLEUM		RECEIVED: 12/23/81 JA: TX							

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JD NO   JA DKT          API NO      D SEC(1) SEC(2) WELL NAME                 FIELD NAME                PROD   PURCHASER
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 8212284  F-7C-040410  4223531737    103             SUGG '12' #1            ANDREW A (CANYON)        189.5  CRA INC
-VANDERBILT RESOURCES CORPORATION       RECEIVED:  12/23/81  JA: TX
 8212322  F-01-041937  4217730989    102-4  103      BURCHARD #1
 8212323  F 01-041991  4217730854    102-4  103      PETTUS #1               PEACH CREEK (BUDA)        75.0  VALERO TRANSMISSI
 8212348  F-03-042698  4248131520    108             STOCKTON #1             PEACH CREEK               75.0  VALERO TRANSMISSI
-VORTT EXPLORATION CO INC               RECEIVED:  12/23/81  JA: TX         STOCKTON (CATAHOULA)      15.0  TENNESSEE GAS PIP
 8212235  F-7B-037348  4236332426    102-4           LEON JENKINS UNIT I #1 (94397)
-W L COTTON                            RECEIVED:  12/23/81  JA: TX         MINERAL WELLS S (CONG      0.0  SOUTHWESTERN GAS
 8212286  F-01-040451  4231131561    103             EBERT GAS UNIT #1-A
-WARREN PETR CO A DIV OF GULF OIL CO   RECEIVED:  12/23/81  JA: TX         CAMPANA S (LOMA NOVIA    255.0  HOUSTON PIPE LINE
 8212356  F-08-042797  4210332611    103             W N WADDELL 1208
 8212357  F-08-042805  4210332606    103             W N WADDELL 1211        SAND HILLS (MC KNIGHT     44.9  EL PASO NATURAL G
-WILLIAM PERLMAN                       RECEIVED:  12/23/81  JA: TX         SAND HILLS (MCKNIGHT)     57.8  EL PASO NATURAL G
 8212168  F-7C-025186  4243532109    103             MACK CAUTHORN 109-1 85941
-WINDSOR PRODUCING CO                  RECEIVED:  12/23/81  JA: TX         SHURELY RANCH (CANYON     45.0  EL PASO NATURAL G
 8212292  F-03-040626  4228730953    102-2  103      CUMMINS CREEK #1
 8212329  F-03-042108  4228730977    102-2  103      SIMMANG UNIT #1         GIDDINGS BUDA             36.5  GAS PRODUCTS INC
-WORLDWIDE ENERGY CORPORATION          RECEIVED:  12/23/81  JA: TX         GIDDINGS (AUSTIN CHAL     36.5  PGP GAS PRODUCTS
 8212222  F-06-036565  4242330457    102-4           DENMAN #E-1
 8212221  F-06-036564  4242330431    102-4           DENMAN #4               SUNSHINE (RODESSA)         0.0  SEMCO GAS INC
 8212219  F-06-036562  4242330449    102-4           DENMAN B-1              SUNSHINE (RODESSA)       100.0  SEMCO GAS INC
 8212220  F-06-036563  4242330474    102-4           WWE WARREN #1           SUNSHINE (RODESSA)       100.0
                                      -4                                      SUNSHINE (RODESSA)         0.0  SEMCO GAS INC
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OTHER PURCHASERS

8212234 MESA PIPE LINE CO

BILLING CODE 6717-01-C

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before February 11, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New Well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–Dp: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–1988 Filed 1–25–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Conservation Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).
Date and time: February 26, 1982, 9 a.m. to 5 p.m.
Place: Department of Energy, Forrestal Building, Room 4A–110, 1000 Independence Avenue SW., Washington, DC 20585
Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER–6, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/252–6933
Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.
Tentative agenda: Discussion of draft report of Conservation Panel
Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.
Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 21, 1982.

J. Ronald Young,

Associate Director for Management, Office of Energy Research.

[FR Doc. 82–2011 Filed 1–26–82; 8:45 am]

BILLING CODE 6450–01–M

Multiprogram Lab Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Multiprogram Lab Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Adivsory Committee Act (Pub. L. 92–463, 86 Stat. 770)
Date and Time: February 17, 1982, 9 a.m. to 5 p.m.
Place: Department of Energy, Forrestal Building, Room 4A–110, 1000 Independence Avenue SW., Washington, DC 20585
Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER–6, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/252–6933
Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long range guidance in these areas to the Department.
Tentative agenda: Discussion of draft report of Multiprogram Lab Panel
Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.
Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 21, 1982.

J. Ronald Young,

Office of Energy Research.

[FR Doc. 82–2010 Filed 1–26–82; 8:45 am]

BILLING CODE 6455–01–M

Office of Fossil Energy

Implementation of the Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities

The Federal Nonnuclear Energy Research and Development Act (the Act) (Pub. L. 93–577), as amended by Pub. L. 95–238, established an advisory panel to advise the Secretary of Energy on matters relating to the development of alternative fuels.

As required by Pub. L. 95–238, the Committee will include Governors or their designees which are designated by the Chairman of the National Governors Conference; and representatives of Indian tribes, industry, environmental organizations, and the general public designated by the Secretary of Energy.

Further information concerning this Advisory Committee may be obtained by contacting the DOE Advisory Committee Management Office at (202) 252–5187.

Issued at Washington, D.C. on January 28, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82–2280 Filed 1–26–82; 10:59 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP 55000 PH–10–FRL–2032–2]

Idaho; Intent To Approve State Plan for Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(f) of the Federal Insecticide, Fungicide, and Rodenticide

Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 172, Subpart B, require each State desiring to issue experimental use permits to submit a plan to EPA for its experimental use permit program. Any State experimental use program under this section shall be maintained in accordance with the State Plan approved under this section. This is a notice of intent to approve such a plan for the State of Idaho.

DATE: Comments should be received on or before February 26, 1982.

ADDRESS: Written comments should be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPP 55000. The administrative record supporting this action is available for public inspection in Rm. E–107 at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays. Complete copies of the Idaho State Plan are available for public inspection at:

Idaho Department of Agriculture, 120 Klotz Lane, Boise, Idaho 83701;

U.S. Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT:
Lyn Frandsen, U.S. Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, Washington 98101, (206–442–1090).

SUPPLEMENTARY INFORMATION: Section 5(f) of FIFRA as amended, and the implementing regulations at 40 CFR Part 172 Subpart B, require each State desiring to issue experimental use permits to submit a plan for its experimental use permit program to EPA for approval. Any State experimental use permit program shall be maintained in accordance with the State Plan approved under this section.

On September 19, 1980, EPA received such a plan from the State of Idaho. EPA finds that the Idaho State Plan satisfies the requirements of section 5(f) of the amended FIFRA and 40 CFR Part 172, Subpart B, and EPA intends to approve the Idaho State Plan.

Complete copies of the Idaho State Plan are available for public inspection, and public comment is solicited. Accordingly, this intent to approve shall become effective immediately.

Dated: December 8, 1981.

John R. Spencer,
Regional Administrator, Region X.

[FR Doc. 82–1444 Filed 1–26–82; 8:45 am]
BILLING CODE 6560–38–M

[OPP 55001; A–1–FRL–1991–3]

Vermont; Intent To Approve State Plan for Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 172, Subpart B, require each State desiring to issue experimental use permits to submit a plan to EPA for its experimental use permit program. Any State experimental use program authorized under this section of FIFRA shall be maintained in accordance with the State Plan as approved. This is a notice of intent to approve such a plan for the State of Vermont.

DATE: Comments should be received on or before February 26, 1982.

ADDRESS: Written comments should be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M Street SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPP 55001. The administrative record supporting this action is available for public inspection in Rm. E–107 at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays. Complete copies of the Vermont State Plan are available for public inspection at:

Vermont Department of Agriculture, 116 State Street, Montpelier, Vermont 05602;

U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT:
Dr. Harold E. Kazmaier, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223–5126.

SUPPLEMENTARY INFORMATION: Section 5(f) of FIFRA as amended, and the implementing regulations at 40 CFR Part 172 Subpart B, require each State desiring to issue experimental use permits to submit a plan for its experimental use permit program to EPA for approval. Any State experimental use permit program shall be maintained in accordance with the State Plan approved under this section.

On March 23, 1981, EPA received such a plan from the State of Vermont. EPA finds that the Vermont State Plan satisfies the requirements of section 5(f) of the amended FIFRA and 40 CFR Part 172, Subpart B, and EPA intends to approve the Vermont State Plan.

Complete copies of the Vermont State Plan are available for public inspection, and public comment is solicited. The Office of Management and Budget (OMB) has granted EPA an exemption from OMB Review [under the authority of Executive Order 12291, section 8(b)] of notice of intent to approve [and final approval] State Plans for issuing state experimental use permits. Accordingly, this intent to approve shall become effective upon publication.

Dated: November 4, 1981.

Lester A. Sutton,
Regional Administrator, Region I.

[FR Doc. 82–1443 Filed 1–26–82; 8:45 am]
BILLING CODE 6560–38–M

[OPP–C30210; PH–FRL–2036–3]

Certain Companies; Applications to Conditionally Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register pesticide products containing active ingredients not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by January 26, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–C30210] and the file number, should be submitted to: William Miller, Product Manager (PM–16), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
William Miller (PM–16), (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA received applications to conditionally register the following pesticide products containing active ingredients not included in any previously registered pesticide product in accordance with the

provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 46693–E.
Applicant: Borregaard Industries Ltd., c/o International Pheromones Ltd., 21–24 Cockspur St., London, England. Agent: Henley and Co., Inc., 750 3rd Ave., New York, NY 10017.
Product name: Methyl Eugenol.
Active ingredient: Methyl eugenol 95%.
Proposed classification: Insecticide. General use for formulation of methyl eugenol malathion combinations.
2. File Symbol: 46693–L.
Applicant: Borregaard Industries Ltd.
Product name: Dorsalurmal/IPL Blocks.
Active ingredients: Methyl eugenol 62%; malathion 19.1%.
Proposed classification: Insecticide. For general use to control oriental fruit fly on noncropland (rural and urban).
3. File Symbol: 46693–R.
Applicant: Borregaard Industries Ltd.
Product name: Dorsalurmal/IPL Tips.
Active ingredients: Methyl eugenol 62%; malathion 19.1%.
Proposed classification: Insecticide. General use to control oriental fruit fly on cropland (rural).
4. File Symbol: 46693–U.
Applicant: Borregaard Industries Ltd.
Active Ingredients: Methyl eugenol 62%; malathion 19.1%.
Proposed classification: Insecticide. General use to control oriental fruit fly on cropland (rural).
5. File Symbol: 46693–G.
Applicant: Borregaard Industries Ltd.
Product name: Dorsalurmal/IPL Jel.
Active ingredients: Methyl eugenol 62%; malathion 21%.
Proposed classification: Insecticide. General use to control oriental fruit fly on cropland and noncropland (urban and rural).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 12, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–1831 Filed 1–26–82; 8:45 am]

BILLING CODE 6560–32–M

[OPP–30107B; PH–FRL–2036–4]

Roussel Corp.; Approval of Application To Register a Pesticide Product Containing New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Roussel Corp. to register the pesticide product Paraclox Slimicide containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Arturo Castillo, Product Manager (PM) 32, Registration Division (TS–767C), Office of Pesticide Programs, Environment Protection Agency, CM#2 Rm. 303, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7170).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 1, 1976 (41 FR 8823) that Roussel Corp., 155 E. 44th St., New York, NY 10017, had submitted an application to register the pesticide product PIROR R80 Slimicide containing 15 percent of the active ingredient paraclox (parahydroxy-2-oxophenylacethy-droxymic acid chloride).

The application was approved on November 17, 1981 under the name "Paraclox Slimicide." The active ingredient was redesignated as (*N*,4-dihydroxy-alpha-oxobenzene-ethanimidoyl chloride). The product was assigned EPA registration No. 5086–11.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: January 11, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–1830 Filed 1–26–82; 8:45 am]

BILLING CODE 6560–32–M

[PH–FRL–2036–2; PF–254]

Certain Companies; Notice of Filing of pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed pesticide petitions with the EPA proposing that tolerances be established for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF–254]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each specific petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the agency proposing establishment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for

determining residues, where required, is given in each petition.

PP 2F2607. The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001. Proposes amending 40 CFR 180.200 by establishing tolerances for the combined residues of the fungicide 2,6-dichloro-4-nitroaniline in or on peanuts at 0.5 part per million (ppm); peanut hulls at 5.0 ppm; peanut hay (vines) at 50.0 ppm; fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.06 ppm; and milk at 0.01 ppm. The proposed analytical method for determining residues is mass spectrometry in combination with gas chromatograpy. (PM 21, Henry M. Jacoby, 703–557–1900).

PP 8E2100. Janssen R&D, Inc., 501 George St., New Brunswick, NJ 08903. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole and its metabolites *a*-(2,4-dichlorophenyl)-1*H*-imidazole-1-ethanol and 3((1-(2,4-dichlorophenyl-2-(1*H*-imidazole-1-yl) ethoxyl))-1,2-propanediol in or on bananas (whole) at 2.0 ppm of which no more than 0.2 ppm is in the edible pulp. The proposed analytical method for determining residues is high-pressure liquid chromatography with a reverse phase system using an ultraviolet detector. (PM 21, Henry M. Jacoby, 703–557–1900).

PP 2F2608. American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.352 by establishing a tolerance for the combined residues of the insecticide terbufos (*S*-[[(1,1-dimethylethyl) thio]methyl] *O,O*-diethyl-phosphorodithioate) and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity soybean grain at 0.05 ppm. The proposed analytical method for determining residues is a gas chromatographic procedure equipped with a flame photometric detector in the phosphorus mode. (PM 16, William H. Miller, 703–557–2600).

PP 2F2609. American Cyanamid Co. Proposes amending 180.395 by establishing tolerances for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-[4-(trifluoromethyl)phenyl]-1-(2-[4-(trifluoromethyl)phenyl]-ethenyl)-2-propenylidene)hydrazone in or on the raw agriculture commodities pineapple and sugarcane at 0.05 ppm. The proposed analytical method for determining residues is high pressure liquid chromatography (HPLC) utilizing an electron capture detector. (PM 15, Georgia LaRocca, 703–557–2400).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136)

Dated: January 11, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-1832 Filed 1-26-82; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee, Domestic and International Common Carrier Communications Services Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Domestic and International Common Carrier Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) to be held Wednesday, February 10, 1982. The Subcommittee will meet in Commission Meeting Room 856, at the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. at 10:00 a.m.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items: 1. Opening remarks by Chairman.

2. Establishment of a Mutual Aid system for domestic communications common carrier companies.

a. Report by satellite carriers of procedures used in the event of a major satellite failure by any cause.

b. Present and proposed safeguards to protect facilities from terrorist activities.

c. Identification of requirements needed to develop and implement a domestic mutual aid system.

3. Subcommittee and NCS/FEMA report on progress and actions necessary to develop a survivable communications network as stated in Presidential Directive # 53.

a. On a voluntary basis by carriers.

b. On a reimbursable basis.

Note: All subcommittee members should come prepared to comment regarding the above on behalf of their companies.

4. Update of RP's certified by FCC.

5. Report by representatives of the Broadcast Services Subcommittee regarding problems associated with reconfiguration of the National level Emergency Broadcast System.

6. Other business.

7. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

The Commission's Advisory Committee Management Officer has reviewed this notice and agrees that the desirability of holding this meeting on the assigned date requires this notice be given with less than the usual 15-day advance.

William J. Tricarico,

ecretary, Federal Communications ommission.

[FR Doc. 82-2012 Filed 1-26-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1329]

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

January 21, 1982.

The following listings of petitions for reconsideration and applications for review filed in Commission rulemaking proceedings is published pursuant to CFR § 429(e). Oppositions to such petitions for reconsideration and applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry). (Docket No. 20828)

Filed by: Thomas J. O'Reilly, Attorney for United States Independent Telephone Association on 1–8–82. Thomas L. Jones, Attorney for Continental Telephone Corporation, James R. Hobson, Attorney for GTE Service Corporation and John M. Lothschuetz, Attorney for United Telephone Systems, Inc., on 1–8–82

Subject: Amendment of Policies and Procedures for Amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules (BC Docket No. 80–130)

Filed by: Jonathan D. Blake & Jonathan L. Wiener, Attorneys for Association of Maximum Service Telecasters, Inc., on 1–7–82

Subject: Amendment of Section 73.202(b) Table of Assignments, FM Broadcast Stations. (Natchitoches, Louisiana) (BC Docket No. 81–436, RM–3772)

Filed by: Arthur Stambler, Attorney for Natchitoches Broadcasting Company, Inc. (KNOC/KDBH–FM) on 1–15–82. (Application for Review).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-2013 Filed 1-26-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-651-DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA-651-DR), dated January 7, 1982, and related determinations.

DATED: January 15, 1982

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice: The Notice of a major disaster for the State of California dated January 7, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 7, 1982:

Alameda County for Individual Assistance and Public Assistance.

San Joaquin and Santa Clara Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-1986 Filed 1-26-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-8]

Compliance With General Order 7, Revised, Self-Policing; Order To Show Cause

Section 15 of the Shipping Act, 1916, (Act) (46 U.S.C. 814) requires the disapproval of conference and ratemaking agreements which are not adequately self-policed. In 1963, the Commission promulgated rules which prescribed general reporting requirements and directed conferences and ratemaking groups to include in their agreements a general description of the methods used to police their activities under these agreements (46 CFR 528 *et seq.*). Subsequent trade investigations conducted by the Commission over a ten-year period, however, revealed that malpractices remained a major problem in some trades. Consequently, the Commission determined that greater guidance should be given to the industry concerning the scope and type of self-policing required to fulfill the obligations of conference and ratemaking groups under the Act.

Accordingly, on February 23, 1973, the Commission issued a notice of Proposed Rulemaking to revise regulations governing section 15 agreements and to specifically amend those portions of General Order 7 dealing with self-policing systems.[1] This Proposed Rule required: (1) conferences to engage a policing body independent of the conference; (2) policing bodies to inspect conferences' books and records; and (3) availability of all self-policing records for Commission inspection. After receipt of comments, the Commission issued a further notice of Proposed Rulemaking on October 17, 1973 to amend the self-policing regulations.[2] These amendments basically proposed to broaden the original reporting requirements set forth in General Order 7.

After permitting interested parties an opportunity to comment on these proposed rules, the Commission promulgated its "Final Rules" relating to General Order 7 on April 28, 1978.[3] However, the Commission subsequently entertained nineteen petitions for reconsideration. After evaluating these petitions, the Commission issued its "Reconsideration and Modification of Final Rules" on September 14, 1978.[4] The Commission denied petitioners' Request for Reconsideration of the September Rules and affirmed these rules on December 18, 1978.

General Order 7, revised (46 CFR 528), was intended to establish minimum standards for judging the adequacy of self-policing activities, assist ocean carriers in obtaining expeditious approval of the self-policing aspects of their section 15 agreements, provide the Commission with access to reliable information concerning the nature and performance of self-policing systems, and curtail rebating and other malpractices by ocean carriers (46 CFR 528.0(a)). It requires that every section 15 ratemaking agreement filed with the Commission contain provisions establishing and describing a system for self-policing its members, that these provisions establish a policing authority and an impartial "arbitrator" or "adjudicator" and describe their functions, and that the conferences be prohibited from inserting provisions in their Agreement which deny the Commission access to self-policing records. (46 CFR Part 528)

Many conferences challenged these revisions to General Order 7 on both substantive and procedural grounds, appealing to the United States Court of Appeals, District of Columbia Circuit. Their appeal challenged those provisions of General Order 7 requiring Agreement members to engage an independent self-policing body, granting self-policing entities certain investigative authority, and prohibiting Agreement members from denying the Commission access to self-policing records or documents. On September 11, 1980, the court upheld the Commission's neutral body self-policing rules in *Trans-Pacific Freight Conference of Japan/Korea v. FMC*, — F. 2d —, 15 SRR 775 (D.C. Cir. 1980), *cert. denied*, — U.S. —, May 20, 1981. The court stated that:

> Commission regulations prescribing the kind of self-policing body that the conferences must employ, as well as dictating to that body the procedures that must be followed for investigating and adjudicating breaches of conference agreements, the type of reports that must be submitted to the Commission, were not taken as a whole, contrary to congressional intent that the conferences engage in self-regulation. In view of the widespread failure on the part of the conferences to secure their members' adherence to the obligations in the conference agreements and to the Shipping Act, the Commission was authorized to adopt as a general rule more detailed and comprehensive provisions concerning the type and scope of the self-policing systems that the Commission deemed necessary to ensure that malpractices in the industry were curtailed.

Since the date of this final decision, the conferences listed in Appendix A have taken no action whatsoever to comply with the requirements of General Order 7. Because section 15 of the Shipping Act, 1916, requires the disapproval of agreements which are not adequately self-policed, it is therefore necessary to institute formal proceedings and require the conferences listed in Appendix A to show cause why their agreements should not be disapproved for failure to comply with the requirements of General Order 7.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, the Respondents listed in Appendix A, and their member lines, are ordered to show cause why their Agreements should not be disapproved for failure to comply with General Order 7 (46 CFR Part 528);

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of

[1] 38 FR 4982 (1973).
[2] 38 FR 28,841 (1973).
[3] 43 FR 18,175 (1978).
[4] 43 FR 42,757 (1978).

Hearings and Field Operations shall be a party to this proceeding;

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law and replies thereto pursuant to the following schedule:

By the close of business March 10, 1982, affidavits of fact and memoranda of law shall be filed by Respondents and served upon all parties.

By the close of business April 9, 1982, reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearings and Field Operations and served upon all parties.

By the close of business April 16, 1982, all parties must file requests for evidentiary hearing and/or discovery, if desired, which requests must be accompanied by a statement setting forth in detail the facts to be proven or developed, their relevance to the issues in this proceeding and why such proof cannot be submitted through further affidavit.

Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That notice of this Order be published in the **Federal Register** and that a copy thereof be served upon Respondents;

It is further ordered, That persons other than those already parties to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than close of business February 19, 1982.

It is further ordered, That persons permitted to intervene in support of Respondents' position shall conform to the filing schedule assigned to Respondents; and, that persons permitted to intervene in opposition to Respondents' position shall conform to the filing schedule assigned to the Commission's Bureau of Hearings and Field Operations.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and fifteen copies as well as being mailed directly to all other parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A

International Household Goods Rate Agreement (No. 8470), Household Goods Carriers' Bureau, Agent, Francis L. Wyche, Executive Secretary, 2425 Wilson Boulevard, Arlington, Virginia 22201

U.S. Hawaii/Puerto Rico/Guam Household Goods Rate Agreement (No. 8480), Household Goods Carriers' Bureau, Agent, Francis L. Wyche, Executive Secretary, 2425 Wilson Boulevard, Arlington, Virginia 22201

U.S. Alaska Household Goods Rate Agreement (No. 8490), Household Goods Carriers' Bureau, Agent, Francis L. Wyche, Executive Secretary, 2425 Wilson Boulevard, Arlington, Virginia 22201

Pacific India Rate Agreement (No. 8760), H. P. Blok, Secretary, 417 Montgomery Street, San Francisco, California 94104

Pacific India Rate Agreement (No. 9247), H. P. Blok, Secretary, 417 Montgomery Street, San Francisco, California 94104

[FR Doc. 82-1985 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

James Robert McDermott, P.O. Box 2871, El Cajon, CA 92021

Logistics International, Inc., 6508 Cedar Street, Silver Spring, MD 20910, Officers: Quang Luong Phan, President, Arnold Davidson, Secretary/Treasurer, David Mayer, Director

Mighal International, Inc., 223 Sunshine Drive, Pacifica, CA 94044, Officers: Miguel W. Heras, President/Director, Halford M. Kekuewa, Executive Vice President/Director, Fiordelis B. Kekuewa, Secretary, Rosalinda S. Sapinoso, Treasurer, Lee Ann K. Certeza, Assistant Treasurer, Brian K. Shih, Director/Vice President of Administration.

By the Federal Maritime Commission.

Dated: January 22, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2016 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight License No. 221]

Intercontinental Transport; Order of Revocation

On January 8, 1982, Intercontinental Transport, 1650 Pacific Coast Highway, P.O. Box 65, Redondo Beach, CA 90277 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 221.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 221 issued to Intercontinental Transport, be revoked effective January 8, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 221 issued to Intercontinental Transport be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Intercontinental Transport.

Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 82-2015 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2191]

R. P. C. Shipping Co.; Order of Revocation

On January 21, 1982, R. P. C. Shipping Company, 2401 N.W. 33rd Avenue, Miami, FL 33142 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2191.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2191 issued to R. P. C. Shipping Company, be rovoked effective January 21, 1982.

It is further ordered, that Independent Ocean Freight Forwarder License No. 2191 issued to R. P. C. Shipping Company be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal**

Register and served upon R. P. C. Shipping Company.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-2018 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1870-R]

Sea Cargo, Inc.; Order of Revocation

On January 15, 1982, Sea Cargo, Inc., 4302 East St. Joseph Way, Phoenix, AZ 85018 surrendered its Independent Ocean Freight Forwarder License No. 1870-R for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1870-R issued to Sea Cargo, Inc. be revoked effective January 15, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Sea Cargo, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-2017 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2236]

Mary Y. Upton, d.b.a. Houston Expeditors; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Mary Y. Upton d.b.a. Houston Expeditors, 8144 Niles, Houston, TX 77017 was cancelled effective January 15, 1982.

By letter dated December 21, 1981, Mary Y. Upton d.b.a. Houston Expeditors was advised by the Federal Maritime Commission that Independent Ocean Freight Forarder License No. 2236 would be automatically revoked unless a valid surety bond was filed with the Commission.

Mary Y. Upton d.b.a. Houston Expeditors has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2236 be and is hereby revoked effective January 15, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2236 issued to Mary Y. Upton d.b.a. Houston Expeditors be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Mary Y. Upton d.b.a. Houston Expeditors.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-2014 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2033]

W. F. Whelan & Co.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of W. F. Whelan & Co., P.O. Box 484222 International Terminal, Room 241, Metropolitan Airport, Detroit, MI 48242 was cancelled effective January 15, 1982.

By letter dated December 21, 1981, W. F. Whelan & Co. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2033 would be automatically revoked unless a valid surety bond was filed with the Commission.

W. F. Whelan & Co. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2033 be and is hereby revoked effective January 15, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2033 issued to W. F. Whelan & Co. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon W. F Whelan & Co.

Albert J. Klingel Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-2019 Filed 1-26-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BSD Bancorp, Inc.; Acquisition of Bank

BSD Bancorp, Inc., San Diego, California, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to American Valley Bank, El Cajon, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2163 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Buffalo Bancorporation, Inc.; Formation of Bank Holding Company

Buffalo Bancorporation, Inc., Buffalo, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 67 percent or more of the voting shares of First State Bank, Buffalo, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to

comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2178 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Carolina BanCorp, Inc.; Acquisition of Bank

Carolina BanCorp, Inc., Sanford, North Carolina, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Bank of Alamance, Graham, North Carolina. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2179 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation; Formation of Bank Holding Company

Central Bancorporation, Wichita, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of CENAR Corporation, Wichita, Kansas, thereby indirectly acquiring 90 percent of the voting shares of Central Bank and Trust Company, Wichita, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2164 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc., Central Colorado Co., C.C.B., Inc.; Acquisition of Bank

Central Bancorporation, Inc., Central Colorado Company, and C.C.B., Inc., all located in Denver, Colorado, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Central Bank of Chapel Hills, N.A., Colorado Springs, Colorado, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2165 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Central Counties Bancorp, Inc.; Formation of Bank Holding Company

Central Counties Bancorp, Inc., State College, Pennsylvania, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Central Counties Bank, State College, Pennsylvania. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 16, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2180 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

First Alsip Bancorp, Inc.; Formation of Bank Holding Company

First Alsip Bancorp, Inc., Alsip, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.0 percent or more of the voting shares of First State Bank of Alsip, Alsip, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2166 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp of Belleville, Inc.; Acquisition of Bank

First Bancorp of Belleville, Inc., Belleville, Illinois, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with First United Bancshares, Inc., Belleville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2167 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

First Massachusetts Management Corp.; Formation of Bank Holding Company

First Massachusetts Management Corporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act [12 U.S.C. 1842(a)(1)] to become a bank holding company by acquiring 80 percent or more of the voting shares of First Massachusetts Financial Corporation, Boston, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2182 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

First Texas Financial Corp.; Formation of Bank Holding Company

First Texas Financial Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Texas Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2168 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

F&M Financial Services Corp.; Formation of Bank Holding Company

F&M Financial Services Corporation, Menomonee Falls, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers & Merchants Bank, Menomonee Falls, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2181 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Fulton Bancshares, Inc.; Formation of Bank Holding Company

Fulton Bancshares, Inc. Alpharetta, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Fulton County Bank, Alpharetta, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2169 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

GRP, Inc.; Acquisition of Bank

GRP, Inc., Atlanta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of

The National Bank of Georgia, Atlanta, Georgia; First Commercial Bank, Buford, Georgia; and Clayton County Bank, Riverdale, Georgia. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2170 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Island American Bancshares, Inc.; Formation of Bank Holding Company

Island American Bancshares, Inc., Galveston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of American Bank, Galveston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the applications should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2171 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Keene Bancorp, Inc.; Formation of Bank Holding Company

Keene Bancorp, Inc., Keene, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Keene, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2172 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Lyon County State Bancshares, Inc.; Formation of Bank Holding Company

Lyon County State Bancshares, Inc., Emporia, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Lyon County State Bank, Emporia, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2173 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Maryland National Corp.; Acquisition of Bank

Maryland National Corporation, Baltimore, Maryland, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Central Atlantic Bank, National Association, Newark, Delaware, a *de novo* bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2174 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Minnehaha Bancshares, Inc.; Acquisition of Bank

Minnehaha Bancshares, Inc. Sioux Falls, South Dakota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 94 percent or more of the voting shares of Farmers State Bank, Flandreau, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an

application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2175 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Merchants Bancorp, Inc.; Formation of Bank Holding Company

Merchants Bancorp, Inc., Aurora, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Merchants National Bank of Aurora, Aurora, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2183 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

National Bancshares Corporation of Texas; Acquisition of Bank

National Bancshares Corporation of Texas, San Antonio, Texas, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First State Bank, of Corpus Christi, Corpus Christi, Texas, and substantially all of the assets of Corpus Christi, Bankshares, Inc., Corpus Christi, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2184 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Pan American Banks, Inc.; Acquisition of Bank

Pan American Banks Inc., Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 66 per cent or more of the voting shares of People American National Bank of North Miami, North Miami, Florida; Peoples Downtown National Bank, Miami, Florida; Peoples First National Bank of Miami Shores, Miami Shores, Florida; Peoples First National Bank of North Miami Beach, North Miami Beach, Florida; Peoples Hialeah National Bank, Hialeah, Florida; Peoples Liberty National Bank of North Miami, North Miami, Florida; and Peoples National Bank of Commerce, Miami, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2176 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Peoples Capital Corp; Formation of Bank Holding Company

Peoples Capital Corporation, Union, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank of Mississippi, N.A., Union, Mississippi. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2185 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Quad Cities First Co.; Formation of Bank Holding Company

Quad Cities First Company, Rock Island, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to First National Bank of the Quad Cities, Rock Island, Illinois. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the applications should submit views in writing to the Reserve Bank, to be

received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2186 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Texas American Bancshares, Inc.; Acquisition of Bank

Texas American Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First National Bank in Breckenridge, Breckenridge, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2177 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Trabanc; Formation of Bank Holding Company

Trabanc, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Tracy Collins Bank & Trust, Salt Lake City, Utah. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than February 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2187 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Union Colony Bancorp.; Formation of Bank Holding Company

Union Colony Bancorp., Greeley, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Union Colony Bank, Greeley, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2188 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Wabanc, Inc.; Formation of Bank Holding Company

Wabanc, Inc., Wabash, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The First National Bank of Wabash, Wabash, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2189 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Wabash Valley Bancorporation, Inc.; Formation of Bank Holding Company

Wabash Valley Bancorporation, Inc., Peru, Indiana, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Wabash Valley Bank and Trust Company, Peru, Indiana. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2190 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

Wells-Foster Bankshares, Inc.; Formation of Bank Holding Company

Wells-Foster Bankshares, Inc., Carrington, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97.75 percent or more of the voting shares of Farmers State Bank, Carrington, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2191 Filed 1-26-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Rape Prevention and Control Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the month of February 1982.

Rape Prevention and Control Advisory Committee

February 24; 9:00 a.m.—Open—Conference Room F
February 25; 9:00 a.m.—Open—Conference Room L
5600 Fishers Lane, Rockville, Maryland (Parklawn Building)

Contact: Mary Lystad, Ph.D., Executive Secretary, Room 15-99, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1910

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape (NCPCR), on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: The entire meeting will be open to the public. The Committee will report on research, training, and prevention activities, the fiscal year 1982 and 1983 budgets, as well as an in-house project focusing on exemplary rape crisis centers. The Committee will report on recent research on sexual abuse in the family, rape of adolescents, and research on sexual abuse, the law and the criminal justice system.

Substantive information may be obtained from the contact person listed above. Mrs. Helen Garrett, Committee Management Officer, NIMH, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone (301) 443-4333, will furnish upon request summaries of the meeting and rosters of the Committee members.

Dated: January 21, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drub Abuse, and Mental Health Administration.

[FR Doc. 82-1984 Filed 1-26-82; 8:45 am]

BILLING CODE 4160-20-M

Office of Human Development Services

[Program Announcement No. HDS-82-3]

Discretionary Funds Programs

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Extension closing date for submitting applications under Program Announcement Number 82-1.

SUMMARY: The Office of Human Development Services (HDS) including the Administration for Children, Youth and Families (ACYF), Administration or Developmental Disabilities (ADD), Administration on Aging (AoA), Administration for Native Americans (ANA), Office of Policy Development (OPD), and the Office of Policy Coordination and Review (OPCR) announced November 16, 1981, 46 FR 56364 that competing preapplications would be accepted for new research, demonstration, evaluation and training and technology transfer grants and cooperative agreements authorized by its multiple discretionary funding program legislation. This announcement extends the closing date of the November 16 announcement.

DATE: January 27, 1982.

As a result of national adverse weather conditions, the closing date for submission of preapplications is extended to January 22, 1982. Conditions for meeting the closing date remain as stated in the November 16 announcement and the supplemental announcement published in the **Federal Register** on January 13, 1982.

Dated: January 21, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-1987 Filed 1-26-82; 8:45 am]

BILLING CODE 4130-01-M

[Program Announcement No. HDS-82-4]

Discretionary Funds Programs

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Extension closing date for submitting applications under Program Announcement Number 13612-822.

SUMMARY: The Administration for Native Americans (ANA) in the Office of Human Development Services (OHDS) announced November 12, 1981, 46 FR 55779, that funds were available for Native American Projects. This announcement extends the closing date of the November 12th announcement.

DATE: January 27, 1982.

As a result of national adverse weather conditions, the closing date for submission of applications is extended to January 22, 1982. Conditions for meeting the closing date remain as stated in the November 12 announcement.

Dated: January 21, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-1988 Filed 1-26-82; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Blackfeet Irrigation Project, Montana

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 230 DMI and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable on all lands in the Blackfeet Irrigation Project. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. Fourteen writtten comments were received during the 30-day comment period. All comments received opposed the 100% increase as previously projected. Through the necessity of negotiation a $2.00 raise was obtained.

In compliance with the above, the operation and maintenance charges for the lands under the Blackfeet Irrigation Project, Montana for the calendar year 1982 and subsequent years until further notice, are hereby fixed at $6.00 per acre for the assessable area under the constructed works on all irrigable lands within Designated Boundaries of the Blackfeet Irrigation Project.

221–131. Excess Water Assessment. Additional water, when available, may be delivered upon request at the rate of $3.33 per acre foot or fraction thereof.

Dated: January 11, 1982.

M. A. Fairbanks,

Superintendent, Blackfeet Agency.

[FR Doc. 82–2030 Filed 1–26–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[W–71209]

Realty Action Sale of Public Lands in Park County, Wyoming

January 18, 1982.

The following described lands have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value.

Sixth Principal Meridian, Wyoming

T. 52 N., R. 104 W.,
Sec. 18, Lot 49.
Containing 0.4 acres.

The land is to be sold noncompetitively to Lee and Charlotte Wurst. The purpose of this sale is to resolve a longstanding occupancy trespass. The terms and conditions applicable to the sale are:

1. A reservation to the United States of the right to construct ditiches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945;

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Subject to those rights of A. G. Andrikopolous, his successors and assigns under oil and gas lease W–69459 issued February 1, 1980, pursuant to the Act of February 25, 1920 (30 U.S.C. 181, et seq.).

Detailed information concerning the sale is available for review at the Bureau of Land Management, Worland District Office, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

On or before March 4, 1982, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–1963 Filed 1–26–82; 8:45 am]

BILLING CODE 4310–84–M

[AA–6653–A, AA–6653–B]

On September 4 and November 7, 1974, Chitina Native Corporation for the Native village of Chitina filed selection applications AA–6653–A and AA–6653–B respectively, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Chitina, Alaska.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 103,995 acres, is considered proper for aquisition by Chitina Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 1506, Alaska, situated approximately 2 miles north of Chitina, on the Edgerton Highway.
Containing 160 acres.
U.S. Survey No. 1875, Indian Cemetery, situated on the Richardson Highway, approximately one-half mile north of Chitina, Alaska.
Containing .025 acre.
U.S. Survey No. 3579, Alaska, Lot 17, situated along the Edgerton Highway between mile 23 and 28 from Chitina, Alaska.
Containing 80.20 acres.
U.S. Survey No. 4977, Alaska, Lots 6, 14, 23, 25 and 37, situated along the Edgerton Highway between mile 18 and mile 24 from Chitina, Alaska.
Containing 605.10 acres.
Mineral Survey No. 905, Alaska, known as the Empire, Lizzie and Republic lode claims, in the Chitina (formerly Valdez) Mining District of Alaska.
Containing 34.189 acres.

Copper River Meridian, Alaska

T. 2 S., R. 3 E. (Partially Surveyed)
Sec. 1, Lots 1 to 6, inclusive, S½NW¼, SW¼, W½SE¼;
Sec. 2, Lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, Lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, Lots 1 to 6, inclusive, S½N½, NE¼SW¼, SE¼;
Sec. 5, Lots 1 to 5, inclusive;
Sec. 6, Lots 1 to 9, inclusive, SE¼, SW¼;
Sec. 7, Lots 1 to 6, inclusive, W½NE¼, SE¼NE¼, E½NW¼, N½SE¼ and the unsurveyed portion south and west of the left bank of Tonsina River;
Sec. 8, Lots 1 to 5, inclusive, SW¼SW¼;
Sec. 9, Lots 1 to 4, inclusive;
Sec. 10, Lots 1 to 4, inclusive, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Secs. 11, and 12;
Sec. 13, Lots 1 to 4, inclusive, N½, N½S½;
Sec. 14, Lots 1 to 4, inclusive, NE¼;

Sec. 23, Lots 1 to 5, inclusive, SW¼SW¼, E½SW¼SE¼;
Sec. 24, Lots 1 to 4, inclusive.
Containing approximately 6,483 acres.
T. 2 S., R. 4 E. (Partially Surveyed)
Sec. 19, Lots 1 to 4, inclusive;
Sec. 20, Lots 1 and 2, W½NE¼, N½NW¼, N½SE¼NW¼;
Sec. 21, Lots 1, 3 and 4, W½E½SE¼SW¼, and the unsurveyed portion north of the right bank of the Copper River, excluding the Copper River;
Sec. 27, Lots 6 to 10, inclusive, SW¼NE¼, E½NE¼NW¼, W½NE¼NE¼SW¼, NW¼NE¼SW¼, S½NE¼SW¼, N½SW¼SW¼, N½NW¼SE¼, excluding Native allotments AA–5972 Parcel D, AA–6000 Parcel B, AA–7589 and AA–7637; and that portion north of the right bank of the Copper River, excluding the Copper River;
Sec. 28, Lots 1 and 2, N½SW¼, SE¼, excluding Native allotments AA–3101, AA–5972 Parcel D, AA–7637; and the unsurveyed portion south and west of the left bank of the Tonsina River;
Sec. 35, Lots 1 to 5, inclusive, E½NW¼, NW¼NW¼, and the unsurveyed portion south and east of the left bank of the Tonsina River Excluding the Copper River, U.S. Survey No. 3111, U.S. Survey No. 3549, Native allotments AA–5605, AA–5928, AA–6016 and AA–6112;
Sec. 36, excluding the Copper River.
Containing approximately 1,754 acres.
T. 3 S., R. 4 E. (Unsurveyed)
Sec. 1, excluding the Copper River, U.S. Survey No. 5198 and Native allotment AA–5707;
Sec. 2, excluding the Copper River, Native allotments A–063660 and AA–6112;
Sec. 3.
Containing approximately 1,510 acres.
T. 2 S., R. 5 E. (Unsurveyed)
Secs. 31 and 32, excluding the Copper River;
Secs. 33 and 36, inclusive, all.
Containing approximately 3,653 acres.
T. 3 S., R. 5 E. (Unsurveyed)
Secs. 1 and 2;
Secs. 3, 4 and 5, excluding the Copper River;
Sec. 6, excluding the Copper River, U.S. Survey No. 5198, and Native allotment AA–5882;
Sec. 7, excluding Native allotment AA–5882;
Sec. 8, excluding U.S. Survey No. 3578;
Sec. 9, excluding Native allotments AA–5967 Parcel B and AA–7651;
Sec. 10, excluding the Copper River, U.S. Survey No. 3548, and Native allotment AA–7651;
Sec. 11, excluding the Copper River and Native allotment AA–2520 Parcel B;
Sec. 12;
Sec. 13, excluding the Copper River;
Sec. 14, excluding the Copper River and Native allotment AA–5972 Parcel A;
Sec. 15, excluding U.S. Survey No. 3548, Native allotments AA–7657 and AA–[illegible]5;
Sec. 16, excluding Native allotment AA–7651;
Secs. 17 to 22, inclusive;
Sec. 23, excluding the Copper River, and Native allotment AA–5972 Parcels B and C;
Sec. 24, excluding the Copper River and U.S. Survey No. 3550;
Sec. 25, excluding the Copper River, U.S. Survey No. 3547 and U.S. Survey No. 3550;
Secs. 26 to 35, inclusive;
Sec. 36, excluding the Copper River.
Containing approximately 18,967 acres.
T. 4 S., R. 5 E. (Unsurveyed)
Sec. 1, excluding the Copper River;
Sec. 2, excluding U.S. Survey No. 1506;
Secs. 3 to 10, inclusive;
Sec. 11, excluding U.S. Survey No. 1506 and U.S. Survey No. 1875;
Sec. 12, excluding the Copper River;
Sec. 13, excluding the Copper River, U.S. Survey No. 596, U.S. Survey No. 1225, U.S. Survey No. 3221 and Native allotment AA–5568 Tract 1;
Sec. 14, excluding U.S. Survey No. 264, U.S. Survey No. 596, U.S. Survey No. 597, U.S. Survey No. 702, U.S. Survey No. 941, U.S. Survey No. 942, U.S. Survey No. 1225 and U.S. Survey No. 1875;
Secs. 15 to 21, inclusive;
Sec. 22, excluding Native allotment AA–6275;
Sec. 23, excluding the Copper River, U.S. Survey No. 264, U.S. Survey No. 597, U.S. Survey No. 1810, U.S. Survey No. 2011, Native allotments AA–5730, AA–5889, AA–6275, AA–6613 and AA–7343;
Sec. 24, excluding the Copper River, U.S. Survey No. 3221, Native allotments AA–5730 and AA–6613;
Sec. 25, excluding the Copper River;
Sec. 26, excluding the Copper River and Native allotment AA–5730;
Secs. 27 to 34, inclusive;
Secs. 35 and 36, excluding the Copper River.
Containing approximately 19,955 acres.
T. 2 S., R. 6 E. (Unsurveyed)
Sec. 36.
Containing approximately 640 acres.
T. 3 S., R. 6 E. (Unsurveyed)
Sec. 1;
Secs. 7 to 29, inclusive;
Secs. 30 and 31, excluding the Copper River;
Secs. 32 to 36, inclusive.
Containing approximately 19,524 acres.
T. 5 S., R. 6 E. (Unsurveyed)
Secs. 2 and 3;
Secs. 4 and 5, excluding Mineral Survey No. 613;
Secs. 6, 9, and 10.
Containing approximately 4,398 acres.
T. 2 S., R. 7 E. (Unsurveyed)
Secs. 19 and 20;
Sec. 21, excluding Mineral Survey No. 905;
Secs. 22, 25 and 26;
Sec. 27, excluding Mineral Survey No. 630, Mineral Survey No. 661A and Mineral Survey No. 662A;
Sec. 28, excluding Mineral Survey No. 661A and Mineral Survey No. 665B;
Sec. 29, excluding Mineral Survey No. 661B and Mineral Survey No. 665B;
Secs. 30, 31 and 32;
Sec. 33, excluding Mineral Survey No. 661A;
Sec. 34, excluding Mineral Survey No. 565, Mineral Survey No. 630, Mineral Survey No. 631, Mineral Survey No. 660B, Mineral Survey No. 661A, Mineral Survey No. 662B and Mineral Survey No. 665A;
Sec. 35, exclusive Mineral Survey No. 565, Mineral Survey No. 659, Mineral Survey No. 660A and Mineral Survey No. 665A;
Sec. 36, excluding Mineral No. 658, Mineral Survey No. 659 and Mineral Survey No. 660A.
Containing approximately 9,561 acres.
T. 3 S., R. 7 E. (Unsurveyed)
Sec. 31.
Containing approximately 628 acres.
T. 4 S., R. 7 E. (Partially Surveyed)
Surveyed
Sec. 14, NW¼NW¼;
Sec. 15, N½NE¼, SW¼NE¼;
Sec. 23, N½N½, S½NE¼.
Unsurveyed
Sec. 6;
Sec. 7, excluding Native allotment AA–7332 Parcel A;
Secs. 8 to 11, inclusive;
Sec. 12, excluding U.S. Survey No. 5190;
Sec. 15;
Sec. 16, excluding U.S. Survey No. 5365;
Sec. 17, excluding U.S. Survey No. 4097; U.S. Survey No. 5365 and Native allotment AA–7332 Parcel B;
Sec. 18, excluding Native allotments AA–7332 Parcel A and AA–7562;
Sec. 19;
Sec. 20, excluding Native allotment AA–7332 Parcel B;
Secs. 21 to 29, inclusive;
Secs. 30, 31, and 32, excluding the Chitina River;
Secs. 33 to 36, inclusive;
Containing approximately 16,043 acres.
Aggregating approximately 109,995 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–6653–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Allowable Uses

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals,

snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C3, C5, D1, L) An easement for an existing access trail twenty-five (25) feet in width from site EIN 37 C5 on the left bank of the Copper River in Sec. 3, T. 3 S., R. 5 E., Copper River Meridian, northeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 1c C3, C5, D1, L) An easement for an existing access trail, twenty-five (25) feet in width, from EIN 1g C3, C5, D1, L in Sec. 1, T. 4 S., R. 7E., Copper River Meridian, northwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 1d C3, C5, D1, L) An easement for an existing access trail fifty (50) feet in width from road EIN 1g C3, C5, D1, L in Sec. 12, T. 4 S., R. 7 E., Copper River Meridian, easterly to public land. The uses allowed are those listed above for a fifty (50) footwide trail easement.

d. (EIN 1g C3, C5, D1, L) An easement fifty (50) feet in width for an existing road from Omnibus Act Route No. 850 in Sec. 22, T. 4 S., R. 7 E., Copper River Meridian, near Strelna, northerly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

e. (EIN 6 C5, D9) An easement for an existing access trail twenty-five (25) feet in width from Liberty Falls Campground in Sec. 8, T. 3 S., R. 5 E., Copper River Meridian, westerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement, except for two- and three-wheel vehicles and small all-terrain vehicles which are limited to winter use only.

f. (EIN 7 C5, D9) An easement for an existing access trail fifty (50) feet in width from the Edgerton Highway in Sec. 26, T. 3 S., R. 5 E., Copper River Meridian, westerly to public land. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

g. (EIN 8 C5, D1) An easement sixty (60) feet in width for an existing road from site EIN 8a C5, D1 in Sec. 11, T. 4 S., R. 5E., Copper River Meridian, southerly along the west shore of First Lake to the Edgerton Highway in Sec. 11, T. 4 S., R. 5 E., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

h. (EIN 8a C5, D1) A one (1) acre site easement upland of the ordinary high water mark on the west shore of First Lake in Sec. 11, T. 4 S., R. 5 E., Copper River Meridian, with an additional twenty-five (25) foot wide easement on the bed of the lake along the waterfront of the site. The uses allowed are those listed above for a one (1) acre site easement.

i. (EIN 17 C8) An easement fifty (50) feet in width for an existing road width from Omnibus Act Route FAS 851 in Secs. 26 and 35, T. 4 S., R. 5 E., Copper River Meridian, southeasterly to site EIN 22 C1 at the junction of O'Brien Creek and the Copper River. The uses allowed are those listed above for a sixty (60) foot wide road easement.

j. (EIN 18 C5, D1, L) An easement for a combination existing and proposed access trail twenty-five (25) feet in width from site EIN 19 C1, L on the left bank of the Copper River in Sec. 25, T. 4 S., R. 5 E., Copper River Meridian, southeasterly to public land in T. 5 S., R. 6 E., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 19 C1, L) A one (1) acre site easement upland of the ordinary high water mark in Sec. 25, T. 4 S., R. 5 E., Copper River Meridian, on the left bank of the Copper River. The uses allowed are those listed above for a one (1) acre site.

l. (EIN 22 C1) A three (3) acre site easement upland of the ordinary high water mark in Secs. 26 and 35, T. 4 S., R. 5 E., Copper River Meridian, on the right bank of the Copper River at the mouth of O'Brien Creek. The uses allowed are the same as those listed above for a one (1) acre site.

m. (EIN 28 L) An easement for an existing access trail twenty-five (25) feet in width from site EIN 36 C5 adjacent to the Edgerton Highway in Sec. 15, T. 2 S., R. 3 E., Copper River Meridian, northeasterly along the east boundary of Lot 37, U.S. Survey No. 4977 to the Copper River. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

n. (EIN 33 E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 12, T. 4 S., R. 5 E., Copper River Meridian, on the left bank of the Copper River. The uses allowed are those listed above for a one (1) acre site.

o. (EIN 33a E) An easement fifty (50) feet in width for an existing road from the Omnibus Act Route FAS No. 850 in Sec. 7, T. 4 S, R. 6 E., Copper River Meridian, northwesterly to site EIN 33 E. The uses allowed are those listed above for a sixty (60) foot wide road easement.

p. (EIN 35 C5, L) An easement fifty (50) feet in width, twenty-five (25) feet on each side of the centerline, for existing telephone and electrical distribution lines along the Edgerton Highway from Sec. 31, T. 1 S., R. 3 E., Copper River Meridian, to the terminus of the distribution system located in Sec. 27, T. 2 S., R. 4 E., Copper River Meridian. The uses allowed are those uses associated with the operation and maintenance of telephone and electrical lines.

q. (EIN 37 C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 3, T. 3 S., R. 5 E., Copper River Meridian on the left bank of the Copper River. The uses allowed are those listed above for a one (1) acre site.

The grant of the above-described land shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by a lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access is now provided for under existing law;

3. Any right-of-way interest in the Copper River Highway (FAS Route No. 851), extending one hundred fifty (150) feet on each side of the centerline, transferred to the State of Alaska by

quitclaim deed dated June 3, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) from T. 6 S., R. 4 E., Copper River Meridian, Alaska, northerly to a junction with FAS Route No. 850 at the village of Chitina, located in T. 4 S., R. 5 E., Copper River Meridian, Alaska;

4. Any right-of-way interest in the Edgerton Cutoff Highway (FAS Route No. 851) transferred to the State of Alaska by quitclaim deed dated June 3, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141), from the village of Chitina in T. 4 S., R. 5 E., Copper River Meridian, Alaska, northwesterly to its junction with FAP Route No. 71.

5. Any right-of-way interest in the Chitina-McCarthy Road (FAS Route No. 850) transferred to the State of Alaska by quitclaim deed dated June 3, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) from the junction with FAS Route No. 851 at the village of Chitina in T. 4 S., R. 5 E., Copper River Meridian, Alaska, easterly to McCarthy.

6. The following are rights-of-way for Federal Aid Highway Act of August 27, 1958 as amended 23 U.S.C. 317:

a. A–055571, located in Sec. 35, T. 2 S., R. 4 E., Secs. 1 and 2, T. 3 S., R. 4 E., and Secs. 6, 7, 8, 9, 15 and 16, T. 3 S., R. 5 E., Copper River Meridian, Alaska;

b. A–057859, located in Sec. 8, T. 3 S., R. 5 E., Copper River Meridian, Alaska;

c. A–063403, located in lot 17 of U.S. Survey No. 3579, lots 6, 14, 25 and 37 of U.S. Survey No. 4977, and Sec. 27, T. 2 S., R. 4 E., Copper River Meridian, Alaska;

d. AA–798, located in U.S. Survey No. 1506, Secs. 14, 15, 23, 25, 26 and 35, T. 3 S., R. 5 E., and Secs. 2, 11 and 14, T. 4 S., R. 5 E., Copper River Meridian, Alaska;

e. AA–817, located in Sec. 27, T. 2 S., R. 4 E., Copper River Meridian, Alaska;

f. AA–2527, located in U.S. Survey No. 1506 and Sec. 11, T. 4 S., R. 5 E., Copper River Meridian Alaska;

g. AA–2922, located in Secs. 12 and 13, T. 4 S., R. 5 E., Copper River Meridian, Alaska;

h. AA–5894, located in Sec. 13, T. 4 S., R. 5 E., Copper River Meridian, Alaska;

7. The following are rights-of-way for Federal Aid material sites. Act of August 27, 1958, as amended (23 U.S.C. 317);

a. A–051674, located in Sec. 15, T. 3 S., R. 5 E., Copper River Meridian, Alaska;

b. A–05346, located in Sec. 8 T. 3 S., R. 5 E., Copper River Meridian, Alaska;

c. A–053477, located in Sec. 8 T. 3 S., R. 5 E., Copper River Meridian, Alaska;

d. A–057712, located in Sec. 35, T. 3 S., R. 5 E., Copper River Meridian, Alaska;

e. A–062458, located in Sec. 35, T. 2 S., R. 4 E., Copper River Meridian, Alaska;

f. AA–363, located in Sec. 2, T. 4 S., R. 5 E., Copper River Meridian, Alaska;

g. AA–364, located in Secs. 25 and 26, T. 3 S., R. 5 E., Copper River Meridian, Alaska;

h. AA–2857, located in Secs. 13, T. 4 S., R. 5 E., Copper River Meridian, Alaska;

i. AA–8175, Parcel 5, located in Sec. 35, T. 2 S., R. 4 E., Copper River Meridian, Alaska.

8. A right-of-way, AA–5565, located in Secs. 12 and 13, T. 4 S., R. 5 E., Copper River Meridian, Alaska, for a dike in connection with the Chitina River Bridge. Act of August 27, 1958, as amended, 23 U.S.C. 107, 317; and

9. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Chitina Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANSCA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 103,995 acres. The remaining entitlement of approximately 11,205 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANSCA, conveyance of the subsurface estate of the lands described above shall be issued to AHTNA, Incorporated, when the surface estate is conveyed to Chitina Native Corporation, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

The Copper River and its interconnecting sloughs.

The Chitina River and its interconnecting sloughs.

All other named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence they were determined to be nonnavigable.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the COPPER VALLEY VIEWS.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until February 26, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of the requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Chitina Native Corporation, P.O. Box 3, Chitina, Alaska 99566
AHTNA, Inc., Drawer G, Copper Center, Alaska 99573
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510
Lower Tonsina, Inc., Drawer G, Copper Center, Alaska 99573

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–1989 Filed 1–26–82; 8:45 am]

BILLING CODE 4310–84–M

[UT–910]

Utah; Intensive Wilderness Inventory Decisions in Effect

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On January 4, 1982 the Interior Board of Land Appeals (IBLA) dismissed the appeals on Wilderness Inventory Units UT–060–140A, 164, 167, 169, 188, 191, 196, 197/198, 204, 205B, 224, 227, and 229. The appellant failed to file the appeal and a Statement of Reasons

in a timely manner. Therefore, the Utah State Director's decision as originally published in the November 14, 1980 **Federal Register** (45 FR 75602) or as amended in the March 5, 1981 **Federal Register** (46 FR 5332), is now in effect. In that decision portions of the inventory units were found to contain wilderness characteristics and were identified as Wilderness Study Areas. Those areas identified as Wilderness Study Areas will remain under management restrictions imposed by section 603 of Pub. L. 94–579.

Also on January 4, 1982, the Interior Board of Land Appeals (IBLA) affirmed the Utah State Director's decision on the Wilderness Study Area (WSA) UT–060–201. Therefore the Utah State Director's decision as originally published in the November 14, 1980 **Federal Register** (45 FR 75602) and as amended in the March 5, 1981 **Federal Register** (46 FR 5332) is now in effect. In that decision approximately 65,000 acres were identified as a WSA. The WSA will remain under management restrictions imposed by section 603 of Pub. L. 94–579.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah Wilderness Coordinator, (801) 524–5326.

Dated: January 19, 1982.

Roland G. Robinson Jr.,

State Director.

[FR Doc. 82–2021 Filed 1–26–82; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Maggie L. Walker National Historic Site

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of environmental assessment (and its summary) for the general management plan, Maggie L. Walker National Historic Site, Richmond, Virginia.

SUMMARY: The National Park Service has prepared an Environmental Assessment (and its summary) as a step in General Management Planning process for Maggie L. Walker National Historic Site, Richmond, Virginia. This Assessment presents six alternatives for the future management and development of the site, with an assessment of the environmental impacts of each alternative.

The alternatives propose different levels of preservation, restoration, and adaptation of buildings on the site for visitor use and interpretation. Two alternatives proposed minimal expenditure of funds; three alternatives propose mixtures of visitor use and commercial leasing of space to fully protect and utilize the site; and one alternative proposes full National Park Service and visitor use of the site. Discussion of these alternatives and their impacts by the National Park Service and the public will lead to the selection of an alternative and determination of need for an environmental impact statement.

Copies of the Environmental Assessment will be available for review beginning February 2, 1982, at the headquarters, Richmond National Battlefield Park, 3215 E. Broad Street, Richmond, Virginia 23223; at the Richmond City Library (downtown location); and at the Mid-Atlantic Regional Office, National Park Service 143 So. Third Street, Room 310, Philadelphia, Pennsylvania 19106.

With this Notice of Availability, the National Park Service is inviting written comments on the Environmental Assessment for the General Management Plan.

DATES: Written comments on the Assessment will be accepted until March 15, 1982.

ADDRESSES: Copies of the Environmental Assessment and its summary may be obtained from the Superintendent, Maggie L. Walker National Historic Site, c/o Richmond National Battlefield Park, 3215 E. Broad Street, Richmond, Virginia 23223. Written comments may also be directed to the Superintendent.

Dated: January 14, 1982

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 82–2049 Filed 1–26–82; 8:45 am]

BILLING CODE 4310–70–M

[A18 (SAMO)]

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, February 23, 1982 at 7:30 p.m. in the auditorium at Colina Intermediate School, 1500 Hillcrest Drive, Thousand Oaks, CA.

The Advisory Commission was established by Pub. L. 95–625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda item includes the following:

Draft report on management of parklands by local jurisdictions
Interim parking at Rancho Sierra Vista
Status report on trails
Superintendent's status report.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by March 31, 1982, at the above address.

Dated: January 18, 1982.

Robert S. Chandler,

Superintendent Santa Monica Mountains National Recreation Area.

[FR Doc. 82–2050 Filed 1–26–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Volume No. 223]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 22, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to

conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 44300 (Sub-20)X, filed January 8, 1982. Applicant: HESS CARTAGE COMPANY, P.O. Box 3020, 17065 Hess Avenue, Melvindale, MI 48122. Representative: Martin J. Leavitt, Sullivan & Leavitt, P.C., 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Lead and Subs 5, 6, 7, 8, 9, 11, 13 and 17. Broaden: sugar to "food and related products" in lead: chemicals, calcium chloride and dry chemicals in bulk, to "chemicals and related products" in lead and Subs 11 and 13; cement and dry cement also in bags, in bulk, to "clay, concrete, glass or stone products," in lead and Subs 5, 6, 7, 8, 9 and 17; remove Chicago, IL and Wyandotte, MI facilities restrictions in Subs 7 and 11; broaden to: Midland County, MI and Mason County, WV for Midland, MI and Mason City, WV, and Bay, Genesee, Wayne and Livingston Counties, MI for Essexville, Fenton and Detroit, MI in lead; St. Clair County for Port Huron, MI in Sub 5; Cook County, IL for Chicago, IL in Sub 7; Wayne, St. Clair and Kalamazoo Counties, MI for Detroit, Port Huron and Schoolcraft, MI in Sub 8; Wayne County, MI for Wyandotte, MI, and Mason County, WV for Mason City, WV in Sub 11; Gratiot County, MI for St. Louis, MI in Sub 13; remove restrictions, in tank vehicles, in tank equipment, and against use of dump trucks in Subs 7, 8, and 11; broaden to radial service in all authorities.

MC 117730 (Sub-92)X, filed January 6, 1982. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 North LaSalle Street, Chicago, IL 60602. Subs 24, 25, 27, 40, 46, 57, 65, 74. Broaden: Sub 24, pickles, pickled tomatoes, sauerkraut and pickle relish (except commodities in bulk) to "food and related products"; Woodstock facilities to McHenry County, IL; Sub 25, remove in-container, facilities, originating-at destined-to restrictions; broaden Buffalo and North Tonawanda to Erie and Niagara Counties, NY, Emlenton and North Warren to Venango and Warren Counties, PA, and St. Marys to Pleasants County, WV; Sub 27 remove in vehicles equipped with mechanical refrigeration, facilities, and originating at/destined to restrictions; broaden chemicals (except commodities in bulk, in tank vehicles) to "chemicals and related products"; Sub 40, foodstuffs (except commodities in bulk) to "food and related products," Sub 46, remove facilities, originating at/destined to restrictions; broaden chemicals (except commodities in bulk, in tank vehicles) to "chemicals and related products;" Sub 57, remove from part (a) facilities restrictions at Madison and Jefferson, WI, Goodlettsville, TN and from parts (a) and (b) originating at/destined to restriction; broaden part (1), foodstuff and food seasonings (except in bulk) and part (2) materials, equipment and supplies used in the manufacture and distribution of those commodities when moving in mixed loads to "food and related products;" Sub 65, welding materials and supplies, electric motors, electric welders, hand trucks, and parts and accessories therefor, to "electrical machinery, equipment and supplies," remove facilities restriction; Sub 74, broaden part (1), castings, part (2) steel forgings and part (3) materials and supplies used in the manufacture and distribution of steel forgings, to "metal products;" Danville and Harvey facilities to Vermilion and Cook Counties, IL; all subs, to radial authority.

MC 118513 (Sub-3)X, filed January 15, 1982. Applicant: DIERINGER TRUCKING SERVICE, INC., 1732 Hilton Street, Fairbanks, AK 99701. Representative: Warren G. Kellicut, 437 E Street, Suite 500, Anchorage, AK 99501. Sub 2 Certificate, broaden: "Between Valdez, AK, on the one hand, and, on the other those points in AK (1) on AK Hwy 2 between and including Fairbanks, AK and the United States-Canada boundary line; (2) within 10 miles of that portion of AK Hwy 2; (3) on AK Hwy 1 between and including Tok Junction and Anchorage, AK; (4) on AK Hwy 4 between Valdez and junction AK Hwys 4 and 2 at or near Buffalo Center, AK; (5) on AK Hwy 10 between and including junction AK Hwys 4 and 10 and Chitina, AK; (6) on AK Hwy 5 between and including Tetlin Junction and Eagle, AK; (7) on AK Hwy 6 between and including Fairbanks and Circle, AK; and (8) within 10 miles of at portion of AK Hwy 6;" to "Between points in the Second, Third and Fourth Judicial Districts of Alaska."

MC 119343 (Sub-4)X, filed January 18, 1982. Applicant: MINDEMANN TRUCKIN, INC., N63 W22985 Main Street, Sussex, WI 53089. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Sub-No. 2 certificate and MC-145746 (Sub-No. 4) permit to (1) change rough and cut stone to "clay, concrete, glass, or stone products in Sub-2;" (2) broaden Lannon, WI, and Menomonee and Lisbon Townships, to Waukesha County, WI in Sub 2; and (3) to radial service in Sub-No. 2; (4) broaden to between points in the U.S. under continuing contract(s) with the named shipper, in Sub 4.

MC 123279 (Sub-13)X, filed January 13, 1982. Applicant: CHARTER EXPRESS, INC., 8418 Tallmadge Road, R.D. #6, Ravenna, OH 42266. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Sub 6F, broaden from Cheviot, Bridgeton and Miamitown, OH to Hamilton County, OH.

MC 124887 (Sub-137)X, filed January 12, 1982. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Sub 116F certificate: (1) broaden iron and steel articles and metals to "metal products and ores and minerals," and (2) remove "except in bulk" restriction.

MC 127304 (Sub-20)X, filed January 18, 1982. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 North West Street, Valley Center, KS 67148. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Sub-17F permit broaden: (1) To "petroleum, natural gas and their products, automotive supplies, and machinery" from lubricants, automotive supplies, and hand lubrication equipment and (2) to "between points in the U.S. (except AK and HI)" under continuing contract(s) with a named shipper.

MC 127887 (Sub-3)X, filed January 18, 1982. Applicant: RAINWATER TRUCKING CO., INC., 1123 South 6th Street, Fort Smith, AR 72901. Representative: Troy R. Douglas, P.O. Box 1881, Fort Smith, AR 72902. Lead and Sub No. 1 (1) lead and Sub-No. 1 broaden heavy machinery, wooden or metal poles and bridge and construction steel to "those commodities which because of their size or weight require the use of special handling or equipment;" (2) remove exclusion of "Little Rock and points in its commercial

zone" from the territorial description, lead; (3) remove "prior movement by rail" restriction, lead.

MC 128448 (Sub-3)X, filed January 8, 1982. Applicant: VICTOR LEASING COMPANY, d.b.a. WESTLUND TRUCKING CO.; P.O. Box 2900, Bakersfield, CA 93303. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Subs 1 and 2F permits: (1) broaden to "metal products" from iron or steel articles and fabricated and prefabricated metal articles, Sub 1; (2) remove the "prior movement by water" restriction, Sub 1; and (3) broaden to "between points in the U.S., under continuing contract(s) with named shippers, both permits.

MC 134820 (Sub-14)X, filed January 8, 1982. Applicant: R. S. ALBRIGHT, INC., 6640 Ellis Ave. S., Seattle, WA 98108. Representative: R. S. Albright (same address as applicant). Subs 1, 3, 6 and 8 permits. Broaden to between points in U.S., under continuing contract(s) with named shippers.

MC 140581 (Sub-30)X, filed September 30, 1981, previously noticed in **Federal Register** on October 28, 1981, republished to notice the following omissions. Applicant: HAGWOOD ENTERPRISES, INC., 2472 Pinson Hwy., Birmingham, AL 35217. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Sub-No. 19: broaden Houston, TX, to include Galveston and Liberty Counties, TX, in addition to those counties previously noticed.

MC 140898 (Sub-12)X, filed January 11, 1982. Applicant: KENDRICK TRUCKING CORPORATION, P.O. Box 19097, Louisville, KY 40219. Representative: James W. Kendrick (same as applicant). Lead and Subs 1, 3F, 4F, 6F, 8F and 9F, (A) broaden in lead part (2), Subs 1, 9, and 6 to "such commodities as are dealt in or used by mining, earth moving or quarrying companies," from repair and maintenance parts for mining, earth moving, quarrying equipment, and vehicles used in mining, earth moving, and quarrying; Sub 3, part 2 to "pulp, paper and related products" from paper and paper products; Sub 4 part (1) to "machinery" from mechanical and fabric dust collectors and wet scrubbers; Sub 4, part (2) to "such commodities as are dealt in or used in the manufacture, sale and distribution of dryers" from iron or steel gears, pinions and trunnions and iron castings used in the manufacture of rotary dryers; Sub 4, part (3) "such commodities as are dealt in or used in the manufacture, sale and distribution of material handling systems" from equipment and supplies used in the construction of meterial handling systems; Sub 8 to "machinery" from surface-mounted hydraulic automobile lift, (B) all authorities to radial authority; (C) lead and Subs 3, 4, 8, and 6 delete the facilities limitations (D) lead and Subs 1, 3, 4, 6, by elimination of restrictions to transportation of traffic originating or destined to the named facilities; (E) remove restriction to shipment of no more than 5,000 pounds from one consignor to anyone consignee at one location in a single day in Sub-No. 1. (F) broaden Wise, VA, to Wise County in the lead; (G) delete in bulk exceptions in Sub 4 (parts 2 and 3).

MC 142546 (Sub-5X), filed January 11, 1982. Applicant: MER-LOU TRANSPORTATION, INC., P.O. Box 247, Millsboro, DE 19966. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. No. MC–142546 Sub 1 certificate, and lead MC–136301 and Subs 3, 7 and 8F permits: Broaden to "food and related products and materials, equipment and supplies used in the manufacture and distribution of food and related products," from (a) malt beverages, MC–142546 Sub 1; (b) pickled products, in containers, and supplies and materials, lead MC–136301 and Sub 3; (c) pickled products, in containers, MC–136301 Sub 7; and (d) foodstuffs, MC–136301 Sub 8F; Remove "except in bulk" restriction, MC–136301 Sub 3; Broaden to (a) county-wide, radial authority: Onondaga County, NY (South Volney), and New Castle County, DE (Wilmington), MC–142546 Sub 1; (b) between points in the U.S., under continuing contract(s) with a named shipper, in permits.

MC 145565 (Sub-4X), filed January 6, 1982. Applicant: C. D. BRESHEARS, d.b.a. J & B SERVICES, 1307 S. Lincoln St., Casper, WY 82601. Representative: C. D. Breshears (same address as applicant). Sub-No. 2F: (1) broaden Casper, WY, to Natrona County; (2) delete the exception of oil drilling rigs; (3) add "machinery and materials" to equipment and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum.

MC 145637 (Sub-10X), filed January 7, 1982. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. MC–145973 Sub 2F permit. Broaden materials, supplies and equipment used in the manufacture of new furniture to "furniture and fixtures, and materials, equipment and supplies used in the manufacture and distribution of furniture and fixture;" to between points in U.S., under continuing contract(s) with named shipper.

MC 145836 (Sub-5X), filed January 5, 1982. Applicant: TRYCO TRUCKING CO., INC., 2508 Starita Rd., Charlotte, NC 28213. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., NW., Washington, DC 20005. Sub 3F certificate: Remove the originating at or destined to facilities of shipping associations and their members restriction.

MC 145936 (Sub-4X), filed January 15, 1982. Applicant: G & M TRUCKING, INC., 15313 Goodrich Dr., NW., Gig Harbor, WA 98335. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy, Tacoma, WA 98421. Sub 2F broaden: ice cream to "dairy products"; service to radial authority; and Union City to Alameda County, CA.

MC 146546 (Sub-3)X, filed January 11, 1982. Applicant: JOHN W. AND CARLENE C. ARNETT, d.b.a. LUCARJO CARRIERS, 4643 Prescott, Lincoln, NE 68506. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Sub 2 permit: (1) broaden furniture and materials, supplies and equipment to "furniture and fixtures, and materials, supplies and equipment;" and (2) broaden the territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 147387 (Sub-4)X, filed January 7, 1982. Applicant: BAMA TRANSPORTATION COMPANY, INC., 2727 East 11th St., Tulsa, OK 74104. Representative: Michael J. Masterson (same address as applicant). No. MC–139642 Sub-4 permit, broaden: (1) to "materials and supplies used in the manufacture of food and related products" from materials and supplies (except in bulk) used . . . bakery products; and (2) to between points in the U.S. under continuing contract(s) with named shipper.

MC 149324 (Sub-4)X, filed January 11, 1982. Applicant: BLACK ARROW TRANSPORT, INC., 200 Chestnut Street, P.O. Box 1924, Springfield, MA 01101. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Sub 2X certificate, broaden part (1) to radial authority; and MC 144022 (Sub-2)F permit broaden to between points in the U.S. under continuing contract(s) with named shipper.

MC 149563 (Sub-13)X, filed December 3, 1981, previously noticed in the **Federal Register** of December 24, 1981, republished as corrected this issue. Applicant: SUPER TRUCKERS, INC.,

3900 Commerce Avenue, P.O. Box 111, Fairfield, AL 35064. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Subs 1 and 3: (1) broaden South Calera, AL, to Chilton County in Sub-No. 3; (2) Rapids Parish, LA for Bunkie, in Sub-No. 1; (3) a correct the spelling of Torras, LA, and Bellewood, MS, in Sub-No. 1. The purpose of this republication is noted above and are in addition to the **Federal Register** publication of 12–24–81.

[FR Doc. 82–1980 Filed 1–26–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–185

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 107478 (Sub-3–10TA), filed January 11, 1982. Applicant: OLD DOMINION FREIGHT LINE, INC., Post Office Box 2006, High Point, NC 27261. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. *Contract carrier:* Irregular. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between points in AL, FL, GA, MD, MS, NC, SC, TN, and VA under a continuing contract with J.C. Penney Company, Inc. Supporting shipper: J.C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019.

MC 115654 (Sub-3–32TA), filed January 12, 1982. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings Jones (same as applicant). *Contract Carrier:* Irregular. *General commodities (except Classes A and B explosives, Household Goods as defined by the Commission, commodities which because of size and weight require the use of special equipment, and commodities in bulk),* between points in the US under continuing contract(s) with Ferro Corporation. Supporting shipper: Ferro Corporation, 20 Culvert St., Nashville, TN 37210.

MC 121615 (Sub-3–3TA), filed January 12, 1982. Applicant: ALL SOUTH MOTOR FREIGHT, INC., P.O. Box 100893, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. *General commodities (except classes A&B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in Davidson County, TN, on the one hand, and, on the other, points in NC and SC. Supporting shipper(s): There are 14 supporting shipper statements which may be examined at the Commission's Regional Authority Center in Atlanta, GA. Note: Applicant intends to tack with its authority in docket number MC–121615 (Sub 4X) and to interline at Nashville, Memphis, and Chattanooga, TN; Charlotte, NC; and St. Louis, MO.

The following applications were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 54855 (Sub-1–2), filed January 15, 1982. Applicant: LOUISVILLE, NEW ALBANY, & CORYDON RAILROAD COMPANY, d.b.a. LOUISVILLE AND CORYDON TRANSFER, 210 Walnut St., Corydon, IN 47112. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Transportation equipment and parts, lumber and wood products and those commodities dealt in and sold by home center supply stores* between the facilities of Evans Products Company and its subsidiaries on the one hand, and, on the other, points in AL, CA, FL, GA, IL, IN, KS, KY, MI, MO, OH, PA, SC, TN and TX, for 270 days. Supporting shipper: Evans Products Company, Suite 900 East Tower, 2550 Golf Road, Rolling Meadows, IL 60008.

MC 98154 (Sub-4–6TA) filed January 15, 1982. Applicant: BRUCE CARTAGE, INCORPORATED, 3460 East Washington Road, Saginaw, MI 48601. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Merchandise as are dealt in by retail department stores* between the facilities of Meijer, Inc., located at points in MI and OH. Supporting Shipper: Meijer, Incorporated, 2727 Walker Road, NW, Grand Rapids, MI 49504.

MC 98154, (Sub-4–5TA) filed January 13, 1982. Applicant: BRUCE CARTAGE, INC., 3460 E. Washington, Road, Saginaw, MI 48601. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Household appliances, including television sets, crated and uncrated,* between Wayne County, MI and St. Joseph County, IN. An underlying ETA seeks 120-day authority. Supporting Shipper: Fretter Appliance Company, 35901 Schoolcraft, Livonia, MI 48150.

MC 141620 (Sub-4–3TA), filed January 14, 1982. Applicant: VAN BUS DELIVERY, d.b.a. UNITED VAN BUS, 2601–32nd Avenue, South, Minneapolis, MN 55406. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. *Contract, Irregular such commodities as are dealt in by retail stores and catalog outlets,* between Minneapolis, MN, on the one hand, and, on the other, points in Pierce and St. Croix Counties, WI, under a continuing contract with Montgomery Ward and Company. Supporting shipper: Montgomery Ward and Company, One Montgomery Ward Plaza, Chicago, IL 60671.

MC 144696 (Sub-4–7TA), filed January 14, 1982. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom St., Zeeland, MI 49464. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Coal and Ice,* from Punxsutawney, PA to points in MI, OH, IL, IN, WI, KY, and CT. Supporting shipper: Michigan Ice Services Company, 145½ E. Kalamazoo Ave., Kalamazoo, MI 49006.

MC 146062 (Sub-4-1TA), filed January 14, 1982. Applicant: J. C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Represenative: Joseph E. Rebman 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Zinc and zinc byproducts* between Gary, IN, on the one hand, and, on the other, Coffeyville, KS and Hillsboro, IL. Supporting Shipper: Sherwin-Williams Company, Chicago, IL.

MC 152514 (Sub-4-4TA), filed January 14, 1982. Applicant: MOTOR ACTIVITIES, LTD., 860 Skokie Hwy., Lake Bluff, IL 60044. Represenative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Such commodities as are sold or used by retail and wholesale food and drug outlets and industrial distributors* (except in bulk) between Racine and Waxdale, WI and the Chicago, IL Commercial Zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting Shipper: S. C. Johnson & Son, Inc., Racine, WI 53403 and Park Corp., Barrington, IL.

MC 159296 (Sub-4-2TA), filed January 14, 1982. Applicant: BLUE AND WHITE EXPRESS OF MICHIGAN, INC., P.O. Box 1753, 27906 Mound Road, Warren, MI 48090. Represenative: W. B. Elmer, 615 E. 8th Street, Traverse City, MI 49684. *Canned and packaged foods, household supplies, beverages and equipment, materidl and store supplies, and such items as are dealt in by grocery stores; health and beauty aid items, toiletries, and general merchandise as dealt in by drug stores* between points in Michigan, Scranton, PA and commercial zone, Havre De Grace, MD, Baltimore, MD and commercial zone, Evansville, IN and commercial zone, Miami, FL and commercial zone, Fostoria, OH, on the one hand and on the other, points and place in OH, IN, IL, WI, NY, PA, NJ, FL, Richmond, VA and Norfolk, VA and commercial zones, St. Louis, MO, Carrollton, MO, Marshall, MO, Kansas City, MO and commercial zones, Baltimore, MD and commercial zone and Kansas City, KS and commercial zone. Two supporting shippers: Chatham Super Markets, 2300 E. Ten Mile Road, Warren, MI 48091 and Faygo Beverages, Inc., 3579 Gratiot, Detroit, MI 48207.

MC 160088 (Sub-4-1TA), filed January 14, 1982. Applicant: TRAILER TRANSIT, INC., 719 Wabash Street, Michigan City, IN 46360. Represenative: Brian R. Busch (same address as applicant). *Transportation equipment* between points in the U.S. *Supporting Shippers: Fruehauf Corporation, 10900 Harper Ave., Detroit, MI 48232; Evans Tank Co., P.O. Drawer 1589, Lubbock, TX 79401; Walker Stainless Equipment Co., Inc., P.O. Box 202, New Lisbon, WI 53950; Brenner Tank Inc., 450 Arlington Ave., Fond du Lac, WI 54935; Transportation Equipment Corp., 900—6th Ave., SE., Minneapolis, MN 55414; The Heil Co., 3000 W. Montana, Milwaukee, WI 53215.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 152277 (Sub-5-4TA), filed January 15, 1982. Applicant: LONG MILE RUBBER COMPANY, 155 South Court, Exchange Park, Dallas, TX 75245. Representative: James Petty (same as applicant). Contract, Irregular; *food and related products* between points in the U.S. under a continuing contract with Ben C. Williams Sales Company, 6000 Denton Drive, Dallas, TX.

MC 24583 (Sub-5-6TA), filed January 15, 1982. Applicant: FRED STEWART COMPANY, P.O. Box 340, El Dorado, AR 71730. Representative: Tom E. Moore (same as above). *Petroleum and related products,* between Jefferson County, AL and points in the U.S. Supporting shipper, International Oil Company, Birmingham, AL.

MC 144693 (Sub-5-3TA), filed January 14, 1982. Applicant: GLENN'S TRUCK SERVICE, INC., #1 Produce Row, St. Louis, MO 63102. Representative: Ronald R. Adams, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Sponge rubber carpet cushion,* from Cape Girardeau, Missouri, to points in California, Oregon, and Washington. Supporting shipper: Recticel Foam Corporation, P.O. Box 655, Buffalo, NY 14240.

MC 147378 (Sub-5-6TA), filed January 14, 1982. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, Irregular: *Foodstuffs,* from Tulsa, OK to points in Dallas, TX; Amarillo, TX; Lubbock, TX; Austin, TX; Albuquerque, NM; Wichita, KS; Dodge City, KS; Kansas City, MO; Denver, CO; Little Rock, AR; and from Santa Ana, CA to points in Tulsa, OK. Supporting shipper: The Original Chili Bowl, Inc., 9016 East 46th St., Tulsa, OK 74145.

MC 147422 (Sub-5-2TA), filed January 15, 1982. Applicant: BOND TRANSFER, INC., 1831 Mills Avenue, El Paso, TX 79901. Representative: Gary L. Thompson, President (same as applicant). *General commodities, (except Class A & B explosives, household goods, as defined by the Commission and commodities in bulk),* between points in El Paso County, TX, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, Otero and Sierra Counties, NM and points in Bernalillo, Curry, De Baca, Guadalupe, Quay, Roosevelt, Socorro and Torrance Counties, NM. Supporting shippers: 30.

Note.—Applicant intends to interline.

MC 151819 (Sub-5-24TA), filed January 15, 1982. Applicant: CARGO-MASTER, INC., 2815 Gaston Av., Dallas, TX 75226-1306. Representative: Jackson Salasky, 2815 Gaston Av., Dallas, TX 75226-1306. *Malt beverages, and related materials and supplies* from the facilities of the Joseph Schlitz Brewing Company at or near Longview, TX to points in CO. Supporting shipper(s): Twin City Distributing Company P.O. Box 637, Greeley, CO 80632; Murray Brothers Distributing Company, 1505 W. 3rd Ave., Denver, CO 80223.

MC 154436 (Sub-5-2TA), filed January 14, 1982. Applicant: MARILYN THOMAS, d.b.a. MAT TRUCKING, 2604 West Pleasant Ridge Road, Arlington, TX 76016. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract, irregular; plastic products, and materials used in the manufacture of plastic products,* between Dallas, TX, on the one hand, and, on the other Gardena, Valencia and Los Angeles, CA; Morgantown and West Jefferson, NC; Lake City, PA; Lynnbrook, NY; Providence, RI; Fort Gibson, MS; Minneapolis, MN; Laredo and Del Rio, TX; and Fredonia, WI; under continuing contract(s) with Plastics Manufacturing Company, Dallas, TX.

MC 159792 (Sub-2TA), filed January 14, 1982. Applicant: MID-AMERICA DAIRYMEN, INC., P.O. Box 1837 S.S.S., Springfield, MO 65805. Representative: E. R. Grant (same as applicant). *General commodities (except classes A and B explosives, household goods, and commodities in bulk,* (1) between points in and East of ND, SD, NE, CO, OK, TX, and (2) between points in CA , on the one hand, and, on the other, points in and East of ND, SD, NE, CO, OK, and TX. Restricted to traffic moving for the account of Grand Enterprises, Inc. Supporting shipper: Grand Enterprises, Inc., P.O. Box 10036, Springfield, MO 65808.

MC 159982 (Sub-5-1TA), filed January 14, 1982. Applicant: O. L. EXPRESS, LTD., P.O. Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. Contract; Irregular. *Meats, meat products, meat by-products and articles used by meat packing houses* between the facilities of Swift Independent

Packing Co. at pts in the U.S., on the one hand, and, on the other, pts in the U.S. Supporting shipper: Swift Independent Packing Company, Manager of Transportation Operations, 115 W. Jackson Blvd., 7th Flr., Chicago, IL 60604.

MC 160085 (Sub-5–1TA), filed January 14, 1982. Applicant: NEBRASKA SALT & GRAIN CO., Route 2, Box 1, Gothenburg, NE 69138. Representative: Jesse F. Davis, Practitioner, 3917 East Funston, Wichita, KS 67218. Contract, Irregular: *Super-expanded light shale aggregate, in bulk,* Between plantsites of Buildex, Inc., at or near Mackie, McPherson County, KS, and Ottawa in Franklin County, KS, and plantsite of Valley Block Co., Loveland, Larimer County, CO, under continued contract(s) with Valley Block Co., Loveland, CO.

MC 160086 (Sub-5–1TA), filed January 14, 1982. Applicant: RONNIE READY, d.b.a. READY TANK COMPANY, Route 1, Terlton, OK 74081. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Chemicals, in bulk,* between the facilities of Resource Recovery and Refining Company at or near Sand Springs, OK on the one hand, and, on the other, Zionsville, IN; Wichita, KS; Dallas, TX and Fort Smith, AR. Supporting shipper: Resource Recovery and Refining Company, 5833 South Lewis, Tulsa, OK 74105.

MC 160095 (Sub-5–1), filed January 15, 1982. Applicant: SHIPPERS TRANSPORT, INC., P.O. Box 6344, Kansas City, MO 64126. Representative: Richard J. Ussary (same address as applicant). Contract, Irregular. *Emulsifiers, enrichments, flavors, and food stuffs used in the food industry,* from Olathe, KS to points in the U.S. Supporting shipper: Paniplus Company, 100 Paniplus Roadway, Olathe, KS 66061.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–1991 Filed 1–26–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket Nos. 29699, 29716]

Aroostook Valley Railroad Co.—Abandonment Between Washburn and Caribou, ME—Petition for Exemption and Abandonment Between Rands and Washburn, ME—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Consolidation and Exemption.

SUMMARY: The Interstate Commerce Commission consolidates these proceedings and exempts them from the requirements of 49 U.S.C. 10903.

DATES: The exemptions are effective on February 26, 1982. Petitions to reopen this action for reconsideration must be filed March 18, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., Washington, D.C. 20423

(2) Petitioner's Representative, Linda Smith Dyer, Aroostook Valley Railroad Company, 32 Parsons Street, Presque Isle, ME 04769.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202)–275–7245 Irwin Elyn, (202)–275–7698.

SUPPLEMENTARY INFORMATION: Copies of the complete decision may be obtained from Room 2227 at the Commission's Headquarters at 12th and Constitution Avenue, N.W., Washington, DC 20423, or by calling the Commission's toll-free number for copies at 800–424–5403.

Decided: January 20, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–1992 Filed 1–26–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 28640 (Sub-No. 8)]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.—Reorganization; Authorization of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Bond and Debenture Holders Protective Committee

January 21, 1982.

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding.

SUMMARY: The Commission is instituting a proceeding under Section 77(p) of the former Bankruptcy Act (11 U.S.C. 205) to consider the application of the Chicago, Milwaukee, St. Paul and Pacific Railroad Bond and Debenture Holders Protective Committee (Committee) for authority to solicit authorizations from holders of debt securities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to represent them in proceedings for MILW's reorganization. This proceeding will be handled under modified procedure; the following schedule is set for the submission of evidence.

DATES: (1) Verified statements supporting or opposing the application are due February 22, 1982; (2) Verified replies are due March 8, 1982.

ADDRESSES: An original and 10 copies of all statements, referring to Finance Docket No. 28640 (Sub-No. 8), should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

Copies should also be served on:

(1) Applicant's representative: Robert w. Hallock, Kirkland & Ellis, 200 East Randolph Drive, Suite 6000, Chicago, IL 60601

(2) Clerk: United States District Court, Northern District of Illinois, Eastern Division, 209 South Dearborn Street, Chicago, IL 60606 and

(3) Parties to MILW's Reorganization Court proceedings.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275–7564.

SUPPLEMENTARY INFORMATION: The Committee requests authority to solicit proxies or authorizations to represent and act for holders of the following MILW securities in MILW's reorganization proceedings:

(1) MILW First Mortgage Bonds, Series A, due 1994; principal amount $11,600,000.

(2) MILW General Mortgage Income Bonds, Series A, due 2019; principal amount $24,685,000.

(3) MILW General Mortgage Convertible Income Bonds, Series B, due 2044; principal amount $31,127,000.

(4) MILW Income Debentures, Series A, due 2055; principal amount $55,604,000.

(5) The Southern Indiana Railway Company First Mortgage Bonds, due 1994; principal amount $5,100,000.

(6) Chicago, Terre Haute and Southeastern Railway Company First and Refunding Mortgage Bonds, due 1994; principal amount $7,170,000.

(7) Chicago, Terre Haute and Southeastern Railway Company Income Mortgage Bonds, due 1994; principal amount $4,739,000.

The Committee is proposed of the following members:

(1) American Financial Corporation, One East Fourth Street, Cincinnati, OH 45202, Owner of $25,058,000 principal amount of MILW Income Debentures, Series A, due 2055, which is approximately 45 percent of the total amount outstanding of this security.

(2) Daniel R. Long III, Suite 330—The Quadrangle, Village of Cross Keys, Baltimore, MD 21210, Owner of $231,000 principal amount of MILW Income Debentures, Series A, due 2055, which is approximately 0.4 percent of the total amount outstanding of this security.

(3) Jerome L. Greene, Marshall, Bratter, Greene, Allison & Tucker, 430 Park Avenue, New York, NY 10021.

Owner of the following: (a) $755,000 principal amount of MILW Income Debentures, Series A, due 2055, which is approximately 1.4 percent of the total amount outstanding of this security.

(b) $300,000 principal amount of Chicago, Terre Haute and Southeastern Railway Company First and Refunding Mortgage Bonds, due 1994, which is approximately 4.2 percent of the total amount outstanding of this security.

(c) $200,000 principal amount of MILW First Mortgage Bonds, Series A, due 1994, which is approximately 1.7 percent of the total amount outstanding of this security.

Interested persons may participate as parties in this proceeding by filing verified statements as indicated above. Copies of the Committee's application may be obtained from its representative.

The Committee may not act in a representative capacity until so authorized by the Commission. Each member of the Committee may participate in MILW reorganization proceedings on its own behalf until the Commission acts on the application.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1994 Filed 1-26-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29535 (Sub-1)]

Missouri-Kansas-Texas Railroad Co.-Exemption-Trackage Rights Over Missouri Pacific Railroad Co. Between Fort Worth and Dallas in Tarrant and Dallas Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 the acquisition of trackage rights by Missouri-Kansas-Texas Railroad Company over 30.8 miles of Missouri Pacific Railroad Company track between Fort Worth and Dallas, in Tarrant and Dallas Counties, TX.

DATES: This exemption will be effective March 1, 1982. Petition for reconsideration of this action must be filled by February 16, 1982.

ADDRESSES: Send pleadings to:
(1) Interstate Commerce Commission, Section of Finance, Room 5414, 12th Street and Constitution Ave., NW., Washington, DC 20423;
and
(2) Petitioners' representative: Michael E. Roper, Commerce Counsel, Missouri-Kansas-Texas Railroad Company, 701 Commerce Street, Dallas, TX 75202.

FOR FURTHER INFORMATION CONTACT:
Richard A. Kelly (202) 275-7245.

For copies of the full decision write to: Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call toll free: (800) 424-5403.

Pleadings should refer to Finance Docket No. 29535 (Sub-No. 1).

SUPPLEMENTARY INFORMATION: A decision in this proceeding containing additional information may be obtained from the Office of the Secretary.

Dated: January 21, 1982.

By the Commission, Chairman, Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-1993 Filed 1-26-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-113]

Certain Log Splitting Pivoted Lever Axes

Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: January 15, 1982.

Donald K. Duvall,

Chief Adminsitrative Law Judge.

[FR Doc. 82-2065 Filed 1-26-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-114]

Certain Miniature Plug-In Blade Fuses

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: January 18, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-2067 Filed 1-26-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-145 (Preliminary)]

Certain Steel Wire Nails From Korea

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and the scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-145 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea of steel wire nails,[1] provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants are alleged to be paid.

EFFECTIVE DATE: January 19, 1982.

FOR FURTHER INFORMATION CONTACT:
Judith C. Zeck, Office of Investigations, U.S. International Trade Commission (202-523-0339).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on January 19, 1982, by counsel on behalf of Atlantic Steel Co., Florida Wire and Nail, New York Wire Mills, Virginia Wire and Fabric, Tree Island Steel, Inc., and Armco Inc., U.S. producers of steel wire nails.

The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or, in this case, by March 5, 1982 (19 CFR 207.17). The investigation will be subject to Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457), and particularly subpart B thereof.

Written Submissions.—Any person may submit to the Commission on or before February 16, 1982, a written statement of information pertinent to the subject matter of this investigation. A

[1] For purposes of this investigation, brads, spikes, staples and tacks are not included.

signed original and nineteen copies of such a statement must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., e.s.t., on February 12, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for this investigation, Mr. John MacHatton (202–523–0439). It is anticipated that parties in support of the petition for countervailing duties and parties opposed to the petition will each be allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of the Petition.—A copy of the petition filed with the Department of Commerce in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

Issued: January 22, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–2066 Filed 1–26–82; 8:45 am]

BILLING CODE 7020–02–M

[332–134]

Conditions Relating to the Importation of Canadian Softwood Lumber Into the United States

AGENCY: International Trade Commission.

ACTION: The Commission has rescheduled the hearing dates for the above captioned investigation No. 332–134. The hearing will now be held in Room 223, Federal Center Building, 1220 SW 3rd Street, Portland, Oregon, beginning at 10:00 a.m., on March 3, 1982, and continued on March 4, 1982 a required. Requests to appear at the public hearing should be filed on writing with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon February 24, 1982. Written statements should be submitted at the earliest practicable date, but no later than March 5, 1982.

The hearing was originally scheduled to begin February 17, 1982. The Commission's initial notice concerning the investigation, including the scope, the hearing, and procedures for submitting information, was published in the **Federal Register** of December 29, 1981 (46 FR 62969–62970).

Transmission of the Commission's report on this investigation to the Committee on Finance is scheduled for April 19, 1982.

By order of the Commission.

Issued: January 20, 1982

Kenneth R. Mason,

Secretary.

[FR Doc. 82–2064 Filed 1–26–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 751–TA–5]

Salmon Gill Fish Netting of Manmade Fibers from Japan; Notice of Change of Public Hearing Date

AGENCY: International Trade Commission.

ACTION: Change of date of public hearing in connection with investigation No. 751–TA–5.

SUMMARY: Notice is hereby given that the United States International Trade Commission has changed the date of the previously announced public hearing in the subject investigation (46 FR 62347). The hearing will now be held on March 2, 1982, beginning at 10:00 a.m., p.s.t., in room 223 of the New Federal Building, 1220 S.W. 3rd Street, Portland, Oregon.

SUPPLEMENTARY INFORMATION: Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.) on January 29, 1982. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 2:00 p.m., e.s.t., on February 2, 1982, in Room 117 of the U.S. International Trade Commission Building and must file prehearing statements on or before February 10, 1982. Any person may submit to the Commission on or before March 9, 1982, written statements of information pertinent to the subject matter of the investigation.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Office of Investigations, U.S. International Trade Commission, (202) 523–1369.

By order of the Commission.

Issued: January 20, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–2068 Filed 1–26–82; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 81–18]

Gail G. L. Li, M.D., Honolulu, Hawaii; Hearing

Notice is hereby given that on July 21, 1981, the Drug Enforcement Adminstration, Department of Justice, issued to Gail G. L. Li, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AL0218962.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m., on Tuesday, February 2, 1982, in the U.S. Coast Guard Courtroom, Room 9126, 300 Ala Moana Boulevard, Honolulu, Hawaii.

Dated: January 25, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82–2162 Filed 1–26–82; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Changed Meeting Date

January 20, 1982.

Pursuant to Section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) has changed the April 12 and 13 meeting.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy,

coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The meeting dates are as follows:

Monday and Tuesday—January 18 and 19
Monday and Tuesday—March 1 and 2
Tuesday and Wednesday—April 13 and 14 (revised)
Monday and Tuesday—May 24 and 25
Monday and Tuesday—July 19 and 20
Monday and Tuesday—August 30 and 31
Monday and Tuesday—October 25 and 26
Monday and Tuesday—December 13 and 14

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653-7818.

Dated: January 21, 1982.

Steven Anastasion,

Executive Director.

[FR Doc. 82-1996 Filed 1-26-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, February 5, 1982 from 9:00 a.m.-5:30 p.m. and on Saturday, February 6, 1982 from 9:00 a.m.-5:30 p.m., and on Sunday, February 7, 1982 from 9:00 a.m.-1:00 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on Friday, February 5, 1982 from 1:30-5:30 p.m. and on Saturday, February 6, 1982 from 9:00 a.m.-3:30 p.m. Topics for discussion will include Federal Encouragement of Private Fundraising; Endowment Relationships with State and Local Arts Agencies; Program Review/Guidelines for Folk Arts, Inter-Arts, Endowment Fellows, Orchestra, Chorus, Music Training and Recording programs.

The remaining sessions of this meeting on Friday, February 5, 1982 from 9:00 a.m.-12:15 p.m., Saturday, February 6, 1982 from 3:30-5:30 p.m. and Sunday, February 7, 1982 from 9:00 a.m.-1:00 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential FY 1983 budgetary materials to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endownment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: January 22, 1982.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 82-1998 Filed 1-?-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on the Reactor Radiological Effects will hold a meeting at 8:30 a.m. on February 11, 1982 in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will listen to presentations and discuss BWR plant radiation exposure experience and exposure reduction measures.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981, (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, February 11, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to Mr. Herman, Alderman (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST. The cognizant Designated Federal Employee for this meeting is Mr. John C. McKinley.

Dated: January 19, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-2029 Filed 1-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-400 and 50-401]

Carolina Power & Light Co. and North Carolina Municipal Power Agency No. 3 (Shearon Harris Nuclear Power Plant, Units 1 and 2); Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application from Carolina Power & Light Company and North Carolina Municipal

Power Agency Number 3 (the applicants) for facility operating licenses to possess, use, and operate the Shearon Harris Nuclear Power Plant, Units 1 and 2, two pressurized water nuclear reactors (the facility) located in Wake and Chatham Counties, North Carolina, approximately sixteen miles southwest of Raleigh, North Carolina. Each of the reactors is designed to operate at a core power level of 2785 megawatts thermal, with an equivalent net electrical output of approximately 900 megawatts each. At the time that construction permits were issued for the Shearon Harris Nuclear Power Plant, there were four units to the facility. Subsequently, by letter dated December 18, 1981, which transmitted the application for operating licenses, the applicants have stated that Units 3 and 4 of the facility have been cancelled.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report, as part of its application. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the State Clearinghouse, Division of Budget and Management, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611 and at the Triangle J. Regional Council of Governments, P.O. Box 12276, Research Triangle Park, North Carolina 27709.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

The Commission will consider the issuance of facility operating licenses to Carolina Power & Light Company and North Carolina Municipal Power Agency Number 3, which would authorize the applicants to possess, use and operate the Shearon Harris Nuclear Power Plant, Units 1 and 2 in accordance with the provisions of the licenses and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicants application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit Nos. CPPR–158 and CPPR–159 issued by the Commission on January 27, 1978. The applicants have advised that construction will be completed by December 1984 and June 1988 for Units 1 and 2 respectively.

With regard to Executive Order 11988, Floodplain Management, the Shearon Harris facility will have structures (or construction activities) located on the floodplain. The subject of floodplain management will be discussed in the Commission's environmental statement referenced above.

By Commission Memorandum and Order CLI–80–12, dated April 17, 1980 (11 NRC 514), the Commission directed the staff to conduct a preliminary assessment of Carolina Power & Light Company on the issue of management qualifications for operation at the time that an application was tendered for operating licenses for the Shearon Harris facility, and to include the results of that assessment in the notice of opportunity for hearing under 10 CFR 2.105. The staff has completed its preliminary assessment of this issue in accordance with the Commission direction. It is recognized that the final organization to support and control plant operation may be somewhat different from that now described in the Shearon Harris Final Safety Analysis Report and as modified by changes now underway. The staff will review the final organization and management of Carolina Power & Light Company as part of its detailed review of the Shearon Harris application and will report the results of that review in the staff's safety evaluation report. For now, however, on the basis of the preliminary assessment, the staff has concluded that the proposed organization and management for operation of the Shearon Harris facility, at both the corporate and plant levels, are acceptable. A copy of Commission Memorandum and Order CLI–80–12 and the staff's preliminary assessment of Carolina Power & Light Company on the issue of management qualifications are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and at the Wake County Public Library, 104 Fayetteville Street, Raleigh, North Carolina 27601.

In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicants will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By February 26, 1982, the applicants may file a request for a hearing with respect to issuance of the facility operating licenses. By February 26, 1982 any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date(s), the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington D.C. by February 26, 1982. A copy of the petition must also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, and to Shaw Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington D.C. Attention: George F. Trowbridge, attorney for the applicants. Any requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses, including the Final Safety Analysis Report and the Environmental Report, dated December 18, 1981, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Wake County Public Library, 104 Fayetteville Street, Raleigh, North Carolina 27601. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 15th day of January, 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-2028 Filed 1-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al. (Edwin I. Hatch Nuclear Plant, Unit No. 1); Modification of January 13, 1981 Order

I

The Georgia Power Company (the licensee) and three co-owners are the holders of Facility Operating License No. DPR-57 which authorizes the licensee to operate the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Appling County, Georgia.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) the licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-21888 and NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661 and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 26, 1981 (46 FR 9279) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than April 30, 1982, or, if the plant is shutdown on that date, before the resumption of power operation thereafter.

III

On October 31, 1979 the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, significant progress has been made by the licensee in meeting the Order requirements. However, by letter dated February 27, 1981, the licensee stated that unforeseen difficulties and delays have been encountered primarily related to one or more of the following: (1) Torus and torus attached piping analyses; (2) equipment delivery; (3) the use of interpretations and/or alternate approaches to the NUREG-0661 Acceptance Criteria; (4) plant-unique design and modification problems; and (5) slippages in refueling outages that have necessitated revision of the Order date.

Most of the major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping have been or will be completed by the existing Order date. These modifications comprise a significant portion of the total program effort. The remaining items to be completed are primarily associated with the torus attached piping modifications.

The Commission is aware that substantial improvements have already been made in the margins of safety of the containment systems and expects improvements will continue to be made during the period until all the modifications required for compliance

with this Order are completed. The Commission further believes an acceptable balance has been achieved between completion of the major modifications, which provide significant improvement in the safety margin, and the granting of additional time for completion of the remaining modifications which fully restore the originally intended safety margin. In consideration of the range of completion dates submitted by all of the affected licensees and an assessment of the nature of the remaining effort involved in the analysis, design and installation of the needed plant modifications, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has, therefore, determined to modify the January 13, 1981 Order to extend the previously imposed completion dates for needed plant modifications. This Order continues in effect the exemption to General Design Criterion 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," is hereby changed to read as follows: "Prior to the start of Cycle 7." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order on or before February 26, 1982. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission, and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," should be changed to: "Prior to the start of Cycle 7."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 19th day of January 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-2023 Filed 1-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Co., et al. (Edwin I. Hatch Nuclear Plant, Unit No. 2); Modification of January 13, 1981 Order

I

The Georgia Power Company (the licensee) and three co-owners are the holders of Facility Operating License No. NPF-5 which authorizes the licensee to operate the Edwin I. Hatch Nuclear Plant, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2436 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Appling County, Georgia.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) the licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-21888 and NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661 and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 28, 1981 (46 FR 9280) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than January 31, 1982, or, if the plant is shutdown on that date, before the resumption of power operation thereafter.

III

On October 31, 1979 the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, significant progress has been made by the licensee in meeting the Order requirements. However, by letter dated February 27, 1981, the licensee stated that unforeseen difficulties and delays have been encountered primarily related to one or more of the following: (1) Torus and torus attached piping analyses; (2) equipment delivery; (3) the use of interpretations and/or alternate approaches to the NUREG-0661 Acceptance Criteria; (4) plant-unique design and modification problems; and (5) slippages in refueling outages that have necessitated revision of the Order date.

The major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping, which comprise approximately 75% of the total program effort, have already been completed or are in process of being completed during the current outage. The remaining items to be completed are primarily associated with the torus attached piping modifications.

The Commission is aware that substantial improvements have already been made in the margins of safety of the containment systems and expects improvements will continue to be made during the period until all the modifications required for compliance with this Order are completed. The Commission further believes an acceptable balance has been achieved between completion of the major modifications, which provide significant improvement in the safety margin, and the granting of additional time for completion of the remaining modifications which fully restore the originally intended safety margin. In consideration of the range of completion dates submitted by all of the affected licensees and an assessment of the nature of the remaining effort involved in the analysis, design and installation of the needed plant modifications, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has, therefore, determined to modify the January 13, 1981 Order to extend the previously imposed completion dates for needed plant modifications. This Order continues in effect the exemption to General Design Criterion 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered that the completion data specified in Section V of the January 13, 1981, "Order for Modification of License," is hereby changed to read as follows: "Prior to the start of Cycle 4." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order on or before February 26, 1982. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be snet to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," should be changed to: "Prior to the start of Cycle 4."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 19th day of January 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-2024 Filed 1-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-277]

Philadelphia Electric Co., et al. (Peach Bottom Atomic Power Station Unit No. 2); Modification of January 13, 1981 Order

I

The Philadelphia Electric Company (the licensee) and three other co-owners are the holders of Facility Operating License No. DPR-44 which authorizes the licensee to operate the Peach Bottom Atomic Power Station, Unit No. 2 (the facility) at power levels not in excess of 3293 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Peach Bottom, York County, Pennsylvania.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-21888 and NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661 and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 28, 1981 (46 FR 9294) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than January 31, 1982, or, if the plant is shutdown on that date, before the resumption of power operation thereafter.

III

On October 31, 1979 the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments amd modifications to be undertaken.

Since the development of these acceptance criteria, significant progress has been made by the licensee in meeting the Order requirements. However, in the June 29, 1981 Mark I Owners Group Status Summary Report, the licensee identified unforeseen difficulties and delays primarily related to one or more of the following: (1) Torus and torus attached piping analyses; (2) equipment delivery; (3) the use of interpretations and/or alternate approaches to the NUREG-0661 Acceptance Criteria; (4) plant-unique design and modification problems; and (5) slippages in refueling outages that have necessitated revision of the Order date.

The major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping, which comprise approximately 75% of the total program effort, will be completed during the outage that is prior to or expected to coincide with the existing Order date. The remaining items to be completed are primarily associated with the torus attached piping modifications.

The Commission believes that substantial improvements have already been made in the margins of safety of the containment systems and expects improvements will continue to be made during the period until all the modifications required for compliance with this Order are completed. The Commission further believes an acceptable balance has been achieved between completion of the major modifications, which provide significant improvement in the safety margin, and the granting of additional time for completion of the remaining modifications which fully restore the originally intended safety margin. In consideration of the range of completion dates submitted by all of the affected licensees and an assessment of the nature of the remaining effort involved in the analysis, design and installation of the needed plant modifications, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has, therefore, determined to modify the January 13, 1981 Order to extend the previously imposed completion dates for needed plant modification. This Order continues in effect the exemption to General Design Criterion 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," is hereby changed to read as follows: "no later than the start of Cycle 6 for completion of the major modifications and no later than the start of Cycle 7 for completion of the remaining modifications." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order on or before February 26, 1982. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the

Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," should be changed to read as follows: "no later than the start of Cycle 6 for completion of the major modifications and no later than the start of Cycle 7 for completion of the remaining modifications."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 19th day of January 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-2025 Filed 1-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-278]

Philadelphia Electric Co., et al., (Peach Bottom Atomic Power Station Unit No. 3); Modification of January 13, 1981 Order

I

The Philadelphia Electric Company (the licensee) and three other co-owners are the holders of Facility Operating License No. DPR-56 which authorizes the licensee to operate the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) at power levels not in excess of 3293 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Peach bottom, York County, Pennsylvania.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-21888 and NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661 and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 28, 1981 (46 FR 9297) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than January 31, 1982, or, if the plant is shutdown on that date, before the resumption of power operation thereafter.

III

On October 31, 1979 the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, significant progress has been made by the licensee in meeting the Order requirements. However, in the June 29, 1981 Mark I Owners Group Status Summary Report, the licensee identified unforeseen difficulties and delays primarily related to one or more of the following: (1) Torus and torus attached piping analyses; (2) equipment delivery; (3) the use of interpretations and/or alternate approaches to the NUREG-0661 Acceptance Criteria; (4) plant-unique design and modification problems; and (5) slippages in refueling outages that have necessitated revision of the Order date.

The major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping, which comprise approximately 75% of the total program effort have already been completed or are in the process of being completed during the current outage. The remaining items to be completed are primarily associated with the torus attached piping modifications.

The Commission believes that substantial improvements have already been made in the margins of safety of the containment systems and expects improvements will continue to be made during the period until all the modifications required for compliance with this Order are completed. The Commission further believes an acceptable balance has been achieved between completion of the major modifications, which provide significant improvement in the safety margin, and the granting of additional time for completion of the remaining modifications which fully restore the originally intended safety margin. In consideration of the range of completion dates submitted by all of the affected licensees and an assessment of the nature of the remaining effort involved in the analysis, design and installation of the needed plant modifications, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has, therefore, determined to modify the January 13, 1981 Order to extend the previously imposed completion dates for needed plant modifications. This Order continues in effect the exemption to General Design Criterion 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," is hereby changed to read as follows: "no later than the start of Cycle 6." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order on or before January 26, 1982. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," should be changed to read as follows: "no later than the start of Cycle 6."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 19th day of January 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisennut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-2026 Filed 1-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 OLA and 50-301 OLA]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's Order of January 20, 1982, oral argument on the appeal of the intervenor, Wisconsin's Environmental Decade, from the November 5, 1981 Memorandum and Order of the Licensing Board in this license amendment proceeding will be heard at *10:00 a.m. on Wednesday, February 10, 1982,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: January 20, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-2027 Filed 1-26-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22365; (70-6306)]

Consolidated Natural Gas Co.; Proposed Extension of Period To Issue Common Stock Under Dividend Reinvestment Plan and Employee Stock Ownership Plan; Exception From Competitive Bidding

January 19, 1982.

The Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company, has filed with this Commission a post-effective amendment to its declaration previously filed and amended pursuant to sections 6(a), 7 and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) promulgated thereunder.

By order of June 7, 1979 (HCAR No. 21089), Consolidated was authorized to issue and sell 1,000,000 shares of common stock, $8 par value, from time to time through December 31, 1981, to the agent for Consolidated's common stockholders participating in its dividend reinvestment plan ("DRP Plan") and to the Trustees of the employee stock ownership plan ("ESOP Plan") of Consolidated and its participating subsidiaries.

By post-effective amendment Consolidated requests that the period authorized by the order of June 7, 1979 (HCAR No. 21089) for common stock issuance be extended to December 31, 1983 for the 899,978 shares remaining unissued.

Under the Economic Recovery Tax Act of 1981 ("ERTA") a domestic public utility company may establish a plan for issuance of qualified stock under which a shareholder shall have the right to receive dividends in cash (which will be taxable in the year of receipt) or dividends in stock (the tax on which will be deferred). Consolidated's common stock is qualified under ERTA. For the calendar years 1982–1985, an individual electing to receive a stock dividend may exclude annually from his tax return up to $750 ($1,500 in the case of a joint return) of the value of the stock dividend received. However, the shares received as dividends must be newly issued common stock, and the number of shares distributed to a shareholder must be determined by reference to a value not less than 95% nor greater than 105% of the value of the stock during the period immediately preceding the distribution date. Consolidated intends to issue new common stock, particularly under its DRP plan, because based upon past experience Consolidated earns a greater net return from sales under its DRP and ESOP Plans than from public sale and its stockholders receive tax benefits.

Consolidated seeks an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereof because the nature of the proposed transactions does not require competitive bids to determine the reasonableness of fees and commissions.

The declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 11, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended by the post-effective amendment or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-1969 Filed 1-26-82; 8:45 am]

BILLING CODE 8010-01-M

TAHOE REGIONAL PLANNING AGENCY

Threshold Carrying Capacities for Lake Tahoe Basin, California and Nevada; Intent To Prepare an Environmental Impact Statement

The Tahoe Regional Planning Agency will prepare an environmental impact statement for the establishment of environmental threshold carrying capacities for the Lake Tahoe Basin. Environmental threshold carrying capacities will affect the entire Basin including portions of El Dorado and Placer Counties in California and portions of Douglas, Carson City, and Washoe Counties in Nevada. The environmental impact statement will be prepared in accordance with Article VII of Public Law 95-551, and the Tahoe Regional Planning Compact. The establishment of environmental threshold carrying capacities in required by Article V(b) of this Compact.

Thresholds are the decision parameters to be used in updating the Tahoe Regional Plan; they are necessary to maintain significant scenic, recreational, educational, scientific and natural values of the region as well as to mainain public health and safety within the region. Establishment of environmental threshold carrying capacities are therefore the steps in revising the long-range plan for the Lake Tahoe Basin; they establish the scope of the process by requiring each alternative to maintain its adopted environmental threshold.

Public notice will be given of meetings to explain this process and to determine

the scope of interest in the threshold capacity evaluations. In addition, there will be periodic open meetings of a steering committee to be appointed by the Governing Body of the Agency to oversee this process. Public notice will also be given to these meetings. Written comments and suggestions concerning the planning process may be submitted to the Agency. They should be received by February 1, 1982.

The resulting environmental impact statement will be made available for a 60-day public review and comment period beginning in April, 1982. Written comments will be solicited and a public hearing will be conducted during this review period also.

The Governing Board of the Tahoe Regional Planning Agency is ultimately responsible for both the certification of the environmental impact statement and establishment of environmental threshold carrying capacities. Send written comments and requests for further information to: Randy Sheffield, Tahoe Regional Planning Agency, P.O. Box 8896, South Lake Tahoe, California 95731. Phone (916) 541-0249.

Dated: January 18, 1982.

Philip A. Overeynder,

Director, Tahoe Regional Planning Area.

[FR Doc. 82-2056 Filed 1-25-82; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 1-82]

Series N-1984 Treasury Notes; Interest Rate

January 21, 1982.

The Secretary announced on January 20, 1982, that the interest rate on the notes designated Series N-1984, described in Department Circular—Public Debt Series—No. 1-82 dated January 15, 1982, will be 15 percent. Interest on the notes will be payable at the rate of 15 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-2030 Filed 1-26-82; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on February 25, 1982, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze information concerning toxicological issues which the Veterans Administration needs to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be opened to the public up to the seating capacity of the room. Members of the public may direct questions, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Office of the Special Assistant to the Chief Medical Director for Environmental Medicine (102), Room 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, DC 20420 (Telephone: (202) 389-5411).

Dated: January 21, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-1997 Filed 1-26-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 18
Wednesday, January 27, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 1, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

United Pacific Bank, a proposed new bank, to be located at 419 College Street, Los Angeles, California.

The Wolfeboro Savings Bank, a proposed new bank, to be located at the intersection of Center and Pine Streets, Wolfeboro, New Hampshire.

Application for consent to purchase assets and assume liabilities and establish one branch:

Olympic Bank Everett, Washington, for consent to purchase the assets of and assume the liability to pay deposits made in Bank of Anacortes, Anacortes, Washington, and to establish the sole office of Bank of Anacortes as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,073-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Case No. 45,077-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Memorandum and Resolution re: State Bank of Clearing, Chicago, Illinois

Memorandum and Resolution re: South Side Bank, Chicago, Illinois

Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Memorandum re: Mileage rates paid to Corporation employees.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Bank Supervision:

Memorandum re: Report of Actions Taken Under Delegated Authority re: First Pennsylvania Bank, Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: January 25, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-118-82 Filed 1-25-82; 3:19 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 1, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the

"Government in the Sunshine Act" (5 U.S.C. 55sb(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 25, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–119–82 Filed 1–25–82; 3:20 pm]

BILLING CODE 6714–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 3466, January 25, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 27, 1982.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CAG–25: CP82–10–000, Consolidated Gas Supply Corporation

Kenneth F. Plumb,

Secretary.

[S–120–82 Filed 1–25–82; 3:20 pm]

BILLING CODE 6717–01–M

4

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Monday, February 1, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs regarding Treasury proposals of securities activities of banks and bank holding companies.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: January 25, 1982.

James McAfee,

Assistant Secretary of the Board.

[S–116–82 Filed 1–25–82; 3:10 pm]

BILLING CODE 6210–01–M

5

INTER-AMERICAN FOUNDATION

TIME AND DATE: 9:30 a.m.–3:30 p.m., February 2, 1982.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Boulevard, Arlington, VA 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report.
2. President's Report.
3. Minutes of November 24, 1981 Meeting.
4. Financial Report for FY 1982.
5. The Inter-American Foundation in Guatemala.
6. The Inter-American Foundation in Colombia.

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr. (703) 841–3812.

[S–114–82 Filed 1–25–82; 10:15 am]

BILLING CODE 7025–01–M

6

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, February 3, 1982.

PLACE: Board Hearing Room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of January, 1982.

2. Other priority matters which may come before the Board for which notice will be given at earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Exectuve Secretary; Tel: (202) 523–5920.

Dated: January 25, 1982.

[S–115–82 Filed 1–25–82; 12:36 pm]

BILLING CODE 7550–01–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 25, 1982 (Revised) and Week of February 1, 1982.

PLACE: Commissioners Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Monday, January 25:*

2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (closed meeting) (as announced)

Wednesday, January 27:

10:00 a.m.:
Discussion of Diablo Canyon Report (closed meeting)

2:30 p.m.:
Discussion of Export Licensing Policy (closed meeting) (as announced; time changed)

Thursday, January 28:

10:00 a.m.:
Discussion of Waste Confidence Proceeding (closed meeting) (postponed from January 21, 1982)

3:00 p.m.:
Affirmation/Discussion Session (public meeting) (items revised)
Items to be affirmed and/or discussed:
a. Revised General Statement of Policy and Procedure for Enforcement Actions (posponed from January 21)
b. Dr. George V. Taplin's Petition (PRM 35–1) Regarding 10 CFR Part 35, "Human Uses of Byproduct Material"
c. General License for Mill Tailings in Agreement States

Friday, January 29:

10:00 a.m.:
Discussion of Quality Assurance/Quality Control (public meeting) (as announced)

Tuesday, February 2:

2:00 p.m.:
Briefing on Status of Committee for Review of Generic Requirements (public meeting)

Wednesday, February 3:

10:00 a.m.:
Discussion of Contested Issues in TMI–1 Restart Proceeding (closed meeting)

Thursday, February 4:

10:00 a.m.:
Meeting with FEMA on Rulemaking on Frequency of Exercises (public meeting)

2:00 p.m.:
Briefing by Industry on Plans for Quality Assurance Improvement (public meeting) (approximately 1½ hours)

3:30 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System
b. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings
c. Amendments to Part 1 and 2 to Implement the Commission's Delegation

of OL Antitrust Determination to Directors of NRR and NMSS
d. Petition for Reconsideration and Request for Immediate Suspension of New Safeguards Information Regulations Implementing Section 147 (postponed from January 21)
e. Diablo Canyon Physical Security—Governor Brown's Request for Public Disclosure of Non-Protection Information

Friday, February 5:

10:00 a.m.:
Meeting with ACRS (public meeting)
2:00 p.m.:
Briefing on Regulatory Reform Task Force (public meeting)

ADDITIONAL INFORMATION: By a vote of 5–0 on January 21, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Enforcement Matter (closed meeting) and, by a vote of 4–0 (Commissioner Roberts not present), that affirmation of FOIA Appeal (81–A–18C) Regarding Military Functions Rule, held that day be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary M. Gilbert, (202) 634–1410.

January 21, 1982.

Gary M. Gilbert,

Office of the Secretary

[S–117–82 Filed 1–25–82; 3:19 pm]

BILLING CODE 7590–01–M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on February 4, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634–4015.

Dated: January 22, 1982.

[S–111–82 Filed 1–22–82; 4:16 pm]

BILLING CODE 7600–01–M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on February 11, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634–4015.

Dated: January 22, 1982.

[S–112–82 Filed 1–22–82; 4:16 pm]

BILLING CODE 7600–01–M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on February 18, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634–4015.

Dated: January 22, 1982.

[S–113–82 Filed 1–22–82; 4:16 pm]

BILLING CODE 7600–01–M

federal register

Wednesday
January 27, 1982

Part II

Architectural and Transportation Barriers Compliance Board

Minimum Guidelines and Requirements for Accessible Design; Amendment to Final Rule and Notice of Proposed Rulemaking

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Minimum Guidelines and Requirements for Accessible Design

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Amendment to final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board amends its Minimum Guidelines and Requirements for Accessible Design (36 CFR Part 1190) scoping and technical regulations insofar as the rule relates to telephones and related equipment (36 CFR 1190.31(q) Telephones, and § 1190.210 Telephones). The revisions provide requirements on the number, location, and technical specifications for accessible public telephones and related equipment. The revisions also include conforming and clarifying amendments to the regulation's human data text and illustrations (§ 1190.40 Human Data).

EFFECTIVE DATE: February 26, 1982.

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: For information on the applicability, scoping and technical provisions of these amendments, contact: Sally Free, Office of Technical Services (202) 472–2700 (voice) or (202) 245–1801 (TDD); Susan Stoessel, Office of Compliance and Enforcement (202) 472–3237 (voice); or Charles Goldman, General Counsel (202) 245–1801 (voice or TDD).

Copies of the amendments are available on tape for those with visual impairments. These may be obtained at the Board offices.

SUPPLEMENTARY INFORMATION:

A. Background

Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, established the Architectural and Transportation Barriers Compliance Board (ATBCB or Board) to insure compliance with standards issued under the Architectural Barriers Act of 1968 (Pub. L. 90–480) (42 U.S.C. 4151 *et seq.*), as amended. The Board consists of eleven Federal agency members plus eleven members appointed by the President from the general public.[1]

On January 6, 1981, the Architectural and Transportation Barriers Compliance Board adopted as a final rule its "Minimum Guidelines and Requirements for Standards for Accessibility and Usability of Federal and Federally-Funded Buildings and Facilities by Physically Handicapped Persons" (Minimum Guidelines and Requirements for Accessible Design or guidelines and requirements). These guidelines and requirements were issued pursuant to the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978, amending the Rehabilitation Act of 1973, Pub. L. 93–112, codified at 29 U.S.C. 792, and were published in the **Federal Register** on January 16, 1981 (46 FR 4270). The guidelines and requirements provide a basis for the issuance of consistent and improved accessibility standards by four Federal standard-setting agencies: General Services Administration (GSA), Department of Defense (DOD), Department of Housing and Urban Development (HUD), and the United States Postal Service (USPS), under the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*) [2]

A Notice of Intent on the guidelines and requirements was published in the **Federal Register** on February 22, 1980 (45 FR 12167), and a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on August 18, 1980 (45 FR 55101). A draft regulatory analysis, prepared in accordance with Executive Order 12044, was published in the August 18, 1980, **Federal Register** for comment along with the NPRM. The Final Rule was published in the **Federal Register** on January 16, 1981. These documents as well as other information used as the basis for the rule are available for inspection at the ATBCB offices.

On July 10, 1981, the ATBCB determined to publish in the **Federal Register** a notice proposing amendments to the telephone provisions (see 49 FR 39764, August 4, 1981, ATBCB Docket Number 81–G–2). A second notice proposing rescission of the guidelines and requirements was also published in that same **Federal Register.** For further information on Board actions concerning the notice proposing rescission and subsequent actions taken by the Board on the guidelines and requirements, see the notice of proposed rulemaking published elsewhere in this **Federal Register.**

At its December 1981 Board meeting, the ATBCB adopted as a final rule the amendments proposed at 49 FR 39764 on August 4, 1981, addressing scoping and technical requirements for public telephones and related equipment. The Board believes that these amendments to the rule resolve questions on specific issues raised concerning these requirements and, therefore, decided to publish these amendments separately from the rulemaking concerning other portions of the guidelines and requirements.

B. Overview of the Amendments

Amendments to the scoping provisions of the final rule provide that if one or more public telephones are provided and installed as single units or if two or more telephones are installed in a bank of telephones on any floor, then there shall be at least one accessible telephone on each floor where public telephones are provided. Accessible telephones must meet the requirements of § 1190.210 and can be either side-reach telephones with the highest operable part mounted at a maximum of 4'–6" or forward-reach telephones with the highest operable part mounted at a maximum of 4'–0". If two or more banks of telephones are provided on any floor, then it is required that at least one accessible telephone per floor be mounted with the highest operable part at a maximum of 4'–0". The installer must provide at least one accessible telephone—mounted at either 4'–0" or 4'–6"—in proximity to each bank. The accessible public telephone does not have to be attached to the bank as long as it is in proximity to the bank of telephones.

The telephone companies and enclosure manufacturers pointed out that the equipment provided for exterior installations is technically different from interior installations and, as a result, difficulties are encountered in providing adequate service if the 4'–0" mounting height is used for some exterior telephones. As a result, the Board includes an exception for exterior public telephones for areas which do not have dial-tone-first service. For these areas only, the forward reach 4'–0" telephone is not required.

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[1] The agency members are the heads or their designees (Executive Level IV or above) of the Departments of Education; Transportation; Health and Human Services; Housing and Urban Development; Labor; Interior; Justice; Defense; General Services Administration; Veterans Administration; United States Postal Service. The Act requires at least five of the members from the general public to be physically handicapped.

[2] Standards issued under the Architectural Barriers Act and currently in effect are: GSA: 41 CFR 101–19.6, effective September 2, 1969, revised October 14, 1980 (45 FR 67664); HUD: 24 CFR Part 40, effective September 2, 1969; DOD: DOD 4270.1–M "Construction Criteria," June 1, 1978, paragraph 5–6; USPS: Postal Service Contracting Manual, Publication 41, § 18–518.4, 39 CFR 601.100 as amended by handbook RE–4, November 1979.

The requirement for volume controls remains unchanged from the rule issued January 6, 1981, except that language has been added encouraging the installation of additional volume controls. A paragraph requiring that signage directing persons to accessible telephones has also been added.

The technical portions for Human Data (§ 1190.40) and Telephones (§ 1190.210) are closely related; thus, if revisions in the technical provisions occur in one section, changes may also occur in the other. For example, a 10" maximum distance is not permitted between the wheelchair and the object to be reached (Figure 4.17). These changes are also reflected in Figures 21.1 and 21.2 that appear in § 1190.210 Telephones. The amendments were made based on a 1975 Dreyfus study and on comments submitted by the telephone industry.

A maximum 2'–0" depth is allowed for alcoves that are 2'–6" wide because a wheelchair user entering an alcove that is deeper than 2'–0" may experience significant problems getting out of that space (§ 1190.40(c)(5) and Figures 4.8, 4.9, 4.10, and 4.11). Alcoves requiring the use of a clear floor space deeper than 2'–0" must have a 3'–0" opening. Telephone equipment manufacturers were concerned as to the effects this requirement would have on the design of telephone enclosures. On examination of this provision, it was determined that the original requirements did not necessarily prohibit the use of a 2'–6" opening if the alcove was over 2'–0" in depth. Since such objects as telephones mounted in the alcove can protrude 6" from the wall opposite the alcove's entrance, the actual clear floor space that the wheelchair user requires becomes 2'–0" deep rather than 2'–6". A note clarifying paragraph 1190.40(c), along with changes to Figure 21.3, has been included in the final rule.

Two new figures (4.12 and 4.13) and explanatory text were added to the human data section to clarify reach limitation for wheelchair users. These provisions were also based upon dimensions found in the 1975 Dreyfus study and other well accepted research data establishing the 4'–0" and 4'–6" reach requirements.

Technical provisions at § 1190.210(d) in the telephone sections were revised to clarify that mounting height is based on the location of the highest operable parts which are essential to the basic operation of the telephone. The revision was necessary to include such technology as the dial-tone-first or the credit card call situation. A note has also been added to Figures 21.4 and 21.5 to reflect this clarification.

Figure 21.4 in § 1190.210 was revised to reflect that any width is permissible for the side reach telephone enclosure since clear floor space and minimum shelf height requirements specified by Figure 21.1 and 1190.40 will allow access to the telephone. It should also be noted that this clear floor or ground space is required to be positioned so that an object, such as a telephone, can be reached from a wheelchair (see Figure 4.12. and 4.13) and that it is permissible for this clear floor space to overlap the clear space required for other objects (1190.40)(c)).

C. Analysis of Comments

Sixty-three responses were included in the ATBCB Docket Number 81–G–2. Respondents included the following: Two Board members (GSA and USPS); eleven State and local government agencies; fifteen handicapped organizations including six representing hearing impaired and deaf individuals; six veterans organizations (all representing Paralyzed Veterans of America); one code organization, National Conference of States on Building Codes and Standards, Inc.; three industries; six education-affiliated organizations; and eleven individual responses. Three duplicat responses and four responses that did not directly address the proposed rulemaking, were also received.

Twenty-eight respondents were generally supportive of the proposed amendments. General Telephone & Electronics (GTE), American Telephone and Telegraph (AT&T) and the Committee of Independent Telephone Enclosure Manufacturers were all complimentary of the Board's efforts and willingness to respond to concerns raised by the industry. GTE said that the Board has struck a proper balance between accessibility and cost-effectiveness.

Eight respondents opposed the proposed amendments, with all except one of these comments recommending the use of the telephone provisions in ANSI A117.1–1980. Five of those recommending ANSI represented chapters of the Paralyzed Veterans of America. United States Postal Service and the General Services Administration opposed the revisions due to the then pending rescission notice and recommended ANSI. At the Board meeting on December 1, 1981, these concerns were discussed and resolved.

Nine respondents addressed the need for accessible telephones and made various recommendations. Five respondents were especially concerned with providing equipment for hearing impaired and deaf persons and strongly recommended the inclusion of volume controls and TDD's in the regulation.

Six respondents, including the California State University at Northridge and the Arkansas Department of Human Services, expressed a preference for the more stringent provisions contained in the January 1981 final rule.

Copies of these comments are available for inspection at the Board's office.

D. Executive Order 12291 and Regulatory Flexibility Act

This amendment to the final rule has been reviewed under procedures established in Executive Order 12291 and has been designated as a "non-major rule."

The Architectural and Transportation Barriers Compliance Board has concluded that the rule will not have a significant economic impact on a substantial number of small entities and that the requirement of the Regulatory Flexibility Act, Pub. L. 96–354, for a regulatory flexibility analysis is not applicable. The ATBCB rule directly impacts four Federal agencies—the General Services Administration, Department of Housing and Urban Development, Department of Defense, and United States Postal Service—who are to issue standards in accordance with the Architectural Barriers Act of 1968. Final determination of possible effect, if any, on recipients of Federal construction funds and on small businesses will be made at the time the standards based on these guidelines and requirements are issued by these standard-setting agencies.

In conclusion of the foregoing, Part 1190 of Title 36 of the Code of Federal Regulations is amended to read as set forth below.

Dated: December 1, 1981.
By vote of the Board.

Mason H. Rose, V,

Chairperson, Architectural and Transportation Barriers Compliance Board.

Wm. Bradford Reynolds,

Vice Chairperson, Architectural and Transportation Barriers Compliance Board, and Assistant Attorney General for Civil Rights.

1. § 1190.31(q) is amended by revising it to read as follows:

§ 1190.31 Accessible buildings and facilities: New construction.

* * * * *

(q) Telephones. (1) If public telephones are provided, then accessible public telephones shall comply with § 1190.210, Telephones, and the following table:

Number of public telephones provided on each floor	Number of telephones required to be accessible [1]
1 or more single unit installations	1 per floor.
1 bank [2]	1 per floor.
2 or more banks [2]	1 per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone.[3]

[1] Additional public telephones may be installed at any height; however, the installation of accessible telephones is strongly recommended. Unless otherwise specified, accessible telephones may be either forward reach or side reach telephones.

[2] A bank consists of two or more adjacent public telephones usually installed as a unit.

[3] Exception for exterior installations only: If dial-tone-first service is *not* available, then a side reach telephone may be installed instead of the required forward reach telephone (*i.e.*, one telephone in proximity to each bank shall meet the requirements of § 1190.210, Telephones).

(2) At least one of the public telephones complying with § 1190.210, Telephones, shall be equipped with a volume control. The installation of additional volume controls is encouraged and these may be installed on any public telephone provided.

(3) Signage complying with § 1190.220, Signage, shall be provided at public telephones and shall direct persons to public telephones complying with § 1190.210, Telephones.

* * * * *

2. § 1190.40 is amended by revising the text of paragraph (c)(5) (excluding Figures 4.8 through 4.11) and the introductory text of paragraphs (d) and (d)(1); adding Figures 4.12 and 4.13 and inserting them following the revised introductory text of paragraph (d); and redesignating old Figures 4.12, 4.13, 4.14, 4.15, and 4.16 as Figures 4.14, 4.15, 4.16, 4.17, and 4.18.

§ 1190.40 Human Data

* * * * *

(c) * * *

(5) If clear floor or ground space is confined or restricted on all or part of three sides, provide additional maneuvering space adjoining clear floor or ground space as shown in Figures 4.8, 4.9, 4.10, and 4.11. For example, a 2'–6" depth is satisfactory for a telephone enclosure that is 2'–6" square since the telephone protrudes from the wall 6" and thus reduces the actual depth of the "alcove" to 2'–0".

* * * * *

(d) *Reach limitations for wheelchair users.* Reach limitations for wheelchair users is a function of the mounting height of the object being reached and the distance the object is from the user (figs. 4.12 and 4.13).

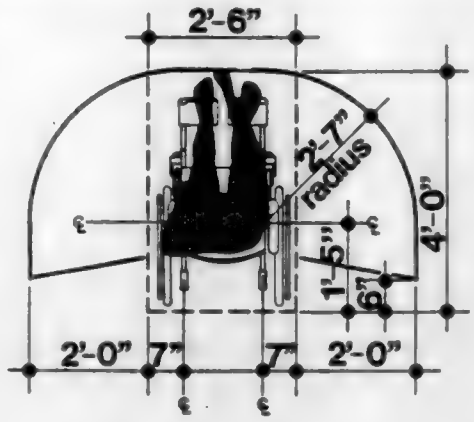

reach range 4./12
objects 4'-0" high max.

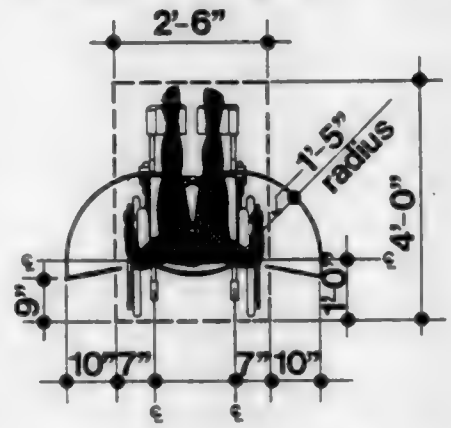

reach range 4./13
objects 4'-6" high max.

(1) Forward reach to surface mounted object:

(i) Maximum height of reach for a forward approach shall be 4'–0" (1,220 mm) (fig. 4.14)

(ii) Minimum height of reach for a forward approach shall be 1'–3" (380 mm) (fig. 4.14).

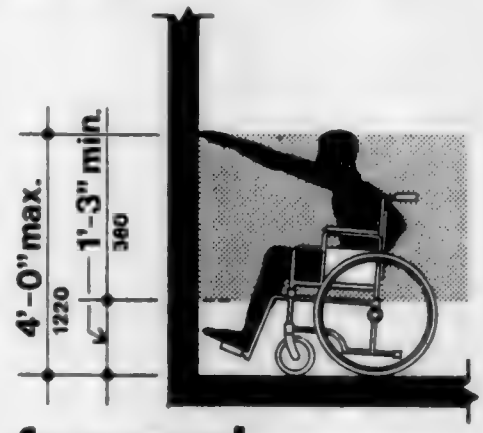

forward reach 4./14

(iii) Maximum height of reach for a forward approach over an obstruction shall comply with figures 4.15 and 4.16.

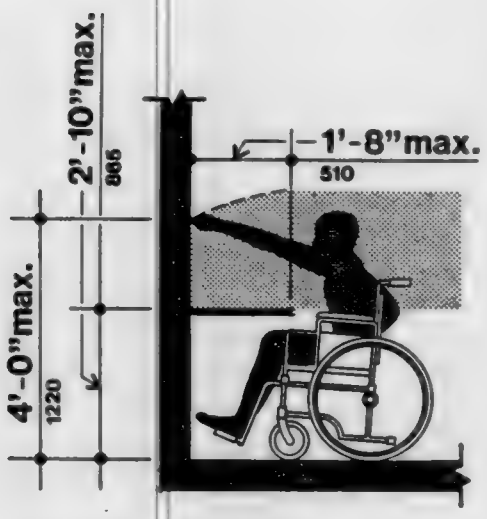

reach over obstacle
forward approach
4. 15

(2) Side reach (parallel approach):

(i) Maximum height of reach for a parallel approach shall be 4'-6" (1,370 mm) (fig. 4.17).

(ii) Minimum height of reach for a parallel approach shall be 9 inches (230 mm) (fig. 4.17).

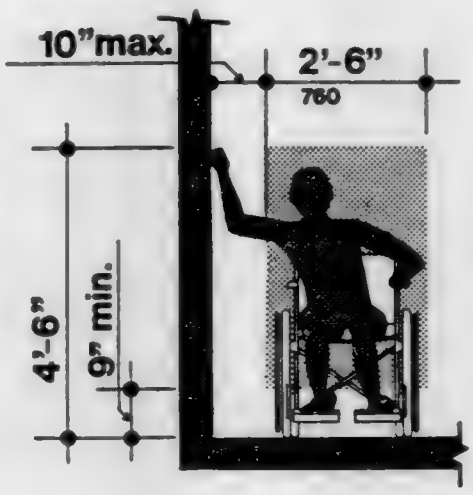

side reach
parallel approach
4. 17

(iii) Maximum height of reach for a side approach over an obstruction shall comply with figure 4.18.

3. § 1190.210 is amended by redesignating paragraphs (c) as (d) and (d) as (e); adding a new paragraph (c); revising figures 21.1, 21.2, and 21.3 and inserting them following new paragraph (c); revising newly designated (d)(1), inserting figures 21.4 and 21.5 and inserting them following paragraph (d)(1); and removing figure 21.6 as follows:

§ 1190.210 Telephones.

* * * * *

(c) *Protruding Objects.* Telephones shall comply with § 1190.50 (c), Protruding objects.

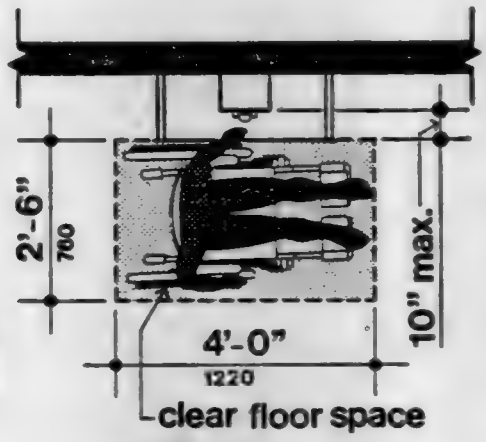

parallel approach
telephone enclosures
21. 1

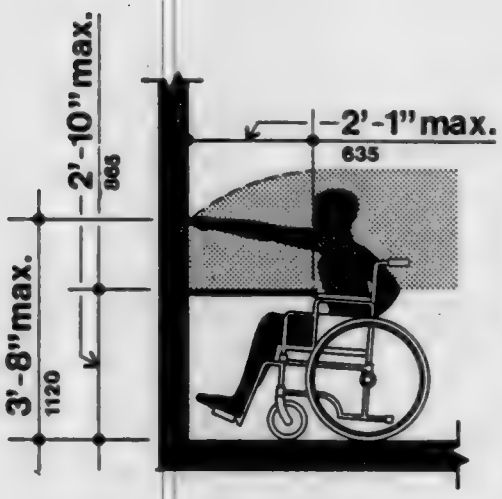

reach over obstacle
forward approach
4. 16

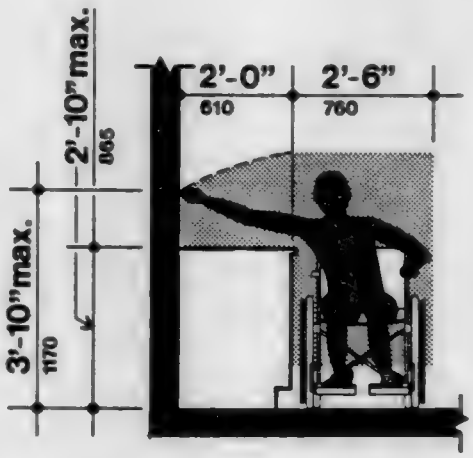

reach over obstruction
parallel approach
4. 18

* * * * *

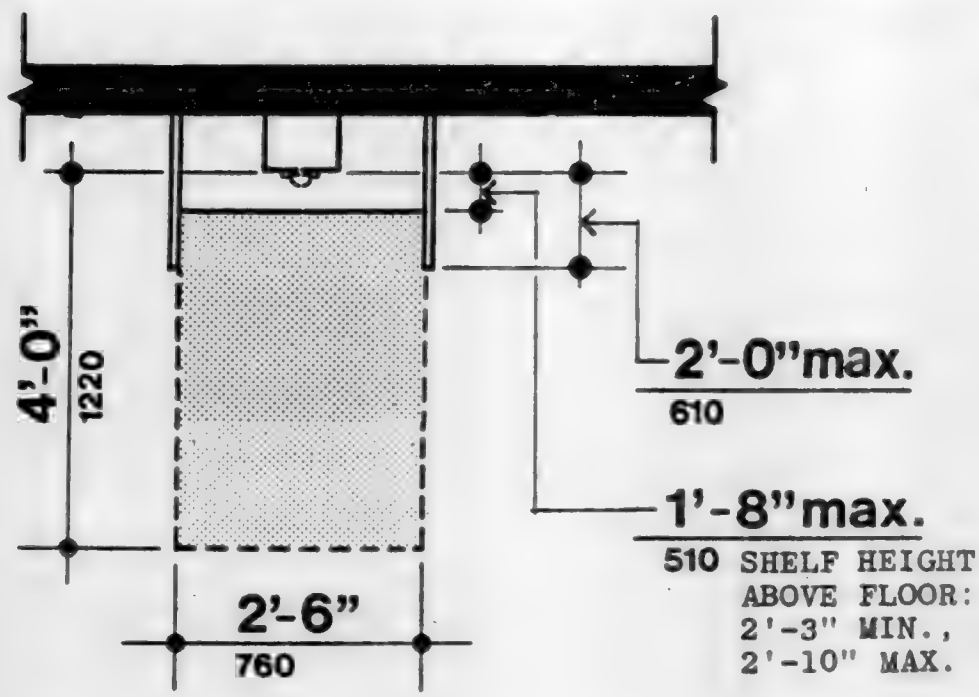

forward approach
telephone enclosures **21.2**

(d) *Equipment characteristics.* Telephone equipment shall:

(1) Have the highest operable parts which are essential to the basic operation of the telephone located at a maximum of 4'–6" (1370 mm) above finish floor for side reach (fig. 21.4) and at a maximum of 4'–0" (1220 mm) above finish floor for forward reach.

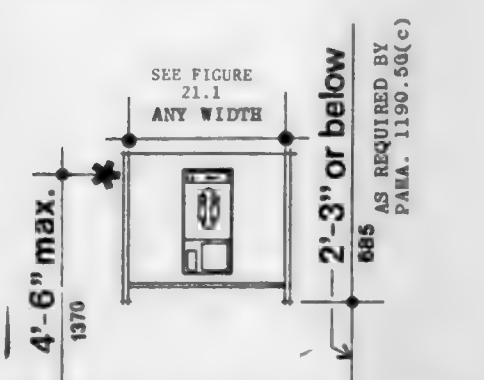

side reach
telephone enclosures **21.4**

*Highest operable parts which are essential to the basic operation of the telephone.

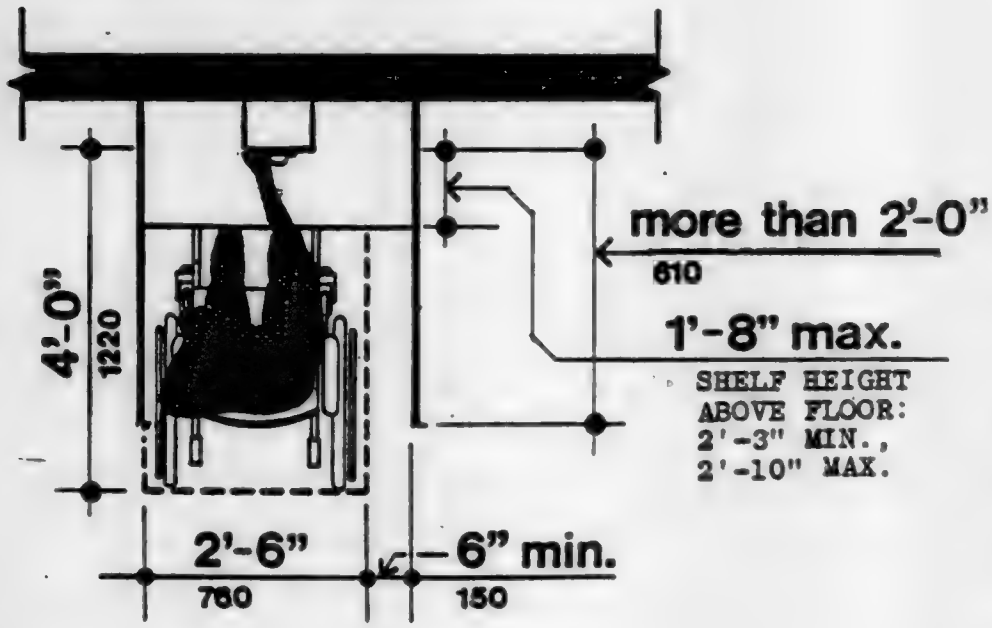

forward approach
telephone enclosures **21.3**

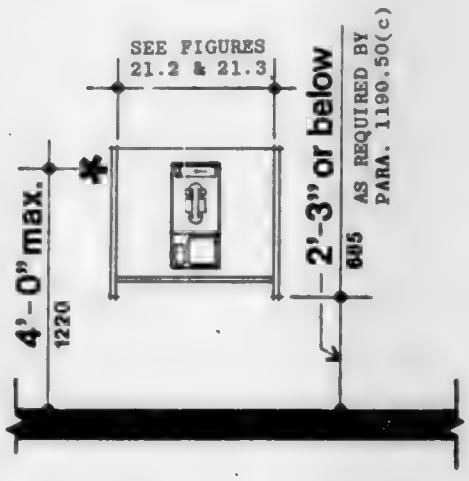

forward reach
telephone enclosures **21.5**

*Highest operable parts which are essential to the basic operation of the telephone.

* * * * *

[FR Doc. 82-1683 Filed 1-28-82; 8:45 am]
BILLING CODE 4000-07-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

[ATBCB Docket Number 81-G-3]

Minimum Guidelines and Requirements for Accessible Design

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Arhcitectural and Transportation Barriers Compliance Board issues a notice of proposed rulemaking to amend its minimum guidelines and requirements (guidelines and requirements) for standards for accessibility and usability of Federal and federally-funded buildings and facilities by physically handicapped persons published in the **Federal Register** as a final rule on January 16, 1981 (46 FR 4270, codified at 36 CFR Part 1190). The guidelines and requirements and this notice of proposed rulemaking are issued pursuant to the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, amending the Rehabilitation Act of 1973, Pub. L. 93–112. The guidelines and requirements provide a basis for the issuance of consistent and improved accessibility and usability standards issued by four standard setting agencies, the General Services Administration, Department of Housing and Urban Development, Department of Defense, and United States Postal Service, under the Architectural Barriers Act of 1968, as amended.

The Board intends by this action to amend the existing minimum guidelines and requirements so that they provide ready access and use, yet are more cost effective and consistent with other Federal and nationally recognized standards. A final rule consistent with this purpose may eliminate any need to rescind the existing minimum guidelines and requirements, as proposed in the **Federal Register** of August 4, 1981 (Docket 81–G–1) and in the notice of extension of comment period published on September 29, 1981. Each comment received in response to ATBCB Docket 81–G–1 will be included and evaluated as a response to this rulemaking (ATBCB Docket 81–G–3).

DATE: Written comments must be received or postmarked on or before March 15, 1982.

ADDRESS: Written comments should be submitted to the Docket Officer, ATBCB Rulemaking Docket Number 81–G–3, Architectural and Transportation Barriers Compliance Board, Room 1014, 330 C Street, SW., Washington, D.C. 20202. Comments received will be available for public inspection in room 1014 from 9 a.m. to 5:30 p.m., Monday through Friday. To inspect the docket, contact Mr. Larry Allison, Director of Public Information, Room 1014, 330 C Street, S.W., Washington, D.C. 20202; 202/245–1591 (voice or TDD).

FOR FURTHER INFORMATION CONTACT: For information on the applicability, scoping, and technical provisions of the Board's Minimum Guidelines and Requirements for Accessible Design (36 CFR Part 1190) and on this Notice of Proposed Rulemaking (NPRM) contact Ms. Sally Free, Office of Technical Services, Room 1014, 330 C Street, SW., Washington, D.C. 20202; (202) 472–2700 (voice) or Mr. Charles D. Goldman, General Counsel, Room 1010, 330 C Street, SW., Washington, D.C. 20202; (202) 245–1801 (voice or TDD).

For additional copies of this NPRM or of the ATBCB Minimum Guidelines and Requirements for Accessible Design (36 CFR 1190), contact Ms. Diane Pernick, Office of Public Information, Room 1014, 330 C Street, SW., Washington, D.C. 20202; (202) 245–1591 (voice or TDD). Copies of this NPRM and the Guidelines and requirements are available on tape for those with visual impairments. These documents may be obtained at the above address or by contacting Ms. Pernick.

SUPPLEMENTARY INFORMATION: On January 6, 1981, the Arhcitectural and Transportation Barriers Compliance Board (ATBCB or the Board) adopted as a final rule its "Minimum Guidelines and Requirements for Standards for Accessibility and Usability of Federal and Federally Funded Buildings and Facilities by Physically Handicapped Persons (Minimum Guidelines and Requirements for Accessible Design or guidelines and requirements). These guidelines and requirements were issued pursuant to the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 93–112, codified at 29 U.S.C. 792, and were published in the **Federal Register** on January 16, 1981 (46 FR 4270). The guidelines and requirements are to provide a basis for the issuance of consistent and improved accessibility standards by four Federal standard-setting agencies: General Services Administration (GSA), Department of Defense (Defense), Department of Housing and Urban Development (HUD), and the United States Postal Service (USPS), under the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151, *et seq.*).

On July 10, 1981, the ATBCB determined to publish in the **Federal Register** a notice proposing rescission of its January 6, 1981, Minimum Guidelines and Requirements for Accessible Design (46 FR 39764, August 4, 1981; ATBCB Docket 81–G–1) and the development of alternative minimum guidelines and requirements, as well as to publish a notice of proposed rulemaking regarding the regulation's scoping and technical provisions for accessible telephones (46 FR 39764, August 4, 1981; ATBCB Docket 81–G–2). Because several Senators, Congressmen, individuals, and organizations requested additional time for the submission of comments to ATBCB Docket 81–G–1, the Board extended the period for comments to November 6, 1981. In the notice extending the comment period, the Board identified portions of its January, 1981, regulations in which specific comments were requested. Such items included parking and passenger loading zones, entrances, elevators, toilet and bathing facilities, alarms, listening systems, additions, alterations, leases, special use facilities, and residential structures. The Board emphasized that it sought public comments on all parts of the guidelines and requirements and specifically asked for comments on which sections of this regulation should be retained, which sections should be modified, and which sections should be reserved. The Board also requested comments on the clarity and format of the regulation.

For background on the Architectural and Transportation Barriers Compliance Board's current guidelines and requirements, including the overview and section-by-section analysis of the current guidelines and requirements, see the Preamble at 46 FR 4270 (Jan. 16, 1981), codified at 36 CFR Part 1190, Preamble A.

Amendments are proposed to Subpart A—General, Subpart C—Scoping, and Subpart D—Technical. Amendments to the guidelines and requirements' technical provisions (Subpart D) are proposed in order to reduce the number of differences between the Board's guidelines and requirements and the American National Standard Institute Standard "Specifications for making Buildings and Facilities Accessible and Usable by Physically Handicapped Persons" (ANSI A117.1 (1980) or ANSI). Where such differences remain, the Board's guidelines and requirements are in all material respects similar to the draft proposed Uniform Federal Standards as developed by the Uniform Task Force established at the request of the Director, Office of Management and

Budget. The General Services Administration, the Department of Housing and Urban Development, the United States Postal Service, and the Department of Defense—the four voting members of the Uniform Task Force—are working toward adopting a uniform federal standard as their required Architectural Barriers Act standards.

Subparts C and D present generic specifications for application to general building types intended for public or common use. Subpart E, Special Building or Facility Types or Elements, continues to be reserved for future development by the ATBCB. With regard to housing, said development will be consistent with the accessibility requirements currently contained in HUD's Minimum Property Standards and 24 CFR Part 40. The proposed Uniform Federal Accessibility Standard now under development will address special building and facility types and elements and will provide a basis for future development of the reserve Subpart E.

The text of the proposed changes to the guidelines and requirements use ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions. Proposed technical changes to Subpart D are highlighted in italics in addition to using the arrows and brackets. The equivalent ANSI technical provision is noted in the margin and under appropriate figures. Technical provisions and definitions contained in the guidelines and requirements but not found in ANSI are underlined. An asterisk (*) in the left margin notates a provision on which the Board requests public comment on a specific question or alternative. For information on ATBCB provisions which are proposed to remain unchanged, see the preamble at 46 FR 4270 (Jan. 16, 1981). A detailed analysis of the final rule will be published with the rule.

It is recognized that any of the requirements embodied in the standard based on the proposed amendments are subject to the waiver and modification provisions of section 6 of the Architectural Barriers Act, 42 U.S.C. 4156.

The proposed amendments respond to concerns registered by certain Board members and to issues raised in comments submitted to ATBCB Docket 81–G–1 (notice of proposed rulemaking proposing rescission of minimum guidelines and requirements) and 81–G–2 (notice of proposed rulemaking on elephones).

Three thousand three hundred and sixty-six (3,366) timely comments were received in response to the notice of proposed rulemaking to rescind the guidelines and requirements and to the subsequent notice of extension extending this notice (ATBCB Docket 81–G–1). The overwhelming numerical majority of the responses support having the Board issue minimum guidelines and requirements. A number of comments were received in response to questions posed in the NPRM and in the Notice of Extension. These comments, some of which included helpful substantive proposals to modify the existing guidelines, have been carefully considered in the development of this proposed rulemaking. The minutes of the December 1, 1981, Board meeting, all comments, summaries, and other documents pertaining to this rulemaking are available for inspection at the Board's offices.

At its meeting of December 1, 1981, the Board voted unanimously to issue final amendments to the guidelines and requirements insofar as the regulation relates to telephones and related equipment. The final amendments are published elsewhere in this **Federal Register**. Paragraphs in this instant notice of proposed rulemaking affected by the issuance of the final amendments are noted in the text of this proposed rule.

This proposed rule has been reviewed in accordance with Executive Order 12291 and has been designated as a "major rule" for which the regulatory impact analysis has been waived.

The Architectural and Transportation Barriers Compliance Board has concluded that the proposed rule will not have a significant economic impact on a substantial number of small entities and that the requirement of the Regulatory Flexibility Act, Pub. L. 96–354, for a regulatory flexibility analysis is not applicable. The Architectural and Transportation Barriers Compliance Board's proposed rule directly impacts four Federal agencies—the General Services Administration, Department of Housing and Urban Development, Department of Defense, and United States Postal Service—who are to issue standards in accordance with the Architectural Barriers Act of 1968. Final determination of possible effect, if any, on recipients of Federal construction funds and on small businesses will be made as these guidelines and requirements are issued by the standard-setting agencies.

The Architectural and Transportation Barriers Compliance Board has also determined that the issuance of the proposed amendments to the minimum guidelines and requirements will not have any significant impact on the environment. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4232.

Conclusion:

In consideration of the foregoing, it is proposed to revise Part 1190 of Title 36 of the Code of Federal Regulations to read as set forth below, with the exception of certain amendments to §§ 1190.31, 1190.40, and 1190.210 which are adopted as an amendment to a final rule in a document published elsewhere in this **Federal Register**.

Dated: December 1, 1981.

By vote of the Board.

Mason H. Rose, V.

Chairperson, Architectural and Transportation Barriers Compliance Board.

Wm. Bradford Reynolds,

Vice Chairperson, Architectural and Transportation Barriers Compliance Board, and Assistant Attorney General for Civil Rights, Department of Justice.

BILLING CODE 8300-01-M

PART 1190 -- MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Subpart A--General

§ 1190.1 Purpose. The purpose of this part is to implement Section 502(b)(7) of the Rehabilitation Act of 1973 (29 U.S.C. 792(b)(7)), as amended, which requires the Architectural and Transportation Barriers Compliance Board to establish minimum guidelines and requirements for standards issued under the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), as amended. This part and the standards to be based on it are intended to ensure that certain buildings and facilities financed with Federal funds are so designed, constructed, or altered as to be readily accessible to, and usable by, physically handicapped persons, including those having the inability to walk, difficulty walking, reliance on walking aids, sight and hearing disabilities, incoordination, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes in physical size.

§ 1190.2 Applicability: Buildings and facilities subject to guidelines and standards.

(a) Definitions. As used in this section, the term:

(1) "Constructed or altered on behalf of the United States" means acquired by the United States through lease-purchase arrangement, constructed or altered for purchase by the United States, or constructed or altered for the use of the United States.

(2) "Primarily for use by able-bodied military personnel" means expected to be occupied, used, or visited principally by military service personnel. Examples of buildings so intended are barracks, officers' quarters, and closed messes.

(3) "Privately owned residential structure" means a single or multi-family dwelling not owned by a unit or subunit of Federal, state, or local government.

(b) Buildings and facilities covered. Except as provided in paragraph (c) of this section, the guidelines and requirements, and the standards to be issued by the standard-setting agencies to conform to it, apply to any building or facility--

(1) The intended use for which either--

(i) will require that such building or facility be accessible to the public, or

(ii) may result in employment or residence therein of physically handicapped persons; and

(2) Which is--

(i) to be constructed or altered by or on behalf of the United States;

(ii) to be leased in whole or in part by the United States;

(iii) to be financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if the building or facility may be subject to standards for design, construction, or alteration issued under the law authorizing the grant or loan; or

(iv) to be constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(c) Buildings and facilities not covered. The guidelines and requirements, and the standards do not apply to--

(1) Any privately owned residential structure, unless it is leased by the Federal government on or after January 1, 1977, for subsidized housing programs; or

(2) Any building or facility on a military installation designed and constructed primarily for use by military personnel.

(3) Although the ATBCB has not reviewed in detail the particular program statutes, it recognizes that, as a general rule, buildings purchased or acquired directly by the Government without construction or alteration are not covered by the Architectural Barriers Act.

(d) Effective date of standards. Any covered building or facility, as provided in this section, which is designed, constructed, ▶ or ◀ altered, [or leased] after the effective date of a standard issued under this guideline which is applicable to the building or facility, ▶ and any other building or facility, if and when required by law, subject to the requirements of the Architectural Barriers Act ◀ shall be designed, constructed, ▶ or ◀ altered, [or leased] in accordance with the standard. For purposes of this section, any design, construction, alteration or lease for which bids or offers are received before the effective date of the applicable standards, in response to an invitation for bids or requests for proposals, is not subject to the standard.

§ 1190.3 Definitions. As used in this part, the term:

"ATBCB" means the Architectural and Transportation Barriers Compliance Board.

"Access aisle" means a pedestrian space between elements such as parking spaces, seating, and desks.

"Accessible" means [complying] ▶ compliance ◀ with the specifications and requirements of this part and with any applicable standard issued by a standard-setting agency. ▶ Accessible describes a site, building, facility, or portion thereof that complies with these requirements and that can be approached, entered, and used by physically handicapped persons. Accessible elements and spaces of a building or facility including doors provided immedfately adjacent to a turnstile or a revolving door, shall be subject to the same use patterns as other elements and spaces of the building or facility. ◀

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility and complying with the space and reach requirements of this part. (Interior accessible routes may include but are not limited to corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include but are not limited to parking access aisles, curb ramps, walks, ramps, and lifts.)

"Accessible space" means a space that complies with this part.

▶ "Adaptability" means the ability of certain building spaces and elements such as toilet facilities and grab bars, to be added to, raised, lowered, or otherwise altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability. ◀

"Addition" means an expansion, extension, or increase in the gross floor area of a building or facility.

"Agency" means a Federal department, agency or instrumentality, as defined in sections 551(1) and 701(b)(1) of Title 5, United States Code, or an official authorized to represent an agency.

"Alteration" means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts, and extraordinary repairs. It does not include normal maintenance, reroofing, interior decoration, or changes to mechanical systems.

"Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 et seq.

▶ "Assembly Area" means a room or space accommodating fifty or more individuals for religious, recreational, educational, political, social, or amusement purposes, or for the consumption of food and drink, and including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference and meeting rooms accommodating less than fifty individuals are not considered assembly areas. ◀

"Automatic door" means a door--

(1) Used for human passage and

(2) Equipped with a power-operated mechanism and controls that open and

close the door upon receipt of a momentary actuating signal.

"Building or facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property.

▶ "Children" means people below the age of twelve (that is, elementary school age and younger). ◀

▶ "Circulation path" means an exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, stair landings, and elevators. ◀

▶ "Clear" means unobstructed. ◀

"Common ▶ use ◀ areas" means those interior and exterior spaces available for use by all occupants and users of a building or facility, exclusive of any spaces that are made available for the use of a restricted group of people or the use of which is restricted to particular functions.

"Construction" means any erection of a new building or of an addition to an existing building or facility.

"Cross slope" means the slope that is perpendicular to the direction of travel (see "running slope").

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Disability" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following bodily systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.

"Egress" or "means of egress" means a continuous and unobstructed way of exit travel from any point in a building or facility to an exterior walk or out of a fire zone. It includes all intervening rooms, spaces, or elements.

"Element" means an architectural or mechanical component of a building, facility, space, or site, e.g., telephone, curb ramp, door, drinking fountain, seating, water closet.

"Entrance" means any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gates(s), and the hardware of the entry door(s) or gate(s). ▶ The principal entrance of a building or facility is the main door through which most people enter. ◀

"Essential features" means those elements and spaces that make a building or facility usable by, or serve the needs of, its occupants or users. Essential features include but are not limited to entrances, toilet rooms, and accessible routes. Essential features do not include those spaces that house the major activities for which the building or facility is intended, such as classrooms and offices.

"Exception" means a special provision in this part or in a standard which indicates an acceptable alternative, under specified circumstances, to a requirement stated directly above the exception.

"Executive Director" means the Executive Director of the ATBCB.

"Extraordinary repair" means the replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance.

"Full and fair cash value" is calculated for the estimated date on which work will commence on a project and means--

(1) The assessed valuation of a building or facility as recorded in the assessor's office of the municipality and as equalized at one hundred percent (100%) valuation; or

Note: The one hundred percent (100%) equalized assessed value shall be based upon the state's most recent determination of the particular city's or town's assessment ratio. Example: Town X has an assessment ratio of forty percent (40%), and the particular building in question is assessed at $200,000.00. To determine the equalized assessed value of this

building, divide $200,000.00 by .40, and the equalized assessed value equals $500,000.00.

(2) The replacement cost; or

(3) The fair market value.

"Guidelines and requirements" means this part.

"Operable part" means a part of equipment or an appliance used to insert or withdraw objects, to activate or deactivate equipment, or to adjust the equipment (e.g., coin slot, push button, handle).

"Physically handicapped person" means any person who has a disability which substantially limits one or more major life activity, including but not limited to such functions as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Power-assisted door" means a door--

(1) Used for human passage; and

(2) With a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself.

▶ "Public use" means any interior and exterior rooms or spaces made available to the general public. Public use may be provided at a building or facility that is privately or publically owned. ◀

"Ramp" means a walking surface that has a running slope greater than 1:20.

▶ "Reconstruction" means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time. ◀

▶ "Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later works or by replacement of missing earlier work. ◀

"Running slope" means the slope that is parallel to the direction of travel (see "cross slope").

"Section 502 of the Rehabilitation Act" or "Section 502" means Section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 792, as amended.

"Shall" denotes a mandatory requirement.

"Signage" means the display of written, symbolic, tactile, or pictorial information.

"Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

"Site improvements" means landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and similar site additions.

"Space" means a definable area, e.g., toilet room, hall, assembly area, parking area, entrance, storage room, alcove, courtyard, or lobby.

"Standard" means any standard for accessibility issued under the Architectural Barriers Act.

"Standard-setting agency" means one of the four agencies required to issue standards under the Architectural Barriers Act, i.e., the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service.

"Structural impracticability" means having little likelihood of being accomplished without removing or altering a load-bearing structural member ▶ and/or ◀ at an increased cost of 50 percent or more of the value of the element of the building or facility involved.

"Tactile" means perceptible through the sense of touch.

"Tactile warning" means a surface texture applied to or built into walking surfaces or other elements to warn visually impaired persons of hazards in the path of travel.

▶ "Temporary" means elements are not permanent (i.e., installed for less than six months) and are not required for safety reasons. ◀

"Walk" means an exterior pathway or space with a prepared surface intended for pedestrian use and having a slope of 1:20 or less. It includes general pedestrian areas such as plazas and courts.

§ 1190.4 Issuance of Architectural Barriers Act standards by standard-setting agencies.

(a) These guidelines and requirements are the minimum requirements for standards issued under the Architectural Barriers Act by the Administrator of General Services, Secretary of Housing and Urban Development, Secretary of Defense, and Postmaster General.

(b) Standards which conform to or exceed the provisions of the guidelines shall be deemed in compliance with the guidelines and requirements.

(c) Each standard-setting agency is encouraged to issue standards which follow the format of these guidelines and requirements. However, standards which differ in format from these guidelines and requirements but are otherwise consistent with the guidelines and requirements shall be deemed in compliance with these guidelines and requirements.

§ 1190.5 Guidelines: Other uses.

The guidelines and requirements may be used by other governmental and nongovernmental entities to make buildings and facilities accessible to, and usable by, physically handicapped persons.

§ 1190.6 Interpretation of guidelines.

(a) These guidelines and requirements shall be liberally construed to carry out the purposes and provisions of the Architectural Barriers Act and Section 502 of the Rehabilitation Act.

(b) Words importing the singular number may extend and be applied to the plural and vice versa. However, unless otherwise specified in the guidelines and requirements, each element or space of a particular building or facility shall comply with the guidelines and requirements.

(c) Use of the imperative mood, e.g., "provide," means the provision is mandatory. This form is being used to avoid wordiness and monotony but means the same as if the word "shall" had been included.

(d) The provisions in the minimum guidelines and requirements are based upon adult dimensions and anthropometrics.

(e) Dimensions that are not marked "minimum" or "maximum" are absolute, unless otherwise indicated in the text or captions. All dimensions are subject to conventional building tolerances for field conditions.

§ 1190.7 Effect of State or local law.

The obligation to comply with this part is not affected by any State or local law.

§ 1190.8 Site conditions. [Reserved]

§ 1190.9 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of these guidelines and requirements is declared invalid for any reason, the remaining portions of these guidelines and requirements that are severable from the invalid part shall remain in full force and effect. If a part of these guidelines and requirements is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

Subpart B. [Reserved]

Subpart C--Scope

§ 1190.30 Scope. [Reserved]

▶ Except as otherwise provided in this Subpart, any covered building or facility which is designed, constructed or altered after the effective date of an applicable standard shall comply with the provisions of such standard issued in conformance with the provisions of this Subpart. Any other building or facility covered by the Architectural Barriers Act, if and when required by law, shall comply with such standard issued in conformance with the provisions of §1190.31 Accessible Buildings and Facilities: New Construction. ◀

§ 1190.31 Accessible buildings and facilities: New construction.

Except as otherwise provided in Subpart E, all new construction of buildings and facilities shall comply with the following minimum requirements:

(a) Accessible route. At least one accessible route shall comply with § 1190.50, Walks, floors, and accessible routes, and shall connect an accessible building entrance with:

(1) Transportation facilities located within the property line of a given site, including passenger loading zones, public transportation facilities, taxi stands, and parking;

(2) Public streets and sidewalks;

(3) Other accessible buildings, facilities, elements, and spaces that are on the same site; and

(4) All accessible spaces, rooms, and elements within the building or facility.

(b) Parking and passenger loading zones. ▶ (1) ◀ If any parking is provided,for employees or visitors, or both, each such parking area shall comply with § 1190.60, Parking and passenger loading zones, and the following table:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of Total
over 1000	20 plus 1 for each 100 over 1000

▶ (i) ◀ EXCEPTION: The total number of accessible parking spaces may be distributed among parking lots, if greater accessibility is achieved.

▶ (ii) ◀ EXCEPTION: This paragraph does not apply to parking provided for official government vehicles owned or leased by the government and used exclusively for government purposes.

Parking spaces for side lift vans, § 1190.60(c)(2)(a), are accessible parking spaces and may be used to meet the requirements of this paragraph.

▶ (2) ◀ If passenger loading zones are provided, at least one passenger loading zone shall comply with § 1190.60, Parking and passenger loading zones.

(c) Ramps and curb ramps. If there is an abrupt level or grade change, if the slope is greater than 1:20, and if no other means of accessible vertical access is provided, a ramp or curb ramp shall be provided. If a ramp or curb ramp is provided, it shall comply with § 1190.70, Ramps and curb ramps.

(d) Stairs. Except as provided in paragraph 1190.31(f)(1), stairs connecting levels that are not connected by an elevator shall comply with § 1190.80, Stairs.

(e) Handrails. Handrails shall be provided at each ramp and staircase as required in § 1190.70, Ramps and curb ramps, and § 1190.80, Stairs, respectively, and shall comply with

§ 1190.90, Handrails.

(f) Elevators. One passenger elevator coplying with § 1190.100, Elevators shall serve each level in all multi-story buildings and facilities. If more than one elevator is provided, each elevator shall comply with § 1190.100, Elevators.

(1) Exception. Elevator pits, elevator penthouses, mechanical rooms, piping, or equipment catwalks are excepted from this requirement.

(2) Exception. Ramps or platform lifts complying with § 1190.70, Ramps and curb ramps, and § 1190.110, Platform lifts, respectively, may be used in lieu of an elevator.

(g) Platform lifts. If the slope is greater than 1:20, and if no other means of accessible vertical access is provided, a platform lift may be provided if there is an abrupt level or grade change. If a platform lift is provided, it shall comply with § 1190.110, Platform lifts.

(h) Entrances. [At least one entrance to a building or facility shall comply with §1190.120 Entrances.] ▶ At least one principle entrance at each grade floor level to a building or facility shall comply with § 1190.120 Entrances. ◀ When a building or facility has entrances which normally serve any of the following functions: transportation facilities; passenger loading zones; parking facilities; taxi stands; public streets and sidewalks; accessible interior vertical access, then at least one of the entrances serving each such functions shall comply with § 1190.120, Entrances. [When a building or facility has entrances on more than one exposure, then at least one entrance for each exposure shall comply with § 1190.120, Entrances, unless site conditions preclude accessibility.] ▶ Because entrances also serve as exits, particularly in cases of emergency, the proximity of such accessible entrances and exits to all parts of the building and facility is essential. It is preferable that all or most entrances and exits be accessible. ◀

(i) Doors.

(1) At each accessible entrance to a building or facility, at least one door shall comply with § 1190.130, Doors.

(2) [For each space] Within a building or facility, at least one door at each accessible entrance to the accessible space shall comply with § 1190.130, Doors.

(3) Each door required by paragraph 1190.50(h), Egress, shall comply with § 1190.130, Doors.

(4) Each door that is an element of an accessible route shall comply with § 1190.130, Doors.

(j) Windows. [Reserved]

(k) Toilet and bathing facilities. [Each toilet and bathing facility provided shall comply with § 1190.150, Toilet and bathing facilities, and in] ▶ If toilet facilities are provided, then each public and common use toilet room shall comply with § 1190.150, Toilet and bathing facilities. Other toilet rooms shall be adaptable. If bathing facilities are provided, then each public and common use bathroom shall comply with §1190.150. ▶In ◀ each such facility where any of the fixtures and accessories specified in 1190.150(e) and (f) are provided, at least one accessible fixture and accessory of each type provided shall comply with paragraph 1190.150(e) and (f). ▶ At least one standard size toilet stall (or the equivalent size toilet room containing one water closet and one lavatory) complying with § 1190.150(e)(2)(ii) and Figure 15.7 shall be provided in each building or facility. Signage complying with § 1190.200 shall be located at the entrance of each toilet room not containing a standard size toilet stall and it shall direct the user to the location of the toilet room containing the standard size toilet stall. ◀ For special use situations, refer to Subpart E, Special Building or Facility Types or Elements.

(l) Drinking fountains and water coolers. If drinking fountains or water coolers are provided, approximately 50% of those provided on each floor shall comply with § 1190.160, Drinking fountains and water coolers, and shall be dispersed throughout the floor. If only one

drinking fountain or water cooler is provided on any floor, it [shall have two levels and the lower level] shall comply with § 1190.160. ▶ It is preferred that if only one drinking fountain or water cooler is provided on any floor, then it should have two levels with the lower level complying with § 1190.160. ◀

(m) Controls and operating mechanisms. If controls and operating mechanisms are provided, each shall comply with §1190.170, Controls and operating mechanisms.

(n) Alarms. If alarm systems are provided, each shall comply with § 1190.180, Alarms.

(o) Tactile warnings. Tactile warnings complying with paragraph 1190.130(g), Doors to hazardous areas, shall be provided on the hardware of all doors that lead to hazardous areas. Tactile warnings shall not be used at emergency exit doors.

(p) Signage.

(1) The international symbol of accessibility shall comply with paragraph 1190.200(e), Symbol of accessibility, and shall be used at the following locations:

(i) Parking spaces designated as reserved for the physically handicapped;

(ii) Passenger loading zones;

(iii) Accessible entrances;

(iv) Accessible toilet and bathing facilities.

(2) Informational signing, if provided, shall comply with § 1190.200. ▶ (i) Exception. The provisions of paragraph 1190.200(c) are not mandatory for temporary information on room and space signage.

(ii) Reserved. ◀

(q) Telephones. ▶ See ATBCB Minimum Guidelines and Requirements for Accessible Design, Amendments to Final Rule, published elsewhere in this Federal Register. ◀

(r) Seating, tables, and work surfaces. If fixed seating, tables, and work surfaces are provided, at least 5 percent ▶ but always at least one ◀ of each element shall comply with § 1190.220, Seating, tables, and work surfaces.

*(s) Assembly areas ▶, conference and meeting rooms. ◀

▶ (1) ◀ If assembly areas are provided, accessible viewing positions shall comply with § 1190.230, Assembly areas, and the following table:

Capacity of Assembly Space	Number of Viewing Positions
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
over 1000	20 plus 1 for each 100 over 1000

▶ (2) For each assembly area, provide a permanent listening system to assist no fewer than two persons with severe hearing loss. For spaces used primarily as conference and meeting rooms, provide a listening system that may be either permanently installed or portable. A portable system may be used to serve more than one meeting or conference room.

or

(2) Assembly areas with audio-amplification systems shall have a listening system complying with § 1190.230 to assist a reasonable number of people, but no fewer than two, with severe hearing loss in the appreciation of audio presentations. ◀

(t) Storage. If storage facilities such as cabinets, shelves, closets and drawers are provided in accessible spaces for occupant use, at least one storage facility of each type provided shall comply with § 1190.240, Storage. ▶ Additional storage may be provided

*The ATBCB requests comment on the two alternatives proposed for scoping requirements for listening systems. Which alternative, if either, is preferable?

outside of the dimensions provided in § 1190.240. ◀

§ 1190.32 Accessible buildings and facilities: Additions.

Each addition to an existing building or facility shall comply with § 1190.31, New construction, except as follows:

(a) Entrances. If a new addition to a building or facility does not have an entrance, then at least one entrance in the existing building or facility shall comply with § 1190.120, Entrances.

(b) Accessible route. If the only accessible entrance to the addition is located in the existing building or facility, then at least one accessible route shall comply with § 1190.50, Walks, floors, and accessible routes, and shall provide access through the existing building or facility to all rooms, elements, and spaces in the new addition.

(c) Toilet and bathing facilities. If there are no toilet rooms and bathing facilities in the addition and these facilities are provided in the existing building, then at least one toilet and bathing facility in the existing building shall comply with § 1190.150, Toilet and bathing facilities.

(d) Elements, spaces, and common areas. If elements, spaces, or common areas are located in the existing building and they are not provided in the addition, consideration should be given to making those elements, spaces, and common areas accessible in the existing building.

▶ (e) EXCEPTION: Mechanical rooms, storage areas, and other such minor additions which normally are not frequented by the public or employees of the facility, are excepted from paragraphs a, b, and c of § 1190.32. ◀

§ 1190.33 Accessible buildings and facilities: Alterations.

(a) General. Alterations to existing buildings or facilities shall comply with the following:

(1) If existing elements, spaces, essential features, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of § 1190.31, Accessible buildings and facilities: New construction.

(2) If power-driven vertical access equipment (e.g., escalator) is planned or installed where none existed previously, or if new stairs (other than stairs installed to meet emergency exit requirements) requiring major structural changes are planned or installed where none existed previously, then a means of accessible vertical access shall be provided that complies with § 1190.70, Ramps and curb ramps; § 1190.100, Elevators; or § 1190.110, Platform lifts ▶, except to the extent where it is structurally impracticable in transit facilities. ◀

(3) If alterations of single elements, when considered together, amount to an alteration of a space of a building or facility, the entire space shall be made accessible.

(4) Signage. If an existing building or facility contains some but not all accessible elements and spaces, informational signage complying with § 1190.200, Signage, directing the user to accessible facilities shall be placed at each accessible entrance. Each inaccessible entrance and each inaccessible toilet room shall have signage directing the user to the accessible entrance(s) or toilet room(s).

(b) [Alterations involving more than 50% of the full and fair cash value. If the total cost of all alterations (including but not limited to electrical, mechanical, plumbing and structural changes) for a building or facility within any twelve (12) month period is 50% or more of the building's full and fair cash value (as defined by 1190.3), then each element or space that is altered or added shall comply with the applicable provisions of § 1190.31, Accessible buildings and facilities: New construction; and the altered building shall contain:] ▶ Where a building or facility is vacated

and it is totally altered then it shall comply with § 1190.31 Accessible buildings and facilities: New construction, except to the extent where it is structurally impracticable. ◀

▶ (c) Where substantial alteration occurs to a building or facility, then each element or space that is altered or added shall comply with the applicable provisions of § 1190.31 Accessible buildings and facilities: New construction and the altered building or facility shall contain: ◀

(1) At least one accessible route complying with § 1190.50, Walks, floors, and accessible routes, and paragraph 1190.33(a);

(2) At least one accessible entrance complying with § 1190.120, Entrances. If additional accessible entrances are altered, then they shall comply with paragraph 1190.33(a)(1); and

(3) The following toilet facilities, whichever number is greater:

(i) At least one toilet facility for each sex in the altered building complying with § 1190.150, Toilet and bathing facilities;

(ii) At least one toilet facility for each sex on each substantially altered floor, where such facilities are provided, complying with § 1190.150, Toilet and bathing facilities.

▶ In making the determination as to what constitutes "substantial alteration," the agency issuing standards for the facility shall consider the total cost of all alterations (including but not limited to electrical, mechanical, plumbing, and structural changes) for a building or facility within any twelve (12) month period. For guidance in implementing this provision, an alteration to any building or facility is to be considered substantial if the total cost for this twelve month period amounts to 50% or more of the full and fair cash value of the building as defined at 1190.3. ◀

(4) Exception. If the cost of the elements and spaces required by paragraphs 1190.33(b)(1), (2), and (3) exceeds 15% of the total cost of all other alterations, then a schedule may be established by the standard-setting and/or funding agency to provide the required improvements within a 5 year period.

(5) Exception. If the alteration is limited solely to the electrical, mechanical, or plumbing system and does not involve the alteration of any elements and spaces required to be accessible under Part 1190 the 1190.33(b) does not apply.

(6) Exception. Consideration shall be given to providing accessible elements and spaces in each altered building or facility complying with:

(i) § 1190.60, Parking and Passenger Loading Zones;

(ii) § 1190.160, Drinking Fountains and Water Coolers;

(iii) § 1190.180, Alarms;

(iv) § 1190.210, Telephones;

(v) § 1190.220, Seating Tables and Work Surfaces;

(vi) § 1190.230, Assembly Areas;

(vii) § 1190.240, Storage.

§ 1190.34 [Accessible buildings and facilities: Leased.] ▶ (RESERVED). ◀

[(a) Buildings or facilities or portions thereof leased by the Federal government shall comply with the requirements of § 1190.31, New construction, § 1190.32, Additions, and § 1190.33, Alterations.

(b) If no fully accessible space is available, space may be leased only if the following conditions are met:

(1) At least one accessible route is provided from an accessible entrance complying with § 1190.120, Entrances, to all leased portions of the building or facility and to each essential feature which serves that portion of the building or facility. The accessible route shall comply with the requirements of § 1190.50 Walks, floors, and accessible routes.

(2) Each essential feature of the portion of the building or facility to be leased is accessible and complies with the applicable sections.

(3) Common areas that are approved space needs of the occupant agency serving the portions of the building or facility to be leased are accessible

and comply with the applicable section.
(c) Exception. If no space complying with (a) or (b) is available, space as available may be leased, provided--
(1) The leasing authority certifies that space is unavailable due to remoteness of the area or that the lease is necessary for officials servicing natural or human-made disasters; and
(2) The ATBCB is provided a listing of instances in which this exception is applied as part of the semi-annual report to Congress.
(d) Any other deviation from the requirements of § 1190.34 shall be made only through the waiver or modification process.]

▶ Note: The Minimum Guidelines and Requirements for Accessible Design require that all buildings and facilities covered by the Architectural Barriers Act are subject to this Part. As published on January 16, 1981, the Guidelines and Requirements specifically provided that all buildings and facilities leased by the Federal governent must be accessible at the time the building or facility is leased. In view of the continuing controversy over the point at which the Architectural Barriers Act applies to leased buildings and facilities, this Part no longer specifies at which point the accessibility standard must apply to leased buildings and facilities. This change has been made solely in recognition of the fact that the issue concerning the applicability of the Architectural Barriers Act to leased buldings is a legal one on which the Board expresses no position. ◀

SUBPART D—TECHNICAL

Subpart D—Technical Provisions

§1190.40 *Human data.*

(a) ***General.*** This section is the basis for clearances and equipment location required by other sections.

(b) ***Moving wheelchair clearances.*** Provide the clearances for moving wheelchairs as follows:

ANSI 4.2.1

(1) Min. clear width for passage of a single wheelchair is 3'–0" (915 mm) (fig. 4.1).

(i) *Exception.* The clear width may be reduced to 2'–8" (815 mm) for a distance not to exceed 2'–0" (610 mm) in length at points such as doorways (fig. 4.1).

(ii) (Reserved)

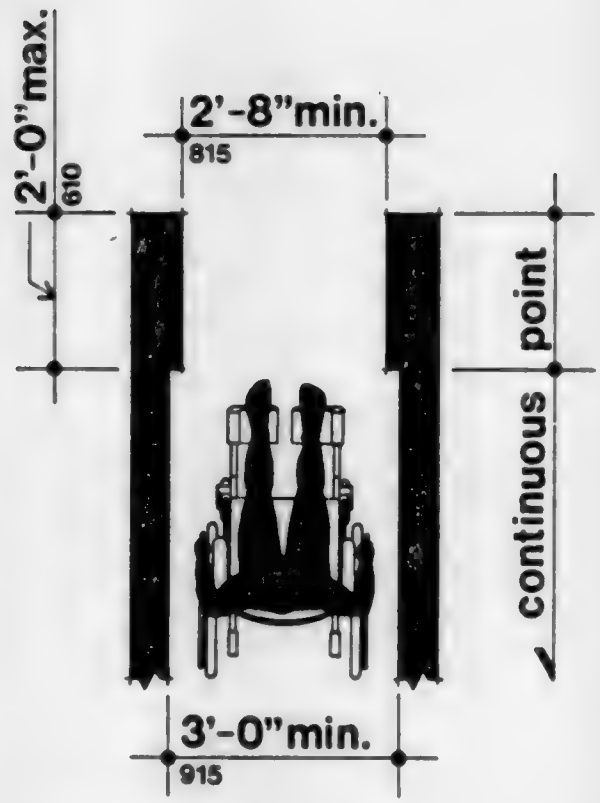

passage 4.1

ANSI Figures 1 and 24(e)

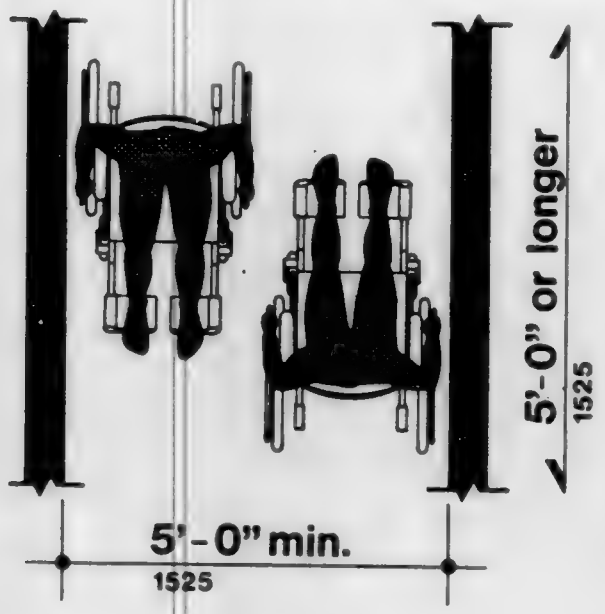

two-way 4.2

ANSI Figure 2

ANSI
4.2.2 (2) **Min. clear width for two wheelchairs to pass is 5'–0" (1,525 mm) (fig. 4.2).**

4.2.3 (3) **Min. clear space to make a 180 degree turn is a 5'–0" (1,525 mm) diameter (fig. 4.3) or a T-shaped space that complies with fig. 4.4.**

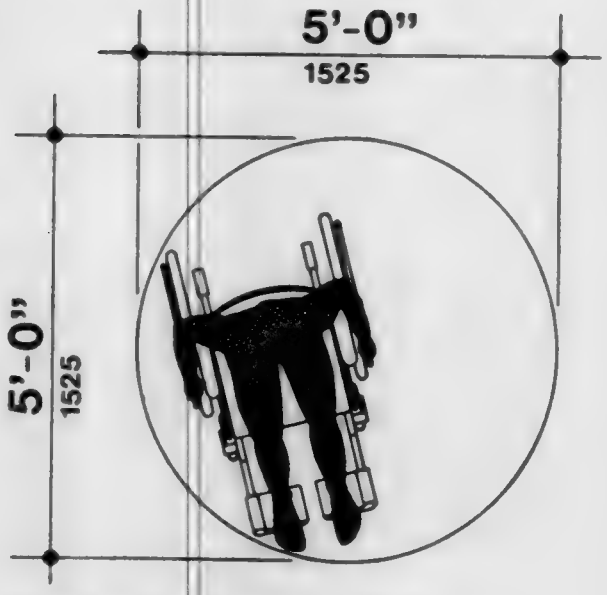

180°/360° 4.3

ANSI Figure 3(a)

Page 3

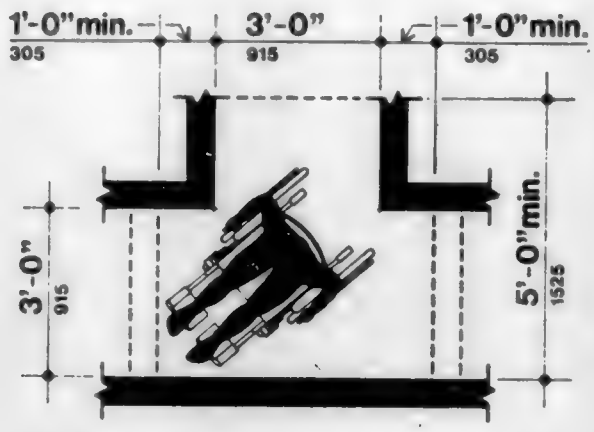

t-turn 4./4

ANSI Figure 3(b)
Note: ANSI does not specify or illustrate the length of the arms for the T-turn.

ANSI
4.2.4 (c) ***Clear floor or ground space.*** **Provide the following clear floor or ground space to accommodate a single, stationary occupied wheelchair:**

4.2.4.1 **(1) Clear floor or ground space shall be a min. of 2'–6" by 4'–0" (760 mm by 1,220 mm) (fig. 4.5).**

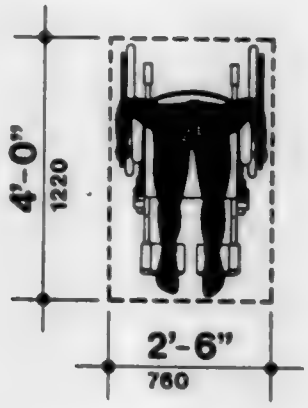

clear floor or ground space 4./5

ANSI Figure 4(a)

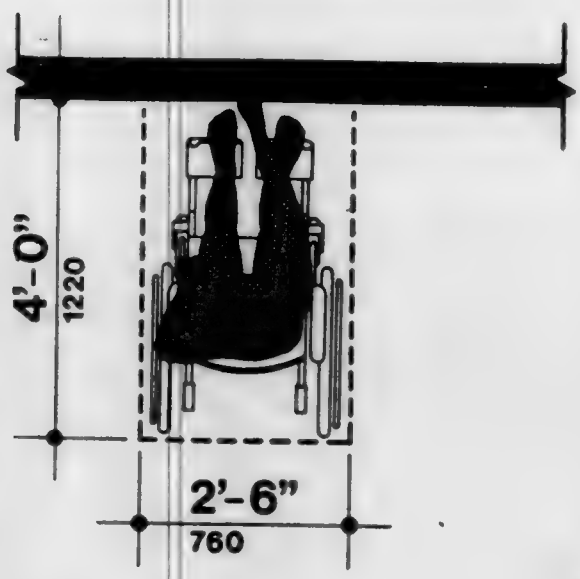

forward approach

4.6

ANSI Figure 4(b)

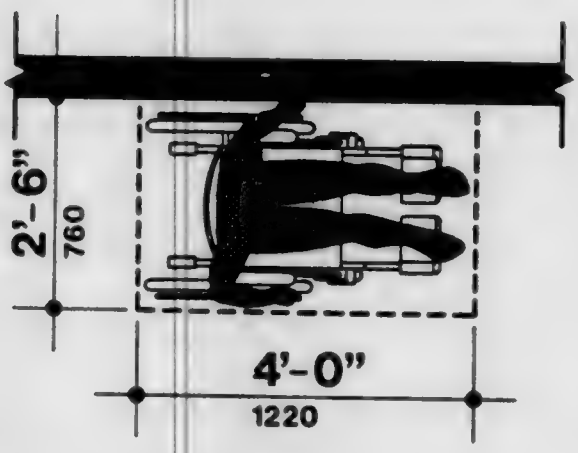

parallel approach

4.7

ANSI Figure 4(c)

ANSI

4.2.4.1 **(2) Position clear floor or ground space for either forward or parallel approach to an object or element as required (figs. 4.6 and 4.7).**

4.2.4.1 **(3) Clear floor or ground space may overlap the clear space required under some objects.**

4.2.4.2 **(4) Clear floor or ground space shall adjoin or overlap an accessible route or another clear floor or ground space for at least one full, unobstructed side.**

ANSI

4.2.4.2 (5) See ATBCB Minimum Guidelines and Requirements for Accessible Design, Amendment to Final Rule, published elsewhere in this Federal Register.

4.2.4.3 (8) 4.5 Surfaces of clear floor or ground spaces shall comply with paragraph 1190.50(i), Walks, floors, and accessible routes.

(d) Reach limitations. See ATBCB Minimum Guidelines and Requirements for Accessible Design, Amendment to Final Rule, published elsewhere in this Federal Register.

* * * * * *

4.27.3 (3) To be accessible, special equipment may require measurements different from those provided above and these measurements should be dictated by equipment design.

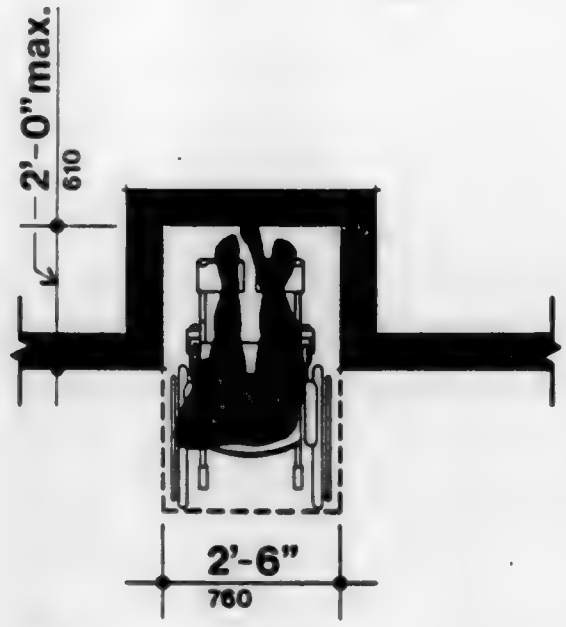

alcove 4.8

ANSI Figure 4(d)

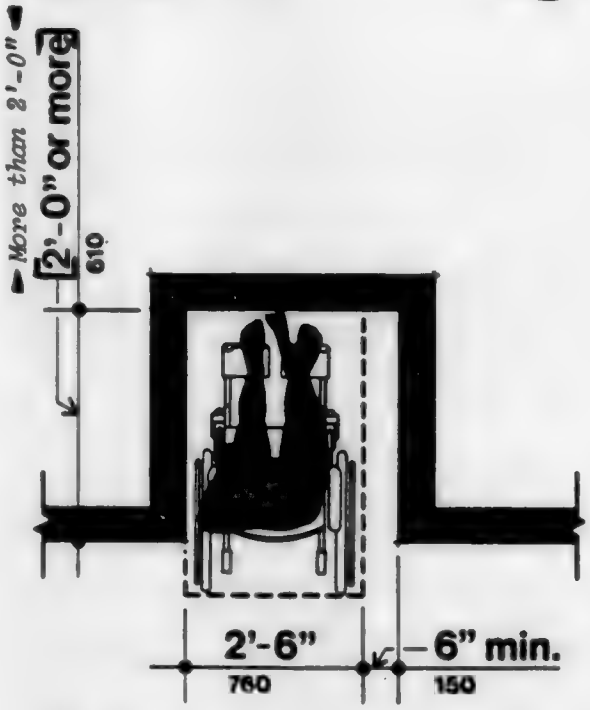

alcove 4.9

ANSI Figure 4(e)

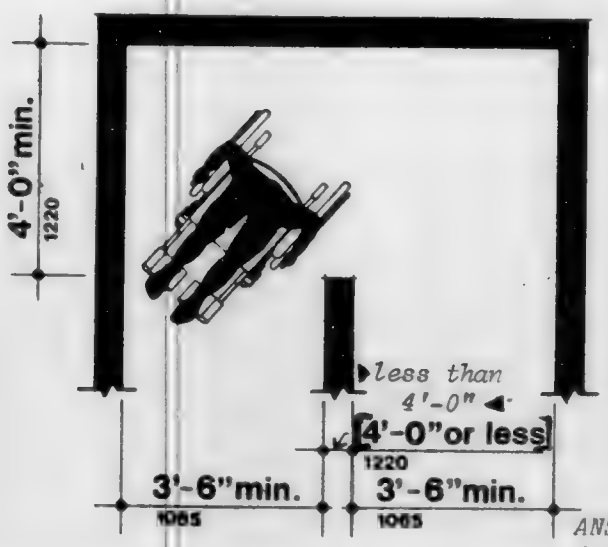

ANSI 4.3

turn
maneuvering clearances
5.1

ANSI Figure 7(b)

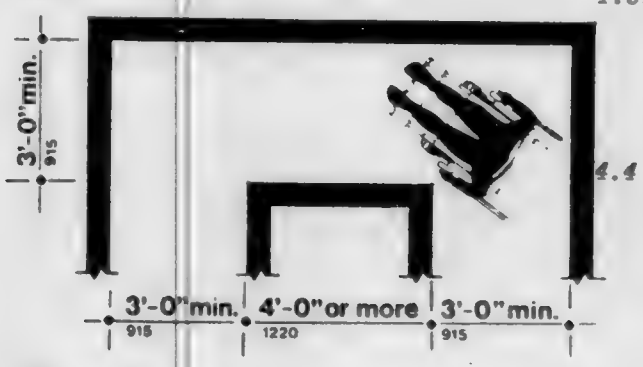

4.4

turn
maneuvering clearances
5.2

ANSI Figure 7(a)

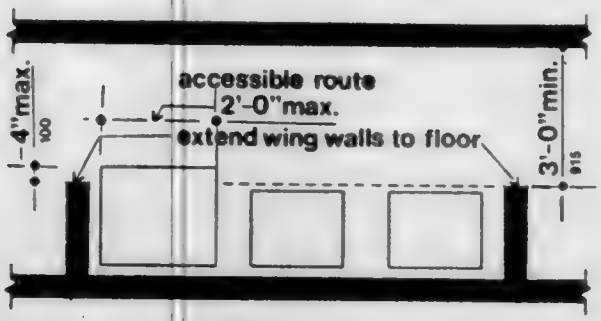

clear width
5.3

ANSI Figure 8(e)

§1190.50 *Walks, floors, and accessible routes.*

(a) ***General.*** Accessible routes required by Subpart C—Scope shall comply with this section.

4.3.3 (b) ***Width.*** Provide the min. clear width for continuous passage and for point passage required by paragraph 1190.40(b)(1) (fig. 4.1). Provide maneuvering clearances as shown in figs. 5.1 and 5.2 if the accessible route requires a turn around an obstruction.

(c) ***Protruding objects.*** No protruding object shall reduce the clear width of an accessible route or maneuvering space below the min. required by paragraph 1190.40(b)(1) (fig. 5.3).

Page 7

ANSI

4.4.1 (1) Objects less than 2'-0" (610 mm) long that are fixed to wall surfaces shall not project into accessible routes more than 4 in. [100 mm) if mounted with their leading edges between 2'-3" and 6'-8" (685 mm and 2,030 mm) (nominal dimension) above finish floor (fig. 5.4).

4.4.1 (2) Objects fixed to wall surfaces may project more than 4 in. (100 mm) if mounted with the lower extreme of their leading edge [less ▶*at or below*◀ than] 2'-3" (685 mm) above the finish floor. These objects shall not project into the required min. clear width (fig. 5.5).

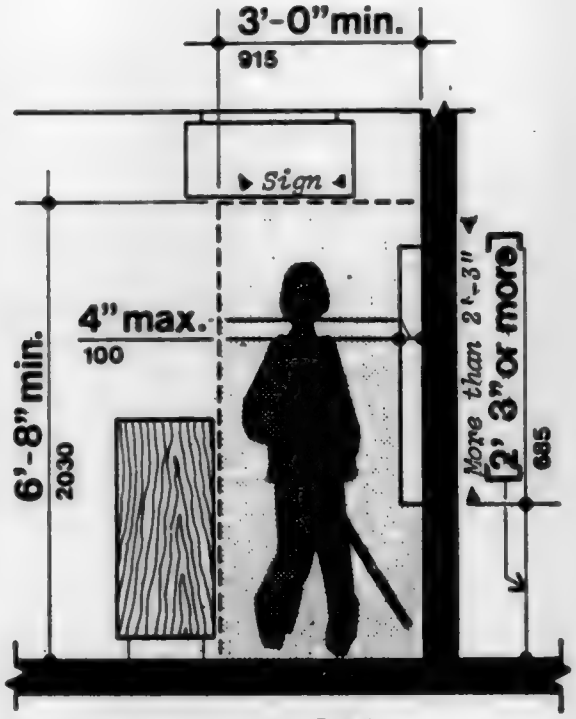

clear width 5.4

around object 24" long max.

ANSI Figure 8(a)

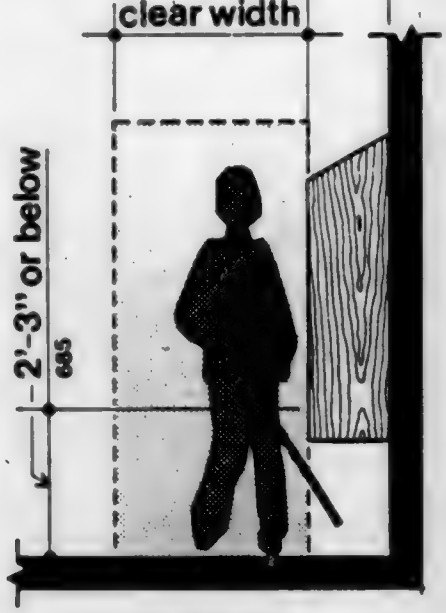

clear width 5.5

ANSI Figure 8(a)

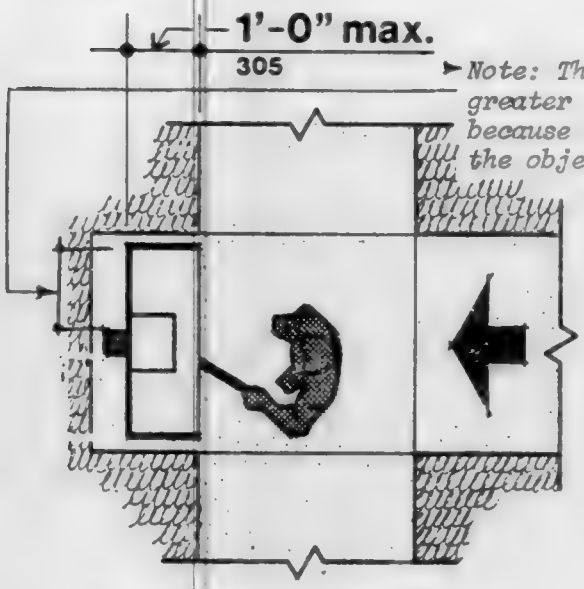

projecting object

5. / 6

plan view

ANSI Figure 8(d)

ANSI 4.4.1

(3) Free standing objects mounted on posts or pylons may overhang 1'–0" (305 mm) max. from 2'–3" to 6'–8" (685 mm to 2,030 mm) above ground or finished floor surface (figs. 5.6 and 5.7).

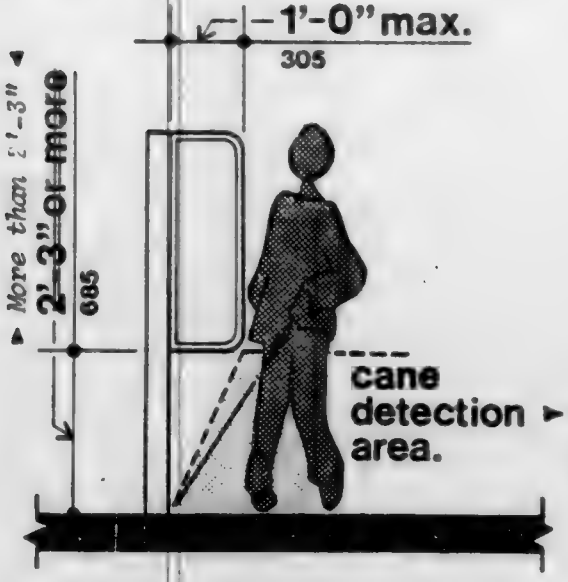

projecting object

5. / 7

elevation

ANSI Figure 8(d)

(4) [Objects greater than 1'-0" (305 mm) wide mounted with their leading edge less than 2'-3" (685 mm) may protrude any distance (figs. 5.8 and 5.9).] ► *Objects mounted with their leading edges at or below 2'-3"(685 mm) above the finished floor may protrude any amount (figs. 5.8 and 5.9).* ◄

ANSI 4.4.1

Page 9

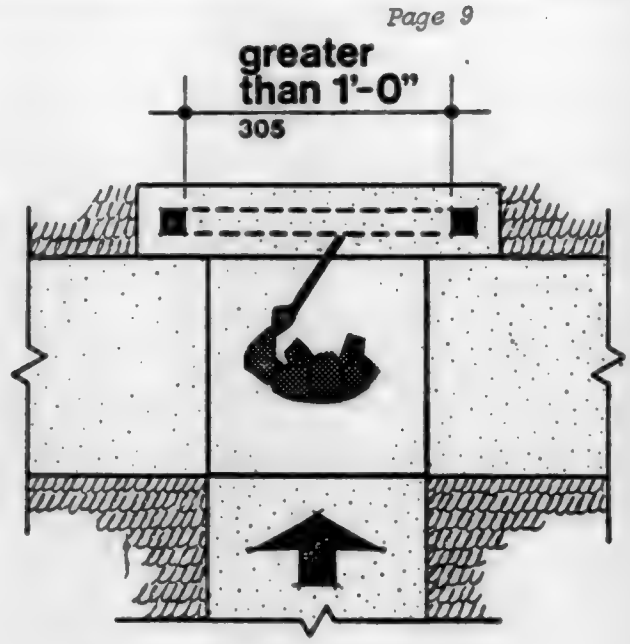

fixed obstruction 5.8

plan view

ANSI Figure 8(c)

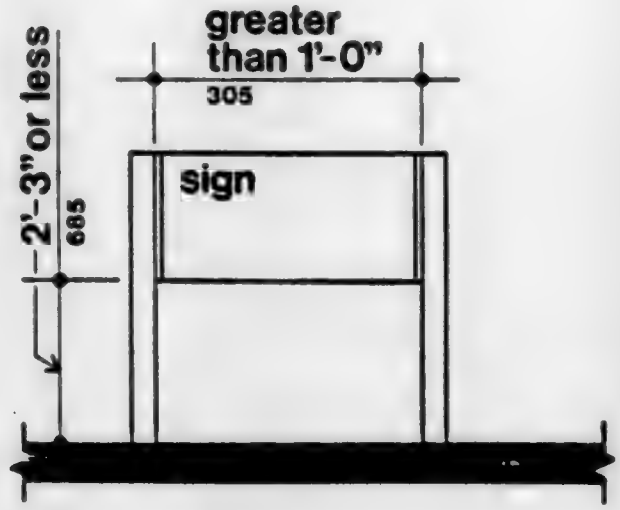

fixed obstruction 5.9

elevation

ANSI Figure 8(c)

Page 10

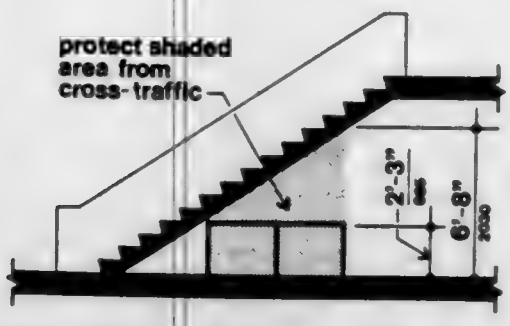

overhead hazard 5./10

no similar figure in ANSI

ANSI 4.3.4

(d) ***Passing space.*** If an accessible route has less than a 5'–0" (1,525 mm) clear width, provide accessible passing spaces at intervals not exceeding 200 ft. (61 m) [unobstructed view.] See figures 4.2 and 4.4 for examples of acceptable passing spaces.

4.4.2

(e) ***Vertical clearance.*** Provide a minimum vertical clearance (headroom) of 6'–8" (2,030 mm) throughout accessible routes. If vertical clearance of area adjoining accessible route is reduced to less than 6'–8", (nominal dimension) provide a barrier to warn blind or visually-impaired persons (figs. 5.4, 5.9 and 5.10).

4.3.7

(f) ***Slope.*** Accessible routes with running slopes of ►*greater than 1:20*◄ [1:20 or greater] shall be considered ramps and shall comply with 1190.70, Ramps and curb ramps. Cross-slopes on accessible routes shall not exceed 1:48 (1/4 in. per foot).

edge treatment 5./11

no similar figure in ANSI see ANSI 4.5.2

4.3.8

(g) ***Changes in level.*** All changes in level or grade in accessible routes shall comply with the following:

(1) Up to 1/4 in. (6 mm): vertical without edge treatment (fig. 5.11).

(2) 1/4 in. to 1/2 in. (6 mm to 13 mm): beveled with slope not exceeding 1:2 (fig. 5.12).

4.5.2

4.5.2

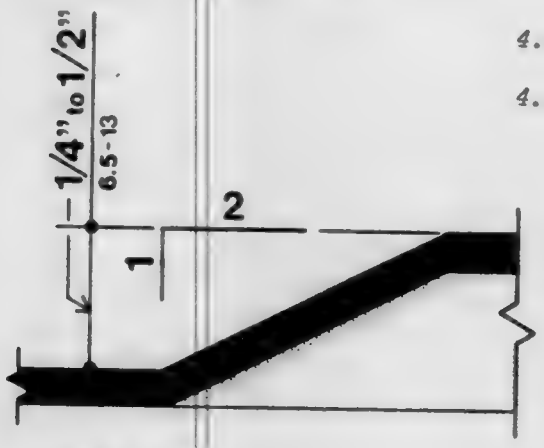

edge treatment 5./12

no similar figure in ANSI see ANSI 4.5.2

Note: ANSI cross-slope requirement is 1:50 which is slightly more restrictive than the Board's.

ANSI

4.3.8 & 4.5.2 (3) Greater than 1/2 in. (13 mm): comply with § 1190.70, Ramps and curb ramps; § 1190.100, Elevators; or § 1190.110, Platform Lifts.

4.13.8 (i) *Exception.* Exterior sliding door thresholds may be 3/4 in. (19 mm) max. if beveled with slope not exceeding 1:2.

(ii) [Reserved]

4.3.8 (4) Stairs shall not be the sole means of vertical access along an accessible route.

4.3.10 (h) **Egress.** Arrange egress so as to be readily accessible from all accessible rooms and spaces. Where fire code provisions require more than one means of egress from any space or room, such means of accessible egress shall also be provided to handicapped persons.

(1) *Exception.* In multiple story buildings and facilities where at-grade egress from each floor is impossible, either of the following is permitted:

(i) The provision of approved fire and smoke partitions within each story creating horizontal exits; or

(ii) The provision of areas of refuge within each floor approved by agencies having authority for safety.

(2) [Reserved].

4.5.1 (i) ***Ground and floor surfaces.***

(1) Surface Condition. Surfaces of paving and floors shall be stable, firm, and slip-resistant. Irregular paving and flooring materials that may cause tripping or difficult wheelchair passage because of height differentials are not permitted on accessible routes.

4.5.4 & 4.8.8 (2) Drainage. Design accessible routes so that their surfaces will not collect water. Gratings located in accessible routes shall have openings no greater than 1/2 in. (13 mm) when measured in the dominant direction of travel (fig. 5.13). Gratings with elongated openings shall be so placed that the long dimension is perpendicular to the predominant route of travel (fig. 5.14).

Note: ANSI requires at 4.5.1 that surfaces be relatively nonslip under all weather conditions.

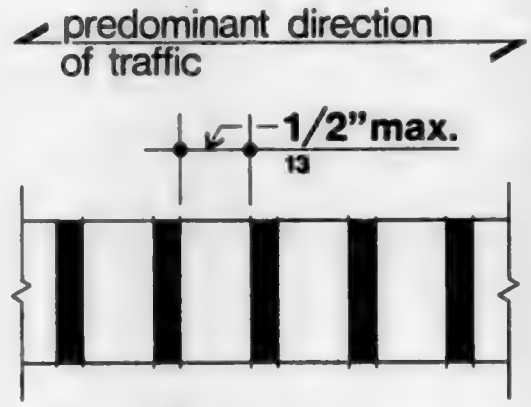

section: grating 5./13

detail of fig. 5.14

no similar figure in ANSI

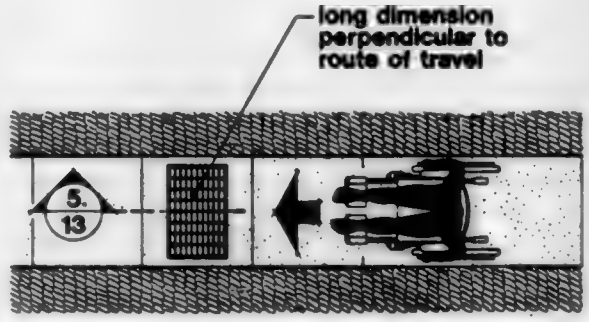

grating orientation 5./14

no similar figure in ANSI

Page 12

ANSI 4.5.3

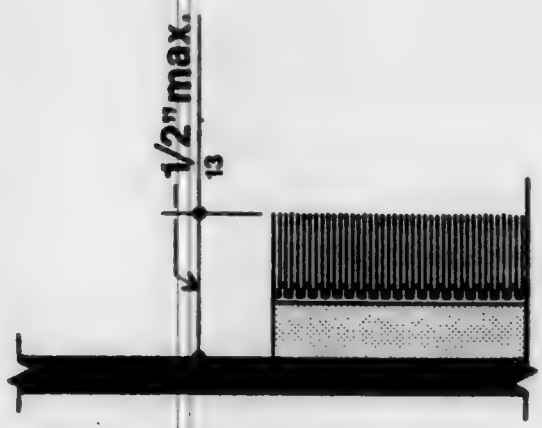

carpet height 5./15 *ANSI 4.6*

No similar figure in ANSI.

(3) **Carpeting: If carpet or carpet tile is used on an accessible ground or floor surface, it shall:**

(i) Be securely attached;

(ii) Have a firm cushion or pad or no cushion or pad;

(iii) Have a construction of level loop, textured loop, level cut pile, or level cut/uncut pile;

(iv) [Have a max. combined thickness of pile, cushion, and backing height of 1/2 in. (13 mm) (fig. 5.15); and] *If carpet tile is used on an accessible ground or floor surface, it shall have a maximum combined thickness of pile, cushion and backing height of ½ inch (13 mm) (fig. 5.15). If carpet is used, then it should also meet this requirement but in no case shall the pile height exceed ½ inch.*

(v) Exposed edge(s) and trim shall be securely fastened in place and shall comply with paragraph 1190.50(g), Changes in level.

§1190.60 *Parking and passenger loading zones.*

(a) *General.* Parking and passenger loading zones required to be accessible by Subpart C—Scope shall comply with this section.

4.6.2

(b) *Location.* Accessible parking spaces and accessible passenger loading zones shall:

(1) Be the spaces or zones located closest to the nearest accessible entrance on an accessible route; and

(2) If located in a separate building or facility, be on the shortest accessible route to an accessible entrance of the parking facility.

4.6.3

(c) *Accessible parking spaces.* Provide accessible parking spaces (fig. 6.1) that:

(1) Are at least 8'-0" (2,440 mm) wide;

(2) Have an adjacent access aisle at least 5'-0" (1,525 mm) wide and shall comply with § 1190.50, Walks, floors, and accessible routes;

(i) Exception. If accessible parking spaces for [side lift] vans ►*designed for handicapped persons*◄ are provided, [each shall have] an adjacent access aisle at least 8'-0" (2,440 mm) wide ►*complying*◄ [and shall comply] with 1190.50 Walks, floors, and accessible routes ►*shall be provided.*◄

(ii) [Reserved].

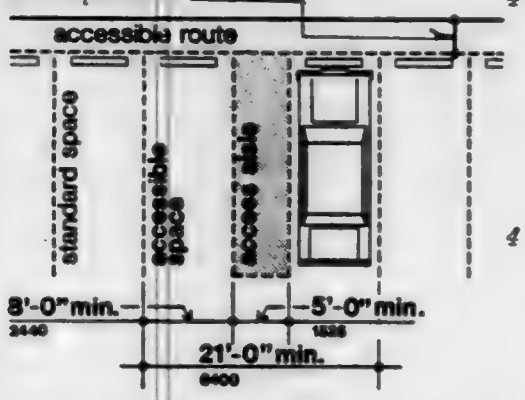

accessible parking 6./1

ANSI Figure 9

Page 13

4.6.3 (3) May share a common access aisle between two parking spaces;

(4) Do not permit parked vehicle overhangs to reduce the clear width of accessible routes; and

(5) Have parking spaces and access aisles with surface slopes not exceeding 1:48 (1/4 in. per foot) in all directions.

ANSI 4.6.5 (d) ***Passenger loading zones.*** Provide accessible passenger loading zones that:

(1) Have an access aisle at least 4'-0" (1,220 mm) wide by 20'-0" (6 m) long adjacent, parallel, and level with the vehicle standing space;

(2) Have curb ramps conforming to 1190.70, Ramps and curb ramps, if there are curbs between the access aisle and other portions of the accessible route; and

(3) Have vehicle standing spaces and access aisles with surface slopes not exceeding 1:48 (1/4 in. per foot) in all directions (fig. 6.2).

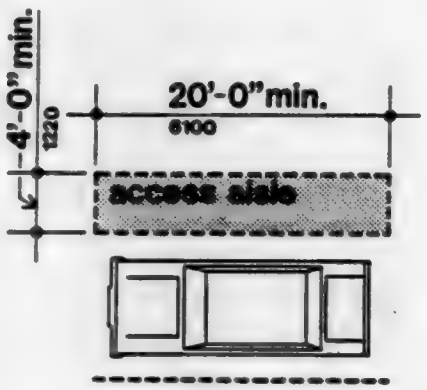

unloading zone 6.2

ANSI Figure 10

no similar ANSI provision (e) **Vertical clearance.** Provide min. vertical clearances of 9'-6" (3.45 m) at accessible parking spaces, ►*for vans designed for physically handicapped persons*◄ at accessible passenger loading zones, and along vehicle access routes to such areas from site entrances.

4.6.4 (f) **Signage.** Signage reserving accessible parking spaces and identifying passenger loading zones and vehicle access routes shall comply with 1190.200, Signage. Signage shall incorporate the International Symbol of Accessibility and shall not be obscured by a vehicle parked in the space (fig. 20.2 and 20.3).

4.7 **§1190.70 *Ramps and curb ramps.***

(a) **General.** Ramps and curb ramps required by Subpart C—Scope shall comply with this section.

4.8.2 & 4.7.2 (b) **Slopes and rise.** Provide the least practical slope for any ramp or curb ramp subject to the following maximums:

(1) New Construction requirements:

(i) Max. running slope shall not exceed 1:12 (8.3%) (fig. 7.1).

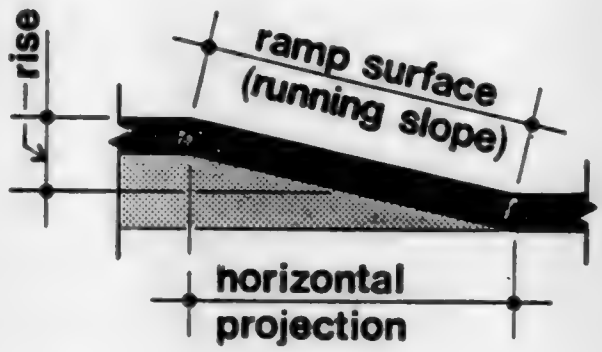

ramp slope 7.1

ANSI Figure 11 and 16

* *The Board request comments on the minimum vertical clearance needed to accomodate vans designed for physically handicapped persons. Is 9'-6" appropriate?*

slope	maximum rise		maximum projection	
	in	mm	ft	m
1:12 to < 1:16	30	760	30	9
1:16 to < 1:20	30	760	40	12
1:20	30	760	50	15

maximum rise & projection
new construction
ANSI Figure 16
7.2

slope	maximum rise		maximum projection	
	in	mm	ft	m
1:10 to 1:8	3	75	2	0.6
1:12 to 1:10	6	150	5	1.5

A slope steeper than 1:8 is not allowed ◄

maximum rise & projection
existing construction
ANSI Table 2
7.3

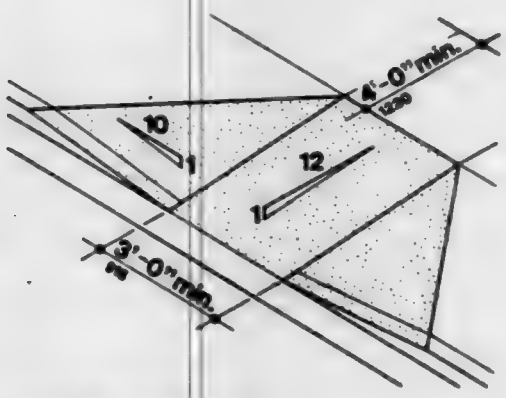

curb ramp
ANSI Figure 12(a)
Note: ANSI does not require 4'-0" (1220 mm) at top of curb ramps.
7.4

Page 14

ANSI 4.8.2

(ii) Max. rise for any run shall not exceed 2'-6" (760 mm) (fig. 7.2).

no similar provision

(iii) Max. slopes of adjoining gutters, road surface, *immediately adjacent to the curb ramp* ◄ or accessible routes shall not exceed 1:20 and shall comply with paragraph § 1190.70(a)(2) (fig. 7.12).

4.8.2

(2) Existing construction requirements:

(i) If space limitations prevent compliance with paragraph 1190.70(b)(1), slopes and rises listed in fig. 7.3 may be used.

(ii) [Reserved].

4.7.3 4.8.3

(c) **Width.** Ramps and curb ramps shall have a min. clear width of 3'-0" (915 mm) exclusive of edge protection or flared sides.

4.8.6 (ramps only)

(d) **Cross-slope and surface.** Cross-slope of ramp surfaces shall not exceed 1:48 (1/4 in. per foot). Ramp surfaces shall comply with 1190.50, Walks, floors, and accessible routes.

(e) **Curb ramps.** In addition to the requirements of paragraphs 1190.70 (a), (b), and (c), curb ramps shall comply with the following requirements:

4.7.5

(1) [Provide flared sides if ramps are located where pedestrians may walk across the ramp;] ► *Provide flared sides if a circulation path crosses any part of the ramp or curb ramp not protected by handrails or guardrails;* ◄ flared slope shall not exceed 1:10 (fig. 7.4) where a 4'-0" (1,220 mm) landing is provided at the top of the curb ramp.

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ANSI

4.7.5 **If less than 4'-0" (1,220 mm) is provided, the flared slope shall not exceed 1:12 (fig. 7.5). Where pedestrians will not normally walk across a ramp, returned curbs may be used (fig. 7.6).**

4.7.6 **(2) Locate built-up curb ramps so that they do not project in vehicular traffic lanes (fig. 7.7).**

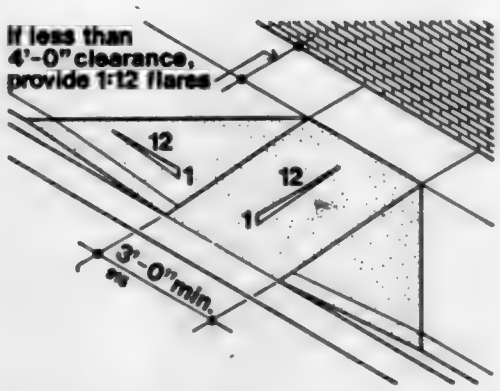

curb ramp 7.5

no similar figure in ANSI

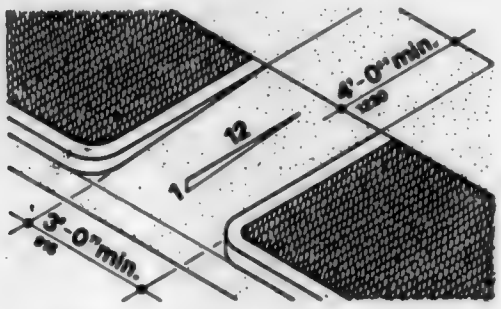

curb ramp 7.6

ANSI Figure 12(b)
Note: ANSI does not require 4'-0" (1220 mm) at top of curb ramp.

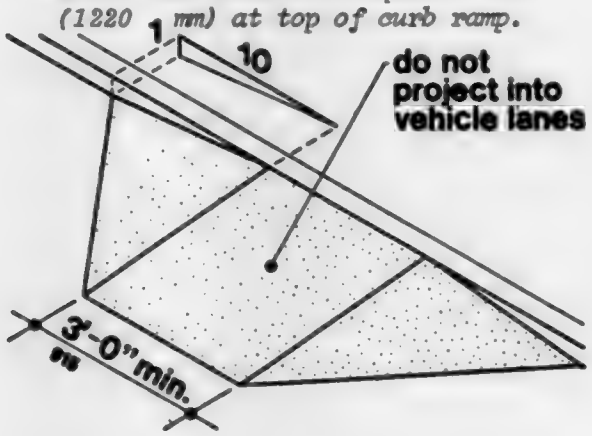

curb ramp 7.7

ANSI Figure 13

Page 16

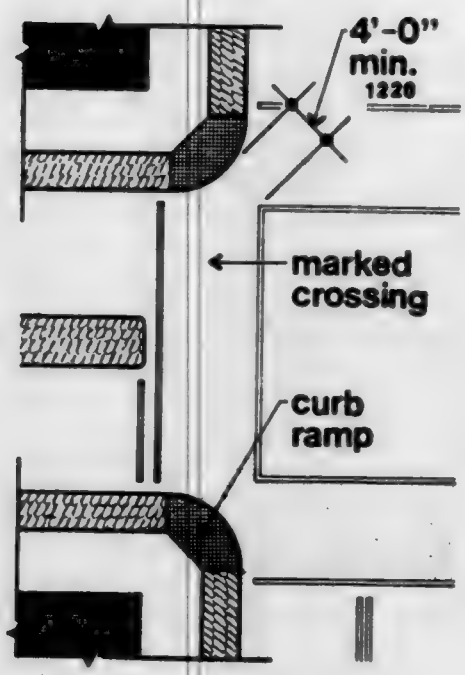

crossing 7.8

ANSI Figure 15(d)

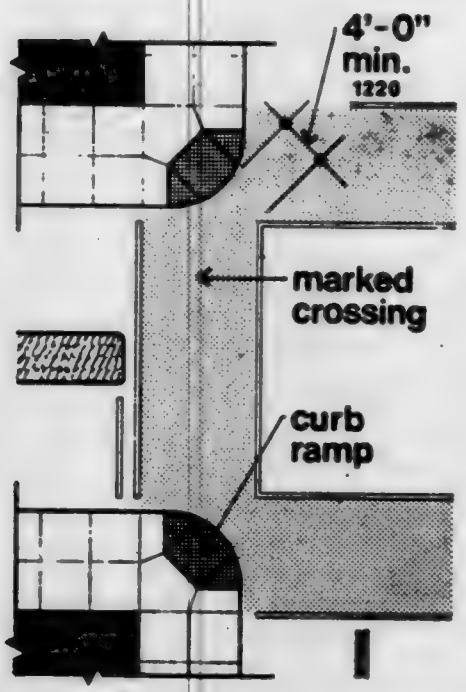

crossing 7.9

ANSI Figure 15(c)

ANSI

4.7.10 **(3)** **Diagonal or corner type curb ramps having returned curbs or well defined edges, shall have such edges parallel to the direction of pedestrian flow (fig. 7.8). Diagonal or corner type curb ramps having flared sides shall have at least a 2'-0" (610 mm) long segment of straight curb located on each side of the curb ramp and within marked crossings (fig. 7.9).**

4.7.10 **(4)** **Curb ramp discharge (top and bottom) shall be to a 4'-0" (1,220 mm) min. deep clear space (figs. 7.4 and 7.5). If the marked crossings are provided, locate bottom discharge entirely within marked crossings (figs. 7.8 and 7.9).**

4.7.8 **(5)** **Locate curb ramps to prevent blockage of discharge areas by parked vehicles.**

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ANSI 4.7.11 (8) **Cut any islands through flush with street surfaces or ramp each side to permit crossing. Provide 4'-0" (1,220 mm) long rest area (see figs. 7.10 and 7.11)**

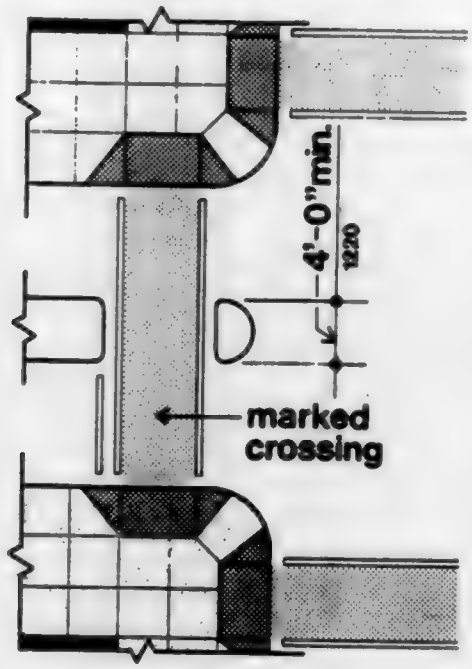

crossing 7.10

ANSI Figure 15(a)

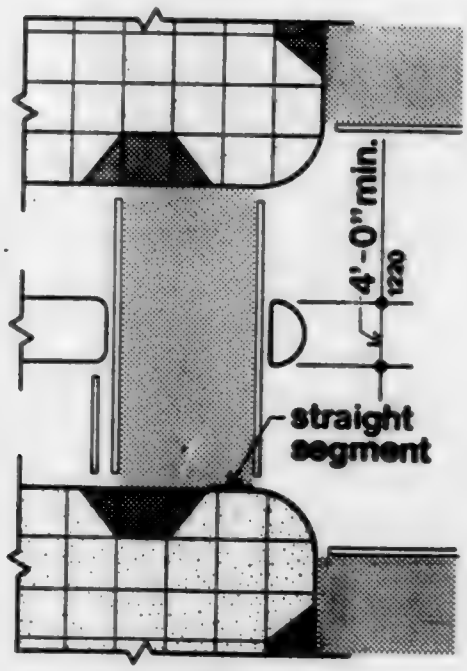

crossing 7.11

ANSI Figure 15(b)

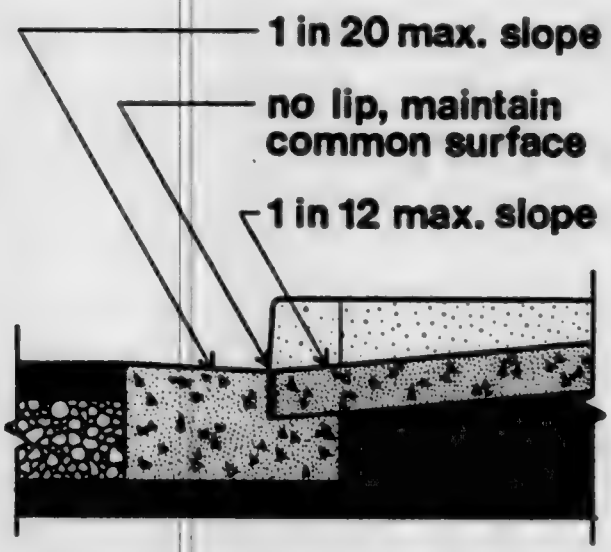

section 7.12

no similar figure in ANSI

(7) **[Curb ramps having less than a 6 in. (150 mm) rise do not require handrails.]** *Curb ramps which cross a circulation path but do not have an abrupt change in level, do not require handrails.*

(8) **Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes (fig. 7.12).**

Note: ANSI 4.7.7 Warning Textures and ANSI Figure 14 Warning Signals at Curb Ramps have been deleted from the ATBCB Minimum Guidelines and Requirements until such time as sufficient research and/or field experience dictate a requirement in this area.

Note: ANSI 4.7.12 Uncurbed Intersections has been deleted from the ATBCB Minimum Guidelines and Requirements until such time as research and/or field experience dictate such a requirement.

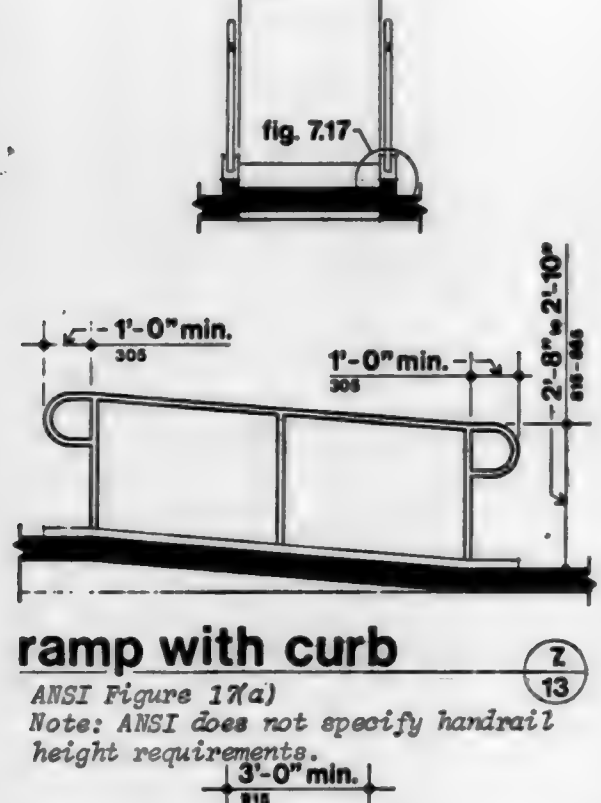

ramp with curb

7/13

ANSI Figure 17(a)
Note: ANSI does not specify handrail height requirements.

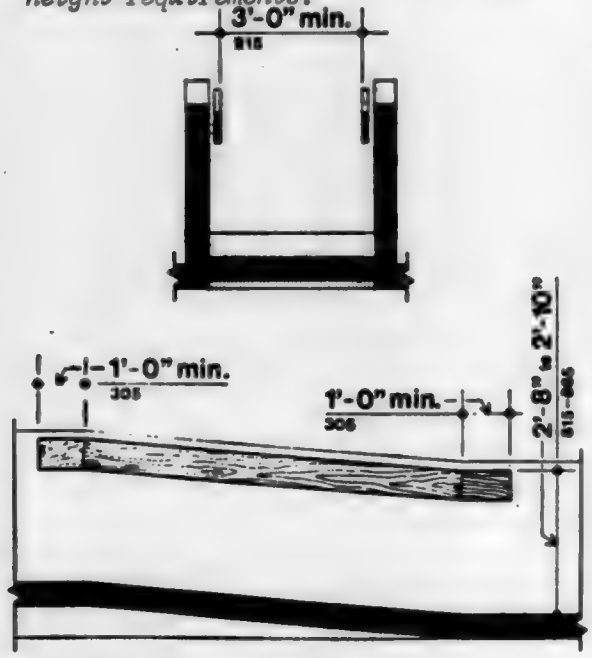

ramp with wall

7/14

ANSI Figure 17(b)
Note: ANSI does not specify handrail height requirements.

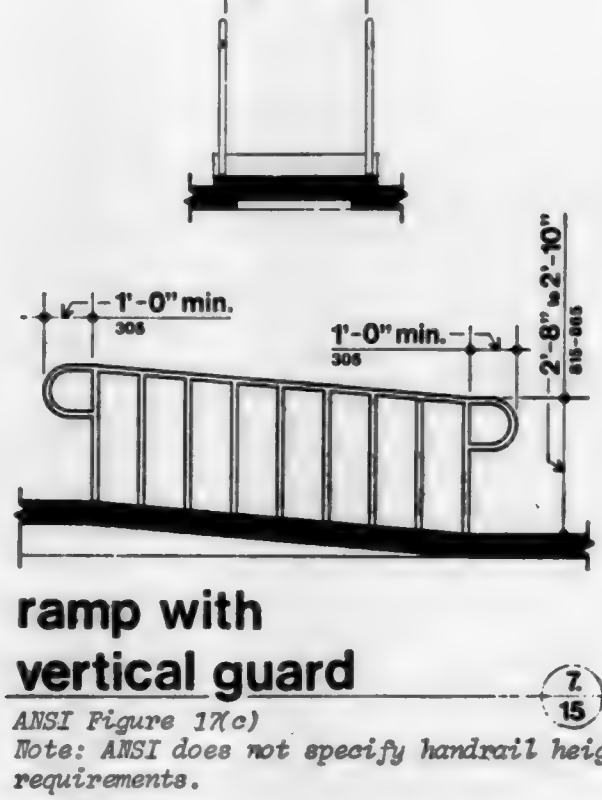

ramp with vertical guard

7/15

ANSI Figure 17(c)
Note: ANSI does not specify handrail height requirements.

ANSI

(f) Ramps. In addition to the requirements of paragraphs 1190.70 (a), (b), (c), and (d) provide the following at all ramps:

4.8.4 (1) Provide landings at the top, bottom, and at changes of direction. If ramp runs exceed max. projection given in figs. 7.2 and 7.3, provide intermediate landings. Landings shall:

4.8.4(1) (i) Have a width which shall be at least as wide as the widest ramp run approaching it.

4.8.4(2) (ii) Have a minimum length of 5'-0" (1,525 mm).

4.8.4(3) (iii) Have a min. size at direction changes that is 5'-0" by 5'-0" (1,525 mm by 1,525 mm).

4.8.4(4) (iv) Comply with § 1190.130, Doors, if doors open into them.

4.8.5 (2) Provide handrails that comply with § 1190.90, Handrails, on both sides of any ramp run exceeding a 6 in. (150 mm) rise or a 6'-0" (1,830 mm) horizontal projection (figs. 7.13, 7.14, 7.15, and 7.16).

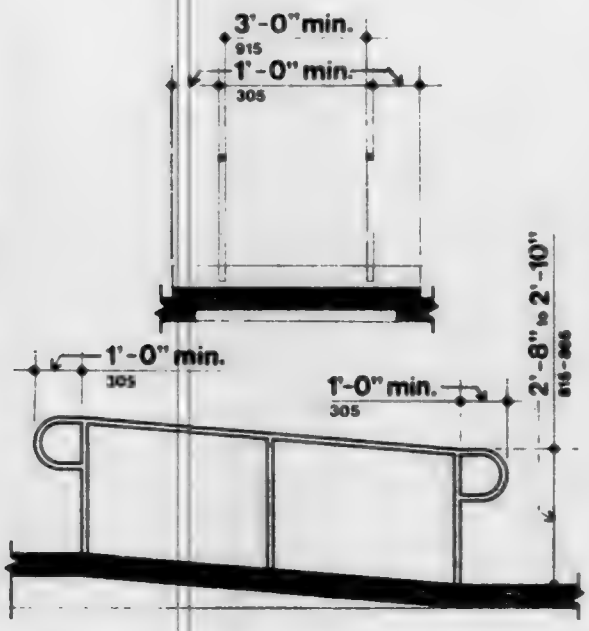

ramp with extended edge

7.16

ANSI Figure 17(d)
Note: ANSI does not specify handrail height requirements.

ANSI 4.8.7

(3) Provide curbs, walls, vertical guards or projected edges at ramps and landings with drop-offs. Min. curb height shall be 2 in. (50 mm) (fig. 7.17).

4.8.8 (g) ***Exterior condition.*** Curb ramps, ramp, and landing surfaces shall comply with paragraph 1190.50 (i) (2), Drainage.

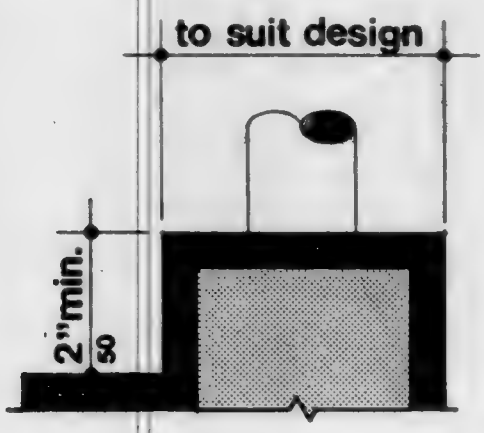

ramp curb

7.17

ANSI Figure 17(a)

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ANSI

§1190.80 Stairs

(a) **General.** Stairs required by Subpart C—Scope shall comply with this section.

4.9.2 (b) **Risers.** Provide risers that do not exceed 7 in. (180 mm) in height. ►*TREADS AND RISERS. On any given flight of stairs, all steps shall have a uniform riser height and uniform tread widths. Stair treads shall be no less than 11 inches (280 mm) wide, measured from riser to riser.*◄ Open risers are not permitted (fig. 8.1).

4.9.3 (c) **Nosings.** Nosings shall:

(1) Project a max. of 1-1/2" (38 mm);

(2) Have a leading edge with a max. radius of curvature of 1/2 in. (13 mm); and

(3) Be formed by risers that are sloped, or shall have undersides of the nosings which form an angle not less than 60 degrees from the horizontal (fig. 8.1).

4.9.4 (d) **Handrails.** Provide continuous handrails at both side of stairways. Handrails shall comply with § 1190.90, Handrails.

4.9.6 (e) **Exterior conditions.** Stair treads and landing surfaces shall comply with paragraph 1190.50 (i) (2), Drainage.

Note: ANSI 4.9.5 Tactile Warnings at Stairs has been deleted from the ATBCB Minimum Guidelines and Requirements for Accessible Design until such time as sufficient research and/or field experience dictate a requirement in this area.

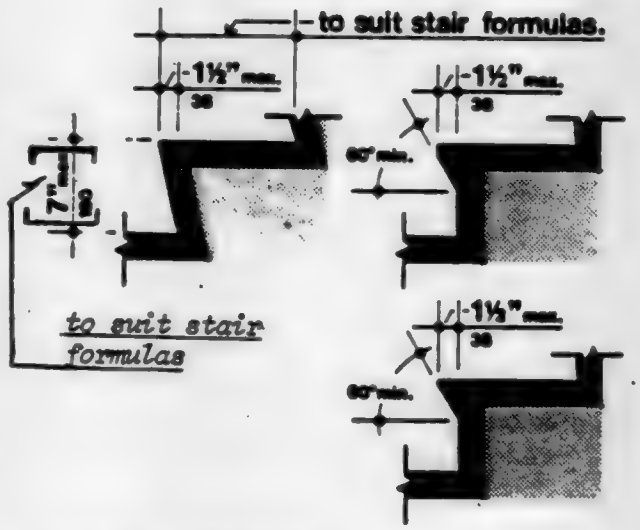

stair risers & nosings 8.1

ANSI Figure 18(a), (b), & (c)

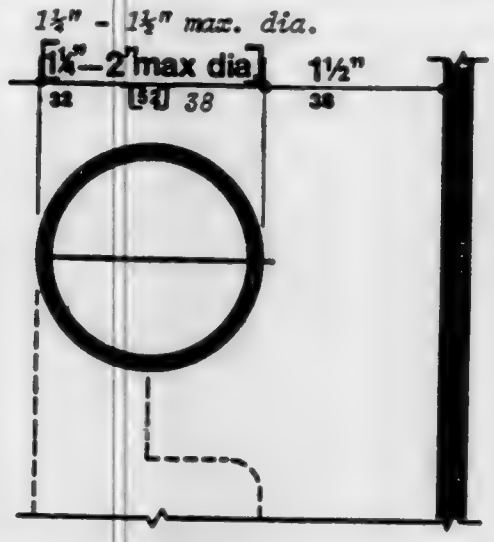

handrail 9.1

ANSI Figure 39(a)

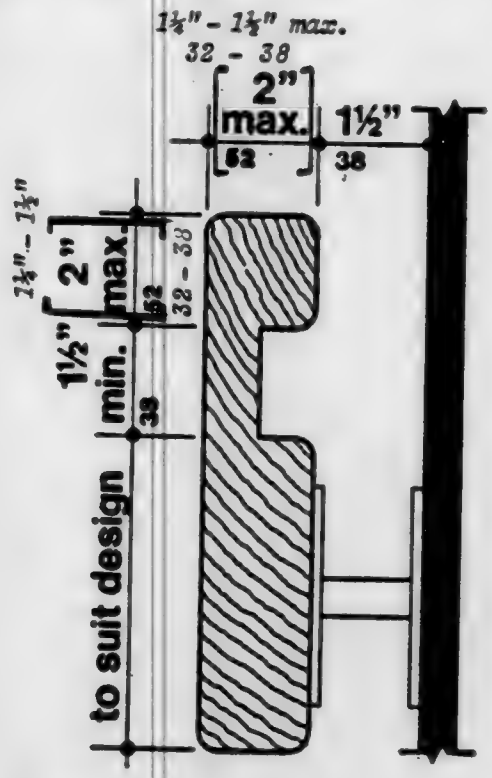

handrail 9.2

ANSI Figure 39(b), (c), & (d).

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ANSI 4.8.5 4.9.4 **§1190.90 Handrails**

(a) ***General.*** **Handrails for ramps or stairs required by Subpart C—Scope shall comply with this section.**

4.26.2 (b) ***Size and spacing.*** **Size and spacing of handrails shall:**

(1) **The handgrip portion of the handrail, if round, shall be not less than 1-1/4 in. (32 mm) nor more than [2 in. (50 mm)] ►*1½ in. (38 mm)*◄ in diameter (fig. 9.1). If the shape of the handrail is not round, then the larger dimension shall be not more than [2 in. (50 mm)] ► *1½ in. (38 mm)* ◄ (fig. 9.2).**

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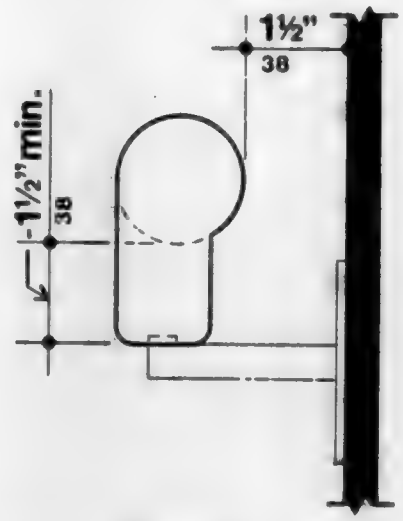

handrail 9.3

ANSI Figure 39(d)

ANSI

4.26.2 (2) If handrails are mounted adjacent to walls or other surfaces, provide a 1-1/2 in. (38 mm) (min./max.) clear space between the surface and the handrail (figs. 9.1, 9.2, 9.3, and 9.4). The handrail and the surfaces adjacent to the handrail shall be free of any sharp or abrasive elements. Edges shall have min. radius of 1/8 in. (3 mm). Free-standing rails located farther than 6 in. (150 mm) from wall or other vertical surfaces are not subject to this provision.

4.26.2 (3) Handrails may be mounted in recesses if the recesses comply with fig. 9.4

4.8.5(1) & 4.9.4 (4) On switchbacks or dog-leg ramps or stairs, inside handrails shall be continuous.

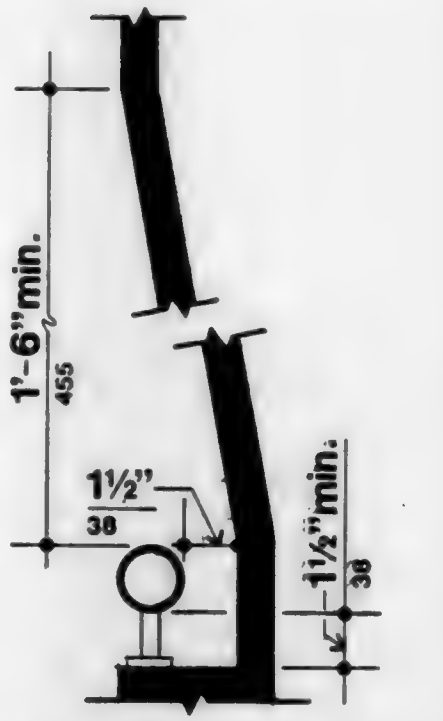

handrail 9.4

ANSI Figure 39(d)

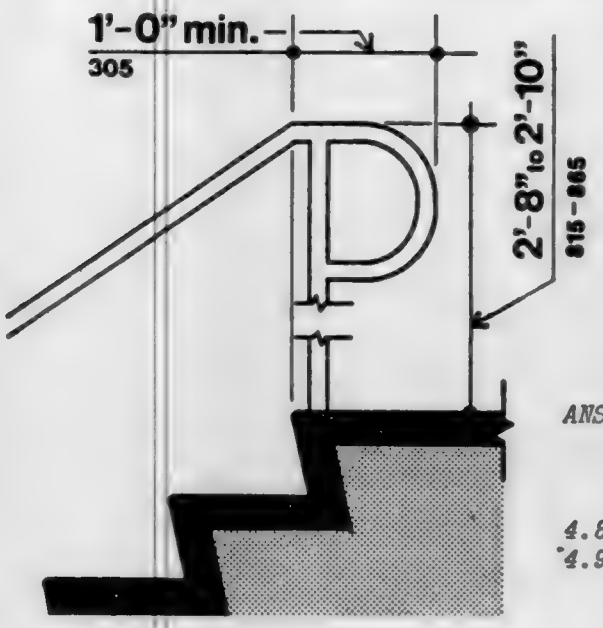

extension 9.5
handrails
ANSI Figure 19(d)
Note: ANSI does not specify the height of handrails.

ANSI

(c) ***Handrail projections.***

(1) If outside handrails are not continuous then:

4.8.5(2) & 4.9.4(2)

(i) At a ramp landing, handrails shall project parallel with ramp or landing surface for a length of 1'–0" (305 mm) beyond the top and bottom of ramp surfaces (figs. 7.13, 7.14, 7.15, and 7.16).

(ii) At a stair landing, handrails shall project at least 1'–0" (305 mm) beyond the top riser and at least 1'–0" (305 mm) plus the depth of one tread beyond the bottom riser. The 1'–0" (305 mm) projection shall in each instance be parallel with the floor (figs. 9.5 and 9.6).

(iii) *Exception.* Full extension of handrails shall not be required in alterations where such extensions would be hazardous or impossible due to plan configurations.

4.8.5(4) 4.9.4(4) (2) Gripping surfaces shall not be interrupted with newel posts, balusters, or other obstructions.

extension 9.6
handrails
ANSI Figure 19(c)
Note: ANSI does not specify the height of handrails.

ANSI

no similar provision (d) **Mounting height.** Mount handrails for accessible stairs and ramps at a height of 2'-8" to 2'-10" (815 mm to 865 mm) above stair nosing(s) or ramp surface as applicable (see figs. 7.13, 7.14, 7.15, 7.16, 9.6, and 9.7).

no similar provision (e) **Structural strengths.** Handrails, as installed, shall support a min. momentary concentrated load applied at the top edge of 200 lbs. (91 kg) horizontally and 30% of that load vertically downward. Where the railing system is installed in public assembly occupancies, the loading shall be increased 50%. Handrails shall not rotate within their fittings. Handrails of material other than metal shall meet the same structural requirements.

Fig. 19 (c) & (d); no similar text (f) **Hazards.** Ends of free-standing handrails shall be either rounded or returned smoothly to floor or post (see paragraph 1190.50(c), Protruding objects.)

4.10 **§1190.100 Elevators.**

4.10.1 (a) **General.**

(1) Elevators required by Subpart C—Scope shall comply with this section. For additional information see the *American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, A17.1*, and see also National Elevator Industry, Inc. (NEII) *Suggested Minimum Elevator Requirements for the Handicapped.*

(2) Freight elevators shall not be considered as meeting the requirements of this section. *unless the only elevators provided are used as combination passenger and freight elevators for the public and employees.*

4.10.2 (b) **Operation and leveling.** Elevators shall be automatic and shall be provided with a self-leveling feature that will automatically bring the car to the floor landing within a tolerance of 1/2 in. (13 mm) under normal loading and unloading conditions. The self-leveling feature shall, within its zone, be entirely automatic and independent of the operating device and shall correct for over-travel or under-travel and shall maintain the car approximately level irrespective of loading conditions.

4.10.7 (c) **Elevator door operation.** Elevator doors shall be a min. of 3'-0" (915 mm) wide and automatic door controls shall comply with the following requirements:

(1) The min. acceptable time from notification that a car is answering a hall call until the doors of that car start to close shall be as indicated in fig. 10.1 ►*and as cal-*

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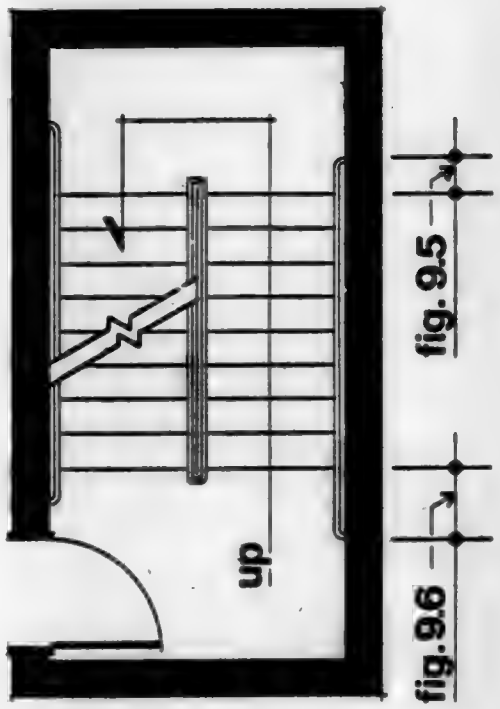

stairway 9. 7

ANSI Figure 19(a)

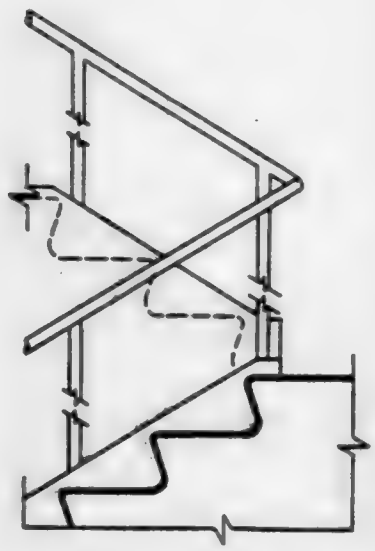

Elevation of Center Handrail 9 8

ANSI Figure 19(b)

distance		time
ft	m	sec
0 to 5	1.5	5
10	3	7
15	4.5	10
20	6	13

door timing 10.1

ANSI Figure 21
Note ANSI uses the graph shown at proposed table 10.1.

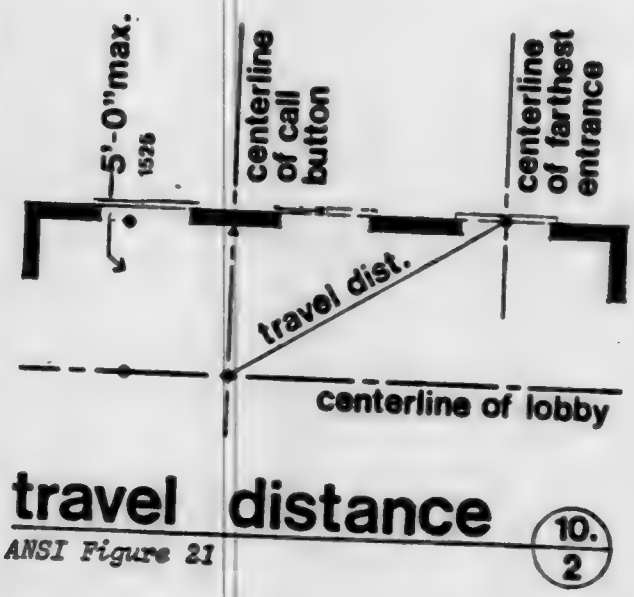

travel distance 10.2

ANSI Figure 21

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-culated from the following equation:

$$T = \frac{D}{1.5\ ft/s} \quad or \quad T = \frac{D}{455\ mm/s}$$

where T = total time in seconds and D = distance in feet or millimeters. ◄
The travel distance shall be established from a point in the center of the corridor or lobby (max. of 5'-0" (1,525 mm) directly opposite the farthest hall button to the centerline of the farthest hoistway entrance (fig. 10.2). ► *and Table 10.1* . ◄

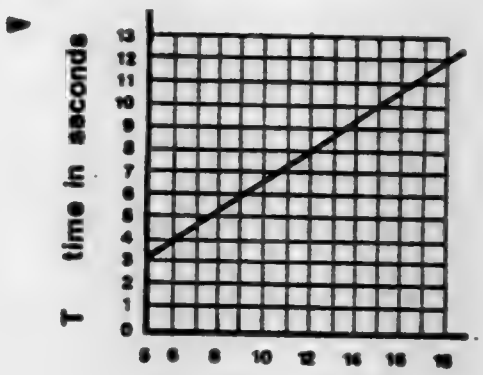

Table 10.1
Graph of Timing Equation ◄
ANSI Figure 21

(2) Doors shall remain fully open for a min. of ► 3 ◄ [5] seconds.

(3) Provide doors with a reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car door is obstructed while the door is closing. This reopening device shall also be capable of sensing an object or person in the path of a closing door without requiring contact for activation at a nominal height of 5 in. and 2'-5" (125 mm and 735 mm) above finish floor. Such devices shall remain effective for a period of not less than 20 seconds. For additional information, see ANSI A17.1.

► *(i) Exception. If a safety door is provided in existing automatic elevators, then the automatic door reopening devices may be omitted.*

(ii) Reserved. ◄

ANSI

(d) **Elevator cars.**

4.10.9 (1) **The minimum floor areas of elevator cars shall comply with figs. 10.3 and 10.4.**

►*The floor area of elevator cars shall provide space for wheelchair users to enter the car, maneuever within reach of controls, and exit from the car.*◄

no similar ANSI provision (i) **Exception. Where existing shaft or structural elements prohibit strict compliance in alteration work, these dimensions may be reduced by the min. amount necessary, but in no case shall they be less than 4'-0" by 4'-0" (1,220 mm by 1,220 mm) clear min. car size.**

(ii) [Reserved].

4.9.10 *4.10.10* (2) **Car floors shall comply with § 1190.50, Walks, floors and accessible routes. The clearance between the car platform sill and the edge of any hoistway landing shall be no greater than 1-1/4 in. (32 mm).**

4.10.12 (3) **Car controls shall be readily accessible from a wheelchair.**

4.10.12(1) (i) **Buttons, exclusive of border, shall have a minimum dimension of 3/4 in. (19 mm) and shall be raised or flush* with the operating panel.** *Depth of flush buttons when operated shall not exceed 3/8 inch.**

(ii) **Provide a visual signal indicating when each call is registered and answered.**

4.10.12(3) ANSI permits 4'-6" (1370 mm) max. for highest button (iii) **Mount the highest floor buttons at a max. of 4'-0" (1,220 mm) above the floor and the lowest buttons at a min. of 2'-11" (890 mm) above the floor (fig. 10.5).**

(A) Exception. If there is a substantial increase in cost as a result of the 4'-0" (1,220 mm) requirement, the highest floor buttons may be mounted at a max. of 4'-6" (1,370 mm).

(B) [Reserved].

4.10.12(3) (iv) **Group emergency buttons at the bottom of the panel with their centerlines no lower than 2'-11" (890 mm).**

* *The ATBCB requests comments on whether or not to permit the use of recessed buttons at 1190.100(d)(3)(i).*

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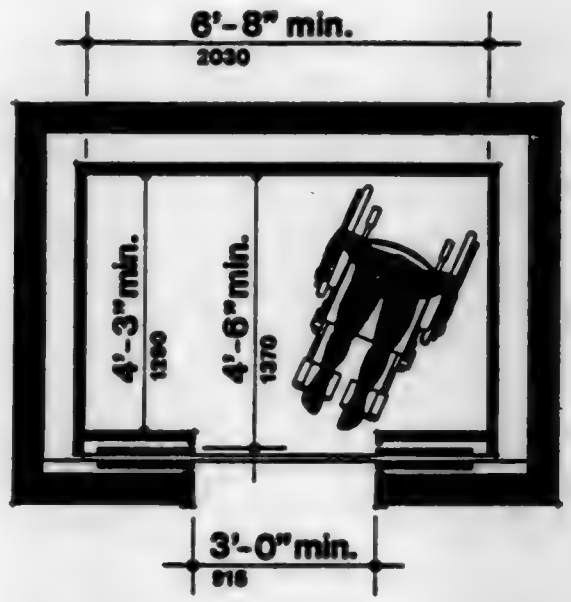

elevator car center opening 10. 3

no similar figure in ANSI

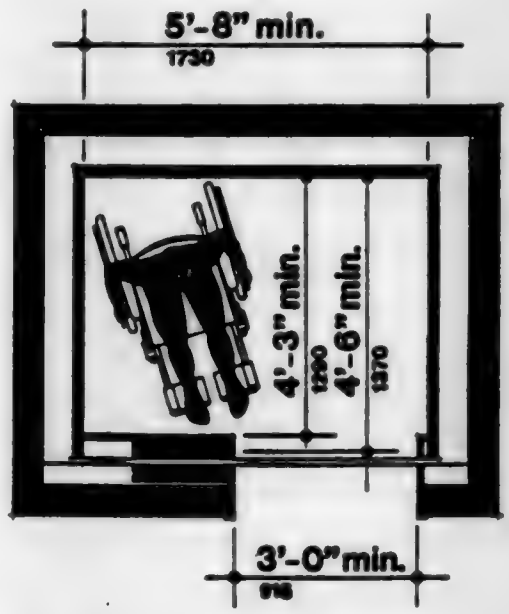

elevator car side opening 10. 4

ANSI Figure 22
Note: ANSI uses 4'-6" as the maximum mounting height for the highest button

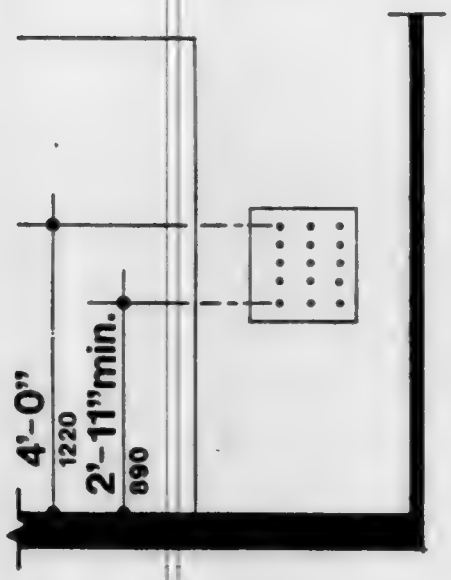

control panel 10.5

ANSI Figure 23(b)
Note: ANSI uses 4'-6" as the maximum mounting height.

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ANSI 4.10.12(2) (v) * **Designate all control buttons by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in fig. 10.6. For additional information see ANSI A17.1 and see also NEII *Suggested Minimum Elevator Requirements for the Handicapped*. Place raised designations to the immediate left of the button to which they apply. Permanently attached, applied plates are acceptable. Locate the call button for the main entry floor in the left-most column and designate it with a raised star as shown in fig. 10.6** ► *Characters shall comply with §1190.200 Signage.* ◄

Note: ANSI incorporates A17 by ref.

(vi) **Locate control panels as shown in figs. 10.7 and 10.8.**

* *The ATBCB requests comments on whether or not to permit the use of indented or incised alphabet characters, numerals, or symbols on elevator control buttons.*

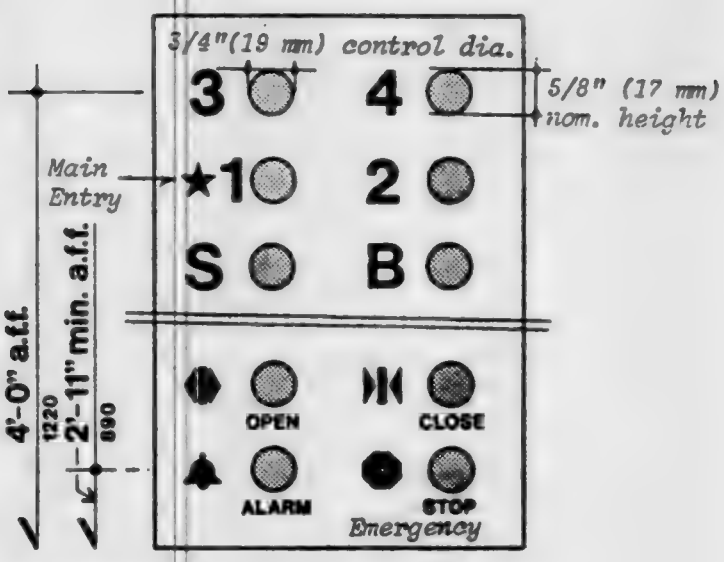

elevator control panel 10.6

ANSI Figure 23(a)

ANSI
4.10.5 (e) ***Door jamb markings.*** Provide floor designation markings at each hoistway entrance on both jambs and that comply with the following:

(1) The center lines of characters shall be located 5'–0" (1,525 mm) above finish floor; and

4.10.3 (2) Characters shall be a minimum of 2 in. (50 mm) high and shall comply with § 1190.200, Signage.

(3) Permanently applied plates are acceptable (fig. 10.9).

(f) ***Lobby call buttons.***

(1) Call buttons shall:

(i) Be mounted with centerlines at 3'–6" (1,065 mm) above finish floor (fig. 10.9);

(ii) Be a minimum of 3/4 in. (19 mm) in diameter;

(iii) Have visual signals indicating when a call is registered and answered;

no similar provision [4] (iv) Be raised or flush; and

(v) Have the button designating "up" mounted on top.

(2) Objects mounted beneath lobby call buttons shall not project into the elevator lobby more than 4 in. (100 mm).

4.10.4 (g) ***Hall lanterns.*** Provide an audible and visual signal at each hoistway entrance to indicate car arrival and its travel direction.

(1) Audible signals shall sound once for the up direction and twice for the down direction or shall annunciate the words "up" or "down".

4.10.4(1) (2) Visual signals shall:

(i) Be mounted with their centerlines a min. of 6'–0" (1,830 mm) above finish floor (fig. 10.9);

4.10.4(2) (ii) Have a min. dimension of 2–1/2" (64 mm);

[4] *The ATBCB request comment on whether or not to permit the use of indented or incised lobby call buttons.*

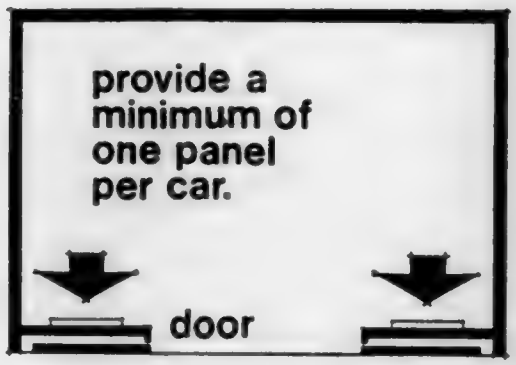

control locations 10.7
center opening
ANSI Figure 23(c)

control locations 10.8
side opening
ANSI Figure 23(d)

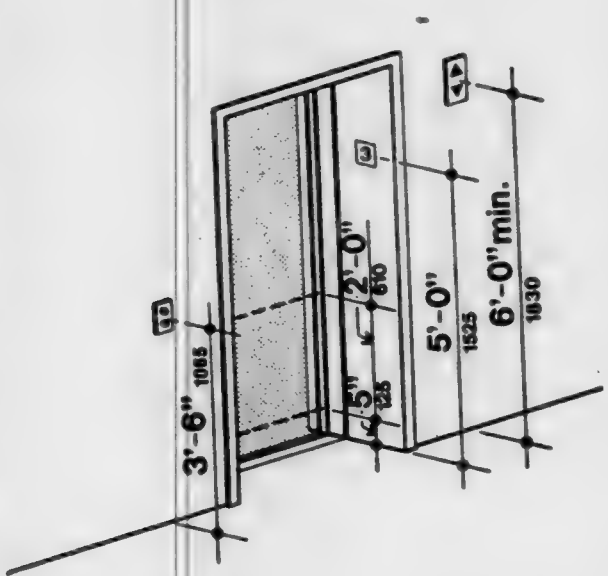

elevator entrance

10.9

ANSI Figure 20

ANSI

(iii) Distinguish between up and down travel directions; and

4.10.4(3) (iv) Be visible from the vicinity of call buttons.

4.10.4(3) (3) In-car lanterns mounted on car door jambs and that comply with paragraph 1190.100 (g) (2) are acceptable.

4.10.13 (h) ***Car position indicator and signal.*** Provide audible and visual car position indicators within each elevator car as follows:

(1) Audible indicators shall:

(i) Signal as the car passes or stops at each landing. Signal shall exceed the ambient noise level by at least 20 decibels with a frequency [below] ▶ *of* ◀ 1,500 [Hz; or] ▶ *to 2,000 Hz; or* ◀

(ii) Provide an automatic verbal announcement.

4.10.13 (2) Visual indicators shall:

(i) Be located above the car operating panel or over the car door;

(ii) Visually display the floor number as the car passes or stops at a landing;

(iii) Have characters that are a minimum of 1/2 in. (13 mm) high and that comply with §1190.200, Signage, except for paragraph 1190.200(c) (2).

4.10.11 (i) ***Illumination levels.*** Illuminate car controls, platform, car threshold, and landing sill to a minimum of 5 footcandles.

4.10.14 (j) ***Intercommunication systems.*** If provided, emergency intercommunication systems shall comply with the following:

Note: ANSI permits 4'-6" (1370 mm)

(1) Locate the highest operable part of the system no higher than 4'-0" (1,220 mm) above car floor;

* (2) Identify the system with raised lettering or symbols complying with §1190.200, Signage; ▶ *and locate adjacent to the device.* ◀

No similar provisions in ANSI.

(3) If system employs a handset, provide a 2'-5" (735 mm) cord length;

(4) If system is located in a closed compartment, compartment door hardware shall conform to §1190.170, Controls and operating mechanisms;

(5) Provide a momentary contact button to allow hearing-impaired individuals to summon assistance.

* *The ATBCB requests comments on whether or not indented or incised lettering or symbols should be permitted to identify the emergency intercommunication system.*

ANSI
4.11 **§1190.110 *Platform lifts.***

(a) *General.* Platform lifts required by Subpart C—Scope, shall comply with this section.

4.11.2 **(b) *Requirements.* Platform lifts shall:**

4.2.4 4.5 **(1) Accommodate an occupied wheelchair within the space provisions of §1190.40, Human data;**

no similar provision * **(2) Facilitate unassisted entry and exit from the lift in accordance with the provisions of §1190.50, Walks, floors, and accessible routes;**

4.11.2 4.27 **(3) Have accessible controls complying with §1190.170, Controls and operating mechanisms; and**

(4) Satisfy safety requirements of the agency having responsibility for safety of the facility.

4.1 **§1190.120 *Entrances.***

(a) *General.* Entrances required to be accessible by Subpart C—Scope shall comply with §1190.50, Walks, Floors and Accessible Routes; §1190.120, Entrances; and §1190.130, Doors.

4.1.2 **(b) *Service entrances.* A service entrance is not to be used as the only accessible entrance unless it is the only entrance to the building or facility.**

(c) *Access to elevators.* If elevators are provided, an accessible route shall be provided from an accessible entrance to the elevators.

* *1190.110(a)(2)*
The ATBCB requests comments on which of the following three alternatives is preferred for inclusion at 1190.110(b):

1. *Retain provision as adopted on January 6, 1981 (language provided in text of notice).*

2. *Amend the language as follows:* Facilitate unassisted entry from the lift in accordance with the provisions of §1190.50 Walks, floors, and accessible routes *whenever lift is located in a controlled area.*

3. *Delete paragraph.*

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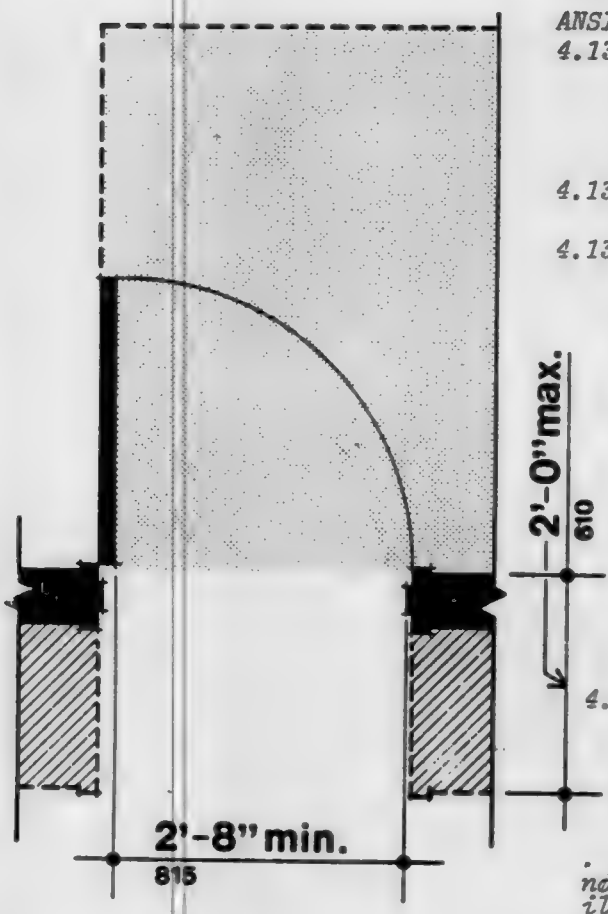

hinged

ANSI Figure 24(b) and (e)

13.
1

ANSI
4.13 **§1190.130 Doors.**

(a) **General.** Doors required to be accessible by Subpart C—Scope shall comply with this section.

4.13.3 (1) Gates, including ticket gates, shall comply with this section.

4.13.4 (2) In double-leaf doorways, at least one leaf shall comply with this Section and it shall be the active leaf. Double-leaf automatic doors are excepted from the one leaf provision if both leaves are automatic.

4.13.2 (3) Revolving doors or turnstiles are not accessible doors and shall not be the sole means of access at any accessible entrance or on any accessible route. An accessible door shall be provided immediately adjacent to the turnstile or revolving door and shall be subject to the same use pattern as the turnstile or revolving door. *so designed as to facilitate the same use patterns.*

4.13.5 (b) **Clear width.** Provide doorways with clear openings of 2'-8" (815 mm) as measured with the door open 90 degrees between the face of the door and the latch side stop (figs. 13.1, 13.2, and 13.3). Openings deeper than 2'-0" (610 mm) shall be a min. of 3'-0" (915 mm) wide (fig. 4.1).

(1) *Exception.* If a space and the elements within that space comply with the requirements of §1190.40, Human Data, and the user does not require full passage into that space, then the opening to that space may be min. of 1'-8" (510 mm) wide.

(2) [Reserved]

no similar provision

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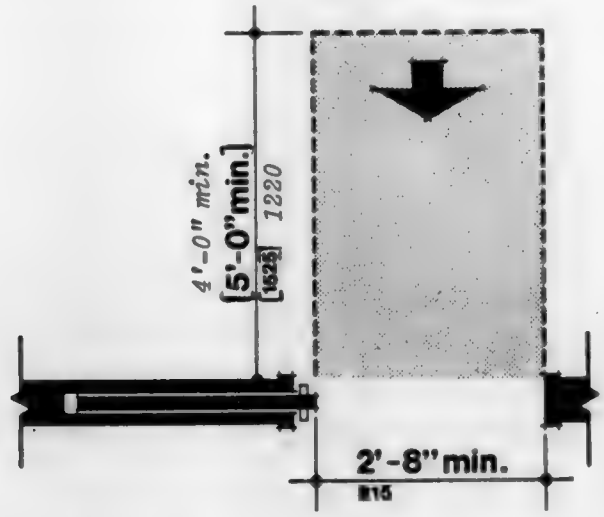

sliding 13.2

ANSI Figure 24(c) and 25(a)

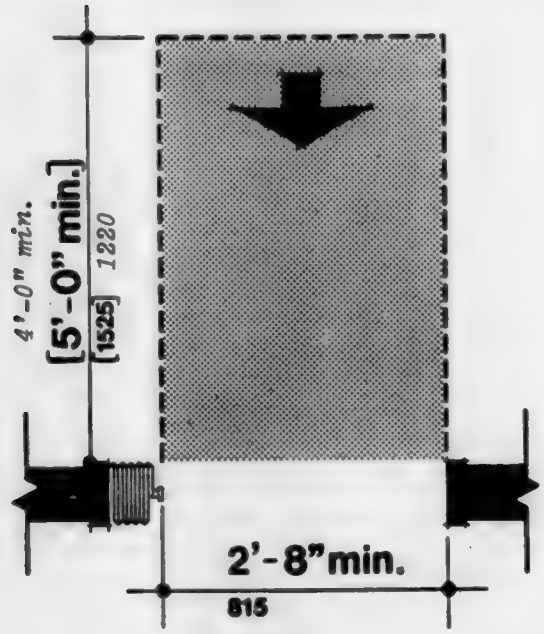

folding 13.3

ANSI Figure 24(d) and 25(a)

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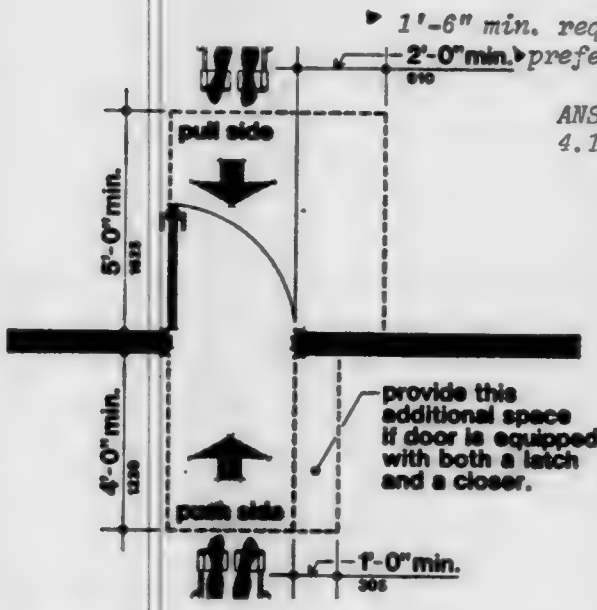

front approach 13.4

ANSI Figure 25(a)
Note: ANSI requires 2'-0" min. latch side clearance.

(c) **Maneuvering space.** Provide the following space at all non-automatic and non-power-assisted doors:

(1) At doors allowing front approach only, maneuvering space shall be as shown in figs. 13.2, 13.3, and 13.4. The min. maneuvering space (i.e., latch side clearance) required for a hinged opening is 1'-6" (455 mm), but 2'-0" (600 mm) is recommended where space is available.

(i) Exception. Front approach entry doors to acute care hospital patient bedrooms shall be exempt from the 1'-6" (455 mm) requirement of paragraph 1190.130(c)(1) latch side clearance shown in fig. 13.4 if the door is at least 3'-6" (1,120 mm) wide.

(ii) [Reserved]

ANSI 4.13.6

(2) At doors allowing hinge side approach only, maneuvering space shall be as shown in fig. 13.5.

(3) At doors allowing latch side approach only, maneuvering space shall be as shown in fig. 13.6.

(4) The floor or surface area within the required maneuvering space shall be clear and shall comply with paragraph 1190.50(i), Ground and floor surfaces. It shall have a slope in any direction no greater than 1:48 (1/4 in. per ft.)

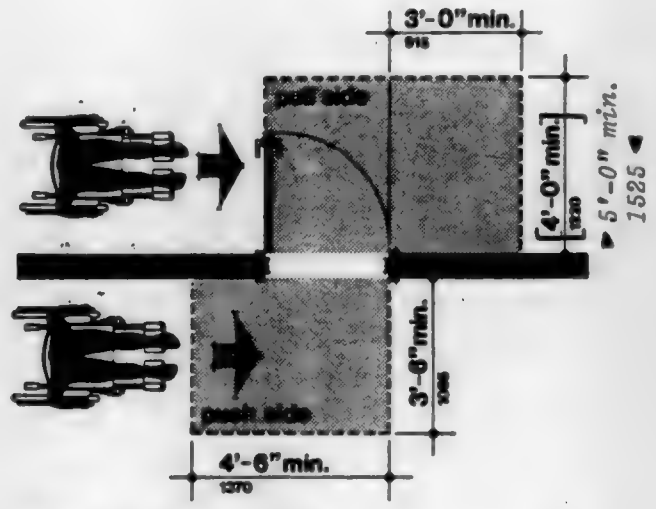

hinge approach 13.5

ANSI Figure 25(b) and (e)
Note: ANSI requires 5'-0" (1525 mm) min. if the latch/pull side approach is 3'-0" (915 mm) min.

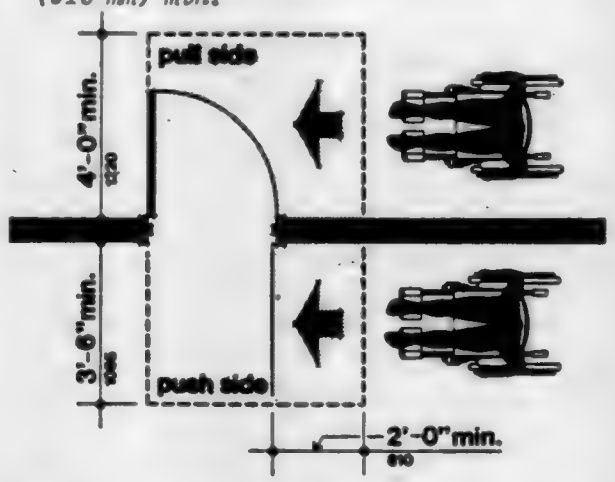

latch approach 13.6

ANSI Figures 25(c) and (f)

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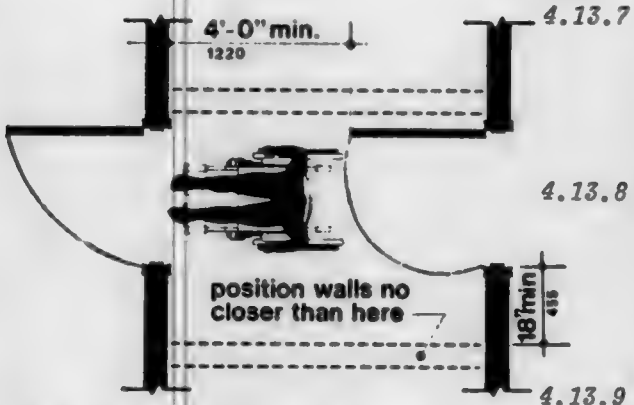

doors in series 13.7

ANSI Figure 26

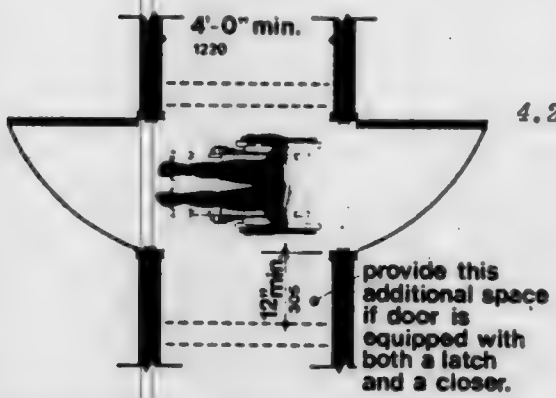

doors in series 13.8

ANSI Figure 26

ANSI 4.13.7

4.13.8

4.13.9

(d) **Doors in series.** Between any two hinged or pivoted doors in series, provide a min. of 4'–0" (1,220 mm) plus the width of any door swinging into the space. Opposing doors shall not swing towards each other, into the intervening space (see figs. 13.7 and 13.8).

(e) ***Thresholds.*** Raised thresholds, if provided, shall be beveled with a slope not to exceed 1:2 and with heights not exceeding the following:

(1) Exterior sliding doors: 3/4 in. (19 mm) max.

(2) Other doors: 1/2 in. (13 mm) max. Bevel not required if less than 1/4 in. (6 mm).

(f) ***Hardware.*** Provide handles, pulls, latches, locks and other operating hardware that are easy to grasp with one hand and that do not require twisting of the wrist, tight grasping, or tight pinching to operate. Acceptable designs include, but are not limited to, lever-operated hardware, push-type hardware, and U-shaped handles. Operating hardware shall be exposed and usable from both sides when sliding doors are fully open. Mount no operating hardware higher than 4'–0" (1,220 mm) above finish floor.

[(1) *Exception.* Mortise and surface mounted bolts used to secure the inactive leaf of a double leaf door without center mullion may be mounted at any height.]

(2) [Reserved.]

4.29.3 (g) ***Doors to hazardous areas.*** Provide a textured surface on any door handle, knob, pull, or other piece of operating hardware on doors that lead to areas that may prove hazardous to blind people. Such areas may include, but are not limited to, loading platforms, mechanical equipment rooms, stages, and similar spaces. Textured surfaces may be achieved by knurling, roughening, or applying materials on the hand contact surface. Do not provide textured surfaces on hardware leading to emergency egress or on any doors other than those leading to hazardous areas.

Note: ANSI also addresses doors at accessible entrances to dwelling units at 4.29.3.

ANSI

4.13.10 (h) ***Closers and opening forces.***

(1) **Door closers, if provided, shall have a sweep period adjusted so that from a position of 70 degrees open it will take the door a min. of** [5] ▸3◂ seconds to reach a point 3 **in. (75 mm) from the door jamb, measured from the leading edge of the door.**

4.13.11 (2) **Max. pushing or pulling opening forces for doors shall be as follows:**

4.13.11(2)(a) (i) **Exterior hinged doors: [Reserved]**

4.13.11(2)(b) (ii) **Interior hinged doors: 5 lbs. (2.3 Kg)**

4.13.11(2)(c) (iii) **Sliding or folding doors: 5 lbs. (2.3 Kg)**

4.13.11(1) (iv) **Adjust fire doors for the min. opening and closing forces required by the agency having responsibility for the safety of the facility.**

4.13.2 (v) **Power-assisted doors: Comply with paragraph 1190.130(h)(2) for closing force. These forces do not apply to forces required to retract or disengage latch bolts or other door latching devices.**

4.13.12 (i) ***Automatic doors.*** **If automatic pedestrian doors are provided:**

(1) **They shall not open to back check in less than** [5] ▸3◂ seconds; and

(2) **They shall not require more than 15 lbs. (6.8 Kg) to stop door movement;**

(3) **See the *American National Standard for Power-Operated Pedestrian Doors*, ANSI A156.10 (latest edition) for additional information on the requirements for both standard and custom designed installations. Paragraph 1.1.1 of the ANSI publication contains information on slow opening, low powered automatic pedestrian doors.**

Note: ANSI requires that exterior hinged doors have a maximum pushing and pulling opening forces of 8.5 lbf (37.8N).

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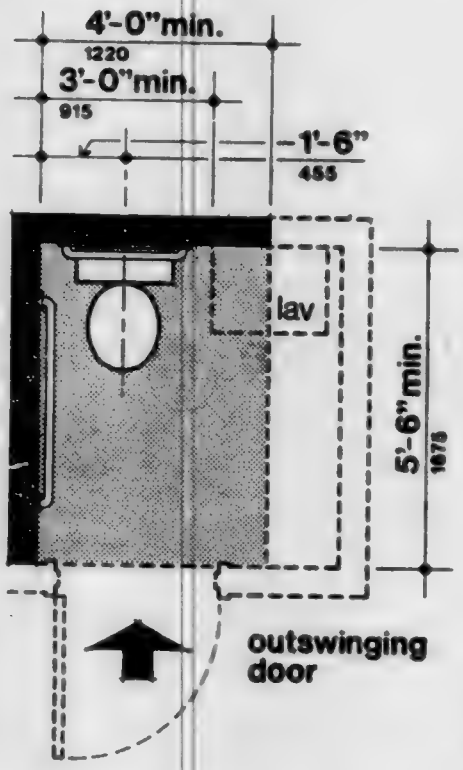

clear floor space
(right-hand approach)

15.1

ANSI Figure 28(a)
Note: ANSI does not illustrate wall location.

4.12 **§1190.140 *Windows [Reserved]***

4.16 **§1190.150 *Toilet and bathing facilities.***
4.17
4.18
4.19
4.20
4.21
4.22
4.23

(a) ***General.*** Toilet rooms and bathing facilities required to be accessible by Subpart C—Scope shall comply with this section.

(1) *Exception.* Where alterations to existing facilities make strict compliance with §1190.150 structurally impracticable, the addition of one "unisex" toilet per floor containing one water closet and one lavatory that complies with paragraph § 1190.150(b) located adjacent to existing facilities will be acceptable in lieu of making existing toilet facilities for each sex accessible.

(2) [Reserved]

4.22.2 (b) **Doors.** Doors to toilet rooms and bathing facilities shall:
4.23.2
4.13

(1) Comply with §1190.130, Doors; and

(2) Not swing into clear floor spaces required at fixtures.

Note: ATBCB has reserved §1190.140 Windows until such time as research and/or field experience dictates a requirement in this area. ANSI requires a maximum of 5 lbf (22.2N) to open and close accessible windows.

ANSI

4.22.3 4.23.3 (c) **Clear turning space.** Each accessible toilet room and bathing facility shall have an unobstructed turning space that:

(1) Complies with paragraph 1190.40(b) (3);

4.2.3 (2) Adjoins an accessible route complying with §1190.50, Walks, floors, and accessible routes; and

(3) May overlap the accessible route and clear floor space at fixture(s).

(i) *Exception.* [In toilet rooms with one water closet, doors in a clear floor area that is 2'-6" by 5'-0" (815 mm by 1525 mm) may be provided in lieu of a clear turning space.]

► *In bathrooms with one water closet, one lavatory and/or shower, a clear floor space of 2'-6" by 5'-0" (815 mm x 1525 mm) may be used in lieu of the unobstructed turning space.* ◄

(ii) [Reserved]

4.30.1 (d) **Signage.** Signage required by Subpart C—Scope that identifies accessible toilet rooms and bathing facilities shall comply with 1190.200, Signage.

4.16 (e) ***Toilet fixtures and accessories.***

4.22.4 4.23.4 (1) Water closets. Accessible water closets shall:

(i) Be provided with clear floor access spaces complying with figs. 15.1, 15.2, 15.3 and 15.4 for fixtures not mounted in stalls. Clear floor space may be provided to allow either left-handed or right-handed approach.

4.16.2

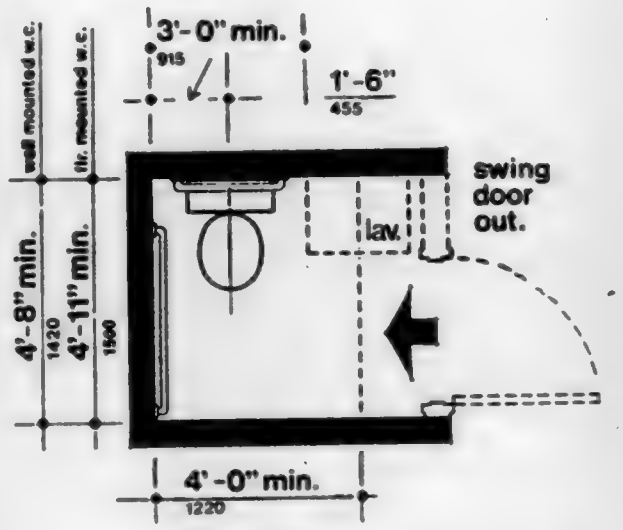

clear floor space 15.2

(right-hand approach)

ANSI Figure 28(b)

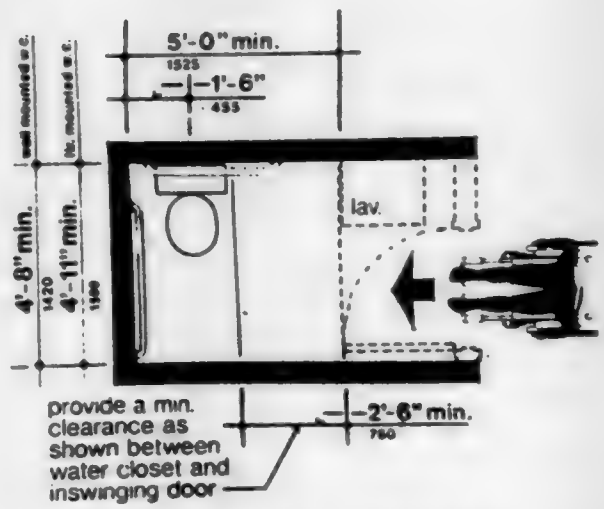

clear floor space 15.3

(right-hand approach)

ANSI Figure 28(c)

Note: ANSI does not illustrate the differences in dimensions needed for wall and floor mounted water closets. ANSI also does not show door and wall locations.

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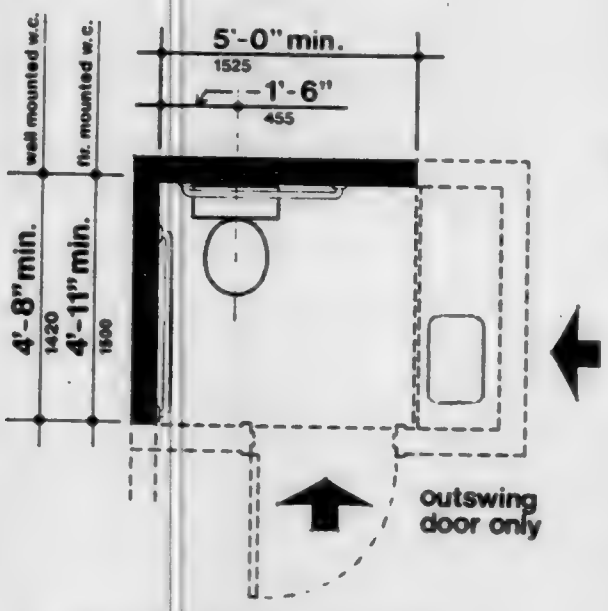

ANSI 4.16.3

4.16.5

(ii) Have top of seats mounted 1'–5" to 1'–7" (430 mm to 485 mm) above finish floor (see figs. 15.5 and 15.6). Seats shall not be sprung to return to a lifted position when not in use.

(iii) Have automatic or hand-operated flush controls complying with §1190.170, Controls and operating mechanisms. Mount controls for use from the wide side of access area and no higher than 3'–6" (1,120 mm) above finish floor.

clear floor space

(right-hand approach)

15.4

ANSI Figure 28(c)
Note: ANSI does not illustrate the differences in dimensions for wall and floor mounted water closets. ANSI also does not illustrate the possible location of walls and doors.

Page 41

ANSI 4.16.6

(iv) Have toilet paper dispensers mounted as shown in fig. 15.6. Do not use dispensers that control delivery or that do not permit continuous paper flow.

4.16.4

(v) Have grab bars mounted of the length and positioning as shown in figs. 15.1, 15.2, 15.3, 15.4, 15.5 and 15.6.

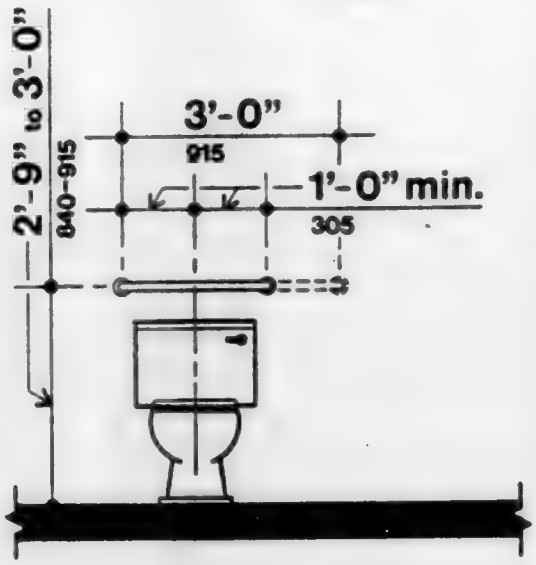

rear wall elevation 15.5

without stall

ANSI Figure 29(a)

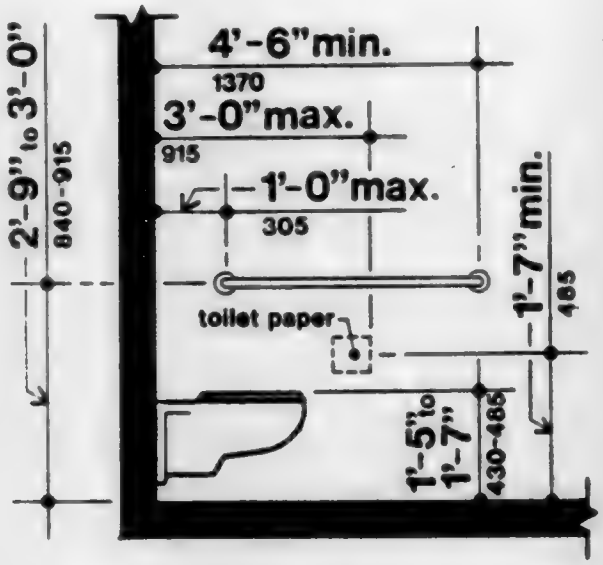

side wall 15.6

without stall
or alternate stall

ANSI Figure 29(b)

Note: ANSI does not provide a dimension from the wall to the toilet paper disperser

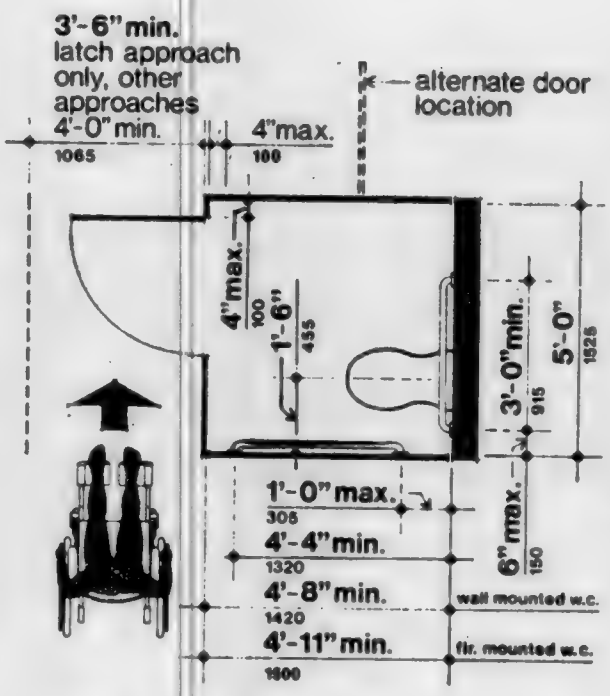

standard stall
(left-hand approach)
15.7

ANSI Figure 30(a)

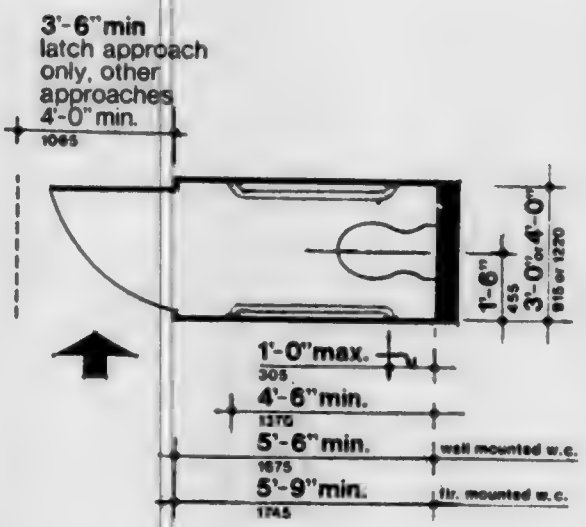

alternate stall
15.8

Figure 30(b)

ANSI
4.17 (2) Toilet stalls. Accessible toilet stalls shall:

(i) Have a water closet complying with paragraph 1190.150(e) (1); and

4.17.3 (ii) Be of the size and arrangement as shown in fig. 15.7. Stall configuration may be reversed for left or right-handed approach.

[(A) *Exception.* In instances of alteration work where provision of a standard stall (fig. 15.7) is structurally impractical or plumbing fixture code requirements prevent combining existing stalls to provide space,] ► *An* alternate stall (fig. 15.8) may be provided in lieu of the standard stall.

[(B) [Reserved]] ► *if a standard stall is provided in accordance with the requirements of 1190.31 (k) toilet and bathing facilities.* ◄

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ANSI 4.17.4 (iii) Have toe clearances at the front partition and at least one side partition of 9 in. (230 mm) above finish floor. If stall depth is greater than 5'–0" (1,525 mm), then toe clearance is optional.

4.17.5 (iv) Have doors that comply with §1190.130, Doors, and that are outswinging; and have the symbol of access affixed to the outside of door.

(A) *Exception.* If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a min. of 3'–6" (1,065 mm).

4.13 (B) [Reserved]

4.17.6 (v) Have grab bars mounted of the length and positioning shown in figs. 15.7, 15.8, 15.9 and 15.10. ► *Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear area. Grab bars shall comply with 1190.150(g).* ◄

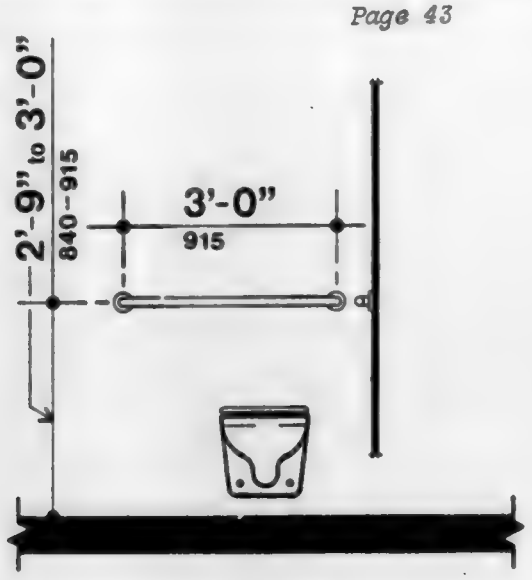

rear wall elevation 15.9

standard stall

ANSI Figure 30(c)

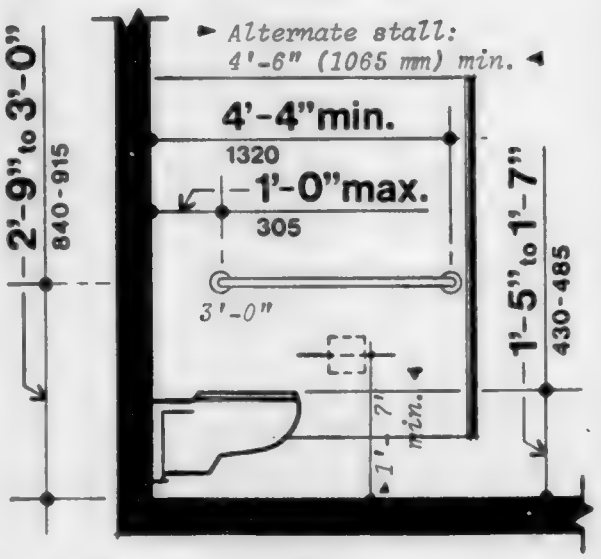

side wall 15.10

standard stall

ANSI Figure 30(d)

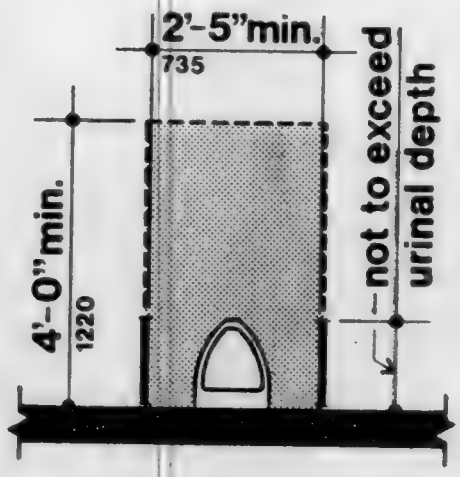

urinal shields 15.11

No similar figure in ANSI.

ANSI
4.18
4.18.3
4.22.5
4.23.5

(3) Urinals. Accessible urinals shall:

(i) Have a clear floor space that complies with §1190.40, Human data.

[(A) *Exception.* Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with 2'-5" (735 mm) clearance between them (fig. 15.11).]

(B) [Reserved]

4.18.2

(ii) Be floor mounted stall type or wall-hung with an elongated rim mounted at 1'-5" (430 mm) max. above finish floor (fig. 15.12).

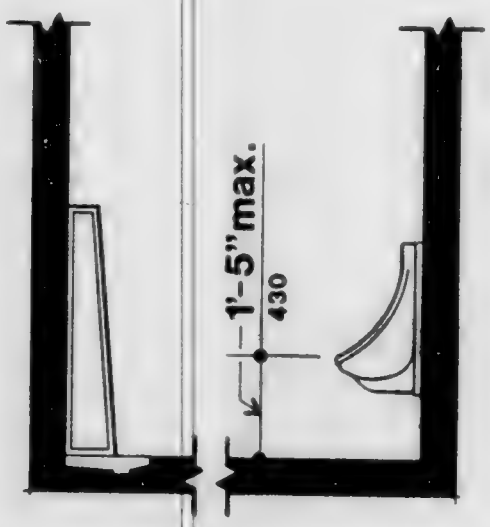

urinals 15.12

No similar figure in ANSI

Page 45

ANSI

4.18.4 (iii) Have automatic or hand-operated controls complying with §1190.170, Controls and operating mechanisms, and mounted no higher than 3'–8" (1,120 mm) above finish floor.

4.19 (4) Lavatories and sinks. Lavatories and sinks
4.22.6 shall meet the following requirements:
4.23.6 (i) Mount lavatories with the rim or counter surface no higher than 2'–10" (865 mm) above finish floor.
4.19.2 Provide knee space between bottom of apron and finish floor of at least 2'–5" (735 mm) high, 2'–6" (760 mm) wide and 1'–7" (485 mm) deep (fig. 15.13).

4.24 (ii) Mount sinks with the rim or counter
4.24.2 surface no higher than 2'–10" (865
4.24.3 mm) above finish floor. Provide knee space under the sink of at least 2'–3" (685 mm) high, 2'–6" (760 mm) wide and 1'–7" (485 mm) deep. Sink bowls
4.24.4 shall be a max. of 6-1/2 in. (165 mm) deep (fig. 15.14).

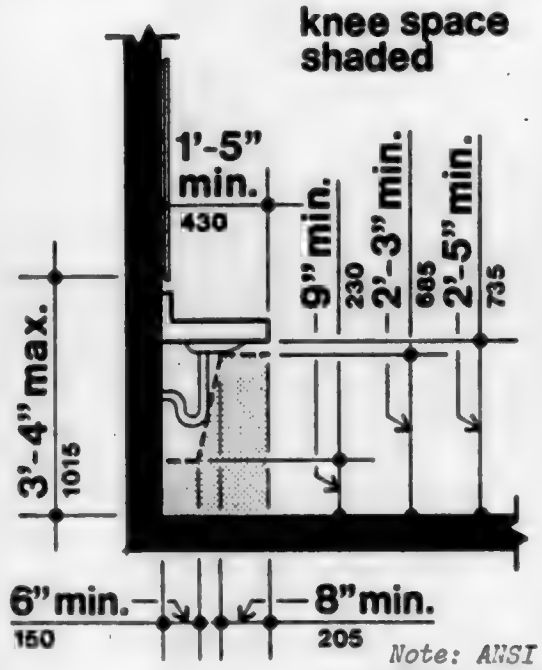

Note: ANSI does not address knee space for lavatories.

lavatory 15.13

ANSI Figure 31

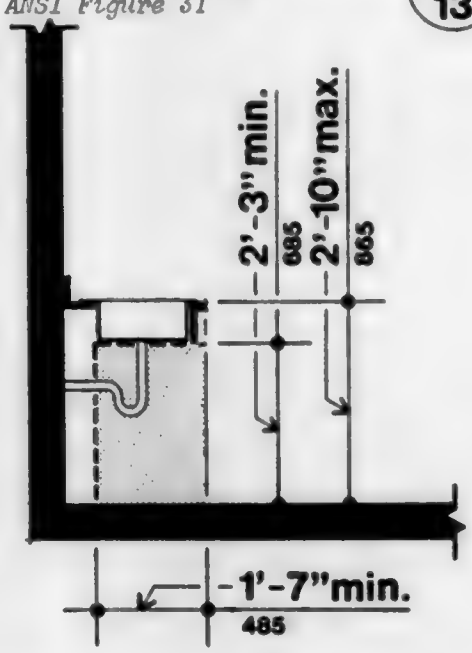

sink 15.14

ANSI Figure 51
Note: ANSI provides range for sink heights: 2'-4", 2'-8", and 3'-0".

Page 46

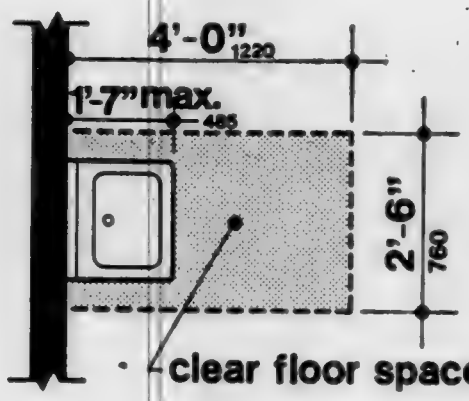

lavatory 15.15

ANSI Figure 32

ANSI

4.19.3 (iii) Clear floor space permitting front
4.24.5 approach shall comply with §1190.40, Human Data. Clear floor space and knee space shall overlap 1'–7" (485 mm) max. (fig. 15.15).

4.19.4 (iv) Insulate or cover hot water and drain
4.24.6 lines. Allow no sharp or abrasive surfaces to remain exposed under accessible lavatories or sinks.

4.19.5 (v) Acceptable faucet control designs in-
4.24.7 clude level-operated, push type, touch-type, and electronically controlled mechanisms that comply with §1190.170, Controls and operating mechanisms.

Note: ANSI uses touch-type faucets for sinks only.

(A) Exception. Self-closing valves are permitted at lavatories if the faucet remains open for at least 10 seconds.

(B) [Reserved]

4.19.6 (5) Mirrors. Mount mirrors with the bottom edge of reflecting surface no higher than 3'–4" (1,015 mm) above finish floor (fig. 15.13).

4.22.7 (6) Controls, dispensers, receptacles, or other
4.23.7 equipment. Accessible equipment shall
4.27 comply with §1190.170, Controls and operating mechanisms.

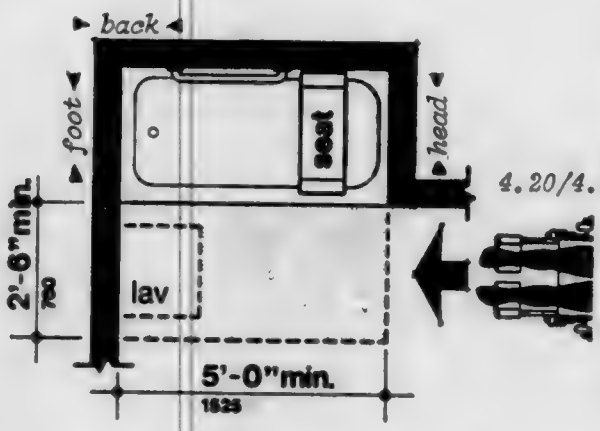

clear floor space 15.16
with in-tub seat

ANSI Figure 33(a)

4.20/4.21 (f) ***Bathing facilities.*** Bathtubs or showers shall:

4.20.2 (1) Have clear access space as shown in figs.
4.21.2 15.16 to 15.20.

Note: The ATBCB does not address medicine cabinets, ANSI 4.23.9.

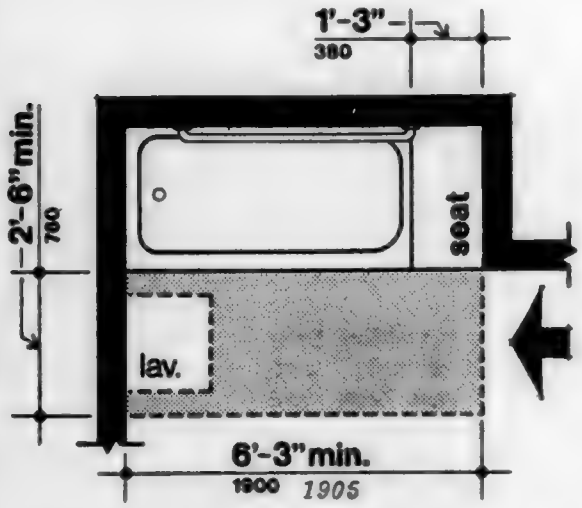

clear floor space 15.17

with ledge seat

ANSI Figure 33(b)

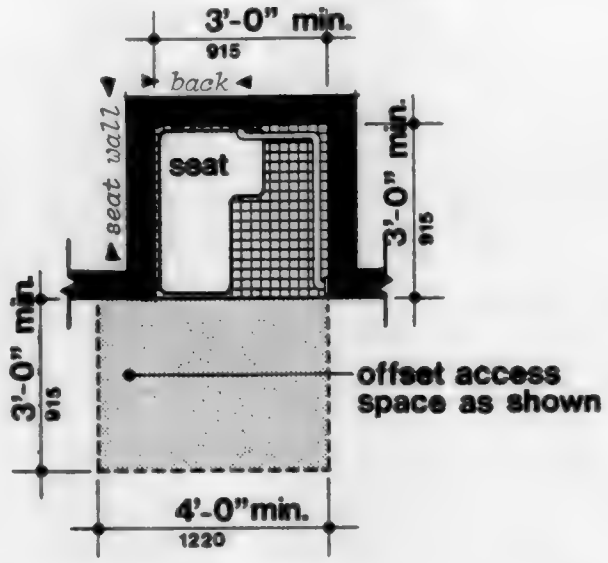

transfer stall 15.19

ANSI Figure 35

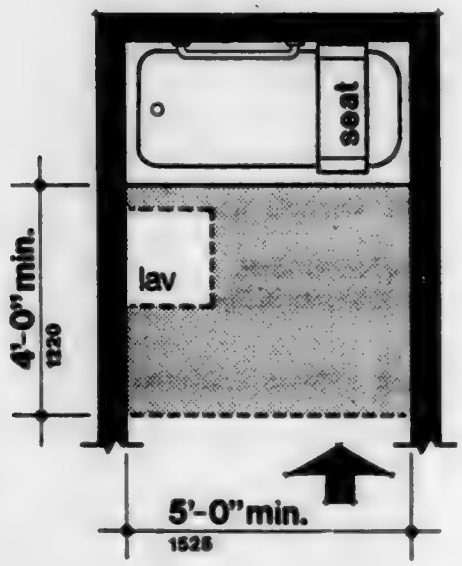

clear floor space 15.18

with in-tub seat

ANSI Figure 33(a)

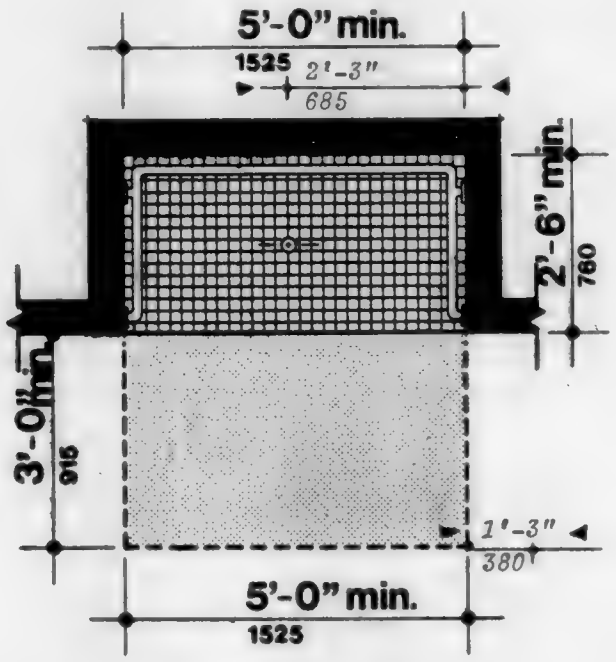

roll-in stall 15.20

ANSI Figure 35(b)

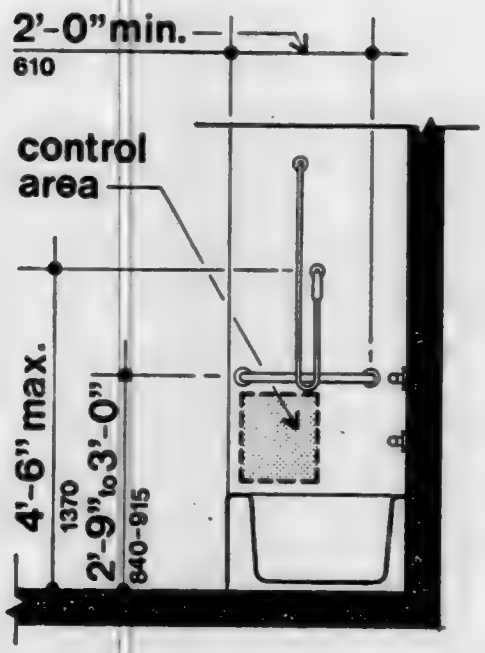

foot 15.21

ANSI Figure 34(a)

ANSI
4.20.3 (2) ► *A seat shall be provided in shower*
4.21.3 *stalls 3'-0" x 3'-0" (915 mm x 915 mm) as shown in Figure 15.26. The seat shall be mounted 1'-5" to 1'-7" (430 mm to 485 mm) from the bathroom floor and shall extend the full depth stall. The seat shall be on the wall opposite the controls.* ◄

[(2)] Have seats provided as shown in figs. 15.16 to 15.19, 15.24 and 15.26 to 15.28.

► *(i)* ◄ **Seats and their attachments shall safely support a 250 lbs. (114 Kg) continuous live load without sustaining permanent deflection. Seats shall not move when mounted during use. In-tub sets shall be portable.**

4.26.3 ► *(ii) Shear stress induced in a seat by the application of 250 lbf shall be less than the allowable shear stress for the material of the seat. If its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.*

(iii) Shear force induced in a fastener or mounting device from the application of 250 lbf shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.

(iv) Tensil force induced in a fastener by a direct force of 250 lbf plus the maximum moment from the application of 250 lbf shall be less than the allowable withdrawal load between the fastener and the supporting structure. ◄

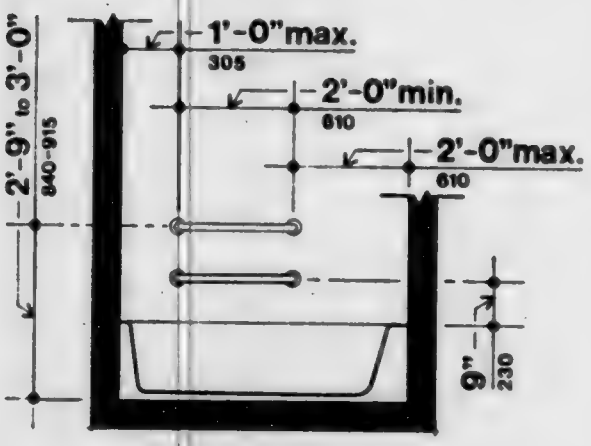

bathtub back 15.22
with in-tub seat

ANSI Figure 34(a)

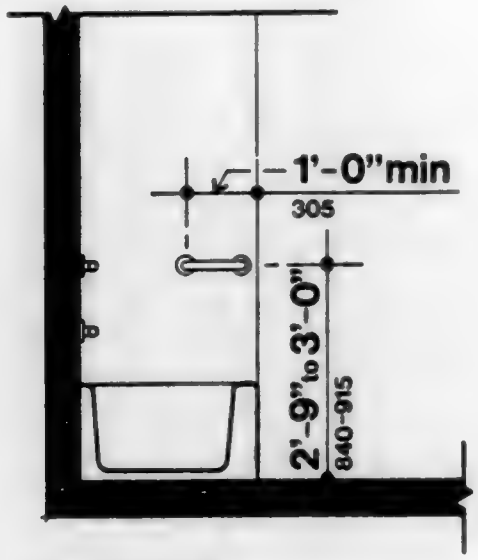

head
with in-tub seat
15.
23
ANSI Figure 34(a)

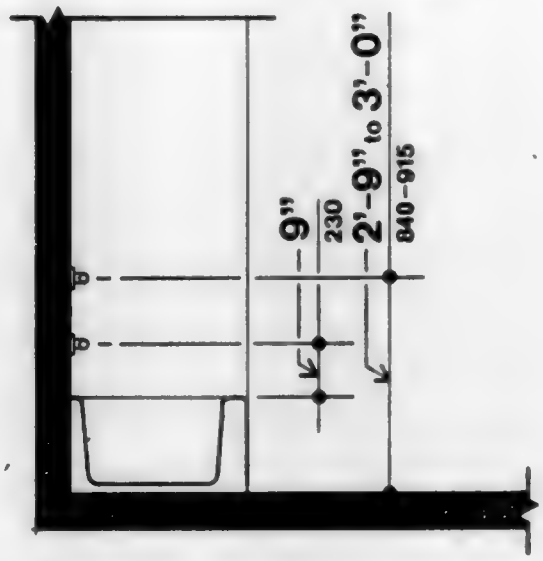

head
with ledge seat
15.
25
ANSI Figure 34(b)

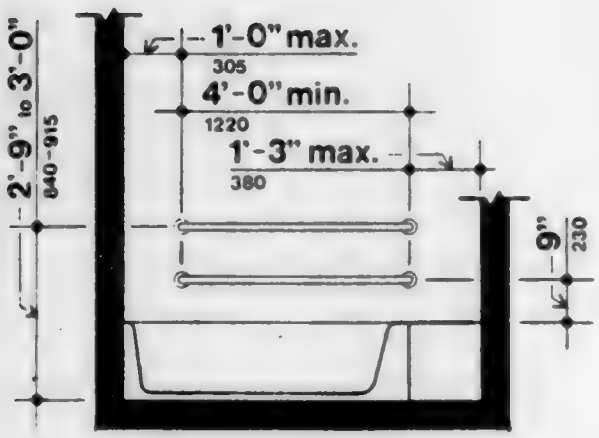

bathtub back
with ledge seat
15.
24
ANSI Figure 34(b)

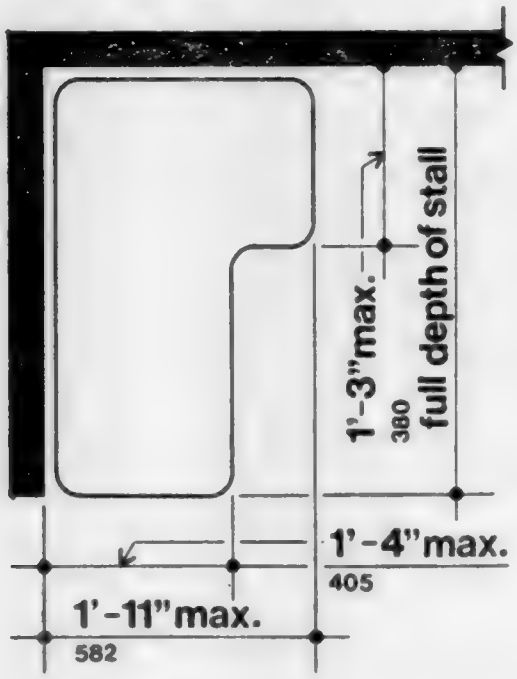

seat
transfer shower
15.
26
ANSI Figure 36

Page 50

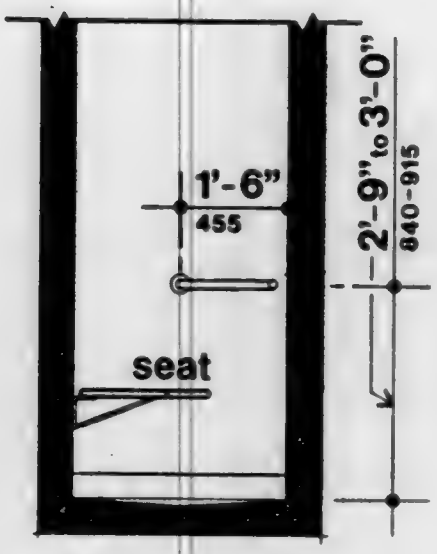

back
transfer shower
15.27
ANSI Figure 37(a)

ANSI
4.20.4 (3) Have grab bars mounted of the length and
4.21.4 positioning shown in figs. 15.16 to 15.32.
(4) Have faucets and controls complying with
4.20.5 §1190.170, Controls and Operating
4.21.5 Mechanisms, located as shown in figs. 15.21, 15.29, and 15.31. ► *In shower stalls 3'-0" x 3'-0" (915 mm x 915 mm), all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.* ◄

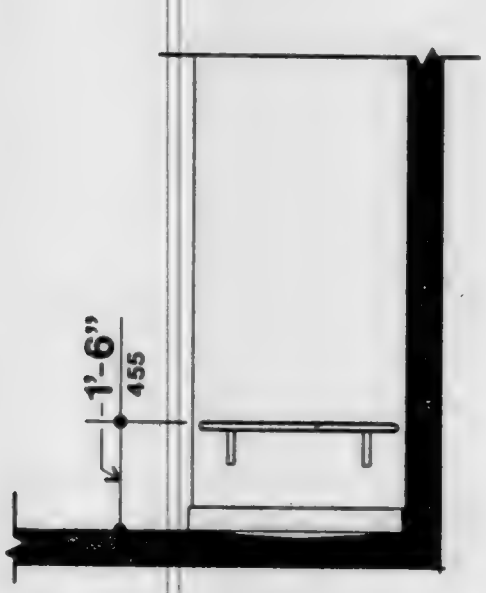

seat wall
transfer shower
15.28
ANSI Figure 37(a)

Page 51

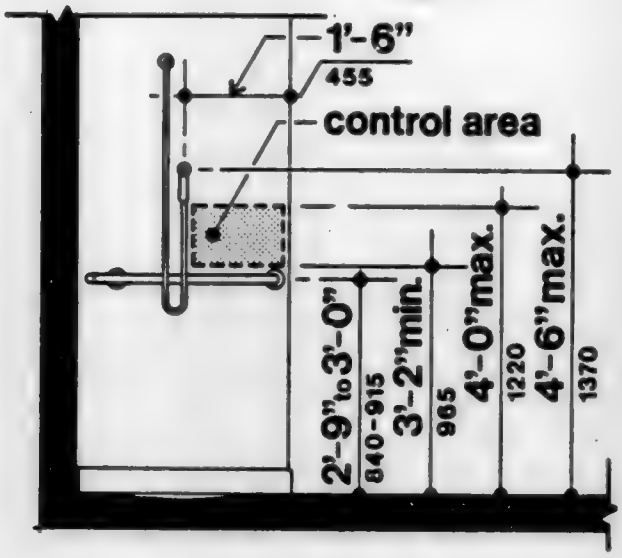

control wall 15.29
transfer shower
ANSI Figure 37(a)

ANSI 4.20.6 4.21.6

(5) Have a shower spray unit with a flexible hose a min. of 5'–0" (1,525 mm) long that is usable as a fixed shower head and as a hand-held shower.

(i) Exception. In unmonitored facilities where vandalism is a concern, a fixed shower head mounted at 4'–0" (1,220 mm) above the tub bottom may be used in lieu of the hand-held unit.

(ii) [Reserved]

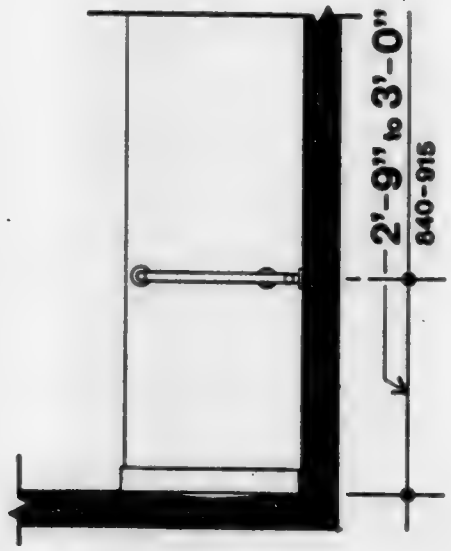

side 15.30
roll-in shower
ANSI Figure 37(b)

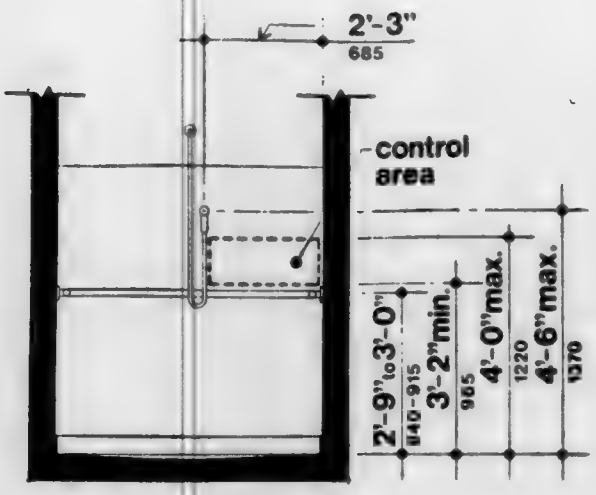

control wall
roll-in shower
ANSI Figure 37(b)

15.
31

ANSI
4.20.7 (6) Have enclosures, if provided, that do not obstruct transfer from wheelchairs onto seats or into tubs or access to controls from clear floor spaces. Bathtub enclosures shall not have tracks mounted on the bathtub rims.
4.21.7

4.21.7 (7) Have shower curbs or threshholds no higher than 1/2 in. (13 mm) beveled.

Note: ANSI permits 4 inch (100 mm) curbs in shower stalls 3'-0" x 3'-0" (915 x 915 mm).

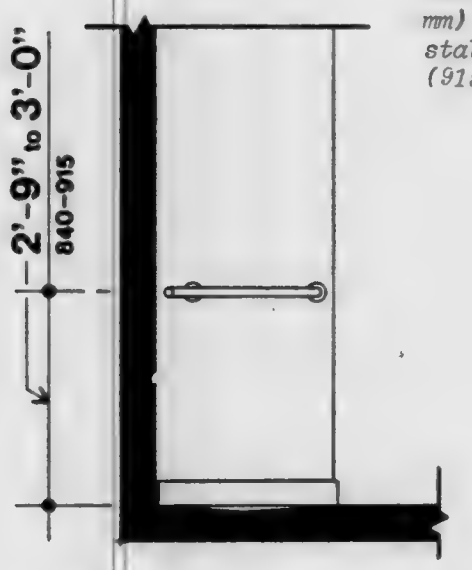

side
roll-in shower
ANSI Figure 37(b)

15.
32

Page 53

ANSI
4.25
4.26.2

(g) Grab bars. Grab bars for accessible toilet and bathing fixtures shall:

(1) Have a diameter or width of the gripping surfaces that is 1-1/4 in. to 1-1/2 in. (32 mm to 38 mm).

(2) Have a 1-1/2 in. (38 mm) (max./min.) clear space between the bar and the mounting surface (fig. 15.33).

[(3) As installed, support a min. concentrated load of 250 lb. (114 Kg). **]**

4.26.3(5) ▶*(3)(i) Bending stress in a grab bar induced by the maximum bending moment from the application of 250 lbf shall be less than the allowable stress for the material of the grab bar.*

(ii) Shear stress induced in a grab bar by the application of 250 lbf shall be less than the allowable shear stress for the material of the grab bar. If the connection between the grab bar and its mounting bracket or other support is considered to be fully restrained then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress.

(iii) Shear force induced in a fastener or mounting device from the application of 250 lbf shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load.

(iv) Tensile force induced in a fastener by a direct tension force of 250 lbf plus the maxium moment from the application of 250 lbf shall be less than the allowable withdrawal load between the fastener and the supporting structure. ◀

(4) Not rotate in their fittings.

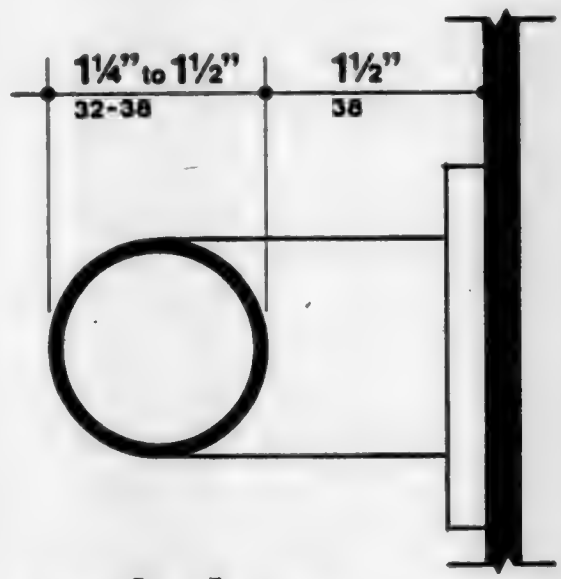

grab bar 15.33

ANSI Figures 39(a), (b), and (c)

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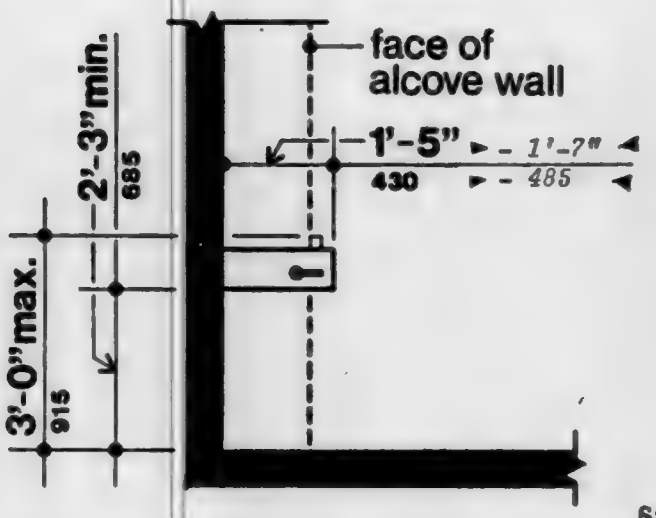

cantilevered drinking fountain 16.1

ANSI Figure 27(a)

§1190.160 *Drinking fountains and water coolers.*

(a) General. Drinking fountains and coolers required by Subpart C—Scope shall comply with this section.

4.15.5 **(b) Clearances. Drinking fountains and water coolers shall have clear floor or ground spaces that comply with §1190.40, Human data, and shall be:**

4.15.5 * **(1) Cantilevered units with a clear space allowing a forward approach and having a knee space under the unit that is at least 2'-3" (685 mm) high, 2'-6" (760 mm) wide, and 1'-5" [(202 mm) deep (figs. 16.1 and 16.2); or] ►*(430 mm) to 1'-7"(485 mm) deep (figures 16.1 and 16.2); or*◄**

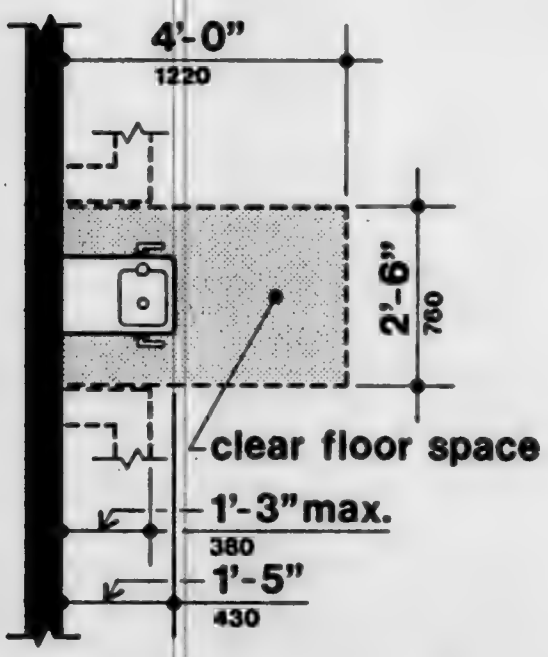

cantilevered drinking fountain 16.2

ANSI Figure 27(b)
Note: ANSI does not illustrate alcove.

* *Note: The ATBCB requests comments on the use of the 2'-3" minimum knee clearance required in Figure 16.1 for cantilevered drinking fountains. This dimension is also used for the minimum knee space under lavatories, see ATBCB Figure 15.3.*

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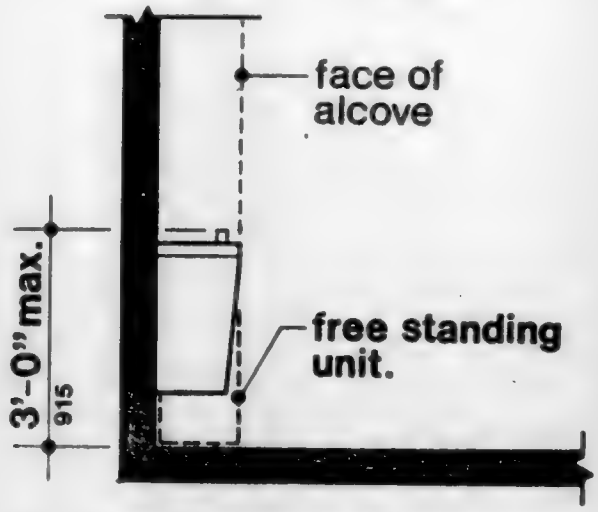

free standing or wall hung 16.3
drinking fountain

No similar figure in ANSI.

ANSI 4.15.5(2) **(2) Free-standing or built-in units with a clear space allowing a parallel approach and not having knee-space (figs. 16.3 and 16.4 and 16.5).**

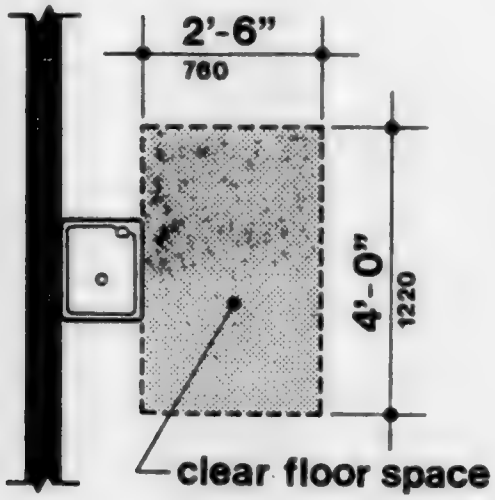

free standing or wall hung 16.4
drinking fountain

ANSI Figure 27(c)

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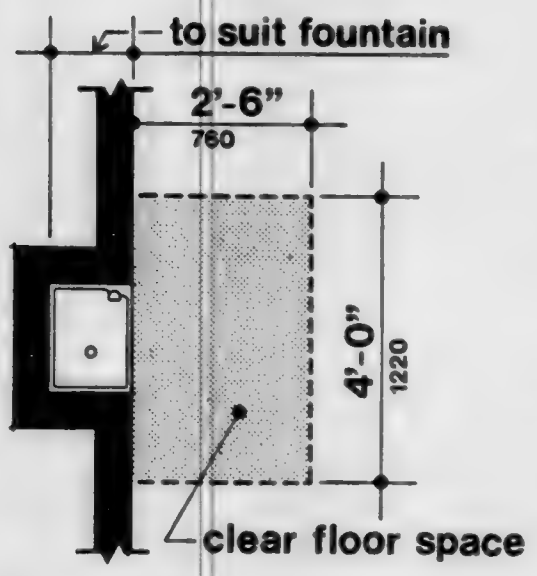

built in
drinking fountain

16.
5

ANSI Figure 27(d)

ANSI

(c) ***Spouts of drinking fountains and water coolers.*** Spouts shall:

4.15.2 (1) Be mounted no higher than 3'–0" (915 mm) above the finish floor, measured to the spout outlet.

4.15.3 (2) Be at the front of the unit and shall direct water flow trajectory parallel or nearly parallel the front of the unit.

4.15.3 (3) Direct water flow at least 4 in. (100 mm) above the unit basin to faciiitate cup or glass insertion.

4.15.4 (d) **Controls.** Unit controls shall be front mounted or side mounted near the front edge and shall comply with §1190.170, Controls and operating mechanisms.

ANSI
4.27 **§1190.170 Controls and operating mechanisms.**

(a) ***General.*** Controls and operating mechanisms required to be accessible by Subpart C—Scope shall comply with this section.

4.27.2 (b) ***Location requirements.*** Controls and operating mechanisms shall adjoin clear floor or ground space complying with §1190.40, Human data.

4.27.3 Mount controls and operating mechanisms in compliance with approach direction and reach limitations specified in paragraph 1190.40(c), Clear floor or ground space, and paragraph 1190.40(d), Reach limitations (figs. 17.1 and 17.2).

4.27.4 (c) ***Operation.*** Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbs. of force (2.2 Kg).

4.27.3 (d) ***Specialized equipment.*** If specialized mechanical, electrical, or process equipment has inherent functional requirements which dictate location or force requirements other than those specified in this section, locate the equipment as dictated by its functional requirements.

Note: ANSI requires that except where special equipment dictates otherwise, electrical and communications system receptacles on walls shall be mounted no less than 1'-3" (380 mm) a.f.f. See 4.27.3

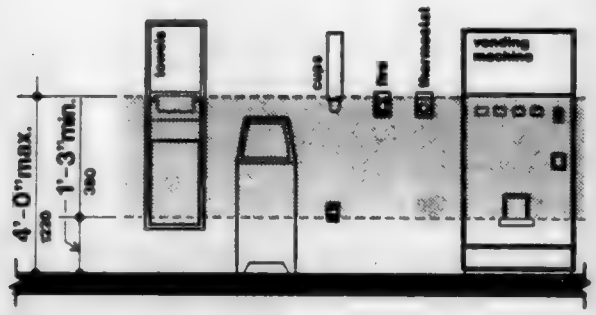

forward approach 17.1

No similar figure in ANSI.

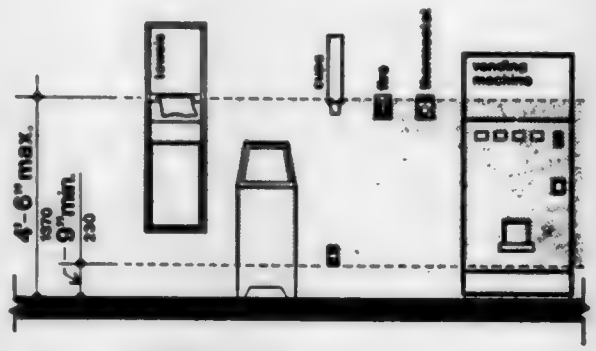

parallel approach 17.2

No similar figure in ANSI.

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ANSI 4.28

§1190.180 Alarms

(a) **General.** Alarm systems required to be accessible by Subpart C—Scope shall comply with this section.

4.28.2 (b) **Audible alarms.** Audible alarms shall produce a sound pressure level that exceeds ambient room or space noise by 15 decibels or any max. noise level of 30 seconds duration by 5 decibels, whichever is greater. ► *Sound levels for alarm signals shall not exceed 120 decibels.* ◄

4.28.3 (c) **Visual and other sensory alarms.** If audible alarms are provided, then in addition, provide a visual alarm device adjacent to or within each exit sign which flashes in conjunction with audible alarms and operates from the same power source. Flash frequency of visual alarms shall be less than 5 Hz. ► *If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms.* ◄

(1) Exception. [Specialized systems utilizing advanced technology will be considered on a case-by-case basis.] ► *Specialized utilizing advanced technology may be substituted if equivalent protection is afforded handicapped users of the building or facility.* ◄

(2) [Reserved]

no similar provision in ANSI

(d) **Pull Stations.** Alarm pull stations shall comply with §1190.170, Controls and operating mechanisms.

§1190.190 Tactile Warnings. [Reserved]

NOTE: For information on tacticle warnings, see ANSI A117.1 (1980), Section 4.29.

Note: ANSI 4.29 Tactile Warnings has been deleted from the ATBCB Minimum Guidelines and Requirements until such time as sufficient research and/or field experience dictate a requirement in this area.

ANSI 4.30 **§1190.200 Signage.**

(a) ***General.*** Information and identification of elements and spaces as required by Subpart C—Scope shall comply with this section.

(1) *Exception.* The provisions of paragraph 1190.200(c) are not mandatory for temporary information on room and space signage.

(2) [Reserved]

4.30.2 (b) ***Character proportion and contrast.*** Letters and numbers on sign systems shall:

(1) Have a width-to-height ratio of between 3:5 and 1:1.

(2) Have a stroke width-to-height ratio of between 1:5 and 1:10.

4.30.3 (3) Contrast in value with their backgrounds, preferably light letters on a dark background.

4.30.4 (4) Have a matte finish on a matte finish background.

(c) ***Raised or incised characters.*** Provide numbers and letters that are:

Note: Tactile signage is not mandatory in ANSI.

(1) Raised or incised from the background surface 1/32 in. (0.8 mm). Also incise or raise symbols and pictographs in this manner.

(2) Between 5/8 in. (16 mm) and 2 in. (50 mm) high.

(3) Sans serif with sharply defined edges.

(4) If incised, provided with at least a 1/4 in. (6 mm) stroke width.

no similar provision in ANSI.

(d) ***Mounting location and height.*** Signage shall be placed in a standardized location throughout a building or facility as follows:

(1) Interior signage shall be located alongside of the door on the latch side and shall be mounted at between 4'–6" and 5'–6" (1,370 mm and 1,675 mm) above finish floor (fig. 20.1)

(2) Exterior signage shall be installed at entrances and walks to direct individuals to accessible routes and entrances as required.

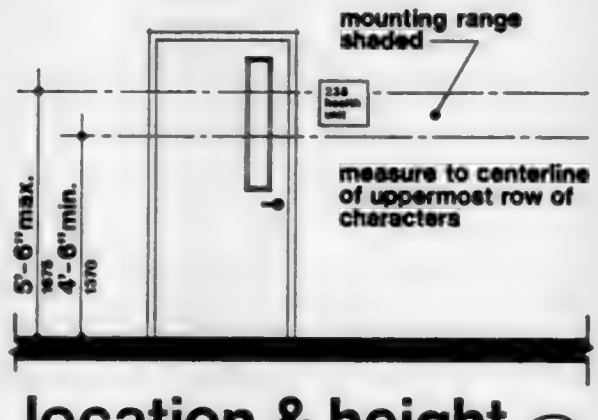

location & height 20.1

No similar figure in ANSI.

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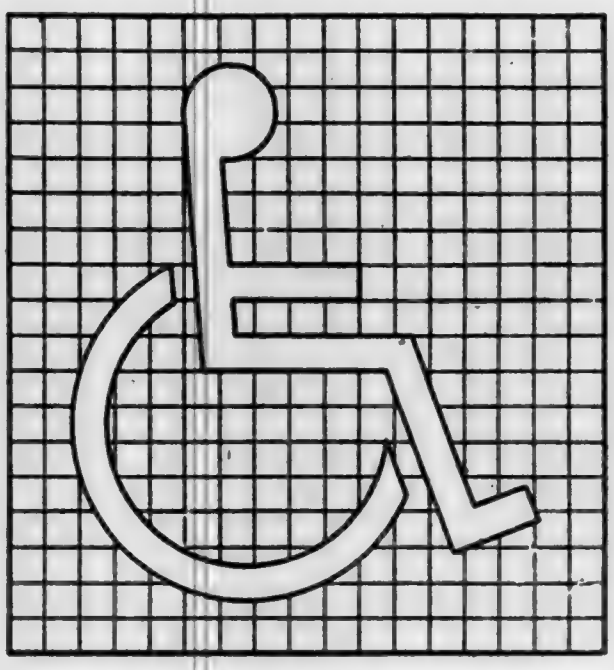

international symbol

20.2

ANSI Figure 42(a)

ANSI **(e) Symbol of accessibility. Identification of accessible facilities as required by Subpart C—Scope shall be by means of the International Symbol of Accessibility. Display as shown in figs. 20.2 and 20.3. Provide symbols of the following min. dimensions:**

4.30.5

No similar chart in ANSI.

Size	Location	Viewing Distance
2-1/2 in. (65 mm)	Interior	Up to 30 ft. (9 m)
4 in. (100 mm)	Interior	Greater than 30 ft. (9 m)
4 in. (100 mm)	Exterior	Up to 60 ft. (18 m)
8 in. (200 mm)	Exterior	Greater than 60 ft. (18 m)

§1190.210 Telephones.

See ATBCB Minimum Guidelines and Requirements for Accessible Design, Amendment to Final Rule, published elsewhere in this Federal Register.

display conditions

20.3

ANSI Figure 43(b)

4.32 **§1190.220 *Seating, tables, and work surfaces.***

(a) ***General.*** **Fixed seating spaces, tables, or work surfaces required to be accessible by Subpart C—Scope shall comply with this section.**

4.32.2 (b) ***Clearances.*** **Seating spaces for people in wheelchairs at tables, counters, or work surfaces shall:**

(1) **Have a clear floor or ground spaces that comply with §1190.40, Human data.**

4.32.3 (2) **Have knee spaces that are at least 2'–3" (685 mm) high, 2'–6" (760 mm) wide, and 1'–7" (485 mm) deep. Clear access space and knee space may overlap 1'–7" (fig. 15.15).**

4.32.4 (3) **Have table tops or work surfaces mounted between 2'–4" to 2'–10" (710 mm to 865 mm) above finish floor.**

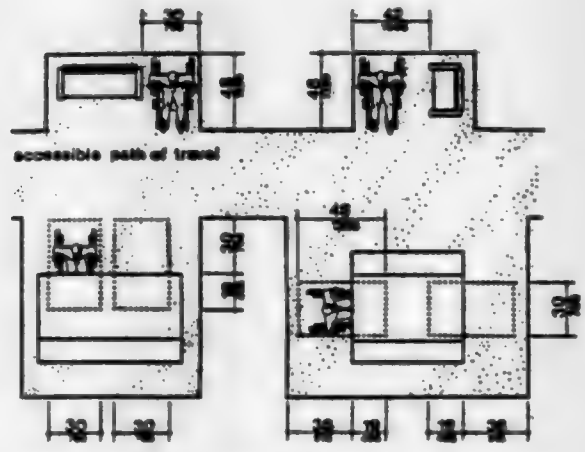

minimum clearances seating and tables

ANSI Figure 45

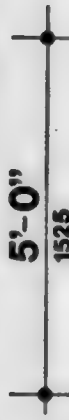

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ANSI

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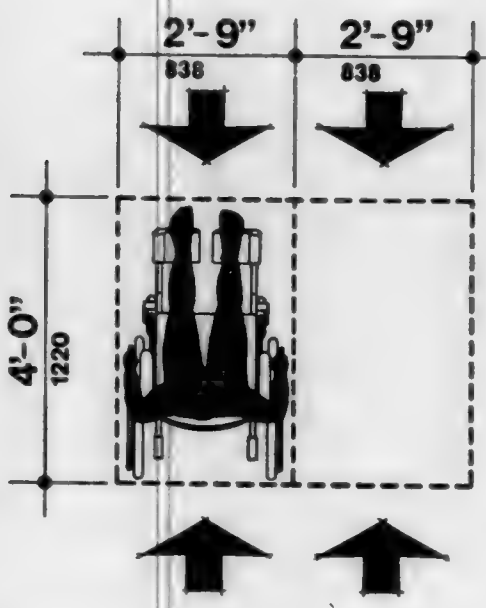

viewing positions 23.1

ANSI Figure 46(a)

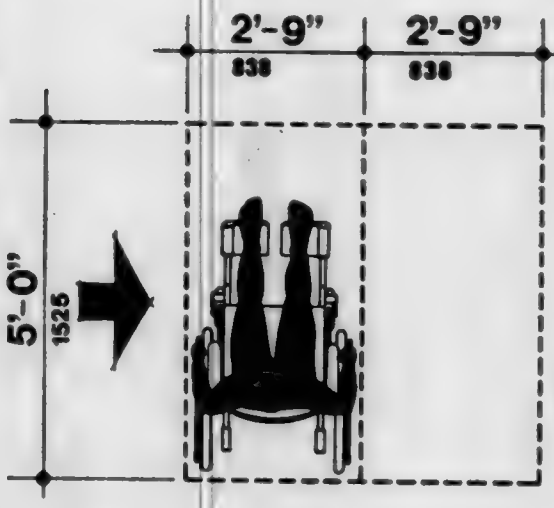

viewing positions 23.2

ANSI Figure 46(b)

ANSI 4.33 **§1190.230 Assembly areas,** *Conference, and Meeting Rooms.*

(a) ***General.*** Assembly areas required to be accessible by Subpart C—Scope shall comply with this section.

4.33.2 (b) ***Size and location of viewing positions:*** Accessible viewing positions shall:

(1) Provide min. level clear floor or ground areas as shown in figs. 23.1 and 23.2.

Note: ANSI requires two. (2) Accommodate one occupied wheelchair or one portable seat to accommodate persons with crutches or leg braces.

(3) Be in an adjoining configuration if only two positions are provided. Additional positions may be in single position configurations.

4.33.3 (4) Be an integral part of the seating plan and shall be dispersed throughout the assembly area providing sight lines comparable to those for all seating.

(i) Exception. In alteration work where it is structurally impossible to alter seating locations to disperse seating throughout, seating may be located in collected areas as structurally feasible. Seating must adjoin an accessible route that also serves as a means of emergency egress.

(ii) [Reserved]

4.33.3 (5) Adjoin an accessible route of emergency egress as required by paragraph 1190.50(h), Egress.

4.34.4 (6) Have surfaces that comply with paragraph 1190.50(i), Ground and floor surfaces.

4.33.5 (c) ***Performing areas.*** Provide accessible routes that comply with §1190.50, Walks, floors, and accessible routes, to performing areas, including but not limited to stages, arena floors, dressing rooms, locker rooms, and other rooms and spaces required for use of the assembly area.

4.33.6 *4.33.7* (1) Exception. In alteration work where it is structurally impracticable to alter all performing areas to be on an accessible route, at least one of each type shall be made accessible.

(2) [Reserved]

4.33.6 *4.33.7* * (d) ***Listening systems.*** Provide [assembly areas with] a listening system to assist no fewer than two persons with severe hearing loss

**See questions highlighted for comment at 1190.31(s).*

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ANSI

4.33.6 (1) If the listening system serves individual seats, locate such seats within 50 ft (15 m) of the stage or arena. Such locations shall provide a complete view of the stage or arena.

4.33.7 (2) Acceptable types of listening systems include, but are not limited to, audio loops and radio frequency systems.

4.25 **§1190.240 *Storage***

(a) ***General.*** Storage facilities required to be accessible by Subpart C—Scope shall comply with this section.

4.25.2 (1) Provide clear floor or ground spaces that comply with §1190.40, Human data.

4.25.3 (2) Provide storage spaces and clothes rods that comply with paragraph 1190.40(d), Reach limitations (fig. 24.1)

4.25.4 (3) Provide accessible hardware that complies with §1190.170, Controls and operating mechanisms.

(b) [Reserved]

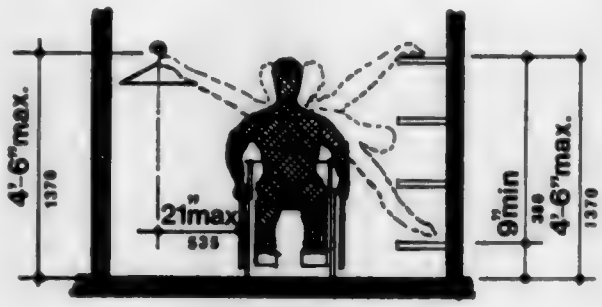

storage 24.1

ANSI Figure 38

Subpart E — Special Building or Facility Tapes or Elements. (Reserved)

Preamble A.

Authority: Sec. 502(b)(7) of the Rehabilitation Act of 1973 (29 U.S.C. 792(b)(7), as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602).

[FR Doc. 82-1994 Filed 1-26-82; 8:45 am]
BILLING CODE 6820-97-C

federal register

Wednesday
January 27, 1982

Part III

Department of Health and Human Services

Public Health Service

Abortion Services by the Indian Health Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

Provision of Abortion Services by the Indian Health Service

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The Public Health Service is adding a new Subpart F to its regulations on Indian Health, making the Indian Health Service (IHS) policy on provision of abortion services consistent with that of other Department of Health and Human Services (HHS) programs. This regulation restricts abortion services available from the IHS to cases where the life of the mother would be endangered if the fetus were carried to term. The decision to conform IHS practice to that of other HHS programs arises from Congress' intention to limit Federal Funding of abortion.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, Room 5A–39, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–1116.

SUPPLEMENTARY INFORMATION: On April 20, 1981, a notice of proposed rulemaking (NPRM) was published in the **Federal Register** (46 FR 22616 et seq.) proposing to make the IHS policy on provision of abortion services consistent with that of other HHS programs. The proposed regulation would have conformed IHS practice to the then current version of the "Hyde Amendment" which applied to all other HHS programs. As proposed, the regulation would have restricted abortion services to: (1) Cases where the life of the mother would be endangered if the fetus were carried to term; or (2) certain instances of rape or incest. Interested persons were given until June 19, 1981 to submit written comments.

Changes From the Proposed Rule

We explained in the preamble to the proposed rule that the decision to conform IHS practice to that of other HHS programs arises from the Congress' clear manifestation of its intention to limit the Federal funding of abortions. The expression of this intent at the time the proposed rule was published was the "Hyde Amendment" which prohibited Federal funding of abortion from HHS appropriations except where required to save the life of the mother, in promptly reported cases of rape, or in cases of incest. The Congress' most recent expression of its intention concerning Federal funding of abortions from HHS appropriations is found at Section 204 of H.R. 4560, passed October 6, 1981, incorporated by reference in Sec. 101 of the Continuing Appropriations Act (Pub. L. 97–51). The revised amendment removes the rape and incest exception and permits use of HHS appropriations to fund abortion services only in cases where the life of the mother would be endangered if the fetus were carried to term. Although this statutory restriction is not applicable by its terms to IHS funds which are appropriated under the Department of Interior and Related Agencies Appropriation Bill, this regulation will conform IHS practice to that of other programs administered by HHS and subject to the new congressional restriction.

We do not view the change in the congressional restriction as necessitating reissuance of a notice of proposed rulemaking. The notice clearly stated that the purpose of the regulation was to conform IHS practice to that of the rest of the Department in accordance with the applicable congressional guidelines. Although the Administrative Procedures Act requires that a notice must include "either the terms or substance of the proposed rule or a description of the subjects and issues involved," it is not legally required that the final rule be identical in all respects to the proposed rule, *Chrysler Corporation* v. *Department of Transportation*, 515 F.2d 153 (6th Cir., 1975). The notice is legally sufficient if the substance of the HHS action is presented to the public. *National Industrial Traffic League* v. *United States*, 396 F. Supp. 456 (D.C.D.C. 1975).

The final regulation reflects this most recent expression of congressional intent and restricts the IHS funding of abortions to situations where the life of the mother would be endangered if the fetus were carried to term.

A number of comments were received which expressed general opposition to or support of the proposed rule. Several commentors suggested that there was a need to extend the comment period because of the critical nature of the abortion issue to Indian people. We recognize that abortion is a complex issue which touches very sensitive cultural and religious beliefs, not only for Indian people, but for all people. The issues on both sides of the abortion question have received extensive public exposure and no useful purpose would be served by either extending the comment period or by entering into an extensive reexamination of the pros and cons surrounding the issue.

Legality of the Rule

Several commentors objected to limiting the IHS funding of abortions as an unconstitutional restriction upon the Indian woman's right of personal privacy under the Fifth and Fourteenth Amendments. The Supreme Court in *Harris* v. *McRae*, 100 S.Ct. 2671 (1980) determined that the constitutional constraint upon governmental interference in the area of abortion—established in the earlier cases of *Roe* v. *Wade*, 410 U.S. 173, 93 S.Ct. 705 (1973) and *Doe* v. *Bolton*, 410 U.S. 179, 93 S.Ct. 739 (1973) —did not create a companion duty on the part of the Government to fund abortions. The Court found that it was reasonable for the Government to fund medical services generally, but to restrict funding for abortions, since "(a)bortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." *McRae, supra* at 2692. Moreover, in *McRae*, the Supreme Court upheld the constitutionality of all versions of the Hyde Amendment including the more restrictive amendment applicable during fiscal year 1977, which prohibited abortion funding in cases of rape or incest. The Court went on to conclude that encouragement and promotion of childbirth over abortion was a legitimate, rationally-based decision. *McRae, supra*, at 2687, citing *Maher* v. *Roe*, 432 U.S. 464, 474, 97 S.Ct. 2376, 2382–83 (1974).

Another constitutional issue raised in the comments is that of violation of First Amendment guarantees of religious freedom. One commentor suggested that by implementing this rule the IHS is trying to decide when human life begins, violating the Establishment Clause by incorporating into Government regulation the doctrines of the Roman Catholic Church and of fundamentalist Protestant sects. However, this regulation is as much a reflection of "traditionalist" views toward abortion as it is a reflection of the dogma of a particular religion. (*Roe* v. *Wade, supra*, at 128–131; *Harris, supra*, at 2689.) A Government action does not violate the Establishment Clause if it "happens to coincide or harmonize with the tenets of some or all religions." *McGowan* v. *Maryland*, 366 U.S. 420, 442, 81 S.Ct. 1101, 1113 (1961) cited with approval in *McRae, supra* at 2689. The standard for determining whether agency action conflicts with the Establishment Clause is set forth in *Committee for Public Education and Religious Freedom* v. *Regan*, 100 S.Ct. 840, 846, 63 L.Ed. 2d 94 (1980). The Court stated that the

challenged Government action will be upheld if it "has a secular legislative purpose, if its principal or primary effect neither advances nor inhibits religion, and if it does not foster excessive governmental entanglement with religion." The District Court in *McRae* applied this test and concluded that the Establishment Clause was not violated by the Hyde Amendment. The Supreme Court concurred in the conclusion of the District Court. The same analysis applies to this regulation.

Nor does imposition of restrictions on abortion funding violate the Free Exercise Clause of the First Amendment. The Free Exercise Clause guarantees the right to practice one's religion without Government interference. This does not mean that the Government must bear the cost of each person's exercise of religious beliefs. In fact, the Supreme Court has upheld secular laws having the incidental effect of making some forms of religious observance more expensive than others. See *McGowan* v. *Maryland, supra* (upholding Sunday closing laws); *Prince* v. *Commonwealth of Massachusetts,* 321 U.S. 158, 64 S.Ct. 438 (1961) (upholding child labor laws prohibiting a minor from selling religious literature in public places).

It was suggested that because of the poverty and isolation of many Indian communities, a restriction upon IHS funding for abortion has the effect of prohibiting Indian women from obtaining the medical service. However, the effect of this restriction on Indian women is essentially identical to the effect of the "Hyde amendment upon rural Medicaid-eligible women which was found to be constitutionally permissible. The court recognized in *McRae* that prohibition of Medicaid funding for abortions could make them more difficult or impossible to obtain. However, it concluded that the indigent woman is in no different position than if the Government chose to fund no medical services at all. Similarly, the poverty and rural locale of some Indian communities is not a Government-imposed barrier to exercise of the right of privacy recognized in *Roe* v. *Wade, supra,* as deserving constitutional protection. The Indian woman is free to go to a facility in the surrounding area and procure an abortion with non-Federal resources on the same basis as any other citizen. A funding restriction does not constitute unconstitutional interference with the woman's right of privacy. In this regard, it is fundamentally different from a criminal statute (*Roe, supra*), a municipal ordinance forbidding abortions in city hospitals (*Nybert* v. *City of Virginia,* Case No. 5–73 D.Minn., November 25, 1980), or an unconditional requirement of spousal consent (*Planned Parenthood of Central Missouri* v. *Danforth,* 428 U.S. 52, 97 S.Ct. 2831), all of which have been found to be constitutionally impermissible.

Several commenters took the position that the proposed rule was inconsistent with legislation authorizing the IHS program. The IHS' basic statutory authority is the Snyder Act (25 U.S.C. 13). The statute provides for expenditure of "such monies as the Congress shall from time to time appropriate . . . for relief of distress and the conservation of health" of Indians. This general statutory authority to spend funds to promote Indian Health does not create an entitlement to a specific configuration of health services. Instead, the IHS is granted substantial discretion concerning fulfillment of its statutory obligation.

The discretion vested in the IHS to make rational program decisions was recognized by the Supreme Court in *Morton* v. *Ruiz,* 415 U.S. 199, 94 S.Ct. 1055 (1974). In *Ruiz,* the Court held that the Bureau of Indian Affairs had the discretion, under the general language of the Snyder Act, to make rational allocations of limited welfare funds even where some Indians otherwise within the scope of the appropriation may be left without benefits. Although the court's opinion in *Ruiz* dealt with allocation of limited financial resources, we think that the case stands for the broader proposition that administrators of discretionary assistance programs must of necessity make choices and that those choices will be upheld so long as they have a rational basis in light of statutory goals, as broad as they may be.

The Medicaid statute at issue in *McRae* authorized payment for "usual and necessary" medical expenses. Yet the Court concluded that authorization of payment for abortion in only the most compelling cases was rationally related to a legitimate governmental interest in the protection of potential life. In this case, the Department is exercising the broad administrative discretion recognized by the Court in *Ruiz* to conform IHS practice to the abortion funding policy which was found in *McRae* to have a rational basis. The Secretary has used his discretion in other instances to restrict medical services for reasons unrelated to fiscal constraints where he determines the restriction would promote the best interest of the beneficiary population. For example, IHS funds are not generally available for sterilization of minors or for psychosurgery.

Furthermore, the general "trust relationship" between the Federal Government and the Indian people does not, as several commentors suggested, create an independent legal obligation to provide Federal funds for abortion services for Indians in the absence of a specific statutory authorization. Although the relationship between the Federal Government and the Indian tribes has sometimes been described as analogous to that of "guardian to ward", *e.g., United States* v. *Kagama,* 118 U.S. 375, 384 (1886), this "guardianship" is more of a metaphor than a term to be given its literal meaning. *Gila River Pima-Maricopa Indian Community* v. *United States,* 427 F.2d 1194 (Ct.Cl. 1970), *cert. denied,* 400 U.S. 819. To determine whether any legally enforceable duty on the part of the Government exists, as well as to determine its scope, the courts look to specific treaties, executive orders, and statutes. See Cohen *Federal Indian Law,* 1972 ed., p. 172; *Seminole Nation* v. *United States,* 316 U.S. 286, 293, 62 S. Ct. 1049, 1053 (1942) (no enforceable obligation under broad treaty language to furnish specific education facilities); *Sac and Fox Tribe of Indians of Oklahoma* v. *United States,* 383 F.2d 991, 1001 (Ct. Cl. 1967) (no constructive trust placed on profits from Government resale of Indian land at high prices). In *Scholder* v. *United States,* 428 F.2d 1123, 1129 (9th Cir. 1970) *cert. denied,* 400 U.S. 942 (1970), the court stated that funds appropriated under the Snyder Act are simply "gratuitous appropriations of public moneys", and are not funds belonging to the Indians to which they have a constitutional proprietary interest. Therefore, although the IHS is obligated under the Snyder Act to spend its funds to promote "Indian health", and the trust relationship between the Government and the Indian people may provide a framework with which to analyze Indian claims to medical service, (See *White* v. *Califano,* 437 F.Supp. 543, 554 (1977)), it does not create an independent legally enforceable right to compel the IHS to provide abortion services.

Miscellaneous Comments

Some commentors raised the general principle of tribal sovereignty and the Indian Self-Determination Act (Pub. L. 93–638) as a justification for allowing freedom of choice for Indian people under the IHS program. However, the Indian Self-Determination Act is essentially a procedural statute which permits Indian tribes to enter into

contracts with the IHS to assume operation of health programs and facilities which otherwise would be operated by the Secretary. The scope of the contracted program is limited by section 103(a) of the statute to "those functions, authorities, and responsibilities under the Act of August 5, 1954 as amended." (The Act of August 5, 1954, also called the Transfer Act, Pub. L. 83–568, provided for the assumption of the responsibility for Indian health care by the Secretary of Health, Education, and Welfare.) The Indian Self-Determination Act does not permit a contracting tribe to use Federal funds under a Pub. L. 93–638 contract to provide services that are beyond the scope of the IHS program as defined by the Secretary. If, however, an Indian tribe wishes to use its own funds to provide abortion services to its members, the regulation does not impede exercise of this option.

Some comments urged a more liberal policy regarding the specifics of the rape and incest exception set forth in the notice of proposed rulemaking, or suggested that the IHS fund abortions where required to preserve the mother's health. We do not agree that we should adopt a more liberal policy than that enunciated in the notice of proposed rulemaking. Because congressional restrictions have changed since the proposed rule was published, adoption of these suggestions would be inconsistent with the goal of a uniform Department-wide abortion policy. As we indicated above, the Supreme Court in *McRae, supra,* upheld the constitutionality of all versions of the "Hyde" Amendment, including those which prohibited funding of abortion in all except life-threatening circumstances.

One commentor stated that IHS facilities performed many more abortions last year than the 638 reported in the preamble to the proposed rule. The notice of proposed rulemaking did not make clear that the 638 figure represented only inpatient induced abortions performed by or paid for by IHS in fiscal year 1979.

An informal survey conducted by the IHS in response to this comment revealed that the IHS may have performed or paid for as many as 400 additional induced abortions on an outpatient basis during fiscal year 1979. This would raise the total number of induced abortions provided by the IHS for fiscal year 1979 to approximately 1,038.

A number of commentors expressed the concern that restricting abortion funding would lead to an increase in sterilization abuse, *i.e.*, involuntary or uninformed sterilizations. The restriction of abortion may result in increased use of contraceptive methods, including sterilization. However, the Department and the IHS have strict regulations and procedural requirements governing sterilization which are designed to prevent either involuntary or uninformed sterilization and are vigorously enforced.

Some commentors requested clarification of the language "or otherwise provide for abortions" contained in § 36.53. This phrase simply means that Federal funds may not be used to provide abortion services either directly or indirectly. For example, IHS funds cannot be used to pay the salary of an individual who performs nonconforming abortions on salaried time, or for the costs incurred at an IHS facility where an abortion is performed. Nor can IHS contract care funds be used to reimburse a physician or a facility performing an abortion, for this would constitute indirect support.

Several commentors stated that the Department has failed to consult with the Indian tribes on this regulation and that such consultation is required because of the unique relationship between the tribes and the Federal Government. Unlike proposed changes in regulations implementing the Indian Health Care Improvement Act (Pub. L. 93–437) or the Indian Self-Determination Act (Pub. L. 93–638), there is no independent legal requirement of additional consultation before promulgation of a general program regulation. However, the Department did seek, and carefully considered the views of the Indian people elicited by the publication of the notice of proposed rulemaking in the **Federal Register.**

Section 36.51, *Applicability,* has been amended to clarify that this Subpart applies to Subparts H, I and J, *i.e.*, to the use of IHS funds by contractors or grantees under Pub. L. 93–638 and the Indian Health Care Improvement Act, Pub. L. 94–437. Section 36.52, Definitions, has been amended to delete those definitions needed for the rape and incest provisions.

Determination Concerning Impact of the Proposed Rule.

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's certification is that the regulation will not affect the level of Federal funds available to treat a pregnant woman and, if she chooses to continue the pregnancy to term, the treatment of her child.

Paperwork requirements contained in this regulation have been minimized to the extent that we are requesting only a simple certification from providers. These requirements, therefore, are not subject to Office of Management and Budget approval under the Paperwork Reduction Act of 1980.

The Secretary has also determined, in accordance with Executive Order 12291, that the proposed rule does not constitute a "major rule" because it will not have annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or geographic regions; or have significant and adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, it is the decision of the Department to amend the IHS program regulations as follows to make the IHS policy on provision of abortion services consistent with that of other programs administered by the Department.

Dated: November 18, 1981.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 23, 1981.

Richard S. Schweiker,

Secretary.

PART 36—INDIAN HEALTH

Title 42 of the Code of Federal Regulations, Part 36, Indian Health, is amended by adding a new Subpart F to read as follows:

Subpart F—Abortions and Related Medical Services in Indian Health Service Facilities and Indian Health Service Programs

Sec.

36.51 Applicability.
36.52 Definitions.
36.53 General rule.
36.54 Life of the mother would be endangered.
36.55 Drugs and devices and termination of ectopic pregnancies.
36.56 Recordkeeping requirements.

Authority: Sec. 1, 42 Stat. 208, 25 U.S.C. 13; Sec. 1, 68 Stat. 674, 42 U.S.C. 2001; Sec. 3, 68 Stat. 674, 42 U.S.C. 2003

Subpart F—Abortions and Related Medical Services in Indian Health Service Facilities and Indian Health Service Programs

§ 36.51 Applicability.

This subpart is applicable to the use of Federal funds in providing health services to Indians in accordance with the provisions of Subparts A, B, C, H, I and J of this part.

§ 36.52 Definitions.

As used in this subpart:

"Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery at an Indian Health Service or tribally run facility, or by the State in which he or she practices.

§ 36.53 General rule.

Federal funds may not be used to pay for or otherwise provide for abortions in the programs described in § 36.51, except under the Circumstances discribed in § 36.54.

§ 36.54 Life of the mother would be endangered.

Federal funds are available for an abortion when a physician has found and so certified in writing to the appropriate tribal or other contracting organization, or service unit or area director, that "on the basis of my professional judgement the life of the mother would be endangered if the fetus were carried to term." The certification must contain the name and address of the patient.

§ 36.55 Drugs and devices and termination of ectopic pregnancies.

Federal funds are available for drugs or devices to prevent implantation of the fertilized ovum, and for medical procedures necessary for the termination of an ectopic pregnancy.

§ 36.56 Recordkeeping requirements.

Documents required by § 36.54 must be maintained for three years pursuant to the retention and custodial requirements for records at 45 CFR 74.20 et seq.

§ 36.57 Confidentiality.

Information which is acquired in connection with the requirements of this subpart may not be disclosed in a form which permits the identification of an individual without the individual's consent, except as may be necessary for the health of the individual or as may be necessary for the Secretary to monitor Indian Health Service program activities. In any event, any disclosure shall be subject to appropriate safeguards which will minimize the likelihood of disclosures of personal information in identifiable form.

[FR Doc. 82-2053 Filed 1-26-82; 8:45 am]

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federal register

Wednesday
January 27, 1982

Part IV

Office of Management and Budget

Budget Recisions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Recisions and Deferrals

To The Congress of The United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals of budget authority totaling $1,758.3 million, six revisions to existing deferrals increasing the amount deferred by $191.3 million, and five revisions to existing deferrals which do not affect the amounts deferred.

The new deferrals involve International Security Assistance programs, Department of Transportation research and special programs, and the President's Commission for the Study of Ethical Problems in Medicine. The revisions to existing deferrals affect Appalachian Regional Development Programs as well as programs in the Departments of Agriculture, Commerce, Defense, Health and Human Services, State, and Transportation. The details of the deferrals are contained in the attached reports.

Ronald Reagan,

The White House,
January 22, 1982.

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SUMMARY OF SPECIAL MESSAGES FOR FY 1982
(in thousands of dollars)

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
	Appalachian Regional Development Programs	
D82-1A	Appalachian regional development programs	15,000
	International Security Assistance	
D82-219	Economic support fund	1,756,980
	Department of Agriculture	
	Forest Service	
D82-2A	Timber salvage sales	7,284
	Department of Commerce	
	National Oceanic and Atmospheric Administration	
D82-5A	Construction	2,000
	Department of Defense-Military	
	Military Construction	
D82-6A	Military construction, all services	52,938
	Department of Defense-Civil	
	Wildlife Conservation, Military Reservations	
D82-8A	Wildlife conservation, all services	1,030
	Department of Health and Human Services	
	Alcohol, Drug Abuse and Mental Health Administration	
D82-12A	Construction and renovation, St. Elizabeths Hospital	11,500
	Office of Assistant Secretary of Health	
D82-13A	Scientific activities overseas (special foreign currency program)	7,000
	Social Security Administration	
D82-44A	Cuban and Haitian Entrants, reception and processing	2,400
D82-45A	Cuban and Haitian Entrants, domestic assistance	48,398
	Department of State	
D82-19A	United States Emergency Refugee and Migration Assistance fund	35,143
	Department of Transportation	
	Federal Aviation Administration	
D82-21A	Facilities and equipment (Airport and airway trust fund)	350,513
	Research and Special Programs Administration	
D82-220	Research and special programs	1,050
	Other Independent Agencies	
	President's Commission for the Study of Ethical Problems in Medicine:	
D82-221	Salaries and expenses	262
	Total Deferrals	2,291,498

SUMMARY OF SPECIAL MESSAGES FOR FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Seventh special message		
New items		1,75[illegible],207
Changes to amounts previously submitted	---	191,323
Effect of seventh special message	---	1,949,515
Previous special messages	108,700	2,75[illegible],802
Total amount proposed in special messages	108,700	4,709,417

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SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-1, transmitted to the Congress on October 1, 1981.

This revision to a deferral for Appalachian regional development programs under Funds Appropriated to the President increases the budgetary resources for these programs from $18,000,000 to $196,493,000. The increase of $178,493,000 is attributable both to an increase of $28,493,000 over the previous estimate of unobligated balances brought forward into FY 1982, and to new budget authority of $150,000,000 provided by the Energy and Water Development Appropriation Act for FY 1982. These changes do not affect the amount deferred.

Deferral No: D82-1A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 97-88) $150,000,000*
Bureau Appalachian Regional Development Programs	Other budgetary resources 46,493,800*
Appropriation title & symbol: Appalachian Regional Development Programs 11x0090 1/	Total budgetary resources 196,493,000*
	Amount to be deferred: Part of year $15,000,00
	Entire year
OMB identification code: 11-0090-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation provides funds for the Appalachian Regional Commission's highway, area development, and research and local development district support activities. As part of the President's comprehensive economic plan for spending reductions, the non-highway activities of the Commission were proposed for termination in 1981.

Until the issue of termination of the Commission is resolved, $15,000,000 associated with non-highway activities will be deferred. These deferred funds will be available to pay termination costs for this account.

Estimated Effect: This deferral action will provide for termination costs associated with elimination of funding proposed for the Appalachian Regional Commission.

Outlay Effect: This deferral has no effect on FY 1982 outlays.

1/ This account was the subject of a similar deferral in FY 1981 (D81-79).

* Revised from previous report.

D82-2A

DH2-2A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-2, transmitted to the Congress on October 1, 1981.

This revision to a deferral of Timber Salvage Sales funds in the Forest Service of the Department of Agriculture increases the amount deferred from $6,722,769 to $7,283,958. The increase of $561,189 is the result of a corresponding increase in the amount of unobligated balances brought forward into FY 1982.

D82-2A

Estimated Effects:

This deferral has no programmatic or budgetary affects. Rather, the reserve reflects the resources that are not currently required for obligational authority in meeting the current year's program requirements.

Any emergency funding needed to meet the necessary obligations to sell material as a result of a catastropne must come from the available funds within the present reserve.

Outlay Effect:

There will be no outlay effect from this deferral action since the remaining funds are adequate to carry out the planned program.

1/ This account was the subject of a similar deferral in FY 1981 (D81-1A).

* Revised from previous report.

Deferral No: D82-2A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 94-588): $ 2,389,000
Bureau: Forest Service	Other budgetary resources: 17,283,958*
Appropriation title & symbol: Timber Salvage Sales 12x5204 1/	Total budgetary resources: 19,672,958*
	Amount to be deferred: Part of year: $; Entire year: 7,283,958*
OMB identification code: 12-5204-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: The National Forest Management Act of 1976 provided the salvage sale fund to meet catastrophes that occur during a given year or when other market conditions occur so that immediate action can take place to harvest the dead and dying trees. Sufficient reserves must be held in order to meet these catastrophes, so that salvage sale activity can take place without undue delay.

The Act authorized the Secretary to require purchasers of sales of dead, damaged, insect infested, or down timber to make monetary deposits into a designated fund to cover the costs associated with such sales.

This deferral is necessary because of the time lag between the deposit of receipts from salvage sales and the expenditure of funds to cover costs associated with making additional sales.

The collections becoming available in the current year are estimated and the related salvage sale operations may not necessarily be planned in the same year. Efficient program planning and accomplishment is facilitated by administering a stable program well within the funds available in any one year for this purpose.

The amount deferred is in excess of the planned program requirement and is taken under the provisions of the Antideficiency Act (31 U.S.C. 655).

Deferral No: D82-219

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President (AID)	New budget authority (P.L. 97-121): $ 2,576,000,000
Bureau: International Security Assistance	Other budgetary resources (net transfers): -12,000,000
Appropriation title & symbol: Economic Support Fund, 1982 1/ 1121037	Total budgetary resources: 2,564,000,000
	Amount to be deferred: Part of year: $ 1,756,980,000; Entire year: ____
OMB identification code: 11-1037-0-1-152 2/	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act; [ ] Other
Grant program: [X] Yes (Grants [ ] Loans) [ ] No	
Type of account or fund: [X] Annual; [ ] Multiple-year ____ (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. The Foreign Assistance and Related Programs Appropriations Act, 1982, P.L. 97-121, appropriates $2,576,000,000 for fiscal year 1982 to enable the President to carry out those authorities. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order No. 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4 to the Secretary of State insofar as they relate to policy decisions and justifications for economic support programs. These functions will be exercised in cooperation with the Administrator of the Agency for International Development (AID).

The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds.

Estimated Effect: This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

Outlay Effect: There is no outlay effect of this deferral because funds will be released as loans and grants are approved.

1/ This account was the subject of a deferral in FY 1981 (D81-24).
2/ Reflects approved sub-function change from 151 to 152.

Deferral No: D82-5A

D82-5A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-5, transmitted to the Congress on October 1, 1981.

This revision to a deferral for the National Oceanic and Atmospheric Administration in the Department of Commerce increases the budgetary resources by $2,945,285. This increase is attributable to larger unobligated balances brought forward into 1982 than originally estimated. This increase does not affect the amount deferred, which remains $2,000,000.

Deferral No: D82-5A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L.) $ ---
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources 26,645,285*
Appropriation title & symbol	Total budgetary resources 26,645,285*
Construction 13x1452 1/	Amount to be deferred: Part of year $; Entire year 2,000,000
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Public Law 96-38 included supplemental appropriations to fund NOAA's Western Regional Center (WRC) in Seattle, Washington. Due to delays in construction, the estimated date of completion has been extended into FY 1983. The above funds proposed for deferral will not be required during FY 1982. This deferral is consistent with congressional intent to provide no-year funding for this project and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: The funds proposed for deferral will not affect the construction progress of the WRC during FY 1982.

Outlay Effect: This deferral action will have no effect on FY 1982 outlays.

1/ This account was the subject of a similar deferral in FY 1981 (D81-4).

* Revised from previous report.

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D82-6A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(C) of Public Law 93-344

This report updates Deferral No. D82-6 transmitted to the Congress on October 1, 1981.

This revision to a deferral of Department of Defense military construction funds increases the amount originally reported as deferred from $38,837,000 to $52,938,000. This net increase of $14,101,000 primarily results from foreign currency fluctuations savings in the Army construction accounts; specific projects have not been identified for these funds. Also, the budgetary resources have been revised to reflect the actual unobligated balances brought forward on October 1, 1981.

Deferral No: D82-6A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. _____): $ _____
Bureau:	Other budgetary resources: $1,747,[illegible]2,28[illegible]
Appropriation title & symbol: See coverage section below	Total budgetary resources: $1,747,98[illegible],[illegible]
	Amount to be deferred: Part of year: $ 52,938,00[illegible]
	Entire year: _____
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual — September 30, 1983 / ☐ Multiple-year — September 30, 1984 / September 30, 1985 (expiration date) / ☐ No-year	Type of budget authority: ☒ Appropriation / ☐ Contract authority / ☐ Other _____

D82-6A

D82-6A

DB2-6A

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred*
Military construction, Army	211/62060	21-2060-0-1-051	$40,600,000
Military construction, Army	210/42060	21-2060-0-1-051	8,100,000
Military construction, Army	219/32060	21-2060-0-1-051	3,700,000
Military construction, Navy	171/51205	17-1205-0-1-051	
Military construction, Navy	170/41205	17-1205-0-1-051	
Military construction, Navy	179/31205	17-1205-0-1-051	
Military construction, Air Force	571/53300	57-3300-0-1-051	
Military construction, Air Force	570/43300	57-3300-0-1-051	
Military construction, Air Force	579/33300	57-3300-0-1-051	
Military construction, Defense Agencies	971/50500	97-0500-0-1-051	538,000
Military construction, Defense Agencies	970/40500	97-0500-0-1-051	
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	
Military construction, Army National Guard	211/52085	21-2085-0-1-051	
Military construction, Army National Guard	210/42085	21-2085-0-1-051	
Military construction, Army National Guard	219/32085	21-2085-0-1-051	
Military construction, Air National Guard	571/53830	57-3830-0-1-051	
Military construction, Air National Guard	570/43930	57-3830-0-1-051	
Military construction, Air National Guard	579/33830	57-3830-0-1-051	
Military construction, Army Reserve	211/52086	21-2086-0-1-051	
Military construction, Army Reserve	210/42086	21-2086-0-1-051	
Military construction, Army Reserve	219/32086	21-2086-0-1-051	
Military construction, Naval Reserve	171/51235	17-1235-0-1-051	
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	
Military construction, Air Force Reserve	571/53730	57-3730-0-1-051	
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	
North Atlantic Treaty Organization Infrastructure	97X0804	97-0804-0-1-051	
			$52,938,000

1/ These accounts were the subject of a similar deferral during FY 1981 (D81-[illegible]).

Justification:

The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act ([illegible] U.S.C. 66[illegible]) which authorize the establishment of reserves for contingencies.

These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

* Revised from previous report.

Estimated Effect:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effect:

These deferrals have no effect on FY 19[illegible] outlays.

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D82-8A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-8, transmitted to the Congress on October 1, 1981.

This revision to a deferral of Department of Defense wildlife conservation funds increases the amount previously reported as deferred from $596,663 to $1,029,518. This net increase of $432,855 is attributable to upward reestimates of receipts and adjustments in unobligated balances brought forward on October 1, 1981, and also reflects the previously-reported release of $8,391 in this account.

Deferral No: D82-8A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Civil	New budget authority: $ 1,319,000*
Bureau:	(16 U.S.C. 670f (a)) Other budgetary resources: 999,518*
Appropriation title & symbol: See coverage section below	Total budgetary resources: 2,318,518*
	Amount to be deferred: Part of year: $ ____
	Entire year: 1,029,518*
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Coverage 1/ *

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Wildlife Conservation, Army	21x5095	21-1500-0-1-303	$758,583
Wildlife Conservation, Navy	17x5095	17-1501-0-1-303	114,619
Wildlife Conservation, Air Force	57x5095	57-1502-0-1-303	156,316
			$1,029,518

Justification:

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law--to carry out a program of natural resources conservation.

1/ These accounts were the subject of a similar deferral during FY 1981 (D81-9A)

* Revised from previous report.

D82-8A
p. 2

Since apportionments have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because: (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds could not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

D82-12A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-12, transmitted to the Congress on October 1, 1981.

This revision to a deferral for the Alcohol, Drug Abuse and Mental Health Administration in the Department of Health and Human Services decreases the budgetary resources previously reported for the Construction and renovation, Saint Elizabeths Hospital account. This decrease is due to smaller unobligated balances brought forward into FY 1982 than originally estimated. This change does not affect the amount deferred, which remains $11,500,000.

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Deferral No: D82-12A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health and Human Services	New budget authority (P.L. ____) $ ---
Bureau: Alcohol, Drug Abuse, and Mental Health Administration	Other budgetary resources 11,680,856*
Appropriation title & symbol: Construction and Renovation, Saint Elizabeths Hospital 75X1312 1/	Total budgetary resources 11,680,856*
	Amount to be deferred: Part of year $ ____
	Entire year 11,500,000
CMB identification code: 75-1312-0-1-551	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: Funds were provided in the Second Supplemental Appropriations Act, 1978 (P.L. 95-355), for the purpose of upgrading Saint Elizabeths Hospital to meet accreditation standards. In 1979 the Joint Commission on Accreditation of Hospitals granted a one year accreditation contingent upon implementation of the renovation plans. As a result of a recent 1981 accreditation survey, Saint Elizabeths Hospital was given a two-year accreditation. This deferral represents amounts not required for obligation in 1982, based on the current renovation schedule for the hospital. This deferral is consistent with Congressional intent to provide no-year funding for this project, and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral is consistent with current program plans for 1982. The amount deferred could not be economically used this fiscal year, if made available, due to the planned renovation schedule.
Outlay Effect: This deferral action has no effect on FY 1982 outlays.

1/ This account was the subject of a similar deferral in FY 1981 (D81-10A).

* Revised from previous report.

D82-13A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-13, transmitted to the Congress on October 1, 1981.

This revision to a deferral for the Office of the Assistant Secretary of Health in the Department of Health and Human Services decreases the budgetary resources for the Scientific Activities Overseas (special foreign currency program) by $658,067. The decrease is due to smaller unobligated balances brought forward into FY 1982 than originally estimated. The amount deferred remains $7,000,000.

Deferral No: D82-13A

D82-44A

Deferral No: D82-13A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health & Human Services	New budget authority (P.L.) $ ---
Bureau Office of the Asst. Secretary for Health	Other budgetary resources 18,341,933*
Appropriation title & symbol Scientific Activities Overseas (Special Foreign Currency Program) 75X1102 1/	Total budgetary resources 18,341,933* Amount to be deferred: Part of Year $ Entire year 7,000,000
OMB identification code: 75-1102-0-1-552	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

The Scientific Activities Overseas Program of the Department of Health and Human Services (HHS) is funded with appropriations which consist of excess foreign currencies owned by the United States. The currencies of Egypt, Burma, Guinea, India, and Pakistan held by the Treasury have been designated as in excess of normal U.S. needs. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during FY 1982 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in FY 1982 by HHS. The amount being deferred is excess to current program requirements and is being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on FY 1982 outlays.

1/ This account was the subject of a similar deferral in FY 1981 (D81-11A).

* Revised from previous report.

D82-44A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-44, transmitted to the Congress on October 20, 1981.

This revision to a deferral for the Social Security Administration in the Department of Health and Human Services revises the account title and symbol and the budgetary resources for the Cuban and Haitian Entrants, reception and processing account. The further continuing resolution, P.L. 97-92, provided for the merger of this account with the Cuban and Haitian Entrants, Domestic Assistance account, which is also the subject of a FY 1982 deferral (D82-45A). This report has been revised to reflect the budgetary resources available as a result of the merger. The revised budgetary resources include a decrease of $9,733,128 in the reception and processing account. This decrease is attributable to a lower level of unobligated balances brought forward into FY 1982 than originally estimated.

This report also covers a decrease of $2,500,000 from the original deferral of $4,900,000. These funds were released to cover public health service costs in Puerto Rico. The remaining $2,400,000 was temporarily withheld, and was released prior to the transmittal of this special message.

Deferral No: D82-44A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health and Human Services Bureau: Social Security Administration Appropriation title & symbol: Cuban and Haitian Entrants, Domestic Assistance and Reception and Processing 7520175, 75X0175, 75X0174**	New budget authority (P.L. 97-92): $ 52,754,400* Other budgetary resources: 70,049,447* Total budgetary resources: 122,803,847* Amount to be deferred: Part of year: $ 2,400,000* Entire year:
OMB identification code: 75-0174-0-1-609 Grant program: ☒ Yes ☐ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: *
Congress provided $10 million in this appropriation for a Cuban and Haitian Entrants, Reception and Processing contingency reserve. A portion of this reserve was used to fund the FY 81 start-up and operations cost of Ft. Allen, Puerto Rico to relieve overcrowded camp conditions at Krome North, Miami, Florida. The remaining $2,400,000 was temporarily held in reserve and was released prior to transmittal of this report. This deferral action was taken in accordance with the Antideficiency Act (31 U.S.C. 665)

Estimated Effects:

There will be no budgetary or programmatic effects as a result of this deferral action.

Outlay Effects:

This deferral action will have no effect on outlays.

* Revised from previous report.

** The continuing resolution (P.L. 97-92) provided for the merger of the Domestic Assistance account with the Reception and Processing account. The Domestic Assistance account is the subject of another FY 1982 deferral (D82-45A).

D82-45A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-45, transmitted to the Congress on October 20, 1981.

This revision to a deferral of Cuban/Haitian Entrants, Domestic Assistance funds in the Department of Health and Human Services increases the amount previously reported as deferred from $37,000,000 to $48,397,575. This increase is attributable to an adjustment in unobligated balances brought forward on October 1, 1981. The adjustment was necessary because the actual amount of unobligated balances brought forward was $11,397,575 higher than had been originally estimated. This report covers funds temporarily withheld and released prior to the transmittal of this report.

In addition, the further continuing resolution, P.L. 97-92, provided for the merger of this account with the Cuban and Haitian Entrants, Reception and Processing account, which is also the subject of a FY 1982 deferral (D82-44A). This report has been revised to reflect the change in account title and symbol and to show budgetary resources available as a result of the merger.

Deferral No: D82-45A

D82-19A

Deferral No: D82-45A

D82-19A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health and Human Services	New budget authority (P.L. 97-92) $ 52,758,600*
Bureau: Social Security Administration	Other budgetary resources 70,089,807*
Appropriation title & symbol: Cuban and Haitian Entrants, Domestic Assistance and Reception and Processing 7520175, 75X0175, 75X0174**	Total budgetary resources 122,803,847*
	Amount to be deferred: Part of year $ 48,397,575*
	Entire year
OMB identification code: 75-0175-0-1-609	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:* Congress provided $26 million in this appropriation for the Cuban and Haitian Entrants unaccompanied minor program in FY 1981. These funds were authorized to provide assistance, reimbursement to the States and make grants to, and contract with, public and private non-profit agencies for the care of these children. The Office of Refugee Resettlement (ORR) obligated only $5.7 million in FY 1981 for this activity. Therefore, ORR is deferring $20.3 million of carryover balances in FY 1982. An additional $8 million in cash and medical assistance and social services funds were unobligated in FY 1981. Moreover, Congress provided a $20 million contingency reserve for FY 1981 in the event that the original estimates for cash, medical, and State Administration were too low. None of these funds were obligated in FY 1981. These funds were temporarily withheld, but were released for obligation before this report could be transmitted. This deferral action was taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: There will be no budgetary or programmatic effect from this deferral.

Outlay Effect: There will be no change in outlays due to this deferral.

* Revised from previous report.

** The continuing resolution (P.L. 97-92) provided for the merger of the Domestic Assistance account with the Reception and Processing account. The Reception and Processing account is the subject of another FY 1982 deferral (D82-44A).

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D82-19 transmitted to the Congress on October 1, 1981.

The amount deferred for the United States Emergency Refugee and Migration Assistance Fund is $35,142,784, an increase of $99,484 over the amount previously reported as deferred. This increase results from higher unobligated balances than originally estimated.

Deferral No: D82-19A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of State	New budget authority (P.L. ____) $ ---
Bureau	Other budgetary resources 36,648,826
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources 36,648,826
	Amount to be deferred: Part of year $ 35,142,784*
	Entire year ____
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414(b)(1) of the Refugee Act of 1980 (Public Law 96-212) amended section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

The Emergency Fund contains $36,648,826 in balances from prior-year authority. Of this amount, $35,142,784 have been deferred consonant with the President's authority set out in Executive Order No. 11922 and to achieve the most economical use of appropriations. It is anticipated that reapportionments may be made case-by-case as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: This deferral action has no effect on FY 1982 outlays.

1/ This account was the subject of a similar deferral during FY 1981. (D81-37A).

* Revised from previous report.

D82-21A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D82-21, transmitted to the Congress on October 1, 1981.

This revision to a deferral of facilities and equipment funds in the Department of Transportation increases the amount deferred by $164,729,966, from $185,783,045 to $350,513,011. The increase in this deferral is due to the additional budget authority provided by the Department of Transportation and Related Agencies Appropriation Act for 1982 (P.L. 97-102).

Deferral No: D82-21A

D82-21A

DEFERRAL OF BUDGET AUTHORITY

Deferral No: D82-21A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 97-102) $260,847,000*
Bureau Federal Aviation Administration	Other budgetary resources 180,266,911*
Appropriation title & symbol Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ 69X8107 690/48107 698/28107 691/58107 699/38107 692/68107*	Total budgetary resources 441,113,911*
	Amount to be deferred: Part of year $ -0- Entire year 350,513,011*
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual 2/ [X] Multiple-year (expiration date) 698/28107 Sept. 30, 1982 699/38107 Sept. 30, 1983 690/48107 Sept. 30, 1984 691/58107 Sept. 30, 1985 692/68107 Sept. 30, 1986 * [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification

Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the National Airspace System. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1982 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 655) which authorizes the establishment of reserves for contingencies.

1/ This account was the subject of a similar deferral in FY 1981 (D81-17B).

2/ None of these funds are deferred.

* Revised from previous report.

Estimated Effects.

This deferral action is consistent with normal operation for this program. The amount deferred could not be economically used if made available in FY 1982 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect.

There is no outlay effect because of this deferral since the funds could not be used if made available.

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Deferral No: D82-220

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-102): $ 17,841,000
Bureau: Research and Special Programs Administration	Other budgetary resources: 5,193,048
Appropriation title & symbol: Research and Special Programs 69X0104 6920104 1/	Total budgetary resources: 22,634,048
	Amount to be deferred: Part of year: $ ____ Entire year: 1,050,000
OMB identification code: 69-0104-0-1-407	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation provides for the conduct of advanced research and technology. This program seeks to improve the national transportation system by the investigation of basic transportation theories and concepts, multimodal technologies and energy efficiencies, and the movement of goods through terminal areas including the development of multimodal terminals. As part of the President's overall effort to reduce federal spending, $1,050,000 is being deferred in this program.

Estimated Effects: There are no programmatic impacts upon the current mission or activities resulting from this deferral.

Outlay Effects: This deferral action will shift $.6 million in FY 1982 outlays into 1983.

1/ None of these funds are deferred.

[FR Doc. 82-2082 Filed 1-26-82; 8:45 am]
BILLING CODE 3110-01-C

Deferral No: D82-221

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: President's Commission for the Study of Ethical Problems in Medicine	New budget authority (P.L. 97-92): $ 1,440,000
Bureau:	Other budgetary resources: ____
Appropriation title & symbol: Salaries and Expenses 4823800	Total budgetary resources: 1,440,000
	Amount to be deferred: Part of year: $ ____ Entire year: 262,000
OMB identification code: 49-3800-0-1-551	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual (Available through December 31, 1982) (expiration date) ☐ Multiple-year ____ ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The President's Commission for the Study of Ethical Problems in Medicine was established by P.L. 95-622 to study issues such as protection of human subjects in research activities and definitions of death. The Commission will make a final report of its findings to the President and the Congress upon completion of its study by December 1982. The further continuing resolution for 1982 (P.L. 97-92) provides $1,440,000 to fund the Commission through FY 1982 and the first quarter of FY 1983. The amount to be deferred, $262,000, will be released to the agency in October 1982 to cover FY 1983 obligations incurred during the close-out of the Commission.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This deferral action has no impact on FY 1982 activities and provides for the availability of funds to close out the Commission.

Outlay Effect: This deferral action has no impact on outlays.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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4066 **Grant Programs—Wastewater Treatment** EPA issues class deviation from provisions of construction grant regulations.

4059 **Loan Programs—Housing** HUD/FHC increases maximum allowable finance charge on insured home loans.

4060 **Income Taxes** Treasury/IRS issues rules on option to capitalize or deduct intangible drilling and development costs for geothermal wells.

4039 **Business and Industrial Loan Program** USDA/FmHA amends administration regulations.

4048, 4049 **Banks, Banking** FHLBB amends rules on issuance of mutual capital certificates and on borrowing by institutions insured by Federal Savings and Loan Insurance Corporation. (2 documents)

4068 **Procurement** GSA revises cost accounting standards policies and procedures.

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

4085 **Food Grades and Standards** USDA/FSIS proposes to revise food safety standard for margarine or oleomargarine.

4046 **Meat and Poultry Inspection** USDA/FSIS increases overtime rates for inspection services.

4043 **Horses** USDA/APHIS amends regulations to permit certain imports from countries affected with contagious equine metritis.

4098 **Motor Vehicle Safety** DOT/NHTSA proposes to amend fuel loading test conditions for occupant crash protection standard.

4204 **Endangered and Threatened Wildlife** Interior/FWS reclassifies certain African populations of leopard as threatened rather than endangered. (Part II of this issue)

4166 **Antitrust** Justice files proposed modification of final judgement in *United States* v. *Western Electric Co., et al.*

4105 **Antidumping** Commerce/ITA issues notice calcium pantothenate from Japan

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 538; Navel Orange Reg. 537, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 29–February 4, 1982, and increases the quantity of such oranges that may be so shipped during the period January 22–January 28, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: This regulation becomes effective January 29, 1982, and the amendment is effective for the period January 22–28, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on January 26, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and reviews on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

1. § 907.838 is added as follows:

§ 907.838 Navel Orange Regulation 538.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 29, 1982, through February 4, 1982, are established as follows:

(a) District 1: 1,232,000 cartons;
(b) District 2: 218,000 cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. § 907.837 Navel Orange Regulation 537 (47 FR 2980), is hereby amended to read:

§ 907.837 Navel Orange Regulation 537.

* * * * *

(a) District 1: 1,317,000 cartons;
(b) District 2: 233,000 cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 27, 1982.

Charles M. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-2429 Filed 1-27-82; 11:43 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1980

Business and Industrial Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the administration of the Business and Industrial (B&I) Loan Program. The changes involve (1) redefining loan purposes for refinancing debts; (2) revising equity requirements; and (3) revising personal and corporate guarantees. Those changes are related to factors FmHA considers to be appropriate in order to assure more viable projects and thereby reduce the government potential liability for losses in the event of default. These actions are being taken in response to agency recommendations to correct deficiencies in the regulations as suggested by the Department's Office of Inspector General. The intended effect of these actions is to clarify FmHA's loan requirements and strengthen the program.

EFFECTIVE DATE: Effective January 28, 1982; however, these amendments shall not apply to any loan(s) where a conditional commitment for guarantee was issued by FmHA and accepted by the lender before January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Deputy Director, Business and Industry Loan Processing Division, USDA, FmHA, Washington, DC 20250 Telephone: (202) 447–4150.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedure established in

Secretary's Memorandum 1512–1 and Executive Order 12291 and has been determined "nonmajor."

This decision is the result of a series of actions and prior published Regulations FmHA has taken in response to internal program reviews and subsequent recommendations by USDA's Office of Inspector General. The Amendment to this Regulation are to correct program weaknesses found in the reviews and confirmed by FmHA experience. This action will narrow the broad discretion now permitted by the regulations by clarifying the intent of the regulations. This action is needed to make fair and consistent loan-making decisions by FmHA, thereby protecting the public investment without destroying the element of flexibility required to administer such a program. The benefits of such action also apply equally to the applicants since FmHA's position is more clearly defined. In addition, no additional costs or burden will result from the changes. The impact of those changes is therefore considered nonmajor.

The FmHA programs and projects which are affected by this action are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H. CFDA Number 10.422, Business and Industrial Loans.

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P. L. 91–190, an Environmental Impact Statement is not required

Sections 1980.411(a)(12), 1980.441 and 1980.443 of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations are amended. On June 20, 1980, FmHA published in the **Federal Register** (45 FR 41647) a notice of proposed rulemaking setting forth the proposed changes in the regulations. Interested parties were given the opportunity to submit, not later than August 19, 1980, any comments, views, or recommendations regarding the proposed changes.

Having considered those factors, the Administration believes it is in the best interest of the agency and the public to now proceed with the publication of this rule.

Discussion of Comments

A total of 13 interested parties responded to the proposed rule within the allowed comment period. Each FmHA issue was not necessarily addressed in each of the respondents' comments.

The first issue dealt with revising § 1980.411(a)(12) to clarify the conditions FmHA would follow in reviewing loan applications when debt refinancing is requested.

It was FmHA's position that many loan requests are denied or require restructuring because the applicant and lender did not substantiate or adequately document the proposal to conform to FmHA regulations. For example, in many cases the request for refinancing did not actually save existing jobs but merely was a vehicle used to reduce a lender's exposure on a loan already on its books with the applicant.

There are situations, however, where refinancing does actually save jobs or strengthen the proposal (e.g., to obtain lien position for collateral where appropriate, to improve net cash flow by restructuring short-term debts that should have been financed over longer periods of time and provide permanent financing following construction).

One respondent indicated that lenders may be apprehensive to discuss the need for refinancing when such information could be used by FmHA to the detriment of the borrower. It was also suggested that FmHA expand their regulation as to the guarantee percentage FmHA would offer versus the lender's exposure. FmHA's experience reflects that very few projects actually result in saved jobs. Therefore, the documentation of reasons for refinancing is essential for FmHA to make a valid decision on the application. Each loan proposal must be judged on its own merits, therefore, FmHA believes it is best not to try and cover all possible contingencies in the regulations as it may relate to the lender's exposure on the loan.

FmHA believes that the regulations should be expanded to include a third category for refinancing projects. This would include a situation where permanent financing (covered by the guarantee) follows a construction loan. In many cases a business starts construction with an interim loan. These loans are relatively short in duration and require upon maturity that a permanent loan (take-out) be placed at that time. In some cases the interim lender is not necessarily the permanent lender. This type of situation is not really a "bail-out" situation. FmHA has included in this final rule this provision.

FmHA considered these major alternatives in developing the revision:

(1) Maintain the Status quo of existing regulations which defines debt refinancing as an allowable loan purpose "... in connection with sound projects when it is determined by FmHA that it is necessary to help stabilize the economic base of the rural area and increase or maintain employment." To continue under the current regulation provision would not solve the major problems of interpretation FmHA as well as applicants were experiencing in situations to request for refinancing and assurance that the refinancing actually saved jobs—one of the major objectives of the B&I program.

(2) Specify separately for loans involving new businesses and those supporting existing businesses, appropriate proportions for debt refinancing activities. Distinctive financial situations and program job-producing strategies are likely to characterize these two broad categories of loan proposals. Maximum percentages allowable for debt refinancing in either situation would be specified.

This option would establish certain limits on Debt Refinancing which may not solve the business' needs and therefore would be too stringent of a requirement.

(3) Define both the programmatic and financial management purposes which could justify debt refinancing; require documentation to support debt refinancing requests; tailor the size of the guarantee to the debt refinancing request. This provision would define the job-producing requirement for debt refinancing to be considered allowable. It requires that the lender and FmHA determine that debt refinancing is necessary to save existing jobs.

In addition it would be necessary to define the financial situations in which debt refinancing could be considered to tie FmHA's decision on size of guarantee to the debt refinancing situation.

The final rule reflects this alternative as modified by public comment considerations. It is believed that the alternative is the most efficient and effective one.

The second issue dealt with revising § 1980.441 to clarify the equity requirements for B&I applications. FmHA has received many inquiries for interpretation of our present regulations on equity and has been asked for guidelines in the calculation of equity. FmHA proposed in the prior rule and still maintains that equity should consist of either cash or tangible earning assets at book value. FmHA experience has shown that applicants have, in many

cases, wanted to use all appraisal surplus as equity for the project. While this may be desirable in certain circumstances where assets appreciated substantially above current book value, FmHA does not believe this is a valid argument for meeting the equity contribution of a project.

One respondent indicated that FmHA establish a minimum 10 percent tangible balance sheet equity requirement that would remove all the administrative discretion currently in the regulation. It was suggested that an alternative solution would be to have the lender and borrower set forth their arguments in writing to justify a lower equity position. Another respondent recommended allowing, in addition to real estate, surplus appraisals of marketable machinery and equipment to satisfy the equity requirement and allowing subordinated debt to make up 100 percent of the equity requirement, instead of the originally proposed one-half equity contribution.

Recent FmHA analysis of its loan portfolio reflected many instances where the current regulation of requiring a minimum of 10 percent equity was not being followed. Loans were being closed without an actual 10 percent equity. This was due in part to the vagueness of the regulation terminology. FmHA therefore believes this regulation needs to be more specific and circumstances established for the equity contribution.

Concerning the issue of allowing appraisal surplus, FmHA has found through its servicing of loans that fixed asset appraisals were being submitted in substantial amounts over cost at time of loan closing and in FmHA liquidation situations never bring near the appraised value. For this reason FmHA chose not to include appraisal value as part of the equity contribution.

In several instances, FmHA has received requests to finance projects where the applicant is also a construction contractor. In these cases the profit the contractor would have earned is not charged which results in a total lower construction cost. This is generally known as sweat equity. FmHA believes this arrangement is not valid in equity calculations. FmHA also reviewed the subordinated debt contribution as part of the equity, but has decided that this provision would not be consistent with the Agency's policy of strengthening the credit factors, therefore it is not included in the equity calculation provision.

FmHA considered two alternatives:

(1) Maintain the Status Quo. This options is not feasible since the problems FmHA has experienced would continue and the confusion or interpretation would result in continued misunderstanding and confusion.

(2) The second alternative was to clarify the regulations to provide for an absolute 10 percent minimum and list the situations in which a 20–25 percent minimum will be required.

A minimum of 10 percent tangible balance sheet equity will be required at the time the Loan Note Guarantee is issued for guaranteed loans. For new business ventures, requests for energy-related projects, or when no or limited personal or corporate guarantees are offered, a minimum of 20–25 percent equity will be required. This alternative was selected. It provides ample flexibility and at the same time eliminates vagueness in the previous provisions of the regulation.

The third and final issue deals with revising § 1980.443 to clarify the personal and corporate guarantee requirements.

FmHA's proposed rule considers an exemption from the requirements for personal and corporate guarantees if the applicant had a favorable credit history, proven management, profitable operation or if the business ownership was considered widely held or if legally restricted, etc. The proposed rule involved more descriptive language and should eliminate confusion in this matter on the part of the lender, applicant and FmHA.

Comments received from the public on this issue were not significant, therefore, FmHA will adopt the proposed rule language without change. The changes will clarify the definite requirement and modify the discretionary requirements to specify instances in which waivers may be approved. The revised language requires guarantees from owners or major stockholders and all partners, except in specifically defined situations where a waiver may be sought. Guarantees of parent, subsidiary or affiliated companies remain discretionary.

No additional USDA or other federal costs will be incurred as a result of the proposed revisions. Current costs are limited to the personnel costs to support staff involved in the review and processing of loan applications. Clarifying and standardizing review procedures should help reduce the time it takes to make a decision about an application; having all necessary information provided assembled prior to final decisionmaking should also expedite that process. Borrowers and lenders who wish to participate in the program are not expected to incur any new costs.

PART 1980—GENERAL

Accordingly, Subpart E of Part 1980 is amended as follows:

1. Section 1980.411(a)(12) is revised to read as follows:

§ 1980.411 Loan purposes. * * *

(a) *Private entrepreneurs* * * *

* * * * *

(12) Debt refinancing. Lenders and FmHA must provide as part of their loan analysis the reasons for refinancing and the file must be documented accordingly. Refinancing debts may be allowed in connection with viable projects when it is determined by the lender and FmHA that it is necessary to save existing jobs. FmHA will consider any lender's exposure as it relates to this item and may adjust the guarantee percentage accordingly. Refinancing in accordance with this paragraph may be insured or guaranteed only when:

(i) It is necessary to spread substantial debt payment over a longer period of time thereby improving the businesses' net cash flow and working capital position consistent with the useful life of the asset(s) being refinanced, or

(ii) For payment of short-term debt when required in situations customarily financed over long periods of time (e.g., financing the purchase of real estate, machinery, or equipment with short-term debt or cash expenditures, when lenders would not extend reasonable longer terms to the business), or

(iii) It is necessary to place a permanent loan subsequent to an interim loan for financing the construction of the project.

* * * * *

2. Section 1980.441 is amended by revising the present text up to "administrative" to read as follows:

§ 1980.441 Applicant equity requirements.

(a) A minimum of 10 percent tangible balance sheet equity will be required for insured loans at loan closing or at the time the Loan Note Guarantee is issued for guaranteed loans. However, balance sheet equity in the amount of at least 20–25 percent will be required under the following circumstances:

(1) For new businesses since they do not have a history of proven operations and such businesses generally experience unforeseen startup expenses which may deplete the available cash resources.

(2) For businesses where the applicant does not or cannot offer a limited or full personal or corporate guarantee as required in § 1980.443 and thereby

weakens the financial soundness of the loan.

(3) For energy related businesses since these types of projects may be technically feasible, but in many instances are more susceptible to higher risk and a higher equity position will assure management's commitment to the project.

FmHA may also require more than a ten percent equity investment in projects other than those in paragraphs (a)(1), (2) and (3) of this section if the reviewing official makes a written determination that special circumstances necessitate this course of action. Special circumstances are limited to credit factors which negatively affect the financial soundness of the loan, the chances of the project's success, or the repayment ability of the borrower. Such determination will be in writing by the reviewing official and explained fully what the special circumstances are and how FmHA decided upon the percentage of equity investment to be required in the individual case.

(b) FmHA will require the applicant to contribute all of the equity requirement in the form of either cash or tangible earning assets injected into the business and reflected on the balance sheet. Appraisal surplus and/or subordinated debt can not be used in the calculation of the equity requirements.

Administrative

* * * * *

3. Section 1980.443(b) is revised, and a new administrative paragraph is added after paragraph (c)(4) to read as follows:

§ 1980.443 Collateral, personal, and corporate guarantees, and other requirements.

* * * * *

(b) *Personal and corporate guarantees.* (1) Unconditional personal guarantees (i.e., absolute guarantees of full and punctual payment and performance by the borrower) from owners or major stockholders as determined by FmHA and all partners of partnerships unless restricted by law *will* be required unless exempted as provided for in paragraph (b)(2) of this section. Guarantees of parent, subsidiaries, or affiliated companies and/or secured guarantees may also be required.

(2) An exception to the requirement for personal or corporate guarantees may be made by FmHA when requested by the lender and if:

(i) The applicant has a satisfactory and current (not over 90 days old) credit report, proven management, evidence of the market necessary to support projections, profitable historical performance of no less than 3 years, abundant collateral to protect the lender and FmHA, sufficient cash flow to service its debts, and meets key industry standards such as those of Robert Morris Associates, Dun and Bradstreet, or the like; or

(ii) The applicant's stock is widely enough held so that no one individual can exercise control. Examples of control would include but are not limited to: holding sufficient proxies and maintaining sufficient family or special interest voting blocks; or

(iii) An applicant which has a parent, subsidiary, or affiliate which is legally restricted from guaranteeing, or if the guarantee would conflict with existing contractual obligations. Examples of existing contractual obligations include but are not limited to restrictions in loan agreements or in credit lines which may preclude guaranteeing.

(3) Unsecured personal guarantees, while collateral, will not be considered for purposes of adequacy of security. Personal guarantees will be secured by collateral when business collateral offered is determined by FmHA to be insufficient or when the applicant's credit does not meet the program's normal requirements.

(4) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors, which make a clear disclosure of community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) When applicable, provide written evidence to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) * * *

(4) * * *

Administrative

Within their loan approval authority, State Directors will examine the personal and corporate guarantee requirements as set forth in paragraph (b) of this Section and will make a decision as to what type and size of guarantee is warranted by FmHA in a given case. The loan file will be fully documented as to the facts and reasons for the decisions reached.

(7 U.S.C. 1989; 42 U.S.C. 1980; 5 U.S.C. 301, Sec. 10 of Pub. L. 93–357; 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70)

Note.—The reporting and/or recordkeeping requirements contained herein have been approved through January 31, 1984, under Number 0575–0029 by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: January 7, 1982.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 82-2242 Filed 1-27-82; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 82-007]

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of El Paso County in Colorado from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: January 21, 1982.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule

warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to exotic Newcastle disease concerning only one premises, and that premises is not owned by a small entity.

This amendment releases a portion of El Paso County in Colorado from the areas quarantined because of exotic Newcastle disease. The restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 82.3 [Amended]

1. In § 82.3(c)(1), relating to the State of Colorado, the following premises is removed:

* * * * *

(c) * * *

(i) Ms. Megan Christiansen and Ms. Rebecca Taggart, 416 San Rafael, Colorado Springs, El Paso County.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141))

Done at Washington, D.C., this 21st day of January 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-2067 Filed 1-27-82; 8:45 am]

BILLING CODE 3410-34-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket 80-043]

Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations for the importation of horses in the following respects:

1. To permit the entry of Standardbred horses into the United States from Australia and Thoroughbred horses from West Germany, which are countries affected with contagious equine metritis (CEM), when certain specific conditions are met. This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that the countries of Australia and the Federal Republic of Germany have met specific conditions required by the Department to safely allow the importation of certain horses from Australia and the Federal Republic of Germany without risk of introducing CEM into the United States. The effect of this action would be to provide for the importation of Standardbred horses from Australia and Thoroughbred horses from West Germany, CEM-affected countries.

2. To clarify the information required on the daily activity records on horses to be imported from certain countries affected with CEM. This action is being taken because it has been found that the present language in 9 CFR 92.2(i)(2)(iii) is confusing to importers and the clarification is necessary to assure that sufficient and reliable information concerning the health status of horses intended for importation from certain countries affected with CEM is made available to the Department by the importer. The effect of this action would be to identify those records of daily activities of certain horses in the United Kingdom, Ireland, France, Australia, and the Federal Republic of Germany intended for importation that provide reliable certification of health history for such horses.

DATES: Effective date: January 28, 1982. Comments must be received on or before March 29, 1982.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 821, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291, and has been classified as not a "major rule." This regulation should not result in a significant annual effect on the economy; should result in little or no increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and should have no adverse effects on competition, employment, investments, productivity or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The emergency nature of this interim action makes it impracticable to follow the procedures of Executive Order 12291 with respect to this interim rule.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This is because this interim rule, with regard to records from countries affected with CEM, would only clarify certain procedures already required by the regulations but which are confusing to the public. Regarding importation of Standardbred horses from Australia, this action should not have a significant economic impact on a substantial number of small entities because it is estimated that this will mean an increase of approximately 20–50 Standardbred horses the first year and 20 Standardbred horses every year thereafter which would be imported from Australia. Presently, there are approximately 212 horses imported annually from Australia and there are several thousand horses imported annually into the United States from around the world. Further, such Standardbred horses are usually imported only for racing and are returned to the country of import after the race. Regarding Thoroughbred horses to be imported from the Federal Republic of Germany,

this action would not have a significant economic impact on a substantial number of small entities because the effect of this regulation change would increase the number of horses imported from the Federal Republic of Germany by approximately 15–30 Thoroughbred horses the first year and approximately 10 horses each year thereafter. There are approximately 100 horses imported annually from the Federal Republic of Germany and several thousand Thoroughbred horses imported annually from around the world.

Dr. John K. Atwell, Deputy Administrator, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. First, this amendment relieves the present restrictions imposed on the importation of Standardbred horses from Australia and Thoroughbred horses from West Germany. It should be made effective immediately in order to allow importers to bring these horses into the United States in time to compete with major international horse races beginning in March 1982. It has come to the attention of the Department that there are importers who wish to bring into the United States a number of Standardbred horses from Australia and Thoroughbred horses from West Germany in order to compete in major international horse races which begin in March. Importers need, at a minimum, six weeks advance notice to prepare horses for such races and to make the necessary transportation arrangements. Substantial sums of non-refundable money are required for this type of transportation. Therefore, it is necessary to make this amendment effective immediately so that these arrangements can be made.

Second, this amendment clarifies what information is required on health certificates accompanying horses imported from certain CEM countries. Presently, there is some confusion among importers as to the type of information required and there is a need to make clear that the Department will refuse to allow horses to enter the United States from such countries unless all the required information has been obtained and verified as true, factual, and correct by approved recordkeeping systems in the country of export. This information is necessary to assure that such horses have not been in contact with breeding horses or breeding premises in CEM affected countries at any time since the horse has reached 731 days of age. This is essential to assure the Department that the risk of introducing CEM into the United States through these horses is reduced to an acceptable level. This amendment must be made effective immediately to avoid further confusion to importers who wish to move such horses into the United States.

The following alternatives were considered in connection with this interim rule:

1. Prohibit importation of all horses from countries affected with CEM.

2. Require all horses from countries affected with CEM to remain in a country considered free of CEM for a period of 1 year before entering the United States.

3. Clarify the present regulations regarding the recordkeeping requirements and revise the list of CEM countries which have an adequate and reliable recordkeeping system to allow the continued importation of horses from these countries.

4. Make no change in import permit requirements.

Alternative No. 1 was rejected because the Department has found that under certain circumstances it is safe to allow the importation of certain horses from certain countries affected with CEM without posing a significant threat that such disease will be introduced into this country by such horses. Therefore, to prohibit the importation of all horses from all CEM countries would be unnecessary and, thereby, would impose greater restrictions on the general public than is required to adequately protect the horse industry in the United States.

Alternative No. 2 was rejected as a mandatory requirement because it is also more restrictive on importers than the present amendment. As a mandatory requirement it would prove more costly to the importer than the present amendment because the importer would have to pay for transportation and handling costs in another counry. In this connection, we note that other CEM-free countries might not allow the entry of such horses for the requisite year's time, thereby preventing *de facto* any importation of horses into this country originating in a CEM country. Further, alternative No. 2 was rejected because it is unrealistic to believe that racing horses in competition status can compete only in CEM free countries. Most of the world's best racing stock come from countries now affected with CEM. Therefore, alternative No. 2 was also rejected.

Alternative No. 4 was rejected because the Department has determined that, in addition to the United Kingdom, Ireland, and France, there are breed associations in the countries of Australia and the Federal Republic of Germany which appear to have adequate and reliable recordkeeping systems on the health history of certain horses. Also, the Department has found that the present regulations are written in such a manner as to cause confusion to (1) importers wishing to import horses from the United Kingdom, Ireland, and France, pursuant to § 92.2(iii) of the regulations, regarding the extent and kind of health history information the Department requires on certain horses coming from those countries before they are allowed entry into this country. Therefore, in order to allow the importation of horses whenever possible while still carrying out the Department's responsibilities regarding the importation of horses under the Animal Quarantine Laws, and in order to provide clear and understandable notice to the public of the requirements for importing horses, some change in the regulations appears to be necessary. In this regard, it is noted that the Department has been urged by persons in the horse industry to allow the entry of horses from Australia and the Federal Republic of Germany.

Alternative No. 3 appears to be the most advantageous to importers and to the Service because it would allow horses from CEM affected countries to enter the United States when a recordkeeping system in that country is approved by the Department as adequate to meet its requirements for certification.

The amendment to clarify existing regulations will impose no new costs on the public. The amendment which allows certain horses to be imported from Australia and the Federal Republic of West Germany would impose some costs on importers, but the Department feels these costs are acceptable and are offset by the benefit of allowing these horses to come into the United States when presently they are not allowed entry.

Daily Activity Records for Horses from CEM Countries

On Friday, February 17, 1978, there was published in the **Federal Register** (43 FR 6957–6958) a proposed amendment to permit the entry of certain horses into the United States from the United Kingdom, Ireland, and France, which are countries affected with contagious equine metritis (CEM), when specific conditions are met.

The proposal stated that on-site inspections had been made of facilities and records of individual animal histories of certain horses in the United Kingdom, Ireland, and France, and it

appeared that sufficient specific information was available on certain horses in those countries to enable reliable certifications to be made that would establish the fact that since reaching two years of age they had not been on any premises where breeding is carried out; and that this certification, together with a series of three negative cultures for CEM at least 7 days apart, and an import permit should provide satisfactory assurances that such horses imported from those countries were not likely to introduce CEM into the United States.

Among other considerations, the final rule published Tuesday, June 13, 1978 (43 FR 25418–25419), determined that additional protection against the introduction of CEM into the United States be provided by requiring that the National Veterinary Service of countries affected by CEM certify for export only those horses that have individual health history records which show that, since reaching 2 years of age, such horses have not been on any premises where breeding was carried out (9 CFR 92.2(i)(2)(iii)), thereby substantially reducing the danger of their exposure to the disease.

The present wording of the existing regulations for this certification found in § 92.2(i)(2)(iii) has been confusing to importers. It was the intent of the Department to require horses imported for permanent entry from the United Kingdom, Ireland, and France, to be accompanied by a certificate issued by a licensed veterinarian who has inspected the daily records on file with an approved association and endorsed by an official of the National Veterinary Service of such country. It was also the intent of the Department that the certificate certify that the daily records were found to be true and factual and show that, since reaching 2 years of age, such horses have not been on premises where breeding was carried out. The Department intended to accept certification for a horse only if the information certified is based on records kept as part of a record keeping system which officials of the Department had reviewed and determined to be adequate and reliable to provide the necessary health history certification.

The Department has received numerous requests, both from horse importers in the United States and exporters from CEM infected countries, to approve daily records that have not been reviewed or verified as factual, true and correct by Department approved record-keeping systems maintained by an approved breed association in the exporting country.

The on-site inspection conducted by the Department representatives identified Weatherby's Ltd. in the United Kingdom and Ireland, Haras du Pain in France, and, as discussed later in this proposal, the Direktorium Fur Vollblutzucht und Rennen e.v. in the Federal Republic of Germany, and the Australian Trotting Council and the affiliated State Trotting Control Boards in Australia as having sufficient specific information and a reliable record-keeping system in order to verify the individual daily records on certain horses. These firms maintain records to enable reliable certification to be made to establish the fact that, since reaching two years of age, a horse has not been on any premises where breeding is carried out. The animal health authorities for the governments of Australia, Federal Republic of West Germany, Great Britain, Ireland, and France did not recommend nor advise the Department's representatives of any other firm or record keeping agency that could provide such verification. Direktorium Fur Vollblutzucht und Rennen e.v., Weatherby's and Haras du Pain maintain such records on Thoroughbred race horses only.

The Department is clarifying what information will be required to qualify a horse for importation from Great Britian, Ireland, France, Australia or the Federal Republic of Germany into the United States under § 92.2(i)(2)(iii) of the regulations. The Department believes that in determining the disease status of a horse with regard to CEM, the horse must be accompanied by a certificate which is issued by a veterinarian who is qualified to issue such certificates by the foreign country from which the horse is exported, stating that the veterinarian has examined the records of daily activities of the horse, maintained by the trainer and certified as factual, current and true by the veterinarian in charge of the training or racing stable, and has compared information found on these daily records with the information found on records of the horse's activity maintained by the approved record-keeping association in the country of export. Further, the veterinarian will be required to certify that he/she has found the information in the two sets of records to be consistent and current. The information that will be required to be maintained in both sets of records would include the name, sex, age, breed, and all identifying marks of the horse; all premises where the horse has been since reaching 731 days of age and the dates the horse was at these premises; and a statement that none of the premises were breeding premises. In addition, this certificate will be required to be endorsed by an official of the national veterinary services of the country of export who would certify that the veterinarian issuing the certificate was qualified to do so.

The records maintained by the trainer and the record-keeping breed association must reflect a daily, unbroken record of the horse's activities since reaching 2 years of age. Therefore, if the horse leaves the home country for racing or other purposes and the daily activities of the horse cannot be maintained by both the record-keeping breed association and the trainer, the horse would be ineligible for permanent entry into the United States.

These precautions are believed necessary to help in insuring that no horse infected with or exposed to CEM is imported into the United States. It is a standard practice for trainers of certain breeds to keep daily records of the horse's activities, and the verified records should provide the Department with an accurate history of where the horse has been since reaching two years of age. Relying on the certification as to the truthfulness of the records would be in lieu of having the records, which may be voluminous or difficult to transport, accompany the horse being imported. The comparison of the two sets of records and certificates should provide sufficient assurance that the records are current, true and correct.

Horses From Australia and Federal Republic of Germany

The regulations are also being revised to authorize the above-mentioned certification procedure for Standardbred horses imported from Australia and Thoroughbred horses imported from the Federal Republic of Germany. This is because the Trotting Control Council and the affiliated State Trotting Control Boards in Australia maintain a reliable record keeping system for Standardbred horses and the Direktorium Fur Vollblutzucht und Rennen e.v. for the Federal Republic of Germany maintains a reliable record keeping system for Thoroughbred horses. Consequently, based upon this Department's review of both record systems, certification by the Trotting Control Council, or an affiliated State Trotting Control Board in Australia, and the Direktorium Fur Vollblutzucht und Rennen e.v. should help insure that the horse from those countries being certified are not infected with or exposed to CEM.

When the Department is notified and confirms that there are other organizations which maintain similar accurate records containing the

specified information with respect to horses, additional appropriate changes to the regulations will be considered.

The Paperwork Reduction Act does not apply to records maintained by foreign countries. Therefore, OMB clearance of these record-keeping provisions is not required.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

In § 92.2 subparagraph (i)(2)(iii) introductory text and (i)(2)(iii)(A) revised to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) * * *

(ii) * * *

(iii) Thoroughbred horses imported for permanent entry from the Federal Republic of Germany, the United Kingdom, Ireland, France, and Standardbred horses from Australia, if such horses are accompanied at the time of importation by import permits in accordance with § 92.4 of the regulations and are accompanied by a certificate issued and signed by a veterinarian who is qualified to issue such certificate by the foreign country from which the horses are exported. This certificate shall be endorsed by an official of the National Veterinary Service of the country of export who certifies that the veterinarian signing and issuing the certificate is qualified to do so. The veterinarian signing and issuing the certificate shall certify that:

(A) He/she has examined the daily records of the horse's activities maintained by the trainer and certified to be current, true and factual by the veterinarian in charge of the training or racing stable, and examined the records of the horse's activities maintained by a record-keeping association which has been specifically approved by Veterinary Services,* and certified by such association to be current and true and factual, for the following information: identification of the horse by name, sex, age, breed, and all identifying marks, identify all premises where the horse has been since reaching 731 days of age and the dates that the horse was at such premises, and that none of the premises are breeding premises. Further, that he/she has compared the records maintained by the approved recordkeeping association with the records kept by the trainer and has found the information described above on these two sets of records to be consistent and current.

* * * * *

(Sec. 2, 32 Stat. 792, as amended, sec. 4 and 11, 76 Stat. 130 and 132 (21 U.S.C. 111, 134c and 134f); 37FR 28464, 28477, 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 21st day of January, 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-2058 Filed 1-27-82; 8:45 am]

BILLING CODE 3410-34-M

* The following breed associations and their record systems have been approved by the Department: Weatherby's Ltd. for the United Kingdom and Ireland; Haras du Pain for France; Direktorium Fur Vollblutzucht und Rennen e.v. for the Federal Republic of Germany; and the Australian Trotting Council and the affiliated State Trotting Control Boards for Australia.

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 81-036F]

Rate Increase For Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The rates charged by USDA to provide overtime inspection, identification, certification, or laboratory service to meat and poultry establishments are increased to reflect the increased costs of providing these services.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: June P. Blair, Director, Finance Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 382-0072.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since costs incurred by the Government for certain inspection services, other than ordinary costs, are recoverable by the Government, no alternative actions were considered.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub.L. 96-354 (5 U.S.C. 601) because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Background

On September 17, 1981, the Food Safety and Inspection Service (FSIS) published a final interim rule in the **Federal Register** (46 FR 46111) to increase the rates charged by USDA to provide overtime inspection, identification, certification, or laboratory service to meat and poultry establishments for Fiscal Year 1982. The amendments were implemented on an interim baisis because of the Agency's need to increase these rates to cover increases in costs of the services commencing with the beginning of the fiscal year. The Agency also provided until December 1, 1981, for public comment.

Comments

One comment was received in response to the interim rule from Mr. W. F. Krueger, Professor, Texas A&M University, College of Agriculture. Mr. Krueger stated that the increased costs associated with overtime inspection, identification, certification, or laboratory services would be passed on to the consumer, and that there will be an effect on costs in export trade.

In Fiscal Year 1981, FSIS provided inspection services to industry at a cost in excess of $310 million. Of this total, approximately $277 million was for mandatory inspection, provided without charge to industry, funded through the FSIS annual appropriation. The remaining amount, approximately 10.6

percent of the total, relates to inspection services beyond those required for mandatory inspection. The FSIS appropriation does not provide funds for these services and we must recover them in full through user fees charged to the establishments which request the additional services.

Through annual analyses, the Agency assures that fees charged neither exceed nor fall short of full reimbursement for cost of the service. These anaylses also help assure that our costs are kept to a minimum. Since the Fiscal Year 1982 increases represent a small increase over the Fiscal Year 1981 fees which apply to a small percentage of total inspection costs, we believe they will not have a major economic impact.

In consideration of the foregoing, the Federal meat and poultry products inspection regulations (9 CFR Parts 307, 350, 351, 354, 355, 362, and 381) are amended as set forth below.

PART 307—FACILITIES FOR INSPECTION

1. The authority citation for § 307.5 is revised to read as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.17(g), 2.55.

2. Section 307.5(a) is revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $18.12 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

3. The authority citation for § 350.7 is revised to read as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.17(g), 2.55.

4. Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at a rate of $14.64 per hour for base time, $18.12 per hour for overtime including Saturdays, Sundays, and holidays, and $27.28 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—CERTIFICATION OF TECHNICAL ANIMAL FATS FOR EXPORT

5. The authority citation for §§ 351.8, 351.9, 354.101, 355.12, and 362.5 is revised to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.17(g), 2.55.

6. Section 351.8 is revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $14.64 per hour for base time, $18.12 per hour for overtime, travel and per diem allowances at rates currently allowed by the Government Travel Regulations, and other expenses incidental to the initial survey of the rendering plants or storage facilities for which certification service is requested.

7. Section 351.9 is revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $14.64 per hour for base time and $18.12 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $27.28 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

8. Section 354.101 (b) and (c) are revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such service. The hourly rate shall be $14.64 for base time and $18.12 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this Part related to the inspection service shall be $27.28 per hour.

PART 355—CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA; INSPECTION, CERTIFICATION, AND IDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITION

9. Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $14.64 per hour for base time, $18.12 per hour for overtime, including Saturdays, Sundays, and holidays, and $27.28 per hour for laboratory services to reimburse the Service for the cost of the inspection service furnished.

PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

10. Section 362.5(c) is revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $14.64 per hour for base time, $18.12 per hour for overtime including Saturdays, Sundays, and holidays, and $27.28 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

11. The authority citation for section 381.38 is revised to read as follows:

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.17(g), 2.55.

12. Section 381.38 is revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $18.12 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

Done at Washington, DC, on January 12, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-2241 Filed 1-27-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 544, 563 and 577

[No. 82-35-A]

Amendments Relating to Issuance of Mutual Capital Certificates

January 15, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These amendments permit Federal mutual savings and loan associations and Federal mutual savings banks to amend their charters to authorize the issuance of mutual capital certificates by adoption of a pre-approved charter amendment without a special proxy solicitation. State-chartered institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") may adopt charter amendments authorizing the issuance of mutual capital certificates pursuant to applicable state law. These amendments are intended to streamline procedures for issuance of mutual capital certificates and thereby assist associations in raising new capital.

EFFECTIVE DATE: January 15, 1982.

FOR FURTHER INFORMATION CONTACT: John P. Soukenik (202-377-6427), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 81-652, dated October 29, 1981, proposed to amend its regulations governing the issuance of mutual capital certificates. Under the proposed regulations, a Board pre-approved charter amendment authorizing the issuance of mutual capital certificates could be adopted at any legal meeting of the membership of a Federal mutual savings and loan association or a Federal mutual savings bank without a special proxy solicitation. In addition, the proposed amendments would streamline the procedures for adoption of the mutual capital certificate charter amendments by deleting the requirements of §§ 544.2-1 and 577.1-1 (12 CFR 544.2-1 and 577.1-1) that Federal mutual savings and loan associations and Federal mutual savings banks secure final Board approval of the charter amendments. Under the proposed amendments, state-chartered savings and loan institutions the accounts of which are insured by the FSLIC could apply to the Board for approval to issue mutual capital certificates provided they had adopted appropriate charter, constitution or bylaw provisions in accordance with applicable law.

The public comment period ended on December 4, 1981, with receipt of 27 comment letters from Federal and state-chartered savings and loan institutions, trade groups and Federal Home Loan Banks. The proposed amendments received the support of all of the commenters, although eight recommended further modifications. These additional suggested changes generally concerned tax and redemption issues not within the area covered by the proposed amendments set forth for public comment. Having reviewed the comments and other pertinent information, the Board has determined to adopt the proposed amendments without modification.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 544, 563, and 577, of Subchapters C, D and E, respectively, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 544—CHARTER AND BYLAWS

1. Revise paragraph (a) introductory text of § 544.1 to read as follows:

§ 544.1 Issuance of charter.

(a) *Charter N.* Except as provided in paragraph (b) of this section, when the Board approves a petition for a charter for a Federal association under Section 5(a) or Section 5(i) of the Act, it shall issue a charter in the following form known as Charter N.

* * * * *

2. Amend § 544.2 by adding new paragraph (h) to read as follows:

§ 544.2 Amendment of charter.

* * * * *

(h) *Mutual capital certificates.* Delete Section 11 and add new Sections 11 and 12, to read as follows:

11. *Mutual capital certificates.* The association may issue mutual capital certificates pursuant to the rules and regulations of the Board. Subject to such rules and regulations, the board of directors of the association is authorized without the prior approval of the members of the association and by resolution or resolutions from time to time adopted by the board of directors and approved by the Board, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the association shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issues of mutual capital certificates.

12. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such proposal is made by the board of directors of the association, submitted to and approved by the Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Board, as of the date of the final approval of, or as fixed by, the members, or the board of directors in the case of supplementary sections to Section 11 of this charter, provided, however, that holders of mutual capital certificates may be granted in supplementary sections to Section 11 of this charter the right to vote on amendments, additions, alterations, changes, or repeals of this charter in any of the instances set forth in § 563.7-4(1)(2)(vii) (*b*) through (*f*).

3. Remove § 544.2-1

§ 544.2-1 Amendment of charter. [Removed effective January 15, 1982].

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

4. Revise paragraph (d) of § 563.7-4 to read as follows:

§ 563.7-4 Mutual capital certificates.

* * * * *

(d) *Charter amendment.* No application for approval of the issuance of mutual capital certificates pursuant to this section may be filed unless the

amendment to the mutual institution's charter, constitution or bylaws or other actions conferring such authority shall have been approved pursuant to the procedures and requirements set forth in the mutual institution's charter, constitution or bylaws, or as may otherwise be required by applicable law.

* * * * *

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 577—CHARTER AND BYLAWS

5. Revise the introductory text of § 577.1 to read as follows:

§ 577.1 Prescribed form.

Unless otherwise authorized by the Board, and until amended pursuant to the procedures set forth in the charter, a Federal mutual savings bank shall operate under a charter of the following form.

* * * * *

6. Revise paragraph (a) of § 577.1–1 to read as follows:

§ 577.1–1 Mutual capital certificate amendment.

(a) *Approval of mutual capital certificate charter amendment.* This section constitutes approval by the Board of the amendments to the charter of a Federal mutual savings bank set forth in paragraph (b) of this section.

7. Remove paragraphs (c) and (d) of § 577.1–1.

(Sec. 5, 48 Stat. 134, as amended; 12 U.S.C. 1464. Secs. 402, 403, 406, 48n Stat. 1256, 1257, 1259, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943—48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82–2192 Filed 1–27–82; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Parts 544, 545, 561, 563, and 571

[No. 82–20]

Amendments Concerning Borrowing

Dated: January 14, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board has amended its regulations governing borrowing by institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"). Major changes from existing regulations include: (1) Permitting borrowing without limitation on (a) the aggregate amount of borrowing, (b) the aggregate book value of all collateral securing outside borrowing, or (c) the distribution of maturities of all types of liabilities; (2) permitting borrowing with a maturity in excess of one year without reference to FSLIC net-worth requirements; (3) permitting the sale of loans with recourse; and (4) expanding alternative loan documentation for participation interests in loan pools to any type of loan in which an institution may invest. The amendments also require that recourse liabilities resulting from the sale of loans be included in calculating net-worth requirements. This action provides institutions with greater flexibility to manage liabilities and to arrange for sales of loans in the secondary market.

EFFECTIVE DATE: February 14, 1982.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett (202–377–6445), Associate General Counsel, Office of General Counsel, or Jerry Hartzog (202–377–6782), Senior Economist, Office of Policy and Economic Research, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On October 20, 1981, the Federal Home Loan Bank Board proposed amendments to certain regulations governing borrowing by institutions whose accounts are insured by the FSLIC. Resolution No. 81–640 (October 20, 1981); 46 FR 53673 (October 30, 1981). The proposal was made in response to changes that have occurred in the operations of insured institutions in the last two years including expanded investment authority for Federal associations, increased competition with other financial service providers, and trends of high and volatile interest rates. The proposed amendments were intended to provide institutions with greater flexibility to manage liabilities and to arrange for sales of loans in the secondary market.

The Board received a total of 37 comment letters in response to the proposal from insured institutions, Federal Home Loan Banks, investment banking companies, accountants, attorneys and other persons. The comments uniformly favored liberalization of regulatory restrictions on borrowing activities of insured institutions, and several comments suggested additional changes or objected to particular aspects of the proposal. Suggestions for amendment of provisions not subject to the proposal will be considered separately by the board and are not included in the action taken here. Comments regarding the FSLIC right to purchase collateral securing outside borrowings upon default and applying net worth requirements to recourse liabilities resulting from the sale of loans are treated in the discussions of those provisions below.

Limitations on the Aggregate Amount of Borrowing

Section 563.8(b)(1) of the Insurance Regulations (12 CFR 563.8(b)(1)) limits the aggregate amount of borrowing by an insured institution to 50 percent of its assets. Historically, regulatory limitations on borrowing were intended to limit volatility of institutions' cost of funds and earnings. However, as noted in the proposal, the steady decrease in the portion of savings deposits subject to fixed rate ceilings has eliminated substantially the difference between the effects of savings deposits and borrowings on the volatility of earnings. Consequently, there is no longer any reason to restrict institutions' access to non-deposit sources of funds.

The Board proposed to remove the limitation on the aggregate borrowing of insured institutions and to give full discretion to institutions to manage all liabilities according to their particular needs. Commenters uniformly shared the view that sound financial management and the requirements of creditors will discipline borrowing by institutions. The Board believes that a regulatory limit unnecessarily restricts management discretion and adopts the amendment as proposed.

Limitation on Collateral Used to Secure Outside Borrowings

Section 563.8(c)(iii) of the Insurance Regulations (12 CFR 563.8(c)(iii)) also limits the aggregate book value of all collateral securing outside borrowings to 25 percent of an institution's assets. "Outside" borrowing is borrowing other than from a district Federal Home Loan Bank or state-chartered central reserve institution. The purpose of this limitation was to restrict secured borrowing, to encourage unsecured borrowing, and to limit the risk exposure of the FSLIC in the event of liquidation.

Because it has created an impediment to the ability of insured institutions to engage in long-term outside borrowing, the Board proposed to eliminate the limitation on collateralizing outside borrowings. To avoid excessive risk exposure, the Board also proposed to apply the FSLIC's right of purchase to any secured outside borrowing regardless of the term or the type of collateral pledged. The FSLIC would have seven days to exercise its right of

purchase for any collateral consisting of liquid assets pursuant to 12 CFR 523.10, GNMA guaranteed single-family mortgage-backed securities, or U.S. Department of the Treasury securities. The right of purchase for all other collateral would remain at thirty days.

The Board specifically solicited comment on the time periods for the FSLIC to exercise its right of purchase and alternatives to those proposed, and several investment banking firms responded by objecting to extension of the FSLIC right of purchase. These commenters stated two reasons for their objections: first, that the proposal would increase the risk to investors lending to insured institutions through reverse repurchase transactions; and secondly, that the interest of the FSLIC in ensuring that collateral is not sold substantially below its full market value exists only where the collateral is illiquid.

In general, the Board believes that these objections to the FSLIC right of purchase are overstated. First, the right of purchase does not apply to transactions structured as a sale and subsequent repurchase of assets. Secondly, creditors may protect themselves against the risk of fluctuations in the value of collateral by periodic marking-to-market or by requiring a sufficient margin in the value of the collateral. However, the Board recognizes that the FSLIC right of purchase may expose creditors to additional risk from fluctuations in the value of the collateral and may hinder disposition in the event of default. The Board also recognizes that if the collateral consists of securities sold in active markets, a commercially reasonable price can be established readily and there exists little risk of sale below market value. Accordingly, the final amendments exempt from the right of purchase any collateral consisting of liquid assets as defined in § 523.10 of the Federal Home Loan Bank System Regulations (12 CFR 523.10 (1981)) and any collateral that would qualify as liquid assets but for its remaining term to maturity. Otherwise, the Board is adopting the amendments as proposed.

The Board views the FSLIC right of purchase as a measure of last resort to protect against commercially unreasonable disposition of collateral in the event of default by an insured institution. Extension of the right of purchase is required by elimination of limitations on the aggregate amount of borrowing and the extent to which an institution's assets may be used to collateralize outside borrowings. The Board does not intend extension of the right of purchase to interfere in normal commercial practices of insured institutions and their creditors.

The Board also desires to clarify the effect of the action taken today on the collateral replacement limits for mortgage-backed securities that were issued prior to May 30, 1980. In eliminating § 563.8–2 of the Insurance Regulations (*See* Board Resolution No. 80–328 (May 22, 1980); 45 FR 36361 (May 30, 1980)), the Board provided that offerings of mortgage-backed securities substantially completed by May 30, 1980, would continue to be subject to the collateral replacement limits of § 563.8–2 rather than the overall 25 percent-of-assets limit for collateral used to secure all outside borrowing. This "grandfathering" of the requirements of § 563.8–2 was intended as a liberalization for institutions that already had issued mortgage-backed securities with collateral replacement requirements in excess of 25 percent of assets, and the action taken today eliminating the 25 percent-of-assets restriction also eliminates the limitation on collateral replacement for offerings of mortgage-backed securities substantially completed prior to May 30, 1980.

Secured Outside Borrowing Eligibility Requirement

Section 563.8(c) of the Insurance Regulations (12 CFR 563.8(c)) provides that an institution must meet the net-worth requirements of § 563.13 after giving effect to the issuance of the debt, in order to be eligible to issue debt with an original maturity in excess of one year. Because the regulation has the effect of prohibiting institutions experiencing net-worth difficulties from strengthening their financial condition by reducing maturity imbalance through long-term borrowing, the Board proposed to eliminate the eligibility requirement. This amendment is being adopted as proposed.

Limitations on the Distribution of Maturities of Liabilities

Section 563.8–3 of the Insurance Regulations (12 CFR 563.8–3) limits the distribution of maturities of all types of liabilities and requires that an institution notify the Board's Principal Supervisory Agent (i.e., the President of the Federal Home Loan Bank of which the institution is a member) prior to undertaking any obligation that would cause the aggregate amount of an institution's liabilities maturing in any three-month period, less the amount of the institution's liquid assets, to exceed 30 percent of the institution's assets at the time that the additional liability is incurred. In addition, the regulation requires prior FSLIC approval of any obligation that would cause the aggregate amount of an institution's liabilities maturing in any three-month period, less the amount of its liquid assets, to exceed 40 percent of the institution's total assets. The Board believes that these requirements place unnecessary restrictions on the ability of institutions to manage their liabilities effectively and do not take into account the particular circumstances of each institution's cash-flow planning. The Board proposed to eliminate the requirements and leave overall liability management to each institution, and these amendments are adopted as proposed.

Prohibition Against the Sale of Loans with Recourse

Section 563.23 of the Insurance Regulations requires that all loans and participation interests in loans sold by an insured institution must be sold without recourse. Section 561.8 defines "without recourse" in connection with the sale of any loan to mean without any agreement or arrangement under which the purchaser is to be entitled: (1) To receive from the seller any sum of money or thing of value, whether tangible or intangible (including any substitution), upon default in payment of any loan or mortgage involved, or any part thereof, or (2) to withhold or to have withheld from the seller any sum of money or any thing of value by way of security against such default. Amendments to the prohibition against sales with recourse provide an exception for loans sold subject to a subordinated interest or guarantee not exceeding ten percent if certain specified reserves are maintained.

In monitoring developments in private and governmentally sponsored secondary markets for mortgage, home improvement, consumer and educational loans, the Board has determined that the limited exceptions to the prohibition against sales with recourse are not flexible enough to accommodate all of the innovative arrangements for secondary market sales where the seller is required to retain some recourse liability on the loans sold. In order to give institutions full flexibility in arranging sales on the secondary market, the Board proposed to permit the sale of loans with recourse. To assure safe and sound operations by institutions selling loans with recouse, the Board also proposed to require that recourse liabilities resulting from the sale of loans be added to liabilities in calculating net-worth requirements and that institutions report recourse

liabilities as a memorandum line item in their semi-annual reports. In defining recourse liabilities for purpose of the net-worth requirement, the Board proposed to follow the definition of "loss contingency" found in Financial Accounting Standards Board ("FASB") Statement No. 5, as amended.

The final amendments permit insured institutions to sell loans with recourse without limit and require the maintenance of net worth against recourse liabilities. Some commenters suggested that the Board permit a charge against current earnings as losses accrue rather than require the maintenance of reserves. However, the Board believes that the maintenance of reserves against the possibility that an institution will incur a loss subsequent to the sale of loans with recourse is appropriate to assure safe and sound operations and to avoid increased risk to the FSLIC. Because an institution may engage in unlimited sales with recourse, charging losses against current earnings would not be sufficient to assure that institutions recognize the potential liability resulting from sales with recourse or establish reserves against potential losses.

The proposed amendments effectively would have imposed the same net-worth requirement for liabilities resulting from sales of loans with recourse as for other liabilities, and some commenters suggested that this requirement was excessive and not in proportion to losses actually experienced in loan sales. The Board believes that the maintenance of additional net worth against recourse liabilities is appropriate. Inclusion of recourse liabilities in the calculation of net-worth requirements avoids the maintenance of multiple, specified reserves and should be simpler for institutions to administer. In addition, the requirement applies evenly to all types of loan sales and avoids the need for either the Board or an institution to assess the risk of loss resulting from a particular sale. However, the Board has considered the amount of additional net worth to be maintained against recourse liabilities and has determined that an amount equal to two percent of recourse liabilities would be appropriate in light of the historic loss experience on sales of loans in the secondary markets.

In defining recourse liabilities resulting from the sale of loans, the Board proposed to follow the definition of "loss contingencies" in FASB Statement No. 5, as amended. Several commenters, however, expressed confusion as to whether the standards of FASB Statement No. 5 for accrual and disclosure of losses were to be incorporated as well. To avoid this potential confusion, the final amendments delete reference to the term "loss contingency" and refer instead to any recourse liability resulting from the sale of loans. The definition of "with recourse" has been amended to provide that the recourse liability resulting from the sale of loans includes the book value of any loans sold with recourse less: (1) The amount of any insurance or guarantee of a third party against default, (2) the amount of any loss to be borne by the purchaser in the event of default, and (3) the amount of any loss resulting from a recourse liability entered on the books and records of the institution.

For example, the recourse liability resulting from the sale of loans subject to mortgage insurance or guarantee would be the book value of the portion of the loan not subject to insurance or guarantee. Similarly, the recourse liability resulting from a sale in which the purchaser shares in losses in the event of default would be the book value of the loans sold less the amount of any losses to be borne by the purchaser. Thus, in cases in which the prohibition against sales with recourse already has been waived on an experimental basis (*see* Board Resolution Nos. 78–319, 80–196, 81–327–507), there would be no recourse liability because of the existence of mortgage insurance provided by, and loss sharing by, governmental entities. Lastly, the amount of the recourse liability would decrease as an institution records actual losses on its books or the principal balance of the loans declines.

Some commenters suggested that no recourse liability be recognized where low loan-to-value ratios or private mortgage insurance substantially reduces the potential risk resulting from the sale of loans with recourse. While the Board appreciates the intent of these comments, it also recognizes that sale with recourse generally is an alternative to other forms of security and is not required in "riskless" transactions. The existence of recourse by definition involves some degree of risk retention by the selling institution.

The Board believes that the final amendments will permit institutions to engage in innovative secondary loan market programs without imposing unnecessary risk on the FSLIC. For instance, the Federal National Mortgage Association ("FNMA") recently announced its Conventional Mortgage-Backed Securities Program (the "CMBS Program"). Institutions selling mortgages to FNMA under the CMBS Program will have the option of selling without recourse or to repurchase delinquent loans. The amount of the servicing fee received by the seller/servicer will depend on which option is chosen. The Board's final amendments grant insured institutions the discretion to choose between options such as these in engaging in secondary market activities.

Participation Interests in Loan Pools

The Board policy statement currently found at 12 CFR 571.13 (1981) authorizes documentation procedures in connection with an insured institution's purchase of a participation interest in a large pool of mortgage loans. These requirements are an alternative to those currently found at 12 CFR 563.9 and 563.17–1. The policy statement was adopted in order to provide greater secondary market flexibility for sellers and purchasers of participation interests in loans.

The Board proposed to amend § 571.13 to conform the policy statement to the current operating needs of the savings and loan industry by eliminating: (1) The restrictions on eligible originator/servicers of loans, (2) the requirement that the loans be secured by first liens on real estate, and (3) the periodic report to participants regarding the principal balance of the loans in the pool. In addition, the Board proposed to amend the policy statement to reflect regulatory changes that have taken place since it was adopted. These amendments have been adopted as proposed. In addition, the final amendments permit the originator/servicer to charge reasonable fees to institutions requesting access to loan documentation and eliminate required disclosure of the location of the collateral securing the loans.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives and legal bases underlying the rules.* These elements have been incorporated elsewhere in the supplementary information regarding the amendments.

2. *Small entities to which the rules will apply.* The amendments will apply only to institutions the accounts of which are insured by the FSLIC.

3. *Impact of the rules on small institutions.* The amendments will remove restrictions on borrowing regardless of an institution's size. To the extent that small institutions engage in borrowing, the amendments will benefit their operations. These benefits have been discussed elsewhere in the

supplementary information regarding the amendments. There is no disproportionate effect on small institutions.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the amendments.

5. *Alternatives to the rules.* The amendment will eliminate several existing regulatory restrictions governing borrowing. Any alternative to elimination of these requirements would lessen flexibility afforded institutions and would increase the cost of compliance.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 544 and 545 of Subchapter C and Parts 561, 563 and 571 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 544—CHARTER AND BYLAWS

1. Revise paragraph (d) of § 544.2 to read as follows:

§ 544.2 Amendment of charter.

* * * * *

(d) *Borrowing powers.* Revise section 9 to read as follows:

9. *Power to borrow.* The association may borrow money without limitation and may pledge and otherwise encumber any of its assets to secure its debts.

* * * * *

PART 545—OPERATIONS

2. Revise § 545.8–10 to read as follows:

§ 545.8–10 Mortgage transactions with the Federal Home Loan Mortgage Corporation.

Without regard to any other provisions of this Part, a Federal association may enter into and perform any mortgage transaction with the Federal Home Loan Mortgage Corporation specified in section 305 (a) of the Federal Home Loan Mortgage Corporation Act. For purposes of this section the term "mortgage" shall have the meaning prescribed in section 302(d) of such Act.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

3. Revise § 561.8 to read as follows:

§ 561.8 With recourse.

The term "with recourse" means, in connection with the sale of a loan or a participation interest in a loan, an agreement or arrangement under which the purchaser is to be entitled to receive from the seller a sum of money or thing of value, whether tangible or intangible (including any substitution), upon default in payment of any loan involved or any part thereof or to withhold or to have withheld from the seller a sum of money or anything of value by way of security against default. The recourse liability resulting from a sale with recourse shall be the total book value of any loan sold with recourse less: (a) the amount of any insurance or guarantee against loss in the event of default provided by a third party, (b) the amount of any loss to be borne by the purchaser in the event of default, and (c) the amount of any loss resulting from a recourse obligation entered on the books and records of the institution.

PART 563—OPERATIONS

4. Amend § 563.8 by removing paragraphs (j) and (k) and revising paragraphs (a), (b) and (c) thereof, to read as follows:

§ 563.8 Borrowing limitations.

(a) *General.* Except as the Corporation otherwise may permit by advice in writing, an insured institution may borrow only in accordance with the provisions of this section.

(b) *Amount of borrowing.* An insured institution may borrow up to the amount authorized by the laws under which the insured institution operates.

(c) *Corporation's right of purchase.* (1) *General rule.* For any secured borrowing other than from a Federal Home Loan Bank or state-chartered central reserve institution, the terms of such borrowing shall provide that the Corporation receive prompt written notification of any default on the obligation and, before a sale or other disposition of any portion of the collateral, that the Corporation shall have thirty (30) days after written receipt of notice of the proposed sale or other disposition to exercise a right to repurchase the collateral at the price to be paid at the sale or to acquire the collateral at the value to be assigned to it in any other disposition.

(2) *Exception.* The notice and right of purchase required by subparagraph (c)(1) of this section shall not apply to collateral consisting of liquid assets as defined in § 523.10 of this Chapter or collateral that would qualify as liquid assets but for its remaining term to maturity.

* * * * *

5. Remove § 563.8–3, as follows:

§ 563.8–3 Distribution of maturities of liabilities. [Removed effective February 14, 1982.]

6. Revise § 563.9–4 to read as follows:

§563.9–4 Mortgage transactions with the Federal Home Loan Mortgage Corporation.

To the extent that it has legal power to do so, an insured institution may enter into, perform and carry out any mortgage transaction with the Federal Home Loan Mortgage Association specified in section 305 of the Federal Home Loan Mortgage Corporation Act, notwithstanding any provision of this Part except the net worth requirements of § 563.13 for recourse liabilities.

7. Revise the first sentence of subparagraph (b)(2) of § 563.13 to read as follows:

§ 563.13 Reserve accounts.

* * * * *

(b) *Net-worth requirement.*

* * * * *

(2) *Minimum required amount.* On the annual closing date of the twentieth anniversary of insurance of accounts and on each annual closing date thereafter, an insured institution shall have net worth at least equal to the sum of: (i) Three percent of the amount on the date specified in subparagraph (b)(1) of this section or of the average amount on such date and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive) of all liabilities (i.e., total assets minus net worth of the institution), (ii) two percent of recourse liabilities (as defined in § 561.8 of this Part) resulting from the sale of any loan, and (iii) an amount equal to 20 percent of the institution's scheduled items.

* * * * *

8. Remove § 563.23, to read as follows:

§ 563.23 Prohibition of sale with recourse. [Removed effective February 14, 1982.]

PART 571—STATEMENTS OF POLICY

8. Revise § 571.13 to read as follows:

§ 571.13 Participation interests in pools of loans.

(a) Where an insured institution purchases a participation interest in a pool of loans, compliance with the documentation requirements of §§ 563.9 and 563.17–1 of this Subchapter may be impracticable. Where this is the case, the documentation requirements of those provisions will be deemed satisfied if:

(1) Access to all loan documentation is provided by the originator/servicer upon request and without charge to any trustee of the pool, the Board, the Corporation, or their examiners or Supervisory Agents, and upon request and subject only to reasonable charges

incurred in providing such access to any insured institution investing in the pool;

(2) The originator/servicer warrants as to each loan in the pool to or for the benefit of each insured institution investing in the pool that as of the date participation interests in the pool were first issued:

(i) No loan was 30 or more days delinquent;

(ii) Each loan met the requirements for investment by the insured institution;

(iii) There were no delinquent tax or assessment liens or mechanics' liens on any collateral for the loans and the collateral was free of substantial damage and in good repair; and

(iv) Each loan complied with all applicable state and Federal laws; and

(3) The originator/servicer has agreed to provide each insured institution investing in the pool a monthly report of loan delinquencies separately indicating the number and aggregate principal amount of loans delinquent one month and two or more months, the book value of any collateral acquired by the pool through foreclosure, deed in lieu of foreclosure or other exercise of its security interest in the collateral, and the aggregate dollar amount or loans made by the pool, if any, on the security of the collateral if such loans are as described in § 561.15(d) of this Subchapter.

(b) Although this Statement of Policy is addressed principally to compliance with regulatory requirements for purchase by insured institutions of participation interests in pools of loans, it also applies to sales of participation interests in such pools by insured institutions having legal authority to sell participation interests in mortgages.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-2063 Filed 1-27-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 22566; Amdt. 39-4307]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends telegraphic AD T80EU16, as amended by telegraphic AD T80EU16A, which were previously made effective as to all known U.S. owners and operators of certain Airbus Industrie Model A300 [1] series airplanes by individual telegrams. The AD requires daily visual inspection of the main landing gear hinge arms for cracks until replacement or modification is accomplished. The AD is necessary to prevent possible failure of the main landing gear hinge arms, which could result in collapse of the landing gear.

EFFECTIVE DATE: February 15, 1982. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Airbus Industrie, Airbus Support Division, B.P. 33, 31700 Blagnac, France. A copy of each service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Chief, Technical Standards Branch, AWS–110, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426–8374.

SUPPLEMENTARY INFORMATION: On March 27, 1980, telegraphic AD T80EU16 was issued to require visual inspections and replacement, as necessary, of the main landing gear hinge arm on Airbus Industrie Model A300 series airplanes up to and including Serial Number 56, except Serial Number 53. The AD was issued following detection of a crack which initiated inside the outboard attachment lug of the main landing gear actuator. After issuance of the telegraphic AD, it was determined, by laboratory examination, that the cracking was due to stress corrosion which could result in rapid crack propagation. Accordingly, the AD was amended by telegraphic AD T80EU16A, issued April 11, 1980, to require daily visual inspection of the hinge arms until replacement or modification is accomplished. AD action was necessary to prevent possible failure of the main landing gear hinge arms, which could result in collapse of the landing gear.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the ADs effective as to all known U.S. owners and operators of certain serial-numbered Airbus Industrie Model A300 series airplanes by telegraphic means.

Subsequent to issuance of the telegraphic ADs, the FAA determined that the continued daily visual inspections, which are performed externally, should be replaced by a thorough internal inspection and a modification performed on the affected main landing gear hinge arms. The manufacturer has provided instructions for such work by issuance of Airbus Industrie Service Bulletin No. A300–32–287. Therefore, telegraphic AD T80EU16, as amended by telegraphic AD T80EU16A, is being amended to require new inspection and modification of the hinge arms. In addition, the applicability statement has been expanded to include all Airbus Industrie Model A300 series airplanes, in order to make the AD applicable to any future aircraft entering the U.S. aircraft registry.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, certificated in all categories, with main landing gear hinge arms, P/N C85–381–2, which have accumulated more than 2,500 takeoff/landing cycles and which have not been modified in accordance with Airbus Industrie Service Bulletin No. A300–32–118, dated August 21, 1979.

Compliance required as indicated, unless already accomplished.

To prevent failure of the main landing gear hinge arms, accomplish the following:

(a) Within the next 8 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 12 hours time in service from the last inspection, but at least once each operating day, visually inspect the main landing gear hinge arms, P/N C85–381–2, for cracks in accordance with Airbus Industrie All Operators Telex AOT 32/80/105/SC1/0644/EM/AK/ME, dated March 21, 1980, and AOT 32/80/107/SC1/0795/EM/AK/ME, dated April 8, 1980, or FAA approved equivalents. Report defects found to the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium. (Reporting approved by the Office of

[1] The Service Bulletin was filed as a part of the original document only and does not appear in the Federal Register.

Management and Budget under OMB No. 04-R0174).

Notes.—1. Compliance times specified in Airbus Industrie All Operators Telex AOT 32/80/105/SC1/0844/EM/AK/ME, dated March 21, 1980 and AOT 32/80/107/SC1/0795/EM/AK/ME, dated April 8, 1980, are not applicable to this AD.

2. Pay particular attention to—

(a) the inner edge of the hinge arm fork and the inner upper and lower edge between the LH and RH attachment lugs.

(b) the hinge arm between the fork webs and cylindrical lugs or MLG actuator attachments.

(c) the surrounding area of the cylindrical attachment lugs.

(b) If the inspection required by paragraph (a) of this AD reveals cracks in a hinge arm, prior to further flight, replace the affected hinge arm with a serviceable hinge arm, P/N C65-381-2 or P/N C65-381-4, in accordance with Airbus Industrie Service Bulletin No. A300-32-118. Repetitive inspections may be discontinued upon installation of P/N C65-381-4 hinge arms.

(c) Prior to February 15, 1982, unless already accomplished, perform the visual and ultrasonic inspections, rework, and modification specified in Airbus Industrie Service Bulletin No. A300-32-287, dated May 19, 1980, or an FAA-approved equivalent. Repetitive inspections are required as follows:

(1) If the depth of the corrosion pitting on the hinge arm does not exceed 0.008 inches, within sixty (60) days from accomplishment of the inspection required by Airbus Industrie Service Bulletin No. A300-32-287, dated May 19, 1980, or an FAA-approved equivalent, and thereafter at internals not to exceed 120 days, ultrasonically inspect the hinge arm in accordance with Airbus Industrie Service Bulletin No. A300-32-288, dated May 19, 1980, or an FAA-approved equivalent.

(2) If the depth of the corrosion pitting on the hinge arm exceeds 0.008 inches, within thrity (30) days from accomplishment of the inspection required by Airbus Industrie Service Bulletin No. A300-32-287, dated May 19, 1980, or an FAA-approved equivalent, and thereafter at intervals not to exceed thirty (30) days, ultrasonically inspect the hinge arms in accordance with Airbus Industrie Service Bulletin No. A300-32-288, dated May 19, 1980, or an FAA-approved equivalent.

(d) Cracked hinge arms must be replaced prior to further flight.

(e) Accomplishment of paragraph (c) of this AD terminates the visual inspection requirements of paragraph (a).

(f) Airplanes may be ferried in accordance with FAR §§ 21.197 and 21.199 to a place where the inspections and or repairs can be made in order to comply with this AD.

(g) Upon request of an operator and submission of substantiating data, the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, may upon recommendation of the cognizant FAA aviation safety inspector, adjust the inspection intervals.

(h) If an equivalent means of compliance is used in complying with this AD, that equivalent must be approned by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

All persons affected by this directive who have not already received the referenced documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, B.P. 33, 31700 Blagnac, France. These documents may be examined at FAA Headquarters, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

This amendment amends telegraphic AD T80EU16, as amended by telegraphic AD T80EU16A.

This amendment becomes effective February 15, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption **FOR FURTHER INFORMATION CONTACT.**

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on January 21, 1982.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82-2183 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-03-AD; Amdt. 39-4306]

Airworthiness Directives: McDonnell Douglas Model DC-10 Series Airplanes

Note.—This document originally appeared in the **Federal Register** for January 26, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) that would require modification of the wing leading edge slat control system on McDonnell Douglas Model DC-10 series airplanes. The modification would consist of the installation of two balance spring assemblies on the slat control mechanism for the left and right outboard slat control valves as well as installation of balanced pressure relief valves in hydraulic systems No. 1 and No. 3 slat extend lines of the left and right outboard slat control systems. This AD will improve the capability of these airplanes to continue safe flight and landing by assuring that uncommanded outboard slat retraction does not occur as a result of a failure event during critical flight phases.

DATE: Effective date February 25, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2833.

SUPPLEMENTARY INFORMATION: On September 22, 1981, a DC-10-30F airplane experienced a failure of the No. 3 engine during takeoff resulting in subsequent rejection of the takeoff with no injuries to passengers or crew. During the investigation of this incident by the FAA, it was learned that uncontained failure of the No. 3 engine first stage low pressure turbine disk resulted in uncommanded retraction of the right wing outboard slats due to failure of the associated outboard slat follow-up cable. It was further learned during this investigation that a similar No. 3 engine failure in 1977 on a foreign-operated DC-10-30 may have also resulted in uncommanded retraction of

the right hand outboard slats. In the latter case, the engine failure occurred at approximately 400–600 feet altitude with subsequent execution of a safe landing. These events prompted a re-evaluation by the FAA of the ability of the DC–10 airplane to be capable of continued safe flight and landing after the occurrence of a critical engine failure combined with outboard slat retraction, considering such occurrence as a single event. This re-evaluation centered around an analysis of the probability of occurrence of such an event during critical phases of flight in conjunction with a controllability analysis of the airplane under these conditions.

The results of analytical determination of the probability of occurrence of a critical engine failure combined with slat retraction during critical phases of flight (including takeoff and landing) show that the occurrence of such an event is considered extremely improbable (a likelihood of occurrence of less than one in a billion). Though such analysis may be used as evidence to indicate that a specific failure event is extremely improbable and, therefore, not warranting further consideration, it is the FAA's position that probability analyses alone do not determine acceptability of a given design. As with most probability analyses, certain assumptions must be made, based upon historical data were possible, which structure the bounds within which the results remain meaningful. In determining the probability of the event noted, sufficient room for judgment exists in establishing the bounds for some of the assumptions therein postulated to preclude acceptability of the design based on probability analyses alone.

Having considered the DC–10 service experience to date, the existing data concerning turbine engine failures, and the results of the above noted probability analysis, it is FAA's determination that sufficient area exists for judgment in the interpretation of this data to warrant a determination that design changes should be incorporated to improve safety.

Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires modifications to the DC–10 slat control systems which would assure that the wing slats remain extended even if the systems that actuate them sustain severe damage. This action is in full accord with FAA policy to utilize AD procedures to make changes to the approved type design when appropriate in the interest of aviation safety.

It is expected that kit parts for the above modifications will be obtainable beginning April 1982 with worldwide DC–10 fleet parts availability completed by October 1982.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure herein are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F, and –40 series airplanes certificated in all categories.

To assure that the DC–10 wing slats remain extended even if the slat control system sustains severe damage, accomplish the following:

Unless already accomplished compliance is required with paragraphs A and B on or before January 31, 1983, or in accordance with a schedule of accomplishment approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

A. Modify the leading edge slat servo system and replace the outboard slat system follow-up cables as outlined in the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 27–187, original issue, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. Install balanced pressure relief valves in hydraulic systems No. 1 and No. 3 slat extend lines, left and right wing, as outlined in the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 27–189, original issue, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

C. Within the next 2000 flight hours after accomplishment of the modifications noted in paragraph A above, and at intervals not to exceed 4000 flight hours thereafter, visually inspect the balance spring assemblies and outboard slat follow-up cables, left and right wing, for integrity of installation.

D. Within the next 4,000 flight hours after accomplishment of the modifications noted in paragraph B above, and at intervals not to exceed 4,000 flight hours thereafter, functionally check for proper operation of the outboard slat relief valves as outlined in the Accomplishment Instructions, paragraph (E) of McDonnell Douglas DC–10 Service Bulletin 27–189, original issue, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

E. Upon the request of an operator, an FAA maintenance inspector, subject to prior approval by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, may adjust the repetitive intervals specified in paragraphs C and D of this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

F. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective February 25, 1982.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.— The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on January 21, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-1999 Filed 1-25-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 22083; Amdt. 39-4308]

Airworthiness Directives; Short Brothers Limited Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive that requires a repetitive inspection, and modifications as necessary, for cracks in the bolt holes of the stub wing spars, and replacement of the laminated aluminum shims at the spar bolted joints, on certain Short Brothers Limited Model SD3-30 series airplanes. The AD is necessary to prevent cracks in the stub wing spars, and to require replacement of failed shims which, if undetected and uncorrected, could result in loss of the airplane.

DATE: Effective March 1, 1982.

Compliance Schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Short Brothers Limited, P.O. Box 241, Airport Road, Belfast, BT 9DZ, Northern Ireland, Attention: Product Support Manager.

A copy of each service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: 202-426-8192.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require a repetitive inspection, and modifications as necessary, for cracks in the bolt holes of the stub wing spars, and replacement of the laminated aluminum shims at the spar bolted joints on certain Short Brothers Limited Model SD3-30 series airplanes was published in the **Federal Register** at 46 FR 41524.

The proposal was prompted by an FAA determination that loss of torque on the bolted structural joints, delamination of the laminated aluminum shims, and cracks can occur in the bolt holes at the stub wing spar bolted joints, which could result in structural failures on certain Short Brothers Limited Model SD3-30 series airplanes, and possible loss of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, the AD requires an initial inspection of the stub wing spar bolted joints, replacement of the laminated aluminum shims, repetitive inspections of these joints until modified in accordance with an approved modification, and replacement of the laminated shims in the stub wing structural bolted joints with a single thickness shim on certain Short Brothers Limited Model SD3-30 series airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No objections were received. Accordingly, the proposal is adopted without change, except that paragraph (d) has been revised to clarify the need for obtaining approval for repair of the stub wing spar bolt holes prior to returning the aircraft to service, and paragraph (h) has been clarified regarding approvals for adjustments to inspection intervals.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Short Brothers Limited. Applies to Model SD3-30 series airplanes, serial numbers SH3001 through SH3024 inclusive, certificated in all categories.

Compliance required prior to the accumulation of 12,000 landings, or 300 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,000 landings.

To prevent fatigue failures of the stub wing spar and stub wing bolted joints, accomplish the following:

(a) Inspect the bolt holes in the stub wing spars for cracks using the eddy current method described in Short Brothers "Non-destructive Test Specification," NDTI RD 1, dated October 1979, and in accordance with "ACCOMPLISHMENT INSTRUCTIONS," paragraph 2, of Short Brothers Limited Service Bulletin SD3-53-34, Revision 2, dated December 12, 1979, or an FAA-approved equivalent, and for airplane serial numbers SH3008 through SH3013 inclusive, replace the laminated aluminum shims in the stub wing bolted joints with single thickness shims in accordance with Short Brothers Limited Service Bulletin SD3-53-21, Revision 1, dated September 5, 1979, or an FAA-approved equivalent.

(b) If as a result of the inspection in paragraph (a) of this AD, no cracks are found, reassemble the stub wing in accordance with "ACCOMPLISHMENT INSTRUCTIONS," paragraphs 2A.15 and 2A.11(b) for the front spar frame, and paragraphs 2A.15 and 2A.12(b) for the rear spar frame, of Short Brothers Limited Service Bulletin SD3-53-34, Revision 2, dated December 12, 1979, or an FAA-approved equivalent.

(c) If as a result of the inspection required in paragraph (a) of this AD, cracks are found—

(1) Before further flight, except as provided in paragraph (f) of this AD, install Short Brothers Limited SD3-30 Modifications 5514, 5600 and 5790, in accordance with Short Brothers Limited Service Bulletin SD3-53-39, Revision 1, dated January 14, 1980, or an FAA-approved equivalent; and

(2) Repair any bolt holes in which cracks are found and fit oversize bolts in accordance with paragraph 2A.11 for the front spar frame, and paragraph 2A.12 for the rear spar frame, of Short Brothers Limited Service Bulletin SD3-53-34, Revision 2, dated December 12, 1979, or an FAA-approved equivalent; and

(3) Reassemble the stub wing in accordance with "ACCOMPLISHMENT INSTRUCTIONS," paragraphs 2A, and 29 through 47, of Short Brothers Limited Service Bulletin SD3-53-39, Revision 1, dated January 14, 1980, or an FAA-approved equivalent.

(d) If cracks in the stub wing spar bolt holes cannot be removed by the procedure specified in paragraph (c)(2) of this AD, report those findings to the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Office, AEU-100, FAA, c/o American Embassy, Brussels, Belgium. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174). Additional repair procedures must be approved by that office prior to returning aircraft to service.

(e) Upon incorporation of Short Brothers Limited Service Bulletin SD3-53-39, Revision 1, dated January 14, 1980, the repetitive inspection required by this AD may be discontinued.

(f) In accordance with FAR §§ 21.197 and 21.199, the airplane may be flown to a base where the inspections, modifications, and repairs required by this AD may be accomplished.

(g) If an equivalent means of compliance is used in complying with any paragraph of this AD, that equivalent means must be approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

(h) Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, Brussels, Belgium, may adjust the inspection intervals.

(i) For the purpose of this AD, when conclusive records are not available to show the total number of landings accumulated by a particular part (or assembly), the number of landings may be computed by dividing the

airplane time-in-service since the part (or assembly) was installed in the airplane by the operator's fleet average time per flight for his Model SD3–30 series airplanes.

All persons affected by this directive who have not already received the referenced documents from the manufacturer may obtain copies upon request to Short Brothers Limited, P.O. Box 241, Airport Road, Belfast, BT 9DZ, Northern Ireland, Attention: Product Support Manager. These documents may be examined at FAA Headquarters, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

This amendment becomes effective March 1, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspections and repairs on only a few aircraft owned by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on January 21, 1982.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82–2084 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ANM–1]

Revised Control Zone, Portland, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document amends the Portland, Oregon Control Zone by deleting reference to the Portland-Troutdale Control Zone and amending the geographical coordinates for the Laker (Lake) Locator/Outer Marker (LOM).

The recent loss of Automated Meteorological Observation Service equipment at Troutdale Airport, which was available during hours when the Troutdale Control Tower was closed, necessitates a revision to the Portland Control Zone description. During hours the Troutdale Control Tower is not in operation no weather reporting is available for the Control Zone. In addition, the Lake LOM has been renamed Laker and relocated slightly from its original site.

EFFECTIVE DATE: March 18, 1982. Comments must be received on or before March 1, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Chief, Operations, Procedures, and Airspace Branch, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The Official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANM–534), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington, 98108; telephone (206) 767–2610.

SUPPLEMENTARY INFORMATION: The recent loss of Automated Meteorological Observation Service equipment at Troutdale Airport, which was available during hours when the Troutdale Control Tower was closed, necessitates a revision to the Portland Control Zone description. During hours the Troutdale Control Tower is not in operation no weather reporting is available for the Control Zone. In addition, the Lake LOM has been renamed Laker and relocated slightly from its original site.

Since this revised description reduces the burden on the public, it is relieving in nature and notice and public procedure therein are unnecessary.

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455, January 2, 1981) is amended, effective 0901 GMT, March 18, 1982, as follows:

Portland, Oregon

(1) Beginning on line one (1) delete:

" * * *; "within a 5-mile radius of the Portland-Troutdale Airport (latitude 45°33'00" N., longitude 122°23'49" W.);"

(2) on line six (6) delete:

" * * * "Lake LOM (latitude 45°32'38" N., longitude 122°27'49" W.)," * * *

(3) and substitute:

" * * * "Laker LOM (latitude 45°32'29" N., longitude 122°27'40" N.)" * * *

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, January 10, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–2244 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–AWE–18]

Designation of New VOR Federal Airway; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates new VOR Federal Airway V–386 from Palmdale, CA, to Palm Springs via a north dogleg. The airway permits a lower minimum en route altitude (MEA) in an area of radar service. This action increases aviation safety by providing an airway in an area where aircraft are normally vectored.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On February 19, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate new VOR Federal Airway V–386 between Palmdale, CA, and Thermal, CA, (46 FR 12984). This airway would circumvent mountainous terrain and permit aircraft to remain in radio and radar control. However, that airway alignment was not satisfactory because the MEA was too high and a new alignment utilizing Palm Springs, CA, has flight checked satisfactorily. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only objection received was from the Air Force. The Air Force was of the opinion that new airway V–386 would interfere with published, local instrument flight rules or visual flight rules (IFR/VFR) departure and recovery procedures for aircraft utilizing George Air Force Base, CA. In addition, they believed V–386 traffic would be increasingly incompatible with an increased volume of general aviation aircraft using the airway.

After several meetings with FAA officials, the Air Force representatives agreed to a compromise that restricts IFR traffic, in the vicinity of George Air Force Base, to an altitude of 10,000 feet MSL or above while in that area and under the control of Edwards Air Force Base, CA, approach control facility. This amendment is the same as that proposed in the notice except V–386 is realigned between Palmdale and Palm Springs in order to lower the MEA. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates V–386 from Palmdale, CA, to Palm Springs, CA, via a north dogleg. This action provides controlled airspace in an area where aircraft are normally vectored, thereby increasing safety and aiding flight planning.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 GMT, March 18, 1982, by adding the following:

V–386 [New]
V–386 From Palmdale, CA, via INT Palmdale 096° and Palm Springs, CA, 342° radials; Palm Springs.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, DC, on January 21, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–1998 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–AGL–38]

Cancellation of Control Zone; Mattoon, Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to revoke the Mattoon, Illinois, Control Zone as a result of the discontinuance of required weather observation reporting. The intended effect of this action is to return designated airspace to a non-controlled status and to cancel the control zone.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The Mattoon, Illinois, Control Zone currently described in Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (46 FR 455) no longer has weather observation reporting service. The airline that previously provided the service has totally discontinued its operations at Coles County Airport. The airport manager advised that he was unable to provide a practical or reliable means of performing hourly weather observations. Therefore, inasmuch as weather observations are a requirement for maintenance of the control zone and since those observations cannot be provided, this action is necessary to revoke the controlled airspace associated with the control zone and to cancel the control zone itself.

Discussion of Comments

On page 57324 of the **Federal Register** dated November 23, 1981, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to cancel the control zone near Mattoon, Illinois. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 18, 1982, as follows:

In § 71.171 (46 FR 455), the following control zone is cancelled:

Mattoon, Illinois

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will

not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 11, 1982.

Paul K. Bohr,

Acting Director, Great Lakes Region.

[FR Doc. 82-1800 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-34]

Alteration of Transition Area; Rice Lake, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal Action is to redefine the Rice Lake, Wisconsin, transition area as required by the relocation of the Rice Lake non-directional radio beacon (NDB) and the resulting realignment of the final approach course.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Rice Lake NDB is to be located from the west side of the runway to the east side of the runway at approximately the same distance from runway centerline at Rice Lake Municipal Airport (formerly Arrowhead Airport). That relocation necessitates a realignment of the Runway 36 final approach course and, in turn requires the arrival extension for the transition area to be realigned from a 178° true bearing to a 198° true bearing for the Rice Lake NDB. The extension will be altered from 7 miles wide and 3 miles long to 6 miles wide and 3½ miles long.

The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 57323 of the **Federal Register** dated November 23, 1981, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the transition area airspace near Rice Lake, Wisconsin. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

No objections were received as a result of the Notice of Proposed Rulemaking.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 18, 1982, as follows:

In § 71.181 (46 FR 540) the following transition area is amended to read:

Rice Lake, Wisconsin

That airspace extending upward from 700 feet above the surface within a 5 statute mile radius of the Rice Lake Municipal Airport (latitude 45°28'45" N, longitude 91°43'20" W) at Rice Lake, Wisconsin; and 3 miles either side of the 198° (true) bearing from the Rice Lake NDB from the 5 mile radius to 8.5 miles.

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois on January 11, 1982.

Paul K. Bohr,

Acting Director, Great Lakes Region.

[FR Doc. 82-1801 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner Federal Housing Administration

24 CFR Parts 203, 213, and 234

[Docket No. R-82-966]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable finance charge on insured home loan programs. This action by HUD is designed to bring the maximum financing charges on home loans into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-426-4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA mortgage insurance programs has been raised from 15.50 percent to 16.50 percent for level payment insured home mortgage programs (including operative builder home loan programs), and for graduated payment home loan programs (GPM).

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular

business hours in the Office of Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The Mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follow:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

4. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

5. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

6. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

7. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after January 25, 1982.

* * * * *

(Section 3(a), 82 Stat. 118; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., January 22, 1982.

R. Carter Sanders, Jr.,

Associate General Deputy Assistant Secretary for Field Operations.

[FR Doc. 82–2237 Filed 1–27–82; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5a

[T.D. 7806]

Intangible Drilling and Development Costs in the Case of Geothermal Deposits

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the option to capitalize or deduct intangible drilling and development costs in the case of wells drilled for any geothermal deposit. The regulations are prescribed under a change to the applicable tax law made by the Energy Tax Act of 1978. The regulations provide the public with the guidance needed to comply with the applicable part of this Act.

EFFECTIVE DATE: The regulations are effective for taxable years ending on or after October 1, 1978, with respect to geothermal wells commenced on or after that date.

FOR FURTHER INFORMATION CONTACT: Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

On January 30, 1980, the **Federal Register** published Temporary Income Tax Regulations under the Energy Tax Act of 1978 (26 CFR Part 5a) and proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 612 of the Internal Revenue Code of 1954 to implement section 402 (a) and (e) of the Energy Tax Act of 1978 (92 Stat. 3174). No public hearing was requested or held. This Treasury decision adopts the amendments as proposed and deletes the temporary regulations.

These regulations grant the option to capitalize or deduct intangible drilling and development costs in the case of wells drilled for any geothermal deposit to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.

The only comment received requested that the term "geothermal deposit" be defined to include ground water aquifers. The regulations do not contain a definition of geothermal deposit, because the definition of that term is the subject of a separate regulation project.

The effectiveness of these regulations will be evaluated on the basis of comments and information received from offices within the Treasury Department and Internal Revenue Service, other governmental agencies, and the public. Under the regulations, no additional reporting or filing requirements have been imposed on taxpayers.

Drafting Information

The principal author of these regulations is David B. Cubeta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1, as set forth in the notice of proposed rulemaking published in the **Federal Register** on January 30, 1980 (45 FR 6778), are hereby adopted without change and 26 CFR Part 5a is hereby removed.

This Treasury decision is issued under the authority contained in sections 263 and 7805 of the Internal Revenue Code of 1954 (92 Stat. 3201, 26 U.S.C. 362; 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 13, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Following § 1.612–4, a new § 1.612–5 is added to read as follows:

§ 1.612–5 Charges to capital and to expense in case of geothermal wells.

(a) *Option with respect to intangible drilling and development costs.* In accordance with the provisions of section 263(c), intangible drilling and development costs incurred by an operator (one who holds a working or operating interest in any tract or parcel of land either as a fee owner or under a lease or any other form of contract granting working or operating rights) in the development of a geothermal deposit (as defined in section 613(e)(3) and the regulations thereunder) may at the operator's option be chargeable to capital or to expense. This option applies to all expenditures made by an operator for wages, fuel, repairs, hauling, supplies, etc., incident to and necessary for the drilling of wells and the preparation of wells for the production of geothermal steam or hot water. Such expenditures have for convenience been termed intangible drilling and development costs. They include the cost to operators of any drilling or development work (excluding amounts payable only out of production or gross or net proceeds from production, if such amounts are depletable income to the recipient, and amounts properly allocable to cost of depreciable property) done for them by contractors under any form of contract, including turnkey contracts. Examples of items to which this option applies are all amounts paid for labor, fuel, repairs, hauling, and supplies, or any of them, which are used—

(1) In the drilling, shooting, and cleaning of wells,

(2) In such clearing of ground, draining, road making, surveying, and geological work as are necessary in preparation for the drilling of wells, and

(3) In the construction of such derricks, tanks, pipelines, and other physical structures as are necessary for the drilling of wells and the preparation of wells for the production of geothermal steam or hot water.

In general, this option applies only to expenditures for those drilling and developing items which in themselves do *not* have a salvage value. For the purpose of *this* option, labor, fuel, repairs, hauling, supplies, etc. are not considered as having a salvage value, even though used in connection with the installation of physical property which has a salvage value. Included in this option are all costs of drilling and development undertaken (directly or through a contract) by an operator of a geothermal property whether incurred by the operator prior or subsequent to the formal grant or assignment of operating rights (a leasehold interest, or other form of operating rights, or working interest); except that in any case where any drilling or development project is undertaken for the grant or assignment of a fraction of the operating rights, only that part of the costs thereof which is attributable to such fractional interest is within this option. In the excepted cases, costs of the project undertaken, including depreciable equipment furnished, to the extent allocable to fractions of the operating rights held by others, must be capitalized as the depletable capital cost of the fractional interest thus acquired.

(b) *Recovery of optional items, if capitalized.* (1) Items recoverable through depletion: If the taxpayer charges such expenditures as fall within the option to capital account, the amounts so capitalized and not deducted as a loss are recoverable through depletion insofar as they are not represented by physical property. For the purposes of this section the expenditures for clearing ground, draining, road making, surveying, geological work, excavation, grading, and the drilling, shooting, and cleaning of wells, are considered not to be represented by physical property, and when charged to capital account are recoverable through depletion.

(2) Items recoverable through depreciation: If the taxpayer charges such expenditures as fall within the option to capital account, the amounts so capitalized and not deducted as a loss are recoverable through depreciation insofar as they are represented by physical property. Such expenditures are amounts paid for wages, fuel, repairs, hauling, supplies, etc. used in the installation of casing and equipment and in the construction on the property of derricks and other physical structures.

(3) In the case of capitalized intangible drilling and development costs incurred under a contract, such costs shall be allocated between the foregoing classes of items specified in paragraphs (b)(1) and (2) of this section for the purpose of determining the depletion and depreciation allowances.

(4) Option with respect to cost of nonproductive wells: If the operator has elected to capitalize intangible drilling and development costs; then an additional option is accorded with respect to intangible drilling and development costs incurred in drilling a nonproductive well. Such costs incurred in drilling a nonproductive well may be deducted by the taxpayer as an ordinary loss provided a proper election is made in the taxpayer's original or amended return for the first taxable year ending on or after October 1, 1978, in which such a nonproductive well is completed. The taxpayer must make a clear statement of election under this option in the return or amended return. The election may be revoked by the filing of an amended return that does not contain such a statement. The absence of a clear indication in such return of an election to deduct as ordinary losses intangible drilling and development costs of nonproductive wells shall be deemed to be an election to recover such costs through depletion to the extent that they are not represented by physical property, and through depreciation to the exent that they are represented by physical property. Upon the expiration of the time for filing a claim for credit or refund of any overpayment of tax imposed by chapter 1 of the Code with respect to the first taxable year ending on or after October 1, 1978 in which a nonproductive well is completed, the taxpayer is bound for all subsequent years by his exercise of the option to deduct intangible drilling and development costs of nonproductive wells as an ordinary loss or his deemed election to recover such costs through depletion or depreciation.

(c) *Nonoptional items distinguished. (1) Capital Items:* The option with respect to intangible drilling and development costs does not apply to expenditures by which the taxpayer acquires tangible property ordinarily

considered as having a salvage value. Examples of such items are the costs of the actual materials in those structures which are constructed in the wells and on the property, and the cost of drilling tools, pipe, casing, tubing, tanks, engines, boilers, machines, etc. The option does not apply to any expenditure for wages, fuel, repairs, hauling, supplies, etc., in connection with equipment, facilities, or structures, not incident to or necessary for the drilling of wells, such as structures for treating geothermal steam or hot water. These are capital items and are recoverable through depreciation.

(2) *Expense items:* Expenditures which must be charged off as expense, regardless of the option provided by this section, are those for labor, fuel, repairs, hauling, supplies, etc., in connection with the operation of the wells and of other facilities on the property for the production of geothermal steam or hot water.

(d) *Manner of making election.* The option granted in paragraph (a) of this section to charge intangible drilling and development costs to expense may be exercised by claiming intangible drilling and development costs as a deduction on the taxpayer's original or amended return for the first taxable year ending on or after October 1, 1978, in which the taxpayer pays or incurs such costs with respect to a geothermal well commenced on or after that date. No formal statement is necessary. The exercise of the option may be revoked by the filing of an amended return that does not claim such a deduction. If the taxpayer fails to deduct such costs as expenses in any such return, he shall be deemed to have elected to recover such costs through depletion to the extent that they are not represented by physical property, and through depreciation to the extent that they are represented by physical property. Upon the expiration of the time for filing a claim for credit or refund of any overpayment of tax imposed by chapter 1 of the Code with respect to the first taxable year ending on or after October 1, 1978, in which the taxpayer pays or incurs intangible drilling and development costs with respect to a goethermal well commenced on or after that date, the taxpayer is bound by his exercise of the option to charge such costs to expense or his deemed election to recover such costs through depletion or depreciation for that year and for all subsequent years.

(e) *Effective date.* The option granted by paragraph (a) of this section is available only for taxable years ending on or after October 1, 1978, with respect to geothermal wells commenced on or after that date.

PART 5a—TEMPORARY INCOME TAX REGULATIONS UNDER THE ENERGY TAX ACT OF 1978 [REMOVED]

Par. 2. Part 5a is hereby removed.

[FR Doc. 82-2246 Filed 1-27-82; 8:45 am]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

Correction

In FR Doc. 82-1106 appearing at page 2313 in the issue of Friday, January 15, 1982, make the following correction:

On page 2314, in the table for Appendix B, in the entry for Rate Set 31, the date "Feb. 2, 1982" should have read "Feb. 1, 1982."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 109 and 110

[CGD3-81-1A]

Anchorage Grounds; Port of New York and Vicinity

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is enlarging Anchorage No. 21 (Bay Ridge Anchorage) and reducing Anchorage No. 20 in the Upper Bay, New York Harbor, New York. This amendment is being made in order to increase safety by allowing extra room in Anchorage No. 21 for vessels at anchor to swing without encroaching into the main shipping channel. The boundaries of Anchorage Nos. 20, 21, 23, 24, and 25 are redescribed by geographic coordinates in place of the old descriptions in which awkward and outdated terminology was used. In addition, this amendment incorporates changes to the Ports and Waterways Safety Act of 1972, under which the anchorage regulations for the Port of New York were promulgated, made by the Port and Tanker Safety Act of 1978.

EFFECTIVE DATE: This amendment becomes effective on April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Commander Peter T. Muth, Chief, Port Safety Branch, Third Coast Guard District (mps), Building 108, Room 106, Governors Island, New York 10004, (Tel: 212-668-7179).

SUPPLEMENTARY INFORMATION: On September 8, 1981, the Coast Guard published a notice of proposed rulemaking, Docket CGD3-81-1A (46 FR 44779-44782). Interested persons were requested to submit comments and one comment was received by the Coast Guard prior to the expiration of the comment period.

Drafting Information

The principal persons involved in drafting this amendment are: Lieutenant Ernest J. Fink, Project Officer, Port Safety Branch, Third Coast Guard District and Lieutenant Ronald L. Nelson, Project Attorney, Legal Division, Third Coast Guard District.

Discussion of Comments

The only comment received concludes that this rulemaking would be a step toward reducing the problem of congested anchorages in New York Harbor, and supports the amendment as written in the interest of vessel safety within the Port of New York.

Summary of Final Evaluation

An environmental review of this proposal was performed by the Third Coast Guard District. Preparation of an environmental assessment was not required since the proposal is categorically excluded in accordance with 2.B.3.g of COMMANDANT INSTRUCTION M16475.1A.

This amendment is considered to be non-significant in accordance with guidelines set out in "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of May 22, 1980). An economic evaluation of the proposal was not conducted since its impact was expected to be minimal. In accordance with 33 CFR 109.05(b), the Commander, Third Coast Guard District has consulted with and received no objections from the U.S. Army Corps of Engineers, the Commandant of the Third Naval District, and the Officer in Charge, Quarantine Station, U.S. Public Health Service. Also of note, the U.S. Fish and Wildlife Service, EPA, and the U.S. Army Corps of Engineers endorse the anchorage changes. The expansion of Anchorage No. 21 and reduction of Anchorage No. 20 are not matters on which there is substantial public controversy, nor involve impacts on competition, businesses, State or local governments, or the regulations of other

programs and agencies. It should be noted that the area into which the channel will be relocated has remained naturally deep for many years and possibly may never have to be maintained. However, in the event that a future change in harbor hydraulic patterns occurs due to some other actions not associated with the proposed anchorage changes, and shoaling does occur causing an increase in the amount of dredged material to be maintained, it is expected to be a small amount with minimal impact.

Moreover, this amendment is not a major rule as defined by Executive Order 12291 of February 17, 1981. This amendment, will not affect the economy to any measurable degree, result in any increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or result in any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Likewise, it is hereby certified that this amendment will not have any economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601, et seq.). This certification is made in accordance with Section 605 of Title 5 of the United States Code.

Final Regulations

In consideration of the foregoing, Parts 109 and 110 of Title 33, Code of Federal Regulations, are amended as set forth below:

PART 109—GENERAL

1. By revising 33 CFR 109.07 to read as follows:

§ 109.07 Anchorages under Ports and Waterways Safety Act.

The provisions of section 4 (a) and (b) of the Ports and Waterways Safety Act as delegated to the Commandant of the U.S. Coast Guard in 49 CFR 1.46(n)(4) authorize the Commandant to specify times of movement within ports and harbors, restrict vessel operations in hazardous areas and under hazardous conditions, and direct the anchoring of vessels. The sections listed in § 110.1a of this subchapter are regulated under the Ports and Waterways Safety Act.

PART 110—ANCHORAGE REGULATIONS

2. By revising 33 CFR 110.1a to read as follows:

§ 110.1a Anchorages under Ports and Waterways Safety Act.

(a) The anchorages listed in this section are regulated under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.):

(1) Section 110.155 *Port of New York.*

(b) Any person who violates any regulation issued under the Ports and Waterways Safety Act—

(1) Is liable to a civil penalty, not to exceed $25,000 for each violation;

(2) If the violation is willful, is fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

3. By revising 33 CFR 110.155(d) to read as follows:

§ 110.155 Port of New York.

* * * * *

(d) *Upper Bay*—(1) *Anchorage No. 20–A.* That area enclosed by coordinates starting at 40°42'02.5" N., 74°02'25.5" W.; to 40°42'06.5" N., 74°02'19.5" W.; to 40°42'05.0" N., 74°01'58.4" W.; to 40°41'54.5" N., 74°01'59.2" W.; thence to 40°41'53.0" N., 74°02'23.0" W.

(i) See 33 CFR 110.155 (d)(6), (d)(16), and (l).

(2) *Anchorage No. 20–B.* That area enclosed by coordinates starting at 40°41'47.0" N., 74°02'31.5" W.; to 40°41'42.0" N., 74°01'02.0" W.; to 40°41'35.3" N., 74°02'04.2" W., to 40°41'29.9" N., 74°02'07.8" W.; to 40°41'42.6" N., 74°02'32.7" W.; thence back to 40°41'47.0" N., 74°02'31.5" W.

(i) See 33 CFR 110.155 (d)(6), (d)(16), and (l).

(3) *Anchorage No. 20–C.* That area enclosed by coordinates starting at 40°41'42.0" N., 74°02'43.0" W.; to 40°41'25.4" N., 74°02'10.7" W.; to 40°41'01.7" N., 74°02'26.2" W.; to 40°41'09.0" N., 74°02'41.5" W.; to 40°41'20.0" N., 74°02'59.2" W.; thence back to 40°41'42.0" N., 74°02'43.0" W.

(i) See 33 CFR 110.155 (d)(6), (d)(16), and (l).

(4) *Anchorage No. 20–D.* That area enclosed by coordinates starting at 40°41'09.5" N., 74°02'49.5" W.; to 40°40'59.2" N., 74°02'27.9" W.; to 40°40'44.5" N., 74°02'37.5" W.; to 40°40'42.7" N., 74°03'07.6" W.; thence back to 40°41'09.5" N., 74°02'49.5" W.

(i) See 33 CFR 110.155 (d)(6), (d)(16), and (l).

(5) *Anchorage No. 20–E.* That area enclosed by coordinates starting at 40°40'38.2" N., 74°02'59.6" W.; to 40°40'39.4" N., 74°02'40.9" W.; to 40°40'09.2" N., 74°03'00.7" W.; to 40°40'24.4" N., 74°03'24.6" W.; thence back to 40°40'38.2" N., 74°02'59.6" W.

(i) See 33 CFR 110.155 (d)(6), (d)(16), and (l).

(6) No vessel may occupy this anchorage for a period of time in excess of 72 hours without the prior approval of the Captain of the Port.

(7) *Anchorage No. 20–F.* That area enclosed by coordinates starting at 40°40'12.1" N., 74°03'41.6" W.; to 40°39'53.7" N., 74°03'10.8" W.; to 40°39'34.7" N., 74°03'23.3" W.; to 40°39'49.9" N., 74°03'57.8" W.; thence back to 40°40'12.1" N., 74°03'41.6" W.

(i) See 33 CFR 110.155 (d)(9), (d)(16), and (l).

(8) *Anchorage No. 20–G.* That area enclosed by coordinates starting at 40°39'30.1" N., 74°04'08.0" W.; to 40°39'32.0" N., 74°03'53.5" W.; to 40°39'27.5" N., 74°03'42.5" W.; to 40°39'13.0" N., 74°03'51.0" W.; to 40°39'09.5" N., 74°04'23.1" W.; thence back to 40°39'30.1" N., 74°04'08.0" W.

(i) See 33 CFR 110.155 (d)(9), (d)(16), and (l).

(9) This anchorage is designated a naval anchorage. The Captain of the Port may permit commercial vessels to anchor temporarily in this anchorage, ordinarily not more than 24 hours, when the anchorage will not be needed for naval vessels. Upon notification of an anticipated naval arrival, any commercial vessel so anchored must relocate at its own expense.

(10) *Anchorage No. 21–A.* That area enclosed by coordinates starting at 40°40'22.5" N., 74°01'35.2" W.; to 40°40'20.5" N., 74°01'27.7" W.; to 40°39'48.9" N., 74°01'22.4" W.; to 40°38'54.7" N., 74°02'18.9" W.; to 40°39'03.0" N., 74°02'28.3" W.; thence back to 40°40'22.5" N., 74°01'35.2" W.

(i) See 33 CFR 110.155 (d)(16) and (l).

(11) *Anchorage No. 21–B.* That area enclosed by coordinates starting at 40°40'23.8" N., 74°02'10.9" W.; to 40°40'26.2" N., 74°01'49.5" W.; to 40°40'22.5" N., 74°01'35.2" W.; to 40°39'03.0" N., 74°02'28.3" W.; to 40°38'54.7" N., 74°02'18.9" W.; to 40°38'43.7" N., 74°02'30.3" W.; to 40°39'19.3" N., 74°03'03.3" W.; to 40°39'22.3" N., 74°03'02.4" W.; to 40°40'18.6" N., 74°02'25.5" W.; thence back to 40°40'23.8" N., 74°02'10.9" W.

(i) See 33 CFR 110.155 (d)(16) and (l).

(ii) No vessel with a draft of 10 feet (3.048 meters) or less may occupy this anchorage without the prior approval of the Captain of the Port.

(12) *Anchorage No. 21–C.* That area enclosed by coordinates starting at 40°39'19.3" N., 74°03'03.3" W.; to 40°38'43.7" N., 74°02'30.3" W.; to 40°38'41.6" N., 74°02'32.5" W.; to 40°38'03.0" N., 74°02'48.7" W.; to 40°38'03.0" N., 74°03'03.5" W.; to 40°38'38.4" N., 74°03'15.5" W.; thence back to 40°39'19.3" N., 74°03'03.3" W.

(i) See 33 CFR 110.155 (d)(16) and (l).

(ii) No vessel with a draft of 33 feet (10.0584 meters) or less may occupy this anchorage without the prior approval of the Captain of the Port.

(13) *Anchorage No. 23–A.* That area enclosed by coordinates starting at 40°38'36.5" N., 74°04'13.5" W.; to 40°38'37.0" N., 74°03'49.0" W.; to 40°38'23.4" N., 74°03'37.2" W.; to 40°37'49.5" N., 74°03'25.7" W.; to 40°37'49.5" N., 74°04'07.0" W.; thence back to 40°38'36.5" N., 74°04'13.5" W.

(i) See 33 CFR 110.155 (d)(16) and (l).

(ii) No vessel may occupy this anchorage for a period of time in excess of 48 hours without the prior approval of the Captain of the Port.

(iii) No vessel with a length overall in excess of 670 feet (204.216 meters) may occupy this anchorage without the prior approval of the Captain of the Port.

(iv) No vessel with a draft of 40 feet (12.192 meters) or more may occupy this anchorage without the prior approval of the Captain of the Port unless it anchors within 5 hours after ebb current begins at the Narrows.

(14) *Anchorage No. 23–B.* That area enclosed by coordinates starting at 40°37'49.5" N., 74°04' 07.0" W.; to 40°37'49.5" N., 74°03'25.7" W.; to 40°37'27.0" N., 74°03'18.1" W.; to 40°37'23.0" N., 74°03'59.0" W.; to 40°37'30.5" N., 74°04'04.4" W.; thence back to 40°37'49.5" N., 74°04'07.0" W.

(i) See 33 CFR 110.155(d)(13) (ii) and (iv), (d)(16), and (l).

(ii) No vessel with a length overall of 670 feet (204.216 meters) or less may occupy this anchorage without the prior approval of the Captain of the Port.

(15) *Anchorage No. 24.* That area enclosed by coordinates starting at 40°37'23.0" N., 74°03'59.0" W.; to 40°37'27.0" N., 74°03'18.1" W.; to 40°36'40.1" N., 74°03'02.2" W.; to 40°36'25.5" N., 74°02'56.4" W.; to 40°36'21.0" N., 74°03'11.0" W.; to 40°36'25.0" N., 74°03'17.5" W.; thence back to 40°37'23.0" N., 74°03'59.0" W.

(i) See 33 CFR 110.155(d)(13) (ii) and (iv), (d)(16), and (l).

(ii) No vessel with a length overall of less than 800 feet (243.84 meters), or with a draft of less than 40 feet (12.192 meters) may occupy this anchorage without the prior approval of the Captain of the Port.

(16) Any vessel anchored in or intending to anchor in Federal Anchorage 20–A through 20–G, 21–A through 21–C, 23–A and 23–B, 24 or 25 must comply with the following requirements:

(i) No vessel may anchor unless it notifies the Captain of the Port when it anchors, of the vessel's name, length, draft, and its position in the anchorage.

(ii) Each vessel anchored must notify the Captain of the Port when it weighs anchor.

(iii) No vessel may conduct lightering operations unless it notifies the Captain of the Port before it begins lightering operations.

(iv) Each vessel lightering must notify the Captain of the Port at the termination of lightering.

(v) No vessel may anchor unless it maintains a bridge watch, guards and answers Channel 16 FM, and maintains an accurate position plot.

(vi) If any vessel is so close to another that a collision is probable, each vessel must communicate with the other vessel and the Captain of the Port on Channel 16 FM and shall act to eliminate the close proximity situation.

(vii) No vessel may anchor unless it maintains the capability to get underway within 30 minutes except with prior approval of the Captain of the Port.

(viii) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port.

(ix) Each vessel in a "dead ship" status must engage an adequate number of tugs alongside during tide changes. A tug alongside may assume the Channel 16 FM radio guard for the vessel after it notifies the Captain of the Port.

(x) No vessel may lighter in a "dead ship" status without prior approval from the Captain of the Port.

* * * * *

4. By revising 33 CFR 110.155(e) to read as follows:

* * * * *

(e) *Lower Bay*—(1) *Anchorage No. 25.* That area enclosed by coordinates starting at 40°35'58.2" N., 74°02'18.4" W.; to 40°36'12.0" N., 74°01'29.0" W.; to 40°36'03.0" N., 74°00'52.5" W., to 40°34'57.5" N., 74°00'25.0" W.; to 40°34'40.0" N., 74°01'03.0" W.; to 40°34'53.0" N., 74°01'56.1" W.; to 40°35'23.9" N., 74°02'04.8" W.; thence back to 40°35'58.2" N., 74°02'18.4" W.

(i) See 33 CFR 110.155(d)(16) and (l).

(ii) When the use of this anchorage is required by naval vessels, any commercial vessels anchored therein must move when directed by the Captain of the Port.

* * * * *

5. By amending 33 CFR 110.155(l) by renumbering subparagraphs (l) (1) through (13) as (2) through (14) and adding a new subparagraph (1) as follows:

* * * * *

(l)(1) No vessel in excess of 800 feet (243.84 meters) in length overall or 40 feet (12.192 meters) in draft may anchor unless it notifies the Captain of the Port at least 48 hours prior to entering Ambrose Channel.

* * * * *

(33 U.S.C. 1221 et seq.; 33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46(n); 49 CFR 1.46(c)(1))

Dated: January 4, 1982.

J. S. Gracey,

Commander, 3rd Coast Guard District.

[FR Doc. 82–1672 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 82–003]

Drawbridge Operation Regulations; Missouri River, Sioux City, Iowa

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment removes the regulations for the bridge across the Missouri River, mile 732.4, at Sioux City, Iowa, because this highway railroad bridge no longer exists.

EFFECTIVE DATE: This amendment is effective on January 25, 1982.

FOR FURTHER INFORMATION CONTACT: S. W. Thoroughman, Chief, Bridge Branch, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103 (314–425–4607).

SUPPLEMENTARY INFORMATION: The railroad highway bridge spanning the Missouri River, mile 732.4, near Sioux City, Iowa, was removed on June 9, 1981. This action merely removes regulations that are now meaningless because they pertain to a nonexistent bridge. It is issued without publication of a Notice of Proposed Rulemaking and is effective in less than 30 days from the date of publication because procedures on this amendment are impractical and unnecessary since the bridge no longer exists. This action has no economic consequences. It has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the policies and procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reason stated above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION: The principal persons involved in drafting this removal of regulations are: S. W. Thoroughman, Project Manager, and Lieutenant Commander Richard A. Knee, Project Attorney, c/o Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri.

Final Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.560 [Amended]

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by removing § 117.560(g)(8).

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: December 22, 1981.

T. H. Rutledge,

Acting Commander, 2nd Coast Guard District.

[FR Doc. 82–1887 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD12 81–100]

Drawbridge Operation Regulations; Dutchman Slough and Sacramento River, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations for the James Irvine Bridge across Dutchman Slough near Vallejo, CA, and the Southern Pacific Railroad Bridge across the Sacramento River near Knights Landing, CA, because the drawbridges have been removed. Notice and public procedures have been omitted from this action due to the removal of the bridges concerned.

EFFECTIVE DATE: This amendment becomes effective on February 28, 1982.

FOR FURTHER INFORMATION CONTACT: Rose E. Guerra, Bridge Administrator, (415) 556–8668.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Rose E. Guerra, Bridge Administrator, and Lieutenant Commander W. A. Cassels, Project Attorney, District Legal Office, Twelfth Coast Guard District.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that no longer exist. Consequently, this action cannot be considered a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (94 Stat. 1164). However, the requirements of the Act were taken into consideration, and this action will not have a significant effect on small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§§ 117.712 and 117.716 [Amended]

In consideration of the above facts, Part 117 of Title 33 of the Code of Federal Regulations is amended by removing § 117.712(i)(4), and by removing and reserving § 117.716(a)(2)(i).

(Sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 6(g)(2), Pub. L. 89–670, 80 Stat. 931, at 937, as amended (49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 22, 1981.

J. P. Stewart,

Vice Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District.

[FR Doc. 82–2231 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 81–054]

Drawbridge Operation Regulations; Saginaw River, Michigan

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Grand Trunk Western Railroad Company, the Coast Guard is revising the regulations governing the operation of the Grand Trunk Western railroad bridge, mile 19.15, across the Saginaw River, Michigan, to allow the draw to be closed to the passage of vessels. However, the draw shall be returned to an operable condition within six months after notification from the Commandant, U.S. Coast Guard, to take such action. This change is being made because there has been only one opening in the past 10 years and that was for a Bicentennial exhibition mounted on a small oil drum barge in 1976.

EFFECTIVE DATE: This amendment becomes effective on March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, United States Coast Guard, 1240 East Ninth Street, Cleveland, Ohio 44199, (216) 522–3993.

SUPPLEMENTARY INFORMATION: On November 16, 1981, the Coast Guard published a Proposed Rule (46 FR 56208) concerning this amendment. The Commander, Ninth Coast Guard District also published this proposal as a Public Notice dated December 11, 1981. Interested parties were given until December 16, 1981, and January 9, 1982, respectively to submit comments.

Drafting Information

The principal persons involved in drafting this Final Rule are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and LCDR Michael D. Gentile, Project Attorney, Ninth Coast Guard District, Legal Office.

Discussion of Comments

No comments were received from the **Federal Register** or Ninth Coast Guard District Public Notice.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since its impact is expected to be minimal.

In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. Since there is no commercial vessel traffic using this portion of the Saginaw River to transport commercial goods, small entities in the area should not be economically impacted.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

1. Revising § 117.700(j)(2) to read as follows:

§ 117.700 Saginaw River, Mich., bridges.

* * * * *

(j) * * *

(2) The draws of all bridges between the Sixth Avenue bridge and Grand Trunk Western Railroad bridge shall open on signal if at least 3 hours advance notice is given.

* * * * *

2. Adding a new § 117.700(j)(4) immediately after § 117.700(j)(3) to read as follows:

§ 117.700 Saginaw River, Mich., bridges

* * * * *

(j) * * *

(4) The Grand Trunk Western Railroad bridge, mile 19.15, need not open for the passage of vessels. However, the draw shall be returned to an operable condition within six months after notification from the Commandant, U.S. Coast Guard, to take such action.

(33 U.S.C. 499, U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3).

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 82-2234 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL-2033-1]

Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

SUMMARY: Under the authority of 40 CFR 30.1000, the Environmental Protection Agency (EPA) has issued a class deviation from several provisions of EPA's construction grant regulations. On December 29, 1981, President Reagan signed the Municipal Wastewater Treatment Construction Grant Amendments of 1981. Most of the 1981 amendments will require detailed analysis before we can fully implement them. However, five of the amendments are effective immediately and require changes in the construction grant regulations now. Those five amendments—

- Prohibit award of Step 1 and Step 2 grants;
- Reinstate the Innovative and Alternative program and reserve;
- Increase the cost limit for Step 2+3 grants;
- Permit grantees' specifications to cite only one brand name followed by "or equal" instead of two; and
- Increase the amount a State may reserve for State Management Assistance Grants.

The class deviation implements the 1981 amendments, which supercede portions of the regulations. The deviation is published with this document.

DATE: The class deviation became effective on the date it was signed.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Pippen, Jr., Director, Grants Administration Division (PM–216), 401 M Street SW., Washington, D.C. 20460, (202) 755–0850.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it will not result in an annual effect on the economy of $100 million or more; increase costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There are no information collection requirements in this deviation. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: January 12, 1982.

Samuel A. Schulhof,

Acting Assistant Administrator for Administration (PM–208).

Dated: January 12, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water (WH–556).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: January 13, 1982.

Subject: Class Deviation from 40 CFR 35.909(b), 35.915–1 (a) and (b), 35.930 (a)(1) and (a)(2), 35.930–5(b), and 35.936–13(a)

From: Harvey Pippen, Jr., Director, Grants Administration Division (PM–216)

To: Regional Administrators

On December 29, 1981, President Reagan signed the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (P.L. 97–117). These amendments revised several construction grant provisions of the Clean Water Act. It is necessary to implement some of these provisions immediately. To accomplish this we are issuing this class deviation. The provisions of the 1981 amendments covered by this deviation are—

- That part of Section 3 which prohibits award of Step 1 and Step 2 grants;
- Section 8 which reinstates the Innovative/Alternative (I/A) program and establishes a mandatory I/A reserve for fiscal year 1982 through 1984 of 4 percent but permits the Governor of a State to reserve up to 7½ percent;
- Section 9 which increases the cost limit on award of Step 2+3 grants from $4 million to $8 million;
- Section 11 which permits grantee's plans and specifications to cite only one brand name followed by "or equal" instead of two; and
- Section 14 which permits States to increase their State Management Assistance Grant reserve from 2 percent of the authorization to 4 percent.

The other sections of the 1981 amendments, including the cost allowability provisions of Section 3, will require more detailed analysis before we can fully implement them. EPA published a proposed revision of the construction grant regulations on November 6, 1981 (46 FR 55220). We will revise that proposal based on comments received and on the 1981 amendments. We expect to publish an interim final regulation in April 1982.

At this time I am approving the following class deviation.

1. Grants for Step 1 and Step 2. 40 CFR 35.930–1 (a)(1) and (a)(2) Types of projects.

The Municipal Wastewater Treatment Construction Grant Amendments of 1981 supersede § 35.930–1 (a)(1) and (a)(2). Effective December 30, 1981, EPA could no longer award Step 1 or Step 2 grants. We will instead make allowance in Step 3 grants for funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share and based on a percentage of total project cost. We will determine the percentages based on our general experience with prior projects and issue necessary data by April 1982.

2. Innovative and Alternative Processes. 40 CFR 35.915–1(b) Reserves related to the project priority list.

This deviation extends the I/A program to fiscal years 1982 through 1984 and revises the amount States must set aside for I/A increases. Each State must set aside at least four percent of its 1982 through 1984 allotments to use for I/A grant increases, and the State may increase the set-aside up to seven-and-one-half percent. Any project which the Regional Administrator determines used I/A technologies or processes and which received grant awards after September 30, 1981, shall receive increased grant assistance as provided under § 35.930–5(b) if funds are available under the I/A reserve.

In a September 8, 1981, opinion the Office of General Counsel concluded that States could release unobligated fiscal year 1981 I/A reserves for other projects, since the I/A provisions of the Clean Water Act had expired. However they also determined that, if Congress reauthorized the I/A program, States would be required to reestablish the fiscal year 1981 reserves. Consequently, States which reduced the fiscal year 1981 reserve must now reinstate it based on their FY 1981 allotment after the rescission, considering any I/A obligations from the fiscal year 1981 reserve before September 30, 1981. If the fiscal year 1981 reserve is not obligated for increases on I/A projects by September 30, 1982, it will be subject to reallotment.

3. Combined Step 2 and 3 grants. 40 CFR 35.909(b) Step 2+3 grants.

I am approving a deviation to § 35.909(b)(2) to raise the total step 3 construction cost limit for step 2+3 assistance from $4 million to $8

million in all States. This deviation permits small grantees with projects having a total Step 3 construction cost of $8 million or less to apply for Step 2+3 grants.

Under Section 3 of the 1981 amendments EPA no longer awards Step 2 grants. Instead we will pay an allowance in Step 3 based on a percentage of total project cost (see change 1). At this time, for Step 2+3 grants awarded after December 29, 1981, EPA will continue to reimburse Step 2 costs as it has in the past. However, in developing regulations to implement the 1981 amendments, this policy will be reevaluated to take account of the new allowance authority for Step 1 and 2 work and the States' new authority to advance funds to small communities for step 1 and 2 work.

4. Brand Names. 40 CFR 35.936–13(a) Specifications.

I am approving a deviation from § 35.936–13(a) to change the requirement to name at least two brand names followed by the words "or equal" when brand names are used in specifications. In the future, grantees are not required to name two brands. Grantees choosing to specify by brand name may use one (or more) brand names followed by "or equal".

5. State Management Assistance Grants. 40 CFR 35.915–1(a) Reserve related to the priority list.

I am approving a deviation to § 35.915–1(a) to increase the amount a State may reserve for State Management Assistance Grants under Subpart F of this part. From funds allotted after September 30, 1981, a State may reserve up to 4 percent of its allotment based on the amount authorized.

Dated: January 12, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

Dated: January 12, 1982.

Samuel A. Schulhof,

Acting Assistant Administrator for Administration.

[FR Doc. 82-2286 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-29-M

40 CFR Part 81

[A-6-FRL-2017-5]

State of Texas: Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the Texas request to change the existing designation of nonattainment for particulate matter for the El Paso 5 area to attainment. EPA has previously published a proposal to approve this request (46 FR 42878, August 25, 1981) and solicited public comments. No comments were received. This action is taken based upon the State's request to revise its original designation of the El Paso 5 area. Approval of this redesignation will relieve the State of the requirement to prepare and submit a State Implementation Plan to demonstrate attainment of the total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS) for the El Paso 5 area.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Estela S. Wackerbarth, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region VI, Dallas, Texas 75270 (214) 767–1518.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 9037) EPA designated the El Paso 5 area as nonattainment for particulate matter. On November 26, 1979, the Texas Air Control Board (TACB) submitted to EPA its request in Resolution R79–5 to redesignate this area to attainment for particulate matter. EPA reviewed the request and on August 25, 1981 (46 FR 42878) published a notice of proposed approval. That proposal discusses more fully the underlying rationale for today's action. Public comments were solicited but none were received. Therefore, EPA is today granting final approval to Texas' request to redesignate the El Paso 5 area to attainment for particulate matter.

Under Section 307(b)(1) of the Clean Air Act judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before March 29, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

EPA finds that good cause exists for making this action immediately effective. The redesignation of an area from nonattainment to attainment relieves the state of the necessity to develop, submit and obtain EPA approval of an implementation plan designed to demonstrate attainment of the standard. Relief from this requirement is a benefit which should be made available to the State and its citizens as soon as possible.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that attainment status redesignations under Section 107(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action constitutes an attainment status redesignation under Section 107(d) of the Clean Air Act. This action imposes no regulatory requirements but only changes an air quality designation. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it is merely approving a State's redesignation request. It will impose no new regulatory action.

This notice of rulemaking is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407(d).

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 81.344—Texas, the attainment status designation table for total suspended particulate (TSP) is amended by revising the designation for one limited area in El Paso County from "does not meet secondary standards" to "better than national standards." The amended portion of the Texas—TSP for § 81.344 reads as set forth below.

§ 81.344 Texas.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Texas—TSP				
• • • • • • •				
AQCR 153:				
3 limited areas in El Paso County	X			
1 limited area in El Paso County (El Paso 3)		X		
1 limited area in El Paso County (El Paso 5)				X
Remainder of AQCR				X
• • • • • • •				

[FR Doc. 82-2253 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-3 and 1-7

[FPR Amendment 221]

Revisions to Cost Accounting Standards Policies and Procedures

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment makes changes to the policies and procedures for applying the regulations and standards of the Cost Accounting Standards Board (CASB). It is based on revisions to CASB rules and regulations (primarily those published in 45 FR 62009, Sept. 18, 1980), changes being made in the Defense Acquisition Regulation, and material previously published in Temporary Regulation 44, dated March 29, 1978, and its supplements. The intended effect is to provide uniform guidance for applying cost accounting standards that is consistent with the rules and regulations published by the CASB.

EFFECTIVE DATE: March 15, 1982.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

SUPPLEMENTARY INFORMATION: The cost accounting standards and CASB definitions, which are republished in Subpart 1-3.12 for the convenience of procurement personnel, are being revised and updated in a separate amendment.

PART 1-3—PROCUREMENT BY NEGOTIATION

1. The table of contents for Part 1-3 is amended to add five entries and revise eight entries for Subpart 1-3.12 to read as follows:

Subpart 1-3.12 Cost Accounting Standards

1-3.1201 Applicability.
* * * * *
1-3.1202-2 Cost accounting practice.
1-3.1203 Requirements.
1-3.1203-1 Prime contractor Disclosure Statements.
1-3.1203-2 Applicability of cost accounting standards.
1-3.1203-3 Solicitation notices.
* * * * *
1-3.1204-1 National defense contract clauses.
1-3.1204-2 Nondefense contract clauses.
1-3.1204-3 National defense subcontracts.
* * * * *
1-3.1206 Administration of CAS requirements on subcontracts.
* * * * *
1-3.1210 [Reserved]
1-3.1211 Waiver of cost accounting standards, rules, and regulations.
* * * * *
1-3.1218 [Reserved]
* * * * *

Subpart 1-3.12—Cost Accounting Standards

2. Section 1-3.1200 is revised to read as follows:

§ 1-3.1200 Scope of subpart.

This subpart prescribes policies and procedures for applying the Cost Accounting Standards Board (CASB) standards and regulations (4 CFR 331 et seq.) to negotiated national defense and negotiated nondefense contracts and subcontracts.

3. Section 1-3.1201 is revised to read as follows:

§ 1-3.1201 Applicability.

(a) Public Law 91-379 (50 U.S.C. App. 2168) as implemented by the regulations of the Cost Accounting Standards Board (see 4 CFR 331 et seq.) requires certain national defense contractors and subcontractors to comply with cost accounting standards published by the CASB and to disclose in writing and consistently follow their cost accounting practices.

(b) The obligation to comply with the cost accounting standards is extended to certain nondefense contractors and subcontractors as a matter of policy. Submission or revision of a Disclosure Statement is not required for any nondefense contract. However, disclosure of cost accounting practices made in connection with defense contracts shall also be used in connection with negotiated nondefense contracts. Further differences in application between national defense and nondefense contracts are explained in appropriate sections throughout this subpart.

(c) Where applicable, cost accounting standards shall be used in negotiated nondefense contracts as the standards become effective and to the same extent that such standards are applicable to defense contracts. However, if deemed appropriate, the application of a particular standard to negotiated nondefense contracts may be limited by a modification or withdrawal of applicability. Waivers of cost accounting standards, rules, and regulations are treated in § 1-3.1211.

4. Section 1-3.1202 is revised to read as follows:

§ 1-3.1202 Definitions.

When used in this subpart, the words and terms defined in 4 CFR Part 331 et seq. shall have the meanings set forth therein (see also § 1-3.1220(b)). In addition, the words and terms defined in this paragraph shall have the meanings set forth below:

(a) "Net awards" means the obligated value of negotiated national defense prime contracts and subcontracts awarded in the reporting period, minus cancellations, terminations, and other credit transactions relating thereto.

(b) "Contractor" and "subcontractor," as the words pertain to contract applicability requirements of cost accounting standards under the clauses set forth in § 1-3.1204, apply to business units, such as profit centers, divisions, subsidiaries, or similar units of an organization which perform the contract (including each corporate or group office whose costs are allocated to one or more corporate segments performing under a contract with a CAS clause), even in those cases where the contract was entered into on behalf of the overall organization rather than the business unit.

(c) For the purpose of determining whether a contract is a national defense or a nondefense contract, the following CASB definitions appearing in 4 CFR 331.20 are set forth below.

(1) A "relevant Federal agency" is any Federal agency making a national defense procurement and any agency whose responsibilities include review,

approval, or other action affecting such a procurement.

(2) A "defense contractor" is any person who enters into a contract with the United States for the production of material or the performance of services for the national defense.

(3) A "defense subcontractor" is any person other than the United States who contracts, at any tier, to perform any part of a defense contractor's contract.

(4) "National defense" is any program for military and atomic energy production or construction, military assistance to any foreign nations, stockpiling, space, and directly related activity.

(d) A "small business concern" is any concern, firm, person, corporation, partnership, cooperative, or other business enterprise which pursuant to 15 U.S.C. 637(b)(6) and the rules and regulations of the Small Business Administration set forth in 13 CFR Part 121 is determined to be a small business concern for the purpose of Government procurement (see 4 CFR 331.20(n) and 1–1.701).

(e) A "CAS covered contract" is any negotiated contract or subcontract which pursuant to the requirements of the Cost Accounting Standards Board or agency regulations includes a cost accounting standards clause (see §§ 1–3.1204–1 and 1–3.1204–2).

(f) A "negotiated subcontract" is any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two persons not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competitors is identical, (2) price is the only consideration in selecting the subcontractor from among the competitors solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted (see 4 CFR 331.20(f)).

5. Section 1–3.1202–1 is revised to read as follows:

§ 1–3.1202–1 Materiality.

Materiality shall be considered in the application of regulations and standards of the CASB to both national defense and nondefense contracts. The provisions of the CASB appearing in 4 CFR 331.71 apply and are set forth below.

(a) In determining whether amounts of cost are material or immaterial, the following criteria shall be considered where appropriate (No one criterion is necessarily determinative):

(1) *The absolute dollar amount involved.* The larger the dollar amount, the more likely that it will be material.

(2) *The amount of contract cost compared with the amount under consideration.* The larger the proportion of the amount under consideration to contract cost, the more likely it is to be material.

(3) *The relationship between a cost item and a cost objective.* Direct cost items, especially if the amounts are themselves part of a base for allocation of indirect cost, will normally have more impact than the same amount of indirect costs.

(4) *The impact on Government funding.* Changes in accounting treatment will have more impact if they influence the distribution of costs between Government and non-Government cost objectives than if all cost objectives have Government financial support.

(5) *The cumulative impact of individually immaterial items.* It is appropriate to consider whether such impacts (i) tend to offset one another, or (ii) tend to be in the same direction and hence to accumulate into a material amount.

(6) *The cost of administrative processing of the price adjustment modification shall be considered.* If the cost to process exceeds the amount to be recovered, it is less likely the amount will be material.

(b)(1) A contract modification for price adjustment or cost allowance under the Cost Accounting Standards clause is required only if the cost impact is material.

(2) Where a contractor is in noncompliance and does not change a cost accounting practice because the cost impact is immaterial, the contracting agency is not relieved of its responsibilities to ensure that an appropriate price adjustment is obtained if the cost impact of the noncompliance subsequently becomes material. The contractor shall be notified that the Government's decision to forbear action for noncompliance is solely because the cost impact at the time of the notice is immaterial. If at any time thereafter, the Government determines that the cost impact of noncompliance with respect to the practice in question is material, the Government then must require action under paragraph (a)(5) of the contract clause for any cost accounting period in which the cost impact is material. The fact that the Government does not pursue a price adjustment does not excuse the contractor from his obligation to comply with the Standard involved.

(3) Whether cost impact is recognized by modifying a single contract, several but not all contracts, or all contracts, or any other suitable technique, is a contract administration matter. The Standards, rules, and regulations of the Board do not in any way restrict the capacity of the parties to select the method by which the cost impact attributable to a change in cost accounting practice is recognized.

6. Section 1–3.1202–2 is added, as follows:

§ 1–3.1202–2 Cost accounting practice.

The definitions of "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice" appearing in 4 CFR 331.20 apply to both national defense and nondefense CAS covered contracts and are set forth below:

(a) A "cost accounting practice" is any disclosed or established accounting method or technique which is used for measurement of cost, assignment of cost to cost accounting periods, or allocation of cost to cost objectives.

(1) Measurement of cost encompasses accounting methods and techniques used in defining the components of cost, determining the basis for cost measurement, and establishing criteria for use of alternative cost measurement techniques. The determination of the amount paid or a change in the amount paid for a unit of goods and services is not a cost accounting practice. Examples of cost accounting practices which involve measurement of costs are:

(i) The use of either historical cost, market value, or present value;

(ii) The use of standard cost or actual cost; or

(iii) The designation of those items of cost which must be included or excluded from tangible capital assets or pension cost.

(2) Assignment of cost to cost accounting periods refers to a method or technique used in determining the amount of cost to be assigned to individual cost accounting periods. Examples of cost accounting practices which involve the assignment of cost to cost accounting periods are requirements for the use of specified accrual basis accounting or cash basis accounting for a cost element.

(3) Allocation of cost to cost objectives includes both direct and indirect allocation of cost. Examples of cost accounting practices involving allocation of cost to cost objectives are the accounting methods or techniques used to accumulate cost, to determine whether a cost is to be directly or indirectly allocated, to determine the composition of cost pools, and to determine the selection and composition of the appropriate allocation base.

(b) A "change to a cost accounting practice" is any alteration in a cost accounting practice, as defined in paragraph (a) of this section, whether or not such practices are covered by a Disclosure Statement, except that:

(1) The initial adoption of a cost accounting practice for the first time a cost is incurred or a function is created is not a change in cost accounting practice. The partial or total elimination of a cost or the cost of a function is not a change in cost accounting practice. As used here, function is an activity or group of activities that is identifiable in scope and has a purpose or end to be accomplished.

(2) The revision of a cost accounting practice for a cost which previously had been immaterial is not a change in cost accounting practice.

7. Section 1–3.1203 is revised and recaptioned and §§ 1–3.1203–1, 1–3.1203–2 and 1–3.1203–3 are added to read as follows:

§ 1–3.1203 Requirements.

§ 1–3.1203–1 Prime contractor Disclosure Statements.

A Disclosure Statement is a written description of a contractor's cost accounting practices in a format prescribed by the Cost Accounting Standards Board. Applicable requirements are as follows:

(a) *Nondefense awards.* Nondefense contracts, irrespective of whether they are subject to cost accounting standards and contain appropriate clauses, will not be counted in connection with Disclosure Statement dollar threshold submission requirements under 4 CFR Part 351.

(b) *National defense awards.* The filing of Disclosure Statements by certain large business concerns is required in connection with the award of certain negotiated national defense contracts and subcontracts in accordance with CASB rules (see 4 CFR Part 351 et seq.). A summary of those rules follow:

(1) A Disclosure Statement, when required to be submitted, covers the practices of a defense contractor's profit centers, divisions, or similar organizational units whose costs are included in the total price of a negotiated national defense "covered" contract. The requirement extends to each corporate or group office whose costs are allocated to such performing units of the contractor.

(2) Any defense contractor which, together with its segments, received net awards of negotiated national defense prime contracts and subcontracts subject to cost accounting standards totaling more than $10 million in its most recent cost accounting period, must submit a completed Disclosure Statement prior to award of the first covered defense contract received by the contractor or by a segment of such contractor in the cost accounting period immediately following the period in which covered defense awards totaling more than $10 million were received. If the first covered defense contract is received within 90 days of the start of the cost accounting period, the contractor is not requried to file until the end of 90 days.

(3) Any business unit that receives a negotiated national defense contract or subcontract which is subject to cost accounting standards and is for $10 million or more must submit a completed Disclosure Statement as part of its proposal for such contract unless the business unit has already submitted a Disclosure Statement.

(c) *Pre-award submission of Disclosure Statement(s).* Each offeror submitting an offer which could result in a national defense CAS covered contract shall furnish copies of its Disclosure Statement(s) to the offices listed in paragraph (d) of this section concurrently with the submission of its proposal to the contracting officer except when the offeror has executed the Certificate of Monetary Exemption, the Certificate of Interim Exemption, or the Certificate of Previously Submitted Disclosure Statement (see § 1–3.1203–3(a)(1)). More than one Disclosure Statement may be required in connection with the award of a contract (see 4 CFR 351.40(a)(3) and (4)). Award of a contract shall not be made until a determination has been made by the cognizant contracting officer (ACO) that a Disclosure Statement is adequate (see § 1–3.1205(b)).

(d) *Distribution of Disclosure Statement(s).* The offeror shall distribute the Disclosure Statement(s) as follows:

(1) Original and one copy to the cognizant contracting officer (Contract Administration Office (ATTN: ACO), see DOD Directory of Contract Administration Components DOD 4105.59H) unless otherwise specified in accordance with § 1–3.1208(c);

(2) One copy to the cognizant contract auditor.

(e) *Determination by agency head that it is impractical to secure Disclosure Statement(s).* If the head of the agency (see § 1–1.204) or his designee; the cognizant Assistant Secretary for a Military Department; or the Director of the Defense Logistics Agency, the Defense Communications Agency, the Defense Nuclear Agency, or the Defense Mapping Agency determines that it is impractical to secure the Disclosure Statement(s) in accordance with the clause(s) in § 1–3.1204–1 and this Subpart 1–3.12 or DAR 7–104.83(a) and DAR Part 12 of Section III, he may authorize award of such contract without obtaining such Statement(s). This authority shall not be delegated.

(f) *Privileged and confidential information in Disclosure Statement(s).* If the offeror or contractor notifies the contracting officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside the Government (see paragraph (a)(1) of the Cost Accounting Standards clause or paragraph (a)(2) of the Disclosure and Consistency of Cost Accounting Practices clause).

(g) *Amendment of Disclosure Statements.* Amendments of a Disclosure Statement after contract award shall be processed in accordance with 4 CFR 351.120 and 41 CFR 1–3.1205(d) and 1–3.1207. Normally the cognizant contracting officer should require resubmission of a complete, updated Disclosure Statement pursuant to 4 CFR 351.120 only when the number of amended pages or the nature of the amendments are so extensive that the review process would be substantially expedited as a result of the resubmission.

(h) *Responsibility to maintain accuracy of Disclosure Statement(s).* The contractor or subcontractor who has contracts containing either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause has a responsibility to maintain an accurate Disclosure Statement(s) and comply with those disclosed practices if: (1) It was awarded a negotiated national defense contract in its current cost accounting period of $10 million or more, or (2) it is, a defense contractor which, together with its segments, received net awards of negotiated national defense prime contracts and subcontracts subject to cost accounting standards totaling more than $10 million in its most recent cost accounting period. Should its obligation to maintain the Disclosure Statement cease because it no longer meets or exceeds the financial thresholds, it will be required to follow consistently the disclosed practices for those contracts awarded during a period in which it was obligated to submit a Disclosure Statement(s). A change to such practices may be proposed by either the contractor or the Government

and negotiated by the contractor and its CAS cognizant contracting officer.

§ 1-3.1203-2 Applicability of cost accounting standards.

(a) *Small business concerns.* All contracts and subcontracts with small business concerns are wholly exempt from cost accounting standards.

(b) *National defense contracts with other than small business concerns.*

(1) The applicability of cost accounting standards to a negotiated national defense contract is implemented by incorporation of a clause in the contract as required by CASB rules (4 CFR Parts 331 or 332). These national defense CAS awards consist of the first negotiated national defense contract or subcontract of more than $500,000 received by a contractor business unit and subsequent negotiated national defense prime contracts and subcontracts of more than $100,000 received by that business unit. Whenever a business unit completes all contracts subject to a CAS clause required by CASB regulations, its obligation to follow CAS requirements ends and is not reinstated until it again receives an award in excess of $500,000. Award and sales data of the preceding cost accounting period are used to determine type of contract coverage for the current period. There are two types of CAS coverage: Full coverage under 4 CFR Part 331 and modified coverage under 4 CFR Part 332.

(2) Full coverage applies to contractor business units which (i) receive a national defense CAS award of $10 million or more, (ii) received national defense CAS awards during the preceding cost accounting period of $10 million or more, or (iii) received national defense CAS awards during the preceding cost accounting period of less than $10 million, but such CAS awards accounted for 10 percent or more of the business unit's total sales for the preceding period. These dollar thresholds apply to contractor business units, irrespective of company-wide award dollar totals.

(3) Modified coverage applies to contractor business units which received national defense CAS awards during the preceding period of less than $10 million and such CAS awards accounted for less than 10 percent of the business unit's total sales of the preceding period. Modified coverage requires the contractor to comply only with requirements of standard 401, Consistency in Estimating, Accumulating, and Reporting Costs (4 CFR Part 401) and standard 402, Consistency in Allocating Costs Incurred for the Same Purpose (4 CFR Part 402).

(4) CAS coverage is extended to national defense subcontract awards under CAS covered contracts under the same provisions; thus a subcontractor could be required to comply with full coverage even though the prime contractor is required to comply only with modified coverage.

(5) Certain exemptions and waivers to applicability of CAS standards, rules, and regulations apply to national defense contracts and subcontracts. Cost accounting standards are applicable to negotiated national defense contracts and subcontracts exceeding $100,000 except when:

(i) The price is (A) based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) set by law or regulation;

(ii) A contract or subcontract is awarded to a small business concern;

(iii) The contract is to be executed and performed in its entirety outside the United States, its territories and possessions; or

(iv) A contract or subcontract is awarded to an educational institution subject to cost principles in 41 CFR Subpart 1-15.3. (Contracts awarded to federally funded research and development centers (FFRDC's) operated by such an institution are not exempt. See 4 CFR 331.30(b)(3) for further details);

(v) A contract is awarded to a labor surplus area concern pursuant to procedures providing for a partial set-aside for such concern as set out in DAR 1-804;

(vi) A contract or subcontract is awarded to a foreign government or an agency or instrumentality of such government, or insofar as the requirements of Cost Accounting Standards 403 (4 CFR Part 403) or any subsequent standards are concerned, the contract or subcontract is awarded to a foreign concern.

Note.—This exemption does not relieve foreign concerns of any obligation to comply with the Cost Accounting Standards set forth in 4 CFR Parts 401 and 402 and to submit a Disclosure Statement.

(vii) A subcontract is to be performed outside the United States either by an agency of a foreign government or by a foreign concern in connection with the class of hydrofoil guided missile ship known as the "NATO PHM Ship";

(viii) A contract or subcontract is awarded to a United Kingdom contractor for performance substantially in the United Kingdom provided the contractor meets certain conditions set forth in 4 CFR 331.30(b)(8);

(ix) A firm fixed-price contract or subcontract is awarded without submission of any cost data: *Provided,* that the failure to submit such data is not attributable to a waiver of the requirement for certified cost or pricing data;

(x) A contract or subcontract of $500,000 or less is awarded, unless the business unit to whom it is awarded (A) is performing one or more covered contracts and (B) has not received notification of final acceptance of all items of work to be delivered under all such contracts. (For purposes of this exemption, an order issued by one segment to another segment shall be treated as a subcontract. Also see paragraph (b)(1) of this section.); or

(xi) The CASB has otherwise approved a waiver or exemption (see 4 CFR 331.30(c)).

(c) *Nondefense contracts with other than small business concerns.* (1) The applicability of cost accounting standards to a negotiated nondefense contract is implemented by a clause in the contract (substantially similar to the CASB clauses) as required by this Subpart 1-3.12. These nondefense CAS awards consist of the first negotiated nondefense contract or subcontract over $500,000 received by a contractor business unit in the event the business unit is not performing a CAS covered contract or subcontract. Otherwise, cost accounting standards are applicable to negotiated nondefense contracts and subcontracts over $100,000 received by that business unit. Whenever a contractor business unit completes the performance of all CAS covered contracts, the obligation to follow cost accounting standards ends and is not reinstated until it again receives an award in excess of $500,000. National defense CAS covered award and sales data of the preceding cost accounting period (normally, the contractor's fiscal year) for the business unit receiving the award are used to determine the type of contract coverage for the current period. Nondefense CAS covered award data is not used. There are two types of nondefense CAS coverage; namely full coverage and modified coverage.

(2) Full coverage applies to negotiated nondefense contracts and subcontracts awarded to contractor business units which (i) are performing a national defense CAS covered contract of $10 million or more awarded during the contractor's current cost accounting period, (ii) received national defense CAS covered awards during the preceding cost accounting period of $10

million or more, *or* (iii) received national defense CAS covered awards during the preceding cost accounting period of under $10 million, but such CAS awards accounted for 10 percent or more of the business unit's total sales for the preceding period.

These national defense dollar thresholds apply to contractor business units, irrespective of company-wide national defense award dollar totals (see § 1–3.1203–2(c)(4) for exemptions).

(3) Modified coverage applies to the first negotiated nondefense contract or subcontract over $500,000 received by a contractor business unit in the event the business unit is not performing a CAS covered contract or subcontract. Otherwise, modified coverage is applicable to negotiated nondefense contracts and subcontracts over $100,000 received by that business unit, unless full coverage in accordance with paragraph (c)(2) of this § 1–3.1203–2 applies (see § 1–3.1203–2(c)(4) for exemptions). Modified coverage requires the contractor to comply only with the requirements of Standard 401, Consistency in Estimating, Accumulating and Reporting Costs (4 CFR Part 401) and Standard 402, Consistency in Allocating Costs Incurred for the Same Purpose (4 CFR Part 402).

(4) The exemptions and waivers which apply to national defense contracts and subcontracts also apply to nondefense contracts and subcontracts. These provisions are contained in paragraph (b)(5) of this § 1–3.1203–2. In addition to the exemptions and waivers in paragraphs (a) and (b)(5) of this § 1–3.1203–2, the following nondefense procurements are exempt:

(i) Contracts with State, local, and federally-recognized Indian tribal governments subject to Subpart 1–15.7;

(ii) Contracts with hospitals; and

(iii) Contracts where a waiver under § 1–3.1211 has been approved or a modification or withdrawal of a standard by the FPR is applicable.

§ 1–3.1203–3 Solicitation notices.

(a) *National defense contracts.* (1) The notice entitled, Disclosure Statement—Cost Accounting Practices and Certification, in this § 1–3.1203–3(a)(1) shall be inserted in all national defense solicitations which are likely to result in the award of a negotiated contract exceeding $100,000 except when the price is (i) based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or (ii) set by law or regulation. The notice shall not be inserted in: solicitations limited to small business concerns; solicitations limited to educational institutions subject to the cost principles in Subpart 1–15.3, except that the notice shall be inserted in solicitations sent to federally funded research and development centers operated by educational institutions; and solicitations limited to a foreign government or an agency or instrumentality of such government; solicitations which will result in contracts executed and performed in their entirety outside the United States, its territories, and possessions; or solicitations which will result in firm fixed-price contracts awarded without the submission of any contractor cost data.

Disclosure Statement—Cost Accounting Practices and Certification

Any contract in excess of $100,000 resulting from this solicitation except (i) when the price negotiated is based on: (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation; (ii) contracts awarded to small business concerns (as defined in 1–701.1 of the Defense Acquisition Regulation or FPR § 1–1.701–1); or (iii) contracts which are otherwise exempt (see 4 CFR 331.30(b)) shall be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal, which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board must, as a condition of contracting, submit a Disclosure Statement as required by regulations of the Board. The Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation (see (I), below) unless (i) the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards exceeding the monetary exemption for disclosure as established by the Cost Accounting Standards Board (see (II), below); (ii) the offeror exceeded the monetary exemption in the cost accounting period immediately preceding the cost accounting period in which this proposal was submitted but, in accordance with the regulations of the Cost Accounting Standards Board, is not yet required to submit a Disclosure Statement (see (III), below); or (iii) the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal (see (IV), below).

Caution: A practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed to practice for pricing proposals or accumulating and reporting contract performance cost data.

Check the appropriate box below.

☐ I. Certificate of concurrent submission of disclosure statement(s).

The offeror hereby certifies that he has submitted, as a part of his proposal under this solicitation, copies of the Disclosure Statement(s) as follows: (i) original and one copy to the cognizant contracting officer (Administrative Contracting Officer (ACO), see DOD Directory of Contract Administration Components (DOD 4105.59H)); and (ii) one copy to the cognizant contract auditor.

Date of Disclosure Statement(s): _____;

Name(s) and Address(es) of Cognizant ACO(s) where filed: _____.

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement(s).

☐ II. Certificate of monetary exemption.

The offeror hereby certifies that he, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated national defense prime contracts and subcontracts subject to Cost Accounting Standards totaling more than $10 million in his cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if his status changes prior to an award resulting from this proposal he will advise the contracting officer immediately.

Caution: Offerors who submitted a Disclosure Statement under the filing requirements previously established by the Cost Accounting Standards Board may claim this exemption only if the dollar volume of CAS covered national defense prime contract and subcontract awards in their preceding cost accounting period did not exceed the $10 million threshold and the amount of this award will be less than $10 million. Such offerors will continue to be responsible for maintaining the Disclosure Statement and following the disclosed practices on CAS covered prime contracts and subcontracts awarded during the period in which a Disclosure Statement was required.

☐ III. Certificate of interim exemption.

The offeror hereby certifies that (i) he first exceeded the monetary exemption for disclosure, as defined in (II) above, in his cost accounting period immediately preceding the cost accounting period in which this proposal was submitted, and (ii) in accordance with the regulations of the Cost Accounting Standards Board (4 CFR 351.40(b)), he is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, he will immediately submit a revised certificate to the Contracting Officer, in the form specified under (I), above or (IV), below, as appropriate, to verify his submission of a completed Disclosure Statement.

Caution: Offerors may not claim this exemption if they are currently required to disclose because they were awarded a CAS covered national defense prime contract or subcontract of $10 million or more in the current cost accounting period. Further, the exemption applies only in connection with proposals submitted prior to expiration of the 90 day period following the cost accounting period in which the monetary exemption was exceeded.

☐ IV. Certificate of previously submitted disclosure statement(s).

The offeror hereby certifies that the Disclosure Statement(s) were filed as follows:

Date of Disclosure Statement(s):————.

Name(s) and Address(es) of Cognizant Contracting Officer(s) (ACO(s)) where filed:————.

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement(s).

(End of Notice)

(2) The Cost Accounting Standards Board has provided for the exemption of national defense contracts of $500,000 or less under certain circumstances. 4 CFR 331.30(b)(7) prescribes the circumstances under which such an exemption is applicable. In order to effectively administer the requirements of that paragraph, the soliciation notice in this § 1–3.1203–3(a)(2) shall be inserted in all solicitations requiring the inclusion of the solicitation notice in § 1–3.1203–3(a)(1).

Cost Accounting Standards—Exemption for Contracts of $500,000 or Less

If this proposal is expected to result in the award of a contract of $500,000 or less, the offeror shall indicate whether the exemption to a Cost Accounting Standards clause under the provisions of 4 CFR 331.30(b)(7) is claimed. Failure to check the box below shall mean that the resultant contract is subject to a Cost Accounting Standards clause or that the offeror elects to comply with the applicable clause.

☐ The offeror hereby claims an exemption from Cost Accounting Standards clauses under the provisions of 4 CFR 331.30(b)(7) and certifies that he has received notification of final acceptance of all work to be delivered under all CAS covered prime or subcontracts. The offeror further certifies he will immediately notify the Contracting Officer in writing in the event he is awarded any other contract or subcontract containing a Cost Accounting Standards clause subsequent to the date of this certficate but prior to the date of any award resulting from this proposal.

(End of Notice)

(3) The Cost Accounting Standards Board has provided for the use of modified contract coverage under provisions of 4 CFR 332 when the offeror is eligible and so elects. In order to effectively administer those provisions, the solicitation notice in this § 1–3.1203–3(a)(3) shall be inserted in all solicitations requiring the inclusion of the solicitation notice in § 1–3.1203–3(a)(1).

Cost Accounting Standards Eligibility for Modified Contracts Coverage

If the offeror is eligible to use the modified provisions of 4 CFR 332, and elects to do so, he shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

☐ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 4 CFR 331.30(b)(2), and certifies that he is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because (i) during his cost accounting period immediately preceding the period in which this proposal was submitted, he received less than $10 million in awards of CAS covered national defense prime contracts and subcontracts, and (ii) the sum of such awards equaled less than 10 percent of his total sales during that cost accounting period. The offeror further certifies that if his status changes prior to an award resulting from this proposal, he will advise the contracting officer immediately.

Caution: Offerors may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a contract of $10 million or more or if, during their current cost accounting period, they have been awarded a single CAS-covered national defense prime contract or subcontract of $10 million or more.

(End of Notice)

(4) In order to effectively administer equitable adjustments for new standards, the solicitation notice in this § 1–3.1203–3(a)(4) shall be inserted in all solicitations requiring the inclusion of the solicitation notice in § 1–3.1203–3(a)(1)).

Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (a)(3) of the Cost Accounting Standards clause, require a change in his established cost accounting practices affecting existing contracts and subcontracts.

☐ Yes ☐ No

Note.—If the offeror has checked "yes" above, and is awarded the contemplated contract, he will be required to comply with the Administration of Cost Accounting Standards clause.

(End of Notice)

(5) Insert the contract clauses set forth in § 1–3.1204–1 in all national defense solicitations which are likely to result in a negotiated contract exceeding $100,000.

(b) *Nondefense contracts.* Insert the clauses set forth in § 3.1204–2 and the following notice in all solicitations which are likely to result in a negotiated nondefense contract exceeding $100,000 except when:

(1) The price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public;

(2) The price is set by law or regulation;

(3) The solicitation is limited to small business concerns;

(4) The solicitation is limited to educational institutions subject to the cost principles in Subpart 1–15.3, except that the notice shall be inserted in solicitations sent to federally funded research and development centers operated by an educational institution;

(5) The contracts will be executed and performed in their entirety outside the United States, its territories and possessions; or

(6) The solicitation is sent exclusively to (i) foreign governments or instrumentalities of such governments, (ii) State, local, or federally-recognized Indian tribal governments, and (iii) hospitals, when all potential offerors are exempt pursuant to § 1–3.1203–2(c)(4).

Cost Accounting Standards Certification—Nondefense Applicability

Any negotiated contract in excess of $100,000 resulting from this solicitation shall be subject to the requirements of the clauses entitled Cost Accounting Standards—Nondefense Contract (FPR § 1–3.1204–2(a)) and Administration of Cost Accounting Standards (FPR § 1–3.1204–1(b)) if it is awarded to a contractor's business unit which (i) at the time of award is performing a national defense contract or subcontract of $10 million or more subject to full (4 CFR 331) CAS coverage that was awarded during the contractor's current cost accounting period, (ii) received national defense CAS covered awards during the preceding cost accounting period of $10 million or more, or (iii) received national defense CAS covered awards during the preceding cost accounting period of under $10 million, but such awards accounted for 10 percent or more of the business unit's sales for the preceding period, except contracts which are otherwise exempt (see FPR § 1–3.1203–2(a) and (c)(4)). Otherwise, an award resulting from this solicitation shall be subject to the requirements of the clauses entitled Consistency of Cost Accounting Practices—Nondefense Contract (FPR § 1–3.1204–2(b)) and Administration of Cost Accounting Standards (FPR § 1–3.1204–1(b)) if the award is (i) the first negotiated contract over $500,000 in the event the award is to a contractor's business unit that is not performing under any CAS covered national defense or nondefense contract or subcontract, or (ii) a negotiated contract over $100,000 in the event the award is to a contractor's business unit that is performing under any CAS covered national defense or nondefense contract or subcontract, except contracts which are otherwise exempt (see FPR § 1–3.1203–2(a) and (c)(4)). This solicitation notice is not applicable to small business concerns.

Certificate of CAS Applicability

The offeror hereby certifies that:

A ☐ It is currently performing a negotiated national defense contract or subcontract that

contains a Cost Accounting Standards clause (4 CFR 331), and it is currently required to accept that clause in any new negotiated national defense contracts it receives that are subject to cost accounting standards.

B ☐ It is currently performing a negotiated national defense or nondefense contract or subcontract that contains a cost accounting standards clause required by 4 CFR Parts 331 or 332 or by FPR Subpart 1–3.12, but it is not required to accept the 4 CFR Part 331 clause in new negotiated national defense contracts or subcontracts which it receives that are subject to cost accounting standards.

C ☐ It is not performing any CAS covered national defense or nondefense contract or subcontract. The offeror further certifies that it will immediately notify the contracting officer in writing in the event that it is awarded any negotiated national defense or nondefense contract or subcontract containing any cost accounting standards clause subsequent to the date of this certificate but prior to the date of the award of a contract resulting from this solicitation.

D ☐ It is an educational institution receiving contract awards subject to FPR Subpart 1–15.3 (OMB Circular A–21).

E ☐ It is a State, local, or federally-recognized Indian tribal government receiving contract awards subject to FPR Subpart 1–15.7 (OMB Circular A–87).

F ☐ It is a hospital.

Additional Certification—CAS Applicable Offerors

G ☐ The offeror, subject to cost accounting standards but not certifying under D, E, or F above, further certifies that practices used in estimating costs in pricing this proposal are consistent with the practices disclosed in the Disclosure Statement(s) where they have been submitted pursuant to CASB regulations (4 CFR Part 351).

Data Required—CAS Covered Offerors

The Offeror certifying under A or B above but not under D, E, or F above, is required to furnish the name, address (including agency or department component), and telephone number of the cognizant contracting officer administering the offeror's CAS covered contracts. If A above is checked, the offeror will also identify those currently effective cost-accounting standards, if any, which upon award of the next negotiated national defense contract or subcontract will become effective upon the offeror.

Name of CO:_____
Address: _____
_____
Telephone Number:_____
Standards not yet applicable: _____

(End of Notice)

8. Section 1–3.1204 is revised to read as follows:

§ 1–3.1204 Contract clauses.

(a) *National defense contracts.* (1) The clauses set forth in paragraphs (a) (1) and (b) of § 1–3.1204–1 shall be inserted in all negotiated national defense contracts exceeding $100,000, except the following:

(i) When the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or is set by law or regulation. The catalog or market price exemption is determined to exist even though the award is made on the basis of adequate competition. It is the offeror's responsibility to request and to provide justification for a catalog or market price exemption. In providing such justification, the offeror shall (A) indicate in his proposal, and in any changes in his offered price, that the proposed price is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public, rather than derived from the stimulus of competition which may be present in the particular procurement; and (B) furnish information necessary to substantiate the catalog or market price exemption (see DAR 3–807.7(b)). However the procuring activity must determine in each case whether or not the exemption applies;

(ii) Contracts awarded to an offeror who is a small business concern (see DAR 1–702(d) and § § 1–1.701 and 1–1.703);

(iii) Contracts for which the Cost Accounting Standards Board has approved other waivers or exemptions pursuant to 4 CFR 331.30 (see § 1–3.1203–2(b)(5));

(iv) Contracts with contractors who are eligible for and have elected to use modified contract coverage under 4 CFR Part 332;

(v) Contracts which are executed and performed in their entirety outside the United States, its territories and possessions; or

(vi) Consistent with paragraph (a)(1)(iii), above, contracts of $500,000 or less under the circumstances prescribed in 4 CFR 331.30(b)(7).

(2) The clauses set forth in paragraphs (a)(2) and (b) of § 1–3.1204–1 shall be inserted in all negotiated national defense contracts exceeding $100,000 but less than $10 million when the offeror certifies he is eligible for and elects to use modified contract coverage under provisions of 4 CFR Part 332 (see § 1–3.1204(a)(1)(iv)).

(b) *Nondefense contracts.* Either the clause set forth in paragraph (a) or (b) of § 1–3.1204–2 as appropriate in accordance with § 1–3.1203–2(c) together with the clause set forth in paragraph (b) of § 1–3.1204–1 shall be inserted in negotiated nondefense contracts.

9. Section 1–3.1204–1 is revised to read as follows:

§ 1–3.1204–1 National defense contract clauses.

(a)(1) *Full contract coverage clause.*

Cost Accounting Standards

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Pub. L. 91–379, August 15, 1970), the Contractor, in connection with this contract, shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain a Cost Accounting Standards clause. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently his cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of award of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a change which, pursuant to (3) above, the contractor is required to make to his cost accounting practices.

(4)(B) Negotiate with the contracting officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of this subparagraph (4); *Provided,* That no agreement may be made under this provision that will increase costs paid by the United States.

(4)(C) When the parties agree to a change to a cost accounting practice, other than a change under (4)(A) above, negotiate an

equitable adjustment as provided in the changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, including the obligation to comply with all Cost Accounting Standards in effect on the date of award of the subcontract or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed certificate of current cost or pricing data. This requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a Cost Accounting Standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

(End of Clause)

(2) *Modified contract coverage clause.*

Disclosure and Consistency of Cost Accounting Practices

(a) The Contractor, in connection with this contract, shall:

(1) Comply with the requirements of 4 CFR Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract.

(2) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by regulations of the Cost Accounting Standards Board. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(3) Follow consistently, his cost accounting practices. A change to such practices may be proposed, however, by either the Government or the contractor, and the contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement if affected must be amended accordingly.

The contractor shall, when the parties agree to a change to a cost accounting practice and the contracting officer has made the finding required in § 332.51 of the Cost Accounting Standards Board's regulations, negotiate an equitable adjustment as provided in the changes clause of this contract. In the absence of the required finding no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any cost accounting practice and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor has complied with an applicable Cost Accounting Standard, rule or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) and shall require such inclusion in all other subcontracts of any tier, except that:

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all Cost Accounting Standards, the clause entitled "Cost Accounting Standards" set forth in § 331.50 of the Board's regulations (see FPR § 1–3.1204–1(a)(1)) shall be inserted in lieu of this clause, or

(2) This requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public or

(ii) Price set by law or regulation, or

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a Cost Accounting Standards clause by reason of § 331.30(b) of the Board's regulation.

(End of Clause)

(b) *Administration clause.*

Administration of Cost Accounting Standards

For the purpose of administrating Cost Accounting Standards requirements under this contract, the Contractor shall:

(a) Submit to the cognizant Contracting Officer a description of the accounting change and the general dollar magnitude of the change to reflect the sum of all increases and the sum of all decreases for all contracts containing the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause:

(1) For any change in cost accounting practices required to comply with a new cost accounting standard in accordance with paragraph (a)(3) and (a)(4)(A) of the Cost Accounting Standards clause within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring such change;

For any change to cost accounting practices proposed in accordance with paragraph (a)(4)(B) or (a)(4)(C) of the Cost Accounting Standards clause or with paragraph (a)(3) of the Disclosure and Consistency of Cost Accounting Practices clause not less than 60 days (or such other date as may be mutually agreed to) prior to the effective date of the proposed change; or

(3) For any failure to comply with an applicable Cost Accounting Standard or to follow a disclosed practice as contemplated by paragraph (a)(5) of the Cost Accounting Standards Clause of this contract or with paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause within 60 days (or such other date as may be mutually agreed to) after the date of agreement of such noncompliance by the Contractor.

(b) Submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within sixty (60) days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to (a)(1), (2), or (3), above.

(c) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause or with paragraphs (a)(3) and (a)(4) of the Diclosure and Consistency of Cost Accounting Practices clause.

(d) When the subcontract is subject to either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause so state in the body of the subcontract and/or in the letter of award. Self-deleting clauses shall not be used.

(e) Include the substance of this clause in all negotiated subcontracts containing either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause. In addition, within 30 days after award of such subcontract, submit the following information to the Contract Administration Office cognizant of the contractor's facility for transmittal to the Contract Administration Office cognizant of the subcontractor's facility:

(1) Subcontractor's name and subcontract number.

(2) Dollar amount and date of award.

(3) Name of Contractor making the award.

(4) A statement as to whether the subcontractor has made or proposes to make any changes to accounting practices that affect prime contracts or subcontracts containing the Cost Accounting Standards clause or Disclosure and Consistency of Cost Accounting Practices clause because of the award of this subcontract unless such changes have already been reported. If award of the subcontract results in making a cost accounting standard(s) effective for the first time, this shall also be reported.

(f) For negotiated subcontracts containing the Cost Accounting Standards clause, require the subcontractor to comply with all Standards in effect on the date of final agreement on price as shown on the subcontractor's signed certificate of Current Cost or Pricing Data or date of award, whichever is earlier.

(g) In the event an adjustment is required to be made to any subcontract hereunder, notify the Contracting Officer in writing of such adjustment and agree to an adjustment in the price or estimated cost and fee of this contract, as appropriate, based upon the adjustment established under the subcontract. Such notice shall be given within 30 days after receipt of the proposed subcontract adjustment, or such other date as may be mutually agreed to, and shall include a proposal for adjustment to such higher tier subcontract or prime contract as appropriate.

(h) When either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause and this clause are included in subcontracts, the term "Contracting Officer" shall be suitably altered to identify the purchaser.

(End of Clause)

10. Section 1–3.1204–2 is revised to read as follows:

§ 1–3.1204–2 Nondefense contract clauses.

(a) *Full contract coverage clause.*

Cost Accounting Standards—Nondefense Contract

(a) Unless the Administrator of General Services has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated by the Cost Accounting Standards Board, the Contractor, in connection with this contract, shall:

(1) Follow consistently its cost accounting practices as required by regulations of the Cost Accounting Standards Board and administered under the Administration of Cost Accounting Standards clause. If any change in cost accounting practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied in a consistent manner to this contract.

(2) Comply with all cost accounting standards which the Contractor is required to comply with by reason of concurrent performance of any contract or subcontract subject to the Cost Accounting Standards clause (4 CFR Part 331) and administered under the Administration of Cost Accounting Standards clause. The Contractor also shall comply with any cost accounting standard which hereafter becomes applicable to such a contract or subcontract. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract. Compliance shall continue until the Contractor completes performance of work under this contract.

(3)(A) Agree to any equitable adjustment (as provided in the Changes clause of this contract, if any) if the contract cost is affected by a change which, pursuant to (2) above, the Contractor is required to make to his cost accounting practices.

(B) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of this subparagraph (3): *Provided*, That no agreement may be made under this provision that will increase costs paid by the United States.

(C) When the parties agree to a change to a cost accounting practice, other than a change under subparagraph (3)(A) above, negotiate an equitable adjustment as provided in the changes clause of this contract (if any).

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if it or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41, (50 U.S.C. App. 1215(b)(2)), or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) The Contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations (FPR) Part 1–20.

(c) Unless a subcontract or Subcontractor is exempt under rules or regulations prescribed by the Administrator of General Services, the Contractor (1) shall include the substance of this clause including this paragraph (c) in all negotiated subcontracts under this contract with subcontractors that are currently performing a national defense contract or subcontract that contains the clause entitled Cost Accounting Standards and that are currently required to accept the clause in applicable national defense awards and (2) shall include the substance of the Consistency of Cost Accounting Practices—Nondefense Contract clauses set forth in § 1–3.1204–2(b) of the FPR in negotiated subcontracts under this contract with all other subcontractors. The Contractor may elect to use the substance of the solicitation notice set forth in § 1–3.1203–3(b) of the FPR in his determination of applicability of cost accounting standards to subcontracts.

(d) The administration of this clause by the Government shall be accomplished in conjunction with the administration of the Contractor's national defense contracts and subcontracts subject to rules and regulations of the Cost Accounting Standards Board, pursuant to the Administration of Cost Accounting Standards clause. For the purpose of the Administration of Cost Accounting Standards clause contained in this contract, references to the Cost Accounting Standards clause shall be deemed to include this Cost Accounting Standards—Nondefense Contract Clause and reference to the Disclosure and Consistency of Cost Accounting Practices clause shall be deemed to include the Consistency of Cost Accounting Practices—Nondefense Contract clause.

(End of Clause)

(b) *Modified contract coverage clause.*

Consistency of Cost Accounting Practices—Nondefense Contracts

(a) Unless the Administrator of General Services has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated by the Cost Accounting Standards Board, the Contractor, in connection with this contract, shall:

(1) Comply with the requirements of 4 CFR Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract and administered under the Administration of Cost Accounting Standards clause. Compliance shall continue until the Contractor completes performance of work under this contract.

Follow consistently its cost accounting practices as required by regulations of the Cost Accounting Standards Board and administered under the Administration of Cost Accounting Standards clause. If any change is made in established practices or in disclosed practices for purposes of any contract or subcontract subject to those disclosure requirements, the change must be

applied in a consistent manner to this contract. A change to these practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract.

The contractor shall, when the parties agree to a change to a cost accounting practice and the contracting officer has made the finding required in § 332.51 of the Cost Accounting Standards Board's regulations, negotiate an equitable adjustment as provided in the changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(3) Agree to an adjustment of the contract price or cost allowance, as appropriate, if it or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any cost accounting practice and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, (50 U.S.C. App. 1215(b)(2)), or 7 percent per annum, whichever is less from the time the payment by the United States was made to the time the adjustment is effected.

(b) The Contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations (FPR) Part 1-20.

(c) Unless a subcontract or Subcontractor is exempt under rules or regulations prescribed by the Administrator of General Services, the Contractor shall include the substance of this clause including this paragraph (c) in all negotiated subcontracts under this contract except that it shall include the substance of the Cost Accounting Standards—Nondefense Contract clause set forth in § 1-3.1204-2(a) of the FPR in negotiated subcontracts under this contract with subcontractors that are currently performing a national defense contract or subcontract that contains the clause entitled Cost Accounting Standards and that are currently required to accept that clause in applicable negotiated national defense contracts. The Contractor may elect to use the substance of the solicitation notice set forth in § 1-3.1203-3(b) of the FPR in his determination of applicability of cost accounting standards to subcontracts.

(d) The administration of this clause by the Government shall be accomplished in conjunction with the administration of the Contractor's national defense contracts and subcontracts, if any, subject to rules and regulations of the Cost Accounting Standards Board, pursuant to the Administration of Cost Accounting Standards clause. For the purposes of the Administration of Cost Accounting Standards clause contained in this contract, references to the Disclosure and Consistency of Cost Accounting Practices clause shall be deemed to include this Consistency of Cost Accounting Practices—Nondefense Contract clause and references to the cost Accounting Standards clauses shall be deemed to include the Cost Accounting Standards—Nondefense Contract clause.

(End of Clause)

(c) *Administration of cost accounting standards clause.* The clause set forth in § 1-3.1204-1(b) shall be used in nondefense contracts and subcontracts as well as in negotiated national defense contracts and subcontracts.

11. Section 1-3.1204-3 is added to read as follows:

§ 1-3.1204-3 National defense subcontracts.

(a) The Cost Accounting Standards clause in § 1-3.1204-1(a)(1) and the Administration of Cost Accounting Standards clause in § 1-3.1204-1(b) require contractors and subcontractors to flow-down the requirement to comply with cost accounting standards in effect on the date of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, or date of award, whichever is earlier, unless the subcontractor is exempt from CAS requirements or the subcontractor qualifies for and elects to comply with the modified contract coverage clause.

(b) When a subcontractor accepts a CAS-covered subcontract he is responsible for providing to the higher tier contractor the information specified in § 1-3.1204-1(b), clause paragraph (e). The higher tier contractor will follow the procedure set forth in DAR 3-1204.1(c) in transmitting the information through Government channels to the ACO cognizant of the subcontractor facility.

12. Section 1-3.1205 is revised to read as follows:

§ 1-3.1205 Review of prime contractor Disclosure Statements and changed practices.

(a) *Contracting officer and auditor support responsibility.* When the Department of Defense (DOD) has contract administration cognizance of a contractor for CASB matters, required Disclosure Statements shall be reviewed by the cognizant administrative contracting officer and contract auditor for all Government agencies including, but not limited to, DOD, NASA, DOE, and GSA (see § 1-3.1208 with respect to contract administration by other Government agencies). Disclosure Statement submissions are not required in connection with the award of nondefense contracts.

(b) *Determination of adequacy.* The cognizant contract auditor shall perform an initial review of a Disclosure Statement to ascertain whether it adequately describes the offeror's cost accounting practices. In order to be deemed adequate, the Disclosure Statement must be current, accurate, and complete. Upon completion of this initial review, the results shall be reported to the cognizant contracting officer. When the cognizant contracting officer determines that adequate disclosure has not been made, he shall identify the areas of inadequacy and request a revised Disclosure Statement from the offeror and so advise the auditor and the procurement contracting officer. When the cognizant contracting officer determines that the Disclosure Statement is adequate, he shall notify the offeror in writing and send a copy to the auditor and the procurement contracting officer. Notification of adequacy or inadequacy shall normally be made within 30 days after receipt of a Disclosure Statement by the cognizant contracting officer. In addition, the notice shall state that a disclosed practice shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed to practice for pricing proposals or accumulating and reporting contract performance cost data. The contract may be awarded when it is determined that an adequate disclosure has been made (see § 1-3.1203-1(b).

(c) *Determination of compliance.* Subsequent to the issuance of the above notification, a more detailed review of the Disclosure Statement shall be made by the auditor to ascertain whether the disclosed practices are in compliance with 41 CFR Part 1-15 or DAR Section XV, as applicable, and the Cost Accounting Standards. The auditor shall advise the cognizant contracting officer of his findings. The cognizant contracting officer shall take action regarding noncompliance with Cost Accounting Standards in accordance with § 1-3.1212. A revised Disclosure Statement may be required. In addition, adjustment of the prime contract price or cost allowance in accordance with § 1-3.1207(b) may be required. Noncompliance with 41 CFR Part 1-15 or DAR Section XV shall be processed separately in accordance with normal administrative practices.

(d) *Review of changed practices.* (1) When a change to disclosed practices is proposed or required, a description of the changed practices shall be

distributed in accordance with § 1–1203–1(d). The cognizant contract auditor shall review the changed practices for adequacy and compliance (as defined in paragraphs (b) and (c) of this section) concurrently. Upon completion of the review, the results shall be reported to the cognizant contracting officer. When the cognizant contracting officer determines that the changed practices are adequate and in compliance, he shall so notify the contractor and send a copy of the notification to the auditor.

(2) When the cognizant contracting officer determines that the description of the changed practices is not adequate, or the changed practices are not in compliance, he shall identify the deficiencies and so notify the contractor and send a copy of the notification to the auditor. This notice shall require the contractor to advise the cognizant contracting officer and the auditor of the corrective action taken or to be taken. Resubmission of the changed practices will be required. If the contractor has submitted an adequate description of the changed practices but these practices are determined to be in noncompliance and the contractor does not agree, the cognizant contracting officer shall issue an adequacy determination with the stipulation that if those changed practices are implemented for the purpose of pricing or costing Government contracts, the contractor shall be considered in noncompliance and the cognizant contracting officer shall take action in accordance with § 1–3.1212.

(3) When a change to established, but not disclosed, practices is proposed or required, it shall be processed in accordance with paragraph (d)(1) and (2) of this section.

13. Section 1–3.1206 is revised to read as follows:

§ 1–3.1206 Administration of CAS requirements on subcontracts.

(a) The prime contractor or higher tier subcontractor is responsible for administering the CAS requirements contained in the subcontracts awarded. However, in recognition of the protections provided to subcontractors by the CAS clauses, subcontractor CAS reviews will often be performed by the Government.

(1) If the subcontractor has previously furnished a Disclosure Statement to a cognizant contracting officer (Government ACO), the subcontractor may satisfy the requirement for submission by identifying to the prime contractor or higher tier subcontractor the cognizant contracting officer (ACO) to whom it was submitted. Disclosure Statement submissions are not required in connection with the award of nondefense subcontracts.

(2) If the subcontractor considers his Disclosure Statement to contain privileged or confidential information, he may submit the statement directly to his cognizant contracting officer (ACO) and auditor and notify the prime contractor or higher tier subcontractor as provided in paragraph (a)(1), above. In such cases a preaward determination of adequacy is not required. Instead, the contracting officer (ACO) cognizant of the subcontractor shall notify the contract auditor that the review for adequacy as well as compliance will be performed during the postaward review conducted to ensure that the subcontractor has complied with his disclosed practices, CAS, and the cost principles, as applicable in Section XV of the DAR or 41 CFR Part 1–15 of the FPR. After adequacy review, the contracting officer (ACO) cognizant of the subcontractor shall notify the following of the findings: the subcontractor; the prime or higher tier subcontractor; and the contracting officer (ACO) cognizant of the prime or higher tier subcontractor.

(3) In many cases a subcontractor will not be subject to the Disclosure Statement requirement. Yet the same protections against revealing confidential or proprietary data accrue to these subcontractors. Such subcontractors may claim in writing to their prime contractors or higher tier subcontractors, that such reviews by prime contractors or higher tier subcontractors would jeopardize their competitive position or that proprietary data are involved. In these cases, the contracting officer (ACO) cognizant of the prime contract will make a determination that it is impractical for the prime or higher tier subcontractor to perform the reviews. The necessary documentation shall be forwarded to the contracting officer (ACO) cognizant of the subcontractor for accomplishment of the reviews. In the event the prime contractor does accomplish the reviews envisioned by the CAS clause, he is responsible for the thoroughness of the reviews and must satisfy the contracting officer (ACO) cognizant of the prime contract.

(b) When price adjustments or determinations of adequacy, inadequacy, or noncompliance are required by the Government, the contracting officer (ACO) cognizant of the subcontractor shall make his recommendations to the contracting officer (ACO) cognizant of the prime contractor or next higher tier subcontractor. In the case of price adjustments, the procedures described in § 1–3.1207(c)(3) shall be followed. The contracting officer (ACO) cognizant of the prime contractor or next higher tier subcontractor shall not reverse the determinations of the contracting officer (ACO) cognizant of the subcontractor. Such determinations shall be used as the basis for actions with respect to the prime contract.

(c) A determination that it is impractical to secure a subcontractor's Disclosure Statement must be made in accordance with § 1–3.1203–1(e).

14. Section 1–3.1207 is revised to read as follows:

§ 1–3.1207 Contract price adjustments.

(a) *Changes to cost accounting practices.* Paragraphs (a)(4) of the Cost Accounting Standards clause and (a)(3) of the Disclosure and Consistency of Cost Accounting Practices clause provide for adjustment of contract price under certain circumstances. Paragraphs (a)(3) of the Cost Accounting Standards—Nondefense Contract clause and (a)(2) of the Consistency of Cost Accounting Practices—Nondefense Contract clause similarly provide for adjustments. The cognizant contracting officer (ACO) is responsible for obtaining the contractor's cost impact proposal and for the conduct of all negotiations of such adjustments to all Government prime contracts. Prior to the use of the equitable adjustment provisions of (a)(4)(C) of the Cost Accounting Standards clause, (a)(3) of the Disclosure and Consistency of Cost Accounting Practices clause, (a)(3)(C) of the Cost Accounting Standards—Nondefense Contract clause, or (a)(2) of the Consistency of Cost Accounting Practices—Nondefense Contract clause, the cognizant contracting officer (ACO) shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

(b) *Failure to comply with cost accounting standards requirements.* Paragraph (a)(5) of the Cost Accounting Standards clause and paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause provide for an adjustment of the prime contract price or cost allowance, as appropriate, if the contractor or a subcontractor fails to comply with an applicable cost accounting standard or fails to follow any cost accounting practice consistently and such failure results in any increased cost paid by the Government. Similar provisions are included in paragraphs (a)(4) and (a)(3) of the respective nondefense clauses. The cognizant contract auditor shall be responsible for the conduct of audits as necessary to disclose such failures. The

cognizant contracting officer (ACO) shall negotiate all resultant prime contract adjustments, including applicable interest.

(c) *Conduct of negotiations of defense and nondefense contracts and execution of supplemental agreements.* The cognizant contracting officer shall require the contractor to include in the cost impact proposal, sufficient information to assess the impact on each CAS covered subcontract. Negotiations pursuant to paragraphs (a) and (b) of this section shall be on behalf of all Government agencies including, but not limited to, DOD, NASA, DOE, and GSA. As part of these negotiations the cognizant contracting officer shall also determine the effect of the change in accounting practices on each CAS covered subcontract that is being performed by the contractor. The cognizant contracting officer shall invite purchasing offices to participate in negotiations of adjustments when the price of any of their contracts will be increased or decreased by $10,000 or more. At the conclusion of negotiations the following actions shall be taken by the cognizant contracting officer:

(1) Execute supplemental agreements to contracts of his own agency. If additional funds are required, request them from the appropriate procurement contracting officer.

(2) Prepare a negotiation memorandum in accordance with § 1–3.811. This negotiation memorandum is of particular importance because it will be used in reviewing the effectiveness of cost accounting standards, rules, and regulations. Copies of the memorandum shall be furnished to cognizant auditors and contracting officers of other agencies which have contracts affected by the negotiation. Those agencies shall execute supplemental agreements in the amounts negotiated.

(3) When a subcontract is to be adjusted, copies of the memorandum indicating the effect on costs shall be furnished the cognizant contracting officer of the next higher tier subcontractor or prime contractor, as appropriate. This memorandum shall be the basis for negotiation between the subcontractor and the next higher tier subcontractor or prime contractor and execution of a supplemental agreement to the subcontract. The cognizant contracting officer of the next higher tier subcontractor shall furnish in turn a memorandum of these negotiations to the cognizant contracting officer of the next higher tier subcontractor or prime contractor until the adjustment is reflected in the prime contract.

15. Section 1–3.1208 is revised to read as follows:

§ 1–3.1208 Contract administration for CASB matters by agencies other than DOD.

(a) A list of agency contact points for the identification of cognizant contracting officers will be published from time to time in FPR Bulletins. The various components of the Department of Defense have assigned a CASB cognizant contracting officer for the majority of contractors/subcontractors subject to CASB rules and regulations. This contracting officer is also the cognizant Government contracting officer for nondefense contracts with such contractors/subcontractors awarded by the various civilian agencies. For other contractors/subcontractors, a civilian agency may have assigned a CASB cognizant contracting officer. In the event no cognizant contracting officer has been assigned to a particular contractor/subcontractor, an assignment shall be made in accordance with paragraph (b) of this § 1–3.1208. CASB cognizant contracting officers assigned by a civilian agency shall perform for DOD and other civilian agencies all functions set out in §§ 1–3.1205, 1–3.1206, and 1–3.1207 which DOD contracting officers perform for other Government agencies when DOD assigns the cognizant contracting officer.

(b) The cognizant contracting officer for a given contractor shall be a contracting officer so designated by the predominant interest agency. In the event a DOD cognizant contracting officer assignment has not been made, the predominant interest agency shall be the agency making the largest dollar volume of CAS covered national defense and nondefense prime contract and subcontract awards to the contractor during his cost accounting period prior to award of the contract. During negotiations of new Government prime contracts or subcontracts, any firm subject to CASB regulations shall be required to inform the awarding agency (in the case of a prime contract) or the higher-tier contractor (in the case of subcontracts) of the identity of his predominant interest agency and whether a cognizant contracting officer assignment exists.

(c) Within 30 days of the execution of any new prime contract or subcontract subject to CAS, whether national defense or nondefense, the agency making the award of the prime contract or the contractor awarding the subcontract shall furnish written notification thereof (requesting contract administration for CASB matters) to the cognizant contracting officer of the predominant interest agency for the prime contractor or subcontractor. Such notification shall contain at least the following:

(1) A copy of the contract or subcontract. The following notation shall be inserted in bold print on the face of the document:

"FOR COST ACCOUNTING STANDARDS ADMINISTRATION ONLY"

(2) The names and addresses of proposed subcontractors or lower tier subcontractors involving procurements estimated to be subject to cost accounting standards requirements.

(3) A request that, if appropriate, notification of the awards be provided to the (i) cognizant contracting officer of any such subcontractor and (ii) cognizant contract auditor for the prime contractor and any such subcontractor(s).

§ 1–3.1210 [Reserved]

16. Section 1–3.1210 is removed and designated as reserved.

17. Section 1–3.1211 is revised to read as follows:

§ 1–3.1211 Waiver of cost accounting standards, rules, and regulations.

In some instances contractors or subcontractors may refuse to accept all or part of the provisions of the cost accounting standards clauses (§§ 1–3.1204–1 and 1–3.1204–2). If the procurement contracting officer determines that it is impractical to obtain the materials, supplies, or services from any other source, he shall prepare the documentation required by § 331.30(c) of the Cost Accounting Standards Board regulations (4 CFR 331.30(c)). Such information shall be forwarded through channels to the head of the agency (see § 1–1.204) or his designee for approval of the proposed waiver with respect to nondefense contracts, to ensure that the contemplated contract otherwise contains provisions adequately protecting the Government's interests, and to provide for consistent treatment of such waivers within the agency and as between nondefense and national defense contracts. On national defense contracts, the head of the agency or his designee (if he supports the proposed waiver) must request such a waiver from the Cost Accounting Standards Board pursuant to 4 CFR 331.30(c) or a successor agency.

18. Section 1–3.1212 is revised to read as follows:

§ 1–3.1212 Administration of noncompliance issues.

(a) *Initial finding of compliance or noncompliance.* The cognizant

contracting officer shall promptly, upon receipt of a noncompliance report from the auditor, make an initial finding of compliance or noncompliance and advise the auditor.

(b) *Notification to contractor.* If an initial finding of noncompliance is made, the cognizant contracting officer shall immediately notify the contractor in writing of the exact nature of the noncompliance and request the contractor, within 30 days to agree thereto or to submit reasons why the contractor considers its existing practices to be in compliance.

(c) *Agreement of contractor.* If the contractor agrees, it shall:

(1) Correct the noncompliance, and

(2) Submit the information required by paragraph (a) of the Administration of Cost Accounting Standards clause (see § 1–3.1204–1(b)).

(d) *Review of contractor change.* Upon receipt of the information required in paragraph (c) of this section indicating agreement with the noncompliance, the cognizant contracting officer shall review the accounting change for adequacy and compliance concurrently in accordance with § 1–3.1205(d). Upon completion of the review indicating that the change is both adequate and in compliance, the contractor shall be notified and requested to submit the cost impact proposal required pursuant to paragraph (b) of the Administration of Cost Accounting Standards clause. The proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each CAS covered contract and subcontract. It shall contain as a minimum the following information:

(1) Identification of all contracts and subcontracts containing the Cost Accounting Standards clause or the Cost Accounting Standards—Nondefense Contract clause;

(2) If the noncompliance involves Standards 401 or 402, or a failure to follow a cost accounting practice consistently, identification of all contracts and subcontracts containing the Disclosure and Consistency of Cost Accounting Practices clause or the Consistency of Cost Accounting Practices—Nondefense Contract clause; and

(3) The cost impact on each such contract and subcontract from the date of failure to comply until the noncompliance is corrected.

(e) *Receipt of cost impact proposal.* Upon receipt of an acceptable proposal from the contractor, the cognizant contracting officer shall promptly analyze the proposal with the assistance of the auditor, determine the impact, and negotiate the contract price adjustments pursuant to § 1–3.1207.

(f) *Failure to submit cost impact proposal.* If the contractor fails to furnish the cost impact proposal in the form and time specified, the cognizant contracting officer shall take action in accordance with paragraph (h) of this section.

(g) *Disagreement of contractor.* The cognizant contracting officer shall review the contractor's submission in paragraph (b) of this section and make a determination of compliance or noncompliance.

(h) *Decision of cognizant contracting officer.* (1) If the cognizant contracting officer makes a determination of compliance, he shall so notify the contractor and send a copy to the auditor.

(2) If the cognizant contracting officer makes a determination of noncompliance or if the contractor fails to furnish the cost impact proposal, the cognizant contracting officer with the assistance of the auditor shall determine the cost impact of the noncompliance on contracts and subcontracts containing cost accounting clauses;

(3) If the cognizant contracting officer determines that the noncompliance results in increased costs to the Government, he shall notify the contractor and request agreement as to the cost or price adjustment, together with any applicable interest. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, action may be taken in accordance with paragraph (b) of the Cost Accounting Standards clause. If a DOD cognizant contracting officer subsequently takes such action, he shall also consider appropriate action to protect the interests of the Government, pursuant to DAR Appendix E, Part 6 (32 CFR Part 163, Subpart F) regarding any cost adjustment demanded by the United States. Cognizant contracting officers of civilian executive agencies shall consider the appropriateness of similar actions in regard to collection of contract debts with respect to their affected contracts and subcontracts;

(4) If the cognizant contracting officer determines that there are no increased costs as a result of the noncompliance, and the contractor refuses to take corrective action, the cognizant contracting officer shall notify the contractor in writing that he is in noncompliance, that corrective action should be taken, and that if such non-compliance subsequently results in increased costs to the Government, the provisions of the Cost Accounting Standards clause shall be enforced.

19. Section 1–3.1213 is revised to read as follows:

§ 1–3.1213 Administration of equitable adjustments for new cost accounting standards.

(a) *Solicitation notice.* The procurement contracting officer shall ensure that the contractor's response to the notice entitled "Additional Cost Accounting Standards Applicable to Existing Contracts Certification" is made known to the cognizant contracting officer (see § 1–3.1208(a)). This may be accomplished by attaching a copy of the response to the copy of the contract provided to the cognizant contracting officer.

(b) *Requirement for equitable adjustment.* Contracts and subcontracts containing full coverage cost accounting standards clauses (see § 1–3.1204–1(a)(1) or § 1–3.1204–2(a)) may require equitable adjustments to comply with new cost accounting standards (see paragraph (a)(4)(A) of the defense contract Cost Accounting Standards clause and paragraph (a)(3)(A) of the nondefense Cost Accounting Standards clause). Such adjustments are limited to contracts and subcontracts awarded prior to the effective date of each new standard. A new standard becomes applicable prospectively to these contracts and subcontracts when a new national defense contract or subcontract containing the Cost Accounting Standards clause is awarded on or after the effective date of such new standard. Contractors are encouraged to submit to the cognizant contracting officer any change in accounting practice in anticipation of complying with a new standard as soon as practicable after the new standard has been finally promulgated by the Cost Accounting Standard Board.

(c) *Review of contractor change.* Upon receipt of information required pursuant to paragraph (a) of the Administration of Cost Accounting Standards clause (see § 1–3.1204–1(b)) from the contractor indicating an accounting change is required to comply with a new standard, the cognizant contracting officer shall review the proposed change concurrently for adequacy and compliance in accordance with § 1–3.1205(d). Upon completion of the review indicating that the change is both adequate and in compliance, the contractor shall be notified and requested to submit the cost impact proposal required pursuant to paragraph (b) of the Administration of Cost Accounting Standards clause. The proposal shall be in sufficient detail to permit evaluation, determination, and

negotiation of the cost impact upon each contract and subcontract containing full coverage cost accounting standards clauses. It shall contain as a minimum the following information:

(1) Identification of each additional standard, together with those contracts and subcontracts containing the Cost Accounting Standards clause having an award date prior to the effective date of such standard, and

(2) The effect on each contract and subcontract from the date the contractor is required to follow the standard until completion of the contract or subcontract.

(d) *Receipt of cost impact proposal.* Upon receipt of an acceptable proposal from the contractor, the cognizant contracting officer shall promptly analyze the proposal with the assistance of the auditor, determine the impact, and negotiate the contract price adjustments pursuant to § 1–3.1207.

(e) *Failure to submit cost impact proposal or reach agreement concerning cost impact.* (1) If the contractor does not submit a proposal in the form and time specified or if the parties fail to agree concerning the cost impact, the cognizant contracting officer, with the assistance of the auditor, shall estimate the cost impact on contracts and subcontracts containing full coverage cost accounting standards clauses;

(2) Upon completion of the estimate indicating the effect on contract costs, the cognizant contracting officer shall request agreement from the contractor as to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, action may be taken in accordance with paragraph (b) of the Cost Accounting Standards clause. If a DOD cognizant contracting officer subsequently takes such action, he shall also consider appropriate action to protect the interests of the Government pursuant to DAR Appendix E, Part 6 (32 CFR Part 163, Subpart F) regarding any cost adjustment demanded by the United States. Cognizant contracting officers of civilian executive agencies shall consider the appropriateness of similar actions in regard to collection of contract debts with respect to their affected contracts and subcontracts.

20. Section 1–3.1214 is revised to read as follows:

§ 1–3.1214 Administration of voluntary changes.

(a) *Notification of proposed change.* When a contractor, who has contracts or subcontracts containing a cost accounting standards clause, plans to make a voluntary change to an accounting practice, he must submit the information required by paragraph (a) of the Administration of Cost Accounting Standards clause (see § 1–3.1204–1(b)).

(b) *Review of contractor change.* Upon receipt of the information required in paragraph (a) of this section, the cognizant contracting officer shall review the accounting change concurrently for adequacy and compliance in accordance with § 1–3.1205(d). Upon completion of the review indicating that the change is both adequate and in compliance, the contractor shall be notified and requested to furnish the cost impact proposal required pursuant to paragraph (b) of the Administration of Cost Accounting Standards clause. It shall be in sufficient detail to permit evaluation, determination and negotiation of the cost impact upon each contract and subcontract containing a cost accounting standards clause. It shall contain as a minimum the following information:

(1) Identification of all contracts and subcontracts containing a cost accounting standards clause, and

(2) The effect on each contract and subcontract from the effective date of the proposed change until completion of the contract or subcontract.

(c) *Receipt of cost impact proposal.* Upon receipt of an acceptable proposal from the contractor, the cognizant contracting officer shall promptly analyze the proposal with the assistance of the auditor to determine whether or not the proposed change will result in increased costs being paid by the United States. In considering the proposed adjustments to subcontracts containing a cost accounting standards clause to determine whether increased cost to the United States will result from the change, the cognizant contracting officer shall not consider the effect of the proposed adjustments upon the prime contracts and subcontracts under which the subcontracts were entered into. If the cognizant contracting officer determines that the proposed adjustments will not result in an increase in the aggregate cost to be paid under the contracts and subcontracts containing a cost accounting standards clause, he shall promptly negotiate the contract price adjustments pursuant to § 1–3.1207. If the cognizant contracting officer determines that the proposed adjustments will result in an increase in the aggregate cost to be paid under the contracts and subcontracts containing a cost accounting standards clause, he shall so notify the contractor and advise him that the proposed change will not be recognized unless an agreement can be reached which will prevent an increase in the aggregate cost to be paid under such contracts and subcontracts. Contracts and subcontracts containing the equitable adjustment provisions of paragraph (a)(4)(C) of the Cost Accounting Standards clause, (a)(3) of the Disclosure and Consistency of Cost Accounting Practices clause, (a)(3)(C) of the Cost Accounting Standards—Nondefense Contract clause, or (a)(2) of the Consistency of Cost Accounting Practices—Nondefense Contract clause may be equitably adjusted for changes if the contracting officer determines that the change is desirable and not detrimental to the interests of the Government (see § 1–3.1207(a)). When the cognizant contracting officer (ACO) makes such a determination, he shall notify the contractor and the parties will negotiate an equitable adjustment.

(d) *Failure to submit cost impact proposal or reach agreement concerning cost impact.* (1) If the contractor does not submit a proposal in the form and time specified or if the parties fail to agree concerning the cost impact, the cognizant contracting officer, with the assistance of the auditor, shall estimate the cost impact on contracts and subcontracts containing a cost accounting standards clause, and

(2) Upon completion of the estimate indicating the effect on contract costs, the cognizant contracting officer shall request agreement from the contractor as to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, action may be taken in accordance with paragraph (b) of the Cost Accounting Standards clause. If a DOD cognizant contracting officer subsequently takes such action, he shall consider appropriate action to protect the interests of the Government, pursuant to DAR Appendix E, Part 6, (32 CFR Part 163, Subpart F) regarding any cost adjustment demanded by the United States. Cognizant contracting officers of civilian executive agencies shall consider the appropriateness of similar actions in regard to collection of contract debts with respect to their affected contracts and subcontracts.

§ 1–3.1218 [Reserved]

21. Section 1–3.1218 is removed and designated as reserved.

22. Section 1–3.1219 is revised to read as follows:

§ 1–3.1219 Guidance for implementation.

This § 1–3.1219 will address specific topics where it has been determined that the contracting community might benefit from such treatment. In addition,

the Cost Accounting Standards Board often included preambles in the **Federal Register** issue that promulgated rules, regulations, and standards in order to provide readers with historical information and pertinent commentary. These preambles are also included in Title 4 of the Code of Federal Regulations, which is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Temporary requirements or informational guidance may also be published from time to time in the Notices section of the **Federal Register** as FPR Temporary Regulations or FPR Bulletins. These temporary regulations and bulletins are subsequently distributed to subscribers of the looseleaf edition of the FPR.

PART 1-7—CONTRACT CLAUSES

Subpart 1-7.1—Fixed-Price Supply Contracts

23. Section 1-7.103-27 is revised to read as follows:

§ 1-7.103-27 Cost accounting standards.

(a) *National defense procurements.* Insert the notices set forth in § 1-3.1203-3(a) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-1 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(b) *Nondefense procurements.* Insert the notice set forth in § 1-3.1203-3(b) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-2 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

Subpart 1-7.2—Cost-Reimbursement Type Supply Contracts

24. Section 1-7.203-23 is revised to read as follows:

§ 1-7.203-23 Cost accounting standards.

(a) *National defense procurements.* Insert the notices set forth in § 1-3.1203-3(a) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-1 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(b) *Nondefense procurements.* Insert the notice set forth in § 1-3.1203-3(b) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-2 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

Subpart 1-7.3—Fixed-Price Research and Development Contracts

25. Section 1-7.303-55 is revised to read as follows:

§ 1-7.303-55 Cost accounting standards.

(a) *National defense procurements.* Insert the notices set forth in § 1-3.1203-3(a) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-1 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(b) *Nondefense procurements.* Insert the notice set forth in § 1-3.1203-3(b) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-2 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

Subpart 1-7.4—Cost-Reimbursement Type Research and Development Contracts

26. Section 1-7.403-50 is revised to read as follows:

§ 1-7.403-50 Cost accounting standards.

(a) *National defense procurements.* Insert the notices set forth in § 1-3.1203-3(a) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-1 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(b) *Nondefense procurements.* Insert the notice set forth in § 1-3.1203-3(b) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-2 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

Subpart 1-7.6—Fixed-Price Construction Contracts

27. Section 1-7.603-27 is revised to read as follows:

§ 1-7.603-27 Cost accounting standards.

(a) *National defense procurements.* Insert the notices set forth in § 1-3.1203-3(a) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-1 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(b) *Nondefense procurements.* Insert the notice set forth in § 1-3.1203-3(b) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-2 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

Subpart 1-7.7—Transportation Contracts

28. Section 1-7.703-22 is revised to read as follows:

§ 1-7.703-22 Cost accounting standards.

(a) *National defense procurements.* Insert the notices set forth in § 1-3.1203-3(a) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-1 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(b) *Nondefense procurements.* Insert the notice set forth in § 1-3.1203-3(b) in solicitations of proposals and the appropriate contract clauses set forth in § 1-3.1204-2 in negotiated contracts in accordance with the provisions of Subpart 1-3.12.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486 (c))

Dated: January 20, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-2238 Filed 1-27-82; 8:45 am]

BILLING CODE 6820-61-M

VETERANS ADMINISTRATION

41 CFR Part 8-3

Circumstances Permitting Negotiation

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This revision amends the Veterans Administration Procurement Regulations to allow for the designation of additional contracting officers to negotiate contracts in excess of $10,000 for the Veterans Administration Marketing Center Division for Drugs and Chemicals and for Subsistence.

EFFECTIVE DATE: This rule is effective January 21, 1982.

FOR FURTHER INFORMATION CONTACT: David S. Derr, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue NW., Washington, DC 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: The maximum number of contracting officers who may be delegated the authority to negotiate contracts in excess of $10,000 is increased to four for the Veterans Administration Marketing Center Division for Drugs and Chemicals, and to three for the Veterans Administration Marketing Center Division for Subsistence. Previously, subordinate contracting officers participated in the negotiation process but did not have authority to make award. Authorizing additional contracting officers to

negotiate such contracts will strengthen the negotiation process by providing continuity through the contract award and contract administration phases.

The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of Section 603 and Section 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

Approved: January 21, 1982.

Robert P. Nimmo,

Administrator.

PART 8–3—PROCUREMENT BY NEGOTIATION

41 CFR, Chapter 8, Subpart 8–3.2 has been amended as follows:

1. In § 8–3.207, paragraphs (a)(1), (b)(1) and (b)(5) are revised to read as follows:

§ 8–3.207 Medicines or medical supplies.

(a)(1) Except as provided in this § 8–3.207 or when specific prior approval has been granted by the Assistant Deputy Administrator for Procurement and Supply to a field station contracting officer, no Veterans Administration contracting officer shall enter into a contract by negotiation under authority of FPR 1–3.207, when the estimated cost of the item(s) required, singly or collectively, is in excess of $10,000 for a single transaction.

* * * * *

(b) The following contracting officers are authorized to award negotiated contracts in excess of $10,000 for medicines or medical items:

(1) Assistant Deputy Administrator for Procurement and Supply.

* * * * *

(5) Four contracting officers for each Marketing Division when so designated by the Marketing Division Chief.

2. In § 8–3.209, paragraphs (a)(1), (b)(1) and (b)(5) are revised to read as follows:

§ 8–3.209 Subsistence supplies.

(a)(1) Except as provided in this § 8–3.209 or when specific prior approval has been granted by the Assistant Deputy Administrator for Procurement and Supply to a field station contracting officer, no Veterans Administration contracting officer shall enter into a contract by negotiation under authority of FPR 1–3.209 when the estimated cost of the item(s) required, singly or collectively, is in excess of $10,000 for a single transaction.

* * * * *

(b) The following contracting officers are authorized to negotiate contracts in excess of $10,000 for the purchase of subsistence supplies:

(1) Assistant Deputy Administrator for Procurement and Supply.

* * * * *

(5) Three senior contracting officers, Marketing Division for Subsistence when so designated by the Marketing Division Chief.

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82–2239 Filed 1–27–82; 8:45 am]

BILLING CODE 8320–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6244]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, correction.

SUMMARY: Appearing in the Federal Register, Vol. 46 No. 188, Docket No. FEMA 6140, at page 47229 in the issue of Friday, September 25, 1981, the City of Richmond, Fort Bend County, Texas shows an emergency entry date of September 21, 1981 in error. The entry date should be corrected to the following: *March 31, 1975.* This community withdrew from the National Flood Insurance Program September 11, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, D.C. 20472.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–2251 Filed 1–27–82; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a regulation closing an area about the western Aleutian Islands archipelago to foreign trawling between January 1 and April 30. The closure was stipulated in the final rules implementing the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (46 FR 63295, December 31, 1981), and should have prohibited trawling during these dates only between 3 and 12 miles. In addition, the description of the Petrel Bank closure is clarifed, and a typographical error in a footnote is corrected.

EFFECTIVE DATE: January 25, 1982.

ADDRESS: Copies of the corrected rule are available from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT:

Robert W. McVey, 907–586–7221.

Dated: January 22, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

1. NOAA makes the following corrections in FR Doc. 81–34890 appearing on 63295 in the issue of December 31, 1981:

§ 611.9 [Corrected]

(a) In § 611.9, Appendix II, on page 63303, the words "Fishing Area III" in the footnote is corrected to read "Fishing Area II."

§ 611.93 [Corrected]

(b) In § 611.93, on page 63306, columns 1 and 2, paragraph (c) is corrected by removing paragraph (c)(2)(ii)(D) and (E), and by revising paragraphs (c)(2)(i), (c)(2)(i)(A) and (B) as follows:

(c) * * *

(2) *Trawling.* (i) Trawling by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the

territorial sea is allowed (A) on Petrel Bank from July 1 through December 31, and (B) in other areas west of 178°30′ W. longitude from May 1 through December 31. Petrel Bank is bordered by straight lines connecting the following coordinates in the order listed:

Latitude	*Longitude*
52°51′ N.	178°30′ W.
52°51′ N.	179°00′ E.
51°15′ N.	179°00′ E.
51°15′ N.	178°30′ W.
52°51′ N.	178°30′ W.

* * * * *

§ 611.93 [Corrected]

2. NOAA makes the following redesignation in FR Doc. 82–784 appearing on page 1295 in the issue of January 12, 1982. In § 611.93, on page 1297, second column, paragraph (c)(2)(ii)(F) is redesignated as paragraph (c)(2)(ii)(D).

[FR Doc. 82–2085 Filed 1–25–82; 10:47 am]
BILLING CODE 3510–22–M

V 47 / 19 / J A 28 82 2

Proposed Rules

Federal Register
Vol. 47, No. 19
Thursday, January 28, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317, 318 and 319

[Docket No. 77-759P]

Margarine or Oleomargarine; Standards Revision

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would revise the present standard for margarine or oleomargarine as contained in the Federal meat inspection regulations. The proposed revision is needed to avoid unnecessary inconsistencies between the U.S. Department of Agriculture and the Food and Drug Administration standards; and to establish a standard similar to the international standard of the Codex Alimentarius Commission.

DATE: All comments must be received on or before March 29, 1982.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined, in accordance with Executive Order 12291, that this proposed rule is not a "major rule". It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The sole group impacted by this proposal is the margarine industry which would only be affected to the extent that existing industry-wide practices would be incorporated into the regulations. The alternative to the proposal would be continuation of the present system. Margarine manufacturers currently prepare and label their product in accordance with the Food and Drug Administration's (FDA) regulations. By failing to implement the proposal, FSIS is fostering unnecessary ambiguity and inconsistency between the policies of this Agency and those of FDA. FSIS would not be responding to requests from industry that standards and labeling of margarine and oleomargarine be formalized.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the proposal only formalizes existing industry-wide practices.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Regulations Office. Comments should reference the docket number which appears in the heading of this document. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Background

On June 25, 1976, the Food Safety and Inspection Service (FSIS), formerly the Food Safety and Quality Service, published in the **Federal Register** (41 FR 26227-26228) a proposed notice to revise the existing standard for margarine and oleomargarine. It was pointed out at that time that a revision was necessary in order to promote compositional and labeling consistency for products distributed in both domestic and international markets. FSIS is also interested in achieving consistency of regulation with FDA in this area. In view of the fact that there have been some substantive changes made to the original proposed regulation and also because of the time that has elapsed since the original proposal was published, FSIS has decided to repropose the regulation and request additional comments for 60 days.

Discussion of the Comments Received on the Original Proposal

Only eight comments were received on the original proposal, but they presented several issues. Revisions have been made to the original proposal to reflect the Administrator's concurrence with some of the comments.

1. *BHA and BHT.* Two of the commenters suggested that since FDA has accepted BHA and BHT as the common or usual names for butylated hydroxyanisole and butylated hydroxytoluene, the abbreviations should be used. This new proposed standard would incorporate this change by using the abbreviations, for the sake of clarity, followed by the chemical names in parenthesis.

2. *Keep Refrigerated Statement.* One commenter recommended that the required "Keep Refrigerated" statement on the label be at least as large as any other lettering on the principal display panel. The Administrator does not agree. Such restrictions are not required on similar products falling under either FDA's jurisdiction, or on other products prepared under the Federal meat and poultry inspection regulations even when these products may be equally or more prone to spoilage than margarine. Furthermore, these products are generally recognized by the consumer as requiring refrigeration.

3. *Vitamin A Requirement.* One commenter recommended that the Vitamin A requirement be raised from 15,000 International Units (IU) to 16,000 IU per pound. Another commenter recommended dropping the Vitamin A requirement entirely because FSIS has no nutritional labeling requirements. The Administrator believes that it would be unfair to consumers if products prepared under these regulations contained less Vitamin A than those prepared under other jurisdictions while

being labeled essentially the same. Therefore, to maintain consistency with FDA and the Codex standard, it is proposed that the 15,000 IU requirement be retained. However, in view of the metrification movement, this requirement is also being expressed as 33,000 IU per kilogram. Similarly, the optional Vitamin D level is being expressed as 1,500 IU per pound and 3,300 IU per kilogram.

4. *Vitamin E.* Optional fortification of margarine or oleomargarine with Vitamin E at the level of 60 IU per pound was recommended in one comment. Limited data were examined which indicated that animal fats, and therefore margarines made from them, contain little Vitamin E. Whereas, vegetable oil-based margarines, while variable in content, are rich dietary sources of Vitamin E.

However, no evidence was found to indicate that Vitamin E is inadequate in the diets of any segment of the U.S. population. Therefore, the Administrator believes that there is not sufficient reason to allow the optional fortification of margarine or oleomargarine with Vitamin E at this time.

5. *Prior Label Approval.* An industry association recommended that the Agency cease requiring approval of labeling material before use. Prior approval of labels for all meat food products coming within the jurisdiction of the Federal Meat Inspection Act (FMIA), including many varieties of margarine and oleomargarine, is required by the FMIA and the regulations issued thereunder. Thus, the Agency is required by law to continue performing this basic function. However, FSIS is currently considering a variety of measures to streamline the prior label approval system. This may become the subject of additional rulemaking at a future date.

6. *TBHQ.* One commenter recommended the inclusion of the food additive TBHQ (tertiary butyl hydroquinone) as a permitted antioxidant. FSIS has approved the use of TBHQ in a number of products, including fats and oils, under the conditions of use specified by FDA in 21 CFR 172.185. Therefore, the proposal includes TBHQ as an optional antioxidant in margarine on this same basis.

7. *Future FDA modification.* A number of comments indicated a need for uniformity between any margarine standard approved by USDA and any such standard approved by FDA. The establishment of consistency in such standards is one of the primary purposes of this proposal. Should FDA revise its standard in the future, USDA will carefully study such changes and propose such modifications as are deemed appropriate.

In addition to the revisions made in response to comments on the previous proposal, the following changes have also been made in the new proposal to improve and clarify the terminology:

1. The reference to the use of only "safe and suitable" ingredients appears to be unnecessary and has been deleted. The standard details with specificity the ingredients which may be used. Unsafe ingredients obviously cannot be used in any meat product.

2. The nutritive carbohydrate sweeteners, emulsifiers, preservatives, antioxidants, color additives, acidulants, and alkalizers that may be used in margarine have been specifically identified. Certain additives, previously listed among the preservatives, have more correctly been identified as antioxidants. The chart of permitted substances in § 318.7(c)(4) (9 CFR 318.7(c)(4)) has been modified to include these additives, their intended purpose, and permitted amounts. Cross referencing between the chart and the standard has been provided.

3. The terminology referring to the physio-chemical modification of rendered vegetable and animal fats has been deleted since these processes are normal to the preparation of oils and fats and there is no need to include a reference that they are permitted.

4. The portion dealing with phosphatides, unsaponifiable constituents, free fatty acids and other lipids in margarine and oleomargarine has been deleted since these materials are naturally present in the fats and oils used to produce margarine and oleomargarine and there is no need to include a reference that they are permitted.

5. The provision that would have required the special labeling of any flavor which did not simulate butter has been deleted. The Agency believes margarine and oleomargarine should be treated like all other meat food products with regard to flavor labeling.

Accordingly, Parts 317, 318 and 319 of the Federal meat inspection regulations would be amended to read as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for § 317.8 is as follows:

Authority: Sec. 7(c), 34 Stat. 1262, as amended, 21 U.S.C. 607; sec. 8, 71 Stat. 444, as amended, 21 U.S.C. 457; 42 FR 35625, 35626, 35631.

2. Section 317.8(b)(24) (9 CFR 317.8(b)(24)) would be revised to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(24) Section 407 of the Federal Food, Drug, and Cosmetic Act contains provisions with respect to colored margarine or colored oleomargarine (21 U.S.C. 347) which are set forth herein as footnote 1.

[1] "Sec. 407(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this Act as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) Such oleomargarine or margarine is packaged,

(2) The net weight of the contents of any package sold in a retail establishment is one pound or less,

(3) There appears on the label of the package (A) The word 'oleomargarine' or 'margarine' in type of lettering at least as large as any other type of lettering on such label, and (B) A full and accurate statement of all the ingredients contained in such oleomargarine, or margarine, and

(4) Each part of the contents of the package is contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this Act.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) Colored oleomargarine or colored margarine when served with meals at a public eating place shall at the time of such service be exempt from the labeling requirements of section 343 of this Act (except subsection (a) and (f) of section 343 of this title) if it complies with the requirements of subsection (b) of this section.

(e) For the purpose of this section colored oleomargarine or colored margarine is

oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of Lovibond tintometer scale or its equivalent" (21 U.S.C. 347).

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3. The authority citation for section 318.7 is as follows:

Authority: Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; sec. 14, 71 Stat. 447, as amended, 21 U.S.C. 463; 42 FR 35625, 35626, 35631; sec. 7, 21, 34 Stat. 1262, as amended (21 U.S.C. 457, 607, 621; sec. 8, 71 Stat. 444).

4. Under the "Class of substance" identified as "Antioxidants and oxygen interceptors" in the chart in § 318.7(c)(4), the following would be added at the end thereof to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *
(4) * * *

Class of substance	Substance	Purpose	Products	Amount
	BHA (butylated hydroxyanisole)	do	Margarine or oleomargarine	0.2 percent (by wt. of the finished product) individually or in combination with other antioxidants approved for use in margarine.
	BHT (butylated hydroxytoluene)	do	do	Do.
	Acetyl gallate	do	do	Do.
	Propyl gallate	do	do	Do.
	Dodecyl gallate	do	do	Do
	Ascorbyl palmitate	do	do	Do
	Ascorbyl stearate	do	do	Do.
	TBHQ (tertiary butyl hydroquinone)	do	do	0.02 percent, alone or in combination only with BHA and/or BHT based on fat or oil content.

5. The "Class of substance" identified as "Emulsifying agents" in the chart in § 318.7(c)(4) would be amended to read as follows:

Class of substance	Substance	Purpose	Products	Amount
Emulsifying agents	Acetylated monoglycerides	To emulsify product	Shortening	Do
	Diacetyl tartaric acid esters of mono and diglycerides.	do	Rendered animal fat or a combination of such fat with vegetable fat	Do
	Glycerol-lacto stearate, oleate, or palmitate.	do	do	Do.
	Lecithin	do	Oleomargaine, shortening	Sufficient for purpose in shortening. 0.5 percent in oleomargarine.
	Mono and diglycerides (glycerol palmitate, etc.).	do	Rendered animal fat or a combination of such fat with vegetable fat	Sufficient for purpose in lard and shortening.
	Mono and diglycerides of fatty acids esterified with any of the following acids: acetic, acetyl-tartaric, citric, lactic, tartaric, and their sodium and calcium salts, the sodium sulfo-acetate derivatives of these mono and diglycerides.	do	Margarine or oleomargarine	0.5 percent.
	Polyglycerol esters of fatty acids (polyglycerol esters of fatty acids are restricted to those up to and including the decaglycerol esters and otherwise meeting the requirements of § 121.1120(a) of the Food Additive Regulations).	do	Rendered animal fat or a combination of such fat with vegetable fat when use is not precluded by standards of identity or composition; oleo-	Sufficient for purpose for rendered animal fat or combination with vegetable fat 0.5 percent for oleomarga-
	1, 2-propylene glycol esters of fatty	do	Margarine or oleomargarine	2.0 percent.
	Polysorbate 60 (polyoxyethylene (20) sorbitan monooleate)	do	Shortening for use in nonstandardized bakeu goods, baking mixes, icings, fillings, and toppings and in frying of the foods.	1 percent when used alone. If used with polysorbate 60 the combined total shall not exceed 1 percent
	Propylene glycol mono and diesters of fats and fatty acids.	do	Rendered animal fat or a combination of such fat with vegetable fat.	Sufficient for purpose.
	Polysorbate 60 (polyoxyethylene (20) sorbitan monostearate)	do	Shortening for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings and in the frying of foods.	1 percent when used alone. If used with polysorbate 60 the combined total shall not exceed 1 percent.
	Stearyl-2-lactylic acid	do	Shortening to be used for cake, icings and fillings.	3.0 percent.
	Stearyl monoglyceridyl citrate	do	Shortening	Sufficient for purpose.

6. Under the "Class of substance" identified as "Flavoring agents; protectors and developers" in the chart in § 318.7(c)(4), the reference to the use of the "Substance" identified as "Benzoic acid, sodium benzoate" would be amended to include the calcium and potassium salts of benzoic acid, the "Products" column identified as "Oleomargarine" would be amended to include margarine, and the reference to the use of citric acid to protect flavor in margarine would be deleted, with these changes to read as follows:

Class of substance	Substance	Purpose	Products	Amount
	Benzoic acid (sodium, potassium and calcium salts).	To retard flavor reversion	Margarine or oleomargarine	0.1 percent individually, or is used in combination or with sorbic acid and its salts, 0.2 percent (expressed as the acids in the wt. of the finished foods).
	Citric acid	Flavoring	Chili con carne	Sufficient for purpose.

7. Under the "Class of substance" identified as "Miscellaneous" in the chart in § 318.7(c)(4), the reference to the use of the "Substance" "Potassium sorbate" in oleomargarine or margarine would be deleted and a new "Substance" listing for sorbic acid and its sodium, potassium and calcium salts would be added to read as follows:

Class of substance	Substance	Purpose	Products	Amount
	Potassium sorbate	To retard mold growth	Dry sausage	2.5 percent in water solution may be applied to casings after stuffing or casings may be dipped in solution prior to stuffing.
	Sorbic acid (sodium, potassium, and calcium salts).	To preserve product and to retard mold growth.	Margarine or olemargarine	0.1 percent individually, or if used in combination or with benzoic acid or its salts, 0.2 percent (expressed as the acids in the wt. of the finished foods).

Class of substance	Substance	Purpose	Products	Amount

8. Under the "Class of substance" identified as "Miscellaneous" in the chart in § 318.7(c)(4), the following would be added at the end thereof to read as follows:

Class of substance	Substance	Purpose	Products	Amount
	Citric acid (sodium and potassium salts).	To acidify	Margarine or oleomargarine	Sufficient for purpose.
	Lactic acid (sodium and potassium salts).	do	do	Do.
	L-Tartaric acid (sodium and sodium potassium salts.	do	do	Do.
	Sodium bicarbonate	To alkalify	do	Do.
	Sodium carbonate	do	do	Do.
	Sodium hydroxide	do	do	Do.

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

9. The authority citation for § 319.700 is as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 et. seq., 601 et. seq., 33 U.S.C 466–466k.

10. Section 319.700 would be revised to read as follows:

§ 319.700 Margarine or oleomargarine.[3]

(a) Margarine or oleomargarine is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed under § 16.188 of the "Indirect Methods," in "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)," 12th edition 1975.[3] It is produced from one or more of the ingredients designated in subparagraph (1) of this paragraph, and one or more of the ingredients designated in subparagraph (2) of this paragraph, to which may be added one or more of the optional ingredients designated in paragraph (b) of this section. Margarine or oleomargarine contains Vitamin A as provided for in subparagraph (3) of this paragraph.

(1) Edible fats or oils or mixtures of these, whose origin is vegetable or rendered animal fats from cattle, sheep, swine or goats.

(2)(i) Water; milk; milk products including, but not limited to, the liquid, condensed, or dry form of whey, when modified by the reduction of lactose or minerals or both, non-lactose-containing whey components, casein, or caseinate; or other suitable edible protein, including albumin, vegetable proteins, or soy protein isolate; or any mixture of two or more of the articles designated in this subparagraph, in amounts not greater than reasonably required to accomplish the desired effect.

(ii) The articles designated in this subparagraph shall be pasteurized and then may be subjected to the action of harmless bacterial starters. One or more of the articles designated in this subparagraph is intimately mixed with the edible fat or oil ingredients, or both, to form a solidified or liquid emulsion.

(3) Vitamin A in such quantity that the finished margarine or oleomargarine contains not less than 15,000 International Units (IU) of Vitamin A per pound or 33,000 IU per kilogram.

(b)(1) Vitamin D in such quantity that the finished margarine or oleomargarine contains not less than 1,500 IU of Vitamin D per pound or 3,300 IU per kilogram.

(2) Salt (sodium chloride); or potassium chloride for dietary margarine or oleomargarine.

(3) Nutritive carbohydrate sweeteners listed in § 318.7(c)(1) in amounts sufficient for purpose, namely, sugar, dextrose, invert sugar, honey, corn syrup

[2] Insofar as the standard contains provisions relating to margarine or oleomargarine which does not contain any meat food products, such provisions merely reflect the applicable standard under the Federal Food, Drug, and Cosmetic Act.

[3] Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540,

[2] Insofar as the standard contains provisions relating to margarine or oleomargarine which does not contain any meat food products, such provisions merely reflect the applicable standard under the Federal Food, Drug, and Cosmetic Act.

solids, corn syrup, glucose, sucrose, and maple sugar.

(4) Emulsifiers identified in § 318.7(c)(4) within these maximum amounts in percent by weight of the finished food: Mono-and diglycerides of fatty acids esterified with any or all of the following acids: acetic, acetyltartaric, citric, lactic, tartaric, and their sodium and calcium salts, 0.5 percent; such mono- and diglycerides in combination with the sodium sulfoacetate derivatives thereof, 0.5 percent; polyglycerol esters of fatty acid, 0.5 percent; 1, 2-propylene glycol esters of fatty acids, 2 percent; lecithin, 0.5 percent.

(5) Preservatives identified in § 318.7(c)(4) within these maximum amounts in percent by weight of the finished food: Sorbic acid, benzoic acid and their sodium, potassium, and calcium salts, individually, 0.1 percent, or in combination, 0.2 percent, expressed as the acids; calcium disodium EDTA, 0.0075 percent; stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent.

(6) Antioxidants identified in § 318.7(c)(4) within these maximum amounts in percent by weight of the finished food: propyl, acetyl, and dodecyl gallates, BHT (butylated hydroxytoluene), BHA (butylated hydroxyanisole), ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent. Instead of these antioxidants, TBHQ (tertiary butyl hydroquinone), alone or in combination only with BHT and/or BHA, with a maximum 0.02 percent by weight of the fat and oil content.

(7) Color additives identified in § 318.7(c)(4) in amounts sufficient for purpose:[4] Alkanet, annatto, cochineal, green chlorophyl, saffron, turmeric, and coal tar dyes. For the purpose of this subparagraph, provitamin A (beta-carotene) shall also be demed to be a color additive.

(8) Flavoring substances in amounts sufficient for purpose.

(9) Acidulants identified in § 318.7(c)(4) in amounts sufficient for purpose: citric and lactic acids and their potassium and sodium salts; L-tartaric acid and its sodium and sodium-potassium salts.

(10) Alkalizers identified in § 318.7(c)(4) in amounts sufficient for purpose: sodium bicarbonate, sodium carbonate, and sodium hydroxide.

(c) For the purposes of this section, the term "milk" unqualified means milk from cows. If any milk other than cow's milk is used in whole or in part, the animal source shall be identified in conjunction with the word "milk" in the ingredient statement.

Done at Washington, D.C., on January 12, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-2240 Filed 1-27-82; 8:45 am]

BILLING CODE 3410-DM-M

[4] Colored margarine or oleomargarine is also subject to the provisions of section 407 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 347) as reflected in § 317.8(b)(24) of this subchapter.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-2]

Petitions for Rulemaking; Summary of Petitions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of comment period and correction of previously published petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before the dates shown in the summaries.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on January 20, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
22095	Air Line Pilots Association	Description of Petition: To amend 14 CFR 121.307(e) to include operational accuracy requirements for fuel indication systems. Petitioner proposes revising the section to read: "A fuel quantity indicator system for each fuel tank to be used and for a total fuel quantity indicator system that is accurate, within ±3 percent of the amount indicated, ±.5 percent of full fuel throughout the full range (zero to full fuel). Regulations Affected: 14 CFR 121.307(e) Petitioner's Reasons for Rule: Petitioner contends there are no operational accuracy requirements in the current regulations; there are no accuracy requirements for full and partial fuel indication, only that each fuel indicator must be calibrated to read "zero" during level flight when the remaining fuel is unusable, and there are no standards concerning fuel indicator systems in turbine or jet engine aircraft.

NOTE.—This Petition Was Previously Published. (46 FR 54957; Nov. 5, 1981). The Aerospace Industries Association (AIA), in a letter dated 12/17/81, indicated that the ALPA petition is of concern to the AIA member companies and that it plans to provide industry comments. However, because of the holidays, AIA would not have sufficient time to prepare its response. The FAA has determined that the AIA comments would be extremely valuable in making its decision on the merits of the proposal and for that reason agrees that the extension of the comment period would be in the public interest. Therefore, the comment period is reopened until March 5, 1982.

Correction of Summaries of Petitions Previously Published

Docket No.	Petitioner	Description of the rule requested
22269	Flight Engineers International Assoc. (FEIA).	Description of Petition: To amend appropriate FAR Parts to the extent necessary in order to regulate the certification of transport category airplane cockpits and their use in air transportation in the United States. These amendments would include the establishment of an integrated and coordinated set of regulatory standards, documentation requirements and evaluation criteria for the certification, configuration control, and modification of flight cockpits used on transport category airplanes. Additionally, the amendments would provide for the certification of appropriate flight operational procedures and training specifications consistent with: criteria used in the aircraft/cockpit system, and procedures dictated by flight operational activity, i.e., low visibility approach and landing operations currently permitted by the Category II and Category III advisory circular criteria, etc. They would also cover the certification of cockpit instrumentation, equipment and software configurations, minimum flight crew, master minimum equipment list—for a particular aircraft type, minimum equipment list—for the particular air carrier, cockpit/crew operational procedures, and crew function training. Regulations Affected: 14 CFR Parts 21, 25, and 121. Petitioner's Reasons for Rule: The petitioner has referred to the transcripts of public hearings associated with the President's Task Force on Aircraft Crew Complement (Task Force) and the public discussions in the six recently-conducted FAA Aviation Human Factors Workshops. Based on its analysis of these public hearings/discussions and the five recommendations relating to crew complement certification identified by the Task Force, the petitioner believes that justification exists for a regulatory requirement to certify Part 25 airplane cockpits for use in air transportation.
22267	Beech Aircraft Corp	Description of Petition: To require landing distances for aircraft certificated under SFAR 41 to be the same as for aircraft certificated under § 23.75. Regulations Affected: SFAR 41.5(c)(a). Petitioner's Reasons for Rule: Petitioner states "SFAR 41, through reference to a non-current version of FAR 23, invokes an overly conservative and outmoded technique for the determination of landing distance. Operations of aircraft so certificated, as commercial carriers under FAR 135, is further penalized by provisions of FAR 135.399(b), which requires landing distances be factored by 1.67 for destination fields and 1.43 for alternate fields. The combination of outmoded techniques for landing determination coupled with the additional safety factors of FAR 135.399(b) results in unreasonably long, overly conservative runway lengths for SFAR 41 aircraft. This effectively precludes SFAR 41 aircraft service to many small-city airports and neutralizes the intent of SFAR 41."

NOTE.—Flight Engineers International Association (FEIA) and Beech Aircraft Corp. petitions were previously published under a partially incorrect heading. (47 FR 817; Jan. 7, 1982) They are being republished to ensure that the petitions are properly understood. The comment period on these petitions closes March 8, 1982.

[FR Doc. 82-1799 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-22]

Control Zone and Transition Area, Hastings, Nebraska; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the control zone and the 700-foot transition area at Hastings, Nebraska, to provide additional controlled airspace for aircraft executing a new instrument approach procedure proposed for the Hastings Municipal Airport, Hastings, Nebraska, utilizing the Hastings VOR as a navigational aid.

DATE: Comments must be received on or before March 1, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before March 1, 1982 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering amendments to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, § 71,181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the control zone and 700-foot transition area at Hastings, Nebraska. To enhance airport usage, an instrument approach procedure is being proposed for the Municipal Airport, Hastings, Nebraska, utilizing the Hastings VOR as a navigational aid. The establishment of this instrument approach procedure entails alteration of the control zone and transition area at Hastings, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. Control zones are designed to contain IFR operations in controlled airspace to the surface around airports within a specified radius and along the final approach course of the IAPs. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using this

approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposed to amend Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 2, 1981 (46 FR 455), by altering the following control zone:

Hastings, Nebraska

Within a 5-mile radius of Hastings, Nebraska, Municipal Airport (Latitude 40°36'20" N, Longitude 98°25'30" W), within 2 miles each side of the 336° bearing from Hastings Municipal Airport extending from the 5-mile radius zone to 9.5 miles north of the airport, and within 2 miles each side of the 143° bearing from Hastings Municipal Airport extending from the 5-mile radius zone to 8 miles southeast of the airport, and 3 miles either side of the 219° bearing from Hastings Municipal airport extending from the 5-mile radius to 8.5 miles southwest of the airport. The control zone shall be effective during the time established by a Notice to Airmen and continuously published in the Airport/Facility Directory.

Additionally, the Federal Aviation Administration proposes to amend Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following new transition area:

Hastings, Nebraska

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Hastings Municipal Airport (Latitude 40°36'20" N, Longitude 98°25'30" W), within 2 miles each side of the 323° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 8 miles NW of the airport; within 2 miles each side of the 336° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 9.5 miles N of the airport, and within 2 miles each side of the 143° bearing from Hastings Municipal Airport extending from the 7-mile radius zone to 8 miles SE of the airport and within 3 miles each side of the 219° bearing from the Hastings Municipal Airport extending from the 7-mile radius zone to 8.5 miles SW of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on January 13, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-1795 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-21]

Transition Area, Neodesha, Kansas; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Neodesha, Kansas, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Neodesha, Kansas, Municipal Airport utilizing the Chanute VOR as a navigational aid.

DATE: Comments must be received on or before March 1, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before March 1, 1982 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Neodesha, Kansas. To enhance airport usage, an additional instrument approach procedure to the Neodesha Municipal Airport is being established utilizing the Chanute VOR as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Neodesha, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Neodesha, Kansas

That airspace extending upwards from 700 feet above the surface within 5 miles of the Neodesha Municipal Airport (latitude 37°26'05" North, longitude 95°38'49" West) and within 2.5 miles each side of the Chanute VOR 185° radial, extending from the 5-mile radius to 6 miles southwest of the airport, excluding that portion which overlies the parsons, Kansas, transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on January 13, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-1797 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-23]

Transition Area, Seward, Nebraska; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Seward, Nebraska, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Seward, Nebraska, Municipal Airport, utilizing the Seward NDB as a navigational aid.

DATE: Comments must be received on or before March 1, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before March 1, 1982 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Seward, Nebraska. To enhance airport usage, an additional instrument approach procedure to the Seward Municipal Airport is being established, utilizing the Seward NDB as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Seward, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Seward, Nebraska

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Seward Municipal Airport, Seward, Nebraska (Latitude 40°51'46"N, Longitude 97°06'32"W), and 5 miles either side of the 344° bearing of the Seward NDB (Latitude 40°51'36"N, Longitude 97°06'18"W) extending from the 5-mile radius to 11.5 miles NW of the NDB excluding that airspace overlying the Lincoln, Nebraska transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on January 13, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-1798 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 21727; Notice No. 82-2]

Flightcrew Requirements for Aircraft Certificated Under SFAR 41

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Part 91 of the Federal Aviation

Regulations relating to general operation and flight to allow certain operations of large airplanes certificated under SFAR 41 with one pilot instead of two if the airplane is found safe for operation with one pilot. The amendment would relieve operators of an economic burden which does not have a commensurate safety benefit. This notice responds to a petition for rulemaking submitted by the General Aviation Manufacturers Association (GAMA).

DATE: Comment must be received on or before March 29, 1982.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 21727, 800 Independence Avenue, SW., Washington, D.C. 20591; or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Joseph A. Sirkis, Regulatory Projects Branch (AVS–24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 755–8716

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 21727." The postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Current airworthiness standards exist for two basic designations of airplanes: Part 23 for small (12,500 pounds or less) airplanes having nine or less passenger seats and Part 25 for transport category airplanes. Commuter airlines and air taxi operations in the United States, which have grown substantially in recent years, have demonstrated a need for airplanes which are not fully in the transport category but exceed the size limitations of Part 23. Certain small multiengine airplanes weighing under 12,500 pounds maximum takeoff weight are so designed that they can be readily increased in size and maximum takeoff weight. Thus, they can fill the void between Part 23 and Part 25 airplanes.

Special Federal Aviation Regulation No. 41 (SFAR 41) was adopted on September 7, 1979, to allow certain Part 23 airplanes to be adapted to fill the void without requiring them to meet the standards of transport category airplanes. SFAR 41 allows the certification and operation, with appropriate restrictions and limitations, of small, propeller-driven multiengine airplanes at maximum takeoff weights exceeding 12,500 pounds. The airplanes may also be configured with more than 10 passenger seats. It requires that the basic make and model of each airplane must have been originally type certificated in accordance with part 23 prior to October 17, 1979.

The rules applicable to air taxi and commercial operators (Part 135), which include commuter airlines, were amended to allow the operation of airplanes certificated under SFAR 41. In addition to operations conducted under Part 135, experience since the adoption of SFAR 41 has indicated that operations of these airplanes are routinely conducted under Part 91.

SFAR 41, Section 1(c), requires, in pertinent part, that an airplane certificated under paragraph (b) of Section 1 is considered to be a small airplane for the purpose of Parts 21, 23, 36, 121, 135, and 139 and a large airplane for the purpose of Parts 61 and 91. Section 91.213(a)(1) provides that no person may operate a large airplane without a pilot who is designated as second in command of that airplane. The combined effect of these regulations prohibits the operation under Part 91 of SFAR 41 airplanes with only one pilot when airplanes of the same basic design and configuration which have been certificated under Part 23 can be operated with one pilot. This has caused an apparent financial burden on Part 91 operators of airplanes certificated under SFAR 41.

GMA has petitioned the FAA to amend the Federal Aviation Regulations to allow operation of certain airplanes certificated under SFAR 41 with one pilot. It states that this will reduce the burden on the public by allowing airplanes to operate with one pilot during certain flights if those airplanes have been found safe for operations with a reduced crew. This would include operations such as maintenance flight testing, relocation of airplanes, executive use, and demonstration flights, all of which may be conducted under Part 91. Two pilots would continue to be required for air taxi operations conducted under Part 135 when airplanes with 10 or more passenger seats are used. The petitioner points out that the requirement for two pilots to be used for all operations imposes an economic burden without a commensurate safety benefit.

Discussion of the Proposed Rule

The FAA believes that the petitioner's proposal has merit. The proposed amendment allowing one-pilot crews on airplanes that can be operated safety with one pilot would serve to reduce an apparent financial burden for Part 91 operators of airplanes certificated under SFAR 41 without compromising safety.

The FAA proposed to amend Part 91 to allow certain SFAR 41 airplanes to be operated under Part 91 with one pilot. This would be accomplished by amending § 91.213(a)(1) to exclude SFAR 41 airplanes from the requirement that all large airplanes must operate with a second in command. That section currently requries two pilots for all large airplanes; that is, those airplanes weighing over 12,500 pounds maximum

certificated takeoff weight. Maintenance and pilot certification for Part 91 operations would remain unchanged.

Under the proposal, the determination that single-pilot operation can be safety permitted would have to be made a part of the certification basis for the airplane if not already established. The approval, if granted, would appear in the type certificate data for the appropriate make and model airplane. However, the operating rules in effect for a particular flight would still dictate the minimum required crew complement for that flight.

This proposal provides an acceptable level of safety for affected operations while imposing the least amount of regulatory control consistent with maintaining flight safety. The amendment, if adopted, would reduce a burden on aircraft operators by eliminating the cost of a second pilot without compromising safety. Since the costs outweigh the benefits, this proposal is consistent with Executive Order 12291, signed by the President on February 17, 1981. As a result, the FAA proposes to amend § 91.213(a)(1) to allow SFAR 41 airplanes to be operated without a pilot who is designated as second in command.

This proposal responds to an industry petition for relief from current regulation. No formal benefit-cost analysis was completed with respect to the proposal. A regulatory evaluation was conducted for this action to preliminarily assess the cost and economic impact. The FAA has determined that there are no apparent direct or indirect (non-industry) costs associated with granting the petition. The FAA agrees with the GAMA statements as to benefit. Therefore, it is apparent that benefits outweigh any costs associated with changing the present regulation. The FAA invites comment on this matter.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. By revising paragraph (a)(1) of § 91.213 to read as follows:

§ 91.213 Second in command requirements.

(a) * * *

(1) A large airplane, except that a person may operate an airplane certificated under SFAR 41 without a pilot who is designated as second in command if that airplane is certificated for operation with one pilot.

* * * * *

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423, and 1424), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this proposal, if adopted, would relax requirements and allow more flexibility to affected operators since it would permit operation of certain SFAR 41 aircraft with one pilot instead of two if the airplane is found safe for operation with one pilot. For these operations, operators would have a cost saving and no increased economic burden. There are no apparent direct or indirect (nonindustry) costs associated with the proposal. Therefore, it has been determined that this is not a major regulation under Executive Order 12291. I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposal would allow operators of SFAR 41 aircraft, some of whom are small entities, to reduce costs by operating aircraft under certain conditions with one pilot instead of two. In addition, the FAA has determined that this proposed amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, D.C., on January 6, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82-2345 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD7-82-01]

Drawbridge Operation Regulations, Garrison Channel, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Mr. Edward J. Kohrs on behalf of American Centennial Insurance Company, the Coast Guard is considering special drawbridge regulations governing the operation of the Seddon Island Bridge across Garrison Channel, mile 0.2, Tampa, Florida to require the draw to open on signal if at least 48 hours advance notice is given to the local representative. This proposal is being made because no requests have been made to open the draw since 1979.

The proposed regulation has been reviewed under the provisions of E.O. 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, the impact is expected to be minimal. In accordance with section 605(b) of The Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, (if promulgated), will not have a significant economic impact on a substantial number of small entities.

DATE: Comments must be received on or before March 1, 1982.

ADDRESS: Comments should be submitted and are available for examination and copying from 7:30 a.m. to 4 p.m., Monday through Friday at the office of the Commander (oan), Seventh Coast Guard District, 51 S. W. 1st Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350 4108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed envelope or post card.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons in drafting this porposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Petersen, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of the Proposed Regulations

The proposed regulation is being considered due to the decline in

waterborne activities upon the waterway. The bridge was authorized for construction as a railroad structure on October 26, 1906 and approval was granted in March 1944 to provide for both railway and vehicular traffic. Use of the bridge for railway service was discontinued in late 1970. The bridge has had no drawbridge openings since February 1979. The bridge provides for vehicular access to Seddon Island. This action may relieve the bridge owner of the burden of having a person constantly available to open the draw and may still provide for the reasonable need of navigation.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new § 117.245(i)(4-a) immediately after § 117.245(i)(4) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) Waterways discharging into Gulf of Mexico east of Mississippi River. * * *

(4-a) Garrison Channel, Tampa, Florida. The draw shall open on signal if at least 48 hours advance notice is given.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3).

Dated: January 11, 1982.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 82–2232 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD–81–107]

Drawbridge Operation Regulations; Snohomish River, Steamboat Slough, and Ebey Slough

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Washington State Department of Transportation, the Coast Guard will consider changing the regulations governing the state highway drawbridges across the Snohomish River, Steamboat Slough, and Ebey Slough between Everett and Marysville, Washington. The proposed change would require that requests for bridge openings be made in advance for the Ebey Slough bridge and the existing advance notice for the Snohomish River and Steamboat Slough bridges be reduced. This proposal is being made because of a change in the pattern of navigational usage of the waterways. This action may relieve the bridge owner of the burden of having a person in constant attendance at the Ebey Slough bridge and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 28, 1982.

ADDRESS: Comments should be submitted to, and are available for examination from 8:00 A.M. to 4:30 P.M., Monday through Friday, at the office of the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, District Bridge Administrator, Aids to Navigation Branch, Room 3564, Federal Building, 915 Second Avenue, Seattle, Washington 98174, telephone (206) 442–5864.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridges, and give reasons for concurrences with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope. The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information: The principal persons involved in drafting this proposal are: John E. Mikesell, District Bridge Administrator and Lt. James R. Woeppel of the District Legal Officer's staff.

Discussions of the Proposed Regulations

This regulation change is being considered in an effort to allow the bridge owner to operate the bridges in a more efficient manner while providing overall improved service to navigation.

A new marina on the Snohomish River upstream of the State highway drawbridges north of Everett can accommodate over 1,000 boats and is utilized primarily by recreational craft with some commercial fishing vessels also using the facility. Several boat repair and marine service facilities also exist upstream of the bridge. The major traffic on the Snohomish River consists of recreational and fishing vessels. Both Ebey Slough and Steamboat Slough are used extensively for log storage. Most of the traffic on these waterways consists of tugs with log tows.

Under present operating regulations, the Snohomish River bridges require at least two hours advance notice for opening, the Steamboat Slough bridges require four hours advance notice, and the Ebey Slough bridge has a drawtender in constant attendance and will open on call. The proposed change would require that one hours advance notice be given for the opening of any of these bridges. The openings would be accomplished by a roving drawtender who would be stationed at the Snohomish River bridges on weekends, where recreational boating traffic is heaviest, and at the Ebey Slough bridge on weekdays, where commercial navigation is heaviest. Requests for openings would be made by marine radio, telephone or other means to the drawtender at the manned bridge. A review of bridge openings for the past year indicates that the bridges average less than one opening per day each. However, because of the new marina on the Snohomish River, requests for openings of the State highway bridges downstream of the marina are expected to increase significantly, particularly on weekends. The marina operator has reported a loss of existing and potential customers due to the delays and the general inconvenience of the advance notice now required for the State highway bridges. Preliminary contact with waterway users indicates that the proposed change would have no adverse effect on navigation.

The proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not be be a major rule. In addition, these proposed regulations are considered to be non-significant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons

discussed above, its impact is expected to be minimal. In accordance with Section 605(b) of the Regulatory Flexibility, Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.805(e)(5) to read as follows:

§ 117.805 Snohomish River, Steamboat Slough, and Ebey Slough, Washington; bridges.

* * * * *

(e) * * *

(5) The bridges to which this paragraph applies, and the special regulations applicable in each case, are as follows:

(i) The State of Washington, Department of Transportation, bridges across the Snohomish River north of Everett; Steamboat Slough bridges north of Everett; and the Ebey Slough bridge at Marysville, shall open on signal if at least one hours advance is given: *Provided,* That during freshets a drawtender shall be kept in constant attendance at the Snohomish River bridges upon order of the District Commander. Notice shall be given by marine radio, telephone, or other means, on weekends, to the drawtender at the Snohomish River bridges, and on weekdays, to the drawtender at the Ebey Slough bridge.

(ii) The State of Washington, Department of Transportation, bridge across the Snohomish River at the foot of Hewitt Avenue, Everett, shall open on signal if at least four hours advance notice is given: *Provided,* That during freshets a drawtender shall be kept in constant attendance upon order of the District Commander.

(iii) The Burlington Northern Corporation bridge across Steamboat Slough north of Everett shall open on signal if at least four hours advance notice is given.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: December 23, 1981.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District

[FR Doc. 82–2201 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AD–FRL–2037–7]

Requirements for Preparation Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period; solicitation of requests for public hearing.

SUMMARY: EPA is extending to February 2, 1982, the period for public comment on the rulemaking proposals at 46 FR 61613 (December 17, 1981) relating to the construction of new stationary sources of air pollution and modifications to existing sources under the Clean Air Act. EPA is also asking that anyone who wishes to present comments orally make a request on or before February 2, 1982, for a public hearing.

DATE: The deadline for submitting comments, or requests for a public hearing, is February 2, 1982.

ADDRESS: Any comments or requests for a public hearing should be submitted (in triplicate, if possible) to: Central Docket Section (A–130), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Attention: Docket No. A–81–39.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, New Source Review Section, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; 919–541–5591; FTS–629–5591.

SUPPLEMENTARY INFORMATION: In December 1981, EPA proposed to amend its regulations relating to the construction of new stationary sources of air pollution and modifications to existing sources under the Clean Air Act. See 46 FR 61613. Specifically, EPA proposed to repeal the requirement that certain emissions from marine vessels are to be included in determinations of whether a proposed source or modification would emit a pollutant in "major" or "significant" amounts. EPA also proposed to bar itself from (1) including vessel emissions and certain emissions from other mobile sources in any preconstruction assessment of the air quality impact of a proposed source or modification and (2) requiring a state to include those emissions in any such assessment.

EPA originally set a 30-day period for public comment, which ended on January 18, 1982. The State of California has asked EPA to extend the comment period preferably for thirty days, but at least for ten days, to allow it to complete its analysis of the legal interpretation which underlies EPA's proposals. EPA hereby extends the period for fifteen days; comments may be submitted, therefore, on or before, February 2, 1982. An extension of fifteen days will give California the time it says it needs to complete its legal analysis. At the same time, it will minimize delay in the completion of the rulemaking. EPA has a strong interest in completing the rulemaking expedient. The provisions which EPA has proposed to amend are currently under challenge in court, and EPA's active reconsideration of them has already consumed many months. *See* 46 FR 36695 (July 15, 1981).

Section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d), under which EPA is conducting this rulemaking, requires EPA to give anyone who wishes to present comments orally an opportunity to do so. EPA, therefore, asks that anyone wishing to give an oral presentation submit a request for a public hearing in writing, with a brief description of the presentation, and on or before February 2, 1982. If EPA receives a request for a public hearing, one will be conducted.

(Sec. 101(b), 110, 160–69, 171–78 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7470–79, 7501–08 and 7601(a))

January 22, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air Noise and Radiation.

[FR Doc. 82–2371 Filed 1–27–82; 8:45 am]

BILLING CODE 6560–26–M

40 CFR Part 52

[A–8–FRL–2016–7]

Approval and Promulgation of State Implementation Plans; Utah Nonattainment SIP

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to propose to approve revisions to the Utah State Implementation Plan (SIP) which were submitted by the State on April 8, 1981. The revisions proposed for approval here include emission limits for Group II sources of volatile organic compounds, new limits on fugitive emissions of particulates, new or revised emission limits for several stationary sources, and a clarification to the compliance testing requirements.

DATE: Comments due March 1, 1982.

ADDRESSES: Written comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the revision and EPA's evaluation report are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3711.

SUPPLEMENTARY INFORMATION: On April 8, 1981, the Governor of Utah submitted to EPA a revision to the State Implementation Plan (SIP). This revision was divided into three parts for review and approval. First, emission limits in Utah Regulation 3.2.1 were revised for a number of stationary sources of particulates. The revisions for all but three of those sources were given expedited review and were proposed for approval on May 18, 1981 (46 FR 27129). Second, the revision included an amended Inspection/Maintenance work schedule for Salt Lake County. This portion was proposed for approval on May 5, 1981 (46 FR 25110).

Finally, the remainder of the SIP revision has been reviewed for consistency with Clean Air Act requirements and EPA criteria for approval of SIP Revisions. *See* 44 FR 20372 (1979), 44 FR 38583 (1979), 44 FR 53761 (1979), and 44 FR 50371 (1979). These remaining portions of the SIP Revision are proposed for approval in today's **Federal Register**. The issues included in that revision are discussed below:

Stationary Source Limits

Minor changes were made to the emission limitations applicable to Pacific States Cast Iron and Pipe Company, Gibbons and Reed Asphalt Plant, and Interpace Corporation. The changes are minor and will result in improvements in air quality.

Fugitive Emission Limits

Section 4.5 of the Utah Regulations was revised to control sources of fugitive dust and fugitive emissions including: mining operations, construction, roadways, and tailings. This regulation will result in reduced emissions of particulates in both attainment areas and nonattainment areas.

Volatile Organic Compounds

Section 4.9 of the Regulations was amended to provide new limits on volatile organic compounds including the new Group II requirements. Specifically, the following provisions were added or revised:

Regulations	Source category
4.9.1c	Petroleum Liquid Storage.
4.9.2	Petroleum Liquid Transfer.
4.9,3.f	Refinery Equipment Leaks.
4.9.6	Operations for paper coating, fabric coating, metal furniture coating, large appliance surface coating, magnet wire coating, flatwood coating, miscellaneous metal parts coating, and graphic arts.
4.9.7	Synthesized pharmaceutical manufacturing.
4.9.8	Perchloroethylene dry cleaning plants.

While the regulations are generally acceptable, regulations 4.9.1.c., 4.9.3.f., and 4.9.6.f (graphic arts) contain minor inconsistencies with EPA's control technique documents which the State has agreed to clarify during the public comment period. Details concerning these minor inconsistencies are included in EPA's evaluation report.

Compliance Testing

Section 3.2.3 was revised to clarify the use of the method 5 sampling train.

Proposed Action

EPA's review of the April 8, 1981, submittal indicates that it meets all requirements of Section 110 and Part D of the Clean Air Act. Therefore, EPA proposes to approve all aspects of that submittal. Any comments received prior to the close of the public comment period will be considered by EPA in issuing a final rule.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. Section 605(b)), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not, if promulgated, have a significant economic impact on a substantial number of small entities. (46 FR 8709; January 27, 1981). This action constitutes a SIP approval within the meaning of this certification. It only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: December 11, 1981.

Steven J. Durham,

Regional Administrator.

[FR Doc. 82-2254 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-1-FRL-2037-2]

New Hampshire Application for Approval of Solid Waste Management Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of state plan for public comment.

SUMMARY: EPA is today announcing the availability of, and soliciting public comment on whether the State of New Hamsphire's solid waste management plan meets EPA's guidelines for the approval of state solid waste management plans under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended.

DATE: Comments on New Hampshire's solid waste management plan must be received by February 26, 1982.

ADDRESS: Copies of New Hampshire's solid waste management plan are available at the following addresses for inspection and copying by the public:

New Hampshire Bureau of Solid Waste Management, Health and Welfare Building, Hazen Drive, Concord, N.H. 03301, (603) 271–4609

U.S. Environmental Protection Agency, Region I, Waste Management Branch, John F. Kennedy Federal Building, Boston, Mass. 02203, (617) 223–5775

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Paul H. Bedrosian, Solid Waste Section, Waste Management Branch, U.S. EPA, Regiona I, John F. Kennedy Federal Building, Boston, MA 02203 (617) 223–5775.

SUPPLEMENTARY INFORMATION: Under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), EPA is authorized to approve state solid waste management plans. The criteria for approving those plans are set forth in EPA's Guidelines for Development and Implementation of State Solid waste Management Plans ("Guidelines"), codified at 40 CFR Part 256. Among other things, the Guidelines require that plans identify a general strategy for achieving the following objectives:.

- Protecting human health and the environment from adverse effects associated with solid waste disposal;
- Prohibiting the establishment of new open dumps;
- Upgrading or closing existing open dumps;
- Encouraging resource recovery and resource conservation;
- Providing adequate disposal capacity in the state;
- Establishing priorities for state solid waste activities; and
- Dealing with other issues relevant to solid waste management.

The state plan must also set forth the institutional arrangments that the state will use to implement this strategy.

Under RCRA and the Guidelines, EPA's approval of a state plan has two major implications. First, it permits the state to issue compliance schedules which can shield entities from citizen suits seeking to enforce the Federal prohibition on open dumping in Section 4005(a) of RCRA. Second, it may affect the state's eligibility for Federal funding under Section 4007 and 4008 of RCRA. Once a plan has been approved, EPA must withhold Subtitle D technical and financial assistance to the state if the Administrator at any time determines that the plan is no longer in compliance with the Guidelines and withdraws approval. *See* Section 4007(b)(3).

On September 23, 1981 (46 FR 47048) EPA amended the Guidelines to authorize partial approval of State plans. These amendments authorize EPA to approve that portion of the State plan under which entities may, pursuant to 40 CFR 256.26, receive compliance schedules from the State leading to compliance with the open dumping prohibition of section 4005. In such a partial plan approval the Administrator must determine that:

(1) The portion submitted satisfies § 256.26;

(2) The State has authority to issue and enforce compliance schedules; and

(3) The State will complete the remainder of the plan within a reasonable period of time.

On November 16, 1981, the State of New Hampshire submitted its solid waste management plan to EPA for approval. EPA is soliciting public comment on whether this plan meets the requirements set forth in the Guidelines. In particular, EPA is seeking comment on the following issues:

- Does the plan effectively prohibit the establishment of new open dumps?
- Does the plan provide authority to upgrade or close existing open dumps?
- If the plan does not meet the Guidelines in its entirety, can it be approved in part? *See* 40 CFR 256.04, as amended by 46 FR 4708 (September 23, 1981).

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817, (42 U.S.C. 6947); sec. 3, Pub. L. 96-354, 94 Stat. 1168, (5 U.S.C. 605))

Dated: January 13, 1982.

Lester A. Sutton,

Regional Administrator.

[FR Doc. 82-2233 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 536

[General Order 13, Amdt. No. 10; Docket No. 80-56]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States; Prohibition of Filing Temporary Amendments

AGENCY: Federal Maritime Commission.

ACTION: Previously published proposed rule; certification of no significant impact under the Regulatory Flexibility Act (5 U.S.C. 605(b)).

SUMMARY: On December 18, 1981 the Commission granted requests for reconsideration of a proposed rule for purposes of receiving further comments from interested parties (46 FR 62669). This proposed rule would, if promulgated, prohibit the filing of temporary amendments to tariffs of common carriers by water in the foreign commerce of the United States.

Because the original notice of proposed rulemaking was published before the effective date of the Regulatory Flexibility Act, the Commission was of the opinion that this rulemaking proceeding was exempt from the requirements of that Act. However, upon advice of the Office of the Chief Counsel for Advocacy of the Small Business Administration the Commission has determined to apply the requirements of that Act to this reopened proceeding.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The primary economic impact of this rule would be on common carriers by water in the foreign commerce which are not generally considered to be small entities within the meaning of 5 U.S.C. 601. While there may be a secondary economic impact upon shippers and freight forwarders, some of which may be small entities, this impact is not considered to be significant within the meaning of the Regulatory Flexibility Act. Accordingly, the Commission certifies pursuant to 5 U.S.C. 605(b) that this rule, will not, if promulgated, have a significant economic impact on a substantial number of small entities.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2186 Filed 1-27-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 27]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to propose an amendment to the fuel loading test conditions of Safety Standard No. 208, *Occupant Crash Protection.* The notice responds to a petition for rulemaking submitted by Mercedes-Benz of North America. Safety Standard No. 208 currently specifies that vehicles are to be crash tested with their maximum capacity of fuel. Mercedes requested that the fuel loading conditions of the standard be amended to be consistent with Safety Standard No. 301, *Fuel System Integrity,* which only requires the fuel tank to be filled to any level between 90 and 95 percent of capacity. The agency has tentatively determined that filling the fuel tank from 90 to 95 percent of capacity is a more realistic test condition than is currently specified in Standard No. 208. Further, specifying in Safety Standard No. 208 the same level of capacity used in other safety standards will enable manufacturers to conduct tests that simultaneously determine compliance with that and other safety standards and thereby reduce compliance test costs.

Therefore, this notice proposes to make the requested change. Although not requested by the petition, this notice also discusses the term "capacity" in relation to fuel tanks, since the agency has received several questions concerning the term in the past.

DATE: Comments should be submitted no later than March 15, 1982.

ADDRESS: Comments should refer to the docket number and notice number of

this notice and be submitted to: NHTSA Docket Section, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are between 8 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nelson, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2264).

SUPPLEMENTARY INFORMATION: The fuel tank loading specification in Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), differs from that used in other Safety Standards. Paragraph S8.1.1(a) of that standard currently specifies that a passenger car is to be loaded "to its unloaded vehicle weight plus its rated cargo and luggage capacity weight" prior to conducting a barrier crash test. The term "unloaded vehicle weight" is defined in 49 CFR 571.3 as "the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle. . . ." Thus, under the current test conditions of the standard, fuel tanks are to be filled to 100 percent of capacity.

The test conditions of Safety Standards Nos. 301, *Fuel System Integrity*, 212, *Windshield Mounting*, and 219, *Windshield Zone Intrusion*, also specify loading of the vehicle fuel tank prior to barrier crash testing. However, these standards provide that the fuel tank is to be filled to any level from 90 to 95 percent of capacity, rather than to "maximum capacity" as specified in Safety Standard No. 208.

On March 9, 1981, Mercedes-Benz of North America petitioned the agency to amend Standard No. 208 so that the fuel tank loading specification would be consistent with Safety Standard No. 301. Mercedes stated that such an amendment would serve to harmonize the two standards and would eliminate the current need for running separate barrier crash tests for the two standards. The company stated that tests being conducted to evaluate occupant crash protection systems yield data which cannot be used to evaluate the integrity of fuel systems because of the variation in fuel tank loading conditions.

The agency has tentatively determined that Mercedes' requested amendment has merit. Safety Standard No. 301 was amended in 1974 to specify that fuel tanks are only required to be filled between 90 and 95 percent of capacity (39 FR 10586). The preamble to that amendment stated: "The NHTSA is aware of the problem of thermal expansion and its ability to cause artificial failures during testing for compliance with Standard No. 301. If the fuel system is filled to 100 percent capacity before the test and then is subjected to thermal expansion, there could be leakage in the fuel system unrelated to its crashworthiness, indistinguishable from fuel leakage caused by the various specified crash tests."

Although fuel leakage is not a problem or even a test element of the frontal crash test specified in Safety Standard No. 208, the agency believes that the fuel tank loading specification of 90 to 95 percent of capacity is a more appropriate and realistic test condition for that standard. Vehicles are seldomly driven with their fuel tanks filled to 100 percent capacity. First, it is difficult to fill a fuel tank to 100 percent capacity because of air pockets which become trapped in the tank. Second, a car does not have to be driven far to reduce the amount of fuel in its tank by several percentage points. Therefore, the agency believes that filling fuel tanks to 90 to 95 percent of capacity would be sufficiently representative of the maximum fuel loading that will occur on the highway. Moreover, the difference in overall vehicle weight because of the 5 to 10 percent less fuel under the proposed amendment should have no significant effect on the test results of Safety Standard No. 208. The proposed change does not significantly reduce the stringency of the standard and realistically maintains the intended purpose of the loading conditions, i.e., that a vehicle's test weight is representative of vehicle weights on the highway.

The agency also believes that the proposal should facilitate testing to simultaneously determine compliance with various safety standards. As noted above, Safety Standards Nos. 301, 212, and 219 all specify that fuel tanks are only to be filled to between 90 and 95 percent of capacity. Only Safety Standard No. 208 currently specifies "maximum capacity". Since all of these standards involve expensive barrier crash tests, the agency believes the fuel loading conditions should be identical so that the number of tests which must be run can be minimized. Therefore, this notice proposes to amend the fuel loading condition of Safety Standard No. 208 so that it is consistent with those in these other standards.

The agency has received some questions in the past concerning what constitutes the "capacity" of a fuel tank. Specifically, there have been questions whether the vapor volume of the tank is included in determining capacity. In answer to those questions the agency notes that "capacity", as used in regard to fuel tanks, inlcudes the tank's "usable capacity", as that term is used in the vehicle manufacturer's Part I submission to the Environmental Protection Agency, plus its "unusable capacity" (i.e., the volume of fuel left in the bottom of the tank when the engine fuel pump no longer can draw fuel from the tank). The term "capacity" does not include the vapor volume of the tank, i.e., the space above the fuel tank filler neck.

The proposed change would not qualify as a major regulation under Executive Order 12221 or as a significant regulation under the Department's guidelines for issuing regulations. The proposed test condition would benefit those manufacturers who choose to conduct simultaneous crash tests for several safety standards, by reducing costs. The agency has also considered this proposal under the National Environmental Policy Act and determined that the proposal should have no significant effect on the human environment.

Finally, the agency has considered this proposal under the Regulatory Flexibility Act. Only vehicle manufacturers would be affected by the proposed amendment. Since the proposed amendment would only reduce costs slightly in relation to overall manufacturer costs, the proposed amendment would not significantly affect any vehicle manufacturer that would qualify as a small business under the Act. The proposed amendment would have no significant effect on small governmental units. Although these units are fleet purchasers of vehicles, the proposed amendment should not affect the retail price of vehicles. Also, the proposed amendment should have no effect on small organizations for the same reason.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating

that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid the damage; and showing tha earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), be amended as set forth below.

§ 571.208 [Amended]

1. The first sentence of S8.1.1 would be amended to read:

"Except as provided in paragraph (c) of this section, the vehicle, including test devices and instrumentation, is loaded as follows:"

2. A new paragraph S8.1.1(c) would be added to read as follows:

"(c) The fuel tank is filled to any level from 90 to 95 percent of capacity."

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 22, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-2257 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 73-34; Notice 6]

Motor Vehicle Safety Standards; School Bus Body Joint Strength

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Extension of comment period.

SUMMARY: On November 27, 1981, the agency published a notice proposing an amendment to Standard No. 221, *School Bus Body Joint Strength*, that would have required maintenance access panels in school buses to comply with the requirements of the standard (46 FR 57939). The comment period for that notice will expire on January 26, 1982. The Truck Body and Equipment Association and several manufacturers have asked the NHTSA to extend the comment period for 60 days. They request this extension since much of the school bus industry has been closed over the holiday period, and accordingly, has not been able to prepare full comments to the notice. The agency understands that the holiday period may have caused manufacturers some problems in focusing attention on this notice, and accordingly, finds good cause to extend the comment period for an additional 60 days. The agency further concludes that this extension is in the public interest, since it will permit a fuller and better reasoned discussion of the proposal.

COMMENT DATE: The new comment closing date for Notice 5 is March 29, 1982.

ADDRESS: Comments on Notice 5 should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

(Docket hours: 8:00 a.m. to 4:00 p.m., Monday through Friday)

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2264).

(Secs. 103 and 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 21, 1982.

Carl Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-2033 Filed 1-25-82; 12:30 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 346 (Sub-No. 8)]

Exemption From Regulation—Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Consolidated Rail Corporation has petitioned the Commission to exempt from regulation all movements in boxcars having AAR equipment type designation A, B, R, or S when the movements are to, from, or via Conrail. Conrail contends that this traffic meets the criteria for exemption found in 49 U.S.C. 10505, and argues further that the exemption should be granted immediately without the institution of a rulemaking proceeding. The Commission has denied the request for immediate exemption and is seeking comment on the merits of exempting Conrail's or all boxcar movements by all railroads from some or all of our regulation.

DATES: Statements of intent to participate are due February 8, 1982. Comments are due March 1, 1982, and replies are due March 31, 1982. A service list will be served before the comment due date on all parties who file an intention to participate.

ADDRESS: The original and one copy of statements of intent to participate, comments, and replies should be sent to: Interstate Commerce Commission, Office of the Secretary, Commission Service Section, Room 2203, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Consolidated Rail Corporation (Conrail) has petitioned the Commission to exempt from regulation all movements in boxcars having AAR equipment type designation A, B, R, or S when the movements are to, from, or via Conrail. The exemption requested would apply to (1) all movements, loaded or empty, involving Conrail; (2) the complete movement over all railroads involved; (3) all regulated aspects, including rates,

divisions, car hire, car service, and common carrier duties; (4) movements in both railroad and private cars; and (5) both interstate and intrastate movements. Conrail further requests that the exemption be immediate and without the institution of a rulemaking proceeding.

The Commission's exemption authority for rail services is found in 49 U.S.C. 10505. Section 10505, as amended by the Staggers Rail Act, states that the Commission shall exempt a person, transaction or service from regulation if: (1) Regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and (2) either the transaction or service is of limited scope, or regulation is not needed to protect shippers from the abuse of market power.

Requesting that the exemption be granted immediately, Conrail argues that a formal proceeding is not necessary because its petition provides sufficient facts upon which to make a decision. Conrail also points out that the legislative history of section 10505 encourages the Commission to pursue actively exemptions and to adopt a policy of reviewing carrier actions after the fact to correct abuses of market power.

Conrail's petition, particularly the request for immediate exemption, is opposed by a number of parties. Some parties assert that Conrail's proposal has the potential for significant impact, and that the impact is not readily ascertainable from the petition.[1] They emphasize particularly that the exemption may not be in accord with the rail transportation policy.

We are aware both of the financial problems of Conrail and of the congressional interest in the removal of unnecessary regulation. However, the current record does not provide sufficient basis for granting the exemption. We are therefore serving this notice to obtain further comment.

We intend to issue a final decision as expeditiously as possible. Extensions of the comment period will not be granted. Furthermore, although we have requested comments on both a Conrail-only exemption and a general boxcar exemption, should circumstances warrant, we may issue a decision on the Conrail exemption before decision on the question of a general exemption.

[1] The Commission's car service rules were rescinded except for Rule 15 in Ex Parte No. 241 (Sub-No. 1), *Investigation of Adequacy of Freight Car Ownership*, 362 I.C.C. 844 (1980).

Competive Criteria

Conrail states that the proposed exemption meets the statutory criteria that regulation is not needed to protect shippers from the abuse of market power. In support of this position, Conrail cites competition from motor carriers, other rail carriers, and TOFC/COFC service, and argues further that these sources of competiton can be expected to persist or intensify. With regard to motor carrier, Conrail also asserts that certain factors make its markets for boxcar traffic particularly competitive. Finally, Conrail cites revenue-to-variable cost data and other statistics to show the effectiveness of this competition.

Motor carriers are alleged to be the most important source of competition for Conrail's boxcar service. Conrail states that van type truck trailers, the most boxcar competitive type, constituted over 64 percent of U.S. trailer production between 1971 and 1981, and that the motor carrier industry now has four times as many vans as the rail industry has boxcars. Conrail states further that this equipment advantage is reflected in an increasing motor carrier share of total intercity ton-miles and revenues.

Conrail also focuses on certain market characteristics which, it claims, give a substantial advantage to motor carriers. First, motor carriers provide faster service and better equipment utilization which allow the shippers to keep inventory costs, warehouse size, and distribution costs at acceptable levels. Also, railroads serve only a relatively small portion of the communities accessible to trucks. In Conrail's service area, for example, only 26 percent of the communities are served by rail, and even fewer by Conrail.

With regard to market characteristics, Conrail particularly emphasizes the prevalence in the Northeast of short distance and low volume hauls, which tend to favor motor carrier transportation. Conrail argues that such hauls are becoming even more common because of the growth of urban belts and a trend towards smaller firms requiring smaller volume shipments. Thus, argues Conrail, motor carrier pressure on boxcar service will increase in the future.

Additional future motor carrier competitive pressure will occur, asserts Conrail, because of the Motor Carrier Act of 1980. The Act, states Conrail, resulted in an increased number of trucks, lower motor carrier rates, and better service. In addition, the Act liberalized intercorporate hauling provisions, making it less costly for private carriers to haul goods that might otherwise have gone via boxcar.

To demonstrate intramodal competition, Conrail cites as an example movements involving automotive plants. These movements constitute the second largest volume contributor in the boxcar group. Conrail states that almost 82 percent of the automotive industry facilities in its service area have either competitive rail service available or are not served by Conrail. More generally, Conrail argues that the provisions of the Staggers Rail Act will increase intramodal competition and further, that the decreasing role of rate bureaus will increase competition among rail carriers.

Conrail cites TOFC/COFC service as a third source of competition for boxcar service. Conrail states that intermodal service by rail and motor carriers has traditionally competed with boxcar service, and will become even more competitive if the exemption is expanded as is proposed under Ex Parte No. 230 (Sub-No. 6), *Improvement of TOFC/COFC Regulation (Railroad Affiliated Motor Carriers and Other Motor Carriers* (not printed), notice decided February 19, 1981. As examples of intermodal competition, Conrail cites the Chessie System's reduced TOFC/COFC rates between Philadelphia/Baltimore and Chicago, its plans for new Philadelphia-Jacksonville intermodal service, and its proposal to construct a new ramp facility at Philadelphia.

To illustrate the effect of this competition upon its boxcar service, Conrail cites a number of statistics. For example, Conrail's aggregate earnings are below variable cost for this traffic, resulting in a $4.5 million deficit for the 12 months ending September 30, 1980. Conrail states that this deficit results from interline boxcar traffic, with that traffic showing a loss of $28 million compared to a $23.9 million positive contribution from boxcar traffic. Conrail states further that this interline boxcar deficit accounted for more than 20 percent of Conrail's total annual loss.

In terms of revenue-to-variable cost ratios, Conrail states that only 15 of 36 commodity groups moving in boxcars had ratios greater than 100, and that these represented about 33.9 percent of the carloads handled. Three commodities—food, pulp/paper, and transportation equipment—accounted for 64 percent of total carloads, yet two of them (food, pulp/paper) had ratios less than 100. Furthermore, states Conrail, the highest revenue-to-variable cost ratio for any commodity having more than 300 carloads was 133 for primary metals, a ratio substantially

below the Commission's 165 percent jurisdictional threshold.

Conrail cites other statistics to show that there has been a decline in the total boxcar fleet of 21 percent between 1967 and 1979, with a 40.5 percent decline for Conrail alone. In terms of market share, Conrail states that of the 13 major manufacturing commodity groups handled by Conrail, 11 have shown a net decline in eastern district rail tonnage compared to output. Conrail states further that, even for intercity movements from manufacturing plants, where railroads might be thought to have an advantage, railroads have experienced a declining market share. Overall, Conrail states that for most commodities, its market share is less than 20 percent.

Most of the parties who have replied have not directly addressed the issue of whether regulation is needed to protect shippers from the abuse of market power. The Freight Users Association of Long Island, Inc. does argue that if Conrail acts as it did after the TOFC/COFC exemption, shippers' rights will be substantially eroded. Others suggest that the effect on shippers, as well as on competitors, employees, and the environment, is difficult to ascertain because Conrail has not spelled out what it intends to do upon deregulation.

Some parties also suggest that Conrail's proposal is illusory because a boxcar exemption could not be confined to Conrail. They point out that were such an exemption granted, the result would be trains that consist of both regulated and unregulated boxcars. The National Grain and Feed Association suggests that the exemption would spread even further since some commodities, such as grain, move in both boxcars and covered hoppers. Grain, states the Association, is almost entirely captive to the railroads.

The question of whether the exemption can be confined to Conrail is a serious one. We request comments on whether an exemption should be granted for all boxcar movements, and the effect that such an exemption would have on shippers and others. The parties should also comment on whether some form of partial deregulation, either of Conrail's boxcar service or all boxcar service, should be granted.

The evidence submitted with these comments should be as detailed as possible. Aside from the question of the inclusion of all boxcars in the exemption, the main deficiency we find in Conrail's presentation is the failure to address what portions of Conrail's boxcar services face intense competition. The aggregate statistics and qualitative evidence presented, while generally indicating significant competition, may not apply to major segments of this traffic. For example, in comparing the market shares of motor carriers and rail carriers, disaggregating tonnage figures by distance, commodity, and shipment size would be helpful in analyzing whether motor carriage is competitive even for the larger volume and longer distance movements. Likewise, the revenue-to-variable cost ratios should be disaggregated by length of haul and shipment size.

There are similar problems with Conrail's trend statistics relating to the stock of boxcar equipment and the eastern railroads' market share of commodities transported by boxcar. Even aside from their admitted lack of precision, the trend statistics do not adequately address the pervasiveness of competition to Conrail's boxcar services. The declining market share of boxcar service may simply indicate that services facing the most intense competitive pressures have been more or less voluntarily relinquished by the railroads to other modes. For example, the eastern railroads upon which Conrail bases its statistics may be concentrating on longer distance and larger volume movements where they perceive themselves to have a considerable cost advantage over motor carriage. Trend statistics should be disaggregated by these aspects of service as well as by commodity group to provide a clear picture of the competitive pressures facing Conrail's boxcar traffic, and boxcar traffic generally.

In the areas of intramodal and TOFC/COFC competition also, parties supporting an exemption should provide more evidence regarding competitive pressure. With regard to intramodal competition, evidence regarding the geographic extent of the competition would be useful. For TOFC/COFC service, parties should particularly address in more detail the question of the relationship between TOFC/COFC and boxcar service. To the extent that commodities can move on the same carrier via either TOFC/COFC or boxcar, it may be that these services are more appropriately viewed as substitutes from the perspective of the supplying rail carrier rather than as competitive alternatives from the perspective of the shipper.

The Rail Transportation Policy

Section 10505 requires prior to the granting of an exemption the finding that regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a. Conrail asserts that exemption of boxcar service is in accord with this policy because the exemption would allow rate flexibility and innovative pricing and marketing of boxcar service, a solution to the division problem that is causing much of Conrail's deficit on boxcar traffic, and alleviation of Conrail's chronic per diem and car hire problems.

With regard to innovative pricing, Conrail states that the regulatory lag inherent in present boxcar regulation tends to discourage development of new pricing techniques such as backhaul rates and econorates. In comparison, Conrail states that in the first year following the exemption of fresh fruits and vegetables, innovative pricing allowed it to increase its carload volume of this traffic by 23 percent. Conrail also argues that the exemption would enable it to computerize its price structure, eliminate tariff publications, and allow it to "auction" excess capacity for return movements. All of these innovations, argues Conrail, would provide the shipper with more options and would allow Conrail to earn adequate revenues in accordance with the rail transportation policy.

Resolution of the divisions problem also would allow the earning of adeauate revenues, argues Conrail. As discussed above, Conrail contends that although its local boxcar traffic was profitable in 1980, interline boxcar traffic incurred a deficit of $28 million. To resolve the problem of inadequate revenues from joint rates, the Staggers Rail Act shortened the time period for Commission action on division cases and set forth conditions under which a carrier can apply a surcharge to an existing rate or cancel a joint rate without the concurrence of interlining carriers. Conrail argues, however, that these provisions are cumbersome, time-consuming, marginally effective expensive to implement, and result in extensive Commission and court litigation. Under deregulation, Conrail states, it would simply establish where necessary proportional rates that would at least cover Conrail's costs for the movements.

With regard to the car hire problem, Conrail points out that it normally receives twice as many boxcars from connecting carriers as it delivers to those carriers. Under current regulations, a carrier may not refuse to accept foreign boxcars, and must pay charges for any foreign boxcar on its line on a per diem basis. These charges must be paid throughout the time the foreign cars remain on the line, whether they are carrying traffic to destination, being unloaded, or being returned. Conrail argues that a consequence of

these rules is that carriers may have incentives to charge high per diem rates and to keep their own boxcars on foreign lines as much as possible. The result, states Conrail, for the system as a whole is inefficient freight car utilization, and for carriers such as Conrail which receive more loads than they originate, costs for delivering the load and returning the car which sometimes exceed the revenue received.

Conrail argues that exemption would resolve these problems by allowing market forces to determine the level of per diem and car hire charges and to improve the utilization of boxcars. If a carrier could refuse noncompensatory traffic, incentives to charge excessive per diem and to keep boxcars on foreign lines would be removed. Where demand warrants service, carriers would have incentives either to negotiate fair rates and divisions that fully compensate carriers for all cost including backhauling costs, or to set proportional rates that accomplish the same thing.

We have received few comments on Conrail's pricing suggestions, particularly the proposed use of proportional rates. We request the public to comment on the possible results of these changes.

With regard to deregulation of car hire and per diem, we have received a number of comments suggesting that such a change would be sweeping in scope. The Detroit, Toledo & Ironton Railroad states that Conrail originates and terminates more boxcars per year than any other railroad, and would have car control on one of every six American boxcar shipments. The Itel Corporation, Railroad Division, a company which finances and leases freight cars to railroads, states that Conrail would be able to exercise virtually complete economic control over boxcars which Itel leases to shortline railroads. In agreement is the National Railway Utilization Corporation which suggests that further evidence is necessary on the extent to which Conrail can dominate the marketing of boxcars.

Replicants also argue that deregulation could result in the unloading and reloading of freight at interchange and complete disruption of boxcar traffic that would not be in accord with the national transportation policy. As we pointed out in Ex Parte No. 334 (Sub-No. 5) *Zone of Reasonableness for Car Hire Charges*, 364 I.C.C. 299 (1980), (45 FR 73524, November 5, 1980), part of the purpose of the original Interstate Commerce Act was to promote the development of an integrated national rail system. To accomplish this, the Act requires the compulsory interchange of cars. We are concerned that deregulation could be very disruptive to this interchange. Furthermore, while it might be possible to keep the compulsory interchange requirement while removing the per diem rules, this might allow some carriers to set car hire charges at rates that are consistently too high. We request comments on these issues as well as on the suggestion made by some that greater flexibility in car hire charges should await our decision in Ex Parte No. 334 (Sub-No. 5), *supra*.

Finally, the National Railway Utilization Corporation states that Conrail is one of the principal owners of Railbox, which was granted an antitrist exemption in *American Railbox Co.—Pooling*, 347 I.C.C. 862 (1974). Replicant suggests that since the railroads own Railbox, it would have an unfair advantage over other suppliers of boxcars should deregulation occur. If boxcar exemption is granted, argues the Corporation, then the antitrust exemption for Railbox should be reexamined.

We request the public to comment on these and any other issues relating to Conrail's petition. In particular, we are interested in considering any problems that might be anticipated as a result of a full exemption for boxcar traffic. Are there problems that such an exemption might impose on the transportation system as a whole? Would these disadvantages outweigh any advantages? Which of the two policies, exemption or continued regulation, is more consistent with the rail transportation policy? If these differences are minor, is the statutory mandate in section 10505 so clear as to tip the balance in favor of exemption? We are also interested in receiving comments on whether there is any reason why the exemption should be more selectively applied. Conrail asked that the exemption be granted in the broadest possible way. Are there reasons why some particular application of this exemption should be denied? Also, are there reasons why the exemption should not apply to all boxcar traffic, but be limited, such as to certain commodities? With regard to car service, should boxcars be exempt from the one remaining Commission regulation regarding emergencies?[2]

[2] Several parties cite Ex Parte No. 400, *Modification of Procedure for Handling Exemptions Filed Under 49 U.S.C. 10505* (not printed), decisions served December 29, 1980 and January 21, 1981, as setting forth standards to be used in determining when an exemption may be granted without a hearing. Ex Parte No. 400 does not, by its own language, apply to the type of exemption requested here. See the decision served January 21, 1981.

remove all but one aspect of our regulation—namely, maximum rate regulation? Would this adequately protect the public interest? Are there other defined aspects of regulation that could be made exempt and effectively respond to certain to Conrail's concerns? What would be the effect if an exemption were authorized of the concommitant necessary removal of antitrust immunity? If only Conrail were exempt, how would or could the removal of immunity be similarly limited?

Regulatory Flexibility

Under the Regulatory Flexibility Act of 1980, we must consider whether this proceeding will have a significant economic impact on a substantial number of small entities. Our initial analysis indicates that some small entities. Our initial analysis indicates that some small entities may benefit, and some may be adversely affected should some form of boxcar exemption be granted. It is unclear, however, whether the impact would be significant for a substantial number of entities.

Small entities will benefit to the extent that boxcar deregulation results in a stronger Conrail system. Benefits may also result from low backhaul rates, econorates, and other forms of innovative pricing by Conrail or other carriers. Adverse effects, however, may result from entities for which proportional rates would be high enough to effectively close routes. Negotiated car hire and per diem, while possibly resulting in a strengthened Conrail, could also adversely affect routes and rates for both large and small entitles.

The significance of the impact depends to some extent on the accuracy of Conrail's comments regarding its lack of market power over shippers. As described above, Conrail has emphasized the pervasiveness of motor carrier competition due to the increased numbers of carriers, the flexibility and speed of service, and the demographic characteristics of the Northeast. If Conrail or other rail carriers lack market power over a substantial number of shippers, deregulation of boxcars may not have a significant economic impact in terms of the Regulatory Flexibility Act. We request the public to comment on the effect on small entities of both a Conrail boxcar exemption and a total boxcar exemption. A copy of this notice will be forwarded to the Chief Counsel for Advocacy, SBA.

It is unlikely that this proceeding will affect significantly either the quality of the human environment or the conservation of energy resources.

However, the public is invited to comment on these issues also.

(49 U.S.C. 10505 and 5 U.S.C. 553)

Decided: January 22, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2281 Filed 1-27-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Availability of plan amendment.

SUMMARY: The Assistant Administrator for Fisheries has approved an amendment to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, announces its availability, and requests comments on the amendment. This amendment provides procedures for modifying the area closure implemented under the plan; however, the amendment will not be implemented at this time.

DATE: Written comments on the plan amendment must be received on or before March 15, 1982.

ADDRESS: Comments should be sent to: Mr. Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Copies of the fishery management plan amendment are available upon request from Mr. Allen.

FOR FURTHER INFORMATION CONTACT: Mr. Harold B. Allen, 813-893-3141.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was approved May 29, 1980, under authority of the Magnuson Fishery Conservation and Management Act. Final regulations implementing the FMP were published in the **Federal Register** on May 20, 1981, at 46 FR 27489. The Gulf of Mexico Fishery Management Council (Council) prepared and submitted for approval an FMP amendment. This amendment was approved on December 1, 1981. Regulations will not be proposed at this time; instead, whenever a closure modification is considered, it will be implemented by regulatory amendment published in the **Federal Register.**

The FMP amendment provides a mechanism for future geographic modification of the closed areas identified as the Tortuges Shrimp Sanctuary and the Texas Closure in 50 CFR 658.22 and 658.24. The amendment requires that an annual analysis of the effect of the closure be prepared by the National Marine Fisheries Service (NMFS) and submitted to the Council for evaluation. The Secretary of Commerce will review the findings and, after consultation with the Council, may modify the geographic scope of the closures through an amendment to the regulations implementing the FMP.

The effects of the 1981 closure of the fishery conservation zone off the State of Texas have been monitored by the NMFS. The Secretary has reviewed the analysis of these effects, submitted the analysis to the Council, and determined that no adjustment to the geographic scope of the closure for the 1982 season is necessary or appropriate.

Dated: January 22, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-2159 Filed 1-27-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 19
Thursday, January 28, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow National Forest Grazing Advisory Board; Meeting

The annual meeting of the Medicine Bow National Forest Grazing Advisory Board will be February 23, 1982 at 10 a.m. in the Medicine Bow National Forest Supervisor's Office, 605 Skyline Drive, Laramie, Wyoming.

The agenda for the meeting will include: (1) Accepting new board members; (2) acquaint new members with the function of the Board; (3) recommendations concerning the development of allotment management plans and the utilization of range betterment funds and (4) location and agenda for the summer tour.

The meeting will be open to the public. Persons who wish to attend and participate should notify Don Schmidtlein (307–745–8971) in Laramie, Wyoming, prior to the meeting. Public members may participate in discussions at any time during the meeting, or may file a written statement following the meeting.

Dated: January 18, 1982.

Donald L. Rollens,

Forest Supervisor.

[FR Doc. 82–2105 Filed 1–27–82; 8:45 am]

BILLING CODE 3410–11–M

Nezperce National Forest Grazing Advisory Board; Meeting

The Nezperce National Forest Grazing Advisory Board will meet at 10:00 a.m., February 16, 1982, at the Forest Service Smoke Jumper Base, Grangeville, Idaho. The purpose of this meeting is to review allotment management plans and range betterment funds.

The meeting is open to the public; however, public comments and discussion is limited to after the agenda items are covered. Persons who wish to attend should notify Thomas L. Griffith, 208–983–1950, Extension 24. Written statements may be filed with the Board before or after the meeting.

Dated: January 19, 1982.

Don Biddison,

Forest Supervisor.

[FR Doc. 82–2106 Filed 1–27–82; 8:45 am]

BILLING CODE 3410–11–M

Ochoco National Forest Grazing Advisory Board; Meeting

The Ochoco National Forest Grazing Advisory Board will meet at 10:00 a.m., April 16, 1982, in the Forest Supervisor's Office, Federal Building Prineville, Oregon.

The purpose of this meeting is to discuss subjects concerning the development of allotment management plans and utilization of range betterment funds as presented by board members, permittees, and the general public.

The meeting will be open to the public. Person who wish to attend should notify Jack Royle, P.O. Box 490, Prineville, Oregon 97754; phone (503) 447–6247. Written statements may be filed with the committee before or after the meeting.

William R. Olson,

Acting Forest Supervisor.

January 19, 1982.

[FR Doc. 82–2107 Filed 1–27–82; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Calcium Pantothenate From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on calcium pantothenate from Japan. This review covers two new third-country shippers of Japanese calcium pantothenate to the United States for the periods January 1, 1981 through June 30, 1981. We found no dumping margins on shipments from either shipper. A subsequent notice will cover all remaining known exporters or third-country shippers.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2209/5389).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, an antidumping finding with respect to calcium pantothenate from Japan was published in the **Federal Register** as Treasury Decision 74–34 (39 FR 2088). On February 3, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the final results of its initial administrative review of the finding (46 FR 10518–10519). In that notice the Department stated its intent to conduct the next administrative review by the end of January 1982. As required under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has conducted an administrative review for two new third-country shippers. The Department will publish its review of all other exporters or third-country shippers by the end of January 1982.

Scope of the Review

Imports covered by this review are calcium pantothenate, a member of the B-complex vitamin family which is produced in two grades: D-Cal Pan (USP grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL Cal Pan (feed grade, which is used as a food supplement for swine and poultry). Both grades of calcium pantothenate are currently classable under item 437.6225 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers two new third-country shippers of Japanese calcium pantothenate to the United States and the period January 1, 1981 through June 30, 1981.

The merchandise from the two third-country shippers covered by this review entered into the commerce of the intermediate country. Thus, it was not merely transshipped. However, since the merchandise was not substantially

transformed in the intermediate country, it remains within the scope of the finding as calcium pantothenate from Japan.

United States Price

In calculating United States price the Department used purchase price as defined in section 772(b) of the Tariff Act. Purchase price was based on a packed price to an unrelated purchaser in the United States. Where applicable, deductions were made for ocean freight, foreign inland freight, and insurance. An addition was made, where applicable, for European Economic Communities' duties not collected on sales to the U.S. No other adjustments were claimed or made.

Foreign Market Value

In calculating foreign market value, since there is no evidence that the Japanese manufacturers intended to export these shipments to the U.S., the Department used the third-country shipper's home market price for Japanese calcium pantothenate, or the price to purchasers in another country (Canada) when sufficient sales did not exist in the home market, as defined in section 773 of the Tariff Act. The foreign market value was adjusted, where applicable, for ocean freight, insurance, foreign inland freight, and for packing cost differences. No other adjustments were made or claimed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that for the following companies no dumping margin exists for the period January 1, 1981 through June 30, 1981. The Department will separately issue appraisement instructions on each exporter directly to the Customs Service.

Third-country shipper (country)	Margin
Peak International Products b.v. (Netherlands)	0
Kompanie Ultramar Sievers & Co. (W. Germany)	0

Interested parties may submit written comments on these preliminary results on or before March 1, 1982 and may request disclosure and/or a hearing on or before February 12, 1982. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Since there is no margin for either firm, the Department shall not require a cash deposit, as provided for in § 353.48(b) of the Commerce regulations, on any shipments of Japanese calcium pantothenate exported by Peak International or Kompanie Ultramar Sievers & Co. and entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the review. This zero deposit rate shall remain in effect until publication of the final results of the administrative review for sales made during the year 1981. For any shipment from a new exporter not covered in this administrative review or in the final results of February 3, 1981, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period covered by either review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 25, 1982.

[FR Doc. 82-2204 Filed 1-27-82; 8:45 am]

BILLING CODE 3510-25-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was established on October 5, 1981, pursuant to the charter of the Committee.

The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: February 23, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

Dated: January 22, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2206 Filed 1-27-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Business Development Center Program; Solicitation of Applications for Cooperative Agreements, Dallas Texas

January 21, 1982.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for cooperative agreements under its Business Development Center (BDC) program to operate pilot projects for a twelve (12) month period.

Applicants will be required to contribute at least 10% to the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fees for services or in-kind contributions.

The estimated cost of each project including the maximum federal participation and the minimum amount

required for non-federal participation is included in the following description of each project.

CLOSING DATE: February 25, 1982.
ADDRESS: Dallas Regional Office, Minority Business Development Agency, 1100 Commerce Street, Room 7B19, Dallas, Texas 75242.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Bowman, Minority Business Program Technician, at (214) 767–8001.

(1) A cooperative agreement for BDC services to operate in Beaumont/Port Arthur/Orange, Texas (SMSA) counties of Hardin, Jefferson and Orange. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is August 1, 1982 and the Project I.D. Number is 06–10–82015–01.

(2) A cooperative agreement for BDC services to operate in Tulsa, Oklahoma (SMSA) counties of Creek, Mayes, Osage, Rogers, Tulsa and Wagoner. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is August 1, 1982 and the Project I.D. Number is 06–10–82016–01.

(3) A cooperative agreement for BDC services to operate in Salt Lake City, Utah (SMSA) county of Davis, Salt Lake, Tooele and Weber. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is August 1, 1982 and the Project I.D. Number is 06–10–82017–01.

(4) A cooperative agreement for BDC services to operate in Laredo, Texas (SMSA) counties of Webb. The total cost will not exceed $170,000 including a maximum of $153,000 in federal funds and a minimum of non-federal participation of $17,000. The anticipated start date for the project is August 1, 1982 and the Project I.D. Number is 06–10–82018–01.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled. Legal services are excluded.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. Capability and Experience of Firm/ Staff

Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (references from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment 0 of OMB Circulars A–110 or A–102.

II. Techniques and Methodology

Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. Resources

Address technical and administrative resources, i.e., computer facilities, voluntary staff time and space, and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of

$500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section.

The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contributions.* Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fees for services.* Are charges to the client for assistance provided by BDC.

C. *In-Kind contributions.* Represents the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and person property donated by other public agencies, institutions and private organizations. Property purchased with federal funds will not be considered as the recipient's in-kind contributions.

IV. Costs

Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

Clear explanations of all expenditures proposed, and

The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. Pre-Application Conference

Pre-Application conferences to assist all interested applicants will be held at 1100 Commerce Street, Room 7A23, Dallas, Texas on February 8, 1982, at 1:00 p.m. and at 1961 Stout Street, Room 239, Denver, Colorado on February 10, 1982, at 1:00 p.m.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: January 21, 1982.

Richard H. Sewing,

Regional Director.

[FR Doc. 82-2200 Filed 1-27-82; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcements; New York Region

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for six New York Region projects as follows:

1. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the counties of Kings and Richmond in New York State. The cost of the project is estimated to be $358,400. The maximum federal participation amount is $322,560. The minimum amount required for non-federal participation is $35,840. The project number is 02-10-82000-01.

2. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning April 1, 1982 in the counties of Niagara and Erie in New York State (Buffalo SMSA). The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 02-10-82009-01.

3. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning June 1, 1982 in the Newark-Paterson-Jersey City, New Jersey SMSA. The cost of the project is estimated to be $700,000. The maximum federal participation amount is $630,000. The minimum amount required for non-federal participation is $70,000. The project number is 02-10-82005-01.

4. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the San Juan-Caguas, Puerto Rico SMSA. The cost of the project is estimated to be $700,000. The maximum federal participation amount is $630,000. The minimum amount required for non-federal participation is $70,000. The project number is 02-10-82004-01.

5. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the Ponce, Puerto Rico SMSA. The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 02-10-82008-01.

6. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the Mayaguez, Puerto Rico SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 02-10-82010-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 19, 1982.

ADDRESS: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 36-116, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT:
R. Allen Walls, Chief, Enterprise Development, telephone (212) 264–4742.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and State governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

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—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

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Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

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F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. Pre-Application Conference

A Pre-Application conference to assist all interested applicants who will be held at the above address on February 3, 1982 at 2:00 PM in Room 305B.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: January 18, 1982.

Ralph J. Perez,

Regional Director.

[FR Doc. 82-2104 Filed 1-27-82; 8:45 am]

BILLING CODE 3510-21-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Flood Control Project, Matheny, W.Va.; Intent To Prepare an Environmental Impact Statement

To Prepare a Draft Environmental Impact Statement (DEIS) for a proposed Section 205 Small Flood Control Authority Project along Laurel Fork at Matheny, West Virginia.

Agency: U.S. Army Corps of Engineers, DOD, Ohio River Division, Huntington District, Huntington, West Virginia

Action: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

1. The Huntington District, Ohio River Division, U.S. Army Corps of Engineers is preparing a Draft Environmental Impact Statement on a small flood control project at Matheny, West Virginia. The proposed project consists of widening the channel to 50 feet in width and placing stone bank protection on disturbed banks. The project will begin 1,740 feet downstream from the WV Delta Route 82 bridge and extend upstream along Laurel Fork 1,850 feet above the confluence with Coon Branch—a total distance of 1.08 miles.

2. Alternatives considered include no action, the construction of levees and floodwalls around the community, three channel modification alternatives, and flood proofing of structures. These alternatives were evaluated to arrive at the selected plan which could reduce flood damages and reduce impacts on human resources.

3a. Public activities will deal with the overal flood damage reduction plan for Matheny. The plan components will be presented to the elected officials of Wyoming County as well as the citizens and business population.

A formal meeting will be scheduled to provide for discussion and input to final plan components.

3b. Significant issues to be analyzed in depth in the DEIS will be the impact of floods on the existing environment and the selected plan features. The selected plan includes channel widening and stone slope protection of unstable areas.

3c. Consultation shall be conducted with the U.S. Fish and Wildlife Service during the final planning process pursuant to the requirements of the Fish and Wildlife Coordination Act 16 U.S.C. 661 et seq. (Pub. L. 85-624) and the Endangered Species Act 16 U.S.C. 1531 et seq. (Pub. L. 93-205) and the National Park Service and State Historic Preservation Office(s) pursuant to the National Historic Preservation Act of 1966 (80 Stat. 915) (Pub. L. 89-655) the Preservation of Historic and Archeological Data (88 Stat. 174) (Pub. L. 93-291), and EO 11593.

4. A public meeting will be held in the community of Matheny in the near future to present the selected plan and hold discussions with the local officials and any other interested parties.

5. It is anticipated that the DEIS will be available for public review by April 1, 1981.

6. Questions concerning the proposed action and DEIS can be answered by: Mr. Jeffry B. Davis (Civil Engineer-Study Manager), or Mr. John Wright (Environmentalist), Huntington District, Corps of Engineers, P.O. Box 2127, Huntington, WV 25721.

James H. Higman,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-2103 Filed 1-27-82; 8:45 am]

BILLING CODE 3710-GN-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: 17 February 1982, 18 February 1982

Times: 1300-1800 hours, 17 February 1982 (Closed), 0800-1700 hours, 18 February 1982 (Closed)

PLACE: Institute for Defense Analyses, Alexandria, Virginia-17 February 1982 PM U.S. ROLAND, Redstone Arsenal, Alabama-18 February 1982

Proposed agenda: The Army Science Board Ad Hoc Subgroup on Air Defense will meet to present and receive briefings and hold discussions. On 17 February the group will receive classified briefings regarding studies in progress from the Institute for Defense Analyses and from Concept Analysis Agency. On 18 February the group is meeting to obtain technical data for air defense weapons systems which is of a classified nature. This meeting will be closed to the public in accordance with Section 552b(c) of Title, 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82-2208 Filed 1-27-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Floodplain Involvement Notification for Proposed Loan Guarantee to U.S. Ethanol Corp., East Baton Rouge Parish, Louisiana

AGENCY: Department of Energy.

ACTION: Notice of floodplain involvement and opportunity for comment.

SUMMARY: The Department of Energy (DOE) is negotiating the issuance of a loan guarantee to the U.S. Ethanol Corporation for construction of a 120 million gallon per year fuel alcohol plant to be built in East Baton Rouge Parish, Louisiana. Under the authority of Pub. L. 96-294, the DOE Office of Alcohol Fuels issued a Solicitation Announcement for loan guarantees to which 57 applicants responded. Eleven applicants were awarded conditional commitments following competitive evaluations by

DOE. U.S. Ethanol Corporation proposes to construct its plant on a parcel of land north of the city of Baton Rouge, and west of Route 61, off Brooklawn Drive. Construction of the plant would also involve construction of a wastewater pipeline, and likely construction of a product pipeline, from the plant to the site of an existing barge terminal on the Profit Island Chute of the Mississippi River. These pipelines, about two miles long, would be located within an existing road right-of-way.

Construction of these pipelines would involve actions in a floodplain area. As required by DOE regulations (10 CFR Part 1022), DOE will prepare a floodplain assessment, to be incorporated in the environmental assessment of this proposed action. A statement of findings, concerning both availability of practicable alternatives to locating in the floodplain and incorporation of mitigation measures into the proposed action, will be prepared and published in the Federal Register before issuance of a loan guarantee. Maps and further information are available from DOE at the address shown below. Public comments or suggestions regarding the proposed activities in this floodplain area are invited.

DATE: Any comments are due on or before March 1, 1982.

ADDRESS: Send comments or suggestions to: Robert J. Stern, Director, Environmental Compliance Division, EP–33, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, Room 4G–064 Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585.

Issued at Washington, D.C., January 22, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82-2214 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80–435–003]

Alaskan Northwest Natural Gas Transportation Co.; Amendment to Application

January 26, 1982.

Take notice that on December 31, 1981, Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80–435–003, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act, an amendment to its application in the instant docket so as to request authorization to construct and operate the Alaska Natural Gas Transportation System (ANGTS) Alaska Gas Conditioning Facility (AGCF) as well as the Alaska pipeline segment, all as more fully set forth in the amendment, which is on file with the Commission and open to public inspection.

Applicant makes the following representations in its amendments:

The AGCF will be located in the Prudhoe Bay Unit adjacent to the Central Compressor Plant and will prepare the gas received from the Prudhoe Bay field for transportation through the ANGTS. The Alaska pipeline segment of the ANGTS will be a buried, chilled gas, high pressure pipeline. The gas must be chilled to at least 30° F in order to prevent damage to the permafrost through which the pipeline runs. A high operating pressure permits the transport of the maximum volumes of gas in an economic manner. In addition, heavier hydrocarbons and carbon dioxide (CO_2) must be removed from the gas in order for the pipeline to operate safely and efficiently.

The Prudhoe Bay gas contains 12.6 percent CO_2. Carbondioxide does not have any heating value, would take up capacity in the pipeline, and could present corrosion problems in the presence of small quantities of water that could occur under certain upset conditions. The gas characteristics upon which the pipeline design is based require all but two percent of the CO_2 to be removed in order to maximize the amount of natural gas that can be transported. Some liquefiable hydrocarbons must be removed from the gas because, under the operating pressure and temperature conditions of the Alaska pipeline, these hydrocarbons would become liquids in the pipeline resulting in inefficient and dangerous pipeline operation and potentially damaging downstream compressor and measurement facilities. The gas received from the Prudhoe Bay field cannot be transported through the Alaska pipeline until it has been conditioned to satisfy these operating characteristics of the Alaska pipeline.

The AGCF makes the gas capable of transportation by removing most of the CO_2, removing some liquifiable hydrocarbons, compressing the gas to the 1,260 psig maximum operating pressure of the pipeline, and refrigerating the gas to 30° F. The AGCF will condition approximately 2.7 Bcf per day of gas and produce a nominal 2.0 Bcf per day of pipeline quality gas.

The AGCF is designed to receive a nominal 2.7 Bcf per day of gas from the Prudhoe Bay Unit. The gas from the Prudhoe Bay Unit, which is referred to as "feed gas," is received at the AGCF in two pipelines, one each from the east and west of the Prudhoe Bay Unit. The feed gas passes through two inlet separators, which catch any liquids that may have accumulated in the feed gas. Normally, no liquids will accumulate at this point; the inlet separators will protect the AGCF against upset conditions. The feed gas is then chilled to remove the natural gas liquids (NGL's). The NGL's are piped to a fractionator, which separates the liquids into propane, butanes, and penetanes.

All but approximately two percent of the carbon dioxide is then removed from the gas by the Selecxol process of the Allied Corporation. After this CO_2 has been removed, the AGCF, which is the first compressor station on the ANGTS, compresses the gas to 1,260 psig. Then, liquids capable of being tran sported through the ANGTS are reinjected back into the "product" gas stream. After reinjection of liquids, the product gas is refrigerated to 30° F, measured, and delivered into the gas pipeline.

The CO_2 removed by the Selexol process still contains some hydrocarbons. To conserve these hydrocarbons, this CO_2 flash gas is compressed and enriched with the addition of propane to a heating value suitable for fuel. The enriched CO_2 streams then may be utilized as fuel in the AGCF or the Prudhoe Bay Unit.

Liquids not reinjected into the "product" gas stream or blended with the CO_2 flash gas are available for blending with crude oil for transportation through the TransAlaskan Pipeline System (TAPS).

In summary, the AGCF will condition about 2.7 Bcf per day of feed gas and deliver approximately 2.0 Bcf per day of product gas for transportation through the Alaska gas pipeline, 280 MMcf per day of fuel gas for use in the AGCF, 261 MMcf per day of fuel gas returned to the field for use as fuel or for disposal and up to 32,000 barrels per day of liquids delivered for transportation through TAPS.

The Operations Center is located 2,000 feet from the AGCF and will house administrative offices, a communications center, recreation facilities, first aid and medical facilities, fire protection equipment, and living quarters for the operating personnel of the AGCF. Maximum bed capacity is 288.

The AGCF is designed to be totally self-sufficient with all necessary support facilities, including a 100 megawatt generating plant, complete maintenance facilities, and sewage and fresh water treatment plants.

Much of the AGCF facilities will be prefabricated as modules at two fabrication sites on the West Coast. The sites will be leased for the duration of the modular construction. The sites will be graded and the necessary utilities and support facilities will be installed. At the end of the fabrication effort, the sites will be restored to their original configuration in accordance with the terms of the leases.

A temporary construction camp and related support facilities will be constructed at Prudhoe Bay to house a North Slope AGCF work force of approximately 1,200. These facilities will include dormitory, kitchen, recreation, storage, office, and garage buildings and connecting corridors. In addition, there will be a heavy equipment maintenance building, and equipment garage, fabrication shop, and storage buildings.

The construction camp and operations center will be located 2,000 feet from the AGCF and will cover approximately 33 acres. The camp and related facilities, including utilities, emergency power generation, communications, and fire protection, will be essentially self-sufficient.

The AGCF will be constructed within an area already designated as a petroleum service and production area and will utilize existing rights-of-way or adjacent areas as much as practicable. The Final Environmental Impact Statement (FEIS) prepared by the FERC Office of Pipeline and Producer Regulation found Prudhoe Bay to be an environmentally suitable location for the AGCF. The AGCF design refinements occurring since the preparation of the FEIS are consistent with the FEIS and have the net effect of generally decreasing environmental impact.

The modular construction techniques will further minimize the environmental impact of construction activities at Prudhoe Bay. The AGCF will not have any adverse impacts on national or state historical, scenic, recreational, or wildlife areas.

Most of the mechanical facilities will be prefabricated in approximately 220 modular units at two fabrication sites on the West Coast. The modules will be transported to Prudhoe Bay on ocean-going barges and installed on steel piles. The fabrication sites will be approximately 60 to 95 acres in size and will require the installation of utilities, a barge slip, support facilities and grading.

In order to meet a November 1, 1986, in-service date for the AGCF, module fabrication is scheduled to commence at the sites by November 1, 1982.

Sealifts will be conducted for three successive summers, 1983 to 1985, with an expected departure from the West Coast sites by July 1 and an approximate arrival date of July 15 following the ice breakup in Prudhoe Bay. The modules will be unloaded from the barges at Prudhoe Bay and transported to their installation site by crawlers operating over a gravel pad.

Site preparation at Prudhoe Bay is scheduled to begin in the second quarter of 1982, in order to meet a November 1, 1986, in-service date, and includes expanding existing barge unloading facilities, laying gravel workpads, erecting a temporary construction camp, and installing the steel piles that will serve as the foundation for the modules and the construction camp. Approximately 8,500 piles will be required.

The sealifts and building erection at Prudhoe Bay will be coordinated for scheduled mechanical completion of the AGCF by September 1986 in order to meet the scheduled November 1, 1986, in-service date for the AGCF.

The use of gravel pads, steel pipe piles, and modules has been an accepted construction technique at Prudhoe Bay since the first buildings were erected at that site in the late 1960s. Numerous buildings have been constructed by the Prudhoe Bay Unit Operators since that time using the module construction technique. The principal advantages of the module construction technique are as follows: (1) Modular construction has proven to be more economical than conventional construction methods at Prudhoe Bay; (2) functional testing can be performed in the lower 48, thereby minimizing more expensive North Slope testing; (3) disturbance of the tundra and permafrost is minimized; and, (4) an experienced supervision and craft labor work force is available at the fabrication sites and will be able to work in better working conditions.

The total estimated cost for the AGCF, including contingency, is $4.0 billion in June 1981 dollars ($3.6 billion in January 1980 dollars). The total estimated cost is comprised of a base engineering estimate of $3.3 billion and a contingency of $667 million or 20 percent of the base estimate. The cost estimate was developed in a manner similar to that utilized to develop the Certification Cost Estimate for the Alaska pipeline segment.

The base estimate excludes any contingency and is predicated on the normal conditions expected during construction. Additionally, the estimate is based on a design that was "frozen" as of June 30, 1981 for cost estimation purposes and that was 5 to 10 percent complete at that time.

A work breakdown structure (WBS) format similar to that developed for the Alaska pipeline CCE was utilized to account for project costs. WBS Level 1 is the entire AGCF project. WBS Level 2 is according to the location of the work: Home Office, Fabrication Site One, Fabrication Site Two, or North Slope. WBS Level 3 is according to each major job unit. The WBS Level 3 estimated costs are as follows:

WBS level 3 element	Capital cost estimate (thousands of dollars)
NGL Extraction/CO_2 Removal and Fractionation	$476,897
Inlet Separation/Sales Gas Compression, Refrigeration, Fuels Compression, and Crude Cooling	466,425
Power Generation, Utilities, Site Preparation/Offsites, and Utilidors and Flare System	372,984
Operations Center, Construction Camp and Temporary Construction Facilities	190,276
Spare Parts, Operating Chemicals/Materials, Operations Manuals and Maintenance Program, and Startup and Commissioning	200,633
Fabrication, Logistics, and Erection—Indirect	952,546
Taxes and Insurance	252,916
Royalties	2,152
Project Directorate	474,175
Total	3,338,804

A 20 percent contingency was applied to the base estimate, resulting in a contingency amount of $667 million. The 20 percent contingency covers both normal estimating uncertainty and cost impacts from abnormal events.

A risk analysis was performed in the development of the contingency. The risk analysis considered the two major sources of risk: normal in-scope estimating uncertainty associated with a base engineering estimate based on a preliminary design and abnormal events. The factors included in the analysis of in-scope estimating uncertainty were similar to those utilized to develop the normal contingency for the pipeline: Accuracy of material quantities, accuracy of material prices, human productivity assumptions, equipment reliability assumptions, engineering/design development, normal schedule variances, and accuracy of bid specifications based on current project definition.

To develop the potential cost impacts from abnormal events, 26 possible abnormal events were identified. An analysis of the probabilities of occurence and cost impacts for each of the 26 events was performed. The

analysis of risks from in-scope estimating uncertainties and abnormal events included a series of Monte Carlo simulations.

This risk analysis indicated a contingency of 12.2 percent of the base estimate, or $409.0 million, for normal in-scope estimating uncertainty and an expected of $254.6 million for abnormal events, or 7.6 percent of the base estimate, for a total contigency amount of 19.8 percent which was rounded to 20 percent, resulting in a $667 million contingency on the base estimate.

Applicant submitted, as a part of its July 1, 1980 request for a final certificate of public convenience and necessity to construct and operate the Alaska pipeline segment of the ANGTS, Exhibit M, which contains the Construction, Operation, and Management Plan for the Alaska pipeline segment of the ANGTS. Exhibit M of the instant filing contains a Management Plan for the AGCF, which supplements the Management Plan for the Alaska gas pipeline segment. For this purpose, Applicant has assumed that final ownership and day-to-day management of the AGCF will be consistent with the management organization proposed herein. To the extent adjustments may be required, they will be submitted at the time of submission of the final ownership documentation. The Exhibit M supplement also contains the Project Management Contractor (PMC) Organization.

The overall management framework and principles for the AGCF are expected to be essentially the same as those previously described in Exhibit M of the July 1, 1980 filing for the Alaska gas pipeline segment. The Senior Management Organization Structure of Northwest Alaskan is contained in Volume 1, Exhibit M of the AGCF filing. Figure M–1 of this supplemental Exhibit M is the same organization as shown in Volume 1, Exhibit M, Figure M–4 of the July 1, 1980 pipeline CCE filing. This organization's functional responsibilities will encompass both the AGCF and Alaska gas pipeline segments.

The primary difference in Applicant's organization as operator for both the AGCF and the Alaska gas pipeline segments is at the Engineering and Construction organizational level. Because of the different design and construction requirements of the AGCF, a separate AGCF Project Team has been established to provide the additional specialized expertise required. The AGCF Project Team, which is discussed in greater detail in the Exhibit M supplement in the instant filing, has a direct reporting responsibility to the Senior Vice President for Engineering and Construction. This Senior Vice President is also the direct line corporate officer responsible for the Project Operations function of the Alaska gas pipeline.

In addition to a separate Project Team for design, engineering and construction, the AGCF will have a PMC responsible for design and construction which is separate and distinct from the Alaska gas pipeline segment. The PMC organization for designing and engineering the AGCF is the Ralph M. Parsons Company, located in Pasadena, California, which is also the location of the AGCF Project Team. The PMC for construction has not been selected at this time. The Exhibit M supplement included with the application describes in more detail the PMC organization and its interface with Applicant. The necessary detail information for obtaining approval of the overall management plan for both the Alaska gas pipeline segment and the AGCF will be submitted to OFI in a timely manner in connection with issuance of a final certificate for the Alaska segments of the ANGTS.

Applicant proposes a rate of return on equity for the AGCF of 16 percent, which rate, according to Applicant, equals the corresponding rate that can be earned for the Alaska pipeline segment of the ANGTS, excluding that component of such rate which compensates investors for use of an Incentive Rate of Return (IROR) mechanism. Applicant alleges that this 16 percent rate is a conservative rate and is substantially below that rate which would result if the Commission was to apply updated information to the methodologies used in Orders 31 and 31–B to establish the Operation Phase Rate and the Project Risk Premium components of the IROR mechanism.

Applicant states that in Orders 31 and 31–B the Commission provided that Applicant would have the opportunity to earn a 17.5 percent equity rate of return for the ANGTS Alaska pipeline segment. Under the IROR mechanism established in those orders, this return was composed of the following three elements:

Elements	Rates
Operation Phase Rate (percent)	14.00
Project Risk Premium	2.00
IROR Risk Premium	1.50
Total allowed equity return (percent)	17.50

Applicant states that the 14 percent Operation Phase Rate compensates equity investors for the risks incurred during the actual operation of the pipeline. This rate will be used to calculate transportation charges pursuant to the tariff approved by the Commission after the one-time adjustment to the rate base. The 2 percent project Risk Premium compensates investors for their risk exposure during the construction of the pipeline. The 1.5 percent IROR Risk Premium compensates investors for the risks introduced by the variability in the allowed rate of return created by the IROR mechanism.

Applicant states that it has used the following three methodologies relied upon by the Commission in establishing the Operation Phase Rate for the Alaska gas pipeline segment of the ANGTS, as the first of a two-step process, to develop an equity rate of return for the AGCF: (1) Comparable Earnings (CE); (2) Discounted Cash Flow (DCF); and, (3) the Equity Risk Premium (ERP). Using the same data for the period 1975–1980 (Exhibit P–1) which the Commission used in establishing the Operation Phase Rate for the Alaska gas pipeline segment yields the following return ranges for the ANGTS AGCF Operation Phase Rate as compared with the range determined by the Commission in Order No. 31 for the Alaska gas pipeline.

Method	Operation phase rate for Alaska gas pipeline order No. 31 range	Operation phase rate for AGCF	
		Range	Mid-point
Comparable Earnings:			
All Industries (percent)	11.7 to 15.	11.7 to 16.7.	14.2
Natural Gas Utilities	11.9 to 16.2.	13.5 to 16.2.	15.9
Discounted Cash Flow	14.2 to 16.3.	12.8 to 15.5.	14.2
Equity Risk Premium	13.2 to 14.9.	19.0 to 21.0.	20.0

Applicant alleges that the above range of returns represents the expected returns by investors on equity capital invested in ongoing, well-established concerns, but does not take into account the risks unique to the AGCF. The AGCF will be the single largest privately financed gas conditioning facility ever constructed and will be connected to the largest natural gas pipeline in the world. Both the AGCF and the Alaska gas pipeline must be completed in order for the system to go into operation, at which time the equity investor will begin to earn a return on investment. Both will be financed on a 75/25 debt/equity ratio. Since both the pipeline and the conditioning facility are completely integrated, the risks which the Commission found in Orders 31 and 31–B relative to the Alaska gas pipeline are equally applicable to the AGCF.

Accordingly, Applicant contends that in setting the overall AGCF rate of return on equity the Commission must provide equity investors with a Risk Premium if sufficient capital is to be attracted to the project. The potential equity investors in applicant will have assessed the risks in construction of the AGCF as equal to or greater than the Alaskan pipeline segment, and, therefore, require a Project Risk Premium, similar to that approved for the Alaskan pipeline segment. For illustrative purposes, Applicant employed the approach which the Commission used in setting the Project Risk Premium for the Alaska gas pipeline to arrive at a Project Risk Premium for the AGCF, resulting in an amount of 2 percent (Exhibit P–1, Sch. X1) which is the same as that determined for the pipeline.

Applicant alleges that these ranges plus the Project Risk Premiums, demonstrate that the 16 percent rate of return on equity for the AGCF requested at this time is the minimum necessary to attract equity investment in the AGCF.

Any person desiring to be heard or to make any protest with reference to the above described amendment to the application of Alaskan Northwest Natural Gas Transportation Company filed on December 31, 1981 in Docket No. CP80–435–003, should, on or before March 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. (However, persons who are already parties to Docket No. CP78–123, *et al.*, or Docket No. CP80–435 may participate fully in the Commission's proceedings on the above described amendment to application without filing any further petitions for that purpose.)

Kenneth F. Plumb,

Seretary.

[FR Doc. 82–2119 Filed 1–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5797–000]

B & C Energy, Inc., Application for Preliminary Permit

January 25, 1982.

Take notice that B & C Energy, Inc. (Applicant) filed on December 17, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5797 to be known as the Star Falls Project located on Snake River in Twin Falls and Jerome Counties, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. B. Beymer, Jr., 188 Blair Dr., Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) a 15-foot high concrete weir with an ungated concrete ogee spillway; (2) a reinforced concrete intake structure; (3) a 10-foot deep excavated canal; (4) a 15.5-foot diameter penstock; (5) a powerhouse to contain two generating units with a combined rated capacity of 15,000 kW which would operate under a head of 48 feet; (6) a tailrace; (7) a switchyard and; (8) a 3.75-mile long 34.5-kV transmission line extending from the powerhouse to the existing Wilson Butte substation. The average annual energy output is 71 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 24 months, during which it would conduct engineering, economic, and environmental feasibility studies and prepare an application for FERC license. No new roads would be needed to conduct these studies. The estimated cost of conducting these studies and preparing an application for an FERC license is $250,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 12, 1982, the competing application itself,or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 12, 1982 and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 10, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2129 Filed 1–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5701-000]

Floyd Bidwell; Application for Preliminary Permit

January 26, 1982.

Take notice that Floyd Bidwell (Applicant) filed on November 30, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5701 to be known as the Bidwell Ditch Power Project located on Lost Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Floyd Bidwell, P.O. Box 547, Cassel, California 96016.

Project Description—The proposed project would consist of: (1) A 60-foot long, 5-foot high diversion structure; (2) a 2,100-foot long, 72-inch diameter diversion conduit; (3) a 4,620-foot long, 48-inch diameter penstock; (4) a powerhouse with a rated capacity of 400 kW; and (5) a 2-mile long, 12-kV transmission line from the powerhouse to the Bidwell Ranch. The Applicant estimates that the average annual energy production would be 3.3 million kWh. The project is located on U.S. Federal lands owned by the U.S. Forest Service.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which he would conduct technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2141 Filed 1–27–82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5684-000]

City of Canyonville, Oregon; Application for Preliminary Permit

January 26, 1982.

Take notice that the City of Canyonville, Oregon (Applicant) filed on November 24, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5684 to be known as the Jackson Creek Hydroelectric Project located on Jackson River in Douglas County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: City of Canyonville, P.O. Box 765, Canyonville, Oregon 97417, Attention: Mayor Winston W. Walker.

Project Description—The proposed project would consist of:

(1) A 6-foot high, 90-foot long diversion structure on Jackson Creek;

(2) A 4-foot high, 50-foot long diversion structure on Beaver Creek;

(3) A 1.5-mile long diversion channel at Beaver Creek;

(4) A 7.2-mile long diversion channel at Jackson Creek;

(5) A 60-inch diameter, 2,100-foot long penstock delivering water to the upper powerhouse;

(6) Upper powerhouse with a total installed capacity of 5,100 kW;

(7) An 8-foot wide, 2.9-mile long tailrace canal;

(8) A 60-inch diameter, 550-foot long penstock delivering water to the lower powerhouse;

(9) The lower powerhouse with a total installed capacity of 2,500 kW; and

(10) A 4-mile long, 69-kV transmission line.

The Applicant estimates that the average annual energy production would be 43 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 24-month permit to conduct geological, environmental and economic feasibility studies, obtain necessary agreements, preparing designs, and preparation of a license application. Applicant estimates the cost of the above activities would cost $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 1, 1982. The competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 1, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent, to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2142 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2952-001]

City of Idaho Falls; Application for License (Over 5 MW)

January 26, 1982.

Take notice that the City of Idaho Falls, (Applicant) filed on September 14, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be know as Gem State Hydroelectric Project No. 2952. The project would be located on Snake River, near the City of Idaho Falls, in Bingham and Bonneville Counties, Idaho. Correspondence with the Applicant should be directed to: Mr. G. S. Harrison, Manager, Electric Light Division, City of Idaho Falls, 140 South Capitol Avenue, P.O. Box 220, Idaho Falls, Idaho 83401.

Project Description—The proposed project would consist of: (1) A 40-foot high, 4,300-foot long earthfill dam, impounding a reservoir with a storage capacity of 5,000 acre-feet and surface area of 305 acres; (2) a four-bay spillway, each bay 40-foot wide and 32-foot high; (3) a 3,300-foot long power canal, narrowing in width from 620-foot to 200-foot; (4) a powerhouse containing one generating unit with an installed capacity of 22.3 MW; (5) a 1,080-foot long tailrace; (6) a 7,300-foot long dike upstream from the spillway on the right bank and a 10,400-foot long dike upstream from the powerhouse on the left bank; (7) two access roads which will be improvements to existing roads; (8) a 3.75-mile long, 44-kV transmission line from the powerhouse to the City's Westside substation; and (9) appurtenant facilities. The project would affect U.S. lands within the Bureau of Land Management.

Purpose of Project—The project would generate an estimated average annual energy of 125.12 million kWh which would be sold to the Bonneville Power Administration.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 8, 1982, either the competing application itself (See: 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submision of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2143 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4893-000]

City of Redding, California; Application for Preliminary Permit

January 25, 1982.

Take notice that City of Redding, California (Applicant) filed on June 4, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 4893 to be known as the Shasta Dam Power Project located on Sacramento River near the City of Redding On United States lands managed by Department of Interior in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence

with the Applicant should be directed to: Mr. W. Brickwood, City Manager, City of Redding, 760 Parkview Avenue, Redding, California 96001.

Project Description—The proposed project would consist of uprating the windings of units 3, 4, and 5 of the existing Shasta Dam Powerplant, owned and operated by the Bureau of Reclamation of the U.S. Department of Interior, which would increase the total installed capacity from 508.75 MW to 750 MW.

The Applicant estimates that with the proposed project the annual energy output from the powerplant would be 1,200 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct engineering, economic, and environmental studies; and prepare an FERC license application. The Applicant estimates that these studies would cost $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 8, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981)).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2130 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-129-000]

Ozark Gas Transmission System; Application

January 26, 1982.

Take notice that on December 18, 1981, Ozark Gas Transmission System (Applicant), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82-129-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing January 1, 1982, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application which is on file with the commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicants states that the total and single project cost limitations would not exceed those prescribed by § 157.7(b) of the Commission's Regulations under the Natural Gas Act. The cost of the proposed facilities would be financed from funds on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion

believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2150 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-132-000]

Panhandle Eastern Pipe Line Co.; Application

January 26, 1982.

Take notice that on December 22, 1981, Panhandle Easter Pipe Line Company (applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-132-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities required to make 20 direct sales of natural gas to right-of-way grantors and the construction and operation of one new delivery point to an existing resale customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would construct and operate facilities required to make 20 direct sales of natural gas to the following right-of-way grantors in the States of Oklahoma, Kansas, and Missouri for domestic or irrigation fuel end-use:

County and State	Customer
Beaver, Okla	Bernice M. Anderson.
Beaver, Okla	Bernice M. Anderson.
Beaver, Okla	Otis Desper.
Beaver, Okla	Faye Clark.
Beaver, Okla	Faye Clark.
Beaver, Okla	Hobble Land & Cattle Co.
Beaver, Okla	Paul Dean Kirton.
Beckham, Okla	Ruby Howard.
Cimarron, Okla	Dayle M. Oyler.
Cimarron, Okla	Zero Enterprises, Inc.
Garfield, Okla	Ed Cardwell.
Harper, Okla	Howard G. Allen.
Texas, Okla	Bernice M. Anderson.
Woods, Okla	Donald M. White.
Barber, Kans	M. D. Christenson.
Morton, Kans	William F. Penick.
Seward, Kans	Nita Radford.
Audrain, Mo	A. Hugh Williams.
Cass, Mo	Charles E. Wallace.
Pike, Mo	Raymond L. Hostetler.

Applicant further proposes to construct and operate one new delivery point to Indiana Gas Company, an existing resale customer of Applicant, in the State of Indiana in order to provide gas service to Esther L. Campbell, Vermillion county, Indiana.

Applicant states that the total cost of the facilities proposed herein would be $49,700 which costs Applicant would finance from cash on hand.

Applicant explains that 11 of the direct sales would be for irrigation fuel purposes. It is estimated that said irrigation fuel sales would involve an average of 3,750 Mcf of natural gas per year. Applicant further explains that the end-use for the remaining 10 sales would be for domestic purposes. it is estimated that the average volume of natural gas sold per domestic tap would be approximately 150 MCf per year.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-2126 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-133-000]

Panhandle Eastern Pipe Line Co.; Application

January 26, 1982.

Take notice that on December 22, 1981, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP82-133-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the addition of a new delivery point to The Gas Service Company (Gas Service), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to add a new point of delivery from which Gas Service would provide service to a new customer, DEKALB AgResearch, Inc. (DeKalb). It is stated that Applicant and Gas Service have entered into a gas sales contract dated June 5, 1981, which adds a new point of delivery in Seward County, Kansas (DeKalb delivery point). It is further stated that Applicant would have a 1500 Mcf day maximum daily delivery obligation to Gas Service at the DeKalb delivery point and that Applicant's maximum daily delivery obligation to Gas Service at 21 of the 26 existing delivery points in Kansas would be reduced by an aggregate total of 1500 Mcf per day. Applicant notes that there would, therefore, be no change in the total contract demand of Gas Service.

Applicant submits that the requested change in service for Gas Service would not result in any increase in peak day or annual entitlement for natural gas service nor adversely affect Applicant's ability to meet the requirements of its other customers.

The cost to install the DeKalb delivery point on Applicant's system is estimated at $56,100 to be financed from funds available to the company.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natual Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2131 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5759-000]

Public Utility District No. 1; Application for Preliminary Permit

January 25, 1982.

Take notice that Public Utility District No. 1 (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5759 to be known as the West Cady Creek Hydroelectric Project located on West Cady Creek, in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) A 10-foot high diversion structure on West Cady Creek; (2) a 3,800-foot long, 7.5-foot diameter penstock; (3) a powerhouse with a total installed capacity of 9,000 kW; and (4) a 12-mile long, 12-kV transmission line from the powerhouse to an existing 12-kV transmission line. The Applicant estimates that the average annual energy production would be 28.9 million kWh. The project is located on U.S. Forest Service Lands.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical, environmental and economic studies; and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $200,000.

Competing Applications—This application was filed as a competing application to Western Power Inc.'s application for Project No. 5338 filed on September 8, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2137 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5617-000]

Clark-Skamania Joint Operating Agency of Clark and Skamania Counties, Wash.; Application for Preliminary Permit

January 26, 1982.

Take notice that Clark-Skamania Joint Operating Agency of Clark and Skamania Counties, Washington (Applicant) filed on November 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5617 to be known as the Meadows Waterpower Project located on Rush, Curly, Meadow and Big Creeks, on land within the Gifford Pinchot National Forest in Skamania County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William F. Yee, Manager, Public Utility District No. 1 of Skamania County, P.O. Box 500, Carson, Washington 98610.

Project Description—The proposed project would consist of three developments: (A) *The Big Creek development* would consist of: (1) a 10-foot high diversion dam creating a small pond with a surface area less than 10 acres and a volume less than 30 acre-feet; (2) a 3-foot diameter, 5,500-foot long pipeline. (B) *The Upper Meadows development* would consist of: (1) Two 10-foot high diversion dams impounding ponds of less than an acre in area and volumes of less than 5 acre-feet each on Rush Creek; (2) a 3-foot diameter, 6,800-foot long pipeline; (3) a 20-foot high diversion dam impounding a small pond with a surface area less than 10 acres and a volume less than 30 acre-feet on Meadow Creek; (4) an 8-foot diameter, 15,200-foot long pipeline; (5) a 7-foot diameter, 1,400-foot long penstock; (6) a powerplant with an installed capacity of 10,000 kW. (C) *The Lower Meadows Power development* would consist of: (1) Two 20-foot high diversion dams

impounding small ponds less than 5 acres in area and volumes less than 10 acre-feet each, one on Rush Creek and one on Curly Creek; (2) an 8-foot diameter, 3,000-foot long pipeline to convey water from the Lower Rush Creek diversion to a junction with a 4-foot diameter, 4,000-foot long pipeline from the Curly Creek diversion; (3) from the junction, an 8-foot diameter, 11,300-foot long pipeline and (4) a 7-foot diameter, 2,000-foot long penstock; (5) a powerhouse with an installed capacity of 31,000 kW, and (6) an 18-mile long transmission line. The Applicant estimates that the total average annual energy production would be 208 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit during which time geological, environmental and economic feasibility studies will be conducted as well as, obtaining agreements and preparation of a license application. Applicant estimates the above activities will cost $1,110,000.

Competing Applications—This application was filed as a competing application to Capital Development Company's application for Project No. 4467–000 filed on April 2, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2144 Filed 1–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–128–000]

Columbia Gas Transmission Corp.; Application

January 26, 1982.

Take notice that on December 18, 1981, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82–128–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 32 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.: 4 taps for residential service; 2 taps for commercial service; 1 tap for industrial service—estimated annual usage of 48,209 Mcf.

(2) Columbia Gas of Ohio, Inc.: 12 taps for residential service; 1 tap for commercial service; 1 tap for industrial service—estimated annual usage of 2,835 Mcf.

(3) Columbia Gas of Pennsylvania, Inc.: 4 taps for residential service; 1 tap for commercial service—estamated annual usage of 900 Mfc.

(4) Columbia Gas of West Virginia, Inc.: 4 taps for residential service—estimated annual usage of 600 Mcf.

(5) The Dayton Power and Light Company: 2 taps for industrial service—estimated annual usage of 4,000 Mcf.

It is estimated that the total cost of the interconnections proposed herein is $35,425 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2120 Filed 1–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5628-000]

Energenics Systems, Inc.; Application for Preliminary Permit

January 26, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on November 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5628 to be known as Belle Fourche Dam located on the Belle Fourche River in Butte County, South Dakota. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009.

Project Description—The proposed project would utilize a U.S. Bureau of Reclamation dam and reservoir, Project No. 5628 would consist of: (1) A proposed powerhouse located at each outlet conduit with an estimated installed capacity of 700 kW; (2) existing 69 kV transmission lines located within 5 miles of the site; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3 GWh.

Purpose of Project—Energy at the proposed project would be sold to the Black Hills Power & Light Co., WAPA, or nearby public institutions and industrial users. The project would provide a contribution to the energy needs of the Fruitdale area.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 3, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 3, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et seq. of 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2145 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5693-000]

Arthur C. Frazier; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 25, 1982.

Take notice that on November 24, 1981, Arthur C. Frazier (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 5693 would be located on Gertrude Creek in Madera County, California, in the Sierra National Forest. Correspondence with the Applicant should be directed to: Mr. Arthur C. Frazier, P.O. Box 381, North Fork, California 93643.

Project Description—The proposed project would consist of: (1) An intake in the streambed at a natural granite basin; (2) a penstock 1,200 feet long; (3) a powerhouse containing a turbine generator with 40 kW capacity and 129.6 MWh annual output; (4) transmission line 400 feet long; and (5) appurtenant facilities.

Purpose of Project—Project-generated energy would be sold to Pacific Gas and Electric Company.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license appliants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the

granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 17, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2131 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5671-000]

Gover Ranch Power Project Inc.; Application for Preliminary Project Permit

January 25, 1982.

Take notice that Gover Ranch Power Inc. (Applicant) filed on November 20, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5671 to be known as the Gover Ranch Power Project located on the Battle Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Dan Gover, Rt. 1 Box 2051, Anderson, California 96007.

Project Description—The proposed project would consist of: (1) A concrete and natural fill diversion structure 5 feet high, crest elevation 425 feet, with negligible storage; (2) a diversion canal; (3) a penstock 30 feet long; (4) a powerhouse containing a turbine generator with 500 kW capacity and 4.25 GWh annual energy production; and (5) transmission line one mile long. The expected market for project generated power is the Pacific Gas & Electric Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support an application for an FERC license to construct and operate the project. The estimated cost of permit activities is $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2132 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5705-000]

Grisdale Hill Co.; Application for Preliminary Permit

January 26, 1982.

Take notice that Grisdale Hill Company (Applicant) filed on December 1, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 5705 to be known as the Huckleberry Creek Hydropower Project located on Huckleberry Creek, in Lane County, near Oakridge, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Marilyn Tebor Shaw, Esq., Suite 1100, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, with a copy to Robert Looper, Henningson, Durham & Richardson, 1100 East Lake Avenue East, Seattle, Washington 98109.

Project Description—The proposed project would consist of: (1) A 10-foot high by 40-foot long diversion dam; (2) a 4,100-foot long, 24-inch diameter penstock; (3) a powerhouse with a total installed capacity of 1.4 MW; and (4) a 5-mile long, 34.5-kV transmission line to connect to an existing Bonneville Power Administration. The project would be located within the boundaries of the Willamette National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the proposed project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 2, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1982); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 2, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service or Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any otice of intent, competing application, or petition to intervene must also be in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2146 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-30-000]

Gulf States Utilities Co.; Application

January 25, 1982

Take notice that on January 11, 1982, Gulf States Utilities Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing to issuance not more than 500,000 shares of new preferred stock, $100 per value, or not more than 2,000,000 shares of new preference stock, $25 stated value via negotiated placement.

An person desiring to be heard or to make any protest with reference to the application should on or before February 10, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2133 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5592-000]

H-O-H Power; Application for Preliminary Permit

January 26, 1982.

Take notice that H-O-H Power (Applicant) filed on November 2, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5592 to be known as the Daguerre Point Project located on the Yuba River at a dam owned and operated by the U.S. Army Corps of Engineers in Yuba County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Janice L. Haemmig, 10904 Brunswick Road, Grass Valley, California 95945.

Project Description—The proposed project would consist of: (1) An intake structure; (2) two 108-inch diameter, 450-foot penstocks; (3) a powerhouse containing six generating units with a total rated capacity of 3,600 kW; and (4) a one-quarter mile long transmission line. Applicant estimates that the average annual output would be 26.3 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued,

does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of the above activities, along with the preparation of an environmental impact statement, obtaining agreements with the U.S. Army Corps of Engineers and other Federal, State, and local agencies, preparing a license application, conducting final field survey, and preparing designs is estimated by the Applicant to be $126,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 1, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 1, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2147 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-31-000]

Idaho Power Co.; Application

January 25, 1982.

Take notice that on January 15, 1982, Idaho Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance and sale of up to $100,000,000 of its First Mortgage Bonds.

Any person desiring to be heard or to make any protest with reference to the application should on or before February 11, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2135 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5575-000]

Edgar F. Lafayette; Application for Preliminary Permit

January 25, 1982.

Take notice that Edgar F. Lafayette (Applicant) filed on October 27, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5575 to be known as the McKercher's Mill Hydropower Project located on Calapooia River, near Crawfordsville in Linn County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Edgar F. Lafayette, 36898 Northern Drive, Brownville, Oregon 97327.

Project Description—The proposed project would consist of: (1) A 12-foot high, 180-foot long diversion dam; (2) a powerhouse with five turbine-generator units incorporated into the diversion structure and total installed capacity of 800 kW; (3) a 100-foot long, 20.8-kV transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 2.8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be required for conducting these studies. The applicant estimates the cost of undertaking these studies would be $66,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 5, 1982, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 et seq. (1981)).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Any application for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application permit no later than June 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2134 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5765-000]

Madera Irrigation District; Application for Preliminary Permit

January 25, 1982.

Take notice that Madera Irrigation District (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5765 to be known as the Mile 24.2 Turnout Project located on the United States Bureau of Reclamation's Madera Canal at Station 1302 + 10.26 in Madera County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert L. Stanfield, Manager-Chief Engineer, Madera Irrigation District, 12152 Road 28¼, Madera, California 93637.

Project Description—The proposed project would consist of: (1) an inlet structure; (2) a 300-foot long, 42-inch diameter penstock; (3) a power plant to contain a single generating unit with a rated capacity of 250 kW; and (4) a tail-water channel discharging into the canal. The average annual energy production is 700,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct environmental, economic, and engineering feasibility studies. The estimated cost of conducting these studies and preparing an application for an FERC license is $31,500.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 4, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 5, 1982, and should specify the type of application forthcoming. Application for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2136 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-46-002]

Mid Louisiana Gas Co.; Amendment to Application

January 26, 1982.

Take notice that on December 29, 1981, Mid Louisiana Gas Company (Applicant), 2100 Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP81-46-002 an amendment to its application filed pursuant to Section 7(c) of the Natural Gas Act so as to reflect a route change for the right-of-way site for its proposed pipeline facilities and a related change in the transportation of natural gas, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that on November 10, 1980, Applicant filed in the instant docket an application for authorization to construct and operate approximately 3.6 miles of 6 inch O.D. pipeline at an estimated cost of $1,250,000 in order to connect a new source of gas supply. Applicant asserts that it has contracted with Quintana Production Company, *et al.*, to purchase approximately 9,000 Mcf per day of gas to be produced from the West Cameron Block 32 Field area, Cameron Parish, Offshore Louisiana. Applicant stated that the proposed facilities are required in order to transport the gas from the producer's platform located approximately two

miles offshore to a point of delivery at the inlet side of Phillips Petroleum Corporation's Hog Bayou treatment plant located in Section 21, Township 15 South, Range 1 West, Cameron Parish, Louisiana. Applicant further stated that after processing for the removal of water, liquids, and/or liquefiable hydrocarbons the residue gas was to be delivered at the outlet of the plant to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) which would transport the gas and redeliver it to Applicant at a point on its main transmission system.

Applicant now proposes a route change for the right-of-way site for its proposed pipeline facilities and a related change in the transportation arrangement to bring the Quintana gas supply to Applicant's main transmission system. Applicant explains it would construct approximately 4.85 miles of 6⅝ inch O.D. pipeline from the producer's platform in the West Cameron Block 32 Field area to a point of delivery at the inlet of a separation plant operated by Quintana in Section 16, Township 15 South, Range 6 West, Cameron Parish, Louisiana.

The total cost of these proposed facilities is approximately $1,972,000. Such costs, it is asserted, would be financed from internally generated funds and short term loans.

Applicant further states that the producer would measure the gas and process it at the separation plant for the removal of water, liquids and/or liquefiable hydrocarbons. Applicant asserts that the off-system transportation of the subject gas to Applicant's main-line transmission system would be accomplished through an exchange and transportation arrangement with Tennessee pursuant to Tennessee's blanket authority under Subpart G of Part 284 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2121 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-121-000]

Midwestern Gas Transmission Co.; Application

January 26, 1982.

Take notice that on December 17, 1981, Midwestern Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-121-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Central Illinois Light Company (CILCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas on an interruptible basis on its Southern system for CILCO pursuant to the terms of a contract dated August 31, 1981. Applicant explains that it is now rendering natural gas service to CILCO for its Oakwood, Illinois, service area under Applicant's Rate Schedule SR-1 and gas service contract dated July 8, 1963. Applicant states that this gas service contract provides for the sale of up to 365 Mcf of gas per day.

It is stated that CILCO has advised Applicant of its need for additional natural gas to serve its high requirements customers in its Oakwood service area particularly during the winter months. It is further stated that CILCO's Oakwood service area. In order to effect this arrangement CILCO has made arrangements with one of its other pipeline suppliers, Panhandle Eastern Pipe Line Company (Panhandle), to have gas which is presently being delivered by Panhandle for use in other service areas to be delivered to Applicant for transportation to CILCO has entered into a transportation and exchange agreement with Panhandle and Trunkline Gas Company (Trunkline) under which Panhandle would reduce its normal deliveries to CILCO and deliver equivalent volumes to Trunkline for redelivery to Applicant for the account of CILCO.

Applicant proposes herein to transort up to 1,000 Mcf of natural gas per day made available to it by trunkline for the account of CILCO at the existing interconnection of the pipeline facilities of Trunkline and Applicant near Potomac, Illinois. Such service would be available on an interruptible basis on any day in which CILCO needs natural gas in excess of CILCO's maximum daily purchase entitlement under its gas service contract. It is stated that transportation service proposed herein as well as the transportation service to be rendered by Panhandle and Trunkline would be rendered by means of existing facilities.

Applicant proposes to charge CILCO 1.0 cent per Mcf delivered to reimburse Applicant for its administrative services associated with the proposed transportation service.

Applicant further requests that the Commission waive the provisions of paragraph (b) of Article I in its Rate Schedule SR-1 which provides that Rate Schedule SR-1 service is available only to total requirements customers with respect to specified areas. It is explained the absent the granting of this waiver, CILCO would have to become a Rate Schedule CD-1 customer which provides for higher purchase obligations for customers having multiple sources of supply. Applicant notes that by granting this waiver, CILCO would be able to retain the other benefits of being a small requirements customer. It is stated that the annual total volumes of gas which CILCO would purchase from Applicant would neither increase nor decrease the level which CILCO would otherwise purchase from Applicant and that neither Applicant nor its other Southern system customers would be detrimentally affected by the grant of this waiver.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2148 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-63-001]

Montana-Dakota Utilities Co.; Amendment to Application

January 26, 1982.

Take notice that on December 28, 1981, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP82-63-001 an amendment to its application filed in the instant docket on November 6, 1981, pursuant to Section 7(c) of the Natural Gas Act so as to delete its request for authorization for the construction and operation of certain pipeline facilities requested in the application, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it originally requested authority to construct and operate 4 taps on its transmission lines to serve the Shell Oil Company in the Mon-Dak Field, McKenzie County, North Dakota. Applicant indicates that it has been informed that three of the four taps are no longer required because Shell Oil Company has made other arrangements for fuel. Applicant therefore requests deletion of tap numbers 66, 67 and 68. Applicant states that the total cost of the remaining facilities would be reduced from $171,300 to $163,000.

Applicant asserts that in its application it refers to an amendment of Stipulation and Agreement in Settlement of Remaining Issues in Applicant's curtailment plan Docket No. RP76-91 filed with the Commission on July 10, 1981. The Stipulation of July 10, 1981, has since been withdrawn and replaced by a Stipulation and Agreement filed on December 4, 1981, which does not change any of the conditions which would be relied upon to provide service to industrial customers as stated in the original application in this docket.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2122 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-120-000]

Northern Natural Gas Co.; Application

January 26, 1982.

Take notice that on December 16, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-120-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition, by purchase of an individed fractional interest in the ownership of certain existing offshore facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to acquire by purchase from Mobil Oil Exploration and Producing Company, Inc., (Mobil), its undivided fractional interest in the compression facilities on the West Cameron Area Block 352 "A" Platform all in West Cameron Area Block 352, offshore Louisiana. Applicant states that the proposed purchase of Mobil's 55.4 percent interest in such facilities is made in accordance with a letter agreement dated November 10, 1978, which was entered into as the direct result of notification received by Applicant from the operator of High Island Offshore System (HIOS) that the operating pressure of the HIOS pipeline was to be in excess of 1,300 psig. It is explained that pursuant to the gas sale contract dated September 14, 1978, delivery of sales gas by Mobil would be made at a pressure sufficient to allow gas to enter Applicant's facilities but not at a pressure in excess of 1,505 psig. It is stated that in the judgment of Applicant and the other purchasers of gas reserves underlying West Cameron Area Blocks 343/352, compression facilities would be required to deliver gas into the HIOS pipeline against the operating pressure of said pipeline.

It is further stated that Mobil initiated construction of the compression facilities on June 26, 1970, and that such compression was ready for service August 18, 1979. The compression facilities are located on the West Cameron Block 352 "A" platform and consist of a 1,000 horsepower compressor with appurtenances. Applicant's proportionate share of the construction cost is $680,671.

Applicant explains that since the subject compressor facilities were installed the HIOS pipeline has failed to realize the anticipated operating pressure in excess of 1,300 psig. It is stated that the pressure at which Mobil delivers West Cameron Block 343/352 gas volumes into Applicant's facilities has been sufficient to allow delivery of such gas into the HIOS pipeline without the use of compression and that the compression facilities installed by Mobil have remained idle since installation.

On July 29, 1981, the Commission issued an order affirming in part and modifying in part the initial decision in regard to HIOS' petition to amend certificate at Docket No. CP75-104. The amendment provides for the modification of existing compression on the HIOS pipeline. In Applicant's opinion the approved compressor modification would increase the operating pressure of HIOS such that the West Cameron Block 352 compression would be required to deliver the remaining West Cameron Block 343/352 gas into HIOS.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to

be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is requird by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2149 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-467-001]

Northern Natural Gas Co.; Amendment to Application

January 26, 1982.

Take notice that on December 17, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-467-001 an amendment to its application filed August 18, 1981, in the instant docket pursuant to § 7(c) of the Natural Gas Act so as to reflect a change in the location of the proposed delivery point to accommodate deliveries of natural gas to its utility customer, Owatonna Public Utilities (Owatonna), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that in the application filed on August 18, 1981, Applicant requested authority to construct and operate approximately 4.3 miles of 10-inch branchline and a new delivery point for its utility customer, Owatonna. Applicant states that subsequent to the time of filing Owatonna informed Applicant that in order to obtain tax exempt bond financing for this project Owatonna must maintain ownership of the facilities constructed by said financing. Consequently, Applicant proposes herein to relocate the proposed delivery point to a point of tie-in with Applicant's 24-inch branchline in Section 16, T.107N., R.21W., Steele County, Minnesota. It is explained that Owatonna would then be responsible for construction of the facilities needed to provide service from the new proposed delivery point to its distribution system and that Applicant would own only the necessary metering and appurtenances needed for gas measurement.

The cost of the proposed facilities is estimated at $88,920 for which Applicant would be reimbursed by Owatonna.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 16, 1982, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2123 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5404-000]

Puget Sound Power & Light Co.; Application for Preliminary Permit

January 26, 1982.

Take notice that Puget Sound Power & Light Company (Applicant) filed on September 23, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5404 to be known as the Martin Creek Project located on Martin Creek in Kings County, Washington. The proposed penstock route crosses part of Snoqualmie National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert V. Myers, Vice President, Generation Resources, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009.

Project Description—The proposed project would consist of: (1) A concrete gravity diversion dam 10 feet high with negligible storage; (2) a steel penstock 6,000 feet long; (3) a powerhouse containing two turbine generators with 6.6 MW total capacity and 27.5 GWh annual energy output; (4) a transmission line 0.3 miles long; and (5) appurtenant facilities. Power output would be marketed through the existing Puget Sound Power Service network.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $300,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 7, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981)).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 7, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to

intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2182 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5195-001]

Simon Pearce (U.S.), Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 25, 1982.

Take notice that on October 22, 1981, Simon Pearce (U.S.), Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5195) would be located on Ottauquechee River, in Windsor County, Vermont. Correspondence with the Applicant should be directed to: Simon Pearce, Simon Pearce (U.S.) P.O. Box S, Quechee, Vermont 05059.

Project Description—The proposed project would consist of: (1) The Applicant's existing Emory Mill Dam (also known as Downer's Mills), a concrete gravity structure 14 feet high and 150 feet long with an uncontrolled spillway; (2) an existing impoundment having negligible storage with a water surface elevation of 562 feet m.s.l.; (3) a rehabilitated intake; (4) a new penstock; (5) a new powerhouse with a generating capacity of approximately 645 kW; (6) a new tailrace and (7) appurtenant facilities. The Applicant estimates the annual average energy output would be 3,200,000 kWh. Project energy in excess of the industrial requirements of Simon Pearce Glass is to be sold to Central Vermont Public Service Corporation.

Purpose of Project—An exemption, if issued, gives the exemptee priority of control, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife service, The National Marine Fisheries Service, and the Vermont State Agency of Environmental Conservation, Fish and Game Department are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified licensee applicant desiring to file a competing application must submit to the Commission, on or before March 10, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 10, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2136 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-130-000]

Southwest Gas Corp.; Application

January 26, 1982.

Take notice that on December 21, 1981, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP82-130-000 an application pursuant to § 7(c) of the Natural Gas Act for a certificate

of public convenience and necessity authorizing the construction and operation of one high pressure tap facility on its Fort Churchill Lateral, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate one high pressure tap on its Fort Churchill Lateral in order to serve the Maine Line Plastics Development Company in Lyon County, Nevada. Such tap, it is asserted, would have annual usage, peak day and average day usage of 25,452 Mcf, 120 Mcf and 101 Mcf, respectively.

It is asserted that the cost of the facility proposed herein would be $1,640 which would be financed from an advance made by the customer.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2125 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-15-000]

Sun Gas Co.; Petition for Temporary Waiver of Certain NGPA Regulations Implementing Section 108

Issued: January 25, 1982.

Take notice that on December 11, 1981 Sun Gas Company (Sun Gas), Post Office Box 20, Dallas, Texas 75221, filed a petition for temporary waiver of certain Natual Gas Policy Act (NGPA) regulations implementing section 108 pursuant to § 1.7 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure (18 CFR 1.7) thereby allowing Sun Gas to collect the section 108 for gas from the S.J. Neal No. 1 (Neal No. 1) for deliveries from July 31, 1979 to April 29, 1981.

Specifically, Sun Gas states that certain procedures conducted on the Neal No. 1 caused it to produce in excess of 60 Mcf per production day for three 90-day periods. (Section 108(b)(1) of the NGPA provides that gas qualifies as stripper well natural gas only if during the 90 day production period preceding the month in question, the subject well produced nonassociated natural gas at its maximum rate of flow and did not exceed an average of 60 Mcf per production day.) However, Sun Gas states that the disqualifying periods were not discovered until the latter part of 1980 when Sun Gas reviewed its computer program and discovered its program had employed an improper number of production days. As a consequence, according to Sun Gas, timely notices of disqualification were not sent to the Commission of the Texas Railroad Commission. In its petition for waiver, Sun Gas favorably compares the engineering test and state procedure used on the Neal No. 1 well to recognized enhanced recovery techniques. (An exception to the 60 Mcf per day limitation is provided in NGPA section 108(b)(2) for situations where the increased production is due to enhanced recovery techniques). Additionally, Sun Gas compares the historical gas production record of the well at issue in *B.H. Keyes*, Docket No. SA81-40, which was granted a stripper well status, with the production record of the Neal No. 1 well.

Sun Gas presented the same facts to Staff when it filed an application with the Commission in Docket No. SA81-37-000 seeking a waiver of § 271.805(a); this application for staff adjustment was dismissed on October 16, 1981 by the Director of the Office of Pipeline and Producer Regulation. In the order dismissing Sun Gas' application, the Director stated that he did not have "the authority to create additional categories of continued stripper well qualification" and that "the appropriate remedy is to bring that view before the Commission in a petition for a general rulemaking."

Any person desiring to be heard or to protest this petition should file, on or before March 1, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, a protest or a petition to intervene in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2139 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-131-000]

Texas Eastern Transmission Corp.; Application

January 26, 1982.

Take notice that on December 21, 1981, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77002, filed in Docket No. CP82-131-000 an application pursuant to § 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for New Jersey Natural Gas Company (New Jersey), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that New Jersey has purchased a quantity of natural gas from several wells drilled in western New York State and has provided for transportation of such gas to Applicant through a gas transportation agreement with Consolidated Gas Supply Corporation (Consolidated). Applicant proposes to receive from Consolidated for the account of New Jersey up to 300 dekatherms (dt) equivalent of natural gas per day at the existing point of interconnection between Applicant and Consolidated located at Applicant's meter station 082 in Westmoreland County, Pennsylvania, or at other mutually agreeable existing delivery points in Applicant's Zone C and to transport and redeliver equal quantities, less quantities retained for shrinkage, to New Jersey at the existing point of interconnection between Applicant and

New Jersey located at Applicant's meter station 953 in Middlesex County, New Jersey, or at other mutually agreeable existing points of delivery.

Applicant would charge New Jersey its presently applicable TS–1 basic rate of 13.98 cents per dt equivalent under Applicant's Rate Schedule TS–1 for delivery by Applicant to or for the account of New Jersey; provided, however, for quantities transported and delivered by Applicant which, when added to the quantities delivered to New Jersey under Applicant's Rate Schedules TS–1 and SS–II and other transportation agreements, exceed the combined total curtailment of natural gas sales to New Jersey under all of Applicant's firm sales rate schedules, Applicant would charge New Jersey the presently applicable effective TS–1 excess rate of 16.02 cents per dt equivalent. In addition, Applicant would retain applicable shrinkage which presently is 3 percent of all gas received for transportation from April 16 through November 15 of each year and 6 percent of all gas received for transportation from November 16 through April 15 of each year.

Applicant states that the proposed transportation service would enable New Jersey to implement its purchase of natural gas and to help fulfill its need for a greater natural gas supply. It is further stated that Applicant's customers would not be adversely affected by the proposed transportation service because the agreement provides that this service is subject to interruption and is conditioned upon the availability of sufficient capacity for Applicant to provide services under its firm sales rate schedules and under its Rate Schedules SS, TS, TS–1, TS–2, SS–II and certified agreements filed as part of Applicant's FERC Gas Tariff, Original Volume No. 2.

Applicant further states that it would retain all revenues resulting from transportation of gas for New Jersey.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2153 Filed 1–27–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2986–001]

Texon, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 25, 1982.

Take notice that on November 27, 1981, Texon, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. This application was filed during the term of the Applicant's preliminary permit for Project No. 2986. The proposed small hydroelectric project, Project No. 2986, would be located on the Westfield River in the County of Hampden, Massachusetts. Correspondence with the Applicant should be directed to: Texon, Inc., Canal Street, South Hadley, Massachusetts 01075, Attention: Mr. Irving Quimby, Senior Vice President.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) An existing gravity dam, 250 feet long and 12 feet high, constructed of stone blocks and concrete with a spillway at the right abutment and provision for 3-foot high flashboards; (2) a reservoir having minimal pondage; (3) an existing gated intake structure, forebay and channel leading to (4) a powerhouse to be renovated and equipped with two new turbine-generator units having a total rated capacity of 1,650 kW; (5) a restored tailrace; (6) existing transmission lines and a substation; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,500,000 kWh. Project energy would be sold to the Western Massachusetts Electric Company.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Massachusetts Division of Fisheries and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 10, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 10, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2140 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-134-000]

Transcontinental Gas Pipe Line Corp.; Application

January 26, 1982.

Take notice that on December 22, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-134-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the City of Shelby, North Carolina (Shelby), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on behalf of Shelby up to 5,000 dekatherms (dt) equivalent of natural gas per day which Shelby would purchase from the City of Danville, Virginia (Danville). Applicant explains that it would receive such quantities from Danville at the existing point of delivery between Danville and Applicant and that Danville would make such gas available by reducing its takes from Applicant. Applicant states that it would then redeliver equivalent quantities by displacement to Shelby at existing points of delivery between Shelby and Applicant.

It is stated that the proposed transportation service would be for a term beginning on the date of initial deliveries and ending no later than November 1, 1982. It is further stated that the transportation would be interruptible at Applicant's sole discretion and subordinate to Applicant's deliveries to Shelby under its Rate Schedules CD, ACQ, LGA, GSS, and WSS.

It is further stated that Shelby would initially pay 3.5 cents per dt equivalent for such transportation service with no retainage for compressor fuel and line loss make-up.

It is asserted that the subject gas would be used to assist in meeting the high-priority requirements of Shelby during the current winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2139 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-141-000]

Trunkline Gas Co.; Application

January 26, 1982.

Take notice that on December 30, 1981, Truckline Gas Company (Applicant) P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-141-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas on behalf of Columbia Gas Transmission Corporation (Columbia Gas) and Columbia Gulf Transmission Company (Columbia Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation and exchange agreement between Applicant, Columbia Gas and Columbia Gulf dated December 29, 1981, the parties have agreed to exchange up to 20,000 Mcf of gas per day. Applicant states that it and Columbia Gas have the right to purchase certain quantities of natural gas in Eugene Island Block 392 and in West Cameron Block 624, offshore Louisiana. It is submitted that Applicant would receive volumes of gas for the account of Columbia Gas at its existing platform facilities in Eugene Island Block 392. Applicant further submits that Columbia Gas' point of receipt would be Columbia Gulf's platform located in West Cameron Block 624 at which point Columbia Gulf would receive gas for the account of Applicant. It is stated that Applicant and Columbia

Gas would receive exchange gas offshore Louisiana and transport thermally equivalent volumes to a point of interconnection near Centerville, St. Mary Parish, Louisiana.

Applicant explains that should an imbalance occur on a daily basis, then a daily thermal balance would be achieved by the party where deliveries are insufficient by making daily deliveries on a interruptible basis at the point of balance less 2 percent reduction for fuel for the account of Columbia Gas and less 1.65 percent reduction for fuel usage and unaccounted for the account of Applicant. Applicant states that for any imbalance incurred on a monthly basis excess volumes would be charged a unit rate per Mcf with Columbia Gas paying Applicant 27.84 cents per Mcf and Applicant paying Columbia Gulf 32.94 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2128 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-72-002]

Trunkline Gas Co.; Petition To Amend

January 26, 1982.

Take notice that on January 5, 1982, Trunkline Gas Company (Petitioner), P.O. Box 1642, Houston, Texas, 77251, filed in Docket No. CP78-72-002 an petition to amend the order issued June 6, 1978, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the installation and operation of 1,460 horsepower of additional low-volume compression facilities associated with the Epps Storage Project, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued June 6, 1978, it was authorized to construct and operate facilities for the development and operation of the Epps Field and the South Epps Field, West Carroll Parish, Louisiana, for the storage of natural gas.

Petitioner explains that shortly after commencing the development of the storage project Petitioner encountered certain mechanical problems with the Elkins No. 3-1 and Marston No. 14-1 injection wells. Petitioner asserts that said problems with the two wells and a need for lower injection volumes during initial development stages of the Epps Storage Project caused Petitioner to modify slightly its planned development of the field.

Petitioner states that lower injection volumes were not economically feasible with only the large compressor units available for storage service. To inject the lower volumes efficiently, Petitioner proposes to install and operate two 730-horsepower compressor units on an on-going basis which units were found beneficial when utilized on a rental basis.

Petitioner submits that the cost associated with the installation of the subject compression facilities at the Epps Compressor Station is estimated to be $690,700. Such cost, it is said, would be financed from funds available to Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2127 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5337-000]

Westfir Energy Company, Inc.; Application for Preliminary Permit

January 26, 1982.

Take notice that Westfir Energy Company, Inc. (Applicant) filed on September 7, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5337 to be known as the Westfir Hydroelectric Project located on North Fork of Middle Fork of the Willamette River in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Orvis D. Kutschkaw, P.O. Box 2425, Pasco, Washington 99302.

Project Description—The proposed project would consist of: (1) An intake structure on the existing Mill Pond; (2) a 210-foot long penstock; (3) a powerhouse with a total installed capacity of 3,000 kW; and (4) a transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 12.0 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies; and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $25,000.

Competing Applications—This application was filed as a competing application to J. R. Ferguson and Associates, Inc.'s application for Project

No. 5312 filed on September 3, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2154 Filed 1-27-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements Between the United States and Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involves approval for the following sales:

Contract Number S-CA-316, to the Department of Energy, Mines and Resources, Canada, 84.77 grams of natural uranium for use as standard reference material.

Contract Number S-CA-317, to Atomic Energy of Canada Limited, 1 gram of plutonium-239 for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than February 12, 1982.

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-2207 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements Between United States and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concering Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve supply of the following nuclear materials:

Contract Number WC-EU-218, to the Institute fur Radiochemie, Karlsruhe, Federal Republic of Germany, 7.95 grams of plutonium and 22.40 grams of natural uranium in the form of plutonium-uranium oxide.

Contract Number WC-EU-219, to ALKEN Gmbh, Hanau, Federal Republic of Germany, 26.25 grams of plutonium in the form of plutonium oxide.

Contract Number WC-EU-220, to CEN/BN, Mol, Belgium, 26.25 grams of plutonium as plutonium-oxide, and 7.95 grams of plutonium and 22.40 grams of natural uranium in the form of plutonium-uranium oxide.

Contract Number WC-EU-221, to CEN/Grenoble, Grenoble, France, 26.25 grams of plutonium as plutonium-oxide.

Contract Number WC-EU-222, to the Netherlands Energy Research Institute, Petten, the Netherlands, 26.25 grams of plutonium as plutonium-oxide, and 7.95 grams of plutonium and 22.40 grams of natural uranium in the form of plutonium-uranium oxide.

Contract Number WC-IA-122, to the IAEA Safeguards Analytical Laboratory, Vienna, Austria, 26.25 grams of plutonium as plutonium-oxide, and 7.95 grams of plutonium and 22.40 grams of natural uranium in the form of plutonium-uranium oxide.

Contract WC-JA-36, to the Safeguards Analytical Laboratory, Tokai-Mura, Japan, 26.25 grams of plutonium as plutonium-oxide, and 7.95 grams of plutonium and 22.40 grams of natural uraniumin the form of plutonium-uranium oxide.

Contract Number WC-JA-37, to the Tokai Works, Power Reactor and Nuclear Fuel Development Corp., Tokai-Mura, Japan, 26.25 grams of plutonium as plutonium-oxide, and 7.95 grams of plutonium and 22.40 grams of natural uranium in the form of plutonium-uranium oxide.

The above materials are to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE) Program. This

program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be improved through the interchange of measurement technology.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than February 12, 1982.

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Poliferation Policy.

[FR Doc. 82-2209 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements Between United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice it hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the following sales:

Contract Number S–EU–708, to the Max Planck Institute fur Chemie, Federal Republic of Germany, 1 gram of uranium enriched to 49.7% in U–235, 1 gram of uranium enriched to 97.66% in U–235, 0.1 gram of uranium enriched to 99.82% in U–235, 21.19 grams of natural uranium, and 0.005 gram of uranium-233, for use as standard reference materials.

Contract Number S–EU–709, to British Nuclear Fuels, Ltd., the United Kingdom, 0.005 gram of plutonium-244, for use as standard reference material.

Contract Number S–EU–711, to C.E.A. Department de Recherche et Analyse, France, 1 gram of uranium enriched to 5.01% in U–235, for use as standard reference material.

Contract Number S–EU–712, to Franco-Belge de Fabrication de Combustible, France, 87.71 grams of uranium enriched to 2.38% in U–235, for use as standard reference material.

Contract Number S–EU–713, to Service de Chimie Appliquee, France, 1 gram of uranium containing 0.02% U–235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than February 12, 1982.

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc 82-2209 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between the United States and Finland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Finland Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–FI–12, to the University of Helsinki, Finland, 1 gram of uranium enriched to 2.038 percent in U–235, and 1 gram of uranium enriched to 5.01 percent in U–235, to be used as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 12, 1982

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-2210 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and Indonesia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" pursuant to General License for the export of source material under CFR Part 110.23.

The subsequent arrangement to be carried out under the above-mentioned CFR involves approval for the following sale: Contract Number S–IE–5, to Indonesia, 106 grams of natural uranium to be used as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 12, 1982.

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-2211 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements Between U.S. and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the following sales:

Contract Number S–JA–302, to the Japan Atomic Energy Research Institute, for use as standard reference materials, 28 grams of uranium, with enrichments ranging from 1.0037% through 97.663% in U–235, and 6 grams of uranium containing less than 0.5% U–235, for use as standard reference materials.

Contract Number S–JA–303, to the Chubu Exploration Office, Japan, 23.34 grams of natural uranium and 3.48

grams of thorium for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than February 12, 1982.

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-2212 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and Republic of Korea

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale:

Contract Number S-KO-13, to the Korea Advanced Energy Research Institute, 100 milligrams of Uranium-233, 50 milligrams of Plutonium-242, and 50 milligrams of Plutonium-238, to be used as standards for determination of burnup by mass spectrometry dilution analysis.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 12, 1982.

For the Department of Energy.

Dated: January 22, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-2213 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of December 4 Through December 11, 1981

During the week of December 4 through December 11, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any persoin who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 20, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 4 Through Dec. 11, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 8, 1981	Mt. Lake Co-Op Oil Assn., Mt. Lake, Minnesota	HEE-0006	Exception to the reporting requirements. If granted: Mt. Lake Co-Op Oil Assn. would be granted an extension of time to file Form EIA-9A "No. 2 Distillate Price Monitoring Report."
Dec. 9, 1981	Charter Oil Company, Jacksonville, Florida	HEE & HEL-0007	Temporary exception and exception from the entitlements program. If granted: Charter Oil Company would receive an exception from the provisions of 10 CFR § 211.69 which would permit the firm to file amended entitlements reports for the months of April and May 1980.
Do	Gulf Oil Corporation, Houston, Texas	HES-0002	Request for Stay. If granted: The Gulf Oil Corporation would receive a stay of the November 24, 1981 Decision and Order (Case No. BTX-0180) pending a final determination in the 341 Tract Unit proceedings (Case No. DEE-7746).
Do	The Alcot House, Kuthleen, Georgia	HFA-0021	Appeal of Information Request Denial. If granted: The November 17, 1981 Information Request denial issued to the Alcot House would be rescinded and the firm would receive access to certain DOE information.
Do	Uban Oil Company, et al., Washington, D.C	HEX-0006	Supplemental Order. If granted: Applications for refunds submitted in response to the Vickers Energy Corporation's May 22, 1979, Consent Order would be granted.
Dec. 10, 1981	Eastern of New Jersey, Inc., Alexandria, Virginia	HEG-0010	Petition of Special Redress. If granted: The Office of Hearings and Appeals would reject for the Office of Enforcement's Petition for Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the October 9, 1979 Consent Order issued to Eastern of New Jersey, Inc.
Do	Eastern of New Jersey, Inc., Alexandria, Virginia	HES-0010	Request for Stay. If granted: Eastern of New Jersey, Inc. would receive a stay of the provisions of 10 CFR Part 205, Subpart V, pending a final determination on its Petition for Special Redress (Case No. HEG-0010).
Do	Eastern of New Jersey, Inc., Alexandria, Virginia	HET-0010	Request for Temporary Stay. If granted: Eastern of New Jersey, Inc. would receive a temporary stay of the provisions of 10 CFR Part 205, Subpart V, pending a final determination on its Application for Stay (Case No. HES-0010).
Do	OE/George W. Hiatt Mobil Service, Westminster, California.	HRR-0017, HRW-0017	Request for Modification/Rescission and Remedial Order Finalization. If granted: The June 25, 1980, Proposed Remedial Order issued to George W., Hiatt would be modified regarding interest charges. The Office of Enforcement requested that the Proposed Remedial Order issued to Paul Loveladdy d.b.a. George W. Hiatt on June 25, 1980, would be issued as a final Remedial Order.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Dec. 4 Through Dec. 11, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Do	OE/Mike's Texaco, Needam, Massachusetts	HRR-0016, HRW-0004	Request for Modification/Rescission and Remedial Order Finalization. If granted: The September 3, 1980, Proposed Remedial Order issued to Mike's Texaco would be modified regarding interest charges. The Office of Enforcement requested that the Proposed Remedial Order issued to Stephen Sawgrano d.b.a. Mike's Texaco on September 3, 1980 would be issued as a final Remedial Order.
Do	OE/Ted's Texaco Service and Diagnostic, Mission Viejo, California.	HRR-0018, HRW-0005	Request for Modification/Rescission and Remedial Order Finalization. If granted: The July 16, 1981 Proposed Remedial Order issued to Ted's Texaco Service and Diagnostic would be modified regarding interest charges. The Office of Enforcement requested that the Proposed Remedial Order issued to the firm on July 16, 1980 would be issued as a final Remedial Order.

[FR Doc. 82-2215 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of January 4 Through January 8, 1982

During the week of January 4 through January 8, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 28, 1982.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 4 through Jan. 8, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 6, 1982	Gulf States Oil & Refining Company, Inc., Washington, D.C.	HEE-0008 and HEN-0008	Exception from the Entitlements Program Request for Interim Order. If granted: Gulf States Oil & Refining Company, Inc. would receive an exception from the provisions of 10 CFR 211.65 which would modify its entitlements purchase obligations for certain periods prior to October, 1980. The firm would receive exception relief on an interim basis pending a final determination on its Application for Exception.
Do	Texaco, Inc., Washington, D.C	HRZ-0012	Interlocutory Order. If granted: Texaco, Inc. would be permitted to file corrections to its Statement of Factual Objections, Fourth Submission, in Texaco, Inc. (Case No. DRO-0199).
Jan. 7, 1982	Bob Heinz, d.b.a. Granada Chevron, Livermore, CA	HRS-0009	Supplemental Order. If granted: The December 8, 1981, Remedial Order (Case No. BRO-1447) issued to Bob Heinz d.b.a. Granada Chevron would be rescinded in light of a Consent Order previously entered into by the firm and the Office of Enforcement.
Do	OSC/Atlantic Richfield Company, Washington, D.C	HRZ-0013	Interlocutory Order. If granted: The Office of Hearings and Appeals would strike from the record portions of the Atlantic Richfield Company's reply to the supplemental response to the Statement of Factual Objections (Filed October 19, 1981) in Atlantic Richfield Company (Case No. DRO-0193).
Do	OSC/Gulf Oil Corp., Washington, D.C	HRJ-0002	Request for Protective Order. If granted: The Office of Special Counsel would enter into a Protective Order with Gulf Oil Corporation regarding the release of proprietary information to Gulf Oil in connection with the Proposed Remedial Order issued to the firm by the Office of Special Counsel (Case No. DRO-0194).

[FR Doc. 82-2216 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of December 7 Through December 11, 1981

During the week of December 7 through December 11, 1981, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals,

Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 20, 1982.

Quad Refining Corp., Newport Beach, California, BEE–1685

Quade Refining Corp. filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would result in the issuance to Quad of entitlements to compensate it for entitlements which it has been unable to sell because of a buyer's default, and for lost interest revenue on the entitlements that it has been unable to sell. On December 8, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82–2217 Filed 1–27–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders Week of December 28 Through January 1, 1982

During the week of December 28 through January 1, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–1200, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 20, 1982.

Appeal

Dorian Duffin, 12–30–81, HFA–0019

Dorian Duffin filed an Appeal from a denial by the Freedom of Information Officer of the DOE Idaho Operations Office of a request for a waiver of fees in connection with an information request which Mr. Duffin had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Freedom of Information Officer had correctly determined that a waiver of fees was not in the public interest. The DOE determined that although the information requested was the subject of general public interest, Mr. Duffin had not demonstrated that the information, if released, was likely to be widely and effectively disseminated to a significant segment of the general public. Accordingly, the Appeal was denied.

Remedial Order

Austral Oil Company, Inc., 12–30–81, DRO–0141, BRH–0044, BRD–0044, BRD–0107

Austral Oil Company, Inc. (Austral) objected to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration Region VI issued to the firm on October 20, 1978. In connection with its Statement of Objections to the PRO, the firm also filed two Motions for Discovery and a Motion for Evidentiary Hearing. In the PRO, ERA Region VI found that Austral had misapplied the definition of the term "property" to two crude oil producing units and as a result had sold crude oil produced from the units at prices that exceeded those permitted by 6 CFR 150.354 and 10 CFR 212.73. In considering the firm's submissions, the DOE first rejected Austral's initial Discovery and Evidentiary Hearing motions on the grounds that they were not timely filed and that the cirucmstances present in the case did not warrant consideration of the untimely submissions. In considering Austral's Objections to the PRO, the DOE rejected Austral's contentions that DOE Ruling 1975–15 was invalidly promulgated and that the Ruling is inconsistent with the definition of the term "property" contained in 10 CFR 212.72. In addition, the DOE rejected Austral's contention that DOE Ruling 1977–2 permits the firm to apply its own interpretation of the term "property" to one of the two units for periods prior to January 1975. The DOE also rejected Austral's contentions that erroneous oral advice which the firm received from a senior Federal Energy Administration official constituted a binding official interpretation of the property regulations and that due to the firm's detrimental reliance on the advice, the DOE is estopped from advancing a contrary interpretation of the property regulations. Finally, the DOE rejected Austral's contention that the DOE should not impose interest on any refunds which the firm may be required to make. The DOE then considered Austral's second Discovery Motion, which concerned the agency's interest rate policies, and rejected it on the grounds that Austral had failed to demonstrate that the information sought by discovery was material to the case. The PRO was therefore issued as a final Remedial Order, subject to certain modifications providing for interest based upon the prime rate for periods following February 9, 1981, and permitting the DOE to determine at a later date the appropriate method of distributing refunded overcharges.

Request for Exception

Bettis, Boyle, and Stovall, 12–28–81, BEE–1679

On July 27, 1981, Bettis, Boyle, and Stovall (Bettis) filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. In its application, Bettis requested that it be relieved of the obligation to prepare and submit Form EIA–23, Annual Survey of Domestic Oil and Gas Reserves, for the 1980 reporting year. On September 11, 1981, the DOE issued a Proposed Decision and Order to Bettis which tentatively denied the firm's request. On October 14, 1981, the firm filed a Statement of Objections to the issuance of the proposed decision in final form. In considering Bettis' objections, the DOE found that the firm had not shown that it would experience a serious hardship, a gross inequity, or unfair distribution of burdens as a result of having to fulfill the requirement that it file Form EIA–23. Accordingly, Bettis was not relieved of the obligation to submit Form EIA–23. However, because of the illness of the employee responsible for completing the form and that fact that Bettis diligently pursued the available administrative remedies, the firm was granted an extension of time of 60 days from the date of the final order to file the required form.

Special Refund Procedures

Office of Enforcement, ERA: Lewtex Oil & Gas, 12–28–81, BEF–0033

The Office of Enforcement filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Lewtex Oil & Gas Corporation. Under the terms of the consent order Lewtex agreed to remit to the DOE $251,384.58 for its alleged violations of the DOE price regulations in its sales of natural gas liquids (NGLs) during the period September 1973 through March 1977. The DOE determined that a two stage refund procedure would be implemented. In the first stage, all parties which had purchased NGLs produced by Lewtex may file Applications for Refund within 90 days of the publication of the final Decision in the **Federal Register**. Specific information to be included in refund applications is discussed in the Decision. As for the second stage, depending upon the amount of residual funds remaining after the first stage, remaining funds may be distributed through the first purchasers of the NGLs or may be deposited in the Treasury of the United States. No final determination as to the second stage will be made until all Applications for Refund have been processed. The entire text of this Decision was published in the **Federal Register** on January 5, 1982. 47 FR 324.

Motion for Discovery

Office of Special Counsel for Compliance, 12–28–81, BRD–0125

The Office of Special Counsel for Compliance (OSC) filed a Motion for Audit-Related Discovery in connection with Atlantic Richfield Company's objections to a Proposed Remedial Order issued to the firm on May 1, 1979. In considering the motion, the DOE found that the majority of the OSC's discovery requests sought relevant and material factual information concerning factual assertions Arco had made in its Statement of Factual Objections which OSC disputed. The DOE also found that OSC had shown good cause for its failure to seek this information at an earlier time. Accordingly, the OSC motion was granted in part.

Dismissal

The following submission was dismissed without prejudice:

Name and Case No.

Lampton-Love, Inc., HRS–0015

[FR Doc. 82–2218 Filed 1–27–82; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Announcement of Final Power Allocations, Central Valley Project, California

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Final Power Allocations—Central Valley Project, California.

SUMMARY: This notice contains the final allocations for 102 MW of firm power plus 30 MW of power to utilize system diversity. These allocations are made pursuant to the final Allocation Criteria published at 46 FR 41547 (August 17, 1981) and the Final Power Marketing Plan which was published at 46 FR 51224 (October 16, 1981).

Proposed power allocations were published at 46 FR 51229 (October 16, 1981). The major reasons and rationale for granting or denying allocations in each category were presented. These allocations were also published in the Las Vegas Review Journal, the San Francisco Chronicle, and the Sacramento Bee on or about October 19, 1981.

Comments on the proposed allocations were received at a comment forum held on October 27, 1981, at the Holiday Inn-Holidome, Sacramento, California. In addition, written comments were received up to November 16, 1981; however, the Western Area Power Administration (Western) did consider several written comments received after that deadline. Responses to these comments are included below.

After evaluation of all the comments, Western has decided to finalize the proposed power allocations without substantial change.

In response to several commentors' requests for more power, Western has elected to specify an alternate group of recipients eligible for a possible allocation in the renewable resource and cogeneration category. This group will be considered for an allocation of power in this renewable resource category in the event that any of the 30 MW of power fails to become subscribed and thus is returned to the pool for reallocation. No priority is established among the members of the group; the technical and economic considerations such as inservice dates and purchased energy costs will be the evaluation factors along with the previous allocation criteria set forth at 46 FR 41547 (August 17, 1981).

ADDRESS: For further information concerning the Final Allocations or the Final Power Marketing Plan contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251 FTS 468–4251.

Final Allocations: The following final allocations for the Central Valley Project (CVP) are made in accordance with the Final Allocation Criteria for Marketing Additional Power published at 46 FR 41547 (August 17, 1981) and the Final Power Marketing Plan published in the **Federal Register** October 16, 1981, at 46 FR 51224.

I. Allocation of 26 MW of Nonwithdrawable Power and 46 MW of Power Withdrawal for the Westlands Water District (Westlands)

Each allottee under these categories will receive a proportionate share of the 26 MW of nonwithdrawable power and the available amount of Westlands withdrawable power, except that a customer will not have a Contract Rate of Delivery (CRD) less than 0.5 MW.

	Maximum allocation
Municipalities	
1. City of Alameda	16
2. City of Healdsbury	3
3. City of Lodi	12
4. City of Lompoc	5
5. City of Ukiah	6
Subtotal	42
Irrigation Districts	
6. Delano-Earlimart	1
7. James	1
8. Lindsay-Strathmore	1
9. Lower Tule River	2
10. Modesto	8
11. Terra-Bella	1
12. Turlock	3
Subtotal	18
Water Districts	
13. Broadview	.5
14. Kern-Tulare	1
15. Rag Gulch	.5
16. Santa Clara Valley	1
Subtotal	3.0
Federal	
17. Fish & Wildlife Service	.5
18. International Communications Agency—Dixon	.5
Subtotal	1.0
Utility Districts	
19. East Bay Municipal Util. Dist.	2
20. Truckee-Donner	2
Subtotal	4
Grand total 1	68
Unassigned Westland's withdrawable	4
Grand total 2	72

II. Allocation of Up to 30 MW of Renewable Resources and Cogeneration

All 30 MW are allocated as specified below. Allocations are subject to the execution of a mutually satifactory contract, in accordance with the Final Marketing Plan and Allocation Criteria. If any of the power allocated in this category fails to be subscribed, subsequent allocations will be made in accordance with Part III below.

Preference customer	Maximum allocation
1. Northern California Power Agency—geothermal:	
Owner:	
Santa Clara	8.0
Lodi	1.5
Alameda	1.5
Lompoc	.3
Ukiak	.4
Healdsburg	.3
2. Department of Energy Laboratories—cogeneration	4.0
3. Sacramento Municipal Utility District—photovoltaic	1.0
4. Federal Hydroelectric Projects—small hydro:	
Federal Energy Regulatory Commission license recipient—Warm Springs	1.5
City of Ukiah—Lake Mendocino	2.5
5. Glenn-Colusa Irrigation District—Tehama—Colusa Intertie	1.0
6. Modesto Irrigation District—small hydroelectric projects	2.0
7. Turlock Irrigation District—small hydroelectric projects	1.0
8. City of Santa Clara—cogeneration	8.0
9. City of Alameda—municipal waste combustion	4.0
10. City of Palo Alto—cogeneration	1.0
Grand total	30.0

III. Alternate 15 MW for Renewal Resource and Cogeneration Projects

The following entities will be considered for an allocation, as indicated below, in the event a power allocation specified in Part II above fails to be subscribed and is returned to the pool for reallocation. No priority is inferred by the order of the listing as Western intends to review the economic cost, inservice date, and other relevant factors, as provided in the final Marketing Plan, for each project being proposed by the project proponent. Although this group will have priority for the power in the renewable resource and cogeneration category which fails to become subscribed, Western encourages those applicants who desire consideration of their proposed renewable resource or cogeneraiton project in conjunction with an allocation of power to maintain a dialogue with Western's Sacramento Area Office staff. In addition, Western will also consider purchasing the output of any renewable resource or cogeneration project. If more than 15 MW is returned to the reallocation pool, Western will propose subsequent allocations after allowing

for the required public notice and comment.

Preference customer	Proposed [1]	Project type
Modesto Irrigation District	8	Small hydroelectric.
City of Redding	4	Do.
Turlock Irrigation District	2	Do.
University of California, State Universities and Colleges.	3	Cogeneration.
El Dorado Irrigation District	1	Small hydroelectric.
Department of the Air Force.	1	Wind.
Total	15	

[1] Proposed maximum allocation (MW).

IV. Diversity Allocations

Diversity allocations are contingent upon reaching a mutually satisfactory contract whereby the customer will agree to shed, during the times when Western's system's simultaneous peak is at or approaches 1,152 MW, both the diversity allocation and amounts being served under nonwithdrawable contracts with Western (as necessary in accordance with the terms of the contract) to prevent the 1,152-MW simultaneous load limit from being exceeded.

Preference customer	Proposed [1]
National Aeronautics and Space Administration—Ames	21
Department of Energy Laboratories	9
Grand total	30

[1] Proposed maximum allocation (MW).

SUPPLEMENTARY INFORMATION: The rationale and reason for granting or denying, in whole or part, each request for an allocation was published at 46 FR 57230 on October 16, 1981. Those rationale and reasons are herein incorporated by reference. Along with all responses to comments, the rationale and reasons are the primary bases relied upon by Western for these final allocations.

Two Federal agencies that did not receive a proposed allocation were inadvertently omitted from the October 16, 1981, Federal Register. These entities were:

International Communications Agency, Delano, California (81–PMP–03)
Vandenberg Air Force Base (91–PMP–009)

These two entities were not selected because they have relatively small or no residential loads. The Department of the Air Force is, however, listed in the alternate 15 MW for renewable resources and cogeneration projects, for 1 MW for their wind project at Travis Air Force Base.

Response to Customer Comments

1. *Notice Required by Santa Clara Settlement.* Pacific Gas and Electric Company (PGandE) asserts that Western did not give proper 1-year notice as required by the Santa Clara Settlement for allocation of the 102 MW. First of all, the Santa Clara Settlement does not require Western to give PGandE notice of the allocations or of the disposition of the 102 MW. It merely requires notice of an increase in the load level. That notice was sent by letter dated July 30, 1980, and acknowledged by PGandE by letter dated September 16, 1980. The Settlement does not require further mutual agreement between PGandE and Western on the giving of the notice, the raising of the load level, or the allocations. The purpose of the notice is to notify PGandE that Western would exercise its option under the Settlement (after developing a marketing plan and allocations in accordance with the required public notice and procedures) to raise the load level.

Secondly, PGandE's complaint cannot be considered timely. PGandE, after participating in the develpment of the marketing plan from the beginning, raised this issue only just prior to the completion of the Marketing Plan and allocations 1 year after the notice was given. Before service is initiated by Western, PGandE will have had 1½ years within which to plan.

Thirdly, except with respect to two or thee allottees receiving small (less than 3 MW) allocations, implementation of the allocations will require no physical changes or planning by PGandE for either transmission or resources. The only changes required, if any, would be contractual.

In their comments on the proposed allocations (letter dated November 16, 1981), PGandE admits that there will be no practical problems. Western believes that most of the new contractual arrangement between itself and the customers can be consummated so that service can begin on February 1, 1982, or shortly thereafter. If requested, Western will provide assistance, as necessary or desirable, to the customers and PGandE to facilitate contract matters between them. Western's staff stands ready to meet with PGandE or any customer to resolve any difficulties which may arise either with contract concerns, wheeling, or other service conditions.

2. *Effect of Diversity Allocations on Withdrawable Power Allocations.* PGandE questioned what effect the diversity allocations would have on the withdrawable power allocations.

The diversity allocations require those allottees to shed load (in amounts yet to be negotiated) during those times when Western's system's simultaneous peak is at or approaches 1,152 MW. The purpose and goal of the load shedding is to keep Western's system demand within the 1,152-MW contract load limit. This will avoid withdrawing power from all of the customers which would result if the 1,152-MW load level was exceeded.

There are six other classes of withdrawable power: (1) Trinity reservation, (2) Calaveras and Toulomne reservation, (3) Westlands withdrawable, (4) withdrawable for benefit of certain customers at the 925-MW load level, (5) withdrawal from Santa Clara for benefit of certain customers at 1,050-MW load level, and (6) project-use withdrawals. For each class of withdrawable power, the amount of withdrawal from those customers who are subject to the withdrawal, depends upon either the demands of certain other customers or entities or the effective CRD of certain other customers. The diversity allocations will not affect the priority of any of the withdrawals or the method of calculating those withdrawals. However, for certain classes of withdrawal, particularly those made at the 925-MW load level, the amount of withdrawal could be less due to the fact that actual load will be taken off during the peak periods. Stated in other words, the load shedding may have the effect of preserving for a longer period of time the withdrawable customer's rights to withdrawable power.

3. *Response to Issues Raised by Irrigators.* The representative of 11 irrigation districts which are current customers of Western reiterated their previous comments and requested reconsideration by Western. Western remains unpersuaded by these comments and refers the irrigation districts to the detailed response to their comments printed at 46 FR 41551–41553 (August 17, 1981). This response remains the position and opinion of Western on the issues raised by the irrigation districts.

4. *Unassigned Westlands Withdrawable Power.* A number of entities have requested the 4 MW of Westland's withdrawable power which was left as an unassigned power allocation. As explained in the Federal Register at 46 FR 51229 (October 16, 1981), Western had requested, but was not yet in receipt of, its Legal Counsel's opinion of Westlands' request for 4 MW

of additional power to cover certain pumping loads.

Legal Counsel's opinion which was recently issued determined that the pumping loads identified by the Westlands Water District do, in fact, qualify for service under Westlands' contract. Service to such loads under that contract will begin within 6 months of their request date or by March 20, 1982. Therefore, the 4 MW remain withdrawn for Westlands.

5. *Comments by the Modesto Irrigation District.* The Modesto Irrigation District (MID) made several comments on Western's implementation of its allocation criteria. First, MID commented that when the residential load criterion is considered, their firm power allocation is disproportionate to their electrical loads when compared to the firm allocations received by the other entities. MID further stated that their allocation, if based on an assumed availability of other low cost hydroelectric power was "probably greatly over estimated." Lastly, MID requested that any diversity or renewable resource and cogeneration allocation not contracted should be considered for allocation to MID because of their plan to install peak shaving equipment and their commitment to developing renewable resources.

Western was aware that MID had the largest residential load of all prospective applicants and that a straight forward application of the residential criterion would have given MID almost all of the firm power. However, this would not have been consistent with the widespread-use principle which was the basis for the criteria. While Western was not aware of the specific amount of hydroelectric power available to MID, in this case Hetch-Hetchy power, Western still believes the balance of allocation is reasonable when considering the circumstances and resources of all applicants.

The diversity allocations were intended for those customers who could shed load, not for those who would shift to peaking units. However, Western does recognize MID's commitment to renewable resources and has set aside 3 MW in the alternate 15–MW group for renewable resource and cogeneration projects.

6. *University of California—Systemwide Administration.* The Systemwide Administration for the University of California (University) submitted comments on behalf of the Berkley, San Francisco, Santa Barbara, and Santa Cruz campuses. Individual letters reiterating the comments by the University were submitted by U.C. Berkley and U.C. Santa Barbara. The University urged Western's reconsideration of its power allocation so as to include the campuses. The University took issue with each of Western's reasons for not selecting any of the campuses. The reasons Western selected were that the University was an existing customer, lacked individually served residential loads, and the State (through its Department of Water Resources (DWR)) owns and utilizes for the State's purposes, several major hydroelectric power resources.

In refutation, the University pointed out that it is autonomous from all other State agencies, subject to control neither by the Governor nor the legislature, and, therefore, is not a State agency. Second, the University also commented that they were not "an existing customer" and they were informed by Western personnel that they would be considered as new applicants. Furthermore, Western's application of the existing customer criterion to the universities because of U.C. Davis' existing contract was viewed as inconsistent in that allocations were made to new Federal entities despite the fact the Federal Government is an existing contractor. Third, the University asserted that the large "student and staff residential end users living in student faculty housing complexes" do not constitute a lack of residential loads. Lastly, the University argued that Western's data requests in their application form did not recognize the power facilities of DWR, and further, that there was no relationship between DWR's ownership and operation of the facilities and the University.

Western erroneously listed the University and college campuses as "State agencies." However, as an entity created under the California State constitution, Western finds the universities to be a "creature of the State". Even without this criterion, Western reasoned that while the University and college campuses may have sizable residential type customers, the University and colleges in conjunction with state government, were in a position to deal with their energy problems. Western is aware of the various efforts being made by the State in conservation, renewable resources, cogeneration, and alternative fuel resources. Western believes that collaborative efforts by the State, through its energy and power agencies and the University, should result in lower energy costs to the University.

To lend support to the University and the State, Western has included 3 MW for renewable resource and cogeneration projects in the alternate 15 MW such projects. Western found the cogeneration projects proposed by the universities and State colleges to be meritorious and encourages the respective administrative bodies to maintain communication with Western.

7. *Diversity.* The Washington, D.C., Office of Energy Research (Office) on behalf of the DOE laboratories recommended that Western, in keeping with the Administration's policy objectives for the Federal Government's role in long-term energy research, should increase the proposed diversity allocation to the DOE laboratories from 9 MW to 15 MW and to grant Lawrence Berkley Laboratory (LBL) 15 MW of power. As reasons for its recommendation, the Office cited the Stanford Linear Accelerator Center's historically demonstrated ability to monitor and to respond promptly to an approaching system simultaneous peak and LBL's ability to shed load promptly on request.

Western desires to assist the Federal energy research laboratories in their long-term research, but increasing the allocation to the DOE laboratories would require Western to reduce its allocation to NASA-AMES (AMES), a Federal agency charged with aeronautics and space research. Ames has also demonstrated an ability to respond to an approaching system simultaneous demand and has as an additional benefit, a low load factor which results in less energy cost for Western.

However, AMES, in response to their 21-MW share of the total 30 MW for diversity, found the proposed allocation to be "unacceptable." AMES' comments were based on their economic analysis of the energy savings associated with the 21 MW compared to the costs of dropping load (shutting down their experiments). Their analysis showed that the net cost savings was not significant, which they defined/ proposed to be 10 percent of their total electric energy budget. In their comments, AMES elaborated on certain specifics of its analysis and the reader is referred to their written comments, which are available for inspection or copying at the Sacramento Area Office. AMES did, however, offer two possible alternatives under which they would accept the 21–MW allocation. One involved reducing the load shedding requirement and the other involved setting a compensating rate for such allocations. Both alternatives would be consistent with the marketing plan and the final allocation. However, it is recognized that further negotiation will be needed. If a new rate is to be set, the

required public notice and comment will be allowed.

Both AMES and the DOE laboratories have proposed the possibility of shifting CRD between them to maximize the use of their allocations and ability to utilize system diversity. These proposals have not yet been studied either by them or by Western. Western is of the opinion that such CRD shifting, if mutually agreeable among Western, AMES, the DOE laboratories and PGandE, would be consistent with the final Marketing Plan and Allocations.

Thus, after evaluating the distribution of the proposed diversity allocations in the context of the benefits for all our customers, Western has elected to reaffirm its 9 MW to the DOE laboratories and 21 MW to AMES. Western will review AMES' and the DOE laboratories' proposals in order to maximize the diversity protection with the least cost to the customers, without undue burden or cost to AMES and the DOE laboratories.

8. *Firming Renewable Resource and Cogeneration Projects.* The City of Santa Clara requested that when an "early project comes on line which has an allocation equivalent to only a portion of the output, the balance of the output or a part of the balance of the output, should receive a withdrawable allocation from the unused portion of the 30 MW. Santa Clara suggested that the withdrawable allocation would be reduced as other projects which were given an allocation became operational.

Western commends the City of Santa Clara for its ingenuity in proposing alternative withdrawal mechanisms for the allocations for renewable resource and cogeneration projects. The concept, however, is nevertheless inconsistent with final criterion 7 for this category. The intent of criterion 7 is to have energy benefits to the CVP while firming a project. The allocation is thus to a specific project of the recipient and not to the recipients as a whole or for any project a recipient may have. With the added problems of withdrawal, accounting, contracts, and billing, the CVP does not need an additional class of withdrawable power.

9. *Comments by the California Energy Commission.* The California Energy Commission (CEC) supplied rebuttal comments to Western's response to their proposal that Western "either (a) market federal hydropower and act as a regional broker and transmitter of power from other sources, but minimize its purchases of non-federal power for melding into WAPA rates, or (b) continue to purchase non-federal power to be marketed under a system of tiered energy charges to convey the actual costs of these purchases to WAPA customers." Western maintains its previous position as presented at 46 FR 51224 (October 16, 1981) and defers the consideration of the CEC's specific rate recommendations to the upcoming rate proceedings which will begin in January 1982.

The CEC'S comments on the proposed allocations are dealt with below.

a. 72-MW Allocation. The CEC stated that basing the allocations for this block of power upon a one-third proportion of the applicant's 1980 winter peakload would "(1) penalize prior conservation, (2) reward utilities that have promoted electric space and water heating even where gas is available, and (3) perpetuate WAPA's subsidy for unecomic irrigation pumping lifts."

Western disagrees with the CEC's point that its firm allocation penalizes prior conservation. As indicated by the comments submitted by most of the recipients during the course of the Marketing Plan proceedings, an allocation of power would enable them to further pursue conservation and alternative resources. Furthermore, the cost-effective conservation efforts made by most of the recipients would more than likely be continued because they would continue to pay PGandE rates for that amount of power above and beyond Western's allocation.

Whether Western, in fact, rewarded utilities who promoted electric space and water heating even when gas was available is highly speculative. It first requires knowledge of which customers engaged in such promotions. Western does not have such knowledge. Second, such a factor may be counterbalanced by an entity's positive efforts in conservation and renewable resource activities. In addition, it is highly speculative that an allocation from Western will be a contributing factor to the promotion of electric space and water heating in the future. Thus, while not specifically considering this factor in its allocation process (this factor is being proposed for the first time by the CEC), Western balanced all factors it believed to be reasonable and stands behind its criteria and allocations.

The CEC's comment regarding the subsidy of "uneconomic irrigation pumping lifts" is a subject more properly addressed in the upcoming rate proceedings. Western, therefore, defers this subject to those proceedings.

b. 30 MW for Renewable Resource and Cogeneration Projects. The CEC commented that Western's selection of high capacity factor projects of predictable dispatch characteristics—geothermal, cogeneration, and municipal solid waste projects—"appears to defeat the purpose of offering firming power for intermittent resources such as wind (allocated zero) and small hydro (allocated only 8 MW)." The criteria for this category was clear in that energy from firm sources of power would be preferred because of Western's desire to balance its energy situation. Thus, the projects selected, including the small hydro projects, were chosen because of their favorable power generation features. Western has also selected an additional 11 MW for small hydro projects and 1 MW for wind in the alternate 15-MW category. These projects will receive consideration in the event a previous allocation fails to become subscribed and is therefore made available for reallocation.

c. 30 MW for Diversity Protection. The CEC recommended that this 30 MW be marketed with an energy replacement requirement because of Western's energy shortage situation. Western finds the CEC proposal rather odd as it presumes that the DOE laboratories and NASA-AMES have power generation of their own or access to alternative sources of purchase power. Whether Western or the recipients acquire the energy, the energy shortage situation is the same because the load to be served is the same in either case. The diversity allocations come with a load shedding requirement during Western's peak periods. As explained before, the purpose is to keep Western's customers' simultaneous peak demand within contractual limits. Added benefits to the system are the possible increase in reserves or a small reduction in the need for new resources in the area. Western therefore rejects the CEC's proposal.

d. Renewal of Expiring Contracts. The CEC recommended that Western apply the same criteria applicable to its 102 MW so that "existing inequities are not automatically perpetuated." This comment was also offered by the PGandE cities when the criteria to renew contracts on substantially the same terms was first proposed in June 1981. Western's response which is still relevant appears at 46 FR 41554 (August 17, 1981).

The CEC also recommended that Western's contracting process for the additional power be open to public scrutiny, citing as a basis Western's contracts with PGandE and SMUD and the presently constrained operation and restrictions on rate adjustments.

There is no requirement that Western open contract negotiations to the public. The contracts will be based on and will be consistent with the final marketing plan and allocations. Western does provide information on request

regarding contract negotiations which are pending. Consequently, it is Western's policy to negotiate with its contractors on an individual basis without public participation. Western will accept comments or suggestions from any interested person regarding contract negotiations.

10. *Comments by the State of Nevada.* The State of Nevada reiterated its position as previously presented in written comments submitted during the Marketing Plan proceedings. No further response beyond that contained in the Federal Register at 46 FR 51227 (October 16, 1981) is required.

11. *The Status of the Wherry Housing (Travis AFB and Mather AFB) Facilities.* James Shepard, on behalf of the James Irrigation District, requested Western's review of the contract with the U.S. Air Force to serve Wherry Housing. In his latest comment, Mr. Shepard pointed out that "An examination of Section 305 of the Act of September 30, 1981, does not show power distribution facilities as community facilities so authorized." He concluded that if the "units do not qualify, the contracts should not be renewed and the capacity allocated to others."

The issue raised is whether Western can serve power to a preference agency who may not be authorized to own or operate certain distribution facilities which it currently does own and operate. The question of whether the U.S. Air Force is so authorized has been referred to it by Western. Until a response is received, Western will not renew that contract. If the facilities are authorized, the contract will be renewed. If the facilities are not authorized, Western will then decide whether, under Reclamation Law, the facilities can continue to be served.

12. *CVP Water Supplier Criterion.* The El Solyo Water District took issue with the criterion which stated that preference was given to irrigation and water districts which deliver CVP water. El Solyo, not a CVP water supplier, commented that "to be eliminated from consideration for this project benefit because we do not already have another benefit for the project seems to us to be unfair." They further added that "benefits from Federal projects should be as widespread as possible."

Western appreciates El Solyo's comments, but considering that the power needs of those customers who pump water purchased from the CVP are no less than the needs of districts such as El Solyo which do not pump CVP water, it would be just as unfair to give preference to entities who do not pump CVP water. Given the limited supply to be allocated and the numerous requests for power, some means were necessary to reduce the eligibility of applicants. Western believes that it is reasonable to assist those water districts which pump CVP water by allocating to them CVP power; and thus Western remains unpersuaded that a change in the criterion is necessary.

13. *Comments by Allottees Supporting Western's Allocation of Power.* Western received numerous comments from allottees who generally expressed that while they would have desired a greater allocation of power, they appreciated the amount that they received. Western appreciates their supportive comments and looks forward to their becoming customers of Western.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western, including the Environmental Assessment and Finding of No Significant Impact, for the purpose of developing the power marketing plan and allocations are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484-4251.

Issued on January 25, 1982.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 82-2156 Filed 1-27-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51386; TSH-FRL-2037-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of five PMNs and provides a summary of each.

DATES: Written comments by: PMN 82-32—March 19, 1982. PMN 82-33, 82-34, 82-35, and 82-36—March 20, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51386]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-32

Close of Review Period. April 18, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Dichloro-triazinylamino-substituted sulfophenylazo-sulfonaphthalenylazo-benzene-disulfonic acid, tetra sodium salt.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Powder.
Solubility: water—>20%.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5,000 mg/kg.
Skin irritation (rabbit)—Mild irritant.
Eye irritation (rabbit)—Severe irritant.

Exposure. The manufacturer states that during manufacture and processing up to 175 workers may experience potential exposure up to 4 hrs/day.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible. Disposal is to a treatment works.

PMN 82-33

Close of Review Period. April 19, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Unsaturated polyester resin.

Use. Claimed confidential business information. Generic use information

provided: The manufacturer states that the PMN substance will be used as a cured, thermosetting, cross-linked polyester plastic for commercial articles.

PRODUCTION ESTIMATES

	Pounds per year	
	Minimum	Maximum
1st year	50,000	100,000
2d year	100,000	200,000
3d year	200,000	400,000

Physical/Chemical Properties

Viscosity @ 65% NV in styrene—1,500–2,000 cps.

Acid value—12–22.

Toxicity Data. No data were available.

Exposure. The manufacturer states that during processing the operator is exposed to the substance 2–3 minutes per hour during sampling.

Environmental Release/Disposal. Disposal is by landfill or incineration.

PMN 82–34

Close of Review Period. April 19, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Between $10,000,000 and $99,000,000.

Manufacturing site—East North Central region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of hydroxypropyl methacrylate, methyl methacrylate, diallyl phthalate, styrene, butyl methacrylate, hydroxyethyl-acrylate, 2-ethyl hexylacrylate, acrylic acid.

Use. The manufacturer states that the PMN substance will be used in baking enamel paint.

PRODUCTION ESTIMATES

	Pounds per year	
	Minimum	Maximum
1st year	15,000	20,000
2d year	50,000	60,000
3d year	80,000	100,000

Physical/Chemical Properties

Viscosity, Ford cup—10–15 sec.

Acid number—10–14.

Non-volatile—30±1.

Color—White.

Weight/gallon—7.50.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that 7 workers may experience inhalation exposure up to 8 hrs/day, up to 251 days/yr during transfer and mixing.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water up to 8 hrs/day, up to 251 days/yr.

PMN82–35

Close of Review Period. April 19, 1982.

Manufacturer's Identity. Claimed confidental business information. Organization information provided:

Annual sales—Over $5,000,000.

Manufacturing site—East North Central region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Claimed confidental busines information. Generic name provided: Reaction product of dehydroacid ester, polyhydric anhydride and substituted isocyanate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in paint products.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Light yellow liquid.

Flash point—>200° F.

Viscosity, Gardner-Holdt @ 25° C—300–500 cps.

Density @ 20° C—1.15.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5 g/kg.

Acute dermal toxicity LD_{50} (rat)—>2 g/kg.

Primary skin irritation (rabbit)—1.9/8.0.

Primary eye irritation (rabbit)—12 at 1 hr. decreasing to 1.0/160 by 72 hrs.

Ames salmonella—Negative.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 82–36

Close of Review Period. April 19, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Carnauba wax ethoxylated propoxylated.

Use. The manufacturer states that the PMN substance will be used as a car spray wax/surfactant.

PRODUCTION ESTIMATES

	Maximum pounds per year
1st year	4,800
2nd year	5,600
3rd year	6,400

Physical/Chemical Properties

Appearance @ 77° F—Soft paste.

pH—5–8.

Flash point, Seta flash—>200° F.

Moisture weight %—0.4.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5 g/kg.

Primary skin irritation (rabbit)—Non-irritating.

Eye irritation (rabbit)—Non-irritating.

Exposure. The manufacturer states that during manufacture 6 workers may experience dermal exposure up to 43 hrs.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible. Disposal is to a publicly owned treatment works (POTW).

Dated: January 20, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-2219 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS–51387; TSH–FRL–2037–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNS and provides a summary of each.

DATE: Written comments by: PMN 82–37, 82–38, 82–39, and 82–40, March 21, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51387]" and the specific PMN number should be sent to: Document

Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–426–2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–37

Close of Review Period. April 20, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Neutralized substituted alkanoic ester.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year		1,000
2d year	3,000	6,000
3d year	6,000	9,000

Physical/Chemical Properties

Melting point—92–93° C.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—5.0 ml/kg.

Acute dermal toxicity LD_{50} (rabbit)—2.0 ml/kg.

Primary skin irritation (rabbit)—Not an irritant.

Primary eye irritation (rabbit)—An irritant.

Exposure. The manufacturer states that during manufacture, processing, and use a total of 73 workers may experience dermal, inhalation, and ocular exposure up to 6 hrs/day, up to 50 days/yr during filling, cleanup, and sampling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–1,000 kg/yr released to land. Disposal is by distillation and incineration.

PMN–82–38

Close of Review Period. April 20, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Manufacturing site—Middle Atlantic region. Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified alkyd polymer from fatty acid oils, glycerin, and a carbomonocyclic anhydride.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	15,000
2d year	15,000	50,000
3d year	25,000	75,000

Physical/Chemical Properties

Flash point—75° F.

Viscosity—Z1–Z3.

Acid value—10 mg KOH/gm.

Color—10.

Total solids—80±1%.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing, and use a total of 173 workers may experience dermal, inhalation, and ocular exposure up to 6 hrs/day, up to 230 days/yr during filling, cleanup, and sampling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–1,000 kg/yr released to land. Disposal is by distillation and incineration.

PMN 82–39

Close of Review Period. April 20, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Manufacturing site—Middle Atlantic region. Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of a diisocyanate, polyglycol and polysubstituted alkyl amine.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year		10,000
2d year	5,000	20,000
3d year	10,000	30,000

Physical/Chemical Properties

Flash point—119°F.

Viscosity—Q–R.

Density—0.926.

Acid value—0.4 mg KOH/gm.

Color—12.

Percent solids—61.8 @ 105° C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing, and use, a total of 92 workers may experience dermal, inhalation, and ocular exposure up to 10 hrs/day, up to 200 days/yr during filling, cleanup, and sampling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–1,000 kg/yr released to land. Disposal is by distillation and incineration.

PMN 82–40

Close of Review Period. April 20, 1982

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Manufacturing site—Middle Atlantic region. Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polymer of styrene, alkyl acrylates, alky methacrylates and a substituted alkyl methacrylate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year		10,00
2d year	10,000	40,00
3d year	40,000	80,00

Physical/Chemical Properties

Viscosity—34.5 stokes.

Acid value—0.1.

Color—1.

Percent solids—66.6 @ 150° C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing, and use, a total of 104 workers may experience dermal, inhalation, and ocular exposure up to 8 hrs/day, up to 250 days/yr during filling, cleanup, and sampling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–1,000 kg/yr released to land. Disposal is by landfill, distillation, and inceneration.

Dated: January 21, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-2220 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59074A; TSH-FRL-2034-7]

Saturated Dicarboxylic Acid Diamine Polyamide; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–81–50) under section 5 of the Toxic Substances Control Act (TSCA) on December 14, 1981. Notice of receipt of the application was published in the **Federal Register** of December 23, 1981 (46 FR 62311). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 14, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–81–50. The manufacturer claimed its identity, the specific chemical identity, and the specific use of the new substance as confidential business information. The generic name of the new substance is saturated dicarboxylic acid diamine polyamide and it will be used in an open use. A maximum of 1,000 kilograms (kg) will be manufactured for test market purposes, during a test marketing period not to exceed 3 months. During manufacture, two workers may have potential skin contact for 3 hours per day for 25 days. During processing, three workers may be exposed for 8 hours per day for 26 days. A notice published in the **Federal Register** of December 23, 1981 (46 FR 62311) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–81–50, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. No significant health concerns were identified for the TME substance. The substance has a high molecular weight and is not soluble in water. The final use of the substance will involve a restricted and minimal exposure to consumers as part of an article. No significant environmental concerns were identified and environmental release to a landfill of the substance will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers specified in the application, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 1,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a three-month period commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: January 22, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-2223 Filed 1-27-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59054C; TSH-FRL 2034-6]

2-Dodecyl-9-H-Thioxanthen-9-One; Approval of Extension of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has granted an extension of a test marketing exemption (TM–81–17) period under section 5 of the Toxic Substances Control Act (TSCA) to allow the manufacturer to make and distribute the remaining amount of the TME substance approved for distribution in the original exemption.

EFFECTIVE DATE: This exemption is effective on January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: On December 22, 1981, the EPA received a request from the Sherwin-Williams Chemical Division to extend for 90 days an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. This exemption had been assigned the number TM–81–17 for purposes of identification and EPA granted the exemption on July 22, 1981 (46 FR 39027; July 30, 1981). The chemical, 2-dodecyl-9-*H*-thioxanthen-9-one, is used as a photoinitiator additive in ultraviolet (UV) light cured inks and coatings. A total of 500 pounds (lb) will be manufactured for test marketing purposes during the entire test market period and will be provided to approximately 20 customers as stated in the original application. The additional time period should not exceed 3 months. The company states that the additional time is necessary to allow it to make and distribute the remaining amount of the TME substance approved for distribution in the original exemption.

The EPA has established that the extension of the test marketing of the substance described in TM–81–17, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment as explained in the original approval notice (46 FR 39027; July 30, 1981). There were no significant health or environmental concerns at the levels of exposure expected to result from manufacture, processing, and industrial use of the TME substance. The amount of potential exposure is small for a limited time period.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers specified in the application, and the quantities shipped in each shipment and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 500 lbs. described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a three-month period commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: January 22, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–2222 Filed 1–27–82; 8:45 am]

BILLING CODE 6560–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

National Council on Health Planning and Development

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Mr. Paul Schwab, Executive Secretary, National Council on Health Planning and Development, Room 10–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–7170.

Dated: January 20, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, HRA.

[FR Doc. 82–2108 Filed 1–27–82; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, November—qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, service area revisions of two previously qualified HMOs are reported at the end of the list.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Regulations issued under title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register**. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. MD–IPA, (Individual Practice Association, see Section 1310(b)(2)(A) of the Public Health Service Act), 451 Hungerford Drive, Suite #600, Rockville, Maryland 20580. Service area: Zip codes as follows:

Montgomery County, Maryland

20814	20895
20834	20832
20702–4	20837
20720	20850–5
20727	20860
20729–31	20868
20734	20880
20750	20901–4
20753	20906
20760	20910
20766–8	

Howard County, Maryland

20701	21036
20759	21723
20777	21737–9
20863	21755
21029	21797

Frederick County, Maryland

21754	21770–1

District of Columbia

20012	20015–6

Date of qualification: November 30, 1981.

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

2. Lovelace Health Plan, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 5400 Gibson Blvd., S.E., Albuquerque, New Mexico 87108. Service area: Bernalillo County, and the following zip codes in portions of Sandoval, Torrance, and Valencia Counties, New Mexico.

87002	87059
87004	87101–25
87008	87174
87031	87184–5
87035	87190–2
87041	87194–8
87047–8	

Date of qualification: October 30, 1981.

Service Area Revisions

1. Pima Care, 2555 E. Adams, Tucson, Arizona 85716. Add the following zip codes to the service area published on July 1, 1981, in the Federal Register, 46 FR 34522: 85741 and 85743—effective date July 1, 1981; 85745—effective date October 1, 1981. These zip code additions were made as a result of changes by the Postal Service.

2. Kaiser Foundation Health Plan of Ohio, Bond Court Building, Suite 1100, 1300 East Ninth Street, Cleveland, Ohio 44114. Service area: Delete the following townships from the service area published on July 1, 1981, in the Federal Register, 46 FR 34520: Trumbull, Hartsgrove and Windsor in Ashtabula County; Mesopotamia and Farmington in Trumbull County; and Windham in Portage County. Effective date: October 1, 1981.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: January 19, 1982.

Rhoda Abrams,

Acting Director, Office of Health Maintenance Organizations.

[FR Doc. 82-2109 Filed 1-27-82; 8:45 am]

BILLING CODE 4160-17-M

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, December—qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs).

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph. D., Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended (42 CFR 110.605(b)), require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. Georgia Medical Plan, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1447 Peachtree Street, NE, Suite 804, Atlanta, Georgia 30339. Service area: Cherokee, Clayton, Cobb, De Kalb, Fayette, Forsyth, Fulton, and Gwinnett Counties, Georgia. Date of qualification: December 1, 1981.

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

2. C.A.C. Health Plan, Inc., (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 1200 SW 1st Street, Miami, Florida 33135. Service area: Dade County, Florida. Date of qualification: December 24, 1981.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: January 19, 1982.

Rhoda Abrams,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-2110 Filed 1-27-82; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1108]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of system of records.

SUMMARY: The Department is giving notice of a system of records it maintains which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective February 27, 1982 unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–755–5336. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The system is Property Rental Files (HUD/H–8). It contains information about occupants of one-to-four-family properties which HUD has acquired or aspects to acquire because of a pending foreclosure on the property. The system is used to provide information required in the property disposition program to adequately manage and account for the rental of HUD acquired single-family properties. This information is required to qualify prospective tenants of HUD-held properties, maintain rental accounts, assist collection efforts where current and former tenants are delinquent in their rental payments, to provide rent rolls and income and expenses data to prospective purchasers of tenant occupied properties, and to perform other related program management functions. The prefatory statement containing General Routine uses applicable to most of the Department's systems of records was published at 46 FR 54878 (November 4, 1981). Appendix A, which lists the addresses of HUD's Field Offices was

published at 46 FR 5414 (November 4, 1981). A new system report was filed with the Speaker of the House, the President of the Senate, and the Director of the Office of Management and Budget on December 16, 1981.

HUD/H–8

SYSTEM NAME:

Property Rental Files.

SYSTEM LOCATION:

HUD field offices and HUD Area Management Brokers (AMBs) under the jurisdiction of the HUD field offices. For a complete listing of HUD field offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Occupants (prospective, current and former) of one-to four-family properties which HUD expects to acquire, generally as a result of foreclosure, or has acquired or of which HUD expects to or has taken possession.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files consist of documents pertaining to request for continued occupancy, rental applications, and rent payment. The documents will include leases and rental information if the properties are being conveyed or transferred to HUD subject to occupancy; individuals' names, addresses, telephone numbers, identifying numbers such as Social Security Numbers, (if available) income, circumstances of employment, expenses, liabilities, and personal and credit references, and records of rents paid and owed while tenants of HUD, and related correspondence. Also, pursuant to 24 CFR 203.670, where individuals seek to qualify for continued occupancy of a property to be conveyed to HUD because of an illness or injury, certain documentation pertaining to the validity of the individuals' claims will be maintained in these files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Housing Act of 1937 as amended (Pub. L. 75–412).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Consumer reporting and commercial credit agencies—to facilitate claims collection consistent with Federal claims collection standards, 4 CFR 102.4, to State motor vehicle agencies and Internal Revenue Service—to obtain current addresses of debtors, to attorneys hired by the Department in connection with eviction related activites—to facilitate eviction related activities, to collection agencies hired by the Department—to collect delinquent rent, to prospective purchasers of tenant occupied properties—to provide them rent rolls and income and expense data, and to HUD's Area Management Brokers (AMBs)—to permit them to perform their property management responsibilities.

POLICIES, AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Case file number, property address, and name of tenant.

SAFEGUARDS:

Desk, file cabinets kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER AND ADDRESS:

Director
Single Family Property Disposition Division, HSSP
Office of Single Family Housing
Department of Housing and Urban Development
451 Seventh Street, S.W.,
Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDCURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject invididuals, other individuals, current or previous employers credit bureaus, financial institutions, other corporations or firms, Federal government agencies; non-Federal (including foreign, State and local) government agencies, real estate brokers and agents.

(5 U.S.C. 552a, 88 Stat. 1896, Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. January 25, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82–2235 Filed 1–27–82; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. D–82–661]

Delegation of Authority With Respect to the Neighborhood Self-Help Development Act

AGENCY: Department of Housing and Urban Development (HUD)/Office of the Secretary.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary is transferring authority with respect to the Neighborhood Self-Help Development Program from the recently abolished Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection to the Office of the Assistant Secretary for Community Planning and Development.

EFFECTIVE DATE: Retroactive to October 1, 1981.

FOR FURTHER INFORMATION CONTACT: John Barnett, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410; (202) 755–6087. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Neighborhood Self-Help Development Act, Title VII of the Housing and Community Development Amendments of 1978, Pub. L. 95–557, was repealed, effective October 1, 1981, pursuant to Title III, Section 313(a) of the Omnibus Budget Reconciliation Act of 1981, Pub.

L. 97–35 (approved August 13, 1981) (the "Reconciliation Act"). However, Section 307(b) of the Reconciliation Act provides that any grant or loan which, prior to the effective date of the Reconciliation Act, was obligated and governed by an authority amended by the Act, shall continue to be governed by the provisions of such authority as they existed immediately before such effective date. The Secretary has recently abolished the Office of Neighborhoods, Voluntary Associations and Consumer Protection. Accordingly, the Secretary is now delegating, in the following Sections A through C, his authority and power under Section 307(b) of the Omnibus Budget Reconciliation Act, as that section applies to the Neighborhood Self-Help Development Program.

Section A. *Authority Delegated.* The Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development are each individually authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Section 307(b) of the Omnibus Reconciliation Act of 1981, Pub. L. 97–35, as that Section preserves the Secretary's power and authority under the recently repealed Neighborhood Self-Help Development Act, Title VII of the Housing and Community Development Amendments of 1978, Pub. L. 95–557.

Section B. *Authority to Redelegate.* The Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development are each individually authorized to redelegate to employees of the Department any of the power and authority delegated under Section A of this delegation except the power and authority to issue rules and regulations.

Section C. *Delegations Revoked and Superceded.* This delegation revokes and supercedes part 6 of Section A of the Delegation of Authority from the Secretary to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection published at 46 FR 5081, January 19, 1981.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., January 18, 1982.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc 82–2236 Filed 1–27–82; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Bureau of Indian Affairs Advisory Committee for Exceptional Children; Meeting to Investigate the Unmet Needs of Handicapped Indian Children

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

In accordance with section 612(7) of Pub. L. 91–230 as amended by section 5(a) of Pub. L. 94–142, Education of the Handicapped Act, the Bureau of Indian Affairs Advisory Committee will meet February 4–6, 1982, at the Window Rock Motor Inn, Window Rock, Arizona, from 8:30 a.m. to 5:00 p.m. on February 4–6.

The purpose of the meeting will be to investigate the unmet needs of handicapped Indian Children and to discuss miscellaneous related items.

The meeting is open to the public. Any member of the public can file a written statement concerning the matters discussed.

Additional information about the meeting may be obtained from Ms. Dixie Owen, Bureau of Indian Affairs, Main Interior, room 4655, phone (202) 343–4071.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

January 26, 1982.

[FR Doc. 82–2111 Filed 1–27–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[F–14918–A]

Alaska Native Claims Selection

On November 18, 1974, Pilot Station, Incorporated, for the Native village of Pilot Station, filed selection application F–14918–A, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611), as amended, for the surface estate of certain lands in the vicinity of Pilot Station.

Pilot Station, Incorporated, in its November 18, 1974 application excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation shall, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 18, 1974 application are considered selected by Pilot Station, Incorporated.

As to the lands described below, the application submitted by Pilot Station, Incorporated is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 104,475 acres, is considered proper for acquisition by Pilot Station, Incorporated, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Lot 2, U.S. Survey No. 4293, Alaska, located approximately 1 mile northeast of Pilot Station, Alaska, on the right bank of the Yukon River.

Containing 0.02 acre.

Seward Meridian, Alaska (Unsurveyed)

T. 20 N., R. 73 W.,
Secs. 4 to 9, inclusive.
Containing approximately 3,328 acres.

T. 21 N., R. 73 W.,
Secs. 6 and 7
Secs. 18 to 22, inclusive;
Secs. 27 to 35, inclusive.
Containing approximately 8,205 acres.

T. 22 N., R. 73 W.,
Secs. 3 to 10, inclusive;
Secs. 18, 19, 30, and 31.
Containing approximately 7,061 acres.

T. 23 N., R. 73 W.,
Secs. 31 to 34, inclusive.
Containing approximately 2,102 acres.

T. 20 N., R. 74 W.,
Secs. 1 to 5, inclusive;
Sec. 6, excluding Native allotment F–16789 Parcel B;
Sec. 7, excluding Native allotments F–16684 Parcel C, F16789 Parcel B, F–16790 Parcel A, and F–16787 Parcel A;
Secs. 8 to 12, inclusive.
Containing approximately 7,273 acres.

T. 21 N., R. 74 W.,
Secs. 1, 2, and 3;
Sec. 4, excluding U.S. Survey No. 4489, Native allotments F–16695 Parcel A, F–16673 Parcel A, F–16687 Parcel B, and F–16699 Parcel A;
Sec. 5, excluding U.S. Survey No. 4489, Lot 1 (ANCSA Sec. 3(e) application AA–39897 BIA) and Lots 2 and 3 of U.S. Survey No. 4011, Native allotments F–16687 Parcel B, F–16690 Parcel B, F–16658 Parcel C, F–16659 Parcel A, F–16790 Parcel C, and F–17695 Parcel A;

Sec. 6, excluding U.S. Survey No. 4489, Native allotments F–16787 Parcel C, F–16659 Parcel A, F–16775, F–16668 Parcel A, F–16790 Parcel C, F–16517 Parcel D, and F–17695 Parcel A;
Sec. 7;
Sec. 8, excluding Native allotment F–16696 Parcel C;
Sec. 9, excluding Native allotment F–16675 Parcel D;
Secs. 10 to 16, inclusive;
Sec. 17, excluding Native allotments F–16781 Parcel B and F–479 Parcel A;
Secs. 18 and 19;
Sec. 20, excluding Native allotment F–479 Parcels A and B;
Secs. 21 to 25, inclusive;
Sec. 26, excluding Native allotment F–16782 Parcel A;
Secs. 27 to 30, inclusive;
Sec. 31, excluding Native allotments F–16698 Parcel B and F–16686 Parcel C;
Sec. 32, excluding Native allotments F–16698 Parcel B, F–16779 Parcel A, and F–16672 Parcel C;
Sec. 33, excluding Native allotments F–16672 Parcel C, F–16781 Parcel D, and F–16667 Parcel B;
Sec. 34, excluding Native allotments F–16669 Parcel B and F–16674 Parcel A;
Sec. 35, excluding Native allotment F–16782 Parcel A;
Sec. 36.

Containing approximately 17,089 acres.

T. 22 N., R. 74 W.,
Secs. 1 to 5, inclusive;
Sec. 6, excluding Native allotment F–18745 Parcel D;
Secs. 7 to 10, inclusive;
Sec. 11, excluding Native allotment F–16516;
Sec. 12, excluding Native allotments F–16516 and F–17537 Parcel A;
Sec. 13, excluding Native allotments F–17537 Parcel A, F–16657 Parcel B, F–16516, F–16659 Parcel B, F–16777 Parcel B, F–16667 Parcel D, and F–16663 Parcel C;
Sec. 14, excluding Native allotments F–16516, F–16659 Parcel B, F–16776 Parcel C, F–16693 Parcel A, F–17536 Parcel B, F–19272 Parcel B, F–16789 Parcel D, F–16671 Parcel C, F–16780 Parcel A, F–16669 Parcel A, F–16698 Parcel A, F–16788 Parcel B, and F–16694 Parcel A;
Sec. 15, excluding Native allotments F–16694 Parcel A, F–16784 Parcel B, F–16664 Parcel D, and F–16779 Parcel B;
Secs. 16 to 21, inclusive;
Sec. 22, excluding Native allotments F–16779 Parcel B, F–16677 Parcel C, and F–16689;
Sec. 23, excluding Native allotments F–16783 Parcel C, F–16788 Parcel B, F–16669 Parcel A, F–16698 Parcel A, F–16677 Parcel C, and F–16694 Parcel B;
Sec. 24, excluding Native allotment F–16783 Parcel C;
Secs. 25 to 28, inclusive;
Sec. 29, excluding Native allotments F–16664 Parcel A, F–16785 Parcel A, F–16690 Parcel A, F–16787 Parcel B, and F–16672 Parcel A;
Secs. 30 and 31;
Sec. 32, excluding Native allotments F–16686 Parcel A, F–16693 Parcel B, F–16790 Parcel B, F–16785 Parcels A and C, F–16671 Parcel B, F–16781 Parcel C, F–16789 Parcel C, F–16780 Parcel B, F–16692 Parcel C, F–16776 Parcel D, F–19272 Parcel C, and F–16690 Parcel B;
Sec. 33, excluding U.S. Survey No. 4293, U.S. Survey No. 4296 (F–022794), and Native allotment F–16686 Parcel A;
Secs. 34, 35, and 36.

Containing approximately 18,973 acres.

T. 20 N., R. 75 W.,
Sec. 1, excluding Native allotments F–19272 Parcel A, F–16786 Parcel B, F–16788 Parcel A, and F–16671 Parcel A;
Sec. 2, excluding Native allotments F–16777 Parcel A, F–16783 Parcel B, F–16778 Parcels A and B, F–16776 Parcel B, and F–19399 Parcel B;
Secs. 3, 4, and 5;
Sec. 6, excluding Native allotments F–16687 Parcel A and F–18401 Parcel B;
Sec. 7, excluding Native allotments F–16688 Parcel A, F–16664 Parcel B, F–16658 Parcel B, F–16676 F–15593, and F–16692 Parcel A;
Secs. 8, 9, and 10;
Sec. 11, excluding Native allotments F–16684 Parcel A and F–16686 Parcel B;
Sec. 12, excluding Native allotments F–16671 Parcel A, F–16790 Parcel A, F–16780 Parcel C, F–16677 Parcel B, F–16685 Parcel B, F–16686 Parcel B, and F–16668 Parcel B;
Secs. 14, 15, and 16;
Sec. 17, excluding Native allotments F–16670 Parcel A, F–16657 Parcel A, and F–16783 Parcel A;
Sec. 18, excluding Native allotments F–16657 Parcel A and F–16692 Parcels A and B;
Sec. 19;
Sec. 20, excluding Native allotments F–16682;
Sec. 21, excluding Native allotments F–16682 and F–16658 Parcel A;
Sec. 22;
Secs. 27 and 28;
Sec. 29, excluding Native allotment F–16682;
Secs. 30 to 34 inclusive.

Containing approximately 16,197 acres.

T. 21 N., R. 75 W.,
Sec. 1, excluding Native allotment F–16667 Parcel A;
Sec. 2;
Secs. 12 and 13;
Secs. 24 and 25;
Sec. 35;
Sec. 36, excluding Native allotments F–16682 Parcel C, F–16666 Parcel C, F–16680 Parcel B, F–479 Parcel C, F–16696 Parcel B, F–16687 Parcel A, and F–16700 Parcel B.

Containing approximately 3,735 acres.

T. 22 N., R. 75 W.,
Secs. 24, 25, 35, and 36.

Containing approximately 2,560 acres.

T. 20 N., R. 76 W.,
Sec. 1;
Secs. 9, 10, and 11;
Sec. 12, excluding Native allotments F–16784 Parcel C and D, F–16693 Parcel C, F–16674 Parcel B, F–16676, and F–16785 Parcel B;
Sec. 13, excluding Native allotment F–16692 Parcel B;
Secs. 14 to 36, inclusive.

Containing approximately 17,952 acres.

Aggregating approximately 104,475 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in the easement case file F–14918–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on available evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusion *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14918–EE, is reserved to the United States. All easements are subject to applicable Federal, State or Municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 2 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from the southernmost part of Steamboat Slough in Sec. 36, T. 23 N., R. 76 W., Seward Meridian, southeasterly to Pilot Station village. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted.

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permitee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, F–19110, one hundred (100) feet in width in Sec. 5, T. 21 N., R. 74 W., Seward Meridian, for a Federal Aid Highway, Act of August 27, 1958, as amended, 23 U.S.C. 317; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

School Site Lease AA–13185, located in Sec. 5 of T. 21 N., R. 74 W., Seward Meridian, Alaska, was granted to the State of Alaska for a public school at Pilot Station pursuant to and subject to the terms and conditions of Sec. 302 of the Federal Land Policy and Management Act of 1976, Public Law 94–579 of October 21, 1976 (90 Stat. 2743) and the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1622(i)). According to the terms of the lease, it is to terminate on conveyance of title of said lands out of United States ownership.

Pilot Station, Incorporated is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. To date approximately 104,475 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 10,725 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Pilot Station, Incorporated, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 1, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those reights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained at the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Pilot Station, Incorporated, Pilot Station, Alaska 99650

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 82–2199 Filed 1–27–82; 8:45 am]

BILLING CODE 4310–84–M

[PHX 075449, etc.]

Arizona; Order Providing for the Opening of Public Lands

January 20, 1982.

1. In exchanges of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

PHX 075449

T. 15 N., R. 12 W.,
Secs. 2 and 16.
T. 15 N., R. 14 W.,
Sec. 2, S½N½, S½.

PHX 075460

T. 17 N., R. 21 W.,
Sec. 36.
T. 18 N., R. 16 W.,
Sec. 2, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 16, 32 and 36.
T. 18 N., R. 17 W.,
Sec. 2, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 16 and 32;
Sec. 36, N½, SE¼, NE¼SW¼.

PHX 075462

T. 19. N., R. 13 W.,
Sec. 2;
Sec. 32, N½NE¼, SE¼NE¼, W½, SE¼;
Sec. 36.
T. 19 N., R. 15 W.,
Sec. 32, N½, W½SE¼, NE¼SE¼.
T. 19 N., R. 17 W.,
Sec. 2, Lots 1, 2 and 4, S½N½, S½.
T. 18 N., R. 20 W.,
Sec. 36.
T. 3 S., R. 3 W.,
Sec. 2, Lots 1, 2, 3 and 4.
T. 18 N., R. 21 W.,
Secs. 2, 16 and 36.

PHX 075485

T. 23 N., R. 14 W.,
Sec. 2, Lots 3 and 4, S½NW¼.
T. 24 N., R. 16 W.,
Secs. 16 and 32.
T. 24 N., R. 17 W.,
Sec. 2, S½;
Secs. 16 and 32.
T. 24 N., R. 18 W.,
Sec. 2, S½;
Sec. 16.
T. 6 S., R. 10 W.,
Sec. 32, N½.
T. 20 N., R. 16 W.,
Sec. 32, SE¼, S½SW¼;
Sec. 36.
T. 19 N., R. 16 W.,
Sec. 2, SE¼SE¼.

PHX 060130

T. 18 N., R. 12 W.,
Secs. 16 and 32.

The areas described aggregate approximately 18,640 acres in Maricopa, Mohave and Yuma counties.

2. The United States did not acquire the mineral rights on any of the lands described in paragraph 1.

3. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the lands described in paragraph 1 are hereby open to operation of the public land laws, generally. All valid applications received at or prior to March 1, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261–3707.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-2195 Filed 1-27-82; 8:45 am]

BILLING CODE 4310-84-M

[A 10876]

Arizona; Transfer of Public Lands to the State of Arizona

January 20, 1982.

Notice is hereby given that the following described lands will be transferred to the State of Arizona pursuant to the Colorado River Basin Salinity Control Act of June 24, 1974, 88 Stat. 269; 43 U.S.C. 1573(a)(2):

Gila and Salt River Meridian, Arizona

Bullhead City Area, Mohave County

T. 21 N., R. 21 W.,
Sec. 31, Lots 1, 2, 3 and 4, E½, E½W½.

Yuma Island Area, Yuma County

T. 8 S., R. 22 W.,
Sec. 7, Lots 6, 7, 8, 9, 10, 11 and 12, NE¼NW¼;
Sec. 6, Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, E½SW¼, W½SE¼.

The two areas comprise 1271.42 acres.

This transfer is to compensate the State of Arizona for State lands acquired by the Bureau of Reclamation under the above cited authority. The acquisition of the State lands is to enhance and protect the quality of water available in the Colorado River for use in the United States and the Republic of Mexico, and to enable the United States to comply with its obligation under the agreement with the Republic of Mexico of August 30, 1973 (Minute No. 242 of the International Boundary and Water Commission, United States and Mexico).

The lands to be transferred to the State of Arizona will be subject to a reservation to the United States for rights-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890; 26 Stat. 391; 43 U.S.C. 945; and will be subject to all existing rights-of-way of record and any other existing valid rights of record. The purpose of this notice it to allow any persons asserting a claim to the lands to file notice at the address set forth below. Such claim must be filed, on or before March 29, 1982.

Detailed information concerning the transfer, including the environmental analysis, is available for review at the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, 201 North Central Avenue, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-2194 Filed 1-24-82; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 34825]

Colorado: Realty Action Non-Competitive Sale of Public Lands in Montezuma County

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown for each parcel.

New Mexico Principal Meridian

T. 37 N., R. 17 W.,
Sec. 12 Lot 6 (4.69 acres, $4,125.00
Being offered at direct sale to: Merritt Farm, Inc. c/o Edward Merritt, P.O. Box 907, Dolores, Colorado 81323
Sec. 24, Lot 1 (0.91 acres) Lot 2 (0.92 acres) $915.00
Being offered at direct sale to: Bee Mark, Inc., Box 1508, Cortez, Colorado 81321
Sec. 24, Lot 3 (0.94 acres) Lot 4 (0.95 acres) $1,400.00
Sec. 25, Lot 1 (0.95 acres) $700.00
Being offered at direct sale to: Johnnie and Emma Duran 20508 Colorado Road S., Cortez, Colorado 81321
Sec. 25, Lot 2 (2.77 acres) Lot 3 (2.26 acres) $5,000.00
Being offered at direct sale to: Merritt Farm, Inc. c/o Edward Merritt; P.O. Box 907, Dolores, Colorado 81323

These public land lots resulted from resurvey of T. 37 N., R. 17 W., in 1917. The approximate dimensions of the lots follows:

Sec. 12, Lot 6 1,320 feet long, east and west, 153 feet wide;
Sec. 24, Lot 1, 2, 3 and 4 each lot 1,320 feet long, north and south, 30 feet wide;
Sec. 25, Lot 1 1,320 feet long, north and south, 30 feet wide;
Sec. 25, Lot 2 1,320 feet long north and south, 30 feet wide, and 1,320 feet long east and west, and 50 feet wide;
Sec. 25, Lot 3, 1,320 feet long, east and west, 79 feet wide.

The separation of the lots from larger blocks of public lands, along with their size and shape, makes them difficult and uneconomic to manage as part of the public lands. The lots are occupied by improvements such as fences, driveways, irrigation ditches, or are within cultivated privately owned fields or pastures. There is a private residence on Lot 6 of section 12. The lots have not been used, and are not suitable for, nor needed for management by another Federal department or agency. The lands do not have potential for multiple use management. Transfer of title out of Federal ownership is consistent with the Bureau's planning and has been discussed with the Montezuma County Commissioners. The public interest will be well served by offering the land for sale.

The terms and conditions applicable to the sale are:

1. The patents will include a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. All minerals rights will be reserved to the United States.

3. The land patent will be subject to valid existing rights.

4. An easement 30 feet in width will be reserved to Montezuma County for public use along the existing road on the west end of Lot 6 of Section 12.

5. An easement 60 feet in width will be reserved to Montezuma County for public use along the existing road on the northern boundary of Lot 6 of Section 12.

6. An easement 60 feet in width will be reserved to Montezuma County for public use along the existing road on the southern boundary of Lot 4 of Section 24.

7. An easement 30 feet in width will be reserved to Montezuma County for public use along the existing road on the east end of Lot 3 of Section 25.

The sale of this land will be held at 10:00 a.m. on March 31, 1982 in the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Detailed information concerning the sale, including the planning documents, environmental assessment/land report,

is available for review at the Bureau of Land Management San Juan Resource Area office, 701 Camino del Rio, Durango, Colorado 81301.

On or before March 15, 1982, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81401. Any adverse comments will be evaluated by the BLM State Director, 1037 20th Street, Denver, Colorado 80202, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Marlyn V. Jones,

District Manager, Montrose District.

[FR Doc. 82-2113 Filed 1-27-82; 8:45 am]

BILLING CODE 4310-84-M

[M 34989]

Montana; Termination of Proposed Withdrawal and Reservation of Land

The Forest Service, United States Department of Agriculture, filed application for withdrawal of the following described land from location and entry under the mining laws. The Notice of Proposed Withdrawal was published in **Federal Register** Vol. 41, No. 184 on page 41123 of the issue of September 21, 1976. The application agency has cancelled its application in its entirety.

Principal Meridian

T. 16 N., R. 14 W.,
Sec. 4, NE¼SE¼;
Sec. 10, SW¼NW¼.

The area described contains 3.03 acres in Missoula County.

Therefore, pursuant to the regulations contained in 43 CFR 2091.25(b)(1), at 8 a.m. on March 5, 1982, such land will be relieved of the segregative effect of the above mentioned application.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee

Chief, Branch of Lands and Minerals Operations.

January 19, 1982.

[FR Doc. 82-2115 Filed 1-27-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico State Office; To Prepare Wilderness Plan Amendments Statewide

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare wilderness plan amendments and a statewide environmental impact statement.

SUMMARY: The Department of the Interior, Bureau of Land Management, New Mexico is beginning preparation of Plan Amendments for wilderness including a statewide Environmental Impact Statement (EIS). The plan amendments and EIS will consider the suitability of designating the remaining 44 Wilderness Study Areas (WSA's) in New Mexico as wilderness or for release to other land uses.

FOR FURTHER INFORMATION CONTACT: Dan Wood, Wilderness Coordinator, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501; Telephone: (505) 988-6227; FTS 476-6227.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice of April 14, 1981, a Notice of Intent was published to do a Management Framework Plan Amendment for the Ladrones and Petaca Pinta WSA's. This plan amendment will now be incorporated into this Statewide effort.

A **Federal Register** notice was also issued on January 23, 1981 for a Resource Management Plan (RMP) for the Las Cruces District and a **Federal Register** Notice was issued on June 25, 1981 for an RMP in the Roswell District. Wilderness recommendations were scheduled to be developed in these RMP's; however, due to budgetary constraints, these RMP's have been cancelled and the affected WSA's will be processed as plan amendments in the statewide effort.

Three Wilderness Study Areas in San Juan County are being processed in a separate EIS which is scheduled for release later this year. A Final EIS is currently being prepared for the El Malpais Instant Study Area in Cibola County. The remaining 44 WSA's in New Mexico will be handled through this Statewide plan amendment process.

The plan amendments and EIS for the Statewide process will recommend the following WSA's as either suitable or unsuitable for designation as wilderness by Congress as provided in Pub. L. 88-577:

WILDERNESS STUDY AREAS (WSA'S) IN THE STATEWIDE STUDY

Name	WSA No.	Acreage
Albuquerque District		
TAOS Resource Area:		
Navajo Peak	NM-010-59	7,750
Sabinosa	NM-010-55	15,760
San Antonio	NM-010-35	7,050
Rio Puerco Resource Area:		
Cabezon Peak	NM-010-22	7,235
Ojito	NM-010-24	11,200
Chamisa	NM-010-21	11,091
Ignacio Chavez	NM-010-20	23,928
Empedrado	NM-010-53	8,419
La Lena	NM-010-53A	9,359
Manzano	NM-010-92	645
Socorro District		
Jornada Resource Area:		
Sierra Ladrones	NM-020-016	28,922
Petaca Pinta	NM-020-014	12,440
Devil's Backbone	NM-020-047A	5,820
Veranito	NM-020-035	7,450
Stallion	NM-020-040	22,000
Jornada Lava Flow	NM-030-061	21,000
Las Canas	NM-020-038	11,000
San Augustine Resource Area:		
Rimrock	NM-020-007	29,430
Little Rimrock	NM-020-009	9,540
Pinon	NM-020-010	13,160
Sand Canyon	NM-020-008	5,320
Mesita Blanca	NM-020-018	19,400
Eagle Peak	NM-020-019	43,520
Horse Mountain	NM-020-042	5,140
Continental Divide	NM-020-044/45	70,000
Las Cruces District		
White Sands Resource Area:		
Brokeoff Mountains	NM-030-112	29,500
Culp Canyon	NM-030-152	10,937
Las Cruces/Lordsburg:		
Cowboy Spring	NM-030-007	6,710
Gila Box	NM-030-023	8,950
Blue Creek	NM-030-026	13,084
Cooke Range	NM-030-031	19,870
Big Hatchet Mountains	NM-030-035	85,950
Alamo Hueco Mountains	NM-030-036	20,840
Cedar Mountains	NM-030-042	17,780
West Potrillo Mtns	NM-030-052	150,545
Aden Lava Flow	NM-030-053	24,725
Robledo Mountains	NM-030-063	11,640
Las Uvas Mountains	NM-030-065	10,680
Organ Mountains	NM-030-074	7,200
Roswell District		
Roswell Resource Area:		
Carrizozo Lava Flow	NM-060-110A	11,000
Carlsbad Resource Area:		
Lonesome Ridge	NM-060-001	2,400
Mudgetts	NM-060-019	2,700
McKittric Canyon	NM-060-145	120
Devils Den	NM-060-145	320

Wilderness Analysis Reports (WAR's) will be done for each WSA and draft Environmental Assessments (EA's) will be done for each of the eight resource areas. After public review and comment, these draft EA's will be finalized by District and the final EA's will be used during scoping of the draft EIS. After public review of the draft EIS, a final EIS will be prepared and transmitted to Congress. The schedule is as follows:

Initial scoping: January 11, 1982 to May 3
Release draft EA's: November 12, 1982
Complete final EA's: March 1983
Scoping to draft EIS: March to June
Release draft EIS: September 1983
Complete final EIS: December 1983

This process emphasizes site-specific concerns during the EA phase and more general concerns in the Statewide EIS. The BLM Wilderness Study Criteria will be applied. If the results of mineral studies are not available during preparation of the draft EA this information will be utilized in the Final EA or the EIS. Also, consideration of ecosystem diversity will be applied in the draft EIS.

Anticipated issues include the quality of wilderness values, manageability, and resource conflicts, particularly energy and minerals, which are issues common to most WSA's. Alternatives to be considered in the EA's and the Statewide EIS will include recommendations as to the suitability or unsuitability of the WSA's, developed in accordance with the criteria established in the BLM Final Wilderness Study Policy.

The studies will be developed through as interdisciplinary approach with expertise in a broad spectrum of professional disciplines: Geology, soils, vegetation, wildlife, archaeology, recreation, wilderness management, and range management. The teams will be under the direct supervision of the Resource Area Managers. A team approach will also be utilized to develop the Statewide EIS.

The public will be given frequent opportunity to participate in the wilderness process. Their input crucial to producing quality documents and recommendations. The benchmarks of public involvement include:

1. Initial scoping and input into the Wilderness Analysis Reports;

2. Comment period on the draft Environmental Assessment;

3. Scoping for the Environmental Impact Statement based on the final Environmental Assessment; and

4. Comment period for the draft Environmental Impact Statement.

Input from the public is especially needed concerning various resource values and uses of the Wilderness Study Areas. Public comment in the past was crucial in providing information that aided our site inventories upon which WSA designation was based. This information will be carried forward as the final phase begins. All resource values and conflicts in the WSA's will now be considered to determine the best use of the land. Information concerning these issues is now needed from the public.

Information and records concerning the studies will be available at the appropriate District or Area Offices for public inspection upon request.

Charles Luscher,

State Director.

January 15, 1982.

[FR Doc. 82-2114 Filed 1-27-82; 8:45 am]

BILLING CODE 4310-84-M

Lands Closed Due to Herbicide Application Operations; Willamette, Oregon

AGENCY: Bureau of Land Management.

ACTION: Closure of lands and roads.

SUMMARY: Lands closed due to herbicide application operations.

ADDRESS: 3040 Biddle Road, Medford, Oregon 97501.

FOR FURTHER INFORMATION CONTACT:
Gary Ryan, (503) 776-4217.

Wayne A. Boden,

Acting District Manager.

Oregon; Closure of Lands and Roads During Herbicide Application Operations

Notice is hereby given that public access to certain public lands and roads in the Medford District will be temporarily prohibited during herbicide application operations in accordance with the provisions of 43 CFR 6010.4. These closures do not apply to emergency, law enforcement, and federal or other government personnel while performing emergency or official acts, or to persons authorized to be present by permit or contract.

The following described lands and the roads thereon shall be closed.

Spring-Early Summer Herbicide Program

Lands to be Closed—

Willamette Meridian, Oregon:

T. 32 S., R. 5 W.,
Sec. 5, NE¼, E½NW¼;
Sec. 23, N½NE¼; and
T. 33 S., R. 3 W.,
Sec. 5, NW¼NW¼;
Sec. 17, SE¼NE¼;
Sec. 19, SW¼;
Sec. 23, N½SW¼, S½NE¼, N½SE¼;
Sec. 33, W½SW¼; and
T. 33 S., R. 4 W.,
Sec. 33, NW¼SE¼, NE¼SW¼, NW¼SE¼; and
T. 33 S., R. 5 W.,
Sec. 9, N½; and
T. 33 S., R. 6 W.,
Sec. 31, NE¼NW¼, NW¼NE¼; and
T. 34 S., R. 3 W.,
Sec. 15, NE¼NE¼;
Sec. 19, S½SE¼, W½SW¼, N½NE¼;
Sec. 21, N½SW¼, S½NW¼;
Sec. 30, SE¼; and
T. 34 S., R. 4 W.,
Sec. 3, N½, N½S½, SW¼SW¼;
Sec. 9, SW¼NW¼, NW¼SE¼, SW¼NE¼;
Sec. 17, SW¼SE¼; and
T. 34 S., R. 6 W.,
Sec. 15, NE¼NW¼;
Sec. 21, NE¼NE¼, S½NW¼; and
T. 35 S., R. 4 W.,
Sec. 1, NW¼SW¼, SW¼NW¼; and
T. 35 S., R. 5 W.,
Sec. 1, E½SW¼, SW¼SW¼;
Sec. 25, NE¼SE¼; and
T. 36 S., R. 4 W.,
Sec. 13, S½SW¼, SW¼SE¼;
Sec. 22, SE¼SE¼;
Sec. 23, SW¼, N½NW¼, E½NE¼;
Sec. 24, NW¼NW¼;
Sec. 26, N½NW¼;
Sec. 27, NE¼NE¼; and
T. 37 S., R. 2 E.,
Sec. 23, SE¼NE¼, NE¼SE¼; and
T. 37 S., R. 3 W.,
Sec. 9, SW¼;
Sec. 23, All; and
T. 37 S., R. 4 W.,
Sec. 5, All;
Sec. 7, S½;
Sec. 17, NW¼;
Sec. 18, N½;
Sec. 27, SW¼, S½NW¼, SW¼NE¼, W½SE¼; and
T. 37 S., R. 5 W.,
Sec. 11, All;
Sec. 13, N½N½;
Sec. 14, N½N½; and
T. 38 S., R. 2 W.,
Sec. 21, S½SW¼, NE¼SW¼;
Sec. 25, All;
Sec. 29, E½;
Sec. 31, N½, SE¼; and
T. 38 S., R. 3 W.,
Sec. 21, S½SE¼, NE¼SE¼;
Sec. 22, SW¼; and
T. 38 S., R. 4 W.,
Sec. 23, N½NE¼;
Sec. 31, N½; and
T. 38 S., R. 5 W.,
Sec. 30, N½SE¼; and
T. 38 S., R. 6 W.,
Sec. 8, SW¼SW¼;
Sec. 17, NW¼NW¼;
Sec. 35, NE¼SE¼; and
T. 39 S., R. 2 W.,
Sec. 1, SW¼;
Sec. 2, SE¼;
Sec. 9, E½NW¼;
Sec. 11, NE¼;
Sec. 12, NW¼;
Sec. 15, S½;
Sec. 22, N½N½, SE¼NW¼, E½;
Sec. 23, N½, W½SW¼, NE¼SW¼, W½SE¼;
Sec. 27, S½;
Sec. 34, N½; and
T. 39 S., R. 3 W.,
Sec. 7, All;
Sec. 8, All;
Sec. 17, N½;
Sec. 18, N½; and
T. 39 S., R. 4 W.,
Sec. 11, All;
Sec. 12, All;
Sec. 17, SW¼;
Sec. 19, NE¼;
Sec. 20, NW¼;
Sec. 22, E½;

Sec. 23, W½; and
T. 40 S., R. 2 W.,
Sec. 5, All;
Sec. 6, SE¼;
Sec. 7, All; and
T. 40 S., R. 3 W.,
Sec. 1, S½;
Sec. 12, N½S½; and
T. 40 S., R. 3 E.,
Sec. 16, SW¼SE¼, SE¼SW¼;
Sec. 21, SE¼, E½NE¼.

Roads to be Closed—

B. L. M. Road Numbers

32–3–31.4;	37–4–4;
33–3–17.3;	37–4–4.1;
33–3–19.1;	37–4–22;
33–3–23;	37–4–27.1;
33–3–23.1;	37–4–27.3;
33–3–28D;	37–5–1;
33–3–30.1;	37–5–11;
33–3–33;	37–5–14.1;
33–3–33.1;	
33–3–33.4;	38–2–21;
33–4–2.3;	38–2–24;
33–4–33.2;	38–2–25;
33–4–33.4;	38–2–26.1;
33–4–33.5;	38–2–28;
	38–2–29.2;
33–5–22;	38–2–31;
34–3–3;	38–3–32;
34–3–14;	38–3–33;
34–3–15.2;	38–4–17;
34–3–17;	38–4–31;
34–3–19;	
34–3–20;	38–5–6.1;
34–3–21;	38–5–31.4;
34–3–24;	38–5–33;
34–3–30;	38–6–3;
34–3–30.1;	
34–3–32;	39–2–1;
34–3–32.2;	39–2–12.2;
	39–2–27;
34–4–2;	39–2–28;
34–4–2.3;	
34–4–3.1;	39–3E–32.3;
34–4–3.2;	39–3–5.3;
34–4–5.1;	39–3–7;
34–4–5.2;	39–3–8;
34–4–9;	39–4–19.1;
34–4–10;	39–4–22.2;
34–4–23;	39–4–23.2;
34–4–31;	39–6–1.5;
34–6–11.1;	40–2–2;
34–6–20;	40–2–5.2;
35–3–5;	40–2–7;
	40–2–7.1;
35–4–1;	40–2–7.2;
35–4–8;	40–2–16;
35–5–1;	40–3–11;
35–5–1.1;	40–3–12;
35–5–25;	40–3–12.1;
35–5–25.3;	40–3E–16;
35–5–35;	40–3E–21.
37–2E–24.1;	

A total of approximately 17,600 acres of public lands and 50 miles of road will be involved in this closure. This closure will be effective during the performance of herbicide application operations. During such times a closure notice shall be posted at normal access points and at appropriate road junctions. The lands affected shall be listed on the closure notice and designated on an attached map. Copies of these detailed closure notices will also be available at the following locations:

Oregon State Office, 729 NW Oregon Street, Portland, OR 97208
Medford District Office, 3040 Biddle Road, Medford, OR 97501

The purpose of these closures is to insure the effectiveness of the herbicide application program design features as developed in the Environmental Statement entitled *Vegetation Management with Herbicides: Western Oregon 1978–1987*, to protect the health and safety of the public and to prevent interference with the silvicultural treatment of these lands. Persons violating this closure order are subject to arrest and criminal prosecution under Oregon Revised Statute 164.245 (criminal trespass in the second degree; 30 days and/or $250) or 43 CFR 6010.6 and 43 U.S.C. 1733 (1 year and/or $1000).

This closure notice expires on July 1, 1982.

Wayne A. Boden,

Acting District Manager.

[FR Doc. 82–2198 Filed 1–27–82; 8:45 am]

BILLING CODE 4310–84–M

Oklahoma; Availability of Draft MFP Amendment; Public Meeting and Request for Comments on Fair Market Value

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft MFP amendment; public meeting and request for comments on fair market value.

SUMMARY: This notice will serve three purposes: (1) To advise the public that the Albuquerque, New Mexico, District Office of the Bureau of Land Management (BLM) has released a draft amendment to the Southeast Oklahoma Management Framework Plan (MFP) and opened the thirty-day public review and comment period; (2) To notify the public of a meeting scheduled for February 11, 1982, to present the findings of the amendment and hear comments; and (3) To solicit written public comment concerning the fair market value of the coal resources presented in the amendment.

FOR FURTHER INFORMATION CONTACT: Dr. Srinivas Rao, (405) 231–4461, Oklahoma Resource Area Office, Bureau of Land Management, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102.

1. Availability of Draft MFP Amendment

Prepared in response to a competitive lease application by HFGO Inc., the MFP amendment covers a 170-acre area in LeFlore County, Oklahoma, 7 miles northwest of the town of Spiro, and 1 mile southwest of the community of Tucker. The legal description of the lease application area (LAA) is as follows:

Township 9 North, Range 24 East, Indian Meridian, Oklahoma:
Section 3:
NE/4 NE/4
NW/4 SE/4 NE/4
SW/4 NE/4
NW/4 NW/4 SE/4
NE/4 SW/4
NW/4 SE/4 SW/4
N/2 SW/4 SW/4

The amendment incorporates the lease application area into the Southeast Oklahoma MFP. Application of unsuitability criteria (43 CFR Part 3461), interrelationships with existing land use decisions, coordination with other state and federal agencies, and analysis of those values that could be impacted by coal development have been addressed in the amendment.

Comments on the draft MFP amendment should be addressed to the Oklahoma Resource Area Office (address above) to arrive no later than 30 days from the date of this notice.

2. Public Meeting

A public meeting will be held Thursday, February 11, 1982, at 7:30 p.m. in the old school building (now the community center) in Tucker, Oklahoma. The purpose of the meeting is to present the findings of the MFP amendment, application of unsuitability criteria, and to hear comments from the public on the proposal and analysis. During the public meeting, the U.S. Geological Survey will be available to answer questions on the economic evaluation and the mining methods to be used in recovery of the coal. Comments received at the meeting, both oral and written, will be considered in preparation of the final MFP amendment.

3. Request for Public Comment on Fair Market Value of the Coal Resource

The public is invited to submit written comments concerning the fair market value of the coal resource in the lease application area to the BLM and to the U.S. Geological Survey. Public comments will be used in establishing fair market value for the coal resources in the area described above. Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource; the price that the mined coal would bring in the marketplace; the cost of producing the coal; the probable timing and rate of production; the interest rate at which

anticipated income streams would be discounted; depreciation and other accounting factors; the expected rate of industry return; the value of the surface estate (if private surface); and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time. These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. If any information submitted is considered proprietary by the person submitting it, the information should be labeled as such and stated in the first page of the submission. Comments on fair market value should be sent to both the State Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, and to the Conservaton Manager, South Central Region, Conservation Division, U.S. Geological Survey, P.O. Box 26124, Albuquerque, New Mexico 87125, to arrive no later than 30 days after the date of this notice.

The coal resource to be evaluated consists of all the coal minable by surface methods in the 170-acre LAA. The estimated total strippable reserves are 138,000 tons. The quality of the Stigler coal bed is as follows: 13,000 British thermal units (Btu) per pound of coal; 2 percent sulfur, and 6 to 12 percent ash. The Stigler coal bed averages 1.3 feet in thickness at strippable depths of less than 70 feet over approximately 73 acres of the LAA.

L. Paul Applegate,

Albuquerque District Manager.

January 18, 1982.

[FR Doc. 82–2112 Filed 1–27–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Mesa Garden, Belen, New Mexico.—PRT 2–1571.

The applicant requests a permit to export and conduct interstate commerce in artificially propagated specimens of the following endangered and threatened species of Cactaceae, including seeds and whole plants thereof:

Ancistrocactus tobuschii
Coryphantha minima
C. ramillosa
C. sneedii var. *leei*
C. sneedii var. *sneedii*
Echinocereus kuenzleri
E. lloydii
E. triglochidatus var. *inermis*
E. viridiflorus var. *davisii*
Neolloydia mariposensis
Pediocactus bradyi
P. *knowltonii*
P. peeblesianus
P. sileri
Sclerocactus glaucus
S. mesae-verde
S. wrightiae

Applicant: San Diego Wild Animal Park, Escondido, CA—PRT 2–8780.

The applicant requests a permit to import two yellow-footed rock wallabies (*Petrogale xanthopus*) from the Royal Zoological Society of South Australia.

Applicant: Kenneth Kalenak, Saginaw, MI—PRT 2–8766.

The applicant requests a permit to purchase in interstate commerce 16 captive-bred Nene geese (*Branta sandvicensis*) from various sources for enhancement of propagation.

Applicant: National Zoological Park, Washington, DC—PRT 2–8776.

The applicant requests a permit to import one captive-born white-naped crane (*Grus vipio*) from the Hong Kong Zoo for enhancement of propagation.

Applicant: New York Zoological Society, Bronx, NY—PRT 2–8758.

The applicant requests a permit to import two male and two female captive-born white-naped cranes (*Grus vipio*) from the People's Republic of China for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before March 1, 1981, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 22, 1982.

Lee Robinson,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–2255 Filed 1–27–82; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: San Francisco Zoological Gardens, San Francisco, CA—PRT 2–8743.

The applicant requests a permit to export one male captive-bred jaguar (*Panthera onca*) to Parc Safari, Quebec, Canada for the purpose of enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI—PRT 2–8745.

The applicant requests a permit to purchase in interstate commerce one jaguar (*Panthera onca*) from Bensen's Wild Animal Park, New Hampshire for the purpose of enhancement of propagation.

Applicant: Reptile Supply, Ft. Lauderdale, FL—PRT 2–8756.

The applicant requests a permit to purchase in interstate commerce four captive-bred Radiated tortoise (*Testudo radiata*) from the Gladys Porter Zoo, Brownsville, Texas for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before March 1, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 20, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–2256 Filed 1–27–82; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Shell Oil Company has submitted a Development and Production Plan

describing the activities it proposes to conduct on Lease OCS 0478, Block 116, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 20, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-2116 Filed 1-27-82; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease Nos. W-0322255, W-0321780, B-031719]

Availability of Final Environmental Impact Statement on the Proposed Antelope Mine Converse County, Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of final environmental impact statement (OSM–EIS–5).

SUMMARY: Pursuant to § 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, has prepared a final environmental impact statement (EIS) on the proposed Antelope Mine. The EIS has been written to assist the Department in making a decision on Northern Energy Resources Company's (NERCO) application to surface mine about 260 million tons of coal over a period of 29 years. The proposed site is 65 miles south of the City of Gillete, and 55 miles north of Douglas, Wyoming. The mine would encompass 7,641 acres of State, private and Federal land (Thunder Basin National Grasslands) of which 5,860 acres would be disturbed for mining, roads, and facilities.

ADDRESSES: Copies of the final EIS may be obtained from: Richard E. Dawes, Acting Administrator, Office of Surface Mining, Brooks Tower, 1020 Fifteenth Street, Denver, Colorado 80202.

Copies are also available for review at the Converse County Courthouse and the Douglas Library, Douglas, Wyoming; and at the State of Wyoming, Department of Environmental Quality, 401 West Nineteenth Street, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Floyd L. Johnson (telehone: 303–837–2451) Office of Surface Mining, Brooks Tower, 1020 Fifteenth Street, Denver, Colorado 80202.

SUPPLEMENTARY INFORMATION: The EIS evaluates three alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Wyoming. Those alternatives are approval, disapproval, and no action.

OSM, with assistance from the Geological Survey, Forest Service, Interstate Commerce Commission, and State of Wyoming, has analyzed the impacts of the alternatives. The final EIS consists of two documents: Volume 1—response to letters of comment, letters of comment and changes made to the draft EIS and Volume 2—the draft EIS. Therefore, both documents are needed for complete EIS information.

Dated: January 25, 1982.

James R. Harris,

Director.

[FR Doc. 82-2117 Filed 1-27-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent to Perform Interstate Transportation for Certain Nonmembers

Dated: January 25, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) American Farmers Cooperative
(2) 1635 South Laredo St., San Antonio, TX 78207
(3) 1635 South Laredo St., San Antonio, TX 78207
(4) Hamp Scrugge, 1635 S. Laredo St. San Antonio, TX 78207

(1) Darylea Cooperative Inc.
(2) One Blue Hill Plaza, Pearl River, NY 10965
(3) P.O. Box 548, Oneida, NY 13421
(4) Frank Reile, P.O. Box 548, Oneida, NY 13421

(1) Nationwide Transportation, Inc.
(2) P.O. Box 52, Bismark, Missouri 63624
(3) 1008 Main St., Bismark, MO 63624
(4) Clarence E. Coleman, P.O. Box 52, Bismark, MO 63624

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2225 Filed 1-27-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP4–17

Decided: January 21, 1982.

MC 12566 (Sub-1), filed January 11, 1982. Applicant: MILLER TOURS, INC., Suite 245, Glendale Bldg., 6100 North Keystone Ave., Indianapolis, IN 46220. Representative: Harry J. Harman, 700 Harrison Bldg., 143 West Market St., Indianapolis, IN 46204, (317) 634–4242. To engage in operations, in interstate or foreign commerce, as a *broker*, at Indianapolis, IN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage, in special and charter operations, between points in IN, and points in the U.S.*

MC 21866 (Sub-199), filed January 12, 1982. Applicant: WEST MOTOR FREIGHT , INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Robert R. Harris, 1730 M St., NW, Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *printed matter*, between points in Rockingham County, VA, on the one hand, and, on the other, points in CT, DE, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

MC 37896 (Sub-55), filed January 11, 1982. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., N.W., Washington, DC 20006, (202) 833–1170. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in Butler and Hamilton Counties, OH and Kenton County, KY, on the one hand, and, on the other, points in the U.S.

MC 99676 (Sub-2), filed January 13, 1982. Applicant: F. KIRCHNER & SON CO., INC., 421 Industrial Dr., P.O. Box 325, Harrison, OH 45030. Representative: Norbert B. Flick, 2250 Beechmont Ave., P.O. Box 30–L, Cincinnati, OH 45230, (513) 231–4831. Transporting (1) *machinery and machinery parts*, and *iron and steel articles*, between Cincinnati, OH, on the one hand, and, on the other, points in KY, MO, OH, and PA; and (2) *general commodities* (except classes A and B explosives), between Cincinnati, OH, on the one hand, and, on the other, points in OH. CONDITION: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of the certificate of registration in MC–99676 Sub 1.

MC 118816 (Sub-9), filed January 15, 1982. Applicant: MATERIALS TRANSPORT SERVICES, INC., P.O. Box 33, Northampton, PA 18067. Representative: Joseph A. Bubba, 740 Hamilton Mall, Allentown, PA 18101. (215) 439–1451. Transporting *clay, concrete, glass or stone products*, between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada.

MC 141516 (Sub-9), filed January 11, 1982. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, ME 04988. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773–5651. Transporting *general commodities* (except household goods, commodities in bulk, and Classes A and B explosives), between points in the U.S. under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 147886 (Sub-17), filed January 11, 1982. Applicant: A M & M INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901) 526–4114. Transporting (1) *scrap metals* and *metal products*, between points in Madison County, TN, on the one hand, and, on the other, points in IL, IN, PA, MO, TX, AL, NC, OH, GA, KY, and AR; (2) *furniture; fixtures; metal products;* and *fluorescent lighting fixtures*, between points in Hennepin County, MN, on the one hand, and, on the other, points in the U.S.

MC 147906 (Sub-8), filed January 12, 1982. Applicant: KOHN TRANSPORT, INC., 4840 Southway, SW., Canton, OH 44706. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *food and related products*, between points in OH and PA, on the one hand, and, on the other, points in NC and GA.

MC 152406 (Sub-5), filed January 11, 1982. Applicant: TEXAS WESTERN EXPRESS, INC., Suite 502, 301 NE Loop 820, Hurst, TX 76053. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103 (817) 332–4718. Transporting *petroleum and related products*, between points in the U.S., under continuing contract(s) with Pennzoil Products Company, of Maryland Heights, MO.

MC 155796 (Sub-3), filed January 11, 1982. Applicant: TRANSPORTATION LTD. 440 Commercial Federal Tower, 2120 S. 72nd St., Omaha, NE 68124. Representative: Arthur J. Cerra 2100 CharterBank Center, P. O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *frozen bakery products*, between points in the U.S., under continuing contract(s) with Lender's Bagel Bakery, Inc., of West Haven, CT.

MC 156986 (Sub-1), filed January 11, 1982. Applicant: FIVE STAR

TRUCKING, INC., 14934 Minnetonka Industrial Rd., Minnetonka, MN 55343. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *general commodities,* (except classes A and B explosives), between points in IA, MN, ND, SD, WI, MT, the upper peninsula of MI, NE, and IL.

MC 158686, filed January 11, 1982. Applicant: PHILLIPS INDUSTRIES, INC., 4801 Springfield St., Dayton, OH 54501. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting (1) *mental products,* and (2) *clay, concrete, glass and stone products,* between points in the U.S., under continuing contract(s) with Preway, Inc., of Wisconsin Rapids, WI.

MC 159316 filed January 11, 1982. Applicant: RONNIE J. NEEL CO., INC., Route 3, Box 773–B Tazewell, VA 24651. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *such commodities as are dealt in or sold by manufacturers and distributors of mining supplies, equipment, and machinery,* between points in AL, GA, IL, IN, KY, MD, MI, NC, NY, OH, PA, SC, TN, VA, and WV.

MC 160026, filed January 11, 1982. Applicant: C & W TRUCKING, INC., 505 N. 18th, Grand Forks, ND 58201. Representative: Lloyd Corbit (same address as applicant), (701) 775–9167. Transporting *food and related products,* between points in ND and TX.

Volume No. OP4–19

Decided: January 21, 1982.

MC 91306 (Sub-42), filed January 5, 1982. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 Ninth Ave. N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, 1029 Vermont Ave., N.W., Washington, DC 20005, (202) 347–9332. Transporting *general commodities (except classes A and B explosives, commodities in bulk, and household goods)* between points in the U.S., in and east of MN, IA, MO, AR, and LA.

MC 160046, filed January 11, 1982. Applicant: MICHAEL R. IRVIN, d.b.a. IRVIN TRANSFER, POB 506, Shelby, MT 59474. Representative: William E. Seliski, 2 Commerce St., POB 8255, Missoula, MT 59807, (406) 543–8369. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points on Pondera, Toole, Liberty and Glacier Counties, MT.

MC 160056, filed January 11, 1982. Applicant: NORTH ATLANTIC BUS LINES, INC., 26 Court St., Brooklyn, NY 11241. Representative: Jeremy Kaln, 1511 K Street N.W., Washington, DC 20005, (202) 783–3525. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, between points in the U.S. (except HI), under continuing contract(s) with All State Bus Corp., of Brooklyn, NY.

Volume No. OP4–20

Decided: January 19, 1982.

MC 118527 (Sub-8), filed January 6, 1982. Applicant: SOURDOUGH EXPRESS, INC., Box 73398 (600 Driveway St.), Fairbanks, AK 99707. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055, (206) 235–4731. Transporting *general commodities* (except classes A and B explosives), (1) between Seattle, WA, on the one hand, and, on the other, points in AK, (2) between points in the Seattle, WA commercial zone and (3) between points in AK.

MC 141777 (Sub-2), filed January 11, 1982. Applicant: KENNETH D. SIMPSON, d.b.a. SIMPSON TRUCKING, R.R. #5, Box 427, Fairfield, IL 62837. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *automobile parts* and castings, between points in the U.S.

MC 146457 (Sub-7), filed January 11, 1982. Applicant: PAISLEY TRUCKING, INC., Box 208, Durango, IA 52309. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *fertilizers,* between points in Dane County, WI on the one hand, and, on the other, points in Clayton, Delaware, Dubuque and Jackson Counties, IA.

MC 147727 (Sub-3), filed January 11, 1982. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204. Transporting *wines, brandy; spirits, fruit juice and fruit must,* between points in CA, ID, OR and WA.

MC 153877, filed January 7, 1982. Applicant: A. L. ZARY TRANSPORT LTD., 210 Vancouver Ave. S., Saskatoon, Sask, CD S7M 3M9. Representative: Robert G. Gleason, 1127–10th East, Seattle, WA 98102, (206) 325–8875. Transporting *chipboard, particle board, lumber, plywood and waferboard,* between the ports of entry on the International Boundary line between the U.S. and Canada at points in Toole County, MT, Boundary County, ID, and Whatcom County, WA, on the one hand, and, on the other, points in WA, OR, ID, and MT.

MC 158537 (Sub-2), filed January 8, 1982. Applicant: ARTY G. WILLIAMSON, d.b.a. G & D TRUCKING, Route 3, Box 413, Proctorville, OH 45669. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting (1) *food and related products, and* (2) *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Clay Farm Bureau Cooperative, of Clay, WV, Southern States Huntington Coop., Inc., of Huntington, WV, Southern States Pt. Pleasant Coop., of Pt. Pleasant, WV, and Southern States Spencer Cooperative, of Spencer, WV.

MC 159667, filed December 11, 1981, previously notice in the **Federal Register** of December 30, 1981. Applicant: EXECUTIVE SALES PROMOTION, INC., 7c Aylesbury Rd., Timonium, MD 21093. Representative: John S. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passengers and their baggage;* in special and charter operations, (a) between points in MD, VA, DE, and DC, and (b) between points in MD, VA, DE, and DC, on the one hand, and, on the other, points in NC, WV, PA, NJ, and NY.

Note.—The purpose of this republication is to show the type of authority as passenger common carrier. The previous notice inadvertently reflected the authority as passenger broker.

MC 159957, filed January 11, 1982. Applicant: RODGER ROBBINS, d.b.a. P & J TRUCKING COMPANY, P.O. Box 388, Scottsville, TX 75688. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *Mercer commodities and steel products,* between points in the U.S. (except AK and HI), under continuing contract(s) with TRW Rada Pump, Inc., of Marshall, TX, S.O.S.-Hughes, Inc. of Marshall, TX, and Tri-State Welding & Fabricating, Inc., of Marshall, TX.

MC 160047, filed January 11, 1982. Applicant: CARL WOMACK, d.b.a. C & J TRANSPORT, P.O. Box 574, L. C. A. Granberry. Representative: C. W. Ferebee, 3910 F.M. 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting *metal articles and building materials,* between points in TX, LA, AR, OK, and NM.

Volume No. OP4–22

Decided: January 20, 1982.

FF 347 (Sub-3), filed January 11, 1982. Applicant: NORTHERN LIGHTS EXPRESS, INC., 2805 26th Ave. S.W., P.O. Box 3365, Seattle, WA 98114.

Representative: Frank MonteCalvo (same address as applicant), (206) 938–6345. As a freight forwarder, in connection with the transportation of *general commodities* (except household goods), (1) between points in CA and OR, and (2) between points in OR and WA.

MC 3647 (Sub-486), filed January 12, 1982. Applicant: TRANSPORT OF NEW JERSEY, 180 Boyden Ave., Maplewood, NJ 07040. Representative: James R. Zazzali, McCarter Hwy and Market St., P.O. Box 10009, Newark, NJ 07101, (201) 648–6908. *Over regular routes,* transporting *passengers and their baggage,* and express, in the same vehicle with passengers, (1) between Pompton Lakes, and Wayne, NJ, serving all intermediate points: from junction Wanaque Ave. and Colfax Ave., Pompton Lakes, NJ, over Colfax Ave. to junction Lakeside Ave., then over Lakeside Ave. to junction Wanaque Ave., then over Wanaque Ave., to junction Paterson-Hamburg Turnpike, then over Paterson-Hamburg Turnpike to junction Valley Rd., then over Valley Rd. to junction Ratzer Rd., Wayne, NJ., and (2) between points in Wayne, NJ, serving all intermediate points: from junction Paterson-Hamburg Turnpike and Black Oak Ridge Rd., over Black Oak Ridge Rd. to junction NJ Hwy 23, then over NJ Hwy 23, to junction U.S. Hwy 46.

Note.—Applicant proposes to join the above described routes with its existing authorized routes.

MC 129427 (Sub-7), filed January 12, 1982. Applicant: JOSEPH GEORGIANA, INC., 26 Lafayette Ave., Somerset, NJ 08873. Representative: James F. Flint, 406-World Center Bldg., 918-16th St., N.W., Washington, DC 20006, (202) 833–1170. Transporting *waste and scrap materials,* between New York, NY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and MS (except ME, VT, and NH).

MC 136137 (Sub-1), filed January 12, 1982. Applicant: JOHNSON MOVING & STORAGE, 481 Wilmont Rd., Mount Sterling, KY 40353. Representative: James D. Johnson (same address as applicant), (606) 498–1801. Transporting *household goods,* between points in AR, AL, FL, GA, IL, IN, KY, MI, MO, MS, NC, OH, SC, TN, VA, and WV.

MC 143287 (Sub-119), filed January 15, 1982. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th St., N.W., Washington, DC 20005, (202) 223–6680. Transporting (1) *machinery and transportation equipment,* between those points in the U.S. in and east of MT, WY, CO, and NM, and (2) *machinery,* between Cleveland, OH, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, and NM.

MC 144927 (Sub-39), filed January 12, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 W., Remington, IN 47977. Representative: Jack Luck (same address as applicant), (219) 261–3461. Transporting *agricultural chemicals, industrial chemicals and chemical products,* between points in the U.S. (except AK and HI).

MC 146447 (Sub-21), filed January 12, 1982. Applicant: TANBAC, INC., P.O. Box 22566, Ft. Lauderdale, FL 33335. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with New England Shipping Association Co-operative, of Brockton, MA, and its members.

MC 159807 (Sub-1), filed January 15, 1982. Applicant: L. BRENT CHECKETTS, d.b.a. CEDAR VALLEY TRANSPORT, P.O. Box 315, Hyde Park, UT 84318. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *petroleum and petroleum products,* between points in the U.S., under continuing contract(s) with McFarlane Oil Company Limited, of Edmonton, Alberta, Canada.

MC 160067, filed January 12, 1982. Applicant: LONG'S TRUCKING SERVICE, INC., Route 1, Box 124A, Colfax, IN 46035. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *fertilizers,* between points in the U.S., under continuing contract(s) with Agrico Chemical Company, of Tulsa, OK.

MC 160137, filed January 18, 1982. Applicant: DAVIS, CLADWELL AND ASSOCIATES, INC., d.b.a. CUMBERLAND TOURS, 510 Stahlman Bldg., Nashville, TN 37201. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–7900. To engage in operations, in interstate or foreign commerce, as a *broker,* at Nashville, TN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in special and charter operations, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2250 Filed 1–27–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will

be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members, Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP4–18

Decided: January 21, 1981.

MC 160066, filed January 11, 1982. Applicant: DONALD J. CLARK, 1700 Boxford, Trenton, MI 48183. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. As a *broker of general commodities,* (except household goods), between points in the U.S.

MC 160076, filed January 11, 1982. Applicant: IRVIN L. NORTON AND MARYANN NORTON, 303 N. 11th, Aumsville, OR 97325. Representative: Irvin L. Norton (same address as applicant) (503) 740–1658. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–21

Decided: January 19, 1982.

MC 160027, filed January 7, 1982. Applicant: LORA SMITH, 635 S.E. 11th, Portland, OR 97214. Representative: Lora Smith (same address as applicant) (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160057, filed January 12, 1982. Applicant: GEORGE E. & ELIZABETH A. BENNETT (Partnership) d.b.a. G & E TRANSPORT CO., 16074 S.W. Lake Forest Blvd., Lake Oswego, OR 97034. Representative: George G. Bennett (Same Address as applicant) (503) 635–7105. Transport *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–23

Decided: January 20, 1982.

MC 160077, filed January 11, 1982. Applicant: DARWYN C. METZGER, 7304 S. 300 West, Suite 201, Midvale, UT 84047. Representative: Darwyn C. Metzger, 6715 Hazel Ave., Orangevale, CA 95662 (916) 988–4864. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions,* by the owner of the motor vehicle in such vehicle, between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–135912.

[FR Doc. 82–2228 Filed 1–27–82; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Decisions Volume No. 224]

Motor Carriers; Restriction Removals Decision-Notice

Decided: January 25, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 F.R. 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 3252 (Sub-120)X, filed Jan. 6, 1982. Applicant: MERRILL TRANSPORT CO., P.O. Box 739, Portland, ME 04101. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Sub-No. 116X: broaden (1) between points in ME on and south of a line beginning at a point on the NH-ME line, near Upton, and extending through Upton Livermore Falls to Rockport including the points specified to "between points in ME located in and south of Oxford, Androscoggin, Franklin, Kennebec, Lincoln, and Knox Counties, ME," in part (1).

MC 32882 (Sub-166)X, filed Jan. 18, 1982. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Subs 80, 81, 86, 123, 126, 127, 144F, and 152: (1) broaden (a) cellulose insulation, and materials, supplies and equipment to "building materials", Sub 80; (b) fireplace logs and briquettes to "lumber and wood products", Subs 86 and 123; (c) building materials, lumber, lumber mill products, and wood products to "building materials, lumber and wood products, and pulp, paper and related products", Sub 127; (d) insulation, insulated panels and boards, and materials, equipment and supplies to "building materials and equipment and supplies", Sub 144F; and (e) iron and steel articles to "metal products", Sub 152; (2) remove the following restrictions: (a) except commodities in bulk, in tank vehicles, Subs 80 and 144F; (b) except iron or steel articles and commodities which because of size and weight require the use of special

equipment, and against the transportation of oil field commodities as defined in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459, Sub 81; (c) except automobiles, trucks and buses, other than construction equipment, in truckaway service, and except iron and steel, Sub 126; (d) except origin state; MT, Sub 123; and (e) originating at and/or destined to and the facilities limitations, Subs 80, 81, 86, 123, and 144F; (3) change one-way to radial authority, Subs 80, 81, 86, 123, and 152; and (4) change cities to counties; Salt Lake City, UT (Salt Lake County), Subs 80 and 144F; Hurt and Gonzales, TX (Tarrant and Gonzales Counties), Sub 80; and Flagstaff, AZ (Coconino County), Sub 86.

MC 60066 (Sub-36)X, filed January 19, 1982. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul St., Omaha, NE 68102. Representative: Donald L. Stern, 7171 Mercy Road, Omaha, NE 68106. Lead and Sub-Nos. 4, 9, 15F, 18F, 23F, and authority acquired in MC–F–13306: broaden (1) general commodities (with the usual exceptions) to "general commodities (except household goods, commodities in bulk, and classes A and B explosives)" in the lead, Subs 4, 9, 18 and MC–F–13306; iron and washing machines, farm machinery and parts thereof, to "machinery" in MC–F–13306; shock absorbers to "automotive equipment and parts" in Sub 15 and 18; refined beet and cane sugar to "food and related products" in Sub 23; (2) authorize service to all intermediate points in the lead, MC–F–13306, and Sub 4; (3) delete delivery only restriction in the lead; (4) broaden Cozad, NE, to Dawson County and Batavia, IL, to Kane County in Sub 15; Cozad, NE, to Dawson County, Baltimore and Savage, MD, to Baltimore, Howard and Anne Arundel Counties in Sub 18; York, NE, to York County, Lincoln, Seward, and York, NE, to Lancaster, Seward, and York Counties in MC–F–13306; (5) delete plantsite restrictions in Sub 18; (6) to radial service in the lead, MC–F–13306, and Subs 15, 18.

MC 126196 (Sub-19)X, filed January 11, 1982. Applicant: BLACHOWSKE TRUCK LINE, INC., P.O. Box 530, Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Subs 1, 11, 12, 13, 15, 16 and 18. Broaden: Sub 1, limestone to "clay, concrete, glass, or stone products," phosphate feed supplements to "food and related products", dry bulk fertilizer and dry fertilizer compounds to "chemicals and related products", rendering plant products to "food and related products", hides to "food and related products"; Sub 11, animal and poultry feeds and feed ingredients, to "food and related products"; Sub 12, hides to "food and related products"; Sub 13, linestone to "clay, concrete, glass, or stone products", phosphatic feed supplements to "food and related products"; Sub 15, coal to "coal and coal products"; Sub 16 feed and feed ingredients, grain products and grain byproducts and soybean products and soybean byproducts to "food and related products"; Sub 18 bentonite clay to "clay, concrete, glass, or stone products", foundrys and additives to "clay, concrete, glass, or stone products"; Sub 1, from De Smet, and points within five miles thereof to Kingsbury County, SD; from Omaha, Lynn Center, IL; Milwaukee, WI to Douglas County, NE and Pottawattamie County, IA; Henry County, IL; Milwaukee, Waukesha, Washington, Ozaukee and Racine Counties, WI; from Watertown, SD, Omaha, NE, Lynn Center, Milwaukee, WI; to Codington County, SD; Douglas County, NE, Henry County, IL; Milwaukee, Waukesha, Washington, Ozaukee and Racine Counties, WI; from North Redwood, MN to Redwood County, MN; from Redwood Falls, MN to Redwood County, MN; from Boston, MA, Chicago, IL; Detroit, MI; Houston, TX, New Orleans, LA; New York; NY; Philadelphia, PA; and St. Louis, MO; to Suffolk, Norfolk, Middlesex, Essex, Plymouth, and Bristol Counties, MA; Cook, Lake, Kane, DuPage, Will, and McHenry Counties, IL and Lake and Porter Counties, IN; Wayne, Oakland, Macomb, St. Clair, Livingston, Washtenaw, and Monroe Counties, MI; Harris, Brazoria, Fort Bend, Waller, Montgomery, Liberty, and Chambers Counties, TX; Orleans, St. Bernard, Plaquemines, Jefferson, St. Charles, and St. Tammany Parishes, LA and Hancock County, MS; New York, NY, Philadelphia, Delaware, Montgomery, Bucks, and Chester Counties, PA, and Hunterdon, Mercer, Burlington, Camden, Gloucester and Salem Counties, NJ, and New Castle County, DE; St. Louis, MO and St. Charles, St. Louis and Jefferson Counties, MO, and St. Clair, Madison and Monroe Counties, IL; from Alden, IA to Hardin County, IA; from Minneapolis, Savage, and Pine Bend, MN, to Hennepin, Ramsey, Carver, Anoka, Washington, Scott and Dakota Counties, MN; Sub 11, from Weeping Water, NE to Cass County, NE; Sub 13, from Alden, IA, to Hardin County, IA; Sub 16, from Red Wing, MN, facilities to Goodhue County, MN; Sub 18, from facilities at points in Phillips County, MT; Butte County, SD, and Big Horn, Crook and Weston Counties, WY, to those named counties, and remove restrictions in part (1) against the transportation of bentonite, in bags, to Council Bluffs, IA and Minneapolis, MN, and to transportation of traffic originating at named facilities; in all subs, broaden to radial authority.

MC 127304 (Sub-19)X, filed Jan. 18, 1982. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 North West Street, Valley Center, KS 67148. Representative: Michael J. Ogborn, P.O. Box 8208, Lincoln, NE 68501. Sub-No. 12: (1) broaden meats, meat products, and meat by-products to "food and related products"; (2) remove the exception against the transportation of hides and commodities in bulk other than liquid commodities in tank vehicles; (3) broaden the territorial authority to between points in the U.S. (except AK and HI), under continuing contract(s) with a named shipper; and (4) remove the originating at and destined to shipper's facilities restriction.

MC 129092 (Sub-5)X, filed Jan. 15, 1982. Applicant: HARVEY TRANSPORT LIMITED, 2900 Sud, Avenue du Pont, C.P. 880, Alma, Lake St. John, PO G68B5 5WL, Canada. Representative: Marshall Kragen, Suite 500, 1919 Pennsylvania Ave. N.W., Washington DC 20006. Lead and Subs 2 and 4 permits: (1) broaden (a) planed and dressed lumber to "lumber and wood products, Lead; (b) granite to "clay, concrete, glass or stone products and ores and minerals," Sub 2; and (c) wood pulp, in bales to "pulp, paper, and related products"; and (2) broaden the territorial authority to between points in the U.S., under continuing contract(s) with named shippers.

MC 134668 (Sub-2)X, filed Jan. 4, 1981. Applicant: MARINE TERMINALS, INC., 1775 N.W. 70th Ave., Miami, FL 33126. Representative: William Sembler, One World Trade Center, Suite 1035, New York, NY 10048. Sub 1 permit: (1) remove exceptions of household goods, and cement to authorize "general commodities (except those unusual value, and classes A and B explosives)", and (2) change the territorial authority to between points in the U.S., under continuing contract(s) with named shippers.

MC 134899 (Sub-2)X, filed Jan. 18, 1982. Applicant: FRASSE TRANSPORTATION COMPANY, INC., Three Dakota Drive, Lake Success, NY 11042. Representative: Brian H. Siegel, 1101 Conneciticut Ave., NW, Washington, DC 20036. Sub 1 permit: broaden (1) steel and aluminum articles to "metal products"; (2) to all points in the U.S. (except AK and HI) under

continuing contract(s) with a named shipper.

MC 143775 (Sub-168)X, filed Jan. 12, 1982. Applicant: PAUL YATES, INC., P.O. Box 1059 Glendale, AZ 85301. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW Washington, DC 20001. Sub-No. 164X certificate, broaden to county-wide as follows: Cook, Lake, Du Page, Will and Kane Counties, IL and Lake and Porter Counties, IN (Chicago, IL); Hamilton, Butler, and Clermont Counties, OH, Dearborn County, IN and Boone, Kenton and Campbell Counties, KY (Cincinnati, OH); Fulton, De Kalb, Cobb, Clayton, Henry, Gwinnett and Douglas Counties, GA (Atlanta, GA); Suffolk, Norfolk, Plymouth, Middlesex and Essex Counties, MA (Boston, MA); Mecklenburg, Cabarrus, Gaston, and Union Counties, NC, and York County, SC (Charlotte, NC); Guilford County, NC (Greensboro, NC); Philadelphia, Delaware, Chester, Montgomery and Bucks Counties, PA, New Castle County, DE, and Mercer, Burlington, Gloucester, Camden, Salem, and Hunterdon Counties, NJ (Philadelphia, PA); Greenville, Pickens and Anderson Counties, SC (Greenville, SC); Los Angeles, Ventura, and Orange Counties, CA (Los Angeles, CA); Maricopa and Pinal Counties, AZ (Phoenix, AZ), Jackson, Clay, Platte and Cass Counties, MO, Wyandotte and Johnson Counties, KS (Kansas City, MO); Hartford and Middlesex Counties Counties, CT (Berlin, CT); Milwaukee, Waukesha, Washington, Ozaukee and Racine Counties, WI (Milwaukee, WI); Pulaski, Saline, Faulkner, and Lonoke Counties, AR (Little Rock, AR); Orange, Los Angeles and San Bernardino Counties, CA (Brea, CA); Butler and Sedgewick Counties, KS (Andover, KS); Genesee, Niagara and Wyoming Counties, NY (Buffalo, NY); Tulsa, Creek and Osage Counties, OK (Sand Springs, OK); Carbon and Northampton, PA (Palmerton, PA); and Harris, Brazoria, Galveston, Chambers, Liberty, Montgomery, Waller, Fort Bend, and San Jacinto, Counties, Tx (Houston, TX).

MC 14675 (Sub-2)X, filed Jan. 6, 1982. Applicant: M.E.P. DISTRIBUTORS, INCORPORATED, P.O. Box 3044, CRS, Johnson City, TN 37601. Representative: Eckner Pandzic (same as applicant). Sub 1F, broaden (1) general commodities, with usual exceptions to "general commodities, (except classes A and B explosives)," and (2) remove prior or subsequent movement by rail restriction.

MC 148613 (Sub-1)X, filed October 1, 1981, previously noticed in Federal Register on October 16, 1981, republished to notice the following omission: Applicant: I. PETERS TRANSPORT, LTD., 985 Dugald Road, Winnipeg, Manitoba, Canada R3B1N9. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. Lead: Remove "in foreign commerce only" restriction to provide for service "in interstate or foreign commerce."

MC 150783 (Sub-21)X, filed January 19, 1981. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Harry J. Jordan, Thomas N. Willess, Suite 502, Solar Building, 1000 Sixteenth Street, NW., Washington, DC 20036. Subs 1, 2F, and 3F: broaden (1) general commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)", Sub 1; (2) paper and paper products, plastic and plastic articles and woodpulp to "pulp, paper and related products, lumber and wood products, and rubber and plastic products", Sub 2F; and (3) malt beverages to "food and related products", Sub 3F.

[FR Doc. 82-2282 Filed 1-27-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-87 (Preliminary)]

Certain Seamless Steel Pipes and Tubes From Japan; Preliminary Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-87 (Preliminary) to determine, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of seamless alloy steel (other than stainless or heat-resisting steel) pressure [1] pipes and tubes, provided for in item 610.5209 of the Tariff Schedules of the United States Annotated (TSUSA), seamless heat-resisting steel pipes and tubes, provided for in TSUSA items 610.5209, 610.5229, or 610.5234, and seamless stainless steel pipes and tubes, provided for in TSUSA items 610.5205, 610.5229, or 610.5230.

EFFECTIVE DATE: January 20, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Abigail Eltzroth, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0289.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted following receipt of a petition filed by counsel for Babcock & Wilcox Co., a U.S. producer of the subject merchandise. The Commission must make its determination in the investigation within 45 days after the date of receipt of a petition, or by March 8, 1982 (19 CFR 207.17). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission on or before February 12, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., e.s.t., on February 10, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Ms. Abigail Eltzroth, telephone 202-523-0289, not later than February 3, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the investigation and rules of

[1] Suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, and feedwater heaters.

general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Ms. Eltzroth.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

By order of the Commission.

Issued: January 25, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2259 Filed 1-27-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-115]

Certain Power Woodworking Tools, Their Parts, Accessories and Special Purpose Tools; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 16, 1981, under section 337 of the Tariff Act of 1930 (19 U.S.C. section 1337), on behalf of Shopsmith, Inc., 750 Center Drive, Vandalia, Ohio 45377. A supplement to the complaint was filed on January 4, 1982. The complaint, as supplemented, (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of power woodworking tools, their parts, accessories and special purpose tools into the United States, or in their sale, by reason of (a) false designation of source; (b) infringement of registered trademarks; (c) common law trademark infringement; (d) misappropriation, simulation or adoption of trade dress or tradename; (e) passing off; (f) false and deceptive advertising; (g) product disparagement; (h) misappropriation of trade secrets; (i) infringement of registered copyrights; and (j) tortious interference with the business relationships between complainant and its dealers. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission, after a full investigation, issue both a permanent exclusion order and a permanent cease and desist order.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on January 19, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain power woodworking tools, their parts, accessories and special purpose tools into the United States, or in their sale, by reason of the alleged (a) false designation of source; (b) infringement of registered trademarks; (c) common law trademark infringement; (d) misappropriation, simulation or adoption of trade dress or tradename; (e) passing off; (f) false and deceptive advertising; (g) product disparagement; (h) misappropriation of trade secrets; (i) infringement of registered copyrights; and (j) tortious interference with the business relationships between complainant and its dealers, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Shopsmith, Inc., 750 Center Drive, Vandalia, Ohio 45377.

(b) The respondents are the following companies, alleged to be in violation of section 337 by having committed one or more of the unfair acts and unfair methods of competition set forth in paragraph (1), and are the parties upon which the complaint is to be served:

	The letters indicate which of the acts or methods listed in paragraph (1) applies
Johnson Metal Industries Co., Ltd., Suite 1004, Central Building, 2 Chung Shan N. Road, Taipei, Taiwan.	a–f and i.
King Feng Fu Machinery Works Co., Ltd., No. 45 Chung Chin Road, Sec. 1, Ta Ya Tai-chung H Hsien, Taiwan.	a–f and i.
Tops Equipment and Tools Co., Ltd., 2F–7, No. 750 Tunhwa S. Road, P.O. Box 3–69, Taipei, Taiwan.	a–f and i.
Big Joe Industrial Tool Corp., 2421 West 11th Street, Houston, TX 77008, c/o Berk Horowitz, 7620 Washington Avenue, Houston, TX 77007.	a–f and i.
Master Woodcraft & Hobby Machine Co., 800 Spruce Lake Drive, P.O. Box 689, Harbor City, CA 90710, c/o Ralph Morrow, 1000 East Carson, Harbor City, CA 90710.	a–g. i. and j.
United Metal Services, Inc., P.O. Box 16297, Greenville, SC 29606, c/o Donald G. Preston, Route 6, 1 Woodruff Land Industrial Park, Greenville, SC 29607.	a–f and i.
ABCA, Inc., 3728 Benner Road, Miamisburg, OH 45342, c/o Clifford R. Anders, 4616 Woodwell Drive, Kettering, OH 45440.	a–j.
Worcester Tool Factory Outlet, 475 Shrewsbury Street, Worcester, MA 01604.	a–f and i.
Herbert Clark and Associates, 5685 Redwood Drive, Rohnert Park, CA 94928.	a–f and i.

(c) Robert S. Budoff, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission Investigative Attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room

156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Robert S. Budoff, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-0113.

By order of the Commission.

Issued: January 25, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2280 Filed 1-27-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-133]

Trends in International Trade in Printed Circuit Boards and Base Material Laminates; Change of Date of Public Hearing

Notice is hereby given that the time and date for the public hearing to be held in connection with United States International Trade Commission investigation No. 332-133, Trends in International Trade in Printed Circuit Boards and Base Material Laminates, has been changed to 10 a.m., e.d.t., Wednesday, May 5, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. A hearing date of May 12, 1982, had previously been announced in the Commission's notice of institution of the investigation as published in the Federal Register of December 23, 1981 (46 FR 62348). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) April 28, 1982.

By order of the Commission.

Issued: January 25, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2283 Filed 1-27-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Western Electric Company, et al.; Proposed Modification of Final Judgment; United States v. American Telephone and Telegraph Co., et al.; Stipulation for Voluntary Dismissal

Notice is hereby given pursuant to an order of the United states District Court of the District of Columbia, dated January 21, 1982, in Civil Action Nos. 74-1698 and 82-0192 that a proposed Modification of Final Judgment and Stipulation, as set forth below, have been filed, originally with the United States District Court for the District of New Jersey in *United States v. Western Electric Company, et al.*, Civil Action No. 17-49. By order of the District Court in New Jersey dated January 14, 1982, No. 17-49 has been transferred to the United States District Court for the District of Columbia where it has been docketed under Civil Action No. 82-0192. A Stipulation for Voluntary Dismissal, as set forth below, has been lodged with the District Court for the District of Columbia in *United States v. American Telephone and Telegraph Company, et al.*, Civil Action No. 74-1698.

The Complaint in the case now docketed as Civil Action NO. 82-0192 was filed in 1949 and charged the defendants with monopolizing the manufacture and distribution of telephone equipment in violation of the Sherman Act. A consent decree was entered in 1956 in settlement of that case in the District Court in New Jersey. The 1956 Decree contained various restrictions on AT&T's activities.

Under the modified Decree, all of the provisions of the 1956 Decree would be eliminated and replaced by provisions requiring AT&T to undertake an 18-month reorganization, after which local Bell operating companies providing local exchange telephone services would be divested by AT&T. AT&T would continue to own a nationwide intercity network composed of its Long Lines Department and the intercity facilities of the Bell operating companies, and would retain ownership of Bell Telephone Laboratories and Western Electric. AT&T wold also provide customer premises equipment. AT&T's plan for the required reorganization is to be submitted to the Department of Justice for its approval within six months of the effective date of the modified Decree.

The modified Decree would also require the to-be-divested operating companies to provide, on a phased-in basis, exchange access to all intercity carriers equal to that provided to AT&T, and forbid the operating companies from discriminating against AT&T's competitors with respect to procurement, interconnection of equipment or services, the establishment and disclosure of technical specifications, and the planning of new facilities and services. In addition, the modification would require the operating companies, after divestiture, to provide through a centralized organization a single point of contact for coordination of those companies to meet the requirements of national security and emergency preparedness.

Simultaneously with the filing of the modificaiton on January 8, 1982, the Government and AT&T stipulated to dismissal without prejudice of the Government's more recent monopolization case against AT&T (No. 74-1698), which was filed in 1974 in the District of Columbia. In that case, the Government alleged that AT&T had monopolized certain telecommunications services and equipment markets. The reorganization achieved by the modification of the 1956 Decree is similar to the relief that had been sought by the Department of Justice in the 1974 litigation.

Under the terms of the January 21, 1982 court order, the United States, on or before February 5, will file with the District Court in the District of Columbia and publish in the Federal Register a competitive impact statement reciting:

"(1) the nature and purpose of the proceeding;

(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

(3) an explanation of the proposal, including an explanation of any unusual circumstances giving rise to the proposal or any provisions contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief;

(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the Modification of Final Judgment and the Dismissal are entered in these proceedings;

(5) a description of the procedures available for modification of the proposal; and

(6) a description and evaluation of alternatives to the proposal actually considered by the United States."

At the time the competitive impact statement is published in the Federal Register, the United States will invite public comment on the proposed modification.

Joseph H. Widmar,

Director of Operations Antitrust Division.

Stipulation

In the matter of United States of America, Plaintiff v. Western Electric Company, Incorporated, and American Telephone and Telegraph Company, Defendants. Civil Action No. 17-49.

It is stipulated by and between the undersigned parties, Plaintiff, United States of America, and Defendants, American Telphone & Telegraph Company and Western Electric Company, Incorporated, by their respective attorneys, that:

1. The parties consent that a Modification of Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after hearing by the Court and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Modification of Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to Plaintiff or Defendants in this or any other proceeding.

Dated: January 8, 1982.

For The Plaintiff:

William F. Baxter,

Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530.

For the Defendants:

Howard J. Trienens,

Vice President and General Counsel for American Telephone and Telegraph Company, 195 Broadway, New York, New York 10007.

Modification of Final Judgement

In the matter of United States of America, Plaintiff, v. Western Electric Company, Incorporated, and American Telephone and Telegraph Company, Defendants. Civil Action No. 17–49.

Plaintiff, United States of America, having filed its complaint herein on January 14, 1949; the defendants having appeared and filed their answer to such complaint denying the substantive allegations thereof; the parties, by their attorneys, having severally consented to a Final Judgment which was entered by the Court on January 24, 1956, and the parties having subsequently agreed that modification of such Final Judgment is required by the technological, economic and regulatory changes which have occurred since the entry of such Final Judgment;

Upon joint motion of the parties and after hearing by the Court, it is hereby

Ordered, Adjudged, and Decreed that the Final Judgment entered on January 24, 1956, is hereby vacated in its entirety and replaced by the following items and provisions:

AT&T Reorganization

A. Not later than six months after the effective date of this Modification of Final Judgment, Defendant AT&T shall submit to the Department of Justice for its approval, and thereafter implement, a plan of reorganization. Such plan shall provide for the completion, within 18 months after the effective date of this Modification of Final Judgment, of the following steps:

1. The transfer from AT&T and its affilates to the BOCs, or to a new entity subsequently to be separated from AT&T and to be owned by the BOCs, of sufficient facilities, personnel, systems, and rights to technical information to permit the BOCs to perform, independently of AT&T, exchange telecommunications and exchange access functions, including the procurement for, and engineering, marketing and management of, those functions, and sufficient to enable the BOCs to meet the equal exchange access requirements of Appendix B;

2. The separation within the BOCs of all facilities, personnel and books of account between those relating to the exchange telecommunications or exchange access functions and those relating to other functions (including the provision of interexchange switching and transmission and the provision of customer premises equipment to the public); provided that there shall be no joint ownership of facilities, but appropriate provision may be made for sharing, through leasing or otherwise, of multifunction facilities so long as the separated portion of each BOC is ensured control over the exchange telecommunications and exchange access functions;

3. The termination of the License Contracts between AT&T and the BOCs and other subsidiaries and the Standard Supply Contract between Western Electric and the BOCs and other subsidiaries; and

4. The transfer of owership of the separated portions of the BOCs providing local exchange and exchange access services from AT&T by means of a spin-off of stock of the separated BOCs to the shareholders of AT&T, or by other disposition; provided that nothing in this Modification of Final Judgment shall require or prohibit the consolidation of the ownership of the BOCs into any particular number of entities.

B. Notwithstanding separation of ownership, the BOCs may support and share the costs of a centralized organization for the provision of engineering, administrative and other services which can most efficiently be provided on a centralized basis. The BOCs shall provide, through a centralized organization, a single point of contact for coordination of BOCs to meet the requirements of national security and emergency preparedness.

C. Until September 1, 1987, AT&T, Western Electric, and the Bell Telephone Laboratories, shall, upon order of any BOC, provide on a priority basis all research, development, manufacturing, and other support services to enable the BOCs to fulfill the requirements of this Modification of Final Judgment. AT&T and its affiliates shall take no action that interferes with the BOCs' requirements of nondiscrimination established by section II.

D. After the reorganization specified in paragraph A(4), AT&T shall not acquire the stock or assets of any BOC.

II

BOC Requirements

A. Subject to Appendix B, each BOC shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price to that provided to AT&T and its affiliates.

B. No BOC shall discriminate between AT&T and its affiliates and their products and services and other persons and their products and services in the:

1. procurement of products and services;

2. establishment and dissemination of technical information and procurement and interconnection standards;

3. interconnection and use of the BOC's telecommunications service and facilities or in the charges for each element of service; and

4. provision of new services and the planning for and implementation of the construction or modification of facilities, used to provide exchange access and information access.

C. Within six months after the reorganization specified in I(A)4, each BOC shall submit to the Department of Justice procedures for ensuring compliance with the requirements of paragraph B.

D. After completion of the reorganization specified in Section I, no BOC shall, directly or through any affiliated enterprise:

1. provide interexchange telecommunications services or information services;

2. manufacture or provide telecommunications products or customer premises equipment (except for provision of customer premises equipment for emergency services); or 3. provide any other product or service,

except exchange telecommunications and exchange access service, that is not a natural monopoly service actually regulated by tariff.

III

Applicability and Effect

The provisions of this Modification of Final Judgment, applicable to each defendant and each BOC, shall be binding upon said defendants and BOCs, their affiliates, successors and assigns, officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with each defendant and BOC who receives actual notice of this Modification of Final Judgment by personal service or otherwise. Each defendant and each person bound by the prior sentence shall cooperate in ensuring that the provisions of this Modification of Final Judgment are carried out. Neither this Modification of Final Judgemtn nor any of its terms or provisions shall constitute any evidence against, an admission by, or an estoppel against any party or BOC. The effective date of this Modification of Final Judgment shall be the date upon which it is entered.

IV

Definitions

For the purposes of this Modification of Final Judgment:

A. "Affiliate" means any organization or entity, including defendant Western Electric Company, Incorporated, and Bell Telephone Laboratories, Incorporated, that is under direct or indirect common owership with or control by AT&T or is owned or controlled by another affiliate. For the purposes of this paragraph, the terms "ownership" and "owned" mean a direct or indirect equity interest (or the equivalent thereof) of more than fifty (50) percent of an entity. "Subsidiary" means any organization or entity in which AT&T has stock ownership, whether or not controlled by AT&T.

B. "AT&T shall mean defendant American Telephone and Telegraph Company and its affiliates.

C. "Bell Operating Companies" and "BOCs" mean the corporations listed in Appendix A attached to this Modification of Final Judgment and any entity directly or indirectly owned or controlled by a BOC or affiliated through substantial common ownership.

D. "Carrier" means any person deemed a carrier under the Communications Act of 1934 or amendments thereto, or, with respect to intrastate telecommunications, under the laws of any state.

E. "Customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, but does not include equipment used to multiplex, maintain, or terminate access lines.

F. "Exchange access" means the provision of exchange services for the purpose of originating or terminating interexchange telecommunications. Exchange access services include any activity or function performed by a BOC in connection with the origination or termination of interexchange telecommunications, including but not limited to, the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities and the provision of information necessary to bill customers. Such services shall be provided by facilities in an exchange area for the transmission, switching, or routing, within the exchange area, of interexchange traffic originating or terminating within the exchange area, and shall include switching traffic within the exchange area above the end office and delivery and receipt of such traffic at a point or points within an exchange area designated by an interexchange carrier for the connection of its facilities with those of the BOC. Such connections, at the option of the interexchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided similar traffic of AT&T, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carriers. Exchange services for exchange access shall not include the performance by any BOC of interexchange traffic routing for any interexchange carrier. In the reorganization specified in section I, trunks used to transmit AT&T's traffic between end offices and class 4 switches shall be exchange access facilities to be owned by the BOCs.

G. "Exchange area," or "exchange" means a geographic area established by a BOC in accordance with the following criteria:

1. any such area shall encompass one or more contiguous local exchange areas serving common social, economic, and other purposes, even where such configuration transcends municipal or other local governmental boundaries;

2. every point served by a BOC within a State shall be included within an exchange area;

3. no such area which includes part or all of one standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States) shall include a substantial part of any other standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States), unless the Court shall otherwise allow; and

4. except with approval of the Court, no exchange area located in one State shall include any point located within another State.

H. "Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

I. "Information access" means the provision of specialized exchange telecommunications services by a BOC in an exchange area in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services. Such specialized exchange telecommunications services include, where necessary, the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, testing and maintenance of facilities, and the provision of information necessary to bill customers.

J. "Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

K. "Interexchange telecommunications" means telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area.

L. "Technical information" means intellectual property of all types, including, without limitation, patents, copyrights, and trade secrets, relating to planning documents, designs, specifications, standards, and practices and procedures, including employee training.

N. "Telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

O. "Telecommunications" means the transmissions, between or among points specified by the user, of information of the user's choosing, without change in

the form or content of the information as sent and received, by means of electromagnetic transmission, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

P. "Telecommunications service" means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.

Q. "Transmission facilities" means equipment (including without limitation wire, cable, microwave, satellite, and fibre-optics) that transmit information by electromagnetic means or which directly support such transmission, but does not include customer-premises equipment.

V

Compliance Provisions

The defendants, each BOC, and affiliated entities are ordered and directed to advise their officers and other management personnel with significant responsibility for matters addressed in this Modification of Final Judgment of their obligations hereunder. Each BOC shall undertake the following with respect to each such officer or management employee:

1. The distribution to them of a written directive setting forth their employer's policy regarding compliance with the Sherman Act and with this Modification of Final Judgment, with such directive to include:

(a) An admonition that non-compliance with such policy and this Modification of Final Judgment will result in appropriate disciplinary action determined by their employer and which may include dismissal; and

(b) Advice that the BOCs' legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems.

2. The imposition of a requirement that each of them sign and submit to their employer a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the 1982 *United States* v. *Western Electric*, Modification of Final Judgment and a written directive setting forth Company policy regarding compliance with the antitrust laws and with such Modification of Final Judgment, (2) represents that the undersigned has read such Modification of Final Judgment and directive and understands those provisions for which the undersigned has responsibility, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Modification of Final Judgment will result in appropriate disciplinary measures determined by the Company and which may inlcude dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Modification of Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine.

VI

Visitorial Provisions

A. For the purpose of determining or securing compliance with this Modification of Final Judgment, and subject to any legally recognized privilege, from time to time:

1. Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant or after the reorganization specified in Section I, a BOC, made to its principal office, duly authorized representatives of the Department of Justice shall be permitted access during office hours of such defendants or BOCs to depose or inteview officers, employees, or agents, and inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, BOC, or subsidiary companies, who may have counsel present, relating to any matters contained in this Modification of Final Judgment; and

2. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office or, after the reorganization specified in Section I, a BOC, such defendant, or BOC, shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Modification of Final Judgment as may be requested.

B. No information or documents obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States or the Federal Communications Commission, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by a defendant to a plaintiff, such defendant or a BOC represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant or BOC marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days' notice shall be given by plaintiff to such defendant or BOC prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant BOC is not a party.

VII

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Modification of Final Judgment, or, after the reorganization specified in Section I, a BOC to appy to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Modification of Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

Entered this day of , 1982.

United States District Judge.

Appendix A

Bell Telephone Company of Nevada
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
Michigan Bell Telephone Company
New England Telephone and Telegraph Company
New Jersey Bell Telephone and Telegraph Company
New York Telephone Company
Northwestern Bell Telephone Company
Pacific Northwest Bell Telephone Company
South Central Bell Telephone Company
Southern Bell Telephone and Telegraph Company
Southwestern Bell Telephone Company
The Bell Telephone Company of Pennsylvania
The Chesapeake and Potomac Telephone Company
The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
The Diamond State Telephone Company
The Mountain States Telephone and Telephone Company
The Ohio Bell Telephone Company
The Pacific Telephone and Telephone Company
Wisconsin Telephone Company

Appendix B

Phased-In BOC Provision of Equal Exchange Access

A. 1. As part of its obligation to provide non-discriminatory access to interexchange carriers, no later than September 1, 1984, each BOC shall begin to offer to all interexchange carriers exchange access on an unbundeled, tariffed basis, that is equal in type and quality to that provided for the interexchange telecommunications services of AT&T and its affiliates. No later than September 1, 1985, such equal access shall be offered through end offices of each BOC serving at least one-third of that BOC's exchange access lines and, upon bona fide request, every end office shall offer such access by September 1, 1986. Nothing in this Modification of Final Judgment shall be construed to permit a BOC to refuse to provide to any interexchange carrier or information service provider, upon bona fide request, exchange or information access superior or inferior in type or quality to that provided for AT&T's interexchange services or information services at charges reflecting the reduced or increased cost of such access.

2. (i) Notwithstanding paragraph (1), in those instances in which a BOC is providing exchange access for Message Telecommunications Service on the effective date of this Modification of Final Judgment through access codes that do not permit the designation of more than one interexchange carrier, then, in accordance with the schedule set out in paragraph (1), exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide, multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

(ii) Each BOC shall, in accordance with the schedule set out in paragraph (1), offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carrier of the customer's designation.

(iii) At such time as the national numbering area (area code) plan is revised to require the use of additional digits, each BOC shall provide exchange access to every interexchange carrier, including AT&T, through a uniform number of digits.

3. Notwithstanding paragraphs (1) and (2), with respect to access provided through an end office employing switches technologically antecedent to electronic, stored program control switches or those offices served by switches that characteristically serve fewer than 10,000 access lines, a BOC may not be rquired to provide equal access through a switch if, upon complaint being made to the Court, the BOC carries the burden of showing that for particular categories of services such access is not physically feasible except at costs that clearly outweigh potential benefits to users of telecommunications services. Any such denial of access under the preceding sentence shall be for the minimum divergence in access necessary, and for the minimum time necessary, to achieve such feasibility.

B. 1. The BOCs are ordered and directed to file, to become effective on the effective date of the reorganization described in I(A)(4), tariffs for the provision of exchange access including the provision by each BOC of exchange access for AT&T's interexchange telecommunictions. Such tariffs shall provide unbundled schedules of charges for exchange access and shall not discriminate against any carrier or other customer. Such tariffs shall replace the division of revenues process used to allocate revenues to a BOC for exchange access provided for the interexchange telecommunications of BOCs or AT&T.

2. Each tariff for exchange access shall be filed on an unbundled basis specifying each type of service, element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services provided.

3. Notwithstanding the requirements of paragraph 2, from the date of reorganization specified in section I until September 1, 1991, the charges for delivery or receipt of traffic of the same type between end offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered or received, for all interexchange carriers; provided, that the facilities of any interexchange carrier within five miles of an AT&T class 4 switch shall, with respect to end offices served by such class 4 switch, be considered to be in the same subzone as such class 4 switch.

4. Each BOC offering exchange access as part of a joint or through service shall offer to make exchange access available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of a joint or through service, and no payment or consideration of any kind shall be retained by the BOC for the provision of exchange access under such joint or through service other than through tariffs filed pursuant to this paragraph.

C. 1. Nothing in this Modification of Final Judgment shall be construed to require a BOC to allow joint ownership or use of its switches, or to require a BOC to allow co-location in its building of the equipment of other carriers. When a BOC uses facilities that (i) are employed to provide exhange telecommunications or exchange access or both, and (ii) are also used for the transmission or switching of interexchange telecommunications, then the costs of such latter use shall be allocated to the interexchange use and shall be excluded from the costs underlying the determination of charges for either of the former uses.

2. Nothing in this Modification of Final Judgment shall either require a BOC to bill customers for the interexchange services of any interexchange carrier or preclude a BOC from billing its customers for the interexchange services of any interexchange carrier it designates, provided that when a BOC does provide billing services to an interexchange carrier, the BOC may not discontinue local exchange service to any customer because of nonpayment of interexchange charges unless it offers to provide billing services to all interexchange carriers, and provided further that the BOC's cost of any such billing shall be included in its tariffed access charges to that interexchange carrier.

3. Whenever, as permitted by this Modification of Final Judgment, a BOC fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of AT&T, nothing in this Modification of Final Judgment shall prohibit the BOC from collecting reduced charges for such less-than-equal exchange access to reflect the lesser value of such exchange access to the interexchange carrier and its customers compared to the exchange access provided AT&T.

United States District Court for the District of Columbia

Stipulation for Voluntary Dismissal

In the matter of United States of America, Plaintiff, v. American Telephone and Telegraph Company, Western Electric Company, Inc.; and Bell Telephone Laboratories, Inc., Defendants. Civil Action No. 74–1698.

Pursuant to rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, the parties stipulate that the above entitled action is hereby dismissed without prejudice.

Dated: January 8, 1982.

Howard J. Trienens,

195 Broadway, New York, New York 10007, (212) 393–1000.

For Defendants.

William F. Baxter,

Assistant Attorney General, Antitrust Division, Department of Justice, (202) 633–2401.

For Plaintiff.

[FR Doc. 82–2197 Filed 1–27–82; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82–2)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory

Subcommittee on Aircraft Controls and Guidance.

DATE AND TIME: February 17, 1982, 8:30 a.m. to 4:30 p.m.; February 18, 1982, 8:30 a.m. to 4:30 p.m.; February 19, 1982, 8:30 a.m. to 11 a.m.

ADDRESS: NASA Ames Research Center, Building 200, Committee Room, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546 (202/755-3237).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aircraft Controls and Guidance was established to assist the NASA in assessing the overall program. Particular emphasis is placed on the responsiveness to the critical needs, significant technology gaps and exploiting new opportunities with high potential benefits. The Subcommittee, chaired by Mr. Duane McRuer, is comprised of 9 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

Type of meeting

Open

Agenda

February 17, 1982

8:30 a.m.—Subcommittee Business
9:30 a.m.—Introductory Remarks
10 a.m.—NASA Aircraft Controls and Guidance Research and Technology Plan
1 p.m.—Proposed Simulation Validation Technology Review Task
2 p.m.—NASA Controls and Guidance Program Issues
4:30 p.m.—Adjourn

February 18, 1982

8:30 a.m.—NASA Controls and Guidance Program Issues Continued
5 p.m.—Adjourn

February 19, 1982

8:30 a.m.—Subcommittee Deliberations
11 a.m.—Adjourn

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

January 21, 1982.

[FR Doc. 82-2107 Filed 1-27-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Meeting

DATE: February 10, 1982.

PLACE: 357 Russell Senate Office Building, Washington DC.

TIME: 9:00 a.m. until 1:00 p.m.

PURPOSE: General meeting to discuss status of on-going Commission studies; to release a background paper on the Guaranteed Student Loan Program; and to establish Commission priorities for the remainder of the year.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Executive Director, (202) 472-9023.

This meeting was called by the Commission Chairman on January 11, 1982.

Submitted the 20th day of January, 1982.

Richard T. Jerue,

Executive Director.

[FR Doc. 82-2224 Filed 1-27-82; 8:45 am]

BILLING CODE 8820-BC-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293, License No. DPR-35, EA 81-63]

Boston Edison Co., Pilgrim Nuclear Power Station; Order Modifying License Effective Immediately

I

The Boston Edison Company (the "licensee") is the holder of Facility Operating License No. DPR-35 (the "license") which authorizes the operation of the Pilgrim Nuclear Power Station at steady state reactor core power levels not in excess of 1998 megawatts thermal (rated power). The license was originally issued on June 8, 1972 and will expire on August 26, 2008. The facility consists of a boiling light water moderated and cooled reactor (BWR), located at the licensee's site at Plymouth, Massachusetts.

II

Over the past several years, this facility has been cited for a number of violations of regulatory requirements. The recent Systematic Assessment of Licensee Performance (SALP) resulted in a below average rating for this facility. The SALP identified weaknesses in the areas of refueling, reporting, radiation protection, emergency preparedness and management controls.

Escalated enforcement action was taken on three occasions in the past 2½ years. On one occasion, October 26, 1979, a civil penalty of $5000 was proposed (which was subsequently paid by the licensee) for a safeguards occurrence in which the licensee failed to maintain the required level of security at the main vehicle access gate to the protected area. On the second occasion, February 15, 1980, a $5000 civil penalty was proposed (which was subsequently paid by the licensee) for the licensee's failure to comply with NRC regulations pertaining to the shipment of radio active materials. On the third occasion, July 8, 1980, a $13,000 civil penalty was proposed (which was subsequently paid by the licensee) for the licensee's failure to maintain secondary containment integrity while moving irradiated fuel and for the failure to operate the auxiliary electrical system in accordance with plant procedures. These events reveal inadequacies in Boston Edison Company controls in several functional areas of activity.

III

The results of NRC inspections conducted between June 15 and September 30, 1981, reveal a series of breakdowns in control of engineering and design review activities, revision of operating procedures, facility maintenance activities, notifications to the NRC about safety problems, and onsite safety committee activities. One of the events identified concerned operation of the facility in violation of NRC combustible gas control system standards. These standards were imposed on November 27, 978 through NRC regulation 10 CFR 50.44. The purpose of the regulation was to enhance the safety of operation of those light water rectors fueled with oxide pellets within cylindrical zircaloy cladding, such as at the Pilgrim facility, by assuring the capability to maintain containment integrity following a postulated loss of coolant accident (LOCA). However, as a result of an apparent failure to control safety-related activities, full compliance with these standards at the Pilgrim facility was not achieved until June 5, 1981. Specifically, control of combustible gas concentrations within the containment after a postulated LOCA had not been assured.

In April 1979, Operating Procedure No. 2.2.70 for the primary containment atmosphere control system, the system relied upon to control post-LOCA combustible gas concentrations with the containment, was revised by the onsite staff to reposition the manually-operated nitrogen supply makeup block valves from the "locked open" to the "closed" position during power operation. This revision was not reflected in the system drawing, P&ID 6498-M-227, nor in the emergency procedure provided for post-LOCA containment nitrogen purging. The onsite safety review committee, consisting of station management and technical personnel, had reviewed and accepted this revision. Access to these

valves could not be assured in all cases because of the, likelihood of high rediation levels. The significance of this procedure change which in effect prevented remote operation of the system for post-LOCA containment purging, was not recognized until June of 1981. In early 1979 (inspection report 50-293/79-09), an NRC inspector noted, as an item of noncompliance, that containment nitrogen supply block valves were tagged closed when they were required to be in the opposite position. In response to this issue, Boston Edison Company stated in a letter to the NRC on October 2, 1979 that all 2.2-series procedured for safety systems had been checked against the P&ID's and that all safety systems were in compliance.

On October 19, 1979, Boston Edison Company informed the NRC that the Pilgrim facility complied with 10 CFR 50.44. This was not true. Exclusive of the failure to note the value lineup change mentioned above, erroneous assumptions in the engineering analysis of the containment nitrogen purging system indicated the system could be reliably put into operation after a LOCA. However, to put this system into operation in accordance with the design condition required by Criterion 41 of Appendix A to 10 CFR Part 50, personnel had to manually open air-operated valves inside the reactor building, near the containment. Access to these values could not be assured in all cases because of the likelihood of high radiation levels. This limitation on personnel accessibility was previously acknowledged in the design criteria documented in proposed Amendment 35 to the FSAR, dated January 28, 1974, regarding post-LOCA combustible gas control systems.

On March 28, 1980, Boston Edison Company engineering personnel documented the error regarding personnel access and initiated a modification to permit remote operation of the containment nitrogen purging system. However, NRC was not notified of the error nor of the apparent false statement of October 19, 1979 concerning compliance with 10 CFR 50.44.

In May, 1980, modification of the system was completed. However, since the modification did not include revision of Procedure No. 2.2.70 to change the position of the block valves from "closed" to "open", remote operation of the system was essentially precluded during subsequent operating periods. Consequently, there was not reasonable assurance that the purging system could have been used if needed in a post-LOCA situation. The onsite safety review committee reviewed and accepted the system modification completed in May 1980 and yet failed to ensure that all procedural revisions necessary to ensure system operability had been made.

In July 1980, the containment nitrogen purging system was further disabled when the nitrogen makeup supply pipes were cut off and closed with pipe caps. (A Notice of Violation, dated August 11, 1981, was issued for the quality assurance violation associated with that maintenance activity.) The system remained disabled until June 5, 1981.

Another event concerned operation of the facility in violation of a Technical Specification for the containment integrity limiting condition for operation. On September 12, 1981, during the conduct of electrical maintenance activities, operating personnel de-energized electrical power supplies, which partly disabled the containment isolation control logic electrical circuits for two containment isolation valves in the steam supply pipe to the reactor core isolation cooling system. This resulted in a loss of redundancy provided in the design of the electrical circuits to assure automatic closure of these valves during certain postulated accidents. Failure of these valves to close when required could result in the release of significant amounts of radioactive materials into the environment. The facility was operated in this condition until September 16, when the misoperation was discovered by the NRC Resident Inspector.

IV

The recently discovered events described in Section III, together with the weaknesses described in Section II, reveal substantial serious breakdowns in Boston Edison Company's management controls related to the Pilgrim facility. Continued operation of the Pilgrim facility requires significant changes in Boston Edison Company's control of licensed activities. Accordingly, I have determined that the actions set forth below are required by the public health, safety, and interest, and therefore, should be imposed by an immediately effective order.

V

In view of the foregoing, pursuant to Sections 103 and 161(i) of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, it is hereby ordered effective immediately that:

Within 30 days of this Order, the licensee shall submit to the Administrator of Region I of the NRC, for review and approval a comprehensive plan of action that will yield an independent appraisal of site and corporate management organizations and functions, recommendations for improvements in management controls and oversight, and a review of previous safety-related activities to evaluate compliance with NRC requirements. The plan shall include a description of the actions to be taken, required implementing staff and their qualifications, documentation requirements, and the plan schedule with important milestones. Upon approval, the plan shall be implemented and the scheduled times for the milestones may be shortened but shall not be extended without prior written approval by the Region I Administrator. The licensee shall submit to the Region I Administrator a copy of the independent evaluation required by paragraph (1) and all other evaluations required by paragraphs (2) through (6).

The plan shall include at least the elements itemized below:

(1) An independent organization retained by the licensee shall evaluate current organizational responsibilities, management controls, staffing levels and competence, training and retraining programs, communications, and operating practices both at the facility and the corporate office. This organization shall be directed to make recommendations for changes in the aforementioned areas that will assist the licensee in meeting NRC requirements, including the requirement for production, engineering and quality assurance functions to have sufficient authority and organizational freedom to identify problems and to initiate, recommend, or provide solutions.

(2) A program that will assure that future information supplied by Boston Edison Company to the NRC, pertaining to analyses, designs, and the compliance of systems important to safety, is complete and accurate, and that previously submitted information is either complete and accurate or corrected so as to be complete and accurate.

(3) The licensee shall review, evaluate and modify as necessary, the program for the development, approval and implementation of facility modifications and design changes in order to ensure compliance with the provisions of 10 CFR 50.59. Included in this review shall be an evaluation of whether any previous facility modifications made without prior Commission approval involved an unreviewed safety question as defined by 10 CFR 50.59.

(4) The licensee shall review, evaluate and modify as necessary, presently approved safety-related procedures and the method used in the development and approval of these procedures. Included in this review shall be an evaluation of whether changes resulting from previous modifications have been appropriately addressed in operating and emergency procedures and plant drawings.

(5) The licensee shall review, evaluate and modify as necessary, the program for training and retraining of personnel involved in maintenance and safety-related activities to ensure that the program adequately addresses facility modifications and procedure changes. Included in this review shall be an evaluation as to whether personnel were properly trained in changes resulting from previous facility modifications and revisions to procedures.

(6) The licensee shall review, evaluate and modify as necessary, the program to assure that responsible corporate management oversight is provided for safety-related activities, particularly onsite activities. This program shall include a daily audit of plant operations by a corporate management representative.

(7) The licensee shall develop and implement a system of audits by management representatives aimed at assuring conformance to procedures and continued adherence to changes which result from the reviews identified in items (2) through (6) above.

The Administrator of Region I may relax or terminate any of the preceding conditions in writing for good cause.

VI

The licensee may request a hearing on this Order within 30 days of its issuance. A request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether, on the basis of the matters set forth in Sections II and III of this Order, this Order should be sustained.

In the event that a need for further enforcement action becomes apparent, either in the course of a hearing or any other time, appropriate action will be taken by the Director.

Dated at Bethesda, Maryland this 18th of January 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-2227 Filed 1-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-522 and STN 50-523]

Puget Sound Power and Light Co. et al.; Intent to Prepare Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Puget Sound Power and Light Company, Pacific Power and Light Company, Washington Water Power Company, and Portland General Electric Company (the applicants) have filed an amendment to their Environmental Report which discusses environmental considerations related to the proposed construction of the Skagit/Hanford Nuclear Project, Units 1 and 2. This amendment relocates the proposed facilities from the applicants' site in Skagit County, Washington, to the Department of Energy's Hanford Reservation in Benton County, Washington, and changes the name of the project from Skagit Nuclear Power Project to Skagit/Hanford Nuclear Project.

After the amended environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and state and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

An agreement (pursuant to a Memorandum of Understanding dated September 6, 1978, between the NRC and Washington State) dated July 31, 1981, between the Nuclear Regulatory Commission and the Washington State Energy Facility Site Evaluation Council (EFSEC) provides for one environmental statement that fully addresses both the State and Federal environmental assessment requirements. Therefore, a joint environmental statement will be prepared by NRC and EFSEC.

As part of the review of the amended environmental report, the Commission and EFSEC staffs will hold two public scoping meetings. The first will be on February 3, 1982, beginning at 7:00 p.m. at the Department of Energy Auditorium, Federal Building, 825 Jadwin Avenue, Richland, Washington. The second scoping meeting will be on February 4, 1982, beginning at 7:00 p.m. at the Seattle Science Center, Mercer Forum C, Seattle, Washington. Interested members of the public are invited to attend and to submit comments concerning the proposed action. Written comments are also requested. They should be sent to Mr. Jan Norris, Environmental Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. To be included in the staffs' review, written comments must be received by February 12, 1982. For further information with respect to the scoping process and the environmental impact statement, please contact Mr. Norris at the above address or by telephone at Area Code (301) 492-4808.

Any Federal agencies who so desire are hereby invited to become cooperating agencies in the preparation of the environmental statement. A "cooperating agency" means any Federal agency other than the NRC which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a resonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. By agreement with the Commission, a state or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may become a cooperating agency.

The applicants' environmental report is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., and at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352. As they become available, copies of the draft and final environmental statements and related correspondence will also be on display at the above locations.

Dated at Bethesda, Maryland, this 21st day of January 1982.

For the Nuclear Regulatory Commission.

William H. Regan, Jr.,

Chief, Siting Analysis Branch, Division of Engineering.

[FR Doc. 82-2229 Filed 1-27-82; 9:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittees on Metal Components and Waste Management; Meeting

The ACRS Subcommittees on Metal Components and Waste Management will hold a meeting on February 12, 1982, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittees will discuss the technical aspects of proposed research efforts to predict high-level radioactive waste container long term (1000 yr.) integrity by accelerated methods as well as the technical capability of various potential contractors.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information and industrial security. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Friday, February 12, 1982—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding the technical aspects of various proposals submitted to the NRC and the capabilities of the various organizations that submitted proposals.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information and industrial security. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: January 21, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-2230 Filed 1-27-82; 9:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 4–6, 1982, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the Federal Register on January 20, 1982.

The agenda for the subject meeting will be as follows:

Thursday, February 4, 1982

8:30 a.m.–8:45 a.m.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 a.m.–12:00 Noon: Quantitative Safety Goals for Nuclear Power Plants (Open/Closed)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present and a presentation by representatives of the NRC Staff regarding a proposed NRC policy statement on quantitative safety goals to be used in the regulation of nuclear power plants. Representatives of the nuclear industry will present comments regarding this subject as appropriate.

1:00 p.m.–4:00 p.m.: Severe Accident Rulemaking and Related Matters (Open/Closed)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present and a report by members of the NRC staff regarding the proposed substitution of specific standard plant rulemaking proceedings for the NRC generic severe accident rulemaking. Representatives of the nuclear industry may present comments as appropriate.

4:00 p.m.–6:30 p.m.: NRC Safety Research Program (Open/Closed)—The ACRS members will discuss the proposed Committee report to the United States Congress regarding the proposed NRC safety research program budget for Fiscal Year 1983. Representatives of the NRC Staff will participate as appropriate.

Friday, February 5, 1982

8:30 a.m.–9:30 a.m.: NRC Regulatory Reform (Closed)—The ACRS will hear and discuss a report regarding activities of the NRC Regulatory Reform Task Force from the Chairman of the Task Force.

9:30 a.m.–10:30 a.m.: General Discussion (Open/Closed)—The members of the Committee will discuss interim comments of the members and/or areas needing clarification with regard to the following items scheduled for discussion with the NRC Commissioners:

- Quantitative safety goals for nuclear power plants.
- Proposed NRC policy regarding the severe accident rulemaking.
- NRC regulatory reform.

10:30 a.m.–12:00 Noon: ACRS Meeting with NRC Commissioners (Open/Closed)—The Committee will meet with the NRC Commissioners to discuss the topics noted above.

1:00 p.m.–2:15 p.m.: NRC Policy and Program Guide (Open)—The Committee will hear and discuss a presentation by NRC officials regarding the recent Policy and Program Guidance promulgated by the NRC Commissioners.

2:15 p.m.–2:30 p.m.: Future ACRS Activities (Open)—The Committee will discuss proposed and anticipated subcommittee and full Committee activity.

2:30 p.m.–5:30 p.m.: NRC Safety Research (Open/Closed)—The ACRS members will discuss the proposed Committee report to the United States Congress regarding the proposed NRC safety research program budget for Fiscal Year 1983. Representatives of the NRC Staff will participate as appropriate.

5:30 p.m.–6:15 p.m.: Reports of ACRS Subcommittees (Open)—The Committee will hear and discuss the reports of ACRS Subcommittee chairmen with respect to activities related to quality assurance deficiencies at the Zimmer

Nuclear Power Station and interpretation by the NRC Staff of ACRS recommendations regarding the composition of licensee's safety review committees.

Saturday, February 6, 1982

8:30 A.M.–10:30 A.M.: NRC Safety Research Program (Open/Closed)—The ACRS members will discuss the proposed Committee report to the United States Congress regarding the proposed NRC safety research program budget for Fiscal Year 1983.

10:30 A.M.–12:30 P.M.: General Discussion (Open/Closed)—The Committee will discuss proposed ACRS comments/recommendations and additional committee action regarding topics discussed during this meeting including:

- Quantitative safety goals.
- NRC Policy regarding the severe accident rulemaking.

1:30 P.M.–3:00 P.M.: General Discussion (Open/Closed)—The Committee will discuss proposed ACRS comments/recommendations and additional Committee activities regarding topics discussed during this meeting including:

- NRC Regulatory Reform.
- NRC Policy and Program Guidance.

Activities of individual members of the Committee will also be discussed.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 30, 1981 (46 FR 47903). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chariman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss matters which relate solely to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)), information of a personal nature where disclosure would constitute unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and information the premature release of which would be likely to significantly frustrate proposed agency action (5 U.S.C. 552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EST.

Dated: January 22, 1982.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 82-2230 Filed 1-27-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

January 20, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the pubic on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the Public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The Name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available)
The office of the agency issuing this form
The title of the form
The agency form number, if applicable
How often the form must be filled out
Who will be required or asked to report
The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected
Whether small businesses or organizations are affected
A description of the Federal budget functional category that covers the Information collection
An estimate of the number of responses
An estimate of the total number of hours needed to fill our the form
An estimate of the cost to the Federal Government
An estimate of the cost to the public
The number of forms in the request for approval
An indication of whether Section 3504(h) of Pub. L. 96–511 applies
The name and telephone number of the person or office responsible for OMB review and
An abstract describing the need for and uses of the information collection.

Reporting or Recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or officer listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please sent them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Food and Nutrition Service
Evaluation of the Year II EFNEP/Food Stamp Pilot Project
On occasion, weekly
Individuals or households/State or local governments
Participants in and staff of nutrition ed. pilot project
SIC: 881
Food and nutrition assistance: 16,843 responses; 4,565 hours; $445,617 Federal cost; 4 forms; $45,650 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Four data collection instruments are submitted to provide information for the evaluation of the year II EFNEP/Food stamp pilot projects. The evaluation tests alternative methods for providing nutrition education to low income homemakers. Evaluation results will be useful in policy decisions for the food stamp and EFNEP programs.

• Farmers Home Administration
7 CFR 1980–C, Guaranteed Emergency Livestock Loans
On occasion
Businesses or other institutions
Agricultural lending institutions
SIC: 602
Small businesses or organizations
Farm income stabilization: 50 responses; 50 hours; $100,800 Federal cost; 1 form; $566 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

FMHA needs this information to service loans made to bona-fide farmers or ranchers who have substantial operations in breeding, raising, fattening or marketing livestock so that they may continue their normal operations.

• Forest Service
Benefit-Cost Analysis of Visual Management in National Forest Timber Harvesting, Benefits Phase
Nonrecurring
Individuals or households
Volunteer grps. in approx. 4 small cities in Rocky Mtn. area
Area and regional development: 250 responses; 63 hours; $6,000 Federal cost; 1 form; $220 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Resource Planning Act and National Forest Management Act require the Forest Service to manage lands to protect and enhance scenic beauty. Forest Service landscape architects need measures of public reaction to help guide landscape planning and meet visual management goals. This study is being undertaken now because the Forest Service is already developing cost data on visual management. Without accompanying estimates of public benefits there is no way to evaluate cost effect.

Extensions (No Change)

• Extension Service
Soil/Plant Laboratory Testing Activities
SEA–501
Biennially
State or local governments
Private and commercial, public and Government soil/plant testing labs
SIC: 018
Agricultural research and services: 78 responses: 39 hours; $1,780 Federal cost; 2 forms; $1,780 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

This biennial study and subsequent report is made and provided for the purposes of helping to evaluate the effectiveness of soil fertility educational programs, and to aid soil and plant testing laboratories with analyzing the status of testing and to make improvements in their ongoing programs.

Reinstatements

• Food and Nutrition Service
Food Stamp Regulations—Part 275, Quality Control and Performance Reporting
Part 275
On occasion
State or local governments
All State and loc. agncs. respon. for admin. food stamp program
SIC: 943
Food and nutrition assistance: 5,340 responses; 218,772 hours; $686,379 Federal cost; 1 form; $639,908 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

The integration of civil rights reviews into the management evaluation (ME) review system will ensure that project areas are in compliance with the requirements of title VI of the Civil Rights Act of 1964. The monitoring of civil rights compliance in project areas by State agencies through the ME system will also ensure that deficiencies requiring corrective action measures are identified.

• Food and Nutrition Service
Child-Care Food Program Regulations (Part 226)
FNS–341, 342, 343, 344, 345, 345–1, 430, 431, 432, 433, 82
Monthly, annually, other, see SF83
State or local governments/businesses or other institutions
Participating child care centers and administering agencies
SIC: 943
Food and nutrition assistance: 328,698 responses; 13,880,100 hours; $1,168,278 Federal cost; 11 forms; $13,880,100 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Institutions need to file these forms with administering agencies in order to be considered for participation, agree to comply with program requirements, be monitored and receive reimbursement for program costs. The program regulations are necessary in order to ensure that programs are administered efficiently and effectively.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
1982 Economic Censuses General Schedule
NC–9923
Nonrecurring
Businesses or other institutions
Single establishment companies in all economic areas
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 300,000 responses; 75,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

To provide a standard basis for assigning standard industrial classification codes of establishments engaged in all areas of economic activity.

• Bureau of the Census
Former Interviewers Job Attitude Survey
BC–1294

Nonrecurring
Individuals or households
Former employees of the Bureau of Census who worked as interviews.
Other advancement and regulation of commerce: 551 responses; 92 hours; $2,780 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Interviewer turnover is costly and poses unknown threats to the quality of survey data. However, before cost-effective programs can be implemented to deal with the problem, causes and correlates of attrition must be identified. This study (pretest) is scheduled to begin February 1982 and terminate by December 1982.

• Bureau of the Census
RDD Primary Number Screening Questionnaire RDD Questionnaire
RDD 101, 102
Nonrecurring
Individuals or households
See supporting statement item number II
Other advancement and regulation of commerce: 4,560 responses; 1,868 hours; $300,000 Federal cost; 2 forms; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Increasing demands for statistical information and decreasing budgets require the evaluation of potential cost-saving survey methods such as random digit dialing (RDD) telephone interviewing. The Census Bureau will conduct an RDD study from March to September 1982 to develop information for decisions about implementing RDD in some of the bureau's statistical activities.

Revisions

• National Oceanic and Atmospheric Administration
Requirements Study of Needs and Uses for a National Environmental Data Referral Service
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Affected public includes State government agencies, private businesses, etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 750 responses; 375 hours; $60,000 Federal cost; 1 form; $9,375 public cost; not applicable under 3504(h)
William T. Adams, 202–395–4814

The National Oceanic and Atmospheric Administration, Environmental Data and Information Service is collecting this information to assist in determination of data user requirements for referral to sources of environmental data, in order that the National Environmental Data Referral Service can be designed to satisfy these requirements.

Extensions (Burden Change)

• National Oceanic and Atmospheric Administration
Pacific Billfish Angler Survey
NOAA 88–10
Annually
Individuals or households
Marine recreational anglers fishing for billfish, etc.
Other advancement and regulation of commerce: 2,000 responses; 140 hours; $1,200 Federal cost; 1 form; $1,120 public cost; not applicable under 3504(h)
William T. Adams, 202–395–4814

To comply with Marine Game Fish Research Act (Pub. L. 86–359). Used to assess annual trend in catch rate for billfish in the Pacific by recreational fisherman, and the effects of catches on the domestic fleet by foreign longline fleet operations. Data used in domestic and international discussions, and by the Federal fishery councils.

• International Trade Administration
Product Characteristics—Design Check off List
ITA–426P
On occasion
Businesses or other institutions
Manufacturers and exporters
SIC: Multiple
Small Businesses or organizations
Other advancement and regulation of commerce: 4,000 responses; 2,000 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

This form was created as a convenient means for participants in U.S. export promotion exhibitions overseas to define their requirements for signs, utilities, and exhibition booth characteristics so that their booths will be designed to meet their particular requirements. The information is transmitted to the exhibition designer and the exhibition or export development office director

Extensions (No Change)

• Bureau of the Census
Quarterly Survey of the Finances of Employee Retirement Systems
F–10
Quarterly
State or local governments
The 105 public employee retirement system with the largest cash
SIC: Multiple
Other advancement and regulation of commerce: 444 responses; 444 hours; $15,000 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The Census Bureau needs the F–10 in order to survey the receipts, payments and asset balances of major public employee retirement systems. We use this form as the basis for a quarterly report that is used by groups such as the council of economic advisers and the Federal Reserve System to analyze factors affecting the securities market.

• Economic Development Administration
Special Adjustment Assistance Application Form
ED–540
On occasion
State or local governments
State, city, non-profit public organization, a consortium etc.
SIC: All
Other advancement and regulation of commerce; 60 responses; 315 hours; $75,500 Federal cost; 1 form; $4,800 public cost; not applicable under 3504(h)
William T. Adams, 202–395–4814

The information (form) is needed to receive benefits under the sudden and severe economic dislocation (SSED) program. Because the SSED program responds to unforeseen disruption to an economy, specific and new information is needed to identify the problem to be addressed. No other program in the agency is designed to address such special needs.

Reinstatements

• Economic Development Administration
Preliminary Plan For: Longitudinal Analysis of Minority Business, Enterprises Participating in the Local Public Works Program
ED–462QP
Nonrecurring
Businesses or other institutions
3075
SIC: 015, 016, 017
Small businesses or organizations
Area and regional development: 444 responses; 205 hours, $78,000 Federal cost; 2 forms; not applicable under 3504(h)
William T. Adams 202–395–4814

The study's purpose is to evaluate the long term impacts of the 10% minority setaside of the local public works program. The resulting information will be of interest to DOC and other policymakers concerned with the impacts of minority setasides.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

• Department of the Navy
Segmentation Study of Potential Navy Recruits
Nonrecurring
Individuals or households
Non-prior military service males, 17 to 21 years old
Department of Defense-Military: 800 responses; 400 hours; $35,000 Federal cost; 1 form; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

The purpose of this sutdy is to segment the target market (17–21 years old males) into well defined groups that have common behavior and preference patterns. Subsequently, this information will be used to increase the effectiveness of future Navy advertising and recruiting efforts.

• Department of the Air Force
Proposal for a Proprietary Tracking Study of Air Force Advertising
Annually
Individuals or households:
17–26 yr. old males as they exist in the population
Department of Defense—Military: 610 responses; 225 hours; $67,624 Federal cost; 1 form; $765 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

There is no research study to gather proprietary data with which to develop the most propitious advertising and overall Air Force Marketing Program. Current imagery of the Air Force must be discernable at a point in time that is most reflective of Air Force advertising efforts. This proposed tracking study should be conducted among a nationally representative sample of our broad demographic target group on a recurring basis. Proposed begin date: 1/82 ending 11/83.

• Department of the Air Force
Proposal for an Advertising Copy Evaluation Survey
Annually
Individuals or households
17–26 yr. old males, high sch. sen. or high sch. graduates
Department of Defense—Military: 800 responses; 335 hours; $34,305 Federal cost; 1 form; $1,005 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

A quantitative testing technique to test Air Force advertising has not been established. A pretesting system is recommended that can evaluate prefinished commercials and print ads prior to final production, discriminate between alternatives and provide diagnostic information to fine tune the execution prior to final production. This copy testing system has as its evaluative criterion, both a pre and post exposure measurement of interest in the Air Force vs other branches.

• Department of the Air Force
Proposal for a Research Study to Explore the Theme Line "A Great Way of Life"
Nonrecurring
Individuals or households
17–26 yr. old males, hs sen. or hs. grad. maxi. 2 yr college
Department of Defense—Military: 500 responses; 200 hours; $26,570 Federal cost; 1 form; $600 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Basic objective is to determine the believability and communications value of USAF theme lines. To date, no research has been conducted to evaluate theme lines through quantative testing. This proposal will determine validity of the current theme line or determine if a revision is indicated.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

• Social Security Administration
Study of the Extent and Effects of English Language Training for Refugees
Nonrecurring
State or local governments
State Government and local organizations
SIC: 944
Small businesses or organizations
Other income security: 302 responses; 453 hours; $39,934 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

The objectives of the study are to obtain descriptive information on the extent, nature and quality of English language training being provided for refugees and entrants through the refugee resettlement program and to gather information on the most effective approaches to English training, as well as methods used to monitor such training.

• Social Security Administration
Report of Student Beneficiary About to Attain Age 19
SSA–1390–C1 (1–82)
On occasion
Individuals or households
Student beneficiaries who will soon attain age 19
General retirement and disability insurance: 50,000 responses; 3,333 hours; $8,126 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This form is needed to make an accurate determination regarding the proper month for termination of student benefits to a high school or to determine if the student continues to be eligible for benefits beyond age 19.

• Social Security Administration
Financial Status Report
SSA–4930 (12–81) Quarterly
State or local governments
State income maintenance agencies
SIC: 944
Other income security: 104 responses; 832 hours; $1,608 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This form is used to ensure that funding for each State and each year is within the limits prescribed by law and to maintain accountability of the use of Federal funds provided for the work incentive demonstration program and to ensure that program expenditures are in accordance with the approved plan.

• National Institutes of Health
Telephone Survey of Physicians To Determine Awareness of NIH Consensus Development Program—Phase 2.
Nonrecurring
Businesses or other institutions
Physicians in continental U.S.
SIC: 801
Small businesses or organizations
Health: 700 responses; 35 hours; $21,000 Federal cost; 1 form; $350 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6890

The telephone survey of 700 medical specialists will be conducted to determine the effectiveness of agency efforts to disseminate information about the NIH consensus development program and the meeting on computed tomographic scanning of the brain that was held November 4–6. The results of the survey will enable the agency to better inform the relevant community, resulting in greater professional and public input into the consensus program.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

New

• Bureau of Indian Affairs
Pesticides[1]

[1] Section 3512 of the Paperwork Reduction Act precludes Federal agencies from penalizing any

Continued

Annually, Other–see SF83
Individuals or households/businesses or other institutions
Indian tribal governments
SIC: Multiple
Area and regional development: $17,186 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Required to assess pesticide use on Indian lands to ensure compliance with the Federal Insecticide, Fungicide and Rodenticide Act. Required to comply with the National Environmental Policy Act.

• Bureau of Indian Affairs
25 CFR subchapter w—Miscellaneous activities[1]
On occasion
Businesses or other institutions
Individuals who wish to peddle/operate bus on Indian, etc.
SIC: Multiple
Small businesses or organizations
Multiple functions: 29,810 responses; 29,810 hours; $628,169 Federal cost; 14 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The trading with Indians on Indian reservations statute is necessary because of the isolation of Indian communities. It is necessary to gather information on persons who conduct business on reservations because of the possibility of having fraud/overpricing perpretrated on Indians. State consumer protection laws do not apply on Indian reservations.

• Bureau of Indian Affairs
Identification of Unresolved Indian Rights Issues—Form for Developing Action Plan 25 CFR Subchap W
5–5101, 5–5102
On occasion
Individuals or households/State or local governments
Indians, Indian tribes and Alaska Natives
SIC: Multiple
Small Businesses or organizations
Area and regional development: 9,422 responses; 9,422 hours; $173,288 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Used in Indian rights protection office procedure for identification and resolution of unresolved Indian rights issues.

• Bureau of Indian Affairs
Commercial fishing catch report—Subchapter W miscellaneous[1]
Annually
Individuals or households
Indian commercial fisherman
Conservation and land management: 14,133 responses; 14,133 hours; $259,932 Federal cost; 3 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

. Each tribal fisherman must report his commercial fishing catch monthly to the tribe. They, in turn, submit all catch reports to the Michigan agency, BIA, and the State of Michigan, and the U.S. Fish and Wildlife Service.

• Bureau of Indian Affairs
Housing[1]
On occasion, annually
Individuals or households/State or local governments
Indian tribes and tribal members
SIC: Multiple
Multiple functions: 47,110 responses; 47,110 hours; $86,440 Federal cost; 10 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Used to determine eligibility for participation in the housing program.

• Bureau of Indian Affairs
Indian self-determination and education assistance[1] Act Programs
Annually
Individuals or households/State or local governments
Indian tribes and Indian organizations
SIC: multiple
Small businesses or organizations
Multiple functions: 357,057 responses; 357,057 hours; $5,528,152 Federal cost; 162 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Information collection required by Pub. L. 93–368, 25 CFR sub-chapter Y and is needed for sound program administration

• Bureau of Indian Affiars
General Administration—Personnel [1]
Annually
Individuals or household/State or local governments/businesses or other institutions
Indivds, schools, former employers, pers references, etc.
SIC: 999
Multiple functions: 240,844 responses; 240,844 hours; $2,976,897 Federal cost; 1 form; not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

Most forms are related to applications for employment, retirement, or other benefits, which are initially voluntary, for appropriate action on the application, the other sources of supplementary information become mandatory.

• Bureau of Indian Affairs
General Administration—Bowhead Whale [1]
Nonrecurring
Individuals or households
Heads of households of Alaska Natives in the whaling, etc.
Multiple functions: 9,422 responses; 9422 hours; $173,288 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The United States is a signatory of the International Whaling Convention of 1946 and a member of the International Whaling Commission (62 Stat, 1716, T. I. A. S. IWC directed the United States to determine the need of Alaska Natives to take the bowhead whale. This study is the basis of determining that need.

• United States Fish and Wildlife Service
Envir Education/Evaluation [1]
On occasion
Individuals or households
Visitors on national wildlife refuges.
Recreational resources: 2,000 responses; 200 hours; $10,000 Federal cost; 1 form not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to evaluate the refuge educational programs from the user's viewpoint, and plan for improvements in such programs.

• United States Fish and Wildlife - Service
North American Breeding Bird Survey [1]
Annually
Individuals or households
Individs that volunteer to conduct surveys of breeding birds
Recreational resources: 1,300 responses; 16,000 hours; $70,210 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Information collected from cooperators with the Service in this survey is used to determine the status of migratory birds in North America, providing trends and relative abundance of each species. The information aids the Service, Canadian Wildlife Service, and State wildlife agencies in identifying species of concern and developing priorities for assigning available resources.

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person failing to maintain or provide information to the agencies if the information collection request was made after December 31, 1981 and does not display a current OMB control number, or fails to state that the request is not subject to the Paperwork Reduction Act. Due to resource constraints, the Department of the Interior was unable to submit complete clearance packages for OMB review for many information collection requests before the December 31 deadline. OMB has agreed to approve the above information collection requests on a provisional basis. In exchange, Interior developed a schedule for submitting complete justification packages for these items. This schedule is available from the Agency Clearance Officer, Vivian A. Keado, at 202–343–6191.

• United States Fish and Wildlife Service
Surplus Animal Permits [1]
On occasion
State or local governments
State, local and Indian govts willing to remove surplus, etc
SIC:951
Small businesses or organizations
Recreational resources: 100 responses; 25 hours; $2,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to permit State, local, and Indian governments and organizations to remove surplus wildlife from refuges.

• United States Fish and Wildlife Service
Master Planning Questionnaire [1]
On occasion
Individuals or households
Individs interested in national wildlife refuge, etc.
Recreational resources: 2,000 responses; 1,000 hours; $10,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used by the Service to gather public input for refuge master planning. The questionnaire is used when public meetings are impracticable, or in some instances to supplement such meetings.

• United States Fish and Wildlife Service
Farming Permits [1]
On occasion
Individuals or households/farms
Farms that wish to conduct oper on nat. wildlife refuges.
SIC: 011, 013, 016, 019, 021, 024, 029, 072, 075
Small businesses or organizations
Recreational resources: 650 responses; 325 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for farming operations on refuges. Permits are necessary to control the amount of acreage open to farming.

• United States Fish and Wildlife Service
Off Road Vehicle Permits [1]
On occasion
Individuals or households
Individs applying for vehicular access on nat. wildlife, etc
Recreational resources: 1,000 responses; 100 hours; $4,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to control the number and locations of permittees allowed to operate off road vehicles on refuges.

• United States Fish and Wildlife Service
Commercial Fishing Permits [1]
On occasion
Businesses or other institutions
Commercial fishermen applying for permits to conduct, etc.
SIC: 091
Small businesses or organizations
Recreational resources: 1,000 responses; 500 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for commercial fishing operations on refuges where such opportunities can be permitted.

• United States Fish and Wildlife Service
Camping Registration/Permits [1]
On occasion
Individuals or households
Campers on national wildlife refuges
Recreational resources: 25,000 responses; 2,500 hours; $50,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for camping on refuges, and to plan for improvements in the facilities provided to campers/visitors.

• United States Fish and Wildlife Service
Hunter Survey [1]
On occasion
Individuals or households
Hunters on national wildlife refuges
Recreational resources: 100,000 responses; 5,000 hours; $150,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to monitor the size and effects of hunting harvests allowed on refuges. The information is necessary to determine the level of future hunting programs.

• United States Fish and Wildlife Service
Migratory Bird Waterfowl Subsistence Use [1]
Nonrecurring
Individuals or households
Alaska natives harvesting waterfowl for subsistence
Recreational resources: 500 responses; 500 hours; $50,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to determine the size of the migratory waterfowl substance harvest in Alaska to fulfill the Service's responsibilities in managing the species under international treaty and the Migratory Bird Treaty Act.

• United States Fish and Wildlife Service
Special Use Permits (Misc.) [1]
On occasion
Individuals or households
Individs applying for permits to conduct generally, etc.
Recreational resources: 10,000 responses; 1,000 hours; $20,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for various activities otherwise prohibited on refuges, such as access, bird banding, scouting trips, and unique uses.

• United States Fish and Wildlife Service
Hunting Reservation/Application/Blind Assignment [1]
On occasion
Individuals or households
Hunters on national wildlife refuges
Recreational resources: 100,000 responses; 8,500 hours; $250,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to allow hunting on refuges, and is used to determine eligibility, assign "blinds" for hunting, and made reservations in advance where a limited number of permits are available.

• United States Fish and Wildlife Service
Application for Federal aid—Standard Form 424 [1]
On occasion
State or local governments
State Fish and Wildlife Management Agencies
SIC: 951
Recreational resources: 200 responses; 8,000 hours; $21,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Service rules in 50 CFR 80, 81, 82, and 83 provide for the administration of Federal grants to States for fish and wildlife projects. The rules provides for the use of SF 424—as prescribed by OMB Circ 1–102—to submit applications for program/project approval.

• United States Fish and Wildlife Service
Project Agreement [1]
Annually
State or local governments
State Fish and Wildlife Management Agencies
SIC: 951

Recreational resources: 1,140 responses; 570 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The project agreement is used to issue annual grants in aid projects for fish and wildlife conservation projects. The form provides for specific funding agreements for work concepts approved under the application for Federal assistance (SF–424).

• Bureau of Land Management
Statement of Federal Land Payments Adjusted Statement of [1]
Federal Land Payments
Annually
State or local governments
State Governors' Offices and State Finance Offices
SIC: 999
Other general purpose fiscal assistance: 50 responses; 1,000 hours; $10,000 Federal cost; 2 forms; $30,000 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information requested is statutorily required to compute payments due units of local government under the Payments in Lieu of Taxes Act (31 U.S.C. 1601–1607). The act requires that the Governor of each State furnish a statement as to the amounts paid to units of local government under 11 receipt sharing statutes in the prior fiscal year.

• United States Fish and Wildlife Service
Weapons Qualifications Records
On occasion
Individuals or households
Hunters on National Wildlife Refuges
Recreational resources: 6,000 responses; 600 hours; $10,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to ensure that permittees allowed to hunt on refuges meet certain minimum qualifications, primarily for hunter safety. In many instances, a certificate showing completion of an approved hunter safety course meets the requirements of the information collection.

• Bureau of Land Management
Coal Management—Federally Owned Coal, 43 CFR 3400 [1]
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
State, Federal and local government and large and small business
SIC: 111, 112
Conservation and land management: 846 responses; 12,468 hours; $2,827,250 Federal cost; 1 form; $187,020 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Information requirements are located within several sections of this rulemaking. The statutes under which Federal coal is managed require a determination that applicants for Federal coal lease, surface owners in split estate land and applicants for lease exchanges and transfers meet specific requirements. Information collection requirements of these rules are consistent with that need.

• United States Fish and Wildlife Service
Public use surveys [1]
On occasion
Individuals or households
Visitors on nat wildlife Refuges that are open to the public
Recreational resources: 5,000 responses; 500 hours; $50,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

These surveys are used to determine how long visitors are on a refuge, what activities are conducted, and what improvements users would like to see made. The information is used for compiling usage data and planning projects on the individual refuges.

• United States Fish and Wildlife Service
Fertilizer/Pesticide Report [1]
Annually
Individuals or households/farms
Agricultural operators on national wildlife refuges
SIC: 021, *013, 016, 019, 024, 027, 029, 076, 081*
Small businesses or organizations
Recreational resources: 500 responses; 50 hours; $1,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to monitor the amount and effect of chemicals used by permittees conducting agricultural operations on refuges.

• United States Fish and Wildlife Service
Back Bay Vehicle Permit Applications [1]
Annually
Individuals or households
Individs applying for vehicular access on Back Bay (VA), etc.
Recreational resources: 300 responses; 600 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to determine applicants' eligibility for vehicular access on the refuge, including the extent (number of trips/days) of access to be allowed.

• United States Fish and Wildlife Service
Timber Harvest Permit [1]
On occasion
Businesses or other institutions
Timbering/forestry operations on national wildlife refuges
SIC: 081, 084, 085
Small businesses or organizations
Recreational resources: 400 responses; 200 hours; $2,500 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue a timber harvest permit, and to monitor the extent/value of timber harvested in an effort to ensure that adverse effects are avoided.

• United States Fish and Wildlife Service
Firewood Gathering Permits [1]
On occasion
Individuals or households
Persons wishing to collect firewood on nat wildlife refuges
Recreational resources: 5,000 responses; 250 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for the gathering of firewood on refuges. The information is necessary to monitor the amount of firewood taken.

• Bureau of Land Management
Geothermal Resources Leasing, General—43 CFR Part 3200 [1]
BLM 3000–2, 9, 11 & 17
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
Individual citizens, small businesses, large corps., etc.
SIC: 999
Small businesses or organizations
Conservation and land management: 420 responses; 1,449 hours; $57,750 Federal cost; 4 forms; $43,500 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The geothermal resource regulations were promulgated to carry out the provisions of the Geothermal Steam Act, for the purposes of providing procedures and establishing rights to develop and utilize geothermal resources on the Federal lands. This proposed rulemaking contains information collection requirements, a "notice of intent . . ." form, a bond form, a form for an assignment of a geothermal resources lease, and a form for a competitive oil and gas geothermal lease bid.

• United States Fish and Wildlife Service
Haying Permits/App [1]
On occasion
Individuals or households/farms
Agricultural operations that apply for having permits
SIC: 011, 013, 019, 072
Small businesses or organizations
Recreational resources: 700 responses; 175 hours; $3,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for haying operations on refuges, and to determine the amount produced.

• Bureau of Land Management
Oil and Gas Leasing—43 CFR Part 3100 [1]
On occasion, annually
Individuals or households/businesses or other institutions
Small businesses, filing services, oil companies, indiv.
SIC: 999
Conservation and land management: 58,164 responses; 29,082 hours; $27,450 Federal cost; 9 forms; $3,981,880 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The regulations within part 3100 of title 43 of the Code of Federal Regulations contain the procedures for obtaining a lease to explore for, develop and produce oil and gas resources located on Federal lands. The revised rulemaking eliminates unnecessary, burdensome, incorrect, unclear and outdated provisions.

• United States Fish and Wildlife Service
Grazing Permits [1]
On occasion
Individuals or households/farms
Agricultural activities that apply for livestock, etc.
SIC: 021, 024, 029
Small businesses or organizations
Recreational resources: 500 responses; 250 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information collected is used to issue permits for grazing on refuges. The permits are necessary to control the number of livestock allowed on each refuge.

• Bureau of Land Management
Timber or Vegetative Resource Sale Contracts and Free Use Permits [1]
BLM 5450–1, 5450–3, 5470–3
On occasion
Businesses or other institutions
Timber industry contractors or forest product manufacturers
SIC: 081, 241
Small businesses or organizations
Conservation and land management: 1,220 responses; 1,220 hours; $50,550 Federal cost; 3 forms; $82,200 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

These regulations are forms needed and used to provide for the orderly disposal of forest products through sales and free use.

• Bureau of Land Management
Notice of Removal of Exempted Timber for Export Purposes [1]
BLM 5460–14
Nonrecurring
Businesses or other institutions
Timber industry contractors or forest products manufacturers
SIC: 081, 241
Small businesses or organizations
Conservation and land management: 100 responses; 10 hours; $100 Federal cost; 1 form; $1,000 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

This information is used to enforce export restrictions which are required by law.

• Bureau of Land Management
Regional Corporation Selection Application [1]
2650–1
Nonrecurring
Businesses or other institutions
Alaska Native Regional Corporations
SIC: 999
Small businesses or organizations
Conservation and land management: 96 responses; 48 hours; $135,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The subject form is needed by one of the 12 regional corporations established pursuant to the Alaska Native Claims Settlement Act to Select lands to which it is entitled. Use of the form is required by departmental regulation 43 CFR 2650.2(a).

Reinstatements

• Office of Surface Mining Reclamation and Enforcement
Statement of Employment and Finacncial Interest (for Use by State Employees) [1]
OSM 23
Annually
Individuals or households
State regulatory authority employees
Conservation and land management: 1,000 responses; 500 hours; $5,500 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Section 517(g) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 requires that no employee of the State regulatory authority performing any function or duty under the act shall have a direct financial interest in any underground or surface coal mining operation.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

New

• Immigration and Naturalization Service
Application for Permission to Reapply for Admission Into the United States After Deportation or Removal
I–212
Nonrecurring
Individuals or households
Applicants seeking readmission into the United States
Federal law enforcement activities: 5,000 responses; 1,666 hours; $15,000 Federal cost; 1 form; $16,660 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Section 212(d)(3)(a) of the I&N Act provides that an alien applying for a nonimmigrant visa may at the discretion of the Attorney General be issued such a visa even though inadmissable because of previous deportation or removal from the United States. Information is used to determine eligibility.

• Legal Activities
Request for Confirmation of Naturalization
FCSC–13
Nonrecurring
Individuals or households
Naturalized American citizens whose property, etc.
Conduct of foreign affairs: 2,000 responses; 167 hours; $1,650,000 Federal cost; 1 form; $1,666 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Information will be used to verify claimant's United States naturalization and determine eligibility for compensation under Pub. L. 96–606 and Pub. L. 97–127.

• Legal Activities
Statement of Claim
FCSC 127
Nonrecurring
Individuals or households
Amer. citizens whose property was taken by the Czech Gov't
Conduct of foreign affairs: 2,000 responses; 2,000 hours; $750,000 Federal cost; 1 form; $20,000 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

The proposed form is the means by which American citizens can claim compensation for property losses in Czechslovakia which occurred after August 8, 1958, out of funds derived from a claims settlement agreement with that country.

Extensions (No Change)

• Immigration and Naturalization Service
Application for Exception From the Classification of Alien Enemy
N–436
On occasion
Individuals or households
Alien enemies
Federal law enforcement activities: 1 response; 1 hour; $0 Federal cost; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Inactive and would become effective upon appropriate proclamation by the President of the United States.

• Immigration and Naturalization Service
Application to extend time of temporary stay
I–539
Nonrecurring
Individuals or households
Non-immigrant alien applying for extension of stay
Federal law enforcement activities: 352,000 responses; $2,200,000 Federal cost; $1,173,330 public cost; 117,333 hours; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

As provided for in section 214 of the I&N Act, this form is used by a non-immigrant alien in the U.S. to apply for an extension of temporary stay and by INS to determine eligibility for extension.

• Immigration and Naturalization Service
Request for Verification of Naturalization
N–25
Nonrecurring
Individuals or households
Clerks of court
Federal law enforcement activities: 2,500 responses; $14,500 Federal cost; $6,250 public cost; 625 hours; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Form is used to obtain information from the records of a clerk of court which may be needed by a person applying for benefits under various provisions of the I&N Act.

• Immigration and Naturalization Service
Certificate of Elegibility for Non-Immigrant F–L Student Status
I–20AB
Nonrecurring
Individuals or households/businesses or other institutions
Nonimmigrants seeking admission as students
SIC: 919
Federal law enforcement activities: 110,000 responses; $10,000 Federal cost; $1,100,000 public cost; 110,000 hours; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Used by consular and immigration officials to determine eligibility of applicant for admission to U.S. as student as provided in section 101(a)(15(f)(1) of the I&N Act.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Research and Special Programs Administration
Record of Change of Rail Car Seals
On occasion
Businesses or other institutions
Rail carriers
SIC: 401
Other transportation: 170 responses; $0 Federal cost; 85 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by rail carriers and shippers to ascertain that cars of class A explosives are not broken into.

• Research and Special Programs Administration
Rail Carrier Local Restrictions
On occasion
Businesses or other institutions
Rail carriers
SIC: 401
Other transportation: 51 responses; $0 Federal cost; 51 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Rail carriers, through Bureau of Explosives, Association of American Railroads, use this report as a means of avoiding the bringing of rail cars to areas there they are forbidden or at times when they are not allowed.

• Research and Special Programs Administration
Inspection of Cylinders Previously Containing Corrosive Liquids
On occasion
Businesses or other institutions
Shippers of compressed gases
SIC: All
Other transportation: 5,000 responses; $0 Federal cost; 1,666 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To verify that the cylinders previously containing corrosive liquids have not been weakened due to corrosion and are safe to recharge and ship in a charged condition.

• Maritime Administration
Affidavit of United States Citizenship
Special format
Annually
Individuals or households/businesses or other institutions
Corporations, banks, and lending institutions
SIC: 602, 446, 639
Water transportation: 500 responses; $55,000 Federal cost; 2,500 hours; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Applicants for and those receiving Federal loan guarantees to build U.S. flag ships, and construction and operating subsidies must, by statute, be and remain U.S. citizens (within the meaning of 46 U.S.C. 802) during the contract period. Failure to do so, is a default under the contract and could subject the vessel to forfeiture.

• Research and Special Programs Administration
Tank Car Leak Notification
On occasion
Businesses or other institutions
Rail carriers
SIC: 401
Other transportation: 340 responses; $0 Federal cost; 170 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by railroads and tank car owners as a means to locate and avoid reloading tank cars which have been discovered leaking and are unfit for continued use until they have been repaired.

• Research and Special Programs Administration
Inspection of Cylinders Used for Hydrofluoric Acid, Anhydrous
On occasion
Businesses or other institutions
Shippers of anhydrous hydrofluoric acid
SIC: 999
Other transportation: 7,500 responses; $0 Federal cost; 1,250 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by cylinder owners and shippers of hydrofluoric acid, anhydrous, to verify that cylinders used in this service are safe for continued use.

• Research and Special Programs Administration
Tank Car Safety Valve Test Overdue Report
On occasion

Businesses or other institutions
Rail carriers
SIC: 401
Other transportation: 408 responses; $0 Federal cost; 408 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by railroads, through Bureau of Explosives, Association of American Railroads, as a means to avoid reloading tank cars which are or whose safety valves are due or past due for retest.

• Research and Special Programs Administration
Cylinders Recharged More Than Once Every Other Day
Other—see SF83
Businesses or other institutions
Owners of cylinders
SIC: 019, 028, 072, 291, 162, 421, 442, 444, 401, 554
Other transportation: 10,800 responses; $0 Federal cost; 1,800 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To ascertain that the lightweight cylinders with small built-in safety factors, used in aircraft for emergency supplies of oxygen, are safe for continued recharging.

• Federal Highway Administration
Time Records
Other—see SF83
Individuals or households/businesses or other institutions
Motor carriers oper vehicles in interstate or for commerce
SIC: 999
Small businesses or organizations
Ground transportation: 324,136,600 responses; $0 Federal cost; 10,800,000 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

49 CFR 395.8(t) and 395.9(v) provide an exemption from logging requirements if accurate time records are maintained. Time records are used by FHWA and carriers to determine compliance with maximum time limitations required by 49 CFR 395.3 and to determine overall safety compliance status.

• Research and Special Programs Administration
Cylinder Welding or Brazing Repair Records
On occasion
Businesses or other institutions
Manufacturers of cylinders or cylinder repair facilities
SIC: 344
Other transportation: 6,000 responses; $0 Federal cost; 2,000 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To ascertain that cylinders repaired by welding or brazing have not been weakened by the process and still meet the requirements for the specifications set forth in the regulations.

• Federal Railroad Administration
Special Notice for Repairs
FRA–F–6180.8, 6180.8A
On occasion
State or local governments/businesses or other institutions
Common carriers by rail engaged in interest commerce, etc.
SIC: All
Ground transportation: 700 responses; 60 hours; $1,500 Federal cost; 2 forms; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

The Locomotive Inspection Act, 45 U.S.C. section 29, requires the special notice be issued to notify the carrier in writing of an unsafe condition involving a locomotive, a freight car or track. The carrier is required to return the form after repairs are made.

COMMODITY FUTURES TRADING COMMISSION

Agency Clearance Officer—Joseph G. Salazar—202–254–9735

Revisions

• Registration of Employees of Commodity Training Advisors and Commodity Pool Operators
Form 8–R
Biennially
Individuals or households/businesses or other institutions principally, inivids who solicit customers on behalf, etc.
SIC: 633
Other advancement and regulation of commerce: 1,000 responses; 1,000 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The proposed rule would implement and facilitate the registration of certain commodity training advisors who solicit customers.

• Proposed Amendments to Arbitration Rules
On occasion
Businesses or other institutions
Contract markets and FCM's
SIC: 622
Other advancement and regulation of commerce: 1 response; 1 hour; $0 Federal cost; 2 forms; not applicable under 3504(h)
Robert Veeder, 202–395–4814

The information collection required by the amendments to regulations 180.2 and 180.3 would be necessary to assure that the Commission's policy to reduce the number of reparations and encourage arbitration for the resolution of commodities related disputes is implemented.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Generator Requirements
On occasion, other—see SF83
State or local governments/businesses or other institutions
Generators of hazardous waste
SIC: multiple
Small businesses or organizations
Pollution control and abatement: 2,145 responses; 11,170 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This is an aggregate ICR that covers three components: exception reports, waste documentation and international shipments for hazardous waste generators. Exceptions reports are required when confirmation of waste delivery is not received. Waste documentation (determination) is required for all wastes. Notice of international shipments must be sent to EPA prior to the initial shipment in a calendar year for each foreign consignee and for each waste.

• Environmental Assessment Data Systems
Nonrecurring, on occasion
State or local governments/businesses or other institutions
EPA contracts performing sampling and analysis work, etc.
SIC: multiple
Pollution control and abatement: 200 responses; 4,000 hours; $250,000 Federal cost; 50 forms; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

EADS is a computerized information system that contains results of sampling and analysts activities performed on multimedia discharges from energy and industrial processes. The data are used to support technology development and to assist the States and industry in determining the applicability of control systems to various industrial processes.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Clearance Officer—Linda Shiley—202–287–9906

Extensions (Burden Change)

• Equipment Survey Federal Disaster Assistance Program
FEMA 90–3
On occasion
State or local governments
State and local governments
SIC: multiple

Disaster relief and insurance: 1,500 responses; 750 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form used to summarize data from pumping equipment log maintained by applicant. Use of form is optional. Information needed as basis for reimbursement. Annual burden varies depending on the number and type of disasters occurring in any particular year.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

Revisions

- Semiannual Report (of Savings and Loan Associations)

Special Sections: G; Supplemental Data: H; Deposits: I; Income Tax: J; Securities: K; Deposit Rate and Structure FHLBB 777, 778, 921, 154, 895
Annually, semiannually
Businesses or other institutions
SIC: 612
Mortgage credit and thrift insurance: 28,000 responses; $120,896 Federal cost; 43,400 hours; 1 form; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

Provides detail required to monitor association utilization (individually and in the aggregate) of regulatory and statutory authority to invest in various types of securities and mortgages and to offer various types of deposits and the need for changes in such authority. Provides basis for analyzing tax law changes and secondary market activity of associations. Also provides national aggregates used for analyzing financial and mortgage market activity.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

Extensions (Burden Change)

- ESEA Title I Financial and Performance Report

ED 686–2
Annually
State or local governments
State education agencies
SIC: 941
Elementary, secondary, and vocational education: 58 responses; $210,000 Federal cost; $134,400 Public cost; 5,104 hours; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council 202–426–5030

Data will provide national information on total obligations, the number of participants and instructional areas, staff employment, and national achievement.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—202–566–1164

New

- Federal Supply Motor Vehicle Rental Contracts (Schedule 751)

Other—see SF83
Businesses or other institutions
Rental contractors
SIC: Multiple
Small business or organizations
General property and records management: 1 response; $0 Federal cost; 1 hours; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

This information collection is necessary to collect data on rental contracts. The data elements include vehicle type, the number of rentals, the gross billings, and the number of turndowns. This information is critical to the performance of effective contract administration and necessary for making decisions affecting short term motor vehicle support for customer agencies.

- Standard Form 362, U.S. Government Freight Loss/Damage Claim

SF–362
On occasion
Businesses or other institutions
Transportation companies
SIC: Multiple
Small businesses or organizations
General property and record management: 1 response; $2,000 Federal cost; 1 hour; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

Standard form 362 is used by Government shippers when filing formal claims against transportation companies. This document establishes the government's level of damages to shipments during transportation.

- Description of Property for Possible Leasing, Lessor's Annual Cost Statement, and Proposal To Lease Space

GSA 54, 1217, 1364
Other—See SF83
Individuals or households/businesses or other institutions
Commercial real estate operator, owners and lessors, etc.
SIC: 651
Small businesses or organizations
General property and records management: 20,000 responses; $119,000 Federal cost; 50,000 hours; 3 forms; not applicable under 3504 (h)
Franklin S. Reeder, 202–395–3785

GSA's responsibility is to accommodate Federal agencies in leased space. Form 54 first brings the real estate to the attention of the Government. Form 1217 itemizes the building owner's costs so the Government can evaluate the reasonableness of the price. Form 1364 affords interested building owners or managers the opportunity of offering space to the Government in a standardized format for equitable evaluation of all offers by the Government.

- Standard Form 361, Discrepancy in Shipment Report

SF–361
On occasion
Businesses or other institutions
Transportation companies
SIC: All
Small businesses or organizations
General property and records management: 1 response; $2,500 Federal cost; 1 hour; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

Standard form 361 is used by Government shippers or receivers to request detailed information from commercial transportation companies regarding loss or damage or other discrepancy occurring during transportation. The carrier and Government use this information to resolve subsequent claim actions.

- Request for and Report of Medical Examination

GSA 1896
Other—SEE SF83
Individuals or households
Physicians
General property and records management: 1 response; $0 Federal cost; 1 hour; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

Form is used by building managers to send members of the public to the hospital after an alleged accident in a GSA building. Reverse of the form requests information from attending physician as a result of examination.

- Household Goods Shipment Report

GSA–3080
On occasion
Individuals or households
Gov't employ. being relocated on a perm. change of stat.
General property and records management: 1 response; $3,000 Federal cost; 1 hour; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

The GSA form 3080, household goods shipment report, was developed to assist in the evaluating of household goods carriers service. This form is the basic document used to remove unsatisfactory carriers from the GSA centralized household goods program.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Extensions (Burden change)

• Pension Reports
G–88P
On occasion
Businesses or other institutions
Railroad employers
SIC: 401
General retirement and disability insurance: 3,300 responses; $90,300 Federal cost; 440 hours; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The Railroad Retirement Act provides for payment of a supplemental annuity to a qualified retirement annuitant based on age, length of railroad service and a current connection with the railroad industry. The collection obtains information from the annuitant and his employer to be used in determining entitlement to and the amount of annuity applied for.

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—Ms. Elizabeth Zaic—202–653–7738

New

• SBA Export Date Base Form
SBA 18
Biennially
Businesses or other institutions
Export service organizations and firms
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 50,000 responses; $2,500 Federal cost; $4,800 public cost; 8,000 hours; 1 form; not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

The information is needed to comply with provisions of Pub. L. 96–481 and will be used to direct small businesses to public and private sector organizations capable of providing the in-depth export information and assistance needed by them.

• Application for Section 503 Loan
1244
Nonrecurring
Businesses or other institutions
Small business concerns
SIC: All
Small businesses or organizations
Other advancement and regulation of commerce: 1,000 responses; $5,000 Federal cost; $45,000 public cost; 3,000 hours; 1 form; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Standard business information that allows SBA loan officer to make an eligibility and credit determination.

• SBA Export Information Request
SBA 22
On occasion
Businesses or other institutions
Small business firms
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 24,000 responses; $2,500 Federal cost; $3,600 public cost; 1,200 hours; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The information is necessary to comply with provisions of Pub. L. 96–481 and will be used to ascertain the needs of small business exporters in order to refer them to private and public sector organizations available to assist them.

• Application for Certification As a Certified Development Company
1246
On occasion
Businesses or other institutions
Corporations wishing to become certified development companies.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 50 responses; $5,000 Federal cost; $2,200 public cost; 400 hours; 1 form; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Section 108.503.2 requires the company to submit application form with supporting documents.

• Annual Report Guide
1253
Annually
Businesses or other institutions
Development companies certified under sec. 108.503 of SBA's, etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 250 responses; $2,500 Federal cost; $3,750 public cost; 250 hours; 1 form; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Section 108.503–3 requires the CDC to submit annual reports and data that analyze the impact of its assistance to small business. This is a portion of the data required.

• National Training Evaluation SBA Management Training
Questionnaire
SBA 20
Nonrecurring
Individuals or households/businesses or other institutions
Small business clients
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 8,400 responses; $50,000 Federal cost; 4,200 hours; 1 form; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

This questionnaire will allow us (1) to evaluate SBA training programs on a continuing national basis and (2) to comply with the IG's request for closer evaluation of our programs.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202–389–2146

Revisions

• Application and Enrollment Certification Individualized Tutorial assistance
VA 22–1890T
On occasion
Individuals or households/State or local governments/businesses or other institutions
Schools offering courses approved for VA benefits
SIC: 822; 829
Veterans education, training, and rehabilitation: 26,000 responses; $128,320 Federal cost; 13,000 hours; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The information requested on the form is used to determine entitlement to tutorial assistance. No payment may be made for the allowance unless the application form is submitted (38 U.S.C. 1692 and 1733(B), 38 CFR 21.4236).

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82–1617 Filed 1–27–82; 8:45 am]
BILLING CODE 3110–01–M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the seventeenth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and

Behavioral Research will be held in the Auditorium of the Medical Society of the District of Columbia, 2007 I Street, N.W., Washington, D.C., from 9:00 a.m. to 5:30 p.m. on Friday, February 12, 1982 and from 9:00 a.m. to 4:00 p.m. on Saturday, February 13, 1982, and in the Conference Room at Suite 555, 2000 K Street, N.W., Washington, D.C., from 7:00 p.m. to 8:00 p.m. on Friday, February 12, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda for Friday, February 12 will include, among other things, the swearing-in of four new Commissioners, testimony on and discussion of issues of patient competence and the role of families in biomedical decisionmaking. The agenda for Saturday, February 13 will include, among other things, deliberation on a discussion outline on ethical and legal implications of decisions in neonatal intensive care units.

During Friday afternoon, at approximately 3:45 p.m., and Saturday afternoon, at approximately 1:00 p.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

FR Doc. 82–2285 Filed 1–27–82; 8:45 am]

BILLING CODE 6820–AV–M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 1–A; Rev. 11]

Delegation of Authority; Associate Deputy Administrator (Line of Succession to the Administrator)

Delegation of Authority No. 1–A (Revision 10) (46 FR 34447) is hereby revised to read as follows:

I

Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, authority is hereby delegated to the following officials in the following order:

1. Associate Deputy Administrator
2. General Counsel

to perform, in the event of the absence or incapacity of the Administrator and the Deputy Administrator any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under sections 7(a)(6), 9(d) and 11 of the Small Business Act, as amended.

II

Anyone designated by the Administrator or Acting Administrator as acting due to a vacancy in one of the positions listed above remains in the line of succession; otherwise in the absence of one of the above, the authority moves to the next position.

III

This delegation is not in derogation of any authority residing in the above-listed officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

EFFECTIVE DATE: January 28, 1982.

Dated: January 21, 1982.

Michael Cardenas,

Administrator.

[FR Doc. 82–2061 Filed 1–27–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/479]

Advisory Committee on International Intellectual Property; Meeting

The International Industrial Property Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on Tuesday, February 9, 1982, in Room 1105 at the Department of State. The meeting will begin at 9:30 a.m. and will continue until 1:00 p.m. Although we anticipate that the business of the meeting will be concluded prior to the lunch break, an afternoon session will be held if required.

The meeting will be open to the general public. The following topics will be discussed:

1. Revision of the Paris Convention for the Protection of Industrial Property.
2. The Draft International Code of Conduct on the Transfer of Technology.
3. The Draft Convention on the Law of the Sea.

The public attending may, as time permits and subject to the instructions of the Chairperson, participate in the discussions or may submit their views in writing to the chairperson prior to, or at the meeting for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Entrance to the Department of State is controlled and entry will be facilitated if arrangments are made in advance of the meeting. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation, and address to Mrs. Bobbi Tinsley, Office of Business Practices, Department of State, telephone (202) 632–1486, prior to February 9, 1982. All attendnees to the meeting should use the C Street Entrace to the building.

Dated: January 11, 1982.

Harvey J. Winter,

Executive Secretary.

[FR Doc. 82–2118 Filed 1–27–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/487]

Presidential Commission on Broadcasting to Cuba; Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 Section 5(c), notice is hereby given that the Presidential Commission on Broadcasting to Cuba will meet in closed session on Friday, February 5, at 10:00 a.m. in Room 6909, U.S. Department of State, 21st and C Streets, NW., Washington, D.C.

The purpose of the closed meeting, which will be the Commission's first, is to organize the work program of the Commission and to establish appropriate security procedures for handling classified information.

The reason for holding a closed meeting is that subjects and documents relating to Broadcasting to Cuba will be discussed that should not be prematurely disclosed to the public or which are classified under Executive Order 12065. It is the Commission's intention that there will be subsequent meetings of the Commission open to the public.

This notice of meeting is being published with less than 15 days advance notice because of the imperative need for the Commission to

begin its deliberations as soon as possible.

Ambassador George W. Landau,

Executive Secretary, Presidential Commission on Broadcasting to Cuba.

January 26, 1982.

[FR Doc. 82-2400 Filed 1-27-82; 9:37 am]

BILLING CODE 4710-29-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

San Juan Island Airport; Intent

The Federal Aviation Administration and the Port of Friday Harbor, Washington, acting as joint lead agencies, intent to develop Draft and Final Environmental Impact Statements (EIS) for a proposed new public airport on San Juan Island.

Proposed Action and Alternatives

The proposed action consists of construction of a General Utility airport publicly owned (by the Port of Friday Harbor) and open to the general public. The runway length as proposed is 3,400 feet. Sufficient support area will be provided to accommodate present and projected future aviation activity at the airport.

Alternatives to be evaluated include:

a. Friday West Site (approximately one mile west of the town of Friday Harbor on Beaverton Valley Road);

b. Upgrade the existing Friday Harbor Airport (privately owned) to FAA standards (new configuration); and

c. No-Build (continue using existing Friday Harbor Airport as is)

Scoping Process

Due to federal budgetary constraints, a formal scoping meeting will not be held. The proposed action was the subject of an environmental assessment (EA) report prepared in August of 1980. Persons wishing to review the EA in order to better understand the proposed action or provide comments regarding environmental concerns may review the EA at the following locations: Northwest Region Federal Aviation Administration Airports Division Office (Seattle), the offices of the Port of Friday Harbor (Friday Harbor) and at the San Juan Island Library (Friday Harbor).

Letters containing environmental concerns must be received by Mr. Mark Beisse, Acting Chief, Airports Planning and Programming Branch, FAA Building, King County International Airport, Seattle, Washington 98108 or by Ms. Linda Browne, Commission Chairperson, Port of Friday Harbor, P.O. Box 661, Friday Harbor, Washington 98250, by February 20, 1982.

Approximate Release of:

Draft EIS.....July 1982
Final EIS.....October 1982

Points of Contact for Information

Any questions concerning the proposed project and the EIS should be directed to:

Dennis Ossenkop, ANW-614, Environmental Planning Officer, Federal Aviation Administration, FAA Building, Boeing Field, King County International Airport, Seattle, WA 98108, (206) 767-2633

Mr. Fred Krabbe, P.O. Box 767, Friday Harbor, WA 98250, (206) 378-4171

Dated: January 18, 1982.

Mark A. Beisse,

Acting Chief, Planning and Programming Branch, ANW-610.

[FR Doc. 82-1802 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement, Decatur, Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Decatur, Illinois. The project will consist of replacement, rehabilitation or closing of the existing IL Route 121 bridge over the A.E. Staley Company and the Norfolk and Western Railroad yard, commonly known as the Staley Viaduct. The proposed project also includes associated roadway improvements, which will connect U.S. Route 36, IL Route 105 and local city streets to IL Route 121. The FHWA and the Illinois Department of Transportation will act as lead agencies.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Johnson, District Engineer, Federal Highway Administration, 320 West Washington, 7th Floor, Springfield, Illinois 62701, telephone (217) 492-4618.

Mr. Robert E. Kronst, District Engineer, Illinois Department of Transportation, Division of Highways, District 5, Route 133 West, P.O. Box 358, Paris, Illinois 61944, telephone (217) 465-4181.

SUPPLEMENTARY INFORMATION: The Staley Viaduct, which was built in 1928, is a 2 lane structure approximately 2400 feet long and consists of 61 reinforced concrete deck girder spans and 7 steel plate girder spans. The condition of the structure is such that routine repair and maintenance can no longer prevent the structure from deteriorating to an unsafe condition.

Ten alternatives are being considered for the rehabilitation or replacement of the existing structure or construction of a replacement structure on a new alignment. The proposed structure will provide four lanes. The evaluation of the alternatives will consider the use of single and double level structures and tunnels along various alignments. All of the study alignments on new locations would extend partly through residential areas and partly through industrial areas. The environmental impact statement will also evaluate the effects of the no action alternative on the community and environment. Possible environmental effects associated with the proposed project include:

1. Temporary or permanent disruption and adverse travel of local and through traffic.

2. Increased noise, traffic congestion, and potential safety problems on existing facilities.

3. Some alternatives may have adverse effects on the Staley Company's operations. Also there may be some effects to the Norfolk and Western Railroad yard operations.

4. Additional right-of-way needs for some alternatives may require the relocation of some businesses and residences, maximum 110 displacements.

5. Right-of-way needs on some alternatives may require the acquisition of up to two acres of existing park land.

6. Some alternatives would affect the cohesiveness of neighborhoods in the vicinity of the project.

The scoping process will be achieved by review and comment on an information packet that has been prepared by the Federal Highway Administration and Illinois Department of Transportation. The information packet will be sent to the Department of Interior, U.S. Fish and Wildlife Service, Department of Housing and Urban Development, Department of Agriculture, U.S. Environmental Protection Agency, National Park Service, the Federal Railroad Administration and the U.S. Army Corps of Engineers. State and local agencies in Illinois will also have an opportunity to review and comment on the informational packet. Other interested parties may obtain copies of the informational packet from the contact persons listed in this notice. A notice announcing the availability of the scoping document will be published in local newspapers. A formal scoping

meeting will not be held for the proposed action.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Frank Johnson,

District Engineer, Springfield, Illinois.

[FR Doc. 82–1946 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–22–M

Federal Highway Administration

Environmental Impact Statement; Valencia County, New Mexico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Valencia County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dewey O. Lonsberry, Program Development Engineer, Federal Highway Administration, U.S. Courthouse—Room 117, Santa Fe, New Mexico 87501, Telephone: (505) 988–6255.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico State Highway Department will prepare an environmental impact statement (EIS) on a proposal to improve New Mexico Route 49 in Valencia County, New Mexico. The existing 2-lane roadway is not wide enough to safely carry existing and projected traffic volumes. The proposed improvement would begin at the intersection of U.S. 85 and New Mexico 49, extend east across the Rio Grande, and terminate at the intersection of New Mexico 49 and New Mexico 47. A length of approximately 2.1 miles. Alternatives under consideration include taking no action, to build alternatives for the section of the project west of the Rio Grande and to build alternatives for the section east of the Rio Grande. Either build alternative west of the river could be combined with either build alternative east of the river to form a complete build alternative. The build alternatives west of the river include widening the existing 2-lane section to 4-lane along the existing alignment and widening to 4 lanes within the existing right-of-way and widening to 4 lanes with a continuous left turn lane. The build alternatives east of the river include widening to 4 lanes partially along the existing alignment then realigning N.M. 49 to a new intersection with N.M. 47 approximately ½ mile south of the existing intersection. The existing bridge across the Rio Grande will accommodate 4 lanes meeting present standard and will not be modified.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public hearing will also be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: January 19, 1982.

Dewey O. Lonsberry,

Program Development Engineer, Santa Fe, New Mexico.

[FR Doc. 82–2158 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

[Docket No. S–708]

American President Lines, Ltd.; Application

Notice is hereby given that American President Lines, Ltd. has filed an application dated December 29, 1981, to amend its present Operating-Differential Subsidy Agreement, Contract MA/MSB–417, so as to permit vessel calls at all ports of Oman in Line A Extension service and in Line B Extension service.

APL's Line A Extension service description requires a minimum of 18 and a maximum of 28 Line A sailings (California to Japan, Hong Kong, Philippines, Taiwan, Korea, Vietnam, Cambodia, Thailand) to serve Indonesia, Malaysia, or Singapore with privilege ports in the Bay of Bengal area, west coast of India, Pakistan, and the Persian Gulf-Gulf of Oman (not to load U.S. cargo at the Persian Gulf-Gulf of Oman). Deletion of this last parenthetical phrase is part of another application which is being processed separately and is not affected by the December 29 application being here Noticed. APL's Line A services also include the privilege of service to U.S. Atlantic ports via the Panama Canal on not more than 28 sailings.

APL's Line B Extension service description requires a minimum of 6 Line B sailings (Washington-Oregon to Japan, Korea, Taiwan, Hong Kong, Philippines, Vietnam, Cambodia, or Thailand) to serve Indonesia, Malaysia, or Singapore with privilege ports in the Bay of Bengal area, west coast of India, Pakistan, and the Persian Gulf-Gulf of Oman.

APL proposes to substitute "Persian Gulf-Gulf of Oman (including Oman)" for the present reference to "Persian Gulf-Gulf of Oman" in the Line A Extension and Line B Extension services described above.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 7300, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by the close of business on February 12, 1982.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board.

Dated: January 22, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82–2094 Filed 1–27–82; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

[Docket No. IP81–23; Notice 1]

Bridgestone Tire Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

Bridgestone Tire Company of America, Inc. of Torrance, California, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.3.1 of Standard No. 109 requires each tire to be "labelled with the symbol DOT in the manner specified in Part 574. * * *" Figure 1 of Part 574, *Tire Identification and Recordkeeping*, specifies that the DOT symbol shall be not less than ¼-inch from the tire identification number. In metrics, the minimum requirement is 6.35 mm. Bridgestone has manufactured 429,000 tires in which the spacing has varied from 4.0 to 6.5 mm. It has received no reports or complaints on the noncompliance, has corrected the mistake, and believes that the noncompliance is inconsequential as the tire otherwise complies with Standard No. 109 and Part 574.

Interested persons are invited to submit written data, views and arguments on the petition of Bridgestone Tire Company of America, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: March 1, 1982.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 21, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-2161 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP82-4; Notice 1]

Volvo White Truck Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance With Vehicle Identification Number Regulation

Volvo White Truck Corporation of Greensboro, North Carolina, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Volvo White imports Western Star trucks (33,000 pounds and greater GVWR) manufactured in Canada. The tenth character of the VIN was not changed at the proper time to signify Model Year 1982. The result is that 46 trucks, manufactured in September 1981, came into the country with the VIN translating as Model Year 1981, when in reality they were 1982 models.

The company's principal inconsequentiality argument is that traceability for recall is not affected by the content of the descriptor section of the VIN. To require correction would burden the truck owner who would have to obtain a new title. There are other difficulties such as misinterpretation by law agencies of a restamped VIN and the possibility for error that restamping might involve.

Interested persons are invited to submit written data, views and arguments on the petition of Volvo White Truck Corporation, described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Nelson Erickson and Taylor Vinson.

Comment closing date: March 1, 1982.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 21, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-2160 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-59-M

National Highway Traffic Safety Administration

[Docket No. IP82-1; Notice 1]

National Coach Corp.; Receipt of Petition for Inconsequential Defect

National Coach Corporation of Gardena, California, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a defect in certain of its buses that it deems is safety-related. The bases of the petition is that the defect is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgment concerning the merits of the petition.

National has manufactured 116 "Escort" buses from May 1980 to June 1981 with seating capacities of 17 and 20 passengers. Its design incorporates a wheelbase that is short relative to the vehicle's overall length which would result in an overloading of the rear axle if the bus is loaded to its full complement of passengers. The rear gross axle weight rating (RGAWR) required by 49 CFR 567.4(g)(4) to be on the vehicle's certification label, is stated at 7,400 pounds for both types of Escorts, while the actual RGAWR is either 7,840 pounds or 8,220 pounds, depending on the vehicle and equipment involved. In no instance, however, would the overall gross vehicle weight rating be exceeded if the buses were fully loaded.

The petitioner makes several arguments in support of its contention that the erroneous RGAWR figure is inconsequential as it relates to motor vehicle safety. First, over 72 percent of

the vehicles are used either as demonstrators or in airports in shuttle service (average load of 9 passengers per vehicle) and this actual load level does not approach the maximum stated capacity. A complement of 15 passengers is required to approach an overloading of the rear suspension capacity. Because of the type of service involved, the buses are operated at low speeds and away from regular highway traffic. Further, the values assigned to indicate the suspension system capacity are not the product of a stress-to-limit test but usually include a substantial safety factor. The rating, therefore, is indicative of an acceptable tolerance level rather than an ultimate limit of capacity. National's rear suspension system can "most probably" sustain weights "substantially" in excess of the stated RGAWR and any overloading would be temporary and would not create a hazard; no complaints have been received to date.

Interested persons are invited to submit written data, views and arguments on the petition of National Coach Corporation described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney responsible for this notice are James Thomas and Taylor Vinson, respectively.

Comment closing date: March 1, 1982.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 20, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82-1967 Filed 1-27-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 156 (Rev. 1) Amend. 3; Chief Counsel Order No. 1031.3 Amend 1]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This is an amendment to paragraph 13(a) of Delegation Order No. 156 (Rev. 1) and Chief Counsel Order No. 1031.3. The responsibility to authorize testimony of Service employees is redelegated from the Regional Commissioner to the District and Service Center Director level.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: R. L. Rizzo, TX:D, 1111 Constitution Ave., NW., Room 1603, Washington, D.C. 20224, Telephone number 202-566-4263 (Not a Toll-Free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

R. L. Rizzo,

Director, Disclosure Operations Division.

Order No. 156 (Rev. 1) Amend. 3; Chief Counsel Order No. 1031.3 Amend. 1

Authorization of Testimony of Officers and Employees of the Internal Revenue Service

Date of issue: January 25, 1982.

Effective date: March 1, 1982.

This Amendment supersedes Paragraphs 13 (a) and (e) of Delegation Order No. 156 (Rev. 1) and Chief Counsel Order No. 1031.3, issued July 30, 1979.

"(13) The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.9000-1 is delegated by this Order to the Deputy Commissioner and to Regional Commissioners, the Assistant Commissioner (Taxpaayer Service and Returns Processing); the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); District Directors; and Service Center Directors to the extent described below:

"(a) Regional Commissioners, District Directors and Service Center Directors are authorized to determine whether officers and employees of the Internal Revenue Service assigned to their respective region, district or service center will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information. For purposes of this delegation, employees of the Office of the Regional Counsel come under the authority of the Regional Commissioner. For purposes of this delegation, employees of the Office of the District Counsel come under the authority of the District Director. This paragraph does not apply to employees of the Regional Inspector. The Regional Commissioners should act in all such matters only after coordination with the Office of the Regional Counsel. District and Service Center Directors should act in all such matters only after coordination with the Office of the District Counsel. In instances where it is anticipated that the testimony or production of Service records by a District Counsel attorney will involve matters which may fall within the attorney-client privilege, the determination of whether to waive the privilege, as well as the authority to authorize the testimony or production shall lie with the Regional Commissioner who will act in these matters only after coordination with Regional Counsel. The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 FR 36131 (1979), which provides the authority for the disclosure of Internal Revenue Service records and information in tax court proceedings.) The authority herein may not be redelegated. See paragraphs 13 (c), (d) and (e) of Delegation Order No. 156 (Rev. 1).

"(e) The authority delegated to Regional Commissioners, District Directors, and Service Center Directors in paragraph (a) shall not extend to testimony or the production of Service records or information which may require a disclosure to a competent authority under a tax convention, whether or not such records or information were previously disclosed pursuant to such convention. The Assistant Commissioner (Taxpayer Service and Returns Processing) and the Deputy Assistant Commissioner (Taxpayer Service and Returns Processing) should act in all such matters only after authorization by the Assistant Compliance. The authority delegated to Regional Commissioners, District Directors and Service Center Directors in paragraph (a) also shall not extend to testimony on the production of Service records which may require a disclosure of returns or return information pursuant to IRC 6103(i)(1), (2), (3), and (4), unless a disclosure of the same returns or return information has been previously authorized by the Commissioner, or other persons authorized to permit such disclosure under paragraph (6) of this Order."

The Amendment supersedes Paragraphs 13 (a) and (e) of Delegation Order No. 156 (Rev. 1) and Chief Counsel Order No. 1031.3 issued July 30, 1979, and printed in the **Federal Register** dated August 1, 1979, Vol. 44, No. 149, Page 45275.

Kenneth W. Gideon,

Chief Counsel.

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 82-2204 Filed 1-27-82; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 19
Thursday, January 28, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m. (open), January 29, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 39834, U.S.-London Case (1982). Instructions to staff. (OGC)
3. Docket 39788, *The Air Florida System-Western Acquisition Show-Cause Proceeding.* (BDA)
4. Docket 40194, Application of Cape Smythe Air Service, Inc., under expedited procedures, for a section 401 certificate. (Memo 1047, BDA)
5. Docket 40193, Application of Hermens Air, Inc. under Subpart Q of the Board's Regulations for a section 401 certificate. (BDA)
7. Docket 40184—Certificate Applicaton of Tyee Airlines Filed Under Subpart Q. (Memo 1054, BDA)
6. Docket 40200, Commuter carrier certification of Channel Flying. (BDA)
8. Docket 39550-Application of People Express Airlines, Inc. for exemption. Petition of American Airlines for reconsideration and reversal of staff action in order 81–6–41 granting People Express exemptions for Parts 221 and 250 of the Board's Economic Regulations. (Memo 1028, BDA)
9. Dockets EAS–633, 40340 and 40341, 90-day notice and exemption application of Continental Air Lines to terminate service at Pago Pago, American Samoa. (Memo 227B, BDA, OCCR)
10. Dockets 39997 and NR–488—Petition of Frontier Airlines for Reconsideration of Order 81–12–101, requiring Frontier to maintain the capability to reinstitute essential air service at Fayetteville, Harrison and Fort Smith, reinstitute essential air service at Fayetteville, Harrison and Fort Smith, Arkansas, and Fort Leonard Wood, Missouri for thirty days after it suspends service. (BDA, OCCR)
11. Commuter carrier fitness determination of Northern Airlines, Inc. (Memo 1051, BDA)
12. Commuter carrier fitness determination of SFO Helicopter Airlines, Inc. (Memo 1050, BDA)
13. Commuter carrier fitness determination of Simmons L. J. Enterprise, Inc. d.b.a. Simmons Airlines. (BDA)
14. Docket 39374, Cochise Airlines notice to suspend service at Kingman, Prescott, and Winslow, Arizona. (BDA, OCCR)
15. Dockets 39289 and 39480—Essential Air Service for Norfolk, Nebraska, and Yankton, South Dakota. (Memo 884D, BDA, OCCR)
16. Dockets 40259 and 40286—90-day notices of Frontier Airlines to reduce its service at Salina and Manhattan/Junction City/Ft. Riley, Kansas and requests for exemptions to suspend on less than the statutory notice period. (BDA, OCCR)
17. Dockets 40298 and 40362—notice of Republic Airlines, Inc. to suspend service at Yakima, Washington on less than 90 days notice. (BDA, OCCR)
18. Dockets 40283 and 40284, Texas International Airlines' notice to terminate service at Lake Charles, Louisiana, and request for exemption for early termination. (BDA, OCCR)
19. Docket EAS–599, Sixty-day notice of Piedmont Aviation to suspend service in the Charlottesville-Roanoke market. (BDA, OCCR)
20. Docket EAS–735, Essential Air Service Eligibility for Marysville/Yuba City, California. (Memo 615A, BDA, OCCR, OGC)
21. Docket 39992, Essential air service for Elko and Ely, Nevada. (BDA, OCCR)
22. Docket 38138, Application of Aspen Airways, Inc., for Compensation for Losses Pursuant to Section 419 of the Act. (Memo 174A, BDA, OCCR)
23. Docket 39856, Cascade Airways, Inc., application for compensation of losses at Wenatchee, Washington. (Memo 1046, BDA, OCCR)
24. Docket 39617, Air Wisconsin, Inc., compensation for losses at Jamestown, North Dakota. (Memo 1048, BDA, OCCR)
25. Revised Cost-Sharing Report (Memo 1049, BDA, OGC, OEA)
26. Docket 21670, *Frontier Airlines, Inc., Subsidy Mail Rates.* (Remanded Phase. (Memo 1066, OGC)
27. Docket 38023—Change in effective date of the rule governing registration of foreign operators. (Memo 880A, OGC, BIA)
28. Expiration of restriction removal program. (OGC)
29. Docket 39989—*Continuation of expired authorizations pending Board action on renewal requests.* (Memo 741A, OGC, BIA)
30. Docket 35634, IATA agreement proposing new U.K.-U.S. cargo rates. (BIA)
31. Docket 40309—Application of Korean Air Lines Co., Ltd. for an exemption to provide emergency transportation for a heart attack victim and his wife between Anchorage and New York. (Memo 1039, BIA)
32. Docket 40129—Application of Aerolineas Nicaraguenses, S.A. (Aeronica) for an exemption from section 402 of the Act to conduct nonstop scheduled Miami-Managua operations, pending final Board action on its initial permit application. (Memo 1043, BIA)
33. Docket 39664, Application of Soljet-Tours, Inc. for relief from the Act pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended. (Memo 1045, BIA)
34. Dockets 39955 and 40013—Applications of Transamerica Airlines, Inc. and Guy-America Airways, Inc., respectively, for certificate authority to operate foreign scheduled combination service to numerous multiple entry points. (Memo 1052, BIA)
35. Dockets 40137, 40138, 40204, and 40223—Applications of Transamerica, Capitol, World, and Evergreen for renewal and amendment of certificates of public convenience and necessity to provide overseas and foreign charter air transportation. (Memo 1042, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S. 127–82 Filed 1–26–82; 3:51 pm]

BILLING CODE 6320–01–M

2

COMMISSION ON CIVIL RIGHTS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 2451.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. to 4 p.m., January 18, 1982.

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

CHANGE IN THE MEETING: The following items have been added to the agenda of the meeting:

(1) Discussion of the issue of the tax exempt status of certain private schools.

(2) Internal agency personnel matters. That portion of the meeting relating to item (2) is closed to the public.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera and Barbara Brooks, Press and Communications Division, (202) 254–6687.

[S–123–82 Filed 1–26–82; 10:31 am]

BILLING CODE 6335–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 5, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–121–82 Filed 1–26–82; 8:56 am]

BILLING CODE 6351–01–M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 A.M., MONDAY, FEBRUARY 8, 1982.

LOCATION: THIRD FLOOR HEARING ROOM, 1111 18TH STREET, NW., WASHINGTON, D.C.

STATUS: OPEN TO THE PUBLIC.

MATTERS TO BE CONSIDERED:

1. *Urea-Formaldehyde Foam Insulation*
The Commission will consider whether to finalize or withdraw a proposed consumer product safety rule that would declare urea-formaldehyde foam insulation to be a banned hazardous product under section 8 of the Consumer Product Safety Act.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Ave., Bethesda, MD 20207; Telephone (301) 492–6800.

[S–125–82 Filed 1–26–82; 1:34 pm]

BILLING CODE 6355–01–M

5

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, February 3, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Urea-Formaldehyde Foam Insulation
The staff will brief the Commission on whether to finalize or withdraw the proposed ban on urea-formaldehyde foam insulation, a thermal insulation material for residences and other buildings. On February 5, 1981 the Commission published a proposal to ban urea-formaldehyde foam insulation and on November 18, 1981 the Commission published a request for comment on additional data. The decision meeting on this matter is scheduled for 10 a.m. February 8, 1982.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Ave., Bethesda, MD 20207; Telephone (301) 492–6800.

[S–126–82 Filed 1–26–82; 1:39 pm]

BILLING CODE 6355–01–M

6

FEDERAL ELECTION COMMISSION

[Federal Register No. FR–S–82–96]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 28, 1982 at 10 a.m.

CHANGE IN MEETING: The following item has been added to the agenda:

Draft AO 1981–51: Continued from January 21, 1982

* * * * *

DATE AND TIME: Tuesday, February 2, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, February 3, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Continuation of Executive Session of February 2, 1982, if necessary.

* * * * *

DATE AND TIME: Thursday, February 4, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory Opinions:
Draft AO 1981–59: Ralph W. Holman, National Association of Realtors
Draft AO 1981–61: Barnett Grace, Commercial National Bank
Draft AO 1982–1: James J. Florio, Member of Congress
Revisions of proposed regulations—11 CFR 114.3 and 114.4 (if not concluded on January 28, 1982)
Revisions of proposed regulations—11 CFR 102.6 and 102.7 (if not concluded on January 28, 1982)
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–128–82 Filed 1–28–82; 3:52 pm]

BILLING CODE 6715–01–M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 3, 1982.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Docket No. 76–63: Filing of Agreements by Common Carriers and Other Persons: Supporting Statements and Evidence—Status of Proceeding.

Portion closed to the public:

1. Docket No. 79–83: Investigation of Unfiled Agreements in the North Atlantic Trades—Status of Proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S 124–82 Filed 1–26–82; 12:41 pm]

BILLING CODE 6730–01–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 20, 1982.

TIME AND DATE: 2:30 p.m., Wednesday, January 27, 1982.

PLACE: Room 600, 1730 K Street, NW, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Callanan Industries, Inc., Docket No. YORK 79–99–M. (Issues include interpretation and application of 30 CFR 56.5–50).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–122–82 Filed 1–26–82; 10:10 am]

BILLING CODE 6820–12–M

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federal register

Thursday
January 28, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Threatened Status for the Leopard in Southern Africa

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for the Leopard in Southern Africa

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a rulemaking which reclassifies certain African populations of the leopard as Threatened rather than Endangered. All leopard populations occurring to the south of a line running along the borders of the following countries are reclassified as Threatened: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia. A special rule is promulgated that allows for the importation of a sport-hunted leopard trophy legally taken anywhere in Africa south of this line under the terms and conditions imposed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Since the leopard is on Appendix I of this Convention, a valid export permit from the country of origin of the trophy or a reexport certificate from any intermediate country is required, and a valid import permit must be issued by the United States Management Authority for the Convention. No Threatened species permit under the Endangered Species Act is required in this limited situation. It must be emphasized that this action applies only to sport-hunted trophies. With regard to any other transaction, all of the prohibitions of 50 CFR 17.31 still apply. In addition, it should be noted that leopard populations in any area other than that delineated above in southern Africa remain on the Endangered species list, and continue to be subject to all of the prohibitions of 50 CFR 17.21.

DATE: The rule becomes effective on March 1, 1982.

ADDRESSES: Documents, comments, and other materials related to this rulemaking are available by appointment for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia, 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, 1000 North Glebe Road, Arlington, Virginia, 22201 (703/235-1975).

SUPPLEMENTARY INFORMATION:

Background

The leopard (*Panthera pardus*) was listed in March, 1972, as an Endangered species throughout its entire range. In the Federal Register of March 24, 1980 (45 FR 19007), the service proposed to change the classification of the leopard in sub-Saharan Africa from Endangered to Threatened, and to permit the importation of sport-hunted leopard trophies from this region under the terms and conditions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The specific area for which this action was proposed is in Africa, south of a line running along the borders of the following countries: Senegal/Mauritania; Mali/Mauritania; Mali/Algeria; Niger/Algeria; Niger/Libya; Tchad/Libya; Sudan/Libya; Sudan/Egypt. In the proposal, the public and all interested parties were given until November 24, 1980, in which to present data, comments, opinions and arguments in favor of, or in opposition to, the proposal. In addition, the Service requested the Department of State to contact all affected foreign countries (i.e., those sub-Saharan African countries in which the leopard is resident), and solicit any pertinent information or comments they might have. The Service has now completed its examination of all materials submitted in connection with the proposal, and finds that the area in which the leopard should be reclassified is southern Africa rather than all of sub-Saharan Africa. It is therefore issuing herewith a final rulemaking to reclassify the leopard in an area of Africa to the south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethopia; Kenya/Somalia. Imports of sport-hunted trophies will be permitted from this area under the terms and conditions of CITES.

Historical Record

The leopard is the most widely distributed species of cat. It occurs throughout most of Africa, and from Asia Minor to China, Korea, Japan, and Java; it also is found in India, Sri Lanka and Southeast Asia. In March of 1972, the Service listed the leopard as an Endangered species pursuant to the Endangered Species Conservation Act of 1969. This was done primarily because it was felt that the species was being drastically over utilized in the commercial fur trade. For instance, in 1968 and 1969 alone, over 17,000 leopard hides were imported into the United States. This trade was unregulated, and illegal poaching was widespread. The Service felt that no species of large cat like the leopard could tolerate this enormous drain from its wild populations for any sustained period of time and continue to survive as a viable species. In addition, nearly every country contacted, in which the leopard was resident, expressed fears for the leopard's future if the fur trade was not brought under control. Consequently, the leopard was listed as an Endangered species pursuant to the Endangered Species Act of 1969.

Under that Act, there were provisions for only the single status category of Endangered. A listing as Endangered automatically prohibited the importation of any leopards, alive or parts and products thereof, into the United States, except under permit. Permits could be issued only for scientific purposes, or to enhance the propagation or survival of the species. The heavy flow of leopards into the United States for the fur trade immediately ceased after the listing and there have been no imports of leopards, except under permit, since 1972.

In February and March of 1973, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter, the CITES or the Convention) was negotiated in Washington, D.C. (the Convention, however, did not become effective until July 1, 1975). The leopard was placed on Appendix I of the Convention when the Convention was negotiated. Appendix I is defined as including all species threatened with extinction which are or may be affected by trade. The CITES requires that trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances. With an Appendix I species, a valid export permit must be issued by the Management Authority of the country of export and an import permit must be issued by the Management Authority of the country of import before trade in the species is allowed. An export permit will not be granted by the country of export unless its Scientific Authority advises that such export will not be detrimental to the survival of the species, and unless its Management Authority is satisfied that

an import permit has been granted, and that the specimen was lawfully acquired. In the case of countries not party to the CITES, these findings must be made by comparable government authorities. The United States Management Authority will not issue an import permit unless it is determined that the country of origin for the trophy has a management program for the leopard, and can show that its populations can sustain a sport hunting harvest, and that sport hunting enhances the survival of the species.

The U.S. Scientific Authority for CITES has, on several occasions, advised in favor of requests to import sport-hunted trophies of another Appendix I Species, the southern white rhinoceros (*Ceratotherium simum simum*). It is prepared to give similar advice on requests to import leopard trophies, but only if the countries of origin meet the above criteria. To date, the U.S. Scientific Authority for CITES has reviewed the adequacy of the leopard conservation program in a specific case for Botswana and has determined in that case that the country currently meets these criteria; the review of other countries' programs is anticipated. The Scientific Authority intends to evaluate individual permit requests in terms of Conference Report 2.11 of the Convention concerning Appendix I trophy imports. That report indicates that import permit decisions for sport-hunted trophies should be made on the basis of the following considerations: (1) Whether the importation will serve a purpose not detrimental to the survival of the species; and (2) whether the killing of animals whose trophies are intended for import will enhance the survival of the species. These considerations translate into determinations concerning management programs and populations in specific countries.

The placing of the leopard on the United States List of Endangered and Threatened Wildlife and Plants, and on Appendix I of the Convention, has generated considerable interest in that species' actual status in the wild. Since the listing, four major studies on the status of the leopard have been completed which form the basis for the present action. These studies are the following: "The Leopard *Panthera pardus* in Africa" by Norman Myers (IU CN Monograph No. 5, 1976); "The Status and Conservation of the Leopard in sub-Saharan Africa" by Randall L. Eaton (Safari Club International, January, 1977); "Status of the Leopard in Africa South of the Sahara" by James G. Teer and Wendell G. Swank (unpublished contracted study, 1978, financed by U.S. Fish and Wildlife Service); and finally, "The Leopard *Panthera pardus* and Cheetah *Acinonyx jubatus* in Kenya" by P. H. Hamilton (unpublished contracted study, 1981, financed by U.S. Fish and Wildlife Service).

In December 1973, the Endangered Species Act of 1973 was passed into law. This Act differed from the previous 1969 Act in that it provided for a Threatened category as well as for an Endangered one. A Threatened species is one that is likely to become Endangered within the foreseeable future throughout all or a significant portion of its range. The Secretary has broad discretion in developing a management strategy that will effectively conserve Threatened species by issuing specific regulations. Based on data contained in the status documents enumerated above and other available information, the Service feels now that the leopard in southern Africa more properly fits the definition of a Threatened species than it does an Endangered species (an Endangered species is defined as one in danger of extinction throughout all or a significant portion of its range).

The Service can promulgate any specific regulations for a Threatened species that are deemed necessary and advisable to provide for the conservation of that species. In the case of the leopard in southern Africa, the Service finds it necessary and advisable to permit the importation of legally taken sport-hunting trophies under the terms and conditions of the Convention in certain cases. In the following sections, the Service outlines its reasons for reclassifying the leopard in southern Africa, and presents its argument as to why it may be necessary and advisable in some cases to permit the controlled importation of legally taken trophies.

Reasons for Reducing the Area Affected by the Reclassification

In its March 24, 1980, proposed rulemaking, the Service delineated all of sub-Saharan Africa as the area in which it proposed to reclassify the leopard to Threatened status. Since that proposal, the Service has re-examined the status reports available to it, and has carefully analysed the data, comments and opinions that were submitted in response to the proposal. The Service now concludes from the available data that a more restricted area for the reclassification is warranted. Therefore this final rule reclassifies the leopard as Threatened in southern Africa only, rather than in all of sub-Saharan Africa as originally proposed. The reasons for this change from the original proposal are as follows: (1) Through the American embassies in the countries, three West African countries (Senegal, Liberia and Ghana), and Sudan and Ethiopia in the northeastern part of sub-Saharan Africa, indicated that leopards were considered as Endangered in those countries; and (2) reexamination of all available data show that less substantial evidence is available from West Africa and the northern tier of countries in sub-Saharan Africa than from the rest of the area of the proposed reclassification. Because of these factors, the Service now proceeds to reclassification of the leopard only in southern Africa.

Summary of Data on the Status of the Leopard in Southern Africa

Eaton (loc. cit.), using a habitat/density analysis, believes that a conservative estimate of the numbers of leopards in the area under consideration would be in the neighborhood of half a million animals (426,282). He feels that an absolute minimum estimate would place the numbers at 186,034. A breakdown of minimum and conservative estimates for each of the southern African countries is as follows:

Country	Absolute minimum	Conservative estimate
Kenya	6,379	25,640
Uganda	1,547	3,413
Tanzania	14,740	86,100
Angola	17,369	42,340
Zambia	18,000	45,250
Mozambique	16,190	32,379
Malawi	1,950	3,835
Botswana	2,184	6,646
Zimbabwe	2,266	6,676
South West Africa/Namibia	3,477	6,554
South Africa	3,800	7,150
Congo	13,200	27,500
Gabon	13,400	26,800
Zaire	70,00	155,000
Total	186,034	426,282

Although the conservative estimates may overstate actual numbers, it still is reasonable to believe that the absolute minimum figures have validity and that there probably are well over 180,000 leopards in the area under consideration, e.g., the minimum figure of Eaton for Kenya corresponds well with P. H. Hamilton's minimum figure for that country.

Eaton (loc. cit.) gives his expert opinion of the status of the leopard in each of the countries of southern Africa as follows:

Kenya—satisfactory.
Uganda—rare, but probably not endangered overall.
Tanzania—satisfactory, probably abundant.
Angola—satisfactory.

Zambia—satisfactory, probably abundant.
Mozambique—satisfactory, probably abundant.
Malawi—satisfactory.
Botswana—satisfactory, and improving in the future.
Zimbabwe—satisfactory.
South West Africa/Namibia—satisfactory.
South Africa—between rare and satisfactory, with present trend being stable.
Congo—satisfactory and abundant.
Gabon—satisfactory and abundant.
Zaire—satisfactory and abundant.

Myers, in his 1976 report, summarizes his findings on the leopard in Africa as follows:

> The leopard's present status is much more favourable than that of a number of other major mammal species, notably the cheetah, but also the lion, wild dog, three species of hyena and two of rhinoceros, giraffe, hippopotamus and crocodile. By 1980, the leopard, compared with several of these species, may enjoy yet more favourable status, a trend which could well continue throughout the years thereafter.

In a 1980 letter of Myers', he indicated that the leopard was "relatively numerous" in Zaire, Congo and Gabon and that the species "retains satisfactory numbers" in seven other countries in south-central and eastern Africa. The Service maintains that these statements by Myers do not imply Endangered status (as defined by the Act) for the leopard in southern Africa.

The data obtained by Teer and Swank (loc. cit.) also demonstrate that a Threatened rather than an Endangered classification is warranted for the leopard in southern Africa. These authorities state in their Summary of Findings that "in a realistic appraisal of the status of the leopard, and considering its inherent characteristics, the species logically belongs in a Threatened classification * * * that is, it is not currently threatened with extinction in sub-Sahara Africa, but there are indications that it might become so in some areas."

The most recent survey (1981) of the status of the leopard was conducted in Kenya by Patrick H. Hamilton of the African Wildlife Leadership Foundation. Mr. Hamilton's report dealing with the leopard has now been received by the Service, and supports reclassification and controlled sport hunting of the species. Hamilton obtained the information in his survey from questionnaires, personal interviews, correspondence, published reports and his own observations. Most of his information was obtained by talking to 53 professional hunters, game wardens, wildlife biologists, tour operators, and farmers, as well as a number of herdsmen and other local people. The most valuable single source of information he found were the 21 professional hunters that he interviewed.

In summary, Hamilton reports that leopards have declined generally in Kenya since the 1960's. He believes that the causes of the decline were excessive poaching for hides, increase of human settlement as large farms were divided into small holdings (reduction of habitat), widespread use of poison for deliberate predator control, and to a lesser extent, uncontrolled sport hunting; in some areas natural habitat changes, such as increasing soil salinity in Ambroseli which resulted in killing of the Acacia woodlands, have proved detrimental to leopard populations. Hamilton says that at the present time, he would be very surprised if Kenya's leopard population numbers less than 6,000 or more than 18,000 animals. He believes that 10,000 to 12,000 is probably the closest approximation, and that Eaton's conservative and realistic estimates for Kenya overstate the population of leopards.

Hamilton believes, on subjective evidence available, that a recovery of the leopard is underway in Kenya and that, following the relaxation of poaching pressure, Kenyan leopard populations are increasing again. Although he doubts that leopards will ever be as abundant as in former times, recent reports from Masailand and parts of Samburu District are particularly encouraging.

For the rest of Africa, Hamilton feels that the same factors that have affected leopard populations in Kenya affect those in other countries. Although they may do so to different degrees in different countries, the lessons of Kenya are widely applicable. Although he considers Eaton's estimates and judgements as invalid, he still feels that as a species the leopard cannot be considered "endangered," in the true meaning of the word, in sub-Saharan Africa at the present time.

But, he points out, if the leopard is not "endangered," it should certainly be regarded as "threatened" for the Kenyan experience has shown what can happen to an abundant leopard population within the short period of ten years (1965–1975). The virtual elimination of leopards from North Africa and parts of southern Africa should serve, according to Hamilton, as a warning to any who believe that this species can always survive no matter what the impact of man. For this reason, Hamilton is strongly opposed to resumption of any sort of commercial trade in leopard skins. He feels that there is simply no system in effect to provide the desired controls and safeguards for resuming commercial trade.

Hamilton's recommendation, therefore, is that the United States Government reclassify the leopard in Africa to Threatened status, but continue to insist on retaining the species in Appendix I of the CITES to protect against commercial exploitation. He further recommends that the U.S. Government lift its present ban on the importation of leopards legitimately shot in Africa by American sport hunters. He states that the ban on importing the legitimately taken leopard trophies of sport hunters has not served any useful purpose. The number involved has been relatively small and the ban runs counter to the concept of giving the leopard monetary value that will help to justify its continued existence in Africa.

Because the Hamilton report was received considerably after the March 24, 1980, proposal, the Service decided to make Mr. Hamilton's views fully known to the public before proceeding with a final regulation. Therefore, on September 8, 1981, the Service published in the **Federal Register** (46 FR 44960) a summary of the Hamilton report, and requested the public to submit any views, comments, opinions, or disagreements they might have by October 8, 1981; it was requested that correspondence during this reopened comment period be restricted to the Hamilton report and not simply be a rehash of issues involved in the original proposal on which the public already has had ample time to comment. The closing date of this new comment period has now passed, and the Service has analyzed the comments presented during the period. These comments are fully addressed in a later section of this rulemaking.

The Service feels that the best scientific and commercial data available indicate that the leopard is Threatened, not Endangered, in southern Africa. The major authorities on the leopard agree that the species is not Endangered in southern Africa. In addition, CITES has now been fuly implemented and presents an adequate method of controlling utilization of the species for commercial purposes. It is the Service's opinion that CITES represents an effective regulatory mechanism in controlling the decline of the species due to commercial trade. Therefore, the Service is proceeding with a reclassification of the species in southern Africa to reflect these facts. Further biological information is

outlined in the Summary of Comments section of this rulemaking.

Responses From African Countries

When the proposal to reclassify the leopard was published, the Service requested that the State Department, through the relevant American embassies, notify all sub-Saharan African countries of the action and solicit their data, comments, and opinions. Because many of the concerned countries did not reply to embassy inquiries, the Service again contacted the State Department on August 28, 1980, and urged their assistance. As a result of these two requests, the Service received comments from the following countries directly or through the American embassies in those countries: Benin, Botswana, Ethiopia, Ghana, Lesotho, Liberia, Malawi, Mozambique, Senegal, Sudan, Tanzania, Upper Volta, and Zimbabwe. The following chart summarizes the reaction of each of these countries to the proposal:

	Favor proposal	Oppose proposal	Proposal of no concern
Benin			X.
Botswana	X.		
Ethiopia			X.
Ghana		X.	
Lesotho			X.
Liberia		X.	
Malawi	X.		
Mozambique	X.		
Senegal		X.	
Sudan			X.
Tanzania	X.		
Upper Volta			X.
Zimbabwe	X.		

The following is a summary of the comments received directly from, or received from American embassies in, responding African countries:

Benin—This country reported that the leopard was rare, and is protected vigorously from hunting pressures. No sport hunting or commercial take is permitted. The country expressed no opinion as to whether or not it approved of the proposed U.S. action.

Botswana—Botswana welcomed the proposal. It stated that the leopard is not Endangered here and that livestock raids by the species are not uncommon over the whole country. For these reasons, Botswana fully supported the proposal.

Ethiopia—Ethiopia reported that the species is now classified as Endangered, but that with the new conservation measures the country is proposing, the danger hopefully will be lessened. No comments were made, either for or against the proposed U.S. action.

Ghana—This country strongly opposed the U.S. proposed action. It stated that the leopard is endangered in Ghana through overexploitation and habitat destruction, and that the U.S. proposed action would not be in the interest of Ghana or of Africa.

Lesotho—"There are no leopards in Lesotho. The Government of Lesotho appears to have no interest in the subject."

Liberia—Liberia opposed the proposed regulation, citing problems with smuggling and habitat destruction as principal threats to the leopard in that country.

Malawi—Malawi reported that the U.S. proposal is in line with the thinking of that country and therefore meets with its approval.

Mozambique—This country reported that the leopard was not Endangered and that the U.S. proposed action met with its full approval.

Senegal—"* * * the declassification is inopportune and the leopard should remain an Endangered species."

Sudan—The leopard is still considered an Endangered species in Sudan and accordingly hunting or export of leopard trophies is strictly prohibited. No opposition or approval, however, was expressed to the proposed U.S. action.

Tanzania—Tanzania reported that the leopard is neither Endangered nor Threatened. It supported the U.S. proposed action.

Upper Volta—No permits are issued for hunting leopards. The proposed U.S. action "* * * would not affect Upper Volta."

Zimbabwe—Zimbabwe welcomed the move as being in the best interest of the leopard and felt that it would promote proper conservation.

As can be seen from these reactions to the proposal, opposition came only from west African countries. In addition, several of the northern countries covered by the proposal (Ethiopia and Sudan) consider the leopard as Endangered within their jurisdictions. The reaction from these countries is the primary reason the Service is proceeding with a rulemaking which restricts the reclassification to southern Africa rather than to sub-Saharan Africa as originally proposed.

The Service would like to emphasize that even in southern Africa, where the leopard is reclassified as Threatened, the U.S. cannot by law permit import of trophies from any country which prohibits hunting of leopards. Issuance of import permits by the U.S. Management Authority of the CITES would be considered only when the trophy has been taken in a country where sport-hunting of leopards is legal, and then only if the trophy can meet all of the requirements and conditions imposed on the import of an Appendix I species.

Summary of Findings on Threatened Status

Despite the fact that the leopard is not an Endangered species in southern Africa, the Service feels that it should be listed as a Threatened species in that region. Section 4(a) of the Act states:

> General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
>
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
>
> (3) Disease or predation;
>
> (4) The inadequacy of existing regulatory mechanisms; or
>
> (5) Other natural or manmade factors affecting its continued existence.

In the case of the leopard in southern Africa, factors (1), (2), (4), and (5) are operational to some extent.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Myers (loc. cit.) feels that the leopard may be more adaptable to habitat changes than many other forms of animal life. Nevertheless, large areas of southern Africa will be given over to crop farming within the next decade, particularly savannah, as drought-resistant maize becomes available. This could present a long-term threat to the leopard as well as to many other forms of African wildlife. Hamilton (loc. cit.) points out that Africa has the highest population growth of any region on earth and this is bound to adversely affect available habitat for the leopard.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Since 1972 when the United States prohibited the importation of live leopards and leopard products, a good part of the world market for illegal hides has vanished and this significant threat to the survival of the leopard was checked. Nevertheless, illegal poaching continues to be a problem in certain areas with hides going into the international fur trade. Although Hamilton characterizes the leopard as "threatened" and not "Endangered" in Kenya, he feels the species could not withstand resumption of commercial fur trade. Many of the authorities interviewed by Teer and Swank (loc. cit.) expressed concern over the inability of some African nations to effectively control this illegal take. The leopard, with a reclassification to Threatened status, will continue to be protected by

the general prohibition against importation into the United States found at 50 CFR 17.31, and the trade restrictions found in the Convention.

4. *The inadequacy of existing regulatory mechanisms.* Although the present position of the leopard on Appendix I of the Convention assures the species adequate regulatory protection, it is essential that the leopard remain protected by the Convention. In fact, along with the evidence of its status in southern Africa, its regulation under CITES makes it possible to permit the importation of a sport-hunting trophy under the Act. If the leopard was transferred to CITES Appendix II, it might be necessary for the United States to reconsider the issue of importation of sport-hunting trophies under the Act.

5. *Other natural or manmade factors affecting its continued existence.* Myers (loc. cit.) feels that the greatest threat to the leopard derives from increasing use of poison. The leopard's propensity for scavenging makes it more susceptible than many carnivorse for taking treated lumps of meat. Myers states that preliminary signs suggest that this threat is certainly capable of extirpating leopards from sizeable areas in a short space of time. He feels that it is a factor of greater consequence to the future of the leopard than all other forms of combating the species combined. Hamilton (loc. cit.) also points out that natural environmental changes, such as increasing soil salinity in Ambroseli Park, have destroyed forests and other habitats of value to leopards.

Importation of Leopard Trophies

The Service is convinced that in some cases permitting the importation of a legally taken leopard trophy from southern Africa will benefit the species. The argument that the leopard might benefit from strictly controlled legal trophy hunts is expressed by Mr. Daniel Sindiyo, Assistant Director, Division of Wildlife, Ministry of Tourism and Wildlife, Kenya, in an interview contained in the Teer and Swank report. Mr. Sindiyo says: "It seems very clear to me that no one is going to conserve and manage a resource that is not going to provide some financial return to them. This applies to Masai or any other landowners. The leopard does cause damage to livestock, and it cannot be expected that the Masai will live happily with an animal that has only negative benefits. Fortunately, we are beginning to make more progress in getting revenues from wildlife back to the people. For example, a leopard shot on a license would return to the landowner Sh 5,000 ($665 U.S.), so this is it. The landowner now knows that fees due will go directly to him, either as a private landowner, or a member of a group ranch, and they appreciate this highly."

"As you well know, prior to 1973 very few of the landowners had much interest in wildlife. If they saw someone killing wildlife they just went about their business. That has now gradually changed. They now think of wildlife as common property because money from wildlife is invested in projects that will benefit the whole community."

Mr. E. T. Matenge, Director, Department of Wildlife, National Parks and Tourism, Botswana (in an interview contained in the Teer and Swank report) states: "Now, there are some places where they (leopards) come face to face with the cattle industry and they do damage. Now the plan for destruction of leopard in those areas is very great. So you need to reconcile this situation by insuring that these animals can continue to be hunted where they are available but protected where you feel they must continue to retain good populations of these animals. The hunting of leopards in these areas is, in fact, beneficial economically, because as you may be aware, the license fee for a sport hunter to hunt leopard is P300. I don't know what this is in terms of U.S. dollars, but it's roughly $380, or something like that. From that end, you can see that it is an economically important animal as well, but to say that you must just keep it conserved without utilizing it would really be destructive in the long-term to its populations."

The same argument is repeatedly presented by persons interviewed by Teer and Swank for their report. Myers (loc. cit.) sums it up as follows: "Above all, organized exploitation of the leopard could enhance the image of wildlife in general and predators in particular, as perceived by citizens in emergent Africa."

Because of the above considerations, the Service believes that there will be cases in which permitting the importation of leopard trophies will not only not be detrimental to the survival of the species, but will assist in their conservation. Such a situation could exist, for example, in countries where the leopard is destroyed as vermin because of predation problems with livestock, but where some such depredation might be tolerated if the leopard has an economic value through more hunting. The U.S. Scientific Authority of CITES will need to consider each application for a permit to import a leopard trophy on a case by case basis to determine whether such a situation might exist in the particular country from which the trophy is to be imported.

Summary of Comments on the Proposal

When the proposal was published on March 24, 1980, the public and all interested parties and agencies were invited to submit data, comments, opinions, etc., by June 24, 1980. However, because of the tremendous public interest in the matter, and because of the Service's desire to give all concerned parties an opportunity to respond, the comment period was extended to November 24, 1980. In addition, the Service, on two occasions during this period, requested that the State Department contact American embassies in each African country in which the leopard is resident and have those embassies request the countries' views on the proposal.

Over 1,000 pieces of correspondence were received during the comment period, as extended. Of these, more than 90 percent opposed both the proposed reclassification and the proposed regulations to allow the importation of trophies to the extent they are permitted under the CITES. Most of these communications, however, were simply personal opinions and presented no substantive data or arguments that could be used in formulation of the final rule package. Some letters did contain significant data or comments that need to be addressed individually. The responses that follow address all significant opposing comments made to the Service.

Comment: The data on which the proposal was based are inadequate and incomplete.

Response: The proposal was based on major reports by recognized authorities in the field; since the proposal, support for it has been received from Patrick H. Hamilton of the African Wildlife Leadership Foundation, who has completed a survey of leopards in Kenya. It must be recognized that the leopard is a secretive and wary animal. There will never be surveys of leopard populations that provide precise numbers of animals simply because such surveys are impossible to make. The best that can ever be anticipated with such elusive animals is population estimates and trends based on sightings or increased predation, expert opinions, habitat considerations, and general impressions obtained by knowledgeable persons in the field. The reports upon which this action is based provide the best scientific and commercial data available, and support the view that the leopard is not an animal in danger of extinction in southern Africa.

Comment: The sanction of even limited sport-hunting will not benefit the leopard in any way.

Response: The Service believes that sport-hunting will benefit the species as a whole. As noted earlier in this document, the leopard is widely regarded as vermin in many parts of southern Africa. Experts agree that the economic value that would develop for the species through sporthunting will encourage some of the countries to develop management and conservation programs and will discourage indiscriminate killings by local landowners. It must be remembered, that the present action will not remove from the United States the ability to regulate, or even prohibit, the import of leopard trophies from importation. It merely results in giving responsibility to the U.S. authorities for CITES to manage sport trophy imports.

Comment: The proposed reclassification is not consistent with the Service's guidelines for reclassification of species.

Response: The only guidelines utilized by the Service in classifying a species as Endangered or Threatened are contained in the Act's definition of these terms. An Endangered species under the Act is one that is in danger of extinction throughout all or a significant portion of its range; a Threatened species is one that is likely to become an Endangered species within the foreseeable future throughout all or a significant portion of its range. The Service believes that no responsible authority on the leopard would contend that in southern Africa as a whole it meets the conditions of the above definition for an Endangered species. Such authorities, however, do feel that the leopard fulfills the Act's definition of a Threatened species in this region.

Comment: The proposed action would not be consistent with social or environmental ethics.

Response: With regard to this point, the Service suggests that there may have been misinterpretation of exactly what the proposal does and does not do. The United States does not, through this proposal, make legal in any way the importation of a leopard trophy from a country which prohibits a sport hunt of leopards. In fact, the Lacey Act expressly forbids such importations. The proposal would, however, allow importation of a trophy from a country in which such a trophy could be legally taken *Provided*, the hunter could obtain the proper permits under CITES.

Comment: Although some countries oppose sport-hunting of leopards, the U.S. would be promoting such hunting, even in those countries that oppose it.

Response: The U.S. would not be promoting sport-hunting of leopards in countries that oppose it. The U.S. could not, by law, permit imports of leopards from countries where sport hunting of the species is illegal. Only those countries in which sport-hunting is legal, and then only those countries which can meet all of the conditions imposed by CITES, would be considered for trophy imports.

Comment: Very few African countries are capable of managing their wildlife resources in a manner that would be considered barely minimal by United States standards. Because of weak management and enforcement, opening the door even a little for a specified and limited kind of exploitation, could result in other far more expansive forms of exploitation, notably poaching of leopards for their skins to supply the international fur trade.

Response: The present rule simply will not open the door to the import of any and all leopard trophies from anywhere in southern Africa. The leopard will remain on Appendix I of CITES. The Service thinks that CITES can and will effectively control illegal trade in leopard products, and that because of the protection offered by CITES, the U.S. is not stimulating overall illegal trade in wildlife products in southern Africa. Moreover, many southern African countries do prohibit or strictly regulate hunting and hence seem to be able to manage their wildlife. Hunting is already going on in Africa, and any increase caused by the participation of U.S. residents should not have significant adverse effects.

Comment: Leopard populations have been reduced to mere remnant numbers in at least 20 African countries, and substantial numbers remain in less than 10, notably Zaire, Gabon, Congo, Zambia, and Botswana.

Response: Partly because of such comments, and supporting data, the Service has modified the final rule to cover only southern Africa, rather than all of Sub-Saharan Africa as was proposed. The Service contends that there are substantial leopard populations in southern Africa, and that Tanzania, Kenya, Angola, Zimbabwe, and Mozambique could be added to the list of countries with substantial numbers.

Comment: Reclassification would violate the Endangered Species Act, because an Endangered species is defined as one in danger of extinction throughout all or a significant portion of its range, and because the purposes of the Act are to reverse trends toward extinction, conserve endangered species, and increase their numbers.

Response: Although the leopard remains classified as Endangered in some portions of its range, this classification does not have to apply throughout the entire range. The Act specifically allows different populations of a biological species to be given different classifications, and the Service has applied this provision in a number of instances. The regulations that now pertain to the leopard in the region where it is classified as Threatened, are fully in keeping with the requirements of the Act for conservation.

Comment: Recent biological studies in East Africa have demonstrated dramatic increases in the populations of both wildebeest and buffalo. Considering the vital role that predators play in helping regulate the prey, it would be short-sighted and bad wildlife management to begin to crop leopards now.

Response: The limited amount of trophy hunting that would be permitted under the CITES of Appendix I species can hardly be termed "cropping." In addition, by providing an economic incentive to protect leopards, illegal poaching might be reduced and hence leopard populations could actually increase and be more able to fulfill their proper role in prey-predator relations overall in East Africa and elsewhere.

Comment: The Service should make an attempt to ascertain more precise areas where the leopard could sustain limited sport hunting and confine the rulemaking to such areas.

Response: By modifying its final rulemaking to include only southern Africa, rather than all of sub-Saharan Africa as in the proposal, the Service believes that it is complying with the recommendation on this point. Further subclassification of specific areas by regulation would be difficult to adminster, confusing, and inflexible. The rule instead adopts the CITES system, which is more manageable and widely recognized.

Comment: The Service is acting under pressure from the gun lobby.

Response: This is not the case. The Service has been closely monitoring the leopard situation for many years, and in fact contracted for the survey by Teer and Swank as long ago as 1970. The reclassification action is being taken solely because the Service believes that available data do not support the leopard's classification as Endangered in southern Africa.

Summary of Comments on the Hamilton Report

As explained earlier in this rulemaking, P.H. Hamilton, a recognized Kenyan authority on the leopard, was

commissioned by the Service to conduct a survey of the status of the leopard in Kenya and to submit his views as to the status of the species in sub-Saharan Africa as a whole. Mr. Hamilton's report was received by the Service in August of 1981, nearly a year after the official comment period on the proposal to reclassify the species was published. Therefore, in order to make the public aware of the latest information on the status of the leopard, and to allow for maximum public participation in the rulemaking process, the Service decided to publish a summary of the Hamilton report in the **Federal Register**, and to reopen the comment period between September 8 and October 8, 1981, for a public discussion of the Hamilton report. This comment period has now passed, and all comments received have been analyzed. A summary of those comments that pertain only to the Hamilton report, and the Service's responses to them, is given below.

Comment: Hamilton is wrong in concluding that the leopard will benefit from easing of restrictions by the United States on the import of legally taken sport hunting trophies.

Response: This view reflects a difference of opinion. The Service accepts Hamilton's position. As stated above, the leopard is widely regarded as vermin in Africa, and most experts agree that the economic value provided by sport hunting would encourage management and conservation programs.

Comment: Why did the Hamilton survey focus almost entirely on Kenya, when Botswana would have been a better subject?

Response: The Service funded a survey of leopards in Kenya because of a number of factors such as: (a) Available expertise; (b) considerable work had already been completed by the time the Service's funding assistance was requested; (c) the country seemed to exhibit, on a small scale, what is happening to wildlife in Africa continent-wide, etc. By supporting this survey in Kenya, however, the Service in no way attempting to force a resumption of hunting in Kenya or a change in the status quo in that country.

Comment: The evidence presented by Hamilton does not support his conclusion that legitimate sport hunting in sub-Saharan Africa is appropriate at this time. Hamilton states, for example, that leopard population figures have been grossly overestimated in the past. While he argues that sport hunting could produce protection for the species, he admits deficiencies in the regulatory mechanisms.

Response: The Service again emphasizes that the United States is not relinquishing its authority to control leopard trophy imports by this regulation. The leopard will remain on Appendix I of CITES, and U.S. import permits under CITES can be restricted to trophies taken only in countries which have effective management programs. Hopefully, a policy such as this will encourage African countries to develop management programs that will become increasingly effective for leopard conservation.

Comment: Hamilton's survey in Kenya indicates that leopards "are no longer abundant and in many, often extensive, areas they seem to be rare." Hamilton also shows that the leopard's decline has been faster than expected and that the past massive decline of Kenya's leopard population has been far greater than sustainable yield. In the rest of Africa the situation should be worse than in Kenya since Kenya has an effective national park and reserve system (lacking in most other countries), and has had a total ban on hunting for some years.

Response: The Service feels the present regulation will have a positive effect in relation to the above points. No country can be expected to take any steps to conserve a species of wildlife which has been destructive to livestock and human life if there is no economic or other incentive to protect and preserve that animal. Only if the governments and local people receive some benefit from the species will serious measures be undertaken to conserve it. The present regulation could encourage the establishment of parks and preserves by making the leopard a valuable resource. It could discourage poaching and smuggling in that legally taken animals would now have value; governments and local agencies and individuals would have more funds and incentive to check and control harmful illegal practices.

Comment: Hamilton's report thoroughly discredited the earlier work by Eaton.

Response: The Service understands this position, but, as stated earlier in this rulemaking, it does place some credence in Eaton's minimum estimates. However, the key issue is not whether Hamilton discredits or accepts Eaton's data, but rather that Hamilton himself does not find the leopard Endangered in Kenya or indeed in sub-Saharan Africa.

Comment: The strict conditions that Hamilton recommends for the reinstitution of sport-hunting (females should not be taken, hunting should be initially allowed in only two areas, and hunting pressure should be focused on leopards preying on livestock) are not included in the Service's proposal.

Response: The specific recommendations for controls contained in the Hamilton report were addressed to the Government of Kenya as factors which Hamilton deemed advisable for that Government to consider if and when it removed the hunting ban in its country.

Comment: The monetary value of the leopard as a photographic subject is far greater than any value that the species could achieve as a hunting trophy.

Response: The Service recognizes the immense value of the leopard as a photographic subject and feels that the present regulation may benefit the leopard to the extent that it becomes better protected from illegal take, and more abundant, and hence more readily available for persons interested in the species as a viable part of Africa's fauna.

In summary, the Service has carefully examined the data contained in the Hamilton report and finds that they support a reclassification of the leopard in southern Africa from Endangered to Threatened status. In addition, the Hamilton report supports controlled sport hunting as a conservation measure. None of the comments received during the comment period on the Hamilton report provide any new data that change the Service's interpretation of the Hamilton report, or offer any substantive reason for not proceeding with a final rulemaking.

Effect of Rule

The only effect of this rule will be that, beginning with the effective date, legally taken sport-hunting trophies of the leopard (*Panthera pardus*) taken in accordance with the laws of appropriate countries in southern Africa will be permitted to be imported into the United States without a permit issued pursuant to the Endangered Species Act of 1973, *provided*, the importer has obtained an import permit for the trophy from the U.S. Management Authority of the Convention under the terms and conditions of the CITES. Requests for this permit must be filed on an application for Federal Fish and Wildlife Permit Form 3–200 (OMB Approval No. 1018–0022). In addition, permits for Threatened species may be issued for scientific purposes to enhance the survival or propagation of the species for educational or zoological purposes, or for other purposes consistent with the purposes of the Act. The rule will not affect any other prohibitions currently established under the Act for the protection of leopards in southern

Africa, such as the prohibition on sales or commercial activities in interstate or foreign commerce. Nor will it change in any way the prohibitions currently in effect for leopard populations outside of the delineated southern African countries.

National Environmental Policy Act

A final Environmental Assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal Action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, implemented at 40 CFR 1500–1508. Because this rule is not such a major Federal action, the rule is exempt from Executive Order 12114 concerning consideration of the impacts of domestic activities on the environment of foreign countries.

This rulemaking was written by John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291.

Further, the Department of the Interior, has determined that the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This determination is based upon the fact that very few leopard trophies will be imported into the United States, and that those imported will have been taken as a result of safaris designed to take trophies of a number of other species as well. The number is expected to be considerably less than the high of two hundred leopard trophy imports recorded in 1969.

These determinations are discussed in more detail in a Determination of Effects of Rules which has been prepared by the U.S. Fish and Wildlife Service.

Sources Cited

Eaton, R. L. 1977. The status and conservation of the leopard in sub-Saharan Africa. Safari Club International.

Hamilton, P. 1981. The Leopard *Panthera pardus*, and cheetah *Acinonyx jubatus* in Kenya (U.S. Fish and Wildlife Service, unpublished report).

Myers, N. 1976. The leopard *Panthera pardus* in Africa. I.U.C.N. Monograph No. 5.

Teer, J. G. and Swank, W. G. 1978. Status of the leopard in Africa south of the Sahara (U.S. Fish and Wildlife Service, unpublished report).

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Notice of Rule

Part 17, Subparts B and D, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

§ 17.11 [Amended]

1. Amend the table in § 17.11 as follows:

Species							
Common name	Scientific name	Historic range	Vertebrate population where Endangered or Threatened	Status	When listed	Critical habitat	Special Rules
Leopard	*Panthera pardus*	Africa, Asia Minor, India, Southeast Asia, China, Malaysia, Indonesia.	Wherever found except where it is listed as Threatened as set forth below.	E	N/A	N/A.	
Leopard	*Panthera pardus*	Africa, Asia Minor, India, Southeast Asia, China, Malaysia, Indonesia.	In Africa, in the wild, south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia.	T	N/A	17.40(f).	

2. Section 17.40 is amended by adding the following paragraph (f):

§ 17.40 Special rules—Mammals.

(f) Leopard.

(1) Except as noted in paragraph (f)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the leopard populations occurring in southern Africa to the south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia.

(2) A sport-hunted leopard trophy legally taken after the effective date of this rulemaking, from the area south of the line delineated above, may be imported into the United States without a Threatened Species permit pursuant to 50 CFR 17.32, provided that the applicable provisions of 50 CFR Part 23 have been met.

Dated: December 8, 1981.

G. Ray Arnett,

Assistant Secretary, for Fish and Wildlife and Parks.

[FR Doc. 82-2052 Filed 1-27-82; 8:45 am]

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Availability of Saltonstall-Kennedy Funds for Research and Development Projects to Strengthen and Develop United States Fishing Industry

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Financial Assistance for Research and Development Projects To Strengthen and Develop the U.S. Fishing Industry

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Saltonstall-Kennedy Funds Notice of Availability/Instruction to the Public.

SUMMARY: For fiscal year 1982, Saltonstall-Kennedy funds will be available to assist persons in carrying out research and development projects addressed to any aspect of United States fishery (as herein defined) involving the United States fishing industry (recreational or commercial) including, but not limited to, harvesting, processing, marketing, and associated infrastructures. Projects will be funded through grants and cooperative agreements. Any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands, any fishery development foundation or other private non-profit corporation located in Alaska, or any corporation, partnership, association or other entity, non-profit or otherwise, if a citizen of the United States (as defined by Section 2 of the Shipping Act of 1916 (46 U.S.C. 802)), is eligible to apply for funding under this solicitation. The National Marine Fisheries Service (NMFS), NMFS employees and their immediate relatives are not eligible to apply hereunder.

This notice sets forth conditions under which applications will be received and evaluated to determine appropriateness for funding. This notice of availability of financial assistance for fisheries research and development projects will also appear in the Commerce Business Daily. Information collection requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0648–0086.

FOR FURTHER INFORMATION CONTACT: Mr. Preston Smith, Office of Utilization and Development, National Marine Fisheries Service, Washington, D.C. 20235, phone: 202–634–7252.

I. Introduction

The Saltonstall-Kennedy (S–K) Act (15 U.S.C. 713c–2–713c–3) makes thirty percent of the gross receipts collected under the customs laws from duties on fishery products available to the Secretary of Commerce. The American Fisheries Promotion Act amended the S–K Act and provides that at least 50 percent of these funds are to be used by the Secretary each year to make grants to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing and associated infrastructures. United States fisheries [1] include any fishery that is or may be engaged in by U.S. citizens or nationals or citizens of the Northern Mariana Islands. For fiscal year 1982, about $6 million of Saltonstall-Kennedy monies are available to fund fisheries research and development projects which promote the goals and priorities of the NMFS fisheries development and utilization program. The phrase "fishing industry" is intended to include both the commercial and recreational sectors of U.S. fisheries.

II. NMFS Fisheries Development and Utilization Program

A. Fisheries Development and Utilization Goals

In 1979, the Department of Commerce announced a broad based fisheries development policy designed to strengthen the U.S. fishing industry and increase the supply of domestically produced wholesome and nutritious fish and fish products. NMFS, in 1981, adopted a marine recreational fisheries policy which has been incorporated into the fisheries development policy. The goals of the fisheries development policy are to be met by identifying and resolving economic and technological impediments to the development and strengthening of the U.S. fishing industry. More specifically, the aim of the NMFS fisheries development policy is to:

1. Encourage development and growth of the domestic fishing industry in order to provide increased employment opportunities, improve the economic well-being of fisheries-dependent communities, and increase the supply of economically priced fish and fish products to U.S. consumers.

2. Increase productivity and promote efficiency in the harvesting, processing, distributing, and marketing of fish and fish products.

3. Lower the foreign trade deficit in fishery products through increased exports of U.S. fish and fish products and displacement of imports.

4. Provide consumers with a good quality and wide variety of wholesome, nutritious fish and fish products.

5. Encourage the development of non-traditional fish resources, strengthen the long-term viability of the industry, and reduce reliance on traditional fish resources already harvested at optimum yield.

6. Improve domestic and foreign market efficiency, through the transfer of information and the elimination of any market practices that restrict competition.

B. Saltonstall-Kennedy Activities

The Saltonstall-Kennedy grant program constitutes an important part of the NMFS fisheries development and utilization program; Saltonstall-Kennedy grant program monies will be used to fund projects which are directed to the attainment of the American Fisheries Promotion Act (AFPA) goals. The National Marine Fisheries Service will consider funding projects which relate to the development of one specific fishery, projects which relate to more than one fishery, or projects which are national in scope. However, all applications for project funding should be comprehensive in dealing with the impediments to development and utilization. Thus, applications which relate to one specific fishery should discuss all phases of the fishery, from harvesting to processing, distribution, and marketing. Applications addressed to the needs of a particular region in one or more fisheries should show how it relates to existing regional plans where such plans exist. Further information on regional plans may be obtained from the NMFS Regional Offices listed in Section IV E. All projects within an application which address regional needs will be considered, but will be considered more favorably if they complement existing regional plans where such plans exist. For example, a project to demonstrate a squid cleaning machine, or a project to demonstrate advanced technology for artificial reefs would be considered to be comprehensive only if the individual projects are identified as part of a comprehensive plan or program to develop fisheries within the region. Projects which address national concerns should be responsive to the priorities of the NMFS fisheries utilization and development program as described herein.

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna, which are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of fisheries are: Alaskan groundfish, Pacific whiting, New England whiting, Gulf of Mexico groundfish, etc. The term "United States fishery" is defined by the AFPA as any fishery, including any tuna fishery, which is or may be engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

III. Areas for Grants and Cooperative Agreements

For fiscal year 1982, NMFS seeks to fund fisheries research and development projects which relate to regional and national concerns developed in consultation with members of the fishing industry. The areas of concern include:

A. *Harvesting acitivities* to demonstrate the economic feasibility of commercial or recreational harvesting of fisheries resources and to provide fishermen with information that documents the potential profitability of commercial or recreational harvesting activities and identifies abundance, location, and seasonal characteristics of stocks of fish.

B. *Quality enhancement and control* to develop, evaluate or demonstrate handling, sorting, grading, storage, and processing or distribution methods or techniques that will enable fishermen and processors and those in the distribution chain to maintain or improve the quality of fish and fish products marketed domestically or in foreign countries or used by recreational fishermen;

C. *Domestic market development* to increase domestic consumption of underutilized fish by increasing the use of non-traditional fisheries products in traditional markets or expanding the use of all fish in non-traditional markets; identification and solution of safety and public health problems impeding domestic market expansion would be included; for recreational fisheries, this would include increased use of non-traditional species, awareness of sport-fishing opportunities, and activities increasing the opportunities and value of recreational fishing;

D. *Foreign market development* to increase U.S. exports of fish and fish products with particular emphasis on the underutilized species and domestic recreational fishing opportunities for foreign visitors;

E. *Improvement in efficiency and productivity* to lower the costs of supplying domestic fish and fish products to consumers or to increase the output or value of existing or new methods of techniques for harvesting, processing, distributing or marketing domestic fisheries products; and

F. *Economic and investment studies* to document the costs and profitability of any activity that would enable the fishing industry to increase use of underutilized fisheries resources or increase the value of fisheries products or to refine or improve upon methodologies for ascertaining the economic and social value of recreational fisheries.

Projects within the areas of concern having the highest priority for funding are described below. NMFS has, because of the limited funds available to support projects, identified, after consultation with the fishing industry, specific species of fish and activities which will receive the highest priority for funding. Fisheries research, development, and utilization applications should relate to one or more of the areas of concern. Other projects within the areas of concern will also be considered, although funding will be available only for exceptionally good projects and only if projects of adequate quality and quantity addressing the specific needs are not received. Endorsement and support from broad-based interest groups concerned with the development and strengthening of the U.S. fishing industry will be taken into account as a positive factor during the review process. There is no guarantee that sufficient funds will be available to make awards for all approved projects.

A. Regional Priorities

NMFS is seeking to encourage a regional approach to developing and strengthening U.S. fisheries. "Region" refers to a geographic area in which fishing for a species or group of species would likely take place. A region generally corresponds to the range over which the species of fish can be harvested and/or the area encompassed by the NMFS Regions. Regional priorities have been identified and established by NMFS in conjunction with fishing industry groups, other organizations and local governmental units having an interest in the development and utilization of fisheries in the region. NMFS is specifically soliciting projects which provide a regional approach to (1) development or expansion of a specific fishery or group of fisheries capable of supporting further development; (2) removal of impediments to the development, expansion, or utilization of such fisheries; or (3) further involvement of small and minority business in those fisheries.

Specific fish resources within each region which have the greatest potential for development have been identified. These fish resources, and the major needs to accelerate their development or improve their utilization which will be given priority for funding are:

1. *Northeast Region.* Development projects in any of the areas of concern which address impediments to utilization of squid and mackerel and which can demonstrate short term benefits will receive the highest priority. Projects addressing other species will be considered, but with reservation. Priority will also be given to demonstrating methods of achieving and encouraging product quality improvement and penetration of export markets and new domestic markets.

Innovative ideas pertaining to the needs of the recreational fishing industry will be considered.

The Northeast Region is not expected to support the use of S–K funds in projects primarily involved with (a) port development; (b) environmental considerations; (c) aquaculture research and development; and (d) marine extension—i.e., newsletters, training, technology transfer unless the objectives can be directed to fulfillment of the targets identified above.

2. *Southeast Region.* Resources which have the greatest potential for commercial development in the Southeast Region are (a) sardines, herring and similar small pelagic species; (b) groundfish; and (c) crevalles, bonitos, tunas, ladyfish and other large pelagic species. Projects directed to harvesting activities, quality enhancement and control (including product and process development), export market development on a country by country basis, and economic and investment studies will be given high priority for funding. In addition, high priority will be given for projects to (a) improve existing information on characteristics of several underutilized species for food processing purposes and (b) transfer knowledge regarding the adaptability of harvesting techniques which are new or commonly employed elsewhere in the U.S. or abroad.

Resources targeted by recreational users are all eligible for consideration. Priority will be given to development projects in any of the areas of concern which address: (a) Impediments to increased use of non-traditional sport-caught species; and (b) research and/or demonstration leading to improvements in efficiency or productivity that will improve access to, or otherwise make recreational fishing more satisfying or will demonstrate and/or evaluate new vessel design and propulsion systems for improving the operating efficiency and effectiveness of charter and head boats.

3. *Southwest Region.* In the Southwest Region, development projects that will be given high priority for funding include (a) harvesting activities for tuna in the Central and Western Pacific; (b) domestic market development for all underutilized species including squid, anchovy, jack mackerel, and shortbelly

rockfish; and (c) improvements in processing and harvesting efficiency and productivity for all underutilized species.

In addition, priority will be given for projects involving: (a) Feasibility studies and demonstration projects to accelerate the shift to more cost efficient utilization of fish and shellfish waste; (b) the development of artisanal fishing industries in the Pacific Islands which could include fishing technology, processing, marketing and infrastructure; (c) economic evaluation of baitfish production to support tuna harvesting; and (d) population enhancement of commercially and recreationally important species, excluding salmon, in their natural environment.

4. *Northwest Region.* In the Northwest Region, high priority will be given for projects involving: (a) Harvesting activities for squid and other potentially significant species; (b) improvements in processing efficiency for finfish and shellfish; (c) domestic market development involving (1) the production and distribution of promotional material; (2) media exposure; (3) workshops, and seminars; (4) public school systems; and (5) institutional users; and (d) export market development.

High priority will also be given to projects for: (a) Inventory and operational analysis of seafood processing waste facilities on the Pacific Coast (current practices, problems, future needs, and potential remedies); (b) developing non-salmonid recreational fisheries; (c) design and implementation of an emergency marketing system to allow for a rapid response to short term fluctuations of supply and demand; and (d) planning and feasibility evaluations for artificial reefs in high-energy oceanic environments off Washington and Oregon. Product quality and safety projects, while also high priority are in most instances more appropriately considered at the national level. Areas of low priority in the Northwest Region are port and harbor development and aquaculture research and development.

5. *Alaska Region.* Species to be given the highest priority for development and utilization in Alaska include Alaska pollock, Pacific cod, Atka mackerel, and the various flounder species. Priority will be given to projects which address the complete use and final distribution of products in order to obtain the highest value for landed species and involve the following areas of concern: (a) quality enhancement and control; (b) improving efficiency and productivity; (c) domestic and export market development; and (d) economic and investment studies to document costs and methods of adapting existing fishing fleets to the groundfish fishery off Alaska.

High priority will also be given to projects involving special problems unique to remote geographical areas of Alaska, and unique industry problems in development of trained fisheries and processing labor forces.

The private sector in Alaska has been responding to industry needs in the area of energy efficiency and applications in this area will not be funded.

B. National Priorities

Projects addressing national concerns are generally those which require the coordinated participation of members of the fishing industry from more than one Region or involve activities such as fishing vessel safety or seafood quality research where results directly impact the fishing industry or consumers on a national scale. Applications will be determined to be Regional or national for the purpose of evaluating the proposed work on the basis of the scope of work, the required participation of members of the fishing industry to conduct the proposed work, and the direct application of the project results for resolving problems faced by the fishing industry or consumers. If it is determined that an application can best be evaluated at the Regional level, it will be referred to the appropriate Region and will be evaluated in accordance with the Regional priorities described previously. NMFS intends to support a strong Regional program with fisheries development and utilization projects and will consider for evaluation as a national project only those projects providing clear evidence of the necessary participation of members of the fishing industry in more than one Region or of broad national impacts.

The national areas of concern follow:

1. *Application of New and Improved Technology.* NMFS intends to fund projects that demonstrate the feasibility and use of new or improving technologies in fisheries and associated infrastructures that have not had the opportunity to examine or test such state-of-the-art technologies. Low priority will generally be given to proposals involving construction or extensive design or development of new technology.

Projects to be given the highest priority for funding include those to (a) investigate methods to use seafood processing wastes most efficiently; (b) design and implement a comprehensive program to improve safety aboard fishing vessels; and (c) assist retailers and processors in improving techniques for tray packaging, merchandizing, labeling, and increasing product shelf life.

2. *Expanding Access to Domestic and Foreign Markets.* NMFS is seeking projects designed to enhance the opportunities for the marketing of U.S. fish and shellfish in foreign and domestic markets. Projects to be given high priority for funding include the following:

(A) Expanding Access to Foreign Markets

(1) Design and construct a "U.S. Seafood Exhibit" at ANUGA'83 in Cologne, West Germany in October 1983;

(2) Develop species identification sheets for selected U.S. fish and shellfish, for distribution to potential foreign seafood buyers and incorporating English, French, Spanish, German, and Japanese explanations;

(3) Develop and print a brochure explaining how to export U.S. seafood products for distribution to potential exporters at seminars, trade shows, or upon request;

(4) Conduct a study on the impact of foreign freight and regulation rates on U.S. seafood exports.

(5) Conduct a study to determine whether there are countervailable factors in nations where seafood products compete with U.S. products at home and abroad; and

(6) Conduct a study on the ultimate markets for foreign harvested and processed seafood products from the U.S. Fishery Conservation Zone and on what factors impede the U.S. industry from competing effectively in those markets.

(B) Expanding Access to Domestic Markets

(1) Conduct acceptability tests for products from underutilized species of fish and shellfish for potential use in the USDA National School Lunch program;

(2) Develop educational kits for use by teachers stressing nutrition, handling, and preparation of seafood products;

(3) Design and costruct a U.S. seafood exhibit portraying the functions and services of the NMFS for display at the Food Marketing Institute and National Restaurant Shows and/or other domestic shows;

(4) Develop and publish educational and informational material appropriate for placement in the marketplace for consumers.

(5) Develop and publish a buying guide using available data and information to assist consumers and retail buyers in their seafood purchases;

(6) Develop educational materials targeted for food retailers and/or food service institutions to assist them in all aspects of seafood merchandizing; and

(7) Consolidate, organize, and analyze seafood consumption data collected in four separate and different surveys conducted in 1968, 1973, 1977, and 1981.

3. *Improving Safety, Quality, and Labeling of Fish and Fish Products.*[2] NMFS is soliciting projects which support its goal of providing consumers with a good quality and wide variety of wholesome, nutritious fish and fish products. The research priorities for 1982 follow:

(A) Safety

(1) Research to describe the extent and economic impacts of paralytic shellfish poisoning (PSP) in the U.S., the likelihood of eliminating or otherwise reducing the adverse impacts of PSP, and develop a comprehensive plan describing actions which can be taken to lessen the impacts of PSP and the economic benefits of initiating these actions;

(2) Development of rapid analytical methods to detect and measure quality loss and hazardous conditions in seafood products;

(3) Research on the epidemiology of cholera risk associated with seafood;

(4) Collaborative projects to identify the ciguatoxin of dinoflagellate origin with either purified ciguatoxin or with extracts from fish implicated in ciguatera seafood poisoning of either Caribbean or Pacific origin;

(5) Evaluation, in terms of the safety of fisheries products, of the use of controlled atmospheres to extend the shelflife of fresh (unfrozen) high and low fat fishery products at the wholesale and/or retail level;

(6) Demonstration of the application of retortable pouch technology to fishery products, the preparation of 2–4 meal ready-to-eat [MRE] seafood items, including the development of appropriate processing protocols;

(7) Research to determine the toxicological profile of partially hydrogenated menhaden oil when administered at high levels in the food of dogs over a period of 12 months.

(B) Quality and Labeling

(1) Comprehensive study of seafood distribution channels to assess the quality of U.S. seafood produced for domestic and foreign consumption, document where problems occur, and suggest remedies to overcome the problems;

(2) Studies to investigate and determine the feasibility of a dockside quality grading program for landed fish together with a system of price differentials for high quality products. The studies are to include development of an experimental model dockside grading system for trial use in the seafood industry;

(3) Development of modern product quality standards for underutilized species, in accordance with established guidelines and procedures, to accelerate consumer acceptance;

(4) Authentic pack studies permitting objective and subjective measurements at various intervals of storage for the training of industry and Government inspectors on quality loss in traditional and underutilized seafood;

(5) Collect and translate importing regulations and technical and quality requirements for 10–15 foreign countries which are applicable to seafoods from the United States and develop summary reports in accordance with an established model format;

(6) Determination of the edibility characteristics of selected U.S. commercial and recreational species in accordance with NMFS standardized instrumental and sensory laboratory test methods and procedures (mechanical texture measurements, sensory evaluation using trained sensory panels and consumers) to contribute toward the development of a national edibility data bank.

4. *Recreational Fisheries Development.* The NMFS intends to fund projects which will resolve problems encountered in the increased use of underutilized fisheries resources for recreational purposes and the productive use of fisheries resources by recreational users. Highest priority will be given to projects that would: (a) Identify the opportunities for development of fisheries resources for recreational uses, the impediments to the use of these resources, and actions which would resolve the impediments; (b) identify, test, and evaluate artificial reef technology or fish aggregation devices; (c) identify and evaluate methods for the proper handling of fish caught by recreational users; and (d) inform domestic and international consumers of recreational fishing opportunities near major U.S. urban areas and more remote areas.

IV. Applications

A. Eligible Applicants

Applications for grants or cooperative agreements for fisheries development projects can be made, in accordance with the procedures set forth in this notice, by:

1. Any individual who is a citizen or national of the United States;

2. Any individual who is a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under Section 8 of the Schedule on Transitional Matters attached to the Constitution of the NMI;

3. Any fishery development foundation or other private non-profit corporation located in Alaska;

4. Any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation or other private non-profit corporation not located in Alaska), non-profit or otherwise, if such entity is a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916 as amended (46 U.S.C. 802).[3] NMFS encourages women and minority individuals and groups to submit applications. NMFS employees (or their immediate families, including full, part-time, and intermittent personnel) and NMFS offices or centers are not eligible to submit an application

[2] All planned research in the area of product quality and safety should be conducted in general accordance with the Good Laboratory Practice Regulations as promulgated by the Food and Drug Administration (FDA) appearing in the Federal Register, vol. 43, Friday, December 22, 1981, page 60013–60019.

[3] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the NMI must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and, in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States, no more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens, and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the NMI or any other Commonwealth, territory, or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens or nationals of the United States or citizens of the NMI, if: (i) The title to 75 percent of its stock is not vested in such citizens or nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any person not a citizen or national of the United States or citizen of the NMI; (ii) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (iii) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI or (iv) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States or a citizen of the NMI.

under this solicitation, or aid in the preparation of an application, except to provide necessary information or guidance about the fisheries development and utilization program and the priorities and procedures included in this solicitation.

B. Amount and Duration of Funding

For fiscal year 1982, NMFS will have about $8 million available to fund the fishery research and devlopment projects solicited herein. Grants or cooperative agreements will generally be awarded for a period of 1 year. Applications will be considered for projects which extend for up to 3 years; however, continuing projects will have to be submitted each year, and continued funding will be contingent upon the availability of funds, the extent to which project objectives are met during the prior year, and the continued priority of the project as established in subsequent years. Any project submitted for multiyear funding shall completely describe activities to be undertaken in the first year for which funding is requested, and shall outline planned activities and expected costs for each succeeding year. Publication of this announcement shall not obligate NMFS to award any specific grant or to obligate the entire amount of funds available or any part thereof.

C. Cost-Sharing Requirements

In accordance with the AFPA, the amount of a grant will be at least 50 percent of the estimated cost of the project. Thus, up to 50 percent of the total cost of each project may be required to be provided from non-Federal sources. The non-Federal share may include funds received from private sources or from State or local Governments, or the value of in-kind contributions. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project.

The percentage of the total project costs provided from non-Federal sources, not to exceed 50 percent of the cost of the project, will be an important factor in the selection of projects to be funded. Applicants who receive all or nearly all of their funding from Federal sources may be exempted from non-Federal cost-sharing requirements. Complete exemption from cost-sharing requirements may be granted in unusual circumstances only to non-profit public interest organizations which demonstrate no financial ability to meet cost-sharing requirements. The total project costs and the percentage of cost sharing required will be determined as described below.

1. *Determining Total Project Cost.* The total costs of a project consist of all costs incurred in the performance of project tasks, including the value of the in-kind contributions, which are necessary to accomplish the objectives of the project during the period in which the project is to be conducted. A project begins on the date that a formal grant or other agreement between the applicant and an authorized representative of the United States takes effect, and ends when a final report is submitted and accepted by such authorized representative. Accordingly, the time expended and costs incurred in either development of a project or the financial assistance application, or in any subsequent discussions or negotiations up to the point of formal award, are neither reimbursable nor recognizable as part of the recipient's cost share.

NMFS will determine appropriateness of all cost-sharing proposals, including the valuation of in-kind contributions, on the basis of guidance provided in Office of Management and Budget (OMB) Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations." In general, the value of in-kind services or property used to fulfill the cost-sharing requirements will be the fair market value of the services or property. Thus, the value is equivalent to the costs of obtaining such services or property if they had not been donated. Cost sharing to be provided may include:

(a) Expenses incurred as project costs. (Not all charges require cash outlays by the grantee during the project period; examples are depreciation and use charges for building and equipment.)

(b) Project costs paid with cash contributed or donated to the grantee by other non-Federal public agencies and institutions, or private organizations or individuals.

(c) The value of in-kind contributions.

2. *Determining the Level of Cost Sharing Required.* As previously stated, the amount of a grant must be at least 50 percent of the estimated cost of the project. The percentage of the total costs required to be provided from non-Federal sources will be as follows:

(a) *20 percent.* For projects in which direct fishing industry participation may be limited, the non-Federal cost share shall be no less than 20 percent of the total project cost. Projects in this category benefit many interest groups and, therefore, offer no unique advantage to members of the fishing industry. Projects in this category might relate to: Fishing vessel safety, economic or food technology research, seafood product safety, or consumer attitudes toward seafoods. Because of their nature, these projects would ordinarily be conducted by or for State or local Government entities or by non-profit organizations.

(b) *30 percent.* For projects in which direct fishing industry participation can be significant, the non-Federal cost share shall be no less than 30 percent of the total project cost. These projects contain significant or indeterminate risks which prevent an individual or group within the fishing industry from undertaking them without assistance. Projects in this category would ordinarily deal with the non-traditional species, demonstration of new harvesting gear or processing methods, the development of new fish product concepts or forms, or the enhanced use of domestically harvested fish in institutional markets or for personal consumption.

(c) *40 percent.* For projects which involve significant fishing industry participation, entail a limited risk, and in which the prospects for immediate future gain from the project are significant, the non-Federal cost share shall be no less than 40 percent of the total project cost. These projects would involve established fisheries or markets as, for example, expanding the markets for fish or parts of fish normally discarded during harvesting or processing. Such projects require significant participation by individuals or groups within the fishing industry to ensure their success.

In determining the category of cost sharing in which the project belongs, NMFS will consider:

(a) The project's direct benefits to the fishing and seafood industry;

(b) The financial risk that would be assumed by members of the fishing industry in undertaking the project;

(c) The potential of the project to generate revenues that would allow members of the fishing industry to recover costs incurred through participation in the project; and

(d) The compatibility of the project with national fisheries development and utilization policy and its potential for national economic benefit.

A project which will benefit the general public, such as a research project dealing with the safety of fish and fish products or demonstrating advanced technologies to benefit

recreational fisheries, will have a lower cost-sharing requirement than one which directly benefits only a specific segment of the fishing industry or an identifiable number of firms. Similarly, industry demonstration projects in high-risk ventures, such as those which involve the harvesting, processing, or marketing of non-traditional U.S. species, will be expected to provide lesser amounts of cost sharing than would industry projects related to species for which strong domestic or foreign markets already exist. Projects which have a high potential for fulfilling national fisheries development and utilization policy or making significant contributions to the national economy might also have a lower cost-sharing requirement than projects with a lesser potential for doing so.

D. Format

Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, and its relevance to developing and strengthening the U.S. fishing industry. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application. The applicant is advised to contact the appropriate regional office for guidance in preparing project descriptions. Such consultations with NMFS staff will not result in more favorable consideration of any project. Applications shall be submitted in the following format:

1. *Cover Sheet.* A Federal Government standard form 424 shall be used as the cover sheet for each project within an application. Standard form 424 may be obtained from the NMFS Regional Offices or NMFS Washington Office listed below in Section E.

2. *Project Summary.* A summary of not more than one page shall be provided for each project within the application and shall contain the following information:

(a) Project title.

(b) Name of applicant.

(c) Principal investigator for the project and affiliation.

(d) Primary objective of project.

(e) Summary of work to be performed.

(f) Direct benefits and beneficiaries of project results.

(g) Principal geographic impact of project (local, statewide, regional, national).

(h) Project duration.

(i) Total project costs (identify first year separately for multiyear projects).

(j) Project costs to be provided from non-Federal Government sources; total amount and percentage of total project costs. Identify first year costs separately for multiyear projects.

(k) Total Federal funds requested; total amount and percentage of total project costs (first year funding for multiyear projects).

(l) Principal uses for Federal funds and amounts requested for each use (salaries, travel, vessel charter, subcontracts, equipment rental, etc.).

3. *Project Description.* Each project within the application shall be completely and accurately described. Each project description may be up to fifteen pages in length. The applicant must describe conditions affecting the fishing industry and the significance of the problem(s) that are to be addressed by the project. This information should be brief and specific as it will provide the basis for the evaluation of the project in terms of the need for the proposed work, the effectiveness of methods to be used, and the likelihood of success in solving the problems addressed. All portions of the project description will be made availabe to the public and members of the fishing industry for review comment; therefore, NMFS will *not* guarantee the confidentiality of any information submitted as part of any project nor will NMFS accept for consideration any project requesting confidentiality of any part of the project. Each project shall be described as follows:

(a) *Identification of Problem(s).* Describe how existing conditions prevent or impede the U.S. fishing industry from developing the fishery or using existing fisheries. In this description, identify (i) the species of fish involved, (ii) the specific problem(s) that the fishing industry has encountered, (iii) the sectors of the fishing industry that are affected, (iv) the fishing industry reaction to the problem(s), and (v) the extent of the impact of the problem(s) at the local, the regional, and national level.

(b) *Project Goals and Objectives.* Clearly state how the project would eliminate or reduce the problem(s) described above. In addition, the impact of the proposed work should be described in terms of anticipated increased landings, production, sales, exports, product quality, safety, or any other measurable factor

(c) *Appropriateness and Need for Government Financial Assistance.* Clearly describe why members of the fishing industry have been prevented from obtaining funds from other public or private sources. Factors which inhibit private industry from undertaking the project are of particular importance. The applicant should list all other sources of funding which are or have been sought for the project.

(d) *Participation by Persons or Groups Other Than the Applicant.* Describe (i) the level of participation by NMFS, Sea Grant, or other Government and non-Government entities, particularly members of the fishing industry, required to ensure the success of the project(s); (ii) the form of such participation; and (iii) if such participation is voluntary, describe the conditions required for participation in the project. In addition, list names and addresses of the principal persons or groups consulted during the preparation of the project description.

(e) *Federal, State, and Local Government Activities.* List any exisitng Federal, State, or local Government plans or activities, including State Coastal Zone Management Plans, which would be affected by this project, and describe the relationship between the project and these plans or activities. List names and addresses of persons contacted to provide this information.

(f) *Project Outline.* Set out all tasks to be performed, and the key events in the task schedule; where applicable, indicate any task(s) which might be adversely affected by factors beyond the control of the applicant.

(g) *Project Management.* Describe how the project will be organized and managed. List all persons or groups who will be involved in the project, their qualifications, and their level of involvement in the project. Provide copies of any agreements between the participants and the applicant which describe the specific tasks that will be performed.

(h) *Monitoring of Project Performance.* Describe how the progress of the project would be monitored and who will participate in the monitoring. Specify what actions would be taken in the event specific project tasks become unattainable. This is particularly important in demonstration projects that can be affected by factors beyond the control of the applicant.

(i) *Evaluation of Project Results.* The applicant is required to provide an evaluation of the project when it is completed. Describe how the completed project will be evaluated to determine the success of the project in overcoming the impediment(s) that was addressed in the project and the impact of the project in promoting increased landings, production, sales, exports, product

quality, safety, or other measurable factors.

(j) *Project Benefits.* Describe all the benefits anticipated from conducting the project and identify in detail the sectors of the fishing industry which will receive the benefits, either directly or indirectly, from the project. These benefits should be described in quantitative terms to the extent possible and practical.

(k) *Dissemination of Project Results.* Describe (i) how the project results will be conveyed to the members of the fishing industry or others who could directly benefit from the project and (ii) any special conditions or requirements that might have to be met before project results could be used.

(l) *Project Costs.* Provide a detailed schedule of project costs, identifying in particular: (i) Sub-contracts, (ii) slaries, (iii) travel cost, and (iv) all other administrative and technical costs of the project. Funds will ordinarily not be granted for the purchase of capital equipment. Fee or profit will not be paid by NMFS under any funding award.

Any applicant submitting a project may request funds to cover administrative costs associated with the management of the project and the performance of functions required by the Federal Government as part of the grant award if the project is funded. These functions are identified in Section VIII, A, "Obligations of the Applicant." These costs are to be identified for each project submitted. In applications containing two or more projects, administrative costs are not to be combined for all projects but must be identified separately for each individual project. The amount of administrative funds provided will be based on the actual number of duration of projects and specific activities funded.

(m) *Cost Sharing for the Project.* Specify all activities which will be undertaken directly or indirectly by the applicant or by other project participants which will be funded from non-Federal sources, including in-kind contributions. State the total amount of non-Federal funds, including in-kind contributions, to be committed to the project, and specify the time at which such contributions will be available. The Federal share of the total project cost must be 50 percent or higher.

4. *Supporting Documentation.* This section shall include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project(s) proposed. The applicant should present any information which would emphasize the value of the project in terms of the significance of the impediments addressed; or the efficacy of methods used to calculate the costs and benefits of the project. Without such information, the merits of the project may not be fully understood, or the value of the project to fisheries development may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower ranking of the project. Information presented in this section should be referenced in the project description, where appropriate.

E. Application Submission and Deadline

1. *Deadline.* Applications for funding under this program shall be accepted between February 1, 1982 and April 1, 1982. An application will be considered to be timely filed if (a) the application is in any of the offices listed below on or before April 1, 1982, or (b) the applicaion is postmarked no later than March 26, 1982.

2. *Submission of Applications to NMFS*

One signed original and two (2) copies of the complete application must be submitted.

(a) Applications relating to a specific fishery or a particular region should be submitted to the appropriate NMFS Regional Office as specified below:

Northeast Region (Maine, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota): Regional Director, National Marine Fisheries Service, 7 Pleasant Street, Gloucester, MA 01930, Phone: (617) 281–3600

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Oklahoma, Arkansas, Tennessee, Kentucky, Missouri, Kansas, Nebraska, Iowa, Puerto Rico, Virgin Islands): Regional Director, National Marine Fisheries Service, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702, Phone: (813) 893–3142

Southwest Region (California, Hawaii, Nevada, Arizona, American Samoa, Guam, Trust Territory of Pacific Islands): Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, Phone: (213) 548–2575

Northwest Region (Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota): Regional Director, National Marine Fisheries Service, 7600 Sand Point Way, NE., Bin C15700, Seattle, Washington 98115, Phone: (206) 527–6150

Alaska Region (Alaska): Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, Phone: (907) 586–7221

(b) Applications that do not directly address the development of a particular fishery or region of the country but do address broad national concerns, such as impediments to increased use of fish and fish products both domestically and abroad, industry productivity or efficiency, product quality and safety, or consumer welfare identified in Section III B. National Priorities should be sent to: Director, Office of Utilization and Development, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

NMFS shall review all applications to determine the appropriate reviewing office. NMFS determination of this matter shall be final.

V. Review Process and Criteria

A. Initial Screening

Upon receipt by the appropriate regional or national office, as determined by NMFS, each application will be subject to an initial screening to determine whether it includes all required information specified in Section V. D. (Format) of this solicitation. If it is determined that the application is incomplete, applicants will be so notified, and may be given additional time as determined appropriate by NMFS to complete such application; the application will not be considered further unless modifications are made within the time allowed by NMFS.

B. Initial Review

All applications which have been determined to be complete will then be subject to an initial review by the receiving office, to determine whether the applicant has the requisite technical and financial capability to carry out the project, and to determine whether the application meets the minimum requirements specified below. Applications will be evaluated as a whole; if an application contains two or more projects, such projects will not be considered separately. To meet minimum requirements, applications must:

1. Address an identified impediment to the development or strengthening of the fishing industry; meet the needs of the fishing industry and/or consumers;

be consistent with regional and/or national priorities; and contribute to established fisheries development and utilization goals;

2. Meet the minimum level of cost sharing; and

3. Include a procedure for evaluating the success of the project(s) in overcoming the impediment(s) specified and in furthering national fisheries development and utilization goals.

The decisions of NMFS as to whether applications meet these minimum requirements will be final.

C. Formal Evaluation and Ranking of Proposed Projects

Applications which satisfy the minimum requirements will then be evaluated by the NMFS office determined by NMFS to be the most appropriate to evaluate the proposed work. This will normally be the office where the application is filed. The project(s) contained in the application will be evaluated in consultation with representatives from other Federal Government agencies with programs affecting the U.S. fishing industry, members of the fishing industry, and consumer groups, on the basis of technical merit. The regional and Washington offices of NMFS will make project descriptions available for review as follows:

1. Public review and comment. Regional projects may be inspected at the office to which they are submitted. All projects will be available for inspection at the NMFS Washington Office from April 12, 1982 to April 30, 1982. Written comments will be accepted at the regional or Washington offices until April 30, 1982.

2. Consultation with members of the fishing industry. NMFS shall, in its discretion, request comment from members of the fishing industry who have knowledge in the area of a project or who would be affected by a project.

3. Consultation with Government agencies. Projects will be reviewed in consultation with NMFS Research Centers and Utilization Laboratories, Regional Fisheries Management Councils, and the appropriate NOAA Grants/Contracts Offices. The appropriate Regional Fisheries Management Council may be asked to review projects and advise of any real or potential conflicts with Council activities.

Receiving offices will formally evaluate each of the projects which meet minimum requirements. If an application contains two or more projects, the projects will be evaluated separately. All comments submitted to NMFS will be taken into consideration in the evaluation of projects. As part of the evaluation, projects will be given point scores based on the following criteria:

(a) Significance of the impediment described in the project (20 points).

(b) Adequacy of research/development/demonstration for resolving an impediment and possibilities of securing productive results (20 points).

(c) Soundness of design/technical approach for resolving an impediment (20 points).

(d) Organization and management of the project, including qualifications and previous related experience of the management team and the personnel involved (20 points).

(e) Effectiveness of proposed methods for monitoring and evaluating the success or failure of the project in resolving and impediment (10 points).

(f) Appropriateness of the budget in terms of the work to be performed (10 points).

A panel of NMFS, fishing industry, and consumer representatives, as appropriate, will be convened by each reviewing office to evaluate the projects filed with the office. The panel will make recommendations on the level of funding to be awarded for each project and the merits and benefits of funding each project.

D. Funding Awards

After projects have been evaluated by the reviewing offices, recommendations for project funding will be developed by the Regional Directors for regional projects and the Director, Office of Utilization and Development for national projects. The recommendations will be submitted to the Assistant Administrator for Fisheries for review. Recommendations for funding will be developed on the basis of the technical review scores, the amount of cost sharing to be provided by the applicant, and the overall benefits and merit to conducting the project. The Assistant Administrator for Fisheries will determine the number of projects to be funded based on the recommendations provided to him, consistency of projects with national fisheries policy, and the amount of funds available for the program.

The exact amount of funds to be awarded for a project will be determined in preaward discussions between the applicant and NOAA/NMFS Program and Grants representative. The form of the financial assistance agreement and the award will be determined by NOAA Grants Officers. In accordance with the requirements of the AFPA, all Applications will be approved or disapproved before July 30, 1982. Projects approved and recommended for funding will be subject to review by the Secretary of Commerce before funding is authorized.

VI. Administrative Requirements

A. Obligations of the Applicant

An Applicant shall:

1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. If a project is funded, manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are granted, and be responsible for the satisfaction of all administrative and managerial conditions imposed by NMFS.

4. If a project is funded, keep records sufficient to disclose the use made of grant funds, provide an audit of the use of funds, and allow access to records for audit and examination by the Secretary, the Comptroller of the United States, or their authorized representative.

5. If a project is funded, submit quarterly project status reports to NMFS within thirty days after the end of each calendar quarter, on the use of funds and progress of the project. These reports shall specify, for each project funded:

(a) Whether goals or objectives are being achieved within projected time periods;

(b) Where necessary, state reasons why goals or objectives are not being met;

(c) Any change in plans or redirection of resources or activities and the reason therefor;

(d) Such report shall be submitted within the time and to the individual specified in the funding agreement.

6. If a project is funded, submit a final report within 90 days after the end of each project. This report shall describe the project and include an evaluation of the work performed and the results and benefits of the work in sufficient detail to enable NMFS to assess the completed project for its annual report to Congress as specified in subsection B (6) of this section. Results should be described in relation to the project objectives of resolving specific impediments, and should be quantified to the extent possible. Potential uses of project results in private industry should be specified. Any conditions or requirements .

necessary to make productive use of project results should be identified.

7. Submit such additional reports as may be required by NMFS.

B. Obligations of the National Marine Fisheries Service

NMFS shall:

1. Provide all forms and explanatory information necessary for the proper submission of applications for fisheries development and utilization projects;

2. Provide advice, through NMFS Office servicing the applicant's area, to inform applicants of NMFS fisheries development policies and goals;

3. When projects submitted to regional offices are approved for funding, the NMFS Regional Director of such regional office shall inform the applicant of all requirements and conditions for the use of such funds;

4. Monitor all projects to ascertain their effectiveness in achieving project objectives and in producing measurable results. Actual accomplishments of a project will be compared with intended or anticipated accomplishments. Conclusions drawn by NMFS in monitoring projects will be used to support funding decisions on multiyear projects and on succeeding or similar projects;

5. Make project results and reports available upon request to Congress, public agencies or the public.

6. Include in the annual report to Congress, as required by the AFPA, a description of all funded projects, a list of applications approved and disapproved, the total amount of grants made during the current fiscal year and the extent to which available funds were not obligated or expended for such fiscal year. The report shall also include an assessment of each funded project that was completed in the preceding year in terms of the extent to which project objectives were attained and the extent to which it contributed to fishery development.

C. Legal Requirements

The applicant shall be required to satisfy the requirements of applicable local, State and Federal Laws.

(Federal Domestic Assistance Catalogue No. 11.427 Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements)

Signed at Washington, D.C., this 25th day of January 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

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Monday	Tuesday	Wednesday	Thursday	Friday
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Highlights

4223 **Environmental Safeguards for Animal Damage Control on Federal Lands** Executive order

4225 **Designation of Certain Officers To Act as Secretary of State** Executive order

4256 **Mortgages** VA increases maximum interest rate on guaranteed, insured and direct loans for homes and condominiums.

4474 **Rent Subsidies** HUD/FHC publishes Annual Adjustment Factors for rent adjustments under Section 8 Housing Assistance Payments Programs. (Part V of this issue)

4230 **Banks, Banking—Emergency Financial Assistance** FRS includes additional counties in California in temporary suspension of Regulation Q penalty for early withdrawal of time deposits.

4329 **Grant Programs—Education** ED invites applicants for fiscal year 1982 grants under the National Diffusion Network Program.

4254 **Cuban Imports** Treasury/FACO reduces certificate of origin requirements for regulated imports.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

4385 **Imports—Restricted Materials** Treasury/FACO publishes detention and disposition procedures for unlicensed publications of Vietnamese, North Korean, Cambodian or Cuban origin.

4406 **Medical Devices** HHS/FDA proposes general classification rules for all radiology devices. (Part II of this issue)

4311 **Radiation Protection** NRC proposes to permit longer intervals between required calibrations of certain dosimetry systems.

4310 **Nuclear Power Plants and Reactors** NRC considers requiring a separate operating license hearing for each power reactor unit at a nuclear plant site.

4232 **Electric Power** DOE/FERC exempts two categories of small hydroelectric power projects from licensing requirements.

4406 **Waste Treatment and Disposal** EPA announces availability of and requests comments on revised National Pollutant Discharge Elimination System Treatability Manual.

4321 **Radio** FCC terminates proceeding to widen the range of uses for FM multiplex channels of public broadcasting stations.

4258 **Veteran Employment** Labor/FCCPO suspends contract provisions requiring quarterly reports of hiring actions on disabled veterans and veterans of the Vietnam era.

4265 **Motor Carriers—Accounting and Reporting Requirements** ICC adopts accounting principles requiring disclosure of certain long-term obligations.

4268 **Fisheries** Commerce/NOAA amends management plan for Atlantic surf clam and ocean quahog fisheries.

4266 Commerce/NOAA retroactively reapportions groundfish in the Bering Sea and Gulf of Alaska among domestic and foreign fishermen and processors.

4313 **Equal Access to Justice** DOE/FERC proposes procedural rules.

4328 **Privacy Act Document** DOD

4387 **Sunshine Act Meetings**

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4454 **Part III, Labor/ESA**
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Federal Register
Vol. 47, No. 20
Friday, January 29, 1982

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Title 3—

The President

Executive Order 12342 of January 27, 1982

Environmental Safeguards for Animal Damage Control on Federal Lands

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to permit effective predator control with environmental safeguards under Federal statutory programs, Executive Order No. 11643, as amended, is hereby revoked.

Ronald Reagan

THE WHITE HOUSE,
January 27, 1982.

[FR Doc. 82-2807
Filed 1-28-82; 11:33 am]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12343 of January 27, 1982

Designation of Certain Officers To Act as Secretary of State

By the authority vested in me as President of the United States of America by Section 3347 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. During any period when, by reason of absence, disability, or vacancy in office, neither the Secretary of State nor the Deputy Secretary of State, is available to exercise the powers or perform the duties of the Office of the Secretary, an officer from the Department of State who has been appointed by the President, by and with the advice and consent of the Senate, in such order as the Secretary of State may from time to time prescribe, shall act as Secretary. If no such order of succession is in effect at that time, then such officers shall act as Secretary in descending order of rank, as established by the listing of their offices in Sections 5314 or 5315 of Title 5 of the United States Code, and at each level of the Executive Schedule in the order in which they shall have taken the oath as such officers.

Sec. 2. The President may at any time, pursuant to law but without regard to the foregoing provisions of this Order, direct that an officer specified by the President shall act as Secretary of State.

Sec. 3. Executive Order No. 10839 is revoked.

Ronald Reagan

THE WHITE HOUSE,
January 27, 1982.

[FR Doc. 82-2008
Filed 1-28-82; 11:34 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 47, No. 20
Friday, January 29, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 6

Exceptions From the Competitive Service; Agriculture Department

AGENCY: Office of Personnel Management.

ACTION: Final rule; technical amendment.

SUMMARY: Executive Order 12300 of March 23, 1981 (46 FR 18683), excepted from the competitive service certain positions in the Department of Agriculture because of their confidential, policy-determining, policy-making, or policy-advocating character. This technical amendment codifies the exception into Section 6.8 of Title 5 of the Code of Federal Regulations.

EFFECTIVE DATE: March 23, 1981.

FOR FURTHER INFORMATION CONTACT: Beverly McCain Jones, (202) 254–5966. Office of Personnel Management.

Donald J. Devine,
Director.

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE (RULE VI)

Accordingly, OPM amends 5 CFR 6.8 by adding paragraph (c) to read as follows:

§ 6.8 Specified exceptions.

* * * * *

(c) Within the Department of Agriculture, positions in the Agriculture Stabilization and Conservation Service the incumbents of which serve as State Executive Directors and positions in the Farmers Home Administration the incumbents of which serve as State Directors or State Directors-at-Large shall be listed in Schedule C for all grades of the General Schedule.

(E.O. 12300)

[FR Doc. 82-2333 Filed 1-28-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 344; Lemon Reg. 343, Amdt.1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 31–February 6, 1982, and increases the quantity of lemons that may be shipped during the period January 24–30, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective January 31, 1982, and the amendment is effective for the period January 24–30, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on January 26, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is slightly improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

PART 910—LEMONS GROWN IN ARIZONA AND CALIFORNIA

1. Section 910.644 is added as follows:

§ 910.644 Lemon Regulation 344.

The quantity of lemons grown in California and Arizona which may be handled during the period January 31, 1982, through February 6, 1982 is established at 210,000 cartons.

2. Section 910. 643 Lemon Regulation 343 (47 FR 3082) is revised to read as follows:

§ 910.643 Lemon Regulation 343.

The quantity of lemons grown in California and Arizona which may be handled during the period January 24, 1982, through January 30, 1982, is established at 220,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: January 28, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-2809 Filed 11-28-82; 11:44 am]

BILLING CODE 3410-02-M

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7 CFR Part 1098

[Milk Order 98; Docket No. AO-184-A43]

Milk in the Nashville, Tennessee, Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the pool plant definition of the Nashville, Tennessee, order. The order now provides that a distributing plant must dispose of at least 50 percent of its milk receipts in packaged fluid milk products distributed on routes in order to qualify as a pool plant. Under the change bulk sales of Class I milk to other plants would be included in computing whether the plant qualifies as a pool plant.

This change was one of several proposed changes considered at a public hearing held October 21-23, 1981. The action is necessary to reflect current marketing conditions and to insure orderly marketing in the regulated area. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and an opportunity to file exceptions thereto have been omitted. A separate recommended decision will deal with the remaining issues in this proceeding.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202/447-5443).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued September 4, 1981; published September 11, 1981 (46 FR 45354).

Correction: Published September 22, 1981 (46 FR 46813).

Notice of Rescheduled Hearing: Issued September 24, 1981; published September 29, 1981 (46 FR 47588).

Suspension of Rule: Issued November 24, 1981; published November 30, 1981 (46 FR 58064).

Partial Final Decision: Issued January 15, 1982; published January 21, 1982.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nashville, Tennessee, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than February 1, 1982. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued January 15, 1982. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective February 1, 1982, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the **Federal Register** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the orders as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Nashville, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA; ORDER AMENDING ORDER

Paragraph (a) of § 1098.7 is revised to read as follows:

§ 1098.7 Pool plant.

* * * * *

(a) A distributing plant that has Class I disposition during the month of not less than 50 percent of the fluid milk products, except filled milk, approved

by a duly constituted regulatory agency for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total disposition of fluid milk products, except filled milk, during the month.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective date: February 1, 1982.

Signed at Washington, D.C., on January 26, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-2334 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Revision of REA Specification T-9

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby provides for the revision of REA Specification T–9, "REA Specification—Single Pole Steel Structures Complete with Arms." The revision will update and bring into conformance with national standards the original Specification T–9, dated December 1971.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Belfore, telephone (202) 382–9086. A Final Impact Statement has been prepared and is available from the Director, Engineering Standards Division, Rural Electrification Administration, Room 1270–S, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby provides for the revision of REA Specification T–9, "REA Specification—Single Pole Steel Structures Complete with Arms." This final action has been issued in conformance with Executive Order 12291, Federal Regulation. Since no significant effect on the economy will occur; since no significant increase in costs for consumers, industries or Government will result; and since no significant impact on economic conditions will be caused, this action has been determined to be "not major."

The Regulatory Flexibility Act (Pub. L. 96–354) does not apply to this action, therefore, a Regulatory Flexibility Analysis has not been prepared.

This final action will include reference to NEMA Publication No. TT–1, "Tapered Tubular Steel Structures," which had not been developed when the original specification was published in 1971.

A Notice of Proposed Rulemaking was published in the **Federal Register** on October 2, 1981, Volume 46, Number 191, Page 48892. However, no public comments were received in response to the notice.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: January 25, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-2367 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1701

Public Information; Appendix A—REA Bulletins Specification for Electronic Equipment Housings, PE–69

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby issues a File With to REA Bulletin 345–79, Specification for Electronic Equipment Housings, PE–69, to further identify the sizes of housings covered by this specification. PE–69 was intended to address only the larger "universal" housings, however, there has been some confusion and attempts to apply this document to housings ranging from single channel carrier to modular buildings. This File With will clarify the intended range of housing sizes to be covered by the specification.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends Appendix A by issuing a File With for Bulletin 345–79, Specification for Electronic Equipment Housings, PE–69. This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required and an OMB Circular A–95 review is not applicable to this action.

Some confusion exists as to the applicability of PE–69. In an effort to reduce confusion, and to minimize unnecessary and costly testing, a clarifying addendum is being issued. A total revision was considered undesirable as only this one section required attention. Retaining the bulletin in its present form would have continued the confusion and resulted in unnecessary testing on the part of the private sector.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

A notice of Proposed Rule Making was published in the **Federal Register** on September 25, 1981. No public comments were received in response to the notice.

Dated: January 25, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-2330 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Bulletin 345–13, Specification for Aerial and Underground Telephone Cable, PE–22 and Bulletin 345–70, Specification for Filled Buried Wire, PE–54

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby issues revised pages to Bulletins 345–13 and 345–70, REA Specifications PE–22 and 54 which will allow the optional use of medium density jacketing material.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration,

Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.) REA hereby issues revised pages to Bulletin 345–13, Specification for Aerial and Underground Telephone Cable, PE–22 and Bulletin 345–70, Specification for Filled Buried Wire, PE–54. This action has been reviewed under USDA procedures established to implement Executive Order No. 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required, and an OMB Circular A–95 review is not applicable to this action.

These revised pages will permit the use of medium density jacketing material, an improvement over existing products, on cables and wires accepted by REA. This will result in improved product performance at no increase in cost, therefore, no other options were seriously considered.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851 Rural Telephone Loans and Loan Guarantees.

A Notice of Proposed Rule Making was published in the **Federal Register** on May 5, 1981. However, no public comments were received in response to the notice.

Dated: January 25, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–2329 Filed 1–28–82; 8:45 am]

BILLING CODE 3410–15–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–0383; Reg. Q]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Amendment of Board Order temporarily suspending regulation.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms, mud slides, high tides, and flooding in the California counties of Contra Costa, Marin, San Mateo, Santa Cruz, and Sonoma on January 8, 1982. This action expands that Order to include additional counties in California.

EFFECTIVE DATE: January 9, 1982 for Solano County; January 12, 1982 for Humboldt County; and January 15, 1982 for the counties of Alameda, Santa Clara, and San Joaquin.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711).

SUPPLEMENTARY INFORMATION: On January 7, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the California counties of Contra Costa, Marin, San Mateo, Santa Cruz, and Sonoma, major disaster areas. The Board regarded the President's actions as recognition by the Federal Government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board of Governors, acting through its Secretary, pursuant to delegated authority, suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors suffering property or other financial loss in the disaster areas as a result of severe storms, mud slides, high tides, and flooding beginning on or about December 19, 1981. (47 FR 2857). Subsequent to this action, the Presidential declaration of a major disaster has been amended to include additional counties. The Board therefore believes it appropriate to amend its Order to include the additional counties. The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of severe storms, mud slides, high tides, and flooding beginning on or about December 19, 1981. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This amendment will be retroactive to January 9, 1982 for Solano County, January 12, 1982 for Humboldt County, and January 15, 1982 for the counties of Alameda, Santa Clara, and San Joaquin and will remain in effect until 12 midnight July 7, 1982.

Pursuant to its authority under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), the Board has determined it to be in the public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors, suffering disaster-related losses within the designated counties of California, which have been officially designated major disaster areas by the President. The Boards in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of California directly affected by the severe storms, mud slides, high tides, and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(13)), January 25, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–2300 Filed 1–28–82; 8:45 am]

BILLING CODE 6210–01–M

12 CFR Part 206

[Docket No. R–0327; Reg. F]

Securities of State Member Banks; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This notice corrects a previous **Federal Register** document (FR Doc. 81–4218) relating to Securities of State Member Banks published at page 11249 in the issue for Friday, February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Richard M. Whiting, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3779).

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 12(i) of the Securities Act of 1934 as amended (15

U.S.C. 78.1(i)) the Board is amending 12 CFR Part 206.44 by removing footnote 1, and references thereto from Parts B and C; and by redesignating present footnote 2, and references thereto in Part C, as footnote 1.

Board of Governors of the Federal Reserve System, January 27, 1982.

William W. Wiles,

Secretary of the Board

[FR Doc. 82-2584 Filed 1-28-82; 10:55 am]

BILLING CODE 6210-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 930

Interpretation of the Federal Consistency Term; "Directly Affecting the Coastal Zone"

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Withdrawal of final rule.

SUMMARY: On July 8, 1981, NOAA published final regulations to clarify which Federal activities are considered as "directly affecting the coastal zone" and, therefore, subject to consistency review under section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended (CZMA). Under these regulations, consistency review is required if the Federal agency finds that the conduct of the activity itself produces an identifiable physical alteration in the coastal zone or that the activity initiates a chain of events reasonably certain to result in such alteration, without further required agency approval. Following publication of these final regulations, but before they became effective, NOAA received comments of concern from state governments and Members of Congress assigned to Committees that have oversight responsibilities with respect to the CZMA. In addition, Congressional resolutions expressing disapproval of the final regulations were introduced in both the House and Senate.

On October 16, 1981, NOAA published a notice in the **Federal Register** proposing to withdraw the July 8 regulations (46 FR 50976) and suspending their effective date (46 FR 50937). After reviewing the comments submitted on this proposal NOAA has decided to withdraw the regulations.

EFFECTIVE DATE: This withdrawal becomes effective 60 days after submission to both Houses of Congress unless within 60 days of continuous session after submission, both Houses of Congress adopt a concurrent resolution disapproving the withdrawal. Notification of the effective date of the withdrawal will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Dan Hoydysh, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235. Telephone: (202) 634–4249.

SUPPLEMENTARY INFORMATION:

I. Background

Section 307(c)(1) of the CZMA states that, "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state coastal management programs."

Regulations published by NOAA on June 25, 1979 (44 FR 37142), implementing the Federal consistency provisions define all the key terms of Section 307(c)(1) except "directly affecting." On May 14, 1981, regulations defining this term were proposed (46 FR 26658) and on July 8, 1981, these regulations were published in final form. (46 FR 35253)

The July 8 final regulations provide that a Federal activity directly affects the coastal zone if the Federal agency finds that the conduct of the activity itself produces an identifiable physical alteration in the coastal zone or that the activity initiates a chain of events reasonably certain to result in such alteration, without further required agency approval. "Direct effects" of Federal planning decisions do not include those effects of the activity being planned that are identified by the Federal agency as uncertain, speculative, remote, or subject to further approval by that same Federal agency.

The July 8 regulations were submitted to Congress for review in accordance with Pub. L. 96–184. The 60-day period specified by this Act had not yet expired, and the regulations had not yet become effective on October 16, 1981, when NOAA published in the **Federal Register** a notice suspending the effective date of the July 8 regulations and a notice proposing to withdraw these regulations.

II. Comments on Proposed Withdrawal

NOAA received comments supporting the withdrawal of the July 8 regulations from eighteen coastal state agencies, the Western Governors Association, three governors of coastal states, the Coastal States Organization, three public interest groups, one Federal agency, and one Congressman. Eleven commentators representing oil and gas industry interests and two Federal agencies opposed withdrawal.

The commentators reiterated the arguments advanced during the long history of this rulemaking. Commentators favoring withdrawal generally based their position on the need for states to manage effectively land and water uses in the coastal zone by reviewing Federal activities on a comprehensive basis at an early stage in decisionmaking. In support of their position, these commentators cited the longstanding interpretation by NOAA of the term "directly affecting the coastal zone", the basic purpose of the CZMA to encourage a Federal/state partnership for managing the nation's coastal resources, and the August 18, 1981, ruling by the Court for the Central District of California in *California* v. *Watt* (CV81–2081MRP). Commentators opposing withdrawal generally supported the July 8 rule as being rational, legally defensible, and balancing the right of states to protect their coastal areas with the need to develop the nation's energy resources.

III. Proposed Rule

This notice withdraws the final regulations published July 8. Another regulation defining "directly affecting" will be proposed in accordance with the Administrative Procedure Act after the Department of Commerce and NOAA have had an opportunity to reconsider this matter.

IV. Effective Date

Public Law 96–464 provides, in part, that final rules implementing the CZMA must be submitted to Congress for review. Thereafter, final rules become effective unless, within 60 calendar days of continuous session after submission, both Houses of Congress adopt a concurrent resolution disapproving the final rules. This statutory requirement raises constitutional issues that NOAA is not addressing at this time. NOAA is treating this requirement as a report and wait provision. Therefore, the withdrawal of the July 8 regulations will not become effective until after this 60-day period has expired. Notification of the effective date of the withdrawal will be published in the **Federal Register** at that time. The July 8 final regulations will remain suspended until the withdrawal becomes effective. The July 8 regulations should not be used as guidance for Federal agency compliance with Section 307(c)(1) of the CZMA.

V. Other Matters

The regulation that is being withdrawn was determined to be a "major rule" under Executive Order 12291 and its repeal would also be a "major rule." However, in view of the extensive review, analysis and consultation which was involved in defining the term "directly affecting," the Director of the Office of Management and Budget has waived the requirements of Section 3 of Executive Order 12291 for this rule.

Neither the Regulatory Flexibility Act nor the Paperwork Reduction Act apply to these regulations. These regulations define actions required to be taken by federal agencies and have no impact on small entities. The regulations impose no additional paperwork or recordkeeping requirements and therefore the provisions of the Paperwork Reduction Act do not apply.

Dated: January 20, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Accordingly, the amendments to 15 CFR Part 930, Subparts C, D, and E, §§ 930.32, 930.33, 930.34, 930.35, 930.36, 930.37, 930.38, 930.39, 930.40, 930.41, 930.42, 930.43, 930.44, 930.45 and 930.46, published on July 8, 1981, 46 FR 35253, are withdrawn.

[FR Doc. 82-2294 Filed 1-28-82; 8:45 am]
BILLING CODE 3510-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 375

[Order No. 202; Docket No. RM81-7]

Exemption from the Licensing Requirements of Part I of the Federal Power Act of Certain Categories of Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule and notice of finding of no significant impact.

SUMMARY: The Federal Energy Regulatory Commission (Commission) amend its regulations to provide an exemption from licensing for two categories of small hydroelectric power projects. Those categories are: (1) Projects over 100 kilowatts, but not more than 5 megawatts, of generating capacity which conform to ten specified criteria, and (2) projects of 100 kilowatts or less which conform to three criteria. Project owners may obtain exemption by filing a notice of exemption, as specified, with the Commission. The exemption criteria are based in part on an Environmental Assessment. The Commission finds that exempting these categories of projects will not be a major Federal action significantly affecting the quality of the human environment.

This rule is designed to ease regulatory burdens and expedite the development of certain hydroelectric projects.

DATE: The final rule is effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT:

James Hoecker, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426 (202) 357-9342

Ronald Corso, Director, Division of Hydropower Licensing, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426 (202) 376-9171.

SUPPLEMENTARY INFORMATION:

In the matter of exemption from the licensing requirements of Part I of the Federal Power Act of Certain Categories of Small Hydroelectric Power Projects with an installed capacity of 5 megawatts or less; Order No. 202, Docket No. Rm81-7.

Final Rule and Additional Notice of Finding of No Significant Impact

Issued: January 19, 1982.

The Federal Energy Regulatory Commission (Commission) hereby exempts from the licensing requirements of Part I of the Federal Power Act (Act) two categories of small hydroelectric power projects that have been determined not to have a significant impact on the quality of the human environment. The final rule will implement in part section 408 of the Energy Security Act of 1980 (ESA).[1] Under the final rule, the Commission will exempt from the licensing requirement of the Act any small hydroelectric power project that conforms to the specified characteristics of either of two categories of projects. Exemption of any project in either of the categories of projects will be effective 30 days after the date that the Commission receives a brief Notice of Exemption from licensing. This final rule is the first exercise of the Commission's discretion under section 408(b) of the ESA to exempt "classes or categories" of projects.

I. Background

Title IV of the ESA, also known as "The Renewable Energy Resource Act of 1980," amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to authorize the Commission to exempt certain small hydroelectric power projects on a case-by-case basis or by class or category of such projects from all or part of the requirements of Part I of the Act, including any licensing requirement.

Section 408 of the ESA grants the Commission discretion to provide exemption under certain specified conditions. The proposed installed capacity of a project may not exceed 5 megawatts (MW). To be exemptible, a project must utilize the water power potential of an existing dam, unless it is a project that will utilize a so-called "natural water feature" that does not require the creation of a dam or man-made impoundment. Such a natural water feature project will commonly utilize an elevated lake or a waterway the topographical features of which permit diversion of some waters for purposes of power generation.

Section 408 also provides that certain environmental requirements apply to those projects that the Commission exempts from licensing. Those requirements include the National Environmental Policy Act of 1969, the Endangered Species Act, and the Fish and Wildlife Coordination Act, as well as the related consultation provisions in section 30 of the Federal Power Act that are part of the exemption procedures for small conduit hydroelectric facilities.

On November 7, 1980, the Commission issued Order No. 106,[2] which establishes procedures for exempting from all or part of Part I of the Act any small hydroelectric power project having a proposed installed capacity of 5 MW or less. Those procedures involve case-by-case analysis and determinations related to the advisability of exempting any project, including analysis of the environmental impact of that action. These procedures are initiated by

[1] Pub. L. 96-294, 94 Stat. 611. Section 408 of the ESA amends, inter alia, sections 405 and 408 of the Public Utilities Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 2705 and 2708).

[2] "Exemption from All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less" (Docket No. RM-80-65), issued November 7, 1980, 45 FR 76115, November 18, 1980. The final rule in Order No. 106 established Subpart K of Part 4 of the Commission's Regulations. That subpart is revised and expanded by the rule in this docket.

submittal of an application for exemption from licensing by any person, if the project uses only Federal lands, or by a person that holds all the necessary real property interests in non-Federal lands, if any non-Federal lands are involved. If the Commission does not act expressly on an application for exemption from licensing within a specified time, absent a suspension of the time for action, the application is deemed granted.

The rule proposed in this docket exempts from licensing two categories of small hydroelectric power projects.[3] One category of such projects is described in § 4.109(a); it includes, among the other characteristics specified, any project with a proposed installed generating capacity of more than 100 kilowatts (kW), but not more than 5 MW. Projects within the second category, described in § 4.109(b), must not exceed 100 kW of proposed installed capacity and are eligible for exemption under slightly different terms and conditions. Any exemption under the final rule is made effective by submitting to the Commission a Notice of Exemption from Licensing by those persons who would also be eligible to file an application for exemption from licensing under the case-specific regulations established by Order No. 106.

This generic exemption from licensing differs from Order No. 106 in several respects. Any small hydroelectric power project, including a project that utilizes a "natural water feature," having a proposed installed capacity of 5 MW or less is exemptible under the case-specific method. Only those projects with specified characteristics found by the Commission not to affect significantly the quality of the human environment are generically exempted under this rule.[4] The case-specific procedures address both exemption from licensing and exemption from provisions of Part I of the Act other than licensing. The categorical exemption process, on the other hand, will apply only to exemption from licensing. While the case-specific procedures will apply to projects that utilize for power generation either an existing dam or a natural water feature, the categorical exemption of both categories of projects under the rule in this docket will apply only to projects utilizing an existing dam. Finally, under the case-specific approach, the Commission is required to consider and act on each project separately, including the development of special terms and conditions in each case. Categorical exemption is accomplished under the terms set forth in the rule alone. The Commission estimates that about 20% of the feasible small hydroelectric power projects with a capacity of 5 MW or less fall within the categories of projects covered by this exemption rule.

[3] The Notice of Proposed Rulemaking in this docket was issued on December 22, 1980 and appears at 46 FR 1291, January 6, 1981.

[4] The Commission has considered proposing another rulemaking to exempt from licensing a category of small hydroelectric power projects that may have significant environmental impacts. Preliminary examination reveals that in order to anticipate the variety of configurations of project works and their impacts, additional terms and conditions might be required than would ordinarily be imposed on those projects pursuant to case-specific exemption. Project owners may therefore choose to obtain exemption under Order No. 106 rather than to have their projects exempted categorically subject to a lengthy set of terms and conditions. Moreover, the Commission has experienced considerable success in expediting exemptions from licensing under Order No. 106. The Commission therefore delays further consideration of another categorical exemption rule.

II. Comment Analysis

A. *General Comments.* Commenters express general support for the Congressional objectives underlying section 408 of the Energy Security Act of 1980 and approved the Commission's efforts to encourage development and utilization of small-scale hydropower by establishing categorical exemption procedures.

The environmental comments focus primarily on the parameters for the category of exemptible projects set forth in proposed § 4.109(a), the environmental certification procedures in proposed § 4.112(b), and the relationship of exemptible projects to anadromous fish management programs under proposed § 4.111(b). The Commission is urged to be very circumspect in exempting projects from the protection afforded fish, wildlife, and recreational values under current licensing procedures. Overall, state resource agencies are supportive of the proposed rule and none perceived irreconcilable conflicts between exemption of the proposed categories of projects and state environmental protection responsibilities.

The U.S. Fish and Wildlife Service, which also has special responsibilities under section 30(c) of the Federal Power Act, and private environmentalist groups are somewhat more critical of the proposed rule. Their comments reflect a belief that exemptions from licensing under the Act could institutionalize existing poor environmental conditions at existing dams and that the exemptions might make state and Federal fish and wildlife administration more difficult. Several such comments advocated case-specific notice and comment procedures, even for categorical exemptions. During the comment period and the oral presentations, no section 30(c) terms and conditions were recommended to the Commission for inclusion in the rule by state or Federal fish and wildlife agencies. Extensive revisions particularly with respect to standard Article 2 (§ 4.111(a)(2)) governing migratory fish restoration measures are nevertheless included in the final rule pursuant to the comments of those agencies.

Developers and public utilities encourage liberalization of the criteria for the category of exemptible projects described in proposed § 4.109(a). These commenters emphasized that other agencies—Federal, state, and local—will have continuing responsibilities to guard against environmental degradation in the absence of a Federal license.

B. *Need for case-specific review.* Resource agencies, notably the U.S. Fish and Wildlife Service (Service), propose that any project eligible for categorical exemption be reviewed by such agencies after a notice of exemption is filed, with a view toward developing case-specific terms and conditions for each case or proposing modifications in the plan of development. Such a procedure is incompatible with a truly categorical exemption. The categorical exemption rule is a limited implementation of the statutory scheme, which authorizes the Commission to provide regulatory relief for a group of projects at one time. This kind of exemption necessarily requires that exemption occur by operation of a rule which prescribes the paramaters of the exemptible category, sets forth terms and conditions which govern the operation and management of all exemptible projects after exemption, and provides for certification from the appropriate fish and wildlife agency with respect to those environmental matters for which statute requires case-specific review (for example, endangered species).

The objective of the rule is to limit the category of exemptible projects, according to physical and operational characteristics, so as to make environmental degradation very unlikely. The Environmental Assessment attests to the reasonableness of the approach taken. The Service and state fish and wildlife agencies have had, under the rulemaking procedure, the opportunity to impose terms and conditions applicable to the entire category of projects during the formulation of the

rule. Moreover, those agencies will have a continuing role scrutinizing certain environmental factors under the requirements of the rule and their own statutory responsibilities.

If fish and wildlife agencies were afforded by the rule a period after a notice of exemption is filed to examine each project and propose individual terms and conditions or project modifications, this would be a case-by-case, not a categorical, exemption procedure. The rule gives meaning to the statutory language by providing a truly categorical exemption, while ensuring the integrity of migratory fish populations, endangered species, historic landmarks, and water quality by establishing a certification process wherein the project owner and the agencies must reach an accommodation *before* the Commission is notified that the project is exemptible under its regulations. Terms and conditions of exemption are included in the rule itself (§ 4.111) and apply to all exempted projects in the class, rather than being tailored to each project.

C. *Categories Too Limited.* Several commenters felt that the exemption process should be pursued more actively and that the categories and criteria for exemption should be expanded. For example, Southern California Edison Company stated that, in order to avoid precluding exemption for many potential sites in the West, the exemption process should also apply to projects that involve diversion structures that create minor impoundments, enlarge a dam by means of flashboards or spillway gates, fluctuate the storage and release regime at an existing dam, divert water up to 3500 feet below the dam, and entail construction of transmission lines up to 10 miles long in new rights-of-way.

The Commission has limited the scope of this initial categorical exemption rule because of the substantial statutory obligations (*e.g.*, National Environmental Policy Act, Fish and Wildlife Coordination Act) which must be addressed prior to exempting a category of projects. This rule delineates categories of hydroelectric power projects which have predictable and very limited environmental effects. Accordingly, the Commission has found that the category of projects described in proposed (now final) § 4.109(a) will not significantly affect the quality of the human environment and, based on that finding, it has been able to proceed more quickly to exempt a category of projects without further environmental review on a case-specific or categorical basis. An Environmental Assessment has now been prepared for the category of projects 100 kW or less, described in § 4.109(b). It supplements the earlier Environmental Assessment for the larger category in § 4.109(a). These smaller projects at existing dams are also found not to affect significantly the quality of the human environment.

Under the case-specific exemption procedures established in Order No. 106, any small hydroelectric power project eligible for exemption under section 408 of the ESA [amending § 405(d) of PURPA] may now be exempted after submittal of an application and case-specific review by the Commission and fish and wildlife agencies. Any "small hydroelectric power project," as defined in § 4.102(l), could qualify for exemption under Order No. 106. The Commission nevertheless recognizes there may be distinct advantages to categorical exemption from licensing where such exemption is practicable under existing law.

One commenter proposes exemption for all hydroelectric power projects having a capacity of 10 MW or less. Such an action would be contrary to statute. The Commission's discretion to grant exemption from licensing or other provisions of Part I of the Federal Power Act extends only to projects with a proposed installed capacity of 5 MW or less.

Another commenter advocated categorical exemption of projects from all requirements of Part I of the Act, not only licensing. Part I of the Act contains a variety of provisions and requirements that affect small hydroelectric power projects in varying degrees. The site-specific characteristics of each project will help determine the extent to which the Commission wishes to apply its dam safety requirements and various administrative and environmental provisions. Therefore, the Commission will consider exemption from provisions other than licensing only on a case-specific basis. Section 4.108 provides an extremely simple application procedure for such exemption.

Generic exemption for projects that utilize natural water features for electric power generation was supported strongly by some commenters. The Commission has considered categorical exemption for these projects and has concluded that the case-specific exemption procedures are more ideally suited to them. While the statute gives the Commission discretion to exempt these projects, it provides little guidance as to their characteristics or environmental impact. The Commission has undertaken to examine the nature and effects of natural water feature projects in order to ascertain the feasibility of a second categorical exemption rule. In response to the related assertion that the current definition of "dam" might bar even case-specific exemption of certain projects that utilize diversion structures but are, arguably, exemptible natural water feature projects, the Commission does believe that these projects may be considered for exemption under the case-specific procedures.[5]

Some issues dealt with by the Commission in Order No. 106 were raised again in this docket, namely that the rule (§ 4.102(h)) excludes from exemption any projects that utilize the same impoundment and that have an aggregate capacity of more than 5 MW and any projects that are part of a larger licensed power project.

As stated in Order No. 106, the practical difficulties that would arise from exempting more than one project at a single impoundment include possible circumvention of the statutory 5 MW limit and difficulties in applying conditions on the use and maintenance of dams or other appurtenant facilities and regulation of the impoundment. Moreover, in those rare cases where exemption of small hydroelectric power projects contained within currently licensed projects is both feasible and desirable, the Commission has already provided for waiver of these restrictions (§ 4.103(d)) on a case-specific basis. After considering the arguments supporting exemption for parts of licensed projects, both in this docket and in Docket No. RM80-65, the Commission is still persuaded that exemptions for such projects (assuming the whole project would not qualify for exemption) normally would create practical, administrative, and legal difficulties that tend to undermine the real benefits of obtaining exemption. However, very small generating facilities will not, if developed within existing licensed projects, affect the impoundment or administration of the licensed project significantly. Projects at existing dams, if 100 kW or less, are exempted under § 4.109(b) even if part of a licensed project.

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[5] The Commission proposes in Docket No. RM81-—, to amend § 4.102 by further defining what is meant by a project that utilizes a natural water feature. The definition of "dam" will also be changed accordingly. The amendments make clear which projects, other than those at existing dams, will be exemptible under the procedures established by Order No. 106, consistent with section 408 of the ESA. Pending the outcome of that rulemaking, the issue of whether a diversion-type structure constitutes a dam and must therefore be "existing" at the time of exemption will be addressed individually as cases arise, including those arising under an application for waiver.

D. *Section 4.109 criteria.* Section 408(a)(6) of PURPA states that an "existing dam" is a dam that does not require construction or *enlargement* of impoundment structures other than for repairs and reconstruction. A project must utilize an existing dam in order to be exemptible under this rule. Proposed and final § 4.109(a)(1) * contain that limitation and, in conjunction with other criteria, is intended to exclude from the category of exemptible projects those projects that utilize dams modified by the installation of flashboards or spillway gates where such modification would substantially change the reservoir area or water surface elevation of the impoundment, as these features existed before exemption. To the extent that any modification of a dam presents factual questions about whether a dam that has been breached is "existing" within the meaning of the statute, the Commission prefers to examine such issues on a case-specific basis.

Section 4.109(a)(2) prohibits any increase in the normal maximum surface elevation of an existing impoundment due to repairs or reconstruction of a dam. Several commenters argue that this limitation should also apply to project operation. The Commission agrees that project operation should not fundamentally alter the impoundment but believes that the rule anticipates this concern by also limiting change in the prevailing regime of storage and release from the impoundment. The term "prevailing regime of storage and release" is intended to refer to project operation, whereas the term "normal maximum surface elevation" refers to an overall historic, nonflood power operation level or the impoundment level that the poject structures were designed to contain.

In response to the question whether breached dams may be repaired to a former height, the Commission also believes that the limitation relating to the prevailing regime or the normal maximum surface elevation obviates the need to address this consideration further. In other words, this category of exemptible projects is defined so as to prevent new inundations of land or major changes in stream flows above or below the project. Breached dams may sometimes qualify as existing dams and therefore may be exemptible under the rule in this docket, but only if the impoundment level and flow regime remains unchanged by repairs or reconstruction. This may be a difficult qualification for partially rebuilt dams to meet. If repair or reconstruction of the dam entails a significant change in the impoundment level, the project may be exemptible under the procedures in Order No. 106, provided it can be shown that an actual dam and impoundment existed at the time of the application.

One commenter is concerned that the project construction or operation could result in dewatering of the streambed in a manner harmful to fish spawning. The Commission acknowledges that project development has the potential to unsettle or harm fish spawning. However, as part of the general philosophy of the rule in this docket, the category of exempted projects has been limited in ways that minimize that risk. The rule contains procedures which permit State and Federal resource agencies to review the proposed development for its effect on water quality and fish populations.

Section 4.109(a)(3) establishes an important criteria for any exemptible project, namely that no change in the prevailing regime of storage and release is permitted. Several commenters believe that exemptions may institutionalize environmentally detrimental situations at existing dams. For example, a dam currently not used as a source of power generation may be obstructing upstream or downstream fish passage or otherwise harming water quality. The commenters would have the exemption process serve as a means for rectifying such existing problems on obstructed streams.

The Commission believes that reformation of certain adverse environmental conditions is a legitimate goal of the exemption process, just as it is for licensing. During the licensing process, the Commission undertakes to investigate historic water resource problems of the kind mentioned in order to rectify such problems. If it were not for power development at an unused or abandoned dam, it could prove difficult in many instances for fish and wildlife agencies to effectuate positive changes in the environment of a project. While the Commission does not wish to impose undue burdens on power development, current environmental law requires that many of the same factors be considered under an exemption as under a license. The Commission aims to minimize adverse impacts on the existing ecological balances in the vicinity of a project. However, under an exemption, the focal point of the protective efforts becomes the jurisdictional fish and wildlife agencies, rather than the procedures of the Commission. The certification provisions in §§ 4.112(b) and 4.113(b) and the terms and conditions in § 4.111, most notably Article 2, are designed to afford an opportunity for assessment and mitigation of the environmental impacts from projects that are exempted under the final rule.

Some commenters believe that the prevailing regime that must be maintained under the criteria in § 4.109(a)(3) should be synonymous with the natural flow patterns of the stream. This is arguably what is meant by a "strict run-of-the-river" project, where inflow equals outflow and where there is no storage of water. The Commission is aware that the meaning of "run-of-the-river" is interpreted different ways. There are some basic considerations in assessing the naturalness of any hydrologic situation. Existing dam projects will most often involve some storage of water but this situation will be accommodated by nature over time. Nevertheless, the alteration of the existing flow pattern by means of an obstruction that forces the water over the dam or through a penstock, may entail unnatural impacts on fish or plant life or water quality. Likewise, an irrigation project is not, strictly speaking, a run-of-the-river project; yet, it may qualify for an exemption under the final rule because the flows through the project will remain in their historic pattern into and out of the project. A water storage facility, on the other hand, may require a change in the historic flow pattern for power generation and would not ordinarily be regarded as a run-of-the-river type project for which this rule contemplates exemption. The Commission believes that the final rule will encourage environmentally benign power development by means that do not upset the existing inflow and outflow patterns at a site. In assessing any change in the prevailing regime, the rule allows sufficient latitude to accommodate existing daily average, hourly, seasonal, or yearly average release rates, depending on the project.

The commenters who express concern about the effects of exempted projects on downstream flows, minimum water requirements for fish and wildlife, draw-down on lake levels, effects on fish spawning, and changes in water temperature are asked only to consider the prohibition against any change in the prevailing regime of storage and release. Because of the importance of this limitation, the Commission will not attempt to soften it by reference to any "significant change." If, as hypothesized by one commenter, the prevailing regime

* Section 4.109(b)(1) in the final rule also requires an existing dam for the category of projects 100 kW or less, as well as some of the other criteria originally applied to the category of larger projects in § 4.109(a). This discussion applies equally to the category of micro-hydroelectric power projects, as appropriate.

of the stream changes naturally over time, the project must still be operated on an inflow-equals-outflow basis. If a State agency proposes changes in the established flow regime at the project site for the purposes of improving water quality, the related impacts of the proposed change are best addressed in the case-specific exemption procedures and the project will not be exemptible under this rule.

Some commenters inquire about the basis for the 300-foot limitation in § 4.109(a)(4) on diversion of water from the waterway, advocating that the water return point be increased to a maximum of 3500 feet below the existing dam. The Commission proposed the 300-foot restriction in this rule based on its experience in licensing small hydroelectric power projects. In no instance were serious environmental problems present when water diverted for power purposes was returned to the streambed within 300 feet of the toe of the dam. Diversions of 3500 feet would clearly be outside the bounds of propriety for this categorical type of categorical exemption. The risk of environmental damage is diminished in proportion to the length of the diversion. The Commission believes that no appreciable risk exists for this category of projects if diversions are limited to 300 feet.

Other commenters claimed that the environmental impact of any diversion, regardless of its length, depends on site-specific characteristics and should be individually evaluated by state and Federal fish and wildlife agencies. The Commission believes that these concerns are anticipated by the final rule in § 4.112(b) with respect to site-specific certifications afforded for water quality, migratory fish, endangered species, and critical habitat.

In response to a related comment, the final rule is modified to indicate that the measurement of the length of the water diversion will be "in the thread of the stream." Finally, the Commission will not "grandfather" diversions resulting from use of existing pipelines that remove water from a streambed more than 300 feet, except under the case-specific procedures in Order No. 106 which provide an opportunity for evaluation of the impacts of such diversions.

Section 4.109(a)(5) establishes as one criterion of the exemption category the size and length of any new primary transmission line construction. The Commission will retain the 69 kilovolt design capacity limit because transmission lines of this size are generally regarded as distribution lines and not as high voltage lines. Likewise, only one mile of new construction will be permitted in a new right-of-way in order to limit possible environmental impacts. The request that no limit be imposed on underground construction of lines or on overhead lines, if built within the boundary of a licensed project, is rejected because the boundaries of licensed projects will rarely exist near exempted projects and, in any case, are not a relevant standard for judging environmental impacts. The rule already provides, as one commenter advocated, liberal limits on the construction of transmission lines within existing rights-of-way.

Commenters express concern that if transmission line construction alters a right-of-way, fish and wildlife may be affected. It is argued that the rule should contain qualitative limitations on such construction and should consider aesthetics and the effect of right-of-way maintenance on vegetation. The Commission believes that other criteria, terms and conditions in § 4.111, or the environmental certifications in § 4.112(b) and § 4.113(b) will protect sensitive environmental features from harm due to transmission line construction. It is highly unlikely that transmission lines of this size will significantly affect the aesthetic qualities of a project's surroundings. In addition, there are state laws regarding herbicides and other means of right-of-way maintenance that guard against undue damage to vegetation. The rule does not contain limitations on the width of a right-of-way created to accommodate construction because the size of any right-of-way will always be proportionate to the size of the line constructed.

Under proposed § 4.109(a)(6), an exemptible project may utilize only a dam "at which there is no significant existing upstream or downstream passage of fish." The objective of this criteria was to exempt only those projects where migratory fish species would not be affected by project development. In other words, the rule was designed to preserve the status quo at the dam site with respect to fish. Some commenters suggested that establishing the presence of upstream or downstream *passage* of fish as a criteria is not appropriate because the dam itself may effectively prevent any passage of migratory fish. Accordingly, the criteria has been rewritten to limit the category of exemptible projects according to the presence of any significant, existing population of migratory fish at the dam. It is unlikely, of course, that migratory species, including species like trout and anadromous fish such as salmon, will be consistently found in large numbers at a dam that totally obstructs any upstream or downstream movement by those species.[7]

Several terms in § 4.106(a)(6) were questioned by commenters. It is argued that the words "significant" and "existing" should be taken to include all ecologically valuable fish, and not simply those of immediate recreational or commercial value, and fish that are stocked as well as naturally-occurring species. The Commission wishes to point out that state and Federal fish and wildlife agencies must certify, under § 4.112(b)(2), the status of migratory fish populations at the dam site. A "significant" migratory fish population would involve the presence of fish in such numbers and with such frequency that project development and operation would have a significant impact, such as from turbine mortality, on that population. Ultimately, the state or Federal fish and wildlife agency must determine what it considers to be "significant." With respect to an "existing" fish population, the criteria in paragraph (a)(6) is concerned only with the time at which the project will become exempt. Whether migratory fish are native or stocked is immaterial insofar as state certification of their presence is concerned. In response to additional comments, it is important to note that paragraph (a)(6) and the terms and conditions of exemption (§ 4.111(b) and § 4.112(b)(2)) permit appropriate fish and wildlife resource agencies to measure fish populations by whatever means they consider appropriate and to prescribe whatever migratory fish restoration measures are suited to a particular project.

Section 4.109(a)(7) requires that an exempted project not violate applicable state or Federal water quality standards. The U.S. Environmental Protection Agency (EPA) comments that this and other provisions (§ 4.112(b)(1) and (c)(5)(i)) should assign responsibility for establishing and enforcing water quality standards to the states, not the EPA. The provisions at issue pertain to state "or" Federal water quality standards because, if the states do not have EPA-approved water quality standards, the applicant may have to obtain certification on this matter from EPA itself. Ordinarily, the states alone will

[7] The terms and conditions of exemption in the proposed and final rules in this docket provide for restoration of migratory fish passage at the dam where no passage facilities exist at the time of exemption. See Article 2 in § 4.111(b). However, the content of Article 2 is somewhat amended from the original proposal to limit its applicability as a condition of exemption by requiring that fish restoration measures be proposed during the consultation process.

handle water quality enforcement. The water quality certification in this rule may rely on state or Federal procedures established pursuant to the Clean Water Act but it is not the same as, and should not be confused with, certification requirements under section 401 of that act which apply only where a Federal license is at issue.

In response to other questions raised by the EPA, paragraph (a)(7) applies to any direct effect the project development may have on water quality standards, including those downstream from the penstock bypass area. State water quality certification will usually include review of how project operations might indirectly degrade water quality because of the presence of a downstream discharger with an effective national pollutant discharge elimination permit. However, such a scenario is unlikely to affect projects under this rule because of the prohibition against alteration of the prevailing flow regime.

Section 4.109(a)(8), as proposed, required that no exemptible project involve construction or alteration of a historic site. Commenters suggest that the term "site" be changed to "property" in order to include areas of archeological significance and that appropriate state officials be permitted to certify that the project has no effect on historic landmarks. The Commission believes that the proposed criteria are sufficient to include archeological sites and to permit the state Historic Preservation Officer to withhold certification under § 4.112(b)(3) if a project might appear to affect a historic place adversely. The rule currently provides for adequate consultation with state officials regarding sites that are eligible for inclusion in, or are currently included in, the National Register of Historic Places.

Commenters also indicate that some project-related construction could have a positive restorative effect on a historic site. This criterion and its related certification provisions are therefore amended to provide that project construction will not "adversely affect" historic places.

Proposed § 4.109(a)(9) required that exemptible projects not involve construction in the vicinity of any threatened or endangered species or critical habitat listed or designated in the regulations of the Department of the Interior. Several commenters suggest that this restriction apply to project operation as well as construction, although no commenter identified impacts on endangered species or critical habitat that could be associated solely with project operation. The operation of small hydropower projects could affect these ecological features. However, the absence of any fluctuation in the impoundment or changes in the flow regime effectively eliminates such concerns. State or Federal agencies, which are given an opportunity to study potential effects of development under this rule, and anticipate the effects of dewatering the streambed immediately below the dam. For this reason, the criterion will be revised to prohibit "adverse effects" rather than "construction in the vicinity."

The Commission recognizes that there are state-designated endangered species that the rule does not address. No commenters proposed protection of specific state-designated species within the context of this rulemaking. The Commission need not consider the state-listed species under the applicable Federal laws. This is not a departure from the prevailing practice in Commission licensing proceedings. Therefore, the rule will continue to address only endangered species and critical habitat that are designated in the regulations of the Department of the Interior. In addition, the Commission has substituted language to reflect that only the U.S. Fish and Wildlife Service and the National Marine Fisheries Service is authorized under law to certify the effects on Federally-designated species or habitat, pursuant to consultations with that agency.

One commenter advocates exemptions for projects that constitute only part of a licensed project, even if the remainder of the project remains subject to a license. Section 4.109(a)(10) prohibits such exemptions on a categorical basis. The Commission believes that these projects would not necessarily be ideal candidates for exemption, as claimed, if their construction or operation has a significant direct effect on the impoundment or any impoundment structure. Order No. 106 addressed the practical difficulties with exempting portions of licensed projects from licensing, thereby creating two operative sets of terms and conditions affecting identical or related water resources. The Commission believes that applying to the exempted project all the terms and conditions of the original license would undermine the value of an exemption. Exemption of a portion of a licensed project therefore continues to be untenable as a general proposition. There are two notable exceptions. Projects with a capacity of 100 kw or less may be categorically exempted, even if within the boundary of a licensed project. As stated in Order No. 106, the Commission will also consider, on a case-specific basis, any petition for waiver of this limitation and may exempt portions of licensed projects where the facts warrant.

The rulemaking in this docket contains neither a criterion for eligibility nor a certification procedure, with respect to wild, scenic, or recreational rivers. A segment of river on which there is an existing dam will not ordinarily be designated wild and scenic, although an existing dam project located upstream may have an indirect effect on such rivers if the impoundment levels or flows were fluctuated during project operations. On that basis, this category of projects poses no threat to wild and scenic resources because changes in the prevailing flow regime are prohibited. On the other hand, an existing dam project may be located on a recreational river. The Commission foresees no adverse impacts on recreational rivers due to the limiting criteria for eligibility for exemption under this rule.

E. *Certifications; §§ 4.112(b) and 4.113(b).* The certifications that are made by a project owner in the Notice of Exemption operate in conjunction with the criteria in § 4.109 (a) and (b) and the terms and conditions in § 4.111 to limit the possible environmental impact of exempting projects in this category. Several commenters state that section 408 of the Energy Security Act requires that both state *and* Federal agencies be consulted with respect to fish and wildlife resource matters and that the certifications that provide for state *or* Federal participation are incorrect. The Commission agrees with this assessment and has made corrections in the appropriate sections.

One commenter argues that the certification requirements should be eliminated because they would unduly delay exemption and incline the Commission staff to process exemptions for large rather than small projects. The Commission does not believe that these certifications will be as burdensome as the processes of getting a license or case-specific exemption, as argued. The burdens notwithstanding, specific environmental statutes, notably the Clean Water Act, the Fish and Wildlife Coordination Act, Endangered Species Act, and the National Historic Preservation Act, require a degree of site-specific evaluation that is unavoidable even in the context of categorical exemptions. However, a large portion of the Commission's environmental responsibilities for the action taken in this docket have been discharged on a generic basis through an

Environmental Assessment and by the very terms of the rule.

With respect to water quality certification, one commenter requested that an actual certificate be filed with the Notice of Exemption and another advocated elimination of the certification requirement altogether because exemptible projects will not cause or create any new or altered discharge into a stream. The Commission will not require the filing of documents other than the Notice of Exemption by the project owner. Its objective in this limited requirement is to eliminate the submittal and processing of supporting documentation like that entailed by license application. There are understandable fears that a project developer will certify to the Commission facts that are not true. However, the rule anticipates this possibility by requiring service of the Notice of Exemption on the consulted or certifying agencies. The Commission has retained the water quality certification requirement but, because water quality certification is in the hands of the states, any appropriate agency may choose to waive such certification in any particular case and may determine the form this water quality certification will take. Certification that conforms with section 401 of the Clean Water Act need not be applied to exemptions from licensing.

The Commission proposed to allow a project developer to utilize an approved expert in obtaining a certification that no historic site, endangered species, or critical habitat was threatened by project development. This type of provision was feasible because of the objective nature and availability of source materials upon which to base such determinations. Environmentalists are concerned, however, that this practice could lead to inadequate surveys or even that the project owner would make the certifications based on inexperienced personal observation. The Commission emphasizes that the expert biologist or archaeologist must be approved by the fish and wildlife agency or state Historic Preservation Officer in order to conduct the independent surveys on endangered species or historic sites, respectively. Independent surveys may save other agencies and the project owner time and effort. An expert acting as a surrogate for, and with the approval of, the appropriate agency will do an effective job of assessing sensitive environmental features. The provision therefore remains unchanged.

State agencies also raise questions about how exemptions would affect issuance of dredge and fill permits under section 404 of the Clean Water Act and restrictions such as those imposed by the state on open burning that might result from project construction. The exemption process will not affect the separate jurisdictional responsibilities of other agencies by means not otherwise preempted by the Federal Power Act. Enforcement mechanisms are available to those agencies under separate applicable legislation, just as under the licensing procedure.

One of the most notable additions to the final rule is a fifth certification provision that requires the project developer to consult with state and Federal fish and wildlife agencies in order to obtain an indication of what, if any, migratory fish restoration measures will be required by such agencies after a project is exempted by the Commission. This certification operates in conjunction with Article 2 in § 4.111(b) to condition the exemption on compliance with any fish restoration programs about which a fish and wildlife agency has informed the developer during this consultation process. This does not, of course, mean that fish and wildlife agencies will be unable to enforce compliance with any fish restoration measure not otherwise set forth at the time of consultation or exemption. It only means that the exemption itself may not be revoked for such non-compliance.

F. *Exemption of projects 100 kilowatts or less.* The Commission received several comments about proposed § 4.113 which would have exempted so-called "micro-hydroelectric" power projects without the filing of the Notice of Exemption and without specific terms and conditions of exemption. The commenters generally requested that the Commission develop a more extensive environmental record about the impacts of these projects and that at least certain certifications and terms of conditions be applied to them.

The Commission acknowledges that, at the time it issued a Notice of Proposed Rulemaking, its experience with such small projects was limited to a small number of licensing proceedings. Subsequently, the Commission has undertaken to evaluate generically the environmental impact of micro-hydroelectric power projects. The Commission concludes that these projects do not have a significant impact on the quality of the human environment. (*See* Finding of No Significant Impact, *infra.*) Because of the typical physical and engineering characteristics of such small developments, they pose little threat to water quality, historic sites, endangered species, critical habitat, or fish. Despite these environmentally benign characteristics, the Commission will include in its categorical exemption of these projects the limited certification provision proposed by the Department of the Interior regarding endangered species and critical habitat. As indicated in the supplemental Environmental Assessment, the criterion that a project should not change the prevailing flow regime has not been included in the rule because projects of this size will not operate in a mode other than "run-of-the-river"; in other words, there will be little storage or variable patterns of storage and release. The category of exempted micro-hydroelectric projects is described in § 4.109(b). The final rule will require submittal of a Notice of Exemption as described in § 4.113. As pointed out by some commenters, submittal of a notice is essential if the Commission is to prevent attempts to develop mutually exclusive projects under both a license and an exemption.

The provision permitting submittal of a conflicting license application that proposes to develop 7.5 MW at an exempted micro-hydroelectic power project was criticized as allowing a very small-sized project to tie up a site capable of supporting more power generation than 100 kW but less power than 7.5 MW. The Commission acknowledges that this provision [proposed § 4.113(c)(2)(i)] may prevent competition to develop a project up to 7.5 MW under a license where a micro-hydroelectric project has priority. However, the economics of hydropower development should encourage maximum utilization of available water resources by project owners. In those instances where small projects now exist, the addition of capacity necessary to obtain an exemption will be governed by economy of scale considerations and micro-hydroelectric projects will not be developed where far bigger projects would be practical. The Commission thus prefers to utilize the same exception to the rule against license applications for categorically exempted projects 100 kW or less that it applied to all exempted projects under Order No. 106.

Finally, commenters suggested 100 kW may be unreasonably low for a distinct category of exemptible micro-hydroelectric projects. A capacity range of 200 to 500 kW or less is suggested. Alternatively, one commenter proposed that the stream flow utilized could provide a more plausible standard than the generating capacity of the project.

The Commission has found that projects 100 kW or less share relatively similar environmental and physical characteristics which suggest 100 kW of generating capacity as a suitable standard for delineating a category of exemptible projects. The Commission does not agree that there is a necessary correlation between the amount of water (cubic feet per second) utilized by a power project and the required physical plant constructed to utilize that flow or the environmental impacts that result. Consequently, the Commission will retain the general parameters proposed in § 4.113 and now incorporated, with some additions, into § 4.109(b).

G. *Terms and Conditions.* EPA argues that Article I in § 4.111(a) should be read to mean that revocation of an exemption can result from the failure of a project to meet the criteria in proposed § 4.109(a) as well as violation of the terms and conditions in § 4.111. The Commission agrees with this interpretation. Any exemption will be subject to revocation if it can be demonstrated to the Commission that the threshold criteria for exemption have not been met as represented in the Notice of Exemption.

The most commented upon provision in the proposed rule is Article 2, now § 4.111(a)(2), which would have made compliance with any migratory fish restoration measure required in the future by state or Federal fish and wildlife agencies a condition of an exemption from licensing. On one hand, some commenters argue that the proposed condition is a vague and open-ended commitment that would discourage investment in small hydroelectric power projects. The provision is criticized as giving agencies excessive and unilateral authority over future project operations in a manner that could undermine a developer's investment. It is also suggested that Article 2 should be based on negotiated agreement between the developer and fish and wildlife agencies, subject to Commission review.

On the other hand, many commenters contend that Article 2 does not provide site-specific evaluation of a project or pre-exemption consultation with respect to fish restoration programs. They contend that, without early consultation between developers and fish and wildlife agencies, later retrofitting of a project to permit fish passage could prove difficult or impossible.

The Commission has restyled Article 2 and its counterpart certification in § 4.112(b)(5) to satisfy the objectives of each side of this controversy. Exemption of the projects described in § 4.109(a) will be conditioned on compliance with any migratory fish restoration program about which a developer is informed during consultation with fish and wildlife agencies before the exemption is granted. It will be left to the respective parties to show evidence of agency recommendations if non-compliance with such a recommendation is ever alleged as grounds for revocation. As stated above, fish restoration programs that are developed subsequent to the consultation procedure and about which a project owner was not originally apprised may still be enforceable under state law. However, an exemption will not be affected by non-compliance with such a program.

Section 30(c) of the Federal Power Act requires that the Commission include in any exemption the terms and conditions prescribed by state and Federal fish and wildlife agencies. While negotiation between these agencies and potential developers is encouraged with respect to the installation of fish passage facilities, the Commission takes the view that fish restoration measures prescribed as part of a state's overall plan to reopen waterways to migratory fish populations ought to be regarded as a standard term and condition, insofar as a project owner is fairly apprised of what to expect in the future. The Commission wishes to make clear that migratory fish restoration programs will also include the introduction of species of migratory fish similar but not identical to those which had been historically present. The related concerns of some commenters that large birds of prey and terrestrial wildlife associated with the aquatic ecosystem be protected where power development is authorized will continue to be addressed under state law, without the customary focal point for expression of state requirements otherwise provided under the licensing process.

One commenter questioned whether the revocation provision in Article 3, now § 4.111(a)(3), applies only to the original applicant for exemption who fails to meet a construction schedule or to any exemption applicant who may file a Notice of Exemption within two years of revocation. The two-year bar to any new Notice of Exemption runs with the project and applies to any potential developer. This policy is based on the Commission's conclusion that a person who fails to comply with the construction schedules under Article 3 could easily transfer the necessary property rights to develop and operate the project to another person solely for purposes of delaying development and avoiding this prohibition. In any event, the original exemption applicant and any other person interested in developing the site may apply for a license any time after revocation of the exemption. Article 3 is the device by which the Commission will seek to encourage the exercise of diligence in developing exempted projects.

In § 4.111(b), four of the original six conditions are applied to projects 100 kW or less, as described in § 4.109(b).

H. *Categorical exemption versus other applications § 4.110.* Section 4.110 permits a licensee to obtain an exemption from licensing for its licensed project. The EPA raises several questions about exempting projects that have currently unexpired licenses, especially because exemption entails adding generation capacity. EPA favors inclusion in an exemption any environmental conditions that were specified in the preceding license. Moreover, currently licensed projects should only be exempted on a case-specific basis, argues EPA. The Commission seeks to categorically exempt as many projects as possible and it finds that the existence of a current license is not a reasonable basis for excluding a project from the categories described in § 4.109(a) or (b). Any project exemptible under this rule will require fewer and somewhat less comprehensive terms and conditions and dam safety provisions than those ordinarily contained in a license. Amendment of an existing license in order to accommodate new capacity generally involves procedures similar to those set forth for initial licensing. Exemption and the accompanying addition of new capacity will entail separate consultation and certification procedures which offer sufficient protection to the environment with less delay and fewer of the terms and conditions associated with licensing.

One commenter advocated that applications for exemptions should be accepted by the Commission during the notice periods for either preliminary permit or license applications and that exemptions should be granted in preference to permits or licenses. The Commission wishes to emphasize that, under this rule, the project developer does not "apply" for an exemption but merely files a Notice of Exemption. Notices of Exemption affect permit and license applications differently than applications for exemption under Order No. 106, which are considered on a case-specific basis. Notices of Exemption have an automatic effect on the legal status of a project and therefore the time at which a Notice is filed is critical in determining which interested party has

priority in pursuit of project development.

The Commission believes it equitable to prefer the first-filed license application over a subsequent exemption notice because the project owner has the greatest prior opportunity to file a Notice of Exemption or otherwise seek to develop the site, and because a license application normally represents considerable expenditures of money and effort in formulating a plan of development. When dealing with categorical exemptions operable under the terms of a rule, it is important to have determinate filings because generic procedures ought not become involved in evaluation or other disposition of competing applications. For that reason, a Notice of Exemption ought not to constitute a trump to be used only after a license application by the project owner induces competition or after a non-owner applies to develop a site that was available to the owner all along.

Insofar as a person other than the project owner seeks to obtain a preliminary permit for a project eligible for categorical exemption, the Commission agrees with the commenter that the owner of the project should have an opportunity to file a Notice of Exemption in competition with the permit application. Preliminary permit applications indicate only an intention to study a project's feasibility and a few of the considerations mentioned above with respect to license applications apply to permit applications. Section 4.110(a) is therefore amended by adding an additional exception to the general rule which, among other things, indicates that a Notice of Exemption will not be accepted if there is a pending permit application. The new exception allows the project owner a limited time to file a notice or to indicate an intent to file such notice after a permit application is accepted by the Commission.

In response to the most common comment on § 4.110, the Commission believes that the 7.5 MW threshold, established as the minimum requirement for filing a license application on an exempted project, is reasonable because it protects the value of exemptions while permitting more comprehensive development than an exempted project is allowed under statute. The Commission is not, as one commenter suggested, making it possible to exempt projects up to 7.5 MW.

The American Public Power Association and the City of Santa Clara, California, and the Connecticut Municipal Electric Energy Cooperative again raised objection to the Commission's policy of not applying the state/municipal preference under section 7(a) of the Federal Power Act to exemptions under this rule as the Commission does to licenses. The Commission has dealt fully with this issue in Order Nos. 106 and 106–A and continues to adhere to its position.

I. *Notice of Exemption.* Commenters request that the proof of service provision in § 4.112(a)(2)(i) be revised to include "and the fish and wildlife agency for each state in which the project is located." This revision is incorporated into the final rule. Some commenters advocated that several additional kinds of agencies be notified of the exemption, namely state public service commissions, and a variety of public land management agencies that deal with open space programs, wild and scenic rivers, and management of public access points and recreation programs. The proof of service provision in § 4.112(a) serves a specific purpose; that is, it provides agencies which have specific statutory responsibilities under the provisions of section 408 of the Energy Security Act with an opportunity to double-check the certifications that project developers supply in their Notices of Exemption. Several of those agencies will be state agencies and the Commission prefers to leave to the states the coordination of land management programs that are unrelated to any clear Federal statutory mandate.

The Colville, Makah, and Tulalip Indian Tribes request that project developers provide notice of project development and exemption to tribal fishery agencies, as well as to Federal and state fish and wildlife agencies, if a project uses tribal lands or affects a body of water that runs through tribal lands. The tribes perceive in the development of many small hydroelectric power projects in the Northwest a threat to traditional fishing rights arising from the obstruction of the passage of anadromous fish.

Given the scope of the categories of exemptible projects delineated in this rule, the Commission does not believe that exemptions pose a threat to Indian fishing rights. As the comment of the tribes indicate, projects on Indian lands probably will not be exemptible except when made so by Indian tribes or their designees. Only a person with the property rights necessary to develop and operate the project may obtain exemption. In the final analysis, exemption of a project does not curtail, in any way, the protections afforded by state law, other Federal laws, or Indian treaties. Under the terms of section 30(c) of the Federal Power Act, the Commission is obligated to defer to the judgment of the U.S. Fish and Wildlife Service and the appropriate state fish and wildlife agency with respect to fish and wildlife protection. While there is no statutory obligation to broaden application of section 30(c) to include terms and conditions prescribed by tribal fishery agencies, the Commission encourages the state agencies to consider the positions of Indian tribes that may have an immediate interest in the fisheries potentially affected by an exemptible project.

J. *Enforcement.* Several commenters observe that the rule does not provide for reporting requirements with respect to the continued operation of an exempted project, publication of a Notice of Exemption in papers of general circulation, a limited term of exemption followed by routine re-investigation of the project, or other monitoring devices.

The exemption process is designed to free project development and operation from many Federal requirements with a minimum of ongoing supervision, consistent with the public health, safety, and optimal utilization of the Nation's water resources. An exemption from licensing should not result in the reimposition of a license requirement under another name. Monitoring of a project's development and operation is left primarily to the marketplace where other interested persons who seek to utilize and develop a water resource will help ensure that the project owner complies with applicable law.

The Commission has reserved to itself, in Article 1 and other provisions, certain investigative and enforcement powers. In addition, state and Federal resource agencies will also continue to perform their duties to ensure that exempted projects are operated in the public interest. Opportunities for the public to participate in determining the course of water power development is always available through the proceedings of those agencies. Such an opportunity has been available to any interested person through this rulemaking. The exemption process is designed to encourage hydropower development and to do so in a way consistent with the public interest.

The Commission does not believe that commenters' proposals for case-by-case comment opportunities and state veto power are workable or desirable. However, in order to provide the states with an opportunity to double-check a project's environmental integrity, some leeway in the effective date for each exemption is reasonable. Therefore, § 4.109(c) makes exemptions effective 30 days after the filing of a Notice of

Exemption, thereby allowing state agencies or other interested parties to examine the eligibility of each project for exemption and to review the certifications attested to by the project owner before the project becomes exempt.

K. *Jurisdiction.* Section 408 of the Energy Security Act gives the Commission discretion to exempt small hydroelectric power projects from all or part of Part I of the Federal Power Act. The Commission has provided avenues whereby many projects with 5 MW or less of proposed installed capacity may be exempted from the licensing requirements of Part I. Exemptions constitute an exercise of Federal jurisdiction, just as the licensing of such projects does. It is incorrect to suppose, as an occasional commenter has, that an exemption from the licensing requirements of the Federal Power Act constitutes a waiver of the Commission's jurisdiction over small hydroelectric power projects. The objectives of this rulemaking and of Order No. 106 are to be distinguished from any abdication of Federal responsibilities over the Nation's water power resources. This distinction is evidenced, in part, by the nature of the exemptions provided by the Commission. Those exemptions contain terms and conditions that reserve to the Commission the final authority to dispose of water power projects that affect the public interest under the Commerce Clause of the United States Constitution.

L. *Natural Water Features.* The Commission will not exempt in this rulemaking water power projects that utilize natural water features for electric power generation. The Commission recognizes, however, that small hydroelectric power projects that take advantage of natural topographic features to generate electricity without the use of a man-made impoundment should be candidates for exemption from licensing. Some kind of diversion or intake structure will be required to direct water into a conduit for delivery to a powerplant, even if a "dam," in the conventional sense, is not required to create hydraulic head. Such projects are now exemptible under the procedures established by Order No. 106 and may depend on water diversion facilities which, strictly speaking, do not constitute a dam under the definition in § 4.102(a). In a collateral rulemaking, the Commission proposes to define more specifically the characteristics of natural water feature projects and to modify the limitation contained in the current definition of a "dam" that now prevent the Commission from considering for exemption on a case-specific basis some diversion projects that may be legitimate natural water feature projects as opposed to facilities which impound water to create hydrostatic head.

M. *Government Dams.* The Commission wishes to make clear that it will not entertain applications for exemption from licensing, notices of intent to file such applications, or Notice of Exemption from licensing for any small hydroelectric power project that proposes to use a Government-owned or operated dam. The definition of "small hydroelectric power project" in § 4.102(1) conveys that idea. It has been the Commission's consistent opinion that, absent an act of Congress, no statutory authority other than the Federal Power Act exists whereby non-Federal development may be authorized to use the surplus waters at a Government dam for power generation purposes. Exemption from licensing would therefore require a non-Federal project developer to obtain the Congressional approval for the use of a Government dam. In addition, the Commission believes it necessary to evaluate the effects of construction on a dam and on the affected water resources to protect the taxpayer's investment and the public interest. This is best done through a routine licensing procedure.

III. Section-by-Section Analysis

General. The proposed rule revises parts of the existing Subpart K of Part 4 by dividing the exemption regulations into the existing case specific exemption provisions (§§ 4.103 through 4.108) and the proposed categorical exemption (from licensing only) provisions (§§4.109 through 4.113). The applicability section (§ 4.101) and the definitions (§ 4.102) pertain to exemption of all small hydroelectric power projects under Subpart K. The general waiver provision in § 4.103(d) is applicable only to case-specific exemptions from licensing. The rule also makes several conforming changes in the provisions established under Order No. 106.

General provisions for exemption § 4.109. Section 4.109 sets forth two sets of criteria under which a project qualifies for exemption from licensing as part of either class of exemptible projects.

The two categories of projects are differentiated by total proposed installed capacity [more than 100 kW to 5 MW under paragraph (a) and 100 kW or less in paragraph (b)] and a variety of other criteria. The Commission has found that exemption of either category of projects will not have a significant effect on the quality of the human environment.

Small hydroelectric power projects that utilize a natural water feature for electric power generation are not eligible for exemption as part of either category.

Section 4.109(c) provides that any small hydroelectric power project in either category is exempted effective 30 days after the date of which the Commission accepts for filing (*see* § 4.31(e)) a Notice of Exemption from licensing. That document identifies both the project and the person developing it and certifies that the project meets the qualifications of one of the categories in § 4.109 and will not affect particular aspects of the environment. The certification requirements in § 4.112 (b) and (c) and § 4.113 (b) and (c) operate in conjunction with the criteria for exemption in § 4.109. The Commission will issue a letter as evidence of the exempt status of each project.

Relationship between notices of exemption and other applications. § 4.110. Section 4.110 provides limitations on the submittal of Notices of Exemption under §§ 4.112 or 4.113 and limitations on permit and license applications for projects exempted under either category in order to establish fixed relationships among various persons who may seek to develop a site. These provisions are similar to the provisions in § 4.106, but are adapted to the categorical exemption context, and are established for the same kind of reasons explained in Docket No. RM80–65 for case-specific exemptions. Section 4.110(a) states that a Notice of Exemption may not be filed under the rule if a permit or license is outstanding or a permit or license application has been filed, unless it is the permittee or licensee who files the Notice of Exemption. However, a permit or license applicant may file a Notice of Exemption if the project is eligible under the categories in §§ 4.109 (a) or (b), the applicant is qualified under § 4.109(d) to file such notice, and no competing application for that project was filed during the entire period provided for protest and intervention in the notice of permit or license application. A qualified exemption applicant may also file a Notice of Exemption or a notice of intent to do so within the notice period for any first-filed permit application. Thirty days after a Notice of Exemption is filed, any outstanding permit is cancelled and any license is deemed terminated for the affected project.

If a project is exempt under the rule, the Commission will not accept an application for license or preliminary

permit according to § 4.110(b). There are exceptions to this rule, however. If the developer of an exempted project fails to get Federal approval to use or occupy public lands or to begin construction on a timely basis, the Commission may revoke the exemption and accept a license application under the terms and conditions of § 4.111. License applications will also be accepted for any project 5 MW or less, if an applicant proposes to develop the project to an installed capacity of at least 7.5 MW, or if the applicant is the holder of any real property interests in non-Federal lands necessary to develop and operate the project and is also a qualified license applicant.

Standard terms and conditions. § 4.111. Section 4.111 sets forth standard terms and conditions of categorical exemption for projects within either category described in § 4.109. Conditions of the categorical exemption are similar to those for case-specific exemption. Under the categorical rule, the owner of an exempted project with more than 100 kW of installed capacity must comply with migratory fish restoration measures prescribed for the future by fish and wildlife agencies at the time of pre-exemption consultation. In addition, if a dam for a project over 100 kW is more than 33 feet in height above streambed, impounds more than 2.5 million cubic meters of water, or is determined to have a high hazard potential, the project must have periodic safety inspections by an independent consultant and is subject to safety inspections and remedial measures that may be required by the Commission's Regional Engineer or other authorized representative, under the Commission's project safety regulations.[7]

The category of projects (100 kW or less) exemptible under § 4.109(b) is covered by certain of the standard terms and conditions, as provided in paragraph (b). The size of the dams and impoundments associated with such projects makes dam safety or fish restoration measures unnecessary as conditions of exemption.

Notice of exemption for projects over 100 kW. Section 4.112 provides that any person with all of the real property interests in any non-Federal lands necessary to develop or operate the project must file a Notice of Exemption in order to obtain exemption from licensing for a project of more than 100 kW. Under § 4.109(d), if only Federal lands are involved, any person may file a notice of exemption. Copies of the Notice of Exemption must be served on the appropriate Federal land management agency, U.S. Fish and Wildlife Service, appropriate state fish and wildlife agencies, the relevant state water resource agencies of EPA, and the relevant state Historic Preservation Officer. Section 4.112(b) requires the person submitting a Notice of Exemption under § 4.112 to obtain agency certification regarding compliance with water quality standards, the absence of significant existing migratory fish populations at the dam, and the absence of adverse impacts on historic sites, endangered species, and critical habitat. Section 4.112 also requires a specific format for the Notice of Exemption, and contains additional requirements for basic information important to the Commission's licensing of non-exempt projects and implementation of §§ 4.104 and 4.110 of Subpart K.

Notice of exemption for projects 100 kW or less. Section 4.113 sets forth the requirements pertaining to the Notice of Exemption for the small hydroelectric power projects with an installed capacity of 100 kW or less, the so-called "micro-hydroelectric" projects exempted under § 4.109(b). The filing and certification requirements are somewhat less than those for projects over 100 kW of installed capacity.

IV. Notice of Additional Finding of No Significant Impact for Projects 100 Kilowatts or Less

The Commission has prepared an Environmental Assessment (EA) of the exemption from the licensing requirements of the Act for a second category of small hydroelectric power projects, that is, those projects 100 kW or less, pursuant to section 408 of the ESA. The Commission gives notice that, on basis of the EA, it has determined that exempting from licensing a category of projects of 100 kW or less is not a major Federal action significantly affecting the quality of the human environment. The EA is incorporated by reference in the Finding of No Significant Impact. Projects in this category of small hydroelectric power projects, described in § 4.109(b) of the final rule, must have a proposed installed capacity of 100 kW or less, utilize for power generation the water power potential of an existing dam, not impede passage of any significant populations of migratory fish at the dam, not adversely affect endangered species or critical habitat, or divert water from the streambed more than 300 feet.

The Commission also believes that, based on its own experience,[8] a categorical exemption for these so-called "micro-hydroelectric" power projects will have minimal environmental impacts, and will not block the passage of fish, dewater long stream segments, or adversely affect historic sites or water quality. Generally, micro-hydroelectric power projects are located on small streams and create small impoundments. Aquatic resources and the flow regime of the stream are not affected by the development or operation of a project with such small generating capacity. Small streams that have sufficient gradient to facilitate small hydropower developments are less likely to have water quality problems. Because of the size of the stream and impoundment, related recreational usage, if any, is normally very limited.

V. Effective Date

This rule is effective February 18, 1982.

In consideration of the foregoing, the Commission amends Part 4 of Chapter I, Title 18 of the Code of Federal Regulations as set forth below, effective February 18, 1982

(Energy Security Act of 1980, Pub. L. 96–294, 94 Stat. 611; Federal Power Act, as amended (16 U.S.C. 792–828c); Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601–2645); and the Department of Energy Organizaton Act (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 142 (1978))

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

1. Part 4 is amended in the table of contents by revising the titles of §§ 4.101, 4.103, 4.104, and 4.106 and by adding to Subpart K the following section titles, to read as follows:

Subpart K—Exemptions of Small Hydroelectric Power Projects of 5 Megawatts or Less

Sec.

4.101 Applicability.

* * * * *

4.103 General provisions for case-specific exemption.

4.104 Case-specific exemption from licensing: relationships among applications, exemptions, permits, and licenses.

* * * * *

[7] This condition is written to relate to the Commission's new "Regulations Governing the Safety of Water Power Projects and Project Works," Order No. 122, issued January 21, 1981, 46 FR 9029, January 28, 1981.

[8] For example, FERC Project Nos. 2907, 2987, 3017.

Sec.

4.106 Standard terms and conditions of case-specific exemption from licensing.
* * * * *
4.109 General provisions for exemption from licensing for certain categories of small hydroelectric power projects.
4.110 Categorical exemption from licensing for small hydroelectric power projects: relationships among applications, exemptions, permits, licenses, and notices of exemption.
4.111 Standard terms and conditions of exemption from licensing for certain categories of small hydroelectric power projects.
4.112 Notice of exemption from licensing for projects of more than 100 kilowatts.
4.113 Notice of exemption from licensing for projects with installed capacity of 100 kilowatts or less.

2. Subpart K of Part 4 is amended by revising § 4.101 and the title and paragraphs (a) and (d) of § 4.103, to read as follows:

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

§ 4.101 Applicability.

This subpart provides procedures for exemption on a case-specific or categorical basis from all or part of Part I of the Federal Power Act (Act), including licensing, for small hydroelectric power projects as defined in § 4.102.

* * * * *

§ 4.103 General provisions for case-specific exemption.

(a) *Exemptible projects.* Subject to the provisions of paragraphs (b) and (c) of this section and §§ 4.104 through 4.106, the Commission may exempt on a case-specific basis any small hydroelectric power project from all or part of Part I of the Act, including licensing. Any applications for exemption for a project shall conform to the requirements of §§ 4.107 or 4.108, as applicable.

* * * * *

(d) *Waiver.* In applying for case-specific exemption from licensing, a qualified exemption applicant may petition under § 1.7 of this chapter for waiver of any specific provision of §§ 4.102 through 4.107. The Commission will grant a waiver only if consistent with section 408 of the Energy Security Act of 1980.

3. Subpart K of Part 4 is amended by adding §§ 4.109 through 4.113, to read as follows:

§ 4.109 General provisions for exemption from licensing for certain categories of small hydroelectric power projects.

Subject to the provisions of §§ 4.110 and 4.111 and effective according to paragraph (c) of this section, the Commission exempts from the licensing requirements of Part I of the Act any small hydroelectric power project that conforms to the specifications in either paragraph (a) or (b) of this section.

(a) *Projects more than 100 kilowatts.* Any small hydroelectric power project that has a total proposed installed capacity of more than 100 kilowatts is exemptible if the project:

(1) Utilizes for electric power generation the water power potential of an existing dam;

(2) Does not entail any increase in the normal maximum surface elevation of the impoundment pursuant to repair or reconstruction of a dam;

(3) Does not entail, for the purpose of generating electric power, any change from the prevailing regime of storage and release of water from the impoundment;

(4) Does not entail diversion of water from the waterway for more than 300 feet from the toe of the dam to the point of discharge into the waterway, measured in the thread of the stream;

(5) Does not entail construction of any primary transmission line which:

(i) Has a design capacity of more than 69 kilovolts (kV); or

(ii) Is more than one mile long and located on a new right-of-way;

(6) Utilizes only a dam at which there is not a significant existing population of migratory fish;

(7) Will not cause violation of applicable water quality standards established by any state in which the project is located or, if there are no applicable state water quality standards, by the U.S. Environmental Protection Agency;

(8) Does not entail any construction that would adversely affect any site included in or eligible for inclusion in the National Register of Historic Places;

(9) Does not entail construction or operation that would adversely affect any threatened or endangered species or critical habitat, listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior and the National Marine Fisheries Service of the Department of Commerce; and

(10) Is not part of a licensed water power project.

(b) *Projects 100 kilowatts or less.* Any small hydroelectric power project that has a total proposed installed capacity of not more than 100 kilowatts is exempted if the project:

(1) Utilizes for electric power generation the water power potential of an existing dam;

(2) Utilizes only a dam at which there is not a significant existing population of migratory fish or, if there is a significant population of such fish, a dam that does not obstruct upstream or downstream passage of fish;

(3) Does not entail diversion of water from the waterway for more than 300 feet from the toe of the dam to the point of discharge into the waterway, measured in the thread of the stream; and

(4) Does not entail construction or operation that would adversely affect any threatened or endangered species or critical habitat, listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior and the National Marine Fisheries Service of the Department of Commerce.

(c) *Effective date of exemption.* Unless the Commission indicates otherwise, any small hydroelectric power project in either category of projects specified in paragraphs (a) of (b) is exempted from licensing 30 days after a notice of exemption from licensing for that project, submitted by a qualified exemption applicant and complying with the provisions of § 4.112, is received by the Commission. The Commission will issue a notification of exemption, as effective from that date.

(d) *Who may file a notice of exemption from licensing for categorically exemptible projects.*—(1) *Only Federal lands involved.* If only the rights to use or occupy Federal lands would be necessary to develop and operate a proposed small hydroelectric power project that meets the criteria of paragraph (a) or (b) of this section, any person may file a notice of exemption from licensing for that project under § 4.112 or § 4.113, as appropriate.

(2) *Some non-Federal lands involved.* If real property interests in any non-Federal lands would be necessary to develop and operate a proposed small hydroelectric power project that meets the criteria of paragraph (a) or (b) of this section, any person who has all of the real property interests in non-Federal lands necessary to develop and operate that project, or an option to obtain those interests, may file a notice of exemption from licensing for that project under § 4.112 or § 4.113, as appropriate.

§ 4.110 Categorical exemption from licensing for small hydroelectric power projects: Relationships among applications, exemptions, permits, licenses, and notices of exemption.

For purposes of categorical exemption from licensing under this subpart, the Commission will treat preliminary permit and license applications, preliminary permits, licenses, exemptions from licensing, and

applications for exemption from licensing that are related to any small hydroelectric power project eligible for exemption under the categories described in § 4.109, as follows:

(a) *Limitations on submission and acceptance of notices of exemption.*—(1) *Unexpired permit or license.* If there is an unexpired preliminary permit or license in effect for a project, the Commission will accept a notice of exemption from licensing for any project eligible for exemption under any category described in § 4.109 only if the person filing the notice is the permittee or licensee. If the notice of exemption is submitted by a permittee, the permit will be deemed cancelled as of the effective date of the exemption. If the notice of exemption is filed by a licensee, the license will be deemed terminated as of the effective date of the exemption.

(2) *Pending permit, license, or exemption application.*—(i) *General Rule.* Except as permitted under clauses (ii) and (iii), the Commission will not accept a notice of exemption from licensing for any project eligible for exemption under any category described in § 4.109 if an application for preliminary permit or license for that project, or an application for exemption of that project from licensing (see § 4.107), has been accepted for filing.

(ii) *Exception.* If a preliminary permit application for a project has been accepted for filing, the Commission will accept a notice of exemption of that project from licensing, or a notice of intent to submit such an application conforming to the requirements of § 4.33(b) of this chapter, submitted not later than the last date for filing protests and petitions to intervene prescribed in the public notice issued for the initial preliminary permit application under § 4.31(c)(2) of this chapter. If a notice of intent is filed under this clause, the subsequent notice of exemption must be submitted not later than 60 days after the last date for filing protests and petitions prescribed in the public notice of the permit application.

(iii) *Exception.* If an application for preliminary permit, license, or exemption from licensing has been accepted for filing for a project eligible for exemption under any category described in § 4.109, the Commission will accept a notice of exemption from licensing for that project, if:

(A) The person filing the notice of exemption is the applicant for preliminary permit, license, or exemption from licensing;

(B) No competing application, whether for preliminary permit, license, or exemption from licensing, has been accepted for filing for that project;

(C) The last date for filing protests or petitions to intervene, prescribed in the public notice issued for the initial permit or license application under § 4.31(c)(2) of this chapter, has passed; and

(D) No notice of intent to file a competing preliminary permit or license application for that project has been filed in accordance with § 4.33(b) of this chapter;

(iv) *Withdrawal of pending applications.* If a notice of exemption from licensing complying with § 4.112 or § 4.113 is filed under paragraph (a)(2)(iii) of this section, any pending application for preliminary permit, license, or exemption from licensing filed by a qualified exemption applicant will be deemed withdrawn as of the effective date of the exemption.

(b) *Limitations on submissions and acceptance of permit or license applications.*—(1) *General rule.* Except as permitted under paragraph (b)(2) of this section or § 4.111(a) (3) and (5), the Commission will not accept a preliminary permit or license application for any small hydroelectric power project that is exempt from licensing pursuant to § 4.109.

(2) *Exceptions.* (i) If a project is exempt from licensing pursuant to § 4.109, the Commission will consider a license application submitted by any qualified license applicant that proposes to develop at least 7.5 megawatts in the exempted project.

(ii) If a project is exempt from licensing pursuant to § 4.109 and real property interests in any non-Federal lands would be necessary to develop and operate the project, any person who is both a qualified license applicant and has any of the necessary real property interests in such non-Federal lands may submit a license application for that project. If a license application is submitted under this clause, any other qualified license applicant may submit a competing license application in accordance with § 4.33 of this part.

§ 4.111 Standard terms and conditions of exemption from licensing for certain categories of small hydroelectric power projects.

(a) *For projects more than 100 kilowatts.* Any small hydroelectric power project exempted from licensing under § 4.109(a) is subject to the following standard terms and conditions:

(1) *Article 1.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(2) *Article 2.* The construction, operation, and maintenance of the exempt project must comply with migratory fish restoration measures, including both restoration of historically present species and introduction of species similar but not identical to those historically present, prescribed by any fish and wildlife agency during the pre-exemption consultation required under 18 CFR § 4.112(b)(5).

(3) *Article 3.* The Commission may accept a license application submitted by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the effective date of this exemption. If an exemption is revoked, the Commission will not accept a subsequent notice of exemption from licensing or application for exemption for the project within two years of the revocation.

(4) *Article 4.* This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(5) *Article 5.* This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application submitted by any qualified license applicant and revoke this exemption if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the effective date of this exemption.

(6) *Article 6.* Any exempted small hydroelectrical power project that utilizes a dam which is more than 33 feet in height above streambed, as defined in 18 CFR 12.31(c) of this chapter, impounds more than 2,000 acre-feet of water, or has high hazard potential, as defined in 18 CFR 12.31(b), is subject to the following provisions of 18 CFR Part 12:

(i) Section 12.4(b)(2) (i), (ii), (iii)(B), (iv), and (v);

(ii) Section 12.4(c); and

(iii) Subpart D.

For the purposes of applying these provisions of 18 CFR Part 12, the exempted project is deemed to be a licensed project development and the owner of the exempted project is deemed to be a licensee.

(b) *For projects 100 kilowatts or less.* Any small hydroelectric power project exempted from licensing under § 4.109(b) is subject to the standard terms and conditions set forth in paragraphs (a) (1), (3), (4) and (5) of this section.

§ 4.112 Notice of exemption from licensing for projects with installed capacity of more than 100 kilowatts.

(a) *General requirement.* Any person who meets the requirements of § 4.109(d) and files a notice of exemption from licensing for any small hydroelectric power project described under § 4.109(a) must submit:

(1) The original and 4 copies of the notice of exemption described in paragraph (c) of this section; and

(2) Proof of service of a copy of the notice of exemption on:

(i) The U.S. Fish and Wildlife Service and the fish and wildlife agency for each state in which the project is located;

(ii) The state Historic Preservation Officer for each state in which the project is located;

(iii) The appropriate Federal land management agency, if Federal lands are involved; and

(iv) The state water resource agency for each state in which the project is located or, if there are no applicable state water quality standards, the U.S. Environmental Protection Agency.

(b) *Certifications.* As a basis for certifying to the nature and effects of a small hydroelectric power project under paragraph (c)(5) of this section, a person filing a notice of exemption must:

(1) Obtain certification from the state water resource agency for each state in which the project is located or, if there are no applicable state water quality standards, from the U.S. Environmental Protection Agency, that the project will not cause a violation of any applicable water quality standards;

(2) Obtain certification from the U.S. Fish and Wildlife Service and the fish and wildlife agency for each state in which the project is located that there is not a significant existing population of migratory fish at any project dam;

(3) Obtain certification from the state Historic Preservation Officer of each state in which the project is located or obtain an independent field survey and survey of the literature conducted by an archaeologist approved by each applicable state Historic Preservation Officer, with respect to whether the project construction will entail adverse impacts on sites included in or eligible for inclusion in the National Register of Historic Places;

(4) Obtain certification from the U.S. Fish and Wildlife Service or obtain an independent field survey and survey of the applicable literature conducted by a biologist approved by the U.S. Fish and Wildlife Service, with respect to whether project construction or operation would adversely affect any endangered or threatened species or critical habitat listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce; and

(5) Consult with the U.S. Fish and Wildlife Service and the state fish and wildlife agency for each state in which the project is located, with respect to any future migratory fish restoration program affecting the exemptible project, and obtain a description of any such measure with which the project must comply under § 4.111(b). Any such description obtained pursuant to this subparagraph must be attached to the notice of exemption.

(c) *Contents.* The notice of exemption from licensing required by this section must conform to the following format:

Before the Federal Energy Regulatory Commission

Notice of Exemption of Small Hydroelectric Power Project From Licensing

(1) [Name of filing party or parties] notifies [notify] the Federal Energy Regulatory Commission that the [name of the project], a small hydroelectric power project as defined in 18 CFR § 4.102, is exempt from licensing under the terms of 18 CFR § 4.109 through § 4.111. [If applicable: The project is currently licensed as FERC Project No. ———].

(2) The location of the project is:

[State or territory] ———

[County]———

[Township or nearby town] ———

[River or stream] ———

[River basin]———

(3) The exact name, business address, and telephone number of the filing party or parties are:

———

———

(4) The project includes the following features:

(i) *Dams:* [For each existing dam, identify the dam; state the date on which construction was completed and state both the dam's length, height above streambed, as defined in 18 CFR 12.30, and the gross storage capacity of the related impoundment].

(ii) *Powerplants:* [For each powerplant: Identify the powerplant; state whether it is existing or proposed; state the hydraulic head; state the installed capacity in kilowatts and average annual generation in kilowatt-hours for any existing electric generating capacity; and state the proposed total installed capacity in kilowatts and the estimated average annual generation in kilowatt-hours for the proposed total installed capacity].

(iii) *Average stream flow:* The average annual stream flow is [———] cubic feet per second.

(5) It is certified that the small hydroelectric power project conforms to the specifications set forth in § 4.109(a) of the Commission's regulations and that [name of filing party or parties] has [have] complied with § 4.112(b) of the Commission's regulations, including the following:

(i) The [list each applicable state water resource agency or U.S. Environmental Protection Agency] has [have] certified that the construction, operation, and maintenance of the project will not cause a violation of any applicable water quality standards.

(ii) The U.S. Fish and Wildlife Service [identify which office] and [list each applicable state fish and wildlife agency] has [have] certified that there is not a significant existing population of migratory fish at any project dam.

(iii) The state Historic Preservation Officer or an approved archaeologist has certified that the proposed small hydroelectric power project does not entail any construction that would adversely affect any site included in or eligible for inclusion in the National Register of Historic Places.

(iv) The U.S. Fish and Wildlife Service [identify which office] or an approved biologist has certified that the proposed small hydroelectric power project does not entail construction or operations that would adversely affect any threatened or endangered species or critical habitat listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce.

(v) [List the U.S. Fish and Wildlife Service, identifying which office, and/or each state fish and wildlife agency, as appropriate] has [have] [not] prescribed migratory fish restoration measures as a condition of the exemption. [A description of any such measure must be attached].

(6) [Signature of filing party or parties under § 1.15 of this chapter; subscription and verification under § 1.16 of this chapter].

§ 4.113 Notice of exemption from licensing for projects with installed capacity of 100 kilowatts or less.

(a) *General requirement.* Any person who meets the requirements of § 4.109(d) and files a notice of exemption from licensing for any small hydroelectric power project described in § 4.109(b) must submit:

(1) An original and 4 copies of the notice of exemption described in paragraph (c) of this section; and

(2) Proof of service of a copy of the notice of exemption on appropriate fish and wildlife agencies and any state or Federal resource agency consulted.

(b) *Certifications.* As a basis for certifying to the nature and effects of a

small hydroelectric power project under paragraph (c)(5) of this section, a person filing a notice of exemption must:

(1) Obtain certification from the U.S. Fish and Wildlife Service or obtain an independent field survey and a survey of the applicable literature conducted by a biologist approved by the U.S. Fish and Wildlife Service, with respect to whether project construction or operation would adversely affect any endangered or threatened species or critical habitat listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce; and

(2) Obtain from the U.S. Fish and Wildlife Service and the fish and wildlife agency for each state in which the project is located either that there is not a significant existing population of migratory fish at the project dam or, if there is a significant population of such fish, that the project dam does not constrict the passage of such fish.

(c) *Contents.* The notice of exemption from licensing required by this section must conform to the following format:

Before the Federal Energy Regulatory Commission

Notice of Exemption of Small Hydroelectric Power Project From Licensing

(1) [Name of filing party or parties] notifies [notify] the Federal Energy Regulatory Commission that the [name of the project], a small hydroelectric power project as defined in 18 CFR 4.102, is exempt from licensing under the terms of 18 CFR 4.109 through 4.111. [If applicable: The project is currently licensed as FERC Project No. ———.]

(2) The location of the project is:
[State or territory] ———
[County] ———
[Township or nearby town] ———
[River or stream] ———

(3) The exact name, business address, and telephone number of the filing party or parties are:

———

———

(4) The project includes the following features:

(i) *Dams:* [For each existing dam, identify the dam; state the completion date of dam construction, the dam's height above streambed, and the gross storage capacity of the related impoundment, as defined in 18 CFR 12.30.]

(ii) *Powerplants:* [For each power plant: identify the power plant, state whether the powerplant is existing or proposed; state the hydraulic head, the existing installed and proposed total installed capacity in kilowatts and the average annual generation in killowatt-hours for any existing facility and the proposed total electric generating capacity.

(iii) *Average stream flow:* The average annual streamflow is [———] cubic feet per second.

(5) It is certified that the small hydroelectric power project conforms to the specifications set forth in § 4.109(b) of the Commission's regulations and that [name of the filing party or parties] has [have] complied with § 4.113(b) of the Commission's regulations, including the following:

(i) The U.S. Fish and Wildlife Service [identify which office] or an approved biologist has certified that the proposed small hydroelectric power project does not entail construction or operations that would adversely affect any threatened or endangered species or critical habitat listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce;

(ii) The U.S. Fish and Wildlife Service [identify which office] and [list each applicable state fish and wildlife agency] has [have] certified that there is not a significant population of migratory fish at the project dam or, if there is a significant population of such fish, the project dam does not obstruct the passage of the migratory fish.

(6) [Signature of filing party or parties under § 1.15 of this chapter; subscription and verification under § 1.16 of this chapter.]

§ 4.102 [Amended]

4. Section 4.102(l) is amended by inserting after the words "after the date of" the words "notice of exemption or."

§ 4.104 [Amended]

5. Section 4.104 is amended by revising the title to read *"Case-specific exemption from licensing: relationships among applications, exemptions, permits and licenses."* and by removing from the first sentence the words "this subpart" and substituting in lieu thereof the words "case-specific exemption under §§ 4.103 through 4.107".

§ 4.105 [Amended]

6. Section 4.105 is amended in the first sentence of paragraph (b) (6) by removing the words "In granting an exemption from licensing," and substituting in lieu thereof the words "In approving any application for exemption from licensing,".

7. Section 4.106 is amended by revising the title of the section, by revising the introductory text, and by revising the second sentence of paragraph (c) to read:

§ 4.106 Standard terms and conditions of case-specific exemption from licensing.

Any case-specific exemption from licensing granted for a small hydroelectric power project is subject to the following standard terms and conditions:

* * * * *

(c) *Article 3.* * * * If an exemption is revoked, the Commission will not accept a subequent application for exemption or a notice of exemption from licensing within two years of the revocation.

* * * * *

PART 375—THE COMMISSION

7. Section 375.308 is amended by revising paragraphs (n) and (o) and adding a new paragraph (ss), to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

* * * * *

(n) Issue deficiency letters regarding electric rate schedule filings, refund reports, corporate applications for the sale of facilities with respect to interlocking directorates, exemption applications and notices of exemption filed under Subparts J or K of Part 4 of this chapter, and applications filed under Part I of the Federal Power Act.

(o) Reject a rate filing, an application filed under Part I of the Federal Power Act, an application or other filing under section 405 of the Public Utility Regulatory Policy Act of 1978, or a non-complying notice of exemption from licensing filed under §§ 4.109 through 4.113 of this chapter, unless accompanied by a request for waiver in conformity with § 1.14(a)(2) of this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations and orders.

* * * * *

(ss) Issue notification of exemption from licensing for any small hydroelectric power project within the categories of exemptible projects described in § 4.109 of this chapter, pursuant to filing of a notice of exemption from licensing.

[FR Doc. 82-2385 Filed 1-28-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76 (New York-1); Order No. 204]

High-Cost Gas Produced From Tight Formations; New York

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or

costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the New York State Department of Environmental Conservation, Bureau of Mineral Resources that the Medina Group be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Peter Roidakis, (202) 357–8307 or John Roy Johnson, (202) 357–8731.

SUPPLEMENTARY INFORMATION:

Issued: January 22, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include portions of the Medina Group in New York as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued October 15, 1981 (46 FR 51618, October 21, 1981)[1] based on a recommendation by the New York State Department of Environmental Conservation, Bureau of Mineral Resources (New York) in accordance with § 271.703(c) that portions of the Medina Group be designated as a tight formation.

Evidence submitted by New York supports the assertion that the Medina Group meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New York recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the 30-day publication period.

(Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342; Administrative Procedure Act, (5 U.S.C. 553))

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective January 22, 1982.

[1] Comments were invited and one favorable comment was received. No party requested a public hearing and no hearing was held.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(66) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) * * *

(66) *Medina Group in New York. RM79–76 (New York–1)*—(i) *Delineation of formation.* The Medina Group is found in Chautauqua and Cattaraugus Counties, New York (and is equivalent to the U.S. Geological Survey's Albion Group). The Medina Group consists of the Grimsby Sandstone Formation, the Power Glen Shale Formation (also known as the Cabot Head Shale Formation), and, where present, the Whirlpool Sandstone Formation. The Medina Group is bounded by the overlying Thorold Formation, where present. Where the Thorold Formation is not present, the Medina group is overlaid by the Reynales Limestone Formation (also know as the "Packer Shell"). The Queenston Shale Formation is the underlying boundary of the Medina Group. Excluded from the delineated Medina Group are any Medina gas storage areas, including buffer zones, or any area within "existing" Medina fields that have been substantially developed absent an incentive price.

(ii) *Depth.* The average depth to the top of the Medina Group is approximately 3,850 feet with a range to the top of the formation of 1,700 to 6,000 feet. The average pay thickness of the formation is 55 feet.

[FR Doc. 82–2361 Filed 1–28–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76 (Colorado–20); Order No. 206]

High-Cost Gas Produced From Tight Formations

January 22, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Upper Mancos Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations to include the Upper Mancos Formation in Rio Blanco County, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued October 19, 1981 (46 FR 52126, October 26, 1981,[1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703(c) that the said formation be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the Upper Mancos Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter Title 18, Code of Federal Regulations, is amended as set forth below, effective January 22, 1982.

[1] Comments were invited and none were received. No party requested a public hearing and no hearing was held.

By the Commission.
Lois D. Cashell,
Acting Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(65) to read as follows:

§ 271.703 Tight formations

* * * * *

(d) * * *

(65) *The Upper Mancos Formation in Colorado.* RM79–76 (Colorado—20). (i) *Delineation of formation.* The Upper Mancos Formation is found in Rio Blanco County, Colorado, in Townships 2 and 3 South, Ranges 100 and 101 West, 6th P.M.

(ii) *Depth.* The Upper Mancos Formation is defined as being between the base of the Mesaverde Formation and the top of the Lower Mancos Formation. The average depth to the top of the Upper Mancos Formation is 1,800 feet.

[FR Doc. 82–2363 Filed 1–28–82; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76 (Colorado-17); Order No. 205]

High-Cost Gas Produced From Tight Formations

January 22, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Mesaverde Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations to include the Mesaverde Formation in Colorado as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued September 21, 1981 (46 FR 47239, September 25, 1981) [1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703(c) that the said formation be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the Mesaverde Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective January 22, 1982.

By the Commission.
Lois D. Cashell,
Acting Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(64) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) * * *

(64) *Mesaverde Formation in Colorado.* RM79–76 (Colorado-17). (i) *Delineation of formation.* The Mesaverde Formation is found in Garfield County, Colorado, in Township 6 South, Range 93 West, 6th P.M., Sections 3 through 10, 15 through 22, 27 through 34; Township 6 South, Range 94 West, 6th P.M., Sections 1 through 3, 7 through 36; Township 6 South, Range 95 West, 6th P.M., Sections 25 through 36; Township 7 South, Range 94 West, 6th P.M., Sections 1 through 9, 16 through 18; Township 7 South, Range 95 West, 6th P.M., Sections 1 through 24, 27 through 34; Township 7 South, Range 96 West, 6th P.M., Sections 1 through 36; Township 8 South, Range 96 West, 6th P.M., Sections 1 through 6.

(ii) *Depth.* The Mesaverde Formation is defined as that formation encountered between the base of the Wasatch Formation (Tertiary) and the top of the Mancos shale. The average depth to the top of the Mancos Formation is 4,475 feet.

[FR Doc. 82–2362 Filed 1–28–82; 8:45 am]
BILLING CODE 6717–01–M

[1] Comments were invited and one favorable comment was received. No party requested a public hearing and no hearing was held.

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18 CFR Part 271

[Docket No. RM79–76 (Utah–4); (Order No. 203)]

High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Utah Board Oil, Gas and Mining that the Morrison Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Peter Roidakis, (202) 357–8307 or Victor Zabel, (202) 357–8616.

Order No. 203

Final Rule

Issued: January 22, 1982.

In the matter of High-Cost Gas Produced From Tight Formations, Docket No. RM79–76 (Utah–4).

The Commission hereby amends § 271.703(d) of its regulations to include the Morrison Formation in Utah as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued September 11, 1981 (46 FR 46142, September 17, 1981) [1] base on a recommendation by the State of Utah Board of Oil, Gas and Mining (Utah) in accordance with §271.703(c) that the Morrison Formation be designated as a tight formation.

Evidence submitted by Utah supports the assertion that the Morrison Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Utah recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342; Administrative Procedure Act, (5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I Title 18, *Code of Federal Regulations*, is amended as set forth below, effective January 22, 1982.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d) (67) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) * * *

(67) *Morrison Formation in Utah.* RM 79–76 (Utah–4)

(i) Delineation of formation. The Morrison formation is found is the Book Cliffs area of Grand, Emery, and Uintah Counties, Utah, in the area of Townships 15 South through 20 South, and Ranges 17 East through 24 East.

(ii) *Depth.* The average depth to the top of the Morrison Formation is 6,315 feet. The Morrison Formation averages 600 feet in thickness with the vertical limits defined by the Dakota Formation above and the Entrada Formation below.

[FR Doc. 82–2304 Filed 1–28–82; 8:45 am]

BILLING CODE 6717–01–M

[1] Comments were invited on the proposed rule and none were received. No party requested a hearing and no hearing was held.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Animal Drugs, Feeds, and Related Products; Selenium Disulfide Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by National Pharmaceutical Mfg. Co. providing for use of a selenium disulfide suspension on dogs as a shampoo and as an agent for removing skin debris, and to add the sponsor to the list of sponsors of approved NADA's.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Food and Drug Administration, Bureau of Veterinary Medicine (HFV–112), 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: National Pharmaceutical Mfg. Co., a Division of Barre-National, Inc., 7205 Windsor Blvd., Baltimore, MD 21207, filed an NADA (120–646) providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry eczema, seborrhea, and nonspecific dermatoses. This application concerns a product similar to one reviewed by the National Academy of Sciences/National Research Council (NAS/NRC), approval of which is reflected in the regulations in 21 CFR 524.2101. This application is approved on the basis of generic equivalence to the NAS/NRC reviewed product. It conforms to the NAS/NRC panel recommendations published in the **Federal Register** of September 5, 1970 (35 FR 14168). The Bureau of Veterinary Medicine has determined that bioequivalency data are not required in this product. The NADA is approved and the regulations are amended to reflect the approval.

In addition, the regulations do not include the firm in the list of sponsors of approved NADA's in 21 CFR 510.600(c). The regulation is amended appropriately.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
. . . . .	
National Pharmaceutical Mfg. Co., a Division of Barre-National, Inc., 7205 Windsor Blvd., Baltimore, MD 21207	000570
. . . . .	

(2) * * *

Drug labeler code	Firm name and address
. . . . .	
000570	National Pharmaceutical Mfg. Co., a Division of Barre-National, Inc., 7205 Windsor Blvd., Baltimore, MD 21207.
. . . . .	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In part 524, § 524.2101 is amended by revising paragraph (b)(1), to read as follows:

§ 524.2101 Selenium disulfide suspension.

* * * * *

(b) *Sponsors.* (1) See Nos. 000570 and 050604 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i) of this section.

* * * * *

Effective date. January 29, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 21, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-2248 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Copper Naphthenate Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) held by Fort Dodge Laboratories providing revised labeling for use of copper naphthenate solution as an aid in treating thrush (degenerative hoof disease) in horses.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Louis L. Nangeroni, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Division of American Home Products Corp., Fort Dodge, IA 50501, is sponsor of an NADA (12-991) providing for use of a 37.5 percent copper naphthenate solution. The firm has filed a supplemental NADA providing revised labeling eliminating all indications for use of the drug except the treatment of thrush (degenerative hoof disease) in horses and ponies. The regulation reflecting approval of the NADA (21 CFR 524.463) is amended to reflect approval for this use only.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by revising § 524.463 to read as follows:

§ 524.463 Copper naphthenate solution.

(a) *Specifications.* The drug contains 37.5 percent copper naphthenate in a suitable solvent.

(b) *Sponsor.* See Nos. 000856 and 017135 in § 510.600(c) of this chapter.

(c) *Conditions of use—Horses and ponies*—(1) *Amount.* Apply daily to affected hooves until fully healed.

(2) *Indications for use.* As an aid in treating horses and ponies for thrush caused by organisms susceptible to copper naphthenate.

(3) *Limitations.* Use on horses and ponies only. Remove debris and necrotic material before applying. Avoid contact around eyes. Do not use on animals that are raised for food production. Do not contaminate feed. Do not allow runoff of excess drug into hair because contact with the drug may cause some hair loss.

Effective date. This amendment is effective January 29, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 21, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-2249 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Henwood Feed Additives, Inc., providing for use of 0.48- and 2.4-gram-per-pound hygromycin B premixes for making complete swine feeds for control of large roundworm, nodular worm, and whipworm infections, and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Henwood Feed Additives, Inc., 211 Western Rd., Box 577, Lewisburg, OH 45338, is the sponsor of an NADA (110-439) providing for use of 0.48- and 2.4-gram-per-pound hygromycin B premixes for making complete swine and chicken feeds. The complete swine feed is used as an aid in controlling large roundworm, nodular worm, and whipworm infections. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor, Henwood Feed Additives, Inc. Approval of the NADA is based on safety and effectiveness data contained in Elanco's approved NADA's 10-918 and 11-948. Elanco has authorized use of the data in these NADA's to support this application. This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval

policy (42 FR 64367; December 23, 1977), approval of NADA 110–439 has been considered equivalent to a supplemental approval which does not require reevaluation of the basic safety and effectiveness data found in NADA's 10–918 and 11–948. NADA 110–439 is approved, and the regulations are amended to reflect the approval. Satisfactory chemistry, manufacturing, and control data and information were submitted.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) (formerly 5.1; see 46 FR 26052; May 11, 1981) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.274 is amended by adding paragraphs (a)(5) and by revising the first entry in paragraphs (e)(1) (i) and (ii), to read as follows:

§ 558.274 Hygromycin B.

(a) * * *

(5) Premix levels of 0.048 and 2.4 grams per pound granted to sponsor 026186 in § 510.600(c) of this chapter for use in chickens as in paragraph (e)(1)(i) of this section and in swine as in paragraph (e)(1)(ii) of this section.

* * * * *

(e) * * *

(1) * * *

Hygromycin B grams per ton	Combination grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12		Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Withdraw 3 days before slaughter	000986, 022422, or 026186.
(ii) 12		Swine; Control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostomum dentatum*), and whipworms (*Trichuris suis*).	Withdraw 15 days before slaughter	000986, 043733, 011490, 022422, or 026186.

* * * * * * *

Effective date. This amendment is effective January 29, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 21, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–2247 Filed 1–28–82; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Cadco, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Cadco, Inc., P.O. Box 3599, 10100 Douglas Ave., Des Moines, IA 50322, is the sponsor of supplemental NADA 99–561 submitted on its behalf by Elanco Products Co. The supplemental NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentary (vibrionic), and control swine pneumonias caused by bacterial pathogens *Pasteurella multocida* and/or *Corynebacterium pyogenes).*

Approval of the application is based on safety and effectiveness data contained in Elanco's approved NADA's 12–491 and 41–275. Use of the data in NADA's 12–491 and 41–275 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this supplemental NADA poses no increased human risk from exposure to residues of the animal drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this supplement is a Category II supplemental NADA which does not require reevaluation of the safety and effectiveness data in NADA's 12–491 or 41–275. The supplement is approved and the regulations are amended accordingly. The regulations are also amended to reflect that Cadco, Inc., also currently holds approval for use of a tylosin-sulfamethazine premix containing 10 grams per pound of each drug. The conditions of use of the 5- and 10-gram-per-pound premixes are identical.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch

(HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by removing drug labeler code "011490" from paragraph (b)(3) and by adding it to revised paragraph (b)(8), to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(8) To 011490 and 026186: 5 or 10 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. January 29, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 25, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–2282 Filed 1–28–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. R–82–958]

General, List of Attorneys-in-Fact

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending Paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in Paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: March 11, 1982.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Linane, Office of General Counsel, on (202) 755–7186.

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

PART 300—GENERAL

§ 300.11 [Amended]

Paragraph (c) of § 300.11 is amended by adding the following name to the current list of attorneys-in-fact:

Name	Region
Victoria L. Arrington	Chicago, IL

(Sec. 309(d) of the National Housing Act, 12 U.S.C. sec. 1723a(d) and sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. sec. 3535(d))

Issued at Washington, D.C., December 29, 1981.

R. Frederick Taylor,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 82–2453 Filed 1–28–82; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 882 and 888

[Docket No. R–82–742]

Section 8 Housing Assistance Payments Program; Existing Housing and Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors; Correction of Rule Providing for Publication of Automatic Annual Adjustment Factors

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of correction.

SUMMARY: This technical correction is necessary in order to accomplish a change in the method of publishing contract rent Automatic Annual Adjustment Factors under the Section 8 Housing Assistance Payments Programs.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410. His telephone number is (202) 755–6207 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On December 20, 1979 (44 FR 75383) HUD issued an interim rule which changed the method of publishing the Contract Rent Automatic Annual Adjustment Factors under the Section 8 Housing Assistance Payments Program. That change was intended to provide for publication of the Factors by notice in the **Federal Register** rather than as amendments to Schedule C of Part 888. However, the rule inadvertently failed to delete Schedule C and various references to Schedule C in Chapter VIII. Under Federal Register codification procedures this deletion is necessary to permit publication of the Factors by notice.

Accordingly, the Interim Rule (44 FR 75383) is corrected by amending 24 CFR Chapter VIII as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS—EXISTING HOUSING

§ 882.108 [Corrected]

(1) In § 882.108(a)(i) (A) remove "* * * Schedule C * * *" in line 4.

§ 882.411 [Corrected]

(2) In § 882.411(a)(1) remove "* * * Schedule C * * *" in line 3.

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

§ 888.202 [Corrected]

(3) In § 888.202 remove "* * * Schedule C * * *" at the beginning of the section.

§ 888.203 [Corrected]

(4) In § 888.203(a) remove at the end of the first paragraph "* * * as indicated in Schedule C."

(5) In Part 888 at the end of the part remove "Schedule C Contract Rent Automatic Annual Rent Adjustment Factors" and the editorial note thereto.

(Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., January 26, 1982.

Burton Bloomberg,

Associate General Counsel for Regulations and Administrative Law.

[FR Doc. 82-2452 Filed 1-27-82; 2:24 pm]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Approval of the Abandoned Mine Reclamation Plan for the State of Missouri under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On September 11, 1981, the State of Missouri submitted to OSM its proposed abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the Plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Missouri Abandoned Mine Reclamation Plan meets the requirements of both SMCRA and the Secretary's Regulations. Accordingly, the Assistant Secretary has approved the Missouri Plan.

EFFECTIVE DATE: This approval is effective January 29, 1982.

ADDRESSES: Copies of the full text of the Missouri Reclamation Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Missouri State Office, 818 Grand Avenue, Kansas City, Missouri 64106

Missouri Department of Natural Resources, Land Reclamation Commission, P.O. Box 1368, 1026 "D" Northeast Dr., Jefferson City, Missouri 65102

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Lands, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343–7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49947–49949, October 25, 1978). Under those regulations, the Director is required to review the plan, solicit and consider comments from other Federal agencies and the public. If the plan is disapproved the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan by the Secretary, the State may submit to OSM, on an annual basis, an application for funds to be expended in the State on specific reclamation projects as necessary to implement the State reclamation plan as approved. Annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T to 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to Missouri are found in 30 CFR Part 925.

Background on the Missouri Abandoned Mine Plan Submission

On March 27, 1979, a cooperative agreement between the Missouri Department for Natural Resources, Land Reclamation Commission and the OSM was approved. The purpose of this agreement was to assure that information required for the preparation of the Missouri Abandoned Mine Reclamation Plan would be assembled.

On September 11, 1981, Missouri submitted its proposed State Abandoned Mine Land Reclamation Plan to OSM.

On September 28, 1981, representatives of the Missouri Department of Natural Resources, Land Reclamation Commission and OSM discussed possible amendments to the proposed Plan. After the Missouri Attorney General clarified several issues, OSM determined that no amendments to the Plan are necessary.

All documents mentioned above are available for public inspection at OSM and the Missouri Department of Natural Resources at the addresses listed above under "addresses." Notice of receipt of the submission initiating Plan review was published on November 3, 1981 (45 FR 54572–54574). The announcement requested public comments. It was determined by the OSM Regional Director that a public hearing was not necessary because the public had been provided adequate notice and opportunity to be heard on the Plan and further that the record did not reflect any major unresolved controversy. On December 21, 1981, the OSM State Director and on December 22, 1981, the Assistant Director for Program Operations and Inspection recommended to the Director of OSM that the Secretary approve the Missouri Reclamation Plan.

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA the Assistant Secretary finds that Missouri has submitted a Plan for reclamation of abandoned mines and has the ability and necessary State

legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.13 that:

(a) The Department of Natural Resources of the State of Missouri has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered views from the general public, as well as other Federal agencies having an interest in the Plan as required by 30 CFR 884.13(a)(2). After the required 30 day comment period, initiated (by 45 FR 54572–54574) on November 3, 1981, no comments were received.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Missouri Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual DM 516.2.3(A)(1), the Assistant Secretary's decision on the Missouri Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective upon date of publication is (1) OSM desires to minimize the time between the approval of the Title V regulatory program and the Title IV State reclamation program, and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

Dated: December 30, 1981.

J. S. Griles,

Acting Director, Office of Surface Mining.

Dated: January 22, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 925—MISSOURI

Therefore, Part 925 is amended by adding § 925.20 to read as follows:

§ 925.20 Approval of the Missouri Abandoned Mine Reclamation Plan.

The Missouri Abandoned Mine Reclamation Plan as submitted on September 11, 1981, is approved. Copies of the approved Plan are available at the following locations:

Office of Surface Mining Reclamation and Enforcement, Missouri State Office, 818 Grand Avenue, Kansas City, Missouri 64106

Missouri Department of Natural Resources, Land Reclamation Commission, P.O. Box 1368, 1028 D Northeast Dr., Jefferson City, Missouri 65102

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C.

[FR Doc. 82–2342 Filed 1–28–82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Certificates of Origin

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Cuban Assets Control Regulations. The purpose of the amendment is to allow more flexibility in the content of certificates of origin which must accompany importations of items certified in accordance with the Regulations.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376–0236.

SUPPLEMENTARY INFORMATION: Currently, a foreign certificate of origin accompanying regulated imports must refer to both the Cuban Assets Control Regulations and the International agreement under which the certificate is issued. This amendment changes § 515.536 to provide that a reference to either the Regulations or the international agreement is sufficient.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date, are inapplicable. Similarly, because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Section 515.536 is amended by the revision of paragraph (d)(2) as follows:

§ 515.536 [Amended]

* * * * *

(d) * * *

(2) It bears a statement by the issuing agency referring to the Cuban Assets Control Regulations or stating that the certificate has been issued under procedures agreed upon with the U.S. Government.

Dated: January 22, 1982.
Dennis M. O'Connell,
Director, Office of Foreign Assets Control.
[FR Doc. 82-2340 Filed 1-28-82; 8:45 am]
BILLING CODE 4810-25-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Special Regulations, Areas of the National Park System; Delaware Water Gap National Recreation Area, New Jersey-Pennsylvania; Snowmobile Regulations

AGENCY: National Park Service, Interior.
ACTION: Final rule.

SUMMARY: The regulation set forth below is necessary to redesignate the snowmobiling route in Delaware Water Gap National Recreation Area (referred to hereafter as DWGNRA). Present NPS management policy permits snowmobile trails only on properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Snowmobiling at DWGNRA has been restricted by special regulations to one designated trail which follows old woods roads and farming access roads that are maintained by the park as emergency access roadways. These roadways are not open to the public during non-snow periods. In a few places the trail crosses open agricultural fields linking these emergency roads together. Since this route has been affected by the revised NPS snowmobile policy, an environmental assessment of alternatives of snowmobile management policies, regulations and routes at DWGNRA has been completed and is available for public review.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Albert A. Hawkins, Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324, Telephone: (717) 588-6637.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural, and aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Departmental memorandum of May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by Federal Register notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the Federal Register on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. The snowmobiles must be consistent with the park's natural, cultural, scenic and aesthetic values; safety considerations; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

This regulation is an exception to the NPS snowmobile policy because the DWGNRA snowmobile route consists of old woods roads and farming access roads which are maintained as emergency access roadways, but which are not open to the public during other seasons. In a few places, the trail crosses open agricultural fields linking these emergency roads together.

This route has been used since January 1971, and was designated by publication in the Federal Register on March 31, 1975 (40 FR 14313). The route met the requirements of Executive Order 11644 and the NPS general regulations in 36 CFR 2.34. Since the trail was designated in 1975, it has been rerouted slightly to eliminate some steep sections and to make a road crossing safer. This change is reflected in this regulation.

However, the route did not comply with the NPS snowmobile policy published in the Federal Register on August 13, 1979. Therefore, an environmental assessment of snowmobiling in DWGNRA was prepared; it recommended that snowmobiling be continued on the existing route. The assessment was approved by the Mid-Atlantic Regional Director on October 29, 1980.

This regulation was published as a proposed rule in the Federal Register on January 6, 1981 (46 FR 1313). During the 30-day period allowed for public comment, eleven comments were received. All supported the continuance of snowmobiling on the existing route. The regulation promulgated here is the same as was proposed. Because of the imminence of the snowmobile season and the fact that the public had an opportunity to comment on the proposed rule, the National Park Service is making this rule effective today.

Drafting Information

The following persons participated in the writing of this regulation: Karl J. Theune and James D. Arnott, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania; John Karish, Pennsylvania State University; and Arvell Washington, Mid-Atlantic Regional Office of National Park Service.

Compliance With Other Laws

The Service has prepared an environmental assessment on the proposal to allow the use of snowmobiles on the designated route at Delaware Water Gap National Recreation Area, and has made a determination of no significant impact pursuant to regulations implementing the National Environmental Policy Act (42 U.S.C. 4332). Copies are available for public review at the Office of the Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324.

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193; February 19, 1981).

This rule does not contain an information collection or recordkeeping requirement as defined in the Paperwork Reduction Act (94 Stat. 2812; 44 U.S.C. 3501 *et seq.*).

The Department of the Interior has determined that this rule does not have a significant economic effect on a substantial number of small entities and does not require a regulatory analysis under the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601 *et seq.*).

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3).

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by revising paragraph (b) of § 7.71 as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

* * * * *

(b) *Designated snowmobile routes.* (1) A route in Middle Smithfield Township, Monroe County, Pennsylvania, bounded by the Delaware River on the east and Hidden Lake on the west. The route begins at the Smithfield Beach parking area and is in two loops. Loop One is a small trail approximately 3 miles long and follows the west bank of the Delaware River and closely parallels the east side of L. R. 45012 (commonly known as the River Road). Loop Two is approximately 6 miles long and begins at the northwest end of Loop One; it goes northeasterly between the Delaware River and River Road for about one mile until it crosses River Road; then southwesterly along the ridge which is south of Hidden Lake to a point opposite the west end of Hidden Lake, and then goes southeasterly until it returns to Loop One near River Road. Maps of the route are available at Smithfield Beach and at the office of the superintendent. Both loops are marked by appropriate signs.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-2090 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissible Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for homes and condominiums. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages; thereby allowing veterans to purchase a home with the assistance of a no downpayment VA loan.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by law to establish a maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. This authority has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rates is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

Regulatory Flexibility Act/Executive Order 12291 Certifications

For the reasons discussed in the May 7, 1981 **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they do not come within the definition of a "major rule" as defined in that Order. Also, the existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process will still permit timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the maximum interest rate for VA guaranteed, insured, and direct home and condominium loans would create an acute shortage of mortgage funds pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

The official program numbers and titles of the VA programs affected by this action as set forth in OMB Circular A-89, Catalog of Federal Domestic Assistance, are 64.113, Veterans Housing—Direct Loans and Advances, and 64.114, Veterans Housing—Guaranteed and Insured Loans.

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1) and 1811(d)(1) of title 38, United States Code, and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

The increases in the maximum interest rates are accomplished by amending §§ 36.4311(a) and 36.4503(a) of Title 38, Code of Federal Regulations, as described below.

Approved: January 22, 1982.

By direction of the Administrator.
Dorothy L. Starbuck,
Chief Benefits Director.

PART 36—LOAN GUARANTY

1. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 16½ per centum per annum, effective January 25, 1982, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 16½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 16½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 17 percent per annum (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * * *

(38 U.S.C. 210(c), 1803(C), 1811(d)(1))

[FR Doc. 82-2360 Filed 1-28-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL 2011-3]

Approval and Promulgation of State Implementation Plans; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is today approving Colorado's Regulation No. 11 pertaining to Colorado's motor vehicle emission inspection program. The regulation covers certain aspects of the Colorado motor vehicle emission inspection program required to be submitted under the EPA 1982 State Implementation Plan (SIP) policy of January 22, 1981 (46 FR 7182). The EPA proposed to approve the regulation on July 23, 1981 (46 FR 37912), and solicited comments. No comments were received during the comment period. This rule does not constitute action on the overall Colorado inspection program because the remaining elements required by the 1982 SIP policy have not yet been received.

EFFECTIVE DATE: March 1, 1982.

ADDRESSES: Copies of the revision are available for public inspection between 8 am and 4 pm Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295
Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, D.C. 20460
The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Dale Wells, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

SUPPLEMENTARY INFORMATION:

Background

Section 172(b)(11)(B) of the Clean Air Act requires the State Implementation Plan (SIP) for areas which cannot attain the National Ambient Air Quality Standards for ozone or carbon monoxide (CO) by 1982 to include provisions for a vehicle emissions inspection and maintenance (I/M) program. The 1979 SIP revision was required to contain only qualitative descriptions of the key elements of the I/M program; legal authority, schedule to begin, and commitments to implement and enforce the program, to provide adequate resources to support the program, and to achieve the required program effectiveness.

Colorado's SIP submittal of January 2, 1979, did not contain the required evidence of legal authority but a subsequent submittal allowed EPA to conditionally approve the I/M portion of the SIP (44 FR 57401). When the date provided in the conditional approval passed, EPA disapproved the CO and ozone portions of the Colorado SIP (45 FR 16486 and 45 FR 21634). The Colorado legislature passed a bill on May 7, 1980, which Governor Richard Lamm submitted as a SIP revision to EPA on May 29, 1980. The law established legal authority for an I/M program throughout the Colorado Front Range from Colorado Springs through Greeley and Ft. Collins, encompassing all Colorado CO or ozone nonattainment areas. EPA's evaluation and approval of that SIP revision is documented in 45 FR 47682 (July 16, 1980).

EPA published the 1982 SIP policy (part of which pertains to I/M programs) on January 22, 1981 (46 FR 7182). As discussed in that policy, states with areas that have I/M programs under development or operational as part of their 1979 SIP revisions were required to submit only qualitative descriptions of their I/M program elements in the 1979 SIP submittal. The 1982 SIP revision must include, unless already submitted and approved as part of a previous SIP submittal, rules and regulations and all other I/M elements which could affect the ability of the I/M program to achieve the minimum emission reduction requirements.

More specifically, the 1982 submittal must include: (1) inspection test procedures; (2) emission standards (3) inspection station licensing requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control unit and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations, and procedures; (9) a public awareness plan; and (10) a mechanics training program, if additional emission reduction credits are being claimed for mechanics training. Colorado submitted the first four of these ten elements.

EPA will determine the overall adequacy of the critical elements of each I/M program and, therefore, the approvability of the 1982 SIP by comparing those elements to established I/M policy. I/M program elements must be consistent with EPA policy or a demonstration must be made that the program elements are equivalent.

In the case of a partial submittal, EPA's action will be limited to the submitted program elements. Final action on the total I/M program must be reserved until all elements are submitted and reviewed in order to assure that the program satisfies the requirements in Part D of the Clean Air Act.

State Submittal

On December 29, 1980, Colorado submitted Regulation No. 11 which satisfies a portion of the I/M requirements for the 1982 SIP revisions. It includes procedures for garage licensing (including mechanic testing and licensing) equipment requirements (including standards and specifications for exhaust gas analyzers), requirements for inspections, and emission standards.

The emission standards are designed to provide a maximum stringency of 40 percent for 1968 through 1974 vehicles and 30 percent for 1975 and newer vehicles.

Cars will be tested using emission analyzers. Emission analyzers used in conducting the inspection must be approved by the Air Quality Control Commission. If cars comply with the standards they will be issued a certificate of emissions compliance. Model year 1966–1980 vehicles which fail to comply with the standards at the time of testing, will be adjusted to manufacturers' specifications and then retested. If they still fail to meet standards, they will be issued a certificate of emission adjustment and no further repairs or maintenance will be required unless emissions control devices have been altered, removed disabled or rendered inoperative.

Visual inspection of emission control devices will be performed. Owners of model year 1981 and later vehicles which have to comply with standards at the time of testing will be required to repair their vehicles to meet standards. If these vehicles still fail to meet standards after spending up to $100.00 on emissions related repair costs, they will be issued a certificate of emissions adjustment.

The high altitude performance adjustments provided by Section 215 of the Clean Air Act will be included as part of the adjustments required.

The full I/M program will begin on January 1, 1982, but a program requiring inspections after change of auto ownership and voluntary inspection began July 1, 1981. The provisions of the program requiring repairs on 1981 and later model years vehicles will begin on July 1, 1982.

EPA proposed to approve Regulation No. 11 of Colorado's I/M program on July 23, 1981 (46 FR 37912). For all four elements provided in the rule, the provisions of Regulation No. 11 meet or exceed the applicable requirements of EPA's I/M policy. However, because Colorado has not yet submitted all of the required elements for the 1982 SIP revision, EPA cannot take action at this time on Colorado's total I/M Program, or total 1982 SIP revision for I/M. As soon as Colorado submits the final six elements, and EPA determines that they meet I/M requirements, total approval will be granted.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. Section 605(b)), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities—46 FR 8709 (January 27, 1981). This proposed rule, if promulgated, constitutes a SIP approval within the terms of the January 27, 1981 certification. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before March 30, 1982.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Note.—Incorporation by reference of the State Implementation Plan for the State of Colorado was approved by the Director of the Federal Register on July 1, 1981.

Dated: January 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Section 52.320 is revised by adding a new paragraph(c)(25) as follows:

§ 52.320 Identification of plan.

(c) * * *

(25) On December 29, 1980, the Governor submitted the following rule:

Regulation No. 11, covering procedures for garage licensing (including mechanic testing and licensing), equipment requirements (including standards and specifications for exhaust gas analyzers), requirements for inspections, and emission standards as part of the Colorado motor vehicle inspection program.

[FR Doc. 82-2338 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-28-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60-250

Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule: Suspension of Effectiveness of Contract Provision Requiring Quarterly Reports of Hiring Actions.

SUMMARY: The Department of Labor hereby suspends the effectiveness of 41 CFR 60-250.4(d) requiring government contractors to file quarterly reports of hiring actions, including veterans hired, under Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.

This action is taken because the quarterly report requirement has not been approved by OMB under the Paperwork Reduction Act. It is further anticipated that this requirement will eventually be deleted from the regulations.

EFFECTIVE DATE: The suspension of this rule is effective January 29, 1982, and will remain in effect until the Department of Labor takes final action on the proposal to amend 41 CFR Part 60-250, published December 30, 1980. (See 45 FR 86206.)

FOR FURTHER INFORMATION CONTACT: James Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: Department of Labor regulations implementing section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, require each covered government contract and subcontract to contain the affirmative action clause set forth at 41 CFR 60-250.4. This affirmative action contract clause requires government contractors subject to the mandatory job listing requirement of the Act to file quarterly reports with appropriate local offices of state employment services detailing specific data regarding hiring activity, including veterans hired, in each of the contractor's hiring locations. However, because the quarterly report would collect identical information from 10 or more persons, it was subject to review under the Federal Reports Act, as

amended by the Paperwork Reduction Act of 1980 (P.L. 96–511, 44 USC 3501, et. seq.) The quarterly report has not been approved under the Paperwork Reduction Act. In the absence of such approval, Federal contractors and subcontractors are not required to submit or retain copies of these quarterly reports. Accordingly, Paragraph (d) of 41 CFR 60–250.4 is hereby suspended until final action is taken on the proposal to amend 41 CFR Part 60–250, published December 30, 1980 (45 FR 86206), in which it was proposed to delete this requirement.

This suspension is being published in final form because the Department finds that notice and public comment on this suspension are unnecessary and contrary to the public interest.

(Sec. 503(a), Pub. L. 92–540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by sec. 402, Pub. L. 93–508, 88 Stat. 1593 (38 U.S.C. 2010); and Pub. L. 96–466, 94 Stat. 2171)

Dated: Signed this 22nd day of January 1982 at Washington, D.C.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary of Labor for Employment Standards.

Ellen M. Shong,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 82–2409 Filed 1–28–82; 8:45 am]

BILLING CODE 4510–27–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6245]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small intities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood looses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Arizona: Navajo	Taylor, town of	040071B	Aug. 6, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	May 17, 1974, and Apr. 30, 1976.	Feb. 3, 1982.
Connecticut:					
Tolland	Andover, town of	090161A	Nov. 20, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Apr. 18, 1975	Do.
Litchfield	New Hartford, town of	090046B	June 2, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Sept. 13, 1974, and Feb. 11, 1977.	Do.
Windham	Windham, town of	090119C	June 26, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Apr. 12, 1974, and Dec. 24, 1976.	Do.
Florida: Osceola	Unincorporated areas	120189B	Sept. 4, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Jan. 3, 1975, and Aug. 12, 1977.	Do.
Iowa: Linn	Hiawatha, city of	190441A	Apr. 23, 1976, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Apr. 23, 1976	Do
Massachusetts:					
Bristol	Easton, town of	250053B	Aug. 15, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Sept. 20, 1974, and Nov. 19, 1976.	Do.
Middlesex	Framingham, town of	250193B	Jan. 21, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Aug. 2, 1974, and Dec. 13, 1977.	Do.
Nebraska: Lancaster	Unincorporated areas	310134B	Feb. 16, 1979, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Feb. 28, 1978	Do.
New Jersey:					
Gloucester	Franklin, township of	340202B	July 6, 1976, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Sept. 13, 1974, and Aug. 13, 1976.	Do.
Hunterdon	Lebanon, borough of	345299B	July 1, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Aug. 16, 1972	Do.
Passaic	Ringwood, borough of	340407B	June 18, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	June 28, 1974, and July 16, 1976.	Do.
New York:					
Tioga	Newark Valley, town of	360835B	June 25, 1973, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Feb. 22, 1974, and Oct. 10, 1975.	Do.
Do	Newark Valley, village of	360836B	Sept. 2, 1976, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	June 7, 1974, and Apr. 30, 1976.	Do.
Niagara	Somerset, town of	360512B	May 24, 1973, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Mar. 15, 1974, and June 18, 1976.	Do.
North Dakota: Cass	Pleasant, township of	380263A	Mar. 21, 1978, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.		Do.
Oregon: Linn	Harrisburg, city of	410140B	Dec. 31, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Mar. 1, 1974, and June 25, 1976.	Do.
Pennsylvania:					
Fayette	Fayette City, borough of	420464B	July 30, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Feb. 22, 1974, and Apr. 16, 1976.	Do.
Delaware	Lansdowne, borough of	420418B	June 23, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	May 31, 1974	Do.
Montgomery	Lower Salford, township of	421170A	Apr. 30, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Nov. 1, 1974	Do.
Do	Perkiomen, township of	421915B	Oct. 29, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Oct. 25, 1974, and May 28, 1976.	Do.
Fayette	Perryopolis, borough of	421616B	Feb. 18, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Feb. 18, 1975, and July 22, 1977.	Do.
Allegheny	Robinson, township of	421097B	Mar. 17, 1976, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Sept. 20, 1974, and Aug. 20, 1976.	Do.
Montgomery	Salford, township of	422497A	Aug. 29, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Dec. 6, 1974	Do.
South Dakota: Lawrence	Deadwood, city of	460045A	Nov. 26, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	July 11, 1975	Do.
Utah: Weber	Riverdale, city of	490190C	Oct. 4, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Mar. 13, 1979, June 28, 1974, and Nov. 28, 1975.	Do.
Virginia:					
Indep. City	Falls Church, city of	510054B	Apr. 24 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	May 7, 1976	Do.
Fairfax	Vienna, town of	510053B	Aug. 6, 1974, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	Aug. 2, 1974, [redacted] Oct. 24, 1975.	Do.
Washington: Pierce	Fircrest, town of	530141B	June 4, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended.	June 28, 1974	Do.
West Virginia: Jackson	Ripley, city of	540064B	Feb. 11, 1974, emergency; Sept. 1, 1977, regular; Feb. 3, 1982, suspended.	Sept. 1, 1977 B	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2152 Filed 1-28-82; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order Nos. 1473 and 1495]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) and Burlington Northern Railroad Co. and Fort Worth and Denver Railway Co. Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Decision.

SUMMARY: The Commission requested information on whether temporary service over lines of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island), under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (RITEA), should be terminated or permitted to continue, and on the compensation formula to be applied, if service continues, where Rock Island and operating carriers have not agreed on a compensation amount. This decision describes the results of our review of the information filed pursuant to that request.

DATE: This decision shall be effective on January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION: By notice served September 21, 1981, (46 FR 47101, September 24, 1981), the Commission indicated its intent to consider whether, and for how long service over the Rock Island should be permitted to continue under the authority of Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (RITEA) Pub. L. 96–254. Particularly to be considered were situations where there has been no clear effort to lease or purchase the Rock Island lines. The notice requested the Rock Island Trustee, the various carriers providing service under Service Order Nos. 1473 and 1495, and any interested person (particularly shippers and communities on the lines) to file comments or provide information and argument relating to the necessity and appropriateness of such service authority. It was directed that part of this showing include a detailed history, discussion, and status report on negotiations for the purchase or lease of Rock Island lines.

We consider the development of such information important, especially in light of a recent letter by the Rock Island Trustee to the Commission requesting that authorities for those carriers compensating the estate on the basis of the Frisco Formula *(St. Louis-S.F. Ry. Co.-Compensation-Chicago, R.I. & P.,* 363 I.C.C. 264) not be extended beyond September 30, 1981, and that future service authority be granted only to those carriers negotiating in good faith with the Trustee under interim lease agreements approved by the Court. The Trustee was directed to provide sufficient information on leases entered into with affected carriers and any other contracts to permit the Commission to consider whether we should continue to prescribe the *Frisco Formula* as the appropriate measure of compensation, in those cases in which the Trustee and the interim operator are unable to agree on compensation, if operating authority is continued.

The responses received to the notice were from a wide variety of interests; however, the statements received varied less widely. Shippers, affected communities, and states stressed almost without exception the urgent need for continued rail service during the bankruptcy process. The industries ranged from shippers of bulk agricultural commodities located in the grain-producing states to manufacturers located in the heavily industrialized areas surrounding Chicago. The impacts ranged from the loss of competitive advantage by the elimination of rail as a viable alternative mode to virtual shutdown due to the unacceptability of truck transportation as a viable alternative mode. One industry facing a shutdown is Pullman Standard, Inc., located near Chicago, which manufacturers high speed rail equipment for mass transit authorities. The shutdown of such an industry would mean the elimination of 1,500 jobs and the accompanying $45 million annual payroll.

Similarly, Congressional representatives urged continuation of essential services over Rock Island lines and reemphasized their interpretation of Section 122, describing the Commission's authority as plenary and the Congress' intention to be that such authority should continue during the bankruptcy process. Subsequent to the filings in this proceeding, the Congress amended Section 122, in the Record Carrier Competition Act, Pub. L. 97–130 (December 29, 1981), as follows:

Section 5, Amendment to other Law:

(a) Section 122(a) of the Rock Island Transition and Employee Assistance Act is amended by adding at the end thereof the following new sentence: "The Commission shall have authority to authorize continued rail service under this section over lines of the Rock Island Railroad until the disposition of the properties of the estate of the Rock Island Railroad."

(b) The applicability of the amendment made by subsection (a) to Interstate Commerce Commission Service Order 1498 shall expire at the end of May 15, 1982.

Moreover, the Senate Committee on Commerce, Science, and Transportation has reported favorably S. 1879, the Milwaukee Railroad and Rock Island Railroad Amendments Act, which would establish a procedure whereby a financially responsible person may resort to the Commission if its bona fide offer to purchase a rail line for continued rail use has been rejected by the Trustee. A similar bill, H.R. 5137, has been introduced in the House of Representatives.

Railroad responses reflected a general consensus that Section 122 authority is necessary, even though many have negotiated leases with the Trustee, and should be continued to permit purchase negotiations to continue. In most cases the railroads performing interim service indicated an interest in purchasing the properties being operated, and in several cases specific offers have been made to the Trustee. The Norfolk and Western (NW) and the Oklahoma, Kansas and Texas (OKKT) have each

[1]Date certain Federal assistance no longer available in special flood hazard area.

offered to purchase the line segments being operated and in each case the offers have been declined by the Trustee. The Cadillac and Lake City (CLK) and Southern Railway (SOU) have also made offers to the Trustee which have been declined for the purchase of terminal trackage in Colorado and at Memphis, Tennessee, respectively. The Milwaukee Road (MILW), Chicago and North Western (CNW), and the Missouri Pacific (MP) have indicated that negotiations are in progress, and the Chessie System has entered a fifty year lease with the Trustee to operate certain properties in Illinois. Burlington Northern (BN) has indicated an interest in certain line segments, not necessarily those currently being operated.

Presently there are numerous operations on the Rock Island under authority of Section 122, which represent varying levels of agreement and compensation. In our notice requesting information, we directed the Trustee to provide sufficient information on leases entered into with the affected carriers and any other contracts to make any necessary determinations where the Trustee and other carriers cannot agree. The Trustee's response to a limited extent described the criteria used for negotiating lease rates but failed to discuss in depth various compensation agreements now in effect between the Rock Island and various carriers and entities, the specific characteristics of each agreement, or how they were negotiated. There are 23 agreements with monthly payments ranging from $275 to $3,276 per mile. The Trustee does not explain the substantial differences in these rentals, nor does he provide sufficient information on the specific leases for us to be able to determine any systematic method used to calculate the rental payment. The Trustee states only that each agreement must be negotiated individually to reflect the special features attributed to the line segment involved, and that it is not possible for a single "per mile formula" or "flat rate" to be applied to all line segments. In addition to such items as width of right-of-way, land values, number of main tracks, benefits to the operator, and taxes, the Trustee indicates that consideration is given to the earning power of the line as a factor in computing compensation.

In essence, we believe the method used by the Trustee for computing rental and the *Frisco Formula* specified by the Commission are not substantially different. While the limited information presented by the Trustee has not made our job of determining compensation easier either here or in determining the *Frisco Formula*, his current disclosures have given some additional insight as to his methodology. The consideration of a line's earning power and property to be used seems to support clearly the Commission's determination that a two-part formula assures adequate compensation. It is possible that the earning power of a particular line where service has been sporadic would be less if based upon earning power in advance of operation as opposed to earnings generated through actual operation as provided by the percentage of net revenues. Moreover, the objective of this process is to provide the estate with adequate compensation during the interim operations pending actual liquidation of the properties. The Trustee, on the other hand, seems to have taken more of a final disposition approach to interim operations in seeking compensation as if it were intended to span a considerable length of time and to provide a substantial return on investment instead of to defray fixed costs and prevent diminution of the estate during liquidation. The Trustee's "triple net terms to the lessee of taxes, insurance, and maintenance" seem to be an indication of this approach. In addition to compensating the estate for the use of the property, lessees' under triple net terms would be responsible for paying property taxes, acquiring insurance, and maintaining the property operated.

Further, we do not find any substantial evidence to support the Trustee's contention that continued interim operations over Rock Island lines under Section 122 are impeding his efforts to liquidate the estate even though no plan has been filed or public statement made with respect to such liquidation. Furthermore, sales of major portions of the Trustee's rail properties do not appear to be negatively impacted by the operations authorized by the service orders and their extensions, when in fact these operations are preventing further deterioration of the estate and the commerce along the lines.

Short of dismantling, which in itself would eliminate continued rail use as one major form of liquidation, the Trustee has full facility to entertain or extend offers, carry on negotiations, and agree preliminarily to the sale of any line segment for continued rail or other use. Should interim operations be ongoing simultaneously, the only effects would be the maintenance of a stable traffic base which could be transferred to the new owner/operator, and compensation to the Trustee for otherwise idle property. Should the prospective purchaser intend other than continued rail use, then coordination by the Trustee in the form of thirty days' notice to the Commission would be sufficient to permit the wind down of rail operations and the placement of necessary embargoes. With that in mind, we do not believe that the present continuation of temporary authorities under Section 122 either impedes the trustee's efforts to liquidate or diminishes the estate, particularly when the majority of the operations are the subject of lease agreements with the trustee and contribute substantial compensation to the estate. It is our opinion that Section 122 authorities may be continued at least until a specific liquidation plan has been approved by the Commission or by the Bankruptcy Court, as appropriate.

Conclusion

In prescribing the basis upon which compensation to be paid to the Trustee of the Rock Island should be calculated, we continue to prefer a two-part formula. As stated in the *Frisco Formula* decision we believe the two-part compensation formula makes a reasonable accommodation of the opposing interests of the parties. The first part is established to provide a constant base compensation from which expenses accruing to the estate can be paid. The second part contemplates additional compensation to the Trustee based on revenues generated on the specific line segment.

Generally, the segments of Rock Island lines to which this formula would be applied are unconnected short segments with questionable viability. The longer, more viable segments are typically covered by leases or negotiated agreements and, as such, likely would not be the subject of an interim compensation formula.

In determining the first part of the formula, which sets the monthly mileage rate, we have analyzed the available information. In so doing, we have considered as criteria for the formula, the short-term nature of such arrangements to offset expenses to the estate during liquidation; the usually short, unconnected segments involved in the operations; and the untested contributions to the formula of percentage of net revenues derived from the operation.

The first part of the formula is set at $275 per mile per month, and is equal to the lease agreement with the Iowa Northern Railroad for a 43 mile segment in Iowa which includes Cedar Rapids. We feel this operation is representative of those which may be the subject of the

interim compensation formula. The second part of the formula, which contemplates additional compensation to the Trustee through net revenues, will be set at the 14.4 percent *Frisco* level which was suggested by the Trustee as a reasonable rate of return.

We realize that the monthly mileage rental amount is less than other amounts negotiated by the Trustee; however, it presupposes net revenues in the absence of a showing to the contrary. In result, the formula should provide either a substantially improved return to the estate, or a means to terminate marginal operations with little or no prospective return.

In implementing this decision we will require that interim operators, utilizing this formula, report to the Commission and the Trustee simultaneously by the 15th day of each month on the traffic generated for the previous month. This report should include the number of cars loaded, the gross revenues generated on the line, and the expenses attributed solely to that operation. Any expenses attributed to overhead traffic, which that carrier may move over the Rock Island line, may not be used to reduce revenues and should be shown separately. This information will be used to evaluate the effectiveness of the formula in actual application. In the meantime, any party to the few situations in which resort to this formula is required because of inability of the parties to agree upon compensation may apply to us for reconsideration of the compensation provided, setting forth the details of the specific circumstances of their operation that warrant reconsideration.

We recognize that the Court overseeing the reorganization of the Rock Island has recently declared Service Order No. 1498 to be void and enjoined OKT from operating over lines of the Rock Island under the authority of that service order. We believe that decision, which is the subject of appeals by numerous parties including ourselves and the United States, should be deemed to be limited to the particular facts of the situation in which it arose. In all other circumstances, however, we believe the public interest in adequate and continuous transportation requires that we continue to exercise the authority granted to us by Section 122 of the RITEA and that our doing so is also in the best interests of the estate.

We find:

1. That continuation of interim authorities under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (P.L. 96–254) will not impede efforts of the Trustee or diminish the estate.

2. There is reason to reconsider the basis for computing compensation to be paid the Trustee in cases where the parties cannot agree.

3. That terms of compensation set forth in this decision are reasonable, based on the available information, and will accommodate the interest of the Rock Island and the public.

4. That reporting by interim operators utilizing the new formula is necessary to validate the formula's effectiveness, to verify the correctness of payments to the Trustee, and to permit us to modify the formula if warranted by a specific situation.

5. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is Ordered:

1. That interim authorities under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (Pub. L. 96–254) will be continued without interruption at least until the Trustee provides the Commission and the public with a definitive statement describing his plans for carrying out the Court ordered liquidation.

2. That the *Frisco Formula* is replaced by the *Rock Island Formula* of $275 per mile per month plus 14.4 percent of net revenues, and our prior orders which have prescribed the *Frisco Formula* are hereby modified to adopt this formula effective February 1, 1982.

3. That interim operators without agreements with the Trustee shall utilize this formula, unless upon a showing by any party of special circumstances some other formula is prescribed, and must report to the Commission and the Trustee simultaneously by the 15th day of each month on the traffic generated during the previous month. This reporting should include the number of cars loaded, the gross revenues generated on the line, and the expenses attributed solely to the interim operations. Any expenses incurred in handling overhead traffic which was not generated at points covered by this authority, and which the interim operator may move over the Rock Island line, must not be used to reduce revenues and should be shown separately.

4. This decision is effective on January 27, 1982.

A copy of this order shall be served upon the Association of American Railroads and each of the named respondents. Notice shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and publishing a copy in the **Federal Register.**

Dated: January 18, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

Respondents—Service Order No. 1473 and No. 1495, Notice of September 21, 1981

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Ken Kramer, U.S. House of Representatives, Washington, D.C. 20515
Pat Roberts, U.S. House of Representatives, Washington, D.C. 20515
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49 CFR Parts 1201, 1206, 1207 and 1249

[No. 38709]

Disclosure of Long-Term Obligations; Adoption of Accounting Principles

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is formally adopting generally accepted accounting principles related to the disclosure of certain long-term obligations. This includes commitments under unconditional purchase obligations that are associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock. The disclosure requirements are detailed in Financial Accounting Standards Board Statement No. 47, Disclosure of Long-Term Obligations (FASB Statement No. 47, March 1981). This rule eliminates carrier discretion in disclosing or not disclosing these obligations.

DATES: Effective for the reporting year beginning on or after January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne D. Howard, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 49 CFR 1200.2 on adoption of generally accepted accounting principles, the Bureau of Accounts issued Accounting Series Circular No. 191 on Disclosure of Long-Term Obligations (ASC 191, June 26, 1981). ASC 191 advises all carriers subject to the Commission's accounting regulations to disclose and quantify their commitments under unconditional purchase obligations associated with financing arrangements. Further, the circular requires disclosure of future payments on long-term borrowings and redeemable stock. These requirements incorporate FASB No. 47.

Review of Responses

Carriers and other interested parties had until August 10, 1981, to respond to ASC 191. The Bureau of Accounts received comments from one respondent: the Association of American Railroads (AAR), representing its member railroads. It agrees with the Commission's continued efforts to conform its accounting and reporting rules with generally accepted accounting principles.

However, the AAR states that if the Commission adopts FASB No. 47, the rule should refer to the statement refraining from further discussion and interpretation. The AAR maintains that FASB No. 47 already adequately presents the subject; paraphrasing its contents may alter or confuse the statement.

Discussion and Conclusions

The Financial Accounting Standards Board has issued FASB No. 47 as an interim measure pending further work on certain studies on conceptual framework for financial accounting and reporting. The statement ensures that at a minimum a business entity shall disclose project financing arrangements and other unconditional purchase obligations as well as future payments on long-term borrowings and redeemable stock. Previously, some business entities recognized these types of transactions as liabilities on the balance sheet; others ignored the transactions entirely. The statement does not substitute disclosure for appropriate accounting recognition, however.

ASC 191 summarizes FASB No. 47. We agree with the AAR's concern that confusion develops by paraphrasing a specific issuance of the Financial Accounting Standards Board. Accordingly, the adoption of FASB No. 47 is simplified by inserting in the uniform systems of accounts a reference to disclosing long-term obligation in accordance with generally accepted accounting principles. Carriers requiring additional clarification may submit accounting details to the Bureau of Accounts for interpretation.

For reporting purposes, minor revisions to the annual reports for Class I and Class II motor carriers of property (M) and Class I and Class II motor carriers of household goods (M-H) accommodate the new disclosure requirements. For Class I and Class II railroads, Annual Reports R-1 and R-2 provide for the disclosure of long-term obligations in Schedule 200, Comparative Statement of Financial Postition—Explanatory Notes. The instructions require the disclosure of items "commonly disclosed under generally accepted accounting and

reporting principles." For Class I motor carriers of passengers, Annual Report MP-1, Schedule 201, Comparative Balance Sheet Statement—Explanatory Notes, requires similar disclosure in Note 4.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that the requirements of the Regulatory Flexibility Act do not apply to this final rule since it will not have a significant impact on a substantial number of small businesses. This rule requires regulated carriers to disclose in the appropriate annual reports certain details related to long-term obligations in accordance with generally accepted accounting principles. This disclosure is an accepted accounting practice required by the Financial Accounting Standards Board; for Commission reporting, the carriers should not incur significant expense or unduly utilize other resources to comply with this disclosure requirement.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

We adopt, in Appendix A of this document, the accounting changes to 49 CFR Parts 1201, 1206 and 1207 and in Appendix B the reporting changes to annual to reports described in 49 CFR Parts 1249.1 and 1249.2.[1]

Decided: January 19, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, and Clapp.

Agatha L. Mergenovich,

Secretary.

Appendix A

PART 1201—RAILROAD COMPANIES

1. Amend 49 CFR Part 1201, Subpart A as follows:

a. Under List of Instructions and Accounts, add Instruction 5–7, *Long-term obligations.*

b. Add Instruction 5–7, Long-term obligations:

5–7 Long-term obligations.

Commitments under unconditional purchase obligations associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock shall be disclosed in accordance with generally accepted accounting principles. Such disclosures shall not preclude accounting recognition if the substance of a financing arrangement is the acquisition of an asset or incurrence of a liability.

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

2. Amend 49 CFR Part 1206 as detailed below:

a. In list of instructions, revise Instruction 2–18 heading, *Contingent assets and liabilities,* to read, *Disclosure of contingent assets and liabilities and long-term obligations.*

b. In Instruction 2–18, *Contingent assets and liabilities,* revise the title and text to read:

2–18 Disclosure of contingent assets and liabilities and long-term obligations.

(a) Contingency gains and losses shall be disclosed by footnotes to the balance sheet. This includes any arrears in cumulative dividends showing the amount per share of each class of stock and the facts and amounts related to any default in principal, interest or sinking fund provisions if not shown in the balance sheet accounts.

(b) Commitments under unconditional purchase obligations associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock shall be disclosed in accordance with generally accepted accounting principles. Such disclosures shall not preclude accounting recognition if the substance of a financing arrangement is the acquisition of an asset or incurrence of a liability.

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

3. Amend 49 CFR Part 1207 as shown below:

a. In list of instructions, amend Instruction 15 heading, *Contingent assets and liabilities,* to read, *15. Disclosure of contingent assets and liabilities and long-term obligations.*

b. In Instruction *15, Contingent assets and liabilities,* revise the title, designate the existing test as paragraph (a), and add paragraph (b) to read:

15. Disclosure of contingent assets and liabilities and long-term obligations.

(a) The balance sheet of . . .

* * * * *

(b) Commitments under unconditional purchase obligations associated with suppliers' financing arrangements and future payments on long-term borrowings and redeemable stock shall be disclosed in accordance with generally accepted accounting principles. Such disclosures shall not preclude accounting recognition if the substance of a financing arrangement is the acquisition of an asset or incurrence of a liability.

Appendix B

PART 1249—REPORTS OF MOTOR CARRIERS

Note.—Appendix B describing a change to Annual Reports M (Class I and Class II motor carriers of property) and M–H (Class I and II motor carriers of household goods) referred to in 49 CFR 1249.1 and 1249.2 is filed as part of the original document.

[FR Doc. 82–1925 Filed 1–28–82; 8:45 am]

BILLING CODE 7035–01–M

[1] Appendix B is filed as part of the original document.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Foreign Fishing, and Groundfish in the Bering Sea and Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This notice retroactively reapportions groundfish in the Bering Sea and Gulf of Alaska among domestic and foreign fishermen and processors. The reapportionment was a revision of the August 2 reapportionments required by regulation, and allowed the foreign and domestic fisheries to proceed without interruption to achieve optimum yield.

DATES: December 14, 1981, through December 31, 1981.

ADDRESS: The data upon which this rule is based are available for public inspection at the office of the Alaska Region, National Marine Fisheries Service, Room 453, Federal Building, 709 West 9th Street, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586–7221.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields for various groundfish in 1981 were established by the preliminary fishery management plan (PMP) for the Trawl Fisheries and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific Ocean (42 FR 9298, amended and by the fishery

management plan (FMP) for Groundfish of the Gulf of Alaska (43 FR 17013), as amended). The optimum yields (OY) are apportioned initially to domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Thus, OY=DAH+reserve+TALFF. In turn, DAH is apportioned between domestic annual processing (DAP), joint venture processing (JVP), and domestic non-processed fish (DNP); thus, DAH=DAP+JVP+DNP. Under 50 CFR 611.93(b)(3) as it read during 1981, and under 611.92(c)(1), the Secretary of Commerce (Secretary) may reapportion DAH to TALFF, apportion the reserve to DAH or TALFF, and adjust the DAP, DNP, and JVP specifications within DAH.

In the scheduled August 2 reapportionment, reserves were apportioned to TALFF and DAH and reapportioned supplements of DAH were apportioned to TALFF (46 FR 44985). Adequate amounts were maintained in DAH to allow for uncertainties in the predicted catch by U.S. fishermen, including those engaged in joint ventures with foreign processing vessels. The Secretary reviewed the actual performance and lowered the estimate of U.S.-caught fish that would be delivered to foreign vessels and to domestic processors between August 2 and December 31. Due to the lengthy approval process required by Executive Order 12291, it was impossible to publish this rule before the end of the year.

For the record, only, this notice apportions to the 1981 TALFF additional amounts of DAH that were considered surplus to U.S. fishermen's needs. The Secretary took this action under 50 CFR 611.93(b)(3) and 611.92(c)(1) and 672.20(c).

Part 1. Bering Sea and Aleutian Islands

In November, U.S. fishermen were in the process of completing the one remaining joint venture with foreign processing vessels, and no further joint venture activity was anticipated in 1981. Therefore, the following amounts were deducted from the JVP portion of DAH and reapportioned to TALFF: Pollock—10,000 mt, yellowfin sole—8,000 mt, and Pacific cod—10,000 mt. Domestic harvest for domestic processing also was less than was anticipated. Therefore, the following amounts were deducted from the DAP portion of DAH and reapportioned to TALFF: Pollock—2,000 mt and yellowfin sole—1,000 mt.

Part 2. Gulf of Alaska

In November, no joint venture activity was expected in the Gulf of Alaska for the rest of 1981. Therefore, the following amounts of surplus pollock and Pacific cod in the JVP portion of DAH for the Central Gulf of Alaska were reapportioned to TALFF: pollock—5,000 mt and Pacific cod—1,000 mt.

The expected increase in the U.S. harvest of Pacific cod in the Central Gulf of Alaska was not as great as anticipated. The U.S. harvest of pollock in the Central Gulf of Alaska was also less than expected. Therefore, the following portions of the DAP for Pacific cod and pollock were reapportioned to TALFF: Pacific cod—3,000 mt and pollock—3,000 mt.

Administrative Procedure Act

In view of the previous opportunity for public comment on the August 2 apportionment and the need to avoid disrupting U.S. and foreign fisheries, the Secretary has determined that further notice and opportunity for public comment on this rule would be impracticable, unnecessary, and contrary to the public interest and that it should be effective January 29, 1982.

National Environmental Policy Act

Environmental impact statements were prepared on the PMP and FMP and are on file with the Environmental Protection Agency (EPA). Environmental assessments and negative determinations of significant environmental impact were prepared on the current regulations implementing the PMP and FMP, and are also on file with the EPA. As an integral feature of the management system established by the FMP, the PMP, and their implementing rules, this rule is not a separate major Federal action significantly affecting the quality of the human environment.

Classification

The Administrator, NOAA, has determined that this action is not a major rule under E.O. 12291 and, as such, does not require a regulatory impact analysis. A regulatory flexibility analysis is not required under the Regulatory Flexibility Act because the rule does not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The rule, which is being published in final form, implements a provision in the regulations which allows the Secretary to make inseason reassessments of DAH and the need for reserves, and to reapportion to TALFF those amounts which he determines will not be harvested by vessels of the United States.

This rule does not contain a collection of information requirement, and does not involve any agency in conducting or sponsoring the collection of information (44 U.S.C. 3501 *et seq.*).

Promulgation of this rule does not constitute a Federal activity "directly affecting" the Alaska coastal zone within the meaning of section 307(c)(1) of the Coastal Zone Management Act of 1972.

The final figures for 1981 are shown in the following table.

For the reasons set forth in the preamble, 50 CFR Parts 611 and 672 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1821 and 1855.

2. In 611.20, Appendix I, entries 4.A and 4.E are amended to read as follows:

§ 611.20 Total allowable level of foreign fishing.

* * * * *

APPENDIX I—OPTIMUM YIELD (OY), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NON-PROCESSED FISH (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF. DAH=DAP+DNP+JVP.

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
•	•	•	•	•	•		•		
4. Alaska fisheries									
A. Bering Sea and Aleutian Islands fishery:									
Pollock	701	Bering Sea	1,000,000	44,550	500	44,050		0	955,450
Yellowfin sole	720		117,000	17,200	200	17,000		0	99,800
Pacific cod	702		78,700	27,232	15,200	12,032		0	51,468

APPENDIX I—OPTIMUM YIELD (OY), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NON-PROCESSED FISH (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF. DAH=DAP+DNP+JVP.—Continued

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
E. Gulf of Alaska fishery:									
Pollock	701	Central	111,066	21,326	3,277	18,049		0	89,740
Total			196,933	26,293	4,117	22,176		0	170,640
Pacific cod	702	Central	39,130	3,058	1,060	898	1,400	0	36,072
Total			70,000	6,366	1,667	1,199	3,500	0	63,634

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. The authority citation for Part 672 reads as follows:

Authority: 16 U.S.C. 1855.

4. In § 672.20, Table I is amended as follows:

§ 672.20 Optimum yield.

* * * * * *

TABLE 1. OY, DAH, DAP, DNP, JVP, RESERVE, AND TALFF BY REGULATORY AREA

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
Pollock	701	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
		Central	111,066	21,326	3,277	18,049		0	89,740
		* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total			196,933	26,293	4,111	22,176		0	170,640
Pacific Cod	702	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
		Central	39,130	3,058	1,060	898	1,400	0	36,072
		* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total			70,000	6,366	1,667	1,199	3,500	0	63,634

* * * * * *

(16 U.S.C. 1801 *et seq.*)

Dated: January 21, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-2291 Filed 1-28-82; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has given final approval to parts of Amendment 3 to the Fishery Management Plan for Surf Clam and Ocean Quahog Fisheries (FMP). The amendment extends the FMP indefinitely. The amendment contains management measures intended to allow the fisheries to attain optimum yield, to increase the operational flexibility of fishermen and processors, and to reduce the burden of management on the affected public. NOAA issues these final regulations to implement the amendment.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Plan Coordinator; 617-281-3600.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. On October 24, 1981, the Secretary of Commerce implemented certain portions of Amendment 3 by promulgating emergency regulations (46 FR 53181). Comprehensive proposed regulations for Amendment 3 were published on November 25, 1981 (46 57707).

In preparing this amendment, the Council addressed a number of areas of concern while retaining the basic management framework established by the FMP. The Council made the management program consistent with current trends toward greater flexibility in resource management.

Optimum Yield for the Fisheries

The original FMP established annual levels of optimum yield (OY) for each fishery, U.S. capacity to harvest and process, and total allowable levels of foreign fishing (TALFF). The values were fixed and could not be changed without a plan amendment. This amendment establishes a flexible procedure which will allow the Regional Director, in consultation with the Council, to specify quotas on an annual basis from within a range which has been identified as OY. The Regional Director will consider stock assessments, catch records, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, incoming recruitment, projected effort and catches, and areas likely to be reopened to fishing in his selection of a quota from the OY range. The quota will be adopted after the public has an opportunity to review and comment on the value selected. Notice of proposed 1982 quotas was published in the Federal Register on January 27, 1982.

Establishing a 5½ Inch Minimum Surf Clam Size

Emergency regulations establishing a 5½ inch minimum size for surf clams were effective July 26, 1981 (46 FR 37051). The size limit was imposed at the request of the Council and industry to achieve several purposes. The size limit allows for increased spawning opportunity for surf clams, which may increase recruitment into the fishery in the future. The size limit also prevents the harvest of large quantities of small surf clams which are inferior in yield and in the type of product that can be produced from them.

Other Provisions

The amendment also (1) establishes a procedure for the controlled reopening of areas currently closed to surf clam fishing; (2) extends the portion of the year during which make-up periods can be claimed for fishing time lost due to bad weather to the months of November through April; (3) allows vessel operators to determine themselves if weather conditions are severe enough to claim a make-up period; (4) extends the surf clam fishing week to include Sunday; (5) expands the opportunity for vessel operators to change their surf clam fishing schedules; (6) exempts personal-use fishermen from the licensing requirements of the FMP; (7) eliminates the fee for a replacement permit; (8) revises the vessel marking requirements to conform to requirements of other mid-Atlantic fishing regulations; and (9) removes the termination date of the FMP, allowing it to continue indefinitely. Each modification is intended to increase the operational flexibility of fishermen and processors under the management program. The modifications will reduce the burden of management on the public affected directly and indirectly by the FMP.

Public Comment on the Proposed Regulations

Several comments were received concerning the regulations published in proposed form. Two commenters expressed their opposition to the 5½ inch minimum size limit for surf clams. The importance of the size limit was reconfirmed by a vote of the Council's Surf Clam Industry Advisory Subpanel on October 30, 1981. NOAA believes reduction of the minimum size would probably require a reduction of the annual surf clam quota to account for lost yield from the fishery. A quota reduction at this time would likely result in significant economic hardship for major segments of the industry; therefore the minimum size limit is not reduced.

One commenter opposed the limited entry option proposed by the Council. That option is under continuing review and its implementation is not a part of this action.

One commenter suggested the bad weather make-up provision should be allowed the year around. The make-up period was increased from four to six months as a part of this amendment. Further expansion would probably result in income redistribution among the various fleet sectors which would not be offset by the benefits of a make-up period during the spring and summer. The make-up period is not changed from six months.

The U.S. Coast Guard pointed out incorrect coordinates delineating the New England and mid-Atlantic surf clam management areas. Those coordinates have been corrected. Other Coast Guard comments were of an advisory nature. The Council requested confirmation of its consultative role in the quota setting process. Language to confirm this role has been inserted in the appropriate section of the regulation.

A number of revisions have been made to clarify intent and procedure within the regulations. Section 652.22(a) has been slightly revised to reflect the intent of the Council and industry to have greater continuity of fishing time throughout the fishing year. Fishing time will be adjusted only when necessary to correct harvest rates relative to available allocations. Section 652.25(a)(2) has been expanded to clarify the original intent of the Council and its Advisory Subpanel and to reflect enforcement procedures refined during the emergency implementation period for the minimum size for surf clams. All surf clams in possession will be deemed in violation if any cage or surf clams not reserved from inspection exceeds the tolerance for undersized surf clams.

This amendment to the FMP was approved by the Assistant Administrator under section 304(a) of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Further Review of the Limited Entry Portion of the FMP

The Council's amendment includes a provision to establish a permanent limited entry program for vessels in the surf clam fishery. A moratorium, preventing the issuance of surf clam permits to vessels that cannot demonstrate historical involvement in the surf clam fishery, has been in effect since 1977. The proposed permanent limited entry program is intended to facilitate management, prevent further overcapitalization and overfishing, encourage stability in the fishing community, set the stage for relaxation of other management measures, allow traditional operators to recover some of their "investment" in the management program, and allow new entry while preventing addition of excessive fishing effort.

The issues raised by a limited entry system are important and deserve full consideration. The proposed limited entry portion of the plan was served to allow independent review without the pressure of a short deadline.

The current vessel moratorium has been extended by the Secretary until a thorough review of the proposal can be completed. This course of action was endorsed by the Council at its meeting on July 9, 1981. The Council's Surf Clam Industry Advisory Subpanel, which represents a broad spectrum of individuals and firms affected by the surf clam management program, supported the Council's endorsement.

National Environmental Policy Act of 1969.

Amendment 3 and the amendment made under Section 304(c) of the Magnuson Act basically continue the resource conservation program initiated by the FMP. A supplemental environmental impact statement prepared for the amendment (47 FR 2399) concludes the management program will provide for the long-term viability of the resources while minimizing negative impacts on the surf clam fishery and permitting full development of the ocean quahog fishery.

Classification

The Administrator, NOAA, has determined that this amendment of the FMP is not a major rule under E.O. 12291. The action is expected to have an incremental effect on the economy of less than one million dollars annually. The action is not expected to lead to an increase in costs or prices of more than 10 percent. The action will not adversely affect competition, investment, or productivity. Each of the recommended management measures is likely to produce net benefits to the fishery, the region, and the national economy. Each has positive resource conservation impacts that should increase the long term supply of clams, reduce their prices, and increase employment. The measures have positive general impacts in that they tend to reduce fluctuations in the fishery and encourage high value uses of the resource.

The General Counsel of the Department of Commerce has determined that this amendment will not have a significant economic impact on a substantial number of small business entities and, therefore, does not require a regulatory flexibility analysis. The regulatory impact review prepared for this action found that this rule is expected to result in net benefits to the fishery, which is conducted primarily by small businesses.

Reporting and recordkeeping requirements proposed here are essentially the same as those published January 3, 1980. Office of Management and Budget (OMB) approval numbers have been obtained for the Surf Clam and Ocean Quahog FMP under: 0648–0016, the logbook family of forms; 0648–0013, dealer reports; and 0648–0097, vessel permits. An Information Collection Budget and SF–83 package have been submitted to OMB for two information collections included in 50 CFR 652: for the extended period during which fishermen can claim a makeup day due to bad weather; and for the Notice of Intent to Process form completed by processors to provide the annual estimate of processing capacity. The processor reporting requirement was established by Amendment No. 1 to the FMP, which was implemented in October 1, 1979 (44 FR 55903). Information is reported on an annual basis, and includes monthly estimates of processing employment and plant production capacity for the regulated species. This information is needed to assess and specify the capacity and extent to which U.S. processors will process the regulated species as required under section 303(a)(4)(C) of the Magnuson Act.

The 30-day APA cooling off period has been waived for good cause. Prompt implementation of final regulations will avoid a hiatus in the management regime. Further, these regulations are essentially the same as those which have been in effect since October 24, 1971. The Administrator has determined that the emergency provisions of section 8 of E.O. 12291 apply to this final rule and, as such, it is exempt from pre-publication review by the Office of Management and Budget.

Dated: January 26, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR Part 652 is revised to read as follows:

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Subpart A—General Provisions

Sec.

652.1 Purpose.
652.2 Definitions.
652.3 Foreign fishing.
652.4 Permits.
652.5 Recordkeeping and reporting requirements.
652.6 Vessel identification.
652.7 Prohibitions.
652.8 Facilitation of enforcement.
652.9 Penalties.

Subpart B—Management Measures

652.21 Catch quotas.
652.22 Effort restrictions.
652.23 Closed areas.
652.24 Vessel moratorium.
652.25 Size restrictions.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 652.1 Purpose.

This Part regulates fishing for surf clams (*Spisula solidissima*) and ocean quahogs (*Arctica islandica*) in the Atlantic Ocean fishery conservation zone.

§ 652.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this Part have the following meaning:

(a) *Act* means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

(b) *Assistant Administrator* means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

(c) *Authorized officer* means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any certified Enforcement or Special Agent of the NMFS;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(4) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (c)(1) of this definition.

(d) *Bushel* means a standard unit of measure presumed to hold 1.88 cubic feet of surf clams or ocean quahogs in the shell.

(e) *Cage* means a standard unit of measure presumed to hold 32 bushels of surf clams or ocean quahogs in the shell. The outside dimensions of a standard cage generally are 3′ wide, 4′ long and 5′ high.

(f) *Council* means the Mid-Atlantic Fishery Management Council.

(g) *Directed fishery* means, with respect to any species, a fishery conducted for the purpose of catching that species.

(h) *Fish* means any finfish, mollusks (including surf clams and ocean quahogs), crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(i) *Fishery Conservation Zone (FCZ)* means the zone contiguous to the territorial sea of the United States, the inner boundary of which is a line coterminous with the seaward boundary of each of the coastal States and the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(j) *Fishing* means:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraph (j) (1), (2), or (3) of this section.

The term "fishing" does not include any scientific research activity which is conducted by any scientific research vessel.

(k) *Fishing trip* means a departure from port, transit to the fishing grounds, fishing, and discharge of any part of the catch on board.

(l) *Fishing vessel* means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(1) Fishing; or

(2) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(m) *Mid-Atlantic Area* means that portion of the FCZ in the Atlantic Ocean south of a rhumb line connecting the point 41°18.27′ N. latitude and 71°54.47′ W. longitude with the point 38°03.4′ N. latitude and 68°41.7′ W. longitude, the outward boundary of the FCZ.

(n) *New England Area* means that portion of the FCZ in the Atlantic Ocean north of a rhumb line connecting the point 41°18.27′ N. latitude and 71°54.47′ W. longitude with the outward boundary of the FCZ at 38°03.4′ N. latitude and 68°41.7′ W. longitude.

(o) *NMFS* means the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration.

(p) *Operator* means, with respect to any vessel, the master or other individual on board and in charge of that vessel.

(q) *Owner* means, with respect to any vessel:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage; or

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel.

(r) *Person* means any individual, corporation, partnership, association, or other entity.

(s) *Personal use* means harvest of surf clams or ocean quahogs for use as bait, for human consumption, or for other purposes (not including sale or barter) in amounts not to exceed 2 bushels per person per trip.

(t) *Regional Director* means the regional Director, Northeast Region, NMFS, Federal Building, 14 Elm Street, Gloucester, MA 01930–3799. Telephone 617–281–3600.

(u) *Secretary* means the Secretary of Commerce or the designee of the Secretary.

(v) *Vessel of the United States* means:

(1) A vessel documented or numbered by the Coast Guard under United States law; or

(2) A vessel, under five net tons, which is registered under the laws of any State.

§ 652.3 Foreign fishing.

Fishing for surf clams or ocean quahogs in the FCZ by any vessel other than a vessel of the United States is prohibited.

§ 652.4 Permits.

(a) *General.*—(1) *Requirement.* A vessel owner or operator must obtain a permit in order to:

(i) Conduct a directed fishery for surf clams or ocean quahogs within the FCZ, or

(ii) Land or transfer to another vessel any surf clams or ocean quahogs or part thereof caught within the FCZ.

(2) *Exemption.* Vessels taking surf clams or ocean quahogs for personal use are exempt from this section.

(b) *Eligibility.*—(1) *Surf clams—New England and Mid-Atlantic Areas.* A vessel is eligible for a permit to harvest surf clams in both the New England and Mid-Atlantic Areas if it meets any of the following criteria:

(i) The vessel has landed surf clams in the course of conducting a directed fishery for surf clams between November 18, 1976, and November 17, 1977; or

(ii) The vessel was under construction for, or was being rerigged for, use in the directed fishery for surf clams on November 17, 1977. For the purpose of this paragraph, "under construction" means that the keel had been laid, and "being rerigged" means physical alteration of the vessel or its gear had begun to transform the vessel into one capable of fishing commercially for surf clams; or

(iii) The vessel is replacing a vessel of substantially similar harvesting capacity which involuntarily left the surf clam fishery during the moratorium, and both the entering and replaced vessels are owned by the same person.

(2) *Surf clams—New England Area only.* Any vessel of the United States is eligible for a permit allowing it to harvest surf clams in the New England Area only.

(3) *Ocean quahogs.* Any vessel of the United States is eligible for a permit allowing it to harvest ocean quahogs only.

(c) *Application.* Permit applications may be obtained by contacting the Regional Director. The owner or operator may apply for a permit by submitting an application form supplied by the Regional Director containing at least the following information:

(1) Names, mailing addresses, and telephone numbers of the owner and operator;

(2) The name of the vessel;

(3) The vessel's U.S.Coast Guard documentation number or State license number;

(4) Engine and pump horsepower;

(5) Homeport of the vessel;

(6) Directed fishery or fisheries;

(7) Fish hold capacity (in cages or bushels);

(8) Dredge size and number of dredges;

(9) Amount of surf clams and ocean quahogs landed between November 18, 1976, and November 17, 1977 (in bushels, if applicable);

(10) Number of fishing trips between November 18, 1976, and November 17, 1977;

(11) Date of beginning of construction or rerigging (if applicable);

(12) Signature of the owner or operator; and

(13) Any other information which may be necessary for the issuance or administration of the permit.

(d) *Issuance.* The Regional Director will issue a permit to each eligible vessel for which an application is submitted. The eligibility of a vessel to fish for surf clams will be determined consistent with this section. There will be no fee for the permit.

(e) *Appeal of denial of permit.* (1) Any applicant denied a permit by the Regional Director may appeal to the Assistant Administrator for review of the denial. Any such appeal must be in writing. Any of the following grounds may form the basis for review:

(i) Applicant believes denial was in error;

(ii) Applicant was prevented by circumstances beyond his control from meeting relevant criteria;

(iii) Applicant has new or additional information which might change the initial decision; or

(iv) Applicant can show that significant and unusual hardship will result from the denial.

(2) The appeal may be presented, at the option of the applicant, at a hearing before a person appointed by the Assistant Administrator to hear the appeal.

(3)The decision of the Assistant Administrator will be the final decision of the Department of Commerce.

(f) *Transfer.* A permit is valid only for the vessel for which it is issued.

(g) *Display.* The permit must be carried, at all times, on board the vessel for which it is issued, and must be maintained in legible condition. The permit, the vessel, its gear and catch shall be subject to inspection upon request of any authorized official.

(h) *Expiration.* Except as provided in paragraph (h)(2), a permit will expire:

(1) When the owner or operator retires the vessel from the fishery (it is a rebuttable presumption that failure to land any surf clams or ocean quahogs for 52 consecutive weeks constitutes retirement from the fishery), or

(2) When the ownership of the vessel changes; however, the Regional Director may authorize continuation of a vessel permit for the surf clam fishery if the new owner so requests and the vessel meets the relevant criteria of eligibility set forth in § 652.4(b). Applications for continuation of a permit must be addressed to the Regional Director.

(i) *Sanctions.* Subpart D of 50 CFR 621 (Civil Procedures) governs the imposition of permit sanctions against a permit issued under this Part. As specified in that subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of any offense prohibited by the Act or these regulations; or if a civil

penalty or criminal fine imposed under the Act, and pertaining to a permitted vessel, is not paid.

§ 652.5 Recordkeeping and reporting requirements.

(a) *Dealers.*—(1) *Weekly report.* Any person who buys surf clams and ocean quahogs from a fishing vessel subject to these regulations shall provide at least the following information to the Regional Director on a weekly basis, on forms supplied by the Regional Director:

(i) Name and mailing address of dealer or processing plant;

(ii) Name and permit number of the vessel from which surf clams or ocean quahogs are landed or received;

(iii) Dates or purchases;

(iv) Number of bushels purchased, by species;

(v) Price per bushel, by species; and

(vi) Meat yield per bushel, by species.

(2) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section shall also provide the following information to the Regional Director on an annual basis, on forms supplied by the Regional Director.

(i) Number of dealer or processing plant employees during each month of the year just ended;

(ii) Number of employees engaged in production of processed surf clam and ocean quahog products, by species, during each month of the year just ended;

(iii) Plant capacity to process surf clam and ocean quahog shellstock, or to process surf clam and ocean quahog meats into finished products, by species; and

(iv) An estimate, for the next year, of the capacities described in paragraph (a)(2)(iii) of this section.

If the capacities described in paragraph (a)(2)(iii) of this section change more than ten percent during any year, the processor shall promptly notify the Regional Director of the change in capacity.

(3) *At-sea activities.* All persons purchasing, receiving, or processing any surf clams or ocean quahogs at sea for transport to any port of the United States must submit information identical to that required by paragraphs (a) (1) and (2) of this section and provide those reports to the Regional Director on the same frequency basis.

(b) *Owners and operators.*—(1) *Daily fishing log.* The owner or operator of any vessel conducting any fishing operations subject to these regulations shall maintain, on board the vessel, an accurate daily fishing log for each fishing trip, on forms supplied by the Regional Director, showing at least:

(i) Name and permit number of the vessel;

(ii) Total amount in bushels of each species taken;

(iii) Date(s) caught;

(iv) Time at sea;

(v) Duration of fishing time;

(vi) Locality fished;

(vii) Crew size;

(viii) Crew share by percentage;

(ix) Landing port;

(x) Date sold;

(xi) Price per bushel; and

(xii) Buyer.

(2) *When to fill in log.* To the extent possible, owners or operators shall fill out such logbooks before landing any surf clams or ocean quahogs at the end of any fishing trip. All logbook information required in paragraph (b)(1) of this section must be filled in for each fishing trip before starting the next fishing trip.

(3) *Inspection.* The owner or operator shall make the logbook available for inspection by an authorized officer, or by an employee of the NMFS designated by the Regional Director to make such inspections, at any time during or after a trip.

(4) *Record retention.* For one year after the date of the last entry in the log, the owners or operator shall keep each logbook at the owner's or operator's principal place of business.

(5) *Weekly reports.* The owner or operator shall submit weekly reports to the Regional Director, on forms supplied by the Regional Director. If no fishing trip is made during a week, a report so stating must be submitted.

(6) *Annual reports.* All persons required to submit reports under paragraph (b) of this section shall submit annually to the Regional Director, on forms supplied by the Regional Director, at least the following information relating to vessel characteristics: name of the vessel, vessel's U.S. Coast Guard Guard documentation number or State license number, engine and pump horsepower, homeport of vessel, hold capacity (in bushels or cages), and dredge size and number of dredges.

§ 652.6 Vessel identification.

(a) *Official number.* The operator of each fishing vessel 25 feet in length or longer subject to these regulations shall display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft. Vessels under 25 feet in length do not need to display any number. The official number is the documentation number issued by the U.S. Coast Guard or the certificate of number issued by a State or the Coast Guard for undocumented vessels.

(b) *Markings.* Such markings must be at least eighteen (18) inches in height for fishing vessels over 65 feet in length, and at least ten (10) inches in height for all other vessels over 25 feet in length. The official number must be permanently affixed to or painted on the vessel and must be block Arabic numerals of a color that contrasts with the background.

(c) *Duties of the operator.* The operator of each vessel shall:

(1) Keep the required identifying markings clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the markings from an enforcement vessel or aircraft.

(d) *New Jersey vessels.* Instead of complying with paragraphs (a) and (b) of this section, vessels licensed under New Jersey law may use the appropriate vessel identification markings established by that State.

§ 652.7 Prohibitions.

(a) No permit holder shall catch and retain on board any surf clams or ocean quahogs:

(1) During closed seasons; or

(2) In closed areas as specified in these regulations; or

(3) On days of the week in which fishing for these species is not authorized.

(b) No person shall fish for surf clams except during the authorized time period(s) assigned to the vessel he is operating.

(c) No person shall catch and retain on board any surf clams on other than an authorized surf clam fishing trip.

(d) No person shall possess, have custody of, or control of, ship, transport, offer for sale, deliver for sale, sell, purchase, import, export, or land, any surf clams, ocean quahogs, or parts thereof, which were taken in violation of the Act, these regulations, or any other regulations issued under the Act.

(e) No person engaged in the surf clam or ocean quahog fisheries as an owner or operator, or as a dealer, processor, buyer, or receiver shall unload or cause to be unloaded, or sell or buy, any surf clams or ocean quahogs whether on land or at sea, without preparing and submitting the documents required by § 652.5.

(f) No person shall:

(1) Refuse to permit an authorized officer to board a fishing vessel subject to such a person's control for purposes of conducting any search or inspection,

no matter where that vessel may be located, in connection with the enforcement of the Act, these regulations, or any other regulations issued under the Act;

(2) Forcibly assault, resist, oppose, impede, intimidate or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (f)(1) of this section;

(3) Resist a lawful arrest for any act prohibited by these regulations; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing or being advised by authorities that such other person has committed any act prohibited by these regulations.

(g) No person shall use any fishing vessel to engage in fishing without a permit, unless exempted under § 652.4(a)(2), or after the revocation, or during the period of suspension, of an applicable permit issued under § 652.4.

(h) No person shall alter, erase or mutilate:

(1) Any permit issued under § 652.4.

(2) Any letter of authorization issued under § 652.22.

(i) No person in the Mid-Atlantic Area shall have in his possession surf clams taken in violation of the size limit prescribed in § 652.25.

(j) No person shall violate any other provision of the Act, these regulations, or any applicable permit issued under § 652.4.

§ 652.8 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by the authorized officer to facilitate safe boarding and inspection of the vessel, its gear, logbook, and catch for purposes of enforcing the Act and these regulations.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of the fishing vessel shall be alert for communications conveying enforcement instructions. VHF–FM radiotelephone is the normal method of communicating between vessels. Should radiotelephone communication fail, however, other methods of communication including visual signals, may be employed. The following signals extracted from the International Code of Signals are among those which may be used, and are included here for the safety and information of fishing vessel operators:

(1) "L" means "You should stop your vessel instantly";

(2) "SQ3" means "You should stop or heave to; I am going to board you";

(3) "AA AA AA etc." is the call to an unknown station; to which the signaled vessel should respond by illuminating the vessel identification required by § 652.6.

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his/her party to come aboard;

(2) Provide a safe ladder for the authorized officer and the boarding party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the authorized officer and his/her party and to facilitate the boarding.

§ 652.9 Penalties.

Any person or fishing vessel found to be in violation of these regulations, including the logbook and other reporting requirements, is subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, in 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and in other applicable law.

Subpart B—Management Measures

§ 652.21 Catch quotas.

(a) *Surf clams: Mid-Atlantic Area.* The amount of surf clams which may be caught in the Mid-Atlantic Area by fishing vessels subject to these regulations will be specified annually within the range of 1,800,000 and 2,900,000 bushels. This annual quota will be divided into equal quarterly quotas, the quarters being January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. Each fishing quarter will begin on the first Sunday of the new calendar quarter.

(1) *Establishing Quotas.* Prior to the beginning of each year, the Regional Director will prepare a written report, based on the latest available stock assessment report prepared by the National Marine Fisheries Service, data reported by harvesters and processors according to these regulations, and other relevant data. The report will include consideration of:

(i) Exploitable biomass and spawning biomass relative to optimum yield;

(ii) Fishing mortality rates relative to optimum yield;

(iii) Magnitude of incoming recruitment;

(iv) Projected effort and corresponding catches; and

(v) Status of areas previously closed to surf clam fishing that are to be opened during the year and areas likely to be closed to fishing during the year.

(2) *Public Review.* Based on the information presented in the report, and in consultation with the Council, the Secretary will propose an annual surf clam quota and will publish it in the **Federal Register.** Comments on the proposed annual quotas may be submitted to the Regional Director within 30 days after publication. The Secretary will consider all comments, determine an appropriate annual quota, and publish the annual quota in the **Federal Register.**

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls more than 5,000 bushels short of the specified quarterly quota, the Regional Director will add the amount of the shortfall to the succeeding quarterly quotas. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director shall subtract the amount of the excess from the succeeding quarterly quotas.

(4) *Notice.* The Secretary will publish a notice in the **Federal Register** whenever an adjustment is made to the quarterly quota for surf clams. The Regional Director will send notice of any adjustment of the annual quota to each surf clam processor and to each licensed surf clam vessel operator.

(b) *Surf Clams: New England Area.* The amount of surf clams which may be caught in the New England Area by fishing vessels subject to these regulations will be specified annually between 25,000 and 100,000 bushels, using the procedures and criteria set forth in § 652.21(a).

(c) *Ocean Quahogs.* The amount of ocean quahogs which may be caught by fishing vessels subject to these regulations will be specified annually between 4,000,000 and 6,000,000 bushels, using the procedures and criteria set forth in § 652.21(a). If necessary, the Regional Director may establish quarterly quotas for ocean quahogs, which will be based on historical fishing patterns. In that event, the Secretary will publish notice of such quarterly quotas in the **Federal Register.** In the event that the Regional Director establishes quarterly quotas for ocean quahogs, if the actual catch of ocean quahogs falls more than 5,000 bushels short of the specified quarterly quota, he will add the amount of the shortfall to the succeeding quarterly quotas. If the actual catch of ocean quahogs in any quarter exceeds the specified quarterly quota, the Regional Director will

subtract the amount of the excess from the succeeding quarterly quotas.

§ 652.22 Effort restrictions.

(a) *Surf clams. Mid-Atlantic Area.*—(1) *The fishing week.* Fishing for surf clams will be authorized only during the period beginning 0001 hours Sunday and ending 1800 hours Thursday.

(2) *Hours.* The Regional Director will notify each owner or operator of a fishing vessel engaged in the surf clam fishery in the Mid-Atlantic Area concerning the allowable combinations of fishing periods for varying levels of allowable fishing time. All fishing periods will end at 1800 hours. The vessel owner or operator shall send the Regional Director written notice of the owner or operator's selection of allowable surf clam fishing periods for that vessel. All selections must be provided to the Regional Director no less than 15 days prior to the intended effective date. The Regional Director will send a letter of authorization to each owner or operator, stating the periods during which the vessel is authorized to fish for surf clams. The letter of authorization must be kept aboard the vessel at all times. Fishing may be conducted only during the times and under those conditions authorized by the Regional Director in the letter of authorization. Fishing for any part of an authorized period will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds. The presence of a vessel's fishing gear in the water at a time which is more than one-half hour before the beginning, or one-half hour after the end, of the vessel's authorized fishing period shall be prima facie evidence that the vessel is fishing in violation of these regulations.

(3) *Allowable fishing time.* The Regional Director may revise allowable fishing times (hours per week, hours per month, or hours per quarter) to allow fishing for surf clams to be conducted throughout the entire year with the minimum number of changes to fishing times.

(i) *Reduction.* If, on review of the available information and public comment, including current and expected levels of fishing effort, the Regional Director determines during any quarter that the quarterly quota for surf clams [as adjusted under § 652.21(a)(3)] probably will be exceeded, the Secretary may reduce the allowable fishing time.

(ii) *Increase.* If, on review of the available information and public comment, including current and expected levels of fishing effort, the Regional Director determines during any quarter that the quarterly quota of surf clams [as adjusted under § 652.21(a)(3)] probably will not be harvested, and that the catch rate has not diminished as a result of a decline in abundance of stocks of surf clams, the Secretary may increase allowable fishing time to facilitate the harvest of the full quarterly quota.

(4) *Make-up periods.* During November, December, January, February, March, and April, fishermen may claim a make-up period, if in the opinion of the vessel operator, weather or sea conditions would prevent effective fishing or endanger the vessel or crew.

(i) To claim the make-up period, the vessel owner or operator must contact the NMFS before the scheduled authorized fishing period starts. The Regional Director will notify each vessel owner or operator in writing as to the procedure to follow in contacting NMFS.

(ii) The make-up period will be equal in length to the scheduled authorized fishing period, and will begin 24 hours after the scheduled beginning of said period, except that if the make-up period could not then be completed before the end of the fishing week on Thursday at 1800 hours, then the make-up period begins on the following Sunday.

(iii) Before using this make-up provision, each vessel owner must notify the Regional Director, in writing, of the port from which the vessel fishes. If that port changes, the vessel owner must promptly notify the Regional Director of the change, in writing.

(iv) Any vessel which uses a make-up period without claiming it under this procedure, or which fishes under a scheduled authorized fishing period for which it has claimed a make-up period, is liable to forfeit its use of the make-up provision in the future; the vessel and its owner or operator also may be subject to other penalties as prescribed in § 652.9 of these regulations.

(b) *Surf Clams. New England Area.*—(1) *Allowable fishing time.* Fishing for surf clams will be allowed seven days per week.

(2) *Revisions.* When 50 percent of the quota of surf clams established under § 652.21(b) for the New England Area has been caught, the Regional Director will, on review of available information and public comment, determine whether the total catch of surf clams during the remainder of the year will exceed the annual quota. If the Regional Director determines that the quota probably will be exceeded, the Secretary may reduce the number of days per week, or establish authorized periods, during which fishing for surf clams is permitted.

(c) *Ocean Quahogs.*—(1) *Allowable fishing time.* Fishing for ocean quahogs will be allowed seven days per week.

(2) *Revisions.* When 50 percent of the quota of ocean quahogs for any time period indicated in § 652.21(c) above has been caught, the Regional Director will, on review of available information and public comment, determine whether the total catch of ocean quahogs during the applicable time period will exceed the quota for that time period. If the Regional Director determines that the quota will be exceeded, the Secretary may reduce the number of days during which fishing for ocean quahogs is allowed.

(d) *Closures.* If the Regional Director determines (based on logbook reports, processor reports, vessel inspections, or other information) that the quota for surf clams or ocean quahogs for any time period will be exceeded, the Secretary shall publish a notice in the **Federal Register** stating the determination and stating a date and time for closure of the fishery.

(e) *Notices.* The Secretary will publish a notice in the **Federal Register** of any change in allowable fishing times. The Regional Director will send notice of any closure or any change in allowable fishing times to each surf clam or ocean quahog processor and to each surf clam or ocean quahog permit holder.

(f) *Presumption.* The presence of surf clams or ocean quahogs aboard any vessel engaged in the surf clam or ocean quahog fishery, or the presence of any part of a vessel's gear in the water more than 12 hours after a closure occurs under this section, will be prima facie evidence that such surf clams or ocean quahogs were taken in violation of these regulations.

§ 652.23 Closed areas.

(a) *Areas closed because of environmental degradation.* Certain areas are closed to all surf clam and ocean quahog fishing because of adverse environmental conditions. These areas will remain closed until the Secretary determines that the adverse environmental conditions have been corrected. If additional areas, due to the presence or introduction of hazardous materials or pollutants, are identified as being contaminated, they may be closed by notice published by the Secretary, after a public hearing is held to discuss and assess the effects of such a closure. The areas currently closed are described as follows:

(1) *Boston Foul Ground.* A waste disposal site known as the "Boston Foul

Ground" and located at 42°25'36" N. latitude and 70°35'00" W. longitude with a radius of one nautical mile in every direction from that point.

(2) *New York Bight.* A polluted area and waste disposal site known as the "New York Bight Closure" and located at 40°25'04" N. latitude and 73°42'38" W. longitude and with a radius of six nautical miles in every direction from that point, extending further northwestward, westward and southwestward between a line from a point on the arc at 40°31'00" N. latitude and 73°43'38" W. longitude directly toward Atlantic Beach Light in New York to the limit of state territorial waters of New York; and a line from a point on the arc at 40°19'48" N. latitude and 73°45'42" W. longitude to a point at the limt of the state territorial waters of New Jersey at 40°14'00" N. latitude and 73°55'42" W. longitude.

(3) *Philadelphia and du Pont.* A pair of areas used for disposal of chemicals and sewage sludge known as the "Philadelphia and du Pont Closure" and located at 38°23'15" N. latitude and 74°14'45" W. longitude; and 38°32'30" N. latitude and 74°20'00" W. longitude with a radius of four and three-quarters nautical miles in every direction from those two points.

(4) *106 Dumpsite.* A toxic industrial dump site known as the "106 Dumpsite" and located between 38°40'00" N. latitude, and 39°00'00" N. latitude and between 72°00'00" W. longitude and 72°30'00" W. longitude.

(b) *Areas closed because of small surf clams.* Certain areas are closed because they contain small surf clams.

(1) *Closure.* The Secretary may close an area to surf clam and ocean quahog fishing if he determines, based on logbook entries, processors' reports, survey cruises, or other information, that the area contains surf clams of which:

(i) 60 percent or more are smaller than 4½ inches in size, and;

(ii) Not more than 15 percent are larger than 5½ inches in size. (Sizes are measured at the longest dimension of the surf clam.)

(2) *Reopening.* The Secretary may reopen areas or parts of areas closed under paragraph (b)(1) if he determines, based on survey cruises or other information, that:

(i) The average length of the dominant (in terms of weight) size class in the area to be reopened is 5½ inches or more; or

(ii) The yield or rate of growth of the dominant size class in the area to be reopened would be significantly enhanced through selective, controlled or limited harvest of surf clams in the area.

(3) *Control of reopened areas.* The Secretary will control the harvest of surf clams from reopened areas separate from the management of the general fishery until the catch per unit of effort in the reopened area is comparable to the average catch per unit of effort in the general fishery, at which time the reopened area will become part of the general fishery. Any of the following mechanisms may be used to control harvests from the reopened areas:

(i) The Regional Director may request that vessel operators announce their intent to fish within reopened areas.

(ii) The Regional Director may, based on reference to survey information, select an appropriate range of allowable fishing time for the reopened area to achieve parity with fishing practices in the general fishery. The range will be published for notice and comment subject to the procedures established in paragraph (c) of this section. The Regional Director may subsequently adjust fishing time within the range, based on logbook information, to maintain parity with the general fishery. These adjustments while published by notice in accordance with paragraph (c) of this section.

(iii) The Regional Director may set a schedule for vessels to operate in reopened areas if he determines that the number of vessels planning to operate simultaneously in a reopened area exceeds the number which can safely be accommodated in the area, or which can effectively be monitored by enforcement officers.

(iv) If the Regional Director determines, based on resource survey information, that the yield of surf clams in a reopened area will be enhanced by selective thinning of the surf clam population in the area, he may temporarily suspend the surf clam size limit in that area. Areas of this type will be identified and defined in accordance with the notice and comment procedures established in paragraph (c) of this section.

(c) *Procedure.* The Regional Director may hold a public hearing on the proposed closure or reopening of any area under paragraphs (a) or (b) of this section. The Secretary will publish notice of any proposed area closure or reopening, including any restrictions on harvest in a reopened area. Comments on the proposed closure or reopening may be submitted to the Regional Director within 30 days after publication. The Secretary will consider all comments and publish the final notice of closure or reopening, and any restrictions on harvest, in the **Federal Register.** Any adjustment to harvest restrictions in a reopened area will be made by **Federal Register** notice. The Regional Director will send notice of any action under this paragraph to each surf clam or ocean quahog processor and to each surf clam or ocean quahog permit holder.

(d) *Presumption.* The presence of surf clams or ocean quahogs aboard any fishing vessel, or the presence of any part of the vessel's gear in the water, in closed areas is prima facie evidence that such clams or quahogs were taken in violation of these regulations.

§ 652.24 Vessel moratorium.

The moratorium that became effective on November 17, 1977, prohibiting the entry of additional vessels into the surf clam fishery, shall remain in effect in the Mid-Atlantic Area until replaced by a revised limited-entry system.

§ 652.25 Size restrictions.

(a) *Minimum length.* A minimum size limit for surf clams of 5½ inches in length is imposed on the Mid-Atlantic Area fishery with the following exceptions:

(1) Ten percent of all full cages in possession, to the nearest whole cage (or at least one cage), can be withheld by the operator from inspection by an authorized officer; and

(2) As many as 240 surf clams in any full cage inspected by the authorized officer may be less than 5½ inches in length. If any inspected cage is found to be in violation, all cages in possession and not withheld subject to paragraph (a)(1) of this section will be deemed in violation of the size limit.

(b) *Measurement.* Length is measured at the longest dimension of the surf clam.

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50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical changes and correction.

SUMMARY: NOAA deletes portions of six sections of the ocean salmon fishing regulations pertaining to Subarea C (the fishery conservation zone adjacent to California) that were temporarily effective for the 1981 ocean salmon fishing season and were replaced with equivalent portions of 1980 regulations that apply to the same area. Those

portions of the 1980 regulations are now republished as technical changes. Further, NOAA makes one correction to the ocean salmon fishing regulations.

EFFECTIVE DATE: January 26, 1982.

ADDRESS: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.W., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: NOAA issued a rulemaking on June 5, 1981 (46 FR 30633), extended it for 45 days on July 20, 1981 (46 FR 37705) and made it final on September 4, 1981 (46 FR 44989) to implement the 1981 amendment to the fishery management plan for the salmon fisheries off the coasts of California, Oregon and Washington. Regulations at 50 CFR 661.4, corrected on July 20, 1981 (46 FR 37705), specify that, "These regulations shall be effective until superceded or otherwise modified, except that those portions of §§ 661.10–661.12 relating to Subarea C (the FCZ adjacent to California) shall remain in effect no longer than the 1981 fishing season, after which time those portions of §§ 661.10–661.12 of the 1980 ocean salmon fishing regulations (45 FR 50764) relating to the FCZ adjacent to California shall again become effective for that area unless superceded or otherwise modified."

Later, NOAA was informed by the General Services Administration, Office of the Federal Register, that the amendatory language of §661.4 was not sufficient to revive those portions of the 1980 regulations relating to open seasons and harvest guidelines off California for **Federal Register/Code of Federal Regulations** publication purposes. NOAA was advised to publish another document to indicate the appropriate changes in the text of §§ 661.10–661.12. In order to avoid confusion and misunderstanding, it should be noted that the FCZ adjacent to California was divided into two management subareas in 1980 (designated D and E), and only one in 1981 (designated C). Reinstatement of the 1980 regulations for the FCZ adjacent to California involved reinstatement of the two management subareas; as republished, those two subareas are redesignated as C and D to reflect proper alphanumeric sequence. Thus, portions of §§ 661.5, 661.6 and 661.7 are republished and amended to reflect the reinstatement and redesignation of the subareas off California.

Finally, in §661.10(b)(1) the phrase "need to be affixed" is corrected to read "need not be affixed;" the latter phrase was how the text of the regulation read as filed with the **Federal Register.**

This action is exempt from provisions of Executive Order 12291, because it represents a technical change and correction. This action simply effects the technical change discussed at 46 FR 30633.

Dated: January 26, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF CALIFORNIA, OREGON, AND WASHINGTON

For the reasons discussed in the preamble, 50 CFR Part 661 is amended as follows:

1. The authority citation for Part 661 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 661.5 [Amended]

2. § 661.5 is amended by changing the number of management subdivisions of the Fishery Management Area from "three" to "four" in paragraph (t).

3. § 661.6 is amended by revising paragraph (a)(3)(ii) and by adding a new paragraph (a)(4), thereby republishing the reinstatement of two subareas off California, to read as follows:

§ 661.6 Salmon management sub-areas.

(a) * * *

(3) * * *

(ii) Southern Boundary: A line extended due west from Cape Vizcaino, California at 39°43′30″ N. latitude.

(4) Sub-area D:

(i) Northern Boundary: A line extended due west from Cape Vizcaino, California at 39°43′30″ N. latitude.

(ii) Southern Boundary: The United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35′22″ N. lat., 117°27′49″ W. long;
32°37′37″ N. lat., 117°49′31″ W. long;
31°07′58″ N. lat., 118°36′18″ W. long;
30°32′31″ N. lat., 121°51′58″ W. long;

* * * * *

§ 661.7 [Amended]

4. § 661.7 is amended, by substituting the phrase "Sub-Areas A through D" for the phrase "Sub-Areas A through C" in the text preceding paragraph (a).

5. § 661.10 is amended, by revising the title of paragraph (a)(3) and by revising paragraph (a)(3)(iii); by adding a new paragraph (a)(4); by substituting the phrase "Subareas C and D" for the phrase "Subarea C" in paragraphs (b)(1) and (b)(2), and the table in paragraph (c); and by substituting the phrase "need not be affixed" for the phrase "need to be affixed" in paragraph (b)(1), thereby republishing the reinstatement of the 1980 commercial seasons off California and making the correction identified in the preamble, to read as follows:

§ 661.10 Commercial fishing.

(a) * * *

(3) Sub-Area C (Oregon-California border to Cape Vizcaino): * * *

(iii) The season for all salmon species, including coho, shall begin on July 16, and terminate on September 30.

(4) Sub-Area D (Cape Vizcaino to the U.S.-Mexico border):

(i) The season for all salmon species except coho, shall begin on May 1 and terminate on May 15.

(ii) The season for all salmon species, including coho, shall begin on May 16. This early season shall terminate on May 31.

(iii) The season for all salmon species, including coho, shall begin on July 1, and terminate on September 30.

* * * * *

6. § 661.11 is amended, to republish the reinstatement of the 1980 recreational season off California, by substituting the phrase "Subareas C and D" for the phrase "Subarea C" in paragraphs (b)(2) and (b)(3) and in the table in paragraph (c); and by revising paragraph (a)(4) to read as follows:

§ 661.11 Recreational fishing.

(a) * * *

(4) In Sub-areas C and D the season for all salmon species shall begin on February 17, and terminate on October 13.

* * * * *

§ 661.12 [Amended]

7. § 661.12 is amended to republish the deletion of harvest guidelines off California, by removing paragraph (a)(3), by removing from paragraph (a)(4) the parenthetical clause. "[for the area described in Paragraph (a)(3) of this section, the Southwest Regional Director of the National Marine Fisheries Service shall make the projections]"; by removing paragraph (a)(5); by removing from paragraph (a)(6) the final sentence; and by redesignating paragraphs (a)(4), (a)(6) and (a)(7) as paragraphs (a)(3), (a)(4), and (a)(5), respectively.

[FR Doc. 82–2350 Filed 1–26–82; 3:03 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 47, No. 20
Friday, January 29, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 930

Programs for Specific Positions and Examinations: Administrative Law Judges

AGENCY: Office of Personnel Management (OPM).

ACTION: Proposed Rulemaking.

SUMMARY: OPM proposes to make clear by regulation the practice which was adopted subsequent to the Civil Service Reform Act to provide a mechanism within OPM by which an appplicant for an administrative law judge register who fails to obtain a sufficient numerical rating to attain eligible status may appeal a determination of ineligibility. It also proposes to delete from the regulations the prohibition on agency use of the word "judge" in titles other than that of "administrative law judge".

DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before March 30, 1982.

ADDRESS: Send or deliver written comments to the Assistant Director for Administrative Law Judges, Office of Personnel Management, 1900 E Street, NW., Room 2470, Washington, D.C. 20415. Comments will be available for public inspection at the above address between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judge Marvin H. Morse, 202–632–4638.

SUPPLEMENTARY INFORMATION: Subsequent to enactment of the Civil Service Reform Act, OPM selected a methodology for internal appeals from the actions of the Office of Administrative Law Judges arising out of applications for an administrative law judge register. That methodology is routinely available to failed applicants who are advised upon notification of ineligibility of the opportunity to perfect timely administrative appeals. This regulation would confirm the availability of that appellate opportunity.

Title 5, CFR 930.203a continues to contain a prohibition against the use by agencies of the word "judge" for positions other than administrative law judge. That prohibition is inconsistent with the December 8, 1976, opinion letter of the Attorney General to the effect that only the title "administrative law judge" is preempted by OPM's responsibilities under title 5, United States Code. Accordingly, for accuracy and to avoid unnecessary confusion as has arisen in the past, that part of 5 CFR 930.203a as was overtaken by that opinion would be deleted. The title "administrative law judge" as ratified by Pub. L. 95–251, March 27, 1978, following adoption of the title by the Civil Service Commission in 1972, is retained for those persons appointed pursuant to 5 U.S.C. 3105.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities, including businesses, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Accordingly, OPM is amending Part 930 of Title 5 of the Code of Federal Regulations by revising § 930.203(a) and § 930.203a to read as follows:

§ 930.203 Appointment.

(a) *Eligible rating.* An applicant for an administrative law judge position who meets the minimum requirements for entrance to the examination and attains a numerical rating determined by OPM as sufficient to produce an adequate register is eligible for appointment. An applicant who obtains an ineligible rating or an applicant who is dissatisfied with his or her final rating may appeal the rating to the Administrative Law Judge Rating Appeals Panel, Office of Personnel Management, Washington, D.C. 20415, within 30 days from the date of final action by the Office of Administrative Law Judges, or such later time as may be allowed by the Panel.

* * * * *

§ 930.203a Title of Administrative Law Judge.

The title, "administrative law judge" is the official class title for an administrative law judge position. Each agency shall use only this official class title for personnel, budget, fiscal and all other purposes.

(5 U.S.C. 1305, 3105)

[FR Doc. 82-2332 Filed 1-28-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1097, 1102, and 1108

[Docket No. AO–219–A36, AO–237–A30, and AO–243–A34]

Milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides certain changes in the present provisions of the Memphis, Fort Smith and Central Arkansas orders. For all three orders, the decision provides that a charge on overdue accounts be added, that the partial payment rate for producer milk during August–February be increased $1 per hundredweight, and that the maximum charges for order administration and marketing services be established at 6 and 7 cents per hundredweight, respectively. Under the Memphis and Central Arkansas orders, the decision changes the method of payment by plant operators for bulk milk purchased from a cooperative's pool plant. Under the Fort Smith and Central Arkansas orders, the decision provides that handlers who are more than 3 days late in the payment of an order obligation shall channel their payments to producers through the market administrator for 3 months. Under the Central Arkansas order, changes are made in the supply plant pooling qualifications, the diversion limitations on producer milk, and the price adjustments applicable at certain plant locations. This decision is based on industry proposals considered at a public hearing held April 15–17, 1980. The changes are necessary to reflect current marketing conditions and to assure orderly marketing conditions in the respective areas.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding: Notice of Hearing—issued March 26, 1980; published March 31, 1980 (45 FR 20888). Supplemental notice of hearing—issued April 7, 1980; published April 10, 1980 (45 FR 24492). Partial decision—issued July 14, 1980; published July 18, 1980 (45 FR 48159). Final order— issued July 28, 1980; published July 31, 1980 (45 FR 50704). Recommended decision—issued on September 22, 1981; published September 29, 1981 (46 FR 47588).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Memphis, Tennessee, on April 15–17, 1980 (45 FR 24492).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on September 22, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Issue No. 1. *Partial payments to producers and cooperative associations under the Memphis, Fort Smith and Central Arkansas orders.*—Two new paragraphs are inserted after paragraph 21; paragraph 24 is revised; four new paragraphs are inserted after paragraph 24.

2. Issue No. 2. *Charges on overdue accounts under the Memphis, Fort Smith, and Central Arkansas orders.*—Five new paragraphs are added at the end.

3. Issue No. 12(a). *Miscellaneous changes in the Central Arkansas order.* (vi) *Producer milk.*—A new paragraph is inserted after paragraph 6.

4. Issue No. 12(c). *Miscellaneous changes in the Fort Smith and Central Arkansas orders.*—A new paragraph is added at the end.

5. Issue No. 12(d). *Miscellaneous changes in the Memphis and Central Arkansas orders.*—A new paragraph is added at the end.

6. Issue No. 12(e). *Miscellaneous changes in the Memphis, Fort Smith and Central Arkansas orders.*—Two new paragraphs are added at the end.

The material issues on the record relate to:

1. Partial payments to producers and cooperative associations under the Memphis, Fort Smith, and Central Arkansas orders.

2. Charges on overdue accounts under the Memphis, Fort Smith, and Central Arkansas orders.

3. Maximum administrative assessment rate under the Memphis, Fort Smith, and Central Arkansas orders.

4. Maximum marketing service deduction under the Fort Smith and Central Arkansas orders.

5. Payment of producers and cooperative associations through the market administrator under the Fort Smith and Central Arkansas orders.

6. Payment for milk from cooperative association plants under the Memphis and Central Arkansas orders.

7. Pool plant "lock-in" provision under the Central Arkansas order for distributing plants.

8. Pool supply plant qualifications under the Central Arkansas order.

9. Quantity limits and point of pricing on diversions of producer milk under the Central Arkansas order.

10. Location adjustment provisions of the Central Arkansas order.

11. Location adjustment provisions of the Memphis order.

12. Miscellaneous changes.

13. Whether an emergency exists to warrant the omission of a recommended decision on issues Nos. 7 and 11.

A prior decision dealt with issues Nos. 7, 11, and 13. The remaining issues of the hearing are considered in this decision.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Partial payments to producers and cooperative associations under the Memphis, Fort Smith and Central Arkansas orders.* A proposal requiring handlers under the Memphis, Fort Smith and Central Arkansas orders to make a second partial payment each month for milk received from producers should not be adopted. A proposal to increase the current partial payment rate during the months of August through February by $1.00 per hundredweight should be adopted. The Memphis order should be further modified to permit deductions authorized by the producer to be made from the partial payment to such producer. The Fort Smith order should be further modified to permit deductions to be made from both the partial and final payments to producers.

The three orders currently require that a handler make 1 partial payment and a final payment for milk received from producers during each month. The rate of the partial payment under the three orders is the Class III price for the preceding month. The amount of the partial payment due each producer is determined by multiplying the rate of such payment by the hundredweight of milk received from such producer during the first 15 days of the month. Of the 3 orders, only the Central Arkansas order specifies that the partial payment may be reduced to reflect deductions

authorized by the producer. The final payment to producers under the 3 orders is determined by multiplying the uniform price(s) for milk, or base milk and excess milk, adjusted by the butterfat differential and location adjustments to producers by the respective hundredweights of milk received from each producer during the month. The payments are then reduced by the amount of the partial payment made for milk received during the first 15 days of the month. The Memphis and Central Arkansas orders specify that the final payment due each producer may be reduced by deductions authorized by such producer.

Associated Milk Producers, Inc. (AMPI), a cooperative association representing the majority of the producers supplying handlers regulated under the 3 orders, proposed that each of the orders be revised to require a handler to make 2 partial payments and a final payment for milk received each month from producers. The rates proposed for the two partial payments during the months of March through July would be the previous month's Class III price. During the months of August through February, the partial payment rates would be the previous month's Class III price plus one dollar. The rates during the months of August–February would be further adjusted by the zone or location adjustment applicable at the receiving plant. Under the cooperative's proposal, the two partial payments due the producer could be further reduced by the amount of deductions authorized by the producer to the extent that deductions to assignees have been paid by the handler prior to the date payment is otherwise due the producers.

The cooperative proposed that final payment to producers be at the uniform price(s) for the applicable month adjusted for the butterfat content of the milk and the location of the receiving plant. Deductions from the final payment to producers would be made for the two partial payments, any authorized deductions, and marketing services performed on behalf of such producers.

For milk delivered during the first 15 days of the month, the cooperative proposed that a handler make a partial payment to the market administrator for such milk by the 23rd of the month. If the handler received milk directly from producers and a cooperative is not marketing their milk, the handler could make payment to the individual producers on or before the 23rd of the month in lieu of making such payments to the market administrator.

AMPI proposed that on the 24th of the month, the market administrator transmit handler payments for milk of producers to cooperative associations on behalf of their member producers and to a handler who elects to make payment to individual producers. In making such payments the market administrator would remit to the cooperative and such handler partial payments received from handlers for milk delivered during the first 15 days of the month. Handlers receiving payment from the market administrator to pay individual producers would be required to make such partial payments on or before the 25th of the month. On the 25th of the month, the market administrator would then make partial payment to producers who are not receiving payments from either a cooperative association or a handler.

For milk received during the second half of the month, the cooperative proposed that a handler make partial payment for such milk on or before the 8th of the month to the market administrator or to the individual producers. On the 9th of the month, the market administrator would transmit to a cooperative association the partial payment due its members. A handler who elects to pay individual producers would also have the option of transmitting to the market administrator by the 8th day the second partial payment due the individual producers. The market administrator would then return such funds to the handler by the 9th day. The market administrator and the handler receiving partial payment funds from the market administrator to pay producers would be required to make payment to the individual producers on the 10th of the month.

The cooperative proposed that a final payment for producer milk received during the month be made to the market administrator by the 20th of the following month. A handler who elects to pay individual producers directly instead of making such payment to the market administrator could do so by making final payment to such producers by the 20th of the month. On the 21st of the month, the market administrator would pay a cooperative the amount due the members of the cooperative and pay to the handler who elects to pay individual producers the amount due the individual producers. The market administrator and the handler receiving payment funds from the market administrator would then make the final payment to individual producers on the 22nd of the month.

Proponent cooperative proposed the revised payment procedure as a means of requiring handlers to pay producers for milk on a more current basis. Its spokesman indicated that under the present payment plan producers are now paid from 15 to 30 days late for milk produced during the first 15 days of the month. At the time of final payment, producers are paid from 15 to 45 days late for milk produced during the preceding month. The cooperative held that producers should not be required to wait such lengthy periods of time for the money due them from handlers. The spokesman stated that under the current payment plan producers have to forgo the use of funds invested in the dairy operation or pay interest upon the money borrowed for such capital investment. For this reason, proponent held that an accelerated rate of payment by the handler for milk received from producers was warranted.

AMPI also proposed that the partial payment rates in each of the 3 orders for the months of August through February be the previous month's Class III price plus 1 dollar. Such price would then be further adjusted by the location adjustment applicable at the receiving plant. The spokesman for the cooperative indicated that the amount proposed to be paid by the handlers to the producers for the months of August through February represents approximately 95 percent of the uniform price paid to producers during such months in 1978 and 1979. No increase was proposed in the current partial payment rate for the months of March through July because of the possibility that the uniform price might not exceed the Class III price for the previous month by $1. The spokesman noted that in prior years the difference between the uniform price for the current month and the Class III price for the preceding month during the months of March-July was less than during other months of the year because of the general seasonal trend in the Minnesota-Wisconsin price series on which the Class III price is based.

A spokesman for the Milk Industry Foundation (MIF) and the International Association of Ice Cream Manufacturers (IAICM) opposed the proposals to modify the 3 orders to require 2 partial payments and a final payment each month. The principal basis for the handlers' opposition to the proposed payment plan was that it would create a cash flow problem for them. The handlers held that the proposed payment plan would require them to make payment to producers prior to the time in which they could receive, package, distribute, invoice and collect for the milk products sold. Their spokesman noted that if the proposals are adopted, processors will either have to use their own cash reserves or

borrow the funds needed to meet the accelerated payment procedure. The increased cost to the handler would then be passed on to the consumers. Handlers also claimed that the extra partial payment would increase their office costs due to the increased reporting requirements and require additional audit work by the market administrator.

The handlers' spokesman opposed the proposed $1 per hundredweight increase in the partial payment rate for the months of August-February. He opposed the increase on the basis that it would require plants with a high Class II/Class III operation to pay in excess of their obligations at the class prices under the order and would accelerate handler payments to producers.

The representative of a pool plant operator in the Memphis market also opposed the addition of a second partial payment and an increase in the partial payment rates. He noted that, while both producers and handlers are faced with cash flow problems, handlers are burdened at the time with a disproportionate share of such problems. He indicated that an economic slowdown and rising interest rates have significantly delayed payments to milk handlers while producers have continued to receive timely payments because of payment dates prescribed by the milk order and enforced by the Federal Government.

The spokesman for a handler who operates a pool plant regulated under the Central Arkansas order opposed the adoption of a second partial payment to producers for milk received during the month. He presented an exhibit illustrating the extent to which the proposed payment procedure would adversely affect the cash flow of the handler. The representative testified that if handlers are required to make a second partial payment as proposed, the Central Arkansas handler would have to borrow money to make such payment. He testified further that there is virtually no money available to handlers in the State of Arkansas in the normal line of credit for use in making a second partial payment.

The representative of a handler who operates a fluid milk plant fully regulated under the Memphis order and a fluid milk plant partially regulated under the Central Arkansas order also opposed a second partial payment to producers as well as any increase in the rate of the partial payments. He noted that "even the one advance payment is unusual in the world of business". The representative supported the position taken by the spokesman for the 2 national handler associations and the representative of the handler fully regulated under the Central Arkansas order.

The Council on Wage and Price Stability filed a brief expressing its concern that the proposed payment procedure would result in increased costs to handlers that would be passed on to consumers. The Council recommended that the proposal for an additional partial payment not be adopted because the "increased costs to handlers implies an inflationary price increase". Also, it expressed concern that adoption of the proposal could aggravate the current milk surplus.

The hearing evidence does not support the adoption of the proposal for a second partial payment. There is no indication that marketing conditions in the affected areas are such that it is necessary that the orders require more frequent payments to producers each month.

While the Act authorizes the setting of payment dates under an order, it does not specify how frequently handlers must pay producers. The payment dates are customarily established under an order on the basis of prevailing marketing conditions, including payment practices already existing in an area or new payment practices that handlers and producers may find mutually agreeable. On this basis, each of the 3 orders now provides for one partial payment and one final payment by handlers to producers each month.

Under the proposal being considered, handlers would be required each month to make a second partial payment to producers. While the proposal by AMPI, the principal cooperative association in each of the 3 markets, was not opposed by any producers, none of the handlers under the 3 orders supported the proposal. All handler representatives who testified at the hearing opposed a second partial payment plan for producers. Because there are conflicting opinions between producers and handlers as to whether a different payment arrangement between these parties is desirable under the orders, more burden is placed on proponents to show that a second partial payment for milk is essential to the maintenance of orderly marketing in the 3 areas and that the orders must be changed to require an additional payment to producers by regulated handlers.

In general, the argument advanced by proponent cooperative for more frequent payments was the need to improve the cash flow of producers in the three markets. Proponent contended that producers are required to make payment for production facilities and supplies prior to using such items and should be paid more frequently so that they will be more able to meet their financial commitments on a timely basis. It is evident from the record, however, that the cash flow of members of the cooperative most likely would not be affected by changing the orders to require handlers to make more frequent payments. The spokesman for the cooperative indicated that the cooperative had no plans to change the current dates on which members of the cooperative are paid. Furthermore, it was his opinion that any change by the cooperative from its current payment dates would not be feasible since the cooperative normally uses the same payment schedule for all of its members throughout the southwestern part of the country.

The cooperative's spokesman did indicate that the cooperative has made it a practice to pay its members on the last day of the month and on the 13th of the following month for milk that the cooperative markets. It is noted that payment on the 13th of the month represents payment in advance of the time that payment is required to be made to a cooperative under any of the 3 orders. As a consequence, the cooperative at times makes payment to producers in advance of the date on which it collects payment from handlers for such milk. This is a business practice that has been in existence for some length of time and does not by itself provide sufficient reason to require that handlers make a second partial payment to producers.

In its exceptions to the recommended decision, AMPI objected to the Department's conclusion that producers should continue to receive a single partial payment and a final payment each month for milk delivered to pool plants. The cooperative reiterated the claim made at the hearing and in its posthearing brief that producers should receive two partial payments and a final payment each month in view of the nation's current interest rate structure. Exceptor pointed out that the 15-day to 45-day delay in payment to producers which handlers have enjoyed since promulgation of these orders is now too onerous a burden for producers and their cooperatives to bear. It further contended that its proposed payment plan would equalize the cash flow burden between handlers and producers which heretofore has been borne disproportionately by producers.

The views expressed by exceptor were fully considered in reaching the conclusions set forth in the recommended decision. Accordingly, no

basis exists for making changes from the recommended decision in this regard.

The proposal to increase the partial payment rate by $1.00 per hundredweight during the months of August through February should be adopted. Such increase in the partial payment rate will result in producers receiving a partial payment and a final payment that more closely approximates the value of their milk at the blend price for such month. Under the current payment method, a producer under the Central Arkansas order during 1979 received a partial payment each month on his first 15 days' deliveries that averaged 87 percent of the value of the milk at the uniform price. At the time of the final payment, the producer then received a total dollar amount equal to 113 percent of the value at the uniform price of the milk deliveries during the 2nd half of the month. If the partial payment rate adopted herein had been in effect for the months of January, February, and August–December of 1979, the partial payment received by a producer would have averaged 95 percent of the value of the milk at the uniform price for milk delivered during the first half of the month. The final payment for milk delivered during the month would have averaged 105 percent of the value of the milk at the uniform price that was delivered in the latter half of the month.

The increase in the partial payment rate adopted herein would more closely reflect the relatively high Class I utilization of milk by plants regulated under the 3 orders. The present partial payment at the previous month's Class III price reflects only the value of milk used in manufactured products such as butter, nonfat dry milk and cheese, whereas in these markets the greatest proportion of milk deliveries is ultimately disposed of as fluid milk products. For example, approximately 87 percent of the producer milk under the Central Arkansas and Fort Smith orders combined was used in Class I during 1978 and 1979.[1] Class I utilization of producer milk during the months of August through February ranged from a low of 80 percent to a high of 91 percent during 1978 and from a low of 85 percent to a high of 93 percent during 1979. Class I utilization of producer milk under the Memphis order averaged about 83 percent in 1978 and 85 percent in 1979. During August through February of 1978, producer milk in Class I ranged from a low of 81 percent to a high of 85 percent. Such utilization ranged from a low of 81 percent to a high of 88 percent during the same period of 1978. Payment at the previous month's Class III price plus $1.00 per hundredweight for milk delivered during the first 15 days of the month would result in returning to producers (including cooperative assocaitions) a price that is more commersurate with the value of such milk in its ultimate use.

At the hearing, handlers, objected to an increase in the partial payment rate because they believed that a handler operating a plant with a high Class II or Class III utilization could be assessed a partial payment in excess of the utilization value of the milk at the class prices during the first 15 days of the month. Also, in its exceptions to the recommended decision, a handler contended that such an increase could result in a handler paying in excess of the utilization value of the milk during a period when the Class III price is declining. The possibility of such overpayment is quite unlikely since propietary handlers usually operate plants with Class I utilizations in excess of the relatively high marketwide average utilizations.

A handler pointed out in its exceptions that an increase in the partial payment rate would be an additional burden on the cash flow of handlers. Although this may be so, this is not a sufficient basis for denying provisions that increase a handler's cost of doing business. For the reasons previously noted, an increase in the partial payment rate is warranted.

One exceptor, in objecting to the larger partial payment rate, pointed out that the existing partial payment rate (the Class III price for the preceding month) more nearly reflects the current utilization value of producer milk than formerly because the difference between the Class III price for the preceding month and the blend price for the current month has declined steadily over the years. While this is so, it does not negate the reasons for establishing the higher payment rate. It should be noted that this narrowing of the difference between the two prices was taken into account in determining the extent to which the partial payment should be increased.

This exceptor also suggested that an increase in the partial payment rate was not warranted since it was unlikely that any of the rate increase would be distributed promptly to proponent cooperative's members. Since cooperatives have the right to reblend proceeds, they may choose whether and when to pay any poriton of the increase to their members.

In opposing the higher partial payment rate, the exceptor also indicated that (1) the "customary" payment has been the previous month's Class III price, (2) handlers and producers have not mutually agreed upon an increase in such payment and (3) there is no evidence that present marketing conditions are disorderly. For the reasons previously noted, marketing conditions provide a basis for adopting the higher rate.

The Memphis and Fort Smith orders should provide that handlers need not make a partial payment to any producer who no longer is delivering milk to the market on the 25th of the month. Such provision is currently applicable in the Central Arkansas order. In the absence of such provision, the possibility exists that a handler might pay producers for more butterfat than was delivered. This could result if a producer ceased delivering milk to a handler after the 15th of the month and the butterfat content of the milk delivered was less than 3.5 percent. Under the provisions adopted herein, such producer would receive no partial payment if he quit delivering milk prior to the 25th of the month. If he quits delivering on or after the 25th of the month, the handler would have received in most instances a minimum of 10 days' production in addition to the 15 days' production initially received from such producer. In such circumstance, if the handler overpaid for the butterfat in the milk received during the first 15 days of production, he could recover such overpayment in making payment for that milk received after the 15th of the month.

2. *Charges on overdue accounts under the Memphis, Fort Smith and Central Arkansas orders.* Each of the three orders should provide for the application of a charge on handler obligations that are overdue. The charge would apply to handler obligations for producer milk, for administrative assessment and for marketing services. In addition, a charge would also apply under the Central Arkansas order to obligations due to the producer-settlement and administrative expense funds by the operator of a partially regulated distributing plant.

The charge on overdue accounts should be at the rate of 1 percent per month (12 percent annually). The charge should apply beginning the day following the date on which payment of an obligation is due and on the same day of each succeeding month until the obligation is paid. Any obligation that

[1] Data for the Central Arkansas and Fort Smith orders were combined to prevent the release of confidential information regarding the Fort Smith market.

was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due. Also, each of the orders should provide that all late-payment charges shall accrue to the administrative expense fund. Currently, none of the three orders provide for charges on overdue accounts.

The institution of a late-payment charge under the three orders was proposed by AMPI. It proposed that any unpaid obligation of a handler that is due producers, cooperative associations and the market administrator be increased one percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such obligation is due.

The cooperative proposed that late-payment charges accrue to the fund to which payment is due except that charges resulting from the late payment of producers should accrue to those producers who are paid late. Proponent held that payment of late payment charges to the producers who are paid late is justifiable on the basis that the producers who have to wait for payment should be reimbursed for having to forego the use of such money. In the event the individual producers involved cannot be identified, the cooperative proposed that the late-payment charges for producers' receipts should accrue to the producer-settlement fund for distribution among all producers on the market.

The spokesman for AMPI contended that the institution of a charge on overdue obligations of handlers is necessary to encourage prompt payments of order obligations by regulated handlers. He pointed out that unless a charge is provided under the order, a handler who fails to pay his order obligation by the due date has a competitive advantage over those handlers who are making payments by the due date.

A representative of MIF, on behalf of the majority of handlers in the 3 markets, proposed the adoption of a two-tiered charge for accounts that are overdue. He proposed that if payment is not received by the date specified in the order but is received on or before the third day following the due date, a "late payment charge" of 0.05 percent of the unpaid balance for each day payment is not received should be assessed. If payment is not received on or before the third day following the due date, he proposed that a "delinquent payment charge" of 1.5 percent of the unpaid balance be assessed. Another 1.5 percent "delinquent payment charge" on the unpaid balance would be assessed on each 30-day anniversary of the payment due date.

The spokesman for MIF also proposed that any late-payment charges accrue to the administrative expense fund. He contended that the charges should be channeled to the administrative expense fund in order to reimburse it for the costs incurred by the market administrator in collecting the late-payments.

Proponent of a minimal daily interest rate for the first three days a payment is overdue contended that it is possible for a late payment to be made unintentionally. In his opinion, payment a few days late on an occasional basis is much different than payment several days late on a regular basis. He proposed, therefore, that a handler who makes payment during the 3 days immediately following the due date on 3 occasions during the preceding 12 months be required to make all prescribed payments to the market administrator for 3 consecutive months. In the case of a handler who fails to make payment within the 3-day period following the due date, the delinquent obligation would also become payable to the market administrator. Such handler also would be required to make payment through the market administrator for order obligations until all payment provisions of the order had been met for 3 consecutive months.

Data presented at the hearing confirm that handlers have been late in making payments for producer milk under each of the 3 orders. Also handlers have been late in making payments to the producer-settlement fund of the Central Arkansas order and to the administrative and marketing service funds of the Fort Smith and Central Arkansas orders. The data illustrated a wide range of payment practices by handlers. Some handlers were paying their obligations on time while other handlers were paying their obligations more than 15 days late.

Several handlers took the position at the hearing that not all payments listed as being paid from 1 to 5 days late should be considered as late payments. They argued that the data should have listed all payments made by mail that were postmarked on or before the due date as being made on time. Instead, in the tabulation of the data such payments were listed as being late because payment was not considered to have been made until it was received by the addressee. In that regard, payment made by a handler to a bank's postal lock box for the account of a cooperative was tabulated as being received when the bank posted such payment to the cooperative's account.

Even if one were to accept the handlers' premise that all payments postmarked on or before the due date were made on time, one would eliminate at the most only the payments listed as being overdue from 1–5 days.

However, one would presume that those payments listed as being overdue from 6–10 days, 11–15 days and more than 15 days were most likely to have been postmarked after the due date and, consequently, were overdue by the handlers' own standards for timeliness.

It is essential to the effective operation of each of the orders that all handler payments for obligations under the respective orders be made promptly. Under the payment provisions contained in the Memphis order, it is necessary that all handlers pay the total use value of milk to the market administrator on time. Through this means, money is . . made available to the market administrator so that he can pay producers the monies due them on the dates prescribed. The success of this arrangement depends on the solvency of the fund from which the payments are made.

Under the Central Arkansas order, it is essential that handler obligations to the producer-settlement fund be paid on time. Handlers with higher than market-average Class I utilization pay any excess of the value of their producer milk over its value at the uniform price into this fund. Payments into this fund must be made on a timely basis since the market administrator must immediately transmit such funds to handlers with a lower than market-average Class I utilization to enable them to include such payment in the uniform price they pay to producers.

Under the Central Arkansas and Ft. Smith orders, it is also necessary than handlers make partial and final payments to producers and cooperative associations on a timely basis. Producers should not be expected to wait beyond the scheduled times for their milk payments. Delayed payments not only foster uncertainty and discontent among producers but also place them in a difficult position with respect to meeting their own financial obligations on a timely basis.

The prompt payment of accounts relating to the administrative expense funds and to the marketing service funds of the 3 orders is essential to the performance by the market administrator of the various administrative functions prescribed by

the respective orders. Delinquent payments to these funds could impair the ability of the market administrator to carry out his duties in a timely and efficient manner.

Payment delinquency also results in an inequity among handlers. Handlers who pay late are in effect borrowing money from producers. In the absence of any late-payment charge, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

Without a late-payment charge handlers have little incentive to make their payments to the market administrator on time. Enforcement action may be taken, of course, to seek strict handler compliance with the payment dates. However, this is a cumbersome administrative route and the practicality of such action becomes questionable in the case of handlers who are only several days late. While the charge adopted herein may not result in strict compliance by all handlers, it should provide handlers substantial inducement to make their payments to the market administrator, producers and cooperative associations on time.

The late-payment charge should be established at the rate of 1 percent per month of the unpaid balance. If the charge is to have any impact on handlers in terms of encouraging prompt payments, it should be an amount that approaches what a delinquent handler would be charged by commercial banks for money borrowed for short-term purposes. Otherwise, handlers who may have fianancial problems would be encouraged to delay their payments, knowing that the charge under the order is cheaper than borrowing money commercially at a higher loan rate.

While present economic conditions might warrant the adoption of a late-payment charge greater than one percent per month for accounts that are overdue from 15 to 30 days, AMPI did not propose any higher rate. However, it should be noted that the late payment charge adopted herein would be the same whether payment is 1 day, three days or a month late. If a handler decides to delay payments for up to 3 days, the charge of 1 percent per month of the unpaid balance would be more than the handler probably would be charged by commercial banks for money borrowed for such period of time. If a handler delays more than 3 days in paying his obligation, he would then be required under the Fort Smith and Central Arkansas orders, as discussed elsewhere in this decision, to channel his payments to producers through the market administrator. Such payment requirement in conjunction with a late-payment charge should be sufficient inducement for handlers under such orders to pay by the due date.

The proposal to apply the late-payment charge on a daily rate basis for the first three days that a payment is overdue should not be adopted. If late-payment charges were treated on a money market basis, the order would represent a banking service for handlers who desire to use order obligations as a source of borrowed funds. This is not the intended purpose of the late-payment charge. Rather, it is to be a charge on overdue accounts which is sufficiently large to induce handlers to pay their obligations under the order on time.

A further reason for not adopting the proposed two-tiered charge on overdue accounts is that the payment plan under which such charges would apply would not be compatible with the use of fixed dates in the payment of producers. Under the "flexible" payment schedule proposed by a representative of MIF, a handler would have the option of paying an order obligation within 3 days after the "due" date and being assessed a nominal charge for the credit extended for such period of time. However, a lag of up to 3 days in the "due" date would require that a similar lag be incorporated in the scheduled payment dates for procedures. Producers have been accustomed to receiving payment on a fixed schedule and to the extent possible, such producers should continue to receive payment on a fixed schedule. For this reason, fixed dates should be continued for handlers to make payment of their obligations under the order so that producers may continue to receive payment on a fixed schedule.

The spokesman for MIF requested that payments be considered as having been made for purposes of meeting the payment requirement if received by an agent mutually agreeable to the handler, the cooperative or producers and the market administrator. The current provisions of the 3 orders do not preclude the use of an agent as an intermediary under the conditions proposed by the handlers' spokesman. Under the circumstances, there is no reason to modify the orders as proposed.

In conjunction with establishing a charge on overdue accounts in the 3 orders, it is essential that each of the orders make it clear when the charges would apply. In general, handlers should be permitted to pay order obligations by mail. Payments by mail that are postmarked by the U.S. Postal Service on or before the due date of the obligation should be considered as having been made on time. With regard to a mailing in which the postage date is applied by a handler's postage meter, such method of payment would not provide acceptable proof of mailing on that date since a handler would be able to predate the envelope. However, payments to the producer-settlement funds of the Central Arkansas order should actually be received by the market administrator on or before the due date specified in the order. This should be the case also for payment to the market administrator of the Memphis order that represent monies due producers for milk received by such handlers. Also, in the event that handlers under the Fort Smith and Central Arkansas order who because of late payment of order obligations are required to make payments through the market administrator for milk from producers, such payments to the market administrator must actually be received by him on or before the due date. These changes are necessary to assure that the market administrator has received payment from handlers in time for him to make the payments on the following day from the producer-settlement fund of the Central Arkansas order, to make payments to producers under the Memphis order, and, in the event of late payments by handlers under the Fort Smith and Central Arkansas orders, to make payments to the producers supplying such handlers.

In conjunction with changing the orders to require that payments by handlers to the producer-settlement fund and to the market administrator for payments of monies due producers must be received by the due date, the due date should be adjusted to minimize the impact of such changes upon handlers. In the Central Arkansas order, the due date for payments to the producer-settlement fund should be changed from the 12th to the 14th of the month. Under the new payment schedule, it is unlikely that handlers making payment by mail will need to mail the payment at any earlier date than handlers who are making timely payment under the current order provisions are required to make such payment.

As an adjunct to delaying the date by which payments must be made to the producer-settlement fund, a similar 2-day delay should be made in the date by which the market administrator must make payment from the producer-settlement fund (13th to 15th), in the date by which handlers must make final payment to a cooperative for milk of its members (13th to 15th) and in the date by which handlers must make final

payment to producers who are not members of a cooperative (15th to 17th).

It is not necessary that conforming changes be made in the dates by which handlers must make partial payments to cooperatives and producers. Such payments would be made directly by the handler to cooperatives and producers and, thus, they would not be dependent upon the handler's timely receipt of funds from the producer-settlement fund.

In the Memphis order, the due date for handlers to pay the classified use value of milk (the final monthly payment) to the market administrator should be changed from the 12th to the 14th of the month in conjunction with revising the order to require that payments must be received by the market administrator by the due date. In connection with delaying the date by which final monthly payments must be made to the market administrator, a similar 2-day delay should be provided in the date by which the market administrator must transmit such funds to cooperatives (13th to 15th). However, the date by which the market administrator must make final payment to producers who are not members of a cooperative need not be delayed for 2 days beyond the present payment date. A one-day delay (15th to 16th) should permit the market administrator sufficient time in which to make the necessary payments.

The date by which Memphis order handlers must pay the market administrator the partial payment due producers should be changed from the 25th of the month to the 2nd day prior to the last day of the month. This change is necessary because the order is being revised to require a handler to make payments to the market administrator of the partial payments due producers so that payment is received by the market administrator on or before the due date. The market administrator should be required to make payment on the following day of such partial payments to cooperatives on behalf of their members. Payments to producers for whom a cooperative is not collecting payments should be made by the market administrator on or before the last day of the month.

There is no need to make changes in the dates by which handlers under the Fort Smith order are to make payments to producers. The method of paying producers under that order involves only a single step and, thus, permits producers to be paid at an earlier date than is possible under the Memphis and Central Arkansas orders. Under the Fort Smith order, which provides for an individual handler pool, handlers pay producers directly for milk. Under the Memphis order, payments by handlers are made to the market administrator who then makes payment to producers. Under the Central Arkansas order, a marketwide pool order, a producer-settlement fund is used to return a uniform blend price to producers. Such payment procedure involves two additional steps that are not required under an individual handler pool—payments aer made to the producer-settlement fund by handlers whose Class I utilization exceeds the marketwide average and then payment is made from the fund to handlers whose Class I utilization is less then the marketwide average.

If a handler under the Fort Smith or Central Arkansas order is required to make payment for producer milk through the market administrator as the result of late payments, the respective orders should require that such payments be received by the market administrator the day prior to the date payment is otherwise due producers. This is necessary in order that payments to producers not be delayed as the result of a handler being required to channel payment for producer milk through the market administrator.

Under each of the three orders, the date by which payments need to be made to the market administrator by handlers for administrative expenses and deductions from payments to producers for marketing services performed by the market administrator should not be changed. Also, the date by which handlers must transmit marketing service deductions to a cooperative association should not be changed. Thus, handlers would need only to make payments by mail in sufficient time so that the letter containing the payment is postmarked on or before the due date.

Each of the orders should also provide that if the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business. Also, in the event the application of such provisions should result in a delay in payment to the market administrator, the corresponding payments by the market administrator to handlers, cooperative associations and producers may be delayed by the same number of days. Likewise, if payment from the producer-settlement fund by the market administrator to a handler is delayed, the handler may delay making the final payment to producers by the same number of days.

A proposal by the spokesman for MIF that the late-payment charges accrue to the administrative expense fund maintained by the market administrator should be adopted. Proponent supported this proposal on the basis that handlers who are prompt in meeting payment obligations are, in effect, being assessed for expenses incurred by the market administrator in obtaining compliance for delinquent handlers. In addition, proponent contended that in case of late payments to a producer there would be an incentive on the part of the producer to continue delivery of milk to the delinquent handlers because of a belief that he would be reimbursed for the delay in payment.

In case of delinquent handlers, money is spent by the market administrator in determining the amount of late-payment charges and in collecting such payments. The money for expenditures of this type comes from the administrative assessment fund. Thus, the competitors of the noncomplying handlers who pay assessments to this fund are bearing the administrative costs of dealing with the delinquent handler. Therefore, it is reasonable that the late-payment charges assessed on noncomplying handlers be used to help defray these administrative costs.

As an inducement for handlers to make payments to producers on time, it is appropriate that the charge on overdue accounts payable to producers accrue to the administrative assessment fund. If the late-payment charge were added to the amount that handlers owe producers, it would likely result in such producers being less concerned whether they are paid on time. Thus, it could be conterproductive to the purpose sought to be achieved by the late-payment charge. Moreover, if a charge of 1 percent were made with respect to a payment that was only a few days late, it would represent a higher value than the cost of money borrowed from commercial sources for the short time span. Thus, producers might prefer to be paid several days late in order to receive a late-payment charge and thus not be inclined to press handlers for timely payments. Since the late-payment charge is to be an inducement to meet the payment date, the charge should accrue to the administrative assessment fund of the market administrator who is charged with the responsibility of administering the payment transaction.

As proposed at the hearing, the Central Arkansas order should be revised to apply a late-payment charge on overdue obligations of a handler operating a partially regulated distributing plant. Under certain conditions such a handler may be required to make payments to the

producer-settlement and administrative expense funds. In the absence of any late-payment charge, a partially regulated handler could have an advantage on his order obligations relative to fully regulated handlers who are subject to the additional charge when they fail to make timely payments. Also, as pointed out earlier, prompt payments to the administrative expense fund are essential to the market administrator's performance of his duties.

A witness representing a handler regulated under the Central Arkansas order expressed the view that the late-payment charge adopted herein would violate Arkansas usury laws which establish a nine percent maximum rate of interest. In addition, another handler contended in its brief that late-payment charges, which the proponent characterized as a penalty, cannot be adopted because they are not authorized by the Act, which he claimed provides for an administrative penalty (7 U.S.C. 610(c)) at variance with the proposal.

With respect to these views, the charge on overdue accounts does not represent interest for borrowed funds. As indicated throughout the decision on this issue, the charge is applied if payments are not made on dates specified in the orders and are intended to encourage prompt and timely payments of obligations incurred under the orders. Furthermore, such a provision is authorized by section 608(c)(7)(D) of the Act which specifies that an order may contain various terms that are incidental to, and not inconsistent with, the terms explicity authorized by the Act. The charge on overdue accounts adopted herein is considered essential to the effectuation of the payment provisions of the orders.

One exceptor reiterated a contention made at the hearing and in a post-hearing brief that the charge on overdue accounts should be 0.05 percent per day for the first 3 days payment is overdue. Exceptor pointed out that the Great Basin order applies no charge until the 3rd day that payment is overdue.

Exceptor's proposed late-payment charge was fully considered in arriving at the Department's conclusion to impose a charge of 1 percent on the first day that payment is overdue. The date when a late-payment charge, if any, applies under an order depends upon the record evidence presented at the proceeding when the late-payment charge was considered. On the basis of the record for the current proceeding, it is concluded that only one rate of interest should apply as a charge on overdue accounts and that such charge should apply on the first day the payment is overdue.

AMPI excepted to the Department's conclusion that charges on overdue accounts with respect to payments to producers who are paid late should accrue to the administrative expense fund. The cooperative contended that producers who are paid late should receive the amount collected as a charge on overdue accounts. It pointed out that the Department's conclusion is at variance with its finding that handlers who pay late are in effect borrowing money from producers. The cooperative also excepted to the Department's conclusion that the payment of the late-payment charge to producers could be counterproductive in that producers would be less likely to press for timely payment.

The charge for late payment on a very short-term basis exceed the cost of borrowing. Thus it could be counterproductive to channel the late-payment charge to producers since they might be willing to accept payment beyond the due date if they were compensated for the delayed payment. No change should be made on the basis of the cooperative's exceptions. As previously noted, the market administrator would incur expenses in collecting late payments. For this reason, any charges on overdue accounts should accrue to the administrative expense fund to reimburse the fund for expenses incurred in the collection of overdue accounts.

3. *Maximum administrative assessment rate under the Memphis, Fort Smith and Central Arkansas orders.* The maximum assessment rate for the administration of each of the three orders should be increased from 4 cents to 6 cents per hundredweight.

As required by the Act, funds for the operation of the market administrator's office, except for marketing services, are obtained through an assessment paid by handlers. The amount of each handler's monthly assessment is dependent upon the quantity of milk that he receives and the assessment rate effective for such month. The assessment rate, within the maximum amount specified in the order, is determined by the market administrator, subject to the approval of the Secretary, according to his projections of the level of monthly producer receipts and the costs of operating his office. The actual assessment rate since 1975 in each of the three orders has been 4 cents per hundredweight, the maximum allowable under the orders.

It was proposed by the principal cooperative association representing producers supplying the three markets that the maximum rate of administrative assessment be increased 2 cents per hundredweight in each of the orders. A Central Arkansas handler supported the proposed 2-cent increase.

The assistant market administrator of the three orders testified about the current assessment rate. He stated that in view of increasing office expenses, which he estimated would approximate 12 percent per year for 1980 and 1981 as a consequence of inflationary pressures, and a relatively constant level of producer receipts on which income for administration of the order is dependent, the present 4-cent limit would not provide sufficient funds during the next several years to administer the three orders effectively. The assistant market administrator pointed out that the present maximum rate has been in effect since the orders were promulgated (Memphis 1951; Fort Smith 1952; and Central Arkansas 1955).

Generally, market administrators are expected to maintain a reserve fund that would cover their operating expenses for up to six months. The monies in the reserve fund normally would be needed to carry out the market administrator's responsibilities in the event an order is withdrawn for any reason. If the reserve fund exceeds projected operation expenses for a greater length of time, then the administrative assessment is usually suspended or the rate lowered until the reserve fund has been reduced.

As noted by the assistant market administrator, a reserve operating fund approximating 70–80 percent of the yearly administrative expenses is needed to assure that sufficient funds are available to continue the needed administrative work in the event an order is withdrawn for any reason. Such level of reserve funds is not attainable under the current maximum provided under the three orders. Continuation of the current level of funding would result in the operating balance declining to 63 percent and 44 percent of the yearly operating expenses by the end of 1980 and 1981, respectively.

To assure that the market administrator will have sufficient funds to enable him to administer the three orders and maintain the necessary reserves, the maximum assessment rate should be increased to 6 cents. If experience indicates that at a later date a lower rate will be sufficient to provide adequate funds for the administration of these orders, provision is made so that the Secretary may reduce the rate

without the necessity of amending the order.

4. *Maximum marketing service deductions under the Fort Smith and Central Arkansas orders.* The Fort Smith and Central Arkansas orders should provide for a maximum deduction from payments to producers of 7 cents per hundredweight for marketing services furnished by the market administrator.

Deductions for marketing services are used by the market administrator to conduct a marketing service program for producers supplying the market who do not have such services provided by a qualified cooperative association. Such services include the verification of weights and butterfat tests of milk and providing market information. The maximum rate for such services in the Fort Smith and Central Arkansas markets is now 5 cents per hundredweight.

AMPI proposed and testified in support of increasing the maximum deductions for marketing services in the Fort Smith and Central Arkansas orders from 5 cents to 7 cents per hundredweight. The spokesman for the cooperative held that the increase was needed due to "inflation".

For the years 1975–1979 the expenses of providing marketing services by the market administrator for the Central Arkansas order, the only one of the 3 orders where producers receive marketing services provided by the market administrator, averaged $13,100 per year. The yearly marketing service expenses for 1980 and 1981 were estimated to be $13,650 and $15,350, respectively. By the end of December 1981, it was projected that the operating balance on hand would have declined to $6,450, or 42 percent of the operating expenses for the year.

The assistant market administrator testified regarding the proposed increase. He indicated that much of the work in the marketing service program involves travel. It was his opinion that in view of the increased costs to perform travel a 7-cent per hundredweight rate was warranted.

The 7-cent rate which was proposed should permit the market administrator to conduct an adequate marketing service program for those producers not receiving such services from a cooperative association. It is also noted that the Memphis order, which is administered by the same individual who administers the Fort Smith and Central Arkansas orders, currently provides for 7 cents per hundredweight as the maximum charge for marketing services. If experience indicates that the services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

5. *Payment of producers and cooperative associations through the market administrator under the Fort Smith and Central Arkansas orders.* The Fort Smith and Central Arkansas orders should be amended to provide that any handler who is more than 3 days late in the payment of any obligation under the order shall pay all order obligations for producer milk to the market administrator who, in turn, would distribute such money (in terms of the uniform price(s)) to producers and cooperative associations. Such handler would be required to make payments to producers through the market administrator for a period of 3 consecutive months before he would be permitted to again pay producers directly. Handlers who pay order obligations by the due date or within 3 days after the due date could continue to make payment to producers and cooperative associations directly. Those handlers who have not paid their order obligations by the due date would be assessed a late-payment charge as discussed herein under the issue of charges on overdue accounts.

Under the Fort Smith order, which provides for an individual-handler pool, the handler currently pays the uniform price(s) directly to the producers who supply him with milk.

The Central Arkansas order, which provides for a marketwide pool, also provides for the direct payment of producers by the handlers who receive their milk. Under this arrangement, part of the money due producers from handlers with higher than market-average Class I utilization is used in paying producers supplying handlers with less than market-average Class I utilization. This exchange of money is accomplished through a "producer-settlement fund" maintained by the market administrator. Handlers with higher than market-average Class I utilization pay any excess of the value of their producer milk over its value at the uniform price into this fund. Other handlers receive from the fund payments that are included in the uniform price they pay to their producers.

AMPI proposed that the market administrator collect from handlers regulated under the Central Arkansas and Fort Smith orders all order payments due producers as he now does under the Memphis order. However, handlers under the 3 orders could elect to pay the producers supplying them with milk. As proposed by the cooperative, any handler who was not delinquent with respect to any of his payment obligations and who wished to pay his own producers would pay his full obligation to the market administrator. Upon receipt of the proper payment, the market administrator then would transfer sufficient money to the handler so that he could pay his producers. Alternatively, the handler could make payment to individual producers prior to the time such amounts are payable to the market administrator. In such instance, the handler would then offset such amounts paid to individual producers against any obligation due the market administrator for such producer milk.

The cooperative proposed that payment not be made to any handler by the market administrator if he determines that the handler is or was delinquent with respect to any payment obligation under the order regulating such handler. Once a handler is delinquent in the payment of his order obligations, payment would not be made by the market administrator to the handler for payment to any producer until the handler had met all prescribed payment obligations for 3 consecutive months. In this regard, the cooperative proposed that the market administrator consider not only payments from the handler to the market administrator but whether payments by the handler to the individual producers had been made by the specified due dates.

The cooperative requested that a producer-settlement fund be provided in each of the three orders as a mechanism to receive the money due producers from handlers. The only purpose of the fund in the Memphis and Fort Smith orders would be to serve as a conduit to move money from handlers to the market administrator who would then transmit such funds to producers and cooperative associations.

The cooperative proposed that the market administrator make payment to a cooperative association that so requests with respect to those producers for whom it markets milk. It also proposed that the market administrator make payment to those producers for whom the cooperative association in not collecting payments unless the handler receiving the producers' milk requests that such payments be made to him for subsequent payment to producers.

Proponent urged the adoption of its proposed payment arrangements on the basis that it would provide handlers with a stronger incentive for making prompt payment of their order obligations. The cooperative claimed that since handlers tend to pay the

market administrator on a timely basis all producer payments should be channeled through him rather than having handlers pay producers directly. Also, proponent contented that late payments by certain handlers result in an inequitable situation for those handlers making timely payments. This is because the delinquent payers are using money due producers to overcome cash flow problems while the prompt payers must borrow money or use their own capital.

A representative of a handler who operates a pool plant under the Memphis order and a patially regulated distributing plan under the Central Arkansas order opposed the channeling of payments through the market administrator. The representative objected to "strait-jacketing the entire industry" in an effort to stop the occasional late payment by a handler. In his opinion, an interest penalty proposed for adoption in the 3 orders by the representative of MIF would provide sufficient incentive for handlers to make timely payments.

A reprersentative of a handler that operates a distributing plant regulated under the Memphis order, which provides for the market administrator to make payments to producers and cooperatives, opposed the adoption of such payment requirements under the Central Arkansas order. In his opinion, the evidence presented by proponents did not establish conclusively that handlers were "delinquent" in the payment of obligations to the market administrator, producers and cooperative associations.

The spokesman for MIF proposed on behalf of the majority of the handlers in the 3 markets that handlers be required to make payment of order obligations through the market administrator only under certain conditions. As an adjunct to a two-tiered charge on overdue accounts previously discussed herein, he proposed that if a handler is up to 3 days late on 3 occasions during the preceding 12 months in paying his order payments to the market administrator for 3 consecutive months. A handler who makes payment more than 3 days late would also be required to make all prescribed payments to the market administrator for 3 consecutive months.

If the Fort Smith and Central Arkansas orders are to serve the intended purpose of promoting orderly marketing in the respective marketing areas, it is essential that handlers under such orders pay their obligations on a timely basis. Currently, handlers have the use of producer milk for considerable periods of time before any payments for such milk are due. Producers should not be expected to wait beyond the scheduled times for their milk payments. Delayed payments not only foster uncertainty and discontent amont producers but also place them in a difficult position with respect to meeting their own financial obligations on a timely basis.

From the standpoint of handlers, also, it is necessary that all order obligations be paid on a timely basis. Otherwise, handlers who are in compliance would be at a competitive disadvantage with delinquent handlers who are using monies due producers as a source of funds for operating purposes.

For these reasons, the Fort Smith and Central Arkansas orders should be structured to encourage prompt payment by handlers of order obligations. While the institution of late-payment charges under the orders should provide a strong incentive for handlers to pay their order obligations when due.

Some further incentive should be provided. In this regard it is noted that the principle cooperative association currently imposes a late-payment charge upon accounts due the cooperative. However, the incidence of late payments to the cooperative has continued. On the basis of that experience, it is concluded that the orders should provide an additional payment requirement for a handler who might otherwise decided to use money due producers as a source of funds and thus intentionally pay his order obligations late.

The additional payment requirement adopted herein is an alternative that was proposed by MIF's representative. The representative proposed that any handler who is more than 3-days late in the payment of any order obligation should not be permitted to pay producers and cooperative associations directly for 3 consecutive months. During such 3 months the handler would be required to channel such payments through the market administrator. Except for a 3-day delay before this payment requirement is invoked, the proposal on behalf of handlers is essentially the same as the payment arrangement proposed by proponent cooperative.

Producers and handlers in the two markets are in general agreement that both a charge on overdue accounts and the payment of order obligations to the market administrator are effective tools for obtaining compliance with order provisions. The two groups differ basically as to when each of these payment provisions should apply. MIF's proposal that handlers be given a 3-day grace period before being required to make payments to producers through the market administrator should provide an effective enforcement tool when used in conjunction with a charge on overdue accounts that applies the day after an obligation is due. By structuring an order in this fashion, handlers have 2 incentives for making timely payments. Thus, if a handler pays his obligation by the due date, he avoids a charge on overdue accounts. If he pays his obligation within 3 days of the due date, he may continue to pay producers and cooperative associations directly.

Also, the payment adopted herein tends to be self-policing. A handler would not be permitted to make payment directly to producers and cooperative associations if he fails to pay any order obligations within 3 days of the due date. Under this procedure, a producer or cooperative association would be aware that a handler has failed to pay an order obligation and thus may represent a financial risk with respect to future deliveries of milk to the handler.

Presently, under the Central Arkansas order a handler may pay his producers the blend price and at the time fail to pay an amount due the producer-settlement fund. In the absence of any knowledge of the handler's financial difficulties, producers presumbly would continue to ship milk to the handler. Only when the handler's financial problems become so great as to result in nonpayment to his producers would the producers realize the possible need for seeking a different outlet for their milk. Under the adopted payment procedure, producers under the Central Arkansas order would be aware of the handler's financial difficulty in the first month following nonpayment. They then would be able to consider on a more timely basis the possible need for making other arrangements for the sale of their milk before their loss as a result of nonpayment mounts to the point that they would be placed in a severe economic bind.

Under the adopted payment procedure, it is imperative that the payments received by the market administrator from handlers represent sound money. This is necessary, of course, under the present payment arranement. However, with the payment schedule adopted herein, the market administrator will need to make payments from the producer-settlement fund of the Central Arkansas order to certain handles the day after the payments are due the fund. Such payments will have to be made with the belief that the checks received from handlers and deposited in the producer-settlement fund are, in fact, good. Time

will not permit the clearance of such checks through the banks prior to the withdrawal of money from the producer-settlement fund.

Also, in the event payments by handlers regulated under the Central Arkansas and Fort Smith orders are more than 3 days late, such handlers would be required to channel their payment for producer milk through the market administrator. Under such procedure substantially greater amounts of money would be transferred in and out of accounts maintained by the market administrator and, as a consequence, the receipt of a bad check of a subtantial sum could render such an account insolvent.

The attached order does not prescribe the specific means by which handlers shall make payment to the market administrator. The need for such specificity should be based on actual experience in the market. As long as handlers make full payment by the prescribed payment dates and their checks are good, there is no problem. However, if the market administrator, because of prior experience or for other reasons, does not have reasonable assurance that payments tendered would represent sound money, it is necessary that he have the administrative discretion to prescribe the means of acceptable payment.

Under the terms of the order, the market administrator has the authority to make rules and regulations to effectuate the terms and provisions of the order. Should there be an urgent need for greater specificity with respect to the procedures for making payments, this may be accommodated through the promulgation of appropriate administrative rules with the approval of the Director of the Dairy Division and in consultation with the local industry.

6. *Payments for milk from cooperative association plants under the Memphis and Central Arkansas orders.* The Memphis and Central Arkansas orders should be revised to specify that pool plant operators under the respective orders who receive bulk milk during the month from a pool plant operated by a cooperative association shall make a partial and final payment to the cooperative for such purchases. Handlers should be required to make the partial and final payments by the same dates as specified for handlers receiving milk directly from producers or a cooperative acting as a bulk tank handler. The partial payment by the handler for the months of March–July, which would apply to milk received during the first 15 days of the month, should be at the Class III price for the preceding month.

The partial payment by the handler for the months of August–February should be at the Class III price of the preceding month plus $1.00 per hundredweight, and should be further adjusted by the location adjustment applicable at the receiving plant. The buying handler should be permitted to adjust the partial payment rate in any month to reflect the butterfat content of the milk purchased. The final payment should be based on the classified use value of all bulk fluid milk products received during the month from the cooperative's plant, less the amount of the partial payment.

Payment by the handler under each order should be made in the same manner as for milk that is received directly from the farm. Under the Memphis order, payments by the handler should be made to the market administrator who would then transmit such payments to the cooperative association. Under the Central Arkansas order, payments by the handler should be made directly to the cooperative association unless the market administrator determines the handler was more than 3 days late in making any payment obligation under the order. In that event, as previously discussed in this decision under the issue dealing with the payment of producers and cooperative associations through the market administrator, the handler would be required to make payment of such obligation to the market administrator for 3 consecutive months before the handler would again be permitted to pay the cooperative directly.

The principal cooperative association supplying the Memphis and Central Arkansas markets proposed that pool plant operators under each order who received bulk milk during the month from a pool plant operated by a cooperative association should be required to make 2 partial payments and a final payment to the market administrator for such milk. The 1st and 2nd partial payments, which would apply to receipts during the first 15 days and the remaining days of the month, respectively, would be at the class prices under the respective orders adjusted by the applicable butterfat differential.

The classification to be accorded such receipts would be based upon the classification accorded such receipts under the transfer provisions of the respective orders. If any of the milk transferred during the 1st 15 days of the month is classified as Class II or Class III milk, the latest available class prices would be used to value such milk. Such pricing procedure would be necessary because the partial payment for milk received during the 15 days of the month is due at the close of such month while the class prices for milk in surplus uses during such month are not available until the following month. The final payment would be based on the classified use value of all fluid milk products received during the month from the cooperative's plants less the value of the 2 partial payments made for such receipts. The market administrator, upon receipt of the partial and final payments, would transmit such payments to the cooperative.

While there was no direct opposition to structuring the Memphis and Central Arkansas orders to provide for specific payment provisions for such bulk milk purchases, there was opposition to the requirements that payments for such milk be channeled through the market administrator and that settlement for such purchases be made through 2 partial payments and a final payment. In this regard, a representative of a majority of the handlers opposed the adoption of any provision that would require a handler who is making timely payments to channel payments for producer milk through the market administrator on a regular basis. As previously noted, the representative proposed instead that such payment procedure be applied if a handler is more than 3 days late in making payments or if a handler is from 1 to 3 days late in making payment three times during a 12-month period. The representative proposed that the proposed payment procedure be used in conjunction with a two-tiered interest charge for late payments (the details of such interest charge are set forth in this decision under the issue dealing with late-payment charges).

Currently, milk marketed under the Central Arkansas order by the proponent cooperative is moved to distributing plants directly from the farm. Prior to February 1980, some milk under the order was moved to pool distributing plants, either on a regular basis or a supplemental supply basis, from the cooperative's supply plant at Pittsburgh, Kansas. Under the Memphis order, some milk is moved to distributing plants, either on a regular basis or a supplemental supply basis, from the cooperative's supply plant in Martin, Tennessee. The primary milk supply for the Memphis market, however, is moved to distributing plants directly from the farm.

Irrespective of the supply arrangements used, the producers involved are supplying milk for fluid markets and should be assured of receiving payment for their milk. Such

assurance is essential to the orderly marketing of milk and the maintenance of an adequate supply of milk for consumers. The incorporation within the respective orders of specific payment requirements by handlers for bulk milk received from a cooperative association will enhance the ability of the cooperative association to collect for such receipts. By providing specific payment requirements under each order, late-payment charges would be applied by the market administrator on any payment that is not made on or before the due date. Furthermore, as discussed elsewhere in this decision, any handler who is more than 3 days late in making any payment obligation under the order would be required to channel his payment for milk received directly from the farm through the market administrator. Such arrangement likewise should apply if a handler is more than 3 days late in paying for bulk milk received from a pool plant operated by a cooperative.

There is no reason why milk that is received at a cooperative's plant and then shipped to a pool plant should be treated differently for payment purposes than milk shipped directly from a member's farm to a pool plant. Accordingly, handlers receiving bulk fluid milk products from the plant of a cooperative association should be required under the Memphis and Central Arkansas orders to make a partial and a final payment to the market administrator and the cooperative association, respectively, by the same dates as specified for handlers receiving milk directly from producers or a cooperative acting as a bulk bank handler.

The partial payment which would apply to receipts during the first 15 days should be at the same rates that apply on receipts of milk directly from the farm of a member producer of a cooperative association. The partial payment for the months of March–July should be at the Class III price for the preceding month.

For the months of August–February, the partial payment should be at the Class III price for the preceding month plus $1.00 per hundredweight, and should be further adjusted by the location adjustment applicable at the receiving plant.

The orders should provide that the buying handler may adjust the partial payment rate during any month to reflect the butterfat content of the milk purchased if he desires to do so. This option will benefit handlers who receive skim milk from a cooperative's pool plant. In such situations, unless the partial payment rate is adjusted downward from the price level for milk containing 3.5 percent butterfat, the handler would be paying in excess of the classified use value of such milk. At the time of the final payment, the handler then would be due a credit from the cooperative. This unnecessary additional transaction can be avoided by allowing a handler to adjust his partial payment to refect the butterfat content of milk purchased from a cooperative's plant.

The final payment should be based on the classified use value of all fluid milk products received during the month from the cooperative's plant less the value of the partial payment made for such receipts. Upon receipt of the partial and final payments, the market administrator of the Memphis order would then transfer such funds to the cooperative. Under the Central Arkansas order, the handler would make such payment directly to the cooperative as long as he is not more than 3 days late in the payment of any order obligations.

With regard to the Class I price to be used in computing a handler's payment for plant milk received from a cooperative, AMPI proposed that such price should be the higher of the Class I prices applicable at the plant of the handler or the cooperative, plus the administrative assessment. Under such proposal, the Class I price applicable at the location of the transferee-plant would apply if milk were transferred from a lower-price zone to a higher-price zone. Conversely, the Class I price applicable at the location of the transferor-plant would apply if milk were transferred from a higher-price zone to a lower-price zone. Proponent contended that payment at the higher price is necessary to be consistent with the Act which states in part that a cooperative that is reblending the proceeds from the sale of its members' milk may not sell milk to any handler in any market at less than the class prices applicable under the order.

The proposal to require payment at the higher of the prices applicable at the transferee-plant or the transferor-plant should not be adopted. Rather, payment by handlers for milk transferred from a cooperative's plant should reflect the Class I price applicable at the location of the transferee-plant regardless of whether the milk is shipped to a higher-price zone or lower-price zone.

Under normal circumstances, transfers of Class I milk from a cooperative's plant to a distributing plant would be from a lower-price zone to a higher-price zone. In such case, the distributing plant operator should be required under the Central Arkansas order to pay the cooperative directly, and under the Memphis order to pay the cooperative through the market administrator, for such milk at the Class I price applicable at the distributing plant. This price would generally reflect the order value of milk at the cooperative's plant plus the cost of transporting it to the distributing plant. This is the same price that would apply to Class I milk received at at distributing plant directly from the farms of producers or from a cooperative acting as a bulk tank handler.

Although it is unlikely in these markets under present conditions, Class I milk could be transferred from a cooperative's pool plant located in a higher-price zone to a pool distributing plant in a lower-price zone. For this type of milk movement, the cooperative in its capacity as a pool plant operator receiving milk at its plant, should be required to account to the pool at the Class I price applicable at its plant. However, it would be inappropriate for the order to enforce such price in the final settlement for such milk between the distributing plant operator and the cooperative association. This would result in the distributing plant operator having to pay a high Class I price for milk received from producers via a cooperative's plant than for milk received from producers either directly or through a cooperative acting as a bulk tank handler. Also, his order Class I price on such transfers would be higher than the order Class I price applicable to milk from producers by other regulated handlers in the same location. This would not result in uniform calss prices to handlers. Requiring payment to the cooperative at the Class I price applicable at the location of the transferee-plant satisfies the requirement that a cooperative association may not sell milk at less than class prices.

It is recognized that requiring the cooperative association to account to the pool at the higher Class I price applicable at its plant in this case probably would make the transfer uneconomic to the cooperative. The cooperative would have to decide, of course, if it should undertake this kind of milk handling arrangement.

8. *Pool supply plant qualifications under the Central Arkansas order.* No changes should be made on the basis of this record in the percentage of milk receipts that a supply plant must ship to pool distributing plants to attain pool plant status. However, the provisions should be modified to permit the Director of the Dairy Division (Agricultural Marketing Service, U.S.

Department of Agriculture) to temporarily increase or decrease the supply plant shipping percentage by up to 10 percentage points if it is determined that additional shipments are needed or that excessive shipments are likely to be made. Also, the month of September should be added to the current qualifying months during which supply plants must make shipments to pool distributing plants to attain pool plant status during other months of the year without regard to shipments. As a result of such change, a supply plant that is pooled during each of the months of September through January could be designated as a pool supply plant for the following months of February through August regardless of its shipments to distributing plants during such months.

The order currently provides pool status to a supply plant that ships to pool distributing plants not less than 50 percent of its monthly receipts of producer milk and milk received from cooperative associations in their capacity as bulk tank handlers. A plant that is pooled as a supply plant during each of the months of October through January is designated as a pool plant for the following months of February through September if written application is made to the market administrator. The order also provides pool status to a plant operated by a cooperative if member producers deliver 50 percent or more of their milk to pool plants of other handlers and the cooperative's plant ships 25 percent or more of its receipts during the month to distributing plants. A plant that is pooled as a supply plant during each of the months of October through January is designated as a pool plant for the following months of February through September if written application is made to the market administrator.

AMPI proposed that the performance standards for pool supply plants operated by a cooperative or proprietary handler be increased and applied during each month of the year. Under the proposal a supply plant would have to ship not less than two-thirds of its receipts of Grade A milk from dairy farmers (including producer milk diverted from the plant) and cooperative associations in their capacity as bulk tank handlers to distributing plants pooled under the Central Arkansas and other Federal orders. Of the plant's receipts, at least 50 percent would have to be shipped to distributing plants pooled under the Central Arkansas order.

AMPI proposed a tightening of the performance standards on the basis of the relatively tight supply situation in relation to demand that is characteristic of the market. A spokesman for AMPI testified that virtually all milk pooled on the market is delivered to distributing plants for primarily Class I and Class II uses. Market data contained in the record, and relied upon by AMPI, establish that the yearly Class I utilization of producer milk for the Central Arkansas and Fort Smith markets combined was about 87 percent for 1978 and 1979.[1] The combined Class I and Class II utilization of producer milk for the period exceeded 92 percent. Additional data presented by AMPI show that of the total milk pooled under the Central Arkansas order by AMPI for the years 1978 and 1979, about 94 percent was delivered to distributing plants.

AMPI further testified that there is very little variation in the monthly percentage of pooled milk utilized by distributing plants. Consequently, AMPI concluded that because of the yearly tight supply-demand relationship that exists, the performance standards for supply plants should be increased and such standards should be applied throughout the year to assure that distributing plants are adequately supplied with milk. AMPI contended that it is reasonable to require that at least two-thirds of a supply plant's receipts be shipped to distributing plants to demonstrate an adequate performance in supplying this market's fluid milk needs. Also, AMPI contended that such level of performance by supply plants is also reasonable in view of AMPI's performance in supplying the market.

AMPI also testified that it may be necessary for supply plants pooled under this order to ship milk to distributing plants regulated under other orders. For this reason, the cooperative proposed that recognition be given to meeting the 66⅔ percent shipping standard by shipments to other order distributing plants, provided that at least 50 percent of a supply plant's receipts are shipped to plants regulated under this order.

Kraft opposed the proposed higher shipping standards and supported a 50 percent shipping standard during the months of September through January with automatic pooling during the remaining months of relatively greater milk production. Kraft proposed that if there is reason to believe that in a future month higher pooling standards for a supply plant might be necessary, the order should be amended to allow the Director of the Dairy Division to deal with such a situation on a temporary basis. Kraft also suggested that a portion of the supply plant shipping standards be met by the direct shipment of milk from dairy farmers' farms to distributing plants.

Kraft opposed any increase in shipping standards for supply plants on the basis that there is no indication that distributing plants are having difficulties in obtaining a supply of milk sufficient to meet their fluid milk requirements, despite the high Class I utilization that is characteristic of the market. Kraft contended that the market's relatively high Class I use results from marketing practices of AMPI. In its capacity as the principal supplier of milk to the market, Kraft noted that AMPI pools the reserve milk requirements of Central Arkansas distributing plants under other Federal orders to maintain a high Class I utilization in the Central Arkansas market. This is accomplished by associating additional producers with the Central Arkansas market when additional supplies are needed at fluid outlets and disassociating producers from the market and pooling such milk under other Federal orders when it is not needed by plants regulated under the Central Arkansas order.

Kraft testified that the shifting of producers among markets is a marketing practice that is not available to a proprietary handler, such as Kraft. If Kraft operated a supply plant under the order, the company would have to carry the reserve supplies of its distributing plant customers within the market. Thus, Kraft concluded that the current marketing situation that results from marketing practices that are not available to Kraft or other proprietary handlers does not provide a proper basis for increasing the performance standards for supply plants.

Kraft also opposed the performance standard proposed by AMPI on the grounds that such level of performance could result in requiring supply plants to have a greater association with the market through supplying the fluid milk needs of distributors than is required of distributing plants with high Class II and Class III uses. In addition, Kraft testified that a higher performance level could inhibit the possible entry of new dairy farmer suppliers to the market. In support of that position, Kraft contended that as dairy farmers who furnish the current manufacturing grade milk supply

[1] Data for the Central Arkansas and Fort Smith orders are combined to prevent the release of confidential information. The combined data, however, should be reasonably representative of the data for the Central Arkansas market since the Fort Smith portion of the combined data on producer receipts represents less than 10 percent of the total receipts of producer milk for the two markets.

at its manufacturing plant in Bentonville, Arkansas, convert to the production of Grade A milk, such milk will be available as a potential reserve supply for the Central Arkansas and other Federal order markets. However, Kraft contended that an increase in the performance standards, as proposed by AMPI, would preclude this new production as a supply for the Central Arkansas market as long as the dairy farmers continue to supply Kraft.

Although Kraft held that the current 50 percent shipping standard during fall months for supply plants represents an adequate association with the market, it suggested that the Director of the Dairy Division be given the authority to adjust the supply plant performance standard in the event that at some future time an adjustment was needed. Although Kraft presented no specific recommendations regarding the adjustment, it noted that the use of such provision would provide greater flexibility in dealing in a timely manner with any potential changes in supply-demand relationships that could not be predicted at the time of the hearing.

Kraft also suggested that a portion of the supply plant performance standards be met by direct shipments of milk from dairy farms to distributing plants. It claimed that this modification to current provisions would provide the opportunity for increased efficiency and energy conservation in situations where milk supplies are located between a supply plant and the distributing plants. Kraft noted that under current provisions such milk must be picked up at the producers' farms, hauled from the farm to the supply plant (located in the opposite direction of the distributing plant), received at the supply plant, and reloaded for transportation to the distributing plant. In addition to eliminating some of the hauling, Kraft indicated that direct shipments from the farm to distributing plants would eliminate the need to unload and reload milk at the supply plant for the purpose of associating such milk with the market. Kraft was not specific as to the extent to which such direct farm to plant shipments should be recognized in meeting the performance standards.

Kraft also opposed the application of performance standards on a year-round basis. It proposed that automatic pool supply plant status during the spring and summer months of relatively heavier milk production be provided for plants that had supplied the market during the fall and winter months of relatively lower milk production. Kraft held that AMPI's proposed monthly shipping requirements represented a substantial deviation in current order provisions and were contrary to the position taken by AMPI at a prior hearing held to consider the merger of the Central Arkansas order with the Memphis and Fort Smith orders. Kraft quoted testimony from such prior hearing concerning the need to recognize seasonality of milk production in establishing pool supply plant standards to prevent the uneconomic movement of milk to distributing plants solely for pooling purposes. In that regard, Kraft contended that because milk production is relatively greater during the period of February through August, supply plants should not be required to make shipments to distributing plants during such months because of the possibility that the milk could not be utilized by the distributing plant.

The purpose of pooling standards for supply plants is to distinguish between those plants substantially engaged in serving the fluid milk needs of the regulated market and those plants that do not serve the market to a degree that warrants their sharing, through pooling, in the market's Class I returns. The standards also must assure that supply plants associated with the market will ship milk to distributing plants at the times and in the quantities needed to meet fluid use requirements. However, supply plant standards should not be so high as to encourage the shipment of substantial quantities of milk in excess of fluid milk needs and should not apply during those months of the year when shipments are not necessary to meet fluid milk requirements.

As previously noted, the order now permits a supply plant that has met the minimum shipping requirements during the months of October through January to qualify as a pool plant during the following months of February–September without having to meet any specified shipments to distributing plants. The automatic pooling feature recognizes that the demand for supply plant milk is usually less during months of relatively high production than in other months. Requiring no shipments during such months for plants with an established association with the market avoids unnecessary, as well as uneconomical, shipments to distributing plants for the sole purpose of maintaining pool plant status. Also, the automatic pooling feature permits those producers who have established their association with the fluid market through deliveries to a pool supply plant to share in the market's Class I sales when supply plant milk may not be needed by distributing plants.

At the time of the hearing, there were no supply plants serving the market. A plant operated by AMPI at Pittsburg, Kansas was pooled as a supply plant under the order from September 1978 through January 1980 but has since ceased operations. A plant operated by Kraft at Bentonville, Arkansas is pooled under the Oklahoma Metropolitan order and was indicated by Kraft to represent a potential source of supply to the Central Arkansas market. At the time of the hearing, however, no milk had been shipped from the plant to Central Arkansas distributing plants. Consequently, with no supply plants serving the market, a revision of the supply plant performance standards would have no immediate impact on any handler and also would not be instrumental in making additional supplies of milk available to distributing plants.

Although there are no supply plants serving the market, AMPI is apparently concerned that in the future supply plants could become associated with the market by shipping to distributing plants a much lesser proportion of their receipts than the proportion of AMPI's producer milk that is shipped to distributing plants. AMPI contends that to the extent that supply plants would begin serving the market at the minimum performance standards currently provided in the order, and all other things remained unchanged, the Class I utilization of producer milk and blend prices to producers would decline. Also, AMPI is apparently concerned that the relatively high Class I utilization of producer milk that is maintained in this market throughout the year will provide supply plant operators with the incentive to establish a pooling base primarily as a means to secure a supply of pooled milk for other than fluid milk use.

AMPI, as the principal market supplier, has been able to efficiently tailor the receipts of producer milk to the needs of distributing plants as evidenced by the high proportion of AMPI producer milk that is shipped to distributing plants and the relatively high Class I use that is maintained in the market. However, it must be recognized that the decision to pool this market's reserve milk supplies on other Federal order markets is a business decision made by AMPI. The fact that AMPI may be concerned that the relatively tight supply and demand situation in this market, which to a large extent is a reflection of AMPI's method of operation, may encourage the pooling of supply plants on the market in the future does not provide a proper basis for

providing increased performance standards on a year-round basis. The adoption of higher performance standards and the application of such standards throughout the year should be based on an indication that distributing plants are having difficulty in obtaining adequate milk supplies for fluid use from supply plants. There was no demonstration on this record that any distributing plant is having difficulty in obtaining an adequate supply of milk for fluid needs.

Furthermore, there is no indication on the record of this proceeding to indicate that the current standards for pooling supply plants do not provide a reasonable distinction between those plants that are substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market to a degree that warrants their sharing the market's Class I returns. Therefore, no major changes should be made in the current supply plant pooling standards and the proposal to increase such standards on a year-round basis is denied.

Several minor changes, however, should be made in the current pool supply plant provisions. September should be specified as a month during which supply plants must make shipment to distributing plants to obtain pool plant status. Consequently, a supply plant would have to meet the pooling standards during each of the months of September through January in order to be eligible for automatic pool plant status during each of the months of February through August. Currently, supply plants are not required to make shipments during September and are eligible for automatic pooling during such month if qualified on the basis of shipments during each of the months of October through January.

Pool supply plants should be required to make qualifying shipments during the month of September because it is a month in which the fluid milk requirements of handlers are greater than average. Market statistics reveal that for the Central Arkansas and Fort Smith markets combined average daily Class I sales by all pool plants during September of 1978 and 1979 were greater than the average daily sales for each of these years. Also, the Class I utilization of producer milk in September was greater than yearly Class I use during 1978 and 1979, indicating a somewhat tighter than average supply-demand relationship. Because the month of September is one of the months in which production is short relative to Class I sales, it should be included in that time period when qualifying shipments are required since shipments from supply plants, when such plants are associated with the market, would most likely be necessary to meet fluid demands during such month. Such change would provide greater assurance of the availability of pool supply plant milk to meet the fluid milk needs of distributing plants. Furthermore, the application of performance standards during the months of September–January would provide greater uniformity with other provisions that are also based, in part, on a distinction between the relatively short and heavy production seasons. For example, the diversion provisions (discussed under issue number 9) adopted herein provide more stringent limits on the quantity of milk that may be diverted to nonpool plants during the months of September through January than during other months. Also, the September through January period is regarded in the base-excess payment plan as the period when milk production is shortest relative to the Class I needs of handlers as new bases are established for each producer on deliveries made during such months.

An additional modification should be made in the performance standards to provide for a temporary upward or downward adjustment of the shipping percentages for supply plants if the Director of the Dairy Division determines that additional supplies are needed at distributing plants or that fewer shipments to such plants are needed. The adjustment should be limited to not more than 10 percentage points.

Under this provision the Director would investigate the need for revision, either on his own initiative or at the request of interested persons. If the investigation showed that a revision might be appropriate, the Director would issue a notice stating that a temporary revision of the shipping requirements is being considered and inviting views of interested persons concerning the proposed revision. After evaluating such views, the Director would then decide whether a temporary revision is warranted.

As indicated previously, there were no supply plants serving the market at the time of the hearing. Also, there is no compelling reason to increase the performance standards on a permanent basis. However, market statistics establish that this is a relatively high Class I use market with producer receipts tailored almost precisely to the needs of distributing plants. In the event that supply plants become associated with the market in the future, any short term changes in supply or demand could result in the need to adjust the performance standards on short notice. Under current provisions, changes in performance standards for supply plants can be accomplished only through a time-consuming proceeding or by suspension. Furthermore, changes accomplished through suspension are limited because of procedural requirements to relaxing rather than increasing the shipping standards. Inclusion of a provision to adjust temporarily supply plant shipping standards will enhance the ability of the order to deal in a timely manner with short-run changes in supply/demand conditions that cannot now be predicted. However, any such temporary revision of shipping standards is intended only to meet an emergency situation in meeting Class I needs of distributing plants and, therefore, should be of short duration.

Two additional modifications of the supply plant performance standards that were proposed should not be adopted. A proposal by AMPI would include as a basis for pooling a supply plant under this order, limited shipments by supply plants to other order distributing plants. The concept of the proposal was supported by Kraft. The other proposal, which was made by Kraft, would allow a supply plant operator to meet a portion of the pooling standards with direct shipments of milk from farms to distributing plants. AMPI opposed the proposal on the basis that if milk could be direct-shipped to distributing plants the supply plant with which the milk was associated served no useful purpose.

Both of the above proposals are intended to accommodate hypothetical marketing practices that may be adopted by supply plant operators to serve the fluid milk needs of distributing plants. Specifically, the proposals are intended to accommodate milk movements that may be made by minimizing the transportation costs involved. The extent to which transportation savings could be obtained would depend on the location of both the supply plant(s) and the dairy farmers associated with such plant(s) relative to the location of the distributing plants serving this or other Federal order markets.

As indicated previously, there are currently no supply plants serving the market. Consequently, there is no information in the record of this proceeding from which to conclude that either of the proposals are necessary to reflect either supply plant shipments to other order markets or direct shipments of milk of dairy farmers associated with

a supply plant to minimize transportation costs. Without the existence of practical marketing experience it is not possible at this time to determine that the proposals are necessary or that they would promote more orderly and efficient marketing of milk.

In addition to the previously indicated changes, several minor changes of a nonsubstantive nature are included in the construction and wording of the supply plant pooling provisions. In particular, the phrase "Grade A milk received from dairy farmers" is substituted for the phrase "receipts of producer milk" that is used in the current order. There is essentially no difference in the two phrases since Grade A receipts from dairy farmers become receipts of producer milk if the plant becomes a pool supply plant. Use of the substituted phrase, however, requires additional language to include as receipts milk diverted as producer milk from the plant and to exclude from receipts milk received as diverted milk. Use of such terminology was proposed by AMPI in the hearing notice.

The order language adopted herein also excludes the pooling of a supply plant which has automatic pooling status under another Federal order and also meets the performance standards for pooling under this order. The plant could be pooled under this order, however, if the plant operator elects to relinquish pool plant status under the other order. In the absence of any such action by the plant operator, a conflict would exist with regard to which of the two orders would regulate such plant. Adoption of the modification, which was proposed by AMPI, would eliminate such conflict by allowing the plant to continue as a pool plant under the order in which it has automatic pooling status.

9. *Quantity limits and point of pricing on diversions of producer milk under the Central Arkansas order.*

(a) *Quantity limits on diversions of producer milk.* The producer milk definition should be revised to specify that at least 1 day's production of a dairy farmer be physically received each month at a pool plant in order for any milk of such person to be eligible for diversion as producer milk to nonpool plants.

Also, during each of the months of September through January, a cooperative association should be allowed to divert to nonpool plants that are not producer-handler plants a quantity of milk not in excess of one-half of the quantity of producer milk that the association causes to be delivered to and is physically received at pool plants during the month. The operator of a pool plant (other than a cooperative association) should be allowed to divert to nonpool plants that are not producer-handler plants any milk that is not under the control of a cooperative association that is likewise diverting milk to nonpool plants during the month. The quantity of milk that the operator of a proprietary plant may divert for the plant's account during the months of September through January should not exceed one-half of the milk physically received at such pool plant that is eligible to be diverted by the plant operator.

During each of the months of February through August, diversions by cooperative associations to nonpool plants that are not producer-handler plants should be limited to the quantity of producer milk that the association causes to be delivered to and is physically received at pool plants during the month. Similarly, diversions by a proprietary handler to nonpool plants that are not producer-handler plants should be limited to the quantity of milk physically received at such pool plant that is not under the control of a cooperative association that is likewise diverting milk to nonpool plants during the month.

Any milk diverted in excess of the quantity limitations specified should not be producer milk. The diverting handler may designate the dairy farmers whose milk would not be producer milk. Otherwise, the milk last diverted during such month, in lots of an entire day's production, should be excluded first in determining which milk would not be producer milk. The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk.

Presently, the order provides that milk of a producer must be received at a pool plant before it is eligible to be diverted as producer milk. After a producer has established an association with the market, his milk may be diverted to nonpool plants on any number of days during the months of February through August and on not more than 10 days during the months of September through January.

AMPI proposed that milk of a dairy farmer should not be eligible for diversion during any month if less than 15 percent of the monthly milk production of such dairy farmer is received as producer milk at a pool plant. It also proposed that the total quantity of milk so diverted by a cooperative should not exceed one-half of the producer milk that the cooperative association causes to be delivered to and is physically received at pool plants. The cooperative proposed that the operator of a pool plant be permitted to divert any milk that is not under the control of a cooperative association that diverts milk during the month. The total quantity of milk so diverted would be limited to one-half of the producer milk physically received at such pool plant that is not under the control of a cooperative association that diverts milk during the month. Any milk diverted in excess of the prescribed limits would not be producer milk.

If over-diversions do occur and the diverting handler fails to designate the dairy farmer deliveries that are not to be producer milk, the cooperative proposed that no milk diverted by the handler during the month to a nonpool plant be producer milk. It further proposed that the quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant should not be producer milk.

Proponent cooperative's representative testified that provisions requiring some minimum association with the market are necessary to assure that milk pooled on the Central Arkansas market is actually available for fluid use. The representative indicated that there have been instances in which dairy farmers have made limited shipments during the fall months to qualify as producers. After such initial shipments, milk of such dairy farmers was taken off the market by diversion to nonpool plants. Under such circumstance, the milk was not available to the Central Arkansas market for fluid use but the dairy farmers continued to draw the blend price under the Central Arkansas order for such milk.

The representative of a proprietary pool plant regulated under the Memphis order proposed that no more than one day's production during the momths of September through January be required to be physically received at pool plants regulated under the Central Arkansas order as a condition for diverting milk of a producer. The representative proposed that during the months of September through January an amount of milk equal to the volume of milk physically received at pool distributing plants could be diverted to nonpool plants. During other months of the year, unlimited diversions would be permitted.

The handler's spokesman pointed out that milk of certain distant producers may not be needed every day of the

month, especially during the season of flush production. In the event there is a need to divert reserve milk supplies to nonpool plants for manufacturing, he indicated that a handler should have the opportunity to move such milk in the most efficient manner. For this reason, he proposed that during the months of September through January only a minimal association with the market be required in order for the milk of a producer to be diverted and that the limit on the quantity of milk diverted be based upon the aggregate quantity of milk physically received at pool plants. Such diversion requirements would permit the milk of the more distant producers to be diverted every day of the year except for one day's production during each of the months of September through January.

Under the existing supply situation, the requirement that at least one day's production of a dairy farmer be delivered to the market each month as a requirement for any milk of that person to be diverted as producer milk is a reasonable standard. The Central Arkansas market is relatively short of milk production throughout the year. Most of the monthly milk production of the producers who are the regular suppliers of the market is needed each month throughout the year including the season of flush production. When the milk production of the regular suppliers of milk is not sufficient to meet the fluid needs of handlers, the milk of dairy farmers who are producers on other Federal milk orders is directed to the Central Arkansas market by the cooperative association whose members are the principal suppliers of milk for this market.

The requirement that at least one day's production of a dairy farmer be physically received each month at a pool plant will assure that each producer whose milk is being diverted maintains an association with the market.

There is no need, however, to require that at least 15 percent of a dairy farmer's production be delivered to a pool plant each month in order for any milk of such producer to be eligible for diversion. Such requirement would unnecessarily limit a handler's ability to divert efficiently the milk of producers. While limits on the quantity of milk associated with the Central Arkansas market through diversions are necessary, such limits should be established on the basis of the aggregate quantity of milk received at pool plants. Such method will provide adequate safeguards on diversions to nonpool plants and provide handlers greater flexibility in moving excess milk supplies to nonpool plants. For example, the provisions adopted herein will enable a handler to divert more often the milk of those producers whose farms are more distant from his plant than those located closest to his plant. Such diversions will benefit the more distant producers by reducing their cost of hauling milk. On days when their milk is not needed at the central market, it can be diverted to nearby manufacturing plants.

The limit on diversions adopted herein would permit up to one-third of the producer milk of a handler to be diverted off the market during the months of September through January. Such limit comports with the limit proposed by proponent cooperative for all months of the year and should accommodate any needed diversions by handlers during the months when milk production declines seasonally. In that regard, the greatest diversions during the last 3 years for the September through January period occurred in December 1978. In that month, 12.8 percent of the total producer milk on the market was not delivered to pool distributing plants.

During the months of February through August when the demand for fluid milk is less and the supply of producer milk is more plentiful than during other months of the year, handlers will find it necessary to divert greater quantities of milk to nonpool plants than during the months of September through January. Accordingly, during the months of February through August, handlers should be permitted to divert producer milk to nonpool plants in an amount equal to the quantity of producer milk physically received at the plant. As a practical matter, there is no reason to have the order provide that the operator of a pool distributing plant may divert any greater quantity than the amount adopted herein. The same would be true for a pool supply plant that is required to make qualifying shipments to pool distributing plants during such months. If such handlers diverted more milk to nonpool plants for manufacturing than was received at their plants, they would be unable to meet the 50 percent Class I utilization required of a pool distributing plant or the shipping percentage required of a pool supply plant.

As provided herein, milk diverted from a pool plant would be included in the plant's receipts for purposes of determining whether or not the plant meets the applicable pooling standards. It is necessary under this procedure to safeguard against a pool plant not meeting the pooling standards because too much milk was diverted from the plant by a cooperative, perhaps without timely knowledge of this by the plant operator. Accordingly, whatever quantity of milk diverted by a cooperative from a pool plant of another handler that would cause such plant to become a nonpool plant should not be considered as producer milk.

(b) *Point of pricing on diverted milk.* All diverted milk should be deemed for pricing purposes to have been received by the diverting handler at the location of the plant to which the milk was diverted, as proposed by AMPI. Currently, diverted milk is priced at the location of the plant from which diverted.

Pricing diverted milk at the location of the plant where such milk is physically received, rather than at the city plant from which diverted, removes the possibility of pool proceeds being used to subsidize distant producers when their milk is diverted to distant manufacturing plants. Currently some distant producers are receiving a blend price f.o.b. the city plant (as if the milk had actually moved to the city) when in fact no transportation costs to the city had been incurred because the milk was diverted to a manufacturing plant located near the producer's farm.

10. *Location adjustment provisions of the Central Arkansas order.* The location adjustment provisions of the Central Arkansas order shoud be amended to provide for a no location adjustment zone consisting of a band of counties running from east to west in the central part of Arkansas. The Arkansas counties to be included in the no location adjustment zone would be Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittendon, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff and Yell. Also, no location adjustments should apply for milk received at plants located in Oklahoma or Tennessee.

For a plant located in that portion of the State of Arkansas lying to the south of the no location adjustment zone or located in the States of Louisiana, Mississippi, or Texas, the adjustment should be plus 1.5 cents per hundredweight for each 10 miles or fraction thereof between such plant and the nearer of the County Courthouse in Forrest City, Arkansas, or the State Capitol in Little Rock, Arkansas, if such

plant is more than 60 miles from the nearer of such basing points.

At all other locations more than 60 miles from the nearer of the County Courthouse in Forrest City, Arkansas, or the State Capitol in Little Rock, Arkansas, the location adjustment for milk received at pool plants should be a minus value computed at the rate of 1.5 cents per hundredweight for each 10 miles or fraction thereof between such plant and such nearer point.

Under the current order provisions, a location adjustment applies to milk received from producers at a pool plant located more than 60 miles from the nearest of the County Courthouse in Arkadelphia, Arkansas; the County Courthouse in Forrest City, Arkansas; or the State Capitol in Little Rock, Arkansas. A minus location adjustment applies at all plants beyond 60 miles of the nearest basing point and is computed at the rate of 1.5 cents per hundredweight for each 10 miles or fraction thereof between such plant and the nearest basing point.

AMPI proposed that the existing location adjustments provided under the Central Arkansas order be continued except that no location adjustments would apply for milk received at plants located in the State of Tennessee, Mississippi or Oklahoma and plus location adjustments would apply at plants located south of Interstate 40 and more than 60 miles from the nearer of Forrest City or Little Rock, Arkansas. The cooperative proposed that Arkadelphia be dropped as a basing point in order that a location adjustment would apply at a plant located at Camden, Arkansas.

The cooperative indicated that under the location adjustments it was proposing, the current level of Class I prices would be changed at only 2 locations for plants currently regulated under the Central Arkansas order. Under its proposal, the location adjustment at Camden, Arkansas, would be changed from zero to plus 15 cents. At Texarkana, Arkansas-Texas, a plus location adjustment of 21 cents per hundredweight would apply.[3] Presently, milk received at the plant of Midwest Farms, which is located at Texarkana, Texas, receives a minus location adjustment of 12 cents.

There was some confusion interjected as a result of cross-examination of AMPI's witness on whether AMPI intended to apply no location adjustments for milk received at plants located in Oklahoma or intended to continue the minus location adjustments that currently apply in such area. In its brief, however, AMPI reiterated that no location adjustment should apply at plants located in the States of Tennessee, Mississippi or Oklahoma.

Kraft's representative indicated that Kraft was concerned with respect to AMPI's proposed location adjustments for plants located in Oklahoma that would be regulated under the Central Arkansas order. the representative acknowledged the need to establish a Class I price for a pool distributing plant located in Oklahoma that offered neither a competitive advantage or a disadvantage relative to the Class I price applicable at competing plants. Kraft was primarily concerned that the location adjustment applicable to the blend prices for pool plants located in Oklahoma be established so that the blend prices at such plants located in the vicinity of the Arkansas-Oklahoma boundary line would be aligned with the blend prices applicable to Kraft's supply plant at Bentonville, Arkansas, which is fully regulated under the Oklahoma Metropolitan order. In effect, Kraft took the position that no location adjustment to the Class I price should apply at pool distributing plants located in Oklahoma and that location adjustments should apply to the blend prices at pool plants located in Oklahoma. In its brief, Kraft noted that the Secretary should be guided by AMPI's expressions of intent on the record with regard to location adjustments, i.e., "location adjustments would continue to be minus as you went further North or Northwest" out of Central Arkansas.

The existing location adjustments applicable at all plants that are currently operating as fully or partially regulated distributing plants under the Central Arkansas order should be continued except at plants located at Camden, Arkansas, and in the Texarkana area. Currently, no location adjustments apply at the Arkansas plants located at Little Rock, Conway, Ward, and Hot Springs. As a consequence, a Class I differential of $1.94 is applicable at all such plant locations. The current Class I differential of $1.94 should be continued at such plant locations by specifying that no location adjustment shall apply at any plant located in a band of counties in Central Arkansas extending from the eastern border to the western border of Arkansas. A single Class I differential at plants located within such area will provide appropriate alignment of Class I prices at plants in such area relative to plants located immediately east and west of such area. Such pricing would be identical to the Class I differential of $1.94 that applies at plants located in the Memphis area that are regulated by the Memphis order. This differential of $1.94 at plants located in the western part of Central Arkansas would be slightly over the Class I differential under the Oklahoma Metropolitan order at plants in Oklahoma west of the Central Arkansas area.[4] The northern boundary of the no location adjustment zone should be the tier of counties including and extending east of Crawford County since a Class I differential of $1.95 applies at plants in Crawford County under the Fort Smith order. The Southern boundary of the no location adjustment zone should consist of a tier of counties located immediately north of Ouachita County. Such positioning of the southern boundary of the zone will retain the current Class I differential at the Hot Springs, Arkansas plant and permit the application of a plus adjustment at the Camden plant located in Ouachita County.

Forty Arkansas counties should be included in the no location adjustment. zone. The counties are Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittendon, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff and Yell.

The use of the no location adjustment zone instead of proponent's proposal that Interstate Highway 40 be used as the dividing line between plants at which plus and minus location adjustments would apply averts several pricing problems that might otherwise occur. Under AMPI's proposal, a Class I price alignment problem could occur at two competing plants that are separated by Interstate 40 and are located more than 60 miles from the nearer of Forrest City or Little Rock, Arkansas. For example, under AMPI's proposal a plant located at Ft. Smith, Arkansas, south of

[3] The 21 cents per hundredweight would apply to milk received at a plant located from 130.1 miles to 140.0 miles south of the State Capitol in Little Rock, Arkansas. While testimony on the record shows the distance between Little Rock, Arkansas, and Texarkana, Arkansas-Texas, to be 140 miles, the location adjustment that would apply for milk received at a plant in the Texarkana area would depend upon the shortest hard surfaced highway distance between such plant and the State Capitol in Little Rock, as determined by the market administrator.

[4] The Oklahoma Metropolitan order privides that the Class I differential of $1.96 for milk received from producers at a plant located 50 miles or more from the city hall in Oklahoma City shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

Interstate 40 would have a plus location adjustment of approximately 24 cents while a plant in the same general area but located north of such highway would have a minus location adjustment of the same magnitude. As a consequence, the Class I differential applicable at a plant located south of Interstate 40 would be $2.18 while the Class I differential applicable at the other plant would be $1.70. Furthermore, such location adjustments would not result in Class I differentials at either of such plants that would be compatible with the Class I differential of $1.95 that is applicable under the Ft. Smith order at plants located within 50 miles of Fort Smith. Also, proponent's proposed Class I differentials for plants in the Ft. Smith area would not be compatible with the Class I differential of $1.94 that proponent would apply at Oklahoma plants located immediately west of the Ft. Smith area (proponent proposed that no location adjustment apply at any plant located in Oklahoma).

The Class I price at plants in Arkansas south of the no location adjustment zone previously described and at plants in the State of Texas should be subject to plus location adjustments.

In general, plus location adjustments are needed at plants located south of the central portion of the Central Arkansas marketing area to increase the Class I differential applicable at such plants to the level of the Class I differentials applicable at other plants in the same general area that are regulated under adjacent Federal milk orders. In the absence of such alignment, the local milk supply would be encouraged to move to plants with higher Class I differentials. To provide the necessary Class I price alignment, the Central Arkansas order should provide for plus location adjustments for milk received at plants located in a southerly direction from the central market.

Presently, no location adjustment applies at the plant at Camden, Arkansas, and a minus location adjustment of $0.12 applies at a plant at Texarkana, Texas. As a consequence of the current location adjustment provisions, the Class I prices applicable at such plants are not appropriately aligned with plants located in that general area which are regulated by other Federal orders. For example, a Class I differential of $2.23 applies at the plant located at Texarkana to the extent that it is a partially regulated distributing plant under the Texas order and a Class I differential of $1.82 applies to the extent that the plant is a partially regulated distributing plant under the current Central Arkansas order. Under the Greater Louisiana order, a Class I differential of $2.47 applies at a plant located at Shreveport which is approximately 70 miles directly south of Texarkana.

The plus location adjustment proposed for the Texarkana area will provide the necessary price alignment in the area south of the no location zone with the Class I prices applicable in such general area under other orders. The plus location adjustment adopted herein would provide a plus adjustment of $0.21 at Texarkana resulting in a Class I differential of $2.15 at such location. Such Class I differential compares favorably with the Class I differential of $2.23 provided under the Texas order for a plant at Texarkana. Furthermore, the plus location adjustment will provide a better alignment of the Central Arkansas Class I price at a Texarkana plant with the Greater Louisiana order Class I price at Shreveport located 70 miles south of Texarkana.

The location adjustment provisions adopted herein would provide for a plus adjustment of $0.15 at Camden resulting in a Class I differential of $2.09 at such location. A Class I differential of $2.09 is needed to assure the availability of a sufficient milk supply at the Camden plant. In the absence of the 15-cent increase in the Class I differential for milk received at that plant, the local milk supply could be marketed at plants under adjacent Federal milk orders and receive a higher return. Furthermore, a Class I differential higher than the central market location is needed to encourage producers in the Little Rock area to make their milk available to the Camden plant when it is needed to supplement the local milk supply. In this regard, the cooperative supplying the Camden plant indicated that it currently charges the Camden plant a higher Class I price than handlers in Little Rock to obtain a producer milk supply for the Camden plant.

The Class I price at plants in the States of Mississippi and Louisiana should also be subject to plus location adjustments. While Class I prices under current provisions of the Central Arkansas order are reduced at plants located outside the marketing area, Class I prices under the Memphis order increase as one moves south from Memphis into the State of Mississippi. The Memphis order provides that at all locations in Mississippi more than 50 miles from Memphis the Class I price shall be increased by a factor related to the cost of transporting milk. The adoption of similar pricing provisions in the Central Arkansas order will provide approximately the same location value for milk at plants in Mississippi that currently applies under the Memphis order. However, instead of applying plus location adjustments at all plants in Mississippi more than 50 miles from Memphis, as provided under the Memphis order, adjustments under the Central Arkansas order should apply at all plants located more than 60 miles from the nearer of Forrest City or Little Rock, Arkansas. This should provide approximately the same location adjustment pricing at Mississippi plants that currently applies under the Memphis order in view of the proximity of Forrest City to Memphis and the 10 mile increase in distance before the adjustment applies. Also, it is reasonable that a similar pricing structure apply to plants located in the State of Louisiana since plants in such southern area would also be expected to have to pay increasingly higher prices to dairy farmers for milk supplies.

No location adjustment should apply at plants located in Oklahoma. Any plant located in Oklahoma that may become associated with this market most likely would compete for milk supplies with handlers regulated under the Oklahoma Metropolitan order. Since the pricing provisions of that order establish a Class I differential of $1.98 in the Oklahoma City area and $1.88 in the Tulsa area, a Class I differential of $1.94 should assure an adequate milk supply for a plant in Oklahoma that might become regulated under the Central Arkansas order.

Kraft's spokesman expressed concern that the zero location ajdustment AMPI proposed to apply to the uniform price for milk that is pooled under the Central Arkansas order and delivered to a plant location in Oklahoma would provide no incentive for producers in eastern Oklahoma and northwestern Arkansas to deliver milk to the central marketplace of the Central Arkansas order. As previously noted, the economic value of milk delivered to distributing plants located in Oklahoma (Class I differentials of $1.88 and $1.98 at Tulsa and Oklahoma City, respectively) approximates the economic value of milk delivered to the central marketplace of the Central Arkansas order (Class I differential of $1.94). For this reason, a producer under the Central Arkansas order who delivers his milk to a pool plant located in Oklahoma should receive a price that approximates the price he would receive for delivering the milk to a pool plant in Little Rock, Arkansas, the central

marketplace of the Central Arkansas order.

Likewise, no location adjustments should apply at plants located in Tennessee. Any plant located in western Tennessee that may become associated with this market would most likely compete for milk supplies with handlers regulated under the Memphis, Tennessee, order. Since the Memphis order provides for a Class I differential of $1.94 in the Memphis area, a Class I differential of $1.94 should assure an adequate milk supply for a plant in western Tennessee that might become regulated under the Central Arkansas order.

At plants located outside the areas previously described, a minus location adjustment should apply. Under the location adjustment provisions adopted herein, the pool plant at Paragould, Arkansas, would continue to have a minus adjustment of $0.135. Other plants at which minus location adjustments would also apply would be located to the north of the marketing area. Minus location adjustments in this general area north of the marketing area are needed to reflect the lesser location value of milk for this market at the more distant northern plants relative to plants nearer the marketing area.

The location adjustment on Class I milk received at plants located outside the areas in which no location adjustment applies should be at the rate (either minus or plus) of 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the County Courthouse in Forrest City, Arkansas, or the State Capitol in Little Rock. This location adjustment rate will result in Class I prices at plants located both north and south of the marketing area that are reasonably aligned with Class I prices in other markets.

The provisions of the Central Arkansas order that limit Class I location adjustment credit on bulk milk transferred betwen plants should be retained. If location adjustment credits were not limited, the pool obligation of the supply plant operator for producer milk transferred to a distributing pool plant as Class I milk would be the Class I price adjusted for the location of the supply plant. Under the order, however, if the distributing plant receiving supply plant milk has sufficient milk from local direct-ship producers to cover all of its Class I sales, the supply plant operator does not receive location adjustment credit on the milk transferred since it is not needed for Class I use.

The basic concept of this limitation on location adjustment credits should be retained. To adapt this concept to the pricing structure adopted herein (which includes the announced Class I price for central market locations with plus or minus price adjustments at other locations), it is necessary that the location adjustment credit provisions be revised. The intent of the limitation provided is to insure that producers on the market do not have their returns lowered through the granting of price credits on milk unnecessarily moved between pool plants for other than Class I use.

In this connection, location adjustment credits should not apply to Class I milk shipped to pool plants in lower-priced zones. Although such shipment would not be a usual movement of milk, it could occur. For example, a plant in Texarkana with receipts in excess of its fluid milk requirements might ship such excess to handlers in Little Rock, Arkansas. The Class I price levels established under the order in Texarkana and other plus location adjustment zones are intended to attract milk to these areas for Class I use at such plant locations and not for reshipment to lower-priced zones. Such reshipments should not be encouraged through the granting of price credits on such milk movements. If the prices provided tend to attract greater quantities of milk than are needed locally, then consideration should be given to whether a lower price should be provided.

An additional modification in the application of Class I location adjustment credits that was proposed should also be adopted to conform with the adoption of plus and minus adjustments to the Class I price under the order. Under the present order provisions, a disallowed location adjustment credit results in the application of the central market f.o.b. Class I price (Class I differential of $1.94) to the transferor-plant. Such price could be either higher or lower than the applicable Class I differential at the transferee-plant. This should be changed so that the transferor plant would have to account for such milk at the Class I price applicable at the transferee-plant. For example, if milk were transferred from a plant with a minus adjustment to a plant with a plus 15-cent adjustment, and there was no location adjustment credit allowed for the transferor-handler, then the transferor-handler would have to account to the pool for such transferred Class I milk at the Class I price at the transferee-plant, i.e., a Class I differential of $2.09. Since the location value of milk in this example is the Class I differential price of $2.09, the order should not apply the lower central market price of $1.94 on any of the transferred milk. Likewise, milk transferred to a plant with a minus 13.5-cent location adjustment from a plant with a greater minus adjustment should reflect the $1.805 location value rather than the higher $1.94 location value applicable in the central market.

Adoption of the above procedure will result in pricing transferred milk that does not receive a location adjustment credit at its proper value at the location of the transferee-plant. In order to fully accomplish this objective, the computation of any location adjustment credits that may be assigned should be based on the difference between the order Class I prices applicable at the transferor and transferee plants rather than at the difference between the Class I price at the transferor plant and the central market Class I price as under current provisions.

Distributing plants relying on supply plant milk for Class I use should be encouraged to draw such milk from the nearest plant or plants. It is possible that pool plant operators may attempt to circumvent such application of the order provisions by claiming that near-in supply plant milk was used in Class III while an equivalent amount of more distant supply plant milk received at the city was used in Class I. Although the more distant plant would be eligible for a location adjustment credit, under the provisions adopted herein such credit would be limited, in this example, to the lesser credit that would have been applicable to the near-in supply plant milk had it been classified as Class I milk.

At the hearing, Kraft suggested two modifications to the location adjustment provisions concerning the assignment of location adjustment credits to milk transferred to distributing plants from supply plants. One modification would increase Class I use at a distributing plant by 10 percent prior to assigning location adjustment credits to milk received from supply plants. The other modification would provide for a pro rata assignment of location adjustment credits to transfers from two or more supply plants to a distributing plant without regard to the location of the supply plants. Kraft stated that the modifications are necessary to help defray the cost of transporting milk from supply plants to distributing plants.

The fact that testimony on the record indicates that location adjustments do not fully cover the cost of hauling milk does not provide a sufficient basis for adopting Kraft's modifications. Both modifications are concerned with the manner in which available location adjustments are assigned to receipts

from various sources rather than the rate of location adjustments that are provided under the order. With respect to the manner in which such adjustments are assigned, both modifications are in conflict with the principle of limiting the assignment of location adjustment credits to discourage the shipment of milk between pool plants for other than Class I use. This record does not provide an adequate basis for relaxing this limitation. Accordingly, the modifications are not adopted.

12. *Miscellaneous Changes in the Three Orders.* This section deals with several conforming changes in the orders as well as miscellaneous modifications in the existing provisions of the orders not discussed elsewhere in this decision. Paragraphs (a)(i), (ii), and (iii) deal with modifications of the Central Arkansas order that were proposed and supported by AMPI. Paragraphs (a)(v) and (vii), (b)(i), (c), (d), and (e) deal with conforming changes or clarification of existing order provisions by the Department. The remaining paragraphs deal with miscellaneous modifications in provisions of the orders and the proponents of such changes are noted therein.

(a) *Miscellaneous Changes in the Central Arkansas Order.*

(i) *Route disposition.* A definition of route disposition under the Central Arkansas order is adopted herein. The definition represents no substantive change from the current order provisions but merely sets forth the definition as a separate section of the order.

(ii) *Distributing plant and supply plant definitions.* Definitions of each of these plants are currently included in the Central Arkansas order in conjunction with the pooling standards for each type of plant. The definitions contained herein modify the current definitions by describing each of these plants in a separate section of the order apart from the pooling standards.

(iii) *Approved plant.* The "approved plant" definition should be deleted from the provisions of the Central Arkansas order. This section is no longer needed since the provisions contained therein have been incorporated in a newly added route disposition definition and the revised definitions of a distributing plant and a supply plant which are adopted herein.

(iv) *Pool plant.* A proposal by Kraft that the Central Arkansas order not include a non-Grade A facility which is physically separated from the Grade A portion of a pool supply plant as part of the pool plant should not be adopted.

A spokesman for the company indicated that Kraft now operates a plant with Grade A and non-Grade A facilities at Bentonville, Arkansas, and the Grade A portion of the plant is pooled as a supply plant under the Oklahoma Metropolitan order. Kraft also operates a similar facility at Springfield, Missouri, and the Grade A portion of the plant is pooled under the St. Louis-Ozarks order. The spokesman for Kraft indicated that the change was proposed to assure that Kraft's Bentonville plant, or a similar operation, would be treated by the market administrator as two separate facilities if such plant supplied milk to distributing plants in the Central Arkansas market.

The treatment accorded Kraft's plants under the Oklahoma Metropolitan and St. Louis-Ozarks orders is the result of administrative determinations since neither of the orders have specific provisions requiring such treatment. There is little reason to presume that a different administrative determination would apply in the Central Arkansas market. Under the circumstances, there appears to be no reason for adopting the proposed modification of the Central Arkansas order.

The pool plant provisions of the Central Arkansas order should not include shipments of packaged fluid milk products from a pool distributing plant to another pool plant in meeting the route disposition requirements for a pool plant. In drafting the pool plant definition of the Central Arkansas order to incorporate the revised distributing plant definition, AMPI proposed that such shipments of packaged fluid milk products be counted as qualifying route disposition of the shipping plant. The spokesman for the cooperative indicated, however, that the association in drafting the proposal intended to make no change in the qualification requirements for a distributing plant. Accordingly, the current qualification standards for pool distributing plants with regard to route disposition should be retained.

(v) *Handler.* The reference to "approved" plants that appears in the handler definition is § 1108.9(a) should be changed to refer to distributing plants and supply plants since definitions of such plants replace the current "approved plant" definition. Also, the reference "§ 1108.12" that appears in § 1108.9(b) should be changed to "§ 1108.13". This change is necessary since the order language adopted herein sets forth the diversion provisions in the producer milk section of the order instead of the producer section.

(vi) *Producer milk.* The producer milk definition of the Central Arkansas order should be revised to provide that milk picked up by a handler at the farm in a bulk tank truck but not received at a plant until the next month would be producer milk in the month in which the milk is picked up.

The modification of the producer milk definition adopted herein carries out the basic objectives proposed by the principal cooperative association supplying the Central Arkansas market. There was no opposition to the proposed change.

Under the present accounting procedures, bulk tank milk that is picked up at the farm but not physically received at a plant until the following month is treated as a receipt of producer milk in such following month. This procedure presents accounting problems, particularly when milk passes through a reload facility and a portion of the load on the pick-up tanker is transferred to an over-the-road tanker and received at a plant that month, while the remainder is held at the reload facility for delivery to a plant the next month. While administrative guidelines have been adopted to promote uniform accounting procedures for bulk milk throughout the Federal order system, the procedures have not fully resolved the accounting problems to the satisfaction of affected parties. Further, individual producers have not understood the deferred settlement for milk that results when milk picked up in the current month is not physically received at a plant during that month.

Dairy farmers need not be required to wait one and a half months before receiving the uniform price for milk that is picked up at their farms on the last day of the month but is not received at a plant until the following month. The accounting procedure will be simplified and should be more readily accepted if milk is pooled in all cases in the month in which it is picked up at the farm. The changes provided herein will permit pooling of producer milk in the month it is picked up at the farm irrespective of whether the milk is received at a plant in the current or the following month. Milk picked up by a handler in the current month but not received at a plant will be included in the handler's end-of-the-month inventory and will be priced at the location of the plant where the milk is physically received in the following month. Since this milk presumably will be received at a plant on the 1st or 2nd day of the following month, the handler will know the location of the plant of actual receipt in time to include this information in his monthly report. If, however, none of the milk in the pick-up tanker is received at a plant, such milk will not be included in

the handler's report and he will have no pool obligation on it. This conforms with the present provisions which tie the producer milk provisions to its receipt at a plant.

If the operator of a pool plant is the first accountable handler for the milk, the plant operator will account for this producer milk as part of the plant's end-of-the-month inventory and will be charged the Class III price in the month it is picked up at the farm. In the following month, this milk will be treated in the same manner as other fluid milk products the plant operator had in inventory.

If a cooperative association bulk tank handler is the first accountable handler, such cooperative will account for the milk in transit as inventory and at the Class III price and will be credited at the blend price. Additional conforming changes are needed to implement this procedure to insure that in the following month the cooperative is credited for its pool obligation in the preceding month on such milk. In the following month, this milk is included in the obligation of the pool plant operator who physically received it and the plant operator will account to the market administrator for this milk at the classfied prices. Such monies would be deposited in the producer-settlement fund, but since the milk was pooled in the preceding month that quantity of milk would not be included in the pool computation of the current month.

The recommended decision provided a new paragraph under the Central Arkansas order in the section dealing with handler's value of milk for computing the uniform price. The paragraph provided that a credit be accorded a cooperative association acting as a bulk tank handler with respect to milk in inventory at the beginning of the month that was delivered to a pool plant during the month. The credit was computed by multiplying the Class III price as adjusted by the butterfat differential for the preceding month by the hundredweight in inventory. However, the Class III price need not be adjusted by the butterfat differential to compute the proper credit. The amount of the credit to be applied need only correspond to the value assigned to the product when it is picked up at the farm in the prior month. This can be accommodated by multiplying the amount in each instance by the Class III price for milk. Furthermore, in some instance it would not be possible to adjust the Class III price by the butterfat differential because the butterfat content of the milk is not available. This situation could arise if butterfat testing is not done on a daily basis. For these reasons, the decision has been changed to delete the requirement that the Class III price be adjusted by the butterfat differential.

It should be noted here that bulk tank milk being diverted by a cooperative from another handler's pool plant to a nonpool plant should not be included in the cooperative's ending inventory if the milk is in transit at the end of the month. Instead, the final accounting for the milk should be in the month in which it is picked up at the farm. The inventory accounting procedure is not necessary in this case since the cooperative is the only accountable handler under the order for such milk. The milk is received by the cooperative, of course, at the time it is picked up at the farm.

(vii) *Payments From the Producer-Settlement Fund.* The producer-settlement fund of the Central Arkansas order provides that if the balance in the producer-settlement is not sufficient to make all payments required to be made from such fund, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available. Conforming changes should be made in that section to provide that if a handler who is required to channel payments for producers through the market administrator fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due to producers of such handler and complete such payments when the remaining amount is received.

(b) *Miscellaneous Changes in the Memphis Order.* (i) *Announcement of uniform price.* Announcement of the uniform price under the Memphis order should be changed from the 13th to the 11th day of the month. Such change will make the announcement of the uniform price conform to the date the uniform price is announced under the Central Arkansas order. The principal cooperative supplying milk to the Memphis, Fort Smith and Central Arkansas orders proposed that the announcement of the uniform price in each of the three orders be announced on the 13th of the month. The cooperative's proposal, however, was predicated on the market administrator collecting all payments from handlers and then paying producers and cooperative associations by means of two partial payments and one final payment. Also, the cooperative proposed a revised payment schedule and requested that all payments be made so that they would be received by the due date.

Under the proposed payment procedure adopted herein, the uniform price should be announced as soon as possible. The earlier announcement date in conjunction with requiring handlers to pay the classified use value to the market administrator by the 14th instead of the 12th of the month will provide handlers 3 days in which to make their final payment for producer milk. In that regard, as discussed previously, payment to the market administrator would need to be received by the market administrator on or before the due date. A further reason for advancing the announcement date of the uniform price is related to the adoption of late payment charges under the three orders. In such circumstance, it is necessary that sufficient time be provided between the announcement and payment dates so that handlers can make such payment without incurring a late payment charge.

(c) *Miscellaneous Changes In The Fort Smith and Central Arkansas Orders.* Several conforming changes should be made in the other reports sections of the Fort Smith and Central Arkansas orders in recognition that the market administrator would be making payments to producers and cooperative associations in the event of late payment by handlers. In such event, the market administrator would need to know the name and address of each producer from whom milk was received during the first 15 days of the month, the total pounds of milk received during such period from each producer, and the amount and nature of any deduction authorized by the producer.

Conforming changes are also made in the "payroll reports" section of each of the orders because handlers who make payments to the market administrator, rather than to producers and cooperative associations, would not have a producer payroll. Also, the payroll report section is modified to delete the requirement to report the butterfat test since this information is submitted in other reports. Finally, the producer payroll report is modified to require the reporting of the dates on which payments were made to producers.

The recommended decision provided that a handler under the Central Arkansas order who is making payment to a producer must furnish each producer information with respect to the amount of milk received during the month and other related information on or before the 15th of the month. The date for furnishing such information should be changed to the 17th of the month. The

2-day delay will allow the handler to include such information along with the mailing or delivery of final payment to such producer which is due on or before the 17th of the month.

(d) *Miscellaneous Changes In The Memphis and Central Arkansas Orders.* The reporting sections of the Memphis and Central Arkansas orders should be modified to require an exchange of information between a cooperative and a handler relative to bulk milk received from a plant operated by a cooperative association. This information is necessary since the orders are being revised to specify that handlers must make payment to a cooperative association under the Central Arkansas order and to the market administrator under the Memphis order for bulk milk received from a plant operated by the cooperative association.

The Memphis and Central Arkansas orders should provide that amounts due the market administrator from a cooperative associations shall be offset by amounts due the cooperative from the market administrator. Requiring a cooperative to make payment to the market administrator who would then return such payment to the cooperative would be an economic hardship on the cooperative and would serve no useful purpose.

The recommended decision provided for a new paragraph to be added under the "other reports" section of the Memphis order. Reference in such paragraph was made to "pool plant" on three occasions. However, the order does not use the term "pool plant" in any other paragraph but instead uses the term "fluid milk plant" in that context. For this reason, the language in the added paragraph has been changed by substituting the term "fluid milk plant" for the term "pool plant" in all instances where the term appears.

(e) *Miscellaneous Changes In The Memphis, Fort Smith and Central Arkansas Orders.* The Memphis, Fort Smith and Central Arkansas orders should be revised to make it clear that assignments may be deducted from both the partial and final payments to producers. A proposal by the cooperative association that deductions from the partial and final payments may not exceed the amount due producers should also be adopted. Such limitation is necessary in order to assure than an overpayment to a producer does not result. Also, the orders should provide that assignments must have been paid assignees by the date payment is due producers. In the absence of such limitations, handlers could withhold payments due producers on the pretext that such funds are being held to pay future assignments.

One exceptor opposed the requirement that deductions which a producer has authorized to be made from the partial payment must be paid to assignees by the date the partial payment is due the producer. Exceptor held that such requirement would interfere with the ability of the handler, the producer and the third party creditor to make the most desirable payment arrangements. In support of the exception, the exceptor noted that in many cases the producer obtains no benefit from 2 assignment payments by the handler, that some creditors prefer to receive payments once per month, and that the requirement would result in additional paperwork and expense to the handler.

While the arguments presented may be true in some cases, the question remains as to whether the handler should be permitted to benefit by withholding the deduction until the final payment is due the producer. If handlers were permitted to withhold payments to assignee, this could result in a competitive advantage for those who pay third-party creditors. These handlers would, in effect, receive an interest-free loan equivalent to the amount of the authorized deduction for the period between the partial payment and the final payment dates on which producers are paid. Accordingly, exceptor's request that handlers be permitted to withhold authorized deductions from partial payments to producers is denied.

(f) *Miscellaneous Changes in the Fort Smith Order.* Announcement of the uniform price under the Fort Smith order should be changed from the 12th to the 11th of the month. As previously noted, the order is being revised to require a handler who is more than 3 days late in payment of an order obligation to make final payment of money due producers to the market administrator. Such payments must be made on or before the day prior to the date on which the handler would otherwise be required to make final payment to a cooperative association on behalf of producers or to individual producers. Currently, a handler is required to make final payment to a cooperative association on or before the 13th day of the month. Thus, a handler who is required to transmit payments due producers through the market administrator would need to make such payment on or before the 12th day of the month. For this reason, announcement of the uniform prices on the 12th would not be timely. Accordingly, the date for announcing the uniform price should be advanced 1 day. Such change in conjunction with the change in the uniform price announcement date for Memphis will result in the uniform prices in each of the 3 orders being announced on the 11th.

In addition, the order should be revised to make it clear that if the market administrator does not receive full payment from a handler for producer milk, the market administrator shall reduce uniformly the payments to all producers of such handler and complete such payments when the remaining amount is received. This is necessary since the market administrator would collect payment from handlers and pay producers in the event of late payment by a handler.

Rulings on Proposed Findings and Conclusions

A brief filed on behalf of one interested party contended that certain of the payment provisons provided herein cannot be adopted since the provisions would increase the returns to producers and no economic data upon which the Secretary may make the analysis and findings required by section 608c(18) of the Act in support of such increase were placed in evidence by the proponent cooperative association. It is noted in this regard that the payment provisions of the orders provided herein would not increase compensation to producers. Thus, the issue raised in the handler's brief is moot.

Other briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict

with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(d) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in §§ 1097.85, 1102.85, and 1108.85 of the aforesaid tentative marketing agreements and the orders as proposed to be amended.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

September 1981 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas is approved or favored by producers, as defined under the terms of each of the orders as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

Signed at Washington, D.C., on January 26, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [1] amending the orders, regulating the handling of milk in certain specified marketing areas.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in §§ 1097.85, 1102.85, and 1108.85.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, marketing Program Operations, on September 22, 1981 and published in the **Federal Register** on September 29, 1981 (46 FR 47588) shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein, subject to the following modifications:

1. Section 1097.32(d) is revised.
2. Section 1108.60(g) is revised.
3. Section 1108.73(c)(2) is revised.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

PART 1097—MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

1. In § 1097.32, a new paragraph (d) is added to read as follows:

§ 1097.32 Other reports.

* * * * *

(d) On or before the second day prior to the reporting dates specified in § 1097.31, each cooperative association that operates a fluid milk plant from which bulk fluid milk products were transferred to fluid milk plants of other handlers within the time periods described in § 1097.31 shall report to each such fluid milk plant operator and to the market administrator the name and location of the transferor plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

2. In § 1097.62, paragraph (b) is revised to read as follows:

§ 1097.62 Announcement of uniform prices for each handler and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the applicable uniform prices for each handler pursuant to § 1097.61 for such month.

3. Section 1097.71 is revised to read as follows:

§ 1097.71 Payments to market administrator.

(a) Subject to paragraphs (d) and (e) of this section, each handler shall pay to the market administrator on or before the 2nd day prior to the last day of each month an amount determined by multiplying the handler's receipts during the first 15 days of such month of producer milk (excluding the milk of any producer who had discontinued shipping milk to such handler before the 25th of the month and, in the case of a handler described in § 1097.9(c), producer milk delivered to fluid milk plant) and milk from a handler described in § 1097.9(c) by the applicable partial payment rate less proper deductions authorized in writing by producers from whom the handler received milk, provided that the amount deducted for each producer does not exceed the value of the milk received from the producers during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(b) Subject to paragraphs (d) and (e) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1097.60 (a), as adjusted by the butterfat differential specified in § 1097.74 and pursuant to § 1097.60 (b), (c) and (d), less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month: and

(2) Proper deductions that were authorized in writing by producers from whom the handler received milk, provided that the amount deducted for each producer does not exceed the valve of the milk received during the final payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer;

(c) Each handler who received bulk fluid milk and bulk fluid cream products from a fluid milk plant operated by a cooperative association shall pay the following amounts for such products to the market administrator, who in turn shall transmit such money to the cooperative association.

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1097.74 for the preceding month.

(2) On or before the 14th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1097.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1097.74, plus the applicable administrative assessment, less any payments made by the handler pursuant to paragraph (c)(1) of this section. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant plus the applicable administrative assessment rate.

(d) The following conditions shall apply with respect to the payments prescribed in paragraph (a), (b) and (c) of this section:

(1) Payment to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(e) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1097.73(c).

4. A new § 1097.72 is added to read as follows:

§ 1097.72 Rate of partial payments.

Partial payment rates shall be computed as follows:

(a) During the months of March through July, the previous month's Class III price.

(b) For the months of August through February, the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant.

5. Section 1097.73 is revised to read as follows:

§ 1097.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (e) of this section, the market administrator shall pay each producer on or before the last day of each month for milk which was received during the first 15 days of each month; provided, payment pursuant to § 1097.71(a) has been received by the market administrator. Such payment shall be uniform to all suppliers of each plant at a rate per hundredweight equal to that received by the market administrator less the deductions authorized by each producer pursuant to § 1097.71(a).

(b) Subject to paragraphs (c) through (e) of this section, the market administrator shall pay each producer on or before the 16th day after the end of each month for milk for which payment pursuant to § 1097.71(b) has been received by the market administrator. Such payment shall be at the uniform price(s) computed pursuant to § 1097.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1097.74 and 1097.75;

(2) Less the payment described in paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1097.86;

(4) Less the authorized deductions specified in § 1097.71 (a) and (b) (2); and

(5) Any adjustments for errors in calculating payments to an individual producer for past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having

authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) The following conditions shall apply with respect to the payments prescribed in paragraph (a) through (c) of this section:

(1) If the date by which such payments are to be made falls on a Saturday, or Sunday or on any day that is a national holiday, such payments need not be made until the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1097.71(c)(2) or paragraph (e)(1) of this section results in a delay in the partial or final payments by handlers to the market administrator, the corresponding partial or final payments prescribed in paragraphs (a) through (c) of this section may be delayed by the same number of days.

(e) If the market administrator does not receive the full payment required of a handler pursuant to § 1097.71 he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payment pursuant to this section following the date on which the remaining payment is received from such handler.

6. A new § 1097.78 is added to read as follows:

§ 1097.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1097.71, 1097.73, 1097.77, and 1097.85 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

7. Section 1097.85 is revised to read as follows:

§ 1097.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of milk at fluid milk plants from producers (including receipts from a handler described in § 1097.9(c) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1097.44(a) (7) and (11) and the corresponding steps of § 1097.44(b);

(c) Receipts of milk by a handler described in § 1097.9(c) in excess of that specified in paragraph (a) of this section; and

(d) Receipts of milk by a handler described in § 1097.9(b).

PART 1102—MILK IN FORT SMITH, ARKANSAS, MARKETING AREA

1. Section 1102.31 is revised to read as follows:

§ 1102.31 Payroll reports.

On or before the 20th day after the end of each month, each handler who pays producers pursuant to § 1102.73 shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address and the pounds of milk received;

(b) The prices per hundredweight, the gross amounts due, the amount and nature of any deductions, and the net amounts paid; and

(c) The dates such payments were made.

2. Section 1102.32 is revised to read as follows:

§ 1102.32 Other reports.

(a) On or before the 20th day of each month, each handler described in § 1102.9(a) who is required pursuant to § 1102.73(a) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk; and

(4) In lieu of reporting in accordance with paragraphs (a) (1), (2) and (3) of this section, a handler may, if he so chooses, report the sum of the pounds of milk received from individual producers whose milk is marketed by a cooperative association that is authorized to receive payment for such milk. The handler shall also report the sum of the authorized deductions of such producer.

(b) On or before the 7th day after the end of each month, each handler described in § 1102.9 (a) and (b) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the pounds of base milk; and

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions as authorized in writing by the producer, to be made from the final payment for such milk.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1102.30 and 1102.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. In § 1102.62, paragraph (b) is revised to read as follows:

§ 1102.62 Announcement of uniform price for each handler and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the applicable uniform prices for each handler pursuant to § 1102.61 for such month:

4. A new § 1102.72 is added to read as follows:

§ 1102.72 Rate of partial payments.

Partial payment rates shall be computed as follows:

(a) During the months of March through July, the previous month's Class III price.

(b) For the months of August through February, the Previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant.

5. Section 1102.73 is revised to read as follows:

§ 1102.73 Payments to producers and to cooperative associations.

(a) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1102 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to paragraphs (b) and (c) or paragraph (d) of this section. Payment shall be made to the market administrator on or before the day prior to the dates specified in paragraphs (b) and (c) or paragraph (d) of this section and such payments shall continue until the handler has met all payment obligations for 3 consecutive months. Payment to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator. If the date by which payments must be made to the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(b) Except as provided in paragraph (a) and (d) of this section, each handler shall pay on or before the last day of each month for milk received from producers during the first 15 days of the month to each producer who did not discontinue shipping milk to such handler before the 25th of the month, an amount equal to not less than the partial payment rate pursuant to § 1102.72 multiplied by the hundredweight of milk received from such producer, less proper deductions authorized in writing by the producer. Such deductions shall not exceed the value of the milk received during the partial payment period and the handlers must have paid such deductions to assignees by the date payment is otherwise due the producer.

(c) Except as provided in paragraph (a) and (d) of this section, each handler shall make payment on or before the 15th day after the end of the month to each producer for all milk received from such producer during the preceding month at the uniform price(s) computed pursuant to § 1102.61 for the month subject to the following adjustments:

(1) Any applicable adjustments pursuant ato §§ 1102.74 and 1102.75;

(2) Less the payment described in paragraph (b) of this section;

(3) Less deductions for marketing services pursuant to § 1102.86;

(4) Less proper deductions authorized in writing by such producer provided that the deductions for the month do not exceed the value of the milk received during the month and the handler has paid such deductions to assignees by the date payment is otherwise due the producer;

(d) In lieu of payments ot producers pursuant to paragraphs (b) and (c) of this section, each handler, on or before the 2nd day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (b) and (c) of this section.

(e) If the market administrator does not receive the full payment required of a handler pursuant to paragraph (a) of this section, he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

6. A new § 1102.78 is added to read as follows:

§ 1102.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1102.73, 1102.77, 1102.85 or 1102.86 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

7. Section 1102.85 is revised to read as follows:

§ 1102.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month six cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production); and

(b) Other source milk allocated to Class I pursuant to § 1102.44(a) (7) and (11), and the corresponding steps of § 1102.44(b).

8. Section 1102.86 is revised to read as follows:

§ 1102.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers, pursuant to § 1102.73, shall deduct seven cents per hundredweight or such amount not exceeding seven cents per hundredweight as may be prescribed by the Secretary. Each handler making such deductions, shall pay the deductions to the market administrator on or before the 15th day after the end of the month. Such moneys shall be used by the market administrator to sample, test and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of milk for which such deduction was computed for each producer.

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

1. A new § 1108.3 is added to read as follows:

§ 1108.3 Route disposition.

"Route Disposition" means any delivery of a fluid milk product classified as Class I milk to a wholesale or retail outlet (including any delivery through a vendor or a plant store) except a delivery to another pool plant.

2. Section 1108.5 is revised to read as follows:

§ 1108.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is route disposition in the marketing area.

3. Section 1108.6 is revised to read as follows:

§ 1108.6 Supply plant.

"Supply plant" means a plant which is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are shipped during the month to a pool plant.

4. Section 1108.7 is revised to read as follows:

§ 1108.7 Pool plant.

Except as provided in paragraph (c) of this section "pool plant" means:

(a) A distributing plant from which during the month packaged fluid milk products, except filled milk, disposed of as route disposition are equal to not less than 50 percent of its receipts of fluid milk products from producers (including producer milk diverted from the plant), handlers described in § 1108.9(c), and other pool plants and from which not less than 10 percent of such receipts is disposed of in the marketing area in the form of packaged fluid milk products, except filled milk, as route disposition.

(b) A supply plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers (including producer milk diverted from such plant but excluding milk received as diverted milk) and handlers described in § 1108.9(c) is shipped to and received at distributing plants qualified pursuant to paragraph (a) of this section, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph for each of the months during the period September through January shall upon written application to the market administrator, on or before the end of such period, be designated as a pool plant for the following months of February through August;

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily by 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 10 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding(s) the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1108.30;

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, unless one of the following conditions applies:

(i) If the plant is located within the marketing area and was a pool plant under this order during the immediately preceding month (except that prior pool plant qualification need not be met during the first month that the amended order is effective), it shall continue to be subject to all of the provisions of this part until the third consecutive month in which 50 percent or more of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) If the plant is located outside the marketing area and was a pool plant under this order in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (b) of this section which has automatic pooling status under another federal order.

§ 1108.7a [Removed]

5. Section 1108.7a is removed.

§ 1108.9 [Amended]

6. In § 1108.9(a) change the word "approved" to the words "distributing or supply" and in § 1108.9(b) change the reference from § 1108.12 to § 1108.13.

7. Section 1108.12 is revised to read as follows:

§ 1108.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1108.9(c); or

(3) Diverted from a pool plant in accordance with § 1108.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from another order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44(a)(8)(iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to another order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

8. Section 1108.13 is revised to read as follows:

§ 1108.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1108.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1108.9(c), is the handler for such milk; and

(d) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1108.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless during the month at least one day's production of such dairy farmer is physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted by a cooperative association shall not exceed, during any month of September through January, one-half of the quantity, and during all other months, the quantity, of producer milk that the cooperative association causes to be delivered to pool plants and that is physically received thereat;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(2) of this section. The total quantity of milk so diverted shall not exceed, during any month of September through January, one-half of the quantity, and during all other months, the quantity, of producer milk physically received at such pool plant that is eligible to be diverted by the plant operator;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d) (2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers' deliveries that are not to be producer milk, otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which milk should not be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and

(6) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

9. Section 1108.31 is revised to read as follows:

§ 1108.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who pays producers pursuant to § 1108.73 shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address and the pounds of milk received;

(2) The prices per hundredweight, the gross amounts due, the amount and nature of any deductions, and the net amounts paid; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of each month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

10. Section 1108.32 is revised to read as follows:

§ 1108.32 Other reports.

(a) On or before the 20th day of each month, each handler described in § 1108.9(a) who is required pursuant to § 1108.71(c) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the seventh day of each month for each producer for the preceding month:

(i) His name and address or other appropriate identification;

(ii) The total pounds of milk and butterfat received from such producer, including, for the months of March through July the pounds of base milk;

(iii) The location at which such milk was received;

(iv) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(v) The total pounds of skim milk and butterfat received from a handler described in § 1108.9(c); and

(vi) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1108.12 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(c) On or before the second day prior to the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator and to the market administrator the name and location of the transferor plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a), (b) and (c) of this section and §§ 1108.30 and 1108.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

11. Section 1108.52 is revised to read as follows:

§ 1108.52 Plant location adjustments for handlers.

(a) For milk received from producers or a handler described in § 1108.9(c) at a plant located more than 60 miles by the shortest hard surfaced highway distance as determined by the market administrator from the nearer of the county courthouse in Forrest City, Arkansas, or the State Capital in Little Rock, Arkansas, and which is classified as Class I without movement in bulk form to another pool plant at which a higher Class I price applies, the price specified in § 1108.50(a) shall be adjusted by amount stated in paragraph (a) (1) through (3) of this section for the location of such plant:

(1) Except as provided in paragraph (a) (2) and (3) of this section, the adjustment shall be minus 1.5 cents for each 10 miles or fraction thereof between such plant and such nearer basing point;

(2) For a plant located within the Arkansas counties of Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittenden, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff, and Yell or in the States of Oklahoma and Tennessee, no location adjustment shall apply; and

(3) For a plant located in that portion of the State of Arkansas lying to the south of the no location adjustment zone specified in paragraph (a)(2) of this section or located in the States of Louisiana, Mississippi or Texas, the adjustment shall be plus 1.5 cents for each 10 miles or fraction thereof between such plant and such nearer basing point.

(b) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee plant subject to a location adjustment credit for the transferor plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee plant after the computations pursuant to § 1108.44(a)(12) an amount equal to the pounds of skim milk in receipts of milk at the transferee plant from producers and handlers described in § 1108.9(c), and in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor plant at which the Class I price is lower than the Class I price at the transferee plant by the difference in Class I prices applicable at the transferor plant and transferee plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1108.42(a) and at which the applicable Class I price is less than the Class I price at the transferee plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

5. Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraphs (b)(1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

12. In § 1108.60, a new paragraph (g) is added to read as follows:

§ 1108.60 Handler's value of milk for computing uniform price.

* * * * *

(g) Subtract for a handler described in § 1108.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month.

13. In § 1108.61, paragraph (a)(2) is revised to read as follows:

§ 1108.61 Computation of uniform prices (including weighted average price and base and excess prices).

(a) * * *

(2) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1108.75.

* * * * *

14. Sections 1108.71, 1108.72 and 1108.73 are revised to read as follows:

§ 1108.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of the month the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1108.60.

(2) The sum of:

(i) The value at the uniform prices, as adjusted pursuant to § 1108.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1108.60(f).

(b) Subject to paragraph (d) of this section, each person who operated an order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator on or before the 25th day after the end of each month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other

order plant (but not to be less than the Class III price) and the Class III price.

(c) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1108 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to § 1108.73. Payment shall be made to the market administrator on or before the day prior to the dates specified in § 1108.73 and such payments shall continue until the handler has met all payment obligations for 3 consecutive months.

(d) The following conditions shall apply with respect to payments prescribed in paragraphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator.

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(3) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1108.73 (b) and (d).

§ 1108.72 Payments from the producer-settlement fund.

(a) On or before the 15th day after the end of each month the market administrator shall pay to each handler except one making payment pursuant to § 1108.71(c) the amount, if any, by which the amount computed pursuant to § 1108.71(a)(2) exceeds the amount computed pursuant to § 1108.71(a)(1).

(b) If the market administrator received payment from a handler(s) pursuant to § 1108.71(c), he shall distribute such amount plus any amount due such handler(s) pursuant to paragraph (a) of this section to producers and to cooperative associations in the same manner as provided in § 1108.73. In the event the handler fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due to producers of such handler and complete such payments when the remaining amount is received.

(c) If at any time the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1108.73 Payments to producers and to cooperative associations.

(a) Except as provided in § 1108.71(c) and paragraphs (b), (d) and (f) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1)(i) On or before the last day of each month of March through July to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer, provided that the deductions do not exceed the value of the milk received during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(ii) On or before the last day of each month of August through February to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer from whom the handler received milk, except that the amount deducted shall not exceed the value of the milk received during the partial payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(2) On or before the 17th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat differential and location adjustments to producers multiplied by the hundredweight of milk, or base milk and excess milk, received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1108.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer, provided that the deductions do not exceed the value of the milk received during the final payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1108.72(a) for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market-administrator.

(b) Except as provided in paragraph (f) of this section, in the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler other than one specified in § 1108.71(c) shall on or before the 2nd day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler making payment pursuant to this section shall furnish the person to whom payment is to be made with the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month;

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 17th day of the following month to producers:

(i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk;

(ii) For the months of March through July, the pounds of base milk received;

(iii) The amount or rate and nature of deductions made from payments; and

(iv) The amount and nature of payments due pursuant to § 1108.77.

(d) Except as provided in § 1108.71(c) and paragraph (f) of this section, each handler shall make payment to a

cooperative association with respect to receipts of milk for which it is the handler described in § 1108.9(c):

(1) On or before the 2nd day prior to the last day of the month, an amount equal to the applicable partial payment rate specified in paragraph (a)(1) of this section times the volume received during the first 15 days of the delivery period; and

(2) On or before the 15th day after the end of each month, an amount equal to not less than the value of such milk at applicable class price(s) adjusted by the butterfat differential pursuant to § 1108.74 less payment made pursuant to paragraph (d)(1) of this section.

(e) Subject to § 1108.71(c), each handler who received bulk fluid milk and bulk fluid cream products from a pool plant operated by a cooperative association shall pay the following amounts for such products to the cooperative association.

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate specified in paragraph (a)(1) of this section. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1108.74 for the preceding month.

(2) On or before the 15th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1108.42 (a) by the applicable class price, as adjusted by the butterfat differential specified in § 1108.74, less any payments made by the handler pursuant to paragraph (e)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant plus the applicable administrative assessment rate.

(f) If the application of § 1108.71(d)(2) results in a delay in the payment by the market administrator to handlers, the payments prescribed in paragraphs (a), (b) and (d) of this section may be delayed by the same number of days.

(g) If the market administrator does not receive the full payment required of a handler pursuant to § 1108.71(c), he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

15. Section 1108.75 is revised to read as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1108.73, the uniform price and uniform price for base milk computed pursuant to § 1108.61 for the month shall be adjusted by the amounts set forth in § 1108.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1108.71, the weighted average price shall be adjusted by the amount set forth in § 1108.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

16. A new § 1108.78 is added to read as follows:

§ 1108.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1108.71, 1108.73, 1108.76 1108.77, 1108.85 or 1108.86 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

17. Section 1108.85 is revised to read as follows:

§ 1108.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to;

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1108.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1108.9(c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a) (7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat substracted pursuant to § 1108.76(a)(2).

18. Section 1108.86 is revised to read as follows:

§ 1108.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of a handler's own farm production) pursuant to § 1108.73 shall deduct seven cents per hundredweight, or such amount not exceeding seven cents per hundredweight as may be prescribed by the Secretary. Each handler making such deductions shall pay the deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the sampling, testing and weighing of other milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of milk for which

such deduction was computed for each producer.

[FR Doc. 82-2386 Filed 1-28-82; 8:45 am]
BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins PE-63, Specification for Microwave Radio Equipment, Bulletin 345-57

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue a revised Bulletin 345-57, REA Specification for Microwave Radio Equipment, PE-63. The last issue of this specification was in June 1969. Since that date technology in the electronics industry and in the design of telephony electronics has undergone significant advances. Many of the improvements have already received widespread acceptance by manufacturers and users of telephony electronics. There is a need to update the REA Specification for Microwave Radio Equipment to reflect these improvements so that REA telephone borrowers will continue to provide their subscribers with the most modern and efficient telephone service.

DATE: Public comments must be received by REA no later than March 30, 1982.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3917. The draft Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A by issuing a revised Bulletin 345-57. This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required and an OMB Circular A-95 review is not applicable to this action.

This document was last revised in 1969, and there have been significant advances in technology since that time. The existing document is not applicable to much of the new technology, so that its continuation would have forced REA borrowers to use outmoded less cost-effective technology. If the existing specification was withdrawn rather than revised there would be no REA radio equipment specification which manufacturers would be required to meet. Unacceptable radio equipment could be sold to REA borrowers which would result in the loss of telephone system effectiveness and a threat to REA loan security. As a result, revision of the document along the proposed lines was considered to be in the best interest of the program.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: January 25, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-2388 Filed 1-28-82; 8:45 am]
BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[Docket No. PRM-2-11]

Filing of Petition for Rulemaking; Wells Eddleman

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of Petition for Rulemaking from Wells Eddleman.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated September 23, 1981, filed by Wells Eddleman. The petition, which has been assigned Docket No. PRM-2-11, requests that the Commission amend its regulations in 10 CFR Part 2 to require a separate operating license hearing for each power reactor unit at a nuclear plant site.

DATE: Comment period expires March 30, 1982.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7086.

SUPPLEMENTARY INFORMATION: The petitioner requests that the Commission amend its regulations in 10 CFR Part 2 to require a separate operating license hearing for each power reactor unit at a nuclear plant site. In support of this request, the petitioner states, in part, that "The time lag between in-service dates for individual reactors at multi-reactor nuclear plants has been increasing for many years, since, long before Three Mile Island 2's 1979 accident. For 4-unit plants, as much as 9 years or more may now be scheduled to elapse between the first and last unit coming on-line. For 2-unit plants, the second unit is often being scheduled for service 2 or 3 or more years after the first."

"This time lag is partly induced by construction difficulties, partly by additional safety considerations, and considerably by reduced needs for new electrical generating plants, among other factors. However, these time lags provide the opportunity for, and indeed necessitate, more thorough NRC review of the issues involved in licensing a nuclear power unit, with respect to second, third, fourth and even later units of a single plant. For one thing, virtually the entire data base on which most nuclear units presently under construction were approved is out of date and becoming more so daily. And * * * the NRC has not made the fundamental changes in its operations, rules, policies, and attitudes which would be minimally necessary to give reasonable assurances of nuclear safety in the future. Without nuclear safety there can be no viable nuclear industry. Therefore, thorough review of the sort proposed in this rule change is in the interest of the nuclear industry, the NRC and the public."

PART 2—RULES FOR PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

The petitioner requests that the Commission propose amendments to 10 CFR Part 2 as follows:

§ 2.101 [Amended]

"Add to 10 CFR 2.101 a new paragraph (a)(4) as follows:[1]

(a) * * *

(4) For nuclear power reactors, no single operating license hearing shall authorize the operation of more than one power reactor. Instead, a separate operating license hearing including the ability to re-open or introduce any issue including safety, need for power, cost-effectiveness compared to alternatives to meet or eliminate the energy output proposed from the unit, evacuation planning, waste disposal, need for base load power, and other relevant issues, shall be held for each nuclear power reactor.

* * * * *

Add to 10 CFR 2, Subpart D, a new § 2.408 as follows:

§ 2.408 Separate operating license hearing required for each power reactor.

For each power reactor at a given site, whether of the same design as others built on that site, or not, a separate operating license hearing shall be held before any operating license for that reactor shall issue. Such separate hearing shall include a *de novo* examination and determination of all relevant safety issues, including unresolved safety problems whether so designated by the Commission or not, especially those difficulties which have occurred in operating plants or have been shown by re-analysis or experiment to be more serious risks than formerly believed. Such separate hearing shall also include a *de novo* determination of the need for power, if any, from the reactor, and a *de novo* determination of the cost-effectiveness of operating the reactor as compared to alternatives, taking fully into account for the reactor and unit, all fixed capital charges, fuel and operating and maintenance costs, including insurance and any tax consequences or benefits of not operating the reactor, or scrapping it or any of its associated systems. Alternatives considered shall include, but not be limited to, any of the following in any combinations: conservation, load management, increased energy efficiency, substitutions of alternative sources of energy and/or efficiency in end-uses of energy, co-generation, development of hydroelectric energy from existing dams, reducing energy waste, avoiding the need for energy use through any measures (including insulation, shading, reflective coatings and air spaces, thermal storage, use of the latent heat of the earth), use of wastes or biomass as fuels, competing sources of electricity including centralized or dispersed solar photovoltaic energy, wind power, more efficient motors or appliances, increased production from existing power plants with lower capital costs, increased electricity production from any other new or existing sources, geothermal energy, wave energy, ocean thermal energy, substitution of solar energy with or without thermal storage for end uses of electricity for heating and/or cooling, waste heat recovery, and microhydroelectic power production. Such separate hearing shall also consider and determine whether the Nuclear Regulatory Commission has in place adequate regulations and sufficient personnel to ensure the safe operation of the unit for its planned operating life, and shall consider the range of probable costs and uncertainties in costs of waste disposal and decommissioning of the unit, in making its cost-effectiveness determination for the nuclear unit compared to alternatives. In the event of conflict between this section and any other part of Chapter 10 of the Code of Federal Regulations or any other regulation, this subsection shall be controlling."

Dated at Washington, DC, this 26th day of January 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-2362 Filed 1-28-82; 8:45 am]

BILLING CODE 7590-01-M

[1] Editorial Note: A subparagraph (4) currently exists in § 2.101(a).

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10 CFR Part 35

[Docket No. PRM-35-2]

Receipt of Petition for Rulemaking From the American Association of Physicists in Medicine

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of a petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is publishing a petition for rulemaking submitted by the American Association of Physicists in Medicine. The petition requests an interval longer than the two years between required calibrations of a dosimetry system used to perform full calibration measurements on a teletherapy unit—as long as suitable dosimetry system verification checks are carried out. The suggested amendments are intended to reduce the current six month waiting period for instrument calibration without adversely affecting dosimetry system reliability.

DATE: Submit comments by March 30, 1982. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, attention: Docketing and Service Branch.

Hand deliver comments to: Room 1121, 1717 H Street, NW., Washington, DC between 8:15 a.m. and 5:00 p.m.

For a copy of the petition write to: The Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Inspect and copy comments received on the petition at: The NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION:

J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7211.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) received a petition for rulemaking from the American Association of Physicists in Medicine (AAPM). The petition has been assigned Docket No. PRM-35-2. The petition suggests amendments to §§ 35.23(a) and 35.25(a) that would permit an interval longer than two years between required calibrations of a dosimetry system that is used to perform calibration measurements of a teletherapy unit—as long as suitable dosimetry verification checks are carried out.

As an interim measure, the petition also recommends that a variance be granted to licensed teletherapy users who are unable to have instruments calibrated within the required period.

The current text of § 35.23(a) reads: "Full calibration measurements required by § 35.21 shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards or by a Regional Calibration Laboratory accredited by the American Association of Physicists in Medicine. The dosimetry system shall have been calibrated within the previous two years

and after any servicing that may have affected system calibration."

The petitioner contends that: "The National Bureau of Standards (NBS) and the accredited Regional Calibration Laboratories (RGLs) are able to calibrate a limited number of instruments each year. With the advent of the referenced (§ 35.21) NRC regulation the waiting period for instrument calibration has increased and at present is about six months. It is probable that the waiting period will become longer as more instruments are due for calibrations."

To alleviate this situation, the petitioner recommends that the NRC revise 10 CFR 35.23(a) and 35.25(a) to permit a longer interval between required calibrations. In addition, the petitioner recommends, as an interim measure while the suggested amendments are under consideration, that the NRC grant a variance to a licensed teletherapy user who is not able to have instruments calibrated within the two year period. The suggested revisions to §§ 35.23(a) and 35.25(a) read as follows:

"§ 35.23 Requirement to calibrate instruments used for full calibration and spot-check measurement.

"(a)(1) Full calibration measurements required by § 35.21 shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards (NBS) or by a Regional Calibration Laboratory (RCL) accredited by the American Association of Physicists in Medicine (AAPM). The dosimetry system shall have been calibrated within the previous two years and after any servicing that may have affected system calibration. As an alternative, the dosimetry system shall be calibrated every four years; an independent cobalt-60 intercomparison shall be made midway (± 6 months) in the period; and suitable records shall be kept to provide constancy of the dosimetry system.

"(2) Independent cobalt-60 intercomparisons shall be sponsored by a professional organization, such as a chapter of the AAPM, the Radiological Physics Center (RPC), or a regional Center for Radiological Physics (CRP). Such intercomparisons shall *not* provide a calibration factor for the dosimetry system but will provide a check to determine that the existing calibration factor is valid. If such a dosimetry system intercomparison demonstrates that the calibration factor appears to have changed by more than 2%, then the dosimetry system shall be recalibrated at the NBS or an RCL.

"(3) Consistence of dosimetry system performance shall be verified before and after calibration by the NBS or an RCL, before and after a dosimetry system intercomparison, and at least quarterly thereafter, or prior to the use of a dosimetry system if the interval is greater. A cobalt-60 teletherapy source, with a jig for positive positioning of the ionization chamber, or a shielded Strontium-90 or other long-lived radioactive source, may be used for such constancy checks.[1] The time of irradiation shall be long compared to the time required to start and stop an irradiation. Corrections shall be made for radioactive source decay, and ambient temperature and pressure; attention shall be paid to possible errors in source or chamber positioning, collimator geometry, and timers. For field instruments changes or fluctuations of ± 1% are normal."

* * * * *

"§ 35.25 Records.

* * * * *

"(a) Records of (1) full calibration measurements under § 35.21 and (2) dosimetry system intercomparisons using Co-60, and (3) constancy checks of the dosimetry system used to make these measurements under § 35.23, shall be preserved for at least five years after completion of the full calibration."

* * * * *

The petitioner presents the following rationale for these suggested amendments.

"The AAPM considers it essential to maintain high standards of calibration for dosimetry systems used in the calibration of teletherapy units. Since the capacity of the NBS and RCLs is limited, an alternative method has been suggested to maintain these high standards while reducing the load on the calibration laboratories. Members of the AAPM are almost invariably the physicists responsible for the calibration of teletherapy units.

"The specific issues involved are the need to insure high accuracy in the calibration of teletherapy units and, within the capabilities of the calibration laboratories, to assure that dosimetry systems provide this accuracy. The recommendations made above are to change the requirement for dosimetry system calibrations every two years by the NBS or an RCL, to an alternative of requiring a calibration every four years with a dosimetry system intercomparison midway in the period and constancy checks throughout the four year period. The current rule could result in the use of a defective dosimetry system for a period as long as two years if, for example, it was damaged in transit or an error was made in the calibration. It is difficult, on short notice, to collect data showing that instrument calibrations stay constant over periods of many years. A number of qualified physicists who calibrate instruments and machines, believe that an initial calibration with proper constancy checks and dosimetry system intercomparisons would provide a better way to assure proper dosimetry system accuracy, than a new calibration every two years. Rationale for a longer period between calibrations was included in the IAEA 'Manual of Dosimetry in Radiotherapy' in 1970. A recent publication by Karzmark (1980) reported on constancy checks and intercomparisons for periods up to 14 years. For integrated dose data, the average standard deviation for six field instruments was 0.79%. Shalek et al (1981) reported on intercomparisons and calibrations with several different dosimetry systems. The results presented indicated that reliability of the dosimetry system or chamber calibration factor proved by the NBS or an RCL was unrelated to the number of years since calibration. The current rule is unduly burdensome because the calibration facilities of the NBS and RCLs are limited and at present there is a backlog of about six months."

The petitioner cites the following references.

"Massey, John B., IAEA Technical Report No. 110, "Manual of Dosimetry in Radiotherapy", p. 26, 1970.

Karzmark, C. J., "Concerning radiotherapy standard dose meter calibration" Med. Phys. *7*, 574–5, 1980.

Shalek, R. J., Humphries, L. J. and Hanson, W. F., "The American Association of Physicists in Medicine Regional Calibration Laboratory System", Proceedings of a Meeting on Traceability for Ionizing Radiation Measurements, NBS Special Publication 609, in press, 1981."

The petitioner requested that the suggested amendments be handled in accordance with the expedited procedure for handling certain petitions for rulemaking set out in 10 CFR 2.802(e), (46 FR 35486, July 9, 1981). Although NRC is announcing the receipt of the petition and requesting public comment on it in accordance with the standard procedures set out in 10 CFR 2.802(e), NRC intends to respond promptly to the petition. The NRC is currently developing a proposed revision to Part 35 in its entirety for publication in Spring, 1982. The NRC intends to

[1] A compact constancy checker shall *not* be used for dosimetry system intercomparisons.

investigate possible alternatives to the petitioner's suggested solution to the problem and analyze public comment received in response to this notice of petition for rulemaking. If the NRC then determines that an amendment is necessary, the proposed change will be included in the proposed revision of Part 35. Meanwhile, any licensee who anticipates difficulty in having instruments calibrated within the required two year period may request a specific exemption from this requirement under the provision of 10 CFR 30.11(a).

A request for an exemption should be addressed to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Washington, DC, this 25th day of January 1982.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 82-2383 Filed 1-28-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 1

[Docket No. RM82-12]

Rules Implementing Equal Access to Justice Act

Issued: January 19, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend its rules of practice and procedure by adding rules which implement the Equal Access to Justice Act. The Act provides for the award of fees and expenses to eligible parties who prevail over a federal agency in certain administrative proceedings and requires agencies to establish procedures for making such awards. This proposal would provide a procedure to be used in processing petitions for fees and expenses.

DATE: Written comments (send 14 copies) must be received by February 26, 1982.

ADDRESS: Comments must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments should refer to Docket No. RM82-12.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is proposing to amend its rules of practice and procedure 18 CFR Part 1 to implement the Equal Access to Justice Act (Act) (Pub. L. No. 96-481, Title II, 94 Stat. 2325 (1980), 5 U.S.C. 504 (1981)). The Act provides for the award of fees and expenses to eligible parties who prevail over a federal agency in certain administrative proceedings and requires agencies to establish procedures for making such awards. The Commission proposes to establish these procedures in a new section of its regulations, § 1.44.

A. Background

The purpose of the Act is to eliminate the disincentive that individuals and small businesses face in defending against government action because of the cost of vindicating their rights in both administrative and judicial forums. To accomplish this objective, the Act provides that a federal agency must award fees and expenses to an eligible party who prevails over the agency in an "adversary adjudication" before the Commission, unless (1) the agency's position was substantially justified or (2) special circumstances make the grant of an award unjust (5 U.S.C 504(a)(1)).

The Act defines "adversary adjudication" as a proceeding under section 554 of the Administrative Procedure Act (5 U.S.C. 554), in which the position of the United States is represented by counsel or otherwise. Congress, however, specifically excluded from coverage of the Act adjudications to establish or fix a rate or grant or renew a license, 5 U.S.C. 504(b)(1)(C). The Act applies to adversary adjudications pending between October 1, 1981, the effective date of the Act, and October 1, 1984, the expiration date of the Act. Eligibility for awards under the Act depends upon the net worth and the number of employees of the party and upon whether the party prevailed in the adversary adjudication.

The Act requires federal agencies to consult with the the Chairman of the Administrative Conference of the United States (the Conference) before establishing procedures to implement the Act. To provide guidance to agencies, the Conference issued model regulations (46 FR 15895, March 10, 1981; 46 FR 32900, June 25, 1981). In meeting the consultation obligation, the Commission designated a representative who participated in meetings which culminated in the model rules.

In addition, the Commission will give serious consideration to any comments submitted by the Conference to this proposed rule.

B. Discussion

The Commission has relief heavily on the model rules in formulating this proposal. However, the Commission's proposed rule differs from the model rules in two ways, the first relating to format, and the second, to certain substantive provisions. With respect to format, the Commission has incorporated the rules to implement the Act into its existing rules of practice and procedure. This differs from the model rules which envision establishment of a new part in the regulations for these rules. The Commission believes that incorporation is preferable, because many procedural aspects of the rules to implement the Act currently exist in the Commission's rules of practice and procedure. Duplication of these rules would invite confusion, possible inconsistency, and would unnecessarily increase the volume of Commission regulations. Therefore, the Commission proposes to add a new section, 1.44, to establish additional provisions unique to implementation of the Equal Access to Justice Act.

With respect to substance, the proposed rule largely adopts the recommendations of the Conference, but differs from the model rule in a few ways. With regard to some of those differences, the Commission requests comments, as discussed below. First, the proposed rules does not implement the model rule recommendation relating to fees for expert witnesses. The Act limits an award of attorneys fees to $75.00 an hour and limits fees for expert witnesses to the "highest rate of compensation for expert witnesses paid by the agency involved * * *." The Conference recommends that an agency specify the dollar amount which is the highest the agency pays its own expert witnesses. The Commission proposes not to follow this recommendation because it has not imposed any limitation on what it could pay its expert witnesses. Indeed, when the Commission has used outside expert witnesses it has paid them considerably more than the $24.09 an hour which the Conference states is the fee paid by other agencies. Comments are solicited on how the Commission should implement the Act's limitation on the hourly amount paid to expert witnesses.

Second, the Commission has not included the model rule relating to burden of proof. The Act does not

clearly allocate the burden of proof. The Conference Report states that "(a)fter a prevailing party has submitted an application for an award, the burden of proving that a fee award should not be made rests with the agency." H.R. Rep. 96-1434, 96th Cong., 2d Sess. 22 (1980). The Commission proposes to leave to the administrative law judge deciding the case, the resolution of the issue of the allocation of the burden of proof.

Finally, while the Commission has adopted the Conference's recommendation that a party may seek an award for fees and expenses only if the adjudication on which the claim is based was an adjudication required to be conducted under 5 U.S.C. 554, the Commission has not specifically enumerated the proceedings which are covered by the definition of "adversary adjudication," nor has it proposed to designate whether a proceeding is included within the definition of "adversary adjudication" at the time that it sets a matter for hearing. The Act may apply to only a few proceedings before the Commission, as, for example, proceediings under the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 796(20). The vast majority of the Commission's work, adjudications to establish a rate under section 4 of the Natural Gas Act (15 U.S.C. 717c), or section 20 of the Federal Power Act (16 U.S.C. 813), to grant a certificate to a pipeline under section 7 of the Natural Gas Act (15 U.S.C. 717f), and to issue a license or permit under sections 5 and 6 of the Federal Power Act (16 U.S.C. 798 and 799), are specifically exempted from claims for fees and expenses under the Act. The Commission has not determined the extent to which the other various proceedings conducted by the Commission are adversary adjudications. Comments are solicited on which proceedings conducted by the Commission are included in the definition of "adversary adjudication."

C. Description of Rule

Two changes would be made to the Commission's regulations by this proposal. First, a new paragraph (b)(11) would be added to § 1.27 of the Commission's rules of practice and procedure, which delegates to presiding officers the authority to make initial decisions on petitions for an award of fees and expenses. Second, a new § 1.44 would be added which contains provisions necessary to implement the Act.

New § 1.27(b)(11) would delegate to presiding officers the authority to make initial decisions on petitions under the Equal Access to Justice Act. In addition, Paragraph (i) of § 1.44 would give presiding officers the authority to hold such proceedings as may be necessary to arrive at a decision on a petition, including holding an evidentiary hearing. In Commission proceedings the presiding officer is rarely given the authority to set a petition for hearing. The decisions to set a matter for an evidentiary hearing is usually made by the Commission. However, Commission action is unnecessary to initiate the processing of a petition for an award of fees and expenses because the officer who presided at the adjudication which is the basis for the petition will be in a better position to make preliminary decisions on the petition.

As proposed, § 1.44 has eleven paragraphs which contain both the substantive provisions governing awards and the procedural provisions governing the processing of petitions for awards.

Paragraph (a) states that § 1.44 applies to proceedings for an award of fees and expenses under the Act.

Paragraph (b) defines the terms "adversary adjudication," "prevailing party," and "final agency action," and incorporates by reference the definitions used in the Act.

Paragraph (c) provides cross-references to the sections of the Rules of Practice and Procedure which are applicable to proceedings under the Act.

Paragraph (d) requires a petitioner to file a petition within 30 days after final agency action has been reached in the underlying proceeding. Petitions for an award of fees and expenses should not be decided until there can be no change in the merits of the underlying proceeding.

Paragraph (e) prescribes the contents of a petition for fees and expenses. The contents include a net worth exhibit and documentation of fees and expenses.

Paragraph (f) requires the Secretary of the Commission to assign a new docket number to a petition and to forward the petition to the Chief Administrative Law Judge, who will, if possible, assign the petition to the same judge who presided at the underlying proceeding. A new docket number is necessary so that the petitioner may avoid the necessity of serving the petition on everyone who was a party to the underlying proceeding.

Paragraph (g) identifies those eligible for awards under the Act. Subparagraph (1) tracks the Act's eligibility requirements by limiting eligibility based on individual or organizational net worth or numbers of employees. Subparagraph (2) follows the model rules provision that distinguishes, for the purposes of determining net worth, between petitioners who are before the Commission to represent their personal interests and those who are here to represent their business interests. Subparagraph (3) defines employees in the same manner as the model rules.

Subparagraph (4) provides that in certain circumstances the net worth and number of employees of the party seeking an award of fees would be aggregated with its affiliates to determine eligibility. Subparagraph (5) provides that petitioners will not be eligible when they are participating primarily on behalf of ineligible entities. In part this rule deals with the appropriate characterization of trade associations under the Act. Trade associations may be involved in litigation on their own account (*e.g.*, as employers) or in the interests of their membership. When a proceeding involves a trade association independent of its membership, the association's eligibility should be determined like any other petitioner's; when an association is primarily representing the interests of its members, the Commission would have to consider whether it should be deemed the alter ego of those members. One factor, for example, that the Commission might consider is whether the association is financing its participation in the litigation out of its general budget or through special assessments against members that have agreed to participate. In the latter situation, the Commission might look closely at whether the eligibility of the particular participating members might be attributed to the association.

Paragraph (h) prescribes the fees and expenses awardable under the Act, including the maximum hourly rates allowed by the Act. Subparagraph (3) lists certain factors to be considered in determining reasonableness of the fees requested, including a reference to fully allocated cost for in-house attorneys. Subparagraph (5) states that the Commission is not liable for an award if its position was "substantially justified" or if "special circumstances" make an award unjust. Subparagraph (6) repeats the statutory provision which requires that an award may be reduced if the petitioner unreasonably protracted the underlying proceeding.

Paragraph (i) gives the administrative law judge who presides over an Equal Access to Justice petition the authority both to require parties to submit such information and to hold such additional proceedings as may be necessary to reach a decision.

Paragraph (j) prescribes the procedures for payment of an award.

The Act provides that a prevailing party may be paid either by the agency, if Congress has appropriated funds for this purpose, or from a fund maintained for the payment of judgments against the United States, if funds have been so appropriated.

D. Certification of No Significant Impact on Small Entities

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission hereby certifies that these rules will not have a significant economic impact upon a substantial number of small entities. The Equal Access to Justice Act itself may have such an impact, since it applies to individuals and small business entities. It represents a Congressional determination that small entities should not bear the burden of litigation where the Government's position is not substantially justified. These rules simply implement the Act, carrying out Congressional intention, and do not, by themselves, impose significant economic burdens or benefits.

E. Comment Procedure

We invite interested members of the public to submit comments or suggestions regarding these proposed rules. The Commission and its staff will evaluate any information received from interested persons and will consider appropriate revisions to these rules as a result of comments received. An original and 14 copies should be filed by February 26, 1982, and submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All comments should refer to Docket No. RM82-12 on the cover page. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

(Administrative Procedure Act, (5 U.S.C. 551-557); Department of Energy Organization Act, (42 U.S.C. 7101 et seq.))

In consideration of the foregoing, the Commission proposes to amend Part 1, Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations, as provided below.

By direction of the Commission.

Lois D. Cashell,
Acting Secretary.

PART 1—RULES OF PRACTICE AND PROCEDURE

1. Part 1 is amended in the table of contents by adding a new section number and title between §§ 1.43 and 1.51 to read as follows:

Sec.

* * * * *

1.44 Proceedings for the award of fees and expenses under the Equal Access to Justice Act.

* * * * *

2. Section 1.27 is amended by redesignating paragraph (b)(11) as (b)(12) and inserting a new paragraph (b)(11) to read as follows:

§ 1.27 Presiding officer.

* * * * *

(b) *Authority delegated.* * * *

(11) To conduct and dispose of proceedings under § 1.44 for an award of fees and expenses under the Equal Access to Justice Act (5 U.S.C. 504).

* * * * *

3. Part 1 is amended by inserting a new section between §§ 1.43 and 1.51 to read as follows:

§ 1.44 Proceedings for the award of fees and expenses under the Equal Access to Justice Act.

(a) *Applicability.* This section applies to proceedings for the award of fees and expenses to a prevailing party in an adversary adjudication conducted by the Commission.

(b) *Definitions.* (1) "Adversary adjudication" means an adjudication, which is a final agency action, in a proceeding or part of a proceeding, pending before the Commission at any time between October 1, 1981 and September 30, 1984 (including any proceedings begun before October 1, 1981, if final action has not been taken before that date, and proceedings pending on September 30, 1984 regardless of when they were initiated or when final action occurs) which is required to be conducted under 5 U.S.C. 554 and in which the United States is represented by counsel or otherwise. It excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license (as defined in 5 U.S.C. 551(8)).

(2) "Pevailing party" means a party, as defined in the Equal Access to Justice Act, 5 U.S.C. 504, that prevails over an agency in an adversary adjudication conducted by the Commission.

(3) "Final agency action" means agency action which is final for purposes of seeking judicial review under the appropriate organic statute.

(4) All other terms shall have the same meaning as they have under the Equal Access to Justice Act (5 U.S.C. 504).

(c) *Applicable rules of practice and procedure.* Except as otherwise specifically provided in this section, the following provisions of this part shall apply to proceedings under this section:

(1)-(3) (Reserved)

(4) Section 1.4—Appearances and practice before the Commission;

(5) Section 1.7—Petitions;

(6) Section 1.8—Intervention;

(7) Section 1.9—Answers;

(8) Section 1.10—Protests;

(9) Section 1.11—Amendments and withdrawals of pleadings.

(10) Section 1.12—Motions;

(11) Section 1.13—Time, extensions of time, issuance of orders;

(12) Section 1.14—Filings; docket; hearing calendar;

(13) Section 1.15—Formal requirements as to pleadings, documents and other papers filed in proceedings;

(14) Section 1.16—Subscription and verification;

(15) Section 1.17—Service;

(16) Section 1.18—Conferences; offers of settlement;

(17) Section 1.19—Notices;

(18) Section 1.20(b)-(1)—Hearings;

(19) Section 1.21—Copies of transcripts;

(20) Section 1.22—Witnesses;

(21) Section 1.23—Subpoenas;

(22) Section 1.24—Depositions;

(23) Section 1.25—Stipulations;

(24) Section 1.26—Evidence;

(25) Section 1.27—Presiding officers;

(26) Section 1.28—Interlocutory appeals to Commission from ruling of presiding officers;

(27) Section 1.29—Briefs and oral arguments before presiding officers and proposed findings and orders;

(28) Section 1.30—Decisions;

(29) Section 1.31—Exceptions to intermediate decisions; briefs; briefs and oral arguments before the Commission;

(30) Section 1.32—Shortened procedures;

(31) Section 1.33—Reopening proceedings;

(32) Section 1.36—Public information and requests; and

(33) Section 1.51—Certificate of service.

(d) *Commencement of a proceeding.* A prevailing party seeking an award of fees and expenses shall file a petition for an award of fees and expenses not later than 30 days after final agency action in an adversary adjudication.

(e) *Contents of petition.* A petition for an award of fees and expenses must:

(1) Identify the proceeding which resulted in the adversary adjudication;

(2) Identify the position of the Commission in the proceeding that the petitioner alleges was not substantially justified;

(3) Include an exhibit showing either the net worth of the petitioner when the proceeding was initiated or that the petitioner is exempt from the net worth

requirement under paragraph (g)(1)(iii) or (iv) of this section. The exhibit may be in any form convenient to the petitioner that provides full disclosure of the petitioner's net worth or the grounds for the claimed exemption and is sufficient to determine whether the petitioner qualifies under the standards in paragraph (g) of this section. If the petitioner is not an individual, the petition shall state the number of employees of the petitioner's organization or business.

(4) Include full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement must be submitted for each professional firm or individual whose services are covered by the petition, showing the hours spent in connection with the underlying adversary adjudication, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the petitioner or by any other person or entity for the services provided.

(f) *The Duties of the Secretary and Chief Administrative Law Judge.* (1) The Secretary shall assign a new docket number to the petition and shall forward the petition to the Office of the Chief Administrative Law Judge.

(2) The Chief Administrative Law Judge shall assign the petition to the administrative law judge who presided at the proceeding which resulted in the adversary adjudication, unless such administrative law judge is unavailable in which case the petition shall be assigned to another administrative law judge.

(g) *Eligibility.* (1) A person is eligible for an award of fees and expenses from the Commission if that person was a prevailing party in an adversary adjudication conducted by the Commission and, on the date the adversary adjudication was initiated, was one of the following:

(i) An individual with a net worth of not more than $1 million;

(ii) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business property, and not more than 500 employees;

(iii) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), having not more than 500 employees;

(iv) A cooperative association as defined in section 5(a) of the Agricultural Marketing Act (12 U.S.C. 1141(a)) having not more than 500 employees; or

(v) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(2) A petitioner who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an incorporated business" if the issues on which the petitioner prevails are related primarily to personal interests rather than to business interests.

(3) The employees of a petitioner include all persons who regularly perform services for the petitioner for remuneration, under the petitioner's direction and control. Part-time employees shall be included on a proportional basis.

(4) The net worth and number of employees of the petitioner and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the petitioner, or any corporation or other entity of which the petitioner directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this section, unless the administrative law judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge may determine that financial relationships of the petitioner other than those described in this paragraph constitute special circumstances that would make an award unjust.

(5) A petitioner who participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is ineligible for an award.

(h) *Allowable fees and expenses.* (1) A party who prevails over the Commission in an adversary adjudication conducted by the Commission shall be awarded the reasonable fees and expenses of attorneys and their agents, and expert witnesses.

(2) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the agency pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(3) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the presiding officer shall consider the following:

(i) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if the attorney is an employee of the petitioner, the fully allocated cost of the services;

(ii) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(iii) The time actually spent in the representation of the petitioner;

(iv) The time reasonably spent in the light of the difficulty or complexity of the issues in the proceeding; and

(v) Such other factors as may bear on the value of the services provided.

(4) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the petitioner's case.

(5) The award may be denied:

(i) If the position of the Commission in the proceeding which resulted in the adversary adjudication was substantially justified in that it was reasonable in law and in fact; or

(ii) If special circumstances make the award sought unjust.

(6) An award may be reduced or denied if the prevailing party unduly or unreasonably protracted the proceeding which resulted in the adversary adjudication.

(i) *Powers of Administrative Law Judge.* The administrative law judge may:

(A) Order additional pleadings from any participant in the proceeding; and

(B) Conduct the proceeding as he deems appropriate, including setting the proceeding for an evidentiary hearing or calling for oral argument and ruling on motions.

(j) *Payment of award.* A petitioner seeking payment of an award from the Commission shall submit to the Office of the Secretary a copy of the Commission's final decision granting the award, accompained by a statement that the petitioner will not seek review of the decision in the United States courts. If there are funds appropriated for such purpose, the Commission will pay the

amount awarded to the petitioner within 60 days.

[FR Doc. 82-2366 Filed 1-28-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-011]

Occupational Noise Exposure; Hearing Conservation Amendment; Public Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing on a number of changes suggested in comments on the hearing conservation amendment to the occupational noise exposure standard CFR 1910.95 (c)–(s)) which was published in the Federal Register on August 21, 1981 (46 FR 42622 and 42639.)

DATES: The informal public hearing will begin on March 23, 1982 at 9:30 a.m. All notices of intention to appear at the public hearing and all evidence relating to the hearing issues must be received by March 5, 1982.

ADDRESSES: The informal hearing will be held in the Auditorium, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Send notices of intention to appear and testimony and evidence which will be introduced into the hearing record to: Occupational Safety and Health Administration, Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. J. Thomas Hall, Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, Washington, D.C. 20210 (202–523–8024).

SUPPLEMENTARY INFORMATION: On January 16, 1981, OSHA published an amendment to its occupational noise exposure standard (46 FR 4078) requiring hearing conservation programs for all employees whose noise exposures equal or exceed an 8 hour time-weighted average sound level (TWA) of 85 decibels (dB). The amendment was to become effective on April 15, 1981, with various provisions being phased in over a two year period. OSHA deferred the effective date of the amendment until August 22, 1981 in order to give the Agency time to evaluate numerous requests for clarification and petitions for administrative stay of the hearing conservation amendment.

On August 21, 1981, OSHA lifted the administrative stay of various key provisions of the hearing conservation amendment, invited public comment and the submittal of new information on the merits of other selected provisions of the amendment and issued a number of clarifications of the amendment in response to questions from the public (see 46 FR 42622). OSHA subsequently received extremely voluminous submissions containing comments and evidence in response to its August 21 Federal Register notice from approximately 150 interested persons. In general, most persons thought that the stayed provisions (listed below) either presented feasibility problems or did not represent the most cost effective way of protecting employees' hearing. Many thought that the provisions of the hearing conservation amendment which had been allowed to go into effect constituted a coherent hearing conservation program which would meet the goal of protecting employee hearing. On the other hand, several labor groups objected to the stays of the various provisions, feeling that the stays had an adverse effect on the enforceability of the standard. Several unions requested that a hearing be held on the suggested changes.

In response to the objections received, OSHA invites testimony and evidence on the issues raised in the August 21 Federal Register document. Your attention is directed to the paragraphs listed below which are affected in whole or in part by the existing stay. Issues at the hearing will include whether it is necessary to include specific requirements for the following: Initial determinations, personal monitoring, worker notification, periodic re-monitoring, equipment calibration and measuring equipment specification, the fourteen hour quiet rule before baseline audiograms, the use of hearing protectors to provide effective quiet before baseline audiograms, a definition of significant threshold shift, re-testing employees whose audiograms show a significant threshold shift, the determination of work-relatedness of worker hearing loss, how soon employees must be audiometrically tested, and warning signs. In addition, it has been suggested that oil and gas drilling and servicing operations be exempted from the requirements of the hearing conservation amendment (§ 1910.95 (c)–(s)) on the basis of the difficulty in complying with the monitoring and audiometric test provisions of the amendment due to the tremendous variation in working conditions, high mobility of drilling rig operations, as well as the extremely high turnover rate among employees which in some cases approaches 300 percent. It is felt that the requirements for establishing baseline audiograms for such a transient population would be extremely burdensome and of limited value in accomplishing the goals of the amendment..

Provisions Stayed

Paragraph (d).
Paragraph (e), except for part of (e)(1).
Paragraph (f).
Paragraph (g), except for part of (g)(2)(ii)(b).
Paragraph (h).
Paragraph (i), except for part of (i)(1).
Part of paragraph (j)(5)(i).
Paragraph (j)(5)(ii)(a).
Paragraph (j)(5)(ii)(b).
Part of paragraph (j)(7)(i).
Part of paragraph (j)(7)(ii).
Part of paragraph (j)(7)(iii).
Paragraph (j)(7)(iv).
Part of paragraph (j)(8).
Paragraph (j)(8)(iii) and (iv).
Part of paragraph (j)(8)(iv)(a) and (b).
Paragraph (j)(8)(iv)(d).
Paragraph (j)(9).
Paragraph (j)(10).
Part of paragraph (l)(2)(i).
Paragraph (n)(3)(i), (iii), (iv) and (v).
Paragraph (p).
Part of paragraph (q)(1)(i).
Paragraph (q)(1)(ii).
Part of paragraph (q)(2)(ii)(c).
Paragraph (q)(2)(ii)(d).
Paragraph (q)(2)(ii)(g).
Paragraph (q)(3)(ii).
Paragraph (q)(4).
Part of paragraph (q)(5)(ii).
Part of paragraph (q)(5)(iii) and (iv).
Part of paragraph (r)(2).
Part of paragraph (s)(2).
Paragraph (s)(4).
Paragraph (s)(5).
Appendix B is stayed in its entirety.
Part of appendix D including Table D–1.
Appendix F.
Part of Appendix G.

Public Participation in Hearing

Under section 6(b)(3) of the Act and 29 CFR Part 1911, an opportunity to submit oral testimony concerning the hearing issues will be provided at an informal hearing scheduled to begin at 9:30 a.m. on March 23, 1982, in the Auditorium, New Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice of Intention to Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intention to appear,

which must be received by March 5, 1982. Notices of intention to appear are to be sent to Mr. J. Thomas Hall, OSHA Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 523–8024.

The notices of intention to appear, which will be available for inspection and copying at the Docket Office, Room S–6212, Department of Labor must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence to be adduced in support of the position.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence, must provide in quadruplicate the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material will be available for inspection and copying in the Docket Office Room S–6212, Department of Labor. This material must be received by March 5, 1982. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirement may be limited to a 15 minute presentation and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge presiding at the hearing.

Conduct of the Hearings

The hearing will commence at 9:30 a.m. on March 23, 1982, with the resolution of any outstanding procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. In the Judge's discretion to question and permit questioning of any witness; and
6. In the Judge's discretion to keep the record open for a reasonable period of time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. Those portions of the hearing conservation amendment presently stayed will be reviewed in light of all testimony and written submissions received as part of the record. A decision as to whether the provisions should be modified, revoked or allowed to go into effect will be made based on the entire record in this proceeding.

This hearing notice was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Signed at Washington, D.C. this 22nd day of January, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–2202 Filed 1–28–82; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

[SPA–32]

Public Hearing and Public Comment Period on the Resubmitted Pennsylvania Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule: Notice of receipt of permanent program resubmission; schedule for public hearing and public comment period.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of the proposed Pennsylvania regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which has been resubmitted by the Commonwealth and which was not previously approved by the Secretary of the Interior.

This notice sets forth the times and locations that the Pennsylvania program is available for public inspection, the date when and location where OSM will hold a public hearing on the resubmission, the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Pennsylvania program will be held at 5:30 p.m. on February 25, 1982, at the address listed below.

Comments from members of the public may be submitted at any time prior to 4:00 p.m. on March 3, 1982. Comments must be received by this time in order to be considered in the Secretary's decision on the proposed Pennsylvania program.

ADDRESSES: The public hearing will be held at the Forum Auditorium, Corner of Commonwealth Avenue and Walnut Street, Harrisburg, Pennsylvania. Written comments should be sent to: Office of Surface Mining, Attention: Pennsylvania Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, or may be hand delivered to the above address.

Copies of the full text of the proposed program, a listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region I Office and the office of the state regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4 p.m., excluding holidays.

Office of Surface Mining, Region I, 603 Morris Street, Charleston, West Virginia 25301, Phone: (304) 342–8125

Department of Environmental Resources, Fulton Bank Building, 10th Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120, Phone: (717) 787–4086

FOR FURTHER INFORMATION CONTACT: Christine Struminski, Assistant Regional Director, Division of State and Federal Programs, Office of Surface Mining

Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Phone: (304) 342–8125.

SUPPLEMENTARY INFORMATION: Copies of the full text of the proposed program are also available for inspection during regular business hours at the following locations:

Office of Surface Mining, Johnstown District Office, Penn Traffic Bldg., 3rd Floor, 319 Washington Street, Johnstown, PA 15901, Phone: (814) 533–4223

Office of Surface Mining, Wilkes Barre District Office, 20 N. Pennsylvania Avenue, Room 3107, Wilkes Barre, PA 18701, Phone: (717) 823–0563

Dept. of Environmental Resources, Knox District Office, White Memorial Building, Knox, PA 16232, Phone: (814) 797–1191

Dept. of Environmental Resources, Greensburg District Office, Armbrust Professional Building, R.D. #2, Greensburg, PA 15601, Phone: (412) 925–8115

Office of Surface Mining, Clarion Field Office, Clarion State College, Clarion, PA 16214, Phone: (814) 226–4230

Office of Surface Mining, Dubois Field Office, 107 N. Brady Street, P.O. Box 647, DuBois, PA 15801, Phone: (814) 371–1240

Office of Surface Mining, Somerset Field Office, 651 S. Central Avenue, Morocco Building, Somerset, PA 15501, Phone: (814) 443–4844

Office of Surface Mining, Indiana Field Office, North 8th & Waters Streets, P.O. Box 185, Indiana, PA 15701, Phone: (412) 463–0216

Office of Surface Mining, Clearfield Field Office, Multi-Service Center, 950 Leonard Street, Clearfield, PA 16830, Phone: (814) 765–1503

Office of Surface Mining, Washington Field Office, 75 East Maiden Street, Washington, PA 15301, Phone: (412) 228–4710

Dept. of Environmental Resources, Pittsburgh Regional Office, The Kossman Building, 100 Forbes Avenue, Pittsburgh, PA 15222, Phone: (412) 565–5023

Dept. of Environmental Resources, Meadville Regional Office, 1012 Water Street, Meadville, PA 16335, Phone: (814) 724–8557

Dept. of Environmental Resources, Wernersville Regional Office, Wernersville State Hospital, Building 10, Wernersville, PA 19565, Phone: (215) 670–0301

Dept. of Environmental Resources, Williamsport Regional Office, 736 West Fourth Street, Williamsport, PA 17701, Phone: (717) 326–2661

Dept. of Environmental Resources, Norristown Regional Office, 1875 New Hope Street, Norristown, PA 19401, Phone: (215) 631–2400

Dept. of Environmental Resources, Harrisburg Regional Office, 407 S. Cameron Street, Harrisburg, PA 17101, Phone: (717) 783–2818

Dept. of Environmental Resources, Wilkes Barre/Kingston Regional Office, 90 E. Union Street, 2nd Floor, Wilkes Barre, PA 18701, Phone: (717) 826–2511

Dept. of Environmental Resources, Pottsville District Office, Motor Contracts Building, 108 S. Claude A. Lord Blvd., Pottsville, PA 17901, Phone: (717) 622–8181

On February 29, 1980, the Commonwealth of Pennsylvania submitted to OSM a proposed state regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328), the Regional Director published notification of receipt of the program submission in the March 11, 1980 **Federal Register** (45 FR 15575–15576) and in newspapers of general circulation within the Commonwealth. In accordance with that announcement, public comments were solicited and a public meeting was held on April 10, 1980, on the issue of the program's completeness.

On April 28, 1980, the Regional Director published notice in the **Federal Register** (45 FR 28165–28167) announcing that he had determined the program to be incomplete in accordance with SMCRA and the Federal regulations, as required by 30 CFR 731.14 and 732.11(b).

Public hearings on the initial Pennsylvania submission were held by the Regional Director on July 14 and 15, 1980, in Indiana and Harrisburg, Pennsylvania, respectively, after publishing notice on June 20, 1980, in the **Federal Register** (45 FR 41656–41659) and in newspapers of general circulation within the state. The public comment period on the initial submission ended July 21, 1980.

Throughout the period beginning with the submission of the program, OSM had frequent contact with the staff of the Pennsylvania Department of Environmental Resources. Minutes or notes of the discussions were placed in the Administrative Record and made available for public review and comment. The full chronology of the events leading to the Secretary's initial decision is contained in the **Federal Register** notice of the disapproval by the Secretary (45 FR 69970–69977), published on October 22, 1980.

That notice also contained the Secretary's findings, detailed explanations of those findings and the Secretary's decision, which disapproved the Pennsylvania program. Discussions after the initial decision between OSM and Pennsylvania relating to parts of the program that were disapproved are in the Administrative Record and will be subject to public comment during the public comment period announced herein. In accordance with the procedures set forth in 30 CFR 732.13(f), the Commonwealth of Pennsylvania had 60 days from the date of publication of the Secretary's initial decision in which to submit a revised program for consideration. On November 26, 1980 (In Re: Keystone Bituminous Coal vs. DER and Pennsylvania Coal Mining Association vs. DER), the Commonwealth Court of Pennsylvania enjoined the Pennsylvania Department of Environmental Resources from submitting a program to achieve primacy under SMCRA. On November 26, 1981, the injunction expired, and the state submitted its revised program for consideration on January 25, 1982.

In keeping with the public participation mandate of SMCRA, 30 CFR 732.13(f) requires a minimum of 30 days from public review and comment. The comment period announced today ends at 4:00 p.m., on March 3, 1982. During the comment period, the Secretary is soliciting comments from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies, as well as the general public.

Subsequent to the public hearing and review of all comments, the Regional Director will transmit to the Director a recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program as amended by the resubmission now be approved or disapproved or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326–15327). For further details, refer to the corresponding sections of the preamble (44 FR 14959–14961).

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the Commonwealth of Pennsylvania will have primary jurisdiction for the regulation of coal mining and

reclamation and coal exploration on non-federal lands in Pennsylvania. If the revised program is disapproved, a federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Pennsylvania. To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established Subchapter T of 30 CFR, Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Pennsylvania will be found in 30 CFR Part 938 after Pennsylvania's revised program has been approved or disapproved.

At the public hearing, parties wishing to comment on the proposed program will be asked to register for placement on the speaker's agenda. The hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. The hearing will end after all people in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. Written comments, data, or other relevant information may be submitted to supplement, or in lieu of, an oral presentation at the hearing.

The Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326):

1. The hearing shall be informal and follow legislative procedures.

2. Based on the number in attendance, each participant may be limited to 10 minutes.

3. Participants will be called in the order in which they register.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these quidelines will encourage full cooperation by all afffected persons with the procedures being implemented.

Interested members of the public are encouraged to read the Secretary's initial decision on the Pennsylvania program submission published in the **Federal Register** on October 22, 1980 (45 FR 69970–69977). That document contains detailed findings and explanations relating to the parts of the initial submission which were specifically disapproved. The Secretary will only consider comments relating to those portions previously disapproved or to any portions appearing in the program for the first time.

Set forth below is a summary of the contents of the resubmission:

1. State Surface Mining Laws and Regulations.

2. Other Related State Laws and Regulations.

3. Legal Opinion of the State Attorney General.

4. Legal Document Designating the Department of Environmental Resources as the Regulatory Authority.

5. Structural Organization—Staffing Functions.

6. Copy of Supporting Agreements with other State Agencies.

7. Narrative description for:

a. Issuing Exploration and Mining Permits.

b. Assessing Fees.

c. Bonding and Insurance.

d. Inspection and Monitoring.

e. Enforcing the Administrative, Civil and Criminal Sanctions.

f. Administering and Enforcing Permanent Program Standards.

g. Assessing and Collecting Civil Penalties.

h. Public Notices and Hearings.

i. Coordination and Consultation with Other Agencies.

j. Designating Lands Unsuitable for Mining.

k. Conflict of Interest Requirements.

l. Providing for Public Participation.

m. Providing Administrative and Judical Review.

n. Small Operator Assistance Program.

o. Statistical Information.

p. Summary of Staff with Titles, Functions, Job Experience and Training.

q. Discription of Staffing Adequacy.

r. Budget Information.

s. Description of Physical Resources.

t. Anthracite Mining.

u. Other Programs Administered by the Regulatory Authority.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Pennsylvania program. Under Section 702(d) of SMCRA (30 U.S.C. 1292(d)) approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1979 (42 U.S.C. 4332). This document is not a major rule under E.O. 12291; therefore, no Regulatory Impact Analysis is being prepared on this approval.

Dated: January 20, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-2393 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[AEN-5-FRL-2037-8]

State Implementation Plan Requirements; Proposed Delayed Compliance Order for Columbus and Southern Ohio Electric Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an order pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. 7401 *et seq.* (the Act) to Columbus and Southern Ohio Electric Company (C&SOE). The order requires the Company to bring four coal-fired boilers at the Conesville Generating Station into compliance with 40 CFR 52.1881(b)(21), part of the federally promulgated implementation plan for the State of Ohio (SIP). Because C&SOE is presently unable to comply with the SIP, the proposed order would establish an expeditious schedule requiring final compliance by June 19, 1984. Source compliance with the order would preclude further federal enforcement action under Section 113 of the Act and citizen enforcement action under Section 304 of the Act for violation of the SIP regulations covered by the order during the period the order is in effect and the source is in compliance with the order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on the proposed order.

DATES: Written comments and requests for a public hering must be received on or before the thirtieth day from the date of this notice. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, place, and subject of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to the Regional Administrator, U.S. EPA, Region V, 230 South Dearborn Street,

Chicago, Illiois 60604. Material supporting the order and public comments recieved in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Catherine Fox, Enforcement Attorney, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353–2084.

SUPPLEMENTARY INFORMATION: C&SOE owns a generating station in Conesville, Ohio. The proposed order addresses emissions from four coal-fired boilers at this facility, which are subject to 40 CFR 52.1881(b)(21) of the Ohio Implementation Plan. The regulation limits the emission of sulfur dioxide and is part of the federally promulgated Ohio State Implementation Plan. The Order requires final compliance with the regulation by June 19, 1984, and the source has consented to its terms.

The proposed order satisfies the applicable requirements of Section 113(d) of the Act. If the order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarily precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.

Dated: January 7, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-2339 Filed 1-28-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-737; RM-3882]

FM Broadcast Stations in Ortonville, Olivia, and Montevideo, Minnesota; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving proposed channel substitutions in various Minnesota communities. Counsel for petitioner states that additional time is needed to formulate a proper response.

DATE: Reply comments must be filed on or before February 5, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Ortonville, Olivia, and Montevideo, Minnesota); Order extending time for filing reply comments.

Adopted: January 19, 1982.

Released: January 25, 1982.

1. On October 19, 1981, the Commission adopted a *Notice of Proposed Rule Making*, 46 FR 53471, published October 29, 1981, in the above-captioned proceeding. Comments have been filed and reply comments are due January 19, 1982.

2. On January 7, 1982, counsel for Tri-State Broadcasting Company ("Tri-State"), licensee of AM Station KDIO, Ortonville, Minnesota, and applicant for Channel 292A in that community, filed a request for extension of time to and including February 5, 1982, within which to file reply comments herein. Counsel states that because of a delay in mail delivery of the proponent's comments to its consulting engineer, additional time is necessary to enable him to evaluate the contents thereof and prepare a proper response.

3. Counsel also advises that due to a shortage of time, not all of the parties hereto were contacted regarding this extension request, but adds his belief that no objections will be interposed. These parties were served with the request, however.

4. Since it appears that no other party to the proceeding would be prejudiced by a grant of the instant request, the Commission is of the view that additional time is warranted to afford Tri-State a moderate period in which to formulate its reply comments. Additionally, such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding.

5. Accordingly, it is ordered, that the time for filing reply comments in BC Docket No. 81–737 (RM–3882) is extended to and including February 5, 1982.

6. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-2337 Filed 1-28-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 19079; FCC 82-2]

Amendment To Permit a Wider Range of Uses for FM Multiplex Channels of Noncommerical Educational FM Stations

AGENCY: Federal Communications Commission.

ACTION: Order terminating proposed rulemaking proceeding.

SUMMARY: Action taken herein terminates proceeding in Docket No. 19079 without adopting proposed changes in the rules governing noncommercial educational FM station use of an FM multiplex channel (SCA). This action was necessary to close out a proceeding where the record was not current enough so as to base a decision.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.593 of the Commission's rules to permit a wider range of uses for FM multiplex channels of noncommercial educational FM stations; Order.

Adopted: January 5, 1982.

By the Commission:

Released: January 11, 1982.

1. In a *Notice of Proposed Rule Making* adopted November 4, 1970 (35 FR 17359; November 11, 1970) (FCC 70–189) the Commission began the present proceeding which was designed to explore permitting a wider range of uses for FM multiplex Channels (SCA's) of noncommercial educational FM stations, now called public broadcasting stations.

2. The original *Notice of Proposed Rule Making* raised two basic issues relating to public broadcasting FM station SCA use. Both of these issues have long since been resolved. A new matter, that of using these SCA's for the transmission of non-broadcast information was mentioned in comments to the original *Notice* and was the subject of a *Further Notice* adopted February 18, 1976 (41 FR 11032; March 16, 1976).

3. Although the question raised by the proceeding is an important one, the present record is not adequate to resolve it. This is especially true because of important technological changes which have occurred in recent years. Therefore, we have decided to terminate this proceeding and to focus our attention on a new proceeding designed to explore changes in public broadcasting FM SCA use. As proposed in the *Notice of Proposed Rule Making* adopted today, public broadcasting FM stations would be able to use their SCA for the same purposes that commercial stations could. This would include the recently authorized non-broadcasting use of a commercial FM station's SCA for utility load management. See the *Report and Order* in BC Docket 81-352, adopted December 17, 1981.

4. Therefore it is ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-2310 Filed 1-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 81 and 83

[PR Docket No. 82-11; FCC 82-10]

Enlargement of the Designated New Orleans VTS Radio Protected Area to West Longitude 93 Degrees

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes that the New Orleans vessel traffic services (VTS) radio protected area be enlarged to 93 degrees west longitude. This rule making was initiated in response to an informal request by the Commandant, United States Coast Guard (USCG). These rules will enable the USCG to service the increased vessel traffic in this area.

DATES: Comments must be received by March 3, 1982. Reply comments must be received by March 18, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Linda R. Figueroa, Private Radio Bureau, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1982.

Released: January 25, 1982.

By the Commission:

1. In this Notice, we propose to amend Parts 81 and 83 of the Commission's rules to enlarge the New Orleans Vessel Traffic Services (VTS) radio protected area by moving the western boundary from 92 to 93 degrees west longitude.

Background

2. The United States Coast Guard (USCG) has established a VTS system for a number of the largest and busiest port areas in the United States. This program was initiated in order to implement the provisions of the "Ports and Waterways Safety Act of 1972".[1] A VTS is a vessel movement reporting system which is designed to prevent damage to or loss of vessels, bridges or other structures in United States navigable waters, and to protect these waters and associated natural resources from environmental harm resulting from such damage or loss. At the request of the Commandant, USCG the Commission amended the rules so as to designate up to three frequencies exclusively for VTS communications within the designated VTS radio protected area.[2] The frequencies available for VTS communications, under specified conditions, are contained in §§ 81.357 and 83.361 of the rules, which designate 156.550 MHz, 156.600 MHz and 157.700 MHz exclusively for USCG VTS communications in the New Orleans VTS radio protected area.

Discussion

3. We have been requested by the Commandant, USCG to amend the rules to enlarge the New Orleans VTS radio protected area [3] by moving the western boundary from 92 to 93 degrees west longitude. The USCG's request for the enlargement of the New Orleans VTS area arises from an increase in traffic in the Berwick, Louisiana area. In the past the USCG has operated a VTS facility in Berwick using Channel 13 as the VTS operating frequency. However, traffic in this area has increased to the point that VTS communications are interfering with bridge-to-bridge communications on Channel 13. In order to eliminate this problem the USCG plans to shift VTS communications to Channel 11. The requested enlargement of the New Orleans VTS radio protected area would include the Berwick area and, thereby, permit the USCG to utilize Channel 11.

4. The expansion of the New Orleans VTS radio protected area required to include Berwick would entail moving the boundary approximately 60 miles to the west. This is not a largely populated area. The USCG has indicated that prior testing and soliciting of comments from the local maritime community indicates that expansion of the New Orleans VTS area will not have an adverse impact on the licensees in the Berwick area.

Proposal

5. Accordingly, we propose to amend §§ 81.357 and 83.361 of the Commission's rules in order to enlarge the New Orleans VTS radio protected area from 92 to 93 degrees west longitude.

6. The proposed amendments to the Commission's rules as set forth in the attached Appendix, are issued under the authority contained in Sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended.

Comments

7. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before March 3, 1982 and reply comments on or before March 18, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

8. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours

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[1] Pub. L. 92-340, 86 Stat. 424, 46 U.S.C. 1561.

[2] *Report and Order*, Docket No. 20446 adopted December 2, 1975, 40 FR 57673, 56 FCC 2d 1089.

[3] Sections 81.357(b)(2) and 83.361(b)(2) of the Commission's rules state: "New Orleans: The rectangle between north latitudes 27°30' and 31°30' and west longitude 87°30' and 92°; * * *"

in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion on the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

10. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 [4] do not apply to this rulemaking proceeding. The USCG VTS system is operated as part of a Congressional mandate in the "Ports and Waterways Safety Act of 1972". The area that will be affected by the expansion is not a heavily populated area. A few licensees in the Maritime Radio Service would be required to shift communications from three specified marine channels to other available channels. Consequently, the rule will not if promulgated have a significant economic impact on a substantial number of small entities.

11. Regarding questions on matters covered in this document, contact Linda R. Figueroa (202) 632–7175.

[4] Pub. L. 96–354.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. Section 81.357(b)(2) is revised to enlarge the VTS radio protected area to west longitued 93°.

§ 81.357 Frequencies available for use in Vessel Traffic Services Systems.

* * * * *

(b) * * *

(2) New Orleans: The rectangle between north latitudes 27°30′ and 31°30′ and west longitudes 87°30′ and 93°; frequencies 156.550 MHz, 156.600 MHz and 156.700 MHz.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

2. Section 83.361(b)(2) is revised to enlarge the VTS radio protected area to west longitude 93°.

§ 83.361 Frequencies available for use in Vessel Traffic Services Systems.

* * * * *

(b) * * *

(2) New Orleans: The rectangle between north latitudes 27°30′ and 31°30′ and west longitude 87°30′ and 93°; frequencies 156.550 MHz, 156.600 MHz and 156.700 MHz.

* * * * *

[FR Doc. 82–2309 Filed 1–28–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR PART 74

[BC Docket No. 81–794; RM–3893]

Shared Use of Broadcast Auxiliary Facilities With Other Broadcast and Non-Broadcast Entities and To Establish New Licensing Policies for Television Auxiliary Broadcast Stations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; extension of comment/reply comment period.

SUMMARY: In order to allow interested parties sufficient time to address the many complex issues involved in a proposed rule relating to television auxiliary broadcast stations, the dates for filing comments are extended to March 12, 1982, for comments and April 12, 1982, for reply comments. This action is taken at the request of the National Association of Broadcasters.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 19, 1982.

Released: January 25, 1982.

In the matter of Amendment of Part 74, Subpart F of the Commission's Rules to permit shared use of broadcast auxiliary facilities with other braodcast and non-broadcast entities and to establish new Licensing Policies for television auxiliary broadcast stations, BC Docket No. 81–794 RM–3893, (46 FR 60024; December 8, 1981). Order granting motion for extension of time to file comments.

1. On January 18, 1982, the Commission received a Motion for Extension of Time to file comments in the above-captioned matter from the National Association of Broadcasters ("NAB"). Petitioner requests that the date for filing comments and reply comments be extended 45 days from the present filing dates of January 25, 1982, for comments and February 24, 1982, for replies, to March 12, 1982, for comments and April 12, 1982, for replies.

2. NAB contends that the requested extension is necessary to permit the comprehensive analysis which is required of the several complex and significant legal and engineering issues raised in the proceeding. According to NAB, several of the proposed changes represent major departures from present and historic licensing policies with respect to auxiliary broadcast frequencies. NAB cites our proposal to allow the use of broadcast auxiliary frequencies to transmit non-broadcast material by and to entities other than broadcast licensees, either on a shared cost or for-profit basis, as having broad implications for all present and future users of broadcast auxiliary frequencies. According to NAB, the importance and complexity of these issues warrant additional time for the preparation of comments.

3. In consideration of the number and complexity of issues included in this rule making, and the Commission's interest in obtaining a full and complete record, the petition of NAB will be granted. Because we are granting a significant amount of additional time for

filing comments, we do not anticipate that further extensions will be granted.

4. Accordingly, it is ordered, That the date for filing comments is extended to March 12, 1982, for comments, and April 12, 1982, for replies.

5. This action is taken pursuant to authority found in § 4(i) of the Communications Act of 1934, as amended, and § 0.261 of the Commission's Rules.

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-2336 Filed 1-28-82; 8:45 am]

BILLING CODE 6712-01-M

V 47 / 20 / JA 29 82

Notices

Federal Register
Vol. 47, No. 20
Friday, January 29, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Umatilla National Forest Grazing Advisory Board; Meeting

The meeting date for the Umatilla National Forest Grazing Advisory Board has been changed from 1 p.m., February 8, 1982, to 1 p.m., February 22, 1982. It will be held at the U.S. Forest Service Office, 2517 S.W. Hailey Avenue in Pendleton, Oregon. The purpose of the meeting is to develop the Forest's 1983 Range Improvement and review the progress on the 1982 program.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office at 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801, or call 276–3811, ext. 415. Written statements may be filed with the Forest Service before or after the meeting.

The established rules for public participation are that a time period will be set up for the public to participate. Time limits may be set on individual public participation.

John E. Lowe,
Forest Supervisor.
January 22, 1982.
[FR Doc. 82–2344 Filed 1–28–82; 8:45 am]
BILLING CODE 3410–11–M

Rural Electrification Administration

Basin Electric Power Cooperative; Final Environmental Impact Statement

The Rural Electrification Administration (REA) has issued a Final Environmental Impact Statement (FEIS) in connection with potential financing assistance to Basin Electric Power Cooperative (Basin), 1717 East Interstate Avenue, Bismarck, North Dakota 58501, which would enable Basin to obtain financing for the construction of a 112 km (70 miles) 345 kV transmission line and related facilities.

The proposed line would connect Antelope Valley Station (AVS) near Beulah, North Dakota, and Charlie Creek Substation (CCS) near Killdeer, North Dakota, and traverse portions of Billings, Dunn, McKenzie, and Mercer Counties. The related facilities include an additional bay at AVS and installation of an autotransformer with associated switching and control equipment at CCS.

Alternatives considered in the FEIS are no action, alternative voltages, upgrading of existing facilities, nonelectrification of oil and gas developments, alternative energy sources, energy conservation and load management, and alternative corridors and construction methods.

The preferred alternative which is construction of the 345 kV transmission line crosses the Spring Creek floodplain which is approximately 0.4 to 0.8 km (.25 to .5 m) wide at the preferred point of crossing. One transmission tower with a base of .01 ha (.02 acre) will be located in the floodplain. REA has concluded that there is no practicable alternative to crossing the floodplain. Further information concerning this matter can be found in the FEIS.

Copies of the FEIS have been sent to various Federal, State, and local agencies as outlined in the Council of Environmental Quality regulations. Limited supplies of the FEIS are available upon request to: Mr. Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, 14th St., and Independence Ave., S.W., Washington, D.C. 20250

The FEIS may also be examined during regular business hours at the following locations and at local libraries in the project area.

Rural Electrification Administration, USDA, 14th and Independence Ave., S.W., Room 0230 Washington, D.C. 20250
Basin Electric Power Cooperative, 1717 East Interstate Ave., Bismarck, North Dakota 58501

Final REA action with respect to this matter will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after compliance with the National Environmental Policy Act and other environmentally related statutes, regulations, Executive Orders and Secretary's Memoranda normally considered by REA.

This Federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 25th day of January, 1982.

Harold V. Hunter,
Administrator.
[FR Doc. 82–2327 Filed 1–28–82; 8:45 am]
BILLING CODE 3410–15–M

Soil Conservation Service

Four Winds RC&D Area; Childress County Roadside Erosion RC&D Measure, Texas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76503, telephone 817–774–1214.

NOTICE: Pursuant to Section 102 (2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Childress County Roadside Erosion RC&D Measure, Childress County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. Planned works of improvement include shaping and vegetating 12.8 acres of eroding areas and installing three grade stabilization structures on 4.7 acres.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting George C. Marks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 20, 1982.

Jimmy Hill,

Acting State Conservationist.

[FR Doc. 82-2157 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-16-M

Upper and Lower McKee Creek Watersheds (North Fork), Illinois; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of deauthorization of Federal funding for the Upper and Lower McKee Creek Watersheds (North Fork), Illinois, effective January 21, 1982.

A notice of intent not to file an environmental impact statement for deauthorization of Federal funding was published on November 20, 1981 (46 FR 57100). Appropriate committees of Congress and concerned Federal, State, and local agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to deauthorization or expressions of support to complete the project have been made known to the Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566 (16 U.S.C. 1001-1008))

Dated: January 21, 1982.

August J. Dornbusch, Jr.,

Acting State Conservationist, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 82-2279 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-16-M

Spring-Bull Creek Watershed, South Dakota; Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert D. Swenson, State Conservationist, Soil Conservation Service, Federal Building, 200 Fourth Street S.W., Huron, South Dakota 57350, telephone (605) 352-8651, Ext. 333 (commercial), or 782-333 (FTS).

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Spring-Bull Creek Watershed, Charles Mix County, South Dakota.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert D. Swenson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The planned works of improvement include regrading, rock riprapping, and reseeding the outlet reach of Bull Creek channel (3200 ft.).

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert D. Swenson. The FONSI has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Robert D. Swenson,

State Conservationist.

January 15, 1982.

[FR Doc. 82-2051 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 34009]

George R. Guyer, Complainant v. Western Air Lines, Inc., Respondent Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., January 21, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-2372 Filed 1-28-82; 8:45 am]

BILLING CODE 6320-01-M

Application of Best Airlines, Inc. For a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Best Airlines, Inc., 82-1-110, Docket 40310.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Best Airlines, Inc.

DATE: Persons wishing to file petitions to intervene in the *Best Airlines Fitness Investigation* shall file their petitions in Docket 40310 by February 11, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40310, application of Best Airlines, Inc. for a certificate of public convenience and necessity.

In addition, copies of such filings should be served on: Best Airlines, Inc.; the Mayors of Chicago, Illinois; Akron, Ohio; Canton Ohio; Youngstown, Ohio; Newark, New Jersey; and New York, New York; the managers of these cities' airports; the State Department of Transportation or Aeronautics Commission of Illinois, Ohio, New Jersey and New York; and the Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT:

Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5328.

SUPPLEMENTARY INFORMATION: The complete test of Order 82–1–110 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–1–110 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 25, 1982.

Phillis T. Kaylor,

Secretary.

[FR Doc. 82–2375 Filed 1–28–82; 8:45 am]

BILLING CODE 6320–01–M

Order Disposing of Lufthansa Complaints Against Pan American's U.S.-Germany "Two-for-one Pass" and Special Normal Economy Fares

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 82-1-85.

SUMMARY: The Board is instituting a limited investigation of Pan American's U.S.-Germany special normal economy fares and is dismissing Lufthansa's complaint against that carrier's U.S.-Germany "two-for-one pass" fares. The Board is initiating this action in recognition of the strong views of the German authorities expressed during recent fare consultations. While the Board could not conclude that the special normal economy fares are unlawful, the investigation will permit a more thorough evaluation of Lufthansa's claims as marketplace experience with the new special normal economy fares develops and will provide a basis for expeditious intervention should circumstances warrant.

FOR FURTHER INFORMATION CONTACT: Joseph DiBella, Bureau of International Aviation, 1825 Connecticut Avenue N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–1–85 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington D.C. Persons outside the metropolitan area may send a post card request for Order 82–1–85 to the Distribution Section, Civil Aeronautics Board, Washington, D.C.

By the Civil Aeronautics Board: January 19, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2374 Filed 1–28–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 39158]

Premiere Airlines (Formerly Wings International Airways) Fitness Investigation (Remanded); Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., January 22, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–2373 Filed 1–28–82; 8:45 am]

BILLING CODE 6320–01–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1982 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 29, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 14, 1981 and November 6, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 41130 and 46 FR 55133) of proposed additions to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1982:

Class 8415

Socks, Extreme Cold Weather
8415–00–177–7992
8415–00–177–7993
8415–00–177–7994

SIC 7349

Janitorial/Custodial, Forest Service Building, 507 25th Street, Ogden, Utah

C. W. Fletcher,

Executive Director.

[FR Doc. 82–2325 Filed 1–28–82; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1982; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1982 services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 3, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1982, November 12, 1981 (46 FR 55740):

SIC 7331

Mailing Service, U.S. Department of Transportation, Office of the Secretary, Distribution Unit, 400 7th Street, S.W., Washington, D.C.

SIC 7332

Photocopying Service, National Agricultural Library, Beltsville, Maryland

SIC 7349

Janitorial/Custodial, Veterans Administration Medical Center, Building #32, Dublin, Georgia
Federal Building and U.S. Post Office and Courthouse, Greenville, Mississippi

General Services Administration Center, Buildings 811 and 812, Auburn, Washington
Federal Building and U.S. Post Office, Spokane, Washington

SIC 7369

Commissary Shelf Stocking and Custodial Services, Robins Air Force Base, Georgia

Deletions

It is proposed to delete the following services from Procurement List 1982, November 12, 1981 (46 FR 55740):

SIC 0782

Grounds Maintenance, RFK Stadium, Washington, D.C.

SIC 7369

Commissary Shelf Stocking and Custodial Service, Edwards Air Force Base, California

SIC 7641

Furniture Rehabilitation, Monterey, California, plus 10-mile radius, including Fort Ord
San Francisco, California and the counties of Alameda, Contra Costa, San Mateo and Santa Clara

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters for the following locations:
U.S. Customs, Milwaukee, Wisconsin
U.S. Federal Office Building, Milwaukee, Wisconsin
Veterans Administration Regional Office, Milwaukee, Wisconsin
Veterans Administration Center and Hospital, Wood, Wisconsin

C. W. Fletcher,

Executive Director.

[FR Doc. 82-2328 Filed 1-28-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Patent Application for Licensing

Pursuant to the provisions of the General Services Administration's temporary licensing regulations, the Department of the Army announces the intention to grant to Fiber Materials, Inc., a corporation of the State of Massachusetts, a limited exclusive license under U.S. Patent No. 3,838,497, issued on October 1, 1974, entitled "Attachment of Rotating Band to Shell Casing by Brazing," invented by Fortunate J. Rizzatano et al.

This license will be granted unless compelling reasons for not granting such a license are received by the Chief, Intellectual Property Division, Ofice of the Judge Advocate General, Department of the Army, Washington, DC 20310 within 60 days of this notice.

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA-IP) Pentagon—Room 2D 444, Washington, DC 20310, Telephone No. 695-9356.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-2346 Filed 1-28-82; 8:45 am]

BILLING CODE 3710-08-M

Intent to grant a limited exclusive license to Fiber Materials, Inc.,

Pursuant to the provisions of the General Services Administration's temporary licensing regulations, the Department of the Army announces the intention to grant to Fiber Materials, Inc., a corporation of the State of Masschusetts, a limited exclusive license under U.S. Patent No. 3,838,497, issued on October 1, 1974, entitled "Attachment of Rotating Band to Shell Casing by Brazing," invented by Fortunate J. Rizzatano et. al.

This license will be granted unless compelling reasons for not granting such a license are received by the Chief, Intellecutal Property Division, Office of the Judge Advocate General, Department of the Army, Washington, DC 20310 within 60 days of this notice.

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA-IP) Pentagon—Room 2D 444, Washington, DC 20310, Telephone No. 695-9356.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-2345 Filed 1-28-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Privacy Act of 1974; Deletions of Notices for Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DOD.

ACTION: Deletions of notices for systems of records.

SUMMARY: The U.S. Marine Corps is deleting the notices for 7 systems of records in its inventory of records subject to the Privacy Act of 1974. The reasons for the deletions are set forth below.

DATE: The deletion shall be effective immediately.

ADDRESSES: Send any comments to System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202/694-1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for records systems subject to the Privacy Act of 1974, Title 5, United States Code Section 552a (Pub. L. 93-579; 44 Stat. 1896, *et seq.*), were published in the **Federal Register** at: FR Doc. 82-674 (47 FR 2544) January 18, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 26, 1982.

Deletions

Reason:

This system is adequately covered under the Department of the Navy system notice NO4060-1, Navy and Marine Corps Exchange and Commissary Sales Control and Security Files.

MIL00007

System name:

Marine Corps Exchange Service Station Work Orders (46 FR 6653) January 21, 1981

MIL00008

System name:

Cigarettes Sales Abuse File (46 FR 6653) January 21, 1981

Reason:

This system is adequately covered under the Department of the Navy system notice N04060-1, Navy and Marine Corps Exchange and Commissary Sales Control and Security Files.

MIL00009

System name:

Fire Arms Transaction Record (46 FR 6653) January 21, 1981

Reason:

This system is adequately covered under the Department of the Navy system notice N04060-1, Navy and Marine Corps Exchange and Commissary Sales Control and Security Files.

MIL00010

System name:

Customer Service Records/Special Accounts (46 FR 6654) January 21, 1981

Reason:

This system is adequately covered under the Department of the Navy system notice N04060–1, Navy and Marine Corps Exchnge and Commissary Sales Control and Security Files.

MIS00001

System name:

Personnel Management Subsystem (RCS) (46 FR 6661) January 21, 1981

Reason:

This system has been discontinued.

MMN00007

System name:

Marine Corps Motion Picture/ Instructional Television (ITV) Archives (46 FR 6677) January 21, 1981

Reason:

This system has been discontinued.

MMN00008

System name:

Marine Corps Still Photographic Archives (46 FR 6677) January 21, 1981

Reason:

This system has been discontinued.

[FR Doc. 82–2408 Filed 1–28–82; 8:45 am]
BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

National Diffusion Network Program

AGENCY: Department of Education.

ACTION: Application notice for the National Diffusion Network Program.

Applications are invited for New Developer Demonstrator projects, noncompeting Continuing Developer Demonstrator projects, and noncompeting Continuing Facilitator projects for fiscal year 1982 under the National Diffusion Network Program.

The Secretary awards New Developer Demonstrator grants to public or nonprofit private agencies, organizations, and institutions that have developed an exemplary educational program as defined in the applicable regulations. The purpose of the program is to promote widespread installation across the nation of rigorously evaluated, exemplary educational programs.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981 (Pub. L. 97–35). (20 U.S.C. 3851)

Closing date for transmittal of applications: Applications for noncompeting Continuing Facilitator and Developer Demonstrator grants must be mailed or hand-delivered by March 2, 1982. Applications for New Developer Demonstrator grants must be mailed or hand-delivered by June 2, 1982.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, ATTENTION: *84.073A:* New Developer Demonstrators; *84.073B:* Continuing Developer Demonstrators; or *84.073D:* Continuing Facilitators, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new award will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new award that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

If a noncompeting continuing application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuing applications and may decline to accept it.

Program information: It is expected that new awards will be for a period not to exceed four years contingent on performance and availability of funds. No New Facilitator project grants will be awarded.

Because of the limited resources available, the Secretary has selected general content areas (these are called "absolute priorities" under EDGAR § 75.105(a)(3)) taking into account unmet national needs. This year, applications will be accepted in the following general content areas:

1. Bilingual Education—The Secretary invites applications which demonstrate alternative programs for teaching English to students whose dominant language is not English.
2. Science.
3. Organizational Arrangements/ Administration.
4. Preservice/Inservice Training.
5. Reading Programs for Grades 5–12/ Mathematics/and Language Arts—The Secretary invites applications which demonstrate programs for teaching foreign languages and which demonstrate programs that develop writing skills.
6. Gifted and Talented.
7. Technology—The Secretary invites applications which demonstrate programs that teach computer literacy and/or use technology to improve instruction.

The Secretary selects applications for New Developer Demonstrator grants under each selected general content area separately. Thus, under this application notice there are seven separate competitions. The Secretary has also invited certain kinds of applications under some of the general content areas listed above (1, 5, and 7). The Secretary seeks applications that meet these invitational priorities to encourage the submission of applications that address these specific needs. An application that meets an invitational priority receives no preference over other applications within the same general content area.

Applications for noncompeting Continuing Developer Demonstrator project awards and four noncompeting Continuing Facilitator project awards will be reviewed under the provisions of 34 CFR 75.253.

Available funds: It is expected that approximately $9,000,000 will be available for funding the National Diffusion Network Program in fiscal year 1982.

It is estimated that these funds could support at least 13 New Developer Demonstrator projects, averaging $39,000; up to 84 Continuing Developer Demonstrator projects, averaging $39,000; up to 84 Continuing Developer Demonstrator projects, averaging $50,000; and approximately 55 Continuing Facilitator projects, averaging $78,000.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants under any of the priorities listed above or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms are included in a program information package that is expected to be ready for mailing by late January, 1982. Interested persons may obtain program information packages by writing to the National Diffusion Network Division, U.S. Department of Education, Room 802, Riviere Building, 1832 M Street, NW., Washington, D.C. 20036.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms, provided in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the National Diffusion Network Program in 34 CFR Part 796 (formerly 45 CFR Part 193) published in the **Federal Register** on April 21, 1980, (45 FR 26914).

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c).

FURTHER INFORMATION: For further information contact Mr. Robert W. Mulligan, National Diffusion Network Division, U.S. Department of Education, Room 802, Riviere Building, 1832 M Street, NW., Washington, D.C. 20036. Telephone (202) 653-7000.

(Catalog of Federal Domestic Assistance Number 84.073, National Diffusion Network Program)

Dated: January 25, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-2378 Filed 1-28-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Uranium Enrichment and Assessment; Proposed Pricing Policy Change; Correction

AGENCY: Department of Energy.

ACTION: Correction.

SUMMARY: In the **Federal Register** Notice of January 7, 1982, appearing on pages 846 and 847 make the following correction.

On page 847, in paragraph 3.(e): delete; "(e) The standard processing loss factor to be applied to toll enricher's acquisition of tails material is 0.05."; and insert (e) The standard processing loss factor to be applied to toll enricher's acquisition of tails material is 0.05%.

Dated: January 20, 1982.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 82-2370 Filed 1-28-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval for the following sales:

Contract Number S-CA-318, to the Atomic Energy of Canada, Ltd., 0.001 grams of plutonium-244 for use as standard reference material.

Contract Number S-EU-706, to COGEMA, Razes, France, 260 grams of natural uranium for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than February 16, 1982.

For the Department of Energy.

Dated: January 26, 1982.

Fred McGoldrick,

Deputy Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-2281 Filed 1-28-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Cancellation of Portion of Meeting

This notice is given to advise of the cancellation of the second day's meeting (February 5, 1982) of the Energy Research Advisory Board. The Thursday, February 4, 1982 portion of the meeting will be held as published in the issue of January 15, 1982 (47 FR 2398).

Issued at Washington, DC on January 25, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-2282 Filed 1-28-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WEN-FRL-2038-1]

National Pollutant Discharge Elimination System (NPDES); Availability of Treatability Manual

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Technical Information and Request for Comments.

SUMMARY: This notice announces the availability of, and provides a review and comment period on, the revised Treatability Manual and summarizes significant comments received on the first edition of the Treatability Manual.

DATE: Comments may be submitted at any time. However, to be considered for inclusion in the Manual's next scheduled annual supplement or revision, comments must be received on or before June 1, 1982.

ADDRESSES: Interested persons may obtain a copy of the revised Treatability Manual after March 26, 1982 by requesting publication stock number 055-000-00215-1 from the Superintendent of Documents, U.S. Government Printing Office, Department 50, Washington, D.C. 20402. The price of the Manual is $43.00. The Treatability Manual is available for examination at the following EPA Offices and

Laboratories, State program offices, and other offices after February 15, 1982.

EPA Headquarters

Public Information Reference Unit, Room 2404, U.S. EPA, 401 M Street, SW, Washington, D.C. 20460, (202) 755–0308

EPA Regions

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
Library, EPA Region I, Twenty-first Floor, JFK Building, Boston, Massachusetts 02203, (617) 223–5791
Librarian, Environmental Research Laboratory, U.S. EPA, South Ferry Road, Narragansett, Rhode Island 02882, (401) 789–1071

Region II

(New Jersey, New York, Puerto Rico, Virgin Islands)
Permits Administration Branch, EPA Region II, Room 432, 26 Federal Plaza, New York, New York 10278, (212) 264–9861

Region III

(Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia)
Library, EPA Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–0580

Region IV

(Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky)
Library, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, (404) 881–4216
Public Information Office, Environmental Research Center, U.S. EPA, Room M–306, Research Triangle Park, North Carolina 27711, (919) 541–4577
Robert C. Ryans, Environmental Research Laboratory, U.S. EPA, College Station Road, Athens, Georgia 30613, (404) 546–3306
Andre Lowery, Librarian, Environmental Research Laboratory, U.S. EPA, Sabine Island, Gulf Breeze, Florida 32561, (904) 932–5311 Ext. 218

Region V

(Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota)
Ms. Lou W. Tilley, Librarian, Library, EPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 353–2022
Library Environmental Research Laboratory, U.S. EPA, 6201 Congdon Blvd., Duluth, Minnesota 55804, (218) 727–6692
Public Information, A. W. Breidenbach Environmental Research Center, U.S. EPA, 26 W. St. Clair Street, Cincinnati, Ohio 45268, (513) 684–7771

Region VI

(Arkansas, Louisiana, Oklahoma, Texas, New Mexico)
Oscar Cabra, EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767–4375
Marvin L. Wood, Robert S. Kerr Environmental Research Laboratory, U.S. EPA, Ada, Oklahoma 74820, (405) 332–8800

Region VII

(Iowa, Kansas, Missouri, Nebraska)
Library, EPA Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–3497

Region VIII

(Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota)
Delores Eddy, Librarian, EPA Region VIII, Room 101, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–2560

Region IX

(Aarizona, California, Nevada, Hawaii)
Library, EPA Region IX, 215 Fremont Street, San Francisco, California 94105, (415) 556–3454
Office of Environmental Quality, City Hall, 400 East Stewart Street, Las Vegas, Nevada 89101, (702) 386–6277

Region X

(Alaska, Idaho, Oregon, Washington)
Library, EPA Region X, 12th Floor, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1289
Karen K. Randolph, Research Information Office, Room 101, Environmental Research Laboratory, U.S. EPA, 200 SW 35th Street, Corvallis, Oregon 97330, (503) 757–4637

States and Territories

Alabama—Alabama Water Improvement Commission, Gunter Industrial Park, 2721 Gunter Park Drive, Montgomery, Alabama 36130 (205) 277–3630
Alaska—Alaska Operation Office, EPA Room E–535, Federal Building, 701 C Street, Anchorage, Alaska 99513 (907) 271–5083
American Samoa—Pati Faiai, Executive Secretary, Environmental Quality Commission, Pago Pago, American Samoa 96920
Arizona—Will Gilbert, Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007 (602) 255–1277
Arkansas—John Ward, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209 (501) 371–1135
California— Edward C. Anton, California State Water Resources Control Board, 1416 9th Street, Room 631, Sacramento, California 95801 (916) 322–3133
Colorado—Mr. Arden Wallum, Colorado Department of Health, Water Quality Control Division, 4210 East 11th Avenue, Denver, Colorado 80220 (303) 320–8333 Ext. 3361
Connecticut—Connecticut Department of Environmental Protection, Water Compliance Unit, 122 Washington Street, Hartford, Connecticut 06115 (203) 566–7187
Delaware—Mr. Robert J. Zimmerman, Supervisor, Department of Natural Resources & Environmental Control, Water Resources Section, Room 203, Blue Hen Mall, Dover, Delaware 19901 (302) 736–5726
District of Columbia—District of Columbia Department of Environmental Services, Room 309, 415 12th Street, NW., Washington, D.C. 20004 (202) 727–5748
Florida—Library, Florida Department of Environmental Regulation, Room 423, Twin Towers Office Building, 2600 Blairstone Road, Tallahassee, Florida 32301 (904) 488–0870
Georgia—Water Protection Branch, Georgia Environmental Protection Division, 270 Washington Street, SW., Atlanta, Georgia 30334 (404) 656–4887
Guam—Guam Environmental Protection Agency, Harmon Plaza, Agana, Guam 96910 (671) 646–8864
Hawaii—Hawaii State Department of Health, Pollution Technical Review Branch, 645 Halekauwila Street, Honolulu, Hawaii 96813 (808) 548–6410
Idaho—Idaho Operation Office, EPA, 422 W. Washington Street, Boise, Idaho 83702 (208) 334–1450
Illinois—Permits Section, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 (217) 782–0610
Indiana—Indiana State Board of Health, Division of Water Pollution Control, Room A–320, 1330 West Michigan Street, Indianapolis, Indiana 46206 (317) 633–0795
Iowa—Department of Environmental Quality, Henry A. Wallace Building, 900 E. Grand, Des Moines, Iowa 50313 (515) 281–8863
Kansas—Donald R. Carlson, Kansas Department of Health and Environment, Building 740—Forbes Field, Topeka, Kansas 66620 (913) 862–9360

Kentucky—Bureau of Environmental Protection (Water), 14 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601 (502) 564–3410
Louisiana—Louisiana Department of Natural Resources, Water Pollution Control Division, 625 North 4th Street, Baton Rouge, Louisiana 70804 (504) 342–6363
Maine—Steve Groves, Maine Department of Environmental Protection, Hospital Road, Augusta, Maine 04333 (207) 289–2591
Maryland—William E. Chicca, Office of Environmental Programs, Waste Management Administration, 201 West Preston Street, Baltimore, Maryland 21201 (301) 383–5670
Massachusetts—Massachusetts Division of Water Pollution Control, 110 Tremont Street, Boston, Massachusetts 02108 (617) 727–3855
Michigan—Water Quality Division, Michigan Department of Natural Resources, Stevens T. Mason Building, Lansing, Michigan 48909 (517) 373–8088
Minnesota—Randy D. Burnyeat, Minnesota Pollution Control Agency, Water Quality Division, Permits Section, 1935 West County Road B–2, Roseville, Minnesota 55113 (612) 296–7228
Mississippi—Mississippi Department of Natural Resources, Bureau of Pollution Control, 2380 Highway 80 West at Southport Mall, Jackson, Mississippi 39209 (601) 961–5171
Missouri—Missouri Department of Natural Resources, Division of Environmental Quality, Water Pollution Control Program, 2010 Missouri Boulevard, Jefferson City, Missouri 65101 (314) 751–3241
Montana—Montana Department of Health and Environmental Sciences, Water Quality Bureau, Cogswell Building, Helena, Montana 59601 (406) 449–2406
Nebraska—Nebraska Department of Environmental Control, 301 Centennial Mall South, Lincoln, Nebraska 68509 (402) 471–2186
Nevada—Nevada Division of Envirionmental Protection, 201 South Fall Street, Room 221, Carson City, Nevada 89710 (702) 885–4670
New Hampshire—New Hampshire Water Supply and Pollution Control Commission, Hazen Drive, Concord, New Hampshire 03301 (603) 271–3503
New Jersey—New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625 (609) 292–6220
New Mexico—New Mexico Environmental Improvement Division, Water Pollution Control Bureau, 725 St. Michaels, Santa Fe, New Mexico 87503 (505) 827–5271
New York—New York Department of Environmental Conservation, Division of Water, Room 306, 50 Wolf Road, Albany, New York 12233 (518) 457–1067
North Carolina—Permits and Engineering Branch, North Carolina Division of Environmental Management, Room 912, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611 (919) 733–7120
North Dakota—Division of Water Supply and Pollution Control, North Dakota State Department of Health, 1200 Missouri Avenue, Bismarck, North Dakota 58505 (701) 224–2354
Ohio—Ann Galli, Librarian, Environmental Technical Information Center, Ohio EPA, 361 E. Broad Street, Columbus, Ohio 43216 (614) 466–6058
Oklahoma—Office of Water Resources Board, Water Quality Division, 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73105 (405) 271–2555
Oregon—Oregon Department of Environmental Quality, Second Floor, 522 South West 5th Avenue, Portland, Oregon 97204 (503) 229–5325
Pennsylvania—Ernest P. Giovannitti, Chief, Division of Permits & Compliance, Bureau of Water Quality Management, Pennsylvania Department of Environmental Resources, 12th Floor, Foulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120, (717) 787–8184
Puerto Rico—Mr. Weems Clevenger, EPA Caribbean Field Office, Stop 8½, Avenue Fernandez Juncos, San Juan, Puerto Rico 00902, (809) 725–7825
Rhode Island—James Fester, Division of Water Resources, Rhode Island Department of Environmental Management, Room 209, 75 Davis Street, Providence, Rhode Island 02908, (401) 277–2234
South Carolina—R. Lewis Shaw, Bureau of Wastewater & Stream Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 758–3877
South Dakota—Steve Pirner, Office of Water Quality, South Dakota Department of Water and Natural Resources, Room 413, Joe Foss Building, Pierre, South Dakota 57501, (605) 773–4523
Tennessee—Paul E. Davis, Manager, Permits Section, Tennessee Department of Public Health, Division of Water Quality Control, 150 9th Avenue North, Nashville, Tennessee 37203, (615) 741–7883
Texas—Texas Department of Water Resources Library, Room 511, Stephen F. Austin Building, 1700 North Congress, Austin, Texas, (512) 475–7000
Trust Territories—Nachsa Siren, Executive Director, Environmental Protection Board, Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950
Utah—Steve McNeil, State of Utah, Bureau of Water Pollution Control, Room 410, 150 W. North Temple, Salt Lake City, Utah 84110, (801) 533–6146
Vermont—Vermont Agency of Environmental Conservation, 81 River Street, Montpelier, Vermont 05602, (802) 828–3345
Virgin Islands—Division of Natural Resources Management, Building 129, Sub Base, St. Thomas, Virgin Islands 00801, (809) 774–6420
Virginia—Larry G. Lawson, State Water Control Board, 2111 N. Hamilton Street, Richmond, Virginia 23230, (804) 257–6361
Washington—State of Washington Department of Ecology, St. Martins College Campus, Olympia, Washington 98504, (206) 753–3864
West Virginia—Water Resources Division, West Virginia Department of Natural Resources, 1201 Greenbrier Street, Charleston, West Virginia 25311, (304) 348–7861
Wisconsin—Paul Didier, Wisconsin Department of Natural Resources, 101 S. Webster Street, Madison, Wisconsin 53707, (608) 266–0289
Wyoming—John F. Wagner, Wyoming Department of Environmental Quality, Water Quality Division, 401 West 19th Street, Cheyenne, Wyoming 82002, (307) 777–7781

Comments on the Treatability Manual should be submitted to: William A. Cawley, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268

FOR FURTHER INFORMATION CONTACT: William A. Cawley, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268, (513) 684–4310.

SUPPLEMENTARY INFORMATION: On August 14, 1980, EPA published a notice in the **Federal Register** which announced the availability of the Treatability Manual and solicited comments on the Manual. The same notice announced that EPA planned to publish either an annual supplement or a revision to incorporate up-to-date information and useful changes into Manual. Today's **Federal Register** notice announces the availability of the first revision of Volumes I, II, III, and V of the Treatability Manual. For ease of

reproduction and cost-saving, this revision of the Treatability Manual will be made available in a loose-leaf format. This notice also contains a summary of technical comments received on the first edition of the Treatability Manual.

The first edition of the Treatability Manual consisted of five volumes:

Volume I—Treatability Data
Volume II—Industrial Descriptions
Volume III—Technologies
Volume IV—Cost Estimating (deleted in 1981 edition)
Volume V—Summary

Volume I is a compendium of physical, chemical, biological, and treatability data on the toxic or "priority" pollutants. Volume II contains descriptive information on numerous industrial categories. Volume III summarizes performance data on existing pollutant treatment technologies. Volume IV provides capital, operating, and maintenance cost estimates for these treatment technologies (Volume IV Has been deleted from the 1981 edition of the Treatability Manual. A new edition of Volume IV will be noticed in the Federal Register as soon as it is completed). Volume V provides supplementary information designed to assist users of the Treatability Manual. For more detailed explanation of the genesis of the Manual, its data sources, its uses and limitations, see August 14, 1980 Federal Register (45 FR 54135).

As described in the August 14, 1980 Federal Register, the Agency expects to update the Manual as additional data become available. At the present time, EPA plans to revise the Manual by publishing annually either a supplement, or as was done this year, a revised Manual. Each supplement or revision will consist of changes resulting from public comments as well as newly acquired data. The Agency also believes that the Manual can be improved and important issues resolved by soliciting public comments on the Manual's content and format. Therefore, the Agency welcomes any data or comments of a technical nature that might improve the quality of the Manual. The Agency will accept written technical comments on the Manual at any time. However, in order for comments to be considered for inclusion in the next supplement or revision, comments must be received no later than June 1, 1982. Comments received after this date will be reviewed and considered for the following supplement or revision.

As stated in the August 14, 1980 Federal Register notice, written technical comments on the Treatability Manual, received by April 1, 1981, would be considered during the first revision of the Manual. The comments received by April 1, 1981, consisted of both detailed comments on specific pages and sections of the Manual and more general areas of concern over the Manual's content. The detailed comments, while too numerous to list here, have been of great assistance in preparing the first revision of the Manual. The broader issues addressed in the comments are summarized here.

One concern expressed by several commenters was the need for an improved data base from which to draw information included in the Treatability Manual. This general comment was divided into a number of specific areas of concern including: The current practice of including screening data in the Manual; inclusion of data from pilot and bench-sale studies and from Draft, rather than Final, Effluent Guidelines Development Documents; quality assurance/quality control (QA/QC) procedures for sampling and analytical protocols; information on design criteria and operating conditions; quantity and representatives of data within each industrial category; and absence of information on several industrial categories.

The first two concerns—the inclusion of screening data and data from pilot- and bench-scale studies and Draft Development Documents—have been addressed in the first revision of the Manual by identifying the type and source of the data as clearly as possible so that Manual users are aware of specific limitations of data sets included in the Manual. A new section in Volume V provides the information available on the methods used to acquire the data in each data set. Furthermore, future revisions of the Manual will replace screening data with more recently acquired data sets as developed by the Agency and as submitted by industry, academia, or other interested parties.

Quality control/quality assurance procedures were discussed in detail in the comments received on the Manual. Of greatest concern was the absence of information on recovery values in the first edition of the Manual. This comment has been addressed in two ways in the first revision of the Manual. First, new data have been included and original data revised in their recovery-corrected form, wherever possible. Secondly, as indicated earlier, a new section has been incorporated into Volume V to outline the sampling and analytical methodologies used for each industrial category so that Manual users can assess the precision and accuracy of the data presented.

Lack of information on design criteria and operating conditions was another concern expressed by commenters. Because of the importance of a treatment system's design criteria and operating conditions to its specific performance characteristics, such information was included in the Manual, whenever possible, and the format of Volume III has been revised for clearer presentation of these parameters. As, in many cases, it has not yet been possible to identify these parameters from the original references, future revisions of the Manual will focus on identifying additional data for which design criteria and operating conditions are more readily available.

Several commenters discussed the quantity and representativeness of data presented for each industrial category. In some cases, the comments concerned references used during the development of the first edition of the Manual. The 1981 edition of the Manual includes data from the revised references where they have been completed, and future editions of the Manual will be updated to reflect the most recent references possible. Particular focus will be put on incorporating data from Final Development Documents as they become available.

Another concern over quantity and representativeness of data was the Manual's lack of discussion on sample period. As mentioned previously, Volume V of the 1981 edition contains a section describing the sampling and analytical protocols used by the Agency to characterize waste streams and wastewater treatment performance for each industrial category. Other comments focused on the aggregation of data across industries in Appendices B, C, and D of volume V. Because of this strong concern that these summary tables might be misused to characterize wastewater treatment performance at a specific facility, Appendices B, C, and D have been deleted from the 1981 edition of the Manual.

A final comment on the data base used in the development of the Manual was the absence of information on several industrial categories—in particular, the Organic Chemicals/Plastics and Synthetic Fibers industry. Informaton on several industrial categories have been added to the Manual for the 1981 edition, including the Battery Manufacturing, Metal Finishing, Aluminum Forming, Electrical and Electronic Components, and Photographic Equipment and Supplies industries. While the Draft Development

Document for the Organic Chemicals/Plastics and Synthetic Fibers industry was not published at the time of the final draft of the 1981 Manual, preliminary information on the industry has also been included. During the next revision of Manual, the information on this industry will be expanded and new information on the Copper Forming, Plastics Processing, Adhesives and Sealants, and Pesticides Manufacturing industries will be included.

In addition to comments directed toward the data used in developing the Manual, other general comments addressed the presentation of these data. For example, one commenter noted that "mean" and "median" were frequently interchanged and "less than" symbols omitted. These errors have been corrected in the 1981 edition and a discussion of "less than" values, not detected (ND), and below detection limits (BDL) has been included in the Manual.

An additional term, called "not meaningful" (NM), was introduced to characterize the application of certain statistical methods to the data. For example, in a table presenting the mean removal efficiencies for a given compound using various types of treatment systems, the data for one type of treatment might have been available for only two plants—one of which indicates a removal efficiency of less than 50% and the other, of greater than 90%. At best, any number presented as the mean of these values would be misleading. The term "not meaningful" has been used instead.

Another commenter was concerned about the potential misuse of the carbon isotherms (in Volume I) because the values are presented for pure compounds. These values have been retained in the 1981 edition because, while virtually all physical constants are susceptible to matrix effects, these data can, in the hands of a knowledgeable user, contribute to an understanding of the behavior of compounds in a more complex environment.

A final comment raised addressed the potential use of the Treatability Manual. While the Manual itself is simply a compendium of available information on priority pollutants in industrial wastewater, a concern was expressed over the manner in which the Manual might be used by NPDES permit writers writing case-by-case best professional judgement (BPJ) permits. Much concern was expressed over the possibility of unwarranted total dependence on the Manual during permit development. One commenter suggested that explicit instructions be given permit writers as to how to use the Manual in writing BPJ permits. Other commenters opposed such instructions and, in particular, criticized the sample "Stepwise Approach for Using the Manual" (discussed in Section V.3.2. of Volume V of the first edition) as potentially misleading Manual users into assuming this is the recommended approach. As the Agency neither intends nor encourages use of the Manual to be the sole basis for establishing BPJ permit limits, Section V.3.2. has been deleted to avoid confusion on this issue. Additionally, as the Manual has been and will be used for a variety of purposes (90% of recipients of the 1980 edition of the Manual were *not* permit writers), the entire Section V.3 "Guidance for Use," has been deleted from the 1981 edition.

Dated: December 22, 1981.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

January 13, 1982.

[FR Doc. 82-2347 Filed 1-28-82; 8:45 am]

BILLING CODE 6560-29-M

[ER-FRL-2038-7]

Availability of Environmental Impact Statements Filed

Responsible Agency: USEPA, Office of Federal Activities.

Information Contact: Ms. Kathi Wilson.

EISs Filed: January 18–22, 1982.

Comment Due Dates: Drafts—March 15, 1982. Finals—March 1, 1982.

Corps of Engineers (COE): Final—Waimea River Flood Control Study, Kauai County, Hawaii (EPA EIS #820024)

COE: Final Supplement—Cresent City Inner Harbor Basin and Entrance Channel, Del Norte County, California (EPA EIS #820032)

DOI: Bureau of Land Management (BLM): Draft—Twin Falls Livestock Grazing Management Program, Twin Falls County, Idaho; EXTENDED REVIEW 3–26–82 (EPA EIS #820028)

DOI: BLM: Draft—Eastside Salem Ten-Year Timber Management Plan, Multnomah and Linn Counties, Oregon; EXTENDED REVIEW 3–23–82 (EPA EIS #820031)

DOI: National Park Service: Final—Great Smokey Mountains National Park General Management Plan, North Carolina and Tennessee (EPA EIS #820023)

DOT: Federal Highway Administration (FHWA): Final—I–95 Upgrading, Yarmouth to Freeport, Cumberland County, Maine (EPA EIS #820022)

DOT: FHWA: Final—I–84/Columbia River Highway, NE 117th Avenue to NE 181st Avenue, Multnomah County, Oregon (EPA EIS #820027)

Department of Housing and Urban Development (HUD): Draft—Rio Rancho Subdivision, Mortgage Insurance, Sandoval County, New Mexico (EPA EIS #820025)

USDA: Forest Service: Draft—Mt. Emmons Molybdenum Mining and Milling Project, Permit, Gunnison County, Colorado; EXTENDED REVIEW 3–20–82 (EPA EIS #820034)

USDA: Rural Electrification Administration (REA): Draft Supplement—Escalante Generating Station, Waters Sources, McKinley County, New Mexico (EPA EIS #820030)

USDA: REA: Final—Chatom to Waynesboro 230 kV Transmission Intertie, Alabama and Mississippi (EPA EIS #820029)

General Services Administration: Final—Chula Vista Border Patrol Station and Staging Area, San Diego County, California (EPA EIS #820033)

Nuclear Regulatory Commission: Draft—Wolf Creek Generating Station Unit No. 1, Operating License, Coffey County, Kansas (EPA EIS #820026)

CORRECTIONS: DOI: Bureau of Reclamation: Draft—Acreage Limitation, Reclamation Act of 1902—published FR 7–31—published erroneous extension in FR 1–15–82; DUE 3–5–82 (EPA EIS #810015)

DOI: Fish and Wildlife Service: Final—Redhead Waterfowl Production Wetlands Preservation, Idaho—published FR 1–8–82 with erroneous state designation (EPA EIS #811042)

Dated: January 26, 1982.

Paul C. Cahill,

Director, Office of Federal Activities

[FR Doc. 82-2360 Filed 1-28-82; 8:45 am]

BILLING CODE 6560-38-M

[ER-FRL-2038-7]

EPA Comments on Environmental Impact Statements and Other Actions Impacting the Environment—Availability of Report

AGENCY: Office of Federal Activities (A–104), Environmental Protection Agency (EPA).

SUMMARY: Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, EPA has reviewed and commented in writing on Federal

Agency actions impacting the environment. A report which identifies EPA's comments released during December 1981 is being prepared and is available upon request. To obtain a copy of this report you should contact: Management Information Unit, Office of Federal Activities (A–104). U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dated: January 26, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82–2390 Filed 1–28–82; 8:45 am]

BILLING CODE 6560–37–M

[OPTS–51345A; TSH–FRL–2038–2]

Mono-azo Dyes; Premanufacture Notices; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMN's) PMN 81–558, PMN 81–559, and PMN 81–561, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on April 26, 1982. The PMN's were submitted for three water-soluble, fiber-reactive, mono-azo dyes which will be imported by a company which has claimed its identity to be confidential.

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS–794), Environmental Protection Agency, Rm. E–221, 401 M Street, SW., Washington, DC 20460 (202–382–3743).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA 90 days prior to commencment of manufacture or import. Under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt. EPA issued proposed rules to implement the premanufacture notification program in the **Federal Register** of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed rules addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good cause to extend the notice period.

Review to Date

On October 29, 1981 EPA received three PMN's from a confidential submitter who intends to import the following chemical substances:

1. PMN 81–558: 4-Hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.
2. PMN 81–559: 5-Acetylamino-4-hydroxy-3-(2-hydroxy-4-(2-(hydroxysulfonyloxy) ethylsulfonyl(-5-methylphenylazo)-2,7-napthalenedisulfonic acid, trisodium salt, copper complex.
3. PMN 81–561: 4-[4-[2-(Hydroxysulfonyloxy ethylsulfonyl] 5-methyl-2-methoxphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.

Notice of receipt of these PMN's was published in the **Federal Register** of November 6, 1981 (46 FR 55145).

The PMN's stated that the substances would be used as fiber reactive dyes for cellulosic fabrics, such as cotton and wool. Maximum volume imported in the third year of commercialization is estimated to be 10,000 to 15,000 kilograms (kg). The original 90-day review period was scheduled to expire on January 26, 1982.

In its evaluation of the substances described in PMN 81–558, PMN 81–559, and PMN 81–561, EPA reviewed information provided by the submitter, as well as that which was obtained from the relevant technical literature. Substances similar in chemical structure to the three PMN substances were also examined.

EPA's detailed analysis addressed the following: process chemistry, environmental fate, dermal absorption, metabolic pathways, effects on human health, human exposure, release to the environment, degree of risk relative to available commercial substitutes, and testing required to resolve any outstanding issues.

As a result of this analysis, EPA has found the following:

1. The substances described in PMN 81–558 and PMN 81–561 are expected to undergo azo reduction to produce analogues of ortho-anisidine and para-cresidine, respectively. Both of these substances are known to cause cancer in laboratory animals. Additionally, substances PMN 81–558 and PMN 81–559 may release analogues of beta-naphthylamine if azo-reduction occurs. Beta-naphthylamine is also a known carcinogen.
2. Significant occupational exposure can occur during weighing and mixing of these dyes prior to use in dyeing operations.
3. It is possible that dye house effluent may contaminate drinking water supplies, as these dyes are not expected to biodegrade in the environment.

Extension of the Review Period

Based on its analysis to date, EPA finds that there is a significant possibility that the substances submitted for review in PMN 81–558, PMN 81–559, and PMN 81–561 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to evaluate the need for additional data on the three substances, to examine its regulatory control options, and to prepare the necessary documents should regulatory action be required. An administrative order under section 5(e) if required or adopted as an Agency option, must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to April 26, 1982.

Public Record

PMN's PMN 81–558, PMN 81–559, and PMN 81–561 are available for public inspection in Room E–106, at the EPA Headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday. The identity of the submitter has been keep confidential and has been deleted from the documents in the public record.

Dated: January 21, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–2388 Filed 1–28–82; 8:45 am]

BILLING CODE 6560–31–M

[ER–FRL–2038–7]

Intent To Prepare Two Environmental Impact Statements (EISs)

AGENCY: Environmental Protection Agency, Regions V and VI.

SUMMARY: Pursuant to EPA, regulations for the preparation of EISs (40 CFR Part 6), EPA is preparing Draft EISs for the following projects:

Middle East Fork Planning Area, Region V

The Chicago Regional Office plans to prepare an EIS on a proposed project to address the wastewater treatment needs of the Middle East Fork planning area, Clermont County, Ohio. A scoping meeting has been scheduled for Tuesday, February 9, 1982 at 7:00 pm at the Cincinnati Gas and Electric Building, 92 South Fourth Street in Batavia. For further information, contact Mr. Gene

Wojcik, Chief, EIS Section, Water Division, U.S. Environmental Protection Agency, Region 5, 230 South Dearborn Street, Chicago, Illinois (telephone 312/353–2157).

Castor Bayou Project, Region VI

The Dallas Regional Office plans to prepare an EIS on the proposal to issue a new source NPDES permit to the Louisiana Division of Dow Chemical USA for discharge of wastewater from the Castor Bayou Project. The project includes a surfac lignite mine and associated facilities to be located in Desoto Parish, Lousiana. A scoping meeting will be held on March 4, 1982 at 7:30 pm at the Logansport High School Auditorium on Gum Street in Logansport, Louisiana. For further information, contact Mr. Clinton Spotts, Regional EIS Coordinator, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas, 75270 (telephone: 214/767:2716 or 8/729–2716).

Dated: January 26, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82–2302 Filed 1–28–82; 8:45 am]

BILLING CODE 6560–37–M

[ER–FRL–2036–7]

Revised Notice of Intent To Merge/Cancel Environmental Impact Statements (EISs)

AGENCY: Environmental Protection Agency, Region VII.

CONTACT: Mr. Edward Vest, EIS Coordinator, U.S. EPA, Region VII, 324 East 11th St., Kansas City, Missouri 64106 (Telephone 816–374–2921 or 8–758–2921).

SUMMARY: EPA Region VII intends to revise its intent to prepare individual EISs on the grant assistant projects for wastewater treatement systems located in the Halfday Creek Planning area, Shawnee County and Metropolitan Topeka study area, both located in Kansas. Currently, EPA intends to combine the study areas and prepare a single EIS in order to eliminate duplication of effort. Therefore, this Notice revises the public notice dated August 14, 1978 on the Halfday Creek proposal and the **Federal Register** notice published on March 11, 1981 (45 FR 16129) for the Metropolitan Topeka proposal. Publication of the Metro-Topeka draft EIS is expected on June 1982. All parties wishing to comment on this revision or desiring additional information should contact the person identified above.

Additionally, EPA Region VII intends to cancel the preparation of the EIS for Osage Beach-Lake Ozark, Missouri wastewater treatment and collection facilities. The Notice of Intent published in the September 11, 1981 **Federal Register** (46 FR 45411) is hereby cancelled. Notification has been sent to state and local officials.

Dated: January 26, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82–2301 Filed 1–28–82; 8:45 am]

BILLING CODE 6560–37–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81–918, Transmittal No. 325]

RCA American Communications, Inc., Revisions to Tariff F.C.C. No. 2; Memorandum Opinion and Order Instituting Investigation

Adopted: December 31, 1981.

Released: January 19, 1982.

1. Before the Bureau are petitions filed by Transponder Corporation of Denver, Inc. (TCD) and American Satellite Corporation (ASC) requesting that we reject or alternatively suspend and investigate revisions to Tariff F.C.C. No. 2 filed by RCA American Communications, Inc. (RCA Americom) under the above-captioned transmittal. [1] By these revisions, scheduled to become effective January 4, 1982, RCA Americom proposes to increase rates for two leased channel voice grade service offerings, classified as Type A and type D, provided via satellite to other common carriers (OCCs). For reasons explained below, we have decided to set revisions for investigation. We also will suspend their effectiveness for an additional ninety days.

Background and Contentions of the Parties

2. By way of background, Type A service is an offering to an OCC of at least sixty (60) channels between RCA Americom operating centers. The OCC must provide connecting channels, local channels and associated terminal equipment. The Type D service offering involves a minimum of sixty (60) channels from any of RCA Americom's operating centers to an OCC-provided operating center or earth station in Denver, Colorado. As is the case with Type A service, the user must provide its own connecting and local channels. Unlike that service, however, a subscriber of Type D service has the option of either using its own associated terminal equipment or obtaining it from RCA Americom. Moreover, in contrast to Type A service, where the minimum service term is one year, an OCC must subscribe to Type D service for a minimum of three years. The current charge for Type D service ranges from $330 to $370 per channel per month, depending upon customer usage, while a Type A subscriber is now charged $500 per channel per month. Under the revisions at issue here, RCA Americom would increase these rates to $600 per channel per month for each service offering.

3. TCD asserts initially that the proposed revisions are unreasonable in violation of Section 201(b) of the Act, 47 USC § 201(b). This is so, it says, because RCA Americom would establish the same rate for two services despite the fact that each is composed of different cost components. It points out that an OCC taking Type D service provides its own earth station and associated operating center equipment at one end while RCA Americom provides these facilities to its Type A service customers. Thus, the provision of Type D service is alleged to be less costly than Type A service and should be priced accordingly. Indeed, in TCD's view, these lower costs are properly reflected in the current rate differential between these services.

4. TCD also complains that it was led to believe that the current rates for Type D service were to be effective for an initial three-year period beginning in January, 1980. Since RCA Americom seeks to change the rates after only two years, it must, asserts TCD, demonstrate substantial cause under the standard established by the Commission in *RCA Americom*, 86 F.C.C. 2d 1197 (1981). This, TCD claims, RCA Americom has

[1] ASC seeks suspension and investigation only; however, it also requests that the Commission extend the effective date of the tariff for 90 days due to RCA Americom's alleged failure to provide notice of these revisions to its customers as required by Section 61.58 of the Commission's Rules, 47 CFR 61.58. Since we have decided to suspend these revisions for ninety days on other grounds, we need not address the merits of this issue. TCD has also filed a "Reply and Further Response" accompanied by a "Motion for Acceptance of Supplemental Pleadings," which RCA Americom opposes. We note that § 1.773 of the Rules, 47 CFR 1.773, the applicable provision for challenges to tariff filings, provides only for petitions and replies. Section 1.45(c), 47 CFR 1.45(c) provides that additional pleadings may be filed if specifically requested or authorized by the Commission. Memorandum Opinion and Order, FCC 80–526, released September 18, 1980. Since neither the Commission nor the Bureau has requested additional pleadings and since the pleading does not raise issues which warrant waiver of the rules, we deny TCD's "Motion for Acceptance of Supplemental Pleading." Also before the Bureau is RCA Americom's opposition and reply.

not done. In fact, according to TCD, the Section 61.38 data provided by RCA Americom is cursory and inadequate at best. TCD further contends that the magnitude of the proposed increase for Type D service of 62 to 73 percent is unlawful especially when compared to the 20 percent increase proposed for Type A service. Such disparate rate treatment is said to be unjustly discriminatory under Section 202(a) of the Act, 47 USC § 202(a).

5. For its part, ASC, a user of Type A service, requests that the Bureau suspend the proposed revisions in order to investigate whether there is a revenue shortfall associated with RCA Americom's provision of Type B service, another leased voice grade channel service provided to OCCs via satellite for which rate increases have not been proposed. ASC argues that it would be unjustly discriminatory for RCA Americom to limit the increase to Type A and D service users if the earnings from Type B service were found to be inadequate.

Discussion

6. We note initially that Type D service is different from Type A service in that the customer provides the terrestrial facilities at one end. In fact, RCA Americom does not contend otherwise.[2] Rather, it claims that despite the difference, its cost of providing the two services is approximately the same. The issue, then, is whether RCA Americom has provided sufficient justification to support this claim.

7. We think not. The data it has provided do not established that the costs for Type A and Type D servics are so similar as to justify equivalent rates. Indeed, the support data which accompanied the filing do not even show separately the costs for Type A and Type D services. RCA Americom argues that it did submit such disaggregated cost data as an attachment to its opposition; however, our examination convinces us that this information is cursory at best and fails to break out, in sufficient detail, the respective costs incurred in the provision of each of these services.

8. For example, RCA Americom states that it provides additional equipment to Type D service users not provided in conjunction with the Type A service offering. However, this statement does not establish RCA Americom's point that the costs of Type A and Type D services are equivalent especially since a Type D service customer provides its own earth station.[3] In fact, other than showing the total common and dedicated investment figures for Type A and Type D service individually, the carrier has not provided the costs of the specific equipment which comprise this investment.

9. Aside from the deficiences in cost support for the terrestrial portion of this offering, RCA Americom has also changed the space segment costing methodology used to develop its current rates.[4] As we understand it, RCA Americom would allocate a greater percentage of transponder costs to Type D service than previously assigned. However, it has not demonstrated that the volume of traffic has increased or that its operating procedures have changed.[5] We therefore will require RCA Americom to justify this new methodology in its direct case.[6]

10. Given the seriousness of these deficiences, the Bureau has determined to suspend these rate increases for an additional ninety days while they are investigated.[7] RCA Americom will be expected to submit its direct case within 20 days of the release of this order. We will provide interested parties 10 days thereafter in which to submit their responses, and RCA Americom will be provided an additional 5 days in which to file its reply.

11. Accordingly, it is ordered that, pursuant to authority delegated in § 0.291 of the Commission's Rules, 47 CFR 0.291, and pursuant to Sections 4(i), 4(j), 201, 202, 203, 204, 205, and 403 of the Communications Act, 47 U.S.C. Sections 154(i), 201, 202, 203, 204, 205, and 403, an investigation is instituted into the lawfulness of the revisions to RCA American Communications Tariff FCC No. 2 filed under Transmittal No. 325.

12. It is further ordered, that Transponder Corporation of Denver, Inc., and American Satellite Corporation shall be parties to this proceeding. Any other interested persons who which to participate as parties may do so by filing comments in reponse to RCA Americom's direct case.

13. It is further ordered, that RCA Americom shall submit its direct case within 20 days of the release of this order. Other parties may file their reply cases or comments within 10 days thereafter. RCA Americom may file its response within 5 days thereafter.

14. It is further ordered, that the above tariff revisions are suspended for a period of 90 days.

15. It is further ordered, that the petitions to reject, or in the alternative, to suspend and investigate the above revisions are granted to the extent indicated and otherwise are denied.

16. It is further ordered, that this action is effective immediately.

17. It is further ordered, that the Secretary shall cause this Memorandum Opinion and Order to be published in the **Federal Register.**

Federal Communications Commission.

Jack D. Smith,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 82-2301 Filed 1-28-82; 8:45 am]

BILLING CODE 6712-01-M

[2] Opposition p. 4. See also RCA American Communications, Inc. Revisions to Tariff F.C.C. No. 2 (released June 24, 1980) paragraph 12.

[3] It also maintains that the dedicated equipment at its own earth stations which operates with TCD's facilities at Denver is "smaller" than the equipment used in connection with its Type A service offering and is therefore "less efficient." It has, however, failed to demonstrate that similar equipment used at its other earth station, particularly in small cities, is any more efficient.

[4] See RCA American Communications, Inc., Transmittal No. 138 (April 11, 1979).

[5] The data RCA Americom has provided in this regard shows that its revenue requirement for the space segment for 1982 is $1,095,000, more than double the revenue requirement of $478,800 set forth in its original filing; for 1983, it now claims a revenue requirement of $1,252,000 as compared to a revenue requirement of $596,000 set forth previously.

[6] We will also require it to expain why the space segment costs for Type D service has been allocated on the basis of the size of the equipment at its earth station as opposed to an allocation on the basis of the number of channels forecasted, as it has done for Type A service.

[7] The scope of the investigation will not include the costs and revenues associated with Type B service as ASC requests. As we have previously found, RCA Americom is under no duty to increase its rate for all its voice grade services at one time. Nor does a failure to do so create an inference of unlawfulness. See *RCA American Communications, Inc., supra* at paragraph 12.

FEDERAL RESERVE SYSTEM

ABC Bancshares, Inc.; Formation of Bank Holding Company

ABC Bancshares, Inc., McAlester, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98.2 percent or more of the voting shares of American Bank of Commerce, McAlester, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2305 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Benbrook Bancshares, Inc.; Formation of Bank Holding Company

Benbrook Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Benbrook State Bank, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2304 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Broadway Bancshares, Inc.; Formation of Bank Holding Company

Broadway Bancshares, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Broadway National Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2317 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Broadway Capital Corp.; Formation of Bank Holding Company

Broadway Capital Corp., Chelsea, Massachusetts, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Broadway National Bank of Chelsea, Chelsea, Massachusetts. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a writtten presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2303 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

CBC Bancorp, Ltd.; Formation of Bank Holding Company

CBC Bancorp, Ltd., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Capitol Bank and Trust of Chicago, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2302 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc., et al.; Acquisition of Bank

Central Bancorporation, Inc., Central Colorado Company and C.C.B., Inc., all of Denver, Colorado, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Centennial Bank of Pueblo, Pueblo, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a writtten presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2318 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Community Bankshares, Inc.; Acquisition of Bank

Community Bankshares, Inc., Cornelia, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Northeastern Banking Company, Commerce, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2319 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Detroitbank Corp.; Acquisition of Bank

Detroitbank Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to aquire 100 percent of the voting shares of the successor by merger to the Huron Valley National Bank, Ann Arbor, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a writtten presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2320 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Dewey County Bancorporation, Inc.; Formation of Bank Holding Company

Dewey County Bancorporation, Inc., Taloga, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Dewey County State Bank, Taloga, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any persons wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2301 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Earners and Savers Bancorporation; Formation of Bank Holding Company

Earners and Savers Bancorporation, Galena Park, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company be acquiring 100 percent of the voting shares of Galena Park State Bank, Galena Park, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2306 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

First Eastern Corp.; Formation of Bank Holding Company

First Eastern Corporation, Wilkes-Barre, Pennsylvania, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First Eastern Bank, N.A., Wilkes-Barre, Pennsylvania. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2307 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Hammond Bancshares, Inc.; Formation of Bank Holding Company

Hammond Bancshares, Inc., Hammond, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The State Bank of Hammond, Hammond, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2308 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Metropolitan National Bancshares, Inc.; Formation of Bank Holding Company

Metropolitan National Bancshares, Inc.; Little Rock, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Metropolitan National Bank, Little Rock, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2311 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Northern Trust Corp.; Acquisition of Bank

Northern Trust Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to O'Hare Banc Corp., Chicago, Illinois, and thereby indirectly acquire 100 per cent (less directors' qualifying shares) of O'Hare International Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section (3)(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 20, 1982. Any comment on an applicant that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2321 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Old Second Bancorp, Inc.; Formation of Bank Holding Company

Old Second Bancorp, Inc., Aurora, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to The Old Second National Bank of Aurora, Aurora, Illinois. The factors that are considered in acting on the application are set forth in section (3)(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2312 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Philadelphia National Corp.; Acquisition of Bank

Philadelphia National Corporation, Philadelphia, Pennsylvania, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent, less directors' qualifying shares, of the voting shares of The Philadelphia Bank (Delaware), Wilmington, Delaware. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842)c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 16, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2322 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Raymondville State Bancshares, Inc.; Formation of Bank Holding Company

Raymondville State Bancshares, Inc., Raymondville, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Raymondville State Bank, Raymondville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842)c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application

that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2313 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Rockwall Financial Corp.; Formation of Bank Holding Company

Rockwall Financial Corporation, Rockwall, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Rockwall Bank, N.A., Rockwall, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2314 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

San Jose Banco, Inc.; Formation of Bank Holding Company

San Jose Banco, Inc., San Jose, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent of more of the voting shares of San Jose Tri-County Bank, San Jose, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 20, 1982. Any comment on an application that requests a hearing must include a statement of why a writtten presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2315 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

State Bank of India; Formation of Bank Holding Company

State Bank of India, Bombay, India, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of State Bank of India (California), Los Angeles, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2323 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp.; Acquisition of Bank

U.S. Bancorp., Portland, Oregon, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Lake Oswego, Lake Oswego, Oregon, a proposed new bank. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not late than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a writtten presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2324 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

Wilburton State Bancshares; Formation of Bank Holding Company

Wilburton State Bancshares, Wilburton, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Wilburton State Bank, Wilburton, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2316 Filed 1-28-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Foster Poultry Farms

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Foster Poultry Farms is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of substantially all assets of The Grange Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 12, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requries persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–2352 Filed 1–28–82; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81M–0390]

CooperVision, Inc.; Premarket Approval of Permasol™ Cleaning, Rinsing, and Storage Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Permasol™ Cleaning, Rinsing, and Storage Solution for soft (hydrophilic) contact lenses sponsored by CooperVision, Inc., Mountain View, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 1, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On March 4, 1981, CooperVision, Inc., Mountain View, CA, submitted an application for premarket approval of the Permasol™ Cleaning, Rinsing, and Storage Solution for all (soft) hydrophilic contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On December 2, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Permasol™ Cleaning, Rinsing, and Storage Solution states that the solution is designed for the cleaning, rinsing, and storage of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor that fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorized any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA

action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 1, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1970 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0003]

Medtronic Blood Systems, Inc.; Premarket Approval of the Hall-Kaster™ Prosthetic Heart Valve, Models A7700 and M7700

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Hall-Kaster™ Prosthetic Heart Value, Models A7700 and M7700, sponsored by Medtronic Blood Systems, Inc., Plymouth, MN. After reviewing the recommendation of the Circulatory Systems Devices Panel, FDA notified the sponsor that the application was approved for the Hall-Kaster™ Prosthetic Heart Valve, Models A7700 and M7700, because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 1, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Managment Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 29, 1979, Medtronic Blood Systems, Inc., Plymouth, MN, submitted to FDA an application for premarket approval of the Hall-Kaster™ Prosthetic Heart Valve, Models A7700 and M7700. The application was reviewed by the Circulatory Systems Devices Panel, an FDA advisory committee, which recommended approval of the application. On December 23, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 1, 1982, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1971 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0004]

Professional Supplies, Inc.; Premarket Approval of The Soft Rinse ™ System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of The Soft Rinse™ System for all hydrophilic contact lenses, sponsored by Professional Supplies, Inc., Stevens Point, WI. The Soft Rinse™ System is intended for use in the preparation of 15 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all hydrophilic contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 1, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On October 9, 1980, Professional Supplies,

Inc., Stevens Point, WI, submitted to FDA an application for premarket approval of The Soft Rinse™ System for all hydrophilic contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 27, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), salt tablets for preparing solutions for use in heat disinfection of hydrophilic contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the above use comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310), until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of The Soft Rinse™ System states that the solution prepared from the salt tablets is designed for use in heat disinfection of all hydrophilic contact lenses. Sponsors of any hydrophilic contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a peititon for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 1, 1982, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–1972 Filed 1–28–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81F–0413]

Borg-Warner Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Borg-Warner Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl) ester with triisopropanolamine as an antioxidant and/or stabilizer in polycarbonate in contact with food.

FOR FURHTER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3599) has been filed by Borg-Warner Chemicals, Inc., Technical Centre, Washington, WV 26181, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl) ester with triisopropanolamine as an antioxidant and/or stabilizer in polycarbonate in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–2067 Filed 1–28–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81F-0414]

Borg-Warner Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Borg-Warner Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl) ester with triisopropanolamine as an antioxidant and/or stabilizer in polyvinyl chloride and vinyl chloride copolymers in contact with food.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3598) has been filed by Borg-Warner Chemicals, Inc., Technical Centre, Washington, WV 26181, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl) ester with triisopropanolamine as an antioxidant and/or stabilizer in polyvinyl chloride and vinyl chloride copolymers in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-2099 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Detroit District Office, Chaired by Alan L. Hoeting, District Director

Date: Tuesday, February 9, 1982, 9:30 a.m.
Address: George Potter Harrick Bldg., Conference Rm., 1560 E. Jefferson, Detroit, MI 48207.
For further information contact: Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, 1560 E. Jefferson, Detroit, MI 48207, 313-226-6260.

Orlando District Office, Chaired by Adam J. Trujillo, District Director

Date: Thursday, February 11, 1982, 1:30 p.m.
Address: Hillsborough Community College, Dale Mabry Campus, Humanities Bldg., Rm. 118, 4001 Tampa Bay Blvd., Tampa, FL 33607.
For further information contact: Nellie Mendez, Consumer Affairs Officer, Food and Drug Administration, 6501 NW. 36th St., Suite 200, Miami, FL 33166, 305-526-2920.

Newark District Office, Chaired by Matthew H. Lewis, District Director

Date: Thursday, February 25, 1982, 10 a.m.
Address: Rutgers University, Labor Education Center, Cook Campus, New Brunswick, NJ 08903.
For further information contact: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-3265.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-2100 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80F-0027]

Lonza, Inc.; Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of Citizen Petition OCP 3488, which requests that FDA reverse its determination that use of quaternary alkyl dimethylammonium compounds derived from olefin-based amines is permissible under § 178.1010 (21 CFR 178.1010).

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under sections 409(h) and 701(e)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(h) and 371(e)), FDA issues the following notice:

In accordance with paragraph (g) of § 10.30 of FDA's procedural regulations (21 CFR 10.30(g)), Lonza, Inc., Fair Lawn, NJ 07410, has withdrawn its petition (OCP 3488) that requests that FDA reverse its determination that quaternary alkyl dimethylammonium compounds derived from olefin-based amines will be regulated in the same manner as those derived from fatty acids. Notice of Lonza's petition was published in the **Federal Register** of February 22, 1980 (45 FR 11909). Lonza, Inc., withdrew its petition in a letter dated October 30, 1981.

Dated: January 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-2098 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

Vaccines and Related Biological Products Advisory Committee; Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Vaccines and Related Biological Products Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on December 31, 1983, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: January 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-2099 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0302; DESI 5914, 6303, 6340, 6514, 7937, and 8658]

Certain Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy ("Paragraph XIV/Category 15") Which Are No Longer Marketed; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) revokes the temporary exemption for certain oral prescription drugs offered for relief of symptoms of cough, cold, or allergy, which permitted the products to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA reclassifies the products to lacking substantial evidence of effectiveness and offers an opportunity for a hearing on a proposal to withdraw approval of the new drug applications of these no longer marketed products.

DATES: Revocation of exemption effective January 29, 1982. Hearing requests due on or before March 6, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 81N-0302, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 12A-12.

Requests for hearing, supporting data, and other comments: Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Rm. 4-62.

FOR FURTHER INFORMATION CONTACT: David T. Read, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** (DESI 5914 on February 9, 1973 (38 FR 4008); DESI 6303 on May 22, 1971 (36 FR 9339), amended on March 19, 1973 (38 FR 7285); DESI 6340 on February 27, 1971 (36 FR 3832); DESI 6514 on February 9, 1973 (38 FR 4006); DESI 7937 on June 6, 1972 (37 FR 11277); DESI 8658 on February 9, 1973 (38 FR 4005)), FDA classified the drug products described below as less than effective for their labeled indications (probably effective, possibly effective, and lacking substantial evidence of effectiveness).

In a notice published in the **Federal Register** of December 14, 1973 (38 FR 34481), FDA granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. That exemption covered the drug products that are the subject of this notice and superseded the notices of opportunity for hearing published earlier. The exemption was granted because of the close relationship between drugs sold over the counter (OTC)—and thus subject to the ongoing OTC drug review (21 CFR Part 330)—and prescription drugs offered for relief of cough, cold, allergies, and related symptoms. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering relevant products. Those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the **Federal Register** on September 9, 1976 (41 FR 38312).

No person has submitted additional data on the drug products listed below, and none of them is marketed any longer. Therefore the Director of the Bureau of Drugs has reclassified them to lacking substantial evidence of effectiveness. He concludes that these evaluations are not inconsistent with the recommendations of the OTC review panel. The Director notes that some of these products contain an ingredient already concluded to be effective when offered as a single active ingredient product or in conventional release dosage form. These products, however, lack evidence of effectiveness either as combination products (in which each ingredient has not been shown to contribute to the claimed effect) or as controlled release products (for which the claimed effects have not been substantiated).

This notice revokes the temporary exemption announced in the **Federal Register** of December 14, 1973, and offers an opportunity for hearing on the proposal to withdraw approval of the following combination products. The proposal regarding these products does not affect any single entity product, and affects other combination products only if they are identical or substantially similar or related to the following. Persons who wish to request a hearing may do so on or before March 1, 1982.

1. NDA 5-914: as it pertains to Pyribenzamine Expectorant with Codeine and Ephedrine, containing tripelennamine citrate, codeine phosphate, ephedrine sulfate, and ammonium chloride; Ciba Pharmaceutical Co., 556 Morris Ave., Summit, NJ 07901. (DESI 5914).

2. NDA 6-340: as it pertains to Histadyl and Ephedrine Hydrochloride Pulvules No. 1 and No. 2, containing methapyrilene hydrochloride and ephedrine hydrochloride; Eli Lilly and Co., 740 S. Alabama St., Box 618, Indianapolis, IN 46206. (DESI 6340).

3. NDA 8-658: Coricidin with Codeine Phosphate Tablets, containing chlorpheniramine maleate, codeine phosphate, aspirin, phenacetin, and caffeine; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033. (DESI 8658).

4. NDA 8-670: Phenergan Expectorant Troches with Codeine, containing codeine phosphate, promethazine hydrochloride, ipecac powdered extract, and potassium guaiacolsulfonate; Wyeth Laboratories, Inc., Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101. (DESI 6514).

5. NDA 8-893: Phenergan Expectorant Troches Plain, containing promethazine hydrochloride, ipecac powdered extract, and potassium guaiacolsulfonate; Wyeth Laboratories, Inc. (DESI 6514).

6. NDA 11-536: Kryl Tablets, containing isothipendyl hydrochloride, aspirin, phenacetin, phenylephrine hydrochloride, and ascorbic acid; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017. (DESI 6340).

7. NDA 12-909: Ulominic Syrup, containing chlophedianol hydrochloride, diphenylpyraline hydrochloride, phenylephrine hydrochloride, and guaifenesin (name previously used: glyceryl guaiacolate); Riker Laboratories, Inc., Subsidiary of 3M Company, 19901 Nordhoff St., Northridge, CA 91324. (DESI 6514).

8. NDA 12-910: Ulogesic Tablets, containing acetaminophen, chlophedianol hydrochloride, diphenylpyraline hydrochloride, phenylephrine hydrochloride, and guaifenesin (name previously used: glyceryl guaiacolate); Riker Laboratories, Inc. (DESI 6514).

This notice also revokes the temporary exemption announced in the Federal Register of December 14, 1973, and offers an opportunity for hearing on the proposal to withdraw approval of the following controlled release products. This notice does not affect the status of conventional release forms of these drugs. Persons who wish to request a hearing may do so on or before March 1, 1982.

1. NDA 10-395: Histionex 50 Capsules, containing phenyltoloxamine as a cation exchange resin complex of sulfonated polystyrene; Pennwalt Corp., Pharmaceutical Division, Jefferson Rd., Rochester, NY 14623. (DESI 7937).

2. NDA 11-905: Disomer Chronotabs, sustained release tablets containing dexbrompheniramine maleate; Schering Corp. (DESI 6303).

(Approval of two of these new drug applications was previously withdrawn: NDA 10-395 on June 7, 1977 (42 FR 29104) for failure to file reports required by section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)); NDA 8-658 on February 22, 1980 (45 FR 11910) based on the written request of the applicant who no longer markets the drug. At the time those two notices were published, the FDA had made no final conclusions concerning the effectiveness of the relevant products. This notice informs all interested persons, including any who market an identical, similar, or related drug product, of the conclusions which have now been reached.)

In addition to the holders of the new drug applications specifically named above, this notice applies to any person who manufactures or distributes a drug product, not the subject of an approved new drug application, that is identical, related, or similar (as limited above) to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts who are qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and, for combination products, 21 CFR 300.50, and demonstrates the effectiveness of the drug products referred to in this notice.

Notice is given to the holders of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications (except NDA 10-395 and NDA 8-658) and all amendments and supplements thereto providing for the drugs referred to in this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have any of the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar (as limited above) to a drug product named above (21 CFR 310.6) and not the subject of a new drug application, are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products not the subject of a new drug application.

An applicant or other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before March 1, 1982, a written notice of appearance and request for hearing, and (2) on or before March 30, 1982, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which requires a hearing to determine the legal status of any of the drug products affected by this notice, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70 and 5.82).

Dated: January 6, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-2289 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81F-0409]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydroxypropyl methylcellulose as a nonnutritive additive to confectionery products.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3252) has been filed by Dow Chemical Co., Midland, MI 48640, proposing that § 172.874 (21 CFR 172.874) be amended to provide for the safe use of hydroxypropyl methylcellulose as a nonnutritive additive to confectionery products.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-2290 Filed 1-28-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Office for Civil Rights; Delegation of Authority

Part A, Chapter AT (Office for Civil Rights), section AT.30, Delegations of Authority, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (45 FR 47474, July 15, 1980, as amended by 45 FR 82721, December 16, 1980) is amended to include at the end of section AT.30 the following delegation of authority from the Secretary to the Director for Civil Rights, effective December 29, 1981:

10. The civil rights enforcement authority contained in the Health and Human Services Block Grants prescribed by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

Dated: January 24, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-2370 Filed 1-28-82; 8:45 am]

BILLING CODE 4150-04-M

Statement of Organization, Functions, and Delegation of Authority

Part A (Office of the Secretary), Chapter AF (Office of the Inspector General most recently amended in 45 FR 29642-43, May 5, 1980) and Chapter AHP (Office of Personnel, Office of the Assistant Secretary for Personnel Administration most recently amended in 45 FR 72289-90, October 31, 1980) of the Statement of Organization, Functions, and Delegations of Authority are amended to reflect the transfer of personnel system standards of conduct investigations and the internal personnel security program. The personnel system standards of conduct investigation and personnel secruity functions are being transferred from the Office of the Assistant Secretary for Personnel Administration, Office of Personnel Systems Integrity to the Office of Inspector General, Office of the Assistant Inspector General for Investigations. The changes are as follows:

1. Amend Chapter AHP Office of Personnel, be deleting from Section AHP.20, subsection E.4. Division of Personnel Investigations the following phrase and sentence:

and non-criminal standards-of-conduct cases. Establishes and maintains an internal employee security program, and by inserting instead cases.

2. Amend Chapter AF, Office of Inspector General, Section AF.20 subsection D.1. The Office of Assistant Inspector General for Investigations by adding new paragraphs (g) and (h) to read as follows:

(g) Assess allegations, conducts investigations, and makes recommendations for disposition of personnel system standards-of-conduct cases.

(h) Maintains an intenal employee security program.

Dated: January 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-2369 Filed 1-28-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; CNG Producing Co.

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4427, Block 318, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-44720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 22, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-2354 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr-McGee Corp.

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Kerr-McGee Corporation, Unit Operator of the Ship Shoal Block 28 Federal Unit Agreement No. 14–08–001–2942, submitted on January 7, 1982, a proposed supplement plan of development describing the activities it proposes to conduct on the Ship Shoal Block 28 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedure are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 22, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-2355 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Tenneco Oil Exploration and Production, Unit Operator of Vermilion Block 218 Federal Unit Agreement No. 14–08–0001–8816, submitted on January 6, 1982, a proposed annual plan of development/production describing the activities it proposes to conduct on the Vermilion Block 218 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 22, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-2356 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

New Mexico Generating Station Environmental Impact Statement; Preparation; Public Meetings

January 22, 1982.

AGENCY: New Mexico State Office, Bureau of Land Management, Interior.

ACTION: Schedule of public meetings to present the proposed action and alternatives of the subject environmental impact statement (EIS).

SUMMARY: The proposed action to be considered includes a proposed 2,000-megawatt coal-fired generating station and ancillary facilities in San Juan County, New Mexico. Included in the proposal are a water delivery system from the San Juan River to the plant site, and two 500 kilovolt transmission lines from the plant site to a proposed substation in Sandoval County, New Mexico. This proposal was the subject of public meetings held in January and February of 1981.

The public meetings are being held to: (1) Explain the final proposed action; (2) present the alternatives to the proposed action which will be analyzed; and (3) report progess on preparation of the EIS.

ADDRESS: Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Leslie Cone, Project Manager, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, Telephone: (505) 988–6467, FTS 476–6467.

SUPPLEMENTARY INFORMATION: Dates, times, and locations of the scheduled meetings are as follows:

Taos, New Mexico; March 2, 1982; 7:00 to 9:00 p.m.; Kachina Lodge

Farmington, New Mexico; March 3, 1982; 7:00 to 9:00 p.m.; Civic Center, Rooms A and B

Albuquerque, New Mexico; March 4, 1982; 7:30 to 9:30 p.m.; Convention Center, Cochiti/Taos Room

Larry L. Woodard,

Acting State Director.

[FR Doc. 82-2353 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

National Petroleum Reserve—Alaska; Identification and Ranking of Tracts

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for the identification and ranking of tracts.

SUMMARY: The purpose of this notice is to invite interested parties to participate in the ranking of certain oil and gas lease tracts within the National Petroleum Reserve in Alaska (NPR–A) which were cleared for leasing in the Environmental Assessment (EA) published October 1, 1981. In addition, industry is invited to identify (delineate) other tracts within the cleared area which it wishes to have considered for offering at the second NPR–A lease sale scheduled for May 26, 1982.

DATE: Comments must be received by March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry Wickstrom, Anchorage, AK (907) 271–3632.

SUPPLEMENTARY INFORMATION: Interested parties are requested to (a) rank the tracts according to their perceived high, medium and low potential for oil and gas and (b) identify any tracts they believe to have so little potential that they should not be offered in the second lease sale. In addition

industry may delineate, on a whole township basis, any other tracts within the EA cleared area which it wishes to see considered for offering. The information supplied shall be treated as confidential and proprietary data if it is submitted to the address below in an envelope clearly marked—*Confidential: To Be Opened By The NPR–A Program Manager:*

Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, AK 99513.

The information collected as a result of this notice, as well as other available information, will aid in selecting the tracts which will be offered in the second lease sale.

A map showing the EA cleared lands and the tracts for which ranking is requested may be obtained from the Bureau of Land Management, Alaska State Office, address above. A suggested format for rating the tracts may also be obtained from that office.

"Rating" information and additional delineations must be received by close of business on March 1, 1982 to be considered.

Curtis V. McVee,

State Director.

January 15, 1982.

[FR Doc. 82–2203 Filed 1–28–82; 8:45 am]

BILLING CODE 4310–84–M

Casper District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Casper District Advisory Board will be held on March 23, 1982.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 951 Rancho Road, Casper, Wyoming.

The agenda for the meeting will include: (1) Review of the board charter and expanded role of the board; (2) review of new rangeland policies and procedures; (3) implementing the new rangeland management program policy; (4) review of fiscal year 1982 range betterment projects; and (5) outlook for range betterment projects in 1983.

The meeting is open to the public. Interested persons may make oral statements or file written statements for the board's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming by March 22, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the district manger.

Summary minutes of the board meeting will be maintained in the district office and be available for public inspection within 30 days following the meeting.

Leslie A. Olver,

Acting District Manager.

[FR Doc. 82–2270 Filed 1–28–82; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–17973]

Idaho; Conveyance of Public Lands; Madison County

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following-described public lands have been sold by direct sale to Murland D. Boulter, Route 1, Box 285, Rexburg, Idaho 83440.

Boise Meridian, Idaho

T. 6 N., R. 38 E.,
Sec. 36, lot 8.

Comprising 24.85 acres.

The lands have historically been used by Mr. Boulter. They are surrounded by his deeded lands with no legal access and are uneconomical to manage as public lands. Sale of the lands to anyone other than Mr. Boulter would place undue physical and legal hardship on Mr. Boulter as well as any other buyer. The public interest was well served by completion of the sale. The fair market value of the land was appraised at $1,300 and payment in this amount was received by the United States.

Dated: January 18, 1982.

Louis B. Bellesi,

Chief, Division of Technical Service.

[FR Doc. 82–2274 Filed 1–28–82; 8:45 am]

BILLING CODE 4310–84–M

Intent To Prepare a Management Framework Plan Amendment

January 15, 1982.

AGENCY: BLM, Interior.

ACTION: Notice of intent to prepare a management framework plan amendment.

SUMMARY: The U.S. Department of the Interior, BLM, Las Cruces District, New Mexico, intends to prepare a Management Framework Plan Amendment including an Environmental Impact Statement as an integral part of the planning process. This Notice of Intent amends the **Federal Register** Notice of Intent To Prepare a Resource Management Plan which was published January 23, 1981.

DATES: Cited within this notice.

ADDRESS: Bureau of Land Management, Las Cruces District Office, P.O. Box 1420, Las Cruces, New Mexico 88004.

FOR FURTHER INFORMATION CONTACT:

William J. Harkenrider, Jr., Area Manager, Las Cruces/Lordsburg Resource Area, Telephone: (505) 523–5571, FTS 572–0257

or

Diana Edwards, Public Affairs Officer, Telephone: (505) 524–8551, FTS 572–0257.

SUPPLEMENTARY INFORMATION: The Department of the Interior, Bureau of Land Management (BLM), Las Cruces District, New Mexico, will prepare a Management Framework Plan (MFP) Amendment including an Environmental Impact Statement (EIS) as an integral part of the planning process. The purpose of this notice is to amend the **Federal Register** Notice published January 23, 1981, announcing preparation of a Resource Management Plan (RMP). Budgetary constraints require BLM to proceed with an MFP Amendment rather than a Resource Management Plan. The MFP Amendment will provide analysis and resource management decisions on approximately 2.9 million acres of public land administered by the Bureau in the Las Cruces/Lordsburg Resource Area.

Geographic Area of the Amendment

The Amendment will consider the public land and Federal subsurface mineral ownership in Dona Ana, Luna, Hidalgo, and Grant Counties as one planning area. This encompasses approximately 2.9 million acres of BLM administered surface and 3.8 million acres of Federal subsurface minerals under Federal, State, and private surface in the four county area.

Anticipated Issues

The issues that will be addressed during development of the MFP amendment include a proposed grazing program and oil and gas and geothermal energy leasing.

Relationship to Other Plans

A separate MFP Amendment for wilderness suitability or nonsuitability in the planning area will be conducted concurrently with this effort. The wilderness Amendment for the Las Cruces/Lordsburg Resource Area will be a component of BLM's statewide wilderness study process, explained in a separate Notice of Intent.

Interdisciplinary Team

The MFP Amendment will be developed by an interdisciplinary team

under the supervision of the Las Cruces/Lordsburg Area Manager. Individuals working on the Amendment full time will be a team leader, a writer-editor, an economist, a range conservationist, a wildlife specialist, a soils scientist, a minerals specialist, a wilderness specialist, a cartographer, and a typist. Additional technical support will be provided by Area and District staff specialists as needed.

Public Participation

A comprehensive public participation plan has been prepared covering the period from October 1, 1980, through March 31, 1984. It is intended to involve interested or affected parties early and continuously throughout the planning process.

The public participation plan is flexible and designed to accommodate the unique situations caused by the scattered nature of BLM's land ownership patterns and the variety of affected publics. The plan generally follows a "grass roots" approach to public involvement, emphasizing localized, one-to-one contacts and extensive direct mailings, as well as continual coordination with local, State, and other Federal agencies.

The public is invited to participate in the planning process. Identifying the depth of the issues involved will be the first step.

An individual may protest approval of the final MFP Amendment only with respect to those items submitted in writing to the District Manager during the planning process.

Public Meetings and Formal Notices

Workshops, briefings, and group discussions will be scheduled in conjunction with meetings of the District Advisory Council and the Grazing Advisory Board to ensure full representation and participation of interested and affected publics. Notice of the completion of the draft EIS in January 1983 will be published in the **Federal Register** and in news releases which will give exact dates of the public comment period. Publication of the final EIS (which will begin a 30-day opportunity for protest) is scheduled for September 1983.

This schedule is tentative and may be changed as the planning process unfolds. Complete records of all public participation events will be available for public review throughout development of the MFP Amendment. Records pertaining to the analysis and conclusions reached by the District Manager and staff throughout the planning and environmental analysis process will also be maintained and will be available for inspection upon request.

Persons desiring more information regarding this MFP Amendment should stop by the Las Cruces/Lordsburg Resource Area Office at 1705 North Valley Drive, Las Cruces, or contact one of the persons listed at the beginning of this notice.

Charles W. Luscher,

State Director.

[FR Doc. 82-2271 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

[N-15766]

Nevada; Airport Lease Application Amended

January 18, 1982.

Notice is hereby given that pursuant to the Act of May 24, 1928, (49 U.S.C. 211-214), Alfred F. Woodard has applied to amend his airport lease application N-15766, to include the following described lands:

Mount Diablo Meridian, Nevada

T. 45 N., R. 37 E.,
Sec. 35, S½SE¼.

The purpose of this notice is to inform the public that the filing of this amended application segregated the described public lands from all other forms of appropriation under the public land laws. Interested persons desiring their views should promptly send their comments together with their name and address to the Las Vegas District Manager, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-2267 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-047451]

Nevada; Proposed Continuation of Withdrawal; Correction

January 18, 1982.

In the FR Doc. 81-34190, published on page 58187-88, on Monday, November 30, 1981, add the following:

On page 58187, third column under Nev-047451, T. 4 N., R. 65 E., Sec. 26, should read: "NW¼NW¼, SW¼SE¼;"

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-2273 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 50270 OK]

New Mexico; Coal Lease Offering

January 21, 1982.

U.S. Department of the Interior, Bureau of Land Management (BLM), New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico, 87501. Notice is hereby given that certain coal resources in the land described below in LeFlore County, Oklahoma, will be offered for competitive lease by sealed bid of $25 or more per acre followed by oral auction to the qualified bidder of the highest cash amount per acre in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended.

The Bureau of Land Management cancelled the Oklahoma Subregion of the Western Interior Coal Production Region and designated Federal coal reserves in Oklahoma open to lease by application in accordance with 43 Code of Federal Regulations (CFR) 3425.1-5 (**Federal Register**, Vol. 46, No. 157, pp. 41218-41219, August 14, 1981). This proposed lease sale is a result of such an application (NM 50270 OK) filed by Dahlgren Contracting, Inc.

The sale will be held at 10:00 a.m., February 23, 1982, in Room 5417, Federeal Court House Building, 200 NW Fourth Street, Oklahoma City, Oklahoma 73102. Sealed bids must be received on or before 4:00 p.m., February 22, 1982 in the BLM Oklahoma Resource Area Office, Alpha P. Murrah Federal Building, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102. No bids received after 4:00 p.m., February 22, 1982, will be considered.

Coal Offered: The coal resource to be offered consists of all the recoverable coal in the Upper Hartshorne and Lower Hartshorne coal beds, minable by surface methods, in the following described land, located approximately 3 miles east of the town of McCurtain, LeFlore County, Oklahoma:

T. 8 N., R. 23 E., Indian Meridian,
Sec. 20, S½SW¼
Containing 80 acres.

The estimated total recoverable strippable reserves are 133,000 tons. The quality of the Upper Hartshorne coal bed is as follows (as received): 13,900 Btu per pound, 2.6 percent sulfur, and 8.0 percent ash. The quality of the Lower Hartshorne coal bed is as follows (as received): 14,800 Btu per pound, 1.4 percent sulfur, and 5.7 percent ash. The Upper Hartshorne coal bed averages 2.3 feet thick, the Lower Hartshorne coal bed averages 3.0 feet thick, and the parting separating the two coal beds averages 1.2 feet thick. The area underlain by surface minable coal is approximately 15.5 acres.

A lease issues as a result of this offering will provide for payment of an annual rental

of $3.00 per acre and a royalty payable to the United States of 12.5 percent of the value of the coal. The value of the coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the BLM Oklahoma Resource Area Office at the address given above and at the BLM New Mexico State Office, Room 3031, on the third floor of the Joseph M. Montoya Federal Building and U.S. Post Office located on South Federal Place, Santa Fe, New Mexico. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, are also available for public inspection at the aforementioned Room 3031, BLM New Mexico State Office in Santa Fe, New Mexico.

Leroy C. Montoya,

Acting State Director.

[FR Doc. 82-2269 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 4377]

Oregon; Modification of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on July 16, 1969 (34 FR 11988), certain public lands were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Parts 2410 and 2411. The areas described in said order aggregate approximately 275,000 acres in Gilliam, Jefferson, Sherman, Wasco, and Wheeler Counties, Oregon.

2. The classification is hereby modified to provide that the following described lands be relieved of the segregative effect as to operation of the United States mining laws:

Willamette Meridian

T. 2 S., R. 15 E.,
  Sec. 28, S½SW¼.
T. 3 S., R. 14 E.,
  Sec. 13, S½NW¼ and N½SW¼;
  Sec. 14, E½SE¼.
T. 3 S., R. 15 E.,
  Sec. 3, W½SW¼;
  Sec. 4, SW¼;
  Sec. 5, E½SE¼;
  Sec. 7, NE¼SW¼ and N½SE¼;
  Sec. 8, SE¼SE¼;
  Sec. 9, SW¼SW¼;
  Sec. 17, NE¼NE¼ and N½SE¼.
T. 4 S., R. 14 E.,
  Sec. 20, SE¼NE¼;
  Sec. 21, NW¼NW¼;
  Sec. 29, W½NE¼ and W½SE¼;
  Sec. 32, N½NE¼;
  Sec. 33, W½NW¼ and NW¼SW¼.
T. 5 S., R. 13 E.,
  Sec. 24, Lots 5 and 6;
  Sec. 25, Lots 5, 7, and 8.
T. 7 S., R. 14 E.,
  Sec. 9, Lots 3 and 4, S½SW¼;
  Sec. 17, Lots 2, 3, and 4.
T. 8 S., R. 14 E.,
  Sec. 21, Lots 1, 2, 3, 4, and 5, S½SW¼, and SW¼SE¼.
T. 9 S., R. 13 E.,
  Sec. 12, Lots 2, 3, 4, and 5;
  Sec. 13, Lot 1, NW¼NE¼ and NE¼NW¼.
T. 13 S., R. 12 E.,
  Sec. 8, NW¼NW¼ and S½NW¼;
  Sec. 33, Lots 2 and 3, SW¼NE¼, and SE¼NW¼.

The areas described aggregate 2,370.76 acres in Wasco, Jefferson, and Sherman Counties, Oregon.

3. At 10 a.m., on March 8, 1982, the lands described in paragraph 2 will be open to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 43 U.S.C. 621).

Inquiries concerning the lands should be addressd to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 22, 1982.

Harold A. Berends,

Acting Associate State Director.

[FR Doc. 82-2286 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

Southcentral Land Use Plan; Proposed Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Amendment to the Southcentral Land Use Plan.

1. Summary: In order to comply with the directive of the Secretary of the Interior to make federal public lands available for mineral leasing, mineral entry and settlement, the Anchorage District Office of the BLM proposed to prepare an amendment to the Southcentral Land Use Plan of September 1980 addressing these uses of the land.

2. The geographic area to be considered consists of two blocks of federal land: the 4.5 million-acre Denali block, located south of the Alaska Range near the Denali Highway, but not adjacent to it; and the Tiekel block, a 507,000-acre parcel straddling the Richardson Highway. The lands described are subject to State selection. The lands are generally located in the following townships:

Copper River Meridian

T. 3 S., R. 1–3 E.
T. 4 S., R. 1–3 E.
T. 5 S., R. 1–3 E.; R. 1 W.
T. 6 S., R. 1–3 E; R. 1 W.
T. 7 S., R. 1–2 E; R. 1 W.
T. 7 N., R. 9–10 W.
T. 8 N., R. 4–7, 9–10 W.
T. 9 N., R. 1–10 W.
T. 10 N., R. 1–10 W.
T. 11 N., R. 1–10 W.
T. 12 N., R. 1–10 W.
T. 13 N., R. 1–10 W.
T. 14 N., R. 1–10 W.

Seward Meridian

T. 26 N., R. 12 E.
T. 27 N., R. 12 E.
T. 28 N., R. 12 E.
T. 29 N., R. 12 E.
T. 31 N., R. 11 E.
T. 32 N., R. 8–11 E.
T. 33 N., R. 8–12 E.

Fairbanks Meridian

T. 16 S., R. 4 W; R. 1–5 E.
T. 17 S., R. 3–4 W.; R. 1–5 E.
T. 18 S., R. 2–5 W.; R. 1–11 E.
T. 19 S., R. 1–4 W.; R. 1–11 E.
T. 20 S., R. 1–5 W.; R. 1–10 E., R. 13 E.
T. 21 S., R. 1–9 W.; R. 1–8, 10–13 E.
T. 22 S., R. 1–9 W.; R. 1–8, 10–13 E.

3. The issue to be considered is whether to open any lands within the blocks to mineral leasing, mineral location or settlement entry.

4. Disciplines to be represented in the assessment include lands, minerals, wildlife, recreation, cultural resources, fisheries, forest products, range, watershed, visual resources, soils, sociology and economics.

5. The public is being invited to participate in the assessment of these issues. Several points in the planning and assessment process have been identified for public involvement including the scoping and identification of issues, data gathering, development of criteria for decision-making, review of conflict resolution and final review of recommendations.

6. Residents of the affected area as well as other individuals and groups which participated in the original land use plan will be contacted by mail or in person during initial stages of the amendment process. Notices to the general public will be published in local papers. Small group presentations and personal interviews will be conducted throughout February and March. An open house will be scheduled for the Glennallen community in May as well as public meetings in Anchorage and Fairbanks. Exact dates and locations will be published in the local papers.

7. For further information contact: Steve Durkee, Phone (907) 267–1369, Glennallen Resource Area, Box 147, Glennallen, Alaska 99588.

8. Copies of maps of the blocks and of the Southcentral Land Use Plan will be available for public inspection at the Bureau of Land Management Glennallen Resources Area Office and the Anchorage Distict Office, 4700 E. 72nd Avenue, Anchorage, Alaska 99507.

Richard W. Tindall,

District Manager.

[FR Doc. 82-2272 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Intention To Negotiate Concession Contract; Watch Hill Marina, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Watch Hill Marina, Inc., authorizing it to continue to provide marina facilities and services for the public at Fire Island National Seashore for a period of fifteen (15) years from December 1, 1981, through November 30, 1996.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the North Atlantic Regional Office, National Park Service, 15 State Street, Boston, MA 02109.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on November 30, 1979. The concessioner has continued to perform these obligations at the request of the National Park Service. Therefore, pursuant to the Act of October 9, 1965, as cited above, the concessioner is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Watch Hill Marina, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Watch Hill Marina, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Watch Hill Marina, Inc., (as determined by the Secretary) is submitted, Watch Hill Marina, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Watch Hill Marina, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered by March 1, 1982 to be considered and evaluated.

Interested parties should contact the Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772, telephone (516) 289-4810, for information as to the requirements of the proposed contract.

Dated: January 14, 1982.

Herbert S. Cables, Jr.

Acting Regional Director, North Atlantic Region.

[FR Doc. 82-2368 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-70-M

Ice Age National Scenic Trail Advisory Council; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Ice Age National Scenic Trail Advisory Council will be held March 10, 1982, beginning at 9:00 a.m. in Room 117, GEF II Building, 101 South Webster Street, Madison, Wisconsin 53707.

The council was established on January 9, 1981, pursuant to provisions of the National Trails System Act, 82 Stat. 919, 16 U.S.C. 1244, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Ice Age National Scenic Trail.

The members of the council are as follows:

Mr. Bill W. Dean (Chairperson)
Mr. David Weizenicker
Mr. John C. Wolter
Mrs. Grace Schmidley
Mr. John Ziflmer
Mr. Robert W. Cromer
Hon. Warren P. Knowles

Matters to be discussed at the meeting will include issues related to the Comprehensive Management Plan for the Ice Age National Scenic Trail and the role of the council in administration of the trail.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert P. Martin, Chief, Division of Rivers and Trails, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221-3371 (FTS 864-3371). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 3 weeks after the meeting.

Dated: January 20, 1982.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 82-2367 Filed 1-28-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241: A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating

authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 13, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14766, filed December 29, 1981. EDWARDS TRANSFER & STORAGE CO. (Edwards) (P.O. Box 23294, Columbus, OH 43223)—purchase (portion)—MILLER TRANSFER AND RIGGING CO. (Miller) (P.O. Box 322, Cuyahoga Falls, OH 44222). Representative: A. Charles Tell, Suite 1800, 100 E Broad St. Columbus, OH 43215.

Edwards seeks authority to purchase a portion of the interstate operating rights of Miller. United States Industries, Inc., a non-carrier and sole stockholder of Miller, and in turn, John J. Brutvan, who controls 62.7% of the stock of United States Industries, Inc., seek authority to continue in control of the unified rights.

The operating authority to purchase is contained in certificate No. 87103 and (Sub-Nos. 9, 11G, 12G, 13, 14, 15, 17, 18, 19G, 20, 21G, 22, 23, 24, 25, 26, 27, 30, 31, 32, 35, 36, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 72, 73, 74, 75, 78, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, E–1 and E–2). The authority to be purchased by Edwards generally authorizes the transportation of *household goods, commodities the transportation of which because of size or weight require the use of special equipment, machinery, and contractors equipment and supplies, tires, machinery, hydraulic pressure and shearing machinery, glass, iron and steel articles, brass and copper, industrial fans,* between various specified points in the United States.

Miller is a common carrier pursuant to authority issued in MC–38799 and sub-numbers thereunder. Edwards and Miller are commonly controlled by United Transport Industries, Inc. pursuant to MC–F–13970.

United also controls Miller Transfer and Rigging Co. (MC–87103), East-South Express, Inc. (MC–138773) and Midwest Specialized Haulers, Inc. (MC–109962).

MC–F–14769, filed December 29, 1981, TRANSCON INCORPORATED (TC) (101 Continental Blvd., El Segundo, CA, P.O. Box 92220, Los Angeles, CA 90009)—Continuance in Control—TC CARRIERS (TCC), P.O. Box 158, Placentia, CA 92671. Representative: Wentworth Giffin, Suite 600, 1221 Baltimore, Kansas City, MO, 64105. TC a non-carrier with its stock publicly held and widely distributed, seeks authority to continue in control of TCC upon the institution by TCC of operations in interstate or foreign commerce. TC holds no authority from this Commission. However, it controls through stock ownership, Transcon Lines (TCL), a motor common carrier operating pursuant to authority issued in MC–110325 and subs thereunder, authorizing operations in all of the contiguous 48 States. TCC has been granted authority to operate as a common carrier in MC–151558F in the transportation of *general commodities,* except household goods as defined by the Commission and Classes A & B explosives, over irregular routes, between points in California, New Jersey, New York, Union and Butler Counties, PA, Noble and LaPorte Counties, IN, Pima County, AZ, Kanawha County, WV, Bedford County, TN, St. Louis, MO, Cincinnati, OH and Atlanta, GA, on the one hand, and, on the other, points in the United States. TCC also has pending an application in MC–151558 (Sub 1) seeking authority to transport general commodities (except Classes A and B explosives) between all points in the United States except CA, NY, and NJ. The latter application was published in the **Federal Register** of September 25, 1981.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2296 Filed 1–28–82; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Continental Fiberglass Corporation, 339 S.W. 6th Street, Des Moines, Iowa 50309.

2. Wholly-owned subsidiary which will participate in the operations: (i) Consource of Iowa, Inc., 319 S.W. 5th Street, Des Moines, Iowa 50309; Incorporated in the State of Iowa.

1. Parent corporation and address of principal office: Great Lakes Cheese Co., Inc., 9989 Kinsman Road, Newbury, Ohio 44065.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: GLC Transportation, Inc., incorporated under the laws of the State of Ohio.

1. My name is William R. Nath, and I own all of the outstanding common capital stock of The Home Oil Company, Inc.

Further, I own 60% of the outstanding common capital stock of HOC Express, Inc., and my wife Jennifer W. Nath owns 40% of the outstanding common capital stock of HOC Express, Inc.

2. The wholly-owned subsidiaries that will participate in the operations and their states of incorporation are as follows:

(a) The Home Oil Company, Inc., 125 N. Elizabeth, Wichita, Kansas 67203, a Kansas Corporation.

(b) HOC Express, Inc., 125 N. Elizabeth, Wichita, Kansas 67203, a Kansas Corporation.

1. Name and address of parent corporation: Nucorp Energy, Inc., an Ohio Corporation, Fifth Avenue Financial Center, 2550 Fifth Avenue, Suite 1100, San Diego, California 92103.

2. Wholly-owned subsidiaries which will participate in the operations and State of incorporation:

(a) Nucorp Energy, Inc., a Texas Corporation.
(b) Nucorp Supply, Inc., a Texas Corporation.
(c) Nucorp Compressor, Inc., a Texas Corporation. (A wholly owned subsidiary of Nucorp Supply, Inc.)
(d) Nucorp Energy Company, an Ohio Corporation.
(e) Maverick Tube Corp., a Missouri Corporation.
(f) Crowder Tank, Inc., an Oklahoma Corporation.
(g) Nucorp Energy of Oklahoma, Inc., an Oklahoma Corporation.
(h) Cogburn Pump & Supply Co., a Delaware Corporation.
(i) Bill Dorland Machine & Equipment, Inc., a Texas Corporation.
(j) Taylor Industries, Inc., an Oklahoma Corporation.
(k) Allied Pipe & Supply, Inc., a Texas Corporation.
(l) Condor Pipe Incorporated, a Texas Corporation.
(m) Eagle Upsetters, Inc., a Colorado Corporation.
(n) Jim Williams & Associates, Inc., a Louisiana Corporation.
(o) Martin Pipe Company, Inc., a Louisiana Corporation.
(p) Scarborough Manufacturing Company, Inc., a Mississippi Corporation.
(q) Superior Applied Products, Inc., a Texas Corporation.
(r) Sweetwater Pump & Supply, Inc., a Texas Corporation.
(s) Wildcat Supply, Inc., a Oklahoma Corporation.
1. The parent corporation and address of principal office: Space Center, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:
(a) Space Center Minnesota, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(b) Space Center Kansas City, Inc., a Missouri corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(c) Kansas City Terminal Warehouse Company, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(d) Space Center Ohio, Inc., an Ohio corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(e) Space Center Dallas, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(f) Space Center Edina, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(g) Kolstad Company, a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(h) Space Center, Inc. (California), a California corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(i) Space Resources, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(j) Transport Technicians, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(k) All Area Express, Inc., a South Dakota corporation, P.O. Box 5027, Sioux Falls, South Dakota 57117.
(l) Space Center Chicago, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(m) GeoSpace, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
(n) Space Center Texas, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.
1. Parent corporation: Timex Corporation, Waterbury, CT 06720.
2. Wholly-owned subsidiary which will participate in the Operation: (a) Timex Clock Company.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-2287 Filed 1-28-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP1-11]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of petitions for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleadings shall comply with 49 CFR 1100.252 addressing specifically the issue(s) indicated as the purpose for republication.

MC 144821 (Sub-13) (republication), filed August 10, 1981, previously noticed in the **Federal Register** issue of September 2, 1981. Applicant: FREEEDOM FREIGHTWAYS, INC., 9060 Latty Ave., St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. A Decision by the Commission Review Board Number 2, decided December 1, 1981 and served December 9, 1981, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemical and petroleum products*, between Chicago, IL, and Vicksburg, MS, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *metal and metal products*, between Chicago, IL, Baltimore, MD, Herculaneum, MO, Toledo, OH, and points in Beaver County, PA, on the one hand, and, on the other, points in the United States (except AK and HI). Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to clarify the scope of authority granted.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-2286 Filed 1-28-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-2 (Sub-No. 37)]

Louisville & Nashville Railroad Co.—Abandonment in Henry and Benton Counties, TN; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Louisville and Nashville Railroad Company to abandon a portion of a line of railroad known as the Big Sandy Branch of its Nashville Division extending from railroad milepost F-229.8 near Big Sandy to milepost F-240.7 near Paris, a distance of 10.9 miles, in Henry and Benton Counties, TN, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the

Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2296 Filed 1-28-82; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment not a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satified before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-09

Decided: January 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 38921 (Sub-22), filed January 12, 1982. Applicant: KMA LEASING, INC., dba, WM. H.P., INC., 1342 North Howard St., Philadelphia, PA 19122. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036, (202) 296-2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 52330 (Sub-2), filed January 12, 1982. Applicant: WASHINGTON COAST LINES, INC., 2816 Summer Ave., Aberdeen, WA 98520. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005, (202) 783-3525. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in King and Pierce Counties, WA, and extending to points in the U.S. (including AK, but excluding HI).

MC 109821 (Sub-72), filed January 8, 1982. Applicant: TAYNTON FREIGHT SYSTEMS, INC., 40 Main St., Wellsboro, PA 16901. Representative: Larry Sherman (same address as applicant), (717) 724-1611. Transporting *glass products,* between points in Tioga County, PA, on the one hand, and, on the other, points in Rockingham County, NH.

MC 118420 (Sub-11), filed January 11, 1982. Applicant: BULLDOG TRUCKING OF GEORGIA, INC., P.O. Box 555, Carnesville, GA 30521. Representative: K. Edward Wolcott, 1200 Atlanta Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303, (404) 522-2322. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of E. I. Dupont de Nemours & Co. at points in the U.S. in and east of MN, IA, MO, AR and LA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 121281 (Sub-16), filed January 11, 1982. Applicant: BIG MAC TRUCKING COMPANY, 2400 Augusta Dr., Suite 150, Houston, TX 77057. Representative: Joe G. Fender, 9801 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827-1407. Transporting *concrete products,* between points in Tarrant County, TX, on the one hand, and, on the other, points in LA, OK, and AR.

MC 126320 (Sub-19), filed January 12, 1982. Applicant: DETTINBURN TRUCKING, INC., Route 3, Box 24, Petersburg, WV 26847. Representative: Daniel B. Johnson, 4304 East-West Hwy, Bethesda, MD 20814, (301) 654-2240. Transporting *paper and paper products,* betwen those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 128761 (Sub-8), filed January 11, 1982. Applicant: RICHARD M. GODFREY, 8530 Kingscove Drive, Salt Lake City, UT 84121. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *such commodities* as are dealt in by grocery stores and food business houses, between points in the U.S., under continuing contract(s) with Albertson's, Inc., of North Salt Lake, UT.

MC 130331 (Sub-1), filed January 11, 1982. Applicant: MONARCH TOURS, INC., d.b.a. HORIZON TOURS, 993 Claygate Court, Manchester, MO 63011. Representative: Robert E. Hoelscher (same address as applicant), (314) 821-2200. As a *broker,* at Manchester and St. Louis, MO, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in the U.S.

MC 145130 (Sub-7), filed January 11, 1982. Applicant: ATICO TRANSPORT, INC., 6700 S. Le Claire Avenue, Chicago, IL 60638. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016, (312) 298-1084. Transporting *chemicals and related products,* between points in Muskegon

County, MI, on the one hand, and, on the other, points in IL.

MC 147911 (Sub-10), filed January 7, 1982. Applicant: TILFORD TRUCKING, INC., P.O. Box 34, Readyville, TN 37149. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with Berwind Corporation, of Philadelphia, PA, and Perfect Equipment Company, of Murfreesboro, TN.

MC 148020 (Sub-5), filed January 11, 1982. Applicant: BIG "M" TRANSPORT, INC., 3100 Hilton St., Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *chemicals and related products and toilet preparations,* between points in Duval County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152250 (Sub-4), filed January 11, 1982. Applicant: WHITE TRANSPORT, INC., P.O.B. 2063, Sheridan, WY 82801. Representative: Charles A. Murray, Jr., 2822 third Ave. N., Billings, MT 59101, (406) 252–4165. Transporting *fertilizer,* between points in Franklin County, WA, and Bannock and Caribou Counties, ID, on the one hand, and, on the other, points in Judith Basin County, MT.

MC 152650 (Sub-3), filed January 6, 1982. Applicant: SHAVER TRUCKING, INC., 3600 Highway #68, P.O. Box 104, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753, (501) 846–2185. Transporting *furniture parts, metal products, and paper products,* between Phoenix, AZ, Mason, OH, Birmingham, AL, Little Rock, AR, and Jacksonville, FL, St. Louis, MO, and points in Jasper, Greene and Lawrence Counties, MO, Clark, Shelby and Jessamine Counties, KY, Atlanta, GA, and points in Walton County, GA, Beaufort, Robeson and Davidson Counties, NC, and Los Angeles County, CA, Dallas, TX, and points in Ellis County, TX, Oakland County, MI, and Ozaukee County, WI, on the one hand, and, on the other, points in the U.S.

MC 153800 (Sub-2), filed January 11, 1982. Applicant: S & B TRUCKING, INC., Route 1, Box 151, Colfax, WI 54730. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *hides,* between points in Muscatine County, IA, on the one hand, and, on the other, points in TX, KS, and Sheboygan County, WI.

MC 156461, filed January 11, 1982. Applicant: BURWICK'S, INC., Route No. 3, Box 159X, Dickinson, ND 58601. Representative: Richard P. Anderson, 2525 South University Drive, P.O. Box 2581, Fargo, ND 58108, (701) 235–2581. Transporting *chemicals, salt and salt products,* between points in Weber, Salt Lake, Davis and Tooele Counties, UT, on the one hand, and, on the other, points in ND and MT.

MC 159221 (Sub-1), filed January 11, 1982. Applicant: S.K.T., 623 N.E. 10th St., Minot, ND 58701. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Becwar-Cedarstrom, Porter Brothers, American Lifestyle, Inc., and North Star Steel, Inc., all of Minot, ND.

MC 160041, filed January 11, 1982. Applicant: AMERICAN TRANSFER COMPANY, 623 2nd St., Farmington, MN 55024. Representative: A. G. Nordvik (same address as applicant) (612) 463–3514. Transporting *roofing granules,* between points in the U.S., under continuing contract(s) with Owens-Corning Fiberglas Corporation, of Toledo, OH.

MC 160050, filed January 11, 1982. Applicant: VERDONI TRANSPORTATION, INC., 1247 Ridge Road, Ambridge, PA 15003. Representative: Salley A. Davoren, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222, (412) 471–3300. Transporting (1) *metal products,* between points in NY, PA, CT, ME, VT, NH, MA, RI, NJ, MD, WV, OH, IN, MI, WI, IL, VA and KY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK and TX, and (2) *machinery,* between points in PA, NY, MD, WV, OH, WI, KY and VA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK and TX.

Volume No. OP1–12

Decided: January 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating in part.)

MC 48221 (Sub-35), filed January 15, 1982. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting (1) *food and related products,* between Denver, CO, on the one hand, and, on the other, points in TX, (2) *hardware,* between points in Cook County, IL, on the one hand, and, on the other, points in MN, NE, IA, MO and KS, and (3) *malt beverages,* between points in Jefferson County, CO, on the one hand, and, on the other, points in AR, MS, MO, TN, LA, and TX.

MC 58440 (Sub-7), filed January 15, 1982. Applicant: SCENIC HAWKEYE STAGES, INC., 703 Dudley St., Decorah, IA 52101. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in IA, MN, and those in WI on and south of U.S. Hwy 12, and extending to points in the U.S.

MC 98391 (Sub-4), filed February 2, 1981, previously noticed in **Federal Register** issue of March 3, 1981. Applicant: JAKEL MOVING & STORAGE CO., 405 36th St., S.E., Grand Rapids, MI 49508. Representative: Tom Mieras (same address as applicant), (616) 245–2133. Transporting (1) *environmental test chambers, equipment and instruments,* and (2) *parts* for the commodities in (1), between points in the U.S., under continuing contract(s) with Thermotron Corporation, of Holland, MI. Condition: Issuance of a permit in this proceeding is subject to the coincidental cancellation, at applicnt's written request, of Permit No. MC–98391 Sub 4, issued May 15, 1981.

Note.—This republication clarifies the authority sought.

MC 108631 (Sub-24), filed January 12, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110 (215) 561–1030. Transporting *food and related products,* between points in Lehigh and Northampton Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and AL.

MC 118130 (Sub-125), filed January 11, 1982. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103 (817) 332–4718. Transporting *food and related products,* between the facilities of Monfort of Colorado, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 134370 (Sub-10), filed January 15, 1982. Applicant: OSBORNE TRUCKING COMPANY, INC., Paradise Valley Route, Box 2409, Riverton, WY 82501.

Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202 (303) 892–6700. Transporting *lumber and wood products,* between points in the U.S., under continuing contract(s) with Teton West Lumber, Inc., of Cheyenne, WY, and Potlatch Corporation, of Lakewood, CO.

MC 136010 (Sub-3), filed January 11, 1982. Applicant: SCHNEIDER IRON & METAL, INC., Rte. 1, Box 113, Iron Mountain, MI 49801. Representative: William J. Bolognesi, P.O. Box 705, Iron Mountain, MI 49801 (906) 774–2209. Transporting *castings,* between Menominee, MI, and Kaukauna, Fond du Lac, and Madison, WI.

MC 143531 (Sub-10), filed January 15, 1982. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84603. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111 (801) 531–1300. Transporting *rubber and plastic products,* between points in Pierce County, WA, on the one hand, and, on the other, points in UT and ID.

MC 145110 (Sub-1), filed January 15, 1982. Applicant: WILLAMETTE INDUSTRIES, INC., TRUCKING DIVISION, P.O. Box G, Beaverton, OR 97005. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 45538 (214) 358–3341. Transporting *paper and paper products,* between points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in AR.

MC 146791, filed January 15, 1982. Applicant: G–C–F TRANSPORT COOPERATIVE ASSOCIATION, Fennimore, WI 53809. Representative: Patricia Thimmig, 25 W. Main St., Suite 801, Madison, WI 53703 (608) 255–7277. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Fennimore Cooperative Oil Co., of Fennimore, WI, and Mt. Horeb Farmers Cooperative, of Mt. Horeb, WI.

MC 147491 (Sub-5), filed January 8, 1982. Applicant: TAB TRUCKING, INC., 4342 Janitrol Rd., Columbus, OH 43228. Representative: Brian S. Stern, North Springfield Professional Centre II, 5411–D Backlick Rd., Springfield, VA 22151 (703) 941–8200. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of steel and aluminum cylinders, between points in Franklin County, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 148141 (Sub-4), filed January 12, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (Same address as applicant) (201) 997–3000. Transporting *rubber,* between points in the U.S., under continuing contract(s) with William T. Burnett & Co., Inc., of Baltimore, MD.

MC 149100 (Sub-16), filed January 11, 1982. Applicant: JIM PALMER TRUCKING, 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth 717–17th Street, Suite 2600, Denver, CO 80202. Transporting *lumber and wood products, and building materials,* between points in the U.S., under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 150301 (Sub-16), filed January 4, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Herman Miller, Inc., of Zeeland, MI.

MC 150401 (Sub-2), filed January 18, 1982. Applicant: THERMAL SYSTEMS INDUSTRIES, 3055 W. 2100 S. Salt Lake City, UT 84119. Representative: Irene Warr, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. Transporting *building materials,* between points in the U.S., under continuing contract(s) with General Building Materials, of Englewood, CO.

MC 153810, filed January 5, 1982. Applicant: FOUST TRUCKING, INC., 8466 Crestway, Clayton, OH 45315. Representative: Charles K. Boxell, First Federal Plaza, 711 Adams St., Toledo, OH 43624, (419) 243–6281. Transporting (1) *food and related products,* between points in OH, on the one hand, and, on the other, points in MI, PA, IN, IL, and KY; (2) *metal products,* between points in IL, MI, and PA, on the one hand, and, on the other, points in IN, IL, OH, PA, KY and MI; and (3) *building materials,* between points in MI, IL, and PA, on the one hand, and, on the other, points in MI, IL, OH, and PA.

MC 154121 (Sub-18), filed January 8, 1982. Applicant: TRAILINER CORP., 5367 West 86th St., Indianapolis, IN 46268. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between the facilities used by International Nu-Way Shippers Association at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 154240 (Sub-1), filed January 13, 1982. Applicant: HEIL WINDERMERE STORAGE & MOVING CO., 8649 Freeway Dr., Macedonia, OH 44056. Representative: Richard J. Heil (same address as applicant), (216) 467–1111. Transporting *general commodities* (except classes A and B explosives), between points in Cuyahoga, Lake, and Summit Counties, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MI, MN, MO, NJ, NM, NY, NC, OK, PA, SC, TN, TX, VA, WV, and WI.

MC 158120 (Sub-1), filed January 15, 1982. Applicant: GLENN R. DUSENBERRY, 2311 Sampson St., Muscatine, IA 52761. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501 (515) 682–8154. Transporting *food and related products,* between points in Blackhawk and Louisa Counties, IA, on the one hand, and, on the other, points in AR, IL, IN, KS, MN, MO, MI, NE, and WI.

MC 158761, filed January 11, 1982. Applicant: GLENN D. ROGNESS, d.b.a. GLENN D. ROGNESS TRUCKING, Route 3, Fergus Falls, MN 56537. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402 (612) 340–0808. Transporting *food and related products,* between Chester and Chicago, IL, on the one hand, and, on the other, points in ND and MN.

MC 160020, filed January 8, 1982. Applicant: EAST-PORT MOTORS, INC., Cherry Tree Lane—RR2 Box 286, Highland Lakes, NJ 07422. Representative: Edward L. Nehez, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068 (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk); between points in the U.S. (except AK and HI), under continuing contract(s) with Leisure Line Toys, Inc., Gabriel Industries, both of Secaucrus, NJ; Sanyo Electric, Inc., of Little Ferry, NJ; Universal Foods Corporation, of Carlstadt, NJ; and Val D'Or, Inc., of New York, NY.

MC 160021, filed January 11, 1982. Applicant: EMPIRE PACIFIC TRAVEL SERVICES CORPORATION, 222 Mamaroneck Avenue, White Plains, NY 10605. Representative: Stephen L. Fine, 1370 Avenue of the Americas, 25th Floor, New York, NY 10019 (212) 757–4000. As a *broker* at White Plains, NY, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, between points in NY and those in Fairfield County, CT, on the one hand, and, on

the other, points in NY, PA, NJ, CT, RI, MA, VT, NH, and ME.

MC 160040, filed January 11, 1982. Applicant: SPORTS AMERICA TOURS INC., 359 Bel Marin Keyes, Suite 28, Novato, CA 94947. Representative: Eldon M. Johnson, 650 Californa St., Suite 2808, San Francisco, CA 94108 (415) 986–8696. As a *broker* at Novato and Santa Monica, CA, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in CA, and extending to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 160051, filed January 11, 1982. Applicant: TALENT TRUCKING CO., P.O. Box 320, Talent, OR 97450. Representative: John A. Anderson, Suite 801—The 1515 Bldg., 1515 SW 5th Ave., Portland, OR 97201, (503) 227–4586. Transporting (1) *food and related products*, (2) *chemicals and related products*, (3) *metal products*, (4) *furniture and fixtures*, (5) *farm products*, and (6) *machinery*, between points in Jackson County, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160070, filed January 11, 1982. Applicant: MSA–LAMDA CARTAGE, INC., 4430 E. Sheila St., Los Angeles, CA 90023. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with MSA–LAMDA, Inc., of Los Angeles, CA.

MC 160080, filed January 13, 1982. Applicant: BENDIX TRANSPORTATION MANAGEMENT CORPORATION, 20650 Civic Center Drive, P.O. Box 5084, Southfield, MI 48037–5084. Representative: Robert W. Daley, P.O. Box 5060, Southfield, MI 48037, (313) 827–6476. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK, HI, ID, MT, ND, SD, and WY).

MC 160081, filed January 11, 1982. Applicant: WHIRLWIND COACH TOURS, P.O. Box 1127, Winston-Salem, NC 27102. Representative: Gary L. Smith (same address as applicant), (919) 723–8861. As a *broker* at Winston-Salem, NC, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between points in NC, on the one hand, and, on the other, points in the U.S.

MC 160101, filed January 5, 1982. Applicant: J & L COMPANY, INC., P.O. Box 1187, Evanston, WY 82930. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111. Transporting *Mercer commodities*, between points in UT, WY, CO, ID, ND, SD, and MT.

MC 160121, filed January 18, 1982. Applicant: BULLOCK TRUCKING, 7439 Hunt St., Boise, ID 83709. Representative: Walter R. Bullock (same address as applicant), (208) 362–5298. Transporting (1) *lumber and wood products, and building materials*, between points in ID, WA, OR, CA, NV, UT, WY, CO. MT, AZ, and NM, and (2) *clay, concrete, glass or stone products*, between points in ID and OR.

Volume No. OP3–15

Decided: January 25, 1982.

By the Commission Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 56914 (Sub-7), filed January 15, 1982. Applicant: ARIZONA BUS LINES, INC., 814 W. Jefferson, Phoenix, AZ 85007. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012, (602) 274–5146. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Maricopa, Pinal, and Pima Counties (except Tucson), AZ, and extending to points in the U.S. (except AK and HI).

MC 70015 (Sub-8), filed January 15, 1982. Applicant: ALEXANDER B. POLLOCK, d.b.a. JIFFY VANS, 6575 E. Pleasant Run Parkway, Indianapolis, IN 46219. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *household goods*, between points in IN, on the one hand, and, on the other, points in IA, KS, OK, TX, AR, LA, MS, AL, FL, GA, SC, and NC.

MC 103734 (Sub-4), filed January 15, 1982. Applicant: NOONEY BUS LINES, INC., 1017 Jefferson St., Roanoke Rapids, NC 27870. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20879, (301) 840–8565. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at points in (a) Mecklenburg, Brunswick, and Greensville Counties, VA, and (b) Vance, Warren, Halifax, Northampton, Nash, Edgecombe, Gates, Hertford, Chowan, Bertie, Martin, and Washington Counties, NC, and extending to points in the U.S.

MC 107515 (Sub-1422), filed January 12, 1982. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Suite 520, Lennox Towers South, Atlanta, GA 30326, (404) 262–7855. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S.

MC 125535 (Sub-36), filed January 18, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Rd., St. Louis, MO 63141. Representative: Donald S. Helm (same address as applicant), (314) 569–1161. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk in tank vehicles), between points in the U.S.

MC 126904 (Sub-45), filed January 15, 1982. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *petroleum, natural gas and their products, chemicals and related products, rubber and plastic products, pulp, paper and related products, machinery and metal products*, between St. Louis, MO, Chicago, IL, and points in St. Clair County, IL, on the one hand, and, on the other, points in the U.S.

MC 143214 (Sub-9), filed January 11, 1982. Applicant: MATUSZKO TRUCKING, INC., 19 Ball Lane, North Amherst, MA 01059. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *such commodities* as are dealt in or used by chain grocery stores, food processing houses or variety houses, between points in the U.S. under continuing contract(s) with Oxford Pickle Company, a division of John E. Cain Company of South Deerfield, MA.

MC 145655 (Sub-8), filed January 12, 1982. Applicant: TYSON FOODS, INC., P.O. Drawer E, Springdale, AR 72764. Representative: Michael H. Mashburn, P.O. Box 869, Springdale, AR 72764, (501) 751–5222. Transporting *such merchandise* as is dealt in by grocery and food business houses, between points in the U.S. (except AK and HI) under continuing contract(s) with Kroger Corporation of Cincinnati, OH.

MC 152744 (Sub-1), filed January 15, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60603. Representative: Daniel C. Sullivan, 10 S. LaSalle, St.,

Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. under continuing contract(s) with The Quaker Oats Company, Merchandise Mart Plaza, of Chicago, IL.

MC 157155, filed January 11, 1982. Applicant: CARLTON V. MAYS, Route 4, Amherst, VA 24521. Representative: Carlton V. Mays (same address as applicant), (804) 277–5168. Transporting *lumber and wood products*, between points in VA, on the one hand, and, on the other, points in NC, TN and WV.

MC 158655 (Sub-6), filed January 11, 1982. Applicant: GRAND EXPRESS, INC., 4750 Clyde Park, SW., Grand Rapids, MI 49509. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *such commodities* as are dealt in or used by department stores and food and drug stores, between points in Licking, Hamilton, Lucas, Clark, Marion, Butler, and Hancock Counties, OH, Kenton County, KY, and points in MI, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 160075, filed January 11, 1982. Applicant: BAMBARGER WRECKER SERVICE, INC., P.O. Box 2275, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–2880. Transporting *transportation equipment*, between points in AL, on the one hand, and, on the other, points in the U.S.

MC 160094, filed January 12, 1982. Applicant: A–B BUS SERVICE, INC., 4918½ 24th St., N., St. Petersburg, FL 33714. Representative: Morris J. Levin, 1050 17th St., NW., Washington, DC 20036, (202) 872–0005. Transporting *passengers and their baggage* in special and charter operations, beginning and ending at points in FL, and extending to points in the U.S.

Volume No. OP4–24

Decided: January 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 128837 (Sub-45), filed January 15, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5466. Transporting *iron and steel articles*, between points in the U.S.

MC 129537 (Sub-65), filed January 15, 1982. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, (813) 229–6165. Transporting *plastic concentrates, plastic resins, wood pulp, lumber and building products, paper and paper products* (except in bulk), between points in AL, AR, CA, CT, FL, GA, IL, IN, IA, KS, KY, LA, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, and WI.

MC 129537 (Sub-66), filed January 18, 1982. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, (813) 229–6165. Transporting *plastic articles*, between points in AZ, CA, CO, CT, FL, GA, IL, IN, KS, LA, ME, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, OR, PA, TN, TX, VA, WA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139897 (Sub-9), filed January 18, 1982. Applicant: ORBAN HOFSTETTER, INC., P.O. Box 237, Orrville, OH 44667. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of dairy products, between points in the U.S., under continuing contract(s) with Dairy Farm Products Co., of Orrville, OH.

MC 148917 (Sub-2), filed January 18, 1982. Applicant: KEN STAUB, JR. TRUCKING, INC., 4786 East River Road, Grand Island, NY 14072. Representative: Kenneth W. Staub, Jr. (same address as applicant), (716) 877–3080. Transporting *metal products and building materials*, between points in IL, IN, the Lower Peninsula of MI, MN, and WI, on the one hand, and, on the other, points in NY.

MC 150577 (Sub-3), filed January 18, 1982. Applicant: S. B. CAMPBELL, JR., Rt. 7, Box 1, Lubbock, TX 79401. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. Transporting *iron and steel articles*, between points in TX, OK, NM, KS, LA, NE, WY, AZ, GA, FL, MS, SC, AR, and TN.

MC 151717 (Sub-2), filed January 15, 1982. Applicant: MONTREAL CONTAINER TERMINALS, INC., 6360 Notre Dame St., E., Montreal, Quebec, CD H1N 2E1. Representative: Adrien R. Paquette, 200 St. James St., Suite 900, Montreal, Quebec, CD. Transporting *general commodities*, (except classes A and B explosives, household goods, items of unusual value, and those items requiring special equipment), between the ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in CT, MA, MI, IL, OH, PA, and ME..

MC 151887 (Sub-1), filed January 15, 1982. Applicant: BODONA, INC., 1011 North Colony Rd., Meriden, CT 06450. Representative: Edward M. Taber, 64 Nottingham Terr., Waterburg, CT 06704; (203) 735–0939. Transporting (1) *such commodities*, as are dealt in or used by manufacturers and distributors of pens, pencils, pen parts, pen refills, writing ink, and gift boxes, between points in Rock County, WI, on the one hand, and, on the other, points in CT, MA, NJ, NY, and RI, and (2) *metal products*, between points in CT, MA, ME, NH, RI, VT, NY, NJ, PA, OH, MI, IL, IN, and WI.

MC 152717 (Sub-1), filed January 19, 1982. Applicant: STEVECO, INC., P.O. Box 484, Dickson, TN 37055. Representative: Roland M. Lowell, 501 Union St., 5th Floor, Nashville, TN 37219, (615) 255–0540. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk and those requiring special equipment), between the facilities of International Paper Company at points in CA and in and east of ND, SD, NE, CO and NM, on the one hand, and, on the other, points in the U.S.

MC 158577, filed January 18, 1982. Applicant: L & L CARTAGE CO., INC., 3193 Ladbrook, Memphis, TN 38118. Representative: Ralph D. Golden, Suite 2348, 200 North Main, Memphis, TN 38103, 1–(901)–526–1122. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with U.S. Freight Forwarder Co., Inc., of Memphis, TN.

MC 160007, filed January 18, 1982. Applicant: DeJONG TRANSPORT, 33651 Arcadian Wy., Rt. 3, Abbotsford, B.C., Canada V2S 4N3. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy., Tacoma, WA 98421, (206) 383–3998. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Bel-Air Imports, Inc., d/b/a Berman Imports, of Los Angeles, CA.

MC 157457 (Sub-6), filed January 18, 1982. Applicant: CONGOLEUM CARTAGE CORPORATION, 2323 S. 17th St., Elkhart, IN 46514. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *electrical machinery, metal products, furniture and fixtures, rubber and plastic articles, machinery, photographic equipment, textile mill products, and pontoon boats*, between points in Elkhart, St. Joseph and

LaGrange Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160117, filed January 18, 1982. Applicant: NORTH FRANKLIN TRANSPORT, 605 N. Franklin Rd., Mt. Airy, NC 27030. Representative: Buel Green Woodie (same address as applicant), (919) 789–3548. Transporting *used automobiles*, between Cleveland, OH, Pittsburgh, PA, Washington, DC, on the one hand, and, on the other, points in Surry County, NC.

MC 160127, filed January 18, 1982. Applicant: FLAGSHIP LIMOUSINE, 31 Williams St., North Haven, CT 06473. Representative: Vincent C. Buonocore (same address as applicant), (203) 239–6095. Transporting *passengers*, between points in CT, on the one hand, and, on the other, New York, NY, Boston, MA, Newark and Atlantic City, NJ.

MC 160157, filed January 19, 1982. Applicant: ART'S TRANSPORTATION, INC., 7843 S. Exchange Ave., Chicago, IL 60617. Representative: Abraham A. Diamond, 29 So. LaSalle St., Chicago, IL 60603, (312) 236–0548. Transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip, charter and special operations, beginning and ending at points in Cook, Du Page, Lake, Will, Kane, Kendall, Grundy, and McHenry Counties, IL, and Lake and Porter Counties, IN, and extending to points in the U.S.

MC 160167, filed January 18, 1982. Applicant: JOSE EDWIN GARCIA and DIANE GARCIA, d.b.a. J AND D GARCIA TRUCKING, 482 Bartlett Ave., No. 12, Hayward, CA 94541. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Stockham Valves and Fittings, of Oakland, CA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2099 Filed 1–28–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the forty-second meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on February 16 and 17, 1982.

The purpose of the meeting is to consider interactions of the JRC with AID in research planning and strategy; and review the Collaborative Research Support Program (CRSP).

The meeting will convene from 1:00 p.m. to 4:30 p.m. on February 16, and 8:30 a.m. to 12:00 noon on February 17. The meeting will be held in the Dynasty Room, Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for this meeting permits.

Dr. James Nielson, BIFAD Support Staff is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Department of State, Washington, D.C. 20523 or telepone him at (202) 632–7935.

Dated: January 15, 1982.

James Nielson,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 82–2388 Filed 1–28–82; 8:45 am]

BILLING CODE 6115–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Mississippi

This notice announces the beginning of a new Extended Benefit Period in the State of Mississippi, effective on January 17, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Mississippi unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Mississippi has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 2, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 17, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the

individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Mississippi or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Mississippi Employment Security Commission in their locality.

Signed at Washington, D.C., on January 25, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-2397 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Ohio

This notice announces the beginning of a new Extended Benefit Period in the State of Ohio, effective on January 17, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Ohio unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Ohio has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 2, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 17, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Ohio or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Ohio Bureau of Employment Services in their locality.

Signed at Washington, D.C., on January 25, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-2398 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in The State of South Carolina

This notice announces the beginning of a new Extended Benefit Period in the State of South Carolina, effective on January 10, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the South Carolina unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of South Carolina has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on December 26, 1981, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 10, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and

who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of South Carolina or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest employment service office of the South Carolina Employment Security Commission in their locality.

Signed at Washington, D.C., on January 22, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-2396 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D-2263]

Proposed Exemption for Certain Transactions Involving the Laird Noller Ford, Inc., Employee Pension Benefit Plan Located in Topeka, Kansas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the past sale by the Laird Noller Ford, Inc. Employee Pension Benefit Plan (the Plan) of certain real property (Tract B) to Mr. and Mrs. Laird Noller (the Nollers), parties in interest with respect to the Plan. Tract B was previously leased by the Plan to Laird Noller Ford, Inc. (the Employer) and to Churchill Truck Lines, Inc. (Churchill), an unrelated entity. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Plan trustee, the Nollers, the Employer and other persons participating in the transaction.

EFFECTIVE DATE: If granted, the exemption will be effective December 21, 1979.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 18, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2263. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer and the Plan trustee, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is an automobile dealership having its principal place of business in Topeka, Kansas. The Employer facility is owned by Mr. Laird Noller, the principal shareholder, and his spouse, Mrs. Donna Noller.

2. The Plan, which has been in existence since September 29, 1969, is a defined benefit plan covering 56 participants and having net assets of $86,991 for the year ending September 30, 1979. The trustee of the Plan is the First National Bank of Topeka (First National), located in Topeka, Kansas.

3. Plan assets formerly included a parcel of real property (Tract B) which consists of 1.912 acres and is located on Meriden Road and U.S. Highway 24 in Shawnee County, Kansas. Tract B was acquired by the Plan on January 4, 1971 from the M and S Development Company, Inc., an unrelated entity. The Plan purchased Tract B for $37,500. The Plan made an initial downpayment of $10,000 and obtained financing for the balance. At the time of purchase, the Plan had $50,000 in total assets.

4. Contiguous to Tract B is another parcel of real property (Tract A). Tract A is owned by the Noller Investment Company (Noller Investment), whose controlling shareholders are relatives of the Nollers. Noller Investment leases Tract A to the Employer for use as a highway truck center. In addition, the Employer uses the land in Tract B to gain access to a building situated between both strips of land.

5. On December 1, 1974, the Plan began leasing two-thirds of Tract B to Churchill for use as a warehouse facility while the one-third remaining portion of the strip was leased by the Plan to the Employer. The Plan/Churchill lease is a written lease for a four year duration and it contains one renewal option for a comparable term. Under the lease provisions, Churchill is required to pay a monthly rental of $450 and to assume expenses associated with utilities, insurance, taxes, assessments and necessary repairs. According to the exemption application, the property leased to Churchill requires extensive repairs. Therefore, it is unlikely Churchill will attempt to renew the lease beyond its termination date on December 1, 1982.

The Plan/Employer lease, which is no longer in existence was an oral net lease, the terms and conditions of which were mutually determined by First National and officers of the Employer. The monthly rental charged the Employer was proportionate to the amount paid by Churchill for the two-thirds portion of the strip. According to the exemption application, the Employer paid the Plan all rents in full. In addition, the amount paid in rent reflected the fair rental value of the one-third portion of the property.

6. Believing the transaction was covered by a statutory exemption

contained in section 414 of the Act, First National sold Tract B to the Nollers on December 21, 1979 for a cash price of $50,000. The sale did not involve the payment of any real estate fees or commissions by the Plan. The sale price represented the fair market value of the property as determined by an independent appraisal performed for First National by Mr. B. K. Buren (Mr. Buren) of Topeka, Kansas on December 14, 1979. Mr. Buren is an independent appraiser with considerable experience in real estate brokerage, property management and real estate appraisal.

7. During a routine audit of First National which was conducted by bank examiners in the summer and fall of 1980, a question was raised of whether or not the sale was covered by section 414 of the Act. This prompted the Nollers and First National to make inquiry of the Department. Accordingly, an exemption application was advised with respect to the past sale of Tract B to the Nollers. The Employer recognizes that the prior leasing of the one-third portion of Tract B constitutes a prohibited transaction. Therefore, the Employee represents it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of the past leasing arrangement, within 60 days of the publication in the **Federal Register** of a notice granting the proposed exemption.

8. In summary, it is represented that the transaction has satisfied the statutory criteria contained in section 408(a) of the Act because: (a) The sale was a one-time transaction for cash; (b) the sales price represented the fair market value of the property as determined by an independent appraisal; (c) the Plan did not incur any real estate fees or commissions in connection with the sale; (d) the Employer represents it will comply fully with the excise tax provisions of section 4975(a) of the Code with respect to the past prohibited leasing of the one-third portion of Tract B; and (e) the trustee determined that the sale was in the best interests of the Plan.

Notice to Interested Persons

Notice of the pending exemption will be given to present employees of the Employer and those former employees having a vested interest in the Plan, within fifteen (15) days of the publication of the notice of pendency in the **Federal Register.** The notice will contain a photocopy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Notice will be provided by posting copies of the requested exemption at the Employer's place of business and by mailing copies to former employees.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the past sale of Tract B by the Plan to the Nollers for the cash consideration of $50,000, provided this amount was not less than the fair market value at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 21st day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-1973 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2856]

Proposed Exemption for Certain Transactions Involving the Norick Employees Profit Sharing Retirement Plan Located in Oklahoma City, Oklahoma

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan (the Proposed Loan) of $200,000 by the Norick Employees Profit Sharing Retirement Plan (the Plan) to Norick Brothers, Inc.

(the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 11, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2856. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (2) of the Act and from the santions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan that had total assets of $2,119,970 and 241 participants as of May 1, 1981. The assets of the Plan are held by Liberty National Bank and Trust Company (the Bank) of Oklahoma City, Oklahoma, as trustee (the Trustee).

2. The applicant is requesting an exemption which would permit the Plan to make the Proposed Loan to the Employer. The proceeds from the Proposed Loan would be used to assist the Employer in financing the purchase of a printing press (the Press) which costs $241,880.

3. The Proposed Loan will have: (a) A floating interest rate of 1 percent over the Bank prime rate adjusted semiannually with a floor of 14 percent; and (b) a term of five years. Repayments will be made in monthly installments to cover principal and interest. The Proposed Loan will represent approximately 9 percent of the assets of the Plan as of May 1, 1981.

4. The Proposed Loan will be secured by certain tangible assets (the Collateral) of the Employer located in Oklahoma City, Oklahoma and in Kings Mountain, North Carolina. The Collateral will include but not be limited to the Press and a Diddie-Glaser Model D–G–175 press (the Diddie Press). An appraisal performed by B. G. Wilkes Enterprises, an unrelated party with respect to the parties to the transaction, valued the Diddie Press at $75,000 as of June 5, 1981. A security agreement (the Security Agreement) and UCC financing statements (collectively, the Documents) will be executed by the Employer and the Plan recording the Plan's secured interest in the Collateral. The Documents will be duly filed in the States of Oklahoma and North Carolina. The Security Agreement provides that the Employer shall keep the Collateral free of any liens, in good operating condition and repair and shall keep the Collateral fully insured against fire, theft and other casualty loss throughout the term of the Proposed Loan. It is represented that the Plan will be the named insured on all policies insuring the Collateral.

5. An unrelated party, Don W. Fitzgerald (Fitzgerald), chairman of the board of directors of MetroBank of Oklahoma City and First Wagoner Bank and Trust Company of Wagoner, Oklahoma, has been appointed as an independent fiduciary with respect to this transaction effective August 17, 1981. Fitzgerald has over five years of experience in the managing of employee pension benefit plans. It is represented that after reviewing the nature of the proposed transaction and the accompanying security arrangements, Fitzgerald believes that the Proposed Loan is in the best interests of the Plan, its participants and their beneficiaries and is protective of their rights. Fitzgerald will monitor all terms and conditions of the Proposed Loan, enforce collection of the Proposed Loan in the event of a default and will require annual appraisals of the Collateral, the cost of which will be borne by the Employer. Fitzgerald will also require, the Employer to provide additional collateral within 30 days when the market value of the Collateral is less than 150 percent of the remaining unpaid balance of the Proposed Loan. In such an instance, Fitzgerald will be provided with appraisals of the additional collateral. It is represented that if the Collateral is found to be less than 150 percent and additional collateral cannot be provided, the Employer shall deposit with Fitzgerald the required cash amount within 30 days of such finding, so that the value of the Collateral and the cash will always represent 150 percent of the outstanding balance of the Proposed Loan.

6. In summary, the applicant represents that the Proposed Loan satisfies the statutory criteria of section 408(a) of the Act because: (a) Fitzgerald has determined that the Proposed Loan is in the best interests of the Plan participants and beneficiaries and protective of their rights; (b) the Proposed Loan will at all times be secured by the Collateral and cash with a value of at least 150 percent of the outstanding balance of the Proposed Loan; (c) the Collateral has been appraised and will be annually appraised by an independent appraiser, the cost of which was/will be borne by the Employer; and (d) the Plan will have a perfected first security interest in the Collateral.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all Plan participants and beneficiaries. Such notice will either be personally delivered to such interested persons or will be mailed to such interested persons at their last known personal residence by first class mail. Such notice will contain a copy of the notice of pendency of such exemption published in the **Federal Register** and will timely inform such interested persons within 10 days of the time of the notice of pendency of exemption is published in the **Federal Register** of their right to comment and their right to request a hearing within the period set forth in the notice of pendency of exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section

408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to and administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Proposed Loan as described herein, provided that the terms and conditions of the Proposed Loan will be and remain at least as favorable to the Plan as an arm's-length transaction would be with an unrelated party.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–1974 Filed 1–28–82; 8:45 am]
BILLING CODE 4510–29–M

[Application No. D–2333]

Proposed Exemption for Certain Transactions Involving the Smith & Schnacke Retirement Trust Located in Dayton, Ohio

AGENCY: Office of Pension and Welfare Benefit programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt for a period of five years certain proposed loans of money by the Smith & Schnacke Retirement Trust (the Trust), which consists of a defined benefit, defined contribution and target benefit plan (the Plan(s)), to Smith & Schnacke (the Employer), the sponsor of the Plans. The proposed exemption, if granted would affect the Plans, the Employer, the participants and beneficiaries of the Plans, and other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 15, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2333. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Louis Campagna of the Department, telephone (202) 523–7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Employer is a Legal Professional Association with offices in Dayton, Columbus and Cincinnati, Ohio. As of September 30, 1980, the Plans had 154 participants and total assets of $2,118,542. The Trust is a commingled pool of all of the assets of the Plans. Each Plan has a proportionate interest in the Trust. The trustee of the Trust is the

Central Trust Company, N.A., of Cincinnati, Ohio.

2. The Employer is requesting an exemption to enter into a line of credit agreement (the Line of Credit Agreement) with the Trust whereby the Trust will periodically lend to the Employer amounts of money up to an aggregate at any point in time of the lesser of 57 percent of the value of certain tangible personal property and a leasehold interest (the Collateral) owned by the Employer or 25 percent of the assets of the Trust less the outstanding debt owed by the Employer to the Trust by virtue of an administrative exemption granted by the Department (the Past Exemption) on March 17, 1981 (46 FR 17169) involving a loan by the Trust to the Employer of approximately 6 percent of the assets of the Trust.

3. The loans made under the Line of Credit Agreement will occur over a five year period, the first day of which would be the day the grant of an exemption for the transaction is published in the **Federal Register**. Each loan would have a maturity of ninety days. Upon maturity, the entire principal amount of each loan plus accrued interest will be due and payable. All outstanding loans will mature and become due and payable on or before the last day of such five year period. The interest rate for any loan granted under the Line of Credit Agreement will be ¾% above the prime rate charged by the commercial department of the First National Bank of Cincinnati, Ohio, (the Bank) but in no event less than 10% per annum.

4. The Collateral securing the loans made under the Line of Credit Agreement will consist of an assignment by the Employer to the Trust of the Employer's leasehold interest (the Leasehold) in the 3rd, 18th, 19th and 20th floor of its Dayton office. The Collateral will also consist of office furnishings, typewriters, dictating equipment, data processing and other office equipment (the Office Equipment) as well as the law books and library materials (the Law Books) located in the Columbus, Dayton and Cincinnati offices of the Employer, and not subject to any prior security interest by virtue of the Past Exemption. The collateral used as security for the subject loan of the Past Exemption was all the office equipment located at the Employer's Dayton office. An independent appraisal performed by J. R. Remick, Inc., real estate counselors of Dayton, Ohio, places the fair market value of the Leasehold, as of April 25, 1981, at approximataely $1,071,600. An appraisal performed by Professional Books Service an independent law book dealer of Dayton, Ohio, valued the Law Books as of June 19, 1980, at $106,249. An appraisal performed by S & V Equipment, Inc., an independent office equipment dealer of Dayton, Ohio valued the Office Equipment, as of June 19, 1980, at $105,700. As a result, the Collateral will have a combined value of $1,283,549.

5. A security agreement (the Security Agreement) and UCC financing statement will be executed by the Employer and the Trust recording the Trust's security interest in the Office Equipment and the Law Books. Both instruments will be filed with the Secretary of State of Ohio and the recorder's office in each county of Ohio in which the Employer has a place of business. No other lender has a secured interest in any item of the Office Equipment or Law Books. An Assignment of Rents and Leases will be filed in the Montgomery County, Ohio Recorder's Office reflecting the Trust's secured interest in the Leasehold. No other lender has a secured interest in the Leasehold. The Collateral will be kept fully insured against theft, fire and other casualty loss throughout the duration of the Line of Credit Agreement. All of the proceeds of such insurance will be payable to the Trust. If the Employer elects to increase the value of the Collateral by the addition of new assets not encompassed by the Security Agreement, by acceptance and approval by the Bank, an amended Security Agreement and UCC financing statement will be executed and filed with the appropriate offices of the state of Ohio.

6. The Bank is independent of the parties to the transaction, except that the Bank acts as investment manager for a portion of the assets of the Trust and acts as the independent fiduciary for the Trust with respect to the subject loan of the Past Exemption. As investment manager the Bank is solely responsible for investment decisions. The Bank will determine prior to the grant of any loan under the Line of Credit Agreement whether the loan is in the best interests of the Trust and will also monitor the terms of the loans and enforce collection on the loans in the event of a default. The Bank may terminate the Line of Credit Agreement at any time. The Bank will also monitor the Collateral so that the value of the Collateral will at no time fall below 175% of the principal of all outstanding loans made under the Line of Credit Agreement. The Bank will, at any time in its discretion, require the Employer to obtain subsequent independent appraisals of the Collateral to assure its value remains at 175% of the principal of all outstanding loans. In addition, the Law Books and Office Equipment will be re-appraised upon publication in the **Federal Register** of the grant of the exemption and all Collateral will be appraised each year during which amounts are owed the Trust by the Employer under the Line of Credit Agreement.

7. Each loan under the Line of Credit Agreement will be represented by a promissory note signed by an authorized representatiave of the Employer. Upon execution of the Line of Credit Agreement the 48 shareholders of the Employer will execute a guarantee whereby each shareholder personally obligates himself, jointly and severably for repayment of any and all loans made under the Line of Credit Agreement in the event of default. The net worth of all of the shareholders of the Employer, as of August 12, 1981, was in excess of $1,000,000. The 48 shareholders of the Employer have similarly guaranteed the repayment of the subject loan of the Past Exemption.

8. In summary, the applicants represent that the proposed loans under the Line of Credit Agreement satisfies the statutory criteria of section 408(a) of the Act because: (1) The Bank will approve the Line of Credit Agreement and each loan under the Line of Credit Agreement if it determines the loan is in the best interests of the Trust; (2) the Bank will monitor the terms of the loans; (3) the interest rate for each loan will be ¾% above the prime rate charged by the Bank, but in no event less than 10% per annum; (4) the fair market value of the Collateral has been determined by independent appraisers; (5) the Collateral will at all times during the term of the Line of Credit Agreement have a value of at least 175% of the principal amount of any and all of the outstanding loans; (6) the 48 shareholders of the Employer personally guarantee repayment of the loans in the event of a default; and (7) the loans will be for a relatively short period of time.

Notice to Interested Persons

Notice of the proposed exemption will be furnished to all active participants in the Plans and all former participants and beneficiaries who have a vested interest in benefits under the Plans. Such notice will contain a copy of the notice of pendency as published in the **Federal Register** as well as a statement informing all such interested persons of their right to comment or request a hearing in regard to the proposed exemption. The notice will be provided within 15 days of publication of the notice of pendency to all interested

persons by first class mail or by posting on all bulletin boards and other appropriate places throughout the facilities of the Employer.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1985). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loans of money under the Line of Credit Agreement by the Trust to the Employer for a period of five years provided that the terms of the loans are at least as favorable to the Trust as the Trust could obtain in transactions with unrelated parties.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–1975 Filed 1–28–82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2902]

Proposed Exemption for a Certain Transaction Involving the Southwestern Stationery and Bank Supply of Ponca City, Inc. Employee Profit Sharing Plan and Trust Located in Ponca City, Okla.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a certain parcel of real property by the Southwestern Stationery and Bank Supply of Ponca City, Inc. Employee Profit Sharing Plan and Trust (the Plan) to the Southwestern Stationery and Bank Supply, Inc. of Ponca City (the Employer). The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries, and others participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 22, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2902. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file

with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 25 participants. The trustee of the Plan is the Liberty National Bank and Trust Company of Oklahoma City (the Trustee). The Plan had total assets of $834,463 as of May 31, 1981.

2. In 1972 the Plan purchased Lots 17 and 18 of Block 37 of the Hartman Addition, a subdivision of Ponca City, also known as 109 West Grand Avenue, Ponca City, Kay County, Oklahoma (the Property) for $35,000. The Property is now being leased to an unrelated party.

3. The Employer wishes to purchase the Property from the Plan for the cash amount of $85,000 to expand its existing business location which is adjacent to the Property. This proposed purchase price represents the fair market value of the Property as determined by an independent appraisal performed by the Oklahoma Appraisal Company, Inc. on May 27, 1981. The appraiser states that $85,000 is a reasonable estimate of value whether the Property is placed on the open market to secure a prospective purchaser or offered to the adjacent owner for purchase.

4. The Trustee, who is independent of the Employer, agrees that the proposed transaction is advisable for the Plan.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (1) The sale would be a one-time cash transaction; (2) the Plan will be relieved of the burden of owning and operating rental property; (3) the Plan will be provided with greater liquidity which will enable it to more greatly diversify its investments; (4) the Plan will receive fair market value for the sale as determined by an independent appraiser; (5) the Employer will pay all the legal costs, closing costs and recording fees connected with the sale; and (6) the Trustee represents that the proposed transaction is in the interests of the Plan.

Notice to Interested Persons

Notice of the pending exemption as published in the **Federal Register** will be provided to all participants and beneficiaries of the Plan. Upon publication of the Notice of Pendency in the **Federal Register**, all such persons will be provided a copy of the Notice within 15 business days after publication and will be advised of their right to comment and/or request a hearing in connection with the proposed exemption. Notice will be given to all interested persons by personal delivery and by posting at the Employer's place of business.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogration of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the Property by the Plan to the Employer for $85,000 provided that this amount is not less than fair market value of the Property at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-1976 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

ACTION: Notice of Meeting

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is given of the twenty-fifth meeting of the National Commission for Employment Policy, at the International Hotel, Massachusetts at Vermont Avenue, N.W., Washington, D.C.

DATE: February 18, 1:00 p.m.-5:30 p.m.; February 19, 8:30 a.m.-4:00 p.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE DISCUSSED: Commission members will consider their position on CETA reauthorization, including options for the continuation of the NCEP. They will hear staff reports updating work on labor market difficulties of both Hispanics and older workers. The staff will present a preliminary work plan for

research on small business and plans for a researchers conference to be held in the spring.

FOR FURTHER INFORMATION CONTACT:
Mr. Ralph E. Smith, Acting Director, National Commission for Employment Policy, 1522 K Street NW., Suite 300, Washington, D.C. 20005 (202–724–1553).

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95–524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Acting Director at least two days before the meeting and not more than seven days after the meeting.

In addition, members of the general public may rquest to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Acting Director at least three days before the meeting. This application should include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject, and a statement justifying the need for an oral rather than written presentation.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, N.W., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this 19th day of January 1982.

Ralph E. Smith,

Acting Director.

[FR Doc. 82-2280 Filed 1-28-82; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Visual Arts Advisory Panel (Print/Drawing/Books); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Print/Drawing/Books) to the National Council on the Arts will be held on February 18–19, 1982, from 9 a.m.–5 p.m. in the Consul Room of the Columbia Plaza, 2400 Virginia Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 20, 1982.

[FR Doc. 82-2275 Filed 1-28-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–482]

Availability of Draft Environmental Statement for Wolf Creek Generating Station, Unit No. 1

Notice is hereby given that a Draft Environmental Statement (NUREG–0878) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Wolf Creek Generating Station, Unit 1, by Kansas Gas & Electric Company, Kansas City Power and Light Company and Kansas Electric Power Cooperative, Inc. The plant is located in Coffey County, Kansas, approximately 28 miles east-southeast of Emporia, Kansas.

This Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence and their consequences. Finally, the statement presents an updated discussion of a need for the facility since the construction permit application.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the William Allen White Library, Emporia State University, 1200 Commercial Street, Emporia, Kansas 66801. The Draft Environmental Statement is also being made available at the State Clearinghouse, Division of the Budget, Room 152 E. Capitol Building, Topeka, Kansas 66612. Requests for copies of the DES (NUREG–0878) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State, and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and in the William Allen White Library, Emporia State University, 1200 Commercial Street, Emporia, Kansas 66801.

After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register**. Comments are due by March 15, 1982.

Comments on this report from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of January 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-2365 Filed 1-28-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329A and 50-330A]

Consumers Power Co.; Receipt of Antitrust Information

The Consumers Power Company as owner of the Midland Plant, Units 1 and 2, has submitted antitrust information in connection with its plans to operate two pressurized water reactors located in Midland County, Michigan. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan 48640.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Nuclear Reactor Regulation, on or before April 5, 1982.

Dated at Bethesda, Maryland, this 25th day of January 1982.

For the Nuclear Regulatory Commission.

Calvin W. Moon,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-2379 Filed 1-28-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382-OL]

Louisiana Power and Light Co. (Waterford Steam Electric Station, Unit 3); Hearing

January 26, 1982.

The evidentiary hearing will commence at the following location on March 23, 1982 to receive evidence regarding the application of Louisiana Power and Light Company to operate the Waterford Steam Electric Station, Unit 3, location on the Applicant's site in St. Charles Parish, Louisiana: U.S. Court of Appeals, 5th Circuit, East Courtroom, Room 223, 600 Camp Street, New Orleans, Louisiana 70130-3479.

Initially, limited appearance statements will be taken between 9:00 a.m. and 5:00 p.m. on March 23 and 24, 1982. Oral limited appearance statements will be limited to ten (10) minutes each but written statements may be submitted without limitation on length.

A limited appearence statement is not presented under oath and is not evidence—it serves to alert the Board and the parties to areas in which evidence need be adduced. Those individuals desiring to make limited appearance statements should promptly notify Mr. Chase Stephens, Chief, Docketing and Service Branch, Office of the Secretary of the Nuclear Regulatory Commission, Washington, D.C. 20555.

After the taking of the limited appearance statements, the Board will then hear evidence presented by the parties. These formal evidentiary sessions will begin at 9:00 a.m. and recess at 5:00 p.m. on the following days: March 25 [1]–March 26; March 29–April 2; and, if necessary, April 5–7, 1982.

The public is invited to attend the limited appearance sessions as well as the formal evidentiary hearing.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Administrative Judge.

[FR Doc. 82-2380 Filed 1-28-82; 8:45 am]

BILLING CODE 7590-01-M

[1] During any lulls in the taking of limited appearance statements on March 24, 1982, the Board will proceed to hear evidence presented by the parties.

[Docket No. 50-537]

United States Department of Energy, Project Management Corporation, Tennessee Valley Authority (Clinch River Breeder Reactor Plant); Amended Notice of Prehearing Conference

January 25, 1982.

Please take notice that a prehearing conference will commence Tuesday, February 9-10, 1982, beginning at 9:00 a.m., local time, at the Oak Ridge School Administration Building in the Conference Seminar Room, located at New York and Newcomb Avenues, Oak Ridge, Tennessee. This prehearing conference will supersede a conference previously noticed for February 2, and it will consider status reports on all aspects of this proceeding, all pending motions, and suggestions by the parties for an expendited schedule to govern further activities.

On January 21, 1982, the Intervenors Natural Resources Defense Council, Inc. (NRDC) and the Sierra Club filed a motion to vacate the January 18 Order establishing a prehearing conference, and to extend until March 15, 1982 the time to respond to the Applicant's motion to lift the suspension of proceedings. This motion is denied.

The Intervenors' first point, that it did not have ten (10) days to respond to the motion, is moot because they have now had more than ten (10) days since the Applicant's motion was filed on January 11, 1982. The Board has considered the Intervenors' response before issuing the instant amended notice of prehearing conference. It should also be noted that 10 CFR 2.730, as amended, provides that such time period for answers to motions may be set at "such other period as the * * * presiding officer may prescribe." Section 2.711 also provides that the period of time prescribed for performing an action "may for good cause be extended or shortended" by the presiding officer. The Applicants' request for a prehearing "at the earliest possible date" showed good cause in light of its recital of the President's statement of October 8, 1981, and the action taken by the Commission establishing procedures for considering the Section 50.12 request for authorization to commence site preparation activities.

The Intervenors' motion contains conclusory statements without setting forth bases compelling such conclusions. It is contended that somehow the § 50.12 exemption request pending before the Commission requires delaying the requested prehearing conference to consider limited work authorization

(LWA) matters. The Applicants' motion stated that if the § 50.12 request is granted by the Commission, the Applicants must still obtain all findings prescribed by 10 CFR 50.10(e)(3)(i)–(ii) as prerequesities for LWA–2. If the request is not granted, LWA–1 would be sought and therefore the Applicants would have to obtain all findings prescribed by 10 CFR 50.10(e)(1)–(2). The Intervenors do not address this contention, let alone demonstrate its invalidity. A generalized objection to an LWA proceeding is not persuasive, and there is no conflict between the Board holding a prehearing conference to establish an LWA hearing and the pending matters to be decided by the Commission.

The instant licensing proceeding for the Clinch River Breeder Reactor Plant (CRBRP) has been pending for a number of years. The issues and contentions have been the subject of a number of decisions by the Appeal Board and the Commission itself. The schedule previously adopted by this Board on March 28, 1977, provided for the termination of discovery by April 22, 1977, and the commencment of a LWA evidentiary hearing on June 14, 1977. The action then taken by the previous administration resulted in the suspension of proceedings until recently. However, there has been no showing of significant changes of circumstances that would materially affect site-specific issues. The parties will have an opportunity to address these and other relevant matters at the rescheduled prehearing conference set for February 9–10, 1982.

Accordingly, the Intervenors' motion to vacate the order establishing a prehearing conference and for an extension of time until March 15, 1982, to respond to the Applicant's motion to lift the suspension is denied.[1]

Dated at Bethesda, Maryland this 25th day of January, 1982.

It is so ordered.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 82-2361 Filed 1-28-82; 8:45 am]
BILLING CODE 7590-01-M

[1] The Applicants' motion was filed on January 11, 1982, and it was served by hand delivery on that date to counsel for these Intervenors. The Intervenor's instant motion recites that it was "delivered by hand this 21st day of January, 1982" to (among others) the Chairman and Judge Linenberger of the Licensing Board. However, that statement is not accurate. Copies of such motion were delivered to those Board Members on January 22, 1982, at 2:22 p.m. according to the time stamp, and such delivery was not by hand.

[Docket No. 50-87]

Westinghouse Nuclear Training Reactor; Consideration of Application for Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–119, issued to the Westinghouse Electric Corporation, for operation of the nuclear training reactor located at Zion, Illinois.

The renewal would extend the expiration date of Facility License No. R–119 to January 28, 2002, in accordance with the licensee's timely application for renewal dated December 18, 1981 and amended by letter dated January 5, 1982.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 1, 1982, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity.

Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representatives for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 324–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller; (petitioner's name and telephone number); (date petition was mailed); (Westinghouse Nuclear Training Reactor) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the

Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated December 18, 1981, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 25th day of January 1982.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 82-2381 Filed 1-29-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A82-5; Order No. 417]

Webb City, Oklahoma 74654; Filing of Appeal

Issued: January 25, 1982.

On January 21, 1982, the Commission received a letter from Claudine and Janes Simmons (hereinafter "Petitioners"), concerning alleged United States Postal Service plans to close the Webb City, Oklahoma post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be construed as a petition for review pursuant to 404(b) of the Act [39 U.S.C. 404(b)], so as to preserve Petitioner's right to appeal which is subject to a 30-day time limit.[1] the petition does not conform perfectly with the Commission's rules of practice, which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[2] However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Webb City post office be kept open. From the face of the petition it is unclear whether any hearings were held and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[7]

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Did the Postal Service consider the effect of the Webb City post office closing on the community it served, in conformance with the "effect on community" standards of § 404(b)(2)(A)?

2. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)].

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79–1, *et al.* (May 7, 1979), and the Commission's subsequent decisions on appeals of post office closings and consolidations. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the determination and record pursuant to section 113 of the rules of practice (39 CFR 3001.113) make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[8] and none is being appointed. The Commission orders that

(A) The letter of January 21, 1982 from Claudine and James Simmons be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before February 5, 1982, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

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[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 et seq.

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 U.S.C. 101(b).

[7] 42 FR 59079–85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

By the Commission.

David F. Harris,

Secretary.

Appendix

January 21, 1982, Filing of Petition.
January 25, 1982, Notice and Order of Filing of Appeal.
February 5, 1982, Filing of record by Postal Service [*see* 39 CFR 3001.113(a)].
February 10, 1982, Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
February 22, 1982, Petitioner's initial brief [*see* 39 CFR 3001.115(a)].
March 9, 1982, Postal Service answering brief [*see* 39 CFR 3001.115(b)].
March 24, 1982:
(1) Petitioner's reply brief, should petitioner choose to file such brief [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
May 21, 1982, Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-2357 Filed 1-28-82; 8:45 am]

BILLING CODE 7715-01-M

Notice of Visits to Publishers' Clearing House, New York

January 25, 1982.

Notice is hereby given that Acting Chair Janet D. Steiger, Commissioner Simeon M. Bright, and one staff person will visit the facilities of Publishers' Clearing House in Fort Washington, Long Island, New York, and Mailmen, Inc., Hauppauge, Long Island, New York, on Wednesday, January 27, 1982, for the purpose of acquiring general knowledge of third-class mailing and fulfillment operations.

A report of the visits will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 82-2358 Filed 1-28-82; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12174; 812-5001]

Great Lakes Money Fund, Inc.; Filing of Application

January 20, 1982.

Notice is hereby given that Great Lakes Money Fund, Inc. ("Applicant") 100 Renaissance Center Detroit, Michigan 48243, a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on October 23, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share according to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it intends to operate as a "money market" fund and is designed as an investment vehicle for investors with temporary or short-term reserves. The application states that the investment objective of Applicnt is to obtain maximum current income consistent with safety of capital and the maintenance of liquidity. Applicant represents that to obtain this objective, it will invest in high-quality money market instruments consisting of (i) obligations, such as notes, bills or bonds, issued by or guaranteed as to principal and interest by the government of the United States or its agencies or instrumentalities; (ii) instruments of U.S. banks or other financial institutions, providing that the aggregate investment made in any one such financial institution is limited to a principal amount (presently $100,000) that is insured in full by the Federal Deposit Insurance Corporation ("FDIC") or the Federal Savings and Loan Insurance Corporation ("FSLIC"); (iii) U.S. dollar-denominated time deposits, negotiable certificates of deposit, commercial paper and bankers' acceptances of the 150 largest (in terms of assets) U.S. banks and their branches located outside of the U.S. and of the U.S. branches of the 50 largest (in terms of assets) foreign commercial banks; (iv) short-term corporate debt instruments (commercial paper or variable amount master demand notes), with maturities not exceeding nine months, which at the time of purchase (a) will be rated "A–1" or "A–2" by Standard & Poor's Corporation or "Prime 1" or "Prime 2" by Moody's Investors Service, Inc., or (b) if not rated, issued by a company which at the date of investment has an outstanding debt issue rated at least "A" by Standard & Poor's or by Moody's and as to which the board of directors has made an independent determination that the instrument presents minimal credit risks and is of "high quality"; (v) corporate bonds and debentures, which at the time of purchase have a rating of at least "AA" by Standard & Poor's or "Aa" by Moody's; (vi) certain repurchase agreements with respect to obligations which it is authorized to accept. Applicant submits that it will not enter into repurchase agreements of more than one week's duration if more than 10% of its net assets would be so invested. Applicant represents that it may enter into repurchase agreements with broker-dealers and commercial banks, including the National Bank of Detroit, the Custodian of Applicant. Applicant asserts that Unified Management Corporation, an investment adviser to five mutual funds and registered under the Investment Advisers Act of 1940, will act as investment adviser to Applicant.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of this application, the Commission expressed its view that, among other things: (1) Rule 2a–4 requires portfolio instruments of "money market" funds to be valued with reference to market factors and (2) it would be inconsistent with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an

exemption from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant submits that its shareholders would have the convenience of determining the value of their holdings by knowing the number of shares they hold. Applicant concludes that the task of maintaining an investment record would be simplified and, absent unusual circumstances, the amortized cost valuation will represent the fair value of Applicant's portfolio investments.

Applicant represents that in anticipation of making the foregoing request, Applicant's board of directors adopted resolutions agreeing to the following conditions being imposed on the granting of such order.

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board of directors, as it deems appropraite and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources;

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board will promptly consider what action, if any, should be initiated; and

(c) Where the board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of director's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments that the board of directors determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested persons may, no later than February 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2284 Filed 1–28–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12179; 812-4939]

Shearson FMA Cash Fund; Filing of Application

January 25, 1982.

Notice is hereby given that Shearson FMA Cash Fund ("Applicant"), Two World Trade Center, New York, New York 10048, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on August 11, 1981, and amendments thereto on January 6, 1982, and January 20, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a Massachusetts business trust on July 24, 1981, and registered under the Act on July 31, 1981. Applicant further states that its investment adviser is Bernstein-Macaulay, Inc. ("Adviser"), a wholly-owned subsidiary of Shearson/American Express Inc. ("Shearson"), and that The Boston Company Advisors, Inc. ("Boston"), an indirect wholly-owned subsidiary of Shearson, will act as subadviser and administrator for Applicant. According to the application, shares of the Applicant will be offered only in connection with a Financial Management Account Program ("Management Account"). Applicant states that a Management Account will be a financial services account linking (1) a conventional securities margin account ("Securities Account"); (2) participation in one of three "money market" funds, one of which is the Applicant; (3) an American Express Gold Card ("Gold Card") provided by American Express Company; and (4) a checking privilege on an account maintained by Provident National Bank. According to the application, any cash in a Management Account participant's Securities Account not arising from a loan and thus transferable without giving rise to interest charges will be automatically invested in whichever "money market" fund the participant selects pending utilization of such monies in the Securities Account, through the Gold Card, or through the checking privilege.

Applicant represents that its investment objective is to maximize current income to the extent consistent with preservation of capital and maintenance of liquidity by investing in debt obligations consisting of securities issued or guaranteed by the United States Government or its agencies or instrumentalities; time deposits and certificates of deposit, including those issued by domestic banks, foreign branches of domestic banks, domestic branches of foreign banks and savings and loan and similar associations; bankers acceptances; repurchase agreements; and high grade commercial paper.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at a current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of trustees has determined that, absent unusual or extraordinary circumstances, amortized cost value represents fair value of its portfolio securities and that the amortized cost method of valuation is preferable and appropriate for the Applicant. Applicant states that valuation of its assets on the amortized cost basis enables the maintenance of a stable price per share while at the same time allowing a steady flow of investment income demanded by investors. In addition, Applicant states that given the nature of its policies and expected operations, there will normally be a relatively negligible discrepancy between the market value and the amortized cost value of securities held in the Applicant's portfolio.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees of the Applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 16, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2286 Filed 1-28-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12180; 812-4942]

Shearson FMA Government Fund; Filing of Application

January 25, 1982.

Notice is hereby given that Shearson FMA Government Fund ("Applicant"), Two World Trade Center, New York, New York 10048, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on August 11, 1981, and amendments thereto on January 6, 1982, and January 20, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a Massachusetts business trust on July 24, 1981, and registered under the Act on July 31, 1981. Applicant further states that its investment adviser is Bernstein-Macaulay, Inc. ("Adviser"), a wholly-owned subsidiary of Shearson/American Express Inc. ("Shearson"), and that The Boston Company Advisors, Inc. ("Boston"), an indirect wholly-owned subsidiary of Shearson, will act as subadviser and administrator for Applicant. According to the application, shares of the Applicant will be offered only in connection with a Financial Management Account Program ("Management Account"). Applicant states that a Management Account will be a financial services account linking (1) a conventional securities margin account ("Securities Account"); (2) participation in one of three "money market" funds, one of which is the Applicant; (3) an American Express Gold Card ("Gold Card") provided by American Express Company; and (4) a checking privilege on an account maintained by Provident National Bank. According to the application, any cash in a Management Account participant's Securities Account not arising from a

loan and thus transferable without giving rise to interest charges will be automatically invested in whichever "money market" fund the participant selects pending utilization of such monies in the Securities Account, through the Gold Card, or through the checking privilege.

Applicant represents that its investment objective is to maximize current income to the extent consistent with preservation of capital and maintenance of liquidity by investing in debt obligations consisting of securities issued or guaranteed by the United States Government or its agencies or instrumentalities; time deposits and certificates of deposit, including those issued by domestic banks, foreign branches of domestic banks, domestic branches of foreign banks and savings and loan and similar associations; bankers acceptances; repurchase agreements; and high grade commercial paper.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of trustees has determined that, absent unusual or extraordinary circumstances, amortized cost value represents fair value of its portfolio securities and that the amortized cost method of valuation is preferable and appropriate for the Applicant. Applicant states that valuation of its assets on the amortized cost basis enables the maintenance of a stable price per share while at the same time allowing a steady flow of investment income demanded by investors. In addition, Applicant states that given the nature of its policies and expected operations, there will normally be a relatively negligible discrepancy and between the market value and the amortized cost value of Securities held in the Applicant's portfolio.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stablize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees of the Applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 16, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2286 Filed 1-28-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11347]

Standard Oil Co.; Application and Opportunity for Hearing

January 21, 1982.

Notice is hereby given that The Standard Oil Company, an Ohio corporation (the "Applicant"), has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeships of Manufacturers Hanover Trust Company ("Manufacturers Hanover") under five indentures, one heretofore qualified under the Act and four which were not qualified under the Act because of the exemption contained in Section 304(a)(4) of the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover Trust Company from acting as trustee under any of such indentures.

The Applicant alleges that:

1. It has issued and outstanding $100,000,000 in aggregate principal amount of its 7.60% Debentures Due 1999 (the 7.60% Debentures) under an indenture dated as of July 1, 1969 (the "1969 Indenture"), between the Applicant and Chemical Bank. Manufacturers Hanover suceeded Chemical Bank as trustee on December 2, 1975. The 7.60% Debentures were registered under the Securities Act of 1933 (the "1933 Act").

2. The Delaware County Industrial Development Authority, a public instrumentality of the Commonwealth of Pennsylvania (the "Development Authority"), has issued and outstanding (a) $34,800,000 in aggregate principal amount of its Environmental Improvement Renenue Bonds, Series A (BP Oil Project) (the "Series A Bonds"), under an indenture dated as of April 1, 1973, and (b) $10,000,000 in aggregate principal amount of its Environmental Improvement Revenue Bonds, Series B (Sohio Petroleum Company Project) (the "Series B Bonds"), under a supplemental indenture dated as of December 15, 1976 (the 1973 indenture and 1976 supplemental indenture being hereinafter referred to as the "Development Authority Indenture"). The Development Authority Indenture is between the Development Authority and Manufacturers Hanover. In Guaranty Agreements dated April 1, 1973 and December 15, 1976, respectively (the "Guaranty Agreements"), between the Applicant and Manufacturers Hanover, the Applicant unconditionally guaranteed the full and prompt payment of the principal of, any premium on, and the interest on the Series A and Series B Bonds when due. Neither the Series A nor the Series B Bonds were registered under the 1933 Act, but the Commission issued an exemption order under Section 310(b)(1)(ii) of the Act with respect to Manufacturers Hanover's trusteeship thereof.

3. The Ohio Air Quality Development Authority, a public instrumentality of the State of Ohio ("The Ohio Air Authority"), has issued and outstanding:

(a) $12,500,000 in aggregate principal amount of its Pollution Control Revenue Bonds, Series A (Sohio Air Project) (the "1977 Air Project Bonds"), under an indenture dated as of September 1, 1977 (the "1977 Air Project Indenture"), between the Ohio Air Authority and Manufacturers Hanover. Pursuant to a Loan Agreement with the Ohio Air Authority, the Applicant agreed to pay an amount sufficient to pay principal and interest on the 1977 Air Project Bonds. These bonds were not registered under the 1933 Act, but the Commission issued an exemption order under Section 310(b)(1)(ii) with respect to Manufacturers Hanover's trusteeship thereof; and

(b) $4,000,000 in aggregate principal amount of its Pollution Control Revenue Bonds, Series B (Sohio Air Project) (the "1978 Air Project Bonds"), under an indenture dated as of February 1, 1978 (the "1978 Air Project Indenture"), between the Ohio Air Authority and Manufacturers Hanover. Pursuant to a Loan Agreement with the Ohio Air Authority, the Applicant agreed to pay an amount sufficient to pay principal and interest on the 1978 Air Project Bonds. These bonds were not registered under the 1933 Act.

4. The Ohio Water Development Authority, a public instrumentality of the State of Ohio (the "Ohio Water Authority"), has issued an outstanding $2,200,000 in aggregate principal amount of its Pollution Control Revenue Bonds, Series A (Sohio Water Project) (the "1978 Water Project Bonds"), under an indenture dated as of February 1, 1978

(the "1978 Water Project Indenture"), between the Ohio Water Authority and Manufacturers Hanover. Pursuant to a Loan Agreement with the Ohio Water Authority, the Applicant agreed to pay an amount sufficient to pay principal and interest on the 1978 Water Project Bonds. These Bonds were not registered under the 1933 Act.

5. The 1978 Water Project Bonds, the 1978 Air Project Bonds, the 1977 Air Project Bonds, the Series A and Series B Bonds under the Development Authority Indenture, and the 7.60% Debentures under the 1969 Indenture are all wholly unsecured and of equal rank. In addition, with respect to each of the indentures, the Applicant has agreed, pursuant to a guaranty or loan agreement or otherwise, to pay an amount sufficient to pay principal and interest on the Bonds and Debentures. There are no material differences among the various indentures except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, and the issuer of the Bonds and Debentures.

6. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of any holder of the Bonds and Debentures issued under such indentures to disqualify Manufacturers Hanover from acting as trustee under any of the indentures.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than February 19, 1982, submit to the Commission his views or any substantial facts bearing on this application or request that a hearing be held on such matter. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission. Persons who request a hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2287 Filed 1-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12183; 812-5034]

United Services Group of Funds, Inc.; Filing of Application

January 25, 1982.

Notice is hereby given that United Services Group of Funds, Inc. ("Applicant") 15748 Interstate Highway 10W, San Antonio, Texas 78249, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 3, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit one of its three series, the U.S. Treasury Fund ("Fund"), to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a recently organized Maryland corporation which was formed for the purpose of succeeding to the business of Good and Bad Times Fund ("GBTF"), an open-end, diversified, management investment company registered under the Act. According to the application, GBTF will be merged into the Applicant following approval by the shareholders of GBTF. Applicant states that it is structured as a "series company" and will initially have two series of shares. Applicant states that one series will be called the Good and Bad Times Fund and that the second series will be the Fund. According to the application GBTF's investment adviser, Growth Research and Management, Inc., will continue as investment adviser to the Applicant.

According to the application, the investment objective of the Fund is to achieve a high level of current income while maintaining the highest degree of safety and liquidity of capital by investing in a portfolio of short-term United States Treasury instruments and repurchase agreements relating to such United States securities. Applicant states that the Fund will invest exclusively in short-term debt obligations of the United States Treasury and repurchase agreements with respect thereto provided that the dealer with whom the repurchase agreement is entered into (other than a bank) is one with which the Federal Reserve System conducts open market operations.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio

instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit the Fund to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of directors has determined that, absent unusual circumstances, amortized cost represents fair value of the Fund's portfolio securities and that the amortized cost method of valuation is appropriate and in the Applicant's best interest. Applicant states that it will be advantageous to the shareholders of the Fund to have the conveniences and advantages of the stable purchase and redemption price which the amortized cost method of valuation would provide.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising the Fund's operations and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of the Fund as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share of the Fund exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share of the Fund may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 16, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2286 Filed 1-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12182; (812-4992)]

Allison-Williams AccessFund, Inc. (Formerly Allison-Williams Flexi-Fund II, Inc.); Filing of an Application Pursuant to Section 6(c) of the Act for an Order of Exemption From the Provisions of Rules 2a-4 and 22c-1 Under the Act

January 25, 1982.

Notice is hereby given that Allison-Williams AccessFund, Inc. ("Applicant"), 1560 Northwestern Bank Building, Minneapolis, Minnesota 55402, registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end management investment company, filed an application on October 15, 1981, and an amendment thereto on January 4, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions, and repurchases of its shares, to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9736 (May 31, 1977) ("Release No. 9786"). All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund, the investment objective of which is to achieve maximum current income to the extent consistent with stability of principal through investment in "money market" instruments maturing in 12 months or less. According to the application, Applicant proposes to invest in United States Government and agency obligations, certain bank obligations of Canadian chartered banks or United States banks and foreign branches of United States banks, commercial paper, certain corporate obligations, repurchase agreements, and certain other obligations accompanied by a guarantee of principal and interest of a bank or corporation whose certificates of deposit or commercial paper may be otherwise purchased by Applicant.

Applicant further states that its net asset value per share is ordinarily expected to be $1.00 per share (rounded to the nearest cent); however, the net asset value is subject to fluctuation based on changes in the value of portfolio securities. Applicant further represents that to maximize the likelihood of maintaining the stability of its net asset value at $1.00 per share, its board of directors may reduce or suspend the payment of dividends if the net asset value per share should decline below $.997 and may supplement such dividends with other distributions if the net asset value per share should rise above $1.003.

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In Investment Company Act Release No. 9786, the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4. Applicant submits that without an exemption from the provisions of Rule 2a-4 and 22c-1 under the Act, it would be prohibited from determining its net asset value in the manner set forth above.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states its belief that potential investors are vitally concerned that the net asset value of their shares remain stable, and that such investors are not concerned with the theoretical differences which might occur between the yield achieved through "market" pricing and the yield computed by using the "penny rounding" valuation method decribed herein. In addition, Applicant states that granting of the relief requested would provide its shareholders the convenience of being able to determine the value of their shares of Applicant simply by knowing the number of shares they own, and would make the task of maintaining an investment record easier.

Applicant's management further believes that computing Applicant's net asset value per share to the nearest one cent on a share value of $1.00 will allow it to maintain a constant net asset value per share under usual or ordinary circumstances and thereby permit it to serve the interest and requirements of its shareholders. Applicant's board of directors has further determined in good faith that this method of calculating Applicant's net asset value per share, under such circumstances, is appropriate and in the best interest of Applicant's shareholders.

Applicant further states that its request for exemption is made based upon its existing management policies and has agreed that the following conditions may be imposed in any order granting the exemptions it has requested:

1. That the board of directors of Applicant in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, in taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of distribution, redemption, and repurchase, rounded to the nearest one cent will not deviate from $1.00;

2. That Applicant will maintain a dollar-weighted average portfolio maturity apporpriate to its objective of maintaining a stable price per share, and that Applicant will not (i) purchase an instrument with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

3. That Applicant's purchases of portfolio instruments, including repurchase agreements, will be limited to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

Applicant's board of directors intend to carry out the undertaking in condition 1 above by (i) requiring its investment adviser (Allison-Williams Advisers, Inc.) to adopt policies calcuated to prevent such price, as so rounded, from deviating from $1.00 except under unusual or extraordinary circumstances, and (ii) periodically reviewing the investment adviser's management of Applicant pursuant to such policies at regularly scheduled meetings of the board of directors.

For the reasons stated in its application, Applicant submits that the exemptions from the provisions of Rule 2a–4 and 22c–1 under the Act which it has requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided in Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing on request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2283 Filed 1–28–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[CM–8/482]

Advisory Committee On International Investment, Technology, and Development; Working Group On Transfer of Technology; Meeting

The Department of State will hold a meeting on February 18, 1982, of the Working Group on Transfer of Technology of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 10:00 a.m. to 12:00 noon. The meeting will be held in Room 1207 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss the proposed UNCTAD Code of Conduct on the Transfer of Technology (TOT). On December 16, 1981, the U.N. General Assembly passed Resolution 36/140 which established an Interim Committee (I.C.) which will meet for four weeks during 1982 to seek solutions to the outstanding issues related to the possible reconvening of the U.N. Conference on the Transfer of Technology Code. The U.S. Delegation to the Interim Committee meetings on the TOT Code would like the opportunity to review Code issues again with the Advisory Committee on International Investment, Technology, and Development and other interested parties prior to the first Interim Committee session.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 18, 1982.

John T. McCarthy,

Acting Executive Secretary.

[FR Doc. 82–2402 Filed 1–28–82; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/486]

Oceans and International Environmental and Scientific Affairs Advisory Committee, Antarctic Section; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 2:00 PM, Thursday, March 18, 1982 in Room 1408, Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairman. As access to the Department of State is controlled, persons wishing to attend the March 18 meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 1408.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Friday, March 19, 1982 at the National Academy of Sciences, 2101 Constitution Avenue, N.W., in sessions which will not be open to the public. As these sessions will include discussions of classified material, they have been closed pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and 5 U.S.C. 552b (c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policy regarding Antarctic resources, particularly Antarctic mineral resources.

This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Execurive Order 12065.

Requests for further information on the meetings should be directed to R. Tucker Scully of OES/OPA, Room 5801, Department of State. He may be reached by telephone on (202) 632–3262.

James L. Malone,

Chairman.

January 18, 1982.

[FR Doc. 82-2401 Filed 1-28-82; 8:45 am]

BILLING CODE 4710-01-M

[CM-8/481]

Advisory Committee on The Law of The Sea; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in open and closed sessions on Thursday, February 18. The open session of the meeting will convene February 18 at 3:30 p.m. in the Loy Henderson Room, U.S. Department of State, 21st and C Streets, N.W., Washington, D.C.

The purpose of the closed meeting is to consider the Draft Law of the Sea Convention, the U.S. review process and its outcome and the U.S approach to the Law of the Sea issues. During the closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issues which the United States has reviewed and has negotiated or may negotiate at the Third U.N. Conference on Law of the Sea. Accordingly it has been determined that it is in the public interest to close these meetings pursuant to 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9).

The issues cover such subjects as the review, freedom of navigation on the high seas and in straits used for international navigation, the deep seabed mining regime, the continental margin, the economic zone, fisheries, marine pollution, scientific research, dispute settlement, and other topics involving U.S. national security and foreign relations matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize United States law of the sea interests.

The open session of the Advisory Committee meeting will discuss all principal Law of the Sea issues, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines, and other public groups. As such, it will comprehensively review the proposals which have come and will come before the Conference.

At the open session, beginning at 3:30 p.m., February 18, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Marsha Bellavance and provide their name and affiliation to facilitate their attendance. Her telephone number is (202) 632–0041.

Otho E. Eskin,

Director, Office of Ocean Law and Policy.

January 22, 1982

[FR Doc. 82-2403 Filed 1-28-82; 8:45 am]

BILLING CODE 4710-16-M

[CM-8/485]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on the Carriage of Dangerous Goods of SOLAS will conduct an open meeting at 9:30 a.m. on February 17, 1982, in Room 6319 of the Coast Guard Headquarters Building, 2100 Second Street, S.W., Washington, D.C. 20593.

The purpose of the meeting will be to discuss the following:

—the report of the XXXIII Session of the IMCO Subcommittee on the Carriage of Dangerous Goods;
—the report of the first intersessional meeting of the Editorial and Technical Group of the IMCO Subcommittee on the Carriage of Dangerous Goods;
—Amendments 20 and 21 of the IMDG Code;
—IMCO activities of a continuing nature.

Members of the public may attend up to the seating capacity of the room.

For further information contact Lt. Kevin J. Eldridge, USCG (G–MHM–2), 2100 2nd St., S.W., Washington, D.C. 20593. Telephone (202) 426–1577.

Dated: January 25, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-2404 Filed 1-28-82; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/480]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 1:30 p.m. on February 18, 1982, in Room A110, Federal Communications Commission Annex, 1229 20th Street, N.W., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty Fourth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London on March 15, 1982. In particular, the working group will discuss the following topics:

—Maritime distress system
—Performance standards for shipboard radio equipment
—Life-saving radio equipment
—Digital selective calling
—Matters related to ITU WARC for Mobile Telecommunications
—Matters related to CCIR Study Group 8

Members of the public may attend up to the seating capicity of the room.

For further information contact Mr. R. L. Swanson, U.S. Coast Guard (G–TTM–S/32), Washington, D.C. 20593. Telephone (202) 426–0517.

Dated: January 21, 1982.

John Todd Steward,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-2405 Filed 1-28-82; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/483]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The US SOLAS Working Group on Subdivision, Stability and Load Lines and US SOLAS Working Group on Safety of Fishing Vessels will conduct an open meeting at 10:00 a.m on March 2, 1982, in Room 1303 of Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593.

The purpose of the meeting will be a review of the agenda items in preparation for the next Session of the Subcommittee.

The agenda for the meeting will consist of a general review of all items scheduled for both Subcommittees with particular attention to any session papers from other countries received by that time.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. William A. Cleary, Jr., USCG (G–MMT–5/TP13), 2100 2nd St., S.W., Washington, D.C. 20593. Telephone (202) 426–2188.

Dated: January 25, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–2406 Filed 1–28–82; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/484]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Notice of Meeting

The SOLAS Subcommittee of the Shipping Coordinating Committee will conduct an open meeting at 9:30 a.m. on Monday, March 22, 1982, in Room 3201 of the USCG Headquarters Building, 2100 Second Street, S.W., Washington, D.C. 20593.

The purpose of the meeting is to finalize preparations for the 46th Session of the Maritime Safety Committee (MSC) of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled for March 29–April 2, 1982 in London. In particular, the SHC will discuss the development of US positions dealing with, inter alia, the following topics.

—Reports of the various subcommittees;
—Review of the work programme;
—Consideration of the second set of amendments to 1974 SOLAS.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. G. P. Yoest, USCG Headquarters (G–CPI), 2100 Second St., S.W., Washington, D.C. 20539. Telephone (202) 426–2280.

Dated: January 25, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–2407 Filed 1–28–82; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

[FAC No. 95111]

Restricted Merchandise; Publications Originating in Vietnam, North Korea, Cambodia or Cuba

January 25, 1982.

I. Purpose

This notice is to advise Customs officers of the procedures to be followed in the detention and disposition of publications of Vietnamese, North Korean, Cambodian, or Cuban origin which are imported without a license issued by the Office of Foreign Assets Control, Treasury Department (FAC).

II. Information

The Foreign Assets Control Regulations (31 CFR Part 500) prohibit the importation without Treasury license of books, periodicals, or other publications of Vietnamese, North Korean, or Cambodian origin, including those which are mailed or otherwise shipped from third countries. A similar prohibition applies with respect to publications from Cuba under the Cuban Assets Control Regulations (31 CFR Part 515). The countries referred to in this paragraph ("designated countries") are the only ones to which restrictions administered by this Office apply with respect to importation of publications.

III. Action

A. Single Copy Imports

U.S. Customs Service is authorized to release to the addressee, whether an individual, an institution or other organization, single copies of any Cuban, Vietnamese, North Korean or Cambodian publications. For purposes of this notice, the term "publications" includes books, newspapers, magazines, films, phonograph records, tapes, photographs, microfilm, microfiche, posters and similar materials.

B. Commercial Imports

The firms listed on the attachment have been issued Treasury licenses authorizing the importation of publications from one or more of the designated countries. Such licensed imports addressed to the named licensed importer should not be detained.

C. Imports By Newsgathering Agencies, Universities, Libraries, Scientific Institutions

Treasury has issued licenses to major media networks, universities, libraries, scientific and research organizations to import publications from the embargoed countries. Any such importation of more than single copies shall be detained until it is established that the importation has been licensed by the Office of Foreign Assets Control. If such shipment is not accompanied by a copy of the license or if the importer has not presented a license to the Customs Service, the shipment should be detained and the Chief of Licensing of this Office notified (376–0408).

D. Scholars, Newsmen, Film Makers and Researchers Who Visit Designated Countries

Persons who travel to Cuba, North Korea, Vietnam, or Cambodia for the purpose of gathering news, making news or documentary films, engaging in professional research or for similar activities are authorized by general licenses contained in §§ 515.560(b) of the Cuban Assets Control Regulations and 500.563(b) of the Foreign Assets Control Regulations to acquire and import as accompanied baggage *or* otherwise and without limit as to value, publications and similar materials directly related to these professional activities. Customs Service should not detain such importations. These goods may not be imported for resale.

E. Tourists

Tourists who visit designated countries are authorized by the general licenses contained in § 515.560 (a)(3) of the Cuban Assets Control Regulations and § 500.563(a)(3) of the Foreign Assets Control Regulations to import as accompanied baggage *only* up to $100 in foreign market value of any merchandise which originated in the country. This $100 authorization can be used in whole or in part for publications and similar items, for personal use only.

IV. Unlicensed Importations of Publications

In the case of publications which are imported without a license, Customs should use normal notice of detention procedures and advise this Office through the Chief of Licensing of the detention of of unlicensed publications from designated countries. Importers of unlicensed publications should be advised that information can be obtained from, and license applications filed with: Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, 1331 G Street, N.W., Washington, D.C. 20220.

V. Publications Presently Under Detention

Publications from designated countries presently under detention as of the date of these instructions due to the absence of an FAC license but which fall within the terms of paragraph III, A above should be released to the importer as soon as practicable.

Dated: January 25, 1982.

Raymond W. Konan,

Chief Counsel, Acting Director.

Attachment

Addressees of prohibited publications who are licensed by FAC:

Licenses

Cuba

Center for Cuban Studies, 186 West 4th Street, New York, New York.

Tri Continental Imports, Inc., P.O. Box 254, Murray Hill, Station, New York, New York 10016.

Circulo de Cultura Cubana, 36 West 44th Street, Suite 311, New York, New York 10001.

Viet-Nam, Cambodia, North Korea

None at present.

[FR Doc. 82-2349 Filed 1-28-82; 3:08 pm]

BILLING CODE 4810-25-M

Issuance by Government of Italy of Certificate Verifying Non-Cuban Origin of Nickel-Bearing Materials; Importation From Italy of Nickel-Bearing Materials From Italian Companies

Certificates of origin are now available for importation from Italy of nickel-bearing materials and articles produced by Italian firms. These certificates are issued pursuant to a formal certification agreement between the Government of Italy and the Government of the United States. They will certify that the materials with respect to which the certificates are issued do not contain any nickel or nickel-oxide of Cuban origin. Each certificate will bear the following statement in the body of the document: "The Government of Italy hereby certifies that the products described herein do not contain nickel or nickel-oxide of Cuban origin. This certificate has been granted in accordance with the procedures agreed upon by the Government of Italy and the Government of the United States on January 6, 1982."

Nickel-bearing materials may now be imported from Italy under the general license in § 515.536 of the Regulations in accordance with the special certification provisions in that section and § 515.808 of the Regulations. United States Customs entry will be permitted with respect to any such merchandise if either (1) a certificate of origin issued by the Government of Italy (Ministero dell' Industria), or (2) a certification regarding interim shipments issued by the Government of Italy under paragraph F of the foregoing certification agreement, covering the particular merchandise to be imported, is presented to U.S. Customs authorities at the point of entry.

Dated: January 25, 1982.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

[FR Doc. 82-2341 Filed 1-28-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 20
Friday, January 29, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

DATE AND TIME: 2:30 a.m. (Eastern Time), Tuesday, February 2, 1982.

PLACE: Commission Conference Room, No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Freedom of Information Act Appeal No. 81–11–FOIA–34–SL, concerning a request for witness' statement and investigatory material contained in a charge file under the Age Discriminatory in Employment Act of 1967, as amended.
2. Freedom of Information Act Appeal No. 81–12–FOIA–070–MK, concerning a request for two items from a closed age discrimination charge file.
3. Freedom of Information Act Appeal No. 81–12–FOIA–57–NO, concerning a request for access to records in a charge file.
4. Fredom of Information Act Appeal No. 81–11–FOIA–061–MK, concerning a request for materials contained in an investigative file.
5. Amendments to EEOC's Coordination Regulations Under Executive Order 12067.
6. A Report on Commission Operations by the Executive Director.

Closed

1. Proposed Withdrawal of a Commissioner's Charge (No. THO6–707003).
2. Litigation Authorization; General Counsel Recommendations.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice issued January 26, 1982.

[S–131–82 Filed 1–27–82; 11:07 am]

BILLING CODE 6570–06–M

2

FEDERAL COMMUNICATIONS COMMISSION.

Deletion of agenda item from January 28th open meeting.

The following item has been deleted from the list of agenda items scheduled for consideration at the January 28, 1982 Open Meeting and previously listed in the Commission's Notice of January 21, 1982.

Agenda	Item No.	Subject
General	3	Title: Report of the United States Delegation to the Regional Administrative MF Broadcasting Conference (Region 2), Second Session, Rio de Janeiro, 1981. Summary: The United States participated in a conference in Rio de Janeiro which developed an agreement and master assignment plan governing AM broadcasting in the Western Hemisphere. The Chairman of the U.S. Delegation will report on the outcome of the Conference and its potential effect on the AM broadcasting service in the U.S.

Issued: January 26, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–134–82 Filed 1–27–82; 3:32 pm]

BILLING CODE 6712–01–M

3

FEDERAL RESERVE SYSTEM. (Board of Governors.)

TIME AND DATE: 2:00 p.m., Thursday, February 4, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 26, 1982.

James McAfee,

Assistant Secretary of the Board.

[S–129–82 Filed 1–26–82; 4:13 pm]

BILLING CODE 6210–01–M

4

PAROLE COMMISSION.

TIME AND DATE:

Monday, February 8, 1982—9:00 a.m. to 5:30 p.m.

Tuesday, February 9, 1982—9:00 a.m. to 5:30 p.m.

Wednesday, February 10, 1982—9:00 a.m. to 12:00 Noon.

PLACE: Room 420–F; One North Park Building; 5550 Friendship Boulevard; Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 24 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. § 2.17 and appealed pursuant to 28 C.F.R. § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S–132–82 Filed 1–27–82; 2:30 pm]

BILLING CODE 4410–01–M

5

PAROLE COMMISSION.

TIME AND DATE: Wednesday, February 10, 1982—1:30 p.m. 4:30 p.m.

PLACE: Room 420–F; One North Park Building; 5550 Friendship Boulevard; Bethesda, Maryland 20015.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Application of John A. Cambell for a Certificate of Exemption—29 U.S.C. § 504.
2. Updated Report for fiscal year 1982 budget.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Billie L. Richards, Chairman's Office, (301) 492–5590.

[S–133–82 Filed 1–27–82; 2:39 pm]

BILLING CODE 4410–01–M

6

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 1, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, February 2, 1982, at 10:00 a.m. and on Thursday, February 4, 1982, following the 3:30 p.m. open meeting. An open meeting will be held on Thursday, February 4, 1982, at 3:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(A)(4)(8)(9)(i) and (10).

Chairman Shad and Commissoners Loomis, Evans, Thomas, and Longstreth voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 2, 1982, at 10:00 a.m., will be:

Formal orders of investigation.

Access to investigative files by Federal, State, or Self-Regulatory authorities.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive action.

Litigation matter.

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Regulatory matter bearing enforcement implications.

The subject matter of the closed meeting scheduled for Thursday, February 4, 1982, following the 3:30 p.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Thursday, February 4, 1982, at 3:30 p.m., will be:

Oral argument on an appeal by George R. Zenanko from the initial decision of an administrative law judge. For further information, please contact R. Moshe Simon at (202) 523–4588.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

January 26, 1982.

[S–130–82 Filed 1–27–82; 10:48 am]

BILLING CODE 8010–01–M

7

TENNESSEE VALLEY AUTHORITY (Meeting No. 1282).

TIME AND DATE: 10:15 a.m. (EST), Wednesday, February 3, 1982.

PLACE: Knoxville Civic Coliseum Ballroom, 500 Church Avenue, S.E., Knoxville, Tennessee.

STATUS: Open.

DISCUSSION ITEM: 1. Review of TVA load growth/plant construction situation.

ACTION ITEMS:

Old Business

1. Supplement to personal services contract with Pickard, Lowe and Garrick, Inc., Irvine, California, for assistance to TVA in the performance of a probabilistic risk assessment of the Browns Ferry Nuclear Plant, unit 1.

New Business

A—Project Authorizations

1. Project Authorization No. 3598—Construction of a 500-kV interconnection to Appalachian Power Company's Stanley Valley Substation.

2. Project Authorization No. 3600—Replace and modify boiler bypass system for Cumberland Steam Plant units 1 and 2.

B—Purchase Award

1. Negotiation No. 35–196715—Indefinite quantity term contract for Diamond Power soot blower repair parts for any TVA Fossil Plant.

2. Invitation No. C3–586108 (Partial reissue)—Indefinite quantity term contract for No. 2 diesel fuel oil for any TVA project or warehouse.

C—Power Items

1. Letter agreement with Cities Service Company providing for a one-month extension of power supply for operation of its Copperhill, Tennessee, plant.

2. Renewal power contract with Marshall-DeKalb Electric Cooperative.

3. Deed and bill of sale to East Mississippi Electric Power Association covering conveyance of section of TVA's Philadelphia-DeKalb 46-Kv Line.

4. Lease and amendatory agreement with Volunteer Electric Cooperative, covering arrangements for lease of eight TVA 69-kV substations to permit higher voltage service.

E—Real Property Transactions

[1] 1. Seventy-year easements on portions of Chattanooga office complex property to Chattanooga Computer Center Associates, Ltd.

F—Unclassified

[1] 1. Memorandum of understanding between TVA and Bonneville Power Administration relating to cooperation and exchanges of information.

2. Revised TVA policy code relating to management and development of mineral resources.

3. Adoption of new TVA policy code relating to hardwood and other biomass fuels, which replaces existing code on alcohol fuels.

4. Changes in list of designated certifying officers authorized to approve payments made by TVA.

5. Establishment of a payroll allotment system which will permit employees to make payroll allotments to Individual Retirement Accounts (IRA's) offered by financial institutions.

6. Authority to write off uncollectible accounts receivable.

7. Revised budget plan for fiscal year 1982.

DATE: January 27, 1982.

CONTACT PERSON FOR MORE INFORMATION:

Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to request for information about this meeting. Call (615) 632–3247, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–135–82 Filed 1–27–82; 3:39 pm]

BILLING CODE 8120–01–M

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[1] Items approved by individual Board members. This would give formal ratification to Board's action.

federal register

Friday
January 29, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Radiology Devices; Development of General Provisions and Classification of 73 Devices; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 892

[Docket No. 78N-2742]

Radiology Devices; Development of General Provisions and Classification of 73 Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing general rules applicable to the classification of all radiology devices. The Medical Device Amendments of 1976 require the agency to classify all medical devices intended for human use into three categories: Class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble to this proposal, FDA describes the development of the proposed regulation classifying 73 radiology devices. The preamble also describes the activities of the Radiology Device Section of the Obstetrics-Gynecology and Radiologic Devices Panel (formerly the Radiological Device Classification Panel), an FDA advisory committee that makes recommendations to FDA concerning the classification of radiology devices.

DATES: Comments by March 30, 1982. FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360c) establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; and class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and that is substantially equivalent to a device classified under this scheme, is classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

Related Regulations

In the **Federal Register** of July 28, 1978 (43 FR 32988), FDA issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the **Federal Register** of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the **Federal Register** of May 19, 1975 (40 FR 21848).

Activities of Panel

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Radiological Device Classification Panel (the Panel) was originally chartered on October 15, 1974, as the Panel on Review of Radiological Devices. FDA placed a report of the Panel's tentative classification recommendations on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, and announced the availability of the report to the public by notice published in the **Federal Register** of June 25, 1976 (41 FR 26245). On August 9, 1976, the Panel and other preamendments device classification panels were rechartered to reflect their new responsibilities under the amendments. The agency directed each panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, the Panel reviewed all devices that FDA had referred to it to make certain that its recommendations were in accord with the amendments.

Throughout the Panel's deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of radiological devices. The Panel also invited experts to testify and sought information on many devices from the published literature.

In October, 1977, the Panel submitted to FDA a preliminary report of its recommendations. The report included a roster of current and former Panel members and consultants and listed all meeting dates. The agency placed a copy of the report in the Dockets Management Branch (HFA-305), Food and Drug Administration, and announced its availability to the public by notice published in the **Federal Register** of November 29, 1977 (42 FR 60792). At a meeting held on July 10, 1978, the Panel changed its previous recommendations concerning the classification of several devices. An addendum to the Panel report showing these changes has been placed in the Dockets Management Branch, Food and Drug Administration. Also available in this office are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in this proposal.

On April 28, 1978, the agency terminated all of the device classification panels and reestablished them with the same functions, but with new names and a new structure. FDA published notices of these changes in the **Federal Register** of May 19, 1978 (43 FR 21666, 21667, and 21668) and May 26, 1978 (43 FR 22672 and 22673). The Radiological Device Classification Panel was terminated, and its functions are now conducted by the Radiology Device Section of the Obstetrics-Gynecology and Radiologic Devices Panel.

Relationship Between the Device Names in the Device Registration and Listing Codes and the Device Names in Classification Regulations

Some manufacturers have become accustomed to identifying a device by its registration and listing name and three-letter code used for purposes of device listing under section 510 of the act (21 U.S.C. 360). However, FDA is still making changes in the names and identifications for generic types of devices in the classification regulations for all devices for which final regulations have not been published. Because FDA has not used the present device registration and listing names in the proposed and final classification regulations, FDA has prepared an index of names of generic types of medical devices used in classification regulations to aid a manufacturer in matching its device with the proper classification regulation. The index shows the device registration and listing product code for each device reviewed by a classification panel and the corresponding name of the generic type of device and classification panel in which the device classification will be published in the **Federal Register.** The agency announced the availability of this index in the **Federal Register** of March 6, 1979 (44 FR 12269). If necessary, this index will be updated and the availability of the revised index will be reannounced in the **Federal Register.** In the future, following publication of most of the device classification regulations, the agency will revise and reissue the device registration and listing product code, so the device names to be used for registration and listing correspond to the device names in the final device classification regulations.

To help manufacturers relate the classification regulation names to the list of device names previously published by FDA in 1977 "(Classification Names for Medical Devices," U.S. Government Printing Office: 1977–248–282), the chart below indicates any changes, including combinations, from the classification names of devices on the 1977 list.

Docket No.	Classification name	Previous device name(s)
78N-2743	Scintillation (gamma) camera	Gamma camera.
78N-2745	Nuclear whole body counter	Whole body counter.
78N-2749	Radionuclide generator	Isotope generator system.
78N-2750	Nuclear rectilinear scanner	Rectilinear scanner.
78N-2752	Nuclear uptake probe	Nuclear uptake probe, Isotope probe and counter for phosphorus 32.
78N-2756	Nuclear anthropomorphic phantom	Nuclear phantom.
78N-2758	Radionuclide rebreathing system	Isotope rebreathing system (xenon, oxygen, iodine).
78N-2761	Radionuclide test pattern phantom	Radionuclide test pattern with isotope.
78N-2762	Telethermographic system	Thermographic imaging system.
78N-2765	Nonfetal ultrasonic monitor	Nonfetal monitor ultrasonic consinuous wave doppler system.
78N-2766	Ultrasonic pulsed doppler imaging system	Diagnostic ultrasonic pulsed doppler system.
78N-2767	Ultrasonic pulsed echo imaging system	Diagnostic ultrasonic pulsed echo system.
78N-2769	Angiographic x-ray system	Radiographic single- or bi-plane angiographic system.
78N-2770	Diagnostic x-ray beam-limiting device	Radiographic aperture, Radiographic cone, Radiographic automatic collimator, Radiographic manual collimator.
78N-2771	Cine or spot fluorographic x-ray camera	Cine or spot fluorographic camera.
78N-2772	Electrostatic x-ray imaging system	Xeroradiographic imaging system.
78N-2773	Radiographic film marking x-ray system	Radiographic film marking system.
78N-2774	Image-intensified fluoroscopic x-ray system	Image-intensified fluoroscopic system, Radiographic image amplifier tube.
78N-2775	Non-image-intensified fluoroscopic x-ray system	Fluoroscopic system without image intensification.
78N-2776	Spot-film device	Radiographic spotfilm device.
78N-2778	Diagnostic x-ray high voltage generator	Radiographic single phase generator, Capacitor discharge radiographic generator.
78N-2779	Mammographic x-ray system	Mammographic system.
78N-2780	Mobile x-ray system	Mobile x-ray unit, Explosion-safe mobile x-ray unit.
78N-2781	Photofluorographic x-ray system	Photofluorographic system.
78N-2782	Tomographic x-ray system	Radiographic tomographic system.
78N-2783	Computed tomography x-ray system	Radiographic computerized tomographic scanner.
78N-2784	Diagnostic x-ray tube housing assembly	Diagnostic x-ray generating tube and housing assembly.
78N-2785	Diagnostic x-ray tube mount	Radiographic tube mount.
78N-2788	Pneumonencephalographic chair	Pneumoencephalographic chair, Radiographic pneumoencephalographic chair.
78N-2789	Radiologic patient cradle	Mechanical radiographic cradle, Powered radiographic cradle.
78N-2790	Radiographic film	Radiographic film, Extraoral dental x-ray film, Intraoral dental x-ray film.
78N-2791	Radiographic film cassette	Radiographic film cassette x-ray cassette film.
78N-2792	Radiographic film cassette changer	Radiographic film changer, Radiographic cassette changer.
78N-2793	Radiographic film/cassette changer programmer	Radiographic film changer programmer.
78N-2794	Wall-mounted radiographic cassette holder	Radiographic wall mounted cassette holder.
78N-2795	Radiographic film illuminator	Radiographic film illuminator, Explosion-proof radiographic film illuminator.
78N-2796	Automatic radiographic film processor	Radiological automatic radiographic film processor, Cine film processor, Radiographic film dryer, Dental automatic radiographic film processor, Radiographic temperature controller.
78N-2798	Radiographic head holder	Cephalometer (head holder).
78N-2799	Automatic contrast medium injector	Contrast medium automatic injector.
78N-2800	Radiologic quality assurance instrument	Optical step wedge, Ardran-Crooks measurement cassette, Radiographic focal spot camera, Radiographic test pattern.
78N-2801	Radiographic anthropomorphic phantom	Radiologic anthropomorphic phantom.
78N-2802	Radiographic intensifying screen	Radiographic intensifying screen, X-ray radiographic intensifying screen.
78N-2803	Radiographic ECG/respirator synchronizer	Radiographic (electrocardiograph, respiratory) synchronizer.
78N-2804	Radiologic table	Powered nontilting radiographic table, Tilting radiographic table, Fixed radiographic table.
78N-2806	Medical charged-particle radiation therapy system	Medical linear accelerator, Medical betatron, Medical cyclotron, Medical microtron, Medical synchrotron.
78N-2810	Medical neutron radiation therapy system	Medical neutron generator.
78N-2813	Manual radionuclide applicator system	Manual isotope applicator.
78N-2814	Remote controlled radionuclide applicator system	Remote controlled isotope applicator.
78N-2815	Radiation therapy beam-sharing block	Isotope beam shaping block.
78N-2817	Radionuclide brachytherapy source	Platinum, titanium, gold isotope needle, Platinum, titanium, gold isotope seed, Platinum, titanium, gold isotope source, Isotope iridium wire.
78N-2818	Radionuclide teletherapy source	Teletherapy sealed isotope source.
78N-2819	Radionuclide radiation therapy system	Isotope therapy system, Isotope teletherapy, collimator.
78N-2820	Powered radiation therapy support assembly	Radiation therapy powered couch.
78N-2821	Light beam patient position indicator	Light or laser beam patient position monitor.
78N-2823	X-ray radiation therapy system	X-ray therapy system, Therapeutic x-ray dermatological collimator, Therapeutic x-ray high voltage collimator, Therapeutic x-ray low voltage collimator, Therapeutic x-ray orthovoltage collimator, Therapeutic x-ray dermatological (grenz ray) generator, Therapeutic x-ray high voltage generator, Therapeutic x-ray high voltage generator, Therapeutic x-ray low voltage generator, Therapeutic x-ray orthovoltage generator.
78N-2826	Therapeutic x-ray tube housing assembly	Therapeutic x-ray tube and housing assembly.

Docket No.	Classification name	Previous device name(s)
78N-2827	Personnel protective shield	Protective apron, Movable x-ray control panel barrier, Radiographic protective curtain, Radiographic protective glove, Lead syringe holder, Radiological eye shield, Gonadal shield, Vial shield, Leaded apron, Leaded operator radiation protector screen.

List of Radiology Devices

In 1972, FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. Following this survey, FDA developed a list of radiology devices. The Panel supplemented the list using its members' knowledge of radiology devices in use. Devices that were solely for experimental or investigational use or that were not generally available were not included. Additional radiology devices, which were not included in this list and which were commercially available before May 28, 1976, will be added to the list as necessary.

FDA is proposing to establish a new Part 892 in Title 21 of the Code of Federal Regulations. Part 892 will consist of sections identifying each radiology device with a brief narrative description and stating the classification of that device. A list of the radiology devices appears elsewhere in this preamble.

Radiology Device Classification Regulations

FDA is proposing to classify 73 radiology devices. FDA is proposing to classify 7 radiology devices into class I (general controls) and 64 radiology devices into class II (performance standards). FDA is proposing to classify one radiology device into class II for some uses and into class III (premarket approval) for other uses, and another radiology device into class I, II, or III, depending upon whether the device is nonpowered or AC-powered and upon the uses of the device. The agency also is publishing the recommendations of the Panel regarding these devices, as required by section 513 (c)(2) and (d)(1) of the act (21 U.S.C. 360c (c)(2) and (d)(1)).

Interaction Between the Bureau of Medical Devices and the Bureau of Radiological Health

In addition to its authority under the amendments, FDA has authority to regulate some medical devices under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602). Public Law 90-602 authorized FDA to establish and execute a program to control electronic product radiation that includes performance standards for electronic products and their related accessories. Radiation emission performance standards have been, and will continue to be, established for those medical devices that emit electronic product radiation. Performance standards have already been promulgated for diagnostic x-ray systems and their major components (21 CFR 1020.30); radiographic equipment (21 CFR 1020.31); fluoroscopic equipment (21 CFR 1020.32); laser products (whether or not for medical use) (21 CFR 1040.11), and ultrasonic therapy products (21 CFR 1050.10). The agency will continue to use its authority over radiation-emitting electronic medical products under both the amendments and the Radiation Control for Health and Safety Act of 1968, as appropriate.

Published Panel Recommendations

The Panel recommendation concerning a radiology device includes the information described below.

1. *Identification.* Both the panel recommendation and the proposed FDA classification include a brief narrative identification of the generic type of device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 892.1, any manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 (21 CFR Part 807) of the regulations cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a newly offered device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The agency believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87), and whether the device is described in a classification regulation.

Several regulations classify products that have both medical and nonmedical uses. FDA will regulate a multipurpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body." (Section 201(h) of the act (21 U.S.C. 321(h)).) FDA will determine the intended use of a product based upon the expressions of the person legally responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a particular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes and, therefore, will be regulated as medical devices whether or not medical claims are made for them.

FDA recognizes therapy planning computers and programs as medical devices and includes them as accessories to radiation-emitting therapeutic devices.

2. *Recommended classification.* Each Panel's recommendations describe whether the device is recommended for classification into class I (general controls), class II (performance standards), or class III (premarket approval).

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: Section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), good manufacturing practice requirements). The Panel recommended that several devices be exempted from section 510, from section 519, and from section 520(f) of the act. The agency's policy concerning these exemption recommendations is discussed below in the section of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended

priority ("high," "medium," or "low") for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high," "medium," or "low") for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and Class III Devices," FDA is not, however, proposing the establishment of FDA priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes a particular device meets the statutory criteria for classification into class I, II, or III. In most cases, the Panel considered the use of electrical power or emission of ionizing radiation as sufficient reason to recommend classification into class II. In the cases of some devices which neither use electrical power nor emit radiation, the Panel indicated that not all the specific general controls need be imposed because some will not provide greater assurance of the safety and effectiveness of these devices, and that applying all general controls would increase the cost of using these devices.

Except in those instances in which FDA's proposed classification differs from the Panel's recommendation, FDA is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f)).

In the "Panel Recommendations and FDA's Proposed Classifications" section, the summary of the Panel's reasons for a recommendation identifies any device that is an implant or a life-supporting or life-sustaining device. The summary of reasons for any implant or life-supporting or life-sustaining device that is not recommended for classification into class III also explains why the Panel determined that classification of the device into class III is not necessary to provide reasonable assurance of its safety and effectiveness. Also, FDA's proposed classifications in the preamble provide a similar explanation for proposing to classify an implant or a life-supporting or life-sustaining device into a class other than class III.

The summary of reasons for a recommendation also includes any Panel recommendations for the labeling of the device. FDA will respond to these recommendations after final classifications have been established for each device.

4. *Summary of data on which the recommendation is based.* In many cases, the Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the devices under review. The Panel particularly relied upon clinical experience and judgment when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The Panel concluded that most radiology devices have been in widespread clinical use for a long time. The Panel expressed the view that radiology devices are probably the medical devices most regulated both by the Federal government and by the States. The Panel used, but did not cite, the large body of data developed by various governmental and voluntary standards-setting organizations concerning the biological effects of ionizing radiation. Among such organizations is FDA's Bureau of Radiological Health, which has an extensive list of relevant publications that can be obtained upon request. Other organizations that have many publications in the field include the National Council on Radiation Protection and Measurement, the American National Standards Institute, the International Commission on Radiological Protection, the National Electrical Manufacturers Association, the Association for the Advancement of Medical Instrumentation, and others.

The legislative history of the amendments provides that the term "data" has a special meaning in section 513(c)(2)(A) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in that section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H.R. Rept. 95–853, 94th Congress, 2d Session 40 (1976)). FDA has determined that clinical experience and judgment is valid evidence for classifying certain devices.

In several cases, FDA sought more data and information concerning the classification of a device than were cited by the Panel. References to these data and information are found in the preamble in FDA's proposed classifications for each radiology device. The agency is adopting as its statement of the basis for issuing the regulation under section 517(f) of the act the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble in the proposed classifications.

5. *Risks to health.* In identifying the risks to health presented by radiology devices, the panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, especially those that are unique to the use of the individual device. In some cases, FDA has identified risks to health presented by a device in addition to those listed by the Panel. These additional risks are set out in the preamble under the heading "Panel Recommendations and FDA's Proposed Classifications" of a particular device.

In addition to those hazards explicitly mentioned, the Panel and FDA recognize that there are general hazards associated with certain types of devices. With any diagnostic device, accurate results in usable form must be obtained in order to avoid misdiagnosis, with the consequent hazard of incorrect patient management that places the patient unnecessarily at risk. When the diagnostic device emits radiation, accurate and useable results also are needed to avoid the additional radiation exposure necessitated by a repeat procedure. Because of the weight and structure of many radiologic devices, there is a potential health risk to the patient and operator as a result of mechanical failure. The agency is concerned that physical injury (trauma) to the patient or operator can result from structural or operating mechanism defects in these devices and, therefore, believes that a safety standard may be necessary.

Because the discussion in the Panel's classification recommendations and FDA's proposed classifications may not identify all risks to health presented by radiology devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to health to be addressed by FDA requirements.

Under the heading "Panel Recommendations and FDA's Proposed Classifications", each section for a radiology device states whether FDA agrees with the Panel's recommendation and describes the agency's proposed classification of the device.

FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's

consideration of new data and information.

Priorities For Class II and Class III Devices

For a device that the Panel recommends be classified into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of a priority for application to the device of a performance standard or premarket approval requirements. In developing its advice concerning priorities ("high," "medium," or "low") of devices recommended for classification into class II, the Panel compared the device with other radiology devices based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device. The Panel recommended assignment of a "high priority" only to those class II devices that the Panel believed should receive the agency's immediate attention. The Panel did not recommend that any device be classified into class III.

FDA is not proposing at this time to establish priorities for development of performance standards for all class II devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. In the **Federal Register** of February 1, 1980 (45 FR 7489 and 45 FR 7493), FDA published notices identifying which class II devices the agency found to warrant a high priority for the development of performance standards. At a later date, the agency will establish priorities for the development of standards for the remaining class II devices. All priorities established by the agency are based on the classification panels' recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the **Federal Register.**

The agency intends to proceed as quickly as the statute and agency and panel resources permit to require premarket approval of devices classified into class III. Two factors affect the length of time before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by a panel. For example, where FDA classifies into class III only a few devices within a panel's specialty area, FDA may at the same time also publish regulations under section 515(b) of the act requiring premarket approval for many of the class III devices considered by the Panel, regardless of whether they are a high, medium, or low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (30 months) following classification, during which 30-month period a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is provided for a section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510 (21 U.S.C. 360), registration; section 519 (21 U.S.C. 360i), records and reports; and section 520(f) (21 U.S.C. 360j(f)), good manufacturing practice requirements.

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding, or processing of * * * a device or devices" must register with FDA (section 510 (b) through (i)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See Part 807 (21 CFR Part 807).) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions for certain devices. Thus, the agency has proposed to exempt manufacturers of certain devices from Subpart E of the Part 807 of the regulations, which implements section 510(k) of the Act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) of the act will provide FDA with adequate notice of new products within these generic types of devices.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements is found in the device good manufacturing practice (GMP) regulation under Part 820 (21 CFR Part 820), published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA may publish other regulations under section 519 of the act, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. Whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the **Federal Register** of July 21, 1978. At the time of the Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting manufacturers of class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation manufacturers of a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt manufacturers of a device from

general requirements concerning records or complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or routine testing before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. A sterile device must be subject to the entire GMP regulation to ensure that manufacturers adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished through adherence to a comprehensive quality assurance program as is required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strict packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP regulation will extend to § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that device manufacturers have adequate systems for complaint investigation and followup, all manufacturers are required to comply with the complaint file requirements. All device manufacturers also are required to comply with the general requirements concerning records to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturers corrective actions are adequate, and may determine whether the exemption from other section of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of devices from requirements under section 510 or 520(f) of the act, but has acted on the basis of exemption recommendations of the device classification panels. However, FDA has proposed occasionally to exempt manufacturers of certain devices classified into class I or class II from the requirements of certain sections of the GMP regulation according to the above exemption criteria. Manufacturers and other interested persons may submit comments on the appropriateness of the proposed exemptions of manufacturers of devices, whether the exemptions are proposed in response to recommendations of the panels or on the agency's initiative. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a device from the premarket notification requirement or the GMP regulation is consistent with the criteria discussed above.

Guidelines for Preparing Petitions Requesting Exemption or Variance From the Device GMP Regulation for Devices Classified Into Class I or Class II

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device GMP regulation. These petitions may be submitted in accordance with provisions of section 520(f)(2) of the act (21 U.S.C. 360j(f)(2)). The agency announced the availability of the guidelines in a notice published in the **Federal Register** of January 18, 1980 (45 FR 3671).

List of Radiology Devices

The following is a list of radiology devices that FDA is proposing to classify, the section in the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
	SUBPART B—RADIOLOGY DIAGNOSTIC DEVICES		
892.1100	Scintillation (gamma) camera.	78N-2743	II.
892.1110	Positron camera	78N-2744	II.
892.1130	Nuclear whole body counter.	78N-2745	II.
892.1170	Bone densitometer	78N-2746	II.
892.1200	Emission computed tomography system.	78N-2747	II.
892.1220	Fluorescent scanner	78N-2748	II.
892.1240	Radionuclide generator	78N-2749	II.
892.1300	Nuclear rectilinear scanner	78N-2750	II.
892.1310	Nuclear tomography system	78N-2751	II.
892.1320	Nuclear uptake probe	78N-2752	II.
892.1330	Nuclear whole body scanner.	78N-2753	II.
892.1350	Nuclear scanning bed	78N-2754	II.
892.1360	Radionuclide dose calibrator.	78N-2755	II.
892.1370	Nuclear anthropomorphic phantom.	78N-2756	II.
892.1380	Nuclear flood source phantom.	78N-2757	II.
892.1390	Radionuclide rebreathing system.	78N-2758	II.
892.1400	Nuclear sealed calibration source.	78N-2759	II.
892.1410	Nuclear electrocardiograph synchronizer.	78N-2760	II.
892.1420	Radionuclide test pattern phantom.	78N-2761	II.
892.1450	Telethermographic system	78N-2762	II, III
892.1480	Liquid crystal thermographic system.	78N-2763	I, II, III
892.1540	Nonfetal ultrasonic monitor	78N-2765	II.
892.1550	Ultrasonic pulsed doppler imaging system.	78N-2766	II.
892.1560	Ultrasonic pulsed echo imaging system.	78N-2767	II.
892.1570	Diagnostic ultrasonic transducer.	78N-2768	II.
892.1600	Angiographic x-ray system	78N-2769	II.
892.1610	Diagnostic x-ray beam-limiting device.	78N-2770	II.
892.1620	Cine or spot fluorographic x-ray camera.	78N-2771	II.
892.1630	Electrostatic x-ray imaging system.	78N-2772	II.
892.1640	Radiographic film marking x-ray system.	78N-2773	II.
892.1650	Image-intensified fluoroscopic x-ray system.	78N-2774	II.
892.1660	Non-image-intensified fluoroscopic x-ray system.	78N-2775	II.
892.1670	Spot-film device	78N-2776	II.
892.1680	Stationary x-ray system	78N-2777	II.
892.1700	Diagnostic x-ray high voltage generator.	78N-2778	II.
892.1710	Mammographic x-ray system.	78N-2779	II.
892.1720	Mobile x-ray system	78N-2780	II.
892.1730	Photofluorographic x-ray system.	78N-2781	II.
892.1740	Tomographic x-ray system	78N-2782	II.
892.1750	Computed tomography x-ray system.	78N-2783	II.
892.1760	Diagnostic x-ray tube housing assembly.	78N-2784	II.
892.1770	Diagnostic x-ray tube mount	78N-2785	II.
892.1820	Pneumoencephalographic chair.	78N-2788	II.
892.1830	Radiologic patient cradle	78N-2789	II.
892.1840	Radiographic film	78N-2790	I.
892.1850	Radiographic film cassette	78N-2791	II.
892.1860	Radiographic film/cassette changer.	78N-2792	II.
892.1870	Radiographic film/cassette changer programmer.	78N-2793	II.
892.1880	Wall-mounted radiographic cassette holder.	78N-2794	II.
892.1890	Radiographic film illuminator.	78N-2795	II.
892.1900	Automatic radiographic film processor.	78N-2796	II.
892.1910	Radiographic grid	78N-2797	I.
892.1920	Radiographic head holder	78N-2798	I.
892.1930	Automatic contrast medium injector.	78N-2799	II.
892.1940	Radiologic quality assurance instrument.	78N-2800	I.
892.1950	Radiographic anthropomorphic phantom.	78N-2801	I.
892.1960	Radiographic intensifying screen.	78N-2802	I.
892.1970	Radiographic ECG/respirator synchronizer.	78N-2803	II.
892.1980	Radiologic table	78N-2804	II.
	SUBPARTS C–E [RESERVED]		
	SUBPART F—RADIOLOGY THERAPEUTIC DEVICES		
892.5050	Medical charged-particle radiation therapy system.	78N-2806	II.

Section	Device	Docket No.	Class
892.5300	Medical neutron radiation therapy system.	78N-2810	II.
892.5650	Manual radionuclide applicator system.	78N-2813	I.
892.5700	Remote controlled radionuclide applicator system.	78N-2814	II.
892.5710	Radiation therapy beam-shaping block.	78N-2815	II.
892.5730	Radionuclide brachytherapy source.	78N-2817	II.
892.5740	Radionuclide teletherapy source.	78N-2818	II.
892.5750	Radionuclide radiation therapy system.	78N-2819	II.
892.5770	Powered radiation therapy patient support assembly.	78N-2820	II.
892.5780	Light beam patient position indicator.	78N-2821	II.
892.5840	Radiation therapy simulation system.	78N-2822	II.
892.5900	X-ray radiation therapy system.	78N-2823	II.
892.5930	Therapeutic x-ray tube housing assembly.	78N-2825	II.
	SUBPART G—RADIOLOGY MISCELLANEOUS DEVICES		
892.6500	Personnel protective shield	78N-2827	II.

Devices Considered by Two or More Panels; Status of Radiologic Contrast Media

Occasionally a device was reviewed by two or more device classification panels. In these instances, the individual regulation for the device includes the recommendation of each of the sections or panels involved.

1. The General Medical Devices Panel recommends that disposable barium sulfate enema kits be classified into class I. The Obstetrics-Gynecology and Radiologic Devices Panel recommends that radiologic contrast media be classified into class I. The agency has determined that all radiologic contrast media, including barium enema kits, are to be regulated by FDA as drugs under section 201(g) of the act (21 U.S.C. 321(g)(1)) and not as devices.

2. The Obstetrics-Gynecology and Radiologic Devices Panel and the Circulatory Systems Devices Panel make classification recommendations concerning the opaque vascular catheters and the radiological catheter guide wires. The agency is not now publishing the Obstetrics-Gynecology and Radiologic Devices Panel's recommendations to classify these devices. FDA published these recommendations, and proposed classification regulations, when it published the recommendations of the Circulatory Systems Devices Panel (44 FR 13297; March 9, 1979).

Classification Regulations Published to Date

The following table shows the current structure of the advisory committees involved with the classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel/section name	Publication date in FEDERAL REGISTER
Circulatory Systems Devices Panel.	March 9, 1979, 44 FR 13284–13494 (proposals); February 5, 1980, 45 FR 7904–7971 (final regulations).
Clinical Chemistry and Hematology Devices Panel: Clinical Chemistry Device Section Clinical Toxicology Device Section Hematology and Pathology Device Section.	September 11, 1979, 44 FR 52950–53063 (proposals); September 12, 1980, 45 FR 60578–60582 (final regulations).
General Medical Devices, Panel: General Hospital and Personal Use Device Section.	August 24, 1979, 44 FR 49944–49954 (proposals); October 21, 1980, 45 FR 69579–69737 (final regulations).
Gastroenterology-Urology Device Section.	January 23, 1981, 46 FR 7582–7641 (proposals).
Immunology and Microbiology Devices Panel: Immunology Device Section. Microbiology Device Section.	April 22, 1980, 45 FR 27354–27369 (proposals). April 22, 1980, 45 FR 27354–27369 (proposals).
Obstetrics-Gynecology and Radiologic Devices Panel: Obstetrics-Gynecology Device Section.	April 3, 1979, 44 FR 19894–19971 (proposals); February 26, 1980, 45 FR 12982–12720 (final regulations).
Radiology Device Section.	January 29, 1982.
Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel: Ophthalmic Device Section Ear, Nose, and Throat Device Section Dental Device Section	December 30, 1980, 45 FR 85962–85970 (proposals).
Respiratory and Nervous System Devices Panel: Anesthesiology Device Section. Neurological Device Section	November 2, 1979, 44 FR 63092–63428 (proposals). November 23, 1978, 43 FR 54840–55732 (proposals); September 4, 1979, 44 FR 51728–51778 (final regulations).
Surgical and Rehabilitation Devices Panel: Physical Medicine Device Section. Orthopedic Device Section General and Plastic Surgery Device Section	August 28, 1979, 44 FR 50458–50537 (proposals).

Diagnostic Ultrasound

In a notice of intent to propose rules published in the **Federal Register** of February 13, 1979 (44 FR 9542), the agency announced that it was considering an action program to reduce exposure to diagnostic ultrasound as much as practicable, consistent with the need for essential diagnostic information. However, at the present time, the agency has no plans to develop such an action program through rulemaking proceedings.

Radiation Exposure

The agency is concerned that individuals are being exposed to increasing amounts of radiation. On February 27, 1979, the Department of Health and Human Services issued the report of the Interagency Task Force on Ionizing Radiation (Ref. 1). On the question of reducing radiation exposure from diagnostic x-ray procedures, the Task Force report said: "For many medical radiation procedures, there is a large potential for reducing unnecessary radiation exposure. There are four sources of unnecessary exposure that may result from the medical use of radiation considered in this report: (1) Questionable clinical judgment in ordering some x-ray and other radiology procedures; (2) radiology technique (including use and maintenance of equipment); (3) inadequate or faulty equipment; and (4) lack of control for rapidly expanding new technology."

Panel Recommendations and FDA's Proposed Classifications

Section 892.1100; Docket No. 78N–2743; Scintillation (gamma) camera.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of scintillation (gamma) cameras:

1. A scintillation (gamma) camera is a device intended to be used to image the distribution of radionuclides in the body by means of a photon radiation detector. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that scintillation (gamma) cameras be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the spatial and energy resolution, the uniformity and geometric distortion of the image, the count rate response, and the dead time of the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health

Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that scintillation (gamma) camera be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1110; Docket No. 78N–2744; Positron camera.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of positron cameras:

1. Identification: A positron camera is a device intended to be used to image the distribution of positron-emitting radionuclides in the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device to be low priority.

3. Summary of reasons for recommendation: The Panel recommends that positron cameras be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the image resolution, uniformity, geometric distortion, quantum efficiency, count rate response, and dead time of the device, and that inclusion of this information in the labeling by voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that positron cameras be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1130; Docket No. 78N–2745; Nuclear whole body counter.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear whole body counters:

1. Identification: A nuclear whole body counter is a device intended to be used to measure amounts of radionuclides in the entire body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nuclear whole body counters be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over this characteristic. The panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the spatial and energy resolution of the device and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that nuclear whole body counters be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1170; Docket No. 78N–2746; Bone densitometer.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bone densitometers:

1. Identification: A bone densitometer is a device intended to be used for medical purposes to measure bone density and mineral content by x-ray or gamma ray transmission measurements through the bone and adjacent tissues. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that bone densitometers be classified into class II because the Panel believes that a performance standard will control proper calibration. Miscalibration can cause unnecessarily high radiation levels to be used or may result in erroneous data leading to unnecessary radiation exposure to the patient from repeat procedures. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel also noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical

shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that bone densitometers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1200; Docket No. 78N–2747; Emission computed tomography system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of emission computed tomography systems:

1. Identification: An emission computed tomography system is a device that is intended to detect the location and distribution of gamma ray- and positron-emitting radionuclides in the body and produce cross-sectional images through computer reconstruction of the data. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical makers, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that emission computed tomography systems be classified into class II because the Panel believes that a performance standard is necessary to control those device characteristics that affect the quality of the image (for example, spatial resolution). Assured image quality will minimize unnecessary radiation exposure caused by repeat procedures due to inadequate device performance. The Panel also believes that electrical safety standards are required to minimize the hazard of electrical shock. Furthermore, because physical injury (trauma) to the patient or operator can result from structural or operating mechanism defects in the device (particularly in the moving patient table and in the camera head), a structural safety standard may be necessary. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the spatial and energy resolution of the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage. (c) Trauma: Failure of the device's structural integrity or control mechanism could cause injury to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that emission computed tomography systems be classified into class II (performance standards). FDA is concerned that device defects due to faulty manufacture might result is misdiagnosis or repeat procedures that increase unnecessarily the amount of radiation to which the patient is exposed. The device may not accurately reproduce the characteristic distribution of administered radionuclides. If the physician uses inaccurate data in managing the patient, the physician may prescribe a course of treatment that places the patient at risk unnecessarily.

The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1220; Docket No. 78N–2748; Fluorescent scanner.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of fluorescent scanners:

1. Identification: A fluorescent scanner is a device intended to be used to measure the induced fluorescent radiation in the body by exposing the body to certain x-rays or low-energy gamma rays. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that fluorescent scanners be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. The Panel believes that electrical safety standards are also required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the spatial resolution of the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). Also, the Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that fluorescent scanners be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. the agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1240; Docket No. 78N–2749; Radionuclide generator.

The Radiological Device Classification Panel, an FDA advisory committee, made the following

recommendation regarding the classification of radionuclide generators:

1. Identification: A radionuclide generator is a device intended to be used for medical purposes to produce and accumulate a desired, relatively short-lived, radionuclide (daughter) by the decay of a stored longer-lived parent radionuclide. The radionuclides are generally contained in a shielded container. The device may include the shielding, piping, and fittings used to aid in the chemical separation (usually by elution) of the daughter from the parent radionuclide.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide generators be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. If the device piping or fittings break, potentially toxic materials could be released. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: (a) Excessive radiation: Improper function of this device can result in patient or operator exposure to excessive radiation that may cause tissue damage. (b) Toxicity: Breakage of the piping or fittings of the device can result in patient or operator exposure to a potentialy toxic chemical that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radionuclide generators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1300; Docket No. 78N-2750; Nuclear rectilinear scanner.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear rectilinear scanners:

1. Identification: A nuclear rectilinear scanner is a device intended to be used to image the distribution of radionuclides in the body by means of a detector or detectors whose position moves in two directions with respect to the patient. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nuclear rectilinear scanners be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information to spatial and energy resolution of the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70-1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that nuclear rectilinear scanners be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1310; Docket No. 78N-2751; Nuclear tomography system.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of nuclear tomography systems:

1. Identification: A nuclear tomography system is a device that is intended to detect nuclear radiation in the body and produce images of a specific cross-sectional plane of the body by blurring or eliminating detail from other planes. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nuclear tomography systems be classified into class II because the Panel believes that a performance standard will control device characteristics, particularly electromechanical malfunction, that affect the quality of the image and will prevent unnecessary radiation exposure to the patient from repeat procedures. The Panel believes that electrical safety standards are also required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard. The Panel also recommends that the device labeling provide information on the spatial and energy resolution of the device and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70-1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that nuclear tomography systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1320; Docket No. 78N–2752; Nuclear uptake probe.

The Radiological Device Classification Panel, and The Ophthalmic Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of nuclear uptake probes:

1. Identification: A nuclear uptake probe is a device intended to be used to measure the amount of radionuclide taken up by a particular organ or body region. This generic type of device may include a single or multiple detector probe, signal analysis and display equipment, patient and equipment supports, component parts, and accessories.
2. Recommended classification: Class II (performance standards). Both Panels recommend that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: Both Panels recommended that nuclear uptake probes be classified into class II (performance standards) because the Panels believe that electrical safety standards are required to minimize the hazard of electrical shock. The Panels believe that general controls along will not provide sufficient control over this characteristic. The Panels believe that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Radiological Device Classification Panel also recommends that the device's labeling provide information on the design energy, recommended operating distance, energy resolution, and field of view at the recommended operating distance, and that inclusion of this information in the labeling be voluntary.
4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' knowledge of, and clinical experience with, the device. The Radiological Device Classification Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).
5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the recommendations of both Panels and is proposing that nuclear uptake probes be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

FDA has reviewed the recommendations of both Panels for nuclear uptake probes and has determined that the classification of this device should be published in the part of the Code of Federal Regulations for radiology devices.

Section 892.1330; Docket No. 78N–2753; Nuclear whole body scanner.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear whole body scanners:

1. Identification: A nuclear whole body scanner is a device intended to be used to measure and image the distribution of radionuclides in the body by means of a wide-aperture detector whose position moves in one direction with respect to the patient. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: the Panel recommends that nuclear whole body scanners be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a standard. The Panel also recommends that the device's labeling provide information on the spatial and energy resolution of the device, and that inclusion of this information in the labeling be voluntary.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).
5. Risks to Health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that nuclear whole body scanners be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1350; Docket No. 78N–2754; Nuclear scanning bed.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear scanning beds:

1. Identification: A nuclear scanning bed is an adjustable bed intended to be used to support a patient during a nuclear medicine procedure.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that nuclear scanning beds be classified into class II because the Panel believes that electrical safety standards are required when appropriate to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).
5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that nuclear scanning beds be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1360; Docket No. 78N–2755; Radionuclide dose calibrator.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radionuclide dose calibrators:

1. Identification: A radionuclide dose calibrator is a radiation detection device intended to be used to assay radionuclides before their administration to patients.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide dose calibrators be classified into class II because the Panel believes that a performance standard is required to ensure proper design and calibration of the device. Miscalibration can cause unnecessarily high or insufficiently low radiation levels. A performance standard is necessary to establish an appropriate radiation dosage to a selected part of the body to ensure the desired therapeutic effect as well as to assay accurately radiopharmaceuticals used in diagnostic procedures. The Panel believes that electrical safety standards are also required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clincial experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the operator.

(b) Excessive radiation: Improper calibration of this device can result in patient exposure to excessive radiation that may cause tissue damage or insufficient radiation for effective diagnosis or treatment.

FDA agrees with the Panel recommendation and is proposing that radionuclide dose calibrators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1370; Docket No. 78N–2756; Nuclear anthropomorphic phantom.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear anthropomorphic phantoms:

1. Identification: A nuclear anthropomorphic phantom is a human tissue facsimile that contains a radioactive source or a cavity in which a radioactive sample can be inserted. It is intended to be used to calibrate nuclear uptake probes or other medical instruments.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that nuclear anthropomorphic phantoms be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' extensive experience with the device, and on their judgment that the device presents no significant risks to health. The device has been in use for many years.

5. Risks to health: None identified.

FDA disagrees with the Panel recommendation and is proposing that nuclear anthropomorphic phantoms be classified into class II (performance standards).

FDA believes that a performance standard will control the construction of, and the materials used in, the device to ensure proper composition and uniformity in the emission of radiation from the device. Failure of this device can cause miscalibration and result in misdiagnosis. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1380; Docket No. 78N–2757; Nuclear flood source phantom.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear flood source phantoms:

1. Identification: A nuclear flood source phantom is a radiolucent container filled with a uniformly distributed solution of a desired radionuclide. It is intended to be used to calibrate a medical gamma camera/collimator system for uniformity of response.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nuclear flood source phantoms be classified into class II because the Panel believes that a performance standard will control the construction and the material of the device to ensure uniformity in the emission of radiation from the device. Nonuniformity in emission can cause miscalibration and result in misdiagnosis. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the degree of uniformity of radiation emissions from the device, and that the inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: Misdiagnosis: Improper device material or construction could cause nonuniformity in the radiation emission from the device. This emission nonuniformity could lead to poor instrument calibration and result in misdiagnosis.

FDA agrees with the Panel recommendation and is proposing that nuclear flood source phantoms be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1390; Docket No. 78N–2750; Radionuclide rebreathing system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radionuclide rebreathing systems:

1. Identification: A radionuclide rebreathing system is a device intended to be used to contain a gaseous or volatile radionuclide or a radionuclide-labeled aerosol and permit it to be respired by the patient during nuclear medicine ventilatory tests (testing process of exchange between the lungs and the atmosphere). This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide rebreathing systems be classified into class II because the Panel believes that a performance standards will minimize the hazard of unintended leakage of radiation and radioactive material caused by faulty construction of the device and shielding. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel also noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage or insufficient radiation for effective diagnosis or treatment.

FDA agrees with the Panel recommendation and is proposing that radionuclide rebreathing systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1400; Docket No. 78N–2759; Nuclear sealed calibration source.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nuclear sealed calibration sources:

1. Identification: A nuclear sealed calibration source is an encapsulated reference radionuclide intended to be used for calibration of medical nuclear radiation detectors.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nuclear sealed calibration sources be classified into class II because the panel believes that a performance standard will minimize the hazard of unintended leakage of radioactive material caused by faulty materials and construction of the device. This device must have a predictable radiation level and remain sealed. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the quantity of radionuclide contained in the device, and that the inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that nuclear sealed calibration sources be classified into class II (performance standards). The agency believes that a performance standard is necessary for nuclear sealed calibration sources because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. FDA also believes that there is sufficient information to establish a performance standard for this device.

Section 892.11410; Docket No. 78N–2760; Nuclear electrocardiograph synchronizer.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of nuclear electrocardiograph synchronizers:

1. Identification: A nuclear electrocardiograph synchronizer is a device intended for use in nuclear radiology to relate the time of image formation to the cardiac cycle during the production of dynamic cardiac images.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nuclear electrocardiograph synchronizers be classified into class II (performance standards) because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that nuclear electrocardiograph synchronizers be classified into class II (performance standards). The agency believes that a performance standard is necessary for nuclear electrocardiograph synchronizers because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1420; Docket No. 78N–2761; Radionuclide test pattern phantom.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of radionuclide test pattern phantoms:

1. Identification: A radionuclide test pattern phantom is a device that consists of an arrangement of radiopaque or radioactive

material sealed in a solid pattern that is intended to serve as a test for a performance characteristic of a nuclear medicine imaging device.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide test pattern phantoms be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation leakage caused by faulty material factors and construction of the device. The device must remain sealed. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the quantity of radionuclide contained in the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Nuclear Regulatory Commission has promuglated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radionuclide test pattern phantoms be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for the device.

Section 892.1450; Docket No. 78N-2762; Telethermographic system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of telethermogrtaphic systems:

1. Identification: A telethermographic system is a device with a detector that is intended to measure, without touching the patient's skin, the self-emanating infrared radiation that reveals the temperature variations of the surface of the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that telethermographic systems be classified into class II because the panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the spatial resolution, temperature resolution, and sensitivity of the device and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees in part with the Panel recommendation and is proposing that telethermographic systems be classified into class II (performance standards) except when intended for use alone in diagnostic screening for detection of breast cancer. The agency has reviewed the recommendation and has obtained other data and information describing the use of this device to screen for or diagnose breast cancer. When used to detect breast pathology, the telethermographic system should be used only as an adjunct to clinical examination and mammography (Refs. 2 and 3). The device should be used only when proper patient history and physical breast palpation are included as part of the clinical protocol. The agency is particularly concerned about the high rate of false-negative results when this device is used alone in screening for breast cancer. The National Institutes of Health, the National Cancer Institute, and the American Cancer Society sponsored a consensus development conference on September 14–16, 1977 to consider wide-scale beast cancer screening, including that conducted by the Breast Cancer Detection Demonstration Projects (BCDDP). The Consensus Development Panel stated that new diagnostic and screening procedures clearly are needed (Ref. 4). Therefore, there should be renewed emphasis on research on noninvasive techniques, such as thermography. Unlike mammography, thermography does not present the inherent risk of radiation exposure. However, because the potential benefits of thermography remain undocumented, use of this device as a routine part of the BCDDP screening should be discontinued. FDA believes that a performance standard is necessary for this device when it is used as an adjunct to physical palpation or mammography because general controls alone are insufficient to control the risks to health presented by the device. When the device is so used, a performance standard will provide reasonable assurance of its safety and effectiveness. The agency also believes that there is sufficient information to establish a performance standard for this use of this device.

Telethermographic systems are capable of, and have been offered for, use alone as a diagnostic screening procedure for the detection of breast cancer. Because of the concerns described above, FDA is proposing that telethermographic systems for use without physical palpation or mammography in diagnostic screening for detection of brease cancer be classified into class III (premarket approval). The agency believes that the device is purported or represented to be for a use (use alone in diagnostic screening for detection of breast cancer), which is of substantial importance in preventing impairment of human health. The agency also believes that this device presents a potential unreasonable risk of illness or injury. The device's failure to detect breast cancer, and thereby to enable treatment to begin during the early stages of cancer, may allow the undetected disease to worsen so that effective treatment may no longer be possible. Premarket approval is necessary for the device for use alone in diagnostic screening for detection of breast cancer because general controls and performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device for this use. FDA also believes that there is insufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device for this use.

Section 892.1480; Docket No. 78N–2763; Liquid crystal thermographic system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of liquid crystal thermographic systems:

1. Identification: A non-electrically powered or an AC-powered liquid crystal thermographic system is a non-electrically powered or an AC-powered device intended to be applied to the skin. It displays the color patterns of heat sensitive cholestric liquid crystals that respond to temperature variations of the surface of the body. This generic type of device may include image display and recording equipment, patient and equipment supports, a means to ensure thermal contact between the patient's skin and the liquid crystals, component parts, and accessories.

2. Recommended classification: Class I (general controls) for the nonpowered device; the Panel recommends that there be no exemptions. Class II (performance standards) for the AC-powered device; the Panel recommends that establishing a performance standard for the AC-powered device be a low priority.

3. Summary of reasons for recommendation: the Panel recommends that nonpowered liquid crystal thermographic systems be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Panel recommends that the device be used only to map the patterns showing variations in the body skin temperatures. The device should not be used to indicate a specific value or to make a specific diagnosis. The Panel specifically excludes from its recommendation use of the device alone to screen for detection of breast cancer. The Panel also recommends that the device's labeling provide information on the temperature range of response, shelf life, and instructions for use to ensure adequate skin contact, and that inclusion of this information in the labeling be voluntary.

The Panel recommends that powered liquid crystal thermographic systems be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel recommends that the device be used only to map patterns showing variations in body skin temperatures. The device should not be used to indicate a specific value or to make a specific diagnosis. The Panel specifically excludes from its recommendation use of the device alone to screen for detection of breast cancer. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the temperature range of response, shelf life, and instructions for use to ensure adequate skin contact, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: Liquid crystal thermographic systems were the principal topic of a Panel meeting. At the meeting, the Panel heard presentations from medical researchers and industry on the medical use of liquid crystal technology (Ref. *5*). The Panel members also had available an extensive collection of reprinted materials provided to them in connection with the meeting (Refs. *6* through *12*). Four references dealt directly with the use of thermography in the diagnosis of breast disease. The references concluded that thermography may be useful as an indicator of the extent of breast disease in patients known to have abnormal tissue, but that the device is unreliable when used as a screening technique because of its unacceptable false-negative rate (Refs. *6* throught *9*). Three other references presented data showing the usefulness of liquid crystal thermography in illustrating abnormal skin surface temperatures (Refs. *10, 11,* and *12*). The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health for the nonpowered device: None identified. Risks to health for the AC-powered device: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees in part with the Panel recommendations and is proposing that, except when either type of the device is intended for use alone in diagnostic screening for detection of breast cancer, that nonpowered liquid crystal thermographic systems be clasified into class I (general controls) with no exemptions and that AC-powered liquid crystal thermographic systems be classified into class II (performance standards). The agency believes that the controls described above are sufficient to provide reasonable assurance of the safety and effectiveness of the device except when intended for use alone in diagnostic screening for detection of breast cancer.

The agency has reviewed the recommendations and has obtained other data and information describing the investigational use of this device to screen for or diagnose breast cancer, and FDA is particularly concerned about the high rate of false-negative results from use alone, in screening for breast cancer, of either the nonpowered or the AC-powered types of the device. The agency shares the Panels' views that nonpowered or AC-powered liquid crystal thermographic systems should be used only as an adjunct to clinical examination and mammography. The device should be used only when proper patient history and physical breast palpation are included as part of the clinical protocol. The National Institutes of Health, the National Cancer Institute, and the American Cancer Society sponsored a consensus development conference on September 14–16, 1977 to consider wide-scale breast cancer screening, including that conducted by the Breast Cancer Detection Demonstration Projects (BCDDP). The Consensus Development Panel stated that new diagnostic and screening procedures clearly are needed (Ref. *13*). Therefore, there should be renewed emphasis on research on noninvasive techniques, such as thermography. Unlike mammography, thermography does not present the inherent risk of radiation exposure. However, because the potential benefits of thermography remain undocumented, use of this device as a routine part of the BCDDP screening should be discontinued.

Both the nonpowered and the AC-powered type of the device are capable of, and have been offered for, use alone as a diagnostic screening procedure for the detection of breast cancer. Because of the concerns described above, FDA is proposing that nonpowered and AC-powered liquid crystal thermographic systems for use without physical palpation or mammography in diagnostic screening for breast cancer be classified into class III (premarket approval). The agency believes that both the nonpowered and the AC-powered liquid crystal thermographic systems are purported or represented to be for a use (use alone in diagnostic screening for detection of breast cancer) which is of substantial importance in preventing impairment of human health. The agency also believes that both the nonpowered and the AC-powered liquid crystal thermographic systems present a potential unreasonable risk of illness or injury. The devices' failure to detect breast cancer, and thereby to enable treatment to begin during the early stages of cancer, may allow the untreated disease to worsen so that effective treatment may no longer be possible. Premarket approval is necessary for the device for use alone in diagnostic screening for detection of breast cancer because general controls and performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device for this use. FDA also believes that there is insufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device for this use.

Section 892.1540; Docket No. 78N–2765; Nonfetal ultrasonic monitor.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nonfetal ultrasonic monitors:

1. Identification: A nonfetal ultrasonic monitor is a device that projects a continuous high-frequency sound wave into body tissue other than a fetus to determine frequency changes (doppler shift) in the reflected wave and is intended to be used in the investigation of nonfetal blood flow and of other nonfetal body tissues in motion. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that nonfetal ultrasonic monitors be classified into class II (performance standards) because the Panel believes that standards are necessary to ensure that the emitted ultrasonic energy does not reach levels of radiation unsafe to the patient. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of this device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on an extensive review of the data presented to it and to the Biologic Effects of Ultrasound Subcommittee of the Obstetrical and Gynecological Device Classification Panel (Ref. 14). These data, in conjunction with the personal knowledge and wide experience of some Panel members, reveal no observable damage to tissue occurring at power levels below 100 milliwatts per square centimeter (spatial peak, temporal average) of ultrasonic energy with a time exposure normal for disgnostic purposes. This finding has been published in a statement of the American Institute of Ultrasound in Medicine (AIUM) (Ref. 15). To the Panel's knowledge, no currently marketed device exceeds that power limit. A followup study of children exposed to diagnostic doses in the womb found no evidence of deleterious effects of ultrasound (Ref. *18*). However, the Panels do recommend that exposure (duration, area, and output intensity) be minimized, consistent with obtaining necessary clinical information, in any ultrasonic examination of the female abdomen when pregnancy is possible because the effects upon the unborn from routine clinical use are unknown at this time. The chairman of a technical committee of the National Electrical Manufacturers' Association (NEMA) presented a proposal for diagnostic ultrasonic equipment parameters to the Biologic Effects on Ultrasound Subcommittee (Ref. *16*). The Obstetrical and Gynecological Device Classification Panel recommends that NEMA's maximum allowable values of ultrasonic energy and parameters suggested for the labeling of ultrasonic devices be used as interim guidelines for developing a performance standard for diagnostic ultrasonic devices.

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Tissue damage: The device's ultrasonic energy may produce tissue damage if the energy output is not controlled.

FDA agrees with the Panel recommendation and is proposing that nonfetal ultrasonic monitors be classified into class II (performance standards). The agency believes that the nonfetal ultrasonic monitor must meet certain measurement requirements to assure that it produces signals corresponding to the physiological condition. Stratmeyer's review (Ref. *17*) of the possible biological effects of ultrasound includes references to investigations showing that exposures of ultrasonic energy similar to those used in ultrasonic diagnostic diagnostic devices may cause biological effects in laboratory animals. Although those investigations are cause for concern, the agency regards them as inconclusive at this time. The studies have yet to be verified, and some investigators question the methods or the findings of these investigations or their applicability to humans. The Biological Effects of Ultrasound Subcommittee of FDA's Obstetrical and Gynecological Device Classification Panel has reviewed the possible adverse effects of diagnostic ultrasound devices. (The Subcommittee was established because of FDA's special concerns about the obstetrical use of ultrasound, which are based on the animal studies referred to above that showed various biological effects from prenatal ultrasound exposures (Ref. *17*).) The Subcommittee concluded that there is sufficient information available to establish a standard for diagnostic ultrasound devices generally (Refs. *18, 19,* and *20*).

FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1550; Docket No. 78N–2766; Ultrasonic pulsed doppler imaging system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ultrasonic pulsed doppler imaging systems:

1. Identification: An ultrasonic pulsed doppler imaging system is a device that combines the features of continuous wave doppler-effect technology with pulsed-echo effect technology and is intended to be used to determine stationary body tissue characteristics such as depth or location of tissue interfaces or dynamic tissue characteristics such as velocity of blood or tissue motion. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ultrasonic pulsed doppler imaging systems be classified into class II (performance standards) because the Panel believes that standards are necessary to assure that the emitted ultrasonic energy does not reach levels of radiation unsafe to the patient. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of this device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on an extensive review of the data presented to it and to the Biologic Effects of Ultrasound Subcommittee of the Obstetrical and Gynecological Device Classification Panel (Ref. *21*). These data, in conjunction with the personal knowledge and wide experience of some Obstetrical and Gynecological Device Classification Panel members, reveal no observable damage to tissue occurring at power levels below 100 milliwatts per square centimeter (spatial peak, temporal average) of ultrasonic energy with a time exposure normal for diagnostic purposes. This finding has been published in a statement of the American Institute of Ultrasound in Medicine (AIUM) (Ref. *22*). To the Panel's knowledge, no currently marketed device exceeds that power limit. A followup study of children exposed to diagnostic doses in the womb found no evidence of deleterious effects of ultrasound (Ref. *25*). However, the Panels do recommend that exposure (duration, area, and output intensity) be minimized, consistent with obtaining necessary clinical information, in any ultrasonic examination of the female abdomen when pregnancy is possible because the effects upon the unborn from

routine clinical use are unknown at this time. The chairperson of a technical committee of the National Electrical Manufacturers' Association (NEMA) presented a proposal for diagnostic ultrasonic equipment parameters to the Biological Effects of Ultrasound Subcommittee (Ref. *23*). The Obstetrical and Gynecological Device Classification Panel recommends that NEMA's maximum allowable values of ultrasonic energy and parameters suggested for the labeling of ultrasonic devices be used as interim guidelines for developing a performance standard for diagnostic ultrasonic devices.

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Tissue damage: The device's ultrasonic energy may produce tissue damage if the energy output is not controlled.

FDA agrees with the Panel recommendation and is proposing that ultrasonic pulsed doppler imaging systems be classified into class II (performance standards). The agency believes that ultrasonic pulsed doppler imaging systems must meet certain measurement requirements to ensure that they produce signals corresponding to the physiological condition. Stratmeyer's review (Ref. *24*) of the possible biological effects of ultrasound includes references to investigations showing that exposures of ultrasonic energy similar to those used in diagnostic devices may cause biological effects in laboratory animals. Although those investigations are cause for concern, the agency regards them as inconclusive at this time. The studies have yet to be verified, and some investigators question the methods or the findings of these investigations or their applicability to humans. The Biological Effects of Ultrasound Subcommittee of FDA's Obstetrical and Gynecological Device Classification Panel has reviewed the possible adverse effects of diagnostic ultrasound devices. (The Subcommittee was established because of FDA's special concerns about the obstetrical use of ultrasound, which are based on the animal studies referred to above that showed various biological effects from prenatal ultrasound exposures (Ref. *24*). The Subcommittee concluded that there is sufficient information available to establish a standard for diagnostic ultrasound devices generally (Refs. *25*, *26*, and *27*).

The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 829.1560; Docket No. 78N–2767; Ultrasonic pulsed echo imaging system.

The Radiological Device Classification Panel and the Ophthalmic Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of ultrasonic pulsed echo imaging systems:

1. Identification: An ultrasonic pulsed echo imaging system is a device that is intended to project a pulsed sound beam into body tissue to determine the depth or location of the tissue interfaces and to measure the duration of an acoustic pulse from the transmitter to the tissue interface and back to the receiver. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). Both Panels recommend that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: Both Panels recommend that ultrasonic pulsed echo imaging systems be classified into class II (performance standards) because the Panels believe that standards are necessary to ensure that the emitted ultrasonic energy does not reach levels of radiation unsafe to the patient. The Panels believe that electrical safety standards also are required to minimize the hazard of electrical shock. The Panels believe that general controls alone would not provide sufficient control over these characteristics. The Panels believe that a performance standard will provide reasonable assurance of the safety and effectiveness of this device, and that information is sufficient to establish a performance standard. The Ophthalmic Device Classification Panel recommends that the device labeling provide information on the accuracy, reproducibility, or limitations of the measurements of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' knowledge of, and clinical experience with, the device and on an extensive review of the data presented to the Panels and to the Biologic Effects of Ultrasound Subcommittee of the Obstetrical and Gynecological Device Classification Panel (Ref. *28*). These data, in conjunction with the personal knowledge and wide experience of some Obstetrical and Gynecological Device Classification Panel members, reveal no observable damage to tissue occurring at power levels below 100 milliwatts per square centimeter (spatial peak, temporal average) of ultrasonic energy with a time exposure normal for diagnostic purposes. This finding has been published in a statement of the American Institute of Ultrasound in Medicine (AIUM) (Ref. *29*). To the Panel's knowledge, no currently marketed device exceeds that power limit. A followup study of children exposed to diagnostic doses in the womb found no evidence of deleterious effects of ultrasound (Ref. *32*). However, the Panels do recommend that exposure (duration, area, and output intensity) be minimized, consistent with obtaining necessary clinical information, in any ultrasonic examination of the female abdomen when pregnancy is possible because the effects upon the unborn from routine clinical use are unknown at this time. The chairman of a technical committee of the National Electrical Manufacturers' Association (NEMA) presented a proposal for diagnostic ultrasonic equipment parameters to the Biological Effects of Ultrasound Subcommittee (Ref. *30*). The Obstetrical and Gynecological Device Classification Panel recommends that NEMA's maximum allowable values of ultrasonic energy and parameters suggested for the labeling of ultrasonic device be used as interim guidelines for developing a performance standard for diagnostic ultrasonic devices.

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Tissue damage: The device's ultrasonic energy may produce tissue damage if the energy output is not controlled.

FDA agrees with both Panels' recommendations and is proposing that ultrasonic pulsed echo imaging systems be classified into class II (performance standards). The agency believes that ultrasonic pulsed echo imaging systems must meet certain measurement requirements to ensure that they produce signals corresponding to the physiological condition. Stratmeyer's review (Ref. *31*) of the possible biological effects of ultrasound includes references to investigations showing that exposures of ultrasonic energy similar to those used in ultrasonic diagnostic devices may cause biological effects in laboratory animals. Although those investigations are cause for concern, the agency regards them as inconclusive at this time. The studies have yet to be verified, and some investigators question the methods or the findings of these investigations or their applicability to humans. The Biological Effects of Ultrasound Subcommittee of FDA's Obstetrical and Gynecological Device Classification Panel has reviewed the possible adverse effects of diagnostic ultrasound devices. (The Subcommittee was established because of FDA's special concerns about the obstetrical use of ultrasound, which are based on the animal studies referred to above that showed various biological effects from prenatal ultrasound exposures (Ref. *31*).) The Subcommittee concluded that there is sufficient information available to establish a standard for diagnostic

ultrasound devices generally (Refs. *32*, *33*, and *34*).

The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1570; Docket No. 78N–2768; Diagnostic ultrasonic transducer.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of diagnostic ultrasonic transducers:

1. Identification: A diagnostic ultrasonic transducer is a device made of a piezoelectric material that converts electrical signals into acoustic signals and acoustic signals into electrical signals. It is intended for use in diagnostic medical ultrasonic devices. Accessories for this generic type of device include transmission media for acoustically coupling the transducer to the body surface such as, acoustic gel, paste, or a flexible fluid container.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that diagnostic ultrasonic transducers be classified into class II because the Panel believes that standards are necessary to ensure that emitted ultrasonic energy does not reach levels of radiation unsafe to the patient. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of this device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on an extensive review of the data presented to it and to the Biologic Effects of Ultrasound Subcommittee of the Obstetrical and Gynecological Device Classification Panel (Ref. *35*).
These data, in conjunction with the personal knowledge and wide experience of some Panel members, reveal no observable damage to tissue occurring at power levels below 100 milliwatts per square centimeter (spatial peak, temporal average) of ultrasonic energy with a time exposure normal for diagnostic purposes. This finding has been published in a statement of the American Institute of Ultrasound in Medicine (AIUM) (Ref. *36*). To the Panel's knowledge, no currently marketed device exceeds that power limit. A followup study of children exposed to diagnostic doses in the womb found no evidence of deleterious effects of ultrasound (Ref. *39*). However, the Panel does recommend that exposure (duration, area, and output intensity) should be minimized, consistent with obtaining necessary clinical information, in any ultrasonic examination of the female abdomen when pregnancy is possible because the effects upon the unborn from routine clinical use are unknown at this time. The chairman of a technical committee of the National Electrical Manufacturers' Association (NEMA) presented a proposal for diagnostic ultrasonic equipment parameters to the Biologic Effects of Ultrasound Subcommittee (Ref. *37*). The Obstetrical and Gynecological Device Classification Panel recommends that NEMA's maximum allowable values of ultrasonic energy and parameters suggested for the labeling of ultrasonic devices be used as interim guideline for developing a performance standard for diagnostic ultrasonic devices.

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Tissue damage: The device's ultrasonic energy may produce tissue damage if the energy output is not controlled.

FDA agrees with the Panel recommendation and is proposing that diagnostic ultrasonic transducers be classified into class II (performance standards). The agency believes that ultrasonic devices must meet certain measurement requirements to ensure they produce signals corresponding to the physiological condition. Stratmeyer's review (Ref. *38*) of the possible biological effects of ultrasound includes references to investigations showing that exposures of ultrasonic energy similar to those used in ultrasonic diagnostic devices may cause biological effects in laboratory animals. Although those investigations are cause for concern, FDA regards them as inconclusive at this time. The studies have yet to be verified, and some investigators question the methods or the findings of these investigations or their applicability to humans. The Biological Effects of Ultrasound Subcommittee of FDA's Obstetrical and Gynecological Device Classification Panel has reviewed the possible adverse effects of diagnostic ultrasound devices. (The Subcommittee was established because of FDA's special concerns about the obstetrical use of ultrasound, which are based on the animal studies referred to above that showed various biological effects from prenatal ultrasound exposures (Ref. *38*).) The Subcommittee concluded that there is sufficient information available to establish a standard for diagnostic ultrasound devices generally (Refs. *39*, *40*, and *41*).

The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1600; Docket No. 78N–2769; Angiographic x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of angiographic x-ray systems:

1. Identification: A angiographic x-ray system is a device intended for radiologic visualization of the heart, blood vessels, or lymphatic system during or after injection of a contrast medium. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that angiographic x-ray systems be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. The Panel believes that electrical safety standards are also required to minimize the hazard of electrical shock. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health, FDA, has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that angiographic x-ray systems be classified

into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1610; Docket No. 78N–2770; Diagnostic x-ray beam-limiting device.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of diagnostic x-ray beam-limiting devices:

1. Identification: A diagnostic x-ray beam-limiting device is a device such as a collimator, a cone, or an aperture that is intended to restrict the dimensions of a diagnostic x-ray field by limiting the size of the primary x-ray beam.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that diagnostic x-ray beam-limiting devices be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation from an inaccurately directed or limited radiation beam or from leakage of radiation caused by faulty construction of the device shielding. If this device is not properly aligned with the image receptor, the patient or operator could be exposed to hazardous radiation. Malfunction or faulty manufacture that causes the x-ray field to have dimensions other than those required could also expose the patient or operator to radiation unnecessarily. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a performance standard. The Panel also recommends that the device's labeling provide information on the size of the field at a specified distance and the lead equivalent radiopacity of the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that diagnostic x-ray beam-limiting devices be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1620; Docket No. 78N–2771; Cine or spot fluorographic x-ray camera.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cine or spot fluorographic x-ray cameras:

1. Identification: A cine or spot fluorographic x-ray camera is a device intended to photograph diagnostic images produced by x-rays with an image intensifier.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that cine or spot fluorographic x-ray cameras be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that cine or spot fluorographic x-ray cameras be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1630; Docket No. 78N–2772; Electrostatic x-ray imaging system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of eletrostatic x-ray imaging systems:

1. Identification: an electrostatic x-ray imaging system is a device intended for medical purposes that uses an electrostatic field across a semiconductive plate, a gas-filled chamber, or other similar device to convert a pattern of x-radiation into an electrostatic image and, subsequently, into a visible image. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that electrostatic x-ray imaging systems be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that electrostatic x-ray imaging systems be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient

information to establish a standard to provide this assurance.

Section 892.1640; Docket No. 78N–2773; Radiographic film marking x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiographic film marking x-ray systems:

1. Identification: A radiographic film marking x-ray system is a device intended for medical purposes to add identification and other information onto radiographic film by means of x-ray exposure.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiographic film marking x-ray systems be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation. This device is intended to produce radiation solely to affix information onto x-ray films and should not allow significant amounts of radiation to reach any person. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for cabinet x-ray systems (21 CFR 1020.40), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiographic film marking x-ray systems be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1650; Docket No. 78N–2774; Image-intensified fluoroscopic x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of image-intensified fluoroscopic x-ray systems:

1. Identification: An image-intensified fluoroscopic x-ray system is a device intended to visualize anatomical structures by converting a pattern of x-radiation into a visible image through electronic amplification. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that image-intensified fluoroscopic x-ray systems be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation from an inaccurately limited or directed radiation beam. The Panel states that the x-ray field size and beam size must be controlled. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the specifications of the image-intensifier tube, conversion efficiency, quantum detection efficiency, output contrast, resolution, and field uniformity, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel also noted information and data contained in an article by Miller et al. (Ref. *42*) and the two-volume text by Margulis and Burhenne (Ref. *43*).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that image-intensified fluoroscopic x-ray systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide the assurance.

Section 892.1660; Docket No. 78N–2775; Non-image-intensified fluoroscopic x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of non-image-intensified fluoroscopic x-ray systems:

1. Identification: A non-image-intensified fluoroscopic x-ray system is a device intended to be used to visualize anatomical structures by using a fluorescent screen to convert a pattern of x-radiation into a visible image. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: The Panel recommends that this device be banned and removed from the market.

3. Summary of data on which the recommendation is based: The Panel recommends that non-image-intensified fluoroscopic x-ray systems be removed from the market because other devices that are more effective and that are safety can perform the same task. The Panel believes that the non-image-intensified fluoroscopic x-ray systems are not effective, and that patients are exposed to unnecessary radiation. The Panel believes that a performance standard for fluoroscopic x-ray systems should require the use of image intensification and that the x-ray field size and beam size must be controlled. The Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard requiring use of image intensification will provide reasonable assurance of the safety of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and experience with, the device. The Panel members discussed the effectiveness of the direct-viewing fluoroscopic system, which has no image intensification (Refs. *44* through *46*). At their meeting of February 25, 1977, the Panel members voted five-to-one that this device

should be removed from the market (Ref. *47*). The Panel reasoned that while other devices are available which are safe and effective, this device is not effective without image intensification. As a consequence, patients are exposed to unnecessarily high doses of radiation when this device is used. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA disagrees with the Panel recommendation and is proposing that non-image-intensified fluoroscopic x-ray systems be classified into class II (performance standards). FDA believes that available evidence is not sufficient to remove non-image-intensified fluoroscopic x-ray systems from the market. Although this device may be less effective than image-intensified systems in producing diagnostic images, available data do not support the opinion that this device is not effective.

The agency has found little comparative data in the literature regarding the relative effectiveness of, or radiation doses from, image-intensified and non-image-intensified fluoroscopic x-ray systems. Unpublished data derived from the 1970 X-Ray Exposure Study conducted by the Public Health Service (Ref. *48*) show, from a limited number of surveys, that the exposure rates from the two devices, when properly used, are approximately the same. In addition, a recent artricle by Loehr, Vogel, Reinhart and Jantzen (Ref. *49*) states that, in most instances, patient dose increased when non-image-intensified systems were replaced with image-intensified systems. Thus, the possible benefit of increased diagnostic information from image-intensified systems was obtained at increased radiation dose to the patient.

FDA acknowledges that image-intensified fluoroscopy may be a more effective diagnostic tool than non-image-intensified fluoroscopy. However, in certain instances, non-image-intensified fluoroscopic x-ray systems may serve a useful purpose. For example, in some remote areas image-intensified fluoroscopic x-ray systems are not available. In addition, repair of image-intensified x-ray systems in remote health care facilities may be difficult to obtain in a timely fashion. Thus, removing this device from the market could severely limit the availability of necessary diagnostic tests in such facilities.

The agency notes that the better effectiveness of image-intensified fluoroscopy has been recognized in the memorandum to Federal health care facilities concerning the use of diagnostic x-ray examinations that was published in the **Federal Register** of February 1, 1978 (43 FR 4377). In this document, Federal facilities were directed to use, wherever possible, image-intensified fluoroscopic x-ray systems with electronic image holding features. It was implicitly recognized, however, that the use of such equipment may not always be feasible.

FDA is currently helping to implement the memoradnum to Federal health care facilities. Furthermore, the Bureau of Radiological Health of FDA is working to establish a voluntary program which would translate this guidance into recommendations that may be applicabile to non-Federal facilities as well. This voluntary program will help to decrease the use of non-image-intensified fluoroscopy at facilities where the use of image-intensified fluoroscopy is reasonable or necessary.

FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control any risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1670; Docket No. 78N–2776; Spot-film device.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of spot-film devices:

1. Identification: A spot-film device is an electromechanical component of a fluoroscopic x-ray system that is intended to be used for medical purposes to position a radiographic film cassette to obtain radiographs during fluoroscopy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that spot-film devices be classified into class II because the Panel believes that a performance standard is necessary to establish controls on the device characteristics, particularly proper alignment, that affect the quality of the image and that could cause unnecessary radiation exposure from repeat procedures. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristrics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that spot film devices be classified into class II (performance standards). FDA believes that performance standards are necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1680; Docket No. 78N–2777; Stationary x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of stationary x-ray systems:

1. Identification: A stationary x-ray system is a permanently installed diagnostic system intended to generate and control x-rays for examination of various anatomical regions. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device by a low priority.

3. Summary of reasons for recommendation: The Panel recommends that stationary x-ray systems be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device. The Panel believes that electrical safety standards also

are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable asurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that stationary x-ray systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1700; Docket No. 78N–2778; Diagnostic x-ray high voltage generator.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of diagnostic x-ray high voltage generators:

1. Identification: A diagnostic x-ray high voltage generator is a device that is intended to supply and control the electrical energy applied to a diagnostic x-ray tube for medical purposes. This generic type of device may include a converter that changes alternating current to direct current, filament transformers for the x-ray tube, high voltage switches, electrical protective devices, or other appropriate elements.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that diagnostic x-ray high voltage generators be classified into class II because the Panel believes that a standard will control the characteristics of the device that affect the quality of the image and will consequently reduce the possibility of unnecessary radiation exposure to the patient from the need to repeat procedures. The voltage, amperage, and time factors must be accurately controlled, because a small calibration change can cause a significant change in the quality of the image. The Panel recommends that manufacturers incorporate step increments for calibration, particularly on amperage and time controls, which facilitate selection of exposure parameters. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that sufficient information is available to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. Mr. Melvin Judkins, a Panel member, described the device characteristics that must be controlled (Ref. *50*). He also presented the Report of the Inter-Society Commission for Heart Disease Resources that defines optimal facility and equipment criteria for conventional chest x-rays and radiologic equipment requirements for cardiovascular surgical operating rooms and intensive care units (Ref. *51*). The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that diagnostic x-ray high voltage generators be classified into class II (performance standards). The agency has reviewed the Panel recommendation and has obtained other data and information concerning this device. The agency believes that it is essential that technical variables (kilovoltage, milliamperes, exposure time, and focal spot size) are accurate and reproducible to produce radiographs of consistent quality. FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1710; Docket No. 78N–2779; Mammographic x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mammographic x-ray systems:

1. Identification: A mammographic x-ray system is a device intended to be used to produce radiographs of the breast. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that mammographic x-ray systems be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device's shielding. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that information is sufficient to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that mammographic systems be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1720; Docket No. 78N–2780; Mobile x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mobile x-ray systems:

1. Identification: A mobile x-ray system is a transportable device system intended to be used to generate and control x-rays for diagnostic procedures. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that mobile x-ray systems be classified into class II because the Panel believes a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. Furthermore, because physical injury (trauma) to the patient or operator can result from structural or operating mechanism defects in the device, a safety standard may be necessary. Those units labeled as explosion-proof should be guaranteed by a standard for use in an atmosphere containing flammable gases. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage. (c) Trauma: Failure of the device's structural integrity or control mechanism could cause injury to the patient or operator. (d) Explosion: Failure of electrical shielding labeled as explosion-proof could cause an explosion in an area where flammable anesthetic gases are used.

FDA agrees with the Panel recommendation and is proposing that mobile x-ray systems be classified into class II (performance standards). The agency has reviewed the Panel recommendation and has obtained other data and information concerning this device (Refs. *52* and *53*). These data show tube housing leakage, spurious radiation when the resistance of the filament standby-temperature-limiting resistors are below 250 ohms, and the possibility of radiation being emitted at times other than during exposure due to failure of the x-ray tube grid bias. Evaluation of this device also reveals problems of (1) equipment abuse and failure related to difficult maneuvering in the clinical setting, and (2) radiation exposure because heavy shielding is inconvenient to transport (Ref. *54*). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1730; Docket No. 78N–2781; Photofluorographic x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of photofluorographic x-ray systems:

1. Identification: A photofluorographic x-ray systems is a device that includes a fluoroscopic x-ray unit and a camera intended to be used to produce, then photograph, a fluoroscopic image of the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that photofluorographic x-ray systems be classified into class II (performance standards) because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that photofluorographic x-ray systems be classified into class II (performance standards). FDA believes a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1740; Docket No. 78N–2782; Tomographic x-ray system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of tomographic x-ray systems:

1. Identification: A tomographic x-ray system is an x-ray device intended to be used to produce radiographic images of a specific cross-sectional plane of the body by blurring or eliminating detail from other planes. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that tomographic x-ray systems be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. Electromechanical malfunction of the device will affect the quality of the image, leading to unnecessary radiation exposure to the patient from repeat procedures. A performance standard will minimize this hazard. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based

its recommendation on the Panel members' knowledge of, and clincial experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiographic tomographic systems be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1750; Docket No. 78N–2783; Computed tomography x-ray system.

The Radiological Device Classification Panel and the Neurological Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of computed tomography x-ray systems:

1. Identification: A computed tomography x-ray system is a diagnostic x-ray system intended to produce cross-sectional images of the body by computer reconstruction of x-ray transmission data from the same axial plane taken at different angles. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Radiological Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The Neurological Device Classification Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Radiological Device Classification Panel and the Neurological Device Classification Panel recommend that computed tomography x-ray systems be classified into class II because the Panels believe that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. The Panels believe that electrical safety standards are required to minimize the hazard of electrical shock. The Neurological Device Classification Panel notes the possibility of incorrect diagnosis if the device's imaging performance is not adequate, specifically if the spatial and the density resolution characteristics are not adequate. Both Panels believe that general controls alone would not provide sufficient control over these characteristics. Both Panels believe that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Radiological Device Classification Panel and the Neurological Device Classification Panel based their recommendations on their Panel members' knowledge of, and clinical experience with, the device. In addition, expert individuals presented data and information at meetings of both Panels. The Radiological Device Classification Panel extensively discussed the effectiveness of computed body tomography (CT) and emphasized the importance of acquiring skill to interpret CT data accurately (Ref. *55*). This Panel also reviewed a policy statement of the National Academy of Sciences on this device (Ref. *56*). The Radiological Device Classification Panel and the Neurological Device Classification Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage. (c) Misdiagnosis: Poor imaging performance could lead to an incorrect diagnosis.

FDA agrees with the recommendations of the Radiological Device Classification Panel and the Neurological Device Classification Panel and is proposing that computed tomography x-ray systems be classified into class II (performance standards). The agency has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for the classification of radiologic devices. FDA has also obtained data and information concerning the dose and imaging performance of the device (Refs. *57*, *58*, and *59*) in addition to that mentioned in the Panel's recommendation.

The agency believes that many of the risks to health presented by the device are controlled by the performance standards for x-ray products in §§ 1020.30–1020.32 (21 CFR 1020.30–1020.32). These performance standards were promulgated under the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b–263n). In addition, as announced in the **Federal Register** of October 31, 1980 (45 FR 72204), the Bureau of Radiological Health of FDA is proposing to amend the diagnostic x-ray performance standard (21 CFR 1020.30–1020.32) to address the special characteristics of computed tomography x-ray systems.

There are some risks presented by computed tomography x-ray systems (such as, electrical shock and risks associated with mechanically caused trauma) that are not controlled by the present performance standards. For example, FDA believes that a future supplemental standard should address excessive radiation exposure that may result when electromechanical malfunction prevents the x-ray tube from moving continuously. FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.1760; Docket No. 78N–2784; Diagnostic x-ray tube housing assembly.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of diagnostic x-ray tube housing assemblies:

1. Identification: A diagnostic x-ray tube housing assembly is an x-ray generating tube encased in a radiation-shielded housing that is intended for diagnostic purposes. This generic type of device may include high voltage and filament transformers or other appropriate components.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that diagnostic x-ray tube housing assemblies be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device shielding. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device labeling for the

x-ray tube provide information on the focal spot size and spot pinhole pictures at two settings: (1) Known voltage (kV) and low milliamperage (mA), and (2) 80 percent of maximum rating as measured by a star pattern and that inclusion of the information in the device labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel's recommendation and is proposing that diagnostic x-ray tube housing assemblies be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Section 892.1770; Docket No. 78N–2785; Diagnostic x-ray tube mount.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of diagnostic x-ray tube mounts:

1. Identification: A diagnostic x-ray tube mount is a device intended to support and to position the diagnostic x-ray tube housing assembly for a medical radiographic procedure.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that diagnotic x-ray tube mounts be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that diagnostic x-ray tube mounts be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Section 892.1820; Docket No. 78N–2788; Pneumoencephalographic chair.

The Radiological Device Classification Panel and the Neurological Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of pneumoencephalographic chairs:

1. Identification: A pneumoencephalographic chair is a chair intended to be used to support and position a patient during pneumoencephalography (x-ray imaging of the brain).

2. Recommended classification: Class II (performance standards). The Panels recommend that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: Both the Radiological Device Classification Panel and the Neurological Device Classification Panel recommend that pneumoencephalographic chairs be classified into class II because the Panels believe that a performance standard will prevent physical injury of the patient from electromechanical malfunction of the device. The Neurological Device Classification Panel states that the chair must not hinder administration of radio-opaque dyes or medications. In addition, the restraint straps must not significantly affect the patient's blood circulation. Both Panels believe that electrical safety standards also are required to minimize the hazard of electrical shock. Both Panels believe that general controls alone would not provide sufficient control over these characteristics. The Radiological Device Classification Panel and the Neurological Device Classification Panel believe that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Radiological Device Classification Panel and the Neurological Device Classification Panel based their recommendations on the Panel members' knowledge of, and clinical experience with, the device. The Radiological Device Classification Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (1) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Trauma: Failure of the device's structural integrity or control mechanism could cause injury to the patient or operator. (c) Venous or arterial constriction: The restraint straps may hold the patient too tightly and constrict blood flow.

FDA agrees with the recommendations of the Radiological Device Classification Panel and the Neurological Device Classification Panel and is proposing that pneumoencephalographic chairs be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. The agency has reviewed the recommendations of both Panels and has determined that the classification of this device should be published in the part of the Code of Federal Regulations for radiology devices.

Section 892.1830; Docket No. 78N–2789; Radiologic patient cradle.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiologic patient cradles:

1. Identification: A radiologic patient cradle is a support device intended to be used for rotational positioning about the longitudinal axis of a patient during radiologic procedures.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiologic patient cradles be classified into

class II because the Panel believes that a standard will control the amount of absorbancy of radiation by the cradle and minimize the hazard of an unnecessarily high dosage of radiation to the patient to obtain adequate radiographs. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiologic patient cradles be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Section 892.1840; Docket No. 78N–2790; Radiographic film.

The Radiological Device Classification Panel and the Dental Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of radiographic films:

1. Identification: Radiographic film is a thin sheet of radiotransparent material coated on one or both sides with a photographic emulsion that is intended to be used to record images during dianostic radiologic procedures.

2. Recommended classification: Class I (general controls). The Radiological Device Classification Panel and the Dental Device Classification Panel recommend that this device be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Radiological Device Classification Panel and the Dental Device Classification Panel recommend that radiographic films be classified into class I because both Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Radiological Device Classification Panel and the Dental Device Classification Panel recommend that this device be exempt from registration, device listing, and premarket notification under section 510 of the act because the Panels believe that FDA does not need to know who manufactures this simple device. Both Panels recommend that this device be exempt from the records and reports regulation under section 519 of the act because the Radiological Device Classification Panel and the Dental Device Classification Panel believe that, with regard to this device, the information required under this section of the act will serve no useful purpose. The Radiological Device Classification Panel recommends that this device be exempted from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that, because film manufacture requires such exacting tolerances and because poor quality film is discovered immediately, there is no need to impose added regulations which probably would only increase its cost. The Dental Device Classification Panel also recommends that this device be exempted from the good manufacturing practice regulation under section 520(f) of the act. The Panel believes that enough is known about the history of user experience to determine that the application of further regulations would not improve the safety and effectiveness of the device. The Radiological Device Classification Panel also recommends that the device's labeling provide information on the film characteristics, H and D curves, on the radiographic-intensifying screen compatibility, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' judgment that the device presents no significant risks to health in their extensive experience with the device. The device has been in use for many years.

5. Risks to health: None identified.

FDA agrees with the recommendations of the Panels and is proposing that radiographic films be classified into class I (general controls). FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the recommendations of the Panels that manufacturers of radiographic film be exempt from section 510 of the act (21 U.S.C. 360), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations.

FDA disagrees with the recommendations of the Panels that manufacturers of radiographic film be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i).

In response to the recommendations of the Panels that manufacturers of radiographic film be exempt from the device GMP regulation under section 520(f) of the act (21 U.S.C. 360j(f)), FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198 with respect to complaint files. See the discussion under the heading "Exemptions for Class I Devices," for a complete explanation on the agency's policies concerning exemptions.

The agency has reviewed the recommendations of the Dental Device Classification Panel and the Radiological Device Classification Panel for radiographic film and has determined that classification of this device should be published in the part of the Code of Federal Regulations for radiology devices.

Section 892.1850; Docket No. 78N–2791; Radiographic film cassette.

The Radiological Device Classification Panel and the Dental Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of radiographic film cassettes:

1. Identification: A radiographic film cassette is a device intended to be used during diagnostic x-ray procedures to hold a radiographic film in close contact with an x-ray intensifying screen and to provide a light-proof enclosure for direct exposure of radiographic film.

2. Recommended classification: The Dental Device Classification Panel recommends that the radiographic film cassette be classified into class II and that establishing a performance standard for this device be a low priority. The Radiological Device Classification Panel recommends that radiographic film cassettes be placed into class I (general controls) with no exemptions.

3. Summary of reasons for recommendation: The Radiological Device Classification Panel recommends that the radiographic film cassettes be classified into class I because the Radiological Device Classification Panel believes that general controls are sufficient to provide reasonable

assurance of the safety and effectiveness of this device. The Panel also believes that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or through testing that is done routinely before use. However, the Radiological Device Classification Panel recommends that the device's labeling provide information on the materials used in and the thickness of the front panel or with the aluminum equivalence of the front panel, and that inclusion of this information in the labeling be voluntary. The Dental Device Classification Panel recommends that this device be classified into class II because the Panel believes that the possibility of misdiagnosis exists if the device does not provide good contact between the radiographic film and radiographic intensifying screen. If the front panel of the cassett is thicker than necessary for structural stability, the Panel notes that the patient may be subjected to unnecessary amounts of radiation to expose the film properly. The Dental Device Classification Panel believes that general controls alone would not provide sufficient control over these characteristics. The Dental Device Classification Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Radiological Device Classification Panel based its recommendation on extensive experience with the device, on the Panel members' judgment that the device presents no significant risks to health, and on the fact that the effectiveness of the device can be easily determined by the user. The Dental Device Classification Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device and on presentations at an open Panel meeting (Ref. *60*).

5. Risks to health: None identified by the Radiological Device Classification Panel. The Dental Device Classification Panel identified the following risks to health: (a) Misdiagnosis: If the device does not provide good film-screen contact, inferior images could be produced. Such poor images could lead to a loss in diagnostic information and inappropriate patient treatment. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Dental Device Classification Panel recommendation and is proposing that radiographic film cassettes be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. The agency has reviewed the recommendations of the Panels and has obtained other data and information concerning this device. The agency believes that, given a desired minimum rigidity for the radiographic film cassette front panel, the type and thickness of the material used for the cassette front panel can affect significantly the radiation exposure necessary for a radiographic examination. This view is supported by Kelley and Trout (Ref. *61*), which discusses the measurements of the exposures necessary to produce the same radiographic density on film. These exposures were measured for several types of radiographic film cassettes under various conditions corresponding to typical radiologic practice. Recent advances in carbon fiber technology indicate that the use of these materials for the front panel of radiographic film cassettes can result in a product that has sufficient rigidity to provide good film-screen contact, and that can reduce radiographic exposures significantly. Because of these considerations and because of its concern that unnecessary radiation exposure of patients and health care personnel be minimized, FDA believes that radiographic film cassettes should be marketed with front panels as transparent to x-rays as possible, consistent with good radiographic results.

FDA is also concerned about the effects of cassettes that produce improper film-screen contact. Radiographs taken with such cassettes may have blurred images that can create difficulties in diagnosis. The agency acknowledges that, in health care facilities that conduct good quality assurance programs, poor film-screen contact is easily detected, and the cassette is removed from service. However, many health care facilities do not have effective quality assurance programs. Image degradation due to poor film-screen contact can frequently be a subtle effect and not easily visible from the resultant radiograph of patient anatomy. In addition, FDA notes that, in the experience of FDA laboratories, newly manufactured cassettes having poor film-screen contact may not be a rare occurrence.

Because of these considerations, FDA disagrees with the Radiological Device Classification Panel's recommendation and agrees with the recommendation of the Dental Device Classification Panel with respect to the classification of this device.

The agency has reviewed the recommendations of both Panels and has determined that the classification of this device should be published in the part of the Code of Federal Regulations for radiology devices.

Section 892.1860; Docket No 78N–2792; Radiographic film/cassette changer.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiographic film/cassette changers:

1. Identification: A radiographic film/cassette changer is a device intended to be used during radiologic procedures to move a radiographic film or cassette between x-ray exposures and to position it during the exposure.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiographic film/cassette changers be classified into class II because the Panel believes that a standard will control the absorbency of radiation of the front panel of the changer and minimize the hazard of an unnecessarily high dosage of radiation to the patient to obtain adequate radiographs. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiographic film/cassette changers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A

performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Section 892.1870; Docket No. 78N–2793; Radiographic film/cassette changer programmer.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiographic film/cassette changer programmers:

1. Identification: A radiographic film/cassette changer programmer is a device intended to be used to control the operations of a film or cassette changer during serial medical radiography.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiographic film/cassette changer programmers be classified into class II because the Panel believes that a standard will control device characteristics, particularly misalignment, that affect the quality of the image and will prevent unnecessary radiation exposure to the patient from repeat procedures. This device must properly align the cassette with the image projector. Electromechanical failure or malfunction of the operative controls could cause an unsatisfactory exposure of the film. As a result, unsatisfactory diagnostic information would be generated, and it would be necessary to repeat the procedure. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30–1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiographic film/cassette changer programmers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Section 892.1880; Docket No. 78N–2794; Wall-mounted radiographic cassette holder.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wall-mounted radiographic cassette holders:

1. Identification: A wall-mounted radiographic cassette holder is a support intended to hold and to position radiographic cassettes for a radiographic exposure for medical use.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that wall-mounted radiographic cassette holders be classified into class II because the Panel believes that a performance standard will control the device characteristics, particularly misalignment, that affect the quality of the image and would prevent unnecessary radiation exposures to the patient from repeat procedures. This device must properly align the cassette with the image projector. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment including wall-mounted radiographic cassette holders (21 CFR 1020.30–1020.32).

5. Risks to health: Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that wall-mounted radiographic cassette holders be classified into class II (performance standards). The agency believes that many of the risks to health presented by the device are controlled by the performance standards of the Bureau of Radiological Health of FDA for wall-mounted radiographic cassette holders. However, other risks associated with the wall-mounted radiographic cassette holders are not controlled by the present performance standards. These other risks should be controlled in the future by supplemental standards. FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1890; Docket No. 78N–2795; Radiographic film illuminator.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of radiographic film illuminators:

1. Identification: A radiographic film illuminator ise device containing a visible light source covered with a translucent front that is intended to be used to view medical radiographs.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiographic film illuminators be classified into class II because the Panel believes that electrical safety standards are required to minimize the hazard of electrical shock. The Panel recommends that when the illuminator is designed specifically for use in a flammable atmosphere, it should be conspicuously labeled. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the operator. (b) Explosion: Failure of electrical sheilding could cause an explosion in an area where flammable anesthetic gases are used.

FDA agrees with the Panel recommnedation and is proposing that radiographic film illuminators be classified into class II (performance standards). The agency believes that a performance standad is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sifficient information to establish a performance standard to provide this assurance.

Section 892.1900; Docket No. 78N–2796; Automatic radiographic film processor.

The Radiological Device Classification Panel and the Dental Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of automatic radiographic film processors:

1. Identification: An automatic radiographic film processor is a device intended to be used to develop, fix, wash, and dry automatically and continuously film exposed for medical purposes.

2. Recommended classification: Class II (perfomrance standards). Both Panels recommend that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: Both the Radiological Device Classification Panel and the Dental Device Classification Panel recommend that automatic radiographic film processors be classified into class II because the Panels believe that electrical safety standards are required to minimize the hazard of electrical shock. The Panels believe that general controls alone would not provide sufficient control over this characteristic. Both Panels believe that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard. The Radiological Device Classification Panel also recommends that the device labeling provide information on the accuracy intemperatuer control, film transport speed, chemical replenishment rate, and degree of agitation of the device and that inclusion of this information in the device labeling be voluntary. Data show that variability of radiographs is caused more by the variability of exposure than by the film processor (Ref. *62*).

4. Summary of data on which the recommendation is based: Both the Radiological Device Classification Panel and the Dental Device Classification Panel based their recommendations on their Panel members' knowledge of, and experience with, the device. Both Panels noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the operator.

FDA agrees with the recommendations of Radiological Device Classification Panel and the Dental Device Classification Panel and is proposing that automatic radiographic film processors be classified into class II (performance standards).

FDA has also obtained other data and information concerning this device. Automatic radiographic film processors, when not properly used and maintained, have been proven to be a major cause of the production of poor quality radiographic images (Refs. *63* and *64*). When the image quality is so poor that the radiograph must be repeated, the patient receives unnecessary and potentially harmful radiation exposure. Additional unnecessary radiation exposures can occur if the x-ray machine technique factors are adjusted to compensate for a malfunctioning processor. FDA also notes that if the automatic radiographic film processor is malfunctioning, the quality of the resulting radiographic images would not be optimal (Refs. *65* and *66*), and the chance of making a correct diagnosis or of detecting an abnormal condition will be reduced. FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance. However, FDA is aware of the efforts of industry, private groups, and government to encourage quality assurance programs for the purpose of monitoring and maintaining the performance of these devices (Ref. *67*). The agency has reviewed the recommendations of both Panels for automatic radiographic film processors and has determined that the classification of this device should be published in the part of the Code of Federal Regulations for radiology devices.

Section 892.1910; Docket No. 78N–2797; Radiographic grid.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiographic grids:

1. Identification: A radiographic grid is a device consisting of alternating radiolucent and radiopaque strips that is intended to be placed between the patient and the image receptor to reduce the amount of scattered radiation reaching the image receptor.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that radiographic grids be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Panel states that excessive opacity of the grid can cause excess radiation exposure to the patient. The Panel recommends that the device's labeling provide information on the grid ratio, transmission, focal distance, and number of lines per unit length, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' judgment that the device represents a minimal risk to health. The device has been in use for many years.

5. Risks to health: Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiographic grids be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA recognizes that improperly aligned radiopaque strips in the radiographic grid may cause an inferior quality image. However, the agency believes that adherence to good manufacturing practice regulations should provide reasonable assurance of proper strip alignment and of consequent safety and effectiveness.

Section 892.1920; Docket No. 78N–2798; Radiographic head holder.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiographic head holders:

1. Identification: A radiographic head holder is a device intended to be used to position the patient's head during a radiographic procedure.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports requirements under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that radiographic head holders be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and

effectiveness of this device. The Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the act because the Panel believes that FDA does not need to know who manufactures this simple device. The Panel recommends that this device be exempt from the records and reports regulation under section 519 of the act because the Panel believes that, with regard to this device, the information required under this section of the act will serve no useful purpose. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible, and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' judgment that the device presents no significant risks to health. The device has been in use for many years.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that radiographic head holders be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of radiographic head holders be exempt from section 510(k) of the act (21 U.S.C. 360), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations.

FDA disagrees with the Panel's recommendation that manufacturers of radiographic head holders be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i).

In response to the Panel's recommendation that manufacturers of radiographic head holders be exempt from the device GMP regulation under section 520(f) of the act (21 U.S.C. 360j(f)), FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.189 with respect to complaint files. See the discussion under the heading "Exemptions for Class I Devices," for a complete explanation of the agency's policies concerning exemptions.

Section 892.1930; Docket No. 78N–2799; Automatic contrast medium injector.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of automatic contrast medium injectors:

1. Identification: An automatic contrast medium injector is an electrically powered device that injects a contrast medium into body vessels at a desired rate and pressure, in a predetermined period of time, and that is intended for use in diagnostic radiologic procedures.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automatic contrast medium injectors be classified into class II because the Panel believes that the rate of injection of the contrast medium into the patient should be controlled by a feedback circuit that automatically varies pressure to deliver the selected flow rate. When the desired volume has been delivered, the injection is terminated by a "dead-man" switch (Ref. *68*) that must be controlled to minimize potential cardiac complications. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The electrical safety standards should require the inclusion of an additional ground cable attached to the procedure table ground, an audible signal indicating the lack of a common ground, and an electrically isolated injection syringe (Ref. *68*). The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the rise and decay times and the accuracy of controls of the device, and that inclusion of this information in the labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. Dr. Melvin Judkins, a Panel member, presented the Report of the Inter-Society Commission for Heart Disease Resources (Ref. *68*), which summarized guidelines for diagnostic examinations of the cardiovascular system.

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Cardiac complications: Failure of the device's control mechanism could cause injury to the patient through excessive injection of the contrast medium.

FDA agrees with the Panel recommendation and is proposing that automatic contrast medium injectors be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Section 892.1940; Docket No. 78N–2800; Radiologic quality assurance instrument.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiologic quality assurance instruments:

1. Identification: A radiologic quality assurance instrument is a device intended for medical purposes to measure a physical characteristic associated with another radiologic device.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that radiologic quality assurance instruments be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the act because the Panel believes that FDA does not need to know who manufactures this simple device. The Panel recommends that this device be exempt from the records and reports regulation under section 519 of the act because the Panel believes that, with regard to this device, the information required under this section of the act will serve no useful purpose. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible, and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on extensive experience with the device and on the Panel members' judgment that the device presents no significant risks to health. The Panel noted that the device has been in use for many years.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that radiologic quality assurance instruments be classified into class I (general controls). FDA believes that general

controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of radiologic quality assurance instruments be exempt from section 510 of the act (21 U.S.C. 360), FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations.

FDA disagrees with the Panel's recommendation that manufacturers of radiologic quality assurance instruments be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i).

In response to the Panel's recommendation that manufacturers of radiologic quality assurance instruments be exempt from the device GMP regulation under section 520(f) of the act (21 U.S.C. 360j(f)), FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. See the discussion under the heading, "Exemptions for Class I Devices," for a complete explanation of the agency's policies concerning exemptions.

Section 892.1950; Docket No. 78N–2801; Radiographic anthropomorphic phantom.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiographic anthropomorphic phantoms:

1. Identification: A radiographic anthropomorphic phantom is a device intended for medical purposes to simulate a human body for positioning radiographic equipment.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that radiographic anthropomorphic phantoms be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the act because the Panel believes that FDA does not need to know who manufactures this simple device. The Panel recommends that this device be exempt from the records and reports regulation under section 519 of the act because the Panel believes that, with regard to this device, the information required under this section of the act will serve no useful purpose. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible, and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on extensive experience with the device and on the Panel members' judgment that the device presents no significant risks to health. The device has been in use for many years.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that radiographic anthropomorphic phantoms be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of radiographic anthropomorphic phantoms be exempt from section 510 of the act (21 U.S.C. 360), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations.

FDA disagrees with the Panel's recommendation that manufacturers of radiographic anthropomorphic phantoms be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i).

In response to the Panel's recommendation that manufacturers of radiographic anthropomorphic phantoms be exempt from the device GMP regulation under section 520(f) of the act (21 U.S.C. 360j(f)), FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. See the discussion under the heading, "Exemptions for Class I Devices," for a complete explanation of the agency's policies concerning exemptions.

Section 892.1960; Docket No. 78N–2802; Radiographic intensifying screen.

The Radiological Device Classification Panel and the Dental Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of radiographic intensifying screens:

1. Identification: A radiographic intensifying screen is a device that is a thin radiolucent sheet coated with a luminescent material that transforms incident x-ray photons into visible light and that is intended to be used to expose medical radiographic film.

2. Recommended classification: Class I (general controls). The Radiological Device Classification Panel recommends that there be no exemptions. The Dental Device Classification Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), records and reports under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: Both the Radiological Device Classification Panel and the Dental Device Classification Panel recommend that radiographic intensifying screens be classified into class I because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Dental Device Classification Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the act because the Dental Device Classification Panel believes that FDA does not need to know who manufactures this simple device. The Dental Device Classification Panel recommends that this device be exempt from the records and reports regulation under section 519 of the act because the Panel believes that, with regard to this device, information required under this section of the act will serve no useful purpose. The Dental Device Classification Panel recommends that this device be exempt from the good manufacturing practice regualtion under section 520(f) of the act because the Panel believes that enough is known about the reliability of current manufacturing practices and history of user experience to determine that the application of the good manufacturing practice regulation will not improve the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: Both the Radiological Device Classification Panel and the Dental Device Classification Panel based their recommendation on extensive experience with the device and on their Panel members' judgment that the device presents no significant risks to health. The device has been in use for many years.

5. Risks to health: None identified.

FDA agrees with the Radiological Device Classification Panel recommendation and is proposing that radiographic intensifying screens be classified into class I (general controls) with no exemptions. The agency believes that general controls are

sufficient to provide reasonable assurance of the safety and effectiveness of the device.

FDA disagrees with the Dental Panel's recommendation that manufacturers of radiographic intensifying screens be exempt from all requirements under section 510 of the act (21 U.S.C. 360).

FDA disagrees with the Dental Panel's recommendation that manufacturers of radiographic intensifying screens be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i).

FDA disagrees with the Dental Panel's recommendation that manufacturers of radiographic intensifying screens be exempt from the good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360j(f)). The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. See the discussion in the preamble under the heading "Exemptions for Class I Devices," for a complete explanation of the agency's policies concerning exemptions.

FDA has reviewed the recommendations of the Radiological Device Classification Panel and of the Dental Device Classification Panel for radiograpic intensifying screens and has determined that the classification of this device should be published in the part of the Code of Federal Regulations for radiology devices.

Section 892.1970; Docket No. 78N–2803; Radiographic ECG/respiratior synchronizer.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of radiographic ECG/respirator synchronizers:

1. Identification: A radiographic ECG/respirator synchronizer is a device intended to be used to coordinate an x-ray film exposure with the signal from an electrocardiograph (ECG) or respirator at a predetermined phase of the cardiac or respiratory cycle.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that radiographic ECG/respirator synchronizers be classified into class II because the Panel believes that a performance standard will control the device's characteristics, particularly the sensing current, that affect the quality of the image. Only the appropriate cardiac or respiratory signal should trigger the x-ray camera. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that radiographic ECG/respirator sychronizers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.1980; Docket No. 78N–2804; Radiologic table.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiologic tables:

1. Identification: A radiologic table is a device intended for medical purposes to support a patient during radiologic procedures. The table may be fixed or tilting and may be electrically powered.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiologic tables be classified into class II because the Panel believes that a standard will control the absorption of radiation by the table top and will minimize the hazard of an unnecessarily high dosage of radiation to obtain adequate radiographs. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance standards for diagnostic x-ray equipment (21 CFR 1020.30—1020.32), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper materials in the table top can result in patient exposure to excessive radiation that may cause tissue damage. (c) Trauma: Failure of the device's control mechanism could cause injury to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that radiologic tables be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Section 892.5050; Docket No. 78N–2806; Medical charged-particle radiation therapy system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recomendation regarding the classification of medical charged-particle radiation therapy systems:

1. Identification: A medical charged-particle radiation therapy system is a device that produces by acceleration high energy charged particles (e.g., electrons and protons) that are intended for use in radiation therapy. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that medical charged-particle radiation therapy systems be classified into class II (performance standards) because the Panel believes that a performance standard will minimize the hazard of unintended radiation from an inaccurately directed or limited radiation beam or leakage of radiation caused by faulty construction of the device's shielding. A performance standard is necessary to establish controls on the delivery of appropriate doses of radiation to a selected part of the body to ensure the

desired therapeutic effect. The Panel also believes that the interlocks, monitors, colliminators, and field-defining light must be precisely controlled. Furthermore, because physical injury (trauma) to the patient or operator can result from structural or operating mechanism defects in the device, a safety standard may be necessary. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the accuracy of the radiation monitor and accuracy of the timer (if any), the temperature and pressure dependence of the monitor, and the uniformity of the beam output in all usable positions, and that the inclusion of this informataion in the device labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel considered the reports and standards of the National Council on Radiation Protection and Measurement (NCRP).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage. (c) Trauma: Failure of the device's control mechanism could cause injury to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that medical charged-particle radiation therapy systems be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to contol the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectivenes of the device. FDA also believes that there is sufficient information to establish a performance standard for this device.

FDA has reviewed the Panel's recommendations and has obtained other data and information which further support the classification of this generic type of device into class II. A series of four reports published by the Department of Health and Human Services on the use of medical charged-particle radiation therapy systems present an overview of the physical characteristics of the device (Ref. *69*), describe its market and use characteristics (Ref. *70*), accident history (Ref. *71*), and current regulations, standards, and guidelines (Ref. *72*).

Section 892.5300; Docket No. 78N–2810; Medical neutron radiation therapy system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of medical neutron radiation therapy systems:

1. Identification: A medical neutron radiation therapy system is a device that is intended to generate high-energy neutrons for radiation therapy. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that medical neutron radiation therapy systems be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device's shielding or from an inaccurately limited radiation beam. A standard is necessary to establish controls on the delivery of appropriate doses of radiation to a selected part of the body to ensure the desired therapeutic effect. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that medical neutron radiation therapy systems be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Section 892.5650; Docket No. 78N–2813; Manual radionuclide applicator system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of manual radionuclide applicator systems:

1. Identification: A manual radionuclide applicator system is a manually operated device intended to be used to apply a radionuclide source into the body or to the surface of the body for radiation therapy. This generic type of device may include patient and equipment supports, component parts, treatment planning computer programs, and accessories.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that manual radionuclide applicator systems be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' extensive experience with the device, and on their judgment that the device presents no significant risks to health. The device has been in use for many years.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that manual radionuclide applicator systems be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 892.5700; Docket No. 78N–2814; Remote controlled radionuclide applicator system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of remote controlled radionuclide applicator systems:

1. Identification: A remote controlled radionuclide applicator system is an electromechanical or pneumatic device that is intended to enable an operator to apply, by remote control, a radionuclide source into the body or to the surface of the body for

radiation therapy. This generic type of device may include patient and equipment supports, component parts, treatment planning computer programs and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that remote controlled radionuclide applicator systems be classified into class II because the Panel believes a standard will minimize the hazard of unintended radiation from misapplication of the radionuclide source caused by electromechanical or pneumatic failure. A standard is necessary to establish controls on the delivery of proper doses of radiation to a selected part of the body to ensure the desired therapeutic effect. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). Also, the Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the remote control could result in electrical shock to the patient or the operator. (b) Excessive radiation: Improper function of this device can result in patient or operator exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that the remote controlled radionuclide applicator system be classified into class II (performance standards). The agency has reviewed the Panel recommendation and obtained other data and information concerning this device. The remote controlled radionuclide applicator system permits the physician to insert a radionuclide source into the body of a patient from a shielded location (Ref. *73*). This use of the device, called afterloading, can minimize the radiation exposure from a radionuclide source to health care personnel. A conference was held in 1971 to present and to discuss the status of afterloading in the treatment of cancer, with special consideration given to radiation protection and control factors (Ref. *74*). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 892.5710; Docket No. 78N–2815; Radiation therapy beam-shaping block.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiation therapy beam-shaping blocks:

1. Identification: A radiation therapy beam-shaping block is a device, made of a highly attenuating material (such as lead), that is intended for use in radiation therapy to modify the shape of a beam from a radiation therapy source.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiation therapy beam-shaping blocks be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation caused by nonuniform attenuation of the isotope beam. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device.

5. Risks to health: Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radiation therapy beam-shaping blocks be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.5730; Docket No. 78N–2817; Radionuclide brachytherapy source.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radionuclide brachytherapy sources:

1. Identification: A radionuclide brachytherapy source is a device intended for medical purposes that consists of a radionuclide which may be enclosed in a sealed container made of gold, titanium, stainless steel, or platinum and intended to be placed onto a body surface or into a body cavity or tissue as a source of nuclear radiation for therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide brachytherapy sources be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended leakage of radiation caused by faulty material and construction of the device. The Panel states that encapsulating materials should be biocompatible, and that the presently used encapsulating materials, such as gold, titanium, or platinum, do not cause significant adverse tissue reaction. Although this device is implanted temporarily, the Panel believes that classification into class III is unnecessary. The device has been in use for a relatively long time, and the hazard of faulty construction of the sealed container is considered unlikely. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of applicability to licensing of the product material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55). The Panel also noted that this device has been in use for many years. The Panel maintained that when the inert metals gold, titanium, or platinum, are used to encapsulate the radioactive source for implanting, the danger of adverse tissue reaction is not significant (Ref. *75*). In some cases, radiotherapy using a small source in a

suitable container can localize and control the dose of radioactive materials more accurately than radiotherapy from an external beam. As a result, damage to healthy tissue can be prevented (Ref. *76*). The Panel notes that the Department of Health and Human Services published reports on the hazards of radium and radium substitutes in the treatment of cancer (Ref. *77*).

5. Risks to health: (a) Excessive radiation: Faulty construction of the sealed container of this device can result in patient exposure to excessive radiation that may cause tissue damage. (b) Toxicity: Adverse tissue reaction may result from the encapsulating material.

FDA agrees with the Panel recommendation and is proposing that radionuclide brachytherapy sources be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance. Because a radionuclide brachytherapy source is used for radiation therapy for periods of less than 30 days and because FDA has determined that the device need not be considered an implant to protect human health, this device is not considered an implant as the term is defined in the classification procedures regulation, § 860.3(d) (21 CFR 860.3(d)).

Section 892.5740; Docket No. 78N–2818; Radionuclide teletherapy source.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of radionuclide teletherapy sources:

1. Identification: A radionuclide teletherapy source is a device consisting of a radionuclide enclosed in a sealed container. The device is intended to be used for radiation therapy, with the radiation source located at a distance from the patient's body.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide teletherapy sources be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation leakage caused by faulty material and construction of the device. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operator's licenses (10 CFR Part 55).

5. Risks to health: Excessive radiation: Faulty construction of the sealed container of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radionuclide teletherapy sources be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.5750; Docket No. 78N–2819; Radionuclide radiation therapy system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radionuclide radiation therapy systems:

1. Identification: A radionuclide radiation therapy system is a device intended to permit an operator to administer gamma radiation therapy, with the radiation source located at a distance from the patient's body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts (including beam-limiting devices), and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radionuclide radiation therapy systems be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation from misapplication of therapeutic radiation caused by failure of the shutter. The Panel believes that electrical safety standards are also required to minimize the hazard of electric shock. The Panel believes that general controls alone would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel recommends that the device's labeling identify the radionuclide used in the device and the date that the device is installed for use and that inclusion of this information in the device labeling be voluntary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel also noted that the Nuclear Regulatory Commission has promulgated standards for protection against radiation (10 CFR Part 20), rules of general applicability to licensing of byproduct material (10 CFR Part 30), regulations for licenses of radiography and radiation safety requirements for radiographic operations (10 CFR Part 34), regulations for human uses of byproduct material (10 CFR Part 35), and regulations for operators' licenses (10 CFR Part 55).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that radionuclide radiation therapy systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.5770; Docket No. 78N–2820; Powered radiation therapy patient support assembly.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered radiation therapy patient support assemblies:

1. Identification: A powered radiation therapy patient support assembly is an electrically powered adjustable couch intended to be used to support a patient during radiation therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that

powered radiation therapy patient support assemblies be classified into class II because the Panel believes that this device must effectively support and control the position of a patient during therapy. Furthermore, because physical injury (trauma) to the patient or operator can result from structural or operating mechanism defects in the device, a safety standard may be necessary. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Trauma: Failure of the device's structural integrity or control mechanism could cause injury to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that powered radiation therapy patient support assemblies be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.5780; Docket No. 78N–2821; Light beam patient position indicator.

The Radiological Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of light beam patient position indicators:

1. Identification: A light beam patient position indicator is a device that projects a beam of light (incoherent light or laser) to determine the alignment of the patient with a radiation beam. The beam of light is intended to be used during radiologic procedures to ensure proper positioning of the patient and to monitor alignment of the radiation beam with the patient's anatomy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that light beam patient position indicators be classified into class II because the Panel believes that the intensity of the light beam must be controlled to be safe. A light beam that is too intense can cause injury to a patient's eyes, and a laser light that is too intense also can cause burns to the patient. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel noted that the Bureau of Radiological Health of FDA has promulgated a laser performance standard (21 CFR 1040.10), and that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Burn: Faulty design, manufacture, or performance of the device could result in a skin or retinal burn.

FDA Agrees with the Panel recommendation and is proposing that light beam patient position indicators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Section 892.5840; Docket No. 78N–2822; Radiation therapy simulation system.

The radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of radiation therapy simulation systems:

1. Identification: A radiation therapy simulation system is a fluoroscopic or radiographic X-ray system intended for use in localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field produced. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that radiation therapy simulation systems be classified into class II because the Panel believes that a performance standard will minimize the hazard of unintended radiation resulting from an inaccurately directed or limited radiation beam. A performance standard is necessary to establish controls to ensure that treatment plans developed using a simulator deliver appropriate doses of radiation to a selected part of the body to ensure the desired therapeutic effect. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage or insufficient radiation.

FDA agrees with the Panel recommendation and is proposing that radiation therapy simulation systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.5900; Docket No. 78N–2823; X-ray radiation therapy system.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of x-ray radiation therapy systems:

1. Identification: An x-ray radiation therapy system is a device intended to produce and control x-rays used for radiation therapy. This generic type of device may include signal analysis and display equipment, patient and equipment supports,

treatment planning computer programs, component parts, and accessories.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that x-ray radiation therapy systems be classified into class II (performance standards) because the Panel believes that a performance standard will minimize the hazard of unintended radiation from an inaccurately directed or limited radiation beam or from leakage of radiation caused by faulty construction of the device's shielding. A performance standard is necessary to establish controls on the delivery of appropriate doses of radiation to a selected part of the body to ensure the desired therapeutic effect. A performance standard is required to control proper calibration of the device. Miscalibration can cause administration of unnecessarily high radiation levels. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel also considered the reports and standards issued by the National Council on Radiation Protection and Measurements (NCRP).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in exposure of the patient or the operator to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that x-ray radiation therapy systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 892.5930; Docket No. 78N–2826; Therapeutic x-ray tube housing assembly.

The Radiological Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of therapeutic x-ray tube housing assemblies:

1. Identification: A therapeutic x-ray tube housing assembly is an x-ray generating tube encased in a radiation-shielded housing, intended for use in radiation therapy. This generic type of device may include high voltage and filament transformers or other appropriate components when contained in radiation-shielded housing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that therapeutic x-ray tube housing assemblies be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation leakage caused by faulty construction of the device's shielding. The Panel believes that electrical safety standards also are required to minimize the hazard of electrical shock. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device. The Panel noted that the Occupational Safety and Health Administration has promulgated electrical safety standards for electrically powered equipment (NFPA 70–1971). The Panel also considered the reports and standards issued by the National Council for Radiation Protection and Measurement (NCRP). The NCRP has made specific recommendations regarding how to control leakage of radiation from these x-ray tube housings (NCRP Report 33).

5. Risks to health: (a) Electrical shock: Faulty design, manufacture, or performance of the device could result in an electrical shock to the patient or operator. (b) Excessive radiation: Improper function of this device can result in patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Panel recommendation and is proposing that therapeutic x-ray tube housing assemblies be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Section 892.6500; Docket No. 78N–2827; Personnel protective shield.

The Radiological Device Classification Panel and the Dental Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of personnel protective shields:

1. Identification: A personnel protective shield is a device intended to be used to protect the patient, the operator, or other persons from unnecessary exposure to radiation during radiological procedures by providing an attenuating barrier to radiation. This generic type of device may include articles of clothing, furniture, and movable or stationary structures.

2. Recommended classification: Class II (performance standards). The Radiological Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The Dental Device Classification Panel recommends that this device be placed in class I, and that it be exempt from the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Radiological Device Classification Panel recommends that personnel protective shields be classified into class II because the Panel believes that a standard will minimize the hazard of unintended radiation caused by faulty construction or inappropriate shielding material. The Panel believes that general controls alone would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a performance standard. The Panel also recommends that the device's labeling provide information on the lead equivalent of the device shielding, and that the inclusion of the information in the labeling be voluntary. The Dental Device Classification Panel recommends that personnel protective shields be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Dental Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible, and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Radiological Device Classification Panel and the Dental Device Classification Panel based their recommendations on their Panel members' knowledge of, and clinical experience with, the device.

5. Risks to health: Excessive radiation: Improper function of this device can result in

patient exposure to excessive radiation that may cause tissue damage.

FDA agrees with the Radiological Device Classification Panel recommendation and is proposing that personnel protective shields be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

FDA disagrees with the Dental Device Classification Panel recommendation that personnel protective shields be classified into class I (general controls). The agency believes that general controls alone are not sufficient to control the risks to health inherent in improperly manufactured shielding. FDA disagrees with the Panel recommendation that manufacturers of personnel protective shields be exempt from the good manufacturing practice regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to ensure the quality of this device and thus its safety, effectiveness, and compliance with adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent production of personnel protective shields having defects that could cause harm to users.

The agency has reviewed the recommendations of the Radiological Device Classification Panel and the Dental Device Classification Panel for personnel protective shields and has determined that the classification of this device should be published in the part of the Code of Federal Regulations or radiology devices.

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(74) DHEW Publication, "Afterloading in Radiotherapy," HEW (FDA) 72–8024, December 1971.

(75) Minutes of the Radiological Device Classification Panel (7th Meeting), February 1977.

(76) Alexander, L. L. and T. C. Reneventano, "Treatment of Antral Carcinoma with Radioactive Iridium," *Journal of American Medical Association*, 56:139–142, 1964.

(77) DHEW Publication, "Afterloading in Radiotherapy," HEW (FDA) 72–8024, December 1971.

Environmental Impact

The agency has determined under 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, the agency has concluded that neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 892 to read as follows:

PART 892—RADIOLOGY DEVICES

Subpart A—General Provisions

Sec.
892.1 Scope.

Subpart B—Radiology Diagnostic Devices

892.1100 Scintillation (gamma) camera.

Sec.
892.1110 Positron camera.
892.1130 Nuclear whole body counter.
892.1170 Bone densitometer.
892.1200 Emission computed tomography system.
892.1220 Fluorescent scanner.
892.1240 Radionuclide generator.
892.1300 Nuclear rectilinear scanner.
892.1310 Nuclear tomography system.
892.1320 Nuclear uptake probe.
892.1330 Nuclear whole body scanner.
892.1350 Nuclear scanning bed.
892.1360 Radionuclide dose calibrator.
892.1370 Nuclear anthropomorphic phantom.
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892.1400 Nuclear sealed calibration source.
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892.1610 Diagnostic x-ray beam-limiting device.
892.1620 Cine or spot fluorographic x-ray camera.
892.1630 Electrostatic x-ray imaging system.
892.1640 Radiographic film marking x-ray system.
892.1650 Image-intensified fluoroscopic x-ray system.
892.1660 Non-image-intensified fluoroscopic x-ray system.
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892.1680 Stationary x-ray system.
892.1700 Diagnostic x-ray high voltage generator.
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892.1730 Photofluorographic x-ray system.
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892.1760 Diagnostic x-ray tube housing assembly.
892.1770 Diagnostic x-ray tube mount.
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892.1830 Radiologic patient cradle.
892.1840 Radiographic film.
892.1850 Radiographic film cassette.
892.1860 Radiographic film/cassette changer.
892.1870 Radiographic film/cassette changer programmer.
892.1880 Wall-mounted radiographic cassette holder.
892.1890 Radiographic film illuminator.
892.1900 Automatic radiographic film processor.
892.1910 Radiographic grid.
892.1920 Radiographic head holder.
892.1930 Automatic contrast medium injector.
892.1940 Radiologic quality assurance instrument.
892.1950 Radiographic anthropomorphic phantom.
892.1960 Radiographic intensifying screen.
892.1970 Radiographic ECG/respirator synchronizer.
892.1980 Radiologic table.

Subpart C–E [Reserved]

Subpart F—Radiology Therapeutic Devices

892.5050 Medical charged-particle radiation therapy system.
892.5300 Medical neutron radiation therapy system.
892.5650 Manual radionuclide applicator system.
892.5700 Remote controlled radionuclide applicator system.
892.5710 Radiation therapy beam-shaping block.
892.5730 Radionuclide brachytherapy source.
892.5740 Radionuclide teletherapy source
892.5750 Radionuclide radiation therapy system.
892.5770 Powered radiation therapy patient support assembly.
892.5780 Light beam patient position indicator.
892.5840 Radiation therapy simulation system.
892.5900 X-ray radiation therapy system.
892.5930 Therapeutic x-ray tube housing assembly.

Subpart G—Radiology Miscellaneous Devices

892.6500 Personnel protective shield.

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)]).

Subpart A—General Provisions

§ 892.1 Scope.

(a) This part sets forth the classification of radiology devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, a radiology device that has two or more types of uses (e.g., use both as a diagnostic device and a therapeutic device) is listed in the subpart representing one use of the device.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of this Title 21, unless otherwise noted.

Subpart B—Radiology Diagnostic Devices

§ 892.1100 Scintillation (gamma) camera.

(a) *Identification.* A scintillation (gamma) camera is a device intended to be used to image the distribution of radionuclides in the body by means of a photon radiation detector. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1110 Positron camera.

(a) *Identification.* A positron camera is a device intended to be used to image the distribution of positron-emitting radionuclides in the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

(b) *Classification.* Class II (performance standards)

§ 892.1130 Nuclear whole body counter.

(a) *Identification.* A nuclear whole body counter is a device intended to be used to measure amounts of radionuclides in the entire body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1170 Bone densitometer.

(a) *Identification.* A bone densitometer is a device intended to be used for medical purpose to measure bone density and mineral content by x-ray or gamma ray transmission measurements through the bone and adjacent tissues. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1200 Emission computed tomography system.

(a) *Identification.* An emission computed tomography system is a device that is intended to detect the location and distribution of gamma ray- and positron-emitting radionuclides in the body and produce cross-sectional images through computer reconstruction of the data. This generic type of device may include signal analysis and display equipment, patient and equipment

supports, radionuclide anatomical markers, component parts, and accessories.

(b) *Classification.* Class II (performance standards)

§ 892.1220 Fluorescent scanner.

(a) *Identification.* A fluorescent scanner is a device intended to be used to measure the induced fluorescent radiation in the body by exposing the body to certain x-rays or low-energy gamma rays. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1240 Radionuclide generator.

(a) *Identification.* A radionuclide generator is a device intended to be used for medical purposes to produce and accumulate a desired, relatively short-lived, radionuclide (daughter) by the decay of a stored longer-lived parent radionuclide. The radionuclides are generally contained in a shielded container. The device may include the shielding, piping, and fittings used to aid in the chemical separation (usually be elution) of the daughter from the parent radionuclide.

(b) *Classification.* Class II (performance standards).

§ 892.1300 Nuclear rectilinear scanner.

(a) *Identification.* A nuclear rectilinear scanner is a device intended to be used to image the distribution of radionuclides in the body by means of a detector or detectors whose position moves in two directions with respect to the patient. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1310 Nuclear tomography system.

(a) *Identification.* A nuclear tomography system is a device that is intended to detect nuclear radiation in the body and produce images of a specific cross-sectional plane of the body by blurring or eliminating detail from other planes. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1320 Nuclear uptake probe.

(a) *Identification.* A nuclear uptake probe is a device intended to be used to measure the amount of radionuclide taken up by a particular organ or body region. This generic type of device may include a single or multiple detector probe, signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1330 Nuclear whole body scanner.

(a) *Identification.* A nuclear whole body scanner is a device intended to be used to measure and image the distribution of radionuclides in the body by means of a wide-aperture detector whose position moves in one direction with respect to the patient. This generic type of device may include signal analysis and display equipment, patient and equipment supports, radionuclide anatomical markers, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1350 Nuclear scanning bed.

(a) *Identification.* A nuclear scanning bed is an adjustable bed intended to be used to support a patient during a nuclear medicine procedure.

(b) *Classification.* Class II (performance standards).

§ 892.1360 Radionuclide dose calibrator.

(a) *Identification.* A radionuclide dose calibrator is a radiation detection device intended to be used to assay radionuclides before their administration to patients.

(b) *Classification.* Class II (performance standards).

§ 892.1370 Nuclear anthropomorphic phantom.

(a) *Identification.* A nuclear anthropomorphic phantom is a human tissue facsimile that contains a radioactive source or a cavity in which a radioactive sample can be inserted. It is intended to be used to calibrate nuclear uptake probes or other medical instruments.

(b) *Classification.* Class II (performance standards).

§ 892.1380 Nuclear flood source phantom.

(a) *Identification.* A nuclear flood source phantom is a radiolucent container filled with a uniformly distributed solution of a desired radionuclide. It is intended to be used to calibrate a medical gamma camera/collimator system for uniformity of response.

(b) *Classification.* Class II (performance standards).

§ 892.1390 Radionuclide rebreathing system.

(a) *Identification.* A radionuclide rebreathing system is a device intended to be used to contain a gaseous or volatile radionuclide or a radionuclide-labeled aerosol and permit it to be respired by the patient during nuclear medicine ventilatory tests (testing process of exchange between the lungs and the atmosphere). This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1400 Nuclear sealed calibration source.

(a) *Identification.* A nuclear sealed calibration source is an encapsulated reference radionuclide intended to be used for calibration of medical nuclear radiation detectors.

(b) *Classification.* Class II (performance standards).

§ 892.1410 Nuclear electrocardiograph synchronizer.

(a) *Identification.* A nuclear electrocardiograph synchronizer is a device intended for use in nuclear radiology to relate the time of image formation to the cardiac cycle during the production of dynamic cardiac images.

(b) *Classification.* Class II (performance standards).

§ 892.1420 Radionuclide test pattern phantom.

(a) *Identification.* A radionuclide test pattern phantom is a device that consists of an arrangement of radiopaque or radioactive material sealed in a solid pattern that is intended to serve as a test for a performance characteristic of a nuclear medicine imaging device.

(b) *Classification.* Class II (performance standards).

§ 892.1450 Telethermographic system.

(a) *Telethermographic system intended for adjunctive use in diagnostic screening for detection of breast cancer*—(1) *Identification.* A telethermographic system intended for use as an adjunct to physical palpation or mammography in diagnostic screening for detection of breast cancer is a device with a detector that is intended to measure, without touching the patient's skin, the self-emanating infrared radiation that reveals the temperature variations of the surface of

the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(2) *Classification.* Class II (performance standards).

(b) *Telethermographic system intended for use alone in diagnostic screening for detection of breast cancer*—(1) *Identification.* A telethermographic system for use alone in diagnostic screening for detection of breast cancer is a device with a detector that is intended to measure, without touching the patient's skin, the self-emanating infrared radiation that reveals the temperature variations of the surface of the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(2) *Classification.* Class III (premarket approval).

§ 892.1480 Liquid crystal thermographic system.

(a) *A nonelectrically powered liquid crystal thermographic system intended for adjunctive use in diagnostic screening for detection of breast cancer, or other uses*—(1) *Identification.* A nonpowered liquid crystal thermographic system intended for use as an adjunct to physical palpation or mammography in diagnostic screening for detection of breast cancer, or for other uses, is a nonelectrically powered device applied to the skin that displays the color patterns of heat sensitive cholesteric liquid crystals that respond to temperature variations of the surface of the body. This generic type of device may include patient and equipment supports, a means to ensure thermal contact between the patient's skin and the liquid crystals, component parts, and accessories.

(2) *Classification.* Class I (general controls).

(b) *An AC-powered liquid crystal thermographic system intended for adjunctive use in diagnostic screening for detection of breast cancer, or other uses*—(1) *Identification.* An AC-powered liquid crystal thermographic system intended for use as an adjunct to physical palpation or mammography in diagnostic screening for detection of breast cancer, or for other uses, is an AC-powered device applied to the skin that displays the color patterns of heat sensitive cholesteric liquid crystals that respond to temperature variations of the surface of the body. This generic type of device may include image display and recording equipment, patient and equipment supports, a means to ensure thermal contact between the patient's skin and the liquid crystals, component parts, and accessories.

(2) *Classification.* Class II (performance standards).

(c) *A nonelectrically powered or an AC-powered liquid crystal thermographic system intended for use alone in diagnostic screening for detection of breast cancer*—(1) *Identification.* A nonelectrically powered or an AC-powered liquid crystal thermographic system intended for use alone in diagnostic screening for detection of breast cancer is a nonelectrically powered or an AC-powered device applied to the skin that displays the color patterns of heat sensitive cholesteric liquid crystals that respond to temperature variations of the surface of the body. This generic type of device may include image display and recording equipment, patient and equipment supports, a means to ensure thermal contact between the patient's skin and the liquid crystals, component parts, and accessories.

(2) *Classification.* Class III (premarket approval).

§ 892.1540 Nonfetal ultrasonic monitor.

(a) *Identification.* A nonfetal ultrasonic monitor is a device that projects a continuous high-frequency sound wave into body tissue other than a fetus to determine frequency changes (doppler shift) in the reflected wave and is intended to be used in the investigation of nonfetal blood flow and of other nonfetal body tissues in motion. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1550 Ultrasonic pulsed doppler imaging system.

(a) *Identification.* An ultrasonic pulsed doppler imaging system is a device that combines the features of continuous wave doppler-effect technology with pulsed-echo effect technology and is intended to be used to determine stationary body tissue characteristics such as depth or location of tissue interfaces or dynamic tissue characteristics such as velocity of blood or tissue motion. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1560 Ultrasonic pulsed echo imaging system.

(a) *Identification.* An ultrasonic pulsed echo imaging system is a device that is intended to project a pulsed sound beam into body tissue to determine the depth or location of the tissue interfaces and to measure the duration of an acoustic pulse from the transmitter to the tissue interface and back to the receiver. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§892.1570 Diagnostic ultrasonic transducer.

(a) *Identification.* A diagnostic ultrasonic transducer is a device made of a piezoelectric material that converts electrical signals into acoustic signals and acoustic signals into electrical signals. It is intended for use in diagnostic medical ultrasonic devices. Accessories for this generic type of device include transmission media for acoustically coupling the transducer to the body surface such as, acoustic gel, paste, or a flexible fluid container.

(b) *Classification.* Class II (performance standards).

§ 892.1600 Angiographic x-ray system.

(a) *Identification.* An angiographic x-ray system is a device intended for radiologic visualization of the heart, blood vessels, or lymphatic system during or after injection of a contrast medium. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1610 Diagnostic x-ray beam-limiting device.

(a) *Identification.* A diagnostic x-ray beam-limiting device is a device such as a collimator, a cone, or an aperture that is intended to restrict the dimensions of a diagnostic x-ray field by limiting the size of the primary x-ray beam.

(b) *Classification.* Class II (performance standards).

§ 892.1620 Cine or spot fluorographic x-ray camera.

(a) *Identification.* A cine or spot fluorographic x-ray camera is a device intended to photograph diagnostic images produced by x-rays with an image intensifier.

(b) *Classification.* Class II (performance standards).

§ 892.1630 Electrostatic x-ray imaging system.

(a) *Identification.* An electrostatic x-ray imaging system is a device intended for medical purposes that uses an electrostatic field across a semiconductive plate, a gas-filled chamber, or other similar device to convert a pattern of x-radiation into an electrostatic image and, subsequently, into a visible image. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1640 Radiographic film marking x-ray system.

(a) *Identification.* A radiographic film marking x-ray system is a device intended for medical purposes to add identification and other information onto radiographic film by means of x-ray exposure.

(b) *Classification.* Class II (performance standards).

§ 892.1650 Image-intensified fluoroscopic x-ray system.

(a) *Identification.* An image-intensified fluoroscopic x-ray system is a device intended to visualize anatomical structures by converting a pattern of x-radiation into a visible image through electronic amplification. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1660 Non-image-intensified fluoroscopic x-ray system.

(a) *Identification.* A non-image-intensified fluoroscopic x-ray system is a device intended to be used to visualize anatomical structures by using a fluorescent screen to convert a pattern of x-radiation into a visible image. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1670 Spot-film device.

(a) *Identification.* A spot-film device is an electromechanical component of a fluoroscopic x-ray system that is intended to be used for medical purposes to position a radiographic film cassette to obtain radiographs during fluoroscopy.

(b) *Classification.* Class II (performance standards).

§ 892.1680 Stationary x-ray system.

(a) *Identification.* A stationary x-ray system is a permanently installed diagnostic system intended to generate and control x-rays for examination of various anatomical regions. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1700 Diagnostic x-ray high voltage generator.

(a) *Identification.* A diagnostic x-ray high voltage generator is a device that is intended to supply and control the electrical energy applied to a diagnostic x-ray tube for medical purposes. This generic type of device may include a converter that changes alternating current to direct current, filament transformers for the x-ray tube, high voltage switches, electrical protective devices, or other appropriate elements.

(b) *Classification.* Class II (performance standards).

§ 892.1710 Mammographic x-ray system.

(a) *Identification.* A mammographic x-ray system is a device intended to be used to produce radiographs of the breast. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1720 Mobile x-ray system.

(a) *Identification.* A mobile x-ray system is a transportable device system intended to be used to generate and control x-rays for diagnostic procedures. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1730 Photofluorographic x-ray system.

(a) *Identification.* A photofluorographic x-ray system is a device that includes a fluoroscopic x-ray unit and a camera intended to be used to produce, then photograph, a fluoroscopic image of the body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1740 Tomographic x-ray system.

(a) *Identification.* A tomographic x-ray system is an x-ray device intended to be used to produce radiologic images of a specific cross-sectional plane of the body by blurring or eliminating detail from other planes. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1750 Computed tomography x-ray system.

(a) *Identification.* A computed tomography x-ray system is a diagnostic x-ray system intended to produce cross-sectional images of the body by computer reconstruction of x-ray transmission data from the same axial plane taken at different angles. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.1760 Diagnostic x-ray tube housing assembly.

(a) *Identification.* A diagnostic x-ray tube housing assembly is an x-ray generating tube encased in a radiation-shielded housing that is intended for diagnostic purposes. This generic type of device may include high voltage and filament transformers or other appropriate components.

(b) *Classification.* Class II (performance standards).

§ 892.1770 Diagnostic x-ray tube mount.

(a) *Identification.* A diagnostic x-ray tube mount is a device intended to support and to position the diagnostic x-ray tube housing assembly for a medical radiographic procedure.

(b) *Classification.* Class II (performance standards).

§ 892.1820 Pneumoencephalographic chair.

(a) *Identification.* A pneumoencephalographic chair is a chair intended to be used to support and position a patient during pneumoencephalography (x-ray imaging of the brain).

(b) *Classification.* Class II (performance standards).

§ 892.1830 Radiologic patient cradle.

(a) *Identification.* A radiologic patient cradle is a support device intended to be used for rotational positioning about the longitudinal axis of a patient during radiologic procedures.

(b) *Classification.* Class II (performance standards).

§ 892.1840 Radiographic film.

(a) *Identification.* Radiographic film is a thin sheet of radiotransparent material coated on one or both sides with a photographic emulsion that is intended to be used to record images during diagnostic radiologic procedures.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820 with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 892.1850 Radiographic film cassette.

(a) *Identification.* A radiographic film cassette is a device intended to be used during diagnostic x-ray procedures to hold a radiographic film in close contact with an x-ray intensifying screen and to provide a light-proof enclosure for direct exposure of radiographic film.

(b) *Classification.* Class II (performance standards).

§ 892.1860 Radiographic film/cassette changer.

(a) *Identification.* A radiographic film/cassette changer is a device intended to be used during a radiologic procedure to move a radiographic film or cassette between x-ray exposures and to position it during the exposure.

(b) *Classification.* Class II (performance standards).

§ 892.1870 Radiographic film/cassette changer programmer.

(a) *Identification.* A radiographic film/cassette changer programmer is a device intended to be used to control the operations of a film or cassette changer during serial medical radiography.

(b) *Classification.* Class II (performance standards).

§ 892.1880 Wall-mounted radiographic cassette holder.

(a) *Identification.* A wall-mounted radiographic cassette holder is a support intended to hold and to position radiographic cassettes for a radiographic exposure for medical use.

(b) *Classification.* Class II (performance standards).

§ 892.1890 Radiographic film illuminator.

(a) *Identification.* A radiographic film illuminator is a device containing a visible light source covered with a translucent front that is intended to be used to view medical radiographs.

(b) *Classification.* Class II (performance standards).

§ 892.1900 Automatic radiographic film processor.

(a) *Identification.* An automatic radiographic film processor is a device intended to be used to develop, fix, wash, and dry automatically and continuously film exposed for medical purposes.

(b) *Classification.* Class II (performance standards).

§ 892.1910 Radiographic grid.

(a) *Identification.* A radiographic grid is a device consisting of alternating radiolucent and radiopaque strips that is intended to be placed between the patient and the image receptor to reduce the amount of scattered radiation reaching the image receptor.

(b) *Classification.* Class I (general controls).

§ 892.1920 Radiographic head holder.

(a) *Identification.* A radiographic head holder is a device intended to be used to position the patient's head during a radiographic procedure.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 892.1930 Automatic contrast medium injector.

(a) *Identification.* An automatic contrast medium injector is an electrically powered device that injects a contrast medium into body vessels at a desired rate and pressure, in a predetermined period of time, and that is intended for use in diagnostic radiologic procedures.

(b) *Classification.* Class II (preformance standards).

§ 892.1940 Radiologic quality assurance instrument.

(a) *Identification.* A radiologic quality assurance instrument is a device intended for medical purposes to measure a physical characteristic associated with another radiologic device.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 892.1950 Radiographic anthropomorphic phantom.

(a) *Identification.* A radiographic anthropomorphic phantom is a device intended for medical purposes to stimulate a human body for positioning radiographic equipment.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 892.1960 Radiographic intensifying screen.

(a) *Identification.* A radiographic intensifying screen is a device that is a thin radiolucent sheet coated with a luminescent material that transforms incident x-ray photons into visible light and that is intended to be used to expose medical radiographic film.

(b) *Classification.* Class I (general controls).

§ 892.1970 Radiographic ECG/respirator synchronizer.

(a) *Identification.* A radiographic ECG/respirator synchronizer is a device intended to be used to coordinate an x-ray film exposure with the signal from an electrocardiograph (ECG) or respirator at a predetermined phase of the cardiac or respiratory cycle.

(b) *Classification.* Class II (performance standards).

§ 892.1980 Radiologic table.

(a) *Identification.* A radiologic table is a device intended for medical purposes to support a patient during radiologic procedures. The table may be fixed or tilting and may be electrically powered.

(b) *Classification.* Class II (performance standards).

Subparts C–E—[Reserved]

Subpart F—Radiology Therapeutic Devices

§ 892.5050 Medical charged-particle radiation therapy system.

(a) *Identification.* A medical charged-particle radiation therapy system is a device that produces by acceleration high energy charged particles (e.g., electrons and protons) that are intended for use in radiation therapy. This generic type of device may include signal analysis and display equipment, patient

and equipment supports, treatment planning computer programs, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.5300 Medical neutron radiation therapy system.

(a) *Identification.* A medical neutron radiation therapy system is a device that is intended to generate high-energy neutrons for radiation therapy. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.5650 Manual radionuclide applicator system.

(a) *Identification.* A manual radionuclide applicator system is a manually operated device intended to be used to apply a radionuclide source into the body or to the surface of the body for radiation therapy. This generic type of device may include patient and equipment supports, component parts, treatment planning computer programs, and accessories.

(b) *Classification.* Class I (general controls).

§ 892.5700 Remote controlled radionuclide applicator system.

(a) *Identification.* A remote controlled radionuclide applicator system is an electromechanical or pneumatic device that is intended to enable an operator to apply, by remote control, a radionuclide source into the body or to the surface of the body for radiation therapy. This generic type of device may include patient and equipment supports, component parts, treatment planning computer programs and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.5710 Radiation therapy beam-shaping block.

(a) *Identification.* A radiation therapy beam-shaping block is a device, made of a highly attenuating material (such as lead), that is intended for use in radiation therapy to modify the shape of a beam from a radiation therapy source.

(b) *Classification.* Class II (performance standards).

§ 892.5730 Radionuclide brachytherapy source.

(a) *Identification.* A radionuclide brachytherapy source is a device intended for medical purposes that consists of a radionuclide which may be enclosed in a sealed container made of gold, titanium, stainless steel, or platinum and intended to be placed onto a body surface or into a body cavity or tissue as a source of nuclear radiation for therapy.

(b) *Classification.* Class II (performance standards).

§ 892.5740 Radionuclide teletherapy source.

(a) *Identification.* A radionuclide teletherapy source is a device consisting of a radionuclide enclosed in a sealed container. The device is intended to be used for radiation therapy, with the radiation source located at a distance from the patient's body.

(b) *Classification.* Class II (performance standards).

§ 892.5750 Radionuclide radiation therapy system.

(a) *Identification.* A radionuclide radiation therapy system is a device intended to permit an operator to administer gamma radiation therapy, with the radiation source located at a distance from the patient's body. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts (including beam-limiting devices), and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.5770 Powered radiation therapy patient support assembly.

(a) *Identification.* A powered radiation therapy patient support assembly is an electrically powered adjustable couch intended to be used to support a patient during radiation therapy.

(b) *Classification.* Class II (performance standards).

§ 892.5780 Light beam patient position indicator.

(a) *Identification.* A light beam patient position indicator is a device that projects a beam of light (incoherent light or laser) to determine the alignment of the patient with a radiation beam. The beam of light is intended to be used during radiologic procedures to ensure proper positioning of the patient and to monitor alignment of the radiation beam with the patient's anatomy.

(b) *Classification.* Class II (performance standards).

§ 892.5840 Radiation therapy simulation system.

(a) *Identification.* A radiation therapy simulation system is a fluoroscopic or radiographic x-ray system intended for use in localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field produced. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.5900 X-ray radiation therapy system.

(a) An x-ray radiation therapy system is a device intended to produce and control x-rays used for radiation therapy. This generic type of device may include signal analysis and display equipment, patient and equipment supports, treatment planning computer programs, component parts, and accessories.

(b) *Classification.* Class II (performance standards).

§ 892.5930 Therapeutic x-ray tube housing assembly.

(a) *Identification.* A therapeutic x-ray tube housing assembly is an x-ray generating tube encased in a radiation-shielded housing, intended for use in radation therapy. This generic type of device may include high voltage and filament transformers or other appropriate components when contained in radiation-shielded housing.

(b) *Classification.* Class II (performance standards).

Subpart G—Radiology Miscellaneous Devices

§ 892.6500 Personnel protective shield.

(a) *Identification.* A personnel protective shield is a device intended to be used to protect the patient, the operator, or other persons from unnecessary exposure to radiation during radiologic procedures by providing an attenuating barrier to radiation. This generic type of device may include articles of clothing, furniture, and movable or stationary structures.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before March 30, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments regarding the general provisions are to be identified with the docket number found in brackets in the heading of this document. Comments regarding a particular device are to be identified with the docket number for that device found in the "Panel

Recommendations and FDA's Proposed Classifications" section. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has carefully analyzed the economic effects of this proposed rule and has determined that, if promulgated, the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that this proposal does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules proposing classification of devices into class I generally maintain the status quo: These devices are now subject to only the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and, under the proposed rules, would remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II would also remain subject only to the general controls provisions of the act unless and until an applicable performance standard were established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules do not have a significant impact on a substantial number of small entities and are not major rules.

Dated: December 16, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-1681 Filed 1-28-82; 8:45 am]

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federal register

Friday
January 29, 1982

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alaska: AK81–5136	July 24, 1981.
Hawaii: HI81–5153	Sept. 25, 1981
Illinois: IL81–2004	Mar. 13, 1981.
Indiana: IL81–2004	Mar. 13, 1981.
Kentucky: IL81–2004	Mar. 13, 1981.
Missouri: IL81–2004	Mar. 13, 1981
Montana:	
MT81–5138	Aug. 7, 1981.
MT81–5140	Aug. 7, 1981.
Nevada: NV81–5152	Sept. 18, 1981
New Jersey:	
NJ81–3053	Oct. 9, 1981.
NJ81–3063	Dec. 28, 1981.
Ohio: IL81–2004	Mar. 13, 1981
Oregon: OR81–5127	July 6, 1981.
Pennsylvania:	
PA80–3071	Oct. 24, 1980.
PA80–3074	Dec. 12, 1980.
PA81–3029	July 10, 1981.
PA81–3046	July 17, 1981
PA81–3044	Aug. 7, 1981.
PA81–3091	Dec. 28, 1981
Rhode Island: RI81–3042	Aug. 21, 1981
Texas: TX81–4036	June 5, 1981
Virginia:	
VA81–3085	Nov. 27, 1981
VA81–3084	Nov. 27, 1981
VA81–3083	Nov. 6, 1981.
Texas: TX81–4083	Nov. 6, 1981.
West Virginia: IL81–2004	Mar. 13, 1981.
Wyoming: WY81–5108	Apr. 3, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois: IL80–2061 (IL82–2002)	Aug. 15, 1980.
Texas:	
TX81–4030 (TX82–4001)	May 8, 1981.
TX81–4077 (TX82–4005)	Oct. 2, 1981.
Nebraska: NE81–4028 (NE82–4004)	Apr. 17, 1981

Signed at Washington, D.C., this 22nd day of January 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

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Modification Page 1

Modification Page 1

DECISION AK81-5136 - Mod. #1
(46 FR 38243 - July 24, 1981)
Statewide, Alaska

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$23.47	.78	1.45	1.00	.10
Bricklayers; Blocklayers; Stonemasons	20.02	1.34	3.80		
CARPENTERS:					
Area 1:					
Carpenters	21.93	.90	2.75		.15
Power actuated tool operator; Dewalt or similar type saw operator; Marlite and acoustical; Fire or floor repair work applicators; Nailing machine operator; Saw filer	22.38	.90	2.75		.15
Millwrights	22.54	.90	2.75		.15
Areas 2 and 3:					
Carpenter	20.85	.90	2.50		.35
Acoustical and marlite applicators; Floor workers; Radial arm saw operators; Fire and floor workers	21.28	.90	2.50		.35
Millwrights	21.45	.90	2.50		.35
CULINARY WORKERS:					
Working Camp Manager; Head Cook; Baker; Cook-Baker	18.20	.60	3.00		.04
Cook	17.20	.60	3.00		.04
ELECTRICIANS:					
Electricians; Technicians	22.15	1.65	3%+4.00		.25
Cable Splicers	23.90	1.65	3%+4.00		.25
Residential Electricians:					
Wireman	12.50	1.50	3%+1.00		.10
ELEVATOR CONSTRUCTORS	24.16	1.345	1.085	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.345	1.085	a	.035
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

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DECISION AK81-5136 - Mod. #1 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Area 1	$18.95	1.10	1.00		.20
LINE CONSTRUCTION:					
Groundman	21.15	1.65	3%+3.00		.25
Equipment operators; Linemen; Technicians	23.15	1.65	3%+3.00		.25
Cable Splicers	24.90	1.65	3%+3.00		.25
Powderman	21.15	1.65	3%+3.00		.25
IRONWORKERS:					
Bender operator; Bridge; Fence Erector; Machinery mover; Ornamental; Reinforcing; Sheeter; Structural	22.00	1.60	3.00		.30
SHEET METAL WORKERS:					
Residential construction: Areas 2 and 3	16.16	1.01	2.47		.22
SOFT FLOOR LAYERS:					
Areas 2 and 3	20.80	1.10	1.50	4%	.25
TERRAZZO WORKERS	20.02	1.34	3.80		
TILE SETTERS	19.29	1.34	3.80		
LABORERS:					
Building, Heavy & Highway Construction					
Group 1	17.20	1.55	3.25		.20
Group 2	17.48	1.55	3.25		.20
Group 3	17.81	1.55	3.25		.20
Group 4	18.03	1.55	3.25		.20
Group 5	18.25	1.55	3.25		.20
Group 6	18.49	1.55	3.25		.20

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DECISION NO. MT81-5153 - Mod #4 (46 FR 47394 - Sept. 25, 1981) Statewide Hawaii	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters:					
Brush	$14.05	.84	3.00	1.00	.10
Tapers	14.30	.84	3.00	1.00	.10
Spray; Sandblaster	14.55	.84	3.00	1.00	.10
Roofers	13.30	1.25	1.80	.85	.15
DECISION NO. IL81-2004 MOD. #1 (46 FR 16818 - March 13, 1981) Illinois, Indiana, Kentucky, Missouri, Ohio & West Virginia					
Change:					
Area IV					
Within the geographical jurisidiction of the St. Paul District, Corps of Engineers					
Levermen, Engineer, Mechanic and Boatman	$13.66	1.50	1.35		
Oiler	11.32	1.50	1.35		
Area V					
Within the geographical jurisdiction of the Rock Island District, Corps of Engineers					
Levermen, Engineer, Mechanic, and Boatman	13.66	1.50	1.35		
Oiler	11.32	1.50	1.35		
Area VI					
Within the geographical jurisdiction of the Chicago District, Corps of Engineers					
Levermen, Engineer, Mechanic, and Boatman	13.66	1.50	1.35		
Oiler	11.32	1.50	1.35		

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DECISION NO. MT81-5138 - Mod. #3 (46 FR 40439 - August 7, 1981) Statewide, Montana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Area 7:					
Electricians	$17.61	.70	3%+.50		1/2%
Cable Splicers	18.49	.70	3%+.50		1/2%
Area 8:					
Electricians	14.05	.70	3%+.50		1/2%
Cable Splicers	14.75	.70	3%+.50		1/2%
Area 9:					
Electricians	13.85	.70	3%+.50		1/2%
Cable Splicers	14.54	.70	3%+.50		1/2%
Plumbers:					
Area 4	17.60	1.00	1.10		.20
Omit:					
Cement Masons:					
Cement Masons	10.88	.85	.40		
Grinder, Bush Hammer and Chipping Fan preparing finished surface; Epoxy	11.03	.85	.40		
Add:					
Cement Masons:					
Cement Masons	11.83	.85	.55		
Grinder, Bush Hammer and Chipping Fan preparing finished surface	11.98	.85	.55		
Epoxy	12.13	.85	.55		
DECISION NO. MT81-5140 - Mod. #3 (46 FR 40467 - August 7, 1981) Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley Counties, Montana					
Change:					
Asbestos Workers Bricklayers; Marble Masons:	$18.84	.78	$1.45		.04
Area 1	15.45	.85	1.00		

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DECISION NO. MT81-5140 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons:					
Area 2:					
Cement Masons	$13.75	$1.00	$ .50		
Grinder, Bush Hammer and Chipping Gun, preparing finished surface; Epoxy	14.10	1.00	.50		
Electricians:					
Area 4:					
Electricians	17.61	.70	3%+.50		1/2%
Cable Splicers	18.49	.70	3%+.50		1/2%
Area 5:					
Electricians	14.05	.70	3%+.50		1/2%
Cable Splicers	14.75	.70	3%+.50		1/2%
Plasterers:					
Area 1	13.75	1.00	.50		
Roofers:					
Area 4	13.50	.55			
Terrazzo and Tile Setters:					
Area 2	14.45	1.00	.85		

DECISION NO. NV81-5152 - Mod. #2 (46 FR 46505-September 18, 1981)

Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction Douglas County), Nevada

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brick Hod Carriers:					
Area 1	$13.51	$1.15	$1.35		.10
Bricklayers; Stonemasons					
Area 1	16.59	1.10	.70		.06
Area 2	16.32	1.15	.75		.04
Carpenters:					
Area 2:					
Carpenters	14.80	1.33	1.93	1.30	.11
Drywall Installers	15.05	1.33	1.93	1.30	.11
Floor Layers; Patent Scaffold Erectors; Power Saw Operator; Shingler	14.95	1.33	1.93	1.30	.11
Millwrights	15.40	1.33	1.93	1.30	.11
Piledrivermen	15.05	1.33	1.93	1.30	.11
Cement Masons:					
Area 2:					
Cement Masons	13.80	1.33	1.27	2.00	.10
Mastic, Magnesite and all Composition Masons	14.05	1.33	1.27	2.00	.10
Troweling Machine; Grinder Operator and Kelly Float	14.30	1.33	1.27	2.00	.10
Area 3:					
Cement Masons	15.55	1.33	1.27	2.00	.10
Mastic, Magnesite and all Composition Masons	15.80	1.33	1.27	2.00	.10
Troweling Machine; Grinder Operator and Kelly Float	16.05	1.33	1.27	2.00	.10
Electricians:					
Area 1:					
Electricians; Technicians	19.56	1.41	3%+2.80		.08
Cable Splicers	19.89	1.41	3%+2.80		.08

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DECISION NO. NV81-5152 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 2:					
Electricians; Technicians	$20.73	$1.09	3%+2.09		.14
Cable Splicers	22.80	1.09	3%+2.09		.14
Area 3:					
Electricians; Technicians	22.23	1.09	3%+2.09		.14
Cable Splicers	24.30	1.09	3%+2.09		.14
Elevator Constructors:					
Area 1:					
Elevator Constructors	18.67	1.345	1.085	a	.035
Helpers	13.07	1.345	1.085	a	.035
Probationary Helpers	9.335				
Laborers:					
Remaining Counties:					
Group 1	12.36	1.15	1.35		.10
Group 2	12.46	1.15	1.35		.10
Group 3	12.61	1.15	1.35		.10
Group 4	12.86	1.15	1.35		.10
Group 5	13.16	1.15	1.35		.10
Group 6-A	13.16	1.15	1.35		.10
Group 6-B	12.86	1.15	1.35		.10
Group 6-C	12.51	1.15	1.35		.10
Line Construction Workers:					
Area 2:					
Groundman	15.55	1.09	3%+2.09		
Line Equipment Operators	18.66	1.09	3%+2.09		
Lineman; Technician	20.73	1.09	3%+2.09		
Cable Splicers	22.80	1.09	3%+2.09		
Area 3:					
Groundman	17.05	1.09	3%+2.09		
Line Equipment Operators	20.16	1.09	3%+2.09		
Lineman; Technicians	22.23	1.09	3%+2.09		
Cable Splicers	24.30	1.09	3%+2.09		
Marble Setters:					
Area 1	16.59	1.10	.70		.06
Area 2	15.04	1.16	.75		.01
Marble, Terrazzo and Tile Finishers:					
Area 1	13.90	1.10	.70		
Area 2	8.83	1.16	.75		.01

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DECISION NO. NV81-5152 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Area 2:					
Brush and Roller Spray; Taper; Paperhangers; Sandblaster	$16.79	$ .84	$ .75		.02
Spray-swing stage, up to 40 ft.; Spray-steel	17.29	.84	.75		.02
Brush-swing stage, up to 40 ft.; Brush-steel	17.54	.84	.75		.02
Plasterers:	17.04	.84	.75		.02
Area 2	14.72	1.33	1.50		.05
Plumbers; Steamfitters:					
Area 2	18.24	1.23	1.25	2.10	.20
Plumbers (Utility):					
Area 1	18.24	1.23	1.25	2.10	.20
Sheet Metal Workers:					
Area 2	16.57	1.30	2.36	1.66	.14
Terrazzo Workers; Tile Setters:					
Area 1	16.59	1.10	.70		.06
Area 2	15.04	1.16	.75		.01

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DECISION NO. NJ81-3053 - MOD. #4 (46 FR 50243 - October 9, 1981)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY					
CHANGE:					
LABORERS, BUILDING CONSTRUCTION					
ZONE 15					
Laborers	10.05	.85	.85		.10
ZONE 4					
Laborers	10.45	.80	.50		.10
DECISION NO. NJ81-3063 - MOD. #1 (46 FR 62746 - December 28, 1981)					
ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY					
CHANGE:					
CARPENTERS, MILLWRIGHTS AND INSULATORS:					
ZONE 5					
Carpenters & Insulators	14.75	8%	7%		5/10%
Millwrights	15.00	8%	7%		5/10%
ZONE 6					
Carpenters & Insulators	14.75	8%	7%		5/10%
Millwrights	15.00	8%	7%		5/10%
GLAZIERS:					
Monmouth & Ocean Cos.	15.90	.91	3.00		.05
LABORERS, BUILDING CONSTRUCTION:					
ZONE 1					
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	10.40	.65	.95		.07

DECISION NO. NJ81-3063 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS, BUILDING CONSTRUCTION: (Cont)					
ZONE 3					
Laborers	10.40	.60	75		.10
Hod carriers, mason tenders, operators of jackhammers, tampers and electric hammers	10.65	.60	.75		.10
ZONE 6					
Laborers	10.15	.40	1.00		.10
Hod carriers and plasterers tenders	10.25	.40	1.00		.10
BRICKLAYERS, STONEMASONS, MARBLE MASON, CEMENT MASONS PLASTERERS, TILE LAYERS AND TERRAZZO WORKERS:					
ZONE 1					
Bricklayers, Cement Masons, Marble Masons, Plasterers, Stonemasons, Tile Layers and Terrazzo Workers	13.40	.75	2.00		.04
DECISION NO. OR81-5127 - Mod #8 (46 FR 35019 - July 6, 1981) Statewide Oregon					
CHANGE:					
ELECTRICIANS:					
Area 4:					
Electricians	$22.00	1.25	3% + 1.00		.17
Cable Splicers	24.20	1.25	3% + 1.00		.17
Area 5:					
Electricians	20.80	1.25	3% + 2.25		.13
Cable Splicers	21.60	1.25	3% + 2.25		.13
Area 6:					
Electricians	18.72	1.25	3% + 2.00		.17
Cable Splicers	20.59	1.25	3% + 2.00		.17

DECISION NO. PA80-3071 MOD. NO. 4 (45 FR 70699 - October 24, 1980) Allegheny County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Residential 4 stories walk-up or with elevator	$15.95	1.75	3%+1.00		.10
Residential (single or two family houses walk-up garden type apartments up to and including 4 stories	10.12	.55	3%	.25	
DECISION NO. PA80-3074 MOD. NO. 11 (45 FR 81981 - December 12, 1980) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania					
CHANGE:					
Carpenters & Soft floor layers	12.65	6½%	8%	10%	
Electricians					
Zone I	15.95	1.75	3%+1.00		.10
Line Construction					
Zone I					
Lineman	16.93	.60	3%		3/8%
Groundman	10.15	.60	3%		3/8%
Winch truck op.	11.85	..60	3%		3/8%
Zone III					
Lineman	14.23	.60	3%		3/8%
Winch truck op.	9.96	.60	3%		3/8%
Groundman	8.54	.60	3%		3/8%
Sheet metal workers					
Zone II	13.51	1.17	2.17		.23

DECISION NO. PA81-3029 MOD. NO. 4 (46 FR 35891 - July 10, 1981) Blair County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters	$12.65	6½%	8%	10%	
Electricians	15.95	1.75	3%+1.00		.10
Sheet metal workers	13.51	1.17	2.17		.23
DECISION NO. PA81-3043 MOD. NO. 5 (46 FR 37212 - July 17, 1981) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania					
CHANGE:					
Electricians:					
Zone I	15.95	1.75	3%+1.00		.10
Zone III	16.10	3½%	3%+1.30		1/2%
DECISION NO. PA81-3044 MOD. NO. 2 (46 FR 40477 - August 7, 1981) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania					
CHANGE:					
Electricians:					
Zone I	15.95	1.75	3%+1.00		.10
Zone IV	16.10	3½%	3%+1.30		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3091 MOD. NO. 1 (46 FR 62761 - December 28, 1981) Greene, Somerset & Potter Counties, Pennsylvania					
CHANGE:					
Carpenters:					
Somerset & Potter Counties	$12.65	6½%	8%	10%	
Electricians:					
Greene & Somerset Counties	15.95	1.75	3%+1.00		.10
Line Construction:					
Greene & Somerset Counties:					
Linemen	16.93	.60	3%		3/8%
Groundman	10.15	.60	3%		3/8%
Winch truck op.	11.85	.60	3%		3/8%
DECISION NO. RI81-3042 - Mod. #3 (46 FR 42615 August 21 1981) Statewide, Rhode Island					
CHANGE:					
BUILDING CONSTRUCTION					
BOILERMAKERS	16.53	1.275	10%		.04
CARPENTERS					
Statewide					
Carpenters	13.00	.90	2.00		.05
Millwrights	13.25	.90	2.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4036 - MOD. #3 (46 FR 30286 - June 5,1981) Lubbock County, Texas					
CHANGE:					
Asbestos workers	$13.60	.80	1.55		.02
Carpenters	12.20	.48	.80		.01
Painters:					
Brush	10.45				
Spray; sandblaster	11.20				
Sheet metal workers	14.72	.55	.72		.12
Decision No. VA81-3085 - Mod. #1 (46 FR 58029 - Nov. 27, 1981) York County & the Cities of Hampton & Newport News (including Langley AFB, Fort Eustis and Fort Monroe), Virginia					
CHANGE					
Sprinkler Fitters	$12.60	.95	1.40		.05
Decision No. VA81-3084 Mod. #1 (46 FR 58031 - Nov. 27, 1981) Henrico County & the Independent City of Richmond, Virginia					
CHANGE					
Sprinkler Fitters	12.60	.95	1.40		.05
Plumbers & Steamfitters	13.25	.80	.90		.05
Decision No. VA81-3083 Mod. #1 (46 FR 55217 - Nov. 6, 1981) The Cities of Chesapeake, Portsmouth & Virginia Beach, Virginia					
CHANGE					
Sprinkler Fitters	12.60	.95	1.40		.05

DECISION NO. TX81-4083 - MOD. #5
(46 FR 55213 - November 6, 1981)
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Power Equipment Operators:					
Zone 1 - Group 1	$14.02	.65	1.15		.20
Group 2	13.62	.65	1.15		.20

POWER EQUIPMENT OPS. (ZONE 1) CLASSIFICATIONS DEFINITIONS

GROUP 1 - Heavy duty mechanic; Asphalt mixer op. on job; Blade grader, self-propelled; Bull clam; Backfiller, Bulldozer & all cat type tractors; Backhoe; Concrete mixer, over 14 cu. ft.; Crusher Op. on job; Concrete batch plant op.; Clam shell; Cranes (all types) truck mounted or crawler requires oiler including groves (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane & derricks booms: .01¢ per hour, per ft., over 90 ft. including jib; Draglines, Derricks, power operated (all types); DW-10 caterpillar, S-8 euclid & similar tractors; Elevating grader, self-propelled; Foundation drilling machines (all); Forklifts, used in handling machinery on construction; Gradall; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile drivers; Pumpcrete machines; Pneumatic roller, self-propelled; Shovels, power operated; Scraper, over 3 cu. yds.; Scoopmobiles; Trenching machines, all types; Winch trucks, when poles and winch is used; Water well drilling machines, used on construction; Well point pumps; Welding machines (7 to 13 machines)

GROUP 2 - Air compressors, water pumps, welding machines (2 to 6 machines), generators; Blade grader, towed; Flex plane; Form grader; Concrete mixers, less than 14 cu. ft. Pulsometer; Wagon drill op.; Conveyor; Hoist, single drum; Scraper, 3 cu. Yds. or less; Bobcat with loader

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Sound Installers - repair, service & installation of intercommunication telephone interconnect, sound & public address equipment, electronic systems, music & television distributing systems for commercial buildings & shall include the pulling of all wires in conduit or raceways or surface wiring, the running of open wires, the running of conduit & raceways not to exceed 10 ft. in length & the wiring of all electrical communication devises of 100 volts or less controlling the equipment described above	$10.42	.54	3%	c	

DECISION NO. TX81-4083 MOD. # 5 (CONT'D)

FOOTNOTES FOR SOUND INSTALLERS

c - Sick or Injury Pay:
1st day out - no pay
2nd day out - 1/2 pay
3rd day out & thereafter - Full pay for a maximum of 10 days pay per year of the Contract
Employees who receive pay for less than 5 sick days per year shall receive on Aug. 31 of each year incentive pay equal in amount to a day's pay for each day that such days were less than 5.

Employees who are members of a reserve component of the Armed Services & are ordered to annual active duty for training as a normal part of their reserve obiligation shall be eligible for & shall receive differential pay equal to the difference between their computed daily base rate (excluding overtime compensation) & their daily military base pay (excluding quarter & subsistence allowances) for each day of military leave where the employee would normally have performed work up to a maximum of 10 work days per year.

Employees absent from work while serving as jurors shall be paid at their hourly rate excluding overtime for the hours actually lost from work less any amount received by the employee as juror's fee.

Up to 3 days paid leave for death of immediate family member (spouse, child, parent, brother, sister, mother-in-law, father-in-law, grandparents & grandchildren)

Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, the last working day preceding Christmas Day, Christmas Day & another day to be designated by the Company.

Paid Vacation:
after 1 year service - 1 week vacation
after 2 years service - 2 weeks vacation
after 5 years service - 2 years & 1 day vacation
after 6 years service - 2 years & 2 days vacation
after 7 years service - 2 years & 3 days vacation
after 8 years service - 2 years & 4 days vacation
after 9 years service - 3 weeks vacation

DECISION NO. WY81-5108 - Mod. #8
(46 FR 20477 - April 3, 1981)
Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$12.75	.85	.75	.75	.22
Piledrivermen	13.00	.85	.75	.75	.22
Ironworkers:					
Structural, Ornamental, Reinforcing	14.15	1.05	1.60		.15

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SUPERSEDEAS DECISION

STATE: ILLINOIS

COUNTY: WINNEBAGO

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: ILLINOIS COUNTY: WINNEBAGO
DECISION NO.: IL82-2002 DATE: Date of Publication
Supersedes Decision No.: IL80-2061, dated August 15, 1980 in 45 FR 54611
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS; Blocklayers	$14.43	.90	1.30		.01
CARPENTERS; Drywall Hangers	13.26	.90	1.47	.76	.10
CEMENT MASONS	11.78	.55	1.00		
ELECTRICIANS	8.45	.55	3%+.80		½%
LABORERS	12.45	.65	1.15		.05
PAINTERS	13.95	.90	1.00		.02
PLUMBERS; Steamfitters	16.66	.75	1.10		.10
ROOFERS	16.17	.90			.03
SHEET METAL WORKERS	15.20	.90	1.72		.09

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO. : TX82-4001 DATE: Date of Publication
Supersedes Decision No. TX81-4030, dated May 8, 1981 in 46 FR 25984
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.60	.80	1.55		.02
BOILERMAKERS	14.80	1.275	1.00		.04
BRICKLAYERS & STONEMASONS	13.55		.80		
CARPENTERS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter Randall, Roberts, Sherman Swisher & Wheeler Cos.:					
Carpenters	13.45		.60		.01
Millwrights	13.80		.60		.01
ZONE 2 - Childress Co.:					
Carpenters	12.90	.53	.90		.10
Millwrights	13.40	.53	.90		.10
CEMENT MASONS	12.70				
ELECTRICIANS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:					
Electricians	13.98	.60	3%+.50		1/2%
Cable splicers	15.38	.60	3%+.50		1/2%
ZONE 2 - Childress Co.:					
Electricians	13.10	.60	3%		1/10%
Cable splicers	13.35	.60	3%		1/10%

DECISION NO. TX82-4001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	$ 7.90			a	
IRONWORKERS:					
ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern 1/4) Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.	13.00	.80	1.65		.10
ZONE 2 - Childress Co. (southeastern 1/4)	12.425	.55	1.70		.10
LABORERS:					
GROUP 1 - General or construction laborers	7.52	.63	.60		
GROUP 2 - Air or electric tool ops., jackhammers, vibrator tampers, chipping hammers, pipe wrappers, asphalt rakers, sand blasterers, riprap stone pavers, cutting torch op. (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader & placer, chuck tenders, timberman, collapsible form setters, concrete buggy ops.; carpenter tenders, pipe layers: main, sewer and drainage; make-up man, powderman & blasters; gunite ops. or concrete operators	7.67	.63	.60		.01
LATHERS	15.15				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
ZONE 1 - Childress Co.:					
Lineman; operators	$13.10	.60	3%		1/2%
Cable splicers	13.35	.60	3%		1/2%
Groundman	70%JR	.60	3%		1/2%
ZONE 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:					
Linemen	13.90	.60	3%+.50		1/2%
Cable splicers	15.30	.60	3%+.50		1/2%
Groundman	9.24	.60	3%+.50		1/2%
Operator-hole digger, line truck	10.75	.60	3%+.50		1/2%
Flat bed truck driver	8.11	.60	3%+.50		1/2%
MARBLE MASONS (EXTERIOR)	13.55		.80		
PAINTERS:					
GROUP 1 - Brush & roller; paperhangers; perfa-taper	9.95		.50		
GROUP 2 - Structural steel; swinging stage or chair below 50 ft.	10.07		.50		
GROUP 3 - Spray & sandblasters	10.70		.50		
GROUP 4 - Perfa-tape mach.	10.20		.50		
PLASTERERS	15.15				.01
PLUMBERS & PIPEFITTERS	14.10	.50	.75	1.06	
ROOFERS	8.00				
SHEET METAL WORKERS	14.72	.55	.72		.12
SPRINKLER FITTERS	14.68	.95	1.40		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE FOR GLAZIERS
a - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

SUPERSEDEAS DECISION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$13.85	.65	.50		.15
GROUP 2	13.35	.65	.50		.15
GROUP 3	11.40	.65	.50		.15

Group 1: Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating Graders, self-propelled; Hoist, 2 drums or more; Locomotive; Mixermobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers-12½ tons and over; Shovels; Heavy Duty Mechanics; All Welders; All tractors with power attachments; Ditching Machines - crawler type; Farm type Tractor (Loader, 1 yd. and over) with Backhoe

Group 2: Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Cherry Pickers - under 12½ tons; Ditch Witch - J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Go-Devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Boilers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader, Payloader; Blade Grader, towed; Elevators, building; Fork Lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors - Wheel type except when hauling material

Group 3: Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Jefferson & Orange
DECISION NO.: TX82-4005 DATE: Date of Publication
Supersedes Decision No. TX81-4077, dated October 2, 1981, in 46 FR 48859.
DESCRIPTION OF WORK: Building (including Residential) Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Jefferson County	$15.05	1.10	1.18		.08
Orange County	15.36	.825	1.23		.05
BOILERMAKERS	14.80	1.275	1.00		.04
BRICKLAYERS & STONEMASONS	15.68	.94	1.10		.06
CARPENTERS:					
Carpenters:					
Commercial	14.37	.85	.60		.065
Residential construction of not more than 2 units & condominium townhouses of not more than 10 units excluding all apartment construction & multiple buildings for rental purposes	13.59	.85	.60		.065
Millwrights	14.625	.85	.60		.05
Piledrivermen	14.51	.85	.60		
CEMENT MASONS	14.62				
ELECTRICIANS	17.70	.60	3%+.435		.10
ELEVATOR CONSTRUCTORS:					
Mechanics	13.90	1.345	.95	a+b	.035
Helpers	70%JR	1.345	.95	a+b	.035
Helpers (Probationary)	50%JR				
GLAZIERS:					
Northern 1/2 of Jefferson Co.	12.92	.60			
Southern 1/2 of Jefferson Co. & all of Orange Co.:					
Commercial	13.91	.82			.05
Residential	11.95	.60			.05
IRONWORKERS	13.60	.80	1.70		.10
LABORERS:					
GROUP 1	9.71	.60	.60		.05
GROUP 2	9.91	.60	.60		.05
GROUP 3	10.01	.60	.60		.05
GROUP 4	10.16	.60	.60		.05

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - All hand digging & dirt work; backfilling; loading & unloading of materials to & from hoist or cages; loading & unloading of tools & equipment; handling of lumber, steel, cement; distribution of materials; wrecking & razing of buildings & structures; storing materials & tools in and out of receiving lots & sheds; dumper; spotter; carpenter tender & all construction work not hereinafter classified

GROUP 2 - Air power tool operator; cutting torch operator; gunnite rebound man; machine operators; power buggy operator; sandblaster (potmen); drill tenders; concrete grademen; wagon drill operator; metal pan & steel form men

GROUP 3 - Concrete burner; cement mason tender; hod carrier, mortar mixers, plaster tenders & brick mason tenders; pipelayer, pumpcrete nozzlemen; scaffold builder; water pump operator; tank cleaning; all pipe cleaning & wrapping; mortar & plaster mixing machines, grout machine; pumpcrete machines; gunnite mixing machines, including placing & cleaning of all pipe & conduits used in placing of concrete

GROUP 4 - Powdermen & blasters; sandblaster; gunnite workers; terrazzo grinders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$14.37	.85	.60		.065
LINE CONSTRUCTION:					
Linemen & cable splicers	18.24*	.60	3%		1/2%
Groundmen	13.32	.60	3%		1/2%
PAINTERS:					
Southern 1/2 of Jefferson Co. & all of Orange Co.:					
COMMERCIAL:					
GROUP 1 - Brush, steel wood & wall paperhanger	13.51	.82			.05
GROUP 2 - Spray, roller, sandblaster, power cleaning, all time spent rigging; hot paint or creosote brush	14.36	.82			.05
GROUP 3 - Hot paint or creosote spray or roller	14.71	.82			.05
RESIDENTIAL:					
Brush	11.95	.60			.05
Paperhanger	12.20	.60			.05
Spray	12.47	.60			.05
Sandblaster, power cleaning	12.21	.60			.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Northern 1/2 of Jefferson Co.:					
GROUP 1 - Brush:					
Commercial	$12.80	.82			
Residential	12.55	.82			
GROUP 2 - Paper & vinyl hangers:					
Commercial	13.05	.82			
Residential	12.80	.82			
GROUP 3 - Brush, steel:					
Commercial	12.97	.82			
GROUP 4 - Spray:					
Commercial	13.22	.82			
Residential	12.97	.82			
Twenty-five cents (25¢) per hour above the prevailing wage rate when working on window jacks or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications.					
PIPEFITTERS	14.62	.87	1.00		.15
PLASTERERS	15.20	.92	.75		.02
PLUMBERS	12.96	.95	.75		.03
ROOFERS:					
Composition	12.96	.57	.50	.35	.06
Slate and tile	13.71	.57	.50	.35	.06
Kettlemen	12.06	.57	.50	.35	.06
SHEET METAL WORKERS:					
Commercial	14.48	3%+.70	.84		.18
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apartment is individually conditioned by a separate & independent unit or system	9.41	3%+.70	.84		.18
SPRINKLER FITTERS	14.68	.95	1.40		.08
TILE SETTERS	14.17	.94	1.10		.06

DECISION NO. TX82-4005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
GROUP 1 - Under 1-1/2 tons & wash, grease, tireman, fuel pump operators when used on construction	$11.25	.79			
GROUP 2 - 1-1/2 tons thru 2-1/2 tons, dump truck less than 7 yds.	12.04	.79			
GROUP 3 - Over 2-1/2 tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards & when used to transport material), floats, hydraulic tail gate lifts; euclids (not self-loading)	12.33	.79			
GROUP 4 - Warehousemen-material checker; town driver	12.51	.79			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 5 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

DECISION NO. TX82-4005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$15.185		.75		
GROUP 2	12.71		.75		
GROUP 3	11.69		.75		
GROUP 4	11.44		.75		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; Blade grade, self-propelled; Bull clam; Back filler; Derrick-power operated, all types; Dragline; Push cat; Bulldozer & all types of cat tractors; Cableway; Backhoe; Shovel; Crane-power operated, all types; Elevating grader, self-propelled; Hoist - motor driven, two drums or more; Mix mobile; Winch truck; Locomotive crane; Mixer, 14 cu. ft. or more; Paving mixer,all sizes; Piledrivers; Scraper-heavy type, over 3 cu. yds.; Trench machines, all sizes; Gradeall; High-lift; Foundation boring machines; Gasoline or diesel driven welding machines-7 to 12 machines; Pumpcrete machine; Drill operator - Water well; DW-10 euclid; Tournapulls; Asphalt Plants; Crushing machines and batch plants; Scoopmobiles; Fingerlift operator; Elevator when used to haul men or material on construction work; Well point system & operation of similar dewatering devices
GROUP 2 - Air compressor; Blade grade-towed; Flex plane; Form grader; Mixer, less than 14 cu. ft.; Pump, Pulsometer; Truck crane driver; Gasoline or diesel welding machines, 3 to 6 machines; Hoist-single drum; Scraper, 3 cu. yds. or less; Conveyors-power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in to labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nebraska COUNTY: Lancaster
DECISION NO.: NE82-4004 DATE: Date of publication
Supersedes Decision No.: NE81-4028 dated April 17, 1981 in 46 FR 22549
DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$12.375		.90		
Carpenters	10.935	.65	1.00		.05
Cement masons	7.97				
Electricians	14.14	.87	3%+1.00		.06
Elevator mechanic	14.54	1.345	1.085	a+8%	.035
Glaziers	14.45	.90	.60		.01
Ironworkers	12.60	1.10	1.25	1.00	.05
Laborers:					
Laborers	6.30				
Mason tenders	8.995	.65	.35		
Plasterers tenders	9.07	.65	.35		
Painters	10.34	.65	.30		
Plasterers	10.955				
Plumbers & pipefitters	14.64	.85	.90		.10
Roofers	10.85	.50	.30		.02
Sheet metal workers	13.52	.75	.60	.84	.08
Tile setters	12.70				
Truck drivers	5.56				
Power Equipment Operators:					
Motor grader	7.00				
Oiler	8.61	.82	.50		
Scraper	7.00				
Bulldozer	9.00				
Fork lift	9.94	.82	.50		
Cranes	10.67	.82	.50		
Backhoes	7.52				
Front end loader	8.52				
Roller	7.27				
Tractor	6.50				
Sprinkler fitters	15.31	.95	1.40		

FOOTNOTES:
a - Employer contributes 6% of the basic hourly rate for 6 months to 5 years service and 8% of the basic hourly rate for over 5 years service as Vacation Pay Credit, also 7 paid holidays.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)".

[FR Doc. 82-2075 Filed 1-28-82; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
January 29, 1982

Part IV

Department of Agriculture

Federal Grain Inspection Service

Grain Standards; Inspection Points

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Termination of Designations of the Kankakee Grain Inspection Bureau, Inc., and Grain Inspection, Inc.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces that the designations of two official agencies will terminate on July 31, 1982, and requests applications from parties interested in being designated as agencies to conduct official inspection services in the geographic areas currently serviced by each of the two present agencies. The two official agencies are the Kankakee Grain Inspection Bureau, Inc., and Grain Inspection, Inc.

DATE: Applications to be postmarked on or before March 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405, Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71, *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provde official inspection services in an assigned geographic area.

The Kankakee Grain Inspection Bureau, Inc. (Kankakee), P.O. Box 102, Kankakee, Illinois 60901, was designated as an official agency under the Act for the performance of official grain inspection functions on February 14, 1979. Grain Inspection, Inc. (Jamestown), P.O. Box 1652, Jamestown, North Dakota 58401, was designated as an official agency under the Act for the performance of official grain inspection functions on March 1, 1979. The two agencies' designations will terminate on July 31, 1982. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the Federal Register (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Kankakee in the State of Illinois pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the following:

In Illinois, the area shall be:

Bounded: on the North by the northern Bureau County line; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast to Interstate 57;

Bounded: on the East by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the Kankakee County line;

Bounded: on the South by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 north to Interstate 180; Interstate 180 west to State Route 29; State Route 29 south to the Bureau County line; the southern Bureau County line west to State Route 88; and

Bounded: on the West by State Route 88 north to the Bureau County line.

An exeption to the described geographic area is the following location situated inside Kankakee's area which has been and will continue to be serviced by the Eastern Iowa Grain Inspection and Weighing Service, Inc.: Leland Farmers Company, Leland, Illinois, LaSalle County.

The geographic area presently assigned to Jamestown in the State of North Dakota pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the following:

In North Dakota, the area shall be:

Bounded: on the North by Interstate 94 east to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 north to U.S. Route 52; U.S. Route 52 southeast to State Route 15; State Route 15 east to U.S. Route 281; U.S. Route 281 south to Foster County; the northern Foster County line; the northern Griggs County line east to State Route 32;

Bounded: on the East State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to the Dickey County line;

Bounded: on the South by the southern Dickey county line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west to State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Chicago Milwaukee St. Paul and Pacific Railroad line; the Chicago Milwaukee St. Paul and Pacific Railroad line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and

Bounded: on the West by the western North Dakota State line north to Interstate 94.

Also, the following locations, all in North Dakota, which are outside of the foregoing contiguous area, and which are presently assigned to Jamestown, and which are part of the geographic area that may be assigned to the applicant selected for designation are:

1. Farmers Coop Elevator, Fessenden, Wells County;

2. Farmers Union Elevator and Manfred Grain, Manfred, Wells County; and

3. Norway Spur and Oakes Grain, Oakes, Dickey County.

Exceptions to the described geographic area are the following locations, all in North Dakota, situated inside Jamestown's area which have been and will continue to be serviced by these official agencies:

Aberdeen Grain Inspection, Inc.:

1. Farmers Elevator, Guelph, Dickey County;

2. Farmers Equity Exchange and Sun Grain, New England, Hettinger County; and

3. Regent Grain Company and Regent Equity, Regent, Hettinger County.

Minot Grain Inspection, Inc.:

1. Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, McLean County; and

2. Merle A. Larson Elevator, Inc., Washburn, McLean County.

Interested parties, including Kankakee and Jamestown, are hereby given

opportunity to apply for designation as the official agency for each respective specified geographic area, as described above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. The designations in each specified geographic area are for the period beginning August 1, 1982, and terminating July 31, 1985. Parties wishing to apply for either of these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than March 1, 1982 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official inspection service in the geographic areas, consideration will be given to all applications submitted and all other information available to the Administrator. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 25, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–2432 Filed 1–28–82; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to Little Rock Grain Exchange Trust and Memphis Grain and Hay Association, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to the Little Rock Grain Exchange Trust (Little Rock), and the Memphis Grain and Hay Association, Inc. (Memphis). The two designations terminate effective 12 p.m., May 31, 1982.

DATE: Comments to be postmarked on or before March 30, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The December 30, 1981, issue of the **Federal Register** (46 FR 63170) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to Little Rock and Memphis, respectively. Applications were to be postmarked by January 29, 1982.

One applicant requested designation for all of the geographic area currently assigned to Little Rock. That applicant is the Little Rock Grain Exchange Trust, North Little Rock, Arkansas. Little Rock applied for a renewal of designation for an additional 3-year period.

One applicant requested designation for all of the geographic area currently assigned to Memphis. That applicant is the Memphis Grain and Hay Association, Inc., Memphis, Tennessee. Memphis applied for a renewal of designation for an additional 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants.

All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than March 30, 1982.

Consideration will be given to all comments filed and to all other information available to the Administrator of FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 25, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–2433 Filed 1–28–82; 8:45 am]

BILLING CODE 3410–EN–M

Renewals of Designation of the Alabama Department of Agriculture and Industries and the D. R. Schaal Agency

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Alabama Department of Agriculture and Industries (Alabama), and the D. R. Schaal Agency (Schaal), as official agencies responsible for providing grain inspection and weighing services and inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71, et seq.) (Act).

EFFECTIVE DATE: March 1, 1982.

ADDRESS: James R.Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The September 1, 1981, issue of the **Federal Register** (46 FR 43947) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Alabama and Schaal's designations were terminating on February 28, 1982, and requesting applications for designation as the agency to provide official inspection, official weighing, and supervision of weighing services and official inspection services within each specified assigned area. Applications were to be postmarked by October 1, 1981.

FGIS announced the names of the applicants for designation for each of the two agencies and requested comments on same in the October 30, 1981, issue of the **Federal Register** (46 FR 54065). Comments were to be postmarked by December 29, 1981.

One favorable comment was received regarding the renewal of designation of Alabama (the only applicant) as the official agency in the area cited in the September 1 issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Alabama is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the September 1 issue of the **Federal Register.**

There were two applicants requesting designation for all of the geographic area currently assigned to Schaal. One was the D. R. Schaal Agency applying for a renewal of designation; the other was George Nolen, of Des Moines, Iowa, who proposed to establish a new official agency. Two favorable comments were received regarding the renewal of designation of Schaal; no comments were received regarding the designation of George Nolen as the official agency in the area as cited in the September 1 issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Schaal is better able to provide offical services in the geographic area for which it is being selected, and its designation is being renewed. This assigned area is the entire geographic area as described in the September 1 issue of the **Federal Register.**

Effective March 1, 1982, the responsibility for providing official inspection, official weighing, and supervision of weighing services for Alabama and official inspection services for Schaal in each geographic area as specified above will be assigned to Alabama and Schaal, respectively. Designations of each of the two agencies will terminate February 28, 1985.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all other areas within their geographic area.

Interested persons may obtain a list of the specified service points by contacting the specific agencies at the following addresses:

Alabama Department of Agriculture and Industries, Room 200, Richard Beard Building, 1445 Federal Drive, Montgomery, AL 36109.

D. R. Schaal Agency, Highway 69 South, P.O. Box 213, Belmond, IA 50421.

Interested persons may also contact the Regulatory Branch at the address listed above to obtain the information concerning specified service points.

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: January 25, 1982.

J. T. Abshier

Director, Compliance Division.

[FR Doc. 82-2434- Filed 1-28-82; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Applicant for Designation in the State of Alaska

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for designation, under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (Act), as the official agency in the State of Alaska, excluding export port locations.

DATE: Comments to be postmarked on or before March 30, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The November 30, 1981, issue of the **Federal Register** (46 FR 58268) contained a notice from FGIS requesting applications for designation to perform official inspection services under the Act in the State of Alaska, excluding export port locations. Applications were to be postmarked by December 28, 1981.

One applicant requested designation for all of the geographic area in the State of Alaska, excluding export port locations. That applicant is the Alaska Department of Natural Resources, Division of Agriculture, which proposes to establish an official agency.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicant. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than March 30, 1982.

Consideration will be given to all comments filed and to all other information available to the Administrator of FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 25, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-2435 Filed 1-28-82; 8:45 am]

BILLING CODE 3410-EN-M

federal register

Friday
January 29, 1982

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-82-1107]

Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of publication of annual adjustment factors pursuant to 24 CFR 888.

SUMMARY: This notice sets forth annual adjustment factors which are to be used to adjust rents under the Section 8 Housing Assistance Payments Programs.

FOR FURTHER INFORMATION CONTACT: Cecelia D. McConnell, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, (202) 755–6596, Jerry Noel, Management Procedures Division, Office of Multifamily Housing Management and Occupancy, (202) 426–7624, Daniel Sloan, Office of State Agencies and Bond Financed Programs, (202) 426–0730 or for technical information regarding the development of the schedules for specific areas or the method used for calculating the adjustment factors, contact Ellis V. St. Clair, Economic and Market Analysis Division, Office of Policy Development and Research, (202) 755–5816, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. These are not toll-free numbers.

EFFECTIVE DATE: November 8, 1981.

SUPPLEMENTARY INFORMATION: In accordance with Section 8(c)(2)(A) of the U.S. Housing Act of 1937, the Department is revising the Annual Adjustment Factors. Pursuant to 24 CFR 888.202, the Factors are required to be published in the **Federal Register** at least annually by Notice. Annual adjustment factors were published on November 17, 1980 (45 FR 76052), and were effective on November 8, 1980, the anniversary date for publication of the factors. For the Section 8 existing program ("finders-keepers") the revised factors set forth in this Notice shall be applied for HAP Contract anniversary dates which fall on or after the publication date of the revised factors. For the other Section 8 programs, the revised factors shall be applied for HAP Contract anniversary dates which fall on or after November 8, 1981. This Notice is effective as of November 8, 1981.

Different adjustment factors are provided for 37 Standard Metroplitan Statistical Areas (SMSAs) and for the four Census Regions. The Factors now being published are arranged in a new format. The matrix of adjustment factors for contract rents is now arranged in fifty dollar intervals. There is for the first time a matrix of adjustment factors for contract rents excluding utilities by rent ranges and bedroom sizes, instead of a single factor. The new adjustment factors for each area have been calculated in two stages. In the first stage, a single gross rent adjustment factor was developed for each area based on the changes in the rent and utility components of the Consumer Price Index (CPI) for the most recent twelve-month period. In the second stage, separate matrices of adjustment factors for contract rents including utilities and for contract rents excluding utilities by rent ranges and bedroom sizes were developed based on data obtained from the 1979 Annual Housing Survey (AHS) national sample.

NEPA

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, HUD, 451 7th Street, S.W., Washington, D.C. 20410.

Authority: Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d); sec. 8(c)(2)(A), U.S. Housing Act of 1937.

Issued at Washington, D.C., January 18, 1982.

Philip D. Winn,

Assistant Secretary for Housing-Federal Housing Commissioner.

BILLING CODE 4210-01-M

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
NORTHEAST CENSUS REGION										
LESS THAN $200	1.114	1.121	1.129	1.137	1.145	1.078	1.062	1.060	1.060	1.044
200 TO 249	1.103	1.110	1.116	1.122	1.128	1.070	1.058	1.057	1.057	1.042
250 TO 299	1.093	1.098	1.102	1.107	1.111	1.064	1.052	1.052	1.052	1.042
300 TO 349	1.084	1.089	1.093	1.098	1.102	1.056	1.048	1.048	1.049	1.041
350 TO 399	1.075	1.080	1.085	1.089	1.092	1.052	1.044	1.044	1.045	1.039
400 TO 449	1.070	1.073	1.078	1.083	1.087	1.048	1.040	1.041	1.042	1.037
450 TO 499	1.064	1.067	1.072	1.076	1.081	1.043	1.037	1.038	1.039	1.035
500 TO 549	1.058	1.062	1.067	1.071	1.076	1.038	1.033	1.035	1.036	1.035
550 TO 599	1.052	1.057	1.062	1.066	1.071	1.034	1.033	1.035	1.036	1.035
600 OR MORE	1.048	1.052	1.057	1.062	1.066	1.034	1.033	1.035	1.036	1.035
NORTH CENTRAL CENSUS REGION										
LESS THAN $200	1.092	1.098	1.104	1.111	1.117	1.074	1.077	1.064	1.066	1.068
200 TO 249	1.084	1.088	1.093	1.098	1.103	1.066	1.067	1.059	1.060	1.061
250 TO 299	1.075	1.079	1.083	1.086	1.090	1.060	1.060	1.053	1.054	1.054
300 TO 349	1.068	1.072	1.075	1.079	1.082	1.053	1.054	1.049	1.050	1.051
350 TO 399	1.061	1.065	1.068	1.072	1.075	1.049	1.049	1.044	1.046	1.047
400 TO 449	1.056	1.059	1.063	1.067	1.070	1.044	1.044	1.041	1.042	1.044
450 TO 499	1.052	1.054	1.058	1.061	1.065	1.040	1.041	1.038	1.039	1.041
500 TO 549	1.047	1.050	1.054	1.057	1.061	1.036	1.037	1.034	1.036	1.038
550 TO 599	1.042	1.046	1.050	1.053	1.057	1.032	1.034	1.034	1.036	1.038
600 OR MORE	1.038	1.042	1.046	1.050	1.053	1.032	1.034	1.034	1.036	1.038
SOUTH CENSUS REGION										
LESS THAN $200	1.107	1.115	1.122	1.129	1.136	1.087	1.090	1.076	1.079	1.082
200 TO 249	1.097	1.103	1.109	1.115	1.121	1.078	1.079	1.070	1.072	1.073
250 TO 299	1.088	1.092	1.096	1.101	1.105	1.070	1.071	1.062	1.064	1.064
300 TO 349	1.079	1.084	1.088	1.092	1.096	1.062	1.063	1.057	1.059	1.061
350 TO 399	1.071	1.075	1.080	1.084	1.087	1.057	1.058	1.052	1.054	1.056
400 TO 449	1.066	1.069	1.074	1.078	1.082	1.052	1.052	1.048	1.050	1.053
450 TO 499	1.060	1.063	1.067	1.072	1.076	1.047	1.048	1.044	1.046	1.049
500 TO 549	1.055	1.058	1.063	1.067	1.071	1.042	1.044	1.041	1.043	1.045
550 TO 599	1.049	1.054	1.058	1.062	1.067	1.038	1.040	1.041	1.043	1.045
600 OR MORE	1.045	1.049	1.054	1.058	1.062	1.038	1.040	1.041	1.043	1.045

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
WEST CENSUS REGION										
LESS THAN $200	1.107	1.114	1.122	1.129	1.136	1.106	1.116	1.127	1.139	1.129
200 TO 249	1.097	1.103	1.109	1.115	1.120	1.093	1.100	1.107	1.115	1.111
250 TO 299	1.088	1.092	1.096	1.101	1.105	1.082	1.089	1.095	1.102	1.097
300 TO 349	1.079	1.084	1.088	1.092	1.096	1.073	1.078	1.084	1.090	1.088
350 TO 399	1.071	1.075	1.080	1.084	1.087	1.066	1.071	1.076	1.082	1.081
400 TO 449	1.065	1.069	1.073	1.078	1.081	1.060	1.064	1.069	1.074	1.074
450 TO 499	1.060	1.063	1.067	1.072	1.076	1.055	1.059	1.064	1.069	1.069
500 TO 549	1.055	1.058	1.063	1.067	1.071	1.049	1.053	1.058	1.063	1.063
550 TO 599	1.049	1.054	1.058	1.062	1.067	1.044	1.049	1.053	1.058	1.063
600 OR MORE	1.045	1.049	1.054	1.058	1.062	1.044	1.049	1.053	1.058	1.063
ANAHEIM-SANTA ANA-GARDEN GROVE,CA SMSA										
LESS THAN $200	1.113	1.121	1.128	1.136	1.144	1.110	1.121	1.115	1.125	1.136
200 TO 249	1.103	1.109	1.115	1.121	1.127	1.096	1.104	1.100	1.108	1.116
250 TO 299	1.093	1.097	1.102	1.106	1.111	1.085	1.092	1.087	1.094	1.100
300 TO 349	1.084	1.088	1.093	1.097	1.101	1.075	1.081	1.079	1.085	1.091
350 TO 399	1.075	1.080	1.084	1.089	1.092	1.069	1.073	1.071	1.076	1.083
400 TO 449	1.069	1.073	1.078	1.082	1.086	1.063	1.066	1.065	1.070	1.076
450 TO 499	1.063	1.067	1.071	1.076	1.080	1.056	1.060	1.059	1.064	1.070
500 TO 549	1.058	1.062	1.066	1.071	1.075	1.050	1.055	1.054	1.059	1.064
550 TO 599	1.052	1.057	1.061	1.066	1.070	1.046	1.050	1.054	1.059	1.064
600 OR MORE	1.047	1.052	1.057	1.061	1.066	1.046	1.050	1.054	1.059	1.064
ANCHORAGE,AK SMSA										
LESS THAN $200	1.070	1.075	1.080	1.084	1.089	1.050	1.050	1.038	1.036	1.036
200 TO 249	1.064	1.068	1.071	1.075	1.079	1.046	1.044	1.036	1.035	1.034
250 TO 299	1.057	1.060	1.063	1.066	1.069	1.042	1.041	1.033	1.032	1.031
300 TO 349	1.052	1.055	1.058	1.060	1.063	1.037	1.036	1.031	1.031	1.030
350 TO 399	1.046	1.049	1.052	1.055	1.057	1.034	1.033	1.028	1.028	1.029
400 TO 449	1.043	1.045	1.048	1.051	1.053	1.031	1.030	1.027	1.027	1.027
450 TO 499	1.039	1.041	1.044	1.047	1.050	1.028	1.028	1.024	1.025	1.025
500 TO 549	1.036	1.038	1.041	1.044	1.047	1.025	1.025	1.022	1.023	1.024
550 TO 599	1.032	1.035	1.038	1.041	1.044	1.023	1.023	1.022	1.023	1.024
600 OR MORE	1.029	1.032	1.035	1.038	1.041	1.023	1.023	1.022	1.023	1.024

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
ATLANTA,GA SMSA										
LESS THAN $200	1.127	1.135	1.144	1.152	1.161	1.127	1.141	1.135	1.148	1.162
200 TO 249	1.115	1.122	1.129	1.136	1.142	1.111	1.120	1.117	1.128	1.138
250 TO 299	1.103	1.109	1.114	1.119	1.124	1.098	1.106	1.102	1.111	1.118
300 TO 349	1.094	1.099	1.104	1.109	1.113	1.086	1.093	1.092	1.100	1.107
350 TO 399	1.084	1.089	1.094	1.099	1.103	1.079	1.084	1.082	1.090	1.097
400 TO 449	1.077	1.082	1.087	1.092	1.096	1.072	1.076	1.076	1.082	1.089
450 TO 499	1.071	1.074	1.080	1.085	1.090	1.064	1.069	1.069	1.075	1.082
500 TO 549	1.065	1.069	1.074	1.079	1.084	1.058	1.063	1.063	1.069	1.075
550 TO 599	1.058	1.063	1.068	1.074	1.079	1.052	1.057	1.063	1.069	1.075
600 OR MORE	1.053	1.058	1.063	1.068	1.074	1.052	1.057	1.063	1.069	1.075
BALTIMORE,MD SMSA										
LESS THAN $200	1.116	1.124	1.132	1.140	1.147	1.092	1.095	1.079	1.081	1.083
200 TO 249	1.105	1.112	1.118	1.124	1.131	1.083	1.083	1.072	1.074	1.075
250 TO 299	1.095	1.100	1.104	1.109	1.114	1.074	1.075	1.065	1.066	1.066
300 TO 349	1.086	1.091	1.095	1.100	1.104	1.066	1.067	1.060	1.062	1.063
350 TO 399	1.077	1.082	1.086	1.091	1.094	1.061	1.061	1.055	1.056	1.058
400 TO 449	1.071	1.075	1.080	1.084	1.088	1.056	1.055	1.051	1.053	1.055
450 TO 499	1.065	1.068	1.073	1.078	1.082	1.050	1.051	1.047	1.048	1.051
500 TO 549	1.059	1.063	1.068	1.073	1.077	1.045	1.046	1.043	1.045	1.047
550 TO 599	1.053	1.058	1.063	1.067	1.072	1.040	1.042	1.043	1.045	1.047
600 OR MORE	1.049	1.053	1.058	1.063	1.067	1.040	1.042	1.043	1.045	1.047
BOSTON,MA SMSA										
LESS THAN $200	1.162	1.173	1.184	1.195	1.205	1.130	1.135	1.113	1.116	1.120
200 TO 249	1.147	1.156	1.164	1.173	1.182	1.116	1.118	1.103	1.106	1.108
250 TO 299	1.132	1.139	1.145	1.152	1.158	1.105	1.106	1.093	1.095	1.095
300 TO 349	1.120	1.126	1.133	1.139	1.145	1.093	1.094	1.085	1.088	1.090
350 TO 399	1.107	1.114	1.120	1.127	1.131	1.086	1.086	1.077	1.080	1.083
400 TO 449	1.099	1.104	1.111	1.117	1.123	1.078	1.078	1.072	1.075	1.078
450 TO 499	1.091	1.095	1.102	1.108	1.115	1.071	1.072	1.066	1.069	1.072
500 TO 549	1.083	1.088	1.095	1.101	1.108	1.063	1.065	1.060	1.064	1.067
550 TO 599	1.074	1.081	1.087	1.094	1.101	1.057	1.059	1.060	1.064	1.067
600 OR MORE	1.068	1.074	1.081	1.087	1.094	1.057	1.059	1.060	1.064	1.067

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
BUFFALO,NY SMSA										
LESS THAN $200	1.090	1.096	1.102	1.108	1.114	1.058	1.054	1.036	1.032	1.028
200 TO 249	1.082	1.086	1.091	1.096	1.101	1.053	1.049	1.036	1.032	1.028
250 TO 299	1.073	1.077	1.081	1.084	1.088	1.049	1.046	1.034	1.032	1.028
300 TO 349	1.066	1.070	1.074	1.077	1.080	1.044	1.041	1.033	1.031	1.028
350 TO 399	1.059	1.063	1.067	1.070	1.073	1.041	1.038	1.031	1.029	1.028
400 TO 449	1.055	1.058	1.062	1.065	1.068	1.037	1.035	1.029	1.028	1.027
450 TO 499	1.050	1.053	1.056	1.060	1.064	1.034	1.032	1.027	1.026	1.026
500 TO 549	1.046	1.049	1.052	1.056	1.060	1.030	1.029	1.025	1.024	1.024
550 TO 599	1.041	1.045	1.049	1.052	1.056	1.027	1.027	1.025	1.024	1.024
600 OR MORE	1.038	1.041	1.045	1.049	1.052	1.027	1.027	1.025	1.024	1.024
CHICAGO,IL SMSA										
LESS THAN $200	1.087	1.093	1.099	1.105	1.110	1.068	1.070	1.058	1.059	1.060
200 TO 249	1.079	1.084	1.088	1.093	1.098	1.061	1.062	1.053	1.054	1.055
250 TO 299	1.071	1.075	1.078	1.082	1.085	1.055	1.056	1.048	1.049	1.049
300 TO 349	1.064	1.068	1.071	1.075	1.078	1.049	1.050	1.044	1.045	1.046
350 TO 399	1.058	1.061	1.065	1.068	1.070	1.045	1.045	1.040	1.041	1.043
400 TO 449	1.053	1.056	1.060	1.063	1.066	1.041	1.041	1.037	1.039	1.040
450 TO 499	1.049	1.051	1.055	1.058	1.062	1.037	1.038	1.034	1.036	1.037
500 TO 549	1.044	1.047	1.051	1.054	1.058	1.033	1.034	1.032	1.033	1.035
550 TO 599	1.040	1.043	1.047	1.050	1.054	1.030	1.031	1.032	1.033	1.035
600 OR MORE	1.036	1.040	1.043	1.047	1.050	1.030	1.031	1.032	1.033	1.035
CINCINNATI,OH-KY-IN SMSA										
LESS THAN $200	1.111	1.118	1.126	1.133	1.140	1.098	1.106	1.095	1.101	1.108
200 TO 249	1.101	1.106	1.112	1.118	1.124	1.087	1.091	1.084	1.089	1.094
250 TO 299	1.090	1.095	1.099	1.104	1.108	1.078	1.081	1.074	1.079	1.082
300 TO 349	1.082	1.086	1.091	1.095	1.099	1.069	1.072	1.068	1.072	1.075
350 TO 399	1.073	1.078	1.082	1.087	1.090	1.063	1.065	1.061	1.065	1.069
400 TO 449	1.068	1.071	1.076	1.080	1.084	1.057	1.059	1.056	1.060	1.064
450 TO 499	1.062	1.065	1.069	1.074	1.078	1.052	1.054	1.052	1.055	1.059
500 TO 549	1.056	1.060	1.065	1.069	1.074	1.046	1.049	1.047	1.051	1.054
550 TO 599	1.051	1.055	1.060	1.064	1.069	1.042	1.045	1.047	1.051	1.054
600 OR MORE	1.046	1.051	1.055	1.060	1.064	1.042	1.045	1.047	1.051	1.054

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
CLEVELAND, OH SMSA										
LESS THAN $200	1.085	1.091	1.097	1.103	1.108	1.060	1.058	1.043	1.041	1.040
200 TO 249	1.078	1.082	1.087	1.091	1.096	1.055	1.052	1.042	1.040	1.038
250 TO 299	1.070	1.073	1.077	1.080	1.084	1.050	1.048	1.038	1.037	1.035
300 TO 349	1.063	1.067	1.070	1.074	1.076	1.044	1.043	1.036	1.036	1.035
350 TO 399	1.057	1.060	1.063	1.067	1.069	1.041	1.040	1.033	1.033	1.033
400 TO 449	1.052	1.055	1.059	1.062	1.065	1.038	1.036	1.031	1.031	1.031
450 TO 499	1.048	1.050	1.054	1.057	1.061	1.034	1.033	1.029	1.029	1.029
500 TO 549	1.044	1.046	1.050	1.053	1.057	1.030	1.030	1.026	1.027	1.027
550 TO 599	1.039	1.043	1.046	1.050	1.053	1.027	1.027	1.026	1.027	1.027
600 OR MORE	1.036	1.039	1.043	1.046	1.050	1.027	1.027	1.026	1.027	1.027
DALLAS-FORT WORTH, TX SMSA										
LESS THAN $200	1.153	1.163	1.173	1.184	1.194	1.111	1.110	1.084	1.081	1.080
200 TO 249	1.139	1.147	1.155	1.164	1.172	1.100	1.098	1.080	1.078	1.076
250 TO 299	1.125	1.131	1.137	1.143	1.150	1.091	1.089	1.073	1.072	1.069
300 TO 349	1.113	1.119	1.125	1.132	1.137	1.081	1.080	1.068	1.068	1.067
350 TO 399	1.101	1.107	1.114	1.120	1.124	1.075	1.073	1.062	1.063	1.063
400 TO 449	1.093	1.099	1.105	1.111	1.116	1.069	1.066	1.058	1.059	1.060
450 TO 499	1.086	1.090	1.096	1.102	1.108	1.062	1.061	1.054	1.055	1.056
500 TO 549	1.078	1.083	1.089	1.095	1.102	1.055	1.056	1.050	1.051	1.052
550 TO 599	1.070	1.076	1.083	1.089	1.095	1.050	1.051	1.050	1.051	1.052
600 OR MORE	1.064	1.070	1.076	1.083	1.089	1.050	1.051	1.050	1.051	1.052
DENVER-BOULDER, CO SMSA										
LESS THAN $200	1.123	1.132	1.140	1.148	1.157	1.106	1.112	1.098	1.103	1.109
200 TO 249	1.112	1.119	1.126	1.132	1.139	1.094	1.097	1.088	1.092	1.096
250 TO 299	1.101	1.106	1.111	1.116	1.121	1.084	1.087	1.078	1.082	1.084
300 TO 349	1.091	1.096	1.101	1.106	1.111	1.074	1.077	1.072	1.075	1.078
350 TO 399	1.082	1.087	1.092	1.097	1.100	1.068	1.070	1.065	1.068	1.072
400 TO 449	1.075	1.080	1.085	1.090	1.094	1.062	1.063	1.060	1.063	1.067
450 TO 499	1.069	1.073	1.078	1.083	1.088	1.056	1.058	1.055	1.058	1.062
500 TO 549	1.063	1.067	1.072	1.077	1.082	1.050	1.053	1.050	1.053	1.057
550 TO 599	1.057	1.062	1.067	1.072	1.077	1.045	1.048	1.050	1.053	1.057
600 OR MORE	1.052	1.057	1.062	1.067	1.072	1.045	1.048	1.050	1.053	1.057

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
DETROIT,MI SMSA										
LESS THAN $200	1.080	1.085	1.091	1.096	1.102	1.057	1.056	1.042	1.040	1.039
200 TO 249	1.073	1.077	1.081	1.086	1.090	1.052	1.050	1.040	1.039	1.038
250 TO 299	1.065	1.069	1.072	1.075	1.078	1.047	1.046	1.037	1.036	1.034
300 TO 349	1.059	1.062	1.066	1.069	1.072	1.042	1.041	1.035	1.034	1.033
350 TO 399	1.053	1.056	1.059	1.063	1.065	1.039	1.038	1.032	1.032	1.032
400 TO 449	1.049	1.052	1.055	1.058	1.061	1.036	1.034	1.030	1.030	1.030
450 TO 499	1.045	1.047	1.050	1.054	1.057	1.032	1.031	1.028	1.028	1.028
500 TO 549	1.041	1.044	1.047	1.050	1.053	1.029	1.029	1.025	1.026	1.026
550 TO 599	1.037	1.040	1.043	1.046	1.050	1.026	1.026	1.025	1.026	1.026
600 OR MORE	1.034	1.037	1.040	1.043	1.046	1.026	1.026	1.025	1.026	1.026
GARY-HAMMOND-EAST CHICAGO,IN SMSA										
LESS THAN $200	1.087	1.093	1.099	1.105	1.110	1.068	1.070	1.058	1.059	1.060
200 TO 249	1.079	1.084	1.088	1.093	1.098	1.061	1.062	1.053	1.054	1.055
250 TO 299	1.071	1.075	1.078	1.082	1.085	1.055	1.056	1.048	1.049	1.049
300 TO 349	1.064	1.068	1.071	1.075	1.078	1.049	1.050	1.044	1.045	1.046
350 TO 399	1.058	1.061	1.065	1.068	1.070	1.045	1.045	1.040	1.041	1.043
400 TO 449	1.053	1.056	1.060	1.063	1.066	1.041	1.041	1.037	1.039	1.040
450 TO 499	1.049	1.051	1.055	1.058	1.062	1.037	1.038	1.034	1.036	1.037
500 TO 549	1.044	1.047	1.051	1.054	1.058	1.033	1.034	1.032	1.033	1.035
550 TO 599	1.040	1.043	1.047	1.050	1.054	1.030	1.031	1.032	1.033	1.035
600 OR MORE	1.036	1.040	1.043	1.047	1.050	1.030	1.031	1.032	1.033	1.035
HONOLULU,HI SMSA										
LESS THAN $200	1.231	1.247	1.262	1.278	1.293	1.162	1.158	1.117	1.110	1.106
200 TO 249	1.210	1.222	1.235	1.247	1.260	1.147	1.141	1.113	1.108	1.103
250 TO 299	1.189	1.198	1.208	1.217	1.226	1.134	1.130	1.104	1.101	1.094
300 TO 349	1.171	1.180	1.190	1.199	1.207	1.119	1.116	1.098	1.096	1.093
350 TO 399	1.153	1.162	1.172	1.181	1.187	1.111	1.107	1.090	1.089	1.089
400 TO 449	1.141	1.149	1.158	1.168	1.176	1.102	1.097	1.084	1.084	1.085
450 TO 499	1.130	1.136	1.145	1.154	1.164	1.092	1.089	1.078	1.078	1.079
500 TO 549	1.118	1.126	1.135	1.144	1.154	1.082	1.082	1.071	1.072	1.074
550 TO 599	1.106	1.115	1.125	1.134	1.144	1.074	1.074	1.071	1.072	1.074
600 OR MORE	1.097	1.106	1.115	1.125	1.134	1.074	1.074	1.071	1.072	1.074

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
HOUSTON,TX SMSA										
LESS THAN $200	1.121	1.129	1.137	1.145	1.154	1.091	1.091	1.072	1.072	1.072
200 TO 249	1.110	1.116	1.123	1.129	1.136	1.082	1.081	1.068	1.068	1.067
250 TO 299	1.099	1.104	1.109	1.114	1.118	1.074	1.073	1.061	1.062	1.060
300 TO 349	1.089	1.094	1.099	1.104	1.108	1.066	1.066	1.057	1.058	1.057
350 TO 399	1.080	1.085	1.090	1.095	1.098	1.061	1.060	1.052	1.053	1.054
400 TO 449	1.074	1.078	1.083	1.088	1.092	1.056	1.054	1.049	1.050	1.051
450 TO 499	1.068	1.071	1.076	1.081	1.086	1.050	1.050	1.045	1.046	1.048
500 TO 549	1.062	1.066	1.071	1.076	1.080	1.045	1.046	1.041	1.043	1.044
550 TO 599	1.056	1.060	1.065	1.070	1.075	1.040	1.041	1.041	1.043	1.044
600 OR MORE	1.051	1.056	1.060	1.065	1.070	1.040	1.041	1.041	1.043	1.044
JERSEY CITY,NJ SMSA										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.072	1.070	1.051	1.048	1.046
200 TO 249	1.094	1.099	1.105	1.111	1.116	1.065	1.063	1.050	1.047	1.045
250 TO 299	1.084	1.089	1.093	1.097	1.101	1.060	1.057	1.046	1.044	1.041
300 TO 349	1.076	1.081	1.085	1.089	1.092	1.053	1.052	1.043	1.042	1.041
350 TO 399	1.068	1.073	1.077	1.081	1.084	1.049	1.047	1.040	1.039	1.039
400 TO 449	1.063	1.067	1.071	1.075	1.079	1.045	1.043	1.037	1.037	1.037
450 TO 499	1.058	1.061	1.065	1.069	1.073	1.041	1.040	1.034	1.034	1.035
500 TO 549	1.053	1.056	1.060	1.065	1.069	1.036	1.036	1.032	1.032	1.032
550 TO 599	1.047	1.052	1.056	1.060	1.064	1.033	1.033	1.032	1.032	1.032
600 OR MORE	1.043	1.047	1.052	1.056	1.060	1.033	1.033	1.032	1.032	1.032
KANSAS CITY,MO-KS SMSA										
LESS THAN $200	1.087	1.093	1.099	1.105	1.111	1.067	1.069	1.056	1.057	1.058
200 TO 249	1.079	1.084	1.088	1.093	1.098	1.061	1.061	1.052	1.053	1.053
250 TO 299	1.071	1.075	1.078	1.082	1.085	1.055	1.055	1.047	1.047	1.047
300 TO 349	1.064	1.068	1.071	1.075	1.078	1.049	1.049	1.043	1.044	1.045
350 TO 399	1.058	1.061	1.065	1.068	1.071	1.045	1.045	1.040	1.040	1.042
400 TO 449	1.053	1.056	1.060	1.063	1.066	1.041	1.040	1.037	1.038	1.039
450 TO 499	1.049	1.051	1.055	1.058	1.062	1.037	1.037	1.034	1.035	1.036
500 TO 549	1.044	1.047	1.051	1.054	1.058	1.033	1.034	1.031	1.032	1.034
550 TO 599	1.040	1.044	1.047	1.051	1.054	1.030	1.031	1.031	1.032	1.034
600 OR MORE	1.036	1.040	1.044	1.047	1.051	1.030	1.031	1.031	1.032	1.034

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
LOS ANGELES-LONG BEACH,CA SMSA										
LESS THAN $200	1.113	1.121	1.128	1.136	1.144	1.110	1.121	1.115	1.125	1.136
200 TO 249	1.103	1.109	1.115	1.121	1.127	1.096	1.104	1.100	1.108	1.116
250 TO 299	1.093	1.097	1.102	1.106	1.111	1.085	1.092	1.087	1.094	1.100
300 TO 349	1.084	1.088	1.093	1.097	1.101	1.075	1.081	1.079	1.085	1.091
350 TO 399	1.075	1.080	1.084	1.089	1.092	1.069	1.073	1.071	1.076	1.083
400 TO 449	1.069	1.073	1.078	1.082	1.086	1.063	1.066	1.065	1.070	1.076
450 TO 499	1.063	1.067	1.071	1.076	1.080	1.056	1.060	1.059	1.064	1.070
500 TO 549	1.058	1.062	1.066	1.071	1.075	1.050	1.055	1.054	1.059	1.064
550 TO 599	1.052	1.057	1.061	1.066	1.070	1.046	1.050	1.054	1.059	1.064
600 OR MORE	1.047	1.052	1.057	1.061	1.066	1.046	1.050	1.054	1.059	1.064
MIAMI,FL SMSA										
LESS THAN $200	1.194	1.208	1.221	1.234	1.247	1.173	1.185	1.167	1.177	1.189
200 TO 249	1.177	1.187	1.198	1.208	1.219	1.153	1.160	1.148	1.157	1.165
250 TO 299	1.159	1.167	1.175	1.183	1.191	1.136	1.143	1.131	1.138	1.143
300 TO 349	1.144	1.152	1.160	1.168	1.174	1.120	1.126	1.119	1.126	1.132
350 TO 399	1.129	1.137	1.145	1.152	1.158	1.111	1.115	1.107	1.114	1.121
400 TO 449	1.119	1.125	1.133	1.141	1.148	1.101	1.103	1.099	1.105	1.112
450 TO 499	1.109	1.114	1.122	1.130	1.138	1.091	1.095	1.091	1.097	1.103
500 TO 549	1.099	1.106	1.114	1.122	1.129	1.081	1.086	1.083	1.089	1.096
550 TO 599	1.089	1.097	1.105	1.113	1.121	1.073	1.078	1.083	1.089	1.096
600 OR MORE	1.081	1.089	1.097	1.105	1.113	1.073	1.078	1.083	1.089	1.096
MILWAUKEE,WI SMSA										
LESS THAN $200	1.113	1.121	1.129	1.136	1.144	1.090	1.093	1.077	1.078	1.081
200 TO 249	1.103	1.109	1.115	1.121	1.127	1.081	1.081	1.071	1.072	1.073
250 TO 299	1.093	1.097	1.102	1.106	1.111	1.073	1.073	1.063	1.065	1.065
300 TO 349	1.084	1.088	1.093	1.098	1.101	1.064	1.065	1.059	1.060	1.061
350 TO 399	1.075	1.080	1.084	1.089	1.092	1.059	1.060	1.053	1.055	1.057
400 TO 449	1.069	1.073	1.078	1.082	1.086	1.054	1.054	1.049	1.051	1.053
450 TO 499	1.064	1.067	1.071	1.076	1.080	1.049	1.049	1.045	1.047	1.049
500 TO 549	1.058	1.062	1.066	1.071	1.075	1.044	1.045	1.042	1.044	1.046
550 TO 599	1.052	1.057	1.061	1.066	1.070	1.039	1.041	1.042	1.044	1.046
600 OR MORE	1.047	1.052	1.057	1.061	1.066	1.039	1.041	1.042	1.044	1.046

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
MINNEAPOLIS-ST PAUL,MN-WI SMSA										
LESS THAN $200	1.140	1.149	1.159	1.168	1.178	1.110	1.112	1.092	1.094	1.096
200 TO 249	1.127	1.135	1.142	1.150	1.158	1.098	1.099	1.085	1.086	1.087
250 TO 299	1.114	1.120	1.126	1.131	1.137	1.089	1.089	1.077	1.078	1.077
300 TO 349	1.104	1.109	1.115	1.121	1.125	1.079	1.079	1.071	1.072	1.073
350 TO 399	1.093	1.098	1.104	1.110	1.114	1.073	1.073	1.064	1.066	1.068
400 TO 449	1.086	1.090	1.096	1.102	1.106	1.066	1.066	1.060	1.062	1.064
450 TO 499	1.079	1.082	1.088	1.094	1.099	1.060	1.060	1.055	1.057	1.060
500 TO 549	1.071	1.076	1.082	1.088	1.093	1.053	1.055	1.051	1.053	1.055
550 TO 599	1.064	1.070	1.076	1.081	1.087	1.048	1.050	1.051	1.053	1.055
600 OR MORE	1.059	1.064	1.070	1.076	1.081	1.048	1.050	1.051	1.053	1.055
NASSAU-SUFFOLK,NY SMSA										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.072	1.070	1.051	1.048	1.046
200 TO 249	1.094	1.099	1.105	1.111	1.116	1.065	1.063	1.050	1.047	1.045
250 TO 299	1.084	1.089	1.093	1.097	1.101	1.060	1.057	1.046	1.044	1.041
300 TO 349	1.076	1.081	1.085	1.089	1.092	1.053	1.052	1.043	1.042	1.041
350 TO 399	1.068	1.073	1.077	1.081	1.084	1.049	1.047	1.040	1.039	1.039
400 TO 449	1.063	1.067	1.071	1.075	1.079	1.045	1.043	1.037	1.037	1.037
450 TO 499	1.058	1.061	1.065	1.069	1.073	1.041	1.040	1.034	1.034	1.035
500 TO 549	1.053	1.056	1.060	1.065	1.069	1.036	1.036	1.032	1.032	1.032
550 TO 599	1.047	1.052	1.056	1.060	1.064	1.033	1.033	1.032	1.032	1.032
600 OR MORE	1.043	1.047	1.052	1.056	1.060	1.033	1.033	1.032	1.032	1.032
NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE,NJ										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.072	1.070	1.051	1.048	1.046
200 TO 249	1.094	1.099	1.105	1.111	1.116	1.065	1.063	1.050	1.047	1.045
250 TO 299	1.084	1.089	1.093	1.097	1.101	1.060	1.057	1.046	1.044	1.041
300 TO 349	1.076	1.081	1.085	1.089	1.092	1.053	1.052	1.043	1.042	1.041
350 TO 399	1.068	1.073	1.077	1.081	1.084	1.049	1.047	1.040	1.039	1.039
400 TO 449	1.063	1.067	1.071	1.075	1.079	1.045	1.043	1.037	1.037	1.037
450 TO 499	1.058	1.061	1.065	1.069	1.073	1.041	1.040	1.034	1.034	1.035
500 TO 549	1.053	1.056	1.060	1.065	1.069	1.036	1.036	1.032	1.032	1.032
550 TO 599	1.047	1.052	1.056	1.060	1.064	1.033	1.033	1.032	1.032	1.032
600 OR MORE	1.043	1.047	1.052	1.056	1.060	1.033	1.033	1.032	1.032	1.032

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
NEW YORK,NY-NJ SMSA										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.072	1.070	1.051	1.048	1.046
200 TO 249	1.094	1.099	1.105	1.111	1.116	1.065	1.063	1.050	1.047	1.045
250 TO 299	1.084	1.089	1.093	1.097	1.101	1.060	1.057	1.046	1.044	1.041
300 TO 349	1.076	1.081	1.085	1.089	1.092	1.053	1.052	1.043	1.042	1.041
350 TO 399	1.068	1.073	1.077	1.081	1.084	1.049	1.047	1.040	1.039	1.039
400 TO 449	1.063	1.067	1.071	1.075	1.079	1.045	1.043	1.037	1.037	1.037
450 TO 499	1.058	1.061	1.065	1.069	1.073	1.041	1.040	1.034	1.034	1.035
500 TO 549	1.053	1.056	1.060	1.065	1.069	1.036	1.036	1.032	1.032	1.032
550 TO 599	1.047	1.052	1.056	1.060	1.064	1.033	1.033	1.032	1.032	1.032
600 OR MORE	1.043	1.047	1.052	1.056	1.060	1.033	1.033	1.032	1.032	1.032
NEWARK,NJ SMSA										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.072	1.070	1.051	1.048	1.046
200 TO 249	1.094	1.099	1.105	1.111	1.116	1.065	1.063	1.050	1.047	1.045
250 TO 299	1.084	1.089	1.093	1.097	1.101	1.060	1.057	1.046	1.044	1.041
300 TO 349	1.076	1.081	1.085	1.089	1.092	1.053	1.052	1.043	1.042	1.041
350 TO 399	1.068	1.073	1.077	1.081	1.084	1.049	1.047	1.040	1.039	1.039
400 TO 449	1.063	1.067	1.071	1.075	1.079	1.045	1.043	1.037	1.037	1.037
450 TO 499	1.058	1.061	1.065	1.069	1.073	1.041	1.040	1.034	1.034	1.035
500 TO 549	1.053	1.056	1.060	1.065	1.069	1.036	1.036	1.032	1.032	1.032
550 TO 599	1.047	1.052	1.056	1.060	1.064	1.033	1.033	1.032	1.032	1.032
600 OR MORE	1.043	1.047	1.052	1.056	1.060	1.033	1.033	1.032	1.032	1.032
NORTHEAST PENNSYLVANIA, SMSA										
LESS THAN $200	1.089	1.095	1.101	1.107	1.113	1.056	1.051	1.033	1.027	1.023
200 TO 249	1.081	1.086	1.091	1.096	1.100	1.052	1.047	1.033	1.027	1.023
250 TO 299	1.073	1.077	1.080	1.084	1.088	1.048	1.044	1.032	1.027	1.023
300 TO 349	1.066	1.070	1.073	1.077	1.080	1.043	1.040	1.031	1.027	1.023
350 TO 399	1.059	1.063	1.066	1.070	1.072	1.040	1.037	1.029	1.027	1.023
400 TO 449	1.055	1.058	1.061	1.065	1.068	1.037	1.034	1.027	1.026	1.023
450 TO 499	1.050	1.052	1.056	1.060	1.063	1.033	1.031	1.025	1.025	1.023
500 TO 549	1.046	1.049	1.052	1.056	1.059	1.029	1.028	1.023	1.023	1.023
550 TO 599	1.041	1.045	1.048	1.052	1.056	1.026	1.026	1.023	1.023	1.023
600 OR MORE	1.037	1.041	1.045	1.048	1.052	1.026	1.026	1.023	1.023	1.023

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
OXNARD-SIMI VALLEY-VENTURA,CA SMSA										
LESS THAN $200	1.113	1 121	1.128	1.136	1.144	1.110	1.121	1.115	1.125	1.136
200 TO 249	1.103	1.109	1.115	1.121	1.127	1.096	1.104	1.100	1.108	1.116
250 TO 299	1.093	1.097	1.102	1.106	1.111	1.085	1.092	1.087	1.094	1.100
300 TO 349	1.084	1.088	1.093	1.097	1.101	1.075	1.081	1.079	1.086	1.091
350 TO 399	1.075	1.080	1.084	1.089	1.092	1.069	1.073	1.071	1.076	1.083
400 TO 449	1.069	1.073	1.078	1.082	1.086	1.063	1.066	1.065	1.070	1.076
450 TO 499	1.063	1.067	1.071	1.076	1.080	1.056	1.060	1.059	1.064	1.070
500 TO 549	1.058	1.062	1.066	1.071	1.075	1.050	1.055	1.054	1.059	1.064
550 TO 599	1.052	1.057	1.061	1.066	1.070	1.046	1.050	1.054	1.059	1.064
600 OR MORE	1.047	1.052	1.057	1.061	1.066	1.046	1.050	1.054	1.059	1.064
PATTERSON-CLIFTON-PASSAIC,NJ SMSA										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.072	1.070	1.051	1.048	1.046
200 TO 249	1.094	1.099	1.105	1.111	1.116	1.065	1.063	1.050	1.047	1.045
250 TO 299	1.084	1.089	1.093	1.097	1.101	1.060	1.057	1.046	1.044	1.041
300 TO 349	1.076	1.081	1.085	1.089	1.092	1.053	1.052	1.043	1.042	1.041
350 TO 399	1.068	1.073	1.077	1.081	1.084	1.049	1.047	1.040	1.039	1.039
400 TO 449	1.063	1.067	1.071	1.075	1.079	1.045	1.043	1.037	1.037	1.037
450 TO 499	1.058	1.061	1.065	1.069	1.073	1.041	1.040	1.034	1.034	1.035
500 TO 549	1.053	1.056	1.060	1.065	1.069	1.036	1.036	1.032	1.032	1.032
550 TO 599	1.047	1.052	1.056	1.060	1.064	1.033	1.033	1.032	1.032	1.032
600 OR MORE	1.043	1.047	1.052	1.056	1.060	1.033	1.033	1.032	1.032	1.032
PHILADELPHIA,PA-NJ SMSA										
LESS THAN $200	1.102	1.109	1.116	1.123	1.130	1.072	1.070	1.052	1.050	1.048
200 TO 249	1.093	1.099	1.104	1.110	1.115	1.066	1.063	1.050	1.049	1.046
250 TO 299	1.084	1.088	1.092	1.096	1.100	1.060	1.058	1.046	1.045	1.042
300 TO 349	1.076	1.080	1.084	1.088	1.092	1.053	1.052	1.044	1.043	1.042
350 TO 399	1.068	1.072	1.076	1.080	1.083	1.049	1.048	1.040	1.040	1.040
400 TO 449	1.063	1.066	1.070	1.074	1.078	1.045	1.043	1.038	1.038	1.038
450 TO 499	1.057	1.060	1.064	1.069	1.073	1.041	1.040	1.035	1.035	1.035
500 TO 549	1.052	1.056	1.060	1.064	1.068	1.036	1.036	1.032	1.032	1.033
550 TO 599	1.047	1.051	1.055	1.060	1.064	1.033	1.033	1.032	1.032	1.033
600 OR MORE	1.043	1.047	1.051	1.055	1.060	1.033	1.033	1.032	1.032	1.033

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
PITTSBURGH,PA SMSA										
LESS THAN $200	1.090	1.096	1.102	1.108	1.114	1.076	1.081	1.071	1.074	1.078
200 TO 249	1.082	1.086	1.091	1.096	1.101	1.068	1.070	1.064	1.066	1.069
250 TO 299	1.073	1.077	1.081	1.084	1.088	1.061	1.063	1.056	1.059	1.060
300 TO 349	1.066	1.070	1.074	1.077	1.080	1.054	1.056	1.052	1.054	1.056
350 TO 399	1.059	1.063	1.067	1.070	1.073	1.049	1.051	1.047	1.049	1.052
400 TO 449	1.055	1.058	1.062	1.065	1.068	1.045	1.046	1.043	1.045	1.048
450 TO 499	1.050	1.053	1.056	1.060	1.064	1.041	1.042	1.040	1.042	1.044
500 TO 549	1.046	1.049	1.052	1.056	1.060	1.036	1.038	1.036	1.039	1.041
550 TO 599	1.041	1.045	1.048	1.052	1.056	1.033	1.035	1.036	1.039	1.041
600 OR MORE	1.038	1.041	1.045	1.048	1.052	1.033	1.035	1.036	1.039	1.041
PORTLAND,OR-WA SMSA										
LESS THAN $200	1.103	1.110	1.117	1.124	1.131	1.085	1.089	1.077	1.080	1.084
200 TO 249	1.093	1.099	1.105	1.110	1.116	1.076	1.078	1.070	1.072	1.074
250 TO 299	1.084	1.088	1.092	1.097	1.101	1.068	1.070	1.062	1.064	1.065
300 TO 349	1.076	1.080	1.084	1.089	1.092	1.060	1.062	1.057	1.059	1.061
350 TO 399	1.068	1.072	1.076	1.081	1.083	1.056	1.057	1.052	1.054	1.056
400 TO 449	1.063	1.066	1.071	1.075	1.078	1.051	1.051	1.048	1.050	1.053
450 TO 499	1.058	1.060	1.065	1.069	1.073	1.046	1.047	1.044	1.046	1.049
500 TO 549	1.052	1.056	1.060	1.064	1.068	1.041	1.043	1.040	1.042	1.045
550 TO 599	1.047	1.051	1.056	1.060	1.064	1.037	1.039	1.040	1.042	1.045
600 OR MORE	1.043	1.047	1.051	1.056	1.060	1.037	1.039	1.040	1.042	1.045
RIVERSIDE-SAN BERNARDINO-ONTARIO,CA SMSA										
LESS THAN $200	1.113	1.121	1.128	1.136	1.144	1.110	1.121	1.115	1.125	1.136
200 TO 249	1.103	1.109	1.115	1.121	1.127	1.096	1.104	1.100	1.108	1.116
250 TO 299	1.093	1.097	1.102	1.106	1.111	1.085	1.092	1.087	1.094	1.100
300 TO 349	1.084	1.088	1.093	1.097	1.101	1.075	1.081	1.079	1.085	1.091
350 TO 399	1.075	1.080	1.084	1.089	1.092	1.069	1.073	1.071	1.076	1.083
400 TO 449	1.069	1.073	1.078	1.082	1.086	1.063	1.066	1.065	1.070	1.076
450 TO 499	1.063	1.067	1.071	1.076	1.080	1.056	1.060	1.059	1.064	1.070
500 TO 549	1.058	1.062	1.066	1.071	1.075	1.050	1.055	1.054	1.059	1.064
550 TO 599	1.052	1.057	1.061	1.066	1.070	1.046	1.050	1.054	1.059	1.064
600 OR MORE	1.047	1.052	1.057	1.061	1.066	1.046	1.050	1.054	1.059	1.064

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
ST. LOUIS,MO-IL SMSA										
LESS THAN $200	1.080	1.086	1.091	1.097	1.102	1.073	1.078	1.071	1.076	1.081
200 TO 249	1.073	1.077	1.082	1.086	1.090	1.064	1.067	1.063	1.067	1.071
250 TO 299	1.066	1.069	1.072	1.075	1.079	1.057	1.060	1.055	1.059	1.061
300 TO 349	1.059	1.063	1.066	1.069	1.072	1.050	1.053	1.050	1.054	1.056
350 TO 399	1.053	1.056	1.060	1.063	1.065	1.046	1.048	1.045	1.048	1.052
400 TO 449	1.049	1.052	1.055	1.058	1.061	1.042	1.043	1.042	1.045	1.048
450 TO 499	1.045	1.047	1.050	1.054	1.057	1.038	1.040	1.038	1.041	1.044
500 TO 549	1.041	1.044	1.047	1.050	1.053	1.034	1.036	1.035	1.038	1.041
550 TO 599	1.037	1.040	1.043	1.047	1.050	1.031	1.033	1.035	1.038	1.041
600 OR MORE	1.034	1.037	1.040	1.043	1.047	1.031	1.033	1.035	1.038	1.041
SAN DIEGO,CA SMSA										
LESS THAN $200	1.140	1.149	1.159	1.168	1.178	1.114	1.119	1.102	1.105	1.109
200 TO 249	1.127	1.135	1.142	1.150	1.157	1.102	1.104	1.092	1.095	1.098
250 TO 299	1.114	1.120	1.126	1.131	1.137	1.092	1.094	1.082	1.085	1.086
300 TO 349	1.103	1.109	1.115	1.120	1.125	1.081	1.083	1.076	1.079	1.081
350 TO 399	1.093	1.098	1.104	1.110	1.113	1.075	1.076	1.069	1.071	1.075
400 TO 449	1.085	1.090	1.096	1.102	1.106	1.068	1.068	1.064	1.067	1.070
450 TO 499	1.078	1.082	1.088	1.094	1.099	1.062	1.063	1.058	1.061	1.065
500 TO 549	1.071	1.076	1.082	1.087	1.093	1.055	1.057	1.054	1.057	1.060
550 TO 599	1.064	1.070	1.076	1.081	1.087	1.050	1.052	1.054	1.057	1.060
600 OR MORE	1.059	1.064	1.070	1.076	1.081	1.050	1.052	1.054	1.057	1.060
SAN FRANCISCO-OAKLAND,CA SMSA										
LESS THAN $200	1.078	1.084	1.089	1.094	1.100	1.089	1.102	1.102	1.114	1.127
200 TO 249	1.071	1.076	1.080	1.084	1.088	1.076	1.085	1.087	1.097	1.106
250 TO 299	1.064	1.067	1.070	1.074	1.077	1.067	1.075	1.075	1.083	1.090
300 TO 349	1.058	1.061	1.064	1.068	1.070	1.059	1.065	1.067	1.074	1.081
350 TO 399	1.052	1.055	1.058	1.061	1.064	1.053	1.059	1.060	1.066	1.073
400 TO 449	1.048	1.051	1.054	1.057	1.060	1.048	1.053	1.054	1.060	1.066
450 TO 499	1.044	1.046	1.049	1.052	1.056	1.044	1.048	1.049	1.055	1.061
500 TO 549	1.040	1.043	1.046	1.049	1.052	1.039	1.044	1.045	1.050	1.056
550 TO 599	1.036	1.039	1.042	1.046	1.049	1.035	1.040	1.045	1.050	1.055
600 OR MORE	1.033	1.036	1.039	1.042	1.046	1.035	1.040	1.044	1.049	1.054

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SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
SCHEDULE C - CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

MONTHLY CONTRACT RENT	ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY					ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY				
	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM	0-BEDROOM	1-BEDROOM	2-BEDROOM	3-BEDROOM	4+BEDROOM
SEATTLE-EVERETT, WA SMSA										
LESS THAN $200	1.096	1.102	1.109	1.115	1.122	1.078	1.081	1.068	1.070	1.073
200 TO 249	1.087	1.092	1.098	1.103	1.108	1.069	1.070	1.062	1.064	1.065
250 TO 299	1.078	1.082	1.086	1.090	1.094	1.062	1.064	1.056	1.057	1.057
300 TO 349	1.071	1.075	1.079	1.083	1.086	1.055	1.056	1.051	1.053	1.054
350 TO 399	1.064	1.067	1.071	1.075	1.078	1.051	1.051	1.046	1.048	1.050
400 TO 449	1.059	1.062	1.066	1.070	1.073	1.047	1.046	1.043	1.045	1.047
450 TO 499	1.054	1.056	1.060	1.064	1.068	1.042	1.043	1.040	1.041	1.043
500 TO 549	1.049	1.052	1.056	1.060	1.064	1.037	1.039	1.036	1.038	1.040
550 TO 599	1.044	1.048	1.052	1.056	1.060	1.034	1.035	1.036	1.038	1.040
600 OR MORE	1.040	1.044	1.048	1.052	1.056	1.034	1.035	1.036	1.038	1.040
WASHINGTON D.C.-MD-VA SMSA										
LESS THAN $200	1.117	1.125	1.133	1.141	1.149	1.099	1.104	1.090	1.094	1.099
200 TO 249	1.106	1.113	1.119	1.125	1.132	1.088	1.090	1.081	1.085	1.087
250 TO 299	1.096	1.101	1.105	1.110	1.115	1.079	1.081	1.072	1.075	1.077
300 TO 349	1.087	1.091	1.096	1.101	1.105	1.070	1.072	1.066	1.069	1.071
350 TO 399	1.078	1.082	1.087	1.092	1.095	1.064	1.065	1.060	1.063	1.066
400 TO 449	1.072	1.076	1.080	1.085	1.089	1.058	1.059	1.055	1.058	1.061
450 TO 499	1.066	1.069	1.074	1.078	1.083	1.053	1.054	1.051	1.054	1.057
500 TO 549	1.060	1.064	1.068	1.073	1.078	1.047	1.049	1.047	1.049	1.053
550 TO 599	1.054	1.059	1.063	1.068	1.073	1.042	1.045	1.047	1.049	1.053
600 OR MORE	1.049	1.054	1.059	1.063	1.068	1.042	1.045	1.047	1.049	1.053

Section 8 Housing Assistance Payments Programs

Schedule C—Contract Rent Automatic Annual Adjustment Factors

Note.—The Northeast Census Region includes the following States (and Territories): Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands.

Note.—The North Central Census Region includes the following States: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.

Note.—The South Census Region includes the following States (and the District of Columbia): Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia.

Note.—The West Census Region includes the following States: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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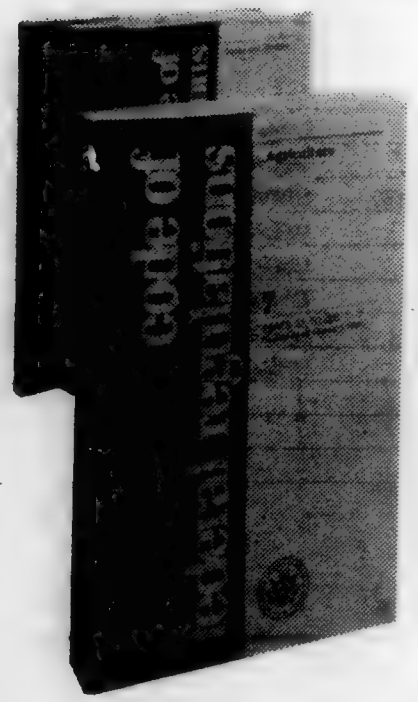

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PARALLEL TABLE OF
AUTHORITIES AND RULES

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The LIST OF CFR SECTIONS AFFECTED is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

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Titles 1–16—as of Jan. 1
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Cite a page reference from this publication as 46 FR for 1981 page numbers and 47 FR for 1982 page numbers. Example: Page 45875 cite as 46 FR 45875; △ 3353 cite as 47 FR 3353.

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Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains references to new authorities cited for CFR regulations added or revised since January 1, 1982, as well as removals from Table I for CFR regulations removed since January 1, 1982.

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A table is included at the end of this publication which identifies the inclusive page numbers and corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 and July 1 each year.

INQUIRIES AND SUGGESTIONS

Loren S. Myers was Chief Editor of the LSA, assisted by Carolyn T. Payne. The LSA was prepared under the direction of Martha B. Girard, assisted by Ruth C. Pontius. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to John E. Byrne, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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516.11 (i) added; interim 4497
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516.30 Introductory text revised; (h) added; interim 4497
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1.100 Added 5705
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203 Appendix C added 751
207.1 (h) and (i) revised 2982
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220.7 (a) revised 2983
220.8 (e)(1), (3), and (4), (g)(1), and (2) amended 2983
221.1 (a), (b), and (c) amended 2983
221.3 (a), (m), (p), (q), (r)(2), (s), and (t)(4) amended; (c) revised 2983
221.4 (a), (c), and (f) amended 2983
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226.503 (Pre-simplification) Removal deferred to 10-1-82 756
226.505 (Pre-simplification) Removal deferred to 10-1-82 756
226 (Pre-simplification) Supplement I removal deferred to 10-1-82 756
226 (Simplified) Compliance date deferred to 10-1-82 756
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226.14 (Simplified) Footnote 31a amended 756
226.22 (Simplified) Footnote 45a amended 756
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546.2 (h) introductory text, (6), and (8) revised 8153
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561.38 Amended 3543
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563.13 (a)(2), (b)(2) and (4) amended 3543
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21.93 (b) introductory text and (2) amended 758

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436.106 (b) table amended	25608
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436.204 (b)(2) table amended	25602
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(b)(2) table amended	58298
(b)(1) and (2) tables amended	61072
436.205 (c) table amended	25602
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436.333 Added	61070
436.541 (b) table amended; (c) (4) added	25603
440.3 (b) (5) (ii) corrected; CFR correction	57477
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442.104b (b) (1) (i) and (ii) corrected	21360
442.105 (b) (1) (ii) (*c*) corrected; CFR correction	57477
442.213 Added	25607
442.225c (a) (1), (3), and (b) (1) revised; (b) (7) and (8) added	38503
444.42b Correctly removed	41814, 42447
444.44 Removed	61072
444.62 (a) (1) introductory text corrected	22359
444.70a (a) (1) (v), (3) (i), and (b) (5) amended	60568
444.142a (b) (2) revised	25608
444.220 (a) (1), (3) (ii) (*b*) (*1*), and (b) (4) revised	31009
444.270b (a) (1), (3) (i) (*a*) and (*b*), and (b) (5) amended	60568
444.380 (a) (1) heading and effective date corrected	22359
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444.380a Redesignated from 444.380	△7827
444.380b Added	△7827
444.442f Heading revised; (a) (1) amended	25608
444.442h (a) (1) corrected	55091
444.520b (b) revised	45332
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446.65a (a) (1) (v), (3) (i), and (b) (5) amended	60568
446.67a (a) (1) (v), (3) (i) and (b) (5) amended	60568
446.75a (a) (1) (v), (3) (i), and (b) (5) amended	60568
446.76a (a) (1) (v), (3) (i), and (b) (5) amended	60568
446.81a (a) (1) (v), (3) (i), and (b) (5) amended	60568
446.150a (a) (1) amended	46313
446.220 (a) (1), (3) (i) (*b*), and (b) (5) amended	60568
446.260 (a) (1), (3) (i) (*b*), and (b) (5) amended	60568
446.265 (a) (1), (3) (i) (*b*), and (b) (5) amended	60568
446.267 (a) (1), (3) (i) (*b*), and (b) (5) amended	60568
446.275a (b) (1) amended	46313
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446.275b (b) (1) amended	46313
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446.276a (b) (1) amended	46313
(a) (1), (3) (i) (*b*), and (b) (5) amended	60568
446.276b (b) (1) amended	46313
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446.281 (a) (3) (i) (*a*) amended	60568
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446.381b (b) (1) amended; (b) (3) revised	46313
446.542 (b) (2) (iii) corrected	21361
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448.30a (b) (1) corrected	22359
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520.620b (a) revised	51383
520.622a Revised	23230
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520.622c (b)(5) added	25609
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520.905a (e) added	29464
520.905b (c)(2) and (3) revised	37502
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520.1120a (c) amended	48642
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520.1236 Added	25085
520.1242a (c)(2) revised	25085
520.1320 (d)(1)(ii) revised	47218
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520.1326 (c)(3) amended	52330
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522.690 (a), (b), (c), and (d)(1)(iii) revised; (d)(2)(iii)(*e*) and (*f*) removed; (d)(2)(iii)(*g*) redesignated as (d)(2)(iii)(*e*); (d)(3) added 39127
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522.1720 (b)(1) amended 48642
522.1870 (c)(1), (2) and (3) redesignated as (c)(1)(i), (ii), and (iii); new (c)(1) heading and (2) added ..... △6617
522.1884 (c) revised; (d)(2)(iv) added 33513
522.2002 (c) amended 60570
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522.2260 Added 62055
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522.2640 Redesignated as 522.2640a and revised; new 522.2640 added 48643
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524.2101 (b)(2) revised 37043
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540.274d (a)(4)(ii)(*c*) amended 60569
540.814 (c)(2)(ii) and (3)(ii) added 33030
540.815a Added 55954
540.874a (c)(4)(iii)(A) and (B) redesignated as (c)(4)(iii)(*a*) and (*b*); (c)(4)(i) and new (iii)(*a*) revised 43415
544.173a (a)(1) amended 60569
544.173b (a)(1) amended 60569
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544.173e (a)(1) amended 60569
544.211a (b)(3) amended 60569
544.211b (a)(1)(iv), (4)(ii)(*a*), and (b)(3) amended 60569
544.274 (a)(1)(ii), (4)(ii)(*a*), and (b)(2) amended 60569
544.370a (a)(4) and (b)(2) amended 60569
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546.312a (a)(1)(iii) amended 60569
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558.78 (e)(1) table amended 21363
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558.485 (a)(8) added	28840
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2610 Authority citation ..... △8175
2610.3 Amended 63268
2610 Appendix A revised ..... △8175
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2618.30—2618.32 (Subpart C) Added 49845

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2619 Authority citation 63269
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2621 Authority citation 62441
2621 Appendix A amended 62441
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2640 Added 46129
2642.2 Removed 46129
2643 Added 46129
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2643.2 Amended 63268
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2673 Added (effective pending OMB review) 37245
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211.3 (a)(1)(vi) removed; (a)(1)(vii) through (x) redesignated as (a)(1)(vi) through (ix) 48656
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231.3 (b) and (g) removed; (c) through (f) redesignated as (b) through (e) 48657
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231.25 Removed 42267
231.30 Removed 42267
231.42 Removed 48657
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(a)(2) and (3) added 47721
722.12 (d) revised; (e) through (i) added 41704
730.5 (b) revised 53384
731 Note amended 53384
731.12 (b) revised 50019
731.13 Removed 53384
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806.14 (a)(2) through (4) and (6) suspended; (a)(5) suspended in part 59936
808.12 (c) suspended 42063
843.12 (c) revised; (f) through (j) added 41705
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904.11 Removed △3109
906.11 Nomenclature change 54070
951.11 (b) revised △7830
916.20 Added △4515
920.10 Revised △7217
920.11 (a), (e), (l), and (p) nomenclature change 54071
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925.20 Added △4254
926.10 Revised △6268
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931.11 Nomenclature change 54071
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934.20 Added 62256
936 Conference 49846
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936.20 Added △2991
944.11 (f), (g), and (h) nomenclature change 54071
946 Added 61114
946.11 (o) and (r) revised △8009
946.20 Added 61088

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948.11 (a)(1), (2), (4) through (17), (19) through (24), and (26) through (35) nomenclature change 54071
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950.11 (b) and (c) nomenclature change 54071
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TITLE 31—MONEY AND FINANCE: TREASURY

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51 Revised 48035
51.55 Interim rule, partial implementation 41047

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316.8 (b) and tables 1 through 176 revised; table 176a removed; tables 177 through 245 added 49260
317.8 Appendix added 38664
332.8 (b) and tables 1 through 57A revised; tables 58 through 121A added 54074
341.1 (a) revised 60573
341 Appendix amended 60573
342.2a (b) revised; tables 1 through 14 revised; tables 15 through 21 added 49518
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346 Appendix amended 60577
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535 Filing claims deadline notice ..... △145, 366
535.210 (a) revised 42063
535.213 (e) removed; (b) revised 35106
535.214 (e) removed; (b) revised 35107
535.215 (c) removed 35107
535.440 Existing text designated as (a); (b) added 35107
535.621 Added 59939

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298a.5 (b) (1) and (2) and (c) revised ---------- 35641
298a.6 (b) (1) revised; (b) (7) amended ---------- 35641
298a.7 (b), (c), and (d) removed ---------- 35641
298a.8 (a) amended; (c) removed ---------- 35641
298a.9 (a) introductory text and (b) revised; (a) (3) (ii) amended ---------- 35641
298a.10 (a) introductory text (4) (iii) and (b) amended ---------- 35641
298a.11 (b) introductory text amended ---------- 35641
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165.1705 Added (temporary) 56183
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207.6 Revised 43045
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208.11 (e) table revised 58075
209.135 (b)(2)(v) revised; (d)(17) removed 53408
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208 Removed; eff. 10-1-82 42847
209 Removed; eff. 10-1-82 42847
219 Revised (effective date pending) ..... △3329
220 Removed (effective date pending) ..... △3328
240 Removed; eff. 10-1-82 42847
280 Removed; eff. 10-1-82 42847
295 Removed; eff. 10-1-82 42848
296 Removed; eff. 10-1-82 42848

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345 Removed; eff. 10-1-82 42848
346 Removed; eff. 10-1-82 42848
347 Removed; eff. 10-1-82 42848
350 Added (effective date pending) 45305
351 Added (effective date pending) 45308
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444 Removed; eff. 10–1–82 42848

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610 Removed 46926
614 Revised (effective date pending) 38882
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7.28 (b)(2) amended; (d) removed	37896
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64 Redesignated from Part 1226; nomenclature change 34329
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3.350 Introductory text of section and (a) introductory text revised 47541
3.500 (b)(1), (e), and (n)(4) amended; (s) revised 34800
3.551 (c)(3) revised 47541
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3.665 Added 47542
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36.4233 (a)(3), (b), and (d) amended 43671

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36.4235 (a), (b), and (d) amended ... 43671
36.4254 (a)(4) amended; (c) revised ... 43671
36.4275 (a) revised ... 51386
36.4301 (ff)(2) amended; (aa) revised ... 43671
36.4302 (e) amended; (a), (c), and (l) revised ... 43672
36.4303 (g) introductory text revised ... 43672
36.4306 (a) and (b) introductory text and (c) revised ... 43672
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36.4312 (d)(6)(i)(A) amended ... 43673
36.4324 (f)(3) amended; (g) and (h) removed ... 43673
36.4329 Revised ... 43673
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233.1 Redesignated as 233.2 and (b)(2) amended; new 223.1 redesignated from 232.5 24303
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52.122 (d) (1) revised; (e) added 45606
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52.131 Table amended 45607
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52.170 (c) (9) added 40006
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(c) (12) added 43147
(c) (13) added 50371
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(c) (15) added ..... △2112
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52.181 Revised ..... △2112
52.220 (c) (90) added 40513
(c) (47) (iii) (B), (51) (i) (B), (52) (i) (B), (71), (75), and (76) added 42459
(c) (67) (ii), (70) (i) (B), (79) (ii), (86) (i) (C) and (88) (ii) added 43969
(c) (50) (x), (51) (vii) (B), (58) (ii) (B), (65), (67) (i) (B), (69) (ii), (70) (i) (C) and (ii), (79) (iv) and (v), (87) (ii), (88) (iii), and (96) added 47452
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(c) (51) (xviii) added ..... △3354
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(c) (96) (ii), (iii), and (iv), and (98) (ii) added ..... △3550
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52.222 (b) (4) added 42460
52.223 (b) (5) added 42460
52.226 (a) removed 42461
52.231 (a) removed 42461
52.232 (a) (5) and (6) added 42460
52.233 (a) (4) added; (d) (7) and (g) (1) (vii) removed 42460
52.238 Table amended 42461
52.253 (b) (3) added 42461
52.254 (a) (1) introductory text and (ii) revised 42461
52.255 (b) (1) (ii) removed; (b) (3) (ii) added 42461
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52.256 (b) introductory text revised 60203
52.320 (c) (24) added 58080
(c) (26) added 59537
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52.331—52.340 Removed 58080
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52.433 (a), (b), (c), (d), (f), (g), and (h) removed; (e) revised and redesignated as (a) 47779
52.470 (d) and (c) (4) through (8) redesignated as (c) (4) through (9); (c) (19), (20), and (21) added 61262
52.471 Table amended 61263
52.472 (c) revised 61263
52.473 Added 61263
52.474 (a) removed 61263
52.476 (a) through (d) removed 61263
52.478 Removed 61263
52.479 (a) and (c) removed; (b) revised 61263
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52.720 (c)(16) introductory text revised	44185
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52.770 (c)(23) added	40005
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52.820 (c)(37) added	51607
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(c) introductory text revised; (c)(13) correctly added	△8358
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52.970 (c)(20) added	40006
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52.976 (c) removed	△6017
52.980 (c) added	△3116
52.1020 (c)(14) added	43152
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52.1570 (c)(30) added 47780
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52.2120 (c)(14) added	35259
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(c)(19) added	55968
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Table I is in the CFR Index and Finding Aids revised as of July 1, 1981. Additions from July through December 1981 are in the December 1981 List of CFR Sections Affected.

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Table I is in the CFR Index and Finding Aids revised as of July 1, 1981. Removals from July through December 1981 are in the December 1981 List of CFR Sections Affected.

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4507 **Mortgages** HUD/FHC amends regulations on mortgage insurance for existing multifamily housing projects.

4508 **Income Taxes** Treasury/IRS provides special rule for deduction of certain charitable contributions of inventory and other property.

4640 **Armed Forces** SSS revises regulations on deferment or exemption from military service. (Part II of this issue)

4541 **Motor Vehicle Safety** DOT/NHTSA proposes changes to informational readout display regulations for occupant crash protection.

4493 **Natural Gas** DOE/ERA issues interim rule on sale and direct industrial use of natural gas for outdoor lighting.

4626 **Grant Programs—Juvenile Delinquency** Justice/JJDPO announces supplemental financial assistance for delinquency problems in insular areas.

4521 **Government Property** GSA amends regulations on utilization and disposal of real property.

4535 **Foreign Aid** IDCA/AID extends comment period on regulations clarifying registration of agencies for voluntary foreign aid.

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4490 **Nuclear Energy** NRC amends regulations on adjudications involving conduct of military or foreign affairs.

4583 **Energy** DOE/OHA solicits comments on procedures to follow in refunding public consent order funds.

4631 **Hazardous Materials** DOT/CG and EPA establish funding mechanism for costs incurred by the Coast Guard in emergency responses to releases of hazardous substances, pollutants, or contaminants.

4536 **Highways and Roads** DOT/FHWA requests comments on proposed elimination of certain supportive services.

4668 **Livestock Marketing** USDA/PSA proposes to amend bonding and custodial account regulations. (Part III of this issue)

4538 **Transportation—Flammable Materials** DOT/RSPA proposes reduction of flash point limitation for flammable liquids in inside containers.

4545 **Antidumping** Commerce/ITA announces preliminary results of administrative review of finding on carbon steel plate from Taiwan.

4621 **Privacy Act Document** Justice.

4636 **Sunshine Act Meetings**

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will establish a revision of the container regulations prescribed for DAC dates of any variety handled in the United States and Canada under the Federal marketing order for California dates. This action will allow handlers to ship such dates to Canadian markets free of the container regulations and give handlers more shipping flexibility.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order No. 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the 17 regulated handlers.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because (1) This action would allow handlers to ship DAC dates to Canadian markets free of container requirements and should be in effect promptly to enable them to compete more effectively in Canadian markets; (2) this action relieves restrictions on handlers; and (3) no useful purpose would be served by delaying the effective date of this action.

Notice inviting written comments on this action was published in the **Federal Register** on December 23, 1981 (46 FR 62280). None was received.

This action would revise § 987.112a(b)(3) of Subpart—Administrative Rules (7 CFR 987.101–987.172). This section is issued under §§ 987.12, 987.43, and 987.48 of the marketing agreement and Order No. 987 (7 CFR Part 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action was recommended unanimously by the California Date Administrative Committee, hereinafter referred to as the "Committee" which works with USDA in administering the order.

Section 987.112a(b)(3) prescribes consumer sizes of plastic containers, in terms of net weight content, that handlers must use when they package DAC dates in such containers for handling in domestic and Canadian markets. Some foreign competitors have been selling consumer-sized plastic containers of dates in Canada weighing slightly less than the containers of dates domestic handlers are required to ship under the current regulation. This places domestic handlers at a competitive disadvantage because the foreign competitors are able to sell at a slightly lower price.

Section 987.12 of the order defines DAC dates to be marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety for handling in the United States and Canada.

Section 987.43 of the order authorizes the Committee, with the approval of the Secretary, to modify the designations specified in § 987.12 to reflect new regulatory requirements needed because of changes in marketing conditions. To give domestic handlers more shipping flexibility and to allow them to compete more effectively with other foreign suppliers in Canadian markets, the container regulation in § 987.112a(b)(3) should not apply to DAC dates of any variety shipped to Canada.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is further found that the revision of § 987.112a(b)(3) of Subpart—Administrative Rules (7 CFR 987.101–987.172) will tend to effectuate the declared policy of the act.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Therefore, § 987.112a(b)(3) of Subpart—Administrative Rules (7 CFR 987.101–987.172) is revised to read as follows:

§ 987.112a Grade, size, and container requirements for each outlet category.

* * * * *

(b) * * *

(3) DAC dates of any variety, when packed in plastic containers, other than bags and master shipping containers, shall contain a net weight (i) for whole dates, of either eight ounces, twelve ounces, 1 pound 8 ounces, or more than two pounds, and (ii) for pitted dates, of either ten ounces, one pound, one pound eight ounces, or more than two pounds. DAC dates packed in other than plastic containers may be handled without regard to the net weight content. For the purpose of this subparagraph, "plastic container" means any containers of any shape made from plastic and in which dates are packed without the use of cardboard boats, trays, or other like stiffening material: *Provided,* That DAC dates shipped for sale in Canada in plastic containers are exempt from the net weight requirements of this subparagraph.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 27, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-2511 Filed 1-29-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Amendment To Provide Exception From Procedural Rules for Adjudications Involving Conduct of Military or Foreign Affairs

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is readopting that part of its "Rules of General Applicability" for the conduct of adjudicatory proceedings in 10 CFR Part 2 which provides an exception from those rules for adjudications involving the conduct of military or foreign affairs functions. The rule, 10 CFR 2.700a, has been restated to reflect the Commission's intent that the exception it provides may be applied to pending proceedings. This exception permits the Commission to exercise greater flexibility in fashioning procedures for proceedings involving military or foreign affairs functions pursuant to the exception stated in the Administrative Procedure Act (APA) at 5 U.S.C. 554(a)(4).

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Marjorie S. Nordlinger, Office of the General Counsel, Nuclear Regulatory Commission, Washington, D.C. 20555, phone 202-634-3214.

SUPPLEMENTARY INFORMATION: The Commission has readopted that part of its rules governing procedure for adjudications in subpart G of 10 CFR Part 2 which provides an exception from those rules for proceedings to the extent that there is involved the conduct of military or foreign affairs functions. In readopting that exception stated at 10 CFR 2.700a, the Commission has explicitly provided that the rule shall apply to Nuclear Regulatory Commission (NRC) proceedings in progress where hearings have already been requested or ordered.

On September 30, 1981 the Commission published notice of its intent to reconsider 10 CFR 2.700a. 46 FR 47799. The Commission specifically requested comment on the exception itself and regarding the issue of whether the rule, if readopted, is applicable to pending proceedings. *Id.* at 47800.

Five commenters responded to the Commission's notice. They are: Americans for Democratic Action (ADA); Natural Resources Defense Council (NRDC); Ms. Suzanne Sherbondy, an individual who is affiliated with NRDC; the Department of Energy (DOE); and Nuclear Information and Resource Service (NIRS).

The Department of Energy favored retention of the rule and its application to pending proceedings. DOE supported this view with specific reference to several facilities regulated by NRC where military functions of the United States are involved and thus where procedural flexibility is desirable. In DOE's view the Commission correctly applied its rule to a pending proceeding and reconsideration was not warranted. ADA commented that the rule was unnecessary because the APA exception which it duplicates is already applicable to NRC proceedings. ADA commented further that on the facts stated by NRDC it believed the rule was "probably not applicable" to the Erwin matter and would be likely to be similarly misapplied in the future. The three other commenters flatly opposed the rule, taking the further position that if retained it should be clarified and limited in application and in any event should not be applied to pending matters. NIRS recommended specifically that the rule should require as a condition for application that "the commercial plant in question has, under rare and unusal circumstances, direct military involvement, such as may be the case in time of war; or, if the Department of State or the President should deem a certain activity necessary to conduct foreign affairs at a particular point in time."

On consideration of these comments the Commission has not been persuaded to repeal its rule or to bar its application to the already noticed hearing on NFS Erwin's license amendment which has been stayed by order of the United States Court of Appeals for the District of Columbia, in *Natural Resources Defense Council* v. *Nuclear Regulatory Commission,* Nos. 80-1845 and 1846. Accordingly, the Commission readopts the rule as stated to apply to pending proceedings.

Readoption of the Rule

The essential point made by the Commission in originally adopting the rule was that doing so explicitly provided the administrative flexibility intended for any or every government agency when military or foreign affairs of the United States are involved in administrative adjudications. Two arguments that go to the merits of NRC's adopting such a rule have been made by commenters opposing the rule: (1) That NRC has no military or foreign affairs functions to which it is applicable, (2) that the rule is unnecessary because it duplicates and exception already available in the Administrative Procedure Act. Also, some commenters suggested that if NRC should decide to include the APA exception in its rules, some restrictive language going beyond the bare language of the APA should be included.

Regarding the first, as DOE has argued in its comments, NRC licensing actions at several facilities present at least the possibility of involvement of military functions of the United States. NRC licensing proceedings may, depending on the nature of the licensed activity, "involve" military or foreign affairs functions even though licensing itself is not actually regarded as a military or foreign affairs function. In the NFS Erwin matter the Commission has specifically decided that military functions are involved. Although export decisions are not subject to the agency's adjudicatory process, regulatory proceedings at domestic facilities admit the possibility of foreign affairs involvement, for example, where facilities are subject to International Atomic Energy Agency (IAEA) inspection or where materials in transit are covered by our rules. See e.g., 10 CFR Part 75.

Moreover, whether or not it now appears that NRC has regulatory resonsibilities involving military or foreign affairs functions, it is entirely reasonable for the Commission to incorporate in its rules the full flexibility provided by the APA and made applicable to its proceedings by Section 181 of the Atomic Energy Act of 1954, as amended. 42 U.S.C. 2231. This is true so that it will be clear that this exception is applicable in the event of a military or foreign affairs involvement.

Regarding the second argument, we concur with both ADA's statement that the rule duplicates a provision of the APA and ADA's implication that therefore it not only is but has been available to the Commission. Nonetheless, in order to clarify that this is the case and to have all rules including exceptions for adjudicatory procedures available in one place, the Commission adheres to the course of retaining rule § 2.700a in its rules of practice.

Just as there can be no serious doubt about the appropriateness of the Commission's incorporating an APA

provision into its own rules of practice, there can be no doubt about the appropriateness of doing so *verbatim*. The Commission does not therefore accept some commenters' recommendations to incorporate in the Commission's rule limitations that go beyond the bare language of the APA and arguably nullify its intent that wherever *military* functions are involved the rule is applicable. Had Congress intended this rule to be limited to time of war it may be presumed to have so stated.

Doubtless in the course of application of the rule the Commission will explore the bounds of the rule case by case as the subject matter requires. This process is clearly preferable to imposing unintended limits at the threshhold.

Application to Pending Proceedings

With the exception of NRDC no commenter provided views that addressed the applicability of the rule to a pending proceeding or to the NFS Erwin proceeding as a pending proceeding. Those who commented negatively did so essentially on the basis that the NFS Erwin proceeding does not involve military functions. As we stated above, the Commission has decided that issue otherwise and the United States Department of Energy concurs in that view.

NRDC reiterated the position that it has taken from the first that application of the rule is impermissible as it will prejudice NRDC's rights in an ongoing matter. As it argued in its briefs before the D.C. Circuit which were submitted as comment in this rulemaking, NRDC finds prejudice in the loss of expected rights to discovery the cross-examination. Presumably NRDC would argue on this basis that the rule may not legally be applied to any pending adjudication.

The Commission's position is that NRDC's view of the law on application of procedural rules to pending matters is erroneous. Nonetheless, the issue is before the Court of Appeals for the D.C. Circuit and will be resolved there. In that proceeding the Commission has briefed its response to NRDC's legal arguments. It is sufficient here to state that in the Commission's view a change in hearing format will not preordain the outcome of the NFS Erwin proceeding and will work no prejudice on NRDC in that proceeding.

As a general matter, the Commission believes it would be acting unwisely to preclude its use of the military or foreign affairs exception in any adjudication now pending in the event that a matter of military or foreign affairs were to become implicated. Such action would be contrary to Congressional intent. Congress indicated that the exception should be exercised by providing that *in any agency* those matters qualifying for the exception *are excluded* from coverage of the APA adjudicatory rules.

Good Cause for Immediate Effectiveness

The Commission's readoption of 10 CFR 2.700a in the proposed form including a slightly modified provision permitting application to pending proceedings is made effective on publication for the following reasons.

First, the rule is not substantive but is procedural in nature. Second, the only persons who would be affected by immediate effectiveness of the rule are the parties in the NFS Erwin proceeding. Those parties have long been on notice of the Commission intentions and immediate effectiveness imposes no additional burden on them.

Separate and Additional Views of Commissioners

1. Separate Views of Commissioner Gilinsky

The NRC does not need this rule. This agency and its predecessor, the AEC, have functioned for more than twenty-five years without such a rule, with no descernible detriment to the military and foreign affairs matters which have been subject to their jurisdiction. Our regulations are adequate to protect classified information in our proceedings; our review of exports is already statutorily exempt from the adjudicatory provisions of the Administrative Procedures Act. It is clear that this rule was proposed in 1980 [1] solely to limit the public inquiry into the Commission's decision to relax the material accounting standards applicable to the NFS Erwin facility, which is involved in the production of nuclear fuel for the Navy. This decision followed the discovery that the Erwin facility was unable to satisfy the NRC material accounting requirements for potential bomb material.

There is little question that if the NFS Erwin facility had been handling nuclear material intended for civilian use its license would have been revoked. However, because the operations of this facility are ultimately dictated by the needs of the Navy, without regard to whether or not NRC requirements are met, the NRC staff suggested transferring responsibility for the oversight of this facility to the Assistant Secretary for Defense Programs at the Department of Energy. I agreed with the staff's suggestion; it would have ensured that DOE, which has effective control over the operations of the facility, would also have responsibility for the manner in which it is operated. This would have brought the NFS Erwin plant under the same system of oversight which applies at other national security facilities. The Commission decided on another course. It relaxed the applicable material accounting requirements to a level the facility was thought to be able to meet. This retained the appearance of compliance with NRC safeguards requirements and masked the fact that real control over the plant had been transferred to DOE.

After making its decision, the Commission offered an opportunity for a hearing. When one was requested by the Natural Resources Defense Council, the Commission appears to have belatedly realized that the adjudicatory hearing normally held in these circumstances would subject its decision to too searching a review. It then attempted, without providing notice or an opportunity for comment, to adopt a rule excepting military and foreign affairs functions from the usual adjudicatory procedures, which it intended to apply retroactively to the NFS Erwin case. That effort floundered on the implausibility of arguing that the adoption of a military and foreign affairs exception rule was itself a military or foreign affairs matter exempt from the normal rulemaking provisions of the APA. Although the Commission has now remedied that legal defect, the courts may still look askance at its efforts to apply this rule retroactively to the NFS Erwin case to deprive the parties of their procedural rights.

More importantly, in its haste to deal with the NFS Erwin hearing, the Commission has not considered where and how to apply this rule. For example, would a hearing to license a waste disposal facility be subject to this rule because some of the waste is of military origin? The rule should not be applicable to such a case, but the test of the rule does not preclude such application. At a minimum, the rule should be modified to make it clear that the normal adjudicatory procedures may only be waived where such a waiver is essential and conduct of military or foreign affairs functions is directly at issue.

One of my reasons for arguing, a year and a half ago, that the Department of Energy should assume authority over NFS Erwin was that the NRC's efforts to bend its requirements in order to accommodate DOE would tend to undermine NRC's regulatory process as it applies to other facilities. This is, in fact, what I see happening. The right

[1] Federal Register, Vol. 45, No. 130, p. 45253, July 3, 1980.

course is still to transfer oversight authority over this plant to the Department of Energy so that responsibility can be joined with authority.

2. Separate Views of Commissioner Bradford

Once again the Commission is taking action that its attorneys had, back when they still had freedom of choice in the matter, advised strongly against.[2] While the agency now implicitly acknowledges the illegality of its original pretense that the promulgation of a military affairs exemption is itself a military function,[3] that bizarre notion's day in the sun still sets the tone for this rulemaking. Three issues remain: (1) Do we need the military and foreign affairs exemption, and, if so, the one proposed? (2) Does the Erwin matter involve a military function? (3) Should the rule apply retroactively?

We obviously do not "need" this rule for any wise purpose. The agency has functioned smoothly for decades, during which the country has fought some wars, considered others and probably deterred a few more without the rule's absence being noticed at all. Nor does anything in the present state of the world seem likely to make its absence the missing horseshoe nail of some future conflict.[4]

Nonetheless, comment having been sought, the Commission has the power to adopt this rule, and even to do so in the form and manner proposed. Still, the fact that alcoholics have the right to buy liquor does not make them wise to do so, especially in the absence of substantial restraining forces. Despite the clear penchant for overindulgence that the NRC has demonstrated in this area, no such restraints on the use of the military functions exemption are imposed. Given what its brief history and its present use reveal about the temptations that it offers, the limits proposed by the commenters should have been adopted.

A more serious legal question is whether this exemption is properly applied to NRC regulation at Erwin. The Erwin facility has as its sole purpose the processing of highly enriched uranium for fuel in the nuclear submarine program. However, it is privately owned and operated, and its output goes to another private company before being transferred to the Navy. The employees are all civilians. The contractor is the Department of Energy (not Defense). The DOE involvement in nuclear matters is the *civilian* jurisdiction deliberately created by the Congress in the Atomic Energy Act of 1946, reaffirmed once in the Atomic Energy Act of 1954, again in the Energy Reorganization Act of 1974 and again in the 1978 legislation creating DOE. Throughout these 35 years, the Atomic Energy Commission/DOE nuclear jurisdiction has been civilian until the point at which a product is turned over to the military. Thus, Erwin is clearly on the civilian side of the line.

The civilian nature of the function at issue here is reinforced by the fact that the Navy's fuel supply is not in jeopardy. Neither classified information nor DOE submissions contravene this point. The conditions for Erwin's continued operation may be at issue (including whether a new facility should replace it), but the fueling and running of the submarines are not. It is the submarines and the security of their fuel that are the military function. The regulation of the conditions surrounding but not essential to these functions is emphatically non-military. To misunderstand this is to misunderstand the Congressional motive in establishing civilian control of nuclear matters in the Atomic Energy Act and in narrowly circumscribing the military affairs functions exemptions.[5] Furthermore, this blurring of the distinction invites similar sleight-of-hand in many other contexts to shield from adjudicatory inquiry or from the Administrative Procedue Act chains of defense procurement activities that are many steps removed from any military functions.

The final question, if our regulation at Erwin is found to be a military function, is whether the NRC should or can apply its new rule in a proceeding originally offered under a different set of rules. It is here that the agency continues to ignore aspects of the advice furnished by its two legal offices from March until June, 1980.

The first half of the question is easy—the Erwin proceeding is of precisely the sort to which adjudicatory processes are essential. The extent to which the public is adequately protected by the measures that the Commission now employs at the Erwin facility flows directly from narrow questions of fact having to do with, for example, statistical and measuring capabilities, potentials for theft, past shortcomings, and the costs and benefits of a new facility.[6] The wisdom of continuing the 1979 relaxation in light of DOE's failure to move toward an alternative facility is very much in doubt and rests entirely on our capability to detect and prevent diversion of material that can be used to make atomic bombs. The ultimate conclusion may be one of policy,[7] but it will be based heavily on material facts that are very likely to be contested. Therefore, the NRC's own interest in a reliable record is best served by a hearing, involving discovery and cross-examination, of the type that it first offered to NRDC in February, 1980.[8]

Since I have concluded that an adjudicatory hearing should be offered by choice, I need not decide whether the law requires us to do so. The NRDC will clearly be disadvantaged without adjudicatory procedures, for the essential information is in the possession of parties who have shown themselves to be reluctant to share it. The NRC has always viewed cross-examination and discovery as substantive rights. Whether the NRC may now inflict substantive disadvantage by alleging a lack of prejudicial reliance in a proceeding in

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[2] *Nuclear Fuel Services, Inc.*, 11 NRC 799, 809, Note 3 (June, 1980). I should note that making internal agency legal advice public is not our normal practice. Indeed, the June, 1980 decision represents the only time in the more than four years of my term that I have done so. I took the step on that occasion only because the Commission, immediately *after* its Secretary had announced its vote, extracted a public statement from its General Counsel that its action had been "legal" despite his previous advice putting that proposition at least very much in doubt.

[3] *Ibid*, pp. 809–810.

[4] The conduct of foreign affairs will also continue uninterrupted without this rule. NRC export licensing decisions are already exempted from the Administrative Procedure Act by statute.

[5] Legislative History of the Administrative Procedure Act, S. Doc. No. 248, 79th Congress 2d Sess. 199 and 267 (1946).

[6] In this context, I should note that my 1979 concurrence in the original relaxation of limits at Erwin was premised on a good faith study within one year of the feasibility of a new facility. Such a study was requested in the NRC's February 20, 1980 letter to DOE Under Secretary John Deutch and was committed to in Deutch's March 13 reply. No such study has been conducted.

In retrospect, I believe that Commissioner Gilinsky's suggestion that surveillance of the facility be vested in DOE (11 NRC 807–8) may well have been correct. The useful purpose that I saw in retaining jurisdiction was the potential to compel significant improvement, for this is dangerous material to lose track of. However, I doubt the usefulness of a regulatory regimen that functions as tolerantly as this one does now.

[7] See the views of Commissioner Ahearne at 11 NRC 799, 812–816. His suggested "stipulation of as many facts as possible" (at 816) is a desirable step, but one that would be considerably aided by the certainty of an adjudicatory hearing for issues of material fact on which no stipulation had been reached.

[8] The Commission has dropped the ill-considered language in the original rule implying that protection of classified information was at issue here, but the Department of Energy has sought to keep up the pretense in its comments. The fact is that our present rules give ample authority to assure that no classified information falls into unauthorized hands as a result of any type of NRC proceeding. Classified information will be fully protected in any type of proceeding whether or not this rule is adopted.

which it has managed to stall off significant progress for two years is for the courts to decide. Such a course is certainly unwise and unfair. It would not be cause for regret if it turns out also to be illegal.

3. Additional Views of Commissioner Ahearne

I disagree with many of Commissioner Bradford's comments. To repeat points which have been made in the past: The General Counsel did advise that the Commission's actions were legal,[9] the fuel supply for the Naval Nuclear Propulsion Program is directly affected,[10] and although the Commission offered a hearing, it did not specify an adjudicatory hearing and a majority agreed that under the circumstances a modified legislative hearing before the Commission was more appropriate than a formal adjudicatory hearing before a Licensing Board.[11]

Regulatory Flexibility Statement

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule change would not have a significant economic impact on a substantial number of small entities. The rule change would affect the Commission's procedures by permitting informal procedures where military functions of the United States are involved. Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552, 553, and 554 of Title 5 of the United States Code, notice is hereby given that the Commission is reconsidering its now stayed adoption of the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 2.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the NRC has made a determination that this proposed rule would not impose new recordkeeping, information collection, or reporting requirements.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSE PROCEEDINGS

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161p and 181, Pub. L. 83–703, 68 Stat. 950 and 953 (42 U.S.C. 2201(p) and 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841); 5 U.S.C. 552; unless otherwise noted. Sections 2.200–2.206 also issued under sec. 186, Pub. L. 83–703, 68 Stat. 955 (42 U.S.C. 2236) and sec. 206, Pub. L. 93–438, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.700a is also issued under Pub. L. 89–554, 80 Stat. 384 (5 U.S.C. 554). Sections 2.800–2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and Sec. 29, as amended, Pub. L. 85–256, 71 Stat. 579, and Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039).

2. Section 2.700a is revised to read as follows:

§ 2.700a Exceptions.

(a) Consistent with 5 U.S.C. 554(a)(4) of the Administrative Procedure Act, the Commission may provide alternative procedures in adjudications to the extent that there is involved the conduct of military or foreign affairs functions.

(b) This rule shall apply to proceedings in progress where hearings have already been requested or ordered as well as to future proceedings.

Dated at Washington, D.C. this 26th day of January 1982.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 82-2530 Filed 1-29-82; 8:45 am]

BILLING CODE 7590-01-M

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[9] The following exchanges took place at the affirmation session on June 26, 1980.

Concerning the immediately effective rule to exempt from Part 2 adjudications relating to military and foreign functions: "Chairman Ahearne: Mr. Bickwit, may I ask you a legal judgment since I read at least one of the dissents. Is this a legal action you're [sic] taking?

"Mr. Bickwit: Yes, I believe they are."

Affirmation session, transcript at 6 (June 26, 1980).

Concerning the Commission order and notice of hearing: "Chairman Ahearne: I would like to ask the General Counsel the same question. Is this a legal action?

"Mr. Bickwit: I do believe it is. Yes."

Affirmation session, transcript at 8 (June 26, 1980).

[10] In reaching its initial decision concerning Erwin, the Commission specifically noted "the essential role of the NFS-Erwin facility in supplying material for the Naval nuclear propulsion program and thus for the common defense and security." Memorandum from S. J. Chilk, Secretary to L. V. Gossick, EDO (January 21, 1980) (memorandum documenting Commission decision). A more precise description of the connection is difficult because it would involve classified material.

[11] *Nuclear Fuel Service, Inc.* (Erwin, Tennessee), CLI–80–27, 11 NRC 799 (1980). Two fundamental issues raised by this licensing action are (1) the value of NRC review of DOE activities, and (2) the propriety of trading material control and accounting measures for physical security given non-proliferation concerns about the international precedent. These are basically policy issues which only the Commission can decide and which must be decided in light of the defense policy considerations.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 516

[Docket No. ERA–R–79–6–A]

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting; Amendments to Final Rule and Notice of Public Comment Period

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Interim final rule; request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the issuance of the Interim Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting, reflecting the amendments proposed by ERA on November 2, 1981 (46 FR 54378). The regulatory amendments are required by the amendments to section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), made by section 1024 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981 (OBRA or the FUA amendments). ERA is also hereby giving notice of a public comment period in this rulemaking proceeding to March 18, 1982. The Interim Final Rule will become effective January 30, 1982; a Final Rule will be issued after the close of the comment period.

DATES: Effective date of Interim Final Rule: January 30, 1982. Written comments are due by March 18, 1982.

ADDRESSES: Comments are to be addressed to: The Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461.

Comments and the outside of the envelope in which they are transmitted should be marked "Amendments to the Outdoor Natural Gas Lighting Rule."

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Director, Conversion Division, Economic Regulatory Administration, Department of Energy, Room 6128, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3372

Cliff Tomaszewski, Conversion Division, Economic Regulatory Administration, Department of Energy, Room 6114–E, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3313

Marya Rowan, Office of the General Counsel, Department of Energy, Room 6B–178, 1000 Independence Avenue,

SW., Washington, D.C. 20585, (202) 252–2967

SUPPLEMENTARY INFORMATION:

I. Background

The Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (10 CFR Part 516, 44 FR 27606, May 10, 1979) (Final Rule) was issued by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) on May 3, 1979, to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* The Final Rule, as required by section 402, prohibited local natural gas distribution companies from supplying natural gas for outdoor lighting by residential, municipal, or commercial customers and prohibited direct industrial users from using natural gas for outdoor lighting. Also as required by FUA, local distribution companies and direct industrial users were prohibited from installing new natural gas outdoor lighting fixtures (10 CFR 516.20).

On August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 was enacted. Section 1024 of the act made certain amendments to section 402 of FUA. Specifically, those amendments (1) lift the prohibition on the supplying of natural gas for use in outdoor residential lights installed prior to and in service on November 9, 1978; (2) require local distribution companies to select and develop a method to periodically inform their customers of the amount of natural gas used for outdoor lighting and the annual cost thereof; (3) require local distribution companies to report the method selected to the Secretary of Energy; and (4) require the Secretary of Energy to propose and promulgate rules relating to customer notification and reports to the Secretary of Energy. Under the prior law, residential outdoor lights could not be supplied with natural gas after January 1, 1982. Although the FUA amendments permit those residential fixtures in service on November 9, 1978 to continue to be supplied with fuel by their local distribution companies, they require those companies to inform their customers of the annual cost of outdoor lighting "for the purpose of discouraging the use of outdoor lighting * * *".

ERA, as required by the amended section 402(f)(2) of FUA, proposed by notice of November 2, 1981 (46 FR 54378) to amend the Final Rule (Part 516) to (1) reflect the statutory rescission of the prohibition on local distribution companies supplying natural gas for residential outdoor lighting that was being supplied when FUA was first enacted; and (2) as required by the FUA amendments, implement the statutory provisions relating to customer notification of the amount and annual cost of natural gas used in outdoor lights and local distribution companies' reports on their customer notification methods. ERA's proposed notification and reporting regulations were intended to provide local distribution companies and the appropriate state regulatory authorities' maximum flexibility in complying with the new statutory requirements with the least possible burden.

ERA is, by this notice, announcing its issuance of the amendments proposed on November 2, 1981, as an interim final rule, effective January 30, 1982, and is also announcing a public comment period to March 18, 1982. ERA has found that good cause exists for this course of action as it (1) enables ERA to comply with section 1024 of OBRA which requires that the proposed amendments shall take effect not later than the ninetieth day after they are proposed while affording the public an opportunity for the submission of additional comment; and (2) it facilitates the removal of a restriction, consistent with the Administration's policy of relieving the private sector of unnecessary regulatory burdens. ERA believes a comment period is warranted in view of the brief initial comment period made necessary by ERA's need to comply with the OBRA time schedule, a fact which may have restricted or discouraged some public participation in the rulemaking proceeding.

II. Discussion of Comments and ERA Response

ERA received a number of comments generally supporting its proposed amendments as positive steps on the part of the Federal government to remove unnecessary burdens from individual citizens and as reasonable implementation of the residential outdoor natural gas lights prohibition repeal. ERA's efforts to fashion regulations that reflect the new statutory requirements while affording the maximum compliance flexibility to the regulated entities received particularly favorable review. Other comments, although also generally supportive, suggested revisions to ERA's proposals or raised pertinent issues related to the rulemaking proceeding for ERA's consideration. The significant comments and ERA's response thereto are discussed below.

A. *Section 516.51—Customer Notification of amount and annual cost of natural gas used in outdoor lights.*—(a) Comments on subparagraph (a) called ERA's attention to the fact that some local retail distribution companies do not, for one reason or another, have any outdoor gas lights on their systems. It was felt that, for such companies, the customer notification requirement would serve no useful purpose and should be waived in favor of a one-time only statement or certification of this fact by the company to its appropriate state regulatory authority. While section 402(f)(1) of FUA indicates that the notification requirement is applicable to all local distribution companies subject to subsections (a) and (b), ERA believes that Gongress did not intend to place a regulatory burden on companies where such regulation would not contribute to achieving the desired result of decreasing natural gas use for unnecessary outdoor lighting. ERA considered these facts in reaching this conclusion: (1) Section 402(a) places a total prohibition on installations of new gas lights by local distribution companies. Accordingly, companies with no natural gas outdoor lights now on their systems cannot be expected to have any such new lights installed on their systems in the future. (2) Although, in a previous rulemaking involving Part 516, ERA stated that the prohibition on the installation of new lights does not prevent the replacement of existing fixtures that are in service pursuant to an exemption (or otherwise permitted by law, such as under the new FUA amendments) (45 FR 35206, May 23, 1980), companies with no currently existing natural gas lights have nothing to replace in the future. Therefore, ERA cannot see how annual customer notification would fulfill the expressed Congressional intent of "discouraging the use of natural gas for outdoor lighting", the basis for the imposition of this requirement. The appropriate revision has been made to § 516.51(a).

(b) Other comments on § 516.51 suggested that customer notification be required on an annual basis for only a specified number of years, e.g. 3 or 5, and thereafter only at lengthy periodic intervals. This suggestion was made based upon an anticipated decline in numbers of natural gas light users expected as the result of enforcement of the FUA prohibitions on both future installations and service and due to the eventual termination of the use of aging fixtures. While ERA believes that such a notification schedule may be warranted at some point in the future, it has decided to institute only the annual reporting requirement until such time that evidence is available demonstrating that the use of natural gas in outdoor lighting is declining on a consistently

regular basis. ERA bases this decision on its belief that substantial declines might not occur as expected. For example, as indicated earlier, existing fixtures operating legally within the terms of § 402 may be totally replaced, as necessary.

ERA believes that annual use and cost notification to natural gas customers is, therefore, reasonable on an annual basis until such time that less frequent notification appears to be warranted. At the time of any such future consideration of notification schedules, ERA will also consider the suggestion that discretionary ability to review notification intervals and to alter schedules as circumstances warrant be lodged with the State regulatory authorities under the already existing delegation of authority.

Other commenters felt that the annual reporting requirement called for unjustifiably repetitive notices, giving customers the same information that they had received several times before. ERA believes that this is indeed the purpose of the requirement imposed by the FUA amendments, since periodic notification must necessarily involve repetition of information earlier known and received by the addressee. It is through the reminders that users will be continually encouraged to weigh their needs for natural gas lighting against the costs of alternative lighting, resulting, it is hoped, in the discontinuance of all but necessary use.

(c) The May 31, 1982 deadline for the selection of the method of customer notification and for the report of such methods to the appropriate state regulatory authorities met generally with approval; however, one commenter suggested that companies with special problems be allowed to obtain an extension of the deadline upon a showing of good cause. ERA believes this is a reasonable suggestion, and to cover such contingencies, it is appropriately revising §§ 516.51 and 516.52.

(d) One commenter objected to the requirement for any customer notification, citing in particular the cost to small natural gas utilities of giving such notice. While ERA is charged with the responsibility of implementing the recent FUA amendments without having the discretion of waiving the requirements for the benefit of certain utilities, it re-emphasizes to all affected entities that it is its intention that compliance be by means of the least burdensome method and in a simple manner, tailored to each company's already existing operational procedures. A small utility that finds individual customer notification unduly costly may wish to consider selecting a method of general notification involving perhaps newspaper or other media advertising.

B. *Section 516.52—Reports on Customer Notification Methods.*— Because in several of the states the appropriate state regulatory authorities administering the natural gas lighting program may be several hundred in number, as where incorporated municipalities exercise original rate jurisdiction, some concern was expressed that there might, in the future, be attempts to impose additional reporting requirements similar to the one-time only reports required by § 516.52. ERA does not interpret section 402(f)(1)(B), which refers only to a requirement that the companies "report to the Secretary the method [for customer notification] established under subparagraph (A)", to mean that any additional or follow-up reports will be required.

C. *Section 516.11—Definitions.*—1. *"Residential outdoor lighting fixture"*— The definition of residential outdoor lighting fixture requires that, to be eligible to receive natural gas service after January 1, 1982, the fixture must not only have been installed prior to but also in use on November 9, 1978. Several commenters questioned how local distribution companies are to determine which lights are exempt from the prohibitions because of the lifting of the ban on residential lights and which are not. This is expected to be especially a problem where natural gas lights are not separately metered, making it almost impossible to determine which lights were in operation on November 9, 1978. To avoid this dilemma, it was suggested that ERA incorporate in the final rule a presumption that any fixture installed prior to November 9, 1978 was in service on that same date. While ERA recognizes this as a legitimate concern, it notes that, under 10 CFR Part 516, Subpart C, compliance and enforcement authority is delegated to, and has been accepted by most state regulatory authorities. Therefore, guidance on what constitutes adequate compliance is a matter properly addressed to the applicable regulatory authorities in each of the states. Such agencies will be in a position to evaluate the propriety of such a presumption, based on their knowledge of the situation existing in each jurisdiction on November 9, 1978, and will exercise their authority in this regard in a reasonable manner designed to minimize the compliance burden placed on the regulated companies by the FUA amendments.

2. *"Natural gas"*. The definition of "natural gas" in § 516.11, taken from the statutory definition in section 103(a)(3) of FUA and applicable to section 402, includes therein "liquid petroleum gas". Due to this inclusion, retail distributors of liquid petroleum gas (LP-gas or propane) must comply with the notification and reporting requirements imposed by the FUA amendments.

In a comment submitted by the National LP-Gas Association (NLPGA), it was noted that many LP-gas retailers are small family-owned operations with limited resources and, unlike the large natural gas utilities, lacking in the expertise and ability to make the computations necessary to meet the section 402 notification requirements. The comment suggested that, because the notification requirement could impose a potential hardship for the small retailer and because annual residential use of LP-gas is extremely small in comparison to the annual use of natural gas (.307 quads of LP gas versus 5.31 quads of natural gas), LP-gas distribution companies should be exempted from the new requirement. In the absence of total exemption, however, it was suggested that (a) retailers with no residential users among their propane customers be permitted to report this fact to their state regulatory authority and, thereafter, be relieved of customer notification, and (b) that those retailers servicing residential users be permitted (i) to give customer notice by the use of any reasonable method and (ii) to compute the use and cost data to be used in the customer notice by multiplying the estimated annual amount of propane used by a typical outdoor light, as determined by the NLPGA, by the particular retailer's current price to arrive at an estimated annual cost to customers. ERA has examined NLPGA's exemption request, but finds that, because the definition of natural gas is established in the statute, ERA is without authority to eliminate LP-gas from the definition and thus to exempt propane dealers from compliance with the FUA requirements. Nonetheless, ERA believes that the use in notifications of estimated statistics is consistent with ERA's expressed policy of minimizing the compliance burdens imposed by the new FUA requirements on natural gas retailers. Regarding "reasonable" notification methods, ERA emphasizes that the FUA amendments and § 516.51 permit each affected distribution company to select its own method of compliance with the customer notification requirements of section 402(f)(1), and that each method is to be reasonable and simple as viewed in the context of the company's routine operating procedures.

With respect to the suggestion that retailers having no residential propane users among their customers be excluded from any notice requirements other than the requirement that a statement of this fact be filed with the appropriate State regulatory authority, the FUA amendments do not impose the customer notification requirement only for the purpose of discouraging the use of *residential* lights, but rather are directed at discouraging all forms of natural gas outdoor lighting. Accordingly, propane retailers with any type of outdoor gas light users among their customers would be required under the statute to give reasonable customer notification, using the method selected by such retailers in accordance with § 516.51(b); those serving no outdoor lighting customers may report such fact to their State regulatory authority under the revised procedures of § 516.52(b).

D. *Compliance with Executive Order No. 12291.*—One comment suggested that, because of the potential impact of the regulations on residential users of "nonexempt" gas lights, the proposed regulatory package should have been submitted to the Office of Management and Budget (OMB) under Executive Order No. 12291 so that a determination of the net program benefit could be made. As indicated in its discussion of Executive Order No. 12291 (Notice of Proposed Rulemaking, 46 FR at 54380, November 2, 1981), and consistent with the requirements of section 3(b) of the Executive Order, ERA has determined, using the criteria defining a "major rule" (section 1 of Executive Order 12291) that the regulation is not a major rule. Both the rule and this determination were submitted to OMB for review pursuant to E.O. 12291.

E. *Miscellaneous Comments and Comments Beyond the Scope of the Notice.*—A comment suggested that ERA include in its final rule a reference to the requirement of section 402(f)(2) of FUA that the final rule implementing the FUA amendments take effect no later than the ninetieth day after it is proposed. ERA does not see a need to incorporate this requirement in the final rule as it is of value for only a limited period of time and not the proper subject matter for inclusion in a final rule. The effective date, which is January 30, 1982, is stated in the "DATES" section, above.

Several comments were received that were beyond the scope of the Notice and often beyond ERA's authority under section 402 of FUA. Consequently, such comments will not be addressed in this rulemaking proceeding.

III. Procedural Matters

A. *Written Comments.*—Interested persons are invited to participate in this rule-making by submitting data, views, or arguments with respect to any issues raised by or addressed in the Interim Final Rule. Comments are to be filed with ERA in accordance with the instructions given in the address section, above, no later than March 18, 1982. All comments received will be available for public inspection in the ERA Office of Public Information, Room 7120, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any interested party who wishes to submit confidential information or data must comply with DOE's Freedom of Information Regulations, 10 CFR Part 1004. DOE reserves the right to determine the confidential status of the information or data so submitted and to treat it according to this determination.

B. *NEPA Compliance.*—DOE has determined that this interim final rule does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA). Therefore, the preparation of an Environmental Impact Statement is not required.

C. *Executive Order No. 12291.*—In accordance with Section 3(b) of the Executive Order No. 12291, DOE has determined that the amendments to 10 CFR Part 516, are a non-major rule that will not result in (1) an annual effect on the economy of $100 million or more; (2) major increase in costs or prices for consumers; individual industries; Federal, state, or local government agencies; or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule was submitted to OMB for its review pursuant to E.O. 12291.

D. *Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that a agency shall prepare a final regulatory flexibility analysis with regard to a final rule that will have a significant economic impact on a substantial number of small entities.

DOE considered the potential economic impact of its proposed regulations (46 FR 54379, November 2, 1981) and concluded that compliance (if the regulations were adopted) would be relatively insignificant for small concerns and that an initial regulatory flexibility analysis would not be required. No information has come to DOE's attention in the course of the rulemaking proceeding indicating that any other conclusion is warranted. Accordingly, DOE certifies that the interim final rule amending Part 516 will not have a significant economic impact on a substantial number of small entities.

E. *Paperwork Reduction Act.*—The amendments to Part 516 (ERA–757) were approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* in OMB No. 1903–0072 by date of November 30, 1981.

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 585 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8372); E. O. 12008, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981)

Issued in Washington, D.C. on January 21, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 516—PROHIBITION ON SALE AND DIRECT INDUSTRIAL USE OF NATURAL GAS FOR OUTDOOR LIGHTING

For the reasons stated in the preamble, Chapter II, Title 10 of the Code of Federal Regulations, Part 516, is amended as follows:

1. The table of contents is amended by adding Subpart E (§§ 516.51 and 516.52) to read as follows:

* * * * *

Subpart E—Outdoor Natural Gas Lights—Customer Notification; Reporting Procedures

Sec.
516.51 Notification of amount and annual cost of natural gas used in outdoor lights.
516.52 Customer notification reports.

2. Section 516.10 is amended by revising paragraphs (a), (b), and (c) and adding paragraph (f) to read as follows:

Subpart A—General Purpose and Scope; Definitions

§ 516.10 General purpose and scope.

(a) The purpose of this rule is to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

(b) The rule consists of five subparts. Subpart A describes the general purpose and scope of Part 516 and contains the definitions.

(c) Subpart B contains the prohibitions on the installation of natural gas outdoor lighting fixtures and the sale and direct industrial use of natural gas for outdoor lighting.

* * * * *

(f) Subpart E provides (1) for periodic notification of customers of the amount and annual cost of natural gas used in outdoor lights; and (2) for the procedures to be followed by each affected local distribution company in reporting to the appropriate state regulatory authority the method it has selected for giving such customer notice.

3. Section 516.11 is amended by adding paragraph (i) to read as follows:

§ 516.11 Definitions.

* * * * *

(i) The term "residential outdoor lighting fixture" means a natural gas outdoor lighting fixture which was installed prior to, and was in service in connection with a residence on November 9, 1978.

4. Section 516.21 is revised to read as follows:

Subpart B—Prohibitions

* * * * *

§ 516.21 General prohibition on sale of natural gas for use in outdoor lighting.

(a) *Prohibition.* No local distribution company shall supply natural gas for use in any outdoor lighting fixture except for residential outdoor lighting fixtures, as that term is defined in § 516.11(i).

(b) *Effective dates.* The prohibitions stated in paragraph (a) of this section shall be effective on the following dates.

(1) For any industrial or commercial fixture to which natural gas was supplied for outdoor lighting use on November 9, 1978, November 5, 1979; and

(2) For any municipal outdoor lighting fixture to which natural gas was supplied for outdoor lighting use on November 9, 1978, January 1, 1982.

5. Section 516.30 is amended by revising the introductory text and adding paragraph (h) to read as follows:

Subpart C—Delegation of Authority

§ 516.30 Scope.

Pursuant to section 402(e) of the act, ERA delegates to the appropriate state regulatory authorities, effective on the date this rule is issued as a final rule, the full responsibility and authority of the Secretary of Energy with regard to natural gas outdoor lighting. The authorities and responsibilities delegated by this rule to the appropriate state regulatory authorities are those enumerated in paragraphs (a) through (h) of this section. The appropriate state regulatory authorities should normally consult with the state Historic Preservation Officers for their respective states (as recognized by the U.S. Department of Interior, National Park Service) when fulfilling their responsibilities and authorities as set forth in this section, particularly when decisions are made or options considered relating to historic preservation.

* * * * *

(h) *Authority to receive customer notification reports.* The authority to receive reports concerning the method selected by local distribution companies for periodic notification of their customers under § 516.52.

6. 10 CFR Part 516 is amended by adding Subpart E, §§ 516.51 and 516.52, to read as follows:

Subpart E—Outdoor Natural Gas Lights—Customer Notification; Reporting Procedures

§ 516.51 Notification of amount and annual cost of natural gas used in outdoor lights.

(a) Each local distribution company subject to the prohibitions of section 402 (a) and (b) of FUA which has natural gas outdoor lighting fixtures attached to its system shall:

(1) No later than May 31, 1982, select a method for periodically informing its customers of the amount of natural gas used by a typical natural gas outdoor lighting fixture in the company's system, as determined by the company, and the annual cost of the natural gas so used; and

(2) Within one year from the date on which the notification method is reported to the appropriate state regulatory authorities in accordance with § 516.52, give the initial customer notification, using the method so selected. The notification shall thereafter be given annually.

(3) Any local distribution company which experiences difficulty in selecting its customer notification method may obtain a reasonable extension of the May 31, 1982 deadline from the appropriate state regulatory authority upon the showing of good cause.

(b) The method to be used in the customer notification required by paragraph (a) of this section, shall be selected by each affected local distribution company, and shall be reasonable and simple, as viewed in the context of the company's routine operating procedures.

§ 516.52 Customer notification reports.

(a) No later than May 31, 1982, each local distribution company required to give customer notification under §516.51(a), shall report the method selected to the state regulatory authority designated by the governor to administer the outdoor natural gas lighting program for the area in which the distributor is located, under the delegation of authority is Subpart C of this part.

(b) No later than May 31, 1982, each local distribution company not required to give customer notification under § 516.51(a) by reason of the fact that it has no natural gas outdoor lighting fixtures attached to its system shall report this fact to the state regulatory authority designated by the governor to administer the outdoor natural gas lighting program for the area in which the distributor is located, under the delegation of authority in Subpart C of this part.

(c) Local distribution companies given extensions to the May 31, 1982, deadline for selection of a customer notification method under § 516.51(a)(3), above, shall report the method selected to their state regulatory authority in accordance with the terms of such extension.

[FR Doc. 82-2474 Filed 1-29-82; 8:45 am]
BILLING CODE 6450-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Licensing Requirements for Pending Construction Permit and Manufacturing License Applications

Corrections

In FR Doc. 82-1174 appearing on page 2286, in the issue of Friday, January 15, 1982, make the following changes:

1. On page 2301, third column, § 50.34(f), fifth and sixth lines, delete "(insert effective date of amendment)" and insert "(February 16, 1982)"; and in the seventh line, "* * * (b)(1)" should read "* * * (f)(1)".

2. On page 2302, first column, § 50.34(f), fifth line, "* * * (b) * * *" should read "* * * (f) * * *"; third column, § 50.34(f)(1)(xii), fourth line, "* * * (b) * * *" should read "* * * (f) * * *"; and the third line of § 50.34(f)(1)(xii)(B), "* * * (b) * * *" should read "* * * (f) * * *".

3. On page 2303, second column, § 50.34(f)(2)(x), eleventh line, insert the following after "testing": "under ATWS conditions need".

4. On page 2304, third column, § 50.34(f)(3)(v), eighteenth line from the top, insert "(B)" in front of "(1)".

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FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 82-21]

Consumer Leasing

Correction

In FR Doc. 82-1923 appearing on page 3541, in the issue of Tuesday, January 26, 1982, make the following correction.

On page 3542, paragraph (a) of § 545.7-10a was codified incorrectly. As corrected § 545.7-10a should have read as set forth below:

§ 545.7-10a Consumer leasing.

(a) *General.* Within the limitations of § 545.7-10 of this Part, a Federal association may:

(1) Become the legal or beneficial owner and lessor of specific personal property or otherwise acquire such property at the request of the lessee who wishes to lease it from the association; or

(2) Become the owner and lessor of personal property by purchasing the property from another lessor in connection with its purchase of the related lease; and

(3) Incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property, if the lease is a net, full-payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early termination of that lease, and at the expiration of the lease all interest in the property shall be either liquidated or released on a net basis as soon as practicable.

* * * * *

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-GL-11-AD; Amdt. 39-4305]

Airworthiness Directives; Detroit Diesel Allison; Model 250-C28B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires disarming the N_2 (Electronic) Overspeed Control on Detroit Diesel Allison (DDA) Model 250-C28B engines installed in, but not limited to, Bell Model 206L-1 rotorcraft. The AD is prompted by a report that the recent spooling down of five Allison 250-C28B engines in flight has been attributed to intermittent and spurious activation of the N_2 (Electronic) Overspeed Control System. In a sixth spooling down incident of an Allison 250-C28B engine, the N_2 (Electronic) Overspeed Control was suspect. As a precaution to preclude intermittent or spurious power reductions/shutdowns of the Allison 250-C28B engines in flight, the N_2 (Electronic) Overspeed Control is to be disarmed before further flight.

DATES: Effective February 4, 1982.

Comments related to this amendment must be received on or before April 4, 1982. Depending on the comments received, this amendment may be modified.

Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable engine service bulletins may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

A copy of the service bulletins [1] is contained in the Rules Docket, Room 415, Office of the Regional Counsel 2300 East Devon Avenue, Des Plaines, Illinois 60016.

Submit comments to Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60016.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60016; telephone number (312) 694-7132.

SUPPLEMENTARY INFORMATION: The FAA has determined that the cause of five Allison 250-C28B engines spooling down recently in flight is attributed to false N_2 (Electronic) Overspeed Control System activation. An additional review of the Bell Helicopter Model 206L-1 flight history of 400,000 hours resulted in Detroit Diesel Allison (DDA) issuing Commercial Engine Alert Bulletin CEB-A-73-2020 on September 9, 1981, with FAA concurrence to disarm the N_2 (Electronic) Overspeed Control on the Allison 250-C28B engines. The FAA, DDA and Bell Helicopter Textron coordinated a temporary revision of the Bell 206L-1 flight manual dated September 10, 1981, in order to comply with CEB-A-73-2020 to disarm the N_2 (Electronic) Overspeed Protection System on installed Allison 250-C28B engines. Since there may be some aircraft other than the Bell 206L-1 that have the Allison 250-C28B engine installed under a Supplemental Type Certificate, an Airworthiness Directive is being issued which requires mandatory disarming of the N_2 (Electronic) Overspeed Protection System on all Allison Model 250-C28B engines.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days. Although this action, which involves requirements affecting immediate flight safety, is in the form of a final rule and thus was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation.

[1] Filed with the original document.

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Detroit Diesel Allison: Amendment 39-4305. Applies to all Model 250-C28B engines installed in, but not limited to, Bell Model 206L-1 rotorcraft certificated in all categories.

Compliance is required as indicated, unless previously accomplished. To preclude possible engine power loss resulting from intermittent or spurious activation of the N_2 (Electronic) Overspeed Control System, accomplish the following before further flight:

(1) Disarm the aircraft installed engine N_2 Overspeed Circuit Breaker by pulling the N_2 Overspeed Circuit Breaker and secure by wrapping with tape or placing a Ty-wrap (or equivalent plastic tie strap) around the breaker stem.

(2) Install placard which states: "ENG OVSP CIRCUIT DEACTIVATED" in ¼" or larger letters adjacent to N_2 Overspeed Circuit Breaker.

Note: The engine electronic overspeed test and the engine electronic overspeed trip system outline in the rotorcraft Flight Manual will no longer function with the circuit breaker deactivated.

(3) Install a P/N AN814-4DL or Alternate Plug and P/N AS3084-04 Packing in the outlet port of the N_2 Overspeed Solenoid Valve. Tighten and safety with lockwire.

Note: This action further assures deactivation of the N_2 (Electronic) Overspeed Control System. Primary overspeed protection is still

provided by the mechanical power turbine fuel governor.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Chief, Chicago Aircraft Certification Office, Federal Aviation Administration, Central Region.

Note.—Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–73–2020 refers to this subject.

This amendment becomes effective February 4, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this document is contained in the public docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact." It is certified that under the criteria of the Regulatory Flexibility Act this rule, at promulgation, will not have a significant economic impact on a substantial number of small entities because of the small ($25) unit cost of complying with this AD.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Burlington, Massachusetts, on January 20, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–2293 Filed 1–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 77–WE–33–AD; Amdt. 39–4304]

Airworthiness Directives; Garrett Turbine Engine Company Engine Models TSE331–3 and TPE331–1, –2, –3, –5, and –6 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which established turbine wheel life limits. The previous AD was issued to reduce the possibility of rapid destruction of the engine turbine resulting from separation of a portion of the turbine wheel rim. This superseding AD is required because of third stage turbine wheel assembly failures which have occurred subsequent to the issuance of the previous AD at times less than the cyclic life limits established by that AD.

DATE: Effective February 11, 1982.

Compliance schedule—As prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010, Telephone: (602) 267–3011.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591,

or

Rules Docket in Room 6W14, FAA Western-Pacific Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Bill Moring, Aerospace Engineer, AWP–214, Engineering and Manufacturing Branch, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: 213–536–6381.

SUPPLEMENTARY INFORMATION: There has been a long history of thermal fatigue cracking of the Garrett TPE331–1, –2, –3, –5, and –6 turbine wheels which originate at the inner portion of the rivet holes. Cracking by this mechanism led to the establishment of cyclic life limits in AD 78–04–05, Amendment 39–3143, effective March 24, 1978. During the past twelve months there have been sixteen failures of the third stage turbine wheel. Of the ten wheels recovered seven failed by a low cycle fatigue mechanism originating in the side of the center area of the rivet hole and three failed by a high cycle fatigue mechanism in the side of the aft section of the rivet hole. After investigation of these failures the FAA had determined that the life limit of the affected third stage turbine wheels should be reduced from 5400 to 2600 operating cycles in the TPE/TSE331–3 Series Engines and to 3600 operating cycles in the TPE331–1, –2, –5, and –6 Series Engines. These turbine wheel failures have all occurred in the TPE331–3U/–3UW engines used in commuter service which accumulate operating cycles at a more accelerated rate than typical executive operators.

In addition to these turbine wheel pedestal failures there have been seven reported occurrences of third stage rotating knife seal failure. This knife seal is pinch fit to the third stage turbine wheel as part of the wheel assembly. Failure of this seal has resulted in uncontained third stage turbine wheel failures. Until mid-1980 the four reported incidents occurred within a few hours after assembly of the turbine and were consequently attributed to inadequate build tolerances. During the past year, however, there have been three additional seal failures, at significantly higher times after shop visit. In one occurrence both the second and third stage seals were fractured. Two third stage wheel assemblies have recently been located where the forward rotating knife seal had contacted the static seal surface causing an overheat of the rotating seal. Garrett has made available a procedure by which the Part Number 868630–1, –2, –3, or –4 wheel assembly may be modified to the 868630–7 wheel design by removing a portion of this forward knife seal. This will reduce the contact between rotating and non-rotating seals and, thus, minimize the number of seal failures. Garrett has made available a replacement curvic coupling gasket which provides increased cooling air to the third stage seal cavity thereby improving the fatigue resistance in the rivet hole area where the pedestal failures have occurred as well as providing increased cooling air to the third stage knife seal reducing its propensity to expand thermally. In order to reduce the potential for failure of the knife seals, incorporation of the improved cooling curvic coupling gasket is being provided as an alternative to incorporation of the Part Number 868630–7 wheel assembly.

Further, it has come to the attention of the FAA that several second and thrid stage turbine wheels of the basic Part Numbers 868272–1, 868630–1, and 895539–1 designs where released into service with minor rotating knife seal to turbine wheel interference fit diameter variation. These wheels were assigned consecutive suffix dash part numbers. (Example: 868630–2, –3, or –4). An additional first stage turbine wheel has similarly been identified as Part Number 867569–7 due to a difference in thermal coating application. This AD assigns cyclic wheel lives to these alternate part numbered designs not previously identified in AD 78–04–05.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Garrett Turbine Engine Company (formerly AiResearch Manufacturing Company of Arizona): Applies to Garrett Engine Models TSE331–3 and TPE331–1, –2, –3, –5, and –6 Series Engines.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of rapid destruction of the engine turbine, accomplish the following:

(a) As of the effective date of this AD, the service life limit in cycles of new (zero-time) Part Numbers 868630–1, –2, –3, –4, and –7 third stage turbine wheels introduced into service after March 24, 1978, and operating in TPE/ TSE331–3U and –3UW Series Engines, is reduced from 5400 operating cycles to 2800 operating cycles and must be removed from service according to the following schedule:

Wheel total cycles [1]	Remove by [1]
Less than 1500	Before accumulation of 2800 cycles.
1500 or more and less than 2500.	Before accumulation of 2900 cycles or within the next 1100 cycles, whichever occurs first.
2500 or more and less than 4000.	Before accumulation of 4300 cycles or within the next 400 cycles, whichever occurs first.
4000 or more and less than 5200.	Before accumulation of 5250 cycles or within the next 300 cycles, whichever occurs first.
5200 or more	Within the next 50 cycles.

[1] Except that no wheel may exceed 2800 cycles after December 1, 1982.

(b) As of the effective date of this AD, the service life limit in cycles of new (zero-time) Part Numbers 868630–1, –2, –3, –4, and –7 third stage turbine wheels introduced into service after March 24, 1978, and operating in TPE331–1, –2, –5, and –6 Series Engines, is reduced from 5400 operating cycles to 3600 operating cycles and must be removed from service according to the following schedule:

Wheel total cycles	Removed by
Less than 3300	Before accumulation of 3600 cycles.
3300 or more and less than 3600.	Before accumulation of 3600 cycles or within the next 300 cycles whichever occurs first.
3600 or more and less than 5200.	Before accumulation of 5250 cycles or 200 cycles whichever occurs first.
5200 or more	Within the next 50 cycles.

Turbine wheels known to have operated at any time in TPE/TSE331–3U and –3UW Series Engines must be removed from service according to the schedule in paragraph (a) of this AD.

(c) As of the effective date of this AD, this AD establishes the service life limits in cycles of new (zero-time) turbine wheels introduced into service after March 24, 1978. Turbine wheels specified below may not be operated in service in excess of these service life limits except as provided in Paragraph (a) or (b) of this AD, as applicable.

Wheel stage	Part No.	Cycle life
1st	867569–1, –7	4900.
2d	868272–1, –2, –3, –4	4900.
3d	895539–1, –2, –3, –4	2400.
3rd	868630–1, –2, –3, –4, –7	2800 (in TPE/TSE331–3U/–3UW Engines only).
3d	868630–1, –2, –3, –4, –7	3600 (in TPE331–1, –2, –5, and –6 engines).

Note.—For purposes of this AD, except as otherwise may be approved by the Chief, Engineering and Manufacturing Branch, FAA Western-Pacific Region, an operating cycle is defined as any operating sequence involving an engine start, aircraft takeoff and landing, followed by engine shutdown and one cycle shall be counted for each such operational sequence.

Note.—Prior to March 24, 1978, turbine wheel life limits were published in Garrett (AiResearch) Service Bulletin TPE/TSE331–72–0019, Revision 4, dated December 6, 1978, as 4250 operating hours.

(d) Turbine wheels Part Numbers 867569–1 and –7; 868272–1, –2, –3, and –4; 895539–1, –2, –3, and –4; and 868630–1, –2, –3, –4, and –7, which have operated in service prior to March 24, 1978, may be continued in service to their then current life limit of 4250 operating hours provided they are inspected by procedures contained in the existing FAA approved maintenance manual for the applicable TPE/TSE331 engine before accumulating 1800 operating hours in service since new and at intervals not to exceed 1800 operating hours in service thereafter. All wheels found to have crack indications by the procedure specified above must be replaced.

(e) Turbine wheels now in service which have the previously established life limits of 4250 operating hours referred to in Paragraph (d) of this AD may be continued in service to the operating cycle life limit established by Paragraph (c) of this AD, provided the number of operating cycles for that turbine wheel can be determined from the aircraft and/or engine log books based on the operating cycle definition in Paragraph (c) of this AD.

If the total number of cycles cannot be determined from the log books, those operating hours for which cycles are unknown may be converted to cycles on the basis of 1.5 cycles per hour.

Turbine wheels which are operated to cycle life limits as provided by Paragraph (c) are not required by this AD to have the interim life inspections required by Paragraph (d) of this AD.

(f) Prior to accumulating an additional 1800 operating hours on all affected engines after the effective date of this AD, either:

(1) Remove curvic coupling gasket, Part Number 868892–2, located forward of third stage turbine wheel and replace it with a serviceable Part Number 868892–9 curvic coupling gasket as prescribed in Paragraph 2 of Garrett Service Bulletin TPE331–72–0300, dated September 9, 1981, or;

(2) Replace the Part Numbers 868630–1, –2, –3, or –4 third stage turbine wheel with a Part Number 868630–7 third stage turbine wheel.

Note.—The Part Numbers 868630–1, –2, –3, or –4 turbine wheel may be modified to the Part Number 868630–7 third stage turbine wheel design by compliance with instructions provided in Garrett Service Bulletin TPE331–72–0327, dated December 14, 1981.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

(h) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Western-Pacific Region.

This AD supersedes AD 78–04–05, Amendment 39–3143.

This amendment becomes effective February 11, 1982.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1008(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Los Angeles, California on January 19, 1982.

R. L. Devereaux,

Acting Director, FAA Western-Pacific Region.

[FR Doc. 82-2278 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NE-08; Amdt. 39-4303]

Airworthiness Directives; Sikorsky S-62 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to the Sikorsky S-62 series helicopter, that requires a daily visual inspection, a periodic dye penetrant inspection, and the removal of defective rotor brake disks. This amendment provides for the replacement of the existing disk with an improved design disk.

DATES: Effective date: February 18, 1982.

Comments must be received on or before March 18, 1982.

Compliance schedule—As prescribed in text of AD.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, New England Region, Office of Regional Counsel, Attention: Rules Docket (ANE-7), Docket No. 81-NE-08, 12 New England Executive Park, Burlington, Massachusetts 01803.

To obtain copies of the Service Bulletins, referenced in the AD, contact Manager, Technical Services, Commercial Customer Service, Sikorsky Aircraft Division, North Main Street, Stratford, Connecticut 06602. A copy of each Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Bernard Schaffer, Systems Section, ANE-213, Engineering and Manufacturing Branch, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7332.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4124, 46 FR 29926, AD 81-06-53, which currently requires a daily visual inspection, a periodic dye penetrant inspection, and the removal of defective rotor brake disks. This was an interim measure until a suitable replacement disk was available. Since a suitable replacement can now be obtained, the FAA has determined that Amendment 39-4124 must be amended to require installation of this replacement disk and to eliminate the requirement for a daily visual inspection of the replacement brake before the first flight of each day.

Need for Amendment

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-4124, 46 FR 29926, AD 81-06-53, as follows:

(1) Change the applicability statement to read: "Applies to S-62 series helicopters, certificated in all categories, equipped with P/N S6235-20213 (Goodyear 9430301) or P/N S62350-22013-101 (Goodyear 4000277) rotor brakes disks."

(2) Change Paragraphs A(1) and A(2) to insert "P/N S6235-20213 (Goodyear 9430301)" between the words "the" and "rotor."

(3) Substitute the following for Paragraph A(3):

A(3) Not later than July 31, 1982, replace P/N S6235-20213 (Goodyear 9430301) rotor brake disk with P/N 62350-22013-101 (Goodyear 4000277) rotor brake disk in accordance with Paragraph 2 of Sikorsky Service Bulletin 62B35-13.

(4) Add the following new Paragraphs A(4), A(5), and A(6):

A(4) Upon completion of the requirements of Paragraph A(3), the inspections required by Paragraph A(1) may be discontinued.

A(5) Prior to the accumulation of 120 flight hours since new or the last inspection, or within the next 10 flight hours, whichever occurs later, do a detailed inspection of the P/N 62350-22013-101 (Goodyear 4000277) rotar brake disk installation and a dye penetrant inspection of the rotar brake disk for possible cracks, in accordance with paragraph E(2) of Sikorsky Alert Service Bulletin 62B35-12, except that the minimum thickness for the new disk is .449 inches and the attachment bolt torque is changed per Figures 1 and 2 of Sikorsky Service Bulletin 62B35-13. Thereafter, inspect at intervals not to exceed 120 flight hours.

A(6) If crack indications exist, replace the disk in accordance with the applicable Sikorsky S-62 Maintenance Manual, and resume inspections as required in paragraph A(5) above.

(5) Change the last sentence of Paragraph B(3) to read "Remove placard from cockpit, and resume inspections as required by paragraph A(1), A(2) and A(5), above, as applicable."

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Manager, Technical Services, Commercial Customer Service, Sikorsky Aircraft Division, North Main Street, Stratford, Connecticut 06602. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. The FAA has also determined that this document involves a regulation which is not significant under Executive Order 12044, as amended, on June 27, 1980, by Executive Order 12221, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because the rule will affect only approximately 24 aircraft. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the

courts of appeals of the United States or the United States Court of Appeals of the District of Columbia.

Issued in Burlington, Massachusetts, on January 18, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-2277 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ANW-10]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment alters several VOR Federal Airways in the vicinity of Portland, OR. These airway changes are in support of our commitment to the International Civil Aviation Organization (ICAO) to eliminate alternate airway designations from the National Airspace System. This action eliminates alternate airways in Portland by assigning them new numbers.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On November 27, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter several VOR Federal Airways in the vicinity of Portland, OR (46 FR 57912). The airway changes are in support of our agreement with ICAO to eliminate alternate airways from the National Airspace System. This action aids flight planning and reduces chart clutter. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received objecting to the proposal. This amendment is the same as that proposed in the notice. Sections 71.123 and 71.125 of Part 71 were republished on January 2, 1981 (46 FR 409 and 443).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters several airways in the Portland, OR, area, and designates two new airways. This amendment aids flight planning and reduces chart clutter.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.123 and 71.125 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409 and 443) and amended (46 FR 56779 and 57890) are further amended, effective 0901 GMT, March 18, 1982, as follows:

Under Section 71.123

1. V-23 [Amended]

By deleting the words "Fort Jones, CA; Medford, OR; Eugene, OR; Portland, OR, including an east alternate and including a west alternate from Fort Jones to Portland via INT Fort Jones 340° and Roseburg, OR, 174° radials, Roseburg, INT Roseburg 355° and Corvallis, OR, 195° radials, Corvallis and Newberg, OR; 20 miles, 45 MSL INT Portland 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle, including an east alternate from Portland to Seattle via direct radials;" and substituting for them the words "Fort Jones, CA; Medford, OR; Eugene, OR; Portland, OR; INT Portland 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle;"

2. V-448 [Amended]

By deleting the words "From Portland, OR;" and substituting the words "From Medford, OR, via Roseburg, OR; INT Roseburg 003° and Eugene, OR, 187° radials, Eugene; INT Eugene 030° and Portland, OR, 180° radials, Portland;"

3. V-481 [New]

By adding "V-481 From Eugene, OR, via Corvallis, OR, to INT Corvallis 351° and Newberg, OR, 203° radials."

4. V-495 [New]

By adding "V-495 From Victoria, British Columbia, Canada, via Seattle, WA; Portland, OR; Newberg, OR; Corvallis, OR; INT Corvallis 195° and Roseburg, OR, 355° Roseburg; INT Roseburg 174° and Fort Jones, CA, 340° radials, to Fort Jones. The airspace within Canada is excluded."

Under Section 71.125 V-440 [Amended]

By deleting the words "From Seattle, WA, to Victoria, British Columbia, Canada." and substituting the words "From Victoria, British Columbia, Canada."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division

[FR Doc. 82-2433 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AEA-32]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revocation of Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revokes Control 1149 Control Area since it is duplicated in the North Atlantic control Area description. This action reduces and simplifies Federal Aviation Regulations by eliminating redundant airspace designation.

DATES: Effective date—May 13, 1982. Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 81-AEA-32, Federal Aviation Administration, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. the FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: John Watterson, Airspace Regulations and Obstructions Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the revocation of Control 1149, such action is required to eliminate duplicate airspace description and, thus, was not preceded by notice and public procedure. However, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke control 1149 Control Area, since it is duplicated in the description of the North Atlantic Control Area. Separate action is being taken, for flight planning and route continuity purposes, to establish Atlantic Route 9 (AR–9) between the Norfolk, VA, VORTAC and the ZIBUT reporting point via the Norfolk VORTAC 095° magnetic radial. All current reporting points along Control 1149 to ZIBUT are being retained. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 449). Therefore, I find that notice or public procedure under 5 U.S.C. 533(b) is impractical and unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 449), is amended, effective 0901 GMT, May 13, 1982 as follows:

Control 1149 [Revoked]

By revoking Control 1149.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1982.

John W. Baier,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–2417 Filed 1–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 82–ASO–1]

Special Use Airspace; Alteration of Restricted Area R–3003, Fort Gordon, GA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action amends the controlling agency for Restricted Area R–3003, Fort Gordon, GA. This amendment provides continuity in joint use procedures by designating the Federal Aviation Administration, Jacksonville Air Route Traffic Control Center (ARTCC), as the controlling agency. This change is necessary because of the reduced hours of operation of the Augusta Air Traffic Control Tower (ATCT).

DATES: Effective date—March 18, 1982.

Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 82–ASO–1, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves a change in the controlling agency for Restricted Area R–3003, Fort Gordon, GA, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other availabile information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed.

The Rule

The purpose of this amendment to § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to designate the FAA Jacksonville ARTCC as the controlling agency for Restricted Area R–3003, Fort Gordon, GA. This amendment is necessary because the prior controlling agency, Augusta ATCT, is no longer a 24-hour facility. Designating the Jacksonville ARTCC as the controlling agency provides for continuity in joint use procedures by providing one controlling agency for the entire 24-hour period. Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 798).

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the controlling agency for Restricted Area R–3003. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 798) is amended, effective 0901 GMT, March 18, 1982, as follows:

Restricted Area R–3003 Fort Gordon, GA [Amended]

Under Controlling Agency by deleting the words "Federal Aviation Administration, Augusta, GA, ATC Tower." and substituting for them the words "Federal Aviation Administration, Jacksonville ARTC Center."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-2430 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 81-ARM-17]

Special Use Airspace; Rescission of Restricted Area R-6410, Blanding, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment rescinds Restricted Area R-6410, Blanding, UT. The Department of the Air Force has determined that the area is no longer required. This action restores previously restricted airspace to public use.

EFFECTIVE DATE: March 18, 1982.

Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 81-ARM-17, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the revocation of Restricted Area R-6410, Blanding, UT, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to rescind the restricted area at Blanding, UT. Because this action restores previously restricted airspace to public use, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest. Section 73.64 of Part 73 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981, (46 FR 824).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 824), is amended, effective 0901 GMT, March 18, 1982, as follows:

R-6410 Blanding, UT [Revoked]

By deleting the title and text.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-2416 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM80-53]

18 CFR Part 271

Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978

January 25, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 357.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of February, March and April, 1982. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR (202) 357-8500

SUPPLEMENTARY INFORMATION:

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of February, March and April, 1982 are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

§ 271.101 [Amended]

1. Section 271.101(a) is amended by inserting the maximum lawful prices for February, March and April, 1982, in Tables I and II.

§ 271.102 [Amended]

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of February, March and April, 1982, in Table III.

TABLE I—NATURAL GAS CEILING PRICES

[Other than NGPA sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in: Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979	Aug. 1979	Sept. 1979
B	102	New natural gas, certain OCS gas	$2.076	$2.096	$2.116	$2.136	$2.156	$2.177	$2.198	$2.220	$2.244	$2.268
C	103	New, onshore production wells	1.969	1.980	1.993	2.005	2.019	2.033	2.047	2.062	2.079	2.096
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [1].	1.121	1.128	1.136	1.144	1.152	1.160	1.168	1.176	1.185	1.195
G	107(c)(1)	High-cost gas (deep gas) [2]	2.076	2.096	2.116	2.136	2.156	2.177	2.198	2.220	2.244	2.268
	107(c)(5)	Gas produced from tight formations [3]								4.124	4.158	4.192
H	108	Stripper gas	2.224	2.243	2.264	2.285	2.306	2.329	2.352	2.375	2.400	2.426
I	109	Not otherwise covered	1.650	1.639	1.650	1.661	1.672	1.684	1.698	1.706	1.722	1.736

TABLE I—NATURAL GAS CEILING PRICES—Continued

[Other than NGPA sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in: Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980	Feb. 1980	Mar. 1980	Apr. 1980	May 1980	June 1980	July 1980
B	102	New natural gas, certain OCS gas	$2.292	$2.314	$2.336	$2.358	$2.381	$2.404	$2.428	$2.453	$2.478	$2.504
C	103	New, onshore production wells	2.113	2.128	2.143	2.158	2.173	2.188	2.204	2.221	2.238	2.255
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [1].	1.205	1.213	1.221	1.229	1.238	1.247	1.258	1.266	1.276	1.286
G	107(c)(1)	High-cost gas (deep gas) [2]	2.292									
	107(c)(5)	Gas produced from tight formations [3]	4.226	4.256	4.286	4.316	4.346	4.376	4.406	4.442	4.476	4.510
H	108	Stripper gas	2.452	2.475	2.499	2.523	2.548	2.573	2.598	2.625	2.652	2.680
I	109	Not otherwise covered	1.750	1.762	1.774	1.786	1.799	1.812	1.825	1.839	1.853	1.867

TABLE I—NATURAL GAS CEILING PRICES—Continued

[Other than NGPA sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in: Aug. 1980	Sept. 1980	Oct. 1980	Nov. 1980	Dec. 1980	Jan. 1981	Feb. 1981	Mar. 1981	Apr. 1981	May 1981
B	102	New natural gas, certain OCS gas	$2.532	$2.560	$2.588	$2.614	$2.640	$2.667	$2.696	$2.726	$2.761	$2.787
C	103	New, onshore production wells	2.274	2.293	2.312	2.329	2.346	2.363	2.384	2.406	2.429	2.444
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [1].	1.297	1.308	1.319	1.329	1.339	1.349	1.361	1.373	1.385	1.394
G	107(c)(5)	Gas produced from tight formations [3]	4.548	4.586	4.624	4.658	4.692	4.726	4.768	4.812	4.856	4.888
H	108	Stripper gas	2.710	2.740	2.770	2.795	2.825	2.855	2.888	2.922	2.956	2.984
I	109	Not otherwise covered	1.883	1.898	1.915	1.929	1.943	1.957	1.975	1.993	2.011	2.024

TABLE I—NATURAL GAS CEILING PRICES—Continued

[Other than NGPA sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in: June 1981	July 1981	Aug. 1981	Sept. 1981	Oct. 1981	Nov. 1981	Dec. 1981	Jan. 1982	Feb. 1982	Mar. 1982	Apr. 1982
B	102	New natural gas, certain OCS gas	$2.813	$2.840	$2.868	$2.896	$2.909	$2.940	$2.971	$3.003	$3.033	$3.063	3.093
C	103	New, onshore production wells	2.460	2.476	2.488	2.501	2.514	2.533	2.552	2.572	2.590	2.608	2.626
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [1].	1.403	1.412	1.419	1.426	1.433	1.444	1.455	1.466	1.476	1.486	1.496
G	107(c)(5)	Gas produced from tight formations [3]	4.920	4.952	4.976	5.002	5.028	5.066	5.104	5.144	5.180	5.215	5.252
H	108	Stripper gas	3.012	3.041	3.066	3.091	3.116	3.149	3.183	3.217	3.249	3.281	3.314
I	109	Not otherwise covered	2.037	2.050	2.060	2.070	2.080	2.090	2.112	2.126	2.143	2.158	2.173

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I.

[2] Commencing November 1, 1979, the price of natural gas finally determined to be eligible as deep high-cost gas under section 107(c)(1) of the NGPA is deregulated. (See, Part 272 of the Commission's Regulations.) Prior to that date, the maximum lawful price applicable to deep high-cost gas was the price specified in Subpart B of Part 271.

[3] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See, § 271.703 and § 271.204.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in										
	Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979	Aug. 1979	Sept. 1979	Oct. 1979
Post-1974 gas: All producers	$1.630	$1.639	$1.650	$1.661	$1.672	$1.684	$1.696	$1.708	$1.722	$1.736	$1.750
1973–74 biennium gas:											
Small producer	1.379	1.387	1.396	1.405	1.414	1.424	1.434	1.444	1.456	1.468	1.480
Large producer	1.058	1.064	1.071	1.078	1.085	1.093	1.101	1.109	1.118	1.127	1.136
Interstate Rollover gas [1]:											
Small producer	.702	.715	.715	.715	.715	.715	.715	.715	.715	.715	.715
Large producer	.503	.607	.611	.615	.619	.623	.627	.631	.636	.641	.646
Replacement contract gas or recompletion gas:											
Small producer	.771	.775	.780	.785	.790	.796	.802	.808	.815	.822	.829
Large producer	.593	.596	.600	.604	.608	.612	.616	.620	.625	.630	.635
Flowing gas:											
Small producer	.393	.395	.398	.401	.404	.407	.410	.413	.416	.419	.422
Large producer	.332	.334	.336	.338	.340	.342	.344	.346	.349	.352	.355
Certain Permian Basin gas:											
Small producer	.462	.465	.468	.471	.474	.477	.480	.483	.487	.491	.495
Large producer	.405	.407	.410	.413	.416	.419	.422	.425	.428	.431	.434
Certain Rocky Mountain gas:											
Small producer	.462	.465	.468	.471	.474	.477	.480	.483	.487	.491	.495
Large producer	.393	.395	.398	.401	.404	.407	.410	.413	.416	.419	.422
Certain Appalachian Basin Gas:											
North subarea contracts dated after 10–7–69	.368	.370	.372	.374	.376	.379	.382	.385	.388	.391	.394
Other contracts	.344	.346	.348	.350	.352	.355	.358	.361	.364	.367	.370
Minimum Rate gas [2]: All producers	.203	.204	.205	.206	.207	.208	.209	.210	.212	.214	.216

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)—Continued

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in									
	Nov. 1979	Dec. 1979	Jan. 1980	Feb. 1980	Mar. 1980	Apr. 1980	May 1980	June 1980	July 1980	Aug. 1980
Post-1974 gas: All producers	$1.762	$1.774	$1.786	$1.799	$1.812	$1.825	$1.839	$1.853	$1.867	$1.883
1973–74 Biennium gas:										
Small producer	1.490	1.500	1.510	1.521	1.532	1.543	1.555	1.567	1.579	1.592
Large producer	1.144	1.152	1.160	1.168	1.176	1.184	1.193	1.202	1.211	1.221
Interstate Rollover gas [1]:										
Small producer	.715	.715	.728	.728	.728	.728	.728	.728	.728	.728
Large producer	.650	.654	.659	.664	.669	.674	.679	.684	.689	.695
Replacement contract gas or recompletion gas:										
Small producer	.835	.841	.847	.853	.859	.865	.872	.879	.886	.893
Large producer	.639	.643	.647	.652	.657	.662	.667	.672	.677	.683
Flowing gas:										
Small producer	.425	.428	.431	.434	.437	.440	.443	.446	.449	.453
Large producer	.357	.359	.361	.364	.367	.370	.373	.376	.379	.382
Certain Permian Basin gas:										
Small producer	.496	.501	.504	.508	.512	.516	.520	.524	.528	.532
Large producer	.437	.440	.443	.446	.449	.452	.455	.459	.463	.467
Certain Rocky Mountain gas:										
Small producer	.496	.501	.504	.508	.512	.516	.520	.524	.528	.532
Large producer	.425	.428	.431	.434	.437	.440	.443	.446	.449	.453
Certain Appalachian Basin gas:										
North subarea contracts dated after 10–7–69	.397	.400	.403	.406	.409	.412	.415	.418	.421	.425
Other Contracts	.373	.376	.379	.382	.385	.388	.391	.394	.397	.400
Minimum Rate Gas [2]: All producers	.217	.218	.220	.222	.224	.226	.228	.230	.232	.234

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (Subpart D, Part 271)—Continued

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in									
	Sept. 1980	Oct. 1980	Nov. 1980	Dec. 1980	Jan. 1981	Feb. 1981	Mar. 1981	Apr. 1981	May 1981	June 1981
Post-1974 gas: All producers	$1.899	$1.915	$1.929	$1.943	$1.957	$1.975	$1.993	$2.011	$2.024	$2.037
1973-74 Biennium gas:										
Small producer	1.605	1.619	1.631	1.643	1.656	1.670	1.685	1.700	1.711	1.722
Large producer	1.231	1.241	1.250	1.259	1.268	1.279	1.291	1.303	1.311	1.319
Interstate Rollover gas [1]:										
Small producer	.728	.728	.728	.728	.741	.741	.741	.743	.748	.753
Large producer	.701	.707	.712	.717	.722	.729	.736	.743	.748	.753
Replacement contract gas or recompletion gas:										
Small producer	.901	.909	.916	.923	.930	.938	.946	.955	.961	.967
Large producer	.689	.695	.700	.705	.710	.716	.722	.729	.734	.739
Flowing gas:										
Small producer	.457	.461	.464	.467	.470	.474	.478	.482	.485	.488
Large producer	.385	.388	.391	.394	.397	.401	.405	.409	.412	.415
Certain Permian Basin gas:										
Small producer	.536	.541	.545	.549	.553	.558	.563	.568	.572	.576
Large producer	.471	.475	.479	.483	.487	.491	.495	.499	.502	.505
Certain Rocky Mountain gas:										
Small producer	.536	.541	.545	.549	.553	.558	.563	.568	.572	.576
Large producer	.457	.461	.464	.467	.470	.474	.478	.482	.485	.488
Certain Appalachian Basin gas:										
North subarea contracts dated after 10/7/69	.429	.433	.436	.439	.442	.446	.450	.454	.457	.460

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (Subpart D, Part 271)—Continued—Continued

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in									
	Sept. 1980	Oct. 1980	Nov. 1980	Dec. 1980	Jan. 1981	Feb. 1981	Mar. 1981	Apr. 1981	May 1981	June 1981
Other contracts	.403	.406	.409	.412	.415	.419	.423	.427	.430	.433
Minimum Rate gas[2]: All producers	.236	.238	.240	.242	.244	.246	.248	.250	.252	.254

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)—Continued

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in									
	July 1981	Aug. 1981	Sept. 1981	Oct. 1981	Nov. 1981	Dec. 1981	Jan. 1982	Feb. 1982	Mar. 1982	Apr. 1982
Post-1974 gas: All producers	$2.050	$2.060	$2.070	$2.080	$2.096	$2.112	$2.128	$2.143	$2.158	$2.173
1973-74 Biennium gas:										
Small producer	1.733	1.742	1.751	1.760	1.773	1.787	1.801	1.813	1.826	1.839
Large producer	1.327	1.334	1.341	1.348	1.358	1.368	1.378	1.388	1.398	1.408
Interstate Rollover gas[1]:										
Small producer	.758	.762	.766	.770	.776	.782	.788	.793	.798	.804
Large producer	.758	.762	.766	.770	.776	.782	.788	.793	.798	.804
Replacement contract gas or recompletion gas:										
Small producer	.973	.978	.983	.988	.996	1.004	1.012	1.019	1.026	1.033
Large producer	.744	.748	.752	.756	.762	.768	.774	.779	.784	.789
Flowing gas:										
Small producer	.491	.493	.495	.497	.501	.505	.509	.513	.517	.521
Large producer	.416	.420	.422	.424	.427	.430	.433	.436	.439	.442
Certain Permian Basin gas:										
Small producer	.580	.583	.586	.589	.594	.599	.604	.608	.612	.616
Large producer	.508	.511	.514	.517	.521	.525	.529	.533	.537	.541
Certain Rocky Mountain gas:										
Small producer	.580	.583	.586	.589	.594	.599	.604	.608	.612	.616
Large producer	.491	.493	.495	.497	.501	.505	.509	.513	.517	.521
Certain Appalachian Basin gas:										
North suberea contracts dated after 10-7-69	.463	.465	.467	.469	.473	.477	.481	.484	.487	.490
Other contracts	.435	.436	.440	.442	.445	.448	.451	.454	.457	.460
Minimum Rate gas[2]: All producers	.256	.257	.258	.259	.261	.263	.265	.267	.269	.271

[1] The price for interstate rollover gas is the higher of the price listed in this table or the just and reasonable price under the expired contract as adjusted for inflation. (See § 271.402(c)(3)).
[2] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

TABLE III—INFLATION ADJUSTMENT

Month of delivery	Factor[1]
1977:	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978:	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979:	
January	1.00581
February	1.00667
March	1.00667
April	1.00667
May	1.00713
June	1.00713
July	1.00713
August	1.00805
September	1.00805
October	1.00805
November	1.00690
December	1.00690

TABLE III—INFLATION ADJUSTMENT—Continued

Month of delivery	Factor[1]
1980:	
January	1.00690
February	1.00713
March	1.00713
April	1.00713
May	1.00774
June	1.00774
July	1.00774
August	1.00843
September	1.00843
October	1.00843
November	1.00744
December	1.00744
1981:	
January	1.00744
February	1.00904
March	1.00904
April	1.00904
May	1.00643
June	1.00643
July	1.00643
August	1.00503
September	1.00503
October	1.00503
November	1.00767
December	1.00767
1982:	
January	1.00767
February	1.00690
March	1.00690
April	1.00690

[1] By which price in preceding month in multiplied.

[FR Doc. 82-2364 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-82-957]

Multifamily Housing Mortgage Insurance Eligibility of Mortgages on Existing Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Section 207.32a is being amended to implement provisions of the Housing and Community Development Act of 1980 dealing with the section 223(f) program under the National Housing Act which limit prepayment, which make the purchase of an existing project in an older, declining urban area subject to the same requirements as the refinancing of a project, and which change the basis on which a rent

increase may be approved in an older, declining urban area.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Cherie D. Charles, Insured Loan Processing Branch, Housing Development, Room 6118, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; (202) 755–7172. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development Act of 1974 added a new section 223(f) to the National Housing Act to make HUD mortgage insurance available for the purchase or refinancing of existing multifamily housing. The Housing and Community Development Act of 1980, which was enacted into law on October 8, 1980, contains amendments to section 223(f) which add provisions intended to maintain the rental character of housing insured under this section. One provision limits the circumstances under which prepayment of a section 223(f) mortgage will be allowed for a period of five years (twenty years for projects utilizing GNMA financing). Prepayment is permitted only where the property will be maintained as rental housing or where maintenance as rental property is not necessary or desirable. Other provisions affect use of section 223(f) in older, declining urban areas by making purchase transactions in these areas subject to the same requirements as refinancing transactions and by allowing reasonable profit to be taken into consideration in determining approvable rent increases.

In addition, one technical correction is being made at this time. On December 12, 1979, a final rule was published in the **Federal Register** (Vol. 44, No. 240, p. 71824) amending § 207.32a to implement the Housing and Community Development Amendments of 1978 which changed the minimum number of units in a project from 8 to 5. One reference, which was missed, is now being corrected.

Because these amendments to § 207.32a implement already-enacted statutory provisions which are beneficial to the public and do not involve the exercise of policy judgment by this Department, the Secretary has determined that advance notice, publication and public comment procedures would be contrary to the public interest and that good cause exists for making these amendments effective as soon as possible.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulation 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying (at a charge of 10 cents per copy) during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Pursuant to section 605(b) of the Regulatory Flexibility Act 5 U.S.C. 601 et seq., the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number and title are 14.155, Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects (section 223(f) Pursuant to section 207).

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Accordingly, § 207.32a, Part 207, Subchapter B, Chapter II of Title 24 Code of Federal Regulations, is amended as set forth below:

1. In § 207.32a, paragraph (e) is retitled "Maturity and prepayment", and the existing paragraph is redesignated as paragraph (l)(1) and a new paragraph (l)(2) is added to read as follows:

§ 207.32a Eligibility of mortgages on existing projects.

* * * * *

(e) *Maturity and prepayment.* (1) * * *

(2) Where the commitment for mortgage insurance was issued after October 8, 1980, prepayment of the mortgage indebtedness is prohibited, except as required by the Commissioner, for a period of five years from the date of endorsement of the mortgage (or for a period of twenty years where the mortgage was purchased by the Government National Mortgage Association under Chapter II of Subtitle B of Title 24) except where, at the time of prepayment:

(i) The mortgagor has entered into an agreement with the Commissioner to maintain the property as rental housing for the remainder of the specified five-year (or twenty-year) period;

(ii) The Commissioner has determined that the conversion of the property to cooperative or condominium ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(iii) The Commissioner has determined that continuation of the property as rental housing is unnecessary to assure adequate rental housing opportunities for low-and moderate-income people in the community; or

(iv) The Commissioner has determined that continuation of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood.

§ 207.32a [Amended]

2. In § 207.32a, paragraph (f) is amended to replace the word "eight" in the first sentence of the introductory text with "five".

3. In § 207.32a, paragraph (g) is retitled "Eligible property in older, declining urban areas," and three changes are made within the paragraph: (1) the words "purchased or" are added in the introductory text between "project to be" and "refinanced"; (2) "(c)" is added to (g)(1) after "(b)(2),"; and (3) the words "purchased or" are added to (g)(2) between "the" and "refinancing".

4. In § 207.32a, paragraph (g)(3) is revised to read as follows:

* * * * *

(g) * * *

(3) The mortgagor shall agree that, during the mortgage term, no rental increase shall be made except where approved by the Commissioner to offset actual and reasonable operating expense increases, or other necessary expense increases, and to maintain reasonable profit levels.

* * * * *

(Sec. 327 of the Housing and Community Development Act of 1980 (42 U.S.C. 5301 et seq.); Sec. 223(f) of the National Housing Act (12 U.S.C. 1715n); Secs. 4(a) and 7(d) of the U.S. Department of HUD Act (42 U.S.C. 3533(a), 3535(d)))

Issued at Washington, D.C. on December 14, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-2455 Filed 1-29-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7807]

Special Rule for the Deduction of Certain Charitable Contributions of Inventory and Other Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to a special rule for the deduction by corporations of certain charitable contributions of inventory and other property as added by the Tax Reform Act of 1976. The regulations provide corporate donors and charitable and other recipient organizations with the guidance needed to comply with the new law.

DATES: The regulations are effective, generally, with respect to qualified contributions made after October 4, 1976.

FOR FURTHER INFORMATION CONTACT: Charles Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T, 202–566–3323).

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 170(e)(3) of the Code. A public hearing was held on July 15, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

The effectiveness of these regulations will be evaluated on the basis of comments and information received from the public, members of Congress, other Government agencies, and offices within the Treasury Department and Internal Revenue Service.

Explanation of Provisions: Qualified Contributions

Section 2135 of the Tax Reform Act of 1976 added a new paragraph (3) to section 170(e) of the Internal Revenue Code to provide a special rule for the deduction by corporations of qualified contributions of certain property. The final regulations provide rules which set forth the requirements for a qualified contribution. Only certain of the organizations described in section 501(c)(3) of the Code may receive the contribution, and only certain property may be contributed (principally inventory and depreciable property). The property must be used for a purpose related to the grounds for the exemption of the organization to which the contribution is made and must be used for the care of the ill, needy, or infants. In addition, the organization may not charge for the transfer (or use) of the property and must provide the corporate-donor with a written statement representing that the organization intends to comply with these restrictions on use and transfer of the property. Finally, the contributed property must conform to any applicable provisions of the Federal Food, Drug, and Cosmetic Act (as amended), and the regulations thereunder, at the date of contribution and for the immediately preceding 180 days.

Explanation of Provisions: Calculation of Allowable Deduction

The final regulations require reduction of the amount of the allowable deduction for a qualified charitable contribution by an amount equal to one-half of the amount of gain (other than gain subject to certain ordinary income recapture provisions) which would not have been long-term capital gain if the property had been sold by the taxpayer at fair market value at the date of contribution. A second reduction is made if the amount of the allowable deduction which remains after the first reduction is more than twice the basis of the contributed property.

The final regulations also provide rules for determining the basis of contributed property which is inventory. The basis of such contributed property must be determined under the donor's method of accounting for inventory for purposes of United States income tax. The donor must decrease cost of goods sold for the year of contribution by the amount of this basis.

In addition the regulations do not allow a deduction for amounts which would have been subject to certain ordinary income recapture provisions if the property had been sold.

Comments and Changes In the Regulations

The proposed regulations provided, in § 1.170A–4A(b)(2), that a use inconsistent with the requirements of section 170(e)(3) or the regulations under that section would result in a reduction of the donor's charitable contribution deduction. The final regulations modify this rule to provide that the donor's deduction is not reduced if the donor establishes that, at the time of contribution, the donor reasonably anticipated that the donated property would be used in a manner consistent with the requirements. This modification was made in response to comments and to make the regulations under section 170(e)(3) conform more closely to the requirements of other regulations under section 170.

The proposed regulations provided, in § 1.170A–4A(b)(2)(ii)(E), that the term "infant" meant a child under six years of age. The final regulations provide that the term "infant" means a minor child, as determined by the laws of the jurisdiction in which the child resides. Although it was believed that the term "infant" described a very young (younger than school-age) child, several comments pointed out that the term "infant" can also reasonably refer to a "minor". The change was made, therefore, as responsive to comments and as consistent with the intent of section 170(e)(3).

The proposed regulations provided, in § 1.170A–4A(b)(3), that an organization may not receive property or money in exchange for the transfer of the contributed property. Numerous comments presented the common situation where an organization (such as a food bank) charges a nominal fee to another organization in connection with the transfer of contributed property to that organization. The fee is not in exchange for the property, and is not based on the value of the property but is charged to cover administrative, warehousing, and other similar costs. The language of section 170(e)(3) would appear to permit the collection of such a fee. Thus, the final regulations provide, subject to certain requirements, that a contribution may qualify under this section if a fee is charged to cover administrative, warehousing, or other similar costs. The fee may only be charged by one organization to another organization. No fee, for administration costs or otherwise, may be charged in connection with a transfer of contributed property directly from an organization to ill or needy individuals or infants.

The proposed regulations provided, in § 1.170A–4A(b)(4), that adequate books and records must be kept to show the identity of the donor and transferring organization, the use of the property, and the nature of any disposition of the property. Several comments stated that this requirement necessitated burdensome recordkeeping. Since these recordkeeping requirements should not be unnecessarily burdensome, the rule in the final regulations has been modified to reduce required recordkeeping. The final rules make it clear that the books and records need not reflect a tracing of the receipt and disposition of specific items of donated property. It is sufficient if the books and records disclose compliance with the requirements of section 170(e)(3) by reference to aggregate quantities of donated property. The books and records are adequate if they reflect the total amount of property received and distributed (or used), and outline the procedure used for determining that the

ultimate recipient of the property is an ill or needy individual, or infant. However, the books and records need not reflect the names of the ultimate individual recipients or the property distributed to (or used by) each one.

Drafting Information

The principal author of this regulation is Eileen Murphy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Amendments to the Regulations

The amendments to 26 CFR Part 1 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.170A–1 is amended by revising the seventh sentence of paragraph (a)(1) and by revising paragraph (c)(1). These revised provisions read as follows:

§ 1.170A–1 Charitable, etc., contributions and gifts; allowance of deduction.

(a) *In general*—(1) *Allowance of deduction.* * * * For special rules relating to computation of the amount of the deduction with respect to a charitable contribution of certain ordinary income or capital gain property, see section 170(e) and §§ 1.170A–4 and 1.170A–4A.* * *

* * * * *

(c) *Value of a contribution in property.*

(1) If a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution reduced as provided in section 170(e)(1) and paragraph (a) of § 1.170A–4, or section 170(e)(3) and paragraph (c) of § 1.170A–4A.

§ 1.170A–4 [Amended]

Par. 2. Section 1.170A–4 is amended by deleting from paragraph (b)(4) of the phrase "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254(a)".

Par. 3. There is added immediately after § 1.170A–4 the following new section:

§ 1.170A–4A Special rule for the deduction of certain charitable contributions of inventory and other property.

(a) *Introduction.* Section 170(e)(3) provides a special rule for the deduction of certain qualified contributions of inventory and certain other property. To be treated as a "qualified contribution", a contribution must meet the restrictions and requirements of section 170(e)(3) (A) and paragraph (b) of this section. Paragraph (b)(1) of this section describes the corporations whose contributions may be subject to this section, the exempt organizations to which these contributions may be made, and the kinds of property which may be contributed. Under paragraph (b)(2) of this section, the use of the property must be related to the purpose or function constituting the ground for the exemption of the organization to which the contribution is made. Also, the property must be used for the care of the ill, needy, or infants. Under paragraph (b)(3) of this section, the recipient organization may not, except as there provided, require or receive in exchange money, property, or services for the transfer or use of property contributed under section 170(e)(3). Under paragraph (b)(4) of this section, the recipient organization must provide the contributing taxpayer with a written statement representing that the organization intends to comply with the restrictions set forth in paragraph (b) (2) and (3) of this section on the use and transfer of the property. Under paragraph (b)(5) of this section, the contributed property must conform to any applicable provisions of the Federal Food, Drug, and Cosmetic Act (as amended), and the regulations thereunder, at the date of contribution and for the immediately preceding 180 days. Paragraph (c) of this section provides the rules for determining the amount of reduction of the charitable contribution under section 170(e)(3). In general, the amount of the reduction is equal to one-half of the amount of gain (other than gain described in paragraph (d) of this section) which would not have been long-term capital gain if the property had been sold by the donor-taxpayer at fair market value at the date of contribution. If, after this reduction, the amount of the deduction would be more than twice the basis of the contributed property, the amount of the deduction is accordingly further reduced under paragraph (c)(1) of this section. The basis of contributed property which is inventory is determined under paragraph (c)(2) of this section, and the donor's cost of goods sold for the year of contribution must be adjusted under paragraph (c)(3) of this section. Under paragraph (d) of this section, a deduction is not allowed for any amount which, if the property had been sold by the donor-taxpayer, would have been gain to which the recapture provisions of section 617, 1245, 1250, 1251, or 1252 would have applied. For purposes of section 170(e)(3) the rules of § 1.170A–4 apply where not inconsistent with the rules of this section.

(b) *Qualified contributions*—(1) *In general.* A contribution of property qualifies under section 170(e)(3) of this section only if it is a charitable contribution—

(i) By a corporation, other than a corporation which is an electing small business corporation within the meaning of section 1371(b);

(ii) To an organization described in section 501(c)(3) and exempt under section 501(a), other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(e);

(iii) Of property described in section 1221 (1) or (2);

(iv) Which contribution meets the restrictions and requirements of paragraph (b) (2) through (5) of this section.

(2) *Restrictions on use of contributed property.* In order for the contribution to qualify under this section, the contributed property is subject to the following restrictions in use. If the transferred property is used or transferred by the donee organization (or by any subsequent transferee that furnished to the donee organization the written statement described in paragraph (b)(4)(ii) of this section) in a manner inconsistent with the requirements of subdivision (i) or (ii) of this paragraph (b)(2) or the requirements of paragraph (b)(3) of this section, the donor's deduction is reduced to the amount allowable under section 170 of the regulations thereunder, determined without regard to section 170(e)(3) of this section. If, however, the donor establishes that, at the time of the contribution, the donor reasonably anticipated that the property would be used in a manner consistent with those requirements, then the donor's deduction is not reduced.

(i) *Requirement of use for exempt purpose.* The use of the property must be related to the purpose or function constituting the ground for exemption under section 501(c)(3) of the organization to which the contribution is made. The property may not be used in connection with any activity which gives rise to unrelated trade or business income, as defined in sections 512 and 513 and the regulations thereunder.

(ii) *Requirement of use for care of the ill, needy, or infants*—(A) *In general.* The property must be used for the care of the ill, needy, or infants, as defined in this subdivision (ii). The property itself must ultimately either be transferred to (or for the use of) the ill, needy, or

infants for their care or be retained for their care. No other person may use the contributed property except as incidental to primary use in the care of the ill, needy, or infants. The organization may satisfy the requirement of this subdivision by transferring the property to a relative, custodian, parent or guardian of the ill or needy individual or infant, or to any other individual if it makes a reasonable effort to ascertain that the property will ultimately be used primarily for the care of the ill or needy individual, or infant, and not for the primary benefit of any other person. The recipient organization may transfer the property to another exempt organization within the jurisdiction of the United States which meets the description contained in paragraph (b)(1)(ii) of this section, or to an organization not within the jurisdiction of the United States that, but for the fact that it is not within the jurisdiction of the United States, would be described in paragraph (b)(1)(ii) of this section. If an organization transfers the property to another organization, the transferring organization must obtain a written statement from the transferee organization as set forth in paragraph (b)(4) of this section. If the property is ultimately transferred to, or used for the benefit of, ill or needy persons, or infants, not within the jurisdiction of the United States, the organization which so transfers the property outside the jurisdiction of the United States must necessarily be a corporation. See section 170(c)(2) and § 1.170A–11(a). For purposes of this subdivision, if the donee-organization charges for its transfer of contributed property (other than a fee allowed by paragraph (b)(3)(ii) of this section), the requirement of this subdivision is not met. See paragraph (b)(3) of this section.

(B) *Definition of the ill.* An ill person is a person who requires medical care within the meaning of § 1.213–1(e). Examples of ill persons include a person suffering from physical injury, a person with a significant impairment of a bodily organ, a person with an existing handicap, whether from birth or later injury, a person suffering from malnutrition, a person with a disease, sickness, or infection which significantly impairs physical health, a person partially or totally incapable of self-care (including incapacity due to old age). A person suffering from mental illness is included if the person is hospitalized or institutionalized for the mental disorder, or, although the person is nonhospitalized or noninstitutionalized, if the person's mental illness constitutes a significant health impairment.

(C) *Definition of care of the ill.* Care of the ill means alleviation or cure of an existing illness and includes care of the physical, mental, or emotional needs of the ill.

(D) *Definition of the needy.* A needy person is a person who lacks the necessities of life, involving physical, mental, or emotional well-being, as a result of poverty or temporary distress. Examples of needy persons include a person who is financially impoverished as a result of low income and lack of financial resources, a person who temporarily lacks food or shelter (and the means to provide for it), a person who is the victim of a natural disaster (such as fire or flood), a person who is the victim of a civil disaster (such as a civil disturbance), a person who is temporarily not self-sufficient as a result of a sudden and severe personal or family crisis (such as a person who is the victim of a crime of violence or who has been physically abused), a person who is a refugee or immigrant and who is experiencing language, cultural, or financial difficulties, a minor child who is not self-sufficient and who is not cared for by a parent or guardian, and a person who is not self-sufficient as a result of previous institutionalization (such as a former prisoner or a former patient in a mental institution).

(E) *Definition of care of the needy.* Care of the needy means alleviation or satisfaction of an existing need. Since a person may be needy in some respects and not needy in other respects, care of the needy must relate to the particular need which causes the person to be needy. For example, a person whose temporary need arises from a natural disaster may need temporary shelter and food but not recreational facilities.

(F) *Definition of infant.* An infant is a minor child (as determined under the laws of the jurisdiction in which the child resides).

(G) *Definition of care of an infant.* Care of an infant means performance of parental functions and provision for the physical, mental, and emotional needs of the infant.

(3) *Restrictions on Transfer of contributed property*—(i) *In general.* Except as otherwise provided in subdivision (ii) of this paragraph (b)(3), a contribution will not qualify under this section, if the donee-organization or any transferee of the donee-organization requires or receives any money, property, or services for the transfer or use of property contributed under section 170(e)(3). For example, if an organization provides temporary shelter for a fee, and also provides free meals to ill or needy individuals, or infants using food contributed under this section the contribution of food is subject to this section (if the other requirements of this section are met). However, the fee charged by the organization for the shelter may not be increased merely because meals are served to the ill or needy individuals or infants.

(ii) *Exception.* A contribution may qualify under this section if the donee-organization charges a fee to another organization in connection with its transfer of the donated property, if—

(A) The fee is small or nominal in relation to the value of the transferred property and is not determined by this value; and

(B) The fee is designed to reimburse the donee-organization for its administrative, warehousing, or other similar costs.

For example, if a charitable organization (such as a food bank) accepts surplus food to distribute to other charities which give the food to needy persons, a small fee may be charged to cover administrative, warehousing, and other similar costs. This fee may be charged on the basis of the total number of pounds of food distributed to the transferee charity but not on the basis of the value of the food distributed. The provisions of this subdivision (ii) do not apply to a transfer of donated property directly from an organization to ill or needy individuals, or infants.

(4) *Requirement of a written statement*—(i) *Furnished to taxpayer.* In the case of any contribution made on or after [Date which is 30 days after the issuance of these regulations by Treasury decision], the donee-organization must furnish to the taxpayer a written statement which—

(A) Describes the contributed property, stating the date of its receipt;

(B) Represents that the property will be used in compliance with section 170(e)(3) and paragraphs (b) (2) and (3) of this section;

(C) Represents that the donee-organization meets the requirements of paragraph (b)(1)(ii) of this section; and

(D) Represents that adequate books and records will be maintained, and made available to the Internal Revenue Service upon request.

The written statement must be furnished within a reasonable period after the contribution, but not later than the date (including extensions) by which the donor is required to file a United States corporate income tax return for the year in which the contribution was made. The books and records described in (D) of this subdivision (i) need not trace the receipt and disposition of specific items of donated property if

they disclose compliance with the requirements by reference to aggregate quantities of donated property. The books and records are adequate if they reflect total amounts received and distributed (or used), and outline the procedure used for determining that the ultimate recipient of the property is an ill or needy individual, or infant. However, the books and records need not reflect the names of the ultimate individual recipients or the property distributed to (or used by) each one.

(ii) *Furnished to transferring organization.* If an organization that received a contribution under this section transfers the contributed property to another organization on or after [Date which is 30 days after the issuance of these regulations by Treasury decision], the transferee organization must furnish to the transferring organization a written statement which contains the information required in paragraph (b)(4)(i) (A), (B) and (D) of this section. The statement must also represent that the transferee organization meets the requirements of paragraph (b)(1)(ii) of this section (or, in the case of a transferee organization which is a foreign organization not within the jurisdiction of the United States, that, but for such fact, the organization would meet the requirements of paragraph (b)(1)(ii) of this section). The written statement must be furnished within a reasonable period after the transfer.

(5) *Requirement of compliance with the Federal Food, Drug, and Cosmetic Act*—(i) *In general.* With respect to property contributed under this section which is subject to the Federal Food, Drug, and Cosmetic Act (as amended), and regulations thereunder, the contributed property must comply with the applicable provisions of that Act and regulations thereunder at the date of the contribution and for the immediately preceding 180 days. In the case of specific items of contributed property not in existence for the entire period of 180 days immediately preceding the date of contribution, the requirement of this paragraph (b)(5) is considered met if the contributed property complied with that Act and the regulations thereunder during the period of its existence and at the date of contribution and if, for the 180 day period prior to contribution other property (if any) held by the taxpayer at any time during that period, which property was fungible with the contributed property, complied with that Act and the regulations thereunder during the period held by the taxpayer.

(ii) *Example.* The rule of this paragraph (b)(5) may be illustrated by the following example.

Example. Corporation X a grocery store, contributes 12 crates of navel oranges. The oranges were picked and placed in the grocery store's stock two weeks prior to the date of contribution. The contribution satisfies the requirements of this paragraph (b)(5) if X complied with the Act and regulations thereunder for 180 days prior to the date of contribution with respect to all navel oranges in stock during that period.

(c) *Amount of reduction*—(1) *In general.* Section 170(e)(3)(B) requires that the amount of the charitable contribution subject to this section which would be taken into account under section 170(a), without regard to section 170(e), must be reduced before applying the percentage limitations under section 170(b). The amount of the first reduction is equal to one-half of the amount of gain which would not have been long-term capital gain if the property had been sold by the donor-taxpayer at its fair market value on the date of its contribution, excluding, however, any amount described in paragraph (d) of this section. If the amount of the charitable contribution which remains after this reduction exceeds twice the basis of the contributed property, then the amount of the charitable contribution is reduced a second time to an amount which is equal to twice the amount of the basis of the property.

(2) *Basis of contributed property which is inventory.* For the purposes of this section, notwithstanding the rules of § 1.170A–1(c)(4), the basis of contributed property which is inventory must be determined under the donor's method of accounting for inventory for purposes of United States income tax. The donor must use as the basis of the contributed item the inventoriable carrying cost assigned to any similar item not included in closing inventory. For example, under the LIFO dollar value method of accounting for inventory, where there has been an invasion of a prior year's layer, the donor may choose to treat the item contributed as having a basis of the unit's cost with reference to the layer(s) of prior year(s) cost or with reference to the current year cost.

(3) *Adjustment to cost of goods sold.* The donor of property which is inventory contributed under this section must make a corresponding adjustment to cost of goods sold by decreasing the cost of goods sold by the amount of basis determined under paragraph (c)(2) of this section.

(4) *Examples.* The rules of this paragraph (c) may be illustrated by the following examples:

Example (1). During 1978 corporation X, a calendar year taxpayer, makes a qualified contribution of women's coats which were section 1221(1) property. The fair market value of the property at the date of contribution is $1,000, and the basis of the property is $200. The amount of the charitable contribution which would be taken into account under section 170(a) is the fair market value ($1,000). The amount of gain which would not have been long-term capital gain if the property had been sold is $800 ($1,000−$200). The amount of the contribution is reduced by one-half the amount which would not have been capital gain if the property had been sold ($800/2=$400).

After this reduction, the amount of the contribution which may be taken into account is $600 ($1,000−$400). A second reduction is made in the amount of the charitable contribution because this amount (as first reduced to $800) is more than $400 which is an amount equal to twice the basis of the property. The amount of the further reduction is $200 [$600−(2×$200)], and the amount of the contribution as finally reduced is $400 [$1,00−($400+$200)]. X would also have to decrease its cost of goods sold for the year of contribution by $200.

Example (2). Assume the same facts as set forth in example (1) except that the basis of the property is $600. The amount of the first reduction is $200 (($1,000−$600)/2).

As reduced, the amount of the contribution which may be taken into account is $800 ($1,000−$200). There is no second reduction because $800 is less than $1,200 which is twice the basis of the property. However, X would have to decrease its cost of goods sold for the year of contribution by $600.

(d) *Recapture excluded.* A deduction is not allowed under section 170(e)(3) or this section for any amount which, if the property had been sold by the donor-taxpayer on the date of its contribution for an amount equal to its fair market value, would have been treated as ordinary income under section 617, 1245, 1250, 1251, or 1252. Thus, before making either reduction required by section 170(e)(3)(B) and paragraph (c) of this section, the fair market value of the contributed property must be reduced by the amount of gain that would have been recognized (if the property had been sold) as ordinary income under section 617, 1245, 1250, 1251, or 1252.

(e) *Effective date.* This section applies to qualified contributions made after October 4, 1978.

§ 1.170A–11 [Amended]

Par 4. Section 1.170A–11 is amended by adding the word ", and" to the end of paragraph (a)(3), by deleting paragraph (a)(4), and by redesignating paragraph (a)(5) as paragraph (a)(4).

This Treasury decision is issued under the authority contained in section 7805

of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 13, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-2531 Filed 1-29-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 967-82]

Authority to Provide Laboratory Assistance to Foreign Law Enforcement Agencies and Courts

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule

SUMMARY: This orde delegates to the Director of the Federal Bureau of Investigation the authority to make available the services of the Federal Bureau of Investigation Laboratory to foreign law enforcement agencies and courts

EFFECTIVE DATE: January 19, 1982.

FOR FURTHER INFORMATION CONTACT: John A. Mintz, Assistant Director, Legal Counsel Division, Federal Bureau of Investigation, J. Edgar Hoover Building, Tenth and Pennsylvania Avenue, NW., Washington, D.C. 20535 (202-324-5018).

SUPPLEMENTARY INFORMATION: The statutory basis for the delegated authority is 28 U.S.C. 553(3) which provides that the Attorney General may appoint officials "* * * to conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General." The delegation therefore provides that the authority is to be exercised according to procedures agreed upon by the Secretary of State and the Attorney General.

This order is not a rule within the meaning of either Executive Order No. 12291, § 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 28 U.S.C. 509, 510 and 533 and 5 U.S.C. 301, § 0.85(g) of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.85 General functions.

* * * * *

(g) Operate the Federal Bureau of Investigation Laboratory to serve not only the Federal Bureau of Investigation, but also to provide, without cost, technical and scientific assistance, including expert testimony in Federal or local courts, for all duly constituted law enforcement agencies, other organizational units of the Department of Justice, and other Federal agencies, which may desire to avail themselves of the service. As provided for in procedures agreed upon between the Secretary of State and the Attorney General, the services of the Federal Bureau of Investigation Laboratory may also be made available to foreign law enforcement agencies and courts.

* * * * *

Dated: January 19, 1982.

William French Smith,

Attorney General

[FR Doc. 82-2469 Filed 1-29-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Approval of the Abandoned Mine Land Reclamation Plan for the State of Kansas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On October 1, 1981, the State of Kansas submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R., 43 FR 49932-49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Kansas Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Kansas Plan. Kansas will be eligible for reclamation grants when certain legislative provisions have been adopted by the State Legislature.

EFFECTIVE DATE: This rule is effective February 1, 1982.

ADDRESSES: Copies of the full text of the Kansas Plan are available for review during regular business hours at the following locations:

State Corporation Commission, Mined-Land Conservation Board, 107 West Eleventh Street, Pittsburg, Kansas 66762

Office of Surface Mining Reclamation and Enforcement, Missouri State Office, 818 Grand Avenue, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 Telephone (202) 343-7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing responsibility under State or Federal law. Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine land reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved Regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the

approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932, 48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan, and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Director on an annual basis an application for funds to be expended in such State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new subchapter T to 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to Kansas are found in 30 CFR Part 916.

Background on the Kansas Abandoned Mine Land Reclamation Plan Submission

On January 28, 1980, a cooperative agreement between the Kansas State Corporation Commission, Mined-Land Conservation Board and SMREO was approved. The purpose of this agreement was to assure that information required for the preparation of the Kansas Abandoned Mine Land Reclamation Plan would be assembled.

On July 30 and 31, 1981, the Mined-Land Conservation Board held public hearings in Pittsburg, Kansas to hear comments on the plan.

On October 1, 1981, the State of Kansas submitted its proposed Abandoned Mine Land Reclamation Plan to SMREO.

Notice of receipt of the submission initiating the Plan review was published November 23, 1981 (46 FR 57327–57329). The announcement requested public comments. On December 30, 1981 OSM's Missouri State Director and on January 13, 1982 the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Kansas Plan.

The administrative record on the Kansas Plan is available for review during regular business hours at the SMREO listed above in "Addresses".

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA, the Assistant Secretary finds that Kansas has submitted a Plan for reclamation of abandoned mines and has the ability to implement the provisions of Title IV of SMCRA. Although the Plan conforms to statutory requirements, the Kansas State legislature must still amend the Kansas State Act of 1980 (supplement 49–428) to facilitate State use of reclamation funds before they may be received by the State. At this time the State Act differs from Federal law in the following ways: (1) Kansas does not permit Federal reclamation funds to be deposited in the State treasury; (2) Liens on abandoned mine lands are for the benefit of the United States instead of the State; (3) The Mined-Land Conservation and Reclamation Board has no authority for the condemnation of land for reclamation purposes. These were restrictions imposed by Article II, Section 9 of the Kansas State Constitution before it was amended in 1980.

When the appropriate legislation is passed, Kansas will be eligible to receive reclamation construction grant funds.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) The Kansas State Corporation Commission, Mined-Land Reclamation Board has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

(3) The Assistant Secretary has solicited and considered the views of the Federal agencies having an interest in the Plan as required by 30 CFR 884.13(a)(2). Agencies that commented include: The U.S. Department of Agriculture, Soil Conservation Service (SCS); the U.S. Department of the Interior, Fish and Wildlife Service (FWS), and the U.S. Department of Interior, Bureau of Mines (BOM).

Disposition of Comments

The following comments received on the Kansas Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Kansas Plan as indicated.

(1) The SCS commented that a section should be added to the Plan that discusses the treatment of abandoned mine land (AML) reclamation areas—particularly as the Plan applies to revegetation and cattle grazing. OSM's agrees with this comment. The State has agreed to modify the Plan by including a discussion of treatment of AML areas following the guidelines presented in 45 FR 14810–14819.

(2) The SCS commented that in Volume II, page 183 of the Plan, the Summit-Lulu-Woodson soil descriptions should be changed to correspond to the Parson-Dennis association format used on page 181. OSM's response is that a clarification of this technical question would be beneficial. The State has agreed to modify the Plan by reformating the description given on page II, 183.

(3) The FWS commented that in § 884.13(f)(2) of the Plan which discusses revegetation problems, consideration should be given to interspersing trees and shrub species with native grasses and forbs. OSM's response is that the Plan adequately covers the subject of revegetation. No modifications are required.

(4) The BOM commented that the checklist on page I–17 should be amended to include a list of mineral resources known to occur on the site being evaluated. OSM agrees with BOM's comment. The State will comply with this comment by incorporating such a list in Figure 2 on page I–22.

(5) The BOM commented that in the Project Evaluation Matrix three response ratings (high, intermediate, and low) should be used to evaluate the "probability that a project site would be affected by future mining" instead of two (high and low). It further suggested that selection of an appropriate response occur only after a site's potential for mineral resources recovery is evaluated. OSM agrees with BOM's comment. The State has agreed to incorporate "Reclamation Project Evaluation" information in appendix I–B in Figure 2, the Project Evaluation Matrix.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local

government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Kansas Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.3(A)(1), the Assistant Secretary's decision on the Kansas Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

This rule is effective upon February 1, 1982. The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and the Title IV State reclamation program plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

Dated: January 20, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

Dated: January 25, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary—Energy and Minerals.

PART 916—KANSAS

Therefore Part 916 is amended by adding § 916.20 to read as follows:

§ 916.20 Approval of Kansas Abandoned Mine Land Reclamation Plan.

The Kansas Abandoned Mine Land Reclamation Plan, as submitted on October 1, 1981, is approved. Copies of the approved plan are available at:

Office of Surface Mining Reclamation and Enforcement; Missouri State Office, 818 Grand Avenue, Kansas City, Missouri 64106

State Corporation Commission, Mined-Land Conservation Board, 107 West Eleventh Street, Pittsburg, Kansas 66762.

[FR Doc. 82-2510 Filed 1-29-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 82-008]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: Periodically the Coast Guard must issue safety and security zones for limited periods of time in limited areas. These zones are established, for example, around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. The local Captain of the Port (COTP) has been delegated authority to issue these zones. The affected public is informed by means of local notices to mariners, press releases, or other means. Actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity.

The local COTP must be immediately responsive to the safety needs of the area. Since these events usually take place without advance notice, this precludes timely publication of notice in the **Federal Register.** Because most mariners are notified by the local notice to mariners and Coast Guard officials on scene, **Federal Register** notice is not required to place the security zone or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of temporary security and safety zones which have been established throughout the United States. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Non-major safety zones, security zones, and regatta regulations have been exempted from the OMB review requirements because of their emergency nature and temporary effectiveness.

DATES: The following list includes zones that were established between August 12, 1981 and December 15, 1981.

ADDRESS: The complete text may be examined at, and is available upon request from Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Ensign John C. Williams, (202) 426-1477.

SUPPLEMENTARY INFORMATION:

Docket No.	Location	Type	Date
1. CGD 5-81-12R	James River at Newport News, Virginia	Safety Zone	Oct. 31, 1981.
2. CGD 5-81-14R	Chesapeake Bay at Hampton Roads, Virginia	Safety Zone	Nov. 20, 1981.
3. CGD 8-81-11	Vicinity of Mile 118.5 to Mile 119.0 on the Atchafalaya River, one half mile below the Morgan City-Louisiana Railroad Bridge.	Safety Zone	Aug. 12, 1981.
4. CGD 8-81-12	Vicinity of the Gretna-Jackson Avenue Ferry, Mile 97 LMR, AHOP.	Safety Zone	Sept. 5, 1981.
5. CGD 8-81-13	Vicinity of L&N Railroad Bridge and the Turning Basin on the Inner Harbor Navigation Canal New Orleans, Louisiana.	Safety Zone	Sept. 19, 1981, through Sept. 21, 1981.
6. CGD 8-81-14	Vicinity of Algiers Ferry Landing	Safety Zone	Oct. 12, 1981.
7. CGD 11-81-07	Around Structure Being Constructed on the Outer Continental Shelf (OCS).	Safety Zone	Oct. 7, 1981, through Oct. 17, 1981.
8. CGD 11-81-08	Long Beach Harbor, California	Safety Zone	Nov. 23, 1981, through Nov. 25, 1981.
9. CGD 17-81-05	Gastineau Channel, Juneau, Alaska	Safety Zone	Dec. 15, 1981.

A. D. Utara,

Commander, U.S. Coast Guard Regulations Officer.

[FR Doc. 82-2488 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CCGD-80-106]

Drawbridge Operation Regulations; Taylor Creek, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the citizens of Okeechobee City, the Coast Guard is amending the regulations governing the bridge across Taylor Creek, mile 0.23, on U.S. Highway 441 (SR15), Okeechobee, Florida, to change the advance notice requirement from 24 hours to two hours. This action will accommodate the increase in navigation and water oriented development and still provide for the needs of vehicular traffic.

EFFECTIVE DATE: This amendment is effective on March 3, 1982.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Seventh Coast Guard District, Federal Building, Room 1012, 51 S.W., First Avenue, Miami, Florida 33130, at telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: On 28 November 1980, the Coast Guard published a proposed rule (45 FR 79101) concerning this amendment. The Commander, Seventh Coast Guard District, also published this proposal as a Public Notice dated 1 December 1980. Interested persons were given until 2 January 1981 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Mr. James Davis, Bridge Administration Specialist, Office of Aids to Navigation and Lieutenant John M. Griesbaum, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of Comments

A total of eleven comments were received; eight in support and three in opposition. Those opposed stated that the regulation proposed would be unduly restrictive to marine traffic and the draw should open on signal. The Florida Department of Transportation, owner of the bridge, felt that the present regulation is adequate and should not be changed and that compliance with the proposed amendment to the regulations is not within their capabilities.

The proposed regulation will be much less restrictive than the existing regulation to navigation. During a period of temporary regulations, 1 May to 15 June 1979, the draw was opened a total of 101 times in May for the passage of 106 vessels and 63 times in June for the passage of 63 vessels for an average of 3.6 openings per day. The existing 24-hour advance notice requirement requires a long distance call to Fort Pierce and is a deterrent to all desiring use of the waterway. Using the capabilities of the Florida Department of Transportation Substation Maintenance Yard at Okeechobee City for advance notice is not considered unreasonable to meet the needs of navigation upon the waterway.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since its impact is expected to be minimal because these regulations only affect the Florida Department of Transportation economically. The economic impact for waterway users will improve because of less fuel consumption while waiting for the draw to open.

In accordance with section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.245(h)(29) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets, bridges where constant attendance of drawtenders is not required.

* * * * *

(h) * * *

(29) Taylor Creek, U.S. Highway 441, Okeechobee, Florida. The draw shall open on signal if at least two hours notice is given to the Florida Department of Transportation Substation Maintenance Yard at Okeechobee.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3)).

Dated: January 27, 1982.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-2478 1-29-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 81-025]

Drawbridge Operation Regulations; Kennebec River, Maine

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of employees at the Bath Iron Works, Bath, Maine, the Coast Guard is amending the regulations governing the U.S. Route #1 Highway Bridge, mile 14.0, between Bath and Woolwich, to provide that the drawspan need not open during rush hours. The change is being made because it will provide more uniform vehicular movement along Route #1 and through Bath during these peak traffic periods and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on March 3, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: On 11 June 1981, the Coast Guard published a proposed rule (46 FR 3084) concerning this amendment. The Commander, First Coast Guard District, also published this proposal as a Public Notice dated 22 June 1981. Interested persons were given until 21 July 1981 to submit comments. In addition, the proposal was described in four issues of the First District Local Notice to Mariners.

Drafting Information

The principal persons involved in drafting this rule are: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Comments

The **Federal Register** notification, the Public Notice and an item in Local Notice to Mariners generated 35 responses. Thirty-one letters expressed support for the proposal. Three letters expressed opposition to the proposal. The U.S. Fish and Wildlife Service had no objection to the proposed change. The Stinson Canning Company, a fish processor located above the bridge indicated concern about the effect of the proposal on its operation. The work day at the plant commences at 7 a.m. and

fish catches must be unloaded before that time. The Stinson Company has instructed the operators of its fishing boats to schedule passage through the bridge before 6:30 a.m. to avoid the morning rush hour. Occasionally an incoming vessel is delayed and must unload its catch as soon as possible. The departure of the boats for the fishing grounds is scheduled to avoid the afternoon rush period. The Assistant Director of Apprenticeshop, a training program of the Maine Maritime Museum, feels that the proposed amendment would jeopardize the sailing programs provided by Apprenticeshop. The sailing vessels used for the training programs have no auxiliary power other than oars and departures and arrivals are dependent on proper stages of the tide; scheduled passages normally do not conflict with rush hours. The fact that the employees of the Stinson Company and the Maritime Museum seldom request rush hour openings has been confirmed. A citizen of Bath opposes the proposed amendment because it will adversely effect the Stinson Company operation.

Morning closures of the drawspan could delay the daily delivery of fresh fish which the canning company above the bridge requires for its normal operation. A delay in the start of the company's regular routine could limit the amount of the fish processed during the average workday and require overtime work to complete the processing of the remainder. A closure of the drawspan morning or afternoon also could interfere with Coast Guard operations on the Kennebec River. The navigable channel in the river is marked by buoys which must be serviced, in the winter months ice must be broken, and search and rescue efforts might be necessary at any hour. On occasion, it may be necessary to pass vessels of the National Oceanic and Atmospheric Administration. The proposed rule would allow the drawspan to be closed to navigation on legal holidays, a time when normal business activity is absent. Holiday closures would be an unreasonable obstruction to navigation. It has been concluded that the proposal should be modified to provide unlimited passage for loaded fishing vessels and U.S. Government vessels, and to provide for passage of navigation on holidays. The passage of the training ships can be scheduled when tides do not conflict with rush hours.

Subparts 117.8 (a), (1), (2), and (3) contain advance notice requirements for an opening of the bridge during certain months. The information in these subparts has been condensed, for brevity, into a single subpart. The information has not been altered.

These regulations have been reviewed under the provisions of Executive Order 12291, and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies Procedures for Simplification Analysis and Review of Regulations (DOT Order 2100.5 of 5/22/80). An economic evaluation has not been conducted since, for the reasons discussed above, their impact is expected to be minimal. In accordance with § 605(6) of the Regulatory Flexiblity Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising (a) and adding (b) of § 117.8 to read as follows:

§ 117.8 Kennebec River, highway and railway bridge, between Bath and Woolwich.

(a) The draw shall open on signal, except that the draw need not open from 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 4:45 p.m., Monday through Friday, except on legal holidays observed in the locality. However, the draw shall open at any time for loaded commercial fishing vessels going to the fish processing plant, vessels of the United States Coast Guard and other U.S. Government vessels.

(b) Advance notice for an opening of the drawspan is required from October 1 through June 15. Within this period at least 24 hours notice is required from December 16 through February 14 and at least 4 hours notice is required through the remainder of the period. The advance notice required from April 15 through June 15 and from October 1 through November 15 shall be given between the hours 7 p.m. and 3 a.m.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

January 27, 1982.

C. E. Robbins,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 82-3477 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5 81-11R]

Drawbridge Operation Regulations; North Landing River (AIWW), Va., U.S. Government Bridge at Chesapeake

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Corps of Engineers, the Coast Guard is establishing new regulations governing operation of the drawbridge across the Atlantic Intracoastal Waterway, mile 20.2 at Chesapeake, Virginia, to permit the draw to remain closed to pleasure craft during certain periods. This change is being made in order to reduce the number of draw openings and improve the flow of vehicular traffic across the bridge. This action will reduce the number of draw openings, improve the flow of vehicular traffic across the bridge and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6222.

SUPPLEMENTARY INFORMATION: On October 6, 1981, the Coast Guard published a proposed rule (46 FR 49913) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5-493) dated October 8, 1981, which was included in Local Notice to Mariners No. 41 dated October 10, 1981. Interested persons were requested to submit comments, but no comments were received.

Discussion of Rule

These regulations will restrict draw openings to the hour and half-hour for the passage of pleasure craft from 6 a.m. to 7 p.m. every day throughout the year. At all other times the bridge would open on signal for the passage of pleasure craft. Commercial vessels and government owned vessels will not be affected by these regulations. The regulations will reduce the number of draw openings, improve the flow of vehicular traffic across the bridge and still provide for the reasonable needs of navigation. Since the regulations only affect pleasure craft, the only costs will be those of minor time delays and fuel used by these entities. This cost is considered insignificant because the time delays will be one-half hour or less.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact will be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

Final Regulation

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

By adding a new § 117.351 to read as follows:

§ 117.351 North Landing River (AIWW), Va.; U.S. Government Bridge at Chesapeake.

(a) From 6 a.m. to 7 p.m. the draw will open on the hour and half-hour for the passage of pleasure craft.

(b) From 7 p.m. to 6 a.m. the draw will open on signal for the passage of pleasure craft.

(c) The drawbridge shall open on signal at any time for vessels owned by the United States, commercial vessels and any vessel in an emergency involving danger to life or property. The signal to request an emergency opening is five or more short blasts of a whistle or horn.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: January 13, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 82-2478 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[WEN-FRL-2032-6]

General Pretreatment Regulations for Existing and New Sources; Postponement of Effective Date

AGENCY: Environmental Protection Agency.

ACTION: Final rule; postponement of effective date.

SUMMARY: On January 28, 1981, the Environmental Protection Agency promulgated amendments to the General Pretreatment Regulations for Existing and New Sources under the Clear Water Act (46 FR 9404–9460). On March 27, 1981, the effective date of these amendments was indefinitely postponed to enable the Agency to conduct a Regulatory Impact Analysis under Executive Order 12291 (46 FR 19936, April 2, 1981).

On October 13, 1981 (46 FR 50502), EPA announced its decision to terminate the indefinite suspension of the pretreatment amendments, making them effective January 31, 1982. In a separate action also taken on October 13, the Agency initiated a rulemaking and invited public comment on the issue of whether all of specific portions of the amendments should be further postponed (46 FR 50503).

EPA has decided that a number of the general pretreatment amendments will become effective on January 31, 1982. The effective date of other parts of the amendments will be further postponed pending continued analysis.

DATES: The effective date of the sections of the January 28, 1981 amendments to the General Pretreatment Regulations (46 FR 9404) listed below is deferred until further notice:

§ 403.3(i)—Definition of Interference
§ 403.3(n)—Definition of Pass through
§ 403.6(e)—Combined Wastestream Formula
§ 403.7—Revision of Categorical Pretreatment Standards to Reflect POTW Removal of Pollutants

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), 401 M Street, SW., Washington, D.C. 20460 (202) 426–4793.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1978, the Environmental Protection Agency (EPA) promulgated the General Pretreatment Regulations (GPR) establishing mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly-owned treatment works (POTWs) (43 FR 27736–27773). Following promulgation, several parties brought actions in Federal court challenging these regulations. On January 28, 1981, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA promulgated amendments to the 1978 regulations (46 FR 9404–9460). These amendments were originally scheduled to take effect on March 13, 1981. Their effective date was temporarily deferred until March 30, 1981 under the President's Memorandum of January 29, 1981 (46 FR 11972, February 12, 1981). On March 27, 1981, EPA indefinitely postponed the amendments' effective date to enable it to conduct a Regulatory Impact Analysis of the general pretreatment program under Executive Order 12291. EPA published a notice in the Federal Register to this effect on April 2, 1981 (46 FR 19936). As a result of the deferral of the January 1981 amendments, the June 1978 general pretreatment regulations remained in effect.

Subsequent to EPA's indefinite deferral of the effective date of the general pretreatment amendments, a suit was brought by the Natural Resources Defense Council in the United States Court of Appeals for the Third Circuit challenging EPA's deferral of the general pretreatment amendments without notice and comment (*NRDC Inc. v. EPA*, No. 81–2068). Additionally, two groups who are directly and substantially affected by the general pretreatment program recommended that portions of the general pretreatment amendments go into effect. Accordingly, in order to address public suggestions that the amendments be put into effect and to allow public comment on the deferral, EPA took two actions. First, EPA established January 31, 1982 as the effective date of the amendments to the General Pretreatment Regulations (46 FR 50502, October 13, 1981). Second, EPA initiated a rulemaking to determine whether all or portions of the amendments to the General Pretreatment Regulations should be deferred beyond the January 31, 1982 effective date (46 FR 50503, October 13, 1981).

Today's final rule reflects an Agency determination, after consideration of all the comments received, to allow certain portions of the amendments to the General Pretreatment Regulations to go into effect, while continuing to postpone the effective date of others. Among others, EPA will allow to go into effect the amendments pertaining to the general pretreatment prohibitions (403.5), the amendments governing local and State pretreatment programs (403.8–403.11), and certain of the amendments governing the implementation of the categorical pretreatment standards, including the provisions for monitoring (403.12), fundamentally different factors variances (403.13), net/gross calculations (403.15) and upsets (403.16). The effective date of four provisions, however, will be postponed indefinitely. These are the definitions of "interference" and "pass through" (403.3 (i) and (n)), the combined wastestream

formula (403.6(e)), and the removal credits provision (403.7). As a consequence, the definition of "interference" (403.3(h)) and old removal credits section (403.7) contained in the 1978 regulations will remain in effect.

Public Comment

EPA received 67 comments in response to its proposal to further postpone the effective date of the amendments. The comments generally fell into three groups. One group of commenters, primarily comprised of industry representatives, recommended that all the amendments to the GPR be suspended. A recurring argument was that the amendments should not go into effect before the ongoing RIA is complete. These comments suggested that since the RIA may result in a major alteration in the Federal approach to pretreatment, putting the amendments into effect would only create more confusion in an already murky situation. Others took issue with the amendments themselves, stating that the amended regulations are too complex to achieve their intended goals, and place an unreasonable economic burden on those groups affected by the regulations. Often these criticisms were accompanied by suggestions on how the pretreatment program should be revised.

A second group of commenters, comprised of representatives from industry and State and local governments, specifically requested that portions of the pretreatment amendments become effective on January 31, while other parts of the amendments be deferred until the RIA is complete. The sections most often recommended for continued postponement were the combined wastestream formula (403.6(e)), the removal credits provision (403.7), and the definitions of "interference" and "pass through" (403.3 (i) and (n) respectively). The combined wastestream formula, it was argued, was a calculation that made unrealistic assumptions about treatment of wastewater, and could not be applied in a large, complex industrial facility. Commenters stated that instead of regulating a combined stream, the formula would force segregation of wastestreams and separate treatment of process wastewaters. Similarly, commenters labeled the removal credit provision as being too burdensome and complex, thereby discouraging many POTWs from applying for authorization to grant removal credits. Commenters criticized the definitions of "pass through" and "interference" as being in conflict with the industry—EPA Settlement Agreement, or for being overbroad in that an industrial user, even though in compliance with Federal, State, or local prohibitions or standards applicable to it, could still be held liable for a POTW violation of its NPDES permit.

Despite these concerns, the commenters in this group recommended that most of the other sections of the amendments should become effective, especially the local program requirements. Some of the commenters, most of them POTWs, noted that local program development was continuing, and that the amendments dealing with the local program removed the uncertainty surrounding the content and form of the programs. These commenters asserted that the amendments improve the existing regulations, as they add greater flexibility to program development and, if implemented, would not disrupt this ongoing process. Several commenters noted that it is in a POTW's best interest to develop general prohibitive discharge standards since these standards protect the treatment works and its processes, and help ensure that the quality of final effluent and sludge complies with the appropriate regulations.

A few commenters who recommended putting into effect the local program sections favored a continued stay of §§ 403.9 (POTW pretreatment programs and/or authorization to revise pretreatment standards; submission for approval) and 403.11 (Approval procedures for POTW pretreatment programs and POTW revision of categorical pretreatment standards). Their concern was focused on the relationship of these sections to the new removal credits provisions.

Several commenters also strongly urged that EPA put into effect § 403.8(f)(2)(vii), concerning the publication of the names of violating industries. These commenters noted that the 1978 version of the provision was too broad, and unduly stigmatized and industry for noncompliance with a pretreatment standard where the violation was minor and was quickly remedied. They added that the 1978 language could result in the opposite of the provision's intended purpose, masking from public scrutiny the truly significant violators while needlessly damaging the reputation of an industry that is making a good faith effort to comply with pretreatment standards.

The third group of commenters, primarily comprised of public interest groups, recommended that all of the amendments to the GPR become effective on January 31. This group emphasized the role of the National Pretreatment Program as an important element in the effort to clean up the nation's waters and municipal sludge. Several commenters claimed that significant adverse environmental consequences will result from a continued suspension. They also stated that protection of municipal treatment works, in which there is a substantial Federal and municipal investment, will be hindered unless the entire amended regulatory scheme is immediately implemented. The comments generally stressed the improvements found in the amendments as compared to the existing 1978 regulations. They also stated that the amendments, published after a lengthy public comment and rulemaking process, represent a fair and just compromise of the interests of the parties to the industry—EPA Settlement Agreement. In addition, the amendments would reduce the cost of pretreatment program development and implementation for municipalities and industries. Several commenters noted that a further delay in the effective date of the amendments not only thwarts the efforts to regulate indirect industrial discharges and control toxic pollutants, but also contravenes the Congressional mandate of the Clean Water Act of 1977 to expeditiously implement a National Pretreatment Program. In fact, they stated that any further suspension would be illegal. One commenter stated that EPA cannot use Executive Order 12291, requiring a RIA, to justify a delay for purposes of conducting a cost-benefit analysis, because Congress did not intend for EPA to consider such factors in establishing pretreatment standards.

Discussion

EPA disagrees with the positions that all of the amendments to the GPR should be deferred beyond January 31, or that they should all become effective on that date. As noted above, EPA has decided to put into effect a majority of the amendments. Today's action is guided by the recognition that the amendments to the general pretreatment regulations represent an improvement over the 1978 pretreatment regulations. They are the result of a lengthy and intensive development process. They clarify ambiguous provisions in the 1978 regulations, resolve inconsistencies in those requirements, and generally inject added flexibility into the pretreatment program.

When EPA indefinitely postponed the amendments to the General Pretreatment Regulations on March 27, 1981, it was with the implicit assumption that such postponement was necessary

to a re-evaluation of the general pretreatment program. One result of the postponement was that it caused the 1978 regulations to remain in effect, even though the amendments significantly improved upon certain sections of the original regulations. During the course of the regulatory impact analysis, regulated entities and the public have consequently been deprived of the beneficial changes made by those amendments. With the exception of a few provisions which will be further postponed, EPA believes that letting the amendments go into effect will enhance the operation of the pretreatment program pending completion of the regulatory analysis. Although EPA is currently considering changes to the National Pretreatment Program, this will be a complex and lengthy procedure. In the interim, these amendments fulfill Congressional mandates for national requirements while allowing POTWs sufficient flexibility to adapt to individual situations.

A number of groups will benefit from the amendments which will go into effect. One significant class of beneficiaries are the localities and States who are presently in the process of developing local and State pretreatment programs under §§ 403.8–403.11. The 1981 amendments liberalized provisions of these sections. When these amendments take effect States and localities can enjoy added flexibility. In addition, these amendments will eliminate the substantial confusion which reigns in the regulated community over which provisions govern the program approval process.

Another group of beneficiaries will be industries, like the timber industry and the non-integrated segment of the electroplating industry, which are currently subject to categorical pretreatment standards. At present, there is no fundamentally different factors variance provision (403.13) which permits these industrial users to seek a variance from the pretreatment standards. (The variance provision contained in the 1978 regulations was suspended on June 19, 1980.) Nor is there a net/gross provision (403.16) which allows industrial users to relax their categorical limitations to account for pollutants in their intake water or an upset provision (403.16) which creates a waiver of the categorical limitations in the event of an exceptional incident resulting in unintentional and temporary noncompliance beyond the reasonable control of the industrial user. Putting the amendments into effect will remedy these deficiencies. In addition, industrial users subject to categorical standards stand to benefit from the amendments governing monitoring requirements (403.12) and category determinations (403.6(a)). Both these provisions are more liberal than their 1978 counterparts.

Several of these variance provisions are worded in the same language as similar provisions for direct dischargers currently found in the Consolidated Permit Regulations (40 CFR Part 125). The consolidated regulations provisions are the subject of a legal challenge that may result in their being changed. If, or when, such a change is made in the consolidated regulations, a cooresponding change will be made in the pretreatment regulations, if appropriate.

Most of the amendments which will go into effect are noncontroversial. The POTW-set general discharge standards (§ 403.5) and the provisions relating to local and State pretreatment programs (§§ 403.8–403.11) impose certain minimum requirements on indirect dischargers and represent activities POTWs and States should undertake in the interest of protecting treatment works, receiving waters, and POTW sludge. These include such fundamental activities as identifying which industries contribute what pollutants to the POTW, and reviewing legal authority and upgrading it where necessary. These basic program development requirements and activities are good management practices one would expect to find at any well-operated POTW. They represent a minimal and practical approach to identifying and controlling environmental problems caused by indirect dischargers. Development of these basic aspects of a pretreatment program also should not be costly for most POTWs. Many POTWs already have implemented certain aspects of the program and can build on the foundation of these previous efforts.

The same cannot be said of the four provisions which EPA has decided to continue to defer. The combined waste stream formula (403.6(e))—which provides industrial users who combine wastestreams with a means of calculating their discharge limitation—has proved to be a highly controversial provision. Commenters have charged that the formula forces segregation of wastestreams and, ultimately, more costly and inefficient treatment. EPA believes that this provision should continue to be deferred while the Agency studies the implications of the present formula further.

Similarly, the removal credits provision, even in the simplified form developed in the EPA—Industry Settlement Agreement and promulgated in the amendments, remains controversial. To address these continuing concerns, EPA is in the process of developing a new removal credits provision, which it hopes to propose shortly. In view of this development, implementation of the amended removal credits provision could create confusion in the regulated public, even though it is more workable than the 1978 version. Deferral of the removal credits provision will incidentally take care of the concerns of those who had suggested that §§ 403.9 and 403.11 should contiue to be deferred because of the relationship between those sections and the removal credits provision.

Also, the definitions of "interference" (§ 403.3(i)) and "passthrough" (§ 403.3(n)) have been criticized as being too vague and as subjecting the industrial user to excessive liability. EPA believes that these definitions could benefit from further examination and therefore has decided to continue to defer them.

The Agency would like to make it clear that it does not consider today's action to be inconsistent with the regulatory analysis it is presently conducting on the pretreatment program. Nor does it consider today's action to constitute a prior endorsement of any particular aspects of that program. It simply believes that while this analysis is being completed, the regulated community and the public would be best served by the improved provisions of the 1981 amendments. EPA is actively considering alternatives to the current pretreatment program, including a move in the direction of greater local control and responsibility for pretreatment requirements. We are also considering a decreased emphasis on mandatory, national technology-based categorical standards. Any such major change in program direction must await completion of the RIA and any necessary statutory or regulatory amendments.

Since today's action does not close the door on the potential for other changes to the national pretreatment program, the Agency is not addressing those portions of the comments which explicitly suggested changes in the shape of the pretreatment program or the Clean Water Act. These concerns will be considered and addressed in the RIA process. Similarly, the Agency is not addressing those portions of the comments which made detailed criticisms of specific amendments. Those comments were either already

responded to in the rulemaking which concluded January 28, 1981, or, in the case of the four provisions which will continue to be deferred, will be considered as the Agency evaluates the RIA.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the reporting and recordkeeping provisions of the General Pretreatment Regulations have been submitted for clearance to the Office of Management and Budget (OMB). The regulation's information collection requirements will be re-evaluated in conjunction with the RIA and the Agency's decision on pretreatment policy. OMB must formally approve information collection before it is effective.

OMB has conditionally approved the following information collection requirements through February 1982. The Agency will decide on further action on these requirements subsequent to its pretreatment policy decision.

Citation	Title	OMB No. 2000-
40 CFR 403.6	Category Determination	0324
40 CFR 403.7	Removal Credit Approval Request.	0333
40 CFR 403.9	POTW Pretreatment Program Approval Request.	0325
40 CFR 403.10	State Pretreatment Program Approval Request.	0326
40 CFR 403.12	POTW-Compliance Schedule Work Plan.	0319
40 CFR 403.12	Industrial Pretreaters Compliance Schedule Reports.	0320
40 CFR 403.12	Industrial Pretreaters Slug Load Notification.	0334
40 CFR 403.12	POTW Maintenance of Monitoring Records.	0332
40 CFR 403.12	Industrial Pretreaters Compliance Attainment Report.	0322
40 CFR 403.13	Fundamentally Different Factors Variance Requests.	0326
40 CFR 403.15	Net/Gross Request: Credit for Intake Water Pollution.	0327

OMB has disapproved the following information-collection requirements. EPA is resubmitting the baseline monitoring report. The Agency will decide on further action on these requirements subsequent to its pretreatment policy decision.

Citation	Title
40 CFR 403.7.	Removal Credit Self-Monitoring Report.
40 CFR 403.12.	Industrial Self-Monitoring Report.
40 CFR 403.12.	Baseline Monitoring Report.

Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This notice is not major because it imposes no new obligations.

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments will be made available for public inspection through contacting the person listed in the front of this notice.

Under the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for all regulations that have a significant impact on a substantial number of small entities. EPA determined, for the reasons stated above, that this notice does not have a significant adverse impact on small entities.

Dated: January 27, 1982.

Anne M. Gorsuch,

Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

The effective date for the following amendments to the General Pretreatment Regulations for Existing and New Sources, 40 CFR Part 403 published at 46 FR 9404, January 28, 1981, and codified in the volume entitled 40 CFR Parts 400–424, 1981 edition, pp 60–99.

Section 403.3(i) (Definition of interference);

Section 403.3(n) (Definition of pass through);

Section 403.6(e) (Combined wastestream formula);

Section 403.7 (Revision of categorical pretreatment standards to reflect POTW removal of pollutants).

[FR Doc. 82–2637 Filed 1–29–82; 8:45 am]

BILLING CODE 6560–35–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–47

[FPMR Amendment H–131]

Utilization and Disposal of Real Property; Geographical Location of Real Property

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending portions of 41 CFR Part 101–47 which sets forth GSA's regulations covering the utilization and disposal of real property. These amendments concern the geographical locations of real property which is subject to Title II of the Federal Property and Administrative Services Act of 1949, as amended (property management), in order to implement Pub. L. 93–594. Approved January 2, 1975, Pub. L. 93–594 includes the territories of American Samoa, Guam, and the Trust Territory of the Pacific Islands in the same status as the 50 States, District of Columbia, Puerto Rico, and the Virgin Islands with respect to the excess and surplus property program of the Federal Government.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202) 535–7067.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of this rule; has determined that the potential benefit to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Accordingly, 41 CFR Part 101 is revised to read as follows:

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. Section 101–47.000 is revised to read as follows:

§ 101–47.000 Scope of part.

This part prescribes the policies and methods governing the utilization and disposal of excess and surplus real property and related personal property within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Subpart 101–47.2—Utilization of Excess Real Property

2. Section 101–47.200 is revised to read as follows:

§ 101–47.200 Scope of subpart.

This subpart prescribes the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property

within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by Subpart 101–47.5).

Subpart 101–47.3—Surplus Real Property Disposal

3. Section 101–47.300 is revised to read as follows:

§ 101–47.300 Scope of subpart.

This subpart prescribes the policies and methods governing the disposal of surplus real property and related personal property within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by Subpart 101–47.5).

Subpart 101–47.4—Management of Excess and Surplus Real Property

4. Section 101–47.400 is revised to read as follows:

§ 101–47.400 Scope of subpart.

This subpart prescribes the policies and methods governing the physical care, handling, protection, and maintenance of excess real property and surplus real property, including related personal property, within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Subpart 101–47.5—Abandonment, Destruction, or Donation of Public Bodies

5. Section 101–47.500(a) is revised to read as follows:

§ 101–47.500 Scope of subpart.

(a) This subpart prescribes the policies and methods governing the abandonment, destruction, or donation to the public bodies by Federal agencies of real property located within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

* * * * *

Subpart 101–47.8—Identification of Unneeded Federal Real Property

6. Section 101–47.800 is revised to read as follows:

§ 101–47.800 Scope of subpart.

This subpart is designed to implement Executive Order 11954 of January 7, 1977, as amended by Executive Order 12030 of December 15, 1977, which provides, in part, that the Administrator of General Services shall (a) issue standards and procedures, conduct surveys, and cause surveys to be conducted of real property holdings of executive agencies on a continuing basis and in such a manner as to identify properties which are not utilized, are underutilized, or are not being put to their optimum use and (b) report to the Director of the Office of Management and Budget regarding any property or portion thereof which has not been reported excess to the requirements of the holding agency and which, in the judgment of the Administrator, is not utilized, is underutilized, or is not being put to optimum use, and which he recommends should be reported as excess property. The provisions of this subpart are presently limited to fee-owned properties and supporting leaseholds and lesser interests located within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 29, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–2458 Filed 1–29–82; 8:45 am]

BILLING CODE 6820–06–M

Proposed Rules

Federal Register
Vol. 47, No. 21
Monday, February 1, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administrator

14 CFR Ch. I

[Summary Notice No. PR-82-1]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

Correction

In FR Doc. 82-1527 appearing on page 3369 in the issue of Monday, January 25, 1982, make the following correction:

On page 3370, the "Note" at the end of the table for "Petitions for Rulemaking" should have appeared in the third column ("Description of the rule requested") with the entry for Docket No. 20312, "Hawk Industries Petition dated 10/19/80".

BILLING CODE 1505-01-M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NM-96-AD]

Airworthiness Directives; Fokker B. V. Model F-28 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD), which requires inspections, replacements, and modifications of certain airframe components on Fokker Model F-28 airplanes as necessary to detect and prevent unsafe conditions. These unsafe conditions were found earlier by the Netherlands Civil Aviation Department (RLD); however, no AD action was taken by the FAA at that time because there was only one Fokker Model F-28 airplane on the U.S. Civil Aircraft Register, and corrections of the unsafe conditions were established on an individual airplane basis. The anticipated entry of additional Fokker Model F-28 aircraft onto the U.S. Register necessitates AD action at this time to ensure that such aircraft maintain an acceptable level of safety. This notice pertains to unsafe conditions related only to airframe components. Other unsafe conditions were the subject of separate notices pertaining to Fokker Model F-28 airplanes.

DATE: Comments must be received on or before March 8, 1982. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108. The applicable service bulletins may be obtained from: Service Manager, Fokker B. V. 7600, Schiphol Oost, The Netherlands.

FOR FURTHER INFORMATION CONTACT: Mr. H. N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, (206) 767-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 81-NW-96-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion

The Netherlands Civil Aviation Department (RLD) has, in the past and in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of inspections, replacements, and modifications which they have imposed to correct unsafe conditions on Fokker Model F-28 airplanes manufactured in the Netherlands and operated under registry of the Netherlands. Previously, only one Fokker Model F-28 was on the U.S. Civil Aircraft Register. Corrections of the unsafe conditions were accomplished by the operator of this sole airplane and verified by the FAA, thereby obviating the need for AD action. There have recently been a number of additional Fokker Model F-28 airplanes entered on the U.S. Register. Although those entered thus far were new airplanes, it appears that used airplanes on which the mandatory RLD service bulletins have not been accomplished and unsafe conditions exist may be entered on the U.S. Register in the future. It is therefore necessary to consider the issuance of an AD at this time to preclude the entry of any additional aircraft without correction of the unsafe condition.

The requirements presented in this proposed AD are based on the notifications of the RLD in accordance with the bilateral agreement and are related to the following unsafe conditions:

A. Possible fatigue damage on stabilizer, speedbrakes, and fuselage tail section caused by engine jet efflux which could lead to an inflight structural failure. (Reference Fokker Service Bulletin (SB) F-28/51-2, Revision 1, dated January 27, 1971.)

B. Improper centering of the passenger door overcentering mechanism when closing the door caused by a misadjusted microswitch which could result in a decompression. (Reference Fokker Service Bulletin (SB) F-28/52-30, Revision 1, dated July 10, 1972.)

C. Modification of passenger door locking mechanism and the introduction of new switch brackets to improve accessibility to the locking mechanism housing and to prevent bending of the latch limit switches which could lead to an incorrect door indication warning.

(Reference Fokker Service Bulletin (SB) F–28/52–43 dated April 16, 1974.)

D. Installation of new sliding pins in upper backup pin assemblies to improve the disengagement time during the passenger door opening/closing cycle. (Reference Fokker Service Bulletin (SB) F–28/52–44 dated April 9, 1974.)

E. To avoid false warnings that the rear cargo door is improperly closed which could lead to a decompression. (Reference Fokker Service Bulletin (SB) F–28/52–49, Revision 1, dated March 1, 1976.)

F. To ensure that the cargo operating handle always remains in the "fall in" position when the door is closed and locked. (Reference Fokker Service Bulletin (SB) F–28/52–51 dated September 3, 1974.)

G. To ensure that the cargo door locking mechanism reaches and maintains the overcenter position and remains locked and to add a temporary additional safety device. (Reference Fokker Service Bulletin (SB) F–28/52–53 dated May 10, 1974.)

H. To inspect the cargo door lock warning and locking mechanism for correct adjustment to ensure that the door is properly closed and to add a temporary safety pin. (Reference Fokker Service Bulletin (SB) F–28/52–54 dated July 1, 1974.)

I. To check for the presence of correctly adjusted parts in the door latching mechanisms to ensure that the door is properly closed (Reference Fokker Service Bulletin (SB) F–28/52–56 dated July 26, 1974.)

J. To install a safety catch on the rear cargo door. (Reference Fokker Service Bulletin (SB) F–28/52–61 dated May 21, 1975.)

K. To prevent jamming of the service/emergency door after operation of the emergency release mechanism. (Reference Fokker Service Bulletin (SB) F–28/52–66 dated April 12, 1976.)

L. To ensure correct operation of the cargo door warning system. (Reference Fokker Service Bulletin (SB) F–28/52–80, Revision 1, dated October 23, 1978.)

M. To ensure the door locking handle access panel cannot be closed when the safety catch is not engaged. (Reference Fokker Service Bulletin (SB) F–28/52–81 dated October 1, 1977.)

N. To reinforce speedbrake accumulator brackets so as to prevent cracking which could result in inflight failures. (Reference Fokker Service Bulletin (SB) F–28/53–4 dated May 19, 1970.)

O. To inspect and reinforce speedbrake supporting structure at frame station 22293 to prevent inflight failures. (Reference Fokker Service Bulletin (SB) F–28/53–19 dated July 27, 1971.)

P. To inspect speedbrake lower hinge arms to detect cracks. (Fokker Service Bulletin (SB) F–28/53–20, Revision 1, dated November 1, 1971.)

Q. To install a plastic separation screen between the lower part of the main junction box and cupboard in the right-hand cockpit ride wall where the crew oxygen bottle is stowed to prevent a possible fire hazard. (Reference Fokker Service Bulletin (SB) F–28/53–21 dated October 11, 1971.)

R. To inspect and rework speedbrake hinge fittings resulting from internal stresses and rough finish of the flash line to prevent fatigue failures. (Reference Fokker Service Bulletin (SB) F–28/53–26 dated March 20, 1972.)

S. To reinforce speedbrake supporting structure at frame station 22293 to prevent loss of the speedbrake. (Reference Fokker Service Bulletin (SB) F–28/53–27 dated November 6, 1972.)

T. To inspect and/or replace PLI or dural washers in cargo door latch fittings to ensure proper tightening of the door latch fittings. (Reference Fokker Service Bulletin (SB) F–28/53–54, Revision 3, dated October 11, 1976.)

U. To inspect, replace, or repair windshield parts for cracks in structure between fixed windshield and sliding window. (Reference Fokker Service Bulletin (SB) F–28/53–67, Revision 1, dated May 15, 1978.)

V. To replace PLI and dural washers with MS 2002 washers to ensure proper tightening of MS 21250 bolts in cargo door latch fitting assemblies. (Reference Fokker Service Bulletin (SB) F–28/51–10, Revision 1, dated July 11, 1975.)

W. To install connection angles in the torsion box at rib station 3800. (Reference Fokker Service Bulletin (SB) F–28/55–8, Revision 1, dated October 16, 1972.)

X. To inspect and modify the horizontal stabilizer hinge bearing mounting so that the bearings rotate properly and do not damage the attachment fittings. (Reference Fokker Service Bulletin (SB) F–28/55–14, Revision 1, dated March 15, 1974.)

Y. To install a low interference fit bronze hinge bushing in the horizontal stabilizer hinge brackets to prevent stress corrosion cracks from forming. (Reference Fokker Service Bulletin (SB) F–28/55–17 dated October 27, 1975.)

Z. To inspect the horizontal stabilizer hinge bolts for correct locking. If not properly locked, the nuts could back off, and the attachment bolts holding the stabilizer to the fin could migrate. (Reference Fokker Service Bulletin (SB) F–28/55–20 dated September 27, 1979.)

AA. To install an additional retaining device for the horizontal stabilizer hinge bolts to prevent bolt migration. (Reference Fokker Service Bulletin (SB) F–28/55–21 dated May 19, 1980.)

BB. To install a reinforcement on the rear spar in the collector tank area so that the life limit on the rear spar fittings can be removed. (Reference Fokker Service Bulletin (SB) F–28/57–3 dated January 7, 1971.)

CC. To inspect the inboard end rib at the aft support spigot of the inner flaps to detect cracks which could result in the loss of a flap. (Reference Fokker Service Bulletin (SB) F–28/57–19 dated March 10, 1971.)

DD. To inspect and rework the main landing gear support structure to prevent the loss of the gear. (Reference Fokker Service Bulletin (SB) F–28/57–24, Revision 1, dated November 1, 1971.)

EE. To install a strengthened upper flap rail at wing station 1700 so that the life limit on the rail can be removed. (Reference Fokker Service Bulletin (SB) F–28/57–29, Revision 3, dated October 6, 1975.)

FF. To balance the aileron servo tabs to prevent tab flutter if the extension rod fails. (Reference Fokker Service Bulletin (SB) F–28/57–33, Revision 1, dated February 24, 1972.)

GG. To inspect the main landing gear side stay bracket attach fittings for cracks to prevent the loss of the gear. (Reference Fokker Service Bulletin (SB) F–28/57–49, Revision 5, dated August 12, 1980.)

HH. To inspect the wing rear spar attach fittings for cracks and to repair the wing rear spar brackets. (Reference Fokker Service Bulletin (SB) F–28/57–58, Revision 3, dated October 9, 1979.)

II. To install chromium plated bolts and bronze bushings in the wing attach fittings to prevent stress corrosion cracks and to inspect the rear spar bracket lugs. (Reference Fokker Service Bulletin (SB) F–28/57–59 dated July 25, 1979.)

JJ. To reseal butt straps and boundary layer fences on the wing leading edge to prevent performance losses. (Reference Fokker Service Bulletin (SB) F–28/57–61 dated April 14, 1980.)

Other unsafe conditions are the subject of separate notices pertaining to Fokker Model F–28 airplanes.

Since these conditions are likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections, replacements, and modifications, as necessary, on certain Fokker Model F–28 airplanes. Each lettered paragraph of this proposed AD identifies the serial numbers of the airplanes affected, the

specific condition to which it is directed, and the related corrective action that would be required for resolution of this unsafe condition.

It is estimated that no airplane will be directly affected by this AD inasmuch as there is only one airplane of the specified serial numbers currently on the U.S. Register, and the operator of that airplane has previously performed the inspections, replacements, and modifications. Any other airplane of the specified serial numbers will be affected only if it is later entered on the U.S. Register, and if the inspections, replacements, and modifications have not been accomplished under the cognizance of the airworthiness authority of the country from which it is imported. For this reason, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291.

The Proposed Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Fokker B.V.: Applies to Fokker Model F–28 Series 1000 and 4000 airplanes, certificated in all categories, serial numbers as indicated below.

Note.—Some serial numbers listed below may actually be Series 2000, 3000, 5000, or 6000 airplanes that are not presently eligible for U.S. certification. If so, those serial numbers may be disregarded insofar as this AD is concerned.

1. Unless already accomplished, accomplish the following within the time specified in each paragraph below after the effective date of this AD.

A. (1) Applies to all F–28 airplanes upon the accumulation of 2000, 4000, and 5000 hours time in service (three separate inspections) or within 250 hours after the effective date of this AD, whichever occurs later. To detect fatigue damage, visually inspect the horizontal stabilizer, elevator, vertical stabilizer, rudder, speedbrakes, and fuselage tail section per Part I of the accomplishment instructions of Fokker Service Bulletin F–28/51–2, Revision 1, dated January 27, 1971. Repair damage per the service bulletin.

(2) Applies to all F–28 airplanes upon the accumulation of 5000 hours time in service or within 500 hours after the effective date of this AD, whichever occurs later. To detect fatique damage, perform a one-time visual inspection of the horizontal stabilizer, elevators, vertical stabilizer, rudder, and speed brakes per Part II of the accomplishment instructions of the service bulletin Repair damage per the service bulletin.

B. Applies to all F–28 airplanes. Compliance required within 50 hours after the effective date of this AD and every 1000 flight hours thereafter. Check and, if necessary, adjust the passenger door latch limit switches per Fokker Service Bulletin F–28/52–30, Revision 1, dated May 5, 1972.

C. Applies to F–28 airplanes S/N 11003–11084 and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Install an inspection window in the passenger door per Fokker Service Bulletin F–28/52–43, Part IV, dated April 16, 1974.

D. Applies to F–28 airplanes S/N 11003–11070, 11072–11074, and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Replace sliding pins in the passenger door per Fokker Service Bulletin F–28/52–44 dated April 9, 1974.

E. Applies to F–28 airplanes S/N 11021–11062 and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Install the improved switch operating mechanism in the rear, forward, and center cargo door rabbets per Parts I & II of Fokker Service Bulletin F–28/52–49, Revision 1, dated March 1, 1976.

F. (1) Applies to F–28 airplanes S/N 11003–11081 and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Install a reinforced safety catch and stop assembly on the front cargo door and the center cargo door, if installed, per Part I of Fokker Service Bulletin F–28/52–51 dated September 3, 1974.

(2) Applies to F–28 airplanes S/N 11021–11052, 11054–11061 and 11063–11076 inclusive, and S/N 11078, 11079, and 11191–11193 inclusive. Compliance required with six months after the effective date of this AD. Install a new safety catch and stop assembly on the rear cargo door per Part II of the service bulletin.

(3) Applies to F–28 airplanes S/N 11053, 11062, 11077, 11080, and 11081. Compliance required within six months after the effective date of this AD. Install a new safety catch and stop assembly on the rear cargo door per Part III of the service bulletin.

G. Applies to F–28 airplanes S/N 11003–11081 and 11991–11993 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Inspect the cargo door locking mechanism per Fokker Service Bulletin F–28/52–53 dated May 10, 1974.

H. Applies to F–28 airplanes S/N 11003–11020 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Inspect and adjust the cargo door lock warning and locking mechanism for correct functioning per Fokker Service Bulletin F–28/52–54 dated July 1, 1974. Install the temporary safety pin per the service bulletin.

I. Applies to F–28 airplanes S/N 11003–11081 and 11991–11993 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Inspect the cargo door latching mechanism and adjust, if necessary, per Fokker Service Bulletin F–28/52–56 dated July 26, 1974.

J. Applies to F–28 airplanes S/N 11003–11020 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Install a safety catch on the rear cargo door per Fokker Service Bulletin F–28/52–61 dated May 21, 1975.

K. Applies to F–28 airplanes S/N 11003–11076 inclusive if Fokker Service Bulletin F–28/52–55, Part I, has been incorporated. Compliance required within the next 500 flight hours time in service after the effective date of this AD, Modify the shape of the service emergency door secondary guide rails at fuselage STA 3670 per Fokker Service Bulletin F–28/52–66 dated April 12, 1976.

L. Applies to F–28 airplanes S/N 11003–11110 and 11991–11993 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Modify the shape of the secondary guide rails at fuselage STA 4610 per Fokker Service Bulletin F–28/52–80, Revision 1, dated October 23, 1978.

M. Applies to F–28 airplanes forward and center cargo doors—S/N 11003–11061, 11991–11993, and 11062–11101 inclusive if S/B F–28/52–51 has been incorporated; rear cargo door—S/N 11053, 11062, 11077, 11080 and 11081 if S/B F–28/52–51 has been incorporated and S/N 11090–11093, 11108–11112, and 11114–11116 inclusive, and S/N 11118, 11120–11124, and 11126–11128 inclusive, S/N 11130, 11133, 11135, and 11136–11141 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Reinforce the cargo door locking handle access panels per Fokker Service Bulletin F–28/52–81 dated October 1, 1977.

N. Applies to F–28 airplanes S/N 11003–11016 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Reinforce the speed brake accumulator brackets per Fokker Service Bulletin F–28/53–4 dated May 19, 1970.

O. Applies to F–28 airplanes S/N 11003–11051 and 11991–11994 inclusive. Compliance required upon the accumulation of 2000 flight hours or within 250 flight hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 250 flight hours, inspect the speed brake supporting structure at fuselage station 22293 for cracks per Part I of Fokker Service Bulletin F–28/58–19, dated July 27, 1971. If cracks are found, or upon the accumulation of 3000 hours time in service, or within 250 flight hours after the effective date of this AD, whichever occurs later, modify the speed brake supporting structure per Part II of the service bulletin.

P. Applies to F–28 airplanes S/N 11003–11029 and S/N 11991–11994 inclusive, and S/N 11031 if equipped with hinge arms with rivet holes for plastic form parts attachment. Compliance required within 150 flight hours after the effective date of this AD or upon accumulation of 1000 flight hours on the speedbrake assembly, whichever occurs later, and at intervals of 150 hours thereafter. Inspect the speedbrake lower hinge arms for cracks in accordance with Fokker Service Bulletin F–28/53–20, Revision 2, dated November 1, 1971. Repair damage per the service bulletin.

Q. Applies to F-28 airplanes S/N 11003-11020 inclusive and S/N 11991. Compliance required within 500 flight hours time in service after the effective date of this AD. Install a plastic separation screen and add ventilation provisions per Fokker Service Bulletin F-28/53-21 dated October 11, 1971.

R. Applies to F-28 airplanes S/N 1103-11071 and 11991-11994 inclusive. Compliance required within 500 hours time in service after the effective date of this AD and at intervals of 500 hours time in service thereafter. Inspect for cracks and rework, if necessary, the speed brake attach hinge fitting per Part I of Fokker Service Bulletin F-28/53-26, dated March 20, 1972. After Part II and III of the service bulletin have been accomplished, the 500 hour reinspecting interval can be increased to 1000 hours time in service.

S. Applies to F-28 airplanes S/N 11003-11051 and 11991-11994 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Reinforce the speedbrake support structure at frame station 22293 per Fokker Service Bulletin F-28/53-27 dated November 6, 1972.

T. (1) Applies to F-28 airplanes S/N 11020-11055, 11057-11061, and 11063-11071 inclusive, and S/N 11073, 11075, 11078, and 11991-11993 inclusive. Compliance required within 500 hours time in service after the effective date of this AD and at intervals of 250 flight hours thereafter until the modification in paragraph 2 has been carried out. Inspect the PLI washers in the rear cargo compartment latch brackets for correct installation per Part I of Fokker Service Bulletin F-28/53-54, Revision 3, dated October 11, 1976. If one or more washers per latch fitting are incorrectly installed, proceed with paragraph 2 of this AD within the next ten hours time in service.

(2) Applies to F-28 S/N 11020-11090 inclusive, 11092, and 11991-11993 inclusive. Compliance required within the next 1000 hours time in service after the effective date of this AD or within ten hours time in service if required by paragraph T.(1) above. Install MS washers and bolts in the cargo door latch fittings per the service bulletin.

(3) Applies to F-28 airplanes S/N 11033-11055, 11057-11061, and 11063-11071 inclusive, and S/N 11073, 11075, 11078, and 11991-11993 inclusive. Compliance required within the next 500 hours time in service after the effective date of this AD. Install MS washers and shorter bolts in the forward and center cargo door latch fittings per the service bulletin.

U. Applies to all F-28 airplanes. Compliance required upon the accumulation of 10,000 landings or within 500 hours after the effective date of this AD, whichever occurs later, and at intervals not to exceed 2500 landings thereafter. Inspect each windshield post for cracks per Part I of Fokker Service Bulletin F-28/53-67, Revision 1, dated May 15, 1978. If cracks are found, repair and reinspect per Parts II, III, IV, and V of the service bulletin. Installation of unlimited life windshield posts constitutes terminating action for this AD.

V. Applies to F-28 airplanes S/N 11003-11091 and 11991-11993 inclusive. Compliance required within 500 hours time in service after the effective date of this AD. To ensure the proper torquing of the MS 21250 bolts in the main entry door latch fittings, replace the dural washers with MS 20002 washers per Part V of Fokker Service Bulletin F-28/51-10, Revision 1, dated July 11, 1975.

W. Applies to F-28 airplanes S/N 11003-11025 inclusive and S/N 11991, 11992, and 11994. Compliance required within 500 flight hours after the effective date of this AD. To prevent stringer cracks, install connecting angles in the stabilizer torsion box at rib station 3800 per Fokker Service Bulletin F-28/55-8, Revision 1, dated October 10, 1972.

X. Applies to F-28 airplanes S/N 11003-11064 and 11991-11993 inclusive. Compliance required within six months after the effective date of this AD. To ensure proper functioning of the horizontal stabilizer hinge bearings, inspect the bearings per Part I of Fokker Service Bulletin F-28/55-14, Revision 1, dated March 15, 1974. If relative rotation does not occur between the bearings ball and the outer ring, modify the hinge bearing installation per Part II of the service bulletin within nine months of the inspection. If relative rotation does occur between the ball and the outer ring, the Part II modification must be accomplished within two years after the effective date of this AD.

Y. Applies to F-28 airplanes S/N 11003-11020, 11022-11025, and 11991-11993 inclusive. Compliance required within six months after the effective date of this AD. To prevent stress corrosion cracks, install bronze bushings in the stabilizer hinge brackets per Fokker Service Bulletin F-28/55-17 dated October 27, 1975.

Z. Applies to F-28 airplanes S/N 11003-11064 inclusive, 11991, and 11992. Compliance required within two months after the effective date of this AD. To ensure the stabilizer hinge bolts are correctly installed, inspect for correct locking per Fokker Service Bulletin F-28/55-20 dated September 27, 1979.

AA. Applies to F-28 airplanes as follows: S/N 11003-11145 inclusive and S/N 11147, 11150, 11151, 11991, and 11992. Compliance required within six months after the effective date of this AD. To prevent the loss of the stabilizer hinge bolts if the nut has backed off, install an additional retaining device per Fokker Service Bulletin F-28/55-21 dated May 19, 1980.

BB. Applies to F-28 airplanes S/N 11003-11016 inclusive. Compliance required upon the accumulation of 8000 landings or within 500 hours after the effective date of this AD, whichever occurs later. To prevent fatigue cracks in the wing rear spar fitting in the area of the collector tank, modify the structure per Fokker Service Bulletin F-28/57-3 dated January 7, 1971.

CC. Applies to F-28 airplanes S/N 11003-11020 inclusive. Compliance required upon the accumulation of 2000 landings or within 500 landings after the effective date of this AD, whichever occurs later, and at intervals of 1000 landings thereafter. To detect fatigue cracks in the inner flap inboard end rib, inspect per Fokker Service Bulletin F-28/57-19 dated March 10, 1971.

DD. Applies to F-28 airplanes S/N 11003-11041 and 11991-11994 inclusive equipped with pre S/B F-28/57-28 side stay brackets. Compliance required within the next 250 landings after the effective date of this AD or as follows, whichever occurs later: for airplanes operating at MTOW of 63,000 lbs., upon the accumulation of 3500 landings and thereafter at intervals not to exceed 3000 landings; for airplanes operating at MTOW of 65,000 lbs., upon the accumulation of 2500 landings and thereafter at intervals not to exceed 2000 landings. To detect fatigue cracks in the main landing gear support structure, inspect in accordance with Fokker Service Bulletin F-28/57-24, Revision 1, dated November 1, 1981. Repair cracks per the service bulletin.

EE. Applies to F-28 airplanes S/N 11011-11031 and 11991-11993 inclusive. Compliance required within the next 250 landings after the effective date of this AD or upon the accumulation of 4500 landings, whichever occurs later. Install the strengthened upper flap rail per Fokker Service Bulletin F-28/57-29, Revision 3, dated October 6, 1975.

FF. Applies to F-28 airplanes S/N 11003-11038 and 11991-11994 inclusive. Compliance required within six weeks after the effective date of this AD. Balance the aileron servo tabs per Fokker Service Bulletin F-28/57-33, Revision 1, dated December 2, 1972.

GG. Applies to F-28 airplanes S/N 11003-11123, and 11991-11993 inclusive, and S/N 11126 unless SB F-28/57-33 has been accomplished. Compliance required within six weeks after the effective date of this AD and thereafter at intervals not to exceed 1000 landings. Visually inspect the main landing side stay bracket for cracks per Part I of Fokker Service Bulletin F-28/57-49, Revision 5, dated August 12, 1980.

HH. Applies to F-28 airplanes S/N 11003-11123 inclusive, 11126, 11991, and 11992 which have accumulated 15,000 landings. Compliance required within two months after the effective date of this AD. To detect cracks in wing rear spar brackets, inspect per Fokker Service Bulletin F-28/57-56, Revision 3, dated October 9, 1979. Repair cracks in accordance with the service bulletin.

II. Applies to F-28 airplanes S/N 11003-11123 inclusive and S/N 11126, 11991, and 11992. Compliance required within six months after the effective date of this AD. To minimize the chance of cracking bracket lugs, install chromium plated bolts and bronze bushings and inspect left-hand and right-hand rear spar bracket lugs per Fokker Service Bulletin F-28/57-59 dated July 25, 1979. Repair cracked lugs in accordance with the service bulletin.

JJ. Applies to F-28 airplanes S/N 11111-11145 inclusive and S/N 11147, 11148, 11150, and 11151. Compliance required within three months after the effective date of this AD. To prevent performance deterioration, reseal the butt straps and boundary layer fences on the wing leading edge sections per Fokker Service Bulletin F-28/57-61 dated April 14, 1980.

2. Alternative means of compliance with this AD, which provides an equivalent level of safety, may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the

accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291, because of its minimal economic impact, as summarized earlier in this document. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaulation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT." In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule, at promulgation, will not have a significant impact on a substantial number of small entities, since it involves few, if any, small entities.

Issued in Seattle, Washington, on January 20, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-2270 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-1]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Transition Area: Kingsville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Kingsville, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing instrument approach procedures to the NAS Kingsville and Kleberg County Airports. This action is necessary to properly describe the necessary airspace required for protection of aircraft arriving/departing these airports.

DATE: Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in the **Federal Register** on January 2, 1981 (46 FR 540), contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity . Alteration of the transition area at Kingsville, TX, will necessitate an amendment to this subpart. This amendment will be required at Kingsville, TX, since the required airspace is improperly described and inadequate for the protection of aircraft operating on IFR flights.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Kingsville, TX

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of NAS Kingsville (latitude 27°30'11" N., longitude 97°48'25" W.); within 3.5 miles each side of the Kingsville UHF radio beacon 199°bearing, extending from the 8.5-mile radius area to 22 miles south of the airport; and within a 6.5-mile radius of Kleberg County Airport (latitude 27°33'09" N., longitude 98°01'40" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulation for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 21, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-2618 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-2]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area: Alice, TX; Proposed Revocation of Transition Area: Orange Grove, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Alice, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the Alice International Airport and NALF Orange Grove. This action is necessary since there is no transition area designated for the Alice International Airport and revision to the NALF Orange Grove is necessary for the protection of aircraft arriving/departing these airports on instrument flight rules (IFR) flights.

DATE: Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in the **Federal Register** on January 2, 1981 (46 FR 540), contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Alice, TX, and revocation of the transition area at Orange Grove, TX, will necessitate an amendment to this subpart. This amendment will be required at Alice, TX, since there is no 700-foot transition area designated at Alice and an amendment to the transition area at the NALF Orange Grove is necessary for the protection of aircraft operating on IFR flights.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revoking Orange Grove, TX, and adding the following:

Alice, TX

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Alice International Airport (latitude 27°44'26" N., longitude 98°01'42" W.) and a 6.5-mile radius of the NALF Orange Grove (latitude 27°54'03" N. longitude 98°03'05" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) as promulgation, will not have significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 21, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-2419 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWA-13]

Proposed Renumbering of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to renumber certain alternate VOR Federal Airways in the central part of the U.S. This action would eliminate the assignment of alternate airway segments for the affected airways. It is in accordance with International Civil Aviation Organization (ICAO) agreement to phase out alternate airways from the National Airspace System.

DATE: Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 81-AWA-13, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is

located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AWA-13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V-4S, V-4N, and V-6S. There would be no change in the amount of designated controlled airspace as a result of this action. The alternate airway segments are renumbered to eliminate the use of alternate airway assignments. This action would be in accordance with ICAO agreement to phase out alternate airways from the National Airspace System. Section 71.123 of Part 71 was republished on January 2, 1981 (46 FR 409).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) as follows:

1. V-4 [Amended]

By deleting the words ", including a south alternate via Hayes," and ", including a N alternate from the INT of Salina 080° and Manhattan, KS, 213° radials to Topeka via Manhattan and the INT of Manhattan 076° and Topeka 293° radials" and ", including a S alternate via INT Topeka 099° and Kansas City 231° radials"

2. V-116 [Amended]

By deleting the words "From INT Kansas City, MO, 076° and Nepoleon, MO, 005° radials via Macon, MO;" and substituting for them the words "From Hill City, KS; Hays, KS; Salina, KS; INT Salina 080° and Manhattan, KS, 213° radials; Manhattan; INT Manhattan 076° and Topeka, KS, 293° radials; Topeka; INT Topeka 099° and Kansas City 076° and Nepoleon, MO, 005° radials; Macon, MO;"

3. V-6 [Amended]

By deleting the words "; Des Moines, IA; Iowa City, IA, including a S alternate via INT Des Moines 112° and Iowa City 252° radials;" and substituting for them the words "; Des Moines, IA; Iowa City, IA;"

4. V-498 [New]

By adding "V-498 From Des Moines, IA, via INT Des Moines 112° and Iowa City, IA, 252° radials; to Iowa City."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-2437 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 81-AWP-29]

Proposed Alteration of Restricted Areas, R-2531A and R-2531B—Tracy, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the time of use of Restricted Areas R-2531A and R-2531B, Tracy, CA. An extension of the daily hours of use and a provision for use of the areas on Saturday and Sunday by notice to airmen (NOTAM) is needed to meet operational priorities. This action will result in more efficient and economic use of the airspace by reducing the burden caused by technical delays and restrictive atmospheric conditions.

DATE: Comments must be received on or before March 3, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western/Pacific Region, Attention: Chief, Air Traffic Division, Docket No. 81-AWP-29, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written date, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particulary helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AWP-29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed on the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 73.25 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to amend the time of designation of Restricted Areas R-2531A and R-2531B, Tracy, CA, by changing the hours of use to read "1000 to 2050 local time, Monday through Friday, and occasionally on Saturday and Sunday when activated by NOTAM at least 24 hours in advance." Present use restrictions create an undue economic burden when program requirements are delayed due to technical problems or unfavorable atmospheric conditions. Essential test requirements of the Department of Energy are impaired and operational costs are significantly increased when scheduled testing is not completed. This action will provide increased flexibility to reschedule around unfavorable atmospheric conditions, reduce program delays, and assure more economic and efficient use of the airspace. Section 73.25 of Part 73 was republished on January 2, 1981, (46 FR 787).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.25 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 787) as follows:

R-2531A Tracy, CA [Amended]

Under time of designation by deleting the words "1000 to 1800 local time, Monday through Friday." and substituting for them the words "1000 to 2050 local time, Monday through Friday and occasionally on Saturday and Sunday when activated by NOTAM at least 24 hours in advance."

R-2531B Tracy, CA [Amended]

Under time of designation by deleting the words "1000 to 1800 local time, Monday through Friday." and substituting for them the words "1000 to 2050 local time, Monday through Friday and occasionally on Saturday and Sunday when activated by NOTAM at least 24 hours in advance."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1982.

B. Keith Potts,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-2470 Filed 1-29-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

Solicitation of Written Comments on Proposed Rule Changes

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Proposed rule.

SUMMARY: Written public comments are solicited on the following proposed rule changes:

(1) Eliminate Forms BE-578, Transactions of U.S. Reporter with Unincorporated Foreign Affiliate, Except a Bank, and BE-578B, Transactions of U.S. Reporter with Unincorporated Foreign Banking Affiliate; instead, unincorporated foreign affiliates—bank and nonbank—will report on Form BE-577. The title, instructions, and data sections of Form BE-577 will be changed to accommodate use of that form by unincorporated affiliates.

(2) Raise the exemption level for Form BE-577 (as revised) from $5,000,000 to $10,000,000.

(3) Introduce special exemption criteria to reduce the number of BE-577 reports required to be filed by U.S. Reporters to report direct transactions with foreign affiliates in which they do not hold a direct equity interest.

(4) Modify the BE-13, Report on a Foreign Person's Establishment, Acquisition, or Purchase of the Operating Assets of a U.S. Business Enterprise, Including Real Estate, to eliminate the reporting of much of the statistical data presently contained in Forms BE-13A and BE-13B. As a result, Forms BE-13A and BE-13B will be combined into one report—Form BE-13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate.

(5) Change the title of Form BE–15 from "Interim Survey of Foreign Direct Investment in the U.S." to "Annual Survey of Foreign Direct Investment in the U.S." and eliminate from the regulations the specific reference that 1977 was the first year of coverage.

EFFECTIVE DATE: Written comments must be received by BEA no later than March 3, 1982.

ADDRESS: Written comments should be addressed to the U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE–50–OC), Washington, D.C. 20230. All comments in response to this notice will be available for public inspection from 8:00 a.m. to 4:00 p.m. in room 608, 1401 K Street, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523–0657.

SUPPLEMENTARY INFORMATION: The changes relating to Forms BE–577, BE–578, and BE–578B will be effected commencing on January 1, 1982 for reports covering reporting periods occurring in 1982. The changes relating to the BE–13 report will be effected commencing on January 1, 1982 for reports covering transactions occurring in 1982. The overall effect of these changes is a reduction in reporting burden.

The title of Form BE–15 will be changed on the annual report for 1981.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the revised forms will be submitted to OMB for approval. OMB will put a notice in the **Federal Register** that they have received the forms for clearance and give the public a period of time in which to comment. Copies of revised Forms BE–577, BE–13, and BE–15 are not included with this notice.

The Bureau of Economic Analysis has determined that these proposed rule changes are not "major" under Executive Order 12291. The public use burden will be undertaken within the Department of Commerce allocated FY 1982 Information Collection Budget ceiling.

Regulatory Flexibility Act—The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to these proposed rule changes because they will not have a significant economic impact on a substantial number of small entities. In fact, the opposite is true, the burden is being reduced, either by increasing the exemption level or reducing the amount of data collected on existing report forms.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed rule changes will not have a significant economic impact on a substantial number of small entities.

Part 806 is therefore modified as set forth below.

George Jaszi,

Director, Bureau of Economic Analysis.

PART 806—DIRECT INVESTMENT SURVEYS

1. In § 806.14, the present paragraph (e) is revised to read as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(e) *Quarterly report form.* (1) BE–577—Transactions of U.S. Reporter with Foreign Affiliate: One report is required for each foreign affiliate exceeding an exemption level of $10,000,000, except that a report need not be filed by a U.S. Reporter to report direct transactions with one of its foreign affiliates in which it does not hold a direct equity interest unless an intercompany balance or fee and royalty receipts or payments for the quarter exceed $1,000,000.

2. In § 806.15, present paragraphs (i) and (j)(3) are revised to read as follows:

§ 806.15 Foreign direct investment in the United States.

* * * * *

(i) *Annual report form.* BE–15—Annual Survey of Foreign Direct Investment in the United States: One report is required for each consolidated U.S. affiliate, except a bank, exceeding an exemption level of $5,000,000, except that a U.S. affiliate which owns 200 acres or more of U.S. land must report regardless of the value of the items on which the exemption level is based, i.e., total assets; sales or gross operating revenues, excluding sales taxes; and net income after income taxes, whether positive or negative. U.S. affiliates that are banks are exempt from the reporting requirements of this survey.

(j) *Other report forms.*

* * * * *

(3) BE–13—Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate. This report is to be filed either:

(i) By a U.S. business enterprise when a foreign person establishes or acquires directly, or indirectly through an existing U.S. affiliate, a 10 percent or more voting interest in that enterprise, including an enterprise that results from the direct or indirect acquisition by a foreign person of a business segment or operating unit of an existing U.S. business enterprise that is then organized as a separate legal entity; or

(ii) By the existing U.S. affiliate of a foreign person when it acquires a U.S. business enterprise, or a business segment or operating unit of a U.S. business enterprise, that the existing U.S. affiliate merges into its own operations rather than continuing or organizing as a separate legal entity.

A separate report must be filed for each foreign parent or existing U.S. affiliate that is a party to the transaction.

Exclusions and Exemptions

(a) Residential real estate held exclusively for personal use and not for profitmaking purposes is not subject to the reporting requirements. A residence which is an owner's primary residence that is then leased by the owner while outside the United States but which the owner intends to reoccupy, is considered real estate held for personal use. Ownership of residential real estate by a corporation whose sole purpose is to hold the real estate and where the real estate is for the personal use of the individual owner(s) of the corporation, is considered real estate held for personal use.

(b) An existing U.S. affiliate is exempt from reporting the acquisition of either a U.S. business enterprise, or a business segment or operating unit of a U.S. business enterprise, that it then merges into its own operations, if the total cost of the acquisition was $1,000,000 or less and does not involve the purchase of 200 acres or more of U.S. Land. (If the acquisition involves the purchase of 200 acres or more of U.S. land, it must be reported regardless of the total cost of the acquisition.)

(c) An established or acquired U.S. business enterprise, as consolidated, is exempt if its total assets (not the foreign parent's or existing U.S. affiliate's share) at the time of acquisition or immediately after being established were $1,000,000 or less and it does not own 200 acres or more of U.S. land. (If it owns 200 acres or more of U.S. land, it must report regardless of the value of total assets.)

If exempt under (b) or (c), the existing U.S. affiliate or the established or acquired U.S. business enterprise must, nevertheless, file an "Exemption Claim, Form BE–13" to validate the exemption.

3. In § 806.15(j)(4), paragraphs (A) and (B) are redesignated (i) and (ii) and in § 806.15(j)(4), the second undesignated paragraph, which presently reads: "If a U.S. person required to file a Form BE–14 files either Form BE–13A or Form BE–13B relating to the acquisition of the U.S. business enterprise by a foreign person, then Form BE–14 is not required."; should be changed to read as follows and should be made a part of the preceding paragraph.

"If a U.S. person required to file a Form BE–14 files Form BE–13 relating to the acquisition of the U.S. business enterprise by a foreign person, then Form BE–14 is not required."

[FR Doc. 82–2473 Filed 1–29–82; 8:45 am]
BILLING CODE 3510–06–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File Nos. 802 3049 and 802 3226]

Mastic Corporation and Vinyl Improvement Products Co.; Proposed Consent Agreements with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent orders, accepted subject to final Commission approval, would require, among other things, Mastic Corporation and Vinyl Improvement Products Company (VIPCO), manufacturers and sellers of residential vinyl siding products, to cease paying for or disseminating any advertisement for vinyl siding that contains an energy related claim. The orders would require both firms to distribute a copy of the order to all personnel engaged in the promotion of vinyl siding. Further, VIPCO would be required to mail to each business entity which has sold or distributed its products during the previous year, a letter which advises that vinyl siding by itself does not save energy. Mastic Corporation would be required to provide its distributors and retailers with a copy of the order, together with a letter explaining its provisions.

DATE: Comments must be received on or before April 2, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PE, Michael Dershowitz, Washington, D.C. 20580. (202) 724–0726.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principl office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

In the matter of Mastic Corporation, File No. 802–3049; agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Mastic Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Mastic Corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Mastic Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 131 South Taylor Street, South Bend, Indiana 46624.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this order, the following definitions shall apply:

"Advertisement" means any illustration, depiction, written or oral statement, or other representation, whether the same appears in a television or radio broadcast, newspaper or label, brochure, leaflet, circular, mailer, book insert, journal, catalog, sales promotion material, other periodical literature, billboard, public transit card, point of purchase display, or in any other media.

"Energy related claim" means any general or specific representation that,

directly or by implication, describes or refers to energy savings, efficiency or conservation, fuel savings, insulating value, air infiltration, conductance of heat, or heat gain or loss.

"Vinyl siding product" means any vinyl siding product made from vinyl and used for residential purposes, and includes siding which is directly backed with material such as backerboard or drop-in panels. For purposes of this order, "vinyl siding product" does not include "siding systems," which are a combination of vinyl siding and any other product(s) which contain "insulation" as that word is defined by the Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation, 16 CFR Part 460 (1980).

Part I

It is ordered that respondent Mastic Corporation, a corporation, its successors and assigns, and its officers, agents, representatives and employees directly of through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale of distribution of any vinyl siding product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating, causing to be disseminated, or paying in whole or in part for any advertisement which contains an energy related claim.

Part II

It is further ordered that for a period of five years following the date of service of this Order, respondent deliver a copy of this Order to all present and future employees, personnel, or agents and representatives of respondent engaged in the creation, design, printing or dessemination of any advertisement promoting respondent's vinyl siding products; and that respondent obtain a signed statement acknowledging receipt of the order from each said person or entity.

Part III

It is further ordered that respondent shall:

1. Within thirty (30) days after the date of service of this order, send the following material via first class mail to every person or firm that has been a distributor of respondent's vinyl siding products during the year prior to the date of service of this order, and to every person or firm that has been a retailer of respondent's vinyl siding products that respondent can identify from the warranty registration cards which, between July 1980, and the date of service of this order, were both issued by and returned to respondent.

a. A copy of this order, and

b. A cover letter which informs the recipient in plain and readily understood language that Mastic has agreed with the Federal Trade Commission not to make energy related claims for its vinyl siding products, that the recipent should make no energy related claims for Mastic's vinyl siding products in the future, and that the recipient should stop using any Mastic promotional material which contains any energy related claims.

2. Supply to the Federal Trade Commission upon request the names and addresses of those parties to whom respondent distributed the material required by Paragraph 1 of Part III of this order.

Part IV

It is further ordered, that respondent notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries of any other change in the corporation which may affect compliance obligations arising out of this order.

Part V

It is further ordered, that the respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

In the Matter of Vinyl Improvement Products Company, a corporation, File No. 802–3226; agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Vinyl Improvement Products Company, a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Vinyl Improvement Products Company by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Vinyl Improvement Products Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 1441 Universal Drive, Columbus, Ohio 43207.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in

construing the terms of the order, and no agreement, understanding, representation, of interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this order, the following definitions shall apply:

"Advertisement" means any illustration, depiction, written or oral statement, or other representation, whether the same appears in a television or radio broadcast, newspaper or label, brochure, leaflet, circular, mailer, book insert, journal, catalog, sales promotion material, other periodical literature, billboard, public transit card, point of purchase display, or in any other media.

"Energy related claim" means any general or specific representation that, directly or by implication, describes or refers to energy savings, efficiency or conservation, fuel savings, insulating value, air infiltration, conductance of heat, or heat gain or loss.

"Vinyl siding product" means any vinyl siding product made from vinyl and used for residential purposes, and includes siding which is directly backed with material such as backerboard or drop-in panels. For purposes of this order, "vinyl siding product" does not include "siding systems," which are a combination of vinyl siding and any other product(s) which contain "insulation" as that word is defined by the Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation, 16 CFR Part 460 (1980).

Part I

It is ordered that respondent Vinyl Improvement Products Company, a corporation, its successors and assigns, and its officers, agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any vinyl siding product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from disseminating, causing to be disseminated, or paying in whole or in part for any advertisement which contains an energy related claim.

Part II

It is further ordered that respondent forthwith deliver a copy of this order to all present and future employees, personnel, or agents and representatives of respondent engaged in the creation, design, printing or dissemination of any advertisement promoting respondent's vinyl siding products; and that respondent obtain a signed statement acknowledging receipt of the order from each said person or entity.

Part III

It is further ordered that respondent shall:

1. Within thirty (30) days from the date of service of this order, send on Vinyl Improvement Products Company stationery, via first class mail, the letter attached hereto as Exhibit A, to each business entity which respondent's records show has been engaged in the offering for sale, sale or distribution of respondent's vinyl siding products directly or indirectly to the consuming public within one year prior to the date of service of this order; and

2. Supply to the Federal Trade Commission upon request the names and addresses of those parties to whom respondent distributed the material required by Paragraph 1 of Part III of this order.

Part IV

It is further ordered, that respondent notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

Part V

It is further ordered, that the respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Exhibit A—On VIPCO Stationary

Dear Distributor or Retailer:

Some of the promotional materials which have been used for vinyl siding have contained claims that vinyl siding can produce energy savings. Because vinyl siding, by itself, does not save energy, we no longer make such claims. This is to advise you that you should stop representing that vinyl siding, itself, is an energy savings material.

You should note, however, that this applies only to energy savings claims made for vinyl siding alone, and not to advertising for insulation products such as Barrier Board. The labeling and advertising of insulation is covered by the FTC Home Insulation Rule. Please remember that the Rule requires that the Fact Sheets we have distributed for Barrier Board must be given to the ultimate consumer whenever this product is sold. If you have any questions about the materials we have provided, or advertisements that you have developed, we would be pleased to advise you on such matters.

Sincerely, Vinyl Improvement Products Company (VIPCO).

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted agreements to proposed consent orders from Mastic Corporation and the Vinyl Improvement Products Co. (VIPCO).

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreement's proposed orders.

The complaints in this matter concern advertising and promotional claims about energy savings made by Mastic and VIPCO for their residential vinyl siding products. Vinyl siding is used as an exterior siding material, most often for residing applications, rather than for new home construction. The complaints, which were placed on the public record by the Commission along with the proposed consent orders, allege that Mastic and VIPCO have distributed advertisements and promotional materials which contain false, unfair, and deceptive claims about their vinyl siding products. The proposed consent orders are designed to prohibit these violations in the future.

The complaints allege that Mastic and VIPCO advertised, falsely and without a reasonable basis, that their vinyl siding products would save energy, cut fuel bills, and be a better insulator, than aluminum or steel siding. The proposed consent orders prohibit Mastic and VIPCO from making any energy savings claims in the future for their vinyl siding products unless those products actually are used with insulation. If insulation is used, the Commission's Trade Regulation Rule concerning the Advertising and Labeling of Home

Insulation (16 CFR Part 460) requires that any energy savings claim be fully substantiated and that certain disclosures be made.

The complaints also allege that the energy savings claims used by Mastic and VIPCO have also been used by their distributors, and retailers, in promoting Mastic's and VIPCO's products. In the orders, both companies have agreed to notify their distribution networks about the proposed orders and their contents. This requirement should help ensure that the distribution networks do not continue to make energy savings claims for Mastic's and VIPCO's vinyl siding products.

Both Mastic and VIPCO remain free under the proposed consent orders to represent accurately other features of their vinyl siding products.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-2459 Filed 1-29-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271, 273 and 274

[Docket No. RM 82-8]

High Cost Natural Gas Produced From Intermediate Deep Drilling; Extension of Time for Comments

AGENCY: Federal Energy Regulatory Commission, DOE.

SUMMARY: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On December 30, 1981, the Commission issued a Notice of Proposed Rulemaking involving high cost natural gas produced from intermediate deep drilling (47 FR 638, January 6, 1982). The comment period is being extended at the request of Tenneco Oil Company and interested natural gas producers.

DATE: Comments must be submitted on or before March 15, 1982.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary (202) 357-8400.

SUPPLEMENTARY INFORMATION: January 22, 1982.

On January 15, 1982, a motion was filed with the Commission by Tenneco Oil Company on behalf of interested natural gas producers (Producers) for an extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued December 30, 1981, in the above-docketed proceeding. The motion states that the Producers require additional time in order to evaluate relevant cost data and supporting evidentiary material and to incorporate this information into their comments.

Upon consideration, notice is hereby given that an extension of time for the filing of comments is granted to and including March 15, 1982.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2478 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Vessels in Foreign and Domestic Trades; Proposed Alternative Evidentiary Requirements

Correction

In FR Doc. 82-1712, at page 3374 in the issue of Monday, January 25, 1982, make the following corrections:

(1) On page 3374, in the last column, under the "Background" heading, the fourth paragraph, designated (iii), correct "additioin" to read "addition".

(2) On page 3375, the last column, correct the section number in the regulatory text now reading "§ 4.19 [Amended]" to read "§ 4.14 [Amended]".

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 203

Registration of Agencies for Voluntary Foreign Aid

AGENCY: Agency for International Development, IDCA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Agency for International Development ("AID") is extending the comment period to provide for comments on the effect of the proposed rule of section 309 of the International Security and Development Cooperation Act of 1981, Pub. L. 97-113 regarding registration of Agencies for voluntary foreign aid.

DATE: Comments must be submitted on or before March 3, 1982.

ADDRESS: Comments should be submitted to: Robert S. McClusky, Agency for International Development, FVA/PVC/PLD, Room 227, SA-8, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT: Robert S. McClusky, (703) 235-1844.

SUPLEMENTARY INFORMATION: On December 8, 1981, the Agency published in the **Federal Register** (46 FR 60009-13) a proposed revision of Part 203. Comments were to be received on or before January 7, 1982.

However, on December 29, 1981, the International Security and Development Cooperation Act of 1981 became law. Section 309 of that Act amended Section 123 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151u, by adding, *intere alia* a new subsection (g) as follows:

(g) After December 31, 1984, funds made available to carry out section 103(a), 104(b), 104(c), 105, 106, 121, or 491 of this Act may not be made available for programs of any United States private and voluntary organization which does not obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government, except that this restriction does not apply with respect to programs which, as of that date, are receiving financial support from the agency primarily responsible for administering this part. The Administrator of the agency primarily responsible for administering this part may, on a case-by-case basis, waive the restriction established by this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency primarily responsible for adminstering this part.

The legislative history of section 309 indicates that the term "financial support" does not include the value of in-kind support, services of volunteers or commodities made available to the organization for overseas distribution. *Conference Report on S. 1196, International Security and Development*

Cooperation Act of 1981, 127 Cong. Rec. H. 9662 (daily ed. December 15, 1981). The legislative history also indicates that the term "programs of U.S. PVO's" refers only to those PVO-initiated activities, funded or partially funded by the Agency for International Development, for which AID requires the private voluntary organization to be registered and excludes subventions, such as ocean freight, and grants in support of specific AID programs. *Id.*

The 20 percent requirement of section 123(g) is similar to Condition 2 of the proposed rule (see § 203.2(b)). The principal difference is that under section 123(g) of the FAA at least 20 percent must be from sources "other than the U.S. Government" while § 203.2(b) requires the 20 percent to be from "private U.S. sources." Therefore, section 123(g) of the FAA would allow contributions from foreign institutions or governments and public international organizations. We would welcome public comment on the desirability of AID's following the legislative standard in the final rule. In addition, the effective dates of the 20 percent requirements are different. The 20 percent requirement of section 123(g) would not become effective until after December 21, 1984. Under the proposed rule, an organization seeking registration for the first time would have to comply with the 20 percent requirement immediately and organizations registered as of the effective date of the final rule would have three years to comply with the 20 percent requirement. Comment is invited on AID's following the legislative standard in the final rule and not imposing the 20 percent requirement of section 123(g) until January 1, 1985.

Another difference is that the proposed rule would require organizations seeking subventions to comply with all of the conditions of registration, including the 20 percent requirement. The legislative history of section 123(g) indicates that the 20 percent requirement of section 123(g) should not apply to subventions. We would invite public comment on AID's following the legislative history in the final rule, and thereby applying the 20 percent requirement of section 123(g) only to "registered PVO grants." (See § 203.1(b) of the proposed rule.)

Charles L. Gladson,

Acting Assistant Administrator for Food for Peace and Voluntary Assistance.

[FR Doc. 82-2487 Filed 1-29-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 230

[FHWA Docket No. 81-9]

Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The current regulations include provisions for supportive services which are intended to improve the effectiveness of on-the-job training by Federal-aid highway construction contracts. The FHWA is seeking comments on these supportive services provisions in an attempt to determine whether they should be eliminated or whether and how they should be modified.

DATE: Comments must be received on or before April 2, 1982.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 81-9, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., e.s.t., Monday through Friday. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth L. Ziems, Office of Highway Operations, 202-426-4847 or Mr. Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Supportive services include, but are not limited to: (1) Services related to recruiting, counseling, transportation, physical examinations, remedial training; (2) services in connection with the administration of on-the-job training programs; (3) services designed to develop the capabilities of prospective trainees to undertake on-the-job training; (4) services in connection with providing a continuation of training during seasonal shutdowns; and (5) services to determine the outcome of training being provided. The supportive services are normally provided by contractors under contracts awarded by the State highway agencies. Since 1972, the FHWA has allocated in annual increments, approximately $45.5 million to the State highway agencies for supportive services.

The FHWA has been concerned with the need to conclusively determine whether the supportive services are achieving their intended purpose on a nationwide basis. Accordingly, it recently asked the Office of the Inspector General, U.S. Department of Transportation, to make a review and determination on the matter. That office granted the request, carried out the review, and concluded that the value of supportive services toward increasing the effectiveness of highway construction training programs is questionable. It, therefore, recommended that the FHWA consider (1) eliminating the supportive services program; (2) restructuring the program; or (3) seeking an interagency agreement to obtain supportive services through the Department of Labor's Targeted Outreach Program. Subsequently, the FHWA Office of Civil Rights prepared an analysis of the FHWA skills training and supportive services programs indicating that the program has beneficial aspects. Copies of both reports are available at the FHWA Docket No. 81-9.

In consideration of the foregoing, the FHWA solicits comments on its supportive services provisions. In particular, it requests comments on: (1) The effectiveness or lack of effectiveness of the provisions; (2) whether they should be eliminated; (3) whether and how they should be restructured; and (4) whether an interagency agreement should be sought to obtain supportive services through the Department of Labor's Targeted Outreach Program.

The Federal Highway Administration has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. The FHWA has further determined that it does not have adequate information at this time to prepare a regulatory evaluation and, therefore, specifically solicits information which will assist in the analysis of alternatives available to it as indicated in the four points referred to immediately above. The FHWA further requests information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities.

(23 U.S.C. 140, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95, regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on January 21, 1982.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82–2420 Filed 1–29–82; 8:45 am]

BILLING CODE 4910–22–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81–818; RM–3960, 4033, 4034]

FM Broadcast Station in Naples, Marco and Key West, Fla.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and order to show cause; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments and for responding to an Order to Show Cause in a proceeding involving a proposed channel substitution in Naples, Florida, in response to a request from Sterling Communications Corporation.

DATES: Response to the Order to Show Cause and comments must be filed on or before January 28, 1982, and reply comments must be filed on or before February 11, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Naples, Marco [1] and Key West [1], Florida); BC Docket No. 81–818, RM–3960, RM–4033 [2], RM–4034 [3].

[1] This community has been added to the caption.

[2] A counterproposal was filed in response to the Notice by Number 1 Broadcasting, Inc. on January 18, 1982, seeking assignment of Channel 276A to Naples, Florida, as an additional channel rather than as a substitute for Channel 249A at Naples.

[3] A counterproposal was received from Sunshine Broadcasting, Inc. to assign Channel 276A to Marco, Florida, instead of to Naples, Florida, or to assign Channel 224A Marco and substitute Channel 222 for Channel 223 at Key West, Florida.

Order Extending Time for Filing Comments and Reply Comments

Adopted: January 21, 1982.
Released: January 26, 1982.

1. On November 19, 1981, the Commission adopted a Notice of Proposed Rule Making and Order to Show Cause, 46 FR 59557, published December 7, 1981, in the above-captioned proceeding. Comments were due January 18, 1982, and reply comments are currently due February 1, 1982.

2. We now have before us for consideration a motion filed on January 18, 1982, by Sterling Communications Corporation (SCC), licensee of FM Station WSGL, Naples, Florida, for an extension of time in which to respond to the Order to Show Cause issued to it herein, as well as to file initial comments, to and including January 28, 1982. Counsel for SCC states that additional time is needed since recent unfavorable weather conditions have delayed meetings in which matters concerning the Order to Show Cause are to be resolved. Counsel further indicates that counsel for the other parties to this proceeding have been contacted and indicated they will interpose no objection to the instant request.

3. Section 1.46(b) of the Rules states that extension requests must be filed seven days in advance of the deadline. Although this request was not received within the required time period, the Commission believes that it would be in the public interest to have this material available to it in arriving at a decision herein. Additionally, such extension will provide the parties an opportunity to respond to the two counterproposals filed herein, by the date set forth below for filing reply comments. Therefore, we will grant the request.

4. Accordingly, it is ordered, that the time for responding to the Order to Show Cause herein, and to file comments and reply comments in BC Docket No. 81–818 (RM–3960, RM–4033, RM–4034) is extended to and including January 28, 1982, and February 11, 1982, respectively.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–2490 Filed 1–29–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR PART 73

[BC Docket No. 81–168; RM–3561; RM–3606; RM–3899]

FM Broadcast Stations in Boothbay Harbor, Maine et al; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and order to show cause; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments and for responding to an Order to Show Cause in a proceeding involving a proposed FM Channel assignment and various substitutions in certain specified communities located in Maine, in response to a request from Dudman Communications Corporation.

DATES: Response to the Order to Show Cause and comments must be filed on or before February 12, 1982, and reply comments must be filed on or before March 1, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Boothbay Harbor, *Ellsworth, Farmington, Lewiston, Skowhegan,* and *Belfast, Maine*); BC Docket No. 81–168, RM–3561, RM–3606 and RM–3899.

Order Extending Time for Filing Comments and Reply Comments

Adopted: January 25, 1982.
Released: January 26, 1982.

1. On December 14, 1981, the Commission adopted a Further Notice of Proposed Rule Making and Order to Show Cause, 46 FR 62871, published December 29, 1981, in the above-captioned proceeding. Comments and reply comments are presently due January 29, 1982, and February 16, 1982, respectively.

2. On January 21, 1982, counsel for Dudman Communications Corporation ("Dudman"), licensee of FM Station WDEA, Ellsworth, Maine, filed a motion for extension of time in which to respond to the Order to Show Cause issued to it herein, as well as to file initial comments, to and including February 12, 1982. Counsel states that additional time is needed since recent travel schedules and the press of other

matters all concerned has delayed a detailed review of the technical aspects of the Order to Show Cause. Counsel further states that counsel for the petitioner herein, WRXV, Inc., has been contacted and advises that it will interpose no objection to the instant request.

3. We find that the extension request should be granted to permit the filing of information which is needed to form a complete record in this proceeding.

4. Accordingly, it is ordered, that the time for responding to the Order to Show Cause herein, and to file comments and reply comments in BC Docket No. 81-168 (RMs-3561, 3608, and 3899), is extended to and including February 12, 1982, and March 1, 1982, respectively.

5. This action is taken pursuant to the authority contained in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-2489 Filed 1-29-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-726; RM-3820; RM-3890; RM-3891; RM-3892; RM-4026]

FM Broadcast Stations in Celina, Tenn., et al; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving a proposal for an FM channel assignment and various substitutions in certain specified communities located in Kentucky, Tennessee and Indiana. Petitioner states that the additional time is needed to respond to technical matters raised in the comments.

DATE: Reply comments were to be filed on or before January 18, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Celina, Clinton, Knoxville, LaFollette and Sweetwater, Tennessee; Louisville, Oneida, Radcliff, Somerset and Stanford Kentucky; Hanover,[1] Madison and New Albany, Indiana), BC Docket No. 81-726, RM-3820, RM-3890, RM-3891, RM-3892, and RM-4026 [1].

Order Extending Time for Filing Reply Comments

Adopted: January 20, 1982.

Released: January 25, 1982.

1. On October 9, 1981, the commission adopted a Notice of Proposed Rule Making, 46 FR 52145, published October 26, 1981, in the above-entitled proceeding. Comments have been filed and reply comments were to be due on January 4, 1982.

2. On December 23, 1981,[2] counsel for J. Bazzel Mull and Millard V. Oakley ("Mull and Oakley"), the initial proponent herein, filed a motion for extension of time to and including January 18, 1982, in which to file reply comments. Counsel states that due to the number of questions raised in the numerous comments which have been filed in this proceeding, an extension of time is necessary to enable petitioner to confer with a consulting engineer regarding the technical aspects thereof, and to evaluate and prepare a proper response thereto.

3. We are of the view that, under the circumstances recited, an extension of time is warranted, *nunc pro tunc*. It appears that no other party to the proceeding would be prejudiced by a grant of the instant request, and such extension will assure development of a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, that the request for extension of time filed on behalf of Mull and Oakley, is granted, and the time for filing reply comments is extended to and including January 18, 1982.

5. This action is taken pursuant to Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

[1] This community and petition have been added to the caption.

[2] We were unable to act on this motion before expiration of the date for filing reply comments since, through administrative oversight, the request was not brought to our attention until January 18, 1982.

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-2491 Filed 1-29-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172 and 173

[Docket No. HM-166L; Notice No. 82-1]

Regulation of Consumer Commodities; Paint and Paint Related Material Adhesive, n.o.s.

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to reduce the flash point limitation from 73° F to 20° F. for flammable liquids in inside containers, each having a rated capacity of one gallon or less, that may be shipped as consumer commodities, including paint and paint related material. Also proposed is a uniform description for paint products so that they may be described in a consistent manner by shippers. This action will reduce burdens on shippers and carriers of these materials, clarify the proper shipping name and identification number for Adhesive, n.o.s., and reduce NTB's backlog of rulemaking petitions.

DATE: Comments must be received by April 2, 1982.

ADDRESS: Address comments to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202-472-2726).

SUPPLEMENTARY INFORMATION: This document is the thirteenth in a series of notices and amendments designed to reduce regulatory burdens by

incorporating changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. The MTB published its first notice of proposed rulemaking under Docket HM–166 on November 30, 1978 (43 FR 56070).

This Notice is based on a petition from the National Paint and Coatings Association, Inc. (NPCA) and upon MTB's own initiative. The changes proposed herein would authorize (1) the use of the work "Paint" or the words "Paint related material" as proper shipping names because several of the descriptions used currently for shipping names in § 172.101 are obsolete or are seldom used to describe today's paint products; and (2) expand the coverage of the consumer commodity category for flammable liquids by lowering the flash point limitation for one gallon inside containers specified in § 172.1200(a)(1)(iii) from 73° F. to 20° F. ("Flash point" means the minimum temperature at which a substance gives off flammable vapors which in contact with spark or flame will ignite.). This latter provision will apply to all consumer commodities, although MTB believes the greatest benefit will be derived by the paint industry.

The NPCA has stated that approximately 400 million cans of paint shipped in 1980 were subject to the Department's Hazardous Materials Regulations and that more than 300 million cans were of the one-gallon size. Approximately 100 million one-gallon cans shipped in 1980 had a flash point between 20° F. and 73° F. Therefore, if the proposal is adopted, labels will not be required on approximately 25 million cases of paint for transportation by highway, rail and vessel, resulting in a savings to shippers of .5 million dollars. Also it is estimated that adoption of this proposed rulemaking will eliminate the need for shipping papers on approximately one-half million individual shipments moving by highway, rail and vessel and will result in annual savings of approximately one million dollars to shippers and carriers of paint and paint related material alone.

As indicated in Docket No. HM–36A; Notice No. 80–5 (45 FR 40628) June 16, 1980, the consequences of incidents involving paint and paint related material shipped in small packagings have been minor, involving only a few minor injuries and no deaths. In view of the limited risk presented by these materials in packagings of one gallon or less, the MTB is proposing to lower the specified flash point from 73° f. to 20° F. in § 173.1200 for materials which are flammable and are eligible to be reclassed as ORM–D and offered for shipment as consumer commodities. This proposed change does not apply to carriage aboard aircraft because these flammable materials, at the increased volume proposed by this Notice, should continue to be subject to inspection as required by § 175.30(b) and (c) before they are loaded aboard passenger carrying aircraft (if authorized) and cargo-only aircraft. Due to the fire hazard should there be any leakage from packages, MTB believes this distinction between carriage aboard aircraft and surface transportation is necessary.

The MTB is proposing to delete the entry "Adhesive, n.o.s. *See* Cement, liquid, n.o.s. " in § 172.101 and add "Adhesive, n.o.s. " classed as Flammable liquid and Combustible liquid. Several inquiries have been received concerning the identification number assigned to the proper shipping name "Cement, liquid, n.o.s." and the alternate names "Adhesive, n.o.s.," and "Cement, adhesive, n.o.s." which reference the primary entry. The identification number assigned is NA1133. The "NA" prefix was assigned because "Cement, liquid, n.o.s." does not match the description listed in the United Nations Recommendations for the Transport of Dangerous Goods. Identification numbers with the "NA" prefix are associated with descriptions that are not recognized for international shipments, except to Canada. This has caused problems because a single description cannot be used for both domestic and international shipments of hazardous materials. Assigning the identification number UN1133 to the proper shipping name and class, "Adhesive, n.o.s., Flammable liquid" and "Adhesive, n.o.s., Combustible liquid," should alleviate the problem.

This proposed rulemaking will result in a substantial savings of time and money to all shippers of paint, paint related material, and other flammable liquids, that may be described as "Consumer commodities" because of the reduction in labeling and related paperwork.

In consideration of the foregoing, Parts 171, 172, and 173 of 49 CFR would be amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In § 171.16, paragraph (c)(3) would be revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(c) * * *

(3) Paint and paint related material when shipped in packagings of five gallons or less.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 171.101 the Hazardous Materials Table would be amended by adding, removing, or revising the following named entries to read as follows:

§ 172.101 Hazardous Materials Table.

(1)	(2)	(3)	(3A)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo Vessel	Passenger vessel	Other requirements
					(a)	(b)	(a)	(b)	(a)	(a)	(c)
	Remove										
	Adhesive, n.o.s. *See* Cement, liquid, n.o.s.										
	Aluminum, liquid. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc.										
	Compound, enamel	Flammable liquid.	NA1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid.	Combustible liquid.	NA1142	None	173.118a				1, 2	1, 2	

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo Vessel	Passenger vessel	Other requirements
					(a)	(b)	(a)	(b)	(a)	(b)	(c)
	Compound, lacquer, paint, *or* varnish, removing, liquid	Corrosive material.	NA1760	Corrosive	173.244	173.245	1 quart	1 gallon	1, 2	1, 2	
	Compound, lacquer, paint, *or* varnish, removing, reducing, *or* thinning, liquid.	Flammable liquid.	NA1142	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Drier. See Paint drier, liquid										
	Enamel. *See* Paint, Enamel, Lacquer, *etc*										
	Lacquer. *See* Paint, Enamel, Lacquer, Stain, *etc*										
	Lacquer base, liquid. *See* Paint, Enamel, Lacquer, Stain, *etc.*										
	Lacquer removing, reducing, *or* thinning, compound. *See* Compound, lacquer, paint, *or* varnish, removing, reducing *or* thinning liquid.										
	Mortar stain, liquid	Combustible liquid.	UN1263	None	173.118a	None	No limit	No limit	1, 2	1, 2	
	Mortar stain, liquid	Flammable liquid.	UN1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Paint drier, liquid	Combustible liquid.	UN1168	None	173.118a	None	No limit	No limit	1, 2	1, 2	
	Paint drier, liquid	Flammable liquid.	UN1168	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Paint, Enamel, Lacquer, Stain, Shellac, *or* Varnish, Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base, liquid.	Combustible liquid.	UN1263	None	173.118a	None	No limit	No limit	1, 2	1, 2	
	Paint, Enamel, Lacquer, Stain, Shellac, *or* Varnish; Aluminum, Bronze, Gold, Wood filler, liquid *or* Lacquer base, liquid.	Flammable liquid.	UN1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Paint, reducing or thinning compound. See Compound, lacquer, paint, *or* varnish, removing, reducing *or* thinning, liquid.										
	Reducing compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint *or* varnish, removing, reducing, *or* thinning liquid.										
	Removing compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint *or*, varnish, removing, reducing, *or* thinning, liquid.										
	Shellac. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish, *etc.*										
	Stain. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish, *etc.*										
	Thinning compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint *or* varnish, removing, reducing *or* thinning, liquid.										
	Varnish. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish, *etc.*										
	Varnish drier. See Paint drier, liquid										
	Varnish remover or reducer. See Compound, lacquer, paint *or* varnish, removing, reducing, *or* thinning, liquid.										
	Varnish thinning compound. See Compound, lacquer, paint *or* varnish, removing, reducing, *or* thinning, liquid.										
	Wood filler, liquid. *See* Paint, Enamel, Lacquer, Stain, Shellac, Varnish; *etc.*										
	•	•	•	•	•	•	•	•			
	[Add]										
	Adhesive, n.o.s	Combustible liquid.	UN1133	None	173.118a	None	No limit	No limit	1, 2	1, 2	
	Adhesive, n.o.s	Flammable liquid.	UN1133	Flammable liquid.	173.118	173.132	1 quart	10 gallons	1, 2	1	
	Paint	Combustible liquid.	UN1263	None	173.118a	None	No limit	No limit	1, 2	1, 2	
	Paint related material	Combustible liquid.	NA1263	None	173.118a	None	No limit	No limit			
	Paint	Flammable liquid.	UN1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Paint related material	Flammable liquid.	NA1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons			
	Paint *or* Paint related material	Corrosive material.	NA1760	Corrosive	173.244	173.245	1 quart	1 gallon	1, 2	1, 2	

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. In § 173.128, the heading and the introductory text of paragraph (a) would be revised to read as follows:

§ 173.128 Paint and paint related material (flammable liquids).

(a) Except as otherwise provided in this part, the description "Paint" is the proper shipping name for paint, lacquer, enamel, stain, shellac, varnish, liquid aluminum, liquid bronze, liquid gold, liquid wood filler, and liquid lacquer base. The description "Paint related material" is the proper shipping name for a paint thinning, reducing or removing compound or a liquid paint drier. However, if a more specific description is listed in § 172.101, that description must be used. Special exceptions for shipment of paint and paint related material in the ORM–D class are provided in subpart N of this Part. Paint and paint related material must be packaged as follows:

* * * * *

4. In § 173.132, the heading, introductory text of paragraph (a), and paragraph (b) would be revised to read as follows:

§ 173.132 Adhesive, n.o.s.; cement, liquid, n.o.s.; container cement; linoleum cement; pyroxylin cement; rubber cement; tile cement; wallboard cement, and coating solution.

(a) Except as otherwise provided in this Part, a flammable liquid which is an adhesive, n.o.s.; cement, liquid, n.o.s.; container cement; linoleum cement; pyproxylin cement; rubber cement; tile cement; wallboard cement, or coating solution must be packaged as follows: * * *

* * * * *

(b) The adhesive and cements identified in paragraph (a) of this section, except any adhesive or cement containing carbon bisulfide (carbon disulfide), in glass or leakproof packagings consisting of a fiberboard body and metal tops and bottoms of not over 1 quart capacity each, or metal packagings of not over 5 gallons capacity each, further overpackaged in a strong outside packaging are expected from the specification packagings requirements of this Part.

5. In § 173.1200, paragraph (a)(1)(iii) would be revised to read as follows:

§ 173.1200 Consumer commodity.

(a) * * *

(1) * * *

(iii) In inside containers, each having a rated capacity of one gallon or less, packed in strong outside packagings. The provisions of this exception apply only if the flash point of the material is 20°F. or higher and transportation is by motor vehicle, rail freight or vessel. For transportation by aircraft, the flash point of the material must be 73°F. or higher.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(3) of Appendix A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and DOT implementing procedures (44 FR 11034), nor require an environmental impact statement under the National Enviromental Policy Act (49 U.S.C. 4321 et seq.). Based on information available concerning size and nature of entities likely to be affected by this proposal, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on January 25, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-2537 1-29-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1-18; Notice 21 and Docket No. 74-14; Notice 26]

Federal Motor Vehicle Safety Standards; Controls and Displays; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes three changes to Standard No. 101–80, *Controls and Displays*, and conforming changes to Standard No. 208, *Occupant Crash Protection*. First, as a result of a petition for rulemaking from General Motors that was granted earlier this year, Standard No. 101–80's light intensity requirements for telltales would be amended to permit the use of informational readout displays. Second, Standard No. 101–80 and Standard No. 208 would be amended to permit the use of words as an alternative to the seat belt warning symbol in informational readout displays. Third, for purposes of clarity, a minor change would be made in the definition of "informational readout display."

DATE: Comments must be submitted by March 18, 1982. The proposed effective date is 35 days after the date of publication of a final rule in the **Federal Register**.

ADDRESS: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. John Carson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2720).

SUPPLEMENTARY INFORMATION: On April 6, 1981, the NHTSA published in the **Federal Register** (46 FR 20575) a notice granting a petition for rulemaking submitted by General Motors concerning Safety Standard No. 101–80, *Controls and Displays*. The petition requested a change in the standard's light intensity requirements for telltales in order to permit integration of telltales with other instrument displays in a single electronic display panel. The use of such panels has been made possible by recent advances in the field of electronics. (Telltales are light emitting displays on a vehicle dashboard that indicate either the condition of various vehicle systems or devices such as turn signals and brakes or the supply of such things as fuel.) This notice proposes to adopt the changes suggested by that petition.

In addition, the notice proposes amendments to Safety Standard No. 101–80 and Safety Standard No. 208 to permit the words "Fasten Belts" or "Fasten Seat Belts" to be used as an alternative to the seat belt warning symbol in informational readout displays. The notice also proposes a minor change in the definition of "informational readout display" for purposes of clarity. (An informational readout display is a display using light-emitting diodes, liquid crystals, or other electro illuminating devices to convey an information or message by means of words or symbols. They can potentially be used to indicate such things as a vehicle's speed, its amount of fuel, the time of day, and the existence of conditions such as a seat belt not being buckled or worn brake linings.)

The final rule establishing Safety Standard No. 101–80, *Controls and Displays*, was published in the **Federal Register** on June 26, 1978. It replaced an existing rule on the same subject effective September 1, 1980. The preamble to the final rule explained that one of the major concerns of manufacturers commenting on the NPRM was that the rule would inhibit the design and development of electronic "readout" panels which can effectively present to the driver specific information concerning vehicle and environmental conditions affecting safety. The notice stated that these displays are currently capable of exhibiting information and warnings with word messages but not with symbols. Therefore, the standard allowed optional use of symbols or words for the purpose of permitting the continued development of informational readout displays. The notice stated that NHTSA supports the development of more efficient and effective control and display information systems.

As a result of continued development of informational readout displays since the final rule was issued, NHTSA and the industry are now in a better position to know what forms these informational

readout displays may take. Various amendments may be necessary to Standard No. 101–80, as well as to several other safety standards which include requirements for warning indicators, to permit fuller use of interformational readout displays. The amendments proposed by this notice are a first step in that direction.

The amendment requested by GM's petition for rulemaking concerns Standard No. 101–80's light intensity requirements. Section S5.3.3 of the standard requires that the light intensity of telltales be invariable and must be sufficient to permit drivers to see them under any lighting conditions. The purpose of that requirement is to ensure that telltales are visible to the driver at all times when the vehicle is being operated. The same section requires that informational readout displays have variable light intensity. Specifically, they must have at least two light intensity values, a relatively high one for daytime use and a relatively low one for nighttime use. Thus, even though other parts of the standard were written to encourage the development of informational readout displays, the standard's light intensity requirements prevent informational readout displays from being used for telltales.

Because of its desire to incorporate telltales into informational readout displays, GM petitioned the agency to except telltales which use informational readout displays from the variability prohibition. That company stated that sufficient light intensity would be assured since the telltales would still be subject to the requirement that they be visible under any lighting condition.

GM's petition also noted that section S5.3.3. of Standard No. 101–80 requires light intensities for controls, gauges and their identification to be variable down to a level that is essentially off or dark. GM pointed out that it would be unwise to require light intensity for integrated electronic displays to be variable down to an off or dark level, since to do so would allow drivers to turn off the various telltale warning signals. That company suggested that manufacturers should be free to offer a variable intensity illumination for informational readout displays, but the lowest level should still be governed by the "visible to the driver under all daytime and nighttime conditions" requirement.

The agency tentatively agrees with the suggestions made by GM on the light intensity requirements of Safety Standard No. 101–80. The proposed changes are in keeping with the agency's policy to continue to support the development of more efficient and effective control and display information systems. As GM's petition pointed out, the amendment would alleviate instrument panel design problems caused by reduced space in today's smaller cars and by the need to convey increasing amounts and types of information to the driver. The amendment would also offer potential for weight and cost reduction and facilitate placing telltales adjacent to displays often consulted by the driver, making the telltales more readily noticeable.

In addition to that proposed amendment, the agency is also proposing to amend Safety Standard No. 101–80 and Safety Standard No. 208 to permit the words "Fasten Belts" or "Fasten Seat Belts" to be used as an alternative to the seat belt warning symbol in informational readout displays.

As noted above, Safety Standard No. 101–80 was expressly written to permit words to be used in place of symbols in informational readout displays. Section S5.2.3 of the standard states that informational readout displays may be identified by the symbol designated in column 4 of Table 2 or by the word or abbreviation shown in column 3. While column 4 of Table 2 designates the seat belt warning symbol, column 3 of the table refers to FMVSS 208. That standard only permits the use of the words "Fasten Belts" or "Fasten Seat Belts" for vehicles manufactured before September 1, 1980. This notice proposes a conforming amendment to correct that anomaly and permits those words to be used for the seat belt telltale incorporated in an informational readout display.

This notice also proposes a minor amendment in the definition of "informational readout display" for purposes of increased clarity. Standard No. 101–80 currently defines "informational readout display" as a display using light-emiting diodes, liquid crystals, or other electro illuminating devices where one or more than one type of information or message may be displayed. The amendment would make it clear that the term "informational readout display" only refers to a display that conveys the information or message by means of words or symbols. Thus, a colored light using light-emitting diode technology is not considered to be an informational readout display. Comments are requested on the effects of excluding that use of light-emitting diode technology from the definition of "informational readout display."

The agency has assessed the economic and other impacts of these proposed amendments and determined that the amendments are neither a major rule within the meaning of Executive Order 12291 nor a significant rule under the Department of Transportation's regulatory policies and procedures. Further, the agency concludes that the economic and other consequences of these proposed amendments are so minimal as not to require preparation of a regulatory evaluation. The impact is minimal because the amendments would not impose any new requirements. Rather, they would permit manufacturers an alternative means of compliance. If manufacturers choose to use informational readout displays, they may realize slight cost savings.

The agency has analyzed these proposed amendments for purposes of the Regulatory Flexibility Act. Since they would not impose any new requirements or result in significant cost impacts, the agency concludes that the proposed amendments would not have a significant impact on a substantial number of small businesses. Small organizations and small governmental jurisdictions would be only affected by the amendment to the extent that they purchase vehicles which must comply with the standard. Since the amendments would not impose any new requirements or result in significant cost impacts for manufacturers, the agency concludes that the amendments will not have a significant effect on a substantial number of small organizations or small governmental jurisdictions.

Similarly, the agency has analyzed these proposed amendments for the purposes of the National Environmental Policy Act. The agency has concluded that the amendment will not have a significant effect on the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating

that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that the following amendments be made in § 571.101–80 and § 571.208, Chapter V of Title 49, Code of Federal Regulations:

§ 571.101-80 [Amended]

1. Section S4 of § 571.101–80 would be amended by revising the definition of "Informational readout display" to read:

"Informational readout display" means a display using light-emitting diodes, liquid crystals, or other electro illuminating devices where one or more than one type of information or message may be displayed in word or symbol form.

2. Section S5.3.3 of § 571.101–80 would be amended by revising it to read:

S5.3.3 Light intensities for controls, gauges, telltales, and their identification shall meet either S5.3.3.1 or S5.3.3.2, as appropriate. Light intensities for telltales and gauges incorporated in informational readout displays shall meet S5.3.3.2.

S5.3.3.1 Light intensities for controls, gauges, and their identification shall be continuously variable from a level at which either there is no light emitted or the light is barely discernible to a driver who has adapted to dark ambient roadway conditions to a level providing illumination sufficient for the driver to identify the control or display readily under conditions of reduced visibility. The intensity of any illumination that is provided in the passenger compartment when and only when the headlights are activated shall also be variable in the same manner. The light intensity of each telltale other than a telltale which is incorporated in an informational readout display shall not be variable and shall be such that, when activated, that telltale and its identification are visible to the driver under all daytime and nighttime conditions.

S5.3.3.2 Telltales and gauges incorporated into informational readout displays—

(a) Shall have not less than two levels of light intensity, a higher one for day and a lower one for nighttime conditions.

(b) In the case of telltales and gauges not equipped with a variable light intensity control, shall have a light intensity at the higher level provided under paragraph (a) of this section whenever the headlamps are not illuminated.

(c) In the case of telltales and gauges equipped with a variable light intensity control, shall be visible to the driver under all daytime and nighttime conditions when the illumination level is set to its lowest level.

§ 571.208 [Amended]

3. Sections S4.5.3.3(b) and S7.3 of § 571.208 would be amended to permit the words "Fasten Belts" or "Fasten Seat Belts" as an alternative to the seat belt warning symbol in informational readout displays.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 25, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-2421 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 47, No. 21
Monday, February 1, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Interagency Coordination; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of two meetings of the Committee on Interagency Coordination of the Administrative Conference of the United States. Each meeting will be held at the office of O'Melveny & Myers, 1800 M Street, NW., Suite 500 South, Washington, D.C.

The Committtee will meet on Friday, February 12, 1982 at 10 a.m. to discuss Professor Richard Merrill's study of regulation or carcinogens. The Committee will also meet on Tuesday, February 16, 1982 at 9:30 a.m. to discuss Philip Harter's study of regulatory negotiation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meetings will be available on request.

Richard K. Berg,
General Counsel.
January 26, 1982.

[FR Doc. 82–2460 Filed 1–29–82; 8:45 am]
BILLING CODE 6110–01–M

CIVIL AERONAUTICS BOARD

Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Applications Filed

Notice of applications for certificates of public convenience and necessity and foreign air carrier permits filed Under Supart Q of the Board's procedural regulations (See, 14 CFR 302.1701 et seq.); Week ended: January 22, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan. 20, 1982	40399	Action Air Cargo Corporation, c/o Stephen A. Alterman, Haffer & Alterman, 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036. Application of Action Air Cargo Corporation pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing the scheduled transportation of property or mail between any point in any state of the United States or the District of Columbia or any territory or possession of the United States on the one hand, and points in the Azores, Ghana and South Africa, on the other hand. Conforming Applications, motions to modify scope, and Answers may be filed by February 17, 1982.
Jan. 22, 1982	40410	Toronto Airways Limited, d/b/a Torontair, c/o Thomas W. McLaughlin Hydeman, Mason, Burzio & Lloyd, 1220–19th Street, N.W., Washington, D.C. 20036. Application of Toronto Airways, Ltd. d/b/a Torontair pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign carrier permit authorizing it to provide scheduled foreign air transportation of persons and property between Toronto-Buttonville, Ontario, Canada and White Plains, New York (Westchester County Airport) using small aircraft. Answers may be filed by February 19, 1982.
Do.	40411	Toronto Airways Limited, d/b/a Torontair, c/o Thomas W. McLaughlin Hydeman, Mason, Burzio & Lloyd, 1220–19th Street, N.W., Washington, D.C. 20036. Application of Toronto Airways, Ltd. d/b/a Torontair pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign carrier permit authorizing it to provide scheduled foreign air transportation of persons and property between Toronto-Buttonville, Ontario, Canada and Syracuse, New York using small aircraft. Answers may be filed by February 19, 1982.
Do.	40412	Midwestern Airlines, Inc., c/o Paul S. Quinn, Wilkinson, Cragun & Barker, 1735 New York Avenue, N.W., Washington, D.C. 20006. Application of Midwestern Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to provide scheduled air transportation of persons, property and mail in a number of Chicago/Cleveland-Michigan markets. In conjunction with this review, and pursuant to Section 409 of the Act, Midwestern further requests a disclaimer of jurisdiction or, in the alternative, approval of the proposed relationships with Midwestern of Mr. James A. Miller, Mr. Michael E. Miller, and Mr. James F. Smith. Conforming Applications, motions to modify scope, and Answers may be filed by February 19, 1982.
Jan. 15, 1982	32655	Frontier Airlines, Inc., 8250 Smith Road, Denver, Colorado 80207. Petition of Frontier Airlines, Inc. requests that the authority of Continental Air Lines, Inc. over segment 1 of Route 29–F (Albuquerque, New Mexico/El Paso, Texas-Loreto/La Paz/San Jose del Cabo/Puerto Vallarta/Manzanillo/Acapulco, Mexico) be deleted.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82–2480 Filed 1–29–82; 8:45 am]
BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Alaska and Washington Advisory Committees; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska and Washington Advisory Committees will convene at 9:00 a.m., and will end at 5:00 p.m., on February 22, 1982, at the Northwestern Regional Office, Federal Building, 915 Second Avenue, Room 3080, Seattle, Washington, 98174. The purpose of this meeting is to discuss the draft report entitled:

Alaska-Washington Seafood Processing Study

Persons desiring additional information or planning a presentation to the Committees, should contact one of the two Chairpersons, Donald Peter, 108 Stewart Street, Juneau, Alaska, 99504, (907) 333-0449, Katherine Bullitt, 1125 Harvard Avenue East, Seattle, Washington, 98102, (206) 447-0800 or the Northwestern Regional Office, Federal Building, 915 Second Avenue, Room 2852, Seattle, Washington, 98174, (216) 442-1246.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 27, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-2448 Filed 1-29-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Plate From Taiwan; Preliminary Results of Administrative Review of Antidumping Findings

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel plate from Taiwan. The review covers the only known exporter of the merchandise to the United States, China Steel Corporation, for the period June 1, 1980 through May 31, 1981. There were no known shipments to the U.S. of this merchandise during the period. There are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits on future entries equal to the calculated margins on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/2496).

SUPPLEMENTARY INFORMATION:

Background

On October 1, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 48280-1) the final results of its administrative review of the antidumping finding on carbon steel plate from Taiwan (44 FR 33877-8, June 13, 1979). In the October 1981 notice the Department announced its intent to conduct the next administrative review by the end of June 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by this review are shipments of hot-rolled carbon steel plate, 0.1875 inch or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad and not pressed or stamped to nonrectangular shape. Carbon steel plate is currently classifiable under item 607.6615 of the Tariff Schedules of the United States Annotated (TSUSA).

China Steel Corporation ("CSC") is the only known exporter to the United States of Taiwanese carbon steel plate. This review covers the period June 1, 1980 through May 31, 1981. There were no known shipments to the United States during the review period and there are no known unliquidated entries.

Preliminary Results of the Review

As provided by § 353.48(b) of the Commerce Regulations, we preliminarily determine that a cash deposit of estimated dumping duties of 19.97%, based upon the last known shipments by China Steel, shall be required on any shipment of Taiwanese carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results on or before March 3, 1982 and may request disclosure and/or a hearing on or before February 16, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 26, 1982.

[FR Doc. 82-2427 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: February 18, 1982 at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report on the current work program of the subcommittees:
(a) Foreign Availability;
(b) Hardware; and
(c) Licensing Procedures.
(4) New business.

Executive Session

(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: January 26, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2348 Filed 1-29-82; 8:45 am]
BILLING CODE 3510-25-M

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: February 17, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Review assignments for the 1982 International List Review.
(4) New Business—Executive Session.
(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: January 26, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2351 Filed 1-29-82; 8:45 am]
BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

TIME AND PLACE: February 17, 1982, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of the Foreign Availability Certification Group proposal status.
(4) Discussion of the agenda for 1982.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a

limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: January 26, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2540 Filed 1-29-82; 8:45 am]
BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 29, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

TIME AND PLACE: February 18, 1982, at 9:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: January 26, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2547 Filed 1-29-82; 8:45 am]
BILLING CODE 3510-25-M

Importers and Retailers' and Management-Labor Textile Advisory Committees; Public Meetings

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Secretary of Commerce established the Importers and Retailers' Textile Advisory Committee on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

TIME AND PLACE: March 10, 1982, at 10:30 a.m. for the Importers and Retailers' Textile Advisory Committee and 1:30 p.m. for the Management-Labor Textile Advisory Committee. The meetings will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. (Public entrance to the building is on 14th Street between Constitution Avenue and E Streets, NW.)

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, (4) Other business.

PUBLIC PARTICIPATION: The meetings will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meetings. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:
Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–3737.

Dated: January 27, 1982.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-2553 Filed 1-29-82; 8:45 am]
BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Licensing Procedures Subcommitte was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

TIME AND PLACE: February 17, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda:

General Session

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Continuing business:
a. Consideration of draft letters to the Office Export Administration (OEA) on:
(1) Visitation requirements for USSR installations;
(2) Verification and access for systems parameters;
(3) Software source code control.
b. Swiss Blue import certificate.

c. Committee membership attendance.
d. Procedures for licensing for exhibitions and fairs.
e. Procedures and policy regarding imbedded microprocessor items.
f. Expediting post-COCOM approvals.
g. OEA case backlog.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: January 26, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2552 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tool or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: February 25, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 7808, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Acting Chairman.
(2) Presentation of papers or comments by the public.
(3) Nomination and election of a new chairman.
(4) Discussion of robots.
(5) Discussion of manufacturing equipment and processes.
(6) New Business.

Executive Session

(7) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: January 26, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2549 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit

On December 14, 1981, Notice was published in the **Federal Register** (46. FR 60870), that an application had been filed with the National Marine Fisheries Service by Manomet Bird Observatory, Manomet, Massachusetts 02345 to take five (5) harbor seals (*Phoca vitulina*) for the purpose of scientific research.

Notice is hereby given that on January 22, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Manomet Bird Observatory, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 22, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2550 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit

On November 3, 1981, Notice was published in the **Federal Register** (45 FR 54620), that an application had been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, Mystic, Connecticut 06355, to take six Atlantic white-sided dolphins, and/or white-beaked dolphins, and/or harbor porpoise, and two long-finned pilot whales for public display.

Notice is hereby given that on January 22, 1982, the National Marine Fisheries Service issued a Public Display Permit, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to Mystic Marinelife Aquarium subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 22, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2534 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit

On December 4, 1981, Notice was published in the **Federal Register** (46 FR 59284) that an application had been filed with the National Marine Fisheries Service by Mr. Brent Stewart for a Scientific Research Permit to take harbor seals by capture, tag, and release.

Notice is hereby given that on January 25, 1982, the National Marine Fisheries Service issued a Scientific Research Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to Mr. Brent Stewart subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 25, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2535 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Randall S. Wells and Mr. Michael D. Scott (P296)

b. Address: Long Marine Laboratory, University of California, Santa Cruz, California 95064.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*), up to 300.

4. Type of Take: Potential harassment while studying behaviour and censusing.

5. Location of Activity: West Florida.

6. Period of Activity: June 1982 through 1987.

Concurrent with the publication of this notice in **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, on or before March 3, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 25, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2536 Filed 1-29-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Air Logistics Division Advisory Group will meet at the Air Logistics Center, Sacramento, California on February 23 & 24, 1982. The purpose of the meeting will be to review the F–111 Avionics Intermediate Station. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

January 22, 1982.

[FR Doc. 82-3461 Filed 1-29-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-CERT-001]

Energy Systems Co., Division of InterNorth, Inc.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On January 18, 1981, Energy Systems Company, Division of InterNorth, Inc. (Energy Systems), formerly Energy Systems Division of Northern Natural Gas Company, 25 Main Place, Council Bluffs, Iowa 51501, was granted a recertification of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 80–CERT–038). The recertification involved the purchase of natural gas from Peoples Natural Gas Company, Division of InterNorth, Inc., for use by Energy Systems at its Howard Street Plant facility in Omaha, Nebraska. The ERA certificate expired on January 17, 1982.

On January 18, 1982, Energy Systems filed an application for recertification of an eligible use of natural gas to displace fuel oil at the same facility pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Due to the lateness in the applicant's filing for recertification and the necessity for providing the public with an opportunity to comment, the recertification will not be effective until after the January 17 expiration date. More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, 2000 M Street, N.W.,

Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Energy Systems states that the volume of natural gas for which it requests recertification is 550,000 Mcf per year. The use of this gas is estimated to displace the use of approximately 4 million gallons (95,238 barrels) of No. 2 home heating oil (0.2 to 0.3 percent sulfur) per year at the Howard Street Plant facility.

The eligible seller of the natural gas is Peoples Natural Gas Company, Division of InterNorth, Inc., 25 Main Place, Council Bluffs, Iowa 51501. The gas will be transported by Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, an interstate pipeline company, and Metropolitan Utilities District, 1723 Harney Street, Omaha, Nebraska 68102, a local distribution company. Incidental transportation of the natural gas to Northern will be provided by Panhandle Eastern Pipeline Company, an interstate pipeline company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6304, RG–13, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, on or before February 11, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Energy Systems and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on January 25, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-2438 Filed 1-29-82; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER81-448-000; ER81-474-000, ER81-382-000; ER81-386-000 and EL82-1-000

APS–PJM Interconnection Agreement, et al.; Order Granting Motion for Clarification for Purposes of Further Consideration, Granting motion for Extension of Time, and Granting Petition To Intervene

Issued: January 25, 1982.

On December 10, 1981, the Easton Utilities Commission and the Town of Easton, Maryland (Easton), filed a motion for clarification of the Commission's October 26, 1981 order in the above dockets. The October 26 order states, in part, that:

> (c) Easton's allegations as to (Pennsylvania-New Jersey-Maryland Interconnection (PJM)) and (Delmarva Power and Light Company (DP&L)) criteria for scheduling, allocating and curtailing short-term power reservations shall be treated as a complaint under § 1.16 of the Commission's rules of practice and procedure * * * Easton's allegations concerning excessive transmission rates are hereby dismissed.

Easton seeks clarification of the Commission's dismissal of its allegations as to excessive transmission rates, stating that PMJ transmission practices must be considered in conjunction with the design and structure of its rates, but that the order does not specify whether rate design issues may be considered in the investigation under Docket No. E182–1–000. Easton further states that if the Commission intended to exclude all rate issues from the scope of the investigation, the proceeding should be expanded to include these issues.

On December 28, 1981, the members of PJM filed a motion for a one-day extension of time in which to answer Easton's motion. On December 29, 1981, PJM filed its answer, urging the Commission to deny Easton's motion. PJM submits (1) that Easton's motion is merely an untimely extension of its previously filed petition for rehearing of the Commission's October 26 order; (2) that the above dockets, except for Docket No. EL82–1–000, have been terminated; and (3) that the Commission's October 26 order is clear on its face. PJM's answer further questions the substantive issues raised by Easton's original complaint.

Additionally, on December 10, 1981, the Delaware Municipal Electric Corporation (DEMEC) filed an untimely petition to intervene in the above dockets. DEMEC states that its municipal members [1] purchase full electric requirements from DP&L and have a direct interest in the investigation in Docket No. EL82–1–000. DEMEC's main contention is that it is currently attempting to negotiate new contracts with DP&L for partial requirements service and for transmission of short-term power purchases over DP&L and possibly PJM transmission facilities. DEMEC thus argues that it may have a direct interest in the outcome of the proceedings in Docket No. EL82–1–000 that would not be adequately protected by Easton's participation in those proceedings.

On December 28, 1981, DP&L and PJM filed answers to DEMEC's petition stating (1) that DEMEC's petition was filed out of time without showing of good cause for acceptance by the Commission; (2) that to the extent that the issues raised by DEMEC are within the scope of the investigation ordered in these proceedings, its interests are adequately represented by Easton; and (3) that DEMEC's basic contentions are beyond the scope of inquiry in these proceedings and are currently under consideration in Docket No. ER78–414 and other proceedings involving DP&L's recent wholesale electric rate filings.

Discussion

The Commission finds that participation in this proceeding by DEMEC is in the public interest and that good cause exists to permit that party to intervene out of time. DEMEC's participation in the informal conference in Docket No. EL82–1–000 may serve to further delineate the scope of inquiry in that proceeding without barring any negotiated settlement which may be reached by Easton with DP&L or PJM.

Concerning Easton's motion for clarification of the October 26 order, we note first that DP&L has requested an extension of time in which to answer Easton's complaint in Docket No. EL82–1–000, stating that a settlement appears to have been reached between the parties. Easton has concurred with DP&L's request. Moreover, the issue raised here by Easton is similar to those raised in its petition for rehearing filed November 25, 1981, which was granted by the Commission for the limited purpose for further consideration. Therefore, in order to allow additional time to evaluate DP&L's answer to Easton's complaint, and pending the

[1] DEMEC is Delaware Municipal Electric Company presently composed of the City of Newark, the Board of Water and Light Commissioners of the City of Newcastle, and the Towns of Smyrna, Clayton, and Middletown, Delware.

outcome of the informal conference to be convened in Docket No. ER82–1–000, as well as the settlement discussions between DP&L and Easton, the Commission will grant the motion for clarification for the limited purpose of further consideration.

The Commission orders

(A) The PJM motion for a one-day extension of time in which to answer Easton's motion for clarification is hereby granted.

(B) Easton's motion for clarification or, in the alternative, to expand the scope of proceedings in Docket No. EL82–1–000 is hereby granted for the limited purpose of further consideration.

(C) DEMEC's petition to intervene is hereby granted subject to the Commission's rules of practice and procedure and the regulations under the Federal Power Act: *Provided, however,* That participation by DEMEC shall be limited to the matters set forth in its petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order of the Commission in this proceeding.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–2696 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST80–147–001]

Cabot Pipeline Corp.; Extension Reports

January 27, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. The letter "C" indicates transportation by an intrastate pipeline under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it is determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284, subpart	Effective date
ST80–108	United Texas Transmission Company	United Gas Pipe Line Company	12/04/81	C	01/06/82
ST80–147–001	Cabot Pipeline Corporation, P.O. Box 3784, Charleston, WV 25337	El Paso Natural Gas Company	12/24/81	D	03/25/82
ST80–150–001	Producer's Gas Company, 4925 Greenville Avenue, Dallas, TX 75206.	Natural Gas Pipeline Company of America	12/17/81	C	03/17/82
ST80–204–001	Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, TX 77001.	United Gas Pipe Line Company	12/17/81	G	04/01/82

[FR Doc. 82–2697 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER81–736–000]

Central Illinois Public Service Co.; Compliance Filing

January 26, 1982.

The filing Company submits the following:

Take notice that on January 13, 1982, Central Illinois Public Service Company filed 1st Revised Sheet No. 2 of its Rate Schedule W–5 in compliance with the Commission's orders of October 30, 1981 and December 28, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 16, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2698 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3498–001]

Chester Water Authority; Extension of Time

January 22, 1982.

On January 5, 1982, The Susquehanna River Basin Commission filed a request for an extension of time to file comments in response to the Commission's Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity issued November 10, 1981, in the above-docketed proceeding. The Susquehanna River Basin Commission requests that this extension be granted pending its receipt of additional information from the Chester Water Authority relative to the application for exemption.

Upon consideration, notice is hereby given that an extension of time for the filing of agency comments only is granted to and including February 23, 1982.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–2530 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP79-59-005]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

January 28, 1982.

Take notice that Colorado Interstate Gas Company (CIG), on January 11, 1982, tendered for filing certain revisions to its FERC Gas Tariff, Original Volume No. 2. CIG states that the principal purpose of this filing is to make minor administrative revisions to update the transportation charge in certain of its rate schedules in order that such rate schedules reflect CIG's currently effective transportation rate. In addition, other nonsubstantive changes are proposed, including minor text changes and a pressure base correction. An effective date of February 10, 1982 is proposed for the revised tariff sheets.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 9, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-2489 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-397-001]

Commonwealth Edison Company of Indiana; Compliance Filing

January 26, 1982.

The filing Company submits the following:

Take notice that on December 31, 1981, Commonwealth Edison Company of Indiana (Edison Indiana) filed the letter agreement between Edison Indiana and Commonwealth Edison Company. Such filing was made pursuant to the Commission's letter order of December 28, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 9, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-2500 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-3307-000, et al.]

Diamond Shamrock Corp. (Succ. to The Shamrock Oil and Gas Corp.), et al.; Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

January 28, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date Filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure Base
G-3307-000, D, Jan. 18, 1982	Diamond Shamrock Corporation (Succ. to The Shamrock Oil and Gas Corporation), P.O. Box 631, Amarillo, Texas 79173.	Northern Natural Gas Company, J. H. Helm, et ux lease covering NW/4 Sec. 135, Van Order et al lease covering SW/4 Sec. 286, H. A. Cummings et al lease covering NW/4 Sec. 286, C. G. Bent lease covering undivided 1/2 interest in W/2 Sec. 304, Mrs. E. M. Bent lease covering undivided 1/2 interest in W/2 Sec. 304, all in Blocks 44, H&TC Ry. Co. Survey, Moore County, Texas.	[1]	
CI78-1074-001, C, Dec. 18, 1981	Mobil Oil Exploration and Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, Blocks 72, 73 and 74, Main Pass Area, Federal Offshore Louisiana.	[3]	15.025
CI62-145-000, A, Jan. 5, 1982	Getty Oil Company, Post Office Box 1404, Houston, Texas 77001.	Columbia Gas Transmission Corporation, High Island Block A-471, Offshore Texas.	[2]	14.65
CI62-146-000, A, Jan. 5, 1982	King Ranch, Inc., 1800 First National Bank Building, Midland, Texas 79701.	Florida Gas Transmission Company and Transcontinental Gas Pipe Line Corporation, West Cameron Area, Block 66 Field, Offshore Louisiana.	[4]	14.65

Docket No. and Date Filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure Base
CI82-147-000, A, Jan. 7, 1982	Pennzoil Oil & Gas, Inc., P.O. Box 2967, Houston, Texas 77001.	United Gas Pipe Line Company, East Cameron Block 237, Offshore Louisiana.	[1]	
CI82-148-000, A, Jan. 6, 1982	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Transco Gas Supply Company, Mustang Island Area, Block 757 Field, Offshore Texas.	[2]	14.65
CI82-149-000 (CI77-247), B, Jan. 11, 1982.	Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, Arkansas 71730.	Texas Eastern Transmission Corporation, McCrary #1 Unit (W/2, Section 4 and E/2 Section 5, Township 18 North, Range 2 West), Ruston Field, Lincoln Parish, Louisiana.	[3]	
CI82-150-000, A, Dec. 12, 1982	POGO Producing Company, Post Office Box 2504, Houston, Texas 77001.	United Gas Pipe Line Company, East Cameron Block 237, Offshore Louisiana.	[4]	15.025
CI82-151-000, B, Dec. 28, 1981	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Phillips Petroleum Company, Eunice Area, Eunice Monument and Jalmat Fields, Lea County, New Mexico.	[5]	
CI82-152-000, B, Dec. 28, 1981	....do....	Phillips Petroleum Company, Judkins Area, Jordan Field, Penwell Field, Crane and Ector Counties, Texas.	[5]	
CI82-153-000, B, Dec. 28, 1981	....do....	Phillips Petroleum Company, Hobbs Area, Hobbs Grayburg Field, Lea County, New Mexico.	[5]	
CI82-154-000, B, Dec. 28, 1981	....do....	Phillips Petroleum Company, Goldsmith Area, Lawson (San Andres) Field, Goldsmith (Grayburg) Field, Goldsmith (Devonian) Field, Goldsmith (Ellenburger) Field, Goldsmith (5600') Field, Andrews and Ector Counties, Texas.	[5]	
CI82-155-000, A, Dec. 18, 1982	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001..	Columbia Gas Transmission Corporation, West Delta Block 100 Field, Offshore Louisiana.	[6]	15.025
CI82-156-000, E, May 29, 1979[7]	Mitchell Energy Corporation (Succ. to Maynard Oil Company), 3900 One Shell Plaza, Houston, Texas 77002.	Natural Gas Pipeline Company of America, Wise County Area, Texas.	[8]	14.65
CI82-157-000 (G-20842), B, Jan. 15, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Florida Gas Transmission Company, Thompson Bluff Field, Jefferson Davis Parish, Louisiana.	[9]	
CI82-158-000 (CI60-325), B, Jan. 18, 1982.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Lopeno Field, Zapata County, Texas.	[10]	
CI61-691-002, C, Dec. 10, 1981	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Kepner Unit #4 Well, Cedardale, NE Field, Major County, Oklahoma.	[11]	14.65
CI61-752-000, C, Dec. 10, 1981	....do....	Michigan Wisconsin Pipe Line Company, Kepner Unit #4 Well, Cedardale, NE Field, Major County, Oklahoma.	[11]	14.65

[1] The subject leases have expired or terminated by their own terms and were not included in the rollover contract dated May 21, 1980.
[2] Applicant is filing under Gas Sales Contract dated July 20, 1978, amended by amendment dated October 15, 1981.
[3] Applicant is filing under Gas Purchase Contract dated December 18, 1981.
[4] Applicant is filing under Gas Purchase Contract dated August 14, 1981 for Florida Gas Transmission Company and August 1, 1980 for Transcontinental Gas Pipe Line Corporation.
[5] Applicant is willing to accept a certificate of public convenience and necessity conditioned in pass to the applicable selling rates as established by the Natural Gas Policy Act of 1978.
[6] Applicant is filing under Gas Purchase Contract dated December 30, 1981.
[7] Gas has been depleted, well plugged and abanodned and substantially all of the oil and gas leases have expired.
[8] Applicant's percentage-typed-contract with Phillips has been terminated. Applicant wishes to switch natural gas processing plants.
[9] Effective May 1, 1979, Mitchell Energy Corporation acquired certain interests of Maynard Oil Company in the Wise County Area of Texas.
[10] Applicant is filing under Gas Purchase Contract dated April 10, 1965, and amended April 28, 1974.
[11] Conoco's remaining interest is restricted to non-productive zones.
[12] Depletion of reservoirs; no physically recoverable reserves remaining.
[13] Applicant is filing for authorization for the sale of gas attributable to an additional working interest acquired until payout of the well pursuant to the sole risk clause of the operating agreement governing the Kepner Unit #4 Well.
Filing code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 82-2318 Filed 1-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP80-278, etc.]

Great Lakes Gas Transmission Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 27, 1982.

Take notice that the pipelines listed in the Appendix below have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix below.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 11, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
July 31, 1981	Great Lakes Gas Transmission Company	RP80-278	Report.
Dec. 15, 1981	Southern Natural Gas Company	RP81-105-010	LFUT Report.
Dec. 18, 1981	Michigan Wisconsin Pipe Line Company	RP81-120-001	LFUT Report.
Do.	Consolidated Gas Supply Corporation	RP72-157-050	Report.
Dec. 31, 1981	Southern Natural Gas Company	RP81-105-011	LFUT Report.
Jan. 4, 1982	Columbia Gas Transmission Corporation	RP78-20	Report.
Jan. 11, 1982	National Fuel Gas Supply Corporation	RP80-135-015	Report.
Do.	Natural Gas Pipe Line Company of America.	RP80-107-005	Report.
Jan. 12, 1982	East Tennessee Natural Gas Company	CP80-389-003	Report.
Jan. 15, 1982	Northern Natural Gas Company	RP80-88-008	Report.

[FR Doc. 82-2301 Filed 1-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA82-6-000]

Holden Energy Corp.; Application for Staff Adjustment

Issued: January 27, 1982.

On December 29, 1981, Holden Energy Corporation (Applicant), Suite 600, Lincoln Center, Ardmore, Oklahoma 73401 filed an application for a staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412(c) (Supp. II 1978), and § 1.41 of the Federal Energy Regulatory Commission (Commission) rules of practice and procedure.

Applicant claims special hardship, inequity or unfair distribution of burdens and irreparable injury if unable to collect the section 102 price for gas produced from the BSA #1 well. Applicant states that after recompleting the BSA #1 Well on February 10, 1981 Applicant was advised by the Texas Railroad Commission that it would be limited to a section 109 price due to the section 102 definition of "commercial production." According to Applicant, Chevron U.S.A., Inc. spudded the BSA #1 Well on May 3, 1975 and after completion, produced gas for seven months during which the gas was transported through a seven and one-half mile temporary gas line. Abandoned by Chevron as uncommercial, the well was shut in on December, 1976, until August, 1980 when Applicant obtained a farm-out agreement from Chevron and began reworking the well. Now, Applicant requests an adjustment from § 270.102(b)(4) of the Commission's regulations, which defines "production in commercial quantities" so that the seven months production from the well in 1975–76 would not be deemed "production in commercial quantities" for the purpose of NGPA section 102(c)(1)(C)(i).

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979). Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before February 16, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2502 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-750-000]

Iowa Power & Light Co.; Order Denying Rehearing

Issued January 22, 1982.

On December 22, 1981, the Commission approved a letter order accepting for filing Iowa Power & Light Company's (IP&L) proposed increase in rates for firm service to the Cities of Carlisle and Neola, Iowa (Cities) and terminating the proceedings associated with that filing.[1] On December 23, 1981, the Cities filed an application for rehearing and motion for immediate relief and stay of the letter order. For the reasons set forth below, Cities' application will be denied.[2]

Cities raise a number of arguments in support of their request that the Commission rescind its letter order, suspend the proposed rates, and set the filing for hearing. The chief contention is that the Commission incorrectly concluded that Cities raised no cost-of-service issues. On December 14, 1981, Cities filed a supplement to their initial protest, which supplement the Commission by inadvertence did not consider in issuing the letter order. However, the Commission has now given due consideration to the allegations contained in that supplement and concludes that none of these allegations requires the Commission to modify its earlier determination to accept the rates for filing.

IP&L's cost data indicate that the proposed rates would increase revenues for the test period by approximately $90,125 and would yield an overall earned return of only 4.55%. IP&L's summary cost of service statement indicates that an increase of $297,901 in revenues is justified. The Commission's analysis of the filing shows that, although IP&L's figures may be subject to some adjustment, the proposed rates are substantially cost justified. Cities' motion does not quantify the impact of the cost of service adjustments which it proposes to the Company's filing, but it is highly unlikely that these adjustments could reduce IP&L's revenue requirements to the point that the proposed rates would be excessive.

Moreover, Cities overstate the potential magnitude of any adjustments by erroneously asserting that none of IP&L's pro forma adjustments increasing the cost of service were offset by decreasing adjustments. For example, the pro forma increase in plant investment due to the addition of the Ottumwa unit was partially offset by an associated change in accumulated reserve for depreciation. IP&L used a single net adjustment to rate base rather than increasing gross plant and the reserve account separately. Another example is the offset Cities propose through revenues from off-system sales that might be made possible by the availability of an additional 560 MW of generating capacity. Although the net effect of the adjustment was a reduction in sales revenues, increases in off-system sales revenues from certain customers were reflected in the pro forma adjustment. It should be noted that the 560 MW figure is overstated because the cancelled sales included therein were made for nonconcurrent periods and for periods of short duration and are not additive. Moreover, if the pro forma purchased power adjustment were eliminated, except for appropriate recognition that IELP would probably purchase less from IP&L due to the operation of the Ottumwa unit, our analysis would still indicate that the proposed rates produce a revenue deficiency.

Cities also argue that IP&L should reduce its proposed return to reflect improved cash flow and reduced capital requirements. This argument must also be rejected. The 14.2% return sought on equity is already at the low end of the range of returns recently allowed to similarly situated electric utilities. Moreover, if IP&L earns an overall return of only 4.5%, the earned return on equity will be well below the 14.2% figure to which Cities object.

Under the circumstances, it appears that the proposed rates are not excessive, and that there has been no preliminary showing of facts which, if proved, could be used to demonstrate that the rates are unjust or unreasonable. Although it has been the Commission's practice to set cases for hearing where such material facts are raised, we have long declined to require a hearing that would constitute "empty sound and show, signifying nothing." [3] Accordingly, Cities' contention that the filing should be suspended and set for hearing must be rejected.

The Commission orders

(A) The application of Cities for rehearing of the Commission's letter order is hereby denied.

[1] The letter order was issued by the Commission on December 23, 1981.

[2] Cities' motion sought an immediate stay of the effectiveness of the letter order pending disposition of the application for rehearing. Because the Commission is now disposing of the application, action on Cities' motion is unnecessary.

[3] *Citizens for Allegan County, Inc.* v. *FPC*, 414 F.2d 1125, 1128 (D.C. Cir. 1969).

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2540 Filed 1-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES82-32-000]

Iowa Public Service Co.; Application

January 27, 1982.

Take notice that on January 20, 1982, Iowa Public Service Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act, with the Federal Energy Regulatory Commission, seeking authority to issue $80 million of short-term unsecured promissory notes to commercial banks and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1983, and will bear maturity dates of not later than March 31, 1984.

Any person desiring to be heard or to make any protest with reference to the application should on or before February 17, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2514 Filed 1-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP81-71-000]

Montana-Dakota Utilities Co.; Settlement Conference

January 26, 1982.

Take notice that a settlement conference in the above-captioned docket will be convened at 10:00 a.m., on February 3 and 4, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorized intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2509 Filed 1-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5736-000]

New England Energy Development Systems, Inc.; Application for Preliminary Permit

January 27, 1982.

Take notice that New England Energy Development Systems, Inc. (Applicant) filed on December 10, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5736 to be known as the Millers River Project located on the Millers River in Franklin County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Michael Pill, New England Energy Development Systems, Inc., 109 Main Street, Amherst, Massachusetts 01002.

Project Description—The proposed project would consist of five developments on Millers River described from downstream to upstream as follows:

(A) Millers One would consist of: (1) A new 33-foot high, 270-foot long concrete dam; (2) a 6-acre reservoir with no usable storage at elevation 239 feet m.s.l.; (3) a new powerhouse integral with the dam containing turbine generators with a total rated capacity of 1,090 kW; (4) a 2½-mile long, 13.8-kV transmission line; and (5) appurtenant facilities. Millers One would produce 5,310,000 kWh annually. The site is owned by Walter J. Zuk.

(B) Millers Two would consist of: (1) A new 48-foot high, 340-foot long concrete dam; (2) a 30-acre reservoir with no usable storage capacity at elevation 285 feet m.s.l.; (3) a new powerhouse containing turbine generators with a total rated capacity of 1,950 kW; (4) a 13.8-kV transmission line; and (5) appurtenant facilities. Millers Two would produce 9,320,000 kWh annually. The site is owned by Western Massachusetts Electric Company and Millers Falls Paper Company.

(C) Millers Three would consist of: (1) A new 30-foot high, 465-foot long concrete dam; (2) a 22-acre reservoir with no usable storage capacity at elevation 401 feet m.s.l.; (3) a new powerhouse containing a 1,090 kW turbine-generator; (4) a 13.8-kV transmission line; and (5) appurtenant facilities. Millers Three would produce up to 4,900,000 kWh annually. The site is owned by Massachusetts Electric Company, Anthony Stone and Artel Bourbeau.

(D) Millers Four would consist of: (1) A new 27-foot high, 160-foot long concrete dam; (2) a 38-acre reservoir with no usable storage capacity at elevation 472 feet m.s.l.; (3) a new powerhouse containing a 800-kW turbine generator; (4) a 13.8-kV transmission line; and (5) appurtenant facilities. Millers Four would produce up to 3,960,000 kWh annually. The site is owned by the Boston and Maine Railroad and Erving Paper Mills.

(E) Millers Five would consist of: (1) A new 28-foot high, 390-foot long concrete dam; (2) a 35-acre reservoir with no usable storage capacity at elevation 488 feet m.s.l.; (3) a new powerhouse containing a 800-kW turbine generator; (4) a 13.8-kV transmission line; and (5) appurtenant facilities. Millers Five would generate up to 3,250,000 kWh annually. The site is owned by Charles and Claire Brossil.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of three years. The work proposed under this preliminary permit would include economic evaluation, engineering plans, and an environmental assessment. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to performed under this preliminary permit would cost $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 8, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application

forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must alos be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2515 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-616-002]

Northern States Power Co. (Minnesota); and Northern States Power Co. (Wisconsin); Compliance Filing

January 27, 1982.

The filing Companies submit the following:

Take notice that on December 31, 1981, Northern States Power Co. (Minnesota); and Northern States Power Co. (Wisconsin) tendered for filing a revised amendment to the Coordinating Agreement dated October 12, 1970 to bring the Coordinating Agreement into compliance with Opinion No. 134 issued December 3, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 16, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2504 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-230-000]

Ohio Power Co.; Filing

January 27 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on January 18, 1982, tendered for filing on behalf of its affiliate Ohio Power Company (OPCO) Supplement No. 7 dated January 1, 1982 to the Agreement dated April 1, 1974 between American Municipal Power-Ohio, Inc. (AMP-Ohio) and Ohio Power Company. OPCO's Rate Schedule FERC No. 74 and AMP-Ohio's Rate Schedule FERC No. 1.

Sections 1 and 2 of Supplement No. 7 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively. Both schedules to become effective January 1, 1982. These demand rates are substantially the same between Indiana & Michigan Electric Company and Illinois Power Company (Docket No. ER 81-774-000) which has been accepted by the Commission and made effective January 1, 1982 by letter Order dated November 10, 1981.

AEP proposes an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon American Municipal Power-Ohio, Inc., the Public Utilities Commission of Ohio, and the Orrville Municipal Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests shoud be filed on or before February 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2541 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-95-000]

Pacific Interstate Transmission Co.; Tariff Filing Substitute First Revised Sheet No. 9

January 26, 1982.

Take notice that on January 13, 1982, Pacific Interstate Transmission Company ("Pacific Interstate") tendered for filing a substitute revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, in accordance with the Commission's order of June 13, 1980 in Northwest Alaskan Pipeline Co., et al., Docket Nos. CP78-123, et al.

Pacific Interstate states that on July 27, 1981, Pacific Interstate filed First Revised Sheet No. 9 to its FERC Gas Tariff, Original Volume No. 1, designed to increase its rate of return on equity from 13.75 percent to 20 percent, resulting in an overall estimated rate of return of 17.94 percent based on the estimated debt costs of 16.62 percent.

Pacific Interstate states that at the time of its filing of the First Revised Sheet No. 9 on July 27, 1981, Pacific Interstate indicated that it would file a Substitute First Revised Sheet when it acquired permanent debt.

Pacific Interstate states that on August 28, 1981, the Commission issued its order in Docket No. RP81-95 accepting for filing the proposed First Revised Sheet No. 9 and that in so doing the Commission noted that the overall

rate of return depicted in the First Revised Sheet No. 9 was based on an estimated debt cost of 16.62 percent. The Commission suspended the effectiveness of said sheet until March 1, 1982 when it will become effective subject to refund, in the manner provided by Section 4 of the Natural Gas Act.

Pacific Interstate states that it has obtained commitments for the acquisition of the necessary permanent debt. Pacific Interstate states that its actual cost of debt is different from the estimate utilized in the July 27, 1981 filing. Therefore, pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act and the Commission's order of June 13, 1980 in Docket Nos. CP78–123, et al., Pacific Interstate tenders for filing and acceptance a Substitute First Revised Sheet No. 9 of its FERC Gas Tariff Original Volume No. 1 to reflect the actual cost of debt. Pacific Interstate requests that this Substitute First Revised Sheet No. 9 become effective on the date designated by the Commission for the First Revised Sheet No. 9, namely March 1, 1982.

Pacific Interstate requests a waiver of § 154.22 of the Commission's Regulations, and also requests that the Commission grant any waivers of its regulations it may deem necessary for the acceptance of this filing to become effective March 1, 1982.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before February 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2316 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-104-000]

Producer's Gas Co.; Re-Notice of Application

January 27, 1982.

Take notice that on December 2, 1981, Producer's Gas Company (Applicant), 950 One Energy Square, 4925 Greenville Avenue, Dallas, Texas 75206, filed in Docket No. CP82–104–000 an application pursuant to § 284.127 of the Commission's Regulations for authorization to continue the transportation of natural gas for El Paso Natural Gas Company (El Paso) for a term ending on January 1, 2001, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport gas for El Paso pursuant to a transportation agreement dated December 2, 1980. It is stated Applicant would transport a maximum daily quantity of 200,000 Mcf of gas per day which gas would be received by Applicant at the Wainoco Davis #1–18 well, the An-Son Pendley #1 well, the An-Son Sisk #1 well, the An-Son Long #1 well and the An-Son Estate #1–30 well all in Grady County, Oklahoma, the An-Son Murphy #1–18 well, the An-Son Palmer #1–17 well and the An-Son Goldie #1–19 well all in Custer County, Oklahoma, the An-Son Sperle #1 well in Washita County, Oklahoma, and a point of interconnection between Applicant and the Mustang Fuel Corporation in Washita County, Oklahoma. Applicant states it would redeliver gas to El Paso at a point of interconnection with El Paso in Washita County, Oklahoma, or at a point of interconnection with Natural Gas Pipeline Company of America in Grady County, Oklahoma.

It is asserted that commencing December 1, 1981, the transportation charge would be the fair and equitable rate approved by the Commission in Docket No. ST81–106.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2317 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-232-000]

Public Service Company of Colorado; Filing

January 27, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSC) on January 19, 1982, tendered for filing a proposed change in its FERC Electric Tariff. PSC states that the proposed change is Supplement No. 20, a Letter Agreement assigned December 30, 1981, to amende the "Hayden Agreement" between PSC and Colorado-Ute Electric Association, Inc. on file with the Commission under PSC's FERC Rate Schedule No. 12.

PSC states that the proposed change is necessary to establish the terms and conditions pursuant to which PSC will supply service to Colorado-Ute in light of the added membership of Intermountain Rural Electric Association, Inc. (Intermountain) to Colorado-Ute. Intermountain has heretofore been served pursuant to PSC's FERC Rate Schedule No. 21.

PSC proposes an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspeciton.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2305 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-47-000]

Rockfish Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 27, 1982.

On January 11, 1982, Rockfish Corporation (Applicant) of Afton, Virginia filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric facility is located on the Rockville River between the villages of Schuyler and Rockfish in Virginia. The capacity of the facility will be 400 kilowatts. No other hydroelectric facilities are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before March 3, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2507 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5737-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5737 to be known as the Anderson Dam Power Project located on Anderson Reservoir in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to: Mr. David K. Gill at the above address.

Project Description—The proposed project, to be located at the Applicant's existing Anderson Reservoir, would consist of: (1) The Anderson Dam, a 240-foot high, 1,385-foot long structure creating; (2) the Anderson Reservoir with a storage capacity of 91,280 acre-feet and a surface area of 1,240 acres; (3) a new 2,800-foot long, 54-inch diameter penstock; (4) a new powerhouse to contain a single 980-kW, Francis-type, turbine-generating unit operating under a head of 170 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line located adjacent to the site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic feasibility, studies, site investigations and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of conducting these studies and preparing an application for an FERC license is $54,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [See: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exeption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petitaion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2518 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5738-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5738 to be known as the Coyote Dam Power Project located on Coyote Reservoir in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager,

Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to: Mr. David K. Gill at the above address.

Project Description—The proposed project, to be located at the Applicant's existing Coyote Reservoir, would consist of: (1) The Coyote Dam, a 120-foot high, 970-foot long structure creating; (2) the Coyote Reservoir with a storage capacity of 23,670 acre-feet and a surface area of 636 acres; (3) a 50-foot long, 30-inch diameter penstock; (4) a powerhouse to contain a single 320-kW, Francis-type, turbine-generating unit operating under a head of 70 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line located adjacent to the site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic feasibility studies, site investigations and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of carrying out the studies and preparing an application for an FERC license is $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2519 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5739-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5739 to be known as the Calero Dam Power Project located on Calero Reservoir in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to Mr. David K. Gill, at the above address.

Project Description—The proposed project, to be located at the Applicant's existing Calero Reservior, would consist of: (1) The Calero Dam, 96-foot high, 840-foot long structure creating; (2) the Calero Reservior with a storage capacity of 10,050 acre-feet and a surface area of 342 acres; (3) a 100-foot long, 40-inch diameter penstock; (4) a powerhouse to contain two generating units with a total rated capacity of 1,440 kW, operating under a head of 110 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line located adjacent to the site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic feasibility studies, site investigations, and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of carrying out these studies and preparing an application for an FERC license is $71,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice

and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2520 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5743-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 11, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5743 to be known as the Stevens Dam Power Project located on Stevens Creek Reservoir in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to Mr. David K. Gill, at the above address.

Project Description—The proposed project, to be located at the Applicant's existing Stevens Creek Reservoir, would consist of: (1) The Stevens Creek Dam, 120-foot high, 1,000-foot long structure creating; (2) the Stevens Creek Reservoir with a storage capacity of 3,600 acre-feet and a surface area of 92 acres; (3) a 50-foot long, 18-inch diameter penstock; (4) a new powerhouse to contain a single 127-kW unit operating under a head of 90 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line-located adjacent to the site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic feasibility studies, site investigations, and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of carrying out these studies and preparing an application for an FERC license is $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [See: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2521 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5740-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5740 to be known as the Lexington Dam Power Project located on Lexington Reservoir in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to Mr. David K. Gill, at the above address.

Project Description—The proposed project, to be located at the Applicant's existing Lexington Reservoir, would consist of: (1) The Lexington Dam, 195-foot high, 830-foot long structure creating; (2) the Lexington Reservoir with a storage capacity of 20,210 acre-

feet and a surface area of 519 acres; (3) a 50-foot long, 30-inch diameter penstock; (4) a new powerhouse to contain a single 840-kW, Francis-type, turbine-generating unit operating under a head of 140 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line located adjacent to the site.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic feasibility studies, site investigations, and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of carrying out these studies and preparing an application for an FERC license is $68,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone must submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATIONS", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2822 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5748-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 11, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5748 to be known as the Guadalupe Dam Power Project located on Guadalupe Reservoir in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to: Mr. David K. Gill at the same address.

Project Description—The proposed project, to be located at the Applicant's existing Guadalupe Reservoir, would consist of: (1) The Guadalupe Dam, a 129-foot high, 650-foot long structure creating; (2) the Guadalupe Reservoir with a storage capacity of 3,740 acre-feet and a surface area of 79 acres; (3) a 50-foot long, 18-inch diameter penstock; (4) a powerhouse to contain a single 127-kW, Francis-type, turbine-generating unit operating under a head of 120 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line located adjacent to the site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic studies, site investigations and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of conducting these studies and preparing an application for an FERC license is $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-2823 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5744-000]

Santa Clara Valley Water District; Application for Preliminary Permit

January 27, 1982.

Take notice that Santa Clara Valley Water District (Applicant) filed on December 11, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5744 to be known as the Almaden Dam Power Project located on Almaden Reservior in Santa Clara County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John T. O'Halloran, General Manager, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118 with a copy to: Mr. David K. Gill at the above address.

Project Description—The proposed project, to be located at the Applicant's existing Almaden Reservior, would consist of: (1) The Almaden Dam, a 105-foot high, 460-foot long structure creating; (2) the Almaden Reservoir with a storage capacity of 1,780 acre-feet and a surface area of 59 acres; (3) a 50-foot long, 18-inch diameter penstock; (4) a powerhouse to contain a single 95-kW, Francis-type, turbine-generating unit operating under a head of 90 feet; (5) a tailrace; (6) a switchyard; and (7) transmission facilities to an existing Pacific Gas and Electric Company line located adjacent to the site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct technical and economic feasibility studies, site investigations and shall consult with the California Department of Fish and Game to resolve fish and wildlife issues. No new roads will be required to conduct these studies. The estimated cost of conducting these studies and preparing an application for a FERC license is $44,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 10, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 8, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois C. Cashell,

Acting Secretary.

[FR Doc. 82-2824 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF79-4011]

Secretary of Energy and Southwestern Power Administration; Order on Reconsideration

Issued: January 25, 1982.

On June 3, 1981 the Federal Energy Regulatory Commission, in response to a filing of the Assistant Secretary for Resource Applications of the Department of Energy [1] issued an order which disapproved in part and remanded certain rates and charges for the sale of power by the Southwestern Power Adminstration (SWPA).[2] The Commission's rejection was based on its determination that, in light of the data and information supplied by SWPA, the rate schedules would not meet the statutory criteria which require that the rates provide a sufficient level of revenue to SWPA to recover its annual costs and to repay the federal investment within a reasonable period of time.[3] The Commission rejected the filing upon a finding of the following deficiencies:

(1) SWPA had reduced its estimate of replacement costs for its entire integrated

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[1] The filing was made by the Assistant Secretary for Resource Applications pursuant to DOE Delegation Order No. 0204-33 issued December 28, 1979, 43 FR 60636. This authority was transferred to the Assistant Secretary for Conservation and Renewable Energy on March 19, 1981 and April 9, 1981.

[2] "Order Disapproving and Remanding Rates, and Granting Intervention," Docket No. ER79-4011.

[3] Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825.

system by 35 percent based upon a special replacement study prepared by the Army Corps of Engineers for one project, the Sam Rayburn Dam. The Commission found no information in the study that would support SWPA's application of that same 35 percent reduction to the other projects,

(2) SWPA had underestimated its interest charges,

(3) In estimating replacement costs, SWPA had used an outdated publication issued in 1963 rather than a more recent 1968 study, resulting in an apparent revenue deficiency for SWPA,

(4) It appeared that SWPA's price estimates for purchased power were on the low side, and

(5) The SWPA study had improperly combined replacement costs with the original project investment, making it impossible for the Commission to determine whether replacement costs were being repaid on a timely basis consistent with statutory standards.

As a result of the above deficiencies, the Commission disapproved and remanded the record for further development in order to allow SWPA to demonstrate that the rates and charges submitted were in accord with the applicable statutory standards. The Commission also specifically provided for the filing of petitions for reconsideration no later than July 3, 1981, thirty days from issuance of the order. On July 2, 1981, SWPA filed a petition for reconsideration pursuant to the Commission's June 3, 1981 order. On July 17, 1981, the Committee on Power for the Southwest, Inc., (Committee) [4] filed comments in support of SWPA's July 2, 1981 petition.

In its petition, SWPA has addressed the deficiencies raised in the Commission's order and has requested that the Commission, on reconsideration, accept SWPA's responses as adequate support for its original filing. SWPA also asks that the Commission place in abeyance the 120-day requirement for filing substitute rates until the Commission rules on the instant petition. In the alternative, SWPA requests that, if the Commission still finds SWPA's filing deficient upon reconsideration, that it establish an informal conference to discuss the issues and that upon a determination that higher substitute rates must be filed, that the Commission confirm and approve the present interim rates on a final basis until such time as higher substitute rates can be confirmed and approved and placed in effect by the Commission.

The Committee on Power for the Southwest generally supports SWPA's petition for reconsideration and asks that the Commission confirm and approve the SWPA rates on a final basis.

[4] The Committee states that it has a membership of 167 rural electric cooperatives and 65 municipal electric systems, most of which are customers of SWPA.

Discussion

In response to the Commission's rejection, SWPA submitted with its motion for reconsideration, additional data and information to support its proposed rates. With respect to its understatement of replacement costs, SWPA provided the Commission with a copy of a recently completed replacement study by the Army Corps of Engineers. The new study develops estimates of SWPA's replacement costs on a project-by-project basis. On review, the Commission believes that this study provides a more suitable basis for estimating SWPA's project replacement costs than under the 1963 or the 1968 studies developed by the Bureau of Reclamation. Based upon this study, the Commission finds that SWPA's rates would reasonably support its reduction in replacement cost estimates.

With respect to SWPA's improper combination of replacement costs with the original investment costs, the additional data and information provided by SWPA to the Commission allows the Commission to make a proper determination as to whether replacement costs are being repaid on a timely basis. Based upon the information provided, the Commission finds that SWPA's rates will properly allow it to repay its system costs on a timely basis, consistent with statutory requirements.

In its order, the Commission noted that SWPA would have to recover additional revenues from customers other than those holding long-term contracts which limited SWPA's authority to increase its rates.[5] In its petition for reconsideration, SWPA has informed the Commission that it executed a contract with Associated Electric Cooperative, Inc. on March 6, 1981 which will provide a net annual benefit to the government exceeding $3.6 million over provisions of the old contract. On review, the Commission believes that the new contract will more than recover the estimated $2.1 million annual deficiency produced by the Aluminum contract. In addition, the Commission finds that the new contract will cure the deficiencies found by the Commission to have resulted from SWPA's underestimation of annual interest charges.

With regard to SWPA's estimates of purchased power costs, the Commission believes that, despite the additional comments provided in its petition for reconsideration, the estimates still appear to be on the low side. However, since this appears to be the only remaining shortfall in SWPA's filing, we shall accept SWPA's estimates as reasonable for purposes of this filing but request that SWPA review its estimates of purchase power costs between now and its next filing, in light of actual experience gained during the interim period. Accordingly, on consideration of the data and information contained in and accompanying SWPA's petition for reconsideration, the Commission finds that SWPA's proposed rates will meet the statutory requirements as set forth in the Flood Control Act of 1944.

On September 8, 1981, the United States District Court for the Eastern District of Louisiana found that the rate schedule proposed by SWPA for one of its customers, Tex-La, could not be placed into effect prior to final confirmation and approval of the rates by the FERC.[6] As a result of this ruling, it appears that SWPA will have collected less during the interim period than it would have otherwise collected between April 1, 1979 and the present from Tex-La.[7]

SWPA has requested that the proposed rates be allowed to remain in effect through September 30, 1986. In light of the revenue shortfall that will be produced by the reduction in SWPA's interim collection, the Commission shall only confirm and approve the rates and charges through September 30, 1982. At that time, SWPA shall submit rates which would, among other things, recover any revenue deficiencies produced by having SWPA's previous rates applicable to Tex-La in effect during the interim period rather than the presently approved rates.

The Commission orders:

(A) The Petition for Reconsideration of the Southwestern Power Administration is hereby granted.

(B) Upon reconsideration the rates and charges for the sale of power by the Southwestern Power Administration as submitted by the Assistant Secretary for Resource Applications of the United States Department of Energy, are hereby

[5] In January, 1962, Arkansas Power & Light Company, (AP&L) and Reynolds Metals Company (Reynolds) entered into a contract with SWPA which limited the rate increases that SWPA could charge AP&L and Reynolds. The contract runs for a 30 year period beginning January 1, 1964 and ending December 31, 1993.

[6] *United States of America* v. *Tex-La Electric Cooperative, Inc.* Civil Action No. 80-2813, decided September 8, 1981.

[7] The Assistant Secretary for Resource Applications of the Department of Energy, pursuant to DOE Delegation Order No. 0204-33, placed these rates in effect on an interim basis on March 5, 1979.

confirmed and approved on a final basis for the period April 1, 1979, through September 30, 1982.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2543 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-231-000]

Southern California Edison Co.; Filing

January 27, 1982.

The filing Company submits the following:

Take notice that, on January 18, 1982, Southern California Edison Company (Edison) tendered for filing an integration and transmission service agreement with the City of Vernon providing for the transmission by Edison on an interruptible basis of power purchased by Vernon from Nevada Power Company on a nonfirm basis. Edison will charge Vernon for transmission, dispatching, and scheduling services, and for losses between the Point of Attachment to Nevada Power Company and the Point of Delivery to Vernon.

Edison and Vernon request that service be initiated as soon as possible under this Agreement, and, for that reason, Edison requests that the notice provisions of the Commission's regulations be waived and the filing be permitted to become effective at the time of acceptance for filing, but, in no event, later than 60 days thereafter.

Copies of this filing were served upon the City of Vernon, California, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 1.8 and 1.10 of the Commission's rule of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be take, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 82-2506 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-296-000]

Tennessee Gas Pipeline Co.; Intent To Prepare an Environmental Impact Statement and Request for Environmental Comments on the Tennessee/Boundary Looping Project

January 27, 1982.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the project proposed in Docket No. CP81-296-000 would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to § 2.82(b) of the Commission's rules of practice and procedure (18 CFR 2.82(b)), an environmental impact statement (EIS) will be prepared. The draft EIS will deal with the application by Tennessee Gas Pipeline Company for a certificate of public convenience and necessity authorizing, pursuant to section 7(c) of the Natural Gas Act, the construction and operation of pipeline looping and compressor facilities to be known as the Tennessee/Boundary Looping Project. Natural gas would be purchased from TransCanada Pipe Lines, Limited (TransCanada) by Tennessee and Boundary Gas Inc. (Boundary), received at an existing TransCanada and Tennessee interconnect near Niagara Falls, New York, and sold to customers of Tennessee and Boundary in the Northeast.

The Tennessee/Boundary Looping Project would consist of 261.4 miles of 10-, 12-, 30-, and 42-inch diameter pipeline loop in 19 segments adjacent to Tennessee's existing pipelines in New York, Massachusetts, Pennsylvania, New Jersey, New Hampshire, and Connecticut. In addition, Tennessee would install a total of 30,465 horsepower of compression, including two new compressor stations, in Niagara and Livingston Counties, New York, as well as adding or upgrading compression at five existing compressor stations in Pennsylvania and Massachusetts. New or modified metering and regulating facilities are also proposed.

To allow sufficient space for construction of the various Tennessee loop sections, additional 50-foot wide construction rights-of-way would be required for the 30- and 42-inch diameter mainline loops and additional 40-foot wide construction rights-of-way for the 10- and 12-inch lateral loop sections. After construction, 20- and 25-foot wide permanent additional rights-of-way would be maintained for the lateral and mainline loop sections, respectively.

A copy of this notice and additional technical information about the proposed projects have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed projects. These comments, along with comments received earlier, will be used by the FERC staff to identify the issues which require in-depth environmental analysis. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Recommendations that the EIS address specific issues should be supported by detailed rationale or a showing of the need to consider those issues. To allow any comments to be considered during preparation of the draft EIS, comments must be received by February 28, 1982. The draft EIS is currently scheduled for circulation in April 1982.

Additional information about the proposal is available from Mr. James P. Daniel, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9042.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2508 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-33-000]

Texas-New Mexico Power Co.; Application

January 27, 1982.

Take notice that on January 20, 1982, Texas-New Mexico Power Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act, with the Federal Energy Regulatory Commission, seeking authority to issue up to $50 million of unsecured promissory notes and other evidence of indebtedness, with maturity dates of less than twelve months, but not later than April 1, 1984.

Any person desiring to be heard or to make any protest with reference to the application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before February 19, 1982. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2525 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM79-34 and ST82-76]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Producer's Gas Co.; Self-Implementing Transactions

January 28, 1982.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 283.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's regulations.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 Subpart	Expiration date [1]	Transportation rate (¢/MMBtu)
ST82-76	Producer's Gas Co	Tennessee Gas Pipeline Co	12/02/81	C	5/01/82	19.79
ST82-77	Texas Eastern Transmission Corp	New Jersey Natural Gas Co	12/01/81	B		
ST82-78	Valero Transmission Co	Natural Gas Pipeline Co. of America	12/03/82	C		
ST82-79	Transcontinental Gas Pipe Line Corp	Natural Gas Pipeline Co of America	12/03/81	G		
ST82-81	Louisiana Resources Co	Southern Natural Gas Co	12/02/81	C	5/01/82	22.25
ST82-82	Northwest Pipeline Corp	Mountain Fuel Supply Co	12/02/81	G		
ST82-83	Mountain Fuel Supply Co	Colorado Interstate Gas Co	12/03/81	G		
ST82-84	Natural Gas Pipeline Co. of America	Seagull Pipeline Corp	12/04/81	B		
ST82-85	Delhi Gas Pipeline Corp	Columbia Gas Transmission Corp	12/07/81	C		
ST82-86	Colorado Interstate Gas Co	Mountain Fuel Supply Co	12/07/81	G		
ST82-87	Transcontinental Gas Pipe Line Corp	United Gas Pipe Line Co	12/07/81	G		
ST82-88	Transcontinental Gas Pipe Line Corp	Columbia Gulf Transmission Co	12/07/81	G		
ST82-89	United Gas Pipe Line Co	United Texas Transmission Co	12/08/81	B		
ST82-90	Tennessee Gas Pipe Line Co	Zapata Gathering Co	12/10/81	B		
ST82-91	Transcontinental Gas Pipe Line Corp	Delhi Gas Pipeline Corp	12/07/81	B		
ST82-92	Southern Natural Gas Co	Sugar Bowl Gas Corp	12/10/81	B		
ST82-93	Columbia Gulf Transmission Co	Transcontinental Gas Pipe Line Corp	12/09/81	G		
ST82-94	Colorado Interstate Gas Co	Tennessee Gas Pipeline Co	12/10/81			
ST82-95	Red River Pipeline	United Gas Pipe Line Co	12/10/81	C	5/09/82	48.64
ST82-96	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	12/11/81	G		
ST82-97	Tennessee Gas Pipeline Co	Dow Intrastate Gas Co	12/14/81	B		
ST82-98	Oasis Pipe Line Co	Tennessee Gas Pipeline Co	12/14/81	C		
ST82-99	Houston Pipe Line Co	Tennessee Gas Pipeline Co	12/14/81	C		
ST82-100	Arkansas Louisiana Gas Co	Transok Pipe Line Co	12/15/81	B		
ST82-101	Columbia Gulf Transmission Co	Northern Natural Gas Co	12/15/81	G		
ST82-102	United Gas Pipe Line Co	Arkansas Louisiana Gas Co	12/15/81	G		
ST82-103	Delhi Gas Pipeline Corp	Transwestern Pipeline Co	12/15/81	C		
ST82-104	The East Ohio Co	Panhandle Eastern Pipe Line Co	12/21/81	G(HT)		
ST82-105	Trunkline Gas Co	Columbia Gas Transmission Corp	12/22/81	G		
ST82-106	Western Slope Gas Co	Northern Natural Gas Co	12/21/81	G(HT)		
ST82-107	Natural Gas Pipeline Co. of America	Transcontinental Gas Pipe Line Corp	12/21/81	G		
ST82-108	United Texas Transmission Co	United Gas Pipe Line Co	12/23/81	C		
ST82-109	Natural Gas Pipeline Co. of America	Valero Transmission Co	12/30/81	B		
ST82-110	Natural Gas Pipeline Co. of America	Southern Natural Gas Co	12/30/81	G		
ST82-111	Natural Gas Pipeline Co. of America	Southern Natural Gas Co	12/30/81	G		
ST82-112	Gas Company of New Mexico	United Gas Pipe Line Co	12/24/81	G(HT)		
ST82-113	Gas Company of New Mexico	El Paso Natural Gas Co	12/24/81	G(HT)		
ST82-114	Northern Natural Gas Co	Intratex Gas Co	12/03/81	B		

[1] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 82-2542 Filed 1-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5668-000]

Vermont Public Power Supply Authority; Application for License (5 MW or Less)

January 27, 1982.

Take notice that Vermont Public Power Supply Authority (Applicant) filed on October 30, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the North Troy Hydroelectric Project, Project No. 5668. The project would be located on the Missisquoi River in the Village of North Troy, Orleans County, Vermont. Correspondence with the Applicant should be directed to: Harland G. Titemore, General Manager, Vermont Public Power Supply Authority, P.O. Box C–5515, 32 Williston Road, South Burlington, Vermont 05402.

Project Description—The North Troy project would consist of: (1) Existing concrete overflow dam, with a height of 12 feet and a length of 80 feet; (2) the existing resevoir having a storage capacity of 25 acre-feet and a dam crest elevation of 536.7 feet (NGVD); (3) a proposed powerhouse with one generating unit with a capacity 600 kW; (4) a new tailrace channel; and (5) appurtenant facilities.

The Applicant estimates the average annual energy would be 2,200,000. Vermont Public Power Supply Authority will wheel all of the project's power over Citizens Utilities lines to its member utilities.

The Applicant holds a preliminary permit for the North Troy site, issued August 22, 1980.

Purpose of Project—The sole purpose of the North Troy Hydroelectric Project is to produce electric energy for the members of the Vermont Public Power Supply Authority.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 8, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–2526 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–226–000]

Washington Water Power Co.; Filing

January 27, 1982.

The filing Company submits the following:

Take notice that on January 13, 1982, The Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington Refers to as a "Letter Agreement" dated September 1, 1981, between Washington and Pacific Gas and Electric Company, which applies to the sale of energy from Washington's portion of the Centralia coal-fired steam generating plant.

Washington requests an effective date of September 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2509 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 26, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABCO ENERGY CORP			RECEIVED:	12/23/81	JA: TX				
8212369	F-02-042928	4217531411		182-2	103	RAMSEY #1	LA BAHIA E (3700')	295.2	TRUNKLINE GAS CO
-ALLAR CO			RECEIVED:	12/23/81	JA: TX				
8212411	F-09-043511	4223700000		103		PEAVY - CULLERS UNIT #1	JACK COUNTY REGULAR	200.0	LONE STAR GAS
-AMERADA HESS CORPORATION			RECEIVED:	12/23/81	JA: TX				
8212486	F-8A-043625	4216531888		103		SEMINOLE SAN ANDRES UNIT #9117	SEMINOLE SAN ANDRES	1.8	PHILLIPS PETROLEU
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	12/23/81	JA: TX				
8212527	F-04-043934	4221530965		103		RAYMOND GEE #1	SEC 276 1808' FWL 508	0.0	TRUNK LINE GAS CO
-AMERIND OIL CO			RECEIVED:	12/23/81	JA: TX				
8212431	F-08-043611	4200332763		103		COWDEN F #1	GOLDSMITH N (SILURIAN	38.0	PIONEER CORP
-AMMEX PETROLEUM INC			RECEIVED:	12/23/81	JA: TX				
8212371	F-03-042981	4205100000		102-2	103	MISS ANNIE UNIT #1-A	GIDDINGS (AUSTIN CHAL	162.0	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED:	12/23/81	JA: TX				
8212465	F-05-043763	4234730549		102-4	107-TF	EMMETT CASE GAS UNIT #1	APPLEBY NORTH/COTTON	287.0	UNITED GAS PIPELI
8212555	F-08-044009	4200332251		103		FRANK COWDEN R/A "D" #13	COWDEN NORTH	1.5	WESTAR TRANSMISSI
8212556	C#32438	4200332288		103		FRANK COWDEN R/A "D" #16	COWDEN NORTH	7.3	WESTAR TRANSMISSI
8212554	F-08-044007	4200332269		103		FRANK COWDEN R/A "D" #17	COWDEN NORTH	17.9	WESTAR TRANSMISSI
8212546	F-08-043999	4200332429		102-4		FRANK COWDEN R/A "D" #18	COWDEN N (STRAWN)	85.4	WESTAR TRANSMISSI
8212447	F-04-043672	4235531713		103		JANE W BLUMBERG #11	AGUA DULCE/7850/	7.3	AMOCO GAS CO
8212385	F-06-043103	4207330394		102-4		TEMPLE-EASTEX GAS UNIT /A/ #1	SOUTHERN PINE/TRAVIS	319.0	TEXAS UTILITIES F
-BASS ENTERPRISES PRODUCTION CO			RECEIVED:	12/23/81	JA: TX				
8212456	F-08-043725	4249531380		103		M J BASHARA #65	KEYSTONE	40.0	TRANSWESTERN PIPE
8212457	F-08-042726	4249531381		103		M J BASHARA #66	KEYSTONE	40.0	TRANSWESTERN PIPE
-BEN J TAYLOR			RECEIVED:	12/23/81	JA: TX				
8212475	F-7B-043792	4236732132		103		HALL UNIT 3	TOTO (CADDO CONGLOMER	90.0	LONE STAR GAS CO
-BERT FIELDS JR			RECEIVED:	12/23/81	JA: TX				
8212446	F-7C-043665	4238300000		108		UNIVERSITY "E-1"	BLOCK 49 (2450)	1.7	J L DAVIS
8212444	F-7C-043662	4238300000		108		UNIVERSITY "F" #2	BLOCK 49 (2450)	1.3	J L DAVIS
8212445	F-7C-043663	4238300000		108		UNIVERSITY F #1	BLOCK 49(2450)	1.3	J L DAVIS
8212443	F-7C-043661	4238300000		108		UNIVERSITY F #3	BLOCK 49 (2450)	1.3	J L DAVIS
8212442	F-7C-043660	4238300000		108		UNIVERSITY F #4	BLOCK 49(2450)	1.3	J L DAVIS
8212441	F-7C-043659	4238300000		108		UNIVERSITY F #6	BLOCK 49 (2450)	1.3	J L DAVIS
-BRIGHT & COMPANY			RECEIVED:	12/23/81	JA: TX				
8212407	F-04-043439	4221531151		102-4		HAMMAN A-1	MONTE CHRISTO (VICKSB	1000.0	VALERO TRANSMISSI
-BTA OIL PRODUCERS			RECEIVED:	12/23/81	JA: TX				
8212426	F-08-043604	4213533684		103		RATLIFF #54	COWDEN NORTH	6.0	AMOCO PRODUCTION
8212427	F-08-043605	4213533682		103		RATLIFF #56	COWDEN NORTH	1.8	AMOCO PRODUCTION
8212428	F-08-043606	4213533712		103		RATLIFF #57	COWDEN NORTH	1.0	AMOCO PRODUCTION
-CABOT CORPORATION			RECEIVED:	12/23/81	JA: TX				
8212500	F-10-043839	4223331031		103		MERCHANT IRA C #12	PANHANDLE HUTCHINSON	12.0	PANHANDLE EASTERN
8212503	F-10-043851	4223331033		103		MERCHANT IRA C #14	PANHANDLE HUTCHINSON	12.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-CHEVRON U S A INC				RECEIVED:	12/23/81	JA: TX
8212550	F-08-044003	4222732083		103		G M DODGE #57
8212564	F-8A-044069	4241531879		103		SACROC UNIT 17A-11
8212565	F-8A-044070	4241531926		103		SACROC UNIT 60-6
8212562	F-8A-044067	4241531929		103		SACROC UNIT 65-11
8212566	F-8A-044071	4241531888		103		SACROC UNIT 65-13
8212563	F-8A-044068	4241531933		103		SACROC UNIT 68-10
8212548	F-08-044001	4222732128		103		W I FOSTER 1 #59
8212551	F-08-044004	4233531624		103		W L FOSTER #1-58
8212549	F-08-044002	4233531653		103		W L FOSTER 1 #64
8212561	F-08-044055	4233531920		103		W L FOSTER 1-48
8212560	F-08-044054	4233532041		103		W L FOSTER 1-78
-COASTAL OIL & GAS CORP				RECEIVED:	12/23/81	JA: TX
8212538	F-10-043943	4237530852		103		MASTERSON "B" 8357P
8212476	F-10-043793	4237530869		103		MASTERSON "B" 8361P
-COATES ENERGY TRUST				RECEIVED:	12/23/81	JA: TX
8212378	F-01-043008	4249330452		102-4		BENEDICT KORZEKWA #1
-CONOCO INC				RECEIVED:	12/23/81	JA: TX
8212416	F-8A-043547	4211500000		108		A D BROWN-A-#1 ID#16167
8212417	F-7C-043548	4244300000		108		BROWN BASSETT #1 ID#10771
8212450	F-04-043689	4242700000		108		FRIO D-5 UNIT #1
8212440	F-04-043657	4242700000		108		FRIO D-5 UNIT #44
8212438	F-08-043609	4210931475		103		G E RAMSEY-16-#5 ID #26460
8212429	F-08-043608	4210931483		103		G E RAMSEY-16-#6 ID #26460
8212414	F-7B-043545	4243300000		108		GUEST CANYON SAND UT #6 ID#10855
8212415	F-08-043546	4222700000		108		H R CLAY-A-#6 ID#02691
8212421	F-08-043566	4222700000		108		H R CLAY-E-#46 ID#02692
8212422	F-08-043567	4213500000		108		H S FOSTER-A-#19 ID#16154
8212439	F-04-043655	4213100000		108		ROBERT DRISCOLL #372
8212508	F-04-043877	4242700000		108		T B SLICK EST A-221 #153
8212420	F-08-043565	4200300000		108		UNIVERSITY 8-1 #2 ID#22356
8212413	F-08-043544	4200300000		108		UNIVERSITY-5-#4 ID#01652
8212418	F-08-043549	4213500000		108		WIGHT A-19 #3 ID#25690
8212419	F-08-043550	4213500000		108		WIGHT 18-7 #3 ID#26220
-CORDOVA RESOURCES INC				RECEIVED:	12/23/81	JA: TX
8212373	F-7B-042958	4213300000		103	108	A J MORRIS #1
8212372	F-7B-042950	4213300000		103		C P BRANNIN #1
8212559	F-7B-044826	4213332327		103		EAKIN #4
8212374	F-7B-042959	4213300000		108		JACKSON #1
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/23/81	JA: TX
8212474	F-10-043787	4235731860		103		HALLIBURTON A #1
-DAMERON PETROLEUM CORP				RECEIVED:	12/23/81	JA: TX
8212529	F-7C-043939	4210533380		102-2		MRS RAY DUNLAP-SEC 12 BLK 1 #3
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	12/23/81	JA: TX
8212524	F-7B-043926	4236731875		108		BYERS GAS UNIT #2
8212525	F-10-043927	4235700000		108		S L BRILLHART #2
8212518	F-10-043902	4239330790		103		SUSAN B KAUFMAN #4-81LT
8212516	F-10-043899	4239330790		103		SUSAN B KAUFMAN #4-81UT
8212517	F-10-043900	4239330790		103		SUSAN B KAUFMAN #5-E1 LT
8212504	F-10-043864	4239330790		103		SUSAN B KAUFMAN #5-E1 UT
-EXXON CORPORATION				RECEIVED:	12/23/81	JA: TX
8212510	F-08-043883	4249531335		103		BROWN-ALTMAN B #17
8212409	F-08-043497	4222732460		103		DOUTHIT UNIT #210

FIELD NAME	PROD	PURCHASER
IATAN EAST (HOWARD)	17.8	GETTY OIL CO
KELLY-SYNDER	27.0	EL PASO NATURAL G
KELLY-SYNDER	25.0	EL PASO NATURAL G
KELLY-SYNDER	438.0	EL PASO NATURAL G
KELLY-SYNDER	42.0	EL PASO NATURAL G
KELLY-SYNDER	82.0	EL PASO NATURAL G
IATAN EAST (HOWARD)	2.9	GETTY OIL CO
IATAN EAST (HOWARD)	13.5	GETTY OIL CO
IATAN EAST (HOWARD)	2.5	GETTY OIL CO
IATAN EAST	1.8	GETTY OIL CO
IATAN EAST (HOWARD)	0.1	GETTY OIL CO
PANHANDLE (RED CAVE)	43.0	COLORADO INTERSTA
PANHANDLE (RED CAVE)	12.0	COLORADO INTERSTA
HELMS (4200)	73.0	
ACKERLY	3.1	TEXACO INC
BROWN BASSETT	2.6	EL PASO NATURAL G
RINCON (FRIO D-5)	0.4	TENNESSEE GAS PIP
RINCON (FRIO D-5)	2.4	TENNESSEE GAS PIP
FORD WEST (4100)	0.0	EL PASO NATURAL G
FORD WEST (4100)	0.0	EL PASO NATURAL G
GUEST	0.2	CITIES SERVICE
HOWARD GLASSCOCK	8.2	PHILLIPS PETROLEU
HOWARD GLASSCOCK	1.3	PHILLIPS PETROLEU
COWDEN S	0.0	PHILLIPS PETROLEU
CONOCO-DRISCOLL (UPPE	2.3	TRANSCONTINENTAL
RINCON (FRIO B)	22.0	TENNESSEE GAS PIP
HUTEX	8.0	PHILLIPS PETROLEU
FUHRMAN-NIX	8.4	PHILLIPS PETROLEU
COWDEN N	2.3	AMOCO PRODUCTION
COWDEN N	19.7	AMOCO PRODUCTION
EASTLAND COUNTY REGUL	9.4	ODESSA NATURAL CO
EASTLAND COUNTY REGUL	3.1	ODESSA NATURAL GA
EASTLAND COUNTY REGUL	4.0	SOUTHWESTERN GAS
EASTLAND COUNTY REGUL	1.4	ODESSA NATURAL CO
ELLIS RANCH (CLEVELAN	200.0	PHILLIPS PETROLEU
AMERICAN (BARBERRY B	10.0	EL PASO NATURAL G
RENO	11.0	SOUTHWESTERN GAS
KIOWA CREEK	3.0	SOUTHWESTERN PUBL
MENDOTA NW	220.0	
MENDOTA NW	27.0	
MENDOTA NW	657.0	
MENDOTA NW	9.8	
EMPEROR EAST (CLEAR F	37.0	PIONEER NATURAL G
HOWARD GLASSCOCK	2.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212399	F-08-043209	4237133478		103		FORT STOCKTON UNIT #909	FORT STOCKTON (YATES	58.0	NUECES CO
8212387	F-08-043110	4200332826		103		FULLERTON CLEARFORK UNIT #1319	FULLERTON	15.0	PHILLIPS PETROLEU
8212389	F-08-043112	4200332838		103		FULLERTON CLEARFORK UNIT #1817	FULLERTON	15.0	PHILLIPS PETROLEU
8212388	F-08-043111	4200332845		103		FULLERTON CLEARFORK UNIT #2543	FULLERTON	15.0	PHILLIPS PETROLEU
8212498	F-06-043835	4200131231		103		G W EATON EST #29	NECHES (WOODBINE)	32.5	UNITED GAS PIPELI
*8212478	F-04-043798	4204730956		102-4		K R LAGUNA LARGA 29 (95307)	FLOWELLA (VICKSBURG 4	670.5	ARMCO STEEL CORP
*8212547	F-03-044000	4215731194		103		KATY GAS FIELD UNIT 2 68	KATY S (FIRST WILCOX)	292.0	AMOCO STEEL CORP
8212545	F-06-043998	4207330431		103		L H HAMMONS #10	NECHES (WOODBINE)	63.5	UNITED GAS PIPELI
8212396	F-10-043204	4259330847		103		R A FLOWERS #3-U	MENDOTA NW (DOUGLAS L	183.0	TRANSWESTERN PIPE
*8212477	F-04-043797	4204730936		103		R J K PATRICIO PASTURE 28 (95238)	PITA WEST (I-32)	657.0	ARMCO STEEL CORP
*8212479	F-04-043800	4204730959		102-4		R J K ZACH PAST ST 18-F (09896)	VIBORAS (ZONE 1 VIII	65.0	ARMCO STEEL CORP
*8212523	F-04-043925	4226130582		102-4		RJK JR STILLMAN PASTURE 48 (94448)	STILLMAN (K-32,I)	160.0	ARMCO STEEL CORP
8212397	F-8A-043207	4216532122		103		ROBERTSON CLFK UNIT #4601	ROBERTSON N (CLFK 710	15.0	PHILLIPS PETROLEU
8212398	F-8A-043208	4216532098		103		ROBERTSON CLFK UNIT #5701	ROBERTSON N (CLFK 710	15.0	PHILLIPS PETROLEU
8212488	F-04-043811	4226130621		103		SANTA FE RCH JULIAN PAST 26 #95463	JULIAN (28-E)	150.0	NATURAL GAS PIPEL
8212499	F-06-043837	4207330442		103		T J CUNNINGHAM ESTATE #8	NECHES (WOODBINE)	33.0	UNITED GAS PIPELI
8212418	F-08-043499	4210931473		103		TEXACO FEE D #3	FORD WEST (4100)	18.0	
-GENE ROBERTSON OIL CO				RECEIVED:	12/23/81	JA: TX			
8212401	F-09-043247	4223733162		103		DR JAGODA B-1	JACK COUNTY REGULAR	35.0	LONE STAR GAS CO
-GETTY OIL COMPANY				RECEIVED:	12/23/81	JA: TX			
8212552	F-8A-044005	4203330677		103		CLAYTON RANCH #1	EAST TANK (FUSSELMAN)	1.0	
8212384	F-7B-043047	4243331230		103		FLOWERS CANYON SAND UNIT #189	FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
8212383	F-7B-043045	4243331231		103		FLOWERS CANYON SAND UNIT #190	FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
8212382	F-7B-043044	4243331229		103		FLOWERS CANYON SAND UNIT #191	FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
8212381	F-7B-043043	4243331229		103		FLOWERS CANYON SAND UNIT #192	FLOWERS (CANYON SAND)	1.0	CITIES SERVICE CO
8212380	F-7B-043042	4243331252		103		FLOWERS CANYON SAND UNIT #193	FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
8212472	F-08-043781	4210332474		103		NORTH MCELROY UNIT #3407 RRC #20377	MCELROY	4.0	PHILLIPS PETROLEU
8212469	F-08-043778	4210332504		103		NORTH MCELROY UNIT #3416 RRC #20377	MCELROY	2.0	PHILLIPS PETROLEU
8212471	F-08-043870	4210332523		103		NORTH MCELROY UNIT #3514 RRC #20377	MCELROY	18.0	PHILLIPS PETROLEU
8212470	F-08-043779	4210332586		103		NORTH MCELROY UNIT #4747 RRC #20377	MCELROY	9.0	PHILLIPS PETROLEU
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212519	F-05-043904	4216130447		103		MCMICHAEL #1	TEAGUE TOWNSITE	0.0	LONE STAR GAS CO
-GRAND BANKS ENERGY CO				RECEIVED:	12/23/81	JA: TX			
*8212449	F-7C-043680	4246131677		103		DAVIS A #1	DAVIS (WOLFCAMP)	17.1	MOBIL OIL CORP
*8212423	F-8A-043596	4203330648		103		DYER #2	ACKERLY (DEAN SAND)	19.7	TEXACO INC
*8212448	F-8A-043677	4216532161		103		HERNDON #2	HANFORD (SAN ANDRES)	1.1	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212511	F-10-043892	4217900000		108		WM JACKSON #13	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8212512	F-10-043893	4217900000		108		WM JACKSON #3	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8212515	F-10-043896	4217900000		108		WM JACKSON #4	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8212513	F-10-043894	4217900000		108		WM JACKSON #7	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8212514	F-10-043895	4217900000		108		WM JACKSON #8	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
-H W WHITESIDE				RECEIVED:	12/23/81	JA: TX			
8212453	F-7C-043710	4245100000		108		W G CURRIE A #1 (19314)	SUSAN PEAK SOUTH (STR	5.0	ARCO OIL & GAS CO
-HANLEY COMPANY				RECEIVED:	12/23/81	JA: TX			
8212398	F-7C-043124	4238331956		103		UNIVERSITY 2-26A (09061) #1	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
-HNH OPERATORS				RECEIVED:	12/23/81	JA: TX			
8212520	F-08-043912	4245100000		103		GUNTER #3	CONGER PENN FIELD	100.0	ESPERANZA PIPELIN
-HNG OIL COMPANY				RECEIVED:	12/23/81	JA: TX			
8212452	F-7C-043700	4243532205		107-TF		ESPY 40 #4	SAWYER CANYON	148.0	INTRATEX GAS CO
8212451	F-7C-043699	4243532153		107-TF		FIELDS 20 #4	SAWYER CANYON	403.0	INTRATEX GAS CO
8212540	F-7C-043991	4243500000		108		GALBREATH 65 #1	SAWYER CANYON	59.7	INTRATEX GAS CO
-HUNT OIL COMPANY				RECEIVED:	12/23/81	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8212408	F-06-043466	4200131286		103		FAIRWAY (JAMES LIME) UNIT #956-2
-HURLEY PETROLEUM CORPORATION				RECEIVED:	12/23/81	JA: TX
8212488	F-06-043210	4236500888		108		ALLIE M HOGG 1-C
-IBEX INC				RECEIVED:	12/23/81	JA: TX
8212526	F-08-043933	4247532389		103		UNIVERSITY-WICKETT B #13
-JACK WORSHAM				RECEIVED:	12/23/81	JA: TX
8212438	F-10-043652	4206530922		103		BURNETT #10-122
8212436	F-10-043650	4206530808		103		BURNETT #2-122
8212437	F-10-043651	4223331132		103		BURNETT #5-122
-KERR-MCGEE CORPORATION				RECEIVED:	12/23/81	JA: TX
8212403	F-10-043267	4223330843		103		PITTS NO 121
-L M YOUNG				RECEIVED:	12/23/81	JA: TX
8212461	F-7B-043751	4204932650		102-4		W R CHAMBERS #8 (95382)
-LADD PETROLEUM CORPORATION				RECEIVED:	12/23/81	JA: TX
8212379	F-01-043013	4216300000		103		R F BEELER "A" 31-4
-LIVINGSTON ENERGY CORP				RECEIVED:	12/23/81	JA: TX
8212393	F-7B-043197	4236300000		103		ARLEY DOYLE #1
-M J BRANNON				RECEIVED:	12/23/81	JA: TX
8212405	F-7B-043415	4208331817		102-4		J T PORTER #3 (14287)
-MARALO INC				RECEIVED:	12/23/81	JA: TX
8212543	F-7C-043995	4238331983		103		UNIVERSITY 6 #1
8212553	F-7C-044006	4238331984		103		UNIVERSITY 6 #2
8212542	F-7C-043994	4238331985		103		UNIVERSITY 6 #3
8212541	F-7C-043993	4238332034		103		UNIVERSITY 6 #5
8212544	F-7C-043996	4238332011		103		UNIVERSITY 6 #6
-MARIANAS OPERATING CO INC				RECEIVED:	12/23/81	JA: TX
8212460	F-7B-043750	4208332282		102-4		HUCKABEE #3 (15421)
8212459	F-7B-043749	4208332295		102-4		HUCKABEE #4 (15421)
8212458	F-7B-043748	4208332294		102-4		HUCKABEE #5 (15421)
-MARK IV ENERGY				RECEIVED:	12/23/81	JA: TX
8212538	F-01-043972	4249330927		103		ALEX & VERA RICHTER 07203
-MAY PETROLEUM INC				RECEIVED:	12/23/81	JA: TX
8212386	F-06-043105	4229530728		102-4		LONGHOFER #1
-MEADCO PROPERTIES				RECEIVED:	12/23/81	JA: TX
8212454	F-7C-043711	4223531622		103		FARMAR 29 #1 RRC #09036
-MEG PETROLEUM CORP				RECEIVED:	12/23/81	JA: TX
*8212539	F-7C-043975	4241331000		103		UNIVERSITY "54" #2
-MELBOURNE OIL COMPANY				RECEIVED:	12/23/81	JA: TX
8212404	F-10-043394	4235730791		108		DANIEL #1 RRC ID#76084
-MIRAMAR PETROLEUM INC				RECEIVED:	12/23/81	JA: TX
8212402	F-02-043265	4229700000		102-4		EL PASO NATURAL GAS #1
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/23/81	JA: TX
8212412	F-09-043536	4249700000		108		J I GASWELL #3 06907
8212506	F-7B-043867	4236732050		102-4		JAMES PAUL REED #1 17488
8212505	F-09-043865	4249731802		102-4		W A HUTCHESON #2T 20909
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	12/23/81	JA: TX
8212377	F-08-043004	4237133434		103		CHARLES B ATHEY C #4
8212537	F-10-043967	4217930941		103		DELLA EDINGTON #7
*8212521	F-8A-043913	4250132033		103		H O MAHONEY #56
8212535	F-08-043965	4232931007		103		SHACKELFORD SPRABERRY UNIT #133
*8212536	F-08-043966	4247532290		103		STATE "AK" #8
-MONSANTO COMPANY				RECEIVED:	12/23/81	JA: TX
8212468	F-8A-043773	4250132124		103		SAWYER #6

FIELD NAME	PROD	PURCHASER
FAIRWAY (JAMES LIME)	27.0	LONE STAR GAS CO
BETHANY (PETTIT) FIEL	180.0	TENNESSEE GAS PIP
WARD-ESTES NORTH	11.0	CABOT CORP
PANHANDLE	0.0	PANHANDLE EASTERN
PANHANDLE	0.0	PANHANDLE EASTERN
PANHANDLE	0.0	PANHANDLE EASTERN
PANHANDLE (HUTCHINSON	3.0	GETTY OIL CORP
CHAMBERS (CONGL)	153.0	ODESSA NATURAL CO
PEARSALL (AUSTIN CHAL	219.0	HOUSTON PIPELINE
BRAZOS EAST (CADDO)	6.0	LONE STAR GAS CO
BURKETT S W (DUFFER)	0.0	
BLOCK 49 (2450)	7.9	NORTHERN NATURAL
BLOCK 49 (2450)	6.8	NORTHERN NATURAL
BLOCK 49 (2450)	5.0	NORTHERN NATURAL
BLOCK 49 (2450)	3.2	NORTHERN NATURAL
BLOCK 49 (2450)	5.8	NORTHERN NATURAL
LITTLE LONGHORN (MORR	23.0	ODESSA NATURAL CO
LITTLE LONGHORN (MORR	43.0	ODESSA NATURAL CO
LITTLE LONGHORN (MORR	48.0	ODESSA NATURAL CO
SUTIL (AUSTIN)	36.0	J L DAVIS
CAMBRIDGE (ATOKA)	55.0	DIAMOND SHAMROCK
ELA SUGG (CISCO)	14.0	CRA INC
UNIVERSITY 54 (ELLENB	126.0	CRA INC
NORTHRUP (CLEVELAND)	28.0	EL PASO NATURAL G
CHAPA WEST (LULING 87	200.0	EL PASO NATURAL G
ALVORD CADDO (CONGL)	12.1	NATURAL GAS PIPEL
RENO (STRAWN 2900)	60.0	
BRIDGEPORT EAST (CONG	17.5	NATURAL GAS PIPEL
COYANOSA N (DELAWARE)	11.0	EL PASO NATURAL G
PANHANDLE GRAY COUNTY	16.0	PHILLIPS PETROLEU
WASSON	28.6	SHELL OIL CO
SPRABERRY (TREND AREA	12.0	EL PASO NATURAL G
CAPRITO (DELAWARE MID	279.6	LONE STAR GAS CO
WASSON	5.0	SHELL OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MOSBACHER PRODUCTION CO				RECEIVED:	12/23/81	JA: TX			
8212486	F-01-043809	4217730988		103		HERBERT L BECKENDORF #1	PEACH CREEK (AUSTIN C	25.0	VALERO TRANSMISSI
-MOTE RESOURCES INC				RECEIVED:	12/23/81	JA: TX			
8212534	F-09-043964	4207732334		103		SARAH MAXEY #3 RRC ID #21514	BUCK M (BRYSON)	30.0	FAGADAU ENERGY CO
-PANHANDLE PLUGGERS INC				RECEIVED:	12/23/81	JA: TX			
8212425	F-10-043579	4217930866		103		POWELL A (00581) #44	PANHANDLE GRAY COUNTY	100.0	PHILLIPS PETROLEU
-PANHANDLE PRODUCING COMPANY				RECEIVED:	12/23/81	JA: TX			
8212502	F-10-043843	4223300000		108		ALAMOSA-SANFORD #12 (02787)	PANHANDLE HUTCHINSON	14.9	COLORADO INTERSTA
8212501	F-10-043842	4223300000		108		ALAMOSA-SANFORD #15 (02787)	PANHANDLE HUTCHINSON	14.9	COLORADO INTERSTA
-PETRO-LEWIS CORPORATION				RECEIVED:	12/23/81	JA: TX			
8212487	F-08-043810	4210332431		103		J B TUBB STATE #18	SAND HILLS (MC KNIGHT	45.0	EL PASO NATURAL G
-PETRO-SEARCH INC				RECEIVED:	12/23/81	JA: TX			
8212509	F-05-043882	4223733595		103		C O TILGHMAN #3	JACK COUNTY REGULAR	25.0	SOUTHWESTERN GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/23/81	JA: TX			
8212392	F-08-043168	4200304492		108		(08387) BUM-A #1	GOLDSMITH (5600)	19.1	EL PASO NATURAL G
8212432	F-08-043612	4249530248		108		MCCABE #33	HALLEY-YATES	8.7	EL PASO NATURAL G
-R L BURNS CORP				RECEIVED:	12/23/81	JA: TX			
8212370	F-01-042937	4217730941		103		A E SCHIEBERLE #1	TWIN RIVERS (AUSTIN C	766.5	VALERO TRANSMISSI
8212482		4247931774		103		MIDDLETON "15" #1	SEGUNDO (OLMOS)	0.0	LONE STAR GAS CO
8212480	F-04-043802	4247931773		103		MIDDLETON "25" #1	SEGUNDO (OLMOS)	0.0	LONE STAR GAS CO
8212485	F-04-043808	4247931944		103		MIDDLETON "3" #1	SEGUNDO (OLMOS)	0.0	LONE STAR GAS CO
8212484	F-04-043807	4247932085		103		MIDDLETON "3" #2	SEGUNDO (OLMOS)	0.0	LONE STAR GAS CO
8212481	F-04-043803	4247931923		103		MIDDLETON 16 #2	SEGUNDO (OLMOS)	0.0	LONE STAR GAS CO
8212483	F-04-043805	4247931956		108		MIDDLETON 6 #2	BOOTH RANCH (OLMOS)	14.9	LONE STAR GAS CO
-SCANDRILL CO				RECEIVED:	12/23/81	JA: TX			
8212467	F-09-043767	4223733822		103		DAN DAVIS #2	JACK COUNTY REGULAR	25.0	LONE STAR GAS CO
8212466	F-09-043765	4250334931		103		GILMORE-HAWKINS #2	YOUNG COUNTY REGULAR	89.4	SOUTHWESTERN GAS
-SHELL OIL CO				RECEIVED:	12/23/81	JA: TX			
8212557	F-8A-044017	4250131912		103		DENVER UNIT #2735	WASSON	14.2	SHELL OIL CO
8212558	F-8A-044018	4250131905		103		DENVER UNIT #5415	WASSON	3.7	SHELL OIL CO
8212391	F-04-043158	4242730882		103		J J HOWELL #2	LACOPITA (VICKSBURG 2	45.0	VALERO TRANSMISSI
-SIDWELL OIL & GAS INC				RECEIVED:	12/23/81	JA: TX			
8212462	F-10-043753	4219500000		103		COBLE #1-268	HANSFORD (L MORROW)	730.0	PANHANDLE EASTERN
-SIGMA EXPLORATION CORP				RECEIVED:	12/23/81	JA: TX			
8212394	F-10-043198	4248300000		108		WALLACE #A-1 27012	WHEELER CO REGULAR	14.0	WARREN PETROLEUM
8212395	F-10-043199	4248300000		108		WALLACE #1 27013	WHEELER CO REGULAR	22.8	WARREN PETROLEUM
-TEXACO INC				RECEIVED:	12/23/81	JA: TX			
8212473	F-8A-043785	4221933226		103		BOB SLAUGHTER BLOCK #337	SLAUGHTER	1.1	AMOCO PRODUCTION
8212434	F-7C-043644	4245100000		108		N G KENT B NCT-3 #5	KENT (STRAWN)	3.7	ARCO OIL & GAS CO
8212435	F-7C-043645	4245100000		108		N G KENT B NCT-3 #6	KENT (STRAWN)	4.9	ARCO OIL & GAS CO
8212433	F-7C-043643	4245100000		108		N G KENT B NCT-3 #7	KENT (STRAWN)	14.5	ARCO OIL & GAS CO
-TEXAS OIL & GAS CORP				RECEIVED:	12/23/81	JA: TX			
8212376	F-06-042997	4206730343		103	107-TF	SIMPSON D #1	AVINGER (JURASSIC)	0.0	
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED:	12/23/81	JA: TX			
8212533	F-8A-043962	4221933241		102-4		VERETTO #2	LEVELLAND (ABO)	1.0	AMOCO PRODUCTION
-THE DOW CHEMICAL COMPANY				RECEIVED:	12/23/81	JA: TX			
8212497	F-01-043829	4212731667		103		BRISCOE RANCH #18	CATARINA SW (OLMOS)	140.0	VALERO TRANSMISSI
8212496	F-01-043828	4212731712		103		BRISCOE RANCH #19	CATARINA SW (OLMOS)	73.0	VALERO TRANSMISSI
8212495	F-01-043827	4212731713		103		BRISCOE RANCH #20	CATARINA SW (OLMOS)	51.0	VALERO TRANSMISSI
8212494	F-01-043826	4212731671		103		BRISCOE RANCH #21	CATARINA SW (OLMOS)	52.0	VALERO TRANSMISSI
8212493	F-01-043825	4212731676		103		BRISCOE RANCH #22	CATARINA SW (OLMOS)	28.0	VALERO TRANSMISSI
8212492	F-01-043823	4212731831		103		BRISCOE RANCH #24	CATARINA SW (OLMOS)	61.0	VALERO TRANSMISSI
8212491	F-01-043819	4212731864		103		BRISCOE RANCH #26-C	CATARINA SW (OLMOS)	25.0	VALERO TRANSMISSI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212490	F-01-043818	4212731911		103		BRISCOE RANCH #27	CATARINA SW (OLMOS)	10.0	VALERO TRANSMISSI
8212489	F-01-043814	4212731956		103		BRISCOE RANCH #31	CATARINA SW (OLMOS)	52.0	VALERO TRANSMISSI
-TIPPERARY OIL AND GAS CORP				RECEIVED:	12/23/81	JA: TX			
8212507	F-01-043875	4216332044		103		MACE #5	PEARSALL (AUSTIN CHAL	0.0	TIPPERARY CORP
-TRIPLE L OIL CO INC				RECEIVED:	12/23/81	JA: TX			
8212455	F-02-043713	4202531483		102-4		BOLLAND RANCH #2 (ID #95248)	BOLLAND RANCH S	50.0	VALLERO TRANSMISS
-W L PENNINGTON INC				RECEIVED:	12/23/81	JA: TX			
8212463	F-10-043758	4208700000		108		EMMERT 1-2 ID #65561	PANHANDLE EAST	20.0	EL PASO NATURAL G
8212464	F-10-043759	4208730098		108		EMMERT 1-99 ID #76463	PANHANDLE EAST	20.0	EL PASO NATURAL G
-W T WAGGONER ESTATE				RECEIVED:	12/23/81	JA: TX			
8212522	F-09-043920	4223700000		103		A B BRAZEAL #2 (LEASE NO 28965)	CATLIN (CADDO CONGL)	75.0	CITIES SERVICE CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/23/81	JA: TX			
8212532	F-08-043960	4210332616		103		W N WADDELL 1197	SAND HILLS (TUBB)	32.1	EL PASO NATURAL G
-WES-MOR OIL & GAS INC				RECEIVED:	12/23/81	JA: TX			
8212528	F-09-043936	4250300000		103		NORRED #1 OF ID #908810 RRC #21172	YOUNG COUNTY REGULAR	37.0	SUN GAS TRANSMISS
-WES-TEX DRILLING COMPANY				RECEIVED:	12/23/81	JA: TX			
8212424	F-7B-043598	4235331122		103		COMPTON #6	JMM (CANYON)	0.0	SUN GAS CO
-WINDSOR PRODUCING CO				RECEIVED:	12/23/81	JA: TX			
8212375	F-03-042978	4228730964		102-2	103	LAY UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PGP GAS PRODUCTS
-WY-VEL CORP				RECEIVED:	12/23/81	JA: TX			
8212531	F-10-043950	4206530952		103		AEBERSOLD (04904) #1	PANHANDLE CARSON COUN	87.0	GETTY OIL CO

OTHER PURCHASERS

8212423	PIONEER NATURAL GAS CO
8212448	EL PASO NATURAL GAS CO
8212449	LONE STAR GAS CO
8212477	E I DUPONT DE*NEMOURS & CO INC
8212478	E I DUPONT DE*NEMOURS & CO INC
8212479	E I DUPONT DE*NEMOURS & CO INC
8212521	COLTEXO CORP
8212523	E I DUPONT DE NEMOURS & CO INC
8212536	INTRATEX GAS CO
8212539	LONE STAR GAS CO
8212547	E I DUPONT DE*NEMOURS & CO INC

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before February 16, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2544 Filed 1–29–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 26, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AL-AQUITAINE EXPLORATION LTD				RECEIVED:	12/23/81	JA: ND			
8212614	418	3300700398		102-2		BN 1-15	WHISKEY JOE	180.0	WESTERN GAS PROCE
8212615	419	3300700641		102-2		BN 2-27	WHISKEY JOE	200.0	WESTERN GAS PROCE
-AMERADA HESS CORPORATION				RECEIVED:	12/23/81	JA: ND			
8212613	417	3310500894		103		KROGEN #1-19	BEAVER LODGE SILURIAN	446.0	MONTANA DAKOTA UT
-AMOCO PRODUCTION CO				RECEIVED:	12/23/81	JA: ND			
8212619	423	3305301139		102-2		MONSON #1	WILDCAT	29.0	
8212617	421	3302500189		102-2		SEIDL NO 1	LITTLE KNIFE	113.3	
8212618	422	3305301174		102-2		STORM #1	WILDCAT	27.3	
-GULF OIL CORPORATION				RECEIVED:	12/23/81	JA: ND			
8212612	416	3308900246		102-2		LEVIATHAN 1-21-1B	UNDESIGNATED	360.0	
-KERR-MCGEE CORPORATION				RECEIVED:	12/23/81	JA: ND			
8212616	420	3305301283		102-2		ANDERSON #2-6	MONDAK	2.5	KOCH INDUSTRIES I
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	12/28/81	JA: NM			
8212611		3001523523		102-4		STATE "IX" GAS COM #1	UND MORROW	784.0	EL PASO NATURAL G
-BELCO PETROLEUM CORPORATION				RECEIVED:	12/28/81	JA: NM			
8212603		3002523489		102-4		COCHELLE #1	NORTH LOVING (MORROW)	0.0	EL PASO NATURAL G
-COQUINA OIL CORPORATION				RECEIVED:	12/28/81	JA: NM			
8212601		3001500000		102-2		SWEARINGEN #1	UNDESIGNATED	2920.0	UNITED GAS PIPELI
-MESA PETROLEUM CO				RECEIVED:	12/28/81	JA: NM			
8212599		3000560894		102-2		ACME #2	UNDESIGNATED ABO	700.0	TRANSWESTERN PIPE
8212600		3000560909		102-2		RIC #2	UNDESIGNATED ABO	600.0	TRANSWESTERN PIPE
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/28/81	JA: NM			
8212604		3001500000		102-4		STATE 36	BUNTING RANCH (MORROW	0.0	
-RALPH NIX				RECEIVED:	12/28/81	JA: NM			
8212608		3000500000		102-2		ELIZABETH #1	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8212607		3000500000		102-2		ELIZABETH #2	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8212606		3000500000		102-2		ELIZABETH #3	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8212605		3000500000		102-2		ELIZABETH #4	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8212610		3000500000		102-2		SEANNA #2	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
8212609		3000500000		102-2		SEANNA #3	BULLS EYE SAN ANDRES	10.0	MAPCO PRODUCTION
-YATES PETROLEUM CORPORATION				RECEIVED:	12/28/81	JA: NM			
8212602		3001522652		102-4		RIO PENASCO JX COM #1	WILDCAT MORROW	0.0	TRANSWESTERN PIPE
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-US ENERGY DEVELOPMENT CORP				RECEIVED:	12/24/81	JA: NY			
8212761	9463	3112328407		102-2		ROBERT WEAVER #1	PITTSFIELD	10.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MOBIL OIL EXPLORATION & PRODUCING SOUTHEAST INC				RECEIVED:	12/24/81	JA: NY			
8212762	9464	3112328408		102-2		ROBERT WEAVER #2	PITTSFIELD	10.0	NATIONAL FUEL GAS
OKLAHOMA CORPORATION COMMISSION									
-ARCO OIL & GAS CO				RECEIVED:	12/28/81	JA: OK			
8212600		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	12/28/81	JA: OK			
8212599		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-CONOCO INC				RECEIVED:	12/28/81	JA: OK			
8212598		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-GULF OIL CORPORATION				RECEIVED:	12/28/81	JA: OK			
8212597		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-MOBIL OIL EXPLORATION & PRODUCING SOUTHEAST INC				RECEIVED:	12/28/81	JA: OK			
8212596		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-PHILLIPS PETROLEUM CO				RECEIVED:	12/28/81	JA: OK			
8212595		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/28/81	JA: OK			
8212594		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
-TEXACO INC				RECEIVED:	12/28/81	JA: OK			
8212593		3504321000		102-4		MARY ANN #1	WILDCAT	0.0	
RAILROAD COMMISSION OF TEXAS									
-ARCO OIL & GAS CO				RECEIVED:	12/28/81	JA: TX			
8212592		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	12/28/81	JA: TX			
8212591		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-CONOCO INC				RECEIVED:	12/28/81	JA: TX			
8212590		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-GULF OIL CORPORATION				RECEIVED:	12/28/81	JA: TX			
8212589		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-MOBIL OIL EXPLORATION & PRODUCING SOUTHEAST INC				RECEIVED:	12/28/81	JA: TX			
8212588		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-PHILLIPS PETROLEUM CO				RECEIVED:	12/28/81	JA: TX			
8212587		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/28/81	JA: TX			
8212586		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	
-TEXACO INC				RECEIVED:	12/28/81	JA: TX			
8212585		4200100000		102-4		MARY ANN #1	WILDCAT	0.0	

OKLAHOMA CORPORATION COMMISSION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-A-H CATTLE CO INC				RECEIVED:	12/28/81	JA: OK			
8212840	11404	3512300000	103			MCFARLAND #2	FRANCIS	273.0	SUN GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	12/28/81	JA: OK			
8212852	11900	3507322710	103			BONNER #1 (MISS)	S E ALPHA	50.0	WARREN PETROLEUM
8212851	11899	3507322710	103			BONNER NO 1 (HUNTON)	S E ALPHA	50.0	WARREN PETROLEUM
8212849	11897	3504321077	103			POLLOCK UNIT #1 (MORROW)	PUTNAM - MORROW	79.0	MOBIL OIL CORP
8212850	11898	3504321077	103			POLLOCK UNIT #1 (RED FORK)	PUTNAM - RED FORK	36.0	MOBIL OIL CORP
8212847	11895	3504321162	103			SCHOMP A #1 (MORROW)	PUTNAM - MORROW	60.0	MOBIL OIL CORP
8212848	11896	3504321162	103			SCHOMP A #1 (RED FORK)	PUTNAM - RED FORK	15.0	MOBIL OIL CORP
8212846	11894	3504321161	103			SCHOMP B #1 (MORROW)	PUTNAM - MORROW	60.0	MOBIL OIL CORP
8212845	11893	3504321161	103			SCHOMP B #1 (RED FORK)	PUTNAM - RED FORK	13.0	MOBIL OIL CORP
8212844	11892	3504321161	103			SCHOMP C #1	PUTNAM - MORROW	73.0	MOBIL OIL CORP
-APOLLO PRODUCTION LTD				RECEIVED:	12/30/81	JA: OK			
8212807	15460	3507323355	102-4			DORA REHERMAN # 11-14	NE OKARCHE	170.0	SID RICHARDSON CA
8212806	15457	3507323024	102-4			W W DUFFY #13-12	N E OKARCHE	189.6	SID RICHARDSON CA
-ARROW OIL & GAS INC				RECEIVED:	12/28/81	JA: OK			
8212825	11949	3508321337	103			STUBBLEFIELD #1	WILDCAT	0.0	EASON OIL CO
8212862	11948	3508321407	103			STUBBLEFIELD #2	WILDCAT	0.0	EASON OIL CO
-BEARD OIL COMPANY				RECEIVED:	12/28/81	JA: OK			
8212835	11924	3511921494	103			SCHNEIDER #2	SOUTHEAST PARADISE	18.0	CITIES SERVICE GA
-BEASLEY OIL CO				RECEIVED:	12/28/81	JA: OK			
8212836	11925	3504721369	103			BEASLEY OIL CO #1 MARY B	DOUGLAS	7.5	ARCO OIL & GAS CO
-BOBBY J DARNELL				RECEIVED:	12/28/81	JA: OK			
8212854	12029	3508320824	103			CASSIDAY #1	S ELK HORN	1.2	EASON OIL CO
-BOBBY J DARNELL				RECEIVED:	12/30/81	JA: OK			
8212788	12076	3508320783	103			FIELDS #1	N E RUSSELL	12.0	EASON OIL CO
-CANADIAN EXPLORATION CORP				RECEIVED:	12/30/81	JA: OK			
8212787	11966	3501721994	103			MITCHELL #15-1	NORTHWEST MUSTANG	30.0	DELHI GAS PIPELIN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/28/81	JA: OK			
8212864	11972	3584721296	108			B JOHNSON #2	N E ENID	4.0	CHAMPLIN PETROLEU
8212811	11978	3507300000	108			E B VADDER #2	DOVER-HENNESSEY	7.0	MUSTANG FUEL CORP
8212838	11974	3504700000	108			HAYS-WEGENER #1	N E ENID	7.5	CHAMPLIN PETROLEU
8212853	11971	3500700000	108			M J ALBERT #2	N W KNOWLES & MOCANE	4.5	COLORADO INTERSTA
8212865	11973	3504700000	108			M SIDWELL #1	N W ENID	7.5	CHAMPLIN PETROLEU
8212818	11977	3505300000	108			S C ALLEN #2	EUREKA	1.5	SUN OIL CO
-CHEYENNE EXPLORATION INC				RECEIVED:	12/28/81	JA: OK			
8212843	11783	3584722411	103			REUSSNER #1	SOUTH HUNTER	117.0	ARCO OIL & GAS CO
-CLARK RESOURCES INC				RECEIVED:	12/30/81	JA: OK			
8212791	13295	3507323172	102-4	103		MELT 33-1	SOONER TREND	82.0	CITIES SERVICE GA
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/30/81	JA: OK			
8212801	11930	3501520939	103			ROUPE #1	N E BINGER	750.0	TRANSOK PIPE LINE
8212889	15329	3510321538	103			SAMS #2	SAMS	0.0	ARCO OIL & GAS CO
-CUMMINGS OIL CO				RECEIVED:	12/30/81	JA: OK			
8212805	11680	3505921857	102-2			HINTHER "A" #1-10	LOVEDALE	0.0	
-DAVIS BROS OIL PRODUCERS INC				RECEIVED:	12/28/81	JA: OK			
8212822	12022	3501922211	103			EVANS #2	NE TATUMS	0.0	MOBIL OIL CORP
8212824	12024	3501922266	103			EVANS #3	NE TATUMS	0.0	MOBIL OIL CORP
8212823	12023	3501922243	103			EVANS #4	NE TATUMS	0.0	MOBIL OIL CORP
-DLB ENERGY CORP				RECEIVED:	12/28/81	JA: OK			
8212834	11915	3501721972	103			SCHRODER #1	PIEDMONT	83.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-DYCO PETROLEUM CORPORATION				RECEIVED: 12/28/81 JA: OK		
8212816	12002	3500721263		108		STATE #1-36
-ENERGY QUEST DRILLING FUND LTD				RECEIVED: 12/28/81 JA: OK		
8212821	12021	3507122306		103		CRAFT #2
8212820	12020	3507122320		103		CRAFT #3
8212819	12018	3507122305		103		PARKER-HAYES #2
-F C D OIL CORP				RECEIVED: 12/28/81 JA: OK		
8212812	11992	3508121307		103		GENTRY 1-33
-GETTY OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212860	1633	3512920075		108-PB		HORRELL #1
*8212832	11911	3513722575		103		WINANS "B" #7
-HEARTLAND EXPLORATION INC				RECEIVED: 12/28/81 JA: OK		
8212827	11377	3510321069		103		ODENWALD #1
-HENRY H GUNGOLL ASSOCIATES				RECEIVED: 12/28/81 JA: OK		
8212833	11912	3504722497		103		JIM ZALOUDEK 1-14
-HENRY H GUNGOLL ASSOCIATES				RECEIVED: 12/30/81 JA: OK		
8212796	11941	3504722845		103		MARKES 1-15
-HOOVER & BRACKEN ENERGIES				RECEIVED: 12/30/81 JA: OK		
8212795	15253	3503920486		102-2		FLYNT #1-28
-HWC CO				RECEIVED: 12/30/81 JA: OK		
8212792	13990	3511100000		103		COWAN #2 57530
8212793	14633	3511100000		103		JAMISON #4
-KERR-MCGEE CORPORATION				RECEIVED: 12/28/81 JA: OK		
8212828	11717	3500735257		108		ROBERTSON #1-28
-L & T OIL & GAS INC				RECEIVED: 12/28/81 JA: OK		
8212861	09613	3507322832		103		PEMBERTON #3
-M K M INC				RECEIVED: 12/30/81 JA: OK		
8212802	11931	3510320812		103		WAGNER #1
-MACKELLAR INC				RECEIVED: 12/28/81 JA: OK		
8212831	11910	3510320782		103		FREESE #1
-MACKELLAR INC				RECEIVED: 12/30/81 JA: OK		
8212790	12084	3507323000		103		CLYDENA #2
8212789	12083	3507323076		103		MUSICK #2
-MAGIC CIRCLE ENERGY CORP				RECEIVED: 12/28/81 JA: OK		
8212813	11993	3515121156		103		HULL #1
-MAPCO PRODUCTION COMPANY				RECEIVED: 12/28/81 JA: OK		
8212855	14825	3501900000		102-4		LOU ANN 12-1
-MICHAEL MASKA				RECEIVED: 12/28/81 JA: OK		
8212837	11929	3507300000		103		JINDRA #1-18
-NATOMAS NORTH AMERICA INC				RECEIVED: 12/30/81 JA: OK		
8212794	14813	3504520684		102-2		BERRYMAN 1-29
-PETRO-ENERGY EXPLORATION INC				RECEIVED: 12/28/81 JA: OK		
8212829	11766	3504700000		103		FREDEN #1-7
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/28/81 JA: OK		
8212839	4297	3504900000		108		BONNER "B" #1
-RAMBLER OIL CO				RECEIVED: 12/28/81 JA: OK		
8212826	13185	3504961211		102-4	103	MCCASKILL #1-7
-ROY LAWRENCE DRILLING CO INC				RECEIVED: 12/28/81 JA: OK		
8212859	10280	3511700000		102-2		PRIVETT #1
-S K TUTHILL & B J BARBEE				RECEIVED: 12/28/81 JA: OK		
8212842	11671	3515320706		108		WALKER 1-15
-SABINE PRODUCTION COMPANY				RECEIVED: 12/28/81 JA: OK		
8212856	15215	3505121147		102-4	103	PINKSTON #1-3

FIELD NAME	PROD	PURCHASER
BLAKEMORE	7.0	KANSAS NEBRASKA N
UNNAMED	5.5	CITIES SERVICE GA
UNNAMED	11.2	CITIES SERVICE GA
UNNAMED	10.1	CITIES SERVICE GA
NORTH STROUD	0.0	MERIDIAN ENERGY I
PEEKS	0.0	PANHANDLE EASTERN
SHO-VEL-TUM	150.0	OKLAHOMA NATURAL
SOUTH TONKAWA	10.0	SUN GAS CO
SOONER TREND	46.0	
SOONER-TREND	36.5	
NORTHEAST HAMMON	1100.0	
NORTHWEST POLYANNA	60.4	PHILLIPS PETROLEU
NORTHWEST POLLYANNA	0.0	PHILLIPS PETROLEU
MOCANE-LAVERNE	4.0	NORTHERN NATURAL
SOONER TREND	146.5	CONOCO INC
UNDESIGNATED	72.0	ARCO OIL & GAS CO
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
SOONER TREND	0.0	CITIES SERVICE GA
SOONER TREND	0.0	CITIES SERVICE GA
WILDCAT	188.0	
WEST HEWITT	0.0	AMINOIL USA INC
CAMPBELL CREEK	188.0	CONOCO INC
WILDCAT	146.0	DELHI GAS PIPELIN
SOONER TREND	0.0	PHILLIPS PETROLEU
GOLDEN TREND	19.2	WARREN PETROLEUM
N ANTIOCH	0.0	
BRYANT POOL	36.5	COLORADO GAS COMP
S FREEDOM	129.0	PRODUCERS GAS CO
	730.0	TRANSOK PIPE LINE

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-SAMSON RESOURCES COMPANY				RECEIVED: 12/28/81 JA: OK		
8212858	15214	3505121146		102-4	103	PINKSTON #1-2
-SAMSON RESOURCES COMPANY				RECEIVED: 12/28/81 JA: OK		
8212857	15213	3505121145		102-4	103	PINKSTON #1-1
-SANTA FE ENERGY COMPANY				RECEIVED: 12/28/81 JA: OK		
8212830	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212824	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212825	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212823	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212822	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212835	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212834	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212836	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212838	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212840	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212841	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212843	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212844	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212845	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212846	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212847	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212848	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212849	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212850	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212851	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212852	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212853	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212854	11911	3513722575		103		WINANS "B" #7
-SHELL OIL COMPANY				RECEIVED: 12/28/81 JA: OK		
8212863	11911	3513722575		103		WINANS "B" #7
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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SHELL OIL CO				RECEIVED:	12/28/81	JA: OK			
8212814	11997	3504500000		108		KENNON #1-23	BISHOP SOUTH	8.0	PANHANDLE EASTERN
-SINGER-FLEISCHAKER OIL OPR CO				RECEIVED:	01/04/82	JA: OK			
8212783	1975	3505920335		108-ER		ROGERS #1-12	DOBY SPRINGS	0.0	DELHI GAS PIPELIN
-ST JOE PETROLEUM (US) CORP				RECEIVED:	12/30/81	JA: OK			
8212706	11994	3510300008		103		RICE #1	UNDESIGNATED	25.0	ARCO OIL & GAS CO
-STATEX PETROLEUM INC				RECEIVED:	12/28/81	JA: OK			
8212857	15464	3510321546		102-4		CINNAMON #1-17	POLO	5.6	AMINOIL USA INC
8212858	15465	3510321438		102-4		LANDAKER #1-16	POLO	37.0	AMINOIL USA INC
-STEVE JERNIGAN INC				RECEIVED:	12/28/81	JA: OK			
8212841	11541	3504722442		103		BULLIS #1-26	SOONER TREND	0.0	CITIES SERVICE GA
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	12/28/81	JA: OK			
8212818	12017	3511900000		108		MOORE #2	LOST CREEK NORTH	5.0	CITIES SERVICE GA
-TENNECO OIL COMPANY				RECEIVED:	12/30/81	JA: OK			
8212884	15542	3512928623		102-2		ALLEN #1-19	W CARPENTER	624.0	
-TEXACO INC				RECEIVED:	12/28/81	JA: OK			
8212815	12001	3507323095		103		K L SCHROEDER #1	OKARCHE NE	231.0	CONOCO INC
8212817	12012	3507323063		103		MARY J YOUNG A #1	OKARCHE NE	91.0	CONOCO INC
-TEXOMA RESOURCES INC				RECEIVED:	12/28/81	JA: OK			
8212863	11957	3507300000		103		COLLIER #1-34	SOONER TREND	100.0	CONOCO INC
-TEXOMA RESOURCES INC				RECEIVED:	12/30/81	JA: OK			
8212797	11956	3507323126		103		HERRIAN A #1	SOONER TREND	100.0	PANHANDLE EASTERN
8212798	11959	3509300000		103		NELSON #1-36	SOONER TREND	150.0	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:	12/30/81	JA: OK			
8212784	11984	3510320780		103		CITY OF PERRY #1	FOURDEE	36.0	EL GRANDE PIPELIN
8212785	11985	3510320718		103		CITY OF PERRY #2	FOURDEE	28.0	EL GRANDE PIPELIN
8212800	11983	3510320711		103		CITY OF PERRY "A" #1	FOURDEE	14.4	EL GRANDE PIPELIN
8212799	11982	3510320701		103		JEROME HAYNE #1	FOURDEE	36.0	EL GRANDE PIPELIN
-VAUGHN GOOD OIL CO				RECEIVED:	12/30/81	JA: OK			
8212883	11948	3508100000		103		PARCHALL #1	WEST AGRA	0.0	SUN GAS CO
-VICTORY PETROLEUM INC				RECEIVED:	12/28/81	JA: OK			
8212838	11865	3506321279		103		ED GEORGE #1	PAPOOSE	110.0	LUBELL OIL CO
-WILLIFORD ENERGY CO				RECEIVED:	12/30/81	JA: OK			
8212808	14306	3507720238		102-4 103		BULLARD #1	WIL BURTON	1664.0	ARKANSAS LOUISIAN

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ALPINE OIL CO				RECEIVED:	12/24/81	JA: PA			
8212625	9746	3705921610		103		KENNETH KERR #2	JACKSON	18.0	COLUMBIA GAS TRAN
-ANDERMAN ASSOCIATES INC				RECEIVED:	12/24/81	JA: PA			
8212621	9850	3712921812		103		BERT F OBER EST #3 - WES-21812	W PENNA - UPPER DEVON	45.0	PEOPLES NATURAL G
8212623	9852	3712921818		103		EVANS W RIDEMOUR #1 - WES-21818	W PENNA - UPPER DEVON	25.0	PEOPLES NATURAL G
8212622	9851	3706326281		103		JAMES B POLLOCK #1 - IND-26281	W PENNA - UPPER DEVON	45.0	PEOPLES NATURAL G
8212620	9849	3706326107		103		JOSEPH F NESBIT #9 - IND-26107	W PENNA UPPER DEVONIA	25.0	PEOPLES NATURAL G
-ARROWHEAD GAS PRODUCERS INC				RECEIVED:	12/24/81	JA: PA			
8212699	7116	3712328845		102-2		M-YODER #1	FREEHOLD	60.0	COLUMBIA GAS TRAN
8212700	8943	3712328845		107-TF		MOSES YODER #1	SUGAR GROVE	60.0	COLUMBIA GAS TRAN
-ATLAS RESOURCES INC				RECEIVED:	12/24/81	JA: PA			
8212703		3706326479		102-2		LA NO KE TRIM TREE CO #2	CHERRY HILL	49.0	COLUMBIA GAS TRAN
8212702	9805	3706326056		102-2		SWANK #2	CHERRY HILL	56.0	COLUMBIA GAS TRAN
8212701	9786	3706326058	D	102-2		SWANK #4	CHERRY HILL	96.0	COLUMBIA GAS TRAN
-BARON CREST ENERGY LTD PTNSP #5				RECEIVED:	12/24/81	JA: PA			
8212624	9911	3703120971		103		HURRELBRINK #2	MECHANICSBURG	2.7	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-C & N CO				RECEIVED:	12/24/81	JA: PA			
8212715	7093	3706322622		108		INDIANA COUNTY HOME #1	WHITE	9.1	PEOPLES NATURAL G
8212714	7092	3706322623		108		INDIANA COUNTY HOME #2	WHITE	9.1	PEOPLES NATURAL G
8212713	7091	3706322624		108		INDIANA COUNTY HOME #3	WHITE	9.1	PEOPLES NATURAL G
8212712	7090	3706323096		108		INDIANA COUNTY HOME #4	WHITE	9.1	PEOPLES NATURAL G
8212708	7086	3706322626		108		INDIANA COUNTY HOME #5	WHITE	9.1	PEOPLES NATURAL G
8212709	7087	3706323192		108		INDIANA COUNTY HOME #6	WHITE	9.1	PEOPLES NATURAL G
8212710	7088	3706323193		108		INDIANA COUNTY HOME #7	WHITE	9.1	PEOPLES NATURAL G
8212707	7083	3706323101		108		NICOLA JOHNSON #3	WHITE	18.5	PEOPLES NATURAL G
8212711	7089	3706323111		108		NICOLA JOHNSON #5	WHITE	18.5	PEOPLES NATURAL G
8212716	7438	3706323618		108		OAKLAND CEMETARY ASSOCIATION #1	WHITE	19.9	PEOPLES NATURAL G
8212704	7080	3706322898		108		WM A BARCLAY #1	WHITE	10.9	PEOPLES NATURAL G
8212705	7081	3706322899		108		WM A BARCLAY #2	WHITE	10.9	PEOPLES NATURAL G
8212706	7082	3706323102		108		YMCA (N JOHNSON #4)	WHITE	18.5	PEOPLES NATURAL G
-CABOT OIL & GAS CORP				RECEIVED:	12/24/81	JA: PA			
8212717	9942	3703920788		102-2		BERNARD & PATRICIA WAGNER #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8212718	9943	3703920762		102-2		W L DUNN CONSTRUCTION #4	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/24/81	JA: PA			
8212719	9889	3706326198		103		E F FLEMING WN-1838	MONTGOMERY	5.5	GENERAL SYSTEM PU
8212720	9890	3706326410		103		MT VIEW CHRSITIAN HOME WN-1850	MONTGOMERY	7.3	GENERAL SYSTEM PU
-ENVIROGAS INC				RECEIVED:	12/24/81	JA: PA			
8212723	9384	3704921363		107-TF		A ROSE #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8212721	9378	3704921402		107-TF		D ROTH #1	CORRY	18.0	NATIONAL FUEL GAS
8212724		3704921167		107-TF		E MAAS #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8212722	9383	3704921380		107-TF		PRESQUE ISLE BEAGLE CLUB #1	WATERFORD	18.0	COLUMBIA GAS TRAN
-E & G GAS INC				RECEIVED:	12/24/81	JA: PA			
8212626	9781	3703120977		105		L MILLER #1		0.0	COLUMBIA GAS TRAN
-HANLEY & BIRD				RECEIVED:	12/24/81	JA: PA			
8212629	9862	3706522301		103		A J OHLS #1 SN1690	BROOKVILLE	9.6	T W PHILLIPS
8212631	9865	3706522628		103		SHAWNUT DEVELOPMENT CORP #1 SHB-4	KITTANNING	6.3	T W PHILLIPS
8212627	9859	3706522377		103		SHAWNUT DEVELOPMENT CORP #2 SHB-5	TIMBLIN	27.2	T W PHILLIPS
8212628	9860	3706522397		103		SHAWNUT DEVELOPMENT CORP SHB-6	DORA	29.5	T W PHILLIPS
8212630	9864	3706522302		103		TEXASGULF SN1689	BROOKVILLE	11.6	T W PHILLIPS
-J & J ENTERPRISES INC				RECEIVED:	12/24/81	JA: PA			
8212725	7073	3700521605		108		ALTHIRE HEIRS #1 (183A)	PLUM CREEK	4.8	PEOPLES NATURAL G
-J & J ENTERPRISES INC				RECEIVED:	12/24/81	JA: PA			
8212661	7386	3706322847		108		ANDY STAHURA #1	WASHINGTON	2.4	T W PHILLIPS GAS
8212649	7342	3706322546		108		ARTHUR ELLENBERGER #1	CANOE	4.9	T W PHILLIPS GAS
8212655	7352	3706322547		108		ARTHUR ELLENBERGER #2	CANOE	4.9	T W PHILLIPS GAS
8212650	7343	3706322615		108		ARTHUR VELLESIG #1 (57A)	YOUNG	1.0	T W PHILLIPS GAS
8212651	7344	3706322533		108		BEN SHETLER #1	SOUTH MAHONING	3.7	T W PHILLIPS GAS
8212652	7345	3706322534		108		BEN SHETLER #2	SOUTH MAHONING	3.7	T W PHILLIPS GAS
8212738	7354	3706322103		108		BERYL C LYDIC #1	SOUTH MAHONING	13.7	T W PHILLIPS GAS
8212730	7248	3700521903		108		C EUGENE STOCKDALE #I-28	WAYNE	5.1	T W PHILLIPS GAS
8212727	7227	3712920924		108		C J MROCZOWSKI #1	AVONMORE BOROUGH	9.2	T W PHILLIPS GAS
8212636	7056	3706322907		108		C T KAUFFMAN #1	WHITE	5.3	PEOPLES NATURAL G
8212635	7055	3706323130		108		C T KAUFFMAN #2	WHITE	5.3	PEOPLES NATURAL G
8212670	7416	3706322024		108		C W LYDIC #2	SOUTH MAHONING	4.8	T W PHILLIPS GAS
8212664	7392	3706323338		108		CALVIN WILDESON #2	CANOE	10.6	T W PHILLIPS GAS
8212743	7404	3706323364		108		CLAIR FULMER #3	ARMSTRONG	0.8	T W PHILLIPS GAS
8212744	7421	3706323011		108		CLYDE FIERCE #1	BANKS	15.8	T W PHILLIPS GAS
8212642	7072	3706322409		108		CROSSGATES INC (J RINN) #1	WHITE	12.6	PEOPLES NATURAL G
8212645	7077	3706322423		108		CROSSGATES INC #2 (J RINN)	WHITE	12.6	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212634	7054	3706323280		108		EDWARD STUCHELL #1	SOUTH MAHONING	4.5	PEOPLES NATURAL G
8212742	7400	3706521184		108		EDWIN A DALTON #1	PORTER	4.8	T W PHILLIPS GAS
8212637	7059	3706323363		108		ELKINS MOTOR SALES #1	WHITE	19.6	PEOPLES NATURAL G
8212726	7187	3706521880		108		EMMA R MARSHALL #1	WAYNE	5.7	T W PHILLIPS GAS
8212741	7394	3706323287		108		FLOYD STIFFLER #1	ARMSTRONG	6.5	T W PHILLIPS GAS
8212659	7384	3706322411		108		GEORGE M CLAWSON #1	BLACK LICK	7.8	T W PHILLIPS GAS
8212654	7351	3706322412		108		GEORGE M CLAWSON #2	BLACKLICK	7.0	T W PHILLIPS GAS
8212653	7350	3706322413		108		GEORGE M CLAWSON #3	BLACKLICK	7.0	T W PHILLIPS GAS
8212756	7423	3706323075		108		HAROLD ALTMAN JR #1	CANOE	9.5	T W PHILLIPS GAS
8212646	7335	3706521037		108		HENRY L COUCH #1	BELL	18.0	T W PHILLIPS GAS
8212648	7337	3706322627		108		IRVIN HEITZENRATER #1	NORTH MAHONING	15.7	T W PHILLIPS GAS
8212647	7336	3706322628		108		IRVIN HEITZENRATER #2	NORTH MAHONING	15.7	T W PHILLIPS GAS
8212641	7064	3706322645		108		J C RINN #5	WHITE	12.6	PEOPLES NATURAL G
8212656	7355	3706322647		108		J J MCLAY #1	YOUNG	21.5	T W PHILLIPS GAS
8212672	7448	3706322648		108		J J MCLAY #2	YOUNG	9.2	T W PHILLIPS GAS
8212671	7417	3706322629		108		J J MCLAY #3	YOUNG	9.2	T W PHILLIPS GAS
8212737	7349	3706521059		108		JOHN LELLOCK #1	BELL	5.3	T W PHILLIPS GAS
8212667	7407	3706323146		108		JOHN MCLAY #2	YOUNG	9.2	T W PHILLIPS GAS
8212665	7395	3706323147		108		JOHN MCLAY #3	YOUNG	9.2	T W PHILLIPS GAS
8212668	7408	3706323148		108		JOHN MCLAY #4	YOUNG	9.2	T W PHILLIPS GAS
8212735	7341	3706322484		108		LEO C CLARK #2	SOUTH MAHONING	6.5	T W PHILLIPS GAS
8212658	7383	3706323213		108		LOWELL WAGNER #1	YOUNG	8.2	T W PHILLIPS GAS
8212638	7060	3706322958		108		MARS ASSOCIATION #A-1	WHITE	10.2	PEOPLES NATURAL G
8212639	7062	3706322959		108		MARS ASSOCIATION #B-1	WHITE	10.2	PEOPLES NATURAL G
8212640	7063	3706322960		108		MARS ASSOCIATION #C-1	WHITE	10.2	PEOPLES NATURAL G
8212728	7231	3700521996		108		MELVIN E TROUP #1	WAYNE	1.9	T W PHILLIPS GAS
8212731	7332	3706323233		108		MILTON FAIRMAN #1	WASHINGTON	11.5	T W PHILLIPS GAS
8212740	7388	3706322616		108		MORRIS STERN #1 (120A)	YOUNG	4.6	T W PHILLIPS GAS
8212739	7387	3706322617		108		MORRIS STERN #1 (75A)	ARMSTRONG	1.2	T W PHILLIPS GAS
8212669	7415	3706322523		108		PAUL RENZ #1	WASHINGTON	5.5	T W PHILLIPS GAS
8212746	7428	3706321887		108		PAUL W LAST #3	CANOE	11.8	T W PHILLIPS GAS
8212657	7382	3706322996		108		RAYMOND ISENBERG #1	WHITE	16.8	T W PHILLIPS GAS
8212663	7391	3706322415		108		ROGER PENDREY #1	YOUNG	6.6	T W PHILLIPS GAS
8212662	7390	3706322416		108		ROGER PENDREY #2	YOUNG	6.6	T W PHILLIPS GAS
8212736	7346	3706322449		108		ROYAL OIL & GAS CO #1 (37A)	CANOE	16.7	T W PHILLIPS GAS
8212733	7338	3706322548		108		RUSSELL J FERRINGER #1	SOUTH MAHONING	1.6	T W PHILLIPS GAS
8212732	7333	3706322621		108		T JOHNSTON #1	WASHINGTON	5.6	T W PHILLIPS GAS
8212729	7247	3712928914		108		T M SYLVES #2	BELL	1.2	T W PHILLIPS GAS
8212734	7340	3706521002		108		T W TAYLOR #1	BELL	6.4	T W PHILLIPS GAS
8212755	7422	3706323079		108		THERMAN BRICKELL #1	CANOE	9.5	T W PHILLIPS GAS
8212752	7401	3706323080		108		THERMAN BRICKELL #2	CANOE	9.5	T W PHILLIPS GAS
8212751	7399	3706323081		108		THERMAN BRICKELL #3	CANOE	9.5	T W PHILLIPS GAS
8212753	7412	3706323082		108		THERMAN BRICKELL #4	CANOE	9.5	T W PHILLIPS GAS
8212754	7413	3706323116		108		THERMAN BRICKELL #5	CANOE	9.5	T W PHILLIPS GAS
8212750	7398	3706323134		108		THERMAN BRICKELL #6	CANOE	9.5	T W PHILLIPS GAS
8212660	7385	3706322490		108		VERNON BLYSTONE #1	WASHINGTON	4.5	T W PHILLIPS GAS
8212643	7075	3706322878		108		VERNON CLAYPOOLE #1	WHITE	11.9	PEOPLES NATURAL G
8212644	7076	3706322087		108		VERNON CLAYPOOLE #2	WHITE	11.9	PEOPLES NATURAL G
8212633	7053	3706322088		108		VERNON CLAYPOOLE #3	WHITE	11.9	PEOPLES NATURAL G
8212632	7052	3706322089		108		VERNON CLAYPOOLE #4	WHITE	11.9	PEOPLES NATURAL G
8212666	7402	3706323253		108		WAYNE W IRWIN #1	NORTH MAHONING	0.8	T W PHILLIPS GAS
-JAMES F SCOTT				RECEIVED:	12/24/81	JA: PA			
8212758	9779	3706326454		103		MERVIN JORDAN #1 PS-379	NORTH MAHONING	40.8	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8212759	9780	3706326358		103		WILLIAM BAUN PS-354
8212757	9778	3706326368		103		WILLIAM STATES PS-356
-KALTSAS OIL CO				RECEIVED:	12/24/81	JA: PA
8212676	10169	3704921505		103		FRANK J PATALON #1
8212681	9879	3704921505		107-TF		FRANK J PATALON #1
8212677	10170	3704921506		103		FRANK J PATALON #2
8212680	9878	3704921506		107-TF		FRANK J PATALON #2
8212673	10166	3704921454		103		HERBERT YOSTEN #3
8212684	9882	3704921454		107-TF		HERBERT YOSTEN #3
8212678	10171	3704921452		103		JOHN AFTON #1
8212679	9296	3704921452		107-TF		JOHN AFTON #1
8212675	10168	3704921501		103		JOHN T AFTON #2
8212682	9880	3704921501		107-TF		JOHN T AFTON #2
8212674	10167	3704921453		103		WILLIAM REHM #2
8212683	9881	3704921453		107-TF		WILLIAM REHM #2
-MONROE RESOURCES LTD				RECEIVED:	12/24/81	JA: PA
8212747	9135	3712329189		103		WM R HINSDALE #1
-PHILLIPS PRODUCTION CO				RECEIVED:	12/24/81	JA: PA
8212685	9856	3702120130		103		HENRY CARPINELLO #1
8212748	9744	3706326295		103		HORACE M STEELE #1
8212686	9858	3703321155		103		KENNETH BAKER #1
8212749	9853	3706326459		103		MAURICE M SINAN #1
-THOMAS M KLINGENSMITH				RECEIVED:	12/24/81	JA: PA
8212745	9742	3712900000		107-TF		SAMUEL MARTIN #1
-US ENERGY DEVELOPMENT CORP				RECEIVED:	12/24/81	JA: PA
8212760	9367	3712328915		102-2		F SAVKO #1
8212762	9366	3712328915		107-TF		F SAVKO #1
8212763	9464	3712328407		107-TF		ROBERT WEAVER #1
-VICTORY DEVELOPMENT CO				RECEIVED:	12/24/81	JA: PA
8212764	9887	3703321142		103		ALBERT RADZIETA #1 CLE-21142
8212765	9888	3703321144		103		JACOB RADZIETA #2 CLE-21144
-WAINOCO OIL & GAS CO				RECEIVED:	12/24/81	JA: PA
8212695	9894	3703920717		107-TF		ANDY N GINGERICH #1 (W-70)
8212688	9868	3703920668		107-TF		CHARLES W HAWKINS #1 (W-46)
8212698	9897	3703920676		107-TF		CLINTON VANCISE #1 (W-60)
8212696	9895	3703920681		107-TF		D E CRUM #1 (W-59)
8212770	9902	3703920672		107-TF		DAVID PRUCHENSKI #1 (W-51)
8212693	9892	3703920703		107-TF		ELEANOR ST JOHN #1 (W-65)
8212769	9901	3703920683		107-TF		ELIZABETH GREGOR #1 (W-55)
8212774	9906	3703920687		107-TF		ELMER G SNOW #1 (W-52)
8212690	9870	3703920663		107-TF		FLOYD H & RUBY I CHILDS #1 (W-41)
8212782	9929	3703920581		107-TF		FRANKLYN A & HELENE S BOYE #1 W-15
8212689	9869	3703920667		107-TF		HARLEY & RUTH HALL #1 (W-45)
8212780	9927	3703920670		107-TF		J KIMBALL & ALICE EVANS #1 (W-48)
8212691	9871	3703920656		107-TF		JAMES K & HELEN ANDERSON #3 (W-39)
8212773	9905	3703920679		107-TF		JOSEPH & ARLENE AVERSA #1 (W-57)
8212687	9867	3703920662		107-TF		JOSEPH W ARNOLD #1 (W-42)
8212771	9903	3703920797		107-TF		JOSEPH W MILLER #1 (W-58)
8212694	9893	3703920715		107-TF		LEROY SCHWEITZER #1 (W-69)
8212779	9926	3703920666		107-TF		LOUIS & ELIZABETH SKEDEL #1 (W-47)
8212781	9928	3703920589		107-TF		MERTON L & CHARLOTTE DONOR #1 W-31
8212697	9896	3703920704		107-TF		NEIL B WHITMAN #1 (W-67)
8212767	9899	3703920682		107-TF		RANDALL W HARKLESS #1 (W-62)

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FIELD NAME	PROD	PURCHASER
CANOE	35.0	CONSOLIDATED GAS
BANKS	15.0	CONSOLIDATED GAS
NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	16.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	16.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	48.0	COLUMBIA GAS TRAN
HORNBY POOL NORTH EAS	48.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	18.3	COLUMBIA GAS TRAN
HORNBY	18.3	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
NORTH EAST FIELD HORN	30.0	COLUMBIA GAS TRAN
HORNBY POOL NORTH EAS	30.0	COLUMBIA GAS TRAN
LOTTSVILLE	20.0	NATIONAL FUEL GAS
SUSQUEHANNA	35.0	
E MAHONING	40.0	
BURNSIDE	25.0	
E MAHONING	35.0	
PINE RUN	1.0	PEOPLES NATURAL G
COLUMBUS	28.0	COLUMBIA GAS TRAN
COLUMBUS	20.0	COLUMBIA GAS TRAN
PITTSFIELD	10.0	NATIONAL FUEL GAS
PENN	0.0	CONSOLIDATED GAS
PENN	0.0	CONSOLIDATED GAS
ATHENS (SPARTA)	5.0	COLUMBIA GAS TRAN
ATHENS (BLOOMFIELD)	22.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	7.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	3.5	COLUMBIA GAS TRAN
ATHENS (ROME)	18.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	7.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	7.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	3.5	COLUMBIA GAS TRAN
ATHENS (ATHENS)	5.5	COLUMBIA GAS TRAN
ATHENS (ATHENS)	13.0	COLUMBIA GAS TRAN
ATHENS (ROME)	3.5	COLUMBIA GAS TRAN
ATHENS (ATHENS)	14.5	COLUMBIA GAS TRAN
ATHENS (ATHENS)	14.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	11.0	COLUMBIA GAS TRAN
ATHENS (BLOOMFIELD) F	8.0	COLUMBIA GAS TRAN
ATHENS (SPARTA)	30.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	22.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	5.5	COLUMBIA GAS TRAN
ATHENS (BLOOMFIELD)	30.0	COLUMBIA GAS TRAN
ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

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FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212777	9909	3703920673		107-TF		ROBERT C BEARD #1 (W-53)	ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
8212775	9907	3703920782		107-TF		ROBERT FRANKENFIELD #1 (W-68)	ATHENS (ROME)	11.0	COLUMBIA GAS TRAN
8212776	9908	3703920705		107-TF		ROBERT T WALKER #1 (W-66)	ATHENS (CENTERVILLE B	10.5	COLUMBIA GAS TRAN
8212692	9891	3703920680		107-TF		ROBERT W FOLTZ #1 (W-58)	ATHENS (ATHENS)	18.5	COLUMBIA GAS TRAN
8212768	9908	3703920686		107-TF		SCOTT J PRESTON #2 (W-63)	ATHENS (ATHENS)	12.5	COLUMBIA GAS TRAN
8212766	9898	3703920677		107-TF		SCOTT J PRESTON #3 (W-61)	ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
8212778	9910	3703920706		107-TF		WAYNE V PARKER #1 (W-64)	ATHENS (ROME)	36.0	COLUMBIA GAS TRAN
8212772	9904	3703920678		107-TF		WILLIS D & NANCY A TROYER #1 (W-56)	ATHENS (ATHENS)	9.0	COLUMBIA GAS TRAN
**********									
SOUTH DAKOTA DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT									
**********									
-SAM G HARRISON				RECEIVED:	12/28/81	JA: SD			
8212594		4006320251		102-4		BECK #1-9	CADY CREEK	73.0	JERRY A MCCUTCHIN
8212597		4006320258		102-4		C F BECK #2	CADY CREEK	73.0	JERRY A MCCUTCHIN
8212598		4006320301		102-4		DAVIS-HOLCOMB #1-7	WEST SHORT PINE HILLS	73.0	MONTANA DAKOTA UT
8212593		4006320227		102-4		FEDERAL #1-22	CADY CREEK	73.0	JERRY A MCCUTCHIN
8212596		4006320254		102-4		HOMER TRUMAN 3-21	CADY CREEK	73.0	JERRY A MCCUTCHIN
8212595		4006320253		102-4		LEGER #1-15	CADY CREEK	73.0	JERRY A MCCUTCHIN
8212592		4006320083		102-4		TRUMAN 1-21	CADY CREEK	73.0	JERRY A MCCUTCHIN
**********									
** U.S. GEOLOGICAL SURVEY - CASPER,WY									
**********									
-MIDLANDS GAS CORPORATION				RECEIVED:	12/23/81	JA: MT 5			
8212582	M414-1	2507121702		102-2		FEDERAL 1 0462	BOWDOIN	216.0	KANSAS-NEBRASKA N
8212581	W413-1	2507121641		102-2		FEDERAL 1 1279	UNNAMED	31.0	KANSAS-NEBRASKA N
8212583	M415-1	2507121710		102-2		FEDERAL 1 2579	BOWDOIN	92.0	KANSAS-NEBRASKA N
8212578	W407-1	2507121127		108		MIAMI FEDERAL 626-26 2612	WILDCAT	22.0	KANSAS-NEBRASKA N
-AL-AQUITAINE EXPLORATION LTD				RECEIVED:	12/23/81	JA: ND 5			
8212568	ND394-1	3300700360		102-2		U S 1-14	WHISKEY JOE	0.0	WESTERN GAS PROCE
8212569	ND 395-1	3300700683		102-2		U S 2-28	WHISKEY JOE	0.0	WESTERN GAS PROCE
-BWAB INC				RECEIVED:	12/23/81	JA: ND 5			
8212588	ND426-1	3305301230		102-2		FEDERAL #32-34	MONDAK	3.7	MONTANA DAKOTA UT
8212589	ND427-1	3305301159		102-2		FEDERAL 23-42X	MONDAK	5.5	MONTANA DAKOTA UT
-AMOCO PRODUCTION CO				RECEIVED:	12/23/81	JA: WY 5			
8212567	W329-1-T	4903721526		107-TF		KOBUS FEDERAL #1	BRUFF-FRONTIER	766.0	CITIES SERVICE GA
8212590	W429-1	4903721090		103		LOST SOLDIER UNIT #79A	LOST SOLDIER-TENSLEEP	3.6	NORTHERN GAS CO
8212591	W430-1	4903720913		103		LOST SOLDIER UNIT #94	LOST SOLDIER-TENSLEEP	10.8	NORTHERN GAS CO
8212584	W418-1T	4903720332		107-TF		WILSON RANCH UNIT #15 (FRONTIER)	WILSON RANCH-FRONTIER	388.0	CITIES SERVICE GA
-BELCO PETROLEUM CORPORATION				RECEIVED:	12/23/81	JA: WY 5			
8212576	W404-1	4903520621		103		GREEN RIVER BEND UNIT 66-17	GREEN RIVER BEND UNIT	0.0	NORTHWEST PIPELIN
-CITIES SERVICE COMPANY				RECEIVED:	12/23/81	JA: WY 5			
8212574	W402-1	4900720569		107-TF		FEDERAL BE #1	ECHO SPRINGS	200.0	CITIES SERVICE GA
8212577	W406-1	4903721774		107-TF		FEDERAL BI #1	WILDROSE	186.0	CITIES SERVICE GA
-CORONADO OIL CO				RECEIVED:	12/23/81	JA: WY 5			
8212587	W425-1	4901720437		102-2		BLUME-GOVT #1	UNNAMED	65.0	MONTANA-DAKOTA UT
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	12/23/81	JA: WY 5			
8212579	W408-1	4900525413		103		STEPHENS FEDERAL 41-35	PUMPING BUTTES	7.0	
8212573	W401-1	4900921865		103		WELL DRAW FEDERAL 32-28	WELL DRAW	24.0	PHILLIPS PETROLEU
-DOME PETROLEUM CORP				RECEIVED:	12/23/81	JA: WY 5			
8212586	W420-1	4904120265		102-2		DOME HILLER-FEDERAL #1-32	WILDCAT	18.7	
-EQUITY OIL COMPANY				RECEIVED:	12/23/81	JA: WY 5			
8212575	W403-1	4903721158		103		SIBERIA RIDGE UNIT #9	SIBERIA RIDGE	73.0	COLORADO INTERSTA
-HUSKY OIL COMPANY				RECEIVED:	12/23/81	JA: WY 5			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212580	W410-1	4903721936		103		FEDERAL 15-10	SALT WELLS	540.0	MOUNTAIN FUEL SUP
-JERRY CHAMBERS-OIL PRODUCER				RECEIVED:	12/23/81	JA: WY 5			
8212585	W419-1T	4903721718		107-TF		CHAMBERS - FEDERAL #1-22	ECHO SPRINGS	228.8	CITIES SERVICE GA
-MONSANTO COMPANY				RECEIVED:	12/23/81	JA: WY 5			
8212570	W397-1	4901320964		107-DP		MONSANTO MEDIAN #1-21	MADDEN	342.0	COLORADO INTERSTA
-MWJ PRODUCING COMPANY				RECEIVED:	12/23/81	JA: WY 5			
8212572	W399-1	4900921921		103		SMITH FEDERAL 34-5	MANNING	14.0	MIGC INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/23/81	JA: WY 5			
8212571	W398-1	4901306561		102-4		FREMONT #2	SHELDON DOME	157.0	

OTHER PURCHASERS

8212032 LONE STAR GAS CO

BILLING CODE 6717-01-C

The [illegible] were [illegible] jurisdictional Energy [illegible] to the [illegible] and 102-4 determined before [illegible] annual [illegible] cubic feet. Contract [illegible] purchaser [illegible] notice.

The [illegible] available [illegible] extension [illegible] under [illegible] Commission's [illegible] Information [illegible] Capitol [illegible] objection [illegible] may, [illegible] and 2 [illegible] Commission [illegible] 1982.

Category [illegible] are in [illegible]

Section [illegible]
102-[illegible]
102-[illegible]
102-[illegible]
Section [illegible]
107-[illegible]
107-[illegible]
107-[illegible]
107-[illegible]
Section [illegible]
108-[illegible]
108-[illegible]
108-[illegible]

Kenneth [illegible]
Secretary.

[FR Doc. [illegible]

BILLING [illegible]

Office [illegible]

Implementation [illegible] Procedures

AGENCY: [illegible]
Appeals.

ACTION: [illegible] special [illegible] solicitation.

SUMMARY: [illegible] Appeals [illegible] solicitation [illegible] appropriate [illegible] refunds [illegible] $38.9 million. [illegible] These [illegible] different [illegible] pursuant [illegible] brought [illegible]

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before February 16, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2546 Filed 1–29–82; 8:45 am]
BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to members of the public over $38.9 million in consent order funds. These funds were remitted by 33 different firms in settlement of or pursuant to enforcement proceedings brought by the Office of Enforcement (now the Office of Special Counsel) of the Department of Energy.

DATES AND ADDRESSES: Comments should be submitted no later than March 3, 1982, and should be addressed to the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461. All comments should conspicuously display a reference to case number BEF–0055.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3137.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to consent orders entered into by Adams Resources and Energy, Inc. and 32 other firms and individuals. The names of the parties and amounts and dates of publication of each consent order are listed in the decision. All parties are either producers or resellers of crude oil. Pursuant to the consent orders, these parties have agreed to make refunds totaling over $38.9 million in settlement of alleged violations of DOE crude oil pricing regulations.

In the Proposed Decision and Order, the DOE referred to another determination issued at the Office of Enforcement in the Matters of Alfred B. Alkek and others, 9 DOE ¶ ———, NO. DFF–0002 (January 6, 1982), which involved issues identical to those in the Adams proceeding. The DOE determined that it would be administratively efficient to aggregate the funds involved in the *Adams* and *Alkek* proceedings. Since more than $21 million is involved in the *Alkek* proceeding and $38.9 million is involved in the *Adams* proceeding, the total funds available for distribution using the mechanism announced in the *Alkek* determination are now nearly $60 million.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted on or before March 3, 1982, and should be addressed to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, located in Room B–120, 2000 M Street, NW., Washington, D.C., between the hours of 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 25, 1982.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Adams Resources and Energy, Inc., and others listed in Appendix A
Dates of Filing: June 1, 1981, and others listed in Appendix A
Case Numbers: BEF–0055, and others listed in Appendix A

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) may request the Office of Hearings and Appeals (OHA) to formulate and implement specially-designed process to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of an alleged violation of DOE regulations. 10 CFR Part 205, Subpart V. (1) In accordance with these regulatory provisions, OE has filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into by Adams Resources and Energy Inc. and the other firms and individuals listed in Appendix A to this Decision and Order. Pursuant to consent orders these parties have agreed to make refunds totaling $38,974,185.76 for alleged violations of DOE pricing regulations. Those funds, which have already been paid to the DOE, are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding final distribution. As will be discussed in greater detail below, each violation of the DOE pricing regulations alleged in the consent orders is similar, and the parties injured by each of the alleged violations are for the most part identical. Therefore these cases have been consolidated for purposes of this Decision.

I. Background

The consent orders in this proceeding resulted from audits or investigations conducted by the DOE and its predecessor agencies. As a result of these audits, the DOE alleged that the parties in each of these cases were involved in the sale of crude oil at prices in excess of those established in the Mandatory Petroleum Price Regulations

set forth in 6 CFR Part 150 and 10 CFR Part 212.

Those regulations generally required crude oil producers to determine the first sale price of crude oil on the basis of production from a property during a specified base period, *i.e.* the base production control level (BPCL). *See* 6 CFR 150.354; 10 CFR 212.72–.74. Crude oil production that did not exceed the BPCL for the particular property was generally subject to the lower tier ("old oil") ceiling price rule. 6 CFR 150.354; 10 CFR 212.73. Crude oil production that exceeded the BPCL ("new oil") could generally be sold without regard to the ceiling price rule prior to February 1, 1976, and at the upper tier ceiling price level after that date. 6 CFR 150.354(c)(2); 10 CFR 212.74(a). Prior to February 1, 1976, in months in which new oil could be sold from a property, additional volumes of crude oil could be sold as "released" oil at prices in excess of the applicable lower tier ceiling price level. 6 CFR 150.354(c)(3);' 10 CFR 212.74(b). Additionally, crude oil produced from a "stripper well property" could generally be sold at market price levels. The term "property" was defined as the right to produce crude oil which arises from a lease or fee interest. 6 CFR 150.354(b)(2); 10 CFR 212.72. Producers and resellers of crude oil were generally required to certify in writing to each purchaser in the distribution chain the respective volumes of the various categories of price-controlled domestic crude oil included in each purchase. 10 CFR 212.131 (a)(4), (b)(1).

The types of violations allegedly committed by the parties who entered into the consent orders involved in this proceeding fall into three categories. Most of the alleged violations concern firms which were "producers" of crude oil as defined in 10 CFR 212.31. These firms were alleged to have sold price-controlled oil at uncontrolled prices. Specifically, they were alleged to have incorrectly certified "old" price-controlled crude oil they produced as "new" or "stripper well" oil subject to less stringent controls. The firms were therefore alleged to have overcharged purchasers by the amount per barrel which represents the difference between the "new" of "stripper well" prices and the maximum price permitted for "old" oil. (*2*) The second type of violation alleged concerns a producer who was alleged to have sold "old" oil at levels in excess of the applicable ceiling price. In this type of case, the producer allegedly determined May 15, 1973 posted prices for crude oil incorrectly and thus sold crude oil at a price higher than that permitted by the regulations. (*3*)

The third type of violation alleged concerns a reseller that was alleged to have miscertified "old" crude oil which it owned and sold it at the higher "new" or world market level (uncontrolled) oil prices. (*4*)

In all of these consent orders, the Government agreed to terminate the pending investigations and administrative proceedings, and the parties agreed to pay a stipulated sum of money to the DOE. Notices of the consent orders were published in the Federal Register. (*5*) Interested parties were provided an opportunity to comment on the terms of the consent orders and to submit written notices to ERA of potential claims against the settlement funds. In an number of cases the DOE also issued press releases concerning the consent orders. In many cases, parties submitted claims for a portion of the consent order fund. (*6*)

II. Jurisdiction

The procedural regulations of the Department of Energy set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process is intended to be used in situations where the Department of Energy is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR 205.280. For a more detailed discussion of Subpart V, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). After reviewing the records developed in each of the cases involved in this proceeding, we have concluded that the implementation of Subpart V proceedings in each case is appropriate. In each of the cases, there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges. Moreover, even in cases where an injured person can be identified, it is difficult to ascertain the level of refunds that each person should receive. Until recently, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to ultimate consumers. However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result of decontrol, price rollbacks are no longer an effective means of making restitution to purchasers who were overcharged in the past. Moreover, to refund money to the parties actually affected by the alleged overcharges, a determination must be made regarding the extent to which purchasers of the crude oil involved absorbed the overcharges or passed the higher costs through to downstream customers by raising their own sales prices. In these cases, therefore, the persons entitled to refunds are not readily identifiable, and the amount of the refunds that persons should receive are not readily ascertainable. Under these circumstances, Subpart V provides the most useful mechanism for devising a procedure to effect restitution. The Office of Hearings and Appeals therefore will accept jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petitions for Implementation of Special Refund Proceedings set forth in Appendix A to this Decision.

III. Authority to Fashion Refund Procedures

Subpart V authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute refunds obtained as part of settlement agreements. 10 CFR 205.281, 205.282. The special refund procedures are part of an overall regulatory program and are intended to implement several different statutes.

Congress provided for mandatory price controls on crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce the regulations governing the pricing of crude oil and refined petroleum products was first exercised by the Cost of Living Council under the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1976), then delegated in turn to the Federal Energy Office, the Administrator of the Federal Energy Administration, and finally, in 1977, to the Secretary of Energy. Federal Energy Administration Act (FEAA) section 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), section 301(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the Department of Energy have provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation,

or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order").

As we have noted in previous Subpart V Decisions, restitution is designed to accomplish two independent purposes: disgorgement of the fruits of a regulatory violation from the wrongdoers, and refunding money to persons injured by the regulatory violation. *Vickers; see Sauder* v. *DOE*, 648 F.2d 1341 (Temp. Emer. Ct. App. 1981). The latter objective—refunding money to overcharged persons—furthers the specific goal in Section 4(b)(1)(F) of the EPAA of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F).

IV. Proposed Refund Procedures

To fulfill the objectives expressed in the statutes and regulations discussed above, and the consent orders themselves, the procedures to be implemented in these cases should, to the maximum extent practicable, provide for the distribution of the refund amounts to the parties who were actually injured by the alleged overcharges.

The Department of Energy recently issued a final decision establishing refund procedures in connection with 25 alleged price violations involving crude oil. *Office of Enforcement*, 9 DOE ¶ ———, No. DFF–0002 (January 6, 1982). A copy of that Decision is appended to this proposed decision as Appendix B, and is incorporated into this determination by reference. As is the case in the present proceeding, the parties in *Alkek* allegedly violated the DOE crude oil price regulations. Pursuant to consent orders, the parties in *Alkek* agreed to make refunds totaling over $21 million. Under the authority of 10 CFR Part 205, Subpart V, we formulated a refund process which is designed to effectuate an equitable and efficient distribution of those funds.

The effects of the alleged violations involved in the present proceeding are identical to those involved in *Alkek*. Since the two proceedings involve similar transactions and present identical issues, we believe that aggregation of the moneys involved in this decision with the funds involved in the *Alkek* decision would be equitable and administratively efficient. The total amount of money made available for refunds in *Alkek* was approximately $21 million. The firms involved in the present proceeding have remitted a total of approximately $39 million to the DOE. Therefore, the total funds now available for distribution through the scheme announced in the *Alkek* decision, if this proposed determination if finalized, are nearly $60 million.

We therefore propose to consolidate this proceeding with the *Alkek* proceeding. This consolidation will simplify the submission of claims, be cost efficient, and be a more effective use of the resources of the Office of Hearings and Appeals.

It is therefore ordered that:

The refund amounts provided in conjunctions with the consent orders listed in Appendix A of this Decision and Order will be distributed in the manner set forth in the Decision and Order issued in the matters of Alfred B. Alkek *et al.*, 9 DOE ¶ ———, No. DFF–0002 (January 6, 1982).

Footnotes

(*1*) The Economic Regulatory Administration has recently been reorganized. Under that reorganization the Office of Enforcement has been integrated into the Office of Special Counsel. However, throughout this decision we will continue to refer to the Office of Enforcement.

(*2*) This type of violation was alleged in the following cases: Adams Resources and Energy, Inc.; J&C Drilling Co.; Mohegan Co./James B. Kite Operating Co.; T–C Oil Co.; N. C. Ginther; D. R. Cummings; Quintana Petroleum Corp.; Kirkpatrick Oil and Gas Co.; William Gruenewald & Assoc., Inc.; Marbob Energy Corp.; Mabee Petroleum Corp.; Michaelson Producing Co.; Rocky Petroleum Corp.; Homestake Production Co.; Louis H. Haring, Jr.; Diamond Shamrock Corp.; Rollert-Waddell Co.; BTA Oil Producers; Liberty Oil & Gas Co., Inc.; Phoenix Resources Co.; Parthow & Cochonour; Connally Oil Co.; Alta Lona Oil Co.; Benson-Montin-Greer Drilling Corp.; M. C. Milam, Inc.; Milinda Oil Co.; An-Son Corp.; Calvin Petroleum Corp.; and Century Refining Company. These violations were alleged to have resulted from the misapplication of the term "base production control level," misapplication of the definition of "property," or incorrect certification of a property as a "stripper well property," as these terms are defined in the DOE regulations. One other firm, Westland Oil Co., allegedly sold gas well condensate at prices in excess of the lawful ceiling price.

(*3*) This type of violation was alleged in the Marbob Energy Corp. case.

(*4*) This type of violation was alleged with respect to Summit Transportation Co. and Coastal Corporation.

(*5*) The following table indicates the date that the consent order was published in the **Federal Register** and the amount to be paid to the DOE pursuant to the consent order.

Case	Date on which the consent order was published	Refund amount
Adams Resources and Energy, Inc.	Nov. 2, 1979, 44 FR 63136, corrected Nov. 16, 1979, 44 FR 66204.	$60,000
Mohegan Co./James B. Kite Operating Co.	May 5, 1980, 45 FR 29626.	34,000
T–C Oil Co	July 10, 1979, 44 FR 40379.	345,000
N. C. Ginther	Nov. 26, 1979, 44 FR 67500.	40,000
D. R. Cummings	Apr. 29, 1980, 45 FR 28414.	[1] 14,000
Summit Transportation Co.	Mar. 4, 1981, 46 FR 15203.	17,000,000
J&C Drilling Co	Nov. 26, 1979, 44 FR 67490.	950,000
Marbob Energy Corp.	July 31, 1979, 44 FR 44865.	[1] 34,000
Westland Oil Development Corp.	Oct. 2, 1980, 45 FR 65260.	2,634,189.09
Quintana Petroleum Corp.	Oct. 29, 1979, 44 FR 61994.	3,750,000
Kirkpatrick Oil and Gas Co.	Apr. 28, 1980, 45 FR 28190.	[1] 325,000
William Gruenewald & Assoc., Inc.	Dec. 3, 1979, 44 FR 69221.	46,906.55
Mabee Petroleum Corp.	May 1, 1981, 46 FR 24622.	435,306
Michaelson Producing Company.	Nov. 15, 1979, 44 FR 65813.	280,000
Rocky Petroleum Corp.	Oct. 23, 1979, 44 FR 61090.	32,000
Rollert-Waddell Co.	Sept. 27, 1979, 44 FR 55030.	90,000
Homestake Production Co.	June 26, 1979, 44 FR 37932.	62,000
Louis H. Haring, Jr.	June 28, 1979, 44 FR 37670.	160,897.79
Diamond Shamrock Corp.	June 26, 1979, 44 FR 37930.	55,055.78
Coastal Corporation.	Feb. 25, 1980, 45 FR 12286.	9,000,000
Century Refining Co.	Feb. 29, 1980, 45 FR 13502.	2,700,000
Alta Lona Oil Co.	Sept. 6, 1979, 44 FR 53018.	294,617.21
Benson-Montin-Greer Drilling Co.	Jan. 22, 1980, 45 FR 4371.	98,369.13
BTA Oil Producers	July 26, 1979, 44 FR 43702.	415,816.87
Clark & Clark	July 6, 1979, 44 FR 39577.	57,911.81
Connally Oil Co	June 26, 1979, 44 FR 37331.	100,000.00
Liberty Oil & Gas Co., Inc.	Aug. 2, 1979, 44 FR 45436.	60,000.00
M. C. Milam, Inc.	Aug. 3, 1979, 44 FR 45865.	52,440.89
Partlow & Cochonour.	Oct. 15, 1979, 44 FR 59767.	152,138.68
Phoenix Resources Co.	Jan. 25, 1980, 45 FR 6157.	105,772.64
Milinda Oil Co	Jan. 29, 1980, 45 FR 6643.	80,000.00
Calvin Petroleum Corp.	June 1, 1981, 46 FR 29512.	45,000.00
An-Son Corp	June 26, 1979, 44 FR 37667.	33,700.54
Total		38,974,185.78

[1] Plus interest.

(*6*) Claims were filed in the following cases: Adams Resources and Energy, Inc.; T–C Oil Co.; D. R. Cummings; J&C Drilling Co.; Quintana Petroleum Corp.; Kirkpatrick Oil and Gas Co.; and William Gruenewald & Assoc., Inc.; Mabee Petroleum Corp.; Michaelson Producing Co.; Diamond Shamrock Corp.; Homestake Production Co.; Alta Loma Oil Co., Connally Oil Co., Partlow & Cochonour, Phoenix Resources Co., Liberty Oil & Gas Co., Inc., and BTA Oil Producers.

APPENDIX A

Name of petitioner	Date of filing	Case No.
Office of Enforcement, Economic Regulatory Administration: In the Matters of:		
Adams Resources and Energy, Inc.	June 1, 1981	DEF-0055.
Mohegan Co./James B. Kite Operating Co.	June 3, 1981	DEF-0057.
T-C Oil Co	May 6, 1981	DEF-0047.
N.C. Ginther	June 5, 1981	DEF-0059.
D.R. Cummings	do	DEF-0058.
Summit Transportation Co.	May 20, 1981	DEF-0053.
J&C Drilling Co.	May 13, 1981	DEF-0050.
Marbob Energy Corp	May 18, 1981	DEF-0052.
Westland Oil Development Corp.	Dec. 23, 1980	DEF-0026.
Quintana Petroleum Corp.	June 18, 1981	DEF-0060.
Kirkpatrick Oil and Gas Co.	do	DEF-0061.
William Gruenewald & Assoc., Inc.	do	DEF-0062.
Mabee Petroleum Corp.	July 6, 1981	DEF-0066.
Michaelson Producing Co.	June 10, 1981	DEF-0063.
Rocky Petroleum Corp.	July 21, 1981	DEF-0071.
Rollert-Waddell Co	June 11, 1981	DEF-0064.
Coastal Corp	May 15, 1980	DFF-0005.
Homestake Production Co.	Aug. 20, 1981	DEF-0074.
Louis H. Haring, Jr.	do	DEF-0075.
Diamond Shamrock Corp.	do	DEF-0076.
Century Refining Co	Aug. 31, 1981	DEF-0077.
Alta Loma Oil Co	Sept. 1, 1981	DEF-0060.
Benson-Mondo-Grear Drilling Co.	Sept. 4, 1981	DEF-0067.
BTA Oil Producers	do	DEF-0083.
Clark & Clark	do	DEF-0084.
Connally Oil Company	do	DEF-0082.
Liberty Oil & Gas Co., Inc.	Sept. 24, 1981	DEF-0092.
M. C. Milam, Inc.	Sept. 11, 1981	DEF-0090.
Partlow & Cochonour	do	DEF-0091.
Phoenix Resources Co.	do	DEF-0088.
Milinda Oil Co.	Oct. 6, 1981	HEF-0001.
Calvin Petroleum Corp.	Oct. 9, 1981	HEF-0003.
An-Son Corp.	do	HEF-0004.

Appendix B

January 6, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Alfred B. Alkek and others listed in Appendix A

Dates of filing: April 19, 1979, and others listed in Appendix A

Case Nos. DFF-0002 and others listed in Appendix A

This proceeding concerns Petitions for the Implementation of Special Refund Procedures submitted to the Office of Hearings and Appeals pursuant to 10 CFR Part 205, Subpart V, by the Economic Regulatory Administration's Office of Enforcement (OE). (*1*) In the petitions, OE requests that the Office of Hearings and Appeals establish procedures for the disposition of over $21 million obtained by the DOE in connection with consent orders entered into by Alfred B. Alkek and the other 23 firms and individuals listed in Appendix A, and a remedial order issued to James M. Forgotson. (*2*) The consent orders settled DOE claims that these firms violated the DOE Mandatory Petroleum Price Regulations found in 6 CFR Part 150 and 10 CFR Part 212. The funds are now being held in escrow pending receipt of instructions from the OHA regarding their distribution.

In four previous decisions, the Office of Hearings and Appeals accepted jurisdiction over the refund amounts involved in this proceeding. *Office of Enforcement*, 8 DOE ¶ 82,516 (1981) (all cases except Alkek, Delta, Enserch, Forgotson and Guenther); *Office of Enforcement*, 8 DOE ¶ 82,515 (1981) (Forgotson, Delta, and Enserch cases); *Office of Enforcement*, 6 DOE ¶ 82,571 (1980) (Guenther case); *Office of Enforcement*, 4 DOE ¶ 82,574 (1979) (Alkek case).

On May 8, 1981, the Office of Hearings and Appeals issued a Proposed Decision and Order which tentatively established special refund procedures to be used in adjudicating claims to the consent order funds and solicited comments from interested parties concerning the proper disposition of the funds. 46 FR 26681 (May 14, 1981). In that determination we tentatively established a two-stage refund procedure. We stated that in the first stage of the process we would consider Applications for Refund made by parties who believed they could show a demonstrable injury arising from the violations alleged in the consent orders. In addition, we proposed a second-stage procedure which would apply in the event that the consent order funds were not exhausted by claims paid in the first stage of the refund process. For the second stage we proposed a scheme through which the funds could be distributed to ultimate consumers of petroleum products through state governments on the basis of average use of petroleum products within a state during the period 1973 through 1978.

The focus of this decision is the establishment of the procedures to be employed for filing claims in the first stage of the refund process. This decision will discuss the special circumstances involved in these proceedings, and then outline in general terms which parties may be able to establish that they are entitled to a portion of the consent order funds, and what types of information they should submit in connection with their Applications for Refund. In establishing these requirements, we will address comments filed in response to the first stage proposal in the May 8 Proposed Decision. This Decision will also briefly address the second stage of our refund proposal and the comments filed in response to that proposal.

I. Background

We described the background surrounding the consent order funds involved here in detail in the May 8 Proposed Decision and Order. *Office of Enforcement*, No. DFF-0002, slip op. at 2–3 (proposed decision) (May 8, 1981) (hereinafter cited as Proposed Decision), 46 FR 26681, 26682. As we stated in that determination, the consent orders in this proceeding resulted from audits or investigations conducted by the DOE and its predecessor agencies. As a result of these audits, the DOE enforcement authorities alleged that the parties in these cases were involved in sales of crude oil at prices in excess of the ceiling prices permitted by the DOE Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150 and 10 CFR Part 212. Each party except one against whom enforcement action was taken has settled the outstanding compliance proceeding by executing a consent order. *See* 10 CFR 205.199J.

The types of violations allegedly committed by the parties that entered into the consent orders involved in this proceeding fall into three broad categories. Most of the violations alleged concern firms that were "producers" of crude oil as defined in 10 CFR 212.31. These firms were alleged to have sold domestic, price-controlled oil at uncontrolled prices. Specifically, they were alleged to have incorrectly certified "old" price-controlled crude oil as "new" or "stripper well" oil subject to less stringent price controls. The firms were therefore alleged to have overcharged purchasers by the amount per barrel which represents the difference between "new" or "stripper well" prices and the ceiling price permitted for "old" oil. (*3*)

The second type of alleged violation concerns four producers that were alleged to have miscertified "old" oil. These producers additionally sold oil for which the "base" or May 15, 1973 price was incorrectly computed. Thus this crude oil, though properly certified, was sold at a price higher than that permitted by the regulations. (*4*) The third type of alleged violation concerns parties which were not producers of crude oil. These parties were alleged either to have been resellers of crude oil that miscertified "old" crude oil and sold it as "new" or imported oil, or to have been parties that received commissions for their participation in schemes in which they arranged for others to miscertify crude oil. (*5*)

In all but one case, these parties have entered into consent orders with the DOE or the Department of Justice. (*6*) In each consent order, the government agreed to terminate the pending investigation and administrative or judicial proceeding, and the parties agreed to remit a stipulated sum of money to the DOE. The terms contained in each consent order, including the amount of the monetary settlement, were arrived at through negotiation. Although the amount of money remitted to the DOE can be viewed as based in part upon the magnitude of the violations alleged by the government, additional factors—such as each party's views as to the probable length, expense, and success of litigation—would normally influence the size of the monetary settlement. In addition, the parties' knowledge of ongoing audits would also be reflected in the negotiated settlements. Because of these factors, each of the consent orders contains a stipulation that the DOE does not find that a violation of the regulations actually occurred. Thus, the consent orders involved in this proceeding cannot be considered to be adjudications on the merits of the violations alleged against the parties that entered them, and the amounts of the violations alleged in charging documents previously issued to the firms involved bear only an attenuated relationship to the funds obtained by the DOE.

As stated above, the May 8 Proposed Decision tentatively established a two-stage refund procedure for the consent order funds.

In that decision, we noted that all parties theoretically injured by the violations would not necessarily be entitled to refunds. Instead, only those parties who could demonstrate that were adversely affected by the alleged violations would be appropriate refund recipients. We explained that in prior decisions involving special refund procedures we had defined an injured purchaser to be any purchaser which could show that it purchased petroleum products sold by the party that entered into the consent order and which could demonstrate that it did not pass on all overcharges to subsequent purchasers. *See, e.g., Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). We pointed out that the entities which appeared to be most directly affected by the alleged crude oil price violations in the consent orders involved in this proceeding are refiners that directly purchased the crude oil which was the subject of the individual consent orders, and the other refiners that participated in the Entitlements Program, 10 CFR 211.67. However, we stated our tentative view that these entities might not be the most appropriate recipients of the total pool of refund money available. We reached this position because the effects of crude oil pricing violations were generally spread by the Entitlements Program through the entire United States and among all domestic refiners. In this regard we pointed out:

"Because of the manner in which the Entitlements Program operated, the effects of the miscertifications were spread among all domestic refiners. Miscertifications caused price-controlled crude oil to disappear. This disappearance caused the volume of old oil to be distributed through the Entitlements Program to decline and caused the DOSR (domestic old oil supply ratio) to be reduced. Thus, refiners who included more than the national average percentage of price-controlled oil in their crude oil receipts and runs to stills had to purchase a *greater* number of entitlements. Similarly, refiners with less than the national average percentage of price-controlled crude oil has *fewer* entitlements to sell. As a result, every refiner's cost of crude oil was increased. Thus, all refiners were affected by the alleged miscertification violations involved in the Consent Orders. To the extent the refiners pass through these increased costs to customers, the customers who purchased refined products were harmed by the miscertifications. *See Getty Oil Co.,* 1 DOE ¶ 80,102 (1977)."

Proposed Decision, slip op. at 5–6, 46 FR at 26683 (emphasis in original).

From this we articulated two preliminary views. First, we explained that because of the operation of the Entitlements Program, refiners that purchased crude oil from the parties that had signed these consent orders were not injured in a manner distinct from all other refiners. This is because the amount the individual refiners paid in excess of the controlled price for the miscertified crude oil was balanced by the extra benefits they received by the operation of the Entitlements Program. Thus, we reasoned that if all refiners as a group were not appropriate refund recipients, individual refiners which directly purchased the crude oil involved also would not be appropriate refund recipients. *Id.,* slip op. at 6, 46 FR at 26683. Secondly, we stated that through the operation of the Entitlements Program, all refiners lost benefits as a result of the miscertifications of crude oil. We noted that to some extent the refiners probably passed on these increased costs to subsequent purchasers. Also, to the extent there costs were not passed on, we stated that because of such factors as the accumulation of refiners' banks of increased costs, changes in supplied/purchaser relationships, and the fluctuation of prevailing crude oil costs and price levels during the relatively lengthy period covered by the consent orders, it would be extremely burdensome to compute with precision the degree to which each refiner absorbed any increases in costs engendered by the miscertifications. We therefore questioned the practicality of channeling the consent order funds to Entitlements Program participants. *Id.* We also noted that the decontrol of crude oil was another factor which weighed against making refunds directly to the refiners that purchased the crude oil or to all refiners that participated in the Entitlements Program. We observed that had the DOE regulatory scheme still been in effect, any refunds which a refiner received would have been reflected as a decrease in the cost of crude oil and may have affected its maximum lawful selling prices of covered products. In this manner, the parties further down the distribution chain that were likely to have been adversely affected by the alleged overcharges would have received some benefit associated with the refunds. However, since decontrol occurred on January 28, 1981, the mechanism of price rollbacks is of doubtful effectiveness. *Id.,* slip op. at 7, 46 FR at 26683.

We did note, however, that certain identifiable parties might be able to show demonstrable injury from the alleged violations. We found that one such class of potentially injured parties was the group of direct purchasers or refiners that obtained crude oil from the parties which entered into consent orders in which an improper computation of the base price for crude oil was alleged. We noted that because this oil appeared to be properly certified, the alleged overcharges were not passed through the mechanism of the Entitlements Program. We stated that these direct purchasers and refiners thus may have borne the effect of such overcharges and may be eligible for refunds to the extent that they could show that the alleged overcharges were not passed through to subsequent purchasers. *Id.*

Refiners were additionally included in the second class of potientially injured parties we indentified. This class is composed of refiners that obtained crude oil from parties that entered into consent orders concerning violations alleged to have occurred before the commencement of the Entitlements Program on November 1, 1974. Because the effects of these overcharges had not been passed through the Entitlements Program, we stated that these refiners were directly affected and may have absorbed the effects of the alleged overcharges. Thus we concluded that refiners in this class could be eligible for refunds to the extent they could show that they did not pass these increased costs on to subsequent purchasers. *Id.*

We also stated that, for periods subsequent to November 1, 1974, refiners and subsequent purchasers that obtained crude oil or refined products produced or sold by the parties that entered into the consent orders involved in the proceeding could be eligible for refunds if they could show that the Entitlements Program did not negate the adverse effects caused by the alleged violations and if they could accurately calculate the impact of those effects on them. *Id.,* slip op. at 8 & n.12, 44 FR at 26683. Finally, we noted that if our tentative conclusion were correct, the effects of the alleged overcharges were spread among all refiners by the Entitlements Program and were largely passed on by them and subsequent purchasers. In this case, the effects of the alleged overcharges would actually have been borne by all ultimate consumers of refined products. Thus, we determined that consumers could also be appropriate refund recipients. *Id.* We stated that instructions for the filing of refunds for all potentially aggrieved parties would be provided in a final decision.

In a separate section of the May 8 Proposed Decision, we considered ways of distributing whatever funds remained after appropriate refunds to first-stage claimants have been made. We proposed that these funds should be apportioned among state governments to reflect each state's level of petroleum consumption between 1973 and 1978, the years in which the violations were alleged to have occurred. *Id.,* slip op. at 9–10, 46 FR at 26684. We chose to distribute the money to state governments because we believed that they would be able to design a distribution scheme for the refund proceeds which would benefit all injured consumers in each state, and account for the varying energy-related needs of their citizens. We also believe that the states would be able to expend the proceeds in an administratively efficient and cost-effective manner. In order to minimize the difference between the recipients of the refunds and the groups which bore the burden of the allegedly illegal pricing practices, we proposed that each state's portion of refund proceeds would be divided among three categories or "pools" relating to the consumption of different types of petroleum products. We stated that within each of the three pools, the refund proceeds would be allocated to organizations which are best suited to passing through the proceeds to the ultimate consumers of that type of product. *Id.,* slip op. at 10–12, 46 FR at 26684–85. We additionally stated that an alternative distribution scheme, should giving the money to state governments prove impractical, would be to deposit all the refund money into the United States Treasury. *Id.,* slip op. at 12–13, 46 FR at 26685.

II. Analysis

A. Initial Refund Procedures

In the Proposed Decision, we described our proposal to refund money to parties directly injured by the violations alleged in the consent orders through the first stage of these refund proceedings. The Proposed Decision stated in very general terms that such parties

would be eligible to file Applications for Refund with the Office of Hearings and Appeals. In this Decision, we shall set forth in detail the procedures we will follow in the first stage. We will specify clearly the information a refund applicant should submit to demonstrate that it is entitled to a refund. As we will explain in greater detail below, however, it is not possible for us to articulate with precision how every conceivable applicant in these proceedings should document its refund application. We will therefore describe the issues which an applicant must address and the types of evidence which we believe will tend to support an applicant's claim for a refund. This discussion is not meant to be inclusive, and we will consider *all* evidence which an applicant submits to substantiate its claim. We will also address specific suggestions filed in response to those portions of the Proposed Decision which concern the implementation of the first stage of the refund process.

Since the issuance of the Proposed Decision, we have received numerous comments addressing the proposed first-stage refund mechanism. A number of comments were filed by refiners of crude oil, (7) such as Texas City Refining Inc., which objected to the discussion in the Proposed Decision which stated that refiners were generally able to pass on increased costs to their own customers, and that refiners might therefore not be able to qualify for direct refunds. These refiners claim that as a result of market forces, they were actually unable to pass through increased costs to their customers. In support of this contention, the refiners point out that until January 28, 1981, when crude oil and refined petroleum products were exempted from the DOE price and allocation regulations, the firms continuously maintained substantial banks of unrecovered costs. *See, e.g.,* Comments filed by Marathon Oil Company. One refiner, Mount Airy Refining Company, claimed that since it sold only uncontrolled products, it was forced to absorb the effects of any unlawful certifications because it usually sold its product at market prices. According to Mount Airy, it therefore could not have passed on any price increases due to miscertifications. Other refiners, such as Crown Central Petroleum Corporation, suggest that all refunds attributable to miscertified crude oil should be distributed directly to refiners through the Entitlements Program. In this regard, they refer to the mechanism established by the Economic Regulatory Administration for entitlement adjustments for periods prior to the decontrol of crude oil. 46 FR 36902 (July 13, 1981). The refiners point out that that mechanism will liquidate rights and obligations of participants in the Entitlements Program that accrued before decontrol, without regard to whether those participants were actually able to pass through increased costs that may have resulted from the erroneous issuance of entitlements benefits or obligations. Several refiners suggest that we should adopt a similar approach in this proceeding and return all refund moneys directly to them.

We cannot agree with the suggestion that all refunds should automatically be distributed directly to the refiners that purchased crude oil from the producers involved in this proceeding. While we recognize that it may well have been reasonable for the ERA to decide to rectify errors in the apportionment of entitlements benefits and obligations through the Entitlements Program itself, we are not persuaded that such a policy is appropriate with respect to moneys that the DOE has received as a result of consent orders settling enforcement matters involving alleged violations of the crude oil price regulations. Rather, we believe that the benefits associated with the moneys received as refunds for possible overcharges should be distributed in a manner that will inure to the maximum extent possible to those who were actually injured by the alleged overcharges. Nothing in the Proposed Decision and nothing in this decision is intended to foreclose the right of a refiner or any other party that believes that it can prove it was injured by the alleged violations to file an Application for Refund. Indeed, to the extent a refiner can demonstrate an injury, it will be eligible to receive an appropriate share of the refund pool. We wish to point out, however, that the burden in these proceedings is not on the DOE to demonstrate that a prospective claimant or class of claimants is ineligible for refunds. Rather, a claimant must affirmatively demonstrate that it has been injured by the alleged violation and that it should consequently receive a refund. A claimant that does no more than reiterate an argument which presumes the existence of injury without documenting it will not have met this burden.

We now turn to the question of what documentation a claimant must provide in order to establish eligibility for a portion of the consent order funds. In the Proposed Decision we identified certain classes of potentially injured parties that we believe would be able to demonstrate that they were in fact injured by the alleged violations. We wish to point out that the listing of potentially injured parties we gave in the Proposed Decision was intended to be representative rather than exclusive. *Any* party that believes it can prove an injury resulting from the alleged violations may file an Application for Refund. Secondly, while we still believe that many ultimate consumers of refined petroleum products were in all likelihood injured by the violations alleged in these proceedings, consumers cannot in our view show a direct link between the violations alleged in the consent orders and their injuries. Therefore it is not yet appropriate to determine how funds should be apportioned to such consumers. (8) That determination can be made only after we know how much of the proceeds must be given to first stage claimants who can prove injury from the alleged overcharges. Thus it would be premature for such consumers and consumer groups who would claim they incurred an injury from the alleged violations merely by virtue of being ultimate consumers to file Applications for Refund at this time. *See Vickers.*

We have recently issued three final determinations establishing special refund procedures. *See Office of Enforcement,* 9 DOE ¶ , No. BEF-0033 (December 28, 1981); *Office of Enforcement,* 9 DOE ¶82,508 (1981); *Vickers.* Each of those decisions provided detailed instructions for filing refund applications. For example, in *Vickers* we suggested a format for the submission of claims. *Vickers,* 8 DOE at 85,402-03. This was possible because the *Vickers* consent order involved only one type of product—motor gasoline. Moreover, the effects of the alleged overcharges were limited to a sixteen-state area in which Vickers marketed motor gasoline and also were limited to the parties within Vickers' distribution chain. Because Vickers' motor gasoline sales volume during the period covered by the consent order was known, it was possible to apportion a definite amount of the consent order fund to each gallon of gasoline purchased, and consequently to calculate refund amounts on a volumetric basis. *Id.* at 85,396 & n.4.

A markedly different situation exists here. Some of the consent orders involved in this proceeding involve both certification and non-certification violations alleged to have been committed by the same firm. The crude oil involved was then transformed into a multitude of refined products by the time it reached ultimate consumers. Indeed, many refined products were not used in their "raw" form but to manufacture other items produced in the national economy. Because of the Entitlements Program, the effects of the overcharges were not restricted to the distribution chain of the firms which purchased the crude oil involved, but were in fact spread among all refiners of crude oil and all consumers of refined products nationwide. Because the effects of the overcharges were diffused among all refiners it is entirely possible that the market reflected these changes by raising the price levels generally charged by all refiners in the United States.

Under these circumstances, it is not possible for us to specify how every potential applicant for refund should document its claims. Nor do we think such specification is necessary at this time. Rather than establishing general rules for the submission of refund applications in this proceeding, we will give some examples of the kinds of documentation certain classes of applicants should provide to prove entitlement to a refund. Applicants should bear in mind that the following examples are not intended to be comprehensive; applicants may find it appropriate to file additional or substitute information in support of their claims. All applicants must provide sufficient information to prove that the violations alleged in one of the consent orders had a direct, measurable impact on them and that this impact caused an injury that they were unable to minimize or eliminate by passing on to subsequent purchasers. The type of documentation a claimant must submit will vary depending on whether a claimant's injury was caused or affected by the Entitlements Program. (9) A claimant's injury was not caused or affected by the Entitlements Program if it was caused by violations other than certification violations, by violations which occurred prior to the inception of the Entitlements Program on

November 1, 1974, or if the claimant is a party that sells crude oil before it has been refined. A claimant of this type should first provide proof establishing it obtained crude oil from one of the parties that entered into one of the consent orders in this proceeding. That proof should include include the volume of crude oil obtained, the price for which it was obtained, and the time when it was obtained. The claimant should also present a detailed description of the nature of its alleged injury. In addition, we will require a showing that the claimant did not pass through price increases caused by the alleged violations to its own customers. Thus, a claimant in this group should submit data showing increased product costs (bank) for each calendar quarter for which it claims a refund, and market data and other relevant information which tends to show that the market would not permit it to recover the price increases involved by raising its own sales prices. If a claimant used its banked costs to increase its selling price at a later date, its refund might be appropriately reduced.

A claimant's injury was caused or affected by the Entitlements Program if the injury was caused by a certification violation occurring after November 1, 1974, and if the claimant is a refiner or a subsequent purchaser. We expect that claimants in this category will make two general types of claims. The first type would be made by a refiner or subsequent purchaser which obtained crude oil originally sold by one of the parties that entered into the consent orders involved in this proceeding. Such a claimant must be able to demonstrate that the product was originally produced or sold by one of the parties that entered into the consent orders. Barring a showing that a refiner obtained all its crude oil from a single reseller or producer, we are uncertain at this time how this showing can be made by a party in the distribution chain other than a refiner. An applicant with this type of claim must also provide the same information about time of purchase, quantity of purchase, and existence of banks that a claimant whose injury was not caused or affected by the Entitlements Program must provide. Moreover, this type of claimant must satisfactorily demonstrate why and to what extent the Entitlements Program did not operate to negate the effect of the violations.

As we stated in the proposed decision in this proceeding and repeated in our discussion here, the violations alleged in the consent orders could conceivably have directly caused all refiners to incur injury through the operation of the Entitlements Program. Thus, a refiner in this category which is able to quantify its individual injury and can show, through the existence of banks and the submission of market data or other relevant information, that it did not pass on those increased costs to subsequent purchasers may be eligible for a refund. Again, we are unable to specify what type of factual information could be used to document such an injury. We must reiterate however, that the burden of proving eligibility for a refund is on the refiner, not the DOE. Thus, it is the refiner that must provide information showing how and to what extent it was injured by the violations alleged in the consent orders. This cannot be done through the use of generalized, unsupported allegations, and the submission of material establishing simply that sizable product cost banks were maintained during the relevant periods is not sufficient. *See, e.g., Vickers,* 8 DOE at 85, 396–97.

Accordingly, this Decision announces that OHA will accept Applications for Refund from the consent order amounts pursuant to 10 CFR 205.283 beginning immediately. Applications must be filed no later than May 3, 1982. It should be noted that in establishing these procedures, we intend to avoid excessive processing costs that would be out of proportion to the amount of the consent order funds available for distribution. *See* 10 CFR 205.286(b). Consequently, because the cost of considering claims for small refund amounts may render such a process administratively inefficient, we may decide at some point in the future to establish a minimum amount for which an Application for Refund may be filed. That minimum amount could be based upon the administrative cost of processing a claim, issuing a check, and transmitting the check, which we are informed amounts to approximately $15.00. However, we will not impose a lower limit at this time, but will consider all Applications for Refund that are timely filed.

B. Distribution of the Remainder of the Consent Order Funds

Several comments addressed our proposed distribution of whatever consent order funds may remain after the first stage of the refunds process is completed. In this Decision, we are not implementing the second-stage refund procedure. This would be difficult to do before the analysis and processing of Applications for Refund, because the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme. *See Vickers,* 8 DOE at 85, 397. However, we continue to believe that distribution of refunds to all consumers of petroleum products through state governments may well be appropriate if sufficiently large amounts remain after the claims process has been completed. In order for the public to be made aware of outstanding issues and be able to comment on them, we will summarize and address briefly the comments received concerning the proposed second-stage procedure. We continue to seek comments on those issues.

The comments received from nineteen States and the National Governors Association address in particular the portion of the Proposed Decision where we proposed that the refund proceeds be divided among product pools, and suggested several uses to which the refunds assigned to each pool might be put. (*10*) Many of the States pointed out that reductions in fees and utility charges made to individual citizens, such as those proposed, would provide an insignificant per capita benefit and involve disproportionately high administrative costs. Nearly all of the States filing comments contend that they should be allowed to disregard the pool plan, and that each State be permitted to develop its *own* plans for the disbursement of refund moneys. In this regard, many of the States have suggested numerous alternative uses to the proposals which we set forth in the Proposed Decision. For example, the States of Washington, Maine, Mississippi, and Idaho proposed that refunds be used generally to increase funding for or to implement energy conservation programs. The States of Minnesota, Arkansas, Oregon, and Kentucky proposed that the refunds could be directed to specific energy conservation programs, such as home weatherization, ride-sharing and mass transit. The States of Texas, Oregon, and Arkansas also suggest that the refunds be used to augment energy planning and development programs.

We believe that the States' suggestions for additional uses for the refunds have considerable merit. As noted above, the purpose of the "pools" in the Proposed Decision was to establish mechanisms which would funnel refunds to the class of persons who were likely to have been injured by the allegedly illegal pricing practices. Otherwise, the restitutionary goal of the second-stage proceeding would not be furthered. Nevertheless, the suggested distribution of refunds among the pools was not intended to preclude other appropriate restitutionary schemes, and other types of state plans for the use of the refunds could also be approved, provided a showing is made that the plan will not disproportionately benefit one class of consumers over another. *See* Proposed Decision, slip op. at 19 n.18, 46 FR at 26686 n.18.

Several states and individuals who submitted comments in this proceeding also suggested that refund moneys be used exclusively to assist the elderly and the poor in the payment of utility bills. Some states have also suggested that refund moneys be utilized to train new automobile drivers. While we have not doubt that these are useful and even commendable programs, we must reiterate that our authority to approve any state plan depends in part upon a showing that benefits from the plan will be equitably derived by citizens who are likely to have been overcharged. Refunding money to persons who were injured by overcharges is the focus of Subpart V. We therefore are not inclined to approve a plan whose benefits were unduly weighted in favor of one particular sector of the population, however needy that segment may be. (*11*) We also woud not be inclined to approve a plan, such as a new driver training program, whose primary beneficiaries were individuals who clearly would have made no gasoline purchases during the period in which the alleged violations occurred.

Finally, the funds remaining after the first-stage distribution is completed may be so small as to render a second-stage distribution impractical, or the schemes proposed not sufficiently cost-effective. As we stated on the Proposed Decision, we may then simply direct the deposit of the remainder of the funds into the miscellaneous receipts account of the United States Treasury. *See* 10 CFR 205.287(c); Proposed Decision, slip op. at 12–13, 46 FR at 26,686. We will consider this question after all claims are paid. That determination will be made in the form of a

Supplemental Order, notice of which will be provided through the **Federal Register.**

III. Conclusion

The refund mechanisms and procedures outlined above for claims filed with the DOE will be adopted. In addition, with respect to the second stage of the refund process, although we continue to believe that the plan for distribution of the remainder of the consent order funds outlined in the Proposed Decision is authorized by the DOE's statutory and regulatory provisions, and represents an equitable and efficient method of distributing the settlement funds, we have concluded that it would be premature at this time to authorize the implementation of that second-stage procedure.

We will therefore accept Applications for Refund of a portion of the consent order funds filed on or before May 3, 1982. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Matters of Alfred B. Alkek *et al.*, Case No. DFF–0002. Any application for a refund must be filed in duplicate, and a copy of that application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in this proceeding or the underlying enforcement proceedings. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

It Is Therefore Ordered That:

The refund amounts provided in conjunction with the consent orders listed in Appendix A of this Decision and Order will be distributed in the manner set forth in the foregoing Decision.

Dated: January 6, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) The Economic Regulatory Administration has recently been reorganized. Under that reorganization, the Office of Enforcement has been integrated into the Office of Special Counsel. However, throughout this decision we will continue to refer to the Office of Enforcement.

(*2*) For purposes of convenience, the term "Consent Order" will be used below to encompass the Remedial Order issued to James Forgotson.

(*3*) This type of violation was alleged in the following cases: Beta Development Co., PGP Gas Products, Inc., J. R. Parten, Vaughn Petroleum, Inc., Lundell's Inc., Graner Oil Co., Hixon Development Co., Newmont Oil Co., Tipperary Oil and Gas Corp., Crystal Oil Co., Frank W. Michaux, McFarland Energy, Inc., Quintin Little Co., Union Texas Petroleum Corp., McCulloch Oil and Gas Corp., Gladys O'Donnell Co., Natomas North America, Inc., Shawnee Oil and Gas Corp., John H. Hendrix Corp., Delta Drilling Company, Enserch Exploration, Inc., and James M. Forgotson. These violations were alleged to have resulted from the producers' miscalculation of the "base production control level," misapplication of the definition of "property," or incorrect certification of a well as a "stripper well," as these are defined in the DOE regulations.

(*4*) This type of violation was alleged in the Crystal Oil Co., Vaughn Petroleum, Inc., Hixon Development Co., and McFarland Energy, Inc. cases.

(*4*) This type of violation was alleged in the Albert B. Alkek, Jack Guenther, and Coral Petroleum, Inc. cases.

(*6*) In the one case not involving a consent order, James M. Forgotson, a crude oil producer, paid DOE $76,201 pursuant to a Remedial Order which found that Forgotson charged prices for crude oil in excess of those permitted by the DOE regulations. *See* James M. Forgotson, Case No. DRW–0031 (August 9, 1979) (unpublished decision).

(*7*) Comments were filed by the following refiners: Crystal Petroleum Company, Inc., Golden Eagle Refining Company, Inc., Mount Airy Refining Company, Ergon Refining, Inc., Crown Central Petroleum Corporation, Marathon Oil Company, Sun Petroleum Production Company, Amoco Oil Company, Texas City Refining, Inc., Cities Service Company, Mobil Oil Corporation, and Atlantic Richfield Company.

(*8*) It would be appropriate for an ultimate consumer (or group of consumers) which believes that it can trace back an injury to the violations alleged in the consent orders to file an Application for Refund, however. To do this, of course, the ultimate consumer must be able to show that the product it purchased contained crude oil produced by one of the parties that entered into the consent orders.

(*9*) Information concerning which consent orders involve violations other than certification violations or violations alleged to have occurred before the inception of the Entitlements Program on November 1, 1974 is provided in the table in Appendix B.

(*10*) Comments were received from energy offices or other offices of the following states: Indiana, Minnesota, Wisconsin, Florida, Michigan, Texas, California, Idaho, Maine, New York, Tennessee, Arkansas, New Jersey, Kentucky, Vermont, Washington, Mississippi, Nebraska, and Colorado.

(*11*) The parties that receive benefits from the refunds will be current consumers of refined products. These parties may in some instances not be identical to the injured class, because the overcharges allegedly occurred during the period 1973 through 1976. We have found no administratively feasible technique for ensuring that proceeds go only to those parties who consumed refined products in the 1973 through 1978 period, as opposed to present consumers.

APPENDIX A

Name of petitioner	Date of filing	Case No.
Office of Enforcement, Economic Regulatory Administration: In the Matters of:		
Alfred B. Alkek	Apr. 19, 1979	DFF–0002.
Jack Guenther	May 14, 1979	DFF–0004.
Beta Development Co.	Nov. 17, 1980	BEF–0009.
PGP Gas Products, Inc.	Dec. 3, 1980	BEF–0010.
J.R. Parten	do	BEF–0011.
Vaughn Petroleum, Inc.	Dec. 5, 1980	BEF–0012.
Lundell's Inc	do	BEF–0013.
Graner Oil Co	do	BEF–0015.
Hixon Development Co.	do	BEF–0016.
Newmont Oil Co	do	BEF–0017.
Tipperary Oil and Gas Corp.	do	BEF–0018.
Crystal Oil Co	Dec. 8, 1980	BEF–0019.
Frank W. Michaux	Dec. 11, 1980	BEF–0020.
McFarland Energy, Inc.	Dec. 19, 1980	BEF–0023.
Quinton Little Co	Dec. 23, 1980	BEF–0024.
Union Texas Petroleum Corp.	do	BEF–0025.
McCulloch Oil and Gas Corp., McCulloch Oil Corp. of Texas.	Jan. 29, 1981	BEF–0026.
Coral Petroleum Inc	Feb. 3, 1981	BEF–0031.
Gladys O'Donnell, d.b.a. Gladys O'Donnell Co.	Feb. 24, 1981	BEF–0035.
Natomas North America Inc.	Mar. 16, 1981	BEF–0037.
Shawnee Oil and Gas Corp.	Mar. 20, 1981	BEF–0039.
John H. Hendrix Corp.	do	BEF–0040.
James M. Forgotson	Apr. 9, 1981	BEF–0043.
Delta Drilling Company.	do	BEF–0044.
Enserch Exploration, Inc.	do	BEF–0045.

APPENDIX B

Case	Period of alleged violation	Existence of non-certification violations	Refund amount
Alfred B. Alkek	12/1/75–7/1/77	No	$3,240,600
Jack Guenther	12/1/75–7/1/77	No	841,528
Beta Development Company.	9/1/73–12/31/75	No	[1] 128,000
PGP Gas Products, Inc.	5/1/74–5/1/75	No	[1] 25,484
J. R. Parten	11/1/73–8/31/76	No	275,000
Vaughn Petroleum, Inc.	9/1/74–8/31/76	Yes	1,250,000
Lundell's Inc.	9/1/73–12/31/76	No	71,083
Graner Oil Co.	6/3/75–5/31/79	No	[1] 77,536
Hixon Development Co.	7/1/73–12/31/77	Yes	45,000
Newmont Oil Co.	9/1/73–12/31/77	No	80,000
Tipperary Oil and Gas Corp.	9/1/73–9/1/76	No	213,533
Crystal Oil Co.	9/1/73–12/31/76	Yes	203,506

APPENDIX B—Continued

Case	Period of alleged violation	Existence of non-certification violations	Refund amount
Frank W. Michaux.	11/16/73–8/31/76	No	147,482
McFarland Energy, Inc.	9/1/73–6/31/79	Yes	353,132
Quintin Little Co.	9/1/73–4/30/77	No	1,700,000
Union Texas Petroleum Corp.	9/1/73–12/31/79	No	2,100,000
McCulloch Oil & Gas Corp.	9/1/73–9/30/77	No	437,806
Coral Petroleum Inc.	11/1/74–1/11/80	No	[1] 9,000,000
Gladys O'Donnell.	3/1/76–5/31/79	No	81,580
Natomas North America, Inc.	1/1/75–12/31/78	No	53,000
Shawnee Oil and Gas Corp.	9/1/73–1/31/77	No	560,000
John H. Hendrix Corp.	9/1/73–8/31/77	No	[1] 42,000
Delta Drilling Company.	9/1/73–6/30/77	No	275,000
Enserch Exploration, Inc.	9/1/73–12/31/77	No	495,000
James M. Forgotson.	9/1/73–1/1/77	No	76,201

[1] Plus interest.

[FR Doc. 82-2377 Filed 1-29-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-10-FRL-2040-7]

Intent to Approve Reduction in Non-Federal Match for Clean Air Act Grant to State of Washington Solicitation of Comments; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of comments, opportunity for public hearing.

SUMMARY: The Environmental Protection Agency Region 10 (EPA) invites comments on and announces an opportunity for public hearing on EPA's intent to allow a reduction in the non-Federal matching share to the Section 105 (Clean Air Act) Air Programs Grant to the State of Washington's Department of Ecology. This reduction is a result of the Governor's request for uniform reductions in State spending and does not affect the State's ability to meet the minimum matching requirements for receiving Federal grant support.

DATE: Public hearing: March 4, 1982 (if hearing is requested) 7:30 p.m.

ADDRESS: WDOE Hearings Room, 4224, Sixth Avenue Southeast, Building 4, Lacey Washington 98504.

FOR FURTHER INFORMATION CONTACT:
Al Ewing, U.S. Environmental Protection Agency, Washington Operations Office, 4224 Sixth Avenue Southeast, Building 1, Lacey, Washington 98504; Telephone: (206) 753–9437 (FTS 434–9437).

SUPPLEMENTARY INFORMATION:

Background Information

For several years, EPA has provided financial assistance to the Washington State Department of Ecology (WDOE) to aid in the development and implementation of its air pollution control program and the programs of seven local agencies. This financial assistance has been in the form of a Section 105 Clean Air Act (42 U.S.C. 7405(b)) grant. The Clean Air Act prevents award of such grants if the grantee's "Expenditures of non-federal funds for other than non-recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the [Regional] Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government." (42 U.S.C. 7405(b))

Due to a shortfall in revenues, the Governor of Washington has instituted a 10.13 percent reduction in the general fund biennium budget for the State of Washington. WDOE has provided EPA with information indicating that (1) the general fund budgets of all Washington executive branch agencies have been scheduled for reductions and that the average is no less than 10.1 percent and (2) that the general fund budget of the air pollution control program has been scheduled for a 10.1 percent reduction (and therefore the reduction in air is non-selective).

Intended Action

Based on the information received from WDOE, EPA is prepared to determine that the reduction in non-federal funding for the air program is non-selective. EPA is prepared to approve the $189,400 reduction in match for the WDOE FY 82 Section 105 air grant. Further, this reduction will not affect the State's ability to meet the minimum matching requirements for receiving Federal grant support. The information upon which EPA has based its preliminary determination is available to the public by writing or telephoning the office listed above.

Invitation of Comments-Opportunity for Public Hearing

Any person who desires to comment on this intended action may do so by writing to the above listed contact person. Comments must be received on or before March 3, 1982.

If No Timely Request for a Public Hearing Is Received, No Hearing Will Be Held

A public hearing will be held if (and only if) a request for a public hearing is received at that office listed above by March 3, 1982. The purpose of such a hearing would be to take testimony regarding whether the reduction in expenditures for the WDOE air program is or is not attributable to a non-selective reduction in expenditures in the programs of all Washington executive branch agencies. If a request for a public hearing is received, the hearing will be conducted in the time and place listed above.

It is suggested that anyone wishing to verify whether the public hearing is to be held should call the above listed office. A shorter notice period is being employed for this action (the usual period is 45 days) so the State will be aware of EPA's final decision on the reduction soon as possible.

Dated: January 21, 1982.

John R. Spencer,
Regional Administrator.

[FR Doc. 82-2460 Filed 1-29-82; 8:45 am]
BILLING CODE 6560-38-M

[OPTS-53033; TSH-FRL-2037-6]

Premanufacture Notices; Monthly Status Report for December 1981

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for December 1981.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance.

ADDRESS: Written comments to: Document Control Officer (TS–793),

Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M St., SW., Washington, D.C. 20460, (202–382–3746).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)) requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558–Initial) and July 29, 1980 (45 FR 50544–Revised). The requirement to submit PMNs for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979. EPA has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMNs received during the month; (b) PMNs received previously and still under review at the end of the month; (c) PMNs for which the notice review period has ended during the month; (d) chemical substances for which EPA has received a notice of commencement to manufacture; and (e) PMNs for which the review period has been suspended. Therefore, EPA is publishing the December 1981 PMN Status Report.

Interested persons may submit written comments on the specific chemical substance no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–53033]" and the specific PMN number. Nonconfidential portions of the PMNs, written comments received on individual PMNs, and other documents in the public record may be seen in Rm. E–106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Dated: January 21, 1982.

Woodson W. Bercaw,

Acting Director for Management Support Division.

Premanufacture Notices Monthly Status Report, December 1981

I. 74 Premanufacture Notices Received During the Month

PMN NO.	Identity and generic name	FR citation	Expiration date
81–608	Polyethylene glycol di-2-ethylhexoate	46 FR 60496 (12/10/81)	Mar. 1, 1982.
81–609	Methoxy polyethylene glycol 2-ethylhexoate	46 FR 60496 (12/10/81)	Do.
81–610	Generic name: Urethane acrylate	46 FR 60496 (12/10/81)	Do.
81–611	Generic name: Modified polyurethane from a diisocyanate, substituted alkane diol and mixed polyether diols.	46 FR 60496 (12/10/81)	Do.
81–612	Generic name: Polester of a polybasic fatty acid and a polyoxyethylated polypropylene glycol	46 FR 60497 (12/10/81)	Do.
81–613	Generic name: Alkyl glucoside	46 FR 60497 (12/10/81)	Do.
81–614	Generic name: Polester urethane acrylate-blocked	46 FR 60497 (12/10/81)	Do.
81–615	Generic name: Aryl amine, epoxide polymer	46 FR 60497 (12/10/81)	Do.
81–616	1,7-naphthalenedisulfonic acid, 4-benzamido-5-hydroxy-6-((2-sulfooxyethyl)sulfonyl)-1-sulfonaphthalen-2-yl)azo)-, tetrasodium salt.	46 FR 60498 (12/10/81)	Mar. 3, 1982.
81–617	Generic name: Substituted benzene sulfonic acid	46 FR 60981 (12/14/81)	Do.
81–618	Generic name: Trisubstituted cellulose	46 FR 60981 (12/14/81)	Do.
81–619	Generic name: Trisubstituted cellulose salt	46 FR 60981 (12/14/81)	Do.
81–620	Generic name: Silicon substituted organic amine	46 FR 60982 (12/14/81)	Do.
81–621	Generic name: Polyester of propanediol, adipic acid, phthalic anhydride, aromatic aliphatic ester	46 FR 60982 (12/14/81)	Mar. 4, 1982.
81–622	Fumaric acid, maleic anhydride, isophthalic acid polymer of propylene glycol and ethylene glycol	46 FR 61350 (12/16/81)	Mar. 3, 1982.
81–623	Generic name: Copolymer of alkyl acrylates and methacrylates	46 FR 61530 (12/16/81)	Mar. 7, 1982.
81–624	Generic name: Modified polyester from alkanedioic acid, substituted alkane triol and a carbomonocyclic acid.	46 FR 61530 (12/16/81)	Do.
81–625	Generic name: Blocked isocyanate	46 FR 61595 (12/17/81)	Mar. 8, 1982.
81–626	Ethylene glycol acrylate trimellitate	46 FR 61505 (12/17/81)	Mar. 3, 1982.
81–627	Polymer of ethylene glycol acrylate mellitate and bisphenol-A epichlorohydrin	46 FR 61505 (12/17/81)	Mar. 8, 1982.
81–628	Adduct of toluene diisocyanate with 2-hydroxy-ethyl acrylate and caprolatum	46 FR 61508 (12/17/81)	Do.
81–629	Polymer of linseed oil, polymer with maleic anhydride and pentaerythritol, formaldehyde polymer with 4-(1,1-dimethyethyl) phenol, methyl phenol, and 4-nonyl phenol.	46 FR 61508 (12/17/81)	Do.
81–630	Generic name: Poly(ester)—Co-poly(ether)	46 FR 62312 (12/23/81)	Mar. 9, 1982.
81–631	Generic name: Polymer of mixed alkyl acrylates and methacrylates	46 FR 62312 (12/23/81)	Mar. 10, 1982.
81–632	Generic name: Methacrylate copolymer	46 FR 62312 (12/23/81)	Mar. 11, 1982.
81–633	Generic name: Hydroxy alkenyl borate	46 FR 62313 (12/23/81)	Do.
81–634	Generic name: Protein associated biopolymer	46 FR 62313 (12/23/81)	Mar. 14, 1982.
81–635	Generic name: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxynaphthoic acid.	46 FR 62313 (12/23/81)	Do.
81–636	Generic name: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxy-naphthoic acid.	46 FR 62314 (12/23/81)	Do.
81–637	Generic name: Saturated dicarboxylic acid diamine polyamine	46 FR 62314 (12/23/81)	Do.
81–638	Generic name: Polyether reaction product with toluene diisocyanate-methacrylate terminated	46 FR 62687 (12/28/81)	Mar. 15, 1982.
81–639	Generic name: Aliphatic acid ester	46 FR 62688 (12/28/81)	Do.
81–640	Generic name: Disubstituted phenol	46 FR 62929 (12/29/81)	Mar. 16, 1982.
81–641	Generic name: Substituted tetradecanoic acid derivative	46 FR 62929 (12/29/81)	Do.
81–642	Terpolymer of dimethyl diallyl ammonium chloride/acrylamide/sodium acrylate	46 FR 63107 (12/30/81)	Mar. 18, 1982.
81–643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Mar. 21, 1982.
81–644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Do.
81–645	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Mar. 22, 1982.
81–646	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Do.
81–647	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Do.
81–648	Generic name: Tetrasubstituted benzenamide	47 FR 337 (1/5/82)	Do.

I. 74 Premanufacture Notices Received During the Month—Continued

PMN NO.	Identity and generic name	FR citation	Expiration date
81-649	Generic name: Tetrasubstituted benzene	47 FR 336 (1/5/82)	Do.
81-650	Polymer of hexanedioic acid and 2,2'-iminobis-ethanol	47 FR 336 (1/5/82)	Do.
81-651	Generic name: Tetrasubstituted benzene	47 FR 336 (1/5/82)	Do.
[1] 81-652	Generic name: Carboxylic diisocyanate	47 FR 1019 (1/8/82)	Mar. 23, 1982.
81-656	Generic name: Halogenated nitrotoluene derivative	47 FR 1020 (1/8/82)	Do.
81-657	Generic name: N-alkylated toluidine derivative	47 FR 1020 (1/8/82)	Do.
81-658	Generic name: Halogenated toluene derivative	47 FR 1020 (1/8/82)	Do.
81-659	3-carboxy-4-((4-(2-methoxy-5-(2-hydroxysulfonyloxy) ethylsulfonyl) phenyl) aminocarbonyl) phenylazo)-1-(4-sulfophenyl)-5-pyrazolone disodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Do.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
81-662	Generic name: Substituted propionamide	47 FR 1021 (1/8/82)	Do.
81-663	Generic name: Alkali metal salt of substituted benzoate	47 FR 1021 (1/8/82)	Do.
81-664	Generic name: Modified polyester from a substituted alkanediol, carbomonocyclic acids and carbomonocyclic anhydride.	47 FR 1022 (1/8/82)	Do.
81-665	Generic name: Substituted pyran	47 FR 1022 (1/8/82)	Do.
81-666	Generic name: Cycloalkyl aralkyl ether	47 FR 1411 (1/13/82)	Mar. 29, 1982.
81-667	Generic name: Substituted furan	47 FR 1411 (1/13/82)	Do.
81-668	Generic name: Ester-diol	47 FR 1412 (1/13/82)	Do.
81-669	Benzene, ar-bromoethenyl-, polymer with diethenylbenzene	47 FR 1412 (1/13/82)	Do.
81-670	Generic name: Modified polymer of styrene, alkenoic acid, alkenoic ester and substituted alkenoic ester.	47 FR 1412 (1/13/82)	Do.
81-671	Phenyl mercury neodecanoate	47 FR 1412 (1/13/82)	Do.
81-672	Phenyl acetic acid hydrazide	47 FR 1412 (1/13/82)	Do.
81-673	Generic name: Polyester from vegetable oil acids, alkane triol, carbomonocyclic anhydride and carbomonocyclic acid.	47 FR 1413 (1/13/82)	Do.
81-674	Generic name: Metal containing 2-hydroxy alkyl benzoate	47 FR 1413 (1/13/82)	Do.
81-675	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-676	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-677	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-678	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-679	Generic name: Acrylic copolymer	47 FR 1414 (1/13/82)	Do.
81-680	3,3-dimethylbicyclo (2.2.1) heptane-2-carboxylic acid	47 FR 1410 (1/13/82)	Mar. 30, 1982.
81-681	Decanoic acid, octyl ester	47 FR 1410 (1/13/82)	Do.
81-682	Octanoic acid, heptyl ester	47 FR 1411 (1/13/82)	Do.
81-683	Generic name: Polymer of 1,1'-methylene bis (4-isocyanatocyclohexane); a polymer of e-caprolactone and an ethylene glycol derivative; 2-butanone oxime; and a polyalkyl hydroxy substituted heterocycle.	47 FR 1414 (1/13/82)	Mar. 31, 1982.
81-684	Generic name: Polymer of 1,1'-methylene bis (4-isocyanatocyclohexane); a polymer of e-caprolactone and an ethylene glycol derivative; and a substituted alkane.	47 FR 1414 (1/13/82)	Do.

II. 43 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
81-505	Generic name: Isocyanate modified polyester	46 FR 55558 (11/10/81)	Jan. 31, 1982.
81-506	Generic name: N,N disubstituted hetero monocyclic derivative	46 FR 55778 (11/12/81)	Feb. 1, 1982.
81-567	Benzene diazonium, 4-(phenylamino)-hexafluoro-phosphate	46 FR 55778 (11/12/81)	Do.
81-568	Generic name: Modified polyester from substituted alkanediols, carbomonocyclic acids and carbomonocyclic anhydrides.	46 FR 55778 (11/12/81)	Do.
81-569	Generic name: Polymer of substituted alkanediol, alkanedioic acid, carbomonocyclic acids and carbomonocyclic anhydride.	46 FR 55778 (11/12/81)	Do.
81-570	Generic name: Polycyclic sulfonic acid salt	46 FR 56038 (11/13/81)	Feb. 2, 1982.
81-571	Benzo(K.1.) thioxanthene 3,4-dicarboxylic anhydride	46 FR 56039 (11/13/81)	Feb. 3, 1982.
81-572	Magnesium alkyl (C_{14}–C_{24}) salicylate	46 FR 56039 (11/13/81)	Do.
81-573	Generic name: Polyacrylate	46 FR 56651 (11/18/81)	Feb. 4, 1982.
81-574	Generic name: Polyurethane thermoplastic resin	46 FR 56651 (11/18/81)	Do.
81-575	5-dodecyl-benzotriazole	46 FR 56652 (11/18/81)	Do.
81-576	Generic name: 1,2,4 substituted anthraquinone	46 FR 56652 (11/18/81)	Do.
81-577	Generic name: Modified polyester of a carbomonocyclic anhydride and a substituted alkanediol	46 FR 56652 (11/18/81)	Do.
81-578	Generic name: Modified polyethylene oxide	46 FR 57126 (11/20/81)	Feb. 7, 1982.
81-579	Generic name: Polyglycol styrene acrylic polymer	46 FR 57126 (11/20/81)	Do.
81-580	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	46 FR 57127 (11/20/81)	Feb. 8, 1982.
81-581	Generic name: 2,5-dimethoxy-4-(p-tolythio) benzene diazonium salt	46 FR 57127 (11/20/81)	Do.
81-582	Generic name: Polymer of polymer diol, monocarboxylic acid diol, diamine and a diisocyanate	46 FR 57127 (11/20/81)	Do.
81-583	Generic name: Fatty acid esters with a polyol and oleic acid	46 FR 57127 (11/20/81)	Do.
81-584	Generic name: Sulfonated metallized heteropolycycle, salts	46 FR 57128 (11/20/81)	Feb. 10, 1982.
81-585	Generic name: N-(substituted organo functional) methanamine	46 FR 57128 (11/20/81)	Do.
81-586	Generic name: Polyester with both di and tri basic acids and diols	46 FR 57128 (11/20/81)	Do.
81-587	N,N'-isophthaloyl-bis(trimethylene urea)	46 FR 57344 (11/23/81)	Feb. 14, 1982.
81-588	Generic name: 2-2'-thiodiethyl bis(alkyl succinic acid ester)	46 FR 57632 (11/24/81)	Feb. 15, 1982.
81-589	1,4-dihydro-9,10-anthracenedione	46 FR 57633 (11/24/81)	Do.
81-590	1,4,4a,9a-tetrahydro-9,10-anthracenedione	46 FR 57633 (11/24/81)	Do.
81-591	Generic name: Nitrogen-containing organic sulfide	46 FR 58178 (11/30/81)	Feb. 16, 1982.
81-592	Sorbitan nonanoate	46 FR 58718 (11/30/81)	Do.
81-593	Sorbitan nonanoate, poly(oxy-1,2-ethanediyl) derivative	46 FR 58718 (11/30/81)	Do.
81-594	Generic name: Mixed aromatic diazo dye	46 FR 58358 (12/1/81)	Do.
81-595	Generic name: Tall oil/soya/safflower-styrene/acrylic copolymer resin	46 FR 58358 (12/1/81)	Feb. 17, 1982.
81-596	Generic name: Phenylenediimino-bis(chlorotriazinyl imino-substituted phenyleneazo-naphthalene trisulfonic acid), hexasodium salt.	46 FR 58359 (12/1/81)	Do.
81-597	Butanamide, 2-((2-methoxyphenyl)azo)-N-(2,3-dihydro-2-oxo-1H-benzimiazol-5-yl)-3-oxo-	46 FR 58595 (12/2/81)	Feb. 18, 1982.
81-598	Generic name: A modified polymer of alkyl methacrylates, a substituted alkyl acrylate, a substituted alkane, an alkanoic acid and a vinyl aromatic compound.	46 FR 58595 (12/2/81)	Do.
81-599	Generic name: Substituted benzenesulfonic acid salt	46 FR 58734 (12/3/81)	Do.
81-600	Generic name: Dichroic tetra-azo ester dye	46 FR 58734 (12/3/81)	Do.

II. 43 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
81-601	Generic name: Dichroic tetra-azo-dye	46 FR 58734 (12/3/81)	Do.
81-602	Decanoic acid, decyl ester	46 FR 58735 (12/3/81)	Feb. 23, 1982.
81-603	Generic name: A modified polymer of substituted and unsubstituted alkyl methacrylates, a substituted alkane, an alkenoic acid and an alkyl acrylate.	46 FR 58735 (12/3/81)	Do.
81-604	2-chlorobenzamide	46 FR 60055 (12/8/81)	Feb. 25, 1982.
81-605	Generic name: Substituted benzophenone reacted with methyl silsesquioxane	46 FR 60055 (12/8/81)	Do.
81-606	Generic name: Substituted-(2-hydroxy-benzo-phenone oxy)propane	46 FR 60056 (12/8/81)	Do.
81-607	Generic name: Acrylic copolymer	46 FR 60055 (12/8/81)	Feb. 28, 1982.

III. 71 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	Identity and generic name	FR citation	Expiration date
81-182	Generic name: Alkanedioic acids mixed alkanolamine salt	45 FR 54426 (8/15/80)	Dec. 18, 1981.
81-427	Generic name: Epoxidized glyceride, ether with polyoxyethylene	46 FR 45808 (9/15/81)	Dec. 29, 1981.
81-430	Generic name: Substituted aromatic amine	46 FR 45809 (9/15/81)	Dec. 1, 1981.
81-431	Generic name: Substituted aromatic amine	46 FR 45809 (9/15/81)	Do.
81-432	Generic name: Substituted aromatic amine	46 FR 45809 (9/15/81)	Do.
81-433	Generic name: Acrylic polymer	46 FR 45809 (9/15/81)	Do.
81-434	Generic name: Disubstituted cyclohexanol	46 FR 45809 (9/15/81)	Do.
81-435	1-(2-nitrophenyl) ethanone	46 FR 45995 (9/16/81)	Dec. 2, 1981.
81-436	Generic name: Disubstituted heteropolycycle	46 FR 45995 (9/16/81)	Do.
81-437	Generic name: Polynitro polyhalo alkyl aniline	46 FR 47003 (9/23/81)	Dec. 7, 1981.
81-438	Generic name: Substituted arylamino anthraquinone derivatives	46 FR 47003 (9/23/81)	Do.
81-439	Generic name: Alkyd resin	46 FR 47003 (9/23/81)	Do.
81-440	Generic name: Substituted 1,4-bis arylamino anthraquinone	46 FR 47003 (9/23/81)	Do.
81-441	Generic name: Mixed mono and dialkyl-dithio-thiadiazoles	46 FR 47004 (9/23/81)	Do.
81-442	Generic name: Benzyl ester	46 FR 47004 (9/23/81)	Do.
81-443	Generic name: Poly[(amino alkyl)alkylene oxide]	46 FR 47004 (9/23/81)	Do.
81-444	Generic name: Substituted heterocyclic-phenylazo dye	46 FR 47004 (9/23/81)	Do.
81-445	Polyglycidyl-m-xylenediamine	46 FR 47004 (9/23/81)	Do.
81-446	Generic name: Polydimethylsiloxane, alkyl and terpenyl substituted	46 FR 47005 (9/23/81)	Do.
81-447	Generic name: Polyester based urethane	46 FR 47005 (9/23/81)	Dec. 8, 1981.
81-448	Generic name: Epoxy modified phenolic resin	46 FR 47295 (9/25/81)	Do.
81-449	Generic name: Fluoro methacrylate copolymer	46 FR 47005 (9/23/81)	Dec. 7, 1981.
81-450	Generic name: Di[aryl]polyhaloserni-metal	46 FR 47005 (9/23/81)	Do.
81-451	Generic name: Modified phenolic novolak resin	46 FR 47006 (9/28/81)	Dec. 9, 1981.
81-452	Generic name: Modified phenolic novolak resin	46 FR 47006 (9/23/81)	Do.
81-453	Generic name: Modified phenolic novolak resin	46 FR 47006 (9/23/81)	Do.
81-454	Generic name: Modified phenolic novolak resin	46 FR 47006 (9/23/81)	Do.
81-455	4-trifluoromethoxyphenylisocyanate	46 FR 47295 (9/25/81)	Dec. 12, 1981.
81-456	2-carbomethoxybenzene sulfonyl chloride	46 FR 47295 (9/25/81)	Do.
81-457	Generic name: Polymer of unsaturated fatty acid, dimer fatty acid, unsubstituted anhydride, aliphatic diol, and hydroxy functional resins.	46 FR 47296 (9/25/81)	Do.
81-458	Monoethanolamine citrate in an aqueous solution	46 FR 47858 (9/29/81)	Dec. 14, 1981.
81-459	2,2-dimethylbicyclo[2.2.1]heptane-3-carboxylic acid, methyester	46 FR 47659 (9/29/81)	Do.
81-460	Generic name: Substituted heteropolycycle	46 FR 47658 (9/29/81)	Do.
81-462	Benzaldehyde, 3-methoxy-4-(3-propanamonium-2-hydroxy-N-N-N-trimethyl chloride	46 FR 47855 (9/30/81)	Dec. 20, 1981.
81-463	Benzenesulfonic acid, 4-[2-(trichloroethyl) ethyl-1, reaction product with silica	46 FR 47855 (9/30/81)	Do.
81-464	Generic name: Alkyl styrenated acrylate terpolymer	46 FR 47855 (9/30/81)	Do.
81-465	Generic name: Alkanedioic acid, (1-methyl, 5-hydroxymethyl heteromonocycle)diester	46 FR 47858 (9/30/81)	Do.
81-466	Generic name: Alkanedioic acid, bis(hydroxy-methyl heteromonocycle)ester	46 FR 47856 (9/30/81)	Do.
81-467	2-naphthalenesulfonic acid, 6-(acetylamino)-4-hydroxy-, sodium salt	46 FR 37856 (9/30/81)	Do.
81-468	4-chloronaphthalene 1,8-dicarboxylic acid anhydride	46 FR 47856 (9/30/81)	Do.
81-469	Generic name: Benzyl hetaro polycyclic onium halide	46 FR 48319 (10/1/81)	Dec. 21, 1981.
81-470	Tris(tridecafluorohexyl)amine	46 FR 48319 (10/2/81)	Do.
81-471	Generic name: Urethane polymer	46 FR 48753 (10/2/81)	Dec. 22, 1981.
81-472	Generic name: Alicyclic alcohol	46 FR 48753 (10/2/81)	Do.
81-473	Generic name: Oxoarylpolyalkylbenzene alkyl nitrile	46 FR 48754 (10/2/81)	Do.
81-474	Generic name: Polyhaloalkylbenzene alkanoic acid ester	46 FR 48754 (10/2/81)	Do.
81-475	Generic name: Tris(substituted alkyl) phosphate	46 FR 48754 (10/2/81)	Do.
81-476	Generic name: Substituted mercaptophosphate	46 FR 48754 (10/2/81)	Do.
81-477	Generic name: Melamine-formaldehyde-polyethylene glycol resin	46 FR 48755 (10/2/81)	Do.
81-478	Generic name: Acrylic modified epoxy-ester resin	46 FR 48755 (10/2/81)	Do.
81-479	Generic name: Unsaturated acyl urea-urethane diol prepolymer	46 FR 48755 (10/2/81)	Do.
81-480	Generic name: Cationic acrylamide copolymer	46 FR 48752 (10/2/81)	Dec. 28, 1981.
81-481	Generic name: Polymer of linear glycols, aliphatic dicarboxylic acid, and aromatic dicarboxylic acid	46 FR 48752 (10/2/81)	Do.
81-482	Generic name: Polymer of linear glycols, aliphatic dicarboxylic acid, and aromatic di-(tri-) carboxylic acids.	46 FR 48753 (10/2/81)	Do.
81-483	4(2'-aminophenyl thio)1,8-naphthalic anhydride	46 FR 48979 (10/5/81)	Dec. 27, 1981.
81-484	Generic name: Aromatic diazo dye	46 FR 48979 (10/5/81)	Do.
81-485	Generic name: Polymer of a substituted alkanediol, a carbomonocyclic anhydride and a substituted alkanoic ester.	46 FR 48979 (10/5/81)	Do.
81-486	Generic name: Polyhaloalkylbenzene	46 FR 48980 (10/5/81)	Do.
81-487	Generic name: Aliphatic ester	46 FR 48980 (10/5/81)	Do.
81-488	Generic name: Polymer of vinyl acetate, substituted acrylic acid ester, substituted acrylic acid ester, and substituted acrylic acid.	46 FR 49197 (10/6/81)	Do.
81-489	Generic name: Acrylic modified epoxy-ester resin	46 FR 49945 (10/8/81)	Dec. 29, 1981.
81-490	2,2-dimethyl-1,3-propanediol, polymer with 2-ethyl-2-hydroxymethyl-1,3-propanediol, 1,4-cyclohexane dimethanol, 1,5-hexanedioic acid, 1,3-isobenzofurandione and tall oil acids.	46 FR 49945 (10/8/81)	Do.
81-491	Generic name: Amine salt of a phosphonic acid	46 FR 49945 (10/8/81)	Do.
81-492	1,3-bis(1-methylethenyl) benzene	46 FR 49945 (10/8/81)	Do.
81-493	Generic name: Co-polymeric organopolysiloxane	46 FR 49946 (10/8/81)	Do.
81-494	Generic name: (Alkylaminosilyl)-(substituted) benzotriazole	46 FR 49946 (10/8/81)	Do.
81-495	Bis(3,5-di-tert-butyl-4-hydroxybenzyl)malonic acid, diester with 1-acryloi-2,2,6,6-tetra-methyl-4-piperidinol.	46 FR 49946 (10/8/81)	Do.
81-496	3-hydroxy-1 propanesulfonic acid	46 FR 49946 (10/8/81	Dec. 30, 1981.

III. 71 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
81-497	Generic name: Polymers of alkylamines and aryl epoxides	46 FR 49947 (10/8/81)	Do.
81-498	Generic name: Disubstituted polycarbocycle	46 FR 50149 (10/9/81)	Do
81-499	Generic name: Pentasubstituted benzopyran	46 FR 50149 (10/9/81)	Do

IV. 27 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of [illegible]
79-5	Generic name: Ammonium salt of a polyfunctional aliphatic acid oligomer	44 FR 55416 (9/26/79)	Dec. 21, 1982.
79-6	Poly(vinyl acetate, acrylic acid, butyl acrylate, dioctyl maleate, 2-ethylhexyl acrylate)	44 FR 57489 (10/5/79)	Nov. 23, 1981.
80-62	Generic name: Polyester resin of aliphatic polyols, mixed aromatic diacids, and aliphatic diacid	45 FR 24701 (4/10/80)	Jan. 1, 1982.
80-[illegible]	Generic name: Metallic beta diketonate	46 FR 40323 (8/7/81)	Nov. 30, 1981
81-7	Generic name: Modified resorcinaol resin	46 FR 12315 (2/13/81)	Nov. 18, 1981.
81-112	Butanamide,-2-[(4(4-amino-carbonylphenyl)amino-carbonylphenyl)azo) N-(2,3-dihydro-2-oxo-1H-benzimidiazole-5-yl)-3-oxo.	46 FR 22646 (4/20/81)	Nov. 20, 1981
81-141	Generic name: N,N-diethylaminobenzene diazonium sulfonate salt	46 FR 23797 (4/28/81)	Do.
81-145	Generic name: 4, N,N-dimethylaminobenzene diazonium sulfonate salt	46 FR 23798 (4/28/81)	Dec. 1, 1981.
81-242	Sodium 2,2,3,3,-tetrafluoropropionate	46 FR 31941 (6/18/81)	Jan. 16, 1982.
81-262	Generic name: 2,5-bis(alkyldithio)-1,3,4-thiadiazole	46 FR 35347 (7/8/81)	Sept. 21, 1981.
81-263	Generic name: Polyurethane millable gum	46 FR 35348 (7/8/81)	Dec. 7, 1981.
81-270	Azacyclotridecan-2-one, homopolymer with poly (oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, copolymer.	46 FR 35348 (7/8/81)	Dec. 1981.
81-274	Poly[imino(1-oxo-1,6-hexanediyl)] with poly[oxy(methyl-1,2-ethanediyl)]. alpha-hydro-omega-hydroxy-, copolymer.	46 FR 35349 (7/8/81)	Do.
81-363	Generic name: Aliphatic acid ester	46 FR 40324 (8/7/81)	Jan. 4, 1982.
81-364	Generic name: Cycloaliphatic furan, tetrahydro	46 FR 40324 (8/7/81)	Do.
81-365	2-nitronaphthalene-4,8-disulfonic acid, diammonium salt	46 FR 39889 (8/5/81)	Nov. 30, 1981.
81-378	Poly(1,4 butane/neopentyl adipate)	46 FR 40803 (8/12/81)	Nov. 6, 1981.
81-385	Generic name: Copper phthalocyaninetrisulfonic acid, salt	46 FR 45752 (8/24/81)	Dec. 1, 1981.
81-387	Generic name: Polymer of alkyl methacrylates and N-substituted methacrylamide	46 FR 44046 (9/2/81)	Nov. 23, 1981.
81-393	Generic name: Substituted dithiocarbamic acid salt	46 FR 44048 (9/2/81)	Nov. 22, 1981.
81-411	Generic name: Polymer of benzene carboxylic acids and alkanediols	46 FR 44497 (9/4/81)	Jan. 1982.
81-413	Acrylate-methacrylate copolymer	46 FR 45412 (9/11/81)	Dec. 2, 1981.
81-421	Bisphenol A-epichlorohydrin resin mixed acrylic polymer	46 FR 45999 (9/16/81)	Dec. 14, 1981.
81-424	Polyurethane thermoplastic	46 FR 45999 (9/16/81)	Dec. 7, 1981.
81-439	Generic name: alkyd resin	46 FR 47003 (9/23/81)	Jan. 4, 1982.
81-456	2,2-dimethybicyclo[2.2.1]heptane-3-carboxylic acid, methylester	46 FR 47658 (9/29/81)	Dec. 15, 1981.
81-477	Generic name: Melamine-formaldehyde-poly-ethylene glycol resin	46 FR 48755 (10/2/8)	Dec. 24, 1981.

V. 8 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1981.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
80-254	Generic name: Benzeneamine, [*N*-(1-methyl-hexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-300	2-dodecyl-9-H-thioxanthen-9-one	46 FR 50147 (10/9/81)	Dec. 21, 1981.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Nov. 2, 1981.
81-544	Generic name: Benzenesulfonic acid, 4-[[4-[(2hydroxy-1-naphthalenyl)azo]phenyl]azo]-salt	46 FR 54792 (11/4/81)	Dec. 2, 1981.

* PMN's 81-653, 81-654, and 81-655 were voided.

[FR Doc. 82-2221 Filed 1-29-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-23, File No. BPET-810619KF; BC Docket No. 82-24, File No. BPET-810903KF]

Rural California Broadcasting Corp. and Black Television Workshop; Applications

In the matter of Rural California Broadcasting Corporation, Cotati, California (BC Docket No. 82-23, File No. BPET-810619KF); Black Television Workshop, Cotati, California (BC Docket No. 82-24, File No. BPET-810903KF); Applications for construction permits; Hearings designation order designating applications for consolidated hearing on stated issues.

Adopted: January 18, 1982.

Released: January 20, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new educational television broadcast station on Channel 22, Cotati, California.

Rural California Broadcasting Corporation

2. The applicant estimates that $517,343 will be required to construct and operate for three months as proposed. Rural relies upon the following to finance the proposal: (1) NTIA grant of $338,590; (2) a $16,000 loan from Ed Kissam; (3) a $10,000 loan from John Kramer; (4) $20,000 from local governments; (5) $35,075 as gifts in kind; (6) $57,789 from corporations, foundations, individuals; and (7) $2,900 in existing capital.

3. Of these, only the NTIA grant of $338,590, and $2,900 in existing capital appear to be available. With respect to (2) and (3) above, Ed Kissam and John Kramer have not shown sufficient net liquid assets to meet their commitments. With respect to (4) above, there is no commitment from any local government to provide funds. Further, with respect to (5) above, applicant has not identified the donors or the nature and value of each gift. Finally, with respect to (6) above, applicant has not indicated from whom these funds will come, nor amounts to be donated, nor submitted any letters of commitment. Therefore, since only $341,490 is available and applicant requires $517,343, an issue will be specified to determine the availability of an additional $175,853.

Black Television Workshop [1]

4. Channel 22, Cotati, California is reserved in the Table of Assignments for non-commercial educational use. In response to questions 2a and 2b, page 3, Section II, FCC Form 340, applicant has indicated that it is not a non-profit educational institution; and, by its failure to respond to question 2b, indicated that it is not an educational organization. Therefore, a question arises as to whether it qualifies as a non-commerical educational applicant and an appropriate issue will be specified.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Rural California Broadcasting Corporation:

(a) The source and availability of an additional $175,853;

(b) Whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

2. To determine with respect to Black Television Workshop:

(a) Whether the applicant qualifies as an educational institution or organization is accordance with § 73.621 of the Commission's Rules;

(b) Its costs to construct and operate for three months;

(c) The source and availability of funds to finance the costs determined in (b) above;

(d) Whether, in light of the evidence adduced pursuant to (b) and (c) above, applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that the request of Black Television Workshop for waiver of the Commission's Rules is denied.

8. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. It is further ordered, that the applicants herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-2482 Filed 1-29-82; 8:45 am]

BILLING CODE 6712-01-M

[1] The applicant proposes a subscription television (STV) service although it purports to be a noncommercial educational entity and it has requested a waiver of any Commission Rules or policies which proscribe STV operation by noncommercial educational permittees or licensees. The applicant has not set forth reasons sufficient, if true, to warrant a waiver of the rules. *United States v. Storer Broadcasting Company*, 351 U.S. 192, 76 S. Ct. 763, 13 RR 2161, and its waiver request will, therefore, be denied.

FEDERAL HOME LOAN BANK BOARD

Buffalo Savings and Loan Association; Houston, Tex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729 (c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver for Buffalo Savings and Loan Association, Houston, Texas, effective January 15, 1982.

Dated: January 27, 1982.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-2492 Filed 1-29-82; 8:45 am]

BILLING CODE 6720-01-M

Civic Savings and Loan Association, Irving, Tex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver for Civic Savings and Loan Association, Irving, Texas, effective January 15, 1982.

Dated: January 27, 1982.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-2493 Filed 1-29-82; 8:45 am]

BILLING CODE 6720-01-M

First Savings and Loan Association, New Brunswick, N.J.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver for First Savings and Loan Association, New Brunswick, New Jersey, effective January 27, 1982.

Dated: January 27, 1982.

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-2494 Filed 1-29-82; 8:45 am]

BILLING CODE 6720-01-M

Republic of Texas Savings Association, Houston, Tex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver for Republic of Texas Savings Association, Houston, Texas, effective January 15, 1982.

Dated: January 27, 1982.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-2405 Filed 1-29-82; 8:45 am]

BILLING CODE 6720-01-M

Royal Federal Savings and Loan Association; Dallas, Tex.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 5(d)(6)(A) of the Home Owners Loan Act, as amended (12 U.S.C. 1464(d)(6)(A) 1976)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver for Royal Federal Savings Loan Association, Dallas, Texas, effective January 15, 1982.

Dated: January 27, 1982.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-2406 Filed 1-29-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 81-74; Agreement No. 9718-8]

California-Japan/Korea Space Charter Agreement; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Docket No. 81-74 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. The proceeding will examine Agreement No. 9718-8 which applies to the trade between ports in California and ports in Japan and Korea, and permits the parties to charter space aboard each other's vessels, interchange equipment and jointly schedule sailings. The parties to the agreement are Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, and Yamashita-Shinnihon Steamship Co., Ltd. The agreement permits the parties to replace two old vessels with two new larger ones, thus, increasing their TEU capacity by 1,499.

This Finding of No Significant Impact (FONSI) will become final on or before February 22, 1982, unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2439 Filed 1-29-82; 8:45 am]

BILLING CODE 6730-01-M

Certificates of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation Nos. P-134 and P-172 and Certificates of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages Nos. C-1,134 and C-1,161; Revocation

The Shipping Partnership for M.S. Lindblad Explorer, United Cruising Co. Ltd., Lindblad Explorer S.A., Lindblad Cruising Expeditions S.A. and Lindblad Travel, Inc., 8 Wright Street, Westport, Connecticut 06880, have ceased to operate the passenger vessel LINBLAD EXPLORER to and from United States ports.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Order, Commission Order No. 1 (Revised), § 10.06 dated November 12, 1981;

It is ordered, that Certificates (Performance) Nos. P-134 and (Casualty) No. C-1,134, issued to The Shipping Partnership for M.S. Lindblad Explorer, United Cruising Co. Ltd., Lindblad Explorer S.A., Lindblad Cruising Expeditions S.A. and Lindblad Travel, Inc. and Certificates (Performance) No. P-172 and (Casualty) No. C-1,161 issued to Lindblad Travel, Inc., Lindblad Cruising Expeditions S.A. and United Cruising Co. Ltd. covering the LINDBLAD EXPLORER, be and are hereby revoked effective January 27, 1982.

It is further ordered, that a copy of this order be published in the **Federal Register** and served on the Certificants.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-2438 Filed 1-29-82; 8:45 am]

BILLING CODE 6730-01-M

Totem Ocean Trailer Express, Inc.; Petition for Declaratory Order; Revision of Briefing Schedule

The Honorable Tony Knowles, Mayor of the Municipality of Anchorage, Alaska has requested a 30-day enlargement of time within which to respond to the Order on Remand served December 29, 1981 in this proceeding.

Good cause appearing, the request is granted. The briefing schedule set forth in the Order on Remand is revised as follows:

All persons desiring to file comments shall do so on or before February 26, 1982.

Any person desiring to respond to comments shall file such responses on or before March 26, 1982.

Parties are reminded that all documents filed herein are to be served on each carrier listed in the Appendix to the Order on Remand.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2440 Filed 1-29-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-4016]

City of Long Beach and Pacific Marine Services; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-4016 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. The agreement is between City of Long Beach (The City) and Pacific Maritime Services (PMS). Under the terms of the agreement, the City will lease to PMS the wharf at Berths 245-247, Pier J and water area adjacent thereto for berthing vessels as well as 23.5 acres of land area for marine terminal operations.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2472 Filed 1-29-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expedcted to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 16, 1982.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

First National Boston Corporation, Boston, Massachusetts (portfolio investment advisory activities; nationwide): to engage *de novo* through its existing subsidiary, First of Boston Mortgage Corporation, in providing portfolio investment advice to other persons primarily for the investment of funds in real estate interests, except where the real property is to be used in the trade or business of the person being advised. This activity would be conducted from an existing office located in Boston, Massachusetts, and the geographic area to be served is nationwide. Comments on this application must be received not later than February 12, 1982.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (consumer lending, related lending and insurance brokerage activities and sale of travelers checks at retail; Texas): To engage through its subsidiary, Chase Manhattan Financial Services, Inc., in the following activities: to make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; to sell travelers checks at retail; to act as insurance agent or broker for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted from a *de novo* office in Dallas, Texas, and will service the State of Texas.

2. *Citicorp,* New York, New York (financing and leasing activities; Oregon, Nevada, Northern California): To engage through its subsidiary Citicorp Industrial Credit, Inc. in making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit; and leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, in accordance with the Board's Regulation Y. Such activities would be conducted from an office in El Segunda, Califirnia serving the area identified in the caption above.

3. *Citicorp,* New York, New York (finance company activities; Texas): To expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: making loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. Such activity would be conducted from an office in San Antonio, Texas serving the entire State of Texas.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Heritage Bancorporation (financing and insurance activities; New Jersey): To engage through its subsidiary, Heritage Mortgage Finance Company, in consumer finance activities including the arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a residential or commercial mortgage (first or other junior lien) such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person; acting as an agent or broker for the sale of credit life, accident and health insurance which is directly related to such loans and extensions of credit. These activities would be conducted from offices of Heritage Mortgage Finance Company in New Jersey, Pennsylvania, Virginia, Delaware, and Florida and would serve these states.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Harris Bankcorp, Inc., Chicago, Illinois (trust company activities; Arizona, California, Colorado, Nevada, New Mexico, and Utah): To engage through its subsidiary, Harris Trust Company of Arizona, in soliciting, performing or carrying on one or more of the functions or activities that may be performed or carried on by a trust company, including activities of a fiduciary, agency or custodian nature, to be located at 17220 Boswell Boulevard, Sun City, Arizona. The area to be served will be Arizona, California, Colorado, Nevada, New Mexico, and Utah.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Consolidated Bancshares, Inc.,* Abilene, Texas (mortgage lending activities; Texas): To engage, through an additional office of its subsidiary, Consolidated Bankers' Mortgage Company ("CBMC") in making and acquiring for its own account, loans and other extensions of credit such as would be made by a mortgage company, including, as examples, origination, purchase, sale and servicing of all types of mortgage loans (both long-term and short-term); construction and development loans; issuance of standby and firm take-out commitments for residential, commercial, construction and development loans; operation of a management consultant department for the purpose of assisting nonaffiliated banks in the running of a mortgage loan operation; buying, selling, and dealing in GNMA mortgage-backed securities, GNMA options, conventional mortgage-backed securities (if approval is

obtained on its application to deal in conventional mortgage-backed securities, such application having been filed on September 24, 1981), loan participation, and other types of secondary market activities related to the mortgage banking industry. These activities are conducted from CBMC's principal office, located at 3402 North First Street, Abilene, Texas 79603, and would be conducted from an additional office to be located at San Miguel Square, Suite 262, 3303 North Midkiff, Midland, Midland County, Texas 79701, serving the cities of Abilene, Austin, Dallas, Fort Worth, Houston, Lubbock, Midland-Odessa, San Antonio and Wichita Falls, Texas, and the counties in which such cities are located. Comments on this application must be received not later than February 12, 1982.

2. *Consolidated Bancshares, Inc.*, Abilene, Texas (mortgage lending activities; Texas): To engage, through an additional office of its subsidiary, Consolidated Bankers' Mortgage Company ("CBMC") in making and acquiring for its own account, loans and other extensions of credit such as would be made by a mortgage company, including, as examples, origination, purchase, sale and servicing of all types of mortgage loans (both long-term and short-term); construction and development loans; issuance of standby and firm take-out commitments for residential, commercial, construction and development loans; operation of a management consultant department for the purpose of assisting nonaffiliated banks in the running of a mortgage loan operation; buying, selling, and dealing in GNMA mortgage-backed securities, GNMA options, conventional mortgage-backed securities (if approval is obtained on its application to deal in conventional mortgage-backed securities, such application having been filed on September 24, 1981), loan participation, and other types of secondary market activities related to the mortgage banking industry. These activities are conducted from CBMC's principal office, located at 3402 North First Street, Abilene, Texas 79603, and would be conducted from an additional office to be located at an address to be determined in Odessa, Ector County, Texas, serving the cities of Abilene, Austin, Dallas, Fort Worth, Houston, Lubbock, Midland/Odessa, San Antonio and Wichita Falls, Texas, and the counties in which such cities are located.

3. *First Mexia Bancshares, Inc.*, Mexia, Texas (mortgage lending and servicing activities; Texas): To engage, through its subsidiary, First Mexia Mortgage Co., in mortgage lending activities, involving making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company, and the servicing of loans and other extensions of credit made by any person. These activities will be conducted from offices located in Mexia, Texas, serving Limestone County and surrounding counties.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Bancorp Hawaii, Inc.*, Honolulu, Hawaii (insurance underwriting; Hawaii, Guam): To engage, through its subsidiary, Bancorp Life Insurance Company of Hawaii, Inc., in underwriting as a reinsurer the credit life and credit accident and health insurance sold by the Bank of Hawaii, a wholly-owned subsidiary of Bancorp Hawaii, Inc., in conjunction with its short term consumer lending activities. Bancorp Life will be formed as an Arizona subsidiary. These activities will be conducted from an office in Phoenix, Arizona, serving the Bank's retail customers in the states of Hawaii and Guam. Comments on this application must be received not later than February 11, 1982.

2. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; *de novo* office; Louisiana and Texas): To engage, through its indirect subsidiary, FinanceAmerica Corporation, a Louisiana corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, servicing loans and other extensions of credit and offering credit-related life insurance, credit-related accident and health insurance and credit-related property insurance. Such activities will include, but not be limited to, making loans and other extensions of credit to consumers as well as small businesses, making loans and other extensions of credit secured by real property, and the offering of credit-related life, credit-related accident and health and credit-related property insurance in connection with the extensions of credit made or acquired by FinanceAmerica Corporation. These activities will be conducted from a *de novo* office located in Shreveport, Louisiana, serving the entire States of Louisiana and Texas.

3. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Nevada): To continue to engage, through its indirect subsidiary, FinanceAmerica Corporation, a Nevada corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance. Such activities will include, but not be limited to, making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans and other extensions of credit secured by real and personal property; and offering credit-related life, credit-related accident and health and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. These activities will be conducted from an existing office located in Las Vegas, Nevada, serving the entire State of Nevada.

4. *U.S. Bancorp*, Portland, Oregon (financing and insurance activities; Colorado): To engage through its subsidiary, U.S. Bancorp Financial, Inc., in making, acquiring and servicing loans and other extensions of credit either secured or unsecured for its own account or for the account of others, including making consumer installment loans, purchasing consumer installment and real estate sales finance contracts and evidences of debt, making consumer home equity loans secured by real estate and making industrial loans; acting as an insurance agent with regard to credit life and disability insurance, solely in connection with extensions of credit by its subsidiary, U.S. Bancorp Financial, Inc. These activities would be conducted from an office in Boulder, Colorado, serving the city of Boulder, Colorado, as well as portions of Boulder County, north and east of Boulder, including the towns of Louisville, Niwot and Erie. Comments on this application must be received not later than February 12, 1982.

G. Other Federal Reserve Banks. None.

Board of Governors of the Federal Reserve System, January 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2449 Filed 1-29-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Disease Control

Annual Report; Availability of Filing

Notice is hereby given that pursuant to Section 13 of Pub. L. 92–463 (5 U.S.C. Appendix I), the fiscal year 1981 annual report for the following Federal advisory committee utilized by the Centers for Disease Control has been filed with the Library of Congress:

Mine Health Research Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C. (telephone: 202/287–6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue, SW., Washington, D.C. (telephone: 202/245–6791).

Dated: January 25, 1982.

William C. Watson, Jr.,
Acting Director, Centers for Disease Control.

[FR Doc. 82–2462 Filed 1–29–82; 8:45 am]
BILLING CODE 4160–18–M

Work Group To Revise Isolation Manual for Hospital Infection Control Committees; Open Meeting

On February 25 and 26, 1982, the Centers for Disease Control will convene an open meeting of a work group to revise the isolation manual to provide the most reasonable and practical guidance to infection control committees in hospitals. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m., in Classroom 1, Building 2, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

For further information, please contact: Bryan P. Simmons, M.D., Hospital Infections Branch, Center for Infectious Disease, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia, Telephones: FTS: 236–3408, Commercial: 404/329–3408.

Dated: January 25, 1982.

William C. Watson, Jr.,
Acting Director, Centers for Diseases Control.

[FR Doc. 82–2463 Filed 1–29–82; 8:45 am]
BILLING CODE 4160–18–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI–92]

Willow Heights Development; Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared under HUD programs as described in the appendix: The Willow Heights Development in Orangeville, Utah. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific persons or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., January 25, 1982.

Francis G. Haas,
Deputy Director, Office of Environment and Energy.

Appendix.—Environmental Impact Statement on the Willow Heights Subdivision, Orangeville, Utah

The HUD Area Office in Denver, Colorado, intends to prepare an EIS on the Willow Heights Subdivision, described below, and requests information and comments for consideration in the EIS.

Description: Approximately 2,030 dwelling units (single-family and multi-family) will be built in Orangeville, Utah, in the northwest area of the community.

Need: An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives: The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or rejection of participation in the development.

Scoping: A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This notice will also appear in a paper of local circulation in Price, Utah.

Comments: Comments should be forwarded on or before February 22, 1982, to: Mr. Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 82–2454 Filed 1–29–82; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14938–A and F–14938–B]

Alaska Native Claims Selections

On April 23 and October 23, 1974, the St. Michael Native Corporation, for the Native village of St. Michael filed selection applications F–14938–A and F–14938–B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of St. Michael.

As to the lands described below, the applications submitted by the St. Michael Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 109,060 acres, is considered proper for acquisition by

the St. Michael Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Unsurveyed)

T. 23 S., R. 15 W.,
Sec. 25 (fractional), excluding Native allotment F–18433;
Secs. 26, 30, and 31 (fractional);
Sec. 32 (fractional), excluding Native allotment F–18505 Parcel C;
Sec. 33 (fractional), excluding Native allotments F–15587 and F–15602;
Sec. 34 (fractional), excluding Native allotments F–15587 and F–18300 Parcel B;
Sec. 35 (fractional), excluding Native allotments F–15604 and F–16412 Parcel B;
Sec. 36 (fractional), excluding Native allotment F–18433.

Containing approximately 2,625 acres.

T. 24 S., R. 15 W.,
Sec. 2, excluding Native allotment F–15604;
Sec. 3, excluding Native allotment F–15587;
Sec. 4, excluding Native allotments F–15587 and F–15602;
Sec. 5 to 11, inclusive;
Sec. 14 to 23, inclusive;
Sec. 26 to 35, inclusive;

Containing approximately 18,924 acres.

T. 23 S., R. 16 W.,
Sec. 25 (fractional), excluding Native allotment F–18505 Parcel B;
Sec. 26,31, and 32 (fractional);
Sec. 33 (fractional), excluding Native allotment F–16413 Parcel A;
Sec. 34 (fractional), excluding Native allotment F–18504;
Sec. 35 (fractional);
Sec. 36.

Containing approximately 2,105 acres.

T. 24 S., R. 16 W.,
Sec. 1 to 4, inclusive;
Secs. 5 and 6 (fractional);
Secs. 7 to 36, inclusive.

Containing approximately 22,849 acres.

T. 25 S., R. 16 W.,
Secs. 1 to 24, inclusive.

Containing approximately 15,192 acres.

T. 23 S., R. 17 W.,
Sec. 19 (fractional), excluding U.S. Survey No. 854, U.S. Survey No. 855, U.S. Survey No. 4100, Townsite Petition F–935 and ANCSA Sec. 3(e) application AA–44796;
Sec. 20 (fractional), excluding U.S. Survey No. 4209;
Sec. 31 and 32 (fractional);
Sec. 33 (fractional), excluding Native allotment F–15603 Parcel A;
Sec. 34 (fractional);
Sec. 35 (fractional), excluding Native allotment F–15588 Parcel A;
Sec. 36.

Containing approximately 372 acres.

T. 24 S., R. 17 W.,
Sec. 1;
Sec. 2 (fractional);
Sec. 3 (fractional), excluding Native allotment F–15588 Parcel B;
Sec. 4 (fractional), excluding Native allotment F–15603 Parcels A and B;
Sec. 5 (fractional), excluding Native allotment F–16412 Parcel A;
Sec. 6 (fractional);
Sec. 7 and 8;
Sec. 9, excluding Native allotment F–15603 Parcel B;
Secs. 10 to 36, inclusive.

Containing approximately 22,064 acres.

T. 25 S., R. 17 W.,
Secs. 1 to 6, inclusive.

Containing approximately 3,795 acres.

T. 23 S., R. 18 W.,
Secs. 4, 5, and 6 (fractional);
Secs. 7 and 8;
Secs. 9 to 14 (fractional), inclusive;
Secs. 15 to 23, inclusive;
Sec. 24 (fractional), excluding U.S. Survey No. 4100 and Townsite Petition F–935;
Sec. 25 (fractional), excluding Townsite Petition F–935 and Native allotment F–16239 Parcels A and B;
Sec. 26 (fractional), excluding Native allotment F–16241;
Secs. 27 and 28, excluding Native allotment F–16234;
Secs. 29 and 30;
Secs. 31, excluding North Branch of the Little St. Michael Canal;
Sec. 32;
Secs. 33 and 34, excluding Native allotment F–16233;
Sec. 35 (fractional), excluding Native allotment F–16412 Parcel C;
Sec. 36 (fractional).

Containing approximately 16,374 acres.

T. 24 S., R. 18 W.,
Sec. 1 (fractional), excluding Native allotment F–18505 Parcel D;
Sec. 2 (fractional), excluding Native allotments F–16235 Parcel A and F–16412 Parcel C;
Secs. 3 and 10 (fractional);
Sec. 11 (fractional), excluding Native allotment F–16235 Parcel A;
Secs. 12, 13, and 14;
Secs. 23 and 24.

Containing approximately 4,670 acres.

Aggregating approximately 109,060 acres.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are underlying water bodies determined to be navigable and/or tidally influenced; lands are pending a determination under Section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

Within the above-described lands, only the following inland water body is considered to be navigable:

North Branch of the Little Saint Michael Canal.

All other named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14936–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles and small all terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

Utility Purposes—The uses allowed for a utility easement are those activities which are necessary for construction, operation, and maintenance of a powerline utility.

a. (EIN 1 D1, D9) An easement for an existing combined access trail and buried powerline thirty (30) feet in width from the village of St. Michael in Sec. 19, T. 23 S., R. 17 W., Kateel River Meridian, northwesterly to the village of Stebbins. The uses allowed are those listed above for a trail and those uses allowed for utility purposes.

b. (EIN 2 D1, D9) An easement for an existing access trail twenty-five (25) feet in width from the village of St. Michael and trail EIN 1 D1, D9 in Sec. 24, T. 23 S., R. 18 W., Kateel River Meridian, southwesterly to public land and surrounding villages. The uses allowed are those listed above for a twenty-five

(25) foot wide trail. The season of use will be limited to winter.

c. (EIN 2a D1, D9) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 2 D1, D9 in Sec. 25, T. 23, S., R. 18 W., Kateel River Meridian, easterly to public land and on to Unalakleet. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 5 C5) A one (1) acre site easement upland of the mean high tide line in Sec. 6, T. 23 S., R. 18 W., Kateel River Meridian, on the south shore of Norton Sound. The uses allowed are those listed above for a one (1) acre site.

e. (EIN 6 C5) A one (1) acre site easement upland of the mean high tide line in Sec. 35, T. 23 S., R. 17 W., Kateel River Meridian, at Five-Mile Cove near Five-Mile Point. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 6a C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 6 C5 in Sec. 35, T. 23 S., R. 17 W., Kateel River Meridian, southerly to trail EIN 2a D1, D9. The uses allowed are those listed above for a twenty-five (25) foot wide trail. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

St. Michael Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 109,060 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 6,140 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to St. Michael Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for 4 consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 3, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is to be taken, the adverse parties to be served are:

St. Michael Native Corporation, St. Michael, Alaska 99659

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

Barbara A. Lange

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-2459 Filed 1-29-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14952-A, F-14952-B]

Alaska Native Claims Selection

On May 20 and October 2, 1974, the Unalakleet Native Corporation, for the Native village of Unalakleet, filed selection applications F-14952-A and F-14952-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Unalakleet.

On December 17, 1975, Bering Straits Native Corporation filed selection application AA-10699 pursuant to Sec. 14(h)(1) of ANCSA. Section 14(h) and Departmental regulations issued thereunder authorize the Secretary of the Interior to withdraw and convey only unreserved and unappropriated public lands. Since a portion of the lands encompassed in the subject Sec. 14(h)(1) application had been properly selected by the Unalakleet Native Corporation under Sec. 12 of ANCSA, these lands were not unreserved or unappropriated at the time of selection by the Bering Straits Native Corporation. Therefore, selection application AA-10699 must be and is hereby rejected as to the following described lands:

Kateel River Meridian, Alaska (Surveyed)

T. 21 S., R. 12 W.,
Sec. 34 (fractional).
Containing 160.00 acres.

Further action on Sec. 14(h)(1) application AA-10699 as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the applications submitted by the Unalakleet Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 107,849 acres, is considered proper for acquisition by the Unalakleet Native Corporation and is hereby approved for Conveyance

pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Surveyed)

T. 16 S., R. 9 W.,
Sec. 13;
Secs. 22 to 28, inclusive;
Secs. 33, 34, and 35.
Containing approximately 7,040 acres.

T. 17 S., R. 9 W.,
Secs. 4 and 5;
Secs. 7, 8, and 9;
Secs. 16 to 20, inclusive;
Secs. 30 and 31.
Containing approximately 7,479 acres.

T. 18 S., R. 9 W.,
Secs. 6 to 12, inclusive;
Secs. 15 to 21, inclusive.
Containing approximately 8,835 acres.

T. 19 S., R. 9 W.,
Secs. 7 and 8.
Containing approximately 1,259 acres.

T. 17 S., R. 10 W.,
Sec. 13;
Secs. 24, 25, and 26;
Secs. 35 and 36.
Containing approximately 3,840 acres.

T. 18 S., R. 10 W.,
Secs. 1 to 9, inclusive;
Secs. 12 and 13;
Secs. 16, 17, and 18;
Secs. 24, 25 and 26.
Containing approximately 10,783 acres.

T. 19 S., R. 10 W.,
Secs. 10, 11, and 12;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
Containing approximately 9,537 acres.

T. 20 S., R. 10 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28, 29, and 30;
Secs. 33 and 34.
Containing approximately 10,846 acres.

T. 21 S., R. 10 W.,
Secs. 4, 5, 8, and 9;
Secs. 16 and 17.
Containing approximately 3,840 acres.

T. 16 S., R. 11 W.,
Sec. 1;
Secs. 5 to 8, inclusive;
Secs. 11 to 15, inclusive;
Secs. 17 to 24, inclusive;
Secs. 26 to 33, inclusive.
Containing approximately 16,604 acres.

T. 17 S., R. 11 W.,
Secs. 5, 8, and 17;
Sec. 19 (fractional);
Secs. 20 and 21;
Secs. 27, 28, and 29;
Secs. 30, 31, and 32 (fractional);
Secs. 33 and 34.
Containing approximately 7,581 acres.

T. 18 S., R. 11 W.,
Secs. 1, 2, and 3;
Secs. 11, 12, 13, and 14;
Sec. 34 (fractional), excluding Quitclaim Deed F–035091;
Sec. 35, excluding Quitclaim Deed F–035091 and Native allotment F–18249.
Containing approximately 4,645 acres.

T. 19 S., R. 11 W.,
Sec. 2, excluding Quitclaim Deed F–035091;
Sec. 3 (fractional), excluding amended U.S. Survey No. 800 Tracts A, B, and C, U.S. Survey No. 1535, U.S. Survey No. 3553, U.S. Survey No. 4394, and ANCSA Sec. 3(e) applications AA–41190 and AA–41191.
Containing approximately 451 acres.

T. 20 S., R. 11 W.,
Sec. 13;
Sec. 22 (fractional);
Secs. 23, 24, 25, and 26;
Secs. 27, 28, 32, and 33 (fractional);
Secs. 34 and 35.
Containing approximately 5,941 acres.

T. 21 S., R. 11 W.,
Sec. 4;
Secs. 5 and 6 (fractional);
Secs. 8 and 9;
Secs. 17, 18, 19, and 20;
Sec. 30.
Containing approximately 5,766 acres.

T. 16 S., R. 12 W.,
Secs. 1, 12, 13, and 24 (fractional);
Secs. 25 and 36 (fractional).
Containing approximately 1,290 acres.

T. 21 S., R. 12 W.,
Secs. 12, 13, 23, and 24 (fractional);
Sec. 25;
Sec. 34 (fractional);
Sec. 36.
Containing approximately 2,112 acres.
Aggregating approximately 107,849 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce, or are tidally influenced. Those water bodies are identified on the attached navigability maps, the original of which will be found in the easement case file F–14952–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C.1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14952–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheels vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

Utility Purposes—The uses allowed for a utility easement are those activities which are necessary for construction, operation, and maintenance of a powerline or pipeline utility.

a. (EIN 1 C1, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Unalakleet in Sec. 3, T. 19 S., R. 11 W., Kateel River Meridian, easterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 2 C1, D1) An easement for an existing access trail twenty-five (25) feet in width from road EIN 31 C5, in Sec. 21, T. 18 S., R. 11 W., Kateel River Meridian, northerly to public land and Shaktoolik. The uses allowd are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 2a C1, D1) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 2 C1, D1 in Sec. 6, T. 18 S., R. 11 W., Kateel River Meridian, northeasterly to public land.

The uses allowed are those listed above for a tweny-five (25) foot wide trail easement. The season of use will be limited to winter.

d. (EIN 28a C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 28 C5 in Sec. 1, T. 19 S., R., 10 W., Kateel River Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 312 C5) An easement sixty (60) feet in width for an existing road from Unalakleet in Sec. 34, T. 18 S., R. 11 W., Kateel River Meridian, northerly and easterly to the Air Force facility in Sec. 36, T. 18. S., R. 10 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

f. (EIN 34a C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 34 C5 in Sec. 1, T. 17 S., R. 12 W., Kateel River Meridian, easterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 36 I) An easement thirty (30) feet in width for an existing pipeline from the Air Force site in Sec. 36, T. 18 S., R. 10 W., Kateel River Meridian, northerly to a water well. The uses allowed are those associated with the construction, operation, and maintenance of the pipeline. Use will be limited to the U.S. Air Force, its licensees and assignees.

h. (EIN 37 I) An easement sixty (60) feet in width for an existing road from road EIN 31 C5 in Sec. 36, T. 18 S., R. 10 W., Kateel River Meridian, northerly to the well site. The uses allowed are those listed above for a sixty (60) foot wide road easement. Use is limited to the U.S. Air Force, its licensees and assignees.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease, including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interests, if valid, created and identified by the Bureau of Indian Affairs as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g));

a. Lease 14–20–0300–1486, issued to the State of Alaska, Department of Public Works, Division of Aviation, for airport purposes, located within Sec. 34, T. 18 S., R. 11 W., and Sec. 3, T. 19 S., R. 11 W., Kateel River Meridian.

b. Lease 14–20–0300–1516, issued to Unalakleet Fisheries, Inc., on May 13, 1966, for a seafood processing facility, located within Sec. 3, T. 19 S., R. 11 W., Kateel River Meridian;

4. A right-of-way AA–11204, located within Sec. 3, T. 19 S., R. 11 W., Kateel River Meridian, issued to RCA Alaska Communications, Inc., pursuant to P.L. 94–579 (October 21, 1976) Title V. 90 Stat. 2743; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit, F–839, issued to Gustoff Sagoonick on January 1, 1982, located within lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 1 of the permit.

Unalakleet Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 107,854 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 53,426 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to Unalakleet Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Anchorage Times*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 3, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street Box 13, Anchorage, Alaska 99513.

If an appeal is to be taken, the adverse parties to be served are:

Unalakleet Native Corporation, P.O. Box 100, Unalakleet, Alaska 99684

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Barbara A. Lange,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–2457 Filed 1–29–82; 8:45 am]

BILLING CODE 4310–84–M

Cedar City District; Request for Public and Industry Input Regarding Their Estimate of Each Wilderness Study Area's Mineral Resource Potential

The Bureau of Land Management, Cedar City District, is soliciting industry input into the energy and minerals inventory currently taking place in twenty-three Wilderness Study Areas (WSAs) and three Instant Study Areas (IASs) in southwest Utah. The purpose of this inventory is to assist the BLM in

developing a land use recommendation to Congress regarding the suitability of these WSAs as wilderness.

In order to structure the input of the energy and minerals industry, the Rocky Mountain Oil and Gas Association and Minerals Exploration Coalition, in cooperation with the BLM, have developed an energy and mineral resource rating system. This system is intended to encourage industry to rate particular tracts of land (WSAs in this case) according to the favorability of the geologic environment to contain quantities of mineral and energy resources.

It should be noted that this is not the formal mineral survey conducted by the U.S. Geological Survey and the Bureau of Mines that is required for those WSAs that have been recommended for wilderness designation. This is a preliminary inventory to be used by the BLM in comparing potential resource values prior to making such a recommendation.

The twenty-three WSAs and the three ISAs to be studied are located in Kane, Garfield, Washington, Beaver, and Iron Counties, Utah, within the Kanab, Dixie, Beaver, and Escalante Resource Areas.

The names and wilderness inventory number of each WSA are as follows:

Steep Creek	UT-040-061
Carcass Canyon	UT-040-076
Mud Spring Canyon	UT-040-077
Fifty-Mile Mountain	UT-040-080
Scorpion	UT-040-082
Red Mountain	UT-040-132
Canaan Mountain	UT-040-143
Orderville Canyon	UT-040-145
Deep Creek	UT-040-146
Red Butte	UT-040-147
Spring Canyon	UT-040-148
The Watchman	UT-040-149
North Fork Virgin River	UT-040-150
LaVerkin Creek Canyon	UT-040-153
Taylor Creek Canyon	UT-040-154
Goose Creek Canyon	UT-040-176
Beartrap Canyon	UT-040-177
Moquith Canyon	UT-040-217
Parunuweap Canyon	UT-040-230
Paria-Hackberry	UT-040-247
The Blues	UT-040-268
North Escalante Canyon, The Gulch, Escalante Canyon	ISA
Phipps-Death Hollow	ISA
Escalante Canyons (tract 5)	ISA

A packet of information on the mineral rating system and the forms and maps necessary to rate the mineral resources by individual WSA may be obtained by contacting Paul Carter, District Geologist, at the following address, or by calling him at (801) 586–2401: Bureau of Land Management, Cedar City District Office, P.O. Box 724, Cedar City, Utah 84720.

Anyone or any firm with geologic information on these lands is encouraged to participate in this mineral inventory rating process.

Morgan S. Jensen,

District Manager.

January 21, 1982.

[FR Doc. 82–2464 Filed 1–29–82; 8:45 am]

BILLING CODE 4310–84–M

New Mexico and Colorado San Juan River Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of regional coal team meeting and a request for public comment on tract ranking factors and subfactors and methods of tract ranking and selection.

SUMMARY: In accordance with the responsibilities outlined in the Federal coal management regulations (43 CFR Part 3400), the Regional Coal Team for the San Juan River Federal Coal Production Region will hold a meeting to review and discuss delineated tracts and review status of site-specific analysis reports, to discuss and select tract ranking factors and a tract ranking system, to discuss summary of public hearings on adopted DOE coal leasing goals and establishment of preliminary leasing targets and other related matters, if any.

The Regional Coal Team is also requesting public comment on what should be included in tract ranking factors and subfactors and on methods to be used for tract ranking and selection.

DATE: The Regional Coal Team will be held on March 10, 1982 at 9:00 a.m.

ADDRESS: Inn of Loretto, 211 Old Santa Fe Trail, Santa Fe, New Mexico 87501, telephone (505) 988–5531.

FOR FURTHER INFORMATION CONTACT: S. Gene Day, San Juan River Project Manager, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Telephone (505) 988–6226, (FTS) 476–6226.

SUPPLEMENTARY INFORMATION: At the Regional Coal Team meeting, the Regional Coal Team will discuss the tract delineation reports and the data contained in them. The Regional Coal Team will also receive a briefing on the status of the site-specific analysis reports. The Regional Coal Team will discuss the tract ranking factors and will determine the emphasis to be placed on and the degree of importance of each of the factors and subfactors. The possible tract ranking factors and subfactors being considered for use by the Regional Coal Team are as follows:

I. Coal Economics
- A. Coal Quality
- B. Coal Quantity
- C. Coal Conservation and Maintenance
- D. Energy Production

II. Impacts to the Natural Environment
- A. Air Quality
- B. Minerals Other Than Coal
- C. Water
- D. Wildlife
- E. Cultural Features
- F. Amenity Values
- G. Special Management Areas/Unique Resource Impacts
- H. Other Land Use and Transportation
- I. Reclamation Potential
- J. Unsuitability Criteria

III. Social and Economic
- A. Economic Changes
- B. Community Service Assessment
- C. Public Attitudes
- D. Lifestyle and Social Structure
- E. Agricultural Operations
- F. Consistency With Other Plans and Policies

The subfactors selected by the Regional Coal Team at the March 10 meeting will be used to rank potential leasing tracts in the San Juan River Region.

The Regional Coal Team will also discuss method or methods of tract ranking and selection procedures to be used in the San Juan River Coal Production Region.

The public is invited to make comments on (1) tract ranking factors and subfactors, (2) method or methods of tract ranking on selection and any other topics listed in this notice. Written comments should be addressed to State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. The written comment period will extend until March 3, 1982, in order that the comments can be made ready for use by the Regional Coal Team.

Larry L. Woodard,

Associate State Director.

[FR Doc. 82–2428 Filed 1–29–82; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Ninety Six National Historic Site, South Carolina; Establishment

Section 1 of the Act of August 19, 1976, (90 Stat. 1196) established Ninety Six National Historic Site.

Notice is given that sufficient property to constitute an administrable unit has been acquired. The boundary of Ninety Six National Historic Site is therefore established, pursuant to the Act, to include the land depicted on boundary

map numbered 463/80,001, dated May 1981, prepared by the Land Resources Division of the Southeast Regional Office of the National Park Service.

This map is on file and available for inspection in the administrative office of the Ninety Six National Historic Site and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: October 21, 1981.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region, National Park Service.

[FR Doc. 82-2022 Filed 1-29-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-186

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1-25TA), filed January 20, 1982. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* Irregular routes: *Games, toys and hobby items; and parts, supplies and equipment pertaining thereto,* (1) from points in CT and MA to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, and (2) from points in CA to Lee, MA under continuing contract with Kay-Bee Toy & Hobby Shops, Inc., Lee, MA. Supporting shipper: Kay-Bee Toy & Hobby Shops, Inc., Route 102, Lee, MA 01238.

MC 160128 (Sub-1-1TA), filed January 18, 1982. Applicant: ROBERT E. GIORDANI d.b.a. B & G TRUCKING CO., 147 Coolidge Road, Worcester, MA 01602. Representative: William F. Mix, 21 A Muzzey Street, Lexington, MA 02173. *Contract Carrier:* irregular routes: *Petroleum and Petroleum products, in bulk,* between points in MA, RI, and NH, under continuing contract(s) with C. K. Smith Company, Inc., Worcester, MA. Supporting shipper: C. K. Smith Company, Inc., 99 Crescent Street, Worcester, MA 01605.

MC 109875 (Sub-1-2TA), filed January 18, 1982. Applicant: VALLEY TRANSPORTATION, INC. t/a CONNECTICUT AMERICAN CHARTERS, 516 Oxford Road, Oxford, CT 06483. Representative: Jeffrey A. Vogelman, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. *Passengers and their baggage in the same vehicle, in special operations,* beginning and ending at points in Westchester County, NY and extending to Atlantic City, NJ. Supporting shipper(s): The Tropicana Hotel and Casino, Iowa Avenue & Boardwalk, Atlantic City, NJ 08404; Louis Gicaniglia, 1612 Mamaroneck Avenue, Mamaroneck, NY; Patrick Onlando, 125 2nd Street, New Rochelle, NY 10801; Barry Vigder, 44 Berrian Road, New Rochelle, NY 10804; Renee Mittler, 29 Reyna Lane, New Rochelle, NY 10804.

MC 142603 (Sub-1-32TA), filed January 14, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., 1071 Dwight Street, P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same address as applicant). *Contract carrier:* irregular routes: *Equipment, furniture and fixtures, raised access computer floors* from Grand Rapids, MI to points in NC, GA, and FL, under continuing contract(s) with Data Supplies, Inc., Norcross, GA. Supporting shipper: Data Supplies, Inc ., P.O. Box 747, Norcross, GA 30091.

MC 155235 (Sub-1-2TA), filed January 19, 1982. Applicant: WILLIAM A. DAVIDSON d.b.a. DAVIDSON TRUCKING COMPANY, 140 Canal Street, Malden, MA 02148. Representative: Robert M. Murphy, 40 Court Street, Boston, MA 02108. *Contract carrier:* irregular routes: *General commodities,* between points in the U.S. under continuing contract(s) with Bellesteel Industries, Inc., Boston, MA. Supporting shipper: Bellesteel Industries, Inc., 150 McClellan Highway, East Boston, MA 02128.

MC 150987 (Sub-1-8TA), filed January 15, 1982. Applicant: DYSART'S TRANSPORTATION, INC., MRC 156, Bangor, ME 04412. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187. *General commodities (except Classes A & B explosives and hazardous waste* between points in the U.S. (except AK and HI). Supporting shipper(s): There are 37 statements of support attached to this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 160087 (Sub-1-1TA), filed January 14, 1982. Applicant: JAMES J. GRANT CO. INC., Rear 28 Wolcott Street, Readville, MA 02137. Representative: David A. Grant (same address as applicant). *Construction debris, industrial and hazardous waste* between points in U.S. east of Mississippi River. Supporting shipper: Westinghouse Electric Corp., Damon Street, Hyde Park, MA.

MC 160127 (Sub-1-1TA), filed January 15, 1982. Applicant: FLAGSHIP LIMOUSINE, 31 William Street, North Haven, CT 06473. Representative: Vincent C. Buonocore (same address as applicant). *Passengers* between points in CT to New York, NY and its Commercial Zone, Boston, MA and its Commercial Zone, Newark Airport, Newark, NJ and Atlantic City, NJ. Supporting shipper: Quinnipiac Travel Agency, Ltd., 1818 Dixwell Avenue., Hamden, CT 06514.

MC 160183 (Sub-1-1TA), filed January 20, 1982. Applicant: LONE STAR TRANSPORTATION, INC., 369 Passaic Ave., Fairfield, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) New furniture and (2) materials, equipment, and*

supplies used in the manufacture of new furniture, between the facilities used by the Duralite Co., its subsidiaries, divisions, or vendors at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Duralite Co., Barbour Ave., Passaic, NJ 07055.

MC 160092 (Sub-1–1TA), filed January 15, 1982. Applicant: R.C.S. TRANSPORT, INC., 9130 Griffith-Morgan Lane, Pennsauken, NJ 08110. Representative: George R. Partridge, Jr., 1600 North American Building, 121 S. Broad Street, Philadelphia, PA 19107. *Processed and packaged pet food, as well as bulk raw materials including steel and aluminum cans and other commodities* between points in Pennsauken, NJ and all states east of the Mississippi River. Supporting shipper: Cadillac Pet Food, Inc., 9130 Griffith-Morgan Lane, Pennsauken, NJ 08110.

MC 142114 (Sub-1–10TA), filed January 13, 1982. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Such commodities as are dealt in by retail department stores* between points in the U.S. (except AK and HI). Supporting shipper: Hills Department Stores, Division of SCOA Industries, Inc., 15 Dan Road, Canton, MA 02021.

MC 160191 (Sub-1–1TA), filed January 20, 1982. Applicant: ESSIE M. ELLIS & KEVIN B. ELLIS d.b.a. SILVER LIMITED BUS SERVICE, 41 Fowler Street, Dorchester, MA 02121. Representative: Kevin B. Ellis (same as applicant). *Passengers and their baggage* beginning and ending at Boston, MA and extending to points in ME, MA, NH, NJ, NY, VT, and DC. Supporting shipper(s): Black Ski Association, 16 Terrace Road, Brookline, MA 02129; Scorpians Club, 275 Norwell Street, Boston, MA 02121; St. John's Missionary Baptist Church, 230 Warren Street, Roxbury, MA.

MC 148917 (Sub-1–1TA), filed January 18, 1982. Applicant: KEN STAUB JR. TRUCKING, INC., 4786 East River Road, Grand Island, NY 14072. Representative: Kenneth W. Staub, Jr. (same as applicant). *Metal products and building material* between Buffalo, NY on the one hand, and, on the other, points in MI. Supporting shipper: R. S. McMannus Steel Construction Co., Inc., 1254 E. Ferry St., Buffalo, NY.

MC 160160 (Sub-1–1TA), filed January 19, 1982. Applicant: TIV CORP., 225 Private Lane, Lakewood, NJ 08701. Representative: Sidney J. Leshin, Esq., 3 East 54th Street, New York, NY 10022. *Contract carrier:* Irregular routes: *Passengers and their baggage* between Lakewood, NJ and Boroughs of Brooklyn and Manhattan, City of New York, NY, under continuing contract(s) with Congregation Yethev Lev, Lakewood, NJ. Supporting shipper: Congregation Yethev Lev, 405 Forest Avenue, Lakewood, NJ.

MC 154631 (Sub-1–13TA), filed January 13, 1982. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street, Woonsocket, RI 02895. Representative: Richard J. Wood, 357 Arnold Street, Woonsocket, RI 02895. *Contract carrier:* Irregular routes: *(1) Plastic articles* from Leominster, MA and Wheeling, IL, to points in the U.S. (except AK and HI), and *(2) Equipment materials and supplies used in manufacture, distribution and sale of plastic articles* from the above-named destinations to the above-named origins under continuing contract(s) with Clearshield Plastics Corporation of Leominster, MA. Supporting shipper: Clearshield Plastics Corporation, 177 Florence Street, Leominster, MA. 01453.

The following applications where filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 2110 (Sub-II–3TA), filed January 19, 1982. Applicant: BOWLUS TRUCKING CO., INC., 200 County Rd. 143, Fremont, OH 43420. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Empty beverage cans* from Fremont, OH to Allentown, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Stroh Container, Inc., 2145 Cedar St., Fremont, OH 43420.

MC 159917 (Sub-II–1TA), filed January 20, 1982. Applicant: BURCO CHEMICAL SERVICES, INC., 1689 Columbus Rd., Cleveland, OH 44113. Representative: Lynn R. Delnoce, 10219 Brecksville Rd., Brecksville, OH 44141. *Liquid and Dry Chemicals; Lumber; and Building Materials* between points in DE; IL; IN; KY; MD; ME; MI; MO; NH; NY; OH; PA; VA; & WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Ohio Burial Case Company, 1720 Columbus Rd., Cleveland, OH 44113; Chemix Corporation, 55 1st Ave., Berea, OH 44017; Reliance Brooks, Inc., 3302 East 87th St., Cleveland, OH 44127; Young Chemical Company, 24700 Center Ridge Rd., Westlake, OH 44145.

MC 139875 (Sub-II–2TA), filed January 21, 1982. Applicant: DONALD E. GERALD, INC., 2210 E. Randolph Rd., Silver Spring, MD 20904. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21710. Contract, irregular: *Cement, in bags and in bulk, and bagged mortar*, between Martinsburg, WV, including its commerical zone, on the one hand, and, on the other, points in Maryland, for 270 days, under a continuing contract or contracts with Maisel Brothers, Inc., Carruth & Son, Inc. and Entwisle's Concrete Block, Inc. An underlying ETA seeks 120 days authority. Supporting shippers: Maisel Brothers, Inc., P.O. Box 267, Glen Burnie, MD 21061; Carruth & Son, Inc., P.O. Box 657, Waldorf, MD 20601 and Entwisle's Concrete Block, Inc., 3709 Forestville Rd., Forestville, MD 20747.

MC 160201 (Sub-II–1TA), filed January 21, 1982. Applicant: MOUTAIN EMPIRE SERVICES, INC., d.b.a. MOUNTIN EMPIRE DELIVERY SERVICES, P.O. Box 516, 100 N. Ridge Rd., Pound, VA 24279. Representative: Dan Mullins (same as applicant). Contract, irregular: *Replacement mine parts*, from Wise, VA to pts. in WV, PA, under continuing contract with Lee-Norse Co., Pittsburgh, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lee-Norse Co., 6600 Steubenville, Pike, P.O. Box 2663, Pittsburgh, PA 15230.

MC 109448 (Sub-II–19TA), filed January 18, 1982. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of heating and air conditioning units* (except commodities in bulk) between Evansville, IN, including points in its Commerical Zone, on the one hand, and, on the other, point in the U.S. (except AK and HI) for 270 days. Supporting shipper: Arkla Industries, Inc., P.O. Box 534, Evansville, IN 47704.

MC 145067 (Sub-II–6TA), filed January 18, 1982. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18641. Representative: Edward F. V. Pietrowski, 430 Scranton Life Building, Scranton, PA 18503. *Liquid propane gas*, from Delaware City, DE to point in NJ and PA. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Berwick Gas Sales, 320 W. 9th Street, Berwick, PA 18603, Modern Gas Sales, RD #2-Route 502, Moosic, PA 18507.

MC 145996 (Sub-II–1TA), filed January 18, 1982. Applicant: STERLING FREIGHT LINE, INC., P.O. Box 217, N.D. Station, 1273 Deeds Ave., Dayton, OH 45404. Representative: David M. Andrews, 183 N. Upper St., Lexington, KY 40507. Contract, irregular: *Rubber and plastic products*, between

Montgomery County, OH, on the one hand, and, on the other, points in IL, IN, MI, and KY, under continuing contract(s) with Kadon Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Kadon Corp., 3031 Drydon Rd., Dayton, OH 45439.

MC 152848 (Sub-II–1TA), filed January 19, 1982. Applicant: TIGER TRANSPORTATION, INC., 301 Crescent St., Scottdale, PA 15683. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219–2383. *Drafting, engineering and graphic art supplies,* from Bloomfield and Windsor, CT to Dallas and Fort Worth, TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Alvin & Company, Inc., 1335 Blue Hills Ave. Ext., Bloomfield, CT.

MC 140104 (Sub-II–2TA), filed January 18, 1982. Applicant: TOLEDO FRIGID LINE, INC., 4060 Fitch Rd., Toledo, OH 43613. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of food and related products,* between Watsonville, CA; Caldwell, ID; Kansas City, KS; Park Rapids, MN; Vineland, NJ; Clark, SD; and Plover, WI, on the one hand, and, on the other, all points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper(s): F.A.B., Inc., 6400 Atlantic Blvd., Norcross, GA 30071.

MC 158613 (Sub-II–5TA), filed January 20, 1982. Applicant: TRICOR BUSINESS GROUP, INC., 1242 Tatamy Rd., Easton, PA 18042. Representative: Roger D. Hershman, 22 Olde Mill Run, Medford, NJ 08055. *Such commodities as are dealt in or used by manufacturers or distributors of transportation equipment or machines,* between pts. in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the ICC Reg. Ofc., Phila., PA.

MC 141091 (Sub-II–1TA), filed January 20, 1982. Applicant: VIRGINIA TANK LINES, INC., 814 Warrenton Rd., P.O. Box 5249, Fredericksburg, VA 32401. Representative: Calvin F. Major, 200 W. Grace St., P.O. Box 5010, Richmond, VA 23220. Contract, irregular: *Petroleum products, in bulk, in tank vehicles,* between points in VA and points in MD, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Solv-X U.S.A., Inc., 6715 Lowell Ave., McLean, VA 22101.

MC 160097 (Sub-II–1TA), filed January 22, 1982. Applicant: A. D. WEAVER, T/A WEAVER MOTOR SERVICE, 460 Rodi Rd., Pittsburgh, PA 15235. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract, irregular: *Scrap metal, in dump vehicles,* between Heidelberg, PA, on the one hand, and, on the other, pts. in OH and WV, under continuing contract with Sanford Steel Products Co. of Heidelberg, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sanford Steel Products Co., Industry Way, Heidelberg, PA 15106.

MC 160150 (Sub-II–1TA), filed January 19, 1982. Applicant: WEAVERTOWN TRANSPORT LEASING, INC., 206 Weavertown Road, Canonsburg, PA 15317. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract, irregular: *General commodities (except household goods and Classes A and B explosives)* between the facilities of Petromark, Inc. in Pittsburgh, PA, on the one hand, and, on the other, points in WV, OH, MI and NY, under a continuing contract(s) with Petromark, Inc. of Pittsburgh, PA for 270 days. Supporting shipper: Petromark, Inc., 100 River Road, McKees Rock, PA 15136.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 153984 (Sub-3–1TA), filed January 20, 1982. Applicant: CHESS HESTER TRUCKING COMPANY, P.O. Box 587, Russellville, AL 35653. Representative: Carl E. Johnson, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Dry granular fertilizer,* from the facilities of International Minerals & Chemical Corp. at points in AL to points in TN and MS. Supporting shipper: International Minerals & Chemical Corp., P.O. Box 158, #1 Commerce Street, Florence, AL 35630.

MC 52704 (Sub-3–18TA), filed January 20, 1982. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Charcoal briquettes* from Dothan, AL, Burnside, KY, Belle, MO and Parsons, WV to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: The Kingsford Company, 10300 Linn Station Rd., Louisville, KY 40233.

MC 154732 (Sub-3–3TA), filed January 20, 1982. Applicant: HARPER TRANSPORT, INC., 3313 Concord Corner, Conyers, GA 30208. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contract:* Irregular: *Computer machine paper, ruled, not otherwise printed, on skids, wrapped,* between Columbus, OH, on the one hand, and, on the other, Birmingham, AL, Tampa, FL, Atlanta, GA, Detroit, MI, Greensboro, NC, Lancaster, PA, and Nashville, TN. Supporting shipper: Star Forms Inc. of Ohio, 3915 Zane Trace Drive, Columbus, OH 43228.

MC 129537 (Sub-3–18TA), filed January 20, 1982. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Paper, paper products, materials, supplies and equipment used in the manufacture and distribution thereof.* Between points in SC, GA, FL, AL, MS, LA, AR, MO, KS, IL, WI, MI, IN, OH, TN, KY, NC, VA, WV, PA, NJ, MD. Supporting shipper: Stone Container Corp., 360 N. Michigan Ave., Chicago, Illinois 60601.

MC 119917 (Sub-3–6TA), filed January 19, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive, SE, Atlanta, GA 30316. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Charcoal, charcoal briquettes, activated carbon, hickory chips, lighter fluid and related products* between the facilities of Husky Industries, Inc., located at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center, East Atlanta, GA 30346.

MC 3–1TA, filed January 19, 1982. Applicant: H. E. SMITH AND ASSOCIATES, INC., P.O. Box 971, Carrollton, GA 30117. Representative: Mr. William P. Johnson, 306 Tanner Street, Carrollton, GA 30117. *Contract carrier,* Irregular Route, *Transporting Coke, Limestone and Silica Sand Gravel* between Birmingham, AL; Holt, AL; Longview, AL; Montgomery, AL; North Birmingham, AL; Shorters, AL; and on the other hand, Carrollton, GA. Support shipper: Southwire Company; address: P.O. Box 1000, Carrollton, GA 30117.

MC 152458 (Sub-3–4TA), filed January 19, 1982. Applicant: KNOWLES TRUCKING COMPANY, P.O. Box 309, Tyrone, GA 30290. Representative: Virgil H. Smith, 74 Highway N. Box 245, Tyrone, GA 30290. *Clothing and Material, equipment and supplies* used in the manufacture thereof, between points in the U.S. for the account of Bayly Corp. and wholly owned subsidiaries. Supporting shipper: Bayly Corp., P.O. Box 5148, Denver, Colorado 80218.

MC 158414 (Sub-3–2TA), filed January 19, 1982. Applicant: HUB TRUCKING, INC., P.O. Box 190, Wedowee, AL 36278. Representative: Wade H. Brown, P.O.

Box 217, Bessemer, AL 35020. *Kitchen Cabinets and Materials and Supplies used in the manufacture and distribution thereof,* between points in Clay County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Wellborn Cabinet Company, Inc., Mellow Valley Highway, Route 1, Ashland, AL 36251.

MC 158365 (Sub-3–2TA), filed January 19, 1982. Applicant: J & J SERVICES, INC., 122 West Central Ave., Lake Wales, FL 33853. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Sterilizing and refrigerating chemicals and empty containers used for the transportation thereof;* between the facilities of Pennsylvania Engineering Company, at or near Philadelphia, PA, Los Angeles, CA, Dallas, TX, Chicago, IL and Atlanta, GA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Pennsylvania Engineering Company, 1107–21 North Howard Street, Philadelphia, PA 19123.

MC 160141 (Sub-3–1TA), filed January 18, 1982. Applicant: CAIL & CAIL, INC., 237 Wickham Drive, Columbus, GA 31907. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. *Asphalt, rock, gravel, crushed stone, lime, lime materials and lime granulars, in dump vehicles,* between points in Muscogee, Chattahoochee, Marion and Sumter Counties, GA, on the one hand, and, on the other, Russell, Lee and Barbour Counties, AL. Supporting shippers are Dozier Farms, Route 2, Box 146, Plains, GA 31780, Reeves Construction Co., Inc., P.O. Box 547, Americus, GA, 31709 and M. B. Wells, Jr., Route 1, Buena Vista, GA, 31803.

MC 123325 (Sub-3–1TA), filed January 18, 1982. Applicant: WRIGHT MOTOR LINES, INC., 135 Thompson St., Asheville, NC 28803. Representative: S. P. Wright (same address as applicant). *Fertilizer and fertilizer ingredients,* between points in NC, SC, GA, VA, and TN. Supporting shipper: Kaiser Agricultural Chemicals, P.O. Box 599, Waynesville, NC 28786.

MC 160198 (Sub-3–1TA), filed January 20, 1982. Applicant: COX MOTOR EXPRESS INC., 1465 Alamance Church Road, Greensboro, NC 27406. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1)(a) *Hosiery,* (b) *materials, supplies and equipment used in the manufacture, sale, and distribution of hosiery,* between points in Guilford County, NC, on the one hand, and, on the other, AL, CT, DE, FL, GA, IL, IN, KY, MD, NC, NJ, NY, OH, PA, SC, TN, and VA; (2)(a) *computers, machinery, machinery parts, meters, and metal products, and* (b) *materials, supplies, and equipment used in the manufacture, sale, and distribution of the commodities in (a) above,* between points in Guilford County, NC, on the one hand, and, on the other, points in AL, AZ, AR, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MS, MO, NJ, NY, NM, NC, OH, PA, RI, SC, TN, TX, VA, and WV; (3)(a) *animal tallow and animal tallow by products,* (b) *materials, supplies, and equipment used in the manufacture, sale, and distribution of the commodities named in (a) above,* between points in Guilford County, NC, on the one hand, and, on the other, points in AL, CT, DE, GA, FL, IL, IN, KY, MA, MD, NC, NJ, NY, OH, PA, RI, SC, TN, and VA. Supporting shippers: Troxler Hoisery Mill, Inc., 2400 Montreal Ave., Greensboro, NC 27409, Gilbarco Inc., 7300 W. Friendly Ave., Greensboro, NC 27409, Chemol Inc., Division Carolina By Products Inc., 2410 Randolph Avenue, Greensboro, NC 27402.

MC 160199 (Sub-3–1TA), filed January 21, 1982. Applicant: COOKE TRUCKING COMPANY, INC., Rt. 1, Box 128–A, Mount Airy, NC 27030. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Metal products and materials and supplies used in the manufacture, sale, and distribution of metal products* between the facilities of Rappahannock Wire Company at Fredericksburg, VA on the one hand, and, on the other, points in OH, GA, MA, PA, CT, MI, NC, KY, FL, IN, IL, CA, SC, TN, NY, NJ, and AL. Supporting shipper: Rappahannock Wire Company, P.O. Box 7508, Fredericksburg, VA 22401.

MC 85530 (Sub-3–1TA), filed January 21, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. *Contract Carrier;* Irregular; *Lumber, wood products, and building materials,* between points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, TX, VA, WV, and DC, under continuing contract(s) with Georgia-Pacific Corp., Augusta, GA. Supporting shipper: Georgia-Pacific Corp., P.O. Box 1808, Augusta, GA 30903.

MC 138308 (Sub-3–26TA), filed January 21, 1982. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Materials, equipment and supplies used in the manufacture, sale and distribution of electrical resistance wire or rod, magnetic welding wire or rod, and thermocouple alloys* from the facilities of Hoskins Manufacturing Company at or near Charlevoix, Detroit, Hamburg and Mio, MI to New Paris, IN. Supporting shipper: Hoskins Manufacturing Company, 4445 Lawton Avenue, Detroit, MI 48208.

The following applications were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 16499 (Sub-4–5TA), filed January 11, 1982. Applicant: ROHDE CARTAGE, INC., P.O. Box 475, Mundelein, IL 60060. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Paper and printed matter* from points in IL to points in IN, IA, KY, MI, MO, OH, TN and WI. Supporting shipper: Norwood Industries, 6547 N. Avondale, Chicago, IL.

MC 123074 (Sub-4–4TA), filed January 11, 1982. Applicant: M. L. ASBURY, INC., 141 S. Main St., Romeo, MI 48065. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. *Asphalt and asphalt products* between points in Allen County, IN, and Detroit, MI. Supporting shipper: Trumbull Asphalt, Inc., 59th and Archer Rd., Summit, IL 60501.

MC 124170 (Sub-4–9TA), filed January 11, 1982. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Contract,* irregular, *meats, meat products, meat by-products, articles and supplies used by meat packing houses* between the facilities of or used by Swift Independent Packing Company and points in the United States. Supporting shipper: Swift Independent Packing Company, 115 W. Fackson Blvd., 7th Floor, Chicago, IL 60604.

MC 128837 (Sub-4–23TA), filed January 11, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular, *Electrical appliances, televisions and receivers, radio receivers, video and audio recorders, computers, stereos, speakers and cabinets,* between Springfield, MO on the one hand, and on the other, Houston and Dallas, TX; Des Moines, IA; Los Angeles and Fresno, CA; Portland, OR; Seattle, WA; Pittsburgh, PA; Grand Rapids and Taylor, MI; Jacksonville, FL; Green Bay and Milwaukee, WI. Restricted to traffic moving under continuing contracts with Zenith Radio Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Zenith

Radio Corporation, 1900 No. Austin Ave., Chicago, IL 60639.

MC 129087 (Sub-4–1TA), filed January 6, 1982. Applicant: L. A. BELL MOTOR LINES, INC., P.O. Box F, Chesterton, IN 46304. Representative: Lorain A. Bell, 111 Sexton St., Porter, IN 46304. *General Commodities (except such commodities in bulk or requiring tank vehicles),* between Cook, Lake and Dupage Counties, IL on the one hand, and on the other, Lake, Porter, and LaPorte Counties, IN, restricted to shipments originating at and destined to Kiss-McDermott Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Kiss-McDermott Inc., P.O. Box 615, Chesterton, IN 46304.

MC 141459 (Sub-4–8TA), filed January 12, 1982. Applicant: AGS ENTERPRISES, INC., #1 Clyde Avenue, Litchfield, IL 62056. Representative: Michael R. Solomon (same address as applicant). (1) *Pulp, paper and allied products; printed matter; plastic articles; rubber products and metal products; and* (2) *commodities used in the manufacture, sale and distribution of commodities listed in* (1) between points in Marion and Jefferson Counties, IL, on the one hand, and, on the other, points in CA, and points in the U.S. in and east of MN, IA, NE, KS, OK and TX. Supporting shippers: Midwest Stoves, Inc., 1 Old Timer Dr., P.O. Box 1704, R.R. 5, Mt. Vernon, IL 62864; Plastiflex Company, 823 North Brooks Dr., P.O. Box 1040, Centralia, IL 62801; and Jiffy Packaging Corporation, P.O. Box 469, Salem, IL 62881. An underlying 120 day ETA filed.

MC 151663 (Sub-4–2TA), filed January 11, 1982. Applicant: CLINGON TRUCKING, INC., 11 Superior Ave., Rockford, IL 61111. Representative: Steven D. Bennett, 1924 23rd Ave., Rockford, IL 61101. *Iron and Steel Articles, Rubber Products, Metal Fittings, Empty Steel Bins, Plastic Products, Paper Products, Paper Roll Stock, Printed Matter,* from Rockford, IL; Cook and Dupage Counties, IL; Warsaw, IN; Cleveland, OH; St. Louis, MO; Kansas City, MO; Kansas City, KS; Decorah, IA; Iola, KS; Detroit, MI; Milwaukee and Delavan, WI; to points in IL, CO, NE, IA, MO, WI, IN, KY, MI, and OH. An underlying ETA has been filed. There are (12) supporting shippers.

MC 152744 (Sub-4–1TA), filed January 12, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Avenue, Chicago, IL 60603. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Contract, irregular: Such commodities as are dealt in by manufacturers and distributors of foodstuffs and pet foods,* from the facilities of The Quaker Oats Company at Cedar Rapids, IA; Lawrence, KS; St. Joseph, MO; Marion, OH; Pascagoula, MS; Shiremanstown, PA; Chattanooga, TN; and, Danville, Pekin and Rockford, IL to points in and east of MN, IA, MO, KS, OK and TX under continuing contract or contracts with The Quaker Oats Company. Supporting shipper: Quaker Oats Company, Merchandise Mart, Chicago, IL 60654.

MC 152935 (Sub-4–10TA), filed January 7, 1982. Applicant: HILL-ROM COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract,* irregular: *Metallic pool furniture* between Brandenton, FL and points in Crystal Lake, Decatur, Freeport, Highland Park, Oak Park, Peoria and Rockford, IL; Indianapolis, IN; Lexington and Louisville, KY; Cincinnati and Columbus, OH; and Chattanooga, Knoxville and Nashville, TN. An underlying ETA seeks 120 days' operating authority. Supporting shipper: Tropitone Furniture Company, Inc., Post Office Box 3197, Sarasota, FL 33578.

MC 154568 (Sub-4–3TA), filed January 11, 1982. Applicant: CLARENCE DEAN KVALEVOG, d.b.a. C. D. KVALEVOG, Rural Route 7, Box 266–17, Bemidji, MN 56601. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Such commodities as are dealt in by farm supply wholesale houses,* from (1) Kansas City and Wichita, KS; Perry, IA; New Orleans, LA; Des Moines, IA; Denver, CO; Bozeman, MT; Kansas City and St. Louis, MO; points in TX and GA to Woonsocket, SD; Fargo, ND and points in MN; and (2) South St. Paul, MN to points in ND and SD. Supporting shippers: Minnesota Farm Bureau Business Corp., 1976 Wooddale Drive, St. Paul, MN 55165; Central Warehouse Company, Woonsocket, SD 58785; North Dakota Farm Bureau, 1101 1st Ave. N., Fargo, ND 58107.

MC 157909 (Sub-4–3TA), filed January 12, 1982. Applicant: MIDLAND-RAIL-WATER TRANSPORT, INC., 3014 S. Laramie Street, Chicago, IL 60650. Representative: Stephen H. Loeb, Suite 2027, 33 North LaSalle Street, Chicago, IL 60602. *General Commodities (except Classes A & B explosives),* between Chicago, IL, and points in its commercial zone, on the one hand, and, on the other, points in MI, OH, IA, IN, IL, and WI, restricted to traffic having a prior or subsequent movement by rail. Supporting shippers: GTLC, Inc., 4511 S. Kedzie, Chicago, IL 60632; D.J. Martwrana Co., Inc., 6 W. Busse Ave., Mt. Prospect, IL 60056; New England Forwarding Co., 3400 W. 51st Street, Chicago, IL 60632; Trans-Rail, Inc., 1499 Dayshore, Burlingame, CA 94010.

MC 158300 (Sub-4–3TA), filed January 11, 1982. Applicant: GERALD COSSETTE, d.b.a. GERALD COSSETT TRUCKING, 2202 5th Avenue North, Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract* irregular: *Foodstuffs* from the facilities of The Creamette Company near Minneapolis, MN, to points in the U.S. (except AK and HI). Supporting shipper: The Creamette Company, 7300 36th Avenue North, New Hope, MN 55427.

MC 159794 (Sub-4–1TA), filed January 12, 1982. Applicant: WILSON'S TRUCKAWAY, INCORPORATED, 120 West Madison Street, Suite 14N, Chicago, Illinois 60602. Representative: Brady J. Langford, Attorney at Law, One N. LaSalle St., Suite 2265, Chicago, Illinois 60602, (312) 641–2260. *Transportation equipment* and materials, equipment and supplies used in the manufacture, sale or distribution thereof between points in the United States. There are 6 supporting shippers.

MC 159968 (Sub-4–1TA), filed January 6, 1982. Applicant: BORCULO GARAGE, INC., 6410 96th Avenue, Zeeland, MI 49464. Representative: D. Richard Black, Jr., 7610 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428. *Contract,* irregular: *Such commodities, materials, supplies and equipment as are dealt with and used by manufacturers and distributors of food products* between the facilities of Bil-Mar Foods, Inc., in Zeeland, MI on the one hand, and, on the other, points in IL, IN, OH, PA, NY, TN, KY, MO, KS, OK, TX, IA, WI, MN. Restricted to traffic moving under continuing contract with Bil-Mar Foods, Inc. Supporting shipper: Bil-Mar Foods, Inc., 8300 96th Avenue, Zeeland, MI 49464.

MC 159973 (Sub-4–1TA), filed January 7, 1982. Applicant: APPLE CITY EXPRESS, INC., P.O. Box AB, Murphysboro, IL 62966. Representative: L. W. Ward (same address as applicant). *Common,* Regular. *General commodities—(except A and B explosives, household goods as defined by the Commission and commodities in bulk),* between: St. Louis, MO, and Brookport, IL; from St. Louis, MO over Interstate Hwy 64 to the junction of U.S. Hwy 51, then over U.S. Hwy 51 to the junction of IL Hwy 146, then over IL Hwy 146 to the junction of U.S. Hwy 45, thence over U.S. Hwy 45 to Brookport, IL, and return over the same route, serving all intermediate points and

points in St. Clair, Clinton, Marion, Wayne, Edwards, Wabash, Monroe, Washington, Jefferson, Hamilton, White, Perry, Randolph, Franklin, Jackson, Hamilton, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Johnson, Massac and Pulaski Counties, IL as off-route points. Supporting shipper(s): Fifty-seven shipper certifications have been filed with the application.

MC 160026 (Sub-4–1TA), filed January 11, 1982. Applicant: C & W TRUCKING, INC., 505 No. 18th, Grand Forks, ND 58201. Representative: Lloyd Corbit, 505 No. 18th, Grand Forks, ND 58201. *Transporting food products and related items,* between points in ND and TX. Supporting shipper: Quality Boneless Beef Co., Inc., Box 337, West Fargo, ND 58078.

MC 160034 (Sub-4–1TA), filed January 12, 1982. Applicant: T. M. TRANSIT, LTD., 2828 Wayne Street, Stevens Point, WI 54481. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Such merchandise as is dealt in by wholesale, retail, chain grocery, food business houses and department stores* between Brown, Portage, and Wood Counties, WI on the one hand, and, on the other, points in IA, IL, IN, MI, MN, MO, OH and WI. Supporting shipper: The Copps Corporation, 2828 Wayne Street, Stevens Point, WI 54481.

MC 111310 (Sub-4–13TA), filed January 18, 1982. Applicant: MILLIS TRANSFER, INC., Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Contract,* irregular. *Cleaning compounds, toilet preparations, personal care products, and gift items (except commodities in bulk) and materials, equipment and supplies used or useful in the manufacture and distribution of the above-named commodities* between points in GA, IL, IN, IA, KY, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, and WI under a continuing contract(s) with Minnetonka, Inc. for 270 days. Supporting shipper: Minnetonka, Inc., P.O. Box 1A, Minnetonka, MN 55343.

MC 135410 (Sub-4–46TA), filed January 18, 1982. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Attorney at Law, Suite 200–A, 205 West Touhy Avenue, Park Ridge, IL 60068. *Household appliances* from St. Cloud, MN and points in its commercial zone to the facilities of Gamble Stores, Division of Wickes Companies, Inc., at points in IA, IL, IN, KS, KY, MI, MO, NE and WI. Supporting shipper: Gamble Stores, Division of Wickes Companies, Inc., 5100 Gamble Drive, Minneapolis, MN 55440.

MC 147546 (Sub-4–3TA), filed January 19, 1982. Applicant: DEPENDON, INC., 875 East Rand Road, Des Plaines, IL 60016. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, Il 62701. *Contract,* irregular: *Hardware items, electrical components, water pumps, power units and diesel electric generating sets,* between Itasca, IL to points in the U.S. Restricted to traffic moving under continuing contract(s) with Western Engine Corporation. Supporting shipper: Western Engine Corporation, 500 So. Lombard Rd., Addison, IL 60101.

MC 150341 (Sub-4–6TA), filed January 15, 1982. Applicant: HOOVESTOL, INC., 3110 Mike Collins Dr., St. Paul, MN 55121. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. *Meat and Meat Products,* between Minneapolis, MN, and its Commercial Zone, and points in the U.S. Supporting shippers: Goldberger Foods, Inc., Minneapolis, MN, and Sunstar Foods, Inc., South St. Paul, MN.

MC 155175 (Sub-4–2TA), filed January 18, 1982. Applicant: CAPITAL CITY TRUCKING, INC., 13th and Front Avenue, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract:* Irregular: (1) *alcoholic beverages, carbonated beverages, confectionery, and materials, equipment and supplies used in the bottling, production, sale and distribution of such commodities,* from points in the U.S. (except AK and HI) to Glendive, MT under contract with Glendive Coca Cola Bottling Co., Inc., Glendive, MT; (2) *lumber, lumber products, wood products and building materials* from WA, OR, ID, and MT to Mandan, ND under contract with Jennings Lumber Co., Mandan, ND; (3) *alcoholic beverages* from CA, IL, MI, KY, MY, NY, NJ to Bismarck, ND under contract with Congress, Inc.; underlying ETA seeks 120-day authority. Supporting shippers: Glendive Coca Cola Bottling Co., Glendive, MT: Jennings Lumber Co., Mandan, ND and Congress Inc., Bismarck, ND.

MC 160104 (Sub-4–1TA), filed January 18, 1982. Applicant: GENERAL GENERICS CORPORATION, 210 Junior Achievement Drive, Elkhart, IN 46516. Representative: Paul D. Borghesani, Katz & Borghesani, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516. *Contract* irregular: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between Elkhart County, IN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX; (2) from Douglassville, PA, to Detroit, MI, and Itasca, IL; and (3) from Clevelend, OH, to Chicago, IL, under continuing contracts with (1) Accra Pac, Inc., of Elkhart, IN; (2) Kiwi Polish Company Proprietary Ltd., of Douglassville, PA; and (3) Magic American Chemical Corp. of Cleveland, OH, respectively. Supporting shippers: Accra Pac, Inc., P.O. Box 878, 2730 Middlebury Street, Elkhart, Indiana 46515; Kiwi Polish Company Proprietary Ltd., Route 662-North, Douglassville, PA; and Magic American Chemical Corp., 23700 Mercantile Road, Cleveland, OH 44122.

MC 160106 (Sub-4–1TA), filed January 18, 1982. Applicant: A & L TRUCKING, INC., 145 N. 3rd Street, Beech Grove, IN 46107. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Food and related products,* between points in IA, IN, and KY. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912.

MC 160154 (Sub-4–1TA), filed January 19, 1982. Applicant: DOUGLAS NORD, 1401 Texas Avenue, St. Louis Park, MN 55426. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Lumber or wood products,* from Sonoma, Humboldt, and Mendocino Counties, CA, to points in IA, MN, ND, SD, and WI. Supporting shipper: Canton Redwood Yard, Inc., Canton Redwood Sales Company, 9110 83rd Street, P.O. Box 9328, Brooklyn Park, MN 55440.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 18080 (Sub-5–3TA), filed January 18, 1982. Applicant: CONLEY TRUCK LINE, INC., P.O. Box 2312, Grand Island, NE 68802–2312. Representative: Johnnie Walker, P.O. Box 313, Wood River, NE 68883. *General Commodities, except classes A and B explosives, household goods, and commodities in bulk.* Between Prattsburg (Steuben County), NY. and Kinston, NC., on the one hand, and, on the other, points in the U.S., except AK & HI, restricted to traffic originating at or destined to the facilities of McConnell Manufacturing Co., Inc. at or near Prattsburg, NY. and Kinston, NC. Supporting shipper: McConnell Manufacturing Co., Inc., Prattsburg, NY.

MC 34027 (Sub-5–4–TA), filed January 18, 1982. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219.Representative: Ronald R. Adams or Larry D. Knox, Myers, Knox & Hart,

600 Hubbell Building, Des Moines, IA 50309. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),* from Marion County, IA, to pts in IL, WI, and MN. Supporting shipper: Pella Packing Incorporated, R.R. #3, Pella, IA 50219.

MC 121572 (Sub-5–1), filed January 18, 1982. Applicant: TRANS STATE BUS, INC., Route 1, Hwy 156, Larned, KS 67550. Representative: Eugene W. Hiatt, Hiatt, Hiatt & Carpenter, Chartered, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603. Common; regular. *Passengers and their baggage, express and newspapers in the same vehicle with passengers.* Between Liberal, KS to Stratford, TX on Hwy U.S. 54, and between Stratford, TX and Liberal, KS on Hwy U.S. 54. Supporting shippers: Nine (9). Applicant intends to tack and interline.

MC 144592 (Sub-5–4–TA), filed January 19, 1982. Applicant: WAYDENS HEAVY HAULERS, INC., 1400 North 6th Avenue, Hiawatha, IA 52233. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract irregular *Such merchandise as is dealt in or used by wholesalers of building materials, from* pts in AL, AR, CA, CO, ID, LA, MS, MT, OK, OR, TX, WA and WY to pts in IA, IL and WI, under continuing contract(s) with Iowa Lumber Dealers, Inc. Supporting shipper(s): Iowa Lumber Dealers, Inc., 55—43rd Avenue SW., Cedar Rapids, IA 52404.

MC 151819 (Sub-5–24–TA), filed January 15, 1982. Applicant: CARGO-MASTER, INC., 2815 Gaston Av., Dallas, TX 75226–1306. Representative: Jackson Salasky (same as applicant). *Malt beverages, and related materials and supplies* from the facilities of the Joseph Schlitz Brewing Company at or near Longview, TX to points in CO. Supporting shipper(s): Twin City Distributing Company, P.O. Box 637, Greeley, CO 80632; Murray Brothers Distributing Company, 1505 W. 3rd Ave., Denver, CO 80223; Trinidad Wholesale Liquor Company, 416 N. Commercial, Trinidad, CO 81082.

MC 151383 (Sub-5–12–TA), filed January 18, 1982. Applicant: NICKELL TRUCKING CO., 4901 W. 51st St., Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 E. Fourth St., Tulsa, OK 74103. Contract, irregular; (1) *Canopies, awning materials, steel tubing, pipe, iron, and steel articles, ceiling panels, plywood and lumber; and materials and supplies used in the manufacture and distribution thereof* under continuing contract with Ventair Corp., Tulsa, OK. (2) *Oil well drilling tools and industrial weighing systems and materials and supplies used in the manufacture and distribution thereof* under continuing contract with Geolograph-Pioneer Drilling Equipment and Service Div. of Geosource, Inc., Oklahoma City, OK. (3) *Steel floodlight poles and materials and supplies used in the production and distribution thereof* under continuing contract with Area Lighting Standards, Inc., Tulsa, OK. (4) *Hot rolled steel products, iron and steel articles and materials and supplies used in the production and distribution thereof* under continuing contract with Yaffe Iron and Metal Co., Inc., Muskogee, OK. (5) *Meter provers and measuring stations and materials and supplies used in the manufacture and distribution thereof* under continuing contract with Arrow Engineering, Inc., Tulsa, OK, between points in the U.S. Supporting shipper: 5 supporting shippers.

MC 155107 (Sub-5–3 TA), filed January 18, 1982. Applicant: GEORGE R. BUCHANON, d.b.a. SUPER "B" EXPRESS, P.O. Box 1195, Sherman, TX 75090. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between points in CA, OR, WA, AR, KS, MO, LA, OK or TX. Under continuous contract(s) with Acme Fast Freight, Inc. Supporting shipper: Acme Fast Freight, Inc., 2110 Alhambra Ave., Los Angeles, CA 90031.

MC 159474 (Sub-5–2 TA), filed January 19, 1982. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock, AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* from Omaha, NE and Sioux City and Des Moines, IA, to points in AL, AR, FL, GA, LA, MS, NC, SC, TN and TX. Supporting shipper: Glenn Bros. Meat Company, 558 South Central Expressway, Suite 312, Richardson, TX.

MC 160110 (Sub-5–1 TA), date filed January 18, 1982. Applicant: GARRETT, ALEXANDER and GARRETT CORP., R.R. 4, Marshalltown, IA 50158. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Contract, irregular; *meat, meat products, meat byproducts and articles distributed by meat packinghouses* between pts in the U.S. under contract with Swift Independent Packing Co., supporting shipper, Swift Independent Packing Co., Box 716, Chicago, IL 60690.

MC 160114 (Sub-5–1 TA), filed January 18, 1982. Applicant: CHAPKOR, INC., P.O. Box 472, Keller, TX 76248. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Food and related products, except in bulk in tank vehicles,* between Delta County, CO, on the one hand, and, on the other, points in AL, AR, GA, IA, ID, KS, LA, MS, MO, NE, NM, NV, NC, OK, OR, SC, TX and WA. Supporting shipper: Skyland Foods, Inc., 9th & Dodge Street, Delta, CO 81416.

MC 160136 (Sub-5–1 TA), filed January 18, 1982. Applicant: CHARLES D. ALDER, d.b.a. DEADSTOCK TRUCKING, 416 Market Place, Norfolk, NE 68701. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. *Food and related products (except in bulk),* from the facilities of Dugdale of Nebraska, Inc., at or near Norfolk, NE, to pts in CO, IL, IA, KS, MN, MO, TX and WI, under a continuing contract(s) with Dugdale of Nebraska, Inc. of Norfolk, NE. Supporting shipper: Dugdale of Nebraska, Inc., 1500 South Logan, Norfolk, NE 68701.

MC 160138 (Sub-5–1TA), filed January 18, 1982. Applicant: MARGARET L. STEWART, d.b.a. J M & F HOTSHOT SERVICE, 3109 Chetwood, Del City, OK 73115. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Machinery, materials, equipment and supplies used in replacing, servicing and repairing machinery, equipment and supplies used in or in connection with the discovery, development, refining, manufacture, processing, storage, and transmission of natural gas and petroleum and their products and by-products,* between points in Oklahoma County, OK on the one hand, and, on the other, points in AR, CO, KS, LA, NM, TX and WY. Supporting shippers: Oilfield Specialty Distributors, Inc., Oklahoma City, OK; Specialty Mfg., Inc., Oklahoma City, OK, Red Beaver Box Company, Inc., Oklahoma City, OK.

MC 160145 (Sub-5–1TA), filed January 18, 1982. Applicant: TOMMIE STEVENS, d.b.a. NATIONAL WRECKER SERVICE, 1517 Pine Street, Abilene, TX 79601. Representative: TIMOTHY MASHBURN, P.O. Box 2207, Austin, TX 78768–2207. *Wrecked, disabled, repossessed or replacement motor vehicles and trailers, in wrecker service only,* between points in Archer, Baylor, Borden, Brown, Coke, Callahan, Coleman, Comanche, Concho, Cottle, Dickens, Earth, Eastland, Fisher, Foard,

Garza, Glasscock, Hamilton, Haskell, Howard, Irion, Jack, Jones, Kent, King, Knox, McCulloch, Menard, Mills, Mitchell, Noland, Palo Pinto, Runnels, San Saba, Schleicher, Scurry, Shackelford, Stephens, Sterling, Stonewall, Taylor, Throckmorton, Tom Green, Wilbarger and Young Counties, on the one hand, and, on the other, points in the United States. Supporting shippers: ETMF Freight System, P.O. Box 2019, Abilene, TX; Clarence Cornish Wrecker Service, 2557 S. Riverside, Fort Worth, TX 76104.

MC 26825 (Sub-5–22TA), filed January 22, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract; Irregular. *General commodities (except household goods),* between pts in the U.S., under a continuing contract(s) with United Forwarding, Inc., of Omaha, NE. Supporting shipper: United Forwarding, Inc., 7000 Building, Suite 445, 7000 West Center Road, Omaha, NE 68106.

MC 34027 (Sub-5–5TA), filed January 20, 1982. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams or Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *(1) Empty containers for nonalcoholic beverages, and (2) nonalcoholic beverages and dry ingredients for nonalcoholic beverages (mixes),* (1) from Valpraiso, IN, to Haskell, OK, and (2) from Haskell, OK, to Hutchinson and Kansas City, KS and Kansas City, MO. Supporting shipper: Coca-Cola Company, Foods Division, P. O. Box 2079, Houston, TX 77001.

MC 34027 (Sub-5–6TA), filed January 22, 1982. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams or Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *(1) Empty containers for nonalcoholic beverages and (2) nonalcoholic beverages and dry ingredients for nonalcoholic beverages (mixes),* (1) from Valparaiso, IN; Paw Paw, MI; Auburndale, FL; and Chicago, IL, to Pella, IA and (2) from Pella, IA to pts in IA, KS, NE, MO and IL. Supporting shipper: Pella Canning & Processing, Inc., 200 South Street, P.O. Box 83, Pella, IA 50219.

MC 139973 (Sub-5–13TA), filed January 20, 1982. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *(1) Electrical machinery, (2) metals, and (3) equipment, materials, and supplies used in the manufacture, distribution, or sale of the commodities in (1) and (2),* between point in Nassau County, NY, on the one hand, and, on the other, points in the United States (except IA, MN, ND, SD, WI, NE, RI, MA, NJ, DC, MI, OH, IN, IL, MD, DE, PA, KS, MO, CO, CT, MT, VA, and WV). Supporting shipper: Slant/Fin Corporation, 100 Forest Drive, Greenville, NY 11548.

MC 141255 (Sub-5–2TA), filed January 22, 1982. Applicant: TANDY TRANSPORTATION, INC, 2560 E. Long Avenue, Fort Worth, TX 76111. Representative: Donnie Brogdon (same as applicant). Contract, Irregular; *Boxes or crates, including fiberboard, paper or pulpwood, bottles, or cans and related articles for the manufacturing of the same* (except commodities in bulk), between St. Louis, MO and its commercial zone on the one hand, and, on the other, Sherman, TX, and Ft. Worth, TX, and their commerical zones. Supporting shipper: Sonoco Products Company, 5663 Anglum Ct., Hazelwood, MO, 63042.

MC 142831 (Sub-5–3TA), filed January 20, 1982. Applicant: HAMRIC TRANSPORTATION, INC., P.O. Box 1124, Grand Prairie, TX 75051. Representative: Thomas L. Cook, 5801 Marvin D. Love Frwy., Suite 301, Dallas, TX 75237. *Metal products, and materials and supplies for the manufacture and fabrication of metal products,* between the facilities of Bayou Steel Corp. at or near LaPlace, LA, on the one hand, and, on the other, points in the U.S.

MC 144603 (Sub-5–46TA), filed January 22, 1982. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Raymond C. Dougherty (same address as applicant). *Textiles and textile products* between Griffin, GA, and its commerical zone, and Seguin, TX, and its commerical zone (for the account of United Cotton Goods Company, Inc.). Supporting shipper: United Cotton Goods Company, Inc., 1903 North Austin St., Seguin, TX 78155.

MC 149152 (Sub-5–3TA), filed January 20, 1982. Applicant: L & L MOTOR FREIGHT, INC., 1911 N.W. 1st Street, Oklahoma City, OK 73106. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Steel castings,* from Muskogee, OK to Odessa, TX. Supporting shipper: Green Country Castings Corporation, 612 S.E. 48th Street, Muskogee, OK 74401.

MC 15189 (Sub-5–25TA), filed January 22, 1982. Applicant: CARGO–MASTER, INC., 2815 Gaston Ave., Dallas, TX 75226–1306. Representative: Jackson Salasky (same as applicant). *Batteries* from the facilities of the Douglas Battery Manufacturing Company in Winston-Salem, NC to Wallingford, CT; Manchester, PA; Canton, OH; Nicholasville, KY; Altamonte, FL; Newman, GA; Clinton, MS; Temple, TX and Arnold, MO. Supporting shipper(s): Douglas Battery Manufacturing Company, 500 Battery Drive, Winston-Salem, NC 27107.

MC 156836 (Sub-5–3TA), filed January 22, 1982. Applicant: MURRY JOHNSON, INC., P.O. Box 158, Widener, AR 72394. Representative: Earl Mills (same as above), *(1) Farm machinery and equipment, materials and supplies used in the manufacture thereof; (2) Tool boxes and equipment and supplies used in the manufacture thereof; (3) Wood Products; (4) Food and related items utilized in grocery, restaurant, food businesses and hotel operations.* (1) between points in IL, IN, OH, MO, WI, TX, AL, TN, & LA; (2) between points in AL, AZ, AR, CA, CO, CT, FL, GA, ID, IL, IA, KS, KY, LA, MA, ME, MI, MN, MS, MO, MT, NE, NM, NC, OH, TN, OK, OR, UT, VA, WA, & WY; (3) from Memphis, TN to points in CA; (4) from points in AR, AZ, CA, FL, ID, IL; to Nashville, TN. Supporting shippers: Forrest City Machine Works, Forrest City, AR; DeSoto Hardwood Flooring Co., Memphis, TN; H. G. Distributors, Nashville, TN; Storall Manufacturing Co., Inc., Jonesboro, AR.

MC 159032 (Sub-5–1TA), filed January 21, 1982. Applicant: JAY CARLLEY, INC., 3615 N. Emporia St., Wichita, KS 67219. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Contract, Irregular; *Meat, meat products, meat by-products and articles and supplies used by meat packing houses,* between points in the U.S. under continuing contract with Swift Independent Packing Company. Supporting shipper: Swift Independent Packing Company, 115 W. Jackson Blvd., 7th Flr., Chicago, IL 60604.

MC 159251 (Sub-5–2TA), filed January 22, 1982. Applicant: WRIGHT–WAY EXPRESS, LTD., 616 3rd Street N.E., Independence, IA. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between pts in IA, IL, MN, MO, NE and WI, restricted to traffic originating at or destined to the facilities of or used by Ardan, Inc. Supporting shipper(s): Ardan, Inc., 2320 Euclid Avenue, Des Moines, IA 50310.

MC 160200 (Sub-5–1TA), filed January 21, 1982. Applicant: ANTHONY'S TRUCKING, INC., 350 Brookes Drive, Suite E, Hazelwood, MO 63042. Representative: Orville L. Handshy, Jr.

(same address as applicant). *Household appliances, furniture, insulation, and materials, equipment and supplies used in their manufacture, distribution, sale and repair,* between points in MO, on the one hand, and, on the other, points in AR, IL, IN, KS, KY, MO, OH and TN. Supporting shipper(s): MC Distributors, Inc., 223 Cedar Street, St. Louis, MO 63102; Central Glass Insulations, Inc., 5603 Anglum Ct., Hazelwood, MO 63042; Custom Foam Molders, Inc., P.O. Box 100, Foristel, MO 63348; and Town House Furniture, Ltd., 7901 Michigan Ave., St. Louis, MO 63111.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 160162 (Sub-6–1TA), filed January 18, 1982. Applicant: ALPHONSO BLACKWELL d.b.a. MR. AL'S TRUCKING, 2432 N.W. 57th, Seattle, WA 98107. Representative: Bruce A. Wolf, 2120 Pacific Building, Seattle, WA 98104. *Contract Carrier,* Irregular routes: *Building Materials,* between points in WA and OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Weyerhaeuser Company, Quad North Building, Tacoma, WA 98477.

MC 143229 (Sub-6–1TA), filed January 13, 1982. Applicant: ANDERSON CARTAGE CO., INC., 4040 Holly St., Unit #10 Denver, CO 80216. Representative: James P. Kirkhope, P.O.B. 15296, Fort Wayne, IN 46899. *Contract carrier,* irregular routes: *General commodities,* when moving under freight forwarder bills of lading, between Denver, CO and its commercial zone on the one hand, and, on the other hand, Chicago, IL and its commercial zone, and points in AZ, IA, NE, NM, UT and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: American Shippers, Inc., P.O.B. 9728 Fort Wayne, IN 46885.

MC 160185 (Sub-6–1TA), filed January 18, 1982. Applicant: GALE M. RASMUSSEN d.b.a. B & D TRAILER MOVERS, 670 W 1100 S, Vernal, UT 84078. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Mobile homes and office trailers,* between Daggett, Duchesne Uintah Counties, UT and points in CO, ID, MT, NV, ND, SD, UT, WY, AZ, and NM for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper(s): There are 11 shippers. Their statements may be examined at the Regional Office listed above.

MC 158592 (Sub-6–1TA), filed January 14, 1982. Applicant: B & J CAR HAULING, 10613 N.E. 124 Ave., Vancouver, WA 98662. Representative: Gawain Johnson, (same as applicant). *Contract carrier,* Irregular routes: *wrecked or disabled vehicles in truckaway service,* between OR and WA, for the account of Portland Salvage Pool, for 270 days. Supporting shipper: Portland Salvage Pool, 1032 Sundial Rd., Troutdale, OR 97060.

MC 145872 (Sub-6–2TA), filed January 18, 1982. Applicant: TREVIS BERRY TRANSPORTATION, P.O. Box 1802, Gilroy, CA 95020. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579. *Contract Carrier,* Irregular routes, *fibreboard or pulpboard boxes* from Salinas, CA and Alameda, CA, to Yuma, AZ, for the account of Weyerhaeuser Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Weyerhaeuser Company, 1801 Hibbard, Alameda, CA 94501.

MC 160091 (Sub-6–1TA), filed January 11, 1982. Applicant: BLUE AND WHITE TRANSPORT, INC., 914 Royal Blvd., Boise, ID 83706. Representative: Kevin M. Clark, 1003 N. 8th St., Suite 200, Boise, ID 83702. *Bulk Petroleum,* between points in ID, OR, WA and MT, for 270 days. Supporting shipper: Tabish Brothers, P.O. Box 8448, Missoula, MT 59807; Jackson Oil, Inc., P.O. 280, Canyon City, OR 97820.

MC 160116 (Sub-6–1TA), filed January 13, 1982. Applicant: CT TRANSPORTATION, INC., 3955 High St., Denver, CO 80205. Representative: Nancy P. Bigbee, 745 E. 16th Ave., #101, Denver, CO 80203. *Contract carrier,* irregular route, (1) *foodstuffs and materials, equipment and supplies* used in the manufacture, sale and distribution of commodities dealt in by grocery, bakery, and food business houses, from points in Denver and Adams Counties, CO to points in El Paso County, TX; Bernalillo County, NM; Maricopa County, AZ; and Los Angeles County, CA; under a continuing contract with Rustco Products Co., Denver, CO; (2) *materials handling equipment and supplies* between points in Auglaize County, OH; Livingston County, NY; Livingston County, IL; San Bernardino and Orange Counties, CA; Denver County, CO; Laramie County, WY; and Bernalillo County, NM, under a continuing contract with Murray Equipment Company, Denver, CO; and (3) *carbon dioxide, solidified (dry ice)* from points in Harding County, NM, to points in Denver, Adams, Boulder, Weld, Larimer, and El Paso Counties, CO, under a continuing contract with Carbo Therm, Ltd., Denver, CO; for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Rustco Products, Co., 1485 E. 61st Avenue, Denver, CO; Murray Equipment Company, 1800 A Bassett St., Denver, CO 80201; and Carbo Therm, Ltd., 3955 High Street, Denver, CO 80205.

MC 145979 (Sub-6–2TA), filed January 15, 1982. Applicant: CALIFORNIA EXPRESS, LTD., 1315 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Canned or preserved foodstuffs, coffee and glacé,* from points in CA to points in AL, AR, AZ, CN, CO, DC, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, ND, NE, NJ, NM, NY, OH, OK, OR, PA, SD, TN, TX, UT, WA and WI for 270 days. Supporting shipper: S & W Fine Foods, Inc., 1730 S. El Camino Real, San Mateo, CA 94402; Tri-Valley Growers, 100 California St., San Francisco, CA 94106; California Canners and Growers, 3100 Ferry Bldg., San Francisco, CA 94406.

MC 142140 (Sub-6–2TA), filed January 18, 1982. Applicant: CITY TRANSFER AND STORAGE OF CONRAD INC., P.O.B. 1432, Conrad MT 59425. Representative: Eugene D. Riewer (same as applicant). *Dry Fertilizer (in bulk),* from ports of entry on the International Boundary line between U.S. and Canada located in MT on to all points in MT for 270 days. Supporting shipper: ConAgra, Inc., P.O.B. 2548, Great Falls, MT 59403.

MC 160161 (Sub-6–1TA), filed January 18, 1982. Applicant: COASTMASTER TRANSPORT, 4904 Lacey Blvd. S.E., Lacey, WA 98503. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy, Tacoma, WA 98421. *Contract Carrier,* Irregular routes: *General Commodities (except Classes A and B explosives, household goods, and commodities in bulk),* between points in the U.S., for 270 days. Supporting shipper: Neifer Installations (1968) Ltd., 3220 Heather St., Vancouver, B.C., CD V5Z 3K5.

MC 159830 (Sub-6–1TA), filed January 8, 1982. Applicant: TIMOTHY G. ABBOTT, JOHN S. JOHNSON, AND W. L. DAVIS TRUCKING, INC., a partnership d.b.a. W. L. DAVIS TRUCKING, INC., P.O.B. 2657, Sparks, NV 89431. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518. *Contract Carrier,* Irregular routes: *Frozen Foods, Food and Kindred Products,* from Ontario, OR and Burley, ID to points in AZ, CA and NV, for the accout of Ore-Ida Foods, for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Ore-Ida Foods, P.O.B. 10, Boise, ID 83707.

MC 146300 (Sub-6–3TA), filed January 13, 1982. Applicant: J–LOR TRUCKING, Box 5908, Kent, WA 98031.

Representative: Janet Gudgel, Box 5908, Kent, WA 98031. *Foodstuffs and related products,* between points in WA, OR, CA, ID, NV, UT and WY, for 270 days. Supporting shippers: There are 6 supporting shippers. Their statements may be examined at the regional office listed above.

MC 144963 (Sub-6–3TA), filed January 13, 1982. Applicant: JOBBERS FREIGHT SERVICE, INC., 111 N College St., Grangeville, ID 83530. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Such commodities as are dealt in by auto and truck part supply houses,* between Spokane, WA and points in its commercial zone, on the one hand, *And,* on the other, points in ID and Malheur County, OR, for the account of Genuine Parts Company, for 270 days. Supporting shipper: Genuine Parts Company, SACK No. TAF C–12, Spokane, WA 99220.

MC 155784 (Sub-6–2TA), filed January 8, 1982. Applicant: KEN GRAVES, d.b.a. KPS TRUCKING CO., 504 Florham Ave., San Dimas, CA 90773. Representative: David B. Rosenman, 315 S. Beverly Dr., Ste. 315, Beverly Hills, CA 90212. *Contract Carrier,* Irregular Routes: *Corrugated cardboard and wooden containers, and related products,* between points in the U.S. under a continuing contract(s) with Calpine Containers, Inc. of Walnut Creek, CA, for 270 days. Supporting shipper: Calphine Containers, Inc., 239 Orange Ave. (P.O.B. 740), El Centro, CA.

MC 155040 (Sub-6–3TA), filed January 18, 1982. Applicant: FRANK A. KAISER, III and LENA D. KAISER, a partnership, d.b.a. L & D TRANSPORT, 10383 Avenue 408, Dinuba, CA 93618. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, Clearfield, PA 16830. *Rubber products and metal products,* between points in Fresno and Stanislaus Counties, CA, on the one hand, and, on the other, points in the U.S., for 270 days. Supporting shippers: Utility Trailer Sales, Subsidiary, First Far West Corp., P.O. Box 11845, Fresno, CA 93775; Lee's Service, 1445 I Street, Reedley, CA 93654.

MC 128527 (Sub-6–12TA), filed January 13, 1982. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy W. Wilson, P.O. Box 9039, Salem, OR 97305. *Metal Computer Cabinets,* from Chicago IL and Rochester MN to Boise ID for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hewlett Packard, P.O. Box 15, Boise, ID 83707.

MC 128527 (Sub-6–13TA), filed January 19, 1982. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy W. Wilson, P.O. Box 9039, Salem, OR 97305. *Clay and Related Articles,* from Ripley, MS and Ochlocknee, GA to points in AL, AR, CO, CT, DE, DC, FL, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, NE, NV, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV, and WI. Supporting shipper: Oil-Dri Corporation of America, 520 N. Michigan Ave., Chicago, IL 60611.

MC 138505 (Sub-6–6TA), filed January 18, 1982. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 6000 S. Ulster, suite 206, Englewood, CO 80111. Representative: K. R. Cunningham, Jr. (same as applicant). *Contract Carrier:* Irregular Routes: *such commodities as are dealt in by retail department stores* between points in MO and IL for the account of Sears, Roebuck & Co., for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Sears, Roebuck & Co., Department 754 MW, 7447 Skokie Blvd, Skokie, IL 60077.

MC 159095 (Sub-6–1TA), filed January 14, 1982. Applicant: ARTHUR R. SNELL d.b.a. MILE HIGH TOURS, 65 W. Green St., Pasadena, CA 91105. Representative: Arthur R. Snell, P.O. Box 3465, Pasadena, CA 91103. *Passengers and their baggage* in charter or special operations from Los Angles County, CA to points in Washoe and Clark Counties, NV for 180 days. Supporting shipper: Jackie Robinson Senior Citizens Club. 1020 N. Fair Oaks, Pasadena, CA 91103.

MC 134370 (Sub-6–1TA), filed January 5, 1982. Applicant: OSBORNE TRUCKING COMPANY, INC., Paradise Valley Route, Box 2409, Riverton, WY 82501. Representative: John T. Wirth, 717—17th St., Ste 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Lumber and wood products,* from points in WA, OR, ID and MT to points in CO and WY, under continuing contract(s) with Potlatch Corporation, for 270 days. Supporting shipper: Potlatch Corporation, P.O.B. 15306, Lakewood, CO 80215.

MC 151418 (Sub-6–3TA), filed December 16, 1981. Applicant: ROY L.T. TRUCKING, INC., 7117 E. Firestone Blvd., Downey CA 90241. Representative: Roy Tyra (same as applicant). *Contract Carrier:* Irregular Routes: *Fireplaces, grills and ventilators and parts and accessories* thereto from Fullerton CA to Phoenix and Tucson AZ, Denver CO, San Francisco and San Diego CA, Boise and Pocatello ID, Missoula MT, Las Vegas NV, Albuquerque NM, Portland OR, Seattle and Tacoma WA, Salt Lake City UT, Casper WY and El Paso TX for 270 days. Supporting shipper: Superior Fireplace Co., 4325 Artesia Ave., Fullerton CA.

MC 160112 (Sub-6–1TA), filed January 14, 1982. Applicant: S & S TRANSPORTATION CO., 169 E. Multon Hollow Rd, Kaysville, UT 84037. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Chemicals, drilling mud and related products,* between points in the U.S., for the account of REP, Inc., d.b.a. Western Briquette Company and REP Chemicals Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: REP, Inc., d.b.a. Western Briquette Company and REP Chemicals Company, 733 Genessee Avenue, Salt Lake City, UT 84104.

MC 148083 (Sub-6–6TA), filed January 11, 1982. Applicant: SELLARS TRANSPORT SERVICE INC., 1620 Parnell Dr., Eugene, OR 97404. Representative: Robert W. Sellars (same as applicant). *Time dated advertising, newspaper circulars and inserts and related products* from the facilities of Northwest Web Co. Eugene, OR to points in CA, ID, UT, WA, MT, AZ, NV, and OR for 270 days. Supporting shipper: Northwest Web, 3592 W. 5th Ave., Eugene, OR 97402.

MC 160044 (Sub-6–1TA), filed January 19, 1982. Applicant: SOUTHERN NEVADA FREIGHT LINES, INC., 123 West Colorado, Las Vegas, NV 89102. Representative: David B. Rosenman, 315 So. Beverly Dr., Suite 315, Beverly Hills, CA 90212. (1) *Food and related products* from points in Los Angeles and Orange counties, CA to points in Clark, Lincoln and Nye counties, NV; (2) *Alcoholic beverages* from Los Angeles, Orange, Napa, and Sonoma counties, CA to Clark county, NV and (3) *Restaurant supplies* from Los Angeles and Orange counties, CA to Clark county, NV, for 270 days. Supporting shippers: There are ten supporting shippers. Their statements may be examined at the Regional Office listed.

MC 160090 (Sub-6–1TA), filed January 7, 1982. Applicant: SPILLERS MOVING & STORAGE CO., POB 1408, Mills, WY 82644. Representative: Jack Spillers (same as applicant). *Contract carrier,* irregular routes; *Used household goods* for the Federal Government—Warren A.F.B. within state of WY, from points in WY to further an interstate shipment, for 270 days. Supporting shipper: U.S. Government, Bldg., 208, Francis E. Warren A.F.B., WY 82001.

MC 160126 (Sub-6–1TA), filed January 14, 1982. Applicant: STARLINE SIGHTSEEING TOURS, INC., 6845 Hollywood Blvd., Los Angeles, CA

90028. Representative: James H. Lyons, 523 West 6th Street, Suite 1216, Los Angeles, CA 90014. *Passengers and their baggage, in the same vehicle with passengers, in round-trip charter and special operations,* From points in Los Angeles and Orange Counties, CA, to points in AZ, ID, NM, NV, OR, UT and WA, for 180 days. Supporting shippers: There are 8 supporting shippers. Their statement may be examined in the Regional Office listed.

MC 147083 (Sub-6–2TA), filed January 14, 1982. Applicant: TANKS, INC., P.O.D. 1179, Gillette, WY 82716. Representative: Leon L. Brady (same as applicant). *Drilling mud compounds and completion materials in sack form* from the facilities of Milchem Inc's Argenta Grinding Plant 12 miles East of Battle Mountain NV to points in Natrona County WY for 270 days. Supporting shipper: Milchem Inc., P.O.B. 693, Casper WY 82602.

MC 148791 (Sub-10TA), filed January 15, 1982. Applicant: TRANSPORT–WEST, INC., 2125 North Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Glassware, glass bottles and jars and related materials and supplies, including caps, covers, stoppers and equipment used in the manufacture of the same,* from Shreveport, LA and its Commercial Zone to Dallas and Fort Worth, TX and their Commercial Zones, for 270 days. Supporting shipper: Libby Glass, Division of Owens Illinois, Inc., P.O. Box 919, Toledo, OH 43693.

MC 148791 (Sub-6–11TA), filed January 14, 1982. Applicant: TRANSPORT–WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Pulp, paper and related products,* between points in OR, WA, CA, NV, ID, UT, AZ, MT, WY, CO, NM, and TX, for the account of General Products Manufacturing, Inc., of Wilsonville, OR for 270 days. Supporting shipper: General Products Manufacturing, Inc. Wilsonville, OR 97070.

MC 151225 (Sub-6–9TA), filed January 12, 1982. Applicant: DON WARD, INC., 241 W. 56th Ave., Denver, CO 80216. Representative: Same as applicant. *Perlite in bulk,* from Antonito, CO to Sweetwater County, WY, for 270 days. Supporting shipper: General Refractories Co., on behalf of its wholly owned subsidiary, Grefco, Inc., 225 City Line Ave., Bala Cynwyd, PA 19004.

MC 143821 (Sub-6–1TA), filed December 30, 1981. Applicant: KRIS'S TRUCK TRANSPORT, INC., 37521 Willow St., Newark, CA 94560. Representative: Bertha Kristiansen (same as above). *Heavy duty trucks* in the driveaway and/or truck away methods between Newark CA on the one hand, and on the other Montgomery AL and points in KS, MN, NE, NM, WI; between Madison, TN on the one hand, and on the other, points in CA, NM; between Denton, TX on the one hand, and on the other, points in CA & NM for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are seven (7) supporting shippers whose statements may be reviewed at the Regional Office listed above.

MC 142189 (Sub-6–2TA), filed January 15, 1982. Applicant: C. M. BURNS, d.b.a. WESTERN TRUCKING, P.O. Box 980, Baker, MT 59313. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 S. Fifth St., Minneapolis, MN 55402. *Lime,* from Rapid City, SD to points in MT, WY and Salt Lake City, UT, for 270 days. Shipper: Dyce Sales & Engineering Service Co., Inc., P.O. Box 30176, Billings, MT 59107.

MC 150461 (Sub-6–1TA), filed January 18, 1982. Applicant: DONALD WILSON, d.b.a. WILSONS HOT SHOT SERVICE, 1015 South Willow, Casper, WY 82601. Representative: Donald Wilson (same as applicant). (1) *Machinery, materials, equipment and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *Machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, restricted against the transportation of complete oil drilling rigs; between points in WY, CO, MT, ND, SD, KS, TX, UT, OK, NM, ID, and NE, for 270 days. Supporting shippers: Tesoro, Land & Marine Rental Company, P.O. Box 2862, CASPER, WY 82602; Marathon Oil Company, P.O. Box 2659, CASPER, WY 82602.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2444 Filed 1-29-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPI–10

Decided: January 20, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 160001, filed January 7, 1982. Applicant: VESEY DELIVERY SERVICE, INC., 56 U.S. Hwy, Rte 22, Hillside, NJ 07205. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160010, filed January 8, 1982. Applicant: MAX L. WHITE, 2629 S.E. 166th, Portland, OR 97236. Representative: Max L. White, (same address as applicant), (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160030, filed January 8, 1982. Applicant: A. T. GOULD, d.b.a. GOULD TRUCKING, 528 N. Union Ext., Canton, MS 39046. Representative: A. T. Gould (same address as applicant), (601) 859–3307. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP1–13

Decided: January 21, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Parker not participating in part.

MC 61620 (Sub-21), filed January 15, 1982. Applicant: M & G TRANSPORTATION CO., INC., Route 3, Box 234, Gloucester, VA 23061. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2816. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160130, filed January 15, 1982. Applicant: MARTIN GRAIN CO., R. D. 1, Box 96A, Mount Joy, PA 17552. Representative: J. Dwight Martin (same address as applicant), (717) 653–1085. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160131, filed January 15, 1982. Applicant: JACK S. SMITH, 7937 N. Smith St., Portland, OR 97207. Representative: Jack S. Smith (same address as applicant), (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP2–15

Decided: January 18, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Fortier not participating.

MC 159632, filed December 10, 1981. Applicant: JACK D. BAILEY TRUCKING, P.O. Box 245, Dade City, FL 33525. Representative: Jack D. Bailey (same address as applicant), 904–567–9553. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between Weston and Parriott, GA, Alexandria, Kahoka, Wayland, Memphis, Downing, and Lancaster, MO, Arm, Oakville, Hathorn, Columbia, Michigan City, Lamar, Hudsonville, Waterford, Abbeville, Oxford, Taylor, Water Valley, Velma, and Coffeeville, MS, Henrietta, NC, Harlan, Irwin, Garwin, and Toledo, IA, Astoria, Richmond, Dunkel, Oconee, Hanson, Vera, Shobonier, Vernon, Pataka, Graymont, Flagana, Equality, and Shawneetown, IL, Lake Geneva and Genoa, WI, Edgar and Nelson, NE, Benton, Oak Ridge, Philpot, Deanefield, Thompsonville, Masonville, Edgoten, and Lewisburg, KY, Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Malesus, Medon, Toone, Bolivor, Hickory Valley, and Lexington, TN, Painesville, Chardon, Middlefield, OH, Paris and Paris Crossing, IN, South Haven, MI, Furman and Edgefield, SC, Monticello, FL, Clyde, WA, Hosston, LA, Elsinore, CA, Mottville, NY, and Brisbin, MT, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 159983, filed January 5, 1982. Applicant: LARRY INSELMAN, 9002 N.E. 95th St., Vancouver, WA 98662. Representative: Larry Inselman (same address as applicant), (206) 256–4716. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–25

Decided: January 21, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 160147, filed January 18, 1982. Applicant: CITY TRANSFER CO., INC., 4580 Oakman Blvd., Detroit, MI 48204. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160107, filed January 15, 1982. Applicant: DONALD CARRIER, 7002 NW 304th, Ridgefield, WA 98642. Representative: Donald Carrier (same address as applicant), (503) 233–5766 (Irene). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP5–17

Decided: January 22, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 48958 (Sub-226), filed January 11, 1982. Applicant: ILLINOIS–CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, 601 Ross St., Amarillo, TX 79189, (806) 374–1641. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 65088 (Sub-7), filed January 8, 1982. Applicant: FAYARD MOVING AND TRANSPORTATION CORPORATION, 2615 25th Ave., Gulfport, MS 39501. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820.

Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *used household goods* for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 158629 (Sub-1), filed January 11, 1982. Applicant: ROBERT E. BERNARD and DANNY A. BERNARD, d.b.a. BERNARD TRUCKING, 1500 Topaz, Missoula, MT 59801. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59801, (406) 543–8369. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160028, filed January 7, 1982. Applicant: ROBERT E. MILLER, d.b.a. WTS TRUCKING, 490 Tacchino St., Reno, NV 89512. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882–5649. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160029, filed January 7, 1982. Applicant: RONALD S. EMBLETON, 409 West Chase Ave., El Cajon, CA 92020. Representative: Ronald S. Embleton (same address as applicant), (714) 444–3330. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160038, filed January 11, 1982. Applicant: TRAMMEL CROW TRANSPORTATION, INC., P.O. Box 695, Carrollton, TX 75006. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601, 312–332–5106. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160069, filed January 12, 1982. Applicant: MARTIN KEELER, 41 East St., Rutland, VT 05701. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 718–8205. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160098, filed January 12, 1982. Applicant: NATIONWIDE TRUCK BROKERS OF MISSISSIPPI, INC., 3327 Highway 82 East, Rear, Greenville, MS 38701. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–20

Decided: January 25, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 99569 (Sub-10), filed January 15, 1982. Applicant: STOTT & DAVIS MOTOR EXPRESS, INC., 18 Garfield St., Auburn, NY 13021. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160178, filed January 18, 1982. Applicant: RONALD A. VERBLAUW, 375 Murray Hill Parkway, E. Rutherford, NJ 07073. Representative: Ronald A. Verblauw (same as above), (201) 935–3713. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2443 Filed 1-29-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP–5–18]

Motor Carriers; Permanent Authority Decision; Decision-Notice

January 25, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F 14781, filed January 11, 1982. ROBERT J. GIBBONS AND FRANCIS J. BRIGGS (GIBBONS AND BRIGGS) (118 Hall Street, P.O. Box 2009, Concord, NH

03301)—CONTINUANCE IN CONTROL—WILLEY'S EXPRESS, INC. (WILLEY'S) (118 Hall Street, P.O. Box 2009, Concord, NH 03301) and WEX ENTERPRISES, INC. (WEX) 118 Hall Street, P.O. Box 2009, Concord, NH 03301). Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. GIBBONS and BRIGGS control WILLEY'S which holds authority issued by the Commission in MC–6741 and subs which authorize the transportation of general commodities (except classes A and B explosives), between points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA. GIBBONS and BRIGGS also control WEX and seek authority to continue to control WEX upon the institution by WEX of operations, in interstate or foreign commerce, as a motor contract carrier, upon approval of a directly related application filed by WEX simultaneously with this application.

Note.—WEX has filed, as a directly related application, its initial contract carrier application. That application, Docket No. MC–160039, is published in this same Federal Register issue.

MC 160039, filed January 11, 1982. Applicant: WEX ENTERPRISES, INC., 118 Hall St., P.O. Box 2009, Concord, NH 03301. Representative: Wesley S. Chused, 15 Court Sq., Boston, MA 02108, 617–742–3530. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Digital Equipment Corporation of Maynard, MA.

Note.—This application is directly related to MC–F 14781, published in this same **Federal Register** issue.

[FR Doc. 82–2442 Filed 1–29–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated January 13, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14771, filed December 30, 1981. DEL MONTE CORPORATION (Del Monte) (One Market Plaza, San Francisco, CA 94105)—CONTINUANCE-IN-CONTROL—MORTON FROZEN FOODS, INC. (Morton) (One Morton Drive, Charlottesville, VA 22906). Representative: Harry Gordon, Suite 502, Solen Building, 1000 16th Street, NW., Washington, D.C. 20036. Del Monte seeks to continue in control of Morton upon Morton's receipt of a permit to provide contract carrier service and its institutions of operations thereunder. By the same application R. J. Reynolds Industries, Inc., a widely-held Corporation, which controls Del Monte also seeks authority to continue in control of Morton. Reynolds also controls Petroleum Transportation Corporation (MC–142905 and subs thereunder) and Sea-hand Service, Inc., a non-carrier in control of Sea-hand Freight Service Inc. (MC–36612) and Sub 10 thereunder), which controls Northern Lights Express, Inc., a freight forwarder (Docket No. 77347). Del Monte, in addition to controlling the present non-carrier Morton, controls Distribution Services, Inc., a non-carrier, which controls the following carriers: Ide-Cal Freight Lines, Inc. (MC–116318 and subs thereunder), Fairchild General Freight, Inc. (MC–33919 and subs thereunder), Willis Shaw Frozen Foods Express Inc. (MC–117119 and subs thereunder), and Northwest Arkansas Truck and Equipment, Inc. (MC–141389). If this application is approved, Reynolds will continue to be considered a carrier for the purpose of certain reporting requirements. Impediment: Although Morton, as a non-carrier, presently is controlled directly by Del Monte and indirectly by Reynolds, when it is issued a permit and institutes operations thereunder, it will become a carrier. The purpose of this application is to approve the control by Del Monte and, in turn, by Reynolds of control of Morton, the carrier. In view of the presence of Northern Lights Express, Inc., a freight forwarder, the provisions of 49 U.S.C. 11323 must be considered. That section precludes a person in control of a freight forwarder (Reynolds) or a person under common control with a freight forwarder (Del Monte) from acquiring control of a carrier (Morton). Notwithstanding the argument of the parties herein, the plain

language of that section poses an impediment to our approval of this application.

MC–F–14779, filed January 5, 1982. ROBERT DUNLAP, d.b.a. ROBERT DUNLAP TRUCKING (Dunlap), 2025 East 42nd Street, Erie, PA 16510—PURCHASE—GERALD C. PHELPS, LOREN PHELPS, AND RAY W. PHELPS, a partnership, d.b.a. PHELPS COAL COMPANY (Phelps), 502 East 18th Street, Erie, PA 16503. Representative: Joseph F. Mackrell, 120 West Tenth Street, Erie, PA 16501. Dunlap seeks authority to purchase Permit No. MC–89765 (Sub-No. 5) from Phelps which authorizes the following transportation service, over irregular routes: (1) Roofing and building materials, and materials, equipment, and supplies used in the installation of roofing or building materials (except commodities in bulk), from Erie, PA to points in Ohio; (2) materials, equipment, and supplies used in the manufacture of roofing and building materials (except commodities in bulk) and from points in Ohio (except Lockland and points in the commercial zone thereof as defined by the Commission), to Erie, PA. Restriction: The operations are limited to a transportation service to be performed under a continuing contract with GAF Corporation of South Bound Brook, NJ.

MC–F–14770, filed December 29, 1981. KANEY TRANSPORTATION, INC. (Kaney) (7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105)—PURCHASE—M & A TRANSPORT, INC., (M&A) (4117 Terminal Road, P.O. Box 395, McFarland, WI 53558). Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701. Kaney seeks authority to purchase the interstate operating rights and properties of M&A. By the same application, KTI, Inc. which controls Kaney, and Richard L. Bell and Robert D. Higgins, who jointly control KTI, Inc. seek authority to acquire control of the operating rights and properties through the transaction. Kaney seeks to acquire (1) the operating rights of M&A contained in certificate No. MC–149280 (Sub-No. 1F) issued September 8, 1981, authorizing the transporation of *liquid fertilizer* from named origins to points in IA, IL, MN, and WI, and (2) those rights in Permit No. MC–149280 (Sub-No. 2F) issued January 19, 1981 authorizing the transportation of *asphalt products* between points in the United States under continuing contract(s) with G. J. Payne Co., St. Paul, MN. No TA application has been filed. Transferee is a carrier.

MC–F–14776, filed January 4, 1982. MILLER TRANSFER & RIGGING CO. (Miller) (P.O. Box 322, Cuyahoga Falls, OH 44222)—PUR (P)—FORT TRANSPORTATION & SERVICE CO., INC. (Fort) (Fort Atkinson, WI) 53538). Representatives: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, OH 43215, and Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. Miller seeks to purchase a portion of the interstate operating rights of Fort. John J. Brutvan controls United Transport Industries, Inc. (United), a non carrier, which in turn controls Miller though stock ownership. John J. Brutvan as an individual has not joined in the application. Approval of the transaction will be conditioned upon Mr. Brutvan joining in the application. The authority to be purchased is that contained in Certificate No. MC–71296 (Sub-No. 7) which authorizes operations over regular routes transporting general commodities, with exceptions, between Lake Mills, WI, and Rockford, IL; from Lake Mills over Wisconsin Hwy. 89 to junction U.S. Hwy. 14, then over U.S. Hwy. 14 to junction Wisconsin Hwy. 140, then over Wisconsin Hwy. 140 to junction Illinois Hwy. 76, then over Illinois Hwy. 76 to junction U.S. Hwy. 20, then over U.S. Hwy. 20 to Rockford, serving all intermediate points, except no service provided at Richmond, WI. Miller is presently authorized to operate in each of the continental United States, under operating authorities contained in Certificate No. MC–87103 and subnumbers thereunder and Permit No. MC–119302. Condition: Approval of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by John J. Brutvan as an individual stating that he holds the controlling stock interest in United which in turn controls Miller and that he as an individual joins in this application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3441 Filed 1–29–82; 8:45 am]
BILLING CODE 1035–01–M

[Ex Parte No. 387 (Sub-84)]

Rail Carriers; Boston and Maine Corporation, Exemption for Contract Tariff ICC–BM–C–0006

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:
Donald J. Shaw, Jr.

or

Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Boston and Maine Corporation (BM) filed a petition on January 6, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC–BM–C–0006 to become effective on one day's notice. The tariff also was filed with the Commission on January 6, 1982, to become effective on February 5, 1982. The contract involves track storage of carloads of pulp, paper and paper products at local stations on the BM Railroad in equipment carrying BM Railroad reporting marks.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

Petitioner has excess equipment in storage on the BM. It has offered several larger shippers of paper products a proposal to load BM boxcars and bill the shipments from origin to destination with the privilege of storing the shipments in the boxcars on the BM Railroad until they are ultimately needed at the final destination. This arrangement will permit better utilization of idle BM boxcars, and permit shipper to have a better control over the movements of his product. One shipper has developed a production problem and requires immediate storage. As shipper lacks suitable storage facilities at its plant, the requested exemption would permit continuous production on an uninterrupted basis. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

BM's contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed on or before February 16, 1982.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: January 25, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Seretary.

[FR Doc. 82-2445 Filed 1-29-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 1 SDM]

Rail Carriers; Chicago and North Western Transportation Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Chicago and North Western Transportation Company has filed with the Commission its amended color-coded system diagram map in Docket No. AB 1 SDM. The Commission on December 28, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the Office of the Commission, Section of Dockets, by requesting Docket No. AB 1 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2446 Filed 1-29-82; 8:45 am]

BILLING CODE 7035-01-M

Water Carrier; Temporary Authority Application

The following was filed with the Regional Office in Region 2. Petition for Reconsideration is to be filed, within 20 days of this publication with that Regional Office. Replies to petition may be filed within 20 days of the date petition is filed. Correspondence should be sent to: ICC, Fed. Res. Bank Bldg., 101 N. 7th Street Room 620, Philadelphia, PA 19106.

WC 160084 (Sub-II-1TA), filed January 13, 1982. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H St., NW, Washington, DC 20006. Contract, Water: *Articles exceeding 19 ft. in height, or 12 ft. in width, or 90 ft. in length, or 100 net tons in weight, component parts thereof, and related equipment,* between Hampton, VA and New York City, NY, for 180 days. Supporting shipper(s): Paulssen Guice, Ltd., 15 Park Row, New York, NY 10038.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2447 Filed 1-29-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 1-82]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Justice Management Division.

The new system, entitled "Freedom of Information/Privacy Act (FOI/PA) Request Letters, JUSTICE/JMD-020," is a spin-off of an existing system of records entitled "Freedom of Information/Privacy Act Records, JUSTICE/JMD-019" which was most recently published in full text on January 10, 1980 in **Federal Register**, Volume 45, page 2231. A category of records, i.e., FOI/PA initial request letters, is now being reported as a separate system under JUSTICE/JMD-020. In addition, an automated index to these requests is being established.

5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. A waiver of this 60-day period has been requested of OMB. The public, OMB and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If OMB grants the requested waiver, the system will be effective March 3, 1982. If OMB denies the requested waiver, the system will be effective April 2, 1982. In either instance, the system will be adopted without further notice in the **Federal Register**. No oral hearings are contemplated.

A report of the proposed system has also been provided to the President of the Senate and to the Speaker of the House of Representatives.

Dated: January 8, 1982.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

Justice/JMD-020

SYSTEM NAME:

Freedom of Information/Privacy Act (FOI/PA) Request Letters.

SYSTEM LOCATION:

FOI/PA referral unit, Office of Administrative Counsel, Justice Management Division, Department of Justice (DOJ), Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons making FOI/PA requests to the Department. (The names of persons making requests directly to the Board of Immigration Appeals (BIA), individual United States Attorneys' Offices, or a Department bureau, i.e., the Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Office of Justice Assistance, Research and Statistics, and the Immigration and Naturalization Service, will not usually be in this system, except in those rare instances where these organizations may forward a request to the Department for appropriate referral.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Paper documents consist of written FOI/PA requests for Department records not addressed to a specific DOJ component and therefore forwarded to the unit for assignment and referral; forms indicating the DOJ components to which requests have been referred; acknowledgement/referral adivsory letters to requesters; and other related correspodence, e.g., letters to requesters seeking additional information and the responses thereto. (This system contains no replies which grant or deny access to records, nor any other records relating to the individual other than as stated here.) Computer records consist of an automated index to these requests, as well as to requests specifically addressed to and received directly by an

Office, Board or Division of the Department. The Offices, Boards and Divisions will advise the unit of the direct receipt of requests by sending the unit a completed form which provides certain information, i.e., the name of the first and/or third party requester, date of request, and the component receiving it. This information will be stored on discs as part of the index. The automated index will not usually include requests specifically addressed to and received directly by the BIA, the United States Attorneys' Offices, or a Department bureau. (See captin entitled "Category of individuals covered by the system.")

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 5 U.S.C. 552 and 552a; 28 CFR 16.1–.10; and 28 CFR 16.40–.57.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are not disseminated outside the Department. They are accessed only by Department personnel with a need to know, i.e., requests are referred by the FOI/PA referral unit to the appropriate Department component(s) to respond or to the Civil Division and/or United States Attorney to prepare the Department's defense in FOI/PA litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The following information will be stored on discs as a hard copy index to requests stored in file folders in locked cabinets: name of the requester, date of the request, Department component to whom the request was referred by the FOI/PA referral unit, or to whom it was specifically addressed (in which case no copy of the request is maintained in file folders), and any other nonpersonal information which at a future date may be considered useful in locating requests.

RETRIEVABILITY:

A record is retrieved by name of the individual making the request, as well as by date of the request.

SAFEGUARDS:

Paper documents are stored in file cabinets. The hard copy index is stored on word processor discs. Both the word processor and file cabinets are in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Paper records are retained in the FOI/PA referral unit for approximately one year. Paper records are then transferred to the Federal Records Center for storage in accordance with the General Services Administration's General Records Schedule 14, item 18(a), which provides for a disposal date of five years from the date of the most recent request being stored. The hard copy index to requests will be retained by the FOI/PA referral unit for up to five years. All records over five years old will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries as to whether the system contains a record of a request from an individual should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. To enable the Administrative Counsel to identify whether the system contains a request from the individual, the individual must provide the name of the person who made the request, the date of the request, and, if appropriate, the date of the Administrative Counsel's letter to the requester acknowledging receipt and referral of the request.

RECORD ACCESS PROCEDURE:

Persons desiring to access a record shall submit a request in writing to the Administrative Counsel at the address indicated under "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Requests from individuals for DOJ records under the Freedom of Information and Privacy Acts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-2479 Filed 1-29-82; 8:45 am]
BILLING CODE 4410-01-M

Proposed Consent Decree and Action To Obtain Injunctive Relief and Penalties for Violations of the Clean Air Act by the City of Many, Louisiana

In accordance with Department Policy, 28 CFR 40.7, 38 FR 19029, notice is hereby given that on January 8, 1982, a proposed consent decree in *United States of America* v. *City of Many, Louisiana,* Civil Action No. 80–0425, was lodged with the United States District Court for the Western District of Louisiana.

The proposed consent decree requires the City of Many, Louisiana to better secure and manage its dump, and to provide the means for extinguishing fires at the dump. The City will construct a fence and gate, employ an attendant during operating hours, and lock the dump at other times. The decree also calls for a maximum penalty of $5,000 for each failure to comply.

The proposed consent decree may be examined at the Office of the United States Attorney for the Western District of Louisiana, Room 3B12, Federal Building, 500 Fannin Street in Shreveport, Louisiana; at the Region VI Office of the EPA, First International Building, 1201 Elm Street, Dallas, Texas 75270; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *City of Many, Louisiana,* Civil Action No. 80–0425, DJ. Reference No. 90–5–2–1–300.

Anthony C. Liotta,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-2466 Filed 1-29-82; 8:45 am]
BILLING CODE 4410-01-M

Antitrust Division

Beatrice Food Co., and Fiberite Corp.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement, as set out below, have been filed with the United States District Court for the District of Minnesota, Third Division, in United States of America v. *Beatrice Foods Company and Fiberite Corporation,* Civil Action No. 3–80–596. The complaint in this case alleged that the acquisition of Fiberite Corporation by Beatrice Foods Company substantially

lessened competition in the production and sale of custom compounded reinforced thermoplastics molding compounds in violation of Section 7 of the Clayton Act.

The proposed Final Judgment requires Beatrice Foods and Fiberite to divest the thermoplastics compounding business of Fiberite as an ongoing business to Miller Waste Mills, Inc. of Winona, Minnesota. This divestiture is to be accomplished pursuant to the Agreement dated January 8, 1982 and executed between Beatrice, Fiberite and Miller Waste Mills. The Agreement provides that Beatrice will transfer certain assets of Fiberite which comprise its thermoplastics business to Miller Waste Mills.

The Agreement and a proposed public notice of the divestiture have also been filed with the Court.

Public comment is invited within the statutory 60-day comment period. Such comments and responses will be published in the **Federal Register** and filed with the Court. Comments should be directed to John W. Poole, Jr., Chief, Special Litigation Section, United States Department of Justice, Antitrust Division, Washington, D.C. 20530, (telephone (202) 633–2425).

Joseph H. Widmar,
Director of Operations.

United States District Court, District of Minnesota, Third Division

[Civil Action No. 3–80–596]

Stipulation

Filed: January 11, 1982.

United States of America, Plaintiff, v. *Beatrice Foods Co. and Fiberite Corporation,* Defendants.

It is stipulated by and between the undersigned parties, by their respective attorney, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings: *Provided,* That Plantiff has not withdrawn its consent, which it may do at any time before they entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

For the Plaintiff: William F. Baxter, *Assistant Attorney General;* Joseph H. Widmar, Charles F. B. McAleer, John W. Poole, Jr., Thomas L. Greaney, *Attorneys, U.S. Department of Justice;* Joseph T. Maioriello, Charles R. Esherick, Gail Kursh, Ann Lea Harding, *Attorneys, Antitrust Division, Department of Justice, 10th and Constitution Ave., N.W., Washington, D.C. 20530, Telephone: (202) 633–2419.*

For the Defendants: Richard William Austin, Robert N. Hermes, *Winston & Strawn, Suite 5000, One First National Plaza, Chicago, Illinois 60603, Telephone (312) 558–5600.*

United States District Court District of Minnesota Third Division

[Civil Action No. 3–80–596]

Final Judgment

Filed: January 11, 1982.

United States of America, Plaintiff, v. *Beatrice Foods Co. and Fiberite Corporation,* Defendants.

Plaintiff, United States of America, having filed its complaint herein on October 28, 1980, and defendants having filed their answers and plaintiff and defendants by their respective attorneys having consented to the entry of this Final Judgment:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue, and upon consent of the said parties thereto, it is hereby,

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act (15 U.S.C. 18).

II

As used in this Final Judgment:

(A) "Beatrice" means the defendant, Beatrice Foods Co., and its subsidiaries and divisions, excluding, however, the division or divisions which will conduct the business of the Fiberite Corporation created either by the total or partial liquidation of the Fiberite Corporation.

(B) "Fiberite" means the defendant, the Fiberite Corporation, a wholly-owned subsidiary of Beatrice, and the division or divisions of Beatrice which will conduct the business of the Fiberite Corporation created either by the total or partial liquidation of the Fiberite Corporation.

(C) "Department" means the United States Department of Justice, Antitrust Division.

(D) "Person" means any individual, corporation, partnership, firm, association or any other business or legal entity.

(E) "Transferee" means the purchaser of the business and assets required to be divested under the terms of this Final Judgment and for the purposes of this Final Judgment means Miller Waste Mills, Inc., a Minnesota corporation, with offices at Winona, Minnesota.

(F) "Thermoplastic compounding business" means the formulation, production, processing, marketing or sale of compounds (in pellet, powder or granular form or in packages, bags or other containers thereof, including transportation in bulk) consisting of any thermoplastic resin to which any reinforcement, filler, lubricant, flame retardant, colorant or conductive material has been added. It shall include any compound consisting of a combination of thermoplastic resins or of any combination of thermoplastic resins with any of the additives listed above or combination of such additives.

III

The provisions of this Final Judgment shall apply to Beatrice and Fiberite, their respective successors and assigns, to each of their respective officers, directors, agents and employees and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. Any person not a defendant herein who acquires by purchase, transfer or otherwise any assets pursuant to this Final Judgment shall not solely by such acquisition be considered to be a successor bound by this Final Judgment.

IV

Within ten (10) days of entry of this Final Judgment, Beatrice and Fiberite shall divest themselves absolutely, permanently and in good faith of the thermoplastic compounding business of Fiberite to the transferee so as to create a new, independent and viable competitor in that business. The divestiture shall be carried out by the defendants pursuant to the Agreement made as of the 8th day of January, 1982 and executed by Beatrice, Fiberite and the transferee, a copy of which will be filed with the Court. Defendants shall make a good faith effort to transfer all personnel listed in Exhibit B of said Agreement to the transferee.

V

Following the completion of such divestiture to the transferee, each and every respective officer, director, agent, representative and employee of Beatrice and Fiberite having responsibility for or participating in the thermoplastic compounding business of Beatrice (including its subsidiaries and divisions) is enjoined and restrained from:

(a) Exercising or attempting to exercise, directly or indirectly, any control, supervision, or influence over the policies, management, operations or acts of the transferee, or any successor in interest to the transferee;

(b) Directly or indirectly consulting with or communicating to the transferee, or any officer, director, agent, representative, or employee of the transferee, concerning the thermoplastic compounding business of Beatrice;

(c) Directly or indirectly soliciting any knowledge or information from, or communicating with, the transferee, or any officer, director, agent, representative, or employee of the transferee, concerning the thermoplastic compounding business of the transferee.

VI

Beatrice and Fiberite are enjoined and restrained for a period of ten (10) years from the effective date of the Final Judgment and without the prior approval of the Department, from acquiring, directly or indirectly, any interest in or any of the assets of any person engaged in the reinforced thermoplastic compounding business. Solely for the purposes of this Section VI, "reinforced thermoplastic compounding business" means the production, processing, marketing and sale of compounds (sold in pellet, powder or granular form or in packages, bags or other containers thereof, including transportation in bulk), consisting of a thermoplastic resin or combination of thermoplastic resins to which a reinforcing agent or combination of reinforcing agents has been added. The term "reinforcing agent" shall include fibrous materials, such as fibrous glass, synthetic organic fibers, carbons and/or graphite fibers; any reinforcing mineral materials, including mica, talc or calcium carbonate; metallic powders or oxides; glass in any form; or any combination of the foregoing. The addition to any reinforced thermoplastic compound of any additional ingredient or ingredients shall not exclude that compound from the reinforced thermoplastic compounding business.

VII

Fiberite is hereby directed for a period of ten years from the date of the entry of this Final Judgment to cease and desist from engaging in any thermoplastic compounding business as defined in Section II(F). Beatrice and Fiberite are further hereby directed to issue a public announcement acceptable to plaintiff within 10 days after the completion of the divestiture to the transferee that Fiberite's entire thermoplastic compounding business has been sold to the transferee as the successor to Fiberite's thermoplastic compounding business and to publish the announcement in the *Wall Street Journal* and the *Modern Plastics* magazine. While Beatrice owns or controls the business of Fiberite, for a period of 10 years from the date of entry of this Final Judgment, Beatrice shall maintain Fiberite as a distinct and ongoing entity or entities, either in the form of a corporation or one or more divisions.

VIII

Beatrice and Fiberite shall submit to the Department within ninety (90) days of the entry of this Final Judgment a report in writing setting forth its efforts and progress in carrying out the requirements of this Order.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement or compliance herewith, and for the punishment of violations hereof.

XI

Entry of this Final Judgment is in the public interest.

Entered:
Dated:

United States District Judge.

United States District Court; District of Minnesota, Third Division

[Civil Action No. 3-80-596]

Competitive Impact Statement

Filed: January 11, 1982.

United States of America, Plaintiff, v. *Beatrice Foods Co. and Fiberite Corporation,* Defendants.

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h) (1974), files this Competitive Impact Statement in connection with the proposed Final Judgement submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On October 28, 1980, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, challenging the acquisition of Fiberite Corporation ("Fiberite") by Beatrice Foods Co. ("Beatrice") as a violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The complaint alleges that the effect of the acquisition may be substantially to lessen competition or to tend to create a monopoly in custom compounded reinforced thermoplastics molding compounds ("custom compounded RTP"). The complaint alleges that as a result of this violation competition between Beatrice and Fiberite in custom compounded RTP was eliminated, competition in the custom compounded RTP market in general may be substantially lessened, and concentration was substantially increased in that market. The complaint sought to have Beatrice divest itself of all the assets and stock of Fiberite and for such other further relief deemed proper and just by the Court.

Entry of the proposed Final Judgement will terminate this litigation. The Court will retain jusrisdiction to construe, modify, or enforce the proposed Final Judgment.

II. Description of the Market and Firms Involved

The market alleged in the complaint is custom compounded reinforced thermoplastics molding compounds. At trial, the Government would have made the following contentions:

A. Thermoplastics are a group of plastic resins which may be repeatedly softened and hardened by heating and cooling. Reinforced thermoplastics are thermoplastic resins which have been combined with a reinforcing agent such as glass or carbon fiber to improve one or more of a resin's properties or physical characteristics. Other ingredients such as fillers, lubricants and flame retardants in addition to the reinforcing agent may also be combined with a thermoplastic resin to further improve its qualities. Reinforced thermoplastics are sold in the form of pellets or powder as raw materials to industrial processors for molding and Fabrication into a wide range of industrial and consumer products.

B. Customs compounded reinforced thermoplastics are reinforced thermoplastics selected, designed and manufactured to fill the special needs of an individual customer's application, generally in low-volume orders. Custom compounders of reinforced thermoplastics possess special know-how and technical expertise which are used to develop and maintain a broad range of proprietary formulations and recipes to meet customers' needs. Custom compounded reinforced thermoplastics are distinguishable from commodity reinforced thermoplastics molding compounds in that the latter are manufactured in high-volume quantities for sale from inventory to meet a general demand.

C. Thermoplastics are distinguished from the group of plastic resins known as thermosets. Thermoset resins can be reinforced and custom compounded, but the molecular structure of thermosets is such that once the thermoset is hardened, it cannot be softened by heat.

D. The market for custom compounded RTP is highly concentrated with high entry barriers. The four principal domestic manufacturers accounted for approximately 89 percent of the market in 1979.

E. Beatrice, by virtue of its 1976 acquisition of LNP Corporation, was, prior to the Fiberite acquisition, the leading firm in the United

States in the manufacture and sale of custom compounded RTP with about 50 percent of the market. Fiberite, prior to the time it was acquired, was the leading firm in the United States in the manufacture and sale of custom compounded reinforced thermosets. In 1975 Fiberite entered the custom compounded RTP business achieving an 8 percent market share (ranking fourth) by 1979, combining its own formulation and manufacturing expertise with the production facilities of Miller Waste Mills, Inc. ("Miller Waste Mills"), an affiliated company. Miller Waste Mills was not sold to Beatrice but has continued to manufacture RTP for Fiberite.

III. The Acquisition and Alleged Violation

The complaint alleges that Fiberite was recognized by Beatrice as a formidable and rapidly growing competitor in custom compounded RTP and that its acquisition by Beatrice would tend substantially to lessen competition or tend to create a monopoly in the United States market for those products. The complaint did not allege that Fiberite and Beatrice were actual or potential competitors in the manufacture or sale of thermosets; the alleged impact on competition was limited to reinforced thermoplastics.

IV. The Proposed Final Judgment and its Anticipated Effects on Competition

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment constitutes no admission by either party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

The proposed Final Judgment contains five principal forms of relief. First, the defendant Beatrice will be required to permanently divest the thermoplastics compounding business of Fiberite by selling it to Miller Waste Mills, Fiberite's former affiliate which presently produces and has in the past produced Fiberite's thermoplastics compounds. Second, the defendant Beatrice is enjoined from acquiring any other producer and seller of reinforced thermoplastics compounds for ten years from the date the proposed Final Judgment is entered. Third, the defendant Fiberite is enjoined for ten years from reentering the thermoplastics compounding business. Fourth, Beatrice is required to give public notice of the transfer of business to Miller Waste Mills. Fifth, Beatrice and Fiberite officers and employees responsible for or participating in Beatrice's thermoplastics compounding business are prohibited from influencing or communicating with Miller Waste Mills.

Within ten days of the entry of the proposed Final Judgment Beatrice will transfer the Fiberite thermoplastics compounding business to Miller Waste Mills pursuant to the Agreement between Beatrice, Fiberite and Miller Waste Mills that has been filed with the Court and is available to the public. The Agreement requires Beatrice to transfer the RTP trade secrets, formulations, know-how, customer lists and goodwill of Fiberite to Miller Waste Mills. Fiberite's RTP inventories and contracts are assigned to Miller Waste Mills. Key sales, scientific and marketing personnel will also transfer to the new entity. Although Fiberite retains primary rights to the tradename "Fiberite," Miller Waste Mills is granted its use on a temporary, limited basis.

The Agreement between Beatrice, Fiberite and Miller Waste Mills contains a covenant by Fiberite not to solicit or accept RTP orders for ten years and a covenant by Beatrice not to compete for 18 months on 10 accounts of Fiberite which are part of Fiberite's thermoplastics compounding business being transferred to Miller Waste Mills. Fiberite is currently engaged in significant research and development efforts aimed at producing new products for those ten accounts. Plaintiff believes that such covenants are reasonable under the circumstances here presented and useful to effectuate the spin-off to Miller Waste Mills.

The provisions of the proposed Final Judgment apply to Beatrice and Fiberite and each of its directors, officers, employees, agents, subsidiaries, affiliates, successors and assignees, and to all other persons in active concert or participation with any of them who receive actual notice of the proposed Final Judgment by personal service or otherwise.

The effect of the divestiture would be to allow Beatrice to retain the thermoset business of Fiberite and to compete in the RTP business through its LNP divisions. Miller Waste Mills would become a competitor of Beatrice in the development, production and sale of RTP, in effect, restoring the competition that previously existed between Beatrice and Fiberite.

V. Remedies Available to Potential Private litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed Final Judgment will neither impair nor assist private antitrust damage actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

VI. Procedures Available for Modification of the Proposed Final Judgment

The proposed Final Judgment is subject to a Stipulation between the Government and the defendants which provides that the Government may withdraw its consent to the proposed Judgment any time before the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary for the modification of the Final Judgment.

As provided by Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), any person wishing to comment upon the proposed Judgment may, for the statutory comment period, submit written comments to the United States Department of Justice, Attention: John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530. Such comments and the Government's response to them will be filed with the Court and published in the **Federal Register.** The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

VII. Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the United States was a trial on the merits seeking total divestiture of Fiberite. While the complaint sought total divestiture of Fiberite to restore the competition lost due to the merger, the United States considers the proposed Final Judgment coupled with the defendants' negotiated Agreement of divestiture to be a good, if not a better, alternative.

The proposed Judgment would achieve the objective of the lawsuit, restoring competition in the custom compounded reinforced thermoplastics industry. The Agreement between Beatrice, Fiberite and Miller Waste Mills provides for the transfer of Fiberite's personnel who are experienced in the custom compounding of RTP. It thereby reunites Fiberite's technical expertise with its manufacturing arm and will, to a considerable extent, restore the management and operating team which made Fiberite an effective new entrant into custom compounded RTP. A purchaser of all of Fiberite would not necessarily have access to Miller Waste Mills' RTP production facilities and might elect to close or de-emphasize Fiberite's RTP business. Accordingly, plaintiff believes that the divestiture here accomplished would restore the competition lost due to this merger in a manner as satisfactory, or in a manner superior to, the relief requested in the complaint.

Under the circumstances, the United States believes that entry of the proposed Final Judgment is in the public interest.

VIII. Determinative Materials and Documents

Plaintiff considers the Agreement between Beatrice, Fiberite and Miller Waste Mills and the public notice of the divestiture to be determinative documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), and they have been filed with the District Court for the District of Minnesota. A copy of each may be requested from the Legal Procedure Unit, Room 7416, Department of Justice, Washington, D.C. 20530.

Dated: January 8, 1982.

Respectfully submitted,

Joseph T. Maiorlello, Charles R. Esherick, Gail Kursh, Ann Lea Harding,

Attorneys, Antitrust Division, Department of Justice, 10th & Pennsylvania Avenue, NW, Washington, D.C. 20530.

[FR Doc. 82-2465 Filed 1-29-82; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

Supplemental Funds for Insular Areas

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

SUBJECT: Announcement of availability of supplemental financial assistance for problems of juvenile delinquency in selected insular areas of the U.S.

This announcement does not constitute a "major" rule, as defined by Executive Order 12291, because it does not result in: (a) an effect on the economy of $100 million or more, (b) a major increase in any costs of prices, (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Pursuant to the 1980 Amendments to the Juvenile Justice and Delinquency Prevention Act, the Office of Juvenile Justice and Delinquency Prevention is making 5 percent of its special emphasis funds available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

The Office, following consultation with the effected areas, has decided upon an equitable allocation formula. This formula would divide the available funds in a manner that would enable each territory to receive an amount, which when added to their annual formula grant allocation, would represent 70% of the minimum available to the States. The remaining funds, approximately one-third of the total allocation would then be distributed according to population.

Actual awards will be determined in accordance with the following criteria:

(1) The relative cost and effectiveness of the proposed program in effectuating the purpose of the Act;

(2) The extent to which the proposed program will incorporate new or innovative techniques;

(3) The extent of which the proposed program meets the objectives and priorities of the State plan when a State plan has been approved by the Administrator under section 223(c) and when the location and scope of the program makes such consideration appropriate;

(4) The increase in capacity of the public and private agency, institution, or individual to provide services to delinquents and other youth to help prevent delinquency;

(5) The extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency;

(6) The extent to which the proposed program facilitates the implementation of the recommendations for the Advisory Committee as set forth pursuant to section 247; and

(7) Assurance that in accord with section 224(c) at least 30 percent of the award will be awarded to non-profit organizations.

The appropriate agencies authorized to receive and distribute Office of Juvenile Justice and Delinquency Prevention OJJDP) formula grant funds in the affected Islands and Territories will be notified immediately by letter of the application procedures and deadlines.

Inquiries regarding this notice should be directed to the OJJDP Formula Grants and Technical Assistance Division, 633 Indiana Avenue, NW, Washington, D.C. 20531, (202) 724-5914.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-2425 Filed 1-29-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

January 21, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on February 18-19, 1982.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., Washington, D.C. A portion of the morning and afternoon sessions on February 18 and the afternoon session on February 19, 1982 will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on February 18, 1982 follows:

(Open to the public)

8:30-9:00 Coffee for Council Members in Chairman's Office

9:00-10:30 Committee Meeting—Policy Discussion

Education Programs—Room 807

Fellowship Programs & Research Programs—Room 1134

Planning and Special Programs—Room 1025

Public Programs & State Programs—1st Floor

10:30 to Adjourn—Consideration of specific applications, (closed to the public for the reasons stated above).

The morning session on February 19, 1982 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows: (Coffee for Staff and Council Attending Meeting will be served from 8:30 a.m.-9:00 a.m.).

Minutes of the Previous Meeting

Reports

A. Introductory Remarks and Introduction of New Chairman

B. Introduction of New Staff

C. Chairman's Grants and Grants Departing from Council Recommendation

D. Application Report

E. Gifts and Matching Report

F. FY 1982 Appropriations

G. FY 1983 Appropriation Request

H. Technical Assistance and Minority Access

I. Committee Reports on Policy and General Matters

a. Education Programs

b. Fellowship Programs & Research Programs

c. Planning and Special Programs

d. Public Programs & State Programs

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-2484 Filed 1-29-82; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Behavioral and Neural Sciences, Subcommittee for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: February 18–19, 1982, 8:30 a.m.–5:00 p.m., each day.
Place: National Science Foundation, 1800 G Street, NW., Room 642, Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C., (202) 357–7949.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 26, 1982.

[FR Doc. 82-2410 Filed 1-29-82; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular, and Molecular Biology Subcommittee on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: February 17, 18, 19, 1982; 9 a.m. to 5 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, NW, Washington DC 20550.
Type of meeting: Closed.
Contact person: Dr. Jack Pate, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington DC 20550, Telephone: 202/357–7474.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the propopsals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

January 26, 1982.

[FR Doc. 82-2411 Filed 1-29-82; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology
Date and time: February 25, 26, 27, 1982, starting at 9:00 A.M., to 5:00 P.M.
Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C.
Type of meeting: Closed
Contact person: Dr. Susan V. Bryant, Program Director, Developmental Biology Program, Room 332–E, National Science Foundation, Washington, D.C. 20550, telephone 202/357–7969

Purpose of subcommittee: To provide advice and recommendations concerning support of research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 26, 1982.

[FR Doc. 82-2413 Filed 1-29-82; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular, and Molecular Biology, Subcommittee on Molecular Biology, Group B; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

DATE & TIME: February 22 & 23, 1982, 9:00 a.m. to 5:00 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Michael A. Cusanovich, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Molecular Biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the

proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

January 26, 1982.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 82–2412 Filed 1–29–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Social & Economic Science, Subcommittee for Geography & Regional Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee for Geography & Regional Science of the Advisory Committee for Social and Economic Science.

DATE/TIME: February 16, 1982; 8:30 a.m. to 5:00 p.m.

PLACE: Room 421, National Science Foundation, 1800 G Street, NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. James H. Blackman, Acting Program Director, Geography & Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550; telephone (202) 357–7328.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Geography and Regional Science.

AGENDA: Closed portion: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

January 26, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–2414 Filed 1–29–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Zimmer Nuclear Power Station; Meeting

The ACRS Subcommittee on Zimmer Nuclear Power Station will hold a meeting on February 18, 1982, at the Americana Inn, Greater Cincinnati Airport, Cincinnati, OH. The Subcommittee will review the safety significance of quality assurance problems associated with plant construction which resulted in a $200,000 fine by NRC/Inspection and Enforcement (I&E). Notice of this meeting was published January 20, 1982.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Thursday, February 18, 1982—8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Cincinnati Gas & Electric Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: January 26, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–2485 Filed 1–29–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Patents—Small Business Firms and Non-Profit Organizations

January 28, 1982.

Memorandum to the Heads of Executive Departments and Establishments

Subject: Extension of OMB Bulletin No. 81–22

Pending issuance of a final Circular, the sunset date set forth in Part 10 of OMB Bulletin No. 81–22 "Patents—Small Firms and Non-Profit Organizations," (46 FR 34776, July 2, 1981 and 47 FR 117, Jan. 4, 1982) is revised to February 28, 1982.

Donald E. Sowle,

Administrator, Office of Federal Procurement Policy.

David A. Stockman,

Director, Office of Management and Budget.

[FR Doc. 82–2729 Filed 1–29–82 11:10 am]

BILLING CODE 3110–01–M

Transmittal Memorandum No. 6 to OMB Circular No. A-76—Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government

AGENCY: Office of Federal Procurement Policy, OMB.

ACTION: Transmittal Memorandum No. 6 to OMB Circular No. A-76 (revised) is published as an interim revision to the Circular and the Cost Comparison Handbook. A proposed final revision to the Circular will be published for public comment on or before April 1, 1982.

SUMMARY: This interim revision amends OMB Circular No. A-76 (revised), dated March 29, 1979; Supplement No. 1, the Cost Comparison Handbook; and Transmittal Memorandum Nos. 4 and 5, dated March 29, 1979, and September 26, 1980, respectively. This interim revision also adds Supplement No. 2 to the Circular, Office of Federal Procurement Policy Pamphlet No. 4, "A Guide for Writing and Administering Performance Statements of Work for Service Contracts."

Transmittal Memorandum No. 6 clarifies existing policy in the Circular and streamlines and simplifies the procedures in the Cost Comparison Handbook. Since no new policy is contained in this revision, a public comment period is not necessary. However, the major revision to the Circular, which will contain substantive policy changes as well as the changes in Transmittal No. 6, will be made available for public comment.

A task group of individuals from major agencies will convene February 1, 1982, to develop the final revision to the Circular. That proposed revision will be published in the **Federal Register** for public comment on or before April 1, 1982.

ADDRESSES: Inquiries should be directed to Ms. Darleen Druyun, Deputy Associate Administrator for Systems and Technology, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9013, Washington, D.C. 20503. Telephone: (202) 395-3254.

Donald E. Sowle,

Administrator.

January 26, 1982.

Circular No. A-76 Revised Transmittal Memorandum No. 6; Policies for Acquiring Commercial or Industrial Type Products and Services Needed by the Government

This revision amends OMB Circular No. A-76 (revised), dated March 29, 1979; the Cost Comparison Handbook; and Transmittal Memorandums 4 and 5, dated March 29, 1979, and September 26, 1980, respectively.

1. *Amendment to Transmittal Memorandum No. 5.* Paragraph 1.c. of Transmittal Memorandum No. 5, entitled "Application to Research and Development," is replaced as follows:

"c. *Application of the Circular to Research and Development.* Compliance with this Circular and the periodic review of inventoried research and development activities, except for new starts and expansions, are deferred indefinitely pending the development of appropriate criteria for determining "core capability." The Department of Defense, however, shall follow the statutory provision of Section 802 of the Defense Appropriation Authorization Act of 1980 (Pub. L. 96-107)."

2. *Amendments to OMB Circular No. A-76.*

a. Paragraph 9.a.(1). Add the following sentences at the end of paragraph 9.a.(1):

"Office of Federal Procurement Policy Pamphlet No. 4, "A Guide for Writing and Administering Performance Statements of Work for Service Contracts," is designated as Supplement No. 2 to this Circular. Work statements for services and quality assurance plans used in cost comparisons will be written using Supplement No. 2. All work statements and quality assurance plans for existing service contracts subject to the provisions of this Circular will be rewritten using Supplement No. 2 before reprocurement, even though a cost comparison will not be performed. This requirement is not applicable to contracts obtained under small purchase procedures or in those cases where the agency determines that application of Supplement No. 2 would not be in the best interests of mission accomplishment."

b. Paragraph 9.a.(3). This paragraph is replaced as follows:

"(3) Cost comparisons are to be aimed at full cost, to the maximum extent practical, in all cases. All significant Government costs (including allocation of overhead and other indirect costs) must be considered, both for direct Government performance and contract performance, including the cost to the Government for administration of the contract. Costs that would be the same for either in-house or contract operation need not be included in the cost comparision. An example of such a situation is where a contractor would use the same facilities as an in-house operation."

c. Paragraph 9.b.(2). This paragraph is replaced as follows:

"(2) The factor to be used for the Government's cost of administering contracts, in addition to other costs of contract performance as specified in the Handbook, is 4 percent of the contract price or expected costs, unless a larger (up to 6 percent) or smaller amount can be fully justified, using the procedures in the Handbook."

3. *Amendments to the Cost Comparison Handbook.* Changes to the Cost Comparison Handbook are contained in Attachment A to this transmittal memorandum.

4. This revision is effective immediately and shall apply to all studies in process where no cost comparison has been made, provided there is sufficient time to make changes prior to submission of the Cost Comparison Form to the contracting officer by the date specified for contractor proposals or bids.

5. Inquiries should be directed to Ms. Darleen Druyun, Deputy Associate Administrator for Systems and Technology, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9013, Washington, D.C. 20503. Telephone: (202) 395-3254.

David A. Stockman,

Director.

Attachment A—Changes to the Cost Comparison Handbook Supplement No. 1, OMB Circular No. A-76 (Revised)

A. Chapter III. Paragraph H. *Inflation of Out-Year Costs—Line 8.* Add paragraphs 4 and 5 as follows:

"4. In cases where a contract for the needed product or services would include some form of economic adjustment clause for subsequent years, no allowance for inflation of those costs protected by the adjustment clause is included in out-year contract pricing, and corresponding costs of Government performance should not be inflated. For example, contracts subject to the Service Contract Act include a clause that provides for adjustments to accommodate labor cost increases necessitated by future minimum wage determinations. Accordingly, when contract performance would be under a contract subject to the Service Contract Act, labor costs for Government employees in occupations that would be included in the Act should be deducted from the base for inflation calculations."

"5. Depreciation costs for equipment or facilities, included in overhead or G&A expenses, must also be deducted before inflation is computed."

B. Chapter IV. Paragraph D. *Contract Administration—Line 12.* Add paragraph 3.

"3. The standard 4-percent contract administration rate shall be used unless there is precise and supportable

evidence that expected contract administration costs will be less or more than 4 percent. In no case, however, will the rate exceed 6 percent.

"a. The following conditions must be met in order to exceed the 4-percent contract administration costs:

"(1) The estimate of contract administration cost is based on a formal Government quality assurance surveillance plan;

"(2) The solicitation must contain clearly defined contractor quality control requirments;

"(3) The Government quality assurance surveillance plan shall be based on the quality assurance technique described in Supplement 2;

"(4) The supporting data for line 12 must contain a detailed breakdown of inspection costs based on an analysis of the Government quality assurance surveillance plan;

"(5) The statement of work must be performance oriented, as described in Supplement 2."

(C). Chapter V. Paragraph E.4.c. *Labor-Related Costs.* Add the following to the end of paragraph E.4.c.: "In developing the labor related costs the following model shall be used:

"(1) Estimate the number of personnel who will voluntarily resign or retire from Government employment. Then, estimate those who will be separated but will be employed by the contractor. No costs are chargeable. Severance pay is not allowed for those Government employees who are hired by the contractor within 90 days after separation.

"(2) Estimate those who will be separated, but will not be employed by the contractor. Calculate severance pay.

"(3) Estimate those who will remain in Government employment but will be relocated. Calculate the costs associated with the relocation.

"(4) Estimate those who will remain in Government employment but will be trained. Calculate the costs associated with retraining.

"(5) Add the costs determined in steps (2) through (4). Include these costs in line 25.

"(6) Estimate the retained pay costs associated with those persons who would be downgraded as a result of a conversion. These incremental costs (the difference between current pay and downgraded pay) are continuing and not considered a one time conversion cost. This cost should be shown on line 26."

D. Chapter V. Paragraph F. *Utilization of Government Capacity—Line 24.* Add the following sentences to the end of paragraph F.1:

"In charging underutilized capacity do not include any underutilized personnel-related costs on line 24. Prudent management will ensure that personnel are assigned to other tasks or reductions made in the size of the overhead organization. Therefore, these costs are not properly chargeable to the cost of contracting-out."

E. Chapter V. Paragraph F. Substitute subparagraphs 5.a. through 5.g. with subparagraphs 5.a. through 5.i. as follows:

"a. Determine Government overhead costs chargeable to the in-house activity.

"b. Determine Government overhead costs chargeable to the cost of contracting-out.

"c. Subtract step b from step a.

"d. Determine any changes to Government overhead costs that should result if the service is contracted out (for example, can a position or part of a function be eliminated?).

"e. Subtract step d from step c.

"f. Go to lines 25 and 26 and identify those personnel who would continue to be employed in the G & A base if the in-house activity under review were to be contracted out. Multiply the combined salary and fringe benefits of these employes by the G & A rate.

"g. Subtract step f from step e.

"h. If the result of step g would be an addition to the cost of contracting out, delete any personnel-related costs from the result of step g.

"i. Enter the result of step h on line 24."

F. Chapter VI. Paragraph C.1. *New Start—Line 31.* Add the following sentence to the end of the paragraph: "Government-owned facilities or equipment that would be used by either the contractor or the Government shall not be included in facility/equipment ownership costs for computing a new start differential."

[FR Doc. 82-2483 Filed 1-29-82; 8:45 am]

BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 05/05-5166]

V-H Investment Co.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)) under the name of V-H Investment Company, 5101 West 65th Place, Chicago, Illinois 60638, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholder of the Applicant are as follows:

Name and address	Title and relationship	Percent of ownership
S. Richard Van Horne, Jr., 5101 W. 65th Place, Chicago, Illinois 60638.	President and Chairman of the Board.	0
S. Richard Van Horne, Sr., 5101 W. 65th Place, Chicago, Illinois 60638.	Secretary and Director.	0
Sanford I. Rosenberger, CPA, 4849 Golf, Skokie, Illinois.	Treasurer and Director.	0
Corrugated Supplies Corp., 5101 W. 65th Place, Chicago, Illinois 60638.	Parent Company	100

Corrugated Supplies Corporation, the parent company, manufactures corrugated paper which is sold to box manufacturers and other manufacturers of similar containers or packaging materials.

The Applicant will begin operations with $500,000 of private capital derived from the sale of 5,200 shares of stock to Corrugated Supply Corp.

The Applicant will conduct its operations in the State of Illinois.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Notice is hereby given that any person may, on or before February 22, 1982, submit written comments on the proposed company to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 27, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-2546 Filed 1-29-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 791]

Agency Decision To Proceed With Modifications to the International Center, Washington, D.C.

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given pursuant to the regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR Parts 1500–1508) and contingent upon Congressional authorization amending Public Law 90–553, that the Department of State will proceed with the next procedural step in the implementation process of the modifications to the International Center as presented in the Final Environmental Impact Statement filed with the U.S. Environmental Protection Agency on December 11, 1981.

No significant unmitigatable adverse impacts have been found or are anticipated from the proposed modifications to the International Center of (1) changing the prime lessor of the Southeast Quadrant from the Organization of American States to the International Telecommunications Satellite Organization (INTELSAT), and (2) expanding the chancery sites to include the Northwest Quadrant of the former National Bureau of Standards site. The proposed action consists of long-term leases of Federal land to INTELSAT and foreign governments for the purposes of constructing up to a 700,000 square foot INTELSAT headquarters building and up to nine chanceries or chancery enclaves in the Northwest Quadrant.

The next step in the implementation process of these modifications is to obtain master plan approval and in-lieu-of-zoning review of each individual building from the National Capital Planning Commission. Master plan approval and favorable in-lieu-of-zoning review on the INTELSAT headquarters building is being sought at the January 21, 1982 meeting of the National Capital Planning Commission.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Edgins, Director, International Center Project, Room 1882, Department of State, 2201 C Street, N.W., Washington, D.C. 20520, (202) 632–9540.

Dated: January 25, 1982.

James A. Edgins,

Director, International Center Project.

[FR Doc. 82-2431 Filed 1-29-82; 8:45 am]

BILLING CODE 4710-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-007]

Memorandum of Understanding Between the United States Coast Guard and the Environmental Protection Agency

On January 4, 1982 the Coast Guard and the Environmental Protection Agency signed a Memorandum of Understanding which establishes a mechanism to fund costs incurred by the Coast Guard in emergency responses to releases of hazardous substances, pollutants, or contaminants. The agreement became effective on January 4, 1982 and reads as follows:

Dated: January 27, 1982.

A. D. Utara,

Commander, U.S. Coast Guard, Regulations Officer.

Memorandum of Understanding Between the United States Coast Guard and the Environmental Protection Agency

A Mechanism for Funding Vendor Costs Incurred by the U.S. Coast Guard During Emergency Response to Releases or Threats of Releases of Hazardous Substances.

Purpose

The U.S. Coast Guard (USCG) and the Environmental Protection Agency (EPA) agree that a mechanism is required to fund USCG costs incurred during emergency response to releases, or the threats of releases of hazardous substances or pollutants or contaminants. This Memorandum of Understanding establishes the accounting, contracting, and fund management control policies and procedures for USCG response actions.

Authority:

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (94 Stat. 2796; 42 U.S.C. 9615) authorizes the President to respond to releases or threats of releases into the environment of hazardous substances, or pollutants or contaminants which may present an imminent and substantial danger to the public health or welfare. The Executive Order 12316 delegates certain authority and responsibility for response to the Administrator of the EPA and to the Secretary of Transportation. The USCG and the EPA are entering into this agreement in order to carry out their joint responsibilities under CERCLA and the Executive Order.

Scope

The USCG and the EPA agree that vendor costs are costs incurred by the USCG in response to a specific incident of a release, or threat of a release, or hazardous substances.

The vendor costs are only those costs which qualify as allowable uses of the Hazardous Substance Response Trust Fund when the USCG undertakes response activities pursuant to CERCLA, Executive Order 12316, and the National Oil and Hazardous Substances Contingency Plan. Examples of vendor costs include, but are not limited to, the following:

- Contractor and consulting costs;
- Lease or rental of equipment; and
- Supplies, materials, and equipment (including transportation costs) procured for the specific response activity and expended during a response.

Vendor costs do *not* include USCG out-of-pocket expenses which are:

- Travel and per diem for military and civilian personnel, and overtime costs for civilian personnel;
- Fuel for vessels, aircraft, or vehicles used in support of a response activity; and
- Replacement or repair costs for non-expendable equipment.

Funding for out-of-pocket expenses and other non-vendor costs will be the subject of a separate agreement between the EPA and the USCG.

The Coast Guard will advise all of its District Commanders, predesignated On-Scene Coordinators (OSC), and Regional Response Team members of the terms of this Memorandum. The USCG will provide to EPA a current listing of District personnel who will serve as appropriate contacts for EPA on matters relating to contracting and accounting for response activity.

Contracting and Accounting

The USCG and the EPA agree that the EPA will perform all accounting for vendor costs.

The USCG and the EPA agree that the contracting system used by the USCG for responses to oil and hazardous substance discharges under the authority of Section 311 of the Clean Water Act, shall be used for USCG responses to all releases or threats of releases of hazardous substances or pollutants or contaminants as defined in CERCLA.

Any contracts for immediate removal actions in response to releases or threats of releases of hazardous substances or pollutants or contaminants entered into by the Coast

Guard, where the USCG OSC is acting in the capacity of first responding Federal official, pursuant to the National Contingency Plan, shall remain in effect only during the period that the USCG is the OSC.

Any contract for immediate removal actions in response to releases, or threats of releases, of hazardous substances or pollutants or contaminants, entered into by the Coast Guard pursuant to the authority delegated under Executive Order 12316, and retained by the USCG in Section (c) of the Instrument of Redelegation, executed 2 October 1981 by the Secretary of Transportation and consented to on 9 October 1981 by the Administrator of the Environmental Protection Agency, shall remain in effect only during the period that the USCG is acting under this authority.

The USCG and the EPA agree on the following procedures for coordinating the EPA accounting system and the USCG contracting system.

1. *Obtain account number.* For each incident where CERCLA funds are obligated, the USCG OSC must obtain a ten-digit account number from EPA Headquarters which identifies a specific site/spill incident. The number is obtained by calling: Chief, Response Operations Branch, Emergency Response Division, Office of Emergency and Remedial Response, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245–3057.

The USCG OSC will provide an estimate of the response costs concomitant with the request for an account number.

The ten-digit account number will not be issued unless CERCLA funds are available for the response action.

2. *Accounting codes.* Specific accounting information is required by the EPA Financial Management System in order to process contracts. There are five categories of accounting and control numbers which must be entered on each contract and financial document. They are:

• *Appropriation Number:* This number is permanently assigned to the trust fund:

68-20X8145

• *Account Number:* The ten-digit account number obtained for each incident from EPA Headquarters (see #1). The R and SS portions will vary to identify each separate release incident.

FTFA72RESS
Where:
R=EPA Region where the release occurred
SS=Site/spill identification number

• *Document Control Number:* The OSC will develop a set of document control numbers for a specific release incident in the following format:

RSSXXX
Where:
R=EPA Region where the release occurred
SS=Site/spill identification number
XXX=Contract document number

Each contract entered into relative to each release must have a unique document control number issued in ascending numerical sequence beginning with XXX=001 for the first contract issued for that release. The R and SS portions are obtained from the Account Number.

For Example:
RSS001 for 1st contract and its modifications
RSS002 for 2nd contract and its modifications

• *Object Class:* This number is permanently assigned.

2535

• *Amount of Contract in Dollars*

$ _____

3. *Transmit Contract to EPA.* In order for EPA to process payments for response contracts, a legible certified true copy of the contract and modifications to the contract must be submitted by certified mail within 72 hours of award by a USCG District Contracting Officer to the EPA paying office: Financial Management Officer, Accounting Operations Office (MD–32), Environmental Protection Agency, Research Triangle Park, Durham, NC 27711.

The USCG will assure that the USCG contract number and the EPA accounting codes (appropriation number, account number, document control number, object class, and dollar amount) are clearly and legibly presented on the contract document. The USCG will assure that the EPA accounting codes and USCG contract number are made known to the contractor. The original contract will be retained by the USCG.

4. *Process Contractor Invoices*

4.1 *Contractor Responsibilities:*

The contractor will:

• Send the original invoice to the EPA paying office. The address for the paying office is: Financial Management Officer, Accounting Operations Office (MD–32), Environmental Protection Agency, Research Triangle Park, Durham, NC 27711.

• Submit a duplicate copy of the invoice to the USCG OSC.

• Assure that the USCG contract number and the EPA accounting codes (appropriation number, account number, document control number, object class, and dollar amount) are clearly and legibly presented on the invoice and its copy. Contractors submitting invoices for work performed under a contract are to number each invoice sequentially beginning with one (1) and make a notation on the last invoice under the contract with the phrase "FINAL INVOICE."

4.2 *USCG OSC Responsibilities:*

• The USCG OSC must certify each correct and proper invoice. A correct and proper invoice is one in which the services performed are acceptable and are consistent with the services billed and the accounting data properly transcribed.

The certification statement to be used by OSC's of both agencies for all CERCLA cases.

"I, (OSC NAME), certify to the best of my knowledge and belief that the services have been performed and are accepted, and that applicable Pollution Incident Reporting System (PIRS) and EPA Spill Prevention Control and Countermeasure (SPCC) information has been correctly and completely submitted."

_____
(OSC's Signature)

_____
(date)

• The OSC will forward by certified mail the accepted and certified invoice, within 72 hours of receipt of the invoice from the contractor, to the EPA paying office (address shown above).

• The USCG OSC shall *not* certify invoices which include discrepancies between services performed and services billed. In the event that there are discrepancies in the invoices, the USCG representative shall, immediately upon receipt of the invoice, take appropriate action to notify the contractor and to resolve the discrepancies.

Within 72 hours of receipt of an invoice containing unresolved discrepancies, the OSC shall forward the invoice by certified mail to the EPA paying office (address shown above). The invoice will be endorsed with the following statement:

"This invoice contains unresolved discrepancies. DO NOT PAY THIS INVOICE UNTIL YUO RECEIVE WRITTEN NOTIFICATION THAT THE DISCREPANCIES HAVE BEEN RESOLVED AND THE INVOICE IS REISSUED."

_____
(OSC signature)

_____
(date)

4.3 *EPA Responsibilities:*

• The EPA has the responsibility to process contract invoices and to make contract payments in a timely manner. Contract payments are normally made within 30 days after invoice receipt.

• Payment will be contingent on the EPA paying office receipt of the original invoice from the contractor and the USCG OSC's certified copy of the invoice.

• The paying office will withold payment for contractor services if the OSC has not certified the invoice. Payments will be made when the discrepancies are resolved and the invoice is reissued and received at the paying office.

• The paying office will not pay any response costs in excess of the dollar amount of the contract. In the event that a contractor's service exceeds the dollar amount of the contract, the EPA paying office will inform the USCG District Representative who will take appropriate action.

Financial Management

The USCG and EPA agree that the USCG may obligate up to $50,000 per release without prior approval from EPA. Approval to obligate amounts in excess of the $50,000 ceiling must be obtained from: Chief, Response Operations Branch, Emergency Response Division, Office of Emergency and Remedial Response, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 245–3057.

The USCG will modify, as necessary, any existing contracts to reflect each ceiling increase. Certified copies of the contract modification must be submitted to the EPA paying office.

The USCG and EPA recognize that CERCLA requires that response actions cease when $1 million is obligated or 6 months have elapsed from the date of initial response, except as authorized under Section 104(c)(1), thereof.

Reporting Requirements: POLREPS

The USCG and the EPA agree that the EPA, acting in the capacity as manager of the Hazardous Substance Response Trust Fund, requires up-to-date information on CERCLA response actions and the related obligations of CERCLA funds for these actions. Pollution Reports (POLREPS) are submitted by USCG OSC's to USCG District Commanders. POLREPS provide factual operational data relating to a release and a current accounting of project costs. The USCG OSC will submit a duplicate copy of all POLREP's to the Director, Emergency Response Division, EPA, (TWX #710–8229289) for the purpose of communicating CERCLA response and fund obligation data to EPA. The initial POLREP will be sent within 24 hours of initiating a response action, if information is available. Once the initial report is completed, progress POLREPS should be sent on a routine basis.

Period of Agreement

This Memorandum shall continue in effect until modified or amended by the assent of both parties or terminated by either party upon a thirty (30) days advance written notice to the other party.

Nothing in this agreement is intended to diminish or otherwise affect the statutory authority of the agencies involved.

This Memorandum will become effective at noon on the date of the last signature below.

Dated: December 10, 1981.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

Dated: January 4, 1982.

Christopher J. Capper,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 82-2512 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Airport Traffic Control Tower at Huntsville, Alabama; Reduction of Hours

Notice is hereby given that on or about January 31, 1982, the Huntsville, Alabama Airport Traffic Control Tower will be permanently closed each day from 11 p.m. to 6 a.m. local time. This information will be reflected in forthcoming issues of the Airman's Information Manual.

Issued in East Point, Georgia, on December 22, 1981.

George R. LaCaille,

Deputy Director, Southern Region.

[FR Doc. 82-2415 Filed 1-29-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[Waiver Petition Docket Nos. RSGM–81–35 through RSGM–81–47]

Petitions for Waiver of Safety Glazing Standards

Notice is hereby given that eight petitioners have submitted requests for temporary or permanent waivers of compliance with the Safety Glazing Standards (49 CFR Part 223). The Federal Railroad Administration (FRA) published a final rule on December 31, 1979, that requires that all newly built and most existing railroad equipment have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets. The regulations provide for the affected locomotives, passenger cars, and cabooses to be equipped with certified glazing in all windows after June 30, 1983.

The individual petitions for a waiver of compliance with this regulation are described below. The description indicates the nature and extent of the relief requested as well as the information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA Waiver Petition Docket Number RSGM–81–35) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration (FRA), 400 Seventh Street, SW., Washington, DC 20590. Communications received before April 5, 1982, will be considered by the Federal Railroad Administration before final action is taken. All comments will be available for examination both before and after the closing date for comments, during regular business hours (9 a.m.–5 p.m.), in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Delaware and Hudson Railway Company

(Waiver Petition Docket Number RSGM–81–35)

The Delaware and Hudson Railway Company (D&H) seeks a permanent waiver of compliance with Part 223 for 130 of its present fleet of 136 locomotives and for its entire fleet of 57 cabooses. Six of its locomotives, acquired in 1980, are equipped with Part 223 glazing; the remaining 130 have conventional glazing.

Of the 130 locomotives, 55 are of a type to which Part 223 glazing cannot be applied to replace the original fixed window glass without new rubber channels, cab modifications necessitated by the new channels, and new templates because of the larger glasses needed to overlap the openings. The material cost alone would be $99,000. The material cost for the remaining 75 locomotives totals $82,500. Total labor costs for all locomotives is estimated at $61,750. For the 57

cabooses, all of which would also require special modifications, the costs would be $373,878 for labor and material.

In addition, D&H states that crew-targeted vandalism on its lines does not have the proportions to justify bulletproof side glazing and cinderblock resistant forward facing windows. D&H also states that the ¼-inch Lexan glazing now in use provides good protection for the type of vandalism that it does encounter, and that the hazard potential is greatly reduced by the absence of high speeds on its lines.

Richmond, Fredericksburg and Potomac Railroad Company

(Waiver Petition Docket Number RSGM–81–36)

The Richmond, Fredericksburg and Potomac Railroad Company (RF&P) owns and operates 22 road locomotives between Richmond, Virginia and Potomac Yard, Virginia. It seeks a delay in compliance with Part 223 because the locomotives will become 20 years old shortly after the compliance date of June 30, 1983. Eight will reach that age in 1985, 5 in 1986, 2 in 1987 and 7 in 1992. All windows and doors are now fitted with safety laminated glass. Accordingly, petitioner believes that the costs of installing glazing that meets the requirements of Part 223, would be an unsound investment.

Marinette, Tomahawk and Western Railroad Company

(Waiver Petition Docket No. RSGM–81–37)

The Marinette, Tomahawk and Western Railroad Company, located in Tomahawk, Wisconsin, requests a permanent waiver of the Part 223 Glazing requirements for two locomotives that operate over 12 miles of rural track in a sparsely populated area. Petitioner states that throughout its history (since 1891) there has been no occurrence of vandalism that would require safety glazing to protect the crew.

Cliffside Railroad Company

(Waiver Petition Docket No. RSGM–81–38)

The Cliffside Railroad Company seeks a permanent waiver of the Part 223 glazing requirements for 2 locomotives that it operates over 3.7 miles of track in a rural area in Cliffside, North Carolina. It has experienced no vandal-related damage to locomotive windows. The cost of retrofitting would be very costly in terms of petitioner's limited operating budget.

Ware Shoals Railroad Company

(Waiver Petition Docket No. RSGM–81–39)

The Ware Shoals Railroad Company, a short line railroad located in Ware Shoals, South Carolina seeks a permanent waiver of compliance from Part 223. It operates one locomotive with some safety glass and some replacement glass other than safety glass. The locomotive is operated in daylight hours only on a 5 mile track in a sparsely populated area, mostly within the confines of its yard. There is one overpass over this track. Petitioner states it has no problem with vandals and does not consider safety glass necessary in its operations.

Nezperce Railroad Company

(Waiver Petition Docket No. RSGM–81–40)

The Nezperce Railroad Company, operating in rural Idaho between Nezperce (pop. 450) and Craigmont (pop. 600), seeks a permanent waiver from Part 223 for its 3 locomotives that operate over 13.5 miles of track that runs through rural farm land and crosses "farm to market roads only." The average operating speed for these locomotives is 5 miles per hour. They have no history or record of vandalism or damage.

Consolidated Rail Corporation

(Waiver Petition Docket No. RSGM–81–41)

Consolidated Rail Corporation (Conrail) seeks a substantial extension of time limits for compliance with the glazing requirements of Part 223.

Petitioner's reasons for this request are:

1. The severe budgetary restraints that inhibit Conrail's capacity to finance a rush program to meet the requirements within the timetable. The cost would be almost $10 million dollars.

2. The size of its locomotive and caboose fleet; it is the largest in the country.

3. The risk of injury inherent in the delay is minimal. While objects are thrown or shot at locomotive or cabooses with some frequency, Conrail has had a very low injury rate due to broken glass on locomotives; one injury per 3,352,022 man hours over the last three years.

4. Conrail conducts a regular overhaul and rebuilding program of road locomotives and cabooses every four (4) years and of yard locomotives every eight (8) years and would bring all equipment into compliance within these timeframes.

5. Conrail now complies with FRA glazing requirements when doing normal repairs of broken or damaged equipment.

In the event the FRA does not permit the gradual conversion of the units to certified glazing, Conrail requests an extension until June 30, 1985, to complete the program. The waiver would help Conrail improve its financial viability while involving minimal employee risk.

Hampton & Branchville Railroad Company, Inc.

(Waiver Petition Docket No. RSGM–81–42)

The Hampton and Branchville Railroad Company, Inc., a 17-mile line have railroad that operates between Hampton, South Carolina and H&B Junction, South Carolina, seeks a waiver of compliance with Part 223 for 3 locomotives. The petitioner also does a minor amount of switching for 2 plants. It normally operates a 2-man crew, 5 days a week during daylight hours. The area in which it operates is rural, with 11 paved and 5 dirt crossings. Petitioner has never experienced glass breakage or vandalism on its locomotives.

Louisville and Nashville Railroad Company

(Waiver Petition Docket No. RSGM–81–43)

The Louisville and Nashville Railroad Company (L&N) requests waiver of the safety glazing compliance date of June 30, 1983, for certain of its locomotives.

L&N has 88 locomotives scheduled for retirement by December 31, 1984. Because manufacturer of these locomotives has ceased production, it is virtually impossible and prohibitively expensive to obtain glazing materials that meet FRA regulations.

Petitioner also operates 271 switcher locomotives, generally used in yard service, but also used between yards, as well as in industrial switching and between engine houses and outlying points at regular maintenance periods. On occasion, these locomotives are used in a consist in road service, but rarely as lead engine. Because of their age and cab style, it will be very expensive to equip these locomotives with certified glazing. Petitioner is not aware of any glass manufacturer that has developed the costs or sizes for these switchers.

L&N operates 25 road switchers, built between 1950 and 1956 which it expects to retire or place in a switcher category within 5 years of June 30, 1983.

Petitioner states that, if the waivers are granted, it will—

(1) Clearly designate on each locomotive scheduled for retirement in the next 3 years that it has been granted an FRA exemption.

(2) To every extent possible, avoid using exempt locomotives as lead units on road service. Because of their age and higher incidence of repair, the possibility of their being so used decreases rapidly over the years.

(3) Maintain precise vandalism records on each exempt locomotive and any pattern of exposure will result in the immediate retrofitting of that locomotive.

The Massena Terminal Railroad Company

(Waiver Petition Docket No. RSGM–81–44)

The Massena Terminal Railroad Company seeks exemption from the safety glazing requirements of Part 223. Petitioner is a 2.5 mile switching terminal railroad with 2 locomotives. It performs switching primarily within the confines of the Aluminum Company of America in Massena, New York.

Sierra Railroad Company

(Waiver Petition Docket No. RSGM–81–45)

The Sierra Railroad Company, which operates freight service between Oakdale, California, and Fassler (Standard), California, a distance of 98 miles, seeks a waiver of compliance with the safety glazing requirements of Part 223 for 3 locomotives and 2 cabooses. Petitioner operates 3 round trips per week through rural, lightly populated country and at no point through towns, cities or railroad yards. For several years there have been no vandal occurrences and the risk of such occurrences is very limited. Petitioner advises the costs of compliance would be an undue financial burden to protect against a virtually nonexistent exposure.

Stockton Terminal and Eastern Railroad

(Waiver Petition Docket No. RSGM–81–46)

The Stockton Terminal and Eastern Railroad (ST&E), a Class III railroad operating on 13.79 miles of line in East Stockton, California and extending to Linden, California, seeks a waiver from the safety glazing requirements of Part 223. The majority of ST&E operations are in East Stockton, with about 15 trips a year to Linden.

The ST&E connects with the Southern Pacific, Western Pacific and Santa Fe. Its operations consist of yard switching of industries at a maximum speed of 20 miles per hour with most movements between 5 and 10 miles per hour.

Within the last 7 years ST&E has experienced no accidents, injuries, or vandalism of the safety glass now in its locomotives.

Massachusetts Bay Transportation Authority

(Waiver Petition Docket No. RSGM–81–47)

The Massachusetts Bay Transportation Authority (MBTA) seeks a waiver of the glazing requirements of Part 223 for 60 of its Pullman Standard (PS) passenger cars built during 1978–1979. Fifteen (15) of these cars are control cab cars for push/pull operations.

The end-facing glazing on the 15 control cab cars is not marked to indicate compliance with FRA Type I test requirement, but MBTA is quite certain that both the glazing and the mounting do comply. The glazing is 9/16 inch thick Sierracin/Sylmar RT–6000 set in neoprene conforming to ASTM Spec. C542. The side-facing windows in the passenger compartments are double-glazed with the outer pane of 1/4 inch Tuffak CM–2, made by Rhom and Haas Company, Philadelphia, PA. The inner pane is 1/4 inch laminated safety glass. The side-facing windows in the vestibule doors are equipped with a single-pane of 1/4 inch Tuffak CM–2. The engineman's side window on the 15 control cars is also Tuffak.

Petitioner states that its experience with the cars to date has been excellent and that there has not been a single reported injury due to window breakage even though the cars are used in a metropolitan area. In some cases when the side windows are hit by a hard thrown missile, the outer pane of Tuffak deflects enough to break the inner pane of safety glass. In most cases the inner pane is just cracked.

The Boston and Maine, which operates the cars, estimates that they have replaced about 10% of the side-facing windows due to breakage of the inner panes. In each case, the inner pane has been replaced with Tuffak, the same as the outer pane.

(Sec. 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 97 (45 U.S.C. 43) and § 1.49(n) of the regulations of the Office of the Secretary of Transportation 49 CFR 1.49(n))

Issued in Washington, D.C. on January 21, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82–2335 Filed 1–29–82; 8:45 am]
BILLING CODE 4910–06–M

Maritime Administration

Revisions to the Voluntary Tanker Agreement

AGENCY: Maritime Administration, DOT.

ACTION: Extension of time for submitting written comments on revisions to the Voluntary Tanker Agreement.

SUMMARY: The Maritime Administration held a public meeting on January 20, 1982 in the Auditorium, U.S. Department of Commerce to discuss the draft revisions to the Voluntary Tanker Agreement and to receive both written and oral comments on the draft from interested persons. [For notification of meeting, see **Federal Register**, Volume 46, No. 239, page 61052; Dec. 14, 1981]. Because there could be follow-on questions and comments resulting from the January 20th meeting and because some interested parties might not have been able to attend the meeting, the Maritime Administration is extending the period for submission of written comments through the close of business on February 15, 1982.

Any interested person may submit written data and comments to Mr. Frank B. Case, Division of National Security Plans, Room 1098–B, Maritime Administration, 14th and Pennsylvania Avenue, NW., Washington, D.C. 20230, (202) 377–1900.

Dated: January 26, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82–2532 Filed 1–29–82; 8:45 am]
BILLING CODE 4910–81–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 21
Monday, February 1, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–341, Amdt. 1, January 25, 1982]

Addition and Closure of Items to the January 29, 1982 Board Meeting

TIME AND DATE: 10 a.m. (after open meeting) January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

36. Report on Negotiations with Japan (BIA).

37. Docket 39710, Complaint of United Air Lines, Inc. against the Japan Civil Aviation Bureau and Japan Air Lines Co., Ltd. under the Federal Aviation Act of 1958, as amended, and section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974, as amended (MBA 709–F, BIA, OGC).

38. Report on negotiations with China (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–144–82 Filed 1–28–82; 3:48 pm]

BILLING CODE 6320–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., February 4, 1982.

LOCATION: Room 456 Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Section 6(b) CPSA—Proposed Rule*
The staff will brief the Commission on a proposed rule which would establish the Commission policy and procedure for the public disclosure of information under Section 6(b) of the Consumer Product Safety Act.

2. *FY 82 Operating Plan—Status*
The Commission will review the status of the Operating Plan for FY 82.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Ave., Bethesda, Maryland 20207; Telephone (301) 492–5800.

[S–136–82 Filed 1–20–82; 10:30 am]

BILLING CODE 6355–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 25, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from Northern Ohio Bank, Cleveland, Ohio (Case No. 45,029–L).

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of United Carolina Bank, Whiteville, North Carolina, for consent to merge, under its charter and title, with The Bank of Raeford, Raeford, North Carolina, and to establish the three offices of The Bank of Raeford as branches of the resultant bank.

Requests for exemptions pursuant to Section 348.6(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

United Mutual Savings Bank, New York, New York,

Independence Savings Bank, Brooklyn, New York.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 26, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–141–82 Filed 1–28–82; 11:40 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 25, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request from the Comptroller of the Currency that the Corporation, pursuant to section 10(b) of the Federal Deposit Insurance Act, assist in an examination of a national bank.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,085–L—Franklin National Bank, New York, New York.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 26, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-142-82 Filed 1-28-82; 11:40 am]

BILLING CODE 6714-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 3466, January 25, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 27, 1982.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CAP-33. ER81-708-000, Public Service Company of Indiana, Inc.

Kenneth F. Plumb,

Secretary.

[S-143 Filed 1-29-82; 2:26 pm]

BILLING CODE 6717-01-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-3A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 3062, January 21, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, January 28, 1982.

CHANGES IN THE MEETING: Emergency notice cancelling the meeting. By action jacket SE-82-02, Commissioners Alberger, Calhoun, Stern, Eckes, and Frank determined by recorded vote to cancel the meeting scheduled for Thursday, January 28, 1982, affirmed that no earlier announcement of this change in the schedule was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-138-82 Filed 1-28-82; 10:44 am]

BILLING CODE 7020-02-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE82-4]

TIME AND DATE: 10 a.m., Thursday, February 2, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Emergency meeting—less than ten days' prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Briefing by Director of Operations.
6. Briefing by General Counsel.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-139-82 Filed 1-28-82; 10:44 am]

BILLING CODE 7020-02-M

8

INTERNATIONAL TRADE COMMISSION.

[USITC SE-82-5]

TIME AND DATE: 10 a.m., Thursday, February 11, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: a. Possible section 603 investigation on cutlery (Docket No. 798).
5. Briefing by Executive Liaison.
6. Briefing by Director of Administration.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-140-82 Filed 1-28-82; 10:44 am]

BILLING CODE 7020-02-M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 3063, January 21, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 19, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, January 28, 1982, following the 10:00 a.m. open meeting:

Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Freedom of Information Act appeals.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272-2178.

January 27, 1982.

[S-137-82 Filed 1-28-82; 10:37 am]

BILLING CODE 8010-01-M

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federal register

Monday
February 1, 1982

Part II

Selective Service System

Deferment or Exemption From Military Service; Final Rule

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1602, 1605, 1609, 1618, 1621, 1624, 1627, 1630, 1633, 1636, 1639, 1642, 1645, 1648, 1651, and 1653

Deferment or Exemption From Military Service

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: This document revises the Selective Service regulations with respect to deferment or exemption from military service. Revisions in Selective Service regulations have been prepared with the over-riding objective of improving the procedures and increasing the fairness in their application in adjudicating the claims of men for deferment or exemption from military service as provided in the Military Selective Service Act (50 U.S.C. App., 451 et seq.). Organizational changes and administrative arrangement have been developed to facilitate fair, effective and efficient administration of the System.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435; Telephone: (202) 724–0844.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12291, Selective Service has determined that the rules are not major as defined in Section 1(b) of Executive Order 12291 of February 17, 1981.

These regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623. The regulations implement the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*), as amended. An earlier draft of the amendments was published at 45 FR 80125 (December 3, 1980). On November 17, 1981, these regulations were published for comment at 46 FR 56434. The comments to the December 3, 1980 publication were responded to in the November 17, 1981 publication.

In response to the November 17, 1981 publication, Selective Service received 38 letters commenting on the amendments. Many of the comments pertained to sections of the Regulations previously commented upon and discussed in the November 17, 1981 publication. The previously addressed sections are as follows:

Regulation

Sections 1624.5(a), 1633.2(h) and 1633.2(i). The ten day period in which to file a claim is too short (15 new comments).

Section 1633.1(f). Military personnel of the Selective Service should not be permitted to decide any claims for classification at any time (8 new comments).

Section 1633.2(h) and section 1633.3. Registrants should be permitted to file claims anytime after registration and before receipt of induction orders (6 new comments); registrants should be able to be classified into classes other than 1–A prior to receiving an induction order (6 new comments); registrants should be able to develop and file evidence in support of claims prior to being ordered for induction (6 new comments).

Section 1642.3. Whenever there is a reasonable doubt concerning the grant or denial of a claim for dependent hardship classification (3–A), the doubt should be resolved in favor of granting the claim (1 new comment).

Section 1648.3 and section 1648.4(b). Registrants who file conscientious objector claims should not be required to appear personally before local boards (1 new comment).

Section 1648.5 (c) and (d). The registrant should be permitted to record board proceedings concerning his claim in order to preserve an accurate account of the proceedings (8 new comments). While the position of Selective Service remains unchanged, it was noted that a language change was necessary to achieve the purpose of maintaining informality by forbidding the making of verbatim transcripts. That language change has been incorporated in §§ 1648.5(h), 1651.4(q) and 1653.3(s) of these final regulations.

Section 1648.5(f), section 1651.4(f) and section 1653.3(d). Advisors who appear at a board hearing with registrants should be permitted to speak on the registrant's behalf (1 new comment).

Section 1648.5(i), section 1651.4(q), and section 1653.3(s). Meetings of the National Appeal Board should be public proceedings (1 new comment).

Section 1653.1. Appeals to the National Appeal Board should be permitted even if the decision of the District Appeal Board is unanimous (1 new comment).

Each of the above comments was reviewed and considered. Upon reflection, our position regarding each comment and the basis for our position as reported in the November 17, 1981 publication remain the same.

Additional Comments

All comments received were considered except those requiring statutory amendments. The following comments, with the exception of one, were made by only one person. The basis for our position is contained in the position statement.

Regulation

Section 1602.2, section 1602.14, section 1639.1 and section 1645.1. The regulations provide that the ministerial student deferments and the minister exemptions are judgmental classifications that are initially determined by the local board.

Comment

Classification for ministerial students (2–D) and ministers (4–D) should be administrative classifications because they can be determined objectively by documentation.

Position

The regulations should remain unchanged. Neither classification is a "papers only" type classification. Both require the exercise of judgment in applying judicial and statutory standards for such issues as what constitutes a recognized church or religious organization, or a recognized theological or divinity school, and determining whether the minister preaches and teaches the principles of religion as a regular and customary vocation within statutory and judicial limits. These issues and others of similar significance cannot be determined solely by documentation; therefore, the classification should remain judgmental.

Regulation

Section 1605.51 and section 1605.60(b). The regulations provide that the area offices shall be responsible for providing administrative and operational support to the boards within their jurisdiction.

Comment

Local boards should be operated out of fixed locations to facilitate access to the boards by registrants.

Position

The regulations should remain unchanged. Under the revised system of registrant processing, area offices have been designated to provide administrative and operational support to the boards and to registrants. Boards will function as adjudicators of classification claims only. Registrants are advised to contact the area office nearest their current address for any assistance they require. Area offices will be established in fixed locations. Local boards will convene either at the Area offices or at some other location convenient to registrants.

Regulation

Section 1618.1. If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege unless the Director of Selective Service waives the time limit.

Comment

No right or privilege should be regarded as waived or abandoned for failure to timely assert the right or privilege until the reason for the failure has been considered by Selective Service.

Position

The registrant abandons rights or privileges if he fails to file a claim within the required time, unless circumstances beyond his control prevent his filing a claim on time. In substance, the regulation should remain unchanged. However, the regulation has been amended to substitute the term "abandonment" for "waiver" and to clarify the intent of Selective Service. In extenuating circumstances beyond the registrant's control, the Director may, for good cause, permit the filing of an untimely claim.

Regulation

Section 1624.3, section 1624.6(h), section 1633.2(g) and section 1642.4(b). The regulations provide that any registrant receiving a postponement, shall, after the postponement ends, be rescheduled to report for induction. It further provides that when deferments or exemptions end, the registrant will be placed in the appropriate RSN order within the age selection group corresponding to his year of birth. Consequently, registrants whose deferments and exemptions expire or are terminated are not rescheduled to report for induction as are registrants whose postponements expire or are terminated.

Comment

A registrant granted postponement pursuant to a claim for hardship should be treated as a registrant deferred because of hardship to dependents (reclassified 3–A). Such treatment would remove the inequitable results which subject the registrant obtaining postponement to immediate induction at the end of the postponement period. Postponements should be treated as deferments and exemptions.

Position

The regulations should remain unchanged. The treatment of postponements, deferments and exemptions is consistent with the statutory mandates and legislative intent. All postponements, with the exception of student postponements, are creatures of regulations; student postponements are specifically authorized by statute. Since postponements were created primarily to provide remedies for short term emergencies beyond the control of the registrant, and since the registrant remains classified as 1–A during a postponement, his induction is immediately rescheduled upon expiration of the postponement period.

A hardship deferment (3–A) is one that reclassifies the registrant and thus, removes his availability for military service until such time as he is again reached for induction and reclassified 1–A. The postponement for a short-term hardship is not technically a 3–A hardship and does not reclassify the registrant. The treatment here is consistent with the treatment of all registrants who obtain postponements for any of the other conditions provided in the regulations.

Regulation

Section 1624.3 (c), (d), and (e). The regulations provide for induction of men ages 18 years and six months through 34 years.

Comment

References in the regulations to induction of persons over 26 years of age should be deleted since the Military Selective Service Act does not authorize induction of persons over 26 years of age. Since the provision in the regulations for induction of 18 years and six months to 19 year old registrants is a major departure from Selective Service policy, it should be published for comment separately from the other regulations.

Position

The regulations should remain unchanged. Sections 4(a), 5(a) and 6 (a) and (h) of the Military Selective Service Act (50 U.S.C. App. 454, 455 and 456) provide, as a general rule, that eligibility for military training and service commences at age 18 years and six months through 26 years. However, persons obtaining certain deferments as prescribed under the provisions of Sec. 6 are subjected to extended liability up to age 35. These are statutory mandates and not Selective Service policy determinations.

Regulation

Section 1624.4. The regulation establishes the order in which registrants classified 1–A shall be selected and ordered for induction.

Comment

The regulation authorizes an order of call for registrants classified 1–A, but does not authorize the call of registrants classified 1–A–O.

Position

We agree that the regulation is silent as to registrants who are reclassified 1–A–O. The regulation has been amended to include registrants so classified.

Regulation

Section 1624.10. The date specified to report for examination shall be at least 10 days after the date on which the Order to Report for Examination is issued.

Comment

Since time limits are measured from the date of mailing by Selective Service, references to "issuance" of induction orders should be changed to "mailing" of induction orders.

Position

The regulation should remain unchanged. For the convenience of Selective Service and registrants, the date of issuance is more appropriate, less restrictive and easier to track. The date of mailing restricts the government to mailing notices where other methods may be more convenient or appropriate. No harm or inconvenience to the registrant has been demonstrated or alleged.

Regulation

Section 1630.17(b). A registrant who has been separated from the Armed Forces by reason of conscientious objection to participation in both combatant and noncombatant military training and service shall be classified 1–O. Also, he shall be assigned to civilian service where he will serve the remainder of his military obligation.

Comment

The regulations should be clarified to indicate under what circumstances a person who has been discharged from military service for conscientious objection will be required to perform alternative service.

Position

We agree that the regulation should be amended for clarity. It has been amended to prescribe that if the registrant was discharged under circumstances that could qualify him for a 4–A classification, he shall be so classified. Under these conditions there is no remaining military obligation under

the Military Selective Service Act. The amendment further clarifies the intent that a personal appearance is not required of a registrant claiming conscientious objector status under these circumstances.

Regulation

Section 1630.44. The regulation does not provide appeal procedures from a 4–F classification. It does provide, however, that no regisrant whose further examination is considered justified, will be classified 4–F unless he has been reexamined and found disqualified.

Comment

The regulation should provide appeal procedures from a 4–F classification and "RBJ" status (reexamination believed justified) should have a time limit after which the registrant is classified 4–F if he has not been reexamined.

Position

The regulation should remain unchanged. Since Selective Service has no authority to establish acceptance criteria for military training and service, it has no authority to prescribe limitations on "RBJ" status or prescribe appeal procedures from a 4–F classification. The Military Selective Service Act authorizes only the Secretary of Defense to establish acceptance criteria for military training and service.

Regulation

Sections 1633.1, 1633.9 and 1636.9(c) and (d). The regulations provide that a registrant may be classified into any classification for which he is eligible.

Comment

A registrant should not be reclassified into any class for which he has not filed a claim.

Position

The regulations should remain unchanged. In the interest of fairness and equity, the registrant will not be harmed should he fail to submit a claim for which he is eligible and clearly demonstrates that eligibility. His failure to submit the appropriate claim may be a result of ignorance, oversight or error. In any event, the intent is to provide a remedy and prevent an unwarranted induction because of circumstances beyond the registrant's control.

Regulation

Section 1633.2(g). When deferments or exemptions expire or end, the registrant will be placed in the appropriate RSN order within his original age selection group.

Comment

The term "original" age selection group is unclear and needs clarification.

Position

We agree with the comment. The regulation has been changed to clearly express the intent that upon expiration or termination of a deferment or exemption, the registrant will be placed in the appropriate RSN order within the age selection group *corresponding to his year of birth.*

Regulation

Section 1633.11. A registrant will be granted only one local board transfer during the processing of a reclassification claim unless authorized by the Director.

Comment

There should be no limit to the number of times a claim may be transferred for good cause from one board to another.

Position

The regulations should remain unchanged. Local board assignments are made on the basis of permanent addressses on file with Selective Service. The registrant will be granted a transfer as a matter of right to the local board nearest his current address. However, the Director has the authority to so authorize additional transfers for cause in order to preserve the integrity of the claims process as well as to protect the rights of the registrant.

Regulation

Section 1642.3(b)(1). The registrant is required to contribute no less than 50% of the cost of a dependent's support in order for the dependent to be deemed financially dependent upon the registrant.

Comment

Providing a percentage support requirement for a registrant to qualify for a hardship classification (3–A) is unreliable; hardship does not always bear a relationship to the percentage of support received from the registrant.

Position

We agree that a dependent's financial hardship does not always bear a 50% relationship to the support contributed by the registrant. It may be a greater or less percentage depending upon the circumstances. This section has been amended to require the registrant to demonstrate a substantial contribution to the support of the registrant in order for the hardship to be fairly assessed. The amendment further provides that 40 to 50% may be considered substantial.

Regulation

Section 1645.4. Regular ministers are required to administer the ordinances of public worship as embodied in the creed of his church, sect or religious organization.

Comment

Registrants who claim a 4–D classification as a regular minister should not be required to prove that they administer ordinances of public worship as a condition precedent to granting the claim because the requirement exceeds the statutory criteria.

Position

We agree that the statute does not require regular ministers to administer ordinances of public worship as required of duly ordained ministers. The section has been amended to conform to the statutory criteria.

Regulation

Section 1651.3(d). The regulation requires a registrant appealing from a denial decision to attach to his appeal a statement specifying the reasons he believes the classification action is inappropriate. It further requires the registrant to direct attention to any information in his file that he believes is relevant to his claim.

Comment

A registrant should not be required to list all of his reasons for appealing from the denial as a condition precedent to review by the appeal board.

Position

The regulation has been amended to permit the registrant to list all reasons for appealing at his option. To *require* such a submission may unduly prejudice the disadvantaged or undereducated registrants who may not be able to articulate their reasons for appealing.

Regulation

Section 1651.4(f) and section 1653.3(h). A registrant will not be allowed to present witnesses at personal appearance proceedings before the appeal boards. However, the registrant will be permitted to appear to testify and to present documentary evidence (testimonial or otherwise) to the appeal boards.

Comment

A registrant should be permitted to present witnesses at personal appearances before District Appeal

Boards and the National Appeal Board (3 comments).

Position

The regulations should remain unchanged. Historically, registrants appearing before appeal boards have not been permitted to present witnesses. The language and legislative history of Section 22 of the Military Selective Service Act, added in 1971, clearly indicate that Congress intended to permit personal appearances, but not witnesses, before appeal boards. The floor debates recorded in 117 Cong. Rec. 20502, 03, 05, 08, 14 and 21953 and 21954 (1971) and the Conference Committee Report in H.R. Rep. No. 433, 92d, Cong., 1st Sess. 29 (1971) reflect the legislative history of Section 22 of the MSSA concerning witnesses at appeal proceedings.

Additions Not Suggested By Comments

Regulation

Section 1605.54. the regulations prescribe that the jurisdiction of the local board is to perform all acts authorized by law including acting upon claims for reclassification.

Basis

Historically, the regulations have prescribed jurisdictional limitations of the local boards. This section was inadvertently omitted from the previous two publications. It iterates the general functions of local boards as prescribed by the Military Selective Service Act.

Regulation

Section 1624.6(f). The Director of Selective Service may authorize a postponement of induction to registrants awaiting State or National professional or occupational examinations as prerequisites to the practice of the profession or occupation; registrants accepted for entry into the military academies; and registrants accepted as ROTC scholarship students or those who have been designated to participate in field training prior to enrollment in ROTC.

Basis

Historically, registrants who requested postponements under these circumstances were granted postponements. Codification serves the purpose of notice that such postponements are available and lends legitimacy to an equitable practice.

Paperwork Reduction Act

Information collection requirements contained in these regulations have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 3240–0006.

Certificate

Whereas, on November 17, 1981, the Director of Selective Service published a Notice of Proposed Amendments of Selective Service Regulations 46 FR 56434; and whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 *et seq.*) in that more than thirty days have elapsed subsequent to such publication during which period comments from the public (summarized above) have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now, therefore, by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 *et seq.*) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, as stated below.

Thomas K. Turnage,

Director of Selective Service.

January 26, 1982.

32 CFR Chapter XVI is amended by revising Parts 1602, 1605, 1609, 1618, 1621, 1624, 1627, 1630, 1633, 1636, 1639, 1642, 1645, 1648, 1651 and 1653 to read as set forth below:

PART 1602—DEFINITIONS

Sec.

1602.1 Definitions to govern.
1602.2 Administrative classification.
1602.3 Aliens and Nationals.
1602.4 Area office.
1602.5 Area office staff.
1602.6 Board.
1602.7 Classification.
1602.8 Classifying authority.
1602.9 Computation of time.
1602.10 County.
1602.11 District Appeal Board.
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1602.13 Judgmental classification.
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1602.15 Local Board of Jurisdiction.
1602.16 MEPS.
1602.17 Military service.
1602.18 National Appeal Board.
1602.19 Numbers.
1602.20 Registrant.
1602.21 Selective Service Law.
1602.22 Singular and plural.
1602.23 State.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1602.1 Definitions to govern.

The definitions contained in Section 16 of the Military Selective Service Act, and the definitions contained in this part shall govern in the interpretation of the regulations of this chapter.

§ 1602.2 Administrative classification.

A reclassification action relating to a registrant's claim for Class 1–C, 1–D–D, 1–D–E, 1–H, 1–W, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T, or 4–W.

§ 1602.3 Aliens and nationals.

(a) The term "alien" means any person who is not a citizen or national of the United States.

(b) The term "national of the United States" means:

(1) A citizen of the United States, or

(2) A person, though not a citizen of the United States, who owes allegiance to the United States.

§ 1602.4 Area office.

The Selective Service Office which is responsible for all administrative and operational support for the one or more local boards within its jurisdiction.

§ 1602.5 Area office staff.

The compensated employees, civilian and military, of the Selective Service System employed in an area office will be referred to as the area office staff.

§ 1602.6 Board.

The word "board" when used alone, unless the context otherwise indicates, includes a local board, district appeal board, and the National Appeal Board and panels thereof.

§ 1602.7 Classification.

Classification is the exercise of the power to determine claims or questions with respect to inclusion for or exemption or deferment from training and service under Selective Service Law.

§ 1602.8 Classifying authority.

The term "classifying authority" refers to any official or board who is authorized in section 1633.1 to classify a registrant.

§ 1602.9 Computation of time.

Unless otherwise specified the period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice is issued.

§ 1602.10 County.

The word "county" includes, where applicable, counties, independent cities, and similar subdivisions, such as the independent cities of Virginia and the parishes of Louisiana.

§ 1602.11 District Appeal Board.

A district appeal board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1651 of this chapter.

§ 1602.12 Governor.

The word "Governor" includes, where applicable, the Governor of each of the States of the United States, the Mayor of the District of Columbia, the Governor of Puerto Rico, the Governor of the Virgin Islands, and the Governor of Guam.

§ 1602.13 Judgmental Classification.

A classification action relating to a registrant's claim for Class 1-A-O, 1-O, 2-D, 3-A, or 4-D.

§ 1602.14 Local board.

A local board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President after nomination by a Governor to classify registrants in accord with the provisions of Part 1648 of this chapter.

§ 1602.15 Local Board of Jurisdiction.

The local board of jurisdiction is the local board to which the registrant is assigned by the Director of Selective Service.

§ 1602.16 MEPS.

A Military Entrance Processing Station is a military installation to which registrants are ordered to report for examination or induction.

§ 1602.17 Military service.

The term "military service" includes service in the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

§ 1602.18 National Appeal Board.

The National Appeal Board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1653 of this chapter.

§ 1602.19 Numbers.

Cardinal numbers may be expressed by Arabic or Roman symbols.

§ 1602.20 Registrant.

A "registrant" is a person registered under the Selective Service Law.

§ 1602.21 Selective Service Law.

The term "Selective Service Law" includes the Military Selective Service Act, all rules and regulations issued thereunder, and Proclamations of the President pertaining to registration under that Act.

§ 1602.22 Singular and plural.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular, except where the context clearly indicates otherwise.

§ 1602.23 State.

The word "State" includes, where applicable, the several States of the United States, the City of New York, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

PART 1605—SELECTIVE SERVICE SYSTEM ORGANIZATION

National Administration

Sec.
1605.1 Director of Selective Service.
1605.6 National Appeal Board.

Region Administration

1605.7 Region Manager.
1605.8 Staff of Region Headquarters for Selective Service.

State Administration

1605.11 Governor.
1605.12 State Director of Selective Service.
1605.13 Staff of State Headquarters for Selective Service.
1605.14 State Director of Selective Service for New York City.

District Appeal Boards

1605.21 Area.
1605.22 Composition and appointment of District Appeal Boards.
1605.23 Designation.
1605.24 Jurisdiction.
1605.25 Disqualification.
1605.26 Organization and meetings.
1605.27 Minutes of meetings.
1605.28 Signing official papers.

Local Boards

1605.51 Area.
1605.52 Composition of local boards.
1605.53 Designation.
1605.54 Jurisdiction.
1605.55 Disqualification.
1605.56 Organization and meetings.
1605.58 Minutes of meetings.
1605.59 Signing official papers.

Area Office Administration

1605.60 Area.
1605.61 Staff of area offices for selective service.

Interpreters

1605.81 Interpreters.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

National Administration

§ 1605.1 Director of Selective Service.

The Director of Selective Service shall be responsible directly to the President. The Director of Selective Service is hereby authorized and directed:

(a) To prescribe such rules and regulations as he shall deem necessary for the administration of the Selective Service System, the conduct of its officers and employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.

(b) To issue such public notices, orders, and instructions, as shall be necessary for carrying out the functions of the Selective Service System.

(c) To obligate and authorize expenditures from funds appropriated for carrying out the functions of the Selective Service System.

(d) To appoint and to fix, in accordance with provisions of chapter 51 and subchapter III of chapter 53 of Title 5, United States Code relating to classification and General Schedule pay rates, the compensation of such officers, agents, and employees as shall be necessary for carrying out the functions of the Selective Service System.

(e) To procure such space as he may deem necessary for carrying out the functions of the Selective Service System by lease pursuant to existing statutes.

(f) To obtain by purchase, loan, or gift such equipment, supplies, printing, binding, and blankbook work for the Selective Service System as he may deem necessary to carry out the functions of the Selective Service System.

(g) To perform such other duties as shall be required of him under the Selective Service Law or which may be delegated to him by the President.

(h) To delegate any of his authority to such officers, agents, or persons as he may designate and to provide for the subdelegation of any such authority.

§ 1605.6 National Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board, hereinafter referred to as the National Board. The President shall appoint not less than three members to the National Board from among citizens of the United States who are not members of the Armed Forces, and he shall designate one member as chairman of the National Board. The National Board may sit *en banc,* or upon the request of the Director

of Selective Service, or as determined by the chairman of the National Board, in panels, each panel to consist of at least three members. The chairman of the National Board shall designate the members of each panel and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present, shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board or a panel thereof shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the chairman of the National Board, at any other place.

(b) The President shall appoint members of the National Appeal Board from among citizens of the United States who:

(1) Are within the age limitations applicable to all appeal boards as prescribed by the Military Selective Service Act; and

(2) Are not active or retired members of the Armed Forces or any reserve component thereof; and

(3) Have not served as a member of the National Board for a period of more than five years; and

(4) Are able to perform such duties as necessary during standby status; and

(5) Are able to devote sufficient time to board affairs; and

(6) Are willing to fairly and uniformly apply Selective Service Law.

(c) The National Board or panel thereof shall classify each registrant who appeals to the President under Part 1653 of this chapter.

(d) No member of the National Board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the National Board. A member of the National Board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(e) The National Board shall in all respects be independent of the Director of Selective Service, except that the Director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service and the chairman of the National Board shall furnish to each other such information, advice, and assistance as will further the attainment of the objectives of the Military Selective Service Act, and promote the effective administration of the Act.

(f) Each member of the National Board shall:

(1) Devote so much time to the affairs of the National Board as its responsibilities may require; and,

(2) Be compensated as provided in paragraph (g) of this section; and,

(3) While on the business of the National Board away from his home or regular place of business, receive actual travel expenses and per diem in lieu of subsistence in accordance with rates established by Federal Travel Regulations.

(g) The compensation of each member of the National Board shall be governed by the following:

(1) The member shall be compensated at an hourly rate for such time as is actually spent by him in the work of the National Board or a panel thereof without limitation as to the number of hours compensable in any one day; and,

(2) The member shall be compensated at an hourly rate for travel time away from his home or regular place of business while enroute to or from any meeting of the National Board, or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business, shall be limited to 8 hours; and,

(3) Duties performed on a Saturday, Sunday, or holiday, shall be compensable as if performed or occurring on any other day of the week; and,

(4) The compensation shall be in accord with the provisions of section 5332 of Title 5, United States Code; and,

(5) The compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours, and the compensation in any pay period shall not exceed one-twenty-sixth (1/26) of the governing annual rate of compensation.

Region Administration

§ 1605.7 Region Manager.

(a) Subject to the direction and control of the Director of Selective Service, the Region Manager of Selective Service for each region shall be in immediate charge of the Region Headquarters and shall be responsible for carrying out the region functions of the Selective Service System in the various States assigned to the region.

(b) The Region Manager will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.8 Staff of Region Headquarters for Selective Service.

(a) Subject to applicable law, and within the limits of available funds, the staff of each region for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the Region Manager is authorized to appoint such civilian personnel as he considers are required in the operation of the Region Headquarters.

State Administration

§ 1605.11 Governor.

The Governor is authorized to recommend a person to be appointed by the President as State Director of Selective Service for his State, who shall represent the Governor in all Selective Service matters.

§ 1605.12 State Director of Selective Service.

(a) The State Director of Selective Service for each State, subject to the direction and control of the Director of Selective Service, shall be in immediate charge of the State Headquarters for Selective Service in his State. The State Headquarters for Selective Service shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

(b) The State Director of Selective Service will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.13 Staff of State Headquarters for Selective Service.

(a) Subject to applicable law and within the limits of available funds, the staff of each State Headquarters for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the State Director of Selective Service is authorized to appoint such civilian personnel as he considers are required in the operation of the State Headquarters for Selective Service.

§ 1605.14 State Director of Selective Service for New York City.

The Governor of the State of New York is authorized to recommend a person to be appointed by the President as State Director of Selective Service for New York City, who shall represent the Governor in all Selective Service matters within the City of New York. Subject to the direction and control of the Director of Selective Service, the State Director of Selective Service for New York City shall be in immediate charge of the State Headquarters for Selective Service for New York City and shall perform such duties as are prescribed by the Director of Selective Service. The State Director of Selective Service for the State of New York shall have no jurisdiction in Selective Service matters within the City of New York. The State headquarters of Selective Service for New York City shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

District Appeal Boards

§ 1605.21 Area.

The Director of Selective Service shall establish one or more district appeal boards in each of the Federal Judicial Districts in the several states of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The Director of Selective Service may establish panels of appeal boards.

§ 1605.22 Composition and appointment of district appeal boards.

The Director of Selective Service will prescribe the number of members for the district appeal boards. The President shall appoint members of district appeal boards from among citizens of the United States who are residents of the area for which the respective boards have jurisdiction. The Director of Selective Service shall furnish necessary personnel, suitable office space, facilities and services to support each district appeal board.

§ 1605.23 Designation.

The Director of Selective Service shall assign each district appeal board within a Federal Judicial District a specific identification by which it shall be known. If a district appeal board consists of more than one panel, each panel shall have a specific identifying number. Such numbers shall be assigned in numerical sequence beginning with numeral 1.

§ 1605.24 Jurisdiction.

The district appeal board shall have jurisdiction to review and to affirm or change any local board decision appealed to it when:

(a) An appeal is submitted by a registrant from a local board in its area; or

(b) An appeal is submitted to it from a local board not in the appeal board area by a registrant whose principal place of employment or residence is located within the jurisdiction of the appeal board; or

(c) An appeal is submitted or transferred to it by the Director of Selective Service to assure the fair and equitable administration of the Law.

§ 1605.25 Disqualification.

(a) No member of a district appeal board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the board.

(b) A member of a district appeal board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(c) Whenever a quorum of the district appeal board or a panel thereof cannot act on the cae of a registrant that it has been assigned, and there is no other panel of the district appeal board to which the case may be transferred, the district appeal board shall transmit such case to the director of Selective Service for transfer to another district appeal board.

§ 1605.26 Organization and meetings.

Each district appeal board, or panel thereof, shall elect a chairman and a vice-chairman at least every two years. A majority of the members of the board when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with § 1605.25(c). If any member is absent so long as to hamper the work of the board, the chairman, a member of the board or panel concerned, or an area office employee shall report that fact to the Director of Selective Service and such action as appropriate shall be taken. If, through death, resignation, or other causes, the membership of the board falls below the prescribed number of members, the board or panel shall continue to function, provided a quorum of the prescribed membership is present at each official meeting.

§ 1605.27 Minutes of meetings.

A Selective Service compensated employee will keep the minutes of each appeal board meeting. In the absence of a compensated employee the minutes will be kept by an appeal board member.

§ 1605.28 Signing official papers.

Official documents issued and minutes of meetings maintained by a district appeal board may be signed by any member of the board, or by any compensated employee of the Selective Service System authorized to perform administrative duties for the board, except when otherwise prescribed by the Director of Selective Service.

Local Boards

§ 1605.51 Area.

(a) The Director of Selective Service shall divide each State into local board areas and establish local boards. There shall be at least one local board in each county except where the Director of Selective Service establishes an intercounty board. When more than one local board is established within the same geographical jurisdiction, registrants residing in that area will be assigned among the boards as prescribed by the Director of Selective Service. The Director of Selective Service may establish panels of local boards.

(b) There will be created and established foreign local boards which shall consist of three or more members each and shall be located at points designated by the Director. Such local boards shall be local boards of jurisdiction for registrants whose permanent address is not within a state, territory, or possession of the United States.

§ 1605.52 Composition of local boards.

The Director of Selective Service shall prescribe the number of members of local boards.

§ 1605.53 Designation.

The director of Selective Service shall assign each local board within a State a specific identifying number by which it shall be known. Such identifying numbers shall be assigned in numerical sequence beginning with the numeral 1.

§ 1605.54 Jurisdiction.

The local board shall have full authority to perform all acts within its jurisdiction authorized by law, to include the acting on any claim presented to it when:

(a) The claim is submitted by a registrant who is assigned to it; or

(b) The claim is transferred to it from another board in the manner provided in these regulations; or

(c) The claim is submitted or tranferred to it by the Director of Selective Service to assure the fair and equitable administration of the Law.

§ 1605.55 Disqualification.

(a) No member of a local board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or a fellow member or employee of the area office.

(b) A member of the local board must disqualify himself in any matter in which he would be restricted, for any reason, in making an impartial decision.

(c) Whenever a quorum of a local board cannot act on the case of a registrant, the area office supervisor shall cause such case to be transferred to another board within the area office. In those instances where only one board exists in an area office, the case should be transmitted to the nearest area office for transfer to a board under its jurisdiction.

§ 1605.56 Organization and meetings.

Each local board shall elect a chairman and vice-chairman at least every two years. A majority of the membership of the board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote at the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with § 1605.55(c). If any member is absent so long as to hamper the work of the board, the chairman, a member of the board, or a Selective Service compensated employee shall report that fact to the Director of Selective Service and appropriate action shall be taken. If through death, resignation, or other cause, the membership of a board falls below the prescribed number, it shall continue to function provided a quorum of the prescribed membership is present at each official meeting.

§ 1605.58 Minutes of meetings.

A compensated employee of the appropriate area office will keep the minutes of each meeting of a local board. In the absence of a compensated employee the minutes will be kept by a board member.

§ 1605.59 Signing official papers.

Official papers issued by a local board may be signed by any member of the board or compensated employee of the area office, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the area office except when otherwise prescribed by the Director of Selective Service.

Area Office Administration

§ 1605.60 Area.

(a) The Director of Selective Service shall prescribe the number of area offices to be established and shall define the boundaries thereof.

(b) The area office shall be an office of record and responsible for all administrative and operational support of the one or more local boards within its jurisdiction.

§ 1605.61 Staff of area offices for selective service.

Subject to applicable law and within the limits of available funds, the staff of each area office shall consist of as many compensated employees, either military or civilian, as shall be authorized by the Director of Selective Service.

Interpreters

§ 1605.81 Interpreters.

(a) The local board, district appeal board and the National Selective Service Appeal Board are authorized to use interpreters when necessary.

(b) The following oath shall be administered to an interpreter each time he is used:

Do you swear (or affirm) that you will truly interpret in the matter now in hearing?

(c) Any interpreter who fails to respond in the affirmative shall not be permitted to function in this capacity.

PART 1609—UNCOMPENSATED PERSONNEL

Sec.

1609.1 Uncompensated positions.
1609.2 Citizenship.
1609.3 Eligibility.
1609.4 Oath of Office.
1609.5 Suspension.
1609.6 Removal.
1609.7 Use of information.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq;* E.O. 11623.

§ 1609.1 Uncompensated positions.

Members of local boards, members of district appeal boards, and all other persons volunteering their services to assist in the administration of the Selective Service Law shall be uncompensated. No person serving without compensation shall accept remuneration from any source for services rendered in connection with Selective Service matters.

§ 1609.2 Citizenship.

No person shall be appointed to any uncompensated position in the Selective Service System who is not a citizen of the United States.

§ 1609.3 Eligibility.

(a) The President, upon the recommendation of the respective Governors, will consider for appointment as a member of a local board, any person who:

(1) Is within the age limits prescribed by the Military Selective Service Act; and

(2) Is a citizen of the United States; and

(3) Is a resident of the county in which the local board has jurisdiction; and

(4) Is not an active or retired member of the Armed Forces or any reserve component thereof; and

(5) Has not served as a member of a Selective Service board for a period of more than 20 years; and

(6) Is able to perform such duties as necessary during standby status; and

(7) Is able to devote sufficient time to board affairs; and

(8) Is willing to fairly and uniformly apply Selective Service Law.

(b) The President, upon the recommendation of the Director of Selective Service, will consider for appointment as a member of a district appeal board any person who:

(1) Is within the age limits prescribed by the Military Selective Service Act; and

(2) Is a citizen of the United States; and

(3) Is a resident of the Federal Judicial District in which the district appeal board has jurisdiction; and

(4) Is not an active or retired member of the Armed Forces or any reserve component thereof; and

(5) Has not served as a member of a Selective Service board for a period of more than 20 years; and

(6) Is able to perform such duties as necessary during standby status; and

(7) Is able to devote sufficient time to the district appeal board affairs; and

(8) Is willing to fairly and uniformly apply Selective Service Law.

§ 1609.4 Oath of office.

Every person who undertakes to render voluntary uncompensated service in the administration of the Selective Service Law shall execute an Oath of Office and Waiver of Pay before he enters upon his duties.

§ 1609.5 Suspension.

The Director of Selective Service may suspend from duty any uncompensated person engaged in the administration of the Selective Service Law pending his consideration of the advisability of removing such person.

§ 1609.6 Removal.

(a) The Director of Selective Service may remove any uncompensated person engaged in the administration of the Selective Service Law.

(b) The Governor may recommend to the Director of Selective Service the removal, for cause, of the State Director or any uncompensated person engaged in the administration of the Selective Service Law in his State. The Director of Selective Service shall make such investigation of the Governor's recommendation as he deems necessary, and upon completion of his investigation, he shall take such action as he deems proper.

§ 1609.7 Use of information.

Any information or records obtained by compensated or uncompensated personnel during the performance of their official duties, including proceedings before the boards, shall be restricted to official use by the personnel of the Selective Service System except as specifically authorized by law.

PART 1618—NOTICE TO REGISTRANTS

Sec.

1618.1 Abandonment of right or privilege.
1618.2 Filing of documents.
1618.3 Listing of advisors to registrants.
1618.4 Transmission of orders and other official papers to registrants.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1618.1 Abandonment of rights or privileges.

If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have abandoned the right or privilege unless the Director of Selective Service, for good cause, waives the time limit.

§ 1618.2 Filing of documents.

A document other than a registration card received by an element of the Selective Service System will be considered to have been filed on the date that it is received: *Provided,* That a document that is received which was transmitted by the United States Postal Service (USPS) and was enclosed in a cover that bears a legible USPS postmark date will be deemed to have been received on that date.

§ 1618.3 Listing of advisors to registrants.

The Director of Selective Service will post in the area office the name, address, and telephone number of any person, upon his request, who desires to advise registrants of their rights under Selective Service Law. Posting of a name is not an endorsement by the Director concerning the competence of the person whose name is posted, nor of the assurance of the accuracy of the information that he or she will furnish. Those persons who have indicated a willingness to provide advice without monetary compensation will be identified. Upon written request, the area office will furnish a copy of the list to any registrant.

§ 1618.4 Transmission of orders and other official papers to registrants.

Personnel of the Selective Service System will transmit orders or other official papers addressed to a registrant by handing them to him personally or mailing them to him to the current mailing address last reported by him in writing to the Selective Service System.

PART 1621—DUTY OF REGISTRANTS

Sec.

1621.1 Reporting by registrants of their current status.
1621.2 Duty to report for and submit to induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1621.1 Reporting by registrants of their current status.

Until otherwise notified by the Director of Selective Service, it is the duty of every registrant who registered after July 1, 1980:

(a) To keep the System currently informed in writing of the address where mail will reach him until otherwise notified by the Director of Selective Service; and

(b) To notify the System within 10 days of any change in the following items of information that he provided on his registration form: Name, current mailing address and permanent residence address; and

(c) To submit to the classifying authority, information concerning his status within 10 days after the date on which the classifying authority mails him a request therefor, or within such longer period as may be fixed by the classifying authority; and

(d) Who has a postponement of induction, or has been deferred or exempted from training and service, to immediately notify the System of any changes in facts or circumstances relating to the postponement, deferment or exemption.

§ 1621.2 Duty to report for and submit to induction.

When the Director of Selective Service orders a registrant for induction, it shall be the duty of the registrant to report for and submit to induction at the time and place ordered unless the order has been canceled. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for and submit to induction at such time and place as he may be reordered. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and submit to induction at the place specified in the order to report for induction.

PART 1624—INDUCTIONS

Sec.

1624.1 Random selection procedures for induction.
1624.2 Issuance of induction orders.
1624.3 Age selection groups.
1624.4 Selection and/or rescheduling of registrants for induction.
1624.5 Order to report for induction.
1624.6 Postponement of induction.
1624.7 Expiration of deferment or exemption.
1624.8 Transfer for induction.
1624.9 Induction into the Armed Forces.
1624.10 Order to report for examination.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1624.1 Random selection procedures for induction.

(a) The Director of Selective Service shall from time to time establish a random selection sequence for induction by a drawing to be conducted in the place and on a date the Director shall fix. The random selection method shall use 365 days, or when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the specified calendar year(s) attain their 18th year of birth. The drawing, commencing with the first day selected, and continuing until all 365 days or, when appropriate 366 days are drawn, shall be accomplished impartially. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection.

(b) The date of birth of the registrant that appears on his Selective Service Registration Record on the day before the lottery is conducted to establish his random selection sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

§ 1624.2 Issuance of induction orders.

The Director of Selective Service, upon receipt of a call from the Secretary of Defense for persons to be inducted into the Armed Forces in accord with § 1624.4, shall issue orders to report for induction to registrants whose registration records are in the master computer file at the beginning of any day on which orders are issued. Orders shall be issued in such numbers and at such times as will assure that such call or requisition is filled. The names contained in the Selective Service System data base on a given day will constitute the valid list of registrants from which induction orders can be issued on that day.

§ 1624.3 Age selection groups.

Age selection groups are established as follows:

(a) The age 20 selection group for each calendar year consists of registrants who have attained or will attain the age of 20 in that year.

(b) The age 21 selection group for each calendar year consists of registrants who have attained or will attain the age of 21 in that year and, in like manner, each age selection group will be so designated through age group 25.

(c) The age 26 through 34 selection groups consist of registrants who meet the following three criteria:

(1) They have attained or will attain the age of 26 through 34, respectively, during the calendar year; *and*

(2) They have been previously ordered to report for induction but have not been inducted; *and*

(3) They have been classified in one of the following classes:

(i) Class 1–D–D.

(ii) Class 2–D.

(iii) Class 3–A.

(iv) Class 4–B.

(v) Class 4–F.

(d) The age 19 selection group for each calendar year consists of registrants who have attained the age of 19 in that year.

(e) The age 18 selection group shall consist of registrants who have attained the age of 18 years and six months and who have not attained the age of 19 years in the order of their dates of birth with the oldest being selected first.

§ 1624.4 Selection and/or rescheduling of registrants for induction.

A registrant in Class 1–A or a registrant subsequently classified 1–A–0 shall be selected and ordered or rescheduled to report for induction in the following categories and in the order indicated: *Provided,* That a registrant who has been identified in accord with the procedures prescribed by the Director of Selective Service as one who will become a member of one of the following categories on the next January 1, may, prior to January 1, be selected and ordered to report for induction on a date after January 1 as a member of such category.

(a) Volunteers for induction in the order in which they volunteered.

(b) Registrants whose postponements have expired.

(c) Registrants in the age 20 selection group for the current calendar year who previously have been ordered to report for induction and whose exemptions or deferments have expired, in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1.

(d) Registrants in the age 20 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1.

(e) Registrants in each succeeding age selection group commencing with age 21 selection group and terminating with the age 34 selection group, in turn, within the group, in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1.

(f) Registrants in the age 19 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1.

(g) Registrants in the age 18 year and six months selection group and who have not attained the age of 19 in the order of their date of birth with the oldest being selected first.

§ 1624.5 Order to report for induction.

(a) Immediately upon determining which persons are to be ordered for induction, the Director of Selective Service shall issue to each person selected an Order to Report for Induction. The order will be sent to the current address most recently provided by the registrant to the Selective Service System. The date specified to report for induction shall be at least 10 days after the date on which the Order to Report for Induction is issued unless the registrant has volunteered for induction.

(b) Any person who has been ordered for induction who is distant from the address to which the order was sent must either report at the time and place specified in the order, or voluntarily submit himself for induction processing at another MEPS on or before the day that he was required to report in accordance with his induction order.

(c) The Director of Selective Service may direct the cancellation of any Order to Report for Induction at any time.

(d) Any Order to Report for Induction issued by the Director of Selective Service to a registrant who is an alien, who has not resided in the United States for one year will be void. Such order will be deemed only to be an order to produce evidence of his status. When an alien registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day. Upon establishing a one year residency, the alien registrant will be assigned to the age selection group corresponding to his age.

§ 1624.6 Postponement of induction.

(a) The filing of a claim in accord with § 1633.2 of this chapter postpones the date the registrant is required to report for induction until not earlier than the tenth day after the claim is finally determined in accord with the provisions of this chapter. A claim is finally determined when the registrant does not have a right to appeal the last classification action with respect to that

claim or he fails to exercise his right to appeal.

(b) In the case of the death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control, the Director of Selective Service, after the Order to Report for Induction has been issued, may postpone for a specific time the date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the induction order. When necessary the Director of Selective Service may grant one further postponement, but the total postponement shall not exceed 90 days from the reporting date on the induction order.

(c)(1) Any registrant who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order to report for induction shall, upon presentation of appropriate facts in the manner prescribed by the Director of Selective Service, have his induction postponed:

(i) Until the time of his graduation therefrom; or

(ii) Until he attains the twentieth anniversary of his birth; or

(iii) Until the end of his last academic year, even if he has attained the twentieth anniversary of his birth; or

(iv) Until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest.

(2) Any registrant who, while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning, is ordered to report for induction shall, upon the presentation of appropriate facts in the manner prescribed by the Director of Selective Service, have his induction postponed:

(i) Until the end of the semester or term, or in the case of his last academic year, the end of the academic year; or

(ii) Until he ceases to satisfactorily pursue such course of instruction, whichever is the earlier.

(3) A postponement authorized by this subsection may be terminated by the Director of Selective Service for cause upon no less than 10 days notice to the registrant.

(d) The Director of Selective Service may authorize a delay of induction for any registrant whose date of induction conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report for induction on the next business day following the religious holiday.

(e) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3–A will be granted if a board determines that the hardship to the registrant's dependents would not likely continue beyond that period of time. The reasons for the action taken in accord with the immediately preceding sentence will be recorded in the registrant's file and a copy thereof will be furnished the registrant.

(f) The Director of Selective Service may authorize a postponement of induction to a registrant when:

(1) The registrant qualifies and is scheduled for a State or National examination in a profession or occupation which requires certification before being authorized to engage in the practice of that profession or occupation; or

(2) The registrant has been accepted in the next succeeding class as a cadet at the U.S. Military Academy, or the U.S. Air Force Academy, or the U.S. Coast Guard Academy; or as a midshipman at the U.S. Naval Academy, or the U.S. Merchant Marine Academy; or

(3) The registrant is a ROTC applicant who has been designated to participate in the next succeeding ROTC field training program prior to enrollment in the ROTC; or

(4) The registrant has been accepted as a ROTC scholarship student in the next succeeding ROTC program at a college or university.

(g) The Director of Selective Service shall issue to each registrant whose induction is postponed a written notice thereof.

(h) No registrant whose induction has been postponed shall be inducted into the Armed Forces during the period of any such postponement. A postponement of induction shall not render invalid the Order to Report for Induction which has been issued to the registrant, but shall operate only to postpone the reporting date, and the registrant shall report on the new date scheduled without having issued to him a new Order to Report for Induction.

(i) Any registrant receiving a postponement under the provisions of this section, shall, after the expiration of such postponement, be rescheduled to report for induction at the place to which he was originally ordered.

§ 1624.7 Expiration of deferment or exemption.

The Director of Selective Service shall issue an Order to Report for Induction to a registrant whenever his deferment or exemption expires: *Provided,* That no registrant will be issued an Order to Report for Induction whose age group is not currently being inducted.

§ 1624.8 Transfer for induction.

The Director of Selective Service may direct that a registrant or registrants in a specified group of registrants be transferred for induction to such MEPS as he may designate.

§ 1624.9 Induction into the Armed Forces.

Registrants in classes 1–A and 1–A–O, who have been ordered for induction and found qualified under standards prescribed by the Secretary of Defense, will be inducted at the MEPS into the Armed Forces.

§ 1624.10 Order to report for examination.

The Director of Selective Service may order any registrant who has filed a claim for classification in a class other than Class 1–A or whose induction has been postponed, to report for an Armed Forces examination to determine his acceptability for military service; such registrant will not be inducted until his claim for reclassification has been decided. The date specified to report for examination shall be at least 10 days after the date on which the Order to Report for Examination is issued.

PART 1627—VOLUNTEERS FOR INDUCTION

Sec.

1627.1 Who may volunteer.
1627.2 Registration of volunteers.
1627.3 Classification of volunteers.

Authority: Military Selective Service Act, 50 U.S.C. App 451 *et seq.*; E.O. 11623.

§ 1627.1 Who may volunteer.

Any registrant who has attained the age of 17 years, who has not attained the age of 26 years, and who has not completed his active duty obligation under the Military Selective Service Act, when inductions are authorized, may volunteer for induction into the Armed Forces unless he;

(a) Is classified in Class 4–F or is eligible for Class 4–F; or

(b) Has been found temporarily unacceptable with reexamination believed justified (RBJ) and the period of time specified for his return for examination has not been terminated and the basis for his temporary rejection continues to exist; or

(c) Is an alien who has not resided in the United States for a period of at least one year; or

(d) Has not attained the age of 18 years and does not have the consent of his parent or guardian for his induction.

§ 1627.2 Registration of volunteers.

(a) If a person who is required to be registered but who has failed to register volunteers for induction, he shall be registered.

(b) In registering a volunteer, the area office shall follow the procedure set forth in § 1615.3 of this chapter.

§ 1627.3 Classification of volunteers.

When a registrant who is eligible to volunteer files an Application for Voluntary Induction, he shall be classified in Class 1–A and processed for induction.

PART 1630—CLASSIFICATION RULES

Sec.

1630.2 Classes.
1630.10 Class 1–A: Available for unrestricted military service.
1630.11 Class 1–A–0: Conscientious objector available for noncombatant military service only.
1630.12 Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.
1630.13 Class 1–D–D: Deferment for certain members of a reserve component or student taking military training.
1630.14 Class 1–D–E: Exemption of certain members of a reserve component or student taking military training.
1630.15 Class 1–H: Registrant not subject to processing for induction.
1630.17 Class 1–O: Conscientious objector available for alternative service.
1630.18 Class 1–W: Conscientious objector performing alternative service in lieu of induction.
1630.20 Class 2–D: Registrant deferred because of study preparing for the ministry.
1630.30 Class 3–A: Registrant deferred because of hardship to others.
1630.40 Class 4–A: Registrant who has completed military service.
1630.41 Class 4–B: Official deferred by law.
1630.42 Class 4–C: Alien or dual national.
1630.43 Class 4–D: Minister of religion.
1630.44 Class 4–F: Registrant not qualified for military service.
1630.45 Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or whose father or sibling is in a Captured or Missing in Action status.
1630.46 Class 4–T: Treaty alien.
1630.47 Class 4–W: Registrant who has completed alternative service in lieu of induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*, E.O. 11623.

§ 1630.2 Classes.

Each registrant shall be classified in one of the classes prescribed in this part.

§ 1630.10 Class 1–A: Available for unrestricted military service.

(a) All registrants available for unrestricted military service shall be in Class 1–A.

(b) All registrants in the selection groups as determined by the Director of Selective Service are available for unrestricted Military Service, except those determined by a classifying authority to be eligible for exemption or deferment from military service or for noncombatant or alternative service, or who have random sequence numbers (RSNs) determined by the Director not to be required to fill calls by the Secretary of Defense.

§ 1630.11 Class 1–A–0: Conscientious objector available for noncombatant military service only.

In accord with Part 1636 of this chapter any registrant shall be palced in Class 1–A–0 who has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant military tranining and service in the Armed Forces.

§ 1630.12 Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.

In Class 1–C shall be placed:

(a) Every registrant who is or who becomes by enlistment or appointment, a commissioned officer, a warrant officer, a pay clerk, an enlisted man or an aviation cadet of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration or the Public Health Service.

(b) Every registrant who is a cadet, United States Military Academy; or midshipman, United States Naval Academy; or a cadet, United States Air Force Academy; or cadet, United States Coast Guard Academy.

(c) Every registrant who by induction becomes a member of the Army of the United States, the United States Navy, the United States Marine Corps, the Air Force of the United States, or the United States Coast Guard.

(d) Exclusive of periods for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the reserve of the Public Health Service on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the National Oceanic and Atmospheric Administration or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.13 Class 1–D–D: Deferment for certain members of a reserve component or student taking military training.

(a) In Class 1–D–D shall be placed any registrant who:

(1) Has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officer's Training Corps, or the Air Reserve Officer's Training Corps, or the Naval Reserve Officer's Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training;

(2) Has agreed in writing to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and

(3) Has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1–D–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C under the provisions of § 1630.12.

(b) Is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the Secretary of Defense. Such registrant shall be retained in Class 1–D–D during the period covered by such agreement but in no case in excess of four months.

(c) Is other than a registrant referred to in paragraph (a) or (d) of this section; who:

(1) Prior to the issuance of orders for him to report for induction; or

(2) Prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction; or

(3) Prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction;

enlists or accepts an appointment before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall remain eligible for Class 1–D–D so long as he serves satisfactorily as a member of an organized unit of such Ready Reserve or National Guard, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense, or serves satisfactorily as a member of the Ready Reserve of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(d) Who at any time has enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve and who thereafter has been commissioned therein upon graduation from an Officer's Candidate School of such Armed Force and has not been ordered to active duty as a commissioned officer. Such registrant shall remain eligible for Class 1–D–D so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned.

(e) In Class 1–D–D shall be placed any registrant who is serving satisfactorily as a member of a reserve component of the Armed Forces and is not eligible for Class 1–D–D under the provisions of any other paragraph of this section: *Provided,* That, for the purpose of this paragraph, a member of a reserve component who is in the Standby Reserve or the Retired Reserve shall be deemed to be serving satisfactorily unless the Armed Force of which he is a member informs the Selective Service System that he is not serving satisfactorily.

§ 1630.14 Class 1–D–E: Exemption of certain members of a reserve component or student taking military training.

In Class 1–D–E shall be placed any registrant who:

(a) Is a student enrolled in an officer procurement program at a military college the curriculum of which is approved by the Secretary of Defense; or

(b) Has been enlisted in the Delayed Entry Program (DEP) at least ten days prior to his scheduled induction date; or

(c) Has been transferred to a reserve component of the Army, Navy, Air Force, Marine Corps or Coast Guard after a period of extended active duty, which was not for training only.

§ 1630.15 Class 1–H: Registrant not subject to processing for induction.

In Class 1–H shall be placed any registrant who is not eligible for Class 1–A and is not currently subject to processing for induction.

§ 1630.17 Class 1–O: Conscientious objector available for alternative service.

In accord with Part 1636 of this chapter any registrant shall be placed in Class 1–O who:

(a) Has been found, by reason of religious, ethical, or moral belief to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces; or

(b) Has been separated from the Armed Forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the Armed Forces. A registrant under these circumstances will be so classified unless his period of service qualifies him for Class 4–A. If the registrant does not qualify for Class 4–A, he will be required to serve the remainder of his obligation under MSSA in civilian service. The registrant is not required to personally appear before the board in order to be classified 1–O.

§ 1630.16 Class 1–W: Conscientious objector performing alternative service in lieu of induction.

In Class 1–W shall be placed any registrant who has entered upon and is performing alternative service contributing to the maintenance of the national health, safety, or interest.

§ 1630.26 Class 2–D: Registrant deferred because of study preparing for the ministry.

In accord with Part 1639 of this chapter any registrant shall be placed in Class 2–D who has requested such deferment and:

(a) Who is preparing for the ministry under the direction of a recognized church or religious organization; and

(b) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(c) Who is satisfactorily pursuing a full-time course of instruction in or at the direction of a recognized theological or divinity school; or

(d) Who having completed theological or divinity school is a student in a full-time graduate program or is a full-time intern. The registrant's studies must be related to and lead to entry into service as a regular or duly ordained minister of religion, and satisfactory progress in these studies as required by the school in which the registrant is enrolled must be maintained for continued eligibility for the deferment.

§ 1630.30 Class 3–A: Registrant deferred because of hardship to others.

(a) In accord with Part 1642 of this chapter any registrant shall be placed in Class 3–A:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s), or sister(s) is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child(ren), parent(s), grandparent(s), brother(s), or sister(s) are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the hardship condition still exists.

(b) The classification of each registrant in Class 3–A will not be granted for a period less than 91 days or longer than 365 days from the date he was last classified in Class 3–A. At expiration of the classification in Class 3–A, eligibility for deferment must be reestablished.

§ 1630.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or 1–D–D who is within any of the following categories:

(1) A registrant who was discharged or transferred to a reserve component of the Armed Forces for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Navy, the Air Force, the Marine Corps, or the Coast Guard; or

(2) A registrant who has served honorably on active duty for a period of not less than one year in the Army, the

Navy, the Air Force, the Marine Corps, or the Coast Guard; or

(3) A registrant who has served on active duty for a period of not less than twenty-four months as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned Reserve Officer shall have been performed by the registrant while assigned to staff any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the National Oceanic and Atmospheric Administration, or who are assigned to assist Indian tribes, groups, bands or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended;

(4) A registrant who, while an alien, has served on active duty for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemptions from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States for a period of not less than 12 months; *Provided*: That all information which is submitted to the Selective Service System concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language; or

(5) A registrant who has completed six years of satisfactory service as a member of one or more of the Armed Forces including the Reserve components thereof.

(b) For the purpose of computation of periods of active duty referred to in paragraphs (a) (1), (2), or (3) of this section, no credit shall be allowed for:

(1) Periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes; or

(2) Periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard; or

(3) Periods of active duty as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any such academies; or

(4) Periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institute referred to in paragraphs (b) (2) or (3) of this section; or

(5) Periods of active duty of members of the Reserve of the Public Health Service other than when assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institute of Health, or the Coast Guard or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups, bands, communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.41 Class 4–B: Official deferred by law.

In Class 4–B shall be placed any registrant who is the Vice President of the United States, a governor of a State, Territory or possession, or any other official chosen by the voters of the entire State, Territory or Possession; a member of a legislative body of the United States or of a State, Territory or Possession; a judge of a court of record of the United States or of a State, Territory or Possession, or the District of Columbia.

§ 1630.42 Class 4–C: Alien or dual national.

In Class 4–C shall be placed any registrant who:

(a) Establishes that he is a national of the United States and of a country with which the United States has a treaty or agreement that provides that such person is exempt from liability for military service in the United States.

(b) Is an alien and who has departed from the United States prior to being issued an order to report for induction or alternative service that has not been canceled. If any registrant who is classified in Class 4–C pursuant to this paragraph returns to the United States he shall be classified anew.

(c) Is an alien and who has registered at a time when he was required by the Selective Service Law to present himself for and submit to registration and thereafter has acquired status within one of the groups of persons exempt from registration.

(d) Is an alien lawfully admitted for permanent residence as defined in paragraph (2) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) or section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

(e) Is an alien and who has not resided in the United States for one year, including any period of time before his registration. When such a registrant has been within the United States for two or more periods and the total of such period equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day.

§ 1630.43 Class 4–D: Minister of religion.

In accord with Part 1645 of this chapter any registrant shall be placed in Class 4–D who is a:

(a) Duly ordained minister of religion; or

(b) Regular minister of religion.

§ 1630.44 Class 4–F: Registrant not qualified for military service.

In Class 4–F shall be placed any registrant who:

(a) Is found by a Military Entrance Processing Station (MEPS), under applicable physical, mental or administrative standards, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by MEPS to be justified shall be placed in Class 4–F until such further examination has been accomplished and such registrant continues to be found not qualified for military service; or

(b) Who fails to meet the qualification standards set by the Secretary of Defense.

§ 1630.45 Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the armed forces or whose father or sibling is in a captured or missing in action status.

In Class 4–G shall be placed any registrant who, except during a period of war or national emergency declared by Congress, is:

(a) A surviving son or brother:

(1) Whose father or sibling of the whole blood was killed in action or died in the line of duty while serving in the

Armed Forces of the United States after December 31, 1959, or died subsequent to such date as a result of injuries received or disease incurred in the line of duty during such service; or

(2) Whose father or sibling of the whole blood is in a captured or missing status as a result of such service in the Armed Forces during any period of time; or

(b) The sole surviving son of a family in which the father or one or more siblings were killed in action before January 1, 1960 while serving in the Armed Forces of the United States, or died after that date due to injuries received or disease incurred in the line of duty during such service before Janaury 1, 1960.

§ 1630.46 Class 4–T: Treaty alien.

In Class 4–T shall be placed any registrant who is an alien who established that he is exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

§ 1630.47 Class 4–W: Registrant who has completed alternative service in lieu of induction.

In Class 4–W shall be placed any registrant who subsequent to being ordered to perform alternative service in lieu of induction has been released from such service after satisfactorily performing the work for a period of 24 months, or has been granted an early release by the Director of Selective Service after completing at least 6 months of satisfactory service.

PART 1633—ADMINISTRATION OF CLASSIFICATION

Sec.

1633.1 Classifying Authority.
1633.2 Claim for other than Class 1–A.
1633.3 Submission of claims.
1633.4 Information relating to claims for deferment or exemption.
1633.5 Securing information from government agencies.
1633.6 Consideration of classes.
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1633.11 Assignment of registrant to a local board.
1633.12 Reconsideration of classification.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1633.1 Classifying authority.

The following officials are authorized to classify registrants into the indicated classes established by Part 1630 of this chapter:

(a) The Director of Selective Service may in accord with the provisions of this chapter classify a registrant into any class for which he is eligible except Classes 1–A–0, 1–0, 2–D, 3–A, and 4–D: *Provided*, That, the Director may not reclassify a registrant other than a volunteer for induction, into Class 1–A out of another class prior to the expiration of the registrant's entitlement to such classification. The Director may, before issuing an induction order to a registrant, appropriately classify him if the Secretary of Defense has certified him to be a member of an armed force or reserve component thereof.

(b) The National Selective Service Appeal Board may in accord with Part 1653 of this chapter classify a registrant into any class for which he is eligible.

(c) A district appeal board may in accord with Part 1651 of this chapter classify a registrant into any class for which he is eligible.

(d) A local board may in accord with part 1648 of this chapter classify a registrant into Class 1–A–0, 1–0, 2–D, 3–A, or 4–D for which he is eligible.

(e) A local board may also classify a registrant into Class 1–C, 1–D–D, 1–D–E, 1–W, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W for which he is eligible upon request by the registrant for a review of a classification denial action under § 1633.1(f). No individual or class of individuals shall be classified into Class 4–F unless the Secretary of Defense has determined that he is unacceptable for military service.

(f) Compensated employees of an area office may in accord with § 1633.2 classify a registrant into Class 1–C, 1–D–D, 1–D–E, 1–W, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W for which he is eligible. No individual or class of individuals shall be classified into class 4–F unless the Secretary of Defense has determined that he is unacceptable for military service.

§ 1633.2 Claim for other than Class 1–A.

(a) A "claim" is a request for postponement of induction or classification into a class other than 1–A. The three types of claims are:

(1) Claim for postponement;

(2) Claim for administrative classification; and

(3) Claim for judgmental classification.

Administrative classifications are as specified in § 1633.1(f). Judgmental classifications are as specified in part 1648 of this chapter.

(b) The initial determination of claims for all postponements and administrative classifications are made by area office compensated personnel. After a denial of a claim for a student postponement or claim for an administrative classification the registrant may request the local board to consider the claim.

(c) The initial determination of a judgmental classification is made by a local board.

(d) A registrant may request and be granted a personal appearance whenever a local or appeal board considers his claim for reclassification. Personal appearances will be held in accord with Parts 1648, 1651 and 1653 of this chapter.

(e) A registrant who has filed a claim for classification in Class 1–A–0 or Class 1–0 shall be scheduled for a personal appearance in accord with § 1648.4 before his claim is considered.

(f) If granted, the effect of a postponement is to delay the reporting date for induction specified on the original order. When a postponement expires, a registrant will be rescheduled and given a new reporting date under the original order.

(g) If granted, a deferment or exemption supersedes the original order to report for induction. When a deferment or exemption expires or ends, the registrant will be placed in the appropriate RSN order within the age selection group corresponding to his year of birth. If called again, a new order to report for induction will be issued.

(h) Any registrant who has received an order to report for induction may, prior to the day he is scheduled to report, submit to the Selective Service System a claim that he is eligible to be classified into any class other than Class 1–A. The registrant may assert a claim that he is eligible for more than one class other than Class 1–A. The registrant cannot subsequently file a claim with respect to a class for which he was eligible prior to the day he was originally scheduled to report. Information and documentation in support of claims for reclassification and postponement of induction shall be filed in accordance with instructions from the Selective Service System.

(i) Any registrant who has received an order to report for induction may, at any time before his induction, submit a claim that he is eligible to be classified into any class other than Class 1–A based upon events that occurred on or after the day he is scheduled to report for induction, and over which he has no control.

§ 1633.3 Submission of claims.

Except as otherwise expressly provided by the Director, no document relating to any registrant's claims or potential claims will be retained by the Selective Service System and no file relating to a registrant's possible classification status will be established prior to that registrant being ordered to report for induction.

§ 1633.4 Information relating to claims for deferment or exemption.

The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the classifying authority in determining his proper classification; such information may include documents, affidavits, and depositions. The affidavits and depositions shall be as concise and brief as possible.

§ 1633.5 Securing information.

The classifying authority is authorized to request and receive information whenever such information will assist in determining the proper classification of a registrant.

§ 1633.6 Consideration of classes.

Claims of a registrant will be considered in the reverse order of the listing of the classes below. When grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–0 considered the highest class and Class 1–H considered the lowest class, according to the following table:

Class 1–A–0: Conscientious Objector Available for Noncombatant Military Service Only.
Class 1–O: Conscientious Objector Available for Alternative Service.
Class 2–D: Registrant Deferred Because of Study Preparing for the Ministry.
Class 3–A: Registrant Deferred Because of Hardship of Others.
Class 4–D: Minister of Religion.
Class 1–D–D: Deferment for Certain Members of a Reserve Component or Student taking Military Training.
Class 4–B: Official Deferred by Law.
Class 4–C: Alien or Dual National.
Class 4–G: Registrant Exempted From Service Because of the Death of his Father or Sibling While Serving in the Armed Forces or Whose Father or Sibling is in a Captured on Missing in Action status.
Class 4–A: Registrant Who has Completed Military Service.
Class 4–W: Registrant Who has Completed Alternative Service in Lieu of Induction.
Class 1–D–E: Exemption of Certain Members of a Reserve Component or Student taking Military Training.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1–W: Conscientious Objector Performing Alternative Service in Lieu of Induction.
Class 4–T: Treaty Alien.
Class 4–F: Registrant not Qualified for Military Service.
Class 1–H: Registrant not Subject to Processing for Induction.

§ 1633.7 General principles of classification.

(a) Each classified registrant in a selection group is available for unrestricted military service until his eligibility for noncombatant service, alternative service, or deferment or exemption from service has been determined by a classifying authority.

(b) The classifying authority in considering a registrant's claim for eligibility for noncombatant or alternative service, or for deferment or exemption from military service, shall not discriminate for or against him because of his membership or activity in any labor, political, religious, or other organization.

(c) Any registrant whose deferment or exemption expires or is terminated will be reclassified 1–H and not subject to induction until such time as he is again ordered for induction in the proper age selection group.

§ 1633.8 Basis of classification.

The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements, if made by the registrant at his personal appearance before the board, and oral statements, if made by the registrant's witnesses at his personal appearance. Any information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official of the Selective Service System or by the registrant will be placed in the registrant's file. The file shall be subject to review by the registrant during normal business hours.

§ 1633.9 Explanation of classification action.

Whenever a classifying authority denies the request of a registrant for classification into a particular class or classifies a registrant in a class other than that which he requested, it shall record the reasons therefor in the registrant's file.

§ 1633.10 Notification to registrant of classification action.

The Director of Selective Service will notify the registrant of any classification action except that taken pursuant to § 1633.7(c).

§ 1633.11 Assignment of registrant to a local board.

The Director of Selective Service shall assign a registrant to a local board that has jurisdiction over the registrant's permanent address that he last furnished the Selective Service System prior to the issuance of his induction order. The local board to which the registrant was assigned will remain his local board unless his board assignment is changed. A request to transfer from an assigned local board to another board must be made at the time a claim is filed. It will be granted if the change results in assigning the registrant to a local board closer to where he is living. A registrant will be permitted only one transfer during the processing of a claim unless authorized by the Director.

§ 1633.12 Reconsideration of classification.

No classification is permanent. The Director of Selective Service may order the reconsideration of any classification action when the facts, upon which the classification is based, change or when he finds that the registrant made a misrepresentation of any material fact related to his claim for classification. No action may be taken under the preceding sentence of this paragraph unless the registrant is notified in writing of the impending action and the reasons thereof, and is given an opportunity to respond in writing within 10 days of the mailing of the notice. If the Director orders a reconsideration of a classification in accord with this paragraph, the claim will be treated in all respects as if it were the original claim for that classification.

PART 1636—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Sec.
1636.1 Purpose; definitions.
1636.2 The claim of conscientious objection.
1636.3 Basis for classification in Class 1–A–0
1636.4 Basis for classification in Class 1–O.
1636.5 Exclusion from Class 1–A–0 and Class 1–O.
1636.6 Analysis of religious training and belief.
1636.7 Impartiality.
1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.
1636.9 Types of decisions.
1636.10 Statement of reasons for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1636.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 1–

A–0 (§ 1630.11 of this chapter), or Class 1–0 (§ 1630.17 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Crystallization of a Registrant's Beliefs.* The registrant's becoming conscious of the fact that he is opposed to participation in war in any form.

(2) *Noncombatant Service.* Service in any unit of the Armed Forces which is unarmed at all times; any other military assignment not requiring the bearing of arms or the use of arms in combat or training in the use of arms.

(3) *Noncombatant Training.* Any training which is not concerned with the study, use, or handling of arms or other implements of warfare designed to destroy human life.

§ 1636.2 The claim of conscientious objection.

A claim to classification in Class 1–A–0 or Class 1–0, must be made by the registrant in writing. Claims and documents in support of claims may only be submitted after the registrant has received an order to report for induction or after the Director has made a specific request for submission of such documents. All claims or documents in support of claims received prior to a registrant being ordered to report for induction or prior to the Director's specific request for such documentation will be returned to the registrant and no file or record of such submission will be established.

§ 1636.3 Basis for classification in Class 1–A–0.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to combatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.4 Basis for classification in Class 1–0.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.5 Exclusion from Class 1–A–0 and Class 1–0.

A registrant shall be excluded from Class 1–A–0 or Class 1–0:

(a) Who asserts beliefs which are of a religious, moral or ethical nature, but who is found not to be sincere in his assertions; or

(b) Whose stated objection to participation in war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon considerations of policy, pragmatism, expediency, or his own self-interest or well-being; or

(c) Whose objection to participation in war is directed against a particular war rather than against war in any form (a selective objection). If a registrant objects to war in any form, but also believes in a theocratic, spiritual war between the forces of good and evil, he may not by reason of that belief alone be considered a selective conscientious objector.

§ 1636.6 Analysis of religious training and belief.

(a) A registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization, or religious sect to qualify for a 1–A–0 or 1–0 classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

(b) The registrant who identifies his beliefs with those of a traditional church or religious organization must show that he basically adheres to beliefs of that church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection. He need not adhere to *all* beliefs of that church or religious organization.

(c) A registrant whose beliefs are not religious in the traditional sense, but are based primarily on moral or ethical principle should hold such beliefs with the same strength or conviction as the belief in a Supreme Being is held by a person who is religious in the traditional sense. Beliefs may be mixed; they may be a combination of traditional religious beliefs and nontraditional religious, moral or ethical beliefs. The registrant's beliefs must play a significant role in his life but should be evaluated only insofar as they pertain to his stated objection to his participation in war.

(d) Where the registrant is or has been a member of a church, religious organization, or religious sect, and where his claim of a conscientious objection is related to such membership, the board may properly inquire as to the registrant's membership, the religious teachings of the church, religious organization, or religious sect, and the registrant's religious activity, insofar as each relates to his objection to participation in war. The fact that the registrant may disagree with or not subscribe to some of the tenets of his church or religious sect does not necessarily discredit his claim.

(e)(1) The history of the process by which the registrant acquired his beliefs, whether founded on religious, moral, or ethical principle is relevant to the determination whether his stated opposition to participation in war in any form is sincere.

(2) The registrant must demonstrate that his religious, ethical, or moral convictions were acquired through training, study, contemplation, or other activity comparable to the processes by which traditional religious convictions are formulated. He must show that these religious, moral, or ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly founded in traditional religious conviction.

(f) The registrant need not use formal or traditional language in describing the religious, moral, or ethical nature of his beliefs. Board members are not free to reject beliefs because they find them incomprehensible or inconsistent with their own beliefs.

(g) Conscientious objection to participation in war in any form, if based on moral, ethical, or religious beliefs, may not be deemed disqualifying simply because those beliefs may influence the registrant concerning the Nation's domestic or foreign policy.

§ 1636.7 Impartiality.

Boards may not give preferential treatment to one religion over another, and all beliefs whether of a religious, ethical, or moral nature are to be given equal consideration.

§ 1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.

(a) After the registrant has submitted a claim for classification as a conscientious objector and his file is

complete, a determination of his sincerity will be made based on:

(1) All documents in the registrant's file folder; and

(2) The oral statements of the registrant at his personal appearance(s) before the local and/or appeal board; and

(3) The oral statements of the registrant's witnesses, if any, at his personal appearance(s) before the local and/or appeal board; and

(4) The registrant's general demeanor during his personal appearance(s).

(b) The registrant's stated convictions should be a matter of conscience which would give him no rest or peace should he participate in war.

(c) The board should be convinced that the registrant's personal history since the crystallization of his conscientious objection is not inconsistent with his claim and demonstrates that the registrant's objection is not solely a matter of expediency. A recent crystallization of beliefs does not in itself indicate expediency.

(d) The information presented by the registrant should reflect a pattern of behavior in response to war and weapons which is consistent with his stated beliefs. Instances of violent acts or conviction for crimes of violence, or employment in the development or manufacturing of weapons of war, if the claim is based upon or supported by a life of nonviolence, may be indicative of inconsistent conduct.

(e) The development of a registrant's opposition to war in any form may bear on his sincerity. If the registrant claims a recent crystallization of beliefs, his claim should be supported by evidence of a religious or educational experience, a traumatic event, an historical occasion, or some other special situation which explains when and how his objection to participation in war crystallized.

(f) In the event that a registrant has previously worked in the development of or manufacturing of weapons of war or has served as a member of a military reserve unit, it should be determined whether such activity was prior to the stated crystallization of the registrant's conscientious objector beliefs. Inconsistent conduct prior to the actual crystallization of conscientious objector beliefs is not necessarily indicative of insincerity. But, inconsistent conduct subsequent to such crystallization may indicate that registrant's stated objection is not sincere.

(g) A registrant's behavior during his personal appearance before a board may be relevant to the sincerity of his claim.

(1) Evasive answers to questions by board members or the use of hostile, belligerent, or threatening words or actions, for example, may in proper circumstances be deemed inconsistent with a claim in which the registrant bases his objection on a belief in nonviolence.

(2) Care should be exercised that nervous, frightened, or apprehensive behavior at the personal appearance is not misconstrued as a reflection of insincerity.

(h) Oral response to questions posed by board members should be consistent with the written statements of the registrant and should generally substantiate the submitted information in the registrant's file folder; any inconsistent material should be explained by the registrant. It is important to recognize that the registrant need not be eloquent in his answers. But, a clear inconsistency between the registrant's oral remarks at his personal appearance and his written submission to the board may be adequate grounds, if not satisfactorily explained, for concluding that his claim is insincere.

(i) The registrant may submit letters of reference and other supporting statements of friends, relatives and acquaintances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of his claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board's decision, specific mention being made of the particular material relied upon for denial of classification in Class 1–A–0 or Class 1–0.

§ 1636.9 Types of decisions.

The following are the types of decisions which may be made by a board when a claim for classification in Class 1–A–0 or Class 1–0 has been considered.

(a) Decision to grant a claim for classification in Class 1–A–0 or Class 1–0, as requested, based on a determination that the truth or sincerity of the registrant's claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(b) Decision to deny a claim for classification in Class 1–A–0 or Class 1–0 based on all information before the board, and a finding that such information fails to meet the tests specified in sections 1636.3 or 1636.4 of this part. If supported by information contained in the registrant's file or obtained during his personal appearance the board may find that the facts presented by the registrant in support of his claim are untrue.

(c) Decision to grant classification in Class 1–A–0 to a registrant even though he requested reclassification in Class 1–0. It should be noted that the registrant who requests classification in Class 1–0 should be classified in Class 1–A–0 only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to noncombatant service.

(d) Decision to grant classification in Class 1–0 to a registrant even though he requested reclassification in Class 1–A–0. It should be noted that the registrant who request classification in Class 1–A–0 should be classified in Class 1–0 only when the information presented demonstrates clearly that the registrant is eligible for classification in Class 1–0.

§ 1636.10 Statement of reasons for denial.

(a) Denial of a conscientious objector claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must, in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or on a determination that the claim is inconsistent or insincere, this should be fully explained in the statement of reasons accompanying the denial.

PART 1639—CLASSIFICATION OF REGISTRANTS PREPARING FOR THE MINISTRY

Sec.

1639.1 Purpose; definitions.
1639.2 The claim for Class 2–D.
1639.3 Basis for classification in Class 2–D.
1639.4 Exclusion from Class 2–D.
1639.5 Impartiality.
1639.6 Considerations relevant to granting or denying claims for Class 2–D.
1639.7 Types of decisions.
1639.8 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1639.1 Purpose; definitions.

(a) The provisions of this part shall govern the consideration of a claim by a registrant for classification in Class 2–D (§ 1630.26 of this chapter).

(b) The definitions of this paragraph shall apply to the interpretation of the provisions of this part:

(1) The term "ministry" refers to the vocation of a "duly ordained minister of religion" or "regular minister of religion" as defined in Part 1645 of this chapter.

(2) The term "recognized church or religious organization" refers to a church

or religious organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, and which engages primarily in religious activities.

(3) The term "recognized theological or divinity school" refers to a theological or divinity school whose graduates are acceptable for ministerial duties either as an ordained or regular minister by the church or religious organization sponsoring a registrant as a ministerial student.

(4) The term "graduate program" refers to a program in which the registrant's studies are officially approved by his church or religious organization for entry into service as a regular or duly ordained minister of religion.

(5) The term "full-time intern" applies to a program that must run simultaneous with or immediately follow the completion of the theological or divinity training and is required by a recognized church or religious organization for entry into the ministry.

(6) The term "satisfactorily pursuing a full-time course of instruction" means maintaining a satisfactory academic record as determined by the institution while receiving full-time instructions in a structured learning situation. A full-time course of instruction does not include instructions received pursuant to a mail order program.

§ 1639.2 The claim for Class 2–D.

A claim to classification in Class 2–D must be made by the registrant in writing, such document being placed in his file folder.

§ 1639.3 Basis for classification in Class 2–D.

(a) In Class 2–D shall be placed any registrant who is preparing for the ministry under the direction of a recognized church or religious organization; and

(1) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(2) Who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(3) Who, having completed theological or divinity school, is a student in a full-time graduate program or is a full-time intern, and whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion. Satisfactory progress in these studies as determined by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

(b) The registrant's classification shall be determined on the basis of the written information in his file folder, oral statements, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearance.

§ 1639.4 Exclusion from Class 2–D.

A registrant shall be excluded from Class 2–D when:

(a) He fails to establish that the theological or divinity school is a recognized school; or

(b) He fails to establish that the church or religious organization which is sponsoring him is so recognized; or

(c) He ceases to be a full-time student; or

(d) He fails to maintain satisfactory academic progress.

§ 1639.5 Impartiality.

Boards may not give precedence to any religious organization or school over another, and all are to be given equal consideration.

§ 1639.6 Considerations relevant of granting or denying claims for Class 2–D.

(a) The registrant's claim for Class 2–D must include the following:

(1) A statement from a church or religious organization that the registrant is preparing for the ministry under its direction; and

(2) Current certification to the effect that the registrant is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(3) Current certification to the effect that the registrant is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(4) Current certification to the effect that the registrant, having completed theological or divinity school, is satisfactorily pursuing a full-time graduate program or is a full-time intern, whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion.

(b) A board may require the registrant to obtain from the church, religious organization, or school detailed information in order to determine whether or not the theological or divinity school is in fact a recognized school or whether or not the church or religious organization which is sponsoring the registrant is recognized.

§ 1639.7 Types of decisions.

(a) A board may grant a classification into Class 2–D until the end of the academic school year.

(b) Upon the expiration of a 2–D classification, a board shall review any request for extension of the classification in the same manner as the first request for Class 2–D. This section does not relieve a registrant of his duties under § 1621.1 of this chapter.

§ 1639.8 Statement of reason for denial.

(a) Denial of a claim for a ministerial student deferment by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompanying the denial.

PART 1642—CLASSIFICATION OF REGISTRANTS DEFERRED BECAUSE OF HARDSHIP TO OTHERS

Sec.

1642.1 Purpose; definitions.
1642.2 The claim for classification in Class 3–A.
1642.3 Basis for classification in Class 3–A.
1642.4 Ineligibility for Class 3–A.
1642.5 Impartiality.
1642.6 Considerations relevant to granting or denying claims for Class 3–A.
1642.7 Types of decisions.
1642.8 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.* E.O. 11623.

§ 1642.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 3–A (§ 1630.30 of this chapter).

(b) The following definitions apply to the interpretation of the provisions of this Part.

(1) The term "dependent" shall apply to the wife, child, parent, grandparent, brother or sister of a registrant.

(2) The term "child" includes an unborn child, a stepchild, a foster child or a legally adopted child, who is legitimate or illegitimate, but shall not include any person 18 years of age or older unless he or she is physically or mentally handicapped.

(3) The term "parent" shall include any person who has stood in the place of a parent to the registrant for at least 5 years preceding the 18th anniversary of the registrant's date of birth and is now supported in good faith by the registrant.

(4) The term "brother" or "sister" shall include a person having one or both parents in common with the registrant, who is either under 18 years of age or is physically or mentally handicapped.

(5) The term "support" includes but is not limited to financial assistance.

(6) Hardship is the unreasonable deprivation of a dependent of the financial assistance, personal care or companionship furnished by the registrant when that deprivation would be caused by the registrant's induction.

§ 1642.2 The claim for classification in Class 3-A.

A claim for classification in Class 3–A must be made by the registrant in writing. Prior to the consideration of the claim, the registrant shall submit supporting documentation, such documents being placed in his file folder.

§ 1642.3 Basis for classification in Class 3-A.

(a) In Class 3–A shall be placed any registrant:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and child(ren), parent(s), grandparent(s), brother(s), or sister(s) are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the dependency or hardship conditions still exist.

(b)(1) In its consideration of a claim by a registrant not separated from active military service by reason of dependency or hardship for classification in Class 3–A, the board will first determine whether the registrant's wife, child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon the registrant for support. Support may be financial assistance, personal care or companionship. If financial assistance is the basis of support, the registrant's contribution must be a substantial portion of the necessities of the dependent. Under most circumstances 40 to 50% of the cost of the necessities may be considered substantial. If that determination is affirmative, the board will determine whether the registrant's induction would result in extreme hardship to his wife when she is the only dependent, or whether the registrant's deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon him for support, or because his wife and his child(ren), parent(s), grandparent(s), brother(s) or sister(s) are dependent upon him for support. A deferment is advisable whenever the registrant's induction would result in hardship to his dependents.

(2) In its consideration of a claim by a registrant separated from the active military service by reason of dependency or hardship and who is not eligible for Class 4–A or 1–D–D the board will determine whether the facts that were the basis for the registrant's separation from the military service continue substantially to exist.

(c) The registrant's classification shall be determined on the basis of the written information in his file, oral statements, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearances.

§ 1642.4 Ineligibility for Class 3-A.

(a) A registrant is ineligible for Class 3–A when:

(1) He assumed an obligation to his dependents specifically for the purpose of evading training and service; or

(2) He acquired excessive financial obligations primarily to establish his dependency claim; or

(3) His dependents would not be deprived of reasonable support if the registrant is inducted; or

(4) There are other persons willing to assume the support of his dependents; or

(5) The dependents would suffer only normal anguish of separation from the registrant if he is inducted; or

(6) The hardship to a dependent is based solely on financial conditions and can be removed by payment and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces; or

(7) The hardship to the dependent is based upon considerations that can be eliminated by payments and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces.

(b) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3–A will be granted if the board determines that the hardship to the registrant's dependent would not be likely to continue beyond that period of time. The reason for the actions taken in accord with the immediately preceding sentence will be recorded in the registrant's file and a copy thereof will be furnished the registrant.

§ 1642.5 Impartiality.

(a) Boards shall consider all questions in a claim for classification in Class 3–A with equal consideration of race, creed, color, sex or ethnic background.

(b) Boards may not give precedence to one type of dependency hardship over another.

§ 1642.6 Considerations relevant to granting or denying claims for Class 3-A.

(a) The registrant's claim for Class 3–A must include the following, with documentation, as applicable:

(1) Registrant's and his dependent's marital status;

(2) Physician's statement concerning any dependent who is physically or mentally handicapped;

(3) Employment status of registrant and his dependents; and

(b) Each case must be weighed carefully and decided on its own merits.

§ 1642.7 Types of decisions.

(a) A board may, except as provided in § 1642.4(b), grant a classification into Class 3–A for such period of time it deems appropriate but in no event shall the period exceed one year.

(b) Upon the expiration of a 3–A classification a board shall review any request for an extension of the classification as if it were the first request for that classification, and the fact that the registrant was placed in Class 3–A under apparently similar circumstances will not be a factor in the decision of the board. This section does not relieve a registrant from his duties under § 1621.1 of this chapter.

(c) A claim for a 3–A classification will be denied when action is taken in accord with § 1642.4(b).

(d) A board shall deny a claim for Class 3–A when the evidence fails to meet the criteria established in this part.

§ 1642.8 Statement of reason for denial.

(a) Denial of a claim for Class 3–A by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompanying the denial.

PART 1645—CLASSIFICATION OF MINISTERS OF RELIGION

Sec.
1645.1 Purpose; definitions.
1645.2 The claim for minister of religion classification.
1645.3 Basis for classification in Class 4–D.
1645.4 Exclusion from Class 4–D.
1645.5 Impartiality.
1645.6 Considerations relevant to granting or denying a claim for Class 4–D.
1645.7 Evaluation of claim.
1645.8 Types of decisions.
1645.9 Statement of reason for denial.

Authority: Military Selective Service Act. 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1645.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 4–D (§ 1630.43 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) The term "duly ordained minister of religion" means a person:

(i) Who has been ordained in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character; and

(ii) Who preaches and teaches the doctrines of such church, sect, or organization; and

(iii) Who administers the rites and ceremonies thereof in public worship; and

(iv) Who, as his regular and customary vocation, preaches and teaches the principles of religion; and

(v) Who administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include:

(i) A person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization; or

(ii) Any person who has been duly ordained a minister in accordance with the ceremonial rite or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

(4) The term "vocation" denotes one's regular calling or full-time profession.

§ 1645.2 The claim for minister of religion classification.

A claim to classification in Class 4–D must be made by the registrant in writing, such document being placed in his file folder.

§ 1645.3 Basis for classification in Class 4–D.

In accordance with Part 1630 of this chapter any registrant shall be placed in Class 4–D who is a:

(a) Duly ordained minister of religion; or

(b) Regular minister of religion.

§ 1645.4 Exclusion from Class 4–D.

A registrant is excluded from Class 4–D when his claim clearly shows that:

(a) He is not a regular minister or a duly ordained minister; or

(b) He is a duly ordained minister of religion in accordance with the ceremonial rite or discipline of a church, religious sect or organization, but who does not regularly as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization; or

(c) He is a regular minister of religion, but does not regularly, as his bona fide vocation, teach and preach the principles of religion; or

(d) He is not recognized by the church, sect, or organization as a regular minister of religion; or

(e) He is a duly ordained minister of religion but does not administer the ordinances of public worship, as embodied in the creed of his church, sect, or organization.

§ 1645.5 Impartiality.

Boards may not give preferential treatment to one religion or sect over another and no preferential treatment will be given a duly ordained minister over a regular minister.

§ 1645.6 Considerations relevant to granting or denying a claim for Class 4–D.

(a) The board shall first determine whether the registrant is requesting classification in Class 4–D because he is a regular minister of religion or because he is a duly ordained minister of religion.

(b) If the registrant claims to be a duly ordained minister of religion, the board will:

(1) Determine whether the registrant has been ordained, in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of religious character, to preach and teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship; and

(2) Determine whether the registrant as his regular, customary, and bona fide vocation, preaches and teaches the principles of religion and administers the ordinances of public worship, as embodied in the creed or principles of the church, sect, or organization by which the registrant was ordained.

(c) If the registrant claims to be a regular minister of religion, the board will:

(1) Determine whether the registrant as his customary and regular calling or customary and regular full-time profession, preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion; and

(2) Determine whether the registrant is recognized by such church, sect, or organization as a regular minister.

(d) If the board determines that the registrant is a regular minister of religion or duly ordained minister of religion he shall be classified in Class 4–D.

§ 1645.7 Evaluation of claim.

(a) In evaluating a claim for classification in Class 4–D, the board will not consider:

(1) The training or abilities of the registrant for duty as a minister; or

(2) The motive or sincerity of the registrant in serving as a minister.

(b) The board should be careful to ascertain the actual duties and functions of registrants seeking classification in Class 4–D, such classification being appropriate only for leaders of the various religious groups, not granted to members of such groups generally.

(c) Preaching and teaching the principles of one's sect, if performed part-time or half-time, occasionally or irregularly, are insufficient to establish eligiblity for Class 4–D. These activities must be regularly performed and must comprise the registrant's regular calling or full-time profession. The mere fact of some secular employment on the part of a registrant requesting classification in Class 4–D does not in itself make him ineligible for that class.

(d) The board should request the registrant to furnish any additional information that it believes will be of assistance in the consideration of the registrant's claim for classification in Class 4–D.

§ 1645.8 Types of decisions.

(a) If the board determines that the registrant is a regular minister of religion or a duly ordained minister of religion, he shall be classified in Class 4–D.

(b) The board will deny a claim for Class 4–D when the evidence fails to meet the criteria established in this part.

§ 1645.9 Statement of reason for denial.

(a) Denial of a 4–D claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If the board's denial is based on statements by the registrant or his witnesses at a personal appearance or on documentation in the registrant's file, such basis will be fully explained in the statement of reasons accompanying the denial.

PART 1648—CLASSIFICATION BY LOCAL BOARD

Sec.
1648.1 Authority of local board.
1648.2 Reassignment of local board.
1648.3 Opportunity for personal appearance.
1648.4 Appointment for personal appearance.
1648.5 Procedures during personal appearance before the local board.
1648.6 Registrants transferred for classification.
1648.7 Procedures upon transfer for classification.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1648.1 Authority of local board.

The local board of jurisdiction shall consider and determine all claims for classification which it receives.

§ 1648.2 Reassignment of local board.

(a) A registrant who wishes to have his board assignment changed to the board having jurisdiction over the area where he currently resides, must request that change at the time he files a claim for student postponement or reclassification.

(b) A registrant whose current address changes after he files a claim for student postponement or reclassification may request a change of board assignment to the board having jurisdiction over his new address: *Provided*, That,

(1) His claim has not yet been considered by the classifying authority; and

(2) His local board assignment has not previously been changed.

(c) Any registrant whose assignment was changed under the provisions of this section will, if his claim is denied, be rescheduled to report to the MEPS to which he was originally ordered.

(d) A registrant whose assignment was changed under the provisions of this section will not be allowed a subsequent change of assignment until such time as any claims pending at the time of reassignment are adjudicated, unless specifically authorized by the Director.

(e) The Director of Selective Service may change a board assignment when he deems it necessary to assure the fair and equitable administration of the Selective Service Law.

§ 1648.3 Opportunity for personal appearance.

(a) A registrant who has filed a claim for classification in Class 1–A–0 or Class 1–0 shall be scheduled for a personal appearance in accord with § 1648.4 before his claim is considered, except for a claim arising under § 1630.17(b).

(b) A registrant who has filed a claim for classification in Class 2–D, Class 3–A, or Class 4–D, shall, upon his written request, be afforded an opportunity to appear in person before the board before his claim for classification is considered.

(c) Any registrant who has filed a claim for classification in Class 1–C, 1–D–D, 1–D–E, 1–W, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T, or 4–W and whose claim has been denied, shall be afforded an opportunity to appear before the board if he requests that the denial of such claim be reviewed by the board.

§ 1648.4 Appointment for personal appearance.

(a) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which he may appear, the registrant shall be informed of the time and place of such meeting and that he may present evidence, including witnesses, bearing on his classification.

(b) Should the registrant who has filed a claim for classification in Class 1–A–0 or Class 1–0 fail to appear at his scheduled personal appearance the board will not consider his claim for classification in Class 1–A–0 or Class 1–0 and he will be rescheduled for a second personal appearance. If he fails to appear at the second personal appearance, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his rescheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, he will be deemed to have abandoned his claim for Class 1–A–0 or 1–0 and will be notified that his claim will not be considered. The board will notify the registrant in writing of its action under this paragraph.

(c) Whenever a registrant who has filed a claim for a class other than Class 1–A–0 or Class 1–0 for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The board will notify the registrant in writing of its action under this paragraph.

§ 1648.5 Procedures during personal appearance before the local board.

(a) A quorum of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(b) At any such appearance, the registrant may present evidence, including witnesses; discuss his classification; direct attention to any information in his file; and present such further information as he believes will assist the board in determing his proper classification. The information furnished should be as concise as possible.

(c) The registrant may present the testimony of not more than three witnesses unless it is the judgment of the board that the testimony of additional witnesses is warranted. The registrant may summarize in writing, the oral information that he or his witnesses

presented. Such summary shall be placed in the registrant's file.

(d) A summary will be made of all oral testimony given by the registrant and his witnesses at his personal appearance and such summary shall be placed in the registrant's file.

(e) If the registrant does not speak English adequately he may appear with a person to act as interpreter for him. The interpreter shall be sworn in accordance with § 1605.81(b). Such interpreter will not be deemed to be a witness unless he testifies in behalf of the registrant.

(f) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(h) The making of verbatim transcripts, and the using of cameras or other recording devices are prohibited in proceedings before the board. This does not prevent the registrant or Selective Service from making a written summary of all testimony presented.

(i) Proceedings before the local boards shall be open to the public only upon the request of or with the permission of the registrant. The board chairman may limit the number of persons attending the hearing in order to maintain order. If during the hearing the presence of nonparticipants in the proceeding becomes disruptive, the chairman may close the hearing.

§ 1648.6 Registrants transferred for classification.

(a) Before a board of jurisdiction has undertaken the classification of a registrant, the file may be transferred by the Director of Selective Service to another board for classification.

(b) The Director of Selective Service may transfer a registrant to another board for classification at any time when:

(1) A board cannot act on the registrant's claim because of disqualification under the provisions of § 1605.55 of this chapter; or

(2) He deems such transfer to be necessary in order to assure equitable administration of the Selective Service Law.

§ 1648.7 Procedures upon transfer for classification.

A board to which a registrant is transferred for classification shall classify the registrant in the same manner it would classify a registrant assigned to it. When the classification has been decided by the transfer board, the file will be returned to the local board of jurisdiction in the manner prescribed by the Director.

PART 1651—CLASSIFICATION BY DISTRICT APPEAL BOARD

Sec.

1651.1 Who may appeal to a district appeal board.
1651.2 Time within which registrants may appeal.
1651.3 Procedures for taking an appeal.
1651.4 Review by district appeal board.
1651.5 File to be returned after appeal to the district appeal board is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq. E.O. 11623.

§ 1651.1 Who may appeal to a district appeal board.

(a) The Director of Selective Service may appeal from any determination of a local board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That, no such appeal will be taken after the expiration of the appeal period prescribed in § 1651.2.

(b) The registrant may appeal to a district appeal board from the denial of his claim for classification by the local board.

§ 1651.2 Time within which registrants may appeal.

The registrant who wishes to appeal must file the appeal with his local board within 15 days after the date he is mailed a notice of classification action. The registrant who wishes a personal appearance before the district appeal board must file the request at the same time he files the appeal.

§ 1651.3 Procedures for taking an appeal.

(a) When the Director of Selective Service appeals to a district appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director, the registrant will be notified that the appeal has been taken, the reason therefor, and that the registrant may appear in person before the appeal board in accord with § 1651.4(e).

(b) The registrant may appeal the classification action of the local board by filing with it a written notice of appeal. The registrant's notice of appeal need not be in a particular form but must include the name of the registrant and his request. Any notice shall be liberally construed so as to permit the appeal.

(c) The registrant may also request an opportunity to appear in person before the district appeal board and such appeal will be considered by the board having jurisdiction over the local board which last classified him.

(d) The registrant may attach to his appeal a statement specifying the reasons he believes the classification action that he is appealing is inappropriate, directing attention to any information in his file, and setting out any information relevant to his claim.

§ 1651.4 Review by district appeal board.

(a) An appeal to the district appeal board is determined by its classification of the registrant in a class other than 1-A or by its refusal to take such action.

(b) Prior to the adjudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing procedural errors will be returned to the local board that classified the registrant for any additional processing necessary to correct such errors.

(c) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.

(d) A board shall consider appeals in the order of their having been filed.

(e) Upon receipt of the registrant's file, a board shall ascertain whether the registrant has requested a personal appearance before the board. If no such request has been made, the board may classify the registrant on the bases of the material in his file.

(f) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which his classification will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a

personal appearance that he may appear at such meeting and present written evidence bearing on his classification.

(g) During the personal appearance, only the registrant may address the board or respond to questions of the board. The registrant will not be permitted to present witnesses at the personal appearance before the district appeal board. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(h) If, in the opinion of the board, the informal, administrative nature of the hearing is unduly disrupted by the presence of an advisor during the personal appearance, the board chairman may require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(i) Whenever a registrant who has filed a claim for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and he will be classified on the basis of the material in his file. The board will notify the registrant in writing of its action under this paragraph.

(j) A quorum of the board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(k) At any personal appearance, the registrant may: Present his oral testimony; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present any additional written information he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(l) The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

(m) A summary will be made of oral testimony given by the registrant at his personal appearance and such summary shall be placed in the registrant's file.

(n) A district appeal board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the board; or

(2) Has withdrawn his request to appear; or

(3) Has waived his right to an opportunity to appear; or

(4) Has failed to appear.

(o) In considering a registrant's appeal, a board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant during the registrant's personal appearance; and

(3) Written evidence submitted by the registrant to the board during his personal appearance.

(p) In the event a board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in the file.

(q) The making of verbatim transcripts, and the using of cameras or other recording devices are prohibited in proceedings before the board. This does not prevent the registrant or Selective Service from making a written summary of his testimony.

(r) Proceedings before the appeal boards shall be open to the public only upon the request of or with the permission of the registrant. The board chairman may limit the number of persons attending the hearing in order to maintain order. If during the hearing the presence of non-participants in the proceedings becomes disruptive, the chairman may close the hearing.

§ 1651.5 File to be returned after appeal to the district appeal board is decided.

When the appeal to a district appeal board has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1653—APPEAL TO THE PRESIDENT

Sec.

1653.1 Who may appeal to the President.
1653.2 Procedures for taking an appeal to the President.
1653.3 Review by the National Selective Service Appeal Board.
1653.4 File to be returned after appeal to the President is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1653.1 Who may appeal to the President.

(a) The Director of Selective Service may appeal to the President from any non-unanimous determination of a district appeal board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That, no such appeal will be taken after the expiration of the appeal period prescribed in paragraph (b) of this section.

(b) When a registrant has been classified by a district appeal board and one or more members of the board dissented from that classification, he may within 15 days after a notice thereof has been mailed, appeal to the President and may request a personal appearance before the National Selective Service Appeal Board.

§ 1653.2 Procedures for taking an appeal to the President.

(a) When the Director of Selective Service appeals to the President he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director the registrant will be notified that the appeal has been taken, the reasons therefor, and that the registrant may appear in person before the National Board in accord with § 1653.1(b).

(b) An appeal to the President by the registrant shall be taken by filing a written notice of appeal with the local board that classified him. He may at the same time file a written request to appear before the National Selective Service Appeal Board. Such notice need not be in any particular form but must state the name of the registrant and the fact that he wishes the President to review the determination.

§ 1653.3 Review by the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Board by its classification of the registrant in a class other than 1–A or by its refusal to take such action.

(b) Prior to the adjudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing procedural errors will be returned to the board where the errors occurred for any additional

processing necessary to correct such errors.

(c) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.

(d) The board shall consider appeals in the order of their having been filed.

(e) Upon receipt of the registrant's file, the board shall ascertain whether the registrant has requested a personal appearance before the board. If no such request has been made, the board may classify the registrant on the basis of the material in his file.

(f) The board shall proceed to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.

(g) Not less than 10 days in advance of the meeting at which his claim will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present written evidence bearing on his classification.

(h) During the personal appearance only the registrant may address the board or respond to questions of the board. The registrant will not be permitted to present witnesses at the personal appearance before the National Appeal Board. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That, those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(i) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such a case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(j) Whenever a registrant who has filed a claim for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within five days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The registrant will be notified in writing of its action under this paragraph.

(k) A quorum of the board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(l) At any such appearance, the registrant may: Present oral testimony; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present such further written information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(m) The registrant may summarize in writing the oral information that he presented and any such summary shall be placed in his file.

(n) A summary will be made of the oral testimony given by the registrant at his personal appearance and such summary shall be placed in the registrant's file.

(o) The board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the National Board; or

(2) Has withdrawn his request to appear; or

(3) Has waived his right to an opportunity to appear; or

(4) Has failed to appear.

(p) Whenever the National Board or the panel thereof to which a case has been assigned cannot act on the case of a registrant, and there is no other panel of the National Board to which the case may be transferred, the decision of the District Appeal Board will be final.

(q) In considering a registrant's appeal, the board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant at the registrant's personal appearance; and

(3) Written evidence submitted by the registrant to the board during his personal appearance.

(r) In the event that the board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

(s) The making of verbatim transcripts, and the using of cameras or other recording devices are prohibited in proceedings before the board. This does not prevent the registrant or Selective Service from making a written summary of his testimony.

(t) Proceedings before the National Appeal Board are closed to the public.

§ 1653.4 File to be returned after appeal to the President is decided.

When the appeal to the President has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1659—EXTRAORDINARY EXPENSES OF REGISTRANTS

Sec.
1659.1 Claims.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1659.1 Claims.

(a) Claims for payment of actual and reasonable expenses of:

(1) Emergency medical care, including hospitalization of registrants who suffer illness or injury; and

(2) The transportation and burial of the remains of registrants who suffer death while acting under orders issued by or under the authority of the Director of Selective Service will be paid in accordance with the provisions of this section.

(b) Claims for payment of expenses incurred for the purposes set forth in paragraph (a) of this section shall be presented to the Director of Selective Service.

(c)(1) The term "emergency medical care, including hospitalization", as used in this section, shall be construed to mean such medical care or hospitalization that normally must be rendered promptly after an occurrence of illness or injury. Discharge by a physician or facility subsequent to such medical care or hospitalization shall be justification to terminate the period of emergency.

(2) The death of a registrant shall be deemed to have occurred while acting under orders issued by or under the authority of the Director of Selective Service if it results directly from an illness or injury suffered by the registrant while so acting and occurs prior to the completion of an emergency medical care, including hospitalization, occasioned by such illness or injury.

(d) No such claim shall be paid unless it is presented within the period of one year from the date on which the expenses were incurred.

(e) No such claim shall be allowed in case it is determined that the cause of injury, illness, or death was due to negligence or misconduct of the registrant.

(f) Burial expenses shall not exceed the maximum prescribed in Section 11 of the Military Selective Service Act in any one case.

(g) Payment of such claims when allowed shall be made only:

(1) Directly to the person or facility with which the expenses were incurred; or

(2) By reimbursement to the registrant, a relative of the registrant, or the legal representative of the registrant's estate, for original payment of such expenses.

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February 1, 1982

Part III

Department of Agriculture

Packers and Stockyards Administration

Regulations and Policy Statements

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Notice of proposed rulemaking; review of existing regulations.

SUMMARY: This document proposes to amend the surety bond requirements for market agencies and dealers, to eliminate the bonding requirements for small volume dealers and market agencies buying on commission (order buyers), to extend the time for reimbursement to the custodial account, to consolidate certain regulations, and to remove certain other regulations and the policy statements regarding packer sales promotion programs and the handling of custodial funds.

DATE: Comments must be received on or before April 2, 1982.

ADDRESS: Comments may be mailed to the Administrator, Packers and Stockyards Administration, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Comments received may be inspected during normal business hours in the office of the Administrator.

FOR FURTHER INFORMATION CONTACT: John A. Sands, Jr., Director, Livestock Marketing Division, phone (202) 447–6951, or William V. Carroll, Director, Packer and Poultry Division, phone (202) 447–6771.

SUPPLEMENTARY INFORMATION: Changes in the regulations and policy statements relating to the requirements for bonding and reimbursement of custodial accounts for uncollected proceeds were first proposed on December 31, 1980 (45 FR 87002), as part of the regulatory review being conducted at that time by the Packers and Stockyards Administration. The Administration had originally scheduled complete review of all existing regulations and policy statements within a 5-year period. In January 1981, however, the agency decided to accelerate this timetable for review (46 FR 35279). As a first step, the Deputy Administrator established an internal task force to review existing regulations and policy statements and to recommend changes which would lessen the regulatory burden imposed upon industry participants without restricting the agency's ability to enforce the Packers and Stockyards Act.

Consideration of the comments filed in response to the December 31, 1980, proposal, the recommendations of the task force, and the comments received in response to the task force report from industry groups has resulted in the following proposed amendments to the regulations and policy statements. Specifically, 33 comments were received and reviewed in response to the notice of December 31, 1980. Additionally, 87 comments submitted in resonse to earlier publications in the **Federal Register,** outlining the agency's plan for review (44 FR 71802; 45 FR 21168), have influenced this proposal.

The bonding requirements and the custodial account regulations promote a well-ordered system for livestock marketing throughout the nation by providing financial stability and security to the sellers of livestock.

The following proposal would remove §§ 201.40 and 201.41 (9 CFR 201.40 and 201.41) and policy statements §§ 203.3 and 203.9 (9 CFR 203.3 and 203.9). Changes are proposed to §§ 201.27 through 201.31, 201.34 and 201.42 (9 CFR 201.27–201.31, 201.34 and 201.42). No changes are proposed to §§ 201.32, 201.33 and 201.39 (9 CFR 201.32, 201.33 and 201.39).

Meat Packer Sales Promotion Programs

Seventeen comments were received in response to the changes proposed in policy statement § 203.3 Eleven of these comments opposed either the entire policy statement or the changes advanced by the agency in the December 31, 1980, publication. The remaining six comments, including four from state departments of agriculture, expressed no objection to the December proposal.

Upon consideration, the Administration has determined that some point promotion programs currently proscribed under this policy statement do not adversely affect competition. Therefore, the Administration now proposes to remove policy statement § 203.3. Removal of this policy statement will not preclude the Administration from proceeding against persons subject to the Act who conduct a point promotion program which adversely affects competition.

Bonding Provisions

The general bonding provisions and the changes in those regulations as proposed on December 31, 1980, have been re-evaluated. The proposal of December 31, 1980, relating to the level of required bond coverage has been altered. The December 31, 1980, notice required the filing of a $5,000 minimum bond by dealers and market agencies buying on commission (order buyers) whose annual purchase of livestock totaled $260,000 or less. The current regulations provide that all dealers and market agencies purchasing $650,000 or less of livestock annually shall file and maintain the $5,000 minimum bond.

The agency has reviewed the bonding program for low volume dealers and market agencies (those registrants whose annual purchases of livestock do not exceed $500,000), and determined that it is not cost effective. The combined agency and industry cost is estimated to be $435,000 annually. The bond claim data, however, concerning $5,000 bonds for the years July 1974 through July 1980 shows that only an average of $51,000 per year in losses was covered by such bonds. For these reasons, The Administration proposes to amend § 201.29 to exempt dealers and order buyers whose annual livestock purchases do not exceed $500,000 from the requirement of filing and maintaining a bond.

Based on the most recent annual reports filed by dealers and market agencies buying on commission, the proposed regulation would exempt 3,207 of the 11,815 dealers and market agencies registered with the Secretary as of September 30, 1981. Many exempted registrants may continue to maintain bond coverage voluntarily or pursuant to state bonding laws.

Additionally, the proposed § 201.29 will require the filing of bonds and trust fund agreements on forms approved by the Administrator. The grandfather clause in paragraph (c) will be eliminated.

Section 201.30 as proposed on December 31, 1980, is reproposed, eliminating the proposal of a $5,000 bond for dealers and order buyers purchasing less than $260,000 annually and establishing the minimum bond at $10,000.

Section 201.31 is amended to eliminate paragraph (e). All bonds to which this paragraph would have aplied have been terminated or modified.

Section 201.34 is amended to add a new paragraph (c) which will provide for the termination of trust fund agreements filed in lieu of bonds. This new paragraph will permit termination of a trust fund agreement and waiver of the 30-day waiting period when a replacement bond is filed.

Section 201.27 is amended to delete the bond and trust fund agreement forms and provide that such bonds and trust fund agreements be filed on forms approved by the Administrator. In addition, the cross references to other bonding regulations are amended to conform to the proposed changes

contained in this Notice of Proposed Rulemaking.

Section 201.28 is amended to change the title of "Area Supervisor" to "Regional Supervisor" and the word "area" to "region." This change is proposed to conform the regulation to the current organization of the Packers and Stockyards Administration.

No changes are proposed in §§ 201.32 and 201.33.

Proceeds of Sale—Custodial Accounts

No changes are proposed in § 201.39. It is proposed to remove §§ 201.40 and 201.41 and policy statement § 203.9. The provisions of these regulations and the policy statement are adequately covered by § 201.39 and the proposed amendments to § 201.42.

The proposal for § 201.42, as originally published in December 1980, has been re-evaluated and additional changes are now proposed. The proposed regulation would (1) require all proceeds collected from the sale of consigned livestock to be deposited in the custodial account, (2) require the market agency to reimburse the custodial account for any uncollected proceeds within 7 days following the date of the sale, (3) delete the provisions requiring custodial accounts for buyers' funds, and (4) allow custodial funds to be deposited in savings accounts as well as certificates of deposit.

The proposed extension of the present 3-day requirement for reimbursement of the custodial account for uncollected proceeds will not significantly diminish the level of protection afforded for consignors' funds and does not affect, in any way, the market agency's responsibility to account promptly to consignors. The amendment provides market agencies adequate time to collect monies due from buyers of consigned livestock and should substantially reduce the amount of money market agencies must, under the current requirements, either borrow or maintain on hand in order to reimburse the custodial account. This proposal will reduce the cost of doing business and the anticipated savings will be significant for small businesses and the industry as a whole.

Executive Order

It has been determined that the proposals to amend and remove regulations relating to bonding of market agencies and dealers are not "major" rules as defined by section 1(b) of E.O. 12291.

It has been determined that the proposals to amend and remove regulations and policy statements with respect to custodial accounts are not "major" rules as defined in section 1(b) of E.O. 12291.

The proposed rules will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices for consumers, individual industries, government agencies or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, regulatory impact analyses are not required.

Regulatory Flexibility Act

B. H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that the bonding proposal will not have a significant economic impact on a substantial number of small entities. While this action affects all dealers and market agencies subject to the Act, the proposed regulation will reduce the cost of doing business for market agencies and dealers by permitting small dealers and order buyers to operate without filing bonds and reduce paperwork costs to the industry and the agency. For those registrants who fall within the annual volume group of $500,000 to $650,000 now required to obtain higher bond coverage, the cost of this increased bond coverage will be insignificant, i.e., approximately $50 per year per registrant.

The Administrator additionally has concluded that the proposal with respect to reimbursement of custodial accounts for shippers proceeds will not have a significant economic impact on a substantial number of small entities. Only market agencies selling on a commission basis are affected by this regulation. The proposed changes, by extending the time for reimbursement to the custodial account, allow registrants to reduce the costs of doing business without jeopardizing the interest of producers and consignors.

(7 U.S.C. 228(a))

Done at Washington, D.C. January 27, 1982.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

§§ 201.40 and 201.41 [Removed]

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

§§ 203.3 and 203.9 [Removed]

It is proposed to remove §§ 201.40, 201.41, 203.3 and 203.9 (9 CFR 201.40, 201.41, 203.3 and 203.9).

It is proposed to revise §§ 201.27, 201.28, 201.29, 201.30, 201.31, 201.34, 201.39 and 201.42 to read as set forth below.

§ 201.27 Underwriter; equivalent in lieu of bonds; standard forms.

(a) The surety on bonds maintained under the regulations in this part shall be a surety company (1) which is currently approved by the United States Treasury Department for bonds executed to the United States, and (2) which has not failed or refused to satisfy its legal obligations under bonds issued under said regulations.

(b) A bond equivalent may be filed in lieu of a bond. A bond equivalent shall be in the form of a trust fund agreement based on funds actually deposited and readily convertible to currency in the amount required by § 201.30. Such funds shall be invested or deposited, in the name of a trustee as set forth in § 201.32, in: (1) Fully negotiable obligations of the United States, or (2) deposits or accounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The provisions of §§ 201.27 through 201.34 shall be applicable to such trust agreements.

(c) Bonds and trust fund agreements shall be filed on forms approved by the Administrator.

§ 201.28 Duplicates of bonds or equivalents to be filed with Regional Supervisor.

Fully executed duplicates of bonds or trust fund agreements maintained under the regulations in this part, and duplicates of all endorsements, amendments, riders, indemnity agreements, and other attachments thereto, shall be filed with the Regional Supervisor for the region in which the registrant, or packer or person applying for registration resides, or in the case of a corporation, where the corporation has its home office: *Provided,* That if such registrant, or packer or person does not

engage in business in such area, the foregoing documents shall be filed with the Regional Supervisor for the region in which the registrant's, or packer's or person's principal place of business is located.

§ 201.29 Market agencies, packers and dealers required to file and maintain bonds.

(a) Every market agency, packer, and dealer, except as provided in paragraphs (b) and (d) herein, and except packer buyers registered as dealers to purchase livestock for slaughter only, shall execute and maintain a reasonable bond on forms approved by the Administrator containing the appropriate condition clauses, as set forth in § 201.31 of the regulations, applicable to the activity or activities in which the person or persons propose to engage, to secure the performance of obligations incurred as such market agency, packer, or dealer. No market agency, packer, or dealer required to maintain a bond shall conduct his operations unless there is on file and in effect a bond complying with the regulations in this part.

(b) Every market agency buying on a commission basis and every dealer buying for his own account or for the accounts of others, except those market agencies buying on commission and dealers whose annual purchases do not exceed $500,000, shall file and maintain a bond. If a registrant operates as both a market agency buying on a commission basis and as a dealer, only one bond to cover both buying operations need be filed. Any person operating as a market agency selling on a commission basis and as a market agency buying on a commission basis or as a dealer shall file and maintain separate bonds to cover his selling and buying operations.

(c) Each market agency and dealer whose buying operations are cleared by another market agency shall be named as clearee in the bond filed and maintained by the market agency registered to provide clearing services. Each market agency selling livestock on a commission basis shall file and maintain its own bond.

(d) Every packer purchasing livestock, directly or through an affiliate or employee or a wholly-owned subsidiary, except those packers whose annual purchases do not exceed $500,000, shall file and maintain a reasonable bond. In the event a packer maintains a wholly-owned subsidiary or affiliate to conduct its livestock buying, the wholly-owned subsidiary or affiliate shall be registered as a packer buyer for its parent packer firm, and the required bond shall be maintained by the parent packer firm.

§ 201.30 Amount of market agency, dealer and packer bonds.

(a) *Market agency selling livestock on commission.* To compute the required amount of bond coverage, divide the dollar value of livestock sold during the preceding business year, or the substantial part of that business year, in which the market agency did business, by the actual number of days on which livestock was sold. The divisor (the number of days on which livestock was sold) shall not exceed 130. The amount of bond coverage must be the next multiple of $5,000 above the amount so determined. When the computation exceeds $50,000, the amount of bond coverage need not exceed $50,000 plus 10 percent of the excess over $50,000, raised to the next $5,000 multiple. In no case shall the amount of bond coverage for a market agency selling on commission be less than $10,000 or such higher amount as required to comply with any state law.

(b) *Dealer or market agency buying on commission.* The amount of bond coverage must be based on the average amount of livestock purchased by the dealer or market agency during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased during the preceding business year, or substantial part of that business year, in which the dealer or market agency or both did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of the bond coverage must be the next multiple of $5,000 above the amount so determined. When the computation exceeds $75,000, the amount of bond coverage need not exceed $75,000 plus 10 percent of the excess over $75,000, raised to the next $5,000 multiple. In no case shall the amount of bond coverage be less than $10,000 or such higher amount as required to comply with any state law.

(c) *Market agency acting as clearing agency.* The amount of bond coverage must be based on the average amount of livestock purchased by all persons for whom the market agency served as a clearor during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased by all persons for whom the market agency served as a clearor during the preceding business year, or substantial part of that business year, in which the market agency acting as clearing agency did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of bond coverage must be the next multiple of $5,000 above the amount so determined. When the computation exceeds $75,000, the amount of bond coverage need not exceed $75,000 plus 10 percent of the excess over $75,000, raised to the next $5,000 multiple. In no case shall the amount of bond coverage be less than $10,000 or such higher amount as required to comply with any state law.

(d) *Packer.* The amount of bond coverage must be based on the average amount of livestock purchased by the packer during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased during the preceding business year, or substantial part of that business year, in which the packer did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of bond coverage must be the next multiple of $5,000 above the amount so determined. In no case shall the amount of bond coverage for a packer be less than $10,000.

(e) If a person applying for registration as a market agency or dealer has been engaged in the business of handling livestock before the date of the application, the value of the livestock handled, if representative of future operations, must be used in computing the required amount of bond coverage. If the applicant for registration is a successor in business to a registrant formerly subject to these regulations, the amount of bond coverage of the applicant must be at least that amount required of the prior registrant, unless otherwise determined by the Administrator. If a packer becomes subject to these regulations, the value of livestock purchased, if representative of future operations must be used in computing the required amount of bond coverage. If a packer is a successor in business to a packer formerly subject to these regulations, the amount of bond coverage of the successor must be at least that amount required of the prior packer, unless otherwise determined by the Administrator.

(f) Whenever the Administrator has reason to believe that a bond is inadequate to secure the performance of the obligations of the market agency, dealer or packer covered thereby, the Administrator shall notify such person to adjust the bond to meet the requirements the Administrator determines to be reasonable.

§ 201.31 Conditions in market agency, dealer, and packer bonds.

Each market agency, dealer and packer bond shall contain conditions applicable to the activity or activities in which the person or persons named as principal or clearees in the bond propose to engage, which conditions shall be as follows or in terms to provide equivalent protection:

(a) *Condition Clause No. 1: When the principal sells livestock for the accounts of others.* If the said principal shall pay when due to the person or persons entitled thereto the gross amount, less lawful charges, for which all livestock is sold for the accounts of others by said principal.

(b) *Condition Clause No. 2: When the principal buys livestock for his own account or for the accounts of other.* If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account or for the accounts of others, and if the said principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the accounts of others.

(c) *Condition Clause No. 3: When the principal clears other registrants buying livestock and thus is responsible for the obligations of such other registrants.* If the said principal, acting as a clearing agency responsible for the financial obligations of other registrants engaged in buying livestock, viz: (Insert here the names of such other registrants as they appear in the application for registration), or if such other registrants, shall (1) pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such other registrants for their own account or for the accounts of others; and (2) safely keep and properly disburse all funds coming into the hands of such principal or such other registrants for the purpose of paying for livestock purchased for the accounts of others.

(d) *Condition Clause No. 4: When the principal buys livestock for his own account as a packer.* If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account.

§ 201.34 Termination of market agency, dealer and packer bonds.

(a) Each bond shall contain a provision requiring that, prior to terminating such bond, at least 30 days notice in writing shall be given to the Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, by the party terminating the bond. Such provision may state that in the event the surety named therein writes a replacement bond for the same principal, the 30-days notice requirement may be waived and the bond will be terminated as of the effective date of the replacement bond.

(b) Each bond filed by a market agency who clears other registrants who are named in the bond shall contain a provision requiring that, prior to terminating the bond coverage of any clearee named therein, at least 30 days' notice in writing shall be given to the Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, by the surety. Such written notice shall be in the form of a rider or endorsement to be attached to the bond of the clearing agency.

(c) Each trust fund agreement shall contain a provision requiring that, prior to terminating such trust fund agreement, at least 30 days' notice in writing shall be given to the Administrator, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, by the party terminating the trust fund agreement. Such provision may state that in the event the principal named therein files an acceptable bond written by an approved surety to replace the trust fund agreement, the 30-day notice requirement may be waived and the trust fund agreement will be terminated as of the effective date of the replacement bond.

§ 201.42 Custodial accounts for trust funds.

(a) *Payments for livestock are trust funds.* Each payment that a livestock buyer makes to a market agency selling on commission is a trust fund. Funds deposited in custodial accounts are also trust funds.

(b) *Custodial accounts for shippers' proceeds.* Every market agency engaged in selling livestock on a commission or agency basis shall establish and maintain a separate bank account designated as "Custodial Account for Shippers' Proceeds," or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.

(c) *Deposits in custodial accounts.* The market agency shall deposit in its custodial account before the close of the next business day (the next day on which banks are customarily open for business whether or not the market agency does business on that day) after livestock is sold (1) the proceeds from the sale of livestock that have been collected, and (2) an amount equal to the proceeds receivable from the sale of livestock that are due from (i) the market agency, (ii) any owner, officer, or employee of the market agency, and (iii) any buyer to whom the market agency has extended credit. The market agency shall thereafter deposit in the custodial account all proceds collected until the account has been reimbursed in full, and shall, before the close of the seventh day following the sale of livestock, deposit an amount equal to all the remaining proceeds receivable whether or not the proceeds have ben collected by the market agency.

(d) *Withdrawals from custodial accounts.* The custodial account for shippers' proceeds shall be drawn on only for payment of (1) the net proceeds to the consignor or shipper, or to any person that the market agency knows is entitled to payment, (2) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, and (3) to obtain any sums due the market agency as compensation for its services.

(e) *Accounts and records.* Each market agency shall keep such accounts and records as will disclose at all times the handling of funds in such custodial accounts for shippers' funds. Accounts and records must at all times disclose the names of the consignors and the amount due and payable to each from funds in the custodial account for shippers' proceeds.

(f) *Insured banks.* Such custodial accounts for shippers' funds must be established and maintained in banks whose deposits are insured by the Federal Deposit Insurance Corporation.

(g) *Certificates of deposit and/or savings accounts.* Funds in a custodial account for shippers' proceeds may be

maintained in an interest-bearing savings account and/or invested in one or more certificates of deposit, to the extent that such deposit or investment does not impair the ability of the market agency to meet its obligations to its consignors. The savings account must be properly designated as a part of the custodial account of the market agency in its fiduciary capacity as trustee of the custodial funds and maintained in the same bank as the custodial account. The certificates of deposit, as property of the custodial account, must be issued by the bank in which the custodial account is kept and must be made payable to the market agency in its fiduciary capacity as trustee of the custodial funds.

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday, the next Federal business day is used (see 1 CFR 18.17).

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
February 1	February 16	March 3	March 18	April 2	May 3
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February 3	February 18	March 5	March 22	April 5	May 4
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CFR CHECKLIST; 1981 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

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AGENCY ABBREVIATIONS
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(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CSRS Cooperative State Research Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ERS Economic Research Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSIS Food Safety and Inspection Service
IGO Inspector General Office
PSA Packers and Stockyards Administration
REA Rural Electrification Administration
SCS Soil Conservation Service
SEA Science and Education Administration
SRS Statistical Reporting Service
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
BIE Bureau of Industrial Economics
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department

NCH National Council for the Handicapped

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
CRE Conservation and Renewable Energy Office
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHA Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS Health and Human Services Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Centers for Disease Control
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
NIH National Institutes of Health
NIOSH National Institute for Occupational Safety and Health
PHS Public Health Service
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
E&EO Environment and Energy Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary
SEECB Solar Energy and Energy Conservation Bank

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMREO Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

ANTITRUST Antitrust Division
BJS Bureau of Justice Statistics
DEA Drug Enforcement Administration
FCSC Foreign Claims Settlement Commission
INS Immigration and Naturalization Service
JJDPO Juvenile Justice and Delinquency Prevention Office
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission
PB Prisons Bureau

LABOR Labor Department

BLS Bureau of Labor Statistics
ESA Employment Standards Administration

ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs Office
W&H Wage and Hour Division

STATE State Department

FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MA Maritime Administration
NHTSA National Highway Traffic Safety Administration
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
FACO Foreign Assets Control Office
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

ACHP Historic Preservation, Advisory Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
DIDC Depository Institutions Deregulation Committee
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRAC Federal Register Administrative Committee
FRS Federal Reserve System
FSIDP Foreign Service Impasse Disputes Panel
FSLRB Foreign Service Labor Relations Board
FTC Federal Trade Commission
GAO General Accounting Office
GOLD Gold Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Service
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
GSA/TPUS Transportation and Public Utilities Service
ICA International Communication Agency
ICC Interstate Commerce Commission
IDCA International Development Cooperation Agency
IDCA/AID Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MSPB Merit Systems Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
SFC Synthetic Fuels Corporation
SSS Selective Service System
Trade Representative Trade Representative, Office of United States
TVA Tennessee Valley Authority
VA Veterans Administration
WRC Water Resources Council

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Pages 4673-4978

Federal Register

Tuesday
February 2, 1982

Highlights

4673 **Bicentennial Year of the American Bald Eagle and National Bald Eagle Day** Presidential proclamation.

4681 **Income Tax** Treasury/IRS withdraws part of proposed rule on use of property valued to satisfy a pecuniary bequest and removes certain carryover basis rules for property acquired from a decedent.

4713 **Child Welfare** HHS/Office of Child Support Enforcement proposes to implement rules on withholding of unemployment compensation to collect unmet support obligations.

4704 **Grant Programs—Waste Treatment and Disposal** EPA seeks comments on draft recommendations to construction grants regulations.

4802 **Medical Devices** HHS/FDA proposes rules on classification of all clinical chemistry and clinical toxicology devices. (Part II of this issue)

4689 **Motor Carriers** ICC gives notice of revised compliance schedule for modification of the motor carrier fuel surcharge program.

4932 **Historic Preservation** Interior/NPS issues annual listing of historic properties.

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

4684 **Communications** FCC changes frequency allotments for the aeronautical mobile services on a worldwide basis.

4693 **Imports—Pests** USDA/APHIS proposes rules on inspection and fumigation of apples from Australia.

4713 **Procurement** OMB requests comments on draft Federal Acquisition Regulations on contract termination forms and formats.

4681 GSA increases maximum annual amounts of gasoline, burner fuel oil, diesel oil and kerosene which may be procured through small purchase procedures.

4709 **Federal Property Management** GSA/TPUS proposes to enable agencies to promptly pay all supplemental transportation bills.

4707 GSA/TPUS proposes to revise procedures on obtaining refunds from carriers for unused transportation services.

4676, 4780 **Privacy Act Documents** NRC (2 documents)

4796 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4893 of January 28, 1982

Bicentennial Year of the American Bald Eagle and National Bald Eagle Day

By the President of the United States of America

A Proclamation

Whether silhouetted against the sky on a rocky pinnacle in Alaska or soaring majestically overhead in Florida, the bald eagle is admired as one of nature's most spectacular creatures.

To catch a glimpse of this majestic raptore is to understand why the Founding Fathers chose it to represent the strength and courage of our great Nation. Its grace and power in flight, its vigilance and loyalty in defending its family group, and, most of all, its courage make the eagle a proud and appropriate symbol for the United States. Its presence on the Great Seal of the United States—one talon extending the olive branch of peace, the other brandishing the arrows of defense—is a symbol of friendship and cooperation to our allies and a warning to our adversaries that we are not to be trod upon.

No one is certain what the original United States population of the bird was, although it may have approached 75,000–100,000. We do know, however, that its extinction has become a disheartening possibility in recent years.

We have sought to prevent that possibility by restricting the use of certain pesticides. Shooting and habitat destruction are also being brought under control as a result of protection and conservation programs conducted under the Bald Eagle Protection Act and the Endangered Species Act. Scientists believe we are now beginning to see a subtle but definite population increase through the cooperative efforts of Federal and State fish and wildlife agencies, conservation and industrial groups, scientists, and private citizens. These efforts are truly indicative of the spirit of cooperation and perseverance which is at the very heart of our national character.

On June 20, 1782, the bald eagle became our Nation's symbol and national bird. As we approach the bicentennial anniversary of that event, we have an excellent opportunity to pause and reflect upon the importance of the bald eagle, indeed of all our fish and wildlife resources, to a healthy America. On this occasion, let us renew our commitment and dedication to the conservation of our natural heritage as symbolized by the bald eagle.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with a joint resolution of the Congress (S.J. Res. 121), do hereby proclaim June 20, 1982 as "National Bald Eagle Day" and designate the year 1982 as the "Bicentennial Year of the American Bald Eagle." I call upon the people of the United States to join in these observances with appropriate activities in their homes and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of January in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-2767
Filed 1-29-82; 2:15 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of final rules.

SUMMARY: This action affirms two final rules which amended the list of gypsy moth regulated areas (regulated areas are divided into high-risk areas and low-risk areas) under the Federal Gypsy Moth and Browntail Moth Quarantine and Regulations by (1) designating previously nonregulated areas in Maryland and New York as gypsy moth high-risk areas; (2) by redesignating areas in Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont from gypsy moth low-risk areas to gypsy moth high-risk areas; (3) by designating previously nonregulated areas in Illinois, Maryland, Michigan, and Ohio as gypsy moth low-risk areas; and (4) deleting areas in Maryland, Michigan, New York, and Ohio from the list of gypsy moth regulated areas. These actions are necessary in order to prevent the artificial spread interstate of gypsy moth and to eliminate the imposition of unnecessary restrictions on the interstate movement of certain articles.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: T. J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The final rules have been determined to be not "major rules" under Executive Order 12291 and Secretary's Memorandum 1512–1. Based on information compiled by the Department, it has been determined that the rules will have, together, an annual effect on the economy of approximately $126,000; that the rules will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and that these rules will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Alternatives were considered in connection with the final rules. Consideration was given, with regard to those areas where gypsy moth no longer occurs, whether to (1) delete restrictions on the interstate movement of regulated articles, or (2) to continue restrictions from these regulated areas on the interstate movement of regulated articles. Alternative (1) is adopted because it appears that otherwise there would be unnecessary restrictions on the movement of gypsy moth regulated articles where gypsy moth no longer occurs. With regard to those areas where gypsy moth has spread or is likely to spread, consideration was given whether to (1) impose restrictions on the interstate movement of regulated articles, or (2) to continue to allow the interstate movement of regulated articles without restrictions. Alternative (1) was adopted because it appears that otherwise there would be a significant threat of spread of gypsy moth throughout the United States. Under these circumstances, it appears that the final rules are cost effective. Also, it appears that the final rules maximize the net benefits to society at the lowest net cost.

Background

A document published in the **Federal Register** on April 9, 1981, (46 FR 21143–21144), amended 7 CFR 301.45–2a, by amending the list of gypsy moth regulated areas (regulated areas are divided into high-risk areas and low-risk areas) under the Federal Gypsy Moth and Browntail Moth Quarantine and Regulations. The list of the regulated areas was amended by (1) designating previously nonregulated areas in Maryland and New York as gypsy moth high-risk areas; (2) by redesignating areas in Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont from gypsy moth low-risk areas to gypsy moth high-risk areas; (3) by designating previously nonregulated areas in Illinois, Maryland, Michigan, and Ohio as gypsy moth low-risk areas; and (4) deleting areas in Maryland, Michigan, New York, and Ohio from the list of gypsy moth regulated areas.

A document published in the **Federal Register** on April 29, 1981 (46 FR 23914–23915) amended 7 CFR 301.45–2a by amending the list of gypsy moth regulated areas to add the town of Penfield in Monroe County, New York, and to add all of Orange County, New York, to the list of gypsy moth high-risk areas.

The amendments became effective on the dates of publication. The documents provided that the amendments were necessary as emergency measures in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

Comments were solicited for 60 days after publication of the amendments. Three written comments were received in response to the emergency final rule published in the **Federal Register** on April 9, 1981. Two of these comments were in favor of the emergency amendment, one of which was from a representative of the Ohio Department of Agriculture and the other from a representative of a public interest organization.

The third comment was received from a representative of the North Carolina Department of Agriculture objecting to Avery County, North Carolina, being regulated and listed as a low-risk area. The state contended that the criteria used to list low-risk areas for gypsy moth finds geographically removed from the generally infested area should not be the same as those finds not geographically removed from such areas. Also, by listing Avery County as a regulated area, it creates an impression that an infestation occurs there. No changes are made in this

amendment based on this comment since this amendment was not considering whether to change the criteria for determining whether an area is to be regulated or designated as a high-risk or low-risk area under the regulations. This amendment was concerned only with the question of whether the gypsy moth finds in Avery County meet the criteria of infestation for classifying the area as a low-risk area. A determination by the Department was made that it did. Consequently, Avery County was listed as a low-risk area by the Department in order to provide official notice of the likelihood that inspectors may conduct inspections in such areas and, based on the life stage findings, the movement of regulated articles may be regulated.

No comments were received in response to the emergency final rule published in the **Federal Register** on April 29, 1981.

It appears that the factual situations which were set forth in the documents of April 9, 1981, and April 29, 1981, still provide a basis for the amendment. Accordingly, it has been determined that the final rules should remain effective as published in the **Federal Register** on April 9, 1981, and April 29, 1981.

(Secs. 8 and 9, 37 Stat. 318, as amended; 7 U.S.C. 161, 162; 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 28th day of January 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-2715 Filed 2-1-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Privacy Act Regulations; Notice of Exemptions; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction and clarification.

SUMMARY: The Nuclear Regulatory Commission is amending 10 CFR 9.95, Specific Exemptions, to identify more properly the pertinent Systems of Records and to correct the names of two of the 15 Systems of Records which contain exempt records.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-27211.

SUPPLEMENTARY INFORMATION: In order to update and clarify the information contained in 10 CFR 9.95, it is necessary to add the numerical designations for the NRC Systems of Records and to correct the names of two of the Systems of Records which contain exempt records. For purposes of convenience, the 15 exempted systems have been rearranged in numerical order.

Because these corrections and clarifications relate solely to minor procedural matters, good cause exists for omitting notice of proposed rulemaking and for making the amendments effective immediately upon publication without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a and 553 of Title 5 of the United States Code, as amended, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 9, are published as a document subject to codification.

PART 9—PUBLIC RECORDS

1. The citation of authority is revised to read as follows:

Authority: Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552; Subpart B also issued under 5 U.S.C. 552a; Subpart C also issued under 5 U.S.C. 552b.

2. Section 9.95 is revised to read as follows:

§ 9.95 Specific exemptions.

The following records, contained in the designated NRC Systems of Records (NRC-1, NRC-5, NRC-6, NRC-9, NRC-11, NRC-18, NRC-22, NRC-23, NRC-28, NRC-29, NRC-31, NRC-33, NRC-37, NRC-39, and NRC-40) are exempt from 5 U.S.C. a(c)(e); (d); (e)(i); (e)(4)(G), (H), (I), and (f) in accordance with 5 U.S.C. 552a(k). Each of these records is subject to the provisions of § 9.61 of this part:

(a) Appointment and Promotion Certification Records, NRC-1.

(b) Contracts Records Files, NRC-5.

(c) Development and Advancement for Regulatory Employees (DARE) Records, NRC-6.

(d) Equal Employment Opportunity Records Files, NRC-9.

(e) General Personnel Records (Official Personnel Folder and Related Records), NRC-11.

(f) Office of Inspector and Auditor Index File and Associated Records, NRC-18.

(g) Personnel Performance Appraisals, NRC-22.

(h) Personnel Research and Test Validation Records, NRC-23.

(i) Recruiting, Examining and Placement Records, NRC-28.

(j) Document Control System, NRC-29.

(k) Correspondence and Records Branch, Office of the Secretary, NRC-31.

(l) Special Inquiry File, NRC-33.

(m) Information Security Files and Associated Records, NRC-37.

(n) Personnel Security Files and Associated Records, NRC-39.

(o) Facility Security Support Files and Associated Records, NRC-40

Dated at Bethesda, Maryland, this 26th day of January 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-3097 Filed 2-1-82; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2, Amdt. 22]

Administration; Delegations of Authority To Conduct Program Activities in Field Office; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule regarding changes to delegations of authority to conduct program activities in the field, which was published in the **Federal Register** on January 15, 1982 (47 FR 2305).

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416, (202) 653-8538.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-980 appearing at page 2309 in the issue for Friday, January 15, 1982, Part IV, Section A, paragraph 1, line 6 now reading "8(a) matters accepted for litigation, exclusive * * *" should read "8(a) matters accepted for liquidation, exclusive * * *"

Part V, Section A, paragraph 2, line 5 now reading "Administrator for Management, and the * * *" should read "Administrator for Management Assistance, and the * * *"

Dated: January 28, 1982.

Ronald Allen,

Federal Register Liaison Officer.

[FR Doc. 82-2709 Filed 2-1-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 371

Shipper's Export Declaration Requirements for Shipments Under General License GLV

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule; technical clarification.

SUMMARY: Section 371.5, "General License *GLV;* Shipments of Limited Value," is amended to clarify Shipper's Export Declaration (SED) requirements. A special provision is added to § 371.5 stating that the Export Control Commodity Number must be shown on the SED. This requirement is already stated in § 386.3(j)(2), and is therefore added to § 371.5 for clarity.

DATE: Effective February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("The Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that to the extent practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose new controls on exports. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

In connection with various rulemaking requirements, the Office of Export Administration has determined that this rule does not impose an additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This rule simply cross-references an existing requirement found in the regulations so that the regulations can be simplified and compliance with them can be easier. The Shipper's Export Declaration has received OMB clearance number 0607-0018. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 3501 *et seq.* This regulation is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981).

PART 371—GENERAL LICENSES

Accordingly, § 371.5 of the Export Administration Regulations (15 CFR Parts 368-399) is amended by adding a new paragraph (e), reading as follows:

§ 371.5 General license GLV; shipments of limited value.

* * * * *

(e) *Special Provision.* In addition to the general license designation GLV, the Export Control Commodity Number, which in this case identifies a commodity that is eligible to be shipped under General License *GLV,* shall be shown in parentheses immediately below the Schedule B Number on the SED.

(Secs. 13, 15, and 21, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Dated: January 8, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82-2665 Filed 2-1-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 78N-0366]

Provisional Listing of D&C Green No. 6; Postponement of Closing Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Green No. 6 for use as a color additive in externally applied drugs and cosmetics. The new closing date will be March 31, 1982. This brief postponement will provide time for determining the applicability of the statutory standard for the listing of color additives to the results of scientific investigations of D&C Green No. 6.

EFFECTIVE DATE: Effective January 30, 1982, the new closing date for D&C Green No. 6 will be March 31, 1982.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: The current closing date of January 30, 1982, for the provisional listing of D&C Green No. 6 was established by a regulation published in the **Federal Register** of December 4, 1981 (46 FR 59235). This closing date for D&C Green No. 6 was established to provide time for completion of FDA's review and evaluation of the data concerning the external uses of D&C Green No. 6, for determining the applicability of the statutory standard for the listing of color additives to D&C Green No. 6, and for publication of a regulation in the **Federal Register** regarding the final decision on the petition for the permanent listing of this color additive. The regulation set forth below will postpone the January 30, 1982 closing date for the provisional listing of the color additive until March 31, 1982.

The review and evaluation of the data relevant to the use of D&C Green No. 6 in externally applied drugs and cosmetics and the decision about how to apply the statutory standard for the listing of color additives to such data have required more time than anticipated. FDA concludes that the brief extension of the closing date to March 31, 1982, is necessary. The agency has also concluded that no harm to the public health will result from this extension.

Because of the shortness of time until the March 31, 1982 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule.

This regulation will permit the uninterrupted use of the color additive until further action is taken. In accordance with 5 U.S.C. 553 (b) and (d) (1) and (3), this postponement is issued as a final regulation and is being made effective on January 30, 1982.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 81 is amended in § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Green No. 6" in paragraph (b) to read "March 31, 1982".

Effective date. This regulation is effective January 30, 1982.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note))

Dated: January 18, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-2727 Filed 1-29-82; 10:44 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Cloprostenol Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by Bayvet Division of Cutter Laboratories, Inc., providing for the use of cloprostenol sodium injectable in beef cattle and nonlactating dairy heifers to induce luteolysis.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Carnevale, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1778.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, is the sponsor of a new animal drug application, NADA 113-645, for Estrumate (cloprostenol sodium). The NADA provides for the intramuscular use of cloprostenol sodium in beef cattle and nonlactating dairy heifers to induce luteolysis (i.e., the functional and morphological regression of the corpus luteum). The drug is used for scheduling the estrous cycle to control breeding and for terminating unwanted pregnancies which result from mismatings. The NADA is approved and the regulations are amended to reflect the approval.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)) may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.460 to read as follows:

§ 522.460 Cloprostenol sodium.

(a) *Specifications.* Each milliliter of the aqueous solution contains 263 micrograms of cloprostenol sodium (equivalent to 250 micrograms of cloprostenol) in a sodium citrate, anhydrous citric acid and sodium chloride buffer containing 0.1 percent w/v chlorocresol B.P. as a bactericide.

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use.* For intramuscular use in beef cattle and nonlactating dairy heifers to induce luteolysis to schedule the estrous cycle or to terminate pregnancies from mismatings.

(1) *Amount.* 2 milliliters (equivalent to 500 micrograms of cloprostenol).

(2) *Indications.* (i) For scheduling estrus and ovulation to control the time at which cycling cows or heifers can be bred.

(*a*) Single cloprostenol injection. Treat only animals with a mature corpus luteum. Estrus should occur in 2 to 5 days, and cattle should be inseminated at the usual time relative to the detection of estrus. If estrus is not observed, treated animals may be inseminated either once at 72 hours post injection or twice at 72 and 96 hours post injection.

(*b*) Double cloprostenol injection. Give cattle a second injection 11 days after the first injection. Estrus should occur 2 to 5 days after the second injection, and cattle should be inseminated at the usual time relative to the detection of estrus. If estrus is not observed, treated animals may be inseminated either once at about 72 hours post injection or twice at 72 and 96 hours following the second injection.

(ii) For terminating unwanted pregnancies from 1 week after mating until 5 months after conception.

(3) Do not administer to pregnant animals where the calf is not to be aborted.

(4) Women of childbearing age, asthmatics, and persons with bronchial and other respiratory problems should exercise extreme caution when handling this product. Cloprostenol is readily absorbed through the skin and may cause abortion and/or bronchospasms. Accidental spillage on the skin should be washed off immediately with soap and water.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective February 2, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 20, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-2422 Filed 2-1-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) providing revised labeling for a tetracycline hydrochloride bolus used for control or treatment of bacterial enteritis (scours) and bacterial pneumonia in calves. The application was filed by American Cyanamid Co., in compliance with the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. The regulations are further amended to increase the preslaughter withdrawal period from 12 to 14 days.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, filed a supplemental NADA (65–270) providing for oral use in calves of a 500-milligram (mg) tetracycline hydrochloride (TC HCl) oblet (bolus) for control and treatment of bacterial enteritis (scours) caused by *E. coli* and bacterial pneumonia caused by *Pasteurella spp., Hemophilus spp.,* and *Klebsiella spp.* The NADA was originally approved April 29, 1954, for treating bacterial enteritis, bacterial pneumonia, hemorrhagic septicemia, metritis, and other uterine or vaginal infections in cattle, sheep, and swine.

American Cyanamid's oblet, along with several other sponsors' TC HCl formulations, was the subject of a NAS/NRC evaluation, which published in the **Federal Register** of July 8, 1970 (35 FR 10966). In that document, the NAS/NRC evaluated the subject drug products as probably effective for, in addition to certain other uses, oral treatment of infected wounds and gastrointestinal and respiratory diseases in calves, sheep, and goats. The NAS/NRC also evaluated American Cyanamid's oblet as probably effective for intrauterine treatment of metritis, cervicitis, and vaginitis in cattle, swine, and sheep. The NAS/NRC further stated that:

1. Most of the dosage directions provided for a less-than-effective dose, and the recommended minimum oral dose for large animals is 10 milligrams per pound of body weight daily in divided doses.

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease cannot be so qualified, the claim must be dropped.

3. Claims made "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control."

4. The manufacturer of boluses, oblets, or tablets must provide evidence that they disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

5. Information is needed from manufacturers of boluses or oblets recommended for insertion in the uterus with respect to the degree of disintegration within the uterus, the presence of hazardous foreign body ingredients, and the chemical compatibility of the vehicle and active agent or agents, and the labeling should also provide information regarding proper sanitary techniques for intrauterine administration.

6. Additional documentation of effectiveness is needed to establish activity against Clostridia in animals.

FDA concurred with the NAS/NRC findings.

The NAS/NRC evaluation was concerned only with the drug's effectiveness and safety to the animal being treated and did not take into account the safety of food derived from treated animals. The evaluation was published to inform NADA holders of the findings of the NAS/NRC and FDA and to inform all interested persons that such articles may be marketed, provided they are the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act.

American Cyanamid submitted a supplemental NADA (65–270), which complied with the above-enumerated NAS/NRC recommendations as follows:

1. The label carries the 10 milligrams per pound of body weight in divided doses for calves for treatment and control of disease.

2. Disease entities have been qualified as to causative pathogens, and these are sensitive to tetracycline. Many disease claims and several animal species have been deleted from the indications for use.

3. The labeling has been revised to read "for the control of" instead of "for the prevention of."

4. Evidence has been provided which demonstrates that the tablet disintegrates in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

5. All claims for uterine infection have been deleted from the labeling.

6. All claims for Clostridia infection have been deleted from the labeling.

American Cyanamid's labeling revisions and submission of data updating the manufacturing and controls portion of the NADA have substantiated upgrading the classification from probably effective to effective. Accordingly, the supplemental NADA is approved, and 21 CFR 546.180c is amended to reflect the approval. The product's dosage is increased, in compliance with NAS/NRC recommendations. American Cyanamid submitted new residue depletion data; based on these data the slaughter withdrawal period is increased from 12 to 14 days. Therefore, the subject regulation is further amended to reflect the new withdrawal period and also to reflect current format.

Because the dosage level is increased, this is a category II supplement under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 3, 1977). However, the Bureau has determined that there will be no increased risk of human exposure because the residue studies submitted by the sponsor show that, with the extended withdrawal period, there is no increased risk of residues occurring. Consequently, this approval does not require reevaluation of the human safety data in the original approval.

NADA's that pertain to identical products and that are labeled for control and treatment of bacterial enteritis and bacterial pneumonia as set forth in the regulation do not require efficacy data as specified by 21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(vi). In lieu of such data, approval may require bioequivalency and safety data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of

safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 546 is amended by revising § 546.180c, to read as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 546.180c. Tetracycline boluses.

(a) *Requirements for certification.* The requirements for certification for tetracycline boluses are described under § 546.110d(a).

(b) *Tests and methods of assay.* The tests and methods of assay for tetracycline boluses are described under § 546.110d(b).

(c) *Conditions of marketing.*—(1) *Specifications.* Tetracycline boluses conform to the standards of identity, strength, quality, and purity prescribed by § 546.110d.

(2) *Sponsors.* See drug labeler codes in § 510.600(c) of this chapter for identity of sponsors as follows:

(i) No. 010042 for use of 500-milligram boluses as in paragraph (c)(6)(i) of this section.

(ii) No. 000009 for use of 500-milligram boluses as in paragraph (c)(6)(ii) of this section.

(3) *Special considerations.* The quantity of tetracycline in paragraph (c)(2) (i) and (ii) of this section refers to the activity of tetracycline hydrochloride.

(4) *Related tolerances.* See § 556.720 of this chapter.

(5) *NAS/NRC status.* The conditions of use specified in paragraph (c)(6)(i) of this section are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency and safety information.

(6) *Conditions of use.* It is used as tetracycline hydrochloride in calves as follows:

(i) *Amount.* 10 milligrams per pound of body weight per day in divided doses.

(*a*) *Indications for use.* Control and treatment of bacterial enteritis (scours) caused by *E. coli* and bacterial pneumonia caused by *Pasteurella spp., Hemophilus spp.,* and *Klebsiella spp.*

(*b*) *Limitations.* Administer orally for 3 to 5 days; do not slaughter animals for food within 14 days of treatment; use as sole source of tetracycline; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) *Amount.* 10 milligrams per pound of body weight per day divided into two daily doses.

(*a*) *Indications for use.* Treatment of bacterial pneumonia caused by organisms susceptible to tetracycline and bacterial enteritis caused by *E. coli* and salmonella organisms susceptible to tetracycline.

(*b*) *Limitations.* Administer orally for not more than 5 days; do not slaughter animals for food within 12 days of treatment; use as sole source of tetracycline; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 2, 1982.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)).)

Dated: January 28, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–2488 Filed 2–1–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5e

[T.D. 7802]

Travel Expenses of Members of Congress

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to the **Federal Register** publication for January 21, 1982, beginning at 47 FR 2986 of the temporary regulations which were the subject of Treasury Decision 7802, relating to deductions for Members of Congress for travel expenses in Washington, D.C.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1980. This correction is to be effectice the same date.

FOR FURTHER INFORMATION CONTACT: Jason R. Felton of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3318, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 21, 1981, temporary income tax regulations under section 113(b) of the Black Lung Benefits Revenue Act of 1981 were published in the **Federal Register** (47 FR 2986). These regulations amended the regulations under section 274 of the Internal Revenue Code of 1954 by adding regulations § 5e.274–8, Travel Expenses of Members of Congress.

Need for a Correction

As published, the temporary regulations which were the subject of Treasury Decision 7802 inaccurately identify the section in Title 5 of the United States Code that concerns the subsistence for Washington, D.C., that is payable to a Member of Congress. That section of the United States Code is to be utilized in determining the amount of travel expenses that may be deducted without substantiation. This error appears on page 2987 in the right-hand column in subdivisions (i) and (ii) of paragraph (c)(1). In both locations, the references to "5 U.S.C. 5707(c)" should read "5 U.S.C. 5702(c)".

Drafting Information

The principal author of this correction is Jason R. Felton of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service.

Correction of Publication

PART 5e—TEMPORARY INCOME TAX REGULATIONS, TRAVEL EXPENSES OF MEMBERS OF CONGRESS

§ 5e.274–8 [Corrected]

Accordingly, the publication of the regulations which were the subject of FR Doc. 82–1267 is corrected in the last line of § 5e.274–8(c)(1)(i) and in the last line of § 5e.274–8(c)(1)(ii) at 47 FR 2987 by removing "5 U.S.C. 5707(c)" and inserting "5 U.S.C. 5702(c)" in lieu thereof

David E. Dickinson,

Director, Legislation and Regulations Division.

[FR Doc. 82–2716 Filed 2–1–82; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 7

[T.D. 7805]

Temporary Income Tax Regulations; Use of Property That Has Been Valued Under Section 2032A to Satisfy a Pecuniary Bequest

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document withdraws a portion of a notice of proposed rulemaking relating to the use of property that has been valued under section 2032A of the Internal Revenue Code of 1954 to satisfy a pecuniary bequest and adopts that portion of the same notice of proposed rulemaking relating to the removal from the Code of Federal Regulations of temporary carryover basis rules under Internal Revenue Code section 1023 for property acquired from a decedent. Although Code section 1023 has been repealed, its provisions and the temporary regulations being removed continue to apply in the case of a special election for property acquired from a decedent who died after December 31, 1976, and before November 7, 1978.

DATE: This document is effective February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 1981, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1040 of the Internal Revenue Code of 1954 (Code) were published in the **Federal Register** (46 FR 28677). These amendments were proposed to conform the regulations to section 401(c)(2)(A) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 300) which provided rules relating to the use of property that is valued under section 2032A to satisfy a pecuniary bequest.

The notice of proposed rulemaking also proposed to delete the temporary regulations found at §§ 7.1023(b)(3)–1 and 7.1023(h)–1 (26 CFR Part 7). These temporary regulations were deleted rather than revoked because they continue to be applicable for the estates of certain decedents whose executors or administrators elected carryover basis treatment for assets acquired or passing from decedents by filing Form 5970–A, Election of Carryover Basis.

Section 421(j)(2)(B) of the Economic Recovery Tax Act of 1981 (95 Stat. 312) amended retroactively section 1040 of the Code in such a substantive way by removing the restrictions relating to pecuniary bequests that the relevant portion of the notice of proposed rulemaking is no longer viable and must be withdrawn. The Internal Revenue Service anticipates issuing a new notice of proposed rulemaking under section 1040.

However, the deletion of the temporary carryover basis regulations remains appropriate, and that portion of the notice of proposed rulemaking is adopted by this Treasury decision.

The only comments received related to the portion of the notice that is being withdrawn. There was no request for a public hearing.

Drafting Information

The principal author of this regulation is Stephen J. Small of the Legislation and Regulations Division, Office of the Chief Counsel, 1111 Constitution Avenue, NW, Washington, D.C. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to the Income Tax Regulations (26 CFR Part 1) as proposed in paragraph 1 of the Notice of Proposed Rulemaking published on May 28, 1981 (46 FR 28677) are hereby withdrawn, and the amendments to the Temporary Income Tax Regulations under the Tax Reform Act of 1976 as proposed in paragraph 2 of that notice are hereby adopted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue

Approved: January 13, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Accordingly, §§ 7.1023(b(3)–1 and 7.1023(h)–1 are removed but not revoked.

§ 7.1023(b)(3)–1 Exclusion of certain personal and household effects from carryover basis treatment.

[Removed but not revoked.]

§ 7.1023(h)–1 Adjustment to basis of marketable bonds and securities acquired from a decedent dying after December 31, 1976, for appreciation occurring before January 1, 1977.

[Removed but not revoked.]

[FR Doc. 82-2243 Filed 2-1-82; 8:45 am]

BILLING CODE 4830-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–26

[FPMR Amendment E–249]

Procurement of Gasoline, Fuel Oil (Diesel and Burner), Kerosene, and Solvents

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment increases to 10,000 gallons the maximum annual amounts of gasoline, burner fuel oil, diesel oil, and kerosene that GSA and other agencies can procure without going through the Defense Logistics Agency's (DLA) Defense Fuel Supply Center by codifying FPMR Temporary Regulation E–71 and Supplement 1 thereto. This change will permit agencies to procure more bulk petroleum products from local sources through small purchase procedures, thereby making fuel more readily available where needed and allowing DLA to devote its time and effort to larger quantity and dollar volume procurements.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Renner, Director, Regulations Management Division (703–557–7970).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to

society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

FPMR Temporary Regulation E-71 (45 FR 47149) and Supplement 1 (46 FR 31890) are canceled and deleted from the appendix at the end of Subchapter E, 41 CFR 101.

Section 101-26.602-3(a)(1) is revised to read as follows:

§ 101-26.602-3 Procurement of gasoline, fuel oil (diesel and burner), kerosene, and solvents.

(a) * * *

(1) Estimated annual requirements for any delivery point which total less than the following minimums shall not be submitted to the Defense Fuel Supply Center, unless the activity does not have authority or capability to procure locally.

Item	Minimum annual requirement (gallons)
Gasoline	10,000
Burner fuel oil	10,000
Diesel oil	10,000
Kerosene	10,000
Solvents	500

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: January 18, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-2667 Filed 2-1-82; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-5909]

44 CFR Part 70

Letter of Map Amendment for the City of Corpus Christi, Texas, under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Corpus Christi, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Corpus Christi, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485464B Panel 44, published on October 6, 1980, in 45 FR 66097, indicates that Lots 4 through 10, Block 1; Lots 1 through 7, Block 2; Lots 4 through 22, Block 4; and Lots 1 through 36, Block 5, Brandywine, Units 1B and 1C, Corpus Christi, Texas, as recorded in Volume 46, Page 134; and Volume 46 Pages 157 and 158 of Map Records, respectively, in the Office of the Clerk, Nueces County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 485464B Panel 44 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on October 31, 1975. These lots are in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 31, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2668 filed 2-1-82; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-6139]

44 CFR Part 70

Letter of Map Amendment for the City of Harker Heights, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Harker Heights, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Harker Heights, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender

now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480029 Panel 0002B, published on September 25, 1981, in 46 FR 47226, indicates that Lots 2 through 11, Block 1; and Lots 3 through 10, Block 2, Preswick Hills, a 8.23 acre tract of land in the F. D. Cox Survey, Abstract Number 220, Harker Heights, Texas, as recorded in Plat Book 3, Page 2, in the Office of the Clerk, Bell County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480029 Panel 0002B is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on August 3, 1981. These lots are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 31, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2596 Filed 2-1-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Oklahoma City, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405378A Panel 152, published on October 6, 1980, in 45 FR 66095, indicates that Lot 1, Block 8; Lots 1 through 38, and 45 through 69, Block 9; Lots 1 through 9, Block 10; Lots 2 through 16, Block 12; and Lots 1 and 15, Block 13, Green Valley Estates, Section III, and Lots 6, 7, 25, 26, 28, and 29, Block 2, Shroyer Green Valley Estates as recorded in Book 12, pages 169 and 170; and Book 10, pages 88 and 89, respectively, in the Office of the Clerk, Cleveland County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 152 is hereby corrected to reflect that Lot 1, Block 8; Lots 1, 6, 45 through 48, 55 and 56, Block 9; Lots 1 through 9, Block 10; Lots 2, 3, 5, 8, and 15, Block 12; and Lots 1 and 15, Block 13, Green Valley Estates Section III are not within the special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C.

Map No. H & I 405378A Panel 152 is also corrected to reflect that the existing structures located on Lots 2 through 5, 7 through 38, 49 through 54, and 57 through 69, Block 9; Lots 4, 6, 7, 9 through 14, and 16, Block 12, Green Valley Estates are not within the Special Flood Hazard Area identified on February 2, 1979. These structures are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 31, 1981.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2597 Filed 2-1-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[PR Docket No. 80-758; FCC 82-9]

Changes in Frequency Allotments for the Aeronautical Mobile (R) Services on a World-Wide Basis

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements changes in the frequency allotments to the Aeronautical Mobile (R) Service on a world-wide basis which were adopted at the ITU World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978 (ITU WARC, 1978). This document also implements several technical specifications adopted at the ITU WARC, 1978, concerning emissions, tolerances and mode of operation. The final allotment plan will become effective February 1, 1983, and frequencies to be used during the interim period are included in the rules. This will make new frequency allotments available for international en route communications and domestic flight tests.

EFFECTIVE DATE: March 8, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1982.

Released: January 29, 1982.

In the matter of an amendment of Part 87 of the rules to implement changes in frequency allotments for the Aeronautical Mobile (R) services on a world-wide basis which were adopted at the ITU World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978; PR Docket No. 80-758; *Report and Order* (Proceeding Terminated).

1. A Notice of Proposed Rule Making in the above-captioned matter, FCC 80-758, was released on January 13, 1981, and published in the **Federal Register**, 46 FR 9665; January 29, 1981.

2. By this action, we are amending the rules to establish a transition program affecting single sideband frequencies in the aeronautical enroute service in the band 2850-22000 kHz, which will be completed by February 1, 1983, and after that date only those frequencies listed in Appendix 27 Aer 2 will be used.

Background

3. The Final Acts of the World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978 (ITU WARC, 1978), came into force on September 1, 1979, and the Frequency Allotment Plan adopted at that conference will enter into force on February 1, 1983, in its entirety. This frequency allotment plan will make the use of single sideband mandatory in the band 2850-22000 kHz.

Summary of Commission Proposal

4. A new allotment plan was developed at the ITU WARC, 1978, by separating the frequencies at 3 kHz intervals throughout the 10 bands allocated to the Aeronautical Mobile (R) Service (AM(R)S) between 2850-22000 kHz.

5. A number of changes to the technical standards applicable to the use of frequencies in the bands between 2850-22000 kHz were proposed as follows:

a. Express tolerance of frequency stability in terms of parts per million rather than percentages;

b. Designate the authorized classes of emission for telegraphy in the AM(R)S after February 1, 1982;

c. Define the tolerance levels of emissions outside of the necessary bandwidth for aeronautical [1] and aircraft [2] stations in the AM(R)S for transmitters first installed before and after February 1, 1983; and

d. Amend the modulation requirements by adding a separate requirement for aeronautical stations and by specifying the degree of suppression for full carrier to a level of 0 to 6 dB below peak envelope power (from 3 to 6 dB below peak envelope power).

6. The aeronautical enroute service in the United States (except Alaska) is conducted on VHF. The frequencies contained in Regional and Domestic Air Route Area (RDARA) 11B (for the United States) are now assigned for flight test purposes and in support of offshore oil drilling operations. These requirements cannot be satisfied on VHF frequencies and we proposed replacement frequencies for continued use for these purposes.

7. ITU WARC 1978, allotted frequencies to new World-Wide Allotment Areas for long distance operational control (LDOC) between an aeronautical station and an aircraft station anywhere in the world. These frequencies are used by aircraft operators for exercising control over the efficiency and regularity of the flight as well as matters affecting the safety of the aircraft. The Commission proposed frequencies for this new LDOC requirement.

Comments

8. We have received comments from Aerospace and Flight Test Radio Coordinating Council (AFTRCC), Aeronautical Radio, Inc. (ARINC), Interdepartment Radio Advisory Committee of the National Telecommunications and Information Agency (IRAC) and Rockwell International Corporation (Rockwell). Each of the commenters supported the rulemaking. In addition, each of the commenters suggested relatively minor revisions and two of the commenters suggested that both the old and new frequencies should be listed in the rules for the convenience of the operators.

9. In addition to supporting the proposal, AFTRCC reiterated its requirement for HF frequencies for communications in support of flight test of aircraft and equipment. Flight testing may involve one of three modes: design testing of new and experimental products; production line testing to assure the continued safety of air and spacecraft in production; or crew training and testing. In testing for any of these purposes, the manufacturer must be able to assume safe and efficient operation of the equipment under a wide variety of weather and altitude conditions. To obtain such conditions during flight test, the manufacturer must frequently have the aircraft flown significant distances from the test or production facility or at low altitudes making VHF communications impossible. In addition to the continued requirement for the frequencies in the band 2850-17970 kHz, there is a new requirement for a frequency in the 22 MHz band for flight test as recommended in the ITU WARC, 1978.

10. ARINC generally agreed with the proposals contained in the notice, including the frequencies indicated for the concerned Major World Air Route Areas (MWARA's) and Regional and Domestic Air Route Areas (RDARA's). ARINC suggested that the text associated with § 87.285(c) be deleted since it pertains to VHF enroute operations and properly belongs in the section applicable to VHF enroute stations. ARINC stated that because of parallel rule makings, that the numbering of Part 87 sections has become confused. To avoid this

[1] An aeronautical station is a land station in the aeronautical mobile service.

[2] An aircraft station is a mobile station in the aeronautical mobile service on board an aircraft or an air or space vehicle.

confusion, ARINC in commenting on this docket aligned their comments with the format for the revision of Part 87 as shown in the Appendix in PR Docket No. 80-243.[3] ARINC suggested specific changes referring to the emission designator for selective calling (SELCAL) and some editorial corrections to clarify certain rule sections. ARINC also suggested that the format of the frequency tables be revised to show the frequencies now available, those to be replaced on February 18, 1982, and those to be replaced on February 1, 1983. ARINC submits that these tables should indicate the new frequencies available and also those replaced and the dates of the replacement until the entire plan is in force as a convenience to the operators.

11. IRAC suggested some editorial changes to clarify the phased transition program and to include both the old and new frequencies in the rules for the convenience of the operators. IRAC also suggested that footnote 2 to the emission table in § 87.67 be revised to show that after February 1, 1982, the emissions A3 and A3H are to be used only on 3023 and 5680 kHz for search and rescue operations. IRAC recommended that the emissions authorized for flight test operations be amended to include all of the emissions authorized for the aeronautical enroute service. The frequencies authorized for the West Indies are no longer required since the concerned airline has ceased operations. IRAC recommended that these frequencies be deleted and made available for assignment to other users.

12. Rockwell stated that the proposed rules appear to be satisfactory and reflect the results of the ITU WARC, 1978 for the AM(R)S. Rockwell suggested that the wording in the proposed § 87.71(b) does not make it entirely clear that specific aircraft transmitter models, type accepted before February 1, 1983, can still be used after that date. The ITU WARC 1978 provided that the old 4.0 kHz bandwidth applied to the calculation of unwanted emissions. The proposed rule could be interpreted to provide that the new 3.0 kHz bandwidth applies, which would defeat the grandfathering provision for pre-February 1, 1983, transmitters. Rockwell also suggested that a 22 MHz frequency be assigned for flight test operations for long-distance operational control of flight test aircraft and equipment testing.

[3] PR DOCKET NO. 80-243, FCC 81-295, Released July 24, 1981, (46 FR 38698, July 29, 1981)

Discussion

13. The comments received all substantially supported the proposed amendments to the rules. However, as we noted above, a number of questions were raised and recommendations made regarding the organization and wording of certain proposed rules. Each of these suggestions will be discussed in the following paragraphs. There was a concurrent rule making concerning the aeronautical enroute service in Docket No. 80-243, which was released on July 24, 1981. Action in Docket No. 80-243 will necessitate some reorganization of the rules proposed in Docket No. 80-758 to accommodate those changes.

14. AFTRCC and Rockwell suggested that a 22 MHz frequency be made available for flight test operations to assure that flight tests are representative of operational conditions of the aircraft. Such frequencies are now allotted to World-wide areas [4] for long distance operational control. We agree that a 22 MHz frequency is necessary for testing of aircraft installations in all of the representative frequency bands as well as control of the aircraft on long distance flight test operations. The ITU WARC, 1978 recommended and the ITU WARC, 1979 adopted an allocation at which five frequencies in the 22 MHz band were not allotted to any specific World-wide area. After coordination with IRAC, we are assigning one of these frequencies, 21931 kHz, for flight test operations.

15. ARINC and IRAC suggested that the old and new frequencies be listed to show the changes in frequencies during the transition period. We did not propose both frequencies since we believed that these rules would affect a limited number of operators and that it would preclude an editorial amendment at a later date to remove the obsolete frequencies. However, since the commenters believe that the listing of all of the frequencies during the transition period is desirable and a convenience to the operators, we will include the transition as well as the final frequencies in the rules.

16. The comments which can be considered editorial in nature, such as, adding the emission designator for SELCAL, deleting the reference to offset carrier operation for HF enroute frequencies, and adding the emissions A3 and A3H on the frequencies 3023 and 5680 kHz for search and rescue operations will be made. The enroute frequencies for the West Indies will be deleted and no further assignments to non-Government aeronautical enroute stations to serve this area will be made at this time.

[4] World-Wide Allotment Area is one in which frequencies are allotted to provide long-distance communication between an aeronautical station within the allotment area and aircraft operating anywhere in the world.

17. Rockwell proposed that the rules show that prior to February 1, 1983, the basis for the tolerance levels of emissions outside of the necessary bandwidth be 4.0 kHz, and that after February 1, 1983, the basis be 3.0 kHz. We agree with this proposal and are adding the correct bandwidth where applicable. Rockwell also proposed that the rules state that aircraft transmitters type accepted prior to February 1, 1983, can be "first installed" after February 1, 1983. The ITU WARC, 1978 (MOD 27/66 Aer2) states that aircraft transmitter types and aeronautical station transmitter types "first installed" before February 1, 1983, shall use the applicable bandwidth of 4.0 kHz. A note was added (ADD 27/66A Aer2) that all transmitters first placed in operation after February 1, 1983, shall be based on the 3.0 kHz bandwidth. All aircraft transmitters "first installed" after February 1, 1983, and all aeronautical stations in use after February 1, 1983 shall have a tolerance level based on 3.0 kHz bandwidth. Therefore, we are unable to agree with the proposal, since this would permit installation of transmitters in aircraft stations contrary to the provisions of the ITU WARC, 1978.

Commission Action

18. For the reasons indicated above, we are amending Part 87 of the rules substantially as proposed taking into account a number of suggestions received in response to the NPRM. Thus, this action will incorporate in the rules technical specifications and the new frequency allotment plan contained in the Final Acts of the World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978.

19. Regarding questioins on matters covered in this document contact Nicholas G. Bagnato, (202) 632-7175.

20. Accordingly it is ordered, That under the authority contained in sections 4(i) and 303(b) and (r) of the Communications Act of 1934, as amended, the Commission's rules ARE AMENDED as set forth in the attached Appendix, effective March 8, 1982.

21. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. Section 87.65(a) is amended to express the tolerance in parts per million in lieu of percentages.

§ 87.65 Frequency stability.

(a) Except as provided in paragraphs (c), (d), and (f) of this section, and § 87.81, the carrier frequency of each station in the Aviation Services shall be maintained within the applicable following tolerance of the assigned frequency in parts per million:

Frequency band (lower limit exclusive, upper limit inclusive) and categories of stations	Tolerances in parts 10⁶
(1) Band—10 to 535 kHz:	
Land stations	100
Mobile stations	200
Radionavigation stations	100
(2) Band—1605 to 4000 kHz:	
Fixed stations:	
Power 200 w or less	100
Power above 200 w	50
Land stations:	
Power 200 w or less	100
Power above 200 w	50
Mobile stations	100
(3) Band—4 to 29.7 MHz:	
Fixed stations:	
Power 500 w or less	50
Power above 500 w	15
Land stations:	
Power 500 w or less	100
Power above 500 w	50
Mobile stations	100
(4) Band—29.7 to 100 MHz:	
Fixed stations except operational fixed:	
Power 200 w or less	50
Power above 200 w	30
Operational fixed stations:	
73–74.6 MHz	50
72.0–73.0 MHz and 75.4–76.0 MHz	5
Land stations:	
Power 15 w or less	50
Power above 15 w	20
Mobile stations:	
Power 5 w or less	100
Power above 5 w	50
Radionavigation stations	100
(5) Band—100 to 136 MHz:	
Land stations	[1] 20
Emergency locator transmitter test station	50
Mobile stations:	
Survival craft stations	50
Emergency locator stations	50
Aircraft and all other mobile stations	[2] 30
Radionavigation stations	50
(6) Band—136 to 470 MHz:	
Fixed stations:	
Power 50 w or less	50
Power above 50 w	20
Land stations	50
Mobile stations:	
Survival craft stations	50
Land mobile stations with power above 5 w	20
Aircraft and all other mobile stations	50
Radionavigation stations	50
(7) Band—470 to 960 MHz: All stations	100
(8) Band—960 to 1215 MHz:	
Land stations	20
Aircraft stations	100
(9) All stations on frequencies above 1215 MHz	100

[1] The tolerance shown is applicable to all types of transmitters first type accepted after January 1, 1974. Those types of transmitters meeting a tolerance of 50 parts in 10^6 which were type accepted before January 1, 1966, and those types of transmitters meeting a tolerance of 30 parts in 10^6 first type accepted during the period January 1, 1966, to January 1, 1974, may continue to operate. Stations using offset carrier techniques must comply with 20 parts in 10^6 tolerance.

[2] The tolerance shown in the Table is applicable to all types of transmitters first type accepted after January 1, 1974. Transmitters with 50 parts in 10^6 tolerance type accepted before January 1, 1974, may continue to be used until further notice.

* * * * *

2. The table and footnotes in § 87.67(b) are revised as follows:

§ 87.67 Types of emission.

* * * * *

(b) The emission normally available for assignment in the Aviation Services and the corresponding emission designators and authorized bandwidth are as follows:

Class of emission	Emission designator	Authorized bandwidth (kilohertz)		
		Below 50 MHz	Above 50 MHz	Frequency deviation
A1 [10]	0.1A1	0.25		
A2	2.1A2	2.74	50	
A2H [9] [11]	2.8A2H	3.0		
A3	6A3		[12] 50	
A3A [2] [11]	2.8A3A [2]	3.0		
A3H [2] [11]	2.8A3H [2]	3.0		
A3J [2] [11]	2.8A3J [11]	3.0		
A7J [11]	2.8A7J [11]	3.0		
A9	13A9 [6]		[6] 25	
A9	3.2A9 [7]		[7] 25	
A9J [11]	2.8A9J [11]	3.0		
F1 [10]	1.7F1	1.7		
F1 [10]	2.4F1	2.5		
F3 [3]	36F3		40	15
F3 [4]	16F3		20	5
F9 [5]	([1])		([1])	
P	([1])	([1])		

[1] To be specified on authorization.

[2] Each aeronautical enroute station authorized to use A3A and/or A3J emission shall render service to those aircraft stations which are equipped for double sideband (DSB) operation as well as those equipped for single sideband (SSB). Aircraft equipped for SSB operation shall use full carrier except when it is known that the receiving station is capable of receiving reduced or suppressed carrier emission and shall use full carrier upon receipt of request of any station using the same frequency. A3A, A3H, and A3J emissions will be authorized only below 25000 kHz. After February 1, 1983, only the classes of emission A2H, A3J, A7J, and A9J will be authorized. Except that after February 1, 1982, the emissions A3 and A3H are to be used only on 3023 and 5680 kHz for Search and Rescue operations.

* * * * *

[9] The emission designator A2H shall be used by stations employing selective calling (SELCAL).

[10] A1 and F1 emissions are permitted provided they do not cause harmful interference to classes of emission A2H, A3J, A7J and A9J. These emissions shall be at or near the center of the channel.

[11] For single sideband emissions, except the class of emission A2H, the assigned frequency shall be at a value of 1400 Hz above the carrier frequency.

* * * * *

3. Section 87.71 is revised as follows:

§ 87.71 Emission limitations.

(a) When using transmissions other than single sideband (A3A, A3H, A3J), or frequency modulation (F9) in the frequency band 1435–1535 MHz, the mean power of the emission shall be attenuated below the mean output power of the transmitter as follows:

(1) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: at least 25 dB;

(2) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: at least 35 dB.

(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth:

(i) Aircraft station transmitters: 40 dB;

(ii) Aeronautical station transmitters: $43+10\log_{10}$ Pm (watts) dB.

(b) For aircraft station transmitter types and for aeronautical station transmitters first installed before February 1, 1983, and using single sideband classes of emission A2H, A3H, A3J, A7J or A9J, the mean power of any emission shall be less than the mean power (Pm) of the transmitter as follows:

(1) On any frequency removed from the assigned frequency by more than 50 percent up to and including 150 percent of the authorized bandwidth of 4.0 kHz: at least 25 dB.

(2) On any frequency removed from the assigned frequency by more than 150 percent up to and including 250 percent of the authorized bandwidth of 4.0 kHz: at least 35 dB.

(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth of 4.0 kHz:

(i) Aircraft station transmitters: 40 dB;

(ii) Aeronautical station transmitters; $43+10\log_{10}$ Pm (watts) dB.

(c) For aircraft station transmitters first installed after February 1, 1983, and for aeronautical station transmitter in use after February 1, 1983, and using single sideband classes of emission A2H, A3H, A3J, A7J or A9J, the peak envelope power (Pp) of any emission shall be less than the peak envelope power (Pp) of the transmitter as follows:

(1) On any frequency removed from the assigned frequency by more than 50 percent up to and including 150 percent of the authorized bandwidth of 3.0 kHz: at least 30 dB.

(2) On any frequency removed from the assigned frequency by more than 150 percent up to and including 250 percent of the authorized bandwidth of 3.0 kHz: at least 38 dB.

(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth of 3.0 kHz:

(i) Aircraft transmitters: 43 dB.

(ii) Aeronautical station transmitters:

(A) For transmitter power up to and including 50 watts: $43+10\log_{10}$ Pp (watts) dB: and.

(B) For transmitter power more than 50 watts: at least 60 dB.

(d) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth except for telemetry in the 1435–1535 MHz band—aircraft station above 30 MHz and all ground stations: 43+10 $\log_{10}$ Pm (watts) dB.

(e) [1] When using frequency modulated transmission (F9) for telemetry at flight test stations in the 1435–1535 MHz frequency band with an authorized bandwidth equal to or less than 1 MHz:

(1) On any frequency removed from the assigned frequency by more than 100 percent of the authorized bandwidth up to and including 100 percent of the authorized bandwidth plus 0.5 MHz: at least 60 dB or 25 dB below a milliwatt, whichever is greater, when measured in a 3 kHz bandwidth.

(2) On any frequencies removed from the assigned frequency by more than 100 percent of the authorized bandwidth plus 0.5 MHz: at least 55+10 $\log_{10}$ Pm (mean power in watts) dB when measured in a 3 kHz bandwidth.

(f) [1] When using frequency modulated transmission (F9) for telemetry at flight test stations in the 1435–1535 MHz frequency band with a bandwidth greater than 1 MHZ:

(1) On any frequencies removed from the assigned frequency by more than 50 percent of the authorized bandwidth plus 0.5 MHz up to and including 50 percent of the authorized bandwidth plus 1.0 MHz: 60 dB or 25 dB below a milliwatt, whichever is greater, when measured in a 3 kHz bandwidth. (2) On any frequencies removed from the assigned frequency by more than 50 percent of the authorized bandwidth plus 1.0 MHz: at least 55+10 log Pm (mean power in watts) dB measured in a 3 kHz bandwidth.

(g) When an emission outside of the authorized bandwidth results in harmful interference, the Commission may require appropriate technical changes in equipment to alleviate the interference.

4. In § 87.73, paragraphs (d) and (e) are revised as follows:

§ 87.73 Modulation requirements.

* * * * *

(d) In order to meet the requirements for type acceptance in the Aviation Services, a transmitter shall be capable of operation in the following modes.

Carrier mode	Level A(dB) of the carrier with respect to peak envelope power
Full carrier (for example A2H).	0>N>−6.
Suppressed carrier (for example A3J).	Aircraft stations N<−26; Aeronautical stations N<−40.

(e) For single sideband emissions, except for class A2H emission, the assigned frequency should be at a value 1400 Hz above the carrier (reference) frequency.

* * * * *

(5) In § 87.195, new paragraphs (h) and (i) are added as follows:

§ 87.195 Frequencies available.

* * * * *

(h) The carrier frequencies 2678 kHz, 3019 kHz, 3434 kHz, 4672 kHz, 5483 kHz and 5508 kHz are available for aircraft operating in support of offshore drilling operations in open water areas beyond the range of VHF.

(i) The frequencies available to aeronautical stations are listed in §§ 87.297, 87.301, 87.303 and 87.307.

§ 87.195 [Amended]

6. Section 87.195(b) is removed.

§ 87.201 [Amended]

7. Section 87.201(g) is removed.

8. In § 87.295, paragraphs (b) and (c) are revised as follows:

§ 87.295 Frequencies available for domestic HF service.

* * * * *

(b) The following frequencies are available for assignment to serve aircraft operating in support of offshore drilling operations in open water areas beyond the range of VHF propagation:

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., February 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2973	2973	2678
		3019
		3434
4654	4654	4672
		5483
		5508

(c) Alaska: The following frequencies are available for assignment to serve domestic air routes as in the indicated area of Alaska:

(1) Throughout Alaska: The following frequencies are shared with the Federal Aviation Administration and may be assigned where an applicant shows the need for a service not provided by the FAA.

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2851	2851	2866
5631	5631	5631

(2) Alaska Aleutian chain and feeders.

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t. Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t. Feb. 1, 1983 (carrier) kHz
2824	2824	2811
3446	3446	2956
		5496
8588	8588	8580
10057	10057	8855
11295	11295	10066
11319	11319	11363

(3) Central and Southeast Alaska and feeders.

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb.18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2875	2875	2875
2824	2824	2811
3481	3481	3470
5547	5547	5484
8588	8588	8580
8617	8617	8804
		8876
10041	10041	11357

(4) The following frequencies are available to enroute stations in Alaska without regard to the restrictions contained in § 87.291 (c) or (d). These frequencies may also be used for communications between enroute stations concerning matters directly affecting aircraft with which they are engaged. Enroute stations located at an uncontrolled airport shall not transmit information concerning runway, wind or weather conditions during the operating hours of an aeronautical advisory station (unicom).

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
3411	3411	3449
[1] 4383.8	[1] 4383.8	[1] 4383.8
4668	4668	5472
[illegible]	4693	5490

[1] The frequency 4383.8 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency.

9. Section 87.299 is amended by revising frequency lists in paragraphs (a) through (o) as follows:

[1] The requirements of paragraphs (e) and (f) of this section shall apply to transmitters type accepted after January 1, 1977, and to all transmitters first installed after January 1, 1983.

§ 87.299 Frequencies available for international HF service.

High frequencies available to enroute stations serving international flight operations on the Major World Air Route Areas (MWARA's) as defined in the international Radio Regulations and the International Civil Aviation Organization (ICAO) Assignment Plan are as follows:

(a) *Central East Pacific* (CEP):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
3001	3001	2869
3467	3467	3413
		4657
5554	5554	5547
		5673
5603	5603	5574
8875	8843	8843
13336	13336	10057
8931	11282	11282
13312	13300	13300
17909	17904	17904

(b) *Central West Pacific* (CWP):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2866	2866	2998
		3455
4675	4675	4666
5505	5505	5652
		5681
		8532
8631	8631	8502
8854	8854	8903
		10081
11303	11303	11384
13296	13300	13300
17909	17904	17904

(c) *North Pacific* (NP):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2910	2910	2932
5580	5589	5628
	5655	5655
		6661
8958	8838	10048
		11330
13264	13300	13300
17909	17904	17904

(d) *South Pacific* (SP):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2945	2945	3467
	5559	5559
5538	5643	5643
8847	8847	8867
		10084
11303	11327	11327
13304	13300	13300
17909	17904	17904

(e) *North Atlantic* (NAT):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb., 1,, 1983, (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
		2872
2967	2967	2899
2948	2962	2962
2958	3368	2971
2931	2931	3016
		3476
5624	5624	4675
5610	5610	5598
5673	5673	5616
5638	5638	5649
		6622
		6628
8945	8945	8825
		8831
8889	8889	8864
8854	8879	8879
8910	8891	8891
		8906
11303	11303	11279
		11309
		11336
13326	13291	13291
13288	13306	13306
17941	17946	17946

(f) *Europe* (EUR):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2910	3479	3479
4589	4685	5661
5582	5582	6596
8875	10084	10084
		13288
17941	17941	17961

(g) *South America* (SAM):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2869	2869	2944
2910	2910	3479
4696	4696	4658
5582	5582	5526
5656	5656	5643
8847	8847	8855
8826	8826	10024
11327	10095	10096
11343	11360	11360
13320	13297	13297
17925	17907	17907
17917		

(h) *South Atlantic* (SAT):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2875	2875	2854
		2935
3432	3432	3452
5680	5565	5565
6610	6610	6515
8852	8852	8861
10049	10049	11291
13344	13357	13315
	13357	13357
17949	17955	17955

(i) *Southeast Asia* (SEA):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2967	2967	3470
2958	2958	3485
5645	5645	5649
5624	5624	5655
5673	5673	5556
8940	8940	8943
8852	8852	10096
8868	11396	11396
	13309	13309
13268	13268	13318
17965	17907	17907

(j) *East Asia* (EA):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2967	2967	3018
		3485
		3491
		5655
	5670	5670
5673	5673	8571
8831	8831	8927
		10042
	11396	11396
	13297	13297
	13303	13303
	13309	13309
17965	17907	17907

(k) *Middle East* (MID):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
		2944
3404	3404	2992
3446	3446	3467
		3473
		4669
5603	5603	5667
5624	5624	5658
		5826
		6631
8847	8847	8918
		8951
10009	10009	10018
		11375
13336	13336	13288
		13312
	17961	17961

(l) *Africa* (AFI):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2869	2869	2851
3411	3411	2878
		3419
2917	2917	3425
2966	2966	3467
5484	5484	4857
5491	5491	
5496	5496	
5540	5540	
5519	5519	5483
		5652
8638	8638	
5505	5505	5658
5491	5491	8553
5496	5496	
8589	8589	
4582	4582	6574
5496	5496	
5859	5859	
8638	8638	8673
8826	8826	8894
	8903	8903
8924	8924	8894
8959	11300	11300
		11330
13304	13304	13273
13336	13336	13269
		13294
17925	17961	17961

(m) *Indian Ocean* (INO):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
3481	3481	3476
5505	5634	8834
8875	8875	8870
13336	13336	13306
17925	17961	17961

(n) *North Central Asia* (NCA):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
3425	3425	3004
		3019
3495	3495	
		4678
6533	6533	5648
6589	6589	5664
5603	5603	6582
5861	10096	10096
	13303	13303
		13315
		17958

(o) *Caribbean* (CAR):

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2952	2952	2887
2966	2966	3455
5568	5568	5520
5484	5550	5550
5540	5540	6577
5561	5561	6586
5568		
5840	8840	8845
8959	8959	8918
10017	11396	11396
11343	11387	11387
11320	13297	13297
17917		
17925	17907	17907

10. Section 87.301 is added to read as follows:

§ 87.301 Long distance operational control.

Long distance operational control communications provide for the exercise of authority over the initiation, continuation, diversion or termination of a flight affecting the safety of the aircraft and the regularity and efficiency of a flight. Assignments are to provide communications between an appropriate aeronautical station and an aircraft station anywhere in the world for exercising control over regularity of flight and safety of aircraft. World-wide frequencies are not to be assigned by administrations for MWARA, RDARA and VOLMET purposes.

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
		3013
		5484
		5529
		5538
5576	8526	6637
		8540
		8933
		10033
10093	10093	10075
		11342
		11348
13356	13356	13330
	13348	13348
17941	17925	17925
21996	21996	21964

§ 87.309 [Removed]

11. Section 87.309 is removed.

12. Section 87.331 paragraph (c) is revised to read as follows:

§ 87.331 Frequencies available.

* * * * *

(c) The following frequencies are available for assignment to flight test stations for test of equipment, emergency and backup use only for communication with aircraft beyond the range of VHF propogation. Type A2H, A3J, A7J and A9J emissions shall be employed. A3H emission may be used until February 1, 1982.

Frequencies available until 0001 G.m.t., Feb. 18, 1982 (carrier) kHz	Frequencies available from 0001 G.m.t., Feb. 18, 1982, until 0001 G.m.t., Feb. 1, 1983 (carrier) kHz	Frequencies available after 0001 G.m.t., Feb. 1, 1983 (carrier) kHz
2869	2869	2851
2894	2894	3004
3474	3474	3443
4675	4675	
4682	4682	5451
5459	5459	5469
5596	5596	5571
6559	6559	6550
8817	8917	8822
10009	10009	10045
11287	11287	11286
11375	11375	11306
13356	13312	13312
17901		
17965	17965	17964
		21921

[FR Doc. 82-2487 Filed 2-1-82; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 311 (Sub-4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Notice of revised compliance schedule for final modifications.

SUMMARY: In a notice served October 8, 1981, the Commission replaced the revenue based fuel surcharge for motor vehicles and freight forwarders with a program which would reimburse owner-operators for fuel costs. That notice was published at 46 FR 50070, October 9, 1981, and corrected and clarified at 46 FR 54745 and 54746, November 4, 1981. On January 18, 1982, the United States Court of Appeals for the Eighth Circuit denied various motions for stay of that Commission decision pending review. The Commission may now implement the mileage-based fuel compensation plan. A new 60-day compliance period will begin on February 12, 1982.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander: (202) 275-7723
Alan Rothenberg: (202) 275-7597
Ted Kalick: (202) 275-6446
Richard Shullaw: (202) 275-7639

SUPPLEMENTARY INFORMATION: On November 5, 1981, the United States Court of Appeals for the Fifth Circuit, in No. 81-4437, *Central Forwarding, Inc., et*

al. v. *Interstate Commerce Commission,* stayed the Commission's decision in this proceeding pending further order of the Court. On January 18, 1982, the Court denied various motions for stay pending review. The Commission may now implement the mileage-based fuel compensation plan.

The Commission is issuing a revised compliance schedule. The 60-day transition period, during which carriers may fold in that portion of the surcharge necessary (1) to cover increased fuel costs since January 1979, and/or (2) to cover the new mileage payment to owner-operators, will begin on February 12, 1982. The fold-in shall be filed to become effective on not less than 30 days' notice. Any fuel surcharge remaining in effect after April 13, 1982 will be null and void.

The last weekly order establishing the revenue-based surcharge level will be issued during the week of February 8, 1982. The surcharge level will then be frozen for the 60-day transition period. During this period and until the fold-in is effected, each carrier shall continue to pay its owner-operators the maximum surcharge in effect on February 12, 1982.

No fold-in filings will be accepted prior to February 12, 1982.

Decided: January 25, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2941 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Sixth Revised Service No. 1495; Amdt. No. 1]

Burlington Northern Railroad Company and Fort Worth and Denver Railway Company Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; Amendment No. 1 to Sixth Revised Service Order No. 1495.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes the Burlington Northern and Forth Worth and Denver to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., January 31, 1982, and continuing in effect until 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: January 27, 1982.

Upon further consideration of Sixth Revised Service Order No. 1495 (47 FR 776), and with respect to the duration of this amendment, the Commission has voted pursuant to its Notice of September 21, 1981, to continue to authorize interim operations during the bankruptcy process, and good cause appearing therefor:

§ 1033.1495 [Amended]

It is ordered, § 1033.1495 *Burlington Northern Railroad Company and Fort Worth and Denver Railway Company authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee),* Sixth Revised Service Order No. 1495 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31,.1982.

(49 U.S.C. 10304–10305 and Sec. 122, Pub. L. 96–254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2944 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1493; Amdt. No. 11]

Escanaba and Lake Superior Railroad Company Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; Amendment No. 11 to Service Order No. 1493.

SUMMARY: Amendment No. 11 extends the expiration date of Service Order No. 1493, which authorizes Escanaba and Lake Superior Railroad Company to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee) (MILW). The MILW Trustee has indicated that sufficient progress has been made in negotiations on compensation and that he concurs with this extension.

EFFECTIVE DATE: 11:59 p.m., January 30, 1982, and continuing in effect until 11:59 p.m., February 28, 1982, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: January 27, 1982.

Upon further consideration of Service Order No. 1493 (46 FR 10742, 14896, 19822, 25311, 34593, 39148, 44190, 49127, 54562, 58491 and 47 FR 624), and good cause appearing therefor:

§ 1033.1493 [Amended]

It is ordered, § 1033.1493 *Escanaba and Lake Superior Railroad Company authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee),* Service Order No. 1493 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended to permit an additional (29) twenty-nine days for the Escanaba and Lake Superior Railroad

Company to complete compensation negotiations, and shall expire at 11:59 p.m., February 28, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 30, 1982.

(49 U.S.C. 10304–10305 and Sec. 122, Pub. L. 96–254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2843 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Thirty-first Revised Service Order No. 1473; Amdt. No. 1]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; Amendment No. 1 to Thirty-first Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., January 31, 1982, and continuing in effect until 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: January 27, 1982.

Upon further consideration of Thirty-first Revised Service Order No. 1473 (47 FR 2482), and with respect to the duration of this amendment, the Commission has voted pursuant to its Notice of September 21, 1981, to continue to authorize interim operations during the bankruptcy process, and good cause appearing therefor:

§ 1033.1473 [Amended]

It is ordered, § 1033.1473 *Various Railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee),* Thirty-first Revised Service Order No. 1473 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This order shall become effective at 11:59 p.m., January 31, 1982.

(49 U.S.C. 10304–10305 and Sec. 122, Pub. L. 96–254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms to that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2842 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 54)]

Change to Rules Governing Qualifications and Requirements of ICC Non-Attorney Practitioners

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission has modified its procedures pertaining to candidates applying for permission to take the Interstate Commerce Commission Practitioners' Examination. The modifications codified certain practices, made changes in the examination schedule, and broadened qualification standards.

These procedures relaxed the standards for qualifying for admission as an ICC non-attorney practitioner. We did not adopt suggestions in the comments that would either make qualifications more difficult, or modify our examination procedures. The following amendments to the rules do adopt certain suggestions made in the comments received.

EFFECTIVE DATE: The rules became effective December 3, 1981, and apply to the next examination which will be held on June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ellen R. Watson, (202) 275–7424; Darlene Proctor, (202) 275–7233.

SUPPLEMENTARY INFORMATION: A period of 30 days from **Federal Register** publication was allowed for comments (46 FR 51253, October 19, 1981). Four comments were received. We have given careful consideration to all suggestions. This notice revises § 1100.9(e)(1) to clarify the certification of applicants by the Association of Interstate Commerce Commission Practitioners; and revises § 1100.9 (j) and (k) to clarify the treatment of applicants who fail to appear for the examination or who postpone taking the examination.

PART 1100—GENERAL RULES OF PRACTICE

1. In 49 CFR 1100.9(e)(1) and (j) and (k) are revised to read as follows:

§ 1100.9 Persons not attorneys-at-law—qualifications and requirements for practice before the Commission.

* * * * *

(e) *Additional Certification.* (1) When an application meets the required standards, a copy will be referred to the Association of Interstate Commerce Commission Practitioners for a report to the Commission as to the reputation and character of the applicant. Inquiry also will be made by the Commission of the sponsors as to their knowledge of the applicant's legal and technical qualifications as contemplated by the Commission's Rules of Practice. If the Commission is satisfied as to the applicant's qualifications, reputation and character, then applicant will be

considered eligible to take the examination.

* * * * *

(j) *Failure to appear for examination.* Applicants who have failed to appear for, or postponed taking an examination, a total of three times without showing good cause will have any subsequently filed application returned.

(k) *Failing or postponing the examination.* Applicants who have failed the examination may reapply by submitting a request in writing with an additional $50 fee. Applicants who have postponed taking the examination three times without showing good cause will have their applications returned.

2. In 49 CFR 1100.9 paragraphs (l) and (m) are redesignated as (n) and (o) and new paragraphs (l) and (m) are added to read as follows:

* * * * *

(l) The $50 filing fee is not refundable.

(m) Any application resubmitted to the Commission after being returned must be accompanied by a $50 filing fee.

* * * * *

This action does not affect significantly the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10308)

Dated: January 18, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2045 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 22
Tuesday, February 2, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

Importation of Apples From Australia (Including Tasmania)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the fruits and vegetables regulations by deleting provisions requiring fumigation with methyl bromide of each shipment of apples imported into the United States from Australia (including Tasmania), and instead to require inspection of a biometrically designed statistical sample from each shipment and to require fumigation with methyl bromide for all shipments found upon such inspection to contain pests of the family Tortricidae (fruit-leaf roller complex). This appears to be warranted in order to delete unnecessary restrictions on the importation of apples from Australia (including Tasmania).

DATE: Written comments concerning the proposed rule must be received on or before March 4, 1982.

ADDRESS: Written comments concerning the proposed rule should be submitted to Thomas J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 635 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8248.

SUPPLEMENTARY INFORMATION:

Comments

Written comments are solicited for 30 days after publication of this document in the Federal Register. (March 4, 1982) It is the general policy of the Department to provide a 60 day comment period for proposed rules unless a shorter period is warranted. However, in this instance, it appears that there is no longer a need for imposing certain restrictions on the importation of all apples from Australia and that prompt action should be taken to delete the unnecessary restrictions. Further, it appears that an effort should be made to complete this rulemaking proceeding by March, since the shipping season for apples imported from Australia begins in March. Therefore, a shorter comment period of 30 days appears to be warranted and adequate under the circumstances.

Background

The fruits and vegetables regulations (referred to below as the regulations) are contained in 7 CFR 319.56 through 319.56–8, and impose prohibitions and restrictions on the importation into the United States of certain fruits and vegetables.

Under the regulations, apples and pears from Australia (the term Australia includes Tasmania when used in the Background portion of this document) and New Zealand are allowed to be imported only in accordance with certain requirements, including requirements set forth in § 319.56–2k. The requirements set forth in § 319.56–2k were designed to prevent the introduction into the United States of insects of the family Tortricidae (fruit-leaf roller complex) which occur in Australia and New Zealand, and which could be spread to apple and pear orchards in the United States by the movement of apples and pears. These pests, which do not occur in the United States, are destructive pests of apples and pears.

Section 319.56–2k provides that apples imported from Australia are required to be fumigated with methyl bromide in accordance with specified procedures. This section also provides that inspection is required of a biometrically designed statistical sample from each shipment of apples or pears imported from New Zealand and each shipment of pears imported from Australia, and that such methyl bromide fumigation is required only for those shipments found to contain the pests.

Information submitted by officials of the Australian government indicated that the regulations should be amended to delete the provisions requiring mandatory fumigation with methyl bromide for each shipment of apples imported from Australia, and instead to require fumigation with methyl bromide in accordance with the criteria established for apples and pears from New Zealand and for pears from Australia.

The mandatory fumigation requirement for apples from Australia was imposed because of a high incidence of finds of such pests. For example, in the mid 1970's approximately 40% of these apples were found to contain the pests. Accordingly, since the pests were found in such a high percentage of shipments, all shipments were required to be fumigated.

However, because of the effect of control programs in Australia, it now appears that the population of such pests has been reduced to low levels and that such pests are rarely found in apples from Australia. This conclusion is based on information submitted by the government of Australia and a survey in Australia conducted by a representative of the Department. The survey included inspections of apples, growing sites, and packing houses.

Inspection of a biometrically designed statistical sample of each shipment of apples, coupled with such methyl bromide treatment for those shipments found to contain the pests, apppears to be adequate to prevent any significant risk of introducing such pests into the United States from apples imported from Australia. Therefore, it appears that it is no longer necessary to require mandatory fumigation of each shipment of apples from Australia.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been

determined that this rule would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Apples from Australia do not constitute a significant portion of the apples imported into the United states. Importations of apples from Australia for fiscal year 1981 totaled 810 metric tons, valued at $413,000. The total importations of apples for fiscal year 1981 totaled 80,000 metric tons, valued at $40 million. It is expected that the adoption of the proposed rule would not result in a large increase in the importation of apples from Australia. Further, it appears that the importation of apples from Australia is not the primary activity of any business in the United States.

There were fewer than 75 shipments of apples from Australia during fiscal year 1981. It appears that the adoption of the proposed rule would reduce the cost of each shipment by approximately $75 as a result of reducing the number of fumigations.

Alternatives were considered in connection with the proposal. Consideration was given concerning whether (1) to continue the system of mandatory fumigation with methyl bromide of each shipment of apples imported into the United States from Australia, or (2) to require inspection of a biometrically designed statistical sample from each shipment, and to require such fumigation for any shipments found upon inspection to contain pests of the family Tortricidae (fruit-leaf roller complex). Alternative (2) is proposed. As explained above, it appears that the less stringent provisions in alternative (2) would be adequate to allow apples to be imported from Australia without a significant risk of introducing insects of the family Tortricidae (fruit-leaf roller complex) into the United States. Further, it appears that there is no other feasible alternative that would maximize net benefits to society at a low net cost.

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that, under the circumstances explained above, it is anticipated that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

Proposed Amendments

PART 319—FOREIGN QUARANTINE NOTICES

Under the circumstances referred to above, it is proposed to amend § 319.56–2k of the fruits and vegetables regulations (7 CFR 319.56–2k) as follows:

§ 319.56–2k [Amended]

1. By removing "each shipment of pears moved from" immediately before "Australia" in § 319.56–2k(a)(1).

2. By removing "for apples shipped from Australia (including Tasmania) and" in § 319.56–2k(a)(2).

(Secs. 5 and 9, 37 Stat. 316, 318 (7 U.S.C. 159, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C. this 28th day of January 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82–2714 Filed 2–1–82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–4–82]

Travel Expenses of Members of Congress

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing a correction relating to temporary income tax regulations (Treasury Decision 7802) that relate to deductions for Members of Congress for travel expenses in Washington, D.C., allowed without substantiation. The text of those temporary regulations also serves as the comment document for a notice of proposed rulemaking. This document reflects the fact that the text of Treasury Decision 7802 is corrected for purposes of the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Jason R. Felton of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3318, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 21, 1982, the **Federal Register** published Treasury Decision 7802 (47 FR 2986) which contained temporary regulations relating to travel expenses of Members of Congress. The text of the temporary regulations also served as the text of proposed regulations under 26 CFR Part 1 (§ 1.274) (47 FR 3006).

Need for Correction

The need for correction arises from a typographical error in the last line of § 5e.274–8(c)(1)(i) and in the last line of § 5e.274–8(c)(1)(ii).

Correction of Publication

For the text of the correction to the notice of proposed rulemaking (47 FR 3006), see FR Doc. 82–2716 published in the Rules and Regulations portion of this issue of the **Federal Register**.

David E. Dickinson,

Director, Legislation and Regulations Division.

[FR Doc. 82–2718 Filed 2–1–82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Colorado

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to adopt a cooperative agreement between the Department of the Interior and the State of Colorado for the regulation of surface coal mining operations on Federal lands in Colorado under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

DATES: The public comment period on this proposed rule will extend until April 5, 1982. The public hearing will be held at the location shown in **ADDRESSES**, below, on March 15, 1982, beginning at 9:30 a.m. Any person interested in making an oral or written presentation

at the hearing must contact OSM at the address and phone number listed under **FOR FURTHER INFORMATION CONTACT** by March 3, 1982.

ADDRESSES: Written comments must be mailed to:

Administrative Record R&I–09, Office of Surface Mining, Room 5315, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to:

Office of Surface Mining, Room 241, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; or

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of Colorado, Department of Natural Resources, Mined Land Reclamation Division, 1313 Sherman Street, Denver, Colorado 80203;

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

The public hearing will be held at the Office of Surface Mining, U.S. Department of the Interior, Brooks Tower, 1020 15th Street, Denver, Colorado 80202. If no person has contacted OSM by March 3, 1982 to express an interest to participate in the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Andrew F. DeVito, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Phone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters

A. Public Hearing

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission or written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. In order to schedule or attend such meetings, contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contacts with State Representatives.

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to reserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings.

Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on a proposed cooperative agreement. This record will include a summary of the discussion and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by reasoning.

All written comments must be received by OSM by 5:00 p.m. e.s.t. on the date the comment period closes. Comments received after that hour will not be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than those specified above will be considered and included in the administrative record. Notices of meetings, summaries of all meetings and telephone conversations, along with all public comments received and a transcript of the public hearing, will also be made available for public review in the Office of Surface Mining at the address noted above.

In response to the Notice of Intent published on August 5, 1981, two letters were received from commenters concerning the terms of the cooperative agreement submitted by the State. Most of the matters commented on had already been revised during discussions held with representatives from Colorado. Those which remain will be dealt with in the preamble to the final rules after further discussion with the State.

II. Background

On August 5, 1981, the Office of Surface Mining (OSM) issued a Notice of Intent to publish a proposed cooperative agreement with the State of Colorado pursuant to Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 (45 FR 39855). The purpose of this proposed rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of Colorado which will give Colorado primacy in the administration of its approved permanent regulatory program on Federal lands in that State. Section 523(c) of the Act allows for the State and the Secretary to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining operations on non-Federal and non-Indian lands.

Consistent with Congress' intent that implementation of the Act be accomplished in two phases, Section 523(c) of the Act provides for two kinds of State-Federal cooperative agreements: Initial program cooperative agreements and permanent program cooperative agreements. Initial program cooperative agreements are authorized by the second sentence of section 523(c), which provides that "States with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act." 30 U.S.C. 1273(c). The State of Colorado had a cooperative agreement with the Department prior to August 3, 1977; however, it was not modified pursuant to section 523(c).

Permanent program cooperative agreements are authorized by the first sentence of section 523(c) which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c) (italics added). The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR 745.

On February 29, 1980, the Governor of the State of Colorado submitted the Colorado State program for approval pursuant to Section 503 of the Act and 30 CFR Part 731. The State program was conditionally approved by the Secretary and became effective upon publication in the **Federal Register** on December 15, 1980 (45 FR 82173).

By letter of March 11, 1981, the State of Colorado submitted a draft of a proposed permanent program cooperative agreement. On April 16, 1981, representatives from OSM and the State met to discuss the terms of that draft. On May 13, 1981, a formal request for the proposed permanent program cooperative agreement was received from the State. The May 13, 1981, proposal was published in the **Federal Register** on August 5, 1981 (46 FR 39855) with a request for comments from interested parties. On September 24, 1981, representatives from the State of Colorado met with OSM to discuss the May 13, 1981, terms submitted by the State.

In entering into a permanent program cooperative agreement with the State of Colorado, the Secretary will be implementing two other requirements of Section 523 of the Act. These statutory requirements are (1) consideration of the diverse and unique characteristics of Federal lands in Colorado, if any, and (2) incorporation of the requirements of the approved State program into the Federal lands program in Colorado. See 30 U.S.C. 1273(a).

III. The State of Colorado's Application

30 CFR 745.11(b) (1) through (8) of OSM's regulations require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. The State of Colorado submitted a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on May 13, 1981. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the Colorado Mined Land Reclamation Division (MLRD), was described as appearing in Colorado's Proposed Permanent Coal Program Text. See 30 CFR 745.11(b) (1), (2), (3), (4), (5), and (6). In addition, a written certification from the Attorney General of the State of Colorado concluded that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Department of Natural Resources, acting through the Mined Land Reclamation Division, to fully comply with Section 523(c) of the Act, as implemented by 30 CFR 745. See 30 CFR 745–11(b)(8).

IV. The Text of the Proposed Agreement

Since Colorado's submission of a proposed permanent program cooperative agreement on May 13, 1981, changes have been made based on meetings and discussions between representatives of Colorado and the Department of the Interior. The terms of the revised proposed agreement are summarized below. OSM emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments and/or further discussion with the State of Colorado. In general, changes were made throughout the proposed cooperative agreement for clarity.

Article I: Introduction and Purpose. This article would set forth the legal authority for the cooperative agreement which is contained in Section 523 of the Act. The purposes of the agreement are also listed.

Article II: Effective Date. This article provides that the agreement would be effective following signing by the Secretary and the Governor, and upon publication as a final rule in the **Federal Register**. It would remain in effect until terminated as provided in Article XI.

Article III: Scope. Article III would provide that the laws, regulations, terms and conditions of Colorado's State program are applicable to Federal lands in Colorado except as otherwise stated in the agreement, the Act, 30 CFR 745.13, or other applicable laws. The effect of this provision would be to adopt the Colorado State program as substantive Federal law enforceable by the State and the United States. This provision also specifically implements Section 523(a) of the Act, which provides that "(w)here Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Excluded

from the scope of the Agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

Article IV: Requirements for Cooperative Agreement. This article would mutually bind the Governor and the Secretary to the provisions of the agreement and the conditions and requirements contained in Article IV. The responsible agency in the State of Colorado for purposes of administering this agreement would be the MLRD which has and must continue to have authority under State law to carry out this agreement. Comments are invited on whether MLRD has sufficient authority to carry out the terms of this agreement. See 30 CFR 745.11(f).

Article IV also would provide that the State may be reimbursed pursuant to Section 705(c) of the Act if the agreement has been implemented and if necessary funds have been appropriated to OMS by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and MLRD will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the Program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income). OSM recognizes the State's concern that the calculation of "program income" and any consequent adjustments required by the OMB Circular be made in an equitable manner.

The Article also deals with reports and records, personnel, the use of equipment and laboratories and permit application fees. The provisions are short and self-explanatory.

Article V: Definitions. This Article would specify which definitions will apply. Basically, it adopts the definitions presently in force in the Act, OSM's permanent regulatory program and the Colorado program. In the case of conflict, the State definition will apply except in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

It should be noted that the term "Federal lands" as defined in both the State and Federal statutes and regulations does not include "Indian lands." The term "permit application package," used throughout the cooperative agreement beginning in Article VI, is a new term. It includes the requirements of the Mineral Leasing Act of 1920 (MLA) implemented by the 30 CFR Part 211 regulations of the U.S. Geological Survey and the requirements of SMCRA for a surface coal mining permit implemented by 30 CFR Part 741. Comments are invited on use of the term "permit application package."

Article VI: Policies and Procedures: Review of a Permit Application to Conduct Surface Coal Mining and Reclamation Operations or Application for a Permit Revision. Under this Article, an operator on Federal lands would be required by MLRD and the Director of OSM to submit a permit application package in an appropriate number of copies to MLRD and OSM. The permit application package is to be in the form required by MLRD and contain any supplemental information, such as data pertaining to the life of the mine, which may be required by the Department of the Interior. At a minimum, the application package must include the necessary information for MLRD and the Department to make a determination of compliance with the State program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and regulations. Comments are invited on whether more specificity is required under subsection 7(e) of this Article regarding the State program and other Federal laws and regulations which may be applicable.

Article VI also would describe the procedures for the cooperative review and analysis of permit applications on Federal lands. The proposed agreement identifies MLRD as primarily responsible for the analysis and review of the permit application on Federal lands in Colorado. OSM would assist the State in carrying out its responsibility for the analysis and review. However, this does not preclude an independent determination by the Department of the Interior with respect to those statutory requirements and decisions which the Secretary cannot delegate to the State. In assuming primary responsibility for review and analysis of the permit applications, MLRD would also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal determinations would be channeled to the operator through MLRD. However, this does not preclude the Secretary from contacting the operator independently of the State to carry out his statutory responsibilities. Copies of any correspondence with the applicant as well as any information OSM receives from an applicant will be provided to MLRD. OSM will coordinate with all appropriate Federal agencies to ensure timely funneling of analyses and conclusions to MLRD.

In addition, this Article refers to Appendix B. The exact procedures to be followed in processing the permit application package or application for a permit revision are listed in Appendix B, and in summary they are:

A. MLRD would be the primary point of contact and will coordinate communications with the applicant. MLRD and OSM would receive the permit application package or the application for a permit revision in an appropriate number. OSM would be required to transmit an appropriate number of copies to the Bureau of Land Management, Geological Survey, and other appropriate Federal agencies specified by the Secretary for their review.

MLRD would determine the completeness of the permit application package, coordinate the technical review of the permit application package, develop the decision document, and issue the permit or permit revision for surface coal mining operations. The Secretary would be required to review and approve the elements of the package relating to the MLA and other requirements of the permit application package such as cultural resources and post-mining land use which are required by Federal law and cannot be delegated to the State. Even though the permit is issued by the State, mining may not commence until the Secretary approves the mining plan pursuant to the requirements of the MLA and complies with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* Because of the timing requirements of NEPA, it is possible that the permit will be issued before the mining plan is approved by the Secretary.

B. OSM, at the request of MLRD, would assist as possible in the review of the permit application package or application for a permit revision and provide technical assistance to the

MLRD. OSM also would coordinate with MLRD to incorporate NEPA requirements into the decision document. Responsibility for compliance with NEPA remains with OSM.

C. The Geological Survey would assist MLRD as arranged and would be the point of contract with the applicant on issues concerned exclusively with its regulations codified at 30 CFR Part 211.

D. The Bureau of Land Management would assist MLRD as arranged and would determine whether the pemit application or application for a permit revision provides for post-mining land use consistent with BLM's land use plan and whether it provides sufficient protection for resources not covered by the Federal coal lease.

E. Other agencies specified by the Secretary would review the permit application package or application for a permit revision in regard to their responsibilities under Federal law.

Coal Exploration. The original cooperative agreement proposed by the State and published in the **Federal Register** on August 5, 1981 (45 FR 39855), contained an Article dealing with the regulation of coal exploration on Federal lands. This Article (formerly Article VII) has been deleted to allow further consideration of the proper roles of OSM, GS, BLM, and the State.

Article VII: Inspections. This Article would specify that MLRD must conduct inspections on Federal lands and prepare and file inspection reports in accordance with its approved Program.

Administrative provisions of this Article include designation of MLRD as the principal point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement is not affected. In particular, this Article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR 743 and 842.

Article VIII: Enforcement. Proposed Article VIII sets forth the enforcement obligations and authorities of OSM and MLRD. MLRD would have primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program.

This Article also would specify that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act is preserved as is OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM would apply the performance standards contained in the approved State program, but would use the Federal procedures and penalty system.

Article IX: Bonds. Under this Article, MLRD would require each operator to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States, if required by regulation. MLRD would be required to obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond. In addition to a performance bond, an operator still would be required to furnish a lease bond and a lessee protection bond. Bonding requirements of the MLA and other Federal laws appear at 30 CFR Part 742 and 43 CFR Part 3474.

Article X: Designation of Lands as Unsuitable. This Article describes the roles of MLRD and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable would be reserved to the Secretary or his designated representative. See 30 CFR 745.13. Petitions for designation must be filed in accordance with 30 CFR Part 769. This provision, taken from the Montana Cooperative Agreement, was substituted for the language originally proposed by Colorado. It was felt that the simplified language was more acceptable and was found to be working well in the Montana agreement.

Article XI: Termination of Cooperative Agreement. Article XI would provide for termination of the proposed permanent program cooperative agreement in accordance with 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement. Article XII would provide for reinstatement of the agreement under 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement. Article XIII would provide that the proposed permanent program cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIV: Change in State or Federal Standards. This Article recognizes that the Secretary or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures necessitating corresponding changes to the cooperative agreement. Such changes would be made in accordance with 30 CFR Part 732 in order to be consistent with State program regulations.

Article XV: Changes in Personnel and Organization. As required by 30 CFR 745.12, this Article would require the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the agreement.

Article XVI: Reservation of Rights. Article XVI recognizes that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XVI would state that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to 30 CFR 745.13 and the terms of this Article, the Secretary would reserve authority and responsibility for several MLA functions (*e.g.*, release of lease bonds). Under Section 523 of the Act and 30 CFR 745.13, the Secretary must retain authority to approve mining plans on Federal lands or major modifications thereto.

Section 745.13 of OSM's regulations lists other specific responsibilities reserved to the Secretary. Among these responsibilities is the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such designations.

Other Reservations. The Department of the Interior also would reserve the authority and responsibility for several specific functions which are an integral part of the permit application review procedures discussed earlier. These items include, but are not limited to, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*; compliance with the consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f.

Compliance with NEPA. The Department and its member offices and bureaus must comply with NEPA, its implementing regulations, and the Department's own guidelines. See 40 CFR 1500 *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). See also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of

Surface Mining). These authorities require the Department, prior to a decision on a permit application package on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents (see 40 CFR 1506.2), with final action reserved to the Secretary.

The Department invites comment on whether the procedures for compliance with NEPA and its implementing regulations and guidelines are adequately addressed in the proposed cooperative agreement.

The Endangered Species Act (16 U.S.C. 1536). This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endagered species, or result in the destruction or modification of a species' critical habitat. 16 U.S.C. 1536. See 50 CFR 402 (regulations on inter-agency cooperation under the Endangered Species Act), OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under Section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

The National Historic Preservation Act (16 U.S.C. 470f). Compliance with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR Part 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consulation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation.

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Advisory Council on Federal plans and programs affecting such properties.

Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places.

Pending completion of the inventory and nomination process, Federal agencies and departments must take measures ot ensure that eligible properties are not substantially altered, and no action affecting an eligible property can be taken without first providing the Advisory Council on Historic Preservation an opportunity to comment. The Archeological and Historic Preservation Act of 1974, 16 U.S.C. 469a–1, provides a means for private parties or the Federal government to actually recover archeological materials and data through, for example, surveys, excavation and removal to a museum. See Statement of Program Approach of the Heritage Conservation and Recreation Service at 44 FR 18117 (March 26, 1979).

These responsibilities would be reserved to the Secretary under the proposed cooperative agreement since they are not "expressly addressed" (Article XVI).

Floodplain Management and Wetland Protection. The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). See 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining operations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with these two Orders is to be a subject of the permanent program cooperative agreements under 30 CFR Part 745.

Since the proposed cooperative agreement with Colorado does not directly discuss compliance with these Orders, the obligation for compliance with them would remain with the Secretary and would not be delegated to Colorado.

Statement of Economic Effects and of Evironmental Impact. In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreeement with a State pursuant to 30 U.S.C. 1273 for State regulations of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Laws.

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by the permanent program regulations which required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article IV.5.G (Required by 30 CFR Part 725)	1029-0012
Article VI.7 (Required by 30 CFR Part 741)	1029-0026
Article VI.10 (Required by 30 CFR Part 786)	1029-0041
Article VII.14 (Required by 30 CFR Part 840)	1029-0051
Article IX.23 (Required by 30 CFR Part 800)	1029-0043

The Department has reviewed this determination in light of recent changes in the regulatory process brought about by Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96–354); and the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the Office of Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315.

The proposed rule was listed in the Department's October 30, 1981, Semiannual Agenda of rules scheduled for review and development.

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to Section 523 of the Act. Such proceedings are, therefore, exempt under Section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Dated: January 11, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Cooperative Agreement

The Governor of the State of Colorado, acting through the Mined

Land Reclamation Division (MLRD), and the Secretary of the Department of the Interior, acting through the Office of Surface Mining (OSM), enter into a Cooperative Agreement (Agreement) to read as follows.

Article I: Introduction and Purpose. 1. This Agreement is authorized by Section 523(c) of the Surface Mining Control and Reclamation Act (Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program (Program) approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement for the regulation and control of surface coal mining operations on Federal lands.

This agreement provides for State regulation, consistent with the Act, the Federal lands program (30 CFR Part 745) and the Colorado program for surface coal mining and reclamation operations, on Federal lands.

2. The purpose of this Agreement is to (a) foster Federal-State cooperation in the regulation of surface coal mining; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all non-Indian lands in Colorado, in accordance with the Act and the Program.

Article II: Effective Date. 3. After being signed by the Secretary and the Governor, the Agreement shall be effective upon publication in the **Federal Register** as a final rule.

This Agreement shall remain in effect until terminated as provided in Article XI.

Article III: Scope. 4. Under this Agreement, the laws, regulations, terms, and conditions of the Program conditionally approved effective December 15, 1980, 30 CFR Part 906, or as hereinafter amended in accordance with 30 CFR 732.17, for the administration of the Act, are applicable to Federal lands within the State except as otherwise stated in this Agreement, the Act, 30 CFR 745.13, or other applicable laws.

Article IV: Requirements for Agreement. 5. The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. Responsible Administrative Agency: The MLRD shall be responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Assistant Secretary—Energy and Minerals, or designee, shall administer this agreement on behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII.

B. Authority of State Agency: The MLRD has and shall continue to have the authority under State law to carry out this Agreement.

C. Funds: Upon application by the MLRD and subject to appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in Section 705(c) of the Act and 30 CFR 735.16. If sufficient funds have not been appropriated to OSM, OSM and MLRD shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program. If agreement cannot be reached, then either party may terminate the cooperative agreement.

Funds provided to the State shall be adjusted in accordance with OMB Circular A–102, Attachment E.

D. Reports and Records: The MLRD shall make annual reports to the Director containing information with respect to compliance with the terms of this Agreement, pursuant to 30 CFR 745.12(c). The MLRD and the Director shall exchange, upon request, except where prohibited by Federal law, information developed under this Agreement. The Director shall provide the MLRD with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement.

E. Personnel: The MLRD shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Act and the approved State program. If sufficient funds have not been appropriated, OSM and MLRD shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the program.

F. Equipment and Laboratories: The MLRD shall have access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of this Agreement.

G. Permit Application Fees: The amount of the fee accompanying an application for a permit shall be determined in accordance with section 34–33–110(l) CRS 1973, as amended. All permit fees shall be retained by the State and deposited with the State Treasurer in the General Fund. The Financial Status Report submitted pursuant to 30 CFR 725.23 shall include a report of the amount of fees collected during the prior State fiscal year.

Article V: Definitions. 6. Terms and phrases used in this Agreement which are defined in the Act, 30 CFR Parts 700, 701, and 740 and as defined in the Colorado Surface Coal Mining Reclamation Act and the rules and regulations promulgated pursuant to the Colorado act shall be given the meaning set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State program will apply, except in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

Article VI: Policies and Procedures: Review of a Permit Application to Conduct Surface Coal Mining and Reclamation Operations or an Application for a Permit Revision. 7. The MLRD and the Director shall require an operator on Federal lands to submit a permit application package or an application for a permit revision in an appropriate number of copies to the MLRD and OSM. Any documentation or information prepared by the operator for the sole purpose of complying with the 3-year requirement of Section 7(c) of the Mineral Leasing Act (MLA) will be submitted directly to the Geological Survey. If such documentation is submitted as part of a permit application, a copy of the entire package will be forwarded to the Geological Survey by OSM.

The permit application package or application for a permit revision shall be in the format required by the MLRD and include any supplemental information required by the Department. The permit application package or application for a permit revision shall satisfy the requirements of 30 CFR 741.12(b) and 30 CFR 741.13, and include the information required by, or necessary for, the MLRD and the Department to make a determination of compliance with:

(a) Section 34–33–101, *et seq.*, CRS 1973, as amended;

(b) Regulations of the Colorado Mined Land Reclamation Board for Coal Mining;

(c) Applicable terms and conditions of the Federal coal lease;

(d) Applicable requirements of the Geological Survey's 30 CFR 211 regulations pertaining to the Mineral Leasing Act requirements; and

(e) Applicable requirements of the approved State program and other Federal laws including, but not limited to, those listed in Appendix A.

8. The MLRD shall assume the primary authority pursuant to Section 523(c) of the Act for the analysis, review and approval of the permit application or application for permit revision according to the standards of the

approved State program. The Director shall assist the MLRD in the analysis of the permit application or application for a permit revision and coordinate the other appropriate Federal agencies as specified by the Secretary according to the procedures set forth in Appendix B. The Department shall concurrently carry out its responsibilities which cannot be delegated to the State under the MLA, as amended, National Environmental Policy Act [NEPA], and other public laws (including, but not limited to, those in Appendix A) according to the procedures set forth in Appendix B so as to the maximum extent possible not duplicate the responsibilities of the State as set forth in this agreement and the State program. The Secretary may consider the information in the decision document described in Appendix B for the purpose of making the decisions required by the Act, MLA, NEPA and other public laws as described above.

9. As a matter of practice the Department will not independently initiate contacts with the applicant regarding permit application packages or applications for permit revisions. However, the Department reserves the right to act independently of the MLRD to carry out its statutory responsibilities under the Act, MLA, NEPA and other public laws provided, however, that the Department shall send copies of all relevant correspondence to the MLRD.

10. The MLRD shall maintain a file of all original correspondence with the applicant and any information received from the applicant which may have a bearing on decisions regarding the permit application or application for a revision.

11. OSM shall have access to files for mines on Federal lands. MLRD will provide OSM copies of information OSM deems necessary.

12. To the fullest extent allowed by State and Federal law, the Director and MLRD shall cooperate so that duplication will be eliminated in conducting the review and analysis of the permit application package or application for a permit revision.

Article VII: Inspections. 13. The MLRD shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with its Program.

14. The MLRD shall, subsequent to conducting any inspection, and on a timely basis, file with the Director a copy of each inspection report. Such report shall adequately describe (1) the general conditions of the lands under the permit; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

15. The MLRD will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this agreement, except as described hereinafter. Nothing in this Agreement shall prevent Federal inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 743, as Part 743 relates to obligations under laws other than the Act.

16. OSM shall ordinarily give the MLRD reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection. When the OSM is responding to a citizen complaint of an imminent danger to the public health and safety or significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11 (b)(1)(ii)(c), it will contact MLRD no less than 24 hours prior to the Federal inspection if practicable, to facilitate a joint Federal/State inspection. The Secretary reserves the right to conduct inspections without prior notice to MLRD to carry out his responsibilities under the Federal Act.

Article VIII: Enforcement. 17. MLRD shall be the primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders including, but not limited to, those listed in Appendix A is reserved to the Secretary.

18. During any joint inspection by OSM and MLRD, MLRD shall have primary responsibility for enforcement procedures including issuance of orders of cessation, notices of violation, and assessment of penalties. The MLRD shall consult OSM prior to issuance of any decision to suspend or revoke a permit.

19. During any inspection made solely by OSM or any joint inspection where the MLRD and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the performance standards included in the regulations of the approved Program, and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

20. The MLRD and the Department shall promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement and of all actions taken with respect to such violations.

21. Personnel of the State and representatives of the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

22. This Agreement does not limit the Department's authority to enforce violations of Federal law which establish standards and requirements which are authorized by laws other than the Act.

Article IX: Bonds. 23. For all surface coal mining operations on Federal lands, the MLRD and the Secretary shall require each operator to submit a single performance bond payable to the State and to the United States, if required by regulation, to cover the operator's responsibilities under the Act and the Program. Such performance bond shall be conditioned upon compliance with all requirements of the Act, the Program and any other requirements imposed by the Department under the MLA, as amended. If the cooperative agreement is terminated, all bonds will revert to being payable only to the United States. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Part 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by Section 715 of the Act.

24. Prior to releasing the operator from an obligation under a performance bond required by the Program, the MLRD shall obtain the concurrence of OSM. The MLRD shall also advise OSM of annual adjustments to the performance bond, pursuant to the Program. Departmental concurrence shall include coordination with other Federal agencies having authority over the lands involved.

25. The operator's performance bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

Article X. Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining. 26. MLRD and the Director shall cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition that could impact adjacent Federal and non-Federal lands, respectively, the agency receiving the petition shall (1) notify the

other of receipt and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article XI: Termination of Cooperative Agreement. 35. This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement. 36. If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement. 37. This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards. 38. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732.

39. The MLRD and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

Article XV: Changes in Personnel and Organization. 40. Each party to this Agreement shall notify the other, when necessary, of any changes in personnel, organization and funding or other changes that will affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

Article XVI: Reservation of Rights. 41. In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Governor of Colorado

Date

Secretary of the Interior

Date

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 30 CFR Part 211.
3. The National Evironmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*,and implementing regulations including 40 CFR Part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR Part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR Part 800.
6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
10. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protections.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and the implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State and State Law.

Appendix B—Procedure for Cooperative Review of Permit Application Packages and Applications for Permit Revisions for Federal Mines in Colorado

I: Point of contact and coordination for the review of permit applications and applications for permit revisions.

A. The Colorado Mined Land Reclamation Division (MLRD) will:

1. Be the point of contact and coordinate communications with the applicant on issues concerned with the development, review and approval of the permit application or application for permit revisions.
2. Communicate with the applicant on issues of concern to the Office of Surface Mining (OSM), and shall immediately advise OSM of such issues and communications.
3. Provide OSM with a monthly report on the status of each permit application, or application for permit review.

B. OSM will:

1. Be responsible for coordinating the review of the permit application package with all Federal agencies which have responsibilities related to approval of the package.
2. Be responsible for ensuring that any information OSM receives which has a bearing on decisions regarding the permit application package or application for a permit revision is sent promptly to MLRD.

C. Geological Survey (GS) will:

1. Receive any documentation and information required by the 30 CFR Part 211 regulations.
2. Be the point of contact with the applicant on issues concerned exclusively with the 30 CFR Part 211 regulations.
3. Provide MLRD and OSM with copies of pertinent correspondence.

II: Receipt and distribution of permit applications package and applications for permit revisions.

A. MLRD will:

1. Receive the permit application package, application for a permit revision, or the review correspondence from the applicant. Copies of the permit application package or application for a permit revision submitted to MLRD are in addition to those submitted to OSM.
2. Identify an application manager responsible for coordinating the review and notify OSM.
3. Upon receipt of an application MLRD will meet with OSM to discuss the application and agree upon a work plan and schedule.

B. OSM will;

1. Distribute copies of the application package and the identity of the MLRD application manager to other Federal agencies as required.

C. OSM, GS and the Bureau of Land Management (BLM) will:

1. Each identify an application manager upon receipt of the application package. OSM will notify MLRD and all Federal agencies of the identity of the application managers.

III: Determination of Completeness.

A. MLRD will:

1. Determine the completeness of a permit application package or application for a permit revision in accordance with section 34–33–118(i) CRS 1973, as amended and as defined in rule 1.04(30) of the Rules and Regulations of the Colorado Mined Land Reclamation Board for Coal Mining promulgated pursuant to the Colorado Surface Coal Mining Reclamation Act.
2. Issue public notice of a complete application in accordance with the procedures of section 34–33–118(2) CRS 1973, as amended.

IV: Determination of Preliminary Findings of Substantive Adequacy.

A. MLRD will:

1. Consult with GS, BLM, OSM, and other appropriate Federal agencies to review the filed application for preliminary findings of substantive adequacy (henceforth "preliminary findings") and to assess the need for additional data requirements in their respective areas of responsibility.
2. Arrange meetings and field examinations with the interested parties as necessary to determine the preliminary findings.
3. Advise the applicant of the preliminary findings upon the advice and consent of BLM, GS, OSM and other Federal agencies specified by the Secretary.
4. Transmit the letter(s) informing the applicant of the preliminary findings with

copies to BLM, OSM, GS and other agencies specified by the Secretary.

5. Furnish the Director with copies of correspondence with the applicant and all information received from the applicant as requested.

B. OSM will:

1. At the request of MLRD, assist as possible in the review of the permit application or application for a permit revision. In any case where assistance has been agreed upon, furnish MLRD with preliminary findings within 45 calendar days of receipt of the request.

2. Work with other Federal agencies involved in the review to insure timely response and resolution of issues of particular concern regarding their statutory requirements.

3. Within 30 days from notification of completeness, OSM will initiate NEPA compliance procedures.

4. Participate, as arrange, in meeting and filed examinations.

C. BLM will:

1. Review the permit application package or application for permit revision for preliminary findings as to whether the applicant's proposed post-mining land use is consistent with BLM's land use plan, and as to the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish OSM with preliminary findings and with any specific requirements for additional data, within 45 calendar days of BLM's receipt of the permit application package or application for a permit revision.

3. Participate, as arranged, in meetings and field examinations.

D. GS will:

1. Review the permit application package or application for a permit revision in regard to MLA requirements addressed in such application.

2. Furnish OSM with preliminary findings and with any specific requirements for additional data within 45 calendar days of GS's receipt of the permit application package or application for a permit revision.

3. Participate, as arranged, in meetings and field examinations.

E. Other appropriate Federal agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision for preliminary findings in regard to their responsibilites under law.

2. Furnish OSM with preliminary findings within 45 calendar days of receipt of the application with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

V: Findings of Technical Adequacy and NEPA Compliance.

A. MLRD will:

1. Develop and coordinate the technical review of the permit application package or application for a permit revision. The review will include representatives of MLRD, GS, BLM, OSM and other appropriate Federal agencies specified by the Secretary.

2. Coordinate with OSM for the purpose of eliminating duplication, and provide to OSM a complete technical analysis pursuant to the approved State program that will serve as the technical base for any Environmental Analysis (EA) or an Environmental Impact Statement (EIS) which may be necessary to determine NEPA compliance for each permit application package.

3. Coordinate, for the purpose of eliminating duplication, with GS to conduct a technical analysis that will assist the GS in making findings as may be necessary to determine compliance with the MLA.

4. Coordinate, for the purpose of eliminating duplication, with BLM to conduct a technical analysis of issued regarding post-mining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the lease.

5. Coordinate, for the purposes of eliminating duplication, with other appropriate Federal agencies specified by the Secretary, to conduct a technical analysis of issues within their jurisdiction.

B. OSM will:

1. At the request of MLRD, assist as possible in the review of the application for technical adequacy in a timely manner as set forth by a schedule. Such schedule will be governed by the deadlines set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed by MLRD in cooperation with OSM.

2. Resolve conflicts and difficulties between other Federal agencies in a timely manner.

3. As soon as possible after receipt of the permit application package, determine the need for an EA or an EIS, pursuant to NEPA, with the assistance of BLM, GS, MLRD and other appropriate agencies, as arranged.

4. Publish notices of NEPA documents as required by Federal law and regulations.

5. Take the leadership role for the development of the EA and EIS including identification of areas where additional data is necessary.

6. Provide MLRD with the analysis and conclusions of the appropriate Federal agencies regarding those elements of the package which the Secretary cannot delegate to the State.

C. GS will:

1. Review the permit application package or application for a permit revision for compliance with 30 CFR 211 regulation.

2. Furnish MLRD through OSM findings on compliance in a timely manner as set forth by schedule. Such schedule will be governed by the statutory deadlines set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed by MLRD in cooperation with GS.

3. Participate, as arranged, in meetings and field examinations.

D. BLM will:

1. Determine whether the permit application or application for a permit revision provides for post-mining land use consistent with BLM's land use plan and determine the adequacy of measures to protect Federal resources under BLM's jurisdiction not covered by the rights granted by the Federal Coal Lease.

2. Furnish MLRD through OSM its determination on the technical adequacy in a timely manner as set forth by schedule. Such schedule will be governed by the statutory time limits set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed by MLRD in cooperation with BLM.

3. Participate, as arranged, in meetings and field examinations.

E. Other appropriate Federal agencies specified by the Secretary will:

1. Review the permit application package or application for a permit revision in regard to their responsibilities under law.

2. Furnish MLRD through OSM findings on compliance with other applicable Federal Laws and regulations in a timely manner as set forth by schedule. Such schedule will be governed by the statutory deadlines set forth in the Colorado Surface Coal Mining Reclamation Act and shall be developed in cooperation with MLRD.

3. Particiapte, as arranged, in meetings and field examinations.

VI: Preparation of the Decision Document and Transmittal

A. MLRD will:

1. Prepare the decision document for the permit application package or application for a permit revision, unless the work plan and schedule agreed upon provides otherwise. The decision document will be in a format approved by the Secretary. This decision document shall contain the following:

a. A brief but comprehensive discussion of the need for the proposal and alternatives to the proposal;

b. A preliminary draft analysis of the environmental impacts of the proposal and alternatives to the proposal prepared in conformance with NEPA, CEQ regulations and OSM's NEPA Compliance Handbook;

c. A finding of compliance with the Program as approved by the Secretary and the regulations promulgated thereunder, which will consist of an analysis of critical issues raised during the course of the review and the resolution of those issues;

d. All other specific written findings required under section 34–33–114 CRS 1973, as amended;

e. The determinations and recommendations of BLM;

f. The memorandum of recommendation from the GS to the Assistant Secretary, Energy and Minerals, with regard to MLA requirements;

g. The comments of other appropriate Federal agencies specified by the Secretary.

2. Transmit copies of drafts of the decision document to OSM for distribution to and comment from the appropriate Federal agencies.

3. Consider the comments of the OSM, GS, BLM and other appropriate Federal agencies and transmit the final decision document for the coal mining and reclamation operations approval to OSM.

B. OSM will:

1. Add to the decision document, an approved NEPA compliance finding.

2. Evaluate the draft decision document and promptly inform MLRD of suggested changes that should be made.

3. Provide all written comments from all appropriate Federal agencies on the decision document to MLRD.

C. BLM will:

1. Provide OSM with findings regarding post-mining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Evaluate the draft decision document and promptly inform OSM in writing of suggested changes, if any, that should be made pertinent to BLM's area of responsibility.

3. Provide written concurrence on the final decision document to OSM with regard to post-mining land use and the adequacy of measures to protect Federal resources not covered by rights granted by the Federal coal lease.

D. GS will:

1. Provide OSM with findings regarding its responsibilities under the MLA.

2. Evaluate the draft decision document and promptly inform OSM in writing of suggested changes, if any, that should be made pertinent to GS responsibilities.

3. Provide written concurrence on the final decision document to OSM with regard to GS's responsibilities.

E. Other agencies will:

1. Provide OSM with findings regarding their responsibilities under law.

2. Evaluate the draft decision document and promptly inform OSM in writing of suggested changes, if any, that should be made pertinent to their responsibilities.

3. Provide written concurrence on the final decision document to OSM with regard to their responsibilities.

VII: Decision and Permit Issuance.

A. The Secretary will:

1. Evaluate the analysis and conclusions as necessary to determine whether he concurs in the decision document in so far as it relates to his statutorily required decisions.

2. Inform the MLRD immediately of his decision. The reasons for not approving shall be specified and recommendations for remedy shall be specified.

B. MLRD will:

1. Issue the permit or revised permit for surface coal mining and reclamation operations after making a finding of compliance with the approved State program and this Agreement.

VIII: Resolution of Conflict.

A. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level.

B. Areas of disagreement between the State and the Department shall be referred to the Governor and the Secretary for resolution.

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BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL-2041-1]

Municipal Wastewater Treatment Works; Availability of Draft Paper

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: EPA has published a draft paper recommending revisions to the construction grants regulations, 40 CFR Part 35. The paper, developed as a continuation of the Agency's regulatory reform effort begun in July 1981, includes the proposed revision of the full regulation (published in the November 6, 1981 **Federal Register**, 46 FR 55220) and the amendments needed to implement the Municipal Wastewater Treatment Construction Grant Amendments of 1981.

DATE: Comments should be received on or before: February 28, 1982. This deadline is essential if the Agency is to have interim final regulations in place to authorize grant-making in the event of an appropriation for the 1982 Fiscal Year.

ADDRESS: Comments on the draft regulatory reform paper are encouraged. Comments and requests for the document should be sent to: Director, Office of Water Program Operations (WH-546), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jane Magee (202) 755-8253.

Joan M. Kovalic,

Acting Director, Office of Water Program Operations.

[FR Doc. 82-2799 Filed 2-1-82; 8:45 am]
BILLING CODE 6560-29-M

40 CFR Part 52

[A-3-FRL 2017-7]

State of Maryland; Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to propose approval of a revision to the Maryland State Implementation Plan (SIP) which was submitted on August 11, 1981. The public hearing on these changes, which include new iron and steel industry regulations, was held on July 15, 1981. The regulations were adopted by the State on August 11, 1981 and became effective on October 10, 1981. Besides the new regulations, this notice proposes to approve complementary changes to the definitions, the general emission regulations, and the technical memorandum relating to test procedures. In addition, the notice proposes to approve a new technical memorandum specifying the procedures for observing and evaluating visible emissions and a new Amended Plan for Compliance (PFC) for the Bethlehem Steel Corporation's Sparrows Point, Maryland plant. These amendments were submitted to satisfy a condition of approval of the Part D plan for attainment of the primary total suspended particulate standard. This notice solicits comments on EPA's proposed action.

DATE: Comments on this proposed SIP revision must be submitted on or before February 12, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; ATTN: Edward A. Vollberg

Maryland Department of Health and Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201; ATTN: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

All comments should be directed to: Mr. Henry Sokolowski, Chief, MD-DE-DC Metro Section (3AH12), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, PA 19106; ATTN: AH304MD.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Vollberg (3AH12), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215/597-8990.

SUPPLEMENTARY INFORMATION:

Background

In 1972, the Bethlehem Steel Corporation challenged, under Section 307 of the Clean Air Act of 1970, EPA's approval of the Maryland State Implementation Plan (SIP) as it related to the steel industry operations. Subsequent to the company's challenge regarding the necessity and feasibility of the emission standards, the Fourth Circuit Court of Appeals remanded the plan to EPA for reconsideration. Based on this, the State of Maryland set out to revise the regulations to resolve the issues that led to the litigation. The State submitted the revised regulation on January 5, 1978. Since it was

impractical at that time for Bethlehem Steel's Sparrows Point facility to be in full compliance with the regulations by the effective date, a Plan for Compliance (PFC) was also submitted to EPA. EPA had significant problems with the enforceability of portions of the regulations and the PFC. While discussion of the problems and possible remedies were held with the State, Maryland prepared and submitted (on January 19, 1979) the Part D plan for attaining the primary National Ambient Air Quality Standard for Total Suspended Particulates (TSP). The State considered the regulations and the PFC submitted on January 5, 1978 to be a part of the control strategy for the Part D plan. EPA proposed the Part D plan revision on August 1, 1979 (44 FR 45194) noting that the enforceability issues remained with respect to the iron and steel regulations. The State of Maryland and EPA agreed that an amended PFC establishing enforceable provisions could be the remedy. As such, EPA proposed to approve the Part D plan (45 FR 53490, August 12, 1980) on the condition that Maryland submit an approvable PFC. Maryland, in considering this, requested until August 11, 1981 to renegotiate a PFC and to revise the iron and steel regulations. On August 11, 1981 the Governor of the State of Maryland submitted amended regulations as a revision to the Maryland State Implementation Plan. This revision, identified by Maryland as Revision 81–3, which includes State-initiated changes as well as new requlations (COMAR 10.18.10) and a new Amended Plan for Compliance (PFC) for the Bethlehem Steel Corporation Sparrows Point Plant, was adopted to satisfy a condition of approval of the Part D plan (46 FR 45341, Sept. 11, 1981). A public hearing on the PFC and the amended regulations was held on July 15, 1981 in Baltimore, Maryland. The regulations were adopted on August 11, 1981 and became effective State regulations on October 10, 1981. These amendments and the PFC have been developed and submitted in accordance with the requirements of Title 40, Code of Federal Regulations, Part 51.

Description of Revision

The revision as submitted to EPA includes:

1. New Iron and Steel Regulations (COMAR 10.18.10).
2. A new Technical Memorandum TM–AMA 81–04.
3. A new Method 13 test procedure (Amendment to TM–AMA 73–116).
4. State initiated regulation changes (COMAR 10.18.01 and COMAR 10.18.06).
5. A new Amended Plan for Compliance for the Bethlehem Steel Corporation's Sparrows Point, Maryland plant.

The regulations in COMAR 10.18.10 are an entirely new chapter replacing in total the previous provisions which regulated air pollutant emissions from the iron and steel industry. They apply to the Metropolitan Baltimore Air Quality Control Region (AQCR) which is designated as Area III by the State of Maryland.

These new regulations include a list of processes where Maryland's general no visible emission standard (COMAR 10.18.06) does not apply. This list, found in COMAR 10.18.10.04B(2), also specifies the particular pollution controls to be installed at these processes. COMAR 10.18.10.03C specifies alternative visible emissions standards applicable to most of these processes. However, where an alternate standard is not yet developed, the State of Maryland has supplied a schedule for its development. One significant change to the regulation applies to coke oven charging. It requires no more than 160 seconds of visible emissions during five consecutive charges. EPA proposes to approve this, because the State has demonstrated attainment of the primary standard for particulate in its Part D plan and RACT is not required since the source is located outside the primary nonattainment area. Another significant change concerns the requirement for self-monitoring of coke oven emissions which was deleted from the existing Plan for Compliance. It is now specified as Section D of COMAR 10.18.10.03.

All other sources, i.e., those not listed in COMAR 10.18.10.04B(2), are subject to the general "no visible emission" regulation (COMAR 10.18.06).

The new Technical Memorandum, AMA–TM 81–04, describes the exact procedures for observing and evaluating visible emissions from stationary sources. The methods specified in the Technical Memorandum are the only methods to be used to enforce the visible emission standards for the sources listed in COMAR 10.18.10.03B. There new methods differ in that they specify the position of the observer, background for the observation, procedure for opacity calculations, etc. Maryland intends to develop additional methods as needed in the future to be used for other specific stationary sources.

Part of the new regulation (COMAR 10.18.10) limits emissions from confined sources at an iron and steel production installation to 0.03 gr/scfd, except for coke quenching towers, which are limited to 800 ppm of total dissolved solids in the make-up water used in the towers. Compliance will be determined through the use of the new method 13 which has been added to TM–AMA 73–116. This method describes the procedure to be used to determine the total dissolved solids in the quench tower make-up water.

The major change in COMAR 10.18.01.01 is the addition of two new terms with definitions, "Confined emissions" and "Fugitive emissions." These terms are used to differentiate between stack emissions and non-stack emissions. COMAR 10.18.06 (General Emissions Standards) has been amended to reference the changes in the new COMAR 10.18.10.

Finally, the purpose of the new Amended Plan for Compliance is to describe Bethlehem Steel Corporation's program to achieve compliance with the new iron and steel regulations, COMAR 10.18.10, at its Sparrows Point facility. The PFC outlines the actions and schedule for installing the control equipment. This document supersedes the Amended Plan for Compliance of the Company aproved by the State of Maryland on December 30, 1980.

EPA Evaluation

EPA has reviewed the revision submitted by Maryland and finds it satisfies the condition of the approval of the Part D SIP. During the review of the revision, EPA identified four items which required clarification by the State of Maryland. The State responded to these items in a letter dated October 28, 1981. These issues are discussed below:

1. EPA requested that the State of Maryland clarify whether the intent underlying COMAR 10.18.10.03 is that the no visible emission standard applies to argon-oxygen decarbonization vessels.

Maryland responded that it is the intent of the State of Maryland that COMAR 10.18.10.03A(1), which requires no visible emissions other than water in an uncombined form, applies to the two buildings in Area III of the State which contain argon-oxygen decarbonization vessels.

2. EPA, in its review, questioned if the "reasonable control methods" required in COMAR 10.18.10.04B(2) (a), (b), (e), and (h) were in place and being employed and, if so, were the standards in COMAR 10.18.10.03B (1), (2), (4), and (5) effective and enforceable immediately.

The Bethlehem Steel Corporation Sparrows Point Plant is presently in compliance with COMAR 10.18.10.04B(2), (a), (b), (e), and (h). The "reasonable control methods" required

by these regulations are in place, and the visible emission requirements of COMAR 10.18.10.03B (1), (2), (4), and (5) were in effect as of October 10, 1981, the regulation's effective date.

3. EPA noted that the PFC delays enforceability of the mass emission standard for coke oven combustion stacks due to problems in the current test method. The agency requested that Maryland assure EPA in writing that alternate testing procedures developed for the particulate sampling method be submitted as a SIP revision no later than December 31, 1982.

Maryland pointed out that the PFC calls for an alternative test procedure for the particulate sampling method at the coke oven combustion stacks to be finalized by December 31, 1982. The State of Maryland anticipates no problem at the present time complying with this requirement and intends to submit the final test procedures to EPA as a SIP revision as soon as the procedure is finalized, which should be prior to December 31, 1982.

4. EPA's review revealed that the PFC allows the development of an alternate visible emission standard for the Basic Oxygen Furnaces (BOF) when reasonable controls are in place. It also indicates that the installation may occur in two stages. The agency has informed the State that an interim visible emission standard must be developed for the first stage.

Maryland stated that the PFC provides that the Department could require additional controls at the BOF Shop beyond those required in the Plan to be utilized by December 31, 1982. Should this occur, the State of Maryland commits to develop an interim visible emission standard for the BOF Shop and to submit it to EPA as a SIP revision no later than December 31, 1983.

Therefore, EPA proposes to approve the new iron and steel regulation (COMAR 10.18.10), the new Technical Memorandum TM-AMA 81-04, the new method 13 to be added to TM-AMA 732-116, the amended COMAR 10.18.01 and COMAR 10.18.06, and the Amended Plan for Compliance (considering the above necessary changes) for the Bethlehem Steel Corporation's Sparrows Point, Maryland plant.

Based upon the above evaluations, the Administrator is proposing to approve this revision to the Maryland State Implementation Plan as discussed in this notice.

The public is invited to submit comments on whether these amendments should be approved as a revision to the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based upon the comments received and on a determination as to whether they meet the requirements of Part D of Title I and Section 110(a)(2) of the Clean Air Act.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Dated: December 9, 1981.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82-3038 Filed 2-1-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 122, 260, 264, 265, and 266

[SWH-FRL-2040-8]

The Hazardous Waste Permit Program; Hazardous Waste Management System: General Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Standards for the Management of Specific Wastes and Specific Types of Facilities; Reopening of Comment Period on Proposed Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period on proposed regulations.

SUMMARY: This notice reopens the comment period on a portion of EPA's November 17, 1980 proposed hazardous waste management and permitting regulations for wastewater treatment units (45 FR 76076). EPA is taking this action in order to allow the general public an opportunity to comment on issues raised by the National Solid Waste Management Association (NSWMA) in the course of settlement negotiations in *AMAX Inc.* v. *EPA* and to comment on a revision in the definition of "wastewater treatment unit."

DATE: EPA will accept comments on the issues discussed in this notice unitil March 4, 1982.

ADDRESSES: Comments should be addressed to Deneen M. Shrader, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, telephone (202) 755-9173. Comments should identify the regulatory docket as: "Section 3004—Wastewater Treatment Units."

The public docket for this rulemaking is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460 and is available for viewing from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Howard M. Cohen, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460, telephone (202) 755-4650.

SUPPLEMENTARY INFORMATION: On November 17, 1980 (45 FR 76076) EPA proposed special regulations applicable to owners and operators of "wastewater treatment units." The proposed regulations were intended to reduce the regulatory burden on a class of facilities which pose less of a risk to human health and the environment than other types of hazardous waste management facilities. EPA incorporated many but not all of the Part 265 operating requirements into these proposed standards and provided for a simplified permitting process by granting qualified facilities a permit-by-rule.

On November 17, 1980 EPA also temporarily suspended the applicability of the hazardous waste management and consolidated permit regulations to wastewater treatment units pending finalization of the proposed special standards. Pursuant to Section 7006 of the Resource Conservation and Recovery Act (RCRA) several persons petitioned the United States Court of Appeals for the District of Columbia for review of this action, *AMAX, Inc.* v. *EPA*, Nos. 81-1171 and 81-1172.

In the course of settlement neogitations in *AMAX*, NSWMA raised several issues related to the proposed regulations and offered to submit to the Agency a supplemental letter outlining their position. Other petitioners present at the negotiations asked for an opportunity to comment on the issues raised by NSWMA. In light of these events EPA has decided to reopen the public comment period to allow for a full airing of these issues and has summarized NSWMA's comments in the following paragraph.

NSWMA contends that the proposed Part 266 standards, as they apply to

owners and operators of wastewater treatment units, should include requirements for a general waste analysis (40 CFR 264.13), and for contingency plan and emergency procedures (40 CFR Part 264, Subpart D). They further identify the waste analysis, the development of a waste analysis plan, and the personnel training requirements as the most critical requirements that should be incorporated into the Part 266 Standards. NSWMA also expresses concern about possible ambiguities in the regulation of hazardous sludges generated in wastewater treatment units and contends that the sludges should be subject to the full RCRA Subtitle C regulations up to and including final disposal.

Copies of NSWMA's written statements are available for inspection in the RCRA public docket room.

Definition of Wastewater Treatment Unit

EPA has received a number of inquiries regarding the interpretation of "wastewater" as used in the definition of wastewater treatment unit. The Agency intends that only units legitimately engaged in treating a relatively dilute aqueous based waste be covered by the definition of wastewater treatment unit and is concerned that the definition not be interpreted so broadly as to include virtually any treatment operation that treats any liquid waste.

The Agency considered trying to define wastewater in terms of a percentage of water but encountered great difficulty in developing a workable and defensible definition. As an interim measure, the Agency in a July 31, 1980 letter to EPA regional offices advised that wastewater be interpreted to refer to "wastes which are substantially water with contaminants amounting to a few percent at most." EPA found this interpretation brought further inquiries.

EPA is now considering using the term "process waste water," in the definition of wastewater treatment unit to help clarify the meaning of wastewater. The term process wastewater, as defined in 40 CFR 122.3 and 401.11(q) means:

> any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

The Agency believes that the term process wastewater effectively limits the scope of the regulation and provides, based on the body of experience that has developed in applying the term, a greater degree of certainty in the meaning of wastewater treatment unit. For example, under this definition, process solutions such as solvents or acids which during manufacturing or processing come into direct contact with a product would not be considered a process wastewater, regardless of the percentage of water in the solvent or acid.

EPA invites comment on the use of the term "process wastewater" to help clarify the meaning of "wastewater treatment unit." The Agency also welcomes suggestions on how wastewater might otherwise be defined.

Dated: January 28, 1982.

Christopher J. Capper,

Acting Assistant Administrator.

[FR Doc. 82-2630 Filed 2-1-82; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Refunds From Carriers for Unused Transportation Services

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to further revise and improve the procedures regarding refunds from carriers for exchanged tickets (traveler exchange of an original ticket for one of lesser value) and the redemption of unused tickets (tickets that have not been exchanged and on which no portion of travel has been performed). Compliance with these revised procedures by Government agencies and the carrier industry will expedite the recovery of outstanding refunds due the U.S. Government.

DATE: Comments must be received by March 4, 1982.

ADDRESS: Written comments should be sent to the General Services Administration (TACP), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202-275-0664).

SUPPLEMENTARY INFORMATION: The GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

GSA proposes to amend Title 41, Part 101-41 of the Code of Federal Regulations (41 CFR Part 101-41) as follows:

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The table of contents for Part 101-41 (101-41.210—101-41.210-6) is amended by revising Subpart 101-41.210.

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

Sec.
101-41.210 Unused transportation refund procedures.
101-41.210-1 Ticket exchanges.
101-41.210-1a Agency monitoring and processing of exchanged ticket refunds.
101-41.210-2 SF 1170, Redemption of unused tickets (tickets that have not been exchanged and on which all or some portion of travel remains unperformed).
101-41.210-3 Agency processing of SF 1170.
101-41.210-3a Carrier processing of SF 1170.
101-41.210-4 Agency processing of SF 1170 refunds.
101-41.210-5 Report of carrier failure to make refund on SF 1170 demands.
101-41.210-5a Carrier refund when SF 1170 has not been received.
101-41.210-5b Payment to carrier for subsequent use of ticket for transportation or second refund through the use of an SF 1170 after initial refund to GSA for unused expired ticket.
101-41.210-5c Agency recovery of carrier refunds sent direct to GSA.
101-41.210-6 Refund procedures covering unused transportation services billed by foreign-flag carriers.

Authority: 31 U.S.C. 244 and 40 U.S.C. 486(c).

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

Section 101-41.210 is revised to read as follows:

§ 101-41.210 Unused transportation refund procedures.

Agencies shall not revise carrier bills or require carriers to rebill items except as provided in § 101-41.210-6, to recover from carriers the value of unused or unfurnished transportation.

Section 101–41.210–1 is revised to read as follows:

§ 101–41.210–1 Ticket exchanges.

Agencies shall not submit an SF 1170 to the carrier to receive a refund for the unused value of an exchanged ticket (traveler exchange of an original ticket for one of lesser value). Carriers are required to make refunds to the "bill charges to" office indicated on the ticket within 90 days from date of ticket exchange. If carriers cannot identify the issuing agency, refunds will be sent to GSA (TACA), Washington, D.C. 20406. The GTR number, ticket number, and the amount being refunded, must be included along with any information pertinent to the refund.

Section 101–41.210–1a is added to read as follows:

§ 101–41.210–1a Agency monitoring and processing of exchanged ticket refunds.

Agencies awaiting exchanged ticket carrier refunds shall:

(a) Obtain carrier refund applications from travelers for accounting purposes.

(b) Record and deposit refunds in conformity with agency fiscal procedures.

(c) Report refunds to GSA (TACP), Washington, D.C. 20406, on SF 1170 within 30-days of the receipt thereof.

(d) Forward carrier refund applications and any other pertinent information to GSA (TACP), if refund has not been received within 120 days from date of travel.

Section 101–41.210–2 is revised to read as follows:

§ 101–41.210–2 SF 1170, Redemption of unused tickets (tickets that have not been exchanged and on which all or some portion of travel remains unperformed).

Agencies shall make demand on the carriers through the use of SF 1170. A separate SF 1170 must be used for each GTR, though more than one ticket or adjustment transaction may be related to that GTR, and listed on the redemption form.

Section 101–41.210–3 is revised to read as follows:

§ 101–41.210–3 Agency processing of SF 1170.

Timely processing of SF 1170 is essential in order to facilitate prompt refunds from carriers. Agencies processing SF 1170 shall ensure that:

(a) All copies clearly show the required details;

(b) The original and the duplicate copy, together with pertinent unused tickets, are promptly forwarded to the carrier; and

(c) All other copies are retained by the agency for accounting control.

Section 101–41.210–3a is added to read as follows:

§ 101–41.210–3a Carrier processing of SF 1170.

Each carrier shall promptly refund moneys to adjust items listed on an SF 1170, whether or not the related GTR has been submitted or paid. The carrier shall indicate on the original SF 1170 the amount credited to each ticket and the total amount being refunded, and shall return the original with its refund to the agency. A refund that is inconsistent with the information on the SF 1170 shall be explained or computed on the SF 1170 or in an attached letter. A carrier declining to refund shall furnish an explanation on the original SF 1170. If a carrier is unable to determine which agency submitted the SF 1170, the payment and refund information shall be sent direct to the General Services Administration (TACA).

Section 101–41.210–4 is revised to read as follows:

§ 101–41.210–4 Agency processing of SF 1170 refunds.

Upon return of the original SF 1170 with the refund, the agency shall record and deposit the refund in conformity with its fiscal procedures and promptly forward the original SF 1170, together with any advice from the carrier regarding the basis of the refund, to the General Services Administration (TACA).

Section 101–41.210–5 is revised to read as follows:

§ 101–41.210–5 Report of carrier failure to make refund on SF 1170 demands.

If, within 120 days from the date of issuance of SF 1170, the carrier has failed to make refund for unused transportation or to furnish satisfactory explanation as to why no refund is due, the agency shall transmit the triplicate copy of the SF 1170 and all related correspondence to the General Services Administration (TACA), for appropriate action.

Section 101–41.210–5a is revised to read as follows:

§ 101–41.210–5a Carrier refund for unused tickets when SF 1170 has not been received.

If no SF 1170 is received, carriers shall refund to GSA (TACP) the value of unused tickets after they have expired. Carriers are required to make such refunds within 90 days from the expiration date. The GTR number, ticket number, and the amount being refunded, must be included along with any other information pertinent to the refund.

Section 101–41.210–5b is added to read as follows:

§ 101–41.210–5b Payment to carrier for subsequent use of ticket for transportation or second refund through the use of an SF 1170 after initial refund to GSA for unused expired ticket.

If, following the initial refund to GSA by the carrier of the value of an unused ticket which has expired, the ticket should subsequently be used for transportation or be refunded a second time through the use of an SF 1170, then either the value of the transportation or the amount of the second refund shall be paid to the carrier upon presentation of an SF 1113, Public Voucher for Transportation Charges. The SF 1113 shall be submitted for payment to GSA (TAD), Washington, D.C. 20406. The billing carrier shall note on the face of the SF 1113 the fact that it relates to a previously refunded expired ticket which was subsequently used for transportation or refunded a second time through the use of an SF 1170, as the case may be. The carrier shall submit with the SF 1113 copies of those documents pertinent to the previous refund and the current transportation charge when applicable.

Section 101–41.210–5c is added to read as follows:

§ 101–41.210–5c Agency recovery of carrier refunds sent direct to GSA.

To recover carrier refunds sent direct to GSA (TACA), agencies must forward either an SF 1080, Voucher for Transfer Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits, to the General Services Administration (TACA). Included on these forms must be the name of the carrier, carrier check number, date and amount of check, GTR number, and the appropriation number to be credited. Agency refund requests should be sent promptly to GSA (TACA). Refunds from carriers which are not identified and claimed by agencies within 180 days after receipt by GSA (TACA) will be returned to the U.S. Treasury as miscellaneous receipts.

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: January 8, 1981.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82–3080 Filed 2–1–82; 8:45 am]

BILLING CODE 6820–AM–M

41 CFR Part 101–41

Payment of Transportation Claims

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to enable agencies to pay all supplemental bills (claims) quickly and to remove some restrictions currently in effect. Present regulations require agencies to pay certain claims that involve accessorial services and, with certain restrictions, claims that involve changes in rates, weights, classifications, nomenclature of commodities, and other categories. The proposed amendments will enable agencies to promptly pay all supplemental bills received from carriers, except for time-barred and doubtful claims. Compliance with these revisions will simplify and reduce the workload at the Federal agencies' finance offices.

DATE: Comments must be received by March 4, 1982.

ADDRESS: Comments should be sent to the General Services Administration (TACP), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202–275–0664).

SUPPLEMENTARY INFORMATION: The GSA has determined that this proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this proposed rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this proposed rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. In § 101–41.604–1, the introductory text and paragraph (a) are revised, paragraph (b) is removed and paragraphs (c) and (d) are redesignated as paragraphs (b) and (c) as revised § 101–41.604–1 reads as set forth below.

§ 101–41.604–1. Transportation claims payable by agencies.

Unless GSA (TA) determines that a prepayment audit is necessary, each agency or department shall pay any properly documented claim for freight or passenger transportation charges that is not excepted by the provisions of § 101–41.604–2, provided the following guidelines are observed:

(a) The agency shall annotate each paid supplemental bill, other than a bill for air excess baggage charges, with the payment record on the related procuring Government bill of lading (GBL) or Government transportation request (GTR), including D.O. voucher number, bureau voucher number, date of payment, and D.O. symbol number.

(b) The agency shall make an administrative examination of each supplemental bill to ensure that it is not a duplicate billing of a previous payment and that it is properly supported, presented in the name of the carrier to which the original charges were paid, and in agreement with agency records concerning the amount previously paid.

(c) Claims paid in accordance with this § 101–41.604–1 shall be transmitted to GSA (TADS) separately from other paid transportation documents submitted for audit.

2. In § 101–41.604–2, paragraph (b)(3) and paragraph (c) are revised and paragraph (b)(4) is removed.

§ 101–41.604–2 Transportation claims not payable by agencies.

* * * * *

(b) * * *

(2) * * *

(3) Doubtful claims. A claim is doubtful when in the exercise of reasonable prudence either a person having final responsibility for deciding appropriate administrative action or the person who, in accordance with applicable statutes, will be held accountable if the claim were paid and then found to be incorrect, illegal, or improper, is unable to decide with reasonable certainty the validity and correctness of the claim.

(c) Claims will be handled by GSA under the provisions of § 101–41.605 of this subpart and shall be forwarded separately from other types of transportation documents to the General Services Administration (TACA), Washington, D.C. 20406. Agencies shall support each claim forwarded to GSA with:

* * * * *

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: January 7, 1982.

Allan W. Beres,

Commissioner,

[FR Doc. 82–2056 Filed 2–1–82; 8:45 am]

BILLING CODE 6820–AM–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6197]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Washington

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lynden, Washington.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 46 FR 57705 on November 25, 1981 and in the *Lynden Tribune,* published on or about October 28, 1981, and November 4, 1981, and hence supersedes those previously published rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Engineer's Office, 323 Front Street, Lynden, Washington.

Send comments to: The Honorable Egbert Maaf, 323 Front Street, Lynden, Washington 98264.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Lynden, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of

1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIPP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground elevation in feet (NGVD)
Nooksack River	Area approximately 150 feet south of intersection of East Front Street and Hawley Street.	*57

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: January 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–2800 Filed 2–1–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6197]

National Flood Insurance Program; Proposed Flood Elevation Determinations; New York; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 57703 on November 25, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Marshall, Oneida County, New York.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Marshall, Oneida County, New York, previously published at 46 FR 57703 on November 25, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The Notice of Proposed Base Flood Elevation Determinations should be amended to read as follows:

Source of flooding and location	Elevation in feet national geodetic vertical datum
Oriskany Creek:	
Approximately 2,000' upstream of confluence of Watermans Brook	*775
Approximately 5,000' upstream of confluence of Watermans Brook	*799

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 21, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–2801 Filed 2–1–82; 8:45 am]

BILLING CODE 6718–03–M

---

44 CFR Part 67

[Docket No. FEMA–6218]

National Flood Insurance Program; Proposed Flood Elevation Determination; Massachusetts; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 62102 on December 22, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Hanover, Plymouth County, Massachusetts.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Hanover, Plymouth County, Massachusetts, previously published at 46 FR 62102 on December 22, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

Under the source of flooding, Indian Head River, the Base Flood elevation for the location "Cross Street (upstream side)" has been amended to read 39 feet in elevation (National Geodetic Vertical Datum).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2802 Filed 2-1-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Kansas

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Lyon County, Kansas, Previously published at 46 FR 63339 on December 31, 1981.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Lyon County, Kansas previously published at 46 FR 63339 on December 31, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448). 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The Base Flood Elevation (BFE) Determination of 1116, located north of Dow Creek, was changed to 1117 to agree with the correct elevation shown on the profile. In addition, the BFE notice was corrected due to road name revisions which have been added to the maps as a result of additional information concerning the correct road labelling.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact of a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntary adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kansas	(uninc.) Lyon County	Neosho River	Just upstream of U.S. Highway 50	*1,100
		Dow Creek	At mouth	*1,117
		Dry Creek	Just downstream of Old U.S. Highway 50 (about 25,300 feet above mouth).	*1,092
			Just upstream of Old U.S. Highway 50 (about 25,300 feet above mouth).	*1,095

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3603 Filed 2-1-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Missouri

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Silex, Lincoln County, Missouri, previously published at 46 FR 63340 on December 31, 1981.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for seclected locations in the Village of Silex, Lincoln County, Missouri previously published at 46 FR 63340 on December 31, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The Base Flood Elevation for the North Fork Cuivre River which reads 511 has been changed to 512 to agree with revisions made to the profile and FIRM. The previous elevation of 511 was not applicable to the community.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(v) Silex, Lincoln County	North Fork Cuivre River	Just downstream of Church Street	*512

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.)

Issued: January 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2004 Filed 2-1-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Iowa

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Mills County, Iowa, previously published at 46 FR 63338 on December 31, 1981.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Mills County, Iowa previously published at 46 FR 63338 on December 31, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The Base Flood Elevation Determination on the West Nishnabotna River, which reads about 5100 feet downstream of County Road H-12, has been changed from 1028 to 1029 to better agree with the flood profile.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(Uninc.) Mills County	West Nishnabotna River	About 5,100 feet downstream of County Road H–12	*1,029

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–2605 Filed 2–1–82; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 302

Withholding of Unemployment Compensation for Support Purposes

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Office of Child Support Enforcement is proposing to amend the Child Support Enforcement program regulations at 45 CFR Part 302 to implement the provisions of Section 2335 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act, which requires withholding of unemployment compensation to collect unmet support obligations. Under the proposed amendment to Part 302, the child support enforcement (IV–D) agency will be required to determine on a periodic basis whether any individuals receiving compensation under the State's employment compensation law owe support obligations that are being enforced by the IV–D agency. The proposed regulations will further require the IV–D agency to enforce any obligations that are not being met by one of two methods. Under the proposed regulations, the IV–D agency must first attempt to enter into an agreement with the individual to have a specified amount withheld from unemployment compensation. If an agreement is signed, the IV–D agency must submit a copy of it to the State agency administering the unemployment compensation law. In the absence of an agreement with the individual, the IV–D agency may bring legal process in the nature of a garnishment to require a withholding of compensation. Finally, the proposed regulations will require IV–D agencies to reimburse the State agency administering the unemployment compensation law for its administrative costs related to child support enforcement activity.

DATE: OCSE anticipates that final regulations will become effective on October 1, 1982, the date on which Section 2335 of Pub. L. 97–35 becomes a requirement. The Department of Health and Human Services has classified these regulations as policy significant.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, Office of Child Support Enforcement, 6110 Executive Blvd., Room 1010, Rockville, Maryland 20852 (301) 443–5350.

Dated: December 30, 1981.

John A. Svahn,

Director, Office of Child Support Enforcement.

[FR Doc. 82–2640 Filed 2–1–82; 8:45 am]

BILLING CODE 4190–11–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 49

Contract Termination Forms and Formats; Availability and Request for Comments

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR).[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before March 19, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following parts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

[1] Filed as a part of the original document.

PART 49—TERMINATION OF CONTRACTS

This subpart contains suggested formats and prescribed standard forms related to the termination and settlement of contracts. The FPR formats and DAR forms have been consolidated in the FAR into six standard forms and various formats for termination notices, settlement agreements, delinquency notices, inventory schedules, etc. No policy change is intended in this coverage.

Dated: January 25, 1982.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 82-2679 Filed 2-1-82; 8:45 am]

BILLING CODE 3110-01-M

Notices

Federal Register
Vol. 47, No. 22
Tuesday, February 2, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

[Pay Order 82-2]

Rates of Pay for Certain Officers and Employees of the Judicial Branch

Pursuant to the authority which the laws of the United States of America vest in me as Director of the Administrative Office of United States Courts, I hereby ascertain, adjust, fix, or provide notice of pay rates for certain offices and positions in the Judicial Branch as follows:

1–1. Rates of Pay

1–101. Pay Rates Adjusted by Operation of Law

(a) The annual pay rates for offices having rates which the Executive Salary Cost-of-Living Adjustment Act (Pub. L. No. 94–82, § 205, 89 Stat. 419 (28 U.S.C. 461)) adjusts are set forth in Table 1.

(b) The annual pay rates for offices having rates linked to rates which the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 2.

1–102. Pay Rates Fixed by Administrative Action

(a) The maximum annual pay rates for offices having maximum rates which the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 3.

(b) The maximum annual pay rates for offices and positions having maximum rates linked to rates which the Executive Salary Cost-of-Living Adjustment Act adjusts are set forth in Table 4.

(c) The maximum pay rates for positions having maximum rate which may be adjusted pursuant to section 5307 of title 5, United States Code, are set forth in Table 5.

(d) The maximum annual pay rates for offices having maximum rates linked to rates which may be adjusted pursuant to section 5307 of title 5, United States Code, are set forth in Table 6.

(e) The maximum pay rates for positions having maximum rates linked to rates which are adjusted pursuant to section 5305 of title, 5, United States Code, are set forth in Table 7.

(f) The annual pay rates for positions having rates which the Judicial Conference of the United States fixes are set forth in Table 8.

(g) The annual pay rates for positions having rates fixed in accordance with the Judicial Salary Plan (established pursuant to 28 U.S.C. 604(a)(5)) are set forth in Table 9.

(h) The hourly pay rates for certain employees whose rates the Director of the Administrative Office of the United States Courts fixes in accordance with section 5349 of title 5, United States Code, are set forth in Table 10.

1–2. General Provisions

1–201. Incorporation of Tables

Each of the tables described above is incorporated herein.

1–202. Effective Date

(a) Adjustments of pay rates reflected in the attached tables were generally effective as of the beginning of the first applicable pay period commencing on or after October 1, 1981, except that those adjustments authorized by section 141(a) of Pub. L. 97–92 became effective on January 1, 1982. Implementing adjustments as a consequence of adjustments to maximum rates in the attached tables take effect in accordance with the determination of the administrative authority possessing pay-fixing responsibility.

(b) The adjustments of pay rates in Table 10 were effective as of October 19, 1981.

1–203. Determination of Adjustments

Certain adjustments in sections 1–101 and 1–102 depend upon the overall average percentage of the adjustment in the rates of pay under the General Schedule. According to the President's August 31, 1981 report to the Congress of the United States, this average was 4.8 percent. 17 Weekly Comp. of Pres. Doc. 917, 918 (Sept. 7, 1981).

1–204. "Formula Rates"

The difference between a rate of pay (or maximum rate) and a "formula rate," whenever a "formula rate" appears in the attached tables, is attributable to H.R.J. Res. 610, Pub. L. 96–369, § 101(c), 94 Stat. 1351, 1352 (Oct. 1, 1980); H.R.J. Res. 644, Pub. L. 96–536, § 101(c), 94 Stat. 3166, 3167 (Dec. 15, 1980); the Act of June 5, 1981, Pub. L. 97–12, § 401, 95 Stat. 14, 23; H.R.J. Res. 325, Pub. L. 97–51, § 101(c), 95 Stat. 958, 959 (Oct. 1, 1981); and H.R.J. Res. 370, Pub. L. 97–92, § 141(a), 95 Stat.—(Dec. 15, 1981).

1–205. Superseded Orders

This pay order supersedes Pay Order 82–1 of October 16, 1981.

Done at Washington, D.C., this 15th of January, 1982.

William E. Foley,

Director Administrative Office of the United States Courts.

[82–2–1]

TABLE 1.—ANNUAL PAY RATES FOR OFFICES HAVING RATES WHICH THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT ADJUSTS

Office	Rate	Formula [1]	Basic authority	Adjustment authority
Chief Justice of the United States	$96,800		28 U.S.C. 5	28 U.S.C. 461.
Associate Justices of the Supreme Court of the United States	93,000		28 U.S.C. 5	Do.
Circuit Judges, United States Courts of Appeals	74,300		28 U.S.C. 44(d)	Do.
Judges, United States Court of Claims	74,300		28 U.S.C. 173	Do.
Judges, United States Court of Customs and Patent Appeals	74,300		28 U.S.C. 213	Do.
Judges, United States District Courts	70,300		28 U.S.C. 135	Do.
Judges, United States Court of International Trade	70,300		28 U.S.C. 252	Do.
Bankruptcy Judges (formerly Referees in Bankruptcy) (Full-time)	58,500	$61,200	Act of Nov. 6, 1978, Pub. L. No. 95–598, title IV, §§ 404(d), 411, 92 Stat. 2549, 2664, 2668.	Do.
Commissioners (Trial Judges), United States Court of Claims	57,500	52,700	28 U.S.C. 792(b)	Do.

[1] The "formula rates" in this column are furnished for convenience of reference only. They provide a basis for future cost-of-living adjustment calculations and the determination of legal pay rates in the absence of legislation to the contrary. Whenever this column is blank for a particular position, the "formula rate" is currently the same as the payable rate for that position.

[82–2–2]

TABLE 2.—ANNUAL PAY RATES FOR OFFICES HAVING RATES LINKED TO RATES WHICH THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT ADJUSTS

Office	Rate	Formula [1]	Authority
District Judge, United States District Court for the District of the Canal Zone	$70,300	.....	3 P.C.C. 5(b).
Judges, District Court of the Virgin Islands	70,300	.....	48 U.S.C. 1614(a).
Judge, District Court of Guam	70,300	.....	48 U.S.C. 1424b(a).
Judge, District Court for the Northern Mariana Islands	70,300	.....	48 U.S.C. 1694(b)(1).
Director, Administrative Office of the United States Courts	70,300	.....	28 U.S.C. 603.
Director, Federal Judicial Center	70,300	.....	28 U.S.C. 626.
Deputy Director, Administrative Office of the United States Courts	57,500	[illegible]	28 U.S.C. 603.

[1] See n. 1 on Table 1.

[82–2–3]

TABLE 3.—PAY FIXED BY ADMINISTRATIVE ACTION—MAXIMUM ANNUAL PAY RATES FOR OFFICES HAVING MAXIMUM RATES WHICH THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT ADJUSTS

[Rate which the Judicial Conference of the United States Fixes[1]]

Office	Maximum rate	Formula[2]	Authority	Adjustment authority
Bankruptcy Judges (formerly Referees in Bankruptcy) (Part-time).	$30,600	.....	Act of Nov. 6, 1978, Pub. L. No. 95–598, title IV, § 404(d), 411, 92 Stat. 2549, 2684, 2688.	28 U.S.C. 461.

[1] In accordance with the September 1974 resolution of the Judical Conference of the United States concerning cost-of-living adjustments for part-time bankruptcy judges and 5 U.S.C. 5307, the annual pay rate for each part-time bankrupty judge was adjusted as follows, effective October 1, 1981: Level 1, $30,600; level 2, $27,700; level 3, $25,200; level 4, $4,500.

[2] The "formula rates" in this column are furnished for convenience of reference only. They provide a basis for future cost-of-living adjustment calculations and the determination of maximum pay rates in the absence of legislation to the contrary. Whenever this column is blank for a particular postion, the "formula rate" is currently the same as the maxiumum payable rate for that position.

[82–2–4]

TABLE 4.—PAY FIXED BY ADMINISTRATIVE ACTION [1]—MAXIMUM ANNUAL PAY RATES FOR OFFICES AND POSITIONS HAVING MAXIMUM RATES LINKED TO RATES WHICH THE EXECUTIVE SALARY COST-OF-LIVING ADJUSTMENT ACT ADJUSTS

[Rate Which the Chief Justice of the United States,Fixes]

	Maximum rate	Formula [2]	Authority
Office			
Administrative Assistant to the Chief Justice of the United States	$70,300	.....	28 U.S.C. 677(a)
Rates Which the Judicial Conference of the United States Fixes			
United States Magistrates (Full-Time)	[3] $58,500	$61,200	28 U.S.C. 634(a) [4]
United States Magistrates (Part-Time)	[3] 26,750	30,600	28 U.S.C. 634(a) [4]
Circuit Executives	[5] 57,500	61,300	28 U.S.C. 332(f).
Rate Which the Judicial Council of the Circuit Fixes			
Federal Public Defender (for the Central District of California)	[6] $58,500	$64,600	18 U.S.C. 3006A(h)(2)(A); 5 U.S.C. 5315.
Rates Which the Director of the Federal Judicial Center Fixes			
Positions			
Professional Personnel, Federal Judicial Center	$57,500	$61,300	28 U.S.C. 625(b).

[1] The actual pay rates of officials included in this table are not subject to automatic adjustment. The authority possessing pay-fixing responsibility must act to administratively adjust actual pay rates. These adjustments, when made pursuant to 5 U.S.C. 5307, may be retroactive to January 1, 1982, or if applicable, to the beginning of the first pay period commencing on or after October 1, 1981.

[2] See n. 2 on Table 3.

[3] In accordance with the March, 1980 and March, 1981 resolutions of the Judicial Conference concerning cost-of-living adjustments for United States magistrates, the annual pay rates for magistrates as of January 1, 1982 are as follows:

Full-Time Magistrates, $58,500 (this rate shall not necessarily apply to full-time magistrates in special situations such as national parks).

Part-Time Magistrates: Level 15, $26,750; Level 14, $23,100; Level 13, $20,300; Level 12, $17,900; Level 11, $15,500; Level 10, $13,600; Level 9, $11,800; Level 8, $10,000; Level 7, $8,200; Level 6, $6,400; Level 5, $4,500; Level 4, $3,600; Level 3, $2,700; Level 2, $1,800; Level 1, $900.

[4] Section 232 of the Act of Nov. 6, 1978, Pub. L. No. 95–598, title II, 92 Stat. 2549, 2665, which amends 28 U.S.C. 634(a), will not become effective until April 1, 1984, in accordance with section 402(b) of the Act.

[5] The Judicial Conference at its March, 1977 session adopted a resolution administratively establishing the salary for level V of the Executive Schedule as the upper limit upon the pay of circuit executives and delegating the determination of actual compensation for each circuit executive position to the respective circuit judicial councils.

[6] The compensation of each federal public defender is fixed by the judicial council of the circuit at a rate not to exceed the compensation received by the United States attorney for the judicial district. The salary of the United States attorney for the Central District of California is established by 5 U.S.C. 5315 at level IV of the Executive Schedule. The salaries of the United States attorneys in al other judicial districts where federal public defender organizations have been established are fixed by the Attorney General pursuant to 28 U.S.C. 548 not to exceed the rate of pay for GS–18 of the General Schedule (see Table 6).

[82–2–5]

TABLE 5.—PAY FIXED BY ADMINISTRATIVE ACTION [1]—MAXIMUM PAY RATE FOR POSITION HAVING MAXIMUM RATE WHICH MAY BE ADJUSTED PURSUANT TO 5 U.S.C. 5307

[Rates Which the United States District Courts Fix]

Position	Maximum rate	Basic authority	Adjustment authority
Jury Commissioner	$76.08 per day	28 U.S.C. 1863(b)(1)	5 U.S.C. 5307.

[1] See n. 1 on Table 4.

[82–2–6]

TABLE 6.—PAY FIXED BY ADMINISTRATIVE ACTION [1]—MAXIMUM ANNUAL PAY RATES FOR OFFICES HAVING MAXIMUM RATES LINKED TO RATES WHICH MAY BE ADJUSTED PURSUANT TO 5 U.S.C. 5307

[Rates Which the Judicial Councils of the Circuits Fix]

Office	Maximum rate	Authority
Federal Public Defenders (except as provided in Table 4)	"* * * [C]ompensation received by the United States attorney for the district where representation is furnished. * * *".	18 U.S.C. 3006A(h)(2)(A); 28 U.S.C. 548.

[1] See n. 1 on Table 4.

[82–2–7]

TABLE 7.—PAY FIXED BY ADMINISTRATIVE ACTION—MAXIMUM PAY RATE FOR POSITION HAVING MAXIMUM RATE LINKED TO RATE WHICH IS ADJUSTED PURSUANT TO 5 U.S.C. 5305

Rates Which the Director of the Administrative Office of the United States Courts Fixes [1]

Position	Maximum rate	Authority
Land Commissioner	$221.12 per day	5 U.S.C. § 3109; 28 U.S.C. § 604(a)(5); H.R.J. Res. 370, Pub. L. No. 97–92, § 101(h), 95 Stat. ——(Dec. 15, 1981); H.R. 4169, title IV, "Fees of Jurors and Commissioners" 40 (July 16, 1981).

1. The Director has delegated authority to the United States district courts to fix the pay rates of officials included in this this table, subject to the limitations that (a) the hourly rate cannot exceed $40, and (b) notwithstanding the hourly rate, pay for any calendar day cannot exceed the maximum rate above. The district court must act to adjust actual pay rates.

[82–2–8]

TABLE 8.—PAY FIXED BY ADMINISTRATIVE ACTION—ANNUAL PAY RATES WHICH THE JUDICIAL CONFERENCE OF THE UNITED STATES FIXES [1]

Position	Rate	Authority
Court Reporters, United States District Courts		28 U.S.C. 753(e).
Level I	$33,133	
Level II	31,627	
Level III	30,121	

[1] In accordance with the March, 1971 resolution of the Judicial Conference concerning the General Plan of Qualification and Compensation for Court Reporters, the Director of the Administrative Office of the United States Courts makes the adjustments reflected in this table.

[82–2–9]

TABLE 9.—THE JUDICIAL SALARY PLAN [1]

[Annual Rates]

Grade	Steps									
	1	2	3	4	5	6	7	8	9	10
1	$8,342	$8,620	$8,898	$9,175	$9,453	$9,615	$9,890	$10,166	$10,178	$10,439
2	9,391	9,603	9,913	10,178	10,292	10,595	10,896	11,201	11,504	11,807
3	10,235	10,578	10,917	11,258	11,599	11,940	12,281	12,622	12,963	13,304
4	11,490	11,873	12,256	12,639	13,022	13,405	13,788	14,171	14,554	14,937
5	12,854	13,282	13,710	14,138	14,566	14,994	15,422	15,850	16,278	16,706
6	14,328	14,806	15,284	15,762	16,240	16,718	17,196	17,674	18,152	18,630
7	15,922	16,453	16,984	17,515	18,046	18,577	19,108	19,639	20,170	20,701
8	17,634	18,222	18,810	19,398	19,986	20,574	21,162	21,750	22,338	22,926
9	19,477	20,126	20,775	21,424	22,073	22,722	23,371	24,020	24,669	25,318
10	21,449	22,164	22,879	23,594	24,309	25,024	25,739	26,454	27,169	27,884
11	23,586	24,352	25,138	25,924	26,710	27,496	28,282	29,068	29,854	30,640
12	28,245	29,187	30,129	31,071	32,013	32,955	33,897	34,839	35,781	36,723
13	33,586	34,706	35,826	36,946	38,066	39,186	40,306	41,426	42,546	43,666
14	39,689	41,012	42,335	43,658	44,981	46,304	47,627	48,950	50,273	51,596
15	46,685	48,241	49,797	51,353	52,909	54,465	56,021	[2] 57,577	[2] 59,133	[2] 60,689
16	54,755	56,580	[2] 58,405	[2] 60,230	[2] 62,055	[2] 63,880	[2] 65,705	[2] 67,530	[2] 69,355	
17	[2] 64,142	[2] 66,280	[2] 68,418	[2] 70,556	[2] 72,694					
18	[2] 75,177									

[1] The Judicial Salary Plan has been administratively implemented by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States pursuant to 28 U.S.C. 604(a)(5). It applies to various offices and positions in the courts of the United States for which the compensation is not otherwise fixed by law. The authority for its adjustment to reflect annual pay adjustments in the General Schedule is 5 U.S.C. 5307.

[2] These rates are "formula rates," which provide the basis for future cost-of-living adjustment calculations and the determination of legal pay rates in the absence of legislation to the contrary. Currently, the payable rate for each of these designated step levels is $57,500, the payable rate for level V of the Executive Schedule. See 5 U.S.C. 5308.

[82-2-10]

TABLE 10.—PAY FIXED BY ADMINISTRATIVE ACTION [1]

[Administrative Office Wage System]

	Hourly rates				
	Steps				
	1	2	3	4	5
Part A. Supervisors of Tradesmen and Craftsmen					
JT:					
1	$8.17	$8.50	$8.84	$9.19	$9.52
2	8.61	8.97	9.32	9.68	10.05
3	9.05	9.43	9.80	10.18	10.56
4	9.52	9.99	10.39	10.79	11.19
5	10.13	10.55	10.97	11.40	11.82
6	10.67	11.11	11.55	12.01	12.45
7	11.19	11.65	12.11	12.58	13.04
8	11.67	12.15	12.63	13.13	13.61
9	12.14	12.64	13.15	13.66	14.16
10	12.61	13.14	13.66	14.18	14.71
11	12.90	13.43	13.96	14.51	15.04
12	13.28	13.82	14.37	14.93	15.47
13	13.72	14.30	14.88	15.44	15.52
14	14.26	14.86	15.45	16.04	16.64
15	14.91	15.53	16.14	16.77	17.39
Part B. Leaders of Tradesmen and Craftsmen					
JL:					
1	5.73	5.97	6.21	6.45	6.68
2	6.21	6.47	6.73	6.99	7.25
3	6.70	6.99	7.27	7.54	7.82
4	7.30	7.60	7.91	8.21	8.52
5	7.89	8.21	8.54	8.87	9.20
6	8.48	8.84	9.20	9.55	9.90
7	9.07	9.45	9.83	10.20	10.58
8	9.64	10.03	10.43	10.84	11.24
9	10.14	10.56	10.98	11.41	11.83
10	10.67	11.11	11.55	12.01	12.45
11	11.20	11.67	12.14	12.60	13.07
12	11.72	12.21	12.71	13.19	13.68
13	12.25	12.76	13.27	13.78	14.29
14	12.78	13.32	13.85	14.38	14.92
15	13.33	13.88	14.44	14.99	15.55
Part C. Graded Tradesmen and Craftsmen (excluding lithographers and printers)					
JG:					
1	5.20	5.42	5.64	5.85	6.07
2	5.65	5.88	6.12	6.36	6.59
3	6.09	6.35	6.60	6.85	7.11
4	6.54	6.91	7.18	7.47	7.74
5	7.16	7.47	7.77	8.08	8.37
6	7.71	8.03	8.36	8.67	9.00
7	8.24	8.59	8.93	9.28	9.62
8	8.75	9.11	9.48	9.85	10.20
9	9.22	9.61	9.99	10.37	10.76
10	9.70	10.11	10.52	10.92	11.32
11	10.18	10.61	11.04	11.46	11.89
12	10.67	11.11	11.55	12.01	12.45
13	11.14	11.60	12.06	12.53	12.99
14	11.62	12.10	12.58	13.06	13.56
15	12.10	12.60	13.11	13.61	14.11

	Hourly rates		
	Steps		
	1	2	3
Part D. Graded Lithographers and Printers			
JP:			
1	5.83	6.14	6.44
2	6.13	6.45	6.78
3	6.44	6.78	7.11
4	6.73	7.09	7.45
5	7.04	7.40	7.77
6	7.34	7.73	8.12
7	7.65	8.04	8.44
8	7.94	8.36	8.78
9	8.25	8.68	9.11
10	8.66	9.00	9.45
11	8.85	9.31	9.77
12	9.15	9.64	10.12
13	9.48	9.95	10.45
14	9.76	10.28	10.79
15	10.06	10.59	11.12
16	10.36	10.90	11.45
17	10.66	11.23	11.80
18	10.97	11.54	12.12
19	11.26	11.86	12.46
20	11.58	12.18	12.79
21	11.87	12.50	13.13
22	12.17	12.81	13.45
23	12.48	13.14	13.80
24	12.78	13.45	14.12
25	13.07	13.77	14.46
26	13.39	14.09	14.79
27	13.68	14.41	15.13
28	13.99	14.72	15.45
29	14.29	15.04	15.80
30	14.59	15.36	16.12
31	14.89	15.67	16.46
32	15.20	16.00	16.79
33	15.49	16.31	17.13
34	15.80	16.63	17.45

[1] Hourly pay rates for certain employees having rates which the Director of the administrative office of the U.S. courts fixes pursuant to 5 U.S.C. 5349.

[FR Doc. 82-2471 Filed 2-1-82; 8:45 am]

BILLING CODE 2216-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Tobacco Inspection; Growers' Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Referendum.

SUMMARY: This notice announces that a referendum will be conducted by mail during the period February 8–12, 1982, for producers of Maryland Broadleaf, Type 32, tobacco who sell their tobacco at auction in Maryland. The referendum is being conducted to determine if the designation of all Maryland tobacco auction markets should be terminated, thus eliminating the requirement for mandatory, federal inspection and grading for the 1981 and succeeding crop years.

DATES: The referendum will be held February 8–12, 1982.

FOR FURTHER INFORMATION CONTACT: J. T. Bunn, Acting Director, Tabacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250 (202) 447-7235.

SUPPLEMENTARY INFORMATION: Hughesville, LaPlata, Upper Marlboro, and Waldorf, Maryland, were designated on May 17, 1948, (13 FR 2579) as Maryland tobacco auction markets under the Tobacco Inspection Act of 1935. Under this Act these markets have been receiving free and mandatory grading services from USDA. As required by the Omnibus Budget Reconciliation Act of 1981, a user fee system was implemented October 1, 1981, for inspection and grading services performed by federal graders at designated tobacco auction markets throughout the tobacco producing states. These fees are collected from warehousemen at the rate of $.0045 per pound of tobacco sold at auction.

The Department has received requests from the Maryland Farm Bureau and various warehousemen in that State seeking to terminate the designation of the Maryland markets and eliminate the requirement for mandatory, federal inspection and grading of their crop. Maryland producers have declined the option of price supports in each referendum conducted since 1965. Based on this fact, they strongly contend that federal grading is unnecessary and wish to be exempted from the payment of fees imposed by the user fee legislation. Because the four markets involved in these requests represent an entire kind of tobacco, the Department determined that a referendum would be an appropriate means of deciding whether to discontinue mandatory grading on these markets. It is hereby determined that the referendum will be held by mail during the period February 8 through 12, 1982. The purpose of the referendum is to determine whether Maryland Broadleaf tobacco, Type 32, farmers are in favor of or opposed to (1) terminating the designation of the tobacco auction markets in Hughesville, LaPlata, Upper Marlboro, and Waldorf, Maryland; and (2) eliminating mandatory, federal grading of their crop for the 1981 and succeeding crop years. Accordingly, if a majority of the Maryland toabacco producers selling on the four designated Maryland auction markets who vote in the referendum favor termination of designations, the designation of each of these markets will be terminated. The referendum will be held in accordance with the provisions of Section 312(c) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312(c)) and the regulations set forth in 7 CFR Parts 29 and 717.

Dated: January 29, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-2884 Filed 2-1-82; 10:33 am]

BILLING CODE 3410-02-M

Forest Service

Sawtooth National Forest Grazing Advisory Board Committee; Meeting

The Sawtooth National Forest Grazing Advisory Board will meet at 1:00 p.m., March 16, 1982 at the Forest Supervisor's Office Conference Room, 1525 Addison Avenue East, Twin Falls, Idaho.

The purpose of the meeting will be to organize the Advisory Board, to discuss function of the board, to review use of Range Improvement funds for FY 1983, and to discuss allotment management plans to be developed in 1982 and 1983 for the Sawtooth National Forest.

Written statements may be filed with the Committee before or after the meeting.

The meeting will be open to the public. Their views and comments will be addressed at the end of the meeting. Written statements will be received prior to or within two weeks after the meeting.

Paul F. Barker,

Forest Supervisor.

January 25, 1982.

[FR Doc. 82-2860 Filed 2-1-82; 8:45 am]

BILLING CODE 3410-11-M

Science and Education

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) Science and Education announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: February 16-19, 1982.

Time: 8:00 a.m.-6:00 p.m., February 16-17; 8:30 a.m.-4:30 p.m., February 18; 8:30 a.m.-12:00 noon, February 19

Place: February 16—8:00 a.m.-12:00 noon, USDA, Rm. 104-A, Administration Building, Washington, D.C.; February 16—12:00 noon-February 19, Apollo Room, Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. 20024.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be reviewing and discussing agricultural research and extension program budgets and preparing its annual report to the President and Congress.

Contact person for agenda and more information: Barbara L. Fontana, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 351-A Administration Building, U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202-447-3684.

Done at Washington, D.C., this 22th day of January 1982.

Gary R. Evans,

Associate Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 82-2711 Filed 2-1-82; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Docket 39975]

Trenton Hub Express Airline Fitness Investigation; Cancellation of Prehearing Conference

Pursuant to the request by Trenton Hub Express Airline, Inc., in a letter dated January 26, 1982, the prehearing conference in this case set for January 28, 1982 (47 FR 3153, January 22, 1982), is cancelled.

Dated at Washington, D.C., January 27, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-2704 Filed 2-1-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40147]

Stockton, Modesto and Merced, California; Carrier Selection Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Wednesday, February 24, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before Wednesday, February 10, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., January 28, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2706 Filed 2-1-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5.00 p.m., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00057. Applicant: Medical College of Ohio Hospital, C. S. 10008, Toledo, Ohio 43699. Article: Radiation Therapy Special Simulator. Manufacturer: A.E.C.L., Canada. Intended use of article: The article is intended to be used in a variety of clinical and basic radiation therapy research projects to accurately define target volumes for irradiation. The initial projects in which the article will be used include:

1. Iodine 125, 5 fluoroacil and Precision High Dose External Beam Radiation Therapy for Pancreatic Carcinoma.

2. Adjuvant "Sandwich" Radiation Therapy for Resectable Bladder Carcinoma.

3. Adjuvant "Sandwich" Radiation Therapy for Resectable Carcinoma of the Rectum.

4. Precision High Dose Radiation Therapy for Carcinoma of the Cervical Esophagus.

5. Intraoperative Pre-resection Radiation Therapy for Gastric Carcinoma.

6. Combined Radiation Therapy and Chemotherapy of Malignant Pleural Mesothelioma.

7. Detection of Occult Radiation Damage to Optic Pathways.

8. External and Interstitial Radiation Therapy for Intracranial Neoplasms.

The article will also be used for the education of medical students, residents in Radiation Therapy, residents in Surgical Oncology, residents in Medical Oncology and residents in other specialties, as well as for the education of student technologists and graduate physicians and physicists. Application received by Commissioner of Customs: November 20, 1981.

Docket No. 82–00058. Applicant: Niagara County Community College, 3111 Saunders Settlement Road, Sanborn, New York 14132. Article: Gear Pump Test Set. Manufacturer: Plint & Partners, United Kingdom. Intended use of article: The article is intended to be used for educational purposes in the course: MET 5431—Hydraulics and Pneumatics. The course content will include teaching basic principles of fluid mechanics with emphasis on the application of these concepts to hydraulic and pneumatic devices. Topics include fluid properties, hydraulic cylinders, fluid power, and pressure loss in pipes and fittings. Flow characteristics of valves, orifices, nozzles, venturis, and pumps are considered. Application received by Commissioner of Customs: November 20, 1981.

Docket No. 82–00060. Applicant: Monsanto Research Corporation, Mound Facility, Operated for the U.S. Department of Energy, Mound Road, Miamisburg, OH 45342. Article: X-Ray Photoelectron Spectrometer, X–SAM 800. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of article: The article is intended to be used in research on high energy material to elucidate the mechanism of ignition. Research which will be done initially on high energy materials will attempt to:

(1) Understand the role the oxide coating on fuels plays in ignition of pyrotechnic materials, and

(2) Understand the role the binder takes in igniting an explosive composite. This work will hopefully lead to safer high energy materials but without loss in performance, for use in society.

Application received by Commissioner of Customs: November 25, 1981.

Docket No. 82–00061. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Excimer Laser, EMG 101. Manufacturer: Lambda Physik, Gmbh and Co., West Germany. Intended use of article: The article is intended to be used in a research project centered on the selective multiphoton ionization of gas phase atoms. This method is being developed for the sensitive and specific detection of particular species in the presence of other detection atoms. Other experiments will involve the use of a dye laser system to produce high intensity visible light pulses in an effort to improve the isotopic selectivity of the multiphoton ionization process. Application received by Commissioner of Customs: November 25, 1981.

Docket No. 82–00064. Applicant: Purdue University, FREH Hall, West Lafayette, IN 47907. Article: Fiber Optic Doppler Anemometer with Laser. Manufacturer: SIRA Institute Ltd., United Kingdom. Intended use of article: The article is intended to be used in conducting the following types of experiments:

(1) Determine the particle size distribution of colloidal systems in their natural liquid state.

(2) Study the relationship between primary particle size and coagulate size of colloidal materials.

(3) Study the kinetics of aggregation and disaggregation of colloidal systems.

(4) Study particle-to-particle interactions in colloidal systems including systems containing several types of colloidal particles.

The overall objective of these studies is to obtain an understanding of colloidal systems in their natural, liquid state. Application received by Commissioner of Customs: December 14, 1981.

Docket No. 82–00065. Applicant: University of California, P.O. Box 5012, L 650, Lawrence Livermore National Laboratory, Livermore, CA 94550. Article: Faraday Rotator Glass Blanks, Type FR–5. Manufacturer: Hoya Corporation, Japan. Intended use of article: The article is intended to be used in the country's most advanced effort to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using the NOVA 10-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reaction of as many as 10^{14} neutrons per micro-explosion. Application received by Commissioner of Customs: December 14, 1981.

Docket No. 82–00066. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Excimer Laser, EMG–200. Manufacturer: Lambda Physics Gmbh & Co., West Germany. Intended use of article: The article is intended to be used as the master oscillator for an injection-locked unstable resonator KrF laser system. This system is the research test system for oscillator-pulse generation of the front end of a large KrF laser system being built for laser fusion research purposes. Application received by Commissioner of Customs: December 14, 1981.

Docket No. 82–00067. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Linear Actuator. Manufacturer: Klinger Scientific/Micro Controle, France. Intended use of article: The article is intended to be used in the country's most advanced effort to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using the NOVA 10-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reaction of as many as 10^{14} neutrons per microexplosion. Application received by Commissioner of Customs: December 14, 1981.

Docket No. 82–00068. Applicant: University of Pennsylvania, 3400 Walnut Street, Franklin Building, Philadelphia, PA 19104. Article: TMR 32/200 Magnet System. Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies for the creatine phosphate and inorganic phosphate content of human arm and leg together with that of animal models. The patient's arm or leg will be inserted into the sensitive volume of the instrument, and the radiofrequency pulses will be applied to excite the nuclei and to observe by a sensitive receiver the resonances. These will be plotted as a function of frequency and quantitatively evaluated for health and disease. The quantitative analyses of creatine phosphate and phosphate along the leg of the patient with peripheral vascular disease will be employed to determine whether vascular surgery is necessary or whether amputation is necessary. Application received by Commissioner of Customs: December 14, 1981.

Docket No. 82–00069. Applicant: NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709. Article: Fast Atom Bombardment Upgrade. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of article: The article is an accessory which will be used to study the mass spectrometry of

polypeptides, metabolites of environmental chemicals and their conjugates, and degradation products of chemically modified DNA. This information will in turn be used for chemical analysis. The article will be used in support of a wide variety of biological and biochemical studies, each of which has a specific protocol. Application received by Commissioner of Customs: December 14, 1981.

Docket No. 82–00070. Applicant: University of North Carolina, North Carolina Memorial Hospital, Chapel Hill, NC 27514. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West German. Intended use of article: The article is intended to be used for studies of tissues removed from hospitalized or non-hospitalized patients at the time of operation or during clinic visits respectively. The materials are to be evaluated to achieve a diagnosis such that proper therapy may be instituted. The article will also be used for training and education of resident physicians in the use of electron microscopy as a diagnostic tool. Application received by Commissioner of Customs: December 23, 1981.

Docket No. 82–00071. Applicant: Harvard University, Department of Geological Sciences, 20 Oxford Street, Hoffman Laboratory, Cambridge, MA 02138. Article: Isomass 54R Thermal Ionization Mass Spectrometer. Manufacturer: VG Isotopes Limited, United Kingdom. Intended use of article: The article is intended to be used for studies of terrestrial, lunar and meteoritic materials to get a better understanding of the early history of the solar system and the evolution of the earth and the moon through time. In addition, the article will be used to educate graduate students in the use of high precision thermal ionization mass spectrometry to solve geochemical problems. Application received by Commissioner of Customs: December 23, 1981.

Docket No. 82–00072. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Beam Dump Prototype Filter Glass. Manufacturer: Hoya, Japan. Intended use of article: The article is intended to be used in the country's most advanced effort to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using the NOVA 10-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reaction of as many as 10^{14} neutrons per microexplosion. Application received by Commissioner of Customs: December 23, 1981.

Docket No. 82–00073. Applicant: University of Arizona, Department of Pathology, Arizona Health Science Center, Campbell Avenue, Tucson, Arizona 85724. Article: Electron Microscope, Model JEM–100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study pathologic specimens, primarily those related to the pathogenesis of renal, neurologic, and oncologic diseases. The experiments to be conducted will range from studying the basement membrane changes in diabetic animals to the kinetics of glomerular cell proliferation using tissue cultured cells. Additionally, the article will be used to analyze the ultra-structural localization of various antigens using ultrastructural immunocytochemistry. The article will also be used to provide teaching materials in a course in Basic Medical Pathology and in the training of residents and post-graduate fellows in diagnostic pathology. Application received by Commissioner of Customs: December 23, 1981.

Docket No. 82–00074. Applicant: Bridgeport Hospital, 267 Grant Street, Bridgeport, CT 06602. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to examine tissues or fluids obtained at surgery or autopsy for investigation of the relationship between congenital CMV infection and hearing loss in humans and animal models and the relationship of the findings to other neonatal diseases and viral infections. The article will also be used for teaching purposes at the hospital. Application received by Commissioner of Customs: December 23, 1981.

Docket No. 82–00075. Applicant: Syracuse University, Department of Chemistry, Bowne Hall, Syracuse, NY 13210. Article: Superconducting Fourier NMR Spectrometer, Model WM–360 WB and Components. Manufacturer: Spectrospin A.G., Switzerland. Intended use of article: The article is intended to be used for NMR studies of the following:

(1) Synthesized and natural-source biological macromolecules such as proteins, carbohydrates and nucleic acids with emphasis placed on studies of deoxyribonucleic acid (DNA),

(2) Low molecular weight natural products such as alkaloids, co-enzymes, etc.,

(3) A broad range of ^{13}C, ^{15}N, ^{2}H, and other nuclei NMR studies, and

(4) Synthetic high polymers, small-sized organic synthetic intermediates and final products as well as inorganic and organometallic molecules.

Application received by Commissioner of Customs: December 23, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82–2801 Filed 2–1–82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Issuance of Permit To Import Endangered Marine Mammals

On December 22, 1981, Notice was published in the **Federal Register** (46 FR 62130), that an application had been filed with the National Marine Fisheries Service by Dr. Darlene R. Ketten, School of Hygiene and Public Health, Johns Hopkins University, Baltimore, Maryland, for a Scientific Research and Scientific Purposes Permit to import an unspecified number of specimens from various cetacean species for scientific research.

Notice is hereby given that on January 27, 1982, the National Marine Fisheries Service issued a Scientific Research and Scientific Purposes Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), to Dr. Darlene R. Ketten subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species act of 1973 is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, Northwest Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 27, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2707 Filed 2-1-82; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit To Take Marine Mammals

On December 16, 1981, notice was published in the **Federal Register** (46 FR 241), that an application had been filed with the National Marine Fisheries Service by Southwest Fisheries Center, National Marine Fisheries Service, for a permit to capture, maintain, tag, mark, and release six weaned Hawaiian monk seal pups (*Monachus schauinslandi*), to capture, measure, weigh, tag, mark, and release ten weaned Hawaiian monk seal pups, and to bleach mark twenty-five sleeping juvenile and sub-adult Hawaiian monk seals.

Notice is hereby given that on January 27, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a permit to the Southwest Fisheries Center, for the above taking subject to certain conditions set forth therein.

As required by the Endangered Species Act of 1973, issuance of this permit is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367, November 27, 1974).

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 27, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2708 Filed 2-1-82; 8:45 am]

BILLING CODE 3510-22-M

Denial of Permit To Take Marine Mammals

On September 18, 1981, Notice was published in the **Federal Register** (46 FR 46375), that an application had been filed with the National Marine Fisheries Service by Louis Scarpuzzi Enterprises, Inc. for a permit to take four (4) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), after having considered all pertinent information and facts, the National Marine Fisheries Service has determined that the permit request submitted by Louis Scarpuzzi Enterprises should be denied. The Applicant was notified on January 28, 1982.

Documentation relating to this application is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 28, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 82-2709 Filed 2-1-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Mountain Fuel Supply Company; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, United States Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106–2466. Telephone (816) 374–2092.

SUPPLEMENTARY INFORMATION: On October 19, 1981, Vol. 46, No. 201 **Federal Register** 51274, 1981, the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a proposed Consent Order with Mountain Fuel on September 11, 1981, which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order, no comments were received. The proposed Consent Order, therefore, was finalized and made effective on December 1, 1981.

Issued in Kansas City, on the 14th day of January, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-2561 Filed 2-1-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5702-000]

Barnet Hydro Co.; Application for License (5 MW or Less)

January 29, 1982.

Take notice that Barnet Hydro Company (Applicant) filed on November 30, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as Barnet Project No. 5702. The project would be located on the Stevens River in Barnet Village, Caledonia County, Vermont. Correspondence with the Applicant should be directed to: L. MacRae Road, Box 142, Warren, Vermont 05674.

Project Description—The proposed project would consist of (1): A new 1 to 5-foot high, 60-foot long concrete gravity spillway/diversion dam; (2) a pond with no storage capacity at elevation 537.0 feet m.s.l.; (3) a new forebay at the west dam abutment; (4) a 42-inch diameter, 450-foot long, buried steel penstock; (5) a new powerhouse containing two new turbine-generators with a total rates

capacity of 530 kW; (6) a transmission line; and (7) appurtenant facilities. The proposed run-of-the-river project would generate up to 2,342,000 kWh annually. Energy produced at the project would be sold to the local utility. Project property is owned by Harold Dunbar, Kenneth Bowles, Harold Kimball, Denzil Whitehill, William Encrowe and Robert Farmon all of Barnet, Vermont and Green Mountain Power Corporation. This license application was filed as a competing application to preliminary permit applications under 18 CFR 4.33 (1980), for the Barnet Project No. 5327 filed on September 4, 1981, by L. MacRae Road and Barnet Project No. 5607 filed on November 4, 1981, by Vermont Power Consortium.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 12, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2582 Filed 2–1–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5805–000]

City of Bandon, Oregon and Pacific Power & Light Co.; Application for Preliminary Permit

January 28, 1982.

Take notice that the City of Bandon, Oregon and Pacific Power & Light Company (Applicant) filed on December 21, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5805 to be known as the Eden Ridge Project located on the South Fork Coquille River in Coos County, near Powers, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to Leighton and Sherline, 1701 K Street, NW., Washington, D.C. 20006 with a copy to Mr. Ben M. McMaken, City Manager, P.O. Box 67, Bandon, Oregon 97411. The project would be located within the boundaries of Siskiyou National Forest.

Project Description—The proposed project would consist of: (1) A 210-foot high, 740-foot long dam (designated Eden Ridge Dam) creating; (2) a reservoir with a storage capacity of 115,000 acre-feet and a surface area of 1,680 acres; (3) a 125-foot high, 560-foot long dam (designated Lockhart Dam) located 2.5 miles downstream of Eden Ridge Dam creating; (4) a reservoir with a storage capacity of 7,500 acre-feet and a surface area of 205 acres; (5) a 12,000-foot long, 10.5-foot diameter horseshoe tunnel; (6) a 3,140-foot long steel penstock; (7) a powerhouse to contain one Pelton-type, turbine-generating unit with a rated capacity of 90 MW (maximum static head of 1,800 feet); (8) 25 miles of transmission line to connect to an existing Pacific Power & Light Company transmission system; and (9) access roads.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 30-month permit to study the feasibility of the project. No new road would be required to conduct the studies. Applicant states that drill holes, auger holes, test pits, and trenches would be plugged and filled to restore original surface contour and revegetated if required.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 9, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 9, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 9, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In

determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTESTS," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2583 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5593-000]

City of Vallejo, California; Application for Exemption of Small Conduit Hydroelectric Facility

January 29, 1982.

Take notice that on October 30, 1981, the City of Vallejo, California (Applicant) filed an application under Section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Fleming Hill Project (FERC Project No. 5593) would be located on the Fleming Hill water supply pipeline in Solano County, California. Correspondence with the Applicant should be directed to: Mr. Glenn A. Harris, Director of Public Works, City of Vallejo, 555 Santa Clara Street, Vallejo, California 94590.

Purpose of Project—The energy generated by the project would be utilized by the City of Vallejo.

Project Description—The proposed project would consist of an induction type generating unit, rated at 285 kW, to be installed in line with the 27-inch diameter Fleming Hill water supply pipeline, owned by the City of Vallejo. The average annual energy generation is estimated to be 1.85 million kWh.

Agency Comments—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. If no comments are filed within this time period, an agency will be presumed to have determined that no terms or conditions to the exemption are necessary. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. Comments are due within 45 days from the date of issuance of this notice. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protests, or petitions to intervene must be receive on or before March 17, 1982. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2584 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-135-000]

Consolidated Gas Supply Corp.; Application

January 28, 1982.

Take notice that on December 23, 1981, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-135-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain transmission, compression and related and appurtenant facilities in the State of New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities:

Project 1. Approximately 7.7 miles of 20-inch Line No. 554 looping existing Line Nos. 14 and 24 and extending in a northerly direction from Perry Center Gate to Craigs Connection all in Wyoming and Livingston Counties, New York.

Project 2. One 5,800 horsepower turbine-driven centrifugal compressor unit at the existing Borger compressor station located in Tompkins County, New York, replacing three 660 horsepower reciprocating compressor units.

It is stated that the Borger compressor station compresses gas for transmission in Applicant's existing Line Nos. 1 and 31 to markets in the Syracuse, New York, area and in Line Nos. 30 and 550 for delivery to customers in the Utica, Schenectady, Albany and Troy, New York, market areas.

It is stated that the estimated cost of the proposed facilities is $11,282,000 which would be financed from funds on hand or funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

Applicant submits that the facilities proposed in the instant application are needed to meet normal growth in the peak flow requirements in Applicant's markets in the State of New York during the 1982-1983 winter and thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the

Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2565 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5293-001]

Hydro Resource Co.; Application for Preliminary Permit

January 29, 1982.

Take notice that Hydro Resource Company (Applicant) has amended the application filed on August 28, 1981, for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5293 to be known as the Smith Creek Project located on Smith and Johnson Creeks, within Gifford Pinchot National Forest in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, Post Office Box 485, Lyden, Washington 98264.

Project Description. The proposed project, as amended, would consist of: A (1) a concrete gravity diversion dam 6 feet high, crest elevation 2,640 feet, on Smith Creek; (2) 13,500 feet of pipeline and penstock; (3) a powerhous containing a turbine generator with 5.9 MW capacity; B (1) a concrete gravity diversion dam 8 feet high, crest elevation 1,760 feet, on Johnson Creek; (2) 20,000 feet of pipeline and penstock; (3) a powerhouse containing a turbine generator with 8.5 MW capacity; and 3,500 feet of transmission line connecting the powerhouses to a common switchyard and that to existing powerlines. A total annual energy output of 96 GWh is estimated, the potential market for which includes the Lewis County Public Utility District and Bonneville Power Administration.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $230,000.

Competing Applications. This application was originally filed by Hydro Resource Company for Project No. 5293 on August 28, 1981. Capital Development Company's application for Project No. 5324 was filed on September 4, 1981, as a competing application. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an applicating for preliminary permit, or license will be accepted for filing in response to this notice. Any application for licence or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 17, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2566 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP63-174, CP76-517 and CP78-175]

Natural Gas Pipeline Company of America; Petition to Amend

January 28, 1982.

Take notice that on December 14, 1981, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket Nos. CP63-174, CP76-517 and CP78-175 a petition to amend the orders issued pursuant to Section 7(c) of the Natural Gas Act on March 15, 1965, in Docket No. CP63-174,[1] September 19, 1977,[1] in Docket No. CP76-517, and May 22, 1978, in Docket No. CP78-175, so as to delete certain reporting conditions contained in such orders, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued March 15, 1965, in Docket No. CP63-174 Petitioner was authorized to construct and operate additional transmission facilities and to sell additional volumes of gas to its customers on the condition that Petitioner file with the Commission

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

annual reports of the monthly volumes of gas resold by its distribution customers for end use as boiler fuel in the generation of electricity. Petitioner states that it filed such reports with the Commission for the year 1965 through 1980.

It is submitted that on September 19, 1977, in Docket No. CP76–517 Petitioner was authorized to construct and operate transmission and storage facilities to provide additional storage service to its customers under a new leased storage Rate Schedule LS–2 on the condition that Petitioner file with the Commission annual reports of increases in its LS–2 customers' Priority 1 loads. Petitioner states that it filed such reports with the Commission for the years 1977 through 1980.

It is submitted that by order issued May 22, 1978, in Docket No. CP78–175 Petitioner was authorized to construct and operate storage facilities to enable Petitioner to increase storage service to its customers under a new leased storage Rate Schedule LS–3 on the condition that Petitioner file with the Commission annual reports of increases in the high priority loads of the years 1979 and 1980.

Petitioner asserts that developments since 1973 have eliminated the need for the information which Petitioner is required to supply in the three annual reports described above. Petitioner contends that all three reports were designed to address the gas supply shortage which existed several years ago but which does not exist today. Petitioner states that the Powerplant and Industrial Fuel Use Act of 1978 imposes limitations on certain gas use, including boiler fuel gas use; while the Natural Gas Policy Act of 1978 provides for incremental pricing of natural gas and eventual deregulation of wellhead prices. The effect of these two statuses, Petitioner argues, is to reduce the availability and attractiveness of natural gas for industrial uses including the generation of electricity and must, therefore, alleviate any concern about the competitive position of coal as against natural gas in boiler fuel markets.

Petitioner also contends that the Commission's concern that new high priority loads could necessitate curtailment or aggravate existing curtailment situations is not currently valid. Petitioner avers that increases in gas supply have rendered curtailment of service to end users unnecessary, that the Federal government has actively discouraged use of natural gas for low priority purposes with the express intention of making more gas available for high priority purposes, and further, that Petitioner has experienced a significant reduction in the demand for gas because of continuing conservation by end users.

Petitioner finally asserts that the annual load growth and end-use reporting requirements constitute an undue burden upon Petitioner and its customers and, therefore such conditions should be deleted from the orders described above.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2587 Filed 2–1–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5511–000]

New York State Energy Research and Development Authority; Application for Preliminary Permit

January 28, 1982.

Take notice that New York State Energy Research and Development Authority (Applicant) filed on October 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5511 to be known as the Champlain Barge Canal/Lock C–4 Project located on the Hudson River and New York State Champlain Canal in Saratoga and Rensselaer Counties, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: C. Todd Miles, Assistant Counsel, New York State Energy Research and Development Authority, Two Rockefeller Plaza, Albany, New York 12223.

Project Description—The proposed project would consist of: (1) The existing Niagara Mohawk Power Corporation (NMPC) Lock 4 Dam, a concrete gravity structure 10 feet high and 1,400 feet long; (2) an existing lock and connecting dam owned and operated by the New York State Department of Transportation, 6 feet high and 300 feet long, connecting two islands south of the Lock 4 Dam; (3) the existing reservoir having a surface area of 1,300 acres and a mean surface elevation of 82.3 feet (USGS datum); (4) a new intake structure; (5) a new powerhouse with a generating capacity of approximately 9,970 kW located either at the west side of the dam near the ruin of the previous NMPC powerhouse, or adjacent to the lock and canal; (6) a new tailrace; (7) a new switchyard; (8) new transmission lines; and (9) appurtenant facilities. The Applicant estimates that the annual average energy output would be 24,600,000 kWh. Project energy would be sold to local public utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would investigate the feasibility of project construction, operation, and design alternatives. Depending upon the outcome of the investigation. The Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $95,000.

Competing Applications—This application was filed as a competing application to the Hudson/Champlain Canal Lock 4 Project's application for Project No. 4684 filed on May 18, 1981, by Long Lake Energy Corp. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notice of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordacne with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTESTS," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2568 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5778-000]

Public Utility District No. 1 of Snohomish County, Washington; Application for Preliminary Permit

January 28, 1982.

Take notice that Public Utility District No. 1 of Snohomish County, Washington (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5778 to be known as the Lake Calligan Project located on Calligan Lake, near North Bend in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: William G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) The existing 295-acre Calligan Lake, which will be increased to 329 acres; (2) a 20-foot high concrete diversion weir; (3) a 9,000-foot long, 42-inch diameter steel penstock; (4) a powerhouse containing a generating unit rated at 7.7 MW; and (5) a transmission line. The average annual energy generation is estimated to be 34.5 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct environmental, economic, engineering, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant proposes to conduct subsurface investigations at the dam and powerhouse sites. All disturbed areas will be restored. The cost of the work to be performed under the preliminary permit is $250,000.

Competing Applications—This application was filed as a competing application to Puget Sound Power and Light Company's application for Project No. 5064 filed on July 7, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2569 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5777-000]

Public Utility District No. 1 of Snohomish County, Washington; Application for Preliminary Permit

January 28, 1982.

Take notice that Public Utility District No. 1 of Snohomish County, Washington (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5777 to be known as the Lake Hancock Project located on Hancock Lake, near North Bend in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: William G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) The existing 225-acre Hancock Lake; (2) a 20-foot high concrete diversion weir; (3) a 7,000-foot long, 42-inch diameter steel penstock; (4) a powerhouse containing a generating unit rated at 6.6 MW; and (5) a transmission line. The average annual energy generation is estimated to be 29.5 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36

months, during which time it would conduct environmental, economic, engineering, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant proposes to conduct subsurface investigations at the dam and powerhouse sites. All disturbed areas will be restored. The cost of the work to be performed under the preliminary permit is $250,000.

Competing Applications—This application was filed as a competing application to Puget Sound Power and Light Company's application for Project No. 5065 filed on July 7, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 16, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2590 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5758-000]

Public Utility District No. 1 of Snohomish County, Washington; Application for Preliminary Permit

January 29, 1982.

Take notice that Public Utility District No. 1 of Snohomish County, Washington (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5758 to be known as the Trout Creek Project located on Trout Creek, near Index, in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: William G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) A 7-foot high diversion and intake structure; (2) a 5,020-foot long pipeline; (3) a headworks; (4) a 1,500-foot long, 6-foot diameter steel penstock; (5) a powerhouse containing one generating unit rated at 7.7 MW; and (6) a 5-mile long transmission line. The average annual energy generation is estimated to be 28.4 million kWh.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct environmental, economic, engineering, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant proposes to conduct test borings at the diversion and powerhouse locations. The estimated cost of the studies is $200,000.

Competing Applications—This application was filed as a competing application to Western Power Inc.'s application for Project No. 5342 filed on September 8, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 17, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the

Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2931 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3472-001]

Southwire Co.; Application for License (5 MW or Less)

January 29, 1982.

Take notice that Southwire Company (Applicant) filed on October 5, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the Wyre-Wynd Project No. 3472. The project would be located on the Quinebaug River in Jewett City, New London and Windham Counties, Connecticut. Correspondence with the Applicant should be directed to: Mr. Fred Stackpole, Wyre-Wynd Inc., Anthony Street, P.O. Box 275, Jewett City, Connecticut 06351.

Project Description—The proposed project would consist of: (1) An existing 19-foot high, 473-foot long rubble masonry and concrete dam with 2-foot high flashboards; (2) an existing 20.75-foot high inlet gate section with 5 sluice gates; (3) a 333-acre reservoir with a usable storage capacity of 167 acre-feet at elevation 97.3 feet m.s.l; (4) an existing 250-foot long, 50-foot wide forebay-inlet canal with 5 flood gates and an 110-foot long overflow weir which discharges below the dam; (5) an existing outlet gate at the west end of the forebay-canal with three 10-foot diameter penstocks; (6) an existing tailrace canal; and (7) appurtenant facilities. The Applicant proposes to remove the three outlet gates and penstocks, increase the height of the overflow weir by 1-foot and construct a powerhouse containing a turbine-generator unit with a rated capacity of 2.5 MW in the west end of the canal forebay. The proposed project would generate up to 11,000,000 kWh annually. The project is owned by the Applicant.

Purpose of Project—Energy produced at the project would be utilized by the Applicant's adjacent mill or sold to the local utility.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications— Anyone desiring to file a competing application must submit to the Commission, on or before April 12, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) of § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2932 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-76-000]

Texas Eastern Transmission Corp.; Further Notice of Application

January 28, 1982.

Take further notice that on November 13, 1981, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP82-76-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap facilities necessary for Applicant to take into its system synthetic gas to be purchased from Conoco, Inc. (Conoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant further states that Article VIII of the purchase contract specifies the basis for the price to be paid by Applicant for volumes of synthetic gas to be purchased from Conoco. Paragraph 1 of the subject article provides that the initial price to be paid by Buyer to Seller for each Mcf of gas having a total heating value of 1,000 Btu per cubic foot shall be $6.987 effective March 1, 1981, and increasing on April 1, 1981, and the first of each month thereafter, by an amount equal to the applicable monthly adjustment prescribed by the Commission pursuant to Section 102 of Title I of the Natural Gas Policy Act of 1978. It is explained that $6.987 is the arithmetic average of the highest price being paid for natural gas in the field on non-affiliated entities by each of two different interstate pipeline purchasers other than Buyer in the Texas Gulf Coast-South Louisiana areas south of the 31st parallel of latitude according to the February 1981 issue of Foster Bulletin on Deregulated Gas.

Applicant further asserts that paragraph 2 of the subject article provides that upon initial delivery of gas Seller shall have the right to accept the price set out in Paragraph 1 or make a written request for redetermination of the price based upon the higher of the following:

(1) An arithmetic average of the highest price being paid for natural gas in the field to non-affiliated entities at the time of Seller's request for

redetermination by each of two different interstate pipeline purchasers other than Buyer in the Texas Gulf Coast-South Louisiana areas south of the 31st parallel of latitude pursuant to interstate contracts for a term of five years or longer and for volumes of pipeline quality gas of at least five million cubic feet per day.

(2) An amount equal to the higher of the price being paid by Border Gas Inc. to Petroleos Mexicanos pursuant to the contract dated October 19, 1979, as such contract may be amended or replaced from time to time for gas imported from Mexico at the time of Seller's request for redetermination, or the governmentally approved price being paid for Canadian gas at the Canadian-United States Border.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed need no do so again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2593 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-139-000]

Transwestern Pipeline Co.; Application

January 26, 1982.

Take notice that on December 29, 1981, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP82-139-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and recovery of cost of transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities:

(1) 58.9 miles of 20-inch pipeline and related facilities originating at a point on Applicant's 24-inch Panhandle Lateral in Hemphill County, Texas, and extending into Roger Mills County, Oklahoma;

(2) 21.1 miles of 12-inch pipeline and related facilities orginating near the terminus of the proposed 20-inch main line and extending to a delivery point in Roger Mills County, Oklahoma.

It is stated that the total costs for the proposed facilities are estimated to be $38,095,000 which would be financed initially by Applicant with funds on hand, borrowings under Applicant's revolving credit arrangements or short-term financing. Permanent financing would be undertaken as part of Applicant's overall long-term financing program at later dates.

Applicant states that the proposed facilities would permit Applicant to attach significant quantities of natural gas reserves presently being developed in several areas in western Oklahoma.

It is asserted that Applicant has previously entered into a transportation agreement with Delhi Pipeline Company (Delhi) which has provided Applicant access to developing gas supplies remote from its existing system. Applicant explains that such agreement is subject to interruption by Delhi, but nonetheless, at that time obviated the need for Applicant to construct extensive facilities to connect needed firm gas supplies. Applicant submits that it is in the public interest to permit it to track the transportation cost associated with this arrangement.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1982, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2594 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5363-000]

Warrensburg Pulp and Paper Corp., Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

January 29, 1982.

Take notice that on September 15, 1981, Warrensburg Board and Paper Corporation (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5363) would be located on Schroon River, in Warrensburg County, New York. Correspondence with the Applicant should be directed to: Alex Landy, Warrensburg Board and Paper Corporation, 510 West 27th Street, New York, New York.

Project Description—The proposed project would consist of: (1) An existing concrete gravity dam 24 feet high and 188 feet long with a concrete wing wall extending about 100 feet from the spillway to an anchorage on the north abutment; (2) an existing concrete forebay structure; (3) an existing forebay reservoir with a negligible storage capacity; (4) a proposed reservoir having a storage capacity of approximately 500 acre-feet and a normal maximum surface elevation of 645 M.S.L.; (5) a proposed powerhouse with an anticipated generating capacity of 2,600 kW; (6) a proposed tailrace channel; (7) a proposed switch yard; (8) a proposed transmission line; (9) a new powerhouse access road; and (10) appurtenant facilities. The applicant estimates that the average energy production would be

10,300,000 kWh. The energy would be sold to public utilities.

Purpose of Project—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 10, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 10, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2596 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5449-000]

Western Power, Inc.; Application for Preliminary Permit

January 28, 1982.

Take notice that Western Power, Incorporated (Applicant) filed on October 5, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5449 to be known as the Prairie Mountain Power Project located on Davis Creek partially within the Gifford Pinchot National Forest, in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas R. Childs, Western Power, Incorporated, 2136 James Street, Bellingham, Washington 98225.

Project Description—The proposed project would consist of: (1) A concrete diversion structure 5 feet high; (2) a pipeline 7,800 feet long, surge tank and penstock 2,600 feet long; (3) a powerhouse containing a turbine generator with 7.2 MW capacity and 35.32 GWh annual energy production; (4) transmission line; and (5) appurtenant facilities. Generated power will be sold to the Lewis County Public Utility District.

Proposed Scope of Studies Under Permit—A preliminary permit if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which time engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of the activities is $225,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 9, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981)).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 9, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or $.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 7, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to

take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATIONS," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2586 Filed 2-1-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 30 Through December 4, 1981

During the week of November 30 through December 4, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Bracewell & Patterson, 12/2/81, HFA-0010

Bracewell & Patterson filed an appeal from a partial denial by the Deputy General Counsel for Regulation of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that a portion of one document which was initially withheld under Exemption 5 should be released to the public. The remainder of the documents were drafts of a final agency rule. The DOE found that the drafts should be withheld in their entirety because all portions of a draft are predecisional, deliberative documents which are recommendatory in nature. The DOE also found that the search for responsive documents was adequate.

The Standard Oil Company, 12/1/81, HFA-0006

The Standard Oil Company (Sohio) filed an Appeal from a denial by the Office of Special Counsel of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that two documents which were initially withheld under Exemptions 5 and 7(A) contained segregable portions which should be released to the public. An important issue that was considered in the Decision and Order was whether to order the segregation of the factual information in the documents withheld under Exemption 5 where Exemption 7(A) was also found to apply.

Remedial Order

Lobo Oil Corporation, 11/30/81, BRO-1414

Lobo Oil Corporation filed a Statement of Objections to a Proposed Remedial Order (PRO) which the DOE Southwest Enforcement District issued to it on February 6, 1981. In the PRO, the Southwest Enforcement District concluded that Lobo had sold crude oil from three of its properties at prices which exceeded the ceiling price levels permitted by DOE regulations. After considering Lobo's objections, the OHA affirmed the findings in the PRO. The important issues considered in the Decision include: (i) whether the enformation action against Lobo was barred by the Texas state statute of limitations; (ii) whether crude oil produced from a well that was recompleted into a new reservoir constituted crude oil produced from a new property prior to the amendment of the property definition on September 1, 1976; (iii) whether a firm may count disposal wells when determining average daily production per well for purposes of the stripper well property exemption.

Lobo also objected to the interest provisions of the PRO. In considering Lobo's objection, the OHA determined that Lobo had not been informed of a recent change in DOE interest rate policy until it received the PRO. Accordingly, the interest provisions of the PRO were modified so that the interest rates for periods prior to the date of issuance of the PRO were based on the previous DOE policy. The modified Proposed Remedial Order was issued as a final order.

Motion for Modification and/or Recission

Plateau, Inc., 12/2/81 BYR-0160

Plateau, Inc. filed a Motion for Reconsideration of a Supplemental Order issued to the firm on September 1, 1981, *Plateau, Inc.*, 8 DOE ¶ 82,623 (1981), in which the DOE found that Plateau had received excessive entitlements exception relief for its 1980 fiscal year. In its Motion for Reconsideration, Plateau contended that the Supplemental Order violated certain procedural requirements. Plateau also claimed that, because of an apparent typographical error in the Supplemental Order, the amount of the firm's refund obligation had been overstated by $3,000. In considering the Motion for Reconsideration, the DOE determined that the Supplemental Order did not violate any procedural requirements. However, the DOE found that Plateau was correct in noting that the Supplemental Order had overstated the firm's refund obligation. Thus, the DOE reduced the amount of the refund obligation by $3,000.

Requests for Exception

Petroleum Products Corporation; Exxon Company, U.S.A., 12/1/81, DEE-2888; BEX-0039; BEA-0319

Petroleum Products Corporation (PPC) filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought the assignment of new, lower-priced suppliers of motor gasoline to replace the higher-priced base period suppliers of the firm. In considering the request, the DOE found that PPC was threatened with serious financial injury as a result of its uncompetitively high acquisition cost for motor gasoline. Accordingly, on February 15, 1980, the DOE issued proposed and interim determinations which ordered the Economic Regulatory Administration (ERA) to select moderately-priced suppliers for PPC with respect to the months of January and February 1980. Pursuant to these determinations, the ERA issued assignment orders to Exxon Company, U.S.A. (Exxon) and the Atlantic Richfield Company.

In the final determination in this proceeding, the DOE considered Exxon's Appeal of the ERA's Assignment Order; Statements of Objections to the proposed determination filed by PPC, Exxon, and two of PPC's base period suppliers of motor gasoline; and Exxon's Motion for Modification of the February 15, 1980 Interim Decision and Order. In considering Exxon's Appeal, the DOE rejected the firm's arguments that the ERA's administrative procedures were deficient and that PPC had forefeited its right to purchase product from Exxon because of its delays in implementing the provisions of the Assignment Order. Exxon's Appeal was accordingly denied. The DOE also considered Exxon's Statement of Objections and found no basis in that submission for altering the findings of proposed exception decision. Finally, the DOE determined that the remaining submissions described above were moot and should be dismissed. The DOE therefore affirmed its preliminary findings on the PPC exception request and issued the Proposed Decision and Order in final form.

Raymond Oil Co., 12/4/81 BEE-1192

Raymond Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Raymond to retroactively certify the crude oil produced from the firm's one-well property during calendar years 1978 and 1979 as stripper well crude oil. In its exception request, Raymond claimed that it did not receive market prices for its crude oil during 1978 and 1979 because the employee responsible for conducting the firm's business affairs apparently failed to

certify Raymond's property as a stripper well lease because she suffered from diminished mental capacity. Raymond claimed that it would be inequitable to penalize it for the inaction of its employee. After a thorough evaluation of Raymond's position, the DOE concluded that there was little merit to Raymond's arguements and that the Proposed Decision and Order which denied the firm's exception request should be issued in final form. The DOE noted that Raymond has failed to demonstrate that the application of the certification time limit to its operation resulted in a gross inequity since all producers of crude oil were subject to the same regulatory requirement. In addition, the DOE rejected Raymond's contention that it should not be held responsible for the inactions of its employee. In this regard, the DOE noted that the hiring and supervision of the accountant was entirely Raymond's responsibility. The DOE noted further that the accountant was an equity owner of the property involved and could reasonably be expected to protect her interests in a prudent and timely fashion. Accordingly, the Raymond request for exception was denied.

Motions for Discovery

Imperial Refineries Corporation, 12/3/81, BRD–0093, BRH–0093

On December 20, 1979, Imperial Refineries Corporation filed Motions for Discovery and for Evidentiary Hearing pursuant to 10 CFR §§ 205.198 and 205.199. The motions relate to Imperial's objections to a Proposed Remedial Order that was issued to the firm on September 27, 1979. In considering Imperial's motions, the DOE first determined that the Motion for Discovery should be dismissed as moot. In addition, the DOE determined that the Motion for Evidentiary Hearing should be denied because the firm had failed to demonstrate that disputes concerning its accounting methods cannot be resolved through the submission of well-organized written statements and affidavits followed by oral argument.

Coy Shockley, d.b.a. Shockley's Exxon Service and Towing, 12/3/81, BRD–1252, BRH–1252

Coy Shockley d.b.a. Shockley's Exxon Service and Towing filed motions for evidentiary hearing and discovery in connection with their Statement of Objections to a Proposed Remedial Order issued to the firm on November 8, 1979. In considering the evidentiary hearing request, the OHA found that Shockley's had failed to meet its burden of establishing that a genuine dispute existed as to relevant and material issues of fact with respect to any of the proffered issues. Shockley's Motion for Evidentiary Hearing was therefore denied. With respect to Shockley's Motion for Discovery, the OHA found that the firm had not met its burden of establishing that the requested discovery was necessary in order to obtain relevant and material evidence. Accordingly, Shockley's Motion for Discovery was denied.

Interlocutory Orders

Office of Special Counsel, 12/1/81, HRZ–0002

The Office of Special Counsel sought an order deeming as admitted by Texaco Inc. certain allegations contained in a Proposed Remedial Order issued to the firm which Texaco failed to controvert in its Statement of Factual Objections. The Office of Hearings and Appeals entered an order deeming admitted the majority of the allegations specified in the OSC's motion.

Office of Special Counsel, 12/3/81, HRZ–0004

The Office of Special Counsel filed a motion to strike from the record a submission filed by Texaco Inc. in connection with a compliance proceeding pending before the Office of Hearings and Appeals. The OHA found that Texaco's filing of substantive amendments to its Statement of Factual Objections without obtaining prior leave of OHA violated the terms of prior OHA orders and granted the OSC motion on that basis. *See Office of Special Counsel*, 9 DOE ¶ No. HRZ–0003 (November 9, 1981).

Supplemental Orders

Vic and Lou's Union, 12/2/81 HRX–0003

On October 22, 1981, Vic Mareta d/b/a Vic and Lou's Union filed a notice of intent to appeal to the Federal Energy Regulatory Commission (FERC) a Decision and Order that the Department of Energy had issued to the firm on September 22, 1981. *Vic & Lou's Union*, 8 DOE ¶ 82,633 (1981). The Decision modified certain provisions of a Remedial Order that the DOE had previously issued to the firm. In considering the firm's submission, the DOE determined that the firm had waived all rights of appeal with regard to those portions of the Remedial Order not modified by the subsequent order of September 22, 1981. The DOE also determined that, because those provisions of an order that modify a previously issued Remedial Order themselves constitute a "Remedial Order" within the meaning of 42 U.S.C. 7193(b) and 10 CFR 205.199C, those new matters involved in the September 22, 1981 Decision are appealable to the FERC.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.
Diversified Chemicals and Propellants Co., DRO–0160
Glaser Gas, Inc., BRO–1316, BRD–1316

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 26, 1982.

[FR Doc. 82–2562 Filed 2–1–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of December 7 Through December 11, 1981

During the week of December 7 through December 11, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Babcock Contractors, Inc., 12/11/81, HFA–0013

Babcock Contractors, Inc. filed an Appeal from a partial denial by the Director of Contract Operations, Division A, of the Office of Procurement Operations of the Department of Energy of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE upheld in part the Director's decision to withhold certain paragraphs contained in a memorandum to file pursuant to Exemption 5. The DOE found, however, that two of the paragraphs withheld in the initial determination should be released in the public interest. Therefore, these paragraphs were released together with the Decision and Order in two appendices.

Sunbelt Energy Systems, Inc., 12/7/81, HFA–0008

Sunbelt Energy Systems, Inc. filed an Appeal from a denial by the Bonneville Power Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemption 4 should be released to the public. An important issue that was considered in the Decision and Order was the adequacy of the index which had been prepared by the denying offical.

Conoco, Inc., 12/10/81, HFA–0014

On November 12, 1981, Conoco, Inc. filed and Appeal from a partial denial by the Acting Director of the DOE Office of Special Counsel for Compliance (Acting Director) of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the Acting Director's determination with respect to certain documents which he withheld under Exemption 4 was inadequate. Accordingly, the DOE remanded those documents to the Acting Director for a more suitable determination. The DOE further found that the Acting Director had correctly withheld certain other documents under Exemption 5. Finally, the Doe concluded that there is a distinct possibility that

the Office of Special Counsel possesses additional documents which are responsive to Conoco's request. Accordingly, the DOE ordered the Acting Director to conduct a further search of the appropriate offices for any such additional documents.

Chuck Hansen, 12/8/81, HFA-0001

Chuck Hansen filed an Appeal from a denial by the Director of the Office of Classification of a request for information which Mr. Hansen had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the Director of the Office of Classification had properly withheld pursuant to Exemption 3 of the FOIA portions of the document entitled "Weapon Development During June, 1958 (UCRL-5280)." In finding that the document was properly classified as Restricted Data under the Atomic Energy Act, the DOE determined that (i) neither Executive Order No. 12065 nor the Atomic Energy Act prohibit a document which has been mistakenly marked as declassified as a result of a clerical error from retaining its Restricted Data status; (ii) limited public access to the document did not move it into the public domain; and (iii) public awareness of general thermonuclear weapons concepts does not require the release of detailed technical weapons reports. Accordingly, the DOE concluded that the Hansen Appeal should be denied.

Remedial Orders

Bob Heinz, d.b.a Granada Chevron, 12/8/81, BRO-1447

Bob Heinz d.b.a. Granada Chevron objected to a Proposed Remedial Order which the Western District Office of Enforcement of the Economic Regulatory Administration issued to the firm on May 29, 1981. In the Proposed Remedial Order, the ERA found that during the period August 1, 1979 through January 6, 1981, Heinz violated the provisions of 10 CFR 212.93(a)(2) by charging prices for retail gasoline which exceeded the maximum lawful selling price for that product. In considering Heinz's objections, the DOE rejected Heinz's contention that its overcharges should be excused since the firms average yearly margin was less than the MLSP. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order subject to the modification that Heinz compute interest on its overcharges at the rate of 6 percent per year for periods prior to February 1, 1980 and at 1 percent per month for periods after February 1, 1980 rather than at the prime rate as contemplated in the PRO.

Williams & Sons Enterprises, Inc., d.b.a. Campbell Point Boat Dock, 12/8/81, BRO-1363

Williams & Sons Enterprises, Inc. d.b.a. Campbell Point Boat Dock filed a Statement of Objections to a Proposed Remedial Order (PRO) issues to the firm by the Central Enforcement District of the Economic Regulatory Administration. In considering Williams' submission, the DOE determined that the firm's objections should be denied. Accordingly, the PRO was issued in final form, subject to a modification of the interest rate and payback provisions.

W. V. Ullner, d.b.a. Everett Street Exxon, 12/9/81, BRO-1465

W. V. Ullner objected to a Proposed Remedial Order which the Western District of Enforcement of the DOE issues to the firm on March 31, 1981. In the Proposed Remedial Order, the Office of Enforcement found that the firm had charged more than the maximum lawful selling price for one or more grades of gasolne in violation of 10 CFR 212.93. Because the firm failed to file a Statement of Objections as required by 10 CFR 205.196, the DOE dismissed the Notice of Objection and issued the Proposed Remedial Order as a Remedial Order of the Department of Energy.

In the following case involving Proposed Remedial Order, no Statement of Objections was filed. The DOE therefore issued the order in final form.

Company Name and Case No.

Steven Frank, d.b.a., BRW-0085
Steven Frank Arco

Request for Modification and/or Rescission

Caribou Four Corners, Inc., 12/8/81, BER-0156, BES-0169

Caribou Four Corners, Inc. filed a Motion for Reconsideration and an Application for Stay of a Decision and Order that the DOE issued on June 25, 1981, *Caribou Four Corners, Inc.*, 8 DOE ¶ 81,062 (1981). In its Motion for Reconsideration Caribou requested that its refined product resale revenues be included in calculating the firm's profit margin for the purpose of determining entitlements exception relief for fiscal year 1981. During this proceeding, the DOE required Caribou to have its resale record examined and certified by an independent CPA firm. After receiving the CPA certification, the DOE granted Caribou's request and recalculated the *Delta* relief for the firm by including its resale revenues. As a result of this recalculation, Caribou has been awarded an additional entitlement exception relief of $445,672 for its 1980 fiscal year.

Request for Exception

Union Oil Co. of California, Conoco, Inc ., 12/9/81, DEE-5746, BEH-0023

Union Oil Company of California (Union) requested exception relief that would remedy the firm's crude oil cost disparity *vis-a-vis* other major oil companies. In considering the request, the DOE found that during the third quarter of 1979, Union had been disproportionately dependent upon the foreign spot market for its crude oil supplies. As a result, Union's prices for refined petroleum products were significantly higher than its competitors, thus causing hardship to Union's marketers. In order to remedy the burden on the Union marketing system, the DOE directed the fourteen largest domestic refiners to supply Union with 75,046 barrels of crude oil per day (BPD) for December 1979, 70,881 BPD for January 1980, and 58,560 BPD for February 1980.

Interlocutory Order

Office of Special Counsel for Compliance, 12/9/81, BRZ-0108

The Office of Special Counsel for Compliance (OSC) sought an Order adopting certain factual findings made in a Proposed Remedial Order (PRO) issued to the Atlantic Richfield Company (Arco). Arco sought an Order adopting certain factual findings which it made in its Statement of Factual Objections (SFO) to the PRO. The DOE entered an order finding Arco to have admitted specified factual findings in the PRO that it failed to controvert in its SFO. The DOE additionally entered an order establishing as factual findings matters OSC admitted in responding to a request for admissions by Arco.

Dismissals

The following submissions were dismissed without prejudice:.

Name and Case No.

Bayside Fuel Oil Corp., DRO-0361
Bayside Fuel Oil Depot Corp., DRO-0362, BRH-0013, BRD-0013
Dalco Petroleum, Inc., BRO-1427
Lawrence G. Spielvogel, Inc., BEG-0059
Riley, Flauris, HEE-0005

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published losse leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 26, 1982.

[FR Doc. 82-2563 Filed 2-1-82; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of December 28, 1981, Through January 15, 1982

During the period of December 28, 1981, through January 15, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed

to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 26, 1982.

Colebrook School District, Colebrook, New Hampshire, BEE–1669, Conservation Grant

Colebrook School District filed an Application for Exception from the provisions of 10 CFR Part 455. The exception request, if granted, would permit Colebrook School District to receive DOE funding for Energy Conservation Measures it implemented at Colebrook Academy during 1980. On January 15, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82–2683 Filed 2–1–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51376A; TSH–FRL–2040–1]

Certain Chemicals; Premanufacture Notices; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the PMN specific gravity on a premanufacture notice (PMN) published in the **Federal Register** of January 8, 1982 (47 FR 1021).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 8, 1982 (47 FR 1021), EPA issued a notice of receipt of PMN 81–662.

In the FR Doc. 82–488 appearing at page 1021 under "PMN 81–662", third column, Physical/Chemical Properties, "Specific gravity–1–10" is corrected to read "Specific gravity–1.10."

Dated: January 25, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–2648 Filed 2–1–82; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51388; TSH–FRL–2040–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by: PMN 82–41 and 82–42, March 23, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51388]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–41

Close of Review Period. April 22, 1982.

Manufacturer's Identity. American Color and Chemical Corporation, Mt. Vernon Street, Lock Haven, PA 17745.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Naphthalenedisulfonic acid, disazo acid dye, lithium salt.

Use. The manufacturer states that the PMN substance will be used in an industrial paper.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	5,000
2d year	5,000	11,000
3d year	10,000	16,000

Physical/Chemical Properties

Appearance—Dark navy blue solution.

pH—9.0–10.0.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and use 2 workers may experience cleaning clarification press and handling liquid exposure 2 hrs/yr during transfer and handling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land, and water. Disposal is to a publicly owned treatment works (POTW).

PMN 82–42

Close of Review Period. April 22, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkyd polymer from fatty acids, substituted alkane triols, carbomonocyclic acids and an anhydride.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	7,000	45,000
2d year	13,200	90,000

PRODUCTION ESTIMATES—Continued

	Kilograms per year	
	Minimum	Maximum
3d year	33,000	225,000

Physical/Chemical Properties

Flash point—138° F.
Viscosity—W.
Color—8.
Percent solid @ 105° C—32.0.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing, and use a total of 115 workers may experience dermal and ocular exposure up to 6 hrs/day, up to 250 days/yr during extraction, sampling, filling, and clean-up.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–1,000 kg/yr released to land. Disposal is by an approved landfill, distillation, and incineration.

Dated: January 25, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-2947 Filed 2-1-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51389; TSH-FRL-2040-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by: PMN 82-44 and 82-45, March 26, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51389]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-44

Close of Review Period. April 25, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—Northeast region.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Chloroheteropolycyclic, hydrochloride salt.

Use. The manufacturer states that the PMN substance will be used as a site limited and industrial intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	10,000
2d year	1,000	10,000
3d year	1,000	10,000

Physical/Chemical Properties

Appearance—Cream colored solid.
Melting—> 300° C.
Solubility: water at 20° C—Very soluble.
Percent volatiles by volume—Nil.
Evaporation rate (Butyl Acetate=1) Nil.

Toxicity Data

Skin irritation—Not a skin irritant.
Eye irritation—Moderate eye irritant.
Skin absorption—Not toxic by this route.
Ingestion—Moderately acutely toxic.

Exposure. The manufacturer states that during manufacture processing a total of 72 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 322 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air with 10–100 kg/yr released to land and water. Disposal is to a publicly owned treatment works (POTW) or approved landfill, or by treatment or recovery.

PMN 82-45

Close of Review Period. April 25, 1982.

Manufacturer's Identify. Claimed confidential business information.

Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—Northeast region.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Substituted pyridinium bromide.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be incorporated into a consumer article.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	100	1,000
2d year	1,000	5,000
3d year	1,000	5,000

Physical/Chemical Properties

Appearance—White powder odorless.
Melting point—> 100° C.
Solubility: water at 20° C 10 g/l.
Percent volatiles by volume Nil.
Vapor pressure mm Hg Nil.
Evaporation rate (Butyl Acetate=1) Nil.

Toxicity Data

Skin irritation—Not likely to be a skin irritant.
Eye irritation—Mild irritant.
Skin absorption—May be absorbed in toxic amounts.
Ingestion—Moderately acutely toxic.

Exposure. The manufacturer states that during manufacture, processing and disposal a total of 328 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 355 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air with 10–100 kg/yr released to land and 10–1,000 kg/yr to water. Disposal is to a POTW or approved landfill, or treatment or recovery.

Dated January 26, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-2946 Filed 2-1-82; 8:45 am]

BILLING CODE 6560-31-M

[W-3-FRL-2040-6]

Groundwater System of a Limestone Aquifer of the Piedmont Region in York County, Pennsylvania: Request for EPA Determination Regarding Aquifer System; Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency announces the receipt of a petition requesting the designation of the groundwater system of a limestone aquifer of the Piedmont Region as a sole or principal source of drinking water and opens a public comment period to request information about the basins.

DATES: Comments will be accepted until April 30, 1982. The Agency's proposal to grant or deny the petition and the notice of a public hearing will be announced concurrently in the **Federal Register** and in newspapers of general circulation in the affected area. At least 30 days notice will be given before that hearing will be held.

ADDRESS: Written comments should be sent to: Environmental Protection Agency, Region III, Water Management Division, Attn: Groundwater Protection Section (3WM42), 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Benjamin Lacy, Chief, Groundwater Protection Section, at the above address, or telephone (215) 597–9000. Copies of the petition are available upon request.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93–523) authorizes the Administrator of the Environmental Protection Agency (EPA) to determine that an area has an aquifer which is the sole or principal drinking water source for the area. Opposing Unnecessary Chemical Hazards, (O.U.C.H.), Inc., has requested the Administrator to determine that the limestone aquifer of the Piedmont Region is the sole or principal drinking water source for the area in and around Seven Valleys, Pennsylvania. The petitioned area is that area directly overlying the Conestoga Limestone aquifer in the vicinity of Sinsheim, Jefferson, and Seven Valleys. There are portions of two major streams which comprise the stream flow source zones for the aquifer; the East Branch of West Branch Codorus Creek and South Branch Codorus Creek. Information is solicited about the petitioned area's hydrogeologic system, including the surface boundary of its recharge area and about the number and kinds of small entities (business, governmental jurisdictions, and organizations) receiving Federal financial assistance in the area. This will assist EPA in evaluating the aquifer system and the potential impact of a designation on small entities pursuant to Regulatory Flexibility Act requirements. Based on EPA experience with other sole source designations, some Federal financially assisted projects that potentially may be affected include highway construction, subdivision construction, and waste disposal sites. EPA will decide whether to make the requested determination following its review of relevant data and after providing an opportunity for full public participation on its proposed decision.

Dated: January 18, 1982.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 82-2850 Filed 2-1-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 16770; PR Docket No. 82-10]

Commission Launches Inquiry Into Private Land Mobile Radio's Future Requirements; Action in Docket Case

January 15, 1982.

In an effort to accommodate the needs of private land mobile radio users, the Commission has launched an inquiry to determine the best overall strategy for meeting the future communication requirements of those users.

The Commission said an inquiry was necessary at this time because of the tremendous growth of private land mobile radio which, if it continues at the projected rate, could result in a serious frequency congestion problem.

Land mobile radio describes both voice and non-voice communication between a fixed place and a moving vehicle or person, or between two or more moving vehicles or persons. It is currently divided into two major service areas for regulatory purposes: the Domestic Public Land Mobile Radio Services and the Private Land Mobile Radio Services.

Although there is some overlap between these two services, the FCC said its inquiry will mainly be concerned with the Private Land Mobile Radio Services whose users include police, doctors, utility crews, taxis and many others.

The inquiry has been broken into two major areas, the first to deal with anticipated private land mobile requirements and the second with possible sources of spectrum to meet those requirements.

The Commission is seeking comments on several issues within these two areas. Some of the questions being asked by the FCC include the following:

—What factors are likely to affect the rate of growth of land mobile communications in the next 10–20 years?

—What is the most appropriate unit for measuring spectrum use in the private land mobile services?

—What new land mobile communications applications do you anticipate in the next 10–20 years?

—How would you rank the following approaches to providing additional spectrum for private land mobile?

(a) Possible new exclusive or shared allocations.

(b) Increased sharing between land mobile and other services.

(c) Use of new, more efficient narrowband or wideband technologies and systems such as trunking, cellular, etc.

In addition to satisfying the future needs of private land mobile radio users, the Commission hopes the inquiry will help in providing closer cooperation between the agency and the land mobile user community resulting in a positive, stable and flexible regulatory environment.

Parties interested in filing comments in the proceeding may do so by June 9, 1982. Reply comments will be due by July 7, 1982.

Action by the Commission January 13, 1982, by Notice of Inquiry (FCC No. 82–8). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

For further information contract Joseph Levin or Arthur Radice at (202) 254–3301.

Note.—Due to the ongoing effort to minimize publishing costs, the Notice of Inquiry will not be printed herein. Please direct inquiries regarding copies to the Office of Public Affairs, Room 202, 1919 M Street, NW., Washington, D.C. 20554.

[FR Doc. 82-3081 Filed 2-1-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements

and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 22, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-4016.

Filing party: Richard L. Landes, Deputy, Harbor Branch Office, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-4016 between the City of Long Beach (City) and Pacific Maritime Services, Inc. (PMS) provides for the 20-year non-exclusive Preferential assignment to PMS of 39 acres, Parcel I and 23.5 acres Parcel II at Berths 245-247, Pier J, Long Beach, California for operation as a contract marine terminal warehouse and rail and truck facility. As compensation PMS shall pay City revenues collected from those charges assessed pursuant to Port of Long Beach Tariff. PMS shall pay City as rental for the use of Parcel I $104,319 per month and for the use of Parcel II $86,218 per month. If the total area of Parcel II is not ready for occupancy at the time PMS accepts occupancy, the monthly rental for Parcel II will be reduced by $3,200 per month. PMS agrees to file its schedule of terminal rates and charges with the City, or in lieu thereof, may elect to use and be bound by the Port of Long Beach Tariff. If PMS publishes its own tariff, all charges assessed must conform as nearly as possible with like charges published in the Long Beach Tariff and no change may be made without City's prior written approval. Upon completion of improvements by the City to Parcel II, PMS shall pay to City an additional compensation of a sum equal to 1/12th of the product obtained by multiplying the total cost of the improvements by 15.10 percent. This agreement terminates Agreement No. T-2894, between the parties, approved by the Commission on March 27, 1974.

Agreement No. 10434.

Filing party: Leroy F. Fuller, Bogle & Gates, Suite 725, 1575 I Street NW., Washington, D.C. 20005.

Summary: Agreement No. 10434, between Georgia-Pacific Corporation (G-P) and Clipper Maritime Limited (Clipper), provides for the establishment of a joint venture for the purpose of conducting an ocean common carrier service between U.S. Atlantic and Gulf Coast ports and ports in Ireland, the United Kingdom, Continental Europe and on the Mediterranean Sea. The joint venture will operate under the name of Atlantic Cross Shipping. G-P will contribute $100,000 and two vessels and Clipper will contribute not less than $100,000 and the time and skill of its employees and agents for the booking, management and operational functions of the joint venture. Clipper will be responsible for the management and operation of the joint venture, subject to the policies established and agreed upon between the parties. Peraco Chartering Corporation will receive a charter brokerage commission for any time-charter tonnage used by the joint venture. At the end of each calendar year, net profits will be divided equally between G-P and Clipper with Clipper to bear any net loss sustained by the joint venture.

By Order of the Federal Maritime Commission.

Dated: January 27, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2884 Filed 2-1-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight fowarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Atlantic Freight Fowarders, Inc., 7262 N.W. 66th Street, Miami, FL 33166, Officers: Alicia M. Gonzalez, President/Treasurer, Esther C. Gonzalez, Secretary/Vice President.

Richard R. Lyle, 334 Carroll Park East, Long Beach, CA 90814.

Worthmore Forwarding, Inc., 138-01 Springfield Blvd., Suite 2-1, Springfield Gardens, NY 11413, Officer: Richard V. Lata, President.

Southland International Forwarding, Inc., P.O. Box 3187, 507 Shipyard Blvd., Couch Office Bldg., Rooms 5 & 6, Wilmington, NC 28406, Officers: Paul Kirby Thomas, President/Secretary, Sue Nance Thomas, Treasurer.

Metropolitan Fowarders, Inc., 10004 N.W. 80th Avenue, Hialeah Gardens, FL 33016, Officer: Edwin Torres, President.

By the Federal Maritime Commission.

Dated: January 28, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2885 Filed 2-1-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

United Ban Holding Corp.; Formation of Bank Holding Company

United Ban Holding Corp., Norman, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of United Bank of Norman, Norman, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2879 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

United Banks of Colorado, Inc.; Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Lorin Investment Company, Brighton, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

United Banks of Colorado, Inc., Denver, Colorado, is also engaged in the following nonbank activities: Operating a mortgage company, data processing services, acting as agent for credit related insurance, and reinsuring credit life policies. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2580 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Washington Community Bancshares, Inc.; Formation of Bank Holding Company

Washington Community Bancshares, Inc., Tacoma, Washington, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Western Community Bank, N.A., the successor by merger to Western Community Bank, Tacoma, Washington. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2581 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Chicago Heights Bancorp, Inc.; Formation of Bank Holding Company

Chicago Heights Bancorp, Inc., Crestwood, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Chicago Heights National Bank, Chicago Heights, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2585 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Continental Bancorp, Inc.; Formation of Bank Holding Company

Continental Bancorp, Inc., Philadelphia, Pennsylvania, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Continental Bank, Norristown, Pennsylvania. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2586 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Continental Illinois Corp.; Acquisition of Bank

Continental Illinois Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquiring 100 per cent of the voting shares, less directors' qualifying shares, of Buffalo Grove National Bank, Buffalo, Grove, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2587 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Crookston Financial Services, Inc.; Formation of Bank Holding Company

Crookston Financial Services, Inc., Crookston, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Crookston National Bank, Crookston, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2568 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

England Bancorp; Formation of Bank Holding Company

England Bancorp, Axtell, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Merchants Bank, Axtell, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2569 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Fifth Third Bancorp; Acquisition of Bank

Fifth Third Bancorp, Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The Farmers and Merchants Banks, Fairborn, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 25, 1982. Any comment on an application that request a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2570 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

First Prague Bancorporation, Inc.; Formation of Bank Holding Company

First Prague Bancorporation, Inc., Prague, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Praque, Praque, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2571 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

First Rockford Bancorp, Inc.; Formation of Bank Holding Company

First Rockford Bancorp, Inc., Rockford, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to First National Bank and Trust Company of Rockford, Rockford, Illinois; North Towne National Bank of Rockford, Rockford, Illinois; First Bank of Roscoe, Roscoe, Illinois; and First Bank of Loves Park, Loves Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2572 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

First Stratford Bancorporation, Inc.; Formation of Bank Holding Company

First Stratford Bancorporation, Inc., Stratford, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First American Bank, Stratford, Oklahoma. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2573 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Liberty Holding Co.; Formation of Bank Holding Company

Liberty Holding Company, Cantonment, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Liberty Bank of Cantonment, Cantonment, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2574 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Lubbock Bancorporation, Inc.; Formation of Bank Holding Company

Lubbock Bancorporation, Inc., Lubbock, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent of the voting shares of the West, Lubbock, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2575 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Texas Corp.; Acquisition of Bank

Mercantile Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares, of Southwest Bank, Mesquite, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2576 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Southwest Financial Corp.; Formation of Bank Holding Company

Southwest Financial Corporation, Evergreen Park, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares, less directors' qualifying shares, of the successor by merger to Evergreen Plaza Bank, Evergreen Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 17, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2577 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

Traxshares, Inc.; Formation of Bank Holding Company

Traxshares, Inc., LeCenter, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.5 percent or more of the voting shares of First National Bank of LeCenter, LeCenter, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2578 Filed 2-1-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Bodies; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of February 1982.

Life Course Review Committee

February 19–20; 9 a.m.

The Shoreham Hotel, Room E630, 2500 Calvert Street, NW., Washington, D.C. 20008
Open—February 19, 9–9:30 a.m.
Closed—Otherwise
Contact: Ms. Dee Herman, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda

From 9–9:30 a.m., February 19, 1982, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing intitial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychiatry Education Review Committee

February 22–24; 9 a.m.

Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 22, 9–10 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C02, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of psychiatry education and manpower development, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda

From 9–10 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing intital review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychology Education Review Committee

February 24–26; 9 a.m.

Conference Room 3A77, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 24, 9–10 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of psychology education and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda

From 9–10 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Clinical and Behavioral Research Subcommittee, Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee

February 22–25; 9 a.m.

Linden Hill Hotel, Longwood Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014
Open—February 22, 9–9:30 a.m.
Closed—Otherwise
Contact: Mr. Daniel L. Mintz, Executive Secretary, DACB, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda

From 9:00–9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychosocial Research Subcommittee, Drug Abuse Clinical; Behavioral, and Psychosocial Research Review Committee

February 22–25; 9:00 a.m.

Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 22, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Mr. Ron Gold, Executive Secretary, DACA, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 446–2620

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda

From 9:00–9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee

February 22–26; 9:00 a.m.

Linden Hill Hotel, Sea Pines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014
Open—February 22, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Dr. Alan A. Schreier, Executive Secretary, DABR, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support

of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda

From 9:00–9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychiatric Nursing Education Review Committee

February 25; 8:30 a.m.

Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 25, 8:30–9:30 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the field of psychiatric-mental health nursing personnel development, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda

From 8:30–9:30 a.m., February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Services Manpower Development Review Committee

February 25–26; 9:00 a.m.

Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 25, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728

Purpose

The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of grants relating to the development of manpower to meet priority mental health service delivery needs and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda

From 9–10 a.m., February 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIDA: Ms. Susan Lachter, Director, Office of Communications and Public Affairs, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1124. NIMH: Ms. Helen W. Garrett, Committee Management Officer, National Institute of Mental Health, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. (301) 443–4333.

Dated: January 27, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–2557 Filed 2–1–82; 8:45 am]
BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 81F–0406]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hexamethylene bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant in lubricants which have incidental contact with food.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C., 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3595) has been filed by Ciba-Geigy Corp., Plastics and Additives Division, Ardsley, NY 10502, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the safe use of hexamethylene bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant in lubricants that have incidental food contact.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 25, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–2424 Filed 2–1–82; 8:45 am]
BILLING CODE 4160–01–M

Health Resources Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of March, 1982:

Name: National Council on Health Planning and Development
Date and Time: March 18–19, 1982: 8:30 a.m.
Place: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201
Open for entire meeting

Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93–641, (2) the implementation and administration of Title XV and XVI of Pub. L. 93–641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Councils considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: The Role of Planning in a Pro-competitive Health System; Appreciation of services provided by Council staff; CT Scanning Standards/Regulations Update; and status reports by Health Resources Administration officials.

Note.—Plans do not currently exist for Councils Subcommittees to meet during these two days.

Anyone requiring information regarding the subject Council should write to or contact Mr. Paul Schwab, Executive Secretary, National Council on Health Planning and Development, Health Resources Administration, Room 10–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436–7170.

Agenda items are subject to change as priorities dictate.

Dated: January 25, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, HRA.

[FR Doc. 82–2682 Filed 2–1–82; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of health maintenance organizations: Reestablishment of compliance.

SUMMARY: On December 24, 1981, the Office of Health Maintenance Organizations (OHMO) notified HealthCare of Louisville, Inc. (HCL), 4545 Bishop Lane, Louisville, Kentucky 40210, a federally qualified health maintenance organization (HMO), that HCL had successfully reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Under section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e–11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the **Federal Register** notices of determinations made under that section.

On May 12, 1978, HCL was officially notified that it was not in compliance with the assurance it had given the Secretary that it would maintain a fiscally sound operation as required by section 1301(c)(1)(A) of the Act. This determination, a notice of which was published at 45 FR 2109 on January 10, 1980, did not affect HCL's status as a federally qualified HMO. Subsequently, HCL implemented successfully corrective action to bring it into compliance with its assurances. On December 24, 1981, HCL was notified by OHMO that it had reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on January 1, 1982.

Dated: January 25, 1982.

Frank H. Seubold,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82–2558 Filed 2–1–82; 8:45 am]

BILLING CODE 4160–17–M

Title XVI, Public Health Service Act, Health Resources Development; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of November 20, 1980, by the Secretary of Health and Human Services to the Assistant Secretary for Health (46 FR 1032), which was amended on December 8, 1980 (45 FR 82721), the Assistant Secretary for Health has delegated to the Administrator, Health Resources Administration, all the authority delegated to the Assistant Secretary for Health under Title XVI of the Public Health Service Act (42 U.S.C. 3000 *et seq.)*, as amended, pertaining to health resources development. The authority delegated to the Administrator, Health Resources Administration, may be redelegated, except that the authority under Section 1602(f) concerning loan default prevention and protection of the interests of the United States in the event of default may be redelegated only after regulations establishing the terms of and conditions for making expenditures under 1602(f) are in effect.

The April 20, 1979 delegation (44 FR 25929–25930), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, as it pertains to authorities under Title XVI of the Public Health Service Act, and the June 11, 1980 delegation (45 FR 45963–45964), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, as it pertains to the authority under Section 1602(f) of the Public Health Service Act, have been superseded. Provision has been made for previous delegations and redelegations of authority under Title XVI of the Public Health Service Act to officials within the Health Resources Administration to continue in effect for no more than 60 days from the effective date of the delegation to the Administrator, Health Resources Administration, provided they are consistent with the delegation to the Administrator, Health Resources Administration.

The delegation to the Administrator, Health Resources Administration, became effective on January 19, 1982.

Dated: January 19, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82–2703 Filed 2–1–82; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 82–1837, appearing on page 3608, in the issue of Tuesday, January 26, 1982, make the following change:

In the third column, the Table should appear as set forth below:

State and city	Type of office	Address and zip code
New York:		
Brooklyn	Field/District Office Import District Office.	850 Third Ave. 11232
Buffalo	New York Laboratory Div. District Office.	599 Delaware Ave. 14202

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial Number: A 15962]

Arizona; Realty Action—Noncompetitive Sale—Public land in Maricopa County, Ariz.

The following described lands have been determined to be suitable for disposal by noncompetitive public sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Township 7 North, Range 2 East, G & SRM

Section 27, Lot 48.

Containing .758 Acres.

Purpose of the sale is to legalize an encroachment on public land dating back more than 13 years. Purchaser will be Gustavious W. and Norma Jean Comeaux.

The lands involved are an integral part of a long-established permanent building which is situated on the subject land and the adjacent privately owned Lot 18.

Provisions in 43 CFR 2711.3–2(2)(b) provide for noncompetitive sale when, in the opinion of the authorized officer, the public interest would best be served by a direct sale.

There is need to recognize that the Comeaux's existing business would be threatened if the tract were purchased by another party.

Management of the parcel by the Bureau is considered to be uneconomical and difficult. Disposal of the subject land is consistent with the Bureau's land-use planning. No other agency or group has expressed interest in acquisition of the parcel.

An appraisal has been completed and a fair-market value of $7,500.00 will be charged for the lands.

There will be reserved to the United States right-of-way for ditches and canals pursuant to the Act of August 30, 1980, 26 Stat. 391, 43 U.S.C. 945. Mineral estate will be reserved to the United States per 43 CFR 2711.5–1.

Detailed information concerning this public sale, including the environmental assessment and the record of public input is available for review at the Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona.

For a period of 45 days, interested parties may submit comments to the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments will be evaluated by the Secretary of the Interior, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department of the Interior and the required payment plus the cost of publishing this notice will be requested of Gustavious and Jean Comeaux. Such payment in full is in accordance with 43 CFR 1822.1–2.

Dated: January 21, 1982.

William K. Barker,

District Manager.

[FR Doc. 82-2884 Filed 2-1-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. A 17000–I (Partial)]

Arizona; Classification of Public Lands for State Indemnity Selection

1. The Arizona State Land Department has filed a petition for classification and application to acquire the lands described in paragraph 5 below, under the provisions of the Act of June 20, 1910 (36 Stat. 557), as amended, in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned the serial number A 17000–I.

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified 60 days from date of publication of this notice in the **Federal Register**. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Arizona may be obtained from the District Manager, Yuma District Office, Bureau of Land Management, P.O. Box 5680, Yuma, Arizona 85364 (602–726–6300) or the District Manager, Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix Arizona 85017 (602–241–2854).

4. For a period of 60 days from the date of publication of this notice in the **Federal Register** (until April 5, 1982), all persons who wish to submit comments on the above classification may present their views in writing for consideration to the Phoenix District Manager, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. As provided by Title 43 Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the District Managers if they determine that sufficient public interests exists to warrant the time and expense of a hearing.

5. The lands included in this classification are located in Yuma and Mohave Counties, Arizona and are described as follows: (footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Application A 17000–I (Partial)

Gila and Salt River Meridian, Arizona

T. 1 N., R. 23 W.,
- Sec. 1, Lots 1, 2, 3, 4, S½, S½; [1 4]
- Sec. 12, N½; [1 3 4]
- Sec. 14, N½; [2 4]
- Sec. 27, NW¼NW¼.[2 4]

Total—Approximately 1,320.80 acres.

T. 2 N., R. 22 W.,
- Sec. 3, Lots 1, 2, S½NE¼;[1 2 3]
- Sec. 16, W½;[2 3]
- Sec. 17, SE¼;[2 4]
- Sec. 30, E½;[2 4]
- Sec. 31, Lots 1 thru 16 incl., E½.[2 4]

Total—Approximately 1,909.91 acres.

T. 2 N., R. 23 W.,
- Sec. 36, E½.[1 2]

Total—Approximately 320.00 acres.

T. 3 N., R. 21 W.,
- Sec. 19, Lots 1, 2, 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼.[1 2]

Total—Approximately 423.44 acres.

T. 3 N., R. 22 W.,
- Sec. 15, SE¼;[1 2 3]
- Sec. 23, N½N½, N½S½N½;[3 4]
- Sec. 24, NE¼, E½NW¼, SW¼NW¼, N½S½, E½SE¼SE¼.[1 3 4]

Total—Approximately 860.00 acres.

T. 8 N., R. 18 W.,
- Sec. 32, N½, NE¼SW¼, N½SE¼, SE¼SE¼;[1 2 3]
- Sec. 36, NW¼.[1 2 3]

Total—Approximately 640.00 acres.

T. 9 N., R. 19 W.,
- Sec. 2, Lots 1–6 incl., S½NE¼, SE¼NW¼, SE¼SW¼, E½SW¼SE¼, E½SE¼.[1 2 3]

Total—Approximately 503.67 acres.

T. 10 N., R. 19 W.,
- Sec. 1, Lot 3;[1 2 3 6]
- Sec. 23, All except Mineral Survey 4406–A;[1 2 3 6]
- Sec. 24, W½W½;[6]
- Sec. 25, SW¼NE¼NW¼, W½NW¼, W½SE¼NW¼, SE¼SE¼NW¼, SW¼, SW¼SE¼, S½SE¼;[2 4 6]
- Sec. 26, All;[2 3 4 5 6]
- Sec. 35, N½NE¼, NE¼NW¼;[2 6]
- Sec. 36; NW¼NW¼.[6]

Total—Approximately 1,944.33 acres.

T. 19 N., R. 21 W.,
- Sec. 7, Lot 4, SE¼SW¼;[4]
- Sec. 17, All;[4]
- Sec. 18, Lots 1, 2, 3, 4, E½2W½, E½;[1 2 4 5]
- Sec. 19, Lots 1, 2, 3, 4, E½W½, E½;[2 4]
- Sec. 20, All;[4 5]
- Sec. 21, All;[4]
- Sec. 28, N½N½;[4 5]
- Sec. 29, N½N½;[4]
- Sec. 30, Lot 1, N½NE¼, NE¼NW¼,[2 3 4 5]

Total—Approximately 3,759.49 acres.

T. 19 N., R. 22 W.,
- Sec. 12, S½S½; [1 2 3 4]
- Sec. 24, N½, E½SW¼, E½NW¼SW¼, NW¼NW¼SW¼, SE¼.[1 2 3 4]

Total—Approximately 750.00 acres.

T. 21 N., R. 21 W.
- Sec. 26, All;[3 4]
- Sec. 28, All;[1 3]
- Sec. 34, All.[2 3]

Total—Approximately 1920.00 acres.

T. 15, R. 23 W.,
- Sec. 5, SW¼NW¼, W½SW¼;[2 3]
- Sec. 20, W½W½W½.[1 2 3]

Total—Approximately 200.00 acres.

The total acreage described above on Application A 17000–I is approximately 14,551.64 acres.

6. The following listed corporations and individuals are holders of or applicants for leases, permits, withdrawals, and/or rights-of-way on the public lands described in Paragraph 5 above:

T. 1 N., R. 23 W.,

Grazing Lessees

1. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Ave. A, Apt 54, Yuma, AZ 85364.
2. Lewis C. Biship, P.O. Box 111, Ehrenberg, AZ 85334.

Range Improvement

3. Juanita A. Loomis; Fence; No. 0604.

Oil and Gas Lease Application

4. Robert P. Kunkel, 757 Northcliffe Drive, Salt Lake City, Utah 94103, A 17129, A 17131.

T. 2 N., R. 22 W.,

Rights-of-Way

1. Southern California Edison Company, P.O. Box 410, Long Beach CA 90801, A 9878.

Grazing Lessee

2. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A., Apt 54, Yuma, AZ 85364.

Oil and Gas Leases

3. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, UT 84103, A 17139.
4. Grant Gaeth, 621 17th Street, Suite 811, Denver, CO 80203, A 17125, A 17126.

T. 2 N., R. 23 W.,

Grazing Lessee

1. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A., Apt 54, Yuma, AZ 85364.

Oil and Gas Lease

2. Robert P. Kunkel, 757 Northcliffe Drive, Salt Lake City, UT 84103, A 17129.

T. 3 N., R. 21 W.,

Grazing Lessee

1. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A, Apt 54, Yuma, AZ 85364.

Oil and Gas Lease Application

2. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, UT 84103, A 17107.

T. 3 N., R. 22 W.,

Rights-of-Way

1. Arizona Department of Transportation, 205 S. 17th Avenue, Phoenix, AZ 85007, AR [illegible].
2. El Paso Natural Gas Company, Box 1492, El Paso, TX 79978, PHX 083225, AR 03819, A 2136, A 4476.

Grazing Lessee

3. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A., Apt 54, Yuma, AZ 85364.

Oil and Gas Lease Application

4. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, UT 84103, A 17174.

T. 8 N., R. 18 W.,

Right-of-Way

1. Atchison-Topeka and Santa Fe R.R., Santa Fe Railway Company, 80 E. Jackson Blvd., Room 235, Chicago, IL 60604.

Grazing Lessee

2. Keith W. Pierson, Rt. 1, Box 178, Blythe, CA 92225.

Oil and Gas Lease

3. Marshall R. Young Oil Co., 750 W. Fifth Street, Fort Worth, TX 76102, A 15335, A 15336.

T. 9 N., R. 19 W.,

Right-of-Way

1. U.S. Bureau of Reclamation, Parker Dam Project, P.O. Box 392, Phoenix, AZ 85073, A 7316, PHX 086406.

Grazing Lessee

2. Robert H. and James E. Jones, P.O. Box 924, Parker, AZ 85344.

Cooperative Agreement

3. Robert H. Jones; Fence, No. 4352.

T. 10 N., R. 19 W.,

Rights-of-Way

1. U.S. Bureau of Reclamation, Parker Dam Project, P.O. Box 392, Phoenix, AZ 85073, PHX 080583, PHX 085708.
2. Continental Telephone Co. of California, 16071 Marjorie Drive, Victorville, CA 92392, AR 033005, A 11568.
3. U.S. Department of Interior, Colorado River Agency, Power Section, Rt 1, Box 9–C, Parker, AZ 85344, AR 02975, A 14738.
4. Arizona Department of Transportation, 205 S. 17th Avenue, Phoenix, AZ 85007, A 13975.
5. U.S. Geological Survey, Office of Earthquake Studies, 345 Middlefield Road, Menlo Park, CA 94025, A 9894.

Grazing Lessee

6. Robert H. and James E. Jones, P.O. Box 924, Parker, AZ 85344.

T. 19 N., R. 21 W.,

Rights-of-Way

1. Mohave County Board of Supervisors, P.O. Box 390, Kingman, AZ 86402, A12433.
2. Mohave Electric Co-op, Inc., P.O. Box 711, Kingman, AZ 86401, A 1876.
3. Transwestern Pipeline Co., P.O. Box 1612, Shreveport, LA 71102, A 4545.

Grazing Lessee

4. Albert Bojorquez, P.O. Box 277, Bullhead City, AZ 86430.

Oil and Gas Leases

5. Patrick Petroleum Corporation of Michigan, 950 17th Street, Suite 1655, Denver, CO 80202, A 15592.
6. NCC Energy, Inc., 1300 N. 17th Street, Suite 1300, Rosslyn, VA 22209, A 16981.

T. 19 N., R. 22 W.,

Rights-of-Way

1. Transwestern Pipeline Company, P.O. Box 1612, Shreveport, LA 71102, A 4545.
2. Mohave County Board of Supervisors, P.O. Box 390, Kingman, AZ 86402, A 15807.

Grazing Lessee

3. Albert Bojorquez, P.O. Box 277, Bullhead City, AZ 86430.

Oil and Gas Lease

4. Patrick Petroleum Corporation of Michigan, 950 17th Street, Suite 1655, Denver, CO 80202, A 15593.

T. 21 N., R. 21 W.,

Rights-of-Way

1. Citizens Utilities Company, Hualapai Branch, Box 8128, Kingman, AZ 86401, A 9222.
2. Black Mesa Pipeline, Inc., 610 S. Main Street, Los Angeles, CA 90014, A 438.

Grazing Lessee

3. Florence Landon, P.O. Box 142, Glendora, CA 91740.

Oil and Gas Lease

4. Corbin J. Robertson, 601 Jefferson Street, Cullen Center, Houston, TX 77002.

T. 1 S. R. 23 W.,

Right-of-Way

1. Francisco Grande Development Company, c/o Franklin Gibson, 525 W. Southern, Mesa, AZ 85702, A 11888.

Grazing Lessee

2. Lewis C. Bishop, P.O. Box 111, Ehrenberg, AZ 85334.

Oil and Gas Lease

3. Robert P. Kunkel, 757 Northcliffe Drive, Salt Lake City, UT 84103, A 17133, A 17134.

7. Rights-of-way granted by BLM will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State Law and Land Department procedures (R 12–5–154 D Administrative Rules and Regulations, Arizona State Land Department) provide for the offering to holders of BLM grazing permits the first right to lease lands that are transferred to the State. this constitutes official notice to grazing lessees that their Bureau of Land Management leases will be terminated in part upon transfer of the land to the State of Arizona.

Dated: January 6, 1982.

Raymond G. Evans,

Acting District Manager.

Dated: January 15, 1982.

Gary A. McVicker,

Assistant District Manager.

[FR Doc. 82–2559 Filed 2–1–82; 8:45 am]

BILLING CODE 4310–84–M

[Serial Nos. A 17000–J (Partial), A 17000–K (Partial), A 17000–U (Partial), A 17000–W (Partial)]

Arizona; Classification of Public Lands for State Indemnity Selection

1. The Arizona State Land Department has filed a letter of intent to

acquire and a petition for classification and application to acquire the lands described in paragraph 5 below, under the provisions of the Act of June 10, 1910 (36 Stat. 557), as amended, in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. These applications have been assigned the serial numbers A 17000–J, A 17000–K, A 17000–U, and A 17000–W. This notice applies to portions of the total applications.

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified on or before April 5, 1982. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Arizona may be obtained from the District Manager, Yuma District Office, Bureau of Land Management, P.O. Box 5680, Yuma, Arizona 85364 (602–726–6300) or the District Manager, Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 (602–241–2854).

4. On or before April 5, 1982 all persons who wish to submit comments on the above classification may present their views in writing for consideration to the Phoenix District Manager, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. As provided by Title 43 Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the District Managers if they determine that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this classification are located in Yuma and Mohave Counties, Arizona and are described as follows: (footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Application A 17000–J (Partial); Application A 17000–K (Partial); Application A–17000–U (Partial); Application A 17000–W (Partial).

Gila and Salt River Meridian, Arizona

T. 1 N., R. 23 W.,
Sec. 11, E½, E½W½, E½NW¼SE¼, SW¼SE¼; [1, 2, 3, 5, 6]
Sec. 15, E½SE¼, E½SW¼SE¼; [1, 2, 4, 6]
Sec. 22, NE¼NW¼, S½NW¼, SW¼; [1, 2, 4, 6]
Sec. 28, E½NE¼, SE¼SW¼, NE¼SE¼; [1, 2, 4, 6]
Sec. 33, SW¼SW¼. [1, 2, 4, 6]
Total: Approximately 1,120.00 acres.

T. 2 N., R. 22 W.,
Sec. 3, S½NW¼; [1, 2, 3, 4]
Sec. 4, SE¼SW¼, NE¼SE¼, S½SE¼; [1, 2, 3, 4, 5]
Sec. 8, SE¼NE¼, E½E½SW¼, SE¼; [1, 2, 4, 5]
Sec. 9, W½; [1, 2, 4, 5]
Sec. 17, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼; [1, 2, 4, 5]
Sec. 18, SE¼SE¼SE¼; [1, 2, 4, 5]
Sec. 19, Lots 9, 10, 11, 13, 14, 15, 16, NE¼NE¼, S½NE¼, SE¼; [1, 2, 4, 5]
Sec. 30, Lots 1, 2, 6–10 incl., 12–20 incl.; [1, 2, 4]
Total: Approximately 2,309.81 acres.

T. 3 N., R. 21 W.;
Sec. 4, NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, W½SE¼SW¼SW¼, N½NE¼SE¼SW¼SW¼, N½SE¼SW¼, N½NW¼SW¼SE¼SW¼, E½SW¼SE¼SW¼, SE¼SE¼SW¼; [1, 2, 3, 4, 5, 8, 9]
Sec. 5, SW¼NW¼, S½; [1, 2, 3, 4, 5, 8, 9]
Sec. 6, Lots 6, 7, SE¼NE¼, E½SW¼, SE¼; [1, 2, 3, 4, 5, 8, 9]
Sec. 7, Lots 1, 2, E½NW¼, NE¼; [1, 3, 4, 5, 8, 9]
Sec. 8, N½N½, N½S½N½, SE¼SW¼; [1, 3, 4, 6, 8, 9]
Sec. 9, N½NE¼, E½NE¼NW¼, NE¼NW¼NE¼NW¼, S½NW¼NW¼ NE¼NW¼, S½NW¼NE¼NW¼, SW¼NE¼NW¼, SE¼NW¼NW¼, NW¼NE¼NW¼NW¼, S½NE¼NW¼ NW¼, S½NE¼NE¼NW¼NW¼, W½NW¼NW¼; [1, 3, 6, 7, 8, 9]
Total: Approximately 1,612.65 acres.

T. 3 N., R. 22 W.
Sec. 1, Lots 1, 2, 3, 4, S½N½, S½ (All); [1, 3, 4, 5, 6, 8, 9]
Sec. 12, N½; [1, 8, 9]
Sec. 14, S½NW¼, SW¼; [1, 5, 6, 8, 9]
Sec. 15, Lot 4, E½NE¼, SE¼; [1, 2, 4, 5, 6, 8, 9]
Sec. 22, Lots 1, 5, 6, 9, NE¼, NE¼NW¼, E½SE¼, NW¼SE¼; [1, 2, 8, 9]
Sec. 27, Lots 1, 4, 5, 8, E½E½; [1, 2, 6, 9]
Total: Approximately 2,089.54 acres.

T. 9 N., R. 19 W.
Sec. 1, Lots 1, 2, 3, 4, S½N½, N½S½: [1, 10, 11, 12]
Sec. 3, Lot 7; [10, 13]
Sec. 12, NE¼; [1, 2, 10]
Sec. 14, Lots 5, 6, 7, 8; [4, 5, 6, 7, 8, 9, 10, 13, 14]
Sec. 22, Lot 5; [10, 14]
Sec. 23, Lots 1, 2, 3, 4, E½, E½NW¼, E½SW¼, SW¼SW¼; [10, 14, 15, 16]
Sec. 26, All; [10]
Sec. 27, Lots 5–8, E½SE¼; [10, 14]
Sec. 34, Lots 5–8, NE¼NE¼, S½NE¼, SE¼; [10, 14]
Sec. 35, All; [10]
Total: Approximately 3,206.23 acres.

T. 10 N., R. 18 W.
Sec. 5, Lot 4, SW¼NW¼, SW¼; [1, 7]
Sec. 6, Lots 1, 6, 7; Lots 8, 9, East of Hwy 95. SE¼NE¼, SE¼; [1, 2, 3, 4, 5, 6, 7]
Sec. 7, Lots 1, 2, 3, 4, NE¼, N½SE¼, SW¼SE¼; [1, 7]
Sec. 18, Lot 1, NW¼NE¼; [1, 7]
Total: Approximately 1,211.82 acres.

T. 10 N., R. 19 W.
Sec. 13, NE¼, E½NW¼, SW¼NW¼, W½SW¼; [4, 6]
Sec. 14, Lots 4, 5, 6, NE¼NE¼, SW¼NE¼, NE¼SW¼, SW¼SW¼ all east of Hwy 95; SE¼NE¼, SE¼SW¼, SE¼; [1, 2, 3, 4, 5, 6, 8, 9]
Sec. 22, Lot 5, NE¼NE¼ all east of Hwy 95: SE¼NE¼, NE¼SE¼; [1, 2, 3, 4, 6]
Sec. 34, Lot 7, E½SE¼; [6, 7]
Sec. 35, SW¼; [3, 6]
Sec. 36, SW¼SW¼; [6]
Total: Approximately 1,205.84 acres.

T. 11 N., R. 18 W.
Sec. 13, SW¼SW¼; [1, 2, 3, 4, 5, 6]
Total: Approximately 40.00 acres.

T. 13 N., R. 19 W.
Sec. 20, N½SW¼; [1]
Total: Approximately 80.00 acres.

T. 14 N.. R. 20 W.
Sec. 4, Lot 4, SW¼NW¼, SW¼, SW¼SE¼; [3, 4, 5, 8, 10]
Sec. 5, Lots 1, 2, 3, 4, S½N½, S½; [5, 6, 9]
Sec. 8, All; [5, 6, 7, 8, 10]
Sec. 9, All; [3, 4, 5, 9]
Sec. 27, NE¼; [4, 8, 9]
Sec. 28, NE¼; [1, 2, 9]
Total: Approximately 2,517.21 acres.

T. 15 N., R. 20 W.
Sec. 32, All; [1, 2, 3, 4, 5, 6, 7]
Sec. 33, NW¼, W½SW¼; [1, 2, 3, 4, 5, 6, 7]
Total: Approximately 880.00 acres.

T. 20 N., R. 22 W.
Sec. 20: Lots 5, 6, W½SE¼, SW¼; [1, 2, 3, 4, 5, 6, 7]
Total: Approximately 268.72 acres.

T. 1 S., R. 23 W.
Sec. 6, NE¼SE¼, E½SE¼SE¼; [1, 4, 5, 6]
Sec. 7, E½E½; [1, 2, 6]
Sec. 18, NE¼NE¼, E½SE¼; [1, 2, 6]
Sec. 19. E½NE¼, NE¼SE¼; [1, 3, 6]
Sec. 29, W½NW¼, NW¼SW¼; [1, 2, 7]
Total: Approximately 580.00 acres.

T. 9 S., R. 25 W.
Sec. 24: Lots 1, 3, 4, 5; [1, 2, 3, 6, 7, 8]
Sec. 35: Lots 8, 9, 12, 13, E½SE¼; [1, 2, 3, 4, 5, 6, 8]
Total: Approximately 213.22 acres.

T. 10 S., R. 15 W.
Sec. 2: Lots 12, 15, 16, 17, 19; [1, 2, 3, 4, 5, 6]
Total: Approximately 89.25 acres.

The total acreage described above is approximately 17,424.23 acres.

6. The following listed corporations and individuals are holders of or applicants for leases, permits, withdrawals, and/or rights-of-way on the public lands described in paragraph 5 above:

Gila and Salt River Meridian

All withdrawals hereafter listed are under the management of the Bureau of Reclamation, Lower Colorado Regional Office, P.O. Box 427, Boulder City, Nevada 89005.

T. 1 N., R. 23 W.

Withdrawals

1. SO 1–31–1903: Temporary withdrawal Colorado River Survey.
2. SO 2–19–1929: Colorado River Storage Project.

Grazing Lessees

3. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A, Apt 54, Yuma, AZ 85364.
4. Lewis C. Biship, P.O. Box 111, Ehrenberg, AZ 85334.

Range Improvement

Juanita A. Loomis; Fence; No. 0604

Oil and Gas Lease and Application

Robert P. Kunkel, 757 Northcliffe Drive, Salt lake City, Utah 84103, A–17129, A–17131,
T. 2 N., R. 22 W.

Withdrawals

1. SO 1–31–1903: Temporary withdrawal, Colorado River Survey.
2. SO 2–19–1929: Colorado River Storage Project.

Right-of-Way

3. Southern California Edison Co., P.O. Box 410, Long Beach, CA 90801, A 9878.

Grazing Lessee

4. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A, Apt 54, Yuma, AZ 85364.

Oil and Gas Lease Application

5. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, Utah 84103.
T. 3 N., R. 21 W.

Withdrawals

1. SO 1–31–1903: Temporary withdrawal, Colorado River Survey.

Rights-of-Way

2. American Telephone and Telegraph Co., 74 New Montgomery Street, San Francisco, CA 94119, PHX 083392.
3. Arizona Department of Transportation, 205 So. 17th Avenue, Phoenix, AZ 85007, PHX 079556, PHX 083769, PHX 083770, AR 0330099, A 4343.
4. Arizona Public Service Company, P.O. Box 21666, Phoenix, AZ 85036, A 6223, A 9278, A 9576.
5. Southwestern Telephone Company, P.O. Box 238, Salome, AZ 85348, A 8879, A 9594.
6. El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978, PHX 083225, AR 03819, A 2136, A 3952, A 4476.
7. Mrs. Juanita Loomis, 2150 Avenue A, Apt 54, Yuma, AZ 85364, AR 0351.

Grazing Lessee

8. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A, Apt 54, Yuma, AZ 85364.

Oil and Gas Lease Application

9. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, Utah 84103, A 17107.
T. 3 N., R. 22 W.

Withdrawals

1. SO 1–31–1903: Temporary Withdrawal, Colorado River Survey.
2. SO 1–19–1929: Colorado River Storage Project.

Rights-of-Way

3. Arizona Public Service Company, Box 21666, Phoenix, AZ 85036, A 6223.
4. American Telephone and Telegraph Company, 74 New Montgomery Street, San Francisco, CA 94119, PHX 083392.
5. Arizona Department of Transportation, 205 S. 17 Avenue, Phoenix, AZ 85007, PHX 083773, AR 030099.
6. El Paso Natural Gas Company, Box 1492, El Paso, TX 79978, PHX 083225, AR 033619, A 2136, A 4476.
7. Yuma County Highway Department, 2703 S. Avenue B, Yuma, AZ 85364, R. S. 2477 (Cibola Road).

Grazing Lessee

8. Anita W. Williams and Juanita W. Loomis, c/o Juanita W. Loomis, 2150 Avenue A, Apt 54, Yuma, AZ 85364.

Oil and Gas Lease Application

9. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, UT 84103, A 17174.
T. 9 N., R. 19 W.

Rights-of-Way

1. Bureau of Reclamation, Parker Dam Project, P.O. Box 392, Phoenix, AZ 85073, A 3756, A 7316.
2. Arizona Public Service Company, P.O. Box 21666, Phoenix, AZ 85037, AR 031091.
3. Bureau of Reclamation, Arizona Project Office, 201 N. Central Avenue, Phoenix, AZ 85073, PHX 086406.
4. Parker Amateur Radio Assoc. Inc., Box AF, Parker, AZ 85344, A 7037.
5. Cactus Radio Club, Box 18077, Irvine, CA 92713, A 7037–A.
6. Parker Community Hospital, Box 1149, Parker, AZ 85344, A 7037–B.
7. San Bernardino County, Forestry and Fire Department, 3800 Sierra Way, San Bernardino, CA 92405, A 7037–C.
8. Gilbert Leivas, P.O. Box 774, Parker, AZ 85344, A 7037–D.
9. Continental Telephone Company of CA, 16071 Mojave Drive, Victorville, CA 92392, A 7227.

Grazing Lessee

10. Rober H. and James E. Jones, P.O. Box 924, Parker, AZ 85344.

Cooperative Agreements and Range Improvements

11. Robert H. Jones: Corrals; No. 4530.
12 Robert H. Jones: Windmill and well; No. 4537.
13 Robert H. Jones: Fence; No. 4352
14. Robert H. Jones: Fence; No. 0424.
15. Robert H. Jones: Corral; No. 4531.
16. Robert H. Jones: Well; No. 4538.
T. 10 N., R. 18 W.

Withdrawals

1. SO 10/16/1931; Colorado River Storage Project.

Rights-of-Way

2. U.S. Bureau of Reclamation, Parker Dam Project, P.O. Box 392, Phoenix, AZ 85073, PHX 080583, PHX 085708.
3. Bureau of Indian Affairs, Colorado River Agency, Route 1, Box 9–C, Parker, AZ 85344, AR 02975, A 6929.
4. Continental Telephone Company of California, 16071 Marjorie Drive, Victorville, CA 92392, AR 033005.
5. Arizona Department of Transportation, 205 S. 17th Avenue, Phoenix, AZ 85007, AR 022113.
6. Lagrand D. Hunt, Route 2, Box 665, Parker, AZ 85344, A 16127.

Grazing Lessee

7. Robert H. and James E. Jones, P.O. Box 924, Parker, AZ 85344.
T. 10 N., R. 19 W.

Concession Contracts

8. Fox's Pierpoint Landing, c/o Jerry L. Davis, P.O. Box 646, Parker, AZ 85344, Y 0037.
9. Red Rock Camp Grounds, c/o LaGrand D. Hunt, Route 2, Box 665, Parker, AZ 85344, A 12740.
T. 10 N., R. 19 W.

Withdrawals

1. SO 3/14/1929: Colorado River Storage Project. SO 1/31/1903: Temporary Withdrawal Colorado River Project. SO 9/8/1903: Temporary Withdrawal Colorado River Project.

Rights-of-Way

2. Continental Telephone Company of California, 16071 Marjorie Drive, Victorville, CA 92392, AR 03305, A 7632, A 11568.
3. U.S. Bureau of Reclamation, Parker Dam Project, P.O. Box 392, Phoenix, AZ 85073, PHX 080583, PHX 085708.
4. Bureau of Indian Affairs, Colorado River Agency, Power Section, Rt 1, Box 9–C, Parker, AZ 85344, AR 02975, A 9572, A 14738.
5. Buckskin Fire Department, Rt 1, Box 779, Parker, AZ 85344, A8493.

Grazing Lessee

6. Robert H. and James E. Jones, P.O. Box 924, Parker, AZ 85344,

Cooperative Agreement

7. Robert H. Jones: Fence; No. 4352.
T. 11 N., R. 18 W.

Withdrawals

1. SO 6/4/1930: Colorado River Storage Project.
2. SO 10/16/1931: Colorado River Storage Project.

Rights-of-Way

3. U.S. Bureau of Reclamation, Arizona Projects Office, 2200 Valley Bank Center, Phoenix, AZ 85073, PHX 080802.
4. Yuma County Board of Supervisors, P.O. Box 1112, Yuma, AZ 85364, A 1379.
5. Continental Telephone Company of California, 16071 Marjorie Drive, Victorville, CA 92392, A 11807.

Grazing Lessee

6. Arizona Ranch and Metals Company, c/o Walker Smith, 1518 Walker Bank Building, Salt Lake City, UT 84111.
T. 13 N., R. 19 W.

Grazing Lessee

1. Havasu Heights Ranch and Development Company, c/o John R. Snowberger, 1712 Guaranty Bank, Phoenix, AZ 85012.
T. 14 N., R. 20 W.

Withdrawals

1. SO 10/16/1981: Colorado River Storage Project.
2. SO 6/4/1930: Colorado River Storage Project.

Rights-of-Way

3. U.S. Bureau of Reclamation, Davis Dam Project, 2200 Valley Bank Center, Phoenix, AZ 85073, PHX 01868, PHX 085193.
4. Arizona Department of Transportation, 205 S. 17th Avenue, Phoenix, AZ 85007, A 4315.
5. Citizens Utilities Company, Hualapai Branch, Box 8128, Kingman, AZ 86401, PHX 034352, AR 033292, A 1626, A 7475, A 11483.
6. Southern Union Gas Co., 1800 First International Bldg., Dallas, TX 75270, AR 035651.
7. Mohave County Board of Supervisors, 315 Oak Street, Kingman, AZ 86401, A 11858.
8. Lake Havasu Irrigation and Drainage District, P.O. Box 1070, Kingman, AZ 86401, AR 034058.

Grazing Lessee

9. Havasa Heights Ranch and Development Co., c/o John R. Snowberger, 1712 Guaranty Bank, Phoenix, AZ 85012.

Oil and Gas Lease Application

10. NCC Energy, Inc., 1300 North 17th Street, Suite 1300, Rosslyn, VA 22209, A 10979.
T. 15 N., R. 10 W.

Rights-of-Way

1. Southern Union Gas Co., 1800 First International Bldg., Dallas, TX 75270, AR 035651, AR 035651–A.
2. Arizona Department of Transportation, 205 S. 17th Avenue, Phoenix, AZ 85007, A 4315.
3. U.S. Bureau of Reclamation, Davis Dam Project, 2200 Valley Bank Center, Phoenix, AZ 85073, PHX 085193.
4. Citizen's Utilities Co., P.O. Box 111, Kingman, AZ 86401, PHX 034352, A 7475.
5. Mohave County Board of Supervisors, 315 Oak Street, Kingman, AZ 86401, A 2690, A 4512.

Grazing Lessee

6. Havasu Heights Ranch and Development Company, c/o John R. Snowberger, 1712 Guaranty Bank, Phoenix, AZ 85012.

Oil and Gas Lease

7. J. Charles Hollimon, Suite 620, N. E. Loop 410, San Angelo, TX 78209, A 15364.
T. 20 N., R. 22 W.

Withdrawal

1. SO 10/16/1931: Colorado River Storage Project.

Rights-of-Way

2. Southwest Gas Corporation, 5241 Spring Mt. Road, P.O. Box 15015, Las Vegas, NV 89114, AR 035674.
3. American Telephone and Telegraph Company, 74 New Montgomery Street, San Francisco, CA 94119, AR 033057.
4. El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79999, AR 032213, AR 035765, A 5979.
5. Citizens Utilities Company, P.O. Box 111, Kingman, AZ 86401, AR 032145, A 6380.
6. Mohave Electric Coop Inc., P.O. Box 1045, Bullhead City, AZ 86430, A 8880.
7. Mohave County Board of Supervisors, 315 Oak Street, Kingman, AZ 86401, A 9423, A 9974.
T. 1S., R. 23 W.

Withdrawal

1. SO 3/124/1929: Colorado River Storage Project.

Rights-of-Way

2. Yuma County Highway Department, 2703 South Avenue B, Yuma, AZ 85364, Cibola Road, R.S. 2477.
3. Francisco Grande Development Co., c/o Franklin Gibson, 525 W. Southern, Mesa, AZ 85702, A 11888.

Grazing Lessee

4. Lewis C. Biship, P.O. Box 111, Ehrenberg, AZ 853334.

Range Improvements

5. Lewis C. Biship: Windmill, well, corrals; No. 4146.

Oil and Gas Leases and Applications

6. Joe Lyon, Jr., 600 E. Capitol Street, Salt Lake City, Utah 84003, A 17183, A 17280.
7. Robert P. Kunkel, 757 Northcliffe Drive, Salt Lake City, UT 84103, A 17134.
T. 9 S., R. 25 W.

Withdrawals

1. SO 1/31/1903: Temporary Withdrawal Colorado River Survey.
2. SO 7/2/1902: Temporary Withdrawal Colorado River Survey.
3. SO 7/20/1905: Withdrawal for Yuma Project.

Rights-of-Way

4. U.S. Bureau of Reclamation, Yuma Projects Office, Yuma, AZ 85364, AR 092589, 1919 U.S.R.S. (levee).
5. Arizona Public Service Co., P.O. Box 21666, Station 3172, Phoenix, AZ 85036, A 9953.
6. U.S. Bureau of Reclamation, Lower Colorado Regional Office, P.O. Box 427, Boulder City, NV 89005, PHX 086549.

Agricultural Lease

7. Cocopah Indian Tribe, c/o Robert Barley, P.O. Bin G, Somerton, AZ 85350, 1A–10 (A).

Oil and Gas Lease

8. Inexco Oil Co., 1100 Milam Building, Suite 1900, Houston, TX 77002, A 16836.
T. 10 S., R. 25 W.

Withdrawals

1. SO 1/31/1903: Temporary Withdrawal Colorado River Survey.
2. SO 7/20/1905: Withdrawal for Yuma Project.

Rights-of-Way

3. Arizona Public Service Co., P.O. Box 21666, Station 3172, Phoenix, AZ 85036, A 9883.
4. U.S. Bureau of Reclamation, Lower Colorado Regional Office, P.O. Box 427, Boulder City, NV 89005, PHX 086549.

Agricultural Permit

H. D. and Phillip Sibley, Route 1, Box 147–A, Somerton, AZ 85350.

Oil and Gas Lease

6. Inexco Oil Company, 1100 Milam Building, Suite 1900, Houston, TX 77002, A 16836.

7. Rights-of-way granted by BLM will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State Law and Land Department procedures (R 12–5–154 D Administrative Rules and Regulations, Arizona State Land Department) provide for the offering to holders of BLM grazing permits the first right to lease lands that are transferred to the State. This constitutes official notice to grazing lessees that their Bureau of Land Management leases will be terminated in part upon transfer of the land to the State of Arizona.

Dated: January 11, 1982.

W. K. Barker,

District Manager.

Dated: January 15, 1982.

Gary A. McVicker,

Assistant District Manager.

[FR Doc. 82-2951 Filed 2-1-82; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 22, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 27, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALABAMA

Calhoun County

Anniston, *Parker-Reynolds House*, 330 E. 6th St.

Colbert County

Tuscumbia vicinity, *Belmont*, SE of Tuscumbia

Dale County

Ozark, *Holman, J. D., House*, 409 E. Broad St.

Greene County

Boligee vicinity, *Boligee Hill (Myrtle Hall)* SE of Boligee

Limestone County

Athens, *Old Athens, Alabama Main Post Office*, 310 W. Washington St.
Belle Mina vicinity, *Woodside*, SW of Belle Mina
Mooresville vicinity, *Cave Place*, AL 20

Madison County

Huntsville, *Phelps-Jones House*, 6112 Pulaski Pike

Mobile County

Mobile, *Miller-O'Donnell House*, 1102 Broad St.

Montgomery County

Montgomery, *Sayre Street School*, 506 Sayre St.
Mount Meigs, *Grace Episcopal Church*, Pike Rd.

ARIZONA

Maricopa County

Phoenix, *Hotel Westward Ho*, 618 N. Central Ave.

CALIFORNIA

Los Angeles County

Pasadena, *Longfellow-Hastings House*, 85 S. Allen Ave.
Pomona, *Pomona Fox Theater*, 102–144 3rd St.

Monterey County

Salinas, *Nesbitt, Sheriff William Joseph, House*, 66 Capitol St.

Napa County

Napa, *Old Napa Register Building*, 1202 1st St.

Orange County

Santa Ana, *Walkers Orange County Theater*, 308 N. Main St.

Sacramento County

Folsom, *Folsom Depot*, 200 Wool St.
Sacramento, *Goethe House*, 3731 T St.
Sacramento, *Howe, Edward P., Jr., House*, 2215 21st St.
Sacramento, *Libby McNeill and Libby Fruit and Vegetable Cannery*, 1724 Stockton Blvd.

San Benito County

San Juan Bautista, *Wilcox, Benjamin, House*, 315 The Alameda

San Francisco County

San Francisco, *Trinity Presbyterian Church*, 3261 23rd St.

San Joaquin County

Stockton, *Holt, Benjamin, House*, 548 Park St.
Stockton, *Sperry Office Building*, 146 W. Weber Ave.

San Luis Obispo County

Atascadero, *Archeological Site 4–SLO–634*

Santa Clara County

Morgan Hill vicinity, *Circles of Circles Archeological District*
Palo Alto, *Dunker House*, 420 Maple St.
San Jose, *Building at 27–29 Fountain Alley*
Santa Clara, *Landrum, Andrew J., House*, 1219 Santa Clara St.

Yolo County

Sacramento, *Tower Bridge*, CA 275 across the Sacramento River (also in Sacramento County)

CONNECTICUT

Hartford County

Hartford, *Washington Street School*, 461 Washington St.
Windsor, *Mills, Oliver W., House*, 148 Deerfield Rd.

New London County

Salem, *Fish, Abel H., House*, Buckley Hill and Rathbun Hill Rds.

INDIANA

Huntington County

Huntington vicinity, *LaFolier, Madame Margaret, House*, 3 mi. W of Huntington on U.S. 24

Marion County

Indianapolis, *Glossbrenner, Alfred M., Mansion*, 3202 N. Meridian St.
Indianapolis, *Merchants National Bank and Annex*, 11 S. Meridian St. and 7 E. Washington St.

Monroe County

Bloomington, *Abel, Elias, House*, 317 N. Fairview St.

Porter County

Valparaiso, *Immanuel Lutheran Church*, 308 N. Washington St.

Rush County

Rushville, *Durbin Hotel*, 137 W. 2nd St.

Steuben County

Fremont, *Michael, Enos, House*, 200 E. Toledo St.

Tippecanoe County

Lafayette, *Temple Israel*, 17 S. 7th St.

IOWA

Clayton County

McGregor, *Reynolds, Joseph "Diamond Jo", Office Building and House*, A and Main Sts.

Woodbury County

Sioux City, *Badgerow Building*, 622 4th St.

KANSAS

Douglas County

Lawrence, *Stephens, Judge Nelson T., House*, 340 N. Michigan St.

McPherson County

Marquette, *Hanson, Hans, House*, 211 E. 5th St.

Shawnee County

Topeka, *Central Motor and Finance Corporation Building*, 222 W. 7th St.
Topeka, *Woman's Club Building*, 420 W. 9th St.

Sumner County

Oxford vicinity, *Old Oxford Mill*, NE of Oxford

Wyandotte County

Kansas City, *Westheight Manor Historic District*, Roughly bounded by State and Wood Aves., 18th and 25th Sts. (Boundary increase)

MAINE

Cumberland County

Freeport, *Mallett, E. B., Office Building*, Mill St.

Hancock County

Bar Harbor, *Reverie Cove*, Harbor Lane

Kennebec County

Augusta, *Bangs, Algernon, House*, 16 E. Chestnut St.
Waterville, *Lombard, Alvin O., House*, 65 Elm St.
Waterville, *Professional Building*, 177 and 179 Main St.

Knox County

Camden, *American Boathouse*, Atlantic Ave.
Camden, *Norumbega Carriage House*, High St.
Vinalhaven, *Star of Hope Lodge*, Main St.

Lincoln County

Waldoboro, *Hutchins House*, 77 Main St.

Penobscot County

Kingman, *Kingman, Ramanzo, House*, Main St.

Piscataquis County

Guilford, *Straw House*, Golda Ct.

Somerset County

Skowhegan, *Bloomfield Academy*, Main St.
Skowhegan, *Gould House*, 31 Elm St.
Skowhegan, *Skowhegan Historic District*, Water and Russell Sts. and Madison Ave.

Waldo County

Islesboro vicinity, *Archeological Site No. 29–64*

Washington County

Cherryfield, *Cherryfield Academy*, Main St.

York County

Kennebunkport vicinity, *Clock Farm*, ME 9 and Goose Rocks Rd.
Ocean Park, *Ocean Park Historic Buildings*, Temple Ave.
Parsonfield vicinity, *Blaze-Leavitt House*, ME 160

MINNESOTA

Rice County

Faribault, *Cathedral of Our Merciful Saviour and Guild House*, 515 NW. 2nd Ave.

Scott County

New Prague, *St. Wenceslaus Church Complex*, E. Main St.

Washington County

Lakeland, *Jackson, Mitchell, Farmhouse*, 16376 7th St. Lane South

Stillwater, *Hersey, Roscoe, House*, 416 S. 4th St.
Stillwater, *Wolf, Joseph, Brewery*, 402–414 S. Main St. and 211 E. Nelson St.

NEW HAMPSHIRE

Hillsborough County

Hillsborough Center, *Barnes, Jonathan, House*, North Rd.

NEW MEXICO

Bernalillo County

Albuquerque, *Hudson House*, 817 Gold Ave., SW.
Albuquerque, *Washington Apartments*, 1002–1008 Central Ave., SW.

UTAH

Cache County

Smithfield, *Douglass Dry Goods and Merchantile*, 100 S. Main St.

Utah County

Lehi, *Lehi City Hall*, 51 N. Center St.
Provo, *Provo Train Station*, 301 W. 600 South St.

VIRGIN ISLANDS

St. John Island

Maho Bay vicinity, *Francis Bay Archeological Site*
Maho Bay vicinity, *Petroglyph Site*

WASHINGTON

Clark County

Battle Ground vicinity, *Green, Albert and Letha, House and Barn*, 25716 NE. Lewisville Hwy.

King County

Median, *Eddy, James G., House and Grounds*, 100 Evergreen Point Rd.
Renton vicinity, *Newcastle Cemetery, N of Renton*
Seattle, *Wagner Houseboat (The Old Boathouse)* 2770 Westlake Avenue North

Pierce County

South Prairie, *Bisson, William, House*, Washington and Emery Sts.
Tacoma, *Bootman-Ainsworth House*, 6000 112th St., SW.

Walla Walla County

College Place vicinity, *Saturno-Breen Truck Garden*, E of College Place
Walla Walla, *Small-Elliott House*, 314 E. Poplar St.

Whatcom County

Bellingham, *Leopold Hotel*, 1224 Cornwall Ave.

WEST VIRGINIA

Taylor County

Grafton, *Grafton National Cemetery*, 431 Walnut St.

[FR Doc. 82-2598 Filed 2-1-82; 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

Establishment of Organizations

This notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1). The Secretary of the Interior has issued an order establishing two new organizational units, namely, a Minerals Management Board and a Minerals Management Service. The Minerals Management Service will carry out the functions formerly assigned to the Conservation Division of the Geological Survey. The order making this organization change is published in its entirety below.

Additional information may be obtained from Richard R. Hite, Deputy Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240, telephone 343–4502.

Dated: January 22, 1982

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

January 19, 1982.

Order No. 3071

Subject: Establishment of the Minerals Management Board and the Minerals Management Service

Sec. 1 *Purpose.* This order establishes a Minerals Management Board and a Minerals Management Service which will be under the supervision of the Under Secretary. The purpose of this action is to improve the management of and provide greater management oversight and accountability for the minerals related activities previously carried out by the Conservation Division of the Geological Survey.

Sec. 2 *Authority.* This order is issued in accordance with the authority provided by Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 3 *Minerals Management Board.* There is hereby established a Minerals Management Board which will be chaired by the Under Secretary. Other members of the Board will be the Assistant Secretary—Energy and Minerals, and the Assistant Secretary—Policy, Budget and Administration. The Board will supervise and oversee the operations of the Minerals Management Service established in Section 4 of this order; develop appropriate policy and guidelines to implement the approved recommendations and findings of the Commission on Fiscal Accountability of the Nation's Energy Resources; and monitor program activities directed toward the improvement of the royalty management program.

Sec. 4 *Minerals Management Service.* There is hereby established a Minerals Management Service whose Director shall be under the supervision of the Minerals Management Board established in Section 3 above. All of the functions of the Conservation Division shall be exercised by the Minerals Management Service. The name Conservation Division is abolished. The Minerals Management Service will carry out the functions previously exercised by the Conservation Division and implement new policy and guidance developed by the Minerals Management Board.

Sec. 5 *Administrative Provisions.* The Director, Geological Survey will continue to provide administrative support (i.e., fiscal, personnel, property, procurement, etc.) to the Minerals Management Service.

Sec. 6 *Management Review.* By December 31, 1982, the Minerals Management Board will conduct a review with the purpose of restructuring the Minerals Management Service. The Board will also provide the Secretary with recommendations on the permanent disposition of its management and oversight functions.

Sec. 7 *Effective Date.* This order is effective immediately.

Dated: January 19, 1982

James G. Watt,

Secretary of the Interior.

[FR Doc. 82-2666 Filed 2-1-82; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-18

Decided: January 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 14252 (Sub-85), filed January 15, 1982. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same address as applicant) (614) 239-6000. Transporting *general commmodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with J. C. Penney Company, Incorporated, of New York, NY.

MC 100892 (Sub-14), filed January 5, 1982. Applicant: TRANS-SOUTHWEST CARRIERS, INC., 1074 South 500 West, Salt Lake City, UT 84101. Representative: Billy L. Lindsey (same address as applicant) (801) 974-0600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S., in and west of MN, SD, NE, KS, OK and TX (except AK and HI).

MC 107012 (Sub-759), filed January 11, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant) (219) 429-2234. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Motorola, Inc., of Schaumburg, IL.

MC 118612 (Sub-17), filed January 7, 1982. Applicant: COLUMBIA TRUCKING, INC., 700 131st Pl., Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601; 312-332-5100. Transporting *petroleum or coal products*, between points in Lake County, IN, on the one hand, and, on the other, points in Madison County, IL.

MC 138782 (Sub-5), filed January 5, 1982. Applicant: KY. T.O.F.C. DELIVERY SERVICE, INC., P.O. Box 30, Princeton, KY 42445. Representative: William L. Willis, Suite 708, McClure Bldg., Frankfort, KY 40601 (502) 227-7384. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, KY, MO and TN.

MC 142543 (Sub-7), filed January 11, 1982. Applicant: L. D. FONTAINE, d.b.a. FONTAINE TRUCKING, 504 Riverview Blvd., Great Falls, MT 59404. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701 (208) 343-3071. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in ID, MT, OR, and WA, on the one hand, and, on the other, points in AZ, CA, ID, IA, MN, MT, NE, ND, OR, TX, UT, WA, and WI.

MC 144669 (Sub-14), filed January 15, 1982. Applicant: GLENN'S TRUCK SERVICE, INC., #1 Produce Row, St. Louis, MO 63102. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244-2329. Transporting *rubber products*, between Cape Girardeau, MO, on the one hand, and, on the other, points in the U.S.

MC 147402 (Sub-10), filed January 5, 1982. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345 (404) 321-1765. Transporting *vitamins, cosmetics, nutritional products and cleaning compounds* between points in Fulton and DeKalb Counties, GA, on the one hand, and, on the other, points in NC, SC and TN.

MC 149343 (Sub-2), filed December 18, 1981. Published in the Federal Register issue of January 14, 1982, and republished, as corrected, this issue. Applicant: SOUTHERN PRIDE TRUCKING, INC., P.O. Box 84000, San Diego, CA 92138. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501; 515-682-8154. Transporting (1) *aircraft engines, turbines, parts and accessories and ground support equipment*, between points in Maricopa County, AZ, Denver, CO, Miami, FL, Atlanta, GA, Minneapolis-St. Paul, MN, Portland, OR, Salt Lake City, UT, Seattle, WA, and points in CA, on the one hand, and, on the other, points in the U.S., (2) *machinery*, between points in CA, on the one hand, and, on the other, points in the U.S., and (3) *Displays, display equipment and materials, equipment and supplies* used in connection with the setting up of displays, between points in the U.S.

Note.—The purpose of this republication is to correct the commodity description.

MC 152813, filed January 11, 1982. Applicant: FRESH EXPRESS, INC., 55 Produce Row, St. Louis, MO 63103. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501; (402) 475-6761. Transporting *cleaning and washing products, toilet preparations, and food and related products*, between the facilities of Lever Bros. Co., at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154732 (Sub-1), filed January 7, 1982. Applicant: HARPER TRANSPORT, INC., 3313 Concord Corner, Conyers, GA 30208. Representative: Clayton R. Byrd, 2870 Briarglen Dr., Doraville, GA 30340; 404-491-1696. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Cougar Oil, Inc., of Selma, AL.

MC 155793 (Sub-2), filed January 7, 1982. Applicant: CALIFORNIA/NEVADA BIG VALLEY EXPRESS, INC.,

2455 Walton Avenue, Central Valley, CA 96019. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882–5649. Transporting *general commodities* (except household goods) between points in Washoe County, NV and Tehama, Trinity, Modoc, Plumas, Lassen and Shasta Counties, CA. Conditions: Any certificate issued in this proceeding to the extent that it authorizes the transportation of classes A and B explosives, shall be limited in term to a period expiring 5 years from its date of issuance.

MC 158742, filed January 13, 1982. Applicant: COLUMBIAN EXPRESS CO., INC., P.O. Box 123, Reading, PA 19603. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, DC 20036, (202) 659–5157. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of hardware, between points in Berks County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159982, filed January 8, 1982. Applicant: O.L. EXPRESS, LTD., Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309; 515–282–3525. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 160002, filed January 7, 1982. Applicant: MITSUILINE TRAVEL SERVICE OF AMERICA, INC., 345 East Second St., Los Angeles, CA 90012. Representative: Richard G. Wallace, 555 South Flower St., 26th Fl., Los Angeles, CA 90071, 213–680–2222. As a *broker* at Los Angeles, CA, and New York, NY, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in special and charter operations, beginning and ending at New York, NY, and points in CA, and extending to points in the U.S.

Volume No. OP3–016

Decided: January 27, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 89455 (Sub-12), filed January 19, 1982. Applicant: M. H. HILLERY, INC., 90 Western Ave., Allston, MA 02134. Representative: Robert L. Cope, 1730 M St., NW., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Seacoast Shippers Association, Inc., of Allston, MA.

MC 117384 (Sub-12), filed January 19, 1982. Applicant: DAVIDSON BROTHERS, R.D. Route 3, Bellefonte, PA 16823. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, Va. 22101, (703) 893–4924. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in CT, DE, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, on the one hand, and, on the other, points in the U.S.

MC 119315 (Sub-37), filed January 19, 1982. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Stephen L. Oliver, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives), between points in OH, MI, IN, and IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 123744 (Sub-99), filed January 19, 1982. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. Second St., Clearfield, PA 16830, (814) 765–9611. Transporting *metals and metal products*, between points in the U.S., under continuing contract(s) with Metal Purchasing Co., Inc., of New York, NY.

MC 130475 (Sub-1), filed January 20, 1982. Applicant: YORK TOURS, 345 No. Bartlett, Medford, OR 97501. Representative: Eleanor B. York (same address as applicant), (503) 779–7571.Transporting *passengers and their baggage*, in charter and special operations, between points in the U.S.

MC 141914 (Sub-106), filed January 18, 1982. Applicant: FRANKS AND SON, INC., Rt. 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant), (918) 783–5180.Transporting *such commodities* as are dealt in or used by office supply houses, between points in Dallas County, TX, Middlesex County, MA, Wayne County, MI, Camden County, NJ and Cook County, IL, on the one hand, and, on the other, points in the U.S.

MC 142064 (Sub-7), filed January 18, 1982. Applicant: CAROLINA CARPET CARRIERS, INC., P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with J. C. Penney Co., Inc., of New York, NY, Texize Division of Morton Norwich Inc., of Greenvile, SC, and Foremost McKesson, of Jersey City, NJ.

MC 144474 (Sub-4), filed January 20, 1982. Applicant: MORGAN MOVING & STORAGE, INC., 301 North St., Booneville, MS 38829. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, (1) between points in AL, AR, DE, FL, GA, IL, IN, KS, KY, LA, MD, MI, MS, MO, NJ, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC; and (2) between points named in (1) above, on the one hand, and, on the other, points in AZ, CA, CO, CT, ID, IA, ME, MA, MN, MT, NE, NV, NH, NM, NY, ND, OR, SD, UT, VT, WA, and WY.

MC 145494 (Sub-15), filed January 18, 1982. Applicant: EDINA CARTAGE CO., P.O. Box 42, Front St., Mauricetown, NJ 08329. Representative: Laurence J. Distefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332, (609) 825–1400, Ext. 2414. Transporting *food and related products*, between Philadelphia, PA, on the one hand, and, on the other, points in the U.S.

MC 146624 (Sub-2), filed January 15, 1982. Applicant: MILLER BROS. TRUCKING, INC., 800 Cherry St., Liberty Center, OH 43532. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting (1) *containers and container closures*, (2) *glassware*, (3) *packaging products*, (4) *container components*, and (5) *scrap materials*, between points in Lucas County, OH, on the one hand, and, on the other, points in MI.

MC 146724 (Sub-9), filed January 18, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 S. 2200 W., West Jordan, UT 84084. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and related products* (except commodities in bulk), (1) between Salem, OR, Kennewick, WA, points in Marion County, OR, Benton and Snohomish Counties, WA, Santa Clara, Santa Cruz, Stanislaus and Ventura Counties, CA, and Nez Perce County, ID, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MN, MO, NE, NV, NM, ND, OK, OR, SD, TX, UT and WA, and (2) between points in Salt Lake County, UT, on the one hand, and, on the other, points in CO, IA, KS, MN, MO, NE and SD.

MC 147354 (Sub-3), filed January 15, 1982. Applicant: FAUBION TRUCK LINES, INC., P.O. Box 5795, Alexandria, LA 71301. Representative: Donald Sharp, P.O. Box 6118, Alexandria, LA 71301, (318) 445–6471. Transporting (1) *beer,* (2) *food and related products,* and (3) *lubricating oil,* between points in the U.S. under continuing contracts with (a) Venture Marketing Corporation, and Coors of Central Louisiana, Inc., both of Alexandria, LA, (b) Joan of Arc Company, of Peoria, IL, and Bruce Foods Corporation, of New Iberia, LA, and (c) Westland Oil Company, of Shreveport, LA.

MC 150724 (Sub-7), filed January 20, 1982. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., Youngstown, OH 44515. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting *food and related products,* between points in Hillsboro County, FL and New Castle County, DE, on the one hand, and, on the other, points in MD, PA, OH, NY, IN, IL, TN, KY, and WV.

MC 152905 (Sub-3), filed January 15, 1982. Applicant: DWAN'S MOVING & STORAGE CO., INC., 207 Hawthorne Ave., St. Joseph, MI 49085. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *electronic equipment,* between points in the U.S., under continuing contract(s) with Heath Company of St. Joseph, MI.

MC 153314 (Sub-5), filed January 15, 1982. Applicant: M & D TRANSPORTATION, INC., P.O. Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of hydrotherapy spas and swimming pool products (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 156384 (Sub-1), filed January 18, 1982. Applicant: TRANSPO, INCORPORATED, 9 Mill Plain Rd., Danbury, CT 06810. Representative: Sidney J. Leshin, 3 E. 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers and their baggage* in special operations, beginning and ending at points in Fairfield County, CT, Putnam and Dutchess Counties, NY, and extending to points in Westchester County, NY, and Fairfield County, CT.

MC 159555, filed January 19, 1982. Applicant: L. E. BLAIR TRUCKING, P.O. Box 247, Potosi, MO 63664. Representative: Lawrence E. Blair (same address as applicant), (314) 438–3602. Transporting *ore and ore concentrates,* in bulk, between points in Washington County, MO, on the one hand, and, on the other, points in AR, IL, KS, LA, OK, and TX.

MC 159735, filed January 19, 1982. Applicant: J.N.B. CARRIERS, INC., 11 Mount Marcy Ave., Farmingdale, NY 11738. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with E.Z.EM Company, Inc. of Westbury, NY.

MC 159845, filed January 18, 1982. Applicant: TRANSPORT SOUTH, INC., 2825 Cumberland Parkway, Suite 100, Atlanta, GA 30339. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326. Transporting *general commodities* (except household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with Racetrac Petroleum, Inc., of Atlanta, GA.

Note.—To the extent the authority granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 160124, filed January 15, 1982. Applicant: FAST MOTOR EXPRESS, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, KY, MO, IA, MN, WI, MI and OH.

MC 160134, filed January 14, 1982. Applicant: A TOUR CENTRE, 3825 Coronado Avenue, San Diego, CA 92107. Representative: David B. Rosenman, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. As a *broker,* at San Diego County, CA, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in the U.S.

MC 160145, filed January 20, 1982. Applicant: TOMMIE STEVENS, d.b.a. NATIONAL WRECKER SERVICE, 1517 Pine St., Abilene, TX 79601. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207, (512) 476–6391. Transporting *transportation equipment,* in wrecker service, between points in Archer, Baylor, Borden, Brown, Coke, Callahan, Coleman, Comanche, Concho, Cottle, Dickens, Earth, Eastland, Fisher, Foard, Garza, Glasscock, Hamilton, Haskell, Howard, Irion, Jack, Jones, Kent, King, Knox, McCulloch, Menard, Mills, Mitchell, Noland, Palo Pinto, Runnels, San Saba, Schleicher, Scurry, Shackelford, Stephens, Sterling, Stonewall, Taylor, Throckmorton, Tom Green, Wilbarger and Young Counties, TX, on the one hand, and on the other, points in the U.S.

MC 160165, filed January 18, 1982. Applicant: APACHE WELLS TOUR CLUB, INC., 2348 N. 56th St., Mesa, AZ 85205. Representative: Howard L. Willcox (same address as applicant), (602) 832–3028. As a *broker,* at Mesa, AZ, in arranging for the transportation of *passengers and their baggage,* by motor vehicle, in charter and special operations, between points in AZ on the one hand, and, on the other, points in the U.S..

Volume No. OP4–26

Decided: January 26, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 64806 (Sub-20), filed January 18, 1982. Applicant: R. P. THOMAS TRUCKING COMPANY, INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrel Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 632–5658. Transporting *pulp, paper and related products; containers; container closures, ends, and components; glassware; packaging products;* and *scrap material,* between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 74416 (Sub-35), filed January 19, 1982. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005, (202) 296–3555. Transporting *metal products,* between those points in the U.S. in and east of MN, IA, MI, AR, and LA.

MC 93396 (Sub-5), filed January 19, 1982. Applicant: YELLOW LIMOUSINE SERVICE, INC., 8001 Roosevelt Blvd., Philadelphia, PA 19152. Representative: Louis J. Carter, 7300 City Line Ave., Philadelphia, PA 19151, (215) 879–8665. Transporting *passengers and their baggage,* limited to the transportation of not more than 11 passengers (except the driver), in one vehicle at one time, between points in Montgomery and Bucks Counties, PA, on the one hand, and, on the other, points in NY, NJ, MD, and DC.

MC 94876 (Sub-21), filed January 18, 1982. Applicant: RICHARD ACERRA, INC., 38–39 Vernon Blvd., Long Island City, NY 11101. Representative: J. Aiden Connors, 325 East 201 St., New York, NY 10458, (212) 733–6965. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of WI, IL, KY, TN

and MS, under continuing contract(s) with Drake Bakeries, of Wayne, NJ, Casal Distributors, Inc., of Long Island City, NY, F.A.O. Schwarz, Inc., of New York, NY, Nabisco, Inc., of East Hanover, NJ, Interstate Safety Lines, Inc., of Newtonville, MA, and Nabisco Brands, Inc., of New York, NY.

MC 109376 (Sub-24), filed January 18, 1982. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Louisiana Pacific Corporation, of Hayward, WI.

MC 140686 (Sub-5), filed January 18, 1982. Applicant: VSM TRUCKING, INC., 211 South Main St., Abingdon, IL 61410. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *plumbers' goods, bathroom and lavatory fixtures, plate and sheet steel*, between points in the U.S., under continuing contract(s) with Briggs Manufacturing Co., a Division of the Celotex Corporation, of Tampa, FL.

MC 151036 (Sub-6), filed January 12, 1982. Applicant: DECATUR TRANSIT, INC., 161 First Avenue N.E., Decatur, AL 35601. Representative: Eric G. Hancock same address as applicant), (205) 353–.301. Transporting *salt and salt products*, between points in Morgan County, AL, on the one hand, and, on the other, points in AR, FL, GA, KY, LA, MS, NC, SC, TN, and VA.

MC 159556 (Sub-1), filed January 12, 1982. Applicant: COLE TRUCK LINE, INC., 9106 Talton, Houston, TX 77078. Representative: Claude W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–6156. Transporting *automobile and truck parts, accessories and supplies*, between points in Harris and Travis Counties, TX, on the one hand, and, on the other, points in the U.S.

Volume No. OP4–27

Decided: January 26, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 154436 (Sub-3), filed January 18, 1982. Applicant: MARILYN THOMAS, d.b.a. MAT TRUCKING, 2604 W. Pleasant Ridge Rd., Arlington, TX 76016. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with Plastics Manufacturing Company, of Dallas, TX.

MC 158366 (Sub-1), filed January 19, 1982. Applicant: GUY A. GRANGER, d.b.a. GRANGER TRUCKING CO., 10203 64th Ave. So., Seattle, WA 98178. Representative: Guy A. Granger (same address as applicant), (206) 725–0554. Transporting *lumber and wood products*, between points in Grays Harbor County, WA, on the one hand, and, on the other, points in Orange and Los Angeles Counties, CA.

MC 160106, filed January 18, 1982. Applicant: A & L TRUCKING, ING., 145 N. 3rd St., Beech Grove, IN 46107. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46248, (317) 846–6655. Transporting *food and related products* between points in IA, IN, and KY.

MC 160146, filed January 18, 1982. Applicant: JHJ TRUCKING COMPANY, INC., 333 North Belt East, Suite 620, Houston, TX 77060. Representative: Donald R. Looper, 1100 Milam, Suite 1600, Houston, TX 77002, (713) 651–1300. Transporting *mercer commodities*, between points in MS, AL, LA, OK, and TX.

MC 160176, filed January 19, 1982. Applicant: JONES FOOD DISTRIBUTORS, INC., 450 S. Locust St., Twin Falls, ID 83301. Representative: Paul M. Beeks, P.O. Box 508, Twin Falls, ID 83301, (208) 733–6684. Transporting *wine, beer, and nonalcoholic mixes*, between points in CA, on the one hand, and, on the other, points in ID, under continuing contract(s) with Golden Beverage, of Twin Falls, ID, and Wood River Beverage Corp., of Hailey, ID.

Volume No. OP5–15

Decided: January 22, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–568, filed September 9, 1981, previously noticed in the FR issue of September 30, 1981. Applicant: MISSION INTERNATIONAL, INC., 6750 Federal Blvd., Lemon Grove, CA 92045. Representative: Leonard J. Pellman (same address as applicant), (714) 287–4510. As a *freight forwarder* of (a) *used household goods*, (b) *unaccompanied baggage*, and (c) *used automobiles*, between points in the U.S.

Note.—This republication changes the territorial description of the previous publication.

MC 52858 (Sub-130), filed January 13, 1982. Applicant: CONVOY COMPANY, 3900 N. W. Yeon Ave., Portland, OR 97210. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Los Angeles, CA 90017, (213) 627–8471. Transporting *transportation equipment* between points in the U.S., under continuing contract(s) with Toyota Motor Sales, U.S.A., Inc., of Torrance, CA.

MC 72069 (Sub-43), filed January 12, 1982. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, DC 20005, 202–296–3555. Transporting *food and related products*, between points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 109448 (Sub-40), filed January 11, 1982. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *food and related products*, between Toledo, OH and points in Lorain County, OH, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 113388 (Sub-136), filed January 12, 1982. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, D.C. 20005, 202–296–3555. Transporting *food and related products*, between points in the U.S. (Including AK but excluding HI).

MC 123178 (Sub-9), filed January 12, 1982. Applicant: COLUMBIA COACHWAYS, INC., 6112 Fruit Valley Rd., Vancouver, WA 98660. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, 503–226–6491. Transporting *passengers and their baggage* in the same vehicle with passengers, beginning and ending at points in Clackamas, Clatsop, Columbia, Multnomah, and Washington Counties, OR; and Clark Cowlitz, Pacific and Wahkiakum Counties, WA, and extending to points in the U.S. (except HI).

MC 124599 (Sub-1), filed January 11, 1982. Applicant: GIUFFRE BROS. BUS CO., INC., d.b.a. BROWN COACH, R.D. #5, Amsterdam, NY 12010. Representative: Neil D. Breslin, 11 North Pearl St., Albany, NY 12207, 518–434–1136. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Schenectady, Herkimer and Clinton Counties, NY, and extending to points in the U.S. (including AK but excluding HI).

MC 126159 (Sub-12), filed December 14, 1981, previously noticed (republication) in Federal Register on January 14, 1981. Applicant: APACHE EXPRESS, LTD., P.O. Box 341, Lannon, WI 53046. Representative: Richard C.

Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *salt and salt products,* between Chicago, IL, Duluth, MN, Dubuque, IA, points in Porter County, IN, and points in WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MO, MN, NE, ND, SD, and WI.

Note.—Purpose of republication is to correct territorial description.

MC 133178 (Sub-6), filed January 11, 1982. Applicant: PAPER CARGO CORPORATION, P.O. Box 13, Grandville, MI 49418. Representative: Gregory G. Prasher, 500 Calder Plaza, Grand Rapids, MI 49503, (616) 459–9487. Transporting *paper and related products* between points in the U.S., under continuing contract(s) with Corrugated Supplies Corporation of Chicago, IL.

MC 134888 (Sub-11), filed December 29, 1981. Applicant: MOROSA BROS. TRANSPORTATION CO., 4800 Stine Road, Bakersfield, CA 93309. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483–4700. Transporting (1) *fire protection equipment,* between points in Kern County, CA, on the one hand, and, on the other, points in CA, NV, and AZ, (2) *petroleum coke,* between points in Kern County, CA, on the one hand, and, on the other, points in AZ, AR, LA, NM, OK, and TX, and (3) *liquid feed,* between points in Kern County, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

MC 136429 (Sub-3), filed December 31, 1982. Applicant: FRANK A. HOFFMAN TRUCKING COMPANY, INC., 410 Predmore Ave., Lanoka Harbor, NJ 08734. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between New York, NY, Philadelphia, PA, and points in NJ.

MC 136818 (Sub-141), filed January 8, 1982. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 5601 W. Mohave, Phoenix, AZ 85031. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008, (602) 275–3124. Transporting *such commodities* as are dealt in or used by wholesale, retail, and chain grocery and food business houses, hardware, discount, drug, variety, and department stores, between points in the U.S. (except AK and HI).

MC 138828 (Sub-10), filed January 12, 1982. Applicant: MAPLEWOOD EQUIPMENT COMPANY, 419 Anderson Ave., Fairview, NJ 07022. Representative: John F. Ward, McCarter Hwy & Market St., P.O. Box 10009, Newark, NJ 07101, (201) 648–6908. Over regular routes, transporting *passengers and their baggage and express,* in the same vehicle with passengers, (1) between Butler and Wayne, NJ: From junction NJ Hwy 23 and Kiel Avenue, Butler, over NJ Hwy 23 to junction NJ Hwy 23 and Black Oak Ridge Road, Wayne, NJ; (2) between Riverdale and Pompton Lakes, NJ: From junction Newark-Pompton Turnpike and Paterson-Hamburg Turnpike, Riverdale, over Paterson-Hamburg Turnpike to junction Wanaque Avenue, then over Wanaque Avenue to junction Colfax Avenue; then over Colfax Avenue to junction Lakeside Avenue, then over Lakeside Avenue to junction Wanaque Avenue, then over Wanaque Avenue to junction Colfax Avenue, Pompton Lakes, and return over the same route; (3) between points in Wayne, NJ: From junction Black Oak Ridge Road and Newark-Pompton Turnpike over Newark-Pompton Turnpike to junction NJ Hwy 23; (4) between points in Wayne and Hackensack, NJ, serving junction Interstate Hwy 80 and NJ Hwy 17 for joinder purposes: From junction Paterson-Hamburg Turnpike and Valley Road, Wayne, over Valley Road, French Hill Road, and Riverview Drive to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction NJ Hwy 23, then over NJ Hwy 23 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction NJ Hwy 17, Hackensack, and return over the same route; (5) between points in Totowa, NJ: From junction Riverview Drive and Minnisink Road over Minnisink Road, Furler Street, and Union Boulevard to junction Interstate Hwy 80, and return over the same route; (6) between Pompton Lakes and Oakland, NJ, serving no intermediate points except for joinder at junction Skyline Drive and West Oakland Avenue in Oakland: From junction Wanaque Avenue and Colfax Avenue, Pompton Lakes, over Colfax Avenue and West Oakland Avenue to junction West Oakland Avenue and Skyline Drive, Oakland, NJ, and return over the same route, serving all intermediate points in routes (1) through (5)

MC 139858 (Sub-46), filed January 5, 1982. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Chandler L. van Orman, 1729 H St., NW., Washington, DC 20006, (202) 337–6500. Transporting *paper and related products* between points in the U.S., under continuing contract(s) with Orchids Paper Products/Concel, Inc., of La Palma, CA, and its subsidiaries, Ponderosa Paper Products Co., of Flagstaff, AZ, and Robel Tissue Mills, Inc., and Belco Tissue Mills, Inc., both of Pryor, OK.

MC 142189 (Sub-53), filed January 11, 1982. Applicant: C. M. BURNS, d.b.a. WESTERN TRUCKING, P. O. Box 980, Baker, MT 59313. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402, (612) 340–0808. Transporting *metal products,* between points in the U. S. in and west of OH, KY, TN, and MS.

Volume No. OP5–16

Decided: January 22, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 143259 (Sub-5), filed January 11, 1982. Applicant: TOM DURKIN TRUCKING, 36 East Chestnut St., Walla Walla, WA 99362. Representative: Steve Van Wyk, 12012 NE Lonetree, Poulsbo, WA 98370, (206) 779–5789. Transporting *general commodities* (except classes A and B explosives) between points in Walla Walla, Columbia, Benton, Franklin, Grant, and Adams Counties, WA, and Umatilla, Union, and Morrow Counties, OR, on the one hand, and, on the other, points in the U.S.

MC 145748 (Sub-4), filed November 30, 1981, previously noticed in (REPUBLICATION) the **Federal Register** on December 18, 1981. Applicant: MEYERS TRANSFER, INC., Rt. 64, East, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603, (312) 236–0548. Transporting *machinery* and *machine parts,* between points in the U. S., under continuing contract(s) with Swenson Spreader, of Lindenwood, IL.

Note.—Purpose of republication is to show applicant's correct name and zip code.

MC 154789 filed January 12, 1982. Applicant: WHETSTONE CORPORATION, 615 E. Research Rd., Richmond, VA 23235. Representative: James R. Whetstone (same address as applicant), (804) 644–3460. Transporting *commodities,* the transportation of which, because of size or weight, require the use of special equipment, between points in the U.S., under continuing contract(s) with Bristol Steel and Iron Works, Inc., of Richmond, VA.

MC 155118 (Sub-2), filed January 12, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper (same address as applicant), (312) 298–8800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Visual Design Mfg. Co., of League

City, TX, Equitable Bag Co., Inc., of Orange, TX, Arvin Industries, Inc., of Columbus, IN, Libbey Glass Division of Owens-Illinois, Inc., of Toledo, OH, GTE Products Corporation of Seymour, IN, Disney Tire Company, of Louisville, KY, Gay Toys, Inc., of Walled Lake, MI, and Sparton Industries, of Brownstown, IN.

MC 158738, filed January 6, 1982. Applicant: LLOYD C. BYRD, d.b.a. OVERLAND FREIGHT LINES, 25 S.W. 10th St., Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, 405–528–3884. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and Commodities in bulk), (1) between Oklahoma City, OK, and the junction of Interstate Hwy 35 and U.S. Hwy 77 near Norman, OK, over Interstate Hwy 35; (2) between junction Interstate Hwy 35 and U.S. Hwy 77 near Norman, OK, and junction Interstate Hwy 35 and U.S. Hwy 77 near Thackerville, OK, (a) over Interstate Hwy 35, and (b) over U.S. Hwy 77; (3) between junction Interstate Hwy 35 and U.S. Hwy 77 near Thackerville, OK, and the junction of Interstate Hwy 35E and 35W near Denton, TX, over Interstate Hwy 35; (4) between junction Interstate Hwys 35E and 35W near Denton, TX, and Fort Worth, TX, over Interstate Hwy 35W; and, (5) between junction Interstate Hwys 35E and 35W near Denton, TX, and Dallas, TX, over Interstate Hwy 35E serving all intermediate points in routes 1 through 5 above, and the off route points of Alpers, Antioch, Baum, Clemscot, Cornish, County Line, Dickson, Dillard, Drake, Elmore City, Erin Springs, Foster, Fox, Graham, Healtdon, Hennepin, Katie, Lindsay, Lone Grove, Mannsville, Maysville, Mill Creek, Milo, Nebo, Parnell, Ratliff City, Ravia, Ringling, Sulphur, Tatums, Tishomingo, Troy, Tussy, Velma, White Bead, Wilson and Woodford, OK.

MC 159118, filed January 13, 1982. Applicant: ENERGY TRANSPORT, INC., 4801 S. Harlem Ave., Forest View, IL 60402. Representative: Phillip A. Lee, 120 W. Madison St., Chicago, IL 60602, 312–261–4020. Transporting *petroleum and petroleum products,* between Chicago, IL, on the one hand, and, on the other, points in Champaign, Crawford, Clair, Macon, Sangamon and Williamson Counties, IL.

MC 159759 (Sub-1), filed January 11, 1982. Applicant: ROYALTY DISTRIBUTION SERVICES, INC., Jeanne Drive, Newburgh, NY 12550. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Orange County, NY, on the one hand, and, on the other, points in CT, NJ, PA, MA, NY, OH, DE, MD, VA, and DC.

MC 159789, filed December 21, 1981. Applicant: NU TREND LINES, INC., Route 2, Box 532, Dallas, NC 28034. Representative: Joseph T. Hughes, 205 Clayton St., Lawrenceville, GA 30425, (404) 963–1427. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in NY, NJ, SC, NC, TX, CA, IL, MO, KS, OH, GA, and TN.

MC 160009, filed January 8, 1982. Applicant: AROUND THE TOWN, INC., 3405 Lacewood Road, Tampa, FL 33618. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. To engage in operations, as a *broker* at Tampa, FL, in arranging for the transportation of *Passengers and their baggage,* in special and charter operations, between points in the U.S.

MC 158209, filed January 11, 1982. Applicant: S.L.A. TRANSPORT, INC., 6 Spring St., Johnstown, NY 12095. Representative: David Earl Tinker, 1000 Connecticut Ave, N.W., Washington, D.C. 20036–5391, 202–887–5868. Transporting (1) *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in Fulton and Montgomery Counties, NY, on the one hand, and, on the other, points in the U.S.; (2) *Such commodities as are dealt in or used by tanneries,* (a) between points in Fulton County, NY, on the one hand, and, on the other, New York, NY, and points in Merrimack County, NH and Franklin County PA; (b) between New York, NY, on the one hand, and, on the other, points in Merrimack County, NH and Franklin County, PA; and (c) between points in Franklin County, PA, on the one hand, and, on the other, points in Merrimack County, NH; and (3) Transporting *machinery and equipment used in the tanning industry,* between Boston, MA, on the one hand, and, on the other, points in the U.S.

MC 160048, filed January 11, 1982. Applicant: HARTZ TRUCK LINE, INC., 120 Arnold Ave., P.O. Box 427, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, 612–457–6889. Transporting *such commodities* as are dealt in by food and grocery business houses, between points in the U.S. under continuing contract(s) with Hartz Wholesale, Inc. of Thief River Falls, MN, and Landy Packing Co., Inc. of St. Cloud, MN.

MC 160049, filed January 11, 1982. Applicant: H & P, INC., 13743 Jenny Drive, P.O. Box 3811, Centerline, MI 48093. Representative: William R. Ralls, 116 W. Ottawa, Suite B, Lansing, MI 48933, (517) 372–6622. Transporting *transportation equipment* between points in the U.S., under continuing contract(s) with Core Industries, Inc., of Mt Clemens, MI, Jartran, Inc., of Coral Gables, FL, McGraw Commercial Equipment Co., Inc., of Sterling Heights, MI, and Hoosier Equipment Company, of River Forest, IL.

MC 160058, filed January 11, 1982. Applicant: SPIKES COMMODITIES, INC., P.O. BOX 759, Hugoton, KS 67951. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *chemicals and related products* (except classes A and B explosives), between points in KS, NE, and OK, on the one hand, and, on the other, points in CO, KS, NE, NM, and those points in TX on and north of a line beginning at the TX-NM state line near Hobbs, NM, and extending along U.S. Hwy 180 to U.S. Hwy 277, and then along U.S. Hwy 277 to the TX-OK state line.

MC 160079, filed January 11, 1982. Applicant: PIEDMONT TRANSIT, INC., Route 4, Box 353, Burlington, NC 27215. Representative: Archie W. Andrews, 617 F Lynrock Terrace, Eden, NC 27288, (919) 627–0555. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in Alamance, Caswell, Lee, Orange, and Person Counties, NC., and extending to those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 160099, filed January 12, 1982. Applicant: GLC TRANSPORTATION, INC., 9989 Kinsman Road, Newbury, OH 44065. Representative: Richard A. Zellner, 800 National City East 6th Bldg., Cleveland, OH 44114, (216) 621–0150. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Dell Products Corporation, of Hillside, NJ, and Kroger Company, Kluener Packing Co., and K.G.M. International Meats Company, Inc., all of Cincinnati, OH.

Volume No. OP5–19

Decided: January 25, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 114718 (Sub-2), filed January 11, 1982. Applicant: GEORGE R. MURPHY, d.b.a. MURPHY TRUCKING &

EXCAVATING CO., P.O. Box 378, Reno, OH 45773. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *metal products, coal and coal products, ores and minerals, clay, concrete, gall or stone products, and waste or scrap materials,* between Washington and Ashtabula Counties, OH, Fayette County, WV, and Niagara Falls, NY, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, KS, AR, and LA.

MC 119118 (Sub-71), filed January 18, 1982. Applicant: HIGHLAND EXPRESS, INC., P.O. Box 388, Latrobe, PA 15650. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005–2075, (202) 347–3987. Transporting *machinery and metal and wood products* between points in the U.S.

MC 152268 (Sub-2), filed January 8, 1982. Applicant: WILKINSON FREIGHT LINES, INC., 15 S. Main St., Belmont, NC 28012. Representative: Ken Wilkinson (same address as applicant.), (704) 825–1451. Transporting *textile products* between points in NC and SC.

MC 156168, filed January 15, 1982. Applicant: VOYAGER BUS LINES, INC., 13613 Engleman Drive, Laurel, MD 20708. Representative: Raymond P. Keigher, 401 E. Jefferson St., Rockville, MD 20850, (301) 424–2420. Transporting *passengers and their baggage* in same vehicle as passengers, in special and charter operations, beginning and ending at Washington, D.C., Alexandria, VA, and Baltimore, MD, and points in Anne Arundel, Baltimore, Howard, Montgomery, and Prince Georges Counties, MD, and Arlington and Fairfax Counties, VA, and extending to points in the U.S. (except HI).

MC 156939 (Sub-1), filed January 11, 1982. Applicant: KANATA CARRIERS, INC., 2203 Dunwin Drive, Mississauga, Ontario Canada L5L 1X2. Representative: Ronald N. Cobert, 1730 M St., NW, Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Interamerican Transport System, Inc., of Mississauga, Ontario, Canada.

MC 157848 (Sub-1), filed January 15, 1982. Applicant: O.K.T., INC., 114 Raleigh St., Hamlet, NC 28345. Representative: Barry Weintraub, 8133 Leesburg Pike, Suite 510, Vienna, VA 22180, (703) 442–8330. Transporting *pulp, paper and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with South Carolina Industries, Inc., of Florence, SC.

MC 158938 (Sub-1), filed January 11, 1982. Applicant: BOSWELL FARMS, INC., 403 South State Street, Lamoni, IA 50140. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *metal products,* (a) between Kansas City, MO and points in Decatur County, IA, on the one hand, and, on the other, points in the U.S., and (b) between points in Marshall County, OK on the one hand, and, on the other, points in AR, CO, IA, KS, LA, MN, MO, ND, NE, SD, TN, and TX.

MC 159189 (Sub-1), filed January 15, 1982. Applicant: MERRITT TRUCKING COMPANY, INC., P.O. Box 18346, Greensboro, NC 27419–8346. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *fertilizer* between points in DE, MD, NC, NJ, PA, SC, TN, VA, and WV.

MC 160068, filed January 11, 1982. Applicant: MOBILE CHECK EXCHANGE, INC., 2860 Springhill Ave., Mobile, AL 36601. Representative: J. B. Ward (same address as applicant), 205–473–7346. Transporting (1) *such commercial papers,* documents, and written instruments as are used in the business of banks and banking institutions, (2) coin bullion, precious metals, and articles of unusual value, between points in Jackson, Harrison, Hancock, Pearl River, Stone, George, Greene, Perry, Forrest, Lamar, Marion, Jefferson Davis, Covington, Jones, and Wayne Counties, MS, on the one hand, and, on the other, points in Orleans Parish, LA.

MC 160148, filed January 18, 1982. Applicant: WADDLE BROS. AND SONS, INC., Hayes Route, Box 16C–1, Woodland, WA 98674. Representative: Kit S. Waddle (same address as applicant), (206) 225–8097. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses and manufacturers of building materials, between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

MC 160169, filed January 18, 1982. Applicant: L. G. TRUCKING, INC., 13612 South Lowe, Riverdale, IL 60827. Representative: Edward F. Stanula, 900 East 162nd St., P.O. Box 306, South Holland, IL 60473, (312) 596–8575. Transporting *iron and steel products* between points in the U.S., under continuing contract(s) with Keystone Tube Company of Chicago, IL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2855 Filed 2–1–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub–No. 35N)]

Conrail Abandonment in Jeffersonville, IN; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Jeffersonville and the end of the line in the County of Clark, IN, a total distance of 1.5 miles effective of January 6, 1982.

The net liquidation value of this line is $37,759. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2819 Filed 2–1–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub–No. 54N)]

Conrail Abandonment Between Austin Lake and Vicksburg, MI; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Austin Lake and Vicksburg in the County of Kalamazoo, MI, a total distance of 5.5 miles effective on January 6, 1982.

The net liquidation value of this line is $167,931. if, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2820 Filed 2–1–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB-167 (Sub-No. 57N)]

Conrail Abandonment in Lockport, Niagara County, NY; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 21.0 and milepost 56.7 in Lockport, Niagara County, NY, a total distance of 1.2 miles effective on January 6, 1982.

The net liquidation value of this line is $109,055. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2633 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 37N)]

Conrail Abandonment in Newark, NJ; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line from Hunter Street, Newark to the end of the line in the County of Essex, NJ, a total distance of 1.7 miles effective on January 6, 1982.

The net liquidation value of this line is $57,575. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through route over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2617 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

Docket No. AB-167 (Sub-No. 46N)

Conrail Abandonment Between Newark Transfer and The Passaic River, NJ; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Newark Transfer and Passaic River in the County of Essex, NJ, a total distance of 0.3 miles effective on January 6, 1982.

The net liquidation value of this line is $84,927. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2625 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 36N)]

Conrail Abandonment in Warren County, N.J.; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Pennsylvania-New Jersey State line and the eastern end of the line in the County of Warren, NJ, a total distance of 1.2 miles effective on January 6, 1982.

The net liquidation value of this line is $47,981. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2616 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 48N)]

Conrail Abandonment Between Dayton and Lytle, Ohio; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Dayton and Lytle in the County of Montgomery, OH, a total distance of 1.7 miles effective on January 6, 1982.

The net liquidation value of this line is $236,239. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through route over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2624 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 42N]

Conrail Abandonment in Allentown, Pa.; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line from Union Boulevard, Allentown to the end of the line in the County of Lehigh, PA, a total distance of 0.5 miles effective on January 6, 1982.

The net liquidation value of this line is $96,585. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2630 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 51N]

Conrail Abandonment Between Brill and Passayunk Avenue, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Brill and Passayunk Avenue in the County of Philadelphia, PA, a total distance of 1.2 miles effective on January 6, 1982.

The net liquidation value of this line is $112,699. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75

percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2821 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 55N)]

Conrail Abandonment Between Burn and the Barber Quarry Branch, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Burn and the Barber Quarry Branch in the County of Lehigh, PA, a total distance of 1.5 miles effective on January 6, 1982.

The net liquidation value of this line is $481,925. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2832 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 49N)]

Conrail Abandonment Between Carlon and Nazareth, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Carlon and Nazareth in the County of Northampton, PA, a total distance of 1.8 miles effective on January 6, 1982.

The net liquidation value of this line is $44,505. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2823 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 45N)]

Conrail Abandonment in the City of Reno, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 79.9 and 81.9 in the City of Reno, Venango County, PA, a total distance of 2.0 miles effective on January 6, 1982.

The net liquidation value of this line is $43,058. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2826 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 43N)]

Conrail Abandonment Between Catasaugua and Seiple, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Catasauqua and Seiple in the County of Lehigh, PA, a total distance of 2.5 miles effective on January 6, 1982.

The net liquidation value of this line is $179,848. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2829 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 34N)]

Conrail Abandonment Between Cresco and Mountain Home, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Cresco and Mountain Home in the County of Monroe, PA, a total distance of 1.0 miles effective on January 6, 1982.

The net liquidation value of this line is $10,977. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through route over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2827 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 44N)]

Conrail Abandonment in Honeybrook, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line near Honeybrook in the Counties of Chester and Lancaster, PA, a total distance of 2.6 miles effective on January 6, 1982.

The net liquidation value of this line is $85,359. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2828 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 39N)]

Conrail Abandonment Between Phoenixville and Parkerford, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail

Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Phoenixville and Parkerford in the Counties of Montgomery and Chester, PA, a total distance of 6.8 miles effective on January 6, 1982.

The net liquidation value of this line is $563,092. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2815 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 41N)]

Conrail Abandonment Between Newton Square Branch and Millbourne Mills, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Newton Square Branch and Millbourne Mills in the County of Delaware, PA, a total distance of 2.3 miles effective on January 6, 1982.

The net liquidation value of this line is $ -0-. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through route over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3031 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 38N]

Conrail Abandonment Between Roosevelt Boulevard and Penn Street, in Philadelphia, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Roosevelt Boulevard and Penn Steet in the County of Philadelphia, PA, a total distance of 1.2 miles effective on January 6, 1982.

The net liquidation value of this line is $173,733. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2810 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 50N)]

Conrail Abandonment Between Lamokin and Upland, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Lamokin and Upland in the County of Delaware, PA, a total distance of 0.5 miles effective on January 6, 1982.

The net liquidation value of this line is $358,302. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3032 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs; Decision

Decided: January 27, 1982.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 18.0-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, or the 6.7-percent surcharge for the bus carriers. However, the UPS surcharge is ordered reduced to 2.0-percent.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m. January 29, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

APPENDIX.—FUEL SURCHARGE

Base date and price per gallon (including tax)

January 25, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

January 25, 1982 ..... 131.0¢

	Transportation performed by—			
	Owner operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	18.0	3.1	6.7	[3] 2.8
Percent surcharge allowed	18.0	3.1	6.7	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 25, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 82-2812 Filed 2-1-82; 8:45 am]

BILLING CODE 7035-01-M

January 28, 1982.

Long- And Short-Haul Applications for Relief (Formerly Fourth Section Applications)

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

No. 43956, Trans-Continental Freight Bureau, Agent, No. 565, relief is sought to maintain at higher-rated intermediate points of destination rates no higher than those determined on basis of the present rates on Lumber and related articles, from points in Canada to stations in Arkansas, Louisiana, Oklahoma, Mississippi, Texas and Tennessee, to be published in its Tariff ICC SWFB 4517, ICC SWFB 4518 and ICC SWFB 4570, item 50 series. Grounds for relief—destination rate relationship.

No. 43957, Southwestern Freight Bureau, Agent (No. B–149), reduced rates on asphalt (asphaltum), etc., from Machovec, TX to destinations in Illinois and Western Trunk Line Territories, in Supplement 153 to its Tariff ICC SWFB 4682, effective February 22, 1982. Ground for relief—Market Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2810 Filed 2–1–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79329. By decision of January 12, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SPEED EXPRESS, INC. of a portion of Certificate No. MC–149554 (Sub-No. 1) issued to MOTOR TRANSPORT OF SOUTH DAKOTA, INC. authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (a) between Cincinnati OH, and Hamilton, OH, over U.S. Hwy 127, serving no intermediate points, and (b) between points in OH and in within 40 miles of Oxford, OH. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603.

Note.—Transferee is a non-carrier.

MC–FC–79399. By decision of January 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the tranfer to Jory Michael Lieberman, d/b/a J. Lieberman Movers, of Glen Head, NY, of a portion of MC–139808 (E–3), awarded to Coastal Van & Storage, Inc., of Newark, NJ. The operating rights to be transferred authorize the transportation of *household goods*, as defined by the Commission, (a) Between points in NJ on the one hand, and, on the other, points in CT, RI, MA, VT, NH, ME, GA and FL. (b) Between points in Essex, Morris, Passaic, Hudson, Union Counties, NJ, on the one hand, and, on the other, points in DC, VA, NC, SC, and those points in PA on and west of a line beginning at the PA–NY State line and extending along U.S. Hwy 11 to junction N.E. Extension of the PA Turnpike, then along to junction PA Hwy 320, then along PA Hwy 320 to the PA–DE State line. (c) Between points in Bergen County, NJ, on the one hand, and, on the other, points in PA. (d) Between points in Essex, Morris, Passaic, Hudson, Union, Mercer, Middlesex, Hunterdon, Monmouth, Somerset, Burlington, Camden, Cape May, Cumberland, Gloucester, Atlantic, Ocean and Salem Counties, NJ, on the one hand, and, on the other, points in OH, MI, IL, and those points in NY on and north of a line beginning at Lake Ontario and extending along NY Hwy 12 to junction NY Hwy 23, then along NY Hwy 23 to the NY–MA State line. (e) Between points in RI, on the one hand, and on the other, NJ, PA, DE, MD, VA, DC, OH, MI, and IL. (f) Between points in ME on the one hand, and, on the other, points in NJ, PA, DE, MD, VA, DC, OH, MI and IL. (g) Between points in VT, on the one hand, and, on the other, points in NJ, MD, DE, VA, OH, MI, IL and DC. (h) Between points in NH on the one hand, and, on the other, points in NJ, DE, MD, VA, DC, OH, MI and IL.

MC–FC 79486. By decision of January 12, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to WENGERT TRANSPORTATION, INC., d.b.a. CITY DELIVERY of Certificate No. MC–21060 and Subs 6, 8, 9, 10, 13 and 17 thereunder issued to IOWA PARCEL SERVICE, INC., (BANKERS TRUST CO., ATTORNEY-IN-FACT) authorizing the transportation of (1) *general commodities* (with the usual exceptions) between points in 13 northwestern Iowa counties and between those same 13 northwestern Iowa counties and points in IA in Sub 6; between points in IA on the one hand, and, on the other, points in Harrison, Worth and Mercer Counties, MO in Sub 9; between the Des Moines Municipal Airport at Des Moines, IN, on the one hand, and, on the other, points in IA (except Marshalltown, Newton and points in their respective commercial zones) in Sub 10; between Epley Airfield at Omaha, NE on the one hand, and, on the other, points in IA in Sub 13; and between points in Rock Island County, IL and Scott County, IA in Sub 17; and (2) *motion picture films, film accessories, advertising material used in connection with the exhibition of such films, newspapers, magazines and periodicial publications* between Des Moines, IA and Omaha, NE; between Omaha, NE on the one hand, and, on the other, Fulton, IL, points in Polk, Humboldt, Pocahontas, Calhoun, Dallas, Cass, and Cedar Counties, IA, and those in northeastern Iowa; between Fulton, IL and points in the immediately preceding described territory; and between Des Moines, IA, Omaha, NE, Fulton, IL,

points in the Davenport, IA—Rock Island and Moline, IL commercial zone as defined by the Commission, and East Moline, Silvis, and Milan, IL, on the one hand, and, on the other, points in Worth and Scotland Counties, MO, and points in 43 Iowa counties in the Lead Certificate; between all points in Iowa in Sub 8; and between points in IA on the one hand, and, on the other, points in Harrison and Mercer Counties, MO in Sub 9. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. TA lease is sought. Transferee is a carrier.

MC–FC–79511. By decision of January 13, 1982, Review Board Number 3 approved the transfer to A.M.A. Transportation Co., Inc., of Chelsea, MA, of a portion of Certificate No. MC–69275 to M&M Transportation Company, of Needham Heights, MA authorizing: *General commodities* (usual exceptions), between Boston, MA, and Philadelphia, PA, serving named intermediate and off-route points, over various described regular routes, with various restrictions. Representative: Joseph Wine, 54 Deronshire St., Boston, MA 02109. TA lease is sought. Transferee is not a carrier.

MC–FC–79516. By decision of January 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number approved the transfer to FRANCIS B. SHERIDAN, d.b.a. MOUND CITY TRUCK LINE, Route 2, Box 214, Mound City, KS 66056, of Certificate No. MC–119990 (Sub 11), issued November 21, 1980, to MERCHANTS DELIVERY CO., of Kansas City, MO, authorizing the transportation by irregular routes of *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no package exceeds 100 pounds, from Wichita, KS, to Kansas City, MO. Representative is: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. TA lease is not sought.

MC–FC–79522. By decision of December 29, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to J. P. NOONAN TRANSPORTATION, INC. of West Bridgewater, MA of Certificate No. MC–113276 (Sub-Nos. 1, 5, 6, and 8) issued to ROMANO BROS. TRUCKING, INC., of Rutland, VT authorizing: the transportation of (1) grocery, grocery-store supplies, canned goods, and sugar (with specified exceptions), from Boston, MA to points in a defined area in Vermont; (2) marble, marble products, and limestone (with specific exceptions), from named points in Vermont to points in New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia; (3) malt beverages, from New York, NY and Orange, NJ to Rutland, VT; (4) empty malt beverage containers, from Rutland, VT to NY, NY, and Orange, NJ; (5) malt and vinous beverages, from Willimanssett, MA to Rutland, VT; (6) empty malt and vinous beverage containers, from Rutland, VT to Willimansett, MA; (7) ground limestone, from Florence, VT, to Cumberland Mills, Lisbon, Sanford, and Winthrop, ME; (8) marble, marble products, and ground limestone, from New Haven Junction, VT, to Middlebury and Florence, VT; (9) and ground limestone (with exceptions), from Florence and New Haven Junction, VT, to Ashtabula, OH. Representatives: Frank J. Weiner, 15 Court Square, Boston, MA 02108; Robert S. Pratt, 64 N. Main St., Rutland, VT 05701. TA lease is sought. Transferee is a carrier.

MC–FC–79526. By decision of January 15, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to L&L Motor Freight, Inc. of Certificate of Registration Nos. MC–121826 and MC–121826 (Sub-No. 1) issued October 31, 1980 and January 21, 1981 to Ouachita Mountain Express, Inc. authorizing the transportation of common; regular (a) *general commodities* over the following routes: (1) between Oklahoma City, OK and McAlester, OK; from Oklahoma City, OK, east over Interstate Hwy 40 to its intersection with OK Hwy 99, thence south over OK Hwy 99 to its intersection with U.S. Hwy 270, thence southeast over U.S. Hwy 270 to McAlester, OK, serving all intermediate points; (2) from McAlester, OK to Poteau, OK; from McAlester, OK east on U.S. Hwy 270 to its intersection with OK Hwy 1, thence east on OK Hwy 1 to its intersection with U.S. Hwy 271, thence north on U.S. Hwy 271, serving all intermediate points; (3) From McAlester, OK to Wister, OK. From McAlester, OK via U.S. Hwy 270 to Wister, OK, serving all intermediate points and the off-route point of Damon, OK; (4) From Wister, OK via U.S. Hwy 270 to its intersection with U.S. Hwy 59, thence U.S. Hwy 59 to its intersection with U.S. Hwy 270 to Page, OK, serving all intermediate points; (5) From Wilburton, OK via OK Hwy 2 to its intersection with OK Hwy 1 and U.S. Hwy 63; (6) from Poteau, OK to Heavener, OK; From Poteau, OK via U.S. Hwy 59 to its intersection with OK Hwy 128, thence to Heavener, OK; (7) from McAlester, OK to the U.S. Naval Ammunition Depot. From McAlester, OK via U.S. Hwy 69 to the U.S. Naval Ammunition Depot. (b) *general commodities* (except commodities of unusual value, household goods, explosives, and commodities requiring the use of special equipment for loading, unloading, or transportation (1) between the intersection of Interstate Hwy 40 and OK Hwy 99 and the intersection of Interstate Hwy 40 and U.S. Hwy 69: from over Interstate Hwy 40 to serving no intermediate points or terminals (2) *for operating convenience only*, (a) between the intersection of Interstate Hwy 40 and U.S. Hwy 69 and Poteau, OK, from the intersection of Interstate Hwy 40 and U.S. Hwy 69 over Interstate Hwy 40 to its intersection with U.S. Hwy 59, thence over U.S. Hwy 59 to Poteau, OK and return over the same route, serving Poteau and all intermediate points and the off-route points of Checotah, Warner, Webber's Falls, Porum, Gore, Vian and Sallisaw; (b) between McAlester, OK and junction U.S. Hwy 69 and Interstate Hwy 40; over U.S. Hwy 69 serving all intermediate points. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154.

Notes.—(1) TA has not been filed. (2) Transferee is authorized to operate pursuant to Nos. MC–149152 (Sub Nos. 2, 3, and 4). In Sub Nos. 2 and 4, its holds regular route authority enabling operations over a network of regular routes within the State of OK. In Subs Nos. 3 authority transferee holds authority to transport general commodities over irregular routes between Oklahoma City, OK and Lubbock, TX. (3) MC–121826 (Sub-No. 2) is a directly regulated application to the certificate of registration being sold in MC–FC–79526 to a certificate of public convenience and necessity. It is being published in the same Federal Register issue.

MC–FC–79531. By decision of January 5, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MALLIE KAY WEBSTER of Certificate No. MC–135348 (Sub-No. 2) issued to ELLIS B. WEBSTER authorizing operations as a *common carrier*, over irregular routes, of *lead, zinc, gold, and silver concentrates*, in bulk, from Black Claud Mine located at Iowa Gulch, (Lake County), CO, to the Denver and Rio Grande Railroad siding at Oro Jct., in Leadville, CO. Representative: William Andrew Wilson, Suite 1212, United Bank Bldg., 1700 Broadway, Denver, CO 80290. TA lease is not sought. Transferee is not a carrier.

MC–FC–79535. By decision of January 11, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the

transfer to GARYM LOOMIS d.b.a. LOOMIS FREIGHT of Certificate No. MC–135491 to THOMAS B. BILLING d.b.a. JORDAN FREIGHT authorizing the transportation of *general commodities* (usual exceptions) over regular routes, from Billings, MT, to Jordan, MT, serving the intermediate and off-route points of Winnett, Cat Creek, and Mosby, MT, from Billings over U.S. Hwy 87 to junction MT Hwy 244, then over MT Hwy 244 to MT Hwy 200, then over MT Hwy 200 to Jordan and return over the same route. Representative: H. David Cogley, 1025 3rd Street, Helena, MT 59601.

Note.—Transferee is a non-carrier.

MC–79544. By decision of 1–12–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Gaylord Combs and Josette Combs of Certificate No. MC–154855 issued to K.D., Inc. authorizing the transportation of (1) *household appliances* and (2) *equipment, materials and supplies* used in the manufacture and distribution of household appliances, between the facilities of General Electric Company, Appliance Park, at Louisville, KY, and points in IN and Cincinnati, OH. Note: Transferee is a non-carrier. Applicant's representative: James B. Murphy, Suite 102, Interchange Building, 835 West Jefferson Street, Louisville, KY 40202.

MC–FC–79555. By decision of 1–12–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to Allstate Carriers, Inc. of Fort Worth, TX of Certificate No. MC–133095 (Sub-No. 306X) issued October 14, 1981 to Texas-Continental Express, Inc. of Fort Worth, TX authorizing the transportation over irregular routes of *food and related products, chemicals and related products, machinery, clay, concrete, glass or stone products, rubber and plastic products, pulp, paper and related products, lumber and wood products, metal products, petroleum, natural gas and petroleum products, ores and minerals, furniture and fixtures, transportation equipment, building materials, printed matter, textile mill products, such merchandise as is dealt in by retail stores, retail, auto and home supply stores, drug stores, discount and variety stores* between various points in the United States. Applicant's representatives are: Clayte Binion, 623 South Henderson, 2nd Fl., Fort Worth, TX and Marshall Kragen, 1919 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20006.

MC–FC–79556. By decision of 1–12–82 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1045.11. Review Board Number 3 approved the acquisition of control by Southern Freightlines, Inc., a motor common carrier, of Freight Management Systems, Inc., a broker for the transportation of property, operating under License No. MC–131028 issued January 23, 1981, which authorizes the holder to arrange for the transportation of general commodities (except household goods), between points in the United States. Applicants' representative is: Robert J. Gallagher, Esquire, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC.

MC–FC–79558. By decision of 1–12–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Hosler Moving and Storage, Inc. of Certificate No. MC–129220 (Sub-No. 1) issued to Ted M. Hosler dba Hosler Moving & Storage authorizing the transportation of used household goods, between points in Geary, Riley, Saline and Dickinson Counties, KS. Restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: TA application has been filed. Transfer is a non-carrier Applicants' representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603.

MC–FC–79559. By decision of January 15, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved to the transfer to JAMES MATTAR, INC., d.b.a. EAGLE EXPRESS CO. of Certificate No. MC–97879 (Sub-No. 4) issued July 6, 1981 to Bab Transfer, Inc. authorizing the transportation of *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment between points in Massachusetts. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103.

MC–FC 79562. By decision of Janaury 12, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to EDWARD SKINNER, JR., d.b.a. SKINNER TRUCKING of Twin Falls, ID of Permit No. MC–138977 (Sub-Nos. 1 and 3) issued August 16, 1974, and November 7, 1980 to Edward W. Skinner, Sr. and Edward W. Skinner, Jr., a Partnership d.b.a. Skinner Trucking of Twin Falls, ID authorizing transportation as a motor contract carrier over irregular routes transporting (1) *beekeepers' supplies and equipment, honey and beeswax* between points in AZ, CA, CO, ID, IL, IA, MN, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA, and WY under contract with Sioux Honey Ass's, Sioux City, IA, and (2) *irrigation pipe fittings* and *accessories* from Twin Falls, ID to points in AZ, CA, CO, MT, NV, OR, UT, WA and WY under contract with Aulmax Irrigation Products, Twin Falls, ID Representative: Timothy R. Stivers, P.O. Box 157, Boise, ID 83701.

MC–FC–79564. by decision of 1–15–82 Review Board 3 approved the transfer to A. D. McMULLEN, INC., of N. Dartmouth, MA, of Certificate No. MC–84463 issued to TANNER'S TRANSFER & STORAGE, INC. (Douglas O. Tice, Jr., Trustee in Bankruptcy) of Richmond, VA, authorizing household goods between points in AL, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI, and DC. Representative; Andrew S. Kocser and Alfred John Chabior, P.O. Box 435, Dartmouth, MA 02747.

MC–FC–79568, filed January 12, 1982. J.T.I. TRANSPORTATION CO. (J.T.I.) (P.O. Box 76, Fairmont, NE 68354)—purchase—JACOBSEN TRANSFER, INC. (Jacobsen) (P.O. Box 47, Fairmont, NE 68354). Representative: Brian K. Ridenour, Nelson & Harding, P.O. Box 83028, 1200 N Street, 500 The Atrium, Lincoln, NE 68501. J.T.I., a corporation, seeks to purchase No. MC–85788 and subs thereunder issued to Jacobsen authorizing (1) food and related products between points in (a) San Mateo County, CA, on the one hand, and, on the other, points in the United States in and east of Montana, Wyoming, Utah and New Mexico; (b) York County, NE, on the one hand, and, on the other, points in Illinois, Wisconsin, Minnesota, Kansas, Missouri, Michigan, and Iowa; (c) Dawson County, NE on the one hand, and, on the other, points in Illinois (except Rockford and Chicago), Ohio, Michigan, and Wisconsin; (d) Kearney and Dawson Counties, NE on the one hand, and, on the other, Rockford and Chicago, IL, points in that part of Missouri on the north of U.S. Hwy 50, and points in Kansas and Kentucky; (e) York County, NE, on the one hand, and, on the other, points in Colorado, Indiana, Kentucky, Ohio, and South Dakota; and (f) Dawson County, NE, on the one hand, and, on the other, points in Colorado, Indiana, Iowa, Minnesota,

South Dakota, and points in that part of Missouri South of U.S. Hwy 50 as a common carrier and (2) (a) food and related products under a continuing contract(s) with Kelco Foods, Inc. of Deerfield, IL, (b) metal products and machinery under a continuing contract(s) with Geneva Concrete Company, Inc. of Geneva, NE; and (c) metal products under a continuing contract(s) with Wilkins Steel Building Company, Inc. of Geneva, NE, between points in the United States, as a contract carrier. An application for temporary authority has been filed. Representative: Brian K. Ridenour, 1200 N Street, 500 The Atrium, P.O. Box 82028 Lincoln, NE 68501.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: January 27, 1982.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC 121826 (Sub-2), filed December 8, 1981. Applicant: OVACHITA MOUNTAIN EXPRESS, INC.—conversion, 1911 N.W. 1st Street, Oklahoma City, OK 73106. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. (a) *general commodities* over the following routes: (1) between Oklahoma City, OK and McAlester, OK; from Oklahoma City, OK, east over Interstate Hwy 40 to its intersection with OK Hwy 99, thence south over OK Hwy 99 to its intersection with U.S. Hwy 270, thence southeast over U.S. Hwy 270 to McAlester, OK, serving all intermediate points; (2) from McAlester, OK to Poteau, OK, from McAlester, OK east on U.S. Hwy 270 to its intersection with OK Hwy 1, thence east on OK Hwy 1 to its intersection with U.S. Hwy 271, thence north on U.S. Hwy 271, serving all intermediate points; (3) From McAlester, OK to Wister, OK. From McAlester, OK via U.S. Hwy 270 to Wister, OK, serving all intermediate points and the off-route point of Damon, OK; (4) From Wister, OK via U.S. Hwy 270 to its intersection with U.S. Hwy 59, thence U.S. Hwy 59 to its intersection with U.S. Hwy 270 to Page, OK, serving all intermediate points; (5) From Wilburton, OK via OK Hwy 2 to its intersection with OK Hwy 1 and U.S. Highway 63; (6) from Poteau, OK to Heavener, OK; From Poteau, OK via U.S. Hwy 59 to its intersection with OK Hwy 128, thence to Heavener, OK; (7) from McAlester, OK to the U.S. Naval Ammunition Depot. From McAlester, OK via U.S. Hwy 69 to the U.S. Naval Ammunition Depot. (b) *general commodities* (except commodities of unusual value, household goods, explosives, and commodities requiring the use of special equipment for loading, unloading, or transportation (1) between the intersection of Interstate Hwy 40 and OK Hwy 99 and the intersection of Interstate Hwy 40 and U.S. Hwy 69; from over Interstate Hwy 40 to serving no intermediate points or terminals (2) *for operating convenience only*, (a) between the intersection of Interstate Hwy 40 and U.S. Hwy 69 and Poteau, OK, from the intersection of Interstate Hwy 40 and U.S. Highway 69 over Interstate Hwy 40 to its intersection with U.S. Hwy 59, thence over U.S. Hwy 59 to Poteau, OK and return over the same route, serving Poteau and all intermediate points and the off-route points of Checotah, Warner, Webber's Falls, Porum, Gore, Vian and Sallisaw; (b) between McAlester, OK and junction U.S. Hwy 69 and Interstate Hwy 40; over U.S. Hwy 69 serving all intermediate points.

Note.—The purpose of this application is to convert applicant's Certificate or Registration to a Certificate of Public Convenience and Necessity and is directly related to Finance Application MC–FC–79526 filed simultaneously.

Agatha L. Mergenovich,
Secretary.

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[Volume No. 225]

Motor Carriers; Permanent Authority Decisions, Restriction Removals; Decision-Notice

Decided: January 27, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Member Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 2228 (Sub-74)X, filed January 8, 1982. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Highway 80, Abilene, TX 79604. Representative: Jerry Prestridge, P.O. Box 1148, Austin, TX 78767. Lead and Subs 43, 44 and 71F broaden: (1) to service at all intermediate points on regular routes and all subs, (2) remove restrictions (a) to service for purpose of joinder only at named intermediate points, lead (b) on southbound traffic to pickup and delivery of commodities other than articles of unusual value, classes A and B explosives, livestock, automobiles, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, moving to Anson, TX or to or from points north thereof; and those points between Anson and Claremont, except Roby and Rotan, restricted to pickup and delivery of eastbound traffic only, lead, sheet 4, (c) against serving the terminal point of Fredericksburg, TX, Sub 44, sheet 4, (d) against pickup and delivery of property moving between Hico and Hamilton on route between Dublin and Hamilton, TX, Sub 44, sheet 6, (e) against delivery of property originating at Waco or received in interline service at that point destined to any point between Waco and Carlton, TX on route between Hico and Waco, TX, Sub 44, sheet 6, (f) against serving Coleman, Brownwood, Ft. Worth, and Dallas, TX out of Abilene, TX and vice versa on routes between Abilene, TX and Coleman and Brownwood, TX Sub 44, sheet 7, (g) against service to a named terminal point, Sub 44, sheet 8, (h) against traffic moving radially between Houston, TX, Dallas, Ft. Worth and Waco, TX, Sub 44, sheet 8, (i) against using named routes to serve Waco, Gatesville, Ft. Hood and Temple, TX on traffic moving to or from Dallas, Ft. Worth and San Antonio, TX, and against service at Wichita Falls TX, Sub 44, sheet 9, (j) against transportation of freight over three described routes between Wildorado, Vega and Adrian, TX and other TX points moving by interline between Lubbock and Amarillo, TX, Sub 44, sheet 15, (k) prohibiting some intermediate point service except for interlining freight at named TX point, Sub 44, sheet 20, and (l) against freight moving radially between (1) Waco, TX, and, Dallas and Ft. Worth, TX, and, (2) Houston, TX, and Dallas, Ft. Worth and Waco, TX, Sub 44, sheet 22.

MC 2729 (Sub-3)X, filed January 21, 1982. Applicant: GLENWOOD TRANSIT LINE, INC., 207 S. Chestnut, Glenwood, IA 51534. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Sub 2X broaden (1) from milk and cream to "food and related products"; and (2) service at off-route points to countywide authority points within 15 miles of Tabor, IA to Otoe and Cass Counties, NE and Fremont, Miles, Montgomery and Page Counties, IA; points within 25 miles of Tabor, IA to Dougas, Sarpy, Cass, and Otoe Counties, NE and Pottawattamie, Montgomery, Page, Fremont and Mills Counties, IA and; Pacific Junction, IA to Mills County.

MC 6807 (Sub-19)X, filed January 17, 1982. Applicant: ROCKINGHAM ENTERPRISES, INC., P.O. Box 466, Bellows Falls, VT 05101. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Sub-No. 18 permit: broaden (1) sugar to "food and related products" in parts 1, 4, 5, 7, 8, 10 liquid sugar, sugar syrup, and invert sugar, in bulk, in tank trucks, corn products, and blends of corn products, in bulk, in tank vehicles, and water, in bulk, in tank vehicles to "commodities in bulk" in parts 2, 16, 17, and 18; paper place mats to "pulp, paper, and related products" in part 15; (2) serve between all points in the US, under continuing contract(s) with named shippers.

MC 16903 (Sub-92)X, filed January 18, 1982. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Subs 28 (paragraph 3) and 42, broaden: (1) rough sawn lumber, Sub 28 and treated and untreated lumber, cross ties, poles, pilings, switch ties and wood chips, Sub 42 to "lumber and wood products", (2) Clay City, Thorntown, Bloomington, Franklin, Terre Haute, and Wingate, IN to Clay, Boone, Monroe, Franklin, Vigo and Montgomery Counties, Sub 28, (3) remove originating at and destined to restrictions, Sub 28 and (4) to radial authority.

MC 44339 (Sub-1)X, filed January 18, 1982. Applicant: DONALD LEWIS GRAY, R.D. #5, Bloomsburg, PA 17815. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517. Lead certificate: broaden from (1) household goods to "household goods and furniture and fixtures", and (2) Bloomsburg, PA, and points within 25 miles thereof (Columbia, Montour, Union, Lycoming, Sullivan, Luzerne, Schuylkill, Northumberland, and Snyder Counties, PA).

MC 87523 (Sub-119)X, filed July 9, 1981, previously noticed in the Federal Register of August 4, 1981, republished as follows: Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Applicant previously broadened its authorities in its lead and sub-nos. 93, 95, 96F, 97F, 99F, 108F, 109F, 110F, 112, 113F, 114F, and 116 certificates pursuant to 49 CFR 1137. In its request it proposed expanding Philadelphia, PA and its commercial zone in its Sub-No. 114 to the corresponding counties. The Board denied this request but on appeal, Division 1 in No. MC-87523 (Sub-No. 119F)X, Stewart Trucking Company, Inc.-Administrative Appeal (not printed) served 12-24-81, found such request to be appropriate and directed the Board to republish. Notice is hereby given that applicant proposes to broaden Philadelphia, PA to Philadelphia, Bucks, Montgomery, Chester, and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ, and New Castle County, DE.

MC 127304 (Sub-22)X, filed January 21, 1982. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 North West Street, Valley Center, KS 67148. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Lead permit: (1) broaden fluro-chloro hydrocarbons to "chemicals and related products" and to "metal products" from new containers, and (2) broaden the territorial authority to between points in the U.S. (except AK and HI), under continuing contract(s) with a named shipper.

MC 133532 (Sub-2)X, filed January 18, 1982. Applicant: BENRUS TRUCKING DIVISION, INC., P.O. Box 2865, Newburgh, NY 12550. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Sub 1M1F permit,

broaden: (1) pallet and storage racks, shelving, and sections, metal tubing, panels, grating, and angles, accessories, supplies and equipment used in the installation and erection of above commodities and advertising materials and displays to "metal products", and (2) to "between points in the United States," under continuing contract(s) with named shipper.

MC 143812 (Sub-25)X, filed January 19, 1982. Applicant: VAN DIEST TRUCKING, INC., 630 So. Indian Hill, Suite 7, Claremont, CA 91711. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Sub-Nos. 3, 7F, 12, 18, 20, 21, 22, and 23: (A) broaden (1) from (a) liquid sugar, in bulk, and foodstuffs, in bulk, Sub 3; grape juice, in bulk, Sub 7F: grape juice concentrate and grape brandy, in bulk, Sub 12; glycerine, in bulk, Sub 20; grape juice concentrate and grape wine, in bulk, Sub 21; and agricultural minerals, auxiliary soil nutrients, and commercial fertilizers, in bulk, Sub 22, to "commodities in bulk;" (b) liquid foodstuffs, in bulk, Sub 7F; and wine, in bulk, Sub 23, to "food and related products;" and (c) alcohol, in bulk, Sub 18, to "chemicals and related products;" (2) to countywide authority: (a) Sub 3, Crockett (Contra Costa County, CA); (b) Sub 7F, Prosser (Benton County, WA); (c) Sub 12, facilities, Fresno and Kingsburg (Fresno County, CA); Detroit and Paw Paw (Wayne and Van Buren Counties, MI); Niagara Falls (Niagara County, NY); Cincinnati, Geneva, and Orrville (Hamilton, Ashtabula, and Wayne Counties, OH); Memphis (Shelby County, TN); and Glendale (Milwaukee County, WI); (d) Sub 18, Bellingham (Whatcom County, WA); (e) Sub 20, Burbank (Los Angeles County, CA); and Cincinnati (Hamilton County, OH); and (f) Sub 22, Bakersfield (Kern County, CA); (B) remove "destined to Canada" restriction, Sub 23; and (C) broaden to radial authority, Subs 3, 7F, 12, 18, 20, 21, 22, and 23.

MC 143888 (Sub-12)X, filed January 21, 1982. Applicant: R.E.T.E.N.O. CARRIERS, INC., P.O. Box 1438, Willmar, MN 56201. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Subs 1F, 4F, 5F, 7F, 10F, and 11F permits. Broaden: Sub 5F, from part (1) agricultural pesticides and from part (2), ingredients for agricultural pesticides (except commodities in bulk), to "chemicals and related products"; Sub 4F, from plastic sheets and plastic sheeting to "rubber and plastic products"; Sub 1F, from coil steel and bar steel; Sub 7F, from steel; and Sub 11F, from bar steel, coil steel, and extruded steel, to "metal products"; and Sub 10F, from part (1), equipment, materials and parts used in the manufacture or assembly of components for chain saws, and from part (2), bar steel, coil steel, and extruded steel, to "machinery and metal products"; remove vehicles equipped with mechanical refrigeration restriction from Subs 1F, 7F, 10F, and 11F; and broaden all Subs to between points in the U.S., under continuing contract(s) with named shippers.

MC 144696 (Sub-12)X, filed January 12, 1982. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom St., Zeeland, MI 49464. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. Sub-Nos. 3F, 4F, and 7F permits, broaden: (1) to "food and related products" from foodstuffs (except in bulk), frozen foods, and pet foods; and (2) to "between points in the United States," under continuing contract(s) with the named shippers.

MC 145648 (Sub-10)X, filed January 22, 1982. Applicant: DUDLEY TRUCKING, INC., P.O. BOX 1651, Tacoma, WA 98421. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma WA 98421. Sub 3F, 4F, and 7F broaden (1) (a) iron and steel articles to "metal and metal products" Sub 3F, (b) crushed cars and scrap metal to "waste or scrap material," Sub 4F, and (c) treated poles, treated posts, treated lumber, and untreated lumber to "lumber and wood products," Sub 7F; (2) Tacoma, WA to Pierce County, and McMinnville, OR to Yamhill County, Sub 4; and facilities at Hayden Lake, ID to Kootenai County, Sub 7 (3) to radial authority, Sub 4F and 7F.

MC 146651 (Sub-4)X, filed January 15, 1982. Applicant: ARTHUR W. COULTER, d.b.a. A. W. COULTER TRUCKING, P.O. Box 504, Terra Bella, CA 93270. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Sub-No. 2F broaden: (1) lumber to "lumber and wood products", (2) to radial authority, and (3) facilities at Terra Bella, CA to Tulare County, CA.

MC 146912 (Sub-1)X, filed January 19, 1982. Applicant: MID-CITIES DELIVERY, INC., 324 Michigan St., St. Joseph, MO 64504. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. Lead permit: broaden to all points in the U.S. (except AK and HI), under continuing contract(s) with a named class of shippers.

MC 146984 (Sub-1)X, filed January 18, 1982. Applicant: PARAMOUNT TRUCKING, INC., P.O. Box 310, Washington, IN 47501. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204–3491. Lead, broaden: coal to "commodities in bulk; Richmond to Wayne County, IN; and service to radial authority.

[FR Doc. 82–2614 Filed 2–1–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 82–719 appearing at page 1343 in the issue for Tuesday, January 12, 1982, please make the following correction:

On page 1345, in the middle column, in the last paragraph, the first line should begin "MC 144503 Sub-44) * * *". The applicant in MC 144503 (Sub-44) is Adams Refrigerated Express, Inc.

BILLING CODE 1505–01–M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "The Heritage of Islam" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the National Committee to Honor the Fourteenth Centennial of Islam. I also determine that the temporary exhibition or display of the listed exhibit objects within the United States beginning on or about March 3, 1982, to on or about December 25, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 28, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82–2663 Filed 2–1–82; 8:45 am]

BILLING CODE 8230–01–M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–11,174; Crossville Rubber Products, Inc., Crossville, TN
TA–W–11,049; Inter-Lakes Steel Products Co., Pontiac, MI
TA–W–12,800; Keystone Group, Keystone Steel & Wire Division, Bartonville, IL
TA–W–12,206; Russell Gasket Co., Cleveland, OH
TA–W–11,304; Alatex, Inc., Andala Plant, Andalusia, AL
TA–W–11,305; Alatex, Inc., Andalusia Plant, Andalusia, AL
TA–W–11,306; Alatex, Inc., Enterprise Plant, Enterprise, AL
TA–W–11,307; Alatex, Inc., Montgomery Distribution Center, Montgomery, AL
TA–W–11,308; Alatex, Inc., Pike Plant, Troy, AL
TA–W–11,309; Alatex Inc., Troy Plant, Troy, AL

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–11,760; Cleveland Metal Finishing Division, Cleveland Metal Products Co., Cleveland, OH
TA–W–12,674; Upland Cedar Products, Neilton, WA
TA–W–12,054; Chrysler Corp., Engine & Casting Division Office, Detroit, MI
TA–W–12,054A; Chrysler Corp., Engine & Casting Division, Warren, MI

In the following case the investigation revealed that criterion (3) had not been met. Aggregate U.S. imports of paper sanitary food containers are negligible.

TA–W–12,232; Lily Tulip Division, Owens Illinois, Inc., Old Town, ME

Affirmative Determinations

TA–W–12,098; Kransco Mfg., Inc., Morey Boogie Division, Oceanside, CA

A certification was issued in response to a petition received on January 12, 1981 covering all workers separated on or after January 9, 1980 and before March 31, 1981.

TA–W–12,587; MSM Coat Co., Inc., Oceanside, NY

A certification was issued in response to a petition received on April 1, 1981 covering all workers separated on or after May 2, 1980 and before April 30, 1981.

TA–W–11,484; National Fiber Glass Products, Inc., Yonkers, NY

A certification was issued in response to a petition received on October 22, 1980 covering all workers separated on or after October 16, 1979.

I hereby certify that the aforementioned determinations were issued during the period January 18–22, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 26, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–2068 Filed 2–1–82; 8:45 am]
BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–81–222–C]

A and E Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

A and E Coal Company, Inc., Box 85, Neon, Kentucky 41840, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 3 Mine located in Letcher County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed in the mine's electric face equipment.

2. The coal seam ranges from 48 to 55 inches in height with undulating top and bottom conditions.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety because the equipment operator's vision is impaired by the canopy, exposing both the operator and nearby miners to potential hazards.

4. For this reason, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 4, 1982. Copies of the petition are available for inspection at that address.

Dated: January 25, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82–2069 Filed 2–1–82; 8:45 am]
BILLING CODE 4510–43–M

[Docket No. M–81–261–C]

Harlan-Cumberland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Harlan-Cumberland Coal Co., Grays Knob, Kentucky 40829 has filed a petition to modify the application of 30 CFR 75.1704–1 (escapeways and escape facilities) to its H–1 Mine located in Harlan County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that escapeways be maintained at a height of at least 5 feet and a width of at least 6 feet.

2. A roof fall blocks the intake escapeway but ventilation over the fall is good and not interrupted in any way.

3. Petitioner states that cleaning up the fall and attempting to support the roof over it would expose miners to extremely hazardous conditions.

4. As an alternative method, petitioner proposes to timber off the fall area at all points and place "Danger" signs at those points. The escapeway route would detour around the fall area by following the belt entry. Conspicuous signs and markers would be placed at each exit and entry point to the belt entry.

5. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 4, 1982. Copies of the petition are available for inspection at that address.

Dated: January 25, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-2700 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-235-C]

Preston Energy, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Preston Energy, Inc., 202 East High Street, Kingwood, West Virginia 26537, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine located in Preston County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because:

a. Equipment operator visibility is hampered, increasing the chances of an accident; and

b. The chance of the cab striking the roof exists, which damages the electrical trailing cables, the roof support system and the mine's lighting system.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 4, 1982. Copies of the petition are available for inspection at that address.

Dated: January 25, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-2701 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-28; (Exemption Application No. D-2584)]

Exemption From the Prohibitions for Certain Transactions Involving the American Medical Association Members Retirement Plan Located in Chicago, Ill.

AGENCY: Office of Pension and Welfare Benefit Programs

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the provision of services by the American Medical Association (the AMA) to the American Medical Association Members Retirement Plan (the Plan).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 27, 1981, notice was published in the **Federal Register** (46 FR 52448) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed in accordance with the requirements set forth in the proposed exempton. No requests for a hearing were received by the Department; however, the Department received six public comments. One commentator made a general statement that the exemption should not be granted. Each of the other commentators claimed that the proposed fees to be paid to the AMA by the Plan would be excessive. Both the Bank of New York (BONY), the Plan's trustee, and Mr. Charles Custer of the law firm of Vedder, Price, Kaufman and Kammholz which is independent of the AMA and the Plan, have examined the management contract (the Contract) to be entered into by the AMA and the Plan and have determined that the terms and conditions of the Contract, including the fees to be paid thereunder, are reasonable and comparable to management contracts and fees charged by independent third parties performing similar services. Furthermore, BONY will monitor the Contract on the Plan's behalf, to ensure compliance with all terms and conditions contained therein and ensure that the AMA's fees continue to be reasonable. Because of these independent safeguards, the Department believes that the Plan is adequately protected with regard to the fees to be charged by the AMA and has therefore decided to grant the exemption as proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a

fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a) and 406(b)(3) of the Act and section 4975(c)(1) (A), (B), (C), (D) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrtive exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the provision of services by the AMA to the Plan, provided that the terms and conditions of the AMA's provision of services remain at least as favorable to the Plan as those the Plan could secure from an unrelated party.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 25th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–2868 Filed 2–1–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–22; Exemption Application No. D–2614]

Exemption From the Prohibitions for Certain Transactions Involving the Bellco Glass, Inc. Salaried Employees Pension Plan Located in Vineland, N.J.

AGENCY: Office of Pension and Welfare Benefit Program.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts: (1) The proposed loan (the Plan Loan) of money by the Bellco Glass, Inc. Salaried Employees Pension Plan (the Plan) to Bellco Glass, Inc. (the Employer), a party in interest with respect to the Plan; and (2) a guarantee of repayment by the prinicpal shareholders (the Principal Shareholders) of the Employer.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60672) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the notice to interested persons requirement as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the empoloyees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extent to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the

transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the Plan Loan, provided that the terms and conditions of the Plan Loan will be and remain at least as favorable to the Plan as an arm's-length transaction would be with an unrelated party; and (2) the guarantee of repayment by the Principal Shareholders should the Employer default on the Plan Loan.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–2869 Filed 2–1–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 81–21; Exemption Application No. D–2425]

Exemption From the Prohibitions for Certain Transactions Involving City Investing Co. and its Affiliates Located in New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the reinsurance by Federal Home Life Insurance Company (the Reinsurer), a party in interest with respect to certain welfare plans (the Plans) for employees of City Investing Company and its affiliates (the Employers), of insurance contracts issued by the Prudential Insurance Company of America (the Insurer) to fund benefits under the Plans.

EFFECTIVE DATE: This exemption is effective January 1, 1978.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 26, 1981, notice was published in the **Federal Register** (46 FR 33138) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and (b) of the Employee Retirement Income Security Act of 1974 (the Act) for transactions described in an application filed on behalf of the Reinsurer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the provisions of the notice of proposed exemption, except that the notice was not furnished until July 27, 1981. The notice also advised that the comment period was extended until August 26, 1981, pursuant to discussions with the Department.

The Department received five written comments on the notice of proposed exemption. Two of these commentators also requested a hearing on the proposed exemption but subsequently withdrew their requests for a hearing. One of the five commentators approved of granting the proposed exemption. The other four commentators objected to same, but three of them subsequently withdrew their objections. The remaining single objection asks for denial of the proposed exemption if the arrangement in question does not provide a reinsurer of equal status and a guarantee that no damage will result to the Plan participants and beneficiaries. With respect to this objection, the Department believes that, regardless of the size of the Reinsurer, the safeguards relating to the Reinsurer, which were described in the notice of proposed exemption, are sufficient to protect the rights of the Plan participants and beneficiaries. Furthermore, as described in the notice of proposed exemption, the reinsurance arrangement does not affect the rights of Plan participants and beneficiaries under the insurance contracts being reinsured and also does not affect the liabilities of the Insurer under these contracts. Thus, the amounts of benefits and premiums paid to or by Plan participants and beneficiaries and the procedures for submitting claims would remain the same, whether or not the insurance contracts are reinsured.

Therefore, the Department does not believe the proposed exemption should be denied on the basis of the issues raised in the single remaining objection.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by the Reinsurer from the group health and group life insurance contracts sold by the Insurer to the Employers to provide benefits to the Plans, subject to the conditions set forth in the notice of proposed exemption.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 27th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-2870 Filed 2-1-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-23; Exemption Application No. D-2705]

Exemption From the Prohibitions for Certain Transactions Involving the Farnsworth Realty and Development Company Profit-Sharing Thrift Plan Located in Mesa, Ariz.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the cash sale of certain unimproved real property (the Property) by the Farnsworth Realty and Development Company Profit Sharing Thrift Plan (the Plan) to Farnsworth Realty and Development Company (the Employer).

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 27, 1981, notice was published in the **Federal Register** (46 FR 52454) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to all interested persons in compliance with the requirements set forth in the notice of proposed exemption.

On public comment, which included a request for a hearing, was received by the Department. The commentator questioned the effect of the proposed transaction on the interests of those persons participating in the Plan. Following a discussion of this issue with a Department representative, the commentator withdrew the hearing request.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fasion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, the fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, shall not apply to the cash sale of the Property by the Plan to the Employer for the greater of $306,950 or the fair market value of the Property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-2871 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-27; Exemption Application No. D-2817]

Exemption From the Prohibitions for Certain Transactions Involving Flournoy Electric Co., Inc., Money Purchase Pension Plan and Trust, Located in Clearwater, Fla.

AGENCY: Office of the Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the sale of a parcel of unimproved real property as described in the notice of proposed exemption (the Property) from the Flournoy Electric Company, Inc. Money Purchase Pension Plan and Trust (the Plan) to Mr. Roscoe C. Wooten, Jr. (Mr. Wooten), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 4, 1981, notice was published in the **Federal Register** (46 FR 59331) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to all interested persons in compliance with the requirements set forth in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Property by the Plan to Mr. Wooten for the higher of $31,800 or the fair market value of the Property as of the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-2872 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-24; Exemption Application No. D-2714]

Exemption From the Prohibitions for Certain Transactions Involving Henderson, Franklin, Starnes & Holt P.A. Second-Amended Employee Profit-Sharing Plan and Trust Located in Fort Myers, Fla.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit (1) the loan of $120,000 (the Loan) by the Henderson, Franklin, Starnes & Holt P.A. Second-Amended Employee Profit Sharing Plan and Trust (the Plan) to 2100 Second Street Partnership (the Partnership), a party in interest with respect to the Plan; and (2) the joint and several guarantee of the Partnership's obligations under the Loan by the eleven partners of the Partnership.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-

4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60688) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it did not provide notice to interested persons by the date stated in the notice, December 21, 1981, but instead provided notice on December 22, 1981. The Department notes this action and has determined that since the comment period expired on January 25, 1982, interested persons have had adequate time to comment on and/or request a hearing with regard to the proposed exemption. No public comments and no requests for a hearing have been received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the Loan by the Plan to the Partnership as described above provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party; and (2) the personal guarantees of the Partnership's obligations under the Loan by the eleven partners of the Partnership.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–2873 Filed 2–1–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–25; Exemption Application No. D–2766]

Exemption From the Prohibitions for Certain Transactions Involving Merrill Lynch, Hubbard, Inc., and Its Affiliates Located in New York, N.Y.

AGENCY: Office of Pension and Welfare Benefit Programs.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption would exempt: (1) Transactions relating to the origination, maintenance and termination of mortgage pool investment trusts (Mortgage Pools) sponsored by Merrill Lynch, Hubbard, Inc. and its affiliate (Merrill Lynch Hubbard); and (2) the acquisition and holding of certain multi-family dwelling mortgage-backed pass-through certificates (Certificates) of Mortgage Pools under certain circumstances by employee benefit plans (Plans) when Merrill Lynch Hubbard or a trustee (Trustee) of a Mortgage Pools is a party in interest with regard to the Plans.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57186) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a

summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transaction prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrtive exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

I. Transactions

A. Effective July 29, 1981, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving Mortgage Pools:

(1) The direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates between Merrill Lynch Hubbard and the Plan when Merrill Lynch Hubbard or the Trustee of such Pool is a party in interest with respect to such Plan, provided that the Plan pays no more than fair market value for such Certificates, and provided further that the rights and interests evidenced by such Certificates are not subordinated to the rights and interests evidenced by other Certificates of the same Mortgage Pool; and

(2) The continued holding of Certificates acquired by a Plan pursuant to subparagraph (1), above.

B. Effective July 29, 1981, the restrictions of sections 406(a), 406(b)(1) and (2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates of a Mortgage Pool between Merrill Lynch Hubbard and a Plan, and the continued holding of such Certificates, when Merrill Lynch Hubbard or the Trustee of such Mortgage Pool is a fiduciary with respect to such Plan, provided that:

(1) The Plan pays no more than fair market value for such Certificates;

(2) The rights and interests evidenced by such Certificates are not subordinated to the rights and interests evidenced by other Certificates of the same Mortgage Pool:

(3) Such sale, exchange or transfer is expressly approved by a fiduciary independent of Merrill Lynch Hubbard or the Trustee or any affiliate thereof, who has authority to manage and control those Plan assets being invested in the Certificates;

(4) The total value of Certificates purchased by a Plan does not exceed 25% of the amount of the issue; and

(5) At least 50% of the aggregate amount of the issue is acquired by persons independent of Merrill Lynch Hubbard or the Trustee.

C. Effective July 29, 1981, the restrictions of sections 406(a), 406(b)(1) and (2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to transactions in connection with the servicing and operation of the Mortgage Pool provided that:

(1) such transactions are carried out in accordance with the terms of a binding Pooling and Servicing Agreement; and

(2) such Pooling and Servicing Agreemeent is made available to investors before they purchase Certificates in a Mortgage Pool.

D. Effective July 29, 1981, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of seciton 4975(c)(1)(A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act), solely because of the ownership by such Plan of a Certificate.

II. General Conditions

A. The relief provided under section I, above, is available only if the following conditions are met:

(1) The Trustee for each Mortgage Pool must not be an affiliate of Merrill Lynch Hubbard provided, however, the Trustee shall not be considered to be an affiliate of Merrill Lynch Hubbard solely because the Trustee has succeeded to

the rights and responsibilities of Merrill Lynch Hubbard pursuant to the terms of the Pooling and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by Merrill Lynch Hubbard; and

(2) The sum of all payments made to and retained by Merrill Lynch Hubbard in connection with a Mortgage Pool, and all funds inuring to the benefit of Merrill Lynch Hubbard as a result of the administration of the Mortgage Pool, must represent not more than adequate consideration for selling the Certificates and underwriting the sale of the Certificates, plus reasonable compensation for services provided by Merrill Lynch Hubbard to the Mortgage Pool.

III. Definitions

A. For the purposes of this exemption, the term "Mortgage Pool" means an investment pool the corpus of which

(1) Is held in trust; and

(2) Consists solely of

(a) Interest bearing obligations secured by multi-family residential property;

(b) Property which had secured such obligations and which has been acquired by foreclosure; and

(c) Undistributed cash.

B. For the purposes of this exemption, the term "Certificate" means a certificate representing a beneficial undivided fractional interest in a Mortgage Pool and entitling the holder of such certificate to pass-through payment of principal and interest from the pooled mortgage loans, less any fees retained by Merrill Lynch Hubbard.

C. For the purposes of this exemption, the term "affiliate" of another person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director partner, employee, or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director, or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

D. For the purposes of this exemption, a person will be "independent of Merrill Lynch Hubbard or the Trustee" only if:

(1) Such person is not an affiliate (as defined in paragraph III(C) of this exemption) of Merrill Lynch Hubbard or the Trustee; and

(2) Neither Merrill Lynch Hubbard nor the Trustee, nor any affiliate thereof, is a fiduciary who has investment management authority or renders investment advice with respect to any of the assets of such person.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of this exemption.

Signed at Washington, D.C., this 27th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-2874 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-26; Exemption Application Nos. D-2785 and D-2786]

Exemption From the Prohibitions for Certain Transactions Involving R. M. Bradley Co., Inc., Located in Boston, Massachusetts, and the First City National Bank of Houston, Located in Houston, Texas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits certain aspects of the proposed provision of real estate services by the R. M. Bradley Co., Inc. (Bradley) to the First City National Bank of Houston (the Bank) as trustee of certain employee benefit plans.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 18, 1981, notice was published in the **Federal Register** (46 FR 61757) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (E) and (F) of the Code, for transactions described in an application filed on behalf of Bradley and the Bank.

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a) of the Act and section 4975(c)(1) (A) through (D) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction

is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (E) and (F) of the Code, shall not apply to the provision of real estate services as described in the notice of pendency and the receipt of fees with respect to such services by Bradley.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-2875 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-20; Exemption Application No. D-2247]

Exemption From the Prohibitions for Certain Transactions Involving the Teamsters Local No. 20 Insurance, Health and Welfare Plan and Trust Located in Toledo, Ohio

AGENCY: Office of Pension and Welfare Benefit Programs.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the assignment of a lease by the Teamsters Local No. 20 Insurance, Health and Welfare Plan and Trust (the Plan) to Dental Plans, Inc. (DPI), a party in interest with respect to the Plan, and the cash sale of furniture, equipment and leasehold improvements by the Plan to DPI.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57172) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act), for transactions described in an application filed on behalf of the trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicants have represented that they have complied with the requirements of the notice to interested persons as set forth in the notice of pendency. No public comments were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the Procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act shall not apply to the assignment by the Plan to DPI of a lease with Forty Four Corporation as owner-lessor for the premises in the basement of 435 S. Hawley Street, Toledo, Ohio (the Dental Care Center), and the cash sale of the furniture, equipment and leasehold improvements in the Dental Care Center by the Plan to DPI for a total of $174,935, provided such amount is not less than their fair market value at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-2876 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-29-M

Wage and Hour Division

[Administrative Order No. 656]

Special Industry Committee for All Industry in American Samoa; Appointment; Convention; Notice of Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949–53 Comp., p. 1004) and 29 CFR 511. I hereby appoint special

Industry Committee No. 15 for American Samoa.

2. Pursuant to section 6(a)(3) and Section 8 of the Act, as amended (29 U.S.C. 206(a)(3), 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR 511. I hereby:

(a) Convene the above-appointed industry committee.

(b) Refer to the industry committee the question of the minimum rate or rates for all industry in American Samoa to be paid under section 6(a)(3) of the Act, as amended.

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industry and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the Act.

The Committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on April 26, 1982 in the Rainmaker Hotel, Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rates prescribed by sections 6(a) and 6(b) of the Act, as amended by the Fair Labor Standards Amendments of 1977. The rate has been $3.35 since January 1, 1981.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industry, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in such industry than may be determined for other employees in such industry, the committee shall recommend such reasonable classifications within such industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within industry, in making such classifications and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. The Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information he has assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, as soon as it is completed. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Each prehearing statement shall contain the data specified in § 511.8 of the regulations and shall be filed not later than April 16, 1982. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, D.C., this 29th day of January 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-2806 Filed 2-1-82; 8:45 am]

BILLING CODE 4510-27-M

MERIT SYSTEMS PROTECTION BOARD

Employee Responsibilities and Conduct

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The Merit Systems Protection Board ("the Board") publishes notice of the adoption of the rules and regulations contained in Part 735 of Title 5 of the Code of Federal Regulations. Part 735 of Title 5 prescribes standards of conduct and responsibilities and governs statements of employment and financial interests for officers, employees and special government employees. This action is being taken pursuant to the requirements of 5 CFR 735.104 (a) and (f).

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth Goshorn, (202) 653–7171.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board, pursuant to 5 CFR 735.104 issues this notice adopting Part 735 of 5 CFR as its standards of employee conduct and responsibilities. This notice adopting the standards and requirements established by the Office of Personnel Management ("OPM") has been approved by OPM pursuant to 5 CFR 735.104(f) and is being published in the **Federal Register** for immediate effect.

The Board finds that this action relates solely to rules governing agency procedure or practice and, accordingly, that notice and prior publication for comments under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, are unnecessary. See 5 U.S.C. 553(b).

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of his determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Accordingly, the Merit Systems Protection Board pursuant to 5 CFR 1205(g) and 5 CFR 735.104(f) publishes its employee responsibilities and conduct standards to read as follows:

Employee responsibilities and conduct.

The Merit Systems Protection Board hereby adopts the rules and regulations contained in Part 735 of Title 5 of the Code of Federal Regulations, prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests for officers and employees, including special government employees. These adopted rules and regulations shall be applied, as appropriate, to the officers and employees, including special government employees, of the Board.

For the Board.

Dated: January 21, 1982.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-2499 Filed 2-1-82; 8:45 am]

BILLING CODE 7400-01-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Hearing; Collective Ratemaking

DATE: February 12, 1982.

PLACE: State Building, 350 McAllister Street, Room 1194, San Francisco, California.

TIME: 9:30 a.m.

PURPOSE: To receive testimony from various parties on collective ratemaking.

The Motor Carrier Act of 1980, Public Law 96-296, directs the Motor Carrier Ratemaking Study Commission (Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and of the need or lack of need for continued antitrust immunity thereof. The Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities.

The Commission, through its Hearings Committee, calls this regional hearing for the purpose of exploring alternatives to the current collective ratemaking process and to discuss advantages and disadvantages of the status quo.

Anyone who is interested in submitting written testimony for the record of the Commission may do so by sending same to: Larry F. Darby, Executive Director, Motor Carrier Ratemaking Study Commission, 214 Massachusetts Avenue, N.E., Washington, D.C. 20002.

FOR FURTHER INFORMATION, CONTACT: Name: J. Kent Jarrell; Title: General Counsel; Phone No.: (202) 724-9600.

Submitted this, the 28th day of January, 1982.

Larry F. Darby,

Executive Director.

[FR Doc. 82-2713 Filed 2-1-82; 8:45 am]

BILLING CODE 6820-BO-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[82-3]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to D.F.M. Company, Norman, Oklahoma, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 3,360,972 for "Magnetomotive Metal Working Device," issued January 2, 1968, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license wil be for a limited number of years and will contain appropriate terms and conditions to be be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245 Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received on or before April 5, 1982..

ADDRESS: National Aeronautics and Space Administration, Code GP-4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 755-3954.

Dated: January 26, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82-2652 Filed 2-1-82; 8:45 am]

BILLING CODE 7515-01-M

[82-4]

Intent To Grant Partially Exclusive Patent Licenses

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive patent licenses.

SUMMARY: Notice is hereby given that consideration is being given to granting both LIXI Research Limited Partnership, Downers Grove, Illinois; and Biomet, Inc., Warsaw, Indiana, limited, partially exclusive, revocable licenses to practice the radioactive isotope version of the invention described in claims 3, 5, 7-11, 13-28, 30, 32-35, and 37 of U.S. Patent No. 4,142,101 for "Low Intensity X-Ray and Gamma-Ray Imaging Device," issued February 27, 1979, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed partially exclusive licenses will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive licenses unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives in writing any of the following, together with supporting documentations: (a) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed partially exclusive licenses; or (b) an application for a nonexclusive license for the radioactive isotope versions of the invention, in accordance with § 1245.205(b) in which applicant states that he/she has already brought or is likely to bring the radioactive isotope version of the invention to practical application within a reasonable period. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the partially exclusive licenses.

DATE: Comments to this notice must be received on or before April 5, 1982.

ADDRESS: National Aeronautics and Space Administration, Code GP–4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:
Mr. John G. Mannix, (202) 755–3954.

Dated: January 26, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82–2863 Filed 2–1–82; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Behavioral and Neural Sciences; Subcommittee on Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.
Date and Time: February 18–19, 1982, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 1224, National Science Foundation, 1800 G Street, NW. Washington, D.C.
Type of Meeting: Closed.
Contact: Dr. John K. Harting, Developmental Neurosciences Panel, Room 320, National Science Foundation, Washington, D.C. 20550 Telephone (202–357–7428).
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Developmental Neurosciences.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 28, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–2867 Filed 2–1–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System, WPPSS Nuclear Plant No. 2; Order Extending Construction Completion Date

Washington Public Power Supply System (WPPSS) is the holder of Construction Permit No. CPPR–93 issued by the Atomic Energy Commission [1] on March 19, 1973 and extended on August 29, 1978, for construction of the WPPSS Nuclear Plant No. 2 which is presently under construction at the Permittee's site in Benton County, Washington. On September 4, 1981, the Permittee filed a request pursuant to the Code of Federal Regulations, Title 10, Part 50 § 50.55(b) for an extension of the construction completion date for WNP–2 because construction has been delayed due to the following factors:

1. Changes in the scope of the project including increases in the amount of material and engineering required as a result of regulatory actions, in particular those subsequent to the TMI–2 accident.

2. Construction delays and lower than estimated productivity, which resulted in delays in installation of material and equipment and delays in completing of systems necessitating rescheduling of preoperational testing.

3. Strikes by portions of the construction work force.

4. Changes in plant design.

5. Delays in delivery of equipment and materials.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period, the bases for which are set forth in the staff's evaluation of the request for extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The NRC staff evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room 1717, H Street, NW., Washington, D.C. 20555 and at the Richland Public Library, Richland, Washington 99352.

It is hereby ordered that the latest completion date for CPPR–93 is extended from December 1, 1981 to February 1, 1984.

Date of Issuance: January 27, 1982.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–2890 Filed 2–1–82; 8:45 am]

BILLING CODE 7590–01–M

[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

Privacy Act of 1974; Minor Amendments and Corrections to Systems of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Minor amendments and corrections to NRC Systems of Records.

SUMMARY: This document makes minor corrective amendments to the NRC Systems of Records, NRC–16, NRC–22, NRC–40, and Addendum I, Part 1. It adds certain information in NRC–22 and NRC–40, which was inadvertently omitted when these notices were submitted for publication in the **Federal Register** in 1979. It also clarifies and updates the information in NRC–16 and Addendum I, Part 1.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT:
Sarah N. Wigginton, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–8133.

SUPPLEMENTARY INFORMATION: The Commission is amending its Systems of Records Notices, NRC–16, by clarifying the paragraph entitled "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," and by updating the location of NRC Headquarters Offices on Addendum I, Part 1. The amendments also correct Systems of Records Notices, NRC–22 and NRC–40, by adding the "Systems exempted from certain provisions of the act" paragraph in each notice. This paragraph was inadvertently omitted from the amendments to these two Systems of Records published on July 9, 1979 (44 FR 40158).

1. In NRC–16, Facility Operator Licensees Records Files (10 CFR Part 55)—NRC, the paragraph entitled

"Routine uses of records maintained in the system, including categories of users and the purposes of such uses" is revised to read as follows:

NRC–16

SYSTEM NAME:

Facility Operator Licensees Records Files (10 CFR Part 55)—NRC.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR Part 55 to take an examination to be issued an operator's license;

b. To provide researchers with information for statistical evaluations related to selections, training and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in the Prefactory Statement, except paragraph number 3.

In addition, information related to the application, certification of competency, and license or denial letter may be made available in the NRC's Public Document Room.

* * * * *

2. In NRC–22, Personnel Performance Appraisals—NRC: Part A, GG–15 Employees and below; Part B, Senior Executive Service and Equivalent employees, the following paragraph should be inserted after the paragraph which is entitled "Record source categories" to read as follows:

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC: Part A, GG–15 employees and below; Part B, Senior Executive Service and equivalent employees.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

* * * * *

3. In NRC–40, Facility Security Support Files and Associated Reports—NRC, the following paragraph should be inserted after the paragraph which is entitled "Record source categories" to read as follows:

NRC–40

SYSTEM NAME:

Facility Security Support Files and Associated Reports—NRC.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

* * * * *

4. Addendum I, List of U.S. Nuclear Regulatory Commission Locations, Part 1, NRC Headquarters Offices, is revised to read as follows:

Addendum I

List of U.S. Nuclear Regulatory Commission Locations

Part 1—NRC Headquarters Offices

a. Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland.

b. East-West Towers Building, 4340 East-West Highway, Bethesda, Maryland.

c. East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

d. Lugenbeel Building, 4922 Fairmont Avenue, Bethesda, Maryland.

e. Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

f. Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.

g. Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

h. Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland.

i. Matomic Building, 1717 H Street, NW., Washington, D.C.

j. Air Rights III Building, 4550 Montgomery Avenue, Bethesda, Maryland.

* * * * *

Dated at Bethesda, Maryland, this 22d day of January 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-2717 Filed 2-1-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES EXCHANGE COMMISSION

[Rel. No. 12184; 811-2800]

Anplan Variable Account and Anchor National Life Insurance Co.; Filing of Application

January 26, 1982.

Notice is hereby given that Anchor National Life Insurance Company ("Anchor National") and Anplan Variable Account ("Applicant"), Camelback at 22nd Street, Phoenix, Arizona 85016, a separate account of Anchor National registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on December 24, 1981, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was established pursuant to a resolution of the Board of Directors of Anchor National in November of 1977 and registered with the Commission on January 3, 1978. Applicant's registration statement under the Securities Act of 1933 was amended on September 28, 1978. According to the application, that registration statement was never declared effective. Thus, the application represents that Applicant has not made a public offering of its securities.

Applicant states that it has no shareholders. Applicant further states that it has no assets; that it has no outstanding debts or other liabilities; that it is not a party to any litigation or administrative proceeding; and that it has not, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Applicant also states that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for

a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2880 Filed 2–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12185; 812–5003]

Chestnut Street Cash Fund, Inc.

January 26, 1982.

Notice is hereby given that Chestnut Street Cash Fund, Inc. ("Applicant"), #6 The Commons, 3512 Silverside Road, Wilmington, Del. 19803, filed an appliction on October 26, 1981, and an amendment thereto on January 20, 1982, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of the State of Maryland in 1981, and is registered under the Act as an open-end, diversified, management investment company. It is a no-load, money market fund offering its shares to customers of Provident National Bank ("Provident"), including clients of its trust division and individuals and businesses which maintain Provident accounts. Applicant will have two separate portfolios, A and B, each having the investment objective of seeking current income and stability of principal.

Applicant states that the securities held in each portfolio will have remaining maturities of one year or less. Portfolios A and B differ only with respect to their permitted investments; portfolio A will invest exclusively in obligations issued or guaranteed by the United States Government, its agencies of instrumentalities, while portfolio B will consist of other high quality "money market" instruments in addition to direct and indirect United States Government obligations, and may include certificates of deposit, banker's acceptances, and commercial paper including variable amount master demand notes. Applicant represents that it will not purchase certificates of deposit from Provident.

Applicant seeks an order of the Commission pursuant to section 6(c) of the Act exempting it from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's assets to be valued according to the amortized cost valuation method. Under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition and thereafter assuming a constant rate of amortization to maturity of any discount or permium, regardless of the impact of fluctuating interest rates on the market value of such instruments.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expresed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that it believes that its potential shareholders are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost as described above. On the other hand, Applicant states that it believes that those potential shareholders are vitally concerned that (1) the net asset value of their interests remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when change in market prices cause changes in yield on a daily or weekly basis.

By maintaining its portfolios of high quality instruments, having short maturities, Applicant believes that it will be possible to provide the required stability to individuals and institutional investors. Applicant has determined that

maintaining an average maturity of 120 days or less in each portfolio will accomplish the aims of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the market in which each portfolio will invest.

Applicant's requests for exemption is based on its proposed investment policies and Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the investment objectives of each of Applicant's portfolios to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from each portfolio's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity of the relevant portfolio; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to each portfolio objective of maintaining a stable net asset value per share, provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year except for instruments subject to repurchase agreements effective not more than 7 days from date of purchase nor (b) maintain in each portfolio a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will include in the minutes of its directors' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, Applicant will describe the nature and circumstances of such action.

Prior to adopting the amortized cost method of valuation, Applicant represents that its board of directors will determine in good faith that in light of characteristics described above, including the conditions to which Applicant must adhere as set forth in any order of the Commission, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities. Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2981 Filed 2–1–82; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among others, (i) quotations or estimates of market value reflecting current market conditions, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 27, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Conquest Exploration Co.
Common Stock, $.20 Par Value (File No. 7–6120)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 18, 1982, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2894 Filed 2–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12188; 812–5042]

Delaware Fund, Inc., et al; Filing of Application

January 26, 1982.

Notice is hereby given that Delaware Fund, Inc.; Decatur Income Fund, Inc.; Delta Trend Fund, Inc.; Delchester Bond Fund, Inc.; DMC Tax-Free Income Trust-Pennsylvania; Delaware Cash Reserve, Inc. ("Delaware Cash"); Delaware Tax-Free Money Fund, Inc. ("Delaware Tax-Free"); each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, and any other member fund to be formed in the Delaware Group of Funds at a later date (collectively, ("Funds"); and Delaware Management Co., Inc. ("DMC") and its wholly-owned subsidiary, Delaware Investment Advisors, Inc. ("DIA"), Seven Penn Center Plaza, Philadelphia, Pennsylvania 19103, each registered under the Investment Adviser's Act of 1940 (hereinafter, the Funds, DMC, and DIA are referred to as "Applicants") filed an application on November 27, 1981, for an order of the Commission pursuant to section 6(c) of the Act exempting Applicants from certain provisions of section 22(d) of the Act and Rule 22d–1 thereunder to the extent necessary to permit sales of the shares of certain of the Funds and of funds which may in the future become members of the Delaware Group of Funds, at net asset value without a sales charge to certain directors and affiliated employees of Applicants on terms, and in the circumstances, described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Funds maintain continuous offerings of their shares to the public pursuant to effective registration statements under the Securities Act of 1933. DMC, which acts as adviser to each of the Funds, is also registered as a broker-dealer under the Securities Exchange Act of 1934, and acts as the principal underwriter for certain of the Funds. DIA, acts as the investment adviser to a number of pension and retirement accounts, and to various private clients. The Funds other than Delaware Cash and Delaware Tax-Free, assess a sales charge in connection with the purchase of their shares.

Applicants represent that the existing Funds have boards of directors (or boards of trustees) consisting of the same 10 persons, and the Funds have, collectively, 12 employees. DMC, has a board of directors of 6 persons, and DIA, has a board of directors of 5 persons. DMC and DIA together employed approximately 219 persons as of October 31, 1981. Such directors, trustees, employees, and employees of any new fund or future DMC subsidiary are hereinafter denoted "Affiliated Employees."

Applicants propose to permit the Affiliated Employees to purchase, on their own behalf, and on behalf of a spouse or their children under the age of 21 years, either directly or through retirement or employee benefit plans (as applicable), the shares of Funds or of any other registered investment companies which may hereafter become members of the Delaware Group at the net asset value determined in accordance with Rule 22c–1 under the Act without the imposition of a sales charge as otherwise applied pursuant to the prospectuses of certain of the Funds. Purchases on behalf of a spouse or child will be eligible for purchase at net asset value only if that purchase is directed by the Affiliated Employee.

Applicants assert that no individual or in-person group sales solicitations or presentations concerning the Funds will be made. According to the application, all Affiliated Employees will receive, at least annually, notice from their employers concerning the availability of shares of the Funds at the net asset value of the shares without a sales charge. This notice, which will be furnished at the expense of their employers, will describe the Funds and their investment objectives, indicate that investments would be at net asset value without a sales charge and detail the various ways in which investments could be made. This notice would also indicate that additional information concerning the Funds could be obtained from DMC and would inform employees of the availability of prospectuses of the Funds from DMC. Applicants state that participants will agree not to resell Fund shares acquired thereunder except by repurchase by or for the account of the fund issuing such shares.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus, and if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except at a current public offering price described in the prospectus. Rule 22d–1 exempts certain transactions in, or elimination of, the sales load charged upon the sale of shares under certain circumstances. Applicants submit that the sale of Fund shares to Affiliated Employees at net asset value under the Plan may conflict with the provisions of section 22(d) of the Act and Rule 22d–1 thereunder.

Applicants state that while Rule 22d–1(i) provides an exemption from section 22(d) of the Act and permits sales without any sales charge to certain employees of affiliated persons of the Funds, this exemption is not available to Affiliated Employees who are employed in positions that do not directly provide investment advice to, or distribute shares of, the Funds. Applicants also point out that an argument maybe made that purchases of Fund shares at net

asset value by Affiliated Employees under an employee benefit plan are permitted by Rule 22d–1(f), which permits elimination of sales charges upon the sale pursuant to a uniform offer described in the prospectus and made to certain employee benefit plans provided such plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales-related expense. Applicants submit that it is not clear, however, that net asset value sales to the Affiliated Employees covered by a plan would meet the "uniform offer" requirement of Rule 22d–1(f).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that investment by Affiliated Employees in shares of the Funds at net asset value is supported by policy considerations, that such sales should result in demonstrable economies in sales efforts and sales related expenses as compared with other sales and would not be unjustly discriminatory, and that the grant of the exemption requested by the Applicants is appropriate in the public interest and consistent with the protection of investors and the purposes of the Act. Applicants further sumbit that the affiliation of the Funds with DMC and DMC subsidiaries is the basis for a unique relationship of these DMC companies to the Funds, which can be expected to result in economies of sales effort and sales charges on Fund shares purchased by Affiliated Employees without discrimination against other employee benefit plans or other purchasers of the Fund's shares.

Applicants further submit that the anticipated economies of scale will result from the fact that there will not be any effort expended by the Funds or DMC personally to solicit investments, that money for purchases of Fund shares by Affiliated Employees through any retirement or other employee benefit plan or payroll deduction program will be aggregated by DMC for payment to the respective Funds in which Affiliated Employees or their plans are investing, and all employees will receive, at least annually and at the expense of the employer, a notice of this program. Applicants believe that the proposed ability to allow such investments in Fund shares will serve valid business purposes for the Funds because it will promote among Affiliated Employees incentive, goodwill, and loyalty which will benefit the Funds as well as DMC and its subsidiaries.

Notice is further given that any interested person may, not later than February 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2882 Filed 2–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12186; 812–5018]

Massachusetts Financial International Trust, et al.; Filing of Application

January 26, 1982.

Notice is hereby given that Massachusetts Financial International Trust ("MFI"), Massachusetts Financial Bond Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Investors Trust, Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Financial High Income Trust, Massachusetts Capital Development Fund, Inc., Massachusetts Financial Emerging Growth Trust, (collectively, the "Member Funds"), each registered under the Investment Company Act of 1940 ("Act"), Massachusetts Financial Services Company ("MFS"), 200 Berkeley Street,, Boston, Massachusetts 02116, the principal underwriter for each of the Member Funds and any other load funds ("Future Funds") which may ultimately be created and managed by MFS and registered under the Act (the Member Funds, MFS and the Future Funds are collectively referred to as the "Applicants") filed an application on November 20, 1981, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act to the extent necessary to permit participants in the State of Washington Deferred Compensation Plan ("Plan") to purchase shares of the Member Funds and the Future Funds at a price other than the current public offering price described in the applicable prospectus of each Member Fund or any Future Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that MFI is an open-end, non-diversified, management investment company registered under the Act. MFI is a series company with one bond portfolio series outstanding. Applicants state that each of the other Member Funds is an open-end, diversified, management investment company registered under the Act. MFS serves as the principal underwriter for each of the Member Funds. Applicants state that the public offering price of the shares of the Member Funds is the net asset value per share next computed after the sale plus a sales charge of 7.25% (as a percentage of the offering price) when the amount of the purchase is less than $10,000. Applicants state that the sales charge reduces by scheduled amounts with purchases over $10,000 to a sales charge of 0.1% at amounts of purchase of $5,000,000 or more.

Applicants represent that the exemption is requested to permit participants in the Plan to purchase shares of the Member Funds and any Future Funds at net asset value with no additional sales charge. Applicants state that this purchase price is less than the current offering price described in the prospectus for each Member Fund, and less than the expected offering price to be described in any prospectus of a Future Fund.

National Plan Coordinators of Washington, Inc. ("NPC") is the administrator and coordinator for the Plan and its affiliate, NPC Securities, Incorporated, will effect the actual sales of shares in the Member Funds and Future Funds to participants in the Plan.

Applicants state that the Plan was established by statute to provide a system of deferred compensation for state employees. Applicants state that a deferred compensation committee ("Committee") was established to effectuate the Plan. The Committee engaged NPC to administer and coordinate the Plan, established various criteria to be met by any funding media to be used by the Plan, and authorized NPC to establish a bidding procedure for funding media interested in participation. One of the criteria established by the Committee was that no fees or expenses were to be charged to, or collected from the State of Washington in connection with the sale of securities of any funding medium. MFS submitted a bid to NPC which, on September 22, 1981, accepted the bid subject to MFS and the Member Funds obtaining an exemptive order from the Commission authorizing the Member Funds to sell shares to the Plan at net asset value.

Applicants represent that none of the Member Funds has any minimum investment requirement. Applicants further represent that none of the Member Funds have any power to redeem any shareholder's shares without his consent, nor does any Member Fund currently contemplate seeking such power.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Applicants request an order of exemption from the provisions of section 22(d) of the Act to permit participants in the Plan to purchase shares of the Member Funds and Future Funds at net asset value.

Applicants state that the purposes of section 22(d) are to prevent sales of investment company securities by unauthorized dealers at prices less than those offered by authorized distributors, which would hinder distribution of the securities, to prevent dilution of existing shareholder equity, and to prevent discrimination in favor of insiders.

In support of their request, Applicants argue that the largest portion of a sales charge on shares of the trust is attributable to soliciting the investor, ascertaining his financial requirements and providing backup sales services. Applicants state that in this case they were approached by the administrator of the Plan, which is expected to be a multi-million dollar, professionally managed deferred compensation plan for thousands of employees. Thus, the Applicants state that they did not have to engage in extensive solicitation efforts, nor did they have to engage in detailed investigation of financial suitability or financial requirements. Applicants state that much of the effort ordinarily made in connection with such sales of securities has been assumed by NPC in its role as coordinator for the enrollment of participants in the Plan. Applicants also state that they will not be supplying normal backup sales services, the cost of which is customarily covered by the proceeds of sales charges. Applicants argue that it is not unreasonable under such circumstances for the participants in the Plan, rather than MFS, to receive the complete benefit of the reduction in costs.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 22, 1982, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion, persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2683 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12187; 811-1457]

Pegasus Income & Capital Fund, Inc.; Filing of Application

January 26, 1982.

Notice is hereby given that Pegasus Income & Capital Fund, Inc. ("Applicant"), 1800 Century Park East, Suite 204B, Los Angles, CA 90067, a Delaware corporation, registered as an open-end, deversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application on November 30, 1981, for an order pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that at a special meeting of Applicant's shareholders held on January 6, 1981, Applicant's shareholders authorized (1) the sale by Applicant of substantially all of its assets to St. Paul Income Fund, Inc. ("St. Paul") in exchange for shares of voting stock of St. Paul, and (2) the creation of a litigation trust (the "Litigation Trust") to pursue certain claims of Applicant (the "Litigation") and the distribution of interests in the Litigation Trust to the shareholders of Applicant in liquidation of Applicant. On January 7, 1981, Applicant transferred substantially all of its assets to St. Paul in exchange for shares of voting stock of St. Paul.

Applicant further represents that the shares of St. Paul received by Applicant in connection with the sale of its assets

have been distributed pro rata to Applicant's shareholders, and that the Litigation heretofore conducted by Applicant and assets to continue such litigation have been distributed to a Litigation Trust, which is subject to supervision of the United States District Court for the Central District of California (No. CV 74–2527–ALS).

Applicant represents that, on the basis of a Certificate of Dissolution filed with the Secretary of the State of Delaware on January 8, 1981, it is a dissolved corporation under Delaware law. Applicant further represents that it presently has no shareholders and is not now engaged and does not propose to engage in any business activities other than those necessary for the winding up of its affairs. In addition, Applicant states that as of October 31, 1981, its only assets consisted of $29,682.43 in cash, which have been retained to meet certain liabilities of Applicant consisting primarily of attorneys fees.

Section 8(f) of the Act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2684 Filed 2–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 22368; 70–6409]

Southern Ohio Coal Co. and Ohio Power Co.; Proposed Financing for Coal Mining Subsidiary

January 26, 1982.

Ohio Power Company ("Ohio Power"), 301 Cleveland Avenue, S.W., Canton, Ohio 44702, an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, and Southern Ohio Coal Company ("SOCCO"), P.O. Box K, Moundsville, West Virginia 26401, a coal mining subsidiary of Ohio Power, have filed with this Commission a post-effective amendment to the application-declaration previously filed in this proceeding pursuant to sections 6, 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(3) thereunder.

By orders dated April 25, 1980 (HCAR No. 21537) and July 13, 1981 (HCAR No. 22129), Ohio Power and SOCCO were authorized to finance the installation of coal preparation facilities at SOCCO's Meigs Mine No. 1 and Raccoon Mine No. 3 through capital contributions and long-term loans by Ohio Power to SOCCO in aggregate amounts of $40,600,000 and $14,000,000, respectively. Included in the former amount was a sum of $5,542,000 for partial construction costs of a coal preparation plant at Raccoon Mine No. 3.

After reviewing the necessary fine refuse dewatering and waste disposal systems, a determination of the total construction cost of the preparation plant at Raccoon Mine No. 3 has been made. It has been determined that the cost for such systems, plus the cost of certain other design additions which are intended to improve further the quality of coal and to increase the total plant capacity, will raise the total cost of the preparation plant and ancillary facilities at Raccoon Mine No. 3 to $13,684,000, an increase of $8,142,000.

In concert with the additions and modifications proposed to be made at the preparation plant, it has been determined that it would be desirable to construct a rail loadout system at Raccoon Mine No. 3 including a coal handling facility at the mine and an overland conveyor to connect the coal handling facility with a coal-loading tipple to be constructed on the Chesapeake and Ohio Railroad line near Minerton, Ohio. The construction of such a rail loadout system will enable SOCCO to ship coal from Raccoon Mine No. 3 by rail (as opposed to its present movement by truck) to the Gavin Plant.

It is projected that the rail loadout system will be able to load rail cars at a rate of 2,000 tons of coal per hour. Plans call for loading and shipping one fifty-seven (57) car train to the Gavin Plant each workday. It is anticipated that the cost per ton of rail transportation in the start-up year will be almost the same as the cost per ton of truck transportation. However, as shipments from Raccoon Mine No. 3 increase, the cost differential is expected to increase in favor of rail transportation, and it has been estimated that, by 1990, the savings realized by rail delivery will be $3.00 per ton based on constant 1980 dollars.

In preparation for the proposed rail delivery of coal to the Gavin Plant, it will be necessary for the railroad to rehabilitate approximately 33 miles of railroad track from the Minerton siding to the Gavin Plant in Cheshire, Ohio. This expenditure currently anticipated to be $1,921,440 will be recorded in Ohio Power's utility plant account and will not be reflected in the cost of coal delivered to the Gavin Plant. The cost of the rail loadout system, not including the cost of rehabilitating the railroad track from Minerton to Cheshire, is estimated to be $5,877,000. This cost and the additional cost of $8,142,000 for improvements to the preparation plant will necessitate additional investments by Ohio Power in SOCCO in an aggregate amount of $14,019,000.

It is proposed that the additional investments will be financed through a combination of long-term loans and cash capital contributions by Ohio Power to SOCCO of $14,019,000. It is expected that Ohio Power will make its investment in SOCCO in one or more increments prior to June 30, 1982. The investments made by Ohio Power in SOCCO will be made in the same proportion as the debt-equity ratio of Ohio Power at the end of the year prior to the investment. As of December 31, 1980, the debt-equity ratios of Ohio Power were 55.9% long-term debt, 11.8% preferred stock, and 32.3% common equity.

In exchange for the long-term loans of Ohio Power, SOCCO will issue to Ohio Power promissory notes for the principal amount of such loans. Each of the notes will mature and become payable on December 31, 2011. It is proposed that the interest rate per annum on each note issued by SOCCO shall, in each case, be equal to the effective interest cost of

Ohio Power's most recently issued series of First Mortgage Bonds. The most recently issued series of Ohio Power's First Mortgage Bonds, the 15¼% Series due March 1, 1988 issued in March 1981, has an effective interest cost to Ohio Power of 15.4% per annum.

The capital contribution to be made by Ohio Power to SOCCO would equal the equity component of the debt-equity ratio of Ohio Power as of December 31, 1980. It is proposed that the return on equity applicable to this capital contribution shall be based on the weighted cost of money of Ohio Power's last issue of preferred stock (Ohio Power's last issue of preferred stock was the $2.27 series with a cost to Ohio Power equal to 9.46%) and the rate of return on common equity determined and allowed by the Federal Energy Regulatory Commission (FERC) in the most recent wholesale rate proceeding involving Ohio Power. Since there is presently no such applicable FERC order, it is proposed that the cost of common equity capital of SOCCO to be included in a return on equity be set at 13%, which is not more than the level allowed in the most recent order of the Public Utilities Commission of Ohio in a retail rate proceeding involving Ohio Power. At such time as FERC should take action specifying a rate of return in a wholesale rate proceeding involving Ohio Power, the rate established by FERC shall become applicable on a prospective basis to the then total common equity investment of Ohio Power in SOCCO. The allowed rate of return on common equity shall not be applied to any of SOCCO's retained earnings. No return allowance will be applied to such retained earnings. Based on Ohio Power's debt equity ratio, and on the interest rate on the long-term promissory notes and the return on equity state above, the overall cost of capital to SOCCO would be 13.93%.

The amended application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 18, 1982 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be file with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the amended application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2885 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12189; 812-5017]

State Bond Cash Management Fund, Inc.; Filing of Application

January 26, 1982.

Notice is hereby given that State Bond Cash Management Fund, Inc. ("Applicant"), 100-106 North Minnesota Street, New Ulm, Minnesota 56073, a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on November 18, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost valuation method. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states it is a "money market fund," designed to be an investment vehicle for investors who desire to place assets in money market investments where the primary considerations are high current income, preservation of capital, and liquidity. Applicant maintains that it seeks to provide a convenient means of investing short-term funds where the direct purchase of money market instruments may be undesirable or impractical. Applicant represents that its portfolio may be invested exclusively in a variety of high-quality short-term money market instruments, consisting of obligations issued or guaranteed by the U.S. Government or its agencies or instrumentalities (whether or not subject to repurchase agreements); obligations, or instruments secured by such obligations, including certificates of deposits, bankers' acceptances, fixed time deposits, and letters of credit, issued by (1) U.S. domestic banks (including foreign branches) and savings institutions having total assets of over one billion dollars and subject to regulatory supervision by the U.S. Government or state governments, (2) the fifty largest foreign banks in terms of assets, having branches or agencies in the United States (including their U.S. branches or agencies), and (3) domestic banks and savings institutions, which obligations or instruments are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; high-grade commercial paper rated at the time of investment within the two highest grades by Standard & Poor's Corporation or by Moody's Investors Services, Inc., or such other rating organizations as may be approved by Applicant's Board of Directors, or if not rated, issued and guaranteed as to payment of principal and interest by companies which have an existing debt security rated at the time of investment within the two highest grades by Standard & Poor's or Moody's or such other rating organization as may be approved by Applicant's Board of Directors; and corporate debt securities (other than commercial paper) rated within the two highest grades by Standard & Poor's or Moody's or such other rating organizations as may be approved by Applicant's Board of Directors at the time of investment. Applicant states that all of its investments will consist of obligations maturing within one year from the date of acquisition, and the average maturity of all its investments will be 120 days or less. Applicant maintains that the foregoing policies are not fundamental, and may be changed by the Board of Directors without shareholder approval. Applicant represents, however, that shareholder approval would be required to change a limitation that it invest no more than 25% of the market value of its total assets in securities of issuers of any one industry, except that Applicant reserves the right to concentrate investments in money market instruments issued by the U.S. Government or its agencies or instrumentalities or by banks or bank holding companies.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any

such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of this application, the Commission expressed its view that, it was, generally, inconsistent with Rule 2a–4 for money market funds to value their portfolio securities on an amortized cost basis and that such valuation should be made with reference to market factors.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that the experience of the money market fund industry tends to show that two qualities are helpful to attract investment: (1) Stability of principal and (2) steady flow of investment income. Applicant believes that by utilizing high quality money market instruments of short maturities combined with a stable net asset value, preferably $1.00 per share, it would be possible to provide these features to a variety of investors. Applicant expresses its view that investors can be expected to be concerned that the daily income declared by Applicant reflects income as earned and that the sales and redemption prices not change. For this reason, Applicant contends that it would have a significant competitive disadvantage over other money market funds, if its net asset value fluctuations were reflected in the price or included in dividends. Applicant states that it has an investment policy that investments are made only in instruments having a remaining maturity of one year or less. Applicant submits that its management has determined that an average portfolio maturity of 120 days or less combined with a stable price may accomplish both of the above aims of investors, that is, it somewhat obviates the possiblity of a change in the price per share, while at the same time providing a yield on portfolio instruments more or less related to yields available in the general debt market, otherwise unavailable with a portfolio having an average maturity of a shorter duration.

Applicant states further that given the nature of its policies and operations, there will normally be a relatively negligible discrepancy between market value and amortized cost value of such securities. Applicant expresses its belief that on the basis of the foregoing, it believes that the valuation of its portfolio securities on the amortized cost basis will benefit its shareholders by enabling Applicant to maintain more effectively a stable price per share while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby its dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Applicant submits that its Board of Directors has determined in good faith that in light of the Characteristics of Applicant as generally described in the application, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects fair value of such securities.

Applicant states that its request for the exemption specified in its application is made based on the existing management policies of Applicant set forth in the application. Applicant states further that as a condition to the granting of the exemption requested therein, Applicant agrees that the following conditions may be made conditions of the order:

1. In supervising Applicant's operations and in delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources;

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the Board will promptly consider what action, if any, should be initiated; and

(c) Where the Board of Directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a new asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective or maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash

in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments that its Board of Directors determines present minimal credit risks, and that are of high quality as determined by Standard & Poor's of Moody's at the time of investment or, in the case of any instrument that is not rated, of comparable quality as determined by its Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested persons may, no later than February 18, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2666 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18445; SR-Amex-82-1]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

January 27, 1982.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, submitted on January 26, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to obtain authorization to list and trade standardized put and call options on 5 to 10 year U.S. Treasury notes.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before February 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-82-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Amex rules governing the trading of the proposed options contract previously have been approved by the Commission after notice and a full opportunity for public comment.[1]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2667 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18444; File No. SR-CBOE-82-01]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

In the matter of rule change relating to priority of bids and offers; comments requested on or after February 23, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1982, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1. Text of Proposed Rules Change

Additions are italicized; deletions are bracketed.

Priority of Bids and Offers

Rule 21.14. No Change.

* * * Interpretations and Policies:

.01 A Market-Maker's bid and offer for a Treasury security option covering $100,000 principal amount of underlying

[1] Securities Exchange Act Release No. 18371 (December 23, 1981), 46 FR 63423 (December 31, 1981)

security automatically shall include a bid and offer for a "mini-series" Treasury security option covering $20,000 principal amount of the same underlying security that is no worse than 1/32 less on the bid and 1/32 more on the offer. Only regular series, and not "mini-series," quotations shall be disseminated.

Rule 21.14 replaces Rule 6.45 and 6.46; *Interpretation and Policy .01 to Rule 21.14 supplements Rule 6.44.*

Obligations of Market-Makers (Treasury bonds and notes)

Rule 21.19. No change.

* * * Interpretations and Policies:

.01 No Change.

.02 No Change.

.03 Rule 21.19 and its interpretations and policies shall be deemed complied with if a Market-Maker's bid and offer for a "mini-series" Treasury security option covering $20,000 principal amount of underlying security complies with interpretation and policy .01 of Rule 21.14, that is, is no worse than 1/32 less on the bid and 1/32 more on the offer, and if the bid and offer for the Treasury security option covering $100,000 principal amount of the same underlying security complies with Rule 21.19 and interpretations and policies .01 and .02.

Rule 21.19 and Interpretations and Policies .01 [and], *.02 and .03* supplement paragraph (b) of Rule 8.7.

II. A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of only disseminating regular, and not "mini-series," security option quotations is to simplify quotation procedures in order to save on costs and on quotation-reporting screen space. At the same time, by automatically including a 1/32 differential requirement for related "mini-series" Treasury security option quotations, the public is protected because there always will be a market available in the "mini-series" at that differential or better. The Exchange's surveillance systems are not affected by this proposed rule change.

The proposed change was discussed informally with a number of member firms. The firms were all in favor of the change because it would avoid confusion and would keep the quotation in the regular and "mini-series" markets in line.

The statutory basis for the proposed amendment is section 6(b)(5) of the Securities Exchange Act of 1934, in that it will help to implement the Exchange's already-approved Treasury security options market, while including protections for investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose a burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Formal comments on the proposed rule change were neither solicited not received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before March 9, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before February 23, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 27, 1982.

[FR Doc. 82-2868 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18443; File No. SR-MSE-81-7]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.

In the matter of rule change relating to the duties of the Chairman, Vice Chairman and President; comments requested on or before February 23, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 19, 1981 [1] the Midwest Stock Exchange, Incorporated, filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change deals with the duties and responsibilities of the Chairman, Vice Chairman and President of the exchange. First, the Chairman and President would lose their status as ex-officio members, with right to vote, on the exchange's Audit and Compensation Committees. Second, the authority to vote the securities of other corporations held by the MSE would be transferred from the President to the Chairman. Finally, the Vice Chairman alone, rather than together with the Chairman, would be responsible for the appointment of exchange committees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received

[1] The MSE submitted an amendment to the filing on January 15, 1982, notifying the Commission that its membership approved the proposed changes at its annual meeting of members held on January 11, 1981.

on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendments are designed in part, to bring the Constitution and the Rules of the Exchange in line with what was intended when the Audit and Compensation Committees were created. Although the Constitution and the Rules have not prohibited the Chairman and President from voting as members of these committees, the Chairman and President have recognized what the intent was and have not voted in committee sessions. The amendments also are designed to make the provisions of the MSE constitution and rules concerning the role of the Vice Chairman consistent.

The amendments to the Constitution and Rules of the Exchange are consistent with section 6(b)(1) of the Act since they relate to the organization of the Exchange and the capacity of the Exchange to be able to carry out the purposes of the Securities Exchange Act of 1934 as amended.

(b) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before February 23, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 25, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3088 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–18439; File No. SR–PCC–81–4]

Self-Regulatory Organization; Proposed Rule Change by Pacific Clearing Corp.

In the matter of rule change relating to revision of fees for clearing services; comments requested on or before February 23, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1982, Pacific Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pacific Clearing Corporation is instituting revisions in fees for clearing services applicable to its Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statufory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to offset, in part, the increased costs of supplying services provided by Pacific Clearing Corporation. These costs include labor and systems associated with providing clearing services. No significant fee increases have been effected for over three years, with some fees remaining unchanged since 1973. The basis under the act for the proposed rule change is section 17A(b)(3)(D) providing for the equitable allocation of reasonable dues, fees and other charges among clearing agency participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission

may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before February 23, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 22, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2690 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18438; File No. SR-PSD-81-1]

Self-Regulatory Organization; Proposed Rule Change by Pacific Securities Depository Trust Co.

In the matter of rule change relating to revision of fees for depository services; comments requested on or before February 23, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78d(b)(1), notice is hereby given that on January 19, 1982, Pacific Securities Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pacific Securities Depository Trust Company is instituting revisions in fees for depository services applicable to its Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (c) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to offset, in part, the increased costs of supplying services provided by Pacific Securities Depository Trust Company. These costs include labor and systems associated with providing depository services. No significant fee increases have been effected for over three years. The basis under the Act for the proposed rule change is section 17A(b)(3)(D) providing for the equitable allocation of reasonable dues, fees and other charges among clearing agency participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before February 23, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 22, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2691 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18410; File No. SR-PSE-81-25]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange

January 11, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1982, the Pacific Stock Exchange Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The terms of substance of the proposed rule change would require that admission to the PSE's San Francisco Equities Trading Floor be by badge only. Repeated failures by members or member firm personnel to wear badges would be grounds for fines ranging up to $50.00. Special arrangements would be made for the admission of visitors, who would be issued temporary badges. The access of any visitor to the trading floor, however, could be restricted if such visitor interferes with orderly floor procedure. The PSE's stated purpose in adopting this proposal is to enhance trading floor security and in the PSE's opinion the proposal is consistent with section 6(b) of the Act.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before February 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PSE-81-25.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2802 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18412; File No. SR-PSE-81-26]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc.

January 12, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 8, 1982, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Rule II, Section 3(g) of the PSE rules, relating to specialists accepting orders before the opening. The proposed amendment, which would add Commentary .03 to the above rule, requires a specialist to accept round lot orders for executions prior to the reopening of a stock in which trading has been halted until two minutes prior to the reopening of trading by the specialist, thereby allowing the specialist to establish the price of the stock on reopening. The PSE states in its submission that the statutory basis for the proposed rule change is section 6(b) of the Securities Exchange Act of 1934 ("Act"), in general, and section 6(b)(5) of the Act, in particular, in that the proposed rule change is intended to promote a fair and orderly marketplace and to facilitate transactions in securities.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before February 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PSE-81-26.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L. Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2803 Filed 2-1-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/07-5086]

CEDCO Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that CEDCO Capital Corporation (CEDCO), 180 North Michigan Avenue, Suite 333, Chicago, Illinois 60601, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to Section 107.1004(b) of the Regulations governing small business investment companies (13 CFR 107.1004(b) (1982)) for an exemption from the provisions of the Regulation.

This exemption, if granted, will permit CEDCO to provide financing in the amount of $100,000 to Fort Dearborn Paper Company (FDPC), 2901 West 36th Place, Chicago, Illinois 60632. Mr. Charles T. Grant, a director of CEDCO, is the President and majority stockholder of FDPC.

CEDCO is one of several participants in the financing of FDPC which was formed for the purpose of acquiring the assets and business operations of Fort Dearborn Paper, a division of Mead Corporation. Mr. Grant is presently the Vice President and General Manager of this division.

Pursuant to Paragraph (f) of the definition of "associate of a Licensee" in § 107.3 of the SBA Regulations, FDPC is considered to be an Associate of CEDCO. As such, the transaction will

require an exemption from the provisions of § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 26, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-2712 Filed 2-1-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 22
Tuesday, February 2, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–341, Amdt. 2, January 28, 1982]

Addition and Closure of Item to the January 29, 1982 Board Meeting

TIME AND DATE: 10 a.m. (after open meeting), January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 39. Report on ECAC. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–148–82 Filed 1–29–82; 3:53 am]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M–341, Amdt 3, January 28, 1982]

Addition and Closure of Item to the January 29, 1982 Board Meeting.

TIME AND DATE: 10 a.m. (after open meeting), January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Report on Negotiations with Chile. (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–149–82 Filed 1–29–82; 3:53 pm]

BILLING CODE 6320–01–M

3

CIVIL AERONAUTICS BOARD

[M–341, Amdt 4, January 28, 1982]

Deletion from the January 29, 1982 Board Meeting.

TIME AND DATE: 10 a.m., January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 39634, U.S. London Case (1982), Instructions to staff (OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–150–82 Filed 1–29–82; 3:53 pm]

BILLING CODE 6320–01–M

4

CIVIL AERONAUTICS BOARD

[M–342, January 28, 1982]

TIME AND DATE: 10 a.m. (open), February 4, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 39634, U.S.-London Case (1982), Instructions to staff.
3. Docket EAS–653, Appeal of Macon, Georgia, of its essential air transportation determination. (BDA, OCCR, OGC)
4. Docket EAS–813, Appeal of Essential Air Transportation Determination filed by Pierre, South Dakota. (OGC, OCCR, BDA)
5. Docket EAS–759, Bowling Green's appeal of BDA's denial of eligibility under section 419(b). (BDA, OCCR, OGC)
6. Docket 40225, Notice of Frontier Airlines to terminate service at Cody and Worland, Wyoming. (BDA, OCCR)
7. Commuter carrier fitness determination of Nolan Enterprise, Inc. d.b.a. Piper Air Center. (BDA)
8. Docket 40109, Southeast Air Cargo, Inc.—Application for a section 418 All-Cargo Air Service Certificate. (BDA)
9. Docket 40302, Application of Global International Airways Corp. for a certificate of public convenience and necessity under section 401 of the Federal Aviation Act of 1958, as amended, to operate United States-Germany scheduled service. (BIA, OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–151–82 Filed 1–29–82; 3:53 pm]

BILLING CODE 6320–01–M

5

FEDERAL HOME LOAN MORTGAGE CORPORATION

The Corporation having provided by regulation that a majority of its meetings or portions thereof may properly be closed to the public pursuant to paragraphs (4), (6), (8), 9(A), or (10) of subsection (c) of U.S.C. 552b, or any combination thereof, public announcement is made of the following closed meeting:

DATE: January 8, 1982.

TIME: 2 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., 4G, fourth floor.

SUBJECT MATTER:

Minutes of November 23, 1981 Board of Directors' Meeting (closed) (5 U.S.C. 552b(c)(9)(A))
President's Report (closed) (5 U.S.C. 562b(c)(9)(A))
Complete October Financial Statements; Partial November Financial Statements (closed) (5 U.S.C. 552b(c)(9)(A))

[S–41–82 Filed 1–11–82; 10:19 am]

BILLING CODE 6725–01–M

6

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9 a.m., Tuesday, February 9, 1982.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte No. MC–88, *Detention of Motor Vehicles.*

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Director, Office of Communications; Telephone: (202) 275–7252.

January 27, 1982.

[S–145–82 Filed 1–29–82; 12:24 pm]

BILLING CODE 7035–01–M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–2]

TIME AND DATE: 9 a.m., Tuesday, February 9, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800

Independence Avenue, SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; items five and six will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Collision of the U.S. Tankship *Pisces with the Greek Bulk Carrier Trade Master,* Mile 124, Lower Mississippi River, December 27, 1980, and *Recommendations* to the U.S. Coast Guard, the Federal Communications Commission, the New Orleans Port Safety Council, the Waterways Journal, and the American Waterways Operators, Inc.

2. *Aircraft Accident Report:* McDonnell Douglas, Inc., DC-9-80, N980DC, Edwards Air Force Base, California, May 2, 1980, and *Recommendations* to the Federal Aviation Administration.

3. *Marine Accident Report:* Collision of the U.S. Barge Carrier, *SS Lash Atlantico* and Greek Freighter *Hellenic* Carrier in the Atlantic Ocean 13 nmi Northeast of Kitty Hawk, North Carolina, May 6, 1981, and *Recommendations* to the U.S. Coast Guard, Hellenic Lines, Ltd., and Prudential Lines, Inc.

4. *Recommendations* to the Federal Aviation Administration regarding runway safety area obstacle and midfield arrestment barrier, runway 30R, Lambert-St. Louis International Airport.

5. *Opinion and Order:* Administrator v. Moore, Dkt. SE-4776; disposition of Administrator's appeal.

6. *Opinion and Order:* Administrator v. Tracy, Dkt. 5194; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-382-6525.

January 29, 1982.

[S-146-82 Filed 1-29-82; 1:20 pm]

BILLING CODE 4910-56-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 1, 1982 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Tuesday, February 2:

2:00 p.m.
Briefing on Status of Committee for Review of Generic Requirements (public meeting) (as announced)

Thursday, February 4:

10:00 a.m.
Meeting with FEMA on Rulemaking on Frequency of Exercises (public meeting) (as announced)

2:00 p.m.
Briefing by Industry on Plans for Quality Assurance Improvement (public meeting) (approximately 1½ hours) (as announced)

3:30 p.m.
Affirmation/Discussion Session (public meeting) (items revised)
Items to be affirmed and/or discussed:
a. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings
b. Amendments to Part 1 and 2 to Implement the Commission's Delegation of OL Antitrust Determination to Directors of NRR AND NMSS
c. Diablo Canyon Physical Security—Governor Brown's Request for Public Disclosure of Non-Protection Information

4:15 p.m.
Briefing on Proposed Enforcement Action (closed meeting)

Friday, February 5:

10:30 a.m.
Meeting with ACRS (public meeting) (as announced)

2:00 p.m.
Discussion of Phase I of Diablo Canyon Report (closed meeting)

ADDITIONAL INFORMATION:

Discussion of Region V Report on Diablo Canyon (Closed Meeting), held at 9:50 a.m. on January 21 was continued at 1:50 that afternoon

By a vote of 5-0 on January 27, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Enforcement Matters (Closed Meeting) and, by a vote of 5-0 on January 28, that Report on Ginna Incident, held those days respectively, be held on less than one week's notice to the public

Affirmations of Revised General Statement of Policy and Procedure for Enforcement Actions and Dr. George V. Taplin's Petition (PRM 35-1) Regarding 10 CFR Part 35, "Human Uses of Byproduct Material," scheduled for January 28 were cancelled

Discusion of Management-Organization and Internal Personnel Matters, scheduled for January 25 was postponed to January 28

Discussion of Contested Issues in TMI-1 Restart Proceeding, announced for February 3 was cancelled

Briefing by Regulatory Reform Task Force, announced for February 5, was cancelled

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary M. Gilbert (202) 634-1410.

January 28, 1982.

Gary M. Gilbert,

Office of the Secretary.

[S-147-82 Filed 1-29-82; 3:45 pm]

BILLING CODE 7590-01-M

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federal register

Tuesday
February 2, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Clinical Chemistry and Clinical Toxicology Devices; General Provisions and Classification of 206 Devices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 862

[Docket No. 78N-2285]

Clinical Chemistry and Clinical Toxicology Devices; General Provisions and Classification of 206 Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing general rules applicable to the classification of all clinical chemistry and clincal toxicology devices. The Medical Device Amendments of 1976 require FDA to classify all medical devices intended for human use into three categories: class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble to this proposal, FDA describes the development of the proposed regulation classifying 206 clinical chemistry and clinical toxicology devices. The preamble also describes the activities of the Clinical Chemistry Device Section and the Clinical Toxicology Device Section of the Clinical Chemistry and Hematology Devices Panel (formerly the Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel), an FDA advisory committee that makes recommendations to FDA concerning the classification of clinical chemistry and clinical toxicology devices.

DATES: Comments by April 5, 1982. FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene W. Rice, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (Pub. L. 94-295, hereinafter called the amendments) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; and class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device panel (an FDA advisory committee); (2) published the Panel's recommendation for comment along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and that is substantially equivalent to a device classified under this scheme, is classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

Related Regulations

In the **Federal Register** of July 28, 1978 (43 FR 32988), the agency issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the **Federal Register** of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the **Federal Register** of May 19, 1975 (40 FR 21848).

Clinical chemistry and clinical toxicology devices are subject to labeling requirements in § 809.10 (21 CFR 809.10) for in vitro diagnostic products. As defined in § 809.3(a) (21 CFR 809.3(a)), in vitro diagnostic products are those reagents, instruments, and systems intended for use in the diagnosis of disease or in the determination of the state of health in order to cure, mitigate, treat, or prevent disease or its sequelae. These products are intended for use in the collection, preparation, and examination of specimens taken from the human body. Before the enactment of the amendments, FDA regarded in vitro diagnostic products as drugs or devices, or as combinations of drugs and devices. Since the enactment of the amendments, with the expanded definition of "device" in section 201(h) of the act, FDA regards in vitro diagnostic products as devices.

Activities of Panels

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Clinial Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel were originally chartered on October 15, 1974, as the Clinical Chemistry and the Clinical Toxicology Subcommittee of the Diagnostic Products Advisory Committee.

On August 9, 1976, the Subcommittees were rechartered as the Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel to reflect their new responsibilities under the amendments. The agency directed each panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, the Panels reviewed all devices that FDA had referred to them to make certain that their recommendations were in accord with the amendments. Throughout the Panels' deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of clinical chemistry and clinical toxicology devices. The Panels also invited experts to testify and sought information on many devices from the published literature.

In October 1977, the Panels submitted to FDA preliminary reports of their recommendations. The reports included rosters of current and former Panel members and consultants and listed all meeting dates. The agency placed copies of the reports in the office of the Dockets Management Branch (HFA-305), Food and Drug Administration, and announced their availability to the public by notice published in the **Federal**

Register of November 29, 1977 (42 FR 60792). Also available in the Dockets Management Branch are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in this proposal.

On April 28, 1978, the agency terminated all of the device classification panels and reestablished them with the same functions, but with new names and a new structure. FDA published notices of these changes in the **Federal Register** of May 19, 1978 (43 FR 21666, 21667, and 21668) and May 26, 1978 (43 FR 22672 and 22673). The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel were terminated, and their functions are now conducted by the Clinical Chemistry Device Section and the Clinical Toxicology Device Section of the Clinical Chemistry and Hematology Devices Panel.

Relationship Between the Device Names in the Device Registration and Listing Codes and the Device Names in Classification Regulations

Some manufacturers have become accustomed to identifying a device by its registration and listing name and three-letter code used for purposes of device listing under section 510 of the act (21 U.S.C. 360). However, FDA is still making changes in the names and identifications of generic types of devices in the classification regulations for all devices for which final regulations have not been published. Because FDA has not used the present device registration and listing names in the proposed and final classification regulations, FDA has prepared an index of names of generic types of medical devices used in classification regulations to aid a manufacturer in matching its device with the proper classification regulation. The index shows the device registration and listing product code for each device reviewed by a classification panel and the corresponding name of the generic type of device and classification panel in which the device classification will be published in the **Federal Register**. The agency announced the availability of this index in the **Federal Register** of March 6, 1979 (44 FR 12269). If necessary, this index will be updated and the availability of the revised index will be reannounced in the **Federal Register**. FDA believes that, because this index is available, it is unnecessary to include or cross-reference the present device registration and listing name and product code in the classification regulations. In the future, following publication of most of the device classification regulations, the agency will revise and the reissue the device registration and listing product code, so the device names to be used for registration and listing correspond to the device names in the final device classification regulations.

List of Clinical Chemistry and Clinical Toxicology Devices

In 1972 FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. Following this survey, FDA developed a list of clinical chemistry and clinical toxicology devices. The Panels supplemented the list using their members' knowledge of clinical chemistry and clinical toxicology devices in use. Devices that were solely for experimental or investigational use or that were not generally available were not included.

FDA is proposing to establish a new Part 862 in Title 21 of the Code of Federal Regulations. Part 862 will consist of sections identifying each clinical chemistry and clinical toxicology device with a brief narrative description and stating the classification of that device. A list of the clinical chemistry and clinical toxicology devices appears elsewhere in this preamble.

Clinical Chemistry and Clinical Toxicology Device Classifications

The agency is proposing to classify 31 clinical chemistry and clinical toxicology devices into class I (general controls) and 175 clinical chemistry and clinical toxicology devices into class II (performance standards). The agency is not proposing to classify any clinical chemistry products or clinical toxicology products into class III (premarket approval). FDA is also publishing the recommendations of the two Sections of the Clinical Chemistry and Hematology Devices Panel regarding these devices, as required by section 513 (c)(2) and (d)(1) of the act (21 U.S.C. 360c (c)(2) and (d)(1)).

Panel Recommendations

The Panel recommendation concerning a clinical chemistry or clinical toxicology device includes the information described below.

1. *Identification.* Both the Panel recommendation and the proposed FDA classification include a brief narrative identification of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 862.1, any manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 (21 CFR Part 807) of the regulations cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a newly offered device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an idenfication of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to devices previously classified by the regulation. FDA believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87), and whether the device is described in a classification regulation.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I (general controls) or class II (performance standards).

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), good manufacturing practice requirements). Although the Panels did not recommend that any device be exempted at this time from section 519 of the act, the Panels did recommend that the manufacturers of several class I devices be exempted from the good manufacturing practice regulation in Part 820 of the regulations (21 CFR Part 820) in the manufacture of these devices. The Clinical Chemistry Panel recommended that those class I clinical chemistry devices which are exempted from the good manufacturing practice regulation also be exempted from premarket notification procedures under section 510(k) of the act and Part

807 of the regulations (21 CFR Part 807). FDA's policy concerning these exemption recommendations is discussed below in the seciton of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority ("high," "medium," or "low") for establishing a performance standard for the device. As explained below in the section of this notice concerning "Priorities for Class II Devices," FDA is not, however, proposing the establishment of FDA priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes that a particular device meets the statutory critieria for classification into class I or II.

Except in those instances in which FDA's classification proposal differs from the Panel's recommendation, FDA is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f)).

The Panels and FDA have not identified any device subject to this proposal as implants or as life-supporting or life-sustaining devices.

4. *Summary of data on which the recommendation is based.* In many cases, the Sections of the Panel based their recommendations on Panel members' personal knowledge of, and clinical experience with, the devices under review. The Panel particularly relied upon clinical experience and judgment when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments makes clear that the term "data" has a special meaning in section 513(c)(2)(A) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in that section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H.R. Rept. No. 94–853, 94th Congress, 2d Session 40 (1976)). FDA has determined that clinical experience and judgment is valid scientific evidence for classifying certain devices.

In many cases, FDA sought more data and information concerning the classification of a device than were cited by the Panel. References to these data and information are found in the section for each clinical chemistry and clinical toxicology device under the heading "Panel Recommendations and FDA's Proposed Classifications." FDA is adopting, as the agency's statement of the basis for issuing the regulation under section 517(f) of the act, the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble to the proposed classification regulation.

5. *Risks to health.* In identifying the risks to health presented by clinical chemistry and clinical toxicology devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks they considered most significant, especially those that are unique to the individual device.

Because the Panel's classification recommendations and FDA's proposed classification may not identify all risks to health presented by clinical chemistry and clinical toxicology devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to health to be addressed by FDA requirements.

Proposed Classification

Each section for a clinical chemistry or a clinical toxicology device states under the heading "Panel Recommendations and FDA's Proposed Classifications" whether FDA agrees with the Panel's recommendation and describes the agency's proposed classification of the device.

FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

Priorities for Class II Devices

For devices that the Panel recommends be classified into class II, section 513(c)(2)(A) of the act requires that the Panel's recommendation include, to the extent practicable, a recommendation for the assignment of a priority for application to the device of a performance standard or premarket approval requirements. In developing its advice concerning priorities ("high," "medium," or "low") of devices recommended for classification into class II, the Panel compared the device with other clinical chemistry and clinical toxicology devices, based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device. The Panel recommended assignment of a "high priority" only to those class II devices that the Panel believed should receive the agency's immediate attention.

FDA is not proposing at this time to establish priorities for development of performance standards for all class II devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. In the **Federal Register** of February 1, 1980 (45 FR 7489 and 45 FR 7493), FDA published notices identifying which class II devices the agency found to warrant a high priority for the development of performance standards. At a later date, the agency will establish priorities for the development of standards for the remaining class II devices. All priorities established by the agency are based on the Panel's recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the **Federal Register.**

Products That Have Both Medical and Nonmedical Uses

Some products have both medical and nonmedical uses. FDA will regulate a multi-purpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body." Section 201(h) of the act (21 U.S.C. 321(h)). FDA will determine the intended use of a product based upon the expressions of the person legally responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a particular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes and, therefore, will be regulated as medical devices whether or not medical claims are made for them.

Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: Section 510

(21 U.S.C. 360), registration; section 519 (21 U.S.C. 360i), records and reports; and section 520(f) (21 U.S.C. 360j(f)), good manufacturing practices.

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding or processing of * * * a device or devices" must register with FDA (section 510 (b) through (i)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See Part 807 (21 CFR Part 807).) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device classification panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions for certain devices. Thus, the agency has proposed to exempt manufacturers of certain devices from Subpart E of Part 807 of the regulations, which implements section 510(k) of the act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) of the act will provide FDA with adequate notice of new products within these generic types of devices.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation under Part 820 (21 CFR Part 820), published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA may publish other regulations in accordance with section 519 of the act, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. Whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the **Federal Register** of July 21, 1978. At the time of the Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting manufacturers of a class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation manufacturers of a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt manufacturers of a device from general requirements concerning records or complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or routine testing before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. A sterile device must be subject to the entire GMP regulation to ensure that manufacturers adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished through adherence to a comprehensive quality assurance program as is required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strick packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP regulation will extend to § 820.180, with respect to general requirements concerning records, or § 820.198, with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that device manufacturers have adequate systems for complaint investigation and followup, all manufacturers are required to comply with the complaint file requirements. All device manufacturers also are required to comply with the general requirements concerning records to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of devices from requirements under section 510 or 520(f) of the act, but has acted on the basis of exemption recommendations of the device classification panels. However, FDA has proposed occasionally to exempt manufacturers of certain devices classified into class I or class II from the requirements of certain sections of the GMP regulation, according to the above exemption criteria. Manufacturers and other interested persons may submit comments on the appropriateness of the proposed exemptions of manufacturers of devices, whether the exemptions are proposed in response to recommendations of the panels or on the agency's initiative. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a

device from the premarket notification requirements or the GMP regulation is consistent with the criteria discussed above.

Guidelines for Preparing Petitions Requesting Exemption or Variance From the Device GMP Regulation for Devices Classified Into Class I or Class II

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device GMP regulation. These petitions may be submitted in accordance with provisions of section 520(f)(2) of the Act (21 U.S.C. 360j(f)(2)). The agency announced the availability of the guidelines in a notice published in the **Federal Register** of January 18, 1980 (45 FR 3671).

List of Clinical Chemistry and Clinical Toxicology Devices

The following is a list of clinical chemistry and clinical toxicology devices that FDA is proposing to classify, the section and subpart of Part 862 in Title 21 of the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
	Subpart B—Clinical Chemistry Test Systems		
862.1020	Acid phosphatase (total or prostatic) test system.	78N-2257	II.
862.1025	Adrenocorticotropic hormone (ACTH) test system.	78N-2258	II.
862.1030	Alanine amino transferase (ALT/SGPT) test system.	78N-2259	II.
862.1035	Albumin test system	78N-2290	II.
862.1040	Aldolase test system	78N-2291	II.
862.1045	Aldosterone test system	78N-2292	II.
862.1050	Alkaline phosphatase or isoenzymes test system.	78N-2293	II.
862.1060	Delta-aminolevulinic acid test system.	78N-2295	II.
862.1065	Ammonia test system	78N-2296	II.
862.1070	Amylase test system	78N-2297	II.
862.1075	Androstenedione test system	78N-2298	II.
862.1080	Androsterone test system	78N-2299	II.
862.1085	Angiotensin I and renin test system.	78N-2300	II.
862.1095	Ascorbic acid test system	78N-2301	II.
862.1100	Aspartate amino transferase (AST-SGOT) test system.	78N-2302	II.
862.1110	Bilirubin (total or direct) test system.	78N-2303	II.
862.1115	Urinary bilirubin and its conjugates (nonquantitative) test system.	78N-2304	II.
862.1120	Blood gases (P_{CO_2}, P_{O_2}) and blood pH test system.	78N-2305	II.
862.1130	Blood volume test system	78N-2307	II.
862.1135	C-peptides of proinsulin test system.	78N-2308	II.
862.1140	Calcitonin test system	78N-2309	II.
862.1145	Calcium test system	78N-2310	II.
862.1150	Calibrator	78N-2311	II.
862.1155	Human chorionic gonadotropin (HCG) test system for use in early detection of pregnancy.	78N-2312	II.
862.1160	Bicarbonate/carbon dioxide test system.	78N-2313	II.
862.1165	Catecholamines (total) test system.	78N-2314	II.
862.1170	Chloride test system	78N-2315	II.
862.1175	Cholesterol (total) test system.	78N-2316	II.
862.1180	Chymotrypsin test system	78N-2317	II.
862.1185	Compound S (11-deoxycortisol) test system.	78N-2318	II.
862.1190	Copper test system	78N-2319	II.
862.1195	Corticoids test system	78N-2320	II.
862.1200	Corticosterone test system	78N-2321	II.
862.1205	Cortisol (hydrocortisone and hydroxycorticosterone) test system.	78N-2322	II.
862.1210	Creatine test system	78N-2323	II.
862.1215	Creatine phosphokinase/creatine kinase or isoenzymes test system.	78N-2324	II.
862.1225	Creatinine test system	78N-2326	II.
862.1230	Cyclic AMP or cyclic GMP test system.	78N-2327	II.
862.1240	Cystine test system	78N-2329	II.
862.1245	Dehydroepiandrosterone (free and sulfate) test system.	78N-2330	II.
862.1250	Desoxycorticosterone test system.	78N-2331	II.
862.1255	2,3-Diphosphoglyeric acid test system.	78N-2332	II.
862.1260	Estradiol test system	78N-2333	II.
862.1265	Estriol test system	78N-2334	II.
862.1270	Estrogens (total, in pregnancy) test system.	78N-2335	II.
862.1275	Estrogens (total, nonpregnancy) test system.	78N-2336	II.
862.1280	Estrone test system	78N-2337	II.
862.1285	Etiocholanolone test system	78N-2338	II.
862.1290	Fatty acids test system	78N-2339	II.
862.1295	Folic acid test system	78N-2340	II.
862.1300	Follicle-stimulating hormone test system.	78N-2341	II.
862.1305	Formiminoglutamic acid (FIGLU) test system.	78N-2342	II.
862.1310	Galactose test system	78N-2343	II.
862.1315	Galactose-1-phosphate uridyl transferase test system.	78N-2344	II.
862.1320	Gastric acidity test system	78N-2345	II.
862.1325	Gastrin test system	78N-2346	II.
862.1330	Globulin test system	78N-2347	II.
862.1335	Glucagon test system	78N-2348	II.
862.1340	Urinary glucose (non-quantitative) test system.	78N-2349	II.
862.1345	Glucose test system	78N-2350	II.
862.1360	*Gamma*-glutamyl transpeptidase and isoenzymes test system.	78N-2353	II.
862.1366	Glutathione test system	78N-2354	II.
862.1370	Human growth hormone test system.	78N-2355	II.
862.1375	Histidine test system	78N-2356	II.
862.1380	Hydroxybutyric dehydrogenase test system.	78N-2357	II.
862.1385	17-Hydroxycorticosteroids (17-ketogenic steroids) test system.	78N-2358	II.
862.1390	5-Hydroxyindole acetic acid/serotonin test system.	78N-2359	II.
862.1395	17-Hydroxyprogesterone test system.	78N-2360	II.
862.1400	Hydroxyproline test system	78N-2361	II.
862.1405	Immunoreactive insulin test system.	78N-2362	II.
862.1410	Iron (non-heme) test system	78N-2363	II.
862.1415	Iron-binding capacity test system.	78N-2364	II.
862.1420	Isocitric dehydrogenase test system.	78N-2365	II.
862.1430	17-Ketosteroids test system	78N-2367	II.
862.1435	Urinary ketones (nonquantitative) test system.	78N-2368	II.
862.1440	Lactate dehydrogenase test system.	78N-2369	II.
862.1445	Lactate dehydrogenase isoenzymes test system.	78N-2370	II.
862.1450	Lactic acid test system	78N-2371	II.
862.1455	Lecithin-sphingomyelin ratio in amniotic fluid test system.	78N-2372	II.
862.1460	Leucine aminopeptidase test system.	78N-2373	II.
862.1465	Lipase test system	78N-2374	II.
862.1470	Lipid (total) test system	78N-2375	II.
862.1475	Lipoprotein test system	78N-2376	II.
862.1485	Luteinizing hormone test system.	78N-2378	II.
862.1490	Lysozyme (muramidase) test system.	78N-2379	II.
862.1495	Magnesium test system	78N-2380	II.
862.1500	Malic dehydrogenase test system.	78N-2381	II.
862.1505	Mucopolysaccharides test system.	78N-2382	II.
862.1510	Urinary nitrite (nonquantitative) test system.	78N-2383	II.
862.1515	Nitrogen (amino-nitrogen) test system.	78N-2384	II.
862.1520	5'-Nucleotidase test system	78N-2385	II.
862.1530	Plasma oncometry test system.	78N-2387	II.
862.1535	Ornithine carbamyl transferase test system.	78N-2388	II.
862.1540	Osmolality test system	78N-2389	II.
862.1545	Parathyroid hormone test system.	78N-2390	II.
862.1550	Urinary pH (nonquantitative) test system.	78N-2391	II.
862.1555	Phenylalanine test system	78N-2392	II.
862.1560	Urinary phenylketones (nonquantitative) test system.	78N-2393	II.
862.1565	6-Phosphogluconate dehydrogenase test system.	78N-2394	II.
862.1570	Phosphohexose isomerase test system.	78N-2395	II.
862.1575	Phospholipid test system	78N-2396	II.
862.1580	Phosphorus (inorganic) test system.	78N-2397	II.
862.1585	Human placental lactogen test system.	78N-2398	II.
862.1590	Porphobilinogen test system	78N-2399	II.
862.1595	Porphyrins test system	78N-2400	II.
862.1600	Potassium test system	78N-2401	II.
862.1605	Pregnanediol test system	78N-2402	II.
862.1610	Pregnanetriol test system	78N-2403	II.
862.1615	Pregnenolone test system	78N-2404	II.
862.1620	Progesterone test system	78N-2405	II.
862.1625	Prolactin (lactogen) test system.	78N-2406	II.
862.1630	Protein (fractionation) test system.	78N-2407	II.
862.1635	Total protein test system	78N-2408	II.
862.1640	Protein-bound iodine test system.	78N-2409	II.
862.1645	Urinary protein or albumin (nonquantitative) test system.	78N-2410	II.
862.1650	Pyruvate kinase test system	78N-2411	II.
862.1655	Pyruvic acid test system	78N-2412	II.
862.1660	Quality control material (assayed and unassayed).	78N-2413	I.
862.1665	Sodium test system	78N-2414	II.
862.1670	Sorbitol dehydrogenase test system.	78N-2415	II.
862.1675	Blood specimen collection device.	78N-2416	II.
862.1680	Testosterone and dihydrotestosterone test system.	78N-2417	II.
862.1685	Thyroxine-binding globulin test system.	78N-2418	II.
862.1690	Thyroid-stimulating hormone test system.	78N-2419	II.
862.1695	Free thyroxine test system	78N-2420	II.
862.1700	Total thyroxine test system	78N-2421	II.
862.1705	Triglyceride test system	78N-2422	II.
862.1710	Total triiodothyronine test system.	78N-2423	II.
862.1715	Triiodothyronine uptake test system.	78N-2424	II.
862.1720	Triose phosphate isomerase test system.	78N-2425	II.
862.1725	Trypsin test system	78N-2426	II.
862.1730	Free tyrosine test system	78N-2427	II.
862.1770	Urea nitrogen test system	78N-2428	II.
862.1775	Uric acid test system	78N-2429	II.
862.1780	Urinary calculi (stones) test system.	78N-2430	II.
862.1785	Urinary urobilinogen (nonquantitative) test system.	78N-2431	II.
862.1790	Uroporphyrin test system	78N-2432	II.
862.1795	Vanilmandelic acid test system.	78N-2433	II.
862.1805	Vitamin A test system	78N-2435	II.
862.1810	Vitamin B_{12} test system	78N-2436	II.
862.1815	Vitamin E test system	78N-2437	II.
862.1820	Xylose test system	78N-2438	II.

Section	Device	Docket No.	Class
	SUBPART C—CLINICAL LABORATORY INSTRUMENTS		
862.2050	General purpose laboratory equipment.	78N-2439	I.
862.2100	Calculator/data processing module for clinical use.	78N-2441	I.
862.2140	Centrifugal chemistry analyzer for clinical use.	78N-2443	I.
862.2150	Continuous flow sequential multiple chemistry analyzer for clinical use.	78N-2444	I.
862.2160	Discrete photometric chemistry analyzer for clinical use.	78N-2445	I.
862.2170	Micro chemistry analyzer for clinical use.	78N-2446	I.
862.2230	Chromatographic separation material for clinical use.	78N-2450	I.
862.2250	Gas liquid chromatography system for clinical use.	78N-2452	I.
862.2260	High-pressure liquid chromatography system for clinical use.	78N-2453	I.
862.2270	Thin-layer chromatography system for clinical use.	78N-2454	I.
862.2300	Colorimeter, photometer, or spectrophotometer for clinical use.	78N-2455	I.
862.2310	Clinical sample concentrator	78N-2456	I.
862.2320	*Beta* or *gamma* counter for clinical use.	78N-2457	I.
862.2400	Densitometer/scanner (integrating, reflectance, thin-layer chromatography, or radiochromatogram) for clinical use.	78N-2459	I.
862.2485	Electrophoresis apparatus for clinical use.	78N-2463	I.
862.2500	Enzyme analyzer for clinical use.	78N-2464	I.
862.2540	Flame emission photometer for clinical use.	78N-2467	I.
862.2560	Fluormeter for clinical use	78N-2468	I.
862.2680	Microtitrator for clinical use	78N-2472	I.
862.2700	Nephelometer for clinical use	78N-2474	I.
862.2720	Plasma oncometer for clinical use.	78N-2475	I.
862.2730	Osmometer for clinical use	78N-2476	I.
862.2750	Pipetting and diluting system for clinical use.	78N-2477	I.
862.2800	Refractometer for clinical use	78N-2481	I.
862.2850	Atomic absorption spectrophotometer for clinical use.	78N-2483	I.
862.2860	Mass spectrophotometer for clinical use.	78N-2484	I.
862.2900	Automated urinalysis system	78N-2487	I.
862.2920	Plasma viscometer for clinical use.	78N-2488	I.
	SUBPART D—CLINICAL TOXICOLOGY TEST SYSTEMS		
862.3040	Alcohol test system	78N-2490	II.
862.3050	Breath-alcohol test system	78N-2491	I.
862.3100	Amphetamine test system	78N-2495	II.
862.3110	Antimony test system	78N-2496	II.
862.3120	Arsenic test system	78N-2497	II.
862.3150	Barbiturate test system	78N-2498	II.
862.3170	Benzodiazepine test system	78N-2499	II.
862.3200	Clinical toxicology calibrator	78N-2501	II.
862.3220	Carbon monoxide test system	78N-2503	II.
862.3240	Cholinesterase test system	78N-2505	II.
862.3250	Cocaine and cocaine metabolite test system.	78N-2506	II.
862.3270	Codeine test system	78N-2508	II.
862.3280	Clinical toxicology control material.	78N-2509	I.
862.3300	Digitoxin test system	78N-2511	II.
862.3320	Digoxin test system	78N-2513	II.
862.3350	Diphenylhydantoin test system.	78N-2515	II.
862.3360	Ethosuximide test system	78N-2516	II.
862.3450	Gentamicin test system	78N-2516	II.
862.3520	Kanamycin test system	78N-2522	II.
862.3550	Lead test system	78N-2523	II.
862.3560	Lithium test system	78N-2377	II.
862.3580	Lysergic acid diethylamide (LSD) test system.	78N-2526	II.
862.3600	Mercury test system	78N-2527	II.
862.3610	Methamphetamine test system.	78N-2528	II.
862.3620	Methadone test system	78N-2529	II.
862.3640	Morphine test system	78N-2531	II.
862.3650	Opiate test system	78N-2532	II.
862.3660	Phenobarbital test system	78N-2533	II.
862.3670	Phenothiazine test system	78N-2534	II.
862.3680	Primidone test system	78N-2535	II.
862.3700	Propoxyphene test system	78N-2537	II.
862.3750	Quinine test system	78N-2540	II.
862.3830	Salicylate test system	78N-2541	II.
862.3850	Sulphanimide test system	78N-2542	II.
862.3870	Cannabinoid test system	78N-2543	II.
862.3900	Tobramycin test system	78N-2545	II.

Devices Considered by Two or More Panels

Many devices were reviewed by two or more device classification panels. For these devices, FDA will publish each panel's recommendations and a single proposed classification of the device.

Device	Other panels or sections
Colorimetric, occult blood in urine.	Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel.
Enzymatic method, occult blood in urine.	Do.
Fluorescence, visual observation, (qual., U.V.), glutathione reductase.	Do.
Electrophoretic, glucose-6-phosphate dehydrogenase isoenzymes.	Do.
NADP reduction (U.V.) glucose-6-phosphate dehydrogenase.	Do.
Visual, semi-quant (colorimetric), glucose-6-phosphate dehydrogenase.	Do.
Immunochemical, Bence-Jones protein.	Immunology and Microbiology Devices Panel.
Immunochemical ceruloplasmin	Do.
Indirect copper assay, ceruloplasmin.	Do.
p-Phenylenediamine/EDTA (spectrophotometric) ceruloplasmin.	Do.
Immunochemical, transferrin	Do.
Immunochemical, thyroglobulin autoantibody.	Do.
Immunodiffusion method, immunoglobulins (G,A,M).	Do.
Immunoelectrophoretic method, immunoglobulins (G,A,M).	Do.
Radioimmunoassay method, immunoglobulins (G,A,M).	Do.
Nephelometric method, immunoglobulins (G,A,M).	Do.
Radioimmunoassay, (two-site solid phase).	Do.
Radioimmunoassay, immunoglobulins (D,E,).	Do.
Incubator/water bath for clinical use.	Do.

The recommendations of the Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel and the proposed classification regulations for the devices listed above were published in the **Federal Register** of September 11, 1979 (44 FR 52950–53063) when FDA published the recommendations of the Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel and April 22, 1980 (45 FR 27204–27359) when FDA published the recommendations of the Immunology and Microbiology Devices Panel that also reviewed the devices. The following table shows the current structure of the advisory committees involved with the classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel/section name	Publication date in FEDERAL REGISTER
Circulatory Systems Devices Panel.	Mar. 9, 1979, 44 FR 13284–13434 (proposals); Feb. 5, 1980, 45 FR 7904–7971 (final regulations).
Clinical Chemistry and Hematology Devices Panel:	
Clinical Chemistry Device Section.	Feb. 2, 1982 (proposals).
Clinical Toxicology Device Section.	Do.
Hematology and Pathology Device Section.	Sept. 11, 1979, 44 FR 52950–53063 (proposals); Sept. 12, 1980, 45 FR 60576–60651 (final regulations).
General Medical Devices Panel:	
General Hospital and Personal Use Device Section.	Aug. 24, 1979, 44 FR 49844–49854 (proposals); Oct. 21, 1980, 45 FR 69678–69737 (final regulations).
Gastroenterology-Urology Device Section.	Jan. 23, 1981, 46 FR 7562–7641 (proposals).
Immunology and Microbiology Devices Panel:	
Immunology Device Section.	Apr. 22, 1980, 45 FR 27204–27359 (proposals).
Microbiology Device Section.	Apr. 22, 1980, 45 FR 27204–27359 (proposals).
Obstetrics-Gynecology and Radiologic Devices Panel:	
Obstetrics-Gynecology Device Section.	Apr. 3, 1979, 44 FR 19694–19971 (proposals); Feb. 26, 1980, 45 FR 12682–12720 (final regulations).
Radiology Device Section	Do.
Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel:	
Dental Device Section	Dec. 30, 1980, 45 FR 85062–86168 (proposals).
Ear, Nose, and Throat Device Section.	
Ophthalmic Device Section.	
Respiratory and Nervous System Devices Panel:	
Anesthesiology Device Section.	Nov. 2, 1979, 44 FR 63282–63429 (proposals).
Neurological Device Section.	Nov. 28, 1978, 43 FR 54640–55732 (proposals); Sept. 4, 1979, 44 FR 51726–51778 (final regulations).
Surgical and Rehabilitation Devices Panel:	
General and Plastic Surgery Device Section.	
Orthopedic Device Section	
Physical Medicine Device Section.	Aug. 28, 1978, 44 FR 50458–50537 (proposals).

Devices Not in Commercial Distribution as Test Systems

The Clinical Chemistry and Hematology Devices Panel made classification recommendations concerning several reagents that are marketed as general purpose laboratory reagents but are not in commercial distribution as a test system. FDA is not now publishing proposals to classify these products:

1. Bromide test reagents used to measure bromide in human serum by photometry.

2. Chloral hydrate test reagents used to measure chloral hydrate (an anticonvulsant drug) in human specimens (e.g., blood and urine) by spectrophotometry.

3. Fluoride test reagents used to measure fluoride in human specimens by photometry.

4. Methyl alcohol test reagents used to measure methyl alcohol in human specimens (e.g., serum, whole blood, and urine) by spectrophotometry.

5. Microcrystalline forming reagents for alkaloids used to measure any of the alkaloids (e.g., cocaine, codeine, morphine, nicotine, and quinine) in human specimens by crystal formation.

6. Ouabain test reagents used to measure ouabain (a cardiac glycoside used to control congestive heart failure) in human specimens by chemical color reactions.

7. Zinc test reagents used to measure zinc in human specimens (e.g., blood and urine).

The Clinical Chemistry and Hematology Devices Panel recommended that the heavy metal free radical assay be classified into class II. Heavy metal free radical assay is used to measure any heavy metal (e.g., lead, mercury, bismuth, antimony, arsenic) in human specimens. Because this technique is available only as a research tool and is not in commercial distribution as a medical device, FDA is not now publishing a proposal to classify this product.

Panel Recommendations and FDA's Proposed Classifications

Section 862.1020; Docket No. 78N–2287; Acid phosphatase (total or prostratic) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of acid phosphatase (total or prostatic) test systems:

1. Identification: An acid phosphatase (total or prostatic) test system is a device used to measure the activity of the acid phosphatase enzyme in plasma, serum, vaginal washings, and seminal fluid by methods such as *beta*-glycerophosphate, disodium phenyl phosphate, naphthyl phosphate, nitrophenylphosphate, thymol blue monophosphate, thymolphthalein monophosphate, or tartrate inhibition. Acid phosphatase measurements are used in the diagnosis and treatment of prostatic carcinoma. This device is also used to develop legal evidence to demonstrate the presence of seminal fluids in specimens collected from victims of alleged rape and other sex-related crimes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that acid phosphatase (total or prostatic) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Because many patients with prostatic carcinoma have elevated serum prostatic acid phosphatase enzyme activity, measurements obtained by this test system are used in diagnosing and treating patients with this disease. The test system is also used to develop legal evidence to demonstrate the presence of seminal fluid in specimens collected from victims of alleged rape and other sex-related crimes. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *1* through *6*). Serum may contain numerous related acid phosphatase enzymes in addition to those of prostatic origin. Because total acid phosphatase enzyme activity can be elevated due to conditions other than carcinoma of the prostate, it is desirable to differentiate specifically between an increase in the enzyme of prostatic origin and an increase in the enzyme of nonprostatic origin. The activity of the enzyme of prostatic origin is strongly inhibited by tartrate ions, while the activity of the anzyme of nonprostatic origin in not. Therefore, the acid phosphatase (prostatic) test is usually performed both in the presence of, and in the absence of, tartarate ions, comparing the results. The acid phosphatase (prostatic) test system was developed to provide a more specific test for the diagnosis and treatment of prostatic carcinoma. Use of the specific acid phosphatase (prostatic) test system provides more accurate information.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis and treatment of patients with prostatic carcinoma. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that acid phosphatase (total or prostatic) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1025; Docket No. 78N–2288; Adrenocorticotropic hormone (ACTH) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of adrenocorticotropic hormone (ACTH) test systems:

1. Identification: An adrenocorticotropic hormone (ACTH) test system is a device used to measure adrenocorticotropic hormone in plasma and serum by methods such as radioimmunoassay. ACTH measurements are used in the differential diagnosis and treatment of certain disorders or the adrenal glands such as Cushing's syndrome, adrenocortical insufficiency, and the ectopic ACTH syndrome.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that adrenocorticotropic hormone (ACTH) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in

inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of certain disorders of the adrenal glands such as Cushing's syndrome and adrenocortical insufficiency, and, in the ectopic ACTH syndrome, in assessting tumor activity following surgical tumor removal, cytotoxic therapy, or radiotherapy. Test results can indicate the need for further therapy before clinical signs occur. To assure reliable data, the Panel believes it important that the device be able to distinguish between the entire hormone and the split products resulting from metabolic deactivation, and that specific information as to what is being measured be included in the labeling. Therefore, the Panel recommends that labeling include information concerning the source of calibrator and standardization material, the method the manufacturer used to obtain stated values, and the method's specificity as it relates to precursors, subunits, and other features specific to the method. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *7*, *8*, and *9*).

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis and treatment of adrenocortical disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that adrenocorticotropic hormone (ACTH) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1030; Docket No. 78N–2289; Alanine amino transferase (ALT/SGPT) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of alanine amino transferase (ALT/SGPT) test systems:

1. Identification: An alanine amino transferase (ALT/SGPT) test system is a device used to measure the activity of the enzyme alanine amino transferase (ALT) (also known as serum glutamic pyruvic transaminase or SGPT) in serum and plasma by methods such as diazo, hydrazone colorimetry, nicotinamide adenine dinucleotide (NAD), reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation, or vanillin pyruvate. Alanine amino transferase measurements are used in the diagnosis and treatment of certain liver diseases (e.g., viral hepatitis and cirrhosis) and heart diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that alanine amino transferase (ALT/SGPT) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropirate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with certain liver diseases, myocardial infarction, and infectious mononucleosis. Markedly elevated levels of this serum enzyme occur in viral hepatitis, severe liver disease, and in circulatory failure with shock. Moderately raised levels are seen in cirrhosis, liver involvement secondary to heart failure, and extensive trauma and muscle diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based. The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *10*, *11*, and *12*). Following myocardial infarction, ALT serum levels begin to rise about 6 to 8 hours after the onset of pain. Peak values are reached after 48 to 60 hours, and the level falls to within the normal range by the fourth or fifth day. The peak values are approximately proportional to the amount of cardiac tissue damage.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of possible liver and cardiac diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that alanine amino transferase (ALT/SGPT) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this advice because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1035; Docket No. 78N–2290; Albumin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of albumin test systems:

1. Identification: An albumin test system is a device used to measure the albumin concentration in serum and plasma. This device uses methods such as bromcresol green dye-binding, bromcresol purple dye-binding, hydroxyazo-benzene benzoic acid, radial immunodiffusion, tetrabromo-*m*-cresolsulfonphthalein, or tetrabromophenolphthalein. Albumin measurements are used in the diagnosis and treatment of numerous diseases involving primarily the liver or kidneys.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that albumin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy,

precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with numerous disease states involving primarily the liver or kidneys. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *13* and *14*). Many plasma proteins, notably albumin, are synthesized by the liver. Causes of low plasma albumin (hypoalbuminemia) generally involve: (a) decreased hepatic synthesis, (b) loss via kidney diseases or after extensive burns, (c) diet defects, (d) nonspecific, apparently minor, illnesses, and (e) hemodilution (reduced ratio of blood cells to plasma).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis and treatment of certain liver and kidney diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that albumin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1040; Docket No. 78N–2291; Aldolase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of aldolase test systems:

1. Identification. An aldolase test system is a device used to measure the activity of the enzyme aldolase in serum and plasma by methods such as hydrazone colorimetry or ultraviolet determination employing fructose-1, 6-diphosphate and nicotinamide adenine dinucleotide (reduced form) (NADH). Aldolase measurements are used in the diagnosis and treatment of the early stages of acute hepatitis and for certain muscle diseases such as progressive, Duchenne-type muscular dystrophy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that aldolase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of serum aldolase are used to assist in the diagnosis and treatment of the early stages of acute hepatitis and for certain muscle diseases (e.g., progressive, Duchenne-type muscular dystrophy). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *15* and *16*). Serum aldolase measurements are most useful and of greatest clinical interest in diagnosing and treating diseases involving muscle disintegration. Values 10 to 50 times the upper level may be seen in some disorders, with the highest levels found in progressive, Duchenne-type muscular dystrophy. The highest serum levels of aldolase occur early in the disease, but as the capacity of the body cells to synthesize the enzyme decreases, serum levels also decrease. Trichinosis, gangrene, and prostate tumors are among other disease states in which elevated aldolase levels may be found.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of muscle disease or the early stages of hepatitis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that aldolase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1045; Docket No. 78N–2292; Aldosterone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of aldosterone test systems:

1. Identification: An aldosterone test system is a device used to measure the hormone aldosterone in serum and urine by methods such as radioimmunoassay (RIA) or chromatographic separation followed by RIA. Aldosterone measurements are used in the diagnosis and treatment of primary aldosteronism (a disorder caused by the excessive secretion of aldosterone by the adrenal gland), hypertension caused by primary aldosteronism, selective hypo-aldosternoism, edematous states, and other conditions of electrolyte imbalance.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that aldosterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitively, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Hypertension is a major clinical indication of malfunction in aldosterone physiology. Aldosterone measurements are used in the diagnosis and evaluation of primary aldosteronism, hypertension caused by

primary aldosteronism, selective hypoaldosteronism, edamatous states, and other conditions of electrolyte imbalance. Determination of aldosterone in adrenal vein plasma is of value in locating aldosterone-producing tumors. When used with suppression tests of plasma renin activity, measurement of aldosterone provides a decisive means of diagnosing primary aldosteronism. Test results are influenced by a large number of factors related to patient condition such as drug treatment, sodium intake, serum potassium levels, physical activity, and any factor that affects the effective extracellular fluid volume. The Panel believes that careful control of these factors is essential for optimum diagnosis and treatment. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature. (Ref. *17*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hypertension caused by primary aldosteronism and other conditions. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that aldosterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1050; Docket No. 78N–2293; Alkaline phosphatase or isoenzymes test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of alkaline phosphatase or isoenzymes test systems:

1. Identification: An alkaline phosphatase or isoenzymes test system is a device used to measure alkaline phosphatase or its isoenzymes (a group of enzymes with similar biological activity) in serum and plasma by methods such as electrophoretic separation, *alpha*-naphthyl phosphate, *beta*-glycerophosphate, disodium phenyl phosphate, nitrophenyl phosphate, phenolphthalein phosphate, phenyl phosphate, thymol blue monophosphate, or thymolphthalein monophosphate. Measurements of alkaline phosphatase or its isoenzymes are used in the diagnosis and treatment of liver, bone, parathyroid, and intestinal diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that alkaline phosphatase or isoenzymes test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with numerous disease states primarily involving the liver, bones, parathyroid gland, and intestines. The Panel believes that general controls would not provide sufficient control over the device's accuracy precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *18* through *21*). Alkaline phosphatase measurement in plasma or serum is useful in the diagnosis and prognosis of liver, bone, parathyroid, and intestinal diseases, including metastatic cancers and viral and toxic hepatitis. Alkaline phosphatase enzymes hydrolyze phosphates at an alkaline pH. They are found in the bones, liver, kidneys, intestinal wall, lactating mammary glands, and placenata. The activity measured as total alkaline phosphatase in plasma is composed of the activity of several isoenzymes. Serum isoenzymes are multiple forms of a given enzyme from the patient; they originate in different body tissues and organs. Identification and measurement of individual alkaline phosphatase isoenzymes in plasma or serum help to establish whether an increased total alkaline phosphatase enzyme level originates in a patient's liver, bone, parathyroid gland, or intestines. Pathologically elevated plasma levels of alkaline phosphatase usually occur in liver disease or bone disease. Increases in the plasma levels of this enzyme normally occur in children until about the age of puberty, due to developing bones, and in the last trimester of pregnancy, from the placenta.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver, bone, parathyroid, and intestinal diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that alkaline phosphatase or isoenzymes test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1060; Docket No. 78N–2295; Delta-aminolevulinic acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of *delta*-aminolevulinic acid test systems:

1. Identification: A *delta*-aminolevulinic acid test system is a device used to measure the level of *delta*-aminolevulinic acid (a precursor of porphyrin) in urine by methods such as ion exchange columns with colorimetry. *Delta*-aminolevulinic acid measurements are used in the diagnosis and treatment of lead poisoning and certain prophyrias (diseases affecting the liver, gastrointestinal, and nervous systems that are accompanied by increased urinary excretion of various heme compounds including *delta*-aminolevulinic acid).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that *delta*-aminolevulinic acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of lead poisoning and certain prophyrias. Test results can be affected by color formation due to substances other than *delta*-aminolevulinic acid. False-positive results may occur due to interferences from other constituents in the sample such as amino acids, ammonia, drug metabolites of barbiturates, alcohol and sulfonamides, and glucosamine, which may condense with the test reagent to form colored products. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *22* and *23*). *Delta*-aminolevulinic acid measurements are used to confirm lead poisoning and in the differential diagnosis of various types of porphyrias. Excessive urinary excretion of aminolevulinic acid is characteristic of porphyrin metabolism.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lead poisoning and certain prophyrias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that *delta*-aminolevulinic acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1065; Docket No. 78N-2296; Ammonia test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ammonia test systems:

1. Identification: An ammonia test system is a device used to measure ammonia levels in blood, serum, and plasma by methods such as enzymatic, ion exchange, ion-specific electrode, or photometric. Ammonia measurements are used in the diagnosis and treatment of severe liver disorders, such as cirrhosis, hepatitis, and Reye's syndrome.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that ammonia test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with severe liver disorders accompanied with existing or impending hepatic coma, such as cirrhosis, hepatitis, and Reye's syndrome. Treatment with dietary proteins may be monitored by this test. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *24, 25,* and *26*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of severe liver disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that ammonia test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1070; Docket No. 78N-2297; Amylase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of amylase test systems:

1. Identification: An amylase test system is a device used to measure the activity of the enzyme amylase in serum and urine by methods such as amyloclastic, nephelometric, nitro-salicylate reduction, radial diffusion, saccharogenic, or starch-dye bound polymer. Amylase measurements are used primarily for diagnosis and treatment of pancreatitis (inflammation of the pancreas).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that amylase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are primarily used for diagnosing and treating patients with pancreatitis, but they also are used for detecting mumps and perforated ulcers. Elevated amylase levels may also be found in a variety of disorders. Plasma amylase measurements are of limited diagnostic use for uremia, diabetic ketoacidosis, acute abdominal disorders, mumps, after morphine and alcohol administration, and occasionally

after myocardial infarction. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *27* through *30*). Amylase is an enzyme involved with the breakdown of dietary starch and glycogen into maltose. It is present in pancreatic juice and saliva, as well as in the liver and muscle. The enzyme also is excreted in the urine.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of pancreatitis and other disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that amylase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1075; Docket No. 78N-2298; Androstenedione test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of androstenedione test systems:

1. Identification: An androstenedione test system is a device used to measure androstenedione (a substance secreted by the testes, ovary, and adrenal glands) in serum by methods such as radioimmunoassay. Androstenedione measurements are used in the diagnosis and treatment of females with excessive levels of androgen (male sex hormone) production.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that androstenedione test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therepy that places the patient at risk unnecessarily. Test results are used for diagnosing and treating excessive levels of androgen production in females demonstrating hirsutism (abnormal hairiness), virilism (masculinity) or both. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *31* and *32*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of female patients with excessive levels of androgen production. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that adrostenedione test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is a sufficient information to establish a performance standard for this device.

Section 862.1080; Docket No. 78N-2299; Androsterone test systems.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of androsterone test systems:

1. Identification: An androsterone test system is a device used to measure the hormone androsterone in serum, plasma, and urine by methods such as radioimmunoassay. Androsterone measurements are used in the diagnosis and treatment of gonadal and adrenal diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that androsterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used for diagnosing and treating patients with gonadal and adrenal disorders. Decreased values are found in persons with hypogonadism and hypoadrenalism, and increased values are found in persons with testicular tumors and adrenal carcinomas. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *33* and *34*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of gonadal and adrenal diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that androsterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient

information to establish a performance standard for this device.

Section 862.1085; Docket No. 78N–2300; Angiotensin I and renin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of angiotensin I and renin test systems:

1. Identification: An angiotensin I and renin test system is a device used to measure the level of angiotensin I generated by renin in plasma by methods such as radiommunoassay. Angiotensin I measurements are used in the diagnosis and treatment of certain types of hypertension.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that angiotensin I and renin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with hypertension disorders due to altered aldosterone physiology. Comparative measurements of renin activity in blood from the left and the right renal veins can assist in the diagnosis of unilateral renal disease, a treatable cause of hypertension. The Panel believes that the labeling of the device should include information on the source of the calibrator and standardization material, on the source of the stated values, and on the specificity of the device as it relates to precursors, subunits, and other features specific to the method. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *35* and *36*). Renin is a proteolytic enzyme secreted by a cellular complex in the kidneys. In the bloodstream it acts on a renin substrate (an alpha 2-globulin) to form angiotensin I. This decapeptide is further split by peptidase, located predominantly in the lungs, to form angiotensin II. Angiotensin II has two actions: (a) It acts directly on blood vessel walls causing vasoconstriction, and therefore helps to maintain blood pressure. (b) It stimulates the adrenal cortex to secrete aldosterone, which affects the sodium-potassium ion (and possibly the sodium-hydrogen ion) exchange across cell membranes. Aldosterone secretion is the most important factor affecting levels of body sodium. Aldosterone secretion is controlled by the renin-angiotensin mechanism which responds to changes in renal blood flow.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hypertensive diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that angiotensin I and renin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone be insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1095; Docket No. 78N–2301; Ascorbic acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ascorbic acid test systems:

1. Identification: An ascorbic acid test system is a device used to measure the level of ascorbic acid (vitamin C) in plasma, serum, and urine by methods such as 2,4-dinitrophenylhydrazine (spectrophotometric). Ascorbic acid measurements are used in the diagnosis and treatment of ascorbic acid dietary deficiencies.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that ascorbic acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with a dietary deficiency of ascorbic acid. A chronic deficiency of this essential nutrient may lead to scurvy. Supplemental intake of ascorbic acid may also affect certain other diagnostic tests. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *37* and *38*).

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of ascorbic acid deficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that ascorbic acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1100; 78N–2302; Aspartate amino transferase (AST/SGOT) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of aspartate amino transferase (AST/SGOT) test systems:

1. Identification: An aspartate amino transferase (AST/SGOT) test system is

a device used to measure the activity of the enzyme aspartate amino transferase (AST) (also known as serum glutamic oxaloacetic transaminase or SGOT) in serum and plasma by methods such as diazo, hydrazone colorimetry, nicotinamide adenine dinucleotide (NAD) reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation, or the vanillin pyruvate method. Aspartate amino transferase measurements are used in the diagnosis and treatment of certain types of liver and heart disease.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that aspartate amino transferase (AST/SGOT) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of certain liver diseases (e.g., viral hepatitis) and myocardial infarction. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *39* through *42*). Test results are useful when evaluated in conjunction with other liver and cardiac tests. Aspartate amino transferase is a transaminase, a class of enzymes involved in the transfer of an amino group from an alpha-amino to an alpha-oxo acid. Transaminases are widely distributed in the body. Aspartate amino transferase is present in high concentrations in the heart, liver, skeletal muscle, kidney, and erythrocytes. Damage to any of these tissues may cause elevated levels of aspartate amino transferase in plasma. Some examples of conditions that can cause elevation of the enzyme are myocardial infarction, numerous liver disorders, skeletal muscle diseases, hemolytic anemias after trauma or surgery, and circulatory failure due to shock.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver or cardiac diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that aspartate amino transferase (AST/SGOT) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1110; Docket No. 78N–2303; Bilirubin (total or direct) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bilirubin (total or direct) test systems:

1. Identification: A bilirubin (total or direct) test system is a device used to measure the levels of bilirubin (total or direct) in plasma and serum by methods such as diazo colorimetry or enzymatic. Measurement of the levels of bilirubin, an organic compound formed during the normal and abnormal destruction of red blood cells, is used in the diagnosis and treatment of liver, hemolytic, hematological, and metabolic disorders, including hepatitis and gall bladder block.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that bilirubin (total or direct) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used for diagnosing and treating patients with liver, hemolytic, hematological, and metabolic disorders, including hepatitis and gall bladder block. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *42a*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver, hemolytic, hematological, and metabolic disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that bilirubin (total or direct) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1115; Docket No. 78N–2304; Urinary bilirubin and its conjugates (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary bilirubin and its conjugates (nonquantitative) test systems:

1. Identification: A urinary bilirubin and its conjugates (nonquantitative) test system is a device used to measure the levels of bilirubin conjugates in urine by methods such as azo-dyes colorimetric. Measurements of urinary bilirubin and its conjugates (nonquantitative) are used in the diagnosis and treatment of certain liver diseases.

2. Recommended classification: Class II (performance standards). The Panel

recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary bilirubin and its conjugates (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with certain liver diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *42b*). Conjugated bilirubin is excreted in the urine when a patient has any kind of hepatitis that involves impairment or destruction of liver cells, in transportation defects such as Dubin-Johnson syndrome, and in obstructive jaundice.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary bilirubin and its conjugates (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1120; Docket No. 78N–2305; Blood gases (P_{CO_2}, P_{O_2}) and blood pH test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of blood gases (P_{CO_2}, P_{O_2}) and blood pH test systems:

1. Identification: A blood gases (P_{CO_2}, P_{O_2}) and blood pH test system is a device used to measure certain gases in blood, serum, and plasma or the pH of blood, serum and plasma by methods such as electrode measurement with standard buffers. Measurements of blood gases (P_{CO_2}, P_{O_2}) and blood pH are used in the diagnosis and treatment of life-threatening acid-based disturbances.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that blood gases (P_{CO_2}, P_{O_2}) and blood pH test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of blood gases (P_{CO_2}, P_{O_2}) and blood pH are used to determine the acid-base status of critically ill patients with numerous metabolic and pulmonary diseases. Inaccurate test results may contribute to improper adjustment of respirators by health professionals. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *43* through *46*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of acid-base disturbances. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that blood gases (P_{CO_2}, P_{O_2}) and blood pH test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1130; Docket No. 78N–2307; Blood volume test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of blood volume test systems:

1. Identification: A blood volume test system is a device used to measure the circulating blood volume by methods such as ^{51}Cr labeling. Blood volume measurements are used in the diagnosis and treatment of shock, hemorrhage, and polycythemia vera (a disease characterized by an absolute increase in erythrocyte mass and total blood volume).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that blood volume test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used for diagnosing and treating patients with various disease states, including shock, hemorrhage and polycythemia vera. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel

based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *47*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in diagnosis of shock, hemorrhage, and polycythemia vera. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that blood volume test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1135; Docket No. 78N-2308; C-peptides of proinsulin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of C-peptides of proinsulin test systems:

1. Identification: A C-peptides of proinsulin test system is a device used to measure C-peptide levels in serum, plasma, and urine by methods such as radioimmunoassay. Measurements of C-peptides of proinsulin are used in the diagnosis and treatment of patients with abnormal insulin secretion, including diabetes mellitus.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that C-peptides of proinsulin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of abnormal insulin secretion, as in diabetes mellitus. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *48*, *49*, and *50*). Because C-peptides are secreted by the pancreas in a 1:1 ratio with insulin, measurement of C-peptides of proinsulin is useful in assessment of pancreatic beta-cell secretory capacity, i.e., insulin secretion.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of diseases of abnormal insulin secretion, including diabetes mellitus. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that C-peptides of proinsulin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1140; Docket No. 78N-2309; Calcitonin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of calcitonin test systems:

1. Identification: A calcitonin test system is a device used to measure the thyroid hormone calcitonin (thyrocalcitonin) levels in plasma and serum by methods such as radioimmunoassay. Calcitonin measurements are used in the diagnosis and treatment of diseases involving the thyroid and parathyroid glands, including carcinoma and hyperparathyroidism (excessive activity of the parathyroid gland).

2. Recommended classification: Class I (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that calcitonin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in diagnosing and treating patients with thyroid and parathyroid diseases, including carcinoma and hyperparathyroidism. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *51* and *52*). Calcitonin measurement is most useful in assessing patients with hyperparathyroidism and thyroid carcinoma. Calcitonin is produced in the thyroid and it lowers levels of plasma calcium. Normally its secretion is stimulated by high serum ionized calcium levels. However, patients with carcinoma of the thyroid may have high levels of calcitonin in plasma.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid and parathyroid diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that calcitonin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1145; Docket No. 78N-2310; Calcium test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following

recommendation regarding the classification of calcium test systems:

1. Identification: A calcium test system is a device used to measure the total calcium level in serum by methods such as alizarin sulfonate, atomic absorption, azo dye, cresolphthalein complexone, di(*O*-hydroxyphenylimine) ethane, fluorometric, ion specific electrode, methylthymol blue, permanganate and bromophenol blue titration, or titration with ethylenediaminetetraacetic acid (EDTA) and indicator. Calcium measurements are used in the diagnosis and treatment of parathyroid disease, a variety of bone diseases, chronic renal disease, and tetany (intermittent muscular contractions or spasms).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that calcium test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of parathyroid disease, a variety of bone diseases including metastatic carcinoma, chronic renal disease, and tetany. Measurement of serum calcium is important in a variety of serious conditions. Tetany from hypocalcemia (abnormally low levels of serum calcium) may lead to death; lethargy and coma may result from hypercalcemia (abnormally high levels of serum calcium), and inaccurate measurement of serum calcium may lead to performance of inappropriate surgery. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *53*, *54*, and *55*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of parathyroid disease, a variety of bone diseases, chronic renal disease, and tetany. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that calcium test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1150; Docket No. 78N–2211; Calibrator.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of calibrators:

1. Identification: A calibrator is a device intended for medical purposes for use in a test system to establish points of reference that are used in the determination of values in the measurement of substance in human specimens.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that calibrators be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of purity concentration, stability, uniformity and reliability and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that the performance of a calibrator affects all related test results and may indirectly lead to misdiagnosis by causing results to be too high or too low. The Panel believes that general controls would not provide sufficient control over the device's purity, concentration, stability, uniformity, and reliability. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, calibrators and on the availability of standards prepared by the National Committee for Clinical Laboratory Standards (Approved Standard: ASC–2, Calibration reference materials and control materials in clinical chemistry). The Panel also noted that standards for calibration and control materials have been proposed by the International Federation of Clincial Chemistry and by the World Health Organization.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead indirectly to misdiagnosis based on improper calibration of test systems. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the panel recommendation and is proposing that calibrators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1155; Docket No. 78N–2312; Human chorionic gonadotropin (HCG) test system for use in early detection of pregnancy.

The Clinical Chemistry Device Classification Panel and the Immunology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of human chorionic gonadotropin (HCG) test systems:

1. Identification: A human chorionic gonadotropin (HCG) test system is a device used to measure HCG, a placental hormone, in plasma and urine by methods such as agglutination and radioimmunoassay. Measurements of HCG are used in the early detection of pregnancy and in the diagnosis and management of treatment of various conditions, such as trophoblastic tumors which may secrete HCG.

2. Recommended classification: Both Panels recommend classification of the device into class II (performance

standards). The Clinical Chemistry Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Immunology Device Classification Panel recommends that establishing a performance standard for HCG test systems be a high priority.

3. Summary of reasons for recommendation: Both Panels recommend that HCG test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Tests results are used in the early detection of pregnancy or of trophoblastic tumors. The Clinical Chemistry Device Classification Panel believes that accuracy, precision, and specificity are characteristics associated with the safe and effective performance of the device. The Immunology Device Classification Panel believes that the device's reliability is influenced by the sensitivity, specificity, and stability of reagents. The Panels believe that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on their Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *56* and *57*). HCG is secreted by the placenta and is found in urine, plasma, amniotic fluid, colostrum, milk, and fetal tissues. This placental hormone appears within a few days after conception, and early confirmation of pregnancy is possible through its detection in urine or plasma. If HCG is present in the absence of pregnancy, it may indicate the presence of an HCG producing tumor. The accurate and sensitive measurement of HCG may allow these devices to be used to determine whether all of an HCG producing tumor has been removed surgically. Certain investigators have reported the use of anti-HCG serum in semi-quantitative and quantitative assays as an aid in dianosing choriocarcinoma and hydatidiform mole and have suggested its use in monitoring HCG levels in urine and serum to determine the effectiveness of cancer treatment (Refs. *58*, *59*, and *60*).

5. Risks to health: Misdiagnosis and inappropiate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of pregnancy or tumors. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA partially agrees with the recommendations of the Panels and is proposing that human chorionic gonadotropin (HCG) test systems intended for use in the early detection of pregnancy be classified into class II (performance standards). The agency believes that a performance standard is necessary for the device intended for this use because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device intended for this use. The agency also believes that there is sufficient information to establish a performance standard for the device intended for this use.

However, FDA disagrees with the recommendations of the Panels to classify into class II human chorionic gonadotropin (HCG) test systems intended for uses other than in the early detection of pregnancy, such as use in the diagnosis and management of treatment of trophoblastic tumors and carcinomas of the stomach, liver, pancreas, and breast (Refs. *58* and *59*). Because human chorionic gonadotrophin (HCG) test systems intended for these other uses are investigational, and are not in commercial distribution, the systems intended for these other uses are already classified into class III (premarket approval) by section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)). Accordingly, these uses of the systems other than in the early detection of pregnancy are subject to premarket approval without the 30-month grace period applicable to class III devices of a type that were in commerical distribution on May 28, 1976, the enactment date of the Medical Device Amendments. If FDA approves for commercial distribution any use of human chorionic gonadotropin (HCG) test systems for other than in early pregnancy detection, or if FDA reclassifies the device by order following a petition under section 513(f)(2) and 21 CFR 860.134 justifying less stringent regulation of certain uses, the agency will amend § 862.1155 to add provisions describing, as appropriate, the statutory classification into class III of these additional approved uses of human chorionic gonadotropin (HCG) test systems, or any reclassification. FDA believes that investigations are still being done to show whether the device is safe and effective when intended for these other uses.

Anti-HCG serum intended for use in the determination of pregnancy was formerly regulated as a licensed biological under section 351 of the Public Health Service Act (42 U.S.C. 262). In a **Federal Register** notice published on February 16, 1979 (44 FR 10133), FDA announced the transfer of the administrative responsibility for the regulation of anti-HCG serum intended for this use from the Bureau of Biologics (BOB), FDA, to the Bureau of Medical Devices (BMD), FDA.

BMD is now responsible also for the regulation of human chorionic gonadotropin (HCG) test systems for uses other than pregnancy detection. This responsibility is consistent with its regulation of certain other biological in vitro diagnostic devices used as aids for the detection and management of cancer in humans; FDA announced the transfer from BOB to BMD of responsibility for these other devices in a notice published in the **Federal Register** of September 5, 1980 (45 FR 58984).

Section 862.1160; Docket No. 78N–2313; Bicarbonate/carbon dioxide test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bicarbonate/carbon dioxide test systems:

1. Identification: A bicarbonate/carbon dioxide test system is a device used to measure bicarbonate/carbon dioxide in plasma, serum, and whole blood by methods such as coulometric, cresol red colorimetry, enzymatic, pH rate measurement, phenolphthalein colorimetry, titrimetric phenol red, or volumetric/manometric. Bicarbonate/carbon dioxide measurements are used in the diagnosis and treatment of numerous potentially life-threatening disorders associated with changes in body acid-base balance.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that bicarbonate/carbon dioxide test systems be classified into class II because there is a need for a performance standard that prescribes

for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with acid-base disorders (acidosis and alkalosis) and other potentially life-threatening metabolic and respiratory disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. 61 through 65). In normal healthy persons, the pH (hydrogen ion activity) of the extracellular fluid is 7.4, plus or minus 0.05. Even very small changes in the pH of the body fluid are important and result in physiological disturbances. Disturbances of hydrogen ion balance involve bicarbonate, and its measurement using a bicarbonate/carbon dioxide test system is vital in assessing this balance.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of acid-base disturbances. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that bicarbonate/carbon dioxide test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1165; Docket No. 78N-2314; Catecholamine (total) test system.

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of catecholamine (total) test systems:

1. Identification: A catecholamine (total) test system is a device used to determine whether a group of similar hormone compounds (epinephrine, norepinephrine, and dopamine) are present in urine and plasma by methods such as chromatographic/fluorometric or electrophoretic. Catecholamine determinations are used in the diagnosis and treatment of adrenal medulla and hypertensive disorders, and for catecholamine-secreting tumors (pheochromocytoma, neuroblastoma, ganglioneuroma, and retinoblastoma).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that catecholamine (total) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at rish unnecessarily. Test results are used in the diagnosis and treatment of patients with adrenal medulla hypertensive disorders and for catecholamine-secreting tumors (pheochromocytoma, neuroblastoma, ganglioneuroma, and retinoblastoma). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *66, 67,* and *68*). Adrenaline (epinephrine) and noradrenaline (norepinephrine) are catecholamines. Adrenaline is almost exclusively a product of the adrenal gland, while most noradrenaline is formed at certain nerve endings. Both catecholamines act on the cardiovascular system producing hypertension (high blood pressure). Certain tumors, whether adrenal or extra-adrenal, can produce catecholamines. These tumors include pheochromocytomas and neuroblastomas. Chemical diagnosis of such tumors can often be made by measuring the urinary levels of catecholamines.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal medulla and hypertensive disorders and catecholamine-secreting tumors. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that catecholamine (total) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1170; Docket No. 78N-2315; Chloride test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of chloride test systems:

1. Identification: A chloride test system is a device used to measure the level of chloride in plasma, serum, sweat, and urine by methods such as coulometric, ion-specific electrode, mercuric nitrate and diphenyl carbazone (titrimetric), mercuric thiocyanate, or phosphoric-tungstic acid (spectrophotometric). Chloride measurements are used in the diagnosis and treatment of electrolyte and metabolic disorders such as cystic fibrosis and diabetic acidosis.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that chloride test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily.

Test results are used in the diagnosis and treatment of patients with electrolyte and metabolic disorders, including cystic fibrosis and diabetic acidosis. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *69* and *70*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to preform satisfactorily may lead to error in the diagnosis of electrolyte and metabolic disorders. Inappropriate therapy based on inaccurate diagnotic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that chloride test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1175; Docket No. 78N-2316; Cholesterol (total) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cholesterol (total) test systems:

1. Identification: A cholesterol (total) test system is a device used to measure cholesterol in plasma and serum by methods such as enzymatic/esterase-oxidase, ferric ion-sulfuric acid, or Lieberman-Burchard/Abell-Kendall colorimetric. Cholesterol measurements are used in the diagnosis and treatment of disorders involving excess cholesterol in the blood and lipid and lipoprotein metabolism disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that cholesterol (total) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with a variety of disorders involving excess cholesterol in the blood and for evaluation of disorders of lipid and lipoprotein metabolism. Many medical experts believe that excess cholesterol in the blood is associated with coronary or vascular diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *71* and *72*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of disorders involving excess cholesterol in the blood, many of which are believed to be associated with coronary or vascular diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that cholesterol (total) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1180; Docket No. 78N-2317; Chymotrypsin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of chymotrypsin test systems:

1. Identification: A chymotrypsin test system is a device used to measure the activity of the enzyme chymotrypsin in blood and other body fluids and in feces by methods such as *N*-acetyl-*L*-tyrosine ethyl ester (ultraviolet) or *N*-benzoyl-*L*-tyrosine ethyl ester (ultraviolet). Chymotrypsin measurements are used in the diagnosis and treatment of pancreatic exocrine insufficiency.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that chymotrypsin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with pancreatic exocrine insufficiency. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *73*, *74*, and *75*).

5. Risks to health; Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diangosis of pancreatic exocrine insufficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that chymotrypsin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable

assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1185; Docket No. 78N–2318; Compound S (11-deoxycortisol) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of compound S (11-deoxycortisol) test systems:

1. Identification: A compound S (11-deoxycortisol) test system is a device used to measure the level of compound S in plasma by methods such as radioimmunoassay. Compound S is a steroid intermediate in the biosynthesis of the adrenal hormone cortisol. Measurements of compound S are used in the diagnosis and treatment of certain adrenal and pituitary gland disorders resulting in clinical symptoms of masculinization and hypertension.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that compound S (11-deoxycortisol) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with certain adrenal and pituitary gland disorders resulting in clinical symptoms of masculinization and hypertension. Test results are also used for evaluating pituitary function together with the metyrapone test. The individual steroids measured in plasma most often are cortisol, 17-hydroxyprogesterone, and 11-deoxycortisol. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *76*). Measurements of compound S may be used to locate an enzymatic block in the synthesis of adrenal steroids and to evaluate pituitary function.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal and pituitary gland disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that compound S (11-deoxycortisol) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1190; Docket No. 78N–2319; Copper test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of copper test systems:

1. Identification: A copper test system is a device used to measure copper levels in plasma, serum, and urine by methods such as diethyldithiocarbamate (colorimetric) or oxalydihydrazide (colorimetric). Measurements of copper are used in the diagnosis and treatment of anemia, infections, inflammations, and Wilson's disease (a hereditary disease primarily of the liver and nervous system). Test results are also used in monitoring patients with Hodgkin's disease (a potentially fatal disease primarily of the lymph system).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that copper test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with anemia, Wilson's disease and numerous infections and inflammation. Test results are also used in monitoring patients with Hodgkin's disease. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *77*, *78*, and *79*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of Wilson's disease, anemia, and infections. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that copper test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1195; Docket No. 78N–2320; Corticoids test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of corticoids test systems:

1. Identification: A corticoids test system is a device used to measure the level of corticoids (hormones of the adrenal cortex) in serum and plasma by methods such as radioassay. Measurements of corticoids are used in the diagnosis and treatment of disorders of the cortex of the adrenal glands, especially those associated with hypertension and electrolyte disturbances.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a

performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that corticoids test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnositic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used for diagnosis and treatment of patients with adrenal disorders, especially those associated with hypertension and electrolyte disturbances. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *80* and *81*). The adrenal cortex secretes three types of hormones that exert physiological action: glucocorticoids, affecting carbohydrate, protein, and lipid metabolism; mineralcorticoids, with effects on sodium and potassium distribution; and androgens that exert effects on reproductive function and promote growth by a nitrogen-retaining action.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal dysfunction. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that corticoids test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1200; Docket No. 78N–2321; Corticosterone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of corticosterone test systems:

1. Identification: A corticosterone test system is a device used to measure corticosterone (a steroid secreted by the adrenal gland) levels in plasma by methods such as radioimmunoassay. Measurements of corticosterone are used in the diagnosis and treatment of adrenal disorders such as adrenal cortex disorders and blocks in cortisol synthesis.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that corticosterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with adrenal cortex disorders due to suspected adrenal hormone excess and in locating blocks in the synthesis of cortisol. Corticosterone levels are elevated by administration of estrogens and during pregnancy. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *82* and *83*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of certain adrenal disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that corticosterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1205; Docket No. 78N–2322; Cortisol (hydrocortisone and hydroxycorticosterone) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cortisol (hydrocortisone and hydroxycorticosterone) test systems:

1. Identification: A cortisol (hydrocortisone and hydroxycorticosterone) test system is a device used to measure the cortisol hormones secreted by the adrenal gland in plasma and urine by methods such as fluorometric or radioimmunoassay. Measurements of cortisol are used in the diagnosis and treatment of disorders of the adrenal gland.

2. Recommended classification Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that cortisol (hydrocortisone and hydroxycorticosterone) test systems be classified into Class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with adrenal disorders, such as Cushing's syndrome (adrenal overactivity), Addison's disease (adrenal insufficiency), and adrenogenital syndromes. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity and specificity. The Penal believes that a standard would provide reasonable assurance of the safety and

effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data in which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *84*). Measurements of cortisol are useful in evaluating adrenocortical function. Cortisol in the blood is mostly protein-bound to a specific cortisol-binding globulin and to albumin. Only the unbound free fraction cortisol is physiologically active. Cortisol is metabolized in the liver and excreted in the urine. Cortisol has physiologic actions that influence carbohydrate, lipid and protein metabolism, body water distribution, electrolyte balance, and blood pressure regulation. It also has anti-inflammatory and immuno-suppressant actions. Plasma levels of cortisol are elevated by estrogens or aldactone therapy, and during pregnancy. Normal levels of cortisol depend on the proper functional relationship between the hypothalamus, pituitary, and adrenal cortex.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal and adrenogenital disorders. Inappropropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that cortisol (hydrocortisone and hydroxycorticosterone) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1210; Docket No. 78N–2323; Creatine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of creatine test systems:

1. Identification: a Creatine test system is a device used to measure creatine (a substance synthesized in the liver and pancreas and found in biological fluids) in plasma, serum, and urine by methods such as adenosine triphosphate (ATP) creatine kinase (enzymatic) or conversion to creatinine. Measurements of creatine are used in the diagnosis and treatment of muscle diseases and endocrine disorders including hyperthyroidism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that creatine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with diseases associated with extensive muscle destruction, hyperthyroidism, and other endocrine diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. the Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *85*, *86*, and *87*). Creatine is synthesized in the liver and pancreas from three amino acids. After synthesis, creatine diffuses into the vascular system and is thus supplied to many kinds of cells, particularly those of muscle, where it is converted to creatine phosphate by the addition of phosphorous. Each day about 2 percent of the body's creatine and creatine phosphate are converted spontaneously into creatinine, a waste product excreted by the kidneys. Disease conditions associated with extensive muscle destruction may result in elevated levels of serum creatine as well as creatinuria (presence of creatine in urine).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of muscle diseases and endocrine disorders, such as hyperthyroidism. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that creatine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1215; Docket No. 78N–2324; Creatine phosphokinase/creatine kinase or isoenzymes test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of creatine phosphokinase/creatine kinase or isoenzymes test systems:

1. Identification: A creatine phosphokinase/creatine kinase or isoenzymes test system is a device used to measure the activity of the enzyme creatine phosphokinase or its isoenzymes (a group of enzymes with similar biological activity) in serum and plasma by methods such as chromatographic separation, differential rate kinetic, fluorometric *N*-acetyl-*L*-cysteine, or nicotinamide adenine dinucleotide (NAD) reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation. Measurements of creatine phosphokinase and its isoenzymes are used in the diagnosis and treatment of myocardial infaraction and muscle diseases such as progressive, Duchenne-type muscular dystrophy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that creatine phosphokinase/creatine kinase or isoenzymes test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of creatine phosphokinase and of the several types of creatine phosphokinase

isoenzymes are used in the diagnosis and treatment of myocardial infarction and muscle diseases, such as progressive Duchenne-type muscular dystrophy. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *88* through *92*). Creatine phosphokinase/creatine kinase (CPK/CK) is an enzyme found primarily in heart tissue, skeletal muscle, and the brain. The enzyme catalyzes the reversible transfer of high-energy phosphate from creatine phosphate to adenosine diphosphate (ADP) to form adenosine triphosphate (ATP). Serum CPK activity is elevated in muscle diseases, such as various types of muscular dystrophy. If skeletal muscle and brain disease may be ruled out, an increase in the CPK level is probably due to heart disease. Serum CPK begins to rise within 3 to 6 hours after a myocardial infarction. It returns to normal levels in about 3 to 4 days, earlier than other enzymes used in the diagnosis of infarction. The activity measured as total serum CPK includes that of several isoenzymes. Measurement of CPK isoenzymes is another useful tool in the diagnosis of myocardial infarction. Because different CPK isoenzymes predominate in nerve tissue, in smooth muscle (heart muscle) and in skeletal muscle, comparative measurements of these isoenzymes can be used as markers to detect and specifically locate damaged tissues or cell types. Following myocardial infarction, the rise in CPK activity is accompanied by the appearance in serum of one specific CPK isoenzyme, the MB isoenzyme, which, some experts feel, is specially indicative of infarction. Raised total CPK levels may result from other causes such as muscle injury, surgery, intramuscular injections; severe physical exertion, hypothyroidism, alcoholism acute psychotic episodes, and some cases of stroke and head injury.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of certain heart and muscle diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that creatine phosphokinase/creatine kinase or isoenzymes test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1225; Docket No. 78N–2328; Creatinine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of creatinine test systems:

1. Identification: A creatinine test system is a device used to measure creatinine levels in plasma, serum, and urine, by methods such as alkaline picrate colorimetry, enzymatic, or ion-electrode-based enzymatic. Creatinine measurements are used in the diagnosis and treatment of renal diseases, in monitoring renal dialysis, and as a calculation basis for measuring other urine analytes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that creatinine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Creatinine is the final product of the breakdown of creatine, an organic acid. Creatinine measurements are used in the diagnosis and treatment of patients with renal diseases, to monitor renal dialysis as a sign of rejection of a renal transplant, and as a calculation basis for measuring other urine analytes. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *93* and *94*). Automated methods for measuring creatinine levels have a plus or minus 14 percent day-to-day precision at 1.2 milligrams per deciliter (mg/dL), and about plus or minus 7.2 percent within-day precision at 1.3 mg/dL concentration.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of renal diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that creatinine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1230; Docket No. 78N–2327; Cyclic AMP or cyclic GMP test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cyclic AMP or cyclic GMP test systems:

1. Identification: A cyclic AMP or a cyclic GMP test system is a device used to measure the level of adenosine 3', 5'-monophosphate (cyclic AMP) or guanosine 3', 5'-monophosphate (cyclic GMP) in plasma, urine, and other body fluids by methods such as radio-immunoassay. Cyclic AMP and cyclic GMP measurements are used in the diagnosis and treatment of endocrime disorders, including hyperparathyroidism (overactivity of the parathyroid gland Cyclic AMP measurements may also be used in the diagnosis and treatment of Graves' disease (a disorder of the thyroid) and in the differentiation of causes of hypercalcemia (elevated levels of serum calcium).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that cyclic AMP of cyclic GNP test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results have diagnostic value in disorders of parathyroid function, mainly in hyperparathyroidism. Cyclic AMP measurements may also be used in the diagnosis and treatment of Gravers' disease, and in the differentiation of causes of hypercalcemia. Cyclic AMP is recognized as a regulator of hormones, enzymes, and other biologically active substances. The Panel believes that general controls would not provide sufficient control over the accuracy, precision, sensitivity, and specificity of these devices. The Panel believes that a standard would provide reasonable assurance of the safety and effectivenes of these devices and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *95, 96,* and *97*). Clinical significance is attached mostly to the levels of urinary cyclic AMP. Plasma cyclic AMP levels are mainly used in conjuction with urinary cyclic AMP measurements and are useful in the calculation of the renal fraction of total urinary cyclic AMP.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of these devices to perform satisfactorily may lead to error in the diagnosis of endocrine disorders including hyperparathyroidism and Graves' disease and in the differentiation of causes of hypercalcemia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that cyclic AMP or cyclic GMP test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1240; Docket No. 78N-2329; Cystine test system.

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of cystine test systems:

1. Identification: A cystine test system is a device used to measure the amino acid cystine in urine by methods such as chromatography or nitroprusside reaction (qualitative). Cystine measurements are used in the diagnosis of cystinuria (occurrence of cystine in urine). Patients with cystinuria frequently develop kidney calculi (stones).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that cystine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with cystinuria as a cause of kidney calculi. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *98* and *99*). Normal cystine excretion varies with the amount of protein in the diet. Loss of cystine through precipitation in acidic urine may lead to stone formation. Elevations occur only in urine and not in plasma.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of cystinuria. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that cystine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1245; Docket No. 78N-2330; Dehydroepiandrosterone (free and sulfate).

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of dehydroepiandrosterone (free and sulfate) test systems:

1. Identification: A dehydroepiandrosterone (free and sulfate) test system is a device used to measure dehydroepiandrosterone (DHEA) and its sulfate in urine, serum, plasma, and amniotic fluid by methods such as radioimmunoassay. DHEA measurements are used in the diagnosis and treatment of DHEA-secreting adrenal carcinomas.

2. Recommended classification: Class II (performance standards).The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that DHEA (free and sulfate) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of DHEA-secreting adrenal carcinomas. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that

a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *100*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of patients with DHEA-secreting adrenal carcinomas. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that dehydroepiandrosterone (free and sulfate) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1250; Docket No. 78N–2331; Desoxycorticosterone test system.

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of desoxycorticosterone test systems:

1. Identification: A desoxycorticosterone test system is a device used to measure desoxycorticosterone (DOC) in plasma and urine by methods such as radioimmunoassay. DOC measurements are used in the diagnosis and treatment of patients with hypermineralocorticoidism (excess retention of sodium and loss of potassium) and other disorders of the adrenal gland.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that desoxycorticosterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with hypermineralocorticoidism and other disorders of the adrenal gland. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *101*, *102*, and *103*). DOC is an active mineralocorticoid steroid secreted in small amounts (50 to 100 milligrams per day) by the adrenal cortex. Although it has a marked effect on the metabolism of water and electrolytes, it does not influence carbohydrate metabolism and cannot be used as a complete substitute for the secretion of hormones by the adrenal cortex. Measurement of DOC is useful in evaluating patients with suspected hypermineralocorticoidism in the presence of low plasma renin activity and low or normal aldosterone levels.

5. Risks to health: therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of patients with suspected hypermineralocorticoidism and other disorders of the adrenal gland. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that desoxycorticosterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1255; Docket No. 78N–2332; 2,3-diphosphoglyceric acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of 2,3-diphosphoglyceric acid test systems:

1. Identification: A 2,3-diphosphoglyceric acid test system is a device used to measure 2,3-diphosphoglyceric acid (2,3-DPG) in erythrocytes (red blood cells) by methods such as nicotinamide adenine dinucleotide (reduced form) (NADH)/phosphoglycerate mutase/adenosine triphosphate (ATP) (ultraviolet), or phosphoglycerate mutase (colorimetric). Measurements of 2,3-diphosphoglyceric acid are used in the diagnosis and treatment of blood disorders that affect the delivery of oxygen by erythrocytes to tissues and in monitoring the quality of stored blood.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that 2,3-diphosphoglyceric acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with blood disorders that cause defective oxygen transport to tissues. Results may also be used in monitoring of preservation of blood during storage. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *104* and *105*). The oxygen affinity of hemoglobin within the erythrocyte is lower than that of hemoglobin in solution. In erythrocytes, 2,3-diphosphoglycerate is present in high concentrations, and this compound has a substantial effect on oxygen binding by hemoglobin. Because it is preferentially bound to deoxyhemoglobin, it lowers the oxygen

affinity of hemoglobin and thus facilitates oxygen unloading. The unspecified second effect is due to intercellular pH changes.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of blood disorders that cause inadequate oxygen transport to tissues. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Failure of the device to perform satisfactorily may cause error in the evaluation of the quality of stored blood.

FDA agrees with the Panel recommendation and is proposing that 2,3-diphosphoglyceric acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1260; Docket No. 78N-2333; Estradiol test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of estradiol test systems:

1. Identification: An estradiol test system is a device used to measure estradiol, an estrogenic steroid, in plasma by methods such as radioimmunoassay. Estradiol measurements are used in the diagnosis and treatment of various hormonal sexual disorders and in assessing placental function in complicated pregnancy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that estradiol test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of various hormonal sexual disorders and in assessing placental function in complicated pregnancy. Measurement of estradiol is most useful in evaluating production of estrogens (estrone, estradiol, estriol) by the male and female gonads. Plasma estradiol measurements are also useful in establishing the time of ovulation and in assessing placental function. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *106*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of complicated pregnancy. Inappropriate therapy based on inaccurate diagnostic data may place the patient or fetus at risk.

FDA agrees with the Panel recommendation and is proposing that estradiol test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1265; Docket No. 78N-2334; Estriol test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of estriol test systems:

1. Identification: An estriol test system is a device used to measure estriol, an estrogenic steroid, in plasma, serum, and urine of pregnant females by methods such as radioimmunoassay. Estriol measurements are used in the diagnosis and treatment of fetoplacental distress in certain cases of high-risk pregnancy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that estriol test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used to diagnose and treat fetoplacental distress in certain cases of high-risk pregnancy. Estriol measurements are most useful in the evaluation of intrauterine fetal viability. Estriol in maternal plasma during pregnancy is derived from fetal precursors that the placenta converts into estriol. After about the 24th gestational week, the intact fetoplacental unit synthesizes sufficient levels of estriol to provide a clinically useful means of monitoring its viability. Measurement of estriol in plasma is a sensitive diagnostic test for detecting fetoplacental distress in certain high-risk pregnancies. Plasma estriol levels rise until parturition in uncomplicated, normal pregnancies. However, in high-risk pregnancies where placental insufficiency becomes a factor, a significant, acute decline in maternal plasma estriol is observed. Low plasma estroil levels have been observed also in cases of anencephaly (congenital absence of the skull) and in intrauterine fetal death. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clincial experience with, the device and upon a review of the literature (Ref. *107*).

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of fetoplacental distress. Inappropriate thereapy based on inaccurate diagnostic data may place the patient or fetus at risk.

FDA agrees with the Panel recommendation and is proposing that estriol test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are

insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1270; Docket No. 78N–2335; Estrogens (total, in pregnancy) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of estrogens (total, in pregnancy) test systems:

1. Identification: An estrogens (total, in pregnancy) test system is a device used to measure total estrogens in plasma, serum, and urine during pregnancy by methods such as redioimmunoassay. The device primarily measures estrone plus estradiol. Measurements of total estrogens are used in the diagnosis and treatment of fetoplacental distress in certain cases of high-risk pregnancy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that estrogens (total, in pregnancy) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of total estrogens in maternal plasma, serum, or urine are used in the diagnosis and treatment of fetoplacental distress in certain cases of high-risk pregnancy. After about the 24th gestational week, the intact fetoplacental unit synthesizes sufficient levels of estrogens to provide a clinically useful means of monitoring its viability. Plasma estrogen levels rise until parturition in uncomplicated, normal pregnancies. However, in high-risk pregnancies where placental insufficiency becomes a factor, a significant, acute decline in total estrogens in maternal plasma is observed. Low plasma estrogen levels have been observed also in cases of anencephaly (congenital absence of the skull) and in intrauterine fetal death. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *107*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device may lead to error in the diagnosis of fetoplacental distress. Inappropriate therapy based on inaccurate diagnostic data may place the patient or fetus at risk.

FDA agrees with the Panel recommendation and is proposing that estrogens (total, in pregnancy) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1275; Docket No. 78N–2336; Estrogens (total, nonpregnancy) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of estrogens (total, nonpregnancy) test systems:

1. Identification: An estrogens (total, nonpregnancy) test system is a device used to measure the level of estrogens (total estrone, estradiol, and estriol) in plasma, serum, and urine of males and nonpregnant females by methods such as radioimmunoassay. Measurement of estrogens (total, nonpregnancy) is used in the diagnosis and treatment of numerous disorders, including infertility, amenorrhea (absence of menses), differentiation of primary and secondary ovarian malfunction, estrogen secreting testicular and ovarian tumors, and precocious puberty in females.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that estrogens (total, nonpregnancy) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy. precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaocurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of numerous disorders, including infertility, amenorrhea (absence of menses), differentiation of primary and secondary ovarian malfunction, estrogen secreting testicular and ovarian tumors and precocious puberty in females. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *108*). In males secreting excessive estrogen, measurement of total estrogen may produce more valuable diagnostic information than measurement of estradiol because estrone sometimes is the primary estrogen being secreted. The importance of estrone in circulating plasma is uncertain. Measurement of plasma unconjugated estrogens (principally estrone and estradiol) is useful for evaluating ovarian function, differentiating primary and secondary ovarian malfunction in females, and in diagnosing, excessive estrogen secretion in males.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of estrogenic disturbance. Inapproporiate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that estrogens (total, nonpregnancy) test system be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the

device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1280; Docket No. 78N-2337; Estrone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of estrone test systems:

1. Identification: An estrone test system is a device used to measure estrone, an estrogenic steroid, in plasma by methods such as radioimmunoassay. Estrone measurements are used in the diagnosis and treatment of numerous disorders, including infertility, amenorrhea, differentiation of primary and secondary ovarian malfunction, estrogen secreting testicular and ovarian tumors, and precocious puberty in females.

2. Recommended classification: Class II (performance stndards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that estrone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of numerous disorders, including infertility, amenorrhea (absence of menses), differentiation of primary and secondary ovarian malfunction, estrogen secreting testicular and ovarian tumors, and precocious puberty in females. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *108*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of estrogenic disturbances. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that estrone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1285; Docket No. 78N-2338; Etiocholanolone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of etiocholanolone test systems:

1. Identification: An etiocholanolone test system is a device used to measure etiocholanolone in serum and urine by methods such as radioimmunoassay. Etiocholanolone is a metabolic product of the hormone testosterone and is excreted in the urine. Etiocholanolone measurements are used in the diagnosis and treatment of disorders of the testes and ovaries.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that etiocholanolone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of numerous disorders of gonadal function. The 17-ketosteroid androgen etiocholanolone is a reduced form of testosterone excreted in the urine of both males and females. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *109*, *110*, and *111*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of testosterone disturbances. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that etiocholanolone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1290; Docket No. 78N-2339; Fatty acids test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of fatty acids test systems:

1. Identification: A fatty acids test system is a device used to measure fatty acids in plasma and serum by methods such as conversion to ferric hydroxymates (colorimetric) or titrimetric. Measurements of fatty acids are used in the diagnosis and treatment of various disorders of lipid metabolism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that fatty acids test systems be classified into class II because there is a need for a performance standard that prescribed for this device acceptable ranges of accuracy, precision, sensititivy, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with numerous disorders of lipid

metabolism. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *112*). Measurement of fatty acids is useful in the evaluation of stress and lipid metabolism. Measurements of fatty acids are generally used in conjunction with other lipid tests. Fatty acids are straight chain compounds, and in the blood the free fatty acids (FFA) or nonesterified fatty acids (NEFA) are carried by the plasma albumin. One molecule of albumin can carry as much as 10 molecules of fatty acid. All but one-third is readily removable under physiological conditions. The normal level of NEFA in human plasma is low, but the flux is very large and quite sensitive to exercise or other physical work, to the level of blood glucose, or to excitement or other emotional stress that liberates epinephrine. The NEFA are readily taken up by most tissues to satisfy energy requirements.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lipid disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that fatty acids test systems be classified into class II (performing standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1295; Docket No. 78N–2340; Folic acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of folic acid test systems:

1. Identification: A folic acid test system is a device used to measure the vitamin folic acid in plasma and serum by methods such as radioimmunoassay. Folic acid measurements are used in the diagnosis and treatment of megaloblastic anemia, which is characterized by the presence of megaloblasts (an abnormal red blood cell series) in the bone marrow.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that folic acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with megaloblastic anemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient informaiton to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *113, 114,* and *115*). Folic acid (folate) and vitamin B12 are both essential for the normal maturation of the erythrocytes (red blood cells). Deficiency of either causes megaloblastic anemia, an anemia characterized by the presence of megaloblasts in the bone marrow. Both vitamins are important in purine and pyrimidine (and therefore nucleic acids) synthesis. Deficiency of folic acid, like that of vitamin B12, causes megaloblastic anemia; unlike that of vitamin B12, folate deficiency does not result in degeneration of the spinal cord.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of anemias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that folic acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1300; Docket No. 78N–2341; Follicle-stimulating hormone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of follicle-stimulating hormone test systems:

1. Identification: A follicle-stimulating hormone test system is a device used to measure follicle-stimulating hormone (FSH) in plasma, serum, and urine by methods such as radioimmunoassay. FSH measurements are used in the diagnosis and treatment of pituitary gland and gonadal disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that follicle-stimulating hormone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with pituitary and pituitary/gonadal dysfunction. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. 116). Measurement of follicle-stimulating hormone (FSH) is useful in the

evaluation of primary and secondary gonadal failure and pituitary function. FSH acts directly to stimulate follicular development in the ovary and gametogenesis in the testes. Primary ovarian failure can be differentiated from secondary failure, which results from decreased pituitary activity. FSH levels are increased in severe testicular damage, menopause, ovarian agenesis, and male climacteric. They are decreased in anorexia nervosa, estrogen administration, hypogonadotropic eunuchoidism, and neoplasms of the adrenal, ovary, or testis which secrete estrogens or androgens. The Panel recommended that the labeling of the device include information on the source of calibrator and standardization material, on the methods used to obtain stated values, and on the specificity of the method as it relates to precursors, subunits, and other features specific to the method.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of pituitary gland and gonadal disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that follicle-stimulating hormone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1305; Docket No. 78N–2342; Formiminoglutamic acid (FIGLU) test system.

The Clinical Chemistry Device Classification Panel, an FDA Advisory committee, made the following recommendation regarding the classification of formiminoglutamic acid (FIGLU) test systems:

1. Identification: A formiminoglutamic acid (FIGLU) test system is a device used to measure formiminoglutamic acid in urine by methods such as tetrahydrofolate enzymatic (ultraviolet). FIGLU measurements obtained by this device are used in the diagnosis of anemias, such as pernicious anemia and congenital hemolytic anemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that formiminoglutamic acid (FIGLU) test systems be classified into class II because there is a need for a performance standard that prescribed for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with folic acid (folate) deficiency occurring in a variety of conditions, including anemias such as pernicious anemia and congenital hemolytic anemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *117* and *118*). Measurements of FIGLU are most useful in the evaluation of folate deficiency conditions. If a dose of histidine is given to a patient deficient in folic acid, urinary excretion of FIGLU is increased. Measurement of FIGLU excretion is useful in the diagnosis of megaloblastic anemias.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of anemias such as pernicious anemia (folate deficiency). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that formiominoglutamic acid (FIGLU) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1310; Docket No. 78N–2343; Galactose test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of galactose test systems:

1. Identification: A galactose test system is a device used to measure galactose in blood and urine by methods such as colorimetric, enzymatic, or ultraviolet. Galactose measurements are used in the diagnosis and treatment of the hereditary disease galactosemia (a disorder of galactose metabolism) in infants.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that galactose test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of newborn and infant patients with galactosemia, a rare congenital metabolic disorder that occurs once in 20,000 to 50,000 live births. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *119* and *20*). Galactose (a sugar) is necessary for the formation of cerebrosides and certain glycoproteins, and during lactation. Normally, an excess of galactose is converted rapidly to glucose. Deficiency of the enzyme galactose-phosphate uridyl transferase results in an inability to make this conversion, with resulting galactosemia (galactose in blood) and galactosuria (galactose in urine). Galactosesemia becomes apparent only after cow's milk has been added to the infant's diet. The

main features of the condition are vomiting and diarrhea with failure to thrive, hepatomegaly (swelling of the liver), jaundice and cirrhosis, cataract formation, mental retardation, renal tubular damage, and hypoglycemia. The condition is diagnosed by identifying galactose in the blood or urine and by demonstrating a deficiency of the enzyme in the erythrocytes (red blood cells).

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of hereditary galactosemia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that galactose test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1315; Docket No. 78N-2344; Galactose-1-phosphate uridyl transferase test system.

The Clinical Chemistry Device Classification Panel an FDA advisory committee, made the following recommendation regarding the classification of galactose-1-phosphate uridyl transferase test systems:

1. Identification: A galactose-1-phosphate uridyl transferase test system is a device used to measure the activity of the enzyme galactose-1-phosphate uridyl transferase in erythrocytes (red blood cells) by methods such as uridine-5-diphosphoglucose/nicotinamide adenine dinucleotide (reduced form) (NADH) (ultraviolet). Measurements of galactose-1-phosphate uridyl transferase are used in the diagnosis and treatment of the hereditary disease galactosemia (a disorder of galactose metabolism) in infants.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that galactose-1-phosphate uridyl transferase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of newborn and infant patients with galactosemia, a rare congential metabolic disorder that occurs once in 20,000 to 50,000 live births. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *121* and *122*). Galactose (a sugar) is necessary for the formation of cerebrosides and certain glycoproteins, and during lactation. Normally an excess of galactose is converted rapidly to glucose. Deficiency of the enzyme galactose-1-phosphate uridyl transferase results in an inability to make this conversion, with resulting galactosemia (galactose in blood) and galactosuria (galactose in urine). The condition becomes apparent only after cow's milk has been added to the infant's diet. The main features of the condition are vomiting and diarrhea with failure to thrive, hepatomegaly (swelling of the liver), jaundice and cirrhosis, cataract formation, mental retardation, renal tubular damage, and hypoglycemia. The condition is diagnosed by identifying galactose in the blood or urine and by demonstrating a deficiency of the enzyme in the erythrocytes (red blood cells). The latter test should be done on cord blood in all newborn infants with siblings who had galactosemia.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hereditary galactosemia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that galactose-1-phosphate uridyl transferase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1320; Docket No. 78N-2345; Gastric acidity test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of gastric acidity test systems:

1. Identification: A gastric acidity test system is a device used to measure the acidity of gastric fluid by methods such as sodium hydroxide/phenol red (titrimetric) or tubeless analysis. Measurements of gastric acidity are used in the diagnosis and treatment of patients with peptic ulcer, gastric carcinoma, Zollinger-Ellison snydrome (peptic ulcer due to gastrin-secreting tumor of the pancreas), and related gastric disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that gastric acidity test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with peptic ulcer, gastric carcinoma, Zollinger-Ellison syndrome (pancreatic cell carcinoma), and related gastric disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *123* and *124*). Hydrochloric acid is the

constituent of gastric juice that is most commonly tested in the laboratory. Achlorhydria (absence of hydrochloric acid) is associated with pernicious anemia or carcinoma of the stomach. Achlorhydria is also seen in certain apparently healthy older people. Increase in hydrochloric acid secretion is often associated with gastric ulcers. Additionally, in many functioning pancreatic cell adenomas and carcinomas (Zollinger-Ellison syndrome), the tumor cells produce increased and prolonged secretion of gastric acids.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of gastric disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that gastric acidity test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1325; Docket No. 78N–2346; Gastrin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of gastrin test systems:

1. Identification: A gastrin test system is a device used to measure the hormone gastrin in plasma and serum by methods such as radioimmunoassay. Measurements of gastrin are used in the diagnosis and treatment of patients with ulcers, pernicious anemia, and the Zollinger-Ellison syndrome (peptic ulcer due to a gastrin-secreting tumor of the pancreas).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that gastrin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with ulcers, pernicious anemia, and the Zollinger-Ellison syndrome (peptic ulcer due to a gastrin-secreting tumor of the pancreas). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *125* and *126*). Gastrin stimulates secretion of gastric acid, pepsin, intrinsic factor (a glycoprotein secreted by gastric glands), electrolytes, and water by the pancreas and liver. Gastrin also stimulates enzyme secretion by the pancreas, contraction of smooth muscle of the lower esophageal sphincter, stomach, intestines, gall bladder, and uterus.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of gastric disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that gastrin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1330; Docket No. 78N–2347; Globulin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of globulin test systems:

1. Identification: A globulin test system is a device used to measure globulins (proteins) in plasma and serum by methods such as electrophoretic, nephelometric, tryptophan measurement, or turbidimetric. Measurements of globulins are used in the diagnosis and treatment of patients with numerous illnesses, including severe liver and renal disease, multiple myeloma, and other disorders of blood globulins.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that globulin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with numerous illnesses, including severe liver and renal disease, multiple myeloma, and other disorders of blood globulins. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *127* and *128*). Globulins are a group of proteins relatively insoluble in water and soluble in salt solutions. Plasma globulins tend to increase when there is active tissue damage. Certain globulins (gamma group) are involved in antibody formation.

These immunoglobulins, or paraproteins, may be associated with myeloma disease and liver disorders. A normal person's globulin level varies about plus or minus 3 to 4 percent. The laboratory precision of the globulin test system is about plus or minus 9 percent at 3.5 grams per liter, and the medically significant precision at this level is about plus or minus 7 percent (Ref. *128*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of numerous generalized illnesses. Inappropriate therapy based on

inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that globulin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1335; Docket No. 78N–2348; Glucagon test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of glucagon test systems:

1. Identification: A glucagon test system is a device used to measure the pancreatic hormone glucagon in plasma and serum by methods such as radioimmunoassay. Glucagon measurements are used in the diagnosis and treatment of patients with various disorders of carbohydrate metabolism, including diabetes mellitus, hypoglycemia, and hyperglycemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that glucagon test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with various disorders of carbohydrate metabolism, including diabetes mellitus, hypoglycemia, and hyperglycemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *129* and *130*). Glucagon, a single chain polypeptide consisting of 29 amino acids, is synthesized in the pancreas. Glucagon secretion, in contrast with that of insulin, is suppressed by hyperglycemia and stimulated by hypoglycemia. Proteins and amino acids stimulate production of both glucagon and insulin. Glucagon raises the blood glucose level and, paradoxically, stimulates insulin secretion. Determination of glucagon in serum or plasma is used for the differential diagnosis of hyperglycemia. A relationship appears to exist between glucagon and insulin in controlling glucose levels in circulating blood. Increased glucagon secretion has been associated with insulin resistance and impaired glucose tolerance in some diabetic patients. Measurement of glucagon is also useful in diagnosing idiopathic hypoglycemia caused by inadequate glucagon secretion, in drug related hypoglycemia, in hyperglycemia resulting from causes other than diabetes mellitus, and in screening for prediabetes.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of carbohydrate metabolism abnormalities. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that glucagon test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1340; Docket No. 78N–2349; Urinary glucose (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary glucose (nonquantitative) test systems:

1. Identification: A urinary glucose (nonquantitative) test system is a device used to measure glucosuria (glucose in urine) by methods such as enzymatic or metallic reduction. Urinary glucose (nonquantitative) measurements are used in the diagnosis and treatment of carbohydrate metabolism disorders including diabetes mellitus, hypoglycemia, and hyperglycemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary glucose (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatments of patients with various disorders of carbohydrate metabolism, including diabetes mellitus, hypoglycemia, and hyperglycemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *131*). Except for the very rare cases of galactosuria (galactose in the urine), glycose is the only sugar found in urine that is of pathological significance.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of carbohydrate metabolism abnormalities. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary glucose (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of

the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1345; Docket No. 78N–2350; Glucose test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of glucose test systems:

1. Identification: A glucose test system is a device used to measure glucose quantitatively in blood and other body fluids by methods such as copper reduction, ferricyanide, glucose oxidase, hexokinase or orthotoluidine. Glucose measurements are used in the diagnosis and treatment of carbohydrate metabolism disorders including diabetes mellitus, neonatal hypoglycemia, and idiopathic hypoglycemia, and of pancreatic islet cell carcinoma.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that glucose test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagosis and treatment of patients with carbohydrate metabolism disorders, including diabetes mellitus, neonatal hypoglycemia, and idiopathic hypoglycemia, and of pancreatic islet cell carcinoma.

In discussing this proposal, the Panel has been concerned with variability of results obtained with the same methods in different applications. This variability was demonstrated by an interlaboratory survey by Gochman, et al. (Ref. *133*) and illustrates the influence of various instrumental applications on analytical methods.

The Panel believes that general controls would not provide sufficient control over the device's accuracy precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *132* and *133*). Diabetes is a potentially fatal disease if proper treatment is not provided. A laboratory finding of low blood sugar is crucial in the diagnosis of pancreatic islet cell carcinoma. Failure to diagnose and treat neonatal hypoglycemia can lead to irreversible brain damage.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of carbohydrate metabolism disorders, including diabetes mellitus, idiopathic hypoglycemia, and neonatal hypoglycemia, and of pancreatic islet cell carcinoma. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that glucose test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1360; Docket No. 78N–2353; Gamma-glutamyl transpeptidase and isoenzymes test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of *gamma*-glutamyl transpeptidase and isoenzymes test systems:

1. Identification: A *gamma*-glutamyl transpeptidase and isoenzymes test system is a device used to measure the activity of the enzyme *gamma*-glutamyl transpeptidase (GGTP) in plasma and serum by methods such as colorimetric, kinetic, or electrophorectic/isoenzymes. *Gamma*-glutamyl transpeptidase and isoenzyme measurements are used in the diagnosis and treatment of liver diseases such as alcoholic cirrhosis and primary and secondary liver tumors.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that *gamma*-glutamyl transpeptidase and isoenzymes test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with liver diseases such as alcoholic cirrhosis and primary and secondary liver tumors. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *134* through *138*). Measurement of *gamma*-glutamyl transpeptidase is useful in the evaluation of liver diseases. *Gamma*-glutamyl transpeptidase is found mainly in the liver, kidney, and pancreas. GGTP plasma levels are elevated in the same diseases that affect levels of liver alkaline phosphatase enzyme. GGTP, however, is a more sensitive indicator of liver disease, particularly for detection of cirrhosis, metastatic carcinoma, and hepatic infiltrations. Plasma *gamma*-glutamyl transferase is elevated in chronic alcoholism, and plasma levels correlate with alcohol consumption. Levels of GGTP also may be elevated in patients on anticonvulsant therapy.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver diseases, such as alcoholic cirrhosis and primary and secondary liver tumors. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that *gamma*-glutamyl transpeptidase and isoenzymes test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health

presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1365; Docket No. 78N–2354; Glutathione test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of glutathione test systems:

1. Identification: A glutathione test system is a device used to measure glutathione (the tripeptide of glycine, cysteine, and glutamic acid) in erythrocytes (red blood cells) by methods such as chromatographic or enzymatic (glutathione reductase). Glutathione measurements are used in the diagnosis and treatment of certain drug-induced hemolytic (erythrocyte destroying) anemias due to an inherited enzyme deficiency.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that glutathione test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with certain drug-induced hemolytic anemias due to erythrocyte sensitivity because of an inherited glucose-6-phosphate dehydrogenase (G-6-PD) deficiency. Other methods are available for diagnosis of these anemias, and the determination of reduced glutathione is an additional diagnostic aid. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *139*). This disorder may be detected by the glutathione stability test in which the glutathione content of blood is determined before and after aerobic incubation with acetylphenylhydrazine and glucose. A positive test shows a marked decrease in erythrocyte glutathione upon incubation and a slight change or no change in the case of nonsensitive erythrocytes.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hemolytic anemias due to G-6-PD deficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that glutathione test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1370; Docket No. 78N–2355; Human growth hormone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of human growth hormone test systems:

1. Identification: A human growth hormone test system is a device used to measure the levels of human growth hormone in plasma by methods such as radioimmunoassay. Human growth hormone measurements are used in the diagnosis and treatment of disorders involving the anterior lobe of the pituitary gland.

2. Recommended classification: Class II performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that human growth hormone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of disorders involving the anterior lobe of the pituitary gland. Because circulating levels of human growth hormone are normally low, diagnosis cannot be made by baseline hormone assay alone, but must be achieved by various suppression and stimulation tests with multiple sampling. The Panel recommended that the device's labeling contain information on physiological interferences, the sources of calibrator and standardization material, methods used to obtain stated values, and the specificity of the method as it relates to precursors, subunits, and other features specific to the method. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based. The Panel based its recommendation on the Panel memebers' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *140*). Measurement of human growth hormone, one of the major polypeptide hormones secreted and released by the pituitary gland, is important in evaluating anterior pituitary function. Hyposecretion during the human growth years results in dwarfism, whereas hypersecretion causes gigantism. In adulthood, hypersecretion results in enlargement of the skeletal extremities. It is important to diagnose pituitary dwarfism as early as possible to initiate treatment.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of anterior pituitary dysfunction. Inappropriate therapy based on inaccurate diagnosis data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that human growth hormone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency

also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1375; Docket No. 78N–2356; Histidine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of histidine test systems:

1. Identification: A histidine test system is a device used to measure free histidine (an amino acid) in plasma and urine by methods such as chromatographic or microbiological. Histidine measurements are used in the diagnosis and treatment of hereditary histidinemia characterized by excess histidine in the blood and urine often resulting in mental retardation and disordered speech development.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that histidine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with the rate hereditary disease histidinemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *141, 142,* and *143*). Histidinemia is associated with deficiency of the enzyme histidase, which is required for the normal metabolism of histidine. Blood levels of histidine are raised, and histidine and a metabolite, imidazole pyruvic acid, appear in increased amounts in the urine. About half of the cases reported have shown mental retardation and speech defects, and the remainder appear normal. The results of dietary therapy are inconclusive.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to error in the diagnosis of hereditary histidinemia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that histidine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1380; Docket No. 78N–2357; Hydroxybutyric dehydrogenase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hydroxybutyric dehydrogenase test systems:

1. Identification: A hydroxybutyric dehydrogenase test system is a device used to measure the activity of the enzyme *alpha*-hydroxybutric dehydrogenase (HBD) in plasma and serum by methods such as *alpha*-ketobutyric acid/nicotinamide adenine dinucleotide (reduced form) (ultraviolet), or by dinitrophenyl hydrazone measurement (colorimetric). HBD measurements are used in the diagnosis and treatment of myocardial infarction, renal damage (such as rejection of transplants), certain hematological diseases (such as acute leukemias and megaloblastic anemias) and, to a lesser degree, liver disease.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that hydroxybutyric dehydrogenase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. HBD measurements are useful in the evaluation of myocardial infarctions, although these measurements are seldom used as the sole test for the diagnosis or confirmation of myocardial infarctions. Levels of the enzyme HBD are raised in myocardial infarction, megaloblastic anemias, acute leukemias, severe active renal damage (such as rejection of transplants) and, to a lesser degree, in liver disease. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *144*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of myocardial infarction, kidney damage, certain hematological diseases, and liver disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that hydroxybutyric dehydrogenase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1385; Docket No. 78N–2358; 17-Hydroxycorticosteroids (17-ketogenic steroids) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of 17-hydroxycorticosteroids (17-ketogenic steroids) test system:

1. Identification: A 17-hydroxycorticosteroids (17-ketogenic steroids) test system is a device used to measure corticosteroids that possess a dihydroxy acetone

$$(CH_2OHCOH)$$
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side chain on carbon 17 in urine by methods such as fluorometric, Porter Silber hydrazone, radioassay, or chromatography separation/Zimmerman and Zimmerman/Norymberski. Corticosteroids with this chemical configuration include cortisol, cortisone, 11-desoxycortisol, desoxycorticosterone and their tetra-hydroderivatives. This group of hormones is synthesized by the adrenal glands. Measurements of 17-hydroxycorticosteroids (17-ketogenic steroids) are used in the diagnosis and treatment of various diseases of the adrenal or pituitary glands and gonadal disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends 17-hydroxycorticosteroids (17-ketogenic steroids) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with diseases of the adrenal or pituitary glands and gonadal disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *145* through *150*). Measurement of 17-hydroxycorticosteroids is useful in the evaluation of adrenal cortex and anterior pituitary dysfunctions. Increased excretion of 17-hydroxycorticosteroids is sometimes observed in patients with severe stress, in persons with Cushing's syndrome (overactivity of the cortex of the adrenal gland), and in women with masculinization. Abnormally low levels of 17-hydroxycorticosteroids in urine are often found in patients with Addison's disease (underactivity of the adrenal gland) or hypofunction of the anterior pituitary gland.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal and gonadal disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that 17-hydroxycorticosteroids (17-ketogenic steroids) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1390; Docket No. 78N-2359; 5-Hydroxyindole acetic acid/serotonin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of 5-hydroxyindole acetic acid/serotonin test systems:

1. Identification: A 5-hydroxyindole acetic acid/serotonin test system is a device used to measure 5-hydroxyindole acetic acid/serotonin in urine by methods such as the nitrous acid/nitrosonapthal. Measurements of 5-hydroxyindole acetic acid/serotonin are used in the diagnosis and treatment of carcinoid tumors of endocrine tissue.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that 5-hydroxyindole acetic acid/serotonin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of carcinoid tumors. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *151*). Carcinoid tumors produce excessive amounts of serotonin. The presence of the metabolite of serotonin, 5-hydroxyindole acetic acid (5-HIAA) in the urine provides a diagnostic test for the carcinoid syndrome. Ingestion of foods containing serotonin and some drugs such as phenothiazines and cough syrup containing guaiacolate may cause falsely elevated values. When dietary interferences are excluded, a urinary excretion of more than 25 milligrams of 5-HIAA daily is diagnostic of carcinoid tumor.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of carcinoid tumors. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that 5-hydroxyindole acetic acid/serotonin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1395; Docket No. 78N-2360; 17-Hydroxyprogesterone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of 17-hydroxyprogesterone test systems:

1. Identification: A 17-hydroxyprogesterone test system is a device used to measure 17-hydroxyprogesterone (a steroid) in plasma and serum by methods such as radioimmunoassay. Measurements of 17-hydroxyprogesterone are used in the diagnosis and treatement of various

disorders of the adrenal glands or the ovaries.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that 17-hydroxyprogesterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of various disorders of the adrenal glands and the ovary including congenital adrenal hyperplasia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *152* and *153*). Measurement of the steroid 17-hydroxyprogesterone is most useful in the evaluation of adrenal C–21 hydroxylase deficiency. Clinical applications of 17-hydroxyprogesterone test systems are limited and apply to investigations of blocks in synthesis of corticosteroids. 17-hydroxyprogesterone is secreted by the adrenal glands and ovaries and is an intermediate in the formation of androgens, estrogens, and corticosteroids.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal and ovarian diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that 17-hydroxyprogesterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1400; Docket No. 78N–2361; Hydroxyproline test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hydroxyproline test systems:

1. Identification: A hydroxyproline test system is a device used to measure the amino acid hydroxyproline in urine by methods such as column chromatography and color development, or extraction plus chromatography with color by ninhydrin. Hydroxyproline measurements are used in the diagnosis and treatment of various collagen (connective tissue) diseases, bone diseases such as Paget's disease, and endocrine disorders such as hyperparathyroidism and hyperthyroidism.

2. Recommended classification: Class I (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation. The Panel recommends that hydroxyproline test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with certain collagen (connective tissue) disorders, bone diseases (e.g., Paget's disease), and endocrine disorders such as hyperparathyroidism and hyperthyroidism. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *154*). Collagen is a main supportive protein of skin, tendon, bone, cartilage, and connective tissue. The collagen diseases are a group of diseases that, although clinically distinct and not necessarily related etiologically, have in common widespread pathological changes in the collagen (connective tissue). The amino acid hydroxyproline is found especially in collagen proteins. Test results are very dependent on diet.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of bone and endocrine disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that hydroxyproline test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1405; Docket No. 78N–2362; Immunoreactive insulin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of immunoreactive isulin test systems:

1. Identification: An immunoreactive insulin test system is a device used to measure immunoreactive insulin in serum and plasma by methods such as radioimmunoassay. Immunoreactive insulin measurements are used in the diagnosis and treatment of various carbohydrate metabolism disorders, including diabetes mellitus and hypoglycemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that immunoreactive insulin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information.

Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of various carbohydrate metabolism disorders such as diabetes mellitus and hypoglycemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *155*). Simultaneous performance of the glucose tolerance test and insulin measurements by radioimmunoassay have been used in investigations of prediabetics and classification of diabetic patients for adequate therapy. In cases of hypoglycemia, when used with challenge tests, insulin measurement is helpful in differential diagnosis. Normally, insulin levels in plasma increase and decrease is parallel with blood glucose levels. However, patients with reactive hypoglycemia may have elevated levels of plasma insulin with normal levels of plasma glucose.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of various carbohydrate metabloism disorders, failure in proper assessment of prediabetics, or improper classification of diabetic patients for therapy. Additionally, failure to determine the cause of hypoglycemia could cause proper treatment to be delayed. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that immunoreactive insulin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1410; Docket No. 78N–2363; Iron (non-heme) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of iron (non-heme) test systems:

1. Identification: An iron (non-heme) test system is a device used to measure iron (non-heme) in serum and plasma by methods such as atomic absorption, bathophenanthroline colorimetry, photometric, or radiolabeled iron. Iron (non-heme) measurements are used in the diagnosis and treatment of diseases such as iron deficiency anemia, hemochromatosis (a disease associated with widespread deposit in the tissues of two iron-containing pigments, hemosiderin and hemofuscin, and characterized by pigmentation of the skin), and chronic renal disease.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that iron (non-heme) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used, together with total iron binding capacity measurements and bone marrow studies, in the diagnosis and treatment of iron deficiency anemia, hemochromatosis, or chronic renal disease. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with the device and upon a review of the literature (Refs. *156*, *157*, and *158*). Elevated serum iron levels may be found in conditions involving increased erythrocyte (red blood cell) destruction, decreased blood formation, or increased release of iron from body stores. Decreased values may be found in iron deficiency anemia or chronic renal disease. Iron is bound to transferrin, a protein, when it circulates in blood plasma. Transferrin is measured by the amount of iron which it can bind; this measurement is referred to as the total iron-binding capacity. Although measurement of serum iron alone does not usually provide adequate information for diagnosis, when used with iron-binding capacity determinations, the serum iron measurement is useful in evaluation of patients with disorders involving low or high levels of iron.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of iron deficiency anemia, hemochromatosis, or chronic renal disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that iron (non-heme) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1415; Docket No. 78N–2364; Iron-binding capacity test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of iron-binding capacity test systems:

1. Identification: An iron-binding capacity test system is a device used to measure iron-binding capacity in serum by methods such as bathophenanthroline, ferrozine (colorimetric), ion exchange resin with ascorbic acid, ion exchange resin with thioglycolic acid, or radiometric with ^{59}Fe. Iron-binding capacity measurements are used in the diagnosis and treatment of anemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that iron-binding capacity test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity and

specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of anemia. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *159, 160,* and *161*). Measurements of serum iron-binding capacity levels are useful in the differential diagnosis of anemia and as nonspecific indications of chronic disease. Although the serum iron level is reduced both in iron deficiency anemia and in association with chronic disorders, the iron-binding capacity is often increased in anemia, while it falls below normal in chronic disorders.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of anemia. Inappropriate therapy based on inaccurate data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that iron-binding capacity test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1420; Docket No. 78N–2365; Isocitric dehydrogenase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of isocitric dehydrogenase test systems:

1. Identification. An isocitric dehydrogenase test system is a device used to measure the activity of the enzyme isocitric dehydrogenase in serum and plasma by methods such as hydrazone derivative of *alpha*-ketoglutarate (colorimetry) or *L*-isocitrate and nicotinamide adenine dinucleotide phosphate (NADP) (ultraviolet). Isocitric dehydrogenase measurements are used in the diagnosis and treatement of liver diseases such as viral hepatitis, cirrhosis, or acute inflammation of the biliary tract; pulmonary disease such as pulmonary infarction (local arrest or sudden insufficiency of the blood supply to the lungs); and diseases associated with pregnancy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that isocitric dehydrogenase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of liver disease such as viral hepatitis, cirrhosis, or acute inflammation of the biliary tract. Test results are also used in evaluation of pulmonary disease such as pulmonary infarction (local arrest or sudden insufficiency of the blood supply to the lungs) and diseases connected with pregnancy. During pregnancy, a sudden increase in isocitric dehydrogenase levels suggests possible placental damage. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: the Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *162* and *163*). Test results can be affected by a large variety of factors. Activity of isocitric dehydrogenase varies greatly with temperature, which needs to be carefully controlled to ensure greater accuracy of the test results. For example, 10° C change in temperature causes a 2.4-fold difference in enzyme activity. In addition, calcium chloride and sodium chloride inhibit activity of isocitric dehydrogenase. Because of the low activity of this enzyme in serum, the test requires great sensitivity.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of certain liver, pulmonary, and pregnancy associated diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that isocitric dehydrogenase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1430; Docket No. 78N–2367; 17-Ketosteroids test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of 17-ketosteroids test systems:

1. Identification: A 17-ketosteroids test system is a device used to measure 17-ketosteroids in urine by methods such as chromatographic separation/Zimmerman, or Zimmerman (spectrophotometric). Measurements of 17-ketosteroids are used in the diagnosis and treatment of disorders of the adrenal cortex and gonads and of other endocrine disorders, including hypertension, diabetes, and hypothyroidism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that 17-ketosteroids test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk

unnecessarily. Test results are used in the diagnosis and treatment of patients with disorders of the adrenal cortex and gonads and with other endocrine disorders, including hypertension, diabetes, and hypothyroidism. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *164, 165,* and *166*). In men, total 17-ketosteroid values consist of androgens from the testes and steroids from the adrenal cortex. In women, most 17-ketosteroids originate in the adrenal cortex. Increased urinary excretion of 17-ketosteroids occurs in patients with severe stress, virilism (masculinization) in women, adrenal enlargement, hirsutism, and testicular tumors. Abnormally low levels occur in patients with nephrosis (disease of the kidneys), myxedema (a form of hypothyroidism), Addison's disease (a disease caused by hypofunction of the adrenal glands), gout, diabetes mellitus, and hypertension.

5. Risk to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal, gonadal, and endocrine diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that 17-ketosteroids test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1435; Docket No. 78N–2368; Urinary ketones (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary ketones (nonquantitative) test systems:

1. Identification: A urinary ketones (nonquantitative) test system is a device used to identify ketones in urine by using reagents such as nitroprusside. Identification of urinary ketones is used in the diagnosis and treatment of acidosis (a condition characterized by abnormally high acidity of body fluid) or ketosis (a condition characterized by increased production of ketone bodies such as acetone) and for monitoring patients on ketogenic diets and patients with diabetes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary ketones (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of acidosis or ketosis, and for monitoring patients on ketogenic diets and patients with diabetes. A ketone is an organic substance with a carbonyl or ketone group (–CO–) linking two carbon atoms. There are a number of ketones, the simplest being acetone, which is found in extremely small amounts in normal urine but in larger quantities in urine and blood of diabetic patients. The Panel believes that general controls would not provide control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *167, 168,* and *169*). Ketone bodies are products of incomplete fat metabolism. Their presence is indicative of acidosis. Marked increases of urinary ketones are observed in a variety of abnormal states, such as diabetes mellitus. Measurements of ketones in urine are very useful when changes in diabetic therapy are prescribed.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of acidosis or ketosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary ketones (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1440; Docket No. 78N–2369; Lactate dehydrogenase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lactate dehydrogenase test systems:

1. Identification: A lactate dehydrogenase test system is a device used to measure the activity of the enzyme lactate dehydrogenase in serum by methods such as tetrazolium INT (2-*p*-iodophenyl-3-*p*-nitrophenyl tetrazolium chloride) dye-diaphorase, 2,4-dinitrophenylhydrazine, or nicotinamide adenine dinucleotide (NAD) reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation. Lactate dehydrogenase measurements are used in the diagnosis and treatment of liver diseases such as acute viral hepatitis, cirrhosis, and metastatic carcinoma of the liver, cardiac diseases such as myocardial infarction, and tumors of the lungs or kidneys.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that lactate dehydrogenase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate

inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of liver diseases such as acute viral hepatitis, cirrhosis, and metastatic carcinoma of the liver, cardiac diseases such as myocardial infarction, and tumors of the lungs or kidneys. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificicity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *170, 171,* and *172*). Lactate dehydrogenase (LDH) measurements are used widely to diagnose liver diseases such as acute viral hepatitis and cirrhosis in which levels of LDH often a moderately elevated. High serum levels of LDH may be found in metastatic carcinoma of the liver. Test results are also used in diagnosis of tumors in lungs or kidneys, as well as in diagnosis of such cardiac diseases as myocardial infarction. Highly elevated levels are observed shortly after the onset of myocardial infarction and persist for a longer time than elevated GOT (glutamic oxaloacetic transaminase) values. For this reason, comparing the levels of LDH and GOT is useful in the recognition of myocardial infarction.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of certain cardiac and liver diseases and malignant tumors. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lactate dehydrogenase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1445; Docket No. 78N–2370; Lactate dehydrogenase isoenzymes test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lactate dehydrogenase isoenzymes test systems:

1. Identification: A lactate dehydrogenase isoenzymes test system is a device used to measure the activity of lactate dehydrogenase isoenzymes (a group of enzymes with similar biological activity) in serum by methods such as chromatographic separation, differential rate kinetic, or electrophoretic. Measurement of lactate dehydrogenase isoenzymes is used in the diagnosis and treatment of liver diseases, such as viral hepatitis, and myocardial infarction.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that lactate dehydrogenase isoenzymes test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of liver disorders, such as viral hepatitis, and myocardial infarction. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *173, 174,* and *175*). The enzyme lactate dehydrogenase (LDH) is present in almost all the tissues of the body (liver, heart, kidney, skeletal muscle) in significantly larger concentrations than those normally found in serum. Thus, in tissue destroying disease, even a small mass of damaged tissue can increase the serum level of LDH. The LDH of human serum consists of five enzymes (LDH isoenzymes) that are very similar in their biological activity but that may be differentiated by variations in physical properties. Because each tissue contains various ratios of the 5 isoenzymes, diffusion from a given tissue may change the ratio of the enzymes found in the serum. LDH1 and LDH5 are the most significant LDH isoenzymes in identifying the tissue responsible for the increased serum LDH levels. The LDH1 isoenzyme is elevated in myocardial infarction and hemolytic anemia. LDH5 isoenzyme is elevated in diseases of the liver.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of myocardial infarction or liver disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lactate dehydrogenase isoenzymes test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1450; Docket No. 78N–2371; Lactic acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lactic acid test systems:

1. Identification: A lactic acid test system is a device used to measure lactic acid in whole blood and plasma by methods such as enzymatic. Lactic acid measurements that evaluate the acid-base status are used in the diagnosis and treatment of lactic acidosis (abnormally high acidity of the blood).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that lactic acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of

accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in evaluating the acid-base status of patients who are suspected of having lactic acidosis. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *176* and *177*). An elevated blood lactic acid level is a characteristic of conditions associated with anoxia (oxygen deprivation), such as shock, pneumonia, and congestive heart failure. Results of lactic acid measurements are influenced by the blood specimen collection procedure employed, the stability of the specimen, and the temperature and the pH of the reaction mixture.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lactic acidosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lactic acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1455; Docket No. 78N–2372; Lecithin-sphingomyelin ratio in amniotic fluid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lecithin-sphingomyelin ratio in amniotic fluid test systems:

1. Identification: A lecithin-sphingomyelin ratio in amniotic fluid test system is a device used to measure the lecithin-sphingomyelin ratio in amniotic fluid by methods such as chromatographic separation, electrophoretic, or colorimetric. Lecithin and sphingomyelin are phospholipids (fats or fat-like substances contaning phosphorus). Measurements of the lecithin-sphingomyelin ratio in amniotic fluid are used in evaluating fetal maturity.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that lecithin-sphingomyelin ratio in amniotic fluid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the evaluation of fetal maturity. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *178* and *179*). Fetal lung maturity is related to the lecithin-sphingomyelin (L/S) ratio, with increased lecithin occurring after the 34th week of gestation in a normal pregnacy. L/S ratio measurements are very useful in the management of high-risk pregnancies with maternal diseases, e.g., toxemia, renal disease, or diabetes mellitus, in which fetal lung development may deviate significantly from that in normal gestation. Signs of fetal distress (e.g., abnormal fetal heart rate) or severe fetal jeopardy (e.g., lessening levels of maternal estriol, an estrogenic hormone) are indications for L/S ratio measurements and for consideration of early delivery if the ratio shows adequate pulmonary maturity. Lecithin appears to be essential to proper lung development. An L/S ratio of less than 1.0 shows that the newborn will probably develop respiratory distress. An L/S ratio above 2.0 usually indicates adequate fetal lung maturity.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an inaccurate clinical diagnosis and incorrect timing of delivery. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lecithin-sphingomyelin ratio in amniotic fluid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1460; Docket No. 78N–2373; Leucine aminopeptidase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of leucine aminopetidase test systems:

1. Identification: A leucine aminopeptidase test system is a device used to measure the activity of the enzyme leucine aminopeptidase in serum, plasma, and urine by methods such as *L*-leucine-4-nitroanilide (colorimetric) or *L*-leucyl-*beta*-naphthylamide. Leucine aminopeptidase measurements are used in the diagnosis and treatment of liver diseases such as viral hepatitis and obstructive jaundice.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that leucine aminopeptidase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test

results are used in the diagnosis and treatment of patients with liver disorders such as viral hepatitis and obstructive jaundice. The Panel belives that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable asssurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *180* through *183*). LAP measurement is a sensitive and reasonably specific indication of hepatobiliary disease (diseases pertaining to the liver and the bile or the biliary ducts). Determination of LAP is of greatest value in discrimination between hepatobiliary tract and other diseases. However, because LAP test results overlap in various intraextrahepatic diseases (diseases within the liver and outside the liver), differentiation of these conditions cannot be based solely on this single test.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to perform satisfactorily may lead to error in the diagno;sis of certain liver diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that leucine aminopeptidase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1465; Docket No. 78N–2374; Lipase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lipase test systems:

1. Identification: A lipase test system is a device used to measure the activity of the enzyme lipase in serum by methods such as oil emulsion/ thymolphthalein (titrimetric), olive oil emulsion (turbidimetric), or lipase-esterase, enzymatic (photometric). Lipase measurements are used in diagnosis and treatment of diseases of the pancreas such as acute pancreatitis and obstruction of the pancreatic duct.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that lipase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of acute pancreatitis and obstruction of the pancreatic duct. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *184* through *190*). Significantly elevated lipase values may be found in acute pancreatitis and obstruction of the pancreatic ducts. In acute pancreatitis, serum levels of lipase and amylase are elevated. However elevation of lipase values may be more accentuated, and these levels remain elevated for a longer period. Lipase hydrolyzes fats into fatty acids and glycerol. Serum lipase is usually determined by measurement of the fatty acids liberated. Technical difficulties have been associated with the development of methods used to assay lipase activity. Lipase test results can vary depending on the different fat emulsions used as substrates, such as olive oil or tributyrin, and on a number of other factors related to the substrate and conditions of analysis.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of pancreatic disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lipase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1470; Docket No. 78N–2375; Lipid (total) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lipid (total) test systems:

1. Identification: A lipid (total) test system is a device used to measure total lipids (fats or fat-like substances) in serum and plasma by methods such as chromatographic derivative or sulfophosphovanillin colorimetry. Lipid (total) measurements are used in the diagnosis and treatment of various diseases involving lipid metabolism and atherosclerosis.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that lipid (total) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with various diseases involving lipid metabolism and atherosclerosis. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel

members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *191*). Plasma total lipids may be measured directly or as the sum of cholesterol, triglycerides, and phospholipids. Although findings of total lipids at levels above normal (about 1 gram per deciliter) are associated with increased incidence of atherosclerosis, these findings are too nonspecific and cannot compare in clinical utility to separate measurements of levels of plasma cholesterol and triglycerides.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lipid disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lipid (total) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1475; Docket No. 78N-2376; Lipoprotein test system.

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of lipoprotein test systems:

1. Identification: A lipoprotein test system is a device used to measure lipoprotein in serum and plasma by methods such as colorimetric, electrophoretic separation, microdensitometry, nephelometric, radial immunodiffusion, or turbidimetric. Lipoprotein measurements are used in the diagnosis and treatment of lipid disorders (such as diabetes mellitus), atherosclerosis, and various liver and renal diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that lipoprotein test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Lipoprotein measurements are used in the evaluation of hyperlipoproteinemia (increased lipoprotein levels) and in the diagnosis and treatment of patients with numerous diseases affecting lipid metabolism, including diabetes mellitus, artherosclerosis, and liver and renal diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. the Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. 192 through 195). Hyperlipoproteinemia may be considered as a primary inherited disease, while hyperbetalipoproteinemia (increased beta, or low density, lipoprotein) may be secondary to one of a variety of disorders such as liver cirrhosis, kidney nephrosis, pancreatitis, or severe diabetes mellitus. Serum beta lipoprotein acts as a transporter of cholesterol or triglycerides. Increased levels of serum beta lipoprotein, as well as increased cholesterol levels, are believed to be a causative factor in atherosclerosis. Because measurements of lipoprotein alone may not provide an accurate diagnosis, they should be considered with other measurements such as those of plasma cholesterol. Physicians who have diagnosed a patient as having primary hyperlipoproteinemia should determine whether the patient has the heritable or the nonheritable form.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lipid disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lipoprotein test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1484; Docket No. 78N-2378; Luteinizing hormone test system.

The Clinical Chemistry Device Classification Panel and the Immunology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of luteinizing hormone test systems:

1. Identification: A luteinizing hormone test system is a device used to measure luteinizing hormone in serum and urine by methods such as radioimmunoassay. Luteinizing hormone measurements are used in the diagnosis and treatment of gonadal dysfunction.

2. Recommended classification: Class II (performance standards). The Clinical Chemistry Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The Immunology Device Classification Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panels recommend that luteinizing hormone (LH) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of gonadal dysfunction. The major use of LH measurement is to track the physiological events preceding ovulation. In the male, LH measurements are used to evaluate gonadal dysfunction. LH measurements are also used in assessment of gonadotropin-producing tumors, in evaluation of pituitary function, and in the differential diagnosis of amenorrhea (absence or abnormal cessation of menstruation). Test results are also used in evaluation of infertility, anovulatory cycles, and as a measurement of response to clomiphene (a drug used to stimulate ovarian function) administration. Because of the immunological cross-reactivity of luteinizing hormone with related glycoprotein hormones, the Clinical Chemistry Panel believes that it is essential that the labeling of the product

include information concerning source of calibrator and standardization material as well as information concerning methods the manufacturer used to obtain stated values and information concerning specificity as it relates to precursors, subunits, and other features specific to the method. The Clinical Chemistry Panel also believes that the labeling should also include warnings about interference in test results due to the effects of estrogens, birth control pills, and pregnancy. The Panels believe that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *196* through *199*). Luteinizing hormone (LH) in the female causes ovulation and steroid production. In the male, LH stimulates production of androgens and estrogens. LH is elevated and follicle-stimulating hormone (FSH) is low in conditions such as Stein-Leventhal syndrome (a disease of the ovary) and FSH deficiency. Both LH and FSH are elevated in primary ovarian failure and low in primary hypopituitarism. Numerous cross-reactivity problems have been encountered in LH assays. Immunologic cross-reactivity is present between LH and the related glycoprotein hormones FHS, TSH, and HCG due to structural similarities. All four contain two peptide chains, or subunits, designated alpha and beta. Each of the beta-subunits is distinct in composition and appears to confer biologic specificity on the hormone. The alpha-subunits, however, appear sufficiently similar to be interchangeable with one another, causing test cross-reactivity. This structural similarity has contributed to problems in obtaining specific antisera. Although biologic activity and immunologic activity of the hormone do not always correlate, radioimmunoassay is recognized as offering the greatest sensitivity and precision.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of gonadal dysfunction. In appropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panels' recommendation and is proposing that luteinizing hormone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1490; Docket No. 78N–2379; Lysozyme (muramidase) test system.

The Clinical Chemistry Device Classification Panel and the Immunology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of lysozyme (muramidase) test systems:

1. Identification: A lysozyme (muramidase) test system is a device used to measure the activity of the bacteriolytic enzyme lysozyme (muramidase) in serum, plasma, leukocytes, and urine by methods such as immunochemical or spectrophotometric (*Micrococcus lysodeikticus*). Lysozyme measurements are used in the diagnosis and treatment of monocytic leukemia and kidney disease.

2. Recommended classification: The Immunology Device Classification Panel recommends that the device be classified into class I (general controls) and that there be no exemptions. The Clinical Chemistry Device Classification Panel recommends that the device be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Immunology Device Classification Panel recommends that lysozyme (muramidase) test systems be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Clinical Chemistry Device Classification Panel recommends that lysozyme (muramidase) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with leukemia (using leucocytes to distinguish monocytic leukemia from other types of leukemia), and kidney diseases using urinary tests. The Clinical Chemistry Device Classification Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *200* through *203*). Determination of lysozymes is useful in the evaluation of leukemia. Leukocytes contain significant amounts of lysozymes. The basic enzyme is also present in saliva, tears, and many body fluids and functions as an antibacterial agent. Lysozyme catalyzes the hydrolysis (breakdown) of cell walls of several types of bacteria, with maximum activity toward *Micrococcus lysodeikticus*. The degree of cell wall breakdown (as measured by a spectrophotometer) is proportional to the amount of lysozyme present in the sample. Serum and urine lysozyme estimations are useful in classifying acute monocytic leukemia (in which the predominating white cells are identified as monocytes) and in assessing the degree of remission achieved as a result of treatment.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of leukemia and renal disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Clinical Chemistry Device Classification Panel's recommendation and is proposing that lysozyme (muramidase) test systems be classified into class II (performance standards). FDA disagrees with the Immunology Device Classification Panel recommendation that this device be classified into class I. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of

the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

§862.1495; Docket No. 78N–2380; Magnesium test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of magnesium test systems:

1. Identification: A magnesium test system is a device used to measure magnesium levels in serum and plasma by methods such as atomic absorption, ion-specific electrode, photometric, or titrimetric. Magnesium measurements are used in the diagnosis and treatment of hypomagnesemia (abnormally low plasma levels of magnesium) and hypermagnesemia (abnormally high plasma levels of magnesium).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that magnesium test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of hypomagnesemia and hypermagnesemia. Hypomagnesemia can result in tetany (muscle spasms), while hypermagnesemia can lead to possible neuromuscular irritability. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *204* through *207*). Magnesium is present with calcium in bone salts and tends to move in and out of bone with calcium. It is also present in all cells of the body in much higher concentrations than those in the extracellular fluid, and tends to enter and leave cells under the same conditions as do potassium and phosphate. A patient who has diarrhea can lose large quantities of magnesium in the feces. Diarrhea is the most common cause of significantly low plasma mangesium levels. Certain drugs, such as calcium gluconate or mercurial diuretics, interfere with magnesium measurements. The accuracy of the photometric method is only plus or minus 10 percent; the preferred method is atomic absorption spectrophotometry.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hypomagnesemia, which may lead to tetany, and hypermagnesemia, which may lead to possible neuromuscular irritability. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that magnesium test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and efectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1500; Docket No. 78N–2381; Malic dehydrogenase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of malic dehydrogenase test systems:

1. Identification: A malic dehydrogenase test system is a device that is used to measure the activity of the enzyme malic dehydrogenase in serum and plasma by methods such as oxalacetic acid/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation (ultraviolet). Malic dehydrogenase measurements are used in the diagnosis and treatment of muscle and liver diseases, myocardial infarctions, cancer, and blood disorders such as myelogenous (produced in the bone marrow) leukemias.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that malic dehydrogenase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with muscle and liver diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *208*). Measurements of malic dehydrogenase are useful in the evaluation of muscle and liver disorders. Elevated serum values occur in patients with heart attacks, liver and blood disorders, and cancer. This enzyme test is of limited clinical usefulness because it is not specific.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of cancer, heart attacks, and muscle, liver, and blood disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that malic dehydrogenase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1505; Docket No. 78N–2382; Mucopolysaccharides test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the

classification of mucopolysaccharides test systems:

1. Identification: A mucopolysaccharides test system is a device used to measure the levels of mucopolysaccharides in serum, plasma, and urine by methods such as colorimetric. Mucopolysaccharide measurements are used in the diagnosis and treatment of various inheritable disorders that affect bone and connective tissues, such as Hurler's, Hunter's Sanfilippo's Scheie's Morquio's and Maroteaux-Lamy syndromes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The panel recommends that mucopolysaccharides test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in evaluation of inheritable disorders including Hurler's Hunter's, Sanfilippo's, Scheie's, Morquio's, and Maroteaux-Lamy syndromes. These diseases, which have in common an error in the metabolism of mucopolysaccharides (complexes of proteins and sugars), are characterized by abnormality in bone development due to various defects of bone, cartilage, and connective tissue. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *209, 210,* and *211*). Test results are used to confirm the diagnosis of inheritable disorders of mucopolysaccharide metabolism. Usually, mucopolysaccharide levels are determined by measurement of uronic acid. However, in some mucopolysaccharides that lack uronic acid, analyses are limited to hexosamine measurement. Erroneous results are possible because of interferences due to the presence of hexosamines in glycoproteins and glycolipids.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis or evaluation of certain inheritable diseases affecting bone and connective tissues. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that mucopolysaccharides test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1510; Docket No. 78N-2383; Urinary nitrite (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary nitrite (nonquantitative) test systems:

1. Identification: A urinary nitrite (nonquantitative) test system is a device used to identify nitrite in urine by methods such as diazo (colorimetric). Urinary nitrite identification is used in the diagnosis and treatment of urinary tract infection of bacterial origin.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary nitrite (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of urinary tract infection of bacterial origin. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *212, 213,* and *214*). Urinary nitrite test systems detect nitrite produced by bacteria causing infection that may be present in the urinary tract. Although these devices do not have complete sensitivity (i.e., they may give some false-negative results), they have been found to have excellent specificity (i.e., they seldom give a false-positive result). If used on early morning urine specimens, when the bacterial count is expected to be the highest, the nitrite test will detect almost 90 percent of cases of persistent bacteriuria (abnormally high levels of bacteria in the urine) without false positive results.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in diagnosis and treatment of urinary tract infection of bacterial origin. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary nitrite (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1515; Docket No. 78N-2384; Nitrogen (amino-nitrogen) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nitrogen (amino-nitrogen) test systems:

1. Identification: A nitrogen (amino-nitrogen) test system is a device used to measure amino acid nitrogen levels in serum, plasma, and urine by methods such as ninhydrin, trinitrobenzene sulfonate (spectroscopic), or 2,4-dinitrofluorobenzene (spectroscopic).

Nitrogen (amino-nitrogen) measurements are used in the diagnosis and treatment of certain forms of severe liver disease and renal disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nitrogen (amino-nitrogen) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with severe liver disease and some forms of renal disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *215*). The measurement of nitrogen (amino-nitrogen) levels is useful in the evaluation of severe liver disease and certain renal disorders. It is now known that the changes in concentrations of certain individual amino acids, or groups of related amino acids, are significant in many disease states. Despite the importance of amino acids in many aspects of human biochemistry, determination of amino acid nitrogen levels in serum is not very useful in clinical diagnosis. Low values of total amino acids are rarely encountered. A significantly large increase in serum amino acid nitrogen levels is found only in very severe liver disease. Measurement of levels of amino acid nitrogen in urine is of more clinical interest than measurement of levels of this substance in plasma. Amino acids may increase in the urine due to elevated blood levels of amino acids, because of liver failure, kidney disease, heavy metal poisoning, severe muscle degeneration, or a congenital disease.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver and renal diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that nitrogen (amino-nitrogen) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1520; Docket No. 78N-2385; 5'-Nucleotidase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of 5'-nucleotidase test systems

1. Identification: A 5'-nucleotidase test system is a device used to measure the activity of the enzyme 5'-nucleotidase in serum and plasma by methods such as 5-adenosine monophosphate(AMP)-phosphate release (colorimetric). Measurement of 5'-nucleotidase is used in the diagnosis and treatment of liver diseases and treatment of liver diseases and in the differentiations between liver and bone diseases in the presence of elevated serum alkaline phosphatase activity.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that 5'-nucleotidase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with liver or bone diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members; personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *216* and *217*). The measurement of the enzyme 5'-nucleotidase is useful in the evaluation of liver disease and in the differentiation between liver and bone diseases in the presence of elevated serum alkaline phosphate activity. 5'-Nucleotidase is a specific enzyme occurring in serum. In liver diseases, the activity of the enzyme parallels that of serum alkaline phophatase. In such bone diseases as rickets of Paget's disease, however, the activity of the enzyme is not increased while serum alkaline phosphatase acitivty is elevated. 5' Nucleotidase measurements are particularly valuable in the diagnosis of diseases in children.

5. Risks to health: Misdiagnosis and inappropriate therapy; Failure of the device to perform satisfactorily may lead to error in the diagnoais of liver or bone diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that 5'-nucleotidase test systems be classified into class II (performance standards). the agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurnace of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1530; Docket No. 78N-2387; Plasma oncometry test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of plasma oncometry test systems:

1. Identification: A plasma oncometry test system is a device used to measure plasma oncotic pressure by methods such as membrane oncometry. Plasma oncotic pressure is that portion of the total fluid pressure contributed by proteins and other molecules too large to pass through a specified membrane. Measurements of plasma oncotic

pressure are used in the diagnosis and treatment of dehydration and circulatory disorders related to low serium protein levels and increased capillary permeability, such as edema and shock.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that plasma oncometry test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of circulatory disorders related to low serum protein levels and increased capillary permeability, such as edema and shock. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *218* and *219*). Plasma proteins are large molecules that are nondiffusible (cannot move through thin membranes). When trapped in the vascular system, plasma proteins exert oncotic pressure which serves to maintain normal blood volume and water content in the tissues.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of this device to perform satisfactorily may lead to failure to diagnose dehydration and circulatory disorders related to low serum protein levels and increased capillary permeability, such as edema and shock. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that plasma oncometry test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectivenesss of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1535; Docket No. 78N-2388; Ornithine carbamyl transferase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ornithine carbamyl transferase test systems:

1. Identification: An ornithine carbamyl transferase test system is a device used to measure the activity of the enzyme ornithine carbamyl transferase (OCT) in serum by methods such as citrulline/arsenate/Nessler (colorimetry). Ornithine carbamyl transferase measurements are used in the diagnosis and treatment of liver diseases, such as infectious hepatitis, acute cholecystitis (inflammation of the gall bladder), cirrhosis, and liver metastases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that ornithine carbamyl transferase test systems be classified into class II because there is a need for a performance standardr that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurement of ornithine carbamyl transferase levels is useful in evaluation of liver diseases such as infectious hepatitis, acute cholecystitis, cirrhosis, and liver metastases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *220, 221,* and *222*). Ornithine carbamyl transferase (OCT), a very stable enzyme almost specific to the liver, is a sensitive index of liver cell damage. Very high serum activity, one hundred times normal, is found in infectious hepatitis and in acute cholecystitis. Moderate serum elevations of OCT are observed in cirrhosis and liver metastases. However, OCT is one of several enzymes that is elevated in all groups of hepatic and pancreatic disorders. Therefore, for differential diagnosis, measurements of OCT should be supplemented by other enzyme tests. The suggestion that some elevation in serum enzyme values may reflect nonspecific stress reactions (Ref. *222*) seems pertinent to OCT, which is frequently elevated in conditions when liver complication would not be expected. OCT measurements may be too sensitive. It is possible that the value of the upper normal limit for this enzyme should be increased.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver diseases such as hepatitis, acute cholecystitis, and cirrhosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that ornithine carbamyl transferase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1540; Docket No. 78N-2389; Osmolality test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of osmolality test systems:

1. Identification: An osmolality test system is a device used to measure ionic and nonionic solute concentration in body fluids, such as serum and urine, by methods such as vapor pressure or freezing point depression measurement. Osmolality measurement is used as an adjunct to other tests in the evaluation of a variety of diseases, including kidney diseases (e.g., chronic

progressive renal failure), diabetes insipidus, other endocrine and metabolic disorders, and fluid imbalances.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that osmolality test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used as an adjunct to other tests in the evaluation of the kidneys' ability to concentrate urine and of the tonicity (a state of normal tension) of serum in a variety of diseases, including renal diseases (e.g., chronic progressive renal failure), diabetes insipidus, other endocrine and metabolic disorders, and fluid imbalances (e.g., dehydration or overhydration). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *223* and *224*). The freezing point of a solution is related to the osmotic concentration of that solution or to the concentration of particles of solute per unit amount of solvent (water). Increased concentration of solute lowers the freezing point of the solution. Because measurements of osmolality indicate the concentrating ability of the kidney, the measurements help practitioners to follow the course of kidney and endocrine diseases and to evaluate the effectiveness of therapy.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of renal disease, diabetes insipidus, other endocrine and metabolic disorders, and fluid imbalances. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that osmolality test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1545; Docket No. 78N–2390; Parathyroid hormone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of parathyroid hormone test systems:

1. Identification: A parathyroid horomone test system is a device used to measure the levels of parathyroid hormone in serum and plasma by methods such as radioimmunoassay. Measurements of parathyroid hormone levels are used in the differential diagnosis of hypercalcemia (abnormally high levels of calcium in the blood) and hypocalcemia (abnormally low levels in calcium in the blood) resulting from disorders of calcium metabolism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that parathyroid hormone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of levels of parathyroid hormones (PTH) are used in the laboratory differential diagnosis of hypercalcemia (abnormally high levels of calcium in the blood) or hypocalcemia (abnormally low levels of calcium in the blood) resulting from disorders of calcium metabolism. Because more than one immunoreactive form of PTH is present in serum, the Panel believes that it is essential for the labeling of the device to include information concerning the source of calibrator and standardization material, methods the manufacturer used to obtain stated values, and information concerning specificity relating precursors, subunits, and other features specific to the method. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *225, 226,* and *227*). In hypercalcemic conditions, PTH measurements can be used to distinguish patients with primary hyperparathyroidism (a condition due to an increase in the secretion of the parathyroids caused by tumors of the parathyroid glands) from those with hypercalcemia due to other causes. In hypocalcemic conditions, PTH measurement can serve to distinguish between parathyroid and nonparathyroid causes of the hypocalcemia.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the evaluation of patients with disorders of calcium metabolism. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that parathyroid hormone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1550; Docket No. 78N–2391; Urinary pH (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary pH (nonquantitative) test systems:

1. Identification: A urinary pH (nonquantitative) test system is a device used to estimate the pH of urine by use of methods such as a dye-indicator.

Estimations of pH are used to evaluate the acidity or alkalinity of urine as it relates to numerous renal and metabolic disorders and in the monitoring of patients with certain diets.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary pH (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with a variety of renal and metabolic disorders and in the monitoring of patients with certain diets. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *228*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the disgnosis of renal and metabolic disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary pH (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1555; Docket No. 78N–2392; Phenylalanine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of Phenylalanine test systems:

1. Identification: A phenylalanine test system is a device used to measure free phenylalanine (an amino acid) in serum, plasma, and urine by methods such as column or paper chromatography plus ninhydrin, or fluorometric procedure using *L*-leucyl-*L*-alanine with ninhydrin. Measurements of phenylalanine are used in the diagnosis and treatment of congenital phenylketonuria which, if untreated, may cause mental retardation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that phenylalanine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of phenylketonuria, a congenital metabolism disorder of newborns. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *229* through *232*). Measurements of phenylalanine levels, usually performed on blood, are used extensively in screening of newborns for phenylketonuria. This disorder is caused by a congential deficiency of an enzyme that results in the accumulation of phenylalanine or its metabolites in blood and tissues. A serum level of 4 milligrams (mg) phenylalanine/10 milliliter (mL) is generally considered the division between normal individuals and those who need to be investigated further. The precision of the fluorometric method is plus or minus 7 percent at the 5 mg/100 mL level. Compounds other than phenylalanine that react to give fluoroscence under the conditions of the test can influence results by causing phenylalanine levels to be overestimated by 1.0 to 2.4 mg/100 mL in the newborn and by 1.0 to 2.2 mg/100 mL in adults. Diagnosis of the disease shortly after birth allows treatment by appropriate diet, reducing risk of abnormalities, which may include mental retardation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of this device to perform satisfactorily may lead to error in the diagnosis of phenylketonuria. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that phenylalanine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1560; Docket No. 78N–2393; Urinary phenylketones (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary phenylketones (nonquantitative) test systems:

1. Identification: A urinary phenylketones (nonquantitative) test system is a device used to identify phenylketones (such as phenylpyruvic acid) in urine by methods such as chromogenesis or ferric chloride. The identification of urinary phenylketones is used in the diagnosis and treatment of congenital phenylketonuria which, if untreated, may cause mental retardation.

2. Recommended classification: Class II (performance standards). The Panel recommends the establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary phenylketones (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable

ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of phenylketonuria, a congenital metabolism disorder of newborns. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *233* and *234*). Phenylketonuria is caused by a congenital deficiency of an enzyme that results in the accumulation of the amino acid phenylalanine in the blood and tissues. Phenylalanine is excreted in the urin together with phenylpyruvic acid (phenylketone). The high circulating levels of phenylalanine or its metabolites may damage the brain. Diagnosis of the disease shortly after birth allows treatment by appropriate diet, reducing risk of abnormalities, which may include mental retardation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of phenylketonuria. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urniary phenylketones (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1565; Docket No. 78N–2394; 6-Phosphogluconate dehyrogenase test system.

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of 6-phosphogluconate dehyrogenase test systems:

1. Identification: A 6-phosphogluconate dehydrogenase test system is a device used to measure the activity of the enzyme 6-phosphogluconate dehydrogenase (6 PGD) in serum and erythrocytes by methods such as nicotinamide adenine dinucleotide phosphate (NADP) reduction. Measurements of 6-phosphogluconate dehydrogenase are used in the diagnosis and treatment of certain liver diseases (such as hepatitis) and anemias.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that 6-phosphogluconate dehydrogenase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with certain liver diseases, such as hepatitis, and inherited anemias. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *235* and *236*). Measurements of the enzyme 6 PGD are useful in the evaluation of anemias. Certain individuals have hereditary hemolytic anemias with specific erythrocyte enzyme deficiencies. About 14 different enzyme deficiencies are associated with hemolytic anemias. A common factor in many of these anemias is 6-phosphogluconate dehydrogenase deficiency. A 6 PGD erythrocyte deficiency is a congenial hemolytic anemia in which hemolysis (destruction of red blood cells) occurs when an individual is exposed to certain chemical compounds. The abnormality is distributed in populations throughout the world. The three major types of 6 PGD deficiency are: (1) type A, found in Africans; (2) Mediterranean type, found in Caucasians and Orientals; and (3) the rare congenital, nonspherocytic type.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of certain liver diseases and anemias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that 6-phosphogluconate dehyrogenase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1570; Docket No. 78N–2395; Phosphohexose isomerase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of phosphohexose isomerase test systems:

1. Identification: A phosphohexose isomerase test system is a device used to measure the activity of the enzyme phosphohexose isomerase in serum by methods such as glucose-6-phosphate (colormetric) or nicotinamide adenine dinucleotide (NAD) reduction (ultraviolet). Measurements of phosphohexose isomerase are used in the diagnosis and treatment of muscle diseases such as muscular dystrophy, liver diseases such as hepatitis or cirrhosis, and metastatic carcinoma.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that phosphohexose isomerase test systems to classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate

inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used to substantiate clinical findings of muscular dystrophy, hepatitis or cirrhosis of the liver, and metastatic carcinoma. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *237* through *240)*. Measurement of the enzyme phosphohexose isomerase (PHI) using this sensitive test system provides data that may be used to monitor the response to treatment of patients with active metastatic breast carcinomas. Measurement of PHI is also used as an indicator of metastases in cases of carcinoma of the breast or prostate. However, the diagnosis of cancer should not be based solely on a high PHI value, because some increase in serum PHI may be caused by such conditions as acute hepatitis. On the other hand, the absence of an increase in serum PHI levels may confirm that a patient does not have cancer. Therefore, this test should be used in conjunction with other biochemical tests.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of certain muscle diseases, liver diseases, and metastatic carcinoma. In appropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that phosphohexose isomerase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1575; Docket No. 78N-2396; Phospholipid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of phospholipid test systems:

1. Identification: A phospholipid test system is a device used to measure phospholipids in serum and plasma by methods such as ammonium molybdate/ammonium vanadate, chromatographic, molybdenum blue, or stannous chloride/hydrazine. Measurements of phospholipids are used in the diagnosis and treatment of disorders involving lipid (fat) metabolism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that phospholipid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with disorders involving lipid metabolism. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *241* and *242*). Phospholipids are complex lipids containing phosphate and a nitrogenous base. The major phospholipids in plasma are lecithin and sphingomyelin. The phosphate and base portions of the molecules are water soluble, a fact that is important in lipid transport. Plasma phospholipids are derived mainly from synthesis in the liver. Although the role of phospholipids is uncertain, they seem to be involved with blood coagulation. Plasma lecithin is the source of fatty acids for esterification of cholesterol in alpha lipoproteins. Because abnormalities in blood lipids are a major cause of coronary artery disease, practitioners often try to detect lipid disorders to predict coronary artery disease. The important blood lipids for gauging hyperlipidemia are cholesterol and triglycerides, rather than phospholipids. A phospholipid/cholesterol ratio has been calculated, with a normal range of 0.7 to 1.8. Lower values are associated with early development of coronary artery disease. However, measurements of phospholipids are not very useful and are rarely done.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of diseases affecting lipid metabolism. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that phospholipid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1580; Docket No. 78N-2397; Phosphorus (inorganic) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of phosphorus (inorganic) test systems:

1. Identification: A phosphorus (inorganic) test system is a device used to measure inorganic phosphorus in serum, plasma, and urine by methods such as phosphomolybdate. Measurements of phosphorus (inorganic) are used in the diagnosis and treatment of various disorders, including parathyroid gland and kidney diseases, and vitamin D imbalance.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that phosphorus (inorganic) test systems be classified into class II because there is a need for a performance standard that prescribes

for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of various disorders, including parathyroid gland and kidney diseases, and vitamin D imbalance. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *243*). Measurement of inorganic phosphorus is performed and evaluated in conjunction with a variety of other diagnostic procedures, such as measurements of plasma proteins and calcium and various tests of renal function. There is a reciprocal relationship between calcium and phosphorus; any increase in the serum phosphorus causes a decrease in serum calcium. Hyperphosphatemia (increased serum phosphorus levels) may be found in hypervitaminosis (a condition caused by ingestion of excessive levels of vitamin D), hypoparathyroidism, and renal failure. Hypophosphatemia (low serum phosphorus levels) may be seen in ricketts (vitamin D deficiency), in hyperparathyroidism, and in the Fanconi syndrome, which is associated with a defect in reabsorption of phosphorus from the glomerular filtrate.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of various disorders, including parathyroid gland and kidney diseases, and vitamin D imbalance. Inappropriate therapy based on inaccurate diagnosis data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that phosphorus (inorganic) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficent to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1585; Docket No. 78N–2398; Human placental lactogen test system.

The Clinical Chemistry Device Classification Panel and the Immunology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of human placental lactogen test systems:

1. Identification: A human placental lactogen test system is a device used to measure the hormone human placental lactogen (HPL), (also known as human chorionic somatomammotrophin (HCS)) in maternal serum and maternal plasma by methods such as radioimmunoassay. Measurements of human placental lactogen are used in the diagnosis and clinical management of highrisk pregnancies involving fetal distress associated with placental insufficiency. Measurements of HPL are also used in pregnancies complicated by hypertension, proteinuria, edema, post-maturity, placental insufficiency or possible miscarriage.

2. Recommended classification: Class II (performance standards). The Clinical Chemistry Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Immunology Device Classification Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panels recommend that human placental lactogen test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of HPL are used in the diagnosis and management of high risk pregnancies, such as pregnancies involving fetal distress associated with placental insufficiency. The Clinical Chemistry Device Classification Panel stressed that because absolute plasma HPL levels may vary in individuals throughout pregnancy, this test should be used serially, and also that it should not be used as the single index of fetal well being. Because of the immunologic cross-reactivity of HPL with other hormones, the Clinical Chemistry Device Classification Panel believes that it is essential that the labeling of the device include information on the source of calibrator and standardization material, the method(s) the manufacturer used to obtain stated values, and information concerning specificity as it relates to precursors, subunits, and other features specific to the method. The Panels believe that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *244, 245,* and *246*). Measurement of HPL in maternal blood plasma provides an index of placental function and fetal distress when associated with placental insufficiency. Plasma HPL values rises progressively during pregnancy. Based upon the normal reference range, dramatically decreasing values, as well as low levels of plasma HPL, indicate a risk to the fetus. Low concentrations of HPL after 30 weeks of gestation have been associated with high fetal mortality in patients with toxemia. The incidence of fetal complications accompanied by abnormal maternal levels of plasma estriol and human placental lactogen is consistently greater than 66 percent.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of complicated pregnancies. Inappropriate therapy based on inaccurate diagnostic data may place the patient or fetus at risk.

FDA agrees with the Panels' recommendations and is proposing that human placental lactogen test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient

information to establish a performance standard for this device.

The agency has reviewed the Panels' recommendations for human placental lactogen test systems and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for clinical chemistry devices.

Section 862.1590; Docket No. 78N–2399; Porphobilinogen test system.

The Clinical Chemistry Device Classification Panel, an FDA advosory committee, made the following recommendation regarding the classification of porphobilinogen test systems:

1. Identification: A porphobilinogen test system is a device used to measure porphobilinogen (one of the derivatives of hemoglobin which can make the urine a red color) in urine by methods such as ion exchange resin/Ehrlich's reagent. Measurements obtained by this device are used in the diagnosis and treatment of porhyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), lead poisoning, and other diseases characterized by alterations in the heme pathway.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that porphobilinogen test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of porphobilinogen are used in the diagnosis and treatment of patients with lead poisoning or one of the group of diseases named porphyrias (acute intermittent porphyria, porphyria variegata, and heriditary coproporphyria) that are accompanied by excessive urinary excretion of various heme compounds. Acute attacks with abdominal or neurological symptoms are a feature of the inherited hepatic porphyrias. Such attacks are potentially fatal and may be provoked by a number of drugs (notably barbiturates). Other causes of abnormalities in porphyrin excretion are lead poisoning, liver diseases, and upper gastrointestinal bleeding. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *247* and *248*).

5. Risks to health: Misadiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lead poisoning and porphyrias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that porphobilinogen test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1595; Docket No. 78N–2400; Porphyrins test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of porphyrins test systems:

1. Identification: A porphyrins test system is a device used to measures porphyrins (compounds formed during the biosynthesis of heme, a constituent of hemoglobin, and related compounds) in urine and feces by methods such as fluorometric measurement. Measurements obtained by this device are used in the diagnosis and treatment of lead poisoning, porphyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), and other diseases characterized by alterations in the heme pathway.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that porphyrins test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance uon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of porphyrins are used in the diagnosis and treatment of patients with lead poisoning or one of the group of diseases named porphyrias (acute intermittent porphyria, porphyria variegata, and hereditary coproporphyria) that are accompanied by excessive urinary excretion of various heme compounds. Acute attacks with abdominal or neurological symptoms are a feature of the inherited hepatic porphyrias. Such attacks are potentially fatal and may be provoked by a number of drugs (notable barbiturates). Other causes of abnormalities in porphyrin excretion are lead poisoning, liver diseases, and upper gastrointestinal bleeding. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *249* and *250*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lead poisoning and prophyrias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that porphyrins test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1600; Docket No. 78N–2401; Potassium test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory

committee, made the following recommendation regarding the classification of potassium test systems:

1. Identification: A potassium test system is a device used to measure potassium in serum, plasma, and urine by methods such as flame photometry, ion selective electrode, or tetraphenyl borate colorimetry. Measurements obtained by this device are used to monitor electrolyte balance in the diagnosis and treatment of disease conditions characterized by low or high blood potassium levels.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that potassium test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of potassium are used to monitor electrolyte balance in the diagnosis and treatment of disease conditions characterized by low or high blood potassium levels. Erroneous measurements lead to improper treatment, possibly causing hypokalemia (abnormally low potassium concentration in the blood) and resultant alteration in muscle function, or causing hyperkalemia (abnormally high potassium concentration in the blood), which may in turn cause changes in muscle irritability, respiration or myocardial function.

The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *251* through *254*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of lead poisoning and prophyrias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that potassium test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1605; Docket No. 78N–2402; Pregnanediol test system.

The Clinical Chemsitry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pregnanediol test systems:

1. Identification: A pregnanediol test system is a device used to measure pregnanediol (a major urinary metabolic product of progesterone) in urine by methods such as spectrophotometric. Measurements obtained by this device are used in the diagnosis and treatment of disorders of the ovaries or placenta.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that pregnanediol test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of pregnanediol are used in the diagnosis and treatment of ovarian or placental dysfunction. Administration of contraceptives, estrogens, and androgens may interfere with test results. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *255*). The levels of excretion of pregnanediol provide an indication of endogenous production of progesterone. In nonpregnant women, measurement of pregnanediol provides a means for determining duration and functional activity of the corpus luteum (a yellow glandular mass formed in the ovary in the site of a ruptured ovarian follicle). In pregnancy, levels of pregnanediol reflect placental function, and in patients with a history of repeated spontaneous abortions, measurements early in pregnancy may be helpful. The Panel noted that to provide accuracy for proper evaluation, measurements of pregnanediol should be performed serially during the pregnancy.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of ovarian or placental dysfunction. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that pregnanediol test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1610; Docket No. 78N–2403; Pregnanetriol test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pregnanetriol test systems:

1. Identification: A pregnanetriol test system is a device used to measure pregnanetriol (a precursor in the biosynthesis of the adrenal hormone cortisol) in urine by methods such as spectrophotometry or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of congenital adrenal hyperplasia (congenital enlargement of the adrenal gland).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that pregnanetriol test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of pregnanetriol are used in the diagnosis and treatment of congenital adrenal hyperplasia, which results from a deficiency of 21-hydroxylase (an enzyme) in the biosynthesis of cortisol. Failure to diagnose congenital adrenal hyperplasia at an early stage of life may result in later complications such as growth abnormalities and sexual dysfunction. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *256*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of congenital adrenal hyperplasia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that pregnanetriol test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1615; Docket No. 78N–2404; Pregnenolone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pregnenolone test systems:

1. Identification: A pregnenolone test system is a device used to measure pregnenolone (a precursor in the biosynthesis of the adrenal hormone cortisol and adrenal androgen) in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of diseases of the adrenal cortex or the gonads.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that pregnenolone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of pregnenolone are used in the diagnosis and treatment of patients with adrenal or gonadal disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *257* and *258*). The adrenal steroids are synthesized via cholesterol, which loses its side chain to form pregnenolone.

There are two major pathways for pregnenolone biosynthesis. The first (C21 pathway) leads to cortisol. Each step is controlled by a specific enzyme, and absence of one of these enzymes gives rise to the condition of congenital adrenal hyperplasia (enlargement of the adrenal gland), with low plasma cortisol levels and elevated adrenocorticotrophic hormone (ACTH), and androgen overproduction. The second (C19 pathway) produces the adrenal androgens. The circulating hormones are further metabolized in the liver and excreted in the urine.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of adrenal and gonadal diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that pregnenolone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1620; Docket No. 78N–2405; Progesterone test system.

The Clinical Chemistry Device Classification Panel, an advisory committee, made the following recommendation regarding the classification of progesterone test systems:

1. Identification: A progesterone test system is a device used to measure progesterone (a female hormone) in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of disorders of the ovaries or placenta.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that progesterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of progesterone are used in the diagnosis and treatment of ovarian or placental dysfunction. They are especially useful for detection of ovulation. Measurements are also valuable in the evaluation of menstrual disorders, problems of infertility, ovarian response to therapy with clomiphene or gonadotropins, and placental function during complicated pregnancies (e.g., pregnancies in patients with toxemia, diabetes mellitus, or threatened spontaneous abortions). Administration of contraceptives, estrogens, and androgens may interfere with test results. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *259*). Progesterone, the major steroid possessing progestational activity, is secreted by the corpus luteum (a yellow glandular mass formed in the ovary in the site of a ruptured ovarian follicle) during the normal menstrual cycle. The placenta becomes the primary source of progesterone secretion during pregnancy. Inadequate progesterone secretion by the corpus luteum during the menstrual cycle prevents development of the secretory endometrium (thickened uterine lining), causing uterine bleeding and infertility. Abnormally low progesterone levels during pregnancy can lead to threatened or recurrent spontaneous abortion and intrauterine fetal death.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of ovarian

or placental dysfunction. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that progesterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1625; Docket No. 78N–2406; Prolactin (lactogen) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of prolactin (lactogen) test systems:

1. Identification: A prolactin (lactogen) test system is a device used to measure the anterior pituitary polypeptide hormone prolactin in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of disorders of the anterior pituitary gland or of the hypothalamus portion of the brain.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that prolactin (lactogen) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with various hypothalamic or pituitary disorders. The Panel noted also that labeling should include information on source of calibrator and standardization material, source of stated values, and specificity as it relates to precursors, subunits, and other features specific to the method. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *260*). Measurement of lactogen is useful as a sensitive test showing hypothalamic tumors, in which a patient would be expected to have elevated levels of lactogen but not of other anterior pituitary hormones. Prolactin, a polypeptide hormone secreted by the anterior pituitary gland, acts on the mother's mammary glands to stimulate its growth and the secretion of milk shortly after an infant's birth. Elevated values have been found in patients who are lactating, who have galactorrhea (galactose in the feces), in patients with certain pituitary tumors, and in some patients with hypthyroidism associated with elevated thyroid stimulating hormone (TSH) levels.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hypothalamic or pituitary disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that prolactin (lactogen) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1630; Docket No. 78N–2407; Protein (fractionation) test system.

The Clinical Chemistry Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of protein (fractionation) test systems:

1. Identification: A protein (fractionation) test system is a device used to measure protein fractions in blood, urine, cerebrospinal fluid, and other body fluids by methods such as densitometric, electrophoretic, or immunodiffusion. Protein fractionation

is used as an aid in recognizing abnormal proteins in body fluids and genetic variants of proteins produced in diseases with tissue destruction.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that protein (fractionation) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used as an aid in the diagnosis and treatment of abnormal proteins in body fluids and genetic variants of proteins produced in diseases with tissue destruction. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *261*). Protein fractionation is used in measuring albumin values and in detecting and quantitating immunoglobulins in diseases such as multiple myeloma (a disorder characterized by abnormalities in formation of plasma protein). Protein fractionation is also used in detecting agammaglobulinemia or hypogammaglobulinemia and for measuring the severity of the acute phase reaction (change in serum protein composition following tissue damage as occurs in injury or acute infection) and of inflammation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of this device to perform satisfactorily could lead to error in the diagnosis of disproteinemia or abnormal protein patterns in body fluids. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that protein (fractionation) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1635; Docket No. 78N–2408; Total protein test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of total protein test systems:

1. Identification: A total protein test system is a device used to measure total protein(s) in serum and plasma by methods such as biuret (colorimetric), Lowry (colorimetric), refractometric, or turbidimetric. Measurements obtained by this device are used in the diagnosis and treatment of a variety of diseases involving the liver, kidneys, or bone marrow as well as other metabolic or nutritional disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that total protein test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of total protein(s) are used in the diagnosis and treatment of hypoproteinemic (low-protein level) patients with a variety of diseases involving the liver, kidneys, or bone marrow, as well as other metabolic or nutritional disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *262, 263,* and *264*). Plasma contains a complex mixture of proteins at a concentration of about 6 to 7 grams per deciliter. The different proteins have different functions and originate from several different cell types. Changes in the total proteins measured by total protein test systems are frequently nonspecific for a particular disease, but the test results can be of diagnostic value in a limited number of conditions. Many proteins, notably albumin, some blood coagulation factors, carrier proteins, and lipoproteins, are synthesized in the liver. Plasma protein concentrations are altered in hepatic disease. Changes in one protein fraction may be masked by opposite changes in another. The day-to-day (intraindividual) variation in levels of total protein is about plus or minus 3 percent, and laboratory precision is about plus or minus 2 to 3 percent (Ref. *263*). A recommended biuret method has been described and is under further development at the Center for Disease Control (Ref. *264*)..

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver, renal, and metabolic diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that total protein test systems be classified into class II (performance standards). The agency believes that a standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1640; Docket No. 78N–2409; Protein-bound iodine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of protein-bound iodine test systems:

1. Identification: A protein-bound iodine test system is a device used to measure protein-bound iodine in serum by methods such as dry ash or wet ash. Measurements of protein-bound iodine obtained by this device are used in the

diagnosis and treatment of thyroid disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that protein-bound iodine test systems be classified into Class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of protein-bound iodine are used in the diagnosis and treatment of thyroid disorders. Such measurements are rarely used currently for the diagnosis of hypothroidism or hyperthyroidism because they have been superseded by more specific assays for thyroxine and triiodothyronine. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *265* and *266*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that protein-bound iodine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1645; Docket No. 78N-2410; Urinary protein or albumin (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary protein or albumin (nonquantitative) test systems:

1. Identification: A urinary protein or albumin (nonquantitative) test system is a device used to identify proteins or albumin in urine by methods such as indicator or tubidimetric. Identification of urinary protein or albumin (nonquantitative) is used in the diagnosis and treatment of disease conditions such as renal or heart diseases or thyroid disorders, which are characterized by proteinuria or albuminuria.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary protein or albumin (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of proteinuria or albuminuria shown by patients with various conditions, such as renal or heart diseases or thyroid disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *267*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of proteinuria or albuminuria. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary protein or albumin (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1650; Docket No. 78N-2411; Pyruvate kinase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pyruvate kinase test systems:

1. Identification: A pyruvate kinase test system is a device used to measure the activity of the enzyme pyruvate kinase in erythrocytes (red blood cells) by methods such as phosphoenol pyruvate/adenosine diphosphate (ADP)/nicotinamide adenine dinucleotide (reduced form) (NADH). Measurements obtained by this device are used in the diagnosis and treatment of various inherited anemias due to pyruvate kinase deficiency or of acute leukemias.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that pyruvate kinase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of pyruvate kinuse activity are used in the diagnosis and treatment of various inherited anemias due to pyruvate kinase deficiency or of acute leukemias. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the

device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *268* and *269*). Measurement of pyruvate kinase is most useful in the evaluation of hemolytic anemia due to pyruvate kinase deficiency. Limits of "normal" have been difficult to define. Elevated values of the enzyme are found in blood from the umbilical cord and in reticulocytes (young red cells) while low levels are found in patients with acute leukemias.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of hemolytic anemias or acute leukemias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that pyruvate kinase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1655; Docket No. 78N–2412; Pyruvic acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pyruvic acid test systems:

1. Identification: A pyruvic acid test system is a device used to measure pyruvic acid (an intermediate compound in the metabolism of carbohydrate) in plasma by methods such as enzymatic (ultraviolet). Measurements obtained by this device are used in the evaluation of electrolyte metabolism and in the diagnosis and treatment of acid-base and electrolyte disturbances of anoxia (the reduction of oxygen in body tissues).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation. The Panel recommends that pyruvic acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Pyruvic acid measurements are used in the diagnosis and treatment of acid-base and electrolyte disturbances of anoxia (the reduction of oxygen in body tissues). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *270* and *271*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of acid-base and electrolyte disturbances. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that pyruvic acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1660; Docket No. 78N–2413; Quality control materials (assayed and unassayed).

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of quality control materials (assayed and unassayed):

1. Identification: A quality control material (assayed and unassayed) for clinical chemistry is a device intended for use in a test system to estimate test precision and to detect systematic analytical deviations that may arise from reagent or analytical instrument variation. A quality control material (assayed and unassayed) may be used for proficiency testing in interlaboratory surveys. This generic type of device includes controls (assayed and unassayed) for blood gases, electrolytes, enzymes, multianalytes (all kinds), single (specified) analytes, or urinalyis controls.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that quality control materials (assayed and unassayed) be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that quality control materials (assayed and unassayed) be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.1665; Docket No. 78N–2414; Sodium test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of sodium test systems:

1. Identification: A sodium test system is a device used to measure sodium in serum, plasma, and urine by methods such as flame photometry, ion selective electrode, or uranyl acetate/zinc acetate. Measurements obtained by this device are used in the diagnosis and treatment of aldosteronism (excessive secretion of the hormone aldosterone), diabetes insipidus (chronic excretion of large amounts of dilute urine, accompanied by extreme thirst), adrenal hypertension, Addison's disease (caused by destruction of the adrenal glands), dehydration, inappropriate antidiuretic hormone secretion, or other diseases involving electrolyte imbalance.

2. Recommended classification: Class II (performance standard). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that sodium test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Sodium measurements are used in the diagnosis and treatment of aldosteronism, dehydration, diabetes insipidus, adrenal hypertension, inappropriate antidiuretic hormone (ADH) secretion, Addison's disease, or other diseases involving electrolyte imbalance. Delay in the diagnosis of Addison's disease and inappropriate ADH hormone secretion may be hazardous to the patient. Improper treatment of dehydrated infants may lead to death. Current sodium measurements are fairly accurate. Within-day variations of about plus or minus 1 percent and interlaboratory variations of about plus or minus 2 percent have been reported. Despite the good performance of the test, the Panel recommended high priority for the development of a standard because in the serious conditions described above, sodium measurements are among the primary factors used in making a diagnosis. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *272* through *275*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of aldosteronism, diabetes insipidus, adrenal hypertension, dehydration, inappropriate antidiuretic hormone secretion, Addison's disease, or other diseases involving electrolyte imbalance. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that sodium test systems be classified into class II (performance standards). The agency belives that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1670; Docket No. 78N–2415; Sorbitol dehydrogenase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of sorbitol dehydrogenase test systems:

1. Identification: A sorbitol dehydrogenase test system is a device used to measure the activity of the enzyme sorbitol dehydrogenase in serum by methods such as *beta*-D-fructose and incotinamide adenine dinucleotide (reduced form) (NADH) oxidation (ultraviolet). Measurements obtained by this device are used in the diagnosis and treatment of liver disorders such as cirrhosis or acute hepatitis.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that sorbitol dehydrogenase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of sorbitol dehydrogenase are used in the diagnosis and treatment of liver disorders such as cirrhosis or acute hepatitis. Specificity of this test system is essential because any sorbitol dehydrogenase detected in serum indicates the presence of liver damage. Sorbitol dehydrogenase activity is elevated in acute hepatitis (10 to 30 times the normal level), cirrhosis of the liver, or any parenchymal liver cell damage (Ref. *276*). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *276*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver disorders such as cirrhosis or acute hepatitis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that sorbitol dehydrogenase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1675; Docket No. 78N–2416; Blood specimen collection device.

The Clinical Chemistry Device Classification Panel and the Hematology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of blood specimen collection devices:

1. Identification: A blood specimen collection device is a device intended for medical purposes that is used to collect and to handle blood specimens and to separate serum from nonserum (cellular) components prior to further testing. This generic type device may include blood collection tubes, vials, systems, serum separators, blood collection trays, or vacuum sample tubes.

2. Recommended classification: Class II (performance standards). The Panels recommend that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panels recommend that blood specimen collection devices be classified into class II because there is a need for a

performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. One type of blood specimen collection device, the serum separator, is a vacuum-sealed blood-drawing tube containing an inert material which, during centrifugation, forms a barrier between the serum and the blood clot. Evaluation of this device has shown that it can affect the values obtained in some analytes, e.g., lactate dehydrogenase. The Clinical Chemistry Device Classification Panel was also concerned that other blood specimen collection devices may affect analyses of trace elements due to the possible leaching of interfering substances from the sample container (vial, vacuum tube, etc.) into the blood sample. The Hematology Device Classification Panel believed that difficulties have arisen in the use of evacuated (vacuum sealed) blood collection tubes containing anticoagulants to collect blood for coagulation testing. Due to differences in the manufacture of these tubes blood samples collected using tubes from different manufacturers do not give comparable results when used for coagulation testing. The Hematology Panel believes that a performance standard addressing tube characteristics such as the glass, stopper, anticoagulant, and sterility would minimize the risks to health presented by the device. The Panels believe that general controls would not provide sufficient control over the blood specimen collection device's accuracy, precision, sensitivity, and specificity. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The National Committee for Clinical Laboratory Standards (NCCLS) has approved standards for evacuated (vacuum sealed) tubes used for the collection of blood and blood collection systems. Both Panels based their recommendations on the proposed NCCLS standards, the Panel members' personal knowledge of, and clinical experience with, this device, and upon a review of the literature (Refs. *227* and *278*).

5. Risks to health: Misdiagnosis and inappropriate therapy: If the blood sample collected and handled in this device is partially absorbed by a device component or contaminated by materials leached from the device, the test results for one or more analytes may be erroneous, leading to an error in the diagnosis of coagulation disorders or other various disease conditions. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panels' recommendations and is proposing that blood specimen collection devices be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

The agency has reviewed the Panels' recommendations for blood specimen collection devices and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for clinical chemistry devices.

Section 862.1680; Docket No. 78N-2417; Testosterone and dihydrotestosterone test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of testosterone and dihydrotestosterone test systems:

1. Identification: A testosterone and dihydrotestosterone test system is a device used to measure testosterone and dihydrotestosterone (two male sex hormones) in serum, plasma, and urine by methods such as radioimmunoassay. Measurements of testosterone and dihydrotestosterone are used in the diagnosis and treatment of disorders involving the male sex hormones (androgens), including primary and secondary hypogonadism, delayed or precocious puberty, impotence in males and, in females, hirsutism (excessive hair) and virilization (masculinization) due to tumors, polycystic ovaries, and adrenogenital syndromes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that testosterone and dihydrotestosterone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with androgen (male sex hormone) dysfunctions, including impotence in males, primary and secondary hypogonadism, delayed and precocious puberty, and, in females, hirsutism (excessive hair) and virilization (masculinization) due to tumors, polycystic ovaries, and adrenogenital syndromes. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *279* and *280*). The testes secrete testosterone under the influence of the pituitary luteinizing hormone (LH). Before puberty, levels of LH are low. LH is responsible for the development, at puberty, of the mature male's physical and sexual characteristics. In females, the main ovarian androgen is androstenedione, which is converted peripherally to testosterone. Normal testosterone levels in women are about a tenth of those in men. Androgenic activity is usually assessed through measurements of testosterone in plasma, although measurement in urine also has been used. When testosterone reaches the cells of the target glands (such as the prostate), an enzyme transforms testosterone into dihydrotestosterone into dihydrotestosterone (DHT). Also, the testes produce about 10 percent of the total DHT produced. The Panel recommended that the labeling of the device state the expected ranges.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of androgen disorders. Inappropriate

therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that testosterone and dihydrotestosterone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1685; Docket No. 78N–2418; Thyroxine-binding globulin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of thyroxine-binding globulin test systems:

1. Identification: A thyroxine-binding globulin test system is a device used to measure thyroxine (thyroid)-binding globulin (TBG), a plasma protein which binds thyroxine, in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that thyroxine-binding globulin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with thyroid diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *281* and *282*). Measurements of thyroxine-binding globulin are especially useful in the evaluation of patients whose clinical status is not consistent with the level of thyroxine (T4) in their serum. The biosynthesis of thyroxine (the thyroid hormone) is complex. Each step is controlled by specific enzymes, and congenital deficiency of any of tthese enzymes can lead to hypthyroidism. Thyroxine occurs in the plasma in free and protein-bound forms.

Several plasma proteins, including albumin, bind thyroxine, but the main plasma protein involved is an alpha globulin named thyroxine-binding globulin (TBG). Altough most thyroxine in plasma is bound, the thyroxine that is free (0.1 percent or less) is the physiologically active fraction. Free thyroxine controls pituitary secretion of thyroid stimulating hormone. Increased TBG concentration occurs in pregnancy and with administration of estrogen or oral contraceptives. Decreased TBG concentration occurs in cases of protein loss, administration of androgens and anabolic steriods and, rarely, in congenital TBG deficiency. Certain drugs, notably salicylates and dilantin, interfere with the performance of thyroxine-binding test systems by occupying TBG binding sites.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that thyroxine-binding globulin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1690; Docket No. 78N–2419; Thyroid stimulating hormone test system:

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of thyroid stimulating hormone test systems:

1. Identification: A thyroid stimulating hormone test system is a device used to measure thyroid stimulating hormone, also known as thyrotrophin and thyrotrophic hormone, in serum and plasma by methods such as radioimmunoassay. Measurements of thyroid stimulating hormone produced by the anterior pituitary are used in the diagnosis of thyroid or pituitary disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that thyroid stimulating hormone (TSH) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements obtained by thyroid stimulating hormone test systems are used in the diagnosis and treatment of patients with thyroid or pituitary disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *283* and *284*). Measurements of TSH are useful in the evaluation of thyroid or putuitary disorders. TSH, which is secreted by the anterior pituitary, regulates the thyroid by stimulating thyroidal iodide metabolism and thyroid hormone synthesis and release. Patients with primary hypothyroidism have elevated TSH levels, and those with secondary (pituitary) hypothyroidism have low TSH levels. TSH levels are low in most patients with untreated conditions involving hyperthyroidism.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid

or putuitary disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that thyroid stimulating hormone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assuance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1695; Docket No. 78N–2420; Free thyroxine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of free thyroxine test systems:

1. Identification: A free thyroxine test system is a device used to measure free (not protein bound) thyroxine (thyroid hormone) in serum and plasma by methods such as radioimmunoassay. Levels of free thyroxine in plasma are thought to reflect the amount of thyroxine hormone available to the cells and may therefore determine the clinical metabolic status of thyroxine. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that free thyroxine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of free thyroxine are used in the diagnosis and treatment of patients with thyroid diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *285* and *286*). The biosynthesis of thyroxine (the thyroid hormone) is complex. Each step is controlled by specific enzymes, and congenital deficiency of any of these enzymes can lead to hypothroidism. The principal usefulness of measurement of free thyroxine lies in two diagnostic areas: (1) cases in which total thyroxine hormone levels do not correlate with thyrometabolic status, usually characterized either by idiopathic (unknown) or congenital thyroxine binding globulin (TBG) abnormalities, and (2) cases in which induced abnormalities in thyroxine binding globulin (protein) levels are present. Elevated thyroxine binding globulin (TBG) levels occur in pregnancy and during administration of estrogens or oral contraceptives. Administration of androgens and anabolic steroids result in low TBG levels.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that free thyroxine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1700; Docket No. 78N–2421; Total thyroxine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of total thyroxine test systems:

1. Identification: A total thyroxine test system is a device used to measure total (free and protein bound) thyroxine (thyroid hormone) in serum and plasma by methods such as radioimmunoassay or nonradiolabeled enzyme immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that total thyroxine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therepy that places the patient at risk unnecessarily. Measurements of total thyroxine are used in the diagnosis and treatment of patients with thyroid disease. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *287, 288,* and *289*). The biosynthesis of thyroxine (the thyroid hormone) is complex. Each step is controlled by specific enzymes, and congenital deficiency of any of these enzymes can lead to hypothyroidism. Measurement of total thyroxine is the most valuable single test for the evaluation of thyroid function. In most patients, total thyroxine levels correlate well with the degree of hypo- or hyperthyrodism. However, exceptions are found in patients who have elevated levels of thyroxine-binding globulin (TBG) and in patients with triiodothyronine toxicosis, where normal thyroxine values may be found in clinically hyperthyroid (thyrotoxic) patients.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that total thyroxine test systems be classified

into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1705; Docket No 78N–2422; Triglyceride test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of triglyceride test systems:

1. Identification: A triglyceride test system is a device used to measure triglyceride (neutral fat) in serum and plasma by methods such as colorimetric, fluorometric, lipase hydrolysis/glycerol kinase enzyme, thin-layer chromatographic separation, or turbidimetric. Measurements obtained by this device are used in the diagnosis and treatment of patients with diabetes mellitus, nephrosis, liver obstruction, other diseases involving lipid metabolism, or various endocrine disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that triglyceride test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of triglyceride are used in the diagnosis and treatment of patients with diseases involving lipid metabolism, including diabetes mellitus, nephrosis, liver obstruction, or various endocrine disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literatur (Ref. *290*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of diseases involving lipid metabolism or various endocrine disorders. Inappropriate thereapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that triglyceride test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1710; Docket No. 78N–2423; Total triiodothyronine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of total triiodothyronine test systems:

1. Identification: A total triiodothyronine test system is a device used to measure the hormone triiodothyronine in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases such as hyperthyroidism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device by a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that total triiodothyronine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of total triiodothyronine are used in the diagnosis and treatment of patients with thyroid diseases. Such measurements are particularly useful in evaluating patients with suspected hyperthyroidism due to toxic nodules and with myxedema (a swelling of tissue associated with hyperthyroidism). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *291, 292,* and *293*). Triiodothyronine in plasma is secreted by the thyroid and also is converted from circulating plasma thyroxine. Like thyroxine, about 99 percent of triiodothyronine is carried on thyroxine-binding globulin (protein), but by a weaker binding mechanism. Triiodothyronine is metabolically more active than thyroxine. A rare condition, triiodothyronine thyrotoxicosis, should be suspected if a patient has normal thyroxine levels, the thyroid gland has normal uptake of iodine, elevated triiodothyronine levels are found, and the patient is clinically hyperthyroid.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactory may lead to error in the diagnosis of thyroid disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that total triiodothyronine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Section 862.1715; Docket No. 78N–2424; Triiodothyronine uptake test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of triiodothyronine uptake test systems:

1. Identification: A triiodothyronine uptake test system is a device used to

measure by methods such as radioassay the total amount of binding sites available for binding thyroid hormone on the thyroxine-binding proteins, thyroid-binding globulin, thyroxine-binding prealbumin, and albumin of serum and plasma. The device provides an indirect measurement of thryoxine levels in serum and plasma. Measurements of triiodothyronine uptake are used in the diagnosis and treatment of thyroid disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that triiodothyronine uptake test systems be classified into class II because there is a need for a performance standard that prescribed for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Triiodothyronine uptake measurement is used in the diagnosis and treatment of patients with thyroid diseases. Triiodothyronine uptake measurement is used only in conjunction with plasma thyroxine measurement. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *291, 292,* and *293*). Measurement of triiodothyronine uptake is useful in the evaluation of the thyroid status of individuals with abnormal plasma thyroxine-binding globulin concentrations. Clinical conditions characterized by an increase or decrease in thyroxine-binding globulin will demonstrate an inverse relationship to the level of triiodothyronine uptake.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of thyroid disorders. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that triiodothyronine uptake test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1720; Docket No. 78N–2425; Triose phosphate isomerase test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of triose phosphate isomerase test systems:

1. Identification: A triose phosphate isomerase test system is a device used to measure the activity of the enzyme triose phosphate isomerase in erythrocytes (red blood cells) by methods such as glyceraldehyde-3-phosphate nicotinamide adenine dinucleotide (reduced form) (NADH) (enzymatic). Triose phosphate isomerase is an enzyme important in glycolysis (the energy-yielding conversion of glucose to lactic acid in various tissues). Measurements obtained by this device are used in the diagnosis and treatment of congenital triose phosphate isomerase enzyme deficiency, which causes a type of hemolytic anemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that triose phosphate isomerase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of triose phosphate isomerase are used in the diagnosis and treatment of patients with congenital triose phosphate isomerase enzyme deficiency, which causes a type of hemolytic anemia. The enzyme deficiency occurs in erythrocytes, leukocytes (white blood cells), and skeletal muscle. Hemolytic anemia is characterized by abnormal destruction of erythrocytes in the body, accompanied by progressive neuromuscular disorders and recurrent infections. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *294* and *295*). Certain individuals have congenital hemolytic anemias with specific erythrocyte enzyme deficiencies. Patients with hemolytic anemia due to pyruvate kinase deficiency have no distinguishing clinical features. Anemia, varying degrees of jaundice, slight-to-moderate splenomegaly (increased spleen size), and temporary hemolytic episodes following intercurrent illness or surgery have been noted.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of congenital triosephosphate isomerase deficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that triose phosphate isomerase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1725; Docket No. 78N–2426; Trypsin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of trypsin test systems:

1. Identification: A trypsin test system is a device used to measure the activity of trypsin (a pancreatic enzyme important in digestion for the

breakdown of proteins) in blood and other body fluids and in feces by methods using *n*-benzoyl-L-arginine ethyl ester or *p*-toluene-sulphonyl-arginine methyl ester. Measurements obtained by this device are used in the diagnosis and treatment of pancreatic disease.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that trypsin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of trypsin are used in the diagnosis and treatment of pancreatic disease. A high incidence of false-positive and false-negative values has been associated with trypsin measurements. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *296, 297,* and *298*). Although some studies have found that in the presence of pancreatic disease there is a significant elevation of serum trypsin, the usefulness of blood trypsin assays has been subject to controversy. However, fecal trypsin tests have long been used as an aid in the diagnosis of cystic fibrosis of the pancreas, where in most cases trypsin activity is very low or absent.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of pancreatic disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that trypsin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1730; Docket No. 78N-2427; Free tyrosine test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of free tyrosine test systems:

1. Identification: A free tyrosine test system is a device used to measure free tyrosine (an amino acid) in blood and urine by methods such as 1-nitroso-2-naphthol (fluorometic). Measurements obtained by this device are used in the diagnosis and treatment of diseases such as congenital tyrosinemia (a disease that can cause liver or kidney disorders) and as an adjunct to the measurement of phenylalanine in detecting congenital phenylketonuria (a disease that can cause brain damage).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that free tyrosine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of free tyrosine are used in the diagnosis and treatment of congenital diseases such as tyrosinemia and as an adjunct to the measurement of phenylalanine in detecting congenital phenylketonuria. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *299, 300,* and *301*). Measurements of free tyrosine are used as an adjunct to the measurement of phenylalanine (one of the common amino acids) in detecting congenital phenylketonuria. Diagnosis of this disease shortly after birth can allow treatment by appropriate diet, reducing the risk of abnormalities, which may include mental retardation in children. Measurement of serum tyrosine levels, in combination with measurement of phenylalanine levels, may also be useful in the detection of carriers of phenylketonuria. Elevated serum and urine tyrosine levels are found in congenital tyrosinemia, which causes hepatic cirrhosis, renal disease, and rickets (a deficiency disease characterized by defective bone growth occurring in infants and young children). The fluorometric test is nonspecific in urine due to interfering tyrosine derivatives and indicates only parasubstituted phenols.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of congenital phenylketonuria and tyrosinemia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agreees with the Panel recommendation and is proposing that free tyrosine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1770; Docket No. 78N-2428; Urea nitrogen test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urea nitrogen test systems:

1. Identification: A urea nitrogen test system is a device used to measure urea nitrogen (an end-product of nitrogen metabolism) in whole blood, serum, plasma, and urine by methods such as diacetylmonoxime, *o*-phthalaldehyde, urease (photometric), urease and glutamic dehydrogenase, ion-specific electrode, or Berthelot indophenol

reaction. Measurements obtained by this device are used in the diagnosis and treatment of certain renal and metabolic diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that urea nitrogen test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of urea nitrogen, together with measurements of creatinine in the patient's serum, are used in the diagnosis and treatment of renal disease and in the confirmation of diagnosis of decreased circulation to the kidney caused by shock or by prerenal causes of renal malfunction. Delay in treatment of renal and metabolic disease may cause continued poor health and death. Measurements of urea nitrogen in serum and urine are used also in estimation of urea clearance as a crude test of kidney function. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *302* through *305)*. Although the level of performance of urea nitrogen test systems has improved in recent years, the test results still are subject to an interlaboratory variation of about 10 percent coefficient of variation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of renal and metabolic disease. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urea nitrogen test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1775; Docket No. 78N–2429; Uric acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of uric acid test systems:

1. Identification: A uric acid test system is a device used to measure uric acid in serum, plasma, and urine by methods such as phosphotungstate reduction, and uricase (colorimetric, coulometric, gasometric, oxygen rate, or ultraviolet). Measurements obtained by this device are used in the diagnosis and treatment of numerous renal and metabolic disorders, including renal failure, gout, leukemia, psoriasis, starvation or other wasting conditions, and of patients receiving cytotoxic drugs.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that uric acid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Uric acid measurements are used in the diagnosis and treatment of numerous renal and metabolic disorders, including renal failure, gout, leukemia, psoriasis, starvation, or other wasting conditions, and of patients receiving cytotoxic drugs. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *306, 307,* and *308*). Gout is a hereditary form of arthritis, affecting mostly men, characterized by an excess of uric acid in the blood and by recurrent attacks of acute arthritis, usually involving a single joint, followed by remission. The attacks result from deposits of crystals of sodium urate around the joint. The elevated blood uric acid may be caused by an increased rate of synthesis of uric acid precursors and/or by decreased excretion of uric acid by the kidneys.

5. Risks of health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of numerous renal and metabolic disorders, such as gout, leukemia, or psoriasis. Inappropriate therapy based on inaccurate diagnositic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that uric acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1780; Docket No. 78N–2430; Urinary calculi (stones) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary calculi (stones) test systems:

1. Identification: A urinary calculi (stones) test system is a device used for the analysis of urinary calculi by methods such as infrared spectroscopy measurement or qualitative chemical reactions. Analysis of urinary calculi is used in the diagnosis and treatment of calculi of the urinary tract.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary calculi (stones) test systems be classified into class II because there is a need for a performance standard that prescribes

for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Analyses of urinary calculi are used in the diagnosis and treatment of patients with calculi of the urinary tract. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *309*, *310*, and *311*). Analyses of urinary calculi are useful in evaluating the cause and treatment of the formation of urinary calculi such as kidney stones. The formation of urinary calculi is favored by: (a) high urinary concentration of the constituents of the calculi that may be due to low urine volume or a high rate of excretion of the relevant substances; (b) a pH of the urine that favors precipitation of the constituents of the calculi; and (c) urinary stagnation. The cause of calculi containing calcium is generally unknown. Some 10 percent of urinary calculi develop from uric acid while cystine and xanthine crystals are rare components of such calculi. Tests should be conducted to exclude as a cause elevated serum calcium, especially that associated with primary hyperparathyroidism.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactory may lead to error in the diagnosis of urinary calculi. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary calculi (stones) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1785; Docket No. 78N-2431; Urinary urobilinogen (nonquantitative) test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urinary urobilinogen (nonquantitative) test systems:

1. Identification: A urinary urobilinogen (nonquantitative) test system is a device used to detect and estimate urobilinogen (a bile pigment degradation product of red cell hemoglobin) in urine by methods such as diazonium colorimetry. Estimations obtained by this device are used in the diagnosis and treatment of liver diseases and hemolytic (red cell) disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that urinary urobilinogen (nonquantitative) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensititity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the diagnosis and treatment of patients with liver disease or hemolytic diseases. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *312*). Urobilinogen is formed in the intestine from bilirubin, a bile pigment degradation product of red blood cell hemoglobin. In the normal individual, part of the urobilinogen is excreted in the feces, and a small amount is excreted in the urine. Because increased amounts of urobilinogen are excreted by the kidneys in various forms of liver disease, the measurement of elevated levels of urobilinogen in urine is a sensitive test for detecting the early stages of hepatitis. A patient with obstructive jaundice has greatly reduced excretion of bilirubin into the intestine and a corresponding reduction of urobilinogen levels in urine.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of liver diseases and hemolytic anemias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that urinary urobilinogen (nonquantitative) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1790; Docket No. 78N-2432; Uroporphyrin test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of uroporphyrin test systems:

1. Identification: A uroporphyrin test system is a device used to measure uroporphyrin in urine by methods such as fluorometric or spectrophotometric. Measurements obtained by this device are used in the diagnosis and treatment of porphyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), lead poisoning, and other diseases characterized by alteration in the heme pathway.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that uroporphyrin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate

inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of uroporphyrin are used in the diagnosis and treatment of patients with porphyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), lead poisoning, and other diseases characterized by alterations in heme pathway. The clinical features of some of the diseases include abdominal and neurological symptoms and skin lesions. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *313* and *314*). Measurements of uroporphyrins are useful in the evaluation of porphyrias. The porphyrins are complex ring compounds synthesized in the liver and bone marrow. Abnormalities of porphyrins metabolism are included in the diseases termed porphyrias and are accompanied by increased urinary and fecal excretion of various porphyrins of their precursors, or both. Urinary porphyrins are of two types: (a) coproporphyrins and (b) uroporphyrins. Small to moderate increases in output of uroporphyrins are found in hepatic porphyria, and massive output occurs in congenital porphyria.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of porphyrias and porphyrinurias. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that uroporphyrin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1795; Docket No. 78N-2433; Vanilmandelic acid test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of vanilmandelic acid test systems:

1. Identification: A vanilmandelic acid test system is a device used to measure vanilmandelic acid in urine by methods such as diazo, *p*-nitroaniline/vanillin, or electrophoretic separation. Measurements of vanilmandelic acid obtained by this device are used in the diagnosis and treatment of neuroblastoma, pheochromocytoma, and certain hypertensive conditions.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that vanilmandelic acid (VMA) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of vanilmandelic acid are used in the diagnosis and treatment of neuroblastoma, pheochromocytoma (a tumor characterized by the secretion of catecholamines resulting in hypertension), and of certain hypertensive conditions. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *315* through *320*). Elevated urinary VMA levels are considered indicative of pheochromocytoma. In a study of 6 patients with pheochromocytoma and a group of 32 patients with essential hypertension (high blood pressure of unknown cause), urinary VMA levels invariably were found to be higher in patients with pheochromocytoma than in those who did not have the tumor (Ref. *321*). However, false indications of pheochromocytoma can result from elevated levels of VMA from ingestion of certain foods, and drugs such as aspirin or antihypertensive agents; therefore, strict control of the diet and drug regimen of patients on whom the test is done is necessary to minimize interferences (Ref. *320*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of neuroblastoma, pheochromocytoma, and certain hypertensive conditions. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that vanilmandelic acid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1805; Docket No. 78N-2435; Vitamin A test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of vitamin A test systems:

1. Identification: A vitamin A test system is a device used to measure vitamin A in serum and plasma by methods such as hexane extraction/trifluoroacetic acid. Measurements obtained by this device are used in the diagnosis and treatment of vitamin A deficiency conditions, including night blindness, or skin, eye, or intestinal disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that vitamin A test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility

that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of vitamin A are used in the diagnosis and treatment of patients with vitamin A deficiency conditions including night blindness or skin, eye, or intestinal disorders. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *321, 322,* and *323*). Carotenes, precursors of the fat soluble vitamin A, occur in plants and are transformed into the vitamin in the intestinal mucosa. Vitamin A is stored in the liver and is essential for normal mucus formation and for maintaining normal levels of the retinal pigment rhodopsin. Thus, clinical effects of vitamin A deficiency include night blindness and drying of certain tissues of the eye, which may lead to blindness. In large doses, vitamin A is toxic. The symptoms of acute vitamin A poisoning are nausea and vomiting, abdominal pain, drowsiness, and headache. Chronic excess of the vitamin results in fatigue, insomnia, bone pains, and loss of hair with skin pigmentation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of vitamin A deficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that vitamin A test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1810; Docket No. 78N–2436; Vitamin B_{12} test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of vitamin B_{12} test systems:

1. Identification: A vitamin B_{12} test system is a device used to measure vitamin B_{12} in serum, plasma, and urine by methods such as radioassay. Measurements obtained by this device are used in the diagnosis and treatment of anemias or gastrointestinal malabsorption.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that vitamin B_{12} test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of vitamin B_{12} are used in the diagnosis and treatment of patients with gastrointestinal malabsorption or macrocytic, megaloblastic anemia (a deficiency of red cells characterized by the presence of a large abnormal red cell series). The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *324, 325* and *326*). The vitamins folic acid and B_{12} are included in the B group and are essential for the normal maturation of the erythrocyte (red blood cell). A deficiency of either causes megaloblastic anemia. Both vitamins are important in purine and pyrimidine (and therefore nucleic acid) synthesis. Vitamin B_{12} (cyanocobalamin) is believed to be required for normal metabolism of folic acid. Vitamin B_{12} is absorbed in the ileum. In malabsorption syndromes affecting the ileum, vitamin B_{12} deficiency can occur.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of anemias or gastrointestinal malabsorption. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that vitamin B^{12} test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1815; Docket No. 78N–2437; Vitamin E test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of vitamin E test systems:

1. Identification: A vitamin E test system is a device used to measure vitamin E (tocopherol) in serum by methods such as hexane extraction/fluorescence. Measurements obtained by this device are used in the diagnosis and treatment of infants with vitmain E deficiency syndrome.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that vitamin E test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of vitamin E are used in the diagnosis and treatment of infants with vitamin E deficiency syndrome associated with hemolytic anemia and low birth weight. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and

effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *327* and *328*). Vitamin E (tocopherol) is a fat soluble vitamin. In experimental animals, vitamin E deficiency causes fetal death and sterility in both sexes and is related to muscular dystrophy. Vitamin E deficiency has not been shown to produce definite clinical effects in humans, and therapeutric trials for various conditions have produced disappointing results.

5. Risks of health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of vitamin E deficiency in infants. Inappropriate therpy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that vitamin E test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.1820; Docket No. 78N-2438; Xylose test system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of xylose test sysetms:

1. Identification: A xylose test system is a device used to measure xylose (a sugar) in serum, plasma, and urine by methods such as para-bromoaniline (colorimetric). Measurements obtained by this device are used in the diagnosis and treatment of gastrointestinal malabsorption syndrome (a group of disorders in which there is subnormal absorption of dietary constituents and thus excessive loss from the body of the nonabsorbed substances).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that xylose test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnositc information could result in inappropriate therapy that places the patient at risk unnecessarily. Measurements of xylose are used in the diagnosis and treatment of patients with gastrointestinal disorders of malabsorption. The xylose test is peformed to determine the level of xylose present in a patient's blood and urine at a specified time following oral ingestion of a dose of xylose. Low absorption of xylose (low urine level) is observed in intestinal malabsorption. Simultaneous measurement of the patient's blood xylose helps to differentiate low urinary xylose levels which may be due to decreased excretion of xylose by the kidneys rather than to intestinal malabsorption. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonalbe assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *329, 330* and *31*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of intestinal malabsorption syndromes. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that xylose test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.2050; Docket No. 78N-2439; General purpose laboratory equipment.

The Clinical Chemistry Device Classification Panel, the Clinical Toxicology Device Classification Panel, the Hematology Device Classification Panel, and the Pathology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of general purpose laboratory equipment:

1. Identification: General purpose laboratory equipment are devices that have general applications and that are intended to prepare and examine specimens from the human body. Labeling for these devices does not make reference to a use in a specific diagnostic procedure.

2. Recommended classification: Class I (general controls). The Clinical Chemistry Device Classification Panel and the Hematology Device Classification Panel recommend that manufacturers of the analytical balance, blender/mixer, thermostated cuvette, dialyzer, drying unit, ion selective electrode (nonspecified), evaporator, membrane filter unit, freezer, heating block, micro mixer, micro pipette, pH meter, polarimeter, shaker/stirrer, temperature regulator, general laboratory timer and water purifier (absorption, deionization, membrane filtration)/reagent grade water system (reverse osmosis) be exempt from premarket notification procedures under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and, in the manufacture of these devices, from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)). The Clinical Chemistry Device Classification Panel and the Hematology Device Classification Panel recommend that the centrifuge (micro, refrigerated, ultra) and blood tube mixer be classified into class I with no exemptions. The Pathlogy Device Classification Panel recommends that the general centrifuge be classified into class I with no exemptions. The Clinical Toxicology Device Classification Panel recommends that the general use centrifuge, general use balance, and pH meter be classified into class I with no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that general purpose laboratory equipment be classified into class I (general controls) because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The Clinical Chemistry Device Classification Panel and the Hematology Device Classification Panel made the recommendation described above that

manufacturers of the named devices be exempted from premarket notification under section 510(k) of the act and, in the manufacture of these devices, from the GMP regulation under section 520(f) of the act because these devices are widely used and have a history of satisfactory performance. These two Panels recommend that the manufacturers of the named devices be exempt from the good manufacturing practice requirements in the manufacture of these devices because adherence to the good manufacturing practice regulation would not improve the safety and effectiveness of the device. The Panels believe that the reliability of current manufacturing practice for these devices has been well established, and that these devices present no risks to health when used by persons trained in their use.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, these devices.

5. Risks to health: None identified.

FDA agrees with the Panels' recommendations and is proposing that general purpose laboratory equipment be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the recommendation of the Clinical Chemistry Device Classification Panel and the Hematology Device Classification Panel that manufacturers of general purpose laboratory equipment be exempt from section 510(k) of the act (21 U.S.C. 360(k)), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of general purpose laboratory equipment, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing these devices and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning general purpose laboratory equipment. The agency does not at this time anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the recommendation of the Clinical Chemistry Device Classification Panel and the Hematology Device Classification Panel that manufacturers of general purpose laboratory equipment be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of these devices be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than § 820.180 and § 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of general purpose laboratory equipment must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of general purpose laboratory equipment must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturers' corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. See the discussion above in this preamble under the heading "Exemption's for Class I Devices" for further discussion of the agency's policies concerning exemptions.

The agency has reviewed the Panels' recommendations for general purpose laboratory equipment and has concluded that the classification of these generic types of devices should be published in the part of the Code of Federal Regulations for clinical chemistry devices.

Section 862.2100; Docket No. 78N-2441; Calculator/data processing module for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of calculators/data processing modules for clinical use:

1. Identification: A calculator/data processing module for clinical use is an electronic device used to store, retrieve, and process laboratory data by means of programmable cassettes.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that calculators/data processing modules for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that calculators/data processing modules for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2140; Docket No. 78N-2443; Centrifugal chemistry analyzer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of centrifugal chemistry analyzers for clinical use:

1. Identification: A centrifugal chemistry analyzer for clinical use is an automatic device that centrifugally mixes a sample and a reagent and spectrophotometrically measure concentrations of the sample constituents. This device is used in conjunction with certain materials to measure a variety of analytes.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that centrifugal chemistry analyzers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that centrifugal chemistry analyzers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2150; Docket No. 78N–2444; continuous flow sequential multiple chemistry analyzer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of continuous flow sequential multiple chemistry analyzers for clinical use:

1. Identification: A continuous flow sequential multiple chemistry analyzer for clinical use is a modular analytical instrument that, using the principles of automated continuous flow systems, can simultaneously perform multiple chemical procedures. This device is used in conjunction with certain materials to measure a variety of analytes.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that continuous flow sequential multiple chemistry analyzers for clinical use be classified into class I (general controls) because the panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that continuous flow sequential multiple chemistry analyzers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2160; Docket No. 78N–2445; Discrete photometric chemistry analyzer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of discrete photometric chemistry analyzers for clinical use:

1. Identification: A discrete photometric chemistry analyzer for clinical use is a device that duplicates manual analytical procedures by performing automatically various steps such as pipetting, preparing filtrates, heating, and measuring color intensity. This device is used in conjunction with certain materials to measure a variety of analytes. Different models of the device incorporate various instrumentation such as micro analysis apparatus, double beam, single, or dual channel photometers, and bichromatic two-wavelength photometers. Some models of the device may include reagent-containing components that may also serve as reaction units.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that discrete photometric chemistry analyzers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that discrete photometric chemistry analyzers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2170; Docket No. 78N–2446; Micro chemistry analyzer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of micro chemistry analyzers for clinical use:

1. Identification: A micro chemistry analyzer for clinical use is a device that duplicates manual analytical procedures by performing automatically various steps such as pipetting, preparing filtrates, heating, and measuring color intensity. The distinguishing characteristic of the device is that it requires only micro volumes of samples, which facilitates the analysis of the very small volume samples obtainable from pediatric patients. This device is used in conjunction with certain materials to measure a variety of analytes.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that micro chemistry analyzers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that micro chemistry analyzers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2230; Docket No. 78N–2450; Chromatographic separation material for clinical use.

The Clinical Toxicology Device Classification Panel and the Pathology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of chromatographic separation materials for clinical use:

1. Identification: A chromatographic separation material for clinical use is a device accessory (e.g., ion exchange absorbents, ion exchange resins, and ion papers) used in ion exchange chromatography, a procedure in which a compound is separated from a solution.

2. Recommended classification: Class I (general controls). The Clinical Toxicology Device Classification Panel recommends that manufacturers of chromatographic separation materials for clinical use be exempt, in the manufacture of these devices, from the good manufacturing practice (GMP) regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)). The Pathology Device Classification Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that chromatographic separation materials for clinical use be

classified into class I (general controls) because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Clinical Toxicology Device Classification Panel recommends that manufacturers of chromatographic separation materials be exempt, in the manufacture of these devices, from the GMP regulation under section 520(f) of the act because current manufacturing practices and user experience show that application of the GMP regulation would not improve the safety and effectiveness of these devices.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panels' recommendations and is proposing that chromatographic separation materials for clinical use be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. However, the agency disagrees with the Clinical Toxicology Device Classification Panel's recommendation that manufacturers of chromatographic separation materials be exempt, in the manufacture of these devices, from the GMP regulation under section 520(f) of the act (21 U.S.C. 360j(f)). The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent production of chromatographic separation materials having defects that could harm users.

The agency has reviewed the Panels' recommendations for chromatographic separation materials and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for clinical chemistry devices.

Section 862.2250; Docket No. 78N–2452; Gas liquid chromatography system for clinical use.

The Clinical Toxicology Device Classification Panel, the Clinical Chemistry Device Classification Panel, and the Microbiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of gas liquid chromatography systems for clinical use:

1. Identification: A gas liquid chromatography system for clinical use is a device used to separate one or more drugs or compounds from a mixture. Each of the constituents in a vaporized mixture of compounds is separated according to its vapor pressure. The device may include accessories such as columns, gases, column supports and liquid coating.

2. Recommended classification: Class I (general controls). The Panels recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that gas liquid chromatography systems for clinical use be classified into class I (general controls) because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, these devices.

5. Risks to health: The Microbiology Device Classification Panel identified the following risks to health presented by the device: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the diagnosis of the presence of a human pathogen(s). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The Clinical Toxicology and Clinical Chemistry Device Classification Panels did not identify any risks to health presented by the device.

FDA agrees with the Panels' recommendations and is proposing that gas liquid chromatography systems for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

The agency has reviewed the Panels' recommendations for gas liquid chromatograph systems and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for clinical chemistry devices.

Section 862.2260; Docket No. 78N–2453; High-pressure liquid chromatography system for clinical use.

The Clinical Toxicology Device Classification Panel and the Clinical Chemistry Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of high pressure liquid chromatography systems for clinical use:

1. Identification: A high pressure liquid chromatography system for clinical use is a device used to separate one or more drugs or compounds from a solution by processing the mixture of compounds (solutes) through a column packed with materials of uniform size (stationary phase) under the influence of a high pressure liquid (mobile phase). Separation of the solutes occurs either by absorption, sieving, partition, or selective affinity.

2. Recommended classification: Class I (general controls). The Panel recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that high pressure liquid chromatography systems for clinical use be classified into class I (general controls) because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panels' recommendations and is proposing that high pressure liquid chromatography systems for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2270; Docket No. 78N–2454; Thin-layer chromatography system for clinical use.

The Clinical Toxicology Device Classification Panel and the Clinical Chemistry Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of thin-layer chromatography systems for clinical use:

1. Identification: A thin-layer chromatography (TLC) system for clinical use is a device used to separate one or more drugs or compounds from a mixture. The mixture of compounds is absorbed onto a stationary phase or thin layer of inert material (e.g., cellulose, alumina, etc.) and eluted off by a moving solvent (moving phase) until equilibrium occurs between the two phases.

2. Recommended classification: Class I (general controls). The Clinical Toxicology Device Classification Panel recommends that manufacturers of particular components of the device, the thin-layer chromatography (TLC) apparatus for clinical use, the TLC atomizer, the TLC developing tanks, and the TLC ultraviolet (UV) light, be exempt, in the manufacture of these components, from the good manufacturing practice (GMP) regulation under section 520(f) of the

Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)). The Clinical Chemistry Device Classification Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that thin-layer chromatography systems be classified into class I (general controls) because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Clinical Toxicology Device Classification Panel recommends that manufacturers of particular components of the device, the thin-layer chromatography apparatus general use, the TLC atomizer, the TLC developing tanks and the TLC UV light be exempt, in the manufacture of these components, from the GMP regulation under section 520(f) of the act because user experience shows that application of the GMP regulation would not improve the safety and effectiveness of these particular components of TLC systems.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panels' recommendations and is proposing that thin layer chromatography systems be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Clinical Toxicology Device Classification Panel recommendation that manufacturers of particular components of thin layer chromatography (TLC) systems, the thin layer chromatography apparatus, TLC atomizer, TLC developing tanks, and TLC UV light be exempt from the good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that manufacturers of these particular components of TLC systems be exempt, in the manufacture of these components, from all requirements in the GMP regulation except § 820.180 regarding general requirements concerning records, and § 820.198, regarding complaint files. See the preamble at § 862.2050 *General purpose laboratory equipment* for further discussion of the agency's policies concerning exemptions.

Section 862.2300; Docket No. 78N–2455; Colorimeter, photometer, or spectrophotometer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of colorimeters, photometers, or spectrophotometers for clinical use:

1. Identification: A colorimeter, a photometer, or a spectrophotometer for clinical use is a electronic device used to measure the light absorbance of solutions. The device may include a monochromator to produce light of a specific wavelength.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the colorimeters, photometers, or spectrophotometers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that colorimeters, photometers, or spectrophotometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2310; Docket No. 78N–2456; Clinical sample concentrator.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of clinical sample concentrators:

1. Identification: A clinical sample concentrator is a device used to concentrate (by dialysis, evaporation, etc.) serum, urine, cerebrospinal fluid, and other body fluids before the fluids are analyzed.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that clinical sample concentrators be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that clinical sample concentrators be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2320; Docket No. 78N–2457; beta or *gamma* counter for clinical use.

The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of *beta* or *gamma* counters for clinical use:

1. Identification: A *beta* or *gamma* counter for clinical use is a device used to detect and count *beta* or *gamma* radiation emitted by clinical samples. The radiation emitted by a sample, following a chemical reaction with a radioactive reagent, is proportional to the concentration of the analyte being measured. These measurements are useful in the diagnosis and treatment of various disorders.

2. Recommended classification: The Clinical Chemistry Device Classification Panel recommends that a *beta* or *gamma* counter for clinical use be classified into class I with no exemptions. The Clinical Toxicology Device Classification Panel recommends that *gamma* counters for clinical use and liquid scintillation counters for clinical use be classified into class I with no exemptions. The Clinical Toxicology Device Classification Panel recommends that radioimmunoassay (RIA) procedure *gamma* counters for clinical use be classified into class II with a medium priority for establishing a performance standard.

3. Summary of reasons for recommendation: The Clinical Chemistry Device Classification Panel and Clinical Toxicology Device Classification Panel recommend that *beta* or *gamma* counters for clinical use be classified into class I because both Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Clinical Toxicology Device Classification Panel recommends that radioimmunoassay procedure *gamma* counters for clinical use be classified into class II because

there is a need for a performance standard that prescribes for the device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this device's accuracy, precision, sensitivity and specificity. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Both the Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel did not identify any risks to health presented by *beta* or *gamma* counters for clinical use. The Clinical Toxicology Device Classification Panel identified the following risk to health prosented by radioimmunoassay procedure *gamma* counters for clinical use: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findinga of erroneously high or low levels of *gamma* radiation emitted by clinical samples, thereby providing an incorrect diagnosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panels' recommendations and is proposing that *beta* or *gamma* counters for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. For this reason, the agency disagrees with the Clinical Chemistry Device Classification Panel's recommendation that the RIA procedure *gamma* counter for clinical use be classified into class II.

FDA has reviewed the Panels' recommendations and the literature relating to *beta* or *gamma* counters for clinical use and RIA procedure *gamma* counters for clinical use (Ref. 334). The agency believes that the RIA procedure *gamma* counter is the same generic type of device as the *beta* or *gamma* counter for clinical use considered by the Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel.

Section 862.2400; Docket No. 78N-2459; Densitometer/scanner (intergrating, reflectance, thin-layer chromatography, or radiochromatogram) for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of densitometers/scanners (integrating, reflectance, TLC, or radiochromatogram) for clinical use:

1. Identification: A densitometer/scanner (integrating, reflectance, thin-layer chromatography, or radiochromatogram) for clinical use is a device used to measure the concentration of a substance on the surface of a film or other support media by either a photocell measurement of the light transmission through a given area of the medium or, in the case of the radiochromatogram scanner, by measurement of the distribution of a specific radioactive element on a radiochromatogram.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that densitometers/scanners (integrating, reflectance, TLC, or radiochromatogram) for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the panel recommendation and is proposing that densitometers/scanners (integrating, reflectance, TLC, or radiochromatogram) for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2485; Docket No. 78N-2463; Electrophoresis apparatus for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of electrophoresis apparatus for clinical use:

1. Identification: A electrophoresis apparatus for clinical use is a device used to separate molecules or particles, including plasma proteins, lipoproteins, enzymes, and hemoglobins, on the basis of their net charge in specified buffered media. This device is used in conjunction with certain materials to measure a variety of analytes as an aid in the diagnosis and treatment of certain disorders.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that electrophoresis apparatus for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that electrophoresis apparatus for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2500; Docket No. 78N-2464; Enzyme analyzer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of enzyme analyzers for clinical use:

1. Identification: An enzyme analyzer for clinical use is a device used to measure enzymes in blood plasma or serum by nonkinetic or kinetic measurement of enzyme-catalyzed reactions. This device is used in conjunction with certain materials to measure a variety of enzymes as an aid in the diagnosis and treatment of certain enzyme related disorders.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that enzyme analyzers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel

based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that enzyme analyzers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2540; Docket No. 78N–2467; Flame emission photometer for clinical use.

The Clinical Chemistry Device Classification Panel, and the Clinical Toxicology Device Classificastion Panel, FDA advisory committees, made the following recommendations regarding the classification of flame emission photometers for clinical use:

1. Identification: A flame emission photometer for clinical use is a device used to measure the concentration of sodium, potassium, lithium, and other metal ions in body fluids. Abnormal variations in the concentration of these substances in the body are indicative of certain disorders (e.g., electrolyte imbalance and heavy metal intoxication) and are, therefore, useful in diagnosis and treatment of those disorders.

2. Recommended classification: Class I with no exemptions. The Clinical Chemistry Device Classification Panel recommends that flame emission photometers for clinical use be classified into class I with no exemptions. The Clinical Toxicology Device Classification Panel recommends that flame photometers, general use, be classified into class I with no exemptions. The Clinical Toxicology Device Classification Panel recommends that heavy metals flame photometers be classified into class II and recommends that establishing a performance standard be a high priority.

3. Summary of reasons for recommendation: The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel recommend that flame emission photometers for clinical use be classified into class I (general controls) because the panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Clinical Toxicology Device Classification Panel recommends that heavy metals flame photometers be classified into class II (performance standards) because there is is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, specificity, and sensitivity and thereby minimizes the possibility that the device may state inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls alone would not provide sufficient control over the heavy metals flame photometers' stability. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel based their recommendations on the Panel members' personal knowledge of, and clinical experience with this device and upon a review of the literature (Refs. *333, 334,* and *335*). Flame emission photometers are used for the measurement of life-supporting elements (e.g., sodium, potassium, magnesium, and calcium), as well as heavy metals. These life-supporting elements are responsible for electrolyte (salt) balance in normal human physiology. Heavy metals in the body can produce toxic reactions and electrolyte imbalance. Interference from biological materials, the environment, or variations of the flame may affect the accuracy of the test results. Persons who use flame emission photometers should be appropriately trained to recognize the influence of these factors and adjust the device to eliminate the possibility that they will interfere with test results.

5. Risks to health: The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel did not identify any risks to health presented by flame emission photometers. The Clinical Toxicology Device Classification Panel identified the following risk to health presented by heavy metals flame photometers: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in an error in the measurement of heavy metals in body fluids. Inappropriate therapy based on inaccurate diagnosis data may place the patient at risk.

FDA agrees with the Panels' recommendations regarding the flame emission photometer and the flame photometer, general use and is proposing that the generic type of device named flame emission photometers for clinical use be classified into class I (general controls) with no exemptions. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA disagrees with the recommendation of the Clinical Toxicology Device Classification Panel that heavy metals flame photometers be classified into class II (performance standards). FDA has reviewed the Panels' recommendations and the literature relating to the flame emission photometer for clinical use and the heavy metals flame photometer and has concluded they are essentially the same generic type of device. FDA believes that all flame emission photometers for clinical use, whether for the measurement of essential elements or heavy metals, can be adequately controlled by general controls (class I).

Section 862.2560; Docket No. 78N–2468; Fluorometer for clinical use.

The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of fluorometers for clinical use:

1. Identification: A fluorometer for clinical use is a device used to measure by fluorescence certain analytes. Fluorescence is the property of certain substances of radiating, when illuminated, a light of a different wavelength. This device is used in conjunction with certain materials to measure a variety of analytes.

2. Recommended classification: Class I (general controls). The Panels recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that fluorometers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel does not believe that this device requires performance standards to control the identified risks to health.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *336*).

5. Risk to health: The Clinical Chemistry Device Classification Panel identified no risks to health presented by the device. The Clinical Toxicology Device Classification Panel identified a possible potential hazard to users from the ultraviolet light source.

FDA agrees with the Panels' recommendations and is proposing that fluorometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2680; Docket No. 78N–2472; Microtitrator for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of microtitrators for clinical use:

1. Identification: A Microtitrator for clinical use is a device used in microanalysis to measure the concentration of a substance by reacting it with a measured "micro" volume of a known standardized solution.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that microtitrators for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that microtitrators for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2700; Docket No. 78N–2474; Nephelometer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nephelometers for clinical use:

1. Identification: A nephelometer for clinical use is a device used to estimate the concentration of particles in a suspension by measuring their light scattering properties (the deflection of light rays by opaque particles in their path). The device is used in conjunction with certain materials to measure the concentration of a variety of analytes.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that nephelometers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that nephelometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2720; Docket No. 78N–2475; Plasma oncometer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of plasma oncometers for clinical use:

1. Identification: A plasma oncometer for clinical use is a device used to measure plasma oncotic pressure, which is that portion of the total plasma osmotic pressure contributed by protein and other molecules too large to pass through a specified semipermeable membrane. Because variations in plasma oncotic pressure are indications of certain disorders, measurements of these variations are useful in the diagnosis and treatment of these disorders.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that plasma oncometers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recoimmendation on the members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that plasma oncometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2730; Docket No. 78N–2476; Osmometer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of osmometers for clinical use:

1. Identification: An osmometer for clinical use is a device used to measure the osmotic pressure of body fluids. Osmotic pressure is the pressure required to prevent the passage of a solution with a lesser solute concentration into a solution with greater solute concentration when the two solutions are separated by a semipermeable membrane. The concentration of a solution affects its osmotic pressure, freezing point, and other physiochemical properties. Osmometers determine osmotic pressure by methods such as the measurement of the freezing point. Measurements obtained by this device are used in the diagnosis and treatment of body fluid disorders.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that osmometers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and a review of the literature (Ref. *337*).

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that osmometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2750; Docket No. 78N–2477; Pipetting and diluting system for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of pipetting and diluting systems for clinical use:

1. Identification: A pipetting and diluting system for clinical use is a device that provides an accurately measured volume of liquid at a specified temperature that may be used in certain test procedures. This generic type of device system includes serial, manual, automated, and semi-automated dilutors, pipettors, dispensers, and pipetting stations.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that pipetting and diluting systems for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that pipetting and diluting systems for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2800; Docket No. 78N–2481; Refractometer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of refractometers for clinical use:

1. Identification: A refractometer for clinical use is a device used to determine the amount of solute in a solution by measuring the index of refraction (the ratio of the velocity of light in a vacuum to the velocity of light in the solution). The index of refraction is used to measure the concentration of certain analytes (solutes), such as plasma total proteins and urinary total solids. Measurements obtained by this device are used in the diagnosis and treatment of certain conditions.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that refractometers for clincial use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation is proposing that refractometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2850; Docket No. 78N–2483; Atomic absorption spectrophotometer for clinical use.

The Clinical Toxicology Device Classification Panel and the Clinical Chemistry Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of atomic absorption spectrophotometers for clinical use:

1. Identification: An atomic absorption spectrophotometer for clinical use is a device used to identify and measure elements and metals (e.g., lead and mercury) in human specimens. The metal elements are identified according to the wavelength and intensity of the light that is absorbed when the specimen is converted to the atomic vapor phase. Measurements obtained by this device are used in the diagnosis and treatment of certain conditions.

2. Recommended classification: Class I (general controls). Both Panels recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that atomic absorption spectrophotometers for clincial use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panels recommendations and is proposing that refractometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2860; Docket No. 78N–2484; Mass spectrophotometer for clinical use.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mass spectrophotometers for clinical use:

1. Identification: A mass spectrophotometer for clinical use is a device used to identify metallic or organic compounds (e.g., lead, mercury, and drugs) in human specimens by ionizing the compound under investigation and separating the resulting ions by means of an electrical and a magnetic field according to their mass.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that mass spectrophotometers for clinical use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that mass spectrophotometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2900; Docket No. 78N–2487; Automated urinalysis system.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of automated urinalysis systems:

1. Identification: An automated urinalysis sytem is a device used to measure certain of the physical properties and chemical constituents of urine by procedures that duplicate manual urinalysis test systems. This device is used in conjunction with certain materials to measure a variety of urinary analytes.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that automated urinalysis systems be classified into class I (general controls) because the panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that automated urinalysis systems be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.2920; Docket No. 78N-2488; Plasma viscometer for clinical use.

The Clinical Chemistry Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of plasma viscometers for clinical use;

1. Identification: A plasma viscometer for clinical use is a device used to measure the viscosity of blood plasma by determining the time period required for the plasma to flow a measured distance through a calibrated glass tube. Measurements obtained by this device are used to monitor changes in the amount of solids present in plasma in various disorders.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommends that plasma viscometers for clincial use be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that plasma viscometers for clinical use be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.3040; Docket No. 78N-2490; Alcohol test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of alcohol test systems:

1. Identification: An alcohol test system is a device used to measure alcohol (e.g., ethanol, methanol, isopropanol, etc.) in human body fluids (e.g., serum, whole blood, and urine) by methods such as alcohol dehydrogenase (ADH) enzymatic method, gas chromatography, or potassium dichromate method. Measurements obtained by this device are used in the diagnosis and treatment of alcohol intoxication and poisoning.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that alcohol test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: the Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *338* through *344*). Comatose patients entering hospital emergency rooms are routinely screened for alcohol intoxication because it is necessary to determine whether alcohol caused the comatose condition and, if so, to identify the type of alcohol specifically. The dectection and measurement of ethanol must be controlled to assure that a toxic nonbeverage type alcohol (e.g., isopropanol, propanol, and ethylene glycol) is not identified as ethanol. Cross-reactivity is a major concern in the diagnosis for alcohol, and any positive result should be confirmed by a second diagnostic test.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of alcohol in specimens or the identification of the incorrect type of alcohol. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that alcohol test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3050; Docket No. 78N-2491; Breath-alcohol test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of breath-alcohol test systems:

1. Identification: A breath-alcohol test system is a device used to measure alcohol in the human breath. The device utilizes qualitative gas chromatography to distinguish between various alcohols (i.e., ethanol, methanol, isopropanol, and acetone). Measurements obtained by this device are used in the diagnosis of alcohol intoxication.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that breath-alcohol test systems be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that breath alcohol test systems be classified

into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.3100; Docket No. 78N–2495; Amphetamine test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of amphetamine test systems:

1. Identification: An amphetamine test system is a device used to measure amphetamine, a central nervous system stimulating drug, in plasma and urine by methods such as gas chromatography, liquid chromatography, thin-layer chromatography, enzyme immunoassay, or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of amphetamine overdose and in monitoring levels of amphetamine to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device by a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that amphetamine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance fo the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *345*, *346*, and *347*). Amphetamines are used as a central nervous system (CNS) stimulant in the treatment of narcolepsy (uncontrolled sleepiness), attention deficit disorders and as an adjunct in the treatment of exogenous obesity. Amphetamines can produce toxic reactions (e.g., restlessness, insomnia, and cardiac failure with severe over stimulation), and addiction.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactory may result in findings of erroneously high or low levels of amphetamine. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that amphetamine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3110; Docket No. 78N–2496; Antimony test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of antimony test systems:

1. Identification: An antimony test system is a device used to measure antimony, a heavy metal, in urine, blood, vomitus, and stomach contents by methods such as atomic absorption spectroscopy or colorimetry. Measurements obtained by this device are used in the diagnosis and treatment of antimony poisoning.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that antimony test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *348* and *349*). Antimony is a heavy metal that is used in various drugs and pesticides. Antimony is not normally present in the human body. Antimony poisoning can result from ingestion of insecticides and contaminated food or through occupational poisoning. Chronic or acute toxicity can result in nausea, vomiting, dermatitis, abdominal pain, cyanosis (a bluish discoloration of skin and mucous membranes), liver damage, coma, and death due to cardiac failure. The clinical symptoms of antimony poisoning and arsenic poisoning are very similar. The colorimetric assay method (i.e., Reinsch test) is a screening test for heavy metals, particularly arsenic, antimony, bismuth, and mercury. Antimony can be quantitatively measured by this procedure as well as the atomic absorption procedure.

5. Risks of health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of antimony. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that antimony test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3120; Docket No. 78N–2497; Arsenic test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of arsenic test systems:

1. Identification: An arsenic test system is a device used to measure arsenic, a poisonous heavy metal, in urine, vomitus, stomach contents, nails, hair, and blood by methods such as atomic absorption spectrophotometry, ultraviolet spectrophotometry, or colorimetry. Measurements obtained by this device are used in the diagnosis and treatment of arsenic poisoning.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that arsenic test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *350* through *353*). Arsenic poisoning can result from ingestion of drugs, pesticides, herbicides, contaminated food, and paints and dyes. Acute toxicity can result in gastric pain, diarrhea, shock, coma, and death within 24 hours after ingestion. Chronic toxicity can result in weakness, loss of appetite, nausea, increased pigmentation, pain in joints, and motor paralysis. Acute and chronic symptoms of arsenic poisoning are dependent on the oxidative state (the ability of arsenic to lose electrons) of the arsenic, making arsenic (III) more toxic than arsenic (V). Distinguishing these oxidative states is essential in accurately diagnosing arsenic toxicity. All reagents used in the diagnostic test should be analyzed for arsenic to prevent false-positive results.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of arsenic. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that arsenic test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3150; Docket No. 78N-2498; Barbiturate test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of barbiturate test systems:

1. Identification: A barbiturate test system is a device used to measure barbiturates, a class including hypnotic/sedative and anticonvulsant drugs, in serum, urine, and gastric contents by methods such as thin-layer chromatography, gas chromatography, colorimetry, enzyme immunoassay, high pressure liquid chromatography, hemagglutination inhibition, or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of barbiturate overdose and in monitoring levels of barbiturate to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that barbiturate test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *354* and *355*). Barbiturates have several therapeutic uses (e.g., anticonvulsant, sedative, hypnotic, and analgesic). Large doses can result in toxic reactions (e.g., lethargy, depression, coma, and death due to respiratory arrest).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of barbiturates. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that barbiturate test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3170; Docket No. 78N-2499; Benzodiazepine test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of benzodiazepine test systems:

1. Identification: A benzodiazepine test system is a device used to measure any of the benzodiazepine compounds, sedative and hypnotic drugs, in blood, plasma, and urine by methods such as enzyme immunoassay, ultraviolet spectrophotometry, gas chromatography, high pressure liquid chromatography, or thin-layer chromatography. The benzodiazepine compounds include chlordiazepoxide, diazepam, oxazepam, chlorazepate, flurazepam, and nitrazepam. Measurements obtained by this device are used in the diagnosis and treatment of benzodiazepine overdose.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that benzodiazepine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information.

Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *356* and *357*). Benzodiazepine compounds are used in the treatment of anxiety or alcohol withdrawal syndrome, and as a muscle relaxant, but may be addictive if used excessively. The compounds may be detected in the plasma and urine for several days after administration due to their long half-life and conversion to active metabolites. Substances with similar chemical structure and metabolites of the benzodiazepine compounds may interfere with the test and can result in erroneous findings.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of benzodiazepine compounds. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that benzodiazepine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device

Section 862.3200; Docket No–78N–2501; Clinical toxicology calibrator.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of clinical toxicology calibrators:

1. Identification: A clinical toxicology calibrator is a device that is used as a reference material for equipment set-up and that is used to determine the accuracy of a device by measuring the variation from a standard or by developing a standard curve for a diagnostic assay. A clinical toxicology calibrator can be a mixture of drugs or a specific material for a particular drug (e.g., ethanol, lidocaine, etc.).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that clinical toxicology calibrators be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. Clinical toxicology calibrators used in developing a standard curve for a particular diagnostic test must be sufficiently sensitive and specific to determine correctly the amounts of analyte present in the sample.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of analyte. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that clinical toxicology calibrators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3220; Docket No. 78N–2503; Carbon monoxide test system.

The Clinical Toxicology Device Classification Panel, the Clinical Chemistry Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of carbon monoxide test systems:

1. Identification: A carbon monoxide test system is a device used to measure carbon monoxide or carboxyhemoglobin (carbon monoxide bound to the hemoglobin in the blood) in blood by methods such as microdiffusion analysis, spectrophotometric determination, or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of or confirmation of carbon monoxide poisoning.

2. Recommended classification: Class II (performance standards). The Panels recommend that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panels recommend that carbon monoxide test systems be classified into class II because there is need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The measurement is necessary to assess the decrease in the oxygen-carrying capacity of the patient's blood to assure proper diagnosis of the patient's condition. The Panels believe that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *358* through *361*). Carbon monoxide analysis is used mainly in governmental investigations of injuries or deaths resulting from fires or suicides. The normal value for carbon monoxide in the blood is 0.5 percent saturation, with 40 to 80 percent saturation being considered a fatal concentration.

Postmortem blood or blood with desaturated hemoglobin cannot be used to obtain accurate results using the spectrophotometric method. Gas chromatography can be used in postmortem specimens.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneous high or low levels of carbon monoxide. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panels' recommendations and is proposing that carbon monoxide test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3240; Docket No. 78N–2505; Cholinesterase test system.

The Clinical Toxicology Device Classification Panel and the Clinical Chemistry Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of cholinesterase test systems:

1. Identification: A cholinesterase test system is a device used to measure cholinesterase (an enzyme that catalyzes the hydrolysis of acetylcholine to choline) in human specimens by methods such as test paper colorimetry or electrometry. There are two principal types of cholinesterase in human tissues. True cholinesterase is present at nerve endings and in erythrocytes (red blood cells) but is not present in plasma. Pseudo cholinesterase is present in plasma and liver but is not present in erythrocytes. Measurements obtained by this device are used in the diagnosis and treatment of cholinesterase inhibition disorders (e.g., insecticide poisoning and succinylcholine poisoning).

2. Recommended classification: Class II (performance standards). The Panels recommend that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panels recommend that cholinesterase test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *362* through *365*). Cholinesterase analysis is used in the diagnosis and treatment of poisonings associated with certain organophosphorus insecticides and of prolonged apnea (no breathing) in patients given the muscle relaxant succinylcholine. Serum proteins and temperature variations can interfere with cholinesterase measurements. The indicator of the colorimetric method may deviate from the normal standards, resulting in an erroneous result.

5. risks to health: Misdiagnosis and inapproprite therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of cholinesterase. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panels' recommendations and is proposing that cholinesterase test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3250; Docket No. 78N–2506; Cocaine and cocaine metabolite test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cocaine and cocaine metabolite test systems:

1. Identification: A cocaine and cocaine metabolite test system is a device used to measure cocaine and a cocaine metabolite (benzoylecgonine) in serum, plasma, and urine by methods such as gas chromatography, thin-layer chromatography, enzyme immunoassay, free radical assay, high pressure liquid chromatography, radioimmunoassay, or hemagglutination. Measurements obtained by this device are used in the diagnosis and treatment of cocaine overdose and in monitoring levels of cocaine and its metabolite to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that cocaine and cocaine metabolite test systems be classified into class II because there is a need for a performance standard that prescribed for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *366, 367,* and *368*). The use of small amounts of cocaine can produce toxic reactions, addiction, and death. Cocaine is readily absorbed by the mucous membranes and is detoxified to its metabolite, benzoylecgonine, by the liver. Cocaine derivatives (e.g., norcocaine, benzoylecgonine, pseudobensoylecogonine, and pseudococaine) may cross-react with cocaine antibody in the immunologic test methods (e.g., enzyme immunoassay and radioimmunoassay) giving a false-positive result. A second nonimmunoassay test (e.g., gas chromatography or thin-layer chromatography) may be required to confirm positive findings.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the

device to perform satisfactorily may result in findings of erroneously high or low levels of cocaine and cocaine metabolite. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that cocaine and cocaine metabolite test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3270; Docket No. 78N–2508; Codeine test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of codeine test systems:

1. Identification: A codeine test system is a device used to measure codeine, a narcotic pain-relieving drug, in serum and urine by methods such as thin-layer chromatography, enzyme immunoassay, gas chromatography, high pressure liquid chromatography, or hemagglutination inhibition. Measurements obtained by this device are used in the diagnosis and treatment of codeine overdose and in monitoring levels of codeine to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that codeine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *369* and *370*). Codeine (methylmorphine) is a narcotic analgesic (pain-relieving drug which may become addictive) and antitussive drug that is chemically converted from morphine (a naturally occurring narcotic that is isolated from opium). There is minimal cross-reactivity with substances derived from opium in the enzyme immunoassay. Cross-reactivity with other drugs such as chlorpromazine or dextromethorphan can result in a false-positive test. Positive immunoassay for codeine should be confirmed by an additional nonimmunoassay method. Technical errors in thin layer chromatography (e.g., extraction of the drug from the specimen) can result in a false-negative test.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of codeine. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that codeine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3280; Docket No. 78N–2509; Clinical toxicology control material.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of clinical toxicology control materials:

1. Identification: A clinical toxicology control material is a device used to provide an estimation of the precision of a device test system and to detect and monitor systematic deviations from accuracy resulting from reagent or instrument defects. This generic type of device includes various control materials, such as alcohol, digoxin, digitoxin, theophylline, lidocaine, methotrexate, *N*-acetylprocainamide, procainamide, drug mixtures, and heavy metals.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that clinical toxicology control materials be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that clinical toxicology control materials be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 862.3300; Docket No. 78N–2511; Digitoxin test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of digitoxin test systems:

1. Identification: A digitoxin test system is a device used to measure digitoxin, a cardiovascular drug, in serum and plasma by radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of digitoxin overdose and in monitoring levels of digitoxin to ensure appropriate theray.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that digitoxin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision,

sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *371* through *375*). Digitoxin (a drug derived from the plant Digitalis purpurea) is one of several widely prescribed cardiac gylcosides used to control congestive heart failure and other abnormalities that affect cardiac rhythm. Digitoxin and digoxin are structurally similar cardiac glycosides but are derived from different plants and have different pharmokinetic properties. Digitoxin has a narrow range between an effective therapeutic and a toxic level with toxicity resulting in arrhythmia (variations from normal heartbeat), bradycardia (slowness of the heartbeat), anorexia (loss of appetite), and fatigue. Accurate measurement of serum concentrations of digitoxin is a necessary aid in the regulation of digitoxin cardiac therapy. Establishing an effective but nontoxic therapeutic dosage is difficult due to patients' physiological variations (i.e., in patient size and renal, hepatic, and gastrointestinal functions) and the narrow difference between the therapeutic range and the toxic range of digitoxin. Accuracy of the assay method is dependent on the specificity of the antibody and the standards used in preparing the standard curve. Inadequate antibody preparation resulting in a low affinity constant of the antibody is the most common source of error in radioimmunoassay.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of digitoxin. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that digitoxin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3320; Docket No. 78N-2513; Digoxin test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of digoxin test systems:

1. Identification: A digoxin test system is a device used to measure digoxin, a cardiovascular drug, in serum and plasma by radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of digoxin overdose and in monitoring levels of digoxin to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that digoxin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *376* through *379*). Digoxin (a drug derived from the plant *digitalis lanata*) is one of several prescribed cardiac glycocides used to control congestive heart failure and certain abnormalities of cardiac rhythm (atrial fibrillation and flutter and paroxysmal atrial tachycardia). Digoxin and digitoxin are structurally similar cardiac glycosides but are derived from different plants and have different pharmacokinetic properties. The toxic and effective therapeutic levels of digoxin are not far apart. Toxicity can be severe and includes potentially fatal arrhythmias (irregular heartbeat), bradycardia (slow heartbeat), and heart block (interference with the electrical transmission of the heart beat). Accurate measurement of serum concentrations of digoxin is necessary to aid in the regulation of digoxin cardiovascular therapy. Establishing an effective but nontoxic therapeutic dosage is difficult due to patients' physiological variations (e.g., in patient size and reanal, hepatic, and gastrointestinal functions) and the narrow difference between the therapeutic range and the toxic range of digoxin. Accuracy of the assay method is dependent on the specificity of the antibody and the standards used in preparing the standard curve. Inadequate antibody preparation due to variations of the antibody's affinity for digoxin is the most common source of error in radioimmunoassay.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of digoxin. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that digoxin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3350; Docket No. 78N-2515; diphenylhydantoin test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of diphenylhydantoin test systems:

1. Identification: A diphenylhydantoin test system is a device used to measure diphenylhydantoin, and antiepileptic drug, in human specimens by methods such as enzyme immunoassay, radioimmunoassay, gas chromatography, and thin-layer chromatography. Measurements obtained by this device are used in the diagnosis and treatment of diphenylhydantoin overdose and in monitoring levels of diphenylhydantoin to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that diphenylhydantoin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *380* through *383*). Diphenylhydantoin is an antiepileptic drug capable of producing toxic reactions (e.g., slurred speech, mental confusion, dizziness, insomnia, and muscle incoordination) which are dose-related. The immunoassay is not specific for diphenylhydantoin and shows cross-reactivity of the phenytoin antibody with other drugs. Concurrent administration of certain drugs (e.g., chloramphenicol, dicumarol, disulfiram, isoniazid, or sulthiane) produces variations in diphenylhydantoin plasma concentration. A decrease in diphenylhydantoin plasma concentration can occur in the presence of carbamazepine, an antiepileptic drug. The Panel considered the voluntary standard being developed by the International Union of Immunological Societies (Enzyme Immunoassay Standardization Committee) for enzyme immunoassay determination of diphenylhydantoin. The Panel also considered voluntary guidelines established by the Nuclear Regulatory Commission on how handle radioactive compounds.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of diphenylhydantoin. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that diphenylhydantoin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3380; Docket No. 78N–2516; Ethosuximide test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ethosuximide test systems:

1. Identification: An ethosuximide test system is a device used to measure ethosuximide, an antiepileptic drug, in human specimens by such methods as thin-layer chromatography, liquid chromatography, gas chromatography, radioimmunoassay, or enzyme immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of ethosuximide overdose and in monitoring levels of ethosuximide to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ethosuximide test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *384, 385,* and *386*). Ethosuximide is often administered in conjunction with other antiepileptics in the treatment of epilepsy. Toxic levels of ethosuximide may cause agranulocytosis (decreased number of granulocytes and lesions in the throat and other mucous membranes) and pancytopenia (deficiency of all cell elements of the blood). The Panel considered the voluntary guidelines established by the Nuclear Regulatory Commission on how to handle radioactive compounds. The Panel also considered the voluntary standards being developed by the International Union of Immunological Societies (Enzyme-Immunological Standardization Committee) for the enzyme-immunoassay determination of ethosuximide.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of ethosuximide. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that ethosuximide test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3450; Docket No. 78N–2518; Gentamicin test system.

The Clinical Toxicology Device Classification Panel and the Microbiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of gentamicin test systems:

1. Identification: A gentamicin test system is a device used to measure gentamicin, an antibiotic drug, in human specimens by methods such as hemagglutination inhibition, agar gel diffusion discs, radioimmunoassay gentamicin (125_I) second antibody separation, *Bacillus subtlis* microbiology assay, or enzymatic radiochemical assay. Measurements obtained by this device are used in the diagnosis and treatment of gentamicin overdose and in monitoring gentamicin to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panels recommend that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panels recommend that gentamicin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *387* through *392*). Gentamicin is used in the treatment of serious infections caused by certain bacteria. The Panel notes that the crossreactivity of the gentamicin antibody with other antibiotics limits the specificity of gentamicin test systems. Gentamicin has a very narrow range between an effective therapeutic and a toxic level with toxicity resulting in damage to hearing and the kidneys. Frequent monitoring of serum or plasma concentrations of gentamicin can help prevent toxicity. Comparative studies between microbiological and radioimmunoassay methods for the measurement of gentamicin indicate that although the methods are equivalent, radioimmunoassay offers the advantages of rapidity, specificity, and precision.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of gentamicin. Inappropriate therapy based on inaccurate diagnositc data may place the patient at risk.

FDA agrees with the Panels' recommendations and is proposing that gentamicin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3520; Docket No. 78N–2522; Kanamycin test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of kanamycin test systems:

1. Identification: A kanamycin test system is a device used to measure kanamycin, an antibiotic drug, in plasma and serum by radio immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of kanamycin overdose and in monitoring levels of kanamycin to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that kanamycin test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *393* and *394*). Kanamycin is an aminoglycoside (a bacterial antibiotic which acts by interfering with the function of the bacterial ribosomes) used in the treatment of infections caused by certain bacteria. The drug has narrow a range between an effective therapeutic and a toxic level with toxicity resulting in damage to hearing and the kidneys. The safe and effective use of kanamycin depends upon establishing an adequate dosage to control the infection without producing toxicity by performing frequent measurements of serum or plasma concentrations of kanamycin.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of kanamycin. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that kanamycin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3550; Docket No. 78N–2523; Lead test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lead test systems:

1. Identification: A lead test system is a device used to measure lead, a heavy metal, in blood and urine by methods such as atomic absorption spectroscopy, *delta*-aminolevulinic acid, fluorometric protoporphyrin zinc, or fluorometric protoporphyrin. Measurements obtained by this device are used in the diagnosis and treatment of lead poisoning.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that lead test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that

a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *395* through *399*). Lead poisoning is a major problem in children who come in contact with leaded interior paint. Lead poisoning can also result from auto emissions from burning leaded gasoline, and industrial emissions, especially smelter dust. Toxicity can range from mild neurological disability to severe acute encephalopathy (brain disorder). Lead is normally present in the human body at trace levels. Intoxication is usually of a chronic nature because lead is absorbed slowly and excreted even more slowly from the body. Screening and diagnostic testing in children and some industrial workers, followed by appropriate action, can prevent serious tissue damage since clinical manifestations do not always appear at toxic levels of lead. Diagnosis of lead poisoning by measuring the level of porphyrins in the blood can be difficult because elevated concentrations of porphyrins in the red blood cell can indicate other disease states (i.e., iron-deficiency anemia) as well as lead poisoning. The best indication of whether lead is absorbed by the body is the direct measurement of the lead level in blood or urine. Low-rate accumulation of lead over a long period may give erroneous diagnostic results because lead can be deposited in bones and soft tissues as well as in the blood and urine. Interference from lead present in the atmosphere, laboratory glassware, or blood anticoagulants may produce erroneously high results.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of lead. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lead test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3560; Docket No. 78N-2377; Lithium test system.

The Clinical Chemistry Device Classification Panel and the Clinical Toxicology Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of lithium test systems:

1. Identification: A lithium test system is a device used to measure lithium (from the drug lithium carbonate) in serum and plasma by methods such as atomic absorption or flame photometry. Measurements of lithium are used to assure that the proper drug dosage is administered in the treatment of patients with mental disturbances, such as manic-depressive illness (bipolar disorder).

2. Recommended classification: Class II (performance standards). The two Panels recommended that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panels recommended that lithium test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate information. Reliance upon inaccurate information could result in inappropriate therapy that places the patient at risk unnecessarily. Test results are used in the treatment of manic-depressive illness (bipolar disorder). The Panels believe that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *400* and *401*). The drug lithium carbonate is widely used in the treatment of manic-depressive illness (bipolar disorder). A patient's serum lithium level must be tested regularly to assure that the proper therapeutic dosage is administered and to safeguard against untoward toxic side effects due to the narrow range between therapeutic and toxic lithium serum levels.

5. Inappropriate therapy: Failure of the device to perform satisfactorily may lead to error in the amount of lithium administered to the patient, resulting in inappropriate therapy or possible toxic effects.

FDA agrees with the recommendations of both of the Panels and is proposing that lithium test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because there is sufficient information to establish a performance standard for this device.

Section 862.3580; Docket No. 78N-2528; Lysergic acid diethylamide (LSD) test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lysergic acid diethylamide (LSD) test systems:

1. Identification: A lysergic acid diethylamide (LSD) test system is a device used to measure lysergic acid diethylamide, a hallucinogenic drug, in serum, urine, and gastric contents by methods such as free radical assay or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of LSD use.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that lysergic acid diethylamide (LSD) test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *402*

through *405*). Lysergic acid diethylamide (LSD) has no therapeutic use and is considered a drug of abuse due to its hallucinogenic properties. LSD can cause severe toxic reactions such as psychosis (mental disorder) and possibly chromosome damage. Detection and measurement are difficult because usually only small amounts of the drug are ingested, and it is rapidly metabolized in the liver with only 1 percent of the LSD that is consumed being excreted unchanged in the urine. Radioimmunoassay can detect LSD or its metabolites in urine, serum, or other biological fluids. Cross-reactivity with structurally related compounds can cause false-positive data. Fluorometry or high pressure liquid chromatography has greater specificity, but larger amounts of the sample specimen are needed. Nonspecific constituents present in the urine can cause false-positives in the fluorometric techniques.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of LSD. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that lysergic acid diethylamide (LSD) test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3600; Docket No. 78N–2527; Mercury test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mercury test systems:

1. Identification: A mercury test system is a device used to measure mercury, a heavy metal, in human specimens by atomic absorption spectroscopy. Measurements obtained by this device are used in the diagnosis and treatment of mercury poisoning.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that mercury test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *406*, *407*, and *408*). Mercury is not normally found in the human body, but it can be present in a concentration range of 0 to 20 micrograms/100 milliliter of blood, depending on the person's occupation and diet. Mercury is a cumulative poison, and traces may be found in the urine several months after exposure. Chronic mercury poisoning can result in inflammation of the mouth, muscular tremors, and mental and nervous behavioral changes. Acute mercury poisoning can result in burning of the mouth and throat, abdominal pain, vomiting, diarrhea, increased urine volume, kidney and liver damage, and death due to renal failure.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of mercury. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that mercury test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3610; Docket No. 78N–2528; Methamphetamine test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of methamphetamine test systems:

1. Identification: A methamphetamine test system is a device used to measure methamphetamine, a central nervous system stimulating drug, in serum, plasma, and urine by methods such as thin-layer chromatography, gas chromatography, or high-pressure liquid chromatography. Measurements obtained by this device are used in the diagnosis and treatment of methamphetamine overdose.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that methamphetamine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *409* through *412*). Methamphetamine is a mild central nervous system (CNS) stimulant used in the treatment of attention deficit disorders and as an adjunct in the treatment of exogenous obesity. The drug can produce toxic reactions and addiction when used excessively. Screening for methamphetamines is used in drug-abuse treatment programs because continued use of methamphetamine can cause addiction. Thin-layer chromatography is highly specific for methamphetamine and its metabolite.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or

low levels of methamphetamine. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that methamphetamine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3620; Docket No. 78N–2529; Methadone test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of methadone test systems:

1. Identification: A methadone test system is a device used to measure methadone, an addictive narcotic pain-relieving drug, in serum and urine, by methods such as thin-layer chromatography, liquid chromatography, gas chromatography, enzyme immunoassay, free radical assay, spectrophotometry, hemagglutination inhibition, or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of methadone overdose and to determine compliance with regulations in methadone maintenance treatment.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that methadone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *413* through *417*). Methadone is a narcotic analgesic with qualitative properties similar to those of morphine (Ref. *417*). Methadone is used in treatment of morphine and heroin addiction. Methadone toxicity can result in nausea, coma, respiratory failure, and death. Direct analysis of the specimen by immunoassay techniques shows no cross-reaction with other drugs or methadone's metabolites. Methadone and its metabolites are detected by the spectrophotometric method as a qualitative measurement. The use of another technique (e.g., gas chromatography) in conjunction with spectrophotometry improves the test's specificity for methadone.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of methadone. Inappropriate therapy based on inaccurate diagnosis data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that methadone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3640; Docket No. 78N–2531; Morphine test system.

The Clinical Toxicology Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of morphine test systems:

1. Identification: A morphine test system is a device used to measure morphine, an addictive narcotic pain-relieving drug, and its analogs in serum, urine, and gastric contents by methods such as fluorometry, free radical assay, gas chromatography, hemagglutination inhibition, liquid chromatography, radio immunoassay or thin-layer chromatography. Measurements obtained by this device are used in the diagnosis and treatment of morphine overdose.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that morphine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon review of the literature (Refs. *418* through *423*). Morphine is a narcotic analgesic capable of producing toxic reactions and addiction. Morphine is metabolized in the liver and is excreted rapidly in the urine within 24 hours. The immunoassays (free radical assay and hemagglutination inhibition) are capable of detecting the free drug and its conjugate form (morphine glucuronide) up to 48 hours, and possibly 72 hours, after administration of a dose. Codeine, heroin, dihydromorphine, and 1-morphine may cross-react with morphine antibody resulting in false-positive values. A second nonimmunoassay test may be required to confirm positive findings.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of morphine. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agree with the Panal recommendation and is proposing that morphine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable

assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3650; Docket No. 78N–2532; Opiate test system.

The Clinical Toxicology Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of opiate test systems:

1. Identification: An opiate test system is a device used to measure any of the addictive narcotic pain-relieving opiate drugs in blood, serum, urine, gastric contents, and saliva by methods such as enzyme immunoassay, gas chromatography, thin-layer chromatography, high pressure liquid chromatography, free radical assay, or hemagglutination inhibition. An opiate is any natural or synthetic drug that has morphine-like pharmacological actions. The opiates include drugs such as morphine, morphine glucuronide, methadone, heroin, codeine, nalorphine, and meperedine. Measurements obtained by this device are used in monitoring the levels of opiate administration to ensure appropriate therapy and the diagnosis of possible drug dependence.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that opiate test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *424*, *425*, and *426*). Opiates are substances having addiction-forming or addiction-sustaining actions similar to morphine, The immunoassays for opiates are highly sensitive but are not specific. Codeine is more reactive than morphine in the opiate immunoassay. Interference from urine constituents (e.g., enzyme inhibitors, salts, H positive, or OH negative ions), unknown biochemical and nutritional factors, unidentified drugs or metabolites, and technical error can result in positive findings. A second nonimmunoassay test may be needed to confirm any positive findings.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of opiates. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that opiate test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3660; Docket No. 78N–2533; Phenobarbital test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of phenobarbital test systems:

1. Identification: A phenobarbital test system is a device used to measure phenobarbital, an antiepileptic and sedative-hypnotic drug, in human specimens by methods such as radioimmunoassay, enzyme immunoassay, liquid chromatography, or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of phenobarbital overdose and in monitoring levels of phenobarbital to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that phenobarbital test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *427* through *431*). Phenobarbital is a long-lasting sedative-hypnotic and antiepileptic drug with addicting properties. The drug is used in the treatment of epilepsy and is often given in conjunction with other antiepileptics (e.g., primidone). Phenobarbital is a drug subject to abuse. Patients receiving primidone may appear to have high phenobarbital levels because in the body primidone is oxidized, at least in part, to phenobarbital. If phenobarbital and primidone are given simultaneously, the level of each drug should be differentiated to assure that the patient is not maintaining a toxic level of phenobarbital or primidone. The Panel considered guidelines established by the Nuclear Regulatory Commission on how to handle radioactive compounds. The Panel also considered the voluntary standards being developed by the International Union of Immunological Societies (Enzyme-Immunoassay Standardization Committee) for the enzyme-immunoassay determination of phenobarbital.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of phenobarbital. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that phenobarbital test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable

assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3670; Docket No. 78N–2534; Phenothiazine test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of phenothiazine test systems:

1. A phenothiazine test system is a device used to measure any of the drugs of the phenothiazine class in human specimens by methods such as thin-layer chromatography or the ferric choloride/perchloric acid/nitric acid color test. Measurements obtained by this device are used in the diagnosis and treatment of phenothiazine overdose.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that phenothiazine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *432* and *433*). Phenothiazine compounds are used as antipsychotic agents (drugs used in certain severe nervous system disorders), anxiolytics, antihistamines (drugs used to reduce the physiological effects associated with allergies and colds), and analgesics (pain-relieving drugs) and can produce toxic reactions. Many anxiolytic drugs are derivatives of phenothiazine (chlorpromazine, promazine, prochlorperazine, etc.). Caution is necessary when administering phenothiazines to patients with impaired liver function (e.g., increased urinary levels of urobilinogen) because metabolism of phenothiazine compounds may be modified or delayed.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of phenothiazine. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that phenothiazine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. FDA has reviewed the literature relating to these devices and has found that phenothiazines are used in the treatment of psychiatric patients, for control of nausea, vomiting, and hiccups and as an antihistamine. Phenothiazines are relatively safe drugs, but can produce toxic reactions affecting the central nervous system, cardiovascular system, and endocrine functions. The most hazardous effects of the phenothiazines are hypersensitivity reactions and tardive dyskemia (delayed impairment of the power of voluntary motion). When administered concurrently, tricyclic antidepressants (e.g., amitriptyline) may block antihypertensive effects of phenothiazine. The FPN test is valuable as a rapid test for the qualitative determination of phenothiazine. Thin layer chromatography is specific and sensitive (Refs. *434* and *435*).

Section 862.3680; Docket No. 78N–2535; Primidone test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of primidone test systems:

1. Identification: A primidone test system is a device used to measure primidone, an antiepileptic drug, in human specimens by methods such as thin-layer chromatography, liquid chromatography, gas chromatography, radioimmunoassay, or enzyme immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of primidone overdose and in monitoring levels of primidone to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that primidone test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *436*, through *439*). Primidone is an antiepileptic often given in conjunction with anticonvulsants, such as phenobarfital, in the treatment of generalized tonicoclonic or complex partial epileptic seizures in children as well as adults. Primidone is oxidized in the body, at least in part, to phenobarbital. The phenobarbital derivative accumulates during prolonged therapy and produces plasma levels equivalent to those occurring during therpay with phenobarbital alone. If phenobarbital and primidone are given simultaneously, the level of each drug should be differentiated to assure that the patient is not maintaining a toxic level of phenobarbital. Primidone toxicity is manifested as respiratory or central nervous system depression. The Panel considered voluntary guidelines established by the Nuclear Regulatory Commission on how to handle radioactive compounds. The Panel also considered the voluntary standards being developed by the International Union of Immunological Societies (Enzyme-Immunoassay Standardization Committee) for enzyme-immunoassay determination of primidone.

5. Risk to health: Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of primidone. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that primidone test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3700; Docket No. 78N–2537; Propoxyphene test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of propoxyphene test systems:

1. Identification: A propoxyphene test system is a device used to measure propoxyphene, a pain-relieving drug, in serum, plasma, and urine by methods such as enzyme immunoassay or thin-layer chromatography. Measurements obtained by this device are used in the diagnosis and treatment of propoxyphene overdose and in monitoring levels of propoxyphene to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that propoxyphene test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. Propoxyphene is an analgesic that acts on the central nervous system for the relief of mild to moderate pain. It does not have fever reducing or antiinflammatory activity.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of propoxyphene. Inappropriate therapy based on inaccurate diagnosis data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that propoxyphene test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

FDA has reviewed the literature relating to these devices and has found that high doses of propoxyphene can produce side effects (i.e., dizziness, headache, gastrointestinal irritations, and skin rashes), with toxic doses producing depression of the respiratory and the central nervous system, convulsions, hallucinations, and death (Ref. *440*). The enzyme immunoassay technique is sensitive but lacks specificity for propoxyphene. A false-positive test can result from error in the quantitative assay due to lysozyme activity (an enzyme that functions as an antibacterial agent) in the urine, unknown biochemical and nutritional factors, and unidentified drugs (Ref. *442*). Thin layer chromatography is sensitive and specific with good separation of the various propoxyphene drugs (Ref. *441*).

Section 862.3750; Docket No. 78N–2540; Quinine test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of quinine test systems:

1. Identification: A quinine test system is a device used to measure quinine, a fever-reducing and pain-relieving drug used in the treatment of malaria, in serum and urine by methods such as thin-layer chromatography, high-pressure liquid chromatography, spectrophotofluorometry, or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of quinine overdose and malaria.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that quinine test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. Quinine is used in the treatment of falciparum malaria, a severe form of malaria caused by Plosmodiumfalciparum.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of quinine. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that quinine test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

The agency has reviewed the literature relating to quinine test

systems and has found that accurate measurement of quinine levels in the patient's plasma or urine is necessary to establish an adequate therapeutic concentration of quinine without subjecting the patient to its toxic effects (Ref. *447*). Toxicity due to clinical overdosage or hypersensitivity can result in headache, tinnitus (ringing in the ear), liver malfunction, renal damage, coma and death due to respiratory paralysis, and/or heart paralysis (Ref. *448*). Quinine toxicity can also result from the use of illicit heroin preparations where a large proportion of the purported heroin is quinine (Refs. *443* through *446*).

Section 862.3830; Docket No. 78N–2541; Salicylate test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of salicylate test systems:

1. Identification: A salicylate test system is a device used to measure salicylates, a class of analgesic, antiinflammatory drugs that includes aspirin, in human specimens by methods such as the paper strip test or colorimetry. Measurements obtained by this device are used in diagnosis and treatment of salicylate overdose and in monitoring salicylate levels to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that salicylate test systems be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *448* through *451*). Salicylates are used in the treatment of inflammatory conditions (e.g., rheumatoid arthritis), thromboembolic phenomena (obstruction in blood vessel by an aggregation of blood factors), fever, and pain. Salicylates have a narrow range between an effective therapeutic and a toxic level with toxicity resulting in kidney damage, extreme lethargy (lack of energy), sweating with resultant dehydration, hypernea (over breathing), low blood pressure, and convulsions. Accidental poisoning can occur in adult or geriatric patients who are taking several medications containing salicylates concurrently or in patients with chronic conditions requiring continuous aspirin therapy. The Panel considered the voluntary standards being developed by the World Health Organization for salicylate measurement by paper-strip and colorimetry methodologies.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of salicylates. Inappropriate therapy based on inaccurate diagnostic data my place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that salicylate test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3850; Docket No. 78N–2542; Sulfonamide test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of sulfonamide test systems:

1. Identification: A sulfonamide test system is a device used to measure sulfonamides, any of the antibacterial drugs derived from sulfanilamide, in human specimens by colorimetry. Measurements obtained by this device are used in the diagnosis and treatment of sulfonamide overdose and in monitoring levels of sulfonamide to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that sulfonamide test systems be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members's personal knowledge of, and clinical experience with, the device and upon a review of the literature (Ref. *452*). Sulfonamides are used to control disease caused by specific microbial organisms (e.g., Group A beta-hemolytic streptococci, cause of rheumatic fever; meningococci, cause of meningitis; and *Escherichia coli*, a frequent cause of certain urinary tract infections). Sulfonamides are also used in the treatment of bacillary dysentery, caused by the *Shigella* bacteria, and in conjunction with other antibiotics against the resistant strains of the *Shigella* bacteria (i.e., *S. sonnei*). Sulfonamides have been found to cause toxic reactions (e.g., leukopenia, decreased number of white blood cells, and renal malfunction) during therapy.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of sulfonamides. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that sulfonamide test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and

effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

FDA has reviewed the literature relating to sulfonamide test systems and has found that sulfonamides inhibit both gram-positive and gram-negative bacteria and can cause toxic reactions (Ref. *452* and *454*). Detection levels of sulfonamides will vary with the type of specimen analyzed because of variation in rates of sulfonamide absorption and excretion. The colorimetric procedure is not specific for sulfonamides (Ref. *453*).

Section 862.3870; Docket No. 78N–2543; Cannabinoid test system.

The Clinical Toxicology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cannabinoid test systems:

1. Identification: A cannabinoid test system is a device used to measure by radioimmunoassay any of the cannabinoids, hallucinogenic compounds endogenous to marihuana, in serum, plasma, saliva, and urine. Cannabinoid compounds include *delta*-9-tetrahydrocannabinol, cannabidiol, cannabinol, and cannabichromene. Measurements obtained by this device are used in the diagnosis and treatment of cannabinoid abuse and in monitoring levels of cannabinoids during clinical investigational use.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that cannabinoid test systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *455* through *459*). Cannabinoid compounds have no substantiated indications for use as therapeutic agents. However, these compounds are being investigated for certain therapeutic uses. When used as a social drug, cannabinoid compounds can cause sedation, confusion, mood alterations, increased heart rate and blood pressure, visual changes and reddening of the eyes, mild hallucinations, and impairment of psychomotor skills. Marihuana usually contains *delta*-9-tetrahydrocannabinol (*delta*-9-THC), cannabidiol (CBD), cannabinol (CBN), and cannabichromene (CBC). *Delta*-9-THC is one of the compounds responsible for the pyschotomimetic properties of marihuana. Because highly selective antibodies for *delta*-9-THC are difficult to obtain, radioimmunoassay is specific for all cannabinoids in urine. Nonspecific compounds present in plasma or serum may interfere with the radioimmunoassay.

5. Risk to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may result in findings of erroneously high or low levels of any of the cannabinoid compounds. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the Panel recommendation and is proposing that cannabinoid test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Section 862.3900; Docket No. 78N–2545; Tobramycin test system.

The Clinical Toxicology Device Classification Panel and the Microbiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of tobramycin test systems:

1. Identification: A tobramycin test system is a device used to measure tobramycin, an aminoglycoside antibiotic drug, in plasma and serum by methods such as radioimmunoassay or *Bacillus subtilis* microbiology assay. Measurements obtained by this device are used in the diagnosis and treatment of tobramycin overdose and in monitoring levels of tobramycin to ensure appropriate therapy.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: Both Panels recommend that tobramycin test systems be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panels believe that general controls would not provide sufficient control over the device's accuracy, precision, sensitivity, and specificity. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and upon a review of the literature (Refs. *460* through *464*). Tobramycin is an aminoglycoside antibiotic used in the treatment of certain bacterial infections. Tobramycin has a narrow range between an effective therapeutic level and a toxic level, with toxicity resulting in hearing and renal impairment. Safe and effective use of tobramycin is dependent upon establishing an adequate dosage to control infection without producing toxicity. Frequent monitoring of serum or plasma concentrations of tobramycin can help prevent toxicity.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the product to perform satisfactorily may result in findings of erroneously high or low levels of tobramycin. Inappropriate therapy based on inaccurate diagnosis data may place the patient at risk.

FDA agrees with the Panels' recommendations and is proposing that tobramycin test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable

assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

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Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the Commissioner proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 862 to read as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

Supart A—General Provisions

Sec.

862.1 Scope.

Subpart B—Clinical Chemistry Test Systems

862.1020 Acid phosphatase (total prostatic) test system.
862.1025 Adrenocorticotropic hormone (ACTH) test system.
862.1030 Alanine amino transferase (ALT/SGPT) test system.
862.1035 Albumin test system.
862.1040 Aldolase test system.
862.1045 Aldosterone test system.
862.1050 Alkaline phosphatase or isoenzymes test system.
862.1060 *Delta*-aminolevulinic acid test system.
862.1065 Ammonia test system.
862.1070 Amylase test system.
862.1075 Androstenedione test system.
862.1080 Androsterone test system.
862.1085 Angiotensin I and renin test system.
862.1095 Ascorbic acid test system.
862.1100 Aspartate amino transferase (AST–SGOT) test system.
862.1110 Bilirubin (total or direct) test system.
862.1115 Urinary bilirubin and its conjugates (nonquantitative) test system.
862.1120 Blood gases (P_{CO_2}, P_{O_2}) and blood pH test system.
862.1130 Blood volume test system.
862.1135 C-peptides of proinsulin test system.
862.1140 Calcitonin test system.
862.1145 Calcium test system.
862.1150 Calibrator.
862.1155 Human chorionic gonadotropin (HCG) test system for use in early detection of pregnancy.
862.1160 Bicarbonate/carbon dioxide test system.
862.1165 Catecholamines (total) test system.
862.1170 Chloride test system.
862.1175 Cholesterol (total) test system.
862.1180 Chymotrypsin test system.
862.1185 Compound S (11-deoxycortisol) test system.
862.1190 Copper test system.
862.1195 Corticoids test system.
862.1200 Corticosterone test system.
862.1205 Cortisol (hydrocortisone and hydroxycorticosterone) test system.
862.1210 Creatine test system.
862.1215 Creatine phosphokinase/creatine kinase or isoenzymes test system.
862.1225 Creatinine test system.
862.1230 Cyclic AMP or cyclic GMP test system.
862.1240 Cystine test system.
862.1245 Dehydroepiandrosterone (free and sulfate) test system.
862.1250 Desoxycorticosterone test system.
862.1255 2,3-Diphosphoglyceric acid test system.

Sec.
862.1280 Estradiol test system.
862.1285 Estriol test system.
862.1290 Estrogens (total, in pregnancy) test system.
862.1275 Estrogens (total, nonpregnancy) test system.
862.1280 Estrone test system.
862.1285 Etiocholanolone test system.
862.1290 Fatty acids test system.
862.1295 Folic acid test system.
862.1300 Follicle-stimulating hormone test system.
862.1305 Formiminoglutamic acid (FIGLU) test system.
862.1310 Galactose test system.
862.1315 Galactose-1-phosphate uridyl transferase test system.
862.1320 Gastric acidity test system.
862.1325 Gastrin test system.
862.1330 Globulin test system.
862.1335 Glucagon test system.
862.1340 Urinary glucose (nonquantitative) test system.
862.1345 Glucose test system.
862.1360 *Gamma*-glutamyl transpeptidase and isoenzymes test system.
862.1365 Glutathione test system.
862.1370 Human growth hormone test system.
862.1375 Histidine test system.
862.1380 Hydroxybutyric dehydrogenase test system.
862.1385 17-Hydroxycorticosteroids (17-ketogenic steriods) test system.
862.1390 5-Hydroxyindole acetic acid/serotonin test system.
862.1395 17-Hydroxyprogestone test system.
862.1400 Hydroxyproline test system.
862.1405 Immunoreactive insulin test system.
862.1410 Iron (non-heme) test system.
862.1415 Iron-binding capacity test system.
862.1420 Isocitric dehydrogenase test system.
862.1430 17-Ketosteroids test system.
862.1435 Urinary ketones (nonquantitative) test system.
862.1440 Lactate dehydrogenase test system.
862.1445 Lactate dehydrogenase isoenzymes test system.
862.1450 Lactic acid test system.
862.1455 Lecithin-sphingomyelin ratio in amniotic fluid test system.
862.1460 Lecine aminopeptidase test system.
862.1465 Lipase test system.
862.1470 Lipid (total) test system.
862.1475 Lipoprotein test system.
862.1485 Luteinizing horome test system.
862.1490 Lysozyme (muramidase) test system.
862.1495 Magnesium test system.
862.1500 Malic dehydrogenase test system.
862.1505 Mucopolysaccharides test system.
862.1510 Urinary nitrite (nonquantitative) test system.
862.1515 Nitrogen (amino-nitrogen) test system.
862.1520 5'-Nucleotidase test system.
862.1530 Plasma oncometry test system.
862.1535 Ornithine carbamyl transferase test system.
862.1540 Osmolality test system.
862.1545 Parathyroid hormone test system.
862.1550 Urinary pH (nonquantitative) test system.
862.1555 Phenylalanine test system.
862.1560 Urinary phenylketones (nonquantitative) test system.
862.1565 6-Phosphogluconate dehydrogenase test system.
862.1570 Phosphoehexose isomerase test system.
862.1575 Phospholipid test system.
862.1580 Phosphorus (inorganic) test system.
862.1585 Human placental lactogen test system.
862.1590 Porphobilinogen test system.
862.1595 Porphyrins test system.
862.1600 Potassium test system.
862.1605 Pregnanediol test system.
862.1610 Pregnanetriol test system.
862.1615 Pregnenolone test system.
862.1620 Progesterone test system.
862.1625 Prolactin (lactogen) test system.
862.1630 Protein (fractionation) test system.
862.1635 Total protein test system.
862.1640 Protein-bound iodine test system.
862.1645 Urinary protein or albumin (nonquantitative) test system.
862.1650 Pyruvate kinase test system.
862.1655 Pyruvic acid test system.
862.1660 Quality control material (assayed and unassayed.
862.1665 Sodium test system.
862.1670 Sorbitol dehydrogenase test system.
862.1675 Blood specimen collection device.
862.1680 Testosterone and dihydrotestosterone test system.
862.1685 Thyroxine-binding globulin test system.
862.1690 Thyroid-stimulating hormone test system.
862.1695 Free thyroxine test system.
862.1700 Total thyroxine test system.
862.1705 Triglyceride test system.
862.1710 Total triiodothyronine test system.
862.1715 Triiodothyronine uptake test system.
862.1720 Triose phosphate isomerase test system.
862.1725 Trypsin test system.
862.1730 Free tyrosine test system.
862.1770 Urea nitrogen test system.
862.1775 Uric acid test system.
862.1780 Urinary calculi (stones) test system.
862.1785 Urinary urobilinogen (nonquantitative) test system.
862.1790 Uroporphyrin test system.
862.1795 Vanilmandelic acid test system.
862.1805 Vitamin A test system.
862.1810 Vitamin B_{12} test system.
862.1815 Vitamin E test system.
862.1820 Xylose test system.

Subpart C—Clinical Laboratory Instruments

Sec.
862.2050 General purpose laboratory equipment.
862.2100 Calculator/data processing module for clinical use.
862.2140 Centrifugal chemistry analyzer for clinical use.
862.2150 Continuous flow sequential multiple chemistry analyzer for clinical use.
862.2160 Discrete photometric chemistry analyzer for clinical use.
862.2170 Micro chemistry analyzer for clinical use.
862.2230 Chromatographic separation material for clinical use.
862.2250 Gas liquid chromatography system for clinical use.
862.2260 High-pressure liquid chromatography system for clinical use.
862.2270 Thin-layer chromatography system for clinical use.
862.2300 Colorimeter, photometer, or spectrophotometer for clinical use.
862.2310 Clinical sample concentrator.
862.2320 *Beta* or *gamma* counter for clinical use.
862.2400 Densitometer/scanner (intergrating, reflectance, thin-layer chromatography, or radiochromatogram) for clinical use.
862.2485 Electrophoresis apparatus for clinical use.
862.2500 Enzyme analyzer for clinical use.
862.2540 Flame emission photometer for clinical use.
862.2560 Fluorometer for clinical use.
862.2680 Microtitrator for clinical use.
862.2700 Nephelometer for clinical use.
862.2720 Plasma oncometer for clinical use.
862.2730 Osmometer for clinical use.
862.2750 Pipetting and diluting system for clinical use.
862.2800 Refractometer for clinical use.
862.2850 Atomic absorption spectrophotometer for clinical use.
862.2860 Mass spectrophotometer for clinical use.
862.2900 Automater urinalysis system.
862.2920 Plasma viscometer for clinical use.

Subpart D—Clinical Toxicology Test Systems

Sec.
862.3040 Alcohol test system.
862.3050 Breath-alcohol test system.
862.3100 Amphetamine test system.
862.3110 Antimony test system.
862.3120 Arsenic test system.
862.3150 Barbiturate test system.
862.3170 Benzodiazepine test system.
862.3200 Clinical toxicology calibrator.
862.3220 Carbon monoxide test system.
862.3240 Cholinesterase test system.
862.3250 Cocaine and cocaine metabolite test system.
862.3270 Codeine test system.
862.3280 Clinical toxicology control material.
862.3300 Digitoxin test system.
862.3320 Digoxin test system.
862.3350 Diphenylhydantoin test system.
862.3380 Ethosuximide test system.
862.3450 Gentamicin test system.
862.3520 Kanamycin test system.
862.3550 Lead test system.
862.3560 Lithium test system.
862.3580 Lysergic acid diethylamide (LSD) test system.
862.3600 Mercury test system.
862.3610 Methamphetamine test system.
862.3620 Methadone test system.
862.3640 Morphine test system.
862.3650 Opiate test system.
862.3660 Phenobarbital test system.
862.3670 Phenothiazine test system.
862.3680 Primidone test system.
862.3700 Propoxyphene test system.
862.3750 Quinine test system.
862.3830 Salicylate test system.
862.3850 Sulfonimide test system.
862.3870 Cannabinoid test system.
862.3900 Tobramycin test system.

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).

Subpart A—General Provisions

§ 862.1 Scope.

(a) This part sets forth the classification of clinical chemistry and clinical toxicology devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 cannot show merely that the device is accurately described by the section title and identification provision of a regulaiton in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

Subpart B—Clinical Chemistry Test Systems

§ 862.1020 Acid phosphatase (total or prostatic) test system.

(a) *Identification.* An acid phosphatase (total or prostatic) test system is a device used to measure the activity of the acid phosphatase enzyme in plasma, serum, vaginal washings, and seminal fluid by methods such as *beta*-glycerophosphate, disodium phenyl phosphate, naphthyl phosphate, nitrophenylphosphate, thymol blue monophosphate, thymolphthalein monophosphate, or tartrate inhibition. Acid phosphatase measurements are used in the diagnosis and treatment of prostatic carcinoma. This device is also used to develop legal evidence to demonstrate the presence of siminal fluids in specimens collected from victims of alleged rape and other sex-related crimes.

(b) *Classification.* Class II (performance standards).

§ 862.1025 Adrenocorticotropic hormone (ACTH) test system.

(a) *Identification.* An adrenocorticotropic hormone (ACTH) test system is a device used to measure adrenocorticotropic hormone in plasma and serum by methods such as radioimmunoassay. ACTH measurements are used in the differential diagnosis and treatment of certain disorders of the adrenal glands such as Cushing's syndrome, adrenocortical insufficiency, and the ectopic ACTH syndrome.

(b) *Classification.* Class II (performance standards).

§ 862.1030 Alanine amino transferase (ALT/SGPT) test system.

(a) *Identification.* An alanine amino transferase (ALT/SGPT) test system is a device used to measure the activity of the enzyme alanine amino transferase (ALT) (also known as serum glutamic pyruvic transaminase or SGPT) in serum and plasma by methods such as diazo, hydrazone colorimetry, nicotinamide adenine dinucleotide (NAD) reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation, or vanillin pyruvate. Alanine amino transferase measurements are used in the diagnosis and treatment of certain liver diseases (e.g., viral hepatitis and cirrhosis) and heart diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1035 Albumin test system.

(a) *Identification.* An albumin test system is a device used to measure the albumin concentration in serum and plasma. This device uses methods such as bromcresol green dye-binding, bromcresol purple dye-binding, hydroxyazo-benzene benzoic acid, radial immunodiffusion, tetrabromo-*m*-cresolsulfonphthalein, or tetrabromophenolphthalein. Albumin measurements are used in the diagnosis and treatment of numerous diseases involving primarily the liver or kidneys.

(b) *Classification.* Class II (performance standards).

§ 862.1040 Aldolase test system.

(a) *Identification.* An aldolase test system is a device used to measure the activity of the enzyme aldolase in serum and plasma by methods such as hydrazone colorimetry or ultraviolet determination employing fructose-1,6-diphosphate and nicotinamide adenine dinucleotide (reduced form) (NADH). Aldolase measurements are used in the diagnosis and treatment of the early stages of acute hepatitis and for certain muscle diseases such as progressive, Duchenne-type muscular dystrophy.

(b) *Classification.* Class II (performance standards).

§ 862.1045 Aldosterone test system.

(a) *Identification.* An aldosterone test system is a device used to measure the hormone aldosterone in serum and urine by methods such as radioimmunoassay (RIA) or chromatographic separation followed by RIA. Aldosterone measurements are used in the diagnosis and treatment of primary aldosteronism (a disorder caused by the excessive secretion of aldosterone by the adrenal gland), hypertension caused by primary aldosteronism, selective hypoaldosteronism, edematous states, and other conditions of electrolyte imbalance.

(b) *Classification.* Class II (performance standards).

§ 862.1050 Alkaline phosphatase or isoenzymes test system.

(a) *Identification.* An alkaline phosphatase or isoenzymes test system is a device used to measure alkaline phosphatase or its isoenzymes (a group of enzymes with similar biological activity) in serum and plasma by methods such as electrophoretic separation, *alpha*-naphthyl phosphate, *beta*-glycerophosphate, disodium phenyl phosphate, nitrophenyl phosphate, phenolphthalein phosphate, phenyl phosphate, thymol blue monophosphate, or thymolphthalein monophosphate. Measurements of alkaline phosphatase or its isoenzymes are used in the diagnosis and treatment of liver, bone, parathyroid, and intestinal diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1060 Delta-aminolevulinic acid test system.

(a) *Identification.* A *delta*-aminolevulinic acid test system is a device used to measure the level of *delta*-aminolevulinic acid (a precursor of porphyrin) in urine by methods such as ion exchange columns with colorimetry. *Delta*-aminolevulinic acid measurements are used in the diagnosis and treatment of lead poisoning and certain porphyrias (diseases affecting the liver, gastrointestinal, and nervous systems that are accompanied by increased urinary excretion of various heme compounds including *delta*-aminolevulinic acid).

(b) *Classification.* Class II (performance standards).

§ 862.1065 Ammonia test system.

(a) *Identification.* An ammonia test system is a device used to measure ammonia levels in blood, serum, and plasma by methods such as enzymatic, ion exchanger, ion-specific electrode, or photometric. Ammonia measurements are used in the diagnosis and treatment of severe liver disorders, such as cirrhosis, hepatitis, and Reye's syndrome.

(b) *Classification.* Class II (performance standards).

§ 862.1070 Amylase test system.

(a) *Identification.* An amylase test system is a device used to measure the activity of the enzyme amylase in serum and urine by methods such as

amyloclastic, nephelometric, nitro-salicylate reduction, radial diffusion, saccharogenic, or starch-dye bound polymer. Amylase measurements are used primarily for the diagnosis and treatment of pancreatitis (inflammation of the pancreas).

(b) *Classification.* Class II (performance standards).

§ 862.1075 Androstenedione test system.

(a) *Identification.* An androstenedione test system is a device used to measure androstenedione (a substance secreted by the testes, ovary, and adrenal glands) in serum by methods such as radioimmunoassay. Androstenedione measurements are used in the diagnosis and treatment of females with excessive levels of androgen (male sex hormone) production.

(b) *Classification.* Class II (performance standards).

§ 862.1080 Androsterone test system.

(a) *Identification.* An androsterone test system is a device used to measure the hormone androsterone in serum, plasma, and urine by methods such as radioimmunoassay. Androsterone measurements are used in the diagnosis and treatment of gonadal and adrenal diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1085 Angiotensin I and renin test system.

(a) *Identification.* An angiotensin I and renin test system is a device used to measure the level of angiotensin I generated by renin in plasma by methods such as radioimmunoassay. Angiotensin I measurements are used in the diagnosis and treatment of certain types of hypertension.

(b) *Classification.* Class II (performance standards).

§ 862.1095 Ascorbic acid test system.

(a) *Identification.* An ascorbic acid test system is a device used to measure the level of ascorbic acid (vitamin C) in plasma, serum, and urine by methods such as 2,4-dinitrophenylhydrazine (spectrophotometric). Ascorbic acid measurements are used in the diagnosis and treatment of ascorbic acid dietary deficiencies.

(b) *Classification.* Class II (performance standards).

§ 862.1100 Aspartate amino transferase (AST/SGOT) test system.

(a) *Identification.* An aspartate amino transferase (AST/SGOT) test system is a device used to measure the activity of the enzyme aspartate amino transferase (AST) (also known as serum glutamic oxaloacetic transaminase or SGOT) in serum and plasma by methods such as diazo, hydrazone colorimetry, nicotinamide adenine dinucleotide (NAD) reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation, or the vanillin pyruvate method. Aspartate amino transferase measurements are used in the diagnosis and treatment of certain types of liver and heart disease.

(b) *Classification.* Class II (performance standards).

§ 862.1110 Bilirubin (total or direct) test system.

(a) *Identification.* A bilirubin (total or direct) test system is a device used to measure the levels of bilirubin (total or direct) in plasma and serum by methods such as diazo colorimetry or enzymatic. Measurement of the levels of bilirubin, an organic compound formed during the normal and abnormal destruction of red blood cells, is used in the diagnosis and treatment of liver, hemolytic, hematological, and metabolic disorders, including hepatitis and gall bladder block.

(b) *Classification.* Class II (performance standards).

§ 862.1115 Urinary bilirubin and its conjugates (nonquantitative) test system.

(a) *Identification.* A urinary bilirubin and its conjugates (nonquantitative) test system is a device used to measure the levels of bilirubin conjugates in urine by methods such as azo-dyes colorimetric. Measurements of urinary bilirubin and its conjugates (nonquantitative) are used in the diagnosis and treatment of certain liver diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1120 Blood gases (P_{CO_2}, P_{O_2}) and blood pH test system.

(a) *Identification.* A blood gases (P_{CO_2}, P_{O_2}) and blood pH test system is a device used to measure certain gases in blood, serum, and plasma or the pH of blood, serum, and plasma by methods such as electrode measurement with standard buffers. Measurements of blood gases (P_{CO_2}, P_{O_2}) and blood pH are used in the diagnosis and treatment of life-threatening acid-base disturbances.

(b) *Classification.* Class II (performance standards).

§ 862.1130 Blood volume test system.

(a) *Identification.* A blood volume test system is a device used to measure the circulating blood volume by methods such as ^{51}Cr labeling. Blood volume measurements are used in the diagnosis and treatment of shock, hemorrhage, and polycythemia vera (a disease characterized by an absolute increase in erythrocyte mass and total blood volume).

(b) *Classification.* Class II (performance standards).

§ 862.1135 C-Peptides of proinsulin test system.

(a) *Identification.* A C-peptides of proinsulin test system is a device used to measure C-peptide levels in serum, plasma, and urine by methods such as radioimmunoassay. Measurements of C-peptides of proinsulin are used in the diagnosis and treatment of patients with abnormal insulin secretion, including diabetes mellitus.

(b) *Classification.* Class II (performance standards).

§ 862.1140 Calcitonin test system.

(a) *Identification.* A calcitonin test system is a device used to measure the thyroid hormone calcitonin (thyrocalcitonin) levels in plasma and serum by methods such as radioimmunoassay. Calcitonin measurements are used in the diagnosis and treatment of diseases involving the thyroid and parathyroid glands, including carcinoma and hyperparathyrodism (excessive activity of the parathyroid gland).

(b) *Classification.* Class II (performance standards).

§ 862.1145 Calcium test system.

(a) *Identification.* A calcium test system is a device used to measure the total calcium level in serum by methods such as alizarin sulfonate, atomic absorption, azo dye, cresolphthalein complexone, di(*O*-hydroxphenylimine) ethane, fluorometric, ion specific electrode, methylthymol blue, permanganate and bromophenol blue titration, or titration with ethlyenediaminetetraacetic acid (EDTA) and indicator. Calcium measurements are used in the diagnosis and treatment of parathyroid disease, a variety of bone diseases, chronic renal disease and tetany (intermittent muscular contractions or spasms).

(b) *Classification.* Class II (performance standards).

§ 862.1150 Calibrator.

(a) *Identification.* A calibrator is a device intended for medical purposes for use in a test system to establish points of reference that are used in the determination of values in the measurement of substances in human specimens.

(b) *Classification.* Class II (performance standards).

§ 862.1155 Human chorionic gonadotropin (HCG) test system for use in the early detection of pregnancy.

(a) *Identification.* A human chorionic gonadotropin (HCG) test system is a device intended to measure HCG, a placental hormone, in plasma and urine by methods such as agglutination and radioimmunoassay, for use in the early detection of pregnancy.

(b) *Classification.* Class II (performance standards).

§ 862.1160 Bicarbonate/carbon dioxide test system

(a) *Identification.* A bicarbonate/carbon dioxide test system is a device used to measure bicarbonate/carbon dioxide in plasma, serum, and whole blood by methods such as coulometric, cresol red colorimetry, enzymatic, pH rate measurement, phenolphthalein colorimetry, titrimetric phenol red, or volumetric/manometric. Bicarbonate/carbon dioxide measurements are used in the diagnosis and treatment of numerous potentially life-threatening disorders associated with changes in body acid-base balance.

(b) *Classification.* Class II (performance standards).

§ 862.1165 Catecholamine (total) test system.

(a) *Identification.* A catecholamine (total) test system is a device used to determine whether a group of similar hormone compounds (epinephrine, norepinephrine, and dopamine) are present in urine and plasma, by methods such as chromatographic/fluorometric or electrophoretic. Catecholamine determinations are used in the diagnosis and treatment of adrenal medulla and hypertensive disorders, and for catecholamine-secreting tumors (pheochromocytoma, neuroblastoma, ganglioneuroma, and retinoblastoma).

(b) *Classification.* Class II (performance standards).

§862.1170 Chloride test system.

(a) *Identification.* A chloride test system is a device used to measure the level of chloride in plasma, serum, sweat, and urine by methods such as coulometric, ion-specific electrode, mercuric nitrate and diphenyl carbazone (titrimetric), mercuric thiocyanate, or phosphoric-tungstic acid (spectrophotometric). Chloride measurements are used in the diagnosis and treatment of electrolyte and metabolic disorders such as cystic fibrosis and diabetic acidosis.

(b) *Classification.* Class II (performance standards).

§ 862.1175 Cholesterol (total) test system.

(a) *Identification.* A cholesterol (total) test system is a device used to measure cholesterol in plasma and serum by methods such as enzymatic/esterase-oxidase, ferric ion-sulfuric acid, or Lieberman-Burchard/Abell-Kendall colorimetric. Cholesterol measurements are used in the diagnosis and treatment of disorders involving excess cholesterol in the blood and lipid and lipoprotein metabolism disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1180 Chymotrypsin test system.

(a) *Identification.* A chymotrypsin test system is a device used to measure the activity of the enzyme chymotrypsin in blood and other body fluids and in feces by methods such as *N*-acetyl-*L*-tyrosine ethyl ester (ultraviolet) or *N*-benzoyl-*L*-tyrosine ethyl ester (ultraviolet). Chymotrypsin measurements are used in the diagnosis and treatment of pancreatic exocrine insufficiency.

(b) *Classification.* Class II (performance standards).

§ 862.1185 Compound S (11-deoxycortisol) test system.

(a) *Identification.* A compound S (11-deoxycortisol) test system is a device used to measure the level of compound S (11-deoxycortisol) in plasma by methods such as radioimmunoassay. Compound S is a steroid intermediate in the biosynthesis of the adrenal hormone cortisol. Measurements of compound S are used in the diagnosis and treatment of certain adrenal and pituitary gland disorders resulting in clinical symptoms of masculinization and hypertension.

(b) *Classification.* Class II (performance standards).

§ 862.1190 Copper test system.

(a) *Identification.* A copper test system is a device used to measure copper levels in plasma, serum, and urine by methods such as diethyldithiocarbamate (colorimetric) or oxalydihydrazide (colorimetric). Measurements of copper are used in the diagnosis and treatment of anemia, infections, inflammations, and Wilson's disease (a hereditary disease primarily of the liver and nervous system). Test results are also used in monitoring patients with Hodgkin's disease (a potentially fatal disease primarily of the lymph system).

(b) *Classification.* Class II (performance standards).

§ 862.1195 Corticoids test system.

(a) *Identification.* A corticoids test system is a device used to measure the level of corticoids (hormones of the adrenal cortex) in serum and plasma by methods such as radioassay. Measurements of corticoids are used in the diagnosis and treatment of disorders of the cortex of the adrenal glands, especially those associated with hypertension and electrolyte disturbances.

(b) *Classification.* Class II (performance standards).

§ 862.1200 Corticosterone test systems

(a) *Identification.* A corticosterone test system is a device used to measure corticosterone (a steroid secreted by the adrenal gland) levels in plasma by methods such as radioimmunoassay. Measurements of corticosterone are used in the diagnosis and treatment of adrenal disorders such as adrenal cortex disorders and blocks in cortisol synthesis.

(b) *Classification.* Class II (performance standards).

§ 862.1205 Cortisol (hydrocortisone and hydroxycorticosterone) test system.

(a) *Identification.* A cortisol (hydrocortisone and hydroxycorticosterone) test system is a device used to measure the cortisol hormones secreted by the adrenal gland in plasma and urine by methods such as fluorometric or radioimmunoassay. Measurements of cortisol are used in the diagnosis and treatment of disorders of the adrenal gland.

(b) *Classification.* Class II (performance standards).

§ 862.1210 Creatine test system.

(a) *Identification.* A creatine test system is a device used to measure creatine (a substance synthesized in the liver and pancreas and found in biological fluids) in plasma, serum, and urine by methods such as adenosine triphosphate (ATP) creatine kinase (enzymatic) or conversion to creatinine. Measurements of creatine are used in the diagnosis and treatment of muscle diseases and endocrine disorders including hyperthyroidism.

(b) *Classification.* Class II (performance standards).

§ 862.1215 Creatine phosphokinase/creatine kinase or isoenzymes test system.

(a) *Identification.* A creatine phosphokinase/creatine kinase or isoenzymes test system is a device used to measure the activity of the enzyme creatine phosphokinase or its isoenzymes (a group of enzymes with similar biological activity) in plasma and serum by methods such as chromatographic separation, differential rate kinetic, fluorometric, *N*-acetyl-*L*-cysteine, or nicotinamide adenine

dinucleotide (NAD) reduction/ nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation. Measurements of creatine phosphokinase and its isoenzymes are used in the diagnosis and treatment of myocardial infarction and muscle diseases such as progressive, Duchenne-type muscular dystrophy.

(b) *Classification.* Class II (performance standards).

§ 862.1225 Creatinine test system.

(a) *Identification.* A creatinine test system is a device used to measure creatinine levels in plasma, serum, and urine, by methods such as alkaline picrate colorimetry, enzymatic, or ion-electrode-based enzymatic. Creatinine measurements are used in the diagnosis and treatment of renal diseases, in monitoring renal dialysis, and as a calculation basis for measuring other urine analytes.

(b) *Classification.* Class II (performance standards).

§ 862.1230 Cyclic AMP or cyclic GMP test system.

(a) *Identification.* A cyclic AMP or a cyclic GMP test system is a device used to measure the level of adenosine 3',5'-monophosphate (cyclic GMP) in plasma, urine, and other body fluids by methods such as radioimmunoassay. Cyclic AMP and cyclic GMP measurements are used in the diagnosis and treatment of endocrine disorders, including hyperparathyroidism (overactivity of the parathyroid gland). Cyclic AMP measurements may also be used in the diagnosis and treatment of Graves' disease (a disorder of the thyroid) and in the differentiation of causes of hypercalcemia (elevated levels of serum calcium).

(b) *Classification.* Class II (performance standards).

§ 862.1240 Cystine test system.

(a) *Identification.* A cystine test system is a device used to measure the amino acid cystine in urine by methods such as chromatography or nitroprusside reaction (qualitative). Cystine measurements are used in the diagnosis of cystinuria (occurrence of cystine in urine). Patients with cystinuria frequently develop kidney calculi (stones).

(b) *Classification.* Class II (performance standards).

§ 862.1245 Dehydroepiandrosterone (free and sulfate) test system.

(a) *Identification.* A dehydroepiandrosterone (free and sulfate) test system is a device used to measure dehydroepiandrosterone (DHEA) and its sulfate in urine, serum, plasma, and amniotic fluid by methods such as radioimmunoassay. Dehydroepiandrosterone measurements are used in the diagnosis and treatment of DHEA-secreting adrenal carcinomas.

(b) *Classification.* Class II (performance standards).

§ 862.1250 Desoxycorticosterone test system.

(a) *Identification.* A desoxycorticosterone test system is a device used to measure desoxycorticosterone (DOC) in plasma and urine by methods such as radioimmunoassay. DOC measurements are used in the diagnosis and treatment of patients with hypermineralocorticoidism (excess retention of sodium and loss of potassium) and other disorders of the adrenal gland.

(b) *Classification.* Class II (performance standards).

§ 862.1255 2,3-Diphosphoglyceric acid test system.

(a) *Identification.* A 2,3-diphosphoglyceric acid test system is a device used to measure 2,3-diphosphoglyceric acid (2,3-DPG) in erythrocytes (red blood cells) by methods such as nicotinamide adenine dinucleotide (reduced form) (NADH/ phosphoglycerate mutase/adenosine triphosphate (ATP) (ultraviolet), or phosphoglycerate mutase (colorimetric). Measurements of 2,3-diphosphoglyceric acid are used in the diagnosis and treatment of blood disorders that affect the delivery of oxygen by erythrocytes to tissues and in monitoring the quality of stored blood.

(b) *Classification.* Class II (performance standards).

§ 862.1260 Estradiol test system.

(a) *Identification.* An estradiol test system is a device used to measure estradiol, an estrogenic steriod, in plasma by methods such as radioimmunoassay. Estradiol measurements are used in the diagnosis and treatment of various hormonal sexual disorders and in assessing placental function in complicated pregnancy.

(b) *Classification.* Class II (performance standards).

§ 862.1265 Estriol test system.

(a) *Identification.* An estriol test system is a device used to measure estriol, an estrogenic steriod, in plasma, serum, and urine of pregnant females by methods such as radioimmunoassay. Estriol measurements are used in the diagnosis and treatment of fetoplacental distress in certain cases of high-risk pregnancy.

(b) *Classification.* Class II (performance standards).

§ 862.1270 Estrogens (total, in pregnancy) test system.

(a) *Identification.* An estrogens (total, in pregnancy) test system is a device used to measure total estrogens in plasma, serum, and urine during pregnancy by methods such as radioimmunoassay. The device primarily measures estrone plus estradiol. Measurements of total estrogens are used in the diagnosis and treatment of fetoplacental distress in certain cases of high-risk pregnancy.

(b) *Classification.* Class II (performance standards).

§ 862.1275 Estrogens (total, nonpregnancy) test system.

(a) *Identification.* An estrogens (total, nonpregnancy) test system is a device used to measure the level of estrogens (total estrone, estradiol, and estriol) in plasma, serum, and urine of males and nonpregnant females by methods such as radioimmunoassay. Measurement of estrogens (total, nonpregnancy) is used in the diagnosis and treatment of numerous disorders, including infertility, amenorrhea (absence of menses), differentiation of primary and secondary ovarian malfunction, estrogen secreting testicular and ovarian tumors, and precocious puberty in females.

(b) *Classification.* Class II (performance standards).

§ 862.1280 Estrone test system.

(a) *Identification.* An estrone test system is a device used to measure estrone, an estrogenic steroid, in plasma by methods such as radioimmunoassay. Estrone measurements are used in the diagnosis and treatment of numerous disorders, including infertility, amenorrhea, differentiation of primary and secondary ovarian malfunction, estrogen secreting testicular and ovarian tumors, and precocious puberty in females.

(b) *Classification.* Class II (performance standards).

§ 862.1285 Etiocholanolone test system.

(a) *Identification.* An etiocholanolone test system is a device used to measure etiocholanolone in serum and urine by methods such as radioimmunoassay. Etiocholanolone is a metabolic product of the hormone testosterone and is excreted in the urine. Etiocholanolone measurements are used in the diagnosis and treatment of disorders of the testes and ovaries.

(b) *Classification.* Class II (performance standards).

§ 862.1290 Fatty acids test system.

(a) *Identification.* A fatty acids test system is a device used to measure fatty acids in plasma and serum by methods such as conversion to ferric hydroxymates (colorimetric) or titrimetric. Measurements of fatty acids are used in the diagnosis and treatment of various disorders of lipid metabolism.

(b) *Classification.* Class II (performance standards).

§ 862.1295 Folic acid test system.

(a) *Identification.* A folic acid test system is a device used to measure the vitamin folic acid in plasma and serum by methods such as radioimmunoassay. Folic acid measurements are used in the diagnosis and treatment of megaloblastic anemia, which is characterized by the presence of megaloblasts (an abnormal red blood cell series) in the bone marrow.

(b) *Classification.* Class II (performance standards).

§ 862.1300 Follicle-stimulating hormone test system.

(a) *Identification.* A follicle-stimulating hormone test system is a device used to measure follicle-stimulating hormone (FSH) in plasma, serum, and urine by methods such as radioimmunoassay. FSH measurements are used in the diagnosis and treatment of pituitary gland and gonadal disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1305 Formiminoglutamic acid (FIGLU) test system.

(a) *Identification.* A formiminoglutamic acid (FIGLU) test system is a device used to measure formiminoglutamic acid in urine by methods such as tetrahydrofolate enzymatic (ultraviolet). FIGLU measurements obtained by this device are used in the diagnosis of anemias, such as pernicious anemia and congenital hemolytic anemia.

(b) *Classification.* Class II (performance standards).

§ 862.1310 Galactose test system.

(a) *Identification.* A galactose test system is a device used to measure galactose in blood and urine by methods such as colorimetric, enzymatic, or ultraviolet. Galactose measurements are used in the diagnois and treatment of the hereditary disease galactosemia (a disorder of galactose metabolism) in infants.

(b) *Classification.* Class II (performance standards).

§ 862.1315 Galactose-1-phosphate uridyl transferase test system.

(a) *Identification.* A galactose-1-phosphate uridyl transferase test system is a device used to measure the acitvity of the enzyme galactose-1-phosphate uridyl transferase in erythrocytes (red blood cells) by methods such as uridine-5-diphosphoglucose/nicotinamide adenine dinucleotide (reduced form) (NADH) (ultraviolet). Measurements of galactose-1-phosphate uridyl transferase are used in the diagnosis and treatment of the hereditary disease galactosemia (a disorder of galactose metabolism) in infants.

(b) *Classification.* Class II (performance standards).

§ 862.1320 Gastric acidity test system.

(a) *Identification.* A gastric acidity test system is a device used to measure the acidity of gastric fluid by methods such as sodium hydroxide/phenol red (titrimetric) or tubeless analysis. Measurements of gastric acidity are used in the diagnosis and treatment of patients with peptic ulcer, gastric carcinoma, Zollinger-Ellison syndrome (peptic ulcer due to gastrin-secreting tumor of the pancreas), and related gastric disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1325 Gastrin test system.

(a) *Identification.* A gastrin test system is a device used to measure the hormone gastrin in plasma and serum by methods such as radioimmunoassay. Measurements of gastrin are used in the diagnosis and treatment of patients with ulcers, pernicious anemia, and the Zollinger-Ellison syndrome (peptic ulcer due to a gastrin-secreting tumor of the pancreas).

(b) *Classification.* Class II (performance standards).

§ 862.1330 Globulin test system.

(a) *Identification.* A globulin test system is a device used to measure globulins (proteins) in plasma and serum by methods such as electrophoretic, nephelometric, tryptophan measurement, or turbidimetric. Measurements of globulin are used in the diagnosis and treatment of patients with numerous illnesses, including severe liver and renal disease, multiple myeloma, and other disorders of blood globulins.

(b) *Classification.* Class II (performance standards).

§ 862.1335 Glucagon test system.

(a) *Identification.* A glucagon test system is a device used to measure the pancreatic hormone glucagon in plasma and serum by methods such as radioimmunoassay. Glucagon measurements are used in the diagnosis and treatment of patients with various disorders of carbohydrate metabolism, including diabetes mellitus, hypoglycemia, and hyperglycemia.

(b) *Classification.* Class II (performance standards).

§ 862.1340 Urinary glucose (nonquantitative) test system.

(a) *Identification.* A urinary glucose (nonquantitative) test system is a device used to measure glucosuria (glucose in urine) by methods such as enzymatic or metallic reduction. Urinary glucose (nonquantitative) measurements are used in the diagnosis and treatment of carbohydrate metabolism disorders including diabetes mellitus, hypoglycemia, and hyperglycemia.

(b) *Classification.* Class II (performance standards).

§ 862.1345 Glucose test system.

(a) *Identification.* A glucose test system is a device used to measure glucose quantitatively in blood and other body fluids by methods such as copper reduction, ferricyanide, glucose oxidase, hexokinase, or orthotoluidine. Glucose measurements are used in the diagnosis and treatment of carbohydrate metabolism disorders including diabetes mellitus, neonatal hypoglycemia, and idiopathic hypoglycemia, and of pancreatic islet cell carcinoma.

(b) *Classification.* Class II (performance standards).

§ 862.1360 Gamma-glutamyl transpeptidase and isoenzymes test system.

(a) *Identification.* A gamma-glutamyl transpeptidase and isoenzymes test system is a device used to measure the activity of the enzyme gamma-glutamyl transpeptidase (GGTP) in plasma and serum by methods such as colorimetric, kinetic, or electrophoretic/isoenzymes. Gamma-glutamyl transpeptidase and isoenzyme measurements are used in the diagnosis and treatment of liver diseases such as alcoholic cirrhosis and primary and secondary liver tumors.

(b) *Classification.* Class II (performance standards).

§ 862.1365 Glutathione test system.

(a) *Identification.* A glutathione test system is a device used to measure glutathione (the tripeptide of glycine, cysteine, and glutamic acid) in erythrocytes (red blood cells) by methods such as chromatographic or enzymatic (glutathione reductase). Glutathione measurements are used in the diagnosis and treatment of certain

drug-induced hemolytic (erythrocyte destroying) anemias due to an inherited enzyme deficiency.

(b) *Classification.* Class II (performance standards).

§ 862.1370 Human growth hormone test system.

(a) *Identification.* A human growth hormone test system is a device used to measure the levels of human growth hormone in plasma by methods such as radioimmunoassay. Human growth hormone measurements are used in the diagnosis and treatment of disorders involving the anterior lobe of the pituitary gland.

(b) *Classification.* Class II (performance standards).

§ 862.1375 Histidine test system.

(a) *Identification.* A histidine test system is a device used to measure free histidine (an amino acid) in plasma and urine by methods such as chromatographic or microbiological. Histidine measurements are used in the diagnosis and treatment of hereditary histidinemia characterized by excess histidine in the blood and urine often resulting in mental retardation and disordered speech development.

(b) *Classification.* Class II (performance standards).

§ 862.1380 Hydroxybutyric dehydrogenase test system.

(a) *Identification.* A hydroxybutyric dehydrogenase test system is a device used to measure the activity of the enzyme *alpha*-hydroxybutric dehydrogenase (HBD) in plasma or serum by methods such as *alpha*-ketobutyric acid/nicotinamide adenine dinucleotide (reduced form) (ultraviolet), or by dinitrophenyl hydrazone measurement (colorimetric). HBD measurements are used in the diagnosis and treatment of myocardial infarction, renal damage (such as rejection of transplants), certain hematological diseases (such as acute leukemias and megaloblastic anemias) and, to a lesser degree, liver disease.

(b) *Classification.* Class II (performance standards).

§ 862.1385 17-Hydroxycorticosteriods (17-ketogenic steriods) test system.

(a) *Identification.* A 17-hydroxycorticosteroids (17-ketogenic steroids) test system is a device used to measure corticosteroids that possess a dihydroxy acetone

$$(CH_2OHCOH)$$
$$\|$$
$$O$$

side chain on carbon 17 in urine by methods such as fluorometric, Porter Silber hyrazone, radioassay, or chromatography separation/Zimmerman and Zimmerman/Norymberski. Corticosteroids with this chemical configuration include cortisol, cortisone, 11-desoxycortisol, desoxycorticosterone and their tetra-hydroderivatives. This group of hormones is synthesized by the adrenal glands. Measurements of 17-hydroxycorticosteriods (17-ketogenic steriods) are used in the diagnosis and treatment of various diseases of the adrenal or pituitary glands and gonadal disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1390 5-Hydroxyindole acetic acid/serotonin test system.

(a) *Identification.* A 5-hydroxyindole acetic acid/serotonin test system is a device used to measure 5-hydroxyindole acetic acid/serotonin in urine by methods such as the nitrous acid/nitrosonaphthol. Measurements of 5-hydroxyindole acetic acid/serotonin are used in the diagnosis and treatment of carcinoid tumors of endocrine tissue.

(b) *Classification.* Class II (performance standards).

§ 862.1395 17-Hydroxyprogesterone test system.

(a) *Identification.* A 17-hydroxyprogesterone test system is a device used to measure 17-hydroxyprogesterone (a steroid) in plasma and serum by methods such as radioimmunoassay. Measurements of 17-hydroxyprogesterone are used in the diagnosis and treatment of various disorders of the adrenal glands or the ovaries.

(b) *Classification.* Class II (performance standards).

§ 862.1400 Hydroxyproline test system.

(a) *Identification.* A hydroxyproline test system is a device used to measure the amino acid hydroxyproline in urine by methods such as column chromatography and color development, or extraction plus chromatography with color by ninhydrin. Hydroxyproline measurements are used in the diagnosis and treatment of various collagen (connective tissue) diseases, bone diseases such as Paget's disease, and endocrine disorders such as hyperparathyroidism and hyperthyroidism.

(b) *Classification.* Class II (performance standards).

§ 862.1405 Immunoreactive insulin test system.

(a) *Identification.* An immunoreactive insulin test system is a device used to measure immunoreactive insulin in serum and plasma by methods such as radioimmunoassay. Immunoreactive insulin measurements are used in the diagnosis and treatment of various carbohydrate metabolism disorders, including diabetes mellitus and hypoglycemia.

(b) *Classification.* Class II (performance standards).

§ 862.1410 Iron (non-heme) test system.

(a) *Identification.* An iron (non-heme) test system is a device used to measure iron (non-heme) in serum and plasma by methods such as atomic absorption, bathophenanthroline colorimetry, photometric, or radio-labeled iron. Iron (non-heme) measurements are used in the diagnosis and treatment of diseases such as iron deficiency anemia, hemochromatosis (a disease associated with widespread deposit in the tissues of two iron-containing pigments, hemosiderin and hemofuscin, and characterized by pigmentation of the skin), and chronic renal disease.

(b) *Classification.* Class II (performance standards).

§ 862.1415 Iron-binding capacity test system.

(a) *Identification.* An iron-binding capacity test system is a device used to measure iron binding capacity in serum by methods such as bathophenanthroline, ferrozine (colorimetric), ion exchange resin with ascorbic acid, ion exchange resin with thioglycolic acid, or radiometric with ^{59}Fe. Iron-binding capacity measurements are used in the diagnosis and treatment of anemia.

(b) *Classification.* Class II (performance standards).

§ 862.1420 Isocitric dehydrogenase test system.

(a) *Identification.* An isocitric dehydrogenase test system is a device used to measure the activity of the enzyme isocitric dehydrogenase in serum and plasma by methods such as hydrazone derivative of *alpha*-ketoglutarate (colorimetry) or *L*-isocitrate and nicotinamide adenine dinucleotide phosphate (NADP) (ultraviolet). Isocitric dehydrogenase measurements are used in the diagnosis and treatment of liver disease such as viral hepatitis, cirrhosis, or acute inflammation of the biliary tract; pulmonary disease such as pulmonary infarction (local arrest or sudden insufficiency of the blood supply to the lungs), and diseases associated with pregnancy.

(b) *Classification.* Class II (performance standards).

§ 862.1430 17-Ketosteroids test system.

(a) *Identification.* A 17-ketosteroids test system is a device used to measure 17-ketosteroids in urine by methods such as chromatographic separation/Zimmerman or Zimmerman (spectrophotometric). Measurements of 17-ketosteroids are used in the diagnosis and treatment of disorders of the adrenal cortex and gonads and of other endocrine disorders, including hypertension, diabetes, and hypothyroidism.

(b) *Classification.* Class II (performance standards).

§ 862.1435 Urinary ketones (nonquantitative) test system.

(a) *Identification.* A urinary ketones (nonquantitative) test system is a device used to identify ketones in urine by using reagents such as nitroprusside. Identification of urinary ketones is used in the diagnosis and treatment of acidosis (a condition characterized by abnormally high acidity of body fluids) or ketosis (a condition characterized by increased production of ketone bodies such as acetone) and for monitoring patients on ketogenic diets and patients with diabetes.

(b) *Classification.* Class II (performance standards).

§ 862.1440 Lactate dehydrogenase test system.

(a) *Identification.* A lactate dehydrogenase test system is a device used to measure the activity of the enzyme lactate dehydrogenase in serum by methods such as tetrazolium INT (2-*p*-iodophenyl-3-*p*-nitrophenyl tetrazolium chloride (dye-diaphorase, 2,4-dinitrophenylhydrazine, or nicotinamide adenine dinucleotide (NAD) reduction/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation. Lactate dehydrogenase measurements are used in the diagnosis and treatment of liver diseases such as acute viral hepatitis, cirrhosis, and metastatic carcinoma of the liver, cardiac diseases such as myocardial infarction, and tumors of the lungs or kidneys.

(b) *Classification.* Class II (performance standards).

§ 862.1445 Lactate dehydorgenase isoenzymes test system.

(a) *Identification.* A lactate dehydrogenase isoenzymes test system is a device used to measure the activity of lactate dehydrogenase isoenzymes (a group of enzymes with similar biological activity) in serum by methods such as chromatographic separation, differential rate kinetic, or electrophoretic. Measurement of lactate dehydrogenase isoenzymes is used in the diagnosis and treatment of liver diseases, such as viral hepatitis, and myocardial infarction.

(b) *Classification.* Class II (performance standards).

§ 862.1450 Lactic acid test system.

(a) *Identification.* A lactic acid test system is a device used to measure lactic acid in whole blood and plasma by methods such as enzymatic. Lactic acid measurements that evaluate the acid-base status are used in the diagnosis and treatment of lactic acidosis (abnormally high acidity of the blood).

(b) *Classification.* Class II (performance standards).

§ 862.1455 Lecithin-sphingomyelin ratio in amniotic fluid test system.

(a) *Identification.* A lecithin-spingomyelin ratio in amniotic fluid test system is a device used to measure the lecithin-spinogomyelin ratio in amniotic fluid by methods such as chromatographic separation, electrophoretic, or colorimetric. Lecithin and spingomyelin are phospholipids (fats or fat-like substances containing phosphorus). Measurements of the lecithin-spingomyelin ratio in amniotic fluid are used in evaluating fetal maturity.

(b) *Classification.* Class II (performance standards).

§ 862.1460 Leucine aminopeptidase test system.

(a) *Identification.* A leucine aminopeptidase test system is a device used to measure the activity of the enzyme leucine aminopeptidase in serum, plasma, and urine by methods such as *L*-leucine-4-nitroanilide (colorimetric) or *L*-leucyl-*beta*-naphthylamide. Leucine aminopeptidase measurements are used in the diagnosis and treatment of liver diseases such as viral hepatitis and obstructive jaundice.

(b) *Classification.* Class II (performance standards).

§ 862.1465 Lipase test system.

(a) *Identification.* A lipase test system is a device used to measure the activity of the enzyme lipase in serum by methods such as oil emulsion/thymolphthalein (titrimetric), olive oil emulsion (turbidimetric), or lipase-esterase, enzymatic (photometric). Lipase measurements are used in diagnosis and treatment of diseases of the pancreas such as acute pancreatitis and obstruction of the pancreatic duct.

(b) *Classification.* Class II (performance standards).

§ 862.1470 Lipid (total) test system.

(a) *Identification.* A lipid (total) test system is a device used to measure total lipids (fats or fat-like substances) in serum and plasma by methods such as chromatographic derivative or sulfophosphovanillin colorimetery. Lipid (total) measurements are used in the diagnosis and treatment of various diseases involving lipid metabolism and atherosclerosis.

(b) *Classification.* Class II (performance standards).

§ 862.1475 Lipoprotein test system.

(a) *Identification.* A lipoprotein test system is a device used to measure lipoprotein in serum and plasma by methods such as colorimetric, electrophoretic separation, microdensitometry, nephelometric, radial immunodiffusion, or turbidimetric. Lipoprotein measurements are used in the diagnosis and treatment of lipid disorders (such as diabetes mellitus), atherosclerosis, and various liver and renal diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1485 Luteinizing hormone test system.

(a) *Identification.* A luteinizing hormone test system is a device used to measure luteinizing hormone in serum and urine by methods such as radioimmunoassay. Luteinizing hormone measurements are used in the diagnosis and treatment of gonadal dysfunction.

(b) *Classification.* Class II (performance standards).

§ 862.1490 Lysozyme (muramidase) test system.

(a) *Identification.* A lysozyme (muramidase) test system is a device used to measure the activity of the bacteriolytic enzyme lysozyme (muramidase) in serum, plasma, leukocytes, and urine by methods such as immunochemical or spectrophotometric (*Micrococcus lysodeikticus*). Lysozyme measurements are used in the diagnosis and treatment of monocytic leukemia and kidney disease.

(b) *Classification.* Class II (performance standards).

§ 862.1495 Magnesium test system.

(a) *Identification.* A magnesium test system is a device used to measure magnesium levels in serum and plasma by methods such as atomic absorption, ion-specific electrode, photometric, or titrimetric. Magnesium measurements are used in the diagnosis and treatment of hypomagnesemia (abnormally low plasma levels of magnesium) and

hypermagnesemia (abnormally high plasma levels of magnesium).

(b) *Classification.* Class II (performance standards).

§ 862.1500 Malic dehydrogenase test system.

(a) *Identification.* A malic dehydrogenase test system is a device that is used to measure the activity of the enzyme malic dehydrogenase in serum and plasma by methods such as oxalacetic acid/nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation (ultraviolet). Malic dehydrogenase measurements are used in the diagnosis and treatment of muscle and liver diseases, myocardial infarctions, cancer, and blood disorders such as myelogenous (produced in the bone marrow) leukemias.

(b) *Classification.* Class II (performance standards).

§ 862.1505 Mucopolysaccharides test system.

(a) *Identification.* A mucopolysaccharides test system is a device used to measure the levels of mucopolysaccharides in serum, plasma, and urine by methods such as colorimetric. Mucopolysaccharide measurements are used in the diagnosis and treatment of various inheritable disorders that affect bone and connective tissues, such as Hurler's, Hunter's, Sanfilippo's, Scheie's, Morquio's, and Maroteaux-Lamy syndromes.

(b) *Classification.* Class II (performance standards).

§ 862.1510 Urinary nitrite (nonquantitative) test system.

(a) *Identification.* A urinary nitrite (nonquantitative) test system is a device used to identify nitrite in urine by methods such as diazo (colorimetric). Urinary nitrite identification is used in the diagnosis and treatment of urinary tract infection of bacteria origin.

(b) *Classification.* Class II (performance standards).

§ 862.1515 Nitrogen (amino-nitrogen) test system.

(a) *Identification* A nitrogen (amino-nitrogen) test system is a device used to measure amino acid nitrogen levels in serum, plasma, and urine by methods such as ninhydrin, trinitrobenzene sulfonate (spectroscopic), or 2,4-dinitrofluorobenzene (spectroscopic). Nitrogen (amino-nitrogen) measurements are used in the diagnosis and treatment of certain forms of severe liver disease and renal disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1520 5'-Nucleotidase test system.

(a) *Identification.* A 5'-nucleotidase test system is a device used to measure the activity of the enzyme 5'-nucleotidase in serum and plasma by methods such as 5-adenosine monophosphate(AMP)-phosphate release (colorimetric). Measurement of 5'-nucleotidase is used in the diagnosis and treatment of liver diseases and in the differentiations between liver and bone diseases in the presence of elevated serum alkaline phosphatase activity.

(b) *Classification.* Class II (performance standards).

§ 862.1530 Plasma oncometry test system.

(a) *Identification.* A plasma oncometry test system is a device used to measure plasma oncotic pressure by methods such as membrane oncometry. Plasma oncotic pressure is that portion of the total fluid pressure contributed by proteins and other molecules too large to pass through a specified membrane. Measurements of plasma oncotic pressure are used in the diagnosis and treatment of dehydration and circulatory disorders related to low serum protein levels and increased capillary permeability, such as edema and shock.

(b) *Classification.* Class II (performance standards).

§ 862.1535 Ornithine carbamyl transferase test system.

(a) *Identification.* An ornithine carbamyl transferase test system is a device used to measure that activity of the enzyme ornithine carbamyl transferase (OCT) in serum by methods such as citrulline/arsenate/Nessler (colorimetry). Ornithine carbamyl transferase measurements are used in the diagnosis and treatment of liver diseases, such as infectious hepatitis, acute cholecystitis (inflammation of the gall bladder), cirrhosis, and liver metastases.

(b) *Classification.* Class II (performance standards).

§ 862.1540 Osmolality test system.

(a) *Identification.* An osmolality test system is a device used to measure ionic and nonionic solute concentration in body fluids, such as serum and urine, by methods such as vapor pressure or freezing point depression measurement. Osmolality measurement is used as an adjunct to other tests in the evaluation of a variety of diseases, including kidney diseases (e.g., chronic progressive renal failure), diabetes insipidus, other endocrine and metabolic disorders, and fluid imbalances.

(b) *Classification.* Class II (performance standards).

§ 862.1545 Parathyroid hormone test system.

(a) *Identification.* A parathyroid hormone test system is a device used to measure the levels of parathyroid hormone in serum and plasma by methods such as radioimmunoassay. Measurements of parathyroid hormone levels are used in the differential diagnosis of hypercalcemia (abnormally high levels of calcium in the blood) and hypocalcemia (abnormally low levels of calcium in the blood) resulting from disorders of calcium metabolism.

(b) *Classification.* Class II (performance standards).

§ 862.11550 Urinary pH (nonquantitative) test system.

(a) *Identification.* A urinary pH (nonquantitative) test system is a device used to estimate the pH of urine by use of methods such as a dye-indicator. Estimations of pH are used to evaluate the acidity or alkalinity of urine as it relates to numerous renal and metabolic disorders and in the monitoring of patients with certain diets.

(b) *Classification.* Class II (performance standards).

§ 862.1555 Phenylalanine test system.

(a) *Identification.* A phenylalanine test system is a device used to measure free phenylalanine (an amino acid) in serum, plasma, and urine, by methods such as column or paper chromatography plus ninhydrin, or fluorometric procedure using *L*-leucyl-*L*-alanine with ninhydrin. Measurements of phenylalanine are used in the diagnosis and treatment of congenital phenylketonuria which, if untreated, may cause mental retardation.

(b) *Classification.* Class II (performance standards).

§ 862.1560 Urinary phenylketones (nonquantitative test system.

(a) *Identification.* A urinary phenylketones (nonquantitative) test system is a device used to identify phenylketones (such as phenylpyruvic acid) in urine by methods such as chromogenesis or ferric chloride. The identification of urinary phenylketones is used in the diagnosis and treatment of congenital phenylketonuria which, if untreated, may cause mental retardation.

(b) *Classification.* Class II (performance standards).

§ 862.1565 6-Phosphogluconate dehyrogenase test system.

(a) *Identification.* A 6-phosphoguluconate dehydrogenase test system is a device used to measure the activity of the enzyme 6-phosphogluconate (6 PGD) in serum and erythrocytes by methods such as nicotinamide adenine dinucleotide phosphate (NADP) reduction. Measurements of 6-phosphogluconate dehydrogenase are used in the diagnosis and treatment of certain liver diseases (such as hepatitis) and anemias.

(b) *Classification.* Class II (performance standards).

§ 862.1570 Phosphohexose isomerase test system.

(a) *Identification.* A phosphohexose isomerase test system is a device used to measure the activity of the enzyme phosphohexose isomerase in serum by methods such as glucose-6-phosphate (colorimetric) or nicotinamide adenine dinucleotide (NAD) reduction (ultraviolet). Measurements of phosphohexose isomerase are used in the diagnosis and treatment of muscle diseases such as muscular dystrophy, liver diseases such as hepatitis or cirrhosis, and metastatic carcinoma.

(b) *Classification.* Class II (performance standards).

§ 862.1575 Phospholipid test system.

(a) *Identification.* A phospholipid test system is a device used to measure phospholipids in serum and plasma by methods such as ammonium molybdate/ammonium vanadate, chromatographic, molybdenum blue, or stannous chloride/hydrazine. Measurements of phospholipids are used in the diagnosis and treatment of disorders involving lipid (fat) metabolism.

(b) *Classification.* Class II (performance standards).

§ 862.1580 Phosphorus (inorganic) test system.

(a) *Identification.* A phosphorus (inorganic) test system is a device used to measure inorganic phosphorus in serum, plasma, and urine by methods such as phosphomolybdate. Measurements of phosphorus (inorganic) are used in the diagnosis and treatment of various disorders, including parathyroid gland and kidney diseases, and vitamin D imbalance.

(b) *Classification.* Class II (performance standards).

§ 862.1585 Human placental lactogen test system.

(a) *Identification.* A human placental lactogen test system is a device used to measure the hormone human placental lactogen (HPL), (also known as human chorionic somatomammotrophin (HCS)) in maternal serum and maternal plasma by methods such as radioimmunoassay. Measurements of human placental lactogen are used in the diagnosis and clinical management of high-risk pregnancies involving fetal distress associated with placental insufficiency. Measurements of HPL are also used in pregnancies complicated by hypertension, proteinuria, edema, post-maturity, placental insufficiency, or possible miscarriage.

(b) *Classification.* Class II (performance standards).

§ 862.1590 Porphobilinogen test system.

(a) *Identification.* A porphobilinogen test system is a device used to measure porphobilinogen (one of the derivatives of hemoglobin which can make the urine a red color) in urine by methods such as ion exchange resin/Ehrlich's reagent. Measurements obtained by this device are used in the diagnosis and treatment of porphyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), lead poisoning, and other diseases characterized by alterations in the heme pathway.

(b) *Classification.* Class II (performance standards).

§ 862.1595 Porphyrins test system.

(a) *Identification.* A porphyrins test system is a device used to measure porphyrins (compounds formed during the biosynthesis of heme, a constituent of hemoglobin, and related compounds) in urine and feces by methods such as fluorometric measurement. Measurements obtained by this device are used in the diagnosis and treatment of lead poisoning, porphyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), and other diseases characterized by alterations in the heme pathway.

(b) *Classification.* Class II (performance standards).

§ 862.1600 Potassium test system.

(a) *Identification.* A potassium test system is a device used to measure potassium in serum, plasma, and urine by methods such as flame photometry, ion selective electrode, or tetraphenyl borate colorimetry. Measurements obtained by this device are used to monitor electrolyte balance in the diagnosis and treatment of disease conditions characterized by low or high blood potassium levels.

(b) *Classification.* Class II (performance standards).

§ 862.1605 Pregnanediol test system.

(a) *Identification.* A pregnanediol test system is a device used to measure pregnanediol (a major urinary metabolic product of progesterone) in urine by methods such as spectrophotometric. Measurements obtained by this device are used in the diagnosis and treatment of disorders of the ovaries or placenta.

(b) *Classification.* Class II (performance standards).

§ 862.1610 Pregnanetriol test system.

(a) *Identification.* A pregnanetriol test system is a device used to measure pregnanetriol (a precursor in the biosynthesis of the adrenal hormone cortisol) in urine by methods such as spectrophotometry or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of congenital adrenal hyperplasia (congenital enlargement of the adrenal gland).

(b) *Classification.* Class II (performance standards).

§ 862.1615 Pregnenolone test system.

(a) *Identification.* A pregnenolone test system is a device used to measure pregnenolone (a precursor in the biosynthesis of the adrenal hormone cortisol and adrenal androgen) in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of diseases of the adrenal cortex or the gonads.

(b) *Classification.* Class II (performance standards).

§ 862.1620 Progesterone test system.

(a) *Identification.* A progesterone test system is a device used to measure progesterone (a female hormone) in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of disorders of the ovaries or placenta.

(b) *Classification.* Class II (performance standards).

§ 862.1625 Prolactin (lactogen) test system.

(a) *Identification.* A prolactin (lactogen) test system is a device used to measure the anterior pituitary polypeptide hormone prolactin in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of disorders of the anterior pituitary gland or of the hypothalamus portion of the brain.

(b) *Classification.* Class II (performance standards).

§ 862.1630 Protein (fractionation) test system.

(a) *Identification.* A protein (fractionation) test system is a device

used to measure protein fractions in blood, urine, cerebrospinal fluid, and other body fluids by methods such as densitometric, electrophoretic, or immunodiffusion. Protein fractionation is used as an aid in recognizing abnormal proteins in body fluids and genetic variants of proteins produced in diseases with tissue destruction.

(b) *Classification.* Class II (performance standards).

§ 862.1635 Total protein test system.

(a) *Identification.* A total protein test system is a device used to measure total protein(s) in serum and plasma by methods such as biuret (colorimetric), Lowry (colorimetric), refractometric, or turbidimetric. Measurements obtained by this device are used in the diagnosis and treatment of a variety of diseases involving the liver, kidney, or bone marrow as well as other metabolic or nutritional disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1640 Protein-bound iodine test system.

(a) *Identification.* A protein-bound iodine test system is a device used to measure protein-bound iodine in serum by methods such as dry ash or wet ash. Measurements of protein-bound iodine obtained by this device are used in the diagnosis and treatment of thyroid disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1645 Urinary protein or albumin (nonquantitative) test system.

(a) *Identification.* A urinary protein or albumin (nonquantitative) test system is a device used to identify proteins or albumin in urine by methods such as indicator or turbidimetric. Identification of urinary protein or albumin (nonquantitative) is used in the diagnosis and treatment of disease conditions such as renal or heart diseases or thyroid disorders, which are characterized by proteinuria or albuminuria.

(b) *Classification.* Class II (performance standards).

§ 862.1650 Pyruvate kinase test system.

(a) *Identification.* A pyruvate kinase test system is a device used to measure the activity of the enzyme pyruvate kinase in erythorcytes (red blood cells) by methods such as the phosphoenol pyruvate/adenosine diphosphate (ADP)/nicotinamide adenine dinucleotide (reduced form) (NADH). Measurements obtained by this device are used in the diagnosis and treatment of various inherited anemias due to pyruvate kinase deficiency or of acute leukemias.

(b) *Classification.* Class II (performance standards).

§ 862.1655 Pyruvic acid test system.

(a) *Identification.* A pyruvic acid test system is a device used to measure pyruvic acid (an intermediate compound in the metabolism of carbohydrate) in plasma by methods such as enzymatic (ultraviolet). Measurements obtained by this device are used in the evaluation of electrolyte metabolism and in the diagnosis and treatment of acid-base and electrolyte disturbances or anoxia (the reduction of oxygen in body tissues).

(b) *Classification.* Class II (performance standards).

§ 862.1660 Quality control material (assayed and unassayed).

(a) *Identification.* A quality control material (assayed and unassayed) for clinical chemistry is a device intended for use in a test system to estimate test precision and to detect systematic analytical deviations that may arise from reagent or analytical instrument variation. A quality control material (assayed and unassayed) may be used for proficiency testing in interlaboratory surveys. This generic type of device includes controls (assayed and unassayed) for blood gases, electrolytes, enzymes, multianalytes (all kinds), single (specified) analytes, or urinalysis controls.

(b) *Classification.* Class I (general controls).

§ 862.1665 Sodium test system.

(a) *Identification.* A sodium test system is a device used to measure sodium in serum, plasma, and urine by methods such as flame photometry, ion selective electrode, or uranyl acetate/zinc acetate. Measurements obtained by this device are used in the diagnosis and treatment of aldosteronism (excessive secretion of the hormone aldosterone), diabetes insipidus (chronic excretion of large amounts of dilute urine, accompanied by extreme thirst), adrenal hypertension, Addison's disease (caused by destruction of the adrenal glands), dehydration, inappropriate antidiuretic hormone secretaion, or other diseases involving electrolyte imbalance.

(b) *Classification.* Class II (performance standards).

§ 862.1670 Sorbitol dehyrogenase test system.

(a) *Identification.* A sorbitol dehydrogenase test system is a device used to measure the activity of the enzyme sorbitol dehydrogenase in serum by methods such as *beta*-D-fructose and nicotinamide adenine dinucleotide (reduced form) (NADH) oxidation (ultraviolet). Measurements obtained by this device are used in the diagnosis and treatment of liver disorders such as cirrhosis or acute hepatitis.

(b) *Classification.* Class II (performance standards).

§ 862.1675 Blood specimen collection device.

(a) *Identification.* A blood specimen collection device is a device intended for medical purposes that is used to collect and to handle blood specimens and to separate serum from nonserum (cellular) components prior to further testing. This generic type device may include blood collection tubes, vials, systems, serum separators, blood collection trays, or vacuum sample tubes.

(b) *Classification.* Class II (performance standards).

§ 862.1680 Testosterone and dihydrotestosterone test system.

(a) *Identification.* A testosterone and dihydrotestosterone test system is a device used to measure testosterone and dihydrotestosterone (two male sex hormones) in serum, plasma, and urine by methods such as radioimmunoassay. Measurements of Testosterone and dihydrotestosterone are used in the diagnosis and treatment of disorders involving the male sex hormones (androgens), including primary and secondary hypogonadism, delayed or precocious puberty, impotence in males and, in females, hirsutism (excessive hair) and virilization (masculinization) due to tumors, polycystic ovaries, and adrenogenital syndromes.

(b) *Classification.* Class II (performance standards).

§ 862.1685 Thyroxine-binding globulin test system.

(a) *Identification.* A thyroxine-binding globulin test system is a device used to measure thyroxine (thyroid)-binding globulin (TBG), a plasma protein which binds thyroxine, in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1690 Thyroid stimulating hormone test system.

(a) *Identification.* A thyroid stimulating hormone test system is a device used to measure thyroid stimulating hormone, also known as thyrotrophin and thyrotrophic hormone,

in serum and plasma by methods such as radioimmunoassay. Measurements of thyroid stimulating hormone produced by the anterior pituitary are used in the diagnosis of thyroid or pituitary disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1695 Free thyroxine test system.

(a) *Identification.* A free thyroxine test system is a device used to measure free (not protein bound) thyroxine (thyroid hormone) in serum and plasma by methods such as radioimmunoassay. Levels of free thyroxine in plasma are thought to reflect the amount of thyroxine hormone available to the cells and may therefore determine the clinical metabolic status of thyroxine. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1700 Total thyroxine test system.

(a) *Identification.* A total thyroxine test system is a device used to measure total (free and protein bound) thyroxine (thyroid hormone) in serum and plasma by methods such as radioimmunoassay or nonradiolabeled enzyme immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1705 Triglyceride test system.

(a) *Identification.* A triglyceride test system is a device used to measure triglyceride (neutral fat) in serum and plasma by methods such as colorimetric, fluorometric, lipase hydrolysis/glycerol kinase enzyme, thin-layer chromatographic separation, or turbidimetric. Measurements by this device are used in the diagnosis and treatment of patients with diabetes mellitus, nephrosis, liver obstruction, other diseases involving lipid metabolism, or various endocrine disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1710 Total triiodothyronine test system.

(a) *Identification.* A total triiodothyronine test system is a device used to measure the hormone triiodothyronine in serum and plasma by methods such as radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of thyroid diseases such as hyperthyroidism.

(b) *Classification.* Class II (performance standards).

§ 862.1715 Triiodothyronine uptake test system.

(a) *Identification.* A triiodothyronine uptake test system is a device used to measure by methods such as radioassay the total amount of binding sites available for binding thyroid hormone on the thyroxine-binding proteins thyroid-binding globulin, thyroxine-binding prealbumin, and albumin of serum and plasma. The device provides an indirect measurement of thyroxine levels in serum and plasma. Measurements of triiodothyronine uptake are used in diagnosis and treatment of thyroid disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1720 Triose phosphate isomerase test system.

(a) *Identification.* A triose phosphate isomerase test system is a device used to measure the activity of the enzyme triose phosphate isomerase in erythrocytes (red blood cells) by methods such as glyceraldehyde-3-phosphate nicotinamide adenine dinucleotide (reduced form) (NADH) (enzymatic). Triose phosphate isomerase is an enzyme important in glycolysis (the energy-yielding conversion of glucose to lactic acid in various tissues). Measurements obtained by this device are used in the diagnosis and treatment of congenital triose phosphate isomerase enzyme deficiency, which causes a type of hemolytic anemia.

(b) *Classification.* Class II (performance standards).

§ 862.1725 Trypsin test system.

(a) *Identification.* A trypsin test system is a device used to measure the activity of trypsin (a pancreatic enzyme important in digestion for the breakdown of proteins) in blood and other body fluids and in feces by methods using *n*-benzoyl-*L*-arginine ethyl ester or *p*-toluenesulphonyl-*L*-arginine methyl ester. Measurements obtained by this device are used in the diagnosis and treatment of pancreatic disease.

(b) *Classification.* Class II (performance standards).

§ 862.1730 Free tyrosine test system.

(a) *Identification.* A free tyrosine test system is a device used to measure free tyrosine (an amino acid) in serum and urine by methods such as 1-nitroso-2-naphthol (fluorometric). Measurements obtained by this device are used in the diagnosis and treatment of diseases such as congenital tyrosinemia (a disease that can cause liver/kidney disorders) and as an adjunct to the measurement of phenylalanine in detecting congenital phenylketonuria (a disease that can cause brain damage).

(b) *Classification.* Class II (performance standards).

§ 862.1770 Urea Nitrogen test system.

(a) *Identification.* A urea nitrogen test system is a device used to measure urea nitrogen (an end-product of nitrogen metabolism) in whole blood, serum, plasma, and urine by methods such as diacetylmonoxime, *o*-phthalaldehyde, urease (photometric), urease and glutamic dehydrogenase, ion-specific electrode, or Berthelot indophenol reaction. Measurements obtained by this device are used in the diagnosis and treatment of certain renal and metabolic diseases.

(b) *Classification.* Class II (performance standards).

§ 862.1775 Uric acid test system.

(a) *Identification.* A uric acid test system is a device used to measure uric acid in serum, plasma, and urine by methods such as phosphotungstate reduction and uricase (colorimetric, coulometric, gasometric, oxygen rate, or ultraviolet). Measurements obtained by this device are used in the diagnosis and treatment of numerous renal and metabolic disorders, including renal failure, gout, leukemia, psoriasis, starvation or other wasting conditions, and of patients receiving cytotoxic drugs.

(b) *Classification.* Class II (performance standards).

§ 862.1780 Urinary calculi (stones) test system.

(a) *Identification.* A urinary calculi (stones) test system is a device used for the analysis of urinary calculi by methods such as infrared spectroscopy measurement of qualitative chemical reactions. Analysis of urinary calculi is used in the diagnosis and treatment of calculi of the urinary tract.

(b) *Classification.* Class II (performance standards).

§ 862.1785 Urinary urobilinogen (nonquantitative) test system.

(a) *Identification.* A urinary urobilinogen (nonquantitative) test system is a device used to detect and estimate urobilinogen (a bile pigment degradation product of red cell hemoglobin) in urine by methods such as diasonium colorimetry. Estimations obtained by this device are used in the diagnosis and treatment of liver diseases and hemolytic (red cell) disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1790 Uroporphyrin test system.

(a) *Identification.* A uroporphyrin test system is a device used to measure uroporphyrin in urine by methods such as fluorometric or spectrophotometric. Measurements obtained by this device are used in the diagnosis and treatment of porphyrias (primarily inherited diseases associated with disturbed porphyrin metabolism), lead poisoning, and other diseases characterized by alterations in the heme pathway.

(b) *Classification.* Class II (performance standards).

§ 862.1795 Vanilmandelic acid test system.

(a) *Identification.* A Vanilmandelic acid test system is a device used to measure vanilmandelic acid in urine by methods such as diazo, *p*-nitroaniline/vanillin or electrophoretic separation. Measurements of vanilmandelic acid obtained by this device are used in the diagnosis and treatment of neuroblastoma, pheochromocytoma, and certain hypertensive conditions.

(b) *Classification.* Class II (performance standards).

§ 862.1805 Vitamin A test system.

(a) *Identification.* A vitamin A test system is a device used to measure vitamin A in serum and plasma by methods such as hexane extraction/trifluoroacetic acid. Measurements obtained by this device are used in the diagnosis and treatment of vitamin A deficiency conditions, including night blindness, or skin, eye, or intestinal disorders.

(b) *Classification.* Class II (performance standards).

§ 862.1810 Vitamin B_{12} test system.

(a) *Identification.* A vitamin B_{12} test system is a device used to measure vitamin B_{12} in serum, plasma, and urine by methods such as radioassay. Measurements obtained by this device are used in the diagnosis and treatment of anemias of gastrointestinal malabsorption.

(b) *Classification.* Class II (performance standards).

§ 862.1815 Vitamin E test system.

(a) *Identification.* A vitamin E test system is a device used to measure vitamin E (tocopherol) in serum by methods such as hexane extraction/fluorescence. Measurements obtained by this device are used in the diagnosis and treatment of infants with vitamin E deficiency syndrome.

(b) *Classification.* Class II (performance standards).

§ 862.1820 Xylose test system.

(a) *Identification.* A xylose test system is a device used to measure xylose (a sugar) in serum, plasma, and urine by methods such as para-bromoaniline (colorimetric). Measurements obtained by this device are used in the diagnosis and treatment of gastrointestinal malabsorption syndrome (a group of disorders in which there is subnormal absorption of dietary constituents and thus excessive loss from the body of the nonabsorbed substances).

(b) *Classification.* Class II (performance standards).

Subpart C—Clinical Laboratory Instruments

§ 862.2050 General purpose laboratory equipment.

(a) *Identification.* General purpose laboratory equipment are devices that have general applications and that are intended to prepare and examine specimens from the human body. Labeling for these devices does not make reference to a use in a specific diagnostic procedure.

(b) *Classification.* Class I (general controls). The devices are exempt from the premarket notification procedures in Subpart E of Part 807. The devices also are exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 862.2100 Calculator/data processing module for clinical use.

(a) *Identification.* A calculator/data processing module for clinical use is an electronic device used to store, retrieve, and process laboratory data by means of programmable cassettes.

(b) *Classification.* Class I (general controls).

§ 862.2140 Centrifugal chemistry analyzer for clinical use.

(a) *Identification.* A centrifugal chemistry analyzer for clinical use is an automatic device that centrifugally mixes a sample and a reagent and spectrophotometrically measures concentrations of the sample constituents. This device is used in conjunction with certain materials to measure a variety of analytes.

(b) *Classification.* Class I (general controls).

§ 862.2150 Continuous flow sequential multiple chemistry analyzer for clinical use.

(a) *Identification.* A continuous flow sequential multiple chemistry analyzer for clinical use is a modular analytical instrument that, using the principles of automated continuous flow systems, can simultaneously perform multiple chemical procedures. This device is used in conjunction with certain materials to measure a variety of analytes.

(b) *Classification.* Class I (general controls).

§ 862.2160 Discrete photometric chemistry analyzer for clinical use.

(a) *Identification.* A discrete photometric chemistry analyzer for clinical use is a device that duplicates manual analytical procedures by performing automatically various steps such as pipetting, preparing filtrates, heating, and measuring color intensity. This device is used in conjunction with certain materials to measure a variety of analytes. Different models of the device incorporate various instrumentation such as micro analysis apparatus, double beam, single, or dual channel photometers, and bichromatic two-wavelength photometers. Some models of the device may include reagent-containing components that may also serve as reaction units.

(b) *Classification.* Class I (general controls).

§ 862.2170 Micro chemistry analyzer for clinical use.

(a) *Identification.* A micro chemistry analyzer for clinical use is a device that duplicates manual analytical procedures by performing automatically various steps such as pipetting, preparing filtrates, heating, and measuring color intensity. The distinguishing characteristic of the device is that it requires only micro volumes of samples, which facilitates the analysis of the very small volume samples obtainable from pediatric patients. This device is used in conjunction with certain materials to measure a variety of analytes.

(b) *Classification.* Class I (general controls).

§ 862.2230 Chromatographic separation material for clinical use.

(a) *Identification.* A chromatographic separation material for clinical use is a device accessory (e.g., ion exchange absorbents, ion exchange resins, and ion papers) used in ion exchange chromatography, a procedure in which a compound is separated from a solution.

(b) *Classification.* Class I (general controls).

§ 862.2250 Gas liquid chromatography system for clinical use.

(a) *Identification.* A gas liquid chromatography system for clinical use is a device used to separate one or more

drugs or compounds from a mixture. Each of the constituents in a vaporized mixture of compounds is separated according to its vapor pressure. The device may include accessories such as columns, gases, column supports, and liquid coating.

(b) *Classification.* Class I (general controls).

§ 862.2260 High pressure liquid chromatography system for clinical use.

(a) *Identification.* A high pressure liquid chromatography system for clinical use is a device used to separate one or more drugs or compounds from a solution by processing the mixture of compounds (solutes) through a column packed with materials of uniform size (stationary phase) under the influence of a high pressure liquid (mobile phase). Separation of the solutes occurs either by absorption, sieving, partition, or selective affinity.

(b) *Classification.* Class I (general controls).

§ 862.2270 Thin-layer chromatography system for clinical use.

(a) *Identification.* A thin-layer chromatography (TLC) system for clinical use is a device used to separate one or more drugs or compounds from a mixture. The mixture of compounds is absorbed onto a stationary phase or thin layer of inert material (e.g., cellulose, alumina, etc.) and eluted off by a moving solvent (moving phase) until equilibrium occurs between the two phases.

(b) *Classification.* Class I (general controls). Particular components of TLC system, i.e., the thin-layer chromatography apparatus, TLC atomizer, TLC developing tanks, and TLC ultraviolet light, are exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 862.2300 Colorimeter, photometer, or spectrophotometer for clinical use.

(a) *Identification.* A colorimeter, a photometer, or a spectrophotometer for clinical use is an electronic device used to measure the light absorbance of solutions. The device may include a monochromator to produce light of a specific wavelength.

(b) *Classification.* Class I (general controls).

§ 862.2310 Clinical sample concentrator.

(a) *Identification.* A clinical sample concentrator is a device used to concentrate (by dialysis, evaporation, etc.) serum, urine, cerebrospinal fluid, and other body fluids before the fluids are analyzed.

(b) *Classification.* Class I (general controls).

§ 862.2320 Beta or gamma counter for clinical use.

(a) *Identification.* A beta or gamma counter for clinical use is a device used to detect and count beta or gamma radiation emitted by clinical samples. The radiation emitted by a sample, following a chemical reaction with a radioactive reagent, is proportional to the concentration of the analyte being measured. These measurements are useful in the diagnosis and treatment of various disorders.

(b) *Classification.* Class I (general controls).

§ 862.2400 Densitometer/scanner (integrating, reflectance, TLC, or radiochromatogram) for clinical use.

(a) *Identification.* A densitometer/scanner (integrating, reflectance, thin-layer chromatography, or radiochromatogram) for clinical use is a device used to measure the concentration of a substance on the surface of a film or other support media by either a photocell measurement of the light transmission through a given area of the medium, or, in the case of the radiochromatogram scanner, by measurement of the distribution of a specific radioactive element on a radiochromatogram.

(b) *Classification.* Class I (general controls).

§ 862.2485 Electrophoresis apparatus for clinical use.

(a) *Identification.* An electrophoresis apparatus for clinical use is a device used to separate molecules or particles, including plasma proteins, lipoproteins, enzymes, and hemoglobins, on the basis of their net charge in specified buffered media. This device is used in conjunction with certain materials to measure a variety of analytes as an aid in the diagnosis and treatment of certain disorders.

(b) *Classification.* Class I (general controls).

§ 862.2500 Enzyme analyzer for clinical use.

(a) *Identification.* An enzyme analyzer for clinical use is a device used to measure enzymes in plasma or serum by nonkinetic or kinetic measurement of enzyme-catalyzed reactions. This device is used in conjunction with certain materials to measure a variety of enzymes as an aid in the diagnosis and treatment of certain enzyme related disorders.

(b) *Classification.* Class I (general controls).

§ 862.2540 Flame emission photometer for clinical use.

(a) *Identification.* A flame emission photometer for clinical use is a device used to measure the concentration of sodium, potassium, lithium, and other metal ions in body fluids. Abnormal variations in the concentration of these substances in the body are indicative of certain disorders (e.g., electrolyte imbalance and heavy metal intoxication) and are, therefore, useful in diagnosis and treatment of those disorders.

(b) *Classification.* Class I (general controls).

§ 862.2560 Fluorometer for clinical use.

(a) *Identification.* A fluorometer for clinical use is a device used to measure by fluorescence certain analytes. Fluorescence is the property of certain substances of radiating, when illuminated, a light of a different wavelength. This device is used in conjunction with certain materials to measure a variety of analytes.

(b) *Classification.* Class I (general controls).

§ 862.2680 Microtitrator for clinical use.

(a) *Identification.* A microtitrator for clinical use is a device used in microanalysis to measure the concentration of a substance by reacting it with a measured "micro" volume of a known standardized solution.

(b) *Classification.* Class I (general controls).

§ 862.2700 Nephelometers for clinical use.

(a) *Identification.* A nephelometer for clinical use is a device used to estimate the concentration of particles in a suspension by measuring their light scattering properties (the deflection of light rays by opaque particles in their path). The device is used in conjunction with certain materials to measure the concentration of a variety of analytes.

(b) *Classification.* Class I (general controls).

§ 862.2720 Plasma oncometer for clinical use.

(a) *Identification.* A plasma oncometer for clinical use is a device used to measure plasma oncotic pressure, which is that portion of the total plasma osmotic pressure contributed by protein and other molecules too large to pass through a specified semipermeable membrane. Because variations in plasma oncotic pressure are indications of certain disorders, measurements of the

variations are useful in the diagnosis and treatment of these disorders.

(b) *Classification.* Class I (general controls).

§ 862.2730 Osmometer for clinical use.

(a) *Identification.* An osmometer for clinical use is a device used to measure the osmotic pressure of body fluids. Osmotic pressure is the pressure required to prevent the passage of a solution with a lesser solute concentration into a solution with greater solute concentration when the two solutions are separated by a semipermeable membrane. The concentration of a solution affects its osmotic pressure, freezing point, and other physiochemical properties. Osmometers determine osmotic pressure by methods such as the measurement of the freezing point. Measurements obtained by this device are used in the diagnosis and treatment of body fluid disorders.

(b) *Classification.* Class I (general controls).

§ 862.2750 Pipetting and diluting system for clinical use.

(a) *Identification.* A pipetting and diluting system for clinical use is a device that provides an accurately measured volume of liquid at a specified temperature that may be used in certain test procedures. This generic type of device system includes serial, manual, automated, and semi-automated dilutors, pipettors, dispensers, and pipetting stations.

(b) *Classification.* Class I (general controls).

§ 862.2800 Refractometer for clinical use.

(a) *Identification.* A refractometer for clinical use is a device used to determine the amount of solute in a solution by measuring the index of refraction (the ratio of the velocity of light in a vacuum to the velocity of light in the solution). The index of refraction is used to measure the concentration of certain analytes (solutes), such as plasma total proteins and urinary total solids. Measurements obtained by this device are used in the diagnosis and treatment of certain conditions.

(b) *Classification.* Class I (general controls).

§ 862.2850 Atomic absorption spectrophotometer for clinical use.

(a) *Identification.* An atomic absorption spectrophotometer for clinical use is a device used to identify and measure elements and metals (e.g., lead and mercury) in human specimens. The metal elements are identified according to the wavelength and intensity of the light that is absorbed when the specimen is converted to the atomic vapor phase. Measurements obtained by this device are used in the diagnosis and treatment of certain conditions.

(b) *Classification.* Class I (general controls).

§ 862.2860 Mass spectrophotometer for clinical use.

(a) *Identification.* A mass spectrophotometer for clinical use is a device used to identify metallic or organic compounds (e.g., lead, mercury, and drugs) in human specimens by ionizing the compound under investigation and separating the resulting ions by means of an electrical and a magnetic field according to their mass.

(b) *Classification.* Class I (general controls).

§ 862.2900 Automated urinalysis system.

(a) *Identification.* An automated urinalysis system is a device used to measure certain of the physical properties and chemical constituents of urine by procedures that duplicate manual urinalysis systems. This device is used in conjunction with certain materials to measure a variety of urinary analytes.

(b) *Classification.* Class I (general controls).

862.2920 Plasma viscometers for clinical use.

(a) *Identification.* A plasma viscometer for clinical use is a device used to measure the viscosity of plasma by determining the time period required for the plasma to flow a measured distance through a calibrated glass tube. Measurements obtained by this device are used to monitor changes in the amount of solids present in plasma in various disorders.

(b) *Classification.* Class I (general controls).

Subpart D—Clinical Toxicology Test Systems

§ 862.3040 Alcohol test system.

(a) *Identification.* A alcohol test system is a device used to measure alcohol (e.g., ethanol, methanol, isopropanol, etc.) in human body fluids (e.g., serum, whole blood, and urine) by methods such as alcohol dehydrogenase (ADH) enzymatic method, gas chromatography, or potassium dichromate method. Measurements obtained by this device are used in the diagnosis and treatment of alcohol intoxication and poisoning.

(b) *Classification.* Class II (performance standards).

§ 862.3050 Breath-alcohol test system.

(a) *Identification.* A breath-alcohol test system is a device used to measure alcohol in the human breath. Measurements obtained by this device are used in the diagnosis of alcohol intoxication.

(b) *Classification.* Class I (general controls).

§ 862.3100 Amphetamine test system.

(a) *Identification.* An amphetamine test system is a device used to measure amphetamine, a central nervous system stimulating drug, in plasma and urine by methods such as gas chromatography, liquid chromatography, thin-layer chromatography, enzyme, immunoassay, or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of amphetamine overdose and in monitoring levels of amphetamine to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3110 Antimony test system.

(a) *Identification.* An antimony test system is a device used to measure antimony, a heavy metal, in urine, blood, vomitus, and stomach contents by methods such as atomic absorption spectroscopy or colorimetry. Measurements obtained by this device are used in the diagnosis and treatment of antimony poisoning.

(b) *Classification.* Class II (performance standards).

§ 862.3120 Arsenic test system.

(a) *Identification.* An arsenic test system is a device used to measure arsenic, a poisonous heavy metal, in urine, vomitus, stomach contents, nails, hair, and blood by methods such as atomic absorption spectrophotometry, ultraviolet spectrophotometry, or colorimetry. Measurements obtained by this device are used in the diagnosis and treatment of arsenic poisoning.

(b) *Classification.* Class II (performance standards).

§ 862.3150 Barbiturate test system.

(a) *Identification.* A barbiturate test system is a device used to measure barbiturates, a class of hypnotic and sedative drugs, in serum, urine, and gastric contents by methods such as thin-layer chromatography, gas chromatography, colorimetry enzyme immunossay, high pressure liquid chromatography, hemagglutination inhibition, or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of barbiturate overdose and in

monitoring levels of barbiturate to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3170 Benzodiazepine test system.

(a) *Identification.* A benzodiazepine test system is a device used to measure any of the benzodiazepine compounds, sedative and hypnotic drugs, in blood, plasma, and urine by methods such as enzyme immunoassay, ultraviolet spectrophotometry, gas chromatography, high pressure liquid chromaography, or thin-layer chromatography. The benzodiazepine compounds include chlordiazepoxide, diazepam, oxazepam, chlorazepate, flurazepam, and nitrazepam. Measurements obtained by this device are used in the diagnosis and treatment of benzodiazepine overdose.

(b) *Classification.* Class II (performance standards).

§ 862.3200 Clinical toxicology calibrator.

(a) *Identification.* A clinical toxicology calibrator is a device that is used as a reference material for equipment set-up and that is used to determine the accuracy of a device by measuring the variation from a standard or by developing a standard curve for a diagnostic assay. A clinical toxicology calibrator can be a mixture of drugs or a specific material for a particular drug (e.g., ethanol, lidocaine, etc).

(b) *Classification.* Class II (performance standards).

§ 862.3220 Carbon monoxide test system.

(a) *Identification.* A carbon monoxide test system is a device used to measure carbon monoxide or carboxyhemoglobin (carbon monoxide bound to the hemoglobin in the blood) in blood by methods such as microdiffusion analysis, spectrophotometric determination, or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of or confirmation of carbon monoxide poisoning.

(b) *Classification.* Class II (performance standards).

§ 862.3240 Cholinesterase test system.

(a) *Identification.* A cholinesterase test system is a device used to measure cholinesterase (an enzyme that catalyzes the hydrolysis of acetylcholine to choline) in human specimens by methods such as test paper colorimetry or electrometry. There are two principal types of cholinesterase in human tissues. True cholinesterase is present at nerve endings and in erythrocytes (red blood cells) but is not present in plasma. Pseudo cholinesterase is present in plasma and liver but is not present in erythrocytes. Measurements obtained by this device are used in the diagnosis and treatment of cholinesterase inhibition disorders (e.g., insecticide poisoning and succinylcholine poisoning).

(b) *Classification.* Class II (performance standards).

§ 862.3250 Cocaine and cocaine metabolite test system.

(a) *Identification.* A cocaine and cocaine metabolite test system is a device used to measure cocaine and a cocaine metabolite (benzoylecgonine) in serum, plasma, and urine by methods such as gas chromatography, thin-layer chromatography, enzyme immunoassay, free radical assay, high pressure liquid chromatography, radioimmunoassay, or hemagglutination. Measurements obtained by this device are used in the diagnosis and treatment of cocaine overdose and in monitoring levels of cocaine and its metabolite to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3270 Codeine test system.

(a) *Identification.* A codeine test system is a device used to measure codeine, a narcotic pain-relieving drug, in serum and urine by methods such as thin-layer chromatography, enzyme immunoassay, gas chromatography, high pressure liquid chromatography, or hemagglutination inhibition. Measurements obtained by this device are used in the diagnosis and treatment of codeine overdose and in monitoring levels of codeine to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3280 Clinical toxicology control material.

(a) *Identification.* A clinical toxicology control material is a device used to provide an estimation of the percision of a device test system and to detect and monitor systematic deviations from accuracy resulting from reagent or instrument defects. This generic type of device includes various control material, such as alcohol, digoxin, digitoxin, theophylline, lidocaine, methotrexate, *N*-acetylprocainamide, procainamide, drug mixtures, and heavy metals.

(b) *Classification.* Class I (general controls).

§ 862.3300 Digitoxin test system.

(a) *Identification.* A digitoxin test system is a device used to measure digitoxin, a cardiovascular drug, in serum and plasma by radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of digitoxin overdose and in monitoring levels of digitoxin to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3320 Digoxin test system.

(a) *Identification.* A digoxin test system is a device used to measure digoxin, a cardiovascular drug, in serum and plasma by radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of digoxin overdose and in monitoring levels of digoxin to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3350 Diphenylhydantoin test system.

(a) *Identification.* A diphenylhydantoin test system is a device used to measure diphenylhydantoin, an antiepileptic drug, in human specimens by methods such as enzyme immunoassay, radioimmunoassay, gas chromatography, liquid chromotography, and thin-layer chromotography. Measurements obtained by this device are used in the diagnosis and treatment of diphenylhydantoin overdose and in monitoring levels of diphenylhydantoin to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3380 Ethosuximide test system.

(a) *Identification.* An ethosuximide test system is a device used to measure ethosuximide, an antiepileptic drug, in human specimens by such methods as thin-layer chromatography, liquid chromatography, gas chromatography, radioimmunoassay, or enzyme immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of ethosuximide overdose and in monitoring levels of ethosuximide to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3450 Gentamicin test system.

(a) *Identification.* A gentamicin test system is a device used to measure gentamicin, an antibiotic drug, in human specimens by methods such as hemagglutination inhibition, agar gel diffusion discs, radioimmunoassay gentamicin (125_I) second antibody separation, *Bacillus subtlis* microbiology assay, or enzymatic radiochemical assay. Measurements obtained by this device are used in the diagnosis and treatment of gentamicin overdose and in monitoring levels of

gentamicin to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3520 Kanamycin test system.

(a) *Identification.* A kanamycin test system is a device used to measure kanamycin, an antibiotic drug, in plasma and serum by radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of kanamycin overdose and in monitoring levels of kanamycin to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3550 Lead test system.

(a) *Identification.* A lead test system is a device used to measure lead, a heavy metal, in blood and urine by methods such as atomic absorption spectroscopy, *delta*-aminolevulinic acid, fluorometric protoporphyrin zinc, or fluorometric protoporphyrin. Measurements obtained by this device are used in the diagnosis and treatment of lead poisoning.

(b) *Classification.* Class II (performance standards).

§ 862.3560 Lithium test system.

(a) *Identification.* A lithium test system is a device used to measure lithium (from the drug lithium carbonate) in serum or plasma by methods such as atomic absorption or flame photometry. Measurements of lithium are used to assure that the proper drug dosage is administered in the treatment of patients with mental disturbances, such as manic-depressive illness (bipolar disorder).

(b) *Classification.* Class II (performance standards).

§ 862.3580 Lysergic acid diethylamide (LSD) test system.

(a) *Identification.* A lysergic acid diethylamide (LSD) test system is a device used to measure lysergic acid diethylamide, a hallucinogenic drug, in serum, urine, and gastric contents by methods such as free radical assay or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of LSD use.

(b) *Classification.* Class II (performance standards).

§ 862.3600 Mercury test system.

(a) *Identification.* A mercury test system is a device used to measure mercury, a heavy metal, in human specimens by atomic absorption spectroscopy. Measurements obtained by this device are used in the diagnosis and treatment of mercury poisoning.

(b) *Classification.* Class II (performance standards).

§ 862.3610 Methamphetamine test system.

(a) *Identification.* A methamphetamine test system is a device used to measure methamphetamine, a central nervous system stimulating drug, in serum, plasma, and urine by methods such as thin-layer chromatography, gas chromatography, or high-pressure liquid chromatography. Measurements obtained by this device are used in the diagnosis and treatment of methamphetamine overdose.

(b) *Classification.* Class II (performance standards).

§ 862.3620 Methadone test system.

(a) *Identification.* A methadone test system is a device used to measure methadone, an addictive narcotic pain-relieving drug, in serum and urine, by methods such as thin-layer chromatography, liquid chromatography, gas chromatography, enzyme immunoassay, free radical assay, spectrophotometry, hemagglutination inhibition, or radioimmunoassay. Measurements obtained by this device are used in the diagnosis and treatment of methadone overdose and to determine compliance with regulations in methadone maintenance treatment.

(b) *Classification.* Class II (performance standards).

§ 862.3640 Morphine test system.

(a) *Identification.* A morphine test system is a device used to measure morphine, an addictive narcotic pain-relieving drug, and its analogs in serum, urine, and gastric contents by methods such as fluorometry, free radical assay, gas chromatography, hemagglutination inhibition, liquid chromatography, radioimmunoassay, or thin-layer chromatography. Measurements obtained by this device are used in the diagnosis and treatment of morphine overdose.

(b) *Classification.* Class II (performance standards).

§ 862.3650 Opiate test system.

(a) *Identification.* An opiate test system is a device used to measure any of the addictive narcotic pain-relieving opiate drugs in blood, serum, urine, gastric contents, and saliva by methods such as enzyme immunoassay, gas chromatography, thin-layer chromatography, high pressure liquid chromatography, free radical assay, or hemagglutination inhibition. An opiate is any natural or synthetic drug that has morphine-like pharmacological actions. The opiates include drugs such as morphine, morphine glucuronide, heroin, codeine, nalorphine, and meperedine. Measurements obtained by this device are used in monitoring the levels of opiate administration to ensure appropriate therapy and the diagnosis of possible drug dependence.

(b) *Classification.* Class II (performance standards).

§ 862.3660 Phenobarbital test system.

(a) *Identification.* A phenobarbital test system is a device used to measure phenobarbital, an antiepileptic and sedative-hypnotic drug, in human specimens by methods such as radioimmunoassay, enzyme immunoassay, liquid chromatography, or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of phenobarbital overdose and in monitoring levels of phenobarbital to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3670 Phenothiazine test system.

(a) *Identification.* A phenothiazine test system is a device used to measure any of the drugs of the phenothiazine class in human specimens by methods such as thin-layer chromatography or the ferric chloride/perchloric acid/nitric acid color test. Measurements obtained by this device are used in the diagnosis and treatment of phenothiazine overdose.

(b) *Classification.* Class II (performance standards).

§ 862.3680 Primidone test system.

(a) *Identification.* A primidone test system is a device used to measure primidone, an antiepileptic drug, in human specimens by methods such as thin-layer chomatography, liquid chromatography, gas chromatography, radioimmunoassay, or enzyme immunoassay. Measurements obtained by this device are used in the diagnosis and treatment of primidone overdose and in monitoring levels of primidone to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3700 Propoxyphene test system.

(a) *Identification.* A propoxyphene test system is a device used to measure propoxyphene, a pain-relieving drug, in serum, plasma, and urine by methods such as enzyme immonoassay or thin-layer chromatography. Measurements obtained by this device are used in the diagnosis and treatment of propoxyphene overdose or in monitoring levels of propoxyphene to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3750 Quinine test system.

(a) *Identification.* A quinine test system is a device used to measure quinine, a fever-reducing and pain-relieving drug used in the treatment of malaria, in serum and urine by methods such as thin-layer chromatography, high-pressure liquid chromatography, spectrophotofluorometry, or gas chromatography. Measurements obtained by this device are used in the diagnosis and treatment of quinine overdose and malaria.

(b) *Classification.* Class II (performance standards).

§ 862.3830 Salicylate test system.

(a) *Identification.* A salicylate test system is a device used to measure salicylates, a class of analgesic, antipyretic and anti-inflammatory drugs that includes aspirin, in human specimens by methods such as the paper strip test or colorimetry. Measurements obtained by this device are used in diagnosis and treatment of salicylate overdose and in monitoring salicylate levels to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3850 Sulfonamide test system.

(a) *Identification.* A sulfonamide test system is a device used to measure sulfonamides, any of the antibacterial drugs derived from sulfanilamide, in human specimens by colorimetry. Measurements obtained by this device are used in the diagnosis and treatment of sulfonamide overdose and in monitoring sulfonamide levels to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

§ 862.3870 Cannabinoid test system.

(a) *Identification.* A cannabinoid test system is a device used to measure by radioimmunoassay any of the cannabinoids, hallucinogenic compounds endogenous to marihuana, in serum, plasma, saliva, and urine. Cannabinoid compounds include *delta*-9-tetrahydrocannabinol, cannabidiol, cannabinol, and cannabichromene. Measurements obtained by this device are used in the diagnosis and treatment of cannabinoid abuse and in monitoring levels of cannabinoids during clinical investigational use.

(b) *Classification.* Class II (performance standards).

§ 862.3900 Tobramycin Test system.

(a) *Identification.* A tobramycin test system is a device used to measure tobramycin, an aminoglycoside antibiotic drug, in plasma and serum by methods such as radioimmunoassay or *Bacillus subtilis* microbiology assay. Measurements obtained by this device are used in the diagnosis and treatment of tobramycin overdose and in monitoring levels of tobramycin to ensure appropriate therapy.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before April 5, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments regarding the general provisions are to be identified with the docket number found in brackets in the heading of this document. Comments regarding a particular device are to be identified with the docket number for that device found in the "Panel Recommendations, and FDA's Proposed Classifications" section. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has carefully analyzed the economic effects of this proposed rule and has determined that, if promulgated, the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that this proposal does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules proposing classification of devices into class I generally maintain the status quo: These devices are now subject to only the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and, under the proposed rules, would remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II would also remain subject only to the general controls provisions of the act unless and until an applicable performance standard were established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules do not have a significant impact on a substantial number of small entities and are not major rules.

Dated: December 16, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–1977 Filed 2–1–82; 8:45 am]

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federal register

Tuesday
February 2, 1982

Part III

Department of the Interior

National Park Service

National Register of Historic Places; Annual Listing of Historic Properties

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Annual Listing of Historic Properties

Pursuant to the National Historic Preservation Act of 1966, as amended (80 Stat. 915, 16 U.S.C. 470 et seq.), the National Park Service, Department of the Interior, has undertaken steps to implement the purposes of that act through: (1) expansion of the National Register of Historic Places, (2) initiating a program of grants-in-aid for historic preservation, and (3) adoption of procedures and criteria for furthering the Nation's historic preservation program.

It is the purpose of this notice, through publication of the information included herein, to apprise the public, as well as governmental agencies, associations, and all other organizations and individuals interested in historic preservation of the properties added to the National Register from Nov. 1, 1980 to Nov. 1, 1981, and of the properties determined eligible for inclusion in the National Register from Nov. 1, 1980 to Nov. 1, 1981.

Carol D. Shull,

Acting Keeper of the National Register.

For a cumulative listing comprising all properties on the National Register, we recommend that users retain the **Federal Register** listings from February 6, 1979 (Vol. 44, No. 26, Part II), March 18, 1980 (Vol. 45, No. 54, Part II), and February 3, 1981 (Vol. 46, No. 22, Part II). Together these listings provide information for all National Register properties and for properties determined eligible for inclusion on the National Register through November, 1981. A limited number of copies of the 1979, 1980 and 1981 Federal Registers Part II are available from the Department of the Interior, National Park Service, National Register of Historic Places, 18th and C Sts., NW., Washington, D.C. 20240.

ALABAMA

BLOUNT COUNTY COVERED BRIDGES THEMATIC RESOURCES. Reference—see individual listings under Blount County.

Blount County

Cleveland vicinity, *Swann Covered Bridge (Blount County Covered Bridges Thematic Resources)* W of Cleveland (8–20–81)
Nectar vicinity, *Nectar Covered Bridge (Blount County Covered Bridges Thematic Resources)* 8 mi. SW of Nectar (8–20–81)
Oneonta vicinity, *Easley Covered Bridge (Blount County Covered Bridges Thematic Resources)* Spans Dub Branch (8–20–81)
Oneonta vicinity, *Horton Mill Covered Bridge (Blount County Covered Bridges Thematic Resources)* 5 mi. (8km) N of Oneonta on Rte. 3 (previously listed in the National Register 12–29–70)

Jefferson County

Birmingham, *Blessed Sacrament Academy (Convent of Perpetual Adoration),* 1525 Cotton Ave., SW (11–28–80)
Birmingham, *Continental Gin Company,* 4500–5th Ave., S. (11–20–80)
Birmingham, *Forest Park,* Roughly bounded by Highland Golf Course and 38th St. on west; Linwood Rd on east; Overlook and Clairmont on N; Cherry St. on S. (11–21–80)
Birmingham, *Sloss Blast Furnaces,* 1st Ave. (5–29–81) NHL

Madison County

Huntsville, *U.S. Courthouse and Post Office (Downtown Huntsville Multiple Resource Area)* 101 E. Holmes Ave. (Addition) (2–24–81)

Mobile County

Mobile, *Carlen House,* 54 S. Carlen St. (6–12–81)

Montgomery County

Montgomery, *McBryde-Screws-Tyson House,* 433 Mildred St. (11–28–80)
Montgomery, *Scott Street Firehouse,* 418 Scott St. (2–12–81)

Morgan County

Trinity vicinity, *Forest Home,* E of Trinity (11–21–80)

ALASKA

Anchorage Division

Anchorage, *Anchorage City Hall,* 524 W. 4th Ave. (12–2–80)
Anchorage, *Pioneer School House,* 3rd Ave. and Eagle St. (12–3–80)

Barrow-North Slope Division

Barrow, *Point Barrow Refuge Station,* Browersville (12–2–80)

Kodiak Division

Larsen Bay vicinity, *KOD–171 Site (AHRS No. KOD–171)* (8–13–81)
Larsen Bay vicinity, *KOD–233 Site (AHRS No. KOD–233)* (8–13–81)

Seward Division

Seward, *Van Gilder Hotel,* 307 Adams St. (12–2–80)

ARIZONA

Coconino County

Lee's Ferry vicinity, *Navajo Steel Arch Highway Bridge,* SW of Lee's Ferry (8–13–81)

Gila County

San Carlos vicinity, *Coolidge Dam,* SW of San Carlos (10–29–81) (also in Pinal County)

Maricopa County

Gila Bend vicinity, *Gillespie Dam Highway Bridge,* NW of Gila Bend (5–5–81)
Tempe, *Frankenberg House,* 129 E. University Dr. (1–29–81)
Tempe, *Long, Samuel C., House,* 27 E. 6th St. (11–28–80)
Tempe, *1931 Tempe Bridge,* Mill Ave. (8–13–81)

Mohave County

HOOVER DAM. Reference—see Clark County, NV.

Navajo County

Snowflake, *Freeman, John A., House,* Main and Freeman Sts. (11–25–80)

Pinal County

COOLIDGE DAM. Reference—see Gila County.

Yavapai County

Prescott, *Iron Turbine Windmill,* 415 W. Gurley St. (7–9–81)

Yuma County

Dome vicinity, McPhaul Suspension Bridge, W of Dome (8–13–81)

ARKANSAS

Pima County

Tucson, *West University Historic District,* Roughly bounded by Speedway Blvd., 6th St., Park and Stone Aves. (12–10–80)

Pulaski County

Little Rock, *Retan, Albert, House,* 506 N. Elm St. (12–3–80)
Little Rock, *Union Life Building,* 212 Center St. (9–25–81)

Scott County

Waldron, *Forrester, John T., House,* 115 Danville St. (12–8–80)

Sevier County

DeQueen, *Hayes Hardware Store,* 314 DeQueen St. (12–3–80)

Washington County

Fayetteville vicinity, *Kantz House,* E of Fayetteville at 2650 Mission St. (11–14–80)

CALIFORNIA

Alameda County

Alameda, *First Presbyterian Church Sanctuary Building,* 2001 Santa Clara Ave. (11–25–80)
Berkeley, *City Hall,* 2134 Grove St. (9–11–81)
Berkeley, *U.S. Post Office,* 2000 Milvia St. (1–29–81)
Fremont, *Washington Union High School,* 38442 Fremont Blvd. (10–5–81)

Amador County

Jackson, *Kennedy Tailing Wheels,* Jackson Gate Rd. (7–7–81)

Contra Costa County

Walnut Creek vicinity, *Old Borges Ranch,* 1035 Castlerock Rd. (7–7–81)

Humboldt County

Bridgeville vicinity, *Lower Blackburn Grade Bridge,* NW of Bridgeville on CA 36 (8–25–81)

Inyo County

Bishop vicinity, *Laws Narrow Gauge Railroad Historic District,* NE of Bishop (10–1–81)
Death Valley Junction, *Death Valley Junction Historic District,* CA 127 and CA 190 (12–10–80)

Kern County

Bakersfield, *Kern Branch, Beale Memorial Library*, 1400 Baker St. (4–1–81)
Taft, *Fort, The*, Ash and Lincoln Sts. (7–22–81)

Klamath County

Bly, *Bly Ranger Station*, OR 140 (3–11–81)

Los Angeles County

Hollywood, *Hollywood Studio Club*, 1215 Lodi Pl. (11–25–80)
Long Beach, *Pacific Coast Club*, 850 E. Ocean Blvd. (11–20–80)
Long Beach, *Rancho Los Alamitos*, 6400 Bixby Hill Rd. (7–7–81)
Los Angeles, *Los Angeles Pacific Company Ivy Park Substation*, 9015 Venice Blvd. (3–25–81)
Los Angeles, *Los Angeles Union Passenger Terminal*, 800 N. Alameda St. (11–13–80)
Pasadena, *Colorado Street Bridge*, Colorado Blvd. (2–12–81)
Pasadena, *Stoutenburgh House*, 255 S. Marengo Ave. (11–25–80)
Pasadena, *Vista del Arroyo Hotel and Bungalows*, 125 S. Grand Ave. (4–2–81)
Redondo Beach, *Redondo Beach Public Library*, 309 Esplanade St. (3–12–81)

Marin County

Marin City vicinity, *Muir Beach Archeological Site*, W of Marin City (1–28–81)
Marin City vicinity, *Steamship Tennessee Remains*, Golden Gate National Recreation Area (4–15–81)

Mendocino County

Covelo, *Round Valley Flour Mills*, Main and Greely Sts. (11–10–80)
Ukiah, *Sun House*, 431 S. Main St. (9–2–81)

Merced County

Atwater, *Bloss Mansion (George S. Bloss House)* 1020 Cedar Ave. (9–3–81)

Monterey County

Pacific Grove, *Gosby House Inn*, 643 Lighthouse Ave. (12–2–80)

Orange County

Anaheim, *Stanton, Phillip Ackley, House*, 2200 W. Sequoia Ave. (11–21–80)
Orange, *Ainsworth, Lewis, House*, 414 E. Chapman Ave. (3–13–81)
San Clemente, *San Clemente Beach Club*, Avenida Boca De La Playa (4–9–81)

Riverside County

Desert Center vicinity, *North Chuckwalla Mountain Quarry District (CA–Riv–1814)* SE of Desert Center (8–24–81)
Desert Center vicinity, *North Chuckwalla Mountains Petroglyph District Ca-Riv–1383)* SE of Desert Center (9–3–81)

Sacramento County

Folsom, *Folsom Powerhouse*, Folsom Blvd. and Riley St. (5–29–81) NHL
Sacramento, *Brighton School*, 3312 Bradshaw Rd. (4–3–81)
Sacramento, *Wagner, Anton, Duplex*, 701 E St. (11–10–80)

San Bernardino County

Red Mountain vicinity, *Squaw Spring Archeological District* (7–28–81)
Silver Lake vicinity, *Archeological Site CA–SBR–3186*, (2–10–81)

San Diego County

San Diego, *Pythias Lodge Building*, 211 E St. and 870 3rd Ave. (4–8–81)

San Francisco County

San Francisco, *Beach Chalet*, 1000 Great Hwy. (7–22–81)
San Francisco, *Lydia, The (Archeological Site No. 4–SFR–94 H*, King St. and the Embarcadero (7–16–81)

San Joaquin County

Stockton, *Commercial and Savings Bank*, 343 Main St. (11–25–80)
Stockton, *Hotel Stockton*, 133 E. Weber Ave. (4–1–81)

San Mateo County

Half Moon Bay, *Methodist Episcopal Church at Half Moon Bay*, 777 Miramontes St. (11–10–80)

Santa Barbara County

Santa Barbara, *Santa Barbara County Courthouse*, 1100 Anacapa St. (1–23–81)
Santa Barbara vicinity, *Point Conception Light Station*, U.S. Coast Guard Light Station (2–25–81)

Santa Clara County

Palo Alto, *Pettigrew House*, (11–25–80)
Palo Alto, *U.S. Post Office*, 380 Hamilton Ave. (4–5–81)

Santa Cruz County

Santa Cruz vicinity, *Brown, Allan, Site* (6–25–81)

Shasta County

Redding vicinity, *Squaw Creek Archeological Site* (9–3–81)

Sierra County

1872 CALIFORNIA NEVADA STATE BOUNDARY MARKER. Reference—see Washoe County, Nevada.
Nevada City vicinity, *Foote's Crossing Road*, Tahoe National Forest (1–29–81)

Siskiyou County

Weed, *Shasta Inn and Week Lumber Company Boarding House*, 829 and 877 N. Davis St. (11–10–80)

Sonoma County

Sonoma, *Sonoma Grammer School*, 276 E. Napa St. (11–28–80)

Trinity County

Trinity Center vicinity, *Bowerman Barn*, SW of Trinity Center on Guy Covington Dr. (3–20–81)

Tuolumne County

Sonora, *Tuolumne County Courthouse*, 41 W. Yaney Ave. (9–17–81)

Yolo County

Woodland, *Woodland Public Library*, 250 1st St. (9–28–81)

COLORADO

Boulder County

Boulder, *Downtown Boulder Historic District*, CO 19 (12–3–80)

Denver County

Denver, *Paramount Theater*, 519 16th St. (11–21–80)

Jefferson County

Morrison vicinity, *Peterson House (Ticen House)* E of Morrison on Morrison Rd. (9–10–81)

Larimer County

Berthoud, *Bimson Blocksmith Shop*, 224 Mountain St. (7–23–81)

Prowers County

Lamar, *Prowers County Building*, 301 S. Main St. (9–21–81)

Weld County

Erie, *Lincoln School*, 645 Holbrook St. (7–22–81)
Greeley, *Greeley High School and Grade School*, 1015 8th St. (7–23–81)
Keota vicinity, *Keota Stone Circles Archeological District* (7–28–81)

CONNECTICUT

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, 1554 Farmington Ave. (7–30–81)
Hartford, *Connecticut State Library and Supreme Court Building*, 231 Capitol Ave. (6–4–81)
Hartford, *Municipal Building*, 550 Main St. (4–27–81)
Hartford, *U.S. Post Office and Federal Building*, 135—149 High St. (10–19–81)
West Hartford, *Webster, Noah, Memorial Library*, 7 N. Main St. (7–30–81)

New Haven County

Meriden, *Curtis Memorial Library*, 175 E. Main St. (4–27–81)
Prospect, *Hotchkiss, David, House*, Waterbury Rd. (5–1–81)
Waterbury, *Benedict-Miller House*, 32 Hillside Ave. (6–12–81)

New London County

Groton, *Smith, Jabez, House*, North Rd. (5–15–81)
New London, *Bulkeley School*, Huntington St. (8–13–81)

Tolland County

Rockville, *Old Rockville High School and East School*, School and Park Sts. (4–27–81)

DELAWARE

Kent County

Felton, *Felton Railroad Station*, E. Railroad Ave. (7–13–81)
Wyoming, *Wyoming Railroad Station*, E. Railroad Ave. (12–4–80)

New Castle County

Odessa vicinity, *Monterey*, N of Odessa on Bayview Rd. (12–5–80)
Wilmington, *Brandywine Park and Kentmere Parkway, Roughly* bounded by Kentmere Pkwy., Augustine Cutoff, Lovering Ave., 18th and Market Sts. (7–23–81)

Sussex County

Georgetown vicinity, *Redden Forest Lodge, Forester's House, and Stable,* Redden State Forest (11–25–80)
Lewes vicinity, *Fisher Homestead,* W of Lewes (12–11–80)

DISTRICT OF COLUMBIA

Washington

MOUNT VERNON MEMORIAL HIGHWAY. Reference—see Alexandria, Virginia (independent city)

FLORIDA

Dade County

Coral Gables, *Venetian Pool,* 2701 De Soto Blvd. (8–20–81)

Franklin County

Apalachicola, *Apalachicola Historic District,* Roughly bounded by Apalachicola River, Apalachicola Bay, 17th and Jefferson Sts. (11–21–80)

Hillsborough County

Plant City, *Plant City High School,* N. Collins St. (2–4–81)

Palm Beach County

Lake Park, *Kelsey City City Hall,* 535 Park Ave. (9–3–81)
Palm Beach, *Mar-A-Lago National Historic Landmark* (12–23–80) (NHL)

St. Johns County

St. Augustine, *St. Augustine Lighthouse and Keeper's Quarters,* Old Beach Rd. (3–19–81)

Volusia County

Oak Hill vicinity, *Ross Hammock Site,* (2–5–81)
Ormond Beach, *Ormond Hotel,* 15 E. Granada Blvd. (11–24–80)

GEORGIA

MARSHALLVILLE AND VICINITY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Macon County, Marshallville, *East Main Street Residential District,* E. Main St.; *Marshallville Commerical District,* Main St.; *West Main Street Residential District,* W. Main St.; *Felton, William Hamilton, House,* McCaskill St.; Marshallville vicinity. *Alma Fruit Farm,* GA 49W; *Billy Place,* 430 W. Church St.; *Knob, Wilkes, Plantation;* Massee Lane; *Thronateeska; Willow Lake,* Rt. 1; Peach County, Fort Valley vicinity, *Strother's Farm.* (11–25–80)

Bibb County

Macon, *Vineville Historic District,* GA 247 and U.S. 41 (11–21–80)

Chatham County

Savannah vicinity, *Hill Hall at Savannah State College,* Savannah State College campus (4–23–81)

Cherokee County

Canton, *Cherokee County Courthouse (Georgia County Courthouses Thematic Resources)* (Addition) (5–28–81)

Cobb County

Smyrna, *Ruff's Mill and Concord Covered Bridge,* 10 Concord Rd., SW (11–24–80)

Floyd County

Cave Spring, *CAVE SPRING MULTIPLE RESOURCE AREA.* This area includes: *Cave Spring Commerical Historic District,* Alabama, Rome and Cedartown Rds.; Broad and Padlock Sts.; *Cave Spring Residential Historical District,* U.S. 411 and GA 100; *Georgia School for the Deaf Historic District,* Padlock St.; *Rolator Park Historic District,* Off U.S. 411; *Carroll-Harper House,* Cedartown St.; *Carroll, John M., House,* Park St.; *Carroll-Richardson Grist Mill,* Mill St.; *Cave Spring Female Academy,* Rome St.; *Cave Spring High School,* Rome St.; *Cave Spring Railroad Station,* Alabama St.; *Conner, Wesley O., House,* Cedartown St.; *Cowdry, William D., Plantation,* Rome Rd.; *Fannin, Oliver P., House,* Cedartown St.; *Ford, Joseph, House,* Love and Alabama Sts.; *Mann, John T., House,* Rivers St.; *McKinney, Dr. W. T., House,* Cedartown St.; *Rivers Farm,* Rome St.; *Robbins, Samuel W., House,* Rome St.; *Roving House,* Rome St.; *Simmons House,* Cedartown St.; *Simmons, William S. Plantation,* Alabama St.; *Watts George T., House,* Love St.; *Wharton-Trout House,* Rome St. (6–19–80)

Fulton County

Atlanta, *Grady Hospital,* 36 Butler St., SE. (8–13–81)
Atlanta, *WEST PACES FERRY ROAD MULTIPLE RESOURCE AREA.* This area includes: *Peachtree Heights Park,* Pearchtree, Habersham, and Wesley Rds., Andrews Dr., and Peachtree Battle Ave.; *Canton Apartments,* 2846—2840 Peachtree Rd.; *Thornton, Albert E., House,* 105 W. Paces Ferry Rd., NW., and *Trygveson,* 3418 Pinestream Rd., NW. (12–8–80)

Gwinnett County

Norcross, *Norcross Historic District,* Off U.S. 23 (11–21–80)

Heard County

Corinth vicinity, *Ware, John M., Sr., House,* NW of Corinth (11–3–80)
Franklin, *Heard County Jail,* Court Sq. and Shady Lane (1–27–81)

Muscogee County

Columbus, *COLUMBUS MULTIPLE RESOURCE AREA (ADDITIONS).* This area includes: *Church Square* (including The First Baptist Church of Columbus); *Ledger-Enquirer Building,* 17 W. 12th St.; *Carter and Bradley, Cotton Factors and Warehouseman,* 1001–1037 Front Ave.; *W. Jacob Burrus House,* 307 11th St.; *Elisha P. Dismukes House,* 1515 3rd Ave.; *Building at* 1519 3rd Avenue; *Building at* 1531 3rd Avenue; *Henry Lindsay Woodruff House,* 1535 3rd Ave.; *Building at* 1612 3rd Avenue; *Isaac Maund House,* 1608 3rd Ave.; *Columbus Stockade,* 622 10th St.; *Bush-Philips Hardware Co.,* 1025 Broadway; *Power and Baird, Wholesale Dry Goods and Notions,* 1107 Broadway; *Central of Georgia Railroad Terminal,* 700 12th St.; *Wolfson Printing and Paper Co.,* 24 W. 10th St.; *Frank Brothers (printers),* 18 W. 10th St.; *Broad Street Methodist Episcopal Church South,* 1323–1325 Broadway; *Wm. L. Cooke House,* 1523 3rd Ave.; *Building at* 303 11th St. (12–2–80)

Polk County

Cedartown, *Hawkes Children's Library,* N. College St. (11–24–80)

Quitman County

Georgetown, *Quitman County Jail,* Main St. (8–13–81)

Richmond County

Augusta, *Greene Street Historic District,* Greene St. (12–3–80)

Sumter County

Americus vicinity, *Liberty Hall,* SE of Americus on S. Lee St. (11–25–80)

Washington County

Sandersville, *Elder, Thomas Jefferson, High and Industrial School,* 316 Hall St. (5–12–81)

Wilkes County

Rayle vicinity, *Daniel, James and Cunningham, House,* S of Rayle on Bartram Trace Rd. (11–24–80)

HAWAII

FIRE STATIONS OF OAHU THEMATIC RESOURCES. Reference—see individual listings under Honolulu County.

Honolulu County

Haleiwa, *Waialua Fire Station (Fire Stations of Oahu Thematic Resources)* 66—420 Haleiwa Rd. (12–2–80)
Honolulu, *CENTRAL FIRE STATION (FIRE STATIONS OF OAHU THEMATIC RESOURCES),* 104 S. Beretania St. (12–2–80)
Honolulu, *Kaimuki Fire Station (Fire Stations of Oahu Thematic Resources)* 971 Koko Head Ave. (12–2–80)
Honolulu, *Kakaaka Fire Station (Fire Stations of Oahu Thematic Resources)* 620 South St. (12–2–80)
Honolulu, *Kalihi Fire Station (Fire Stations of Oahu Thematic Resources)* 1742 N. King St. (12–2–80)
Honolulu, *Makiki Fire Station (Fire Stations of Oahu Thematic Resources)* 1202 Wilder Ave. (12–2–80)
Honolulu, *Palama Fire Station (Fire Stations of Oahu Thematic Resources)* 879 N. King St. (previously listed in the National Register 4–21–76)

Maui County

Kaho' olawe, *Kaho' olawe Island Archeological District,* Kaho' olawe Island (3–18–81)

IDAHO

EARLY CHURCHES OF EMMETT THEMATIC RESOURCES. Reference—see individual listings under Gem County.

Ada County

Boise, *Lower Main Street Commercial Historic District,* Main St. between 10th and 12th Sts. (11–28–80)
Boise, *Tuttle, Bishop Daniel S., House,* 512 N. 8th St. (12–4–80)

Caribou County

Chesterfield, *Chesterfield Historic District,* (12–4–80)

Cassia County

Albion, *Albion Normal School Campus*, Off ID 77 (11–28–80)
Oakley, *Oakley Historic District*, Main St. and Wilson Ave. (11–28–80)

Custer County

CHALLIS MULTIPLE RESOURCE AREA. This area includes: Challis, *Old Challis Historic District*, Bounded by Valley and Pleasant Aves., 2nd and 3rd Sts.; *Board-and-Batten Commercial Building*, Main Ave.; *Building at 247 Pleasant Avenue; Buster Meat Market*, Main Ave.; *Bux's Place*, 321 Main Ave.; *Challis Cold Storage*, Main Ave.; *Challis High School*, Main Ave.; *Chivers, Bill House*, 3rd St.; *Chivers, Thomas, Cellar*, Challis Creek Rd.; *Chivers, Thomas, House*, Challis Creek Rd.; *Custer County Jail*, Main Ave.; *False-Front Commercial Building*, Main Ave.; *Hosford, Emmett, House*, 3rd St.; *I.O.O.F. Hall*, Main Ave.; *McKendrick House*, 4th St.; *Peck, Bill, House*, 16 Main Ave.; *Penwell House*, North Ave.; *Rowles, Donaldson, House*, North Ave.; *Smith, Henry, House*, 5th St.; *Stone and Log Building*, Pleasant Ave.; *Stone Building*, 3rd St.; *Twin Peaks Sports*, Main Ave.; *Wilkinson, Clyde, House*, 9th St. (12–3–80)
Challis, *Challis Archeological Spring District*, (2–12–81)
Custer, *Custer Historic District* (2–3–81)

Gem County

Emmett, *Catholic Church of the Sacred Heart (Early Churches of Emmett Thematic Resources)* 1st St. (12–3–80)
Emmett, *Emmett Presbyterian Church (Emmett First Southern Baptist Church) (Early Churches of Emmett Thematic Resources)* 2nd St. (12–3–80)
Emmett, *First Baptist Church of Emmett (Early Churches of Emmett Thematic Resources)* 1st St. (12–3–80)
Emmett, *Methodist Episcopal Church (United Methodist Church) (Early Churches of Emmett Thematic Resources)* 1st St. and Washington Ave. (12–3–80)
Emmett, *St. Mary's Episcopal Church (Early Churches of Emmett Thematic Resources)* 1st St. (12–3–80)

Latah County

Moscow, *Fort Russell Neighborhood Historic District*, Roughly bounded by Jefferson, Monroe, 2nd and D Sts. (11–26–80)

Owyhee County

Oreana, *Our Lady, Queen of Heaven Church*, (11–28–80)

Shoshone County

Pritchard vicinity, *Magee Ranger Station*, W of Pritchard (2–18–81)
Wallace, *Wallace Carnegie Library*, City Park (2–3–81)

ILLINOIS

AMERICAN WOMAN'S LEAGUE CHAPTER HOUSES THEMATIC RESOURCES. Reference—see individual listings under Bureau, Henry, Lake, Macoupin, Madison and White Counties.

Bureau County

Princeton, *Princeton Chapter House (American Woman's League Chapter Houses Thematic Resources)* 1007 N. Main St. (11–28–80)

Carroll County

Mount Carroll, *Halderman, Nathaniel, House*, 728 E. Washington St. (11–24–80)
Mount Carroll, *Mount Carroll Historic District*, IL 64 and IL 78 (11–28–80)

Champaign County

Champaign, *Stone Arch Bridge*, Springfield Ave. and 2nd St. (5–14–81)

Coles County

Charleston, *Old Main (Livingston C. Lord Administration Building)* Lincoln Ave. and 7th St. (6–16–81)

Cook County

Chicago, *AVR 661 (Crash Boat)*, Calumet Harbor (11–19–80)
Chicago, *Dunlap Mansion*, 1012 N. Dearborn St. (11–21–80)
Chicago, *Old Stone Gate of Chicago Union Stockyards*, W. Exchange Ave. and S. Peoria St. (5–29–81) NHL
Chicago, *Pulaski Park and Fieldhouse*, 1419 W. Blackhawk St. (8–13–81)
Chicago, *Rosenwald Apartment Building*, 47th St. and Michigan Ave. (8–13–81)
Chicago, *Sheridan Plaza Hotel*, 4601–4613 N. Sheridan Rd. (11–21–80)
Western Springs, *Western Springs Water Tower*, 914 Hillgrove Ave. (6–4–81)

Cumberland County

Toledo, *Cumberland County Courthouse*, Court House Sq. (6–11–81)

DuPage County

Villa Park, *Ardmore Avenue Train Station*, 10 W. Park Ave. (11–21–80)
Wheaton, *Adams Memorial Library*, 102 E. Wesley St. (6–4–81)

Edgar County

Paris, *Edgar County Courthouse*, Main St. (6–4–81)

Greene County

Carrollton, *Hodges House*, 532 N. Main St. (11–3–80)

Henry County

Andover, *Andover Chapter House (American Woman's League Chapter Houses Thematic Resources)* Locust St., NW. (11–28–80)
Annawan, *Annawan Chapter House (American Woman's League Chapter Houses Thematic Resources)* 206 S. Depot St. (11–28–80)

Kane County

Batavia, *White, Louise, School*, Washington Ave. (11–7–80)
Batavia vicinity, *Campana Factory*, N of Batavia (Boundary decrease approved 12–18–80)
Elgin, *First Universalist Church*, 55 Villa St. (11–7–80)
Elgin vicinity, *Memorial Washington Reformed Presbyterian Church*, W of Elgin on W. Highland Ave. Rd. (11–19–80)
Wasco vicinity, *Camptown Town Hall*, W of Wasco at Town Hall Rd. and IL 64 (11–24–80)

Lake County

Highland Park, *Willits, Ward Winfield, House*, 1445 Sheridan Rd. (11–24–80)
Zion, *Zion Chapter House (American Woman's League Chapter Houses Thematic Resources)* 2715 Emmaus Ave. (11–28–80)

Macoupin County

Carlinville, *Carlinville Chapter House (American Woman's League Chapter Houses Thematic Resources)* 111 S. Charles St. (11–28–80)

Madison County

Alton, *Alton Chapter House (American Woman's League Chapter Houses Thematic Resources)* 509 Beacon St. (11–28–80)
Edwardsville, *Edwardsville Chapter House (American Woman's League Chapter Houses Thematic Resources)* 515 W. High St. (11–28–80)
Edwardsville vicinity, *Kuhn Station Site*, SE of Edwardsville (11–25–80)
Granite City vicinity, *Horseshoe Lake Mound and Village Site*, (11–28–80)
Marine, *Marine Chapter House (American Woman's League Chapter Houses Thematic Resources)* Silver St. (11–28–80)

Mercer County

Keithsburg, *United Presbyterian Church*, Main and 8th Sts. (11–7–80)

Morgan County

Jacksonville, *Grierson, Gen. Benjamin Henry, House*, 852 E. State St. (11–20–80)

Ogle County

Oregon, *Ogle County Courthouse*, Courthouse Sq. (9–10–81)

Peoria County

Peoria, *Madison Theatre*, 502 Main St. (11–21–80)

Richland County

Olney, *Elliott Street Historic District*, S. Elliott St. between Chestnut St. and South Ave. (11–28–80)

Sangamon County

Rochester, *Taft Farmstead*, SR 3 (11–20–80)
Rochester vicinity, *Miller, Joseph, House*, Buckhart Rd. (11–24–80)

Union County

Jonesboro vicinity, *St. Paulus Evangelisch Lutherischen Gemeinde*, S of Jonseboro off IL 127 (11–24–80)

Warren County

Monmouth, *Quinby, Ivory, House*, 605 N. 6th St. (11–20–80)

White County

Carmi, *Carmi Chapter House (American Woman's League Chapter Houses Thematic Resources)* 604 W. Main St. (11–28–80)

Will County

Joliet, *Joliet Municipal Airport*, 4000 W. Jefferson St. (12–10–80)
Joliet, *U.S. Post Office*, 150 N. Scott St. (8–20–81)
Lockport vicinity, *Stone Manor*, SE of Lockport (11–26–80)

INDIANA

Allen County

Cedarville vicinity, *Hursh Road Bridge (Bridge No. 38)* W of Cedarville on Hursh Rd. (6–4–81)
Fort Wayne, *Feustel, Robert M., House*, 4101 W. Taylor St. (11–7–80)
Fort Wayne, *Swinney, Thomas W., House*, 1424 W. Jefferson St. (4–27–81)

Cass County

Logansport, *Washington School*, 101 N. Cicott St. (3–2–81)

Dearborn County

Lawrenceburg, *Dearborn County Courthouse*, High and Mary Sts. (4–9–81)

DeKalb County

Spencerville, *Spencerville Covered Bridge*, SR 68 (4–2–81)

Delaware County

Muncie, *Kimbrough, Emily, Historic District*, Bounded by Monroe, East Washington, Hackley, and East Charles Sts. (11–13–80)

Harrison County

Laconia vicinity, *Kintner-Withers House*, S of Laconia on Kintner Bottoms Rd. (11–28–80)

Henry County

New Castle, *Henry County Courthouse*, Courthouse Sq. (4–2–81)

Howard County

Kokomo, *Kokomo City Building*, 221 W. Walnut St. (6–4–81)

Jay County

Portland, *Jay County Courthouse*, U.S. 27 (5–12–81)

Jefferson County

Hanover, *Crowe-Garritt House*, 172 Crowe St. (11–10–80)

Johnson County

Franklin, *Johnson County Courthouse Square*, Court House Sq. (4–16–81)

Lake County

Cedar Lake, *Lassen Hotel*, 7806 W. 138th Pl. (7–7–81)

Lawrence County

Mitchell, *Mitchell Opera House*, 7th and Brooks Sts. (4–2–81)
Williams vicinity, *Williams Bridge*, SW of Williams (11–9–81)

Marion County

Indianapolis, *Majestic Building*, 47 S. Pennsylvania St. (11–20–80)
Indianapolis, *McCormick Cabin Site*, Off U.S. 40 (5–28–81)
Indianapolis, *Somer, Augusta, House*, 29 E. McCarty St. (11–28–80)
Indianapolis, *Whittier, John Greenleaf, School, No. 33*, 1119 N. Sterling St. (5–28–81)

Marshall County

Plymouth, *East LaPorte Street Footbridge*, Spans Yellow River (7–23–81)
Plymouth, *Plymouth Fire Station*, 220 N. Center St. (7–9–81)

Morgan County

Martinsville, *Martinsville High School Gymnasium*, 759 S. Main St. (7–30–81)

Noble County

Albion, *Noble County Courthouse*, Courthouse Sq. (5–12–81)

Perry County

Rome, *Old Perry County Courthouse*, Town Sq. (5–12–81)

Posey County

New Harmony, *Scholle, Mattias, House*, Tavern and Brewery Sts. (3–2–81)

Switzerland County

Vevay vicinity, *Wright, Thomas T., House*, SW of Vevay on IN 56 (12–10–80)

Tippecanoe County

Lafayette, *Downtown Lafayette Historic District*, Roughly bounded by 2nd, Ferry, 6th and South Sts. (11–28–80)
Lafayette, *Mars Theatre*, 11 N. 6th St. (1–28–81)

Vanderburgh County

Evansville, *Washington Avenue Historic District*, Roughly bounded by Madison and Grand Aves., E. Gum and Parett Sts. (11–28–80)

Wabash County

Roann vicinity, Roann Covered Bridge, 4th, N of Roann on SR 700W (8–6–81)

Wayne County

Richmond, *Richmond Gas Company Building*, 100 E. Main St. (6–25–81)
Richmond, *Starr Piano Company Warehouse and Administration Building*, 300 S. 1st St. (6–18–81)

IOWA

COUNTY COURTHOUSES IN IOWA THEMATIC RESOURCES. Reference—see individual listings under Adair, Allamakee, Appanoose, Audubon, Benton, Boone, Calhoun, Chickasaw, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Dickinson, Dubuque, Fayette, Franklin, Fremont, Greene, Grundy, Hancock, Hardin, Harrison, Henry, Howard, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Keokuk, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Plymouth, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Shelby, Sioux, Tama, Taylor, Van Buren, Wapello, Washington, Webster, Winnebago, Woodbury, Worth and Wright Counties.

Adair County

Greenfield, *Adair County Courthouse (County Courthouses in Iowa Thematic Resources)* Iowa Ave. and 1st St. (7–2–81)

Allamakee County

Waukon, *Allamakee County Courthouse (County Courthouses in Iowa Thematic Resources)* 107 Allamakee St. (previously listed in the National Register 4–11–77)

Appanoose County

Centerville, *Appanoose County Courthouse (County Courthouses in Iowa Thematic Resources)* Van Buren and N. 12th St. (7–2–81)

Audubon County

Exira, *Audubon County Courthouse (County Courthouses in Iowa Thematic Resources)* Washington and Kilworth Sts. (previously listed in the National Register 7–28–77)

Benton County

Vinton, *Benton County Courthouse (County Courthouses in Iowa Thematic Resources)* E. 4th St. (previously listed in the National Register 10–8–76)

Boone County

Boone, *Boone County Courthouse (County Courthouses in Iowa Thematic Resources)* N. State and W. 2nd Sts. (7–2–81)

Calhoun County

Rockwell City, *Calhoun County Courthouse (County Courthouses in Iowa Thematic Resources)* Court and 4th Sts. (7–2–81)

Chickasaw County

New Hampton, *Chickasaw County Courthouse (County Courthouses in Iowa Thematic Resources)* Prospect St. (7–2–81)

Clay County

Spencer, *Clay County Courthouse (County Courthouses in Iowa Thematic Resources)* W. 4th St. and 3rd Ave. (7–2–81)

Clayton County

Elkader, *Clayton County Courthouse (County Courthouses in Iowa Thematic Resources)* 111 High St. (previously listed in the National Register 10–8–76)

Clinton County

Clinton, *Clinton County Courthouse (County Courthouses in Iowa Thematic Resources)* Between 6th and 7th Aves. (7–2–81)
Delmar, *Delmar Calaboose*, Vane St. (3–19–81)

Crawford County

Denison, *Crawford County Courthouse (County Courthouses in Iowa Thematic Resources)* Broadway (7–2–81)

Dallas County

Adel, *Dallas County Courthouse (County Courthouses in Iowa Thematic Resources)* Town Sq. (previously listed in the National Register 11–28–73)

Davis County

Bloomfield, *Davis County Courthouse (County Courthouses in Iowa Thematic*

Resources) Bloomfield Town Sq. (previously listed in the National Register 5–3–74)

Decatur County

Leon, *Decatur County Courthouse (County Courthouses in Iowa Thematic Resources)* 9th St. (7–2–81)

Delaware County

Manchester, *Delaware County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

Dickinson County

Spirit Lake, *Dickinson County Courthouse (County Courthouses in Iowa Thematic Resources)* Hill Ave. (7–2–81)

Dubuque County

Dubuque, *Dubuque County Courthouse (County Courthouses in Iowa Thematic Resources)* 720 Central Ave. (previously listed in the National Register 6–23–71)

Fayette County

West Union, *Fayette County Courthouse (County Courthouses in Iowa Thematic Resources)* Pine St. (7–2–81)

Franklin County

Hampton, *Franklin County Courthouse (County Courthouses in Iowa Thematic Resources)* Central Ave. and 1st St., NW. (previously listed in the National Register 8–13–75)

Hampton vicinity, *Maysville Schoolhouse,* S of Hampton (6–17–81)

Fremont County

Sidney, *Fremont County Courthouse (County Courthouses in Iowa Thematic Resources)* Clay St. (7–2–81)

Greene County

Jefferson, *Greene County Courthouse (County Courthouses in Iowa Thematic Resources)* E. Lincoln Way and Chestnut Sts. (previously listed in the National Register 12–14–78)

Grundy County

Grundy Center, *Grundy County Courthouse (County Courthouses in Iowa Thematic Resources)* Grundy Ave. (7–2–81)

Hancock County

Garner, *Hancock County Courthouse (County Courthouses in Iowa Thematic Resources)* State St. (7–2–81)

Hardin County

Alden, *Alden Public Library,* 1012 Water St. (3–17–81)

Eldora, *Hardin County Courthouse (County Courthouses in Iowa Thematic Resources)* Edgington Ave. (7–2–81)

Harrison County

Logan, *Harrison County Courthouse (County Courthouses in Iowa Thematic Resources)* 7th St. (7–2–81)

Henry County

Mount Pleasant, *Henry County Courthouse (County Courthouses in Iowa Thematic Resources)* Washington St. (7–2–81)

Howard County

Cresco, *Cresco Opera House,* 115 W. 2nd Ave. (8–27–81)

Cresco, *Howard County Courthouse (County Courthouses in Iowa Thematic Resources)* Elm St. (7–2–81)

Ida County

Ida Grove, *Ida County Courthouse (County Courthouses in Iowa Thematic Resources)* 401 Moorehead St. (previously listed in the National Register 3–15–74)

Iowa County

Marengo, *Iowa County Courthouse (County Courthouses in Iowa Thematic Resources)* Court Ave. (7–2–81)

Jackson County

Bellevue, *Jackson County Courthouse (County Courthouses in Iowa Thematic Resources)* Off IA 62 (7–2–81)

Jasper County

Newton, *Jasper County Courthouse (County Courthouses in Iowa Thematic Resources)* 1st Ave. (7–2–81)

Jefferson County

Fairfield, *Jefferson County Courthouse (County Courthouses in Iowa Thematic Resources)* Court St. (7–2–81)

Johnson County

Iowa City, *Johnson County Courthouse (County Courthouses in Iowa Thematic Resources)* S. Clinton St. (previously listed in the National Register 3–27–74)

Keokuk County

Sigourney, *Keokuk County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

What Cheer, *What Cheer City Hall,* Barnes and Washington Sts. (8–27–81)

Lee County

Fort Madison, *Lee County Courthouse (County Courthouses in Iowa Thematic Resources)* 701 Avenue F (previously listed in the National Register 9–30–76)

Louisa County

Wapello, *Louisa County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

Lucas County

Chariton, *Lucas County Courthouse (County Courthouses in Iowa Thematic Resources)* Courthouse Sq. (7–2–81)

Lyon County

Rock Rapids, *Lyon County Courthouse (County Courthouses in Iowa Thematic Resources)* 3rd and Story Sts. (previously listed in the National Register 10–1–79)

Madison County

Winterset, *Madison County Courthouse (County Courthouses in Iowa Thematic Resources)* City Sq. (previously listed in the National Register 8–13–81)

Mahaska County

Oskaloosa, *Mahaska County Courthouse (County Courthouses in Iowa Thematic Resources)* Market St. and 2nd Ave. (7–2–81)

Marion County

Knoxville, *Marion County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

Marshall County

Marshalltown, *Marshall County Courthouse (County Courthouses in Iowa Thematic Resources)* Courthouse Sq. (previously listed in the National Register 11–21–72)

Mitchell County

Osage, *Mitchell County Courthouse (County Courthouses in Iowa Thematic Resources) 500 State St.* (previously listed in the National Register 8–29–77)

Monona County

Onawa, *Monona County Courthouse (County Courthouses in Iowa Thematic Resources)* Iowa Ave. (7–2–81)

Monroe County

Albia, *Monroe County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

Montgomery County

Red Oak, *Montgomery County Courthouse (County Courthouses in Iowa Thematic Resources)* Coolbaugh and 2nd Sts. (7–2–81)

Muscatine County

Muscatine, *Muscatine County Courthouse (County Courthouses in Iowa Thematic Resources)* 3rd St. (7–2–81)

O'Brien County

Primghar, *O'Brien County Courthouse (County Courthouses in Iowa Thematic Resources)* Fir Ave. (7–2–81)

Osceola County

Sibley, *Osceola County Courthouse (County Courthouses in Iowa Thematic Resources)* 3rd Ave. and 8th St. (7–2–81)

Page County

Clarinda, *Page County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

Plymouth County

LeMars, *Plymouth County Courthouse (County Courthouses in Iowa Thematic Resources) E. 3rd Ave. (7–2–81)*

Pocahontas County

Pocahontas, *Pocahontas County Courthouse (County Courthouses in Iowa Thematic Resources)* Court Sq. (7–2–81)

Polk County

Des Moines, *Polk County Courthouse (County Courthouses in Iowa Thematic Resources)* 6th and Mulberry Sts. (previously listed in the National Register 4–30–79)

Pottawattamie County

Avoca, *Pottawattamie County Sub Courthouse (County Courthouses in Iowa Thematic Resources)* Elm St. (7–2–81)

Poweshiek County

Montezuma, *Poweshiek County Courthouse (County Courthouses in Iowa Thematic Resources)* Town Sq. (7–2–81)

Ringgold County

Mount Ayr, *Ringgold County Courthouse (County Courthouses in Iowa Thematic Resources)* Madison St. (7–2–81)

Sac County

Sac City, *Sac County Courthouse (County Courthouses in Iowa Thematic Resources)* Main St. (7–2–81)

Shelby County

Harlan, *Shelby County Courthouse (County Courthouses in Iowa Thematic Resources)* 7th and Courts Sts. (previously listed in the National Register 11–14–78)

Sioux County

Orange City, *Sioux County Courthouse (County Courthouses in Iowa Thematic Resources)* Off IA 10 (previously listed in the National Register 4–11–77)

Tama County

Toledo, *Tama County Courthouse (County Courthouses in Iowa Thematic Resources)* State St. (7–2–81)
Toledo, *Tama County Jail*, Broadway and State Sts. (8–27–81)

Taylor County

Bedford, *Taylor County Courthouse (County Courthouses in Iowa Thematic Resources)* Court Ave. (7–2–81)

Van Buren County

Keosauqua, *Van Buren County Courthouse (County Courthouses in Iowa Thematic Resources)* 904 4th St. (previously listed in the National Register 11–9–77)

Wapello County

Ottumwa, *Wapello County Courthouse (County Courthouses in Iowa Thematic Resources)* Court St. (7–2–81)

Washington County

Washington, *Washington County Courthouse (County Courthouses in Iowa Thematic Resources)* N. B Ave. (7–2–81)

Webster County

Fort Dodge, *Webster County Courthouse (County Courthouses in Iowa Thematic Resources)* 701 Central Ave. (7–2–81)

Winnebago County

Forest City, *Winnebago County Courthouse (County Courthouses in Iowa Thematic Resources)* J St. (7–2–81)

Woodbury County

Sioux City, *Woodbury County Courthouse (County Courthouses in Iowa Thematic Resources)* 7th and Douglas Sts. (previously listed in the National Register 12–18–73)

Worth County

Northwood, *Worth County Courthouse (County Courthouses in Iowa Thematic Resources)* 921 Central Ave. (7–2–81)
Northwood, *Worth County Courthouse (County Courthouses in Iowa Thematic Resources)* Central Ave. between 10th and 11th Sts. (7–2–81)

Wright County

Clarion, *Wright County Courthouse (County Courthouses in Iowa Thematic Resources)* Central Ave. (7–2–81)

KANSAS

Franklin County

Ottawa, *Ottawa Library*, 5th and Main Sts. (12–1–80)

Geary County

Junction City, *Bartell House*, 6th and Washington Sts. (12–1–80)
Junction City, *Old Junction City High School*, Adams and 6th Sts. (4–24–81)

Gove County

Grainfield, *Grainfield Opera House*, Main and 3rd Sts. (11–28–80)

Johnson County

Olathe, *Pickering, I. O., House*, 507 W. Park St. (12–1–80)

Lyon County

Emporia, *Old Emporia Public Library*, 118 E. 6th St. (11–2–81)

Marshall County

Marysville, *Koester Block Historic District*, Between 9th, 10th, Elm and Broadway Sts. (12–5–80)

Nemaha County

Baileyville vicinity, *St. Mary's Church*, NE of Baileyville (12–5–80)

Riley County

Manhattan, *Anderson Hall*, Kansas State University Campus (11–28–80)
Manhattan, *Platt, Jeremiah, House*, 2005 Claflin Rd. (5–20–81)
Manhattan, *Woman's Club House*, 900 Poyntz Ave. (11–28–80)

Sedgwick County

Wichita, *Orpheum Theater and Office Building*, 200 N. Broadway St. (11–28–80)

Shawnee County

Topeka, *Grand Opera House*, 615 Jackson St. (11–28–80)

Wyandotte County

Kansas City, *Gates, Judge Louis, House*, 4146 Cambridge St. (12–1–80)

KENTUCKY

HISTORIC FIREHOUSES OF LOUISVILLE THEMATIC RESOURCES. Reference—see individual listings under Jefferson County.

Bourbon County

Paris vicinity, *Kennedy, Thomas, House*, SE of Paris on Paris-Winchester Rd. (12–8–80)

Boyle County

Danville vicinity, *Boyle, Judge John, House*, N of Danville on Bellows Mill Rd. (11–25–80)

Calloway County

Murray, *Linn, Will, House*, 108 N. 6th St. (12–4–80)

Campbell County

Newport, *St. Paul's Episcopal Church*, 15 Court Pl. (11–25–80)

Carroll County

Carrollton, *Baker, Paschal Todd, House*, 406 Highland Ave. (11–25–80)

Clark County

Winchester, *CLARK COUNTY MULTIPLE RESOURCE AREA (ADDITIONS).* This area includes: *Clinkenbeard, William, House*, Old Paris Pike; *Martin-Holder-Bush-Hampton Mill*, Lower Howard's Creek; *Pruett, W., House*, Ecton Rd.; *Scobee, Robert, House*, Off SR 60; *Stripp House*, Van Meter Rd.; and *Taylor, F., Mill*, Lower Howard's Creek (11–20–80)

Edmonson County

Brownsville vicinity, *Ford, William, House*, S of Brownsville on U.S. 31W (11–28–80)

Fayette County

Lexington, *Bell Court Neighborhood Historic District*, Roughly bounded by RR tracks, Main St., Boonesboro and Walton Aves. (12–8–80)
Lexington, *Chandler Normal School Building and Webster Hall*, 548 Georgetown St. (12–4–80)
Lexington, *Clark, John, House, (Auvergne)*, Tates Creek Pk. (11–25–80)
Lexington, *DeLong Agricultural Implements Warehouse*, Patterson St. (11–25–80)
Lexington, *McCauley, John, House*, 319 Lexington Ave. (12–4–80)
Lexington, *Woodward Heights Neighborhood Historic District*, Roughly bounded by High, Merino, and Pine Sts. (12–1–80)
Lexington vicinity, *Cave Place*, W of Lexington (12–5–80)

Floyd County

Wheelwright, *Wheelwright Commercial District*, Main St. (11–19–80)

Greenup County

Portsmouth vicinity, *Portsmouth Earthworks, Group A (15 Gp 1)*, SW of S. Portsmouth (12–4–80)

Henry County

Eminence, *Crutcher House*, Mulberry Pike (12–8–80)

Hopkins County

Nebo vicinity, *Archeological Site 15 HK 79*, SW of Nebo (12–4–80)

Jefferson County

JEFFERSON COUNTY MULTIPLE RESOURCE AREA. This area includes: Anchorage, *Anchorage Historic District*, KY 146; *Anchorage, The*, 804 Evergreen Rd.; *Bayless House*, 1116 Bellewood Rd.; *Coldeway House*, 12005 E. Osage Rd; *Courtney, James, House*, 12006 Hazelwood Rd.; *Hannah House*, 1306 Evergreen Rd.; *Hillcrest*, 11600 Owl Creek Rd.; *Jones Estate*, 1905 Stonegate Rd.; *Marshall, John, Sr., House*, 12106 Osage Rd.; *May, Robert, House*, 11104 Owl Creek Rd.; *Nash-McDonald House*, 1306 Bellewood Rd.; *Nock House*, 1401 Elm Rd.; *Railway Depot*, 1500 Evergreen Rd.; *St. Lukes Church*, 1204

Maple Lane; *Shallcross*, 11804 Ridge Rd.; *Simrall-Warfield House*, 1509 Cold Spring Rd.; *Thompson, James, House*, 1400 Walnut Land; *Webb, John, House*, 12200 Lucas Lane; *Winston's, Dr., House*, 11906 Ridge Rd.; Buechel, *Bannon, Patrick, House*, 4518 Bardstown Rd; *Taggart House*, 5000 Bardstown Rd.; *Stivers, Zodia, House*, 3701 Montclair, Fern Creek, *Bates, Levin, House*, 7300 Bardstown Rd.; *Hite, Abraham, House*, Starlight Lane; *Hite-Chenoweth House*, 4219 Starlight Lane; *Snapp House*, 8300 Bardstown Rd.; Fisherville, *East Cedar Hill Institute*, Clark Station Rd.; *Moore, Simeon, House*, 17317 Taylorsville Rd.; Harrods Creek, *Barber-Barbour House*, 6415 Transylvania Ave.; *Bingham-Hilliand Doll House*, 5001 Avish Lane; *Chrisler House*, 4508 Upper River Rd.; Jeffersontown, *Beech Lawn*, 8000 Six Mile Lane; *Bryan, Floore House*, Taylorsville Rd.; *Funk, Harriet, House*, 9316 Hurstbourne; *Funk, James H., House*, 9000 Taylorsville; *Leatherman House*, 3606 College Dr.; *Stucky House*, 3504 Marlin Dr.; *Tucker, Hazael, House*, 2406 Tucker Station Rd.; *Twoy House; Yenowine, George, House*, 1021 Watterson Trail; Louisville, *Cardinal Hill Reservoir*, Cardinal Hill Rd.; Lyndon, *Bellevoir-Ormsby Village*, Whipps Mill Rd.; *Moghera Glass-Ormsby Hall*, 8521 La Grange Rd.; *Williams, Abraham L., L & N Guest House*, Murphy Lane; Middletown *Abell House*, 12210 Old Shelbyville Rd; *Bull, William, House*, 11918 Old Shelbyville Rd; *Frank, Henry, House*, Madison Ave.; *Middletown United Methodist Church*, Madison and Main Sts.; Okolona, *Cooper Memorial Church*, 9900 Preston Hwy.; Prospect, *Trigg, James, House*, Covered Bridge Rd; *Wilhoyte House*, Covered Bridge Rd.; St. Matthews, *Blankenbaker Station*, 21 Poplar Hill Rd.; *Chenoweth House*, 255 Chenoweth Lane; Valley Station, *Aydelott House*, 6814 Bethany Lane; *Lewiston House*, 4902 Ranchland (12–5–80)

Louisville, *Brandeis, Albert S., Elementary School*, 1001 S. 26th St. (12–8–80)

Louisville, *Broadway Temple A.M.E. Zion Church*, 602 S. 13th St. (12–8–80)

Louisville, *Chestnut Street Baptist Church*, 912 W. Chestnut St. (12–3–80)

Louisville, *Crescent Hill Branch Library*, 2762 Frankfort Ave. (3–10–81)

Louisville, *Engelhard House*, 1080 Baxter Ave. (12–5–80)

Louisville, *Fire Department Headquarters (Historic Firehouses of Louisville Thematic Resources)* 1135 W. Jefferson St. (11–7–81)

Louisville, *Firehouse No. 13 (Historic Firehouses of Louisville, Expanded Thematic Resources)* 100 N. 34th St. (3–10–81)

Louisville, *Hook and Ladder Company No. 2 (Historic Firehouses of Louisville Thematic Resources)* 221 S. Hancock St. (11–7–80)

Louisville, *Hook and Ladder Company No. 3 (Historic Firehouses of Louisville Thematic Resources)* Frankfort Ave. and Pope St. (11–7–80)

Louisville, *Hook and Ladder Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 2301 Jefferson St. (11–7–80)

Louisville, *Hook and Ladder Company No. 5 (Historic Firehouses of Louisville Thematic Resources)* 1824 Garland Ave. (11–7–80)

Louisville, *New Exterprise Tobacco Warehouse*, 925 W. Main St. (12–4–80)

Louisville, *Rose Hill*, 1835 Hampden Ct. (12–3–80)

Louisville, *St. Peter's German Evangelical Church*, 1231 W. Jefferson St. (12–4–80)

Louisville, *Shelby Park Branch Library*, 600 E. Oak St. (12–3–80)

Louisville, *South Central Bell Company Office Building*, 521 W. Chestnut St. (12–3–80)

Louisville, *Steam Engine Company No. 2 (Historic Firehouses of Louisville Thematic Resources)* 617–621 W. Jefferson St. (11–7–80)

Louisville, *Steam Engine Company No. 3 (Historic Firehouses of Louisville Thematic Resources)* 802–804 E. Main St. (11–7–80)

Louisville, *Steam Engine Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 1024 Logan St. (11–7–80)

Louisville, *Steam Engine Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 1617 W. Main St. (11–7–80)

Louisville, *Steam Engine Company No. 7 (Historic Firehouses of Louisville Thematic Resources)* 821 S. 6th St. (11–7–80)

Louisville, *Steam Engine Company No. 10 (Historic Firehouses of Louisville Thematic Resources)* 1419 E. Washington (11–7–80)

Louisville, *Steam Engine Company No. 11 (Historic Firehouses of Louisville Thematic Resources)* 1122 Rogers (11–7–80)

Louisville, *Steam Engine Company No. 18 (Historic Firehouses of Louisville Thematic Resources)* 2600 S. 4th St. (11–7–80)

Louisville, *Steam Engine Company No. 20 (Historic Firehouses of Louisville Thematic Resources)* 1330 Bardstown Rd. (11–7–80)

Louisville, *Steam Engine Company No. 20 (Historic Firehouses of Louisville Thematic Resources)* 1735 Bardstown Rd. (11–7–80)

Louisville, *Steam Engine Company No. 21 (Historic Firehouses of Louisville Thematic Resources)* 1761 Frankfort Ave. (11–7–80)

Louisville, *Steam Engine Company No. 22 (Historic Firehouses of Louisville Thematic Resources)* 37th and Broadway (11–7–80)

Lyon County

Eddyville, *Old Eddyville Historic District*, Off KY 730 (4–30–81)

Taylor County

Campbellsville, *Merchant's Hotel*, 102 E. Main St. (11–25–80)

Trigg County

Cadiz vicinity, *Dawson, Thomas, House*, S of Cadiz (12–1–80)

Warren County

WARREN COUNTY MULTIPLE RESOURCE AREA (ADDITIONS). This area includes: Bowling Green, *St. Joseph's District*, Roughly bounded by Gilbert and Potter Sts., Church and Brown's Lock Aves.; *Barren River L and N Railroad Bridge*, spans Barren River; *College Street Bridge*, Spans Barren River; *Curd-Moss House*, Off SR 68; *Davidson, A. C., House; Richardsville Road Bridge*, Spans Barren River; Woodburn vicinity, *Neale, William P., House*, N of Woodburn (11–28–80)

Woodford County

Versailles vicinity, *Lyne, Thomas, House*, S of Versailles on Smith Lane (11–28–80)

LOUISIANA

Allen Parish

Oberlin, *Allen Parish Courthouse*, 5th St. (6–3–81)

Avoyelles Parish

Evergreen, *Bayou Rouge Baptist Church*, Church and College Sts. (12–3–80)

Caddo Parish

Shreveport, *Line Avenue School*, 1800 Line Ave. (6–3–81)

Caldwell Parish

Columbia vicinity, *Breston Plantation House*, N of Columbia (11–22–80)

Catahoula Parish

Harrisonburg, *Sargent House*, Catahoula St. (12–3–80)

Claiborne Parish

Homer, *Claiborne Parish Courthouse*, Courthouse Sq. (10–7–81)

East Baton Rouge Parish

Baton Rouge, *Manship House*, 2250 Kleinert Ave. (11–21–80)

Baton Rouge, *McKinley High School*, 1500 East Blvd. (11–16–81)

Baton Rouge, *Mount Hope Plantation House*, 8151 Highland Rd. (12–3–80)

Scotlandville, *Southern University Archives Building*, Southern University campus (6–11–81)

East Feliciana Parish

Jackson, *Jackson Historic District*, Roughly bounded by Institute Dr., LA 314, Horton and Race Sts. (12–4–80)

Jackson vicinity, *Shades, The*, NE of Jackson (11–6–80)

Franklin Parish

Baskin, *Baskin High School Building*, LA 857 (10–7–81)

Lafayette Parish

Lafayette, *Holy Rosary Institute*, 421 Carmel Ave. (12–3–80)

Natchitoches County

Natchitoches, *Natchitoches Historic District (City Hall)*, (boundary increase approved 11–25–80)

Orleans Parish

New Orleans, *Bullitt-Longnecker House*, 3027 Carondelet St. (10–1–81)

Ouachita Parish

Monroe, *Ouachita Parish High School*, 500 S. Grand St. (4–9–81)

Pointee Coupee Parish

New Roads, *Pointe Coupee Parish Courthouse*, Main St. (10–7–81)

Rapides Parish

Alexandria, *Rapides Opera House*, 1125 3rd St. (6–11–81)

Alexandria, *St. Francis Xavier Cathedral*, 626 4th St. (12–3–80)

Cheneyville vicinity, *Walnut Grove*, E of Cheneyville (11–21–80)

Glenmora vicinity, *Britt Place*, E of Glenmora on Lake Cocodrie Rd. (11–21–80)
Pineville, *Fort Randolph*, Off U.S. 165 (6–1–81)
Pineville, *Fort Buhlow*, Off U.S. 165 (6–1–81)

Red River Parish

Coushatta, *Planter's Hotel*, Carroll St. (12–3–80)

St. James Parish

Convent, *Poche', Judge Felix, Plantation House*, River Rd. (12–3–80)

St. Landry Parish

Grand Coteau, *Grand Coteau Historic District*, LA 93 (11–25–80)

St. Mary Parish

Franklin, *St. Mary's Episcopal Church*, 805 1st St. (11–21–80)
Morgan City, *Morgan City City Hall and Courthouse*, Everett and 1st Sts. (4–9–81)

Tensas Parish

St. Joseph, *St. Joseph Historic District*, Roughly bounded by Panola Ave., Front, Hickory, 4th, and Pauline Sts. (12–10–80)

Webster Parish

Minden, *Webster Parish Library Building*, 521 East-West St. (12–10–80)

West Feliciana Parish

St. Francisville vicinity, *Rosale Plantation*, N of St. Francisville off U.S. 61 (12–8–80)

MAINE

Androscoggin County

Auburn, *Munore, Horace, House*, 123 Pleasant St. (11–10–80)

Cumberland County

North Bridgton, *Farnsworth House*, SR 17 (11–14–80)
Portland, *Maine Historical Society*, 485 Congress St. (11–17–80)
Westbrook, *Walker Memorial Library*, 800 Main St. (11–10–80)

Franklin County

Phillips, *Maine Woods Office*, Main St. (11–10–80)
Strong, *Porter-Bell-Brackley Estate*, Lower Main St. (11–10–80)

Hancock County

Blue Hill, *Barncastle*, South St. (11–10–80)
Blue Hill, *Blue Hill Historic District*, ME 15, ME 172, ME 176, and ME 177 (12–8–80)

Kennebec County

Winthrop vicinity, *Lund, Jon, Site*, SE of Winthrop (11–21–80)

Knox County

Rockland, *Rockland Breakwater Lighthouse*, Rockland Harbor (3–20–81)

Lincoln County

Jefferson, *Jackson, Dr. F. W., House*, ME 32 (11–10–80)

Oxford County

Andover, *Andover Public Library*, Church St. (1–27–81)
North Fryeburg vicinity, *Wiley, Benjamin, House*, SE of North Fryeburg on Fish St. (11–10–80)

Penobscot County

Stetson, *Stetson Union Church*, ME 222 (7–15–81)

Somerset County

Embden vicinity, *Hodgdon Site (Maine Archeological Survey No. 69–4)* (4–23–80)
Skowhegan vicinity, *Weston, Samuel, Homestead*, S of Skowhegan on U.S. 201 (11–10–80)

York County

Kennebunkport vicinity, *Maine Trolley Cars*, Seashore Trolley Museum (11–14–80)

MARYLAND

Allegany County

Cumberland, *First Baptist Church*, 212 Bedford St. (11–10–80)
North Branch and vicinity, *Western Maryland Railway Right-of-Way, Milepost 126 to Milepost 160* (also in Washington County, MD and Morgan County, WV) (7–23–81)

Baltimore (independent city)

Wilkens-Robins Building, 308–312 W. Pratt St. (12–3–80)

Carroll County

Eldersburg vicinity, *Brown, Moses, House*, SE of Eldersburg at 7604 Ridge Rd. (12–11–80)
Taneytown, *Rudisel, Ludwick, Tannery House*, 65 Frederick St. (11–10–80)
Union Bridge vicinity, *Hopewell*, Pearre and Clemsonville Rds. (12–8–80) (also in Frederick County)

Frederick County

HOPEWELL. Reference—see Carroll County
New Market vicinity, *Nelson, Henry, House*, N of New Market (12–4–80)

Hartford County

Creswell vicinity, *Fair Meadows*, S of Creswell on Creswell Rd. (11–25–80)

Kent County

Rock Hall vicinity, *Trumpington*, S of Rock Hall on MD 445 (11–10–80)

Montgomery County

Glen Echo, *Carrousel at Glen Echo Park*, MacArthur Blvd. (7–4–80)
Glen Echo, *Chautauqua Tower*, Glen Echo Park (7–4–80)
Rockville, *Bingham-Brewer House*, 307 Great Falls Rd. (11–24–80)

Prince Georges County

Bowie, *Williams Plains*, MD 3 (11–28–80)
Greenbelt, *Greenbelt Historic District*, Off MD 193 (11–25–80)

Queen Anne's County

Centreville, *Captain's Houses*, Corsica St. (11–17–80)

Talbot County

Easton vicinity, *Old Bloomfield*, W of Easton on Bloomfield Rd. (12–3–80)
St. Michaels, *Cannonball House*, Mulberry St. (12–3–80)

Washington County

WESTERN MARYLAND RAILWAY RIGHT-OF-WAY, MILEPOST 126 TO MILEPOST 160. Reference—see Allegany County

MASSACHUSETTS

Barnstable County

Barnstable, *Barnstable County Courthouse*, Main St. (6–11–81)
Bourne, *Briggs, George I., House*, Sandwich Rd. (9–10–81)
West Yarmouth, *Baxter Mill*, MA 28 (8–27–81)

Bristol County

Fairhaven, *Fairhaven High School*, Huttleston Ave. (1–22–81)
Fairhaven, *Fairhaven Town Hall*, Center St. (1–22–81)
Fall River, *Durfee, B.M.C., High School*, 289 Rock St. (6–11–81)

Essex County

Lynn, *Broad Street Historic District*, Marshall's Wharf (12–2–80)
Lynn, *Old Post Office Building*, 360 Washington St. (9–14–81)
Peabody, *Peabody Civic Center Historic District*, Chestnut, Church, Foster, Franklin, and Lowell Sts. (11–25–80)
Rockport, *Granite Keystone Bridge*, Granite St. (8–27–81)

Hampden County

Chicopee, *Polish National Home*, 136–144 Cabot St. (11–14–80)
Holyoke, *Holyoke Canal System*, Front and South St. and CT River (12–3–80)
Springfield, *Gunn and Hubbard Blocks*, 463–477 State St. (12–3–80)
Springfield, *Water Shops Armory*, 1 Allen St. (12–3–80)

Middlesex County

Malden, *Common Burying Ground at Sandy Bank*, Green St. (8–27–81)
Medford, *Salem Street Burying Ground*, Medford Sq. (8–27–81)
Melrose, *Beebe Estate*, 235 W. Foster St. (5–20–81)

Norfolk County

Walpole, *Walpole Town Hall*, Main St. (10–8–81)
Wellesley Hills, *Intermediate Building*, 324 Washington St. (8–27–81)
Weymouth, *Fogg Library*, 1 Columbian St. (6–11–81)
Weymouth, *Jefferson School*, 200 Middle St. (5–12–81)

Plymouth County

Hull, *Point Allerton Lifesaving Station*, Nantasket Ave. (6–11–81)
Norwell vicinity, *Tack Factory, The*, SW of Norwell at 49 Tiffany Rd. (12–3–80)

Suffolk County

Boston, *BOSTON THEATRE MULTIPLE RESOURCE AREA*. This area includes: *Beach-Knapp District*, Roughly bounded by Harrison Ave., Washington, Kneeland and Beach Sts.; *Liberty Tree District*, Roughly bounded by Harrison Ave., Washington, Essex and Beach Sts.; *Piano Row District*, Boston Common, Park Sq., Boylston Pl. and

Tremont St.; *West Street District*, West St.; *Boston Edison Electric Illuminating Company*, 25–39 Boylston St.; *Boston Young Men's Christian Union*, 48 Boylston St.; *Boylston Building*, 2–22 Boylston St.; *Dill Building*, 11–25 Stuart St.; *Hayden Building*, 681–683 Washington St.; *Metropolitan Theatre*, 252–272 Tremont St.; *Shubert, Sam S., Theatre*, 263–285 Tremont St.; Wilbur Theatre, *244–250 Tremont St.; Wirth, Jacob, Buildings*, 31–39 Stuart St. (12–9–80)

Boston, *Fields Corner Municipal Building*, 1 Arcadia St. (11–12–81)

Boston, *Oak Square School*, 35 Nonantum St. (11–10–80)

Boston, *Russia Wharf Buildings*, 518–540 Atlantic Ave., 270 Congress St. and 276–290 Congress St. (12–2–80)

Worcester County

Webster, *Eddy Block*, 119–131 Main St. and 4 Davis St. (12–3–80)

Webster, *Shumway Block*, 112–116 Main St. (12–3–80)

Webster, *Spauling Block*, 141–143 Main St. (12–3–80)

MICHIGAN

Baraga County

Skanee, *Arvan Township Hall* (7–30–81)

Barry County

Hastings, *Barry County Courthouse Complex*, 220 W. State St. (8–3–81)

Berrien County

Niles, *Chapin, Henry A., House*, 508 E. Main St. (7–30–81)

Dickinson County

Iron Mountain, *Chapin Mine Steam Pump Engine*, Kent St. (7–9–81)

Gogebic County

Bessemer, *Gogebic County Courthouse*, Moore St. (5–8–81)

Ironwood, *Ironwood City Hall*, McLeod Ave. and Norfolk St. (11–28–80)

Ironwood, *Memorial Building*, McLeod Ave. and Marquette St. (11–10–80)

Houghton County

Hancock, *Hancock Town Hall and Fire Hall*, 399 Quincy St. (6–1–81)

Lake Linden, *First Congregational Church*, 1st St. and M–26 (11–17–80)

Lake Linden, *Lake Linden Village Hall and Fire Station*, 401 Calumet Ave. (10–26–81)

South Range, *South Range Community Building*, Trimountain Ave. (4–9–81)

Macomb County

Mount Clemens, *Grand Trunk Western Railroad, Mount Clemens Station*, 198 Grand St. (10–26–81)

Marquette County

Ishpeming, *Ishpeming Municipal Building*, 100 E. Division St. (7–9–81)

Monroe County

Erie vicinity, *North Maumee Bay Archeological District* (12–5–80)

Monroe, *Weis Manufacturing Company*, Union and 7th Sts. (10–26–81)

Oakland County

Highland, *Highland United Methodist Church*, 205 W. Livingston Rd. (7–9–81)

Pontiac, *Eastern Michigan Asylum Historic District*, 140 Elizabeth Lake Rd. (3–20–81)

Ontonagon County

Ontonagon, *Ontonagon County Courthouse*, 601 Trap St. (11–14–80)

Saginaw County

Schultz Site (20SA2) Green Point Site (20SA1) Northeastern Saginaw County (12–8–78)

Schoolcraft County

Manistique, *Manistique Pumping Station*, Deer St. (10–26–81)

Shiawassee County

OWOSSO MULTIPLE RESOURCE AREA. This area includes: Owosso, *Mason Street Historic residential District*, Roughly bounded by Laverock Alley, Dewey, Hickory and Exchange Sts.; *Michigan Avenue-Genessee Street Historic Residential District*, Roughly bounded by Michigan Ave.; Shiawassee, Cass and Clinton Sts.; *Oliver Street Historic District*, Oliver St. between 3rd and Oak Sts., Williams and Goodhue Sts.; *West Town Historic Commercial and Industrial District*, Main St.; *Ayres, Nathan, House*, 604 N. Water St.; *Christian-Ellis House*, 600 N. Water St.; *Christian, Leigh, House*, 622 N. Ball St.; *Comstock, Elias, Cabin*, Curwood Castle Dr., and John St.; *Frieseke, Frederick, Birthplace and Boyhood Home*, 654 N. Water St.; *Gould, Amos, House*, 115 W. King St.; *Gould, Daniel, House*, 509 E. Main St.; *Gould, Ebenezer, House*, 603 W. Main St.; *House at 314 W. King St.; Jacobs, Eugene, House*, 220 W. King St.; *McCormick, Colin, House*, 222 E. Exchange St.; *Miner, Selden, House*, 418 W. King St.; *Old Miller Hospital*, 121 Michigan Ave.; *Opdyke, Sylvester, House*, 655 N. Pine St.; *Palmer, Albert, House*, 528–530 River St.; *Pardee, George, House*, 603 N. Ball St.; *Perrigo, George, House*, 213 N. Cedar St.; *Todd, Edwin, House*, 520 N. Adam St.; *Williams, Alfred, House*, 611 N. Ball St.; *Williams, Benjamin, House*, 628 N. Ball St.; *Woodward, Lee, and Sons Building*, 306 S. Elm St.; *Woodward, Woodward, Lyman, Company Workers' Housing*, 601 Clinton St.; *Woodward, Lyman, Furniture and Casket Company Building*, 216–222 Elm St. (11–4–80)

Washtenaw County

Ann Arbor, *Michigan Theater Building*, 521–609 E. Liberty St. (11–28–80)

Ypsilanti, *Ypsilanti Water Works Stand Pipe*, Summit and Cross Sts. (10–26–81)

Wayne County

Detroit, *Detroit Masonic Temple*, 500 Temple Ave. (11–28–80)

Detroit, *Lee Plaza Hotel*, 2240 W. Grand Blvd. (11–5–81)

Garden City, *Ford, Henry, Square House*, 29835 Beechwood Ave. (11–25–80)

Wexford County

Cadillac, *Shay Locomotive*, Cass St. (10–26–81)

MINNESOTA

Beltrami County

Bemidji, *Bemidji Public Library*, 426 Bemidji Ave. (11–25–80)

Crow Wing County

Crosby, *Crosby Railroad Depot*, Off MN 6 (11–25–80)

Hennepin County

Excelsior, *Excelsior Public School*, 261 School Ave. (11–13–80)

Wayzata, *Great Northern Railroad Depot*, 402 E. Lake St. (7–7–81)

Lincoln County

LINCOLN COUNTY MULTIPLE RESOURCE AREA. This area includes: Ivanhoe, *Lincoln County Courthouse and Jail*, Rotherwood St.; Lake Benton, *Lake Benton Opera House*, Benton St. (previously listed in the National Register 3–25–77); *Osbeck, Ernest, House*, 106 S. Fremont St.; Lake Benton vicinity, *Drammen Farmers' Club*, SR 13; Tyler, *Danebod*, Danebod Court (previously listed in the National Register 6–30–75); *Tyler Public School*, Stront St. (12–1–80)

Tyler, *Lincoln County Fairgrounds (Lincoln County Multiple Resource Area) (additions)* Strong and Marsh Sts. (12–2–80)

LeSueur County

LESUEUR COUNTY MULTIPLE RESOURCE AREA. This area includes: Elysian, *Elysian Public School*, 4th and Frank Sts.; *Elysian Water Tower*, Frank St.; Kasota, *Kasota Town Hall*, Hill and Rice Sts.; *Kasota Village Hall*, Cherry and Webster Sts.; Kasota vicinity, *Bridge No. 4846(1)*, N of Kasota on MN 22; Le Center, *LeSueur County Courthouse and Jail*, 88 S. Park Ave. and 130 S. Park Ave. (2–17–81)

Morrison County

Little Falls, *Little Falls Carnegie Library*, 108 3rd St. (11–3–80)

Olmstead County

Rochester, *Chicago Great Western Railroad Company Depot*, 19 2nd St., SE (12–4–80)

Rochester, *Rochester Armory*, 121 N. Broadway (12–2–80)

Rochester, *Whiting, Timothy A., House*, 225 1st Ave., NW (12–4–80)

Ramsey County

St. Paul, *Church of St. Agnes*, 548 Lafond Ave. (11–19–80)

St. Paul, *Rochat-Louise-Sauerwein Block*, 261–277 W. Seventh St. (11–19–80)

St. Paul, *Smith Avenue High Bridge (Bridge No. 5753)* Smith Ave. (8–6–81)

St. Paul, *Triune Masonic Temple*, 1800 Iglehart Ave. (11–13–80)

St. Louis County

Chisholm, *Saints Peter and Paul Ukrainian Catholic Church*, 530 Central Ave. (8–27–81)

Duluth, *Chester Terrace Apartments*, 1210–1232 E. 1st St. (11–19–80)

Eveleth, *Eveleth Recreation Building*, Off U.S. 53 (11–25–80)

Eveleth, *Park Hotel*, 222 Adams Ave. (11–25–80)

Hibbing, *Anderson House*, 1001 E. Howard St. (12–4–80)
Hibbing, *Butler, Emmett, House*, 2530 3rd Ave., W. (12–4–80)
Hibbing, *City Hall*, 21st St., E. and 4th Ave. (2–12–81)
Hibbing, *Mitchell-Tappan House*, 2125 4th Ave., E (12–2–80)
Hibbing, *Sons of Italy Hall*, 704 E. Howard St. (11–25–80)
Parkville, *Johnson, Old Otto, House*, 202 3rd Ave. (11–25–80)
Virginia, *Bailey House*, 816 S. 5th Ave. (12–4–80)

Wabasha County

Lake City, *Lake City City Hall*, 205 W. Center St. (6–16–81)

Wright County

WRIGHT COUNTY MULTIPLE RESOURCE AREA. This area includes: Albertville, *Albertville Roller Mill*, 5790 Main Ave., NE.; Clearwater, *Clearwater Masonic Lodge No. 28 (G.A.R. Hall No. 112)* Oak and Main Sts.; *First Congregational Church of Clearwater*, Bluff and Elm Sts.; *Webster, William W., House*, Spring and Linn Sts.; Cokato, *Bull, Henry C., House*, 195 E. 3rd St.; Cokato vicinity, *Titrud, Olof M., Round Barn*, SR 30; Delano, *Delano Village Hall*, 127 River St.; *Eagle Newspaper and Job Printing Office*, 300 Railroad Ave.; *Weldele House*, 309 River St.; Delano vicinity, *Franklin Township School House No. 48*, U.S. 12; Hanover, *Hanover Bridge*, Spans Crow River; Howard Lake, *Howard Lake City Hall*, 737, 739 and 741 6th St.; Howard Lake vicinity, *Marysville Swedesburg Lutheran Church*, SR 9; *Middleville Township Hall*, SR 6; Maple Lake vicinity, *St. Mark's Episcopal Chapel*, Off MN 24; Monticello, *Nicherson-Taroox House, Shed and Barn*, 514 E. Broadway; *Rand, Rufus, Summer House and Carriage Barn*, Washington St.; *Simpson Methodist Church and Educational Building*, 4th and Linn Sts.; Monticello vicinity, *Hanaford Farm*, Off SR 106; Montrose, *Hawkins, Dr. E. P., Clinic, Hospital and House*, Buffalo St.; Rockford vicinity, *Marsh, Peter J., Octagon Barn*, Off SR 14; St. Michael, *St. Michael's Catholic Church*, Central Ave. and Main St. (12–11–79)

Yellow Medicine County

Canby, *Canby Commercial District*, U.S. 75 and MN 68 (11–25–80)

MISSISSIPPI

MISSISSIPPI POST OFFICES 1931–1941 THEMATIC RESOURCES. Reference—see individual listings under Attala, Bolivar, Chickasaw, Copiah, Forrest, Hancock, Holmes, Humphreys, Lamar, Leake, Lowndes, Marion, Monroe, Montgomery, Neshoba, Newton, Noxubee, Panola, Pearl River, Pike, Pontotoc, Prentiss, Scott, Sunflower, Tallahatchie, Tippah, Union, Walthall, Washington, Wayne, and Winston Counties.

Adams County

Natchez vicinity, *Mount Olive*, NE of Natchez (11–28–80)
Natchez vicinity, *Saragossa*, S of Natchez on Saragossa Rd. (11–24–80)

Bolivar County

Cleveland, *U.S. Post Office (Mississippi Post Offices 1931–1941 Thematic Reources)* 301 S. Sharpe Avenue (4–7–81)
Rosedale, *Grace Episcopal Church*, 203 Main St. (12–11–80)

Hancock County

Bay St. Louis, *BAY ST. LOUIS MULTIPLE RESOURCE AREA*. This area includes: Bay St. Louis, *Beach Boulevard Historic District*, Roughly bounded by Beach Blvd., Necaise Ave., Seminary Dr., 2nd and 3rd Sts.: *Main Street Historic District*, Main St., *Sycamore Street Historic District*, Sycamore St.; *Washington Street Historic District*, Washington St.; *Building at 242 St. Charles Street* (11–25–80)

Hinds County

Jackson, *Fountainhead*, 306 Glen Way (11–28–80)

Jefferson County

Fayette vicinity, *Laurietta*, S of Fayette off MS 33 (11–24–80)

Lamar County

Lumberton, *U.S. Post Office (Mississippi Post Offices 1931–1941 Thematic Resources)* 104 Heber Ladner Dr. (4–7–81)

Leflore County

Greenwood, *Marclare*, River Rd. (11–25–80)

Marion County

Columbia, *U.S. Post Office (Mississippi Post Offices 1931–1941 Thematic Resources)* 815 Main Street (4–7–81)

Monroe County

Aberdeen vicinity, *Crawford Site (22–Mo–902)*, (11–28–80)

Montgomery County

Winona, *U.S. Post Office (Mississippi Post Offices 1931–1941 Thematic Resources)* 306 Summit St. (4–7–81)

Noxubee County

Macon, *Goodwin-Harrison House*, 213 N. Jefferson St. (11–28–80)

Oktibbeha County

Starkville, *Lampkin-Owens House*, 117 N. Montgomery St. (11–24–80)

MISSOURI

Carter County

Van Buren vicinity, *Big Spring Historic District*, E of Van Buren on MO 103 (3–17–81)

Daviess County

Gallatin, *Daviess County Courthouse*, Public Sq. (11–14–80)

Dunklin County

Kennett, *Kennett City Hall and Masonic Lodge*, 122 College St. (9–17–81)

Greene County

Republic, *Anderson, Elijah Teague, House*, 406 N. Pine St. (11–14–80)
Springfield, *Bentley House*, 603 E. Calhoun St. (11–14–80)
Springfield, *Old Calabosse*, 409 W. McDaniel St. (11–14–80)

Jackson County

Kansas City, *Benton, Thomas Hart, House and Studio*, 3616 Belleview St. (11–21–80)
Kansas City, *Hyde Park Historic District*, Roughly bounded by Armour and Harrison Blvds., 39th St. and Gillham Rd. (11–21–80)
Kansas City, *Kansas City Masonic Temple*, 903 Harrison St., (11–14–80)
Kansas City, *Long, R. A., House (Coninthian Hall)* 3218 Gladstone Blvd. (11–14–80)

Jefferson County

Imperial vicinity, *Kimmswick Bone Bed*, NW of Imperial (11–5–80)

Lafayette County

Lexington, *Wentworth Military Academy*, Washington Ave. and 18th St. (11–24–80)

Montgomery County

High Hill, *High Hill School*, Off U.S. 40 (11–14–80)

Nodaway County

Maryville, *Burns, Caleb, House*, 422 W 2nd St. (11–17–80)

Osage County

Bonnot's Mill, *Dauphine Hotel*, Off MO A (11–14–80)

Perry County

Perryville, *Doerr-Brown House*, 17 E. St. Joseph St. (11–14–80)

Pulaski County

Waynesville, *Old Stagecoach Stop*, Linn St., Courthouse Sq. (11–24–80)

Ralls County

Rensselaer vincinity, *St. Peter's Catholic Church*, SW of Rensselaer on SR 2 (11–14–80)

Ray County

Richmond vicinity, *New Hope Primitive Baptist Church*, SW of Richmond on Old Orrick Rd. (11–14–80)

St. Charles County

St. Charles, *African Church*, 554 Madison St. (11–21–80)
St. Charles, *Old City Hall*, 101 S. Main St. (11–14–80)

St. Louis (independent city)

Old Laclede Gas and Light Company Building, 1017 Olive St. (11–26–80)
West Cabanne Place Historic District, W. Cabanne Pl. (11–21–80)

Shannon County

Eminence vicinity, *Chilton-Williams Farm Complex*, E of Eminence of MO 106 (9–2–81)
Eminence vicinity, *Rhinehart Ranch*, NW of Eminence (11–14–80)

Stone County

Galena, *Stone County Courthouse*, Public Sq. (11–14–80)

MONTANA

ONE ROOM SCHOOLHOUSES OF GALLATIN COUNTY THEMATIC RESOURCES. Reference—see individual listings under Gallatin County.

Beaverhead County

Lima vicinity, *Sheep Creek Wickiup Cave* (9–23–81)

Bighorn County

Decker vicinity, *Lee Homestead*, NE of Decker (7–8–81)

Broadwater County

Townsend vicinity, *McCormick's Livery and Feed Stable Sign*, W of Townsend (7–8–81)

Chouteau County

Fort Benton, *Baker, I. G., House*, 1604 Front St. (11–20–80)
Fort Benton, *Fort Benton Engine-House*, Front and 15th Sts. (11–20–80)

Flathead County

Olney vicinity, *Stillwater Ranger Station Historic District*, U.S. 93 (7–8–81)

Gallatin County

Belgrade vicinity, *Pass Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade (7–21–81)
Belgrade vicinity, *Reese Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade (7–21–81)
Belgrade vicinity, *Sedan School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade (7–21–81)
Belgrade vicinity, *Springhill School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade (7–21–81)
Bozeman, *Barnett, R. T., and Company Building*, 13 E. Main St. (12–1–80)
Bozeman vicinity, *Lower Bridger School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Bozeman (7–21–81)
Bozeman vicinity, *Malmborg School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Bozeman (7–21–81)
Bozeman vicinity, *Pine Butte School (One Room Schoolhouses of Gallatin County Thematic Resources)* W of Bozeman (7–21–81)
Bozeman vicinity, *Rea School (One Room Schoolhouses of Gallatin County Thematic Resources)* W of Bozeman (7–21–81)
Gallatin Gateway vicinity, *Anderson School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Gallatin Gateway (7–21–81)
Gallatin Gateway vicinity, *Cottonwood School (One Room Schoolhouses of Gallatin County Thematic Resources)* SE of Gallatin Gateway (7–21–81)
Gallatin Gateway vicinity, *Spanish Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* NW of Gallatin Gateway (7–21–81)
Manhattan vicinity, *Dry Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Manhattan (7–21–81)
Triden, *Trident School (One Room Schoolhouses of Gallatin County Thematic Resources)* (7–21–81)

Lewis and Clark County

Helena, *Montana State Capitol Building*, Capitol Complex (2–17–81)

Powell County

Avon vicinity, *Fitzpartick Ranch Historic District*, NW of Avon (7–8–81)

Ravalli County

Corvallis, *Brooks Hotel*, Off East Side Hwy. (11–10–80)

Silver Bow County

Butte, *Silver Bow County Poor Farm Hospital*, 3040 Continental Dr. (7–16–81)

NEBRASKA

WILLA CATHER THEMATIC RESOURCES. Reference—see individual listings under Webster County.

Antelope County

Neligh, *Antelope County Courthouse*, 501–511 Main St. (12–3–80)
Neligh, *Gates College Gymnasium (Antelope County Jail) (APO4–2)* 509 L St. (4–20–81)
Neligh, *St. Peter's Episcopal Church*, 411 L St. (12–3–80)

Buffalo County

Kearney, *Hanson-Downing House*, 723 W. 22nd St. (12–10–80)
Kearney, *U.S. Post Office*, 2401 Central Ave. (9–17–81)

Colfax County

Schuyler, *Colfax County Courthouse*, Off NE 15 (9–3–81)
Schuyler, *Schuyler City Hall*, 1020 A St. (9–3–81)

Dodge County

Fremont, *McDonald, J. D., House*, 310 E. Military Ave. (12–10–80)
North Bend, *North Bend Carnegie Library*, 140 E. 8th St. (9–3–81)

Douglas County

Omaha, *Brandeis-Millard House*, 500 S. 38th St. (11–28–80)
Omaha, *Drake Court Apartments and the Dartmore Apartments Historic District*, Jones St. (11–10–80)
Omaha, *St. Matthias' Episcopal Church*, 1423 S. 10th St. (11–23–80)
Waterloo, *Robinson, J. C., House*, 102 E. Lincoln Ave. (11–28–80)

Lancaster County

Lincoln, *State Arsenal*, 17th and Court Sts. (9–17–81)

Scotts Bluff County

Scottsbluff, *Scottsbluff Carnegie Library*, 106 E. 18th St. (9–3–81)

Seward County

Bee, *States Ballroom* (10–14–81)

Webster County

Bladen vicinity, *Pavelka Farmstead (Willa Cather Thematic Resources)* SE of Bladen (previously listed in the National Register 4–13–79)
Red Cloud, *Burlington Depot (Willa Cather Thematic Resources)* Seward St. (3–5–81)
Red Cloud, *Cather House (Willa Cather Thematic Resources)* 245 Cedar St. (previously listed in the National Register 4–16–69)
Red Cloud, *Farmer's and Merchant's Bank Building (Willa Cather Thematic Resources)* 338 N. Webster St. (3–5–81)
Red Cloud, *St. Juliana Falconieri Catholic Church (Willa Cather Thematic Resources)* 425 W. 3rd St. (3–5–81)
Red Cloud, *Webster County Courthouse (Willa Cather Thematic Resources)* 225 W. 6th St. (3–5–81)

NEVADA

NEWLANDS RECLAMATION (TRUCKEE-CARSON PROJECT) THEMATIC RESOURCES. Reference—see individual listings under Churchill County.
Carson City (independent city)
Bank Saloon, 418 S. Carson St. (12–10–80)
Glenbrook, The, 600 N. Carson St. (5–1–81)

Churchill County

Fallon vicinity, *Carson River Diversion Dam (Newlands Reclamation (Truckee-Carson Project) Thematic Resources)* Carson River (3–25–81)
Fallon vicinity, *Lahontan Dam and Power Station (Newlands Reclamation (Truckee-Carson Project) Thematic Resources)* SW of Fallon (3–25–81)
Fallon vicinity, *Sand Springs Station*, SE of Fallon (11–21–80)

Clark County

Las Vegas, *Tule Springs Ranch*, 9200 Tule Springs Rd. (9–23–81)
Las Vegas vicinity, *Hoover Dam*, E of Las Vegas on U.S. 93 (4–8–81) (also in Mohave County, AZ)

Douglas County

Minden vicinity, *Home Ranch*, W of Minden (12–5–80)

Pershing County

Lovelock vicinity, *Marzen House*, S of Lovelock (8–27–81)

Washoe County

Gerlach, *Gerlach Water Tower*, Main St. (10–29–81)
Reno, *Virginia Street Bridge*, Spans Truckee River (12–10–80)
Verdi vicinity, *1872 California-Nevada State Boundary Marker* (8–27–81) (also in Sierra County, California)

NEW HAMPSHIRE

Belknap County

SANBORNTON SQUARE HISTORIC DISTRICT. Reference—see Merrimack County.
Tilton, *House by the Side of the Road*, 61 School St. (11–26–80)

Carrol County

Madison, *Madison School, District No. 1*, NH 113 (12–11–80)

Cheshire County

Ashuelot, *Ashuelot Covered Bridge*, NH 119 and Bolton Rd. (2–20–81)
Richmond, *Richmond School House No. 6*, NH 119 (11–25–80)

Coos County

Groveton vicinity, *Stark Covered Bridge*, E of Groveton at NH 10 and Northside Rd. (12–1–80)

Grafton County

Dorchester, *Dorchester Community Church*, Off NH 118 (11–25–80)
Lettleton, *Lane, Edward H., House*, 16 Cottage St. (12–8–80)
Lisbon, *Lisbon Inn*, Main St. (12–1–80)

Hillsborough County

Hancock vicinity, *Hancock-Greenfield Bridge*, Forest Rd. (5–5–81)
Mount Vernon vicinity, *Lamson Farm*, Lamson Rd. (2–24–81)
Nashua, *Stark, George, House*, 22 Concord St. (11–25–80)
Peterborough, *All Saints' Church*, 51 Concord St. (12–1–80)
Wilton vicinity, *County Farm Bridge*, NW of Wilton on Old County Farm Rd. (5–14–81)

Merrimack County

Boscawen, *Boscawen Academy and Much-I-Do-Hose House*, King St. (12–8–80)
Boscawen, *Boscawen Public Library*, King St. (5–28–81)
Bradford, *Bradford Town Hall*, W. Main St. (11–13–80)
Concord, *Pierce, Franklin, House*, 52 S. Main St. (10–15–79)
Concord, *Upham-Walker House*, 18 Park St. (5–15–80)
Concord, *White Farm*, 144 Clinton St. (5–15–81)
Henniker, *Henniker Town Hall*, Depot Hill Rd. (2–24–81)
Pittsfield, *Pittsfield Center Historic District*, NH 28 and NH 107 (12–12–80)
Sanbornton vicinity, *Sanbornton Square Historic District*, Sanbornton Sq. (12–8–80) (also in Belknap County)

Rockingham County

Exeter, *Exeter Waterfront Commercial Historic District*, Chestnut Hill Ave., Water, Franklin, Pleasant, High and Chestnuts Sts. (12–3–80)
Exeter, *Tenney, Samuel, House*, 65 High St. (11–25–80)
Kingston, *Nichols Memorial Library*, Main St. (1–28–81)
Newmarket, *Newmarket Industrial and Commercial Historic District*, NH 108 (12–1–80)
Plaistow, *Plaistow Carhouse (Trolley Barn)*, 27 Elm St. (12–10–80)
Rye, *Isles of Shoals*, Appledore Island and environs (12–10–80)
Rye, *Parsons Homestead*, 520 Washington Rd. (12–5–80)

Strafford County

Dover, *Hale, William, House*, 5 Hale St. (11–18–80)
Dover, *Strafford County Farm*, County Farm Rd. (2–25–81)
Milton, *Milton Town House*, NH 16 and Town House Rd. (11–26–80)
New Durham, *New Durham Meetinghouse and Pound*, Old Bay Rd. (12–8–80)
New Durham, *New Durham Town Hall*, Main St. and Ridge Rd. (11–13–80)
New Durham vicinity, *Free Will Baptist Church*, Ridge Top Rd. (11–13–80)

Sullivan County

Grantham vicinity, *Protectworth Tavern*, NH 4A (11–25–80)
Newport vicinity, *Little Red School House 1835 District No. 7*, S of Newport on NH 10 (12–1–80)

NEW JERSEY

Atlantic County

Atlantic City, *World War I Memorial*, O'Donnell Pkwy., S. Albany and Ventnor Aves. (8–28–81)

Bergen County

River Edge, *Steuben Estate Complex*, New Bridge Rd., Main St. and Hackensack River (12–18–70)

Camden County

Runnemede vicinity, *St. John's Episcopal Church and Burying Ground*, Chews Landing Rd. and Old Black Horse Pk. (11–22–80)

Cape May County

Ocean View vicinity, *Calvary Baptist Church*, SW of Ocean View at Seaville Rd. and NJ 9 (11–25–80)

Cumberland County

Millville, *Millville's First Bank Building*, 2nd and E. Main Sts. (11–20–80)

Essex County

Bloomfield, *Oakes Estate*, 240 Belleville Ave. (8–6–81)
Newark, *Newark Metropolitan Airport Buildings*, U.S. 22/1/9 and Port Rd. (12–12–80)
Newark, *St. Joseph's Roman Catholic Church Rectory and School*, W. Market St. (12–8–80)
Newark and Belleville, *Branch Brook Park*, Roughly bounded by Belleville Park, Washington and Clifton Aves., 6th and Orange Sts. (1–12–81)
Orange, *Orange Free Public Library*, 348 Main St. (9–28–81)

Hudson County

STATUE OF LIBERTY NATIONAL MONUMENT, ELLIS ISLAND AND LIBERTY ISLAND. Reference—see New York, NY.

Hunterdon County

High Bridge, *High Bridge Reformed Church*, Church St. and SR 513 (11–21–80)

Mercer County

Trenton, *Berkeley Square Historic District*, Roughly bounded by W. State St., Parkside, Riverside, and Overbrook Aves. (11–20–80)

Middlesex County

Perth Amboy, *Perth Amboy City Hall and Surveyor General's Office*, 260 High St. (1–21–81)

Monmouth County

Red Bank, *Shrewsbury Township Hall*, 51 Monmouth St. (12–8–80)

Morris County

Dover, *Baker Building*, 16 W. Blackwell St. (7–1–81)

Passaic County

Clifton, *U.S. Animal Quarantine Station*, Clifton Ave. (10–9–81)
Paterson, *Thompson, Daniel, and Ryle, John, Houses*, 8 and 9 Mill St. (7–30–81)

Sussex County

Wallpark Center vicinity, *Old Mine Road Historic District*, NJ 521, Delaware, Old Mine, and River Rds. (see also listing in Warren County) (12–3–80) HABS.

Union County

Plainfield, *Crescent Area Historic District*, Roughly bounded by Park, Prospect, and Carnegie Aves., 7th and Richmond Sts. (12–12–80)
Westfield, *Westfield Fire Headquarters*, 405 North Ave., W. (12–08–80)

Warren County

Wallpark Center vicinity, *Old Mine Road Historic District*, NJ 521, Delaware, Old Mine, and River Rds. (see also listing in Sussex County) (12–3–80) HABS.

NEW MEXICO

Bernalillo County

Alameda, *Tafoya, Domingo, House*, 10021 Edith Blvd., NE. (11–17–80)
Albuquerque, *ALBUQUERQUE DOWNTOWN NEIGHBORHOODS MULTIPLE RESOURCE AREA*. This area includes: *Eighth Street-Forrester District*, Roughly bounded by Mountain Rd., Lomas Blvd., Forrester and 7th Sts.; *Fourth Ward District*, Roughly bounded by Central Ave., Lomas Blvd., 8th and 15th Sts.; *Carnes, Chester, House*, 701 13th St., NW.; *Gurule, Delfinia, House*, 306 16th St., NW.; *Harwood School*, 1114 7th St., NW.; *Hayden, A. W., House*, 609 Marble St., NW.; *LeFeber, Charles, House*, 313 5th St.; *Lopez, Hilario, House*, 208 16th St., NW; *Mann, Henry, House*, 723 14th St., NW. (12–1–80)
Albuquerque, *Chaves, Rumaldo, House*, 10023 Edith Blvd., NE (11–24–80)
Albuquerque, *Davis House*, 704 Parkland Circle, SE. (11–17–80)
Albuquerque, *Federal Building*, 421 Gold Ave., SW (11–22–80)
Albuquerque, *Gladding, James N., House*, 643 Cedar St., NE. (11–17–80)
Albuquerque, *Lembke House*, 312 Laguna St., SW (11–25–80)
Albuquerque, *Monte Vista School*, 3211 Monte Vista Blvd., NE. (8–12–81)
Albuquerque, *New Mexico-Arizona Wool Warehouse*, 520 1st St., NW. (7–23–81)
Albuquerque, *Old Post Office*, 123 4th St. (11–17–80)
Albuquerque, *Pearce, John, House*, 718 Central Ave., SW (11–22–80)
Albuquerque, *Skinner Building, 722–724 Central Ave., SW and 108 8th St., SW (11–22–80)*
Albuquerque, *Springer Building*, 121 Tijeras Ave., NE. (11–18–80)

Grant County

Mimbres vicinity, *Mattocks Site*, (12–9–80)

Luna County

Deming vicinity, *Upton Site*, (12–9–80)

Otero County

Sacramento vicinity, *Circle Cross Ranch Headquarters*, SW of Sacramento (11–17–80)

Valencia County

Belen, *Belen Hotel*, 200 Becker Ave. (11–12–80)

NEW YORK

STONE HOUSES OF BROWNVILLE THEMATIC RESOURCES. Reference—individual listings under Jefferson County.

Albany County

Albany, *Knickerbocker and Arnink Garages*, 72—74 (11–28–80)

Cayuga County

Aurora, *Aurora Village-Wells College Historic District*, NY 90 (11–19–80)

Chenango County

Oxford, *Burr, Theodore, House*, Fort Hill Sq. (9–11–81)

Dutchess County

Hyde Park, *Hyde Park Railroad Station*, River Rd. (9–11–81)

Erie County

Buffalo, *Dorsheimer, William, House*, 434 Delaware Ave. (11–21–80)
Buffalo, *Lafayette High School*, 370 Lafayette Ave. (12–3–80)

Franklin County

Paul Smiths, *Smith's, Paul, Hotel Store*, Paul Smith's College Campus (12–3–80)

Fulton County

Johnstown, *Fulton County Jail (Tryon County Jail)* Perry and Montgomery Sts. (10–19–81)

Greene County

Athens, *VILLAGE OF ATHENS MULTIPLE RESOURCE AREA.* This area includes: *Athens Lower Village Historic District*, Roughly bounded by Hudson River, NY 385, Vernon and Market Sts.; *Brick Row Historic District*, Off NY 385; *Stranahan-DelVecchio House*, N. Washington St.; *Van Loon, Albertus, House*, N. Washington St.; *Zion Lutheran Church*, N. Washington St. (11–28–80)

Jefferson County

Brownville, *Archer, William, House (Stone Houses of Brownville Thematic Resources)* 112 Washington St. (11–19–80)
Brownville, *Brown, Gen. Jacob, Mansion (Stone Houses of Brownville Thematic Resources)* Brown Blvd. (11–19–80)
Brownville, *Brownville Hotel (Stone Houses of Brownville Thematic Resources)* Brown Blvd. and W. Main St. (11–19–80)
Brownville, *Vogt House (Stone Houses of Brownville Thematic Resources)* 110 Main St. (11–19–80)
Brownville, *Walrath, Arthur, House (Stone Houses of Brownville Thematic Resources)* 114 Corner Pike (11–19–80)

Kings County

Brooklyn, *Park Slope Historic District*, Roughly bounded by Prospect Park West, Berkeley Pl., 15th St., 6th, 7th and Flatbush Aves., (11–21–80)
New York, *Parachute Jump*, Coney Island (9–2–80)

Livingston County

North Bloomfield, *North Bloomfield School*, 7840 Martin Rd. (5–28–81)

Madison County

Oneida, *Cottage Lawn*, 435 Main St. (11–6–80)

Monroe County

Riga, *Riga Academy*, 3 Riga-Mumford Rd. (11–21–80)

New York County

Liberty Island, *Statue of Liberty National Monument, Ellis Island and Liberty Island* (10–15–66) (also in Hudson County, NJ)
New York, *Houses at 83 and 85 Sullivan Street*, 83–85 Sullivan St. (11–17–80)
New York, *New York Public Library, Hamilton Grange Branch*, 503 and 505 W. 145th St. (7–23–81)
New York, *Stuyvesant Square Historic District*, Roughly bounded by Nathan D. Perleman Pl., 3rd Ave., E. 18th and E. 15th Sts. (11–21–80)

Omondaga County

Syracuse, *Central Technical High School*, 700–745 S. Warren St. (4–9–81)

Orange County

Goshen, *Church Park Historic District*, Park Pl., Main and Webster Sts. (11–17–80)
Montgomery, *MONTGOMERY VILLAGE MULTIPLE RESOURCE AREA.* This area includes: *Bridge Street Historic District; Union Street-Academy Hill Historic District; Crabtree-Patchett House*, 232 Ward St.; *Miller, Johannes, House*, 272 Union St.; *Montgomery Worsted Mills*, Factory St. (11–21–80)
Newburgh, *New York State Armony*, Broadway and Johnson St. (6–18–81)

Otsego County

Cooperstown, *Cooperstown Historic District*, NY 28, NY 80 and Main St. (11–18–80)
Oneonta, *Stonehouse Farm*, E of Oneonta on NY 7 (11–19–80)
Oneonta vicinity, *Fortin Site*, (11–28–80)

Queens County

Rockaway Point vicinity, *Riis, Jacob, Park Historic District*, Rockaway Beach Blvd. (6–17–81)

Rensselaer County

Hoosick Falls, *Hoosick Falls Historic District*, Roughly bounded by RR tracks, Church, Main and Elm Sts. (12–3–80)

Richmond County

Staten Island, *St. Paul's Memorial Church and Rectory*, 225 St. Paul's Ave. (11–21–80)

Schenectady County

Schenectady, *General Electric Realty Plot*, Roughly bounded by Oxford Pl., Union Ave., Nott St., Lenox and Lowell Rds. (11–18–80)

Schoharie County

Fulton, *Shafer Site*, (11–28–80)

Seneca County

Covert, *Covert Historic District*, NY 96 (11–21–80)

Steuben County

Rheims, *Pleasant Valley Wine Company*, SR 88 (11–18–80)

Suffolk County

Bay Shore vicinity, *Fire Island Light Station*, Robert Moses Causeway (9–11–81)
Huntington, *Fort Golgotha and the Old Burial Hill Cemetery*, Main St. and Nassau Rd. (3–2–81)
Mastic Beach, *Floyd, William, House (Old Mastic)* 20 Washington Ave. (10–15–80)

Tioga County

Owego, *Owego Central Historic District*, North Ave., Park, Main, Lake, Court, and Fronts Sts. (12–3–80)

Ulster County

Cragsmoor vicinity, *Chetolah (George Ianess, Jr., Estate)*, S of Cragsmoor on Vista Maria Rd. (10–21–80)

Westchester County

Katonah, *Jay, John, Homestead*, Jay St. (5–29–81) NHL
Peeksill vicinity, *Van Cortlandt Upper Manor House*, Oregon Rd. (4–2–81)
Scarsdale, *Wayside Cottage*, 1039 Post Rd. (5–1–81)
Yorktown Heights, *Yorktown Heights-Railroad Station*, Commerce St. (3–19–81)

Wyoming County

North Java, *Arcade and Attica Railroad* (11–17–80)

NORTH CAROLINA

Beaufort County

Belhaven, *Belhaven City Hall*, Main St. (1–27–81)

Bertie County

Windsor vicinity, *King House*, NW of Windsor off NC 308 (8–26–71)

Brunswick County

Southport, *Southport Historic District*, Roughly bounded by Cape Fear River, Rhett, Bay, Short and Brown Sts. (11–25–80)

Chatham County

Pittsboro vicinity, *Hadley House and Grist Mill*, NW of Pittsboro on SR 2165 (11–25–80)

Cumberland County

Fayetteville, *Confederate Breastworks*, Raleigh Rd. and U.S. 401 (10–7–81)

Currituck County

Poplar Branch vicinity, *Baum Site (31CK9)*, N of Poplar Branch (12–8–80)

Davidson County

Lexington vicinity, *Sowers, Philip, House*, SR 1162 (11–25–80)
Thomasville vicinity, *Brummell's Inn*, N of Thomasville (11–25–80)
Thomasville, *Thomasville Railroad Passenger Depot*, W. Main St. (7–9–81)

Forsyth County

Winston-Salem, *Reynolda Historic District,* Reynolda Rd. (11–28–80)

Halifax County

Scotland Neck vicinity, *Trinity Church,* N of Scotland Neck on U.S. 258 (11–25–80)
Scotland Neck, *Woodstock,* N of Scotland Neck on U.S. 258 (11–25–80)

Haywood County

Canton vicinity, *Patton Farm,* SW of Canton (11–10–80)

Hertford County

Ashoskie vicinity, *Mulberry Grove,* SW of Ashoskie (11–25–80)

Iredell County

IREDELL COUNTY MULTIPLE RESOURCE AREA. This area includes: Mooresville, *Mooresville Historic District,* NC 115 and NC 152; Statesville, *Academy Hill Historic District,* Western Ave., Bell, Mulberry, Wise and Armfield Sts.; *East Broad Street-Davie Avenue Historic District,* Davie Ave., Broad and Elm Sts.; *Mitchell College Historic District,* NC 90 and U.S. 70; *Statesville Commercial Historic District,* Rougly bounded by Front, Meeting, Broad and Tradd Sts.; Harmony vicinity, *Damascus Baptist Church Arbor,* Off SR 1158 and SR 1582; *Gaither House,* NC 901; *Holland-Summers House,* Off SR 1904; *Morrison-Campbell House,* Off SR 2125; *Snow Creek Methodist Church and Burying Ground,* Off SR 1904; Mooresville, *Brawley, Espy Watts, House,* 601 William St.; *South Broad Street Row,* 251—311 S. Broad St.; Mooresville vicinity, *Cornelius House,* SR 1378 and SR 1302; Mount Mourne vicinity, *Centre Presbyterian Church, Session House and Cemeteries,* SR 1245; *Coddle Creek Associate Reformed Presbyterian Church, Session House and Cemetery,* SR 1146; *Houston, George, House,* NC 115; *Wood Lawn,* SR 1138; Statesville, *Center Street A.M.E. Zion Church,* S. Center St.; *Key Memorial Chapel,* 150 E. Sharpe St.; *McElwee Houses,* 122, 126, 134 and 140 Water St.; *Morrison-Mott House,* 332 N. Center St.; *Sharpe, Col. Silas Alexander, House,* 402 S. Center St.; *Eccles, Henry, House,* SR 2145 and SR 2180; *King-Flowers-Keaton House,* NC 115 and SR 1905; *McClelland-Davis House,* SR 1551; *Turner, Henry, House and Caldwell-Turner Mill Site,* SR 2145; Troutman vicinity, *Davidson House,* SR 1337; (11–24–80)

IREDELL COUNTY MULTIPLE RESOURCE (additions). This area includes: Houstonville vicinity, *Daltonia (John H.. Dalton House)* SR 2115; *Welch-Nicholson House and Mill Site;* Statesville vicinity, *Bethesda Presbyterian Church, Session House and Cemetery,* SR 2359; *Ebenezer Academy, Bethany Presbyterian Church and Cemetery,* U.S. 21; and Union Grove vicinity, *Campbell, Perciphull, House,* SR 1832 (12–8–80)

Macon County

Franklin, *Nequasee (Nikwasi),* (11–26–80)

Nash County

Rocky Mount, *Machaven,* 306, S. Grace St. (11–25–80)

New Hanover County

Wilmington, *USS North Carolina (battleship)* Cape Fear River (7–23–81)

Northhampton County

Murfreesboro vicinity, *Princeton Site,* (11–25–80)

Pitt County

Greenville, *Humber, Robert Lee, House,* 117 W. 5th St. (7–9–81)
Greenville, *Jones-Lee House,* 805 E. Evans St. (11–25–80)

Robeson County

Lumberton, *Carolina Threatre,* 319 N. Chestnut St. (7–9–81)

Scotland County

Johns vicinity, *McRae-McQueen House,* SW of Johns on U.S. 501

Transylvania County

Brevard, *Silvermont,* E. Main St. (7–9–81)

NORTH DAKOTA

BUECHNER AND ORTH COURTHOUSES IN NORTH DAKOTA THEMATIC RESOURCES. Reference—see individual listings under Kickey, Divide, Foster, Grand Forks, LaMoure, McHenry, McIntosh, Pembina, Pierce, Richland, Sargent, and Traill Counties. (11–25–80)

Bowman County

Rhame vicinity, *Fort Dilts,* (11–10–80)

Cass County

Fargo, *Dibley House,* 331 8th Ave., S (11–25–80)

Dickey County

Ellendale, *Dickey County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* Off U.S. 281 (11–25–80)

Divide County

Crosby, *Divide County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

Foster County

Carrington, *Foster County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

Grand Forks County

Grand Forks, *Grand Forks County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

Hettinger County

Regent, *Hill, Dr. S. W., Drug Store,* Off ND 21 (11–10–80)

LaMoure County

LaMoure, *LaMoure County Courthouse, (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

McHenry County

Towner, *McHenry County Courthouse, (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

McIntosh County

Ashley, *McIntosh County Courthouse, (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

McKenzie County

Grassy Butte, *Grassy Butte Post Office,* Off U.S. 85 (11–26–80)

Pembina County

Cavalier, *Pembina County Courthouse, (Buechner and Orth Courthouses in North Dakota Thematic Resources)* Off ND 5 (11–25–80)

Pierce County

Rugby, *Pierce County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* (11–25–80)

Richland County

Wahpeton, *Richland County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* Off ND 13 (11–25–80)

Sargent County

Forman, *Sargent County Courthouse, (Buechner and Orth Courthouses in North Dakota Thematic Resources)* Off ND 32 (11–25–80)

Traill County

Hillsboro, *Traill County Courthouse (Buechner and Orth Courthouses in North Dakota Thematic Resources)* Off U.S. 81 (11–25–80)

Ward County

Minot, *Minot Carnegie Library,* 105 2nd Ave., SE (11–10–80)

NORTHERN MARIANA ISLANDS

Mariana Islands District

Garapan Village, Saipan, *Japanese Hospital,* Rte. 3 (12–19–74)
Navy Hill, Saipan, *Japanese Lighthouse,* Navy Hill at Garapan (12–19–74)
Rota, *Commissioner's Office* (4–17–81)
Rota, *Japanese Hospital,* W side of Sasanhaya Bay (4–16–81)
Rota, *Nanyo Kohatsu Kabushiki Kaisha Sugar Mill* (4–16–81)
Rota, *Rectory* (4–16–81)
Rota Island, *Rota Latte Stone Quarry* (12–23–74)
Saipan, *Banzai Cliff,* Banadero (9–30–76)
Saipan, *Isley Field Historic District,* Saipan International Airport (6–26–81)
Saipan, *Suicide Cliff,* Banadero (9–30–76)
Saipan, *Waherak Maihar,* Public Works Headquarters Compound (1–31–78)
Tinian Island, *House of Taga* (12–19–74)
Tinian, *Japanese Structure* (4–16–81)
Tinian, *Nanyo Kohatsu Kabushiki Kaisha Administration Building* (4–16–81)
Tinian, *Nanyo Kohatsu Kabushiki Kaisha Ice Storage Building* (4–17–81)
Tinian, *Nanyo Kohatsu Kabushiki Kaisha Laboratory* (4–16–81)

OHIO

EASTLAKE HOUSES OF ASHLEY THEMATIC RESOURCES. Reference—see individual listings under Delaware County.

BELL, C. S., THEMATIC RESOURCES. Reference—see individual listings under Highland County.
PATROL STATIONS IN CINCINNATI, OHIO THEMATIC RESOURCES. Reference—see individual listings under Hamilton County.

Ashtabula County

Jefferson, *Jefferson Town Hall,* 27 E. Jefferson St. (6–18–81)

Athens County

Chauncey, *Clester, Joseph, House,* SE of Chauncey on SR 111 (11–26–80)
Athens, *Herrold, Thomas Jefferson, House and Store,* 234 W. Washington St. (11–21–80)

Brown County

Wilmington, *Pisgah Christian Church,* NW of Bipley on Pisgah Rd. (11–21–80)

Butler County

Hamilton, *Butler County Courthouse,* 2nd and High Sts. (6–22–81)

Clermont County

Milford, *Promont (Gov. John M. Pattison House),* 906 Goshen Pk. (11–21–80)

Clinton County

Wilmington, *Main Building,* Sugartree St. (11–21–80)
Wilmington, *Smith Place,* N. South St. (11–25–80)

Coshocton County

Coshocton vicinity, *Milligan, Cuthbert, House,* N of Coshocton (11–25–80)

Cuyahoga County

Berea, *Berea Union Depot,* 30 Depot St. (11–21–80)
Cleveland, *St. Paul's Episcopal Church,* 4120 Euclid Ave. (11–25–80)
Cleveland, *Warazawa Neighborhood District,* E. 65th St. and Forman Ave. (11–28–80)
North Olmsted, *First Universalist Church of Olmsted,* 5050 Porter Rd. (11–25–80)
North Olmsted, *North Olmsted Town Hall,* 5186 Dover Center Rd. (11–25–80)
Parma, *Steams, Lyman, Farm,* 6975 Ridge Rd. (10–1–81)
Strongsville, *Strong, John Stoughton, House,* 18910 Westwood St. (11–24–80)

Darke County

Greenville, *Carnegie Library and Henry St. Clair Memorial Hall,* 520 Sycamore St. and W. 4th St. (11–26–80)
Versailles, *Versailles Town Hall and Wayne Township House,* 4 W. Main St. (2–18–81)

Delaware County

Ashley, *Building at 500 East High Street (Eastlake Houses of Ashley Thematic Resources)* (11–25–80)
Ashley, *Building at 505 East High Street (Eastlake Houses of Ashley Thematic Resources)* (11–25–80)
Ashley, *Building at 101 North Franklin Street (Eastlake Houses of Ashley Thematic Rosources)* (11–25–80)
Ashley, *Building at 223 West High Street (Eastlake Houses of Ashley Thematic Rosources)* (11–25–80)

Fairfield County

Amanda, *Barr House,* 350 W. Main St. (11–26–80)
Rushville, *Rushville Historic District,* Bremen Ave., Main and Market Sts. (11–24–80)

Franklin County

Central College Multiple Resource Area. This area includes: Westerville vicinity, *Central College Presbyterian Church,* Sunbury Rd.; *Fairchild Building.*
Sunbury Rd.; *Presbyterian Parsonage,* 6972 Sunbury Rd.; *Washburn, Rev. Ebenezer, House,* 7121 Sunbury Rd. (11–25–80)
Columbus, *Broad Street United Methodist Church,* 501 E. Broad St. (11–26–80)
Columbus, *German Village,* Roughly bounded by Livingston Ave., Pearl and Blackberry Alley, Nursery Lane, and Lathrop St. (boundary increase approved 11–26–80)
Columbus, *Ohio National Bank,* 167 S. High St. (11–26–80)
Columbus, *Welsh Presbyterian Church,* 315 E. Long St. (11–24–80)

Gallia County

Patriot vicinity, *Davis Mill,* NE of Patriot on Cora Mill Rd. (11–26–80)

Greene County

Fairborn, *Mercer Log House,* 41 N. 1st St. (10–16–81)

Hamilton County

Cincinnati, *Aklemeyer Commercial Buildings,* 19—23 W. Court St. (12–9–80)
Cincinnati, *Ida Street Viaduct,* Ida St. (11–26–80)
Cincinnati, *Mount Adams Public School,* 1125 St. Gregory St. (11–24–80)
Cincinnati, *Ninth Street Historic District,* 9th St. between Vine and Plum Sts. (11–25–80)
Cincinnati, *Police Station No. 6 (Police Stations in Cincinnati, Ohio Thematic Resources)* Delta Ave. and Columbia Pkwy. (5–18–81)
Cincinnati, *Police Station No. 7 (Patrol Stations in Cincinnati, Ohio Thematic Resources)* 355 McMillan St. (5–18–81)
Cincinnati, *Police Station No. 2 (Patrol Stations in Cincinnati, Ohio Thematic Resources)* 314 Broadway (previously listed in Lytle Park Historic District 3–26–76)
Cincinnati, *Police Station No. 3 (Patrol Stations in Cincinnati, Ohio Thematic Resources)* 3201 Warsaw Ave. (5–18–81)
Cincinnati, *Police Station No. 5 (Patrol Stations in Cincinnati, Ohio Thematic Resources)* 1024—1026 York St. (previously listed as part of Samuel Hannaford and Sons Thematic Resources 3–3–80)
Montgomery, *Wilder-Swaim House,* 7650 Cooper Rd. (5–20–81)

Highland County

Hillsboro, *Bell, C.S. Foundry and Showroom (Bell, C.S., Thematic Resources)* 154–156 W. Main St. (11–25–80)
Hillsboro, *Bell, Mansion (Bell, C.S., Thematic Resources)* 225 Oak St. (11–25–80)
Hillsboro, *Bell's First Home (Bell, C.S., Thematic Resources)* 222 Beech St. (11–25–80)
Hillsboro, *Bell's Opera House (Bell, C.S., Thematic Resources)* 109–119 S. High St. (11–25–80)

Henry County

Napoleon, *Henry County Sheriff's Residence and Jail,* 123 E. Washington St. (6–24–81)

Jackson County

Wellston, *Clutts House,* 16 E. Broadway St. (11–26–80)

Jefferson County

Adena vicinity, *Hamilton-Ickes House,* N of Adena on SR 10 (11–26–80)
Smithfield, *Smithfield School,* High St. (10–16–81)
Wintersville vicinity, *Bantam Ridge School,* Bantam Ridge Rd. (10–1–81)

Knox County

Mount Vernon vicinity, *Thompston, Enoch, House,* SW of Mount Vernon on OH 661 (11–25–80)

Lake County

Mentor, *Oliver, John G., House,* 7645 Little Mountain Rd. (10–1–81)

Licking County

GRANVILLE MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Granville, *Granville Historic District,* OH 37; *Bancroft, A. A., House,* N. Pearl St. and Washington Dr.; *Carpenter, Wallace W., House (The Castle)* 323 Summit St.; *Dustin Cabin,* 597 N. Pearl St.; *Rogers House,* 304 N. Pearl St.; *Rose, Capt. Levi, House,* 681 N. Pearl St. (11–28–80)
Johnstown, *Monroe Township Hall-Opera House,* 1 S. Main St. (7–6–81)
Newark, *Rhoads, Peter F., House,* 74 Granville St. (11–28–80)

Lucas County

Toledo, *Ashland Avenue Baptist Church,* Ashland Ave. at Woodruff (11–26–80)

Medina County

Medina, *Munson, Judge Albert, House,* 231 E. Washington St. (11–26–80)

Meigs County

Pomeroy, *Pomeroy Historic District,* 2nd St. and Main St. (Boundary increase approved 11–22–80)

Mercer County

Celina, *Otis Hospital,* 441 E. Market St. (11–25–80)
Celina, *Godfrey, Sen. Thomas J., House,* 602 W. Market St. (11–26–80)

Miami County

Covington, *Covington Historic Government Building,* Spring and Pearl Sts. (6–22–81)

Monroe County

Graysville vicinity, *Ring, Walter, House and Mill Site,* SE of Graysville on SR 575 (11–28–80)

Montgomery County

Dayton, *Dayton Stove and Cornice Works,* 24—28 N. Patterson Blvd. (11–26–80)
Dayton, *Lafee Building,* 22 E. 3rd St. (11–25–80)
Trotwood, *Trotwood Railroad Station and Depot,* 2 W. Main St. (1–28–81)

Muskingum County

Zanesville, *Brendel, Charles, House,* 427 Wayne Ave. (11–25–80)
Zanesville, *Clossman Hardware Store,* 621—623 Main St. (11–25–80)
Zanesville, *Grant School,* Off U.S. 22 (11–25–80)
Zanesville, *Ohio Power Company,* 604 Main St. (11–25–80)
Zanesville, *Wiles, Perry, Grocery Compgny,* 32 N. 3rd St. (11–25–80)

Perry County

New Lexington, *Perry County Courthouse and Jail,* Main and Brown Sts. (10–8–81)
Somerset, *Sheridan House,* S. Columbus St. (11–28–80)

Pickaway County

Circleville, *Memorial Hall,* 165 E. Main St. (11–21–80)

Ross County

Chillicothe, *Seip House,* 345 Allen Ave. (5–12–81)

Stark County

Alliance vicinity, *Maudru House,* SW of Alliance (11–25–80)
Canton, *Renkert, Harry S., House,* 1414 Market Ave. (6–18–81)

Tuscarawas County

Strasburg, *Garver Brothers Store,* 134 N. Wooster Ave. (11–26–80)

Van Wert County

Van Wert, *Marsh, George H., Homestead and the Marsh Foundation School,* Ridge Rd. (11–28–80)
Willshire, *Willshire School,* Green St. (11–25–80)

Wood County

Bowling Green, *Main Street Historic District,* Main and Wooster Sts. (11–28–80)
North Baltimore, *North Baltimore Town Hall,* 207 N. Main St. (10–29–81)

OKLAHOMA

LATIMER COUNTY THEMATIC RESOURCES RELATING TO COAL MINING. Reference—see individual listings under Latimer County.

Canadian County

Yukon vicinity, *Czech Hall,* S of Yukon (11–25–80)

Choctaw County

Hugo, *Hugo Historic District,* U.S. 70 and U.S. 271 (11–12–80)

Comanche County

Cache vicinity, *Arrastra Site* (5–11–81)
Cache vicinity, *Boulder Cabin,* NW of Cache (5–11–81)
Cache vicinity, *Buffalo Lodge,* NW of Cache (5–11–81)
Cache vicinity, *Ferguson House,* NW of Cache (5–11–81)
Cache vicinity, *Ingram House,* NE of Cache (5–11–81)
Indiahoma, *First State Bank of Indiahoma,* Main St. (11–6–80)
Lawton vicinity, Gore Pit District (Cm–131, 324, & 325) SE of Lawton (11–21–80)

Creek County

Drumright, *Santa Fe Depot,* Broadway and Harley Sts. (4–2–81)
Drumright vicinity, *Tidal School,* S of Drumright off OK 16 (4–2–81)
Drumright, *Washington School,* 214 W. Federal St. (1–28–81)

Haskell County

Stigler vicinity, *Tamaha Jail and Ferry Landing,* NE of Stigler (11–14–80)

Hughes County

Holdenville, *Holdenville City Hall,* 102 Creek St. (9–11–81)

Johnston County

Tishomingo, *Poe, Bessie, Hall,* Murray State College campus (9–11–81)

Latimer County

Wilburton, *Great Western Coal and Coke Company Building (Latimer County Thematic Resources Relating to Coal Mining)* 701 E. Main St. (11–6–80)
Wilburton, *Great Western Coal and Coke Company Mine No. 3 (Latimer County Thematic Resources Relating to Coal Mining)* Off U.S. 270 (11–6–80)
Wilburton, *Mitchell Hall (Latimer County Thematic Resources Relating to Coal Mining)* Eastern Oklahoma State College campus (11–6–80)
Wilburton, *Sacred Heart Catholic Church and Rectory (Latimer County Thematic Resources Relating to Coal Mining)* 102 Center Point Rd. (11–6–80)
Yanush vicinity, *Cupco Church,* S of Yanush off OK 2 (11–6–80)

LeFlore County

Cowlington vicinity, *Overstreet House,* NE of Cowlington off U.S. 59 (11–25–80)
Panama vicinity, *Skullyville County Jail,* W of Panama (11–6–80)

McCurtain County

Broken Bow vicinity, *Tiner School,* E of Btoken Bow (11–21–80)

Oklahoma County

Oklahoma City, *Edgemere Park Historic District,* Roughly bounded by Robinson and Walker and NW 30 and NW 36 (11–12–80)
Oklahoma City, *Tradesman's National Bank Building,* 101 N. Broadway St. (11–5–80)

Okmulgee County

Henryetta vicinity, *Wilson School,* NW of Henryetta (1–28–81)

Osage County

Hominy, *Drummond, Fred, House,* 305 N. Price Ave. (4–16–81)

Payne County

Stillwater, *Berry, James E., House,* 502 S. Duck St. (11–21–80)
Stillwater, *Citizens Bank Building,* 107 E. 9th St. (2–24–81)

Pittsburg County

Canadian, *Canadian Jail and Livery Stable,* Off OK 113 (11–6–80)
Krebs, *St. Joseph's Catholic Church,* Off OK 31 (11–12–80)

McAlester, *McAlester Scottish Rite Temple,* 2nd St. and Adams Ave.
McAlester, *Mass Grave of the Mexican Miners,* Mount Calvary Cemetery (11–14–80)

Seminole County

Wewoka, *Seminole Whipping Tree,* Wewoka Ave. (5–22–81)

Washington County

Bartlesville, *Old Washington County Courthouse,* 400 Frank Phillips Blvd. (1–26–81)

OREGON

Clackamas County

Damascus, *Damascus School,* 14711 SE Anderson Rd. (12–3–80)
Government Camp vicinity, *Clackamas Lake Ranger Station Historic District,* S of Government Camp on Skyline Rd. (4–22–81)

Clatsop County

Astoria, *Flavel, Capt. George, House and Carriage House,* 441 8th St. (11–28–80)

Columbia County

Scappoose, *Watts, James Grant, House,* 206 SE 1st St. (11–28–80)
Scappoose vicinity, *Portland and Southwestern Railroad Tunnel* (8–17–81)

Curry County

Sixes vicinity, *Hughes, Patrick, House,* Cape Blanco State Park (11–28–80)

Douglas County

Roseburg, *Parrott, Mose, House,* 1772 SE. Jackson St. (11–6–80)

Grant County

Prairie City, *Sumpter Valley Railway Passenger Station,* Main and Bridge Sts. (5–5–81)

Hood River County

Parkdale vicinity, *Cloud Cap-Tilly Jane Recreation Area Historic District,* S of Parkdale (3–22–81)

Jackson County

Ashland, *Eddings-Provost House,* 364 Vista St. (11–6–80)
Central Point, *Central Point Public School,* 450 S. 4th St. (12–3–80)
Medford, *BPOE Lodge No. 1168,* 202 N. Central Ave. (11–28–80)
Medford, *Medford Carnegie Library,* 413 W. Main St. (7–30–81)

Klamath County

Klamath Falls vicinity, *Crater Lake Lodge,* Crater Lake National Park (5–5–81)

Lane County

Eugene, *Hayse Blacksmith Shop (Brogdon's Hay, Feed and Seed Store)* 357 Van Buren St. (11–7–80)

Linn County

Shedd, *Porter-Brasfield House,* 31838 Fayetteville Dr. (11–25–80)

Marion County

Jefferson, *Jefferson Methodist Church and Parsonage*, 310 and 342 N. Second St. (11–6–80)
Mount Angel, *Windischar's General Blacksmith Shop*, 110 Sheridan St. (11–7–80)
Salem, *Gilbert, Andrew T., House*, 116 Marion St., NE (11–6–80)
Salem, *Wilson-Durbin House*, 434 Water St. (11–7–80)
Silverton vicinity, *McCallister-Gash Farmhouse*, SW of Silverton at 9626 Kaufman Rd. (11–6–80)

Multnomah County

Bridal Veil vicinity, *Multnomah Falls Lodge and Footpath*, NE of Bridal Veil on Old Columbia River Hwy. (4–22–81)
Corbett vicinity, *Graf, Andreas, House*, SE of Corbett (11–13–80)

Polk County

Dallas, *Dallas Tannery*, 505 SW. Levens St. (11–6–80)

Umatilla County

Pendleton, *Bowman Hotel*, 17 SW. Frazer Ave. (11–6–80)
Umatilla vicinity, *Umatilla (35 UM 1)*, N of Umatilla (1–30–81)

Union County

Union, *Townley, W. J., House*, 762 N. 5th St. (11–6–80)

Wasco County

The Dalles, *Thompson, John L., House*, 209 W. 3rd St. (11–6–80)

PENNSYLVANIA

BERKS COUNTY COVERED BRIDGES THEMATIC RESOURCES. Reference—see individual listings under Berks County.
COVERED BRIDGES OF CHESTER COUNTY THEMATIC RESOURCES. Reference—see individual listings under Chester County.
COVERED BRIDGES OF THE DELAWARE RIVER WATERSHED THEMATIC RESOURCES. Reference—see individual listings under Bucks, Carbon, Lehigh, Luzerne, Northampton, Philadelphia and Schuykill Counties.
COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES. Reference—see individual listings under Lancaster County.
COVERED BRIDGES OF SOMERSET COUNTY THEMATIC RESOURCES. Reference—see individual listings under Somerset County.
FOUR PUBLIC SQUARES OF PHILADELPHIA THEMATIC RESOURCES. Reference—see individual listings under Philadelphia County.

Allegheny County

Carnegie, *Carnegie, Andrew, Free Library*, 300 Beechwood Ave. (10–8–81)
Emsworth vicinity, *Reed Hall*, W of Emsworth on Huntington Rd. (11–28–80)
Pittsburgh, *Allegheny Cemetery*, Roughly bounded by N. Mathilda and Butler Sts., and Penn, Stanton, and Mossfield Aves. (12–10–80)

Armstrong County

Kittanning, *Armstrong County Courthouse and Jail*, Market and Jefferson Sts. (11–1–81)

Bedford County

New Enterprise, *New Enterprise Public School*, Off PA 869 (10–8–81)

Berks County

Kutztown vicinity, *Dreibelbis Station Bridge (Berks County Covered Bridges Thematic Resources)* (2–23–81)
Kutztown vicinity, *Kutz's Mill Bridge (Berks County Covered Bridges Thematic Resources)* (2–23–81)
Oley vicinity, *Greisemer's Mill Bridge (Berks County Covered Bridges Thematic Resources)* (2–23–81)
Oley vicinity, *Pleasantville Bridge (Berks County Covered Bridges Thematic Resources)* (2–23–81)
Reading vicinity, *Wertz's Covered Bridge (Berks County Covered Bridges Thematic Resources)* NW of Reading spanning Tulpehocken Creek (previously listed in the National Register 11–17–78)

Bucks County

Cornwells Heights, *Little Jerusalem (BenSalem) A.M.E. Church*, 1200 Bridwater Rd. (12–3–80)
Durham, *Knecht's Mill Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Edgewood, *Village of Edgewood Historic District*, Yardley, Langhorne, Edgewood and Stony Hill Rds. (11–28–80)
Erwinna, *Erwinna Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
New Britain, *Pine Valley Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
New Hope vicinity, *Van Sant Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Newtown vicinity, *Twining Ford Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Perkasie, *Mood's Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Perkasie, *South Perkasie Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Pipersville vicinity, *Loux Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Point Pleasant vicinity, *Cabin Run Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Point Pleasant vicinity, *Frankenfield Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Richardtown vicinity, *Sheard's Mill Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Springtown vicinity, *Haupt's Mill Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Uhlerstown, *Uhlerstown Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Wycombe, *Lacey, Gen. John, Homestead*, Forest Grove Rd. (12–2–80)

Carbon County

Little Gap, *Little Gap Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)

Centre County

Pine Grove Mills vicinity, *Ayres, Bucher Farm*, SW of Pine Grove Mills on Whitehall Rd. (12–1–80)
State College, *Farmers' High School (Pennsylvania State College)* College Ave. and Atherton St. (9–11–81)

Chester County

MERCER'S MILL COVERED BRIDGE (COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES) Reference—see Lancaster County.
PINE GROVE COVERED BRIDGE (COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES) Reference—see Lancaster County.
Downingtown vicinity, *Gibson's Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SE of Downingtown (12–10–80)
Honey Brook vicinity, *Sandy Hill Tavern*, SE of Honey Brook on PA 340 (12–10–80)
Downingtown vicinity, *Larkin Covered Bridge (Covered Bridges of Chester County Thematic Resources)* N of Downingtown (12–10–80)
Downington vicinity, *Lionville Historic District*, NE of Downington (12–1–80)
Malvern vicinity, *Bartram's Covered Bridge (Covered Bridges of Chester County Thematic Resources)* (also in Delaware County) (12–10–80)
Marshallton vicinity, *Hannum, Col. John House*, NE of Marshallton at 898 Frank Rd. (12–10–80)
Modena vicinity, *Speakman No. 1 (Covered Bridges of Chester County Thematic Resources)* SW of Modena (12–10–80)
Modena vicinity, *Speakman No. 2, Mary Ann Pyle Bridge (Covered Bridges of Chester County Thematic Resources)* S of Modena (12–10–80)
New London vicinity, *Stevens, Linton, Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of New London (12–10–80)
West Chester, *West Chester State College Quadrangle Historic District*, Bounded by S. High and S. Church Sts., College and Rosedale Aves. (10–8–81)
West Grove vicinity, *Glen Hope Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of West Grove (12–10–80)
West Grove vicinity, *Rudolph and Arthur Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of West Grove (12–10–80)

Dauphin County

Halifax vicinity, *Clemson Island Prehistoric District* (9–17–81)
Harrisburg, *Camp Curtin Fire Station*, 2504 N. 6th St. (8–11–81)

Harrisburg, *Seel, William, Building,* 319 Market St. (12–3–80)

Delaware County

BARTRAM'S COVERED BRIDGE (COVERED BRIDGES OF CHESTER COUNTY THEMATIC RESOURCES) Reference—see Chester County.

Erie County

Fairview, *Sturgeon House,* 102 S. Garwood St. (12–10–80)

Fayette County

Connellsville, *Carnegie Free Library,* S. Pittsburgh St. (10–8–81)

Franklin County

Mercersburg, *Church Hill Farm,* NE of Mercersburg at 8941 Kings Lane (12–2–80)
Waynesboro, *Borough Hall of the Borough of Waynesboro,* 57 E. Main St. (12–2–80)

Fulton County

Burnt Cabins, *Burnt Cabins Gristmill Property,* Allen's Valley Rd. (11–28–80)

Indiana County

Indiana, *Graff's Market,* 27 N. 6th St. (12–4–80)

Lackawanna County

Scranton, *Municipal Building and Central Fire Station, 340* N. Washington Ave. and 518 Mulberry St. (9–11–81)

Lancaster County

Brownstone vicinity, *Zook's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* W of Brownstone (12–11–80)
Christiana vicinity, *Mercer's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Christiana (also in Chester County) (12–11–80)
Churchtown vicinity, *Pool Forge Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NW of Churchtown (12–11–80)
Churchtown vicinity, *Weaver's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Churchtown (12–11–80)
Columbia vicinity, *Forry's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Columbia (12–11–80)
Columbia vicinity, *Seigrist's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Columbia (12–10–80)
Denver vicinity, *Butcher's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Denver (12–11–80)
Ephrata vicinity, *Bitzer's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SE of Ephrata (12–11–80)
Ephrata vicinity, *Keller's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Ephrata (12–10–80)
Intercourse vicinity, *Leaman Place Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Intercourse (12–11–80)
Kirkwood vicinity, *Jackson's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Kirkwood (12–10–80)
Kirkwood vicinity, *Pine Grove Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* (Also in Chester County) (12–11–80)
Kirkwood vicinity, *White Rock Forge Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Kirkwood (12–10–80)
Lancaster, *Landis Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* (12–10–80)
Lancaster, *U.S. Post Office,* 50 W. Chestnut St. (7–23–81)
Lancaster vicinity, *Pinetown Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* E of Lancaster (12–11–80)
Lititz vicinity, *Buck Hill Farm Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Lititz (12–10–80)
Manheim, *Shearer's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* (12–10–80)
Manheim vicinity, *Kaufman's Distillery Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Manheim (12–11–80)
Manheim vicinity, *Mount Hope Estate,* NW of Manheim on PA 72 (12–1–80)
Manheim vicinity, *Risser's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Manheim (12–10–81)
Manheim vicinity, *Shank's Mill Covered Bridge (Covered Bridges of Lancster County Thematic Resources)* S. of Manheim (12–10–80)
Pequea vicinity, *Colemanville Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Pequea (12–11–80)
Refton vicinity, *Lime Valley Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Refton (12–10–80)
Rothsville vicinity, *Erb's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Rothsville (12–10–80)
Soundersbury vicinity, *Herr's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Soundersburg (12–10–80)
Strasburg vicinity, *Neff's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* W of Strasburg (12–11–80)
Terre Hill vicinity, *Red Run Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NW of Terre Hill (12–11–80)
Washington vicinity, *Murry Site,* S of Washington (12–10–80)
Willow Street vicinity, *Baumgardner's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Willow Street (12–11–80)

Lebanon County

Lebanon, *Gloninger Estate,* 2511 W. Oak St. (12–10–80)

Lehigh County

Allentown, *Bogert Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Allentown, *Haines Mill,* Walnut St. and Main Blvd. (9–11–81)
Allentown, *Lehigh County Prison,* 4th and Linden Sts. (9–11–81)
Allentown, *Old Lehigh County Courthouse,* 5th and Hamilton Sts. (9–11–81)
Allentown vicinity, *Schlicher Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Alburtis, *Lock Ridge Furnance Complex,* Franklin and Church Sts. (9–11–81)
Orefield vicinity, *Geiger Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Orefield vicinity, *Manasses Guth Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Orefield vicinity, *Rex Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Orefield vicinity, *Wehr Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Slatington, *Fireman's Drinking Fountain,* Main St. (11–6–81)

Luzerne County

Huntington Mills vicinity, *Bittenbender Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Wilkes-Barre, *Comerford Theater,* 71 Public Sq. (12–3–80)

Lycoming County

Muncy, *Muncy Historic District,* Roughly bounded by Ridell Lane, Sherman, Washington and Mechanic Sts. (7–3–80)

Montgomery County

Bryn Mawr vicinity, *Mill Creek Historic District,* E of Bryn Mawr (12–10–80)
Gladwyne, *Gladwyne Historic District (Merion Square Historic District)* PA 23 (12–10–80)
Norristown vicinity, *Barley Sheaf Inn.* N of Norristown at 420 W. Germantown Pk. (12–10–80)
Norristown vicinity, *Morris, Anthony, House,* N of Norristown on Stump Hall Rd. (12–3–80)

Northampton County

Bethlehem, *1762 Waterworks,* Monocacy Creek (5–29–81) NHL
Easton, *Easton House,* 167–169 Northampton St. (12–3–80)
Kreiderville, *Kreiderville Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (12–1–80)
Nazareth, *Nazareth Hall Tract,* Zizendorf Sq. (11–28–80)

Northumberland County

Northumberland, *Priestley, Dr. Joseph, House (Cross Keys Inn)* 100 King St. (9–11–81)
Turbotville vicinity, *Kirk, William, House,* W of Turbotville (12–2–80)

Philadelphia County

Philadelphia, *Franklin Hose Company No. 28,* 730—732 S. Broad St. (12–3–80)
Philadelphia, *Franklin Square (Four Public Squares of Philadelphia Thematic Resources)* Race and 6th Sts. (9–14–81)
Philadelphia, *Leidy, Dr. Joseph, House,* 1319 Locust St. (12–4–80)
Philadelphia, *Logan Square (Four Public Squares of Philadelphia Thematic Resources)* 18th and Race Sts. (9–14–81)
Philadelphia, *Princeton Club,* 1221—1223 Locust St. (12–4–80)
Philadelphia, *Rittenhouse Square (Four Public Squares of Philadelphia Thematic Resources)* Rittenhouse Sq. and 18th St. (9–14–81)
Philadelphia, *Thomas Mill Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources) (12–1–80)*
Philadelphia, *Union Methodist Episcopal Church (Jones Tabernacle A.M.E. Church and Parish House)* 2019 W. Diamond St. (10–15–80)
Philadelphia, *Walnut-Chancellor Historic District,* 21st., Walnut and Chancellor Sts. (12–1–80)
Philadelphia, *Washington Square (Four Public Squares of Philadelphia Thematic Resources)* Locust and 6th Sts. (9–14–81)
Philadelphia, *Young Men's Christian Association,* 115 N. 15th St. (12–2–80)

Schuylkill County

Rock vicinity, *Rock Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (previously listed in the National Register 1–3–78 as Schuylkill County Bridge No. 113)
Rock vicinity, *Zimmerman Covered Bridge (Covered Bridges of the Delaware River Watershed Thematic Resources)* (previously listed in the National Register 1–3–78 as Schuylkill County Bridge No. 114)

Somerset County

Berlin vicinity, *Beechdale Bridge (Covered Bridges of Somerset County Thematic Resources)* SW of Berlin (12–10–80)
Davidsville vicinity, *Packsaddle Bridge (Covered Bridges of Somerset County Thematic Resources)* (12–10–80)
New Baltimore, *New Baltimore Bridge (Covered Bridges of Somerset County Thematic Resources)* (12–10–80)
Shanksville vicinity, *Glessner Bridge (Covered Bridges of Somerset County Thematic Resources)* NW of Shanksville (12–10–80)
Somerset vicinity, *Barronvale Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Somerset (12–11–80)
Somerset vicinity, *King's Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Somerset (12–11–80)
Somerset vicinity, *Walter's Mill Bridge (Covered Bridges of Somerset County Thematic Resources)* N of Somerset (12–10–80)
Stoystown vicinity, *Trostletown Bridge (Covered Bridges of Somerset County Thematic Resources)* SE of Stoystown (12–11–80)
Tire Hill vicinity, *Shaffer's Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Tire Hill (12–10–80)
Ursina vicinity, *Lower Humbert Bridge (Covered Bridges of Somerset County Thematic Resources)* N of Ursina (12–10–80)

PUERTO RICO

LIGHTHOUSE SYSTEM OF PUERTO RICO THEMATIC RESOURCES. Reference—see individual listings under Arecibo vicinity, Cabo Rojo, Guanica vicinity, Guayama vicinity, Ponce vicinity, San Juan, San Juan vicinity, Culebrita Island, Mona Island, and Vieques Island.
Arecibo vicinity, *Fargo de Arecibo (Lighthouse System of Puerto Rico Thematic Resources)* (previously listed in the National Register 11–23–77)
Arecibo vicinity, *Faro de Punta Borinquen (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
Arecibo vicinity, *Faro de Punta Higuero (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
Cabo Rojo, *Faro de los Morrillos de Cabo Rojo (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
Guanica vicinity, *Faro de Guanica (Lighthouse System of Puerto Rico Thematic Resources)* (previously listed in the National Register 3–28–77)
Guayama vicinity, *Faro de Punta de las Figuras (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
Guayama vicinity, *Faro de Punta de la Tuna (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
Ponce, *Castillo de Serralles,* Cerro El Vigia, (11–3–80)
Ponce vicinity, *Faro de la Isla de Caja de Muertos (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
Ponce vicinity, *Faro del Puerto de Ponce (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
San Juan, *Faro de Morro (Lighthouse System of Puerto Rico Thematic Resources* (10–22–81)
San Juan, *Superintendent of Lighthouses' Dwellings (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)
San Juan vicinity, *Faro de las Cabezas de San Juan (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)

Culebrita Island

Culebra vicinity, *Faro Isla de Culebritas (Lighthouse System of Puerto Rico Thematic Resources)* (10–22–81)

Mona Island

Fara de la Isla de la Mona (Lighthouse System of Puerto Rico Thematic Resources) (10–22–81)

Vieques Island

Esperanza vicinity, *Faro de Punta Mulas (Lighthouse System of Puerto Rico Thematic Resources)* (previously listed in the National Register 11–17–77)

RHODE ISLAND

Kent County

Coventry, *Waterman, William, House,* RI 102 (11–14–80)

Providence County

East Providence, *EAST PROVIDENCE MULTIPLE RESOURCE AREA.* This area includes: *Rumford Chemical Works and Mill House Historic District,* N. Broadway, Newman and Greenwood Aves.; *Rumford Historic District,* Pleasant St., Greenwood and Pawtucket Aves.; *Bicknell-Armington Lightning Splitter House,* 3591 Pawtucket Ave., *Boston and Providence Railroad Bridge,* Spans Ten Mile River, *Bridgham Farm* 120, 148, 150, and 160 Pleasant St.; *Carpenter, Lakeside, and Springvale Cemeteries,* Newman and Pawtucket Aves.; *Daggett, Nathaniel, House,* 74 Roger Williams Ave.; *Dennis, James, House,* 3120 Pawtucket Ave.; *District 6 Schoolhouse,* 347 Willett Ave.; *Little Neck Cemetery,* Off RI 103; *Newman Cemetery,* Newman and Pawtucket Aves.; *Newman Congregational Chuch,* 100 Newman Ave.; *Oddfellow's Hall,* 63–67 Warren Ave.; *Squantum Association,* 947 Veterans Memorial Pkwy.; *St. Mary's Episcopal Church,* 83 Warren Ave.; *Whitcomb Farm.* 36 Willett Ave. (11–28–80)

Washington County

Exeter vicinity, *Fisherville Historic and Archeological District,* SW of Exeter on William Reynolds Rd. (12–5–80)
Exeter vicinity, *Hallville Historic and Archeological District,* SW of Exeter on Hallville Rd. (12–5–80)
Exeter vicinity, *Parris Brook Historic and Archeological District,* Mount Tom Rd. (12–5–80)
Exeter vicinity, *Queen's Fort,* NE of Exeter on Stony Lane (11–26–80)
Exeter vicinity, *Sodom Mill Historic and Archeological District,* Sodom Trail (11–24–80)
Wyoming vicinity, *Hillsdale Historic and Archeological District,* E of Wyoming on Hillsdale Rd. (11–24–80)

SOUTH CAROLINA

COLUMBIA MULTIPLE RESOURCE AREA (ADDITIONS) Reference—see Lexington and Richland Counties.
COURTHOUSES IN SOUTH CAROLINA DESIGNED BY WILLIAM AUGUSTUS EDWARDS THEMATIC RESOURCES. Reference—see individual listings under Abbeville, Calhoun, Dillon, Jasper, Lee and York Counties.
PACOLET SOAPSTONE QUARRIES THEMATIC RESOURCES. Reference—see individual listings under Cherokee and Spartanburg Counties.

Abbeville County

Abbeville, *Abbeville County Courthouse (Courthouse in South Carolina Designed by William Augustus Edwards Thematic Resources)* (previously listed in Abbeville Historic District 9–14–72)

Anderson County

Belton, *Chamberlain-Kay House,* 206 River St. (11–25–80)

Berkeley County

Cordesville vicinity, *Richmond Plantation,* SE of Cordesville (11–24–80)

Calhoun County

St. Matthews, *Banks, Col. J. A., House,* 104 Dantzler St. (11–24–80)
St. Matthews, *Calhoun County Courthouse (Courthouses in South Carolina Designed by William Augustus Edwards Thematic Resources)* S. Railroad Ave. (10–30–81)
St. Matthews vicinity, *Houser, David, House,* W of St. Matthews on U.S. 176 (11–25–80)

Charleston County

Charleston, *Cigar Factory,* Block bounded by East Bay, Columbus, Blake and Drake Sts. (11–25–80)
Charleston vicinity, *Barnwell House, (Prospect Hill Plantation),* S of Charleston (11–25–80)
McClellanville vicinity, *Cape Romain Lighthouses,* SE of McClellanville on Lighthouse Island (11–12–81)
McClellanville vicinity, *Wedge, The,* NE of McClellanville (11–25–80)

Cherokee County

Gaffney vicinity, *Archeological Site 38CK1 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Gaffney vicinity, *Archeological Site 38CK44 (Pacolet Soapstone Quarries Thematic resources)* (also in Spartanburg County) (12–10–80)
Gaffney vicinity, *Archeological Site 38CK45 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)

Chester County

Great Falls, *Great Falls Depot,* Republic St. (11–25–80)
Great Falls, *Republic Theater,* 806 Dearborn St. (11–26–80)

Colleton County

Walterboro, *Hickory Valley Historic District,* Roughly bounded by Ireland Creek, Jeffries Blvd., Wichman, Verdier and Ivanhoe Sts. (11–21–80)
Walterboro, *Walterboro Historic District,* Roughly bounded by Jeffries Blvd., Sanders, Black, Church, Valley and Lemacks Sts. (11–10–80)

Dillon County

Dillon, *Dillon County Courthouse (Courthouses in South Carolina Designed by William Augustus Edwards Thematic Resources)* 1303 W. Main St. (10–30–81)

Fairfield County

RIDGEWAY MULTIPLE RESOURCE AREA. This area includes: Ridgeway, Ridgeway Historic District, U.S. 21 and SC 34; *Ruff's Chapel, U.S. 21 and SC 34; Wilson, Monroe, House,* Railroad Ave. and SR S20–20. (11–25–80)

Florence County

Florence vicinity, *Stockade, The,* E of Florence on National Cemetery Rd. (11–28–80)

Georgetown County

Murrells Inlet, *Murrells Inlet Historic District,* Off U.S. 17 (11–25–80)

Greenville County

Greenville, *Old Textile Hall,* 322 W. Washington St. (11–25–80)

Jasper County

Ridgeland, *Jasper County Courthouse (Courthouses in South Carolina Designed by William Augustus Edwards Thematic Resources)* Russell St. (10–30–81)

Kershaw County

Camden vicinity, *Mulberry Plantation,* S of Camden on U.S. 521 (11–25–80)

Lee County

Bishopville, *Lee County Courthouse (Courthouses in South Carolina Designed by William Augustus Edwards Thematic Resources)* 123 Main St. (10–30–81)

Lexington County

West Columbia, *Gervais Street Bridge (Columbia Multiple Resource Area (Additions))* Spans Congaree River (See also listing in Richland County) (11–25–80)
West Columbia, *Mount Hebron Temperance Hall,* 3041 Leaphart Rd. (11–24–80)

McCormick County

Mount Carmel vicinity, *Calhoun Mill,* NE of Mount Carmel (11–24–80)

Newberry County

Newberry, *NEWBURY MULTIPLE RESOURCE AREA.* This area includes: *Boundary Street-Newberry Cotton Mills Historic District,* Roughly bounded by Drayton, Boundary, Charles, Terrant and Crosson Sts.; *Caldwell Street Historic District,* Caldwell St.; *College Street Historic District,* College St.; *Harrington Street Historic District,* Harrington St.; *Main Street Historic District,* Roughly bounded by Harper, Summer, Douglas, Johnstone, Holman, and McMorris Sts.; *Newberry Historic District* (previously listed in the National Register 12–31–74) *(boundary increase)* Roughly bounded by Friend, McKibben, Harrington, Lindsay and Coates Sts.; *Vincent Street Historic District,* Vincent and Crosson Sts.; *West Boundary Street Historic District,* Boundary and Jessica Sts.; *Burton House; Cousins House,* Nance St.; *Higgins, Francis B., House,* 1520 Boundary St.; *Mower, George, House,* 1526 Boundary St.; *Reighley, Ike, House,* 2304 Main St.; *Stewart House,* 1001 Wilson St.; *Summer Brother Stores,* 900 Main St.; *Timberhouse,* 1427 Ebenezer Rd.; *Wells Japanese Garden,* Lindsay St.; *Wells, Osborne, House,* 1101 Fair St. (11–26–80)

Oconee County

Walhalla, *St. John's Lutheran Church,* 301 W. Main St. (11–24–80)

Orangeburg County

Eutawville vicinity, *St. Julien Plantation,* SC 6 (11–28–80)

Richland County

Columbia, *Columbia Multiple Resource Area (Additions).* This area includes: *Building at 1722–1724 Main Street; Canal Dime Savings Bank,* 1530 Main St.; *First National Bank,* 1208 Washington St.; *Palmetto Building,* 1400 Main St.; (See also listing in Lexington County) (11–25–80)

Spartanburg County

ARCHEOLOGICAL SITE 38CK44 (PACOLET SOAPSTONE QUARRIES THEMATIC RESOURCES). Reference—see Cherokee County.
Pacolet vicinity, *Archeological Site 38SP11 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP12 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP13 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP17 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP18 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP19 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP20 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP21 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP23 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP52 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP53 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP54 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)
Pacolet vicinity, *Archeological Site 38SP57 (Pacolet Soapstone Quarries Thematic Resources)* (12–10–80)

York County

Clover vicinity, *Bethel Presbyterian Church,* SC 557 (12–10–80)
Rock Hill, *Withers Building,* Oakland Ave. (8–20–81)
York, *York County Courthouse (Courthouses in South Carolina Designed by William Augustus Edwards Thematic Resources)* (previously listed in York Historic District 10–18–79)

SOUTH DAKOTA

Bon Homme County

Springfield, *Main Hall,* University of South Dakota campus (2–3–81)

Grant County

Milbank, *Hollands Grist Mill,* U.S. 12 (2–24–81)

Hughes County

Pierre, *Farr House,* 106 E. Wynoka St. (12–4–80)

Lyman County

Oacoma, *Lower Brule Agency House,* 1st St. and Lichtenstien Ave. (11–21–80)

Minnehaha County

Hartford, *Mundt, John, Building,* 103 N. Main Ave. (2–17–81)
Sioux Falls, *South Dakota School for the Deaf,* 1800 E. 10th St. (6–14–81)

Pennington County

Keystone, *Keystone School,* 3rd St. (2–22–81)
Rapid City, *Rapid City Carnegie Library,* 604 Kansas City St. (2–17–81)

Spink County

Redfield, *Chicago and Northwestern Depot,* U.S. 212 (11–21–80)

TENNESSEE

Bradley County

Cleveland, *Craigmiles Hall,* 170 Ocoee St., NE. (11–25–80)
Cleveland, *Tipton-Fillauer House,* 62 Broad St., NW. (12–8–80)

Davidson County

Nashville, *Ewing, Alexander, House,* 5101 Buena Vista Pk. (11–25–80)
Nashville, *Frost Building (Sunday School Board of the Southern Baptist Convention)* 161 8th Ave., N. (11–25–80)
Nashville, *Rutledge Hill Historic District,* Roughly bounded by Middleton, 2nd, Lea and Hermitage Aves. (7–8–80)
Nashville, *Turner-Cole House,* 2122 W. End Ave. (11–25–80)

Franklin County

Winchester, *Trinity Episcopal Church,* 213 1st Ave., NW (11–25–80)

Gibson County

Humboldt, *Senter-Rooks House,* 2227 Main St. (7–9–80)

Grainger County

Blaine vicinity, *Poplar Hill,* NE of Blaine (7–8–80)
Rutledge vicinity, *Cocke, William, House,* NE of Rutledge (7–3–80)

Greene County

Tusculum, *Tusculum College Historic District,* U.S. 11 and TN 107 (11–25–80)

Grundy County

Monteagle, *DuBose Memorial Church Training School,* Fairmont and College Sts. (11–25–80)

Hamilton County

Chattanooga, *Faxon-Thomas Mansion,* 10 Bluff View Ave. (11–25–80)
Chattanooga, *Thomas, Benjamin F., House,* 938 McCallie Ave. (12–3–80)
Chattanooga vicinity, *Cummings, Judge Will, House,* W. of Chattanooga at 4025 Cummings Rd. (7–3–80)

Henry County

Paris, *Grove, E. W. Henry County High School,* Grove Blvd. (11–25–80)

Knox County

Knoxville, *Johnson, Andrew, Hotel,* 912 S. Gay St. (7–9–80)
Knoxville, *Williams, Col. John, House,* 2325 Dandridge Ave. (12–3–80)

Madison County

Jackson, *East Main Street Historic District,* Irregular pattern along E. Main St. (7–3–80)
Jackson vicinity, *Deberry-Hurt House,* SW of Jackson (7–8–80)

Montgomery County

Clarksville, *Oak Top,* 107 Madison Ter. (7–8–80)
Clarksville vicinity, *Ringgold Mill Complex,* NW of Clarksville on Mill Rd. (7–8–80)

Overton County

Livingston, *Overton County Courthouse,* Court Sq. (11–13–80)

Sevier County

Sevierville, *Andes, Riley H., House,* Douglas Dam Rd. (7–8–80)

Shelby County

Memphis, *Annesdale,* 1325 Lamar Ave. (11–25–80)
Memphis, *Lenox School,* 519 S. Edgewood Ave. (7–30–81)
Memphis, *Libertyland Grand Carousel,* Libertyland Theme Park (7–3–80)
Memphis, *Memphis Trust Building,* 12 S. Main St. (11–25–80)
Memphis, *Stephens-Cochran House,* 784 Poplar Ave. (7–9–80)
Memphis, *U.S. Marine Hospital Executive Building and Laundry-Kitchen,* 360 and 374 W. California Ave. (7–2–80)

Trousdale County

Hartsville, *Hartsville Depot,* Broadway (7–3–80)

Washington County

Johnson City vicinity, *Bashor Mill,* NE of Johnson City (7–8–80)

Williamson County

Franklin, *Wyatt Hall,* U.S. 31 (7–2–80)

Wilson County

Lebanon vicinity, *Campbell, Dr. John Owen, House,* W of Lebanon on U.S. 70 (12–8–80)

TEXAS

Austin County

Bellville, *Austin County Jail,* 36 S. Bell St. (11–12–80)

Bexar County

San Antonio, *City of San Antonio Municipal Auditorium,* 100 Auditorium Circle (9–14–81)
San Antonio, *San Antonio Water Works Pump Station No. 2,* Brackenridge Park (8–21–81)

Chambers County

Anahuac, *Fort Anahuac (41 CH 226)* TX 564 (7–1–81)

Dallas County

Dallas, *Number 4 Hook and Ladder Company,* Cedar Springs Rd. and Reagan St. (5–4–81)

Eastland County

Cisco, *Mobley Hotel,* 4th St. and Conrad Hilton Ave. (5–13–81)

El Paso County

El Paso, *El Paso High School,* 1600 N. Virginia St. (11–17–80)

Harris County

Houston, *Courtlandt Place Historic District,* 2—25 Courtlandt Pl. (12–3–80)
Houston, *Harris County Courthouse of 1910,* 301 Fannin St. (5–13–81)
Houston, *Milroy, John, House,* 1102 Heights Blvd. (11–12–80)

Hays County

Kyle vicinity, *Kyle, Claiborne, Log House,* SW of Kyle (5–28–81)

Hill County

Hillsboro, *Hill County Jail,* N. Waco St. (5–28–81)

Jefferson County

Port Arthur, *Gates Memorial Library,* 317 Stilwell Blvd. (5–4–81)

Medina County

Castroville vicinity, *de Montel, Charles, House,* NW of Castroville (11–25–80)

Runnels County

Ballinger, *Van Pelt House,* 209 10th St. (12–3–80)

Rusk County

Henderson, *Poe-Jones-Richardson House,* 300 Tipps St. (11–25–80)

Tarrant County

Fort Worth, *Burnett, Burk, Building,* 500—502 Main St. (11–12–80)

Travis County

Austin vicinity, *Walnut Creek Archeological District,* N of Austin (9–24–81)

Victoria County

Victoria, *Tonkawa Bank Site,* Riverside Park (2–13–81)

Webb County

Laredo, *Webb County Courthouse,* 1000 Houston St. (5–4–81)

Wichita County

Wichita Falls, *Weeks House,* 2112 Kell Blvd. (12–3–80)

TRUST TERRITORIES OF THE PACIFIC ISLANDS

Ponape District

Kolonia, *Catholic Belltower,* Catholic Mission (11–25–80)

UTAH

Beaver County

Beaver, *Muir, David, House,* 295 N. 300 West St. (11–25–80)

Cache County

Clarkston vicinity, *Harris, Martin, Gravesite,* N of Clarkston (11–28–80)
Smithfield, *Smithfield Public Library,* 25 N. Main St. (2–17–81)
Wellsville, *Wellsville Tabernacle,* 75 S. 100 East St. (11–26–80)

Emery County

Castle Dale, *Christensen, Paul C., House,* Off UT 10 (12–2–80)

Garfield County

Panguitch vicinity, *Pole Hollow Archeological Site* (7–16–81)

Grand County

Moab, *Moab L. D. S. Church,* Off U.S. 160 (11–28–80)

Juab County

Callao vicinity, *Fish Springs Caves Archeological District* (5–11–81)

Salt Lake County

Salt Lake City, *Liberty Park,* Roughly bounded by 5th E., 7th E., 9th S. and 13th S. (12–11–80)
Salt Lake City, *Utah State Fair Grounds,* 10th W. and N. Temple Sts. (1–27–81)
Salt Lake vicinity, *Wasatch Mountain Club Lodge,* SE of Salt Lake City (11–10–80)

San Juan County

Blanding vicinity, *Butler Wash Archeological District* (7–11–81)
Blanding vicinity, *Patterson, Nancy, Site, (11–21–80)*
Bluff vicinity, *Sand Island Petroglyph Site* (7–11–81)

Summit County

Park City, *Park City Community Church,* 402 Park Ave. (11–25–80)
Park City, *St. Luke's Episcopal Church,* 523 Park Ave. (11–28–80)

Utah County

Mapleton, *Bird, Roswell Darius, Sr., House,* 115 S. Main St. (11–28–80)

Washington County

St. George, *Woodward School,* 100 West and Tabernacle Sts. (11–23–80)
Washington, *Washington School,* Main and Telegraph Sts. (11–23–80)

Wayne County

Hanksville vicinity, *Bull Creek Archeological District* (4–30–81)

VERMONT

Caledonia County

Lyndonville, *Darling Inn,* Depot St. (11–24–80)

Franklin County

St. Albans, *L'Ecole Saintes-Anges,* 247 Lake St. (11–28–80)

Lamoille County

Jeffersonville, *Cambridge Meetinghouse,* Church St. (2–6–81)
Johnson, *Johnson Railroad Depot,* Railroad St. (11–28–80)

Rutland County

Fair Haven, *Fair Haven Green Historic District,* Park Pl., Adams and Main Sts. (11–24–80)

VIRGIN ISLANDS

St. Croix Island

Christiansted vicinity, *Estate La Reine,* 20 Kings Quarter and 19 Queens Quarter (11–24–80)

St. John Island

VIRGIN ISLANDS NATIONAL PARK MULTIPLE RESOURCE AREA. This area includes: Brown Bay, *Brown Bay Plantation Historic District;* Brown Bay vicinity, *Liever Marches Bay Historic District;* Cinnamon Bay, *Rustenberg Plantation South Historic District;* Dennis Bay, *Dennis Bay Historic District;* East End vicinity, *More Hill Historic District;* Hurricane Hole vicinity, *Hermitage Plantation Historic District;* Leinster Bay, *Annaberg Historic District;* Reef Bay, *Reef Bay Great House Historic District; Reef Bay Sugar Factory Historic District;* Reef Bay vicinity, *Jossie Gut Historic District; L'Esperance Historic District;* Cruz Bay, *Lind Point Fort;* Cruz Bay vicinity, *Cathrineberg-Jockumsdahl-Herman Farm,* E of Cruz Bay (previously listed in the National Register 3–30–78); *Cinnamon Bay Plantation,* NE of Cruz Bay on Cinnamon Bay (previously listed in the National Register 7–11–78); *Lameshur Plantation,* E of Cruz Bay on Little Lameshur Bay (previously listed in the National Register 6–23–78); *Mary Point Estate,* NE of Cruz Bay (previously listed in the National Register 5–22–78); and Trunk Bay, *Trunk Bay Sugar Factory* (7–23–81)

VIRGINIA

Albemarle County

Covesville vicinity, *Edgemont,* SE of Covesville on VA 712 (11–28–80)

Alexandria (independent city)

Mount Vernon Memorial Highway, Washington St. and George Washington Memorial Pkwy. (5–18–81) (also in District of Columbia, Arlington and Fairfax Counties VA)
Protestant Episcopal Theological Seminary, 3737 Seminary Rd. (11–17–80)

Appomattox County

Pamplin, *Pamplin Pipe Factory,* (11–25–80)

Arlington County

MOUNT VERNON MEMORIAL HIGHWAY. Reference—see Alexandria (independent city).
Arlington vicinity, *Colonial Village,* Roughly bounded by Wilson and Key Blvds., Lee Hwy., N. 18th, Troy and Rhodes Sts. (12–9–80)
Bristol (independent city)
Bristol Railroad Station, State and Washington Sts. (11–28–80)

Campbell County

Rustburg, *Campbell County Courthouse,* U.S. 501 (10–29–81)

Charles City County

Charles City vicinity, *Upper Weyanoke,* S of Charles City on VA 619 (12–9–80)

Colonial Heights (independent city)

Fort Clifton Site, Conduit Rd. (2–3–81)

Cumberland County

Cumberland vicinity, *Thornton, Charles Irving, Tombstone,* W of Cumberland on Oak Hill Rd. (11–25–80)

Fairfax County

MOUNT VERNON MEMORIAL HIGHWAY. Reference—see Alexandria (independent city)

Gloucester County

Gloucester vicinity, *Warner Hall,* VA 629 (11–25–80)

Nelson County

Shipman vicinity, *Soldier's Joy,* SE of Shipman on VA 626 (11–28–80)

Norfolk (independent city)

Old Norfolk City Hall, 235 E. Plume St. (10–29–81)

Northampton County

Cape Charles vicinity, *Stratton Manor,* SE of Cape Charles off VA 642 (11–28–80)

Petersburg (independent city)

Washington Street Methodist Church, 14—24 E. Washington St. (11–24–80)

Pittsylvania County

Chatham, *Pittsylvania County Courthouse,* U.S. 29 (10–29–81)

Prince William County

Manassas Park vicinity, *Conner House,* Conner Dr. (10–6–81)

Richmond (independent city)

Almshouse, The, 210 Hospital St. (10–29–81)

Salem (independent city)

Academy Street School, Academy St. (10–1–81)

Smyth County

Marion vicinity, *Thomas, Abijah, House,* SW of Marion on VA 657 (11–28–80)
Seven Mile Ford vicinity, *Aspenvale Cemetery,* Off U.S. 11 (12–5–80)

Wise County

Wise, *Wise County Courthouse,* VA 640 (3–2–81)

WASHINGTON

Ferry County

Curlew, *Curlew School,* Off WA 4A (11–28–80)

Kittitas County

Cle Elum, *Cle Elum-Roslyn Beneficial Association Hospital,* 505 Power St. (12–3–80)

Okanogan County

Tonasket vicinity, *Bonaparte Mountain Cabin,* E of Tonasket in Okanogan National Forest (4–20–81)

Skagit County

Anacortes, *Causland Park,* 8th St. and M Ave. (5–7–81)

Snohomish County

Sultan vicinity, *Horseshoe Bend Placer Claim,* N of Sultan (5–7–81)

Thurston County

Olympia, *Lord, C. J., Mansion,* 211 W. 21st Ave. (5–7–81)

Olympia, *Thurston County Courthouse,* Capitol Way (7–23–81)

Walla Walla County

Dixie, *Dixie High School,* Off U.S. 410 (7–23–81)

Whatcom County

Bellingham, *Black, Alfred L., House,* 158 S. Forest St. (12–4–80)
Bellingham, *Citizen's Dock,* 1201 Roeder Ave. (5–14–81)

WEST VIRGINIA

BERKELEY COUNTY MULTIPLE RESOURCE AREA. This area includes: *Baltimore and Ohio Railroad and Related Industries Historic District; Boomtown Historic District; Boydville Historic District; Bunker Hill Historic District; Darkesville Historic District; Downtown Martinsburg Historic District; East Martinsburg Historic District; Greenhill Cemetery Historic District; Harlan Spring Historic District; Hedgesville Historic District; Jones Mill Run Historic District; Mill Creek Historic District; Ridge Road Historic District; South Water Street Historic District; Swan Pond Manor Historic District; Tuscarora Creek Historic District; Watkins Ferry Toll House; Martinsburg Aspen Hall,* Boyd Ave.; Gerrardstown, *Campbellton;* Bunker Hill vicinity, *Drinker, John, House,* Sam Mason Rd.; Bunker Hill, *Edgewood;* Martinsburg, *Faraway Farm;* Hedgesville, *French, Teter Myers, House;* Falling Waters, *Harmony Cemetery;* Marlow vicinity, *Maidstone Manor Farm;* Martinsburg, *Mount Zion Baptist Church, Opequon Lane; Martinsburg, Myers House; Martinsburg Redbud Hollow;* Bunker Hill, *Ridgeway Farm;* Falling Waters, *White Bush.* Power Plant and Dam No. 4; Power Plant and Dam No. 5; Hedges-Robinson-Myers House; Brick Kilns (Continental Clay Brick Plant) (12–10–80)

HATFIELD CEMETERIES IN SOUTHWESTERN WEST VIRGINIA THEMATIC RESOURCES. Reference—see individual listings in Logan and Mingo Counties.

WEST VIRGINIA COVERED BRIDGES THEMATIC RESOURCES. Reference—see individual listings under Barbour, Cabell, Greenbrier, Harrison, Jackson, Lewis, Marion, Monroe, Monongalia, Pocahontas, and Wetzel Counties.

Barbour County

Carrollton, *Carrolton Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 36 (6–4–81)
Philippi, *Philippi Covered Bridge (West Virginia Covered Bridges Thematic Resources)* Main St. over Tygart Valley River (previously listed in the National Register 9–14–72)

Boone County

Madison, *Boone County Courthouse,* State St. (4–9–81)

Cabell County

Huntington, *Memorial Arch,* Memorial Park (4–16–81)
Huntington, *Ninth Street West Historic District,* 9th St., Madison and Jefferson Aves. (11–28–80)
Milton, *Mud River Covered Bridge (West Virginia Covered Bridges Thematic Resources)* Off U.S. 60 on SR 25 over Mud River (previously listed in the National Register 6–10–75)

Greenbrier County

Lewisburg vicinity, *Herns Mill Covered Bridge (West Virginia Covered Bridges Thematic Resources)* W of Lewisburg (6–4–81)
Lewisburg vicinity, *Hokes Mill Covered Bridge (West Virginia Covered Bridges Thematic Resources)* NW of Lewisburg (6–4–81)
White Sulphur Springs vicinity, *Mountain Home,* SW of White Sulphur Springs on U.S. 60 (11–28–80)

Hampshire County

Romney vicinity, *Sycamore Dale,* W of Romney off SR 8 (12–2–80)

Harrison County

Bridgeport vicinity, *Simpson Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* (6–4–81)
Salem, *Salem Historic District,* WV 23 (12–2–80)
Wolf Summit vicinity, *Fletcher Covered Bridge (West Virginia Covered Bridges Thematic Resources)* NW of Wolf Summit (6–4–81)

Jackson County

Sandyville vicinity, *Sarvis Fork Covered Bridge (West Virginia Covered Bridges Thematic Resources)* (6–4–81)
Staats Mill, *Staats Mill Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 40 (previously listed in the National Register 5–29–79)

Kanawha County

Charleston, *Kearse Theater,* 161, 165, 167 Summers St. (11–28–80)
Charleston, *Wood, Col. Henry Hewitt, House,* 6560 Roosevelt Ave., SE (11–28–80)

Lewis County

Walkersville vicinity, *Walkersville Covered Bridge (West Virginia Covered Bridges Thematic Resources)* S of Walkersville (6–4–81)

Lincoln County

Alum Creek vicinity, *Holley Hills Estate,* S of Alum Creek on Coal River Rd. (12–1–80)

Logan County

Sarah Ann vicinity, *Hatfield Cemetery (Hatfield Cemeteries in Southwestern West Virginia Thematic Resources)* S of Sarah Ann on U.S. 119 (11–28–80)

Marion County

Barrackville, *Barrackville Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 21 (previously listed in the National Register 3–30–73)

Mercer County

Princeton, *Mercer County Courthouse,* Courthouse Sq. (11–28–80)

Mingo County

New Town vicinity, *Hatfield Cemetery (Hatfield Cemeteries in Southwestern West Virginia Thematic Resources)* S of New Town on SR 6 (11–28–80)

Monongalia County

Laurel Point vicinity, *Dents Run Covered Bridge (West Virginia Covered Bridges Thematic Resources)* N of Laurel Point (6–4–81)

Monroe County

Salt Sulphur Springs vicinity, *Indian Creek Covered Bridge (West Virignia Covered Bridges Thematic Resources)* 1.5 mi. S of Salt Sulphur Springs on U.S. 219 (previously listed in the National Register 4–1–75)
Lillydale vicinity, *Laurel Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 23/4 (6–4–81)

Morgan County

WESTERN MARYLAND RAILWAY RIGHT-OF-WAY, MILEPOST 126 TO MILEPOST 160. Reference—see Allegany County, MD
Berkeley Springs, *Suit, Samuel Taylor, Cottage,* WV 9 (11–28–80)

Ohio County

Wheeling, *Elm Grove Stone Arch Bridge,* U.S. 40 (8–21–81)

Pocahontas County

Cass, *Cass Historic District,* SR 1 and SR 7 (11–28–80)
Hillsboro vicinity, *Locust Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 31 (6–4–81)

Randolph County

Elkins, *Randolph County Courthouse and Jail,* Randolph Ave. and High St. (11–28–80)

Summers County

Hinton, *Summers County Courthouse,* Ballangee St. and 1st Ave. (3–2–81)

Wetzel County

Hundred vicinity, *Fish Creek Covered Bridge (West Virginia Covered Bridges Thematic Resources)* SR 13 (6–4–81)

WISCONSIN

Adams County

Friendship vicinity, *Roche-a-Cri Petroglyphs* (5–11–81)

Ashland County

Glidden vicinity, *Marion Park Pavilion,* Marion Park (6–4–81)

Bayfield County

Bayfield, *Bayfield Historic District,* WI J and WI 13 (11–25–80)
Bayfield vicinity, *Pureair Sanatorium,* S of Bayfield (8–20–81)
Salmo vicinity, *Bayfield Fish Hatchery,* WI 13 (7–22–81)

Brown County

Green Bay, *Kellogg Public Library and Neville Public Museum,* 125 S. Jefferson St. (6–9–81)

Dane County

Belleville, *Library Park*, Bounded by Vine, Main, Park and Pearl Sts. (1–26–81)
Dane vicinity, *Dunroven House*, 7801 Dunroven Rd. (11–28–80)
Madison, *Bernard-Hoover Boathouse*, 622 E. Gorham St. (7–30–81)
Madison, *Braley, Judge Arthur B., House*, 422 N. Henry St. (11–28–80)
Madison, *Clarke, Bascom B., House*, 1150 Spaight St. (11–28–80)
Madison, *Dean, Nathaniel W., House*, 4718 Monona Dr. (11–7–80)
Madison, *Kayser, Adolph H., House*, 802 E. Gorham St. (11–28–80)
Madison vicinity, *Drohman Cabin*, 6701 E. Broadway (9–28–81)

Dodge County

Beaver Dam, *Dodge County Historical Museum*, 127 S. Spring St. (7–7–81)
Beaver Dam, *St. Mark's Episcopal Church*, 130 E. Maple St. (11–28–80)
Horicon, *Van Brunt, Daniel C., House*, 139 W. Lake St. (9–14–81)

Douglas County

Lake Nebagamon, *Lake Nebagamon Auditorium*, 1st St. (9–14–81)
Superior, *Pattison, Martin, House*, 906 E. 2nd St. (2–12–81)

Florence County

Florence vicinity, *Fern School*, SW of Florence on WI 101 (3–20–81)

Grant County

Potosi, *Potosi Brewery*, Main St. (11–19–80)

Kewaunee County

Casco vicinity, *Massart Farmstead*, N of Casco on SR C (11–19–80)

La Crosse County

La Crosse, *U.S. Fish Control Laboratory*, Riverside Park (9–17–81)
La Crosse vicinity, *Smith Valley School*, 4130 Smith Valley Rd. (7–30–81)
West Salem, *West Salem Village Hall*, 103 S. Leonard St. (9–14–81)

Lafayette County

Argyle, *Star Theatre*, 200 S. North St. (11–7–80)

Manitowoc County

Manitowoc, *Manitowoc County Courthouse*, 8th and Washington Sts. (4–16–81)

Marathon County

Wausau vicinity, *Single, Benjamin, House*, W of Wausau at 4706 Stettin Dr. (11–24–80)

Marinette County

Amberg, *Amberg Town Hall*, Grant St. (3–20–81)

Milwaukee County

Glendale, *Elderwood*, 6789 N. Elm Tree Rd. (12–4–80)
Milwaukee, *Forest Home Cemetery and Chapel*, 2405 Forest Home Ave. (11–3–80)
Milwaukee, *Milwaukee Fire Department High Pressure Pumping Station*, 2011 S. 1st St. (7–7–81)

Monroe County

Kendall, *Kendalls Depot*, N. Railroad St. (8–12–81)
Sparta, *Sparta Free Library*, Court and Main Sts. (9–3–81)

Oconto County

Oconto, *St. Peter's and St. Joseph's Catholic Churches*, 516 Brazeau Ave. and 705 Park Ave. (11–10–80)

Oneida County

Rhinelander, *Oneida County Courthouse*, S. Oneida Ave. (3–20–81)

Outagamie County

Hortonville, *Hortonville Community Hall*, 312 W. Main St. (1–23–81)

Price County

Fifield vicinity, *Round Lake Logging Dam*, NE of Fifield (9–17–81)

Polk County

St. Croix Falls vicinity, *Dalles Bluff Site (47PK67)*, S of St. Croix Falls (9–5–81)

Racine County

Racine, *Badger Building*, 610 Main St. (12–3–80)
Racine, *Kaiser's*, 218 6th St. (11–25–80)
Racine, *Racine Public Library*, 701 S. Main St. (3–20–81)

Rock County

Janesville, *Janesville Public Library*, 64 S. Main St. (7–1–81)

Sauk County

Baraboo, *Baraboo Public Library*, 230 4th Ave. (9–14–81)
Baraboo, *Tuttle, A. G., Estate*, N. Elizabeth St. (11–6–80)
Lake Delton vicinity, *Peterson, Seth, Cottage*, Dell Ave. (11–9–81)
Prairie du Sac, *Tripp Memorial Library and Hall*, 565 Water St. (9–14–81)

Sheboygan County

Kohler, *Riverbend*, Lower Falls Rd. (12–4–80)
Plymouth, *Huson, Henry H., House and Water Tower*, 405 Collins St. (11–26–80)
Sheboygan, *Third Ward School*, 1208 S. 8th St. (9–3–81)
Sheboygan vicinity, *Kletzien Mound Group (47–Sb–61) (Black River Group No. 2)*, S. 9th St. (7–23–81)

Walworth County

Lake Geneva vicinity, *Meyerhofer Cobblestone House*, E of Lake Geneva on Townline Rd. (12–8–80)

Waukesha County

Brookfield vicinity, *Gredler-Gramins House*, 20190 Davidson Rd. (11–24–80)
Delafield, *Delafield Fish Hatchery*, Main St. (5–13–81)
Eagle vicinity, *Ward District No. 3 Schoolhouse*, WI 67 and Betts Rd. (7–7–81)
Genesee Depot, *Genesee Town Hall*, Genesee St. (6–25–81)
Mukwonago, *Andrews, Sewall, House*, 103 Main St. (7–7–81)

WYOMING

Albany County

Laramie, *East Side School*, Off U.S. 30 (3–17–81)

Converse County

Douglas, *Christ Episcopal Church and Rectory*, 4th and Center Sts. (11–17–80)

Laramie County

Cheyenne, *Capitol North Historic District*, Roughly bounded by E. 29th, and E. 25th St., Warren and Pioneer Aves. (12–10–80)

Park County

Cody vicinity, *Mummy Cave*, W of Cody (2–18–81)

Sheridan County

Big Horn, *Odd Fellows Hall*, Jackson St. (12–9–80)
Sheridan vicinity, *Fort Mackenzie*, N of Sheridan on WY 337 (6–18–81)

Uinta County

Evanston, *St. Paul's Episcopal Church*, 10th and Sage Sts. (11–17–80)

Weston County

Newcastle vicinity, *Cambria Casino*, N of Newcastle (11–18–80)

FOREIGN COUNTRIES

Morocco

Tangier, *American Legation Building*, 8 Zankat America (1–8–81)

* * * * *

The following properties were omitted from the listing in the Federal Register, Part II, February 3, 1981.

CALIFORNIA

San Francisco County

San Francisco, *Rincon Annex*, 101–199 Mission St. (11–16–79)

COLORADO

Chaffee County

Nathrop vicinity, *St. Elmo Historic District*, Pitkin, 1st, Main and Poplar Sts. (9–17–79)

Denver County

Denver, *U.S. Customhouse*, 721 19th St. (10–16–79)

El Paso County

Manitou Springs, *Barker House*, 819 Manitou (10–11–79)
Manitou Springs, *First Congregational Church*, 101 Pawnee Ave. (10–16–79)

La Plata County

Durango, *Newman Block*, 801–813 Main Ave. (10–15–79)

Montezuma County

Pleasant View vicinity, *Lancaster, James A., Site (5MT4803)* (4–14–80)

GEORGIA

Floyd County

Cave Spring, *CAVE SPRING MULTIPLE RESOURCE AREA*. This area includes:

Cave Spring Commercial Historic District, Alabama, Rome and Cedartown Rds., Broad and Padlock Sts.; *Cave Spring Residential Historic District*, U.S. 411 and GA 100; *Georgia School for the Deaf Historic District*, Padlock St.; *Rolator Park Historic District*, Off U.S. 411; *Carroll-Harper House*, Cedartown St.; *Carroll, John M., House*, Park St.; *Carroll-Richardson Grist Mill*, Mill St.; *Cave Spring Female Academy*, Rome St.; *Cave Spring High School*, Rome St.; *Cave Spring Railroad Station*, Alabama St.; *Conner, Wesley O., House*, Cedartown St.; *Cowdry, William D., Plantation*, Rome Rd.; *Fannin, Oliver P., House*, Cedartown St.; *Ford, Joseph, House*, Love and Alabama Sts.; *Mann, John T., House*, Rivers St.; *McKinney, Dr. W. T., House*, Cedartown St.; *Rivers Farm*, Rome St.; *Robbins, Samuel W., House*, Rome St.; *Roving House*, Rome St.; *Simmons House*, Cedartown St.; *Simmons, William S., Plantation*, Alabama St.; *Watts, George T., House*, Love St.; *Wharton-Trout House*, Rome St. (6–19–80)

NEW MEXICO

Valencia County

Belen, *Chaves, Felipe, House*, 325 Lala St. (7–4–80)

WASHINGTON

King County

Seattle, *Ferry, Pierre P., House*, 1531 10th Avenue E. (4–18–79)

Stevens County

Colville, *Keller House*, 700 N. Wynne St. (4–18–79)

Colville, *McCauley, H. M., House*, 285 Oak St. (4–18–79)

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The following is a list of corrections to properties listed on the National Register. Additional corrections may appear in subsequent updates of the **Federal Register.**

ARIZONA

Coconino County

Winslow vicinity, *Nuvakwewtaqa* (8–2–77) (previously listed as Chavez Pass Pueblo Site)

CALIFORNIA

Alameda County

Oakland, *Greek Orthodox Church of the Assumption*, 9th and Castro Sts. (5–22–78) (previously listed at 920 Brush St.)

GEORGIA

Fulton County

Atlanta, *Brookwood Hills Historic District*, Off U.S. 19 and GA 9 (12–21–79) (previously listed 12–21–80)

Jeff Davis County

Hazelhurst, *Jeff Davis County Courthouse (Georgia County Courthouse Thematic Resources)* Courthouse Square (9–18–80) (previously listed in Hazelhurst)

IDAHO

Valley County

McCall, *Rice Meetinghouse* (4–9–80) (previously listed as Rice Illinois Meetinghouse)

KENTUCKY

Nicholas County

Carlisle, *Carlisle, Louisville and Nashville Passenger Depot*, Market and Locust Sts. (5–18–79) (previously listed as Louisville and Nashville Passenger Depot)

MARYLAND

Baltimore (independent city)

Lightship Chesapeake, Baltimore's Inner Harbor (8–11–80) (previously listed in the District of Columbia)

NEW JERSEY

Bergen County

Fort Lee and vicinity, *Palisades Interstate Park*, West bank of the Hudson River (10–15–66) (also in Rockland County, NY) NHL (previously listed in Orange County, NY)

RHODE ISLAND

Washington County

Saunderstown, Y.W.C.A. Site, NW of Saunderstown on Gilbert Stuart Rd. (11–20–80) (previously listed as Y.M.C.A.)

TENNESSEE

Hamilton County

Chattanooga, *Etheridge Automobile Showroom and Tirestore*, 329 Market St. (4–2–73) (previously listed as Newton Chevrolet Building)

VIRGINIA

Fairfax (independent city)

Fairfax County Courthouse and Jail, 4000 Chain Bridge Rd. (5–3–74) (previously listed as Fairfax County Courthouse)

* * * * *

The following properties have been demolished and/or removed from the "National Register of Historic Places." This action does not necessarily modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act of 1976, as amended.

ARIZONA

Gila County

Globe, *Old Dominion Library*, Murphy St. (demolished)

CALIFORNIA

Mariposa County

Yosemite Village, *Degnan House and Bakery*, Southside Dr., Yosemite National Park (removed)

DELAWARE

Sussex County

Cool Spring vicinity, *Fisher House*, SE of Cool Spring, Broadkill Hundred (removed)

ILLINOIS

Cook County

Brookfield, *Grossdale Station*, Prairie and Burlington Aves. (removed)

Chicago, *Sacred Heart Mission Church*, 11652 S. Church St. (removed)

DuPage County

Winfield, *Besch House*, O S 070 Church St. (removed)

Rock Island County

Rock Island, *Industrial Home No. 94*, 2100 3rd. Ave. (demolished)

INDIANA

Dubois County

Jasper, *Gramelspacher-Gutzweiler House*, 7th and Main Sts. (removed)

IOWA

Dallas County

Perry, *Perry Volunteer Fire Department Engine House*, 1206 1st St. (demolished)

MASSACHUSETTS

Worcester County

Worcester, *Bannister, Emory, House (Worcester Multiple Resource Area)* 3 Harvard St. (3–5–80) (demolished)

MICHIGAN

Monroe County

Monroe, *Fix House*, Sterling State Park (3–16–72) (demolished)

NEW YORK

Erie County

Buffalo, *Niagara Frontier Transit Buildings*, 855 Main St. (5–14–80) (demolished)

Westchester County

Ossining *Rohr, George, Saloon and Boardinghouse*, 1—3 Highland Ave. (12–1–78) (demolished)

PENNSYLVANIA

Pike County

Bushkill, *Bushkill Gristmill*, U.S. 209 (8–3–79) (demolished)

SOUTH CAROLINA

Spartanburg County

Moore vicinity, *Fredonia*, E of Moore off U.S. 221 (10–9–74) (demolished)

TENNESSEE

Madison County

Jackson, *Jones, Casey, Home and Railroad Museum*, 211 W. Chester St. (removed)

TEXAS

Collin County

McKinney, *McKinney, Collin, Cabin*, Finch Park (9–18–78) (demolished)

WEST VIRGINIA

Wood County

Parkersburg, *Parkersburg City Hall*, 5th and Market Sts. (12–11–79) (demolished)

* * * * *

The following properties have been determined to be eligible for inclusion in the "National Register." Determinations of eligibility are usually made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593, and the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Keeper, National Register of Historic Places, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, for an opinion respecting a property's eligibility for inclusion in the "National Register."

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR, Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Mobile County

Cochrane Bridge over the Mobile River

Montgomery County

Veteran's Administration Medical Center

Tuscaloosa County

Tuscaloosa, *Veterans Administration Medical Center*

ALASKA

Ketchikan Division

Coffman Cove Site (49 PET 067) Prince of Wales Island

Kodiak Division

Archeological Site 49–KOD–190

North Slope Borough

Barrow, *Utkiavik (Old Barrow)*

ARIZONA

Gila County

Archeological Site AZ:0:15:44 (63.3)
Archeological Site AZ:0:15:45 (63.3)
Archeological Site AZ:0:15:49 (63.3)
Archeological Site AZ:0:15:58 (63.3)
Archeological Site AZ:0:15:75 (63.3)
Archeological Site AZ:0:15:76 (63.3)
Archeological Site AZ:0:15:78 (63.3)
Archeological Site AZ:0:15:81 (63.3)
Archeological Site AZ:0:15:82 (63.3)
Archeological Site AZ:0:15:83 (63.3)
Archeological Site AZ:0:15:84 (63.3)
Archeological Site AZ:0:15:85
Archeological Site AZ:0:15:86
Archeological Site AZ:0:15:87 (63.3)
Archeological Site AZ:0:15:88 (63.3)
Archeological Site U:3:43 (63.3)
Archeological Site U:3:9 (63.3)
Pine, *Pine Elementary School District No. 12* (63.3)
Rye, *Archeological Site U:3:44* (63.3)
Rye, *Archeological Site U:3:49* (63.3)
Rye, *Archeological Site U:3:54* (63.3)
Rye, *Archeological Site U:3:56* (63.3)
Rye, *Archeological Site U:3:57* (63.3)
Rye, *Archeological Site U:3:58* (63.3)
Rye, *Archeological Site U:3:61* (63.3)
Rye, *Archeological Site U:3:66* (63.3)

Maricopa County

General Motors Phoenix Laboratory Building (63.3)
Phoenix, *Archeological Site AZ T:12:38 (ASM)* (63.3)
Phoenix, *Chelsea Place Historic District* (63.3)
Phoenix, *Former Pay 'N' Takit Store* (63.3)
Phoenix, *Grace Lutheran Church* (63.3)
Phoenix, *Kenilworth Historic District* (63.3)
Phoenix, *Las Colinas Archeological Site (AZ T:12810)*, Boundary Increase
Phoenix, *McClintock House* (63.3)
Phoenix, *Original Phoenix Townsite, Blocks 1 and 2*
Phoenix, *Phoenix LDS Second Ward Church* (63.3)
Phoenix, *Publix Market* (63.3)
Phoenix, *Thayer House* (63.3)

Mohave County

Mohave Hope Cabin
Mohave Hope Mine and Mining Camp

Navajo County

Archeological Site AZ–D–10–22
Archeological Site NA 14,495 (63.3)
Archeological Site NA 14,605 (63.3)
Archeological Site NA 14,614 (63.3)
Archeological Site NA 14,615 (63.3)
Archeological Site NA 14,617 (63.3)
Black Mesa Multiple Resource Area

Pima County

Barrel Canyon Archeological District
Upper Davidson Canyon Archeological District
Nolic, *Archeological Site AA:13:19*
Tucson, *Drexel Village Site AA:16:49*
Tucson, *Irvington Village Site AA:16:46*
Tucson, *Midvale Historic Site A AA:16:61*
Tucson, *Midvale Historic Site B AA:16:62*
Tucson, *Southern Pacific Railroad Oil House No. 3*
Tucson, *Veteran's Administration Medical Center*

Yavapai County

Prescott, *Veteran's Administration Medical Center*

Yuma County

Palo Verde-Devers Multiple Resource Area
Palo Verde-Devers Transmission Line Corridor-Segment 1
Palo Verde Transmission Line Corridor-Segment 8 (also in Maricopa County)

ARKANSAS

Chicot County

Powell Canal Site

Garland County

Lake Ouachita, *Avery Site (3GA113)*

Pulaski County

Little Rock, *U.S. Post Office and Courthouse*, 600 W. Capitol Ave.

Washington County

Veteran's Administration Medical Center

CALIFORNIA

Helkau District

Alameda County

Castro Valley, Archeological Site CA–Ala–60
Fremont, *Harvey, Sylvester P., Home and 1854 Cabin*, 3590 Grand Lake Dr.
Fremont, *Shinn Home*, 1269 Peralta Blvd.
Newark, *Patterson, G. W., House (Ardenwood)*

Calaveras County

Romaggi House

Contra Costa County

Black Diamond Historic District (63.3)
Hercules, *Cco-248*
Richmond, *Ellis Landing Shellmound*
Richmond, *Richmond Shipyard No. 3*
Richmond, *Stege Mounds Archeological District* (63.3)

Del Norte County

Hiouchi, *Myrtle Creek Ditch*

Glenn County

Archeological Site CA LAK 1112, Mendocino National Forest
Archeological Site CA MEN 1612, Mendocino National Forest

Lake County

Archeological Site CA–LAK–602, Mendocino National Forest (63.3)
Archeological Site CA–LAK–1133, Mendocino National Forest

Los Angeles County

Propulsion System for the Ferryboat Sierra Nevada, Terminal Island
Long Beach, *Bradley Building* (63.3)
Los Angeles, *Goodyear Tire and Rubber Plant*, 6701 S. Central Ave.
Los Angeles, *Veteran's Administration Medical Center*
Pasadena, *Bungalow Courts*
Pasadena, *Dowling-Rodriguez House*, 570 N. Raymond Ave.
Pasadena, *Evanston Inn*, 385–395 Marengo
Pasadena, *Merrill-Grider House* 1285 N. Summit Ave.
Pasadena, *Prospect Boulevard Bridge*
Pasadena, *Prospect Park Historic District*, Prospect Blvd.
Pasadena, *South Marengo Historic District*

Pasadena, *Tract 1032 Historic District*
Pomona, *Fox Theatre* (63.3)

Madera County

Buchanan Dam Archeological District (also in Mariposa County)

Marin County

Sausalito, *Point Bonita Light Station*

Mendocino County

Archeological Site CA–MEN–208
Archeological Site CA–MEN–288
Archeological Site CA–MEN–320/643
Archeological Site CA–MEN–321
Archeological Site CA–MEN–323
Archeological Site CA–MEN–325
Archeological Site CA–MEN–329
Archeological Site CA–MEN–330
Archeological Site CA–MEN–1643/H
Archeological Site CA–MEN–1705/H
Pilil Site (Snow Rock) 05–08–53–258
Cleone vicinity, *Kennedy, John, House*

Mono County

Archeological Site CA–MNO–529

Nevada County

Archeological Site FS–05–17–57–73
Archeological Site FS–05–17–57–74
Archeological Site FS–05–17–57–232
Archeological Site FS–05–17–57–280
Archeological Site FS–05–17–57–281
Archeological Site FS–05–17–57–282
Excelsior Ditch Co. Nev. 207
Grass Valley vicinity, *Archeological Site CA–NEV–407*

Orange County

Building at 114 Pacific Coast Highway (63.3)
Downtown Santa Ana Historic District

Placer County

Archeological Site FS–05–17–57–69
Archeological Site FS–05–17–57–209

Plumas County

Archeological Site CA–Plu–115

San Bernardino County

Archeological Site CA–SBr–169
Archeological Site SBr–112
Archeological Site SBr–4285
Archeological Site SBR–4440 (Fort Irwin) (63.3)
Archeological Site SBR–4441 (Fort Irwin) (63.3)
Archeological Site SBR–4442 (Fort Irwin) (63.3)
Archeological Site SBR–4443 (Fort Irwin) (63.3)
Archeological Site SBR–4444 (Fort Irwin) (63.3)
Archeological Site SBR–4445 (Fort Irwin) (63.3)
Archeological Site SBR–4562 (Fort Irwin) (63.3)
Archeological Site SBR–4563 (Fort Irwin) (63.3)
Crowder Canyon Archeological District Boundary Extension
Fort Irwin, *Archeological Site SBr–4170* (63.3)
Fort Irwin, *Archeological Site SBr–4213* (63.3)
Fort Irwin, *Archeological Site SBr–4214* (63.3)
Fort Irwin, *Archeological Site SBr–4215*

San Diego County

Archeological Site CA–SDi–799
Archeological Site SDi–5133
Archeological Site SDi–5130
Archeological Site CA–SDi–7311
Archeological Site W–1837
Archeological Site W–1838
Archeological Site W–1839
San Diego, *Armed Forces Y.M.C.A. Building*, Centre City
San Diego, *Frost Lumber Corner Building*, Centre City
San Diego, *Golden West Hotel*, Centre City
San Diego, *Hotel San Diego*, Centre City
San Diego, *Plaza de Pantoja*, Centre City
San Diego, *Police Headquarters Complex*, Centre City
San Diego, *San Diego Gas and Electric Substation B*, Centre City
San Diego, *Senator Hotel*, Centre City
San Diego, *Soap Factory Complex*, Centre City
San Diego, *Tower Bowling Alley*, Centre City

San Francisco County

Hills Brothers Building
San Francisco, *Bayshore Mound (CA–SFr–7)* (63.3)
San Francisco, *Oriental Warehouse*
San Francisco, *Veteran's Administration Medical Center*

San Joaquin County

Stockton, *California Water Services Company Station No. 1 Complex*

San Mateo County

Daly City, *Schoolhouse Station (Colma Railroad Station)*, 11 Washington St.

Santa Barbara County

Arroyo Hondo Bridge
Arroyo Quemado Bridge
Vandenberg Air Force Base, *Archeological Site CA–SBa–534*
Vandenberg Air Force Base, *Archeological Site CA–SBa–662*
Vandenberg Air Force Base, *Archeological Site CA–SBa–678*
Vandenberg Air Force Base, *Archeological Site CA–SBa–680*

Santa Clara County

Realty Building, 19 N. 2nd St.
San Jose, *Building at 295 East San Fernando Street*
San Jose, *Commercial Building*, 28 N. 1st St.
San Jose, *Fox Theater*, 345 S. 1st. St.
San Jose, *King Conservatory of Music*, 261 N. Second St.
San Jose, *Moir Building*, 233 N. 1st St.
San Jose, *Montgomery Hotel*, 211 S. 1st St.
San Jose, *Nathan Flats and House*, 31—33, 35—37 and 45 E. Julian St.
San Jose, *Sainte Claire Building*, 311 S. 1st St.
San Jose, *San Jose Historic District*, 1st, 2nd and 3rd Sts.
San Jose, *Tognazzi Building*, 261—265 N. 1st St.
San Jose, *Twohy Building*, 210 S. 1st St.

Shasta County

Archeological Site 05–14–56–284, Shasta-Trinity National Forest
Anderson vicinity, *Battle Creek Bridge*, Grover Rd.
LaMoine, *LaMoine Lumber and Trading Company Railroad (Logging System Historic District)* (also in Trinity County)

Siskiyou County

Archeological Site CA–Sis–361
Scott River Bridge
Shelley Bridge

Solano County

Fairfield, *Gocsen Mansion*
Suisun City, *House at 407 California Street*
Suisun City, *House at 821–823 Main Street*
Suisun City, *House at 216 Morgan Street*
Suisun City, *House at 400 Morgan Street*
Suisun City, *House at 406 Morgan Street*
Suisun City, *House at 221 Solano Street*
Suisun City, *Jones, K.L. House*, 308 California St.
Suisun City, *Suisun City Fire Department*

Tehama County

Archeological Site CA–TEH–962

Trinity County

Archeological Site CA-Tri-205
Archeological Site CA-Tri-438
Eagle Ranch 05–14–54–43, Shasta-Trinity National Forest

Tuolumne County

Rambling Archeological Site (CA–TUO–1285)
Skunk Creek Archeological Site (CA–TUO–1254)

COLORADO

Globeville German Congregational Church, E. 44th Ave. and Lincoln St.

Adams County

Larson Property 5AM77, 7381 Washington St., North

Arapahoe County

Littleton, *Willowcroft*, 3600 W. Bowles Ave.

Bent County

Fort Lyon, *Veteran's Administration Medical Center*

Denver County

Denver City Park (63.3)
Denver, *Building at 23 Acoma Street*
Denver, *Building at 100 Broadway*
Denver, *Buildings at 2—10 Broadway*
Denver, *Buildings at 68—74 Broadway*
Denver, *Buildings at 76—86 Broadway*
Denver, *Buildings at 101—111 Broadway*
Denver, *Buildings at 106—114 Broadway*
Denver, *Buildings at 21—39 South Broadway*
Denver, *Buildings at 38—42 South Broadway*
Denver, *Buildings at 76—86 South Broadway*
Denver, *Buildings at 94—98 South Broadway*
Denver, *Building at 2528 Welton*
Denver, *Building at 2745 Welton*
Denver, *Building at 2812 Welton*
Denver, *Building at 2824 Welton*
Denver, *Building at 2831 Welton*
Denver, *Building at 32 West Ellsworth Avenue*
Denver, *Building at 48 West Ellsworth Avenue*
Denver, *Building at 50 West Ellsworth Avenue*
Denver, *Building at 58 West Ellsworth Avenue*
Denver, *Building at 62 West Ellsworth Avenue*

Denver, *Building at 68 West Ellsworth Avenue*
Denver, *Building at 105 West Ellsworth Avenue*
Denver, *Building at 106 West Ellsworth Avenue*
Denver, *Buildings at 36—42 West Ellsworth Avenue*
Denver, *Building at 35 West Irvington Place*
Denver, *Building at 39 West Irvington Place*
Denver, *Building at 43 West Irvington Place*
Denver, *Building at 51 West Irvington Place*
Denver, *Building at 59 West Irvington Place*
Denver, *Building at 101 West Irvington Place*
Denver, *Building at 102 West Irvington Place*
Denver, *Elyria Elementary School*
Denver, *Fort Logan National Cemetery*, 3698 Sheridan Blvd.
Denver, *Glenarm Recreation Center*, 2800 Glenarm St.

Douglas County

Cheese Ranch Historic District
Highlands Headquarters Ranch Historic District

Eagle County

Archeological Site 5EA306

El Paso County

Woodman Hall (63.3)
Colorado Springs, *Garfield School* (63.3)
Colorado Springs, *Myron Stratton House* (63.3)

Garfield County

Archeological Site 5GF126, Battlement Mesa
Archeological Site 5GF128, Battlement Mesa
Archeological Site 5GF133, Battlement Mesa
Archeological Site 5GF134, Battlement Mesa
Archeological Site 5GF135, Battlement Mesa
Archeological Site 5GF519
McGuirk-Nordstrom House (Site 5GF786)
Spencer House (Site 5GF594)

Grand County

Archeological Site 5GA–122
Archeological Site 5GA–128
Archeological Site 5GA–151
Archeological Site 5GA–153
Archeological Site 5GA–572
Archeological Site 5GA–680

Lake County

Archeological Site 5LK385
Archeological Site 5LK388
Malta vicinity, *Denver and Rio Grande Western Railroad*

Larimer County

Bear Lake Comfort Station, Rocky Mountain National Park (63.3)
Bear Lake Ranger Station, Rocky Mountain National Park (63.3)

Las Animas County

Trinidad Foundry 5LA2160

Mineral County

Creede vicinity, *Sevenmile Bridge (5ML27)* SW of Creede

Otero County

La Junta, *Building at 15 Wickham*
La Junta, *Sciumbato, George, Grocery*, 706 W. 2nd St.

Weld County

Greeley, *Bolker Subdivision*
Greeley, *Building at 1421 Eighth Street*
Greeley, *Building at 1443 Fifth Street*
Greeley, *Building at 1539 Fifth Street*
Greeley, *Building at 1801 Fifth Street*
Greeley, *Building at 1823 Fifth Street*
Greeley, *Building at 1824 Fifth Street*
Greeley, *Building at 605 Fourteenth Avenue*
Greeley, *Building at 617 Fourteenth Avenue*
Greeley, *Building at 1112 Sixth Street*
Greeley, *Fifth Street Neighborhood Area*

CONNECTICUT

Fairfield County

Bridgeport, *St. John's Nepomucene School*
Danbury, *Old Danbury Jail*, 80 Main St. (63.3)
Stamford, *Building at 10–12 Linden Place* (63.3)
Stamford, *Railroad Company Trolley Barn*
Stamford, *Stamford Railroad Station*
Stamford, *Trolley Office Building*

Hartford County

Harwinton, *Valley View Farms Incorporated Cook Farm and Wind Mill*, South Rd.
Harwinton, *Valley View Farms Incorporated Red Salt Box House*
Harwinton, *Valley View Farms Incorporated Shanley House*, Plymouth Rd.

New Haven County

Southwest Ledge Lighthouse, New Haven Harbor
New Haven, *Schubert Theater*
North Haven, *Bishop and State Street Historic District*

New London County

New London Ledge Lighthouse
East Lyme, *Niantic River Highway Bridge*
Griswold, *Prehistoric Archeological Site P58–001* (63.3)
Mystic, *Mystic Bridge Union Switch and Signal Company "Style B" Electric Interlocking Machine and Model Board*, Mystic Bridge
Waterford, *Niantic River Highway Bridge*

Windham County

Williamantic, *Building at 877 Main Street*

DELAWARE

Reedy Island Range Rear Lighthouse, Taylor's Bridge

New Castle County

Wilmington, *Wilmington Boulevard Historic District Amendment*

DISTRICT OF COLUMBIA

Washington

Mitchell Park Archeological Site (63.3)
Anacostia, *Jenkins Archeological Site*

FLORIDA

Duval County

Jacksonville, *Cogswell, A. R., Building*, 433 W. Bay St.
Jacksonville, *First Baptist Church*, W. Church St.
Jacksonville, *Old Stanton High School*, 521 W. Ashley St.
Jacksonville, *Seminole Club*, N. Hogan St.
Jacksonville, *U.S. Fidelity and Guaranty Company*, 424 N. Hogan St.
Jacksonville, *Wolf, Levy, Building*, N. Hogan St.
New Berlin, *St. John's River Power Park Archeological District*

Escambia County

Pensacola, *Barrancas National Cemetery*

Hardee County

Aboriginal Site No. 1

Manatee County

Bradenton, *Carruthers Mound (8–Ma–119)*, *(63.3)*

Monroe County

Key West, *Key West Naval Station Historic District*

Pinellas County

Veteran's Administration Medical Center-Bay Pines

GEORGIA

Atkinson County

Willacoochee, *Gaskins, Dr. J. A., House*, GA 82 (63.3)
Willacoochee, *West Willachoochee Historic District* (63.3)
Willacoochee, *Willacoochee Masonic Lodge* (63.3)

Baldwin County

Milledgeville vicinity, *Vinson-Ashfield House*, E of Milledgeville

Berrien County

Alapaha, *Kendrick-Gaskins House*, GA 82 (63.3)
Alapaha, *Paulk House, George St.* (63.3)

Chatham County

Savannah, *C.S.S. Georgia*
Tybee Island, *Fort Screven Historic District*

Clarke County

Athens, *Miller Hall*, Ogelthorpe Ave. and Buck Rd.

Cobb County

Marietta, *Brumby-Arnoldus House*, 472 Powder Springs St.
Smyrna, *Carmichael, J. H., House*, 501 Log Cabin Rd. (63.3)

Dade County

Trenton, *Archeological Site ES–1611–1* (63.3)

DeKalb County

Fort Creek Mountain Site (9DA18) Soapstone Ridge
Atlanta, *Southern G. F. Building*, 263 Decatur St., SE
Decatur, *U.S. Honor Farm Complex*, 3074 Panthersville Rd. (63.3)

Dougherty County

Albany, *South Central Albany Multiple Resource Area*

Elbert County

Archeological Site EB 418

Fannin County

Weaver Site 9Gi(DOT)21 (also in Gilmer County)

Floyd County

Archeological Site ES–949–7
Archeological Site ES–949–9
Archeological Site ES–949–16 (Fourche-Hardy Farm)

Fulton County

Pallas Apartments, 1559 Peachtree St.
Atlanta, *Academy of Medicine*, 825 W. Peachtree St.
Atlanta, *Biltmore Hotel*, 817 W. Peachtree St.
Atlanta, *Knox Apartments No. 1*, 1543 Peachtree St.
Atlanta, *Knox Apartments No. 2*, 1576 W. Peachtree St.
Atlanta, *Knox Apartments No. 3*, 1586 W. Peachtree St.
Roswell, *Smith House*, 935 Alpharetta St.

Glynn County

Gascoigne Bluff Site (63.3)

Gordon County

Calhoun vicinity, *Haynes, Cleo, House and Frame Structure*

Grady County

Pine Park Community Center, GA 38 (63.3)

Henry County

Stockbridge, *Turner House*, SR 42 (63.3)

Laurens County

Dublin, *Wrightsville and Tennille Railroad*, S. Jefferson St.

Lincoln County

Lincolnton, *Rees Building* (63.3)

Madison County

State Route 72 Highway Bridge, SR 72 over Broad River

McIntosh County

Archeological Site 9Mc141, Harris Neck National Wildlife Refuge (63.3)

Monroe County

Forsyth, *Berner House* (63.3)
Forsyth, *Old Main Post Office*

Muscogee County

Fourteenth Street Bridge

New County

Newton Factory Community Archeological District

Oconee County

Watkinsville, *Archeological Sites 90c20 and 90c23*
Watkinsville, *Archeological Sites 90c21 and 90c22*
Pickens County

Archeological Site Kc9Pi1

Richmond County

Augusta, *Butler Creek Archeological District*
Augusta, *Veteran's Administration Medical Center*

Stewart County

Richland, *Saville House*

Terrell County

Parrott, *Whaley, John C., Homeplace*

Thomas County

Ochlocknee, *Zeigler Building*
Thomasville, *Chinquapin Plantation*, Old Cassidy Road (63.3)

Tift County

Tifton, *Tifton Bridge*
Tifton, *Tifton Cotton Mill Complex*, SR 82

Toombs County

Lyons, *Twenty Columns*, Liberty and Johnson Sts. (63.3)
Vidalia vicinity, *Moses-Coleman House*, E of Vidalia (63.3)

Towns County

Kelly Bridge, SR 87 over Hiawassee River

Troup County

La Grange, *Broad Street Historic District*

Twiggs County

Jeffersonville Historic District

Walker County

Hixon, William, House, Boundary Amendment

Ware County

Waycross, *Moody-Adams House*, 843 Reynolds St. (63.3)
Waycross, *New Waycross Historic District* (63.3)
Waycross, *Saint Ambrose Mission*, 1013 Reynolds St. (63.3)

Washington County

Sandersville, *Carter, William W., House*

White County

Cleveland, *Mauney Homestead*

Whitfield County

Dalton, *Dug Gap Breastworks UGS 9–WD–8*

HAWAII

Honolulu County

Honolulu, *Palm Circle Historic District*
Oahu, *Waimanalo Ditch System*

IDAHO

Ada County

Lee Street Historic District

Benewha County

St. Maries vicinity, *Saint Joe Baldy Site (10 BW 2)*

Bonner County

Coolin, *Vinther and Nelson Cabin*

Shoshone County

Mullan, *Rock Creek Flume*
Wallace, *Albi's Bar and Hotel (Camia Building)* 6th and Pine Sts.
Wallace, *Arnold, Deloros, Building*
Wallace, *d'Alene, Coeur, Hardware Company*
Wallace, *d'Alene, Coeur, Iron Works*
Wallace, *Hale Building*, 7th and Bank Sts.
Wallace, *Hecla Mining Company*, Cedar and 7th Sts.
Wallace, *Martin, P. L., Building*
Wallace, *Runge Furniture Company Building*, 7th and Bank Sts.
Wallace, *Union Pacific Depot*
Wallace, *Wallace City Hall*
Wallace, *Wallace Public Library*, River and 5th St.

ILLINOIS

Cook County

Berwyn, *Berwyn Train Depot*, Oak Park and Windsor Aves.
Chicago, *Chicago Art Institute*, Michigan Ave.
Chicago, *Commercial Building*, 130 W. Lake
Chicago, *Fire Station*, 209 N. Dearborn
Chicago, *Humboldt Park Fieldhouse*
Chicago, *Pulaski Park Fieldhouse*
Chicago, *Selwyn-Harris Theaters*, 170–186 N. Dearborn St.
Chicago, *Woods Theater*, 50 W. Randolph
Oak Park, *Cicero Gas Company Building*, 115 N. Oak Park Ave.

La Salle County

Utica, *Archeological Site 11–LS–1*

Madison County

Alton vicinity, *Archeological Site GT–5*

Marion County

Archeological Site 11–Mr–11 (63.3)

Menard County

Petersburg, *Eberhard, Leopold, Home*.

Peoria County

Mossville, *Rench Archeological District*

Vermillion County

Danville, *Danville Branch of the National Home for Disable Volunteer Soliders*

Winnebago County

Rockford, *Haight Village Historic District*

INDIANA

Abington County

Cambridge City, *Building at 100 W. Main Street* (63.3)

Grant County

Marion, *Veteran's Administration Medical Center*

Jefferson County

Deputy, *McNeil Stone Fort Archeological Site (12 Je 4)* Dixenford Rd.

Marion County

Indianapolis, *Garfield, James A., School*, 209 E. Raymond St.
Indianapolis, *Garfield Park*
Indianapolis, *Raymond Street Houses*, 37, 39, 47, 53, 55 and 59 Raymond St.
Indianapolis, *Veteran's Administration Medical Center*, Cold Spring Rd.

Martin County

Martin County Bridge No. 21 over Indian Creek

Vanderburgh County

Skora Building, 2nd and Sycamore Sts.
Evansville, *Evansville Municipal Market*

IOWA

Des Moines County

Skunk River Bridge (also in Lee County)

Dubuque County

Dubuque, *Eagle Point Bridge*

Jackson County

Bridge over Bear Creek

Johnson County

Sutliff Bridge (63.3)

Lee County

Keokuk, *Keokuk National Cemetery*

Marion County

Knoxville, *Veteran's Administration Medical Center*

Polk County

Des Moines, *Veteran's Administration Medical Center* (63.3)

Scott County

Davenport, *Bergfeld, Fritz, Block*, 321—323 W. 2nd St.
Davenport, *Buildings at 305—307 West Second Street*
Davenport, *Buildings at 325—327 West Second Street*
Davenport, *Central Fire Station*, 331 Scott St.
Davenport, *City Hall*, 226 W. 4th St.
Davenport, *Iowa Soldiers' Orphans' Home*, 2800 Eastern Ave.
Davenport, *Lend-A-Hand Club Building*, 105 S. Main St.
Davenport, *Schmidt, George M., Block*, 301—303 W. 2nd St.

Webster County

Lehigh vicinity, *Archeological Site 13WB164*
Lehigh vicinity, *Archeological Site 13WB217*
Lehigh vicinity, *Archeological Site 13WB244*
Lehigh vicinity, *Archeological Site 13WB252*
Lehigh vicinity, *Archeological Site 13WB256*
Lehigh vicinity, *Archeological Site 13WB264*

KANSAS

Jefferson County

Half Mount Truss Bridge
Meriden, *Meriden Rock Creek Bridge*

Johnson County

Archeological Site 14J0505
Archeological Site 14J0507
Archeological Site 14J0514
Archeological Site 14J0515
Archeological Site 14J0521

Leavenworth County

Leavenworth, *Veteran's Administration Medical Center* (63.3)

Sedgwick County

Wichita, *U.S. Post Office and Courthouse*
Wichita, *Veteran's Administration Medical Center* (63.3)

KENTUCKY

Bourbon County

Millersburg Historic District

Bracken County

Archeological Site 15 Bk 12

Clark County

Carnegie Library (Olmstead Memorial Library) Kentucky Wesleyan Administration Building

Daviess County

Owensboro, *Brothers Lodge No. 132 I.O.O.F.*, 200 W. 3rd St.
Owensboro, *First Presbyterian Church*, 114 W. 3rd St.
Owensboro, *Reno Building*, 103 W. 3rd St.
Owensboro, *Wiles Brothers Clothiers*, 2nd and Allen Streets

Fayette County

Lexington, *Veteran's Administration Medical Center* (63.3)

Grant County

Starnes Bridge over Eagle Creek (63.3)

Greenup County

Archeological Site 15 GP 14

Jefferson County

Louisville, *Schaftlein Archeological Site* (15)F317)

Kenton County

Covington, *Mosler Safe Building*
Covington, *Telephone Company Building*

McCreary County

Archeological Site B061
Archeological Site B105
Archeological Site ON06B
Archeological Site (Pete King House), Shoopman

Spencer County

Archeological Site 15SP28
Archeological Site 15SP340
Archeological Site 15SP412

LOUISIANA

DeSoto Parish

Gloster, *Craven, Glen, House*

Jefferson Parish

Bayou des Coquilles Site, Jean Lafitte National Historical Park

Rapides Parish

Alexandria, *Veteran's Administration Medical Center*

Red River Parish

Old Methodist Parsonage
St. Mary's Parish
Avoca Island Pumping Plant Number 1

MARYLAND

Allegany County

Eckhart Branch Bridge
Cumberland, *Canada Historic District*
Cumberland, *Dumbhundred Historic District*

Baltimore (independent city)

Baltimore Music Hall (Lyric Theater) 124 W. Mount Royal Ave.
Baltimore Retail District Multiple Resource Area, Roughly bounded by Franklin, Cathedral, Liberty, Greene and Baltimore Sts.
Franklin Square Historic District

Baltimore County

Mt. Royal Terrace Historic District, (63.3)
Mt. Vernon Historic District, (63.3)
Seton Hill Historic District, (63.3)
Union Square Historic District (63.3)

Baltimore, *Bartlett-Hayward Plant (Roundhouse Square)*, 200 Scott St. (63.3)
Baltimore, *Brown's Arcade*, 322—328 N. Charles St. (63.3)
Baltimore, *Butchers Hill-East Baltimore Historic District*, (63.3)
Baltimore, *Clifton School*
Baltimore, *Rieman's Block (Lexington Green)*, 617—631 W. Lexington St. (63.3)
Baltimore, *St. John's School (Martin DePorres Center)*, 908—914 Valley St. (63.3)
Bel Air, *Emmorton School*, 104 W. Wheel Road

Dorchester County

Horn Point Archeological Site

Frederick County

Hagerstown, *Linden Grove*

Garrett County

Crellin, *Crellin Historic District* (63.3)

Hartford County

Havre de Grace, *Havre de Grace Historic District*

Montgomery County

Takoma Park Historic District Boundary Extension (63.3)
Germantown, *Waters, Horace, House*

Prince Georges County

Hyattsville, *Alexandria Junction Tower*

Washington County

Salisbury Mill Sprechers Mill
Hagerstown vicinity, *Kershner, Kathryn, House*
Sharpsburg, *Grove, Jacob, House*, 100 W. Main St.

Wicomico County

Main Street Commercial District, Main, Little Water and Water Sts.
Main Street Residential District, Main St.
Sharptown Bridge
Sharptown, *Fletcher, Harry G., House*, 402 School St.
Sharptown, *Mt. Vernon Methodist Protestant Church*, Railway and Church Sts.
Sharptown, *Robinson House*, 301 Water St.
Sharptown, *Twilley, G. C., House*, Water St.
Sharptown, *Walker House*, Water St.
Sharptown, *Watson House*, Railway and Vine Sts.

Worcester County

Snow Hill, *Snow Hill Historic District* (63.3)

MASSACHUSETTS

Archeological Site 19BN374, Cape Cod National Seashore

Berkshire County

Washington Mountain Brook Historic Archeological District
Adams, *Berkshire Mill No. 1*

Bristol County

Fall River, *Borden, A. J., Building*, 91–111 S. Main St.
New Bedford, *Dawson Block (Eagles Home)* 1851 Purchase St.
Norton, *Crane, G. B., Site*
Norton, *White Crow Archeological Site*

Essex County

Danvers, *Danvers Town Hall*
East Lynn, *East Lynn Oddfellow's Hall*, 289 Essex St.
Newburyport, *James Steam Mills* (63.3)
North Andover, *Parker-Chickering House*
Salem, *Power Block*, 134–146 Washington St.
Salem, *Y.M.C.A.*

Franklin County

Northfield, *Schell Bridge*

Hampden County

Springfield, *Federal Square Armory Complex*

Hampshire County

Northampton, *Veteran's Administration Medical Center*

Middlesex County

Framingham, *Building at 46 Park Street*
Framingham, *Buildings at 1–5 Central Street*
Framingham, *Hollis Street Fire Station*
Framingham, *Saxonville Firehouse*, Watson Pl.

Norfolk County

Quincy, *Greenleaf Building*, 1415 Hancock St.

Plymouth County

Bridge on Edward Foster Road over Scituate Harbor, Tidal Creek
Hull, *Graves Light*
Scituate, *Minots Ledge Light (Lovers Light)*

Suffolk County

Boston, *Edglewood Diner*, 1883 Dorchester Ave.
Boston, *U.S. Post Office—Chelsea*
Boston, *U.S. Post Office—Winthrop Branch* 240 Winthrop St.
Chelsea, *Panonia Building*
Roxbury, *Baker, Sarah J., School*, 33 Perrin St.

Worcester County

Oxford, *Building at 5 Charlton Street*
Oxford, *Building at 7 Charlton Street*

MICHIGAN

Berrien County

Archeological Sites 20BE132 and 20BE306 (Wymer Site and the Rock Hearth Site) (63.3)
Edison Site 20BE122 (63.3)
King Site 20BE354

Calhoun County

Battle Creek, *Veteran's Administration Medical Center*

Dickinson County

Sturgeon Falls Hydro Generation Plant

Eaton County

Eaton Rapids, *West Knight Street Bridge (63.3)*

Fond du Lac County

Bragg School Building (63.3)

Isabella County

Mount Pleasant, *Creamery, The*, 320 W. Broadway (63.3)

Jackson County

Ament Mills (Norvell Mill) 305 Mill Rd.
Norvell Dam and Bridge, Mill Rd.

Monroe County

Weis Manufacturing Company (63.3)

Saginaw County

Archeological Site 20SA581 (63.3)
Archeological Site 20SA582 (63.3)
Dehmel Road Bridge, Spans Cass River
Saginaw, *Bancroft Hotel*, 107 S. Washington St.
Saginaw, *Eddy Building*, Genessee and Washington Sts.

St. Joseph County

Stover Site 20BE307 (63.3)
US–12 Mottville Bridge over the St. Joseph River (63.3)

Wayne County

Allen Park, *Allen Park Veteran's Administration Hospital*
Detroit, *Bohn Aluminum*, E. Grand Blvd.
Detroit, *Chene Street Commercial District* Roughly bounded by Chene St., Canfield Ave. and Grand Blvd.
Detroit, *Detroit Steel Products Company*, E. Grand Blvd.
Detroit, *Dom Polski Hall*, 2279 Forest Ave.
Detroit, *Guarantee Trust and Loan Company (Dennison Bookkeeping)*, 2126 E. Grand Blvd.
Detroit, *Hupp Motor Car Company*, Milwaukee and Mt. Elliott Aves.
Detroit, *Immaculate Conception Church*, 3414 Trombly Ave.
Detroit, *Majeske School*, 2139 Trombly Ave.
Detroit, *Malawa Funeral Home (Brown Brothers Funeral Home)* 4110 St. Aubin Ave.
Detroit, *Maxwell Motor Company (Fisher Body Company)*, E. Grand Blvd. and Milwaukee Ave.
Detroit, *Parke School*, 3010 E. Milwaukee
Detroit, *St. Elizabeth's Church and Schools*, 3138 E. Canfield Ave.
Detroit, *St. Hyacinth Roman Catholic Church and School*, 3151 Farnsworth
Detroit, *St. Michael's Greek Catholic Church (Temple of Faith Missionary Baptist Church)*, 2384 E. Grand Blvd.
Detroit, *St. Stanislaus Church and Parish House*, 2818 Dubois Ave.

MINNESOTA

Goodhue County

Red Wing Pottery Dump Site
Red Wing, *Archeological Site 21GD148*

Hennepin County

Fort Snelling National Cemetery

Ramsey County

St. Paul, *Armstrong House*, 233–235 W. Fifth St. (63.3)
St. Paul, *Banholzer, William, House*, 660 Stewart Ave. (63.3)
St. Paul, *Chicago Great Western Railway Co. Aerial Lift Bridge* (63.3)
St. Paul, *How Residence*, 455 Grand Ave.
St. Paul, *Myrick, Nathan, House*, 103–105 Wilken St. (63.3)
St. Paul, *Robert Street Bridge*
St. Paul, *Wabasha Street Bridge* (63.3)

Stearns County

Cold Spring vicinity, *Wocken Archeological Site* St. Cloud, *Veteran's Medical Center*

MISSISSIPPI

Itawasba County

Archeological Site 22It621, Tombigbee River Multiple Resource District
Archeological Site 22It624, Tombigbee River Multiple Resource District

Perry County

Old Augusta, *Leaf River Site 22Pe543*

Tishomingo County

Archeological Site 22 TS 1098, Bay Springs Lock and Dam Construction Area
Iuka, *Brinkley House*, Eastport St.

Yalobusha County

Coffeeville, *Coffeeville Hotel*

Yazoo County

Yazoo City, *Hancock Site 22-Yz-509*
Yazoo City, *Line, P., House (Kinkead Site) (22-Yz-592)*
Yazoo City, *Milner Site 22-Yz-515*
Yazoo City, *O'Neil Creek 22-Yz-624*
Yazoo City, *Rugby Site 22-Yz-513*

MISSOURI

Kansas City, *18th and Vine Street Historic District*

Barry County

Archeological Site 23BY540 (63.3)

Benton County

Archeological Site 23BE 1054

Boone County

Archeological Site 23BO950
Columbia vicinity, *Archeological Site 23BO406*
Columbia vicinity, *Archeological Site 23BO990*
Columbia vicinity, *Archeological Site 23BO991*

Carroll County

Carrollton, *One West Washington Avenue*

Cole County

Jefferson City, *Hagen House*

Dunklin County

Archeological Site 23DU227
Archeological Site 23DU232
Archeological Site 23DU234
Archeological Site 23DU241

Franklin County

Archeological Site 23FR263, Meramec State Park (63.3)
Archeological Site 23FR266, Meramec State Park (63.3)

Greene County

Springfield, *Dollison-Walnut Historic District*
Springfield, *Early East Springfield Archeological District* (63.3)
Springfield, *Gibson Chapel Presbyterian Church*, 536 E. Tampa St. (63.3)
Springfield, *Hampton Wedge Historic District*
Springfield, *Pythian Home*, 451 Pythian St.

Springfield, *Shockley-Firestone Building*, 816 St. Louis St.

Hickory County

Archeological Site 23HI466
Archeological Site 23HI496
Archeological Site 23HI501

Jackson County

Archeological Site 23JA243, Blue River Pkwy. (63.3)

Jefferson County

DeSoto, *United States Post Office*, 17 Boyd St.

Lincoln County

Old Monroe Archeological District (also in St. Charles County)
Elsberry, *Archeological Site 23LN97*
Elsberry, *Archeological Site 23LN103*

Marlon County

Hannibal, *Robinson Funeral Home*

Montgomery County

Archeological Site 23MT290

St. Louis County

Wainwright-Real Estate Row Historic District
Normandy, *St. Vincent's Hospital*, 7301 St. Charles Rock Road
St. Louis, *Arcade Building and Wright Buildings*, 804–814 Olive St. and 803–815 Pine St.
St. Louis, *De Baliviere Bus Garage Complex*, 97 DeBaliviere
St. Louis, *North Broadway Bus Garage*, 812 E. Taylor St.
St. Louis, *Railway Exchange Building*, 6th and Olive Sts.
St. Louis, *South Broadway Bus Garage*, 4041 S. Broadway
St. Louis, *Stix, Beer, and Fuller Building*, 6th and Washington Sts.
St. Louis, *Western Union Building*, 900–910 Chestnut

Scott County

Morley vicinity, *Archeological Site 23ST174*

Warren County

Archeological Site 23WN63

MONTANA

Archeological Site 24PH1162
Fort Peck, Upper Missouri River

Beaverhead County

Tash Ranch (D.L. Ranch)

Big Horn County

Lodge Grass vicinity, *Owl Creek Site Broadwater County*
Townsend, *Historic Resources of Dry Creek Area* (also in Meagher County)

Carbon County

Red Lodge, *Red Lodge Commercial Historic District*

Cascade County

Great Falls, *Liberty Theater Building*, 301 Centeral Ave. (63.3)

Dawson County

South Bank Site 24DW140

Gallatin County

Bozeman, *Huffine House, Bozeman West Project F 50–2(4)79*
Bozeman, *Rea School, Bozeman West Project F 50–2(4)79*

Garfield County

Archeological Site 24GF248
Archeological Site 24GF250

Jefferson County

Boulder, *Hubbard Bridge (Boulder River Bridge)*
Butte, *Elk Park Ice Pond (24JF439)*

Lewis and Clark County

Ft. Harrison, *Veteran's Administration Medical Center*
Helena, *Montana National Guard Headquarters*, 1100 Last Change Gulch
Helena, *Montana Powder and Equipment Company*, 12 E. Lawrence St. (63.3)
Helena, *St. Helena School*, 529 N. Warren St.
Lincoln, *Lincoln Gulch Townsite (24LC467)*

Missoula County

Palace Hotel, 123–141 W. Broadway
Huson, *White Tail Archeological Site (23M048)*
Missoula, *East Side Historic District*
Missoula, *Missoula Hotel*, 141–147 W. Main St.

Musselshell County

Klein Mine Site (63.3)

Powder River County

Ashland, *41 Archeological Sites*

Prairie County

Fallon, *Archeological Site 24PE153*

Ravalli County

Victor, *Bitterroot River Bridge*

Rosebud County

Three Strike Site 24RB373
Colstrip vicinity, *Ellison's Rock Site 24RB1020 (1019)*

Treasure County

McKean Spirit Site 24TE37

Wibaux County

Wibaux, *Chappel Block*, 105, 109 Wibaux St.

NEVADA

Carson City County

Stewart Indian School (63.3)

Clark County

Overton Beach Archeological District

Elko County

Archeological Site 26EK2304
Archeological Site 26EK2305

Mineral County

Borealis Archeological District

NEW HAMPSHIRE

Hillsborough County

Manchester, *Bridge Street Corporation Housing*
Manchester, *Commercial Building District*, Bridge and Elm Sts.

Rockingham County

Portsmouth, *Deer Street Archeological District*
Portsmouth, *Deer Tavern Site*
Portsmouth, *Hart-Shortridge Site*

Sullivan County

Claremont, *Hubbard House*
Claremont, *Washington-Winter Street Historic District*
Claremont, *Webster House*
Concord, *French-Thompson House*
Concord, *Industrial District*

NEW JERSEY

Laflin Rand-Dupont Powder Works

Atlantic County

Atlantic City, *Fire Station No. 8*
Atlantic City, *Fire Station No. 9*

Bergen County

Ackerman, Thomas, Sawmill Site
Edgewater, *Building at 309 River Road*
Hennion, Thomas, House Site
Hopper, Levi, House, 335 Campgar Rd.
Stivers, William, House

Burlington County

Archeological Site 28–Bu–121
Archeological Site 28–Bu–123
Archeological Site 28–Bu–124
Bridgeboro Historical District
Fortnum Motors
Sabino Site

Essex County

Caldwell, *Old Caldwell Firehouse*
Newark, *Lefcourt Building*, 744 Broad St.
Newark, *Lincoln Park Historic District Addendum*, 1078½, 1080 and 1080½ Broad St.

Hudson County

Southern Hoboken Historic District
The Olean-Bayonne Standard Oil Pipeline
Jersey City, *Bergen Station Post Office*, 750–766 Grand St.
Jersey City, *Buildings at 273–273½ Tenth Street*
Jersey City, *Greenville Yard Piers*

Hunterdon County

Dart Mill Historic District
Sergeantsville Historic District
Lambertville, *Lilley Mansion*

Middlesex County

Blackwell, J. A., House
Wellnut Hill Archeological Site (28–Mi–90)
Wicoff Farm

Monmouth County

Asbury Park, *Steinbach Building*
Long Branch, *Congregation Brothers of Israel Synagogue*
Long Branch, *Doll House at 87 Second Avenue*
Long Branch, *Summer House at 87 Second Avenue*

Morris County

Archeological Site 28–Mr–195
Archeological Site 28–Mr–197
Archeological Site 28–Mr–198
Bank Barn, 231 Mountain Ave.

Bow, Paul de, House, 150 Mountain Ave.
Cook-Stephens House Site
Former Morris Canal House
Jacobus Historic District
Pre-historic Site 28–Mr–199
Upper Longwood Forge Historic District
Vreeland-Van Duyne House, 50 Jacksonville Rd.
Franklin Lakes, *Pulis, Albert, House,* 322 Pulis Ave.
Kinnelon, *Van Ness House,* 66 Brook Valley Rd.
Montville, *Van Duyne House,* 292 Main Rd.
Morristown, *Turnkey Elderly Housing* (63.3)
Pompton Plains, *Bow, Paul Barney de, House,* 150 Mountain Ave.
Towaco, *Jacobus, Daniel, House,* 88 Old Lane
Towaco, *Vreeland, John H., Outkitchen,* 52 Jacksonville Rd.

Passaic County

Dundee Canal

Somerset County

Lyons, *Veteran's Administration Medical Center* (63.3)

Union County

Caldwell Parsonage (63.3)
Rahway, *Rahway River Park*

Warren County

Scotts Mountain Rural Historic District

NEW MEXICO

Fort Bliss Multiple Resource Area

Bernalillo County

Archeological Site NM:0:3:1:11
Archeological Site NM:1:15:3:6

Chaves County

Archeological Site LA 27573

Dona Ana County

Archeological Site OCA:FA1
Archeological Site OCA:FA:2
Archeological Site OCA:FA5
Archeological Site OCA:FA:6
Archeological Site OCA:FA8
Archeological Site OCA:FA9
Archeological Site OCA:FA:10
Archeological Site OCA:FA:11
Archeological Site OCA:FA:12
Archeological Site OCA:FA:13
Archeological Site OCA:FA:15
Archeological Site OCA:FA:16
Archeological Site OCA:FA:18
Archeological Site OCA:FA:20
Archeological Site OCA:FA:21
Archeological Site OCA:FA:22
Archeological Site OCA:FA:23
Archeological Site OCA:FA:24
Las Cruces, *Archeological Site NMSU 848* (63.3)

McKinley County

Jones Ranch Road Project, Archeological Site V2:97
Jones Ranch Road Project, Archeological Site V2:98
Jones Ranch Road Project, Archeological Site V2:99
Jones Ranch Road Project, Archeological Site V2:101
Jones Ranch Road Project, Archeological Site V2:102
Jones Ranch Road Project, Archeological Site V2:103
Jones Ranch Road Project, Archeological Site V2:104
Jones Ranch Road Project, Archeological Site V2:105
Jones Ranch Road Project, Archeological Site V2:106
Jones Ranch Road Project, Archeological Site V2:107
Jones Ranch Road Sites, Archeological Site V2:108

Otero County

Fairchild Site, Dog Canyon White Sands National Monument
San Juan County
Archeological Site LA 20239

NEW YORK

Portchester, *Putnam-Mellor Engine and Hose Company*

Albany County

Albany, *South End Historic District—Plum Street Extension*

Bronx County

New York, *P.S. 15 Little Red Schoolhouse,* 4010 Dyre Ave.
New York, *P.S. 17 City Island Community Center,* 190 Fordham
South Bronx, *Morris High School Historic District*

Broome County

Binghamton, *Parlor City Historic District* (63.3)

Columbia County

Hudson, *Hudson Historic District* (63.3)

Erie County

Buffalo, *Buffalo Plank Road (UB 1682)*

Kings County

Brooklyn, *Brooklyn Army Terminal*

New York County

New York, *City Center Dance Theater,* W. 55th St.

Onondaga County

Syracuse, *Main Post Office,* 101 N. Clinton St.

Ontario County County

Canandaigua, *Veterans' Administration Medical Center*

Oswego County

Oswego, *Oswego West Side Archeological District*

Queens County

Fort Totten
Brooklyn, *Cypress Hills National Cemetery* (also in Kings County)
Jamaica, *Grace Episcopal Church* (63.3)

Rochester County

Rochester, *Commercial Historic District,* South Ave.

Rockland County

Clarkstown, *Upper Nyack Firehouse,* 330 N. Broadway
Grand View on Hudson, *Grand View Village Hall,* 118 River Rd.
Haverstraw, *Haverstraw King's Daughters Public Library* (63.3)

Saratoga County

Snake Hill Site, *Saratoga Lake* (63.3)

Suffolk County

The Church Site
Brookhaven, *Smith Estate*
Northport, *Veteran's Administration Medical Center,* Middleville Rd.
Southold, *Southold Library,* Main Rd. (63.3)

Thompkins County

Ithaca, *St. James AME Zion Church*

Westchester County

Ossining, *Building at 49–51 State Street*
Tarrytown, *Foster Memorial AME Zion Church* (63.3)
Tarrytown, *Pierson School*

NORTH CAROLINA

Caswell County

Womack's Mill (County Line Creek Watershed) (also in Rockingham County)

Cherokee County

Archeological Site 31 Ce 22

Cumberland County

Shaw-Gillis House
Fayetteville, *Poe, Edgar Allen, House,* 206 Bradford Ave.

Durham County

Durham, *Old North Durham Historic District*

Forsyth County

Cherry-Marshall Historic District
Winston-Salem, *Bahnson-Smith House,* 203 E. Cemetery St.
Winston-Salem, *House at 129 South Poplar,* 129 S. Poplar Street
Winston-Salem, *Leinbach, Edward, House,* 235 S. Church Street
Winston-Salem, *Pfohl, D. J., House,* 113 Cemetery St.
Winston-Salem, *Salem Town Hall and Fire Station,* 301 Liberty St.
Winston-Salem, *Shore-Nissen House,* 1281 4th St.
Winston-Salem, *Union Station (Davis Garage),* 300 Claremont Ave.
Winston-Salem, *Winston-Salem Southbound Freight Terminal,* S. Liberty St.

Gaston County

Mount Holly, *Davenport House,* 1505 N. Main St.
Mount Holly, *Nantz House,* 714 N. Main St.

Graham County

Archeological Site 31 GH 78 (A, B, C)
Archeological Site 31 GH 80
Archeological Site 31 GH 82
Archeological Site 31 GH 86
Archeological Site 31 GH 88
Archeological Site 31 GH 91

Guilford County

Old Greensborough Historic District Boundary Extension, Elm, S. Davie, E. Washington, W. Washington and S. Green Sts.

Hoke County

McNeill House

Madison County

California Creek Missionary Baptist Church

Martin County

Smithwick-Green-Clark House, U.S. 17
Woolard-Perry House

Pitt County

Bethel vicinity, *Brown, Henry Williamston, House*
Bethel vicinity, *Brown, Herbert P., House*
Bethel vicinity, *Moore House*

Northampton County

Jackson, *Bank of Northampton Building*

Washington County

Plymouth, *Plymouth Depot*, 612 Washington St.

NORTH DAKOTA

McKenzie County

Arnegard, *Cinnamon Creek Ridge Archeological District*

Mercer County

Zap, *Archeological Site 32ME218* (63.3)

OHIO

Allen County

Lima, *Holland Block Annex*, 112—116 E. High St.

Athens County

Athens, *West Hills Historic District*
Glouster, *Hisylvania No. 2 2 Mine Entrances and Tipple*

Belmont County

Cravet Site No. 1 (33-BL-17) (63.3)

Cuyahoga County

Strongsville, *Strongsville Activity Center*

Hamilton County

Cincinnati, *Avondale Community Center*
Cincinnati, *Block 23 (Ben's Department Store)* Bounded by Central Ave., 7th, 8th, and former John Sts.
Cincinnati, *Boldface Playground Shelter*
Cincinnati, *Building at 1032 Foracker Avenue*
Cincinnati, *Buildings at 1307—1309 Pendleton Street*
Cincinnati, *Building at 1422 Apjones Street*
Cincinnati, *Building at 2843 Melrose Avenue*
Cincinnati, *Building at 3022 Park*
Cincinnati, *Buildings at 4008, 4010 and 4012 Gulow Street*
Cincinnati, *Building at 4217 Mad Anthony Street*
Cincinnati, *Building at 4224 Williams Place*
Cincinnati, *Building at 4267 Williams Place*
Cincinnati, *Carmel United Presbyterian Church*, 3549 Reading Rd.
Cincinnati, *Court Street Historic District*
Cincinnati, *St. Leo's Church Complex*, Baltimore St. and St. Leo Pl.
Cincinnati, *Streetscape 959—1031 E. McMillan Street*
Cincinnati, *The Nelson Building*, 2501—2507 Kemper Lane

Hocking County

Logan, *Hocking County Courthouse*, E. Main St. (63.3)

Knox County

Lehmon Road Bridge, SR 259 (63.3)

Meigs County

Old Pomeroy High School, OH 33 (63.3)

Montgomery County

Dayton, *Roosevelt High School*

Portage County

Ravenna, *Etna House Hotel*, 219 W. Main St. (63.3)

Ross County

Chillicothe Veteran's Administration Medical Center,

Scioto County

Portsmouth, *Fowler Building*, 700 Second St. (63.3)
Portsmouth, *Fowler Property #1*, 716 Second St. (63,3)
Portsmouth, *Fowler Property #2*, 712 Second St. (63.3)

Summit County

Akron, *Mustill, Frederick, House*, 234 Ferndale St.
Akron, *Mustill Store*, 248 Ferndale St.
Akron, *Ohio Canal Lock No. 15*
Akron, *Ohio Canal Locks No. 10—14* (Staircase of Locks)

OKLAHOMA

Creek County

Sapulpa, *Main Post Office*

Muskogee County

Fort Gibson, *Fort Gibson National Cemetery*

OREGON

Baker County

Court House Ranch Rock Cairn Site 35 WA 109, Wallowa-Whitman National Forest

Benton County

Corvallis, *Arnold Family House*, 806 SW. 5th St.
Corvallis, *Benton Plaza Hotel*

Clackamas County

Estacada, *Hades Creek Site (35CL51)*
Milwaukie, *State Highway Division Office and Police Headquarters Building* (63.3)

Curry County

Gold Beach Ranger Station

Deschutes County

Bend, *Old Main Post Office*, 745 N. Wall St.

Douglas County

Hilltop Site 35 DO 183)
Kirkendall Creek Site (35 DO 186)
Mott Bridge, Umpqua National Forest
Mule Shank II Prehistoric Site, Umpqua National Forest (63.3)
Standley Site (35 DO 182)

Jackson County

Ashland, *Lithia Park Historic District*
Community Kitchen Shelter, McKee Bridge Picnic Ground
Mortared Rock Bar-b-que, McKee Bridge Picnic Ground
Mortared Rock Retaining Wall, McKee Bridge Picnic Ground

Jefferson County

Madras, *Archeological Site 35JE100*

Lane County

Eugene, *East Blair Historic District*
Veneta, *Sailor Barn*, 22968 OR 126 (63.3)
Veneta vicinity, *Country Fair Site 35 LA 440*
Veneta vicinity, *Long Tom Site 35 LA 439*

Marion County

Salem Pioneer Cemetery

Multnomah County

Portland, Portland Fire Station No. 24, 5340 N. Interstate Ave.

Tillamook County

Dolph Toll Road, Siuslaw National Forest also in Yamhill County (63.3)

Union County

Archeological Site 35 UN75, Pilcher Creek Reservoir (63.3)
Archeological Site 35 UN145, Pilcher Creek Reservoir (63.3)
Archeological Site 35 UN147, Pilcher Creek Reservoir (63.3)
Archeological Site 35 UN148, Pilcher Creek Reservoir (63.3)

Wallowa County

Tamarach Gulch Archeological Site, Wallowa-Whitman National Forest

PENNSYLVANIA

Allegheny County

Monroeville, *McGinley House*, McGinley Rd.
Pittsburgh, *Immaculate Heart of Mary Church*
Pittsburgh, *Veteran's Administration Medical Center*

Bedford County

Bedford Historic District

Berks County

Reading, *Park Line Historic District*
Reading, *Penn's Common Historic District*

Center County

Houserville Quarry Site (Houserville Archeological District)

Chester County

Coatsville, *Veteran's Administration Medical Center*

Dauphin County

Harrisburg, *Bergner Building*, 226–230 Market St. (63.3)
Harrisburg, *Blackstone Building*, 112 Market St. (63.3)
Harrisburg, *Colonial Theater (Lochiel, Herr, & Wilson Hotels)*, 229 Market St. (63.3)
Harrisburg, *Dauphin Deposit Bank*, 213 Market St. (63.3)
Harrisburg, *Durbin Building* (63.3)
Harrisburg, *First Church of God*, 15–17 N. 4th St. (63.3)
Harrisburg, *Fox Ridge Historic District*

Harrisburg, *Goldsmith Building*, 8 N. Market Sq. (63.3)
Harrisburg, *Kogan Building*, 120 Market St. (63.3)
Harrisburg, *Kunkle Building (Feller Building)*, 301 Market St. (63.3)
Harrisburg, *Market Square Presbyterian Church*, 20 S. 2nd St.
Harrisburg, *Menaker, Mortimer H., Building*, 17–19 S. Second Street
Harrisburg, *Old City Hall*, 423 Walnut St. (63.3)
Harrisburg, *Pomeroy's Annex*, 328 Market St. (63.3)
Harrisburg, *Senate Hotel*, 122 Market St. (63.3)
Harrisburg, *Telegram Building*, 227 Walnut St. (63.3)
Harrisburg, *Warner Hotel*, 17–21 N. 2nd St. (63.3)
Harrisburg, *Zion Lutheran Church*, 9–17 S. 4th St. (63.3)

Delaware County

Media, *Delaware County Institute of Science*, 11 Veterans Sq.

Lebanon County

Lebanon *Veteran's Administration Medical Center*

Philadelphia County

Philadelphia, *Benjamin Franklin Hotel*, 822–840 Chestnut St.
Philadelphia, *Building at 1227 Locust Street*
Philadelphia, *Building at 1229 Locust Street*
Philadelphia, *Buildings at Philadelphia Naval Shipyard*
Philadelphia, *Philadelphia National Cemetery*
Philadelphia, *Uptown Theater*, 2240–2248 N. Broad St.

Tioga County

Nelson, *Beechers Island United Presbyterian Church*

Washington County

Charleroi Historic District
The LeMoyne Crematory (63.3)

York County

York Haven Road Bridge

PUERTO RICO

Humacao, *Los Corrales 1 (12VPr2–46)* Vieques
Humacao, *Veridales 1 (12VPr2–33)* Vieques
Ponce, *El Bronce (PO–13–1)*
Ponce, *Hacienda Tribes Mechanical Water-Wheel*

RHODE ISLAND

Kent County

East Greenwich, *Booth Property Site*

Newport County

Jamestown, *Former Harbor Entrance Control Post*, Beavertail Point
Jamestown, *Jamestown Bridge Site (RI 711)* Seaside Dr.

Providence County

North Smithfield, *Mowry, William, House*, Farnum Pike
North Smithfield, *Todd Farm*, 670 Farnum Pike

Washington County

Narragansett, *Kinney-Anthony Farm*
North Kingstown, *RI 667*
North Kingstown, *RI 669 Bestwick Site*
North Kingstown, *RI 670 Scrabbletown Brook Site*
North Kingstown, *Scrabbletown Historical* and *Archeological District*

SOTH CAROLINA

Berkeley County

Archeological Site 38BK202 (also in Charleston County)

Chesterfield County

Archeological Site 38CT30 (63.3)
Archeological Site 38CT38 (63.3)
Archeological Site 38CT40 (63.3)
Archeological Site 38CT44 (63.3)
Archeological Site 38CT57 (63.3)
Archeological Site 38CT58 (63.3)

Dorchester County

Archeological Site 38DR23

Oconee County

Russell House, Sumter National Forest

Richland County

Columbia, *Veteran's Administration Medical Center*

SOUTH DAKOTA

Brown County

Aberdeen, *Chicago Northwestern Passenger Depot* (63.3)

Hughes County

Archeological Site 39HU173

Minnehaha County

Shriver-Johnson Building
Sioux Falls, *Veteran's Administration Medical Center*

Tripp County

Winner, *Main Post Office*, 402 Monroe St.

TENNESSEE

Anderson County

Clinton, *Clinton Railroad Depot*, Market St.
Norris, *Massengill Bridge*

Bedford County

Rural Vernacular Buildings, Along the Duck River (also in Maury and Marshall Counties)

Bradley County

Cleveland, *Main Post Office*, 155 Broad St.

Cannon County

Woodbury, *Brevard House*

Fentress County

Leatherwood, *Archeological Site H002*

Hamilton County

Chattanooga, *Union Station Rail Yard Archeological Site* (63.3)

Jefferson County

Chestnut Hill vicinity, *Hill-Hance House*, U.S. 411

Knox County

Knoxville, *1875 Building*, 607—09 Gay Street
Knoxville, *Fouche Block*, 601—05 Gay St.
Knoxville, *Millers Warehouse*, 913 Clinch Ave.

Maury County

Bryant-Pennington House (Michael Lancaster Cabin) Bryant Lane
Branch's Mill Archeological Site, Howard Bridge
Columbia Reservoir Multiple Resource District Cannon Bend Archeological District
Columbia Reservoir Multiple Resource District Cheek Bend Archeological District
Davis Ford Road Archeological District, Vaughn Bend
Duck River Valley Railroad Archeological District, Blue Springs Rd.
Fountain Mill Archeological Site, SR 50
Greater Sowell House, Sowell Bend
Harris-Harmon House, Harris Lane
Harris Plantation Archeological Site, Harris Lane
Hight House, SR 50 and Deep Ford Rd.
Holland Cabin Site, Holland Bend
Shelton House and Office, SR 50
Wilhoite Mill Archeological Site, SR 31A

Marshall County

Caney Spring Historic District
Hardison Mill Archeological District, U.S. 41 (also in Maury County)
Joyce's Mill Archeological Site, Duck River off River Rd.
Lillard's Mill Archeological District, McClean Bend
Lillard's Mill Historic District

Morgan County

Rugby Colony Historic District Boundary Amendment

Robertson County

Springfield, *Izor, Richard Hamilton, House*, Lawrence Rd.
Springfield, *Stark, John B., House*, Lawrence Rd.

Scott County

Archeological Site 40St6, Big South Fork National River and Recreation Area
Archeological Site BS15, No Business Creek
Archeological Site BS26, Parch Corn Creek
Archeological Site BS40, Station Camp Creek
Archeological Site BS40e (Corn Crib), Station Camp Creek
Archeological Site BS401 (Blacksmith Shop), Station Camp Creek
Archeological Site BS41 (Main Lodge, Parch Corn Creek Hunting Reserve), Station Camp Creek
Archeological Site BS50
Archeological Site BS50A
Archeological Site BS51 (Old John Litton Place)
Archeological Site H007, Bandy Creek
Archeological Site H007A (Corn Crib) Bandy Creek
Archeological Site H008 (George Blevins Cabin)
Archeological Site H018 (Al Blevins House Site
Leatherwood, *H003 Barn*

Shelby County

Memphis, *Memphis Street Railway Company Office and Street Car Complex*

Trousdale County

Hartsville vicinity, *Duncan Archeological Site 40 TR 27*

Washington County

Johnson City, *Hammer-Taylor House*, U.S. 19W

Williamson County

Brentwood, *WSM Radio Transmission Complex*, Rt. 7 Concord Rd.

TEXAS

Fort Bliss Multiple Resource Area

Bell County

Sarah's Site 41BL240 (63.3)

Culberson County

Van Horn, *Three-Mile-Sulfur Archeological District*

Dallas County

Dallas, *Main Post Office*, 400 N. Ervay
Dallas, *Veteran's Administration Medical Center*

Dewitt County

Guadalupe River Bridge

El Paso County

Archeological Site 41EP289
Archeological Site 41EP321

Harris County

Houston National Cemetery

Montgomery County

Archeological Site 41MO73 (63.3)

Potter County

Amarillo, *Amarillo Medical Complex, Veteran's Administration Medical Center*

Taylor County

Elm Creek Watershed, (also in Runnels County)

TRUST TERRITORY OF THE PACIFIC ISLANDS

Balabat Village Pebaey and Malal Site
Wiya Bird Cave

UTAH

San Juan County

Archeological Site UT V–13–16
Archeological Site UT V–13–17
Archeological Site UT V–13–18
Archeological Site UT V–13–19
Archeological Site UT V–13–20
Archeological Site UT V–13–21
Archeological Site UT V–13–22
Archeological Site UT V–13–24
Archeological Site UT V–13–27
Archeological Site UT V–13–28
Blanding, *Grand Gulch Archeological District*
Blanding vicinity, *Recapture Dam Archeological District*, 3 mi. N of Blanding

Utah County

Payson, *Nebo Stake Tabernacle*, 182 N. Main St.
Provo, *Building at 209 North 400 West Street*
Provo, *Building at 466 West Center*
Provo, *Roberts, William D., House*, 212 N. 500 West St.
Provo, *St. Francis of Assisi Church*, 172 N. 5th West St.
Provo, *Taylor Brothers Warehouse*, 60 N. 300 West St.
Provo, *Taylor, George, Jr., House*, 167 N. 400 West St.

Wasatch County

Strawberry Valley Archeological District

Washington County

Zion Lodge Historic District

VERMONT

Caledonia County

Hardwick, *Bridgman-Monticello House*

Rockingham County

Bellows Falls, *Rockingham Hotel*

Washington County

Waterbury vicinity, *Bolton Falls Dam*, Winooski River

Windsor County

White River Junction, *Veteran's Administration Medical Center*

VIRGINIA

Bristol County

U.S. Post Office

Danville County

Danville, *Danville National Cemetery*

Hampton (independent city)

Hampton National Cemetery
Veteran's Administration Medical Center

Henrico County

Richmond, *Richmond National Cemetery*
Sandston, *Seven Pines National Cemetery*

Norfolk County

Norfolk, *U.S. Post Office*, 600 Granby St.

Roanoke County

Salem, *Veteran's Administration Medical Center*

Rockingham County

Cromer House (63.3)

Staunton County

Staunton National Cemetery

Winchester County

Winchester National Cemetery

WASHINGTON

Benton County

Day, John, Lock and Dam Project Area Port of Benton
Prosser Steel Bridge (63.3)

Chelan County

West Monitor Bridge (63.3)

Clark County

Vancouver, *Fort Vancouver-Kanaka Village*

Ferry County

Archeological Site 45–SP–FE–1 (63.3)
Archeological Site 45–SP–FE–2 (63.3)
Archeological Site 45–SP–FE–13 (63.3)
Archeological Site 45–SP–FE–18 (63.3)
Archeological Site 45–SP–FE–25 (63.3)
Archeological Site 45–SP–FE–33 (63.3)

Kittitas County

Yakima, *Wa Pai Xie Archeological District*

Pierce County

McNeil Island Archeological District

Skamania County

North Booneville, *Archeological Site SA–11*

Spokane County

Washington Street Bridge (63.3)

Stevens County

Orient Bridge (63.3)

Whitman County

F Street Bridge (63.3)

WEST VIRGINIA

Jefferson County

Charles Town, *Belvedere (Belvedere Farms)*
Charles Town, *Beverly*
Charles Town, *Jones House*
Charles Town, *Little Elmington (Hillside)*
Charles Town, *Old Cave Farm (Beyeler House)*
Charles Town, *Springland* (63.3)
Charles Town, *Vinton (Vinton Farms)*

Lewis County

Bruffey Farm, Skin Creek
Butcher-Bush Farm, Little Skin Creek
Crawford, *Crawford Historic District*, SR 48
Crawford, *Davisson-Blair Mansion*, Crane Camp Run
Roanoke, *Bond Barn*, U.S. 19
Roanoke, *Bush, Michael, House Site*, SR 23/3
Roanoke, *Conrad, Mary, Park*, WV 19 and WV 23
Roanoke, *Rhodes Farm*, West Fork River
Roanoke, *Roanoke Historic District*, SR 19 and SR 23
Roanoke, *Rohrbough House*, Crooked Run
Roanoke, *Smith House*, SR 23/3
Roanoke, *Whitesel-Kerns Farm*, Dunkin Run
Vandalia, *Peterson Farm*, Skin Creek
Vandalia, *Ramsey-West Farm*, Pen Run
Walkersville, *Davisson Summer House*, Blackwater Run and West Fork River
Walkersville, *Walkersville Historic District*, SR 44 and SR 19
Weston, *Cutright Farmsteads*, West Fork River
Weston, *Stalnaker Farm*, Glady Fork of Skin Creek

Lincoln County

Waldport, *Alsea Bay Bridge*

Mingo County

Williamson vicinity, *Cotiga Mound*, 6 mi. NW of Williamson

Monongalia County

Belldina's Bottom Archeological Site
Fort Martin School
Gingrich House
Van Voorhis Farm Archeological Site
Morgantown vicinity, *Fort Martin Archeological Site*
Upshur County

Post Mill Bridge No. 1
Post Mill Bridge No. 2

Wood County

Parkersburg, *Tavenner House*, 2401 Camden Ave.

WISCONSIN

Chippewa County

Chippewa Falls, *Main Post Office*, 315 N. Bridge St.

Forest County

Butternut Lake Site (47–Fr–122) Nicolet National Forest
Flanner-Steger Camp No. 5, Nicolet National Forest

Grant County

Patch Grove, *Paul, Alexander, Store*

La Crosse County

La Crosse, *26 Properties*

Monroe County

Tomah, *Veteran's Administration Medical Center*

Sawyer County

Chippewa River Bridge

Trempealeau County

Independence, *City Hall*

Waupaca County

Waupaca House (Readfield Country Store)

Winnebago County

Oshkosh, *North Main Street Historic District*, 15, 21, 23, 25, and 27 N. Main St.
Oshkosh, *Sawyer, Edgar P., House*, 1331 Algoma Blvd. (63.3)

WYOMING

Converse County

Antelope Creek Archeological District
Red Butte Stone Circle Site 48C026
Lost Springs Vicinity, *Culvert at Chicago and North Western Transportation Company Milepost 514.23*
Lost Springs Vicinity, *Culvert at Chicago and North Western Transportation Company Milepost 516.45*

Lincoln County

Archeological Site 48LN717

Niobrara County

Old Woman Creek Hills Archeological Site (48NO119) (63.3)
Spanish Diggings (also in Platte County)
Lusk, *Chicago and Northwestern Railroad Water Tower*

Sweetwater County

Archeological Site 48SW1455

Bairoil, *Bairoil "Tipi Ring" Site (48SW2369)* (63.3)
Point of Rocks Stage Station vicinity, *Overland Trail*

Teton County

Fishing Bridge Historic District, Yellowstone National Park (63.3)

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The following is a list of corrections to the list of properties determined eligible in the Federal Register, Part II, February 3, 1981. Additional corrections may appear in subsequent updates.

COLORADO

Arapahoe County

Littleton, *Littleton Atchison, Topeka and Santa Fe Depot* (63.3) (previously listed as Littleton, Atchison, Topeka and Santa Fe Depot)

Denver County

Denver, *West High School* (63.3) (previously listed as Wesh High School)

Garfield County

Denver and Rio Grande Railroad (63.3) (previously listed as Denver and Grande Railroad)

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federal register

Tuesday
February 2, 1982

Part IV

Department of Health and Human Services

Food and Drug Administration

Chemical Compounds in Food-Producing Animals; Availability of Criteria for Guideline

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N-0026]

Chemical Compounds in Food-Producing Animals; Availability of New Threshold Assessment Criteria for Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of new threshold assessment criteria for the guideline proposed in the agency's "Chemical Compounds in Food-Producing Animals, Criteria and Procedures for Evaluating Assays for Carcinogenic Residues." The threshold assessment criteria have been revised after an evaluation of the comments on the March 20, 1979, sensitivity of the method (SOM) proposal.

DATES: Comments by April 5, 1983; the guideline is effective February 2, 1982.

ADDRESS: Written comments and requests for single copies of the guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph A. Settepani, Bureau of Veterinary Medicine (HFV-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4500.

SUPPLEMENTARY INFORMATION:

General Information

The Federal Food, Drug, and Cosmetic Act (the act), to ensure consumer protection, requires that sponsors of compounds to be given to food-producing animals provide adequate data from rigorous scientific testing so that FDA can determine the product's safety prior to approving its use. In FDA's evaluation of the compounds' safety, the agency must by law be able to determine whether a compound is or may be carcinogen and whether its use may leave carcinogenic residues in edible animal tissue. If a compound has that potential, it is subject, as part of the general food safety evaluation required of all compounds, to special data colletion requirements regarding carcinogenicity. The data collection provisions for carcinogenicity are designed to determine whether a compound is a carcinogen and, if so, under what conditions the compound may be safely used.

In the **Federal Register** of March 20, 1979 (44 FR 17070), FDA proposed regulations that would establish criteria by which data regarding carcinogenicity would be collected. Accompanying the proposed regulations was a threshold assessment guideline that suggested a means for determining whether a particular compound raised sufficient concern of potential carcinogenicity that the compound should be subject to carcinogenicity testing. The proposed regulations are still under consideration by FDA and have not been made final. In the meantime, FDA has been using the proposed procedures as a guideline in considering the approvability of particular compounds on a case-by-case basis.

Although FDA is continuing to evaluate the proposed procedures in their entirety, it has become apparent that the threshold assessment guideline currently being applied on a case-by-case basis should be immediately revised. FDA believes that the initially proposed threshold assessment guideline required some compounds to be subject unnecessarily to lengthy data collection requirements for carcinogenicity. For this reason, the agency has prepared a more discriminating decisionmaking guideline.

This revised guideline, discussed below, eliminates a number of problems that characterized the earlier guideline. Whereas significantly fewer compounds are expected to be subject to the expensive carcinogenicity data collection requirements, the agency has not compromised public health concerns in the revised approach. FDA believes that the previously proposed guideline unduly placed emphasis on residue levels in the edible tissue of food-producing animals and on the extent of use of the sponsored compound, factors which are not indicators per se of carcinogenic potential. In addition, the proposed threshold assessment used an arbitrary scoring system which assigned fixed numerical values to the biological activity and use of the sponsored compound. This improperly implied a precision that is simply unattainable in this area. Accordingly, the agency has revised the guideline to contain a decision-free approach in deciding whether a sponsored compound should be evaluated as a carcinogen. This system emphasizes structure-activity relationships, the biological activity of the compound, and the possible mutagenicity activity of the compound, factors which are better indicators of carcinogenic potential than extent of use and residue levels in tissue.

In addition, the amount of data for a threshold assessment for many compounds will be less than that previously required, again a cost-effective measure. Therefore, increased costs to the animal drug industry have been restrained while still affording adequate protection of the public health.

Since the agency needs to conduct a threshold assessment to ascertain the need for carcinogenicity testing, FDA believes that it should announce the availability of the guidelines for public comment. The agency further believes that industry access to and familiarity with these guidelines allows industry to predict, accurately and regularly, the agency's responses, requirements, and positions. Similarly, familiarity with the rationale and bases for the guidelines will enable sponsors to attempt to formulate equally acceptable alternative means for determining whether a particular compound should be tested for carcinogenicity.

Background

The proposed regulations referred to above would establish minimum criteria and a multi-step procedure for establishing conditions of use for carcinogenic animal drugs to prevent the occurrence of cancer-causing residues in edible products of food-producing animals to which drugs, food additives, or color additives have been administered. The first step in the procedure is not governed by reference to a proposed regulation but rather by the application of the threshold assessment guideline.

When a sponsor starts the process of obtaining approval for use of a compound, it provides the agency information on matters such as safety, proposed patterns of use, and intended therapeutic or other effects of the compound. A sponsor will often provide preliminary physiological, metabolic, or toxicological data derived from its own studies and from the scientific literature. At this point, the agency must determine, based on the available data, whether a sponsored compound will be subject to evaluation as a carcinogen. The threshold assessment is the means by which the agency makes this determination. The threshold assessment as discussed in the proposed regulations constitutes a guideline and intentionally was not codified in order to facilitate changes whenever scientific advances or circumstances dictate a more appropriate manner of making this determination.

The March 20, 1979, threshold assessment was based on the concept that the probability that the use of a

sponsored compound will yield edible tissue presenting a risk of cancer to man from residues could be evaluated by the product of the following three factors:

1. Extent of *use;*
2. Level of *residue* of toxicological concern; and
3. Potential *toxicological significance* of the residue.

The threshold assessment instituted a scoring system using the above three factors that would enable the agency to discriminate between those compounds that would be regulated solely according to the general food safety requirements of the act and those compounds that would in addition be subject to evaluation as a carcinogen.

This system did not adequately discriminate between the compounds likely and not likely to present a risk of cancer. Accordingly, the agency is making available a new threshold assessment guideline and is requesting comments.

A. General Principles of the New Threshold Assessment

The new threshold assessment is based on the same three factors utilized in the March 20, 1979, **Federal Register** proposal: Potential carcinogenic (toxicological) significance, extent of use, and the level of residue of carcinogenic concern. The numerical scoring system, however, has been replaced by a "decision-tree approach" based on the toxicity and use factors. A residue score is used only if the toxicity and use factors do not provide a basis for determining whether the proposed sensitivity of the method (SOM) regulations apply. If new information changes the status of any factor, a decision may be changed by the subsequent application of the threshold assessment.

In the new system a compound is assigned to one of two (Low (L) or High (H)), instead of one of three, use categories. Compounds previously classified as Medium use, and subjected to a 10 parts per billion "cap" on allowable residues, have been assigned to the Low use category under the new procedure. The numerical scoring system has been eliminated. The toxicity factor has been changed. A compound is assigned to one of four (A through D), instead of one of three, toxicity categories. Compounds with the lowest carcinogenic potential will be placed in category A; those with the highest carcinogenic potential will be placed in category D. The assignment is based on structure, data from short-term genetic toxicity tests, subchronic or chronic feeding studies, and any other available relevant information to assess carcinogenic potential. This information will allow an initial assessment of the probability that the compound will act as a chemical carcinogen. If a compound is dismissed from testing for carcinogenicity on this basis, but the subsequent testing required under the general food safety requirements indicates a carcinogenic potential (such as effects in the required reproduction study suggesting that the compound may be a hormonal carcinogen), the compound may be reassigned to a toxicity category that may require testing for carcinogenicity.

Under the former threshold assessment, a sponsor under some circumstances could receive a more favorable score by not submitting any data at all. Under that scheme the submission or presence of either structure-activity relationship data, short-term genetic toxicity data, or other biological, physiological, and pharmacological data that raised a suspicion that residues of the sponsored compound were carcinogenic, resulted in the assignment of a maximum score. The absence of data resulted in the assignment of a less severe score. The current threshold assessment resolves this anomaly and provides that the absence of any biological information regarding the potential carcinogenicity of a compound results in the assignment of the compound to category D or C based solely on structure-activity relationships. The new threshold assessment resolves yet another anomaly under the former scheme by providing the sponsor the opportunity to receive a more favorable toxicity category assignment. For example, if the sponsor of a compound that has been initially assigned to category D on the basis of the structure of the compound subsequently submits a battery of short-term genetic toxicity tests and subchronic feeding studies that do not raise suspicion of carcinogenic potential, the category D assignment will be revised to category B. If adequate chronic feeding studies have been conducted in two rodent species and demonstrate that the compound is not carcinogenic, the category D assignment will be revised to category A.

The residue factor retains numerical scoring (parts per billion level of the total residue at the time treated animals are normally expected to be marketed) but tissue correction factors are used to adjust the numerical values. A score based on the residue factor may be reduced if the sponsor can identify a portion of the residue and establish that the portion is not of carcinogenic concern.

B. Comments Received

1. General

Many comments were received on the threshold assessment as proposed on March 20, 1979. Numerous comments addressed the nature of and need for a threshold assessment. Comments maintained that the threshold assessment should be a managerial tool to determine the testing path that a product must follow to secure approval. Comments argued that the threshold assessment should identify three categories of compounds:

a. Those compounds that need testing for carcinogenicity;

b. Those compounds that do not need testing for carcinogenicity;

c. Those that might need testing for carcinogenicity;

The agency recognizes the merit of these comments and has modified the threshold assesment. The new threshold assessment identifies those compounds for which testing for carcinogenicity is required and assigns them to category C or D. Those compounds for which testing for carcinogenicity is not required or has been completed with no finding of carcinogenicity are assigned to category A. Finally, those compounds for which testing for carcinogenicity may be required are assigned to category B. (See discussion in Section A.)

One comment objected to using the threshold assessment as a means of exempting a drug from the requirement of chronic testing for carcinogenicity. The comment argued that the SOM should require, as a principle, chronic toxicity testing for drugs used in food-producing animals. The comment added, "If FDA is to exempt a sponsor of a drug for food-producing animals, from chronic toxicity testing, it should do so by a waiver that requires more than structure-activity relationships and the results of short-term genetic tests." However, no elaboration of the additional data requirements alluded to in the comment was provided.

The agency does not agree that chronic testing for carcinogenicity should be required for all compounds. The agency recognizes that all compounds are not equally likely to be carcinogenic. A purpose of the threshold assessment is to identify compounds that do not appear to have carcinogenic potential. More than structure-activity relationships and short-term genetic toxicity tests is considered in the decision not to require chronic testing. For example, the agency considers the proposed use of the compound, feeding studies in experimental animals

conducted under the general food safety requirements, and the residue level remaining in the edible tissue.

Comments stated that if previously conducted long-term feeding studies indicate a lack of carcinogenic potential, the compound should be exempt from the SOM regulations.

The agency agrees and has revised the threshold assessment to clarify this aspect. If adequate chronic bioassays for carcinogenicity have been conducted in two test species and demonstrate that the sponsored compound and its residues are not carcinogenic, the compound will be assigned to toxicity category A and will be evaluated under the general food safety provisions of the act. The chronic bioassays should include metabolic information from test and target species that demonstrates that the patterns of metabolism are sufficiently similiar to suggest adequate autoexposure in the test animals (i.e., that the test animals will be exposed to a spectrum of metabolites similar to that produced by the target species). There may also be cases where chronic toxicity testing of a compound has been performed, but the data do not meet current agency standards for demonstrating that the compound is not carcinogenic. These data, depending on their quality and relevance of the study to assess carcinogenicity, may be of equal or greater value than the evidence in the other areas considered in the threshold assessment. In such a case, the compound will be assigned to an appropriate category after consideration of all the evidence.

One comment stated that the threshold assessment was not necessary because the present investigational use regulations (21 CFR 511.1) are being used to determine whether the SOM regulations apply.

The agency does not agree. The present investigational use regulations do not detail what information is needed and how the information will be used to determine whether the compound should be evaluated as a carcinogen. The purpose of the threshold assessment guideline is to make available to sponsors the criteria for determining whether the SOM testing procedures will be required.

One comment argued that the March 20, 1979, threshold assessment was being applied, without revision, to investigational use drugs and that this application was inappropriate. Comments also contended that unless the threshold assessment is revised the agency should authorize provisional marketing for compounds while the SOM testing requirements are being completed.

As discussed above, the agency has revised the threshold assessment and believes that the revisions correct deficiencies. The former threshold assessment is not now used. The new guideline supersedes that of March 20, 1979, and will be effective February 2, 1982. The Federal Food, Drug, and Cosmetic Act does not authorize the agency to allow provisional marketing of unapproved products.

Another comment stated that residues in tissues below the 0.2 part per billion level should not be subject to the SOM procedure even if the compound is a suspect carcinogen.

The agency disagrees with this assertion, because it ignores the variation in the potency of carcinogens.

Comments recommended that the threshold assessment use a "decision-tree approach."

The agency agrees, and a "decision-tree approach" as noted above has been adopted in the new threshold assessment.

A comment argued that the threshold assessment as originally proposed was too arbitrary and that a precise numerical score could not be derived from the three imprecise factors used.

The agency agrees, in part. Numerical scores for the use and toxicological significance factors are no longer employed. The total residue factor is a quantitative measurement of the residue in the tissue and, accordingly, the numerical score for the total residue factor has been retained, although its application has been limited.

2. The Use Factor

Several comments were received regarding the use factor. One comment requested that the use factor be corrected to take into account the probability that edible tissue of a treated animal will be consumed. The comment argued that the correction would entail multiplying the use factor by a species consumption factor, which in turn would be based on the relative weight of food derived from each animal species consumed in the average human diet (e.g., 1.0 for beef, 0.7 for swine, 0.5 for poultry).

The threshold assessment no longer assigns a number to the use factor and the suggested procedure cannot be adopted. The agency does agree that some allowance should be made for the less frequent human consumption of organ tissue from various species. These corrections will be applied to the residue factor.

Comments requested that the use factor be corrected to take into account the time of treatment in the animal's life span. Various numerical factors were suggested.

The agency does not agree that correction of the use factor in the manner suggested in the comments is appropriate because this factor is intended as a measure of the potential frequency of human exposure. The residue factor already provides the appropriate correction. The residue depletion study provides data to assure that the residue had depleted to a safe level regardless of when in the animal's life span the compound is administered. In the absence of data the agency cannot be assured that the residues have depleted when the animal is marketed as food even if the drug is given early in the animal's life.

A further comment requested that the use factor be corrected to take into account the relative frequency of the disease for which the drug is indicated.

The agency disagrees. Making a correction for the frequency of disease is impractical due to variations in disease patterns.

3. Residue of Toxicological Concern

One comment suggested that the residue of toxicological concern be corrected to take into account the frequency with which a tissue will be consumed. This would be accomplished by multiplying the residue present by a tissue correction factor.

The agency agrees, and the new threshold assessment incorporates the suggested procedure.

Another comment requested that the level of residue of toxicological concern be corrected to take into account the bioavailability of residues. The comment maintained that only that portion of the residue that can be absorbed is of toxicological concern.

The agency does not fully agree with this comment. Residues that are not bioavailable cannot be assumed to be safe because the cells of the human gastrointestinal tract will be exposed to these residues, and effects on these cells cannot be ignored. Additionally, the agency is not able to conclude that a low bioavailability of a residue presents a trivial carcinogenic risk without information on the structure and carcinogenic potential of the residue. Bioavailability studies, as currently conceived, by themselves do not address these issues. However, as noted earlier, if the sponsor can produce data demonstrating that the carcinogenic concern for any part(s) of the residue is unwarranted, that portion may be discounted from the total residue.

One comment recommended that the wording "at the preslaughter withdrawal

time proposed in the labeling" be used instead of "at the earliest time the animals are expected to be marketable as food." The comment also stated that the slaughter times used in normal husbandry practice should be used, not chance happenings such as the occasional marketing of a suckling pig.

The agency intended that "the earliest time the animals are expected to be marketable as food" will be based on the slaughter time used in normal husbandry practices and reasonably certain to be followed in practice. If the sponsor provides a withdrawal period in the proposed labeling that is consistent with these principles, the residue level at that withdrawal period will be used in the threshold assessment. The wording in the guideline has been modified accordingly.

A comment stated that a high level of residues alone could force a compound into the SOM data collection process.

The agency agrees that this was possible under the old threshold assessment. The revised threshold assessment emphasizes toxicity and use and limits the applicability of the residue level.

Comments also stated that it was improper to assign the maximum score for potential toxicological significance when there were adverse data in only one of three areas considered in the factor. Comments also maintained that this practice in the presence of contrary information from other sources was overly conservative.

The agency has revised this aspect of the threshold assessment. In the present version each toxicological consideration (structure-activity relationship, genetic toxicity and other toxicity studies) may modify the carcinogenic significance factor. Data from each source may either increase or lessen the carcinogenic significance factor. Obviously, data collected from the genetic toxicity tests or subchronic toxicity studies that raise a concern regarding the carcinogenic potential of a sponsored compound will not be dismissed in the absence of data collected from adequate chronic feeding studies demonstrating the lack of such a potential.

A comment pointed out that structure-activity relationships have limited value in identifying carcinogens. The comment maintained that the list referred to in the proposal was not supported by any documentation and should be reviewed by an independent panel of experts. A related comment stated that direct scientific information obtained on a compound should outweigh considerations posed by hypothesis or conjecture in determining potential toxicological significance. For example, it was argued that results from subchronic feeding studies should be given more significance than structure-activity relationships.

The agency is aware that structure-activity relationships do not definitively identify carcinogens. Structure-activity relationships, however, may raise concern that a compound has carcinogenic potential. The list of structures was intentionally general to ensure that compounds with some carcinogenic potential would not be missed. Because of the uncertainties in selecting potential carcinogens on the basis of molecular structure, the guide will be used as a screening tool by an internal committee of agency scientists. This group will consider all of the relevant structural and biological information available on a specific compound before a final decision is made to assign the compound initially to toxicity category C or D based on its structure.

The structure guide made available with the new threshold assessment guideline has been revised to eliminate structures for which correlation between structure and carcinogenic potential is not supported. The agency has provided documentation in support of the structures on the revised list and requests comments. In the future, the agency plans to sponsor a workshop to refine the structure guide and would invite scientists from government, private industry, and the academic community.

Comments said that if mutagenicity tests are negative, other positive findings should be ignored in the threshold assessment.

The agency does not agree. The agency must consider any evidence that raises suspicion that a compound has carcinogenic potential. Because the correlation between mutagenicity tests and cancer bioassays is not always reliable, the agency cannot ignore adverse data from the feeding studies or structure-activity relationships.

One comment argued that the relative potency of the compound in mutagenicity tests should be considered in reducing the concern for potential carcinogenicity.

The agency here again does not agree. Correlations between mutagenic potency and carcinogenic potency have not been demonstrated to an extent sufficient to provide an adequate basis for regulatory decisions.

One comment requested clarification on what additional information would be considered in the assessment of potential toxicological significance.

The new threshold assessment mentions specific types of information that the agency will consider as raising concern that a compound has carcinogenic potential. Consideration of information, however will not be limited to the examples provided in the new threshold assessment. The agency must use any scientific information available that will help resolve or clarify whether a substance has carcinogenic potential.

One comment expressed the opinion that the occurrence of hyperplasia in subchronic feeding studies is not a good indicator of carcinogenicity. The comment maintained that hyperplasia can be a common reparative response related to various spontaneous and toxic drug related effects.

The agency does not equate the occurrence of hyperplasia in subchronic feeding studies with proof positive of carcinogenicity. However, hyperplasia does raise concern that a compound has carcinogenic potential because hyperplasia in some instances has been shown to be associated with cancer (Refs. 1,2,3). A finding of abnormal cell proliferation requires the submission of data from tests more definitive than subchronic tests in order to remove carcinogenic concern.

Comments suggested that specific classes of compounds (for example, prescription drugs, drugs administered to animals during a period when they are not food animals, antibiotics produced by fermentation processes, drugs used in minor species of food-producing animals, and drugs that are poorly absorbed after oral or topical administration) should be exempted from the threshold assessment and the SOM regulations.

The agency does not fully agree that the products cited as examples in the comment warrant exemption from the threshold assessment and the SOM regulations. FDA does not currently believe that it is appropriate for these purposes to differentiate among classes of products administered to food-producing animals in the manner suggested by the comments. When a product presents a low potential for human risk of cancer based on either the proposed conditions of use, the potential or demonstrated toxicity, or the residue level remaining in the edible tissue at the prescribed withdrawal time, however, the threshold assessment reduces the likelihood that the SOM data collection process will be required. Antibiotic biomass products, however, are unique because of their complex composition. These products do not lend themselves to evaluation under the present threshold assessment. These products are being evaluated for safety

under an alternative procedure to be published by the agency.

A comment supported the position that the binding of residues to cellular nucleophiles and the alteration of nucleic acids may raise a suspicion of a direct acting carcinogen. Another comment, however, disagreed because, if true, sulfate and glucuronide conjugates and other metabolites that are normally considered detoxification products would have to be deemed suspect carcinogens.

With regard to cellular nucleophiles, the agency means those macromolecules (such as some proteins or nucleic acid) that are capable of covalently binding to a sponsored compound or a metabolite. The agency will not out of hand dismiss sulfate and glucuronide conjugates or other metabolic products from carcinogenic concern unless data demonstrate that it is appropriate to do so. If the sponsor can produce data demonstrating that the carcinogenic concern for a metabolite is unwarranted, that portion of the total residue may be discounted from the total residue in the threshold assessment.

A comment disagreed with the statement that any compound that has the ability to disturb normal hormonal balance will be of carcinogenic concern. The comment proposed that evidence of alteration of tumor incidence simply through an alteration of the hormonal balance in the test animals, when such a demonstration can be well documented, should remove concern that the compound is a direct acting carcinogen. While the comment agreed that any compound that increases tumors in the human population is of concern regardless of the mechanism of tumor induction, the comment stated that a different approach should be taken in setting a tolerance for those substances that act indirectly and proposed that the procedure outlined in the SOM proposal should be restricted to direct acting carcinogens.

The agency does not mean to include automatically within the scope of the SOM procedure all hormones and compounds that alter normal hormonal balance. The threshold assessment has been revised to clarify this aspect. The agency will be concerned about persistent increases in potentially carcinogenic hormones in the edible tissues of the target animal when the sponsored compound is used according to the proposed conditions of use. The agency will be concerned about the increase in the potentially carcinogenic hormone, whether the increase occurs through direct use of the hormone or indirectly through use of another compound that causes alterations in cellular regulatory mechanisms. In these situations, it is the final result—the increase in a potentially carcinogenic compound—that is of concern to the agency. At the present time, the agency will not alter the guidelines to limit their application to direct acting carcinogens. The agency certainly encourages research to determine the mechanism of action of direct and indirect acting carcinogens. When that type of information becomes available, the agency will consider the information and make any appropriate revisions in the SOM procedure.

There may be cases in which hormonal balance is altered when the sponsored compound is administered, but the hormone increased is not a demonstrated or suspect carcinogen. This type of response will raise concern as to the extent that a persistent alteration in normal hormonal balance in test animals indicates altered functional capacity in the hormone-producing organ and could indicate a preneoplastic condition. If data demonstrate a preneoplastic condition, the compound will be assigned to toxicity category D.

C. Economic Considerations

Executive Order 12291 and the Regulatory Flexibility Act require economic impact analyses of proposed regulations likely to have significant economic consequences overall, for particular sectors, or for small entities. As explained elsewhere in this notice, the threshold assessment is not a rule, but rather a guideline. Moreover, the comments received on the initial threshold assessment (44 FR 17071) do not reveal signifiant concern about the economic aspects of the threshold assessment itself. Therefore, the agency concludes that an analysis of economic impact is not required in this case.

FDA recognizes, however, that the application of this guideline may cause the agency to conclude that some sponsored compounds warrant additional testing for carcinogenicity. In such cases, the sponsored compound would be subject to SOM testing requirements unless the sponsor demonstrates the product's safety by some equally appropriate means. The agency's March 1979 draft regulatory analysis of the SOM proposal concluded that the prescribed SOM studies of exogenous compounds could cost sponsors up to several million dollars for each target animal/route of administration. Because the costs of SOM procedures to new animal drug sponsors could be significant, and because the threshold assessment guideline will have the effect of triggering the SOM requirements in these cases, some explanation of the agency's intentions with respect to regulatory analysis and regulatory flexibility analysis of these closely related initiatives is in order.

FDA believes that the SOM procedure itself, as a practical matter, contains virtually all the potential for economic impact represented by the combined threshold assessment/SOM initiative. The threshold assessment guideline is simply the agency's screening procedure for identifying animal drugs presenting possible carcinogenic risk to humans. The agency notes that the revised guideline relies principally on data from tests usually conducted by sponsors of animal drug products intended for use in food-producing animals. FDA now uses the results of short-term toxicity tests, and followup bioassays when indicated, to implement the general food safety provisions of the act. In the future, the results of these studies will be combined with the mutagenicity battery results, to serve as the basic screening data of the threshold assessment. Therefore, within the constraints of scientific and public health acceptability, the revised guideline reflects the agency's desire to contain incremental costs, which in this case are limited to from $7,600 to $10,000 per product for the mutagenicity battery.

Issuing the guideline at this time, therefore, will have no significant economic consequences that will not be examined in the regulatory analyses of the final decisions concerning SOM requirements and related implementation. On the other hand, the availability of this guideline should help remove uncertainties as to the carcinogenicity screening process, facilitate the testing programs and product development decisions of sponsors, and accelerate the approval process for new animal drugs for which carcinogenicity is not an issue.

Conclusion

The SOM procedure is being used on a case-by-case basis to provide a comprehensive, systematic data collection procedure for evaluating the carcinogenic potential of chemical compounds intended for use in food-producing animals and to ensure that edible tissues derived from such animals are free from unacceptable levels of cancer-causing residues. The threshold assessment guideline serves as the decisionmaking tool by which the agency determines whether a compound will be evaluated under the SOM procedure as well as under the general food safety requirements of the Federal Food, Drug, and Cosmetic Act that

address aspects of toxicity other than carcinogenicity. In light of comments on the proposed SOM regulations received at the public hearing held on June 21 and 22, 1979, as well as the comments received as of September 4, 1979, and in light of the agency's own dissatisfaction with the threshold assessment as originally structured, it became apparent that in order to provide a better decisionmaking tool the quideline had to be revised. The revisions have been based on the comments as well as on the agency's expertise. The underlying premise of the threshold assessment remains that if the use of the compound is likely to yield edible animal tissue presenting a risk of cancer to man, that compound should be evaluated under the proposed SOM procedure to determine if the compound is a carcinogen. The converse of that premise, however, is also true. If the probability is remote that a compound will yield edible animal tissue presenting a risk of cancer to man, the sponsor should not be subject to the requirements put forth in the SOM procedure.

The agency plans to hold a workshop to discuss the general provisions of the revised guidelines. The workship will be held after the agency has had adequate time to review the written comments. The exact time and place of the workshop will be announced in the **Federal Register**.

References

The following material is on file with the Dockets Management Branch, FDA, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Ward, J. M., "Unique Toxic Lesions Induced by Chemical Carcinogens in Rodents: Indications of a Short-Term Bioassay for Carcinogenesis Testing of Environmental Chemicals," *Medical Hypotheses*, 6:421–425, 1980.

2. Shinozuka, H., B. Lombardi, S. Sell, and R. M. Iammarino, "Early Histological and Functional Alterations of Ethionine Liver Carcinogenesis in Rats Fed a Choline-Deficient Diet," *Cancer Research*, 38:1092–1098, 1978.

3. Hayden, D. W., G. G. Wade, and A. H. Handler, "The Goitrogenic Effect of 4,4¹-Oxydianiline in Rats and Mice," *Veterinary Pathology*, 15:649–662.

The agency invites comments on the new guideline. The guideline may be modified by comments received. No modification or set of modifications will be acceptable if its effect would be that the threshold assessment would fail to identify those compounds which present a risk of cancer to man.

Interested persons may on or before April 5, 1982, submit written comments on the guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Comments should be in two copies (except that individuals may submit single copies of comments), identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 17, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: January 12, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–2560 Filed 2–1–82; 8:45 am]

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4992 **Water Pollution Control** EPA issues regulations on Underground Injection Control Program.

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5041 **Loan Programs—Education** HHS/HSA announces interest rates on Health Education Assistance Loans.

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Federal Register
Vol. 47, No. 23
Wednesday, February 3, 1982

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Title 3—

The President

Executive Order 12344 of February 1, 1982

Naval Nuclear Propulsion Program

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States of America, with recognition of the crucial importance to national security of the Naval Nuclear Propulsion Program, and for the purpose of preserving the basic structure, policies, and practices developed for this Program in the past and assuring that the Program will continue to function with excellence, it is hereby ordered as follows:

Section 1. The Naval Nuclear Propulsion Program is an integrated program carried out by two organizational units, one in the Department of Energy and the other in the Department of the Navy.

Sec. 2. Both organizational units shall be headed by the same individual so that the activities of each may continue in practice under common management. This individual shall direct the Naval Nuclear Propulsion Program in both departments. The director shall be qualified by reason of technical background and experience in naval nuclear propulsion. The director may be either a civilian or an officer of the United States Navy, active or retired.

Sec. 3. The Secretary of the Navy (through the Secretary of Defense) and the Secretary of Energy shall obtain the approval of the President to appoint the director of the Naval Nuclear Propulsion Program for their respective Departments. The director shall be appointed to serve a term of eight years, except that the Secretary of Energy and the Secretary of the Navy may, with mutual concurrence, terminate or extend the term of the respective appointments.

Sec. 4. An officer of the United States Navy appointed as director shall be nominated for the grade of Admiral. A civilian serving as director shall be compensated at a rate to be specified at the time of appointment.

Sec. 5. Within the Department of Energy, the Secretary of Energy shall assign to the director the responsibility of performing the functions of the Division of Naval Reactors transferred to the Department of Energy by Section 309(a) of the Department of Energy Organization Act (42 U.S.C. 7158), including assigned civilian power reactor programs, and any naval nuclear propulsion functions of the Department of Energy, including:

(a) direct supervision over the Bettis and Knolls Atomic Power Laboratories, the Expended Core Facility and naval reactor prototype plants;

(b) research, development, design, acquisition, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition, of naval nuclear propulsion plants, including components thereof, and any special maintenance and service facilities related thereto;

(c) the safety of reactors and associated navel nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities, including prescribing and enforcing standards and regulations for these areas as they affect the environment and the safety and health of workers, operators, and the general public;

(d) training, including training conducted at the naval prototype reactors of the Department of Energy, and assistance and concurrence in the selection, training, qualification, and assignment of personnel reporting to the director

and of personnel who supervise, operate, or maintain naval nuclear propulsion plants; and

(e) administration of the Naval Nuclear Propulsion Program, including oversight of program support in areas such as security, nuclear safeguards and transportation, public information, procurement, logistics, and fiscal management.

Sec. 6. Within the Department of Energy, the director shall report to the Secretary of Energy, through the Assistant Secretary assigned nuclear energy functions and shall serve as a Deputy Assistant Secretary. The director shall have direct access to the Secretary of Energy and other senior officials in the Department of Energy concerning naval nuclear propulsion matters, and to all other personnel who supervise, operate or maintain naval nuclear propulsion plants and support facilities for the Department of Energy.

Sec. 7. Within the Department of the Navy, the Secretary of the Navy shall assign to the director responsibility to supervise all technical aspects of the Navy's nuclear propulsion work, including:

(a) research, development, design, procurement, specification, construction, inspection, installation, certification, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition, of naval nuclear propulsion plants, including components thereof, and any special maintenance and service facilities related thereto; and

(b) training programs, including Nuclear Power Schools of the Navy, and assistance and concurrence in the selection, training, qualification, and assignment of personnel reporting to the director and of Government personnel who supervise, operate, or maintain naval nuclear propulsion plants.

Sec. 8. Within the Department of the Navy, the Secretary of the Navy shall assign to the director responsibility within the Navy for:

(a) the safety of reactors and associated naval nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities, including prescribing and enforcing standards and regulations for these areas as they affect the environment and the safety and health of workers, operators, and the general public.

(b) administration of the Naval Nuclear Propulsion Program, including oversight of program support in areas such as security, nuclear safeguards and transportation, public information, procurement, logistics, and fiscal management.

Sec. 9. In addition to any other organizational assignments within the Department of the Navy, the director shall report directly to the Chief of Naval Operations. The director shall have direct access to the Secretary of the Navy and other senior officials in the Department of the Navy concerning naval nuclear propulsion matters, and to all other Government personnel who supervise, operate, or maintain naval nuclear propulsion plants and support facilities.

Sec. 10. This Order is effective on February 1, 1982.

Ronald Reagan

THE WHITE HOUSE,
February 1, 1982.

[FR Doc. 82-2955
Filed 2-1-82; 4:33 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 23
Wednesday, February 3, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0384]

Delegation of Authority To Issue Consumer Compliance Materials

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its "Rules Regarding Delegation of Authority" in order to delegate to the Director of its Division of Consumer and Community Affairs, the authority to issue examination or inspection manuals, report, agreements, and examination forms, guidelines, instructions or other similar materials, in consultation with the Board's Legal Division where appropriate, for use in connection with several laws and regulations that are part of the Board's Consumer Affairs and Civil Rights Compliance Program.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Glenn E. Loney, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3946).

SUPPLEMENTARY INFORMATION: (1) The Board's action delegates the authority to the Director of the Division of Consumer and Community Affairs to issue examination or inspection manuals, report, agreement, and examination forms, guidelines, instructions or other similar materials, in consultation with the Legal Division where appropriate, for use in connection with: Regulation E (Electronic Fund Transfer); Regulation H (Membership of State Banking Institutions in the Federal Reserve System); Regulation Q (Interest on Deposits); Regulation BB (Community Reinvestment); and, the Fair Debt Collection Practices Act.

(2) The Board finds that the notice, public participation and deferral of effective date provisions of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reasons, the expanded rule-making procedures set forth in the Board's policy statements of January 1979 (44 FR 3957) will not be followed in connection with this proceeding.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

(3) Pursuant to the provisions of Section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board amends 12 CFR 265.2 by amending paragraph (h)(1) by revising (h)(1) introductory text, (h)(1)(i) and (h)(1)(ii) and adding (h)(1)(v) through (h)(1)(vii), effective immediately to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(h) * * *

(1) Pursuant to the provisions of section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)), sections 108(b), 621(c), 704(b), 814(c) and 917(b) of the Consumer Credit Protection Act (15 U.S.C. 1607(b), 1681s(c), 1691c(b), 1692l(c), and 1693o(b), section 305(c) of the Home Mortgage Disclosure Act (12 U.S.C. 2804(c)), section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3), section 808(c) of the Civil Rights Act of 1968 (42 U.S.C. 3608(c)), and section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)), to issue examination or inspection manuals, report, agreement, and examination forms, guidelines, instructions or other similar materials, in consultation with the Board's Legal Division where appropriate, for use in connection with:

(i) Sections 1 through 921 (excluding sections 201 through 500) of the Consumer Credit Protection Act (15 U.S.C. 1601-1693r).

(ii) Sections 301 through 312 of the Home Mortgage Disclosure Act (12 U.S.C. 2801-2811).

(iii) * * *

(iv) * * *

(v) Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) and Sections 105(b) and 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b) and 4106(b)).

(vi) Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b).

(vii) Sections 801-806 of the Community Reinvestment Act (12 U.S.C. 2901-2905).

* * * * *

Board of Governors of the Federal Reserve System, January 28, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-2824 Filed 2-2-82; 8:45 am]
BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 21]

Organization and Functions; Update; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: This submission replaces in its entirety § 101.2-4 as it appeared in a final rule on organization of the Central Office of the Small Business Administration published in the Federal Register on January 14, 1982 (47 FR 2075). It serves only to show the complete functions of the Office of Equal Employment Opportunity and Compliance.

FOR FURTHER INFORMATION CONTACT: Amos B. Cheeseboro, Office of Personnel Services, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-5293.

5 CFR 101.2-4 is corrected to read as follows:

PART 101—ADMINISTRATION

* * * * *

§ 101.2-4 Office of Equal Employment Opportunity and Compliance.

Develops and recommends policies concerning the Equal Employment Opportunity and Compliance (EEO & C) programs. Develops plans, operating procedures and standards to effectively strengthen and improve the Agency's civil rights, equal employment opportunity and compliance programs and activities. Administers the Agency's discrimination complaint process. Serves as principal liaison with other

Federal agencies and nonfederal organizations concerned with civil rights. Directs, coordinates and administers compliance programs and activities executed by Central Office staff. Provides advice, assistance and support to the Administrator in relation to the EEO & C program. The Director, Office of EEO & C serves as the Agency's equal employment opportunity officer, civil rights coordinator, compliance officer and as the Administrator's designee in making the final decision on discrimination complaints and ordering corrective measures, except when otherwise specified by the Administrator.

Dated: January 28, 1982.

Michael Cardenas,

Administrator.

[FR Doc. 82-2837 Filed 2-2-82; 8:45 am]

BILLING CODE 6025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 205

[ER-1282; Amdt. No. 1]

Aircraft Accident Liability Insurance

AGENCY: Civil Aeronautics Board.

ACTION: Rule; editorial amendment.

SUMMARY: This rule makes an editorial correction in the Board's rules requiring disclosure by U.S. and foreign direct air carriers of the presence or absence of cargo liability insurance covering a shipment on their aircraft.

DATES: Effective: January 29, 1982. Adopted: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: When the Board adopted a new 14 CFR Part 205, setting requirements for minimum insurance requirements for airlines (ER-1253; 46 FR 52572, October 27, 1981), it required in § 205.8 that every U.S. and foreign direct air carrier disclose to shippers the presence or absence of cargo liability "accident insurance." As shown in the notice of proposed rulemaking (EDR-395, 45 FR 7566, February 4, 1980) and in the discussion of ER-1253 in its preamble, the intent of the Board was to require the disclosure of cargo liability insurance, not of accident insurance. The word "accident" was placed in § 205.8 by mistake.

In order to prevent confusion and to follow the Board's intent, the word "accident" is removed from § 205.8.

PART 205—AIRCRAFT ACCIDENT LIABILITY INSURANCE

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 205, *Aircraft Accident Liability Insurance*, as follows:

1. The authority for Part 205 is:

Authority: Secs. 204, 401, 403, 416, 418, 419, Pub. L. 85-726, as amended. 72 Stat. 743, 754, 758, 771; 91 Stat. 1284; 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1373, 1386, 1388, 1389.

2. § 205.8 is revised to read:

§ 205.8 Cargo liability disclosure statement.

Every direct U.S. or foreign air carrier providing air cargo service in air transportation shall give notice in writing to the shipper, when a shipment is accepted, of the existence or absence of cargo liability insurance, if any. The notice shall be clearly and conspicuously included on or attached to all of its rate sheets and airwaybills.

By the Civil Aeronautics Board.

David M. Kirstein,

General Counsel.

[FR Doc. 82-2833 Filed 2-2-82; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6369A; 34-18353A; 35-22331A; 39-681A; IC-12117A; and IA-788A]

Paperwork Reduction Act; Office of Management and Budget Control Numbers Assigned to Information Collection Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission is republishing in its entirety a release amending Title 17, Chapter II, of the Code of Federal Regulations to add a new subpart N, which contains a listing of Office of Management and Budget control numbers assigned to information collection requirements of the Commission. The release as here republished corrects a number of minor errors that appeared in the original publication of the release. *See* 46 FR 63036 (December 30, 1981). This amendment is administrative in nature and is intended to comply with the requirements of section 3507(f) of the Paperwork Reduction Act of 1980, Pub. L. 96-511, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget ("OMB") for each agency information collection requirement. In particular, the new subpart collects and displays current OMB control numbers and expiration dates of those information collection requirements of the Commission which are rules and regulations and codified in 17 CFR either in full text or incorporated by reference with the approval of the Director of the Office of the Federal Register. Where the information collection requirement also exists as a separate document, as, for example, an information collection requirement which the Commission incorporates by reference in 17 CFR, the Commission, of course, will also display on the separate document as well the current OMB control number and the expiration date as required by section 3507(f).

EFFECTIVE DATE: December 30, 1981.

FOR FURTHER INFORMATION CONTACT: George G. Kundahl, Executive Director, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2700.

SUPPLEMENTARY INFORMATION: Accordingly, Subpart N in Part 200 of 17 CFR Chapter II is corrected to read as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart N—Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers and Expiration Dates

Authority: 44 U.S.C. 3507(f).

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart collects and displays the control numbers and expiration dates assigned to information collection requirements of the Commission by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Commission intends that this subpart comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget ("OMB") for each agency information collection requirement. In particular, this subpart displays current OMB control numbers and expiration dates of those information collection requirements of the Commission which are rules and regulations and codified in 17 CFR either in full text or incorporated by reference with the approval of the Director of the Office of the Federal Register. Where the information collection requirement

also exists as a separate document, as, for example, an information collection requirement which the Commission incorporates by reference in 17 CFR, the Commission, of course, will display on the separate document as well the current OMB control number and the expiration date as required by section 3507(f). Henceforth, the Commission will publish in the **Federal Register** only additions, deletions and corrections to particular control numbers and expiration dates contained in this subpart.

(b) *Display.*

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.	Expiration date
Regulation S-X	Part 210	3235-0009	Dec. 31, 1982.
Regulation S-K	Part 229	3235-0071	June 30, 1982.
Rule 236	§ 230.236	3235-0095	Nov. 30, 1983.
Rule 242	§ 230.242	3235-0099	Nov. 30, 1984.
Regulation A	§§ 230.251 through 230.264.	3235-0096	Sept. 30, 1982.
Regulation B	§§ 230.300 through 230.346.	3235-0093	Oct. 31, 1983.
Regulation C	§§ 230.400 through 230.494.	3235-0074	June 30, 1982.
Regulation D proposed	§§ 230.501 through 230.506.	3235-0076	June 30, 1982.
Rule 604	§ 230.604	3235-0232	Dec. 31, 1984.
Rule 605	§ 230.605	3235-0232	Dec. 31, 1984.
Rule 606	§ 230.606	3235-0232	Dec. 31, 1984.
Rule 607	§ 230.607	3235-0232	Dec. 31, 1984.
Rule 609	§ 230.609	3235-0232	Dec. 31, 1984.
Regulation F	§§ 230.651 through 230.656.	3235-0094	Oct. 31, 1984.
Form C-3	§ 239.5	3235-0112	Nov. 30, 1984.
Form S-1	§ 239.11	3235-0065	June 30, 1982.
Form S-1 proposed	§ 239.11	3235-0065	June 30, 1982.
Form S-2	§ 239.12	3235-0075	June 30, 1982.
Form S-2 proposed	§ 239.12	3235-0072	June 30, 1982.
Form S-3 proposed	§ 239.13	3235-0073	June 30, 1982.
Form S-6	§ 239.16	3235-0184	Aug. 31, 1982.
Form S-8	§ 239.16b	3235-0066	June 30, 1982.
Form S-11	§ 239.18	3235-0067	June 30, 1982.
Form S-12	§ 239.19	3235-0112	Nov. 30, 1984.
Form S-14	§ 239.23	3235-0052	Oct. 31, 1984.
Form S-7	§ 239.26	3235-0065	June 30, 1982.
Form S-16	§ 239.27	3235-0077	June 30, 1982.
Form S-18	§ 239.28	3235-0096	Sept. 30, 1982.
Form S-15	§ 239.29	3235-0053	Oct. 31, 1984.
Form F-1 proposed	§ 239.31	3235-0258	Dec. 31, 1984.
Form F-2 proposed	§ 239.32	3235-0257	Dec. 31, 1984.
Form F-3 proposed	§ 239.33	3235-0256	Dec. 31, 1984.
Form SR	§ 239.61	3235-0124	Nov. 30, 1984.
Form 1-A	§ 239.90	3235-0096	Sept. 30, 1982.
Form 2-A	§ 239.91	3235-0096	Sept. 30, 1982.
Form 3-A	§ 239.92	3235-0096	Sept. 30, 1982.
Form 4-A	§ 239.93	3235-0096	Sept. 30, 1982.
Form 5-A	§ 239.94	3235-0096	Sept. 30, 1982.
Form 6-A	§ 239.95	3235-0096	Sept. 30, 1982.
Form 7-A	§ 239.96	3235-0096	Sept. 30, 1982.
Schedules A, B, C, D	§ 239.101	3235-0093	Oct. 31, 1983.
Form 1-G	§ 239.101	3235-0093	Oct. 31, 1983.
Form 3-G	§ 239.101	3235-0093	Oct. 31, 1983.
Form 144	§ 239.144	3235-0101	Nov. 30, 1983.
Form 237	§ 239.145	3235-0263	Jan. 31, 1984.
Form 146	§ 239.146	3235-0005	Aug. 31, 1983.
Form 1-E	§ 239.200	3235-0232	Dec. 31, 1984.
Form 2-E	§ 239.201	3235-0233	Dec. 31, 1984.
Form 240	§ 239.240	3235-0100	Nov. 30, 1984.
Form 242	§ 239.242	3235-0099	Nov. 30, 1984.
Form 1-F	§ 239.300	3235-0094	Oct. 31, 1984.
Form D proposed	§ 239.500	3235-0076	June 30, 1982.
Rule 6a-1	§ 240.6a-1	3235-0017	Aug. 31, 1983.
Rule 6a-2	§ 240.6a-2	3235-0022	Aug. 31, 1983.
Rule 6a-3	§ 240.6a-3	3235-0021	Aug. 31, 1983.
Rule 10b-7	§ 240.10b-7	3235-0208	Oct. 31, 1983.
Rule 11Ab2-1	§ 240.11Ab2-1	3235-0043	Sept. 30, 1984.
Rule 12a-5	§ 240.12a-5	3235-0079	Oct. 31, 1984.
Regulation 12B	§§ 240.12b-1 through 240.12b-36.	3235-0062	Oct. 31, 1984.
Rule 12d1-3	§ 240.12d1-3	3235-0109	Nov. 30, 1984.
Rule 12d2-1	§ 240.12d2-1	3235-0081	Oct. 31, 1984.
Rule 12d2-2	§ 240.12d2-2	3235-0080	Oct. 31, 1984.
Rule 12f-1	§ 240.12f-1	3235-0128	Nov. 30, 1984.
Rule 12f-2	§ 240.12f-2	3235-0248	Nov. 30, 1984.
Rule 12f-3	§ 240.12f-3	3235-0249	Dec. 31, 1984.
Rule 12g3-2	§ 240.12g3-2	3235-0119	Nov. 30, 1984.
Rule 13e-17	§ 240.13e-17	3235-0191	Dec. 31, 1984.
Regulation 13D/G	§§ 240.13d-1 through 240.13d-7.	3235-0145	Aug. 31, 1982.
Schedule 13D	§ 240.13d-101.	3235-0145	Aug. 31, 1982.
Schedule 13G	§ 240.13d-102.	3235-0145	Aug. 31, 1982.
Rule 13e-1	§ 240.13e-1	3235-0252	Mar. 31, 1982.
Rule 13e-3	§ 240.13e-3	3235-0007	June 30, 1983.
Rule 13e-4	§ 240.13e-4	3235-0203	Aug. 31, 1982.
Schedule 13E-3	§ 240.13e-100.	3235-0007	June 30, 1983.
Schedule 13E-4	§ 240.13e-101.	3235-0203	Aug. 31, 1982.
Regulation 14A	§§ 240.14a-1 through 240.14a-12.	3235-0059	Oct. 31, 1984.
Schedule 14A	§ 240.14a-101.	3235-0059	Oct. 31, 1984.
Schedule 14B	§ 240.14a-102.	3235-0059	Oct. 31, 1984.
Regulation 14C	§ 240.14c-1	3235-0057	Oct. 31, 1984.
Schedule 14C	§ 240.14c-101.	3235-0057	Oct. 31, 1984.
Regulation 14D	§§ 240.14d-1 through 240.14d-9.	3235-0102	Nov. 30, 1983.
Schedule 14D-1	§ 240.14d-100.	3235-0102	Nov. 30, 1983.
Schedule 14D-9	§ 240.14d-101.	3235-0102	Nov. 30, 1983.
Regulation 14E	§§ 240.14e-1 through 240.14e-2.	3235-0102	Nov. 30, 1983.
Rule 14f-1	§ 240.14f-1	3235-0108	Nov. 30, 1984.
Rule 15a-4(a)	§ 240.15a-4(a).	3235-0010	Aug. 31, 1983.
Rule 15Aa-1	§ 240.15Aa-1.	3235-0030	Sept. 30, 1984.
Rule 15Aj-1	§ 240.15Aj-1	3235-0044	Sept. 30, 1984.
Rule 15b1-1	§ 240.15b1-1	3235-0012	Aug. 31, 1983.
Rule 15b1-2	§ 240.15b1-2	3235-0020	Aug. 31, 1983.
Rule 15b1-3	§ 240.15b1-3	3235-0011	Aug. 31, 1983.
Rule 15b1-4	§ 240.15b1-4	3235-0016	Aug. 31, 1983.
Rule 15b2-1	§ 240.15b2-1	3235-0014	Aug. 31, 1983.
Rule 15b3-1	§ 240.15b3-1	3235-0013	Aug. 31, 1983.
Rule 15b6-1(a)	§ 240.15b6-1(a).	3235-0016	Aug. 31, 1983.
Rule 15b8-1	§ 240.15b8-1	3235-0135	Nov. 30, 1984.
Rule 15b9-1(a) and (b)	§ 240.15b9-1(a) and (b).	3235-0129	Nov. 30, 1984.
Rule 15b9-1(c)	§ 240.15b9-1(c).	3235-0139	Nov. 30, 1984.
Rule 15b9-2	§ 240.15b9-2	3235-0146	Nov. 30, 1984.
Rule 15b10-6	§ 240.15b10-6.	3235-0188	Sept. 30, 1982.
Rule 15b10-8	§ 240.15b10-8.	3235-0189	Dec. 31, 1984.
Rule 15b10-9	§ 240.15b10-9.	3235-0091	Oct. 31, 1984.
Rule 15b10-11	§ 240.15b10-11.	3235-0190	Dec. 31, 1984.
Rule 15Ba2-1	§ 240.15Ba2-1.	3235-0083	Oct. 31, 1984.
Rule 15Ba2-2	§ 240.15Ba2-2.	3235-0090	Oct. 31, 1984.
Rule 15Ba2-4	§ 240.15Ba2-4.	3235-0089	Oct. 31, 1984.
Rule 15Ba2-5	§ 240.15Ba2-5.	3235-0088	Oct. 31, 1984
Rule 15Ba2-6	§ 240.15Ba2-6.	3235-0086	Oct. 31, 1984.
Rule 15Bc3-1	§ 240.15Bc3-1.	3235-0087	Oct. 31, 1984.
Rule 15c2-5	§ 240.15c2-5	3235-0196	Dec. 31, 1984.
Rule 15c2-11	§ 240.15c2-11.	3235-0202	Dec. 31, 1984
Rule 15c3-1	§ 240.15c3-1	3235-0200	Dec. 31, 1984.
Rule 15c3-3	§ 240.15c3-3	3235-0078	Oct. 31, 1984.
Rule 15c1-7	§ 240.15c1-7	3235-0134	Nov. 30, 1984.
Rule 17a-1	§ 240.17a-1	3235-0208	Oct. 31, 1983.
Rule 17a-2	§ 240.17a-2	3235-0206	Oct. 31, 1983.
Rule 17a-3	§ 240.17a-3	3235-0033	Sept. 30, 1984.
Rule 17a-4	§ 240.17a-4	3235-0197	Sept. 30, 1982.
Rule 17a-5	§ 240.17a-5	3235-0123	Nov. 30, 1982.
Rule 17a-5(c)	§ 240.17a-5(c).	3235-0199	Aug. 31, 1982.
Rule 17a-7	§ 240.17a-7	3235-0131	Nov. 30, 1984.
Rule 17a-8	§ 240.17a-8	3235-0092	Dec. 31, 1982.
Rule 17a-10	§ 240.17a-10	3235-0122	Nov. 30, 1984.
Rule 17a-11	§ 240.17a-11	3235-0085	Oct. 31, 1984.
Rule 17a-12	§ 240.17a-12	3235-0192	Dec. 31, 1984.
Rule 17a-13	§ 240.17a-13	3235-0035	Sept. 30, 1984.
Rule 17a-16	§ 240.17a-16	3235-0036	Sept. 30, 1984.
Rule 17a-17	§ 240.17a-17	3235-0039	Sept. 30, 1984.
Rule 17a-19	§ 240.17a-19	3235-0133	Nov. 30, 1984.
Rule 17a-20	§ 240.17a-20	3235-0207	Dec. 31, 1984.
Rule 17a-22	§ 240.17a-22	3235-0196	Dec. 31, 1984.
Rule 17Ab2-1(a) and (e)	§ 240.17Ab2-1(a) and (e).	3235-0195	Dec. 31, 1984.
Rule 17Ac2-1(a) and (c)	§ 240.17Ac2-1(a) and (c).	3235-0084	Oct. 31, 1984.
Rule 17Ac3-1(a)	§ 240.17Ac3-1(a).	3235-0151	Nov. 30, 1984.
Rule 17Ad-2(c), (d) and (h)	§ 240.17Ad-2(c), (d) and (h).	3235-0130	Nov. 30, 1984.
Rule 17Ad-4(b) and (c)	§ 240.17Ad-4(b) and (c).	3235-0138	Nov. 30, 1984.
Rule 17Ad-6	§ 240.17Ad-6.	3235-0137	Sept. 30, 1982.
Rule 17Ad-7	§ 240.17Ad-7.	3235-0136	Dec. 31, 1982.
Rule 17f-1(b)	§ 240.17f-1(b).	3235-0032	Sept. 30, 1982.
Rule 17f-1(c)	§ 240.17f-1(c).	3235-0037	Sept. 30, 1984.
Rule 17f-1(g)	§ 240.17f-1(g).	3235-0038	Sept. 30, 1982.
Rule 17f-2(a)	§ 240.17f-2(a).	3235-0034	Sept. 30, 1984.
Rule 17f-2(c)	§ 240.17f-(c)	3235-0029	Sept. 30, 1984.
Rule 17f-2(d)	§ 240.17f-2(d).	3235-0028	Sept. 30, 1984.
Rule 17f-2(e)	§ 240.17f-2(e).	3235-0031	Sept. 30, 1984.
Rule 19b-4	§ 240.19b-4	3235-0045	Sept. 30, 1984.
Rule 19d-1(b)-(i)	§ 240.19d-1(b)-(i).	3235-0206	Oct. 31, 1983.
Rule 19d-2	§ 240.19d-2	3235-0205	Dec. 31, 1984.
Rule 19d-3(b)-(f)	§ 240.19d-3(b)-(f).	3235-0204	Dec. 31, 1984.
Rule 19h-1(a), (c)-(e), (g)	§ 240.19h-1(a), (c)-(e), (g).	3235-0206	Oct. 31, 1983.
Rule 24b-1	§ 240.24b-1	3235-0184	Dec. 31, 1984.
Rule 24b-2	§ 240.24b-2	3235-0127	Nov. 30, 1984.
Form 1	§ 249.1	3235-0017	Aug. 31, 1983.
Form 1-A	§ 249.1a	3235-0022	Aug. 31, 1983.
Form 25	§ 249.25	3235-0080	Oct. 31, 1984.
Form 26	§ 249.26	3235-0079	Oct. 31, 1984.
Form 27	§ 249.27	3235-0246	Nov. 30, 1984.

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.	Expiration date
Form 2S	§ 249.28	3235-0249	Dec. 31, 1984.
Form 3	§ 249.103	3235-0104	Nov. 30, 1984.
Form 4	§ 249.104	3235-0103	Sept. 30, 1982.
Form 8-A	§ 249.208a	3235-0056	Oct. 31, 1984.
Form 8-B	§ 249.208b	3235-0068	June 30, 1982.
Form 10	§ 249.210	3235-0064	June 30, 1982.
Form 16	§ 249.218	3235-0121	Nov. 30, 1984.
Form 19	§ 249.219	3235-0115	Nov. 30, 1984.
Form 20-F	§ 249.220f	3235-0143	Dec. 31, 1982.
Form 6-K	§ 249.306	3235-0116	Nov. 30, 1984.
Form 8-K	§ 249.308	3235-0060	Oct. 31, 1984.
Form 10-Q	§ 249.308a	3235-0070	June 30, 1982.
Form 10-K	§ 249.310	3235-0063	Oct. 31, 1982.
Form 10-C	§ 249.310c	3235-0191	Dec. 31, 1984.
Form 11-K	§ 249.311	3235-0082	Oct. 31, 1983.
Form 18-K	§ 249.318	3235-0120	Nov. 30, 1984.
Form 19-K	§ 249.319	3235-0118	Nov. 30, 1984.
Form 12b-25	§ 249.322	3235-0058	Oct. 31, 1984.
Form 12g-4/15d-6.	§ 249.323	3235-0167	June 30, 1984.
Form 13F	§ 249.325	3235-0006	Nov. 30, 1983.
Form 2-MD	§ 249.402	3235-0215	Dec. 31, 1984.
Form 8	§ 249.460	3235-0141	Oct. 31, 1983.
Form 8D	§ 249.501	3235-0012	Aug. 31, 1983.
Form 8DW	§ 249.501a	3235-0018	Aug. 31, 1983.
Form U-4	§ 249.502	3235-0019	Aug. 31, 1983.
Form SECO-2F.	§ 249.502a	3235-0139	Nov. 30, 1984.
Form SECO-4.	§ 249.504a	3235-0148	Nov. 30, 1984.
Form SECO-5.	§ 249.505	3235-0129	Nov. 30, 1984.
Form X-17A-5.	§ 249.617	3235-0123	Nov. 30, 1984.
Form X-17A-12(1).	§ 249.619	3235-0192	Nov. 30, 1982.
Form X-17A-12(2).	§ 249.620	3235-0193	Dec. 31, 1984.
Form X-17A-18(1).	§ 249.631	3235-0036	Sept. 30, 1984.
Form X-17A-18(2).	§ 249.632	3235-0040	Sept. 30, 1984.
Form X-17A-17.	§ 249.633	3235-0039	Sept. 30, 1984.
Form X-17A-19.	§ 249.635	3235-0133	Nov. 30, 1984.
Form X-17A-1.	§ 249.727	3235-0208	Oct. 31, 1983.
Form X-15AA-1.	§ 249.801	3235-0030	Sept. 30, 1984.
Form X-15AJ-1.	§ 249.802	3235-0044	Sept. 30, 1984.
Form X-15AJ-2.	§ 249.803	3235-0044	Sept. 30, 1984.
Form 19b-4	§ 249.819	3235-0045	Sept. 30, 1984.
Form SIP	§ 249.1001	3235-0043	Sept. 30, 1984.
Form MSD	§ 249.1100	3235-0083	Oct. 31, 1984.
Form MSDW	§ 249.1110	3235-0087	Oct. 31, 1984.
Form X-17F-1A.	§ 249.1200	3235-0037	Sept. 30, 1984.
Form TA-1	§ 249b.100	3235-0084	Oct. 31, 1984.
Form TA-W	§ 249b.101	3235-0151	Nov. 30, 1984.
Form CA-1	§ 249b.200	3235-0195	Dec. 31, 1984.
Rule 1(a)	§ 250.1(a)	3235-0170	Dec. 31, 1984.
Rule 1(b)	§ 250.1(b)	3235-0170	Dec. 31, 1984.
Rule 1(c)	§ 250.1(c)	3235-0184	Nov. 30, 1984.
Rule 2	§ 250.2	3235-0161	Nov. 30, 1984.
Rule 3	§ 250.3	3235-0160	Nov. 30, 1984.
Rule 7	§ 250.7	3235-0165	Nov. 30, 1984.
Rule 7(d)	§ 250.7(d)	3235-0165	Nov. 30, 1984.
Rule 20(b)	§ 250.20(b)	3235-0125	Nov. 30, 1984.
Rule 20(d)	§ 250.20(d)	3235-0163	Nov. 30, 1984.
Rule 24	§ 250.24	3235-0126	Nov. 30, 1984.
Rule 28	§ 250.28	3235-0183	Dec. 31, 1984.
Rule 29a	§ 250.29a	3235-0149	Nov. 30, 1984.
Rule 29b	§ 250.29b	3235-0149	Nov. 30, 1984.
Rule 42	§ 250.42	3235-0171	Dec. 31, 1984.
Rule 44	§ 250.44	3235-0147	Nov. 30, 1984.
Rule 45	§ 250.45	3235-0154	Nov. 30, 1984.
Rules 47(b) and 20(d).	§§ 250.47(b), 250.20(d).	3235-0162	Nov. 30, 1984.
Rule 48(b)	§ 250.48(b)	3235-0156	Dec. 31, 1984.
Rule 50	§ 250.50	3235-0126	Nov. 30, 1984.
Rule 62	§ 250.62	3235-0152	Nov. 30, 1984.
Rule 71(a)	§ 250.71(a)	3235-0173	Dec. 31, 1984.
Rule 72	§ 250.72	3235-0148	Nov. 30, 1984.
Rule 83	§ 250.83	3235-0181	Dec. 31, 1984.
Rule 87	§ 250.87	3235-0182	Dec. 31, 1984.
Rule 88	§ 250.88	3235-0162	Dec. 31, 1984.
Rule 93	§ 250.93	3235-0153	Nov. 30, 1984.
Rule 94	§ 250.94	3235-0153	Nov. 30, 1984.
Rule 95	§ 250.95	3235-0182	Nov. 30, 1984.
Rules 100(a), 20(c), and 23	§§ 250.100(a), 250.20(c), 250.23.	3235-0125	Nov. 30, 1984.
	Part 256	3235-0153	Nov. 30, 1984.
	Part 256a	3235-0153	Nov. 30, 1984.
	Part 257	3235-0261	Mar. 31, 1982.
Form U5A	§ 259.5a	3235-0170	Dec. 31, 1984.
Form U5B	§ 259.5b	3235-0170	Dec. 31, 1984.
Form U5S	§ 259.5s	3235-0164	Nov. 30, 1984.
Form U-1	§ 259.101	3235-0125	Nov. 30, 1984.
Form U-13-1.	§ 259.113	3235-0162	Dec. 31, 1984.
Form U-6B-2.	§ 259.206	3235-0163	Nov. 30, 1984.
Form U-12(I)A.	§ 259.212(a)	3235-0173	Dec. 31, 1984.
Form U-12(I)B.	§ 259.212(b)	3235-0173	Dec. 31, 1984.
Form U-13E-1.	§ 259.213	3235-0162	Nov. 30, 1984.
Form U-R-1	§ 259.221	3235-0152	Nov. 30, 1984.
Form U-13-60	§ 259.313	3235-0153	Nov. 30, 1984.
Form U-3A-2.	§ 259.402	3235-0161	Nov. 30, 1984.
Form U-3A3-1.	§ 259.403	3235-0160	Nov. 30, 1984.
Form U-7D	§ 259.404	3235-0165	Nov. 30, 1984.
Form U-A	§ 259.501	3235-0125	Nov. 30, 1984.
Rules 7a-15 through 7a-37.	§§ 260.7a-15 through 260.7a-37.	3235-0132	Nov. 30, 1984.
Form T-1	§ 269.1	3235-0110	Nov. 30, 1984.
Form T-2	§ 269.2	3235-0111	Nov. 30, 1984.
Form T-3	§ 269.3	3235-0105	Nov. 30, 1984.
Form T-4	§ 269.4	3235-0107	Nov. 30, 1984.
Rule 6c-6(T)	§ 270.6c-6(T).	3235-0245	Oct. 31, 1983.
Rule 6e	§ 270.6e-2(b)(9).	3235-0177	Dec. 31, 1984.
Rule 7d	§ 270.7d-(b)(4)(i), (iii) and (viii).	3235-0158	June 30, 1983.
Rule 8b-11	§ 270.8b-11	3235-0176	Dec. 31, 1984.
Rule 8b-16	§ 270.8b-16	3235-0176	Dec. 31, 1984.
Rule 8b-20	§ 270.8b-20	3235-0176	Dec. 31, 1984.
Rule 8b-21(b).	§ 270.8b-21(b).	3235-0176	Dec. 31, 1984.
Rule 8b-25	§ 270.8b-25	3235-0176	Dec. 31, 1984.
Rule 8b-32(b).	§ 270.8b-32(b).	3235-0176	Dec. 31, 1984.
Rule 10f-3	§ 270.10f-3	3235-0226	Oct. 31, 1983.
Rule 12b-1	§ 270.12b-1	3235-0212	Oct. 31, 1983.
Rule 17a-7(f).	§ 270.17a-7(f).	3235-0214	Dec. 31, 1984.
Rule 17a-8	§ 270.17a-8	3235-0235	Dec. 31, 1984.
Rule 17e-1	§ 270.17e-1	3235-0217	Oct. 31, 1983.
Rule 17f-1	§ 270.17f-1	3235-0222	Dec. 31, 1984.
Rule 17f-2	§ 270.17f-2	3235-0223	Oct. 31, 1982.
Rule 17f-4	§ 270.17f-4	3235-0225	Dec. 31, 1984.
Rule 17g-1(g).	§ 270.17g-1(g).	3235-0213	Dec. 31, 1984.
Rule 17j-1	§ 270.17j-1	3235-0224	Oct. 31, 1983.
Rule 18f-1	§ 270.18f-1	3235-0211	Dec. 31, 1984.
Rule 19a-1	§ 270.19a-1	3235-0216	Dec. 31, 1984.
Rule 20a-1(b).	§ 270.20a-1(b).	3235-0158	Sept. 30, 1982.
Rule 20a-2	§ 270.20a-2	3235-0158	Sept. 30, 1982.
Rule 20a-3	§ 270.20a-3	3235-0158	Sept. 30, 1982.
Rule 22d-4	§ 270.22d-4	3235-0234	Dec. 31, 1984.
Rule 23c-1	§ 270.23c-1	3235-0260	Mar. 31, 1982.
Rule 23c-2	§ 270.23c-2	3235-0260	Mar. 31, 1982.
Rule 24f-1	§ 270.24f-1	3235-0155	Dec. 31, 1984.
Rule 24f-2	§ 270.24f-2	3235-0159	Dec. 31, 1984.
Rule 30a-1	§ 270.30a-1	3235-0219	Dec. 31, 1984.
Rule 30a-3	§ 270.30a-3	3235-0209	Dec. 31, 1984.
Rule 30b1-2	§ 270.30b1-2	3235-0218	Dec. 31, 1984.
Rule 30b2-1	§ 270.30b2-1	3235-0220	Dec. 31, 1984.
Rule 30d-1	§ 270.30d-1	3235-0025	Sept. 30, 1984.
Rule 31a-1	§ 270.31a-1	3235-0178	Sept. 30, 1982.
Rule 31a-2	§ 270.31a-2	3235-0179	Aug. 31, 1982.
Form N-5	§ 274.5	3235-0169	May 31, 1983.
Form N-8A	§ 274.10	3235-0175	Dec. 31, 1984.
Form N-1	§ 274.11	3235-0027	Sept. 30, 1984.
Form N-2	§ 274.11a-1	3235-0026	Sept. 30, 1984.
Form N-8B-2.	§ 274.12	3235-0186	Aug. 31, 1982.
Form N-8B-3.	§ 274.13	3235-0166	Nov. 30, 1984
Form N-8B-4.	§ 274.14	3235-0247	Dec. 31, 1984.
Form N-6F	§ 274.15	3235-0238	Dec. 31, 1984.
Form N-18F-1.	§ 274.51	3235-0211	Dec. 31, 1984.
Form N-1R	§ 274.101	3235-0227	Oct. 31, 1982.
Form N-30A-2.	§ 274.102	3235-0051	Oct. 31, 1984.
Form N-30A-3.	§ 274.103	3235-0051	Oct. 31, 1984.
Form N-5R	§ 274.105	3235-0210	Dec. 31, 1984.
Form N-1Q	§ 274.106	3235-0246	Oct. 31, 1982.
Form N-27D-1.	§ 274.127d-1	3235-0254	Dec. 31, 1984.
Form N-27D-2.	§ 274.127d-2	3235-0251	Dec. 31, 1984.
Form N-27E-1.	§ 274.127e-1	3235-0255	Oct. 31, 1982.
Form N-27F-1.	§ 274.127f-1	3235-0253	Sept. 30, 1982.
Form N-17D-1.	§ 274.200	3235-0229	Dec. 31, 1984.
Form N-23C-1.	§ 274.201	3235-0230	Dec. 31, 1984.
Form N-8F	§ 274.218	3235-0157	Dec. 31, 1984.
Form N-6EI-1.	§ 274.301	3235-0177	Dec. 31, 1984.
Rule 0-2	§ 275.0-2	3235-0240	Dec. 31, 1984.
Form N-54A	§ 275.53	3235-0237	Dec. 31, 1984.
Form N-54C	§ 275.54	3235-0236	Dec. 31, 1984.
Rule 203.1	§ 275.203.1	3235-0048	Dec. 31, 1984.
Rule 203.2	§ 275.203-2	3235-0047	Sept. 30, 1984.
Rule 204.1	§ 276.204-1	3235-0048	Sept. 30, 1984.
Rule 204.2	§ 275.204.2	3235-0244	Sept. 30, 1984.
Rule 204.3	§ 275.204.3	3235-0047	Sept. 30, 1984.
Rule 206(3)-2.	§ 275.206(3)-2.	3235-0043	Sept. 30, 1984.
Rule 206(4)-2.	§ 275.206(4)-2.	3235-0241	Jan. 31, 1983.
Rule 206(4)-3.	§ 275.206(4)-3.	3235-0242	Jan. 31, 1983.
Form ADV	§ 279.1	3235-0049	Jan. 31, 1983.
Form ADV-W.	§ 279.2	3235-0042	Sept. 30, 1984.
Form ADV-S	§ 279.3	3235-0046	Sept. 30, 1984.
Form 4-R	§ 279.4	3235-0240	Dec. 31, 1984.
Form 5-R	§ 279.5	3235-0240	Dec. 31, 1984.
Form 6-R	§ 279.6	3235-0240	Dec. 31, 1984.
Form 7-R	§ 279.7	3235-0240	Dec. 31, 1984.

The Commission finds that this amendment, concerning the display of the control numbers and expiration dates assigned to information collection requirements of the Commission by the Office of Management and Budget pursuant to the Paperwork Reduction Act, pertains only to procedural matters; it is therefore not subject to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, requiring advance notice and opportunity for comment. Accordingly, it is effective December 30, 1981.

Information collection requirements of the Commission which exist as separate documents and which are not rules and regulations and are therefore not codified in 17 CFR are as follows:

Information collection requirement	Description of device	Current OMB control No.	Expiration date
1933 Act Guides 30, 55, 57, 60, 61 and 1934 Act Guide 3.	Guidelines for Disclosures by Certain Industries Under the 1933 and 1934 Acts.	3235-0069	June 30, 1982.
Form 4(6)	Implementation of Section 4(6) of the 1933 Act	3235-0097	Nov. 30, 1984.
Survey	Exchange Sales Value and Volume	3235-0001	Dec. 31, 1982.
Do.	Annual Investment Company Asset Letter	3235-0002	Do.
Survey Form R-4a	Private Noninsured Pension Plans	3235-0003	Nov. 30, 1984.
Survey Form R-5	Property and Liability Insurance Companies	3235-0004	Do.
Survey	Rule 146 Utilization	3235-0023	Sept. 30, 1983.
Do.	Private Placement Statistics (Monthly)	3235-0144	Nov. 30, 1984.
Do.	Private Placement Statistics (Quarterly)	3235-0144	Do.

By the Commission.

Dated: January 28, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-2710 Filed 2-2-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 82-15]

Field Organization of the Customs Service; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a citation in the text of a final rule published as T.D. 82-15 in the **Federal Register** on January 14, 1982 (47 FR 2088) which changed the field organization of the Customs Service by modifying the description of the port limits of the consolidated Houston-Galveston, Texas, Customs port of entry.

FOR FURTHER INFORMATION CONTACT: Gertrude Bresnahan, Regulations Control Branch, U.S. Customs Service (202-566-8237).

In FR Doc. 82-1038 appearing on page 2089, column one, the paragraph under the heading "Amendment to the Customs Regulations" is corrected to change the reference from "T.D. 81-15" to "T.D. 82-15."

Dated: January 28, 1982.

Marvin M. Amernick,

Chief, Regulations Control Branch, Regulations Control and Disclosure Law Division.

[FR Doc. 82-2782 Filed 2-2-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Reduction of Retroactive Social Security Benefits

AGENCY: Social Security Administration. HHS.

ACTION: Final rule.

SUMMARY: These final regulations implement section 1127 of the Social Security Act (the Act) as added by section 501 of Pub. L. 96-265. This provision will be effective with determinations of entitlement to monthly Social Security benefits made after June 30, 1981. The provision will require the Social Security Administration (SSA) to reduce an individual's retroactive monthly Social Security benefits under certain conditions where the individual received Supplemental Security Income (SSI) payments (including federally administered State supplementary payments) for the retroactive period. The amount of the reduction will equal the amount of the SSI payments (including federally administered State supplementary payments) that would not have been paid had the monthly Social Security benefits been paid when they were regularly due rather than retroactively.

EFFECTIVE DATE: These regulations are effective on February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Lawrence V. Dudar, Legal Assistant, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6629.

SUPPLEMENTARY INFORMATION: In order to obtain the public's views and comments before proceeding with these amendments, we published a Notice of Proposed Rulemaking in the **Federal Register** on April 20, 1981 (46 FR 22609). The public was invited to submit data, views, or arguments pertaining to the proposed amendment within a period of 60 days from the date of publication of the notice. We have carefully considered all the comments we received during the comment period. We have answered below the issues raised in these comments.

Social Security Disability Amendments of 1980 (Pub. L. 96-265)

Though we administer both the SSI program and the Social Security program, sometimes when an individual applies for benefits under both programs, the individual's claim under one program might be adjudicated and paid sooner than under the other program. Social Security benefits are unearned income under the SSI program. If a person receives certain kinds of unearned income such as Social Security benefits, his or her SSI payments are reduced. If the monthly Social Security benefit is paid after it is due, a windfall can occur since we cannot count unearned income in the SSI program until it is received. In effect, an individual would receive SSI payments that would not have been paid had the monthly Social Security benefits been paid when they were due rather than later.

To prevent this windfall of SSI payments, the Congress enacted section 501 of Pub. L. 96-265 which added section 1127 to the Social Security Act. That section (effective with awards of Social Security benefits that we make after June 30, 1981) requires that we reduce an individual's retroactive monthly Social Security benefit if the individual received SSI payments (including federally administered State supplementary payments) for the same period. If an individual received SSI payments (including federally administered State supplementary payments) for any month in the period beginning with the first month for which monthly Social Security benefits are payable and ending with the month before the first month in which Social Security benefits are paid, the retroactive monthly Social Security benefits for the period will be reduced by the amount of the SSI payment (including federally administered State supplementary payments) that would not have been paid if the individual had received the monthly Social Security benefits when they were due instead of retroactively.

The retroactive Social Security benefits withheld will be used first to reimburse the States for the amount of any federally administered State supplementary payments that would not have been made if the monthly Social Security benefits had been paid when due instead of retroactively. The remainder, if any, shall be covered into

the general fund of the U.S. Treasury for the Federal SSI benefits that would not have been paid.

These provisions explain when a reduction is required, the amount of the reduction and how and to whom we make reimbursement of the reduced benefits. The provisions are incorporated in § 404.408b (a), (b) and (e).

Benefits Subject to Reduction

Only monthly Social Security benefits are subject to this reduction. Social Security benefits which are payable retroactively for any month after the individual has begun receiving recurring monthly Social Security benefits, and for which the individual did not have to file a new application, are not subject to this reduction. Also, the lump-sum death payment, which is not a monthly benefit, is not subject to this reduction. This provision is in § 404.408b(c).

Refiguring the Reduction

After an initial determination, a subsequent claim action can change the amount of benefits or the number of months in the reduction period. Refiguring is generally required where there is a change in the individual's month of entitlement or the amount of the individual's Social Security benefits or SSI payments (including federally administered State supplementary payments) for the reduction period.

By refiguring the amount of the reduction where a subsequent change occurs, more or less Social Security benefits could be payable to the individual. Also, a change in the month of entitlement could affect the number of months in the reduction period or the determination as to whether the case was subject to the reduction.

The rule describing when a refiguring will be made is in § 404.408b(d).

We considered a policy that the initial reduction would be final and not subject to change regardless of any subsequent claim actions. We rejected this because the effect would not be equitable; some people would be unfairly advantaged while others would be disadvantaged.

In addition, we considered refiguring the reduction only if it would be advantageous to the individual. This policy was rejected because it could still allow windfall payments in some cases and would thus contradict the intent of section 501 of Pub. L. 96–265.

Treatment of Retroactive Social Security Benefits for SSI Purposes

For purposes of the SSI program, the balance, if any, of the retroactive monthly Social Security benefits paid to an individual for the reduction months will not be considered income in a subsequent quarter in which it is paid. Since the monthly Social Security benefits for the retroactive period will already have been considered in determining the amount of the SSI benefits that would have not been paid (that is the reduction amount), the balance of the monthly Social Security benefits for the reduction months will not be considered income again under the SSI program for a subsequent quarter in which it is paid. This is an exception to the general SSI rule of counting unearned income in the quarter in which an individual receives it, regardless of the period for which it was due. However, any retroactive monthly Social Security benefits paid for periods prior to SSI entitlement are not subject to the reduction and are considered income when received. These provisions are described in § 416.1123(d).

Public Comments

We published a Notice of Proposed Rulemaking in the Federal Register on April 20, 1981 (46 FR 22609). We asked for public views, data, arguments and evaluations within a period of 60 days. The comment period closed on June 19, 1981.

Some of the comments received were not germane to these particular regulations. These comments are not addressed in the preamble. Other comments are condensed, summarized or paraphrased. However, we have responded to each of the issues raised in comments that are germane to these regulations.

For ease of comprehension and for perspective, we have grouped comments according to the issues raised.

Issue: Notices of Offset.

Five commenters expressed concern about the notice that will be sent to the beneficiaries whose benefits are being offset. They each specified very detailed information they believe should be given including a monthly accounting of SSI and Social Security eligibility and payment.

Response: We do not believe it is appropriate for these regulations to detail the contents of our notice. We will, however, send a notice which explains: (1) The reason why benefits are being offset; (2) the period during which the benefits are subject to reduction; (3) the total amount of the benefits for the period; (4) the amount of SSI that would not have been paid if the Social Security benefits had been paid when due (i.e., the amount of the reduction); (5) the benefits that will be paid often the reduction; and (6) the opportunity to request reconsideration.

The notice described above comprehensively covers essential details. A longer, more detailed, and complex notice could be counterproductive in many cases. The notice that we send will invite the claimant to come into or call the district office if he or she needs more information.

Issue: Attorney Fees.

Some commenters assumed that SSA will withhold the amount of an attorney's fee from retroactive Social Security benefits before reduction by the amount of SSI payments received in the retroactive period, and suggest that SSA should do the same in regard to a fee for a non-attorney representative.

Response: Section 206(a) of the Act provides for direct payment of an authorized fee to an attorney out of the claimant's retroactive monthly benefits (subject to a maximum amount of 25 percent of the retroactive benefits), but makes no such provision for payment to a non-attorney. When we authorize a fee for a non-attorney representative, he or she must collect the fee directly from the claimant. Without specific statutory authority to make direct payment of fees to non-attorneys out of retroactive benefits, we are prevented from making them by section 207 of the Act, which prohibits the transfer or assignment of payments. Therefore, where claimants are represented by non-attorney representatives, we have no authority to withhold a portion of retroactive benefits in anticipation of direct payment of fees and will not do so in cases subject to the proposed rule.

As for attorneys' fees, the amount of retroactive benefits that is subject to withholding for payment of an attorney's fee is the total amount of retroactive Social Security benefits *payable* to the beneficiary (see § 404.1703). The amount payable is the amount of retroactive benefits less the amount of any deductions, reductions, or overpayments applicable to the retroactive period. Thus, the amount of retroactive benefits *payable* for purposes of withholding an attorney's fee is the amount of retroactive Social Security benefits reduced by the amount of any SSI payments received in the retroactive period.

Issue: Insufficient Benefits to Pay Attorney Fees.

One commenter also suggested that if retroactive benefits are insufficient to pay both the attorney's fee and the amount of the SSI reduction, the claimant should not have to pay the difference.

Response: SSA has no legal authority to relieve the claimant of the need to

pay this difference. As we have indicated, the amount of retroactive benefits *payable* must first be determined by applying the reduction for any SSI payments received in the retroactive period (and any other deductions, reductions, or overpayments applicable in the retroactive period). Twenty-five percent of the amount payable (as so determined) will then be withheld for potential payment of an attorney's fee. If that is not sufficient to pay all of the fee authorized for an attorney, the attorney has the right to collect the remainder of his or her authorized fee directly from the claimant.

Issue: Disincentive to Represent SSA Applicants.

Several commenters suggested that if attorney fees are based upon the amount of retroactive Social Security benefits after reduction for receipt of SSI payments, the proposed rule will provide less incentive for attorneys to represent disability applicants.

Response: Under authority of regulations issued pursuant to section 206(a) of the Act, SSA is directed to set a reasonable fee to compensate an attorney for services rendered in connection with a determination by us favorable to a claimant on a claim for Social Security benefits. The amount of the fee is not based upon the amount of retroactive benefits payable to the claimant; it is determined independently, based upon criteria for evaluating the attorney's services set out in § 404.1725(b). The amount of the fee authorized under those criteria may be equal to, or larger or smaller than, the amount of retroactive benefits withheld for direct payment of an attorney's fee. A fee may be authorized even if no retroactive benefits are payable. The amount of retroactive benefits payable to the claimant is pertinent only in determining how much of the authorized fee may be paid directly by SSA to the attorney. In the event that 25 percent of the retroactive benefits payable is less than the amount of the authorized fee, we will pay the amount of 25 percent directly to the attorney and the attorney is authorized to collect the remainder of the fee directly from the claimant.

Issue: Use of the term "covered into."

One of the commenters objected to the use of the term "covered into" in § 404.408b(e)(2).

Response: We considered changing the term to "credited to", or "transferred to" as the writer suggests. But "covered into" is the language used in the law. Therefore, no change is being made.

Issue: Effect of Offset on SSI Recipients.

One commenter suggested that the proposed regulation be clarified to state that it will not have the effect of retroactively removing an individual from his or her status as an eligible individual under the SSI program.

Response: We believe the regulation is clear in its intent not to remove a person's SSI eligibility status when the offset is applied. Section 416.1123(d) specifies that rather than reducing SSI in prior quarters (i.e., declaring an overpayment) we will withhold money from the Social Security retroactive payment. In this way, eligibility for SSI is undisturbed.

Issue: Inclusion of General SSI Exclusion.

One commenter stated that the inclusion of a specific reference to the $20 per month income exclusion should be incorporated in the proposed regulations.

Response: We do not believe it is necessary to do so. These regulations state that we will compute the SSI the person would have received if the Social Security benefit had been paid on time. The method of computing SSI payments is specified in the SSI regulations and the $20 per month exclusion is provided for in § 416.1124 of those regulations.

Issue: Clarification of term "Recomputation".

Two commenters proposed that § 404.408b(d), which deals with recomputing the amount of the reduction, be clarified because of the use of the word "recomputation" in § 404.240.

Response: We agree. The word recomputation is a technical term with a special meaning under section 215(f) of the Act and the regulations. To avoid confusion, the word "recomputation" is changed to "refiguring".

Issue: Delays in Computing Social Security Benefits.

One commenter is concerned about whether SSA will delay computation of the retroactive Social Security benefit until the SSI computation has been completed, reduce it by some hypothetical amount of expected SSI, or pay the Social Security benefit in full and later declare it an overpayment.

Response: We will make the Social Security benefit payment as promptly as practicable in the light of the Congressional concern about windfall payments. Where Social Security benefits are paid before SSI, the offset against Social Security benefits will not apply.

Once a special system is in place, when the Social Security claim is ready for processing, there will be an automatic interface between the Social Security and the SSI systems. The offset will be computed automatically if applicable, and the correct amount of retroactive Social Security benefits will be paid. This processing should minimize any delays in paying the retroactive Social Security benefits. Until the automatic system for processing SSI offset cases is ready for use, SSI data needed to compute the offset must be requested from the SSI system, and the computation of the offset must be performed manually. The computation will be based on actual amounts of SSI paid or the amounts that the person was eligible for during the offset period.

Issue: Initial Determinations.

Nine commenters raised the question of whether SSI offset computations and refigurings are considered initial determinations subject to appeal and whether the rules of administrative finality apply.

Response: These computations and refigurings are considered initial determinations and are subject to the rules on appeal and administrative finality in § 404.902.

Our operational instructions also explain that the rules of administrative finality apply to offset refigurings. When the rules of administrative finality do permit us to refigure the offset, there will be many situations in which the determination will be advantageous to the claimant. This will happen whenever we find that the claimant was due more in SSI payments than he or she received or when there was an SSI overpayment which the claimant might otherwise have to repay out of pocket. However, we agree that this point needs to be included in the proposed regulation. Therefore, we are amending § 404.902 by adding a new paragraph (q) to read as follows:

"(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period."

Issue: Waiver of Overpayment.

Two commenters suggested that a recomputation of the SSI offset amount which results in an overpayment of Social Security benefits should be subject to the rules for waiver of recovery of the overpayment. One commenter suggested that the regulation specify that if SSA erred in computing the amount of reduction:

(1) any resulting underpayment be paid to the beneficiary, and

(2) recovery of a resulting overpayment to be automatically waived.

Respose: Any underpayment or overpayment of Social Security benefits which results when we withhold more

or less than the correct amount of benefits under the SSI offset provision will be subject to the normal rules for disposing of an underpayment and for waiving recovery of an overpayment. To clarify this, we are amending § 404.501(a) of the regulations by adding the following new paragraph (9).

"A reduction under § 404.408b is made which is either more or less than required."

We do not agree that the recovery of overpayments that result from our error in applying this provision should be waived automatically. The rules for waiving recovery of an overpayment of Social Security benefits are stated in § 404.506 of the regulations. In short, adjustment or recovery of an overpayment may be waived if a person is without fault in causing the overpayment and the adjustment or recovery would either defeat the purpose of the program or be against equity and good conscience. The mere fact that an incorrect amount of benefits is withheld under the SSI offset provision does not relieve a person from liability for repaying the overpayment even if the person is without fault. If a person is without fault in causing such an overpayment, adjustment or recovery of the overpayment may be waived where it is deemed against equity and good conscience under § 404.512 of the regulations. We believe that these rules adequately provide for relief.

Regulatory Procedures

Executive Order 12291: These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act: We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only individuals.

Paperwork Reduction Act: These regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

Accordingly, these regulations with changes are adopted as set forth below.

(Secs. 204, 1102, 1127 and 1631(b) of the Social Security Act as amended; 49 Stat. 624, 49 Stat. 647 as amended, 94 Stat. 469, and 86 Stat. 1475; 42 U.S.C. 404, 1302, 1327, and 1383(b))

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance; 13.807 Supplemental Security Income Programs)

Dated: December 9, 1981.

John A. Svahn,

Commissioner of Social Security.

Approved: January 20, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

1. A new § 404.408b is added to Subpart E of Part 404 to read as follows:

§ 404.408b Reduction of retroactive monthly social security benefits where supplemental security income (SSI) payments were received for the same period.

(a) *When reduction is required.* We will reduce your retroactive social security benefits if—

(1) You are entitled to monthly social security benefits for a month or months before the first month in which those benefits are paid; and

(2) SSI payments (including federally administered State supplementary payments) which were made to you for the same month or months would have been reduced or not made if your social security benefits had been paid when regularly due instead of retroactively.

(b) *Amount of reduction.* Your retroactive monthly social security benefits will be reduced by the amount of the SSI payments (including federally administered State supplementary payments) that would not have been paid to you, if you had received your monthly social security benefits when they were regularly due instead of retroactively.

(c) *Benefits subject to reduction.* The reduction described in this section applies only to monthly social security benefits. Social security benefits which we pay to you for any month after you have begun receiving recurring monthly social security benefits, and for which you did not have to file a new application, are not subject to reduction. The lump-sum death payment, which is not a monthly benefit, is not subject to reduction.

(d) *Refiguring the amount of the reduction.* We will refigure the amount of the reduction if there are subsequent changes affecting your claim which relate to the reduction period described in paragraph (a) of this section. Refiguring is generally required where there is a change in your month of entitlement or the amount of your social security benefits or SSI payments (including federally administered State supplementary payments) for the reduction period.

(e) *Reimbursement of reduced retroactive monthly social security benefits.* The amount of the reduction will be—

(1) First used to reimburse the States for the amount of any federally administered State supplementary payments that would not have been made to you if the monthly social security benefits had been paid when regularly due instead of retroactively; and

(2) The remainder, if any, shall be covered into the general fund of the U.S. Treasury for the amount of SSI benefits that would not have been paid to you if the monthly social security benefits had been paid to you when regularly due instead of retroactively.

2. Section 404.501 of Subpart E of Part 404 is amended by adding a new paragraph (a)(9) to read as follows:

§ 404.501 General applicability of section 204 of the Act.

(a) * * *

(9) A reduction under § 404.408b is made which is either more or less than required.

* * * * *

3. Section 404.902 of Subpart J of Part 404 is amended at the end of paragraph (o) by removing the word "and" after the semi colon and at the end of paragraph (p) by changing the period to a semi colon and adding the word "and" after the semi colon and by adding a new paragraph (q) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

* * * * *

(q) An offset of your benefits under § 404.408b because you previously recived supplemental security income payments for the same period.

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

4. Section 416.1123 of Subpart K of Part 416 is amended by revising paragraph (a) and adding a new paragraph (d) to read as follows:

§ 416.1123 How we count unearned income.

(a) *When we count unearned income.* We count unearned income at the earliest of the following points: when you receive it or when it is credited to your account or set aside for your use. We determine your unearned income for each calendar quarter. We describe an exception to the rule on how we count

unearned income in paragraph (d) of this section.

* * * * *

(d) *Retroactive monthly social security benefits.* When you file an application for social security benefits and retroactive monthly social security benefits are payable on that application for a period for which you also received SSI payments (including federally administered State supplementary payments), we count your retroactive monthly social security benefits as unearned income received in that period. Rather than reducing your SSI payments in quarters prior to your receipt of a retroactive monthly social security benefit, we will reduce the retroactive social security benefits by an amount equal to the amount of SSI payments (including federally administered State supplementary payments) that we would not have paid to you if your social security benefits had been paid when regularly due rather than retroactively (see § 404.408b(b)). If a balance is due you from your retroactive social security benefits after this reduction, for SSI purposes we will not count the balance as unearned income in a subsequent quarter in which you receive it. This is because your social security benefits were used to determine the amount of the reduction. This exception to the unearned income counting rule does not apply to any monthly social security benefits for a period for which you did not receive SSI.

[FR Doc. 82-2825 Filed 2-3-82; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 968-82]

Enforcement of Criminal Drug Laws

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: In order to insure maximum effectiveness and efficiency in the enforcement of the criminal drug laws of the United States, the Attorney General has decided to make the resources of the Federal Bureau of Investigation available to complement and supplement those of the Drug Enforcement Administration in this effort. To this end, this order authorizes the Director of the Federal Bureau of Investigation, concurrently with the Administrator of the Drug Enforcement Administration, to investigate violations of the criminal drug laws of the United States. To insure complete coordination of the drug enforcement effort of the Department of Justice, the order places the Administrator under the general supervision of the Director.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Caruso, Special Assistant to the Associate Attorney General, Room 4114, U.S. Department of Justice, 10th and Pennsylvania Ave., NW., Washington, D.C. 20530. Tel. (202) 633-4078.

SUPPLEMENTARY INFORMATION: This order is not a rule within the meaning of either Executive Order 12291 section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301, 21 U.S.C. 871, 28 U.S.C. 509, 510, Reorganization Plan No. 1 of 1968, section 5, and Reorganization Plan No. 2 of 1973, section 6, it is hereby ordered as follows:

1. Section 0.85(a) of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.85 General functions.

* * * * *

(a) Investigate violations of the laws, including the criminal drug laws, of the United States and collect evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise specifically assigned to another investigative agency. The Director's authority to investigate violations of and collect evidence in cases involving the criminal drug laws of the United States is concurrent with such authority of the Administrator of the Drug Enforcement Administration under § 0.100 of this part. In investigating violations of such laws and in collecting evidence in such cases, the Director may exercise so much of the authority vested in the Attorney General by sections 1 and 2 of Reorganization Plan No. 1 of 1968, section 1 of Reorganization Plan No. 2 of 1973 and the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, as he determines is necessary. He may also release FBI information on the same terms and for the same purposes that the Administrator of the Drug Enforcement Administration may disclose DEA information under § 0.103 of this part.

* * * * *

2. A new § 0.102, to read as follows, is added to Title 28, Code of Federal Regulations:

§ 0.102 Drug enforcement policy coordination.

The Administrator of the Drug Enforcement Administration shall perform his functions under the general supervision of the Director of the Federal Bureau of Investigation and shall report through him to the Attorney General, the Deputy Attorney General and the Associate Attorney General, as appropriate.

Dated: January 28, 1982.

William French Smith,

Attorney General.

[FR Doc. 82-2781 Filed 2-2-82; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Dolphin

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USS DOLPHIN (AGSS 555) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 12, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS DOLPHIN (AGSS 555) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 22(a) which requires that vessels of 50 meters or more in length must have

the masthead lights and sidelights visible at a range of 6 and 3 nautical miles, respectively. USS DOLPHIN (AGSS 555) is 50.4 meters (165.5 feet) in length and is required to comply fully with the requirements of Rule 22(a). Full compliance with the above-mentioned Rule 22(a) of the 72 COLREGS would preclude the utilization of USS DOLPHIN with respect to the special construction and purpose of that vessel in view of the fact that there are no know navigation lights that can withstand USS DOLPHIN's operating depth and also meet the requirements of Rule 22(a). At the present time the only know navigational lights that can provide closest possible compliance with Rule 22(a) would provide a masthead light visible at a distance of 4.3 nautical miles, and sidelights visible at a distance of 2 nautical miles. Accordingly, the Secretary of the Navy certifies that the range of visibility of the aforementioned navigational lights are in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest, since it is based on technical findings that the range of visibility of the aforementioned navigational lights on this vessel in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Four of § 706.2 is amended by adding the following note numbered 19 which reflects the certifications issued by the Secretary of the Navy:

* * * * *

19. On USS DOLPHIN (AGSS 555) the masthead light will be visible at a distance of 4.3 nautical miles and the sidelights will be visible at a distance of 2 nautical miles.

* * * * *

(Executive Order 11964; 33 U.S.C. 1605)

Dated: January 12, 1982.

Approved:

George A. Sawyer,

Acting Secretary of the Navy.

[FR Doc. 82-2830 Filed 2-2-82; 8:45 am]

BILLING CODE 3810-AE-M

Corps of Engineers, Department of the Army

33 CFR Part 204

Pacific Ocean at San Miguel Island, California Danger Zone

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending the regulations which establish a danger zone in the Pacific Ocean at San Miguel Island, California. This amendment allows the danger zone to continue with another review in five years and makes minor administrative type changes.

EFFECTIVE DATE: March 5, 1982.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Roman Zawadzki at (213) 688-5606 or Mr. Ralph T. Eppard at (202) 272-0200.

SUPPLEMENTAL INFORMATION: Regulations were promulgated by the Secretary of the Army under 33 CFR 204.203 on January 21, 1966, to govern the use, administration and navigation of a danger zone located in the Pacific Ocean at San Miguel Island, Santa Barbara County, California. The danger zone was established to meet security requirements of the U.S. Navy Pacific Missile Range and the exceptional hazards to persons and property due to missile firings and related activities.

On September 2, 1981, the Corps of Engineers published the proposed amendment in the Notice of Proposed Rulemaking Section of the **Federal Register** (46 FR 44006) with the comment period expiring on October 2, 1981. No comments were received and accordingly, the Department of the Army is amending 33 CFR 204.203(c) as set forth below.

Note.—This regulation is issued with respect to a military function of the Defense Department and accordingly, the provisions of Executive Order 12291 do not apply. The Department of the Army has determined that this regulation will not have a significant economic impact on a substantial number of entities and thus does not require preparation of a regulatory flexibility analysis.

PART 204—DANGER ZONE REGULATIONS

Paragraph (c) of § 204.203 is revised to read as follows:

§ 204.203 Pacific Ocean at San Miguel Island, California; Naval Danger Zone.

* * * * *

(c) *The regulations.* (1) Except as prescribed in this section or in other regulations, the danger zone will be open to fishing and general navigation. Bomb drops between designated hours are expected to be intermittent, and when safe to do so, commercial fishing boats and other small craft will be granted permission to proceed through the danger zone. All vessels permitted to enter the zone during a scheduled bomb drop period, other than those owned or operated by the U.S. Government, shall proceed across the zone by the most direct route and clear the area as soon as possible. When bomb drops are not scheduled, the zone may be occupied without restriction.

(2) The anchoring, stopping, or loitering of any vessel, fishing boat, or recreational craft within the danger zone during scheduled firing/drop hours is expressly prohibited.

(3) The bomb drops will take place in the danger zone at frequent and irregular intervals throughout the year. Danger zone usage demands are identified in the Eleventh Coast Guard District, "Local Notice of Mariners." Announcements will also be made on marine radio channel 16, at 0800 local time, 1200 local time and/or 1 hour prior to bomb drop operations. Status of the zone and/or permission to enter, may be requested by calling "Plead Control" on marine channel 16 or by calling the Pacific Missile Test Center (PMTC) on telephone number (805) 982-8280 or 982-8841.

(4) The Commander, PMTC will extend full cooperation relating to the public use of the danger zone area and will fully consider every reasonable request for its use in light of requirements for national security and safety of persons and property.

(5) No seaplanes, other than those approved for entry by the Commander, PMTC, may enter the danger zone during firing periods.

(6) Landing or going ashore on San Miguel Island is specifically prohibited without prior permission of the Superintendent, Channel Islands National Park. Applications for such permission should be made to: Superintendent, Channel Islands National Park, 1699 Anchors Way Drive, Ventura, California 93003.

(7) The regulations in this section shall be enforced by personnel attached to the Pacific Missile Test Center, Point Mugu, California, and by such other agencies as the Commandant, 11th Naval District, San Diego, California, may designate.

(8) The regulations in this section shall be in effect until further notice. They shall be reviewed in 1986.

Dated: January 5, 1982.

Approved:
William R. Gianelli,
Assistant Secretary of the Army (Civil Works).

[FR Doc. 82-2821 Filed 2-2-82; 8:45 am]
BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2022-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On April 10, 1981 Indiana submitted, as a revision to its State Implementation Plan (SIP), alternate total suspended particulate (TSP) emission limits for a portion of the Indiana Farm Bureau Cooperative Association plant in Marion County. EPA, today, is approving these alternate emission limits. This action will be effective on April 5, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This final rulemaking is effective as of April 5, 1982.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington D.C.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Indianapolis Division of Air Pollution Control; 2700 South Belmont Avenue, Indianapolis, Indiana 46221

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 1972 (37 FR 10863) EPA approved Indiana's process weight particulate regulation, APC-5, as one portion of Indiana's TSP SIP. Subsequently, in response to Section 107 of the Clean Air Act (Act), EPA designated most of Marion County as nonattainment with respect to the National Ambient Air Quality Standards (NAAQS) for TSP (March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993)). Part D of the Act requires each state to revise its SIP for areas designated as nonattainment. In response to the requirements of Part D, Indiana submitted revised particulate strategies and emission limits for Marion County on February 11, 1980 and October 28, 1981. EPA will propose rulemaking action on the overall Marion County TSP strategy and emission limits in the near future.

One of the requirements of a Part D SIP is that reasonably available control technology (RACT) emission limits are required for sources in nonattainment areas. In general, Indiana considers an emission limit of 0.030 grains per dry standard cubic foot (gr/dscf) to be a RACT emission limit for TSP process sources. Indiana's original nonattainment area regulation required the Indiana Farm Bureau Cooperative Association's Beech Grove Grain Terminal (Farm Bureau) to meet this emission limit. Upon petition of the Farm Bureau, Indiana reconsidered and approved revised RACT emissions limits for a portion of the facility. These emission limits were submitted as a revision to Indiana's SIP on April 10, 1981.

Farm Bureau Revision

The SIP, original nonattainment, and revised emission limits are as follows:

Source description	APC-5 limits[1] (pounds/hr)	Original RACT limits		Revised RACT limits	
		gr/dscf	tons/yr[2]	gr/dscf	tons/yr
Elevator E-1	64.3	0.030	2.1	0.016	2.0
Elevator E-2	64.3	0.030	2.1	0.050	1.7
Elevator E-3	64.3	0.030	2.0	0.060	3.1
Elevator E-4	64.3	0.030	2.1	0.060	3.1
Elevator E-5	64.3	0.030	2.0	0.120	6.5
Elevator E-6	64.3	0.030	1.9	0.120	11.9
Elevator E-7	64.3	0.030	5.1	0.0025	0.1
Elevator E-8	64.3	0.030	2.4	[3]	[3]
Elevator E-9	64.3	0.030	1.1	[4]	0.0
Elevator E-10	64.3	0.030	3.1	[4]	0.0
Elevator E-12	64.3	0.030	7.4	0.0019	0.05
North train loadout	68.7	0.030	0.6	0.029	0.03
Single truck dump	54.7		[5]	0.0012	0.04
Twin truck dump	54.8		[5]	0.0014	0.26
Dust conveying system			[5]	0.0017	0.19
Total			31.9		28.97

[1] The pounds/hour emission limits may be exceeded for all sources larger than 200 Tons/Yr whenever their emissions are less than 0.10 pounds per 1000 pounds of gases.
[2] Indiana derived these ton/year figures by multiplying the emission limits by the actual throughput. These tons/year limits are lower than those Indiana submitted with its Part D SIP.
[3] Emissions from E-8 are vented through the controls on E-3 and E-4. The tons/year of emissions for E-8 are included in the totals for E-3 and E-4 and the Gr/dscf emission limit for E-8 is the same as for E-3 and E-4.
[4] Elevators E-9 and E-10 have been removed.
[5] Not included in the original Part D SIP submittal.

It should be noted that the APC-5 and the RACT emission limits are not directly comparable. APC-5 is an hourly emission limit while the RACT limits are based on the volume processed. However, for comparison purposes, the total tons of emissions allowed by the SIP regulation, APC-5, for all sources except the dust conveying system are approximately 240 tons/year. Additionally, the emission points in today's rulemaking do not include all of the emissions from Farm Bureau. For instance, emissions from the grain dryers and the South Train Loadout are not included. The EPA approved SIP emission limits will continue to apply to those Farm Bureau emission points not specifically listed in the above revised limits.

EPA has reviewed Indiana's submission of the revised Farm Bureau emission limits and finds them acceptable, because the tons/year of emissions from the facility will be less than they would be under Indiana's present SIP and less than under Indiana's TSP RACT regulations. EPA concurs with the State that, because the total tonnage emitted is less than that which would be emitted under Indiana's RACT regulations, the revised emission limits constitute RACT for Farm Bureau. EPA has determined that differential computer dispersion modeling of ambient air quality is not required for approval of these revised emission limits because: (1) The total mass of emissions will be less, (2) the emissions are of similar composition and come from the same plant, (3) the operations

are similar, and, therefore, (4) ambient pollutant levels should decrease from those levels which would occur under the Indiana SIP or Indiana's previously submitted "RACT" regulations. EPA, today, is approving both the emission limits and the mass per year limits contained in the revised Farm Bureau submission.

EPA's approval of these revised particulate emission limits does not affect any other SIP regulation which is applicable to the facility, including opacity limits. Indiana's particulate SIP does not contain methods to determine compliance for non-stack sources such as Farm Bureau. This deficiency is being addressed in EPA's analysis of Indiana's Part D particulate SIP, which should be proposed in the Federal Register shortly, and, therefore, will not be addressed in today's action. EPA's action on compliance methods in its Part D rulemaking will apply to Farm Bureau as well.

Because EPA considers today's action as noncontroversial and routine, it is approving it today without prior proposal. The public is advised that this action will be effective April 5, 1982. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and a comment period.

Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities, because it only approves emission limits for a single source. Furthermore, this action only approves a State action. It will impose no new requirements.

The Office of Management and Budget has exempted this rule from the requirement of Section 3 of Executive Order 12291.

If no comments are received on today's action and it, therefore, becomes final, judicial review of this action under Section 307(b)(1) of the Clean Air Act is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. If comments are received on today's action, as discussed earlier, EPA will withdraw its final approval and propose today's action for public comment. Under these circumstances, a petition for review must be filed within 60 days from the date of EPA's ultimate rulemaking. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: January 29, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Section 52.770 is amended by adding paragraph (c)(30) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(30) On April 10, 1981, Indiana submitted revised emission limits for Indiana Farm Bureau Cooperative Association's Beech Grove plant.

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[FR Doc. 82-2770 Filed 2-2-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 122 and 146

[WH-FRL 2016-2]

Underground Injection Control Program Criteria and Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule

SUMMARY: The Environmental Protection Agency is promulgating amendments to its Consolidated Permit Regulations (40 CFR Part 122) and Technical Criteria and Standards for State Underground Injection Control Programs (40 CFR Part 146). The amendments are in response to petitions for review of the regulations in these areas as promulgated on May 19, 1980 and June 24, 1980. The regulations are promulgated under Part C of the Safe Drinking Water Act.

DATES: The regulations in this promulgation shall become effective March 5, 1982; except § 146.23 and § 146.33 which contains information collection requirements which are under review at OMB.

Comments of a technical and non-substantive nature may be submitted until March 5, 1982.

ADDRESSES: Comments of a technical and non-substantive nature should be addressed to, Judy Long, Comment Clerk, Ground Water Protection Branch, EPA, Office of Drinking Water (WH-550), Washington, DC 20460 (202) 755-0405.

FOR FURTHER INFORMATION CONTACT: Thomas E. Belk, Chief, Ground Water Protection Branch, Environmental Protection Agency, (202) 426-3934.

SUPPLEMENTARY INFORMATION: These amendments, with very few exceptions, are the same as were proposed on October 1, 1981 (45 FR 48249 et seq.). The discussion below explains these few changes and responds to the major comments. The preamble of the October 1 proposal (45 FR 48243 et seq.) contains a detailed discussion of the background and reasons for these amendments and, in conjunction with the additional explanation included here, serves as the Statement of Basis and Purpose for this rulemaking.

I. Response to Comments

Testimony on the proposed regulations was given at public hearings in Washington, D.C. and Denver, Colorado and was overwhelmingly favorable. In addition, written comments were received which were generally favorable to the proposal. However, the Agency received some adverse comments and some comments of a technical nature which are addressed below.

A. Comments on the Major Program Concepts

Several commenters expressed concern regarding what they see as excessive relaxation of requirements and cite in particular:

(1) The revised definition of Underground Source of Drinking Water (USDW);

(2) The additional aquifer exemption criterion;

(3) The changes in the "no-migration" standard;

(4) The shifting of certain practices from Class III to Class V; and

(5) Continuing operation of certain existing Class IV wells.

These changes were proposed by the Agency only after it was satisfied that they were consistent with the mandate of the Safe Drinking Water Act. In deciding whether or not the proposed changes were appropriate, the Agency considered three key points in the Safe Drinking Water Act (SDWA):

- The Agency's mandate is to promulgate *minimum requirements* for effective State programs to prevent

underground injection which endangers drinking water sources (SDWA section 1421(b)(1)).

• The test of endangerment is whether or not injection "may result in the presence in underground water which *supplies or can reasonably be expected to supply any public water system* of any contaminant and if the presence of that contaminant may result in such systems not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons" (SDWA section 1421(d)(e) (emphasis added)).

• The Agency is admonished not to "prescribe requirements which interfere with or impede: (A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or (B) any underground injection for the secondary or tertiary recovery of oil or natural gas" and to "* * * provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State" (SDWA section 1421(b)(2) and (3)).

The statutory mandate of the Safe Drinking Water Act affords a range of discretion to EPA in developing specific program requirements. These amendments adjust the requirements as originally promulgated within that range, are consistent with the statutory directives cited above, and relieve well operators of unnecessarily burdensome requirements without any significant reduction in environmental protection.

Revision of the Definition of Underground Sources of Drinking Water

Several commenters interpreted the revised definition to mean that only aquifers which *currently* supply a *public water system* will be protected. In fact, the Agency, aware of the mandate to protect not only those aquifers but also "underground waters which can reasonably be expected to supply any public water system," has kept a broad interpretation of these potential sources of drinking water by defining as USDWs any aquifer which currently supplies drinking water *for human consumption* or contains *fewer than 10,000 mg/l of total dissolved solids* as long as it contains a sufficient quantity of water to supply a public water system as defined by the Safe Drinking Water Act (SDWA section 1401(4)). An aquifer qualifies under this criterion if it is capable of yielding enough water for 25 individuals. This quantity is actually very small and in most cases is less than the amount normally produced by a single low yield domestic well. Therefore, EPA believes that the current definition effectively protects all currently used aquifers regardless of whether they are currently used as public water systems. The definition is tied to "public water system" because the SDWA uses precisely this term to describe what the UIC program is intended to protect (SDWA section 1421(d)(2)).

Revision of the Aquifer Exemption Criteria

In addition to existing criteria, the amendments will permit the Director to exempt an aquifer not currently a source of drinking water if it contains between 3,000 and 10,000 mg/l total dissolved solids (TDS) and "is not reasonably expected to supply a public water system" (SDWA section 1464(c)). Several commenters expressed the opinion that water containing between 3,000 and 10,000 mg/l of total dissolved solids (TDS) is very valuable in some parts of the country, particularly the western States, and that the new exemption criterion is not appropriate. Part of this concern seems to be based on the assumption that all waters containing between 3,000 and 10,000 mg/l TDS will be exempted. The Agency agrees that aquifers containing between 3,000 and 10,000 mg/l TDS can be extremely valuable,[1] and it is for this reason that the current definition of USDWs retains the 10,000 mg/l TDS limit. Although the Agency established a national definition for an USDW, the Agency believes it appropriate to account for varying geological and hydrological conditions by providing flexibility for the State Directors to request exemptions for some aquifers (or portions thereof) containing between 3,000 and 10,000 mg/l TDS. The value of such aquifers is certainly dependent upon "geologic and hydrological conditions" in the specific States, and EPA is required to consider such variability under SDWA section 1421(b)(3)(A)(B). The new criterion is consistent with the SDWA, which uses the same language to define the range of its protection as "underground water which supplies or can *reasonably be expected to supply* any public water system" (SDWA section 1421(d)(2) (emphasis added)). This possibility for exemption certainly should not be interpreted as a mandate to exempt all such aquifers. Therefore, the Agency as a safeguard to ensure that this exemption not be abused, requires public notice of and opportunity to comment on any proposed exemption. Further, it has retained the right to disapprove such exemptions (§ 122.35(c)).

[1] Desalination of Brackish Groundwater. Claire M. Gesalman. U.S. EPA, October 1981.

Revision of the No-Migration Standard

Several commenters saw the revision of § 122.34, "Prohibition of movement of fluid into underground sources of drinking water," as a major weakening of the regulations. As stated in the preamble to the proposal (46 FR 48247), the change in § 122.34 is necessitated by the fact that the statement was too broad and did not take into consideration the fact that Part 146 as originally promulgated allows some migration in certain cases (particularly cementing of existing or newly converted Class II wells (§ 146.22(c) and (d)). The Agency believes that the technical requirements of Part 146, which retain the non-migration standard where appropriate, are adequate to ensure protection of underground sources of drinking water. Several commenters also noted that in § 122.34(b) the duty of the Director to prescribe additional requirements as remedial action is based on an indication of the movement of any contaminant into an USDW. The commenters expressed concern that contamination would have to occur before any remedy could be undertaken. However, in addition to the authority of the Director to prescribe additional requirements in § 122.34(b), the Part 146 technical requirements impose many mandatory standards designed to protect USDWs. A violation of any of these requirements would trigger remedial action, including an enforcement action if necessary, *whether or not an underground source of drinking water was already affected.* For example, if a mechanical integrity test shows a leak in the casing of a well, remedial action must be undertaken whether or not the leak has caused migration into an USDW. Similarly, injection pressure must be limited so as not to fracture the confining zone, whether or not fracturing of the zone would cause migration into an USDW. The Agency believes that the change in § 122.34 has in no way weakened the requirements of Part 146 and will promulgate the change as proposed.

Shift of Certain Practices From Class III to Class V

Several commenters were of the opinion that wells used in the recovery of energy from lignite, tar sands and oil shale should remain in Class III, rather than be placed in Class V, because they view Class V as unregulated. In fact, despite the flexibility that the shift affords, Class V still maintains

significant regulatory safeguards. The Director of a State program must have enforcement powers against Class V wells, and must be able to: request that the owner/operator of a Class V well obtain a permit; and take enforcement action against Class V wells, or order closure of Class V wells, if he finds that these wells *may* cause a violation of a primary drinking water standard or *may* otherwise adversely affect the health of persons (§ 122.34 (c) and (d)).

Within three years of approval of a State program, the State must submit recommendations for the *appropriate regulatory approaches* for Class V wells (§ 146.52). The Agency believes that waiting those three years provides an opportunity to set regulatory requirements, where necessary, which can then be based on extensive knowledge of the practices.

In taking this approach, the Agency recognizes that these are emerging technologies, which may pose unique problems that may not be adequately addressed by the existing technical requirements and that may warrant different regulatory treatment. Furthermore, many of these experimental operations involve Federal participation under other programs and, as such, are already subject to extensive environmental scrutiny.

Continuing Operation of Certain Existing Class IV Wells

A number of commenters were concerned with the Agency's approach to the regulation of hazardous waste disposal wells. Specifically, commenters objected to: (1) the absence of final standards for Class IV wells other than those injecting directly into USDWs; (2) the clarification that hazardous waste injection into exempted aquifers is not banned by the regulations at this time; and (3) the amendment to § 122.37 to provide authority for those Class IV wells for which standards were reserved to continue to operate. Each of these comments is addressed below.

Absence of Final Standards. During the promulgation of the Consolidated Permits Regulations in the spring of 1980, the Agency decided to reserve the standards and requirements for certain types of Class IV wells. This decision is not a part of the present rulemaking, and was discussed in the preamble to the final Consolidated Permits Regulations. At that time, the Agency requested further public comment on several options under consideration (45 FR 33331–3). In that discussion, the Agency also expressed its belief that technical requirements for certain Class IV wells and certain hazardous waste management facilities governed by the Resource Conservation and Recovery Act (RCRA) should be developed in coordination in order to assure, to the extent allowable under the governing statutes, consistent technical requirements for facilities capable of causing a similar degree of environmental risk. The Agency is still proceeding in that context. Final requirements for the reserved Class IV wells will be the subject of a separate rulemaking in the future.

Injection into Exempted Aquifers. In explaining the aquifer exemption portions of these regulations, § 122.31(d) clearly stated that exempted aquifers "* * * are those which would otherwise qualify as 'underground sources of drinking water' to be protected, but which have no real potential to be used as drinking water sources. *Therefore they are not USDWs.*" (45 FR 33437; (emphasis added).)

Therefore, the injection of hazardous waste into an *exempted* aquifer is not included in the ban prescribed by § 122.36. The Agency's willingness to clarify this point by adding § 122.31(d)(3), does not constitute a departure from the regulatory framework of the promulgated regulations.

Authorization for Class IV. At the time of promulgation, the decision on how to treat Class IV wells used to inject above USDWs had not been made, and requirements for these wells were reserved. The regulations as originally promulgated did not specifically authorize these wells to continue operation pending development of these requirements. The Agency anticipated completing the requirements for Class IV in a relatively short time, certainly prior to the effective date of any State UIC Program.

The Agency has not yet developed these requirements, and now that several State programs are about to be established these Class IV wells could be considered banned because not specifically authorized. To avoid the unintended result and to preserve full discretion in determining how these wells should be treated, § 122.37 has been amended to provide explicitly for their continued operation until such a time as the Agency develops its final regulatory requirements for them. The amendments would not authorize the construction of new wells of this type.

B. Other Comments

Several commenters were concerned with the proposed changes in requirements for analysis of injected fluids for Class III wells. The proposal requires that a qualitative analysis and ranges in concentrations of *all* constituents of injected fluids be furnished instead of qualitative and quantitative analyses. The Agency believes that this change is in fact appropriate for Class III operations. In most cases, the purpose of fluid injection in a Class III well is to cause chemical reactions in the injection zone which will change the nature of the injection formation, and result in the presence in the injection zone of a fluid, the chemical composition of which can be quite different from that of the injected fluid. For example, in the case of salt mining operations, it is not the injected fluid, fresh water, which may endanger USDWs, but the brine solution that results from the injection of the fresh water into a salt deposit. It is this solution which needs to be closely monitored in order to protect USDWs.

Moreover, as explained in the preamble to the proposed amendments (46 FR 48248), the exact chemical composition of the injected fluids is sometimes of a highly confidential nature, and asking the applicant for a permit to reveal that composition could have imposed a burden on the applicant without a corresponding environmental benefit. The Agency also stated that the applicant could request Federal confidentiality if he considered that the required information was of a proprietary nature. One commenter expressed the opinion that by the terms of the SDWA and various Federal regulations, information on the nature of injected fluids cannot be afforded confidential treatment. Those provisions, however, deny confidentiality only to "information which deals with the existence, absence, or level of contaminants in drinking water" § 122.19(b)(2). By allowing applicants to demonstrate that certain information should be treated confidentially, the Agency has not changed the standards of confidentiality nor established any presumption that applicants will meet these standards. The determination as to whether the composition of injection fluids could be construed to deal with the absence, existence, or level of contaminants in drinking water, thereby precluding confidential treatment, would have to be made at the time an application for confidential treatment was filed. Apart from such a determination, the cited provisions cannot force the Agency to gather specific information. The determination of what information is necessary for EPA to administer its standards and protect drinking water is a matter squarely within the Agency's discretion. EPA has determined that, for the reasons outlined above, precise

analyses of injected fluids are not necessary for protection of drinking water. It is in an enforcement action that knowledge of the precise concentrations becomes necessary, because the Agency may need to know exactly how much a given operator contributed to whatever damage may have occurred. The regulations specifically preserve EPA's right to collect precise analyses in the course of any enforcement investigation.

Commenters were also concerned with the proposed changes in monitoring requirements for Class III wells. The Agency believes that they are consistent with the mandate of the Safe Drinking Water Act that the Agency promulgate *minimum requirements*. The range of operations covered in Class III encompasses a variety of technical practices which cannot be adequately addressed by a single standard. Monitoring requirements must be carefully tailored to each situation, and this can only be accomplished by giving discretion to the Director to set specific requirements, within the framework of the regulations, for each type of operation under his jurisdiction.

One commenter requested that the Agency clearly state that the decision to apply for an area permit and the size of the project to be covered by the area permit rests with the applicant. While the applicant has the option of applying for an area permit, the final decision on whether or not to grant area permits, and on whether or not the project qualifies as a candidate for an area permit under the criteria listed at § 122.39, rests with the Director. On the same subject, two commenters expressed the opinion that area permits should be available for wells used to inject hazardous waste. Because of the liberalization of requirements for area permits, particularly the discretion given to the operator regarding construction of new wells under an area permit without prior notice to the Director, the Agency believes that the restriction of area permits to wells that do not inject hazardous waste is reasonable. However, this does not mean that an operator who is going to construct two or three wells at one facility to handle hazardous waste cannot request that the permits be processed in a single permitting action.

One commenter expressed the opinion that all reference to wells used for storage of natural gas should be removed from the regulations, and that these wells should clearly be excluded from the regulations since they have been excluded from coverage of the Act by the 1980 amendments (SDWA section 1421(d)(1)). The Agency agrees and is revising §§ 122.31(d) and 146.51(b) accordingly.

One commenter stated that the words "energy extraction" should be removed from the definition of Class III wells, since these wells have been transferred to Class V for the time being, and that the definition should be similar in § 122.32(c)(2) and § 146.05(c)(2). The Agency agrees and is revising these sections accordingly. If pursuant to the assessment of Class V wells the Agency finds it appropriate to place additional practices in Class III, the definition will be revised.

One commenter stated that § 146.08(c)(1), which describes the tests appropriate to detect the absence of fluid movement behind the casing of a well, is inconsistent with the flexibility given the Director to exempt certain Class III wells from the cementing requirements, since these tests are primarily designed to detect the presence of cement behind the casing. The Agency disagrees that a temperature log can only be used if a well has been cemented. It is designed to show movement of fluid between strata and is based on the variation in temperature of formation fluid with depth. It is not dependent on the heat of hydration of cement as described in the comment. In any case, the Director has discretion regarding which test of mechanical intregrity is applicable in particular situations and the Agency believes that the Director will use this discretion to require only appropriate tests.

One commenter stated that wells used at liquid natural gas pipe line terminals to inject water extracted during the final gas drying process along with blow-down water should be clearly identified as Class II wells. The Agency believes that national minimum standards are not the appropriate place to classify all individual practices, some of which may be unique to geological and hydrologic conditions or the regulatory program peculiar to one or a few States. The classification scheme is intended as a framework for State Directors and the decision to place these and other borderline wells in one class or another shall be made on a case-by-case basis.

Several comments were received pointing out technical problems with the proposal.

- A paragraph added to § 122.31(d) in the August 27 technical amendments was accidentally deleted in the October 1 proposed amendments. It has been reinstituted as § 122.31(d)(3).
- The instructions on the changes to § 122.39, and § 146.24 were not consistent with the amendatory language and have been revised accordingly.
- The amendatory language in § 122.42(g) is changed to refer to injection wells rather than injection operations to conform with the language of the stipulation agreement.
- One commenter pointed out that packers are not necessarily placed inside the casing, but can also be used between casing and borehole. The Agency agrees and is dropping the words "within the casing" from the definition in § 146.03.
- There is an incorrect cross reference in § 146.05(d)(3) which refers to § 146.05(1) instead of § 146.05(a)(1). The correct cross reference is now inserted.
- In § 146.08(b)(2) the final period is replaced with "or" to allow for the addition of new paragraph (b)(3).
- The first line in the amendatory language for § 146.22(b)(1) is changed to show the new paragraph numbering.
- In the August 27 technical amendments the equation for the radius of endangering influence in § 146.06 was misprinted in the **Federal Register**. The brackets encompassed only the numerator instead of the whole fraction. It is corrected in this promulgation.

In order to assist EPA to correct typographical errors, incorrect cross-references and similar technical errors, comments of a technical and non-substantive nature on the final regulations may be submitted until March 5, 1982. The effective date will not be delayed by consideration of such comments.

Finally, two commenters requested that slurry borehole mining be clearly excluded from Class III and placed in Class V, and several commenters stated that salt solution mining wells should be in Class II. These comments pertain to the regulatory scheme as originally promulgated. Since the amendments that are the subject of this rulemaking do not involve these issues, the Agency does not feel that it is appropriate to deal with these comments at this time.

II. Economic and Regulatory Impacts.

A. Expected Economic Impact

The regulations promulgated today will result in savings to owners and operators of approximately $70 million over five years compared to the cost they would have incurred under the existing regulations. These savings result from reductions in the requirements for mechanical integrity testing, monitoring and reporting, and permit application for Class II wells, as well as the removal of certain wells

from coverage under Class III. The proposed regulations are not expected to have any adverse impact on oil and gas production, or on production from Class III operations. In addition to savings to owners and operators EPA expects the States to save $1.4 million over five years due to a reduced number of permits to review as well as less detailed information to evaluate in the application.

A detailed economic analysis of this proposal is available upon request.[2]

B. Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C 3501 *et seq.*, the reporting or recordkeeping provisions that are included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained. A notice of that approval will be published in the **Federal Register.**

The promulgated regulations will result in less paperwork burden on owners and operators, as well as State enforcement bodies, by reducing the amount of monitoring information which must be collected and the number of times per year the information is to be submitted. In addition, less detailed information will be required on permit applications, and applications for area permits can cover wells of various classes, not just wells of similar construction. These changes are expected to result in a reduction of 213,000 hours of monitoring and reporting time expended by owners and operators, and a reduction of 102,000 hours of permit processing time by the States, over a five-year period.

C. Impact on Small Business

These regulations are expected to reduce the costs to small Class II businesses, and the Agency knows of no small businesses affected by the changes in the Class III regulations. As noted in the separate document discussing the economic effects of these regulations,[3] the Agency examined two potential definitions of a small entity for Class II operations. One involved a definition developed by the Department of Energy, defining a small entity as a firm producing less than 400,000 barrels of oil or less than 2 billion cubic feet of gas annually. Approximately 97 percent of the firms producing oil and gas fall into this category. An alternative definition was based upon well production with stripper wells defined as those producing less than 10 barrels per day of oil. Stripper wells account for approximately 70 percent of all producing wells. Under both definitions it seems probable that the majority of resource savings from these changes would accrue to small entities. Since the limited savings to Class II businesses will be spread among so many small entities the impact on each of them is likely to be small. Therefore, the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

D. Executive Order 12291

Under Executive Order 12291, EPA must judge whether the amendments to the regulations are major and therefore subject to the requirement of a Regulatory Impact Analysis. These Amendments modify certain monitoring and reporting requirements, provide greater flexibility to operators and to State enforcement agencies and generally make the regulations more flexible and less burdensome for a savings of approximately $70 million over five years. As such they do not constitute major rulemaking according to the criteria in E.O. 12291 Section 1(b). This regulation was submitted to OMB for review as required by E.O. 12291 Section 3(c)(3). Any comments from OMB to EPA and any response by the Agency are available for public inspection at the Office of Drinking Water, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC.

(Secs. 1421, 1422, 1423, 1431, 1445, 1447, 1450, Safe Drinking Water Act, as amended 42 U.S.C. 300(f) et seq.)

Dated: January 28, 1982.

Anne M. Gorsuch,

Administrator.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

40 CFR Part 122 is amended as follows:

1. In § 122.3 the definition for "Underground source of drinking water" is revised and a definition of "Project" added to read as follows:

§ 122.3 Definitions.

* * * * *

Project means a group of wells in a single operation.

* * * * *

Underground source of drinking water (USDW) (RCRA and UIC) means an aquifer or its portion:

(1)(i) Which supplies any public water system; or

(ii) Which contains a sufficient quantity of ground water to supply a public water system; and

(A) Currently supplies drinking water for human consumption; or

(B) Contains fewer than 10,000 mg/l total dissolved solids; and

(2) Which is not an exempted aquifer.

* * * * *

2. In § 122.10 paragraph (a)(4) is revised to read as follows:

§ 122.10 Schedules of compliance.

(a) * * *

(4) Reporting—A RCRA or NPDES permit shall be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee shall notify the Director in writing of its compliance or noncompliance with the interim or final requirements. A UIC permit shall be written to require that if paragraph (a)(1)(ii) of this section is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

* * * * *

3. In § 122.31 the introduction to paragraph (d) is revised; paragraph (d)(2)(iii) is redesignated (d)(2)(v) and new paragraphs (d)(2)(iii), (d)(2)(vi) and (d)(3) are added to read as follows:

§ 122.31 Purpose and scope of Subpart C.

* * * * *

(d) Scope of the permit or rule requirement. The UIC permit program regulates underground injections by five classes of wells (see definition of "well injection," § 122.3). The five classes of wells are set forth in § 122.32. All owners or operators of these injection wells must be authorized either by permit or rule by the Director. In carrying out the mandate of the SDWA, this Subpart provides that no injection shall be authorized by permit or rule if it results in the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR Part 142 or may adversely affect the health of persons (§ 122.34). Existing Class IV wells which inject hazardous waste directly into an underground source of drinking water are to be eliminated over a period of six months and new such Class IV wells are to be prohibited (§ 122.36). Class V wells will be inventoried and assessed and regulatory action will be established at

[2] Analysis of the Expected Economic Impacts of the Proposed UIC Regulations, U.S. EPA Office of Drinking Water, September 1981.

[3] Ibid.

a later date. In the meantime, if remedial action appears necessary, an individual permit may be required (§ 122.37) or the Director must require remedial action or closure by order (§ 122.34(c)). During UIC program development, the Director may identify aquifers and portions of aquifers which are actual or potential sources of drinking water (see § 123.4(g) for State programs). This will provide an aid to the Director in carrying out his or her duty to protect all USDWs. An aquifer is a USDW if it fits the definition, even if it has not been "identified." The Director may also designate "exempted aquifers" using criteria in § 146.04. Such aquifers are those which would otherwise qualify as "underground sources of drinking water" to be protected, but which have no real potential to be used as drinking water sources. Therefore, they are not USDWs. No aquifer is an "exempted aquifer" until it has been affirmatively designated under the procedures in § 122.35. Aquifers which do not fit the definition of "underground sources of drinking water" are not "exempted aquifers." They are simply not subject to the special protection afforded USDWs.

* * * * *

(2) * * *

(iii) Nonresidential cesspools, septic systems or similar waste disposal systems if such systems (A) are used solely for the disposal of sanitary waste, and (B) have the capacity to serve fewer than 20 persons a day.

(iv) Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.

(v) Any dug hole which is not used for emplacement of fluids underground.

(3) The prohibition applicable to Class IV wells under § 122.36 does not apply to injections of hazardous wastes into aquifers or portions thereof which have been exempted pursuant to § 146.04.

4. In § 122.32 paragraphs (a)(1), (b)(1) the introduction to paragraph (c), paragraphs (c)(2) and (d) are revised and paragraph (c) (4) and (5) removed to read as follows:

§ 122.32 Classification of injection wells.

(a) * * *

(1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.

* * * * *

(b) * * *

(1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

* * * * *

(c) Class III. Wells which inject for extraction of minerals including:

* * * * *

(2) In situ production of uranium or other metals; this category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.

* * * * *

(d) Class IV

(1) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one-quarter (¼) mile of the well contains an underground source of drinking water.

(2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one-quarter (¼) mile of the well contains an underground source of drinking water.

(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under §§ 122.32(a)(1) or 122.32(d) (1) and (2) (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to § 146.04).

* * * * *

5. In § 122.34 paragraphs (a) and (b) are revised to read as follows:

§ 122.34 Prohibition of movement of fluid into underground sources of drinking water.

* * * * *

(a) No authorization by permit or rule shall allow the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR Part 142 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

(b) For Class I, II, and III wells, if any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, except as authorized under Part 146, the Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit in accordance with § 122.15, or the permit may be terminated under § 122.16 if cause exists, or appropriate enforcement action may be taken if the permit has been violated. In the case of wells authorized by rule, see § 122.37(a).

* * * * *

6. In § 122.35 paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 122.35 Identification of underground sources of drinking water.

* * * * *

(b)(1) The Director may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Director proposes to designate as exempted aquifers using the criteria in 40 CFR 146.04.

(2) No designation of an exempted aquifer submitted as part of a UIC Program shall be final until approved by the Administrator as part of the State program.

(3) Subsequent to program approval, the Director may, after notice and opportunity for a public hearing, identify additional exempted aquifers. Exemption of aquifers identified (i) under § 146.04(b) shall be treated as a program revision under § 123.13; (ii) under § 146.04(c) shall become final if the State Director submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days. Any disapproval by the Administrator shall state the reasons and shall constitute final Agency action for purposes of judicial review.

(c)(1) For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption under § 146.04(b)(1) to furnish the data

necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone shall be considered by the Director in addition to the information required by § 122.38(c). Approval of the aquifer exemption shall be treated as a program revision under § 123.13.

(2) For Class II wells, a demonstration of commercial producibility shall be made as follows:

(i) For a Class II well to be used for enhanced oil recovery processes in a field or project containing aquifers from which hydrocarbons were previously produced, commercial producibility shall be presumed by the Director upon a demonstration by the applicant of historical production having occurred in the project area or field.

(ii) For Class II wells not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.

7. In § 122.37 paragraphs (a)(1)(iii)(D), (a)(2)(i)(D), and (a)(3) are revised to read as follows:

§ 122.37 Authorization of underground injection by rule.

(a) * * *

(1) * * *

(iii) * * *

(D) Section 122.41(e)—(notice of abandonment);

* * * * *

(2) * * *

(i) * * *

(D) Section 122.41(e)—(notice of abandonment);

* * * * *

(3)(i) Injection into existing Class IV wells as defined in § 122.32(d)(1) may be authorized for a period not to exceed six months after approval or promulgation of the UIC program. Such rules shall apply the requirements of § 122.45(c).

(ii) Injection into existing Class IV wells as defined in §§ 122.32(d)(2) and (3) may be authorized until six months after approval or promulgation of an UIC program incorporating criteria and standards under Part 146, Subpart E applicable to Class IV injection wells. Such rules shall apply the requirements of § 122.45(c).

* * * * *

8. In § 122.39 paragraphs (a)(1), (a)(3), (a)(4) and (c)(1) and the introduction to (c) are revised, and paragraph (a)(5) is removed to read as follows:

§ 122.39 Area permits.

* * * * *

(a) * * *

(1) Described and identified by location in permit application(s) if they are existing wells, except that the Director may accept a single description of wells with substantially the same characteristics;

* * * * *

(3) Operated by a single owner or operator; and

(4) Used to inject other than hazardous waste.

* * * * *

(c) The area permit may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided:

(1) The permittee notifies the Director at such time as the permit requires.

* * * * *

9. In § 122.41 paragraphs (b) and (e) are revised to read as follows:

§ 122.41 Additional conditions applicable to all UIC permits.

* * * * *

(b) In addition to § 122.7(j)(2) (monitoring and records): the permittee shall retain records concerning the nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under § 122.42(f). The Director may require the owner or operator to deliver the records to the Director at the conclusion of the retention period.

* * * * *

(e) The permittee shall notify the Director at such times as the permit requires before conversion or abandonment of the well or in the case of area permits before closure of the project.

10. In § 122.42 paragraph (g) is revised to read as follows:

§ 122.42 Establishing UIC permits conditions.

* * * * *

(g) *Financial responsibility.* The permit shall require the permittee to maintain financial responsibility and resources to close, plug, and abandon the underground injection wells in a manner prescribed by the Director. The permittee must show evidence of financial responsibility to the Director by the submission of a surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Director.

PART 146—UNDERGROUND INJECTION CONTROL PROGRAM: CRITERIA AND STANDARDS

40 CFR Part 146 is amended as follows:

1. In § 146.03 the definitions for "Conventional mine", "Experimental technology", and "Project" are added and the definitions for "Packer" and "Underground sources of drinking water" are revised to read as follows:

§ 146.03 Definitions.

* * * * *

Conventional mine means an open pit or underground excavation for the production of minerals.

* * * * *

Experimental technology means a technology which has not been proven feasible under the conditions in which it is being tested.

* * * * *

Packer means a device lowered into a well to produce a fluid-tight seal.

* * * * *

Project means a group of wells in a single operation.

* * * * *

Underground source of drinking water (USDW) means an aquifer or its portion:

(1)(i) Which supplies any public water system; or

(ii) Which contains a sufficient quantity of ground water to supply a public water system; and

(A) Currently supplies drinking water for human consumption; or

(B) Contains fewer than 10,000 mg/l total dissolved solids; and

(2) Which is not an exempted aquifer.

* * * * *

2. In § 146.04 paragraphs (b)(1) and (b)(4) are revised and (c) is added to read as follows:

§ 146.04 Criteria for exempted aquifers.

* * * * *

(b) * * *

(1) It is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible.

* * * * *

(4) It is located over a Class III well mining area subject to subsidence or catastrophic collapse; or

(c) The Total Dissolved Solids content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

3. In § 146.05 paragraphs (a)(1), (b)(1), (d), (e)(2), (e)(9), (e)(12) and the introduction to paragraph (c) and (e) are revised, (e)(16) is added and (c)(4) and (c)(5) are removed to read as follows:

§ 146.05 Classification of injection wells.

* * * * *

(a) * * *

(1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one quarter (¼) mile of the well bore, an underground source of drinking water.

* * * * *

(b) * * *

(1) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

* * * * *

(c) Class III. Wells which inject for extraction of minerals including:

* * * * *

(d) Class IV

(1) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one quarter (¼) mile of the well contains an underground source of drinking water.

(2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities,or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter (¼) mile of the well contains an underground source of drinking water.

(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under §§ 146.05(a)(1) or 146.05(d) (1) and (2) (e.g., wells used to dispose of hazardous wastes into or above a formation which contains an aquifer which has been exempted pursuant to § 146.04).

(e) Class V—Injection wells not included in Class I, II, III, or IV. Class V wells include:

* * * * *

(2) Cesspools including multiple dwelling, community or regional cesspools, or other devices that receive wastes which have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day.

* * * * *

(9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.

* * * * *

(12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power.

* * * * *

(16) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.

4. In § 146.06 paragraph (a)(2) is revised to read as follows:

§ 146.06 Area of review.

* * * * *

(a) * * *

(2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified Theis equation illustrates one form which the mathematical model may take.

$$r = \left(\frac{2.25KHt}{S10^{x}}\right)^{1/2}$$

where

$$x = \frac{4\pi KH(h_w - h_{bo}S_pG_b)}{2.3Q}$$

- r = Radius of endangering influence from injection well (length)
- k = Hydraulic conductivity of the injection zone (length/time)
- H = Thickness of the injection zone (length)
- t = Time of injection (time)
- S = Storage coefficient (dimensionless)
- Q = Injection rate (volume/time)
- h_{bo} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost underground source of drinking water
- h_w = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water
- S_pG_b = Specific gravity of fluid in the injection zone (dimensionless)
- π = 3.142 (dimensionless)

The above equation is based on the following assumptions:

* * * * *

5. In § 146.08 the introduction to paragraph (b) and paragraph (b)(2) are revised and paragraphs (b)(3), (c)(3) and (c)(4) added to read as follows:

§ 146.08 Mechanical integrity.

* * * * *

(b) One of the following methods must be used to evaluate the absence of significant leaks under paragraph (a)(1) of this section:

* * * * *

(2) Pressure test with liquid or gas; or

(3) Records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following Class II enhanced recovery wells:

(i) Existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or

(ii) Existing wells constructed without a long string casing, but with surface casing which terminates at the base of fresh water provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the Director shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.

(c) * * *

(3) For Class III wells where the nature of the casing precludes the use of the logging techniques prescribed at paragraph (c)(1) of this section, cementing records demonstrating the presence of adequate cement to prevent such migration;

(4) For Class III wells where the Director elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by § 146.33(b) shall be designed to verify

the absence of significant fluid movement.

* * * * *

6. In § 146.10 paragraphs (a), (b)(2), (b)(3) and (d) are revised and paragraph (b)(4) is added to read as follows:

§ 146.10 Plugging and abandoning Class I—III wells.

(a) Prior to abandoning Class I—III wells the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between underground sources of drinking water. The Director may allow Class III wells to use other plugging materials if he is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.

(b) * * *

(2) The Dump Bailer Method;

(3) The Two-Plug Method; or

(4) An alternative method approved by the Director, which will reliably provide a comparable level of protection to underground sources of drinking water.

* * * * *

(d) The plugging and abandonment plan required in 40 CFR § 122.42(f) and § 122.41(e) shall, in the case of a Class III project which underlies or is in an aquifer which has been exempted under 40 CFR 146.04, also demonstrate adequate protection of USDWs. The Director shall prescribe aquifer cleanup and monitoring where he deems it necessary and feasible to insure adequate protection of USDWs.

7. In § 146.22 paragraphs (b) (4), (5), (6), and (7) are removed; the introduction to paragraph (b) is redesignated as paragraph (b)(1); the existing paragraph (b)(1) is redesignated as (b)(1)(i); paragraphs (b) (2) and (3) are redesignated as (b)(1) (ii) and (iii) and revised; a new paragraph (b)(2) is added; the introduction to (f)(2)(i), paragraphs (f)(2)(i)(A), (f)(2)(ii)(A), and (g) are revised to read as follows:

§ 146.22 Construction requirements.

* * * * *

(b)(1) * * *

(i) Depth to the injection zone;

(ii) Depth to the bottom of all USDWs; and

(iii) Estimated maximum and average injection pressures;

(b)(2) In addition the Director may consider information on:

(i) Nature of formation fluids;

(ii) Lithology of injection and confining zones;

(iii) External pressure, internal pressure, and axial loading;

(iv) Hole size;

(v) Size and grade of all casing strings; and

(vi) Class of cement.

* * * * *

(f) * * *

(2) * * *

(i) For surface casing intended to protect underground sources of drinking water in areas where the lithology has not been determined:

(A) Electric and caliper logs before casing is installed; and

* * * * *

(ii) * * *

(A) Electric, porosity and gamma ray logs before the casing is installed;

* * * * * *

(g) At a minimum, the following information concerning the injection formation shall be determined or calculated for new Class II wells or projects:

(1) Fluid pressure;

(2) Estimated fracture pressure;

(3) Physical and chemical characteristics of the injection zone.

8. In § 146.23 the introduction to paragraph (b)(2) is revised and a paragraph is added at the end of (b)(2) to read as follows:

§ 146.23 Operating, monitoring and reporting requirements.

* * * * *

(b) * * *

(2) Observation of injection pressure, flow rate, and cumulative volume at least with the following frequencies:

* * * * *

And recording of one observation of injection pressure, flow rate and cumulative volume at reasonable intervals no greater than 30 days.

* * * * *

9. In § 146.24 paragraphs (a)(4)(iii), (a)(5) and (a)(6) are revised, paragraphs (a)(8) through (a)(12) are removed, paragraphs (a)(13) and (a)(14) are redesignated (a)(8) and (a)(9) respectively, paragraphs (b) and (c) are redesignated (c) and (d) respectively and a new paragraph (b) is added.

§ 146.24 Information to be considered by the director.

* * * * *

(a) * * *

(4) * * *

(iii) Source and an appropriate analysis of the chemical and physical characteristics of the injection fluid.

(5) Appropriate geological data on the injection zone and confining zone including lithologic description, geological name, thickness and depth;

(6) Geologic name and depth to bottom of all underground sources of drinking water which may be affected by the injection;

* * * * *

(8) In the case of new injection wells the corrective action proposed to be taken by the applicant under 40 CFR 122.44;

(9) A certificate that the applicant has assured through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by 40 CFR 122.42(g);

(b) In addition the Director may consider the following:

(1) Proposed formation testing program to obtain the information required by § 146.22(g);

(2) Proposed stimulation program;

(3) Proposed injection procedure;

(4) Proposed contingency plans, if any, to cope with well failures so as to prevent migration of contaminating fluids into an underground source of drinking water;

(5) Plans for meeting the monitoring requirements of § 146.23(b).

* * * * *

10. In § 146.32 the introduction to paragraph (a), and paragraphs (b), (c) and (d) are revised to read as follows:

§ 146.32 Construction requirements.

(a) All new Class III wells shall be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Director may waive the cementing requirement for new wells in existing projects or portions of existing projects where he has substantial evidence that no contamination of underground sources of drinking water would result. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors shall be considered:

* * * * *

(b) Appropriate logs and other tests shall be conducted during the drilling and construction of new Class III wells. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the Director. The logs and tests appropriate to each type of Class III well shall be determined based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks shall be

conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they shall be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

(c) Where the injection zone is a formation which is naturally water-bearing the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:

(1) Fluid pressure;

(2) Fracture pressure; and

(3) Physical and chemical charateristics of the formation fluids.

(d) Where the injection formation is not a water-bearing formation, the information in paragraph (c)(2) of this section must be submitted.

* * * * *

11. In § 146.33 paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) are revised to read as follows:

§ 146.33 Operating, monitoring, and reporting requirements.

* * * * *

(b) * * *

(1) Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by § 146.34(a)(7)(iii) is incorrect or incomplete, a new analysis as required by § 146.34(a)(7)(iii) shall be provided to the Director.

(2) Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate.

(3) Demonstration of mechanical integrity pursuant to § 146.08 at least once every five years during the life of the well for salt solution mining.

(4) Monitoring of the fluid level in the injection zone semi-monthly, where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells required by § 146.32(e), semi-monthly.

* * * * *

12. In § 146.34 paragraphs (a)(4), (a)(7)(iii), (a)(8) and (b)(2), are revised to read as follows:

§ 146.34 Information to be considered by the Director.

* * * * *

(a) * * *

(4) Maps and cross sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

* * * * *

(7) * * *

(iii) Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request Federal confidentiality as specified in 40 CFR Part 2. If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations which shall not be exceeded. In such a case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the Director as part of any enforcement investigation.

(8) Proposed formation testing program to obtain the information required by § 146.32(c).

* * * * *

(b) * * *

(2) A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution wells pursuant to § 146.08;

* * * * *

13. In § 146.51, paragraph (b)(1) is revised to read as follows:

§ 146.51 Applicability.

* * * * *

(b) It also includes wells not covered in Class IV that inject radioactive material listed in 10 CFR Part 20, Appendix B, Table II, Column 2.

* * * * *

[FR Doc. 82-2802 Filed 2-2-82; 8:45 am]
BILLING CODE 6560-29-M

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40 CFR Part 180

[PP 1F2536/R396; PH-FRL-2040-5]

Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate; Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on cabbage. This regulation to establish the maximum permissible level for the insecticide in or on cabbage was requested by Shell Oil Company.

EFFECTIVE DATE: Effective on February 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of September 23, 1981 (46 FR 47006) that Shell Oil Co., 1025 Connecticut Ave., NW., Suite 200, Washington, DC 20036, had filed a pesticide petition (PP 1F2536) with the EPA. The petition proposed that 40 CFR 180.379 be amended by establishing a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity cabbage at 10.0 parts per million (ppm). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included: An acute oral rat toxicity study with median lethal dose (LD_{50}) of 1-3 grams (g)/kilogram (kg) of body weight (bw) (water vehicle) and 450 milligrams (mg)/(kg) of bw (dimethyl-sulfoxide (DMSO) vehicle); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10-50 ppm for males and 50-250 ppm for females (no oncogenic effects were noted at 1,250 ppm, the highest dose tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested—significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (highest level fed)—no oncogenic effects were observed; a 3-generation rat reproduction study with a NOEL of 250 ppm (highest level fed); teratology studies (in mice and rabbits, both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: Mouse dominant lethal (negative at 100 mg/kg of bw,

which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative); and bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: A hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI) is calculated to be 0.1250 mg/kg/day based on the 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 7.500 mg/day (60 kg). Approval of the tolerance for cabbage would result in a theoretical maximum residue contribution (TMRC) of 1.5842 mg/day (1.5 kg) and utilize 21.12 percent of the ADI.

The metabolism of the insecticide is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. There are currently no regulatory actions pending against the continued registration of this insecticide. The tolerance for residues in or on the meat, fat (including milk fat), and meat byproducts of cattle, goats, hogs, horses, and sheep are adequate to cover secondary residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2), and there is no reasonable expectation of residues in poultry and eggs as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that establishment of the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before March 5, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: February 3, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: January 20, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodity cabbage to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodity	Parts per million
Cabbage	10.0

[FR Doc. 82-2635 Filed 2-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 1F2505/R390; PH-FRL-2040-4]

Cyano (3-Phenoxyphenyl) Methyl 4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate; Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide cyano (3-phenoxyphenyl) methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity pecans. This regulation to establish the maximum permissible level for residues of the insecticide in or on pecans was requested by Shell Oil Co.

EFFECTIVE DATE: Effective on February 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 22, 1981 (46 FR 32313) which announced that the Shell Oil Co., 1025 Conn. Ave., NW., Washington, DC 20036, had submitted a pesticide petition (PP 1F2505) proposing that 40 CFR 180.379 be amended by the establishment of a tolerance for the residues of the insecticide cyano (3-phenoxyphenyl) methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity pecans at 0.2 part per million (ppm).

There were no comments received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included: An acute oral rat toxicity study with median lethal dose (LD 50) of 1-3 grams (g)/kilogram (kg) of body weight (bw) (water vehicle) and 450 milligrams (mg)/kg of bw (dimethyl sulfoxide (DMSO) vehicle); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10-50 ppm for males and 50-250 ppm for females (no oncogenic effects where noted at 1,250 ppm, the highest dose tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested) (significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm highest level fed) no oncogenic effects were observed; a 3-generation rat reproduction study with a NOEL of 250 ppm (highest level fed);

teratology studies (in mice and rabbits, both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies; mouse dominant lethal (negative at 100 mg/kg of bw; which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative); and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: A hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI) is calculated to be 0.1250 mg/kg/day based on the 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 7.5000 mg/day (60 kg). Approval of the tolerance for pecans would result in a theoretical maximum residue contribution (TMRC) of 1.4588 mg/day (1.5 kg) and utilize 19.45 percent of the ADI.

The metabolism of the insecticide is adequately understood for this use, and adequate analytical method (gas chromatography) is available for enforcement purposes. There are currently no regulatory actions pending against the registration of this pesticide. The tolerance for residues in or on the meat, fat (including milk fat), and meat byproducts of cattle, goats, hogs, horses, and sheep are adequate to cover secondary residues resulting from the proposed uses as delineated in 40 CFR 180.6(a)(2). There is no reasonable expectation of residues in poultry and eggs as delineated in 40 CFR 180.6(a)(3).

The insecticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before March 5, 1982 file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishig new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: February 3, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: January 20, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodity pecans to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl 4-choloro-alpha-(1-methylethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodity	Parts per million
Pecans	0.2

[FR Doc. 82-2836 Filed 2-3-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6104

[M-41574]

Montana; Partial Revocation of National Forest Withdrawal for Administrative Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial Order which withdrew certain lands as administrative sites for use by the Forest Service. This action will restore approximately 184 acres of land to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated November 14, 1908, which withdrew certain lands for administrative sites, agricultural and pasture purposes is hereby revoked so far as it affects the following described lands:

Gallatin National Forest

Principal Meridian

East Deer Creek Administrative Site

"Station 22" approximately located in Tps. 2 and 3 S., R. 15 E., (unsurveyed).

Dry Fork Ranger Station

"Station 25" approximately located in T. 4 S., R. 13 E., (unsurveyed).

The areas described aggregate approximately 184 acres, more or less, in Sweet Grass County.

2. At 8 a.m. on March 5, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Dated: January 27, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-2809 Filed 2-3-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6126

[M-51236]

Montana; Revocation of Public Land Order No. 5952

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes Public Land Order No. 5952, an emergency withdrawal of the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas. The lands were withdrawn from all forms of disposition under all laws pertaining to mineral leasing in response to a resolution adopted by the House Interior and Insular Affairs Committee on May 21, 1981.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Sue Bosma, Washington, D.C. Office, 202–343–6486.

Pursuant to a judgment and order of the United States District Court for the District of Montana, entered on January 18, 1982, in *Pacific Legal Foundation et al. v. Watt et al.*, CV–81–141 BLG, and *Mountain States Legal Foundation v. Watt et al.*, CV–81–168– BLG, U.S.D.C., Mont., the Secretary of the Interior has been ordered by the court to revoke Public Land Order No. 5952, as issued on June 1, 1981, at the direction of the House Committee on Interior and Insular Affairs. Therefore, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5952 of June 1, 1981, which withdrew all of the Federal lands in the Bob Marshall, Scapegoat, and Great Bear Wilderness Areas, as designated by Pub. L. 88–577, 92–395, and 95–546 from all forms of disposition under all laws pertaining to mineral leasing and all amendments thereto, is hereby revoked in its entirety. The lands aggregate approximately 1,537,000 acres in Flathead, Lewis and Clark, Missoula, Pondera, Powell, and Teton Counties, Montana.

2. By complying with the judgment and order of the District Court, entered on January 18, 1982, the Secretary of the Interior does not concede the correctness of the legal conclusions in the court's memorandum opinion filed on December 16, 1981, as amended, by an order of the court filed on January 18, 1982.

Dated: January 29, 1982.

James G. Watt,

Secretary of the Interior.

[FR Doc. 82–2810 Filed 2–2–82; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Part 3200

[Circular No. 2495]

Geothermal Resources Leasing; General

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking is issued under the provisions of the Geothermal Steam Act of 1970 which authorizes the Secretary of Interior to issue leases for geothermal resources. The final rulemaking amends the existing regulations to provide for leasing of fractional or future interests in geothermal resources owned by the Federal Government.

EFFECTIVE DATE: March 5, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (520), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher (202) 343–7722.

SUPPLEMENTARY INFORMATION: The proposed rulemaking was published in the **Federal Register** on September 1, 1981 (46 FR 43950). Comments were invited for a 60-day period, ending on November 2, 1981. Comments were received only from offices within the Bureau of Land Management. Following review of those comments, clarifying words were added to §§ 3207.2–3(c)(1) and 3207.3–2(c) to indicate that the rental specified in the interim agreement required for leases of future interests is an interim rental and that it will be payable at the rate of $1 per acre or fraction thereof. No other changes were necessary.

The principal author of this final rulemaking is Karl F. Duscher, Division of Mineral and Geothermal Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96–354).

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the information required in § 3207.2–2 of this rulemaking does not require clearance by the Office of Management and Budget since there are less than 10 respondents annually. However, the information collection requirements contained in the application provisions under 43 CFR Subpart 3211 have been approved (OMB Clearance No. 1004–0038).

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025), Part 3200, Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

David C. Russell,

Acting Assistant Secretary of the Interior.

January 19, 1982.

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

1. Section 3201.2(b) is amended by adding two new sentences to the end of the introductory text as follows:

§ 3201.2 Acreage Limitations.

* * * * *

(b) * * * Where the United States owns a present fractional interest in the geothermal resources in the leased lands, only that portion of the total acreage currently owned by the United States shall be charged as acreage holdings. The acreage embraced in a future interest lease shall not be chargeable as acreage holdings until the future interest vests in the United States.

* * * * *

§ 3202.2–7 [Removed]

2. Section 3202.2–7 is removed in its entirety.

3. Section 3205.3–4 is revised to read as follows:

§ 3205.3–4 Fractional interests.

Rentals and minimum royalties payable under leases for lands in which the United States owns only an undivided present or future fractional interest shall not be prorated, but shall be paid for the full acreage in the leased lands. However, royalty on production from such lands shall be payable in the same proportion to the royalty provided for in § 3205.3–5 of this title as the undivided fractional interest of the United States in the geothermal resources is to the full geothermal resources interest.

4. A new Subpart 3207 is added as follows:

Subpart 3207—Leases for a Fractional or Future Interest

Sec.

3207.1 General.
3207.2 Noncompetitive leases.
3207.2–1 Qualifications.
3207.2–2 Applications.
3207.2–3 Leasing.
3207.2–4 Agency action on applications.
3207.3 Competitive leasing.
3207.3–1 Nominations for leases.
3207.3–2 Leasing

Authority: Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025).

Subpart 3207—Leases for a Fractional or Future Interest

§ 3207.1 General.

Leases for lands in which the United States owns only a fractional or future interest in geothermal resources may be issued whenever the public interest will be best served thereby. Where the United States owns both a present and a future interest in the geothermal resources in a tract, these interests may

be leased separately or together at the discretion of the authorized officer.

§ 3207.2 Noncompetitive leases.

§ 3207.2–1 Qualifications.

Qualifications for noncompetitive lease applicants for either a fractional present or future interest in geothermal resources will be the same as those appearing in Subpart 3202 of this title with the exception that applicants for a lease of a noncompetitive future interest shall own, hold, or control at least 50 percent of the present operating rights in the geothermal resources.

§ 3207.2–2 Applications.

Applications for a noncompetitive lease for either a fractional present or future interest in geothermal resources owned by the United States shall be filed and adjudicated in accordance with Subpart 3210 of this title except for qualifications in § 3207.2–1 of this title. In addition, such applications shall include:

(a) A statement describing the extent of the applicant's present or future operating rights to the geothermal resources in a tract other than those resources owned by the United States in the lands covered by the application, together with:

(1) A certified abstract of title or certificate of title containing record evidence of the creation of such interest(s) in the geothermal resources (abstracts will be returned to the applicant when final action has been taken on the application), and

(2) A copy of the lease or contract if the applicant has acquired any of the operating rights to the described interest(s).

(b) The name of the Government agency administering the surface lands that must consent before a lease can be issued; or

(c) The name of the agency that may have records establishing ownership of the geothermal resources involved; and

(d) Identification of the project, if any, of which the lands are a part.

(Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the information required in § 3207.2–2 of this title does not require clearance by the Office of Management and Budget since there are less than ten respondents annually)

§ 3207.2–3 Leasing.

(a) A lease of a fractional present interest shall contain the same terms and conditions, including the rentals, as are included in leases for lands in which the United States owns the full interest in the geothermal resources. The acreage of the lease shall be chargeable according to § 3201.2 of this title.

(b) A lease of a future Federal geothermal interest shall become effective on the date that the interest in the geothermal resources vests in the United States. The terms and conditions of the lease shall be the same as for a noncompetitive lease of a present interest issued under this part. The acreage in the lease shall become chargeable according to § 3201.2 of this title when the lease becomes effective.

(c) As consideration for the issuance of a lease of a future Federal geothermal interest, the applicant for a noncompetitive lease shall execute an interim agreement on a form approved by the Director, Bureau of Land Management. This agreement shall govern the relationship between the lessee and the United States until the date the lease becomes effective. The agreement shall provide that:

(1) The applicant pay a minimum annual rental of $1 per acre or fraction thereof until the future interest of the United States becomes possessory; and

(2) When a present interest in geothermal resources is relinquished, terminated, or cancelled, the interim agreement or lease of a future interest on the parcel involved shall be deemed to have been relinquished, terminated, or cancelled in the same manner and to the same degree; and

(3) No assignment of the interim agreement and the lease of a future interest shall be approved without a concurrent transfer, to the same extent and to the same party, of the rights to the present interest in the leased lands.

(d) The authorized officer shall not:

(1) Issue leases requiring consent of a Government agency until the applicant executes stipulations required by the consenting agency.

(2) Issue a lease for the Federal interests in the geothermal resources on a parcel to a person who, with the Federal interest, would control less than 50 percent of all interest in the operating rights to the geothermal resources in a parcel, unless the Secretary determines it is in the public interest to do so.

§ 3207.3 Competitive leasing.

§ 3207.3–1 Nominations for leases.

No special form is required for requests or nominations of eligible parcels. Nominations or requests to have leases offered competitively for lands known to contain geothermal resources shall, to the extent possible, include the information required for noncompetitive leases under § 3207.2–2 of this title.

§ 3207.3–2 Leasing.

(a) Fractional or future interests in geothermal resources owned by the United States in lands situated within a KGRA shall only be available for leasing under the provisions of this subpart and the provisions of subpart 3220 of this title.

(b) A lease of a future interest will become effective on the date that the interest in the geothermal resources vests in the United States. Its terms and conditions, including rental and royalty payments, shall be the same as for a lease of a present interest issued competitively under Subpart 3220 of this title. The acreage in the lease shall become chargeable according to § 3201.2 of this title when the lease becomes effective.

(c) Prior to the issuance of a lease of a future interest, the highest bona fide bidder shall execute an interim agreement on a form approved by the Director, Bureau of Land Management which will govern the relationship between the lessee and the United States until the date the lease becomes effective. The agreement shall require payment of an annual interim rental at the same rate as specified under the terms of the lease of the future interest.

(d) If the controlling owner or holder of the present rights in an offered tract, is not the high bidder at the lease sale, such party shall be given an opportunity to meet the highest bona fide bid submitted for the tract. Failure to do so within the time allowed, or failure to submit any bid for the offered tract, shall be considered a waiver of all rights to the competitive lease and the lease shall be awarded to the highest qualified bidder. In the event there are two or more holders of a present interest in an offered tract who have equal rights and are willing to meet the highest bona fide bid on the offered tract, the right to meet the highest bona fide bid shall be determined by a drawing conducted by the authorized officer within 30 days after the bids are opened. These provisions are in addition to the provisions under § 3220.6 of this title.

(e) The authorized officer shall not issue leases requiring consent of a Government agency until the highest bona fide bidder executes stipulations required by the consenting agency.

[FR Doc. 82-2826 Filed 2-2-82; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Service Order No. 1498]

Oklahoma, Kansas and Texas Railroad Company Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1498.

SUMMARY: Pursuant to section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes the Oklahoma, Kansas and Texas Railroad Company (OKKT) to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for those operations. This order permits OKKT to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., January 31, 1982, and continuing in effect until 11:59 p.m., May 15, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: January 28, 1982.

Upon further consideration of Service Order No. 1498 (46 FR 55705), with respect to its extension which is the subject of litigation before the United States Court of Appeals for the Seventh Circuit, and upon consideration of the Record Carrier Competition Act, Pub. L. 97–130 (December 29, 1981), which clarifies our authority with respect to the use of Section 122 of RITEA and in connection with this order, we are exercising our authority to its fullest extent by extending this order. In so doing we assure that if, in the pending litigation, our order is upheld the service authorized may be instituted without undue delay, and good cause appearing therefor:

§ 1033.1498 [Amended]

It is ordered, That § 1033.1498 *Oklahoma, Kansas and Texas Railroad Company Authorized to use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* Service Order No. 1498 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 15, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 31, 1982.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2747 Filed 2-2-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1125

[Ex Parte No. 293 (Sub-No. 2)]

Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States

AGENCY: Interstate Commerce Commission.

ACTION: Amendment to the standards.

SUMMARY: On October 16, 1981, the Rail Services Planning Office (RSPO) proposed that the Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States (regional standards) be amended to apportion train supplies and expenses on a loaded freight train car basis. RSPO has determined that this basis is the most logical and equitable because the accounts involved are all freight car related. Accordingly, § 1125.8(c)(1)(i) of the standards will be amended to apportion train supplies and expenses on the basis of loaded freight train cars handled on the branch.

EFFECTIVE DATE: This amendment is effective March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Winston Warner, (202) 275–0841.

SUPPLEMENTARY INFORMATION: On October 16, 1981 (46 FR 50998, October 16, 1981), RSPO published a notice of proposed rulemaking in response to a petition filed by the New York State Department of Transportation (NYDOT) requesting that § 1125.8(c)(1)(i) of the regional standards be amended to include a new method for allocating train supplies and expenses. In that notice, we proposed that these costs be allocated on the basis of loaded freight train cars. NYDOT suggested a train-mileage basis.

Comments were received from NYDOT and Conrail. Upon assessing these comments and conducting further analyses, we conclude that apportionment on the basis of loaded freight train cars is the best method. The primary concerns raised by the parties are discussed below. They pertain to the method of assignment and the retroactivity of the new allocation method.

Allocation Method for Train Supplies and Expenses

New York DOT stated that they were opposed to our proposal to compute train supplies and expenses on the basis of loaded freight train cars handled on the branch. They prefer a cost per loaded car mile basis because they believe it is the least costly allocation methodology.

As support for its position, NYDOT prepared an analysis based on 1976–1977 subsidy year data using four different allocation factors for the assignment of train supplies and expenses. These factors were (1) cost per train hour (current methodology), (2) cost per loaded freight car (RSPO's proposed methodology), (3) cost per loaded car mile (NYDOT's proposed methodology), and (4) cost per train mile. Using Conrail's 1977 Annual Report Form R–1, NYDOT developed the following unit costs and total costs based on 1976–1977 data from USRA Line 90 (Emeryville to Edwards, NY.)

1977 Data

Total account 402—freight	$54,956,000
Total carloadings (AAR data)	4,750,860
Total loaded car miles	2,016,044,000
Total train hours—freight	3,408,340
Total train miles—freight	51,222,606

Cost Factors

a. Cost per train hour	$16.12
b. Cost per car	11.57
c. Cost per car mile	.027
d. Cost per train mile	1.07

USRA LINE 90

Basis	Cost: Account 402 (train supplies and expenses)
a. Train hour (freight)	$5,013
b. Loaded car	2,140
c. Loaded car mile	58.91
d. Train mile (freight)	1,288

As a result of this analysis, NYDOT asserts that their proposed formula of loaded car miles is the least costly while our proposed basis of loaded cars is the second most costly.

NYDOT further contends that train supplies and expenses accrue as a function of distance and, as a result, a cost per car mile basis is the fairest approach. They note that a mainline train passes through several yards over a long distance and, therefore, requires inspections and lubrication. However, they assert that a branch line train travels short distances at moderate to slow speeds causing little wear and tear and, therefore, has little or no need for inspection.

We have a number of concerns with NYDOT's position. First, NYDOT's analysis is not current. It fails to reflect the new Uniform System of Accounts (USOA) which the Interstate Commerce Commission adopted on January 1, 1978. Accordingly, their analysis is accurate only for those subsidy years prior to January 1, 1978 when the old USOA applied.

The new USOA calls for a different accounting treatment of Account 402, Train Supplies and Expenses. Basically, it fragments this account into 27 subaccounts. Of these 27 subaccounts, only four are still subject to allocation. The remaining accounts are all determined on an actual basis. The four assignable accounts are Engine Crews-Materials, Account 21–31–56; Train Crews-Materials, Account 21–31–57; Train Inspection and Lubrication-Salaries and Wages, Account 11–31–62; and Train Inspection and Lubrication-Materials, Account 21–31–62. These four accounts reflect approximately 60% of the total cost of train supplies and expenses. (This 60% figure is based on RSPO's analysis of the 27 subaccounts from Conrail's 1980 Annual Report Form R–1.)

Since NYDOT's analysis does not reflect the new USOA accounting treatment, we conducted our own analyses using the new USOA format for 7 different Conrail light-density lines. Our findings as to the cost consequences of the various allocation methodologies and their relationship to the four assignable accounts differs from NYDOT's conclusions. The analysis is as follows:

1980 CONRAIL DATA

Total account 402 freight (form R–1) (based on USOA cross reference)	$99,884,000
Total carloadings (QCS)	4,172,009
Total loaded car miles (OSA)	1,530,559,000
Total train miles (OSA)	42,907,619

SYSTEM COST FACTORS

a. Cost per loaded car	$23.991463
b. Cost per loaded car mile	.06528
c. Cost per train mile	2.327885

BRANCH DATA

USRA line segment	Car-loads	Car miles	Train miles
Pa. 180 (at Lebanon)	204	133,951	117
Pa. 197B (North Reading to Hamburg)	427	231,644	3,540
Pa. 344 (Bridgeville to Sygan)	42	5,287	31
Pa. 916 (Manheim to White Oak)	26	16,308	33
N.J. 1105 (Bradley Beach to Bay Head Jct.)	203	24,240	841
Mass. 23/24 (Buzzards Bay to Falmouth)	273	155,793	1,365
Mass. 33 (Needham Jct to West Roxbury)	119	123,972	516

BRANCH TOTAL OPERATING COST—TRAIN SUPPLIES AND EXPENSES

	Train-hour basis [1]	Car load basis	Car-mile basis	Train-mile basis
Pa. 180	$3,582	$4,584	$8,742	$272
Pa. 197B	14,110	10,223	15,117	5,240
Pa. 344	667	1,006	606	72
Pa. 916	281	662	1,064	76
N.J. 1105	2,251	1,860	1,582	1,957
Mass. 23/24	8,153	8,536	10,167	3,178
Mass. 33	2,893	2,849	8,000	1,201

[1] Actual train supplies and expense computed using current methodology basis (train hours) as reported by Conrail.

Our analysis of Conrail's seven light density lines based on the new USOA, shows that, in most cases, the most costly formula for allocating train supplies and expenses is NYDOT's proposed loaded car mile basis. The current basis of train hours and our proposed basis of carloads fall in the middle range. The least costly basis was train miles. Accordingly, NYDOT's cost findings are inconsistent with our cost findings under the new USOA.

Second, and most importantly, our review of the four assignable subaccounts under the new USOA shows that these accounts are primarily related to the inspection and cleaning of freight cars. They include activities such as the cleaning of freight cars, handling of grain doors, purchase of caboose supplies, coupling and uncoupling of freight cars and freight car inspection by brakemen and trainmen. Also, contrary to NYDOT's position that branch line equipment requires little or no inspection, inspections are required for each passage through a yard regardless of miles travelled. In many instances when a branch line car is returned empty it must be cleaned before it can be reloaded. Thus, the train supplies and expenses allocated to the branch do not relate to the number of miles travelled, as NYDOT suggests, but rather to the number of cars cleaned and inspected. The car mile basis requested by NYDOT is just not relevant to the type of activities and costs generated by train inspection and cleaning.

In sum, given the accounting changes under the new USOA and the direct relationship of the four assignable accounts to the cleaning and inspection of freight cars, we believe that the most applicable basis for assigning train supplies and expenses is loaded freight train cars. This methodology directly reflects the inspection and cleaning of cars and from a cost standpoint is a reasonable approach. On the other hand, the car mile basis proposed by NYDOT is the least equitable. It has no bearing on the number of cars cleaned and inspected and it appears to be the most costly approach under the new USOA. The other two methodologies, train hours (the current method) and train miles, are also inappropriate because they fail to relate to the car related expenses of inspections and cleanings.

Retroactivity of the Amendment

NYDOT in its original petition requested that the amendment be applied retroactively to April 1, 1977. They see no problem in doing this because the second and subsequent subsidy years have not yet been subject to final audits. It is their position that the legitimate costs under the regional standards cannot be determined until this audit is performed. Thus, in effect, NYDOT is arguing that the parties, who have agreed to use the subsidy standards, will suffer no hardship because the legitimate costs associated with the subsidy as of April 1, 1977 have yet to be finalized.

Conrail disagrees. They state that any change in the apportionment of a specific unit of cost on a retroactive basis would be prejudicial and improper.

RSPO agrees with Conrail that this amendment should not apply retroactively. Such an action would be inconsistent with prior RSPO decisions in which amendments to the regional standards have not been made retroactive to prior subsidy years. Also, we do not want to establish a precedent whereby calculations on which parties relied in prior subsidy years can be subsequently altered. Moreover, in the instant case, retroactive application would not only affect the parties

involved in this proceeding but also operators and State DOT's in all the northeastern and midwestern states. For the above reasons, the allocation of train supplies and expenses will not be retroactive to subsidy years prior to January 1, 1981.

We should note that although Conrail supports our allocation methodology, it objects to the institution of this rulemaking. Conrail does not believe that NYDOT's premise that there may be a more equitable or appropriate method of allocating train supplies and expenses constitutes grounds for a new rulemaking. They specifically state that they are "opposed to new rulemaking proposals which are based upon isolated and individual revisions of costing methodology except where there has been an oversight in the recognition of a basic cost."

As we discussed before, because of the changes under the new USOA only four subaccounts need to be allocated. The other subaccounts are all determined on an actual basis. Accordingly, it is appropriate for RSPO to review the four subaccounts to determine if the current method for allocating train supplies and expenses is the most relevant, accurate and equitable method. This review is certainly consistent with RSPO's broad statutory authority to amend the standards as necessary. Moreover, RSPO's reopening of the standards has always been in the interest of ensuring that the best and most appropriate methodologies are used.

This is not a major Federal action significantly affecting the quality of the human environment, or the conservation of energy resources.

Final Regulatory Flexibility Analysis as Required by 5 U.S.C. 601

This action will alter the basis for the assignment of train supplies and expenses for all rail lines operated under a subsidy agreement pursuant to the regional standards. All shippers, both large and small, located on these subsidized lines will be affected. However, we certify that there will be no increase or changes to the present requirements of businesses located on these lines. We also certify that amending the basis for determining train supplies and expense could reduce the overall subsidy amount. However, any reduction would be minimal because this category of expense constitutes a very small portion of the total cost associated with the operation of a branch line. As a result, we find that this action will not have a significant economic impact on a substantial number of small entities.

Copies of our analysis of the impact of this action are available from the Section of Rail Services Planning, Room 5355, Interstate Commerce Commission, Washington, D.C. 20423.

(49 U.S.C. 10362)

Issued January 29, 1981 by William R. Southard, Director, Rail Services Planning Office.

By the Commission.

Agatha L. Mergenovich,

Secretary.

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

Section 1125.8(c)(1)(i) is revised as follows:

§ 1125.8 Apportionment rules for the assignment of expenses to on-branch costs.

* * * * *

(c) *Transportation.*—(1) *Train Operations:* (i) *Engine Crews—Materials Account 21–31–56; Train Crews—Materials 21031–57; Train Inspection and Lubrication—Salaries and Wages, Account 11–31–62 and Train Inspection and Lubrication—Materials Account 21–31–62.* If the branch is served by a local/way or through train, the costs in these accounts shall be assigned to the branch on the ratio of the loaded freight train cars on the branch to the total system loaded freight train cars.

* * * * *

[FR Doc. 82-2774 Filed 2-2-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest level of 550,000 pounds of Tanner crab for the Southern District in Registration Area H will be achieved on January 31, 1982, and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the Southern District in Registration Area H to fishing for Tanner crab by vessels of the United States on January 31, 1982, thereby adjusting the previous closing date of April 30, 1982, in order to prevent overfishing of Tanner crab stocks in the Southern District.

DATE: This closure is effective from 12:00 noon, AST, January 31, 1982, until 11:59 p.m., ADT, April 30, 1982. Public comments on this notice of closure are invited until February 15, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

Southern District

50 CFR 671.26(e) establishes six districts within Registration Area H (Cook Inlet area) so as to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular district when the desired harvest level in that district is reached. The FMP states that there are "three Tanner crab stock units within the Cook Inlet area that are separated geographically." One of these stock units is the Southern, or Kachemak Bay, stock. 50 CFR 671.26(e)(2)(i) currently provides that the season for harvest of Tanner crab by vessels of the United States in the Southern District of Area H is December 1 through April 30.

The overall optimum yield (OY) specified under the FMP for all of Registration Area H is 5.3 million pounds; this OY is not further subdivided by District. The State of Alaska's 1981 Tanner crab index survey indicates that the total population of legal male Tanner crab in the Southern District is lower than prior levels, at only 1,105,000 pounds. The State of Alaska has calculated the desired harvest level in the Southern District during 1981–82 to be 550,000 pounds, using a biologically sound exploitation rate of 0.50. A good correlation has existed for the past 6 years between the number of legal male Tanner crab

caught per pot during the State of Alaska index survey and the resulting commercial harvest. Catch per unit of effort (CPUE) from December 1, 1981, through the period January 11–17, 1982, declined 50 percent, from 13.2 crabs per pot to 6.4 crabs per pot. The declining CPUE substantiates the results of the index survey and indicates that the optimum yield prescribed in the FMP cannot be achieved without harm to the resource. It is estimated that the desired harvest of 550,000 pounds of crab will be achieved on January 31, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined:

1. That the actual condition of Tanner crab stocks in the Southern District is substantially diffferent from the condition that was previously anticipated; and

2. That this difference reasonably supports the need to protect those Tanner crab stocks by closing the Southern District to further fishing for Tanner crab during the current fishing year after 12:00 noon, Alaska Standard Time, on January 31, 1982.

For these reasons, the Southern District of Registration Area H (Cook Inlet), as defined in 50 CFR 671.26(e)(1)(ii), is closed to all fishing for Tanner crab from 12:00 noon, Alaska Standard Time, January 31, 1982, until 11:59 p.m., Alaska Daylight Time, April 30, 1982, at which time the closure of this district prescribed in 50 CFR 671.26(e)(2)(i) shall begin.

This notice is effective upon filing for publication in the **Federal Register** and after publication for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Regional Office, Federal Building, Room 483, 709 West Ninth Street, Juneau, Alaska 99802. The necessity of this closure will be reconsidered in light of the comments received and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The Kachemak Bay Tanner crab stock will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay between its publication and its effective date.

This action is taken under the authority of the regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

Dated: January 29, 1982.

(16 U.S.C. 1801 *et seq.*)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service

[FR Doc. 82–2814 Filed 2–2–82; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 47, No. 23
Wednesday, February 3, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. 1

Petitions for Rulemaking; Issuance of Quarterly Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of quarterly report.

SUMMARY: The Nuclear Regulatory Commission has issued the December 31, 1981, Quarterly Report on Petitions for Rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

ADDRESSES: A copy of this report, designated NRC Petitions for Rulemaking—December 31, 1981, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Requests for single copies of this report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, Telephone: 301–492–7086 or Toll-free: 800–368–5642.

Dated at Bethesda, Maryland, this 27th day of January, 1982.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 82–2801 Filed 2–2–82; 8:45 am]

BILLING CODE 7590–01–M

10 CFR Part 50

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its regulations to incorporate by reference new addenda of the ASME Boiler and Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction of nuclear power plant components and specify requirements for inservice inspection of those components. Adoption of these amendments would permit the use of improved methods for construction and inservice inspection of nuclear power plants.

DATES: Comment period expires May 5, 1982. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Written comments or suggestions may be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. E. Baker, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443–5893.

SUPPLEMENTARY INFORMATION: On December 31, 1981, the Nuclear Regulatory Commission published in the **Federal Register** (46 FR 63208) amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which incorporated by reference new addenda to the ASME Boiler and Pressure Vessel Code. The amendment revised § 50.55a to incorporate by reference the 1980 Edition of the ASME Code and Addenda through the Winter 1980 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," and Section XI, "Inservice Inspection of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code. The Summer 1981 Addenda to the ASME Code have been issued. The Commission proposes to amend § 50.55a to incorporate by reference the Summer 1981 Addenda modifying Section III, Division 1 of the ASME Boiler and Pressure Vessel Code.

Some of the changes effected in the addenda which would be incorporated through the adoption of the proposed amendments are:

1. Article NCA–3000 of Section III was revised to add a requirement that N, NA and NPT certificate holders be responsible for documentation of the review and approval of materials used by them and the preparation, accumulation, control, and protection of required records while in their custody. Also, the owner must review the meterials documentation to verify that the Code Edition, Addenda, and Code Cases used satisfy NCA–1140 and are acceptable to the regulatory and enforcement authorities.

2. Article NCA–8000 of Section III was revised editorially to make it easier to read and understand. Also, two new provisions, NCA–8240(c) and NCA–8430, were added. NCA–8240(c) describes the provisions that must be met if a name plate is to be removed from an item which has been installed in a nuclear power plant system. NCA–8430 describes how each Code Data Report must be referenced on the Data Report Form.

3. Article NB–3500 of Section III was revised to remove the nomenclatures "normal duty valve," "severe duty valve," "standard valve," and "expected cycle," but there were no technical changes associated with dropping these nomenclatures.

4. Article NB–6000 was given an extensive editorial rewrite which mainly reorganized the paragraphs into a more comprehensible form. Also added were a subarticle on special test procedures and a subparagraph allowing the hydrostatic testing of pump and valve subassemblies.

Paperwork Reduction Act Statement

As required by Pub. L. 96–511, this proposed rule will be submitted to the Office of Management and Budget for clearance of the recordkeeping requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their serivce areas, this proposed rule does not fall within the purview of the Act.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 reads as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted. Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended; (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236). For the purposes of sec. 223, 68 Stat. 958, as amended; (42 U.S.C. 2273), § 50.54(i) issued under sec. 161i, 68 Stat. 949; (42 U.S.C. 2201(i)); §§ 50.70, 50.71 and 50.78 issued under sec. 161o, 68 Stat. 950, as amended; (42 U.S.C. 2201(o)) and the Laws referred to in Appendices.

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1981 Addenda.

Dated at Bethesda, MD this 8th day of December 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-2831 Filed 2-2-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 406]

Isle St. George Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is considering the establishment of an American viticultural area in the State of Ohio knows as "Isle St. George." This proposal is the result of a petition from Meier's Wine Cellars, a bounded winery in Ohio. The establishment of viticultural areas and the use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from, and will enable consumers to better identify the wine they purchase.

DATE: Written comments must be received by March 5, 1982.

ADDRESS: Send comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, Attention: Notice No. 406.

Copies of the petition, the proposed regulations, the appropriate map, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 allow the establishment of definitive viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historic or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographic characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which are found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition to establish the first viticultural area within the State of Ohio. The proposed area is an island and would be known as "Isle St. George." This island is located entirely within Ottawa County, Ohio, in western Lake Erie, and is the northernmost of the Bass Islands. Isle St. George is the farthest of the Bass Islands from the mainland and is about 18 miles from Port Clinton, Ohio. Isle St. George is approximately one square mile in size, and is roughly 1 and ½ miles wide and slightly less than that in length.

The petitioner, Meier's Wine Cellars, is a bonded winery located in Silverton (Post Office Cincinnati), Ohio. The petitioner bases the petition on the following information:

(a) The name Isle St. George is well established. This name has been associated with North Bass Island since at least 1903. The 1903 edition of the U.S.G.S. quadrangle map, "Put-in-Bay," identifies the community on North Bass Island as "Isle St. George."

A post office has existed on the island since 1874, and the "Isle St. George" cancellation is currently in use. The petitioner, Meier's Wine Cellars, has been using the "Isle St. George" designation on its labels since 1943 to identify wines made from grapes grown on the island.

(b) Isle St. George was first settled in 1844. The name Isle St. George is derived from the first settler on the island, a man named George.

The island has a long history of grapegrowing. The first grapes were planted on the island in 1853 by Peter and Simon Fox. By the turn of the century, there were two wineries on the island to process grapes. Today there are approximately 350 acres of grapes on the island and grape-growing is the primary occupation of the inhabitants of the island. The petitioner states that Catawba grapes have been cultivated continuously on Isle St. George for over 117 years, and that other grapes are also grown there. All grapes grown on Isle St. George are sent to the Ohio mainland for processing since there are no wineries on the island.

(c) Isle St. George is relatively flat and the petitioner states that no point is more than 14 feet above the surface of Lake Erie (mean elevation 571 feet). The soil on the island is shallow, sandy loam and silt loam. The limestone bedrock in some areas is only 20 to 30 inches deep.

(d) The climate of Isle St. George is significantly different than surrounding areas. Growing conditions on the island are affected by the moderating thermodynamic effects of the waters of Lake Erie. During the spring and summer months, the lake water absorbs heat. In the fall, as the air becomes cooler, lake water gives up accumulated heat to the surrounding air and land, thus warming the island. As a result, the first frost is delayed and the growing season is prolonged. According to the study *Resources of the Lake Erie Region,*[1] Isle St. George has a frost-free period of 206 days, longer than any other area in the State of Ohio. In the spring, frozen lake waters cool the air surrounding the island and retard the opening of the grape buds until all danger from frost and unseasonable cold spells has passed.

(e) The average annual precipitation for Isle St. George is less than the average for adjacent areas. Isle St. george averages 26.7 inches of precipitation per year compared to 31.7 inches for nearby Kelly's Island, and 32.1 inches for Sandusky.[2]

Public Participation

ATF requests comments from all interested persons concerning the proposed viticultural area. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed viticultural area should submit his or her request, in writing, to the Director within the 30-day comment period. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioner or other persons to use an appellation of origin, "Isle St. George," on wine labels and in wine advertising. This term has been used for these purposes since at least 1943 and may currently be used. ATF has, therefore, determined that this rule neither imoses new requirements on the public nor removes existing privileges available to the public. Adoption of this proposed rule will not result in any economic or administrative costs to the public, but will grant to the petitioner or other persons an intangible economic benefit. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have a significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9 is amended by adding § 9.51. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.51 Isle St. George.

* * * * * *

Par. 2. Subpart C is amended by adding § 9.51. As added, § 9.51 reads as follows:

§ 9.51 Isle St. George.

(a) *Name.* The name of the viticultural area described in this section is "Isle St. George."

(b) *Approved maps.* The approved map for determining the boundary of the Isle St. George viticultural area is the U.S.G.S. quadrangle map, "Put-in-Bay, Ohio," 7.5 minute series.

(c) *Boundaries.* The Isle St. George viticultural area is located entirely within Ottawa County, Ohio. The boundary of the Isle St. George viticultural area is the shoreline of the island named "North Bass Island" on the "Put-in-Bay, Ohio" U.S.G.S. map, and the viticultural area comprises the entire island.

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[1] *Resources of the Lake Erie Region.* Ohio Department of Natural Resources, Ohio State University Press. 1977.

[2] Ibid.

Signed: December 21, 1981.
G. R. Dickerson,
Director.

Approved: January 15, 1982.
John M. Walker, Jr.,
Assistant Secretary Enforcement and Operations.

[FR Doc. 82-2613 Filed 2-2-82; 8:45 am]
BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[SPA 18.02]

Permanent State Regulatory Program of Virginia

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is considering modifying the deadline for Virginia to meet two of the conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Based on a request by the State, the Secretary is proposing to extend the deadline for the State to resolve the two conditions.

DATE: Comments must be received by 5:00 p.m. on February 11, 1982, at the address below.

ADDRESS: Written comments must be mailed to: Administrative Record Number SPA-18.03, Office of Surface Mining, Room 5413-L, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. or may be hand delivered to the Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. or to the Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343-5351

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on regulatory and administrative needs of the State's permanent program, the time required for changes to be adopted under State procedures or legislative schedules, and impact on SMCRA implementation.

The Virginia program was conditionally approved on December 15, 1981 (46 FR 61088-61115). In the notice of approval the Secretary published the schedule for Virginia to resolve each of 19 conditions on the approval of that State's regulatory program. In a letter to the Director, OSM, dated January 28, 1982, the Virginia Department of Conservation and Economic Development indicated that it would like an extension for meeting conditions "o" and "r," as listed at 46 FR 61115, December 15, 1981 (See Administrative Record No. VA376). Copies of the State's letter of request and the above-cited Federal Register notice are available for public review during regular business hours at the location listed above under "Address."

Condition "o" stipulates that the Secretary's approval of the Virginia program will terminate on February 15, 1982, unless Virginia submits to the Secretary by that date provisions which amend its program by deleting the program narrative rationale of "significant legal and financial commitments" (SLFC) which provides that mere ownership of mineral rights or the right to mine constitutes a significant legal and financial commitment and provide affirmative assurance that SLFC will be interpreted in accordance with Federal law. If this is accomplished by a policy statement, it must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations. Inasmuch as the State indicated in its January 28, 1982 letter that it intends to meet this condition by proposing a regulatory change, the State has requested an extension of the deadline until October 15, 1982. The Secretary proposes to allow the State until October 15, 1982, to meet the conditions.

The Secretary believes that extension of this deadline would not render the deficiency major because of the following reasons. In the January 28 letter, Virginia stated that if an unsuitability petition should be filed in which the issue of SLFC arises so that it becomes relevant to the petition, the provisions for administrative extension of time pursuant to Virginia Regulation V764.17(a) prior to the holding of a hearing on such petition would provide more than adequate time within which the regulatory change could be made to satisfy condition "o" without delay in processing the petition. Further, the State said that it is doubtful that any petition, whether affected by the definition of SLFC or not, could be processed within the extended time requested for correcting the deficiency. However, the Secretary specifically requests comments on whether the extension would render the deficiency major, as that term is used under 30 CFR 732.17(i).

Condition "r" stipulates that the Secretary's approval of the Virginia program will terminate on February 15, 1982, unless Virginia submits to the Secretary by that date copies of revised policy statement or otherwise amends its program to make its coal haul roads policy consistent with the Federal requirements. This policy must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations. Inasmuch as the State indicated in its January 28, 1982 letter that it proposes to submit legislation to the Virginia General Assembly in the current session that may impact the State's approach in meeting the condition, the State has requested at least a 30 day extension of the February 15, 1982 deadline. The Secretary proposes to allow the State until April 1, 1982, to meet the condition.

Since the State will not have completed the issuance of permanent program permits during the proposed extended period allowed for the deficiencies to be corrected, the Secretary believes that extension of this deadline would nor render the deficiency major. Section 506 of SMCRA requires surfacr coal mining operations under an approved State program to be permitted no later than eight months after the State program approval. However, the Secretary specifically requests comments on whether the extension would render the deficiency major, as that term is used under 30 CFR 732.17(i).

The comment period ending on February 11, 1982, is relatively brief. However, this relatively brief comment period is necessary to enable the Secretary to make his final decision on the proposed extensions before the existing deadline expires.

The Office of Management and Budget has granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291. Therefore, this rule is exempt

from the Determination of Effects requirements of the Executive Order.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

The primary author of this rule is Richard Bryson, State Program Specialist, 343–5361, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining.

Dated: January 29, 1982.

J. R. Harris,

Director, Office of Surface Mining Reclamation and Enforcement.

For the reasons set out in the preamble, 30 CFR Part 946 is proposed to be amended by revising § 946.11(o) and (r) to read as follows:

§ 946.11 Conditions of State regulatory approval.

* * * * *

(o) The approval found in § 946.10 will terminate on October 15, 1982, unless Virginia submits to the Secretary by that date provisions which amend its program by deleting the program narrative rationale of "significant legal and financial commitments" (SLFC) which provides that mere ownership of mineral rights or the right to mine constitutes a significant legal and financial commitment and provides affirmative assurance that SLFC will be interpreted in accordance with Federal law. If this is accomplished by a policy statement, it must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulation.

* * * * *

(r) The approval found in § 946.10 will terminate on April 1, 1982, unless Virginia submits to the Secretary by that date copies of a revised policy statement or otherwise amends its program to make its coal haul roads policy consistent with the Federal requirements. This policy must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations.

* * * * *

[FR Doc. 82–2832 Filed 2–2–82; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–2–FRL–2020–5]

Approval and Promulgation of Implementation Plans; New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces receipt from the State of New Jersey of a proposed revision to its State Implementation Plan (SIP). The proposed revision provides two new regulatory approaches to the control of sulfur dioxide emissions from fuel oil combustion sources: non-coal burning sources would be allowed to "bubble" their sulfur dioxide emissions; and sources voluntarily converting to coal combustion would be allowed to use, in the period prior to conversion, oil with a higher sulfur content than currently permitted.

A public hearing on this proposal was held by the State on January 20, 1982. The State hearing record closed on January 22, 1982. Concurrently, EPA is proposing to approve New Jersey's request contingent upon final adoption by the State of its proposal in a substantially unchanged form. This concurrent review, which EPA refers to as "parallel processing," is designed to expedite EPA action on SIP revisions.

DATES: Comments must be received on or before March 5, 1982.

ADDRESSES: All comments should be addressed to: Richard T. Dewling, Ph.D., Acting Regional Administrator, Region II Office, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278.

Copies of the proposed SIP revision and comments received are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460;

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, Room 1108, Labor and Industry Building, John Fitch Plaza, CN 027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 1005, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION: On October 29, 1981, the Environmental Protection Agency (EPA) received from New Jersey a proposed revision to its State Implementation Plan (SIP). The State's submittal consisted of a revised regulation entitled "Sulfur in Fuel" (Subchapter 9 of Chapter 27, Title 7, New Jersey Administrative Code), a Notice of Public Hearing (published in the December 7, 1981 issue of the *New Jersey Register*) and supporting material.

One provision of the proposed SIP revision would permit sources to average sulfur dioxide (SO_2) emissions from more than one of their stacks in determining compliance with State emission limits. Thus, less costly, higher sulfur content fuel oil could be used in certain boilers if natural gas or other "clean" fuel were used in nearby boilers. The negligible amount of SO_2 emitted from the combustion of the "clean" fuel would offset the increased SO_2 emissions from the use of higher sulfur content oil, and provide for overall lower energy costs.

The other provision of the proposed SIP revision would permit sources to burn higher sulfur content oil for up to two years during which a voluntary conversion is made to burn coal or municipal solid waste. Air quality standards may not be violated during the period when higher sulfur content oil is being burned and stringent emission limitations will apply to the coal or waste burning.

The two new SO_2 control strategies just described are referred to as the "sulfur dioxide bubble" and the "clean conversion incentive," respectively.

The Sulfur Dioxide Bubble

New regulatory provisions have been added to § 9.2, Sulfur Content Standards, to allow a choice of fuel burned at each source as long as the total pounds of SO_2 emitted per million British Thermal Units (BTU) heat generated does not increase. This Section also requires ownership by a single person of all sources comprising the "bubble" and identification of each source involved, including pertinent fuel and source parameters. Air quality modeling, including aerodynamic downwash modeling, is further stipulated unless waived in accordance with § 9.4.

New § 9.4, Waiver of Air Quality Modeling, allows exemption of certain sources from the air quality impact modeling requirements of § 9.2. To be

eligible for exemption, the sources involved must be located in the same vicinity and have identical effective stack heights. If the effective stack heights are not equal, the emissions from burning the higher sulfur content oil must be discharged from the tallest effective stack height. All terms and criteria for the waiver are defined in the regulation by rigorous constraints based on diffusion modeling theory. In addition, to be eligible for a waiver, the total maximum SO_2 emission rate from all sources included in the "bubble" must be no greater than 800 pounds per hour.

The Clean Conversion Incentive

New Section 9.5, Incentive for Conversion to Coal or Municipal Solid Waste, requires sources which convert to coal or municipal solid waste to meet a 0.3 pounds of SO_2 per million BTU emission limitation. As an incentive, for up to two years prior to conversion these sources would be allowed to use oil with a higher sulfur content than currently permitted. However, the applicant must demonstrate by air quality modeling that this interim use of higher sulfur content fuel oil will not cause a violation of national ambient air quality standards for any pollutant or a significant air quality impact.

Based on its review of the State submittal, EPA is proposing to approve the State's SIP revision request. However, since both the proposed "bubble" and clean conversion incentive provisions require air quality impact modeling and involve such undefined factors as source location, stack height, distance between stacks, and local topography, EPA must treat any application under these Sections on a case-by-case basis, as a SIP revision. The New Jersey Department of Environmental Protection (NJDEP) understands and agrees with this concept.

This will not be the case when air quality modeling requirements for "bubbles" are waived under the provisions of Section 9.4, Waiver of Air Quality Modelling; EPA approval as a SIP revision will not be required. As explained earlier in the discussion describing this new Section, the constraints are so tightly drawn, and thus so mechanical and predictable in operation, that "bubbles" developed under them could not interfere with attainment and maintenance of standards. In essence it has been predetermined that application of the regulation's provisions will ensure that there will be no net impact on air quality from application of the "bubble."

Since "bubble" applications granted modeling waivers will not be reviewed as SIP revisions, it is important that New Jersey provide adequate opportunity for public notice and comment on them. The NJDEP has submitted to EPA acceptable public participation procedures which will be used for all "bubble" applications. These provide for the publication in local and regional newspapers of an appropriate notice, making documents available for public inspection at local NJDEP offices, and a 45-day public comment period. A State public hearing will be held, at the discretion of the NJDEP, if a proposed approval generates significant comment. Public comments will be reviewed and taken into consideration by the Department in deciding on the approval and the conditions on approval of an application.

EPA's review of the material submitted indicates that this revision to the New Jersey SIP will be approvable if it is not substantially changed from its presently proposed form. In the interest of expediting federal review, EPA is proposing approval of this SIP revision now, before final submittal of the revision to EPA by the State. EPA refers to this new procedure as "parallel processing." If the revision currently proposed by the State is substantially altered as a result of the State public review process, EPA will evaluate the approvability of the altered proposal and publish a revised notice of proposed rulemaking in the **Federal Register.** Alternatively, if it is determined based on public comment that substantial revision is not required, EPA will take final rulemaking action on today's proposal after it is adopted by the State.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on or before March 5, 1982 concerning whether the proposed SIP revision should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed SIP revision will be based on whether it meets the requirements of Section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709; January 27, 1981). The proposed rule, if promulgated, constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action imposes no new requirements. It provides for greater flexibility and the use of more cost-effective measures in meeting existing state requirements.

The Office of Management and Budget (OMB) has exempted this proposed SIP revision from the OMB review requirements of Executive Order 12291.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C 7410 and 7601))

Dated: December 22, 1981.

Richard T. Dewling,

Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 82-2789 Filed 2-2-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 2017-8]

Approval and Promulgation of Nonattainment Plans for Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking and solicits public comment on rules for the issuance of permits to new or modified air pollution sources affecting nonattainment areas in Illinois. These regulations were submitted by the State of Illinois to satisfy Part D of the Clean Air Act. They are intended to accommodate emissions growth in nonattainment areas through the use of offsets and the provision of a limited growth margin.

DATE: Comments on this revision and on the proposed EPA action are due on or before March 5, 1982.

ADDRESSES: Submit Comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illionis 60604.

Copies of the SIP revisions, EPA's evaluation and public comments received are available for inspection at the following addresses: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition, copies of the SIP revisions are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW, Washington, D.C. 20460

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis

Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illionis 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act (Act), as amended in 1977, requires each State to revise its State Implementation Plan (SIP) to meet specific requirements for areas designated as not attaining the National Ambient Air Quality Standards (NAAQS).

The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979, notice were published July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). In order to be approvable, each Part D New Source Review (NSR) SIP must require permits for the construction and operation of new modified major stationary source in nonattainment areas. The permits must be issued in conformance with the statutory requirements of sections 172 and 173 of the Clean Air Act and the regulatory requirements of 40 CFR 51.18.

On April 3, 1979, and June 18, 1980, the State submitted to EPA new NSR rules for adoption in the Illinois State Implementation Plan (SIP). EPA conditionally approved some of these rules on February 21, 1980 (45 FR 11472), and proposed approval of the remaining rules on September 5, 1980 (45 FR 58896).

In April 1980, an environmental group and iron and steel sources filed petitions challenging EPA's conditional approval of the Illinois NSR rules arguing that the Illinois Environmental Protection Agency (IEPA) did not have authority under the Illinois Administrative Procedures Act (IAPA) to adopt such rules. They contended that only the Illinois Pollution Control Board (IPCB) had authority to promulgate rules which establish emission limits for industry.

On May 28, 1981, the Seventh Circuit Court (80-1531) agreed with petitioners and held that the NSR rules were not properly submitted to EPA. This invalidation precluded any final rulemaking on the September 5, 1980, proposal.

Meanwhile, in order to resolve the legal authority question, the State of Illinois adopted Public Act 81-1444 which ordered the IPCB to adopt permit review rules. This Act gave IEPA the authority to make Best Available Control Technology (BACT) and Lowest Available Emission Rate (LAER) determinations and approved the Agency promulgated NSR rules as interim rules effective until the Board adopted a permit program implementing Section 173 of the Act.

On November 20, 1981, the State submitted emergency NSR rules adopted August 26, 1981, by IEPA and draft interim NSR rules under consideration at that time by the IPCB (R81-16) adopting the IEPA NSR rules by reference. On January 17, 1982, the IPCB completed final rulemaking on the interim rule (R81-16). The emergency IEPA rules expire on January 23, 1982, while the interim IPCB rule remains in effect until October 1, 1982, or until the IPCB adopts permanent NSR rules. If the interim IPCB rule is challenged, IEPA plans to file rules identical to the August 26, 1981, emergency rules as permanent agency rules.

EPA proposes to approve these August 26, 1981, emergency NSR rules which have been adopted by the IEPA and adopted by reference as interim rules by the IPCB. Both of these State government entities have been given authority under Public Act 81-1444 to promulgate NSR rules during this period of time.

The NSR rules submitted by the State on November 20, 1981, are similar to the rules discussed in EPA's rulemaking of February 21, 1980 (45 FR 11472) and proposed rulemaking of September 5, 1980 (45 FR 58896) except that they have been modified by the State to meet the requirements of 40 CFR 51.18(j) as amended August 7, 1980 (45 FR 52743). The major changes made by the State reference 40 CFR 51.18(j)(1) (v) and (vi) (definition of major source), as part of the State's regulations.

EPA, as discussed in the Technical Support Document in Docket No. A-157 located at the address below, proposes to approve the NSR rules and changes as meeting the statutory requirements of Sections 172 and 173 of the Act and the requirements of 40 CFR 51.18(j).

Although EPA in its September 5, 1980 proposed rulemaking proposed to disapprove certain sections of the State's NSR rules, subsequent clarification from the State, as discussed in the technical support document, removed any difficulties that EPA had with those sections.

In addition, IEPA has submitted to the IPCB an amendment to the rules which demonstrates IEPA's intention to implement the rules according to the requirements of 40 CFR 51.18(j). The IPCB has already initiated the procedural process for final adoption of this amendment.

All interested parties are invited to comment on these proposed revisions and on EPA's proposed approval. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before March 5, 1982 will be considered in EPA's final rulemaking on the SIP. All comments received will be available for inspection at Region V: Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified on January 27, 1981, that the attached rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves State actions.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This proposed rulemaking is issued under the authority of Sections 110, 172 and 173 of the Clean Air Act as amended.

Dated: December 21, 1981.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-2786 Filed 2-2-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6246]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency.

National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Belleair Shore (Town), Pinellas County	Gulf of Mexico	Intersection of 1st Street and Gulf Boulevard	*10
			Intersection of 13th Street and Gulf Boulevard	*11
Maps available for inspection at Town Hall, 880 Gulf Blvd., Belleair Shore, Florida.				
Send comments to Honorable Morton H. Raymond, 880 Gulf Blvd., Belleair Shore, Florida 33535.				
Florida	Belle Glade (City) Palm Beach County	Lake Okeechobee	Approximately 1,000 feet west along State Highway 717 from its crossing of Herbert Hoover Dike.	*28
Maps available for inspection at City Hall, 110 SW Avenue E, Belle Glade, Florida.				
Send comments to Honorable Thomas L. Altman, 110 SW Avenue E, Belle Glade, Florida 33430.				
Florida	Boca Raton (City) Palm Beach County	Atlantic Ocean—Open Coast	Approximately 150 feet east from the intersection of Sweetwater Lane and Ocean Boulevard.	*10
			Approximately 300 feet east from the intersection of E. Palm Avenue and Ocean Boulevard.	*10
		Atlantic Ocean—Intracoastal Waterway.	Approximately 1,000 feet east along Jeffery Street from its intersection with NE 7th Avenue.	*8
			Approximately 500 feet east along NE 24th Street from its intersection with U.S. Highway 1.	*8
		Inland Flooding	Intersection of Mohawk Lane and Rosewood Circle	*12
Maps available for inspection at Building Department, 71 N. Federal Highway, Boca Raton, Florida.				
Send comments to the Honorable William A. Konrad, 201 W. Palmetto Park Road, Boca Raton, Florida 33432.				
Florida	Boynton Beach (City) Palm Beach County	Atlantic Ocean—Open Coast	Along the shoreline within the corporate limits	*10
		Atlantic Ocean—Lake Worth	Eastern end of Lake Street Intersection of North Road and East Drive.	*8
			Intersection of North Road and East Drive	*8
			Intersection of Shore Drive and Ocean Inlet Drive	*7
Maps available for inspection at Building Department, 200 N. Seacrest, Boynton Beach, Florida.				
Send comments to the Honorable Ed Harmening, P.O. Box 310, Boynton Beach, Florida 33435.				
Florida	Brevard County (Unincorporated Areas)	Atlantic Ocean—Open Coast	Intersection of Flounder and Commercial Roads	*8
			Eastern end of 30th Street	*9
			Approximately 600 feet east of intersection of Pelican Drive and State Highway A1A.	*12
			State Highway A1A over Sebastian Inlet at southernmost county limits.	*13
		Atlantic Ocean—Indian River	Intersection of Florida East Coast Railroad and Huntington Avenue.	*4
			Intersection of Patti Drive and Fay Drive	*4
			Intersection of Bass Drive and South Tropical Trail	*5
			Western end of Woods Lane	*5
			Intersection of Cedar Lane and Riveria Boulevard	*6
			Approximately 500 feet east along Valkaria Road from its intersection with Florida East Coast Railroad.	*6
			Approximately 500 feet west along Long Point Road from its interseciton with State Highway A1A.	*8
			Approximately 200 feet east of intersection of 14th Street and U.S. Highway 1.	*11
		Atlantic Ocean—Banana River	Intersection of Martin Boulevard and North Banana River Drive.	*4
			Intersection of Furman Road and North Banana River Drive.	*5
			Intersection of West Virginia and North Banana River Drive.	*6

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Intersection of West Virginia and North Banana River Drive.	*6
			Southern end of Morris Manor	*7
			Intersection of Red Soil Way and South Patrick Drive	*5
		Atlantic Ocean—Sykes Creek	Eastern end of Smith Road	*5
			Approximately 150 feet west of intersection of Harbor and Tarpon Roads.	*4
		Atlantic Ocean—Sebastian Creek	Western side of U.S. Highway 1 over Sebastian Creek	*10
			Intersection of Main Street and Canal Drive	*7
			Sebastian Creek at southern county limits	*6

Maps available for inspection at Water Management Department, Merritt Island Branch Courthouse, 2575 N. Courtney Parkway, Merritt Island, Florida.

Send comments to the Honorable Val M. Steele, P.O. Box 1496, Titusville, Florida 32780.

Florida	Briny Breezes (Town) Palm Beach County	Atlantic Ocean—Open Coast	Approximately 100 feet east of the intersection of Briny Breezes Boulevard and Old Ocean Boulevard.	*10
		Inland Flooding	Approximately 300 feet west along Cordova Avenue from its intersection with Old Ocean Boulevard.	*7

Maps available for inspection at Town Hall, 5000 N. Ocean Boulevard, Boynton Beach, Florida.

Send comments to the Honorable Hugh David, 5000 N. Ocean Boulevard, Boynton Beach, Florida 33435.

Florida	Cape Canaveral (City) Brevard County	Atlantic Ocean—Open Coast	Eastern end of Chandler Street (extended)	*8
		Atlantic Ocean—Banana River	Western end of Oak Lane	*4
			Western end of Center Street	*4

Maps available for inspection at Building Department, 105 Polk Avenue, Cape Canaveral, Florida.

*Send comments to the Honorable Johnson Murphy, Jr., 105 Polk Avenue, Cape Canaveral, Florida 32930.

Florida	Cocoa Beach (City), Brevard County	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of Flagler Lane and Ocean Beach Boulevard.	*9
			Approximately 500 feet east of intersection of Minuteman Causeway and State Highway A1A.	*11
		Atlantic Ocean—Banana River	Angelo Lane	*4
			Intersection of Sarasota Lane and Banana River Boulevard.	*5
			Intersection of River View Lane and South 4th Street	*5
			Intersection of Brevard Avenue and S. 11th Street	*5

Maps available for inspection at Building Department, 57 Brevard, Cocoa Beach, Florida.

Send comments to the Honorable Dave Brown, P.O. Box 280, Cocoa Beach, Florida 32931.

Florida	Daytona Beach (City), Volusia County	Atlantic Ocean—Open Coast	Eastern end of Lenox Avenue	*9
			Approximately 500 feet northeast of the intersection of University Boulevard and North Atlantic Boulevard.	*11
		Atlantic Ocean—Halifax River/Intracoastal Waterway.	Intersection of Mason Avenue and Root Street	*6
			Approximately 400 feet northeast along Lexington Drive from its intersection with Ballough Road.	*7
			Intersection of South Beach Street and Shady Place	*7
			Northern end of Goldfinch	*6
			Western end of auditorium Avenue	*6

Maps available for inspection at Engineering Office, Caroline & Bellevue, Daytona Beach, Florida.

Send comments to the Honorable Lawrence J. Kelly, Box 551, Daytona Beach, Florida 32015.

Florida	Daytona Beach Shores (City), Volusia County.	Atlantic Ocean—Open Coast	Eastern end of Dotefuhr Avenue	*9
			Approximately 400 feet northeast along Dunlawton Boulevard from its intersection with South Atlantic Avenue.	*11

Maps available for inspection at City Hall, 3050 S. Atlantic Avenue, Daytona Beach Shores, Florida.

Send comments to the Honorable Ruth Kleiber, P.O. Box 7196, Daytona Beach Shores, Florida 32016.

Florida	Delray Beach (City), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 100 feet east of the intersection of State Road No. A1A and Sea Spray Avenue.	*10
		Atlantic Ocean—Intracoastal Waterway.	Eastern end of S.E. 4th Street	*8
		Inland Flooding	Western end of Lake Eden Way	*12
			Intersection of Lake Ida Road and Roosevelt Avenue	*12
			Intersection of Lindell Boulevard and Dotterel Drive	*12

Maps available for inspection at City Engineer's Office, 100 NW 1st Avenue, Delray Beach, Florida.

Send comments to the Honorable Leon M. Weekes, 100 NW 1st Avenue, Delray Beach, Florida 33444.

Florida	Gulf Stream (Town), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 350 feet east of the intersection of North Ocean Boulevard and Golfview Drive.	*10

Maps available for inspection at Town Hall, 246 Sea Road, Gulf Stream, Florida.

Send comments to the Honorable William F. Koch, Jr., 246 Sea Road, Gulf Stream, Florida 33444.

Florida	Highland Beach (Town), Palm Beach County.	Atlantic Ocean—Open Coast	Approximately 300 feet east of the intersection of State Highway A1A and Highland Beach Drive.	*10

Maps available for inspection at Building Department, 3614 South Ocean Boulevard, Highland Beach, Florida.

Send comments to the Honorable Louis Y. Horton, 3614 S. Ocean Boulevard, Highland Beach, Florida 33431.

Florida	Indialantic (Town), Brevard County	Atlantic Ocean—Open Coast	Approximately 500 feet east from intersection of Watson Drive and State Highway A1A.	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 250 feet northeast of intersection of Eleventh Avenue and Wave Crest Street.	*12
		Atlantic Ocean—Indian River	Intersection of Second Avenue and Riverside Drive	*6
			Intersection of South Riverside Drive and Orlando Boulevard.	*7

Maps available for inspection at Town Hall, 216 Fifth Avenue, Indialantic, Florida.

Send comments to the Honorable Andrea Deratany, P.O. Box 3108, Indialantic, Florida.

Florida	Indian Harbor Beach (City), Brevard County	Atlantic Ocean—Open Coast	Approximately 400 feet east from intersection of State Highway A1A and Banana River Drive.	*11
		Atlantic Ocean—Banana River	Intersection of Desoto Parkway and South Patrick Drive.	*8
			Intersection of Coconut Road and Banana River Drive	*6
			Intersection of Burns Boulevard and Mary Joyce Avenue.	*6

Maps available for inspection at Building Department, 2055 South Patrick Drive, Indian Harbor Beach, Florida.

Send comments to the Honorable Mary King, 2055 South Patrick Drive, Indian Harbor Beach, Florida 32937.

Florida	Indian River County (Unincorporated Areas).	Atlantic Ocean—Open Coast	Eastern side of State Highway A1A over Sebastian Inlet.	*12
			Approximately 650 feet east along Sandlewood Lane from its intersection with State Highway A1A.	*9
			Approximately 700 feet east along Sandlewood Lane from its intersection with State Highway A1A.	*11
			Eastern end of Sunset Drive	*9
		Atlantic Ocean—Indian River	Approximately 50 feet northeast of the intersection of Palm Lane and North Indian River Drive.	*11
			Intersection of Trout Lane and North Indian River Drive.	*9
			Approximately 700 feet east of the intersection of Woodmere Street and Old Dixie Highway.	*8
			Intersection of Jungle Trail and State Highway A1A	*8
			Approximately 100 feet east of intersection of North Tropicana and South Tropicana.	*7
			Intersection of Fleet Road and Indian River Boulevard	*8
			Morningside Drive	*6
			Western end of South Pebble Bay Circle	*5
			Intersection of 3rd Court and Harbor Drive	*6
			Cutlass Cove Drive	*6
			Regatta Drive	*8
		Atlantic Ocean—Sebastian Creek	Western side of U.S. Highway 1 over Sebastian Creek	*10
			Intersection of 142nd Street and 81st Avenue	*7
			Northwestern side of the intersection of Sebastian Bay Street and Josie Street.	*8

Maps available for inspection at County Administrator's Office, 2345 14th Avenue, Vero Beach, Florida.

Send comments to the Honorable Patrick B. Lyons, 2145 14th Avenue, Vero Beach, Florida 32960.

Florida	Indian River Shores (Town), Indian River County.	Atlantic Ocean—Open Coast	Approximately 200 feet east of the eastern end of Beachcomber Lane.	*9
		Atlantic Ocean—Indian River	Hole in Wall Island	*7
			Intersection of Johns Island Drive and Indian Harbor Road.	*8
			Intersection of Sabal Palm Lane and Sandpiper Point	*5

Maps available for inspection at Building Department, 6001 North A1A, Indian River Shores, Florida.

Send comments to the Honorable Edward J. Nolan, Box 8007, Indian River Shores, Florida 32960.

Florida	Juno Beach (Town), Palm Beach County	Atlantic Ocean—Open Coast	Eastern end of Atlantic Boulevard	*10
		Atlantic Ocean—Pelican Pond	Approximately 100 feet east of the intersection of Olympus Way and Ocean Drive.	*8

Maps available for inspection at Building Department, 841 Ocean Drive, Juno Beach, Florida.

Send comments to the Honorable Bill Kollmer, 841 Ocean Drive, Juno Beach, Florida 33408.

Florida	Jupiter (Town), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 250 feet east of the intersection of Ocean Way and State Highway A1A.	*10
		Atlantic Ocean—Lake Worth Creek	Eastern end of Elsa Road	*7
			Clark Lane	*6
		Atlantic Ocean—Loxahatchee River.	Intersection of Kennedy Street and Loxahatchee Drive	*6
			Dolphin Circle	*6
			Northern end of Martin Drive	*7
			Western end of Frazier Drive	*6

Maps available for inspection at Building Department, 210 South Perry Avenue, Jupiter, Florida.

Send comments to the Honorable Mary Hinton, 210 South Perry Avenue, Jupiter, Florida 33458.

Florida	Jupiter Inlet Colony (Town); Palm Beach County.	Atlantic Ocean—Open Coast	Approximately 460 feet east of the intersection of Pirates Place and Ocean Drive.	*10
		Atlantic Ocean—Jupiter Sound	Northwest corner of the northernmost end of Lighthouse Drive.	*6

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Atlantic Ocean—Loxahatchee River.	Approximately 200 feet southeast along Colony Road (extended) from its intersection with Lighthouse Drive.	*6
Maps available for inspection at Town Hall, 142 Beacon Lane, Jupiter, Florida.				
Send comments to the Honorable Thomas Warwick, 142 Beacon Lane, Jupiter, Florida 33458.				
Florida	Lake Worth (City), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 700 feet east of the intersection of State Highways A1A and 802.	*10
		Atlantic Ocean—Lake Worth	Intersection of Notre Dame Boulevard and Auburn Drive.	*8
			Intersection of N. 16th Avenue and Amherst Drive	*9
			Intersection of N. Lakeside Drive and N. 13th Avenue	*7
			Intersection of Golfview Street and S. 2nd Avenue	*9
			Intersection of S. 18th Avenue and S. Lakeside Drive	*7
Maps available for inspection at Building and Zoning Office, 7 N. Dixie Highway, Lake Worth, Florida.				
Send comments to the Honorable Dennis Dorsey, 7 N. Dixie Highway, Lake Worth, Florida 33460.				
Florida	Malabar (Town), Brevard County	Atlantic Ocean—Indian River	Florida East Coast Railroad over Goat Creek	*7
			Approximately 200 feet east along Rocky Point Road from its intersection with U.S. Highway 1.	*8
Maps available for inspection at Town Hall, Route 514, Malabar Road, Malabar, Florida.				
Send comments to the Honorable William Radencic, P.O. Box 245, Malabar, Florida 32950.				
Florida	Manalapan (Town), Palm Beach County	Atlantic Ocean—open coast	Ocean Boulevard at northernmost corporate limit	*10
		Atlantic Ocean—Lake Worth	Intersection of Lands End Road and Loggerhead Lane	*7
			Curlew Road	*8
Maps available for inspection at Town Offices, 600 S. Ocean Boulevard, Manalapan, Florida.				
Send comments to the Honorable William Galione, P.O. Box 3466, Lantana, Florida 33462.				
Florida	Melbourne (City), Brevard County	Atlantic Ocean—open coast	Approximately 400 feet east from intersection of State Highway 518 and State Highway A1A.	*9
		Atlantic Ocean—Indian River	Approximately 1,200 feet east of intersection of U.S. Highway 1 and Post Road.	*8
			Eastern end of Masterson Street	*8
			Approximately 250 feet east along West Eau Gallie Boulevard from its intersection with Pineapple Avenue.	*7
			Intersection of South Patrick Drive and State Highway 518.	*6
			Intersection of Melbourne Avenue and Front Street	*7
		Atlantic Ocean—Eau Gallie River	Southern end of Houston Street	*6
		Atlantic Ocean—Crane Creek	Eastern side of the intersection of U.S. Highway 1 and Melbourne Avenue.	*7
Maps available for inspection at Engineering Office, 900 E. Strawbridge Avenue, Melbourne, Florida 32901.				
Send comments to the Honorable Harry Good, 900 E. Strawbridge Avenue, Melbourne, Florida 32901.				
Florida	Melbourne Beach (Town), Brevard County	Atlantic Ocean—open coast	Approximately 400 feet east of intersection of Ocean Avenue and Atlantic Street.	*12
			Approximately 350 feet east of intersection of Cherry Drive and Atlantic Street.	*8
		Atlantic Ocean—Indian River	Intersection of Flamingo Lane and Riverside Drive	*7
			Intersection of Sandy Key and Riverview Lane	*7
Maps available for inspection at Town Hall, 507 Ocean Avenue, Melbourne Beach, Florida.				
Send comments to the Honorable William Mulheron, P.O. Box 113, Melbourne Beach, Florida 32951.				
Florida	New Smyrna Beach (City), Volusia County	Atlantic Ocean—Open Coast/ Ponce de Leon Inlet.	Approximately 600 feet northeast along East 15th Avenue (extended) from its intersection with South Atlantic Avenue.	*11
			Eastern end of Oakwood Avenue	*9
		Atlantic Ocean—Indian River North/Intracoastal Waterway and Turnbull Bay.	Intersection of Cunningham Drive and Inlet Shores Drive.	*7
			Intersection of Spruce Avenue and Art Center Avenue	*7
			Approximately 100 feet east along Rio Del Mar Drive from its intersection with South Riverside Drive.	*8
Maps available for inspection at Building and Planning Department, 210 Sams Avenue, New Smyrna Beach, Florida.				
Send comments to the Honorable George Munson, 210 Sams Avenue, New Smyrna Beach, Florida 32069.				
Florida	North Palm Beach (Village), Palm Beach County.	Atlantic Ocean—Open Coast	Approximately 550 feet east of the point where State Road No. A1A crosses the southern corporate limits.	*10
		Atlantic Ocean—Lake Worth	Eastern end of Wettaw Lane	*7
			Eastern end of Golfview Road	*7
Maps available for inspection at Public Services Department, 645 Prosperity Farms Road, North Palm Beach, Florida.				
Send comments to the Honorable B. A. Marks, 501 U.S. Highway 1, North Palm Beach, Florida 3340?.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Ocean Ridge (Town), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 150 feet east along Porter Street from its intersection with Old Ocean Boulevard.	*10
		Atlantic Ocean—Lake Worth	Intersection of Island Drive and Island Drive South	*7

Maps available for inspection at Town Hall, 6450 N. Ocean Boulevard, Ocean Ridge, Florida.

Send comments to the Honorable Arnold H. Sandstrom, 6450 N. Ocean Boulevard, Ocean Ridge, Florida 33435.

Florida	Ormond Beach (City), Volusia County	Atlantic Ocean—Open Coast	Approximately 500 feet northeast along Amsden Road (extended) from its intersection with Ocean Shore Boulevard.	*11
			Approximately 350 feet northeast along Neptune Avenue (extended) from its intersection with Ocean Shore Boulevard.	*9
		Atlantic Ocean—Halifax River/Intracoastal Waterway and Tomoka River.	Approximately 100 feet east of eastern end of Tiffany Circle.	*4
			Approximately 200 feet east of the intersection of Wilmette Avenue and North Beach Street.	*5
			Eastern side of intersection of Highland Avenue and North Beach Street	[illegible]

Maps available for inspection at Department of Planning and Community Development, 22 S. Beach Street, Ormond Beach, Florida

Send comments to the Honorable Charles E. Bailey, P.O. Box 277, Ormond Beach, Florida 32074.

Florida	Palm Beach (Town), Palm Beach County	Atlantic Ocean—Open Coast	Eastern end of Wells Road	*10
			Eastern end of Via Palma	*10
		Atlantic Ocean—Lake Worth	Intersection of Lake Way and Mediterranean Road	*7
			Intersection of Sunset Avenue and Bradley Place	*7
			Approximately 1,000 feet south along Island Drive from its intersectioin with Island Road.	*8
			Regents Park Road	*7
			Intersection of Ibis Way and State Highway A1A	*7

Maps available for inspection at Building and Zoning Department, 45 Coconut Row, Palm Beach, Florida.

Send comments to the Honorable Mack Ritchie, Box 2029, Palm Beach, Florida 33480.

Florida	Palm Beach Shores (town), Palm Beach County.	Atlantic Ocean—Open Coast and Lake Worth Inlet.	Approximately 500 feet east of the intersection of Ocean Avenue and Sandal Lane.	*10
			Southern side of the intersection of Atlantic Avenue and Inlet Way.	*7
		Atlantic Ocean—Lake Worth	Intersection of Edwards Lane and Lake Drive	*7

Maps available for inspection at Clerk's Office, 247 Edwards Lane, Palm Beach Shores, Florida.

Send comments to the Honorable Paul Klang, 247 Edwards Lane, Palm Beach Shores, Florida 33404.

Florida	Ponce Inlet (Town), Volusia County	Atlantic Ocean—Open Coast/Ponce de Leon Inlet.	Approximately 200 feet east of the intersection of Ponce Street and Ocean Avenue.	*9
			Approximately 400 feet east of the intersection of Atlantic Avenue South and Cindy Lane.	*11
		Atlantic Ocean—Halifax River/Intracoastal Waterway.	Intersection of Anchor Drive and Peninsula Drive	*7
			Sailfish Drive	*7
			Approximtely 1000 feet south along Peninsula Drive from its intersection with Pine Street.	[illegible]

Maps available for inspection at Town Hall, 4680 S. Peninsula Drive, Ponce Inlet, Florida.

Send comments to the Honorable Ayres Davies, 4680 S. Peninsula Drive, Ponce Inlet, Florida 32019.

Florida	Riviera Beach (City), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 500 feet east of the intersection of Ocean and Beach Road.	*10
		Atlantic Ocean—Lake Worth	Intersection of Gulf Stream Way and State Highway A1A.	*7
			Intersection of Sugar Sands Boulevard and Lake Drive	*7
			Intersection of 37th Street and Shore Drive	*8
			Intersection of Old Slip Road and Avenue C	*7
		Inland Flooding	Intersection of 2nd Street and Avenue J	*17
			Intersection of 32nd Street and Avenue P	*17
			Intersection of Z Terrace and 26th Street	*13

Maps available for inspection at City Hall, 600 W. Blueherron Boulevard, Riviera Beach, Florida.

Send comments to the Honorable Bobby E. Brooks, P.O. Drawer 10682, Riviera Beach, Florida 33404.

Florida	Satellite Beach (City), Brevard County	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of State Highway A1A and Jackson Avenue.	*11
			Approximately 350 feet east of intersection of State Highway A1A and Jackson Avenue.	[illegible]
			Eastern end of Sunrise Avenue	*9
		Atlantic Ocean—Banana River	Intersection of South Patrick Drive and Roosevelt Avenue.	*6
			Intersection of Desoto Parkway and Kale Street	*6

Maps available for inspection at Building & Zoning Department, 510 Cinnamon Drive, Satellite Beach, Florida

Send comments to the Honorable Patrick J. Utecht, 510 Cinnamon Drive, Satellite Beach, Florida 32937.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	South Palm Beach (Town), Palm Beach County.	Atlantic Ocean—Open Coast	From the shoreline inland for approximately 50 feet, entire length of the community.	*10
		Atlantic Ocean—Lake Worth	Ocean Boulevard	*7
Maps available for inspection at Town Clerk's Office, 3577 S. Ocean Boulevard, South Palm Beach, Florida.				
Send comments to the Honorable Donald S. Spigler, 3577 S. Ocean Boulevard, South Palm Beach, Florida 33480.				
Florida	Tequesta (Village), Palm Beach County	Atlantic Ocean—Open Coast	From the shoreline inland for approximately 20 feet, entire length of community.	*10
		Atlantic Ocean—Jupiter Sound	Intersection of State Route A1A and an unnamed road in the northeastern portion of the community.	*6
		Atlantic Ocean—Loxahatchee River and North Fork Loxahatchee River.	Western end of River Drive	*6
			Approximately 400 feet east along Tequesta Drive from its intersection with Point Drive.	*7
Maps available for inspection at Building Department, 357 Tequesta Drive, Tequesta, Florida.				
Send comments to the Honorable W. Harvey Mapes, Jr., P.O. Box 3273, Tequesta, Florida 33458.				
Florida	Vero Beach (City), Indian River County	Atlantic Ocean—Open Coast	Eastern end of Hibiscus Lane	*9
		Atlantic Ocean—Indian River	Intersection of Greytwig Road and Indian River Drive	*5
			Intersection of 5th Avenue and Royal Palm Boulevard	*5
			Intersection of Lantana Lane and Avenue K	*6
Maps available for inspection at Planning Department, 1036 20th Street, 2nd Floor, Vero Beach, Florida.				
Send comments to the Honorable Terry Goff, P.O. Box 1389, Vero Beach, Florida 32961.				
Florida Volusia County (Unincorporated Areas).		Atlantic Ocean—Open Coast	Approximately 150 feet east of intersection of Sea Bridge Drive and State Highway A1A.	*9
			Approximately 500 feet east of intersection of Allard Street and South Atlantic Avenue.	*11
			Approximately 500 feet northeast of intersection of 17th Street and Central Avenue.	*11
		Atlantic Ocean—Halifax Creek/Intracoastal Waterway.	Approximately 200 feet west of intersection of Dolphin Avenue and John Anderson Drive.	*4
			Approximately 3,000 feet west along Highbridge Road from its intersection with John Anderson Drive.	*5
		Atlantic Ocean—Halifax River/Intracoastal Waterway.	Approximately 100 feet west of intersection of Capistrano Drive and John Anderson Drive.	*4
			Intersection of Egret Street and Peninsula Drive	*7
			Intersection of Ridgewood Avenue and Katherine Street.	*9
			Sleepy Hollow Drive	*7
		Atlantic Ocean—Indian River North/Intracoastal Waterway.	Pelican Drive	*7
			Intersection of Watts Drive and South Atlantic Avenue	*7
			Approximately 1,000 feet southwest of intersection of 17th Street and Central Avenue.	*8
			Eastern end of Myrtle Avenue	*6
		Atlantic Ocean—Mosquito Lagoon/Intracoastal Waterway.	Intersection of Canal Avenue and River Drive	*6
			Approximately 1,000 feet southeast along dirt road extending from the intersection of Canal Avenue and River Drive, at Oak Hill Dock.	*7
		Atlantic Ocean—Indian River	Approximately 1,000 feet east of intersection of County Line Road and U.S. Highway 1.	*4
			Approximately 1,000 feet east of intersection of Florida East Coast Railroad and the southern county limits.	*5
Maps available for inspection at Public Works Department, 136 N. Florida Avenue, DeLand, Florida.				
Send comments to the Honorable Clyde Mann, P.O. Box 429, DeLand, Florida 32720.				
Indiana	(T) Mooresville, Morgan County	White Lick Creek	At downstream extraterritorial limits	*660
			Just upstream of State Highway 67	*667
			Just upstream of Greencastle Road	*671
			Just downstream of County Line Road	*678
		East fork White Lick Creek	At mouth	*661
			Just upstream of High Street	*668
			Just upstream of Bridge Street	*670
			At upstream county boundary	*679
Maps available for inspection at the Town Hall, 26 South Indiana, Mooresville, Indiana.				
Send comments to Honorable Stephen Edwards, Town Board President, Town of Mooresville, Town Hall, 26 South Indiana, Mooresville, Indiana 46158.				
New Jersey	Little Silver Borough, Monmouth County	Parker Creek	Shoreline from southern corporate limits to 80 feet south of extended Breezy Point.	*9
			Shoreline from 80 feet south of extended Breezy Point to confluence with Shrewsbury River.	*10
		Shrewsbury River	Entire shoreline within community	*12
		Little Silver Creek	Shoreline from confluence with Shrewsbury River to 175 feet north of extended Borden Place.	*12
			Shoreline from 175 feet north of extended Borden Place to 240 feet south of extended Borden Place.	*10
			Shoreline from 240 feet south of extended Borden Place to upstream side of Willow Drive.	*9
		Little Silver tributary 2	Shoreline from confluence with Little Silver Creek to upstream side of Seven Bridges Road.	*9
		Town Neck Creek	Shoreline from confluence with Shrewsbury River to 220 feet south of extended Battle Row.	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Shoreline from 220 feet south of extended Battle Row to the end of Town Neck Creek.	*9
		Little Silver tributary 1	Shoreline from confluence with Little Silver Creek to upstream side of Prospect Avenue.	*9

Maps available for inspection at the Municipal Building, 480 Prospect Avenue, Little Silver, New Jersey.

Send comments to Honorable John A. Marrah, Mayor of Little Silver, Municipal Building, 480 Prospect Avenue, Little Silver, New Jersey 07739.

New Jersey	Rumson Borough, Monmouth County	Navesink River	Eastern corporate limits to upstream side of Oceanic Bridge.	*12
			Upstream side of Oceanic Bridge to western corporate limits.	*11
		Shrewsbury River	Confluence with Navesink River to Holly Tree Lane extended.	*11
			Holly Tree Lane extended to Rumson Road extended	*9
			Rumson Road extended to approximately 1,100 feet north of Two Rivers Road extended.	*10
			Approximately 1,100 feet north of Two Rivers Road extended to approximately 750' upstream of Two Rivers Road extended.	*11
			Approximately 750 feet upstream Two Rivers Road extended to approximately 1,125 feet west of Clubway extended.	*12
			Approximately 1,125 feet west of Clubway extended to approximately 300 feet east of Wardell Avenue extended.	*10
			Approximately 300 feet east of Wardell Avenue extended to western corporate limits.	*9

Maps available for inspection at the Municipal Building, East River Road, Rumson, New Jersey.

Send comments to Honorable Charles F. Paterno, Mayor of Rumson, Municipal Building, East River Road, Rumson, New Jersey 07760.

New Jersey	Stockton Borough, Hunterdon County	Delaware River	Downstream corporate limits	*78
			Bridge Street (upstream side)	*80
			Upstream corporate limits	*84
		Brookville Creek	Confluence with Delaware and Raritan Canal	*78
			Upstream of dam approximately 520' upstream of State Route 29.	*91
			Upstream corporate limits	*143
		Wickecheoke Creek	Confluence with Delaware and Raritan Canal	*84
			State Route 29 (upstream side)	*84
			Upstream corporate limits	*96

Maps available for inspection at the Municipal Building, Main Street, Stockton, New Jersey.

Send comments to Honorable Anthony J. Suozzo, Mayor of Stockton, Municipal Building, Main Street, Stockton, New Jersey 08559.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-2806 Filed 2-2-82; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 47, No. 23
Wednesday, February 3, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office to the Secretary

Privacy Act of 1974; Amendment of Existing System of Records

AGENCY: Department of Agriculture.

ACTION: Notice of amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act System of Records: USDA/FS–47, Forest Service Placement Availability System, last published in the **Federal Register** December 4, 1979, at 44 FR 69694.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Eddie L. Wade, FOIA/PA Officer, Forest Service, USDA (IS), P.O. Box 2417, Washington, D.C. 20013, Telephone: 202/447–6101.

SUPPLEMENTARY INFORMATION: The System location will be modified to include National Forest headquarters as storage locations. Categories of individuals covered by the System will be amended to include non-temporary Forest Service employees in all General Schedule series grades GS–1 through GS–15 and all General Merit series grades GM–13 through GM–15, who are presently covered by the Forest Service Merit Promotion Plan and located in organizational units that have a Placement Availability System. Categories of records in the System will be modified to include information on availability for promotion.

Record source categories will be amended to include the unit supervisor as an information source.

John R. Block,
Secretary.
January 29, 1982.

USDA/FS–47

SYSTEM NAME:

Forest Service Placement Availability System, USDA/FS.

SYSTEM LOCATION:

The records in this system are maintained at the Forest Service headquarters in Washington, D.C., Regional Offices, Forest Supervisors' Offices, the Fort Collins Computer Center (FCCC) in Fort Collins, Colorado, and Research Experiment Stations located throughout the country. The address for the headquarters is Forest Service, U.S. Department of Agriculture, 12th and Independence Avenue SW., Washington, D.C. 20013. The address of all other Forest Service offices may be found in 36 CFR 200.2, Subpart A, or in the telephone directory of the applicable locality under the heading, United States Government, Department of Agriculture, Forest Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-temporary Forest Service employees in all General Schedule series grades GS–1 through GS–15 and all General Merit series grades GM–13 through GM–15, who are presently covered by the Forest Service Merit Promotion Plan and located in organizational units that have a Placement Availability System.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes information on the above employees' availability for lateral reassignment—geographic availability, duration of current assignment, functional specialties for which available, reasons for desired move, restrictions, employee's name, social security number, current job category, past work experience codes, and supervisor's comments. It also provides each employee with an opportunity to indicate availability for short-term project assignments away from the regular work site and availability to be nominated by management for competitive promotional opportunities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 335.102.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored at FCCC in magnetic tape, disk or other formats, as well as on input forms prepared by covered employees which may be stored manually in file folders.

RETRIEVABILITY:

Records are indexed by employees' last name, social security number, organizational unit, category of availability, and category of organizational interest.

SAFEGUARDS:

Records are kept in either locked filing cabinets or in computer files which are accessible only by special code.

RETENTION AND DISPOSAL:

Records will be maintained on individuals in the Forest Service or organizational units which elect to have a Placement Availability System. Records may be maintained on employees who have voluntary applications or file for lateral reassignment to organizational units which elect a Placement Availability System. Records will be destroyed on individuals who leave organizational units which have a Placement Availability System.

SYSTEM MANAGER AND ADDRESS:

Director of Personnel Management, Forest Service, U.S. Department of Agriculture, Room 910 RP–E, P.O. Box 2417, Washington, D.C. 20013, or the appropriate Regional Personnel Officer or the appropriate Research Station Assistant Director for Administrative Support Services.

NOTIFICATION PROCEDURE:

Any employee may request information regarding the system of records, or information as to whether the system contains records pertaining to him or her from the system manager. A request for information should contain the individual's name and social security number and organizational unit.

RECORD ACCESS PROCEDURES:

Use same procedures as for requesting notification.

CONTESTING RECORD PROCEDURES:

Individual records may be amended or updated at any time, as the individual employee desires. Any part of an employee's record may be contested by that individual. The servicing personnel office will provide procedural advice.

RECORD SOURCE CATEGORIES:

The information in the records is furnished by the individual employee, the employee's immediate supervisor and/or unit supervisor.

[FR Doc. 82-2852 Filed 2-2-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Order 82-1-129]

Application of Cape Smythe Air Service for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-1-129).

SUMMARY: The Board is proposing to award a certificate of public convenience and necessity to Cape Smythe Air Service, Inc., authorizing it to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii; and all-cargo air transportation in Alaska between and among the points listed in its application. The Board is also tentatively determining that Cape Smythe is fit, willing, and able to provide service.

DATES: Objections: All interested persons having objections to the Board's issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than February 23, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 40194, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Cape Smythe Air Service; Hank Myers; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT: James Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5197.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-1-129 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-1-129 to that address.

By the Civil Aeronautics Board, January 29, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2816 Filed 2-2-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-1-131]

Application of Channel Flying, Inc. for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-1-131.)

SUMMARY: The Board is proposing to award a certificate of public convenience and necessity to Channel Flying, Inc. authorizing it to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except that its authority to conduct all-cargo operations within Alaska or Hawaii shall be limited to the points listed in its application. The Board is also tentatively deciding that Channel is fit, willing, and able to provide service.

DATES: Objections: All interested persons havng objections to the Board's issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than February 24, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40200, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20424.

In addition, copies of such filings should be served on Channel Flying, Inc.; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT: Charles Stohr, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5000.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-1-131 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-1-131 to that address.

By the Civil Aeronautics Board, January 29, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2817 Filed 2-2-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-1-130]

Application of Hermens for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-1-130).

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Hermens Air, Inc. authorizing (1) the interstate and overseas air transportation of persons, (2) of property and mail between all points in the United States, its territories and possessions, except that its all-cargo authority within Alaska or Hawaii shall be limited to transportation between Alakanuk, Emmonak, Kotlik, Mountain Village, Pilot Station, St. Mary's, and Sheldon's Point, Alaska; the Board also tentatively finds Hermens fit, willing and able to provide this service.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than February 23, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 40193, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies should be served upon the persons listed in Appendix B of Order 82–1–130.

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5330.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–1–130 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–1–130 to that address.

By the Civil Aeronautics Board, January 29, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2818 Filed 2–2–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–1–132]

Application of Tyee Airlines for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82–1–132).

SUMMARY: The Board is proposing to award a certificate of public convenience and necessity to Tyee Airlines authorizing it to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except that its all-cargo service within Alaska or Hawaii shall be limited to transportation between and among the points listed in its application. The Board is also tentatively determining that Tyee is fit, willing, and able to provide this service.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than February 24, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 40184, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Tyee Airlines; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5459.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–1–132 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–1–132 to that address.

By the Civil Aeronautics Board, January 29, 1982.

Phillis T. Kaylor,

Secretary.

[FR Doc. 82–2819 Filed 2–2–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 40310]

Best Airlines Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., January 28, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–2815 Filed 2–2–82; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on February 18, 1982, at the Mid-Atlantic Regional Office, Gelman Building, 2120 L Street, NW., on the Lower Level, Washington, D.C. 20037. The purpose of this meeting is to discuss program planning and to receive reports of subcommittee activity on police/community relations and employment issues.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Walter E. Washington, 408 T Street, NW., Washington, D.C. 20001, (202) 387–4613 or the Mid-Atlantic Regional Office, 2120 L Street, NW., Room 510, Washington, D.C. 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., January 29, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–2820 Filed 2–2–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Float Glass From Italy; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On April 21, 1981, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the countervailing duty order on float glass from Italy. The time periods covered by this review differ for the two known exporters covered by the order. The period of review for Fabbrica Pisana, S.p.A. is January 7, 1976 through December 31, 1979. The period of review for Societa Italiana Vetro, S.p.A. ("SIV") is March 30, 1979 through December 31, 1979.

Interested parties were invited to comment on the preliminary results. The petitioner requested a disclosure of pertient information under an administrative protective order. The Department determined that the material should be released, but the Italian government would not allow release of the confidential materials it had submitted. Therefore, this information was not used in calculating the final countervailing duty rates and we relied, instead, on the best information otherwise available. SIV submitted new information after the comment period regarding the subsidies it received. This data was submitted too late for consideration in this review by the Department.

The Department determines that the countervailing duty rates for Fabbrica Pisana are 16.94 percent *ad valorem* for January 7, 1976 through December 31, 1976, 15.85 percent *ad valorem* for calendar year 1977, 15.56 percent *ad valorem* for calendar year 1978, and 15.41 percent *ad valorem* for calendar

year 1979. For SIV, the rate is 15.53 percent *ad valorem* for March 30, 1979 through December 31, 1979. We further determine that cash deposits of estimated countervailing duties at the 1979 rates shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

EFFECTIVE DATE: Feburary 3, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Claire Rickard, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1467).

SUPPLEMENTARY INFORMATION:

Procedural Background

On January 7, 1976, the Department of the Treasury ("Treasury") published a countervailing duty order, T.D. 76–9, with respect to float glass from Italy (41 FR 1274). Treasury modified the original order on March 8, 1977 (T.D. 77–77, 42 FR 13016) to exclude Societa Italiana Vetro S.p.A. ("SIV"). The petitioner challenged that determination and, on March 29, 1979, the U.S. Customs Court (now the Court of International Trade) held, in *ASG Industries Inc.* v. *United States*, 467 F. Supp. 1200 (Cust. Ct. 1979), that imports of float glass from Italy manufactured or produced by SIV did in fact benefit from the payment of bounties or grants. Liquidation was suspended on March 30, 1979 following the court's decision. The United States appealed the Customs Court decision to the U.S. Court of Customs and Patent Appeals ("CCPA"). On June 18, 1980, the CCPA granted the motion of the United States to dismiss its appeal. As a result, the Department of Commerce ("the Department") published an order on October 24, 1980, amending the countervailing duty order applicable to float glass from Italy to include float glass manufactured or exported by SIV.

On April 21, 1981, the Department published in the **Federal Register** (46 FR 22776) a notice of "Preliminary Results of Administrative Review of Countervailing Duty Order" on float glass from Italy. The Department has now completed that administrative review.

Scope of the Review

The merchandise covered by this review is flat glass manufactured by the float process from Italy. It is currently classifiable under item numbers 543.21 through 543.69 of the Tariff Schedules of the United States. Entries of the float glass which have been substantially further manufactured (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty order.

The review is based upon information for the period January 7, 1976 through December 31, 1979 for Fabbrica Pisana S.p.A. and March 30, 1979 through December 31, 1979 for SIV, the only two known exporters covered by this order. The preliminary review determined that both companies received subsidies in the form of preferential financing, capital grants, reduced contributions to the Italian social welfare system (l'Istituto Nazionale Previdenza Sociale), and a reduced corporate income tax rate.

Issues Raised During the Comment Period

During the comment period the petitioner requested disclosure under an administrative protective order or confidential information used in establishing the countervailing duty rates. We gave the Italian government an opportunity to comment, as provided for by § 355.20(a)(2) of the Commerce Regulations, and then determined that the information was releasable. However, the Italian government refused to allow the release of the confidential data under protective order. As provided by § 355.20(a)(4) of the Commerce Regulations we returned the information submitted after January 1, 1980 which we had used to calculate the preliminary countervailing duty rates. Information from prior years which we had used in our preliminary results was not returned since we had previously used this data as the basis for other decisions. However, we have withdrawn this information from the consideration in this section 751 review. Therefore, the documents which we have used to determine the final countervailing duty rates contain only public information and constitute the best information otherwise available, as provided for in § 355.39(b) of the Commerce Regulations.

After the comment period had ended, SIV presented the Department with additional information regarding this period of review. This information was submitted too late for consideration by the Department.

Analysis of Programs using Best Information Available

Due to the withdrawal of confidential data by the Italian government, the Department has recalculated the subsidies received and the values of production for the two firms using publicly available information. We found that subsidies existed under the same four programs that we identified in the April 21, 1981 notice of preliminary results: Preferential interest rates, capital investment grants, reduced contributions to the social welfare fund (INPS), and reduced income tax payments. We also found one additional subsidy program, a reduction in the General Turnover Tax rate applied on all commercial transactions for factories located in southern Italy. Following is an explanation of the new rates for each program.

(1) *Subsidies.* (a) Preferential Interest Rate Program. Information from the petition filed on May 31, 1974 indicates that loans were given to Fabbrica Pisana and SIV in 1974 at subsidized interest rates 3.5 percent below the prevailing market rate with a fifteen year repayment schedule. Accordingly, we find that the *ad valorem* subsidy benefit for Fabbrica Pisana is 0.99 percent for 1976, 0.47 percent for 1977, 0.32 percent for 1978, and 0.25 percent for 1979; for SIV the benefit in 1979 is 0.33 percent *ad valorem*. After the withdrawal we had no information regarding any other loans.

(b) Capital Investment Grants. The petition states that both Fabbrica Pisana and SIV received investment grants in 1974. It further states that the useful life of the investments purchased with the grants (float glass production lines) is twelve years. Following administrative practice, we have allocated the grants over half the useful life of the assets purchased. For Fabbrica Pisana we found the *ad valorem* subsidy to be 0.88 percent for 1976, 0.42 percent for 1977, 0.31 percent for 1978 and 0.25 percent for 1979. For SIV, the benefit in 1979 is 0.28 percent *ad valorem*.

(c) Reduced Contributions to the Social Welfare Fund. The Italian government may reduce a firm's payments to the Istituto Nazionale Previdenza Sociale (INPS) to encourage development in sourthern Italy. The petition states that the subsidy is equal to 20 percent of the total labor cost which is estimated as 11 percent of the total manufacturing cost. We followed Treasury's precedent which estimated the total manufacturing cost as 50 percent of the value of production. Using this formula, we found the subsidy conferred by this program to be 1.10 percent *ad valorem* for each company for each of the years in our period of review.

(d) Income Tax (IRPEG) Payments. As described in our preliminary results, we consider the benefit given under this program to be 12.5 percent of the taxable income which, lacking actual figures from the companies, we calculate to be 50 percent of the value of

production. However, in this notice of final results we have changed the values of production to reflect the best information available (see below). We now calculate the subsidy under this program to be 13.75 percent *ad valorem* for each company for each year in our period of review.

(e) General Turnover Tax Reduction. The petition claims that a reduction of the General Turnover Tax amounted to a 2 percent subsidy of the cost of each company's total investment. We have calculated those amounts and amortized the benefits over six years, half the useful life of the investments. The *ad valoreum* subsidy rates for Fabbrica Pisana are 0.22 percent for 1976, 0.11 percent for 1977, 0.08 percent for 1978, and 0.06 percent for 1979. For SIV the benefit is 0.07 percent *ad valorem* for 1979.

(2) *Value of Production.* To calculate values of production for 1976, 1977, 1978, and 1979 for Fabbrica Pisana and 1979 for SIV we used the square foot capacity of float glass for each firm (which was given in the petition) multiplied by an average dollar value per square foot. Tis average dollar value we derived from United States Bureau of the Census import statistics for float glass for the appropriate years.

Final Results of the Review

Using the above figures, we determine the aggregate net subsidy conferred by the Government of Italy on the production of float glass by Fabbrica Pisana to be 16.94 percent of the f.o.b. invoice price for the period January 7, 1976 through December 31, 1976, 15.85 percent of the f.o.b. invoice price for calendar year 1977, 15.56 percent of the f.o.b. invoice price for calendar year 1978, and 15.41 percent of the f.o.b. invoice price for calendar year 1979. The subsidy conferred on the production of float glass by SIV is 15.53 percent of the f.o.b. invoice price for the 1979 time period.

The U.S. Customs Service shall assess countervailing duties at the rates stated above on all unliquidated entries of float glass from Italy entered, or withdrawn from warehouse, for consumption on or after January 7, 1976, and exported on or before December 31, 1979 for Fabbrica Pisana and, for SIV, on or after March 30, 1979 and exported on or before December 31, 1979.

As provided by section 751(a)(1) of the Tariff Act of 1930, the Customs Service shall collect a cash deposit of estimated countervailing duties of 15.41 percent of the f.o.b. invoice price for Fabbrica Pisana and 15.53 percent of the f.o.b. invoice price for SIV for all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department is now commencing the next administrative review of the order. The amount of countervailing duties to be imposed on shipments exported during the calendar year 1980 will be determined in the next administrative review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1980.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 27, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-2728 Filed 2-2-82; 8:45 am]

BILLING CODE 3510-25-M

Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981, pursuant to the charter of the Committee.

The Fiber Optic Subcommittee was formed to study fiber optic communication equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: February 9, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW, Washington, D.C. This meeting is called on short notice because of the need to obtain and consider the Subcommittee's advice on proposals to revise the multilateral COCOM list.

The subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telphone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583

Dated: January 27, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2701 Filed 2-2-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Wire Nails From the Republic of Korea; Antidumping Preliminary Determination of Sales at Less Than Fair Value and Exclusion From Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value and exclusion from preliminary determination.

SUMMARY: We have preliminarily determined that there is a reasonable basis to believe that certain steel wire nails from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have directed the U.S. Customs Service to suspend the liquidation of all entries of this merchandise, with the exception of entries of this merchandise produced by Samchok Industrial Company, Ltd. A cash deposit, bond, or other security in an amount equal to the estimated

dumping margin, applicable to each manufacturer investigated, will be required at the time of each entry, or withdrawal from warehouse, for consumption in the United States. Imports from other manufacturers, except Samchok which has been excluded from this determination, will be subjected to security in the amount of 4 percent. We are notifying the United States International Trade Commission of this determination. If the investigation proceeds normally, we will make our final determination not later than April 15, 1982.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Richard Rimlinger, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202–377–1279).

SUPPLEMENTARY INFORMATION: A previous antidumping investigation on certain steel wire nails from Korea was self-initiated on April 4, 1979. The final determination made by the Department of Commerce on May 23, 1980 was that certain steel wire nails from Korea were being sold to the United States at less than fair value (45 FR 34941). On August 13, 1980, the ITC published a determination that sales of this merchandise at less than fair value were not injuring, nor were likely to injure, a U.S. industry (45 FR 53924). This ITC final negative determination ended that earlier antidumping proceeding before the Department of Commerce.

On July 2, 1981, the Department of Commerce published a notice (46 FR 34615) announcing that, on the basis of information developed under the "Trigger Price Mechanism" (TPM) for steel mill products, we were self-initiating a new antidumping investigation to determine whether imports of certain steel wire nails from Korea are being, or are likely to be, sold at least than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the "Act"). The TPM was a monitoring device used by the Department of Commerce to determine those basis steel mill products most likely to be sold at less than fair value in the United States. In accordance with section 731(b) of the Act, we notified the U.S. International Trade Commission (the "ITC") of our action.

On August 17, the ITC found that there is a reasonable indication that imports of certain steel wire nails from Korea are materially injuring, or threatening to materially injure, a U.S. industry. The ITC published its determination in the **Federal Register** on August 26, 1981.

On November 23, 1981, the Department published a notice announcing that this investigation is extraordinarily complicated and that the preliminary determination was being postponed from December 9, 1981, to no later than January 28, 1982 (46 FR 57336).

Scope of Investigation

The types of nails covered by this investigation are nails of one piece construction, which are made of round steel wire and which are either less than 1 inch in length and less than 0.065 inch in diameter, or 1 inch or more in length and 0.065 inch or more in diameter. Such nails are classified under items 646.25 and 646.26 of the Tariff Schedules of the United States. We investigated sales of these nails which were made by fifteen Korean producers and sold for exportation to the United States during the period of investigation, January 1, 1981 through June 30, 1981. The firms investigated were:

1. Ah Ju Steel Co., Ltd. (Ah Ju)
2. Dae-A Wire Steel Co., Ltd. (Dae-A)
3. Gaya Metal Ind., Co., Ltd. (Gaya)
4. Han Duk Ind., Co., Ltd. (Han Duk)
5. Han Kuk Steel Wire Ind., Co., Ltd., (Han Kuk)
6. Je Il Steel Co., Ltd. (Je (Il)
7. Jin Heung Iron and Steel Co., Ltd. (Jin Heung)
8. Kabul Ltd. (trading for Dong-A Nails Manufacturing Co., Ltd.)
9. Korea Ill Dong Co., Ltd. (Korea Ill Dong)
10. Korea Nippon Seisen Co., Ltd., (Korea Nippon Seisen)
11. Kuk Dong Metal Ind., Co., Ltd. (Kuk Dong)
12. New Korea Nails Ind., Co., Ltd. (New Korea)
13. Samchok Ind., Co., Ltd. (Samchok)
14. The Tan's Metal Ind., Co., Ltd. (Tan's Co.)
15. Young Sin Metal Ind., Co., Ltd. (Young Sin)

Sales by the above firms accounted for approximately 85 percent of all nail sales to the United States during the period of investigation.

Methodology of Fair Value Comparisons

To calculate fair value, we compared the U.S. price with the foreign market value. In the cases of Dae-A, Jin Heung, Kuh Dong, New Korea and Samchok we compared U.S. price based on purchase price with foreign market value based on home market price. In the case of Korea Nippon Seisen, we compared U.S. price based on purchase price with foreign market value in Japan (as represented by information supplied under the Trigger Price Mechanism). For all other firms investigated, we compared U.S. price based on purchase price with foreign market value based on the constructed value of the imported merchandise.

U.S. Price

All Korean producers sold nails either directly to unrelated U.S. importers or to unrelated trading companies which sold to U.S. importers. Since the price of nails to unrelated United States importers was agreed to before the nails were imported into the United States, we used purchase price as defined in section 772(b) of the Act as the U.S. price for all firms investigated.

We calculated purchase price on the basis of the FOB, C&F, or CIF prices to U.S. importers, or, where appropriate, to the trading companies which resold to U.S. importers. We made deductions for all shipping and port charges.

Foreign Market Value

In the cases of Dae-A, Jim Heung, Kuk Dong, New Korea and Samchok, there were sufficient sales in the home market above the cost of production to allow us to use home market price as defined in, section 773(a)(1)(A) of the Act, to determine foreign market value. We calculated home market price on the basis of the delivered or ex-factory prices to unrelated home market customers. Where appropriate, we deducted shipping charges and adjusted for differences between domestic and export nails. We also adjusted for differences between domestic and export packing.

Korea Nippon Seisen, which is located in the Masan Free Trade Zone and is wholly owned by a Japanese firm that also has nail producing facilities in Japan, meets the requirements of section 773(d) of the Act, and is, therefore, subject to the special rule for certain multinational corporations, which states:

> Whenever, in the course of an investigation under this title, the administering authority determines that—
>
> "(1) merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm or corporation which also owns or controls, directly or indirectly, other facilities for the production of such or similar merchandise which are located in another country or countries;
>
> "(2) the sales of such or similar merchandise by the company concerned in the home market of the exporting country are nonexistent or inadequate as a basis for comparison with the sales of the merchandise to the United States; and
>
> "(3) the foreign market value of such or similar merchandise produced in one more of the facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in the facilities located in the

country of exportation, it shall determine the foreign market value of such merchandise by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation."

With respect to the requirements of this section, we attempted to obtain information from a related Japanese nail producer, Nippon Seisen Co., Ltd. (Nippon Seisen), Osaka, Japan, concerning the cost of production and prices of nails sold in the Japanese home market. However, Nippon Seisen did not respond to our request for this information. Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested the Commerce Department may use the best information otherwise available for determining the existence of less than fair value sales. We have used the relevant trigger prices for steel wire nails as the best available information of the foreign market value for nails produced by Nippon Seisen in Japan. Since these trigger prices are greater than he foreign market value which would otherwise be used for Korea Nippon Seisen, section 773(d) is applicable. Therefore, we compared the purchase price to the foreign market value of Nippon Seisen in Japan, as represented by trigger prices. Furthermore, since Nippon Seisen failed to supply cost data, we made no adjustments to trigger prices to reflect differences in the cost of production between Japan and Korea.

With respect to all remaining firms investigated, we used constructed value, as defined in section 773(e) of the Act, to determine the foreign market value of the nails. None of these companies, with one exception, had adequate sales of such or similar merchandise in the home market or to third countries. The one exception is the Korean producer, Dong-A, which sold nails to the United States using the name of its parent firm Kabul, which is a Korean trading company. Although Dong-A had sales of this merchandise in the home market, there were insufficient sales above the cost of production to use home market sales as the basis of foreign market value.

Therefore, in accordance with section 773(e), we calculated constructed value by adding raw material costs, fabrication costs, general expenses, profit and packing costs. For materials, fabrication and packing costs, we used each firm's actual cost figures. For general expenses, we used each firm's actual cost figures allocated over its respective nail production. In cases in which the actual general expenses were less than the statutory minimum amount of 10 percent of the total cost for materials and fabrication, we used 10 percent for general expenses. We calculated profit on the basis of the statutory minimum of 8 percent of materials, fabrication and general expenses. We used the statutory minimum profit, because data submitted by the Korean producers indicated that the usual profit on sales of this merchandise in the Korean home market was less than the statutory minimum.

In calculating foreign market value, we made currency conversions from Korean won to U.S. dollars using unofficial average monthly rates which were supplies to the Department of Commerce by the Federal Reserve Bank of New York ("FRB"). The FRB is in the process of certifying daily rates for the investigative period and these certified rates will be used for our final determination, in accordance with the provisions of section 522 of the Tariff Act of 1930, as amended (31 U.S.C. 372), provided that they are received in a timely manner. In the interim, the unofficial rates supplied by the FRB will continue to be used as the best available information.

An interest expense adjustment was shown in the sales information supplied by Jin Heung, Kuk Dong Samchok. This interest expense was attributable to the extension of credit on payment terms for either home or U.S. sales transactions. The amount of interest expense has been calculated by prorating the prevailing annual loan rate of interest by the period claimed for the extension of credit. This adjusted rate was then applied to the sales price to approximate the amount of expense which is attributable to the extension of credit on that sale. However, we allow this adjustment only if the respondent can demonstrate that its total actual short-term interest expense is not less than the amount claimed.

For purposes of this preliminary determination, there is insufficient information to make this determination for any firms other than Samchok. We have, therefore, disallowed this adjustment for Jin Heung and Kuk Dong.

Verification

We verified, to the extent possible, all information used in making this preliminary determination. We were granted access to the books and records of the fifteen foreign manufacturers investigated and Kabul, a related company trading for Dong-A. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents containing relevant information.

Preliminary Results of Investigation

We made fair value comparisons on approximately 70 percent of the total sales to the United States made by the fifteen manufacturers under investigation. We found margins on 42 percent of the sales. The margins ranged from 0.01 to 71 percent. The overall weighted-average margin on all sales compared is 4 percent. On a firm-by-firm basis, the results for the purposes of this determination are as follows:

Manufacturers	Percent of sales compared	Percent of comparisons with dumping margins	Percent weighted average margin on all sales compared
Ah-Ju	75.2	56.4	2.2
Dae-A	100	40.3	1.0
Gaya	99.0	97.0	12.3
Han Duk	82.1	29.9	0.5
Han Kuk	29.8	37.5	2.7
Je Il	77.0	12.4	0.6
Jin Heung	100	42.7	2.4
Kabul or Dong-A	52.0	45.1	5.3
Korea Ill Dong	91.4	82.9	3.0
Korea Seisen Nippon	87.6	100	29.1
Kuk Dong	47.3	74.2	5.0
New Korea	55.4	0.1	0.6
Samchok	97.3	0	0
Tan's Co.	89.4	17.7	0.5
Young Sin	100	94.5	5.7

In the case of Samchok, we found no sales at less than fair value. Samchok is, therefore, excluded from this preliminary determination of sales at less than fair values.

Suspension of Liquidation

In accordance with section 733(d)(1) and (2) of the Act, we are directing the U.S. Customs Service to suspend, upon this notice's publication, the liquidation of all entries of nails, with the exception of those nails produced by Samchok Industrial Company, Ltd., which are entered into the United States, or withdrawn from warehouse, for consumption. As of that date, a cash deposit, bond, or other security must be posted for all entries of nails produced by all firms, except Samchok, in the amount of the weighted-average margin of the FOB price for the listed firms investigated and 4 percent of the FOB price for all other Korean producers.

ITC Notification

We are notifying the U.S. International Trade Commission of this action. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

If requested, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. This hearing is scheduled for 9:30 a.m. on March 4, 1982, U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Any request for a hearing must be submitted on or before February 16, 1982, to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the same address above. They should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 26, 1982. Oral presentations will be limited to the issues raised in the briefs.

Any written views should be filed in accordance with 19 CFR 353.46 at the above address, in at least ten copies, and on or before March 5, 1982. This determination is published in accordance with § 353.39, Commerce regulations (19 CFR 353.39).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-2790 Filed 2-3-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to discuss status of herring, lobster and groundfish fishery management plans; discuss proposed criteria for review of joint venture permit applications; discuss status of the policy review committee recommendations, as well as discuss other business.

DATES: The public meetings will convene on Wednesday, February 24, 1982, at approximately 10 a.m., and will adjourn on Thursday, February 25, 1982, at approximately 5 p.m. The meetings may be lengthened or shortened, or agenda items rearranged depending upon progress on the agenda. The meetings will take place at the King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway, Route One, Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: January 29, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-2812 Filed 2-3-82; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council (Inter-Council/ Advisory Panel); Public Meeting

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The South Atlantic and Gulf of Mexico Fishery Management Councils were established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265). These Councils have also established Advisory Panels to assist in carrying out the Councils' functions under the Act. Members of these respective Councils and their Advisory Panels will meet jointly to receive and discuss industry input for solving excessive harvest of small calico scallops as well as related management problems.

DATES: The public meeting will convene on Monday March 1, 1982, at approximately 1:30 p.m., and will adjourn on Tuesday, March 2, 1982, at approximately noon, and will take place at the Holiday Inn, 260 E. Merritt Island Causeway, Merritt Island, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: January 29, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-2811 Filed 2-3-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Historical Advisory Committee; Meeting

1. In accordance with section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Department of the Army Historical Advisory Committee.

Date: 23 April 1982

Place: Conference Room, 8222–C Casimir Pulaski Building, 20 Massachusetts Ave., NW, Washington, DC

Time: 1000–1140, 1345–1515

Proposed Agenda:

1000–1140—Review of historical activities

1345–1515—Discussion of activities and executive session of the committee

Purpose of meeting: The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations through the Chief of Military History to the Chief of Staff, US Army and the Secretary of the Army for advancing the purpose of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the 23 April 1982 meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to LTC Joseph W. A. Whitehorne, Advisory Committee Management Officer for the Chief of Military History, HQs Department of the Army, Washington DC 20314.

Dated: January 20, 1982.

J. W. A. Whitehorne,

LTC, AGC, Executive Officer.

[FR Doc. 82-2765 Filed 2-3-82; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers; Department of the Army

Intent To Prepare Draft Supplement Environmental Impact Statement, Proposed Wetland Establishment Project at Pointe Mouillee, Monroe County, Michigan

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft supplement to the final environmental impact statement for the confined disposal facility at Pointe Mouillee, Michigan (1974).

SUMMARY: *Proposed Actions.* The purpose of this study, which is being conducted under section 150 of the 1976 Water Resources Development Act, is to determine whether the Corps should add certain features to the Pointe Mouillee project now under construction, in order

to enhance wetland establishment in the area. The Pointe Mouillee project is an offshore diked disposal facility currently in use for confinement of polluted dredged material. The facility was designed and located with the intention of providing an initial step toward reestablishment of the former Point Mouillee marsh and to prevent further erosion damage to the State Game Area. Marsh enhancement measures which would provide water level control for the area landward of the confined disposal facility will be considered in this study. Certain measures have been proposed by the Michigan Department of Natural Resources in order to insure the stability of the marsh and to allow for planting or other maintenance efforts. These are: (1) The rerouting of Lautenschlager Drain, Mouillee Creek, and Bad Creek to control water entering the wetland; (2) isolation or containment of the old Mouillee Creek channel within the marsh to provide a centrally located sump area; and (3) construction of culverts in the middle cross-dike to allow adequate flushing of the marsh.

Alternatives. The measures proposed by the Michigan Department of Natural Resources will be evaluated for their ability to provide establishment of a stable and viable wetland and their ability to meet the requirements of Section 150. During this evaluation, alternative measures or modifications to the proposed measures, may be developed in order to more effectively achieve the project goals.

The "No Action" alternative will also be considered.

Scoping Process.

a. Public Involvement—Coordination with the Michigan Department of Natural Resources will continue throughout this study. All affected Federal, State and local agencies or other interested parties will be contacted during the planning process.

b. Significant issues to be addressed in the Draft Supplement Environmental Impact Statement:

(1) Project impacts on the area's water quality.

(2) Project impacts on recreational use of the area.

c. Other Environmental Review and Consultation Requirements—This project will be reviewed for compliance with the following: The Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1966; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Executive Order 11990, Wetlands Protection, May 1977; Executive Order 11988, Floodplain Management, May 1977; Clean Air Act of 1977; Clean Water Act of 1977; Corps of Engineers, Department of the Army, 33 CFR, Part 230, Environmental Quality; Corps of Engineers, Department of the Army, Policy and Procedure for Implementing NEPA (ER 200–2–2).

Estimated Date of Supplement Environmental Impact Statement Release:

It is anticipated that the Draft Supplement Environmental Impact Statement will be available to the public in July 1982.

ADDRESS: Questions about the proposed action and Supplement Environmental Impact Statement can be answered by Ms. Barbara Schmitt, Environmental Analysis Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, Michigan 48231.

Dated: January 26, 1982.

Robert V. Vermillion,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82–2766 Filed 2–2–82; 8:45 am]

BILLING CODE 3710–GA–M

Department of the Navy

Feral Burro Management Program; Record of Decision

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) (§ 1505.2 of Title 40, Code of Federal Regulations), the Department of the Navy announces its decision to proceed with the removal of all feral burros from the Naval Weapons Center (NWC), China Lake, California.

This decision was reached after careful evaluation of the existing environmental problems associated with the existence of feral burros on the Naval Weapons Center and consideration of all available options for resolving the present safety and resource conflicts, as discussed in the Navy's final EIS. The Navy has determined that total elimination of burros from the NWC is in the best interest of both the short and long term management goals of NWC. After careful consideration of the Navy's final EIS and the associated public comments, the Navy selected complete removal of live trapping, followed by direct reduction (if necessray), as the best plan of action to provide complete removal.

The Navy will allow animal protection groups to conduct live removal of all feral burros from the military reservation. The live removal effort will be operated at the expense of the sponsoring animal protective groups and will necessarily be conducted on a non-interference basis with NWC range schedules. It is the Navy's intention that the live removal process be completed within an 18-month time frame.

Animal protection groups which desire to participate in the live removal program will be required to demonstrate their capacity to effect complete removal and adoption of all burros removed. A Memorandum of Understanding will be negotiated with those groups which qualify concerning specific procedures and other matters involved in the removal and adoption. Should the funds of the sponsoring protection groups be exhausted or should these groups otherwise fail to complete the live removal program in compliance with the mutually-agreed-upon-burro-removal schedule, the Navy will initiate a direct reduction (shooting) program to eliminate any remaining burros.

Given the Navy's basic premise that the NWC's desert ecosystems will benefit substantially by removal of the burro, it follows that the most rapid burro removal process would represent the most environmentally sound alternative. The Navy considers that the direct reduction alternative represents the lease ecologically damaging action in the sense specified in the Council on Environmental Quality (CEQ) guidelines because of the speed in which the ecosystem should be protected. However, due to the intense negative sentiment exhibited by some of the public comments received by the Navy during the NEPA process, the Naval Weapons Center has decided to adopt the method of live capture followed by direct reduction (if necessary). Alternatives considered were: Complete removal by direct reduction; complete removal by live trapping, followed by direct reduction; partial retention of burros on NWC lands; and no action. Other techniques for removal considered during the preliminary stages of the investigation, but rejected as non-viable alternatives were euthanasia, sterilization, carnivorous predator indroduction, disease injection, and fencing the installation.

Once burros have been removed, the presently damaged natural ecosystems will eventually recover. Soils will stabilize and vegetation conditions will improve. The revegetation process will result in gradual restoration of perennial plant communities and associated native wildlife constituents. Naval operations will return to normal, human safety hazards on the airfield and

highways will significantly diminish, and the destruction of archaeological and historic sites will cease.

The only adverse environmental impact expected to result from implementation of the proposed action will occur during the actual removal of the burros. Activities associated with live capture and direct reduction (if necessary) will result in a minimum of habitat damage while authorized personnel are in the field. Naval operations will be disrupted temporarily by live capture activities. Live capture methods will be utilized so as to minimize disruption to the environment to the maximum extent feasible. This will be accomplished in the Memorandum of Understanding with sponsoring animal protection groups which will incorporate actions required to minimize environmental degradation during the removal process. The Naval Weapons Center will also implement management actions to preclude the feral burro from again using the area for permanent habitation. An ongoing evaluation and monitoring system will be used to measure the effectiveness of the implemented burro management plan and to insure mitigating measures are followed.

Dated: January 29, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-2822 Filed 2-2-82; 8:45 am]

BILLING CODE 3810-AE-M

Feral Animal Removal Program, San Clemente Island, California; Decision

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) (§ 1505.2 of Title 40, Code of Federal Regulations), the Department of the Navy announces is decision to institute a final eradication phase of its feral animal removal program at San Clemente Island, California.

San Clemente Island is administered by the U.S. Navy. Under the terms of the Endangered Species Act of 1973, as amended, the Navy is required to conserve and protect threatened and endangered species and habitats critical to their continued existence. Several such legally designated species occur in a variety of habitats on San Clemente Island. Several other species are considered candidates for such status. The entire island (exclusive of developed areas) comprises actual or potential habitats for one or more of these species. The quality of these habitats and the populations of protected species on the island have been and continue to be severely damaged by the continuing presence of feral animals, particularly goats, on the island. Therefore, the Navy has determined that the preferred environmental alternative is to eliminate the introduced feral animals that actually or potentially endanger these legislatively protected natural resources. This determination is concurred in by the U.S. Fish and Wildlife Service.

The goal of the feral animal removal program is the total elimination of any influence on the ecosystem of San Clemente Island in order that the legislatively mandated preservation of protected species and their habitats may be accomplished. The targets of the program are species that have been domesticated but whose members on San Clemente Island are existing in a "wild state." Animals so identified include pigs, cats, and the predominant species, goats.

During the last 7½ years, the Navy has removed about 16,500 goats through contracts with live trappers and sport hunters. A 1979 court-ordered live trapping program has removed an additional 4,000+ goats with an estimated 100 remaining. The feral pig population has been reduced from an estimated high of 1,000 to the currently estimated 20 pigs. The island's feral cat population is estimated at 600 to 800 animals. It is believed that about 5 deer remain on the island.

The method to be implemented is swift dispatch using firearms or, in the case of feral cats, drug overdose. Only animals that evaded capture during prior live removal efforts will be intentionally terminated. Cruelty to the animals will be obviated by regulation and through the use of professional hunters and trappers and, where appropriate, veterinarian-trained personnel.

Cats will be euthanized by veterinarian-trained personnel using sodium pentobarbitol (a drug used for this purpose in animal shelters). Pigs and mule deer are considered game animals under the California Fish and Game regulations. Deer and pig removal will involve the use of naval or other personnel with hunting licenses for in-season hunts, or removal of the animals under the terms of a Depredation Permit obtained from the California Department of Fish and Game.

Finally, any animal eradication technique will be coordinated, where appropriate, with the U.S. District Court, the State of California, the Animal Damage Control and U.S. Fish and Wildlife Service prior to implementation.

Dated: January 29, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-2823 Filed 2-2-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Mobil Oil Corp.; Proposed Remedial Order and Opportunity For Objection

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Proposed Remedial Order to Mobil Oil Corporation and Opportunity for Objection.

I. Introduction

Pursuant to 10 CFR 205.192, the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA), Department of Energy (DOE) hereby gives notice that a Proposed Remedial Order (PRO) was issued on December 30, 1981 to Mobil Oil Corporation (Mobil), 3225 Gallows Road, Fairfax, Virginia 22037, and that any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before February 18, 1982.

II. The Proposed Remedial Order

Mobil is a refiner engaged in the production of crude oil, in refining and the marketing of petroleum products subject to the DOE regulations. By this PRO, OSC sets forth proposed findings of fact and conclusions of law concerning Mobil's calculation and reporting of non-product cost increases under the refiner price rules in 10 CFR Part 212, Subpart E, between August 1973 and December 1980. Mobil is charged with overstating its non-product costs available for recovery in an amount totalling $430,000,000.

During the audit period §§ 212.81 and 212.83 of the Mandatory Petroleum Price Regulations permitted a refiner to pass through certain non-product costs in sales prices for covered products. These increased non-product costs were required to be calculated pursuant to formulae included in §§ 212.81 and 212.83.

During the period August 1973 through December 1980 Mobil failed to adhere to the regulations in determining its non-product costs associated with six non-product cost categories (Interest, Marketing, Pollution Control, Refinery Fuel, Labor, and Additives).

Specifically, in determining interest, labor and pollution control cost

increases mobil included costs which by definition did not belong in the respective categories. With respect to marketing costs, Mobil improperly determined cost increases on the basis of a comparision of per-unit costs rather than total costs. In determining additive cost increases, Mobil failed to calculate a single average additive cost rate as required by the regulations. Mobil also claimed non-existent refinery fuel costs and therefore overstated its refinery fuel cost increases. Moveover, Mobil, through the subsequent revision of its cost allocation factors, improperly allocated a portion of its increased non-product costs to covered products. Mobil also duplicated expenses in its computations of increased costs in the labor, tax, depreciation and overhead categories. Finally, Mobil revised its May 15, 1973 base costs for some of the non-product cost categories. As a result of the above described actions, Mobil overstated available non-product cost increases and amounts of non-product costs allocated to covered products by approximately $430,000,000.

As a remedy, Mobil is directed to recalculate its marketing, interest, pollution, additive, labor and refinery fuel non-product cost increases, recalculate its non-product costs (except marketing) allocated to covered products, correct its duplication errors and recalculate certain May 1973 base costs. Refunds shall be ordered if these recalculations show that these excessive cost claims resulted in overcharges.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Freedom of Informatioan Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C. 20585.

III. Notice of Objections

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the Proposed Remedial Order with the Office of Hearing and Appeals on or before February 18, 1982. A person who fails to file a Notice of Objection shall be determined to have admitted the findings of act and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by § 205.193, the Proposed Remedial Order may be issued as a final order.

All Notices, Statements, Motions, Responses, and other documents required to be filed with the National Office of Hearings and Appeals should be sent to: Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

No data or information which is confidential shall be included in any Notice of Objection.

Issued in Washington, D.C., January 28, 1982.

Milton Lorenz,

Acting Special Counsel.

[FR Doc. 82–2788 Filed 2–2–82; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–81–024; OFC Case No. 65028–9214–01, 02–12]

New Energy Corporation of Indiana; Acceptance of Petition for Exemptions and Availability of Certification

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of acceptance of petition for exemptions and availability of certification.

SUMMARY: On November 27, 1981, New Energy Corporation of Indiana filed petitions with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a temporary public interest exemption, a permanent emergency purposes exemption, and a permanent scheduled outages exemption for two new major fuel burning installations (MFBI's) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). FUA prohibits the use of petroleum and natural gas as a primary energy source in certain new MFBI's. Final rules for petitioning for exemptions from the prohibitions of FUA are published in the Federal Register at 46 FR 59890 (December 7, 1981).

The MFBI's for which the petitions are filed are two natural gas and oil-fired package boilers (identified as units #2 and #3) to be installed at New Energy Corporation's proposed alternate fuels manufacturing facility to be located at South Bend, Indiana. Units #2 and #3 each have a design heat input rate of 176 million BTU's per hour for oil and 185 million BTU's per hour for natural gas.

ERA has determined that the petition and certifications for the requested exemptions are complete. ERA retains the right to request additional relevant information from New Energy Corporation at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in section 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the Final Rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E190, Washington, D.C. 20585, Monday through Friday, 8:00 AM–4:00 PM.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the Federal Register.

DATES: Written comments are due on or before March 22, 1982. A request for public hearing must also be made within the same 45-day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room 6114, 2000 M Street, NW, Washington, D.C. 20461.

Docket No. ERA–FC–81–024 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Case Manager, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW, Room 6114J, Washington, D.C. 20461, Telephone (202) 653–3379

Marilyn Ross, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252–2967

SUPPLEMENTARY INFORMATION: Revised Final Rules were published in the Federal Register on December 7, 1981 implementing the provisions of Title II of FUA (46 FR 59890). The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption from the prohibition has been granted by ERA.

The New Energy Corporation of Indiana proposes to construct an alternative fuel production facility using a corn-based process to produce ethanol. The production of ethanol using the petitioner's process requires an energy input to the process. The primary fuel source for the energy input required

will be a coal-fired boiler. Although coal will be the ultimate fuel source for the facility, New Energy Corporation considers it to be technologically preferable to wait until the after start-up to order the coal burner. Because of the length of time required to build a coal-fired boiler, the temporary use of oil- and gas-fired boilers for the production facility will minimize the time required for the establishment of full production of ethanol. The oil- and gas-fired boilers are also necessary to ensure safe operation of the plant, to protect against unexpected power outages of the coal-fired facility and to provide the necessary process input steam during the periods required for scheduled equipment maintenance of the coal-fired boilers to ensure continued efficiency and reliable operation.

Section 211(c) of the Act provides for a temporary public interest exemption from the prohibitions of FUA by certification if the petitioner requires use of oil or natural gas in a unit during the construction of an alternative fuel-fired unit. In accordance with § 503.25(b) (1) and (2) of the Final Rule, New Energy Corporation did:

(1) Present to ERA evidence that the unit will be capable of complying with the applicable prohibitions at the end of the proposed exemption period and that the granting of the exemption will be in accord with the purposes of the Act and will be in the public interest; and

(2) Present evidence showing the anticipated duration of the circumstances which constitute the basis for the exemption.

Section 212(e) of the Act provides for a permanent exemption from the prohibitions of FUA for emergency purposes. In accordance with § 503.39 of the Final Rule, New Energy Corporation of Indiana has included in its petition for exemption the following evidence:

(1) A duly executed certification that the petitioner will operate and maintain Unit #2 and Unit #3 for emergency purposes only;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of § 503.39 of the Final Rule; and

(3) Environmental certifications, as required under § 503.13 of the Final Rule.

Section 212(j) of the Act provides for a permanent exemption for installations to meet scheduled equipment outages. In accordance with § 503.43 of the Final Rule, the petitioner did certify that:

(1) Routine maintenance does not permit continued operation of the coal-fired boiler or continued production of ethanol or other activities to be carried on at the site unless ERA grants this exemption;

(2) Unit #2 and Unit #3 will be used only during those periods when the coal-fired boiler is not in operation for reason of scheduled outage; and

(3) The proposed unit is not to exceed an average of 28 days per year over a three-year period and submitted the environmental certification required under § 503.13 of the Final Rule.

ERA hereby accepts the filing of the petition for the exemption as adequate for filing. ERA retains the right to request additional relevant information from New Energy Corporation of Indiana at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. As set forth in §.501.3(b)(4) of the Final Rule, the acceptance of the petition by ERA does not constitute a determination that New Energy Corporation is entitled to the exemption requested.

Issued in Washington, D.C., on January 26, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82-2789 Filed 2-3-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: High Energy Physics Advisory Panel

Date and Time: Friday, February 19, 1982, 9:00 a.m.-6:00 p.m. Saturday, February 20, 1982, 9:00 a.m.-4:00 p.m.

Place: Department of Energy, Room A-410, Germantown, Maryland

Contact: Dr. P. K. Williams, Secretary, High Energy Physics Advisory Panel, Department of Energy, Mail Stop J-309, Washington, D.C. 20545, Telephone: 301-353-3367

Purpose of Committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda:

—Discussions of the FY 1982 DOE and NSF budgets for High Energy Physics

—Discussion of the FY 1983 Presidential budget requests for DOE and NSF programs in High Energy Physics

—Consideration of transmittal to DOE of the anticipated final Report of the Subpanel on Long Range Planning for the U.S. High Energy Physics Program

—Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at 202-252-5187. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 28, 1982.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 82-2787 Filed 2-3-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 0G2396/T343; PH-FRL-2039-8]

BASF Wyandotte Corp.; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-[2-(ethylthio)propyl]-1,3-cyclohexanedione moiety and its several thioxidation products (calculated as the herbicide) in or on the raw agricultural commodities soybeans, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, sheep, milk, and eggs.

DATE: These temporary tolerances expire May 27, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the Federal Register of September 25, 1981 (46 FR 47294) establishing temporary tolerances for residues of the

herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-[2-(ethylthio)propyl]-1,3-cyclohexanedione moiety and its several thioxidation products (calculated as the herbicide) in or on the raw agricultural commodities soybeans at 0.50 parts per million (ppm); meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; milk, and eggs at 0.05 ppm. These temporary tolerances were established in response to pesticide petition (PP 0G2396), submitted by BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054.

The company has requested a one-year extension of the temporary tolerances to permit the continued marketing of the remaining raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit (7969–EUP–14), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. BASF Wyandotte Corp must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 27, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

As required by Executive Order 12291, EPA has determined that this temporary tolerance is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this temporary tolerance from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: January 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–2649 Filed 2–2–82; 8:45 am]

BILLING CODE 6560–31–M

[OPP–00153; PH–FRL–2038–4]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a one-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

DATE: Thursday, March 4, 1982, beginning at 8:30 a.m. and ending prior to 4:00 p.m.

ADDRESS: The meeting will be held at: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: P. H. Gray, Jr., Office of Pesticide Programs (TS–766C), Environmental Protection Agency, Rm. 915, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–0825).

SUPPLEMENTARY INFORMATION: This will be the eleventh meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the December meeting of the full Group.
2. Regional reports.
3. Working Committee reports.
4. Other topics which may have arisen during the March 1–3, 1982, meeting of the Association of American Pesticide Control Officals.

Dated: January 8, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–2350 Filed 2–2–82; 8:45 am]

BILLING CODE 6560–32–M

[A–10–FRL–2041–2]

Issuance of PSD Permit to Lone Star Industries, Inc.

Notice is hereby given that on January 25, 1982, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Lone Star Industries, Inc. for approval to install a clinker facility at Concrete, Washington.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations, subject to certain conditions specified in the permit.

Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, M/S 524, Seattle, Washington 98101.

Dated: January 25, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 82–2744 Filed 2–2–82; 8:45 am]

BILLING CODE 6560–38–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Senior Executive Service Performance Awards

The Equal Employment Opportunity Commission hereby gives notice that it has scheduled payment of Senior Executive Service performance awards for February 26, 1982, or as soon thereafter as practicable. For further information contact Beverly A. Gary, Director of Personnel, at 634–7002.

Dated: January 28, 1982.
J. Clay Smith, Jr.,
Acting Chairman.
[FR Doc. 82-2734 Filed 2-2-82; 8:45 am]
BILLING CODE 4570-06-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by February 15, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: T-4017, T-4018, T-4019, T-4019-1, T-4020, T-4021, T-4022, T-4022-1, T-4022-A and T-4023.

Filing Party: Gerald T. Brawner, Esquire, Ballard, Spahr, Andrews & Ingersoll, 30 South 17th Street, 20th Floor, Philadelphia, Pennsylvania 19103.

Summary: Agreement No. T-4017 dated January 21, 1974, between the Philadelphia Port Corporation (Port) and Lavino Shipping Company (Lavino) provides for Lavino's lease of certain premises at Pier 82, South-North Side, to be used for the loading, discharge, transfer and storage of cargo and the embarking and landing of passengers moving in waterborne commerce, together with the exclusive right of docking and berthing oceangoing and other vessels. Compensation to the Port is according to terms mutually agreed to and set forth in the agreement.

Agreement No. T-4018 dated July 10, 1974, between the Port and J. A. McCarthy, Inc. (McCarthy) provides for McCarthy's lease of certain premises at Pier 82, South Side, to be used for the loading, discharge, transfer and storage of cargo and the embarking and landing of passengers in waterborne commerce. Compensation to the Port is according to terms mutually agreed to and set forth in the agreement.

Agreement No. T-4019 dated May 13, 1976, between the Port and McCarthy, trading as Philadelphia Marine Terminal, provides for McCarthy's lease of certain premises on Piers 82 South and 84 South to be used for the loading, discharge, transfer and storage of cargo and the embarking and landing of passengers moving in waterborne commerce together with the exclusive right of docking and berthing oceangoing and other vessels. Compensation to the Port is according to terms mutually agreed to and set forth in the agreement. Agreement No. T-4019 is a consolidation of Agreements Nos. T-4017 and T-4018 and those agreements terminated as of the effective date of T-4019, March 1, 1976.

Agreement No. T-4019-1 dated September 1, 1981, amends the lease Agreement No. T-4019 (dated May 13, 1976) between the Port and McCarthy and assigned to Lavino under Agreement No. T-4023 (dated December 21, 1976). The amendment extends the term of the lease for an additional period of five (5) years through August 31, 1986. Compensation to the Port is according to terms mutually agreed to and as set forth in the agreement. The agreement becomes effective upon Commission approval or its determination that the agreement is not subject to section 15.

Agreement No. T-4020 dated December 6, 1971, between the Port and Luckenbach Steamship Company, Inc. (Luckenbach) provides for Luckenbach's lease of certain premises at Pier 84 South to be used for the loading, discharge, transfer and storage of cargo and the embarking and landing of passengers moving in waterborne commerce. Compensation to the Port is according to terms mutually agreed to and set forth in the agreement.

Agreement No. T-4021 dated October 1, 1975, between the Port and McCarthy provides for McCarthy's lease of certain premises at Pier 84 South to be used for the loading, discharge, transfer and storage of cargo and the embarking and landing of passengers moving waterborne commerce with the exclusive right of docking and berthing oceangoing and other vessels. Compensation to the Port is according to terms mutually agreed to and set forth in the agreement.

Agreement No. T-4022 dated September 21, 1971, between the Port and McCarthy provides for McCarthy's lease of certain premises at Piers Nos. 96, 98 and 100 South Wharves, to be used for the loading, discharge, transfer and storage of cargo and the embarking and landing of passengers moving in waterborne commerce. Compensation to the Port is according to terms mutually agreed to and set forth in the agreement.

Agreement No. T-4022-1 dated September 1, 1981, amends the lease Agreement No. T-4022 (dated September 21, 1971) between the Port and McCarthy and assigned to Lavino under Agreement No. T-4023 (dated December 21, 1976). The purpose of the amendment is to terminate the lease agreement as of September 1, 1981, and Lavino shall vacate Piers 96-98-100 South as soon as practicable. Remaining outstanding obligations between the parties are to be settled according to terms as mutually agreed to and set forth in the agreement. Agreement No. T-4022-1 will become effective upon approval by the Commission or its determination that the agreement is not subject to section 15.

Agreement No. T-4022-A dated October 1, 1980, is a sublease agreement between Lavino and Publicker Industries, Inc. (Publicker) whereby Lavino, a subtenant under lease agreement with the Port made September 24, 1971 (T-4022) of port facilities at Piers Nos. 96, 98 and 100 South, subleases those premises to Publicker. The term of the sublease is from October 1, 1980 to September 30, 1983, with a 4-year renewal option. Compensation to Lavino is according to terms mutually agreed and set forth in the agreement. Publicker shall use the leased premises for the loading, discharge, transfer and storage of cargo and other goods and for the blending of liquids, including, but not limited to, fuels.

Agreement No. T-4023 dated December 21, 1976, between McCarthy and Lavino provides for McCarthy's assignment of all of its rights, title and interest in, to and under certain lease agreements dated May 13, 1976 (T-4019), September 21, 1971 (T-4022) and October 15, 1968 (amended April 24, 1975) between Port and McCarthy leasing premises on Piers 82-84 South, Piers 96-86-100 South and Pier 98 South Annex.

By Order of the Federal Maritime Commission.

Dated: January 29, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2783 Filed 2-2-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in any activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 26, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation,* New York, New York (trust company activities; Florida): To engage through its *de novo* subsidiary, Chemical Trust Company of Florida, N.A., in the activity of acting as a trust company, including acting as trustee and executor, and offering investment advice to customers. This activity would be conducted from an office in Palm Beach, serving the town of Palm Beach and the surrounding towns of Jupiter, Tequesta, Juno Beach, Riviera Beach, West Palm Beach, Atlantis, Lake Clarke, Lantana, Boynton Beach, Delray Beach, Highland Beach, and Boca Raton.

2. *Citicorp,* New York, New York (finance company activities; Kansas): To expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. Such activity would be conducted from an office in Overland Park, Kansas serving the entire State of Kansas.

3. *Citicorp,* New York, New York (consumer finance and insurance activities; Ohio, Indiana): To expand the activities and service area of its subsidiary, Citicorp Person-to-Person Mortgage Corporation. The office is engaged in the following previously approved activities: the making, acquiring and servicing of second liens on residential real estate; and the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required. The new activities in which the office proposes to engage *de novo* are: The making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The previously approved service area of the office is comprised of the entire state of Ohio for all previously approved activities. The proposed service area for both previously approved and proposed activities would be expanded to include the entire states of Ohio and Indiana. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Mortgage Corporation. Such activities would be conducted from an office in Springdale, Ohio serving the States of Ohio and Indiana.

4. *Citicorp,* New York, New York (consumer finance and insurance activities; Ohio, Indiana): To expand the activities and service area of its subsidiary, Citicorp Person-to-Person Mortgage Corporation. The office is engaged in the following previously approved activities: the making, acquiring and servicing of second liens on residential real estate; and the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required. The new activities in which the office proposes to engage *de novo* are: The making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The previously approved service area of the office is comprised of the entire state of Ohio for all previously approved activities. The proposed service area for both previously approved and proposed activities would be expanded to include the entire states of Ohio and Indiana. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Mortgage Corporation. Such activities would be conducted from an office in Parma, Ohio serving the States of Ohio and Indiana.

5. *Citicorp,* New York, New York (finance company and insurance activities; Illinois, Iowa, Minnesota and Wisconsin): To expand the activities and service area of an office of its subsidiary, Citicorp Acceptance Company, Inc. (Delaware), engaged in the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Acceptance Company.

Inc., to the extent permissible under applicable state insurance laws and regulations; and the servicing, for any person, of loans, and other extensions of credit. The new activity in which the office proposes to engage *de novo* is: The making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. The proposed service area for all previously approved and proposed activities, with the exception of the sale of credit related property and casualty insurance, shall be comprised of the States of Illinois, Iowa, Minnesota and Wisconsin.

6. *Citicorp,* New York, New York (finance company activities; Texas): To expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for loans. Such activity would be conducted from an office in Lubbock, Texas serving the entire State of Texas.

7. *Citicorp,* New York, New York (finance company activities; Texas): To expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. Such activity would be conducted from an office in Irving, Texas, serving the entire State of Texas.

8. *Citicorp,* New York, New York (credit related property and casualty insurance activities; Colorado): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Aurora, Colorado. The new activity in which the office proposes to engage *de novo* is the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. to the extent permissible under applicable state insurance laws and regulations. The proposed service area for this activity is the entire State of Colorado.

9. *Citicorp,* New York, New York (financing and insurance activities; Ohio): To expand the service area of an existing office of its subsidiaries, Citicorp Person-to-Person Mortgage Corporation and Citicorp Person-to-Person Financial Center, Inc., located in Columbus, Ohio and engaged in the following activities: The making or acquiring of loans and other extensions of credit; the extension of loans to dealers for financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contacts; the sale of credit related life and accident and health or decreasing or level term life insurance by licensed agents or brokers as acquired; the sale of property and casualty insurance related to extensions of credit; the sale of consumer oriented financial management courses, servicing, for any person, of loans and other extensions of credit. These activities would be conducted from offices in Columbus, Ohio, serving the State of Ohio.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Walter E. Heller & Company, Chicago, Illinois, (factoring and servicing activities; midwest and western U.S.): To engage, through its Real Estate Mortgage Division, in making and servicing mortgage loans for industrial and commercial construction. Some multi-family residential and condominum construction will also be financed, as well as nonconstruction loans. These activities would be conducted from an office in Englewood, Colorado, serving Colorado, Arkansas, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Daktoa, Texas, Utah and Wyoming. Comments on this application must be received not later than February 19, 1982.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Banque Nationale De Paris, Paris, France (commercial financing, leasing, loan servicing and information services activities; Southwestern United States): To engage *de novo* through its subsidiary, BNP Finance (Houston) Corporation, in making or acquiring loans and other extensions of credit, secured or unsecured (other than consumer loans); commercial financing, including revolving credits secured by inventory, accounts receivable or other assets; lease financing and making leases of personal property in accordance with the Board's regulation Y; issuing commercial letters of credit; servicing loans; purchasing loan and lease portfolios from other finance companies and lenders; purchasing and selling loan participations; and providing information and representation services. These activities would conducted frrom an office in Houston, Texas, serving the States of Texas, New Mexico, Oklahoma, Colorado, Arkansas and Louisiana.

D. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, January 28, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2737 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

Community Bancshares, Inc.; Formation of Bank Holding Company

Community Bancshares, Inc., Dothan, Alabama, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Dothan, Dothan, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2738 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

Deutsche Bank AG; Proposed Acquisition of Fiat Credit Services, Inc.

Deutsche Bank AG, Frankfurt, Germany, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and

§ 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(c)), for permission to acquire voting shares of Fiat Credit Services, Inc., Bannockburn, Illinois ("Services").

Applicant states that the wholly-owned subsidiary of Services, Fiat Credit Corporation, Bannockburn, Illinois ("FCC"), would continue to engage in dealer inventory financing for dealers of affiliates of Fiat in the United States; retail financing for purchasers and lessees of products from such dealers; acting as insurance agent or broker for credit life, and credit accident and health and physical damage insurance related to such financing; and data processing and bookkeeping services for Fiat dealers. FCC would expand its activities to engage in the activities of a diversified finance company, such as making secured and unsecured commercial loans, purchasing sales finance contracts, purchasing and selling loan participations, and factoring. FCC would also engage in real and personal property leasing and acting as agent, broker, and adviser in leasing such property; loan servicing for any person; and selling as agent or broker credit-related life, accident and health and physical damage insurance related to such financing. All such activities would be conducted from FCC's offices in Bannockburn and Libertyville, Illinois; Pittsburgh, Pennsylvania; Walnut Creek, California; Dallas, Texas; and Atlanta, Georgia, and the geographic area to be served is the United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than February 27, 1982.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2731 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

First Carrollton Bancshares, Inc.; Formation of Bank Holding Company

First Carrollton Bancshares, Inc., Carrollton, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 50 percent or more of the voting shares of First National Bank of Carrollton, Carrollton, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2732 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

Lewellen National Corp.; Formation of Bank Holding Company

Lewellen National Corp., Lewellen, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Lewellen, Lewellen, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Lewellen National Corp., Lewellen, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of C-J Insurance Agency, Lewellen, Nebraska.

Applicant states that the proposed subsidiary would engage in general insurance activities in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Lewellen, Nebraska, and the geographic area to be served is Lewellen, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 26, 1982.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2733 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

Merchants Corp.; Formation of Bank Holding Company

Merchants Corporation, Chicago, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 78.2 percent or

more of the voting shares of Merchants & Manufacturers State Bank, Melrose Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2734 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

Union Bancorp of West Virginia, Inc.; Formation of Bank Holding Company

Union Bancorp of West Virginia, Inc., Clarksburg, West Virginia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Union National Bank of West Virginia, Clarksburg, West Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2735 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

Walnut Valley Corp.; Formation of Bank Holding Company

The Walnut Valley Corporation, El Dorado, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92 percent or more of the voting shares of The Walnut Valley State Bank of El Dorado, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 27, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-2736 Filed 2-2-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Handle Placement on Containers to Minimize Biomechanical Stress; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Handle Placement on Containers to Minimize Biomechanical Stress

Date: February 11, 1982.
Time: 1:00 p.m. to 4:00 p.m.
Place: Appalachian Laboratory for Occupational Safety and Health, Safety Annex Conference, Room S-120, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505
Purpose: To discuss the research protocol of a project which is to evaluate the design and placement of handles on common type containers used in manual materials handling tasks.

Additional information may be obtained from: Tim Pizatella, Division of Safety Research, National Institute for Occupational Safety and Health, Centers for Disease Control, 944 Chestnut Ridge Road, Morgantown, WV 26505 (303) 599-7454.

Dated: January 28, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-2771 Filed 2-2-82; 8:45 am]

BILLING CODE 4110-87-M

Health Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending March 31, 1982

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a)(4) of the program's implementing regulations provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending March 31, 1982, two interest rates are in effect for loans executed through the HEAL Program.

1. For loans made before January 27, 1981, the variable interest rate is 12⅝ percent. Using the regulatory formula (45 CFR 126.13(a)(2)(3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury Bills for the preceding calendar quarter (12.42 percent), and rounding the result (8.92 percent) upward to the nearest ⅛ percent (9.00 percent). Thus, the variable rate for this 3-month period would normally be at the annual rate of 16 percent (9 percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 13¼ percent for the quarter ending June 30, 1981; 11 percent for the quarter ending September 30, 1981; and 11⅛ percent for the quarter ending December 31, 1981. Therefore, in order to maintain an average annual rate of 12

percent for the 12-month period ending March 31, 1982, the variable interest rate for the quarter ending March 31, 1982, would be at an annual rate of 12⅝ percent.

2. For fixed rate loans executed during the period of January 1 through March 31, 1982, and for variable rate loans executed after January 27, 1981, the interest rate is 16 percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury Bills during the preceding quarter (12.42 percent); adding 3.50 percent (15.92 percent); and rounding that figure to the next higher one-eighth of 1 percent (16 percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Professions Educational Assistance Act Insured Loans)

Dated: January 22, 1982.

John H. Kelso,

Acting Administrator.

[FR Doc. 82-2772 Filed 2-2-82; 8:45 am]

BILLING CODE 4110-84-M

Project Grant for General Family Planning Training; Announcement of Availability of Assistance Under the Public Health Service Act

The Health Services Administration (HSA) announces that competitive applications are now being accepted for one general family planning training project grant in Region VIII for Fiscal Year 1982. The project period will be for 3 years (August 1, 1982–July 31, 1985). The grant is authorized by Section 1003(a) of the Public Health Service Act (42 U.S.C. 300a–(a)) which authorizes the Secretary of Health and Human Services to make grants to public or nonprofit private entities to provide training for personnel to carry out family planning service programs described in Section 1001 of the Public Health Service (PHS) Act (42 U.S.C. 300). The amount available under this announcement is $120,875.

The Secretary will make a grant to an eligible applicant to assist in the establishment and operations of a project which will promote the purposes of Section 1003 of the Act, taking into account the degree to which the project meets the requirments of the regulations (see 42 CFR 59.205 and 59.206).

Applications are invited for the following grant:

One general training grant for Department of Health and Human Services (HHS) Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming).

The purpose of the inservice training and continuing professional education is to improve or maintain high-level performance of family planning services grantees in all States of each Region. It addresses the delivery of services and the management of the projects responsible for providing these services.

There is one training grantee in each Health and Human Services Region. The regional training grantees serve as a resource for the inservice, staff development and continuing professional education needs of personnel who are delivering family planning services. These service personnel must have administrative, clinical and counseling expertise to assure the delivery of quality family planning services. Qualified trainers may be staff of the training grantee or consultants hired to teach particular content.

The design of training programs must be consistent with national, regional and State priority areas and reflect a working knowledge of local training needs as well. In determining the skills, attitudes or knowledge to be taught, national priorities should be emphasized. The need for training is determined to the extent possible by evaluation of service grantee performance indicating where training is needed to improve performance, needs assessment, inservice, staff development and continuing education requirements. Each Regional Office has information about the performance of family planning services projects in that Region which is periodically updated and may indicate training needs.

The Secretary will make the grant to an eligible applicant in Region VIII to assist in the establishment and operation of a project which will promote the purposes of Section 1003 of the Act, taking into account:

(1) The extent to which a training program will increase the delivery of services to people, particularly low-income groups, with a high percentage of unmet need for family planning services;

(2) The extent to which the training program promises to fulfill the family planning services delivery needs of the area to be served, which may include, among other things:

(i) Development of capability within family planning service projects to provide pre-service and inservice training to their own staffs;

(ii) Improvement of the family planning services delivery skills of family planning and health services personnel;

(iii) Improvement in the utilization and career development of paraprofessional and paramedical manpower in family planning services;

(iv) Expansion of family planning services, particularly in rural areas, through new or improved approaches to program planning and deployment of resources;

(3) The capacity of the applicant to make rapid and effective use of such assistance;

(4) The administrative and management capability and competence of the applicant;

(5) The competence of the project staff in relation to the services to be provided; and

(6) The degree to which the project plan adequately provides for the requirements set forth in § 59.205.

Application kits, including all necessary forms, instructions, and information relating to the grant application may be obtained upon written request from the Grants Management Branch, Bureau of Community Health Services, 5600 Fishers Lane, Room 7A–08, Rockville, Maryland 20857.

Completed applications must be submitted to the appropriate A–95 Clearinghouse Agency (see Office of Managment and Budget Circular A–95 Revised) at least 60 days prior to the due date for completed applications to be received by the Bureau of Community Health Services.

Completed applications must be submitted to the Grants Management Branch at the above address by April 1, 1982.

Dated: January 27, 1932.

John H. Kelso,

Acting Administrator, Health Services Administration.

[FR Doc. 82-2722 Filed 2-2-82; 8:45 am]

BILLING CODE 4165-16-M

National Institutes of Health

Conference Call Meeting; Subcommittee on Primate Research Centers of the Animal Resources Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the conference call meeting of the Subcommittee on Primate Research Centers, Animal Resources Review Committee, Division of Research Resources, on February 8, 1982, in the Animal Resources Branch Conference Room, Building 31, Room 5B59, National Institutes of Health, Bethesda, Maryland 20205 from approximately 2:30 p.m. until adjournment.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences and Primate Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95, because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2748 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Conference Call Meeting; Biotechnology Resources Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the conference call meeting of the Biotechnology Resources Review Committee, Division of Research Resources, on February 4, 1982, in Building 31, Room 5B39, National Institutes of Health, Bethesda, Maryland 20205 from approximately 1:00 p.m. until adjournment.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of a PROPHET prospectus. The prospectus and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the prospectus, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Chief, Office of Science and Health Reports, Division of Research Resources, Bldg. 31, Rm. 5B–13, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496,5545, will provide summaries of meetings and rosters of committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B–41, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health).

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate " in section 8(b) (4) and (5) of that circular.

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2750 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Bladder and Prostatic Cancer Review Committee, Prostatic Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Bladder and Prostatic Cancer Review Committee, (Prostatic Subcommittee), National Cancer Institute, February 22, 1982, Roswell Park Research Study Center, Cary Meeting Room, Roswell Park Memorial Institute, 666 Elm Street, Buffalo, New York 14263. This meeting will be open to the public on Feburary 22 from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on Feburary 22, from 9:00 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland, 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Andrew Chiarodo, Executive Secretary, Prostatic Subcommittee, National Cancer Institute, Blair Building, Room 7A05, National Institutes of health, Bethesda, Maryland 20205 (301/427–8800) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, project grants in cancer cause and prevention; detection and diagnosis; and cancer treatment research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2751 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, February 8–9, 1982, to be held at the M. D. Anderson Hospital facility in Houston, Texas. This meeting will be open to the public on February 8, 1982, from 8:30 a.m. until approximately 3:30 p.m., and again on February 9, 1982, from 8:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 8, 1982, from approximately 4:30 p.m. to adjournment, for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of

Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Bruce A. Chabner, Acting Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20205 (301–496–4291) will furnish substantive program information.

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2752 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institutes, National Institutes of Health, March 18–19, 1982. The meeting will be held in Conference Room 8 (C Wing), Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on March 18–19, from 10:00 a.m. to adjournment, when the Committee will discuss 1982 Initiatives and the Ten Year Plan. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Excutive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

(NIH programs are not covered by the OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular)

Dated: January 21, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2758 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, March 18–19, 1982 at the National Institutes of Health. The meeting will be held in Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to approximately 1:30 p.m. on March 18, 1982, to discuss policy matters relating to the Minority Biomedical Support Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 18, 1982, from approximately 1:30 p.m. to 5:00 p.m. and on March 19 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the Minority Biomedical Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Insitutes of Health, Building 31, Room 5B13, Bethesda, Maryland 20205, telephone (301) 496–5545, will provide summaries of meeting and rosters of committee members. Dr. Sidney A. McNairy, Executive Secretary of the General Research Support Review Committee, Building 31, Room 5B29, Bethesda, Maryland 20205, telephone (301) 496–6743 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.375, Minority Biomedical Support Program, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2754 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Genetic Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences on March 19, 1982, at the National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Maryland.

This meeting will be open to the public on March 19, 1982, from 8:30 a.m. until 9:30 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for approximately five hours for the review, discussion, and evaluation of individual grant applications. It is anticipated that this will occur on March 19 from 9:30 a.m. until adjournment. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, NIGMS, Westwood Building, Room 9A10, Bethesda, Maryland 20205, Telephone 301–496–7301, will furnish summary minutes of the meeting and a roster of committee members. Dr. Helen Sunshine, Executive Secretary, Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences, National Institutes of Health, Room 949, Westwood Building, Bethesda, Maryland 20205 (Telephone 301–496–7585) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–862, Genetics Research, National Institute of General Medical Sciences, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b (4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2755 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Maternal and Child Health Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on March 15–16, 1982, in the Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 15, from 9:00 a.m. to 10:30 a.m. to discuss items relative to the Committee's activities including announcements by the Acting Director, Associate Director for Scientific Review and Chiefs of the Human Learning and Behavior and the Clinical Nutrition and Early Development Branches and the Executive Secretary of the Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 15, from 10:30 a.m. to adjournment on March 16, for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building, Room 6C03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, Research for Mothers and Children, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2756 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Minority Access to Research Careers Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, National Institutes of Health, Building 31–C, Conference Room 7, on March 8–9, 1982, 9:00 a.m.

This meeting will be open to the public on March 8, 9:00 a.m. to 10:30 a.m. The meeting will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for approximately the last six hours of the day on March 8, and until adjournment on March 9. It is estimated that this will occur from 10:30 a.m. to 5:00 p.m., on March 8, and on March 9 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of institutional and individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, NIGMS, Westwood Building, Room 9A–10, 5333 Westbard Avenue, Bethesda, Maryland 20205, telephone (301) 496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Harriet L. Gordon, M.D., Executive Secretary, Westwood Building, Room 949, Bethesda, Maryland 20205, telephone (301) 496–7585.

(Catalog of Federal Domestic Assistance Program 13.880, Minority Access to Research Careers (MARC), National Institutes of Health, Department of Health and Human Services)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone, Ph.D.,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2757 Filed 2–3–82; 8:45 am]

BILLING CODE 4140–01–M

National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on February 10, 11, and 12, 1982 in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on February 10 at 8:30 a.m. to approximately 12:00 noon, to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, US Code and section 10(d) of Pub. L. 92–463, on February 11 the meetings of the following subcommittees will be closed to the public from 8:30 a.m. to approximately 1:00 p.m.: Bone and Skin Diseases; Diabetes Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research. The full Council meeting will be closed to the public on February 10 from 1:00 p.m. to adjornment, February 11 from 1:00 p.m. to adjournment, and on February 12, from 8:30 to adjournment, for the review, discussin and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5765.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2949 Filed 2–2–82, 8:45 am]

BILLING CODE 4140–01–M

Pharmacological Sciences Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacological Sciences Review Committee, National Institute of General Medical Sciences, National Institutes of Health, March 11 and 12, 1982. Building 31C, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on March 11 from 8:45 a.m. to 10:00 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for approximately 12 hours for the review, discussion, and evaluation of individual grant applications. It is anticipated that this will occur on March 11, from approximately 10:00 a.m. to 5:00 p.m. and on March 12, from 9:00 a.m. to adjournment. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, NIGMS, Westwood Building, Room 9A10, Bethesda, Maryland 20205, Telephone: (301) 496–7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Anthony Demsey, Executive Secretary, Pharmacological Sciences Review Committee, Westwood Building, Room 950, Bethesda, Maryland, Telephone: (301) 496–7125.

(Catalog of Federal Domestic Assistance Program 13–859, Pharmacology-Toxicology Research, National Institute of General Medical Sciences, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2758 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Population Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 11–12, 1982 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 11 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 11 from 10:30 a.m. to adjournment on March 12 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C–06, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Dinesh C. Sharma, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 6C–03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish other information.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2759 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources, (DRR), February 8–9, 1982, Conference Rm. 10, Bldg. 31–C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will convene at 9:00 a.m. on Febuary 8, in open session, for the regular conduct of Council business, a report of the Acting Director, DRR, staff reports by the Directors of the Animal Resources, Biomedical Research Support, Biotechnology Resources, General Clinical Research Centers, and Minority Biomedical Support Programs, a budget report by the Executive Officer, DRR, a report on the "Fixed Obligation Grant" and "Circular A–21" by a member of the Council, and a discussion relating to the updating of the DRR Five-Year Plan. The meeting will continue from approximately 12:30 p.m. to 3:00 p.m. in open session as follows: Animal Resources Program Work Group, Rm. 7A24; Biomedical Research Support Program Work Group, Rm. 8A28; Biotechnology Resources Program Work Group, Rm. 9A51; General Clinical Research Centers Programs Work Group, Conf. Rm. 10; and Minority Biomedical Support Program Work Group, Rm. 5B03. The meeting will further continue from approximately 8:00 p.m. to 10:00 p.m., in open session, in Conference Rm. 10, for the viewing of films on the 20th Anniversary of the National Primate Research Centers Programs, CARTOS, Modeling Nerves in Three Dimensions, dental research at the University of Pennsylvania Dental School General Clinical Research Centers, and remarks by Dr. James Watts, former Director, National Heart Institute.

The meeting will reconvene on Tuesday, February 9, in Conference Rm. 10, in open session, from 8:30 a.m. to approximately 11:15 a.m. for a report on the status of the Shared Instrumentation Grant application, an update on the National Research Resources Program, reports of the Council Program Work Groups to the full Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 8, from approximately 3:00 p.m. to recess, and on February 9, from approximately 11:15 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Rm. 5B10, Bldg. 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Acting Director, Division of Research Resources, Rm. 5B03, Bldg. 31, National Institutes of Health, Bethesda, MD 20205 (301) 496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Support, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular)

Dated: January 25, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–2760 Filed 2–2–82; 8:45 am]

BILLING CODE 4140–01–M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Minnesota State Plan Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on March 24, 1982 in Chicago, Illinois to reconsider our decision to disapprove Minnesota State plan amendments IM–79–15, IM–80–7, IM–80–23, IM–81–6, and IM–81–14. These plan amendments relate to treatment of excess resources and the establishment of resources levels for medically needy recipients and applicants.

CLOSING DATE: Requests to participate in the hearing as a party must be received on or before February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Lawrence Ageloff, Hearing Officer, Bureau of Program Policy, 1–G–5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8260.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny Minnesota State plan amendments 79–15, 80–7, 80–23, 81–6 and 81–14.

Section 1116(a) of the Social Security Act and 45 CFR Parts 201 and 213 establish department procedures that provide an administrative hearing for reconsideration of a denial of a State plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency at the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issues in this matter relate to treatment of excess resources and the establishment of resource levels for medically needy applicants and recipients under the Medicaid program in the State of Minnesota. The proposed Minnesota State plan amendments IM–80–7, IM–80–23, and IM–81–6 would have allowed the State (1) to apply an individual's excess resources (those above the eligibility level) to the cost of medical care and to the cost of any reasonable item for which the individual had saved; (2) to delay applying established resource standards until 15 days after the State has notified the individual that he/she is above the standards; and (3) to determine, through action by the local agency welfare board on a case-by-case basis, whether disposal of excess resources would constitute a hardship. The proposed Minnesota State plan amendments IM–79–15, IM–81–6, and IM–81–14 propose different limits on resources, based on marital status or living arrangements, which can be retained without losing Medicaid eligibility. The above-cited proposed State plan amendments violate existing statutory or regulatory requirements under the Medicaid program.

The notice to Minnesota announcing an administrative hearing to reconsider our denial of these State plan amendments reads as follows:

January 29, 1982.

Mr. Alan A. Held,

Special Assistant, Attorney General, 515 Transportation Building, St. Paul, Minnesota 55155.

Dear Mr. Held: This is to advise you that your letter of December 30, 1981 requesting a reconsideration of the decision to disapprove Minnesota State Plan Amendments IM–79–15, IM–80–7, IM–80–23, IM–81–6, and IM–81–14 was received on December 31, 1981. You have requested a reconsideration of the issue of whether the provisions in these amendments with respect to the treatment of excess resources and establishment of resource levels for medically needy recipients and applicants conform to the requirements for approval under the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on March 24, 1982 at 10 a.m. in the 8th floor conference room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not satisfactory, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff to serve as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 594–8260.

In your December 30 letter you also raised issues concerning (1) whether the disapprovals should be stayed pending my reconsideration; (2) whether Minnesota could retain the right to petition the Health Care Financing Administration for reconsideration of the plan amendments which you believe I did not finally disapprove in my November 9 letter; and (3) how quality control errors will be handled.

I will be addressing these issues in another letter which you will receive from my office within the coming 4 weeks.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 29, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82–2961 Filed 2–3–82; 8:45 am]

BILLING CODE 4102–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

GENERAL SERVICES ADMINISTRATION

Intent To Prepare Environmental Impact Statement on Disposition of 19,000 Acres of Federal Property on Matagorda Island, Tex.

AGENCY: U.S. Fish and Wildlife Service (FWS), Department of the Interior, with General Services Administration (GSA) as joint lead agencies.

ACTION: Notice.

SUMMARY: This notice advises the public that FWA and GSA intend to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the disposition of 19,000 acres of federal property located on Matagorda Island, Texas. A public meeting regarding this proposal and preparation of the EIS will also be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: A public meeting will be held in Corpus Christi, Texas, on March 8 from 9 a.m. to 11 p.m. at Bayfront Plaza Convention Center, Room 223, 1901 North Shoreline. Oral presentations shall be limited to 10 minutes; written statements may be submitted if the 10 minutes limitation is deemed to be inadequate to present all of the information that a given witness has to offer. Written comments on the scope of the EIS must be *received* by March 11, 1982.

ADDRESSES: Persons interested in making an oral presentation at the public meeting should call or write Mr. Thomas Smith at the address below. Those persons submitting a notice of intent to participate will be given first priority for oral presentations at the public meetings.

Written comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Smith, Acting ARD–ARW, USFWS, Regional Office, P.O. Box 1306, Albuquerque, New Mexico 87103, Phone: (505) 766–2174 or FTS 474–2174.

SUPPLEMENTARY INFORMATION: David Fisher, Office of the Solicitor, Department of the Interior, is the primary author of this document. FWS and GSA propose the following three step action:

Step 1

Express termination of the November 20, 1971, Memorandum of Understanding between the Secretary of the Department of the Air Force and the Secretary of the Interior covering wildlife management of property at Matagorda Island Air Force Range, Texas.

Step 2

FWS withdraws its application, filed November 17, 1975, with GSA; which requested transfer of the 19,000 acres excess federal property to FWS under provisions of Pub. L. 80–537.

Step 3

GSA, subsequent to steps 1 and 2, above, will convey, or authorize the transfer of, title to said federal property to the State of Texas. The property would be administered by Texas Parks and Wildlife Department as a State Park/Wildlife Management Area, said conveyance or transfer to be completed under the provisions of either 16 U.S.C. 667b or 40 U.S.C. 484(k)(2).

The Purpose and Need for Action: The purpose of this proposed action is to preserve the existing natural character of the 19,000 acres of federal lands on Matagorda Island through appropriate management by the Texas Parks and Wildlife Department as described in its "Matagorda Island Conceptual Plan" dated October 22, 1981. The proposed EIS will provide decisionmakers with the factual data and analysis necessary to reach a reasonable solution to management of the 19,000 acres of federal property.

The Principal Identified Alternatives:

(1) No action.

(2) Preferred Alternative. FWS to terminate expressly the 1971 Memorandum of Understanding between Departments of Air Force and Interior; FWS to withdraw its application to GSA for transfer of the 19,000 acres of federal property; GSA to convey or authorize the conveyance of the 19,000 acres of federal property to State of Texas to be administered by Texas Parks and Wildlife Department as a State Park/ Wildlife Management Area.

(3) Transfer administrative jurisdiction of all federal lands to FWS.

(4) Joint Federal-State ownership.

(5) No State of federal (FWS) management. Federal lands conveyed to other public bodies or the private sector through GSA disposition procedures.

The scoping and planning process is intended to identify the major impacts to be expected if this proposed action is implemented as well as to identify all significant issues which must be covered in the EIS. The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4331, *et seq.*), Council on Environmental Quality regulations (40 CFR Parts 1500–1508), other appropriate federal regulations, and FWS procedures for compliance with those regulations. The Draft EIS is expected to be made available to the public in May 1982.

Dated: January 28, 1982.

Robert A. Jantzen,

Director, Fish and Wildlife Service, U.S. Department of the Interior.

Roy Markon,

Commissioner, Federal Property Resources Service, General Services Administration.

[FR Doc. 82–2725 Filed 2–2–82; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Potawatomi Indian Nation, Inc.

January 20, 1982

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Potawatomi Indian Nation, Inc., c/o Philip V. Alexis, P.O. Box 718, Dewitt, Michigan 48820, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on November 23, 1981. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or opposition to the group's petition. Any information submitted will

be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Roy H. Sampsel,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 82-2776 Filed 2-2-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-22023]

Alaska Native Claims Selection

On November 15, 1978, Cook Inlet Region, Inc., filed selection application AA-22023, under the provisions of Sec. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of certain lands located in Anchorage, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located within the boundaries of Cook Inlet Region. With the agreement of the State of Alaska and Cook Inlet Region, Inc., the lands within selection AA-22023 were placed in the pool of properties available for Cook Inlet Region, Inc., subject to valid existing rights, by notice dated May 10, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Partially Surveyed)

T. 13 N., R. 2 W.,
Sec. 7, lot 10.

Containing 19.06 acres.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of the above-described lands shall be subject to:

Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Public Law (Pub. L.) 94-204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $721,290. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 1,442.58 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 1,442.58 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for 4 consecutive weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-2775 Filed 2-2-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Realty Action—Exchange

January 26, 1982.

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 49690, Exchange of public and private lands in Blaine County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 37 N., R. 23 E.,
Sec. 22, All.
T. 37 N., R. 26 E.,
Sec. 9, S½S½;
Sec. 10 W½SW¼ and E½SE¼; and
Sec. 11, W½SW¼.

Aggregating 1,040 acres of public land.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 33 N., R. 21 E.,
Sec. 2, Lots 2, 3, and 4.
T. 34 N., R. 21 E.,

Sec. 34, E½ and SW¼; and
Sec. 35, W½.

Aggregating 918.59 acres of private land.

DATES: Until March 22, 1982, interested parties may submit comments to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The proposed exchange is to acquire non-Federal land which has high public value for livestock grazing administration, access and recreation management. In return, approximately 1,040 acres of isolated land suitable for agriculture would be transferred to private ownership. The proposed exchange will benefit public needs and improve manageability of public lands.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership.
2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.
3. All valid existing rights (e.g. rights-of-way, easements and leases of record).
4. Value equalization by cash payment or acreage adjustment.
5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be well served by completion of this exchange.

Kannon Richards,

Acting State Director.

[FR Doc. 82–2777 Filed 2–2–82; 8:45 am]

BILLING CODE 4310–84–M

[W–36996]

Wyoming; Termination of Proposed Withdrawal

1. The Defense Civil Preparedness Agency, Department of Defense filed an application for withdrawal of Section 25, T. 35 N., R. 94 W., Sixth Principal Meridian, Wyoming, for a Decision Information Distribution System Facility on September 22, 1972. This application was published in the **Federal Register** in the December 15, 1972, issue, which segregated the lands from all forms of appropriation under the public land laws including the mining laws but not the mineral leasing laws.

2. This withdrawal proposal did not ripen into a withdrawal. The Defense Civil Preparedness Agency, of the Department of Defense, no longer exists and the Decision Information Distribution System Facility proposed at this location is no longer a viable project. The former program manager has withdrawn the application for the withdrawal.

3. Therefore, pursuant to the regulations contained in 43 CFR 2310.1–4, the application for withdrawal is hereby terminated for the following described lands:

Sixth Principal Meridan, Wyoming

T. 35 N., R. 94 W.,
Sec. 25.

Containing 640 acres..

4. At 7:45 a.m. on March 5, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirments of applicable law. All valid applications received at or prior to 7:45 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter, shall be considered in the order of filing.

5. The lands will be open to location under the United States mining laws at 7:45 a.m. on March 5, 1982.

6. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dated: January 25, 1982.

Maxwell T. Lieurance,

State Director, Wyoming.

[FR Doc. 82–2778 Filed 2–2–82; 8:45 am]

BILLING CODE 4310–84–M

Oregon and Washington; Call for General Expressions of Leasing Interest in Coal

January 25, 1982.

This call for general expressions of coal leasing interest is made in order to assess the extent of interest for possible competitive lease sales for federal coal. This is not a formal expression of interest for leasing (43 CFR Part 3425) but a call for nomination of areas for consideration for federal coal exploration and help in establishing land-use planning priorities (43 CFR Part 3420). Along with the nominated areas, coal companies, state governments, and members of the public may submit nonconfidential coal geology and economics data for this inventory phase. The data received from this call will be used along with existing data to prioritize areas where further coal and other resource information needs to be gathered for preparation of land-use plans for Oregon and Washington.

Responses to this notice may be received until March 31, 1982.

Responses should be sent to: State Director (930), Bureau of Land Management, Oregon State Office, 729 NE Oregon Street (P.O. Box 2965), Portland, OR 97208 and to: Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, MS–80, Menlo Park, CA 94025.

For further information contact: Durga Rimal, Coal Coordinator, Oregon State Office (933), Bureau of Lamd Management, 729 NE Oregon Street (P.O. Box 2965), Portland, OR 97208, Phone: 503–231–6976; and Ron Michelson, Deputy Conservation Manager for Resource Evaluation, U.S. Geological Survey, 345 Middlefield Road, MS–80, Menlo Park, CA 94025, Phone: 415–323–2053.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82–2723 Filed 2–2–82; 8:45 am]

BILLING CODE 4310–84–M

[ES 27255, Survey Group 115]

Minnesota; Filing of Plats of Survey

1. On February 9, 1981, the plats representing the survey of 14 islands in Vermilion Lake, T. 63 N., R. 17 W., Fourth Principal Meridian, Minnesota, which were omitted from the original survey, were accepted. They will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on May 4, 1982.

Fourth Principal Meridian, Minnesota.

T. 63 N., R. 17 W.,
Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50.

2. The character of Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50 is similar in all respects to that of the adjacent surveyed lands.

a. Elevations on the island Tract No. 37 range up to approximately 4 feet

above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar and birch. Borings of the pine trees showed several to be up to 80 years old.

b. Elevations on the island Tract No. 38 range up to approximately 8 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, fir, and aspen.

c. Elevations on the island Tract No. 39 range up to approximately 10 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, and birch. Borings of the pine trees showed several to be up to 105 years old.

d. Elevations on the island Tract No. 40 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, fir, aspen, birch, and spruce.

e. Elevations on the island Tract No. 41 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, birch, and alder. Borings of pine trees showed several to be up to 80 years old.

f. Elevations on the island Tract No. 42 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, fir, aspen, birch, spruce, and maple.

g. Elevations on the island Tract No. 43 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine and birch. Borings of pine trees showed several to be up to 80 years old.

h. Elevations on the island Tract No. 44 range up to approximately 2 feet above the ordinary high water mark of Vermilion Lake. Timber consists of alder, birch, and ash.

i. Elevations on the island Tract No. 45 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen, birch, and spruce. Borings of pine trees showed several to be up to 100 years old.

j. Elevations on the island Tract No. 46 range up to approximately 2½ feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar and birch.

k. Elevations on the island Tract No. 47 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen, birch, spruce, and ash. Borings of the pine trees showed several to be up to 140 years old.

l. Elevations on the island Tract No. 48 range up to approximately 2 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, fir, ash, and alder. Borings of pine trees showed several to be up to 75 years old.

m. Elevations on the island Tract No. 49 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar and birch.

n. Elevations on the island Tract No. 50 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar, fir, and alder.

o. The soil composition of Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50 is of a thin layer of organic matter on a base of glacial till. Undergrowth of said tracts consists of hazel, willow, brush, and native grasses.

3. The islands described above were found to be over 50 percent upland in character with the purview of the Swamp Land Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the lands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before May 4, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-2724 Filed 2-2-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nomination of the following property is being considered for listing in the National Register and was received by the National Park Service on January 27, 1982. Waiver of the 15-day public commenting period following this publication is necessary for the Ohio nomination listed below in order that listing be accomplished on or about February 2, 1982, the date when the property must be listed in order that the owner complete private financing requirements for the building's rehabilitation, which will be assisted by the historic preservation provisions of the Economic Recovery Tax Act of 1981. Listing, accordingly, will assist in the preservation of this property.

Carol D. Shull,

Acting Keeper of the National Register.

Ohio

Montgomery County

Dayton, *Biltmore Hotel*, 210 N. Main St.

[FR Doc. 82-2779 Filed 2-2-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 26, 1982. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 18, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

North Carolina

Swain County

Cherokee vicinity, *Oconaluftee Archeological District*

[FR Doc. 82-2780 Filed 2-2-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date

of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 26, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14720, filed October 22, 1981 and supplemented January 12, 1982. (Supplement publication. Orginally published in the **Federal Register** issue of November 16, 1981. KLOSE BROS., INC. (Klose)—Purchase—P. CALLAHAN, INC. (Callahan). Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. The purpose of this supplemental publication is to modify the original publication by including in the transaction the purchase by Klose of all the contract carrier authority as well as all of the common carrier authority held by Callahan. Klose is purchasing the interstate operating rights of Callahan contained in Permit Nos. MC–119140 (Sub-Nos. 1, 3, and 4), which authorize the transportation, as a contract carrier, of (1) *beds, couches, bed springs, mattresses, and parts thereof,* (a) from Philadelphia, PA, to points in DE and NJ, (b) from Philadelphia, PA, to points in MD, NY, VA, and DC, and (c) from Pennsauken, NJ, to points in PA; and (2) *returned shipments* of the above specified commodities, in the reverse direction, under continuing contracts with Honorbilt Products, Inc. Note: TA has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2746 Filed 1–2–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–17

Decided: January 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 152582 (Sub-2), filed January 11, 1982. Applicant: PROPST DISTRIBUTING, INC., Route 2, Box 795, Lincolnton, NC 28095. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 North Second St., Clearfield, PA 16820, (814) 765–0611. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 155793 (Sub-1F), filed: January 7, 1982. Applicant: CALIFORNIA/NEVADA BIG VALLEY EXPRESS, INC., 2455 Walton Ave., Central Valley, CA 96019. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160022, filed: January 8, 1982. Applicant: OVERLAND TERRY TRANSPORTATION INC., P.O. Box 458, Pauls Valley, OK 73075. Representative: David B. Schneider, Suite 200, 401 W. Sheridan, Oklahoma City, OK 73102, (405) 232–9990. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP–3–017

Decided: January 27, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 143885 (Sub-3), filed: December 4, 1981, previously published in the **Federal Register** issue of January 8, 1982. Applicant: HARLAND A. WILCOX and LEROY H. WILCOX, d.b.a. WILCOX TRUCKING, 206 Charles Street, Elk Rapids, MI 49629. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., N.W., Washington, DC 20036, (202) 233–5900. Transporting for or on behalf of the United States Government, (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *general commodities* (except classes A and B explosives), between South Haven, Cableton, Covert, Toquin, Lamson, Bay Shore, Charlevoix, Ellsworth, Harpers, Central Lake, Bellaire, Alden, Rapid City, Barker Creek, Williamsburg, Bates, State Hospital, Grawn, Interlocken, Henry, Kaleva, Chief Lake, Norwalk, Douglas, Wealthy, and Rennies, MI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of part (2) of the application is to substitute motor service for abandoned rail service. This republication corrects the territorial description under part (2).

MC 160174, filed: January 19, 1982. Applicant: JACK B. LOVE, d.b.a. J.B.L. FREIGHT SYSTEMS, 1420 Gamma Pl., Anaheim, CA 92805. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160164, filed: January 18, 1982. Applicant: GARY HODGIN & BILL WHITMORE, d.b.a. BANDIT TRUCKING CO., 1915 S.E. Tacoma, Portland, OR 97202. Representative: Gary Hodgin (same address as applicant), (503) 236–3853. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160125, filed January 15, 1982. Applicant: ROBERT C. PEDERSON, d.b.a. H & P TRUCKING, 7635 S.E. Johnson Creek Blvd. SP #29, Portland, OR 97206. Representative: Robert C. Pederson (same address as applicant), (503) 775–0467. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160115, filed January 15, 1982. Applicant: PETER J. SAVAGE, 635 S.W. 11th, Portland, OR 97214. Representative: (Same as above) (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160105, filed January 15, 1982. Applicant: BRETT L. SCHMIDT, 5556 Willapa Ct., N.E., Salem, OR 97303. Representative: Brett L. Schmidt (same address as applicant), (503) 393–4015. Transporting *food and other edible products and byproducts* intended for human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 152774 (Sub-1), filed January 15, 1982. Applicant: LEO GLYNN, d.b.a. EMERALD DISTRIBUTION CO., 3101 Mercier Ste. 262, Kansas City, MO 64111. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105, (816) 221–1464. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP4–28

Decided: January 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 160186, filed January 19, 1982. Applicant: FORD ANTHONY SLOAN, d.b.a. F.A.S. TRUCKING, 2023 N. Willamette Blvd., Portland, OR 97217. Representative: Ford Anthony Sloan (same address as applicant), (503) 283–4885. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3741 Filed 2-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 226]

Motor Carriers; Permanent Authority Decisions, Restriction Removals; Decision-Notice

Decided: January 28, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 5227 (Sub-89)X, filed January 25, 1982. Applicant: ECKLEY TRUCKING, INC., P.O. Box 156, Mead, NE 68041. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Avenue, Sioux Falls, SD 57101. Sub Nos. 31, 32, 40, 49F, 54F, 57F, 61F, 63F, 76F, (1) broaden commodity description in Sub 31 from roofing materials, in Sub 32 from cooling towers and cooling tower parts and accessories, in Subs 40, 57F, 63F, 76F, from lumber and lumber mill products, in Sub 49F from plastic pipe, and in Sub 54F from metal building parts and components to "construction materials"; (2) broaden territorial description in Sub 49F, Finney County, KS (Garden City, KS); in Sub 61F, Will County, IL (Wilmington, IL); (3) to radial authority in all Subs; (4) remove plantsite or traffic originating at named origin restrictions in Subs 31, 32 and 40.

MC 127304 (Sub-23)X, filed January 21, 1982. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 North West Street, Valley Center, KS 67148. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Sub 5: (1) Broaden to "food and related products" from meats, meat products, and meat by-products, and articles distributed by meat packinghouses and hides; (2) remove the commodities in bulk restriction; (3) remove facilities limitation; and (4) broaden the authority to between points in the U.S. (except AK and HI), under continuing contract(s) with a named shipper.

MC 145736 (Sub-2)X, filed January 21, 1982. Applicant: EDMOND JOSEPH RAINVILLE, 135 Homeside Ave., Stoney Creek, Ontario, Canada, L8G 3G9. Representative: William J. Hirsch, 43 Court St., Buffalo, NY 14202. Sub-No. 1: Broaden crane boom sections to "machinery".

MC 148832 (Sub-6)X, filed January 4, 1982. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Boulevard, Poplar Bluff, MO 63901. Representative: Ronald D. Dodds (same address as applicant). Subs 2 and 4, Broaden: Subs 2 and 4, general commodities, with exceptions, to "general commodities (except classes A and B explosives)"; Sub 4, livestock, fertilizer, feed, petroleum lubricating oils and greases, and empty containers to "farm products, chemicals and related products, foods and related products, petroleum, natural gas and their products, and containers"; regular route service to all intermediate points; remove restrictions: at East St. Louis, IL to pick-up of stoves, feed, tankage, fertilizer and meat scraps; against joinder for purposes of providing through service; broaden off-route points of Bardley, Greer, Thomasville, Koshkonong, Couch and Myrtle to Ripley and Oregon Counties, MO and Randolph County, AR; Salem, Ava, Hartville, Briar, Thimble Store, Wallace Store, and Bakersfield, MO, to Dent, Douglas, Wright, Ripley, Oregon and Ozark Counties, MO; Bartlett, Chicopee, Garwood, Ham's Store, Leeper, Mill Spring, and Van Buren, MO, to Shannon, Carter, Reynolds and Wayne Counties, MO; Elsinore, Hunter and Redford to Carter County, MO; points in Ripley County, MO and Randolph County, AR, within 10 miles of MO-AR State line to Ripley County, MO and Randolph County, AR; Brookins and Beech Corner to Greene County, AR; Piedmont and points within 20 miles thereof to Wayne, Butler, Carter, Iron, Madison, Reynolds, and Shannon Counties, MO; Springfield, MO, to Greene County, MO; and to radial authority.

MC 152834 (Sub-2)X, filed January 8, 1982. Applicant: ATLANTIC VAN LINES, INC., 1002 Wilso Drive, Baltimore, MD 21223. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Lead certificate, broaden prints, graphics, photographs, drawings, antiques, decorative art, textiles, porcelain, ceramics, glass, and art objects, and their display materials to "such commodities as are used by or dealt in by museums, exhibitors, art collectors, art dealers and galleries".

[FR Doc. 82-2740 Filed 2-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29814]

Rail Carriers; Diamond Shamrock Corporation-Petition for Exemption

AGENCY: Interstate Commerce Commission.

SUMMARY: The Interstate Commerce Commission exempts the operation by Diamond Shamrock Corporation of its proposed switching of B. F. Goodrich Corporation railroad cars over 1800 feet of Port Terminal Railroad Association track at Houston, TX from the requirement of prior approval under 49 U.S.C. 10901.

DATES: Exemption effective on March 5, 1982. Petitions to reopen for reconsideration must be filed by February 23, 1982 and petitions for stay must be filed by February 12, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423.

(2) Petitioner's Representatives, Paul M. Donovan, 743 Investment Building, 1511 K Street, NW., Washington, D.C. 20005.

For a copy of the full decision, write to the Interstate Commerce Commission, Room 2227, Washington, D.C. 20423, or call toll free 800-424-5403.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision in F.D. 29814.

Dated: January 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2742 Filed 2-2-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 96]

Deputy Administrator and Assistant Administrators; Delegation of Authority

Pursuant to the authority delegated to me by IDCA Delegation of Authority No. 1 from the Director of the International Development Cooperation Agency (44 FR 57521) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

(1) Deputy Administrator,

(2) Assistant Administrator for External Relations,

(3) Assistant Administrator for Program and Policy Coordination,

(4) Senior Assistant Administrator for Science and Technology.

This Delegation of Authority amends and supersedes Delegation of Authority No. 98 of January 15, 1980 (45 FR 9886, 9887).

This Delegation of Authority is effective immediately.

Dated: January 19, 1982.

M. Peter McPherson,

Administrator.

[FR Doc. 82-2773 Filed 2-2-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

Drycleaning Machinery From West Germany; Change of Date of Commission Determination

Notice is hereby given that by February 4, 1982, the Commission will determine whether there exist changed circumstances sufficient to warrant a review, under section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) and § 207.45 of the Commission's Rules of Practice and Procedures, of the Commission's affirmative determination in Investigation No. AA-1921-99, Drycleaning Machinery from West Germany. A date for the determination had previously been announced in the Commission's notice requesting comments concerning the institution of a review investigation and had been published in the **Federal Register** of November 25, 1981 (46 FR 57776). The date of the determination is changed pursuant to § 201.14(b) of the Commission's Rules of Practice and Procedures.

By order of the Commission.

Issued: January 29, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2792 Filed 2-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-49 (Final)]

Fireplace Mesh Panels From Taiwan; Final Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation.

SUMMARY: As a result of a preliminary determination by the United States Department of Commerce that there is a reasonable basis to believe or suspect that exports of fireplace mesh panels from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-49 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. For the purposes of this investigation, fireplace mesh panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplace. Fireplace mesh panels are provided for either in item 642.87 or item 654.00 of the Tariff Schedules of the United States depending on their stage of processing.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam A. Bishop, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street, NW., Washington, D.C. 20436; telephone 202-523-0291.

SUPPLEMENTARY INFORMATION: On September 18, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 731-TA-49 (Preliminary), that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of fireplace mesh panels from Taiwan, which were allegedly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before April 2, 1982.

Written Submissions

Any person may submit to the Commission a written statement of information pertinent to the subject of the investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before April 8, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact will be available to all interested parties on March 24, 1982.

Public Hearing

The Commission will hold a public hearing in connection with this investigation for 10 a.m., on Tuesday, April 13, 1982, in the Hearing Room of the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 25, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 9:30 a.m., on March 29, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before April 6, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules of practice and procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for by rule § 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22. Post hearing briefs will also be accepted within a time specified at the hearing.

For further information concering the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20, 44 FR 76472).

By order of the Commission.

Issued: January 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2793 Filed 2-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-101]

Certain Hot Air Corn Poppers and Components Thereof; Settlement Agreement, Recommended Termination, and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of two parties as respondents in the above-captioned investigation based on a settlement agreement.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has issued an order recommending that the Commission grant a joint motion by the complainant and two respondents to terminate the investigation with respect to those respondents on the basis of a settlement agreement enterd by the parties. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before March 5, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-101 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States of certain hot air corn poppers and components thereof, or in the sale of such articles, which are alleged to infringe claims 1, 2, 3, and 5 of U.S. Letters Patent 4,178,843, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On December 4, 1981, the complainant, Wear-Ever Aluminum, Inc. (Wear-Ever), and respondents The West Bend Co.—a Division of Dart Industries, Inc. (West Bend) and Chiap Hua Clocks and Watches Ltd. (Chiap Hua) filed a joint motion (Motion No. 101-39) to terminate the investigation with respect to those respondents under the provisions of § 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51). The basis for the proposed termination is a settlement agreement entered by the complainant, West Bend and Chiap Hua. The motion was supported by the Commission investigative attorney. On December 23, 1981, the presiding officer issued an order recommending that Motion No. 101-39 be granted. The settlement agreement and the proposed termination are now before the Commission for final action.

The substantive provisions of the settlement agreement between Wear-Ever, West Bend and Chiap Hua are as follows:

1. West Bend, Chiap Hua, and Wear-Ever agree to enter a joint motion to terminate the Commission's investigation. Such termination is without prejudice with respect to Wear-Ever's right to bring an action against Chiap Hua in respect of any device other than hot air corn poppers and components thereof manufactured for or sold to West Bend.

2. West Bend and Wear-Ever agree to the prompt entry of a stipulation dismissing without prejudice the complaint and counterclaim in the civil action in the United States District Court for the Eastern District of Wisconsin concerning the validity and infringement of U.S. Letters Patent 4,178,843.

3. West Bend agrees to pay to Wear-Ever prior to the close of business on December 31, 1981, a certain amount for a worldwide covenant not to sue for all past, present, and future infringement of U.S. Letters Patent 4,178,843 and of all other patents of Wear-Ever throughout the world subsequently issued covering features of Wear-Ever's current models 72000 or 73000 hot air corn poppers.

4. In the event that the Commission does not terminate the investigation with respect to both West Bend and Chiap Hua, Wear-Ever agrees to repay to West Bend within ten days the amount payable under paragraph 3 of the agreement, the agreement shall be terminated, and the parties shall be restored to their respective positions as if the agreement had never been made.

5. The agreement does not constitute an admission by West Bend or Chiap Hua of the validity and/or infringement of U.S. Letters Patent 4,178,843 or any other patent belonging to Wear-Ever on hot air corn poppers or components thereof.

6. Chiap Hua agrees that it will neither sell nor import into the United States, except for sale to West Bend, hot air corn poppers identical or substantially identical to West Bend's hot air corn popper model No. 5459.

7. Wear-Ever, Chiap Hua, and West Bend shall not publicize the terms of the agreement, nor make use of the terms of the agreement in connection with any advertising or sales or otherwise for the purpose of gaining a competitive advantage in the marketplace. However, disclosure of the terms of the agreement may be made as reasonably required in connection with any negotiations with potential licensees or as may be required by law. Wear-Ever, West Bend, and Chiap Hua will expressly instruct their employees, agents, representatives, and distributors to abide by the foregoing provisions.

8. The agreement shall be binding upon and inure to the benefit of the successors of the businesses of the parties and shall be assignable to the purchasers of all or substantially all of the assets of their businesses.

9. The agreement shall be governed by Illinois law.

10. The agreement shall not be effective until all of the representatives of the parties have affixed their signatures.

A nonconfidential version of the settlement agreement is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

All comments must conform to the requirements of § 201.8 of the Commission's rules (19 CFR 201.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Room 224, Washington, D.C. 20436, telephone 202-523-0350.

By Order of the Commission.

Issued: January 29, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2794 Filed 2-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-96]

Certain Modular Pushbuttom Switches and Components Thereof; Termination of Investigation on the Basis of Settlement Agreements

AGENCY: International Trade Commission.

ACTION: Termination of the investigation on the basis of settlement agreements.

SUPPLEMENTARY INFORMATION: Complainant ITT Schadow, Inc., moved for termination of this investigation on the basis of 3 settlement agreements. Respondents Toneluck Electronics Industrial Co., Ltd., Electronic Components Groupe, Inc., Hosiden Company, Ltd., Hosiden America

Corporation, and Tanaka Electronics Industries Co., Ltd., supported complainant's motion. The Commission investigative attorney opposed the motion.

On September 23, 1981, the Commission published a notice in the **Federal Register** requesting comment from the public and interested Federal agencies on the settlement agreements (46 FR 47031). The only objection to termination on the basis of the settlement agreements came from the Justice Department which noted that termination of the investigation would leave important patent issues unresolved.

On January 27, 1982, the Commission terminated this investigation on the basis of the settlement agreements. The Commission concluded that the presence of the Commission investigative attorney is not required at settlement negotiations and that the public interest would not be adversely affected by the absence of Commission rulings on the patent issues noted by the Justice Department.

Notice of the institution of this investigation was published in the **Federal Register** of January 28, 1981 (46 FR 9262).

Copies of the Commission's Action and Order and all other nonconfidential documents in the record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0074.

By order of the Commission.

Issued: January 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–2795 Filed 2–2–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 104–TAA–6]

Molasses From France; Countervailing Duty Investigation; Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of a countervailing duty investigation.

SUMMARY: On June 19, 1971 in T.D. 71–118, the Department of the Treasury (Treasury) imposed countervailing duties, under section 303 of the Tariff Act of 1930, on molasses imported from France. Imports of molasses from France are currently provided for under item 155.40 of the Tariff Schedules of the United States.

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 became effective, and on January 2, 1980, the authority for administering the countervailing duty statute was transferred from Treasury to the Department of Commerce (Commerce). On May 13, 1980, Commerce published a notice in the **Federal Register** (44 FR 31455) of intent to conduct an annual administrative review of all outstanding countervailing duty orders.

On March 28, 1980, the U.S. International Trade Commission received a request from the Delegation of the Commission of the European Communities for an investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with respect to molasses from France. In accordance with section 104(b)(3) of the Act, the Commission notified the Department of Commerce of its receipt of the request for this investigation.

As required by section 751(a)(1) of the Tariff Act of 1930, Commerce has conducted its first annual administrative review of the countervailing duty order on molasses from France. As a result, on October 28, 1981, Commerce published in the **Federal Register** (46 FR 53200), its final determination that, for the period of review, there were no net subsidies on molasses from France. The review covers the period January 1, 1980, through December 31, 1980, and is limited to the program of restitution payments made through the Guidance and Guarantee Fund operated under the Common Agricultural Policy of the European Communities (EC). This was the only program found countervailable in the final determination. According to Commerce the restitution payments are granted only when the world price of molasses as established by international markets is lower than the EC "threshold price." The EC did not make any restitution payments on exports of molasses from France for the period of review, although Commerce maintains that the program itself remains in effect. Prior to Commerce's review, imports of molasses from France were subject to a maximum countervailing duty of $1.80 per 100 kilograms. Pursuant to section 104(b)(2) of the Trade Agreements Act, the U.S. International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of molasses from France provided for under item 155.40 of the Tariff Schedules of the United States, covered by the countervailing duty order, if the order were to be revoked.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Reavis, U.S. International Trade Commission, Washington, D.C. 20436 (202–523–0296).

SUPPLEMENTARY INFORMATION: *Public Hearing:* The Commission will hold a public hearing in connection with this investigation on April 5, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m. The hearing on this investigation will be held concurrently with the hearing on sugar from the European Communities (Investigation No. 104–TAA–7). Requests to appear at the hearing should be filed with the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. 20436, not later than the close of business (5:15 p.m.) on March 18, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., on March 22, 1982, in room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed with the Commission on or before March 31, 1982.

A staff report containing preliminary findings of fact in this investigation will be available to all interested parties on March 17, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for in rule § 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with rule § 207.22. Posthearing briefs should be filed with the Commission by no later than the close of business, April 13, 1982.

Written submissions.—Any person may submit to the Commision on or before April 13, 1982, written statements of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted in accordance with § 201.8 of the Commission's rules of practice and procedure, 19 CFR 201.8 (1980). All written submissions, except confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the rules of practice and procedure (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: January 27, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2796 Filed 2-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-115]

Certain Power Woodworking Tools, Their Parts, Accessories and Special Purpose Tools; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 26, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-2797 Filed 2-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-7]

Sugar From The European Communities; Countervailing Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of a countervailing duty investigation.

SUMMARY: On July 31, 1978 in T.D. 78-53, the Department of the Treasury (Treasury) imposed countervailing duties, under section 303 of the Tariff Act of 1930, on sugar imported from the European Communities. Imports of sugar from the European Communities, currently provided for under items 155.20 and 155.30 of the Tariff Schedules of the United States were subject to countervailing duties of 10.84 cents per pound.

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 became effective, and on January 2, 1980, the authority for administering the countervailing duty statute was transferred from Treasury to the Department of Commerce (Commerce). On May 13, 1980, Commerce published a notice in the **Federal Register** (44 FR 31455) of intent to conduct an annual administrative review of all outstanding countervailing duty orders.

On March 28, 1980, the U.S. International Trade Commission received a request from the Delegation of the Commission of the European Communities for an investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with respect to sugar from the European Communities (EC). In accordance with section 104(b)(3) of the act, the Commission notified the Department of Commerce of its receipt of the request for this investigation.

As required by section 751(a)(1) of the Tariff Act of 1930, Commerce has conducted its first annual administrative review of the countervailing duty order on sugar from the European Communities. As a result, on September 23, 1981, Commerce published in the **Federal Register** (46 FR 46984), its final determination that the net subsidy conferred was 8.5 cents per pound. On the basis of that determination, the U.S. International Trade Commission, pursuant to section 104(b)(2) of the Trade Agreements Act, is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of sugar from the European Communities provided for under items 155.20 and 155.30 of the Tariff Schedules of the United States, covered by the countervailing duty order, if the order were to be revoked.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: T. Vernon Greer, Commodity-Industry Analyst, U.S. International Trade Commission, Washington, D.C. 20436 (202-724-0074).

SUPPLEMENTARY INFORMATION: *Public Hearing:* The Commission will hold a public hearing in connection with this investigation on April 5, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m. The hearing on this investigation will be held concurrently with the hearing on molasses from France (Investigation will be held concurrently with the hearing on molasses from France (Investigation No. 104-TAA-8). Requests to appear at the hearing should be filed with the Office of the Secretary, U.S. International Trade Commision, Washington, D.C. 20436, not later than the close of business (5:15 p.m.) on March 18, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., on March 22, 1982, in room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed with the Commission on or before March 31, 1982.

A staff report containing preliminary findings of fact in this investigation will be available to all interested parties on March 17, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for in § 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with rule § 207.22. Posthearing briefs should be filed with the Commission by no later than the close of business, April 13, 1982.

Written submissions.—Any person may submit to the Commission on or before April 13, 1982, written statements

of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted in accordance with § 201.8 of the Commission's rules of practice and procedure, 19 CFR 201.8 (1980). All written submissions, except confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the rules of practice and procedure (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: January 27, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2788 Filed 2-2-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Final Judgment; U.S. v. Beven-Herron, Inc., et al.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d), the following is a *Comment* received by the Antitrust Division on the proposed Final Judgment filed in the case of *U.S.* v. *Beben-Herron, Inc., et al.*, Civil No. 81-0951, (C.D. Calif.), together with the Division's *Response* thereto.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

Stephen S. Trott, United States Attorney; Leon W. Weidman, Chief, Antitrust Division; Kendra S. McNally, William L. Webber, Assistant United States Attorneys, 1441A United States Courthouse, 312 North Spring Street, Los Angeles, California 90012, Telephone: (213) 688-6579, Attorneys for Plaintiff, United States of America.

U.S. District Court Central District of California

United States of America Plaintiff, v. *Beven-Herron, Inc., and Simpson Manufacturing Co., Inc.*, Defendants.

No. CV-81-0951-RJK(Kx).

Government's Response to Comments of Snyder & Dickenson Company and Comments of Snyder & Dickenson Company.

Pursuant to the Antitrust Procedures and Penalties Act (APPA), 15 U.S.C. 16(d), the Government hereby publishes and responds to the comments of Snyder & Dickenson Company concerning the proposed Final Judgment in *United States* v. *Beven-Herron, Inc., and Simpson Manufacturing Company, Inc.*, CV-81-0951-RJK(Kx) (C.D. Cal., filed February 25, 1981). The Government has carefully reviewed the comments of Snyder & Dickenson Company and has concluded that the issues raised by Snyder & Dickenson Company do not warrant any modification in the proposed Final Judgment.

I. The Government is in compliance with the APPA

The Government is in compliance with the APPA, 15 U.S.C. 16 (b)-(c), which requires that certain documents pertaining to this case be published and made available to the public. On November 13, 1981 the proposed Final Judgment and Competitive Impact Statement were published in the **Federal Register**, Vol. 46, No. 219, pp. 56,069-56,073. These documents were availabe for public inspection at the Office of the Clerk of the United States District Court for the Central District of California, Los Angeles, California, and at the Department of Justice in Washington, D.C. In addition, summaries of the proposed Final Judgment and the Competitive Impact Statement were published in the *Herald Examiner* of Los Angeles and the *Washington Post* of Washington, D.C. on November 3-9, 1981. The APPA requires the Government to publish a list of, and make available to the public, "* * * any other materials or documents which the United States considered *determinative* in formulating * * *" the proposed Final Judgment. 15 U.S.C. 16(b) (emphasis supplied). No other documents or materials were determinative in formulating the proposed Final Judgment, and hence there were no documents or materials to be published in a list or to be made available to the public.

II. This is Not an Appropriate Forum for Snyder and Dickenson Company To Request That the Criminal Record Be Unsealed

Contrary to the suggestions of Snyder & Dickenson Company, the public interest does not require that entry of the proposed Final Judgment be conditioned on unsealing the record of the Government's criminal antitrust case, *United States v. Beven-Herron, Inc., et al.*, CR-81-192-MRP (C.D. Cal., filed February 25, 1981). The criminal case is separate from the civil case that would be terminated by entry of the proposed Final Judgment. The Government has already published and made available to the public those documents in this civil case that enable the public to comment on the proposed Final Judgment, namely the proposed Final Judgment and the Competitive Impact Statement. Moreover, all pleadings filed by parties in this civil case are a matter of public record and are available for inspection at the Office of the Clerk of the United States District Court for the Central District of California, Los Angeles, California.

Snyder & Dickenson Company may wish to have the record in the criminal case unsealed in order to aid its private antitrust suit, *Snyder & Dickenson Company V. Beven-Herron, Inc., and Simpson Manufacturing Co., Inc.*, CV-81-2719-MRP(JRx) (C.D. Cal., filed June 2, 1981). The appropriate procedure for unsealing the criminal record would be to apply to the District Court Judge who issued the order sealing the record. To the extent that Snyder and Dickenson Company wishes to obtain grand jury materials that are protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure, a motion must be made before that same District Court Judge who was assigned to the criminal case, as required by *Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211 (1979). It should be noted that the same District Court Judge who presided over the Snyder & Dickenson Company's private case.

III. The Terms of the Proposed Final Judgment Are Consistent With the Public Interest

The terms of the proposed Final Judgment are consistent with the public interest. Snyder & Dickenson Company does not claim that the restrictions that the proposed Final Judgment would impose upon the defendants are in any way contrary to the public interest. The primary purposes of the APPA's publication and comment provisions are to provide a check against possible bad faith on the part of the Government in negotiating a proposed Final Judgment and to allow for public review of the merits of the proposed Final Judgment. Snyder & Dickenson Company has not questioned the good faith of the Government in negotiating the proposed Final Judgment, nor has it suggested that the terms of the proposed Final Judgment would be ineffective in achieving its goal of remedying the violation alleged in the complaint. The Government considers the terms of the proposed Final Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the proposed Final Judment provides all or substantially all of the relief that could reasonably be expected to be obtained after a full trial. The proposed Final Judgment provides all of the injunctive relief sought in the complaint. For these reasons, the proposed Final Judgment need not be modified.

Dated: January 20, 1982.

Respectfully submitted,

Stephen S. Trott,

United States Attorney.

Kendra S. McNally,

Assistant United States Attorney, Acting Chief, Antitrust Division.

William L. Webber,

Assistant United States Attorney.

Attorneys for Plaintiff, United States of America.

In the United States District Court for the Central District of California

United States of America, Plaintiff, v. *Beven-Herron, Inc. and Simpson Manufacturing Co., Inc.*, Defendants.

CV-81-0951-RJK(kx)

Objection to Proposed Final Judgment.

The plaintiff, *Snyder & Dickenson Company* v. *Beven-Herron, Inc. and Simpson Manufacturing Co., Inc.*, Civil Action No. CV-81-2719-MRP(JRx), C.D. Calif., and the class plaintiff purports to represent, hereby object to entry of the proposed Final Judgment in the above-captioned case for the following reasons:

1. The complaint filed by Snyder & Dickenson Company is brought on behalf of a class of general contractors and/or owners of industrial and/or commercial building projects in eight counties in Southern California, and the complaint substantially tracks the allegations contained in the indictment and civil action filed by the United States of America against defendants Beven-Herron, Inc. (hereinafter "Beven-Herron") and Simpson Manufacturing Co., Inc. (hereinafter "Simpson").

2. Defendants Beven-Herron and Simpson pleaded *nolo contendere* to the indictment after considerable pretrial proceedings and shortly before trail.

3. The entire record and other pretrial proceedings in the criminal case, *United States* v. *Beven-Herron, Inc., et al.*, CR-81-192-MRP (C.D. Cal.), have been placed under seal pursuant to an order of that Court, and remain unavailable from the Court's records for inspection and copying by class plaintiffs.

4. The United States and defendants in the above-captioned action have submitted a proposed Final Judgment in that action, and, pursuant to Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon this Court's determination that it is in the public interest.

5. Because the entire record in the criminal case has been sealed (indeed even the sealing order itself is under seal), no one, especially Snyder & Dickenson and the other parties injured by defendants' antitrust violation which is the subject of this action, is in position to offer any meaningful comments respecting the proposed Final Judgment in accordance with the procedure established by the Antitrust Procedures and Penalties Act, 15 U.S.C. 16. The Act *requires* that: (the proposed decree) and any other materials and documents which the United States considered determinative in formulating (the decree) shall * * * be made available to the public * * *

15 U.S.C. 16(b). The Act also requires that a list of such materials and documents be published in newspapers of general circulation for 7 days over a two-week period, 15 U.S.C. 16(c)(iii). Plainly, these provisions of the Act have not been even colorably complied with.

For this reason alone, the proposal Final Judgment cannot be evaluated in light of the public interest, and must be rejected unless and until the criminal record is unsealed and an appropriate opportunity to comment upon the consent judgment is afforded interested parties.

6. In addition, the proposed Final Judgment is not in the public interest because it makes no provision requiring the unsealing of the record in the criminal case and should not, under any circumstances, be accepted by the Court unless it is modified to require that the record in the criminal case be unsealed and copies of transcripts of grand jury testimony, or portions thereof, disclosed to defendants and/or their counsel in the criminal case be provided to counsel for the private class plaintiff, prior to the entry of the Final Judgment.

7. The order sealing the criminal record is an extraordinary departure from accepted and well-established practice in antitrust litigation and is contrary to the significant public interest in open criminal proceedings.

8. In addition, the order sealing the criminal record contravenes established law of the Court of Appeals for the Ninth Circuit. *Olympic Refining Co.* v. *Carter*, 332 F.2d 260 (9th Cir. 1964).

9. It is well-recognized that "[p]rivate treble-damage actions are an important component of the public interest in 'vigilant enforcement of the antitrust laws,' " *Olympic Refining Co.* v. *Carter*, 332 F.2d at 264, *quoting Lawlor* v. *National Screen Service Corp.*, 349 U.S. 322, 329 (1955), and that Congress intended that injured private parties would enjoy the full benefits of the public proceedings conducted by the government in antitrust actions. *Emich Motors Corp.* v. *General Motors Corp.*, 340 U.S. 558, 568 (1951). *See* 15 U.S.C. 15(e)(2).

10. In enacting the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), Congress specifically required that entry of a consent judgment be based upon a court's determination that "such judgment is in the public interest." 15 U.S.C. 16(e). The legislative history plainly reflects Congress' intent in enacting this provision.

The Committee recognizes that the court must have broad discretion to accommodate a balancing of interests.

* * * * *

Nor is Section 2(e) intended to force the government to go to trial for the benefit of potential private plaintiffs. . . . The Committee believes that in the majority of instances the interests of private litigants can be accommodated without the risk, delay and expense of the government going to trial. For example, the court can condition approval of the consent decree on the Antitrust Division's making available information and evidence obtained by the government to potential private plaintiffs which will assist in the effective prosecution of their claims. S. REP. NO. 93-298, 93d Cong., 2d Sess., quoted with approval in H.R. REP. NO. 93-1463, 93d Cong., 2d Sess., *reprinted in* [1974] *U.S. Code Cong. & Ad. News* 6538-39.

11. Entry of the proposed Final Judgment without requiring that it be modified to ensure that the entire court record in the criminal case be made available for inspection and copying by the class plaintiff and that copies of transcripts of grand jury testimony disclosed to defendants and/or their counsel in the criminal case be provided counsel for the class plaintiff, seriously impairs plaintiff's efforts to ensure that the class members recover any damages they may have suffered as a result of defendants' alleged violation of the antitrust laws.

12. Because defendants have pleaded *nolo contendere*, if the proposed Final Judgment is accepted and the criminal record remains sealed, class plaintiffs will have been wrongfully deprived of any benefit from the government proceeding and the public will have suffered an unwarranted disservice.

For the foregoing reasons the proposed Final Judgment should be rejected.

Dated: December 23, 1981.

Respectfully submitted,

Paul F. Cohen,

Law Offices of Paul F. Cohen, 9911 W. Pico, Suite 1000, Los Angeles, Ca 90035 (213) 203-8818.

Robert A. Seefried,

Seymour, Seefried & Hoffman, Chartered, 1010 Wisconsin Avenue, N.W., Suite 810, Washington, D.C. 20007 (202) 965-7100; Counsel for Snyder & Dickenson Co., in Civil Action No. CV-81-2719-MRP (JRx), and counsel for the purported class.

Certificate of Service

I, Lillian K. Ashley, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; thay my business address is Antitrust Division, Office of United States Attorney, Central District California, 1441A United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action:

That I am employed by the Antitrust Division at whose direction the service by mail described in this Certificate was made: that on January 20, 1982, I deposited in the United States mail, in the above-entitled action, in an envelope bearing the requisite postage, a copy of: Government's Response to Comments of Snyder & Dickenson Company and Comments of Snyder & Dickenson Company addressed to:

H. Roy Jeppson, Webster, Jeppson, Jones & Agran, 10850 Wilshire Boulevard, Twelfth Floor, Los Angeles, California 90024;
Charles A. Legge, Stephen C. Tausz, Bronson, Bronson & McKinson, Bank of America Center, San Francisco, CA 94104.

This Certificate is executed on January 20, 1982 at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.

Lillian K. Ashley.

[FR Doc. 82-2701 Filed 2-2-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theater Advisory Panel (Policy); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Policy) to the National Council on the Arts will be held on February 17-18, 1982, from 9:00 a.m.-5:30 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW, Washington, D.C. 20506.

A portion of this meeting will be open to the public on February 17, 1982, from 9:00 a.m.-3:00 p.m. to discuss FY 1982 and FY 1983 program budget.

The remaining sessions of this meeting on February 17, from 3:00-5:30 p.m. and on February 18, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: January 21, 1982.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-2726 Filed 2-2-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-334]

Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Appendices A and B Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Appendix A and Appendix B Technical Specifications to reflect the establishment of a Nuclear Division within Duquesne Light Company.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a signficant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated July 1973.

For further details with respect to this action, see (1) the application for amendment dated April 10, 1981, and supplemented June 30, August 13, September 17 and December 22, 1981, (2) Amendment No. 46 to License No. DPR-66 and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md, this 27th day of January, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-2827 Filed 2-2-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338, 50-339]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 36 and No. 16 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the NA-1&2 Technical Specifications to allow an increase in enrichment for new and spent fuel from 3.7 weight percent of U-235 to 4.1 weight percent of U-235.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated March 6, 1981 as supplemented March 26, 1981, and August 18, 1981 (2) Amendment No. 36 and No. 16 to Facility Operating Licenses No. NPF-4 and NPF-7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room,

1717 H Street, NW., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 19th Day of January, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-2828 Filed 2-2-82; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[SBLC No. 02/B-0030]

Bache Small Business Lending Corp.; Filing of Application for Eligibility Determination as a Small Business Lending Company

An Application for Eligibility Determination as a Small Business Lending Company has been filed by Bache Small Business Lending Corporation (Applicant), 100 Gold Street, New York, New York 10038, with the Small Business Administration pursuant to § 120.4(b) of SBA Regulations (13 CFR 120.4(b) (1981)), promulgated under the Small Business Act.

As a Small Business Lending Company (SBLC), under Subsection (b) mentioned above, the Applicant will be engaged solely in the making of loans to small business concerns, in participation with SBA, and in accordance with applicable SBA Regulations; and, it will be subject to supervision and examination by the SBA.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with an initial capitalization of $5,000,000. It intends to conduct its operations, initially in the States of New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, New Jersey, Delaware, and Pennsylvania, later expanding nationwide.

The Officers and Directors of the Applicant are:

Name and Title

William M. Marlin, Chairman and Director, 28 Cricket Club Drive, North Hills, New York
George R. Reis, President & Director, Four Paul Court, Ridgewood, New Jersey
James F. Lasser, Vice President, 119 East Hartsdale Avenue, Hartsdale, New York
James J. Rizzo, Secretary, 121 West 15th Street, New York, New York
Paul J. Hauser, Treasurer, 135 Eastern Parkway, Brooklyn, New York
Edwin F. Payne, Director, 30 Cottonwood Lane, Briarcliff Manor, New York

Bache Group Inc., 100 Gold Street, New York, New York 10038, is the parent and owner of 100 percent of the Applicant's outstanding common stock. The parent, in turn, is a wholly owned subsidary of PRUCO, Inc., and PRUCO, Inc., is a wholly owned subsidiary of The Prudential Insurance Company of America.

Matters involved in SBA's consideration of the application include the general business reputation and character of management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and the Regulations promulgated thereunder.

Notice is hereby given that all interested parties may, not later than February 18, 1982, submit to SBA written comments on the proposed Applicant and/or its management. Any such communication should be addressed to:

Wayne S. Foren, Director, Office of Lender Relations and Certification, Small Business Administration, 1441 L Street, NW., Room 720, Washington, D.C. 10416

A copy of this Notice shall be published in the four regional editions of the *Wall Street Journal*.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated: January 29, 1982.

Edwin T. Holloway,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 82-2807 Filed 2-2-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2023]

Mississippi; Declaration of Disaster Loan Area

Newton County in the State of Mississippi constitutes a disaster area as a result of damage caused by a tornado which occurred on January 3, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 29, 1982, and for economic injury until October 27, 1982, at:

Small Business Administration, District Office, New Federal Building, Suite 322, 100 West Capitol Street, Jackson, Mississippi 30201.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere	15¼%
Homeowners without credit available elsewhere	8%
Businesses with credit available elsewhere	15¾%
Businesses without credit available elsewhere	8%
Businesses (EIDL) without credit available elsewhere	8%

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated January 27, 1982.

Michael Cardenas,

Administrator.

[FR Doc. 82-2808 Filed 2-2-82; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Quota for U.S. Imports of Coffee From Non-Members of the International Coffee Agreement

The International Coffee Organization (ICO) has advised that the U.S. non-member import limitation on coffee imported into the United States from non-ICO members for the period October 1, 1981-September 30, 1982, has been adjusted upward from 109,150 bags to 121,860 bags of 60 kilos each. This increase will become effective on February 10, 1982. The Commissioner of Customs has been directed to make this adjustment in the U.S. non-member limitation in accordance with U.S. obligations under the International Coffee Agreement Act of 1980.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-2799 Filed 2-2-82; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-CO:R:E:E]

Application for Recordation of Trade Name; Bristol-Myers Company

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Bristol-Myers Company," used by Bristol-Myers Company, a corporation organized under the laws of the State of Delaware, located at 345 Park Avenue, New York, New York 10154.

The application states that the trade name is used in connection with the following merchandise manufactured in numerous foreign countries: pharmaceuticals and medicines for human and veterinary use; vitamins, deodorants and oral hygiene preparations for human use; cosmetics and toiletries; medical appliances; small electrical appliances; and nutritional foods. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received no later than April 5, 1982.

Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

Dated: January 28, 1982.

Donald W. Lewis,

Director, Entry, Procedures and Penalties Division.

[FR Doc. 82-2763 Filed 2-2-82; 8:45 am]

BILLING CODE 4820-02-M

[TMK-2-CO:R:E:E]

Application for Recordation of Trade Name; Clairol Incorporated

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Clairol Incorporated," used by Clairol Incorporated, a corporation organized under the laws of the State of Delaware, located at 345 Park Avenue, New York, New York 10154.

The application states that the trade name is used in connection with the following merchandise which is manufacturered in numerous foreign countries: hair coloring, hair care products, electrical applicances, cosmetics and toiletries. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person, in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received no later than April 5, 1982.

Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

Dated: January 28, 1982.

Donald W. Lewis,

Director, Entry, Procedures and Penalties Division.

[FR Doc. 82-2764 Filed 2-2-82; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

[Dept. Circular, Public Debt Series—No. 2-82]

Treasury Notes of February 15, 1985, Series L-1985

January 28, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the Authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $5,000,000,000 of United States securities, designated Treasury Notes of February 15, 1985, Series L-1985 (CUSIP No. 912827 MV 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated February 16, 1982, and will bear interest from that date, payable on a semiannual basis on August 15, 1982, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, February 2, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 1, 1982.

3.2. Each tender must state the face amounts of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g.,

7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hours, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accpeted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitted noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressely reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 16, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 11, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individuals's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash ajustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form when such securities are available, at any Federal Bank of Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested

form or registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-2909 Filed 2-1-82; 9:45 am]
BILLING CODE 4810-40-M

[Department Circular Public Debt Series—No. 3-82]

Treasury Notes of February 15, 1992; Series A-1992

January 28, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of February 15, 1992, Series A-1992 (CUSIP No. 912827 MW 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated February 15, 1982, and will bear interest from that date, payable on a semiannual basis on August 15, 1982, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1992, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 3, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 2, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.750. That a rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations

will be carried to three decimial places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would be absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for alloted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 16, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 11, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount or up to 5 percent of the face amount of securities alloted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registerations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delviery of new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-2803 Filed 2-1-82; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series—No. 4-82]

14% Treasury Bonds of 2006-2011

January 28, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated 14% Treasury Bonds of 2006-2011 (CUSIP No. 912810 CY 2). The securities will be sold at auction, with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be issued February 16, 1982, and are offered as an additional amount of 14% Treasury Bonds of 2006-2011 (CUSIP No. 912810 CY 2) dated November 16, 1981. Payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from November 16, 1981, to February 16, 1982. Interest on the securities offered as an

additional issue is payable on a semiannual basis on May 15, 1982, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 2011, but may be redeemed at the option of the United States on and after November 15, 2006, in whole or in part, at par and accrued interest on any interst payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, February 4, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 3, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 92.75 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 16, 1981, to February 16, 1982, in the amount of $35.58011 per $1,000 of securities allotted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 16, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 11, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount

will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appeared in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-2804 Filed 2-1-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 23
Wednesday, February 3, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–341, Amdt. 5]

Addition and closure of item to the January 29, 1982 Board Meeting

TIME AND DATE: 10 a.m. (after open meeting) January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 41. Board Discussion of fiscal year 1983 Budget.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–161–82 Filed 2–1–82; 3:54 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M–341, Amdt. 6]

Addition and closure of item to the January 29, 1982 Board meeting

TIME AND DATE: 10 a.m. (after open meeting) January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 42. Report on Negotiations with Brazil. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–162–82 Filed 2–1–82; 3:55 pm]

BILLING CODE 6320–01–M

3.

CIVIL AERONAUTICS BOARD

[M–341, Amdt. 8]

Deletion from the January 29, 1982 Board meeting

TIME AND DATE: 10 a.m., January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 8. Docket 39550, Application of People Express Airlines, Inc. for exemption. Petition of American Airlines for reconsideration and reversal of staff action in Order 81–6–41 granting People Express exemptions for Parts 221 and 250 of the Board's Economic Regulations. (Memo 1028, BDA.)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: The Board's staff has requested that Item 8 be withdrawn from the January 29, 1982 agenda. The item concerns the petition for review of staff action filed by American Airlines and other carriers in response to the Bureau's granting People Express Airlines exemptions from the Board's oversales and baggage liability rules (Order 81–6–41). It is necessary to delete Item 8 because the staff desires to provide the Board additional information and further staff work is required. Accordingly, the following Members voted that Item 8 be deleted from the January 29, 1982 agenda and that no earlier announcement of this deletion was possible:

Chairman Dan McKinnon
Vice Chairman Elizabeth E. Bailey
Member Gloria Schaffer
Member George A. Dalley
Member James R. Smith

[S–163–82 Filed 2–1–82; 3:56 pm]

BILLING CODE 6320–01–M

4

CIVIL AERONAUTICS BOARD

[M–341, Amdt. 7]

Deletion from the January 29, 1982 Board Meeting

TIME AND DATE: 10 a.m., January 29, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 25. Revised Cost Sharing Report. (Memo 1049, BDA, OGC, and OEA.)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: It is necessary to delete Item 25 from the January 29, 1982 agenda since the Board Members need additional time to review the staff's recommendations. Accordingly, the following Members voted that Item 25 be deleted from the January 29, 1982 agenda and that no earlier announcement was possible:

Chairman Dan McKinnon
Vice Chairman Elizabeth E. Bailey
Member Gloria Schaffer
Member George A. Dalley
Member James R. Smith

[S–164–82 Filed 2–1–82; 3:56 pm]

BILLING CODE 6320–01–M

5

FEDERAL COMMUNICATIONS COMMISSION

Open Commission meeting, Thursday, January 28, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 28, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Radio Technical Commission for Aeronautics (RTCA). *Summary:* The Commission Participates in the RTCA with other government agencies. However, the current austere budget requires program reductions. The Private Radio Bureau has proposed cancelling the FCC membership in the RTCA.

General—2—*Title:* Responsibility of the Federal Communications Commission to consider biological effects of radiofrequency radiation when authorizing the use of radiofrequency devices. Potential effects of a reduction in the allowable level of radiofrequency radiation on FCC authorized communication services and equipment (Docket 79–144). Summary: It is proposed to amend § 1.1305 of the Commission's Rules implementing the National Environmental Policy Act. Would expand the list of "major actions" subject to environmental processing standards to include equipment or operations not in compliance with federal health and safety standards for radiofrequency or microwave radiation.

General—3—*Title:* Report of the United States Delegation to the Regional Administrative MF Broadcasting Conference (Region 2), Second Session, Rio

de Janeiro, 1981. *Summary:* The United States participated in a conference in Rio de Janeiro which developed an agreement and master assignment plan governing AM broadcasting in the Western Hemisphere. The Chairman of the U.S. Delegation will report on the outcome of the Conference and its potential effect on the AM broadcasting service in the U.S.

Private Radio—1—*Title:* Reinstatement of expired Club and Military Recreation station licenses. *Summary:* The Commission will consider whether the staff should reinstate certain expired amateur radio licenses.

Private Radio—2—*Title:* Petition for Reconsideration of Commission's action of October 1, 1981, relating to Amateur station identification requirements. *Summary:* The Commission will consider whether to grant or deny the Petition for Reconsideration.

Private Radio—3—*Title:* Amendment of Section 90.61 of the Commission's Rules concerning general eligibility in the Industrial Radio Services. *Summary:* The FCC will consider whether to adopt a rule amendment to permit the licensing of non-profit corporations and associations of eligible users in the Business and Special Industrial Radio Services in the bands below 512 MHz.

Common Carrier—1—American Telephone & Telegraph Company *et al.* For Authority Under Section 214 of the Communications Act to Construct and Operate a Submarine Cable System (Third Florida-St. Thomas Cable) Between the Continental United States and St. Thomas, U.S. Virgin Islands (I–P–C–81–050). We are considering the aforementioned joint application for authority pursuant to Section 214 of the Communications Act of 1934 as amended to participate in the construction and operation of an approximately 3,000 circuit submarine cable (SG type—3,150 4 kHz circuits) between Florida and St. Thomas, U.S. Virgin Islands. Of the 3,000 circuits, the joint applicants intend to place 1,991 in service initially to be used solely for international service.

Common Carrier—2—*Title:* Application by AT&T, ITTCIVI, ITT Worldcom, RCA Globcom, TRT, and WUI (joint applicants) for a cable landing license to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands. *Summary:* The joint applicants request a license pursuant to the provisions of 47 U.S.C. 34–39 to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands.

Common Carrier—3—*Title:* American Telephone and Telegraph Company Restrictions on Resale and Sharing of Private Line Services to Form Equivalents of Message Telecommunications Service and Wide Area Tele-Communications Service. *Summary:* The Commission will decide wheter to investigate the lawfulness of certain provisions in the American Telephone and Telegraph Company's private line tariffs which forbid the use of private line services in such a manner as to form services which are the equivalents of Message Telecommunications Service and Wide Area Telecommunications Service.

Common Carrier—4—*Title:* CC Docket No. 81–351, investigation of proposed revisions to AT&T's Series 7000 terrestrial television service offering. *Summary:* In Feb. 1981, AT&T proposed revisions to its Series 7000 terrestrial television transmission service offering. By order adopted in May 1981, the Commission suspended the revisions and set various issues for investigation (86 FCC 2d 861). These issues include the reasonableness of the proposed rate structure. During the investigation AT&T submitted an alternative rate structure and various parties filed comments. The Commission will consider the reasonableness of the proposed revisions based on the issues and comments in the investigation.

Common Carrier—5—*Title:* In the Matter of the Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended, for: General Telephone Company of Florida, General Telephone Company of Indiana, Incorporated, General Telephone Company of Michigan, General Telephone Company of Ohio. *Summary:* The Commission is considering prescription of depreciation rates for new additions to the outside plant accounts of the GTE companies of Florida, Indiana, Michigan and Ohio using the equal life group method of calculating such rates.

Common Carrier—6—*Title:* RCA American Communications Revisions to Tariff FCC Nos. 1 and 2 Transmittal Nos. 323 and 328. *Summary:* The Commission considers petitions to reject or alternatively suspend and investigate tariff revisions filed by RCA Americom, Inc. proposing to establish a competitive bidding procedure for assigning transponders.

Common Carrier—7—*Title:* In the Matter of Domestic Satellite Transponder Sales. *Summary:* The Commission considers proposals of domestic satellite space station licensees to sell transponders to user rather than leasing them pursuant to tariff.

Common Carrier—8—*Title:* In the Matter of Satellite Common Carriers' Transponder Assignment Procedures. *Summary:* The Commission considers the petition of RCA American Communications Inc. requesting the Commission to direct all satellite common carriers to tariff their procedures for assigning transponders to customers or to remove such requirements from RCA Americom.

Cable Television—1—Amendment of Part 0 of the Commission's Rules and Regulations Concerning Delegations of Authority to the Chief, Cable Television Bureau. The Commission will consider modifying its delegation of authority to the Chief of the Cable Television Bureau, pursuant to Section 0.288 of the Commission's Rules, in regard to the imposition of forfeitures on cable television system operators and Cable Television Relay Service (CARS) station licensees.

Cable Television—2—*Title:* Petitions for special relief filed by Stations WBRE–TV and WDAU–TV to be found significantly viewed in certain communities located in Pennsylvania. *Summary:* Requests for declaratory rulings filed by Stations WBRE–TV and WDAU–TV, CSR–1764 and 1819, respectively, to be found significantly viewed in certain communities in Pennsylvania.

Cable Television—3—"Petition for Reconsideration" (CAR–14997–01) and Petitions for Orders to Show Cause (CSC–242, –243) filed March 4, 6, and 13, 1981, by American Cable Television, Inc. American Cable Television, Inc., operator and franchisee of several Arizona cable systems, seeks reconsideration of the grant of a construction permit for a new CARS Station WGZ–233 to Mesa Community Cable TV, Inc. American also seeks issuance of orders to show cause against Mesa for alleged violations of the Commission's Rules.

Cable Television—4—Petitions for Issuance of Tax Certificates (CSR–1843, CSR–1945) filed November 26, 1980, and May 15, 1981, by Kansas State Network, Inc. Kansas State Network, Inc., licensee of several television broadcast stations, seeks tax certificates, pursuant to Section 1071 of the 1954 Internal Revenue Code, for divestitures of its cable television interests.

Complaints and Compliance—1—*Title:* Application for Review of the Broadcast Bureau's ruling of March 31, 1981, filed by Minnesota Farmers Union on June 29, 1981. *Summary:* The Commission will consider whether to affirm the Bureau ruling which denied the complaint of the Minnesota Farmers Union ("Union") against Hubbard Broadcasting, Inc., licensee of KSTP–TV, St. Paul, Minnesota. The Bureau ruled that the licensee was not unreasonable in determining that the Union's use of a tax-exempt educational fund did not constitute a controversial issue of public importance within its service area. The Bureau declined to rule upon the Union's allegations of news distortion, in the absence of extrinsic evidence.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 21, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–157–82 Filed 2–1–82; 3:16 pm]

BILLING CODE 6712–01–M

6

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From January 28th Open Meeting

The following items have been deleted at the request of the Office of Commissioner Dawson from the list of agenda items scheduled for consideration at the January 28, 1982

Open Meeting and previously listed in the Commission's Notice of January 21, 1982.

Agenda, Item No., and Subject

Common Carrier—1—*Title:* American Telephone & Telegraph Company *et al.* For Authority Under Section 214 of the Communications Act to Construct and Operate a Submarine Cable System (Third Florida-St. Thomas Cable) Between the Continental United States and St. Thomas, U.S. Virgin Islands. (I–P–C–81–050) *Summary:* We are considering the aforementioned joint application for authority pursuant to Section 214 of the Communications Act of 1934 as amended to participate in the construction and operation of an approximately 3,000 circuit submarine cable (SG type—3,150 4 kHz circuits) between Florida and St. Thomas, U.S. Virgin Islands. Of the 3,000 circuits, the joint applicants intend to place 1,901 in service initially to be used solely for international service.

Common Carrier—2—*Title:* Application by AT&T, ITTCIVI, ITT Worldcom, RCA Globcom, TRT, and WUI (joint applicants) for a cable landing license to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands. *Summary:* The joint applicants request a license pursuant to the provisions of 47 U.S.C. §§ 34–39 to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands.

Deletion of Agenda Item From January 28th Closed Meeting

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the January 28, 1982 Closed Meeting and previously listed in the Commission's Notice of January 21, 1982.

Agenda, Item No., and Subject

Hearing—2—Applications for Review in the Gulf Coast Communications, Inc., Tampa, Florida Public Coast III–B Maritime Mobile Radio proceeding. (PR Docket Nos. 78–259–60)

Issued: January 27, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–158–82 Filed 2–1–82; 3:16 pm]

BILLING CODE 6712–01–M

7

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From January 28th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the January 28, 1982 Open Meeting and previously listed in the Commission's Notice of January 21, 1982.

Agenda, Item No., and Subject

General—3—*Title:* Report of the United States Delegation to the Regional Administrative MF Broadcasting Conference (Region 2), Second Session, Rio de Janeiro, 1981. *Summary:* The United States participated in a conference in Rio de Janeiro which developed an agreement and master assignment plan governing AM broadcasting in the Western Hemisphere. The Chairman of the U.S. Delegation will report on the outcome of the Conference and its potential effect on the AM broadcasting service in the U.S.

Issued: January 26, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–159–82 Filed 2–1–82; 3:16 pm]

BILLING CODE 6712–01–M

8

FEDERAL CROP INSURANCE CORPORATION

[NOM–82–2]

TIME AND DATE: 9 a.m., Wednesday, February 3–4, 1982.

PLACE: Room 201–W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Sales and Service Agreements.
2. Appeal Process.
3. Approval of Counties for Insurance.
4. Amendments to Oat, Flax, Barley, Wheat, Rye, and Combined Crop Insurance policies—Fire provision.

CONTACT PERSON FOR MORE INFORMATION: Peter F. Cole, Secretary, 202–447–3325.

Dated: January 26, 1982.

Federal Crop Insurance Corporation.

Peter F. Cole,

Secretary.

[S–153–82 Filed 2–1–82; 10:10 am]

BILLING CODE 3410–05–M

9

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 8, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Grand Canyon State Bank, a proposed new bank, to be located at the southeast corner of Gilbert and Guadalupe Roads, Gilbert, Arizona.

Bitterroot Valley Bank, a proposed new bank, to be located in the Lolo Shopping Center, Lolo, Montana.

Application for consent to merge and establish two branches:

Liberty State Bank of DeKalb County, Liberty, Tennessee, for consent to merge, under its charter and with the title "Liberty State Bank," with First National Bank of Lebanon, Lebanon, Tennessee, and to establish the two offices of First National Bank of Lebanon as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,959–L—Guaranty Bank & Trust Company, Chicago, Illinois; Gateway National Bank of Chicago, Chicago, Illinois

Case No. 45,069–L—Franklin National Bank, New York, New York

Memorandum and Resolution re: North Point State Bank, Arlington Heights, Illinois

Memorandum and Resolution re: First National Bank of Carrington, Carrington, North Dakota

Memorandum and Resolution re: American Bank & Trust Orangeburg, South Carolina

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Colorado, Martinez & Odell, Hato Rey, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Office of Personnel Management:

Quarterly Summary of Personnel Activities for the period October 1, 1981 through December 31, 1981.

Discussion Agenda:

Memorandum and Resolution re: Procedures for the disposition of securities acquired by

the Corporation in its receivership capacity.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW, Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–154–82 Filed 2–1–82; 11:40 am]

BILLING CODE 6714–01–M

10

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 8, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish two branches:

Syracuse Savings Bank, Syracuse, New York, for consent to merge, under its charter and title, with Dime Federal Savings and Loan Association, Cortland, New York, and to establish the two offices of Dime Federal Savings and Loan Association as branches of the resultant bank.

Reports of committees and officers:

Report of the Director, Division of Research and Strategic Planning, re: 1981 Earnings of Large Mutual Savings Banks Based on FDIC Surveys.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–155–82 Filed 2–1–82; 11:41 am]

BILLING CODE 6714–01–M

11

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 10, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Puerto Rico Maritime Shipping Authority 13 percent general rate increase between ports in Puerto Rico and ports in Canada via Elizabeth, New Jersey, U.S. Atlantic and Gulf ports and ports in Puerto Rico and the U.S. Virgin Islands and ports in Puerto Rico and ports in the U.S. Virgin Islands.

2. Agreements Nos. 7100–26, 7670–22, 7770–22 and 9214–28: Modifications of four North Atlantic/European Conferences' Agreements to include rate-making authority for the consolidation of cargo.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–156–82 Filed 2–1–82; 3:06 pm]

BILLING CODE 6730–01–M

12

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, February 8, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: January 29, 1982.

James McAfee,

Assistant Secretary of the Board.

[S–152–82 Filed 1–29–82; 4:03 pm]

BILLING CODE 6210–01–M

13

POSTAL SERVICE

Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 2 p.m. on Monday, February 8, in Washington, D.C., and at 9 a.m., February 9, 1982 in the Benjamin Franklin Room, 11th Floor, 475 L'Enfant Plaza SW., Washington, D.C. The Tuesday meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

On January 6, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting of February 8, 1982, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; and Counsel to the Governors Califano. The portion involving planning

will also be attended by Assistant Postmaster General Cummings.

A portion of the meeting to be closed will consist of a discussion among the members of compensation for certain postal executives.

A second portion of the meeting to be closed will consist of a discussion of Postal Service strategic planning.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Quarterly Report on Financial Performance.
   (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the quarterly summary of financial performance.)
4. Quarterly Report on Service Performance.
   (Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary of service performance.)
5. Report on Administration Group Programs.
   (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will provide a report on certain programs of the Administration Group.)
6. Mandate of the Court of Appeals in *Newsweek, et al.* v. *U.S. Postal Service.*
   (The U.S. Court of Appeals for the Second Circuit, in the litigation arising out of the March 10, 1981, Decision of the Governors on Rates of Postage and Fees for Postal Services (Rate Commission's Docket No. R80–1), remanded the action to the Board of Governors for further consideration in accordance with the November 2, 1981, opinion of the Court. The Court's mandate was received on January 21, 1982. The Governors will consider the matter in accordance with the mandate and in the light of related litigation currently pending in the Court.)
7. Capital Investment Project: Procurement of Spotter Tractors and Semi-Trailers.
   The Board will consider approval of an investment for the purchase of 105 spotter tractors and 758 semi-trailers, these being among the Postal Service's fiscal '81–'82 vehicle requirements for which the Board, in October 1980, approved solicitation of bids in the understanding that management would request Board authorization of the necessary capital investment after receipt of bids but before contract award.)
8. Appointment of Committee Chairmen.
   (The Chairman will appoint Chairmen of the Board Committees for the year 1982.)
9. Extended Life Insurance Coverage.
   (In furtherance of earlier discussions of executive compensation, the Board will discuss the possible extension of life insurance coverage for officers of the Postal Service.)

Louis A. Cox,

Secretary.

[S–160–82 Filed 2–1–82; 3:23 pm]

BILLING CODE 7710–12–M

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federal register

Wednesday
February 3, 1982

Part II

Department of the Interior

Bureau of Land Management

Wilderness Study Policy; Policies, Criteria and Guidelines for Conducting Wilderness Studies on Public Lands

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Wilderness Study Policy; Policies, Criteria and Guidelines for Conducting Wilderness Studies on the Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final wilderness study policy.

SUMMARY: This document gives notice of the availability of the Final Wilderness Study Policy which describes the policies, criteria and guidelines of the Bureau of Land Management for conducting wilderness studies on the public lands as mandated by the Federal Land Policy and Management Act of 1976 on the approximately 24 million acres of public lands identified as wilderness study areas. Wilderness studies will be conducted in accordance with the Bureau of Land Management planning regulations which are designed to ensure that actions on the public lands are based upon the best available information and sound resource management planning. The findings of each wilderness study, including public participation, are used in determining whether these study areas are recommended as suitable or nonsuitable for designation as wilderness by Congress.

DATE: Effective on February 3, 1982.

ADDRESS: Comments or suggestioms should be sent to: Director (342), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James R. Edward, Division of Recreation, Wilderness and Cultural Resources, (202) 343–6064. Requests for copies of this document should be addressed to: James R. Edward, Division of Recreation, Cultural and Wilderness Resources (342), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240. Copies will also be available from Bureau of Land Management State Directors in the Western States.

SUPPLEMENTARY INFORMATION: *The Draft Wilderness Study Policy* was published in the **Federal Register** on December 19, 1980 (45 FR 83780) for public review and comment. The official public comment period closed on April 2, 1981. Approximately 300 comments were received representing individuals, interest groups, industry and government. The purpose of the following summary is to present an overview of comments received on the draft and a brief explanation of their role in the development of the final Wilderness Study Policy. This summary is followed by an explanation of additional changes made between the Draft and Final study policies.

1. Summary of Public Comments Received on the Draft Wilderness Study Policy

A. *General:* Overall, the draft Policy was generally supported. The findings of the comment analysis did indicate that several specific issues were in need of further clarification and certain provisions in the Draft were found to be unacceptable to some respondents. The Final Study Policy was developed to be as responsive to the public comments as possible while still remaining consistent with Bureau of Land Management (BLM) and Department of the Interior policies. The following summarizes the findings of the comment analysis.

B. *Use of the Planning System and EIS's:* The public response showed wide support for conducting wilderness studies within the BLM planning system. Although some respondents expressed concern over the possibility of the system becoming stagnant or cumbersome, most believed conducting studies within the planning process would ensure fair consideration of affected resources. Wide support was also shown for use of environmental impact statement (EIS's) for all wilderness studies.

C. *Program Policy Statement:* In the draft program policy statement, many of the respondents expressed concern over use of the phrase "in perpetuity." Some felt it was an overly restrictive requirement while others felt it precluded Congress from removing an area's wilderness designation status. The Final Study Policy deletes the "in perpetuity" language from both the program policy statement and the manageability criterion. Overall, few comments were received on the program policy statement.

Wilderness Planning Criteria

D. *Criterion No. 1:* Respondents also showed little support for the mandatory requirements of resource benefits and manageability found in proposed Criterion #1. The "sufficent to offset" language used in proposed benefits criterion was often misinterpreted. After reviewing the comments recieved, it was determined that benefits would not be utilized as a specific criterion. Instead, the final policy clarifies that resource benefits are assessed through the BLM's general multiple use planning process. Manageability is retained as a study criterion but is explained in greater detail in response to requests to clarify specific types of manageability considerations allowed in wilderness studies.

E. *Criterion No. 2:* Of the nine proposed study criteria, only one was not acceptable to most respondents. A broad cross section of interests expressed concern over proposed Criterion No. 2: Public Comment. In light of the points raised through the public response, the requirement for "special consideration" of local publics has been modified. However, the needs of local publics will still be addressed in the quality standards for public comment, consistency with State and local plans, and consideration of local social and economic effects.

F. *Criteria Nos. 3 and 5:* Few comments were received on Criterion No. 3, Social and Economic Effects and Criterion No. 5, Consistency with Other Plans. However, it was determined that consideration of both of these factors is a requirement of the BLM planning system. Therefore, these requirements are retained as quality standards to be met in wilderness studies.

G. *Criteria Nos. 4, 6 and 7:* A wide range of comments was received on proposed Criterion No. 4: Energy and Critical Mineral Resources and Criterion No. 6: Impacts on Other Resources. While some suggested these criteria be given more weight, others suggested no additional emphasis should be placed on these considerations. After examination of the comments and related policies, it was determined that both issues still need to be examined carefully during the wilderness study process. The BLM planning process requires a consideration of resources and an assessment of impacts to their use and management. Therefore, energy and critical mineral resources and impacts on other resources are retained as quality standards for analysis and documentation in wilderness EIS's or environmental assessments (EA) and wilderness study reports. Additionally, impacts on wilderness addressed through Criterion No. 7 in the Draft, will receive scrutiny through the use of a quality standard requiring an examination of the Effects of Nondesignation on Wilderness Values.

H. *Criterion No. 8:* Public comments received on proposed Criterion No. 8: Evaluation of Wilderness Values revealed a need for further clarification on the use of the criterion. Based on the comments received, the criterion has been retained and further guidance on its use (particulary consideration of outside sights and sounds) is provided in the final study policy.

I. *Criterion No. 9:* Several criticisms were received on the use of proposed Criterion No. 9: Diversity in the National Wilderness Preservation System. Questions were raised as to the weight this criterion would be given in decisionmaking. Additionally, some of the specific application guidance was questioned. It was determined that the contribution of an area to diversity in the National Wilderness Preservation System is a valid factor for consideration. It was also decided that rather than employing it as a separate study criterion, it would be more appropriate to consider diversity as an integral part of the overall evaluation of the wilderness values of an area (Criterion No. 8). Additional guidance and clarification on the application of this factor is provided in the final policy.

J. *Other Issues:* Comments were also received on other policy issues included in the Draft Policy. One of these was the use of a minerals rating system. Several respondents requested use of a minerals rating system during studies to evaluate the favorability of WSA's for energy and mineral resources. The BLM is in the process of developing an energy and minerals rating system which may be utilized in future wilderness studies. The proposed minerals rating system was published in the **Federal Register** on December 10, 1981, for public review and comment.

The Final Wilderness Study Policy addresses most of the other issues raised in the public response. The preceding summary has been included to display how the key comments received were utilized in development of the Final Wilderness Study Policy.

A detailed report of the analysis of public comment received on the Draft Wilderness Study is available for review in the BLM State Offices and the Washington Office (342). A limited number of copies are available by request only to the BLM's Washington Office (342).

2. Additional Changes Between the Draft and Final Study Policy

A. *General:* In addition to the changes outlined above which resulted from public comments on the draft, there are some other major changes which have been made in the final study policy as well. These modifications are based upon input from BLM field staff, new policy direction received from the Administration, and external policy and budget decisions which have had an impact on the BLM wilderness program. These changes and the rationale for such changes are summarized below.

B. *Comparisons between WSA's:* Some of the BLM field staff felt that the study policy should explicitly allow for the use of comparisons between WSA's. Although comparisons were not permitted during the inventory process, the general sentiment was that comparisons are a valid and useful tool that should be allowed during wilderness study. While the new provision in the final policy does provide the flexibility to conduct comparisons between WSA's, it also requires a documentation of the rationale for their use and an explanation of the methodology used in making the comparisons.

C. *Wilderness Manageability:* Field staff also commented that there was a need for further clarification on the application of the wilderness manageability criterion. As a result, the manageability section was reorganized to improve readability. A provision was also added to the study policy explicity stating that it is not the policy of the BLM to create protective buffer zones around wilderness areas and that the use of such buffer zones would not be considered when analyzing an area's manageability as wilderness.

D. *Wilderness Planning Criteria and Quality Standards:* Since the time the draft study policy was prepared, additional BLM guidance on the development of planning criteria was issued by the BLM's Office of Planning, Inventory, and Environmental Coordination. It became clear after reviewing the new guidance, and in keeping with the Administration's policy to avoid unnecessary and burdensome regulations, that some of the wilderness planning criteria contained in the draft study policy was redundant and repetitious of requirements already covered by the BLM planning regulations. Most of the considerations addressed in the nine draft wilderness criteria would be covered in BLM planning efforts even if they were not required through specific wilderness criteria. As a result, the BLM has narrowed down the number of wilderness planning criteria from nine to two. The two remaining wilderness criteria are (1) Evaluation of Wilderness Values (including diversity) and (2) Manageability. The former proposed criteria will still be considered in wilderness EIS's or EA's and wilderness study reports as quality standards for analysis and documentation. The use of quality standards will foster consistency in documenting the rationale for wilderness recommendations and ensure that other resource considerations are being adequately addressed in wilderness studies.

E. *Delegation of authority for Draft Wilderness EIS's:* In order to expedite the overall wilderness study process, the BLM's State Directors have been given the authority to approve and file Draft Wilderness EIS's containing their preliminary wilderness recommendations. This authority formerly rested with the Assistant Secretary for Land and Water Resources. The changes resulting from this delegation are reflected primarily in the sections on the reporting process and decision roles and responsibilities. The Department will continue to file all final wilderness EIS's and the Secretary will still be the responsible official for making the Department of the Interior's final wilderness recommendations to the President.

F. *Requests for GS/BM Mineral Surveys:* An additional modification affecting the reporting process is that the Geological Survey (GS)/Bureau of Mines (BM) mineral surveys will be requested by the Director only after reviewing Preliminary Final Wilderness EIS's and concurring with the State Director's suitable wilderness recommendations. Requesting the mineral surveys when the BLM is relatively certain of its recommendations as to an area's suitability or nonsuitability should result in considerable cost savings. However, the corresponding time lag of 3–4 years before receiving the GS/BM mineral survey report requires the BLM to report the nonsuitable recommendations separately in advance of the suitables covered in the same wilderness study.

G. *Accelerated Separate Reporting of Nonsuitable Recommendations:* A policy decision aimed at expediting the BLM wilderness review is to report nonsuitable wilderness recommendations separately to the President to avoid delays resulting from the time needed by the GS and BM to conduct the mineral surveys required for areas recommended as suitable. These changes are reflected in the section on the reporting process. Periodic reports for suitable areas will be forwarded for processing as well.

H. *Geology-Energy-Minerals Resource Assessment:* A related policy and procedural change is that the BLM will be conducting its own detailed Geology-Energy-Minerals (GEM) resource assessment as part of the wilderness study and planning process. The GEM assessment will enable the BLM to make resource allocation decisions and wilderness recommendations based on reliable data and analysis with respect to energy and mineral resources present in WSA's. As a result, BLM wilderness recommendations, both suitable and

nonsuitable, will have the benefit of reliable energy and minerals information and analysis. Having this information early in the study process should minimize uncertainty and avoid unnecessary requests for GS/BM mineral surveys. However, GS/BM mineral surveys will still be required for all areas recommended as suitable for wilderness designation.

I. *EIS Requirements for Wilderness Studies:* The draft policy stated that "*all* wilderness recommendations must be covered by an EIS since a wilderness designation constitutes a major Federal action significantly affecting the human environment." However, after the draft study policy was released, the Department of the Interior received a letter from the Council on Environmental Quality (CEQ) which stated that an EIS would be necessary only in those cases where it has been determined that the wilderness proposal is a major Federal action significantly affecting the human environment. Environmental Assessments must still be conducted to determine whether to prepare an EIS and to aid in resource analysis. This change has been incorporated into the final study policy where appropriate.

Dated: January 13, 1982.

Robert F. Burford,

Director.

Final Wilderness Study Policy

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Chapter I. Introduction

The Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to review areas of the public lands determined to have wilderness characteristics, and to report to the President his recommendations as to the suitability or nonsuitability of each such area for preservation as wilderness. The Secretary is required to report his recommendations to the President by October 21, 1991, and the President is required to report his recommendations to Congress by October 21, 1993.

A. Purpose

The purpose of this document is to describe the policies, criteria and guidelines of the Bureau of Land Management (BLM) for conducting wilderness studies on the public lands as required by FLPMA. These wilderness studies will be conducted in accordance with the BLM planning regulations (43 CFR Part 1601), which establish the basic process for multiple use planning decisions on the public lands. The planning regulations provide for the issuance of national policy and procedural guidance when appropriate for particular resource planning efforts.

This national guidance for BLM wilderness studies is intended to achieve three purposes: (1) To ensure that wilderness recommendations resulting from multiple-use plans are based on consideration of the multiple resource values of the public lands, (2) to ensure that recommendations resulting from wilderness studies are consistent with established national policy, and (3) to provide effective opportunities for interested and affected members of the public and State and local governments to participate in wilderness studies.

A draft of this document was published in the **Federal Register** on December 19, 1980, for public review and comment in order to provide the public with an opportunity to participate in the development of the final policies and procedures that will guide BLM wilderness studies. The public comment period on the draft closed on April 2, 1981, and was followed by a public comment analysis. Copies of the analysis report may be obtained by request from the Director (342).

B. The Wilderness Review Process

The BLM wilderness review program stems from Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA). The FLPMA requires BLM to prepare an inventory of the public lands and their resources, including an identification of areas having wilderness characteristics. Management decisions for the public lands are to be made through a resource management planning process that considers potential uses of each land area. The public lands are to be managed so as to prevent unnecessary or undue degradation of the lands.

To carry out the wilderness mandate of FLPMA, the Bureau of Land Management has developed a wilderness review process with three phases: inventory, study, and reporting to Congress.

Inventory: In the wilderness inventory, the BLM examined the public lands, with public participation, and identified those areas that should meet the definition of wilderness established by Congress. These areas were identified as wilderness study areas (WSA's). The inventory was completed by November 14, 1980, in the contiguous Western States, resulting in the identification of approximately 24 million acres as wilderness study areas and in elimination of approximately 150 million acres from further wilderness consideration.

Study: Each wilderness study area will be studied through the BLM resource management planning process to analyze the values, resources, and uses within the area. The findings of each wilderness study, including public participation are to be used in determing whether these areas will be recommended as suitable or nonsuitable for designation as wilderness. In practice, determining an area's suitability or nonsuitability * * * for preservation as wilderness," in the words of FLPMA, means determining whether the area is more suitable for wilderness designation or more suitable for other uses.

Reporting: When a study has been completed, recommendations as to whether the wilderness study areas are suitable or nonsuitable for designation as wilderness are made through the Secretary of the Interior to the President. A mineral survey will be conducted by the Geological Survey and Bureau of Mines for areas recommended as suitable. Reports on all wilderness study areas must reach the President no later than October 21, 1991.

Chapter II. Wilderness Study Process

A. Wilderness Studies in the BLM Planning System

This document consists of national guidance for wilderness studies and supplements the regulations of the BLM multiple resource management planning system (43 CFR Part 1601). The BLM planning regulations apply to the public lands and to their varied multiple resources. The planning regulations provide for issuance of guidance in the form of national level policy and procedure guidance for planning.

The primary national level policy guidance for plans involving wilderness are presented in this chapter. This guidance consists of (1) a wilderness program policy, (2) wilderness study policy and planning criteria, and (3) quality standards for analysis and documentation. The wilderness program policy states the Bureau of Land Management's view of wilderness in the context of multiple resource management. The wilderness study policy and planning criteria specify factors and quality standards to be addressed through the planning process in determining whether an area is suitable for preservation as wilderness or more suitable for other uses. The wilderness planning criteria and quality standards will be applied in the planning process, along with guidance already issued for other resource programs, to determine the most appropriate alternative for use of the land under study.

The diagram of the *BLM Planning System* illustrates the BLM's interdisciplinary approach to resource management planning and the manner in which wilderness is considered along with other resources in determining land use allocations.

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Figure 1:

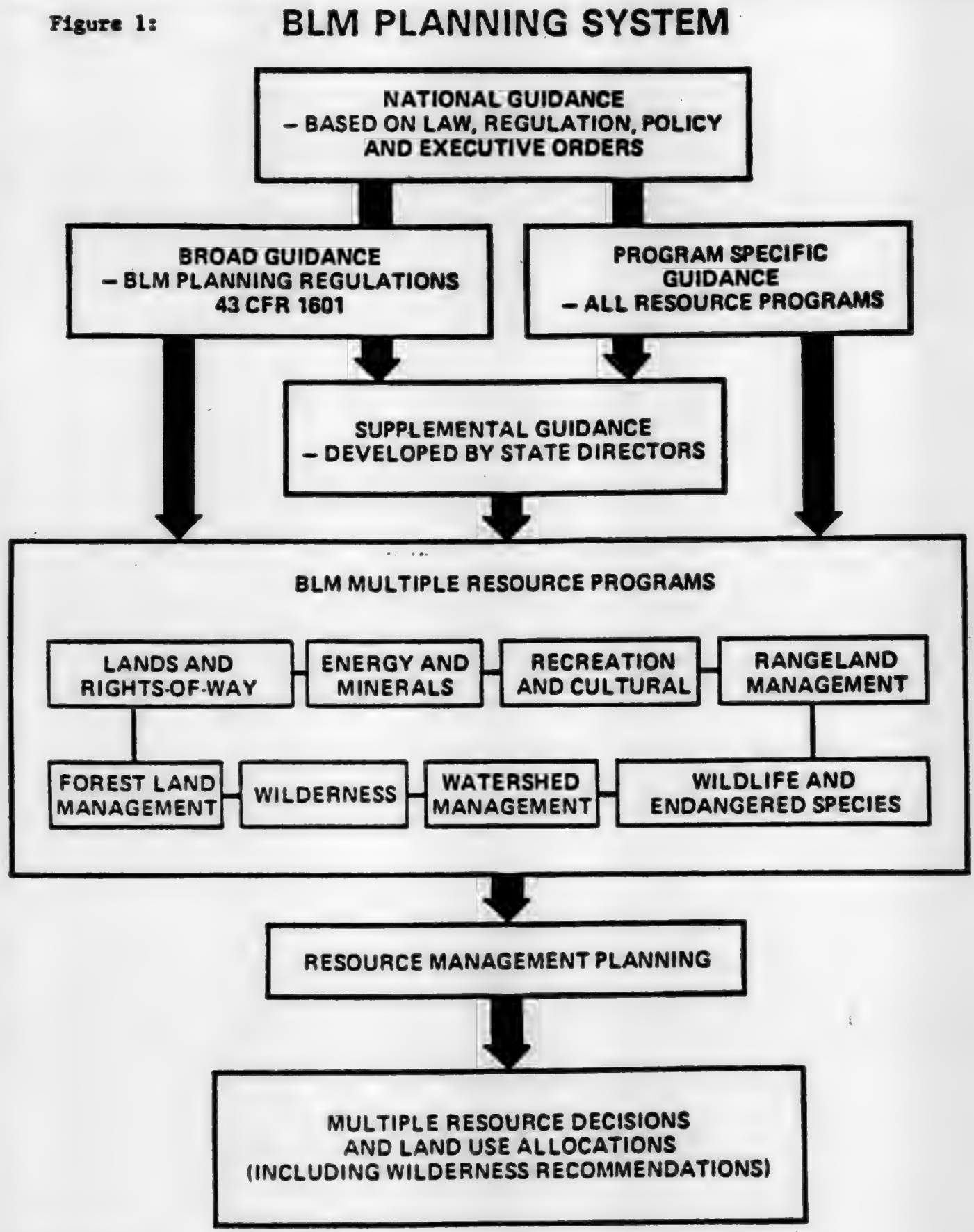

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B. Wilderness Program Policy

The policy of the Bureau of Land Management with respect to wilderness designation of public lands in the context of multiple use management is as follows:

The purpose of wilderness designation, as the Wilderness Act states, is to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. The Bureau of Land Management recognizes wilderness as a resource deserving consideration with other reasources and uses on the public lands. The BLM also recognizes wilderness as a resource which fits within the framework of multiple-use on the public lands. In addition to its value as a setting for primitive recreation or solitude, wilderness can provide a range of benefits to other multiple resource values and uses which are of significance to the American people.

The Bureau of Land Management will identify public lands with wilderness characteristics and recommend wilderness designation on selected areas for which wilderness has been determined, through careful multiple resource analysis and public involvement, to be the most appropriate use of the land. The BLM does not view wilderness designation as a form of temporary resource protection; therefore only those areas which can be managed as wilderness in the long term will be recommended as suitable for designation.

Once a wilderness area has been designated by Congress, the BLM will effectively manage it to preserve its wilderness character, and to provide for its use and enjoyment in such manner as will leave it unimpaired for future use and enjoyment as wilderness.

C. Wilderness Study Policy and Planning Criteria

The primary goal of the BLM wilderness study process is to determine an area's suitability or nonsuitability for preservation as wilderness. The BLM will recommend for wilderness designation only those areas for which it has been determined, through the Bureau's multiple resource planning process and public involvement, that wilderness is the most appropriate use of the land and its resources. In addition, areas recommended as suitable for wilderness designation should possess wilderness values and multiple resource benefits capable of balancing the benefits of other resource values and uses which would be foregone due to wilderness designation.

The BLM planning regulations provide for the development of planning criteria by the District Manager to guide the development of a resource management plan, transition management framework plan (MFP) or MFP amendment, and to provide parameters for analysis and decisionmaking. Criteria are developed for each resource element which represents an issue in a planning effort. The planning regulations also provide for National and State Director guidance to District Managers. In the context of national guidance, all District Managers are required to use the wilderness planning criteria for those plans involving WSA's.

The two wilderness planning criteria should be used along with criteria developed for other resources and issues to determine an area's suitability or nonsuitability for wilderness designation. These criteria will be applied to each WSA through the BLM planning process and the results of this application will be considered and documented in determining whether an area is more suitable for wilderness or for other uses.

All BLM wilderness recommendations—both "suitable for preservation as wilderness" and "nonsuitable"—will be justified on the basis of the following criteria.

Criterion No. 1. Evaluation of Wilderness Values

Consider the extent to which each of the following components contributes to the overall value of an area for wilderness purposes.

a. Mandatory wilderness characteristics: The quality of the area's wilderness characteristics—size, naturalness, and outstanding opportunities for solitude or primitive recreation.

b. Special features: The presence or absence, and the quality of the optional wilderness characteristics—ecological, geological, or other features of scientific, educational, scenic, or historical value.

c. Multiple resource benefits: The benefits to other multiple resource values and uses which only wilderness designation of the area could ensure.

d. Diversity in the National Wilderness Preservation System: Consider the extent to which wilderness designation of the area under study would contribute to expanding the diversity of the National Wilderness Preservation System from the standpoint of each of the factors listed below:

(1) Expanding the diversity of natural systems and features, as represented by ecosystems and landforms.

(2) Assessing the opportunities for solitude or primitive recreation within a day's driving time (5 hours) of major population centers.

(3) Balancing the geographic distribution of wilderness areas.

The analysis should consider—in separate categories—Federal and State lands designated as wilderness, areas officially recommended for wilderness, and other Federal and State lands under wilderness study. (The State lands referred to here are those involved in State government's wilderness programs.)

Criterion No. 2. Manageability

The area must be capable of being effectively managed to preserve its wilderness character.

D. Quality Standards for Analysis and Documentation

In addition to the two wilderness planning criteria, a set of quality standards for analysis and documentation has also been established for wilderness EIS's or EA's and wilderness study reports. The information and analysis needed to meet these standards are normally generated through BLM planning efforts. Most of these standards are part of the general standards used for multiple use planning. The standards specify that certain information and analysis is related to making a wilderness recommendation and that it is to be consolidated into a common format for wilderness EIS's and wilderness study reports. The information necessary to satisfy these standards will be generated through appropriate sections of the wilderness planning and EIS effort. The quality standards should be addressed individually for each WSA in the wilderness study report. The use of quality standards fosters consistency in documenting the rationale for wilderness recommendations and ensure that other resource considerations are being adequately addressed in wilderness EIS's. The use of quality standards in wilderness study reports facilitates administrative review of BLM wilderness recommendations by providing consistency in the types of information and analysis presented in each wilderness study.

The following are the six quality standards for analysis and documentation that must be addressed:

Standard No. 1. Energy and Mineral Resource Values

Recommendations as to an area's suitability or nonsuitability for wilderness designation will reflect a thorough consideration of any identified or potential energy and mineral resource values.

Standard No. 2. Impacts on Other Resources

Consider the extent to which other resource values or uses of the area

would be foregone or adversely affected as a result of wilderness designation.

Standard No. 3. Impact of Nondesignation on Wilderness Values

Consider the alternative use of land under study if the area is not designated as wilderness, and the extent to which the wilderness values of the area would be foregone or adversely affected as a result of this use.

Standard No. 4. Public Comment

In determining whether an area is suitable or nonsuitable for wilderness designation, the BLM wilderness study process will consider comments received from interested and affected publics at all levels—local, State, regional, and national. Wilderness recommendations will not be based exclusively on a vote-counting majority rule system. The BLM will develop its recommendations by considering public comment in conjunction with its analysis of a wilderness study area's multiple resource and social and economic values and uses.

Standard No. 5. Local Social and Economic Effects

In determining whether an area is suitable or nonsuitable for wilderness designation, the BLM will give special attention to adverse or favorable social and economic effects, as identified through the wilderness study process, which designation of the area would have on local areas.

Standard No. 6. Consistency with Other Plans

In determing whether an area is suitable or nonsuitable for wilderness designation, the BLM will consider and document the extent to which the recommendation is consistent with officially approved and adopted resource-related plans of other Federal agencies, State and local governments, and Indian tribes (and the policies and programs contained in such plans), as required by FLPMA and the BLM planning regulations.

E. Guidelines for Applying the Planning Criteria

This section describes the criteria which the BLM will apply to each of the wilderness study areas. This process is compatible with the way BLM field officials apply planning criteria and policy guidance issued for other resource programs. In developing a multiple use plan, BLM, field officials apply the planning criteria for relevant resource programs concurrently, and use them to develop multi-program criteria for specific plans. These are then used to determine the most appropriate land use allocations for the affected public lands.

The criteria presented here represent national guidance for the BLM wilderness program. The BLM planning regulations also provide that supplemental planning criteria may be issued by State Directors and District Managers for all resource programs based on particular issues pertinent to a given State, District, or planning area. Any such additional criteria issued by a State Director or District Manager must be fully consistent with the national planning criteria.

The purpose of the guidelines below is to explain the meaning and intent of the criteria so as to foster consistency in the process used to arrive at wilderness recommendations throughout the BLM. The wilderness planning criteria must be individually applied to each wilderness study area according to the guidance contained in this section. Each criterion must be fully considered and documented in determining whether a WSA is more suitable for wilderness or other uses.

Criterion No. 1. Evaluation of Wilderness Values

Application: While it is useful for analytic purposes to make a distinction between these components, all four components will be considered in determining an area's wilderness values. Section 4(b) of the Wilderness Act of 1964 recognized the broad scope of values to be considered in administering wilderness area by stating: "* * * wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use." Therefore, when evaluating an area's wilderness values, after focusing on an area's recreational values and its mandatory wilderness characteristics, these optional characteristics should be taken into account. Every effort should be make to provide an equal assessment of the full range of benefits and values which only wilderness designation could ensure for the area. All four of these components must be fully evaluated and documented in determining an area's value as wilderness.

Component No. 1: Quality of the Area's Mandatory Wilderness Characteristics

In the Wilderness Act of 1964, Congress defines wilderness and directs that each wilderness area be managed to preserve its wilderness character. Under the definition in Section 2(c) of the Wilderness Act, certain wilderness characteristics are mandatory, while others are optional. The mandatory wilderness characteristics—size, naturalness, and outstanding opportunities for solitude or a primitive and unconfined type of recreation—were the factors used in the BLM wilderness inventory to determine which roadless areas qualified to become wilderness study areas (WSA's).

Therefore, the WSA's entering the wilderness study process should possess the mandatory wilderness characteristics, but these characteristics may be present in areas to varying degrees. One WSA may contain outstanding opportunities for both solitude and primitive recreation, while another area may possess outstanding opportunities only for solitude; one WSA's outstanding opportunities for solitude may be superior to those in another WSA. The size of a particular WSA—whether it is barely 5,000 acres or well over 200,000—may affect its suitability for wilderness as well. The degree of naturalness may also vary between areas, depending on the presence of incompatible uses, and on the number of vehicle ways and other imprints of man.

If some type of comparison between WSA's is utilized, the rationale for its use and the specific methodology used in making comparisons must be documented in any wilderness EIS and wilderness study report. In each wilderness study objective information will be gathered to enable judgment on the extent to which the quality of the area's mandatory wilderness characteristics contributes to its suitability for wilderness designation. Matrix classifications and other descriptive methods may be used in documentation and to facilitate comparative analyses of qualitative characteristics. However, arbitrary assignments of numerical weights and/or subjective ratings or rankings should not be used in BLM wilderness studies.

This section defines each of these wilderness characteristics and outlines the key elements which must be addressed in evaluating this component of the area's wilderness values. BLM field staff should consider making use of the Recreation Opportunity Spectrum (ROS) as an evaluative tool in the application of this component. Guidance on the application of the ROS is contained in BLM Instruction Memorandum No. 81-273, Interim Guidance for Planning for Recreation Resources, issued February 20, 1981. The degree to which each of these key elements is present in the area under study determines the quality of its mandatory wilderness characteristics.

These elements must be documented and summarized as outlined below.

A. Naturalness

"Naturalness" refers to the requirement in Section 2(c) of the Wilderness Act that a wilderness area "generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." The language in the Act makes clear that areas may be designated as wilderness which "generally appear" natural and which may contain some imprints of man's work, so long as those imprints are "substantially unnoticeable" in the wilderness area as a whole. There are wilderness study areas which have minor human imprints within their boundaries which are substantially unnoticeable in the WSA as a whole. While these imprints may not have been sufficient to eliminate an area from WSA status, they must be further evaluated during the study process to determine the extent to which their presence affects the quality of overall naturalness of the area. There may also be imprints which have occurred in WSA's as a result of impairing uses or activities allowed under the BLM's Interim Management Policy. Impacts on the overall naturalness of the WSA resulting from grandfathered uses or valid existing rights should be assessed to determine whether the impairment is substantially noticeable in the WSA or if it has eliminated or diminished the quality of wilderness characteristics in all or part of the area.

Human imprints present in the WSA should be evaluated both individually and on a cumulative basis as well. Such imprints should be summarized and documented according to each of the following factors:

1. General description of those imprints present;
2. Distinguish those imprints which are the results of activities occurring outside the area;
3. Location and size of the areas in the WSA which are subject to imprints;
4. Potential for separating imprinted portions from the rest of the area and recommending the remainder for wilderness designation; (This may be considered through the development of partial wilderness alternatives. See Section III.H.2).
5. The overall influence of human imprints on the naturalness of the area.

Consideration of Outside Sights and Sounds: During the wilderness study, sights and sounds of human activities and works outside the boundaries of the wilderness study area may be taken into account in assessing the quality of an area's naturalness or its opportunities for solitude or primitive recreation. Any influence of outside sights and sounds upon naturalness or opportunities for solitude or primitive recreation within the WSA should be documented.

Congressional guidance on this issue in House and Senate reports on the Endangered American Wilderness Act of 1978 has cautioned Federal agencies on the consideration of outside sights and sounds in wilderness studies. For example, in the case of the Sandia Mountain Wilderness in New Mexico, the House Report (No. 95–540), stated:

> The "sights and sounds" of nearby Albuquerque, formerly considered a bar to wilderness designation by the Forest Service, should, on the contrary, heighten the public's awareness and appreciation of the area's outstanding wilderness values.

While the Sandia Mountain case represents an example where outside sights and sounds do not have a negative impact on wilderness values, there may be other instances where outside influences would contribute to a nonsuitable recommendation or result in a boundary adjustment. Works of man outside the study area may influence a visitor's preception of the study area's naturalness if the visitor can see the developments. On the other hand, if human activities associated with the developments can be seen or heard from within the study area, they may influence a visitor's perception of the opportunities for solitude. Depending upon whether human activities associated with the developments can be seen or heard from the study area, the effects of the developments may be assessed in the sections on naturalness and solitude. The reasonable standard to be applied to outside sights and sounds is to determine whether they enhance or diminish the benefits of wilderness designation in the area or in the affected portion of the area.

B. Outstanding Opportunities for Solitude or Primitive and Unconfined Recreation

Section 2(c) of the Wilderness Act states that a wilderness area must have "* * * outstanding opportunities for solitude or a primitive and unconfined type of recreation." The word "or" in this sentence means that it does not have to possess outstanding opportunities for *both* solitude and primitive recreation; it only has to possess one or the other. The BLM wilderness inventory process should have determined those areas which contain outstanding opportunities for either solitude or primitive recreation and those areas which exhibit both characteristics. The process described below will aid in determining and documenting the *degree* to which these characteristics are present in each area.

Criteria for determining the presence or absence of outstanding opportunities for solitude or primitive and unconfined recreation were issued in the BLM Wilderness Inventory Handbook. As a result of the wilderness inventory, information is already on file in BLM field offices with respect to the opportunities for solitude or primitive and unconfined recreation in each wilderness study area. This information will be used in the study process.

1. *Solitude.* For the purposes of the BLM wilderness review process, solitude has been defined as (1) "the state of being alone or remote from habitations; isolation; (2) a lonely, unfrequented, or secluded place." The emphasis is on the opportunities a person has to avoid the sights, sounds, and evidence of other people within a particular WSA, rather than on opportunities for solitude in comparison to habitations of man. While the BLM recognizes that there is some inherent subjectiveness present in this characteristic, there are also certain intrinsic features of an area which can be assessed objectively with respect to an area's outstanding opportunities for solitude. The features of the area to be considered in evaluating its outstanding opportunities for solitude are:

a. Size and configuration;
b. Topographic screening;
c. Vegetative screening;
d. Presence of outside sights and sounds and whether they enhance or diminish the benefits of wilderness designation in the area or the affected portion of the area;
e. Ability of the user to find a secluded spot.

2. *Primitive and Unconfined Recreation.* For the purposes of the BLM wilderness review process, "a primitive and unconfined type of recreation" refers to those activities that provide dispersed, undeveloped recreation which do not require facilities or motorized equipment. Those areas which the BLM wilderness inventory has found to possess outstanding opportunities for this type of recreation contain either a diversity of possible activities or one activity of outstanding quality.

The evaluation of this characteristic should be based on an analysis of the intrinsic features of the area which make a primitive recreation experience possible and the quality and diversity of the area's specific primitive recreation opportunities. The Recreation Opportunity Spectrum may prove to be

useful in assessing primitive recreation opportunities present in WSA's.

Component No. 2: Special Features: Quality of the Area's Optional Wilderness Characteristics

Section 2(c) of the Wilderness Act states that a wilderness area "* * * may also contain ecological, geological, or other features of scientific, educational, scenic or historical value." The presence and quality of these special features will contribute to the value of an area as wilderness.

These optional wilderness characteristics were considered "supplemental" during the BLM wilderness inventory and were not mandatory for an area to be identified as a wilderness study area, because the Wilderness Act definition of wilderness does not require them to be present. During wilderness studies, these features similarly are not mandatory for an area to be recommended as suitable for wilderness designation. However, as part of the wilderness study process, these characteristics should also be thoroughly considered when assessing an area's overall value as wilderness. For example, in some areas, outstanding opportunities for solitude may be the primary reason for recommending an area as suitable for wilderness designation. In other areas, the presence of special wildlife values or a special geological feature may provide additional reasons for recommending an area for wilderness designation.

While these values and features do not need to be present in an area for wilderness designation to occur, section 4(b) of the Wilderness Act recognized the importance of such values in wilderness by stating that "* * * wilderness areas shall be devoted to the public purpose of recreation, scenic, scientific, educational, conservation and historical use."

These special features of the area and the degree to which their presence enhances its suitability for wilderness designation should be addressed through consideration of the area's ecological, geological, scenic, and cultural features, and its scientific and education values. The evaluation should be based on an assessment of the estimated abundance or importance of each of these values to the area.

Component No. 3: Multiple Resource Benefits: The Benefits to Other Multiple Resource Values and Uses Which Wilderness Designation of the Area Could Ensure

The report of the House Interior and Insular Affairs Committee on FLPMA (House Report 94–1163) states with respect to the BLM wilderness review:

> Emphasis should be on multiple natural values of roadless areas as part of an overall multiple use framework for a general area rather than primarily recreational uses. In addition to public use values, ultimate designation as wilderness should augment multiple use management of adjacent or nearby lands in protecting watershed and water yield, wildlife habitat preservation, preserving natural plant communities and similar natural values.

The same emphasis on multiple resource values of wilderness appears in the Endangered American Wilderness Act of 1978, which explicitly recognized watershed preservation and wildlife habitat protection as objectives of wilderness designation.

The BLM wilderness program policy recognizes the ability of wilderness areas to ensure multiple resource benefits, in these words:

> In addition to its value as a setting for primitive recreation or solitude, wilderness can also provide a range of benefits to other multiple resource values and uses which are of significance to the American people.

These may include protection of watersheds, water yield, and water quality; protection of wildlife habitat; preservation of natural plant communities; preservation of cultural and archaeological resources; and protection of scenic quality and other natural values. The extent to which the area under study can provide such benefits will contribute to its suitability for wilderness designation. The following are the primary categories of resource uses (other than wilderness values) which could benefit from wilderness designation. These should be addressed in terms of both on-site benefits (those occurring within the WSA) and off-site benefits (those occurring outside the WSA) which could only be ensured through wilderness designation of an area:

A. Multiple resource values and uses which already exist in the area whose continued viability could only be ensured through the protective status of wilderness designation, such as wildlife habitat and archeological sites;

B. Multiple resource values and uses which do not exist in the area now, but which could occur in the future only as a result of the protective status of wilderness designation and natural ecological processes being allowed to function unimpeded. Examples include the return of wildlife and fish species formerly found in the area, or an improvement in water quality as a result of wilderness designation;

C. Specific benefits likely to accrue to off-site areas not within the boundaries of the wilderness study area. Consider such benefits as protection of watersheds, water yield and water quality; and preservation of visual resources within the WSA as seen from outside the WSA boundary.

Component No. 4: Diversity in the National Wilderness Preservation System

Application: Use of The Statewide Wilderness Status Summary. The principal tool in applying this component is the statewide wilderness status summary which will be developed to accompany each wilderness study report (WSR). This summary will place individual wilderness recommendations in the broader context of other Federal and State lands either already designated as wilderness or recommended as wilderness. This component is only one of many considerations in determining the value of an area for wilderness and the degree to which it influences a particular wilderness recommendation must be documented.

Through the use of a statewide map, a series of associated tables, and narrative text descriptions, the wilderness status summary will display the most current information on the status and distribution of the NWPS within the State in relation to those areas being recommended in the report package and those under study by all Federal agencies. It will also summarize the ecosystem/landform representations of the areas being recommended in the report package and list those population centers which are within one day's driving time (5 hours). The format for summarizing and displaying these data in tabular form is contained in Appendix C of the *Draft* Wilderness Study Policy.

The statewide wilderness status summary will be used in applying this component and will be updated by the State Director for submission with the State's annual reporting package (containing preliminary wilderness recommendations) to the Director for administrative review.

The three factors considered in this component will be treated as explained below.

Factor No. 1. Expanding the diversity of natural systems and features, as represented by ecosystems and landforms

Application: BLM wilderness study areas (WSA's) contain a number of dominant physical and biological characteristics which can be integrated and classified into regional land units called ecosystems. The classification of

ecosystems is based upon an integration of the natural factors of climate, vegetation, soils, and landform. Wilderness designation presents an opportunity to preserve examples of the basic ecosystems and landforms present in the United States in an unimpaired condition for future generations. Although there are many varied land classification systems available, the BLM has selected the Bailey-Kuchler Ecosystems of the United States system utilized by the U.S. Forest Service in its RARE II and "further planning" wilderness studies. (See Bailey, Robert G., 1976, Ecoregions of the United States, USDA, U.S. Forest Service and Kuchler, A. W., 1966, Potential Natural Vegetation of the United States, USDI, Geological Survey.) The Bailey-Kuchler system was selected because it is a land classification system which facilitates planning at the national level and provides a broad synthesis of current knowledge about the ecosystem geography of the country. It also serves as a useful reference for those who desire an overview on a comparable basis of ecosystem and landform representation in existing and potential NWPS units. Land areas providing ecosystem and landform representations within the NWPS should be greater than 1,000 acres in size to typify the dynamics of an ecosystem. On a site-specific basis, the Bailey-Kuchler system may be further refined to reflect the presence of unique ecosystems or landforms within WSA's at a finer lever of detail than a nationwide land classification system can provide.

Factor No. 2. Assessing the opportunities for solitude or primitive recreation within a day's driving time (five hours) of major population center.

Application: This factor is based on the concept that there is a need to provide opportunities for solitude and primitive recreation experience within a day's driving time of the Nation's population centers. In fact, House Report No. 95–540, on the Endangered American Wilderness Act of 1978, states that one of the goals of Congress is "creating parks and locating wilderness areas within close proximity to population centers." For the purposes of applying this factor, a day's driving time is considered to be five hours. The associated mileage figure will vary depending upon quality and availability of transportation routes and the accessibility of the area. Population centers are defined as Standard Metropolitan Statistical Areas (SMSA's) which have populations of 100,000 or greater. An SMSA is defined by the U.S. Bureau of the Census as a county containing at least one city of 50,000 inhabitants or more plus as many adjacent counties as are metropolitan in character and are socially integrated with that central city or cities.

The SMSA's were chosen to represent population centers despite their relatively small number in the West because one of the purposes of applying this factor is to acquire a relative measure of the potential demand being placed on widlerness areas. To accomplish this, it is necessary to utilize areas of high population concentration, such as SMAS's, to provide a realistic and uniform indicator of where demand may be located. The BLM Washington Office has provided State Offices with the most recent listing of SMSA's for the Western States as compiled by the U.S. Office of Management and Budget and will update the list when the results of the 1980 Census are completed.

In addition, when determining current opportunities for solitude or primitive recreation in the NWPS, it is important to consider the purpose which each wilderness area serves under its particular management agency. For example, many Fish and Wildlife Service wilderness areas are managed primarily for wildlife conservation purposes and therefore may not provide for primitive recreation needs.

To apply this factor, first determine those population centers which are within one day's driving time of each area under study. Then identify all Federal and State designated wilderness, those areas recommended by the President or responsible State official for wilderness designation and BLM and other agency WSA's which are within one day's driving time of the population centers. This information should be summarized and displayed as shown in Appendix C, Table IV of the Draft Wilderness Study Policy to provide a basis for analysis of this factor.

Factor No. 3. Balancing the geographic distribution of wilderness areas

Application: Utilize the statewide wilderness status summary to document and display information concerning the size and location of all Federal lands under study for wilderness designation and all areas either already designated or recommended to Congress as wilderness within both the State and the surrounding region. State-administered wilderness should also be included in this assessment.

This factor will not be used as the sole basis for determining whether an area is recommended as suitable or nonsuitable for wilderness designation. However, the degree to which this factor contributes to an area's value as wilderness will determine its effect on the suitability recommendation. The following examples should help to illustrate this point. Depending on the amount of designated or administratively-endorsed wilderness present in a state or surrounding region, such circumstances, considered in conjunction with other factors in an overall context, could contribute to a nonsuitable recommendation for a WSA in the same region. On the other hand, if a WSA is located in such a region with no designated or administratively-endorsed wilderness, this may have a positive influence on recommending the WSA as suitable for wilderness designation.

The following types of areas must be considered in analyzing the geographic distribution of wilderness in relation to the areas being recommended in the study (see Appendix C, Table I of the Draft Study Policy).

1. BLM WSA's;
2. BLM designated wilderness;
3. BLM WSA's which have been recommended as suitable for wilderness by the President;
4. Other agency designated wilderness—includes U.S. Forest Service (USFS), U.S. Fish and Wildlife Service, and National Park Service;
5. Other agency areas which have been recommended as suitable for wilderness by the President;
6. USFS "further planning" areas, and all other Federal and State lands under wilderness review;
7. All State-administered areas either designated as wilderness or recommended as wilderness by the Governor or other responsible State official.

Criterion No. 2. Manageability: The area must be capable of being effectively managed to preserve its wilderness character.

Application

A. *General:* The primary intent of this criterion is to ensure that those areas recommended as suitable for wilderness designation can be managed as wilderness in a manner which enables the *entire* area designated to remain as wilderness in the long term. The area must be capable of being managed over the long run to preserve its wilderness character—both to maintain the quality of its wilderness characteristics and to ensure continuation of its uses and multiple resource benefits.

To determine whether the area can be managed as wilderness, the provisions of BLM's wilderness management policy must be considered. The BLM's Final

Wilderness Management Policy was published in the **Federal Register** on September 24, 1981. It describes in detail how the BLM will manage public lands designated by Congress as part of the National Wilderness Preservation System.

A detailed wilderness management plan for each area will *not* be developed during the wilderness study. After Congress has designated an area as wilderness, the BLM will develop a detailed wilderness management plan as part of the activity planning phase for each area. However, the wilderness study should consider the basic thrust of wilderness management appropriate to the area in view of the expected uses and activities in the area. For instance, part of the area might be managed with emphasis on protecting undisturbed wildlife habitat, while another part might be managed with emphasis on primitive camping use. Attention should be given to means for protecting wilderness characteristics (including special features) and for dealing with specific management problems anticipated as a result of nonconforming but accepted uses within the area or other conflicting uses outside of the area. The phrase "effectively managed" means that an area can be managed to maintain the public benefits which justified wilderness designation.

As stated in the wilderness program policy, "the BLM does not view wilderness designation as a form of temporary resource protection; therefore only those areas which can be managed as wilderness in the long term will be recommended as suitable for designation." The Wilderness Act provides for exercise of existing private rights and for certain special uses that are not necessarily consistent with preservation of wilderness character existing at the time an area was designated wilderness. This creates the potential for some impairment of an area's wilderness character which is acceptable under wilderness management. Therefore, it is seldom possible to be absolutely certain that an area can be managed as wilderness without some degradation of wilderness values due to uses permitted by the law. Disqualifying a WSA from consideration as suitable for wilderness preservation based solely on assumptions about the future degradation of wilderness values resulting from mining and grazing activities which the Wilderness Act allows would be inconsistent with that Act. To satisfy this criterion, BLM must be *reasonably* certain that the area can be managed as wilderness over the long run, based on present knowledge of the resources and private rights in the area, and recognizing congressional intent regarding allowed uses. On the other hand, if the allowed uses are *reasonably* certain to destroy the wilderness character of the area on a significant portion of it, then the BLM would conclude that the affected portion cannot be managed as wilderness. In addition, the impacts of uses and activities in WSA's allowed under the BLM's Interim Management Policy and the effects such actions may have on the future management of each area as wilderness should also be assessed.

B. *Land Status:* A determination and documentation of the land status of the WSA must also be considered in determining the manageability of an area as wilderness. Subsurface rights in a WSA may be owned by a party other than the Federal Government, thus limiting BLM's ability to preserve wilderness character on the surface. In examining the degree of BLM control over the surface of the WSA, the extent to which each of the following is present could affect the area's suitability for wilderness designations: Private inholdings, State lands, valid existing rights, valid mining claims, mineral leases, rights-of-way, and the overall pattern of land status. These circumstances and others which may limit BLM's ability to manage the area effectively as wilderness must be summarized and documented.

C. *Access to State or Private Inholdings:* The BLM wilderness management policy, following the direction provided in the Wilderness Act, provides for adequate access to non-Federal lands surrounded by a wilderness area. In applying the manageability criterion, the BLM will carefully assess the potential impact of providing access to non-Federal inholdings and the likely development of such uses or inholdings.

D. *Use of Buffer Zones:* It is the policy of the BLM not to create protective buffer zones around wilderness areas. The fact the nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activites or uses up to the boundary of the wilderness area. Therefore, the use of buffer zones will not be considered when analyzing an area's manageability as wilderness.

E. *Air Quality:* The BLM will not consider or recommend any change in air quality classification as part of the wilderness study or wilderness recommendations. All BLM-administered public lands were designated as Class II by the 1977 Clean Air Act Amendments. Any further air quality reclassification is the prerogative of the State government, not of the BLM.

F. Guidelines for Satisfying the Quality Standards

This section describes the information and analysis necessary to meet the quality standards for analysis and documentation in wilderness EIS's and study reports. It also relates the information generated through the BLM planning process to the decision process involved in making a wilderness recommendation. It is important to understand that the information required by these standards may be covered in various points in any wilderness EIS document. However, these standards should be consolidated individually for each WSA in the wilderness study report.

Standard No. 1. Energy and Mineral Resource Values

Recommendations as to an area's suitability or nonsuitability for wilderness designation will reflect a thorough consideration of any identified or potential energy and mineral resource values present in the area.

Application: This standard reflects the mandates given to the Department of the Interior and the BLM by the President and Congress that all Bureau programs be geared towards meeting the national goal of decreasing reliance on foreign production through increased domestic energy production. It also reflects the national need for those minerals that are critical to the enconomy and security of the United States and for which we are or could become dependent on potentially unreliable foreign sources.

Energy and mineral resource values and potential will be identified by BLM mineral resource specialists for WSA's through the use of the BLM's established Geology-Energy-Mineral (GEM) resource assessment procedures. The BLM will use its GEM resource assessment to identify the potential of the WSA's, or specific portions thereof, for occurrence of energy and mineral resources by type of commodity. To highlight critical and strategic minerals, field officials should refer to the National Defense Stockpile Inventory of Strategic and Critical Materials. In addition, mineral surveys will be conducted by the Geological Survey (GS) and the Bureau of Mines (BM) as required by section 603 of FLPMA for those areas recommended as suitable for wilderness designation. Where conducted, the results of the mineral survey will be fully considered by the Director of the BLM in arriving at recommendations on wilderness

suitability. The completed mineral survey report will be available for public review after its completion.

As part of the BLM mineral resources assessment program, the BLM will also develop a procedure to encourage individuals or groups knowledgeable of the energy and mineral resources of individual WSA's to provide the BLM with their estimate of each area's mineral resource potential.

Standard No. 2. Impacts on Other Resources

Consider the extent to which other resource values or uses of the area would be foregone or adversely affected as a result of wilderness designation.

Application: Any plan or EIS containing wilderness recommendations should identify a range of alternatives allocating combinations of all or part or none of the WSA's to wilderness designation. If the *preferred alternative* proposed in the plan recommends the area as either suitable or nonsuitable for wilderness designation, the BLM should identify the probable impacts on other resource values and uses present in the area which could result from wilderness designation. The other resource values and uses to be addressed in this regard include energy, minerals, timber, rights-of-way, water developments, rangeland, range improvements, recreation, wildlife, and all other forms of resource use practiced on the public lands. The extent to which wilderness designation may cause adverse impacts on a particular resource use will vary from area to area, depending on a number of factors, including:

a. The degree to which the other resource is present in the WSA;

b. The potential for further development of the other resource in the WSA;

c. The degree to which the other resource is present on other public and private lands *outside* the WSA;

d. local or regional economic dependence on the resource in the WSA;

e. The degree to which use or development of the resource is compatible with or conflicts with management of the area as wilderness.

Standard No. 3. Impacts of Nondesignation on Wilderness Values

Consider the alternative use of the land under study if the WSA or some portion of the WSA is not designated as wilderness and the extent to which the wilderness values of the area would be foregone or adversely affected as a result of this use.

Application: Any plan or EIS containing wilderness recommendations will identify an alternative use for the land under study if the WSA or some portion of the WSA is not designated as wilderness. In a resource management plan (RMP) where a WSA is being recommended as *nonsuitable* for wilderness designation, the preferred alternative will state a proposed use for the land which is some resource use or combination of uses other than wilderness. The probable effects of that alternative use on the wilderness values of the WSA would be identified in the plan and EIS or EA.

In RMP's where the preferred alternative is to recommend the WSA as *suitable* for wilderness designation, one of the other alternatives should be identified as the proposed use or uses of the land in case the area ultimately is *not* designated as wilderness by Congress. The probable impacts of such uses on the wilderness values of the area must be addressed in the related RMP and EIS. The need to emphasize this alternative arises from the possibility that preliminary wilderness recommendations made by State Directors may be altered during the administrative review and reporting process and ultimately may not be accepted by Congress.

The process described above addresses wilderness recommendations contained in resource management plans (RMP's). The identification of alternative uses of the land, and their related impacts on wilderness values should be handled similarly when a WSA is considered in the context of a transition MFP. In the MFP Step II Recommendations for wilderness, the District Manager will identify an alternative for the use of the area under study should the WSA not be designated as wilderness. The impacts of this alternative use on the area's wilderness values should be evaluated in the wilderness EIS or EA after completion of the MFP.

This standard will be addressed somewhat differently when a WSA is considered in an MFP amendment. In most MFP Amendments, the alternative uses of the area will be those identified in the "No Action" alternative. However, other nonwilderness alternatives may be considered in the wilderness plan amendment if they have developed as a result of new information generated by the wilderness study or if new policies are in effect which could change the present management or use of the area as outlined in the existing MFP. For example, due to the need for good quality energy and minerals information when making a wilderness recommendation, additional data and analysis not contained in the existing MFP may be produced through the wilderness study. This new information may indicate the presence of high oil and gas potential in the WSA which was unknown prior to undertaking the wilderness study. In such a case, it seems logical that at least one nonwilderness alternative should be formulated to consider oil and gas development as an alternative to wilderness designation. There are likely to be cases where new information or new policies (e.g., areas of critical environmental concern) may dictate the inclusion of additional nonwilderness or partial wilderness alternatives in MFP amendments. However, field officials should attempt to limit the scope of the MFP amendment to wilderness related considerations and issues so that the plan amendment and EIS process can proceed expeditiously without unnecessary analysis and burdensome delays.

Standard No. 4. Public Comment

In determining whether an area is suitable or nonsuitable for wilderness designation, the BLM wilderness study process will consider comments received from interested and affected publics at all levels—local, State, regional, and national. Wilderness recommendations will not be based exclusively on a vote-counting majority rule system. The BLM will develop its recommendations by considering public comment in conjunction with its analysis of a wilderness study area's multiple resource and social and economic values and uses.

Application: A detailed outline of how the BLM will obtain public involvement and provide participation opportunities for State and local governments during the wilderness study process appears in Chapter IV of this document.

Standard No. 5. Local Social and Economic Effects

In determining whether an area is suitable or nonsuitable for wilderness designation, the BLM will give special attention to adverse or favorable social and economic effects, as identified through the wilderness study process, which designation of the area would have on local areas.

Application: This standard provides a focus on local concerns by undertaking a consideration and documentation of adverse or favorable social and economic effects which wilderness designation would have on local areas. The term "local" shall be defined as the county or counties surrounding the WSA(s) addressed in the planning

effort. These effects will be identified and analyzed through the BLM planning process and subsequently documented and summarized for review by decisionmakers.

In addition, any social and economic analysis which takes place during the wilderness study should be consistent with the guidance contained in the BLM's Social and Economic Policy and Action Plan (Instruction Memorandum No. 81–315). Further program specific guidance on social and economic analysis techniques and data requirements for wilderness will be issued to the field in the near future.

Standard No. 6. Consistency with Other Plans

In determining whether an area is suitable or nonsuitable for wilderness designation, the BLM will consider and document the extent to which the recommendation is consistent with officially approved and adopted resource-related plans of State and local governments, and Indian Tribes, as required by FLPMA and the BLM planning regulations.

Application: FLPMA requires BLM plans to be consistent with State and local plans to the maximum extent the Secretary of the Interior finds consistent with Federal law and the purposes of FLPMA. Additionally, the BLM planning regulations (43 CFR Part 1601) provide that planning guidance and plans shall be consistent with officially approved and adopted resource-related plans of other Federal agencies, State and local governments, and Indian Tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal law and regulation applicable to public land. Where such plans do not exist, or are being developed, BLM guidance and plans shall to the extent practical be consistent with the officially approved and adopted resource-related policies and programs of the other entities so long as the guidance and resource management plans are consistent with Secretarial policies and programs. Wilderness recommendations must be determined through and supported by the BLM resource management planning process.

If a State or local government or an agency of the Federal government notifies the BLM in writing that the preliminary wilderness recommendation or any specific part of it is not consistent with that government's policies and progams, BLM will respond to this comment in the wilderness study report, explaining how the consistency issued was resolved, and why. Although there will be some cases where inconsistencies remain, every effort will be made by the BLM to mitigate the impacts of such inconsistencies.

Chapter III. Relationship to the BLM Planning System

A. Relationship to the BLM Planning Regulations

Wilderness studies undertaken by the BLM will be conducted in accordance with the BLM planning regulations (43 CFR Part 1601). There are actually three ways to conduct wilderness studies through the BLM planning system—Resource Management Plans (RMP's), Transition Period Management Framework Plans (MFP's), and MFP Amendments. "Management Framework Plan" is the term used for plans generated through BLM's earlier planning system. Since September 6, 1979, when the regulations 43 CFR part 1601 took affect, the BLM has been in transition to "Resource Management Plans."

Since wilderness studies will be conducted in three types of plans, there will be some procedural differences in certain aspects of these studies; pertinent differences are mentioned in this document where applicable. However, while procedural aspects of the plans may differ, wilderness recommendations will be based on the same policy guidance, planning criteria, and quality standards.

1. *Resource Management Plans (RMP's)* are the basic resource management planning documents being developed by the BLM under the new planning regulations (43 CFR Part 1601). The planning process for all RMP's encompasses the environmental analysis and environmental impact statement (EIS) requirements of the National Environmental Policy Act. The resource management planning process includes participation by the public and Federal, State, and local governments, and Indian Tribes; it maximizes use of the best available data; and it includes analysis of alternatives for resources and uses present on the public lands.

2. *Transition Period MFP's* are management framework plans which were in the process of being prepared when the new planning regulations were issued. These ongoing MFP's and their associated EIS's specific to the component programs are scheduled for completion between FY 1980 and FY 1983. Wilderness recommendations developed through transition period MFP's must be treated in a separate wilderness EIS and may not be combined with a grazing EIS or EIS's for other resources. This is necessary so that the implementation of other resource programs will not be delayed awaiting final action on the wilderness recommendations contained in the MFP.

3. *MFP Amendments* for wilderness are provided for in the BLM planning regulations. Amendments to existing MFP's are necessary in cases where an MFP was completed before the wilderness inventory was completed and where the established RMP schedule cannot accommodate the study of certain WSA's early enough to meet the established BLM and Departmental goals for completion of wilderness studies. Resource managers will have the option of recommending the use of one of three types of amendments.

Category I amendments should be utilized when wilderness proposals, based on preliminary analysis do not appear to involve significant impacts. Environomental impact statements are not required when using Category I amendments. An environmental assessment is integrated with the MFP amendment process to conduct the resource analysis and aid in the analysis of alternatives. If analysis during the Category I amendment reveals significant environmental impacts, the proposal moves to a Category II or a Category III amendment.

When conducting Category II amendments, environmental impact statements (EIS's) are required. The EIS's are produced concurrently with the amendment document at the same level at which the planning process takes place. Situations in this category often involve two or more MFP's

In the case of Category III Amendments, the BLM planning regulations do not require an EIS for each MFP Amendment if a subsequent decisionmaking process involves an EIS on amendment conclusions. Therefore, a number of Category III amendments may be combined into one EIS at a districtwide, statewide or regional level.

There are certain instances when one type of amendment may be more appropriate than another. Category I amendments are used when wilderness recommendations do not involve significant impacts. Category II amendments would be useful in areas which need to receive high priority or special attention. Category III amendments could provide more utility when combining amendments on WSA's with similar characteristics or small numbers or acreage. Category III amendments would also be useful for districtwide EIS's or in cases where WSA's overlap planning area or district boundaries.

Wilderness studies conducted through RMP's and MFP amendments will utilize the applicable steps in the resource management planning process in the BLM planning regulations. Wilderness studies conducted through Transition MFP's will follow the steps of the management framework planning process.

The public participation requirements of the Wilderness Act and the National Environmental Policy Act will be satisfied in all wilderness studies. Specific opportunities for public participation during the wilderness study process are outlined in Chapter IV of this document.

B. Scope and Scheduling

1. *Scope of Studies.* BLM wilderness studies will be carried out within the scope of BLM planning areas (which are Resource Areas for RMP's and generally smaller areas for transition MFP's). The scope of MFP amendments may include one or more planning areas. By studying the WSA's and scoping the EIS on a planning area basis, BLM will readily be able to blend wilderness resource considerations into the multiple resource perspective of RMP's, MFP's and MFP amendments, and at the same time provide adequate site-specific information on each WSA.

There may be cases where aggregation of wilderness studies beyond the boundaries of a single planning area is desirable. This may be accomplished through districtwide, multi-district or statewide EIS's. Use of such broad scope studies may be approprate in the following situations:

a. When a WSA overlaps the boundaries of a State, district, resource area, or planning area.

b. When opportunities for joint studies with other Federal agencies exist.

c. When the study schedules for WSA's in neighboring planning area coincide.

d. When Category III Amendments are utilized.

2. *Schedule Development.* In order to minimize both uncertainty regarding land uses and delays in resolving resource conflicts, the Secretary has established several goals for completing wilderness studies. First, all wilderness studies will be completed by the BLM no later than the end of Fiscal Year 1987. Second, wilderness study areas with significant resource conflicts, especially energy conflicts, will be scheduled for early completion within the overall 1987 completion goal. MFP amendments and transition MFP's will be used to achieve these goals to the extent that the schedule for RMP's will not accommodate these goals. The BLM published the final study schedule for all WSA's in the **Federal Register** on November 18, 1981.

Although the BLM is scheduled to complete its field work, wilderness EIS's, and study reports by the end of Fiscal Year 1986, some wilderness recommendations may not be reported to the President until 1991 due to the additional time required for the Geological Survey and the Bureau of Mines to conduct mineral surveys on areas recommended as suitable for wilderness designation.

C. Documentation

1. *Planning System Documents.* Wilderness studies will be conducted within the context of the Bureau's normal resource management planning process. Accordingly, studies information will be recorded as a component of the planning process and documented using standard BLM procedures.

2. *Wilderness Study Report.* At the conclusion of the planning process, a wilderness study report (WSR) will be prepared that addresses the WSA's in a planning area, presenting the results of the study and containing the BLM's wilderness recommendations. The study report will draw from several elements of the study process, including the planning documents, the EIS or EA and the results of public participation. When required, the GS/BM mineral survey reports will be attached to the Wilderness Study Report prior to review by the Assistant Secretary.

This document will be prepared in a consistent format, as appropriate, for each WSA or group of WSA's covered by a study and will be transmitted by the State Director in draft form when he fowards the preliminary wilderness recommendation and preliminary FEIS to the BLM Director for administrative review in preparation for the Secretary's recommendation to the President. Further guidance on the format required for wilderness study reports will be issued to the field in the near future.

A separate wilderness study report will be prepared for each EIS covering all WSA's in the scope of the wilderness study, regardless of whether the study was done in the context of a resource management plan, a transition MFP, or an MFP amendment. In cases where a planning effort results in both suitable and nonsuitable recommendations, the WSR will contain final recommendations and rationales for nonsuitable areas only. The other areas will be labeled as preliminary suitable recommendations, awaiting the results of the GS/BM mineral surveys. Final recommendations and rationales for the preliminary suitable areas will be inserted in the WSR after consideration of the mineral survey reports. The results of the mineral surveys also will be summarized and inserted in the original WSR.

a. *The Wilderness Study Report* (WSR) developed for each planning effort will contain the following information for each individual WSA:

(1) Wilderness recommendation and rationale.

(2) Documentation of the multiple resource analysis.

(3) Application of the planning criteria and the quality standards.

(4) A summary and analysis of comments received during the public hearing and comment period on the preliminary wilderness recommendations specific to each individual WSA.

(5) A map of each area delineating the WSA boundaries and, where appropriate, the recommended wilderness boundaries.

b. *Supporting Documentation*—The WSR will be supported by the following documents, when applicable, which will be available for public review in the WSA's permanent documentation files and sent to the Director to serve as back-up information during administrative review of the study reports and wilderness recommendations.

(1) Preliminary final wilderness EIS or EA (review copy).

(2) Draft plan/Draft EIS or EA containing preliminary wilderness recommendations.

(3) Final plan/final EIS (in the case of RMP's).

(4) Record of public hearing and written comments received during the comment period on the Draft EIS or EA.

(5) Record of Decision on the State Director's preliminary wilderness recommendations (in the context of an RMP, a transition MFP, or an MFP amendment).

c. *Annual State Wilderness Reporting Package*—To facilitate administrative review, the wilderness study reports will be grouped into one annual reporting package in each State and submitted to the Director at the end of each fiscal year. The annual State wilderness reporting package will contain each of the following items:

(1) A *statewide* wilderness status summary describing how all recommendations being transmitted in the state package that fiscal year relate to the existing National Wilderness Preservation System.

(2) Wilderness study reports, by planning effort, covering preliminary

wilderness recommendations submitted in the package.

When such a package is subjected to review by the Director and other Department officials, each WSR will be accompanied by associated wilderness FEIS's or EA's. For areas recommended as suitable for wilderness, the associated mineral survey reports will be attached to any FEIS and WSR after being considered by the Director of the BLM.

3. *Environmental Impact Statements.* Depending on the planning system approach being utilized for the wilderness study one of the three procedures listed below will be employed when environmental impact statements (EIS's) are necessary.

a. *Wilderness Study is Conducted as Component of an RMP:* (1) The draft plan containing preliminary wilderness recommendations and the EIS are prepared as an integrated document and filed by the State Director. The final RMP/EIS is filed by the State Director with wilderness recommendations still in "preliminary recommendation" form.

(2) The final wilderness legislative EIS is prepared based on the final RMP/EIS. The final wilderness EIS is submitted by the State Director, is reviewed and approved by the Director and other Department officials, and then is printed and filed. The FEIS is considered by the Secretary in making his final wilderness recommendations which could differ from the preliminary recommendations contained in the final RMP.

b. *Wilderness Study is Conducted as an MFP Amendment:* (1) The draft EIS is prepared on preliminary wilderness recommendation and filed by State Director.

(2) The final EIS is prepared by State Director, is reviewed and approved by the Director and other Departmental officials, and then is printed and filed. The FEIS is considered by the Secretary in making his final wilderness recommendations.

c. *Wilderness Study is Conducted as Component of a Transition Period MFP:* (1) The final MFP is approved by the State Director with the wilderness recommendations still in preliminary form. The draft EIS on preliminary wilderness recommendation is prepared as a separate document from the Rangeland Management or Timber Management EIS's normally produced. DEIS is prepared and filed at State Director level.

(2) The final wilderness EIS is prepared by State Director, is reviewed and approved by the Director and other Departmental officials, and then is printed and filed. It is considered by the Secretary in making his final wilderness recommendations.

Some wilderness studies and resulting wilderness recommendations will be supported by and considered through an environmental impact statement. This may be accomplished through a single EIS for an individual WSA or by an EIS covering a group of WSA's being studied together and included in the scope of the EIS. While there is no limit on the number of WSA's which may be studied together and included within the scope of an EIS, NEPA standards for adequacy must still be met.

Environmental impact statements may not be necessary when it has been determined there will be no significant change in resource use or management direction and no significant impacts are involved. Even in such cases, an environmental assessment (EA) will be prepared to reach a determination that an EIS is unnecessary (i.e., there are no significant impacts) and to aid in the analysis of alternatives. In addition, the preparation of a wilderness study report, including application of the wilderness planning criteria and quality standards for each WSA, will be necessary for transmittal of the wilderness recommendations to the President.

In cases where an EA has been conducted and it has been determined that an EIS is unnecessary, the involved State Office must submit the EA to the Washington Office for review and concurrence prior to public release. This is required because the EA represents the final environmental document in such cases and must be approved and signed by the Department for transmittal to the President.

d. *Factors Determining Necessary Level of Analysis in Wilderness EIS's.* It is somewhat difficult to provide common guidance on the level of analysis necessary in wilderness EIS's since issue complexity and significance can vary greatly not only between planning areas but also between WSA's within the same planning area. More specific guidance on social and economic analysis in wilderness studies will be provided in the near future, but there are still some basic considerations which should be taken into account in establishing general analysis needs in wilderness planning efforts. The level of analysis necessary to adequately address and analyze potential impacts in wilderness EIS's should be based upon the following factors:

1. Issues identified through the scoping process;

2. Intensity of resource conflicts and the complexity of issues present in each WSA;

3. Additional data needed to respond to the issues identified through the scoping process;

4. Level of impact anticipated by the proposed action (i.e., the suitability or nonsuitability of the WSA(s) for wilderness designation);

5. Degree to which wilderness and related resource issues have been addressed in the current MFP for the area.

e. *Minimum Standards for Necessary Level of Analysis in Wilderness EIS's.* Although it is recognized that the level of analysis required should be flexible in order to accommodate the range of the issues present, there are also some minimum standards that can be followed in developing a wilderness EIS. In addition to the following standards, State Directors may issue supplemental guidance on analysis levels to ensure consistency among Districts within the same State.

The following standards for levels of analysis must be met in all wilderness EIS's:

1. Analysis must be WSA specific. All analysis must be developed and displayed individually for each WSA included in the planning effort. This is required even in cases where WSA's share similar physical characteristics and common issues.

2. Site specific analysis will be necessary whenever partial wilderness alternatives are formulated. Partial wilderness alternatives usually will be based on either the resolution of resource conflicts or wilderness manageability. These alternatives may result in recommending less than the entire WSA for wilderness designation. Therefore, the analysis leading to such recommendations must be specific to geographic locations within the WSA. Other circumstances, such as highly controversial or complex issues, may also necessitate detailed site specific analysis.

3. The level of analysis may vary from WSA to WSA, even within the same planning effort, depending on variations in the complexity of issues between WSA's.

4. The level of analysis should not be affected by the type of planning effort utilized (i.e., RMP, MFP–T, or MFP–A). Whether a wilderness study is conducted as an amendment to an existing MFP or as part of a new RMP effort, the level of analysis should depend upon the issues present and not the type of plan from which the wilderness EIS is developed. In an RMP, the level of wilderness analysis could be dictated by the analysis deemed necessary to respond properly to the

issues identified for all resources in the plan.

D. Reporting Process

The wilderness *study* process ends with the State Director's decision adopting a preliminary wilderness recommendation for submission to the BLM Director. The wilderness *reporting* process represents the roles of the Director, the Secretary of the Interior, and the President in acting upon the State Director's preliminary recommendation. The only wilderness recommendations that can be termed "final" are those adopted by the Secretary and the President.

The final environmental impact statement on the Secretary's wilderness recommendation will be filed by the Department of the Interior, because the Secretary is the responsible official. This differs from the normal EIS filing responsibility in the preparation of a resource management plan, for which the State Director is the responsible official, and therefore files the final EIS on that RMP. In the case of wilderness, the State Director is responsible for a preliminary wilderness recommendation contained in the RMP, but the Secretary is responsible for the final wilderness recommendation and therefore must file the final wilderness EIS on that recommendation.

The study process, in its latter stages, meshes with the early stages of the reporting process through consultation between the State Director and the Director before the State Director takes action. The State Director's preliminary wilderness recommendations will be grouped into an annual reporting package for transmittal to the Director.

The BLM's proposed wilderness reporting process is described in summary below. This reporting process includes the administrative reviews that will be conducted by the BLM Director and the Department of the Interior, leading to recommendations by the Secretary to the President as to the suitability or nonsuitability of each WSA for preservation as wilderness. The same basic reporting process will be used regardless of the planning approach used for a particular wilderness study—A resource management plan, a transition period management framework plan (MFP), or an amendment to an existing MFP. In the following summary, the term "plan" will refer to all three approaches, except where otherwise noted. A flow chart depicting the reporting process is displayed in Figure 2.

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BLM WILDERNESS REVIEW REPORTING PROCESS

Figure 2.

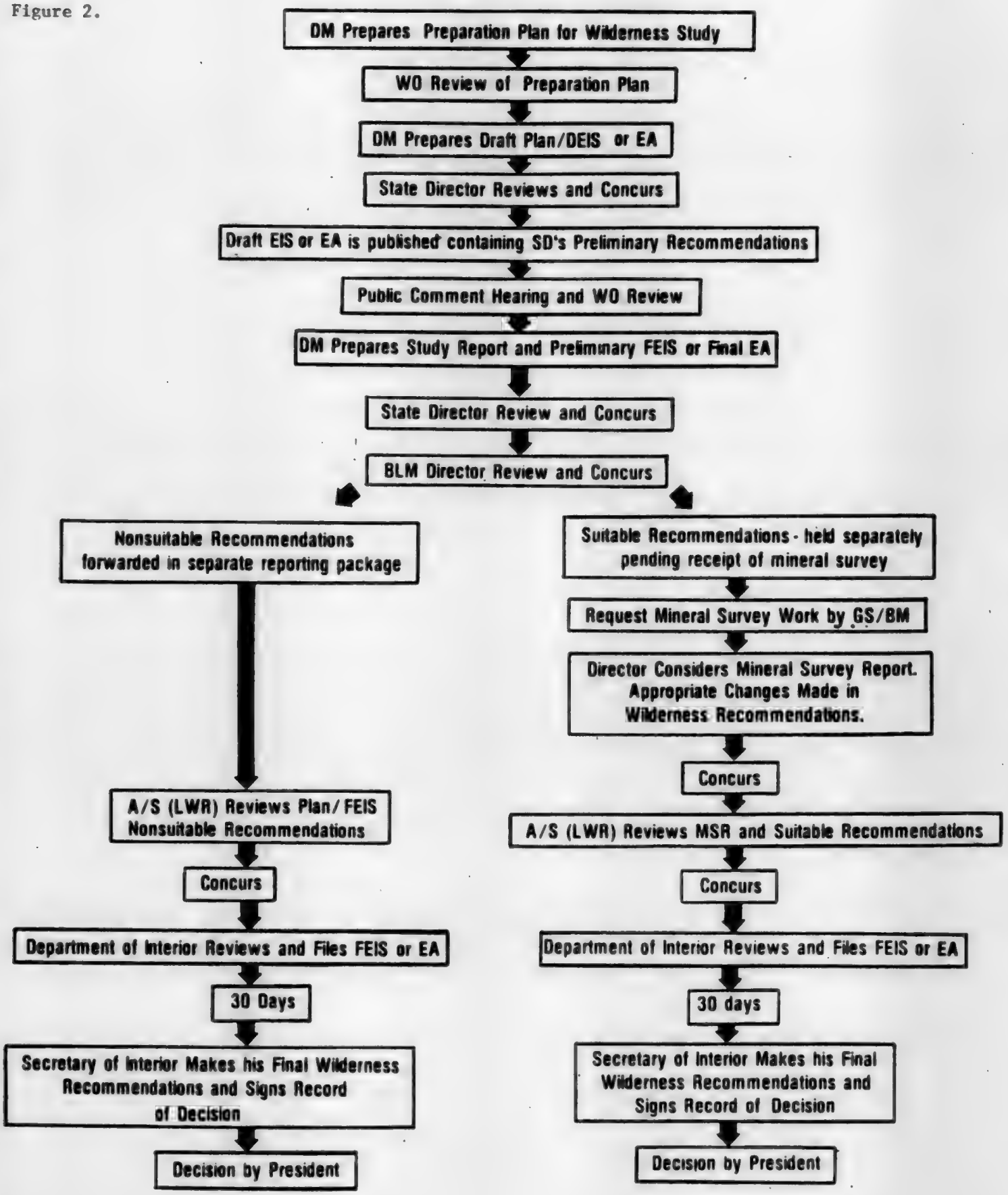

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1. District Manager prepares the preparation plan for the wilderness study and it is submitted through the State Office to the Washington Office for review and approval.

2. District Manager transmits the draft plan with preliminary wilderness recommendations to the State Director for review and concurrence in accordance with the BLM planning regulations. A copy is also transmitted to the BLM Director for informal review.

3. State Director concurs, and files draft plan and draft environmental impact statement (DEIS) or environmental assessment (EA), in accordance with BLM planning regulations. The wilderness element of plan is prominently labeled as "preliminary recommendations—subject to change during administrative review" (or words to that effect), accompanied by a paragraph describing the roles of the Secretary, and the President. In the case of a resource management plan, the DEIS states that it is the draft for both an FEIS on the entire plan and a separate legislative FEIS on the wilderness element of the plan. The subsequent 60-day comment period, with hearings, satisfies the requirements of the Wilderness Act, section 3(d) and the CEQ regulations.

4. After making any needed revisions in the plan, based on public comment, the State Director submits the preliminary wilderness recommendation, preliminary FEIS on the plan, and summary of wilderness-related public comment to the Director for review.

5. State Director files the proposed resource management plan and FEIS on the RMP, containing preliminary wilderness recommendations. Not earlier than 30 days after this, the District Manager, with the concurrence of the State Director and consistent with the requirements of the planning regulations, approves the RMP and signs Record of Decision (ROD) for all elements of the plan except wilderness. In these documents, the wilderness element is labeled, "preliminary recommendation—subject to change during administrative review" (or words to that effect). In the case of an MFP amendment, the amendment will not be approved until final action has been taken on the wilderness recommendations. In the case of a transition MFP, the wilderness portion of the plan will not be implemented until the final action has been taken.

6. State Director prepares wilderness study report and the wilderness preliminary FEIS. State Director transmits the wilderness study reports to the Director in an annual reporting package.

7. The BLM Director reviews wilderness study report/PFEIS ("review copy"). At this point, the preliminary recommendations for suitable and nonsuitable areas are separated. Because mineral surveys must be conducted for suitable recommendations, these recommendations will be held by the Director until mineral survey work is completed. The same basic wilderness study report will be used for both "nonsuitable" and "suitable" packages, with different recommendations inserted as appropriate. The following describes the two separate processes used by the Director for the reporting of "suitable" and "nonsuitable" recommendations.

a. *Preliminary Recommendation is "Nonsuitable".* The Director reviews the Wilderness Study Report and the preliminary FEIS. If the nonsuitable recommendations are acceptable, the package is transmitted to the Assistant Secretary for Land and Water Resources. Following Assistant Secretary review and approval, the document is forwarded to the Secretary. Any preliminary "suitable" recommendations contained in the EIS are clearly labeled "preliminary recommendation, pending completion of mineral surveys" or similar language. At this point, the Director and Assistant Secretary are officially making *only* nonsuitable recommendations. The Secretary's recommendations to the President in the Record of Decision will cover *only* the nonsuitable lands addressed in the FEIS.

b. *Preliminary Recommendation is "Suitable".* After review of the study report/preliminary FEIS, the Director requests mineral surveys by USGS/BM only on lands recommended as suitable. These suitable recommendations are then held by the Director until mineral survey reports are available. When the mineral survey reports are completed, the State Director reviews the original "suitable" recommendations in light of the mineral survey results. If the State Director concurs with the original recommendations, he forwards them along with the mineral survey reports to the Director for review and concurrence. Recommendations and mineral surveys are then transmitted to the Assistant Secretary for Land and Water Resources and then to the Secretary of the Interior.

However, if the State Director finds the "suitable" recommendations inappropriate due to new information acquired through the mineral survey, the recommendations are returned to the District Manager. At that time, the District Manager is responsible for preparing a revised recommendation and, if necessary, an EIS Supplement analyzing and documenting how the new information affects the areas' suitability for wilderness designation. The revised recommendations and Wilderness Study Report, and the EIS supplement if necessary, would be transmitted for review and concurrence by the State Director, Director and Assistant Secretary.

8. The Wilderness study report/FEIS ("review copy") is reviewed by Department of the Interior. The Department may consult the Office of Management and Budget at this stage, with respect to interagency review of the proposed wilderness recommendations currently under review.

9. The Department files the wilderness FEIS. The BLM announces that the FEIS has been filed; public can obtain copies.

10. The Secretary signs Record of Decision and transmits his recommendation with wilderness study report/FEIS to the President.

11. The President transmits his recommendation with wilderness study report/FEIS to Congress and announces it to the public.

E. Decision Roles and Responsibilities

The BLM management officials are responsible for each of the following actions in their respective areas of jurisdiction during the wilderness study process.

District Manager

1. Conducts the wilderness study, develops wilderness recommendations, and prepares the preparation plan and the Draft plan/DEIS or EA, regardless of whether study was part of a Resource Management Plan (RMP), Management Framework (MFP), or MFP amendment.

2. Ensures that the required formal public hearings are held on the Draft plan/DEIS or EA.

3. Ensures that wilderness studies are conducted in accordance with the BLM planning regulations and other BLM instructions. This includes providing opportunities for public involvement in the planning process.

4. Prepares the preliminary wilderness FEIS or final EA, (review copy), wilderness study report, EIS supplement if necessary, and all other required documents. Maintains study records and the permanent documentation file for each area, and ensures availability for public review.

State Director

1. Provides State Director guidance to the District Managers and any

additional appropriate guidance, as indicated in the BLM planning regulations, for wilderness studies.

2. Prepares and updates as necessary the Public Participation Plan to guide public involvement in wilderness studies in the State.

3. Reviews and approves District Manager's draft of preliminary wilderness recommendations and any DEIS.

4. Files draft plan and DEIS for public comment. Forwards a copy of the preliminary recommendations and DEIS or EA to Director for review concurrent with the public comment period on the DEIS.

5. After revision, forwards preliminary wilderness recommendation and any preliminary FEIS or final EA (review copy) on the plan with related public comment to Director for review.

6. Files the resource management plan and FEIS on the plan containing preliminary wilderness recommendation. Signs Record of Decision on the RMP. In cases of MFP amendments the State Director does not approve the plan until after final action is taken on the wilderness recommendations. In the case of transition MFP's, the State Director may not implement the wilderness portion of the plan until final action is taken.

7. Reviews and approves the wilderness study reports, any associated preliminary wilderness FEIS's or final EA's, and prepares the statewide wilderness status summary. Forwards these documents to the Director for review in an annual state wilderness reporting package.

8. Prints final wilderness study report and any wilderness FEIS or final EA.

The Director

1. Provides guidance in the form of BLM policy and procedures for wilderness studies.

2. Establishes Bureauwide schedule for wilderness studies.

3. Reviews and comments on preliminary wilderness recommendations in draft plan and any DEIS or EA during the public comment period on the DEIS or EA.

4. Reviews preliminary wilderness recommendations in RMP/FEIS, and related public comment before filing of RMP/FEIS by State Director.

5. Reviews wilderness study report and preliminary wilderness FEIS or EA's. Makes final Bureau recommendations on wilderness suitability and approves associated documents.

The Department

1. Following the Director's decision, all wilderness study reports, EIS's or EA's, and other attached documents will be forwarded for review and approval by the Assistant Secretary for Land and Water Resources.

2. Upon approval of these documents the Assistant Secretary transmits his wilderness suitability recommendations for consideration by the Department.

3. The Department then files any FEIS or final EA. The Secretary makes his final recommendations on wilderness suitability, approves the final report documents and signs the Record of Decision.

4. Finally, the Secretary transmits his recommendations, with the final reports/FEIS's or final EA's, to the President.

The President

1. The President arrives at his final recommendations. A public announcement is made at that time.

F. Role of Mineral Survey Report

Section 603 (a) of the Federal Land Policy and Management Act (FLPMA) requires that "prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey (GS) and the Bureau of Mines (BM) to determine the mineral values, if any, that may be present in such areas." This provision of FLPMA requires GS/BM mineral surveys only for those areas which are being recommended to the President and Congress as *suitable* for wilderness designation. Mineral surveys by the Geological Survey and Bureau of Mines are not required for areas recommended as nonsuitable for wilderness designation.

Mineral surveys will be requested from GS/BM after the Director reviews the wilderness study report/preliminary FEIS or EA transmitted to him by the State Director. Upon completion of the mineral survey report, copies will be made available to the public as well as the BLM. The results of these mineral surveys will be fully considered by the State Directors prior to resubmitting their recommendation on the "preliminary suitable" areas. The BLM Director will also consider the results of the mineral surveys prior to concurring in the State Directors' recommendations and transmitting them to the Assistant Secretary for Land and Water Resources.

G. Joint Studies

1. *Within BLM*—There are numerous WSA's which cross BLM administrative boundaries—between resource areas, between Districts, or between States. The basis for developing joint wilderness studies within BLM involves: (a) Opportunities for schedule coordination; (b) the type of planning effort in which the studies are contained (i.e., RMP, transition MFP, or MFP amendment), (c) the proportion of the WSA's located in each planning area, and (d) opportunities to consolidate studies into a single EIS through the use of MFP amendments.

The above factors will influence which of the following options is chosen for conducting joint wilderness studies between BLM administrative units:

a. Development of a single EIS or EA to cover each of the planning areas into which the WSA's extend. This alternative would be appropriate when utilizing an MFP amendment.

b. Consider the boundary-crossing WSA's in the EIS or EA for only one of the administrative units in which it is located. In this case, the other DM or SD would concur in the wilderness recommendations developed in the plan/EIS for the unit having the lead responsibility for those particular WSA's.

c. Conduct two EIS or EA efforts concurrently for the planning areas into which the WSA's extend. In this case, a joint recommendation would be developed for the all boundary-crossing WSA's, but each of the plan/EIS's would cover only those portions of the WSA's located within its own planning area boundaries.

State Directors are responsible for ensuring effective coordination of wilderness studies on those WSA's which overlap administrative boundaries. The type of joint study to be conducted must be mutually agreed upon by all District Managers and/or State Directors involved, on a case-by-case basis. Inventory data collection and analysis, public comment analysis, and wilderness recommendations should be consistent between administrative units. Written memorandums of Understanding (MOU's) may be developed to ensure proper coordination procedures. The use of MOU's is encouraged particularly in cases which involve WSA's crossing interstate boundaries.

2. *Joint Studies with Other Agencies.* Opportunities also exist to conduct joint studies in cases where BLM wilderness study areas are contiguous to areas being considered for wilderness designation by other Federal or State agencies.

This situation seems to occur most frequently in cases involving BLM

WSA's and U.S. Forest Service (USFS) "further planning" areas. These "further planning" areas were identified during the USFS's RARE II wilderness review process as roadless areas to be considered for all uses, including wilderness, during the development of USFS land management plans. A cooperative agreement has been developed to facilitate joint wilderness studies by BLM and USFS where study lands administered by the two agencies are contiguous. The BLM District Managers and USFS Forest Supervisors will collaborate in preparing preliminary wilderness recommendations and study reports, with results to be forwarded jointly or independently as practicable and agreed upon. The cooperative agreement will contain criteria for determining the lead agency in a joint study and will outline the respective responsibilities for both the lead agency and the cooperating agency.

Where opportunities for joint studies with agencies other than the USFS exist (i.e., the National Park Service, U.S. Fish and Wildlife Service, and State agencies), BLM State Directors and District Managers are encouraged to initiate discussions to develop coordinated wilderness studies. The BLM Washington Office will work with the National Park Service and U.S. Fish and Wildlife Service to develop cooperative agreements for possible joint wilderness studies involving those agencies.

3. *BLM Studies Involving Existing or Proposed Wilderness Areas Administered by Other Federal Agencies.* In cases where BLM wilderness study areas are contiguous to lands administered by other Federal agencies which are either designated wilderness areas or have been proposed by the President for designation as wilderness, the BLM will conduct a wilderness study under the policies and criteria in this doucment, and the following additional factors will be considered and documented in the wilderness study report:

a. In cases where the contiguous Federal lands are proposed as wilderness but have not yet been designated, determine whether the WSA would be a viable independent candidate for designation as wilderness if Congress does not designate the contiguous lands. A major point for consideration is the manageability of the BLM portion.

b. Regarding the management of the WSA if it is designated as wilderness, determine whether the BLM portion could be more effectively managed as wilderness if the management responsibility were transfered to the agency which administers the contiguous existing or proposed wilderness area. District Managers will cooperate with their counterparts in the other agencies to develop a response to this factor. Recommendations which contemplate transfer of administration of the public lands, if designated as wilderness, should clearly identify this point and document it in the narrative for Wilderness Planning Criterion No. 2. (manageability) and in the wilderness study report.

H. Formulation of Alternatives

1. *Basic Principles.* This section provides general guidelines on the formulation of alternatives to consider wilderness in the planning process.

The basic guidance available on the formulation of alternatives appears in the Bureau planning regulations (43 CFR Part 1601) and the regulations of the Council on Environmental Quality (40 CFR 1502.14). As in all BLM resource management planning, alternatives for wilderness shall provide a range of choices, from those favoring resource protection to those favoring resource production. There must always be a "no-action" alternative proposing continuation of present levels of resource use and management.

2. *Range of Alternatives to be Addressed.* The following alternatives should be considered in wilderness studies. These should be applied either individually in single WSA studies or collectively when more than one WSA is included within the scope of a study. They should be developed as separate alternatives in transition MFP/EIS's and MFP Amendment/EIS's but integrated into the overall plan alternatives in an RMP/EIS.

a. *All Wilderness.* This alternative represents the maximum possible acreage that could be recommended suitable for wilderness designation. This could involve either a single WSA in its entirety or all WSA's included in the planning area under study.

b. *No Wilderness.* This alternative represents the no-wilderness option and could involve recommending "nonsuitable" for either a single WSA in its entirety or all WSA's in a study. When the wilderness study is done as part of a resource management plan, the "no-wilderness" alternative may include a number of subalternatives which provide a range of options from those favoring resource protection to those favoring resource production. The subalternative which is selected will be a key determinant in assessing the probable impacts to the wilderness values of an area, as required by Quality Standard No. 3—*Impacts of Nondesignation on Wilderness Values*, which is explained in detail in Section II.E (2). In case of transition MFP's, the alternative for the use of the area under study will be considered in the MFP-Step II recommendation for wilderness. In MFP Amendments, "No Wilderness," alternatives other than the "No-Action" alternative may be developed if they are are necessitated by new information generated as a result of the wilderness study or new policies adopted (e.g., areas of critical environmental concern) since the time when the existing MFP was completed.

c. *"No Action".* A "no-action" alternative must be formulated and assessed for each WSA. This alternative proposes continuation of present levels of resource use and management, and represents the most likely condition expected to exist in the future if the current resource use and management direction (without regard to the interim management policy for lands under wilderness review) were to continue as documented in the existing MFP and if the area were not designated as wilderness. There may be certain instances where the "no action" and "no wilderness" alternatives are the same because maintaining present levels of resource use and management may be the preferred alternative resulting from the planning effort. In such cases, these two alternatives may be combined to avoid duplication in analyzing the effects of alternatives.

d. *Partial Wilderness.* This alternative or group of alternatives represents the range of possible suitable or nonsuitable recommendations available between the "all wilderness" and the "no wilderness" options. Depending on the issues involved and the complexity of the study, certain options may be treated as subalternatives. The use of partial wilderness alternatives should be considered when formulating alternatives for wilderness in an EIS. However, in some cases, where there are no conflicts to resolve and no manageability problems, the use of partial wilderness alternatives may not be appropriate or necessary.

When an individual WSA is being reviewed, these alternatives will consider how the area recommended for wilderness might be less than the WSA boundary in order to allow for resource tradeoffs or manageability considerations. When more than one WSA is included in a single study, the "partial wilderness" alternative(s) allow for different combinations or mixes of areas to be recommended suitable and nonsuitable. In such cases, care must be taken to ensure consideration not only

of various mixes of entire areas being recommended suitable or nonsuitable but also of various approaches to recommending less than the entire area of each of the WSA's for wilderness in light of resource conflicts, manageability considerations or other relevant factors. Use of subalternatives is especially appropriate in these situations.

3. *Development of Alternatives Involving Less Than Entire WSA's.* There appear to be two general cases when it may be appropriate to consider recommending less than entire WSA's for wilderness: (1) Resolution of conflicts and (2) manageability of wilderness. Any such instances will require the development of either an individual alternative or subalternative(s). Such situations must be documented in preparing the plan and the wilderness study report.

Slight adjustments or refinements of the original WSA boundaries based on more accurate delineations being made during the detailed wilderness study may not require the development of separate alternatives if the adjustments constitute minor boundary modifications. However, when such boundary modifications are made, they will be documented when describing the alternatives in the plan/EIS and the rationale for the adjustment must be explained in the plan/EIS and the wilderness study report. As specified in Quality Standard No. 3, an alternative use or uses for the non-WSA portion of the WSA will be specified and the impacts of these uses will be assessed in the EIS.

a. *Conflict Resolutions.* Alternatives involving less than an entire WSA are based on an overall objective of resolving existing or potential conflicts between wilderness and certain nonwilderness uses. For example, a conflict resolution alternative might be considered where a certain portion of a WSA has been identified as containing a known geothermal resource. This portion of the WSA might then be recommended as nonsuitable for wilderness designation, while the remainder of the WSA might still be eligible for wilderness.

b. *Wilderness Manageability.* In some cases, it may be appropriate to consider recommending less than an entire WSA as suitable for wilderness based on a determination that some portion of the WSA cannot be managed effectively as wilderness over the long run. Again, this is a case where treatment of such matters as individual alternatives or subalternatives will enable an analysis of impacts and allow for public review.

4. *Development of Alternatives.* Regardless of the scope of any wilderness study, the development of alternatives is a critical early function. Latitude and flexibility exist in formulating the alternatives to be studied, but care must be taken to assure compliance with the requirements and intent of both the CEQ regulations and the BLM planning regulations.

Particular attention must be given to development of alternatives when more than one WSA is included in the scope of a study. While it may be impossible to array all possible combinations of suitable and nonsuitable recommendations for any group of WSA's, a reasonable number of examples, covering the full spectrum of alternatives, should be presented to provide a clear basis for choice among options by the decisionmaker and the public. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and make use of common sense. The alternatives should also reflect public needs, concerns and opinions. Whatever set of alternatives is selected, it should be responsive to the public participation required both by the issue identification step in the Bureau planning system and by the NEPA scoping process. In addition, section 1502.14 of the CEQ regulations requires that EIS's include a brief discussion of the alternatives which were eliminated from detailed study and the reasons for their elimination. In analyzing the effects of various alternatives, not only the impacts of designation or nondesignation of individual WSA's, but also the cumulative effects of composite alternatives involving all of the WSA's in a planning effort should also be assessed. (See § 1508.25 (a) and (c)).

Figures 3 A and B illustrate two examples of how alternatives may be presented and analyzed in a wilderness EIS. In the examples, the EIS addresses the question of wilderness designation for five WSA's. It should be understood that these charts merely represent examples of how alternatives for wilderness may be structured. There are likely to be variations of these approaches depending on whether the wilderness EIS is developed as part of an RMP, a transition MFP or an MFP amendment.

Figure 3A represents the second step of a two-step process in alternative formulations. In the first step, partial wilderness alternatives were considered individually for each WSA, along with the All Wilderness, No Action, and/or No Wilderness alternatives. In the second step, various combinations of all or part or none of each WSA were grouped together to form composite alternatives addressing each of the WSA's in the EIS. One of these would then be selected as the preferred alternative.

FIGURE 3A—FORMULATION OF WILDERNESS ALTERNATIVES, WILDERNESS STUDY AREA

Alternatives	1	2	3	4	5
All Wilderness	All	All	All	All	All.
Partial, Protection	All	None	Part	All	All.
Partial, Balance	Part	None	Part	All	Part.
Partial, Production	Part	None	None	Part	Part.
No Action	None	None	None	None	None.
No Wilderness	None	None	None	None	None.

Another possible means of arraying alternatives for wilderness study areas would be to develop individual alternatives for each WSA with a preferred alternative identified for each WSA as shown in Figure 3B. The composite of these individual preferred alternatives would then be the draft EIS preferred alternative. This approach can provide some flexibility in selecting the preferred alternatives especially in the event of administrative changes in the case of final wilderness EIS's.

FIGURE 3B—FORMULATION OF WILDERNESS ALTERNATIVES

WSA No.		Alternatives			
1	*All*	Partial, manageability	Partial, conflict resolution	No action	No wilderness.
II	All	Partial, manageability	*No action*		
3	All		*Partial, conflict resolution*	No action	No wilderness.
4	*All*	Partial, manageability	Partial, conflict resolution	No action	
5	All	Partial, manageability	Partial, conflict resolution	No action	*No wilderness.*

*The italic alternatives together represent the proposed action for the EIS.

Chapter IV. Public Involvement

A. General

Opportunities will be provided for public participation in wilderness studies, in accordance with the BLM planning regulations and provisions of the Wilderness Act of 1964. The Bureau of Land Management considers public participation to be an essential element in every wilderness study. The following wilderness quality standard appears in Chapter II of this document:

Quality Standard No. 4—*Public Comment:*

In determining whether an area is suitable or nonsuitable for wilderness designation, the BLM wilderness study process will consider comments received from interested and affected publics at all levels—local, State, regional, and national. Wilderness recommendations will not be based exclusively on a vote-counting majority rule system. The BLM will develop its recommendations by considering public comment in conjunction with an analysis of a wilderness study area's multiple resource and social and economic values and uses.

To obtain the views of the public for consideration under this criterion, BLM will conduct public participation activities, which may include published and mailed requests for written comments, surveys, public meetings, public hearings, conferences, seminars, workshops, open houses, tours, or similar events. Detailed public participation plans will be developed by each State Director.

Public participation opportunities in each wilderness study must satisfy the requirements of the BLM planning regulations (43 CFR Part 1601), which provide for participation at several stages in the planning process. They must also satisfy the requirements of the council on Environmental Quality (CEQ) regulations (430 CFR 1501.7 and 1506.6) with respect to environmental impact statements. In addition, they must satisfy section 3(d) of the Wilderness Act, which provides for a public hearing or hearings, the results of which must be made available to the Secretary and the Preident when they make their recommendations on the suitability or nonsuitability of an area for wilderness designation.

The public will be notified far enough in advance of any of these activities to allow for effective and meaningful participation. The Wilderness Act requires that at least 30 days notice be given to the public prior to the public hearing required by section 3(d) of the Act. The Act also requires at least 30 days after the hearing for the public to submit their views on the preliminary recommendation. This means that plans involving wilderness will require at least 60 days for review of the draft plan and draft EIS or EA.

Aside from these formal requirements, BLM is committed to public participation as an effective tool in conducting wilderness studies. During the earliest stage in a wilderness study, the emphasis will be on identification of issues which the public believes should be considered with respect to a particular wilderness study area. Knowing what is of special concern to the public in each area will enable BLM to analyze those issues in sufficient depth during the wilderness study.

During the early stages of a study, BLM will also be seeking information from the public about the values and resources in the wilderness study area, to augment BLM's current resource information, For example, the public, including the minerals industry, will be invited to submit information about the area's mineral values.

During the later stages of a wilderness study, the emphasis shifts to the central question to be addressed in BLM's wilderness recommendation—is the area suitable for wilderness designation, or more suitable for other resource uses? The results of public participation will provide a sound basis for this recommendation.

The BLM State Directors and District Managers are encouraged to provide such public participation opportunities as may be appropriate in a particular wilderness study. Table 1 presents the mandatory opportunities for public involvement in wilderness studies.

TABLE 1.—MANDATORY OPPORTUNITIES FOR PUBLIC INVOLVEMENT IN WILDERNESS STUDIES

Opportunity	Required by		
	BLM planning regulations	CEQ regulations	Wilderness Act
1. BLM publishes a notice of intent to conduct a plan/EIS or EA involving wilderness.	X	X	
2. Scoping	X	X	
3. Release of draft plan/DEIS or EA containing preliminary wilderness recommendations.	X	X	
4. Public hearing on draft plan/DEIS or EA containing preliminary wilderness recommendations.			X.
5. Release of proposed plan/FEIS containing preliminary wilderness recommendations (RMP's only).	X	X	
6. Filing of final wilderness legislative EIS or final EA.	X		

B. State and Local Governments

In recognition of their special expertise with respect to the social and economic effects of resource management decisions, State and local governments will have opportunities to participate effectively in BLM wilderness studies. This applies both to legislative bodies such as State legislatures and county boards, and to executve officials and agencies such as Governors and State and county agencies.

To allow these governments sufficient time to deliberate and adopt official recommendations for consideration by the BLM, State Directors and District Managers will take care to notify State and local governments as to when wilderness studies are scheduled to begin, and as to the timing of steps in the study process, so the governments will be prepared to participate at the proper times.

Certain formal intergovernmental coordination steps are required by the BLM planning regulations and by the Wilderness Act. The BLM also intends to coordinate with State and local governments informally so as to obtain the maximum information for use by BLM in developing the preliminary wilderness recommendations. The formal, mandatory coordination steps are described below:

1. Every year BLM publishes a schedule of resource management planning efforts due to start in the next 3 fiscal years. The State Director transmits this information to State and local governments.

2. Before starting a wilderness study, the BLM District Manager will send a notice of intent (as prescribed by BLM Planning Regulations 43 CFR Part 1601) and general schedule of expected steps in the study process to State and areawide A–95 clearinghouses, to heads of county boards and other local governments affected, to the presiding officers of the State legislature, and to any other State or local government bodies that have asked to receive such notices.

3. As the actual study work begins, the District Manager consults State and local governments as to any relevant land use plans, policies, or resolutions, so these can be considered as early as possible in the study process.

4. State and local governments will be invited to participate in the scoping and issues identification process.

5. Data submitted by State and local governments should be used by BLM in preparing the following materials: (a) Socio-economic analysis, (b) draft and

final environmental impact statements (EIS's), and (c) evaluation of the effects of the alternatives. There is no separate comment period for submission of this information; it can be submitted at any time while these materials are in preparation. The general schedule referred to in step 2 above will show the target dates for completion of these materials.

6. The BLM will release a draft plan and draft EIS (or draft plan amendment and draft EIS) containing preliminary wilderness recommendations; this will be sent to the State and local governments, which will have 60 days to respond with written comments, as well as opportunities to present comments in a public hearing or hearings, which are required by the Wilderness Act. Affected State and local governments must be notified of the hearings at least 30 days in advance, and must have at least 30 days after the hearing to submit their views.

7. The views submitted in step 6 above will be considered by the State Director in arriving at the revised preliminary wilderness recommendation which he sends to the BLM Director. The views of State and local governments will be transmitted verbatim—accompanying the BLM wilderness recommendation—to the Director, the Secretary, the President, and ultimately to Congress for consideration as decisions are made on the results of the wilderness study.

If a State or local government notifies the BLM in writing that the preliminary wilderness recommendation or any specific part of it is not consistent with that government's officially approved and adopted resource related plans, or with that government's policies and programs, BLM will respond to this comment in the wilderness study report, documenting the resolution of the consistency issue. The applicable policy with respect to officially approved and adopted resource-related plans appears as Quality Standard No. 6, Consistent with Other Plans.

The BLM will give due consideration to all views and information submitted by State and local governments, with greatest weight given to submissions representing an official action of a State or local government body, as contrasted to an expression by an individual member of such a body. For instance, a resolution adopted by a State legislature will be considered to represent the legislature's official position on the matter. On the other hand, if an individual member of the legislature submits comments, it will not be assumed that these comments represent the legislature's position, unless that member was officially authorized to file comments on behalf of the body.

Appendix A.—Section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579)

Section 603. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of the Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for presentation as wilderness: Provided, that prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the U.S. Geological Survey and the Bureau of Mines to determine the mineral values if any, that may be present in such areas: Provided further, that the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedures specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and with a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was conducted on the date of approval of this Act: Provided, that, in managing the public land the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than the preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access, exchange of lands, and ingress for mining claimants.

Appendix B.—Excerpts from the Wilderness Act of September 3, 1964 (Pub. L. 88–577)

Section 2(c): A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the force of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, or historical value.

Section 3(d): *Suitability.* (d)(1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness: Publication in **Federal Register.** (A) give such public notice of the proposed action as they deem appropriate, including publication in the **Federal Register** and in a newspaper having general circulation in the area or areas in the vicinity of the affected land; *Hearings.* (B) hold a public hearing or hearings at a location or locations

convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the **Federal Register** and in newspapers of general circulation in the area: Provided, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) At least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

Appendix C: Glossary

The following are definitions for terms commonly used in the BLM wilderness study process:

Management Framework Plan (MFP): The Bureau's basic planning decision document prior to the adoption of a new planning process in 1979, in which the decision document is a Resource Management Plan (RMP).

MFP Amendment: An amendment to a Management Framework Plan is initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances, or an applicant's proposed action which may result in a significant change in a portion of the approved plan.

Multiple Resource Values and Uses: The present and potential uses of the various resources administered through multiple use management on the public lands and any public values associated with such uses.

Multiple Use: "* * * the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some lands for less than all of the resources; a combination of balanced and diverse resource uses that take into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." (From section 103, FLPMA.)

Naturalness: Refers to an area which "generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." (From section 2(c), Wilderness Act.)

Outstanding: 1. Standing out among others of its kind; conspicuous; prominent; 2. superior to others of its kind; distinguished; excellent.

Planning Area: The area for which resource management plans are prepared and maintained. In most instances, it is the same as the resource area, which is a geographic portion of a BLM district, under supervision of an area manager.

Planning Criteria: The factors used to guide development of the resource management plan, or revision, to ensure that it is tailored to the issue previously identified and to ensure that unnecessary data collection and analyses are avoided. Planning criteria are developed to guide the collection and use of inventory data and information, the analysis of the management situation, the design and formulation of alternatives, the estimation of the effects of alternatives, the evaluation of alternatives, and the selection of the preferred alternative.

Population Center: A Standard Metropolitan Statistical Area (SMSA) which has a population of 100,000 or greater. An SMSA is a county which contains at least one city of 50,000 inhabitants or more plus as many adjacent counties as are metropolitan in character and are socially integrated with that central city or cities.

Preliminary Wilderness Recommendation: Refers to a wilderness recommendation at any stage prior to the time when the Secretary of the Interior reports his recommendation to the President. Until the Secretary acts, the recommendation is "preliminary" because it is subject to change during administrative review.

Primitive and Unconfined Recreation: Nonmotorized and nondeveloped types of outdoor recreational activities.

Resource Management Plan (RMP): The basic decision document of BLM's resource management planning process, used to establish allocation and coordination among uses for the various resources within a Resource Area. An RMP is a "land-use plan" prescribed by Section 202 of the Federal Land Policy and Management Act. RMP regulations appear at 43 CFR Part 1601. (Refer to definition of Management Framework Plan.)

SMSA: Standard Metropolitan Statistical Area—See definition under "Population Center."

Solitude: 1. The state of being alone or remote from habitations; isolation. 2. A lonely, unfrequented, or secluded place.

Suitability: As used in the Wilderness Act and in the Federal Land Policy and Management Act, refers to a recommendation by the Secretary of the Interior or the Secretary of Agriculture that certain Federal lands satisfy the definition of wilderness in the Wilderness Act and have been found appropriate for designation as wilderness on the basis of an analysis of the existing and potential uses of the land.

Substantially Unnoticeable: Refers to something that either is so insignificant as to be only a very minor feature of the overall area or is not distinctly recognizable by the average visitor as being manmade or man-caused because of age, weathering or biological change. An example of the first would be a few minor dams or abandoned mine buildings that are widely scattered over a large area, so that they are an inconspicuous part of the scene. Serious intrusions of this kind, or many of them, may preclude inclusion of the land in a wilderness study area. An example of the second would be an old juniper control project that has grown up to a natural appearance, the old fallen trees largely decomposed.

Wilderness: The definition contained in section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). (See Appendix B for its full text.)

Wilderness Area: An area formally designated by Act of Congress as part of the National Wilderness Preservation System.

Wilderness Characteristics: The definition contained in section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). (See Appendix B for its full text.)

Wilderness Inventory: An evaluation of the public lands in the form of a written description and map showing those lands that meet the wilderness

criteria as established under section 603(a) of FLPMA and section 2(c) of the Wilderness Act, which will be referred to as Wilderness Study Areas (WSA).

Wilderness Management: The management of human use and influence on lands which have been designed by Act of Congress as wilderness areas.

Wilderness Program: Term used to describe all wilderness activities of the Bureau of Land Management including identification, management, and administrative functions.

Wilderness Recommendations: A recommendation by the Bureau of Land Management, the Secretary of the Interior, or the President, with respect to an area's suitability or nonsuitability for preservation as wilderness.

Wilderness Reporting: The process of preparing the reports containing wilderness recommendations on wilderness study areas and transmitting those reports to the Secretary of the Interior, the President, and Congress.

Wilderness Review: The term used to cover the entire wilderness inventory, study, and reporting phases of the wilderness program of the Bureau of Land Management.

Wilderness Study Area (WSA): A roadless area or island that has been inventoried and found to have wilderness characteristics as described in section 603 of FLPMA and section 2(c) of the Wilderness Act of 1964 (78 Stat. 891).

Wilderness Study: The process outlined in these guidelines which specifies how each wilderness study area must be studied through the BLM resource management planning system, analyzing all resources, values and uses within the WSA to determine whether the area will be recommended as suitable or nonsuitable for wilderness designation.

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Part III

Department of Agriculture

Agricultural Marketing Service

Milk in the Alabama-West Florida Marketing Area; Decision on a Proposed Marketing Agreement and Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1093 (Tentative)

[Docket No. AO-366]

Milk in the Alabama-West Florida Marketing Area; Decision on a Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a Federal milk order for the Alabama-West Florida marketing area. Associated Milk Producers, Inc., a dairy farmer cooperative, proposed the new milk order. The proposal was considered at a public hearing held June 23-July 2, 1980. On the basis of the evidence obtained at that hearing, the Department has concluded that a Federal milk order is needed to provide stable and orderly conditions for the marketing of milk in the proposed area. A referendum will be conducted to determine whether producers who supplied milk for the proposed area during October 1981 favor the issuance of the order.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued May 20, 1980; published May 23, 1980 (45 FR 35168).

Recommended Decision: Issued September 8, 1981; published September 11, 1981 (46 FR 45542).

Extension of Time: Issued October 9, 1981; published October 15, 1981 (46 FR 50804).

Preliminary Statement

A public hearing was held upon a proposed marketing agreement and order regulating the handling of milk in the Alabama-West Florida marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Montgomery, Alabama, on June 23–July 2, 1980. Notice of such hearing was issued on May 20, 1980.

Upon the basis of the evidence introduced at the hearing and the record thereof; the Deputy Administrator, Marketing Program Operations, on September 8, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the subheading *"3(a). Handlers to be regulated and milk to be priced and pooled.", "Pool plant."*, two new paragraphs are added after paragraph 17, three new paragraphs are added after paragraph 18, two new paragraphs are added after paragraph 25, three new paragraphs are added after paragraph 41, two new paragraphs are added after paragraph 43, five new paragraphs are added after paragraph 44, paragraph 56 is revised, and five new paragraphs are added after paragraph 56.

2. Under the subheading *"3(a). Handlers to be regulated and milk to be priced and pooled.", "Nonpool plant."* paragraph 5 is revised and a new paragraph is added after paragraph 5.

3. Under the subheading *"3(a). Handlers to be regulated and milk to be priced and pooled.", "Producer milk."*, two new paragraphs are added after paragraph 15, and seven new paragraphs are added after paragraph 21.

4. Under the subheading *"3(c). Pricing of milk", "Class I price and in-area location adjustments."*, eight new paragraphs are added at the end of the discussion.

5. Under the subheading *"3(d). Distribution of proceeds to producers.", "Base and excess plan."*, one new paragraph is added at the end of the discussion.

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued what its provisions should be with respect to:

(a) Handlers to be regulated and milk to be priced and pooled;

(b) Classification of milk and assignment of receipts to classes of utilization;

(c) Pricing of milk;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Description of the market. The April 1, 1980, [1] population of the proposed marketing area was 3,890,061 persons in Alabama, and 421,002 in the four Florida counties, for a total of 4,311,063 persons. Major population centers include Huntsville, Birmingham, Montgomery, and Mobile, Alabama, and Pensacola, Florida.

Dairy farming constitutes a relatively minor portion of the agricultural production activities in the proposed marketing area. Data contained in one of the exhibits show that in 1974 the value of dairy products sold by Alabama farms with sales of $2,500 and over amounted to only 5.3 percent of the total value of farm products sold by such farms. For the four Florida counties, the percent of such sales accounted for by dairy products varied from 1.8 percent (Santa Rosa County) to 17.6 percent (Escambia County), while a specific figure for Okaloosa County was not shown (less than .05 percent or less than $50,000).

Milk production data show that dairy farming is declining in Alabama. Alabama's milk output declined from 830 million pounds in 1973 to 603 million pounds in 1979, a decline of about 27 percent in seven years. Comparable data for the four-county area in Florida are not available.

While milk production is declining, the population of the proposed marketing area is growing. The estimate noted earlier for April 1980 is a 3.8 percent increase from 1978, and a 13.7 percent increase from 1970. Thus, the market may be portrayed as an area where the demand for milk is increasing at the same time that local supplies are declining. This latter point is reflected in raw milk imports from other states into Alabama that increased from 37 percent of the total supply used by Alabama plants in 1976 to 53 percent in 1979.

[1] Official notice is taken of "1980 Census of Population and Housing," Advance Report, Nos. PHC80-V-2 and PHC80-V-11, Issued March 1981, Bureau of the Census, U.S. Department of Commerce.

Moreover, imports of packaged milk increased 94 percent over the same four-year period, apparently in response to the early 1977 termination of resale pricing regulations in Alabama.

The record provides no specific estimate of the proposed market size in terms of the total milk that would be pooled under the order. Various data were presented for the Alabama consolidated milkshed, which includes all the plants in Alabama that likely would be pooled under the proposed order. However, no such information was provided for the two plants located outside Alabama that probably would be pooled.

Nevertheless, an estimate of the approximate level of Class I sales within the proposed marketing area can be made. The procedure used here was to compute a weighted average per capita consumption figure for fluid milk products in 6 [2] nearby Federal order markets for 1978 [3] and multiply that figure by the 1980 population of the proposed market. On this basis (225 pounds per person X 4,311,063 persons), estimated in-area sales totaled 970 million pounds per year, or an average of 81 million pounds per month.

The 1978 Class I and I–A sales for Alabama, according to information released by the Alabama Dairy Commission, were 67.7 million pounds per month. The Alabama population estimate for 1978 was 3,742,000 persons. Per capita consumption derived from these two numbers was 217 pounds. Using the Alabama per capita figure times the 1980 population yields a projected in-area Class I sales figure of 78 million pounds monthly for the proposed marketing area.

Thus, a reasonable estimate of the Class I sales within the proposed marketing area is 78–81 million pounds, which nevertheless may tend to underestimate the total Class I sales that would be pooled under the order because it does not include out-of-area sales. Out-of-area sales may be larger for some plants associated with the market than their in-area distribution. The record implies, for example, that such is the case for the plant at Tupelo, Mississippi. If so, the total amount of Class I milk that would be pooled could be somewhat larger (by an undetermined amount) than the amount estimated above.

[2] Georgia, New Orleans-Mississippi, Nashville, Upper Florida, Tampa Bay, and Southeastern Florida.

[3] Official notice is hereby taken of Federal Milk Order Market Statistics, Annual Summary for 1978, Statistical Bulletin No. 641, issued July 1980 by the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

Also, the record provides no precise estimate of the total amount of milk that likely would represent the regular supply for the proposed market. This is partly because the record contains little or no evidence on milk supplies associated with the two plants located outside Alabama that are associated with the market. However, an estimate of about 100 million pounds monthly may be reasonable on the basis that additional supplies sufficient to keep the fluid market supplied on a year-round basis are anticipated. Some reserve supplies are necessary to cover daily, weekly, and seasonal variations in milk production and demands for fluid use.

The Florida portion of the proposed marketing area has been without milk marketing regulation for many years. The opposite is true for Alabama where state regulation of the dairy industry has been in operation since the mid 1930's. However, the effectiveness of such regulations has been lessened due to recent court decisions.

1. *Character of commerce.*

The proposed Alabama-West Florida marketing area includes all 67 counties in the State of Alabama and four adjoining counties in Florida.

Handlers that likely would be fully regulated by the proposed order receive Grade A milk from more than 900 dairy farms located in six states and additional milk supplies are received from plants located outside the proposed marketing area.

There are 21 milk distributing plants that likely would be fully regulated under the proposed order. Of these, 20 are located within the proposed area. Several of the plants distribute milk in other states, including Georgia, Mississippi and Tennessee. On the basis of limited Class I sales in the order areas, ten of these plants are partially regulated under one or more Federal milk orders covering areas outside the proposed marketing area, and one has regularly been a pool plant under the Georgia or New Orleans-Mississippi orders.

Milk packaged in 17 plants located in Florida, Georgia, Indiana, Louisiana, Mississippi, Missouri, South Carolina, and Tennessee is distributed within the proposed marketing area.

Cooperative associations ship milk not used for fluid use that is produced in Alabama to manufacturing plants in Tennessee and Mississippi for surplus disposition.

The Agricultural Marketing Agreement Act of 1937, as amended, provides in section 608(c)(1) that milk orders issued by the Secretary shall regulate such agricultural commodity, or product thereof, as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof. On the basis of the record evidence summarized in the preceding paragraphs, it is concluded that the handling of milk in the proposed marketing area is in the current of interstate commerce. Accordingly, the Department has the authority to establish a Federal milk order for this area.

2. *Need for an order.*

A Federal milk marketing order for the proposed area was supported by three major cooperative associations that supply milk to most of the handlers that would be fully regulated. Together, the three associations represented about 75 percent of the producers supplying the proposed market at the time of the hearing. Proponent of the new order was Associated Milk Producers, Inc. (AMP), Montgomery, Alabama. The other two cooperatives, Dairymen, Inc. (DI), Louisville, Kentucky, and Southern Milk Sales, Inc. (SMS), San Antonio, Texas, both strongly supported the adoption of an order. Representatives of the Alabama Farm Bureau endorsed the effort to obtain an order.

During the early part of 1980, Associated Milk Producers, Inc, was supplying about 33–34 million pounds of milk monthly from more than 400 member producers to 12 milk plants in the proposed marketing area. This represented about three-fourths of the cooperative's total production. Diversions to manufacturing outlets varied from about 8 percent to just under 15 percent of total production during January through May 1980. The balance of the members' total production was sold to other fluid milk plants outside the marketing area. AMP does not operate any milk plants.

Dairymen, Inc., at the time of the hearing, represented about 250 producers regularly supplying milk to eight processing plants in the proposed marketing area. Three of the eight plants are operated by Flav-O-Rich, a DI subsidiary, and they receive more than 75 percent of DI's total deliveries to fluid milk plants in the area. During January-March 1980, DI's shipments to the eight plants averaged about 16 million pounds per month. Additionally, in 1978 and 1979, a DI plant at Lewisburg, Tennessee, regularly shipped milk to Alabama plants. In early 1980, such shipments were minimal through March and none were made in April and May. The cooperative operates one ice cream manufacturing plant in Alabama. The data introduced at the hearing did not

indicate how much milk associated with the proposed market by DI was diverted to manufacturing plants in the early months of 1980. However, in September-December 1979, DI's monthly diversions to manufacturing outlets ranged from two to four million pounds.

At the time of the hearing, the third cooperative, Southern Milk Sales, Inc, supplied milk from about 100 farms to six fluid milk plants in the proposed market. During January through May 1980, SMS deliveries to those plants averaged about 7.5 million pounds per month. The association operates no plants in connection with the proposed market, and only occasionally diverts milk to manufacturing plants from distributing plants in this market.

Several witnesses testified for the proponent cooperative on the need for a Federal order. A spokesman for Dairymen, Inc., presented the association's views regarding the need for an order. In addition, a professor in the Department of Agricultural Economics and Rural Sociology at Auburn University testified on the need for an order as a public service function of the University. The major viewpoints of these hearing participants are briefly summarized as follows:

1. There is no effective application of classified pricing and pooling on a marketwide basis in the proposed marketing area to assure farmers of payment for their milk according to its use. Absent such a system, some processors in the proposed area buy milk from producers in other states at prices that differ from prices paid producers located in Alabama. The Alabama Dairy Commission only regulates the price of milk produced, processed, and sold within the State. Inequities result due to the lack of uniformity in prices paid for milk in the same use and which is in direct competition.

2. The combination of individual handler pooling under the State's program and the State's inability to price all milk received and processed at Alabama distributing plants results in a significant disparity in prices paid to producers for their milk. Not all producers delivering milk to a specific plant receive the same price f.o.b. that plant, nor do producers delivering to different plants receive the same price even though such plants are located in the same geographic area.

3. The prices paid some producers are not based on plant utilization, or marketwide utilization. Instead, they are paid flat prices. Such raw milk buying practices create disorder in the market, which is demonstrated by enequities in producer payments and inequities in raw milk costs to processors competing in a common area. Purchases of lower-priced milk for fluid use take the market away from producers who normally supply the local market, leaving them with surplus milk to be diverted to lower-priced manufacturing use. In some cases the local producers must seek what normally is a more distant alternative buyer, which increases costs and reduces marketing efficiency.

4. Under an individual handler pooling system, there is inequity among producers in balancing the daily milk requirements of distributing plants and in the handling of the necessary reserve and the seasonal surplus of the market. Cooperatives perform the function of balancing supplies, yet much of the milk so diverted to manufacturing use is not pooled and so the full costs of balancing are borne by the cooperatives. Thus, where nonpooled diversions by cooperatives are required by distributors, independent producers receive higher prices for their milk.

5. The regulatory program operated by the Alabama Dairy Commission is the only milk marketing regulatory program in effect in the proposed marketing area. That program is ineffective and its future is uncertain under current Alabama law. Thus, there is a low level of producer confidence in the State program.

6. Currently, adequate market information is not regularly available about milk marketing in Alabama, and almost no such information is available about milk marketing in the Florida portion of the proposed marketing area.

7. The auditing program of the Alabama Dairy Commission is inadequate, and no such program exists in the Florida portion of the marketing area. The auditing program conducted through a Federal order would provide greater assurance to producers that they would receive the full value for their milk based on how it was used by processing plants.

8. Individual handler pooling of milk as it exists in Alabama does not provide equity among producers and is a disorderly marketing procedure in today's milk market.

9. Some Alabama processors who distribute milk in price zones other than the zone where the plant is located are paying for their raw milk at Class I prices based on the point of sale of fluid milk products. AMP instituted "point-of-sale" pricing on June 1, 1980.

10. Cooperatives are under constant pressure to reduce the prices charged to handlers in certain areas, particularly from Birmingham, Alabama, northward. The pressure comes from handlers seeking to be competitive with other handlers who receive some, or even all, of their milk at lower unregulated prices from sources outside Alabama.

11. There is no effective program for determining whether producers are paid for their milk on the basis of accurate weights and butterfat tests.

There was no testimony directly opposing an order, but a spokesman for one group of producers who supply milk to a plant at Pensacola, Florida, stated the group's opposition to being included under any Federal order for Alabama. It was indicated that if the plant receiving their milk is to be regulated under a Federal order, the group would prefer that it be regulated under the Upper Florida order. However, this proceeding was not open to consideration of matters pertaining to the Upper Florida order, and no such proposals were received.

Two independent producers offered general testimony related to need for an order. One, who represented more than 50 other independent dairymen, urged that any regulations adopted be kept as simple as possible. Another, who said he represented 23 independent producers, opposed a marketwide pool, preferring instead an individual handler pool.

There was no handler opposition to an order expressed at the hearing. One handler's brief clearly stated that it took no position on the need for an order.

The cooperatives associated with the market generally agree that an overall system of classification, pricing, and accounting for milk should be adopted to restore stability, and that for such a system to be effective it must be established under Federal authority. Clearly, there is a consensus among the major producer groups that the state-administered program no longer effectively provides market order and stability.

The basic problem related to the need for an order is that the State of Alabama cannot classify and price milk produced outside the State, nor milk produced in Alabama and disposed of elsewhere. Over one-half of the milk supply utilized by Alabama handlers that would be regulated under a Federal order comes from outside the State. Thus, the State's classification and pricing program is not applicable to the major portion of the market's milk supply. Yet, milk produced in Alabama competes for the same Alabama retail markets as milk produced in Tennessee, and the out-of-state milk has the competitive advantage. Moreover, the State of Florida has not had a milk classification and pricing program since 1963.

The record indicates that at least two Alabama plants obtain most, if not all, of their raw milk supplies from dairy farmers in Tennessee. Such out-of-state milk is not subject to the Alabama Milk Commission's classified pricing program, but would be regulated under a Federal order.

Exhibits entered by a cooperative and by a dairy farmer from Tennessee show that a Birmingham area plant pays such dairy farmers for their milk under a base and excess plan unrelated to the classified use of milk in the plant. The dairy farmer introduced as an exhibit the milk purchase statement that he received from the plant for milk delivered during May 1980, which showed that he received $13.20 and $10.87 per hundredweight for base milk and excess milk, respectively (without adjustment for butterfat content). The base milk price was applicable at the farmer's barn, while the price for excess milk was the net price after deduction of hauling charges for the excess milk, which were about 85 cents per hundredweight. Adjusted to a 3.3 percent butterfat content, the producer received a weighted average price of about $12.70 per hundredweight for his milk at the farm.

In the above example, the handler's cost for the base milk was $13.20 plus hauling, presumably about 85 cents per hundredweight, for a total price at the plant of about $14.05. However, the Alabama Dairy Commission's price for Class I milk at Birmingham was $14.74 for that month. Absent information on the plant's actual utilization of Class I and Class II milk, it is impossible to determine whether the dairy farmer's pay price was less than he would have received if paid on the basis of the plant's pool blend price at Alabama's prices. Nevertheless, such an ability to evade the State's classification and pricing program is not conducive to the maintenance of a stable and orderly market for milk.

A second example further demonstrates the nature of the problem that proponent seeks to address through obtaining a Federal order. In this case, another Tennessee producer testified that at the time of the hearing he was receiving a flat price of $13.75 per hundredweight for his milk delivered to a plant at Gadsden, Alabama. The hauling cost was 75 cents per hundredweight, so the producer's net return was $13.00 per hundredweight. Again, neither the handler's cost ($13.75 per hundredweight) nor the producer's return is in any way based on the plant's classified utilization of milk under the State program. However, it must be noted that the $13.75 price was at least $1.00 per hundredweight below the Alabama Dairy Commission's Class I price applicable at Gadsden for May, June, or July 1980.

The record indicates that utilization at the Gadsden plant varies from 70 to 88 percent Class I. Whether or to what extent the handler obtains milk at less than State prices in this example again depends on whether the plant's Class I utilization is at the high or the low end of that range of utilization.

As noted earlier, the plant at Pensacola, Florida, is not subject to any State regulations for classifying and pricing milk, and was not partially regulated under any Federal milk order in the spring of 1980. Thus, the plant is not subject to any classification and pricing regulations on its receipts of milk from dairy farmers. In this regard, a Florida dairy farmer, whose testimony was noted earlier, testified that as of June 1980 he and the other producers he represented were receiving a flat price of $14.65 per hundredweight for their milk f.o.b. at the Pensacola plant. In his case, the hauling cost was 38 cents per hundredweight plus a $2.00 stop charge. It is noted that the Alabama Dairy Commission's Class I price for June 1980, applicable to plants in the Mobile, Alabama, area (which is near Pensacola), was $15.13 per hundredweight.

Under the Alabama regulations, Class I milk products distributed out of state are designated as Class I–A and may be accounted for at prices different from the Class I price. This would be the case for milk distributed in the four unregulated Florida counties by plants located in Alabama. Under such a system, the proportion of a plant's receipts that is fully subject to Alabama's State regulations depends entirely on how much milk is obtained from and disposed of outside Alabama. The Alabama plants, therefore, are subject to varying degrees of regulation, and plant operators have no assurance that their competitors must pay at least the minimum class prices for their milk.

It is noted that the Alabama Dairy Commission's announced butterfat differential for adjusting payments to producers for variations from 3.5 percent butterfat content was 15 cents per one-tenth percent variation for the months of November 1979 through April 1980. However, one exhibit, a milk purchase statement for April 1980, shows a differential of 15.4 cents applicable to milk purchased from a Tennessee dairy farmer. Thus, a uniform butterfat differential did not apply to payments to all producers supplying milk to the proposed marketing area.

Another factor present in the Alabama market situation that contributes to market instability is unequal sharing of the burden of handling reserve milk supplies. The Alabama Milk Commission's regulations provide for individual handler pooling. Under that plan milk diverted to manufacturing plants is classified and priced on a load-by-load basis only if the processing plant operator makes a specific request to include a load in his plant's report of milk receipts and use. As a result, most of the milk that cooperatives have diverted to manufacturing uses in recent years has not been included in a plant's pool. Including diverted milk would, of course, lower the rate of return for any nonmember producers that are part of a plant's supply, and so handlers apparently have been reluctant to include a cooperative's diverted milk as part of their pool. This clearly has put the full burden of disposing of reserve milk supplies onto the dairy farmers who are members of the cooperatives. The costs of balancing supplies for handlers and handling the market's reserve milk supplies are not shared by nonmembers. While all the milk produced by a nonmember generally is pooled, the same often is not true for the members of a cooperative. For cooperative members, it is more likely that only the milk actually received at the plant (often only to supplement supplies of nonmember milk) will be priced under the State program.

Still another aspect of the current situation that must be recognized is that producers lack confidence in the current regulatory program for Alabama and they are uncertain whether the State's program will long endure. This latter point was borne out in testimony that the legislative authority for the State's milk pricing regulations recently has been extended for relatively short periods of time. The record shows that in 1979 the authority to regulate milk handling was extended for two years, or until a Federal milk order could be implemented.

From the foregoing, it is clear that there is no overall plan whereby all dairy farmers who supply milk for distribution in the Alabama-West Florida marketing area are assured of payment for their milk in accordance with its use and at minimum prices that are uniformly applicable throughout the market. The problems of unstable marketing conditions encountered by the producers in the Alabama-West Florida marketing area, if they continue,

could lead to even further dependence on outside milk supplies to meet the fluid milk needs of the area. A Federal milk order establishing a classified milk pricing system at reasonable levels and a marketwide pool for distributing the returns from milk sold at such prices uniformly among all producers will help provide the needed market stability. An environment of stable and orderly marketing conditions throughout the Alabama-West Florida marketing area depends on the adoption of a classified pricing plan based on audited utilization of all Grade A milk purchased by handlers from producers and an equitable division among all producers of the proceeds obtained from sales of their milk under the classified pricing plan.

Under a Federal milk order all producers who supply the proposed market will be assured that their milk will be sold at reasonable minimum prices applicable to the classified uses of milk provided herein and that each producer will share pro rata in the returns from such sales in the respective classes, including the lower priced uses of reserve milk supplies not needed for fluid uses. Handlers will be assured that their competitors will pay for milk at not less than the minimum prices set by the order and that such prices will apply whether the milk comes from farms in Alabama, Florida, Tennessee, or other states, and without regard to whether the milk is disposed of inside or outside the marketing area.

The record in this proceeding clearly shows that the dairy industry does not regularly have available detailed information regarding milk procurement and use in the Alabama-West Florida marketing area. Such information would be provided on a continuing basis under a Federal order, and would contribute to the development and maintenance of stable and orderly marketing conditions. Although the lack of such data does not neccessarily demonstrate need for an order, the availability of complete and accurate market information should provide a substantial benefit to producers, cooperatives, and handlers alike.

It is concluded that a Federal order for the Alabama-West Florida marketing area as herein proposed will stabilize and improve milk marketing conditions in the area. The order is in the public interest in that it will establish orderly marketing conditions for producers and handlers relative to milk distributed in the proposed marketing area and will assure a continuing and adequate supply of high quality milk for consumers. Moreover, the order will effectuate the declared policy of the Act by providing for:

1. The establishment of uniform minimum prices to handlers for milk received from producers according to a classified plan based upon the utilization made of the milk;

2. A regular and dependable procedure that affords all interested parties the opportunity to participate, through public hearings, in the determination of changes that may be required in the marketing plan in order to insure an orderly market;

3. An impartial audit of handlers' records to verify the payment of required prices;

4. A system for verifying the accuracy of the weight and butterfat content of milk purchased;

5. Uniform returns to producers supplying the market based upon an equal sharing among all such producers of the returns from the order prices for both the higher-valued Class I milk and the lower returns from the sale of reserve milk that cannot be marketed for fluid use; and

6. Marketwide information on receipts, sales, prices, and other related data concerning milk marketing.

3(a). *Handlers to be regulated and milk to be priced and pooled.*

It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specific definitions to describe the marketing area, route disposition, the types of plants, the various categories or regulated persons (handlers), and the persons (producers) whose milk will be subject to the uniform prices.

Marketing area—The Alabama-West Florida marketing area should include all the territory within the boundaries of Alabama and the Florida counties of Escambia, Santa Rosa, Okaloosa and Walton. The defined marketing area should include all piers, docks, and wharves connected therewith and all craft moored at such facilities. The marketing area should include, as well, all territory occupied by municipal, state, or federal government reservations, installations, institutions, or other similar establishments if any part thereof is within the boundaries specified above.

The record in this proceeding clearly establishes that the entire State of Alabama and the four Florida Counties comprise a single marketing area for milk. Such marketing area defines an area wherein the plants that would be fully regulated are the primary sources of milk for consumers.

The basic data to support the marketing area definition adopted herein were obtained from a survey of 523 grocery stores. The estimates of fluid milk distribution by counties that were placed in the record were based solely on the observations made in the grocery stores surveyed. There are limitations, of course, to the conclusions that may be drawn from such data. Nevertheless, the information is useful for identifying which plants compete with other plants for Class I sales and for providing a reasonable estimate of the geographic territory over which that competition extends. It also should be pointed out that, with minor exceptions, the survey data were not challenged at the hearing.

The proposed marketing area is made up of 67 counties in Alabama and four counties in Florida. An analysis of the survey data shows that with only minor exceptions, the proposed area is a largely self-contained market with respect to milk distribution. For example, in 38 of the 71 counties, the survey indicates that 100 percent of the distribution is from plants located within the marketing area. Plants in the marketing area distributed at least 75 percent of the total in another 18 counties. Thus, in 79 percent of the counties, at least ¾ of the distribution observed in the survey was from plants located in the marketing area.

In five Alabama counties (Geneva, Houston, Lee, Russell, and Sumter) the survey data indicated that more than 50 percent of the distribution came from plants that would not be regulated under the new order. For two other counties, Barbour and Henry, a witness for Beatrice Foods (Meadow Gold) disagreed with the survey results and indicated that sales in these two counties were split about 50 percent each to Alabama plants and to plants fully regulated under the Georgia order. Thus, it is estimated that plants fully regulated under the Georgia Federal order distributed at least half of the total milk distributed in six counties in southeastern Alabama. The observed data for Sumter County indicate the majority of milk sold there originates at a plant pooled under the New Orleans-Mississippi Federal milk order. In these seven counties, the primary source of milk appears to be plants regulated under other orders.

Nevertheless, these counties should be included in the marketing area. Failure to do so would serve no real purpose since the milk being distributed in them would be regulated, either under the Alabama-West Florida order or under some other order. Moreover, inclusion of the seven counties will not

result in full regulation of any plant that otherwise would be unregulated, or cause a plant to shift regulation from another order to the order adopted herein. Including the counties also will simplify the reporting requirements of handlers and will simplify administration of the order.

The marketing area is also characterized by substantial overlapping of sales territories. This further demonstrates that the marketing area defines an area within which there is considerable competition among handlers. One plant was found to have its products in stores near the Alabama-Tennessee border as well as in stores in Florida. Most of the counties in the marketing area were shown to have milk distributed from three or more plants located in the marketing area. In only six counties in the proposed marketing area was there distribution from only one plant located within the area.

In addition to competing with each other for Class I sales in common areas, many of these plants either compete with each other for milk supplies, or receive at least a portion of their supplies from the same cooperative association.

As noted elsewhere in this decision, a group of producers who deliver their milk to the plant at Pensacola, Florida, urged that the four Florida counties not be included with any order adopted for Alabama. Nevertheless, there is compelling evidence that the Florida territory should be included in the marketing area. The plant in Pensacola distributes milk in five Alabama counties. The survey data indicate that such sales comprise about 35 percent of the plant's total distribution within the proposed area.

In addition, the grocery store survey shows that five plants located in Alabama distribute milk into the Florida portion of the market. These plants distributed from three to 24 percent of their total in-area sales within the Florida territory. These data, and those noted in the preceding paragraph, provide a substantial basis for not limiting the proposed marketing area to just the State of Alabama.

Route disposition. A definition for "route disposition" is a convenience for specifying the various kinds of fluid milk sales outlets that will be considered in determining whether a distributing plant would be regulated under the order. As proposed by the order proponent, and adopted herein, route disposition would mean any delivery of a fluid milk product classified as Class I milk to a retail or wholesale outlet (except to a plant), either directly or through any distribution facility or vendor, and including any disposition from a plant store or through a vending machine. It would not include the delivery of fluid milk products to a handler's distribution points. The distribution from such points would be considered a route disposition from the milk plant where the fluid milk products were processed and packaged.

Plant. The order should contain a "plant" definition for purposes of clarity, ease of order interpretation and reference. As proponent suggested and as adopted herein, "plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged.

Separate facilities used only as a distribution point for storing packaged fluid milk products in transit would not be a plant. Similarly, separate facilities at which milk is only reloaded from one tank truck to another would not be a plant as defined herein.

In connection with the discussion of the plant definition, two related issues should be considered. In that regard, the proponent cooperative included a reload point definition in the proposed order. A witness for the cooperative testified that a definition of such a facility was needed to clearly establish it as a non-plant and thus not a pricing point. The witness described such a facility for the record as generally an enclosed building without stationary holding tanks (to cool and store milk) where milk is transferred from one tank truck to another. However, he also indicated that no such facility was being used to supply milk to the Alabama market at the time of the hearing.

The plant definition adopted herein provides the basic guidelines as to what constitutes a reload point. In that regard, "separate facilities without stationary holding tanks which are used only as a reload point for transferring bulk milk from one tank truck to another" would not be a plant under the plant definition adopted herein. Hence, the cooperative's intent with respect to a reload point is accomplished in the plant definition. There is no need to include a separate reload point definition in the order.

Another proposal pertaining to the definition of a plant was discussed at the hearing. Five handlers who would be fully regulated under the order proposed that a manufacturing plant which is operated by a handler who also operates a fluid milk plant not be considered a part of the fluid milk plant operation for pooling purposes if the manufacturing and fluid processing facilities are operated completely separate of each other. A spokesman for the handlers testified that several dairy companies in Alabama operate separate ice cream manufacturing plants in addition to their fluid milk plants. He stated that such manufacturing plants, which keep separate books and records, do not distribute fluid milk products on routes and normally do not receive milk from dairy farmers. Rather, receipts at the manufacturing plant essentially are milk and cream that are excess to the handler's distributing plant operations and which are transferred to the handler's manufacturing plant from the distributing plant.

As provided herein, an ice cream manufacturing plant would be defined as a "plant" since it processes milk. However, the plant would not be considered a part of a distributing plant unless the two plants are operated jointly on the same premises, with the receiving, storage, or processing facilities being shared. Whether the separately operated manufacturing plant would be a pool plant would depend on whether the plant also distributed any fluid milk products in the market or shipped bulk milk to pool distributing plants. The provisions that would determine the pooling status of a plant are discussed later under the heading "pool plant."

Distributing plant. The order should define a distributing plant as a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month. The definition adopted herein is patterned after the one proposed by the order proponent, with one exception that is discussed later. The definition for a distributing plant is provided to describe the activities conducted at such a plant and to distinguish this type of plant operation from others. It also is helpful in referring to this particular type of plant throughout the order.

Proponent's definition referred to milk "approved for fluid consumption." The definition adopted refers to "Grade A milk" and not to milk "approved for fluid consumption." The terms are essentially synonymous, however, when used in context of the market encompassed by this order area.

The Alabama Department of Public Health is responsible for regulating the State's dairy industry with respect to milk sanitation and quality. It is responsible for all milk and milk products form the time the milk is picked up at the farm, transported to a processing plant, processed, packaged and delivered to the consumer. A similar program is conducted by the Division of

Dairy Industry of the State of Florida. The health regulations and the standards for rejection of milk in the two states in many instances are identical.

In that regard, both states conduct routine inspections of dairy farms and processing plants. Rigid surveillance programs are conducted by agencies of both States to insure that only high quality milk and milk products are sold to consumers, and the regulations of both states specify that only Grade A milk may be sold. This means that the dairy farms are inspected and approved for the production of Grade A milk. Likewise, all plants processing or packaging milk for fluid use must be approved for handling Grade A milk. Accordingly, it is appropriate to refer in the order to "Grade A milk", rather than to milk "approved for fluid consumption," as proposed.

Supply plant. A "supply plant" also should be defined under the order. As adopted herein, "supply plant" means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk, and from which fluid milk products are transferred during the month to a pool distributing plant.

The definition provided herein is similar to the one suggested by the order proponent. However, for the reasons discussed under the definition of a distributing plant, the supply plant definition should reflect that the plant must be approved to handle Grade A milk.

Proponent's witness testified at the hearing that there were no supply plants furnishing sufficient quantities of milk to distributing plants on a regular basis to qualify for pool plant status. The cooperative also indicated that it was not currently operating a supply plant and has no plans to do so in the future. The only reason proponent advanced for including a supply plant provision for the Alabama-West Florida order was that other Federal orders in the Southeast provide a definition for such plants. However, under cross-examination the cooperative's spokesman acknowledged that although the Alabama market essentially is a direct-delivery market, it is possible in the future that milk may need to be brought into the market through supply plants from procurement areas located considerable distances from the market. In these cases, according to the witness, it would not be enconomical to furnish the milk on a direct-ship basis.

Pool plant. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants engaged in serving the fluid needs of the regulated market and those that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. Because of differences in marketing practices and functions between distributing plants, supply plants and cooperative "balancing" plants, separate performance standards for each type of operation are provided in the attached order.

The following discussion sets forth the pooling standards that should apply to the various types of pool plants. To facilitate the discussion, it is noted that the performance standards for pooling a distributing plant and a supply plant provide that the plant's required association with the market should be measured in terms of the proportion of its milk receipts that are disposed of in the market. It is intended that such receipts would include any producer milk that is diverted from the plant to nonpool plants. Although diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an intergral part of the plant's supply of milk and acquires producer milk status by virtue of its association with such plant. Therefore, diverted milk should be included in the total receipts of milk at the pool distributing plant or the pool supply plant from which the milk was diverted for the purpose of determining whether the plant qualifies as a pool plant.

Milk that a cooperative bulk tank handler diverts from a pool plant to a nonpool plant also should be included in such plant's receipts for purposes of determining the plant's pool status. Requiring all diverted milk to be included as a receipt at pool plants from which diverted in determining their pool status will insure the integrity of the order by requiring all producer milk to be associated with pool plants.

Along that same line, milk diverted to a supply plant from an other order plant should not be included as a receipt of milk at the supply plant for the purpose of determining whether the plant qualifies as a pool plant. Since such milk would be considered a part of the total supply of milk at the plant from which diverted, it should not be included in the supply plant's receipts. This will permit milk to be diverted to a supply plant with manufacturing facilities for processing without affecting the pool status of the supply plant. A pool supply plant with manufacturing capabilities may represent the nearest available outlet for milk surplus to the fluid needs of another Federal order area.

No similar accommodation needs to be made when milk is diverted to a distributing plant. Since these plants are essentially fluid bottling plants, there really is no reason to divert milk to these plants for any reason other than for bottling purposes. Hence, all milk physically received (including milk diverted to such plant) at the plant should be considered in the plant's total receipts for the purpose of determining whether the distributing plant qualifies as a pool plant.

Provision also is made for a cooperative association to pool a balancing plant. The pooling standard for such a plant would be measured in terms of the cooperative's overall supply function for the market, i.e., the proportion of the cooperative's member producer milk that is delivered to pool distributing plants.

In connection with performance standards for pool plants, Diarymen, Inc. (DI) submitted a modification at the hearing to impose seasonally varying Class I utilization standards for pooling distributing plants and supply plants. Before discussing the appropriate pooling performance standards for the various types of plants, the question of seasonality of fluid sales and producer receipts should be reviewed.

The order proponent, Associated milk Producers (AMP), proposed that the months of August through February be recognized as the season when milk proudction is lowest relative to the market's fluid needs. The months of March through July were designated as the flush milk production months under the cooperative's proposal. DI suggested that September through January be considered as the short milk production season and that February through August be recognized as the flush milk production season.

Market data indicate that the period of September through January generally is the time when milk supplies are shortest relative to the fluid needs of the proposed Alabama-West Florida market. On the other hand, the months of February through August are the months when milk supplies for this market are more adequate to meet the fluid needs of distributing plants.

Based on a statistical summary of data compiled by the Alabama Dairy Commission for a recent 4-year period (1976–79), average monthly Class I sales as a percent of the total supply available to Alabama processors ranged from 91 percent in November to 87 percent in July. The Class I percentage so computed was above 90 percent in each of the months of September through January except in December. The

relationship between supplies and sales is somewhat unique in the month of December when, due to school closings and the holidays, the demand for milk falls off sharply in the latter part of the month. However, in view of the relatively higher fluid demand during the first two-thirds of the month, it is appropriate to include December with the months of September, October, November and January as months when production is relatively short to meet the fluid needs of this market.

In each of the other seven months of February through August, the monthly average Class I sales as a percent of producer supply available to Alabama processors was in the upper 80's. Although the sales-supply situation in these months has been in fairly good balance, these are the months when milk supplies have been more adequate to meet the proposed market's fluid needs. Moreover, it should be noted that the data from which these utilization percentages were computed do not include all of the milk that would be diverted to nonfluid uses in these months. Thus, the actual utilization levels under a Federal order likely will be lower.

The months of September through January are adopted as the market's short milk production season. In that regard, greater shipments by supply plants will be required and individual producers will have to "touch base" more often during these months under the proposed order. In addition, on the basis of their deliveries in such 5-month period, producers will establish their bases under the base-excess plan adopted in this decision.

On the other hand, the months of February through August will be adopted as the flush milk production period for this market. Accordingly, fewer shipments will be required by supply plants and individual producers will not have to "touch-base" as often during these months. In addition, producers will receive their payments on the basis of their base and excess milk deliveries during part of this period.

With respect to its modified proposal to impose Class I utilization standards, DI urged that to qualify as a pool plant not less than 70 percent of certain specified receipts at the distributing plant or supply plant in each of the months of September through January and not less than 50 percent during each of the months of February through August be assigned to Class I milk. Under this modification, a monthly Class I use standard for distributing plants would be used in lieu of the total route disposition standard suggested by the order proponent.

A spokesman for DI contended that monthly Class I use standards for distributing plants and supply plants are needed to assure that the milk pooled under this order is closely associated with the market's fluid milk needs. Based on the statistical data of the Alabama Dairy Commission, the DI witness testified that its proposal would allow an individual plant to have a class I utilization at least 15 percentage points below the market's average Class I use during the September–January period. During the months of February through August, the proposal by DI would allow an individual plant's Class I use to be about 25 percentage points below the market's average Class I utilization and maintain pool status for such plant. In DI's view, these monthly minimum Class I requirements on distributing plants and supply plants, which would vary seasonally, are reasonable in view of marketing conditions in the proposed area, even though they would be well under average levels of Class I use.

Southern Milk Sales (SMS) supported DI's proposal to impose a Class I utilization standard on supply plants. A spokesman for the association contended that the Class I requirement is needed to insure that milk delivered to a supply plant by producers associated with the proposed market will be made available to pool distributing plants for their bottling requirements. He further testified that the integrity of the blend price thus would be protected for producers closely associated with the market's Class I sales.

In its brief, AMP stated its opposition to DI's proposal to impose Class I utilization standards on distributing plants and supply plants. In that regard, the cooperative supported its position on performance standards for such pool plants as stated at the hearing. AMP's brief stated its view that its pooling proposals were adequate to demonstrate a plant's association with the marketing area to such an extent that it should be a pool plant. Also, Kraft, Inc., in its brief opposed DI's pooling proposal on the basis that it would exclude available milk supplies from participation in the marketwide pool.

DI excepted to the sentence in the recommended decision which stated that adoption of DI's proposed Class I utilization standards for distributing plants and supply plants "would exclude available milk supplies from participation in the marketwide pool." The cooperative's primary concern in this regard was that by referring to the statement in the decision the Department was supporting Kraft's viewpoint. The cooperative claimed that although Kraft did not testify at this hearing, the handler has clearly stated at other hearings in the Southeast region that the purpose of its supply plant operations in other Federal order markets was to obtain milk for its manufacturing plants.

The Kraft statement was related in the decision merely to describe the handler's position with respect to the cooperative's proposed Class I utilization standards, and was considered along with all other information presented on this record in arriving at the findings and conclusions of the recommended decision with respect to this issue.

There is no basis on this record to conclude that the standards for pooling distributing plants and supply plants in the proposed market require the imposition of Class I utilization standards. There is no indication that handlers who will be regulated under the Alabama-West Florida order are likely to experience problems in obtaining adequate supplies of milk for fluid purposes because milk is being used instead for manufacturing uses elsewhere.

DI excepted to the denial of its proposed Class I utilization standards for supply plants. The cooperative contended that a performance requirement that would permit a supply plant to maintain its pool status with a Class I utilization of 35 percent during the months when production is short relative to Class I sales is inappropriate for this market. DI claimed that its proposed higher standards would be more realistic and proper in terms of this market's Class I use.

The cooperative insisted that the recommended decision's conclusion that the imposition of Class I utilization standards for pooling supply plants in the proposed market could not be supported on the basis stated in the decision, i.e., "there is no indication that handlers who will be regulated under the Alabama-West Florida order are likely to experience problems in obtaining adequate supplies of milk for fluid purposes because milk is being used instead for manufacturing uses elsewhere." DI argued that there has not been an opportunity for supply plant operators to retain milk for their manufacturing operations because there has not been a Federal order covering this area.

Even though the proposed marketing area has not been covered by a Federal order, the need for Class I utilization standards on supply plants to assure adequate supplies of milk to meet the fluid needs of distributing plants that

will be subject to the new order is not justified on the basis of the record. Although DI disagreed with this conclusion, the exception provides no compelling arguments for reaching a different conclusion. We believe that the cooperative's concern that milk will be committed to manufacturing uses and thus not be available for the market's fluid needs throughout the year is taken care of by the combination of shipping standards for supply plants, the diversion allowances for handlers, and the touch-base requirements for individual producers adopted herein.

DI offered considerable testimony on why the Alabama-West Florida order should accommodate only the pooling of enough milk to meet the proposed market's Class I needs, including reserves to accommodate the daily, weekly, and seasonal variations in supply and demand. DI's contention was that this is what the Act contemplates, and that it indeed has been the Department's policy in that regard.

The Act provides no basis for concluding that a Federal order should restrict the absolute volume of Grade A milk that is pooled. What is intended is to provide regulations to ensure that the market's fluid milk needs will be met under marketing conditions characterized by orderliness and stability. To that end, the order should provide certain performance standards for identifying plants and producers who participate in meeting the fluid milk needs of the market to a degree that warrants being included in the marketwide pool. However, those performance standards should not preclude from pool status additional supplies of milk that may in the future become associated with the fluid milk needs of the Alabama-West Florida market.

In connection with its proposal to impose a Class I utilization requirement on supply plants, DI proposed that milk transferred from a supply plant to another pool plant be classified on a pro rata basis with all other pool receipts at such plant. Since this decision denies the proposal to impose a Class I utilization requirement on supply plants, it it not necessary to further consider this corollary proposal.

In response to DI's proposed modification to impose a Class I utilization standard on distributing plants, a handler operating a fluid milk processing plant at Gadsden, Alabama, proposed that two or more distributing plants of the same handler be permitted to combine their dispositions into a single unit for the purpose of meetings the Class I utilization percentage requirement proposed by DI. The handler spokesman contended that, if DI's proposal is adopted, the Gadsden plant may not qualify as a pool plant because byproducts are made at that plant for distribution by its other fluid milk processing plants in Alabama.

In its brief, the handler took the position that its unit pooling proposal should be considered only if DI's proposed Class I utilization standards are adopted. Since this decision denies the proposal to impose a Class I utilization requirement on distributing plants, it is not necessary to further consider this handler proposal.

To qualify as a pool plant under the proposed Alabama-West Florida order, a distributing plant would be required to meet performance standards related to the proportion of its receipts used in route disposition, including such dispositions in the marketing area. Pool distributing plants would include only those plants substantially engaged in the distribution of fluid milk products. in this connection, a pool distributing plant's total route disposition each month, both inside and outside the marketing area, should not be less than 50 percent of its receipts from all sources of Grade A fluid milk products that are physically received at such plant or diverted from the plant to nonpool plants. The route disposition of such a plant in the marketing area must also be at least the lesser of a daily average of 1,500 pounds or 10 percent of such receipts.

The standards for pooling a distributing plant are similar to those proposed by the proponent cooperative. Based on the record of marketing conditions in the proposed marketing area, the 50 percent route disposition requirement herein provided should be appropriate. Any plant which has a majority of its business as route disposition of fluid milk products should be considered as a pool distributing plant under the new order. The 50 percent route disposition standard is commonly used throughout the Federal milk order program to determine whether a plant is primarily involved in processing and distributing fluid milk products.

In exceptions to the recommended decision, the Alabama association of milk dealers suggested that a distributing plant's total Class I disposition (rather than only its route disposition) be used as a standard to determine whether such a plant qualified for pool plant status under the new order. The handler group contented that the pooling of a distributing plant should be based on the plant's Class I utilization, since the milk is paid for on the basis of the way it is used by such pool plant operator.

No such modification of the proposed pooling standards for distributing plants was made at the hearing. Hence, the issue was not explored on the record and there is no basis in the record to support adoption of the handlers' suggested modification. The findings and conclusions of the recommended decision on this point therefore are affirmed and the suggested change is denied.

AMP's proposed in-area route disposition requirement was intended to assure that a large plant with substantial sales in the marketing area would be fully regulated. For example, assume that a distributing plant has 5 million pounds of Grade A milk receipts and route dispositions of 300,000 pounds per month (6 percent of receipts) in the marketing area. If the only in-area measure of performance for pool plant status is the 10 percent requirement, the plant would be a partially regulated distributing plant. Nevertheless, 300,000 pounds of route dispositions could represent a major portion of the total Class I sales within a small portion of the marketing area. For this reason, AMP proposed that any plant having route disposition in the marketing area averaging 1,500 pounds per day (45,000 pounds per month) should be fully regulated under the order. The AMP witness indicated that the plant at Tupelo, Mississippi, could be in a position to operate in the manner described above.

The in-area pool plant standard proposed by AMP is a reasonable pooling standard and should be adopted. Accordingly, a distributing plant with at least the lesser of a daily average of 1,500 pounds or 10 percent of its receipts disposed of on routes in the marketing area would be a pool plant unless the plant also qualifies as a pool plant under another Federal order and the plant has a larger volume of route disposition in the marketing area of such other order. This standard will provide a reasonable indication of when a distributing plant is associated with this market to the extent that warrants its full regulation under the order.

The record indicates that the 21 distributing plants that would most likely qualify as pool plants under the Alabama-West Florida order would have no difficulty in meeting either the total route disposition standard or the in-area route disposition standard adopted herein.

A supply plant should qualify for pool status by transferring a certain percentage of its total receipts from

dairy farmers to pool distributing plants. As provided herein, the supply plant's total receipts would include deliveries to the plant by its own producers and by a cooperative as a bulk tank handler. In addition, producer milk diverted from a supply plant would be included in the plant's total receipts from dairy farmers and, conversely, milk diverted to such plant from another order plant would be excluded from such plant's total receipts for the purpose of determining whether the supply plant qualifies as a pool plant. The reasons for such inclusions and exclusions in a supply plant's total receipts have been discussed previously with respect to this issue and need not be repeated here.

AMP proposed a shipping requirement of 50 percent for supply plants. The cooperative's proposal also would provide automatic pool plant status for a supply plant in the months of March through July if such plant qualified as a pool supply plant for this market in each of the immediately preceding months of August through February.

A witness for DI testified that the order proponent's suggested performance standards for a supply plant would allow such a plant to have a Class I utilization as low as 25 percent and remain pooled. He contended that in an area where the annual average Class I use has been almost 90 percent, a performance standard that would allow a plant to have Class I utilization as low as 25 percent is inappropriate when the objective of the Act is to obtain milk for fluid use.

The witness for Dairymen, Inc., testified that he did not believe there was a need for either a supply plant definition in the order or the operation of such plants for this market. This was premised on the belief that the proposed market can be supplied on a direct-delivered basis. He contended that because of this supply plants are an inefficient method of supplying milk to the market.

However, since Federal orders allow handlers to buy their milk supply from whomever they wish, there could be occasions when a milk supply is obtained at sufficient distance from the market center to make it practical for milk to be handled through a supply plant. In recognition of this and in view of the proposed market's anticipated supply-demand conditions, DI proposed seasonally varying monthly shipping requirements for supply plants. Under the DI proposal, a supply plant would be required to ship at least 70 percent of its total receipts from dairy farmers to pool distributing plants during each of the months of September through January and 50 percent of such receipts in each of the other months.

Southern Milk Sales supported DI's higher shipping standards for supply plants for the same reasons that it supported the imposition of Class I utilization standards on such plants proposed by DI. The reasons given by the cooperative for supporting the more stringent pooling standards have been noted in previous findings under this same issue.

Although Kraft, Inc., does not operate a plant that likely would be fully regulated under the Alabama-West Florida order, a brief was filed by Kraft as an interested party. Kraft operates an other order plant that has route disposition in the Alabama-West Florida marketing area and also operates manufacturing facilities that receive milk supplies that are excess to the market's fluid needs. The handler took the position that the proposed supply plant provisions were deficient because a supply plant operator would not get credit for movements directly from the farms of producers as qualifying shipments to distributing plants in addition to transfers to such plants from the supply plant.

There is no basis on this record to adopt the provision described by Kraft. No specific proposal was advanced to cover this issue and the problems that Kraft envisioned with respect to the order's supply plant provisions were not explored on this record.

Kraft also requested in its brief that official notice be taken of two Department of Agriculture publications that predict a steady conversion from manufacturing grade production to Grade A production. The request for official notice is denied. The brief fails to indicate any relevancy of that material to any issue on which hearing evidence was received in this proceeding. Therefore, there is no purpose to be served by taking official notice of the requested USDA publications.

As envisioned for this area, a supply plant would be a plant that is located some distance from the consumption centers and that performs the traditional function of assembling milk and supplying distributing plants with supplemental milk supplies on heavy bottling days. Because of its distance from the market center, this type of plant would find it more efficient to receive milk from the farm at the plant and then transfer it into larger over-the-road tank trucks for transshipment to distributing plants. Accordingly, a "supply plant" should be defined on a functional basis, i.e., transferring fluid milk products to pool distributing plants.

At the time of the hearing the Alabama-West Florida market was not being served by any plant that specializes in the collection of milk for cooling and transshipment to a distributing plant to such an extent that it would qualify for pool status on that basis. In fact, most markets today do not have such plants, which have generally lost their usefulness with the advent of farm bulk tanks, refrigerated trucks, and a modern highway system. Nevertheless, supply plants have continued to be associated with some Federal order markets.

Since not enough milk is produced in the marketing area to furnish the fluid milk needs of handlers, it is necessary to import milk regularly from sources beyond such area. Hence, specific pooling standards for supply plants need to be included in the order in the event such a plant in the future should supply milk for this market to such an extent that it should participate in the marketwide pool.

Under the standards adopted herein, a supply plant would be required to transfer 70 percent of its total receipts from dairy farmers to pool distributing plants in each of the months of September through January and 50 percent of such receipts in each of the other months to qualify as a pool plant. These shipping standards were proposed by DI and supported by SMS.

The Alabama association of milk dealers excepted to the 70 percent shipping standard for supply plants in each of the months of September–January. The handler group asked the Secretary to consider lowering the 70 percent standard provided in the recommended decision to 50 percent in such months. The handlers contended that the 70 percent shipping standard adopted for this market is not consistent with what is provided in this regard under other Federal milk orders.

Kraft, Inc., raised the same point in its exceptions and essentially for the same reason. In that regard, the handler noted that the recommended 70 percent shipping requirement for this market would exceed the shipping requirement under any existing Federal order.

The supply plant shipping percentages adopted for this new order are based on the record of marketing conditions that prevailed in the proposed marketing area at the time of the hearing. The shipping percentages provided under other Federal milk orders were based on conditions in those markets and have no bearing on what is appropriate in the Alabama-West Florida market.

Accordingly, the exceptions by the milk dealers and Kraft on this point must be denied.

Given the anticipated high Class I utilization in this market, the order should not provide, as the order proponent suggested, for automatic pool plant status for supply plants during the months of seasonally higher milk production. The fluid requirements of distributing plants in this market are such that supply plants, when relied upon for milk, should be required each month to transfer certain percentages of their receipts to distributing plants to participate in the order's marketwide pool. Supply plants likely would need to ship milk to distributing plants in this market even during the months when production tends to be heavier, because during the days of peak bottling demand all of the milk supply available for this market will be needed to furnish the needs of distributing plants. For this reason, a supply plant's requirements for pool status should apply on a year-round basis.

Pooling milk through a supply plant may not be the most efficient way to pool milk in this market. Since the record indicates that this market essentially is supplied on a direct-delivery basis, the order's pooling provisions should be so structured that a handler will not have an incentive to pool milk through a supply plant when the milk can move more efficiently to a distributing plant directly from the farm. Requiring a supply plant to qualify on the basis of shipments each month during the year will serve that purpose.

In exceptions to the recommended decision, Kraft urged that automatic pool plant status be afforded a supply plant in the more plentiful milk production months of February through August, if such plant had met the shipping requirements in each of the immediately preceding months of September through January. The handler claimed that such automatic pool plant status would be appropriate under this order because it is commonly provided under other Federal orders. The handler concluded that since particular provisions are found in other orders, it is the general policy of the Secretary that such provisions be adopted in orders generally.

This is not the case. The terms and conditions of the Alabama-West Florida order are based on the hearing record relating to the Alabama-West Florida area, reflecting marketing conditions that prevailed in that area at the time of the hearing. What is provided under other orders with respect to automatic pooling of supply plants was based on the conditions in those markets and has no bearing on whether such status should be provided for supply plants under this order. Moreover, the recommended decision set forth the considerations involved in adopting year-round seasonally varying performance standards for supply plants. No changes from the recommended decision are warranted on the basis of the handler's exceptions on this particular aspect of supply plant pooling. Accordingly, Kraft's viewpoint is overruled.

As indicated, it is reasonable under the market conditions to require a supply plant to deliver at least 70 percent of its receipts from dairy farmers to pool distributing plants during the months when milk supplies tend to be shortest relative to the market's fluid needs. However, a lower shipping percentage (50 percent) for supply plants should apply in each of the months of February through August when milk production is seasonally higher. In these latter months, a smaller proportion of a supply plant's total receipts from producers may be needed at pool distributing plants if their Class I sales remain relatively constant. Furthermore, Class I utilization declines at some pool distributing plants during the summer months when schools are not in session. Accordingly, in the months of heavier milk production, a lower shipping requirement for supply plants is appropriate.

Kraft, Inc., also took exception to the recommended pool supply plant provisions generally. In that regard, the handler contended that "regulatory disincentives would effectively deny supply plant participation in the market."

There is a sound basis in the record for each aspect of the pool supply plant provisions adopted in the recommended decision. Such provisions are supported by testimony and other evidence presented for the record and cited in the decision. The terms and conditions adopted for pool supply plants are based on the marketing conditions which prevailed at the time of the hearing. There is no basis to change any of those findings or conclusions of the recommended decision with respect to pooling supply plants on the basis of Kraft's exceptions.

Specifically, with respect to the pool supply plant provisions, Kraft reiterated its view that supply plants should be allowed to count as shipments from the supply plant, milk diverted from such plant that is delivered directly to distributing plants from the farms of producers.

Kraft also contended that the Deputy Administrator should have explained more thoroughly why certain efficiencies in marketing milk would be permitted for cooperatives under the new order but denied for proprietary supply plant operators, i.e., a cooperative could count direct deliveries to qualify its balancing plant but a supply plant could not count such deliveries to qualify its supply plant.

As indicated in the recommended decision, there is no basis in the record for allowing direct-shipped milk to count as plant shipments for pool qualification purposes of a supply plant. This facet of pooling a supply plant did not come up at the hearing. Hence, there is no basis to adopt such a provision. No changes from the recommended decision with respect to this point are warranted on the basis of the handler's exceptions.

In discussing the pooling issue at the hearing, a witness for Dairymen, Inc., testified that under AMP's proposed shipping standard for supply plants the DI plant at Lewisburg, Tennessee, would have qualified as a pool supply plant in certain past months on the basis of shipments to distributing plants that would be regulated under the new Alabama-West Florida order. Since significant quantities of milk have been shipped from the Lewisburg plant to Alabama distributing plants from time to time, and because the Alabama market is the primary recipient of supplemental shipments from such plant, he contended that the Lewisburg plant should be regulated under the proposed Alabama-West Florida order.

To accommodate this situation, DI modified its hearing notice proposal for a supply plant operated by a cooperative and proposed that a cooperative be permitted to pool a balancing plant, upon request, if the association delivers 60 percent or more of its member producer milk to pool distributing plants during the month. The 60 percent delivery requirement could be met by deliveries directly from the farm and/or by transfers from the association's plant under the cooperative's proposal.

Two other cooperatives supplying the market (AMP and SMS) opposed the DI proposal essentially for the same reason, i.e., it would allow, in their opinion, the cooperative to "ride" the pool by associating unneeded supplies of milk with the marketwide pool, thereby depressing the order's uniform prices. Thus, in their view, to the extent that the adoption of a balancing plant provision would permit DI to do this, the returns to the member-producers of these two cooperatives would be reduced.

The record indicates that cooperatives have been balancing milk supplies for this market. An exhibit comparing the proponent cooperative's deliveries to fluid milk processors who have independent producers with the association's deliveries to such processors without independent producers shows that the variation in the average daily delivery by AMP to processors with independent producers was almost three times as great as it was for deliveries to processors without independent producers. For example, during September 1978–August 1979, the average daily deliveries by AMP to processors without independent producers ranged from a low of 91 percent of the annual average in July to a high of 104 percent of such average in April (a difference of 13 percentage points). On the other hand, during that same period, the cooperative's average daily deliveries to fluid milk processors with independent producers ranged from a low of 81 percent of the annual average in June and July to a high of 117 percent in October (a difference of 36 percentage points).

A greater variation in deliveries to a distributing plant was experienced by AMP if such plant had its own producers. This resulted because as the plant's own producers increase their production, less milk is needed from the cooperative. When the cooperative's milk is displaced like this by milk from the plant's own producers, oftentimes the cooperative's displaced milk must be hauled long distances to a manufacturing plant at the expense of the association. Conversely, when the production of a plant's own producers decreases, the cooperative is called on to supply more milk. If the cooperative is short of milk overall in supplying its customers at this time, it may be necessary for the cooperative to import milk from beyond the local supply area to fulfill the fluid needs of handlers, which also can be costly to the cooperative.

The Lewisburg plant is a large manufacturing plant that receives substantial volumes of milk that are excess to the fluid milk needs of other Federal order markets throughout the Southeastern United States. It has the capacity to handle about 900,000 pounds of milk per day. Although considerable milk is transferred from the plant to fluid milk outlets during certain months of the year, the plant is primarily engaged in manufacturing butter and nonfat dry milk.

The Lewisburg plant is a fully regulated pool plant under the Nashville order, qualifying as a cooperative balancing plant. Unlike the Alabama situation, very few if any shipments from the Lewisburg plant are made to distributing plants regulated under the Nashville order. A significant portion of the receipts at such plants are diversions off of other Federal order markets in the Southeast. In such cases, the diverted milk may be considered producer milk under the other order rather than a direct receipt of producer milk at the Lewisburg plant under the Nashville order.

The new Alabama-West Florida order should accommodate the pooling of the Lewisburg plant as a cooperative balancing plant. Although the Lewisburg plant is located in a major part of this market's procurement area, it oftentimes may be more economical to move the milk directly from the farm to an Alabama distributing plant than it is to haul the milk to Lewisburg, receive it there at the cooperative's plant solely for the purposes of qualifying the plant, reload it and then haul it to a distributing plant, which in some cases is closer to where the milk was produced. However, when milk of some producers is temporarily not needed at distributing plants, their milk could maintain pool status by being delivered from the farm directly to the balancing plant, since it would be a pool plant. The plant thus would be an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from distributing plants to maintain producer milk status under the order. Affording pool status to the balancing plant also would facilitate the transfer of milk from the cooperative's balancing plant to pool distributing plants.

Although milk should be moved when possible directly from the farm to distributing plants, there are occasions when balancing plants are called upon to make supplemental shipments. Such shipments, however, often may not be in sufficient amounts to qualify the plant as a supply plant. Nevertheless, the plant should qualify for pooling as long as the cooperative has demonstrated an adequate degree of supply performance for the market as a whole.

The cooperative should be permitted to move the milk in the least costly manner (either directly from the farm and/or by transfer from its balancing plant). In certain cases, this could result in significant savings to the cooperative in plant handling and transportation costs. In view of this, the cooperative's deliveries from the farm and/or transfers from the plant should count as qualifying shipments in determining whether a balancing plant meets the minimum delivery requirement. This will provide maximum flexibility to the cooperative in moving its milk supplies to customers.

It is necessary that there be a reasonable demonstration that the milk pooled through balancing plants is a part of the regular market supply. Milk should not be permitted to be associated with the market merely for manufacturing purposes since this would reduce returns to producers and discourage the production of an adequate supply of milk by those producers regularly supplying the fluid market. A balancing plant's pool status should be contingent on its function with respect to the milk supply for the fluid market and this is reasonably reflected in how much of the cooperative's total member producer milk is delivered to pool distributing plants.

The record indicates that, on a year-round basis, 80 percent or more of DI's member producer milk under the proposed order would be delivered to distributing plants that will be regulated under the new Alabama-West Florida order. Based on marketing conditions, the recommended decision found that at least 70 percent of the producer milk member producers should be delivered each month to pool distributing plants to qualify a cooperative's balancing plant for pooling without requiring that plant to separately meet the shipping requirements of a pool supply plant. It was found that such requirement would assure a substantial association of the cooperative's total producer milk supply with the market's fluid use and thus would minimize the opportunity for any cooperative to pool unneeded milk through the balancing plant.

Dairymen, Inc., however, excepted to the Department's recommendation for a 70 percent delivery requirement during each of the months of February through August. During these months, supply plants would be required to transfer 50 percent of their receipts from dairy farmers to pool distributing plants to qualify for pool plant status. The association contended that it should not be required to furnish a greater percentage of its milk supply to pool distributing plants in order to pool its balancing plant than would be required of a supply plant to qualify as a pool plant in such months. In conclusion, DI stated that it would support the same 50 percent delivery requirement for its balancing plant as would be the applicable shipping percentage for supply plants during the February-August period.

During these months, milk production generally is higher seasonally and a smaller proportion of the association's member milk will be needed at pool distributing plants if their Class I sales remain relatively constant. In addition, the Class I needs of some distributing plants will be lower during the summer months when schools are not in session. In recognition of these circumstances, a lower delivery requirement would be more appropriate for cooperatives to qualify a balancing plant. The lower delivery requirement in such months would provide cooperatives greater flexibility in disposing of the market's reserve milk supplies. It also would be consistent with the lower shipping requirements for supply plants and the lower "touch-base" requirements for individual producers during these months.

DI's suggestion in this regard should be accommodated in this final decision. Accordingly, seasonally varying delivery requirements of 70 percent in each of the months of September-January and 50 percent in each of the other months would be applicable to cooperatives for the purpose of qualifying a balancing plant for pool status. The order is appropriately changed to reflect this consideration.

In its exceptions to the recommended decision, SMS repeated its opposition to the balancing plant provisions in general. The cooperative reiterated its position taken at the hearing and in its brief that adoption of such provisions will permit DI to pool under this order milk which is excess to the fluid needs of markets throughout the Southeast, thereby jeopardizing the blend price for this market.

Even though the delivery requirements for pooling a balancing plant are lowered somewhat in certain months from the recommended decision, it is expected that the overall standards of performance adopted herein for plants, handlers and producers to qualify milk for pooling, in conjunction with the base plant provisions, will tend to assure the integrity of the new order. Hence, the cooperative's exception is overruled.

As DI suggested, the pooling of the cooperative's balancing plant on a request basis would be conditioned on such plant's not qualifying as a pool distributing plant or a pool supply plant under this or any other Federal order. If a balancing plant meets the performance requirements as a distributing plant or a supply plant under this or any other Federal order, there would be no reason to request status for such a plant under this order as a pool balancing plant. Also, the balancing plant must maintain approval by a duly constituted regulatory agency to handle Grade A milk. Such a provision is necessary to assure that the plant can be depended upon for supplemental supplies when they are needed by distributing plants. Since the Alabama-West Florida order as adopted herein would not require any minimum shipments to the market from a cooperative's balancing plant, it is conceivable that the plant might not take the necessary steps to maintain its health approval, thereby precluding the plant from being able to transfer milk from the balancing plant to pool distributing plants.

The performance standards adopted herein for the various types of pool plants should be adequate to insure that the milk pooled under the Alabama-West Florida order is associated with the market's fluid use. They are sufficient to prevent the development of Grade A milk supplies and the association of such supplies with the order solely for the purpose of obtaining milk for other than Class I use. The provisions are adequate considering the proposed market's Class I needs and the historical utilization of producer milk in such area.

Certain plants should be excluded from "pool plant" status even though they meet the pooling standards of the order. For instance, a distributing plant possibly could meet the pooling requirements of this order and also another Federal order in the same month. Such a situation could develop in particular between this order and the New Orleans-Mississippi order (Order 94) because the low minimum in-area sales requirement (1500 pounds per day on routes) adopted herein is also provided for in the adjoining New Orleans-Mississippi market. Complementary provisions between the two orders should provide administrative guidance to resolve conflicts regarding regulation of a plant that qualifies for pooling under both Federal orders.

A distributing plant that has route disposition in both marketing areas should be regulated in the market in which such plant has the greater route sales. However, if a plant that has been regulated under this order should have greater route disposition in another marketing area, the plant should retain pool plant status under this order until the third consecutive month in which it has greater route disposition in the other marketing area. This procedure would limit the casual, disruptive shifting between orders on a month-by-month basis that can occur when intermarket distribution results in qualifying a distributing plant for pool status under more than one order.

Similarly, the new order should recognize that lock-in provisions for distributing plants also are provided under other orders. In that regard, a complementary provision is adopted in the new order to allow a distributing plant to continue to be regulated under the other Federal order even though it has greater route sales in the Alabama-West Florida marketing area. In this situation, a distributing plant in Order 94, for example, would retain its pool status under Order 94 until the third consecutive month its route disposition in this marketing area was greater than in the Order 94 marketing area.

A supply plant that meets the shipping requirements of this order and another Federal order but which has greater shipments to distributing plants regulated under the other order should be pooled under the other order. Also, a supply plant pooled under another Federal order on the basis of its automatic pool plant status would not be a pool supply plant under the Alabama-West Florida order even if such plant met the shipping requirement under this order.

In addition, certain types of plant operations that are exempt from the pooling provisions of the order should be specifically excluded from the order's pool plant definition. In that regard, the term "pool plant" shall not apply to a producer-handler's plant or a governmental agency plant.

Nonpool plant. The new order should include a definition of "nonpool plant." Under the order, a nonpool plant would mean any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The "nonpool plant" definition sets forth five specific categories of plants that cannot be pool plants under the order. They are adopted essentially as proposed by the order proponent.

A definition of "nonpool plant" is provided in the new order to facilitate the formulation of the various order provisions as they apply to such a plant. The various types of nonpool plants are described further hereinafter.

An "other order plant" would be a plant that is fully regulated under another Federal order. As such, it cannot be a pool plant under this order.

A plant operated by a "producer-handler," as defined in this or any other other Federal order, would be considered a nonpool plant. Due to the nature of the operation, as discussed later, such a plant is specifically exempt from pool status.

A "partially regulated distributing plant" also would be considered a nonpool plant. A partially regulated

distributing plant would be a plant that does not qualify as a pool distributing plant, an other order plant, a producer-handler plant, or a governmental agency plant. Generally, such a plant would be a distributing plant that has route disposition in the defined marketing area, but not to an extent that would qualify it for pool status under the order.

The Secretary has noted that the provisions of the proposed order inadvertently would not have fully carried out the intent of the recommended decision with respect to partial regulation of a filled milk plant that would not meet the definition of a "distributing plant." This oversight is corrected in the order attached to this decision by revising the definition of a "partially regulated distributing plant" to specify that it is a nonpool plant that has route disposition in the marketing area during the month.

An "unregulated supply plant" means a supply plant that does not qualify as a pool supply plant, an other order plant, a producer-handler plant, or a governmental agency plant. In essence, it is a plant that transfers milk to pool distributing plants, but not to an extent that would qualify it for pool status under the order (less than the specified percentage of its receipts from dairy farmers is transferred to pool distributing plants).

As suggested by the order proponent and adopted herein, a distributing plant operated by a governmental agency (Federal, state, or local) would also be included among the nonpool plants specified in the order.

The proponent's witness testified that he was not aware of any distributing plant operated by a governmental agency which would qualify for exempt status under the new order. However, he indicated that such a self-contained operation which runs its own dairy farm, processing plant, and distributes such milk at a plant store or on a college campus should not be fully regulated under the order. He further testified that such an operation would not be a competitive factor in the overall market and for this reason should not be pooled. Accordingly, as suggested, the order should recognize the possibility of such operations in the future by extending nonpool plant status to them.

Handler. The impact of regulation under an order is primarily on handlers. A handler definition is necessary to identify those persons from whom the market administrator must receive reports, or who have financial responsibility for payment for milk in accordance with its classified use value. As herein provided, the following persons are defined as handlers under the order:

(1) The operator of one or more pool plants;

(2) A cooperative association with respect to producer milk that is picked up at the farm and delivered to a nonpool plant as diverted milk for the cooperative's account;

(3) A cooperative association with respect to milk of a producer that is picked up at the farm and delivered to a pool plant of another handler for the cooperative's account;

(4) The operator of a partially regulated distributing plant;

(5) a producer-handler;

(6) The operator of an other order plant from which milk is disposed of in the area; and

(7) The operator of an unregulated supply plant.

All of the categories of handlers listed above, with the exception of the operator of an unregulated supply plant were proposed by the order proponent and are common to most milk orders. Each person who may have a reporting requirement or may incur a financial obligation under the order should be disignated a handler. This will assure that all information necessary to determine a person's status under the order can be readily determined by the market administrator. For this reason, the operator of an unregulated supply plant and the other persons listed above should be defined as handlers under the new order.

A pool plant operator who receives milk from producers should be the responsible handler for such milk. As the responsible handler, such person should report, in the detail prescribed by the market administrator, the quantities of milk received from each producer and each other source. Such operator also should be responsible for reporting certain other information deemed necessary by the market administrator in order to determine the utilization of producer milk. Such handlers should be responsible for making payments to producers, cooperative associations and the producer-settlement fund in accordance with the terms of the order.

A cooperative association should be a handler under the order for farm bulk tank milk moved by the cooperative to a pool plant or diverted to a nonpool plant. In the case of such movements to a pool plant, a cooperative should be the handler for milk received for its account from the farm of a producer that is delivered to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative. However, should there be a mutual agreement between the cooperative and the pool plant operator whereby such operator agrees to be the handler for the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the cooperative need not be the handler for such milk.

Requiring a cooperative to be the handler on milk picked up for its account at the farm of a producer and delivered to a pool plant provides a practicable basis for the complete accounting of such milk. It also recognizes the current handling arrangements used by the cooperatives operating in the market in allocating their milk among distributing plants.

A witness for the order proponent testified that some plants which would be fully regulated by the proposed order buy their milk supply from the cooperative on the basis of weights and tests taken at the farm by the association. In such circumstances, it is only the cooperative that has the opportunity to measure and sample the milk of individual producers that is received at a plant. In the absence of any agreement by the plant operator to be the handler on such milk, the cooperative must be the responsible handler for the milk as it leaves the farm.

Under the terms of the attached order, the pool plant operator's obligation on milk purchased from a cooperative as a "bulk tank handler" is the same as for producer milk received directly from the farm of an individual producer. The plant operator must account to the pool for the milk according to the classification assigned to the milk based on the plant's utilization. The pool plant operator in turn settles with the cooperative on the basis of the uniform price for the milk. Under this arrangement, the pool plant operator is obligated to the producer-settlement fund, the administrative fund and the cooperative on the quantity of milk the cooperative delivers to such handler's pool plant directly from the farms of producers. The cooperative, in turn, is obligated to the producer-settlement fund and administrative fund on only that portion of milk picked up for its account that exceeds the quantity delivered to pool plants.

This accounting and payment procedure for bulk tank milk received from a cooperative will simplify the accounting for such milk by the pool plant operator. It will facilitate the administration of the order with respect to such items as financial responsibility, enforcement, and subsequent audit adjustments that may arise. Since the

actual use of milk reflects the receiving pool plant's operation, it is reasonable that the responsibility for the accounting and payment of such milk be placed directly on such pool plant operator.

The attached order also provides that a cooperative could be a handler on the milk of a producer which it diverts for its account from a pool plant to a nonpool plant. This handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing. It also will assist the principal cooperatives in balancing supplies among the several distributing plants serving the market.

Under this handling arrangement, the diverting cooperative would be obligated to the producer-settlement and administrative expense funds on the diverted milk. Conversely, the operator of the nonpool plant that received the milk from the diverting cooperative would not incur an obligation on such milk under the order.

The new order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve supplies. If it so chooses, a cooperative should be able to pick up the milk of nonmember producers along with the milk of members for delivery to a pool plant or diversion to a nonpool plant. This procedure will enable the cooperative to act as the marketing agent for a nonmember producer who has contracted with the cooperative to market his or her milk. Nothing in the order would require a cooperative to pick up the milk of nonmember producers. It would provide, however, that when a cooperative does pick up milk of nonmember producers on trucks under its control, it must assume varying degrees of responsibility with respect to such milk, depending on the handling arrangements made.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. With the adopted handler definition, the new order would be consistent with that provision of the Capper-Volstead Act which recognizes that cooperatives "may deal in the products of nonmembers" and which limits such dealings to amounts not greater in value than those "handled by it for members."

Producer-handler. The order should exempt "producer-handlers" from the pricing and pooling provisions of the order.

Experience under Federal orders has demonstrated that effective regulation can be insured without the full regulation of individuals who essentially process and distribute milk produced on their own farm and who buy no milk from other dairy farmers. Such operations are basically self-sufficient in that they rely primarily on their own farm production and assume the burden of maintaining the necessary reserve supply of milk associated with their fluid milk operation and of disposing of any daily or seasonal surpluses they may produce. Because of the costs associated with producing all of the milk needed for their fluid sales and handling the reserve supplies, producer-handlers seldom are able to gain any competitive edge in the marketplace by virtue of their exempt status.

Although the specific order language adopted with respect to producer-handlers differs somewhat from what the order proponent suggested, the basic intentions of the cooperative are accommodated under the provisions adopted herein.

As proposed by the order proponent and adopted herein, a "producer-handler" would be any person who operates a dairy farm and a distributing plant from which there is route disposition in the marketing area. Such persons would be permitted to supplement milk production on their own farms with purchases from pool plants and plants fully regulated under other Federal orders. A producer-handler operation would lose its exempt status by disposing of milk from other sources in a fluid milk product (other than by the fortification process). Such person also must satisfy the market administrator that the management and operation of the dairy farm and processing plant are at the personal risk of the producer-handler.

A question was raised at the hearing in connection with the cooperative's proposal to permit a producer-handler to buy unlimited quantities of fluid milk products from pool plants. It is intended that producer-handlers not have a significant advantage over fully regulated handlers when they are permitted to purchase supplemental milk. Since the milk transferred from a pool plant to a producer-handler would be accounted for under the order as a Class I disposition of the pool plant, no significant advantage would result for the producer-handler. Nevertheless, the principal basis for excluding producer-handler operations is that they are primarily self-sufficient, i.e., they bottle and distribute essentially their own milk production. Thus, it is anticipated that supplemental purchases would be relatively small.

The record indicates that there are only two operations that would qualify as producer-handlers under the proposed order. One is located in the Huntsville, Alabama, area and another is in the Dothan, Alabama, area. Both were described as relatively small operations. There is no indication as to whether these operations obtain supplemental supplies from other sources. While there is no basis in this record for limiting supplemental purchases, the matter can be reviewed later in light of actual operating experience under the order.

There was considerable discussion at the hearing about whether a producer-handler also should be permitted to buy supplemental milk from pool plants regulated under other orders. A witness for the order proponent testified that he did not believe a producer-handler could gain a competitive advantage over other pool plant operators on such purchases, since the milk would have to be accounted for at the Class I price under the other order and transportation costs would have to be added. The cooperative preferred, however, to limit supplemental milk purchases by producer-handlers to pool plants regulated under this order because such purchases would enhance this market's uniform price. However, because no competitive advantage can be obtained when a producer-handler buys fluid milk products from plants regulated under other Federal orders, it is provided herein that supplemental purchases by producer-handlers may be made from pool plants under this order and from plants fully regulated under other Federal orders.

A producer handler's exempt status would be conditioned on certain other methods of operation by such a person. For instance, such a handler would not be permitted to reconstitute or convert milk products into fluid milk products. It is necessary to preclude a producer-handler from reconstituting or converting milk products into fluid milk products because such products have a surplus value and, if such activities were permitted, would place the producer-handler at a significant competitive advantage over regulated handlers in terms of product costs. This would not, however, prevent a producer-handler from buying Class II and Class III milk products from any source for distribution in the same form along with such handler's fluid milk products. Nor would it prevent a producer-handler from increasing the nonfat milk solids content of the milk produced on such person's own farm or purchased from pool plants by fortifying a fluid milk product.

A producer-handler's status also would be contingent on such person proving to the market administrator that the operation of the dairy farm and processing plant in question are at his/her risk. An exemption from the pooling and pricing provisions for such a person is based upon the basic self-sufficiency of the total operation. Accordingly, no other person should be permitted to share the risk involved with the operation of a producer-handler's farm or plant. All resources necessary and incidental to his/her own farm production of milk must be his/her personal risk. Similarly, all risk associated with the operation of the processing plant must be that of the producer-handler.

Producer. The term "producer" defines those dairy farmers who constitute the regular source of supply for the market. The producer definition adopted herein follows closely the one proposed and supported by the order proponent.

Producer status under the order should be provided for any dairy farmer who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is received at a pool plant directly from the producer's farm or is picked up at the farm by a cooperative as a bulk tank milk handler for delivery to a pool plant. Producer status also should be accorded to a dairy farmer who has an established association with the market and whose milk is diverted from a pool plant to a nonpool plant by a cooperative association or a pool plant operator, either for fluid use or for surplus disposal.

To establish a producer's association with the market and to insure the marketability of such producer's milk, it is reasonable to require that a dairy farmer's milk be received at a pool plant each month to qualify such dairy farmer's milk for diversion to a nonpool plant. The "touch base" requirement is discussed more fully in the findings dealing with the definition of producer milk under the new Alabama-West Florida order.

The order would provide an exemption for producer-handler operations and for plants operated by a governmental agency. Since these operations are exempt from the order's pricing and pooling provisions, milk which is excess to the needs of such operators should not be treated as producer milk when it is moved directly from the farms of such operators to a pool plant. Accordingly, the producer definition adopted herein would specifically exclude producer-handlers and governmental agency plants. Any such milk delivered to a pool plant from such operations would be other source milk.

In addition, provision must be made to preclude the possibility of a dairy farmer being a producer under two orders with respect to the same milk. In this regard, the producer definition should exclude a dairy farmer with respect to milk which is received at a pool plant under this order by diversion from a pool plant under another order if the dairy farmer is a producer under the other order with respect to such milk and the milk is allocated to Class II or Class III use under this order. Also, the definition should exclude a dairy farmer with respect to milk which is diverted to a pool plant under another order from a pool plant under this order if any portion of such person's milk is assigned to Class I milk under the other order.

Producer milk. The "producer milk" definition is intended to define the milk that would be priced and pooled under the order. The definition adopted herein contains the basic features suggested by the order proponent.

"Producer milk" would include milk of a producer that is (1) received at a pool plant directly from such producer by the operator of the plant; (2) received by a cooperative association acting as a bulk tank handler; or (3) diverted by a cooperative association or a pool plant operator from a pool plant to a nonpool plant that is not a producer-handler plant.

When milk is not needed at a pool plant, it usually is diverted to a nonpool plant where it is used to produce manufactured milk products. Hence, the order should provide for "diversions" to nonpool plants by pool plant operators and cooperative associations within certain specified limits to insure that the pool distributing plants in the market are adequately supplied first. With respect to the limitations on such movements, a portion of an individual producer's milk would have to be received at a pool plant each month to qualify the producer's milk for diversion to nonpool plants during the month. In addition, handlers (pool plant operators and cooperative associations) would be limited in the total quantity they may so divert each month.

The order proponent suggested that pool plant operators and cooperative associations be permitted to divert an amount equal to one-third of the producer milk physically received at pool plants during the months of seasonally short milk production. In support of the proposal, the proponent's witness testified that the proposed diversion allowance would be adequate to accommodate the surplus disposition requirements of handlers supplying milk for the market. He also indicated that his producer group would rarely if ever need to divert as much as 25 to 30 percent of its milk supply in any month.

Proponent further suggested that 2 days' production of each producer should be received at a pool plant during each of the flush production months of March through July to qualify such producer's milk for diversions to a nonpool plant during each such month. During each of the months of August through February, proponent suggested that the requirement be 6 days' production.

The witness for proponent testified that these are minimum requirements and he would not be opposed to higher "touch-base" requirements for individual producers. He also stated that based on his knowledge of supply-demand conditions which exist in the general area, the milk of all producers will be needed more than half of the time to supply the fluid milk requirements of the market's distributing plants. He further testified that insuring the delivery of the minimum days' production of each producer's milk to pool plants each month would not result in additional transportation costs for the cooperative.

DI proposed a "touch base" requirement for each individual producer of 4 days' production in each of the months of February through August and 10 days' production in each of the other months of September through January. In support of its higher delivery requirements to pool plants by individual producers, a witness for DI testified that if producers are a regular part of the necessary reserve supply for this market, it would result in little, if any, additional transportation costs to deliver the minimum number of days' production of each producer's milk to pool plants each month. He contended that when milk supplies not closely associated with the market's fluid milk needs become attached to the market it is costly to the cooperative in terms of a reduced blend price. The DI witness stated that the cooperative will most likely have to ship production of 20 or more days of each producer's milk to pool plants during the months of September through January to furnish the fluid milk requirements of its pool distributing plant customers.

An independent producer proposed that at least one-half of an individual producer's milk should be required to be received at a pool plant each month to qualify such dairy farmer's milk for diversion to nonpool plants. He testified that, in his judgment, the proposed

touch-base requirement of 2 days' production (one delivery for producers on every-other-day delivery) was inadequate. He contended that higher delivery requirements would be in his best interest in addition to the best interests of other Alabama producers.

In its post hearing brief, the order proponent (AMP) supported the DI touch-base requirements of 4 and 10 days' production for individual producers. Both cooperatives also repeated their contention that these requirements would not result in additional hauling costs to their associations because more than the minimum number of days' production for each individual producer would be received at pool plants.

Southern Milk Sales, Inc., in its brief urged that the touch-base requirements be 70 percent of a producer's milk (21 days' production) in the fall months and at least 50 percent (15 days' production) in the spring months to protect the integrity of the blend price and to assure consumers an adequate supply of milk to meet their needs.

The limits on total diversions of producer milk to nonpool plants by a handler should be established at a rate that will accommodate the market's needs to efficiently dispose of milk not needed for fluid use. At the same time, it is necessary to assure that milk supplies will be available for fluid use.

It is apparent from the testimony that cooperatives could meet their needs for handling reserve milk dispositions with a total diversion limit of 20–30 percent of their total supplies. DI, for example, indicated that about 80 percent of its producers' milk would be needed for fluid use. AMP indicated that diversions would rarely be as much as 25 percent. Southern Milk Sales' suggested touch-base requirement of 70 percent for individual producers in the short production months would leave 30 percent of their production that would not be required to be delivered to pool plants. There was no testimony by handlers on the need to divert the milk of independent producers.

Based on the evidence noted above, it is concluded that handlers' diversions of milk to nonpool plants should not exceed an amount equal to 30 percent of the milk physically received at pool plants during the month. This is slightly less than the order proponent proposed (30 percent of physical deliveries to pool plants is equivalent to 23 percent of total supplies). Nevertheless, it should adequately serve the purpose of providing an efficient method for disposing of milk not needed for fluid use in the market.

A pool plant operator, other than a cooperative association, should be allowed to divert any milk that is not under the control of a cooperative that is diverting producer milk during the month. The total quantity of milk that such plant operator may divert during any month should be limited to 30 percent of the producer milk physically received at such plant during the month. Likewise, a cooperative association should be allowed to divert milk for its account. In this case, the percentage limit should be 30 percent of the cooperative association's producer milk that is delivered to and physically received at pool plants during the month.

The diversion allowance for handlers should apply in each month. The record indicates that a 30 percent allowance will accommodate handlers' needs in the flush production months, and thus no problems should be experienced by such handlers with the same allowance in the other months. In addition, since plants will be required to meet specified performance standards to attain pool status each month under the new order, a diversion allowance should be specified for handlers on a year-round basis.

The Alabama association of milk dealers excepted to the monthly diversion allowance of 30 percent provided in the recommended decision for pool plant operators and cooperatives. The handler group claimed that a distributing plant could lose a Class I sales contract for a short time and may need to divert milk in excess of the allowance as a result. The handlers suggested a monthly allowance of 50 percent.

The record indicates that a diversion allowance of 30 percent is expected to accommodate the efficient movement of milk supplies in excess of the market's fluid needs by handlers. The higher allowance suggested by handlers is not supported by any evidence in the record. Accordingly, the exception is overruled.

The diversion allowance provided herein for handlers establishes the maximum quantity which cooperatives and pool plant operators may divert each month. Having set that allowance at an appropriate level, the individual producer "touch-base" standard should be set at a minimal level in order to allow handlers the maximum flexibility to receive milk from producers in the least costly manner.

Marketing efficiency is optimized when a handler can decide, with the minimum amount of interference, how and where to move milk supplies under such handler's control. Producers supplying a particular pool plant can be widely dispersed. For this reason, a handler may receive milk from several farm routes, some of which likely would be nearer to the plant than others. Thus, it would be more economical to receive the milk of those producers located closest to a handler's plant on a regular basis and to receive the milk of more distant producers only when the handler needs the extra milk. Of course, the reverse would also be true for the disposal of the reserve milk. The handler would want to divert to nonpool manufacturing plants the milk of the distant producers more often than the milk of those producers who are located closest to the pool plant, assuming that the manufacturing plant is located in the outer reaches of the milkshed or beyond, as is likely the case.

It is reasonable, however, that the order include a minimal "touch base" provision that would require each producer's milk to be received at a pool plant each month. For this purpose, DI's proposed requirements, which would vary seasonally, should be adopted. To qualify a producer's production for diversion to nonpool plants during the month, 10 days' production would have to be delivered to a pool plant during each of the months of September-January and 4 days' production would be required in each of the months of February through August. In view of the anticipated supply-demand situation in the proposed market, the touch-base requirement should apply throughout the year. This procedure is consistent with requiring pool plants to meet monthly performance standards and specifying monthly diversion allowances for handlers.

As indicated, a seasonally higher requirement would apply in the months of September through January and a lower requirement would apply in the months of February through August. The peak demand for milk in this market occurs on at least four days each week, or a minimum of 16 days each month. On these days, practically all of the available milk of producers associated with the market is needed at distributing plants. It is anticipated that producers on every-other-day pick-up would make at least 8 deliveries (16 days' production) to distributing plants on such peak days. Thus, a touch-base requirement of 10 days' production (five deliveries for producers whose milk is picked up every other day) each month of September through January is reasonable. Such a standard is adequate to establish that a producer is eligible to have milk diverted to a nonpool plant during the months when production is

short relative to the demand for Class I milk.

During the months of February through August, only four days' production of each producer would have to be received at a pool plant to qualify such producer's milk for pool participation. During these months, the market's fluid needs generally would require a lesser proportion of the available milk supply. Thus, greater flexibility in disposing of the reserve milk supplies would be desirable, and would be provided by not requiring as much of each producer's milk to be delivered to a pool plant.

DI suggested that if a supply plant's qualification is based solely on shipments to distributing plants as the order proponent suggested, then the individual producer touch-base requirement should be met by deliveries to pool distributing plants only. It is unnecessary, however, to specify that only deliveries to pool distributing plants may establish a producer's association with the fluid market.

The Alabama association of milk dealers excepted to the recommended touch-base standard of 10 days' production for individual producers during each of the months of September–January. The association contended that there is no need for the order to require that an individual dairy farmer's milk be physically received at a pool plant that often during these months to associate the milk of such producer with the plant. As an alternative, the handler group suggested in its exceptions that the 4-day standard recommended for the months of February–August be applicable in each month.

A touch-base requirement is not included in the order to associate a dairy farmer's milk with a particular pool plant. Rather, it is provided to demonstrate that a producer's milk is associated with the market's fluid milk needs. Accordingly, for an individual producer's milk to be eligible for diversion to a nonpool plant during any month under the order, a minimum amount of such dairy farmer's milk must be received at a pool plant each month. If the monthly minimum touch base requirement specified in the order is met during the month, it is considered that the dairy farmer has furnished a portion of the market's fluid needs and is entitled to participate in the marketwide pool with respect to diversions to nonpool plants during the month also.

Although the proponent of the order proposed touch-base standards of two and six days' production in the hearing notice, the cooperative took the position at the hearing that they would not be opposed to higher standards. In its brief, the proponent cooperative supported DI's proposed higher touch-base requirements of 4 and 10 days' production for individual producers. Moreover, the evidence received at the hearing indicated that the Class I needs of handlers would be a greater proportion of all available supplies in the September–January period. Hence, a touch-base requirement of at least 10 days' production during September–January is fully supported by the record evidence on this issue.

Along the same line, Kraft, Inc.'s exceptions claimed that the provisions of the recommended decision in many respects required inefficient milk handling practices. The handler charged that such provisions "* * * cannot be justified or reconciled on need to attract milk production to the market, but rather intended to limit the quantity of available milk production which may participate in the marketwide pool." In this regard, the handler maintained that under the recommended touch-base requirements marketing efficiency would not be optimized, i.e., handlers would not be permitted to move milk around in the least costly manner.

It is recognized that performance standards under an order may result in some loss of marketing efficiency, and it is desirable, of course, to keep such loss to a minimum. Nevertheless, such standards serve an essential role in the regulated market. The standards adopted herein are based on the marketing conditions found in this market and represent the best judgment of what is appropriate for the area.

Kraft further contended that cooperative and proprietary handlers are not treated uniformly under the touch-base requirements of the recommended decision. In that regard, if a cooperative moved milk to its balancing plant for manufacturing, such milk is considered a receipt at a pool plant and all producers on the load get credit for meeting the order's touch-base requirement. However, if a proprietary handler moved milk off the market to a manufacturing plant, it is considered a diversion to a nonpool plant and none of the producers on the load get credit for touching base. Kraft contended that proprietary pool plant operators are discriminated against in such instances.

The difference depicted above in the application of the touch-base provisions does not reflect discrimination against proprietary handlers, as Kraft contends, but merely different operating conditions. If a proprietary handler operated manufacturing facilities at a pool supply plant, the handler then would be operating in a manner comparable to the cooperative's manufacturing operation cited above. In this case, the milk of the proprietary handler's producers that is manufactured at the supply plant would be considered a receipt at a pool plant.

A supply plant's pool status would be determined solely on the basis of shipments to distributing plants. If the supply plant meets the shipping requirements of the order and thus becomes a pool plant, it has demonstrated an adequate association with the fluid market. Dairy farmers delivering milk to the supply plant are thus associating themselves with the fluid market.

The order should provide a procedure to be followed for determining pool status of the milk if a pool plant operator or cooperative association diverts milk in excess of the percentage allowance specified in the order. As adopted herein, the excess quantity of milk would not qualify as producer milk and would not be priced under the order. In such cases, the diverting handler would be required to designate the dairy farmer deliveries that should not be considered producer milk. Absent such designation, no milk diverted by the handler would be producer milk. This method of identifying overdiverted milk was proposed by the order proponent.

Also, the order should provide the method suggested by the order proponent to determine which producers' milk should not be qualified as producer milk when a cooperative's diversions from a pool plant to nonpool plants would cause such plant to lose its pool status. In such cases, the cooperative should be responsible for identifying which dairy farmers' milk would not be producer milk. Since the cooperative is the accountable handler to the pool for the producers' milk, such handler is in the best position to identify those producer deliveries that would not be producer milk for purposes of assuring continued pool status for the plant involved.

If the cooperative fails to designate the dairy farmers' deliveries that are to be excluded as producer milk, no milk diverted by the cooperative to nonpool plants would be considered producer milk. This procedure is consistent with the method used to specify which dairy farmer deliveries should not be considered producer milk when a handler diverts milk in excess of the percentage allowance specified in the order.

As proposed by AMP, milk diverted from a pool plant to a nonpool plant would be priced at the location of the

nonpool plant where the milk is physically received. If diverted milk were priced on the basis of the pool plant from which diverted, different prices could apply for milk received at a pool plant and a nonpool plant at the same location. The pricing method adopted herein is consistent with the requirement of the Act that milk be uniformly priced to all handlers based on the location at which delivery of the milk is made.

The hearing notice included a handler proposal to permit diversions between pool plants. At the hearing a handler spokesman indicated that the proponents had decided to withdraw their proposal.

Other source milk. An other source milk definition should be adopted for the new Alabama-West Florida order. In addition to milk received from producers, a regulated pool plant may receive milk or milk products from other sources. An "other source milk" definition will serve to specifically identify the various categories of such receipts.

The order proponent suggested that the "other source milk" definition that was adopted when a uniform milk classification plan was provided for 39 Federal order markets on August 1, 1974, be included in the new order. There was no opposition to this proposal, which is adopted.

As provided herein, "other source milk" would be all skim milk and butterfat in a handler's receipts of fluid milk products or bulk fluid cream products from any source other than producers, cooperative association handlers, or pool plants. It also would include a handler's receipts of fluid cream products in packaged form from other plants. In addition, any milk products (other than fluid milk products, fluid cream products and products produced at the plant in the same month) from any source which are reprocessed, converted into, or combined with another product in a handler's plant during the month would be considered a receipt of "other source milk." Receipts of milk products (other than fluid milk products or fluid cream products) for which the handler fails to establish a disposition also would be included under the "other source milk" definition.

Although fluid cream products would be Class II products and would not be included in the order's fluid milk product definition, bulk fluid cream products should be treated in the same manner as fluid milk products for purposes of applying the other source milk definition. This procedure will facilitate the application of the other provisions of the order.

Receipts of fluid cream products, eggnog or yogurt (or any filled product resembling such products) in packaged form from other plants would be considered other source milk. These products are Class II under the classification plan provided for this market. Although no handler obligation would apply under the order provisions adopted herein with respect to such receipts, it is desirable for accounting purposes that receipts of packaged Class II products be defined as other source milk. This accounting technique will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest class of utilization as is provided in some cases for other types of other source milk.

The order should provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. For accounting purposes, such manufactured products would include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or lowfat cottage cheese, the receipts of dry curd would be allocated under the provisions adopted herein directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipts.

The order also should provide that products manufactured in a pool plant during the month and then reprocessed, converted into or combined with another product in the same plant during the same month not be defined as other source milk. For example, assume that a handler makes condensed skim milk from producer milk and then uses the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

Any disappearance of manufactured milk products for which the handler fails to establish a disposition would be considered other source milk. It is reasonable that each handler be required to account for all milk and milk products received or processed at the handler's regulated plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over competitors who properly account for all of their receipts of milk and milk products. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

Filled milk. Filled milk should be defined as any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

This definition and the treatment afforded such products under the order are consistent with the provisions and treatment of filled milk adopted in the Assistant Secretary's decision for all Federal orders issued October 13, 1969 (34 FR 16881). Official notice was taken of the 1969 decision at the hearing held June 23–July 2, 1980, for this market. The record evidence indicates that the findings and conclusions of the 1969 decision are equally applicable under current marketing conditions in the proposed marketing area.

Cooperative association. A definition of "cooperative association" should be adopted as suggested by the order proponent.

As provided herein, a cooperative association means any cooperative marketing association of producers which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or milk products for its members.

Defining such an organization of producers will facilitate the formulation of the various other order provisions as they apply to such an association of producers.

(b) *Classification of milk.*

The statutory authority for Federal milk orders specifies that an order shall classify milk in accordance with the form in which or the purpose for which the milk is used. As proposed by

proponent, the order should provide for three classes of utilization.

The products included in Class I milk and sold in the proposed marketing area for fluid consumption are required to be produced in compliance with the inspection requirements of a duly constituted regulatory agency. This is in contrast to the absence of such requirements for manufactured dairy products such as butter and hard cheese. Because of the extra cost of getting high-quality milk produced and delivered to the market in the condition and quantities required, it is necessary to establish a separate class for such milk to which a price above the manufactured milk price may be applied. The higher price for Class I milk must be at a level which, together with the prices applicable to other classes, will yield a "uniform" price that will encourage production of milk to meet the fluid requirements of the market.

Class I milk should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

Each product designated herein as a Class I product would be considered a "fluid milk product" as defined in the order. In addition to these fluid milk products, Class I milk would include any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

As provided, skim milk or butterfat disposed of as filled milk in fluid form shall be classified as Class I milk. This classification is identical to the treatment of filled milk in all Federal order markets. The basis for the uniform treatment of filled milk under this and all other Federal orders is set forth in the earlier findings concerning the definition of filled milk

Class III milk should include products which are made from surplus Grade A milk and which compete in a national market with similar products made from manufacturing grade milk. These products include cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form (such as nonfat dry milk), any concentrated milk product in bulk, fluid form that is used to produce a Class III product, and evaporated or condensed milk (plain or sweetened) and evaporated or condensed skim milk (plain or sweetened) in consumer-type packages. Class III milk also should include any product not specified in Class I or Class II.

An intermediate class, Class II, should apply to certain products which can command a higher value than Class III products, but which must be competitively priced below Class I in order to compete with non-dairy substitute products or manufactured dairy products that can be used in making Class II products. Class II milk should include skim milk and butterfat disposed of in the form of a "fluid cream products," eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles one of these products. As defined in the order, "fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

Class II milk should also include bulk fluid milk products disposed of to any commercial food processing establishment at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, it should include milk used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and certain other products as specified in the order.

The classification scheme adopted herein was proposed by the order proponent and is identical to the uniform classification plan contained in many of the other Federal order markets. The plan was based on exhaustive hearings held on this issue in 1971 for 39 markets. The final decision on the uniform classification plan was issued February 19, 1974 (39 FR 9012). Official notice was taken of this decision at the hearing held June 23–July 2, 1980, for the Alabama-West Florida market. It contains a detailed discussion of the classification issue. Official notice also was taken of the Assistant Secretary's decision issued July 17, 1975 (40 FR 30119), which modified certain provisions originally adopted in the 39-market decision.

Proponent testified that this classification system (as modified in 1975) would be fully appropriate for the proposed order. Adoption of the uniform classification plan in this new order will coordinate these essential provisions with the same provisions under most other orders.

The record evidence indicates that the findings and conclusions of the above mentioned decisions are equally applicable under current marketing conditions in the proposed marketing area.

Classification of shrinkage. The Alabama-West Florida order should contain provisions for classifying skim milk and butter fat in shrinkage. The shrinkage provisions adopted herein are similar to the shrinkage provisions now provided in most orders.

Total plant shrinkage should be prorated between (1) those kinds of receipts on which the Class III shrinkage limitations apply, and (2) other receipts, principally other source milk in the form of fluid milk products requested for Class II or Class III use. To the extent that the quantity of shrinkage prorated to the first category exceeds the established Class III limit, the excess should be classified in Class I.

The shrinkage provisions provided herein recognize that shrinkage normally varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, with respect to milk picked up at producers' farms and delivered to a plant, a Class III shrinkage allowance of 0.5 percent for such milk is provided.

A Class III shrinkage allowance of 1.5 percent to cover milk lost in processing is provided for the pool plant operator. This provides a total of 2 percent Class III shrinkage allowance for such milk from producers in the receiving and processing operations.

The total shrinkage allowance applicable to a pool plant operator depends upon whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 percent shrinkage in Class III if the milk is purchased on the basis of weights determined at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for a cooperative association handler who may have delivered the milk from the farm to the pool plant.

As provided herein, when bulk milk is transferred to another plant, the shrinkage allowance to the transferor handler would be reduced at the rate of 1.5 percent of the quantity transferred. This is similar to provisions now applicable under most orders.

In the case of milk diverted from a pool plant to a nonpool plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This same procedure would apply to cooperative bulk tank deliveries to pool plants when similar handling is involved.

This division of the 2 percent shrinkage allowance, both in the case of deliveries from cooperative bulk tank handlers to plants and for transfers between plants, has been found practical and has been well accepted in Federal order markets where it now applies.

Shrinkage should be accounted for on an individual plant basis in the case of a handler operating more than one pool plant under the order. This procedure will promote plant efficiency in the Alabama-West Florida market.

Classification of milk transferred or diverted to other plants. Some fluid milk products or fluid cream products may be disposed of by regulated handlers to other plants. It is necessary, therefore, to provide specific rules so that the classification of such movements may be determined under this order.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk from a pool plant to another plant be classified in a manner similar to that used in classifying transfers of bulk fluid milk products.

Some skim milk or butterfat may be transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant. Such transfers should be classified as Class I milk unless both handlers request the same classification in another class in their monthly reports to the market administrator and sufficient Class II or Class III utilization is available at the transferee-plant after the allocation of its receipts of other source milk. If the shipping plant received other source milk in the form of nonfat dry milk, for example, during the month, the skim milk and butterfat so transfered should be classified so as to allocate the least possible Class I utilization to the other source milk. If the shipping handler received other source milk from an unregulated supply plant or an other order plant, the transferred quantities, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee-plant.

Transfers from a cooperative bulk tank handler to the pool plant of another handler should be assigned classification pro rata with producer milk received at the plant.

The provisions governing transfers between pool plants described herein will contribute to obtaining the best possible utilization of producer milk. Such provisions will tend to insure that producer milk used in Class I will not be classified in a lower class when interplant shipments involve a pool plant with receipts of other source milk. Unless such safeguards are provided, a high-utilization plant could be used as a conduit for assigning milk obtained from nonpool sources for manufacturing purposes to a higher utilization (at the expense of producer milk) than it would receive by direct delivery to the plant at which it is actually utilized.

Skim milk or butterfat may be transferred or diverted from a pool plant or an other order plant in the form of a fluid milk product or transferred from a pool plant to an other order plant in the form of a bulk fluid cream product. The classification of such transfers or diversions shall apply only to the skim milk and butterfat in excess of any receipts at the pool plant from the other order plant.

The order should provide for the diversion of milk to other order plants for Class II or Class III use. Such provisions will foster the efficient handling of surplus milk in the market by permitting the disposal of such milk directly from farms to manufaturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the Alabama-West Florida market.

Fluid milk products transferred or diverted to other order plants and bulk fluid cream products transferred to such plants will be classified in accordance with the classes to which such milk is allocated under the other order. If information concerning the classification of transfers and diversions is not available to the market administrator in time to compute handler pool obligations, such transfers shall be classified in Class I, subject to adjustments when the information is available. In addition, the order should provide that if the other order provides for a different number of classes than the Alabama-West Florida order, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified in Class I and skim milk and butterfat allocated to to other classes shall be classified as Class III milk. The order also provides that if a fluid milk product is transferred to an other order plant and such product is not defined as a fluid milk product under the other order, classification of such transfer shall be in accordance with the classification provisions of this order.

The order should prescribe a method for classifying the skim milk and butterfat in transfers from a pool plant to a producer-handler or in transfers or diversions from a pool plant to a governmental agency plant. If such skim milk and butterfat are in the form of a fluid milk product, such transfers should be classified as Class I milk. As described elsewhere in this decision, such a classification is necessary to assure that producers are not burdened with maintaining reserve supplies associated with the Class I sales of such operations.

Skim milk and butterfat in the form of bulk fluid cream products transferred from a pool plant to a producer-handler or a governmental agency plant should be assigned to the extent possible to the receiving plant's Class III use, and then to Class II use. If the producer-handler

or governmental agency plant does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

The order also must prescribe a procedure for classifying transfers or diversions to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant. Bulk fluid milk products transferred or diverted and bulk fluid cream products transferred should be classified as Class I milk unless a lower classification is requested and the operator of the nonpool plant makes available to the market administrator books and records for the purpose of verifying the receipts and utilization of milk and milk products at the nonpool plant. To determine such lower classification, the nonpool plant's utilization must be assigned to its receipts of milk from various sources.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the Alabama-West Florida marketing area, and any transfers of packaged fluid milk products from the nonpool plant to Alabama-West Florida pool plants, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under the Alabama-West Florida order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned. Such use would be assigned first to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under the Alabama-West Florida order and second to any such remaining receipts from plants fully regulated under other orders.

Any remaining unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

The method herein provided for classifying transfers and diversions to nonpool plants accords equitable treatment to order handlers and also gives appropriate recognition to handlers in other regulated markets in the classification of milk transferred to a common nonpool plant. Giving highest use priority to dairy farmers directly supplying a nonpool plant recognizes that they are the regular and dependable source of supply of milk for fluid use at such plant. The proposed method of classification will safeguard the primary functions of the transfer and diversion provisions of the order by promoting orderly disposal of reserve supplies and in assuring that shipments to nonpool plants will be classified in an equitable manner.

Allocation of receipts to utilization. Because the value of producer milk is based on its classification, the Alabama-West Florida order must provide a procedure for assigning a handler's receipts from different sources to the handler's utilization for the purpose of establishing such classification.

The order proponent testified that the system of allocating handlers' receipts to the various classes should be the same as that adopted in the Assistant Secretary's decision dealing with the classification, allocation and pricing of other source milk issued July 7, 1964 (29 FR 9110), commonly known as the "compensatory payment" decision.

The "compensatory payment" decision dealt with the issue of integrating into each order's regulatory plan milk which is not subject to classified pricing under any order and receipts at pool plants from other order plants. The decision established a procedure for allocating over a pool plant's total utilization the receipts at the plant from all nonpool sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Proponent's representative testified that the method developed for all Federal milk marketing orders as discussed in the 1964 decision is appropriate in the proposed marketing area and will coordinate these regulations with respect to the treatment of unregulated milk and other order milk with comparable regulations under other Federal orders.

The aforesaid decision sets forth the standards for dealing with unregulated milk under Federal orders and the system of allocation to be included in all orders. It describes the appropriate treatment of other order milk received at pool plants that is used for coordinating the applicable regulations on all movements of milk between Federal order markets. This record indicates that the findings and conclusions of the aforesaid decision are equally applicable under current conditions in the proposed marketing area.

The order also provides that handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products be permitted to have such other source milk allocated directly to their Class II uses. Under the classification plan provided herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

Handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products, mainly half and half, and to skim milk being used for the manufacture of cottage cheese. On occasion, when producer supplies are short, handlers

also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather than allocated first to any Class III utilization they may have.

It is not intended that the Class II outlet for producer milk necessarily be reserved for local producers. This use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use. As indicated elsewhere, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in Class II products.

Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation of a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle receipts of fluid other source milk with receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating the actual use of fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk to Class III.

It should be noted that the order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classificaton. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. this would be the case even if a Class II classification were requested by the handler.

The attached order provides that, in the case of a multiple-plant handler, each of the handler's pool plants shall be considered separately for purposes of allocating receipts to utilization. In accordance with the "compensatory payment" decision referred to earlier, however, certain receipts of milk from unregulated supply plants and other Federal order plants are to share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of the handler's pool plants combined. The order, therefore, provides a procedure whereby the milk from unregulated supply plants and other order plants is classified on the basis of the handler's total system, but is assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of a handler's entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of such handler's other pool plants in the system. This technique, however, does not change the amount of milk to be accounted for at each plant or the classification of milk within the handler's entire system.

The new order should *not* provide that in an emergency the market administrator may waive certain allocation and pricing provisions that give preference to milk from regulated sources. Such a provision was proposed by five proprietary operators of plants that would be pool distributing plants.

A representative for Borden, Inc., which operates a plant at Pensacola, Florida, testified in support of the proposal. He related the need for such a provision to the procurement problems faced by the Pensacola plant. The plant receives about 75 percent of its milk supply from independent producers. The remainder comes from a cooperative.

The witness stated that the Pensacola plant at times is unable to obtain adequate supplies of milk from local sources. He testified that in the fall months, when milk production falls short of Class I needs, cooperatives normally allocate their supplies first to those plants that receive their total supplies from cooperatives. According to the witness, plants that receive only supplemental supplies from cooperatives may have a problem obtaining additional milk under such circumstances.

The handlers' spokesman contended that absent the proposed emergency provisions, the operators of such plants have only two alternatives. One would be to buy 100 percent of their milk from independent producers, thus eliminating any reliance on supplemental supplies from cooperatives. A second option would be to buy all the plant's needs from a cooperative association. He expressed a view that it was not the intent of the order to cause either to happen.

At times the Pensacola plant has had to reach out and bring in "spot" loads of milk from as far away as the Carolinas, Pennsylvania, and Wisconsin. Unless brought in as "producer milk" under a Federal order, or obtained from a plant that is a pool plant under another Federal order, such milk is "other source milk" and is assigned to the lowest priced classification under the local order. If any such other source milk is assigned to Class I, an additional charge or compensatory payment is required. It is this provision that the handlers propose be waived if the market administrator verifies that an "emergency" exists. "Emergency" was defined by proponents' witness simply as a situation where milk is not physically available in the market.

This proposal was opposed at the hearing by a spokesman for Dairymen, Inc. He stated the association's belief that such a provision would undermine the operation of the Federal order. Moreover, the cooperative maintained that adoption of such a provision would tend to lower prices to producers at a time when milk was most needed. According to the witness this would

depress local milk production, which is the most economic source of supply for the area.

Counsel for AMP noted that the handlers' proposal was contradictory to AMP's proposal and stated the association's opposition to the proposal. However, AMP's brief of proposed findings and conclusions urged that the proposal be denied on the basis that the type of emergency referred to could be arranged through certain purchasing practices. The association's brief takes the view that adoption of the proposal would leave "a wide opening for substantial abuse of the Federal milk order system and in particular this proposed Alabama-West Florida order."

The proposal should not be adopted on the basis of the record obtained in this proceeding. A key element of the proposal is that the market administrator would need to verify that an emergency situation existed. Proponents' witness maintained that the market administrator could establish through a single telephone call whether any cooperative association milk is available for delivery to a handler's plant. This may be possible where cooperatives have joint arrangements to supply milk in the most efficient manner, as was the case in this market at the time of the hearing. However, there is no basis to conclude that such arrangements are permanently fixed or that other cooperative associations not involved in the arrangements will not be supplying milk to the market in the future.

The record shows, moreover, that cooperatives may negotitate prices for milk that would exceed the minimum prices established by an order. It is possible that a cooperative may demand a price higher than a handler prefers to pay. If milk is not made available to the handler at a lower price, the handler could claim that it cannot obtain milk and might contend that an "emergency" supply situation exists. In such a case, the market administrator would be unable to verify an "emergency" shortage of milk. Furthermore, any attempt to do so would inject the market administrator into the price negotiations, which goes beyond the duties and responsibilities involved in administering an order.

Another problem lies in proponents' intent that the type of relief sought should be available on a handler-by-handler (plant-by-plant) basis, i.e., the market administrator's decision on waiver thus would not be based on the total market supply and demand situation but rather on the supply problems of an individual handler. Thus, the waiver of certain allocation and pricing provisions could be granted to one handler, but not to others who received other source milk, but for some reason other than the type of emergency envisioned by the proponents. This latter point raises a basic question of handler equity because the proposed provisions for waiver would not be applicable on a marketwide basis.

It is noted that proponents' witness stated that the proposal should not provide a means for circumventing the classification, allocation, and pricing provisions of the order. The allocation provisions adopted for the Alabama-West Florida order are based on uniform provisions already incorporated into all orders. Absent compelling evidence to justify departing from such uniform provisions, the new order should include the allocation provisions as proposed by the order proponent. The record in this proceeding does not provide a basis for concluding that the waiver proposal can be adopted without at the same time tending to undermine the classification and pricing provisions of the Act. For the foregoing reasons, the proposal is denied.

Classification of end-of-month inventory. The order should provide for the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Ending inventory of fluid cream products, eggnog, and yogurt, when held in bulk form, likewise should be classified in Class III. Such products held in packaged form at the end of the month should be classified as Class II milk.

Inventories classified in Class III should be subject in the following month to reclassification in a higher class, as determined through the allocation of receipts to utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory.

Because of the regulatory treatment being accorded certain other source milk, it is necessary that fluid cream products, yogurt and eggnog on hand in packaged form at the end of the month be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the next month, would be allocated in such month directly to the handler's Class II utilization.

For the first month the order is in effect, a slightly different classification of inventory must apply. Beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new order, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply in the following month if a higher classification results.

(c) *Pricing of milk.* In order to promote and maintain orderly marketing conditions for the Alabama-West Florida market, minimum class prices for producers should be established at levels that reflect economic conditions affecting the market supply and demand for milk. Such prices should result in returns to producers that will encourage a supply of milk sufficient to meet the fluid needs of the market, plus a reserve to provide for daily and seasonal fluctuations in demand.

The Class I price must not be so high as to attract unneeded supplies to the market. On the other hand, the price should be high enough to encourage the production of an adequate quantity of high-quality milk required for the fluctuating daily and seasonal fluid needs of the market.

The Class II price should be high enough above the manufacturing milk price to compensate producers for at least a part of the cost of delivering Grade A milk to regulated handlers for cream products, cottage cheese, ice cream, and related items for which handlers want Grade A milk.

The Class III price must be fixed at a level that will insure that milk produced in excess of the Class I requirements of the market can be processed into Class III products and disposed of in competition with similar products from unregulated manufacturing plants.

The class prices and uniform producer prices for milk should be announced on a per hundredweight basis. Because the order would not establish different values for butterfat in each class, the class prices would not be announced for a particular butterfat content of milk.

Uniform prices to producers, however, would be announced on a 3.5 percent butterfat basis, and handlers would be required to pay producers for their milk at the uniform price adjusted by a butterfat differential to reflect any variation from 3.5 percent in the butterfat content of their milk. These provisions are consistent with such provisions widely applicable throughout the Federal order system.

Class I price and in-area location adjustments. For an 18-month period beginning with the effective date of the order's pricing provisions, the Class I price for the Alabama-West Florida market should be computed by adding a Class I differential of $2.30 to the "basic formula price" for the second preceding month. The Class I price applicable at specific locations within the marketing area should be determined by adjusting the announced Class I price by the location adjustment established for the zone in which a plant is located. The in-area zones and applicable location adjustments are defined as follows:

Zone 1—Minus 20 cents ($2.10)
Alabama Counties: Lauderdale, Limestone, Madison, Jackson, Colbert, Franklin, Lawrence, Morgan, Marshall, DeKalb and Cherokee.

Zone 2—No Adjustment ($2.30)
Alabama Counties: Marion, Winston, Cullman, Lamar, Fayette, Walker, Pickens, Tuscaloosa, Jefferson, Blount, St. Clair, Etowah, Calhoun, Cleburne, Shelby, Talladega, Clay, Randolph, Bibb, Chilton, Coosa, Tallapoosa and Chambers.

Zone 3—Plus 15 cents ($2.45)
Alabama Counties: Sumter, Greene, Hale, Perry, Dallas, Autagua, Elmore, Macon, Lee, Russell, Choctaw, Marengo, Wilcox, Lowndes, Montgomery, Bullock, Washington, Clarke, Monroe, Conecuh, Butler, Crenshaw, Pike and Barbour.

Zone 4—Plus 37 cents ($2.67)
Alabama Counties: Mobile, Baldwin, Escambia, Covington, Coffee, Geneva, Dale, and Henry.
Florida Counties: Escambia, Santa Rosa, Okaloosa and Walton.

Zone 4a—Plus 20 cents ($2.50)
Alabama County: Houston.

The basic formula price should be the average pay price for manufacturing grade milk at plants in the States of Minnesota and Wisconsin. The price for milk used for fluid purposes in the market has a direct relationship to the prices paid for milk used for manufacturing purposes. The Minnesota-Wisconsin price, or "M–W" price, used in determining the price for Class I milk gives appropriate consideration to the economic factors underlying the general level of prices for milk and manufactured dairy products. It is used as the basic formula price in all Federal order markets and is equally appropriate for use in the Alabama-West Florida order. The differential over manufacturing milk prices is necessary to reflect the added cost of meeting quality requirements in the production of milk for fluid use and the cost of moving it to market.

Proponent of the order proposed that the Minnesota-Wisconsin manufacturing milk price be the basic formula price each month. This price is an average of prices paid at a large number of manufacturing plants in the two States. Plant operators report the total pounds of manufacturing grade milk received from dairy farmers, the total butterfat content, and the total dollars paid to dairy farmers for such milk f.o.b. the plant. These prices are reported on a current basis. The "M–W" price is announced by the Department for each month on or before the 5th day of the following month.

AMP proposed the Class I differential and the in-area zone location adjustments adopted herein. AMP proposed that its "Central zone (North)" (Zone 2 as adopted herein), which includes the Birmingham area, be the base zone for which no location adjustment would apply. The proposed in-area zone pricing system would have plus adjustments south of Zone 2 and a minus adjustment to the north.

The cooperative's spokesman testified that the proposed Class I price structure for the market would provide reasonable price alignment with nearby orders. He indicated that the proposed prices would be comparable to the prices now being paid by handlers in the market and should not result in higher consumer prices for milk.

DI presented testimony on hauling costs and the boundaries of the pricing zones, but did not present a formal proposal on the Class I price structure for the market. Meadow Gold testified on zone boundaries. No other parties presented evidence on the Class I price structure or opposed the AMP proposal.

A zoned Class I price structure is appropriate for the Alabama-West Florida marketing area because of the geographic relationship between supply and demand in the market. The record indicates that of the producers associated with the proposed market, 36 percent are located in Tennessee, 12 percent in Mississippi, 12 percent in Zone 1, 17 percent in Zone 2, 14 percent in Zone 3, 9 percent in Zone 4 (including 4a), and less than 1 percent in Kentucky. The marketing area has four population centers on a north-south axis—Huntsville, Birmingham, Montgomery, and Mobile-Pensacola. The 1978 population of the marketing area was distributed as follows: Zone 1, 16 percent; Zone 2, 38 percent; Zone 3, 18 percent; Zone 4 (including 4a), 27 percent. These statistics illustrate the geographic disparity between the location of milk supplies and the centers of demand. The Federal order price structure should be designed to attract an adequte supply of fluid milk to each of the population centers and a zoned prize structure is an appropriate mechanism to accomplish this objective in the Alabama-West Florida market.

Class I prices in the Alabama-West Florida market should be aligned reasonably well with the pricing structure throughout the Federal order system. Class I prices applicable in most markets east of the Rocky Mountains generally are based on the Chicago Regional Federal order Class I price applicable at Eau Claire, Wisconsin, adjusted for transportation cost from that location to the local market at 1.5 cents per hundredweight per ten miles. This pricing structure has been adopted because the Minnesota-Wisconsin region is an area of surplus production that can serve as a source of reserve supplies for most markets. However, the Class I prices in some markets deviate from this formula because of local market conditions.

Class I prices in this market also should be aligned with the existing prices in surrounding Federal order markets. Alignment should be as close as possible to prevent serious marketing disruptions as a result of implementing a Federal order in the area. Price alignment with nearby markets should prevent handlers in Alabama and West Florida from being placed in an unfavorable competitive position or being given a competitive advantage over handlers regulated by other Federal orders in the region.

Close alignment of the price structure in this market with prices in the surrounding markets and the overall Federal order pricing structure, however, is not possible because of the pricing arrangements in the surrounding markets. To the north, the Class I price for the Nashville order is slightly lower than the Eau Claire, Wisconsin, Class I price plus transportation (at the 1.5-cent rate) to Nashville. Therefore, Alabama prices based on the Eau Claire price plus transportation would be somewhat high relative to the Nashville order price. The Alabama-West Florida market is bounded on the west by the New Orleans-Mississippi market, where prices increase from north to south under a zone pricing structure. To the east is the Georgia market, which has a large area subject to the same Class I price. For reasons stated earlier in this

decision, a zone price structure with prices increasing from north to south is appropriate for this market. Alignment of zone prices with the New Orleans-Mississippi market is not difficult to achieve. The eastward extension of the existing Mississippi zone lines generally meets this objective, except for alignment with a group of 12 unregulated counties in northeastern Mississippi. However, a close alignment of the new order's price zones with the pricing in the Georgia market is not possible because the southern two-thirds of the Georgia marketing area (which covers most of the State) has a Class I differential of $2.30. Therefore, any attempt to align prices in southern Alabama and West Florida with both the Georgia price and the New Orleans-Mississippi price will not be successful. Nevertheless, a pricing structure must be provided for the new order within the constraints imposed by the above conditions.

The price structure proposed by AMP is a reasonable approach to reconciling the problems of price alignment in this market. The Eau Claire price adjusted to Birmingham at the 1.5-cent rate would be approximately $2.42, while the Nashville price adjusted to Birmingham by the same rate would be $2.14. The AMP proposal for a $2.30 Class I differential for the base zone at Birmingham represents a compromise between the national pricing system and the adjusted Nashville price. Moreover, a $2.30 differential at Birmingham would provide good price coordination on an east-west basis with the existing Federal order Class I differentials of $2.30 at Atlanta, Georgia, and Columbus, Mississippi. Therefore, $2.30 is a reasonably appropriate Class I differential for the region surrounding Birmingham. It should be reasonably adequate as a minimum Federal order price, together with the zone pricing structure adopted herein, to attract sufficient supplies of milk for the market.

The Class I price adopted for the order should be reviewed within 18 months of the date the order becomes fully effective. By such time, data relative to milk supplies and sales in the market will have been accumulated. This will allow for a careful re-examination of the appropriate Class I price level for this market at a public hearing.

The zone delineations proposed by AMP are only slightly different from the existing price zones as defined by the Alabama Dairy Commission (ADC). The AMP plan places each major metropolitan area in a separate zone and the location adjustments between zones generally reflect the 1.5-cent per ten mile rate. The AMP plan also places all distributing plants located in Alabama in the same zone as under the ADC regulation, except for a plant in Dothan, Alabama.

DI proposed that the AMP zone plan be amended by (1) moving six Northwest Alabama counties (Marion, Winston, Cullman, Lamar, Fayette, and Walker) from Zone 2 to Zone 1; (2) moving Cherokee County, Alabama from Zone 1 to Zone 2; and (3) moving seven East Central Alabama counties (Bibb, Chilton, Coosa, Clay, Randolph, Tallapoosa, and Chambers) from Zone 2 to Zone 3. Adoption of this proposal would affect only one plant, the DI Flav-O-Rich distributing plant at Fayette. This plant would shift from Zone 2 to Zone 1, lowering the Class I differential for the plant from $2.30 to $2.10. The proposal was based on an analysis of retail sales patterns revealed in a sales survey which, according to DI, showed that the DI plan more accurately reflected the competition among handlers in the marketing area than the AMP proposal.

Meadow Gold, a fluid milk distributor, asked that Lee County, Alabama, be placed in Zone 2 rather than Zone 3 as proposed by AMP. This proposal would lower the Class I differential applicable at Meadow Gold's Opelika plant from $2.45 to $2.30. The Meadow Gold proposal was based on an analysis of data on sales patterns which purported to show that placing Lee County in Zone 2 would more accurately describe the market in which the Opelika plant competes for fluid milk sales.

The DI and Meadow Gold proposals reflect the premise that pricing zones should represent the geographic region in which handlers compete for fluid sales. However, competition among handlers cannot be the sole criterion for drawing zone lines because the primary function of the Class I differential in Federal orders is to attract an adequate supply of milk for the fluid market.

The record indicates that in 1979 less than one-half of the milk needed for the fluid market in Alabama came from Alabama producers on an annual basis. Therefore, it is reasonable to conclude that handlers in the Alabama-West Florida market vigorously compete among themselves and with handlers in other markets for supplies of raw milk produced both within and outside of Alabama. In this circumstance, Class I prices at various plant locations must reflect the economic value that milk has to handlers at those locations.

Under the Class I price structure adopted herein for the market Class I prices would increase from north to south. This gradation of prices would reflect the additional value that milk has at the various plant locations relative to the value of milk in the more northern areas, such as in Tennessee where milk supplies are much more plentiful than in Alabama. Handlers in Alabama generally rely on local milk supplies to the extent possible. It is necessary, though, to procure milk from the heavier production areas in Tennessee. Producers in the Tennessee areas cannot be expected, however, to make their milk available to handlers in the deficit production areas in Alabama unless there is a sufficient price incentive. This is related largely to the cost of moving milk.

The Class I prices that would apply at various plants throughout the marketing area thus would represent the value of an economic service to handlers by distant producers who bear the cost of moving their milk to the handlers' plants. This is the case even where a handler draws his entire supply from producers located near his plant. In the absence of any local supply, the handler would have to procure milk from other areas. Thus, the value of milk at that location necessarily must reflect the cost of obtaining milk from reserve supply sources. Also, the economic value of the local milk supply at a given plant location is related to the local producers' opportunity to ship milk to other plants where the price is higher. If the local price is too low relative to this "opportunity" price at other locations, the local supply will be attracted to other areas.

The DI proposal to place the Flav-O-Rich plant at Fayette in Zone 1 is denied. The $2.10 Class I differential that would result from adoption of the proposal would not reflect the general economic value that milk delivered to the Fayette location has. Distributing plants that are relatively close to the Fayette plant are located at Birmingham, Alabama, and Columbus, Mississippi. The Class I price differential at Birmingham, even under the DI proposal, would be $2.30. Similarly, the Class I differential at the Columbus plant, which is regulated under the New Orleans-Mississippi order, is $2.30. Since all three locations lie generally on an east-west line, it is reasonable to establish a Class I differential of $2.30 at the Fayette location. A lower price at Fayette could jeopardize the attraction of adequate supplies at that location over the long run.

The Meadow Gold proposal to move Lee County, Alabama, from Zone 3 to Zone 2 also is denied. The record indicates that the Opelika plant obtains much of its milk supply from Alabama producers. It is presumed, then, that the Opelika plant is competing for local milk supplies with handlers located at Montgomery, Alabama, where a Class I differential of $2.45 would apply under the proposed order. It is recognized that a $2.30 differential applies under the Georgia order at a nearby distributing plant at Columbus, Georgia. However, over the long run, $2.30 differential at Opelika could place the plant at a disadvantage in competing for raw milk supplies in its principal procurement area in Alabama.

The AMP proposal to create a special pricing provision for a plant at Dothan, Alabama, is adopted. The order should designate a separate Zone 4a that would be limited to Houston County, Alabama, where Dothan is located. This zone should have a plus 20-cent location adjustment rather than the plus 37 cents applicable in Zone 4. Although the proposals by DI and Meadow Gold also were in part premised on competition from unregulated or other order handlers, the 37-cent difference between Dothan and nearby Georgia handlers is substantially greater than the 15-cent difference between Opelika and Georgia handlers or the 20-cent difference between Fayette and the plant at Tupelo, Mississippi, which has been regulated under the Memphis order since July 1980.[4] Prior to July 1980, the plant at Tupelo was an unregulated plant. The special provision included for Houston County reduces the difference between the Georgia Class I differential and the Alabama-West Florida Class I differential applicable at Dothan to 20 cents, which is similar to the position of other Alabama-West Florida handlers who compete with other order handlers.

Exceptions were received concerning three elements of the in-area Class I price structure. DI excepted to the $2.30 Class I differential applicable at Fayette, Alabama. Meadow Gold challenged the denial of their proposal to place Lee County, Alabama in Zone 2. Southern Milk Sales, DI, and Meadow Gold objected to the decision to establish a Zone 4a with a $2.50 Class I differential for Houston County, Alabama. All three exceptions are denied.

In a market where a zoned price structure is appropriate to reconcile the geographic disparity between milk supplies and population centers, the boundaries of the price zones and the location adjustments applicable for each zone are usually based on such factors as (1) historic price relationships in the market; (2) the minimum price deemed necessary to secure an adequate supply of milk for fluid use; (3) price alignment between adjoining Federal orders; and (4) patterns of competition among handlers in the market. The weight to be attached to any one factor depends on the circumstances of a particular pricing issue, but in most cases the minimum price necessary to secure an adequate supply of milk for fluid use is of primary importance. All four factors were considered in determining the appropriate Class I price structure for the Alabama-West Florida market.

The pricing proposal made by AMP represented historic price relationships in the market because it placed each plant, except the plant at Dothan, Alabama, in the same relative pricing position as under the existing state regulations. Also, the witness for the proponent cooperative stated that the proposed price structure represented the minimum price necessary to attract adequate supplies of milk for fluid use to various locations in the market. In addition, the AMP proposal was designed to align the Alabama-West Florida price structure with prices in surrounding Federal order markets. However, alignment of the Alabama-West Florida price structure with the Georgia order is impossible without abandoning zone pricing in Alabama. Since the Department considers a zoned pricing structure appropriate for this market, price alignment with the Georgia market becomes a secondary priority.

As stated in the record and earlier in this decision, the DI and Meadow Gold proposals reflect the contention that the geographic region in which handlers compete for sales should be the predominant factor in drawing zone boundaries. By denying these proposals, the Department is not stating that handler competition should not be a factor, but that the evidence presented in support of the proposals is not so overwhelming that handler competition should outweigh other factors.

DI states in its exception that the record is clear that the bulk of the Fayette plant's sales are in competition with products of handlers that would be subject to a $2.10 Class I differential. While this is not disputed, the record also indicates that almost 70 percent of the Fayette plant's sales compete with products of plants that would be subject to a Class I differential higher than $2.30. Therefore, it cannot be concluded that the record shows that the Fayette plant would be placed at a serious competitive disadvantage by inclusion in Zone 2 rather than Zone 1.

Meadow Gold objected to the $2.45 Class I differential at Opelika stating that 87.9 percent of the Opelika plant's total Class I sales are in direct competition with milk priced at or below $2.30. However, if the Meadow Gold proposal were adopted, the sales survey indicates that 95 percent of the Opelika plant's *Alabama* sales would compete with products of plants subject to a higher price. As with Fayette, the record evidence is mixed on this issue.

For both the Fayette and Opelika plants, evidence exists to support either of the proposed price levels for each plant. Therefore, competition among handlers could be used as a basis to support either price. As a result, factors other than competition must be considered in determining the appropriate minimum order price. As stated elsewhere in this decision, the AMP proposal for a $2.30 differential at Fayette and $2.45 at Opelika preserves historic price relationships. The $2.30 differential at Fayette is further supported by the need to align prices with neighboring Federal orders. DI and Meadow Gold objected to the Department's conclusion that higher differentials were needed in Fayette and Opelika, respectively, in order to secure supplies of milk for fluid use. The record shows, however, that more than half of the milk supply for Alabama is produced outside the State. Also, there is evidence that the Opelika plant receives most of its supply from Alabama producers. Under these circumstances, it is realistic to conclude that there is substantial competition for local milk supplies. Since this is a new order, the ramifications of this competition for milk supplies are somewhat unknown. However, because securing a supply of milk adequate for fluid needs is a primary function of the Class I price structure, it was initially determined that at this time a $2.30 differential at Fayette and a $2.45 differential at Opelika would be appropriate. These findings are reaffirmed. Therefore, for all of the above reasons the exceptions concerning the Class I differential at Fayette and Opelika are denied. Interested parties should note that the Class I price structure can be reviewed after operational experience has been gained under the order.

Determining the appropriate Class I differential for southeastern Alabama is difficult because of the extreme

[4] Official Notice is taken of the Announcement of Uniform Prices for the months of July 1980 through May 1981, Memphis, Tennessee, Marketing Area, issued by the Market Administrator, P.O. Box 4225, Little Rock, Arkansas 72214.

variation in Class I differentials in surrounding Federal orders—$2.30 in Georgia and $2.85 in Upper Florida. The AMP proposal for a $2.50 Class I differential for Dothan was designed to address what AMP perceived to be the competitive realities of the region. Both the hearing transcript and the briefs filed indicated no opposition to this proposal from any individual or group. No one offered an alternative proposal or even suggested that the $2.50 differential was not appropriate. It was determined that AMP had presented a reasonable basis for the special provision based on the 37-cent difference in Class I prices between the Dothan plant and Georgia handlers. There being no information on the record other than that presented by AMP, the special pricing provision for Houston County, Alabama, is adopted. The opposition of interested parties through their exceptions does not give the Department anything on the record on which a different decision could be based. Therefore, the exceptions are denied.

Out-of-area location adjustments. The Class I price at plant locations outside the marketing area should be the Class I price for Zone 2 plus or minus the following location adjustments:

(1) For a plant located in the Tennessee or Georgia counties included in the Tennessee Valley marketing area or Bledsoe County, Tennessee, the adjustment should be minus 20 cents ($2.10 Class I differential);

(2) For a plant located in the Nashville marketing area or Franklin, Grundy, Lincoln, Moore or Van Buren Counties in Tennessee, the adjustment should be minus 45 cents ($1.85 Class I differential);

(3) For a plant located outside the marketing area and north of a line extending through the northern boundaries of Georgia, Alabama and Mississippi and not located in the areas covered by paragarphs (1) and (2) above, the adjustment should be minus 20 cents and minus an additional 1.5 cents for every 10 miles of fraction thereof that such plant is from the nearer of the City Hall in Florence or Huntsville, Alabama;

(4) For a plant located outside the marketing area and south of the line through the northern boundaries of Georgia, Alabama, and Mississippi, and not in the State of Florida or the Georgia counties listed in paragraph (1) above, the adjustment should be the adjustment applicable at Mobile, York, Tuscaloosa, Florence, Huntsville, Gadsden, Opelika, or Dothan, Alabama, whichever is nearest; and

(5) For a plant located outside the marketing area and in the State of Florida, the adjustment should be plus 55 cents ($2.85 Class I differential).

AMP was the only party that proposed out-of-area location adjustments. AMP's objective in drafting the out-of-area location adjustment proposal was to align the Alabama-West Florida prices with the minimum prices in surrounding Federal orders so that the implementation of a Federal order in Alabama would not disrupt established marketing arrangements. The adjustments adopted by this decision follow closely the AMP proposal. However, the adjustments adopted for the Nashville and Tennessee Valley marketing areas are different.

The Nashville marketing area and the unregulated counties in South Central Tennessee outside the Tennessee Valley order are major sources of fluid milk for the proposed marketing area. For this reason, the Class I price applicable at plants in the Nashville marketing area and five unregulated counties must be low enough to reflect the cost of moving milk south into Alabama. The AMP proposal would have established a Class I differential of $2.10 for much of this area, including DI's plant at Lewisburg, Tennessee. However, this price would not recognize the cost of transporting milk into Alabama and would not encourage the movement of milk from a supply or balancing plant to distributing plants in the marketing area. For this reason, the location adjustment for this area should provide a Class I differential of $1.85, which is 25 cents lover than the adopted differential at Huntsville, Alabama. This 25-cent difference should provide an incentive for producers in South Central Tennessee either to deliver their milk to plants located in Tennessee but pooled on the Alabama-West Florida market and save hauling costs to Nashville or to ship directly to plants in the proposed marketing area and receive the higher price. The $1.85 Class I differential is identical to the Nashville Class I differential which provides for a uniform value of fluid milk in South Central Tennessee.

The decision calls for a minus 1.5-cent per ten miles adjustment for plants located north of the marketing area and not covered by any other location adjustment provision. This would align the Alabama-West Forida Class I price with the lower Class I prices under other Federal orders to the north that are nearer to the Nation's reserve supply area.

Location adjustment credits. In conjunction with its pricing proposal, AMP proposed that a pool plant transferring fluid milk products in bulk form for Class I use to a pool distributing plant at which a higher Class I price applies be accountable for such products at the higher price applicable at the transferee-plant. Under the proposal, however, transferor-plants would receive a location adjustment credit against the higher price equal to the difference between the Class I differentials applicable at the two plants. This was intended to encourage the movement of milk to market centers for Class I use.

When the operator of a supply plant located in an outlying area ships milk to a distributing plant where a higher Class I price is applicable, the supply plant operator cannot pay both the higher price and the transportation costs for hauling the milk to the distributing plant. Thus, a lower Class I price is needed at the supply plant location to reflect the cost of moving the milk to the distributing plant. Such price reductions, however, reduce the total value of the pool. In addition, if supply plant milk replaces local milk going to a distributing plant for Class I use, this further reduces the total pool value. Thus, shipments from outlying supply plants to distributing plants should be made only when such shipments are necessary to meet the fluid milk needs of distributing plants.

Therefore, the limitations on location adjustment credits proposed by AMP are adopted. These provisions limit the amount of location adjustment credits to the transferee-plant's Class I sales that remain after subtracting receipts of milk from producers, cooperative bulk tank handlers, and packaged fluid milk products from other pool plants. Unnecessary transfers are further discouraged by the provision which gives priority in receiving credits to transferor-plants located nearest the transferee-plant. The adopted location adjustment provisions complement the zone price structure as a means of encouraging the movement of bulk fluid milk products to centers of demand for Class I use. However, the provisions will not give price credits to cover unnecessary hauling of milk between pool plants for other than Class I use.

Class III price. The Class III price should be the basic formula price for the month, as proposed by the order proponent.

Reserve milk disposed of in manufactured product uses should be priced at a level that will result in the orderly disposition of all excess supplies. Establishment of a price too high to clear the market of milk excess

to fluid requirements would interfere with the orderly marketing of milk for both processors and producers. Fixing a price too low would encourage handlers to associate additional supplies with the market simply to obtain low-cost milk for manufacturing uses.

The Minnesota-Wisconsin price is the best available indicator of the value of milk used in butter, nonfat dry milk, and cheese, which are usually the last-resort uses for surplus milk. The M–W price is an average of the prices being paid by processors of these products who are meeting the competitive test of the unregulated marketplace. Use of the M–W pay price series for the Alabama-West Florida market will provide consistency between this order and other Federal order markets which also use the M–W price series as the basic formula price for pricing Class III milk. In addition, it achieves parity between regulated and unregulated plants since it provides the regulated manufacturer with essentially the same margin for processing as is experienced in the unregulated market.

Class II price. The price for Class II milk should be the basic formula price for the month, plus 10 cents. This price level, which was proposed by the order proponent, will obtain for producers some extra return for producer milk used in Class II products above its value in other manufactured dairy products.

Producers should be compensated for making high-quality milk available to handlers on a steady basis for use in Class II products. Experience in Federal orders throughout the country has shown that milk used in Class II can be priced somewhat higher than the Minnesota-Wisconsin price without impairing the market for producer milk. A 10-cent differential, as proposed, together with the Class I differential, will help to insure producers of a uniform price which will compensate them for the production of a steady supply of high-quality milk.

The order should not provide for advance Class II milk pricing as proposed by handlers. Under that proposal, the Class II price each month would be based on the Minnesota-Wisconsin price for the second preceding month. The proposal was supported on the basis that handlers are disadvantaged if they do not know the raw product cost before they price and sell finished Class II milk products. The handler witness who testified on the proposal urged that it be adopted on the basis of evidence presented at the hearing.

At the hearing, the order proponent's spokesman stated a concern that the Class II price provisions of a new order for the Alabama-West Florida area should be the same as in surrounding markets to the east, north, and west. These orders are among a group of 29 orders that were involved in litigation concerning a denial of advance Class II pricing at the time uniform classification provisions were adopted for these orders in 1974. At the time that the hearing was being held on the Alabama-West Florida order, handlers in other areas were being invited to submit proposals for consideration at a contemplated hearing related to the pricing of Class II milk in the 29 orders. Thus, there was an expectation in the industry that a hearing would be held to consider the advance Class II pricing issue for this group of markets.

The proponent cooperative's spokesman at the hearing on this new order expressed a desire that the findings from any such hearing for the 29 markets be applied to the consideration of Class II pricing for the proposed Alabama-West Florida order.

Dairymen, Inc., also indicated support for the concept of advance Class II pricing, but opposed adoption of the handler proposal. The Association did not want a Class II pricing formula for the new order that would differ from what might result from any hearing on this issue for the 29 markets. DI held the view, reiterated in its brief, that it would be better to have an additional hearing on that issue in this market after a decision had been issued for the 29 markets.

In its brief, AMP also stated support for advanced Class II pricing in principle, but urged adoption of its proposed Class II price provisions rather than the handler's proposal.

Advance Class II pricing should not be adopted on the basis of the record in this proceeding. The record indicates that the parties in this proceeding agree in principle that the Class II price should be announced prior to the month to which the price applies. Moreover, there also is evident a strong desire for alignment of provisions with surrounding orders. However, it is not possible to achieve both ends in this proceeding under the circumstances involved in the Class II pricing issue. It is noted that a hearing was held on proposals to change the announcement procedures for Class I and Class II prices in the 29 markets, but the proceeding was limited to those 29 orders.[5] Therefore, the Department cannot incorporate into this proceeding the evidence and findings that arise out of the 29-market proceeding. Moreover, the procedure adopted for the 29 markets for announcing Class II prices differs considerably from the procedure proposed by handlers for the new order. Accordingly, the Alabama-West Florida order should provide that the Class II price be determined as proposed by AMP. Any coordination of the Class II price provisions with other orders should be on the basis of another hearing.

Butterfat differential. The order should have a producer butterfat differential equal to .115 times the average wholesale price of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. This differential was proposed by AMP and is common to most other orders.

A butterfat differential reflects the incremental value of milk containing more or less butterfat than the standard announced level. Weighted average and uniform prices under the order will be announced for milk containing 3.5 percent butterfat. Milk containing less than 3.5 percent butterfat will be worth less than the 3.5 percent price, while milk testing above 3.5 percent will be worth more than the announced price. This adjustment will insure equitable payments reflecting such variations in butterfat content of milk delivered by iindividual producers.

The butterfat differential adopted herein is the same as provided in a decision to adopt uniform classification provisions in 39 markets (this decision has previously been noticed). Since the classification provisions of that decision are adopted herein, it is appropriate to provide also for the same butterfat differential. This is clearly in line with proponent cooperative's intent in this regard.

Use of equivalent prices. If for any reason a price or pricing constituent needed by the market administrator in administering the order is not available, the market administrator is authorized by the order to use an equivalent price or pricing constituent as determined by the Secretary. Including such provision in the order will leave no uncertainty with respect to the procedure to be followed in the absence of any data customarily used and thereby will prevent interruption in the operation of the order.

(d) *Distribution of proceeds to producers.* Marketwide pooling of producer returns should be provided in the order as the means of distributing among producers the proceeds from the sale of their milk. Such pooling method will assure each producer supplying the

[5] Official notice is taken of the Assistant Secretary's decision, Docket Numbers AO–10–A54, et al, issued July 8, 1981 (46 FR 36151).

market a proportionate share of the market's total Class I sales.

Record evidence indicates that 21 fluid milk bottling plants will most likely qualify for pooling under the new order. Most of these plants are primarily fluid milk operations with apparently high levels of Class I utilization. However, the record also indicates that three of these plants conduct significant by-product operations in conjunction with their fluid milk bottling operations. Because of this, the Class I utilization will vary somewhat from plant to plant and from month to month. For instance, the handler operating a distributing plant at Gadsden, Alabama, indicated that such plant's Class I utilization ranged from a low of about 70 percent to a high of 88 percent. Hence, while most of the plants in the market are primarily fluid bottling operations and handle little or no surplus milk, others utilize varying proportions of their supplies for manufacturing purposes. Under these conditions, a marketwide pool will facilitate the orderly marketing of producer milk by removing disruptive competition by producers for the high Class I use outlets. Under individual handler pooling, the type of operations conducted at a plant would be a determining factor in the price the plant could pay its producers compared to other plants.

A marketwide pool also will make it possible for producer associations and pool plant operators to divert any weekly or seasonal reserves of milk to nonpool plants and maintain continuous producer milk status for such dairy farmers if their milk is needed to fulfill the year-round requirements of the market. This pooling technique will assist further in apportioning among all producers the lower returns from reserve milk in excess of the market's fluid requirements. In the absence of marketwide pooling, this burden would vary by individual plants and groups of producers.

A marketwide pool thereby will contribute to market stability and the maintenance of an adequate and dependable supply of producer milk at reasonable prices.

Computation of uniform price. A key feature of marketwide pooling is the computation of prices to pay producers. Under the order adopted herein, which includes a seasonal base-excess plan, a weighted average price would be computed each month. During the months of August through February, the weighted average price would be the uniform price and would be used to pay producers. Essentially, such price is the weighted average value of all of the milk in the pool. It would be computed by adding together the classified use value (or total pool obligation) of all the handlers in the market. This total value is then divided by the amount of milk in the pool to arrive at a "uniform price" for producers.

In the months of March through July, uniform prices for base and excess milk would be computed by the market administrator. During each of these months, each producer would be paid on the basis of the producer's deliveries of base and excess milk. The following findings on the base-excess plan describe the computation of the uniform prices for base and excess milk and the computation of an individual producer's base.

In order to compute the uniform price or prices the market administrator must first receive a report of receipts and utilization from each of the handlers in the pool.

Under the proponent cooperative's proposed order, handler reports of receipts and utilization would have to be postmarked on or before the 5th day after the end of each month or be delivered in person not later than the 7th day of each month. A witness for the cooperative contended that such reporting dates were needed to provide the market administrator with sufficient lead time to receive all of the reports, compute the marketwide pool and announce the uniform price or prices by the 11th day of each month.

A spokesman representing five handlers who would be fully regulated under the proposed order stated that the dates included in the proposed order would not provide handlers sufficient time to accumulate the data necessary to file their reports of receipts and utilization. As an alternative, the handlers proposed that such reports be mailed by the 7th of the month instead of the 5th or delivered in person by the 9th day rather than the 7th as proponent suggested.

In support of the handlers' proposals, the spokesman testified that many handlers in the proposed area have one or more branch sales offices located in cities considerable distance from the office where the reports are filed. He stated that it takes considerable time to accumulate the sales information and transmit it to a central location from which the information for such report will be accumulated and submitted to the market administrator. He also testified that a mailing deadline of the 5th would create an impossible situation for handlers in certain months considering how the weekends and holidays fall. He also stated that delivery in person would be costly and time-consuming for distant handlers who failed to meet the 5th of the month mailing deadline.

The order should provide that a handler's report of receipts and utilization is due on or before the 7th after the end of each month. Based on the evidence in this proceeding, any such report mailed on the 7th by a handler who is expected to be subject to the new order should be received by the market administrator within two days. Such timing will provide the market administrator with sufficient time to receive the reports, review and correct them for obvious errors, compute each handler's value of milk at classified prices, compute the uniform price or prices, and announce such price or prices by the 11th day of the month.

The order should not specify a different due date if the report of receipts and utilization is delivered in person. Accordingly, such reports shall be considered to be made on time if they are postmarked on or before the date specified in the order. If a handler elects to hand-deliver the report, it must be so delivered to the market administrator not later than the due date.

Allowing handlers one full week to accumulate and submit their monthly reports of receipts and utilization will maximize the number of work days provided for the office staff to prepare such reports. For instance, if reports were due by the 7th, handlers normally would have a minimum of five work days to accumulate, prepare and mail their reports; otherwise, they could have as few as three days to get their information assembled and in the mail with a due date of the 5th.

The five handlers also proposed that the due dates of the 7th and the 20th for reports of base milk by handlers (on an aggregate and individual producer basis) be postmark dates. The order submitted by the proponent cooperative did not indicate whether the due dates for such reports were receipt or postmark dates. However, since all reports postmarked on or before the due date specified in the order will be considered to have been made on time, no change in the proposed language is needed and the intentions of handlers in this regard will be accommodated.

All of the other dates (for reports, price announcements, and payments) specified in the order should be adopted as they were proposed by the proponent cooperative. It should be noted that the Georgia Federal milk order provides the same sequence of due dates for such activities as are adopted herein. The Georgia marketing area is very similar to the marketing area defined herein, essentially statewide. Like this market,

it has several key metropolitan areas and the remainder of the area is predominately rural. There is no reason to believe that the same sequence of dates would not provide adequate timing under this new program.

Also, it should be noted that the dates for reports and payments adopted herein are similar to those provided in other Federal orders in the Southeast which are nearby and adjacent to this marketing area. Under the arrangement provided herein, handlers under the new order will be meeting about the same deadlines with respect to these reporting functions as handlers under nearby orders. Likewise, producers covered by this order will receive their payments at about the same time as producers located in the same general area but who are covered under other Federal orders.

Producer-settlement fund. Marketwide pooling requires the use of an equilization (producer-settlement) fund which enables all handlers in the market to pay the minimum uniform price or prices to their producers.

Payments into the producer-settlement fund would be made each month by each handler whose total classified use value of milk exceeds the value of his milk at the uniform price or prices. Monthly payments out of the producer-settlement fund would be made to each handler whose use value is below the value of milk at the uniform price or prices for the market. This transfer of funds enables handlers with a use value below the average for the market to pay their producers the same uniform price or prices as handlers whose Class I utilization exceeds the market average.

As adopted herein, payments by handlers into the producer-settlement fund would be due by the 12th day of each month so that the market administrator could make payments out of the producer-settlement fund by the 13th day of each month.

Such timing will enable the market administrator to receive the money in the fund and make the payments out of the fund each month at the earliest feasible date. In the event that the balance in the producer-settlement fund on the 13th is insufficient to make the required payments out of the fund, the market administrator would reduce uniformly such payments. However, the market administrator would complete such payments to handlers as soon as the necessary funds become available.

The payment schedule adopted herein following the announcement of the uniform price or prices has no slack. No one suggested, however, that a longer time be provided to accomplish these transactions. The primary concern of all interested parties in this regard at the hearing was that payments to producers not be delayed any longer than is absolutely necessary. The time schedule adopted herein recognizes the desires of interested parties in the market by providing minimal, but generally adequate transaction time between the filling of reports by handlers and the payment of individual producers to accomplish the necessary functions involved in marketwide pooling, it will require the cooperation of all handlers in the market to work properly. If problems in this regard develop, the issue could be explored at a future hearing.

Payments to producers and cooperative associations. Each handler under the order should pay each producer for milk received from such producer, and for which payment is not made to a cooperative, at not less than the applicable uniform price or prices. Provision also should be made for partial payments for milk received during the first half of the month.

Under the payment provisions adopted herein, a handler would be required to make a partial payment to producers who had not discontinued delivery of milk to such handler prior to the 25th day of the month for their producer milk deliveries during the first 15 days of the month. Such payment would be by the last day of the month and would be at not less than the Class III price for the preceding month or 90 percent of the preceding month's weighted average price, whichever is higher. Proper deductions authorized in writing by the producer could be deducted from the partial payment due such dairy farmer. If a producer discontinued shipping milk to a handler prior to the 25th day of any month or if a producer had no established base upon which to receive payments under the base-excess plan during March through July, the applicable rate for making partial payments would be the Class III price for the preceding month.

The order proposed by the proponent cooperative would provide that producers without bases be paid a partial payment for their producer milk deliveries during the first 15 days of the month at the same rate as producers who had established bases. This rate would be the higher of the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month. Paying producers who have no base and thus have only excess milk deliveries at the higher of these two suggested rates during the adopted base paying months of March through July could result in overpayments to such dairy farmers because the uniform price for excess milk would essentially be the Class III price. A partial payment for a producer's excess milk deliveries at 90 percent of the weighted average price for the preceding month could exceed the value of the milk at the uniform price for excess milk. The hearing notice included a proposal by five handlers to limit the partial payment to producers without bases in these months to the Class III price in the preceding month. Such a limit is appropriate for the foregoing reason and is incorporated in the partial payment provisions of the Alabama-West Florida order.

A similar overpayment problem could occur under the partial payment provisions proposed by the order proponent if a producer discontinues delivering milk to a handler shortly after the 15th day of the month. The order proponent recognized this at the hearing and suggested that the higher of the Class III price for the preceding month or 90 percent of the preceding month's weighted average price be paid only to producers who have not discontinued shipping milk to such handler prior to the 25th day of the month. DI suggested that producers who had not discontinued delivering milk to the handler before the 20th day of the month should receive their partial payments on the basis of the higher rate. In its brief, AMP supported DI's suggested date of the 20th.

It is concluded that the higher partial payment rate should apply only to those producers who have not discontinued shipping to the handler prior to the 25th day of the month. Providing a cutoff date of the 25th, as originally suggested by AMP at the hearing, will provide greater assurances to handlers that they will not overpay producers for their milk deliveries during the first 15 days of the month.

As AMP proposed, handlers would be required to pay producers on or before the 15th day of the following month at the applicable uniform price or prices for milk received from such producers in the preceding month. Final settlement for all of the producer's milk in the preceding month at the unfiorm price or prices would recognize the partial payment and any other proper adjustments verifiable by the market administrator.

Producers whose milk is covered under the rules and regulations of the Alabama Dairy Commission have been receiving their payments from the handlers buying their milk on or about the 20th day of each month for their deliveries during the first half of the month, and the final settlement for their deliveries during the month on or about

the 10th day of the following month. In this connection, four independent producers proposed that handlers be required to pay producers a partial payment on the 20th day of each month for the producer's milk deliveries during the first 15 days of the month and a final payment on the 10th day of the following month for the producer's milk deliveries in the preceding month. This was proposed so that they would not have to wait an additional 5 to 11 days to receive their partial and final payments for milk.

Final settlement by such an early date under a Federal order providing for marketwide pooling would not be possible. Handlers need a reasonable amount of time each month to file their reports of receipts and utilization with the market administrator. Likewise, the market administrator must, in turn, have adequate time to process such reports and compute the uniform price or prices. Time is also required for handlers to equalize their payments through the producer-settlement fund. The dates for producer payments provided in the attached order are the earliest practicable. Moreover, they are appropriate considering the reporting, equalizing and price computations that must take place prior to the final settlement with producers. In addition, as already indicated, the producers under this proposed new Alabama-West Florida order would receive the partial and final payments for their milk deliveries on or about the same date as other producers located in the same general area but covered under other Federal orders.

In the event a handler has not received from the market administrator the full producer-settlement fund payment by the date such handler is required to pay producers, the handler may reduce the payments to producers on a pro rata basis. Such reduction should not exceed the amount of the underpayment. The handler would be required to complete the producer payments on the next date for making such payments following the receipt of the balance due from the market administrator.

Provision also is made in the attached order for a cooperative association to receive payment from handlers for milk of producers who elect to market their milk through such association. Providing for a cooperative association to collect payments due individual producers who have authorized the cooperative to collect such payments on their behalf will permit the cooperative association to reblend the proceeds from the sale of such milk, as authorized by the Act. Also, it will facilitate the cooperative's movement of milk among pool plants and disposal of reserve milk supplies to other plants for manufacturing use.

As provided in the attached order, each handler upon request should pay cooperatives the full amount due for producers' milk in lieu of payments to individual producers. Both the partial and final payments to a cooperative association should be made at least 1 day prior to the date payments are due to individual producers. This will enable cooperative associations to pay the producers for whom they market milk on the same day other producers supplying the market are paid.

The proposed order would have permitted cooperatives to collect payments only for the producer milk of its members. However, since proponent suggested that a cooperative could be a handler on milk of producers who are not members of such cooperative in addition to the milk of members, the association should be permitted to collect payments with respect to the milk of nonmember producers who have authorized the cooperative to collect such payments. Such a payment procedure is appropriate in that it complements the treatment afforded the milk of producers for which the cooperative may be the handler. Accordingly, the new order will permit cooperatives to collect the payments due individual producers (members and other producers) for their producer milk deliveries.

In connection with providing for a cooperative to collect lump-sum payments due the individual producers, the proposed order included a provision that would require a written promise by a cooperative to reimburse the handler for the amount of any actual loss incurred by such handler because of an improper claim by the association. The order proponent testified that this provision was proposed to prevent a handler from paying for a producer's milk twice. He pointed out that if a producer's contract with the cooperative was terminated without informing the handler buying milk from such dairy farmer, and the handler pays the cooperative, a double payment on the milk could result. Since the producer would not be a member of the cooperative, the handler also would be obligated under the order to pay the individual producer for such milk. Under the cooperative's proposal, the association would be required to reimburse the handler for the amount of money the cooperative collected for a producer who had terminated a membership contract with the association.

The proposal thus was presented as providing some basis towards resolution of disputes that concern whether or not a producer is a member of a cooperative. The market administrator may make a determination as to who is marketing a producer's milk. However, except to the extent that a contract raises questions concerning qualification under the Capper-Volstead Act, disputes involving producer contracts with a cooperative association are not a Federal order concern. There are other procedures available to the parties at interest in the market to resolve such disputes. Since the record does not provide any other evidence that such a provision is essential, the new order need not include such a provision.

The proposed order did not specify a payment obligation on milk delivered to a pool plant by a cooperative association acting as a bulk tank handler. To be sure that all aspects of payments for producer milk are covered, the order should specify that pool plant operators shall pay a cooperative bulk tank handler at the uniform price or prices for the milk received from producers who have authorized the cooperative to collect payments for their milk. If such milk is paid for by the pool plant operator at the uniform price or prices, accounting for the milk under the order will be simplified considerably. This method of payment will facilitate any adjustment required when audit by the market administrator discloses an error in classification.

Payments to and from the producer-settlement fund for milk delivered to a pool plant by a cooperative bulk tank handler will be made directly between the pool plant operator and the market administrator. This procedure will place the responsibility for accounting for such milk and for its payment directly on the pool plant operator who processes the milk. If settlement were made through the cooperative association, i.e., when a pool plant operator settles with the cooperative at class prices and the cooperative pays into or collects from the producer-settlement fund, an unnecessary third party is entered into the transaction. By eliminating the cooperative as an intermediary between the pool plant operator and the market administrator with respect to transactions involving the producer-settlement fund, problems of financial responsibility, enforcement and subsequent audit adjustments will be greatly reduced.

For the foregoing reasons, the attached order would require a pool plant operator to pay the cooperative at least one day prior to the last day of the month for milk delivered to such plant during the first 15 days of the month by a cooperative bulk tank handler. The same partial payment rate that handlers pay individual producers would be used by handlers to make partial payments to cooperatives. By the 14th day of the following month, a pool plant operator would be required to make final settlement with the cooperative for the producer milk delivered to such plant in the preceding month by the cooperative as a bulk tank handler at not less than the appropriate uniform price or prices.

The attached proposed order provides that at the time final settlement is made for milk received from producers during the month, the handler is required to furnish each producer (or cooperative association) a supporting statement. This statment would indicate the month and identity of the producer, the daily and total pounds and average butterfat content of producer milk received from the producer, the minimum rate of payment required under the order, the rate used if it is other than the minimum rate, the amount and nature of any deductions, and the net amount of payment to such producer or cooperative.

Base and excess plan. A seasonal "base and excess" plan should be incorporated in the new order.

The purpose of a base-excess plan is to provide an incentive for producers to even out their milk production throughout the year, i.e., to encourage production in the months of seasonally low production and discourage excess production in the months of seasonally high production.

Associated Milk Producers proposed that a seasonal base-excess plan be used to distribute to producers the returns from the sale of their milk. In support of its base plan proposal, a witness testified that dairy farmers supplying the Alabama market are accustomed to base plans because they have been operating under some type of base or quota plan for at least 20 years. Producers in Alabama previously were covered by a quota plan under the Alabama Dairy Commission, which was declared illegal by the U.S. Fifth Circuit Court of Appeals in New Orleans. After the quota regulations were struck down, the cooperative operated a similar plan for its members. The cooperative indicated that it was using a 12-month base plan, which was similar to the quota plan, to pay its members at the time of the hearing. The witness also stated that the cooperative was shifting to the seasonal base plan the association was proposing for adoption in the new Alabama-West Florida order on August 1, 1980. He further testified that in his opinion, the proposed market's favorable seasonal production pattern primarily was the result of the existence of some type of base allocation program that encouraged more milk to be produced when fluid sales were high and discouraged excess milk production during the high milk production season.

Dairymen, Inc. (DI), supported the adoption of the seasonal base-excess plan proposed by AMP and essentially for the same reason, i.e., to maintain the market's favorable seasonal production pattern. A witness for DI testified that the cooperative operates a similar seasonal base plan for the members in the Alabama District of its Nashville Division.

At least one proprietary handler in Alabama also was operating a seasonal base and excess plan for its independent producers at the time of the hearing. A producer who sells his milk to such handler testified that he is paid for his milk deliveries in certain months in accordance with the terms and conditions of that plan. He stated that the base plan encourages him to produce more milk in the fall months when milk supplies in Alabama generally are short relative to the market's Class I needs. In his opinion, the base plan provides producers an incentive to tailor their feeding and breeding programs to achieve more level milk production throughout the year by encouraging more milk to be produced in the fall and less in the spring, thereby maximizing their returns under the order.

Southern Milk Sales (SMS) opposed the adoption of a base plan for the Alabama-West Florida market. A witness for the cooperative stated that the blend price for this high Class I utilization market would provide adequate incentives for producers to adjust their production patterns to receive the greatest returns for the sale of their milk, i.e., new producers will enter the market in the fall and established producers will gear their herd management toward fall production when such prices are high.

A base-excess plan should be included for the proposed Alabama-West Florida market. The Alabama market has developed a good seasonal milk production pattern over the years. Nevertheless, milk production for the market does fluctuate seasonally with supplies generally increasing in the spring and declining in the fall. The base plan will provide a means of encouraging a level seasonal production pattern so that the good seasonal coordination between milk supplies and Class I sales will be maintained.

The record indicates that some producers in Alabama have attempted to gear their feeding and breeding programs toward more milk production in the fall months of September and October when Alabama experiences a period of extreme heat and humidity. Because of the heat stress conditions during this time of year, milk production is a little more difficult for dairy farmers in Alabama than in some other areas of the country. To maintain their production level in these months, dairy farmers must manage their herds to bring more cows into production at this time. According to testimony presented at the hearing, a cow that is freshened in the high stress period (September or October) will never produce as much milk, due to the high temperatures, as a cow that is freshened in the spring when cooler temperatures generally prevail. In addition, cows will graze less in the early fall months as pasture conditions deteriorate because of the hot weather than they do in the spring.

Hence, to achieve and maintain level production throughout the year, producers incur certain economic costs by managing their herds in this manner as opposed to what might be the more natural cycle of cows freshening and producing milk for the Alabama-West Florida market.

Milk production and Class I sales have been in fairly good balance in the proposed market, although it is noted that much of the market's supply originates on farms located outside the marketing area. Data gathered by the Alabama Dairy Commission were presented at the hearing to indicate the market's favorable production-sales relationship. They indicated some seasonal fluctuations in production and Class I sales. For example, on the basis of 4-year (1976–79) averages, the relationship between the daily average producer milk supply and the daily average Class I sales ranged from a low of 109 percent in November to a high during the flush milk production months of 117 percent in March.

These data indicate a very small seasonal variation in milk production and Class I sales. However, it should be noted that not all of the milk diverted off the market by Alabama licensed handlers has been priced and pooled under the regulations of the Alabama Dairy Commission, which tends to indicate a more favorable production-sales pattern than would be expected under the Federal order.

If there is a large seasonal variation in milk production and Class I sales, serious marketing problems could be created for producers and especially for cooperatives supplying the market. These problems are centered on obtaining adequate supplies of milk for handlers' fluid needs in the months when milk production is short relative to the market's fluid needs and disposing of excess supplies during the months when milk production is more than adequate to meet the market's Class I needs.

For example, if milk production declines too much in the months when the fluid demand is high (September–January), the cooperative likely would need to import additional milk from beyond the local supply area to meet the market's fluid needs. Encouraging producers to supply the market's fluid needs in the short supply season would reduce the cost associated with purchasing milk produced in distant locations and transporting it to the market to fulfill the Class I demand of plants and consumers in this market. Such movements could involve considerable distances and therefore would be more costly in the future if fuel prices continue to rise.

Conversely, if milk production increases too much in the months when the fluid demand is low, the disposition of milk that is excess to the market's fluid needs would become a burden for producers and cooperatives because there is limited manufacturing capacity in the local area. There are only two relatively small plants in Alabama (other than soft-product plants) that manufacture milk. Hence, if excess milk supplies are generated, such milk must be transported to manufacturing plants located considerable distance from the major consumption centers in Alabama. The costs of such transportation are borne primarily by cooperatives.

Thus, producers, handlers and consumers would benefit from a low variation in milk production by minimizing the costs of obtaining additional supplies in the short production months and through reduced costs of marketing excess milk production associated with the fluid needs in the flush production months. In view of the foregoing, adoption of a base-excess plan for the new Alabama-West Florida market is appropriate for the purpose of maintaining reasonably level milk production throughout the year.

This issue concerns essentially just producers in that it deals with how the pooled value of milk would be divided among the producers supplying the Alabama-West Florida market. In such case, the views of producers are an important consideration. The record in this proceeding clearly shows that a majority of producers who will be supplying the new market prefer a base-excess plan as a means of distributing the returns for milk among producers.

The base-excess plan adopted in this decision is very similar to that proposed by the order proponent. Each producer would be assigned a base computed by dividing the producer's total pounds of producer milk in September through January (the base-forming period) by the number of days' production represented in such producer milk deliveries or by 120, whichever is more. A single delivery by a producer on every-other-day delivery would be considered two days' production in computing a base.

If a producer operates more than one dairy farm, a separate base should be computed for each such dairy farm. The proposed base-excess plan included in the hearing notice did not cover this point. However, the witness for the proponent of the order testified that in such cases, he preferred that a separate base be computed for each dairy farm of a producer. The order would provide a guideline to cover this type of situation.

As proposed by AMP, the months of September through January should be the base-forming period. It is during these months that milk production tends to be low relative to Class I needs. In order to establish a production level for which they will receive payment at the higher uniform price for base milk in the base-paying months, producers will tend to establish a higher level of production in the base-forming months. The uniform (weighted average) price would be the minimum order price payable to producers for producer milk delivered during the base-forming months of September through January. Such price would also be payable to producers in the months of August and February which would be neither base-forming nor base-paying months.

The base-paying months should be March through July, as proposed. These months form a period when milk production generally is high and Class I utilization of milk is low. Thus, it is a period when the base plan should discourage excessive production. This would occur because during the base-paying months, payments to producers would reflect a lower price for any excess producer milk delivered to the market. Thus, the operation of the base-excess plan should serve to maintain, or perhaps improve, the seasonal production pattern that producers desire.

"Base milk" would be the producer milk of a producer in each month of March through July that is not in excess of the producer's base multiplied by the number of days in the month. "Excess milk" would be the producer milk of a producer in each month of March through July in excess of the producer's base milk for the month. Excess milk would include all of a producer's milk deliveries during March through July if such dairy farmer has no base.

The market administrator each year would compute a new base for each producer and, by February 28, would notify each producer and the handler receiving the milk from such dairy farmer of the producer's base. The market administrator would also notify a cooperative, if requested, of the amount of base assigned to each producer-member.

In computing the uniform prices for base and excess milk, Class III producer milk would be assigned to excess milk first. If Class III producer milk in the market exceeds the pounds of excess milk deliveries by producers, the uniform price for excess milk will be the Class III price. In such case, the additional value for the remaining Class III producer milk as well as the values for Class I and Class II producer milk will be reflected in the uniform price for base milk.

As proposed by producers, the uniform price for excess milk should not be subject to a location adjustment. Since excess milk would represent basically producer milk classified in Class III (milk for manufacturing uses) to which no location adjustment is applicable, the uniform price for excess milk should not be subject to a location adjustment. There is essentially no difference in the location value of milk for Class III uses. The Class III price under the Alabama-West Florida order and other Federal milk orders is equal to the average price per hundredweight for the month of manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin. If a location adjustment were applied to the uniform price for excess milk, it could result in applying an excess price to the producer milk at various plant locations that is less than the value of manufacturing grade milk delivered to those same plant locations.

A producer generally would deliver milk continuously throughout the base-forming period. However, because of various circumstances (e.g., storm damage at the farm or to roads, temporary suspension of a health permit or temporary loss of market when cut off by a buying handler), a producer may be off the market for a limited number of days during the base-forming period. In recognition of this, it was proposed that

a producer who delivered at least 120 days' production during the base-forming period would have average daily deliveries computed on the same basis as a producer who delivered continuously throughout the entire period (by dividing the total producer milk deliveries by such dairy farmer during the five-month period by the number of days' production represented in such deliveries).

The requirement that a producer supply the market in the base-forming months in order to earn a base provides an incentive to ship to the Alabama-West Florida market instead of to other markets in the months when production is low relative to the demand for Class I milk. A producer who ships at least 120 days' production during the five-month base-forming period can reasonably be considered as being fully associated with the market. A producer who delivered less than 120 days' production should have a base determined by dividing total production in the base forming period by 120. Thus, a producer who may have been supplying the Class I needs of another market for a substantial part of the base-forming period would receive a base that reflects the producer's contribution toward supplying the fluid needs of the Alabama-West Florida market in such period.

The hearing notice included a proposal by four independent dairy farmers requiring that a producer ship milk at least 60 days during base-forming period to establish a base. At the hearing, a spokesman for the four farmers stated that they had decided to withdraw the proposal from consideration. There was no other testimony on the proposal.

The application of the base-excess plan adopted herein to new producers is essentially that proposed by AMP. One type of new producer coming onto the market in the base-paying period could be dairy farmers who had supplied the fluid milk needs of another order market or an unregulated market in the base-forming period. Milk produced on their farms in the base-paying months that becomes associated with the Alabama-West Florida market would represent production that is surplus to the Class I needs of the market with which they had been previously associated. It is appropriate, therefore, as provided herein, that in the base-paying months producers should receive only the excess milk price for deliveries of such milk under the Alabama-West Florida order.

In other instances, persons who have not previously supplied a Class I market may become new producers on the new Alabama-West Florida market. Included in this category would be dairy farmers who had previously been shipping manufacturing grade milk and persons starting new dairy farm operations. Before coming onto the market as a new producer, such a person would be expected to have anticipated in advance whether to begin shipping during the base-paying months of March through July or in any of the other seven months of the year. If the choice is to begin delivering as a new producer in one of the five base-paying months, presumably that decision would be made in recognition of the fact that the uniform price for excess milk would be received for milk delivered to the market in those months by producers without bases.

In some instances a "natural disaster" may cause a producer to suffer a significantly reduced rate of production or force such person to discontinue temporarily the production of milk. Unless provison is made in the order to give consideration to such occurrences in computing a producer's base, the producer would suffer an undue hardship. Thus, the order should specify certain conditions under which relief may be granted to a producer whose production was adversely affected in the base-forming period as the result of an occurrence beyond the control of such dairy farmer.

This can be achieved by providing that the base assigned to a person who was a producer within the preceding base-forming period may be increased to the producer's average daily producer milk deliveries in the month immediately preceding the month during which production was adversely affected by an allowable "hardship" condition. Such relief would be granted only after the producer submitted to the market administrator by March 1 a written statement that established to the satisfaction of the market administrator that the amount of milk produced on such dairy farmer's farm in the immediately preceding base-forming period was substantially reduced because of a condition beyond the producer's control, which resulted from:

(1) Loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd, as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

The conditions under which hardship relief (in the form of an increased base) may be granted a producer encompass most natural disasters that could result in reduced production or in the temporary discontinuance of production on the producer's dairy farm. Such a standard will provide the market administrator the guidance necessary for applying the provision in an objective manner.

The base-plan provisions proposed by AMP would provide such hardship relief by assigning to the producer a base equal to 90 percent of the producer's average daily producer milk deliveries in the month immediately preceding the month during which the hardship occurred. The record is unclear as to the exact purpose of using the month specified and reducing the deliveries by 10 percent. Presumably the proposal attempts to provide a reasonable basis for establishing a base when a disaster has adversely affected a producer's output during the base-forming period.

However, an analysis of daily average milk deliveries by dairy farmer members of AMP during the base-forming months in 1978–79 reveals that daily average deliveries increased an average of 2.8 percent from month to month during August through December. Thus, computing such a base by allowing only 90 percent of a producer's deliveries during the preceding month most likely would provide a base smaller than the producer would have had absent the hardship condition. Based on conditions in this market, the daily average deliveries for the month preceding a disaster is appropriate for computing a base under hardship conditions.

If a dairy farmer's milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period, a base should be assigned to such person in the same manner as if the dairy farmer had been a producer during such entire base-forming period. Such base would be calculated from all of the dairy farmer's deliveries that would have been producer milk if the nonpool plant had been a pool plant during such September through January period.

The order provisions covering the situation described in the preceding paragraph are modified somewhat from what was proposed by the order proponent. The provisions adopted herein clearly specify which base-forming period would be used if a nonpool plant became a pool plant after the beginning of the base-forming period. They also specifically identify which producer deliveries would count toward establishing a base for such dairy farmer.

To acquire pool status under the order a plant must dispose of a certain percentage of its receipts on routes in the marketing area or to other pool plants. Hence, when a nonpool plant becomes a pool plant it will most likely add Class I sales to the pool relative to such sales in prior periods when it was a nonpool plant. It is appropriate, therefore, that those dairy farmers who had been supplying the plant have bases computed for them according to their deliveries to the plant in the base-forming period.

Bases so assigned to such producers should not be transferable. Such producers would be receiving bases without having incurred any of the economic costs that the market's regular producers incurred in adjusting their operations to achieve more level production. Thus, any income received from the transfer of such bases in essence would be windfall gains, which should not be permitted.

The base earned by an individual producer who supplied the market in the preceding base-forming period should be transferable. This will facilitate the transfer of property when a baseholder dies or when the farm of a baseholder is sold. It will also facilitate adjustments by those producers desiring to expand or contract their operations. However, proper safeguards should be provided so that the transfer provisions may not be exploited at the expense of producers regularly supplying the market.

The amount of a base transferred could be in its entirety or in amounts of not less than 300 pounds. These limits, which were proposed at the hearing, are administratively practicable and should be adequate under conditions in the Alabama-West Florida market.

The proposed order provisions did not specify that base may be transferred only to another dairy farmer. However, under the base plan provisions adopted herein, only a producer may establish base, and only producer milk could be base milk. Since a base is useful only to producers, only producers should be permitted to hold base. There was no testimony presented at the hearing to indicate an intent that other persons should be permitted to hold base. Accordingly, the order provides in this regard that base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective.

Base transfers would be effective on the first day of the month following the date on which an application for transfer is received by the market administrator. However, since producers may not know their bases until February 28, they should be permitted to transfer base effective March 1 if the transfer application is received by the market administrator on or before March 15 as the order proponent suggested. Such application would be required to be on a form approved by the market administrator and signed by a baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, it would be required that the application be signed by all joint holders or the legal representative of the estate of any deceased baseholder. These provisions would insure that there will be no misunderstanding between the parties involved concerning transfers.

The base established by a partnership may be divided between partners on any basis agreed on in writing by them if written notification of the agreed upon division, signed by each partner, is received by the market administrator prior to the first day of the month in which the division is to be effective. This will facilitate the division of the assets of a partnership that is dissolved during the base-paying period. On the other hand, it will in no way affect the total quantity of base milk in the pool, irrespective of the manner in which the division of the base is made between the partners.

Likewise, two or more individual producers who establish bases separately and decide to form a partnership should be permitted to combine their bases. Although the proposed order would not have provided this, the new order is drafted to accommodate this situation. The combination of individual bases by producers forming a partnership would not affect the quantity of base milk in the pool.

A producer who on or after March 1 transferred all or part of the base held would not be permitted to receive other base by transfer that would be applicable within the March-July period of the same year. Also, a producer who received base by transfer on or after March 1 would not be permitted to transfer a portion of the base assigned to such dairy farmer to be applicable within the March-July period of the same year, but would be permitted to transfer the entire base. Adoption of these provisions will tend to insure that the exchange of bases between producers are bona fide transfers. Absent such provisions, the transferring of bases back and forth by two or more producers throughout the base-paying period could result in unwarrantedly increasing their share of the total payments under the order for producer milk at the expense of all of the other producers.

The first base-forming period under the proposed order is expected to be September 1982 through January 1983. Complete data would be available at the end of that period to compute bases. It would be appropriate, therefore, to delay application of the base and excess payment provisions of the order until March 1, 1983.

SMS, the cooperative that opposed adoption of a base plan for this market, repeated its opposition to such a payment plan in exceptions filed on behalf of its members. Exceptor contended that the purpose of the base plan as related in the recommended decision, i.e., to even out milk production throughout the year, is not consistent with proponent's testimony as to the reason it proposed the plan, i.e., to keep production geared as close as possible to the market's Class I sales. In the cooperative's view, since the objective of proponent would not be accomplished with adoption of a base plan for this market, such a plan should not be provided under the new order. Although the seasonal base-excess plan adopted herein will not relate milk production and Class I sales directly, if milk production is evened out on an annual basis, a better seasonal balance between milk production and Class I sales can be expected. This should satisfy the intentions of producers, and therefore the cooperative's exception is denied.

(e) *Administrative provisions.*

Charges on overdue accounts. The order should provide a charge on all handler obligations to the market administrator that are overdue. Such charge should be 1.5 percent per month and should apply on the first day that a payment is overdue and on the same day of each succeeding month until the obligation is paid. Payments subject to the charge would be those due the market administrator for the producer-settlement fund, order administration, marketing services, and audit adjustments.

Proponent proposed that unpaid handler obligations to the market administrator be increased 1.5 percent for each month or portion of a month that such obligation is overdue. The AMP spokesman stated that the intent of the proposal was to encourage prompt payment of handler obligations to the market administrator. The proponent's witness also testified that 18 percent was about the going annual rate for short-term (business) loans at the time of the hearing.

It is essential to the effective operation of the order that handlers make their payments to the market administrator on time. Under the marketwide pooling arrangement, it is necessary than handlers with Class I utilization higher than the market average pay part of their total use value of milk to the producer-settlement fund. Through this means, money is made available to handlers with lower than average Class I utilization so that all handlers in the market, irrespective of the way they use the milk, can pay their producers the uniform price. The success of this arrangement depends on the solvency of the producer-settlement fund.

Also, the prompt payment of amounts due the administrative and marketing service funds is essential to the performance by the market administrator of the various administrative functions prescribed by the order. Delinquent payments to these funds could impair the ability of the market administrator to carry out his duties in a timely and efficient manner.

Payment delinquency also results in an inequity among handlers. Handlers who pay late are, in effect, borrowing money from producers. In the absence of any late-payment charge that approximates the cost of borrowing money from commercial sources, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

It should be noted that late-payment charges are not a substitute for prompt payments by handlers. Those delinquent in their obligations would still be subject to legal enforcement action as authorized under the Act.

Under the provisions adopted herein, overdue handler obligations that are payable to the market administrator would be increased by 1.5 percent on the day after the due date. Any remaining unpaid portion of the original obligation would be further increased by 1.5 percent on the same date of each succeeding month until the obligation is paid. The late payment charge would apply not only to the original obligation but also to any unpaid charges previously assessed. Also, the charge should apply whether the obligation is paid 1 day late or 10 days late, and should be applicable to both fully regulated and partially regulated handlers alike.

The order need not provide that the dates when payments to the market administrator are due be moved back whenever such a due date falls on a Saturday, a Sunday, or a national holiday. A group of handlers proposed that when a payment to the market administrator is due on a Saturday, a Sunday, or a national holiday, such due date be shifted to the next day that the market administrator's office is open for business, and payments received after the due date would be considered as having been made on time if postmarked not later than the second day prior to the due date. In support of the proposal, a handler spokesman testified that the purpose of the proposal was to assure that payments made in good faith by a handler and postmarked at least two days prior to the due date would not result in assessment of a late-payment charge.

The handlers' intent can be accomplished without adding a specific provision by making it clear that the payment due dates in the order shall be considered as having been met if the envelope bearing the payment is postparked not later than the due date. Obviously, monies hand delivered to the market administrator by the due date would not be subject to a late payment charge. Recognizing the U.S. Postal Service postmark for payment compliance purposes should serve to alleviate the concerns addressed in the proposal. If other related problems develop, the issue could be considered at a future hearing based on actual operating experiences.

Marketing services. The new order should provide for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator, and the cost should be borne by producers for whom the services are rendered. However, any cooperative association, if approved for such activity by the Secretary, may perform such services for its producers in lieu of having the market administrator perform the services.

AMP proposed that a marketing services provision be included in the new order and that it be funded by an assessment of 7 cents per hundredweight of production to be paid by the producers for whom the market administrator performs the prescribed services. The cooperative's spokesman testified that the 7-cent rate should provide adequate funds for the market administrator to provide marketing services to nonmembers, based on an analysis of the expense of such programs in other markets. Also, he noted that the rate provided in an order is a maximum rate that can be reduced by the Secretary if experience shows that the services can be provided for a lesser amount. He stated that a marketing services provision is needed because producers who are not members of a cooperative do not have such a program provided and that such producers would benefit from such services.

Several producers who were not members of a cooperative testified in opposition to including a marketing services plan in any order adopted for the proposed marketing area. Two key points were raised in such testimony. Most felt that the 7-cent rate was excessive and would reduce their returns unnecessarily. Also, most such producers expressed the view that a marketing services program was not warranted because, to their knowledge, they had experienced few, if any, problems of inaccurate weights and tests.

One producer, however, stated that the marketing services assessment rate appeared to be quite reasonable. Also, he expressed the view that the benefits of verified weights and tests could easily exceed the cost. He did, however, state that he would prefer to have an option of whether or not to participate in the marketing services program.

Another produeer, speaking for more than 50 other producers, suggested a marketing services option on a plant by plant basis. He suggested that producers shipping to a plant would have to approve participation in a marketing services program before the market administrator would verify milk weights and butterfat tests of their milk deliveries to that plant. Still another producer testified that nonmembers should be allowed to do their own verifying of weights and tests. He indicated that he planned to build his own lab for such purpose.

The record clearly discloses that within the proposed marketing area, there is no governmental or regulatory agency that regularly checks the weights and butterfat tests of diary farmers' milk to verify that they are paid for the milk on the basis of accurate farm weights and butterfat tests. State agencies in both Alabama and Florida regularly test milk from dairy farms for butterfat content. However, such tests are not used to resolve disputes between dairy farmers and plants, or for the purpose of establishing that dairy farmers are paid for the actual quantities of milk and butterfat delivered to plants.

Accordingly, the Alabama-West Florida order should provide such services for such producers. A maximum rate of 7 cents per hundredweight appears to be a reasonable amount to assess producers to cover the expenses of conducting the program. If the marketing services program can be

operated satisfactorily for less money, the Secretary may reduce the effective rate without holding a hearing.

However, the suggestion that marketing services be provided on an optional basis cannot be adopted. The Act specifies that if a marketing service provision is included in an order, it must apply to all producers under the order. Likewise, while a laboratory operated by a producer could provide the producer with a check on butterfat tests, this is not what the Act contemplates as "verification of weights, sampling, and testing of milk purchased from producers." Tests performed in a producer's own laboratory could not be recognized as adequately fulfilling the marketing services requirement. Marketing services for producers who are not members of a cooperative that provides such services must be performed by the market administrator or under the market administrator's direction.

There is a need for a marketing service program in connection with the administration of a Federal milk order for the Alabama-West Florida area. The weighing and testing of the milk of all producers is closely related to the main provisions of the order, which are the classification and pricing provisions. The latter provisions are the basis of the computation of the minimum uniform price payable to producers.

The order requires all regulated handlers to submit to the market administrator each month a report showing the total quantity of skim milk and butterfat received from producers and the utilization of such skim milk and butterfat in the three price classifications provided. To verify that a handler has reported all receipts and disposition correctly and to insure that producers receive proper payment for their deliveries, the market administrator audits each handler's operation. The quantity of skim milk and butterfat received by a handler must balance, of course, with the quantities of skim milk and butterfat in the products processed and disposed of by the handler. This requires the availability of the weight and butterfat test of each producer's deliveries.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to other provisions of the order. There are no payments to other persons on such milk. Hence, there is no need to provide the same marketing services as are provided other producers.

The other service provided, that of furnishing market information, is designed to keep the producer informed of developments that might affect such producer's price or market outlet in order that the producer may better evaluate marketing conditions. The objective of the program is to aid producers to achieve and maintain orderly marketing conditions for their milk.

In the case of producers who market their milk through a cooperative association, the Act authorizes such cooperative to perform these marketing services, and the costs of these services normally are borne by such producers through membership dues.

Expense of administration. Each handler should be required to pay to the market administrator a proportionate share of the cost of administering the order. For this purpose, a charge of 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to Class I (except milk so assessed under another Federal order) is provided.

The market administrator must have sufficient funds to administer properly the terms of the order. The Act provides that the cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and dispositions of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of milk received from dairy farmers (including milk diverted to nonpool plants) and on other source milk allocated to Class I milk.

The proposed order provides that a cooperative shall be the handler on milk it delivers in tank trucks from producers' farms to pool plants of other handlers. The cooperative is the handler on such milk basically for the purpose of making payments to its individual members. For pricing purposes, however, the handlers that receive such milk at their plants would treat it the same as any other direct receipts from producers.

The market administrator must verify by audit the receipts and utilization at each pool plant whether the plant operator buys milk directly from producers or through a cooperative as a bulk tank handler. Thus, the pool plant operator receiving such milk should pay the administrative assessment on it on the same basis as for producer milk received at the plant. The cooperative bulk tank handler would be liable only for the administrative assessment on the quantity of milk picked up at producers' farms that is not received at the pool plant.

The order specifies minimum performance standards that must be met to obtain regulated status. The operator of a plant not meeting such standards (i.e., a partially regulated distributing plant) is required to either (1) make specified payments (discussed elsewhere in this decision) into the producer-settlement fund on route dispositions in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of all receipts from dairy farmers computed as though such plant were a fully regulated plant.

In administering the order as it applies to partially regulated distributing plants, the market administrator incurs expenses in essentially the same manner as in applying the order to pool handlers, even though the order is not applicable to the partially regulated handler to the same extent as to fully regulated handlers. Hence, payment of the administrative assessment on the partially regulated handler's in-area sales only would reasonably constitute such handler's pro rata share of the administrative expense.

In the case of unregulated milk that enters the market through a regulated plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at the regulated handler's plant are subject to verification by the market administrator. Hence, the regulated handler should be responsible for payment of the administrative assessment on such unregulated milk.

The order is designed so that the cost of administration is shared equitably among handlers distributing milk in the proposed marketing area. However, to avoid duplication, an assessment should not be made on other source milk on which an assessment was made under another Federal order.

Provision should be made so that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order.

General provisions. The Alabama-West Florida order adopted herein incorporates, by reference, certain terms, definitions, and administrative provisions that are included in Part 1000 of the Code of Federal Regulations.

These provisions are common to all Federal milk orders, having been so adopted effective July 1, 1971 (36 FR 9844).

Under Part 1000, a market administrator was required to deliver a bond to the Secretary covering himself or herself and each employee designated to act in his or her stead. Pub. L. 92–310 exempted Federal employees from such bonding requirements. Hence, Part 1000 was changed so that all Federal milk orders would conform with Pub. L. 92–310. To accomplish this, on February 5, 1980 (45 FR 7777), the bonding requirements in Part 1000 were terminated.

Since Part 1000 is applicable to all Federal milk orders and was proposed for adoption under this new program, it was printed in the hearing notice for informational purposes of interested parties. As it appeared in the notice of hearing, it did not reflect the bonding change. Proponent witness testified that the cooperative intended to propose the identical general provisions for this order which are applicable to all other orders. Accordingly, the general provisions adopted in July 1971, and as changed in February 1980, should be, and hereby are incorporated by reference in this order.

The first section (§ 1000.1) states that the uniform provisions included in Part 1000 shall be a part of each Federal milk marketing order as if set forth in full in each order, except in any order where any such provision is expressly defined or modified otherwise.

The second section (§ 1000.2) includes definitions of five general terms used in all Federal milk orders: Act, Order, Department, Secretary, and Person.

The third section (§ 1000.3) deals with the designations, powers, and duties of the market administrator.

The fourth section (§ 1000.4) pertains to the continuity and separability of provisions in an individual order. For the most part, these are internal administrative rules and instructions to Department employees regarding procedures involved in the suspension, termination, or liquidation of any or all provisions of a Federal milk order.

The fifth section (§ 1000.5) describes a handler's responsibility with respect to records and facilities.

The final section (§ 1000.6) relates to the termination of obligations.

The general provisions of Part 1000 have the same intent and purpose in each Federal milk order. They have worked effectively. Adopting Part 1000 by reference for the Alabama-West Florida order will promote uniform application of these provisions, which have the same intent and purpose in all orders.

A detailed discussion of the need and basis for incorporating the general provisions in each order is contained in a decision issued by the Assistant Secretary on April 15, 1971 (36 FR 7514). Official notice was taken of this decision at the hearing held June 23–July 2, 1980, for this market. The record evidence indicates that the findings and conclusions of the 1971 decision and the statement of consideration in the 1980 termination order are equally applicable under current marketing conditions in the proposed Alabama-West Florida marketing area.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

(a) The tentative marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The proposed marketing agreement and the order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers as defined in the tentative marketing agreement and the order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1093.85 of the aforesaid tentative marketing agreement and the order.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. In this regard, one exception not specifically dealt with elsewhere in this decision was received from a dairy farmer. The exception maintained that a Federal order for the proposed market is neither needed nor wanted, and charged that an order would benefit Dairymen, Inc., only. The exceptor also expressed a belief that individual dairy farmers had not been provided an opportunity to vote on the issuance of an order for the proposed marketing area.

Although this exception expresses the dairy farmer's views, the exception provides no basis for reversing the recommended decision to adopt an order for the Alabama-West Florida marketing area. Moreover, this decision includes an order to conduct a referendum to determine whether at least two-thirds of the affected producers favor issuance of the order. Thus, the concern about not having a vote is unfounded.

To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order regulating the handling of milk in the Alabama-West Florida marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the attached

order which is published with this decision.

Referendum Order to Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order regulating the handling of milk in the Alabama-West Florida marketing area is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be October 1981.

The agent of the Secretary to conduct such referendum is hereby designated to be Richard M. McKee.

Signed at Washington, D.C., on: January 28, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[1] regulating the handling of milk in the Alabama-West Florida marketing area.

Findings and Determinations

(a) *Findings.* A public hearing was held upon a proposed tentative marketing agreement and order regulating the handling of milk in the Alabama-West Florida marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1093.85.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Alabama-West Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as follows:

The provisions of the proposed marketing agreement and order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on September 8, 1981, and published in the Federal Register on September 11, 1981 (46 FR 45542), shall be and are the terms and provisions of this order and are set forth in full herein subject to modifications in §§ 1093.7(c) and 1093.8(c).

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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1093.90 Base milk.
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Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674)

Subpart—Order Regulating Handling

General Provisions

§ 1093.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

incorporated by reference and made a part of this order.

Definitions

§ 1093.2 Alabama-West Florida marketing area.

The "Alabama-West Florida marketing area", hereinafter called the "marketing area", means all territory within the boundaries of the State of Alabama and the Florida counties of Escambia, Santa Rosa, Okaloosa and Walton, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

Zone 1:
Alabama Counties: Cherokee, Colbert, De Kalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall and Morgan.

Zone 2:
Alabama Counties: Bibb, Blount, Calhoun, Chambers, Chilton, Clay, Cleburne, Coosa, Cullman, Etowah, Fayette, Jefferson, Lamar, Marion, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker and Winston.

Zone 3:
Alabama Counties: Autauga, Barbour, Bullock, Butler, Choctaw, Clarke, Conecuh, Crenshaw, Dallas, Elmore, Greene, Hale, Lee, Lowndes, Macon, Marengo, Monroe, Montgomery, Perry, Pike, Russell, Sumter, Washington and Wilcox.

Zone 4:
Alabama Counties: Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, and Mobile.
Florida Counties: Escambia, Okaloosa, Santa Rosa and Walton.

Zone 4a:
Alabama County: Houston.

§ 1093.3 Route disposition.

"Route disposition" means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

§ 1093.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products, including filled milk, are received, processed, or packaged. Separate facilities without stationary storage tanks that are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1093.5 Distributing plant.

"Distributing plant" means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1093.6 Supply plant.

"Supply plant" means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are transferred during the month to a pool distributing plant.

§ 1093.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition, except filled milk, equal to 50 percent or more of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1093.13; and

(2) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1500 pounds or 10 percent of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1093.13.

(b) A supply plant from which fluid milk products are transferred to pool distributing plants. Such transfers must equal not less than 70 percent in each of the months of September through January, and 50 percent in each of the months of February through August, of the total quantity of Grade A milk that is received during the month from dairy farmers (including producer milk diverted from the plant pursuant to § 1093.13 but excluding milk diverted to such plant) and handlers described in § 1093.9(c).

(c) A plant operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant. Such deliveries must equal not less than 70 percent of the total producer milk of members of such cooperative association in each of the months of September through January, and 50 percent of such milk in each of the months of February through August. The plant's pool status shall be subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle Grade A milk.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the polling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, or such plant has automatic pooling status under such other order.

§ 1093.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant or a governmental agency plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or a governmental agency plant.

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1093.9 Handler.

"Handler" means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1093.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler of such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1093.7(d); and

(g) Any person who operates an unregulated supply plant.

§ 1093.10 Producer handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than own farm production, pool plants, and other order plants;

(c) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production, pool plants, and other order plants; and

(d) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for such person's own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

§ 1093.11 [Reserved]

§ 1093.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such producer;

(2) Received by a handler described in § 1093.9(c); or

(3) Diverted from a pool plant in accordance with § 1093.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency plant exempt pursuant to § 1093.8(e);

(3) Any person with respect to milk produced by such person which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1093.44(a)(8)(iii) and the corresponding step of § 1093.44(b); and

(4) Any person with respect to milk produced by such person which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1093.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1093.9(c); or

(c) Diverted by the operator of a pool plant or a cooperative association from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of February through August, not less than four days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of September through January, not less than ten days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during any month by a cooperative association shall not exceed 30 percent of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at such plant during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (c) (3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c) (3) or (4) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk;

(6) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(7) The cooperative association shall designate the dairy farm deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk.

(8) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

§ 1093.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1093.40(b)(1) from any source other than producers, handlers described in § 1093.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1093.40(b)(1);

(c) Products (other than fluid milk products, products specified in §1093.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1093.40(b)(1)) for which the handler fails to establish a disposition.

§ 1093.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:
Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1093.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1093.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1093.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk products for its members.

Handler Reports

§ 1093.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of its pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1093.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1093.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1093.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1093.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1093.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) Such producer's name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1093.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1093.32 Other reports.

(a) Each handler described in § 1093.9 (a), (b) and (c) shall report to the market administrator on or before the 7th day after the end of each month of March through July the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through July the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1093.30 and 1093.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1093.40 Classes of utilization.

Except as provided in § 1093.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1093.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1093.15; and

(6) In shrinkage assigned pursuant ot § 1093.41(a) to the receipts specified in § 1093.41(a)(2) and in shrinkage specified in § 1093.41 (b) and (c).

§ 1093.41 Shrinkage.

For the purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1093.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat;

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1093.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative assocation is the handler pursuant to § 1093.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1093.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1093.44(a)(12) and the corresponding step of § 1093.44(b);

(2) If the transferor-plant received during the month other source milk to be

allocated pursuant to § 1093.44(a)(7) or the corresponding step of § 1093.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1093.44(a) (11) or (12) or the corresponding steps of § 1093.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section.

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I subject to adjustment when such information is available.

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to the class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1093.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section.

(*a*) The transferor-handler or divertor-handler claims such classification in such handler's report of receipts and utilization filed pursuant to § 1093.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I

utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1093.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1093.9(c) to another handler's pool plant shall be classified pursuant to § 1093.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1093.43 General classification rules.

In determining the classification of producer milk pursuant to § 1093.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1093.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1093.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1093.40, 1093.41, and 1093.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1093.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1093.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1093.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1093.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1093.9(c), by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1093.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1093.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1093.40(b)(1) that were not subtracted pursuant to paragraphs (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available

utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1093.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1093.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1093.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased

by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1093.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1093.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginnning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1093.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1093.45 Market Administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1093.44(a)(12) and the corresponding step of § 1093.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1093.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association that was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1093.50 Class prices.

Subject to the provisions of § 1093.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* For the first 18 months this order is fully effective, the Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1093.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1093.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1093.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (6) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1093.2, the adjustment shall be as follows:

Adjustment per Hundredweight

Zone 1: Minus 20 cents
Zone 2: No adjustment
Zone 3: Plus 15 cents
Zone 4: Plus 37 cents
Zone 4a: Plus 20 cents

(2) For a plant located in any of the Tennessee and Georgia counties listed below, the adjustment shall be minus 20 cents;

Tennessee Counties

Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicol, Union and Washington.

Georgia Counties

Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

(3) For a plant located in any of the Tennessee and Kentucky counties listed below or in the Fort Campbell military reservation, the adjustment shall be minus 45 cents;

Tennessee Counties

Bedford, Cannon, Cheatham, Clay, Coffee, Davidson, De Kalb, Dickson, Fentress, Franklin, Giles, Grundy, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Van Buren, Warren, Wayne, White, Williamson, and Wilson.

Kentucky Counties

Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

(4) For a plant located outside the marketing area and north of a line extending through the northern boundaries of Georgia, Alabama and Mississippi, and at a location not included in paragraphs (a) (2) and (3) of this section, the adjustment shall be minus 20 cents. Such minus adjustment shall be increasd 1.5 cents for each 10 miles or fraction thereof (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the nearer of the city halls in Florence or Huntsville, Alabama;

(5) For a plant located outside the marketing area and south of a line

extending through the northern boundaries of Georgia, Alabama and Mississippi, and not in the State of Florida or the Georgia counties listed in paragraph (a)(2) of this section, the adjustment shall be the adjustment applicable at Mobile, York, Tuscaloosa, Florence, Huntsville, Gadsden, Opelika or Dothan, Alabama, whichever city is nearest;

(6) For a plant located outside the marketing area and in the State of Florida, the adjustment shall be plus 55 cents.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1093.44(a)(12) an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1093.9(c); and

(iii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants.

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1093.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1093.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1093.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of such handler's pool plants and of each handler described in § 1093.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1093.9(c) that were classified in each class pursuant to §§ 1093.43(a) and 1093.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1093.44(a)(14) and the corresponding step of § 1093.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1093.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1093.44(a)(9) and the corresponding step of § 1093.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7) (i) through (iv) and the corresponding step of § 1093.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7) (v) and (vi) and the corresponding step of § 1093.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(11) and the corresponding step of § 1093.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1093.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for

each month and the uniform price for each month of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1093.60 for all handlers who filed the reports prescribed in § 1093.30 for the month and who made the payments pursuant to § 1093.71 for the preceding month;

(2) Add not less than one-half the unobligated balance in the producer-settlement fund;

(3) Add or subtract an amount equal to the total net value of the location adjustments computed pursuant to § 1093.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1093.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of August through February.

(b) For each month of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

§ 1093.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) the 11th day after the end of each month the applicable uniform price(s) pursuant to § 1093.61 for such month.

Payments For Milk

§ 1093.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1093.71, 1093.76, and 1093.77, and out of which he shall make all payments pursuant to §§ 1093.72 and 1093.77. Payments due any handler shal be offset by any payments due from such handler.

§ 1093.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1093.60.

(2) The sum of:

(i) The value at the uniform price(s), as adjusted pursuant to § 1093.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1093.9(c); and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1093.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1093.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1093.71(a)(2) exceeds the amount computed pursuant to § 1093.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1093.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 25th day of the month at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer. If the producer had discontinued shipping milk to such handler before the 25th day

of any month, or if the producer had no established base upon which to receive payments during the base paying months of March through July, the applicable rate for making payments to such producer pursuant to this paragraph in either case shall be the Class III price for the preceding month; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1093.74 and 1093.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1093.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

(iv) Less proper deductions authorized in writing by such producer.

(b) On or before the day prior to the dates specified in paragraph (a) of this section, each handler shall make payment to the cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraph (a) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 15th day of such month, such handler may reduce payments pursuant to paragraphs (a) and (b) of this section to producers on a pro rata basis but not by more than the amount of the underpayment. Such payments shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(d) Each handler pursuant to § 1093.9(a) who receives milk from a cooperative association as a handler pursuant to § 1093.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the day prior to the last day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 14th day of the following month for milk received during the month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1093.74 and 1093.75, and less any payments made pursuant to paragraph (c)(1) of this section.

(e) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of March through July the total pounds of base milk received from the producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1093.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk was physically received at the rates set forth in § 1093.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1093.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1093.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1093.30(b) and § 1093.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1093.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1093.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1093.60 for such handler shall include, in lieu of the value of other source milk specified in § 1093.60(f) less the value of such other source milk specified in § 1093.71(a)(2)(ii), a value of milk determined pursuant to § 1093.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1093.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1093.30(b) and 1093.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1093.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1093.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1093.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator from a handler pursuant to §§ 1093.71, 1093.76, 1093.77, 1093.78, 1093.85, and 1093.86, shall be increased 1.5 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1093.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1093.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1093.9(c);

(c) Other source milk allocated to Class I pursuant to § 1093.44(a) (7) and (11) and the corresponding steps of § 1093.44(b), except such other source milk that is excluded from the computations pursuant to § 1093.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1093.76(a)(2).

§ 1093.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of such handler's own production) pursuant to § 1093.73, shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom a cooperative association that the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Base-Excess Plan

§ 1093.90 Base milk.

"Base milk" means the producer milk of a producer in each month of March through July that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1093.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through July in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1093.92 Computation of base for each producer.

(a) Subject to § 1093.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of September through January by the number of day's production represented by such producer milk or by 120, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) Any producer who, during the immediately preceding months of September through January, delivered milk to a nonpool plant that became a pool plant after the beginning of such base-forming period shall be assigned a base calculated as if the plant were a pool plant during such entire base-forming period. A base thus assigned shall not be transferable.

§ 1093.93 Base rules.

(a) Except as provided in § 1093.92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. A base transfer to be effective on March 1 for the month of March must be received by the market administrator on or before March 15. Such application shall be on a form approved by the market administrator and signed by the baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or the legal representative of the estate of any deceased baseholder.

(b) A producer who transferred base on or after March 1 may not receive by transfer additional base that would be applicable during March through July of the same year. A producer who received base by transfer on or after March 1 may not transfer a portion of the base to be applicable during March through July on the same year, but may transfer the entire base.

(c) The base established may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) Two or more producers in an partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during any of the immediately preceding months of September through January may be increased to such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (e) (1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statment that established to the satisfaction of the market administrator that in the immediately preceding September through January base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the control of such person, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infections diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

§ 1093.94 Announcement of established bases.

On or before February 28 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through January and shall notify each producer and the handler receiving milk from such dairy farmer of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

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Wednesday
February 3, 1982

Part IV

Department of the Interior

Bureau of Land Management

Proposed Oil and Gas Lease Sale 68; Outer Continental Shelf, Southern California

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf
Southern California

Proposed Oil and Gas Lease Sale 68

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed sale notice. The following is a proposed sale notice for Sale 68 in the waters offshore Southern California. This notice is hereby published as a matter of information to the public.

Notice is hereby given that the area previously withheld from leasing as an adjunct to the Federal Ecological Preserve in Public Land Order 4587, March 21, 1969 (34 Federal Register 5655, March 26, 1969) is now being considered for leasing.

Director, Bureau of Land Management

Robert F. Burford

Date: JAN 15 1982

Approved: JAN 29 1982

Secretary of the Interior

Donald Paul Hodel

Proposed Notice of Sale
OCS Sale No. 68, Southern California

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Manager, Pacific Outer Continental Shelf (OCS) Office, Bureau of Land Management, 1340 West 6th Street, Room 200, Los Angeles, California 90017. Bids may be delivered, either by mail or in person, to the above address until 4:00 p.m., p.s.t., June 1, 1982; or by personal delivery to the (place of sale), (address), (City and State), between the hours of 8:30 a.m., p.s.t. and 9:30 a.m., p.s.t., June 2, 1982. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., p.s.t., June 2, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published at __ FR ____; _____, 1982.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., p.s.t., June 2, 1982," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received

shall be deemed submitted for a numbered tract. Bidders must submit

(b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the

shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of three decimal places after the decimal point, e.g., 50.123%, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300 Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment and a minimum annual royalty of $8 per hectare or $3 per acre, or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on tracts 68-9, 68-10, 68-13, 68-17, 68-23, 68-24, 68-57, 68-58, 68-59, 68-60, 68-61, 68-62, 68-63, 68-64, 68-65, 68-66, 68-67, 68-68, 68-70, 68-71, 68-72, 68-74, 68-78, 68-79, 68-80, 68-81, 68-82, 68-83, 68-84, 68-85, 68-90, 68-91, 68-92, 68-93, 68-94, 68-95, 68-96, 68-101, 68-124, 68-131, 68-139, 68-140, 68-148, 68-149, 68-150, 68-153, 68-154, 68-155, 68-156, 68-157, 68-158, 68-164, 68-165, 68-168, 68-169, 68-170, 68-171, 68-173, 68-174, 68-175, 68-199, 68-200, and 68-201 must be submitted on cash bonus basis with a fixed royalty of 16-2/3 percent.

(b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., p.s.t., June 2, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See Item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on June 2, 1982, beginning at 10:00 a.m., p.s.t., at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, June 2, 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves

the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of ___ or more per acre or fraction thereof or ___ or more per hectare or fraction thereof. (The Department of the Interior is considering increasing the minimum bid on a tract by a substantial amount over the previous $25 per acre or $62 per hectare.)

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps or official protraction diagrams which are available from the Manager, Pacific Outer Continental Shelf Office at the first address stated in paragraph 2:

(a) Outer Continental Shelf Leasing Maps, Channel Islands Area. Maps 6A, 6B and 6D sell for $1.00 each; Map 6C sells for $2.00.

(b) Outer Continental Shelf Official Protraction Diagram NI 11-10, San Clemente. This map sells for $2.00.

12. Tract Descriptions. The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed.

TENTATIVE TRACT LIST OCS SALE #68

OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP NO. 6A (REVISED JULY 24, 1967)

Tract	Block No.	Description	Acres
68-001	55N 89W	All	4632.80
68-002	55N 88W	All	4542.04
68-003	55N 87W	All	4451.17
68-004	55N 86W	All	4360.19
68-005	54N 89W	All	5760
68-006	54N 88W	All	5760
68-007	54N 87W	All	5760
68-008	54N 86W	All	5760
68-009	54N 82W	1/	*3700
68-010	54N 76W	1/	* 160
68-011	53N 87W	All	5760
68-012	53N 86W	All	5760
68-013	53N 72W	1/	*3700
68-014	52N 86W	All	5760
68-015	52N 85W	All	5760
68-016	52N 84W	All	5760
68-017	52N 82W	All	5760
68-018	52N 73W	All	5760
68-019	52N 72W	All	5760
68-020	51N 87W	All	5760
68-021	51N 86W	All	5760
68-022	51N 85W	All	5760
68-023	51N 80W	All	5760
68-024	51N 79W	All	5760
68-025	51N 77W	All	5760
68-026	51N 76W	All	5760
68-027	51N 75W	All	5760
68-028	51N 74W	All	5760
68-029	51N 73W	All	5760
68-030	51N 72W	All	5760
68-031	50N 86W	All	5760
68-032	50N 85W	All	5760
68-033	50N 84W	All	5760
68-034	50N 82W	All	5760
68-035	50N 81W	All	5760
68-036	50N 78W	All	5760
68-037	50N 77W	All	5760
68-038	50N 75W	All	5760
68-039	50N 74W	All	5760
68-040	49N 85W	All	5760
68-041	49N 84W	2/	*5754.03
68-042	49N 83W	2/	*4378.54
68-043	49N 82W	2/	*2983.98
68-044	49N 81W	2/	*4235.62
68-045	49N 80W	2/	*3376.41
68-046	49N 79W	2/	*3950.41

TENTATIVE TRACT LIST OCS SALE #68

LEASE MAP NO. 6B (Continued)

TENTATIVE TRACT LIST OCS SALE #68

LEASE MAP NO. 6A (Continued)

Tract	Block No.	Description	Acres
68-047	49N 74W	All	5760
68-048	48N 85W	All	5760
68-049	48N 84W	2/	*4118.04
68-052	48N 73W	All	5760
68-053	48N 72W	2/	*5602.12
68-054	47N 84W	2/	*1406.43
68-057	40N 73W	2/	*975.14
68-058	40N 72W	2/	*3410.96
68-059	37N 73W	All	5760

OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP NO. 6B (REVISED JULY 24, 1967)

68-060	53N 71W	1/	*1200
68-061	52N 71W	1/	*5600
68-062	52N 70W	1/	*4000
68-063	51N 70W	E½, E½W½	4320
68-064	51N 69W	All	5760
68-065	51N 68W	S½N½, E½	4320
68-066	51N 67W	S½	2880
68-067	51N 66W	S½	2880
68-068	51N 62W, 50N 62W	1/ N½NE¼, 1/	*2520
68-070	50N 68W	All	5760
68-071	50N 67W	All	5760
68-072	50N 66W	All	5760
68-074	50N 61W, 50N 60W	1/ 1/	*2921
68-078	49N 67W	All	5760
68-079	49N 66W	All	5760
68-080	49N 65W	All	5760
68-081	49N 64W	All	5760
68-082	49N 63W	All	5760
68-083	49N 62W	All	5760
68-084	49N 61W	All	5760
68-085	49N 60W, 49N 59W	1/ 1/	*4464
68-087	48N 71W	2/	*3871.80
68-088	48N 70W	2/	*3690.13
68-089	48N 69W	2/	*4673.60
68-090	48N 68W	2/	*5742.67
68-091	48N 67W	All	5760
68-092	48N 66W	All	5760
68-093	48N 65W	All	5760
68-094	48N 64W	All	5760
68-095	48N 63W	All	5760
68-096	47N 59W, 47N 58W	1/ 1/	*5069
68-101	45N 58W	2/	*2688.86
68-105	44N 58W	2/	*994.97
68-112	43N 58W	2/	*2005.77

LEASE MAP NO. 6B (Continued)

Tract	Block No.	Description	Acres
68-115	42N 62W	2/	*243.34
68-122	42N 54W	All	5760
68-123	42N 53W	All	5760
68-124	41N 71W, 40N 71W	2/ 2/	*5091.15
68-125	41N 60W	2/	*4864.51
68-128	41N 51W	All	5760
68-129	41N 50W	All	5760
68-131	40N 70W	All	5760
68-132	40N 69W	All	5760
68-136	40N 51W	All	5760
68-137	40N 50W	All	5760
68-138	40N 49W	All	5760
68-139	39N 71W	All	5760
68-140	39N 70W	All	5760
68-141	39N 69W	All	5760
68-145	39N 50W	All	5760
68-146	39N 49W	All	5760
68-147	39N 47W	All	5760
68-148	38N 71W	All	5760
68-149	38N 70W	All	5760
68-150	38N 69W	All	5760
68-151	38N 47W	All	5760
68-152	38N 46W	All	5760
68-153	37N 71W	All	5760
68-154	37N 70W	All	5760
68-155	37N 69W	All	5760
68-156	36N 71W	All	5760
68-157	36N 70W	All	5760
68-158	36N 69W	All	5760
68-159	34N 41W	All	5760
68-160	34N 40W	All	5760
68-161	33N 41W	All	5760
68-162	33N 40W	All	5760
68-163	32N 40W	All	5760

OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP NO. 6C (REVISED APRIL 25, 1977)

68-164	36N 36W, 35N 37W, 35N 36W	1/ NE¼NE¼, 1/	*4461
68-165	35N 38W	1/	*5100
68-168	34N 39W	All	5760
68-169	34N 36W	All	5760
68-170	33N 39W	All	5760
68-171	33N 38W	All	5760
68-172	32N 39W	All	5760
68-173	32N 37W	All	5760
68-174	32N 35W	All	5760

TENTATIVE TRACT LIST OCS SALE #68

LEASE MAP NO. 6C (Continued)

Tract	Block No.	Description	Acres
68-175	32N 34W	All	5760
68-176	32N 33W	1/	*5700
68-177	32N 32W	1/	*3900
68-178	32N 31W,	1/	*4900
	31N 31W	1/	
68-179	31N 39W	All	5760
68-180	31N 38W	All	5760
68-181	31N 37W	All	5760
68-182	31N 34W	All	5760
68-183	31N 33W	All	5760
68-184	31N 32W	All	5760
68-186	30N 37W	All	5760
68-187	30N 32W	All	5760
68-188	30N 31W	All	5760

OCS LEASING MAP, CHANNEL ISLANDS AREA, MAP NO. 6D (APPROVED AUGUST 8, 1966)

Tract	Block No.	Description	Acres
68-195	20N 66W	All	5760
68-196	20N 65W	All	5760
68-197	20N 64W	All	5760
68-198	19N 66W	All	5760
68-199	19N 63W	All	5760
68-200	19N 62W	All	5760
68-201	19N 61W	All	5760
68-202	13N 54W	All	5760
68-203	13N 53W	All	5760
68-204	13N 52W	All	5760
68-205	12N 54W	All	5760
68-206	12N 52W	All	5760
68-207	12N 51W	All	5760
68-208	11N 53W	All	5760
68-209	11N 52W	All	5760
68-210	11N 51W	All	5760
68-211	10N 50W	All	5760
68-212	10N 49W	All	5760
68-213	10N 48W	All	5760

TENTATIVE TRACT LIST OCS SALE #68

OCS OFFICIAL PROTRACTION DIAGRAM, NI 11-10, SAN CLEMENTE (APPROVED SEPTEMBER 27, 1977)

Tract	Block No.	Description	Hectares
68-214	N751 E66 (426)	All	325.60
68-215	N751 E67 (427)	All	342.99
68-216	N751 E68 (428)	All	360.34
68-217	N750 E66 (470)	All	2304
68-218	N750 E67 (471)	All	2304
68-219	N750 E68 (472)	All	2304
68-220	N749 E67 (515)	All	2304
68-221	N749 E68 (516)	All	2304

* Estimated

1/ That portion seaward of the Three Geographical Mile Line.

2/ Seaward of straight lines defined by coordinates based on the California (Lambert) Plane Coordinate System, Zone 6, with X origin = 2,000,000 at 116° 15', and Y origin = 0.00 at 32° 10'; as follows:

	X	Y
1.	1 083 116.775	659 028.110
2.	1 090 706.145	668 411.986
3.	1 095 458.081	689 505.297
4.	1 089 764.637	706 897.326
5.	1 079 496.859	717 556.263
6.	1 067 952.171	722 765.464
7.	1 049 567.015	723 635.502
8.	1 046 245.123	723 092.415
9.	1 038 155.138	724 350.732
10.	1 032 254.837	724 355.602
11.	1 022 634.512	730 932.219
12.	1 019 326.153	732 622.546
13.	1 013 397.117	736 301.031
14.	989 692.237	739 534.295
15.	983 015.566	738 568.150
16.	968 383.353	732 739.562
17.	957 170.832	737 567.743
18.	936 446.824	743 185.260
19.	933 072.704	743 002.280
20.	928 459.797	743 236.506
21.	925 409.789	744 379.354
22.	915 538.620	747 443.255
23.	910 748.956	748 718.057
24.	899 713.001	750 272.216
25.	886 261.357	751 086.957

	X	Y
26.	878 730.328	749 [illegible]

	X	Y
26.	878 730.328	749 810.080
27.	859 696.145	736 934.674
28.	852 938.315	737 775.497
29.	839 611.004	735 696.449
30.	831 912.313	734 113.427
31.	816 880.230	734 813.082
32.	801 204.129	729 901.097
33.	796 632.417	730 515.155
34.	789 160.912	739 918.764
35.	779 318.761	746 523.282
36.	777 402.971	750 484.062
37.	771 877.911	757 339.723
38.	767 915.796	760 722.078
39.	760 382.615	765 047.179
40.	740 272.507	767 604.303
41.	737 046.583	767 054.160
42.	727 246.513	762 837.874
43.	713 276.546	768 088.489
44.	703 420.467	768 297.318
45.	684 780.675	760 677.050
46.	670 966.876	732 206.934
47.	671 599.869	724 689.151
48.	674 371.152	716 183.286
49.	686 779.840	701 481.035
50.	690 029.831	699 142.297
51.	692 298.780	689 391.058
52.	701 747.522	675 677.421
53.	723 069.990	666 264.467
54.	735 049.054	665 081.067
55.	748 789.017	660 536.666
56.	764 228.804	661 054.023
57.	769 122.179	658 108.385
58.	772 836.313	650 753.300
59.	779 449.843	633 994.492
60.	792 078.702	628 782.802
61.	799 909.378	623 445.039
62.	804 520.649	620 503.974
63.	820 422.101	614 161.279
64.	830 174.377	613 631.191
65.	840 007.314	615 467.730
66.	848 179.204	619 149.401
67.	851 849.836	620 378.195
68.	872 385.591	629 382.180
69.	885 199.943	631 622.818
70.	897 823.727	639 091.019
71.	901 394.249	638 113.359
72.	925 712.146	634 751.562
73.	931 467.929	635 433.826
74.	939 736.895	633 861.638
75.	956 778.905	634 162.461
76.	966 857.459	637 824.916
77.	973 764.663	642 187.773
78.	985 465.332	642 167.877
79.	988 953.297	648 497.139
80.	999 386.345	644 365.129
81.	1 008 333.302	646 451.071
82.	1 019 643.123	651 576.513
83.	1 026 037.610	649 650.043
84.	1 037 229.744	646 868.729
85.	1 042 340.607	645 566.294
86.	1 049 479.392	645 430.853
87.	1 055 695.598	646 218.407
88.	1 058 718.100	646 989.213
89.	1 065 052.124	649 236.492
90.	1 068 364.568	651 053.089

13. Lease Terms and Stipulations. Leases resulting from this sale for tracts 68-132, 68-195, 68-198, 68-204, 68-206, 68-207, 68-208, 68-209, 68-210, 68-218, 68-219, 68-220 and 68-221 will be for an initial term of ten years. All other leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, Pacific Outer Continental Shelf Office, at the first address stated in paragraph 2.

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations, the term DCMOFO refers to the Pacific Area Deputy Conservation Manager, Offshore Field Operations of the U.S. Geological Survey, and the term Manager refers to the Manager of the Pacific OCS Office of the Bureau of Land Management.

Stipulation No. 1

(a) If the DCMOFO has reason to believe that biological populations or habitats exist and require protection, he shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements. Prior to any drilling activity or the construction or placement of any structure for exploration or development on lease areas including, but not limited to, well drilling and pipeline and platform placement, hereinafter referred to as "operation," the lessee shall conduct site specific surveys as approved by the DCMOFO and in accordance with prescribed biological survey requirements to determine the existence of any special biological resource including, but not limited to:

(1) Very unusual, rare, or uncommon ecosystems or ecotones.

(2) A species of limited regional distribution that may be adversely affected by any lease operations.

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DCMOFO, on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The DCMOFO will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operations. The lessee may take no action until the DCMOFO has given the lessee written directions on how to proceed.

(b) The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCMOFO, and make every reasonable effort to preserve and protect the biological resource from damage until the DCMOFO has given the lessee directions with respect to its protection.

Stipulation No. 2

If the DCMOFO, having reason to believe that a site, structure or object of historical or archaeological significance, hereinafter referred to as a "cultural resource," may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCMOFO and the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCMOFO and the Manager for their review. Should the DCMOFO determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCMOFO has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of

Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency. Such coordination and instruction will

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DCMOFO has given directions as to its preservation.

Stipulation No. 3

(To be included in any lease resulting from this sale for tracts: 68-6, 68-7, 68-8, 68-9, 68-11, 68-12, 68-13, 68-14, 68-18, 68-19, 68-21, 68-25, 68-26, 68-27, 68-28, 68-29, 68-30, 68-34, 68-35, 68-36, 68-37, 68-38, 68-39, 68-44, 68-45, 68-52, 68-53, 68-59, 68-60, 68-61, 68-62, 68-63, 68-65, 68-66, 68-67, 68-68, 68-82, 68-83, 68-84, 68-85, 68-101, 68-105, 68-123, 68-128, 68-129, 68-137, 68-147, 68-159, 68-160, 68-162, 68-163, 68-168, 68-170, 68-171, 68-172, 68-173, 68-174, 68-175, 68-176, 68-177, 68-178, 68-182, 68-183, 68-184, 68-199, 68-205, 68-208, 68-209, 68-220, and 68-221.)

All or portions of this tract may contain mass transport deposits, steep slopes, or active faulting. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DCMOFO's satisfaction that mass transport of sediments or faulting is unlikely, or that exploratory drilling operations, structures (platforms), casing, wellheads, and pipelines can be safely designed to protect the environment in case such mass transport or faulting occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of instability, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for faulting and mass transport of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all active faults or mass transport deposits in the lease block must be mapped. The DCMOFO may also require soil testing before exploration and production operations are allowed.

Stipulation No. 4

(This stipulation applies to the following tracts located in military operating areas: 68-1 through 68-39, 68-57, 68-58, 68-59, 68-101, 68-105, 68-112, 68-125, 68-128 through 68-132, 68-136 through 68-141, 68-145 through 68-188, and 68-195 through 68-221.)

(a) The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with instructions from the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency. Such coordination and instruction will provide for positive control of boats and aircraft operating in the warning areas at all times.

(b) The lessee, recognizing that mineral exploration and exploitation and recovery operations of the leased areas of submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lessee under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel, and appropriate sheltering of personnel not evacuated (an appropriate shelter shall mean the protection of all lessee personnel for the entire duration of any Department of Defense activity from flying or falling objects or substances), will come into effect upon the order of the DCMOFO, after consultation with the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency, or higher authority, when national security interests necessitate such action. It is understood that any temporary suspension of operations for national security may not exceed 72 hours; however, any such suspension may be extended by order of the DCMOFO. During such periods equipment may remain in place.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency, to the degree necessary to prevent damage to, or unacceptable interference with Department of Defense flight, testing or operations activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation No. 5

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer

Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Western Space and Missile Center (WSMC), the Pacific Missile Test Center (PMTC), or other appropriate military agency.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

Stipulation No. 6

(To be included only in leases resulting from this sale for tracts 68-101, 68-105, 68-112, 68-125, 68-164, 68-169, 68-204, 68-207, 68-212 and 68-213.)

No structures or drilling rigs will be allowed within that portion of the tract described below.

Tract No.	Restricted Portion
68-101	S1/2NE1/4, SE1/4
68-105	E1/2NE1/4
68-112	South and East of a diagonal line from NE corner to SW corner
68-125	South and East of a diagonal line from NE corner to SW corner
68-164	(To be determined later)
68-169	N1/2
68-204	NE1/4
68-207	E1/2
68-212	(To be determined later)
68-213	(To be determined later)

Stipulation No. 7

(a) Pipelines will be required: 1) if pipeline rights-of-way can be determined and obtained; 2) if laying of such pipelines is technologically feasible and environmentally preferable; and 3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local governments and the industry.

(b) Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DCMOFO.

(c) Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Port and Tanker Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 8

(a) Wells. Subsea well heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DCMOFO. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ±50 feet (15.25 meters) at 200 miles (322 kilometers).

(b) Pipelines. All pipelines, unless buried, including gathering lines, shall have a smooth surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

14. Information to Lessees. The Department of the Interior will seek the advice of the State of California and other Federal agencies to identify areas of special biological or cultural resources.

Operations on some of the tracts offered for lease may be

DCMOFO's satisfaction that a potentially hazardous accumulation of

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq). Bidders are advised that because of a Precautionary Area established by the U.S. Coast Guard, surface occupancy will probably not be allowed on tract 68-165 and operations may have to be conducted from off the lease site.

Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Notice is hereby given that portions of tracts 68-3, 68-4, 68-7, 68-8, 68-15, 68-32, 68-34, 68-35, 68-36, 68-70, 68-112, 68-128, 68-129, 68-137, 68-138, 68-146, 68-151, 68-159, 68-163, 68-168, 68-170, 68-171, 68-172, 68-175, 68-180, 68-181, 68-182, 68-186, 68-202, 68-206, 68-207, 68-209, and 68-213 may contain a shallow "bright spot" seismic amplitude anomaly which may be indicative of a shallow gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless or until the lessee has demonstrated to the DCMOFO's satisfaction that a potentially hazardous accumulation of shallow gas does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed or drilling plans designed to assure safe operations in the area above the anomaly. This may necessitate that all exploration for and development of oil and gas be performed from locations outside the area of concern, either within or outside this lease block.

Lessees are encouraged to include a fisheries training program in their exploration and development plans. This training program should be designed to familiarize platform and shore-based supervisors and persons involved in vessel operations with the value of the commercial fishing industry, the methods of offshore fishing operations, and the potential hazards, conflicts, and impacts resulting from offshore oil and gas activities. This program should be formulated and implemented by qualified and experienced instructors in fishing activities, methods of communication, and navigational safety.

For those tracts listed in paragraph 13 above providing for leases with an initial period of more than 5 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to USGS either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

Bidders are advised that Tract Numbers 68-082 and 68-095 may be deleted prior to the actual sale due to potential Congressional action.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Pacific Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

[FR Doc. 82-2768 Filed 2-2-82; 0:45 am]
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Wednesday, February 3, 1982

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing January 6, 1981

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 382 / Pub. L. 97–146 To permit the broadcasting in the United States of the International Communication Agency film "Let Poland Be Poland: A Day of Solidarity With the People of Poland". (Jan. 30, 1982; 96 Stat. 3) Price: $1.50.

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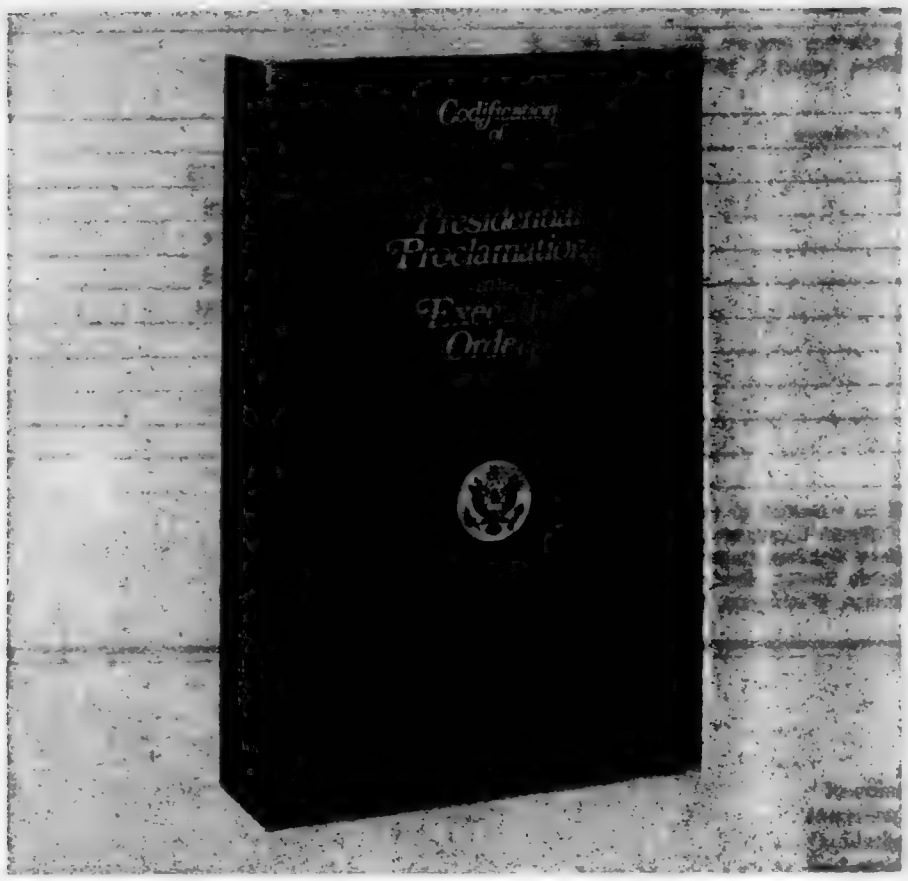

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Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1981, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

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5238 **Highway Safety** DOT/FHWA proposes to amend uniform traffic control devices manual.

5254 DOT/NHTSA and FHWA requests comments on effectiveness of state and local highway safety programs in reducing accidents, injuries and fatalities.

5232 **Air Transportation** CAB proposes to change baggage liability regulations.

5225 **Water Pollution Control** Treasury/Customs amends rules on illegal discharge of oil and deposit of refuse matter or hazardous substances in coastal and navigable waters.

5227 **Urban Mass Transportation** DOT/UMTA issues rule on transfer of Conrail commuter service operations.

5369 **Tariff Schedules** ITC requests comments on draft of chapters of Tariff Schedules of United States.

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

5223 **Public Utility Holding Companies** SEC amends rules on beneficial ownership reporting and liability for short-swing profits.

5215 **Small Businesses** SEC adopts definitions of "small business" and "small organization" for disclosure, reporting and regulatory requirements.

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Presidential Documents

Title 3—

The President

Executive Order 12345 of February 2, 1982

Physical Fitness and Sports

By virtue of the authority vested in me as President of the United States of America, and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), in order to expand the program for physical fitness and sports and to continue the President's Council on Physical Fitness and Sports, it is hereby ordered as follows:

Section 1. The Secretary of Health and Human Services shall, in carrying out his responsibilities for public health and human services, develop and coordinate a national program for physical fitness and sports. The Secretary shall:

(a) Enlist the active support and assistance of individual citizens, civic groups, private enterprise, voluntary organizations, and others in efforts to promote and improve the fitness of all Americans through regular participation in physical fitness and sports activities.

(b) Initiate programs to inform the general public of the importance of exercise and the link which exists between regular physical activity and such qualities as good health and effective performance.

(c) Strengthen coordination of Federal services and programs relating to physical fitness and sports participation and invite appropriate Federal agencies to participate in an interagency committee to coordinate physical fitness and sports activities of the Federal establishment.

(d) Encourage State and local governments to emphasize the importance of regular physical fitness and sports participation.

(e) Seek to advance the physical fitness of children, youth, adults, and senior citizens by systematically encouraging the development of community recreation, physical fitness, and sports participation programs.

(f) Develop cooperative programs with medical, dental, and other similar professional societies to encourage the implementation of sound physical fitness practices and sports medicine services.

(g) Stimulate and encourage research in the areas of sports medicine, physical fitness, and sports performance.

(h) Assist educational agencies at all levels in developing high quality, innovative health and physical education programs which emphasize the importance of exercise to good health.

(i) Assist recreation agencies and national sports governing bodies at all levels in developing "sports for all" programs which emphasize the value of sports to physical, mental, and emotional fitness.

(j) Assist business, industry, government, and labor organizations in establishing sound physical fitness programs to elevate employee fitness and to reduce the financial and human costs resulting from physical inactivity.

Sec. 2. *President's Council on Physical Fitness and Sports.* (a) There is hereby continued the President's Council on Physical Fitness and Sports.

(b) The Council shall be composed of fifteen members appointed by the President. The President shall designate one of the members to be the Chairman.

Sec. 3. *Functions of the Council.* (a) The Council shall advise the President and the Secretary concerning progress made in carrying out the provisions of this Order and shall recommend to the President and the Secretary, as necessary, actions to accelerate progress.

(b) The Council shall advise the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports activities.

(c) The Council shall also advise the Secretary on State, local, and private actions to extend and improve physical activity programs and services.

Sec. 4. *Administrative Provisions Concerning the Council.* (a) The Secretary and the Council are authorized to request from any Federal agency such information or assistance deemed necessary to carry out their functions under this Order.

(b) Each Federal agency is authorized, to the extent permitted by law and within available funds, to furnish such information and assistance to the Secretary and the Council as they may request.

(c) The members of the Council shall serve without compensation for their work on the Council. However, members of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service (5 U.S.C. 5701–5707).

(d) To the extent permitted by law, the Secretary shall furnish the Council with necessary staff, supplies, facilities, and other administrative services. The expenses of the Council shall be paid from funds available to the Secretary.

(e) The Secretary shall appoint an Executive Director of the Council.

(f) The seal prescribed by Executive Order No. 10830 of July 24, 1959, as amended, shall continue to be the seal of the President's Council on Physical Fitness and Sports continued by this Order.

Sec. 5. *General Provisions Concerning the Council.*

(a) Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), except that of reporting annually to the Congress, shall be performed by the Secretary in accordance with guidelines and procedures established by the Administrator of General Services.

(b) In accordance with the Federal Advisory Committee Act, as amended, the Council shall terminate on December 31, 1982, unless sooner extended.

(c) Executive Order No. 11562, as amended, is revoked.

Ronald Reagan

THE WHITE HOUSE,
February 2, 1982.

[FR Doc. 82-3126
Filed 2-2-82; 3:19 pm]
Billing code 3195-01-M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Domestic Quarantine Notices; Gypsy Moth and Browntail Moth Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms amendments to the gypsy moth and browntail moth quarantine and regulations which quarantined the States of Arkansas, California, Nebraska, Oregon, Washington, and West Virginia because of the gypsy moth; designated a certain area within Arkansas as a gypsy moth high-risk area; and designated certain areas within California, Nebraska, Oregon, Washington, and West Virginia as gypsy moth low-risk areas. These amendments are necessary to help prevent the artificial spread of the gypsy moth. The effect of these amendments is to impose restrictions on the interstate movement of gypsy moth regulated articles from such gypsy moth high-risk area, and to provide official notice that restrictions may apply to the movement of gypsy moth regulated articles from gypsy moth low-risk areas.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT:
T. J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 635, Federal Building, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendments have been determined to be not a "major rule" under Executive Order 12291 and Secretary's Memorandum 1512–1. Based on information compiled by the Department, it has been determined that the amendments will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It appears that almost all of the activities to be regulated under the amendments would relate to the movement of gypsy moth regulated articles from gypsy moth high-risk areas and low-risk areas.

The amendments impose restrictions on the interstate movement of gypsy moth regulated articles from a certain area in Arkansas designated as a gypsy moth high-risk area. It appears that very few, if any, regulated articles are likely to be moved from the area designated as a high-risk area, except for articles moved from one nursery.

The amendments also impose restrictions on the movement of gypsy moth regulated articles from gypsy moth low-risk areas only if it is determined by an inspector that any life stage of the gypsy moth is on the regulated article, and the person in possession of the article has been so notified by an inspector. It appears that the gypsy moth low-risk areas should have few regulated articles to be inspected under this criteria.

Alternatives were considered in connection with the amendments. In this connection, consideration was given concerning (1) whether to retain the amendments or (2) whether to remove the amendments. Alternative (1) is adopted because it appears that it is necessary to help prevent the interstate spread of the gypsy moth.

Further, it appears that there is no feasible alternative to consider regarding the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Arkansas, California, Nebraska, Oregon, Washington, and West Virginia. There are thousands of small entities that move such articles interstate from those States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that fewer than 6 small entities move such articles interstate from the specified areas in those States. Further, this action will cause no significant economic impact on other types of small entities.

Background

In a document published in the Federal Register on October 2, 1981 (46 FR 48627–48629), the Department issued an interim rule amending the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45 *et seq.*) by quarantining the States of Arkansas, California, Nebraska, Oregon, Washington, and West Virginia because of the gypsy moth; by designating a certain area in Arkansas as a gypsy moth high-risk area; and by designating certain areas in California, Nebraska, Oregon, Washington, and West Virginia as gypsy moth low-risk areas.

The document of October 2, 1981, invited interested persons to submit written comments concerning the amendments on or before December 1, 1981. No written comments were received.

The document of October 2, 1981 also included a notice of a public hearing concerning the amendments. Pursuant to

designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities amendments and did not suggest any changes.

The factual situations which were set forth in the document of October 2, 1981, still provide a basis for the amendments. Accordingly, it has been determined that the amendments should remain effective as published in the **Federal Register** on October 2, 1981.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162; 37 FR 28464, 28477), as amended (38 FR 19141))

Done at Washington, D.C., this 1st day of February 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-2874 Filed 2-3-82; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 4]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises the minimum grade requirements for Florida seedless grapefruit and imported seedless grapefruit by requiring fresh shipments to meet the external requirements of Improved No. 2 grade and the internal requirements of U.S. No. 1 grade. Currently, such shipments are only required to meet Improved No. 2 grade. The change in minimum grades recognizes the quality of the remaining supply of grapefruit and is consistent with the current and prospective demand for grapefruit in the interest of growers and consumers.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been this notice, a public hearing was held on November 3, 1981, in St. Louis, Missouri. One oral comment was presented at the public hearing by a representative of the Arkansas State Plant Board. The comment was in support of the because it would not measurably affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information.

The minimum grade requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the grade requirements applicable to Florida seedless grapefruit in recognition of the recent freeze in Florida. The freeze resulted in some fruit damage throughout the production area. A more restrictive internal grade requirement (U.S. No. 1) will aid in preventing both domestic and export shipment of freeze damaged fruit. Specification of such requirement assures that the available supply of marketable fruit reaches the consumer.

Under section 8e of the Act (7 U.S.C. 608e-1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, grade requirements for imported white and pink seedless grapefruit will also change to conform to the grade requirements for domestic shipments of Florida white and pink seedless grapefruit. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. Handlers have been apprised of such provisions and the effective date.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, it is found that the provisions of § 905.306 (Orange, Grapefruit, Tangerine and Tangelo Regulation 6) (46 FR 60170; 60411; 61441; 47 FR 589) are amended by revising the entries in Table I paragraph (a), applicable to domestic shipments, and the entries in Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
*	*	*	*
Grapefruit:			
Seedless, except pink.	Feb. 8 to Aug. 22, 1982	Improved No. 2 (external) U.S. No. 1 (internal)	3 3/16
	On and after Aug. 23, 1982	Improved No. 2	3 3/16
Seedless, pink	Feb. 8 to Aug. 22, 1982	Improved No. 2 (external) U.S. No. 1 (internal)	3 3/16
	On and after Aug. 23, 1982	Improved No. 2	3 3/16
*	*	*	*

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
*	*	*	*
Grapefruit:			
Seedless, except pink.	Feb. 8 to Aug. 22, 1982	Improved No. 2 (external) U.S. No. 1 (internal.	3 3/16

TABLE II—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Seedless, pink	On and after Aug. 23, 1982	Improved No. 2	3⅝
	Feb. 8 to Aug. 22, 1982	Improved No. 2 (external) U.S. No. 1 (internal).	3⅝
	On and after Aug. 23, 1982	Improved No. 2	3⅝
*	* * * * * *	*	*

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: January 29, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-2875 Filed 2-3-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1004

[Milk Order No. 4; Docket No. AO-160-A57]

Milk in the Middle Atlantic Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changing present provisions of the Middle Atlantic milk order is based on industry proposals which were considered at a public hearing held in September 1981. The amendments reduce for part of the year the proportion of receipts at a distributing plant which must be disposed of as Class I milk, while increasing the percentage of producer milk which may be diverted to nonpool plants. Also, plants that process the market's reserve milk supplies and meet pool performance requirements during certain months of the year will be automatically qualified for pooling for the remaining months. The amendments are necessary to reflect current marketing conditions and to assure orderly marketing in the Middle Atlantic area.

EFFECTIVE DATE: The order provisions set forth herein shall become effective March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447–6273).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued August 18, 1981; published August 21, 1981 (46 FR 42486).

Order Suspending Certain Provisions: Issued September 30, 1981; published October 6, 1981 (46 FR 49102).

Recommended Decision: Issued November 25, 1981; published December 1, 1981 (46 FR 58337).

Final Decision: Issued January 8, 1982; published January 14, 1982 (47 FR 2118).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than March 1, 1982. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Marketing Program Operations, was issued November 25, 1981, and the decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued January 8, 1982. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1982, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the

handling of milk in the Middle Atlantic marketing area shall be in conformity to and in compliance with the following terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA; ORDER AMENDING ORDER

1. In § 1004.7 paragraphs (a) and (e) introductory texts are revised to read as follows:

§ 1004.7 Pool plant.

* * * * *

(a) A plant from which during the month a volume not less than 40 percent in the months of September through February, and 30 percent in the months of March through August, of its receipts described in paragraph (a) (1) or (2) of this section is disposed of as Class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area.

* * * * *

(e) Subject to the conditions of paragraph (e)(1) of this section, a plant that was qualified pursuant to paragraph (b), (c), or (d) of this section during each of the immediately preceding months of September through February shall remain so qualified during the following months of March through August, unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month of such period during which it does not otherwise qualify pursuant to said paragraph (b), (c), or (d):

* * * * *

2. In § 1004.12 paragraphs (d)(2) (i) and (ii) are revised to read as follows:

§ 1004.12 Producer.

* * * * *

(d) * * *

(2) * * *

(i) All of the diversions of milk of members of a cooperative association to nonpool plants are for the account of such cooperative association and the amount of member milk so diverted does not exceed 30 percent of the volume of milk of all members of such cooperative association received at all pool plants during such month.

(ii) All of the diversions of milk of dairy farmers who are not members of a cooperative association diverting milk for its own account during the month are diversions by a handler in his capacity as the operator of a pool plant from which the quantity of such nonmember milk so diverted does not exceed 30 percent of the total of such nonmember milk delivered to such handler during the month.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective date: March 1, 1982.

Signed at Washington, D.C., on January 29, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-2953 Filed 2-3-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 113

Viruses, Serums, Toxins, and Analogous Products; Standard Requirement for Pasteurella Multocida Bacterins, Avian Isolates, Type 4

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations by adding new standard requirements for purity, safety, potency, and efficacy for biological products containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4. It also deletes the general requirements for Pasteurella Multocida Bacterins, Avian Isolate, from the standards. General requirements are now incorporated in the introductory paragraphs of the standard requirements for Pasteurella Multocida Bacterin, Avian Isolates, Types 1, 3, and 4. Safety test procedures and potency test terminology in the standard requirements for Types 1 and 3 isolates are revised to be consistent with the new standards for Type 4 isolate.

When standard requirements have been developed by Veterinary Services (VS) through experience with a number of firms' products as specified in Outlines of Production and/or through the development of scientific knowledge at National Veterinary Services Laboratories (NVSL) or elsewhere, such requirements are codified in the regulations. Codification assures uniformity and general applicability of the requirements to all licensees. Until now, the requirements for each firm's Pasteurella Multocida Bacterin, Avian Isolate, Type 4, were in the firms' Outlines of Production filed with VS for these products in accordance with 9 CFR 114.8. This amendment makes uniform requirements available to the general public and applicable to all licensees.

EFFECTIVE DATE: This amendment becomes effective March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as a "nonmajor" rule.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because licensees who prepare this product are already required to conduct these tests, except for the positive controls in the potency test, according to their filed Outlines of Production. This amendment makes testing requirements identical and available to all current and prospective licensees.

Standard requirements consist of test methods, procedures, and criteria established by VS for evaluating biological products for purity, safety, potency, and efficacy. Until standard requirements are developed by VS and are codified in the regulations (9 CFR Part 113), test methods, procedures, and criteria to be used in the evaluation of a product are developed by the licensee, confirmed by NVSL, and written into an Outline of Production, which is required to be approved for filing with VS.

When standard requirements for a biological product have been developed by VS, they are codified in the regulations. Codification assures uniformity and general applicability of the requirements to all licensees and to the general public. This amendment contains the standard requirements for evaluating all licensed products containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4. These new Type 4 standard requirements were patterned on the current standard requirements for the similar Type 1 and Type 3 products. The new Type 4 potency test was developed from data jointly obtained by the licensees and NVSL.

The codification of this new standard requirement makes most of the general

requirements for Pasteurella Multocida Bacterins, Avian Isolates, found in § 113.101 obsolete. Therefore, the obsolete general requirements are deleted and those requirements that remain applicable are included in the revised § 113.101 and also incorporated into the introductory paragraphs of §§ 113.102 and 113.103, which contain standard requirements for Pasteurella Multocida Bacterin, Avian Isolates, Types 1 and 3, respectively.

The safety test contained in §§ 113.102 and 113.103 is revised to provide flexibility in order to avoid conducting retests when a test bird dies accidentally or shows other unfavorable reactions that are not attributable to the product. This revision makes the present standards for Pasteurella Multocida Bacterin, Avian Isolates, Types 1 and 3, consistent with the new standard for Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

The validity terminology for the potency test contained in §§ 113.102 and 113.103 is amended to be consistent with the new § 113.101 standard type 4 bacterin. This amendment is solely for clarity of meaning.

On October 19, 1979, a notice of proposed rulemaking was published in the **Federal Register** at 44 60306 discussing this revision and soliciting comments. Two reponses were received. Both requested additional time to conduct Type 4 bacterin potency tests using the new VS reference bacterin. This was considered a valid and reasonable request. Therefore, a notice of extension of time for comments was published January 22, 1980, at 45 FR 4359.

Subsequently, two responses were received. Both responses provided data and requested that the potency test requirement for the Type 4 bacterin in proposed § 113.101 be the same as the current potency test requirements in §§ 113.102 and 113.103 for Type 1 and Type 3 products; i.e., at least 70 percent of vaccinates be protected and at least 80 percent of unvaccinated control birds die following challenge for a valid and satisfactory test. The proposed § 113.101 would have required 80 percent protection of vaccinates and 70 percent death among controls.

Additional Type 4 bacterin potency test data developed by NVSL confirmed the licensees' data that at least 80 percent of unvaccinated control birds would routinely die following appropriate challenge. Therefore, this suggestion has been incorporated in the final rule in section 113.101(c) (5), (6), and (7). No other comments were made or exceptions taken to the proposed rules.

PART 113—STANDARD REQUIREMENTS

After consideration of all relevant matters, including the proposal set forth in the above notice, and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as modified from the above notice, is adopted as follows:

1. Section 113.101 is revised to read:

§ 113.101 Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

Pasteurella Multocida Bacterin, Avian Isolate, Type 4 shall be prepared from cultures of *Pasteurella multocida*, avian isolate, Type 4 (Little and Lyons classification), which have been inactivated, and are nontoxic. Each serial of biological product containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4, shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency, as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in 9 CFR 113.26.

(b) *Safety test.* Observation of the vaccinated turkeys during the prechallenge period of the potency test provided in paragraph (c) of this section shall constitute the safety test. If unfavorable reactions that are attributable to the product occur, the serial is unsatisfactory. If unfavorable reactions that are not attributable to the product occur in one turkey, test results shall be determined by observing the remaining 20 turkeys. The test is inconclusive and may be repeated if unfavorable reactions that are not attributable to the product occur in two or more turkeys, but the serial is unsatisfactory if the test is not repeated.

(c) *Potency test.* Bulk or final container samples of completed product shall be tested for potency of the Type 4 strain, using the two-stage test provided in this paragraph. Turkeys at least 6 weeks old obtained from the same source and hatch shall be properly identified and used as provided in this paragraph.

(1) *Vaccinates.* Each of not more than 21 turkeys shall be vaccinated with the dose and by the route recommended on the label. A second dose shall be given after 3 weeks and the turkeys observed for an additional 2-week prechallenge period.

(2) *Positive controls.* Each of not more than 21 turkeys shall be vaccinated with two doses of a reference bacterin available from Veterinary Services upon request.

(3) *Unvaccinated controls.* Each of not more than 21 turkeys shall be held as controls.

(4) *Challenge.* Not less than 14 days after the second dose, each of 20 vaccinates, each of 20 positive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with virulent *Pasteurella multocida* strain P–1662, Type 4 (Little and Lyons classification), and observed daily for a 14-day postchallenge period. Only dead birds shall be considered in evaluating the product.

(5) *Validity requirements.* Twelve or more positive controls must survive and 16 or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(6) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage in not conducted.

(7) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

2. Section 113.102 is amended by revising the introductory paragraph and paragraph (b), consolidating paragraphs (c) (5) and (6), and renumbering paragraphs (c) (7) and (8) as (c) (6) and (7) to read:

§ 113.102 Pasteurella Multocida Bacterin, Avian Isolate, Type 1.

Pasteurella Multocida Bacterin, Avian Isolate, Type 1, shall be prepared from cultures of *Pasteurella multocida*, avian isolate, Type 1 (Little and Lyons classification), which have been inactivated and are nontoxic. Each serial of biological product containing Pasteurella Multocida Bacterin, Avian

Isolate, Type 1, shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) * * *

(b) *Safety test.* Observation of the vaccinated chickens during the prechallenged period of the potency test provided in paragraph (c) of this section shall constitute the safety test. If unfavorable reactions that are attributable to the product occur, the serial is unsatisfactory. If unfavorable reactions that are not attributable to the product occur in one chicken, test results shall be determined by observing the remaining 20 chickens. The test is inconclusive and may be repeated if unfavorable reactions that are not attributable to the product occur in two or more chickens, but the serial is unsatisfactory if the test is not repeated.

(c) * * *

(5) *Validity requirements.* Twelve or more positive controls must survive and 16 or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(6) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(7) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

3. Section 113.103 is amended by revising the introductory paragraph and paragraph (b), consolidating paragraphs (c)(5) and (6), and renumbering paragraphs (c)(7) and (8) as (c)(6) and (7) to read:

§ 113.103 Pasteurella Multocida Bacterin, Avian Isolate, Type 3.

Pasteurella Multocida Bacterin, Avian Isolate, Type 3, shall be prepared from culture of *Pasteurella multocida*, avian isolate, Type 3 (Little and Lyons classification), which have been inactivated and are nontoxic. Each serial of biological product containing Pasteurella Multocida Bacterin, Avian Isolate, Type 3, shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency, as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) * * *

(b) *Safety test.* Observation of the vaccinated turkeys during the prechallenge period of the potency test provided in paragraph (c) of this section shall constitute the safety test. If unfavorable reactions that are attributable to the product occur, the serial is unsatisfactory. If unfavorable reactions that are not attributable to the product occur in one turkey, test results shall be determined by observing the remaining 20 turkeys. The test is inconclusive and may be repeated if unfavorable reactions that are not attributable to the product occur in two or more turkeys, but the serial is unsatisfactory if the test is not repeated.

(c) * * *

(5) *Validity requirements.* Twelve or more positive controls must survive and 16 or more unvaccinated controls must die for the test to be valid. If these requirements are met, the potency test results are evaluated according to stage one of the following table. The test is inconclusive and may be repeated if the validity requirements are not met, but the serial is unsatisfactory if the test is not repeated.

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(6) The serial shall pass or fail based on the stage one results of the potency test. However, the second stage may be conducted if seven or eight vaccinates die in stage one, but the serial is unsatisfactory if the second stage is not conducted.

(7) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results from the data of both stage tests, a serial shall either pass or fail the second stage.

(21 U.S.C. 151 and 154; 37 FR 28477, 28646, 38 FR 19141)

Done at Washington, D.C. this 28th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-2702 Filed 2-3-82; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 354

[Docket No. 82-002C]

Transfer and Redesignation of Department of Agriculture Regulations; Correction

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule which was issued jointly by the Food Safety and Inspection Service and the Agricultural Marketing Service, USDA. That rule amended certain sections of Titles 7 and 9 of the Code of Federal Regulations to reflect a departmental reorganization. This correction will only affect that portion of the document pertaining to Title 9 of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: S. Paul Ragan, Director, Regulations Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 447-3317.

SUPPLEMENTARY INFORMATION: In the December 31, 1981, **Federal Register** (46 FR 63203), the Food Safety and Inspection Service and the Agricultural Marketing Service jointly published a final rule to amend certain sections of Titles 7 and 9 of the Code of Federal Regulations to reflect changes resulting from a June 17, 1981, Department reorganization.

This document corrects an inadvertent error appearing on page 63204 of the December 31, 1981, **Federal Register**, in the amendments to Title 9 Chapter III, of the Code of Federal Regulations. Item number 2 under Title 9 lists parts affected by the amendment. Part 354 was inadvertently omitted. Therefore, that final rule is corrected by adding Part 354, in numerical order, to the list of Parts in 9 CFR Chapter III which are amended.

All other information contained in the final rule remains unchanged.

Done at Washington, DC, on: January 29, 1982.

L. L. Gast,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 83-2871 Filed 2-3-82; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 11

Revision of Access Authorization Fees for Nuclear Industry

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations establishing the scheduling of fees charged NRC licensees for the performance of full field security background investigations. This amendment makes a minor correction in the schedule and increases the fee to cover the increased fee charged the NRC by the Office of Personnel Management which performs these investigations and to cover increasing costs NRC incurs in processing the access authorization that require the investigations.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Duane G. Kidd, Chief, Security Policy Branch, Division of Security, Office of Administration, United States Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4415.

SUPPLEMENTARY INFORMATION: 10 CFR Part 11, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material," was first issued on November 21, 1980 (45 FR 76968). Section 11.15 indicates that access authorization fees for the succeeding year will be published each December and will be applicable to each access authorization request received during the following calendar year. The initial fee schedule for this part was published in the **Federal Register** on November 21, 1980 (45 FR 76968) and first updated along with other minor amendments on November 18, 1981 (46 FR 56598).

These fees are charged for access authorizations processed and services rendered by the Nuclear Regulatory Commission (NRC), at the request of an identifiable recipient of the services, and are authorized under Title V of the Independent Offices Appropriation Act of 1952 (65 Stat. 290; 31 U.S.C. 483a).

The only revisions to the fee schedule in this amendment are a deletion of an improper reference to "R" conversions in item (5) and the increased cost for the processing of an NRC "U" access authorization involving a full field background investigation conducted by the Office of Personnel Management (OPM). The charge to NRC by OPM of this investigation has been raised from $1,200.00 to $1,350.00. The new fee recovers this cost plus a part of NRC's overheard associated with the processing of these access authorizations. The fees for an NRC "R" access authorization have not been changed.

When the original Part 11 fee schedule was developed, and again when recently revised, it was recognized that the actual amount charged to NRC by OPM for conducting investigations would be the detisive factor governing future fees charged by NRC. This relationship between the amounts charged by OPM and the resulting fees charged by NRC still exists and was affected by the recent increase announced by OPM. Since the public had the opportunity to comment on this aspect of Part 11 as a proposed rule, it is not felt that any further benefits would be accrued by additional public comment at this time. Under these circumstances, NRC, for good cause, finds that notice of proposed rulemaking and public procedure thereon are unnecessary. The amendments will become effective February 4, 1982.

Pursuant to the Independent Offices Appropriation Act of 1952 (65 Stat. 290; 31 U.S.C. 483a) and 5 U.S.C. 553, § 11.15 of Part 11 of Title 10, Chapter I, Code of Federal Regulations, is published as a document subject to codification.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 11 reads as follows:

Authority: Sec. 7, Pub. L. 93-377, 88 Stat. 475; Sec. 161i, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201(i)); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841). Sec. 11.15(e) also issued under the authority of Sec. 501, 65 Stat. 290 (31 U.S.C. 483a).

2. Section 11.15(e) is revised to read as follows:

§ 11.15 Application for special nuclear material access authorization.

* * * * *

(e) Each application for special nuclear material access authorization, renewal, or change in level must be accompanied by the licensee's remittance payable to the U.S. Nuclear Regulatory Commission according to the following schedule:

(1) New application, "U"	$1,550
(2) New application, "R"	15
(3) Renewal "U" or "R"	15
(4) Change of level "R" to "U" (full fee charged only if an investigation is required)	[1] 1,550
(5) Convert existing NRC or DOE "Q" or "Q(X)" to U	[1] 1,550
(6) Convert existing NRC or DOE "L" or "L(X)" to U	[1] 1,550
(7) Convert existing NRC or DOE "Q", "Q(X)", "L", or "L(X)" to R	[1] 15

[1] Full fee charged only if an investigation is required, i.e., last investigation is more than five years old or does not meet necessary investigative scope.

Material access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the certification of access authorizations and investigative data (which is less than five years old) from other Federal Government agencies which grant personnel access authorization.

Dated at Bethesda, Md., this 19th day of January 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-2965 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 81-NW-55-AD; AMDT. 39-4310]

14 CFR Part 39

Airworthiness Directives; Lockheed Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Lockheed L-1011 series airplanes which requires initial and repetitive leak tests and visual inspections of fuel line couplings and fittings and the hydraulic servos located in the afterbody compartment. This AD is needed to prevent the accumulation of flammable fluids and/or vapors in the vicinity of the APU exhaust shroud, an area which does not have fire extinguishing nor fire detection systems.

DATE: Effective date March 11, 1982. Compliance schedule as prescribed in

the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Duane Naff, Supervisory Aerospace Engineer, Propulsion Branch, ANM–140L, Federal Aviation Administration, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt a new airworthiness directive to require initial and periodic leak tests and visual inspections of fuel couplings and fittings and hydraulic actuators in the L–1011 afterbody compartment was published in the **Federal Register** on October 1, 1981 (46 FR 48223). This proposal was prompted by the events discussed below:

Recent tests have revealed that auxiliary power unit (APU) exhaust shroud external surface temperatures are higher than indicated by previous testing. The shroud surface temperature can exceed 650° F in high ambient temperatures with high APU loads. This represents a potential ignition source. The area in which the shroud is located contains hydraulic components and is open to the general afterbody compartment which contains engine and APU fuel feed lines. This area does not have firewalls nor fire detection nor fire extinguishing systems.

If a leak should occur from the fuel lines within the afterbody cavity or from the hydraulic components adjacent to the APU shroud, flammable fluid or vapors could be carried to the heated shroud, which could become an ignition source, thus causing a fire hazard.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Six comments were received in response to the notice of proposed rulemaking. Three commenters were opposed to removal of the drain plugs from the double o-ring couplings for inspection per paragraph B of the proposed AD. Generally, this requirement was opposed because of possible resulting damage to the couplings and the fact that the leak tests and visual inspections per paragraph A of the proposed AD should be adequate in view of service experience. FAA agrees, and proposed paragraph B is therefore deleted from the final rule.

One commenter requested that the 400 hour inspection interval in proposed paragraph A be increased to 625 hours to correspond to a particular operator's present maintenance schedule. FAA does not agree, but it should be noted that the AD allows adjustment of such intervals if the operator requests and that request contains sufficient substantiating data to justify an increase.

Another commenter requested extension of the 1600 hour inspection interval in paragraph B. Since this paragraph is deleted, the interval is no longer relevant.

One commenter was opposed to the proposed AD because service experience does not indicate the necessity, and because most leaks will be self-evident, and inspection could be hazardous to maintenance personnel. FAA does not agree. Although service experience has been very good, it is well known that fuel and hydraulic fittings and couplings can develop leaks. While gross leaks will be self-evident, leaks of smaller magnitude could persist undetected for a period of time, and could constitute a hazardous condition even though the leak is slight. Finally, the inspection procedures, as outlined in the referenced Service Bulletin, should not be unduly hazardous to maintenance personnel.

Finally, one commenter was opposed to the requirement that defective components be repaired or replaced prior to further flight. Alternatively, the commenter suggested operation with the APU inoperative to the next maintenance base. FAA does not agree. It should be assumed the required inspections will be performed at a maintenance base with the capability to repair any discrepancies in the affected system. Also, it should be noted that only seepage or wetness around the hydraulic components is not cause for immediate repair.

The FAA has determined that air safety and the public interest require adoption of the rule as proposed, with the changes described above.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Lockheed-California Company: Applies to all Lockheed Model L–1011 Series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

A. To detect leakage of flammable fluids in areas from which fluids or vapors could reach the auxiliary power unit exhaust shroud, accomplish the following:

1. Within 400 hours time in service from the effective date of this AD, and at repetitive intervals not to exceed 400 hours time in service thereafter, perform leak tests and visual inspections as specified in the Accomplishment Instructions of Lockheed Service Bulletin 093–49–058 dated July 31, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

2. If fuel or hydraulic fluid leakage is detected, repair or replace defective parts or components with serviceable units before further flight.

B. Upon request of an operator, an FAA maintenance inspector, subject to prior approval by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

C. Alternate means of compliance with this AD, which provide an equivalent level of safety, may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, such entities. A final evaluation has been prepared for this

regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on January 25, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-2720 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-SO-68; Amdt. No. 39-4309]

Airworthiness Directives; Maule Models M-5-235C and M-6-235 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires installation of a water drain in the engine alternate induction air hose on certain Maule Model(s) M-5-235C and M-6-235 series airplanes. The AD is needed to prevent water accumulation in the induction air system and subsequent engine stoppage, which could result in an emergency landing.

DATE: Effective February 11, 1982. Compliance required within the next 25 hours time in service after the effective date of this AD.

ADDRESSES: The applicable service bulletin may be obtained from Maule Aircraft Corporation, Spence Air Base, Moultrie, Georgia 31768.

A copy of the service bulletin is contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: W. J. Lawrence, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: There has been a report of engine stoppage on a Maule Aircraft Model M-5-235C airplane. Water was trapped in the engine alternate air hose and was ingested by the engine during ground run up when the alternate air was selected, causing engine stoppage. The airplane had been inoperative for several days and had been exposed to rain. Since this condition is likely to exist or develop on other airplanes of the same type design, and Airworthiness Directive is being issued which requires the installation of a drain in the alternate air system.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Maule Aircraft Corporation: Applies to Model M-5-235C, serial numbers 7322C, 7350C, A7354C, A7355C, A7358C, A7360C, A7361C, 7364C, 7365C, A7366C, A7367C; Model M-6-235, serial numbers 7356C, 7379C, 7380C, 7382C through 7388C, and 7390C, airplanes certificated in all categories.

Compliance is required within the next 25 hours time in service after the effective date of this AD unless already accomplished. To prevent engine stoppage, accomplish the following:

Install drain tube, using Maule P/N 5393A and using two hose clamp P/N 10047A-32, in the engine alternate air hose at the lowest point in the hose in accordance with Maule Service Bulletin #3 dated November 6, 1981.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, 3400 Norman Berry Drive, East Point, Georgia 30344.

Maule Aircraft Service Bulletin No. #3 dated November 6, 1981, pertains to this subject.

Make an appropriate maintenance record entry.

This amendment becomes effective February 11, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "for further information contact."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various Courts of Appeal of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on January 22, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-2721 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-64-AD; Amdt. 39-4311]

Airworthiness Directives: McDonnell Douglas Model DC-9/C-9 Series Airplanes, Equipped With Kevlar Tailcones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to McDonnell Douglas DC-9 and C-9 Series Airplanes equipped with Kevlar tailcones, which requires modification or replacement of the tailcone lock housing. The lighter-weight Kevlar tailcone has been shown to shift its position on the latches during release, resulting in tailcone hangup. This AD is needed to assure proper operation of the tailcone emergency exit in the event of an emergency evacuation.

DATE: Effective date March 11, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment

Branch, ANM–130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2833.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an Airworthiness Directive which requires modification or replacement of the tailcone lock housing on Kevlar tailcones installed on Douglas model DC–9 series airplanes was published in the **Federal Register** on October 1, 1981 (46 FR 47225). This proposal was prompted by the events described below:

During recent DC–9 production tailcone drop tests, the lightweight Kevlar tailcone failed to release completely and, as a result, did not separate from the aircraft. Consequently, the emergency evacuation slide could not be deployed as required for emergency evacuation.

Investigation revealed that when the tailcone release handle was pulled, the lockpin on the fuselage latching mechanism would catch the edge of the relief cutout in the tailcone lock housing. This release problem is attributed to the lightweight Kevlar tailcone shifting its position on the latches during the release sequence, causing the tailcone to hang up. Prior design heavier fiberglass tailcones have not exhibited similar release problems. Modification or replacement of the tailcone lock housing is necessary to assure that the tailcone emergency exit functions properly on those DC–9 aircraft configured with Kevlar tailcones.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received in response to the Notice of Proposed Rule Making (NPRM). The commenter requested that the compliance time be extended to 1200 hours from 900 hours, to provide for parts delivery and scheduling contingencies. This was based upon a delivery date availability of replacement lock housings from the manufacturer of December 15, 1981. The FAA feels an extension of the compliance time is unwarranted because the noted parts availability date will precede the effective date of the AD by approximately one month.

After careful review of all available data, including the comment above, the FAA has determined that air safety and the public interest require that the rule be adopted as proposed.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9–10, –20, –30, –40, –50, and –80 series airplanes, including C–9A, C–9B, and VC–9C airplanes, certificated in all categories, equipped with Kevlar tailcones. Compliance required within the next 900 hours time-in-service from the effective date of this AD, unless already accomplished. To assure proper operation of the tailcone emergency exit release mechanism on aircraft utilizing tailcone assemblies P/N 5910233–505 or P/N 5910233–507, accomplish the following:

A. Replace or modify the tailcone lock housing as outlined in the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–158 dated July 15, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

B. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This Amendment becomes effective March 11, 1982.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.89))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on January 25, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–2784 Filed 2–3–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–ASO–47]

Alteration of South Atlantic Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment expands the South Atlantic additional control area and provides additional control area airspace offshore. This action ensures efficient joint use of warning area airspace by permitting the application of domestic rather than oceanic air traffic control procedures within the affected airspace.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On November 5, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to expand the South Atlantic control area as published in the **Federal Register** (46 FR 54961), to correspond with the expansion of the North Atlantic control area and to coincide with expansion of offshore warning areas. The amendment also revokes Control 1181 to eliminate redundant designation of control area airspace and is replaced with Atlantic Route 8 (AR–8) by separate nonregulatory action. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this rule is the same as that proposed in the notice. Section 71.163 was republished on January 2, 1981 (46 FR 449).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) expands the South Atlantic

control area to correspond with the expansion of the North Atlantic control area and to coincide with expansion of offshore warning areas. Control 1181 is revoked and is replaced with Atlantic Route 8 (AR–8) by separate nonregulatory action. The South Atlantic control area is one of several additional control areas which are categories of controlled airspace designated for the purpose of extending the application of domestic air traffic control procedures into offshore airspace. This action allows for a more efficient civil joint use of the airspace defined as the South Atlantic control area by using these domestic procedures rather than oceanic air traffic control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 449), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

1. Control 1181 [Revoked]

By revoking Control 1181.

2. South Atlantic [Amended]

By amending South Atlantic as follows:

After "lat. 35°29'30" N., long. 75°24'50" W.;" add "to lat. 34°14'00" N., long. 73°57'00" W.; to lat. 32°12'00" N., long. 76°49'00" W.; to lat. 32°15'00" N., long. 77°00'00" W." * * * remainder remains unchanged.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 27, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-2836 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 22559; Amdt. No. 1208]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendments is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship

between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * Effective March 18, 1982:

Newton, KS—Newton-City-County, VOR/DME Rwy 35, Amdt. 7
Saginaw, MI—Tri City, VOR Rwy 23, Amdt. 12
Rochester, NY—Rochester-Monroe County, VOR Rwy 4, Amdt. 8
Rochester, NY—Rochester-Monroe County, VOR/DME Rwy 4, Original
Rochester, NY—Rochester-Monroe County, VOR Rwy 10, Amdt. 10
Rochester, NY—Rochester-Monroe County, VOR/DME Rwy 10, Original
Ebensburg, PA—Ebensburg, VOR–A, Amdt. 4

* * * Effective March 4, 1982:

Camden, AR—Harrell Field, VOR/DME Rwy 18, Amdt. 1
Camden, AR—Harrell Field, VOR/DME Rwy 36, Amdt. 2
Plains, GA—Peterson Field, VOR/DME–B, Original
Gibson City, IL—Gibson City Muni, VOR–A, Amdt. 3
Grayslake, IL—Campbell, VOR–A, Amdt. 2
Morris, IL—Morris Muni, VOR–A, Amdt. 7
Elizabethtown, KY—Ben Floyd Field, VOR–A, Amdt. 5
Tupelo, MS—C. D. Lemons Muni, VOR Rwy 4, Amdt. 6
Woodbine, NJ—Woodbine Muni, VOR–A, Amdt. 1
Southern Pines, NC—Moore County, VOR–A, Amdt. 12
Waverly, TN—Humphreys County, VOR/DME–A, Amdt. 1
Gordonsville, VA—Gordonsville Muni, VOR–A, Amdt. 2

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * Effective March 4, 1982:

Southern Pines, NC—Moore County, LOC Rwy 5, Amdt. 1

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective March 18, 1982:

Hampton, IA—Hampton Municipal, NDB Rwy 17, Amdt. 2
Newton, KS—Newton-City-County, NDB Rwy 17, Amdt. 1
Newton, KS—Newton-City-County, NDB Rwy 35, Amdt. 1
Seward, NE—Seward Muni, NDB Rwy 16, Original
Seward, NE—Seward Muni, NDB Rwy 34, Original
Olean, NY—Olean Muni, NDB Rwy 22, Amdt. 5
Rochester, NY—Rochester-Monroe County, NDB Rwy 28, Amdt. 18

* * * Effective March 4, 1982:

Camden, AR—Harrell Field, NDB Rwy 18, Amdt. 5
Leesburg, FL—Leesburg Muni, NDB Rwy 31, Original
Kewanee, IL—Kewanee Muni, NDB, Rwy 1, Amdt. 3
Kewanee, IL—Kewanee Muni, NDB Rwy 9, Amdt. 3
Waverly, TN—Humphreys County, NDB Rwy 21, Amdt. 1
Palestine, TX—Palestine Muni, NDB Rwy 35, Amdt. 3
Palestine, TX—Palestine Muni, NDB–A, Amdt. 2

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * Effective March 18, 1982:

Newton, KS—Newton-City-County, ILS Rwy 17, Amdt. 1
Rochester, NY—Rochester-Monroe County, ILS Rwy 4, Amdt. 9
Rochester, NY—Rochester-Monroe County, ILS Rwy 22, Amdt. 3
Rochester, NY—Rochester-Monroe County, ILS Rwy 28, Amdt. 23

* * * Effective February 18, 1982:

Ironwood, MI—Gogebic County, ILS/DME Rwy 27, Original

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective March 18, 1982:

Saginaw, MI—Tri City, RADAR–1, Amdt. 6
Rochester, NY—Rochester-Monroe County, RADAR–1, Amdt. 11

* * * Effective March 14, 1982:

Shreveport, LA—Shreveport Regional, RADAR–1, Amdt. 3

* * * Effective January 4, 1982:

Las Vegas, NV—McCarran Intl, RADAR–1, Amdt. 10

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective March 18, 1982:

Hampton, IA—Hampton Municipal, RNAV Rwy 17, Original
Newton, KS—Newton-City-County, RNAV Rwy 17, Amdt. 3
Newton, KS—Newton-City-County, RNAV Rwy 35, Amdt. 2
Olean, NY—Olean Muni, RNAV Rwy 22, Amdt. 1
Rochester, NY—Rochester-Monroe County, RNAV Rwy 10, Amdt. 1
Rochester, NY—Rochester-Monroe County, RNAV Rwy 22, Amdt. 2
Southern Pines, NC—Moore County, RNAV Rwy 23, Amdt. 6

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on January 15, 1982.

John M. Howard,

Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

[FR Doc. 82-2835 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 300

[PR-240; Amdt. No. 6 to Part 300]

Separation of Functions Between General Counsel and Deputy General Counsel

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its procedural rules to clarify that the advisory functions of the General Counsel will remain separate from enforcement and related investigative functions, which are being transferred to the Deputy General Counsel from the Bureau of Compliance and Consumer Protection. Supplementary information about this action is set forth in OR–190, issued along with this rule.

DATES: Adopted: January 29, 1982. Effective: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendment may become

effective less than 30 days after publication in the **Federal Register**.

PART 300—RULES OF CONDUCT IN BOARD PROCEEDINGS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 300, Rules of Conduct in Board Proceedings, as follows:

1. The authority for Part 300 is:

Authority: Secs. 204, 401–419, 901, 903, 1001, 1002, and 1007, Pub. L. 85–726, as amended; 72 Stat. 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 783, 786, 788, 796; 76 Stat. 145; 91 Stat. 1284; 92 Stat. 1732; (49 U.S.C. 1324, 1371–1389, 1471, 1473, 1481, 1482, and 1487)

2. In § 300.4, a new paragraph (c) is added, to read:

§ 300.4 Separation of functions.

* * * * * *

(c) In enforcement cases, the Deputy General Counsel will perform enforcement and related investigative functions, while the General Counsel will advise Board Members and other employees in the course of the decisional process. To ensure the independence of these functions, the Deputy General Counsel and the Enforcement Division of the Office of the General Counsel shall, for the purposes of this section, be considered an "office," as that term is used in paragraph (a), separate from the General Counsel and the rest of the Office of the General Counsel.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2956 Filed 2–3–82; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 302

[PR–241; Amdt. No. 66 to Part 302]

Transfer of Functions to Deputy General Counsel

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment reflects the CAB's transfer of enforcement and related investigative functions from the Bureau of Compliance and Consumer Protection to the Deputy General Counsel. Supplementary information about this action is set forth in OR–190, issued along with this rule.

DATES: Adopted: January 29, 1982. Effective: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendment may become effective less than 30 days after publication in the **Federal Register**.

PART 302—RULES OF PRACTICE IN BOARD PROCEEDINGS

Accordingly, the Civil Aeronautics Board amends Subpart B of 14 CFR Part 302, Rules of Practice in Board Proceedings, as follows:

1. The authority for Part 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85–726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; (49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485); Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90, (42 U.S.C. 4321); 84 Stat. 772 (39 U.S.C. 5402).

§§ 302.200—302.218 (Subpart B) [Amended]

2. "Director of the Bureau of Consumer Protection" is replaced by "Deputy General Counsel" wherever it appears in Subpart B.

§§ 302.206 and 302.21 [Amended]

3. In § 302.206, *Commencement of enforcement proceeding,* § 302.206a, *Assessment of civil penalties,* and § 302.210, *Parties,* "Bureau of Consumer Protection" is replaced by "Enforcement Division, Office of the General Counsel".

§ 302.215 [Amended]

4. In § 302.215, *Settlement of proceedings,* "Director" is replaced by "Deputy General Counsel".

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2958 Filed 2–3–82; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 305

[PR–242; Amdt. No. 3 to Part 305]

Transfer of Functions to Deputy General Counsel

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment reflects the CAB's transfer of enforcement and related investigative functions from the Bureau of Compliance and Consumer Protection to the Deputy General Counsel. Supplementary information about this action is set forth in OR–190, issued along with this rule.

DATES: Adopted: January 29, 1982. Effective: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendment may become effective less than 30 days after publication in the **Federal Register**.

PART 305—RULES OF PRACTICE IN INFORMAL NONPUBLIC INVESTIGATIONS BY THE BUREAU OF CONSUMER PROTECTION

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 305, Rules of Practice in Informal Nonpublic Investigations by the Bureau of Consumer Protection, as follows:

1. The authority citation for Part 305 is revised to read:

Authority: Secs. 202, 204, 411, 415, 1001, 1002, 1004, 1007, Pub. L. 85–726, as amended; 72 Stat. 742, 743, 770, 771, 788, 792, 796 (49 U.S.C. 1322, 1324, 1381, 1385, 1481, 1482, 1484, 1487; 5 U.S.C. 555, 556.)

2. Part 305 is retitled *Rules of Practice in Informal Nonpublic Investigations.*

§§ 305.1 and 305.5 [Amended]

3. In §§ 305.1, *Applicability,* and 305.5, *Initiation of investigation,* "Bureau of Consumer Protection" is replaced by "Enforcement Division, Office of the General Counsel".

§§ 305.7 and 305.11 [Amended]

4. In §§ 305.7, *Issuance of investigation subpenas,* and 305.11, *Procedures after investigation,* "Director, Bureau of Consumer Protection" is replaced by "Deputy General Counsel".

§ 305.11 [Amended]

5. Also in § 305.11, "Director" is replaced in the second sentence by "Deputy General Counsel".

Note:—Part 305 currently refers to the "Bureau of Consumer Protection," which was an earlier name of the Bureau of Compliance and Consumer Protection. Bound editions of the Code of Federal Regulations, however, refer to the predecessor "Bureau of Enforcement," because the Board's amendment in ER–1077, 43 FR 47490, October 16, 1978, reflecting the creation of the Bureau of Consumer Protection was never codified.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2804 Filed 2-3-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 380

[SPR-183; Amdt. No. 15 to Part 380; Docket No. 38023]

Public Charters; Registration of Foreign Charter Operators

AGENCY: Civil Aeronautics Board.

ACTION: Rule; notice of change in effective date.

SUMMARY: The CAB changes the effective date of its rule governing the registration of foreign charter operators so that new foreign charter operators may register immediately.

DATES: Adopted: January 29, 1982. Effective: January 29, 1982 for new foreign charter operators.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442 or 202-673-5791.

SUPPLEMENTARY INFORMATION: By SPR-179, 46 FR 56605, November 18, 1981, the Board issued amendments to 14 CFR Part 380 that exempted foreign charter operators from the formal procedures that other foreign air carriers must follow to obtain operating authority, and established a simple registration procedure. Under this rule, all foreign citizens, including those that have already undergone the formal procedures, are required to submit a registration (Form 300) and have it approved by the Board. So that the operating authority of existing foreign charter operators will not lapse while their registrations are being processed, the Board stated that the amendments will not go into effect until March 18, 1982. This will allow enough time for these operators to submit their registration forms and for the Board to act on them.

It has come to our attention that there are foreign citizens that do not now hold authority but wish to obtain authority for foreign charter operations prior to March 18. It will be a waste of both their resources and ours to require them to obtain operating authority by undergoing the formal procedures of section 402 of the Act or by applying for an exemption from that provision. Instead, we are advancing the effective date of the amendments to Part 380, for new applicants. This will allow foreign citizens to register as foreign charter operators now rather than waiting until March 18. Foreign charter operators now holding 402 permits or exemptions are not affected by this action. Their 402 authority will continue until March 17, after which they may be converted to registration authority.

Accordingly, the effective date of the amendments made by SPR-179 is changed to January 29, 1982 for foreign citizens that do not now hold authority as foreign charter operators.

(Secs. 204, 402, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 771 (49 U.S.C. 1324, 1372, 1386))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-2804 Filed 2-3-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 385

[Reg. OR-190; Amdt. No. 119 to Part 385]

Delegations to: Deputy General Counsel; Director, Office of Congressional, Community, and Consumer Affairs; and Director, Bureau of Carrier Accounts and Audits

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB revises its delegations of authority to reflect a staff reorganization.

DATES: Adopted: January 29, 1982. Effective: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board has decided to combine the functions of its Office of Community and Congressional Relations with the consumer protection functions of its Bureau of Compliance and Consumer Protection (BCCP) in a new Office of Congressional, Community, and Consumer Affairs (OCCCA). The Litigation Division of BCCP, which participates in enforcement cases, is being transferred to the Office of the General Counsel and renamed as the Enforcement Division. The Investigation Division of BCCP is being transferred to the Bureau of Carrier Accounts and Audits (BCAA).

These changes require amendments of the Board's delegations of authority. Section 385.22 delegates certain authority to the Director of BCCP (although it refers to the "Bureau of Consumer Protection," which was an earlier name of that Bureau). This rule amends § 385.22 to delegate that authority instead to the Deputy General Counsel. An outdated cross-reference in § 385.22(g) to the Board's smoking rule is corrected. A new § 385.30 is added, to delegate to the Director of OCCCA (1) authority parallel to that described in § 385.22 (e) and (f) regarding inspections, examinations, and confidential treatment of information, and (2) authority, until March 1, 1982, to compromise civil penalties in the resolution of informal consumer complaints. Also, to reflect the transfer of BCCP's Investigation Division to BCAA, the delegation of inspection and examination authority in § 385.17(h) to the Director of BCAA is broadened to correspond to that in § 385.22(e). The broadening is achieved by removing the limiting phrase, "in connection with audits and examinations of accounting and statistical records and supporting documents."

Additional delegations to the Director of BCCP that appear in 14 CFR Parts 302 and 305 are also transferred to the Deputy General Counsel by PR-241 and 242, which are issued along with this rule.

Where enforcement cases are involved, the enforcement and related investigative functions of the Deputy General Counsel (along with the Enforcement Division) will be strictly separated from the advisory and other functions of the General Counsel (along with the rest of the Office of the General Counsel and the rest of the agency). This separation is established by an amendment of 14 CFR Part 300 set out in PR-240, also issued along with this rule. The amendment states that, for the purposes of the separation of functions rule in § 300.4, the Deputy General Counsel and the Enforcement Division shall be considered an "office," as that term is used in § 300.4(a).

Section 385.7 establishes the general principle that a delegation to a person below the rank of Bureau or Office Head also constitutes a delegation to each of that person's superiors in that Bureau or Office. To preserve the separation of functions, this rule adds an exception to § 385.7 so that the General Counsel cannot exercise the authority delegated in § 385.22 to the Deputy General Counsel. Similarly, the delegation to the General Counsel in § 385.19 is amended so that, where an enforcement case is involved, the authority cannot be redelegated to the Deputy General Counsel or exercised by the Deputy in the capacity of Acting General Counsel.

The Board will publish conforming amendments of 14 CFR Part 384, which

describes the agency's organization, in the near future.

Since these amendments are administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendments may become effective less than 30 days after publication in the **Federal Register**.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771 (49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386) Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. The Table of Contents for Subpart B is amended by retitling § 385.22, *Delegation to the Director, Bureau of Consumer Protection*, and adding a new § 385.30, to read:

Subpart B—Delegation of Functions to Staff Members

Sec.

* * * * *

385.22—Delegation to the Deputy General Counsel.

* * * * *

385.30 Delegation to the Director, Office of Congressional, Community, and Consumer Affairs.

3. In § 385.7, the first sentence is revised by adding a reference to the Deputy General Counsel so that it reads:

§ 385.7 Exercise of authority by superiors or the Board.

Any delegation of authority to a staff member below the rank of Bureau or Office Head, other than the Deputy General Counsel, shall also be deemed to be made, severally, to each of such staff member's superiors in the respective Bureau or Office. * * *

4. In § 385.17, paragraph (h) is revised to read:

§ 385.17 Delegation to the Director, Bureau of Carrier Accounts and Audits.

The Board delegates to the Director, Bureau of Carrier Accounts and Audits, the authority to:

* * * * *

(h)(1) Make findings regarding the reasonable necessity for the application of the Board's authority to obtain access to lands, buildings, and equipment, and to inspect, examine, and make notes and copies of accounts, records, documents, papers, and correspondence of persons having control over, or affiliated with, any person subject to Board regulation, through issuance of an appropriate order, letter, or other transmittal; (2) authorize one or more auditors or special agents to conduct audits, inspections, and examinations and to make notes and copies in accordance with such findings.

* * * * *

5. In § 385.19, the introductory text is redesignated as paragraph (a), the existing paragraphs (a) through (g) are redesignated as paragraphs (a)(1) through (a)(7), and a new paragraph (b) is added, to read:

§ 385.19 Delegation to the General Counsel.

(a) The Board hereby delegates to the General Counsel the authority to: * * *

(b) To the extent that an enforcement case as defined in § 300.4 of this chapter is involved, the authority delegated to the General Counsel in paragraph (a) of this section shall not be redelegated to the Deputy General Counsel or exercised by the Deputy General Counsel in the capacity of Acting General Counsel.

§ 385.22 [Amended]

5. In the title and text of § 385.22, *Delegation to the Director, Bureau of Consumer Protection*, "Director, Bureau of Consumer Protection" is replaced by "Deputy General Counsel" wherever it appears.

§ 385.22 [Amended]

6. Also in § 385.22, "Bureau of Consumer Protection" in paragraph (f) is replaced by "Enforcement Division, Office of the General Counsel" and "252.6" in paragraph (g) is replaced by "252.4".

7. A new § 385.30 is added, to read:

§ 385.30 Delegation to the Director, Office of Congressional, Community, and Consumer Affairs.

The Board hereby delegates to the Director, Office of Congressional, Community, and Consumer Affairs, the authority to:

(a)(1) Make findings regarding the reasonable necessity for the application of the Board's authority to obtain access to lands, buildings, and equipment, and to inspect, examine, and make notes and copies of accounts, records, documents, papers, and correspondence of persons having control over, or affiliated with, any person subject to Board regulation, through issuance of an appropriate order, letter, or other transmittal; (2) Authorize one or more special agents to conduct inspections and examinations and to make notes and copies in accordance with such findings.

(b) Issue orders denying, or with the approval of the Managing Director granting, conditional or complete confidential treatment of information supplied by any person to the Office of Congressional, Community, and Consumer Affairs. Confidential treatment may only be granted upon a finding that, if the information were in the Board's possession and a Freedom of Information Act (FOIA) request were made for the information—

(1) At the time of the confidentiality request, the FOIA request would be denied on the basis of one or more of the FOIA exemptions; and

(2) At any later time, the FOIA request would also be denied, absent a material change in circumstances (which may include a demonstration that the asserted exemption does not apply).

(c) Until March 1, 1982, compromise civil penalties in the resolution of informal consumer complaints.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2972 Filed 2–3–82; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 385

[Special Regulations or 189; Docket 38023]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Notice of change in effective date.

SUMMARY: The CAB changes the effective date of its rule delegating authority to the Director of the Bureau of International Aviation to take actions with respect to the registration of foreign charter operators.

DATES: Adopted: January 29, 1982. Effective: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: By SPR–179, 46 FR 56605, November 18, 1981, the Board added a new Subpart F to 14 CFR Part 380. This subpart requires foreign citizens to register with the Board before arranging or selling charter trips that originate in this country.

By OR–188, 46 FR 56611, November 18, 1981, the Board added a new paragraph

(bb) to 14 CFR 385.26 that delegated authority to the Director, Bureau of International Aviation (BIA), to approve a registration, reject it for failure to comply with the filing requirements of Subpart F, or notify the foreign citizen that the matter was being set for further procedures. The amendments made by both OR–188 and SPR–179 were to become effective on March 18, 1981.

By SPR–183, issued today, the effective date of Subpart F has been advanced. For the same reasons put forth there, we are advancing the effective date of § 385.26(bb) as well. This will permit the Director, BIA, to act on registration applications of new foreign charter operators prior to March 18. It will also permit the Director to act on the registrations of existing foreign charter operators so that these operators will be assured that their authority will not lapse after March 17.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

§ 385.26 [Effective date advanced]

Accordingly, the effective date of paragraph (bb) of 14 CFR 385.26 is changed to January 29, 1982.

(Secs. 402, 416, Pub. L. 85–726, as amended, 72 Stat. 743, 757, 771; (49 U.S.C. 1324, 1372, 1386); Reorganization Plan No. 3 of 1961, 26 FR 5989)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2973 Filed 2–3–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 370, 372, 373, 374, 376, 377, 378, 379, and 386

Revisions of EAR To Conform With Revised ITA–622P

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: A revised Form ITA–622P (OMB Approval #0625–0001), Application for Export License, became available on September 15, 1981. This rule revises regulations governing completion of Form ITA–622P to ensure that application instructions correspond to the revised form.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION: The application form has been revised to add an "acknowledgment copy." This copy will be used to notify applicants immediately of the steps that are being taken to complete action on cases that will require more than ten days to process. Other changes have been made to improve instructions covering the requirements for the furnishing of exporter, commodity and end-user information. Also, the applicants certification has been rewritten to simplify the language.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

2. This rule does not impose a new reporting burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The changes announced in the Rule amend the EAR to conform them with instructions included on the revised form ITA 622P.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because this regulation does not impose new controls on exports. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

Accordingly, the Export Administration Regulations (15 CFR Parts 368—399) are amended as follows:

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. Section 370.11 is amended by revising paragraphs (b) and (c), to read as follows:

§ 370.11 Information to exporters.

* * * * *

(b) *Request for documentation review.* The Office of Export Administration, in reviewing specific export license applications and requests for reexport authorization, may consult with other U.S. Departments and agencies regarding the proposed export or reexport. While this consultation may be undertaken on any application or request, such consultation usually relates to transactions involving proposed exports or reexports to consignees in Country Groups P, Q, W and Y, and requests for relief on the basis of unique hardship and exception from short supply export controls (15 CFR Part 377). The general practice of the Office of Export Administration is to provide a description of the proposed export or reexport to the other agencies in order to permit the agencies consulted to consider all aspects of the issue or issues involved. In order to insure that this documentation accurately describes the proposed export or reexport, the Office of Export Administration will, upon request from the applicant, provide a copy of that portion of the document(s) being forwarded to the other agencies that describes the export or reexport in question. If the proposed transaction involves an export from the United States, the request should be made at the time the application is submitted by inserting the phrase "Interagency referral information requested" in Item 15, of Form ITA–622P, Application for Export License. If the proposed transaction involves the reexport of U.S.-origin commodities or technical data, the request should be made at the time the request is filed by inserting the phrase "Interagency referral information requested" in Item 10, of Form ITA–699P, Request to Dispose of Commodities or Technical Data Previously Exported. If the reexport request is made by letter, the request shall be included in the letter.

(c) *Request for notification of COCOM review of application.* The United States participates in an international security export control system. The Coordinating Committee (COCOM) of this system reviews proposed transactions to export or reexport certain strategic commodities or technical data to Country Groups P,

Q, W, and Y. Referral to COCOM will add approximately five weeks to the usual PQWY processing time.

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

2. Section 372.4(a) is amended by revising subparagraph (1) to read as follows:

§ 372.4 How to apply for a validated license.

(a) *Form and manner of filing.*—(1) *Application form.* An application for a validated license must be submitted on Form ITA–622P, Application for Export License. After December 31, 1981, only Form ITA–622P revised July 1981 or later will be acceptable. Earlier versions will be returned without action. An application that omits essential information, or is otherwise incomplete, will be returned without action to the applicant. (See § 370.12 for instructions on obtaining forms.)

* * * * *

3. Section 372.9 is amended by revising paragraph (b) and paragraph (d)(2) to read as follows:

§ 372.9 Issuance of validated licenses.

* * * * *

(b) *Issuance of license document.* When a license application is received in the Office of Export Administration it is assigned a case number, consisting of the letter "A" followed by six digits, for identification purposes. After an application is approved, the covering license is issued on Form ITA–628. This document is then validated with the Department of Commerce seal, the date of validation, and the expiration date in the upper right corner of the license. Where necessary, other attachments to a license will also be validated with the Department of Commerce seal and the date of validation. Export licenses, even though they include a license number, are not valid and may not be used unless they have been validated with the Department of Commerce seal. Exporters are cautioned to use the complete license number when preparing Shipper's Export Declarations or other export documents or when requesting services from the Office of Export Administration.

* * * * *

(d) * * *

(2) *Extended validity period.* As an exception to the general practice of limiting validity periods to one year, the Office of Export Administration will consider granting a validity period exceeding one year where circumstances warrant. For example, an extended validity period will generally be granted when production lead time will not permit export within one year of issuance of a validated license or where the transaction is related to a major multi-year construction project. A continuing requirement to supply spare or replacement parts, however, will generally not justify an extended validity period. Applicants may request an extended validity period by indicating the desired validity period in Item 15 of Form ITA–622P, and attaching justification and documentation to support the request. The approved expiration date will be indicated on the face of the license. For extensions of the validity period after the license has been issued, see § 372.12.

* * * * *

4. Supplement No. 1 to Part 372 is revised to read as follows:

Supplement No. 1 to Part 372—Instructions for Preparing an Application for a Validated License

Item 1. Enter the date.

Item 2. Enter an *applicant's reference number,* consisting of not more than twenty alpha-numeric characters. The Office of Export Administration will use this number to acknowledge and identify this application during initial processing. Please use a different reference number on each application you submit.

Item 3. Enter the *applicant's telephone number.*

Item 4. If the application is for a *special purpose* (*e.g.,* Distribution, Service Supply, Samples, etc.) and the *Export Administration Regulations* specify that this item must be completed, insert appropriate information here.

Item 5. Enter the name and address of the *applicant,* and when known, enter the applicant's EXPORTER I.D. number. Include the Postal ZIP Code as an integral part of the address. Failure to include the ZIP Code on an application may cause delay in mailing the export license.

Item 6. The *purchaser* is the person abroad who has entered into the export transaction with the applicant or order party. If the purchaser is the same as the ultimate consignee, enter "Same as Item 7;" if the purchaser is the same as the intermediate consignee, enter "Same as Item 8."

Item 7. The *consignee* in the country of ultimate destination is the person abroad who will actually receive the material for the end-use designated in Item 12, if the license is granted and used. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as an ultimate consignee, but should be listed in Item 8 as an intermediate consignee.

GOVERNMENT PURCHASING ORGANIZATIONS ARE ACCEPTABLE CONSIGNEES IN THOSE INSTANCES WHEN THE COMMODITIES OR TECHNICAL DATA DESIGNATED IN ITEM 9 (b) ARE TO BE TRANSFERRED TO THE ULTIMATE END–USER, PROVIDED THE ACTUAL END–USER(S) AND END–USE(S) ARE CLEARLY IDENTIFIED IN SUPPORTING DOCUMENTATION.

Item 8. An *intermediate consignee* is any intermediary in a foreign country who participates as an agent for the exporter or for the purchaser or ultimate consignee to effect delivery of the export to the purchaser or ultimate consignee. All known intermediate consignees must be named. If no intermediary is to be used, enter "None"; if unknown, enter "Unknown."

Item 9. (a) Give the quantity to be shipped, using units specified in the Commodity Control List (Supplement No. 1 to § 399.1). If dashes (——) are set forth in the unit column of the Commodity Control List, and no specific unit of quantity is required by a footnote, show the unit of quantity commonly used in the trade.

Item 9. (b) When appropriate, describe *commodities* or *technical data* in terms that correspond with the Commodity Control List. Furnish additional details as prescribed by the *Export Administration Regulations* when necessary to identify the specific items so classified. Include characteristics shown on the Commodity Control List, such as basic ingredients, composition, model numbers, electrical parameters, size, gauge, grade, horsepower, etc. These characteristics must be extracted from promotional brochures and written on the application or on an attachment thereto. Where the Commodity Control List entry states "specify by name", list by name on the application all of the commodities to be included in the shipment. FAILURE TO PROVIDE ADEQUATE CHARACTERISTICS OR PERFORMANCE PARAMETERS FOR THE COMMODITIES OR TECHNICAL DATA PROPOSED FOR EXPORT MAY RESULT IN THE APPLICATION BEING RETURNED WITHOUT ACTION.

Item 9. (c) Enter the *Export Control Commodity Number* and the *Processing Code* in this column. Inclusion of the code letter following the Export Control Commodity Number is optional. All commodities on a single application must have the same Processing Code, unless otherwise provided in the *Export Administration Regulations.*

Item 9. (d) Enter the *unit price* except where a large variety of products within a single Export Control Commodity Number makes such a break-down extremely difficult. In such cases, show only total price. The fair market value in U.S. dollars must be given. Round to the nearest whole dollar the amounts entered in the total price column on the application, except where the actual total value is less than $0.50. Give the exact value if less than $0.50. Where the normal trade practice in a given commodity makes it impracticable to establish a firm contract price, state on the application the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined. A mere statement by the exporter of "market price at the time of delivery of shipment" or other such general statement of price is not acceptable.

Item 10. Enter the name and address, including Postal ZIP Code, of the *person, other than applicant, authorized* by the

applicant *to receive the license*, if issued. Designation of another party to receive the license does not alter the responsibilities of the applicant. Failure to include ZIP Code in this space may result in delay in mailing of the export license. The Department will transmit the license *only* to the applicant or to the person designated in this space. Leave blank if the license is to be mailed directly to the applicant.

Item 11. If applicant is not the producer, give supplier's name and address, or state "Unknown," if unknown. If applicant is the *producer* of the commodities to be exported, leave blank unless the *Export Administration Regulations* require completion of this item.

Item 12. The *end-use* of commodities or technical data covered by your application will be an important factor in determining issuance of license. Avoid generalized statements such as "basic research," "data processing," or "use by consignee in the form received." When the *Export Administration Regulations* require supporting documents that give the ultimate destination and end-use, the applicant's reference to such statement does not relieve him of the responsibility to fully disclose any additional or different information he may have.

APPLICANT MUST INDICATE CLEARLY THE END-USE INTENDED BY THE ULTIMATE CONSIGNEE, STATING WHAT WILL BE PRODUCED OR MANUFACTURED, OR WHAT SERVICES WILL BE RENDERED, AND GIVING THE COUNTRY OR COUNTRIES WHERE THIS WILL TAKE PLACE. A COMPLETE AND DETAILED DESCRIPTION IS REQUIRED. FAILURE TO PROVIDE ADEQUATE SPECIFIC END-USE INFORMATION MAY NECESSITATE RETURN WITHOUT ACTION OR INQUIRY THROUGH THE FOREIGN SERVICE, THUS DELAYING ISSUANCE OF LICENSE.

Item. 13. If applicant is exporting for the account of a *foreign principal*, give the name and address of the foreign principal and explain the transaction in full. If no entry is made in this space, the applicant represents that he is exporting for his own account.

Item 14. [Reserved]

Item 15. Enter *additional information* pertinent to the transaction as required by the *Export Administration Regulations*, such as special certifications, names of parties in interest not disclosed elsewhere, explanation of documents attached, name(s) and telephone number(s) of person(s) who can answer technical questions concerning the commodity or technical data, etc. If the application represents a transaction previously considered by the Office of Export Administration and approved, return without action or rejected, give prior case number and indicate prior action by the Office of Export Administration.

Item 16. Applicant's Certification. All three spaces of this item must be completed, and APPLICATION MUST BE MANUALLY SIGNED by applicant, or by an officer or duly authorized agent of the applicant. If signed by agent of the applicant, show title and firm name of agent. (Rubber-stamped and other facsimile signatures are not acceptable.)

Item 17. Order Party's Certification. Where the applicant did not receive the order directly from the foreign purchaser or ultimate consignee named in the application, or through his or their agents abroad, the person in the United States who conducted the direct negotiations with the foreign party and originally received the order (the order party) must complete this item and sign the application.

PART 373—SPECIAL LICENSING PROCEDURES

5. Sections 373.2(c)(2)(ii) and 373.2(d)(2) are revised to read as follows:

§ 373.2 Project License.

* * * * *

(c) * * *

(2) * * *

(ii) Form ITA–622P, Application for Export License, prepared in accordance with the provisions of § 372.4(a)(4), except that the applicant shall:

(A) Insert Project License in Item 4, "Special Purpose."

(B) Insert "See attached list" in Item 7, "Consignee in Country of Ultimate Destination", if there is more than one ultimate consignee, and attach to the application a list, in duplicate, of the country(ies) of ultimate destination followed by the name(s) of the ultimate consignee(s), both in alphabetical order. For example:

France: Central Corp.; Development Corp.
Mexico: Consolidated Copper; Fairway Limited

(C) Insert the following in Item 9(b), "Description of Commodity or Technical Data":

Articles and materials set forth on the attached statement of estimated requirements constitute the known requirements of commodities *(and technicul data, if applicable)* requiring validated licenses for the *(insert name of program or project)*.

I (We) hereby certify that if a license is granted in response to this application: (a) No commodities *(or technical data, if applicable)* will be exported under the license unless specifically required for the (program) (project); and (b) after export, the commodities *(and technical data, if applicable)* will not be disposed of or used for any purpose other than that stated in this application.

* * * * *

(d) * * *

(2) *Description of Commodities or Technical Data.* Instead of a specific description of quantities, kinds, or values of commodities and technical data, one of the following statements will appear in Item 9(b) on the license:

(i) If commodities only:

This license authorizes export of commodities requiring a validated license subject to the specific limitations set forth in the Export Administration Regulations and on this license.

(ii) If commodities and technical data:

This license authorizes export of commodities and technical data requiring a validated license subject to the specific limitations set forth in the Export Administration Regulations and on this license.

If any special conditions are imposed on the use of a specific Project License that are more restrictive than the general conditions provided in the Export Administration Regulations, these conditions will either be set forth on the license or the licensee will be advised by other means.

* * * * *

6. Section 373.3(d)(3)(ii) is amended by revising subparagraphs (A), (B), (C), (F) and (G) to read as follows:

§ 373.3 Distribution License.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(A) Insert "Distribution License" in Item 4, "Special Purpose."

(B) Where there is more than one ultimate consignee, insert "See attached list" in Item 7, "Consignee in Country of Ultimate Destination."

(C) Attach a list in duplicate of the country(ies) of ultimate destination, in alphabetical order, followed by the name(s) of the ultimate consignee(s) in each country, also in alphabetical order. If the ultimate consignee is a foreign government agency, as defined in § 375.2(b)(3)(i), so indicate on the list.

* * * * *

(F) Enter the following statement at the bottom of Item 9(b), "Description of Commodity or Technical Data":

No commodity excluded from the Distribution License Procedure under the Export Administration Regulations will be exported to any consignee in any destination under this Distribution License if this application is approved.

(G) Leave blank Items 9(a), "Quantity," 9(c), "Export Control Commodity Number and Processing Code," and 9(d), "Unit Price" and "Total Price."

* * * * *

7. Section 373.4(d)(3)(i) is revised as follows:

§ 373.4 Qualified General License.

* * * * *

(d) * * *

(3) *Preparation of documents.*—(i) *Form ITA–622P.* The applicant shall prepare and submit the QGL application in accordance with the provisions of § 372.4, except that the applicant shall:

(A) Insert "Qualified General License" in Item No. 4, "Special Purpose."

(B) Insert "See attached list of consignees" in Item 7, "Consignee in Country of Ultimate Destination."

(C) Attach a list in duplicate of proposed consignees, alphabetically by country, including name and complete address, type of activity and proposed end-use of commodities.

(D) Insert "See attached list(s)" in Item 9(b), "Description of Commodity or Technical Data," and enter the following at the bottom of this space:

The Qualified General License authorizes shipments only of specifically approved commodities, subject to any applicable limitations as to configurations, specifications and end-uses, and only to approved consignees. No shipment will be made under this license except as specifically authorized by the license.

(E) On an attachment, list all products or commodities individually. Each QGL application should refer only to products falling within a single processing code (*i.e.*, CD, EE or MG). For each commodity listed, state the model number, commodity description and a comparison of its technical parameters or specifications with the QGL qualifying limitations, where appropriate. Where two or more eligible products are combined into configurations (*e.g.*, computer systems), proposed configurations must be defined, except that indivisible electronic components shall not normally require a statement of combinations and/or proposed configurations. This list may include related spare parts, accessories, technical data and/or software and should include any available estimates of quantities to be shipped.

(F) [Reserved]

(G) Items 9(a), "Quantity," 9(d), "Unit Price" and "Total Price" are to be left blank. Enter only the Processing Code in Item 9(c), "Export Control Commodity Number and Processing Code."

* * * * *

8. Section 373.7(d)(1)(iv)(B) is revised to read as follows:

§ 373.7 Service Supply (SL) Procedure.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(B) *Form ITA–622P.* The applicant shall prepare and submit Form ITA–622P, Application for Export License, in accordance with the provisions of § 372.4(a)(4), with the following specific modifications:

(*1*) Insert "Service Supply License" in Item 4, "Special Purpose."

(*2*) Insert "Various—See attached List" in Item 7, "Consignee in Country of Ultimate Destination."

(*3*) Attach a list in duplicate of the proposed countries of ultimate destination, in alphabetical order, followed by the names of the ultimate consignees in each country, also in alphabetical order.

(*4*) An estimated one year's supply of spare and replacement parts shall be entered in Item 9(b), "Description of Commodity or Technical Data". All commodities identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List (Supplement No. 1 to § 399.1) shall be either listed separately on the application or on an attachment, or, if feasible, described in related "A" product groups. Examples of acceptable "A" product groups are "Semiconductors, A type;" "Aircraft engines, A type;" etc.

(*5*) All commodities not identified by the code letter "A" having Export Control Commodity Numbers with the same Processing Code may be combined into a single entry. The commodity description for each such entry shall be in terms of broad descriptive categories corresponding with the Commodity Groups that appear on the Commodity Control List (see § 399.1(j)).

(*6*) The estimated total value of each commodity with the code letter "A" following the Export Control Commodity Number or related "A" product group, and of each "non-A" product group to be exported during the one-year validity period of the SL License shall be shown in the "Total Price" column of Item 9(d), and a grand total shall be computed for all of the commodities.

(*7*) The following statement shall be entered at the bottom of Item 9(b), "Description of Commodity or Technical Data":

No commodity excluded from the SL Procedure under the Export Administration Regulations will be exported to any consignee in any destination under this SL License if this application is approved.

(*8*) Items 9(a), "Quantity", 9(c), "Export Control Commodity Number and Processing Code," and the "Unit Price" column of Item 9(d) shall be left blank.

* * * * *

PART 374—REEXPORTS

9. Section 374.2 is amended by revising paragraph (b) to read as follows:

§ 374.2 Permissive Reexports.

* * * * *

(b) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding validated export license. Such reexports shall be reported on the reverse side of the license document, in the same manner exports are reported, regardless of whether the license is partially or wholly used for reexport purposes. The spaces marked "Name of Exporting Carrier" and "Point of Export or Post Office of Mailing", however, shall be used to indicate that the commodity was reexported and to enter the name and location of the firm from which the commodity was reexported.

* * * * *

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

10. Section 376.2 is amended by revising paragraphs (c)(1) and (c)(2) to read as follows:

§ 376.2 Samples: Exports and reexports to Country Groups P, W, and Y.

* * * * *

(c) * * *

(1) *Identification.* Enter the word "SAMPLE" in Item 4, "Special Purpose" on Form ITA–622P, or across the top of Form ITA–699P, Request to Dispose of Commodities or Technical Data Previously Exported.

(2) *Value.* The value of the sample shall be indicated on each reexport request as well as on each license application. The selling price shall be indicated on Form ITA–622P in Item 9(b), "Description of Commodity or Technical Data" if the selling price is different from the value.

* * * * *

11. Section 376.4 is amended by revising paragraphs (c)(1) and (c)(2) to read as follows:

§ 376.4 Servicing of equipment previously exported or reexported to Country Groups P, Q, W, and Y.

* * * * *

(c) * * *

(1) *Consignee in country of ultimate destination.* Where shipments are contemplated to be made to more than one ultimate consignee, insert the phrase "Various—see attached list" in Item 7 of Form ITA–622P or Item 5 of Form ITA–699P, as appropriate.

(2) [Reserved]

* * * * *

12. Section 376.9 is amended by revising the introductory text of paragraph (b)(1); paragraphs (b)(1) (i) and (ii); the introductory text of paragraph (b)(1)(iii); the introductory text of paragraph (b)(2); paragraphs (b)(2) (i) and (ii); the introductory text of paragraph (b)(2)(iii); the introductory text of paragraph (b)(3); paragraphs (b)(3) (i) and (ii); the introductory text of

paragraph (b)(3)(iii); the introductory text of paragraph (c); and paragraphs (c)(1), (2) and (3) as follows:

§ 376.9 Ship stores, plane stores, supplies, and equipment.

* * * * *

(b) * * *

(1) *Vessel under construction.* A license application for export of any commodity or technical data, including ship stores, supplies, and equipment, to a vessel under construction shall be prepared on Form ITA–622P, Application for Export License, in accordance with Supplement No. 1 to Part 372 of this chapter, with the following modifications:

(i) [Reserved]

(ii) *Consignee in country of ultimate destination.* In Item 7, insert the name and address of shipyard where vessel is being constructed.

(iii) *Description of commodity or technical data.* For a vessel under 40 feet in length, state the length of the vessel in Item 9(b). For a vessel 40 feet in length or over, show the following information in Item 9(b), or on an attachment (if unknown, state "unknown"):

* * * * *

(2) *Aircraft under construction.* A license application for export of any commodity or technical data, including plane stores, supplies, and equipment, to an aircraft under construction shall be prepared on Form ITA–622P in accordance with Supplement No. 1 to Part 372 of this chapter, with the following modifications:

(i) [Reserved]

(ii) *Consignee in country of ultimate destination.* In Item 7, insert the name and address of the plant where the aircraft is being constructed.

(iii) *Description of commodity or technical data.* Show the following information in Item 9(b) or on an attachment (if unknown, state "unknown")—

* * * * *

(3) *Operating vessels and aircraft.* A license application for export of commodities or technical data, including ship or plane stores, supplies, and equipment (except as provided in § 376.9(c)) to an operating vessel or aircraft, whether in operation or being repaired, shall be prepared on Form ITA–622P in accordance with Supplement No. 1 to Part 372 of this chapter, with the following modifications:

(i) [Reserved]

(ii) *Consignee in country of ultimate destination.* In Item 7, insert the name of owner and port or point where the commodities or technical data will be taken aboard. Also, if a vessel, show name of vessel.

If, at the time of filing the license application, it is uncertain where the vessel or aircraft will take on the commodities or technical data, but it is known that the commodities or technical data will not be shipped to Country Group P, Q, S, W, Y, or Z, enter the following statement in this item:

Uncertain; however, shipment(s) will not be made to Country Group P, Q, S, W, Y, or Z.

An export license issued under this circumstance will bear the following destination restriction:

Shipment(s) may be made to the named (vessel) (aircraft) at any port in any country except Country Group P, Q, S, W, Y, or Z.

(iii) *Description of commodity or technical data.* For a vessel under 40 feet in length, state the length of the vessel in Item 9(b). For a vessel 40 feet in length or over, show the following information in Item 9(b), or on an attachment—

* * * * *

(c) *Exports of petroleum and petroleum products, including bunker fuel, for use on vessels and aircraft departing from the United States.* License applications to export petroleum or petroleum products, including bunker fuel for vessels or fuel for aircraft departing from the United States, may be included on a single Form ITA–622P. Applicants shall insert in Item 4, of the form, the word "BUNKER" in the case of exports for the use of vessels, or "PLANE FUEL" in the case of exports for the use of aircraft. The application shall be prepared in accordance with Supplement No. 1 to Part 372 of this chapter, with the following modifications:

(1) [Reserved]

(2) *Consignee in country or ultimate destination.* In Item 7, insert the name of the carrier, the country in which the carrier is registered, and the port or point where petroleum or petroleum products are to be taken aboard.

(3) *Purchaser in foreign country.* In Item 6, insert the name and address of owner of carrier. If carrier is under charter to, or under control of, a party other than owner, show names and addresses of both owner and party otherwise in control of carrier.

* * * * *

13. Section 376.13 is amended by revising paragraph (a) to read as follows:

§ 376.13 Communications intercepting devices.

(a) *Export license requirements.* A validated export license is required for the export to any destination (including Canada) of any electronic, mechanical, or other device primarily useful for surreptitious interception of wire or oral communications. Any exporter who knows, or has reason to believe, that such commodities will be used for such purpose shall include that information on his export application. The application shall be on Form ITA–622P, Application for Export License. The words "COMMUNICATIONS INTERCEPTING DEVICE" shall be entered in Item 4, "Special Purpose."

* * * * *

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

14. Section 377.4 is amended by revising paragraph (i)(1) to read as follows:

§ 377.4 Registration of U.S. agricultural commodities for exemption from short supply limitations on export.

* * * * *

(i) *Procedure for exporting registered commodities during a period when short supply controls are in effect.* (1) Should short supply export controls be imposed for a commodity being stored in the United States under a valid registered storage approval, the person to whom such approval was granted shall file Form ITA–622P, Application for Export License, in accordance with the procedure set forth in Part 372 of this chapter, except that no accompanying documentation is required. The applicant shall cite in Item 15, "Additional Information," the relevant registered storage approval issued by the Office of Export Administration and shall also state the quantity of the commodities covered by the registered storage approval already exported or which will be exported pursuant to the terms of any Saving Clause contained in the announcement imposing short supply export controls. Upon verification that the registered storage approval is valid, the Office of Export Administration will issue a validated export license for the quantity authorized in the registered storage approval, less any quantities previously exported or in process of being exported under any Saving Clause, without regard to any quantitative short supply export limitations which are then in effect. The license shall be valid through the date specified thereon.

* * * * *

PART 378—SPECIAL NUCLEAR CONTROLS

15. Section 378.7 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 378.7 Preparing Application.

* * * * *

(a) *Identification of license application.* Enter the words "NUCLEAR CONTROLS" in Item 4, "Special Purpose," of Form ITA–622P.

(b) *Consignee in country of ultimate destination.* If the consignee in the country of ultimate destination is not the end-user of the commodities, give the name and address of the end-user in Item 9(b), "Description of Commodity or Technical Data," or on an attachment to the application, and if known, the specific geographic locations of any installations, establishments, or sites at which the commodities will be used.

(c) *Supplier.* If the applicant is not also the manufacturer of the commodities and the application is being submitted under § 378.3, indicate on the application, in Item 9(b), "Description of Commodity or Technical Data" or on an attachment, whether the advice of the manufacturer required in § 378.6 above has been received regarding the necessity for a validated license.

* * * * *

PART 379—TECHNICAL DATA

16. Section 379.5 is amended by revising paragraph (b) to read as follows:

§ 379.5 Validated license applications.

* * * * *

(b) *Application Form.* Form ITA–622P shall be completed as provided in § 372.4, except that Items 9(a), 9(c) and 11 shall be left blank. In Item 9(b), "Description of Commodity or Technical Data," enter a general statement which specifies the technical data (*e.g.*, blueprints, manuals, etc.). In addition, the words "Technical Data" shall be entered in Item 4, "Special Purpose."

* * * * *

PART 386—EXPORT CLEARANCE

17. Section 386.2(d)(1) is amended by revising subdivisions (i), (ii), (iii), (v), and (vi) to read as follows:

§ 386.2 Use of validated license.[2]

* * * * *

(d) * * *

(1) * * *

(i) *Quantity shipped.* Enter total quantity shipped in units shown on the license, including any amounts shipped under the tolerance provisions of § 386.7.

(ii) *Description of commodities.* Enter Export Control Commodity Number and an abbreviated description of the commodity as shown on the license. Where the license covers two or more commodities, indicate clearly which commodity(ies) is being shipped.

(iii) *Dollar value.* Enter total value of the commodities (selling price, or cost if not sold, including inland freight, insurance, and other costs to U.S. port of export, to the nearest whole dollar).

* * * * *

(v) *Point of exort or post office of mailing.* Enter name of the point from which the shipment leaves the United States or the post office where the shipment is mailed.

(vi) *Date of export.* Enter date the shipment leaves the United States (if exact date is not known, enter approximate date, and so indicate).

* * * * *

(Secs. 3, 4, 5, 6, 7, 10(d), 12(d), 13 and 15, Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*); Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: January 28, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–2862 Filed 2–3–82; 8:45 am]

BILLING CODE 3510–25–M

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[2] * * *

National Oceanic and Atmospheric Administration

15 CFR Parts 935 and 936

Seaward Boundaries of the Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule correction.

SUMMARY: Updated turning points and corresponding maps of the seaward boundaries of the Channel Islands National Marine Sanctuary and the Point Reyes-Farallon Islands National Marine Sanctuary, both located off the California coast, are provided below to correct certain inadvertent errors in the original description of these sites.

FOR FURTHER INFORMATION CONTACT: Rafael V. Lopez, (202) 634–4236.

ADDRESS: Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: The Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries were designated to protect valuable marine resources off the California coast and provide a comprehensive management framework to promote wise public and private use of these areas. The Sanctuaries are inhabited by large numbers of marine mammals, especially seals and sea lions, and millions of seabirds. Each Sanctuary provides enjoyment to millions of visitors annually. Regulations were enacted to insure the protection of the ecological resources. Notice of the implementation of these regulations was published in the **Federal Register.** Boundary point coordinates accompanied each notice.

The Channel Islands National Marine Sanctuary designation document and final regulations were published on October 2, 1980 (45 FR 65198). The notice was missing two points around Santa Barbara Island and did not include a map of the area.

The Point Reyes-Farallon Islands National Marine Sanctuary designation document and final regulations were published on January 26, 1981 (46 FR 7936). This notice contained eight extraneous points not pertinent to the designation, representing one of the boundary options discussed in the environmental impact statement for this site, and also did not include a map.

To correct these errors the seaward portion of the boundaries of both Sanctuaries are presented below. These coordinates represent the turning points of the straight line segments demarcating the sites. Maps are included with this correction for illustrative purposes. The shoreline boundaries are defined in the aforementioned notices. For practical purposes these coordinates can be rounded off to whole values for seconds of latitude and longitude.

PART 935—THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY REGULATIONS

Accordingly, Appendix I.A. to 15 CFR Part 935 is corrected to read as follows:

APPENDIX I.A.—CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

[Coordinates are furnished to 0.001 of a second]

Point No.	Latitude north	Longitude west
Northern Channel Islands Section		
01	33°56'28.959"	119°16'23.800"
02	33°58'03.919"	119°14'56.954"
03	34°01'33.846"	119°14'07.740"
04	34°04'24.293"	119°15'21.308"
05	34°06'06.653"	119°17'27.002"
06	34°06'54.809"	119°19'46.046"
07	34°06'57.986"	119°23'24.905"
08	34°06'51.627"	119°24'04.198"
09	34°07'01.840"	119°25'40.819"
10	34°06'59.904"	119°26'50.959"
11	34°06'02.002"	119°28'47.501"
12	34°06'17.693"	119°29'27.698"
13	34°06'52.234"	119°30'39.562"
14	34°09'16.780"	119°35'22.667"
15	34°09'05.106"	119°36'41.694"
16	34°08'02.782"	119°39'33.421"
17	34°08'46.870"	119°41'48.621"
18	34°09'35.563"	119°45'57.284"
19	34°09'32.627"	119°46'37.335"
20	34°09'33.396"	119°47'32.285"
21	34°09'43.668"	119°48'09.018"
22	34°10'10.616"	119°50'07.659"
23	34°10'21.586"	119°51'05.146"
24	34°10'33.161"	119°53'17.044"
25	34°10'36.545"	119°55'57.373"
26	34°10'21.283"	119°57'26.403"
27	34°08'07.255"	120°01'07.233"
28	34°06'13.144"	120°02'27.930"
29	34°07'47.772"	120°05'05.449"
30	34°07'29.314"	120°06'36.262"
31	34°07'30.691"	120°08'35.238"
32	34°06'36.285"	120°12'39.335"
33	34°06'40.634"	120°13'33.940"
34	34°06'10.759"	120°15'07.017"
35	34°09'12.290"	120°17'07.046"
35A	34°09'50.706"	120°17'31.649"
36	34°10'56.346"	120°18'40.520"
36B	34°11'26.249"	120°19'29.213"
37	34°12'08.078"	120°21'00.835"
37C	34°12'25.469"	120°25'01.261"
38	34°12'18.754"	120°25'39.373"
38D	34°11'33.184"	120°27'33.921"
39	34°12'19.470"	120°30'22.520"
39E	34°12'17.540"	120°32'19.959"
40	34°10'54.592"	120°35'57.887"
40F	34°08'07.491"	120°36'27.883"
41	34°04'53.454"	120°36'16.602"
41G	34°03'30.539"	120°37'39.442"
42	34°01'09.860"	120°35'04.808"
42H	34°00'48.573"	120°34'25.106"
43	33°59'13.122"	120°33'53.385"
44	33°57'01.427"	120°31'54.590"
45	33°56'36.973"	120°27'37.168"
46	33°55'30.037"	120°25'14.587"
47	33°54'50.522"	120°22'29.536"
48	33°55'01.640"	120°19'26.722"
49	33°54'34.409"	120°18'27.344"
50	33°53'23.129"	120°17'39.927"

APPENDIX I.A.—CHANNEL ISLANDS NATIONAL MARINE SANCTUARY—Continued

[Coordinates are furnished to 0.001 of a second]

Point No.	Latitude north	Longitude west
51	33°50'39.990"	120°15'13.874"
52	33°49'53.260"	120°13'41.904"
53	33°49'03.437"	120°12'06.750"
54	33°48'36.087"	120°11'10.821"
55	33°47'39.260"	120°07'59.707"
56	33°47'37.617"	120°06'04.002"
57	33°47'59.351"	120°04'06.370"
58	33°48'36.700"	120°02'33.188"
59	33°48'52.167"	120°01'50.244"
60	33°50'28.486"	119°57'50.820"
61	33°50'55.128"	119°55'19.934"
62	33°52'13.338"	119°52'53.439"
63	33°52'04.900"	119°52'10.719"
64	33°51'39.919"	119°47'21.152"
65	33°51'48.592"	119°46'13.213"
66	33°51'35.796"	119°44'34.589"
67	33°51'44.374"	119°41'12.738"
68	33°52'23.857"	119°39'14.708"
69	33°53'09.365"	119°37'30.764"
70	33°53'12.754"	119°35'35.799"
71	33°53'17.114"	119°34'54.567"
72	33°53'38.865"	119°32'51.578"
73	33°54'02.277"	119°31'06.274"
74	33°54'56.444"	119°26'54.052"
75	33°54'39.349"	119°27'37.512"
76	33°54'15.236"	119°25'23.779"
77	33°54'07.847"	119°24'22.849"
78	33°54'04.682"	119°22'58.006"
79	33°54'14.311"	119°21'44.573"
80	33°54'22.824"	119°21'09.003"
81	33°54'46.904"	119°19'54.677"
82	33°55'05.834"	119°19'16.027"
Santa Barbara Island Section		
83	33°26'56.904"	119°10'04.092"
84	33°26'52.354"	119°10'01.326"
85	33°24'18.994"	119°08'52.236"
86	33°23'26.019"	119°07'54.826"
87	33°22'04.836"	119°05'16.716"
88	33°21'49.387"	119°04'01.551"
89	33°21'44.594"	119°02'49.887"
90	33°21'49.556"	119°01'37.839"
91	33°22'07.538"	118°59'49.357"
92	33°22'27.774"	118°58'51.623"
93	33°22'47.957"	118°58'07.633"
94	33°23'20.805"	118°57'14.375"
95	33°24'18.456"	118°56'08.450"
96	33°26'24.130"	118°54'51.352"
97	33°29'02.820"	118°54'22.276"
98	33°31'27.917"	118°54'50.387"
99	33°32'17.935"	118°55'19.398"
100	33°35'10.090"	118°59'40.091"
101	33°35'24.575"	119°01'22.108"
102	33°35'06.497"	119°03'59.463"
103	33°34'48.322"	119°05'03.374"
104	33°32'37.151"	119°08'37.201"
105	33°30'41.731"	119°09'45.845"

PART 936—THE POINT REYES-FARALLON ISLANDS NATIONAL MARINE SANCTUARY REGULATIONS

In addition Appendix I. to 15 CFR Part 936 is corrected to read as follows:

APPENDIX I.—POINT REYES-FARALLON ISLANDS NATIONAL MARINE SANCTUARY

[Coordinates are furnished to 0.001 of a second]

Point No.	Latitude north	Longitude west
1	38°15'50.340"	123°10'48.933"
2	38°12'36.338"	123°07'04.846"
3	38°09'57.033"	123°05'27.435"
4	38°08'26.872"	123°04'52.524"
5	38°07'42.125"	123°05'10.714"
6	38°06'06.017"	123°05'48.920"
7	38°05'26.765"	123°06'09.922"
8	38°04'44.587"	123°06'29.251"
9	38°03'54.439"	123°06'57.591"
10	38°02'07.527"	123°07'37.755"
11	37°59'32.425"	123°08'24.905"
12	37°59'22.344"	123°14'06.127"
13	37°57'31.931"	123°19'19.187"
14	37°54'16.943"	123°23'18.456"
15	37°50'05.522"	123°25'28.791"
16	37°45'33.799"	123°25'32.666"
17	37°41'20.351"	123°23'29.811"
18	37°38'01.053"	123°19'37.445"
19	37°36'04.665"	123°14'30.483"
20	37°35'30.191"	123°13'31.060"
21	37°33'47.197"	123°11'50.904"
22	37°31'12.270"	123°07'39.616"
23	37°30'29.706"	123°05'42.221"
24	37°29'39.267"	123°00'23.711"
25	37°30'34.237"	122°54'18.139"
26	37°31'47.784"	122°51'31.592"
27	37°34'17.533"	122°48'10.415"
28	37°36'58.627"	122°46'05.779"
29	37°39'59.303"	122°44'59.838"
30	37°52'56.355"	122°37'35.195"

Dated: January 15, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration.

Note.—The following maps will not appear in the Code of Federal Regulations.

BILLING CODE 3510-08-M

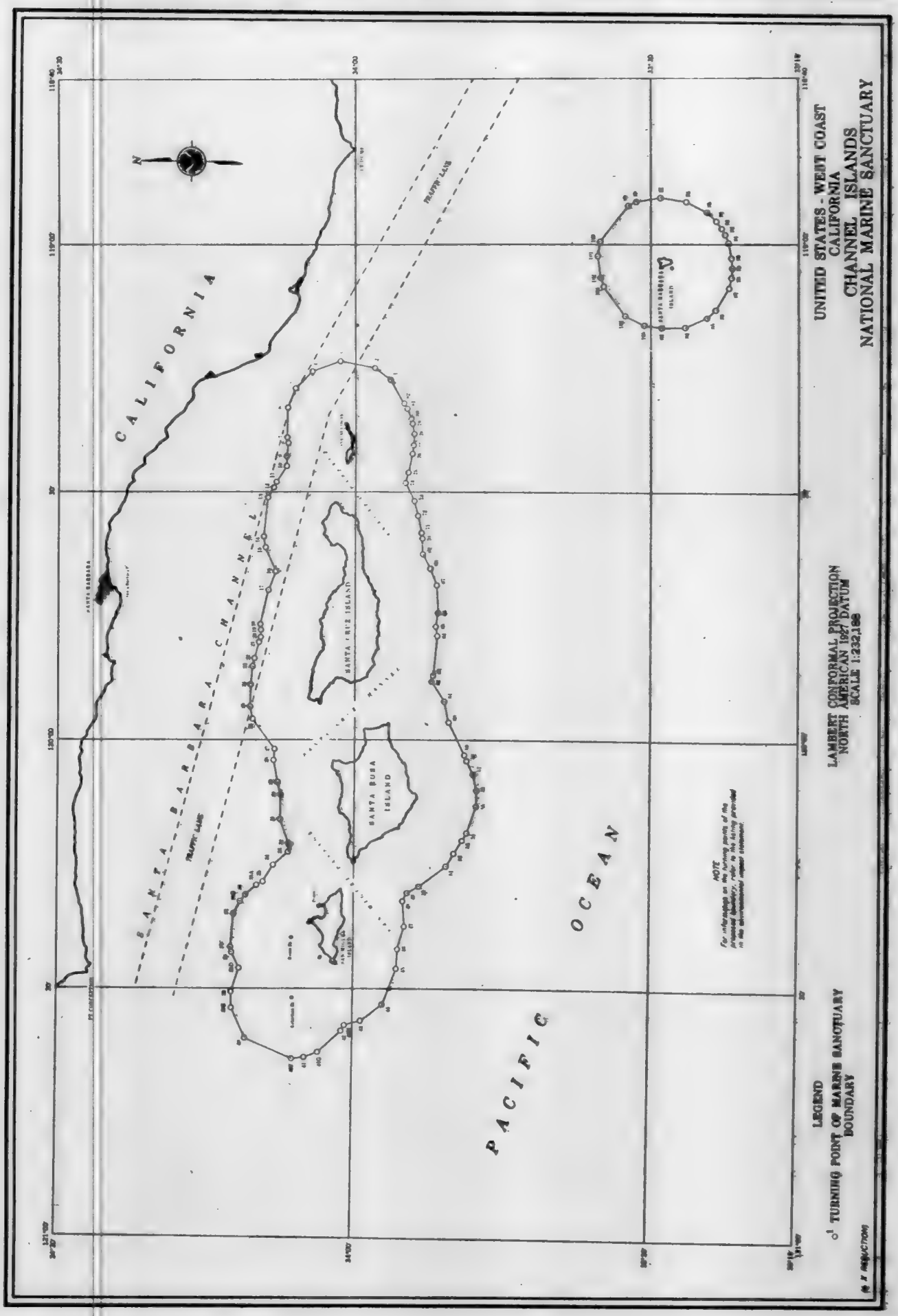
UNITED STATES - WEST COAST
CALIFORNIA
CHANNEL ISLANDS
NATIONAL MARINE SANCTUARY
CALIFORNIA
SANTA BARBARA CHANNEL
SANTA CRUZ ISLAND
SANTA ROSA ISLAND
SANTA BARBARA ISLAND
PACIFIC OCEAN
LEGEND
TURNING POINT OF MARINE SANCTUARY BOUNDARY
NOTE
LAMBERT CONFORMAL PROJECTION
NORTH AMERICAN 1927 DATUM
SCALE 1:232,188

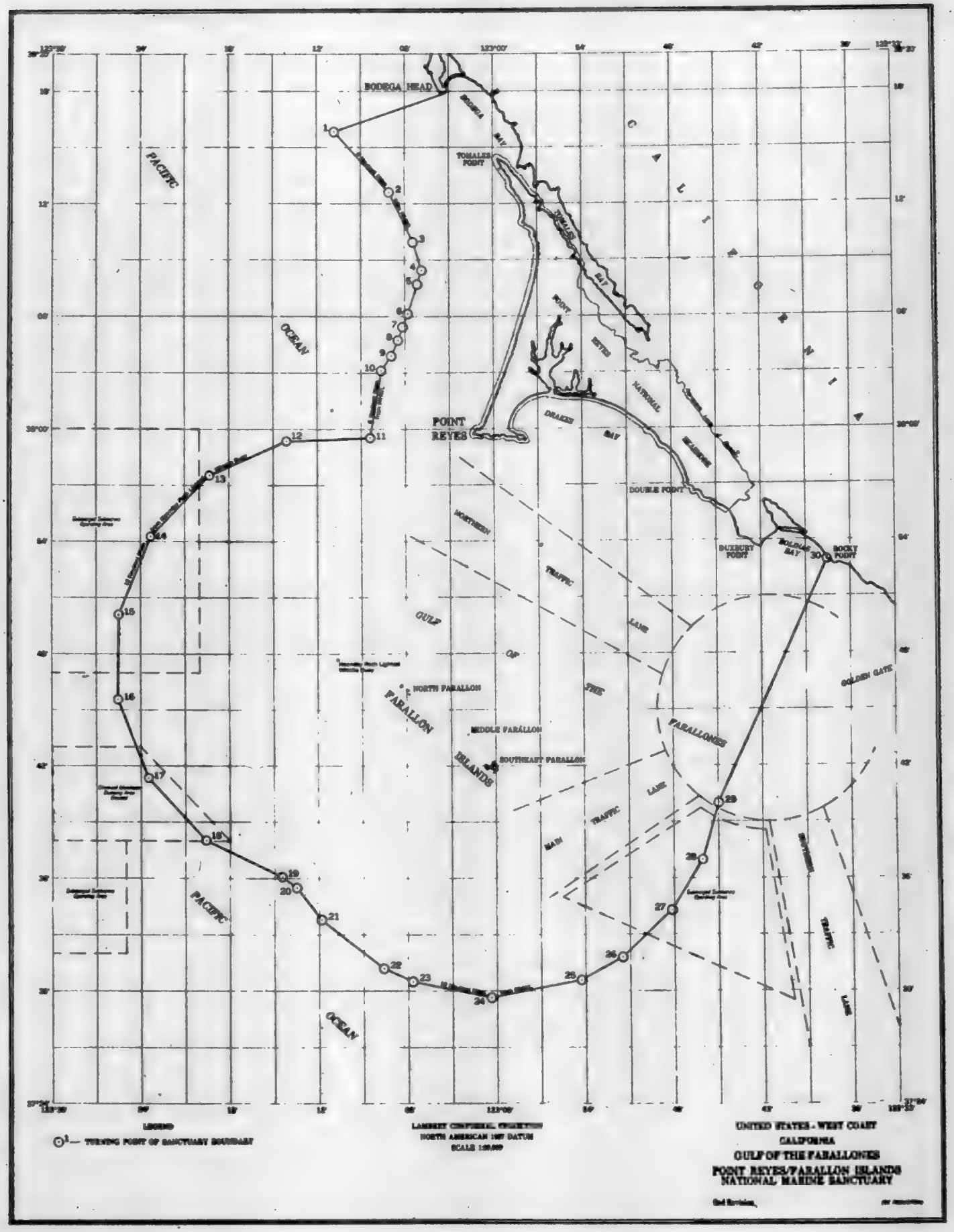

[FR Doc. 82-1479 Filed 2-3-82; 8:45 am]
BILLING CODE 3510-08-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. 34-18451; AS-305]

Statement of Management on Internal Accounting Control

AGENCY: Securities and Exchange Commission.

ACTION: Interpretive release.

SUMMARY: The Commission announces that it is no longer considering further action to require disclosure of a statement of management on internal accounting control in annual reports to security holders or filings with the Commission. In reaching this conclusion the Commission has considered the significant private-sector initiatives in this area, including the increased number of management reports included in annual reports to security holders of large companies.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: David F. Martin or Edmund Coulson (202-272-2130), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background

On June 6, 1980, the Commission issued ASR 278* that announced the withdrawal of rule proposals which, if adopted, would have required inclusion of a statement of management on internal accounting control in annual reports on Form 10-K filed with the Commission under the Securities Exchange Act of 1934 and in annual reports to security holders furnished pursuant to the proxy rules. The rule proposals would also have required that the management statement be examined and reported on by an independent accountant.

The Commission's decision to withdraw the rule proposals was based, in part, on a determination that the private-sector initiatives for public reporting on internal accounting control had been significant and should be allowed to continue. The Commission stated its belief that this action would encourage further voluntary initiatives and permit public companies a maximum of flexibility in experimenting with various approaches to public reporting on internal accounting control. The Commission urged similar experimentation concerning auditor association with such statements.

In conjunction with the withdrawal of the rule proposals, the Commission announced its intention to monitor registrants' voluntary disclosure of management statements on internal accounting control and reports of independent accountants on such statements and implementation of the broader recommendations of the Commission on Auditors' Responsibilities (Cohen Commission) concerning comprehensive management reports.

II. Activities After ASR 278

Since ASR 278 was issued, the Commission's staff has reviewed a sample of annual reports to security holders. The results of the review indicate a significant increase, particularly in larger companies, in the number of annual reports which include a management report. Several surveys conducted by private-sector organizations indicate similar results.

In addition to comments about the system of internal accounting control, many reports have included comments on topics recommended by the Cohen Commission, the Financial Executives Institute (FEI) and the Special Advisory Committee on Reports by Management of the American Institute of Certified Public Accountants (AICPA). The variety of reports demonstrates the willingness of public companies to experiment with a new form of reporting and to avoid boiler-plate reporting.

Certain private-sector groups have taken actions which indicate that the private sector continues to be generally supportive of the development of the concept of management reports and is seeking to improve internal accounting control systems. As noted in ASR 278, the AICPA and FEI have encouraged the development of management statements. In August 1981, the American Bar Association Section of Corporation, Banking and Business Law approved a Discussion Paper which encourages the use of company reports. In addition, the FEI has sponsored extensive research in the area of internal controls. This research resulted in the publication in 1980 of a research study and report titled "Internal Control in U.S. Corporations: The State of the Art" and, just recently, a report on "Criteria for Management Systems." The current research project is exploring criteria for management use and control of data processing systems. The Commission is encouraged by this kind of private sector research effort which should lead to continued improvements in corporate internal control systems.

The experimentation with public reporting by independent accountants on internal accounting control systems has not yet had time to develop. In July 1980, the AICPA's Auditing Standards Board issued Statement on Auditing Standards No. 30 (SAS 30), "Reporting on Internal Accounting Control," which sets forth guidance for auditors on how to review and report on a system of internal accounting control. As companies and their auditors become more familiar with the provisions of SAS 30 they may be able to integrate SAS 30 review procedures into annual audit procedures. Such integration may facilitate the conduct of these reviews and could result in increased reporting pursuant to SAS 30.

III. Conclusion

Although the importance to companies of effective systems of internal accounting control has not diminished, the Commission now believes that there is no need for a regulatory requirement for disclosures about such systems. In the light of developments since the issuance of ASR 278, the Commission now believes that the private sector should determine the need for and nature of such disclosure. In reaching this conclusion the Commission has considered the significant private-sector initiatives in this area, including the increased number of management reports to security holders of large companies.

By the Commission.

George F. Fitzsimmons,

Secretary.

January 28, 1982.

[FR Doc. 82-2969 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

*Accounting Series Release 278, "Statement of Management on Internal Accounting Control," Securities Exchange Act Release No. 16877, June 6, 1980 (45 FR 40134).

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17 CFR Parts 230, 240, 250, 260, 270, and 275

[Release Nos. 33-6380, 34-18452, 35-22371, 39-693, IC-12194, and IA-791; File No. S7-879]

Final Definitions of "Small Business" and "Small Organization" for Purposes of the Regulatory Flexibility Act

AGENCY: Securities and Exchange Commission.

ACTION: Final rulemaking.

SUMMARY: The Securities and Exchange Commission is adopting final definitions of the terms "small business" and "small organization" as those terms will be

used in connection with future Commission rulemaking proceedings under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940 and the Investment Advisers Act of 1940 regarding disclosure, reporting and regulatory requirements applicable to business concerns and other organizations which are subject to these statutes. The definitions are being adopted specifically for purposes of the Regulatory Flexibility Act, which requires the Commission to consider the impact of its regulations on small entities.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT:

General

Ann Stansbury, Esquire, Special Counsel, Office of General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202–272–2427).

Offices With Particular Responsibilities

Daniel Abdun-Nabi, Esquire, Division of Corporation Finance (Definitions applicable to the Securities Act of 1933, the reporting and disclosure provisions of the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939) (202)–272–2644)

Jonathan Kallman, Esquire, Division of Market Regulation (Definitions applicable to brokers, dealers, clearing agencies, exchanges, bank municipal securities dealers, securities information processors, and transfer agents) (202–272–2843)

James E. Lurie, Special Counsel, Division of Corporate Regulation (Definitions applicable to public utility holding company systems) (202–523–5683)

Elizabeth T. Tsai, Esquire, Division of Investment Management (Definitions applicable to investment companies and investment advisers) (202–272–2032)

SUPPLEMENTARY INFORMATION: On March 20, 1981, in Release 33–6302 (46 FR 19251) the Commission proposed rules to define the terms "small business" and "small organization," for the purposes of Chapter Six of the Administrative Procedure Act, 5 U.S.C. 601 et seq., (the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980)), as those terms may apply to organizations and entities that are issuers of securities or otherwise engaged in securities or other business activities subject to disclosure and reporting requirements or regulation by the Commission pursuant to the Securities Act of 1933, 15 U.S.C. 77a et seq., (the "Securities Act"), the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., (the "Securities Exchange Act"), the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a et seq., (the "Holding Company Act"), the Trust Indenture Act of 1939, 15 U.S.C. 77aaa et seq., (the "Trust Indenture Act"), the Investment Company Act of 1940, 15 U.S.C. 80a et seq., (the "Investment Company Act"), or the Investment Advisers Act of 1940, 15 U.S.C. 80b–1 et seq., (the "Advisers Act"). The Regulatory Flexibility Act (the "RFA") requires that the Commission, among other things, consider the economic impact of Commission rulemaking action on entities that qualify as "small" under applicable standards as set forth in the RFA, the Small Business Act [1] or the regulations promulgated by the Small Business Administration ("SBA").[2] In view of the apparent absence of appropriate standards in those statutes and regulations for defining small entities subject to its regulation, the Commission proposed for public comment pursuant to the RFA definitions that it considered appropriate to the regulation of issuers and other entities in the securities industry or otherwise subject to regulation under statutes administered by the Commission.[3] After consultation with the Office of Advocacy of the SBA and considering the comments received from the public on the proposed definitions, the Commission is now adopting final definitions, which are discussed in more detail below. Although the definitions will be generally applicable in Commission rulemaking, the rules also provide, as permitted by the RFA, that the Commission may, in particular instances, if the circumstances so warrant, define a particular entity in a manner different from that set forth in the rules. In any such case, appropriate notice will be provided that the Commission intends to use or is using a different definition.

[1] 15 U.S.C. 631 et seq.

[2] 13 CFR Part 121.

[3] The RFA provides that an agency, after consultation with the Office of Advocacy of the SBA and an opportunity for public comment, may establish one or more definitions of "small entity" that are applicable to the activities of the agency. *See* Securities Act Release No. 6302 (March 20, 1981), 22 SEC Doc. 546 (April 7, 1981), for a discussion of the reasons why the Commission considered the SBA definitions inappropriate.

Description of the Final Definitions

Securities Act—Issuers Engaged in Small Business Financing; The Securities Exchange Act—Reporting Requirements, Tender Offers, Issuer Repurchases, Proxy Rules, and Short Swing Profits.

In the release proposing the definitions of "small business" and "small organization" for purposes of the Regulatory Flexibility Act (the "RFA") [4] the Commission proposed to amend its rules under the Securities Act of 1933 [5] (the "Securities Act") by adding new Rule 157 [6] which would define those terms to mean any issuer, other than an investment company, that is engaged in small business financing and whose total assets on the last day of its most recent fiscal year were $2.5 million or less. Smalll business financing is defined to mean any issuer that is engaged or proposed to engage in the offer and sale of its securities that does not exceed the dollar limitation prescribed by Section 3(b) of the Securities Act.

Similarly, for purposes of the RFA, the Commission proposed a definition of "small business" and "small organization" which, when used in reference to entities that are subject to the reporting provisions of the Securities Exchange Act of 1934,[7] ("the Securities Exchange Act"), pursuant to Sections 12, 13, 14, 15(d) and 16 of that Act, would mean an issuer that on the last day of its most recent fiscal year had assets of $2.5 million or less.

The asset tests proposed in the definitions under both the Securities Act and the Securities Exchange Act were intended to reflect an inflationary adjustment to the $1 million asset test, established for reporting purposes in the 1964 Amendments.[8]

The proposed Securities Act definition included a size of the offering standard in addition to an asset test primarily because the Securities Act is transaction oriented; *i.e.*, the registration of securities under the Securities Act is required only when certain transactions are proposed or occur.[9] Moreover there

[4] Release No. 33–6302, 34–17945 (March 20, 1981) (46 FR 19251).

[5] 15 U.S.C. 77a–77aa, as amended.

[6] 17 CFR 230.157.

[7] 15 U.S.C. 78a–78jj, as amended.

[8] 78 Stat. 565 (U.S. Code Cong & Ad. News 2796 (1964)). In the proposing release the Commission noted that an inflationary adjustment to the $1 million asset test established in Section 12(g) of the Securities Exchange Act would result in a $2,470,000 asset threshold in 1979.

[9] Congress has consistently recognized that a Securities Act exemption based on the size of the

Continued

exists substantial factual data indicating a significant direct relationship between the size of the offering and the size of the issuer.[10] It was anticipated that this standard would assure that any evaluation of the impact of compliance regarding proposed or adopted rules under the Securities Act would include only an analysis of those issuers for which fixed costs become disproportionately expensive.

The Commission received eleven comments regarding the proposed standards. Several of these commentators urged that the total asset criterion should be raised, with the recommendations ranging from $4 million to $15 million. In several cases no justification was presented for the standards recommended.

The SBA, in its comments on the proposed standards, supported increasing the total asset threshold to $15 million on the ground that while the total number of shareholders affected by such a standard would be relatively small, the number of issuers which would fall within the definition of "small business" would significantly increase. This, the SBA argues, would bestow substantial regulatory cost savings upon issuers without significantly diluting investor protection for large numbers of shareholders. In making this recommendation, however, the SBA does not maintain that any direct or indirect correlation exists between the ability of an issuer to bear the costs of regulation and the total number of shareholders which would be affected by a specified size standard. Since the basic concept underlying the RFA is that uniform regulations often have a disproportionately greater economic impact upon small businesses, and thus upon their competitive position,[11] the Commission is of the view that definitional standards should be established at levels below which there would exist a disproportionate economic impact in the uniform application of its regulations.

In reaching the $3 million total asset figure, the Commission examined, among other factors, the Congressional rationale for including a $1 million asset test in Section 12(g) of the Securities Exchange Act when it amended that Act in 1964.[12] The legislative history of the 1964 amendments reveals that although the amount of assets would seem to be no more than a secondary criterion, "it may ultimately have relevance in defining a limit where burdens may be disproportionate to needs."[13] Thus, it seems appropriate that an inflationary adjustment to the $1 million asset test is relevant in defining the extent to which the compliance burdens could be met by issuers involved. Additionally, the Commission believes that with the definitional standards established at such levels, the regulatory flexibility analyses required by the RFPA would have maximum utility and greatest significance. One commentator, the Texas Independent Producers & Royalty Owners Association, suggested that a figure of $4 million would more accurately reflect the inflation adjustment desired. As indicated earlier, the Commission noted in the proposing release that an inflationary adjustment to the Section 12(g) $1 million total asset standard would result in a $2,470,000 asset threshold in 1979. An update of this analysis through 1981 suggest that a more appropriate standard would be one which approximates $3 million.

Several commentators suggested that the definitions under both the Securities Act and the Securities Exchange Act should include a revenue test in addition to the asset test proposed. The recommendations ranged from $10 million to $15 million in revenues. As noted above, the legislative history of the 1964 amendments to the Securities Exchange Act established an asset threshold as relevant and appropriate in defining the extent to which compliance burdens could be met by the issuers involved. Additionally, several commentators responding to the Commission's release regarding the advisability of classifying issuers for purposes of the Securities Exchange Act [14] expressed the view that an asset test represents a simple and functional criterion for measuring an issuer's size in relation to the cost of complying with reporting obligations.[15] Moreover, the Commission does not anticipate that a revenue criterion would bestow any significant benefits upon small businesses in the context of the RFA, although additional criteria or modified asset standards which take into account the number of shareholders affected may have significance in the context of the Commission's proposed classification system.[16] In light of the foregoing, the Commission does not believe it is either necessary or desirable to adopt a revenue standard in the final definitions.

Accordingly, the Commission is adopting new Rule 157 under the Securities Act, which defines the terms "small business" and "small organization" for purposes of the RFA as any issuer, other than an investment company, whose total assets on the last day of its most recent fiscal year were $3 million or less and that is engaged in small business financing; *i.e.*, any issuer that engages or proposes to engage in the offer and sale of its securities in an amount that does not exceed the dollar limitation prescribed by Section 3(b) of the Securities Act.

Additionally, the Commission is adopting new Rule 0–10 under the Securities Exchange Act,[17] which defines "small business" and small organization for purposes of the RFA to mean any "issuer" or any "person" whose total assets on the last day of its most recent fiscal year were $3 million or less. The Commission may consider the advisability of similar adjustments in the future, if appropriate.

As indicated in the proposing release, the Commission has for some time been taking steps to facilitate the integration of the disclosure systems of both the Securities Act and the Securities Exchange Act so that investors and the marketplace are provided meaningful, nonduplicative information, while the costs of compliance are decreased.[18] The integration effort is based on the idea that, generally, there is no distinction between information that is material for

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transaction, rather than solely on the size of the issuer, is appropriate. As an example, Section 3(b) of the Securities Act authorizes the Commission to exempt transactions from registration if it finds that registration is not necessary in the public interest because of the small dollar amount involved or the limited character of the public offering. The dollar ceiling under Section 3(b) has been raised on several occasions, most recently, from $2 million to $5 million pursuant to Section 301 of the Small Business Investment Incentive Act of 1980 (the "Incentive Act") [Pub. L. No. 96–477 (October 21, 1980)]. This Congressional action was intended to provide the Commission with increased flexibility in developing exemptions targeted to smaller issuers. Additionally, Congress adopted the transaction size approach when it enacted, in the Incentive Act, new Section 4(6) of the Securities Act.

[10] Rule 242: A Monitoring Report on the First Six Months of Its Use (December, 1980); Form S–18: A Monitoring Report on Its Use in 1979 (March, 1980).

[11] Senate Report No. 96–878, Senate Committee on the Judiciary, 96th Congress, 2d Sess., July 30, 1980.

[12] 78 Stat. 565 (U.S. Code Cong. & Ad. News 2798 (1964)).

[13] Report of the Special Study of Securities Markets of the Securities and Exchange Commission, House Document No. 95, Pt. 3, House Committee on Interstate and Foreign Commerce, 88th Cong., 1st Sess. (1963) at 18.

[14] Release No. 34–16866 (June 2, 1980) (45 40145).

[15] Summary of Comments relating to Classification of Exchange Act Reporting Companies, File No. S7–637.

[16] Securities Exchange Act Release No. 18189 (October 20, 1981) (46 FR 52382). In this release the Commission proposed for comment a new rule and rule amendments which would exempt a class of smaller issuers from the registration and reporting provisions under the Securities Exchange Act. Where appropriate the Commission will consider the views of the commentators in establishing a Securities Exchange Act classification system.

[17] 17 CFR 240.0–10.

[18] Release Nos. 33–6331 to 33–6336 (August 6, 1981) (46 FR 41902).

the distribution of securities in transactions covered by the Securities Act on the one hand, and for periodic reporting under the Securities Exchange Act on the other hand, by companies whose securities are traded in the markets.

As a result of this effort, there will be instances in which amendments to rules, forms and schedules under the Securities Exchange Act that are a part of the integrated disclosure system will also affect disclosures under the Securities Act. The Commission does not intend to imply, however, that an issuer that is subject to the reporting requirements of the Securities Exchange Act may furnish less disclosure in a limited size offering than would normally be furnished to the marketplace under the Securities Exchange Act. Therefore, any impact analysis of rules under the Securities Exchange Act that are a part of the integrated disclosure system will normally be expected to satisfy the similar analysis under the Securities Act.

Trust Indenture Act—Issuers Engaged in Small Business Financing

In its consideration of the proposed definition of "small business" and "small organization" for purposes of the RFA to be applicable to rulemaking under the Trust Indenture Act of 1939, the Commission noted that the Trust Indenture Act definitions, exemptions, requirements, and procedures for qualification of indentures and trustees are closely related to the Securities Act. Consequently, the Commission believed that the considerations affecting small entities under the Trust Indenture Act should be determined in tandem with those under the Securities Act. The Commission therefore proposed to adopt, under the Trust Indenture Act, a rule defining "small business" and "small organization" in a manner which was identical to proposed Rule 157.

The commentators raised no objection to a Trust Indenture Act definition which corresponds to the Securities Act definition and in fact several commentators specifically endorsed the concept. However, the comments raised with respect to the asset test in proposed Rule 157 were made specifically applicable to the proposed definition under the Trust Indenture Act.

The Commission, based on the need for consistency between the Securities Act and Trust Indenture Act definitions, and for the reasons specified above, has determined to amend 17 CFR Part 260 by adopting § 260.0–7 which, for the purposes of the Trust Indenture Act, defines "small business" and "small organization" to mean an issuer whose total assets on the last day of its most recent fiscal year were $3 million or less and that is engaged or proposing to engage in small business financing. An issuer is considered to be engaged or proposing to be engaged in small business financing under this section if it is conducting or proposing to conduct an offering of securities which does not exceed the dollar limitation prescribd by § 260.4a–2.[19]

The Securities Exchange Act—Brokers, Dealers and Other Regulated Entities

As noted above, the Commission is also adopting definitions of the terms "small business" and "small organization" for purposes of the RFA with respect to certain entities in the securities industry whose activities are regulated by the Commission pursuant to the Securities Exchange Act. Those entities include brokers, dealers, clearing agencies, exchanges, bank municipal securities dealers, securities information processors and transfer agents. The definitions with respect to brokers and dealers have been revised in response to the views expressed by the commentators. The Commission did not receive any adverse comments on the other definitions [20] and is adopting the definitions as proposed.[21]

The definitions in Rule 0–10 as adopted incorporate the concept of affiliation and provide that a broker-dealer, clearing agency, exchange, bank municipal securities dealer, securities information processor or transfer agent is not a small business or small organization if that entity is affiliated with any person (other than a natural person) that is not a small business or small organization as defined in Rule 0–10. A person is said to be "affiliated" with another if that person controls, is controlled by, or is under common control with such other person. "Control" is defined as, among other things, the right to vote 25 percent or more of the voting securities of an entity and the right to receive 25 percent or more of the net profits of such entity.

As indicated in the proposal release, the Commission believes that it is appropriate to take into account the structure of business organizations in the securities industry when defining the terms "small business" and "small organization." The Commission believes that an ownership or profit-sharing interest of 25 percent or more is an appropriate threshold for determining when the financial resources of affiliates of a securities firm or a securities service firm should be considered in determining the size of that firm for purposes of the RFA and Commission rulemaking. The Standard Oil Company of California objected to the 25 percent threshold because of its belief that equating "control" with a 25 percent interest in an entity would create an unnecessary and undesirable exception to generally accepted terminology.[22] The Commission notes, however, that the threshold as established in Rule 0–10 applies exclusively to the securities industry for limited purposes in the course of Commission rulemaking proceedings affecting only members of that industry and their affiliates.

As indicated above, the Commission is adopting revised definitions of "small business" and "small organization" with respect to brokers and dealers. Proposed Rule 0–10, as published for public comment, would have defined as small those brokers or dealers that are permitted to maintain a certain specified minimum level of net capital, had fewer than five employees at the end of the preceding calendar year, and are not associated with any entities that are not small businesses or small organizations under Rule 0–10. The commentators, however, generally opposed this definition and the use of net capital and number of employees as size standards, and contended that the threshold levels were set too low.[23]

In light of the comments received, the Commission has substantially revised the definitions for broker-dealers and has determined to adopt those definitions as revised. As adopted,

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[19] 17 CFR 260–4a–2 provides:

"The provisions of the Trust Indenture Act of 1939 shall not apply to any security which has been or is to be issued under an indenture which limits the aggregate principal amount of securities at any time outstanding thereunder to $5,000,000 or less, but this exemption shall not be applied within a period of thirty-six consecutive months to more than $5,000,000 aggregate amount of securities of the same issuer."

[20] The only comment that the Commission received on these proposed definitions was from the Small Business Administration, which noted that the proposed definitions for regulated entities under the Securities Exchange Act appeared to be adequate to meet the requirements of the RFA.

[21] *See* paragraphs (d) through (h) of Rule 0–10, *infra*.

[22] That commentator suggested, among other things, that the threshold might be lowered to 20 percent.

[23] The Securities Industry Association proposed that the Commission measure firm size by reference to total capital (defined as net worth plus subordinated liabilities). The Small Business Administration suggested that the Commission choose a size standard from among the possible measures after consultation with the National Association of Securities Dealers, Inc. One broker-dealer suggested a size standard of 10 or fewer employees; another suggested a size standard of $2 million in equity capital and fewer than 20 employees.

paragraph (c) of Rule 0–10 would define as a small business or a small organization, for purposes of Commission rulemaking, a broker or dealer that had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital of less than $500,000 on the last business day of the preceding fiscal year (or in the time it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) this is not a small business or small organization as defined in the Rule. "Total capital" for purposes of the rule consists of net worth plus subordinated liabilities, including those subordinated liabilities that do not qualify for purposes of determining a firm's net capital under Rule 15c3–1 (17 CFR 240.15c3–1).

Determination of the size of a firm under Rule 0–10, for most broker-dealers, would be based on the total capital that firm reported to the Commission on its annual audited financial statements as of a particular date in the prior fiscal year. Most broker-dealers are required to file audited financial statements with the Commission pursuant to Rule 17a–5(d) under the Securities Exchange Act (17 CFR 240.17a–5(d)). For those firms that are not required to file annual audited financial statements,[24] or that have been in existence for less than one year, size would be determined on the basis of the level of the firm's total capital on the last business day of the preceding fiscal year or, if shorter, during the life of firm.

The Commission believes that $500,000 in total capital is an appropriate benchmark for determining whether a firm is small for purposes of the RFA.[25] All firms are generally aware of their total capital and information concerning the distribution of brokers and dealers according to specified levels of total capital is readily available to the Commission. Total capital appears to be preferable to other possible size standards, such as gross revenues or net capital, because it appears to be less volatile in the face of short-term shifts in factors affecting economic profitability. Data compiled by the Commission's Directorate of Economic Policy Analysis from the reports filed pursuant to Rule 17a–5 by broker-dealers for 1979[26] indicates that approximately 4100 broker-dealers had total capital of less than $500,000.[27] A substantial majority of broker-dealers that are registered with the Commission may qualify as "small" under Rule 0–10, including some firms that engage in underwriting and general brokerage.[28] The Commission does not believe that the RFA mandates establishing a definition of "small" within an industry by reference to the very largest firms in that industry. While there has been in recent years some concentration of firms, the securities industry has usually characterized itself as a competitive industry with a substantial number of national and regional firms competing with one another in various lines of business. The Commission also believes that the definition adopted with regard to broker-dealers is appropriate, since it may serve as a basis for the possible "tiering" of regulations applicable to those entities.[29]

Although the Commission is adopting definitions with regard to the above mentioned entities, the Commission welcomes future comment from interested persons and the public concerning the operation and appropriateness of those definitions. The Commission, in consultation with the Small Business Administration, will consider any changes to such definitions as experience dictates.[30]

Public Utility Holding Companies

The Commission has concluded that it is desirable to adopt a special definition of the terms "small business" and "small organization" for purposes of the RFA to apply to rulemaking under the Public Utility Holding Company Act. In this connection, the Commission does not believe that the Small Business Act and regulations promulgated by the SBA provide size standards that are appropriate for public utility holding companies.[31] Moreover, the Commission believes that the size standards currently in use in connection with federal programs to assist small manufacturing or service enterprises are not appropriate for measuring the impact of rules on small entities that are in "holding company" systems under the Holding Company Act.

Under the Holding Company Act, the Commission exercises comprehensive authority over the issuance of securities or the acquisition of securities or utility assets by registered holding companies and their subsidiaries, intrasystem transactions, and accounting requirements, among other things. A "holding company" is defined under the Holding Company Act as any company which owns 10 percent or more of the voting securities of a public utility company, which is defined as an electric or gas utility company.[32] While the Holding Company Act also provides

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[24] Rule 17a–5(d)(iii), for instance, specifically excludes certain brokers that are members of a national securities exchange from those provisions of the rule that require the filing of audited financial statements with the Commission. *See* 17 CFR 240.17a–(d)(iii).

[25] Rule 0–10 as proposed for public comment would have primarily focused, through a particular provision of the Commission's regulation regarding broker-dealer minimum net capital requirements, on the business activities of broker-dealers. The commentators expressed concern that such a focus would have excluded, for instance, broker-dealers that carried customer accounts or cleared their own transactions and, under any other measure of size, would be considered "small" entities. In light of the Commission's determination to expand the scope of the definition to include such broker-dealers, the Commission, as discussed in text, *infra*, believes that total capital is a better economic proxy than net capital for measuring firm size outside of the context of a particular segment of the brokerage community.

[26] *See generally*, Securities and Exchange Commission, staff Report on the Securities Industry in 1979 (1980).

[27] As proposed for comment, Rule 0–10 would have restricted the class of broker-dealers potentially qualifying as small to certain broker-dealers that are permitted to maintain a certain level of minimum net capital pursuant to Rule 15c3 – 1(a)(2) or –1(a)(3), 17 CFR 240.15c3–1 (a)(2)–(a)(3). The Commission estimates that approximately 1,650 broker-dealers maintain minimum net capital pursuant to those provisions.

[28] The approximately 925 firms that would appear not to qualify as "small" accounted for approximately 91 percent of the underwriting profits and 96 percent of the securities commissions earned by broker-dealers in 1979 as reported on the Rule 17a–5 reports for that year.

[29] The SIA recommended that the Commission define as small those broker-dealers having total capital of less than $5 million, thereby defining as small all but approximately 140 SIA members or 200 registered broker-dealers. While that standard might in a few instances be appropriate, the Commission believes that the definition adopted today will generally provide a better basis for tiering regulations. The "tiering" of regulations will, of course, be considered in the context of each rulemaking proceeding subject to the RFA, at which time the Commission may consider whether alternative definitions of a "small' broker-dealer are appropriate.

[30] The Small Business Administration suggested that the Commission periodically evaluate the definitions being adopted today.

[31] The SBA's small business size standards, contained in 13 CFR Part 121 (1980), do not include a standard which is appropriate or practicable to apply in the context of rulemaking under the Holding Company Act. Only one subsection thereof, 13 CFR 121.33–10(d)(11), deals expressly with electric or gas utility companies. That subsection classifies as "small," for purposes of SBA loans, a concern primarily engaged in the generation, transmission and/or distribution of electric energy for sale whose total output (including that of its affiliates) for the preceding fiscal year did not exceed 4 million megawatt hours. The SBA has proposed for comment amendments to its size standard regulations. Small Business Size Standards; Revision to Method of Establishing Size Standards and Definitions of Small Business, 45 FR 15442 (March 10, 1980). The proposed standards are all stated in terms of number of employees. *Id.* at 15443. Although electric and gas services are listed in the heading of Major Group 49 therein, there are no proposed size standards for electric or gas utilities. *Id.* at 15449.

[32] Sections 2(a)(7)(A) and 2(a)(5).

definitions of "electric utility company" and "gas utility company," the basic regulated unit for purposes of the Holding Company Act is the "holding company system," which is defined to include the holding company and each subsidiary company which is a member of that system,[33] whether it is a utility subsidiary or a non-utility subsidiary.

The Commission further believes that it is appropriate to assess the burdens of regulation under the Holding Company Act for purposes of the RFA by reference to the size of the holding company system as a whole, rather than by reference to its member companies, for three reasons. First, the holding company system is a single control group. Under the standards of the Holding Company Act, subsidiaries of the registered holding companies are wholly-owned or are specialized joint ventures with co-owners of comparable size and character. They would not, within the meaning of Section 3 of the Small Business Act, be considered "independently owned." Second, while most holding companies own more than one public utility subsidiary, the Holding Company Act requires that all such subsidiaries constitute but a single integrated public utility system.[34] And third, the regulatory provisions of the Holding Company Act generally apply to the holding company and to each of its subsidiaries; that is, to the entire holding company system. Accordingly, the rule establishes a definition of the terms "small business" and "small organization" for purposes of the RFA with respect to "holding company systems."

Rule 110, 17 CFR 250.110, defines the terms "small business" or "small organization" as a holding company system whose consolidated revenues from electric or gas utility operations did not exceed $1,000,000 in its last fiscal year. The Commission believes that it is appropriate to measure the size of a holding company system by reference to its consolidated gross utility revenues, a standard familiar to the industry and for which data are currently available. In establishing this size standard, the Commission has considered, among other things, the number of firms in the industry and the purposes of the Holding Company Act that form the predicate for regulation by the Commission. Holding companies, as such, do not constitute a relevant industry group. The relevant industry is the electric and gas utility industry. Upon the basis of available data, as of 1979, the latest available year, the Commission estimates that there are approximately 130 investor-owned electric utility systems and 500 investor-owned gas utility systems, of which it is believed approximately 14 and 180, respectively, have utility revenues below $1,000,000.[35]

There are currently nine registered electric utility holding company systems and three registered gas utility holding company systems that include 53 wholly or partly owned electric utility subsidiaries and 19 gas distribution and transmission subsidiaries. Under the size standard adopted, none of the currently registered holding company systems is a small entity.

There were no substantive coments received regarding the proposed definitions as initially published.

Investment Companies and Investment Advisers

In view of the comments recieved and the reasons given below, the Commission has revised the definitions of "small business" and "small organization" that were proposed with respect to investment companies and investment advisers and is adopting the revised definitions as Rule 0–10, 17 CFR 270.0–10, and Rule 0–7, 17 CFR 275.0–7.

Rule 0–10, 17 CFR 270.0–10, classifies as small any investment company with net assets of $50 million or less as of the end of its most recent fiscal year. The Commission received two letters commenting specifically on this size standard. One urged that $50 million was an appropriate cut-off point.[36] The SBA, being of the impression that only 14 percent, rather than 62.4 percent, of the investment companies in the Commission's statistical sample have assets of $50 million or less, suggested raising the figure to $100 million so that a greater proportion of investment companies might be classified as small.[37] Both commentators suggested that any investment company that primarily invests in small businesses be deemed small even though its net assets exceed the cut-off point that may be adopted.

The Commission believes that had the SBA realized that 62.4 percent of the investment companies would be deemed small under the Commission's size standard it might not have suggested raising the cut-off point to $100 million. Moreover, the Commission continues to believe that, since investment companies with high expense ratios would generally be more adversely affected by regulatory costs than those with lower expense ratios, they are the appropriate subject of relief for purposes of the RFA. Since its statistical study shows that investment companies with net assets from $6 million to $47.2 million had expense ratios exceeding the mean (average) adjusted expense ratio plus one standard deviation (and all the companies with net assets of over $47.2 million had expense ratios falling below this boundary), the Commission is adopting $50 million as the cut-off point.

Having thus identified the small entities in the investment company industry, the Commission is not persuaded that it must, in addition, provide special treatment for investment companies which, although not small, invest in small businesses on the assumption that the benefit of reduced regulatory cost on such investment companies would filter down to its portfolio companies. These portfolio companies are a step removed from the purpose of the Commission's size standard which is to distinguish those investment companies that, due to their size, bear a disproportionate burden of the costs of complying with regulations.

Paragraph (a)(1) of Rule 0–7, 17 CFR 275.0–7(a)(1), classifies as small any investment adviser that manages assets with a total value of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year and does not render other advisory services. The Commission received three letters commenting specifically on this size standard. One recommended $50 million as a realistic cut-off point, if indexed for inflation by tying it to the GNP deflator. The Commission believes that this is not necessary because $50 million is only an estimate and it can be changed in the future if necessary.

The SBA suggested that the Commission raise the cut-off point to $100 million to increase the number of investment advisers that will be eligible for regulatory relief. Another commentator also suggested raising the cut-off point to $100 million, but would add, as alternatives, "maintains 25 or less accounts or employs 5 or less persons."[38] The Commission has no information about the specific number of employees of investment advisers or how many investment advisers employ 5

[33] Section 2(a)(9).

[34] Section 11(b)(1).

[35] Source: "Electric Utility Statistics," Public Power, Jan–Feb. 1981, p. D–3, Federal Energy Regulatory Commission Form 1's for Class C and D electric utility companies (1979); Brown's Directory of American and International Gas Companies (93d ed. 1979); Statistics supplied by the American Gas Association.

[36] National Association of Small Business Investment Companies, letter dated May 19, 1981 ("NASBIC").

[37] Small Business Administration letter dated May 27, 1981 ("SBA").

[38] Myerson, Den Berg and Co., letter dated May 8, 1981.

or less persons. Aside from the difficulty of defining "employee" (whether to include half-time, full-time, temporary, permanent, partners, etc.), an attempt to solicit this information from investment advisers would impose unnecessary burdens on them to provide information, contrary to the spirit of the Paperwork Reduction Act.[39] Although it is possible to gather from Form ADV the number of accounts of investment advisers,[40] the number of accounts will not necessarily identify the small investment advisers that only manage assets because of the varying size of the accounts. Thus, an investment adviser with just one account—a $1 billion money market fund—would not be small compared to an investment adviser with fifty $1 million accounts. Therefore, the Commission is not adopting these alternatives size standards.

As to raising the cut-off point for investment advisers that only manage assets, the Commission notes that it proposed $50 million as the cut-off point because of the similarities, with respect to the management of assets, between the investment company and the investment advisory businesses. Therefore, having adopted $50 million as the cut-off point for investment companies, the Commission also adopts it for investment advisers that only manage assets. The Commission is not persuaded that the cut-off point should be raised simply to increase the number of investment advisers that will be eligible for relief. To adopt such an approach would be to depart from the purpose of adopting a size standard, which is to identify the small entities among a particular type of entities so that the Commission may determine whether a particular rulemaking has "a significant economic impact on a substantial number of small entities."[41]

Paragraph (a)(2) of Rule 0–7, 17 CFR 275.0–7(a)(2), classifies as small any investment adviser that solely, or in addition to managing assets of $50 million or less, renders other advisory services and the assets related to its advisory business do not exceed in value $50,000 as of the end of its most recent fiscal year. As originally proposed, the size standard for this type of adviser was that its business-related assets, as shown in the balance sheet most recently filed with the Commission, did not exceed in value 50 percent of the average business-related assets for this type of adviser. As stated in the proposal, the Commission expected to determine such average assets from the balance sheets in its files and to express the size standard in dollars in the final rule. This size standard encountered several objections. One commentator suggested that "$50 million or less" be changed to "$100 million or less, 25 or less accounts or employs 5 or less persons." For the reasons stated in the preceding two paragraphs, the Commission has not adopted this suggestion.

Another commentator suggested that the Commission use the 500-employee size standard proposed by the SBA for miscellaneous publishers.[42] The Commission does not adopt this suggestion because some investment advisers in this category are not publishers at all[43] and, to the extent that some of them issue publications on a subscription basis, the standard would probably embrace all of them for it is unlikely that any of them has more than 500 employees. The standard, therefore, would not identify those that are small among this type of advisers. For this reason, the standard would not serve the purposes of the RFA. This reasoning also supports the Commission's not following suggestions that there should be a separate standard classifying as small all investment advisers who solely or mainly publish newsletters.[44]

Finally, one commentator pointed out potential problems with using the "average" business-related assets as a point of reference for the size standard in the absence of data showing the distribution of this type of investment advisers.[45] This comment is well-taken. The size standard in paragraph (a)(2) of Rule 0–7, 17 CFR 275.0–7(a)(2), uses the median business-related assets, not the average business-related assets, as the point of reference. In a random sample of 100 investment advisers out of about 2,300 investment advisers that solely, or in addition to managing assets of $50 million or less, render other advisory services[46] the Commission found that the median value of their business-related assets was approximately $50,000. The information about the business-related assets of those advisers in the sample was taken from such advisers' latest balance sheets in the Commission's files.[47] Using the median assets of investment advisers in the sample ($50,000), instead of 50 percent of such median assets ($25,000), as the cut-off point would classify as small 55 percent of investment advisers in the sample—a segment which compares with 62.4 percent of investment companies in the Commission's earlier sample that are classified as small under the size standard for investment companies.

Text of Amendments

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 230.157 to read as follows:

§ 230.157 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 et seq.), and unless otherwise

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[39] Under the Paperwork Reduction Act of 1980, effective on April 1, 1981, the Commission must obtain approval from the Office of Management and Budget ("OMB") for every questionnaire calling for answers to identical questions posed to ten or more persons.

[40] Items 15(ii)(a) and 16(ii)(a), Part I, Form ADV, require an investment adviser to state the total number of accounts under discretionary management and of accounts under management or supervision, respectively, as of the end of the adviser's last fiscal year.

[41] Increasing the number of entities within the class deemed small might even be counterproductive in applying this statutory standard in that the bigger the class, the greater the number of entities within it that must be adversely affected by a particular rulemaking before it can be said that the rulemaking affects a "substantial" number of the class.

[42] At the time of the proposal the Commission rejected a size standard based on the number of subscribers because it had no information about the number of these subscribers. The Commission still does not have this information, but it is proposing to amend item 17 of Part I of Form ADV to require an applicant that issues periodic publications relating to securities on a subscription basis to state the number of subscribers thereto as of the end of the applicant's last fiscal year. If this proposed amendment is adopted, the Commission, with available information about the number of subscribers, might reconsider amending the size standard applicable to publishers of market letters.

[43] This category includes not only those advisers that issue periodic publications relating to securities on a subscription basis, but also those that furnish investment advice through consultations (without furnishing investment supervisory services or otherwise managing investment advisory accounts), prepare or issue special reports or analyses relating to securities, or prepare or issue any charts, graphs, formulas, or other devices which clients may use to evaluate securities.

[44] SBA; Newsletter Association of America, letter dated May 13, 1981.

[45] NAIC Investor Advisory Service, letter dated May 14, 1981.

[46] As used in this proposed definition, "other advisory services" means services referred to in item 1(c), (d), (e), (f), and (h), Part II, of Form ADV, 17 CFR 279.0–1.

[47] The Commission is proposing to delete the unaudited balance sheet requirement in item 17, Part I, Form ADV. This deletion, if adopted, should not affect the Commission's application of the size standard in view of the data already available or the monitoring of its continued propriety in view of the balance sheet data that the Commission obtains in its routine adviser inspections.

defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" shall—

(a) When used with reference to an issuer, other than an investment company, for purposes of the Securities Act of 1933, mean an issuer whose total assets on the last day of its most recent fiscal year were $3,000,000 or less and that is engaged or proposing to engage in small business financing. An issuer is considered to be engaged or proposing to engage in small business financing under this section if it is conducting or proposes to conduct an offering of securities which does not exceed the dollar limitation prescribed by section 3(b) of the Securities Act.

(b) When used with reference to an investment company that is an issuer for purposes of the Securities Act of 1933, mean an investment company with net assets of $50 million or less as of the end of its most recent fiscal year.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 240.0–10 to read as follows:

§ 240.0–10 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 et seq.), and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" shall—

(a) When used with reference to an "issuer" or a "person," other than an investment company, under sections 12, 13, 14, 15(d) or 16(b) of the Securities Exchange Act of 1934, mean an "issuer" or "person" that, on the last day of its most recent fiscal year, had total assets of $3,000,000 or less;

(b) When used with reference to an "issuer" or "person" that is an investment company, mean an investment company with net assets of $50 million or less as of the end of its most recent fiscal year;

(c) When used with reference to a broker or dealer, mean a broker or dealer that:

(1) Had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to § 240.17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter); and

(2) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

(d) When used with reference to a clearing agency, mean a clearing agency that:

(1) Compared, cleared and settled less than $500 million in securities transactions during the preceding fiscal year (or in the time that it has been in business, if shorter);

(2) Had less than $200 million of funds and securities in its custody or control at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

(e) When used with reference to an exchange, mean any exchange that has been exempted from the reporting requirements of § 240.11Aa3–1;

(f) When used with reference to a municipal securities dealer that is a bank (including any separately identifiable department or division of a bank), mean any such municipal securities dealer that:

(1) Had, or is a department of a bank that had, total assets of less than $10 million at all times during the preceding fiscal year (or in the time that it has been in business, if shorter);

(2) Had an average monthly volume of municipal securities transactions in the preceding fiscal year (or in the time it has been registered, if shorter) of less than $100,000; and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

(g) When used with reference to a securities information processor, mean a securities information processor that:

(1) Had gross revenues of less than $10 million during the preceding fiscal year (or in the time it has been in business, if shorter);

(2) Serviced less than 100 interrogation devices or moving tickers as those terms are defined in § 240.11Aa–3–1 at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section; and

(h) When used with reference to a transfer agent, mean a transfer agent that:

(1) Received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter);

(2) Maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization under this section.

(i) For purposes of paragraphs (c) through (h) of this section, a person is affiliated with another person if that person controls, is controlled by, or is under common control with such other person; a person shall be deemed to control another person if that person has the right to vote 25% or more of the voting securities of such other person or is entitled to receive 25% or more of the net profits of such other person or is otherwise able to direct or cause the direction of the management or policies of such other person.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Part 250 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 250.110 to read as follows:

§ 250.110 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 et seq.), and unless otherwise defined for purposes of a particular rulemaking proceeding, the terms "small business" and "small organization," for purposes of the Public Utility Holding Company Act of 1935, shall mean a holding company system whose gross consolidated revenues from sales of electric energy or of natural or manufactured gas distributed at retail for its previous fiscal year did not exceed $1,000,000. There may be excluded from such gross revenues:

(a) Sales or electric energy or natural or manufactured gas to tenants or employees of any operating subsidiary company of such holding company for their own use and not for resale; and

(b) Sales of gas to industrial consumers or in enclosed portable containers.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

Part 260 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 260.0–7 to read as follows:

§ 260.0–7 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 et seq.), and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization," for purposes of the Trust Indenture Act of 1939 shall mean an issuer whose total assets on the last day of its most recent fiscal year were $3 million or less that is engaged or proposing to engage in small business financing. An issuer is considered to be engaged or proposing to be engaged in small business financing under this section if it is conducting or proposing to conduct an offering of securities which does not exceed the dollar limitation prescribed by § 260.4a–2.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 270.0–10 to read as follows:

§ 270.0–10 Small entities for purposes of the Regulatory Flexibility Act.

For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 et seq.), and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization," for purposes of the Investment Company Act of 1940 shall mean an investment company with net assets of $50 million or less as of the end of its most recent fiscal year.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Part 275 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 275.0–7 to read as follows:

§ 275.0–7 Small entities for purposes of the Regulatory Flexibility Act.

(a) For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 et seq.), and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" for purposes of the Investment Advisers Act of 1940 shall mean an investment adviser that:

(1) Manages assets with a total value of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year and does not render other advisory services; or

(2) Solely, or in addition to managing assets of $50 million or less, renders other advisory services, and the assets related to its advisory business do not exceed in value $50,000 as of the end of its most recent fiscal year.

(b) As used in this rule, the term "other advisory services" means the services referred to in Form ADV, Part II, items 1(c) through (f) and (h). (17 CFR 279.0–1).

Statutory Authority

The Commission hereby adopts Rules 157, 0–10, 110, 9–7, 0–9 and 0–7, 17 CFR 230.157, 240.0–10, 250.110, 260.0–7, 270.0–10 and 275.0–7 respectively, pursuant to chapter 6 of title 5 of the United States Code (and particularly section 601 thereof (5 U.S.C. 601)) and pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq. and particularly section 19 thereof (15 U.S.C. 77s)), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq. and particularly section 23 thereof (15 U.S.C. 78w)), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq. and particularly section 20 thereof (15 U.S.C. 79t)), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq. and particularly section 319 thereof (15 U.S.C. 77sss)), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq. and particularly section 38 thereof (15 U.S.C. 80a–37)), and the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq. and particularly section 211 thereof (15 U.S.C. 80b–11)).

By the Commission.

George A. Fitzsimmons,

Secretary.

January 28, 1982.

[FR Doc. 82–2905 Filed 2–3–82; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 250

[Release No. 35–22369]

Technical Amendments to Rules 70, 72 and 100

AGENCY: Securities and Exchange Commission.

ACTION: Technical amendments to rules.

SUMMARY: The Commission announces the adoption of technical amendments to Rules 70, 72 and 100 promulgated under the Public Utility Holding Company Act of 1935 ("1935 Act"). These amendments identify the correct forms for filing reports pursuant to section 17(a) of the 1935 Act and eliminate certain duplicate text and an obsolete reference.

DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: James E. Lurie, Special Counsel, Division of Corporate Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202) 523–5683.

SUPPLEMENTARY INFORMATION: Sections 17(a) and (b) of the 1935 Act concern the filing of statements of beneficial ownership and the liability for short-swing profits by certain insiders involving any security of a registered holding company or subsidiary thereof. These provisions parallel the reporting and liability provisions of sections 16(a) and (b) of the Securities Exchange Act of 1934 ("Exchange Act"). On January 8, 1981, the Commission amended Rule 72(b) under the 1935 Act so that it applied the rules, including exemptive rules, promulgated under sections 16(a) and (b) of the Exchange Act to transactions involving any security of a registered holding company or subsidiary thereof under sections 17(a) and (b) of the 1935 Act.[1] Duplication of filing requirements had previously been avoided by specifying Forms 3 and 4 prescribed under section 16(a) of the Exchange Act as filings also under the 1935 Act.[2] On March 20, 1981, these forms were deleted from the list of 1935 Act forms (previously at 17 CFR 259.271(a) and (b)), since the amendment to rule 72(b) made the dual designation superfluous.[3] The fact that other rules still referred to them was overlooked, a technical oversight corrected here.

The technical amendment revises Rule 72(a) to make clear that only the Exchange Act filing is contemplated. Parallel revisions to reflect this change are made to footnote 5, a note to the subheading preceding rule 70, and to the text of rule 70(b)(4), each of which refers to the filing requirements under section 17(a) of the 1935 Act.

The Commission is also deleting as obsolete footnote 6 to the 1935 Act rules. The footnote, a note accompanying rule 70(c)(5), refers to temporary provisions concerning exemptions in rule 201(b).

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[1] HCAR No. 21863 (December 31, 1980), 46 FR 2036 (January 8, 1981).

[2] HCAR No. 14363 (March 9, 1961), 26 FR 2465 (March 23, 1961).

[3] HCAR No. 21900 (March 12, 1981), 46 FR 17756 (March 20, 1981).

which latter rule was rescinded in 1945.[4] Present footnote 7, found as a note accompanying a portion of Rule 100, is accordingly renumbered as footnote 6.

Finally, the Commission is correcting rule 70(c)(4) by deleting subparagraph (iii) thereof, and renumbering subparagraphs (iv) and (v) as subparagraphs (iii) and (iv). The deleted subparagraph is merely a misplaced duplication of the final sentence of rule 70(c)(4). The amendment to Rule 70 adopted and published by the Commission [5] did not include this sentence as subparagraph (iii), and numbered as subparagraphs (iii) and (iv) the subparagraphs which appear in the Code of Federal Regulations as subparagraphs (iv) and (v). The source of the error is unknown. Statutory Basis and Text of Amendments.

The Securities and Exchange Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations, pursuant to its authority under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a *et seq.*) and particularly sections 17(a) and 20(a) thereof (15 U.S.C. 79q(a) and 79t(a)), by amending §§ 250.70, 250.72 and 250.100 to read as set forth below. Since these amendments are technical and administrative in nature, the Commission finds that notice and comment procedures are unnecessary and therefore the amendments may become effective immediately.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The footnote reference in the subheading "Officers, Directors and Representatives of Registered Holding Companies and Their Subsidiaries" is revised to read as follows:

[5] The statements which section 17(a) requires to be filed by officers and directors of registered holding company systems are filed on the forms prescribed under section 16(a) of the Securities Exchange Act of 1934.

2. Section 250.70 is amended by removing footnote reference [6] from paragraph (a)(5), revising paragraph (b)(4), removing paragraph (c)(4)(iii), and redesignating paragraphs (c)(4)(iv) and (v) as (iii) and (iv) as follows:

§ 250.70 Exemptions from section 17(c) of the act.

* * * * *

(b) * * *

(4) *Agreement by exempt persons and their firms.* No exemption shall be effective as to any officer or director having any financial connection with any investment banker, unless such officer or director and such investment banker shall enter into an agreement with such company, and file a copy thereof with the Commission, undertaking to comply with the conditions specified in paragraph (b)(3) of this section and undertaking that such investment banker will file reports as to its holdings of, and transactions in, securities in such holding company system (on the forms prescribed under section 16(a) of the Securities Exchange Act of 1934).

(c) * * *

(4) * * *

(iii) [Removed]

3. Section 250.72 is amended by revising paragraph (a) to read as follows:

§ 250.72 Filing of statements pursuant to section 17(a).

(a) The filing of initial statements of beneficial ownership of securities and statements of changes in such beneficial ownership, as prescribed under section 16(a) of the Securities Exchange Act of 1934, shall satisfy the corresponding requirements of section 17(a) of the Public Utility Holding Company Act of 1935.

* * * * *

§ 250.100 [Amended]

4. Section 250.100 is amended by renumbering footnote 7 therein as footnote 6.

By the Commission.

George A. Fitzsimmons,

Secretary.

January 28, 1982.

[FR Doc. 82-2904 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[4] HCAR No. 6318 (December 27, 1945), 10 FR 15412 (December 29, 1945).

[5] *See* HCAR No. 19392 (February 10, 1978), 41 FR 8757 (March 1, 1978).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Louisiana—2 Addition); Order No. 207]

High-Cost Gas Produced from Tight Formations; Louisiana; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Louisiana Office of Conservation that an additional area of the Haynesville Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: January 28, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include an additional area in the Haynesville Formation in the northwestern part of Louisiana as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued October 21, 1981 (46 FR 52389, October 27, 1981)[1] based on a recommendation by the State of Louisiana Office of Conservation (Louisiana) in accordance with § 271.703(c) that the said area be designated as a tight formation.

Evidence submitted by Louisiana supports the assertion that the additional area of the Haynesville Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Louisiana recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*); Natural Gas Policy Act of 1978, (15 U.S.C. 3101-3342); Administrative Procedure Act, (5 U.S.C. 553.))

[1] Comments were invited and none were received. No party requested a public hearing and no hearing was held.

PART 271—CEILING PRICES

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, January 29, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 271.703(d) is revised in subparagraph (22) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(22) *Haynesville Formation in Louisiana. RM79-76 (Louisiana—2)*—(i) *Delineation of formation.* The Haynesville Formation is found in the northern portion of Bossier Parish, Louisiana, on the Arkansas border and consists of the following: Township 23 North, Range 12 West, Sections 5 through 8, and 17 through 19; Township 23 North, Range 13 West, Sections 1 through 24; Township 23 North, Range 14 West, Sections 1, 2, 6 through 24, and 27 through 34 and Township 23 North, Range 15 West, Sections 1 through 3, 10 through 15, 22 through 27 and 34 through 36.

(ii) *Depth.* The top of the Haynesville Formation is located at a measured depth of 10,360 feet, with the base located at 10,845 feet on the induction electrical log of the Crystal Oil Company Hall No. 1 Well. In the Arkana Field, the Haynesville Formation consists of three members: the upper member varies in thickness from 120 to 220 feet thick, the middle member, the Haynesville Sand, ranges between 120 and 220 feet thick, and the lowest member, the Buckner, is between 200 and 400 feet thick.

[FR Doc. 82-2980 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 82-28]

Vessels in Foreign and Domestic Trades; Illegal Discharge of Oil and the Pollution of Coastal and Navigable Waters

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This notice amends the Customs Regulations relating to the illegal discharge of oil and the pollution of coastal and navigable waters by the deposit of refuse matter or hazardous substances. The amendments conform the Customs Regulations to changes made by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500), which were enacted to restore and maintain the chemical, physical, and biological integrity of the nation's waters.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 91, title 46, United States Code (46 U.S.C. 91), before any vessel may depart the United States for a foreign port, clearance must be obtained from customs at the port of departure. To assist in the enforcement of the Federal Water Pollution Control Act, as amended, the Water Quality Improvement Act of 1970 (33 U.S.C. 1161, 1162), provides that the Secretary of the Treasury, at the request of the Secretary of the Department in which the Coast Guard is operating (since 1967, the Department of Transportation), shall withhold clearance of any vessel the owner or operator of which is subject to a penalty for violation of the Act.

Section 4.66a, Customs Regulations (19 CFR 4.66a), provides that if a district director of Customs receives a request from an officer of the Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for *knowingly* discharging oil in violation of the Water Quality Improvement Act of 1970, clearance shall not be granted until the request is withdrawn or a bond or other surety satisfactory to the Coast Guard has been filed.

Section 4.66b, Customs Regulations (19 CFR 4.66b), provides procedures for Customs officers to follow in reporting to the Coast Guard discharges of refuse matter, hazardous substances, or oil in U.S. waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), and the Water Quality Improvement Act of 1970 (33 U.S.C. 1161, 1162).

The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321 (1976)), extended the provision for withholding clearance to include discharges of hazardous substances as well as oil, *whether discharged knowingly or not,* and deleted the provision for granting clearance upon withdrawal of the Coast Guard's request to withhold clearance. In addition, the authority cited for sections 4.66a and 4.66b was changed to section 2, 86 Stat. 862, 864, 865, as amended; 33 U.S.C. 1321.

In order to conform its regulations to the amended law, Customs published a notice of proposed rulemaking in the **Federal Register** on April 29, 1981 (46 FR 23952), setting forth the necessary changes and the reasons therefor. Interested parties were given until June 29, 1981, to submit comments on the proposal. No comments were received in response to the notice. Accordingly, Customs has determined to adopt the changes as proposed.

Executive Order 12291

Because this will not result in a "major rule" as defined in section 1(b) of Executive Order 12291, the regulatory impact analysis and review prescribed by section 3 of the Executive Order is not required.

Inapplicability of Regulatory Flexibility Act

Because the contemplated effects of the Federal Water Pollution Control Act Amendments of 1972 are presumed to have been considered by the Congress, and are considered to flow from that legal authority, not from the regulation, the regulation is not expected to; have a significant secondary or incidental effect on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from small entities.

Accordingly, pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has determined that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

The proposed amendments to the regulations set forth in the notice of proposed rulemaking published in the

Federal Register on April 29, 1981 (46 FR 23952) are adopted as set forth below.

Approved: January 26, 1982.

William T. Archey,

Acting Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Sections 4.66a and 4.66b(a) and the authority cited after § 4.66b are revised to read as follows:

§ 4.66a Illegal discharge of oil and hazardous substances.

If a district director receives a request from an officer of the U.S. Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for discharging oil or a hazardous substance into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in quantities determined to be harmful by appropriate authorities, such clearance shall not be granted until the district director is informed that a bond or other surety satisfactory to the Coast Guard has been filed.

(Sec. 2, 86 Stat. 862, *et seq.*, as amended; R.S. 4197, as amended (33 U.S.C. 1321, 46 U.S.C. 91))

§ 4.66b Pollution of coastal and navigable waters.

(a) If any Customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters or any tributary of any navigable waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), or oil or a hazardous substance is being or has been discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1321), he shall promptly furnish to the district director a full report of the incident, together with the names of witnesses and, when practicable, a sample of the material discharged from the vessel in question.

(30 Stat. 1152; sec. 2, 86 Stat. 862, *et seq.*, as amended (33 U.S.C. 407,1321))

[FR Doc. 82-2896 Filed 2-3-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. R-82-964]

Updating of List of Attorneys-in-Fact

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This amendment updates the current list of attorneys-in-fact by amending paragraph (c) of 24 CFR 300.11. These attorneys-in-fact are authorized to act for the Association by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs, all as more fully described in paragraph (a) of 24 CFR 300.11.

EFFECTIVE DATE: March 18, 1982.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. William J. Linane, Office of General Counsel, on (202) 755-7186

SUPPLEMENTARY INFORMATION: Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association.

PART 300—GENERAL

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by adding the following names from the current list of attorneys-in-fact:

* * * * *

(c) * * *

Name and Region

W. James Bradley, Washington, D.C.
John M. Coan, Washington, D.C.

§ 300.11 [Amended]

2. Paragraph (c) of § 300.11 is amended by removing the following names from the current list of attorneys-in-fact:

Name and Region

Richard M. Jaegle, Washington, D.C.
William Kane Halapin, Washington, D.C.

(Sec. 309(d), National Housing Act, 12 U.S.C. 1723a(d), and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., January 8, 1982.

R. Frederick Taylor,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 82-2902 Filed 2-3-82; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 80-605]

Use of Certain kHz Offset Assignments in a Certain MHz Band in the Private Land Mobile Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission adopted rules permitting radio stations in any of the frequency-coordinated Private Land Mobile Radio Services to use kHz offset frequencies after such uses were properly coordinated. This document makes corrections to inappropriate designators following certain frequencies in the list in the appendix to the Report and Order.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Arthur C. King, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Released: January 20, 1982.

In the matter of amendment of Subpart D of Part 90 of the Commission's rules and regulations to permit the use of 12.5 kHz offset assignments in the 450-470 MHz band in the Private Land Mobile Radio Services, PR Docket No. 80-605.

The Report and Order in this proceeding (46 FR 45953) included an appendix containing a list of frequencies 12.5 kHz removed from primary frequencies in the Land Mobile Radio Services. Opposite each frequency in the list were designators for the services in which the frequency is available. Six of those frequencies bore designators related to Industrial Radio Services inappropriate for offset frequencies adjacent to frequencies assigned in the Public Safety Radio Services. This Errata corrects the frequency list by deleting the designators on those six frequencies relating to the Industrial Radio Services.

§ 90.267 [Corrected]

In § 90.267(b), correct the following entries in the list of frequency available to read as follows:

* * * * *

(b) Frequencies available for assignment under this section are as follows:

Offset Channels Available in Services Indicated:

* * * * *

453.0125	PL, PS
453.9875	PL
458.0125	PS
458.9875	PL
460.6375	PF
465.6375	PF
467.7375	Not Available, Adjacent to General Mobile
467.7625	IB

* * * * *

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 82-2952 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Urban Mass Transportation Administration

49 CFR Part 670

[UMTA Docket No. 82-B]

Transfer of Conrail Commuter Service Operations

AGENCY: Federal Railroad Administration (FRA) and Urban Mass Transportation Administration (UMTA), Transportation (DOT).

ACTION: Emergency interim final rule.

SUMMARY: The purpose of this document is to prescribe standards for the obligation and equitable distribution of funds authorized to ensure that commuter rail services operated by the Consolidated Rail Corporation under contract to commuter authorities are transferred, on or before January 1, 1983, either to those commuter authorities for operation directly or to the Amtrak Commuter Services Corporation for operation on their behalf. This document establishes applicant eligibility criteria, sets forth a formula for the allocation of funds appropriated for the transfer, identifies eligible uses for the allocated funds, and outlines application procedures. This emergency interim final rule is effective retroactively so as to provide prompt assistance to Amtrak Commuter Services Corporation and the affected commuter authorities with activities attending the transfer of commuter service operations.

DATES: This emergency interim final rule is effective on October 1, 1981. Comments must be received on or before March 22, 1982.

ADDRESSES: Comments should identify the docket number and should be submitted to: Office of the Chief Counsel, Urban Mass Transportation Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by UMTA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 9228 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: S. Mark Lindsey, Office of the Chief Counsel of the Federal Railroad Administration, (202)-426-7710, or Anthony Anderson, Office of the Chief Counsel of the Urban Mass Transportation Administration, (202)-426-4011, both located at 400 Seventh Street, SW., Washington, D.C. 20590. FRA and UMTA office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This document prescribes standards for the obligation and equitable distribution of funds authorized under section 1139(b) of the Northeast Rail Service Act of 1981, Subtitle E of Title XI of Pub. L. 97-35. Because the rule is limited in scope, the FRA and UMTA have concluded that the rule will not constitute a major rule under the terms of Executive Order 12291 or a significant rule under DOT's regulatory policies and procedures. The agencies will review this determination in light of any comments received in response to this emergency interim final rule prior to issuance of a final rule.

The final rule will only have a direct economic impact on five commuter authorities and upon the Amtrak Commuter Services Corporation. The rule does not place any new requirements or burdens on the public and to some extent it is deregulatory in nature. The rule will not have a significant economic impact on any small entity. Based on these facts, it is certified that the rule will not have a significant impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1164, September 19, 1980).

This rule is effective retroactively because commuter authorities, mindful of the 1983 transfer date, have already commenced planning activities which must necessarily be completed in anticipation of the transfer of commuter rail services. FRA and UMTA have afforded the rule retroactive effect so as not to penalize those commuter authorities with the foresight to have begun planning prior to the publication of this rule. The Northeast Rail Service Act requires each affected commuter authority to determine by April 1, 1981, whether it will directly provide commuter service presently provided by Conrail or whether it will contract with ACS. This rule is issued as an emergency rule to provide the commuter authorities with prompt assistance and to enable them to make that determination withing the statutory deadline. The emergency issuance also permits ACS to organize and prepare for the transfer. FRA and UMTA have issued this regulation as an interim final rule to provide interested parties an opportunity to comment upon the regulation. The agencies will consider all comments received during the 45 day comment period and amend the rule, as necessary and appropriate, on the basis of the comments received.

Background

On August 13, 1981, Congress enacted the Northeast Rail Service Act of 1981, Subtitle E of Title XI of Pub. L. 97-35, which provides for the transfer of commuter rail service operations from Conrail either to the Amtrak Commuter Services Corporation or directly to the commuter authorities for which Conrail presently operates commuter rail services. Section 1139(b) of the Northeast Rail Services Act authorizes $50,000,000 to be appropriated to the Secretary of Transportation to facilitate the transfer of commuter rail services from Conrail to other operators. Congress appropriated $45,000,000 for this purpose. The provision also requires that the Secretary issue regulations to govern the obligation and distribution of the transition assistance. This emergency interim final rule is issued in compliance with and to forward the purposes of section 1139(b).

Conrail currently contracts with five commuter authorities to provide commuter rail services. The Northeast Rail Service Act requires each of these commuter authorities to determine by April 1, 1982, whether it will provide commuter service directly or whether it will contract with the Amtrak Commuter Services Corporation (ACS). ACS is a wholly-owned, but financially separate, subsidiary of the National Railroad Passenger Corporation (AMTRAK), organized and incorporated in compliance with the District of Columbia Business Corporation Act on November 20, 1981, for the purpose of providing commuter rail passenger service on behalf of these commuter authorities. These commuter authorities (the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the New Jersey Transit Corporation, the Southeastern Pennsylvania Transportation Authority, and the Maryland Department of Transportation), are in the process of collecting information to render that determination and make other decisions necessary to the transfer of commuter services.

This emergency interim final rule is effective retroactively to facilitate a smooth and prompt transfer of commuter rail services from Conrail to either the commuter authorities or to Amtrak Commuter.

A. *The Allocation Formula.* Although several approaches were considered, an allocation method relying on the use of a relatively simple formula was chosen. One advantage of using a formula is the ease with which DOT may administer an allocation program centered on a simple formula, and the opportunity accorded the applicants to plan for the transition process knowing in advance the level of limited Federal funding available to them.

In fashioning a formula that would be attuned to the applicant's needs in meeting the unique costs associated with the transfer process, the Secretary was cognizant of the diversity which characterizes the commuter services provided by the authorities and that, inevitably, each would benefit differently under any formula chosen. The Secretary and the affected authorities decided that a formula based on car mile and revenue data for the year 1980 would be the most effective and equitable of several alternatives. Comments made by the commuter authorities with respect to the formula will appear in Docket 82–B. The derivation of each commuter authority's allocation is presented in Appendix A to the rule.

B. *Pre-Transfer Allocations.* The Secretary has determined that the expeditious transfer of commuter services can most efficiently be accomplished if funds for planning activities and start-up costs are made promptly available to both ACS and the several commuter authorities. The authorities will receive $3,500,000 to be divided among them according to the allocation formula, and ACS will receive $4,000,000. The amount allotted to ACS, except for certain unallocable expenses, is to be expended on the commuter authorities in proportions determined by the formula.

Since ACS is intended by the Act to be a service corporation whose form will be shaped by the needs of the authorities, an authority may exercise its option to operate commuter services directly and claim a portion of ACS's undisbursed and unobligated pre-transfer allocation. The amount to which each authority will be entitled will, once again, be determined by the allocation formula.

C. *Transfer Allocations.* Upon transfer, the commuter service providers (either ACS or the commuter authorities), will require funds for expenses associated with the purchase of inventories and other transfer-related costs. In anticipation of this need, the emergency interim final rule permits ACS and the commuter authorities to receive, in fiscal year 1983, sixty-five percent of the funds appropriated under section 1139(b) and not allocated prior to the transfer of service. To provide ACS and the commuter authorities with a source of working capital, the rule permits ACS and the commuter authorities to receive twenty-five percent of the transfer allocation in fiscal year 1984 and the remaining funds in 1985.

D. *Eligible Expenses.* Section 1139(b) authorizes $50,000,000 for the purpose of offsetting the transfer and planning expenses of the commuter authorities, as well as the specialized one-time start-up costs of both the authorities and ACS. Although the amount authorized is small in comparison to the annual operating subsidies provided by local governments, it should be emphasized that this limited Federal assistance is not intended to supplant local funding or to be continuous in nature.

Congress has clearly indicated its intention that flexibility be accorded the applicants in the use of authorized funds. Thus, eligible expenses embrace such items as the purchase of parts and fuel from Conrail, the interim staffing and operating costs of ACS, non-operating working capital for both ACS and the commuter authorities, as well as certain post-transfer planning and study costs. In addition, eligible costs may include expenses incurred from October 1, 1981. It is equally clear, however, that an underwriting of operating expenses of the commuter authorities is not a purpose to be served by the transition program.

These regulations have been designed both to achieve the Congressional goals of timeliness and efficiency with regard to the transfer of Conrail's commuter responsibilities, and to ultimately enhance the quality of commuter rail services in the Northeast.

Issued on: January 29, 1982.

Richard J. Schiefelbein,

Deputy Administrator, Federal Railroad Administration.

Charles A. Gargano,

Deputy Administrator, Urban Mass Transportation Administration.

The Emergency Interim Final Rule

In consideration of the foregoing, 49 CFR is amended by—

1. Adding a new Part 670 (49 CFR Part 670) to read as follows:

PART 670—TRANSFER OF COMMUTER SERVICES

Sec.

670.1 Purpose.
670.3 Applicability.
670.5 Definitions.
670.7 Eligibility.
670.9 Commuter service transition assistance.
670.11 Projects or activities for which transition assistance may be expended.
670.13 Applications.
670.15 Waiver and modification.
670.17 Disbursement of commuter service transition assistance.
670.19 Record, audit and examination.
670.21 Effective date.
670.23 Termination date.
Appendix A—Car Mile-Revenue Passenger Allocation.
Appendix B—Certificate.

Authority: Sec. 1139(b) of the Northeast Rail Service Act of 1981, Subtitle E, Title XI, Pub. L. 97–35 (95 Stat 652); regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 and 1.51.

§ 670.1 Purpose.

The purpose of this part is to prescribe standards for the obligation of funds authorized under section 1139(b) of the Northeast Rail Service Act of 1981, Subtitle E of Title XI of Pub. L. 97–35, to ensure that commuter rail services operated by the Consolidated Rail Corporation under contract to commuter authorities are transferred either to those commuter authorities for operation directly or to Amtrak

Commuter Services Corporation for operation on their behalf on or before January 1, 1983 and to ensure the equitable distribution of those funds.

§ 670.3 Applicability.

This Part applies to applications for and disbursement of transition funds to facilitate the transfer of rail commuter services from Conrail to other operators under section 1139(b) of the Northeast Rail Service Act of 1981.

§ 670.5 Definitions.

As used in this part—

(a) "ACS" means Amtrak Commuter Services Corporation created under section 1137 of the Northeast Rail Service Act of 1981.

(b) "Act" means the Northeast Rail Service Act of 1981, Subtitle E, Title XI, Pub. L. 97–35.

(c) "Applicant" means ACS or a commuter authority that submits an application for Federal assistance pursuant to this part.

(d) "Commuter authority" means any State, local, or regional authority, corporation, or other entity that provides commuter service, as defined in section 1135(a)(4) of the Act, and for which Conrail was providing commuter service under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 743(b)(2), 744(e), on August 13, 1981. Successors to these entities are also deemed to be commuter authorities.

(e) "Conrail" means the Consolidated Rail Corporation.

(f) "Administrators" means the Federal Railroad Administrator or his delegate and the Urban Mass Transportation Administrator or his delegate.

§ 670.7 Eligibility.

ACS or commuter authorities may apply to the Administrators under § 670.9 for such commuter service transition assistance as is provided under this part.

§ 670.9 Commuter service transition assistance.

(a) *Formula Allocation.* Transition assistance funds appropriated by Congress under section 1139(b) of the Act shall be allocated among commuter services on the basis of calendar year 1980 car mile and revenue passenger data. The allocation for the benefit of each commuter authority shall be an amount equal to the sum of: (1) Fifty percent of the total amount available multiplied by the percentage that the number of car miles of commuter service operated for the commuter authority by Conrail in 1980 represents of the total number of car miles for all commuter service operated by Conrail in 1980; and (2) fifty percent of the total amount available multiplied by the percentage that the number of revenue passengers carried by Conrail for the commuter authority in 1980 represents of the total number of revenue passengers for all commuter service operated by Conrail in 1980. The derivation of each commuter authority's allocation is presented in Appendix A. Except for general administrative expenses and expenses that are not attributable to particular commuter services, ACS shall allocate and expend funds it receives under this part in accordance with the formula set forth in this subsection: *Provided, however,* That, if a commuter authority elects to operate its commuter service directly, the commuter authority shall be eligible to receive its share, determined in accordance with the allocation formula set forth in this subsection, of the funds not yet disbursed to ACS under paragraph (b) of this section or not yet obligated or expended by ACS.

(b) *Pre-transfer Allocation.* Not more than $7,500,000 of the funds appropriated and available for disbursement under this part will be made available for disbursement to applicants prior to the transfer of commuter service operation from Conrail to a commuter authority or to ACS. Of that amount, up to $3,500,000 shall be available for distribution to commuter authorities in accordance with the allocation formula set forth in paragraph (a) of this section. Of the funds available prior to transfer of commuter service, up to $4,000,000 shall be available for distribution to ACS.

(c) *Transfer Allocation.* Upon the transfer of commuter service operation from Conrail to ACS or to commuter authorities, not more than sixty-five percent of the appropriated and available funds not obligated under paragraph (b) of this section shall be made available in accordance with the allocation formula set forth in paragraph (a) of this section in fiscal year 1983, not more than twenty percent shall be made available in fiscal year 1984, and the remaining funds shall be made available in fiscal year 1985.

§ 670.11 Projects or activities for which transition assistance may be expended.

Transition projects or activities which qualify for Federal funding include, but are not limited to:

(a) Planning and study costs incurred in deciding whether to provide post-transfer service directly or through ACS;

(b) Legal expenses incurred in effecting transfer of service from Conrail;

(c) Purchase of parts and fuel inventory from Conrail;

(d) Legal and planning costs incurred in negotiating new labor agreements;

(e) Planning and study costs incurred in making decisions about post-transfer routes and levels of service;

(f) Planning and transition costs incurred by ACS on behalf of a commuter authority; and

(g) Costs of staffing and operating ACS, including working capital.

Eligible costs for ACS and the commuter authorities include expenses incurred from October 1, 1981.

§ 670.13 Applications.

(a) *Applications for pre-transfer allocation funds.* Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this part, the following information as to the applicant:

(1) Full and correct name and principal business address;

(2) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A detailed description of the projects or activities for which assistance is sought, together with timetables which show estimated completion dates for each such project or activity;

(4) The total amount of assistance requested with a funding level justification for each project or activity;

(5) Evidence that the applicant has established, in accordance with Attachment G to Office of Management and Budget Circular A–102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(6) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purposes for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(7) Two copies of a minority business enterprise plan prepared in accordance with 49 CFR Part 23;

(8) Assurances that the applicant will comply with the following Federal laws, policies, regulations, and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and DOT regulations issued thereunder (49 CFR Part 21);

(ii) If construction is involved, Executive Order 11246 and Department

of Labor regulations issued thereunder (41 CFR Part 60);

(iii) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and DOT regulations issued thereunder (49 CFR Part 27);

(iv) DOT regulations governing the use of minority business enterprises (49 CFR Part 23);

(v) which prohibits use of financial assistance for facilities on the Environmental Protection Agency's list of violating facilities pursuant to 40 CFR 15.20;

(9) An opinion of the applicant's legal counsel advising that (i) counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 1139(b) of the Act; (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts; (ii) the applicant is authorized to make the application including all certifications, assurances, and affirmations required; (iii) the applicant has the requisite authority to carry out the actions proposed in the application and to fulfill the obligations created thereby; and (iv) the applicant has the authority to enter into all of the legal commitments referred to in paragraph (a)(8) of this section and that these commitments are legal and binding upon the applicant and enforceable in accordance with their terms; and

(10) Any other information the Administrators may deem necessary concerning an application filed under this part.

(b) *Applications for transfer allocation funds.* ACS shall be the applicant for transfer allocation funds for commuter services it operates. A commuter authority shall be the applicant for transfer funds for commuter service it operates for itself. Each application shall include the information submitted in paragraph (a) of this section except that any information or material that has been submitted by an applicant need not be resubmitted if the prior submission is identified and incorporated by reference in the application. Where the prior submission is in need of any changes, the changes may be submitted provided the prior submission is identified and incorporated by reference. Any assurance, certification, or affirmation previously made by the applicant, in connection with a prior submission, must be reaffirmed by the applicant when any identification and incorporation by reference of previously submitted materials is made. In addition to meeting the requirements of paragraph (a) of this section, applicants for transfer allocation funds shall submit the following information:

(1) If ACS is the applicant, two copies of each contract between ACS and a commuter authority; and

(2) Executed copies of agreements between the applicant and Conrail for the purchase of parts or fuel inventory.

(c) *Execution and filing of application.* (1) Each application shall bear the date of execution and be signed by the Chief Executive Officer of the applicant. Each person required to execute the application will execute a certificate in the form of Appendix B to this part.

(2) Each original application and certificate, and four copies thereof, shall be filed with the Urban Mass Transportation Administrator, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Each copy shall show the dates and signatures that appear in the original and shall be complete in itself.

§ 670.15 Waiver and modification.

The Administrators, upon good cause shown, may waive or modify any requirement of this part not required by law or make any additional requirements they deem necessary.

§ 670.17 Disbursement of commuter service transition assistance.

After receipt, review, and approval of an application meeting the requirements of this part, the Administrators will enter into a grant agreement with an applicant for the approved amount of transition assistance. The terms and conditions of payment shall be set forth in the grant agreement.

§ 670.19 Record, audit and examination.

(a) Each recipient of transition assistance under this part shall keep such records as the Administrators shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and such other records as will facilitate an effective audit.

(b) Until the expiration of three years after the completion of the project or undertaking referred to in paragraph (a) of this section, the Administrators and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which, in the opinion of the Administrators or the Comptroller General, may be related or pertinent to such financial assistance.

§ 670.21 Effective date.

This Part is effective October 1, 1981.

§ 670.23 Termination date.

This regulation shall expire on October 1, 1986 at which time Federal financial assistance under this part shall lapse. It is also contemplated that all financial relationships, except any audit that may remain open, between the Department of Transportation and ACS will cease at that time.

APPENDIX A—CAR MILE—REVENUE PASSENGER ALLOCATION

[1980 Conrail data]

	A	B	C	D
	Car miles		Revenue passengers	
	(000's)	(percent)	(000's)	(percent)
MTA[1]	21,139	29.63	37,745	32.00
CDOT[2]	7,184	10.07	11,522	9.77
NJ Transit[3]	30,570	42.85	37,262	31.59
SEPTA[4]	12,307	17.25	31,071	26.35
Maryland DOT[5]	143	.20	340	.29
Total	71,343	100.00	117,940	100.00

COMMUTER AUTHORITY ALLOCATIONS

[In percent]

	B x 50	+	D x 50	=	Allocation
MTA	29.63 x 50	+	32.00 x 50	=	30.8
CDOT	10.07 x 50	+	9.70 x 50	=	9.9
NJ Transit.	42.85 x 50	+	31.59 x 50	=	37.2
SEPTA	17.25 x 50	+	26.35 x 50	=	21.8
Maryland Dirl.	.2 x 50	+	.29 x 50	=	[6].3

[1] Metropolitan Transportation Authority.
[2] Connecticut Department of Transportation.
[3] New Jersey Transit Corporation.
[4] Southeastern Pennsylvania Transportation Authority.
[5] Maryland Department of Transportation.
[6] Rounding off results in this figure being increased slightly.

Appendix B—Certificate

The following is the form of the certificate to be executed by each person signing an application: (Name of Person) certifies that he is the Chief Executive Officer of (Name of Applicant); that he is authorized to sign and file this application with the Federal Railroad Administrator and the Urban Mass Transportation Administrator; that he has carefully examined all of the statements contained in the application; that he has knowledge of the matters set forth therein and that all statements made and matters set forth therein are true and correct to the best of his knowledge, information and belief.

[FR Doc. 82-2867 Filed 2-1-82; 1:54 pm]

BILLING CODE 4910-06-M
BILLING CODE 4910-57-M

Proposed Rules

Federal Register
Vol. 47, No. 24
Thursday, February 4, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-SO-62]

Airworthiness Directives; EMBRAER Model EMB-110 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require the replacement of the existing fuel filler neck and cap with a new one on certain Embraer Model EMB-110 Bandeirante airplanes. The proposed AD is needed to prevent the possibility of water leaking into the fuel tank which could result in improper engine operation and possible loss of power.

DATES: Comments must be received on or before March 11, 1982.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration; Engineering and Manufacturing Branch, ASO-214; Rules Docket, Docket No. 81-SO-62, P.O. Box 20636, Atlanta, Georgia 30320.

The applicable service bulletin may be obtained from: Empresa Brasileira de Aeronautica S/A (Embraer), P.O. Box 343-CEP, 12.200, San Jose Dos Campos—SP, Brazil.

A copy of the service bulletin is contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: R. C. Padgett, ASO-214, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320, teoephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of fuel tank filler caps allowing water to leak into the fuel tanks on EMB-110 series, Bandeirante, airplanes, with the possible result of improper engine operation and power loss. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require the replacement of the existing fuel filler neck and cap with new ones, in accordance with Embraer Service Bulletin 110-28-020, dated July 2, 1981.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

EMBRAER. Applies to EMB-110 P1 and P2 model airplanes, serial numbers 110001 through 110329 and 110331 through 110339, certificated in all categories.

Compliance is required within the next 100 hours time in service after the effective date of this AD unless already accomplished.

To prevent leakage of water into the fuel tank, accomplish the following:

(a) Defuel the airplane in accordance with the EMB-110 maintenance manual.

(b) Remove the fuel filler neck components from each tank and install Embraer Kit S.B. 110-28-020 in accoredance with the instructions contained in Embraer Service Bulletin 110-28-020, dated July 2, 1981.

(c) Make an appropriate maintenance record entry.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7428 may adjust the compliance time.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, [(49 U.S.C. 1354(a), 1421, and 1423]); Sec. 6(c), Department of Transportation Act [(49 U.S.C. 1655(c)]); 14 CFF 11.85)

Note.—The FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979), and will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves only a few aircraft owned by small entities. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Kansas City, Missouri, on January 22, 1982.

Murray E. Smith,
Director, Central Region.

[FR Doc. 82-2719 Filed 2-3-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AGL-45]

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Urbana, Ohio, to accommodate a new instrument approach into Grimes Field Airport, Urbana, Ohio, established on the basis of a request from the Grimes Field Airport officials to provide that facility with instrument approach capability.

The intended effect of this action is to insure segregation of the aircraft using

approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATE: Comments must be received on or before February 21, 1982.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 81–AGL–45, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200′ above ground to 700′ above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL–7, Great Lakes Region, Rules Docket No. 81–AGL–45, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before February 21, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Urbana, Ohio. Subpart G of Part 71 was published in the **Federal Register** on January 2, 1981, (46 FR 540).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (46 FR 540) the following transition area is added:

Urbana, Ohio

That Airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grimes Field, Urbana, Ohio, (latitude 04°07′30″ N., longitude 83°45′00″ W.).

This amendment is proposed under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); section 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(a) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 30 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Ill., on January 16, 1982.

Paul K. Bohr,

Acting Director, Great Lakes Region.

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CIVIL AERONAUTICS BOARD

14 CFR Part 254

[EDR–438; Docket No. 40366; Dated: January 7, 1982]

Baggage Liability Rules

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to change its baggage liability rules in one of three ways as part of its examination of consumer protection regulations prior to sunset. The first option would remove all regulation of baggage practices so that competition may determine the conditions of carriage. The second would set a minimum liability amount that would provide a measure of protection for consumers while giving carriers maximum flexibility in their baggage practices. The third option would codify the most significant aspects of the present requirements in order to clarify and centralize the requirements. The proposal is at the CAB's initiative.

DATES: Comments by: April 5, 1982. Reply comments by: May 5, 1982.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: February 19, 1982.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40366, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia Kennedy, Assistant to the Director for Programs, Bureau of Compliance and Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5934, or Joanne Petrie, Rules and Legislation Division, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: Passenger rules tariffs on file with the Civil Aeronautics Board contain provisions covering most domestic

airlines' liability limitations for lost, damaged, or delayed baggage. The Board has required that these tariffs meet certain minimum standards with respect to liability limitations, excess value coverage and carrier responsibility for fragile and perishable items. Under the provisions of the Airline Deregulation Act, tariffs governing domestic air transportation, the means by which the Board currently requires reasonable airline practices in this area, will no longer be effective as of January 1, 1983.

In this proceeding, we are seeking comments on three regulatory approaches to airline baggage practices during the transition to sunset. The first option would remove all Federal regulation of baggage practices. The second option would eliminate all regulation of baggage except the current minimum liability limitation of $750. The third option would place the most significant features of the current requirements directly into our rules, while removing any requirements that are unnecessary or burdensome.

Domestic operations by certificated and uncertificated carriers operating aircraft with 60 or fewer seats would not be covered under any of the options. Air taxis operating under 14 CFR Part 298 have never been directly subject to our baggage requirements, although many file tariffs stating their liability limitations for interline service with certificated carriers. We are not proposing any changes for carriers' operations in foreign air transportation. In foreign air transportation, most air carriers and foreign air carriers are subject to the Warsaw Convention and other international agreements.

Background of the Current Requirements

The Board's regulation of airline baggage practices reflects our efforts over the years to use our regulatory powers to deal with the problems posed by the tariff system. Tariffs are legally binding on passengers even in the absence of actual notice of their contents. Unless disapproved by the Board, the tariff rules enable carriers to limit their common law liability for consequences of many types of potential passenger problems, including lost or damaged baggage. In a highly-regulated air transport system, competition could not be counted upon to moderate essentially unilateral carrier decisions on such liability. Consequently, we have felt compelled to assure certain minimum levels of protection for the traveling public and to require certain basic notice of the carrier's limitations on liability.

The Board has never incorporated rules governing the substance of the baggage liability tariffs into its published regulations, as it has done with other carrier practices affecting passengers, such as oversales and smoking. We have instead used our power to suspend or cancel carrier tariffs as a means to regulate carriers' responsibility for misplaced or damaged bags. In evaluating the airlines' baggage rules, the Board has generally applied the common law principles that the courts developed over the years for common carriers.

The Board developed the current domestic baggage liability requirements during a series of tariff rule investigations. In 1966, the Board prohibited airlines from establishing liability limits below $500, and adopted requirements for the treatment of unusually valuable items. "Baggage Liability Rules Case," 45 C.A.B. 182. Before this action, most carriers had set their liability limits between $100 and $250. In 1971, the Board adopted minimum standards for notice to passengers about baggage liability. ER-691, 36 FR 17034, August 27, 1971. In the "Domestic Baggage Liability Rules Investigation," which took place between 1975 and 1977, the Board comprehensively reexamined the subject of baggage practices. The investigation was closed in 1977, following decisions in Order 77-2-9, February 2, 1977, (72 CAB Reports 822), Order 77-4-94 April 20, 1977, (73 CAB Reports 1096), and Order 77-9-80, September 20, 1977, (74 CAB Reports 906). The last petition for reconsideration of Order 77-9-80 was dismissed by Order 77-11-115, November 22, 1977.

The orders resulting from these investigations set forth the basic requirements for airline baggage practices and cover most certificated carriers in interstate and overseas air transportation. Although there are passing references in the Code of Federal Regulations to the orders that remain in force today, only the requirements governing disclosure have been codified. Under the present system, therefore, the baggage requirements are found in orders, rules, and tariffs, and the requirements cover a number of different subject areas.

In the "Baggage Liability Rules Case" (45 C.A.B. at 187), the Board set standards for judging the reasonableness of the carriers' liability limits, stating that the limits should be high enough to "cover all but unusual and extraordinary claims." In Order 77-2-9, the Board applied this general standard and considered the inflationary trend reflected in changes in the Consumer Price Index ("CPI") between 1966 and 1977. As a result, we found that the prior $500 minimum was inadequate and that the new amount should be $750. The current minimum is still $750, although there is an outstanding show cause order (Order 80-8-133) proposing to raise the amount to $1,000 because of increases in the CPI over the last four years.

In the 1977 investigation, the Board specifically addressed the question of the carrier's responsibilities for delayed baggage. The Board found that the airlines' liability should explicity include consequential damages resulting from passenger's inability to make immediate use of a lost, damaged or delayed bag.

In Order 77-2-9, the Board stated that the opportunity to purchase excess value coverage is a passenger right and a necessary concomitant to a standard liability limitation. Carriers have traditionally offered excess valuation coverage up to a stated maximum for a nominal charge. Passengers whose baggage is worth more than $750 may declare the higher value in advance for an extra charge. Most carriers today will provide excess valuation coverage up to $5,000 beyond the initial $750, and the charges for the coverage vary among the airlines. For extraordinarily valuable items or for an alternative source of recovery, passengers may purchase insurance coverage from general insurance companies.

Before the 1977 baggage investigation, many carriers' tariffs stated that they denied any responsibility for fragile or perishable articles, although most airlines did not directly inform passengers unless the disclaimer became an issue in a disputed baggage claim. In Order 77-9-80, the Board increased carrier responsibility for such items. The order requires carriers to publish in tariffs lists of items that the carrier considers fragile, and prohibits listing of such common items as eyeglasses and cameras. Liability for items in original shipping containers or other protective packages cannot be disclaimed. Any disclaimer for delay in delivery of perishable items is limited to spoilage claims. For fragile items not contained inside luggage, a carrier may not disclaim liability unless it has obtained a signed release from the passengers. If there is external damage to the container or other evidence of negligent handling, a carrier may not disclaim liability, notwithstanding a signed release.

In the baggage investigation, the Board also found that some carriers' baggage claim procedures were unreasonable because a passenger would be treated as having waived the claim if it was not made within a limited time in the specific manner required by the company. Order 77-9-80 requires carriers to establish and follow certain practices for passenger claims. Any written notification to the carrier within 45 days is sufficient. A claim can be filed later if a passenger has a good reason.

Finally, we compel carriers to provide passengers with certain basic information about airlines' baggage liability by requiring in 14 CFR 221.176 the use of counter signs and ticket notices containing Board-prescribed language.

The Proposal

The approaching end of domestic tariffs leads us to consider the Board's options for regulating airline baggage practices in a deregulated environment. In this rulemaking, we are soliciting comments on the following three alternatives.

Option 1: Elimination of Baggage Liability Regulation

The first option would eliminate all regulation of carriers' baggage liability practices. A carrier's responsibility for passenger baggage would be governed by the airline/passenger contract.

Option 2: Minimum Regulatory Standards

Under this option, a new Part 254 would be added to our rules in Title 14, Code of Federal Regulations. The rule would prohibit certificated carriers in interstate and overseas air transportation from limiting their liability for direct or consequential damages for lost, damaged, or delayed baggage below $750 per passenger. Any flight on an aircraft that has a passenger capacity of 60 or fewer seats, however, would not be covered. Apart from liability limits, all other baggage liability practices would be unregulated and subject to the contract between carrier and passenger.

Option 3: Codification of Significant Aspects of the Current Orders

This option would codify a baggage liability limit and a number of the key requirements now governing baggage claims practices in a new Part 254. As with Option 2, these proposed regulations would apply to all U.S. certificated carriers' large aircraft operations in interstate and overseas air transportation. Carriers in foreign air transportation would not be affected by the rule and would continue to be governed by the Warsaw Convention requirements.

Carriers would be liable for the direct and consequential damages resulting from the disappearance of, delayed delivery of, or damage to passengers' checked baggage. The minimum amount for such liability would be $750. In the case of fragile or perishable items, other than those packed inside a suitcase, a carrier would be liable for damages regardless of negligence unless it obtained a signed release from the passenger. Carriers would also be required to make excess value coverage available to passengers, and provide notice of its availability.

The proposed §§ 254.4 and 254.5 are based on currently effective tariffs filed by most carriers. Under § 254.4, carriers could transfer to the passenger the risk of damage to fragile items or delayed delivery of perishables by obtaining a signed release. As in the current tariffs, the release would not cover damage caused by the airline's negligent handling, but only that resuling from the fragile or perishable nature of the item in question.

The Board is including in this option the current requirements that passengers be given at least 45 days in which to notify the carrier in writing about the nature of a baggage claim, and that the carrier waive the 45-day limit when the passenger can show good reason for not notifying the carrier within this period.

Discussion

Whether some continued baggage regulation is necessary in an increasingly deregulated industry involves several important considerations. This proposal discusses the factors we believe are most significant in weighing the relative merits of each option. We invite commentors to identify other considerations that they believe warrant particular attention.

If domestic rules tariffs are eliminated, and instead passengers are given clear and direct notice of the carriers' limitations on liability for baggage losses, a primary justification for Board regulation of domestic baggage practices will disappear. Where carriers have attempted to limit their liability through means other than tariffs, the courts have generally looked closely at the adequacy of the disclosure, and particularly at whether passengers have had a reasonable opportunity to protect themselves against the risks not assumed by the carrier

If passengers are aware of an airline's baggage practices, they can take actions to avoid, reduce or insure against unprotected risks. They can, for example, carry any valuables on board, carefully pack fragile items, purchase excess valuation coverage or make other arrangements to insure their baggage. Indeed, the extent of risk is frequently known only to the passenger. Often, only passengers know whether their luggage contains expensive, fragile or perishable items and what their market or sentimental value is. On the other hand, the carrier has the primary control over the degree of risk for baggage that is checked because it is handled by the carrier's employees. Moreover, while passengers can obtain excess valuation coverage, there are practical limitations on their ability to avoid having their baggage lost or damaged. Passengers with several suitcases, for example, cannot take them all on board. Consequently, baggage liability involves a situation where passenger and airline alike must necessarily bear some of the risk.

The competitive marketplace combined with the ability of passengers to avoid or insure against baggage problems may well allocate risks and costs more efficiently and equitably than any government agency. At the present time, this allocation between passenger and airline is determined in large part by the Board. The effect of the Board's regulatory actions, however, has also been to spread the costs of paying baggage claims not covered by excess valuation coverage among all passengers because the ticket price includes the carrier's expected costs to cover baggage losses. It is the same for the passenger who travels with a carry-on attache case as for the passenger who checks in the maximum free baggage allowance. If we eliminate Board regulation of baggage, airlines would have the flexibility to orient their baggage practices and liability limits to the needs and desires of individual passengers or categories of passengers. This may lead to some "unbundling" of services, so that a passenger would not pay for services that are not used. Consequently, while removal of Board regulation may impose somewhat greater burdens on passengers, it may also allocate costs among passengers in a manner more commensurate with the service used. This would enable carriers to exercise greater flexibility in the pricing of their services according to demand. It might make possible, for example, lower-cost service commensurate with the lower amenity of limited baggage liability.

We are concerned, however, that eliminating government oversight of airline baggage practices may have undesirable effects. First, by removing the current minimum liability limits that may be higher than airlines might maintain voluntarily, the Board may reduce the incentives for airlines to use reasonable care in handling checked baggage. Second, airlines might try to shift the risk for damage or loss to their passengers to a degree that is unreasonable in view of customer expectations. Third, we cannot know at this time precisely to what extent legal and economic pressures will by themselves induce carriers to give adequate notice to passengers of liability limitations. In the absence of tariffs, we do not know, for example, to what extent courts will permit contract terms incorporated by reference to bind passengers who are not otherwise apprised of risks. Finally, elimination of baggage liability regulation might permit carriers to circumvent the current regulatory fare ceiling by assessing an additional charge for the carriage of any baggage rather than including it in the fare as is now the case. We ask that commenters specifically address these concerns.

On the one hand, there may be competitive pressures on airlines to minimize the number of bags mishandled without Board-prescribed liability limits. In the airline industry, relatively slight changes in load factors have a substantial effect on profitability so that attracting repeat business is a major factor in financial success. Because baggage problems represent a serious service failure in the eyes of consumers, a reputation for poor baggage handling is likely to have a significant impact on future revenue. Furthermore, although the law permits carriers to limit liability by contract where greater liability coverage is reasonably available to passengers, it does not allow carriers to exculpate themselves totally from liability for their own negligence. As the Supreme Court has observed, "A carrier who stipulates not to be bound to the exercise of care and diligence 'seeks to put off the *essential duties* of his employment'" "New York, N.H. & H.R. Co. v. Nothnagle," 346 U.S. 128, 136 (1953) (emphasis in original).

On the other hand, a competitive marketplace may also create pressures on airlines to minimize costs by reducing the extent of their liability. Despite the importance of repeat business, an airline might consider a passenger whose bag has been misplaced to be a lost cause. Consequently, carriers might consider it most cost-effective to reduce their liability limits substantially by contract. Whether the carriers' inclination to reduce baggage liability limits will be effectively restrained by competition is unclear. Competition among airlines did not have that effect prior to 1966, when the Board began to regulate baggage liability. Moreover, any form of baggage insurance included in the price of a ticket is a negative service element that benefits the passenger only if something goes wrong. Airlines, however, have generally been reluctant to highlight potential service failures when promoting their services.

There is much to be said as a practical matter for assuring passengers that carriers will be responsible for the value of the items typically carried by travelers. The $750 liability limit was established to cover all but unusually valuable items in luggage checked by passengers. It may well be that passengers expect airlines to assume responsibility to this extent. The proposals in Options 2 and 3 would deal with those concerns by retaining the $750 minimum liability limit. Our outstanding show cause proceeding (Order 80–8–133) proposing to raise the minimum liability limit to $1,000 would be terminated under all three options in order to keep regulatory intrusion to a minimum.

Option 3 would go further, limiting the extent to which airlines may shift to passengers risks for fragile or perishable items. By adopting this option, we would prohibit airlines from imposing overly broad disclaimers of liability, as they did until the conclusion of the "Domestic Baggage Liability Rules Investigation" in 1977. This would deal with the concern that some carriers might act unconscionably by trying to contract away most or all of their common law duties and liability for checked bags without providing any cost-savings or other benefits to passengers or without providing notice commensurate with the passenger's risk.

Our adoption of Options 1 or 2 could lead to significant variations among airlines' baggage liability provisions in contracts with passengers. We invite comments on whether this could create any legal or practical problems that might adversely affect the ability of airlines to handle baggage on an interline basis. While our current baggage requirements provide only minimum standards, the carriers have adopted fairly uniform practices that reflect these standards. With the elimination of rules tariffs, carriers will need a way to notify interlining passengers of different conditions of carriage on other airlines, including baggage liability limits. This might be handled several ways, such as by notifying passengers that liability limits may differ among airlines and informing passengers how other carriers' contracts may be obtained. Or airlines may simply agree to accept the terms of the originating carriers' contract. We invite the carriers to address any problems they might encounter in developing interline baggage arrangements, especially problems relating to providing notice of liability provisions.

We also invite comments concerning possible problems in complying with variations in State law under any of the three options. Usually, businesses operating in several jurisdictions are able to utilize uniform contracts by complying with the most restrictive State law. Should commenters feel that such an approach is not feasible for airline baggage provisions, we would welcome information on the legal and practical problems that might be involved.

Elimination of the tariff mechanism on January 1, 1983, will result in some reallocation of risks and responsibilities between airlines and passengers in many areas, including baggage liability practices. The issue here is whether to allow the current system to remain in place or to permit the carriers to experiment with a market-based regime.

Applicability

We are proposing to limit the applicability of Options 2 and 3 to operations with aircraft having more than 60 seats, in order to avoid arbitrary results and ensure evenhanded treatment of similarly situated carriers. Up to now, certificated carriers have been subject to the rules for all their operations, regardless of plane size. On the other hand, air taxi operators, which use only small aircraft, are subject only to very limited regulation. Section 298.30, *Public disclosure of policy on consumer protection,* sets forth a general disclosure requirement. In addition, air taxis offering joint fares with certificated carriers have generally adopted the $750 minimum and other standards for that interline traffic. 14 CFR Part 298, however, exempts air taxi operators from most other certificate and tariff requirements. Because almost all certificated service has until recently been performed with large aircraft, certificated status has been a simple and effective criterion on which to base the applicability of the rules.

Since passage of the Deregulation Act, however, certificates have been

awarded more liberally and the former practical distinction between certificated and non-certificated carriers has blurred and is rapidly vanishing. Many air taxi operators have obtained certificates. The result is that much service is now being provided by certificated carriers under circumstances that are not significantly different from air taxi service. With the end of 1981, most certificated carriers have nationwide authority, so that certificate status is now an even less meaningful distinction. Finally, sunset legislation has already been introduced in Congress that would eliminate domestic certificates entirely. Under this proposal, therefore, rather than basing application of the rule on certificated or non-certificated status, application would depend on the size of aircraft used. This approach has already been incorporated in ER–1237, 46 FR 42442, August 21, 1981, which exempted all small-plane operations from our oversales and denied boarding compensation rules.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, required each agency to publish in the **Federal Register** a plan for the periodic review of the agency's rules that "have or will have a significant economic impact on a substantial number of small entities." The plan was required to provide for review of all such rules within 10 years. The Board's review plan can be found at 46 FR 63320, December 31, 1981. Because various Board functions are scheduled to terminate or transfer to other agencies before Board sunset on January 1, 1985, the Board is reviewing all its rules and not merely those that meet the impact criterion of the Regulatory Flexibility Act. This notice of proposed rulemaking constitutes a review under 5 U.S.C. 610 of the Regulatory Flexibility Act and begins the rulemaking proceeding promised in our Plan for Review of Rules.

At the same time, the Board certifies that these proposed amendments will not, if adopted, have a significant economic impact on a substantial number of small entities in accordance with 5 U.S.C. 605(b). Few, if any, small businesses conduct operations with large aircraft, which are the only operations that would be covered under any of the proposed changes.

Accordingly, the Civil Aeronautics Board proposes to amend its baggage liability rules by adopting one of the following options:

Option 1: Elimination of Domestic Baggage Liability Regulations

Under this option, the Board would remove all of its requirements concerning the carriage of baggage in interstate and overseas air transportation by revoking Orders 77–2–9, 77–4–94, and 77–9–80, and by terminating the proceedings begun in Order 80–8–133. Conforming amendments would be made in 14 CFR Chapter II.

Option 2: Mandatory minimum baggage liability amounts.

14 CFR Chapter II would be amended to add a new Part 254, *Baggage*, as follows:

PART 254—BAGGAGE

Sec.
254.1 Purpose.
254.2 Applicability.
254.3 Carrier liability.
254.4 Relation to Board orders on baggage liability.

§ 254.1 Purpose.

The purpose of this part is to state rules for the carriage of baggage in interstate and overseas air transportation. The part sets the minimum amount of air carrier liability for loss, damage, or delay in the carriage of passenger baggage.

§ 254.2 Applicability.

This part applies to air carriers with respect to charter or scheduled passenger service in interstate or overseas air transportation using aircraft with a maximum passenger capacity of more than 60 seats.

§ 254.3 Carrier liability.

An air carrier shall not limit its liability for direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than $750 for each passenger.

§ 254.4 Relation to Board orders on baggage liability.

Order 77–2–9 (dated February 2, 1977), Order 77–4–94 (dated April 20, 1977), and Order 77–9–80 (dated September 20, 1977) have been revoked, and the proceeding begun in Order 80–8–133 (dated August 21, 1980) has been terminated.

Option 3: Codification of Existing Orders

1. 14 CFR Chapter II would be amended to add a new Part 254, *Baggage*, as follows:

PART 254—BAGGAGE

Sec.
254.1 Purpose.
254.2 Applicability.
254.3 Carrier liability.
254.4 General carrier responsibility.
254.5 Carrier responsibility for special items.
254.6 Time limits for filing claims.
254.7 Relation to Board orders on baggage liability.

§ 254.1 Purpose.

The purpose of this part is to state rules for the carriage of baggage in interstate and overseas air transportation. The part sets the minimum amount of air carrier liability for loss, damage, or delay in the carriage of passenger baggage. It sets out general rules for baggage claims practices, and for the carriage of special items such as fragile objects.

§ 254.2 Applicability.

This part applies to air carriers with respect to charter or scheduled passenger service in interstate or overseas air transportation using aircraft with a maximum passenger capacity of more than 60 seats.

§ 254.3 Carrier liability.

An air carrier shall not limit its liability for direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than $750 for each passenger.

(b) Each air carrier shall make available excess valuation coverage, and provide notice of its availability, to passengers who, at the time they check their baggage with the carrier, declare a value in excess of $750 and pay to the carrier an additional sum, except that items that are unusually valuable or vulnerable to damage may be excluded from excess valuation coverage, such as jewelry, painting, sculptures, antiques, cash, negotiable securities, manuscripts, furs, or musical instruments.

§ 254.4 General carrier responsibility.

Except as provided by § 254.5, a carrier shall be liable for direct and consequential damages resulting from the disappearance of, damage to, or delay in delivery of any item of personal

property due to events occurring while the item was in its custody, regardless of whether the carrier was negligent.

§ 254.5 Carrier responsibility for special items.

(a) If a carrier includes in its contract of carriage a provision limiting its responsibility for perishable items, such limitations shall apply only to damage attributable to the perishable nature of the item and to spoilage caused by delayed delivery.

(b) If a carrier's contract of carriage contains a provision limiting its responsibility for fragile items, such limitations may apply only to damage attributable to the fragile nature of the item.

(c) In order to enforce a contract provision limiting a carrier's liability for fragile or perishable items, other than those checked without the carrier's knowledge inside a passenger's luggage, the carrier, when the items are accepted for carriage, must obtain a signed release from the passenger.

§ 254.6 Time limits for filing claims.

(a) If a carrier includes in its contract of carriage a deadline by which the passenger must notify the carrier in writing of the nature of the claim, such deadline shall be a period of not less than 45 days from the date of occurrence. No specific form or forms shall be required to be submitted to meet the deadline.

(b) The carrier must provide for a waiver of the notification time limit when the passenger can show good reason for not notifying the carrier earlier.

§ 254.7 Relation to Board orders on baggage liability.

Order 77–2–9 (dated February 2, 1977), Order 77–4–94 (dated April 20, 1977), and Order 77–9–80 (dated September 20, 1977) have been revoked, and the proceeding begun in Order 80–8–133 (dated August 21, 1980) has been terminated.

2. The Board orders cited above would be revoked.

3. Conforming amendments would be made in 14 CFR Chapter II.

(Secs. 204, 403, 404, and 411, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 769 (49 U.S.C. 1324, 1373, 1374, 1381))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–2908 Filed 2–3–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76 (Colorado–22)]

High-Cost Gas Produced from Tight Formations; Colorado

AGENCY: Federal Energy Regulaatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may recieve an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Mesaverde Formation, including the Rollins Member, and the Cozzette and Corcoran Members of the Upper Mancos Formation be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on March 1, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 16, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: January 29, 1981.

I. Background

On December 31, 1981, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mesaverde Formation, including the Rollins Member, and the Cozzette and Corcoran Members of the Upper Mancos Formation located in Garfield, Mesa, Delta, Pitkin, and Gunnison Counties, Colorado, each be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Mesaverde Formation, including the Rollins Member, and the Cozzette and Corcoran Members of the Upper Mancos Formation each be designated a tight formation should be adopted. The United States Geological Survey concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formations underlie portions of Garfield, Mesa, Delta, Pitkin, and Gunnison Coiunties, Colorado. The area is located in the southeast portion of the Piceance Basin approximately 15 miles northeast of the city of Grand Junction, Colorado, and encompasses Townships 6 through 11 South, and Range 89 through 97 West, 6th P.M., excluding the following areas:

(1) The area designated in Docket No. RM79–76 (Colorado–5) Order No. 148, under § 271.703 for the Rollins, Cozzette, and Corcoran;

(2) Township 10 South, Range 95 West, 6th P.M., Sections 17, 18, 19, 30, and Township 10 South, Range 96 West, 6th P.M. Sections 12, 13, 23 through 28, 33, for the Rollins, Cozzette, and Corcoran;

(3) Township 9 South, Range 97 West, 6th P.M., Sections 1 through 24, 26 through 35, and Township 10 South, Range 97 West, 6th P.M. Sections 2 through 11, for the Cozzette and Corcoran;

(4) The area designated in Docket No. RM79–76 (Colorado–12) Order No. 156, under § 271.703 for the Cozzette, and Corcoran;

(5) Township 6 South, Range 93 West, 6th P.M., Sections 5, 6, 7, 8, 17, 18, 19, 20, and Township 6 South, Range 94 West, 6th P.M. Sections 1, 2, 3, 8 through 17, 19 through 24, 27 through 33, for the Mesaverde Formation;

(6) The Wolf Creek Unit area.

Sixty-eight percent of the recommended area is Federal land, 17 percent is State, and 15 percent is fee.

The Mesaverde Formation varies in thickness from zero to approximately 6,000 feet with its base defined as the bottom of the Rollins Member. The average depth to the top of the Mesaverde Formation is 5,052 feet. The

Cozzette Formation is a member of the Upper Mancos Formation and averages 200 feet in thickness. The average depth to the top of the Cozzette Formation is 6,869 feet. The Corcoran Formation is a member of the Upper Mancos Formation and the average depth to the top of the Corcoran is 7,069 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–26 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Mesaverde Formation, including the Rollins Member, and the Cozzette and Corcoran Members of the Upper Mancos Formation, as described and delineated in Colorado's recommendation as filed with the Commission, each be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before March 1, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado–22), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 16, 1982.

(Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3342))

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraphs (85), (86), and (87) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(68) Through (84) [Reserved]

(85) *Mesaverde Formation (including the Rollins Member) in Colorado. RM79–76 (Colorado–22)*—(i) *Delineation of formation.* The Mesaverde Formation is located in the southeast portion of the Piceance Basin in Garfield, Mesa, Delta, Pitkin, and Gunnison Counties, Colorado, approximately 15 miles northeast of the city of Grand Junction, Colorado. The Mesaverde Formation underlies Townships 6 through 11 South, and Ranges 89 through 97 West, 6th P.M., with certain specified exclusions.

(ii) *Depth.* The Mesaverde Formation varies in thickness from zero to approximately 6,000 feet with its base defined as the bottom of the Rollins Members. The average depth to the top of the Mesaverde Formation is 5,052 feet.

(86) *Cozzette Formation in Colorado. RM79–76 (Colorado–22)*—(i) *Delineation of formation.* The Cozzette Formation is located in the southeast portion of the Piceance Basin in Garfield, Mesa, Delta, Pitkin, and Gunnison Counties, Colorado, approximately 15 miles northeast of the city of Grand Junction, Colorado. The Cozzette Formation underlies Townships 6 through 11 South, and Ranges 89 through 97 West, 6th P.M., with certain specified exclusions.

(ii) *Depth.* The Cozzette Formation is a member of the Upper Mancos Formation. The average depth to the top of the Cozzette Formation is 6,869 feet.

(87) *Corcoran Formation in Colorado. RM79–76 (Colorado–22)*—(i) *Delineation of formation.* The Corcoran Formation is located in the southeast portion of the Piceance Basin in Garfield, Mesa, Delta, Pitkin, and Gunnison Counties, Colorado, approximately 15 miles northeast of the city of Grand Junction, Colorado. The Corcoran Formation underlies Townships 6 through 11 South, and Ranges 89 through 97 West, 6th P.M., with certain specified exclusions.

(ii) The Corcoran Formation is a member of the Upper Mancos Formation. The average depth to the top of the Corcoran Formation is 7,069 feet.

[FR Doc. 82–29 Filed 2–3–82; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625 and 655

[FHWA Docket No. 79–37, Notice 2]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices.

SUMMARY: The FHWA is inviting comments on proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD contains the standards for traffic control devices which have been approved by the FHWA for use on all streets and highways open to public travel.

DATES: Comments must be received on or before May 5, 1982.

ADDRESS: Submit written comments, preferably in tripicate, to FHWA Docket No. 79–37, Notice 2, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-

addressed, stamped postcard. The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($18.00).

FOR FURTHER INFORMATION CONTACT:
Mr. James C. Partlow, Office of Traffic Operations, (202) 426–0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426–0754, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA prepares and issues the national standards for traffic control devices used on all streets and highways open to public travel. These standards are published in the MUTCD which has been incorporated by reference into Title 23, Code of Federal Regulations (CFR), Parts 625 and 655. The FHWA both receives requests and initiates recommendations for changes (i.e., amendments) to the MUTCD.

Each request has been assigned an identification number which indicates by Roman numeral the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received.

This notice of proposed amendments to the MUTCD is being issued to provide the public with an opportunity to participate in the processing of requests for amendments to the MUTCD. Based upon comments received in response to this notice, and its own review, the FHWA will prepare final amendments to the MUTCD. Any final amendments to the MUTCD will be published in the **Federal Register** and incorporated by reference in the CFR.

This notice of proposed amendments to the MUTCD contains the FHWA's recommended action on proposed changes. All of these proposed changes, except for those noted below, were included in an advance notice of proposed amendments to the MUTCD and published under FHWA Docket No. 79–37 (45 FR 982) on January 3, 1980.

One request, II–12, appeared previously in FHWA Docket No. 79–35 on Thursday, January 24, 1980, at 45 FR 5750. Additional comments are being sought on this proposed amendment.

Requests II–55 and II–56 have not previously appeared in a docket for comment. These requests are straightforward and for that reason it was felt unnecessary to publish them in an advance notice of proposed rulemaking.

This notice of proposed amendments to the MUTCD is divided into Parts A, B, and C. Part A contains a discussion of changes to the MUTCD that FHWA is recommending for adoption. Part B contains a discussion of requests for changes that FHWA is recommending not be adopted. Part C contains a discussion of proposed changes on which no action is recommended at this point in time. That is, additional information is necessary before FHWA will be able to make a recommendation on the proposed change.

A total of 61 responses were received on FHWA Docket 79–37. However, each individual or organization responding did not necessarily comment on each proposed change. For example, some of those responding provided comments on only one proposed change while others provided comments on each proposed change.

In analyzing the comments received, an attempt was made to determine if the commenters opposed or concurred with the proposed change. However, this was not always possible. In discussing each proposed change, the number of commenters who concurred and who were opposed are listed where possible. This listing is not to be interpreted as "voting" but simply to provide information to the reader as to the number and kind of comments received on each proposed change.

FHWA's recommendations are based on striking a balance among many factors such as the needs of the motorists, pedestrians, and bicyclists; cost; safety; legal requirements; and the ability of various jursidictions to implement the proposed changes.

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Part A—Recommended Changes to the MUTCD

1. Signs (Part II)

(a) *Request II–4 (Chng.) Placement of Warning Signs.* This request originated within the FHWA. As presently written Section 2C–3 of the MUTCD provides only general guidance for the placement of warning signs. The FHWA proposed that a table of recommended distances for sign placement based on prevailing speed and conditions be added to the MUTCD.

A task force of the National Advisory Committee on Uniform Traffic Control Devices (NACUTCD), which is no longer in existence, reviewed this proposal in great detail and developed a table listing minimum recommended sign placement distances that should be used for three driver operating conditions: (A) Where the driver needs extra time for message comprehension and execution of a decision because of a complex driving situation; (B) where a driver is likely to be required to stop; and (C) where a driver is likely to be required to slow down to a specific speed.

Of the 28 comments received on this proposed change, 17 favored and 11 opposed. Also, the majority of those favoring indicated that any table developed should be for guidance only and not mandatory. Those that were opposed cited such reasons as: The possibility of increased liability; the fact that local jurisdictions can develop their own guidelines for warning sign location; the adequacy of current general information on warning sign location in the MUTCD; and the likelihood that a table would restrict good judgment (i.e., there would be a tendency to use the values in the table without an engineering study).

Three of those commenting discussed the need for a compliance date if this proposed change is adopted. Two recommended a 5-year period and one a 7-year period.

In regard to the liability use, it is the opinion of the FHWA that including guidance information for the location of warning signs in the MUTCD will not increase a jurisdiction's liability in case of an accident. As indicated in Section 1A–4 of the MUTCD, the decision to install a particular traffic control device at a particular location should be made on the basis of an engineering study of the location. If a traffic control device is installed on the basis of a well documented study, the fact that guidance is included in the MUTCD should not affect a jurisdiction's liability.

It is true that local jurisdictions can develop their own guidelines for warning sign installation. However, including guidance in the MUTCD will not prohibit this.

The present guidance in the MUTCD on warning sign location is general in nature. Section 2C–3 recommends that in rural areas warning signs should normally be placed about 750 feet in advance of the hazard or condition. On high-speed roads, such as freeways, the MUTCD points out that advance warning signs may have to be located 1500 feet or more in advance of the hazard. In urban areas where speeds are lower, the MUTCD recommends an advance distance of about 250 feet. The MUTCD further states that the actual advance warning distance will be determined by two factors, the prevailing speed and prevailing design and operating conditions. However, at present, the MUTCD does not provide any information on the relationship between the prevailing speed and prevailing conditions and warning sign location. Including a table in the MUTCD with suggested minimum sign placement distances as a function of speed and three different conditions will aid the traffic engineer in determining warning sign location.

Another concern expressed by those who were opposed to this proposed change was that a table of values would restrict good judgment. This same argument could be used to discourage the development of any guidelines for the location of traffic control devices. Again, if an engineering study as recommended in the MUTCD is made before a traffic control device is installed, the fact that guidance information is included in the MUTCD does not restrict the use of good judgment since it is still the responsibility of the person putting up the sign to assure its correctness.

The FHWA recommends that the language in Section 2C–3 be revised, and a table included showing the suggested minimum advance warning sign placement for various speeds for three different conditions. The proposed wording and table are similar to that recommended by the NACUTCD.

In developing the proposed table, the following factors were used:

1. For 30-inch and 36-inch signs the minimum letter size would be 5 inches, Series D.

2. For 48-inch signs the minimum letter size would be 8 inches, Series D.

3. Drivers have a visual acuity of at least 20/40.

4. A sign legibility distance of 125 feet for 30-inch and 36-inch signs and 200 feet for 48-inch signs.

5. For the general warning sign classification a PIEV time of 3 seconds was used, and for the high judgment condition a PIEV time of 10 seconds was used.

6. For condition B, the braking distance part of the distance is calculated using the formula:

$$d = \frac{V^2}{30f}$$

Where d = braking distance, feet
V = initial speed, mph
f = coefficient of friction between tires and roadway.

The braking distances, for condition B, were calculated for level roadway, wet pavement.

For condition C, the braking distance part of the distance is a comfortable braking distance taken from Figure VIII–15B of "A Policy on Geometric Design of Rural Highways," 1965, American Association of State Highway Officials.[1]

The suggested minimum distance values provided in the proposed Table II–1 result in deceleration rates in the range of 9.4 to 10.7 feet per second per second for Condition B, and 5 to 8.7 feet per second per second for Condition C. Although a deceleration rate of 10.7 feet per second per second may seem high, the 1965 edition of "Traffic Engineering Handbook" [2] on page 27 indictes that a deceleration rate of 11 feet per second per second is considered undesirable but not alarming to passengers.

The National Cooperative Highway Research Program Report 154, "Determining Pavement Skid-Resistance Requirements at Intersections and Braking Sites" [3] on page 17 indicates

[1] Available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, D.C. 20001.
[2] This *Handbook* is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, NW., Washington, D.C. 20590.
[3] Available for purchase from the Transportation Research Board, National Academy of Science, 2101 Constitution Avenue, NW., Washington, D.C. 20418.

second per second is comfortable, while a deceleration rate of 10.9 feet per second per second is moderately severe. Also, it should be remembered that the values shown in Table II–1 are suggested minimums and greater distances may be used.

The FHWA proposes to revise the MUTCD, Section 2C–3, Placement of Warning Signs, to read as follows:

Warning signs shall be erected in accordance with the general requirements for sign position as described in Sections 2A–21 to 29.

Since warning signs are primarily for the benefit of the driver who is unacquainted with the road, it is very important that care be given to their placement. Warning signs should provide adequate time for the driver to perceive, identify, decide and perform any necessary maneuver. This total time to perceive and complete a reaction to a sign is the sum of the times necessary for Perception, Identification/understanding, Emotion/decision making, and Volition/execution of decision, and is here referred to as the PIEV time. The PIEV time can vary from about 3 seconds for general warning signs to 10 seconds for high driver judgment condition warning signs. Table II–1 lists suggested minimum sign placement distances that may be used for three conditions: Condition A—a higher driver judgment condition which requires the driver to use extra time in making and executing a decision because of a complex driving situation; i.e. lane changing, passing, or merging. Condition B—a condition in which the driver will likely be required to stop; and Condition C—a condition in which the driver will likely be required to decelerate to a specific speed. The placement of temporary warning signs used at highway construction and maintenance sites is covered in Part VI of this Manual and the suggested minimum sign placement distances given in Table II–1 may not apply to that group of signs.

Other miscellaneous warning signs that advise of potential hazards not related to a specific location may be installed in the most appropriate locations since they are not covered in Table II–1. These include DEER CROSSING and SOFT SHOULDER signs. Minimum spacing between warning signs with different messages normally should be based on the PIEV times for driver comprehension and reaction.

The effectiveness of the placement of any warning sign should be tested periodically under both day and night conditions. Figure 2–5 (page 2A–16) shows typical installations of standard warning signs.

As this proposed change to the MUTCD is not a mandatory condition, the FHWA recommends that no compliance date be established.

TABLE II–I—A GUIDE FOR ADVANCE WARNING SIGN PLACEMENT DISTANCE [1]

Posted or 85 percentile speed MPH	Condition A high judgment needed [2] (10 secs. PIEV)	General warning signs [3]					
		Condition B—Stop condition	Condition C—Deceleration condition to listed advisory speed—MPH (or desired speed at condition)				
		0	10	20	30	40	50
20	[5] 175	(4)	(4)				
25	250	(4)	[5] 100				
30	325	[5] 100	150	[5] 100			
35	400	150	200	174			
40	475	225	275	250	[5] 175		
45	550	300	350	300	250		
50	625	375	425	400	325	[5] 225	
55	700	450	500	475	400	300	
60	775	550	575	550	500	400	[5] 300

[1] Distances shown are for level roadways. Corrections should be made for grades.
[2] In urban areas, a supplementary plate underneath the warning sign should be used specifying the distance to the condition if there is an in-between intersection which might confuse the motorist.
[3] Distance provides for 3-second PIEV, 125 feet Sign Legibility Distance, Braking Distance for Condition B and Comfortable Breaking Distance for Condition C as indicated in *A Policy on Geometric Design of Rural Highways*, 1965, AASHTO, Figure VIII–15B.
[4] No suggested minimum distance provided. At these speeds, sign location depends on physical conditions at site. If 48-inch signs are used, the legibility distance may be increased to 200 feet. This would allow reducing the above distance by 75 feet.
Typical Signs for the Listed Conditions in Table II–I; Condition A—Merge, Right Lane Ends, etc; Condition B—Cross Road, Stop Ahead, Signal Ahead, Ped-Xing, etc.; Condition C—Turn, Curve, Divided Road, Hill, Dip, etc.
[5] Feet.

(b) *Request II–12 (Chng.) CHANNEL 9 MONITORED Sign.* This request, which originated within the FHWA, is to develop a standard sign to notify citizen band (CB) radio operators that Channel 9 is monitored by various responsible agencies. Although it is common knowledge to CB operators that Channel 9 is the emergency channel, this channel is not monitored everywhere on a 24-hour basis by a responsible agency.

This request was published on January 24, 1980, in a notice of proposed amendments to the MUTCD, under FHWA Docket 79–35 (45 FR 5750). At that time the FHWA recommended denial of the request based on the widespread knowledge among CB operators that Channel 9 is the emergency channel.

Although the majority of comments received on Docket 79–35 concurred with the action recommended at that time, the FHWA has found it necessary to reconsider this previous recommendation. In the notice published on January 24, the FHWA commented that there are CB sign installations with various formats currently in use, and that current signing having a white legend and border on a blue background with the legend CHANNEL 9 MONITORED and the name of an official monitoring agency should be permitted.

The FHWA has determined that the above policy, in effect, implies a standard for CHANNEL 9 MONITORED signs. To avoid this ambiguity, the FHWA proposes to amend the MUTCD by adding an appropriate illustration and the following paragraph to Section 2D–46 and Section 2F–33:

A channel 9 monitored sign (D9–XX) may be installed as needed. Only official governmental agencies may be shown as the monitoring agency on the sign.

The use of a sign to provide information about citizens band monitoring is voluntary. This proposed change would impose some additional costs on and mandate direct action by those agencies now using signs having different legends. However, the FHWA proposes a 5-year period for compliance to reduce transition costs to a negligible amount.

(c) *Request II–26 (Chng.)—Application of Advance Street Name Signs.* Section 2D–39 of the MUTCD permits the installation of an Advance Street Name sign posted below an intersection warning sign (i.e., Crossroad Ahead, Side Road Ahead, Tee Intersection Ahead signs, etc.) on an approach to an intersection. This request from the Michigan Department of Transportation is for a change in the MUTCD to also permit the installation of Advance Street Name signs posted below the Stop Ahead, Yield Ahead, Signal Ahead, etc., signs on intersection approaches. This change would eliminate the need for independent sign supports and save money.

The NACUTCD Subcommittee on Signs informally expressed approval of the concept but also advised careful wording of the change to avoid installation of Advance Street Name signs with other types of warning signs.

Of the 26 comments received in response to this proposed change, 13, concurred and 10 were opposed. The main reason cited by those who opposed the change was that the Stop Ahead, Yield Ahead, Signal Ahead, etc., signs conveyed too important a message to have an Advance Street Name sign mounted on the same support.

Those who favored the proposed change pointed out that the Advance Street Name sign provides important

advance navigational information to the motorist. Also, if this sign is not installed below the Stop Ahead, Yield Ahead, Signal Ahead, etc., signs then a separate support would be necessary. This adds another obstacle to the roadside environment even though the support would be breakaway or yielding.

Therefore, the FHWA proposes that the first sentence of the last paragraph of Section 2D–39 of the MUTCD be revised to read as follows as recommended by the NACUTCD:

On intersection approaches a street nameplate may be mounted below an intersection related warning sign.

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide highway agencies with a means to identify street names in advance of many additional intersections without erecting additional sign supports.

(d) *Request II–27 (Chng.) Prioritized Listing of Basic Sign Groups.* This request from the Subcommittee on Signs of the NACUTCD is for an addition to the MUTCD to provide a prioritized listing of eight basic groups of highways signs. These groups are: (1) Regulatory, (2) warning, (3) navigational guide, (4) emergency services, (5) motorist services, (6) public transportation, (7) traffic generator, and (8) general information.

A prioritized listing could serve as a guide or recommendation to those installing signs, particularly with regard to sign preference or relative location in areas where the number of signs that may be installed or the available space is limited.

Of the 22 comments received on this proposed change 13 concurred and nine opposed. The majority of those who opposed the change believe that there was no need to rank or rate the basic sign groups. Others indicated that, if needed, local agencies could develop their own prioritized listing of signs.

Those who concurred with the change indicated that a ranking would provide some guidance for the installation of signs in areas where space is limited and that there is a need to provide information at the national level on signing priority. This is especially critical where space is limited for sign installation and there is a demand for serval different types of signs.

It is true that local agencies can develop their own priority for sign installation. Some agencies, such as the Michigan Department of Transportation, have already developed a policy for signing State trunkline highways. Providing information in the MUTCD will not prohibit a local agency from expanding on this information and developing its own detailed policy.

The determination of a priority order for placement of signs is complex. As such, the FHWA proposes that a general discussion be included within the MUTCD and that more specific guidelines be developed for inclusion in the Traffic Control Devices Handbook.

Therefore, the FHWA proposes to add the following paragraph between the fourth and fifth paragraphs of Section 2A–4.

With the increase in traffic volumes and the desire to provide motorists information in addition to regulatory, warning, and directional guidance there is a need to establish an order of priority for sign installation. This is especially critical where space is limited for sign installation and there is a demand for several different types of signs. Overloading motorists with too much information can cause improper driving and impair safety. Some information is more important than other information. Generally, in case of conflict, regulatory and warning signing whose location is critical should be displayed rather than guide signing. Information of a less important nature and extraneous information should be moved to less critical locations or even deleted. (Additional guidance on prioritizing of signs is contained in the Traffic Control Devices Handbook.)

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide highway agencies with guidance for establishing the priority of sign placement in areas where there is an abundance of signing demands.

(e) *Request II–29 (Chng.) Application of Winding Road Sign.* This request from the Michigan Department of Transportation concerns the application of the Winding Road sign (W1–5). The request is to permit the use of the Winding Road sign to warn of a series of three or more curves in the roadway as opposed to installing a series of Reverse Curve or Reverse Turn signs.

Of the 21 comments received on this proposed change, 18 concurred and three indicated that what was proposed is currently allowed in the MUTCD and therefore a change is not necessary.

To provide a clearer indication on the use of the Winding Road sign, the FHWA proposes the following changes in Section 2C–8 of the MUTCD:

1. Revise the first sentence to read as follows:

The Winding Road sign is intended for use where there are three or more turns or curves, as defined in the warrants for Turn and Curve signs (Secs. 2C–4 and 5), separated by tangent distances of less than 600 feet.

2. Add the following sentence at the end of the second paragraph:

Where the three or more turns or curves extend over a roadway length of one mile or more, the supplemental plaque (W7–3a, NEXT X MILES), may be installed below the W1–5 sign.

3. Delete the last sentence in the last paragraph of Section 2C–8.

The proposed change would not impose any additional costs on or mandate direct action by highway agencies. On the contrary it would allow many highway agencies to reduce the number of signs currently used on winding sections of road.

(f) *Request II–36 (Chng.) Advance Rest Area Signs.*

This request from a private individual suggested that highway agencies place signs at periodic intervals along highways to indicate the distance to the next rest area.

Some States do install signs such as NEXT REST AREA XX MILES but at present such signs are not specifically covered in the MUTCD.

Of the 21 comments received on this proposed change, 15 concurred and six opposed. Three of the six that were opposed stated that this type of sign is presently allowed by the MUTCD and a change is not necessary. Two of those who were opposed offered no comments. One opposed the change on the basis that a need for this type of signing has not been established.

Also, almost all of those who concurred did so with the stipulation that any change in the MUTCD should not mandate the installation of any signs.

The FHWA proposes the following changes in the MUTCD:

1. In Section 2E–38 add the following after the second sentence: To provide the motorist with information on the location of succeeding rest areas a sign with the word message NEXT REST AREA XX MILES may be installed independently or as a supplemental panel mounted below one of the advance rest area guide signs. The sign or panel shall have reflectorized white letters and border on a blue background.

2. In Section 2F–35 add the following new paragraph after the third paragraph: To provide the motorist with information on the location of succeeding rest areas a sign with the word message NEXT REST AREA XX MILES may be installed independently or as a supplemental panel mounted below one of the advance rest area guide signs. The supplemental panel may be used with one of the advance guide signs for rest areas that have

tourist information and welcome centers. Before a supplemental panel is installed with tourist information or welcome center signs, a study should be conducted to make sure the additional information will not overload the motorist on this section of roadway.

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide highway agencies with a voluntary method of identifying succeeding rest areas.

(g) *Request II–37 (Chng.) YIELD Signs in Conjunction With STOP Signs.* This request from the Michigan Department of Transportation is to modify Section 2B–8 of the MUTCD to permit the YIELD sign to be used in conjunction with the STOP sign for the major flow of traffic at intersections.

The MUTCD has the following provisions relative to the use of YIELD signs with STOP signs and major traffic movements: "YIELD signs should not ordinarily be placed to control the major flow of traffic at an intersection. They should not be erected on the approaches of more than one of the intersecting streets or highways or used at any intersection where there are STOP signs on one or more approaches, except, under special circumstances, to provide minor movement control within complex intersections."

Of the 21 comments received in response to this proposed change 19 opposed, one concurred, and one commenter requested a legal opinion before any decision is made.

From a review of the comments received, it appears there is some confusion as to the intent of the request. The request was to revise Secton 2B–8 to permit the use of a YIELD sign at an intersection where the major traffic movements are a right turn and the companion, or corresponding, left turn. The YIELD sign would be installed controlling the major right turning traffic movement. The minor approaches to the intersection would be controlled by STOP signs. Figure 1 may help explain the intent of this request.

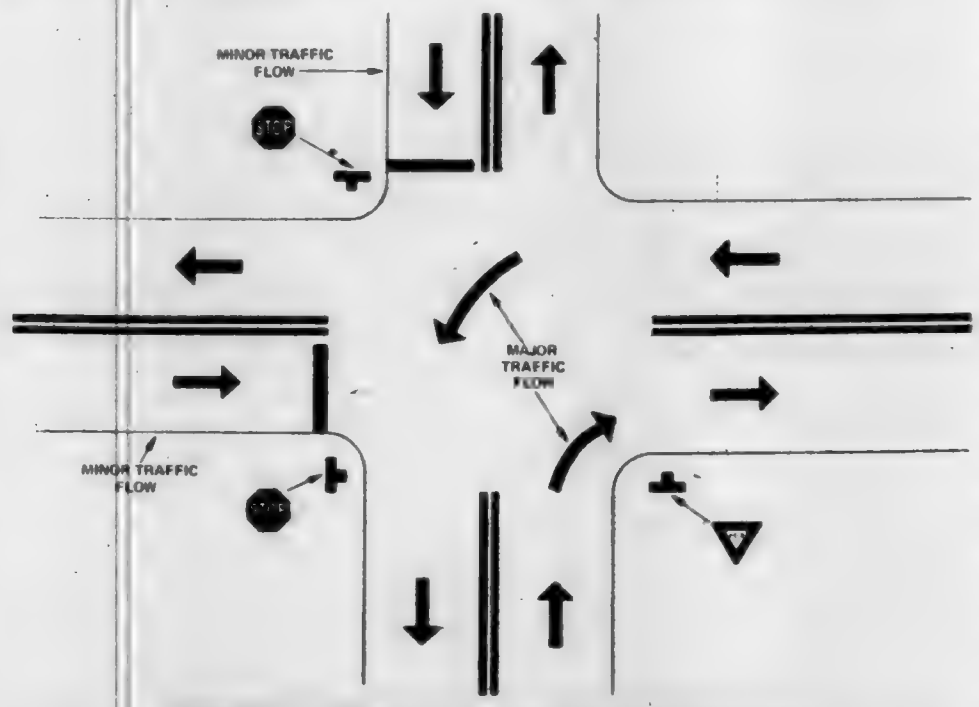

FIGURE 1 — YIELD SIGNS IN CONJUNCTION WITH STOP SIGNS

The FHWA proposes the second paragraph beginning with the words, "YIELD signs should not ordinarily . . . ," in Section 2B–8 be deleted and the following two paragraphs added:

YIELD signs may be installed at an intersection where the major traffic movements are a right turn and the companion left turn. The YIELD sign, if used, shall be installed facing the major right turning traffic. If a YIELD sign is used in this manner, STOP signs shall be installed to control traffic on the minor approaches.

YIELD signs may be installed at complex and/or channelized intersections to control major traffic movements where STOP signs are used to control the minor traffic movements.

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. The proposed change would permit a significant volume of right turning traffic to move through certain intersections under a yield situation rather than being required to stop.

(h) *Request II–39 (Chng.) Dead End Signs on Intersecting Streets.* This request from the cities of Ocala and Tampa, Florida, is for the development of a standard sign specifically to advise motorists of an intersecting street that dead ends.

Section 2C–37 of the MUTCD provides for the use of signs with the legend DEAD END and NO OUTLET to warn of a street or road that has no outlet. These signs are generally installed in a position to warn motorists who are already on the street which dead ends. Motorists on an intersecting street often cannot see these signs until the turn into the dead end street has been made.

Of the 21 comments received on this proposed change, six concurred and 15 opposed. Most of those who opposed the change believe that the existing signs in the MUTCD are adequate. Further, the existing signs can be located such that a motorist on an intersecting street can see these signs before a turn is made into the dead end street. Another reason cited by those who opposed the change was that it would lead to undesirable sign proliferation.

The FHWA agrees that at many locations the existing MUTCD signs can be installed so they can be seen by a motorist on the intersecting street before a turn is made. However, there are also many locations where this is not possible. The addition of an auxiliary sign with the word message DEAD END or NO OUTLET as FHWA proposes in the following paragraphs will provide the motorist with the necessary information as to which streets do not have an outlet.

In regard to the concern about sign proliferation, signs should only be installed based on an engineering study which justifies the need.

The FHWA proposes the following changes be made in the MUTCD:

1. Section 2D–39 Street Name Sign (D3)—Insert the following language between the last two paragraphs of Section 2D–39: An auxiliary warning sign may be used as part of the

intersection street name sign assembly. The auxiliary signs shall be of rectangular design, with black legend and border on a yellow background, indicating either DEAD END or NO OUTLET. An arrow may be used where appropriate. The signs, if used, shall be mounted horizontally below the street name sign and should not exceed the dimensions of the street name sign.

2. Section 2C–37 Dead End Signs (W14–1, W14–2)—Add the following paragraph: Section 2D–39 contains information on the use of DEAD END and NO OUTLET signs used in conjunction with street name sign assemblies

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide for an alternative and less expensive way of identifying crossing streets that have no outlet.

(i) *Request II–55 (Chng.) Symbolic PUSH BUTTON FOR WALK SIGNAL Sign.* This request from the city of Mesa, Arizona, Transportation Department is for approval of a symbol sign to be used as an alternative to the standard MUTCD word message regulatory sign NO. R10–4, PUSH BUTTON FOR WALK SIGNAL. The proposed sign consists of the standard pedestrian silhouette adopted for use for the WALK indication in pedestrian signals, an arrow, and the word message WALK BUTTON. The sign has a black legend and border on a white background. The standard size for the proposed sign is 9 inches × 12 inches.

Prior to requesting the change, the city of Mesa conducted formal experimentation (Request II–49 (Expr.)) with the proposed symbol sign during April and May, 1980, at three signalized locations in Mesa. Two of the signal locations served primarily junior high school pedestrians and the third served primarily college pedestrians. The experimentation included before and after observations (total of 1233 crossings) and interviews (total of 278). The report of the experimentation [4] stated that overall the pedestrians exhibited better behavior with the symbolic pedestrian push button signs. The percent that pushed the button and crossed on the WALK indication increased by 9.5 percent. The percent of pedestrians that crossed on the red (DON'T WALK) indication decreased 12.5 percent. The interviews indicated that there was awareness and understanding of both types of push-button signs.

Based on the results of this experimentation and the growing preference for symbol signs by both the public and highway agencies, the FHWA proposes to designate the proposed sign as sign no. R10–4b and to amend the MUTCD to permit the use of this sign as an alternate to sign no. R10–4. The third paragraph of Section 2B–37 would be amended by adding an appropriate illustration [5] and the following:

The symbol sign R10–4 may be used as an alternate to sign R10–4.

This change would not impose any additional costs on or mandate any direct action by highway agencies. It would provide highway agencies with an additional voluntary method for improving guidance for pedestrians.

(j) *Request II–56 (Chng.) Symbolic CROSS ON WALK SIGNAL ONLY Sign.* Section 4D–1 of the MUTCD provides that pedestrian signal indications consist of the illuminated words WALK and DON'T WALK or the illuminated symbols of a walking person (symbolizing WALK) and an upraised palm (symbolizing DON'T WALK). Section 2B–37 provides a signal instruction sign, R10–2, applicable to pedestrians with the word legend CROSS ON WALK SIGNAL ONLY, but does not provide a comparable symbol sign for application with the symbolized pedestrian signal indication for WALK (walking person).

The city of Newark, New Jersey, has developed a symbol sign for this purpose and requested that the MUTCD be amended by including the proposed sign as an alternate to sign R10–2. The proposed sign consists of the standard symbolic walking person approved for pedestrian signal indications and the word legend CROSS ON ——— ONLY. The proposed sign has a black legend, symbol and border on a white background. The standard size for the sign is 12 inches × 18 inches.

In recognition of this omission in the MUTCD, the FHWA proposes designating the proposed sign as sign R10–2a and amending the second paragraph of Section 2B–37 of the MUTCD by adding an appropriate illustration and the sentence:

The R10–2a sign is a permissible alternate to the word message sign R10–2.

This change would not impose any additional costs on or mandate any direct action by highway agencies. It would provide highway agencies with an additional voluntary method for improving guidance for pedestrians.

2. Markings (Part III)

(a) *Request III–18 (Chng.) Permissive Use of Wrong-Way Pavement Marking Arrows.* Since 1971 the FHWA has required in each lane of an exit ramp the placement of one or more pavement marking arrows near the crossroad terminal where it would clearly be in sight of a wrong-way driver.

The Ohio Department of Transportation has requested that the MUTCD language be revised from a mandatory requirement to one of permissive usage. This would allow highway agencies to choose those ramps on which to place the arrows.

Of the 21 responders, 16 concurred with the request to make the pavement marking arrows permissive. The use of the arrows has been required since 1971 even though not specifically addressed in the MUTCD until 1978. It is apparent from the comments received that many agencies have not implemented this requirement. From the comments received many agencies believe that blanket use is unnecessary and wasteful, and that engineering judgment should dictate those exit ramps where arrows should be used.

From available accident data, approximately 10 percent of all head-on fatal collisions occur on Interstate or other limited access facilities while one motorist is traveling the wrong way. Approximately 25 percent of all fatalities on these same facilities are the result of head-on collisions. The problem of head-on collisions is significant and must be addressed.

A Highway Research Information Service (HRIS) file search reveals that there has been considerable research performed on the subject of wrong way driving on freeways and ramps. Wrong way movements most frequently occur where ramp terminals have complicated geometrics that confuse motorists. Another identified factor is that wrong way movements tend to take place at times of low visibility. Research results fairly well confirm that signing is effective in preventing wrong-way movements. However, results are mixed about the effectiveness of the wrong way pavement marking arrows.

In light of the foregoing the FHWA proposes that the mandatory use of pavement making arrows be changed to an advisory use and proposes the following revision to item 5 of Section 2E–41:

[4] "Experimentation With a Symbolic Push Button Sign." Transportation Department, Mesa, Arizona, 1980. Copies available from the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590

[5] Copies available from the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590

5. In each lane at an exit ramp one or more pavement marking arrows should be placed near the crossroad terminal to supplement wrong way signing at locations where wrong way usage occurs or there is the likehood of wrong way movement. These markings, which should be clearly in sight of a wrong way driver, may consist of traffic paint, thermoplastic material, bi-directional red and white raised pavement markers, or other units that show red to wrong-way drivers and white to other drivers.

This proposed change would reduce the present requirements of the MUTCD and permit highway agencies to determine those locations where wrong way pavement marking arrows are to be used.

(b) *Request III–18 (Chng.) Mandatory Marking of Interchange Ramps.* Intersections and interchanges are areas where accident potential generally is high. These are locations where drivers are required to make maneuvering decisions and where frequent driver confusion occurs. It is essential that proper and well maintained pavement markings be provided for positive guidance, especially at interchange exit ramps.

Based upon field reviews of completed highway projects by an FHWA sponsored Safety Review Task Force, the FHWA suggested that Section 3b–11 of the MUTCD be revised to require, as a minimum, pavement markings in advance of exit ramps. These markings would include (1) dotted extension of the right edgeline, (2) extension of the dashed line for parallel slow down lanes, and (3) marking the channelizing lines between the main roadway and exiting ramp, as shown in Figure 3–11 of the MUTCD.

Of the 22 comments received on this proposed change, seven concurred, 13 were opposed and two were unclear, of the 13 that were opposed, nine opposed making all three pavement marking configurations mandatory. The other four were only opposed to some aspects of the proposed change.

The majority of those who were opposed questioned the need to require all three pavement marking configurations. That is, the decision to install these markings should remain at the local level and be made on the basis of an engineering study, not by a mandate in the MUTCD. Some pointed out the problem of installing and maintaining the pavement markings, especially the dotted extension of the right edgeline in areas of heavy traffic volumes.

Since locations where drivers are required to make maneuvers have a high accident potential, pavement markings in combination with signs at gore areas would provide the driver with guidance in exiting.

The FHWA proposes the following changes be made in Section 3B–11 of the MUTCD: In the first and second sentences of the second paragraph change the word "should" to "shall."

If adopted this change would require channelizing lines between the main roadway and the exit ramp and an extension of the dashed line for parallel deceleration lanes. The dotted extension of the right edgeline and the transverse line in the neutral area would remain optional.

The requirement for channelizing lines at interchange gore areas would impose virtually no additional cost on highway agencies. Most gore areas are already channelized with markings. This proposed change would have the MUTCD conform to accepted practice. The extension of the dashed line for parallel deceleration lanes would impose some additional costs on highway agencies but the cost can be minimized by applying the dashed lines at the time other stripping is being performed in the vicinity.

3. Traffic Controls for Street and Highway Construction and Maintenence Operations (Part VI)

(a) *Request VI–3 (Chng.) Temporary Markings for Construction and Maintenance Areas.* The MUTCD provides detailed requirements for pavement marking patterns used on completed roads open to unrestricted travel, but provides no guidance for patterns to be used for temporary markings in work zones where road work is in progress. Some States use very short pavement marking stripes with long gaps to save paint or materials in areas where the markings will be used for short periods of time.

This request initiated within FHWA is for a change in the MUTCD to provide guidance on this subject and to achieve uniformity in the use of temporary markings.

Of the 25 comments received on this proposal, 20 concurred, three were opposed and two indicated preference to comment after the specifics were available for review. Those opposing the proposal generally felt that pavement markings in work zones should be the same as those used on permanent roadways. Many who concurred with the proposal recommended that the guidance not be made mandatory.

The FHWA proposes that the title of Section 6D–1 be revised to Pavement Markings—General and that the first paragraph be revised to read:

When construction work necessitates the utilization of vehicle paths other than the lanes normally used, daytime and nighttime drive-through checks should be made to evaluate the path and the possibility that the pavement markings might inadvertently lead drivers from the intended path. Markings no longer applicable which might create confusion in the minds of vehicle operators shall be removed or obliterated as soon as practicable. Inappropriate existing pavement markings shall be removed and the new interim markings placed before opening the affected lane or lanes to traffic. Traffic shifts from one path to another should not be attempted unless there is sufficient time, equipment, materials and personnel available to properly complete it before the end of the workday. The intended vehicle path should be clearly marked at the end of the work day where new surface materials are placed.

It is proposed that the fifth paragraph of Section 6D–1 be deleted and the following two paragraphs added.

Interim pavement markings shall be used in combination with appropriate warning signs, channelizing devices and delineation to clearly indicate the required vehicle paths.

All markings having application at night shall be fully reflectorized. Paint, raised pavement markings, preformed tapes, or other material, as appropriate for local conditions, may be used for interim pavement markings.

The following is proposed as an addition to Part VI–D:

Section 6D–3 Pavement Marking Patterns and Applications. The patterns of interim longitudinal lines applied in construction, maintenance and utility work zones open to public travel desirably should have the same patterns as those used outside of work zones. This is especially true where traffic volumes and speeds are high, and where the duration of the work activity extends beyond more than a few days. Part III contains the standards for pavement marking patterns outside of work zones.

Broken Lines

Less than the full standard marking patterns from that prescribed in Part III are permitted only for broken lines. Broken lines should have 10–foot stripes and 30–foot gaps (or regular module) with an acceptable minimum pattern of 4-foot stripes on 40-foot centers (or regular module). Where raised pavement markers are used to simulate a broken line each stripe should have four nonreflective raised pavement markers on 3⅓ foot centers with a 30-foot gap (or regular module). As a minimum, two nonreflective raised pavement markers on centers no greater than 4 feet may be used to simulate a stripe. Where raised pavement markers are used to supplement a broken line, a reflectorized raised pavement marker should be placed in each gap.

Solid Lines

Edge line markings and no passing barrier markings shall be a solid stripe. A combination raised pavement marker/stripe

system is permitted for left edge lines on multilane roads. Raised pavement markers or combination raised pavement marker/stripe system generally are not permitted for right edge line markings because under certain conditions, the raised pavement markings resemble a lane line pattern.

Raised pavement markers used to simulate a solid line shall clearly appear to the motorist as a solid line. Simulated solid lines should have reflectorized raised pavement markers on 20 foot centers with non-reflectorized raised pavement markers on 4 or 5 foot centers. Simulated double solid lines should have the same pattern as a solid line with the lines separated by 3 to 4 inches.

Raised pavement markers may be used to supplement solid lines. Reflectorized raised pavement markers should be placed on 40 foot centers normally 1½ to 2 inches from the stripe supplemented. Double solid lines should have the same pattern as a solid line with reflectorized raised pavement markers normally placed outside the solid line (both sides). Spacing on transitions, painted islands or medians, and curves 6 degrees or more should be on 20 foot centers.

The type of markings and use of marking patterns less than desirable as contained herein should be made on the basis of an engineering analysis.

This proposed change would impose some additional costs on and require direct action by some highway agencies. Improved highway safety would be a direct result by requiring application of a more uniform delineation of vehicle paths through work zones. The FHWA proposes a 3 year period for compliance to provide time for incorporating these provisions into contracts.

(b) *Request VI–11 (Chng.) Reflectorization of Signs.* This request, which originated within the FHWA, is for an amendment to the MUTCD to require that the entire area of construction and maintenance signs for all colors except black shall be reflectorized with a material that has a smooth, sealed outer surface which will display approximately the same size, shape, and color day and night. This change would, in effect, prohibit the use of an inferior method of obtaining reflectorization (i.e., paint and glass beads).

Of the 20 comments received on this proposed change, 14 concurred and six opposed. Those who were opposed cited such reasons as: local jurisdictions can develop their own materials specifications, this type of requirement should not be included in the MUTCD, and specifying a smooth, sealed outer surface is too restrictive and may eliminate the use of other types of materials that may be just as effective.

It is true that local jurisdictions can develop their own materials specifications. However, a field review of various construction sites by FHWA personnel found many locations were still using paint and glass beads as a means of reflectorizing signs. It is especially important that signs used in work zones show approximately the same shape and color both by day and night.

The other major objection raised was that specifying a "smooth, sealed outer surface" may prohibit the development of equally effective material.

A procedure has been established for the development of new or revised standards to account for advances in technology. This procedure involves the experimentation with new devices or materials and is described in Section 1A–6 of the MUTCD. In brief, any jurisdiction may request permission to experiment with a new device or material. Depending on the results of the experiment, the MUTCD could be changed.

Therefore, the FHWA proposes that the first sentence of Section 6B–2 be revised to read as follows:

All signs intended to be used during the hours of darkness shall be either reflectorized with a material that has a smooth, sealed outer surface, or illuminated, to show approximately the same shape and color day and night.

In addition, so that Section 6B–2 will not be in conflict with Section 2A–18, FHWA proposes that Item 2 in Section 2A–18 be revised to read as follows:

2. A material that has a smooth, sealed outer surface, either on the sign background or where a white legend is used on a black or colored background in the symbol or message and border.

This proposed change would impose some additional costs on and mandate direct action by some highway agencies. The FHWA proposes a 5-year period for compliance to reduce the transition cost.

(c) *Request VI–12 (Chng.) Color of Reflectorized Material for Cones.* The MUTCD provides that cones and tubular markers shall be reflectorized or equipped with lighting devices when used at night. The color of the reflectorization is not specified. This request, which originated within the FHWA, would amend the MUTCD by specifying the color or colors to be used on these devices.

Of the 16 responses received 13 concurred that the MUTCD should specify the color of cone reflectorization. Three responses were in opposition to specifying a color. Only six responders recommended a specific color (four suggested white and two suggested orange).

The FHWA proposes the use of white reflectorized material on cones and tubular markers since white is the most visible color and the reflectorized areas will be relatively small. The following revision to the last paragraph of Section 6C–3 is recommended:

Reflectorization of tubular markers shall be a minimum of two 3-inch white bands placed a maximum of 2 inches from the top with a maximum of 6 inches between the bands. Reflectorization of cones shall be provided by a minimum 6 inch white band placed a maximum of 3 inches from the top.

This proposed change would establish a uniform color for reflectorizing cones and tubes. It will impose some additional costs on highway agencies; however, the FHWA is proposing a 3-year period for compliance to reduce the transition costs to a minimum.

(d) *Request VI–13 (Chng.) Advance Warning Flashing Arrow Panels.* The present standards in Section 6E–7 of the MUTCD are written primarily to define the proper physical characteristics of flashing arrow panels. The FHWA has suggested that the MUTCD provide a better definition of both the proper and improper use of arrow panels in various work zone situations. A recent research study sponsored by FHWA and entitled "Guidelines for the Application of Arrow Boards in Work Zones" (December 1978) * has been completed and suggests the following:

(1) Use of the flashing arrow mode should generally be limited to lane closures and moving operations.

(2) Use of the flashing arrow mode should not generally be permitted for roadway diversions where there are no lane closures.

(3) For lane closures, arrow panels should be placed on the shoulder of the roadway adjacent to the start of the closed lane.

(4) For lane closures and moving operations, only the flashing arrow should be used. (Arrow panels are capable of showing other symbols.)

Fifteen responses were received on this request. Seven concurred with a need for a better definition on the use of advance warning flashing panels, five opposed and three suggested a deferral pending review of the research.

Those expressing opposition were concerned that mandatory language would negate the use of engineering judgment; that the proposed placement on the shoulder was questionable; and that other flashing modes should be permitted.

The research study cited above indicates that the flashing arrow is the most effective mode in conveying its message to the driver. Sequencing

*This study is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

modes go through four pulses to display their message whereas the flashing arrow only goes through two. Drivers normally interpret the flashing arrow to mean a lane closure is ahead. Thus the flashing arrow is more appropriate for use with lane closure situations. The sequential-chevron mode did not elicit as strong a lane change meaning to drivers and is, therefore, more appropriate for use with detours, crossovers, or bypass roadways where there is no reduction in the number of available lanes.

Placing the flashing arrow on the shoulder at the beginning of the taper or upstream of the taper produced a more effective lane changing pattern than placing the flashing arrows in the closed lane in the middle of the taper. Such placement also offsets the device further from a possible conflict with vehicles.

As with the placement of any traffic control device a review of the site is essential for proper placement and orientation of the device. This philosophy is reflected in the proposed language for flashing or sequencing panels.

The FHWA is proposing that Section 6E–7 be revised as follows:

6E–7 Arrow Boards

Arrow boards are signs with a matrix of lights capable of displaying a flashing arrow and/or a sequential chevron. They provide additional advance warning and directional information to assist in diverting and controlling traffic around construction or maintenance activities being conducted on or adjacent to the traveled way. Arrow boards are intended to supplement necessary signs, barricades, or other traffic control devices.

The arrow board may be used for day or night lane closures, roadway diversions, slow moving activities on the traveled way, or hazardous conditions created by high traffic density and speed.

Arrow boards are effective in encouraging drivers to leave the closed lane sooner than the normal complement of traffic control devices. Arrow boards are more effective in promoting lane changes when placed on the roadway shoulder at the start of the taper or upstream of the start of the taper rather than centered in the closed lane in the middle of the taper.

The flashing arrow mode is to be used only where a lane(s) is being closed. The sequential-chevron mode may be used for roadway diversions (detours, crossovers, or bypass roadways) where there is no need for motorist to change lanes.

The geometrics and conditions at each site where an arrow board is to be used should be studied to determine the best point to begin the transition or taper and the proper orientation of the board.

Arrow boards shall meet the requirements of Table VI–3. Minimum legibility requirements are the distance at which the arrow board message can be comprehended by a driver on a sunny day or a clear night. The color of the light emitted shall be yellow.

TABLE VI–3.—ARROW BOARDS

Type	Minimum Size (inches)	Minimum number of lamps	Minimum legibility distance (miles)
A	24 by 48	12	½
B	30 by 54	13	¾
C	48 by 96	15	1

Type A arrow boards are appropriate for use on low speed urban type streets. Type B is appropriate for intermediate speed facilities and for moving operations on high-speed roadways. Type C arrow boards are intended to be used on high-speed, high-volume roadways.

The most commonly used arrow board face is rectangular in shape, of solid construction, and finished with a nonreflective black surface. The arrow board shall be suitably mounted on a vehicle, trailer, or other support. Vehicle-mounted boards should be provided with remote controls. The minimum mounting height should be 7 feet above the roadway to the bottom of the arrow board face.

Arrow boards should have the capability of the following mode selection: Left Arrow, Right Arrow, Left and Right Arrow, Left or Right Sequential Chevron and Caution. The Caution mode consists of four or more lamps, arranged in a pattern which will not indicate a direction.

Arrow boards shall be capable of minimum 50 percent dimming from rated lamp voltage. The flashing rate of the lamps shall not be less than 25 times per minute.

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide highway agencies with additional guidance on the use of an optional traffic control device.

(e) *Request VI–15 (Chng.) Use of Street Name Signs with Detour Signs.* The FHWA has suggested that Section 6B–38 of the MUTCD be revised to recommend the use of street name signs with the M4–9 Detour signs for marking a detour from an unnumbered route. It was also requested that Figure 6–4 be modified to show the street name above the M4–9 sign.

Generally, the M4–9 sign is satisfactory for the motorists who wish to remain on the entire detoured route. Some motorists travel a portion of the detour route only because it overlaps their original intended route and there is a need to identify the detoured route with the closed street name.

Of the 17 comments received on this proposed change 14 concurred and three were opposed. Two of the three who were opposed were opposed only if the street name signs were made mandatory. One opposed on the grounds that adding a street name sign to the M4–9 sign would confuse the motorist.

Street name signs have been used in combination with the M4–9 Detour sign in Michigan. A field review of detour signing in Michigan conducted by the FHWA Division Office concluded that the addition of the Street Name sign to the M4–9 sign provided the following benefits:

1. The use of the Street Name sign reduces the possibility that the M4–9 signs will mislead those motorists who are not concerned about the detour.

2. The assembly provides added confirmation to the detouring motorists that they are following the correct detour.

It should also be noted that for marking detours of numbered routes, the MUTCD currently provides a detour marking assembly which includes the route number of the detoured route. This is illustrated in Figure 6–3. The proposed change would simply extend this principle to unnumbered routes.

Therefore, the FHWA proposes that the following paragraph be added at the end of Section 6B–38:

A Street Name sign may be placed above or incorporated in the Detour sign (M4–9) to indicate the name of the roadway for which the detour was established.

Figure 6–4 already has a note that indicates street names may be used when desirable for directing detoured traffic. Therefore, FHWA proposes no change in Figure 6–4.

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide highway agencies with a voluntary method of identifying the street being detoured through a work zone.

(f) *Request VI–16 (Chng.) Use of Detour Ends Sign.* This request originated within the FHWA to include a Detour Ends sign to Section 6B of the MUTCD.

Recent reviews conducted on various detour routes indicate that motorists traveling detour favor additional detour guidance signs or markers. It was noted that some motorists returned to the origninal route and were not aware of it. The proposed sign is 24 inches by 18 inches with a black message on an orange background.

All of the 17 comments received on this proposed change concurred with the change.

The FHWA proposes the following paragraph be added at the end of Section 6B–38. This new paragraph would follow the paragraph

recommended under Reguest VI-15 (Chng.).

The Detour Ends sign (M4-11) may be used to advise the motorist that the detour has ended. The Detour Ends sign may be used on either numbered highways or unnumbered roadways. If used on a numbered highway, it should be erected above a route marker located near the end of the detour.

The FHWA also recommends that two Detour Ends signs be added as appropriate to Figure 6-4.

This proposed change will not impose any additional costs on or mandate direct action by highway agencies. It will provide a voluntary method to notify motorists of the terminus of a detour.

4. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)

(a) *Reguest VIII-2 (Chng.) Warning Signs on Roads Parrallel to Railroads.* This request, originated by the Railroad Subcommittee of NACUTCD, is for adoption of a railroad crossing warning sign to be used on roads running parallel to a railroad. The sign would warn drivers traveling on the parallel road.

Of the 24 comments received on this proposed change, 16 concurred, six opposed, one commenter indicated a desire for more details and one was unclear.

Those who were opposed to the change offered such reasons as: The present signs are adequate; this type of signing is not needed; and this type of signing could lead to undesirable sign proliferation.

It is true that the existing Railroad Advance Warning sign (W10-1) has been used to warn turning motorists of a downstream railroad crossing. This has been accomplished by installing W10-1 signs, with an appropriate black on yellow Advance Turn Arrow marker mounted below the W10-1 signs.

However, it is believed that a unique symbol sign would be more effective. The States of Washington and Idaho have been using the proposed symbol signs for a number of years with excellent success.

As for the contention that this type of signing is not needed, several of those who concurred indicated there was an accident problem with turning vehicles and some type of signing was needed.

Sign proliferation is a potential problem. However, as indicated in the MUTCD, signs should only be installed when their need has been determined based on an engineering study.

The FHWA propose to revise Section 8B-3 of the MUTCD by adding three new warning signs designated as W10-2, W10-3, and W10-4 (W10-3 and 4 are variations of the W10-2). The proposed wording of Section 8B-3 is as follows:

8B-3 Railroad Advance Warning Signs (W10-1, 2, 3, 4) A railroad advance warning (W10-1) sign shall be used on each roadway in advance of every grade crossing except:

(1) On low-volume, low-speed roadways crossing minor spurs or other tracks that are infrequently used and which are flagged by train crews.

(2) In the business districts of urban areas where active grade crossing traffic control devices are in use.

(3) Where physical conditions do not permit even a partially effective display of the sign.

Placement of the sign shall generally be in accordance with Section 2C-3 and Sections 2A-21 to 2A-27, normally 750 feet or more in advance of the crossing in rural areas and 250 feet in advance of the crossing in urban areas, except that in a residential or business district where low speeds are prevalent, the signs may be placed a minimum distance of 100 feet from the crossing. On divided highways and one way roads, it is desirable to erect an additional sign on the left side of the roadway.

The W10-2, 3, and 4 signs may be installed on highways that are parallel to railroads. The purpose of these signs is to warn a motorist making a turn that a railroad crossing is ahead. Where there is 100 feet or more between the railroad and the parallel highway, a W10-1 sign should be installed in advance of the railraod crossing and the W10-2, 3, or 4 signs on the parallel highway would not be necessary.

If this change is approved, a figure showing typical railraod advance warning sign placement will be included in the Traffic Control Device Handbook—Part VIII, presently being developed (see figure below).

Also, if Request II-4 (Chng.) Placement of Warning Signs is approved, changes will be made in Section 8B-3 of the MUTCD. However, the reference to the 100-foot distance between the railroad and the parallel highway will remain unchanged.

This proposed change would impose some additional costs on and require direct action by those highway agencies using different sign formats. It would provide a uniform means to warn turning drivers of a railroad crossing in close proximity to an intersection. The FHWA is proposing a 5-year period for compliance to phase in the new signs and reduce the transition cost.

W10-2

(b) *Request VIII-5 (Chng.) Use of Stop Signs at Railroad-Highway Grade Crossings.* Section 2B-5 of the MUTCD recommends that STOP signs should not be installed indiscriminately at rail-highway grade corssings and also that STOP signs should only be installed as an interim measure while the plans for lights, gates, or other means of traffic control are being prepared.

The advance notice of proposed rulemaking requested comments on the following two questions:

1. Should any changes be made in the MUTCD concerning the use of STOP signs at rail-highway grade crossings?

2. If changes should be made, what should the changes be?

Twenty-two comments were received on this request. Most of those commenting did address the two specific questions. Eleven of those commenting recommeded a change in the MUTCD and 11 recommended no change be made in the MUTCD concerning the use of STOP signs at rail-highway crossings.

The use of STOP signs as a permanemt traffic control device at rail-highway crossings remains a controversial issue.

Those who are opposed to the installation of STOP signs at rail-

highway crossings use the following arguments:

- There is a potential for an increase in rear-end accidents.
- The STOP signs cause unnecessary highway traffic delays with resulting energy consumption.
- Driver observance of STOP signs at rail-highway crossings is low and this can breed contempt for STOP signs at locations where they are needed.

Those who support the installation of STOP signs at rail-highway crossings point out that, when used selectively, STOP signs increase the likelihood of a driver looking for a train and thereby reduce the probability of an accident.

The FHWA proposes the following changes be made in the MUTCD:

1. In Section 2B–5 revise the fifth paragraph to read as follows:

STOP signs may be used at selected railroad-highway grade crossings only after their need has been determined by a detailed traffic engineering study. Use of the STOP sign at railroad-highway grade crossings is described in Section 8B–0.

2. Add a new section, Section 8B–0, as follows:

8B–0 STOP Signs At Grade Crosssing (R1–1, W3–1). The use of the STOP signs at railroad-highway grade crossings shall be limited to those grade crossings selected by detailed traffic engineering study. Such crossings should have the following characteristics:

(1) Highway should be secondary in character with low traffic counts.

(2) Train traffic should be substantial.

(3) Line of sight to an approaching train is restricted by physical features such that approaching traffic is required to reduce speed to 10 miles per hour or less in order to stop safely.

(4) At the stop bar, there must be sufficient sight distance down the track to afford ample time for a vehicle to cross the track before the arrival of the train.

The engineering study may determine other compelling reasons for the need to install a STOP sign, however, this should only be an interim measure until active traffic control signals can be installed. STOP signs should never be used on primary through highways or at grade crossings with active traffic control devices.

Whenever a STOP sign is installed at a grade crossing, a Stop Ahead sign shall be installed in advance of the STOP sign.

If this change is approved, a figure showing a typical traffic control device layout including STOP signs will be included in the Traffic Control Devices Handbook—Part VIII presently being developed.

Since this proposed use of the STOP sign would be voluntary, this proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide highway agencies with additional guidance on the characteristics of railroad-highway intersections that may be considered for installation of STOP signs.

5. Traffic Controls for Bicycle Facilities (Part IX) Request IX–3 (Chng.) Hostel Signs

This is a reconsideration of an earlier request from the American Youth Hostels, Inc.

Hosteling is a concept of inexpensive lodging which originated in Europe. In Europe, a sign depicting a pine tree and house is used to direct travelers to hostels.

The requestor believes that with the increase of foreigners touring the United States and the increase in bicycle touring through the development of long-distance bicycle routes, the European symbol sign should be adopted as the United States standard. The proposed sign is similar to the present Camping/Picnicking signs. The similarity is so close that if used in conjunction with roadways shared with bicycles, it could be mistaken for the camping/picnicking sign.

Prior to its termination, the NACUTCD reviewed the initial request on this item. It believed that because of the limited and specialized use of such signs, hostelers' needs could be adequately addressed by use of their organization's handbook which lists all hostels in the United States, fees, special information pertaining to each hostel, and maps of most areas.

Twenty commenters opposed the adoption of a national standard for signing to hostels, 19 commenters in favor of a standard and 1 petition contained 27 names of individuals who were in favor. All of the 20 expressing opposition were from State, county or city governments which would be responsible for erecting and maintaining the proposed sign if adopted. Most of the opposition comments were to the effect that there is little demonstrated need for such signing, other means are available to get such information to bicyclists and other non-motorists, and the similarity with the picnicking sign could create confusion. Those favoring the proposed sign pointed out that this symbol is being used internationally and that the needs of bicyclists and hostelers could be served through the adoption of the sign.

Since these signs are primarily applicable to bicyclists and other non-motorists, the FHWA is proposing the following language for addition to Part IX of the MUTCD:

9B–23 Hostel Signs

Hostel signs are signs designed to provide information on facilities that provide limited overnight accommodations. These signs satisfy an information need on the part of certain travelers but primary information should be in the form of printed literature and strip maps rather than signing. As hostel signs are primarily applicable to bicyclists they are intended for installation only on designated bicycle routes identified by Bicycle Route Signs or Markers. Hostel signs shall have a reflectorized white symbol and border on a blue background.

If adopted as a standard sign an illustration of the sign will be included in the MUTCD.

This proposed change would not impose any additional costs on or mandate direct action by highway agencies. It would provide a voluntary method of identifying hostels.

Part B—No Changes in MUTCDE Proposed

Based upon the review of the comments receive on Docket No. 79–37 and FHWA's own review, no changes in the MUTCD are being proposed for these items.

1. Signs (Part II)

(a) *Request II–23 (Chng.) Signing for Bypass Lanes.* The request was submitted by the Highway Department of Lake County, Illinois, which contends that many States make use of bypass lanes, and since there are no national standards for signing this situation, the States are using a variety of traffic control measures. The requester asks that national standards for signing bypass lanes be adopted and suggests that possible signing could include a regulatory-type sign identifying the bypass lane and its special operational characteristics along with warning signs to advise drivers of possible turning movements of other vehicles.

Of the 22 responses received, 12 were opposed to the adoption of national standards, 7 concurred with the request and 3 commented that additional information or further study was needed. Several of those indicating opposition or concurrence likewise suggested additional research or study.

Some of the opposition comments were to that effect that experience with bypass lanes has shown no problems that exist; signing might cause more confusion than it would resolve; additional signing would create more obstacles for drivers to hit and more information for the driver to comprehend in an area where attention is needed on the driver ahead. Most of those concurring offered no comment. One commented that any sign developed

should not be mandatory and one thought the sign should not be regulatory.

Some States may use bypass lanes quite extensively and there may be many other States that use a limited number of bypass lanes. However, based upon the information available to FHWA, it does not appear that bypass lanes are used extensively in very many States.

FHWA proposes not to adopt this request for the following reasons:

(1) Any paved surface that is improved, designed or ordinarily used for vehicular travel to the right of the left turning vehicles may be used by vehicles to bypass the turning vehicle.

(2) The extent of bypass lane use across the country does not appear to warrant the establishment of a national standard at this time.

(3) Several government agencies which have used bypass lanes without special signs have indicated no operational problems.

(4) A bypass lane constructed to relatively high geometric standards would likely cost only slightly less than a design that would provide for a left turn lane.

Traffic control information pertinent to the operation of bypass lanes will be considered for inclusion in the Traffic Control Devices Handbook.

(b) *Request II–24 (Chng.) Modified Parking Area Sign.* The Clearwater, Florida, Downtown Development Board requested approval for a parking area sign consisting of white legend and arrow, and a white and green automobile symbol on a brown background.

Of the 28 comments received, 21 were opposed to this request. In reviewing these comments, the FHWA proposes that the sign not be adopted as a standard for the following reasons:

(1) The color brown is reserved for use to denote recreational and cultural interest guidance.

(2) The proposed sign provides no improvement over the existing standard parking sign.

(3) It would be difficult to discern the message with the color combinations proposed.

(c) *Request II–28 (Chng.) 911 Emergency Sign.* Pinellas County, Florida, requested adoption of a standard sign to inform the public of the emergency assistance telephone number 911.

All 23 commenters on this request opposed it. The FHWA proposes that this request not be adopted for the following reasons:

(1) Since a motorist seeking aid would have to locate a telephone, the information on emergency assistance could be provided at the telephone.

(2) Such signs would detract from essentially highway information.

(d) *Request II–41 (Chng.) Grooved Pavement Sign.* The Rubber Manufacturers Association, Washington, D.C., requested that the MUTCD require the installation of an advance warning sign to inform drivers that the pavement ahead is grooved. Use of this sign is now optional.

Seventeen of the 19 responders were opposed to this request, but only because the proposal was to mandate use of the sign. Most responders commented that use of the sign should remain optional.

The FHWA proposes that the MUTCD not be changed to mandate the use of grooved pavement signs. The option to use the sign should be the prerogative of the highway agency.

(e) *Request II–42 (Chng.) Use of the Color Coral for Mass Transit Signs.* A private individual proposed that the color coral (one of the reserved colors) be used for the background of mass transit and park-and-ride facility signs.

Seventeen responses were received on this request. Only two responders, one of whom originated the request, favored this proposal. The FHWA propose no change to the MUTCD for the following reasons:

(1) Mass transit and park-and-ride signs do not represent a sufficiently major group of signs to warrant classification as a unique category of signs.

(2) There is insufficient justification for use of a special color.

(3) New standard signing for park-and-ride facilities permits the use of the carpool symbol and bus logo, which provide ready recognition.

(f) *Request II–43 (Chng.) Anti-Litter Symbol Sign.* A private individual suggests adoption of a national symbol to discourage motorists from littering highways and national parks. Two symbols are proposed, one depicting a thumbs down illustration along with the prohibitive highway symbol (red circle-slash) and the other an abstract illustration of a container with an arrow pointing to the opening.

Presently, there are two trash receptacle symbols approved for use along roads and highways. One of these depicts a litter barrel and is approved for use on highways. The other is a more abstract rendering of a trash receptacle and presently is used only on National Park Service roads.

All 20 responders were opposed to the adoption of another sign for use to reduce littering. The FHWA is proposing no changes to the MUTCD for the following reasons:

(1) The existing standard signs are sufficient for the needs.

(2) Stricter enforcement of State and local statutes would appear to have far greater potential for reducing the litter problem.

2. Markings (Part III)

(a) *Request III–14 (Chng.) Marking Bypass Lanes.* This request from the Highway Department of Lake County, Illinois, is a supplement of II–23 (Chng.)—Signing for Bypass Lanes. The requester suggested that standard marking patterns be adopted for bypass lanes.

Essentially the same persons responded to this item as to Request II–23. Of the 20 responding on this request, 11 were opposed and four needed more details before they would provide specific comments. The FHWA proposed no change to the MUTCD for the following reasons:

(1) The use of bypass lanes nationwide is not considered extensive enough to warrant a national standard.

(2) Several government agencies which have used bypass lanes without special markings have indicated no operation problems.

(3) A bypass lane constructed to relatively high geometric standards would likely cost only slightly less than a design that would provided for a left turn lane.

Traffic control information pertinent to the operation of bypass lanes will be considered for inclusion in the Traffic Control Devices Handbook.

(b) *Request III–17 (Chng.) Standard Markings for Angle Parking Spaces.* The FWHA proposed that standard marking patterns for angle parking be included in the MUTCD to supplement Figure 3–16.

Responses on this request were equally divided. Those in opposition to the request felt that angle parking was detrimental to the safety and capacity of streets, and that illustrating it in the MUTCD would only encourage its use. Many believed that the FHWA should not change its position but continue to prohibit angle parking.

Those concurring generally recognized that there may be locations where angle parking could be permitted without hampering the operations along certain streets. They also pointed out that the locations where angle parking could be used are still relatively limited in comparison with parallel parking.

In view of these comments, the FHWA proposed that no change be made to the MUTCD. Information relative to the appropriate locations and

marking patterns for angle parking will be considered for possible incorporation into the Traffic Control Devices Handbook.

3. Signals (Part IV)

(a) *Request IV–13 (Chng.) Dual Circular Indication Traffic Signals on Limited-Use Roadway.* Section 4B–7, Number of Lenses per Signal Face, of the MUTCD states in the first paragraph that each signal face shall have at least three lenses and that the lenses shall be RED, YELLOW or GREEN in color. The section includes four allowable exceptions to this standard. One allowable exception permits the use of a variable indication signal section "where a variable indication signal section is used to display alternately a green arrow and a yellow arrow."

Use of a variable indication signal to display alternately a circular green and a circular yellow indication is not permitted under present standards. However, experimentation with this use has been conducted by five jurisdictions.

A request to allow use of the dual circular indication on limited use roadways was submitted by the city of Madison, Wisconsin, Department of Transportation, based on the rules of an experimental project using the dual circular lens. Other experimental projects not on limited use roadways have been reported by three other agencies.

The results of these experimental projects have been summarized and rated. This summary indicates that operational problems included limited conspicuity of the device during periods of day when the sun is at a low angle. There was also concern with the ability of drivers with color-deficient vision to determine the appropriate color. Best results were at locations where drivers were familiar with the roadway and the traffic control devices. Conclusions of these experimental studies ranged from recommending that the device be permitted for use on limited use roadways to not endorsing its use until the questions of conspicuity for drivers with color deficient vision can be resolved.

Comments were received from 20 responders. Of this group, 12 were from State Departments of Transportation, 5 from municipal transportation agencies, and 3 from individuals or private corporations.

Four responders were in favor of the proposal; however, three of the four suggested that the variable circular indication signal section be used only in limited and/or controlled use locations. The signal was given favorable comments regarding flexibility, weight reduction, cost and performance.

Fifteen responders expressed opposition to the use of the variable circular indication signal section. The National Committee on Uniform Traffic Control Devices (NCUTCD) recommended the proposed standard not be adopted without comment. The National Transportation Safety Board (NTSB) among others, opposed adoption of the standard because of the lack of adequate information on the impact of the device on drivers with color deficient vision. Drivers with color deficient vision tend to rely on the placement of the lens in the signal section to determine signal color and the appropriate movement. Responders also expressed opposition to allowing this exception to the positive approach of uniformity in traffic signal display.

Recognition and observation of traffic signal control devices should occur at a level approaching 100 percent. No conclusive data have been presented that this will occur with drivers with color deficient vision under the change proposed. Present standards provide uniform displays of signal indications which obtain positive response from all drivers.

Considering all of the factors involved in this request FHWA proposes that no change be made in Section 4B–7 that would permit use of a variable indication signal section to display alternately a circular green and a circular yellow under any circumstances. FHWA further proposes that all experimentation currently underway with this experimental signal section be discontinued.

(b) *Request IV–17 (Chng.) Flashing Signal Display for Fire Preemption.* This request from the South Carolina Department of Highways and Public Transportation is for revision of Section 4B–22 of the MUTCD to establish a uniform standard for priority control of traffic control signals for fire emergency vehicles. This request proposes adopting as a standard the use of FLASHING YELLOW traffic lights on the route used by emergency vehicles and FLASHING RED traffic lights for the cross street.

The first paragraph of Section 4B–22 provides for modification of traffic control signals to grant priority control to special classes of vehicles. No standards are presently provided for indicating priority control, nor has there been any distinction placed on the different types of priority control. However, prolonged all-red or flashing signals are to be avoided.

This request for flashing signal display for fire preemption received a total of 22 responses, including the recommendation of the NCUTCD. Of the 22 responses, 18 were opposed to a change in the MUTCD, 3 concurred with the proposed changes and one was neutral. The primary objections to the proposed changes were that: the signals would lack visual confirmation to emergency vehicle operation; there was a potential for unexpected conflicts with use of the flashing mode; the present general usage of green for emergency vehicle and red for cross traffic has not resulted in perceived problems; operation should remain a local option; and proposed operation would pose a safety problem.

This change to the MUTCD is not proposed for the following reasons:

(1) Section 4B–22 provides for priority control of traffic signals without unnecessarily limiting the application of controls.

(2) Section 4B–22 allows sufficient latitude to incorporate local concepts of priority control implementation.

(3) Adoption of a uniform standard would unnecessarily limit flexibility of priority traffic control device uses.

(c) *Request IV–18 (Chng.) No Turn On Walk.* This request from the city of West Hartford, Connecticut, is for the adoption of a "No Turn on Walk" sign at signalized intersections where it is desired to prohibit right turns on red during a signal phase when pedestrians have complete use of the intersection.

Comments were received from 21 responders. Of these comments, 19 were opposed to the adoption of this change and two concurred. In addition to comments received from the NCUTCD and NTSB, comments were received from 14 State Departments of Transportation, four municipal agencies and one individual.

A summary of these comments indicates a majority were opposed because it was a duplication of the standard which requires vehicles to yield to pedestrians in the crosswalk. Additional objections were that the location of the walk signal often makes it impossible to be seen by the driver. The pedestrian signals were designed to provide assistance to the predestrian in crossing the street. It was not intended for driver use. Several of the commentaries indicated they believed there were better alternative ways to handle the problem of right turn movements across a signalized pedestrian crossing.

The State DOT concurring with the request qualified its concurrence with the statement that the requirement may cause some confusion during the phase when there is a concurrent "WALK."

Based on a review of the proposed change and a review of the comments, adoption of this change is not proposed. Where special problems occur, the MUTCD provides for prohibition of turns on red. The existing "NO TURN ON RED" sign should be adequate for these requirements.

4. Traffic Controls for Street and Highway Construction and Maintenance Operations (Part VI)

(a) *Request VI–8 (Chng.) Orange Stop Ahead and Yield Ahead Symbol Signs.* The Alabama Highway Department requested that these symbol signs, when installed in construction and maintenance areas, not have an orange background because of the poor contrast with the red symbols.

The comments on this request were about equally divided. Those concurring with the request pointed out the better contrast of the sign legend with a yellow background. Those in opposition recognized the color contrast problem but believed that identifying the work area with the orange background was significantly important. It was also pointed out that the MUTCD does not mandate the use of symbol legends and, therefore, the use of word legends is still acceptable.

The FHWA proposes no change to the MUTCD because of the permissible use of word legends in lieu of symbols for those agencies which do not choose to use symbols.

(b) *Request VI–9 (Chng.) Prohibit Use of Metal Drums.* The Alabama Highway Department requested that the use of metal drums be prohibited because of the hazard they impose when struck.

Of the 20 responses received on this request, 17 were opposed. The comments generally did not agree that the barrels are a significant hazard when used properly. It was also noted by many that the use of metal drums is not required by the MUTCD.

Those concurring with the request indicated that drums which are improperly filled with heavy materials can become a hazard when struck. Also, secondary collisions can occur with drums that have been struck and knocked into a position in the path of other vehicles.

The FHWA proposes not to change the MUTCD for the following reasons:

(1) Metal drums are used very extensively around the country without noted problems.

(2) Prohibition of the use of metal drums is a local option since the MUTCD does not mandate their use.

(3) There are many other devices available for use in lieu of metal drums.

(c) *Request VI–10 (Chng.) Use of Yellow Background Signs in Work Zones.* The Pennsylvania Department of Transportation (PennDOT) requested that the MUTCD be changed to require work zone warning signs to have a yellow background.

Twenty-four responses were received on this request, 22 of which were opposed. None of these responses argued with the point made by PennDOT about the contrast of a black legend on a yellow background being better than an orange background. However, many pointed out the uniform use of orange and the fact that the public is identifying the color orange with work zones. Those who concur believe that the color orange should not be mandated or that the lower reflectivity of orange does create a problem.

The FHWA is not proposing a change to the MUTCD for the following reasons:

(1) When the color orange was adopted, it was recognized that the color contrast would not be as good. However, it was determined that the benefit to the motorist in being able to associate the color orange with work zones outweighed the poorer color contrast.

(2) To change to yellow background signs would be expensive.

(3) There is no substantial data upon which to base a change.

(4) Where the black on orange color contrast is considered to be a problem, a more highly reflective material may be used.

5. Traffic Control Systems for Railroad-Highway Grade Crossings (Part VIII)

Request VIII–11 (Chng.) Lateral Clearance for Flashing Lights and Gates. The Railroad Subcommittee of the NACUTCD requested that the MUTCD be revised to establish greater lateral clearance for railroad crossing signal supports.

Eighteen of the 19 responders to this request were opposed to changing the current clearance standards. Many agreed with the recommendation made by the NACUTCD. Other commenters noted that an increase in the size of structural supports would be required to handle the longer cantilevers and increased wind resistance. Visibility problems with the narrow cone of vision that flashing lights currently have would likewise be created.

The FHWA agrees with the responses received and the recommendations made by the NACUTCD. No change to the MUTCD is being proposed.

Part C—No Action Recommended at Present Time.

The following requests for changes in the MUTCD are being held pending further review, information or research.

1. Signs (Part II)

(a) *Request II–5 (Chng.) Recreational and Cultural Interest Area Signs.* The purpose of this proposal, which originated within the FHWA, is to include in the MUTCD illustrations and guidelines for the use of certain National Park Service recreation symbols. These symbols were adopted by FHWA as national standards, by reference, in 1974. (Request Sn–84 (Chng.) FHWA, Recreational Symbol Signs, approved August 30, 1974.)

Sixteen responses were received, 11 concurring with the request and five opposing. Those opposing the request expressed concern that Recreational and Cultural Interest Area Signs might be used to replace signs essential to safe driving and also that a proliferation of these signs might occur.

The proposed standards would apply to any conventional road, trail, structure or facility located within recreational and cultural interest areas (RCIA). RCIA symbols are used to inform the public of certain rules and regulations; to direct persons to facilities, structures, and places; and to identify various services available to the general public. These symbols are not to be used at locations where they may be confused with other traffic signs.

Due to the number of changes being proposed for inclusion in the MUTCD on this request, FHWA will be publishing a separate notice of proposed amendments dealing with recreational signing.

(b) *Request II–33 (Chng.) Hazardous Material Routing Sign.* This request, from the Texas State Department of Highways and Public Transportation, states that there is a need for a standard sign to direct operators of vehicles carrying hazardous material along specific designated routes while traversing densely populated areas.

The FHWA has initiated a research study on this subject to determine an appropriate symbol to designate hazardous material routes. A determination will also be made relative to the need for identifying such routes.

2. Markings (Part III)

(a) *Request III–3 (Chng.) Reduce Edgeline Width to 2-Inches.* Section 3A–6 of the MUTCD provides that the minimum width of a line marking the edge of a roadway shall be 4 inches. Sacramento County, California, has

requested a change to reduce the minimum allowable width to 2 inches.

This request originated a number of years ago and has been the subject of considerable study and discussion. In 1978, the NACUTCD did not indicate what these warrants should be. Safety considerations indicate that further study and comment would be beneficial in determining the conditions, if any, under which 2-inch wide edgelines would be warranted.

Of the 24 comments received on this request, 13 were opposed to the use of 2-inch edgelines, three concurred and eight recommended no action pending the results of research.

Efforts by FHWA to elicit field studies by several States on the advantages/disadvantages of 2-inch edgelines have not been successful. A request for research is currently under consideration within FHWA. The request is to determine the optimum width of edgelines for safety and cost-effectiveness.

There will be no change in the edgeline width standards until such time as there is supporting evidence documented through research.

(b) *Request III–9 (Chng.) Use and Spacing of Raised Pavement Markers.* Although the MUTCD provides detailed guidance on the use of pavement marking lines, there is no guidance in the MUTCD on the placement of raised pavement markers used to supplement of simulate marking lines.

The American Corporation of Niles, Illinois, has requested the addition of such guidance to the MUTCD.

Of the 22 comments received on this proposed change, 14 concurred, five were opposed, two recommended action be deferred pending a review of additional information, and one requested an opportunity to review the specific proposal before commenting.

Of the five that were opposed, two did so on the grounds that local agencies could establish their own marking patterns and three on the grounds that there are insufficient data to establish marking patterns.

The local agencies can certainly establish marking patterns. However, national standards are preferred in order to provide the motorist with some uniform pattern of markings.

The FHWA is delaying action on this item pending a review of additional information and refinements to the text currently being developed.

(c) *Request III–12 (Chng.) Mandatory Centerlines.* the MUTCD provides guidelines for the use of pavement marking centerlines but does not mandate their use on any highway.

This request, which originated within the FHWA, is for a change in the MUTCD to require that centerlines be marked on all paved highways:

(1) In rural districts, on two-lane pavements 16 feet or more in width with prevailing speeds of 35 miles per hour or more;

(2) In residential or business districts, on all through highways, and on other highways where there are significant traffic volumes; and

(3) On all undivided pavements of four or more lanes.

Of the 30 responses received, 20 were opposed to mandatory requirements, four concurred with all three items and six concurred with some of the items. Some of the responses in opposition were concerned with the expense of striping highways under the proposed requirements; the fact that a 16-foot wide pavement was too narrow to centerline; and the need to define the term "significant" volume before appropriate comment could be provided.

On the basis of comments received, the FHWA is collecting data that will assist in the determination of more appropriate proposed language for inclusion in the MUTCD. No further action will be taken on this request until the data can be analyzed.

(d) *Request III–13 (Chng.) Mandatory Lane Lines.* The MUTCD requires lane line markings on all Interstate highways but not on any other class of highway. This request, which originated within the FHWA, is for a change in the MUTCD to require lane line markings on all multilane highways.

Twenty-four responses were received on this request. Thirteen were opposed and 11 concurred. Those voicing opposition believe that the requirement should be left up to the agency responsible for installation and that a mandatory requirement involves legal implications that local agencies would have problems coping with. It was also pointed out that it is unlikely that lane lines would not be present on a multilane facility.

Lane lines define to the driver the number and width of lanes available for travel. Highways without lane lines are not multilane facilities.

The FHWA will be analyzing the data collected for Request III–12 to determine appropriate action on the use of lane lines.

3. Signals (Part IV)

Request IV–15 (Chng.) Strobe Light Traffic Control Device. Section 4B–5 provides that a steady RED indication shall mean that all vehicular traffic facing this indication shall stop before entering an intersection and not proceed until an indication is provided. The section also provides that a flashing RED indication shall mean that all vehicular traffic shall stop before entering an intersection and proceed with caution through the intersection.

The request to permit use of the strobe light in combination with the steady RED indication was submitted by the Montgomery County, Maryland, Department of Transportation based on the results of an experimental project with the device. Similar projects have been completed by the District of Columbia; Portland, Oregon; Charleston, South Carolina, the Indiana State Highway Commission; and the Kansas State DOT. Final reports have been submitted by all but one agency. Results were favorable; however, recommendations were either qualified or not made.

Evaluation of the strobe light has primarily been at signalized locations with unusually high accident experience. The accidents were attributed to poor visibility, excessive background conflicts, unexpected signal location and intersection geometrics.

Use of the strobe light traffic signal as an active warning device has raised questions as to whether it would be in substantial conflict with the rules on flashing signals.

Of 19 comments received, 13 were from State Departments of Transportation, four were from municipal agencies, one was from the NTSB and one was from the NCUTCD.

A significant majority of comments expressed opposition to the adoption of this proposed standard. There were 16 comments in opposition: nine from State Departments of Transportation, four from municipal agencies, and one each from the NCUTCD and the NTSB.

The primary objection to this change is that insufficient experimentation has been completed on the strobe device. The experimental results have failed to determine if the improvements in the accident rate could have also been the result of other traffic control improvements done at the same time. Because of this, it was suggested that the results of this experimentation were inconclusive. A recommendation was that the device undergo additional experimentation to collect more data on its use and application.

Concurrences included three of the four States experimenting with the use

of the strobe light signal. Each State found that there was a significant decrease in the accident rate during the experimental period. Agencies concurring in the use of this device recommended that the use of the strobe light should not be a substitute for use of the standard 12-inch lens.

Considering all factors, the adoption of the strobe light as an optional traffic control device with traffic control signals is not proposed at this time. Although results of the experimental projects have shown a significant reduction in accidents, the projects have been limited to single intersections. There is a need for further evaluation of the strobe device and the development of specifications for its design before its standard use might be proposed.

4. Traffic Controls for Street and Highway Construction and Maintenance Operations (Part VI)

(a) *Request VI–1 (Chng.) Spacing of Channelizing Devices.* The MUTCD specifies that the spacing of channelizing devices used to close a lane should be approximately equal in feet to the speed limit (e.g., devices should be 35 feet apart where the speed limit is 35 mph). The MUTCD does not specify an exact spacing of channelizing devices used to separate the open travel lanes from closed lanes or work areas. A request was made by the FHWA to change the MUTCD to specify the spacing of channelizing devices along work areas. This request remains under review pending the completion of a research study on the effectiveness of channelizing devices. The request is for the inclusion of more guidance based upon the travel speed of the motorist and allowance for either curves or straight sections of roadway.

Of the 17 responses on this request, three were opposed, and six concurred with the need to specify the spacing of channelizing devices. Eight suggested holding action until the current research is completed.

The FHWA will withhold processing this request further until the ongoing research by the National Cooperative Highway Research Program is completed and the results analyzed.

(b) *Request VI–14 (Chng.) Two-Way Traffic on a Normally Divided Highway.* On September 17, 1979, FHWA issued an emergency final rule (44 FR 53739) which sets forth certain requirements for handling two-way traffic on a normally divided roadway on Federal-aid construction projects. This rule includes a requirement that where two-way traffic is operated, it shall be separated with either a positive barrier (e.g., a concrete "safety-shape" barrier), vertical panels, cones, or drums. In addition, a positive barrier shall be used in the transition areas. Since this rule applies only to Federal-aid construction projects, the FHWA has suggested the adoption of appropriate standards for inclusion in the MUTCD to apply to all roadway work zones (i.e., Federal-aid and non-Federal-aid).

Of the 22 responses received, 17 were opposed to and five concurred with the proposal to require certain traffic control devices on all roadway work zones when handling two-way traffic on a normally divided roadway.

Most of those opposed were concerned with a mandatory requirement that would negate engineering judgment; the cost of requiring concrete barriers on many more projects; and the possible negative impact barriers could have on slow moving vehicles and in certain situations.

The FHWA is studying a modification to the emergency final rule published in 1979. No further action will be taken to incorporate in the MUTCD language pertaining to the handling of two-way traffic on a normally divided highway until such time as action is resolved on the 1979 emergency final rule.

This notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

The Federal Highway Administration has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. As stated herein, the expected impact of the actions proposed is so minimal that a full regulatory evaluation is not warranted. For the same reason, under the criteria of the Regulatory Flexibility Act, it is certified that the proposed actions would not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: January 28, 1982.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82–2982 Filed 2–3–82; 8:45 am]
BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1205

[NHTSA Docket No. 81–12; Notice 2]

Highway Safety Programs; Determination of Effectiveness

AGENCY: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking and notice of public hearings.

SUMMARY: This notice is being issued to solicit public comments upon an effort by the National Highway Traffic Safety Administration and the Federal Highway Administration to determine those State and local highway safety programs most effective in reducing accidents, injuries and fatalities. It is undertaken at this time as a result of agency level review of funding priorities and in accordance with the Omnibus Budget Reconciliation Act of 1981 (Section 1107(d), Pub. L. 97–35). Pursuant to that Act, final rulemaking by the Department will cause those programs judged to be most effective to continue to be eligible for Federal funding under the State and Community Highway Safety Grant Program (23 U.S.C 402) beyond Fiscal Year 1982. (This program is described in the Catalog of Federal Domestic Assistance at 20.600, State and Community Highway Safety.) The rulemaking will also establish a process for deciding how additional programs may be determined to be eligible for Federal funding in the future. This notice announces three public hearings and invites submission of written comments to the public docket on this subject. After analysis of this information the agencies will issue a final rule not later than April 1, 1982.

DATES: The public hearings will be held February 12, 16, and 18, 1982. All written comments must be received by March 11, 1982.

ADDRESSES: The February 12 hearing will be held in Room 2230 of the Department of Transportation headquarters building, 400 Seventh St., S.W., Washington, D.C; the February 16 hearing will be held in the Marriot Inn (O'Hare Airport), 8535 West Higgins, Chicago, Illinois; and the February 18 hearing will be held in the Room 5039 at 350 McAllister Street, San Francisco, California 94102. For each hearing the schedule will be from 9:00 a.m. to 12:00 p.m. and from 1:30 p.m. to 5:00 p.m.

Written comments should refer to the docket number and the number of this notice and be submitted to: Docket Section, Room 5109, Nassiff Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT:

NHTSA: Mr. Charles Livingston, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–0837).

FHWA: Mr. Lorenzo Casanova, Associate Administrator for Safety, Federal Highway Administration, 400 Seventh Street SW., Washington D.C. 20590 (202–755–9347) or Mr. Jerry Boone, Office of the Chief Counsel, Federal Highway Administration (202–426–0791).

SUPPLEMENTARY INFORMATION: The issue of the proper role of the Federal Government in funding highway safety programs at the State and local community level has long been one of compelling concern to the Congress, the Executive Branch, and the States and affected smaller political entities. Sharp budgetary constraints necessitated by the serious economic conditions throughout the nation have required both the Congress and the Executive Branch to focus renewed attention on this question, resulting in sharply reduced levels of funding for Fiscal Year 1982 and hereafter.

In order to minimize the adverse effects of such limitations on efforts to improve highway safety, the Administration in early 1981 proposed to focus near-term funding decisionmaking on four generic areas: alcohol countermeasures, police traffic services, emergency medical services and traffic records. These areas were identified as having the greatest historic basis for assurance of high payoff.

As implemented by the Department in its review of proposed State highway safety programs for this fiscal year, this initial determination of high payoff potential was reflected to a large degree in the plans actually submitted by the States. While specific program proposals were approved which did not fall within one or more of these generic areas, the great majority of program proposals were addressed to these areas of concern.

At the same time, in light of the significantly larger number of substantive areas enumerated in section 402(a) of the Highway Safety Act (23 U.S.C. 402(a)), both the Department and Congress clearly recognized the need for further refinement and review of the budgetary and other issues which such a sharp Federal level focus presented.

This sequence of events led to the common concern of the Congress and the Executive Branch reflected in the provisions of the Omnibus Budget Reconciliation Act of 1981 which directed the Secretary of Transportation to undertake a rulemaking process to determine those programs most effective in reducing accidents, injuries and deaths. The legislation provides that a final rule issued by April 1, 1982, subject to legislative veto by either House of Congress, will establish the funding criteria for future implementation of the Highway Safety Act. If a rule is not transmitted by April 1, 1982, it shall not take effect before October 1, 1983. If a rule is transmitted but vetoed, the Secretary shall not apportion or obligate any amount authorized for fiscal year 1983 or thereafter, unless specifically authorized to do so by a statute enacted subsequent to the 1981 Act.

This notice is the second of three notices in a rulemaking process to determine those State and local government highway safety programs which are most effective in reducing vehicle crashes and the resulting deaths and injuries. Programs identified in the rulemaking will be eligible for continued Federal funding under the State and Community Highway Safety Grant Program (section 402 of title 23 of the United States Code). The rule will also establish a process by which additional programs may be determined to be eligible for Federal funding in the future.

On August 31, 1981, the National Highway Traffic Safety Administration and the Federal Highway Administration issued a joint Advance Notice of Proposed Rulemaking requesting written comments. The subjects on which comments were sought included four that are directly related to the directive of the Act: highway safety programs which have demonstrated effectiveness in reducing accidents; highway safety programs which are not yet proven to be effective, but which may have significant potential for reducing accidents; highway safety programs not related to accident reduction, but which may have potential for increasing efficiency or reducing the costs of ongoing efforts; and criteria to justify the selection of projects which will receive Federal funding.

The advance notice also sought comments on three subjects related to the overall management and funding of the highway safety program: the rationale for continuing, discontinuing, limiting, or restructuring Federal funding assistance; the need for a central agency to administer each State's highway safety programs; and the appropriate method for funding such an agency.

Two public hearings were held in October at which oral comments on the above issues were presented to NHTSA and FHWA. A transcript of those proceedings has been placed in the public docket, along with all written comments. As of November 25th, the agencies had received 654 written comments and have taken these comments into consideration in developing this proposed rule.

General Comments

A number of comments were received on the management and funding issues. Most commenters agreed that the Federal government should play a continuing role both in providing financial support and in the adminsitration of highway safety programs. While the commenters differed on the extent and nature of Federal involvement, the majority of those addressing this issue recognized highway safety is a national problem that claims 50,000 lives, results in millions of injuries, and imposes an economic burden of billions of dollars every year. Because of the highly mobile society in which we live and because the consequences of highway accidents have health, economic and welfare aspects which extend beyond individual State boundaries, all comments generally support the view that the Federal government shall continue to promote national levels of highway safety through leadership, technical guidance, coordination and financial assistance to state and local governments.

Specific Comments

Single State Agency

Another area of agreement among those who addressed this issue is in the need for a central state authority to coordinate highway safety programs. While three State police agencies suggested that the State Police Agency in each state could effectively administer the 402 programs as an alternative to the existing State Highway Safety Agency, the vast majority of those commenting on this issue support the existing organizational concept. Many commenters pointed out that without a central authority there would not be any systemwide analysis of program effectiveness, no coordinated local and State activities, no effective conduit for disseminating information and no body to coordinate State or national legislative recommendations. It is therefore not proposed at this time to

alter this aspect of the Federal highway safety program.

Planning and Administration

All but one commenter who addressed the issue of Federal funding assistance for the planning and administration costs of the State Highway Safety Agencies supported the continuation of such finding. That commentator, a state police agency, indicated that it would be unaffected if such funding were discontinued. Three of the commenters requested sufficient lead time to allow states to obtain state appropriations should Federal support be discontinued. The majority of commenters addressing this issue emphasized that the present form of cost sharing arrangement supported the Federal/State partnership approach to highway safety. They also expressed concern over the increasing state budgetary constraints and indicated that a withdrawal of all Federal financial support for planning and administration would result in the existing State Highway Safety Agencies being merged into other State agencies, thus losing their identity, effectiveness and control.

NHTSA and FHWA appreciate the growing concern over State budgetary constraints but must also recognize that similar reductions are underway at the Federal level as well. Because of the net effect of these reductions, it is proposed at this time that the Federal/State share for planning and administration functions of the State Highway Safety Agencies be set at a 50/50 share, with a maximum Federal contribution of not more than 10 percent of each State's 402 funds. This 50/50 share was suggested by a State Office of Highway Safety and is consistent with the general concern and stated needs of the remaining commenters. It should allow both the States and the Federal government to identify and recognize a distinction between these types of expenditures and programmatic funding, and the relatively more significant responsibilities of the States to support necessary management infrastructures, without compromise of the essential partnership approach to the implementation of State highway safety programs.

Because arrangements have for the most part already been made for Fiscal 1983 planning and administration costs, it is proposed that this funding limitation would become applicable only to planning and administration costs for FY 1984 and thereafter.

Determinations of Substantive Effectiveness

The primary function of this rulemaking process is to identify the most effective highway safety program areas and to determine a process for funding additional areas. Such determinations are being made in close cooperation with the States and Congress. In each case, the starting point must necessarily be past records of performance and empirical experience of the States and Federal government with specific programs and program areas.

As a number of States pointed out in their comments, however, there are factors that complicate any such effort to identify effective programs. Direct correlations between an accident prevention program and a reduction in accidents or injury levels are often difficult to document. The actual impact and effect of individual elements of a coordinated program may be hard to identify and distinguish from those of other programs.

Another complicating factor in establishing priority areas which was noted by the commenters is that not all states and localities experience similar accident patterns. Crash reduction efforts in highly urbanized areas may not produce similar results when applied to low population rural areas. Because of the differences in problem areas and the difficulty in evaluating program effectiveness, most State Highway Safety Offices stressed the need for flexibility in determining priority programs.

Despite these difficulties, NHTSA and FHWA have undertaken to identify, in accordance with the Act, those programs which have in the past been most effective. This identification included a review of all docket comments and relevant literature. The process, which identified six priority program areas, involved several interrelated analyses.

First, the comments received in response to the Advance Notice of Proposed Rulemaking were analyzed and categorized into specific program areas. Comments and testimony submitted at the public hearings tended to highlight emergency medical services, police traffic services and alcohol countermeasures. Written comments to the record tended to emphasize single program areas, with the majority focusing on motorcycle safety. Of those written comments addressed to multiple issues, the program areas that were identified as being the most effective were: alcohol countermeasures, police traffic services, occupant protection, pedestrian/cyclist safety, emergency medical services, traffic records and the combined FHWA programs.

The comments received from the State agencies were then analyzed in greater detail, with special attention focused on the comments received from the State Highway Safety Offices. Several State Highway Offices did not identify programs in any of the categories described in the Advance Notice, focusing instead on the general need for flexibility.

Likewise, many of the states did not identify programs by specific categories, but identified only one group of programs encompassing all three categories. Alcohol and police traffic services were the areas of greatest and roughly equal concern to the State Highway Safety Offices. Emergency medical services, occupant protection, pedestrian/cyclist safety, and traffic records, ranked together as a second level of concern to the States. A third group included traffic engineering, driver education and licensing, and highway safety construction planning.

Next, previous 402 program obligations were examined to find correlations between those programs identified as effective in the comments to the docket and those programs on which the funds had actually been spent. This breakdown of past obligation patterns showed a direct correlation between the programs identified as effective by the comments and the programs that have been funded in the recent past. In Fiscal Year 1981, alcohol and police traffic services accounted for over 40 percent of all 402 program obligations. The second largest area of obligations was concentrated on emergency medical services, the combined FHWA programs, and driver education. Traffic records, occupant protection, pedestrian/cyclist safety and driver licensing comprised the third largest group of 402 obligations in Fiscal Year 1981.

The results of the funding survey, the comments to the docket, and all available literature were used by the agencies in evaluating the 18 highway safety program areas and in the preparation papers in each of these areas. In addition, a preliminary regulatory evaluation has been prepared by NHTSA's Office of Plans and Programs that addresses the magnitude of each identified highway safety problem, the national trend or direction of the problem, the impact of existing countermeasures, and the potential for further impact on the specific problem. These evaluations, along with the comments to the docket, pointed to the

programs identified in this notice as being most effective in reducing deaths and injuries. This portion of the current notice is presented in two parts: the first addresses what appear to be the most effective NHTSA safety programs and the second the most effective FHWA safety programs.

Most Effective Program Areas—NHTSA

For each such program area, the size of the target group of fatalities which the countermeasure was designed to prevent was estimated, then the amount of improvements was observed when the countermeasure was actually applied. In this way, the total effectiveness of each highway safety program was estimated.

Upon analysis of docket comments and available literature in each program area, NHTSA has identified five program areas in which a problem exists that is of continuing national concern and for which effective research-based countermeasures have been developed. These areas are alcohol countermeasures, police traffic services, occupant protection, emergency medical services and traffic records. Most commenters to the docket who addressed multiple issues categorized these areas as among their priority concerns.

(1) Alcohol

The problem of driving while under the influence of alcohol is one of major safety concern. Of the 50,000 traffic-related fatalities every year, half involve alcohol impaired operators. Research indicates that the drunk driving problem is growing, rather than receding, as a factor in our national highway fatality problem.

Numerous countermeasures have proved to be highly effective. For example, a series of demonstration programs were begun in 1976 to evaluate the effectiveness of the enforcement and treatment aspects of alcohol projects. One such enforcement project in Stockton, California, reduced the number of nighttime accidents by 16 percent. A treatment program conducted in Sacramento, California, reduced the re-arrest rate of first offenders (social drinkers) by 10 percent. The basic conclusion is that continuous, intensive, well publicized enforcement does create a deterence to drunk driving.

(2) Police Traffic Services

Closely related to the drunk driver problem is the growing need for increased police traffic programs. Traffic services such as the Selective Traffic Enforcement programs have proved to be uniformly effective throughout the nation in reducing accidents related to speeding, alcohol use, and other traffic law violations. These programs achieve their effectiveness by focusing enforcement efforts at the time and place of most traffic accidents. Other police traffic services, such as training and data collection, all work together to increase police efficiency and reduce the costs of traffic enforcement. The comments to the docket indicate that large numbers of police agencies may not have current access to the best available traffic safety methodologies and data, and that the incentive of Federal funding assistance is an ideal mechanism for obtaining improvements in technology and manpower assignment techniques.

(3) Occupant Protection

The third major area of national concern is occupant protection. Statistics unequivocally show that safety belts and child restraints, if used, could prevent half of all deaths and injuries to occupants of passenger cars, light trucks and vans. Unfortunately, only 11 percent of all vehicle occupants and only 20 percent of children under age 5 are protected by use of these restraints. Countermeasures effective in increasing occupant restraint usage have been identified by NHTSA in its research conducted in conjunction with its nationwide educational program.

For each one percent increase in usage on a national basis, NHTSA currently estimates over 180 lives would be saved per year. A savings of 4,400 lives and avoidance of 87,000 moderate to critical injuries could be achieved with only a 35 percent usage rate, well within the range of voluntary usage achieved in other nations. The cost savings at 35 percent usage is estimated at $2.7 billion every year.

(4) Traffic Records

The fourth category identified as being among the most effective NHTSA programs is that of traffic records. A good traffic records system within a State does not alone reduce accidents. However, it is the backbone and basis for informed decision-making for all other highway safety programs. Without an adequate traffic records system, States could not identify intersections and roadways that are particularly hazardous and could not identify groups of drivers or vehicles that experience higher accident rates. Many of the other highway safety programs, especially those in the police traffic services and alcohol countermeasure areas, depend upon the existence of a well developed, continuously updated system of traffic records. In addition, evaluations of program effectiveness could not be conducted without such a system.

(5) Emergency Medical Services

The fifth area identified as being one of major concern is emergency medical services. Recent studies indicate that pre-hospital medical treatment reduced the overall mortality of accident victims by 5.8 percent and that an accident victim receiving medical treatment by an Emergency Medical Technician had a 9.5 percent greater probability of survival than a victim attended by someone with only basic training.

Some State commenters suggested that it is not necessary to spend 402 monies on emergency medical services once and effective system is in place within a State. Others commented that most States, however, do not have such systems. States are generally updating their emergency medical services programs, and may in specific cases have decreased the remaining need for intensive Federal involvement, especially in the area of equipment purchases. Even in such cases, however, emergency medical services programs need to be continuously reviewed and revised as new technologies are developed. There would, therefore, appear to be a potential need for continued Federal funding in this area.

In addition to the proven effectiveness of this program, emergency medical services is being identified because of the possible reductions in overall Federal funding available for this area which could result from changes in legislation and regulations of the Department of Health and Human Services. Specific attention is directed to this issue, and comments are particularly sought on this question.

Most Effective Program Area—FHWA

A parallel review and analysis by FHWA has identified safety construction and operational improvements as the most effective highway-related safety program area. Studies indicate that highway-related factors (geometrics, obstructions, signing, etc.) are the definite cause of up to 10 percent of all traffic accidents and the probable or contributing cause of up to 20 percent of all traffic accidents. State and local highway agencies have developed programs to correct or eliminate hazardous locations and features on their existing streets and highways, but the problems are so pervasive that only limited highway segments and locations can be corrected annually with the available resources.

Evaluations of completed safety projects show that significant reductions

in the number and severity of accidents are being obtained. Recent studies show that these projects account for a 20–30 percent reduction in fatal accidents at project sites and a 5–10 percent reduction in overall accidents. Section 402 funds by law cannot be spent on implementing highway projects (design, construction and maintenance). Consequently, the major contribution of the FHWA 402 program has been in improvements to State and local systems and techniques for the continuous monitoring for hazardous locations and problems, identifying the most cost-effective countermeasures, developing prioritized programs to correct these problems, and evaluating the results when implemented. Such a systematic, technically sound approach has been found to significantly increase the safety efficiency of Federal, State and local highway funds being spent on this type of highway improvement, in terms of accidents and fatalities reduced per available dollar expended. Further improvements in these systems are the most efficient and effective use of FHWA 402 funds by State and local agencies because they address a problem of continuing national concern for which effective research-based countermeasures have been developed.

Proposed Funding Mechanisms

In addition to identifying the most effective programs, NHTSA and FHWA must determine how funds may most appropriately be concentrated on such programs. Several possible proposed funding mechanisms have been reviewed, with varying degrees of latitude available to the states under each.

Alternative One

This alternative would essentially continue the existing funding mechanisms, with the substitution of the national priority program areas identified through this rulemaking process for the more specific funding criteria now enumerated in Section 402(a).[1]

If this proposal were to be adopted, many programs included in the specific language of Section 402(a) could continue to be eligible for funding as programs or countermeasures included under one or more of the national priority program areas. Those not so included would, under this alternative, become the sole financial responsibility of the States in future funding decisions.

Alternative Two

This alternative would involve a two tier approach based upon the character of the areas proposed for funding. Those types of program areas determined to be of national importance and priority would in effect be treated differently when problems and countermeasures are reviewed by the States and Federal government for funding.

National Priority Areas. The first tier would consist of program areas determined through this rulemaking process to be of national importance. Projects proposed by the States in such emphasis areas of national priority could be expected to be approved with minimum Federal review, limited to a review of accurate problem identification and countermeasure selection. The national program priority areas would remain constant for a sufficient time to allow projects to have a measurable impact nationally. The program priorities could then be reviewed by NHTSA and FHWA to determine if they are still appropriate, and appropriate changes recommended for consideration by the Congress and the States.

The States would in effect be given flexibility to spend the Federal 402 funds within these priority areas with wide discretion; that is, they could put all their NHTSA funds into one NHTSA priority area and all FHWA funds into the FHWA priority area or apportion each agency's funds among all its priority areas, in whatever proportion they deem appropriate for the solution of their highway safety problems.

If such an approach were adopted, NHTSA and FHWA believe that a substantial portion of each State's highway safety funds would continue to be devoted to projects in the national priority program areas.

Other Program Areas. The second tier would consist of other programs which a State might consider significant in solving major traffic safety problems. Such programs would receive a more detailed level of Federal review of their potential effectiveness, involving both the problem identification and countermeasure development aspects.

Under this approach, a State could elect to implement either of two alternative mechanisms with respect to proposals to use Federal funds in areas other than the national priority program areas.

First, a State might elect to adopt and submit, as part of its plan for a given year or in a special submission, a proposed formal decision-making process to develop highway safety programs. This process would be designed to ensure that all relevant considerations are taken into account, and that consultation with affected groups and the public would take place.

Once approved and adopted, such a process would thereafter be used by the State to identify highway safety problems and determine effective countermeasures. Such a process would be considered approvable if it met specific criteria designed to insure a systemic, reasonable and balanced review of highway safety issues with provision for public participation. It would rely on the State's traffic records files, and be capable of identifying and responding to the specific problems of that state. In use, such a process would be designed to result in specific factual determinations by the appropriate State agency, from which valid problem and countermeasure identification can be derived. Those could include, for example, findings that:

- The problem addressed contributes heavily to accidents in the State;
- The problem is among the most severe problems in the State;
- The geographical extent of the problem has been reviewed and identified; and
- The causative factors that are most closely associated with the problem have been determined.

In addition, the process would identify those countermeasures which the State has determined would be most effective to stabilize or decrease the specific problem with reference to each above factual determination, and a review of alternative measures considered by the State or proposed by affected groups.

A State which elected to develop such a process would submit a detailed description for approval by the Administrators of NHTSA and FHWA. After approval, the State would be able merely to list and describe in its Highway Safety Plan those programs identified by the State by means of such a process as the most effective countermeasures, set forth its factual determinations as outlined above and certify that the specific programs were developed in accordance with the State's problem identification process. Under this aspect of the proposal, NHTSA and FHWA would thereafter not review in detail individual project proposals, as long as the State's problem identification process satisfied the basic procedural requirements outlined above, and guided the choice of priorities at the State level. Documentation of the

[1] Section 402(a) includes: driver education, driver testing, driver examinations, pedestrian performance, bicycle safety, accident records, accident investigations, vehicle registration, operation and inspection, highway design and maintenance, traffic control, vehicle codes and laws, high accident site identification and emergency services.

process itself would be principally relevant at the evaluation stage of each program.

As an alternative to the adoption of such a decision-making process, a State would be free to continue existing procedures for problem identification and countermeasure development in non-priority program areas. Federal review and approval of such programs would take place according to existing procedures.

Whichever mechanism a State elected to use to justify Federal funds to non-priority program areas, NHTSA and FHWA would be able to assist and guide the States in developing programs through information transfer, consultation, and the publishing of guidelines and technical supporting papers reflecting State and Federal implementation experience.

NHTSA and FHWA particularly invite comment on whether this system for determining projects eligible for future funding is workable, whether it allows sufficient Federal oversight while, at the same time, allowing the State sufficient flexibility to meet its own highway safety needs. Comments are specifically requested on the issue of whether one mechanism for funding non-priority program areas is superior to the other or whether both should be incorporated as alternatives.

Future Reevaluations of Program Effectiveness

If the two-tiered approach is selected as the funding mechanism to be utilized by NHTSA and FHWA, the ability to continue to implement nationally effective safety countermeasures could rest on a continual process of problem identification. As programs mature and new problems emerge, those areas chosen could be reevaluated so that Federal financial assistance would continue to focus on the most effective highway safety programs. This could not be accomplished without State assistance.

In such case, the current rulemaking process would be the first in a series of rulemaking actions or legislation that could take place as needed.

Procedures for Making Comments on Proposal

Interested persons are invited to attend the public hearings and/or submit written comments on this proposal. It is requested but not required that 10 copies be submitted.

Anyone who wishes to make an oral statement at one of the public hearings should notify, Mr. John Krause, at the address or telephone listed above for NHTSA no later than seven days before each hearing. Oral statements should be limited to 5 minutes or less. Oral or written clarification on issues raised in the oral statements or in the docket submissions may also be requested by agency representatives conducting these hearings. As time permits, the formal statements may be followed by an open discussion.

Written comments do the public docket must be received by March 11, 1982. The 30 day comment period established for this notice is necessarily short in order to meet the April 1, 1982 deadline set by Congress for completion of this rulemaking process. In order to expedite the submission of comments, simultaneous with the issuance of this notice NHTSA will mail copies of it to all Governors and Governors' Representatives for Highway Safety.

Comments should not exceed 15 pages in length. Necessary attachments may be added to these submissions without regard to the 15 page limit. This limitation is intended to encourge commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on March 11, 1982, the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written statements and comments will be placed in Docket 81-12; Notice 2 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

A verbatim transcript of each public hearing will be prepared and placed in the NHTSA docket as soon as possible after the hearing.

The agency has assessed the economic and other impacts of the proposed rule and determined that this is not a major rule within the meaning of Executive Order 12291. This notice has also been evaluated under the Departmental Regulatory Policies and Procedures, 44 FR 11034, and has been determined to be a nonsignificant regulation. The rulemaking will not affect the level of funding available in the highway safety program, or otherwise have a significant economic impact, so that neither a draft Regulatory Analysis nor a Preliminary Evaluation is required. To assist the agencies in the rulemaking process, however, a Preliminary Evaluation has nonetheless been prepared and is available for inspection in the Docket.

We hereby certify that the proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

In consideration of the foregoing, it is proposed that a new 23 CFR Part 1205 be added which will identify the most effective highway safety programs and which will describe a process by which States will fund additional priority areas.

(Sec. 1107(d), Pub. L. 97-35; 95 Stat. 357 (23 U.S.C. 402); delegations of authority at 49 CFR 1.48 and 1.50)

Issued on February 2, 1982.

Raymond A. Peck, Jr.,

National Highway Traffic Safety Administrator.

Ray A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82-3017 Filed 2-3-82; 11:30 am]

BILLING CODE 4910-59-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket RM 82-1]

Acquisition and Deposit of Unpublished Television Transmission Programs; Proposed Rulemaking and Notice of Public Hearing

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rules; notice of public hearing.

SUMMARY: This notice of proposed rulemaking and of a public hearing is issued to inform the public that the Copyright Office of the Library of Congress is considering the adoption of new regulations implementing sections 407(e) and 408(b) of the Copyright Law. Section 407(e) provides the authority for the Library of Congress to obtain copies of fixed, unpublished transmission programs, either by making off-the-air copies or by demanding copies from the owner of the right of transmission in the

United States in the form of a permanent transfer, a loan for copying, or a sale. Section 408(b) permits the off-the-air copies to be used for copyright registration purposes.

The effect of the proposed regulation is to provide mechanisms for making off-the-air copies and for demanding copies of unpublished transmission programs. In addition, requirements are established under which copies so acquired may be used in the registration process.

DATES: The public hearing will be held on March 24, 1982 in Washington, D.C. Anyone desiring to testify should submit a written request to present testimony by March 17, 1982, to the address set forth below. To assist the Copyright Office in scheduling witnesses, we urge the public scrupulously to observe the date for requesting time to testify, even if written statements are submitted later. Ten copies of written statements must be received by the Copyright Office by 4:00 p.m., March 19, 1982. Written comments submitted without a request to testify are welcome; five copies should be received in the Copyright Office on or before April 24, 1982.

ADDRESSES: Hearing location: The hearing will be held on March 24, 1982, at the James Madison Building of the Library of Congress, First and Independence Avenue, S.E., Washington, D.C. in the Assembly Room on the sixth floor, LM–649, beginning at 9:30 a.m.

Written requests to present testimony and ten copies of written statements or of supplemental statements, or five copies of written comments unaccompanied by a request to testify, should be submitted as follows: Library of Congress, Department DS, Washington, D.C. 20540; or, if by hand to: Office of the Copyright General Counsel, Room 407, James Madison Memorial Building, First and Independence Avenue, SE., Washington, D.C.

All requests to testify should clearly identify the individual or group desiring to testify and the amount of time requested. The Copyright Office will try to contact all witnesses to confirm the time of their appearances.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20540 (202) 287–8380.

SUPPLEMENTARY INFORMATION: Section 407(e) of the Copyright Act (Title 17, United States Code) gives the Library of Congress authority to obtain copies of unpublished transmission programs which have been transmitted to the public in the United States. That authority may be exercised in two different ways: by making fixations of transmission programs directly from transmissions to the public (off-the-air copying) and by demanding that copies be supplied by the owner of United States transmission rights.

Section 408(b) of the Copyright Act provides that copies acquired by the Library of Congress, under section 407(e) "otherwise than by deposit" may be used to satisfy the deposit requirement of the registration process.

The Copyright Office proposes to implement these sections by the addition of one new section to the regulations of the Office. Proposed § 202.22 sets out procedures for both means of acquiring copies, states rules for the disposition and use of such copies after their acquisition, and provides methods for using such copies as registration deposits. In addition, it permits the Library of Congress to institutionalize the acquisition of such copies by agreements which might modify the provisions herein. The proposed regulation does not exhaust the authority conferred by section 407(e). For example, it does not cover radio transmissions.

Among the concerns voiced during the drafting and enactment of section 407(e) was one involving the ultimate use to which the copies acquired under the proposed regulation would be put. Subsection (e) of the proposed regulation is designed to guarantee that the acquisition of copies by the Library does not lead either to the proliferation of copies outside the Library or to the public performance of the copyrighted works contained in the transmission programs.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

We purpose to amend Part 202 of 37 CFR Chapter II by adding a new § 202.22 to read as follows:

§ 202.22 Acquisition and deposit of unpublished television transmission programs.

(a) *General.* This section prescribes rules pertaining to the acquisition of copies of unpublished television transmission programs by the Library of Congress under section 407(e) of Title 17 of the United States Code, as amended by Pub. L. 94–553. It also prescribes rules pertaining to the use of such copies in the registration of claims to copyright, under section 408)(b)(2).

(b) *Definitions.* For the purposes of this section:

(1) The terms "copies," "fixed," "publication," and "transmission program" and their variant forms, have the meanings given to them in section 101 of Title 17.

(2) "Title 17" means Title 17 of the United States Code, as amended by Pub. L. 94–553.

(c) *Off-the-air copying.*

(1) Library of Congress employees acting under the general authority of the Librarian of Congress may make a fixation of an unpublished television transmission program directly from a transmission to the public in the United States, in accordance with section 407(e) (1) and (4) of Title 17 of the United States Code. The choice of programs selected for fixation shall be based on the Library of Congress acquisition policies in effect at the time of fixation. Specific notice of an intent to copy a transmission program off-the-air will ordinarily not be given. In general, the Library of Congress will seek to copy off-the-air a substantial portion of the programming transmitted by noncommercial educational broadcast stations as defined in on section 397 of Title 47 of the United States Code, and will copy off-the-air selected programming transmitted by commercial broadcast stations, both network and independent.

(2) Upon written request addressed to the Chief, Motion Picture, Broadcasting and Recorded Sound Division by a broadcast station or other owner of the right of transmission, the Library of Congress will inform the requestor whether a particular transmission program has been copied off-the-air by the Library.

(3) The Library of Congress will not knowingly copy off-the-air any unfixed or published television transmission program under the copying authority of section 407(e) of Title 17 of the United States Code.

(4) The Library of Congress is entitled under this paragraph (c) to presume that a television program transmitted to the public in the United States by a noncommercial educational broadcast station as defined in section 397 of title 47 of the United States Code, or by a nationwide television network in the United States, has been fixed but not published.

(5) The presumption established by paragraph (c)(4) of this section may be overcome by written declaration and submission of appropriate documentary evidence to the Chief, Motion Picture, Broadcasting and Recorded Sound Division, either before or after off-the-air copying of the particular transmission

program by the Library of Congress. Such written submission shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement declaring either that the program was not fixed or that it was published at the time of transmission;

(iii) If it is declared that the program was published at the time of transmission, a brief statement of the facts of publication, including the date and place thereof, the method of publication, the name of the owner of the right of first publication, and whether the work was published in the United States with notice of copyright; and

(iv) The actual handwritten signature of an officer or other duly authorized agent of the organization which transmitted the program in question.

(6) A declaration that the program was unfixed at the time of transmission shall be accepted by the Library of Congress, unless the Library can cite evidence to the contrary, and the off-the-air copy will either be

(i) Erased; or

(ii) Retained, if requested by the owner of copyright or of any exclusive right, to satisfy the deposit provision of section 408 of Title 17 of the United States Code.

(7) If it is declared that the program was published at the time of transmission, the Library of Congress is entitled under this section to retain the copy to satisfy the deposit requirement of section 407(a) of title 17 of the United States Code, unless the Library is notified in writing by the owner of copyright or of the exclusive right of publication that the work has never been published in the United States with notice of copyright.

(8) The Library of Congress in making fixations of unpublished transmission programs transmitted by independent commercial broadcast stations shall not do so without notifying the transmitting organization that such activity is taking place. Such notice shall, if possible, be given by the Library of Congress prior to the time of broadcast. In every case, the Library of Congress shall transmit such notice no later than fourteen days after such fixation has occurred. Such notice shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement asserting the Library of Congress' belief that the transmission program has been, or will be by the date of transmission, fixed and is unpublished, together with language converting the notice to a demand for deposit under section 407(a) and (b) of Title 17 of the United States Code, if the transmission program has been published in the United States with notice of copyright.

(9) The notice required by paragraph (c)(8) of this section shall not cover more than one transmission program except that the notice may cover up to thirteen episodes of one title if such episodes are generally scheduled to be broadcast at the same time period on a regular basis, or may cover all the episodes comprising the title if they are scheduled to be broadcast within a period of not more than two months.

(d) *Demands for deposit of a television transmission program.* (1) The Register of Copyrights may make a written demand upon the owner of the right of transmission in the United States to deposit a copy of a specific transmission program for the benefit of the Library of Congress under the authority of Section 407(e)(2) of Title 17 of the United States Code.

(2) The Register of Copyrights is entitled to presume, unless clear evidence to the contrary is proffered, that the transmitting organization is the owner of the United States transmission right.

(3) Notices of demand shall be in writing and shall contain:

(i) The identification, by title and time of broadcast, of the work in question;

(ii) An explanation of the optional forms of compliance, including transfer of ownership of a copy to the Library, lending a copy to the Library for reproduction, or selling a copy to the Library at a price not to exceed the cost of reproducing and supplying the copy;

(iii) A ninety-day deadline by which time either compliance or a request for an extension or a request to adjust the scope of the demand or the method for fulfilling it shall have been received by the Register of Copyrights;

(iv) A brief description of the controls which are placed on the copies' use;

(v) A statement concerning the Register's perception of the publication status of the program, together with language converting this demand to a demand for a deposit, under 17 U.S.C. 407 (a) and (c), if the recipient takes the position that the work is published; and

(vi) A statement that a "compliance copy" must be made and retained if the notice is received prior to transmission.

(4) With respect to subsection (3)(ii), the sale of a copy in compliance with a demand of this nature shall be at a price not to exceed the cost to the Library of reproducing and supplying the copy. The notice of demand should therefore inform the recipient of that cost and set that cost, plus reasonable shipping charges, as the maximum price for such a sale.

(5) Copies transferred, lent, or sold under this subsection (d) shall be of sound physical condition as described in Appendix A to this section.

(6) *Special Relief.* In the case of any demand made under paragraph (d) of this section the Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation:

(i) Extend the time period provided in subparagraph (d)(3)(iii);

(ii) Make adjustments in the scope of the demand; or

(iii) Make adjustments in the method of fulfilling the demand.

Any decision as to whether to allow such extension or adjustments shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress and shall be made as reasonably warranted by the circumstances. Requests for special relief under paragraph (d) of this section shall be made in writing to the Chief, Acquisitions and Processing Division of the Copyright Office, shall be signed by or on behalf of the owner of the right of transmission in the United States and shall set forth the specific reasons why the request shall be granted.

(e) *Disposition and use of copies.* (1) All copies acquired under this section shall be maintained by the Motion Picture, Broadcasting and Recorded Sound Division of the Library of Congress. The Library may make one archival copy of a program which it has fixed under the provisions of section 497(e)(1) of title 17 of the United States Code and subsection (c) of this section.

(2) All copies acquired or made under this section, except copies of transmission programs consisting of a regularly scheduled newscast or on-the-spot coverage of news events, shall be subject to the restrictions concerning copying and access found in Library of Congress Regulation 818–17, *Policies Governing the Use and Availability of Motion Pictures and Other Audiovisual Works in the Collections of the Library of Congress*, or its successors. Copies of transmission programs consisting of regularly scheduled newcasts or on-the-spot coverage of news events are subject to the provisions of the "American Television and Radio Archives Act" (section 170 of Title 2 of the United States Code) and such regulations as the Librarian of Congress shall prescribe.

(f) *Registration of claims to copyright.* (1) Copies fixed by the Library of Congress under the provisions of paragraph (c) of this section may be used as the deposit for copyright registration provided that:

(i) The application and fee, in a form acceptable for registration, is received by the Copyright Office not later than ninety days after transmission of the program, and

(ii) Correspondence received by the Copyright Office in the envelope containing the application and fee states that a fixation of the instance work was made by the Library of Congress and requests that the copy so fixed be used to satisfy the registration deposit provisions.

(2) Copies transferred, lent, or sold to the Library of Congress under the provisions of paragraph (d) of this section may be used as the deposit for copyright registration purposes only when the application and fee, in a form acceptable for registration, accompany, in the same container, the copy lent, transferred, or sold, and there is an explanation that the copy is intended to satisfy both the demand issued under section 407(e)(2) and the registration deposit provisions.

(g) *Agreements modifying the terms of this section.* (1) The Library of Congress may, at its sole discretion, enter into an agreement whereby the provision of copies of unpublished television transmission programs on terms different from those contained in this section is authorized.

(2) Any such agreement may be terminated without notice by the Library of Congress.

(17 U.S.C. 407, 408)

Dated: January 25, 1982.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

Appendix A—Technical Guidelines Regarding Sound Physical Condition

To be considered a copy "of sound physical condition" within the meaning of 37 CFR 202.22(d)(5), a copy shall conform to all of the technical guidelines set out in this Appendix.

A. *Physical Condition.* All portions of the copy that reproduce the transmission program must be:

1. *Clean:* Free from dirt, marks, spots, fungus, or other smudges, blotches, blemishes, or distortions;

2. *Undamaged:* Free from burns, blisters, tears, cuts, scratches, breaks, erasures, or other physical damage. The copies must also be free from:

(i) Any damage that interferes with performance from the tape or other reproduction, including physical damage resulting from earlier mechanical difficulties such as cassette jamming, breaks, tangles, or tape overflow; and

(ii) Any erasures, damage causing visual or audible defects or distortions or any material remaining from incomplete erasure of previously recorded works.

3. *Unspliced:* Free from splices in any part of the copy reproducing the transmission program, regardless of whether the splice involves the addition or deletion of material or is intended to repair a break or cut.

4. *Undeteriorated:* Free from any visual or aural deterioration resulting from aging or exposure to climatic, atmospheric, or other chemical or physical conditions, including heat, cold, humidity, electromagnetic fields, or radiation. The copy shall also be free from excessive brittleness or stretching, from any visible flaking of oxide from the tape base or other medium, and from other visible signs of physical deterioration or excessive wear.

B. *Physical Appurtenances of Deposit Copy:*

1. *Physical Housing of Video Tape Copy.* (a) In the case of video tape reproduced for reel-to-reel performance, the deposit copy shall consist of reels of uniform size and length. The length of the reels will depend on both the size of the tape and its running time (the last reel may be shorter). (b) In the case of video tape reproduced for cassette, cartridge, or similar performance, the tape drive mechanism shall be fully operable and free from any mechanical defects.

2. *"Leader" or Equivalent.* The copy, whether housed in reels, cassettes, or cartridges, shall have a leader segment both preceding the beginning and following the end of the recording.

C. *Visual and Aural Quality of Copy:*

1. *Visual Quality.* The copy should be equivalent to an evaluated first generation copy from an edited master tape and must reproduce a flawless and consistent electronic signal that meets industry standards for television screening.

2. *Aural Quality.* The sound channels or other portions must reproduce a flawless and consistent electronic signal without any audible defects.

[FR Doc. 82-2884 Filed 2-3-82; 8:45 am]

BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 124, and 146

[W-6-FRL-2041-7]

Louisiana Department of Natural Resources Underground Injection Control Primacy Application; Notice of Comment Period and Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the Louisiana Department of Natural Resources requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Louisiana Department of Natural Resources to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 1, 1982; Public Hearing will be held on March 8, 1982, 10 a.m.–5:30 p.m. Comments must be received by March 15, 1982.

ADDRESSES: Comments and requests to testify may be mailed to Erlece Allen, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas, 75270. Copies of the application and pertinent material are available between 8:30 a.m. and 4 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767–7341

Louisiana Department of Natural Resources, Office of Conservation, Underground Injection Control Division, Room 228, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, (504) 342–5515.

The Hearing will be held at the Conservation Hearing Room, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana.

FOR FURTHER INFORMATION CONTACT: Erlece Allen, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the Louisiana Department of Natural Resources is for the regulation of all injection wells in

the State. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the Louisiana Department of Natural Resources and the Region 6 office of the Environmental Protection Agency.

Dated: January 28, 1982.

Bruce R. Barrett,

Acting Assistance Administrator for Water.

[FR Doc. 82-2901 Filed 2-3-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Medicare Payment Where Beneficiary Is Not At Fault

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed Rule.

SUMMARY: These proposed regulations would implement section 956 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499). That section permits Medicare payment for inpatient services provided to a beneficiary when payment would be denied solely because he or she is erroneously placed in a part of a participating hospital or skilled nursing facility that is inappropriate to furnish the qualifying level of care needed by the beneficiary. The intent of the new provision is to relieve the beneficiary of liability for payment when these erroneous placements occur. The regulations also specify the conditions that must be met by a provider in order for program payments to be made.

DATE: To assure consideration, comments should be mailed by April 5, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-143-P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's office at 200 Independence Ave., SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 to 5:00 p.m. (202-245-7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

FOR FURTHER INFORMATION CONTACT: Jack Wasserman (301) 594-9300.

SUPPLEMENTARY INFORMATION:

Background

General Practice

Under Medicare, a hospital may designate a "distinct part" of its facility (for example, a floor or wing) as a Medicare-certified skilled nursing facility (SNF). Patients placed in this distinct part SNF may qualify for Medicare SNF payment if they require SNF care and all SNF coverage requirements are met (for example, a 3-day prior hospital stay), but they would not qualify for hospital benefits. However, if a patient requiring a hospital level of services is, upon admission, improperly placed in the SNF part of the hospital, the patient will qualify neither for hospital nor SNF benefits. SNF benefits would not be available because the 3-day prior stay requirement (42 CFR 405.120(a)) was not met. Hospital benefits would not be available, even if the patient received a hospital level of care, because the service was provided in a SNF bed, rather than in a certified hospital bed. Similarly, hospital benefits would not be available when a hospital patient requiring and receiving a hospital level of services was transferred, after admission, to a distinct part of the hospital serving as either a SNF or as an intermediate care facility (ICF). Payment would not be made because the services were not provided in a part of the institution certified to provide hospital care.

In addition to hospitals, a nursing facility may similarly designate a "distinct part" that participates as a Medicare-certified SNF, while the remaining part of the institution serves as a nonparticipating intermediate care or domiciliary facility offering a lower level of care for which payment cannot be made under the Medicare statute. Only beneficiaries located in the certificated SNF portion of the facility for Medicare SNF benefits.

Practice Before September 11, 1979

Under rules in effect before September 11, 1979, claims for services furnished in a noncertified or nonqualifying bed were denied solely on the basis of that inappropriate placement, even if the placement was made inadvertently and the beneficiary required and received the equivalent of the appropriate covered level of care.

Section 1879 of the Social Security Act provides, under certain conditions, for wavier of a beneficiary's liability when noncovered care has been furnished. However, this provision was not applied to services excluded from coverage solely because they were furnished in a noncertified or nonqualifying location. Section 1879 had been applied only to services excluded from coverage because they were not reasonable and necessary for diagnosis or treatment of the patient's condition (see 42 CFR 405.310(k)) or because they constituted custodial care (see 42 CFR 405.310(g)).

Court Order

A court ruling that took effect on September 11, 1979 *(Florence Wright et al v. Califano)* (U.S.D.C., C. D.CA., 1979), prohibited the denial of Medicare claims for services solely because of an erroneous placement in a noncertified part of a SNF. As a result of the court ruling, HCFA issued instructions to its fiscal intermediaries requiring them to waive the beneficiary's liability under section 1879 if he or she required and received a level of care equivalent to SNF care, even though the care was provided in a noncertified part of a SNF. We issued this revised policy in Part A Intermediary Letter No. 79-48 dated December, 1979. (Because the ruling did not address an analogous situation in which a beneficiary is erroneously placed in a noncertified bed within a certified hospital, our policy in that situation did not change. In such a case Medicare payment has become denied.)

New Legislation

Section 956 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) was enacted December 5, 1980, and became effective January 1, 1981. It amends section 1879 of the Social Security Act by adding a new paragraph (e), which has the effect of permitting program payment when a beneficiary otherwise qualifies for Medicare coverage, but when payment would have been precluded solely because the beneficiary received the services in a part of an institution not qualified to provide the correct level of care for purposes of Medicare. The provision applies to hospital and SNF levels of

care, and incorporates into law requirements almost identical to those stemming from the *Wright v. Califano* court ruling on SNF claims involving erroneous placement in a noncertified bed. Payment under amended section 1979 is limited to cases in which the inappropriate placement was the result of unintentional, inadvertent, or erroneous action by a provider of services acting in good faith based on the advice of a utilization review committee, Professional Standards Review Organization or fiscal intermediary, or was the result of a clearly erroneous administrative decision by a provider of services.

Regulatory Provisions

We propose to amend 42 CFR Part 405, Subpart C, by adding a new § 405.333 to implement section 1879(e) of the Act. The new section sets forth the criteria we would use in making the determination that a beneficiary or a provider is not liable for payment for services when the beneficiary is erroneously placed in a part of an institution that was not certified to participate in Medicare or was not certified to provide the level of care required by the beneficiary.

Beneficiary Liability

Under these regulations, a beneficiary's liability would routinely be waived when (a) a participating hospital or SNF with a distinct part places the beneficiary in a part of the facility that is inappropriate, and (b) all other conditions for Medicare coverage are met. For purposes of these regulations, "inappropriate" would mean the beneficiary was placed in a bed in a part of a participating hospital or SNF (1) that was not certified to participate in Medicare, or (2) that was not certified to provide the level of care required by the beneficiary.

Provider Liability

Under these regulations, the provider's liability ordinarily would be waived if the provider gave timely written notice to the beneficiary (as required by 42 CFR 405.195) of the implications of receiving care in the inappropriate setting (i.e., that Medicare will not pay for the care).

We would find that a provider had a reasonable basis for placing a beneficiary in an inappropriate bed, and therefore would not be held liable in the following cases:

a. The intermediary or a utilization review committee advised the provider, or a PSRO determined, that the beneficiary did not require the applicable covered level of care.

b. The beneficiary's attending physician specifically advised the provider (verified by documentation in the medical record) that the beneficiary no longer required the applicable level of care.

c. A beneficiary not requiring covered services had a change in his or her condition that resulted in a need for a covered level of care and the provider had no appropriate bed available.

d. The intermediary has sufficient evidence to determine that the provider acted in good faith, but inadvertently placed the beneficiary in an inappropriate bed.

e. The provider itself decided that the beneficiary did not require a covered level of care. However, the provider would be held liable in this situation if it has demonstrated a pattern of excessive erroneous placements. We intend to issue manual instructions that define what we consider to be a pattern of erroneous placements. We would monitor closely to determine if our criteria are equitable and are accomplishing Congressional intent (stated in the House Budget Committee Report, House Report No. 96–1167, pages 377–378) that this provision not be abused, and we would revise these instructions if our experience indicates that this is necessary. (If a provider is found liable because of its excessive erroneous placement decisions, it would still be able to present evidence to the intermediary to show in any individual case that it had a reasonable basis for deciding that covered care was not required.)

We welcome comment not only on this basic strategy in determining provider liability, but also with respect to what the specific criteria should be, how they should be administered, and any related information.

When a provider is held liable because it did not have a reasonable basis for placing the beneficiary in an inappropriate bed, and the provider has been reimbursed by the beneficiary, existing procedures for reimbursing the beneficiary under section 1879 and 42 CFR 405.331 would be followed. Generally, those procedures permit Medicare payment to that beneficiary if he or she files a request for reimbursement. The amount requested would be subject to applicable deductibles and coinsurance.

Conditions for payment

The legislation upon which these regulations are based was enacted to remedy the inequitable situation where a beneficiary had his or her claim for Medicare benefits denied solely because the otherwise covered services were furnished to the beneficiary in a part of an institution not certified by Medicare to provide the necessary level of care. The legislative history of this provision gives no indication that Congress wished any other changes made with respect to the existing conditions required for program payment by Medicare. Therefore, the proposed regulations specify that, in order to qualify for protection under section 1879(e), the beneficiary must meet all other existing conditions for program payment, such as requiring and receiving an otherwise covered level of care.

Additionally, the House Budget Committee Report (House Report No. 96–1167, pages 377–378) accompanying the legislation makes it clear that the legislation is intended to apply to claims for services in institutions that wholly participate or have a distinct part that participates in the Medicare program. It is for this reason that the regulations would limit the application of section 1879(e) to facilities that are participating in the Medicare program.

(Existing provisions in 42 CFR 405.330 and 405.332 for determining provider and beneficiary liability under section 1879 of the Act, when a claim is denied because a beneficiary was furnished custodial care or care found not reasonable and necessary, do not apply to cases subject to section 1879(e) and would not be changed. However, where appropriate, the existing beneficiary indemnification procedures in 42 CFR 405.331 would apply when a provider of services is held liable under the new § 405.333. Those procedures allow Medicare to reimburse a beneficiary who has paid a provider for noncovered services, if the beneficiary did not know that the services where excluded but the provider did know (or should have known).)

Reimbursement Mechanism

Payment for services usually not payable but determined payable under these regulations as a result of an unintentional, inadvertent, or erroneous action, will be made on an average per diem cost based on the reasonable cost of the inpatient routine area where the services were provided (subject to any applicable inpatient routine service cost limitation). The cost will be computed according to standard Medicare reimbursement methodology. Ancillary charges related to such services will be included in total charges and Medicare charges of the hospital or skilled nursing facility component in order to apportion ancillary service costs appropriately with respect to Medicare and other

patients. This methodology has been in use for reimbursement of services payable under the *Wright* v. *Califano* decision (discussed above) and represents no change in HCFA policy.

Impact Analysis

Executive Order 12291

We have determined that this proposed rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed rule will not have an effect on the economy of $100 million per year; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment. We base our statement on our experience with SNF claims during fiscal year 1980. During 1980, 521 cases of inappropriate placements were submitted for Medicare payment as a result of the *Wright v. Califano* decision. These were cases that did not qualify for Medicare payment before the court ruling described above. We estimate that the average stay in the noncertified SNF bed that qualified for program payment was 12 days. If we assume an average SNF daily cost to Medicare of $50.00, then program payments made for those 521 cases would be estimated to be $312,600. This figure represents Medicare payments made for inappropriate placements in SNFs. Although these regulations would permit Medicare payment for erroneous placements in certified hospitals, as well as SNFs, we believe, based on our Medicare program experience, that fewer inappropriate hospital placements occur. Although the exact amount of the increase in Medicare expenditures resulting from implementation of the legislation is difficult to estimate, we believe it will not exceed one million dollars in FY 1981. Moreover, we do not have discretion under the legislation to select less costly alternatives. For these reasons, we believe no Regulatory Analysis is required.

The Regulatory Flexibility Act

Section 603(a) of Pub. L. 96–354 (the Regulatory Flexibility Act of 1980) requires Federal agencies to prepare and make public an initial regulatory flexibility analysis (IRFA) when proposed regulations are required and the regulatory changes would have a significant economic impact on a substantial number of small businesses or small governmental jurisdictions. Small governmental jurisdictions are defined by section 3(a) of the Act as cities, counties, towns, townships, villages, school districts, or special districts, with fewer than 50,000 residents. Based on our estimates given above, we do not believe that these regulations will have a significant economic impact on a substantial number of small entities. Providers (hospitals and skilled nursing facilities) may be held liable for the cost of inappropriate placements under these rules. However, we believe that these occasions will be infrequent. Since we estimate that the economic impact on providers will be negligible, we do not believe these proposed regulations require an analysis under this Act. In addition, as noted above, the provisions of these regulations are required by section 956 of Pub. L. 96–499 (the Omnibus Reconciliation Act), which does not give us discretion to select other, less costly alternatives that might be identified by such an analysis.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405 is amended as set forth below:

1. The Table of Contents of Subpart C is amended by adding § 405.333 to read as follows:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

Sec.

* * * * *

405.333 Beneficiary and provider liability in erroneous placements.

* * * * *

Authority: Secs. 1102, 1842, 1862, 1870, 1871, 1879, 49 Stat. 647, as amended, 79 Stat. 309, 79 Stat. 325, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

2. A new § 405.333 is added to read as follows:

§ 405.333 . Beneficiary and provider liability in erroneous placements.

(a) *Basis and scope.* (1) This section implements section 1879(e) of the Social Security Act, which permits Medicare payments for otherwise covered items and services furnished by a participating hospital or skilled nursing facility (SNF) to a beneficiary who required and received the services in an inappropriate setting solely because of an unintentional, inadvertent or erroneous placement by the facility.

(2) For purposes of this section, "inappropriate" means the beneficiary was placed in a bed in a participating hospital or SNF—

(i) That was not certified to participate in Medicare; or

(ii) That was not certified to provide the level of care required by the beneficiary.

(3) Payment may be made under these provisions for Medicare claims filed on or after January 1, 1981.

(b) *When payment may be made: General rule.* Medicare payment may be made when—

(1) A beneficiary has been placed in a part of the facility that is inappropriate to provide the covered level of care he or she required and received; and

(2) The beneficiary and the provider are found not liable for payment as specified in paragraphs (c) and (d) of this section.

(c) *When beneficiary is not liable.* The beneficiary is not liable if he or she required and received, and otherwise qualified for, covered hospital or SNF care, except for his or her erroneous placement in an inappropriate part of the facility.

(d) *When a provider is not liable.* The provider is not liable if—

(1) The provider gave timely written notice to the beneficiary, in accordance with section 405.195, of the implications of receiving care in an inappropriate bed; and

(2) Any of the following conditions is met:

(i) The intermediary or a utilization review committee advised the provider, or a PSRO determined, that the beneficiary did not require the applicable covered level of care.

(ii) The beneficiary's attending physician specifically advised the provider (verified by documentation in the medical record) that the beneficiary no longer required the applicable level of care.

(iii) A beneficiary not requiring covered services had a change in his condition that resulted in a need for a covered level of care and the provider had no appropriate bed available.

(iv) The provider inadvertently placed the beneficiary in an inappropriate bed, and the intermediary has sufficient evidence to determine that the provider acted in good faith.

(v) The provider itself decided that the beneficiary did not require a covered level of care. However, the provider will be held liable in this situation if it demonstrates an excessive pattern of erroneous placements, as determined by the intermediary based on administrative criteria established by HCFA for this purpose. (If a provider is found liable because of its excessive erroneous placement decisions, it may present evidence to the intermediary to show in any individual case that it acted

in good faith in deciding that covered care was not required.)

(e) *Indemnification when a beneficiary pays liable provider.* HCFA will indemnify the beneficiary under § 405.331 when both of the following conditions are met:

(1) The provider is found liable because it did not meet the conditions in paragraph (d) of this section.

(2) The beneficiary pays the provider for services furnished in the inappropriate part of the facility.

(Catalog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance)

Dated: October 17, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 19, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-2957 Filed 2-3-82; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 42

[CGD 79-153]

Freeboards; Load Line Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the loadline regulations by revising the subpart concerning the assignment of freeboards (see definition below). This revision is based on an internationally developed equivalent regulation that simplifies the language and format of the requirements. This proposal would not create any substantive changes but would help make the regulations clear and easy to use.

DATE: Comments must be received on or before April 5, 1982.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/24), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 between 7 a.m. and 5 p.m., Monday through Thursday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William Cleary, Office of Merchant Marine Safety (G-MMT-5/12), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2187.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 79-153) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Evaluation

The Coast Guard has evaluated this proposal under Executive Order 12291 and finds that it is not a major regulation. The Coast Guard has reviewed this proposal under DOT Order 2100.5 of May 22, 1980, Policies and Procedures for Simplification, Analysis and Review of Regulations and has determined that it is nonsignificant. The impact of this proposal would be minimal since no substantive changes are being made to the regulations; therefore, no economic evaluation has been performed. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant impact on a substantial number of small entities.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Frank Thompson, Regulations Specialist, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of the Chief Counsel.

Definition of "Freeboard"

A vessel's "freeboard" is the vertical distance from its waterline to the uppermost watertight deck. The official minimum freeboard is assigned to a vessel on the basis of that vessel's size and relative ability to withstand ocean seaway conditions under various loadings. It may also be assigned on the basis of limiting structure, stability, or flooding protection, when applicable.

Discussion of Proposed Rule

The loadline regulations in Part 42 interpret and apply the International Convention on Loadlines of 1966 (ICLL 1966). Regulation 27 of that convention concerns the assignment of freeboards. The convention agreed that Type "A" vessels, which are vessels that carry only liquid cargo in bulk, must be built to a certain standard of subdivision and would be assigned certain freeboards based on the stability afforded by that subdivision. The convention also established freeboards for all other vessels (Type "B" vessels). The freeboards assigned by the convention to Type "B" vessels are greater than those assigned Type "A" vessels.

Regulation 27 of ICLL 1966 permits a Type "B" vessel to be assigned less than the normally assigned freeboard if the vessel meets specific levels of internal watertight subdivision. The freeboard may be reduced to the freeboard given to a Type "A" vessel. Regulation 27 is currently found in the Code of Federal Regulations at §§ 42.20-5 through 42.20-25.

There was insufficient information in Regulation 27, however, to allow the national administrations to properly apply it. As a result, the Intergovernmental Maritime Consultative Organization (IMCO) published additional guidance concerning the flooding and stability assemptions that must be used in calculating the amount of subdivision required to assign a reduced freeboard. These assumptions were published in the **Federal Register** of June 5 and 24, 1969 (34 FR 9014 and 9753, codified at 46 CFR 42.20-3).

Based on experience with the regulation, IMCO determined that Regulation 27 and the guidance which was published separately should be integrated into a single document. This document was published in 1975 as IMCO Resolution A.320(IX). It clarifies the language in Regulation 27 and was intended to simplify the assignment of freeboards. It is considered an equivalent to Regulation 27.

The IMCO Resolution and this proposed rule differ from the present regulations by adding several clarifications that are needed to perform certain calculations. These interpretations have been determined at IMCO meetings at which the United States participated and they are now standard throughout the world. The following new paragraphs would be added for clarification:

Section 42.20-9(c). This paragraph deals with determining the initial

condition of loading and states that for fluid cargoes "fully loaded" means 98% full.

Section 42.20–9(d). This also concerns the initial condition of loading and states that, if a vessel operates normally with empty compartments at its summer load line, those compartments should be considered empty during certain conditions.

Section 42.20–10(b). This paragraph requires that a certain angle of heel is to be used in computing free surface. This is necessary in order to prevent creating an artificially high amount of free surface.

Section 42.20–11(c)(3). This paragraph explains which compartments are considered flooded following damage to certain stepped or recessed bulkheads, when determining the extent of damage.

Section 42.20–11(c)(4)(i) and (c)(4)(ii). These paragraphs state two arrangements which are exceptions to the present requirement that a side tank and an adjacent compartment must be considered as one compartment if the bulkhead separating them has an opening.

Section 42.20–11(c)(5). This paragraph contains a further exception to § 42.20–11(c)(4).

Section 42.20–12(f). This is a clarification which states that the vessel's stability must be sufficient during the intermediate stages of flooding.

The Coast Guard is not proposing to adopt the IMCO Resolution verbatim, but rather, to change the format and some of the language to further simplify the regulations. However, there is no substantive change to the present regulation.

The principal differences between the proposal and the IMCO Resolution are in §§ 42.20–7, 42.20–8 and 42.20–10.

Sections 42.20–7 and 42.20–8 contain the requirements which a Type "B" vessel must meet to be assigned a reduction in freeboard. The percentage of reduction is in relation to the freeboard granted for a similarly sized Type "A" vessel. Thus, a 100 percent reduction means that the vessel would be assigned the same freeboard as a similarly sized Type "A" vessel. Section 42.20–7 contains the requirement for a 60 percent reduction and § 42.20–8 contains the requirement for a 100 percent reduction.

Section 42.20–10 contains the provisions concerning free surface. These are the same as in the IMCO Resolution, but have been placed in their own section for clarity .

For easy reference, the text of the IMCO Resolution is contained in an appendix that follows the proposed rule. This appendix will not be included in any final rule.

Editorial changes to other sections that reflect the revision of §§ 42.20–3 through 42.20–13 are also proposed.

The following table relates the proposed regulation to the equivalent section in the existing regulations:

Proposed section	Old section
42.20–3(a)	42.20–5(b).
42.20–3(b)	42.20–5(a–1).
42.20–3(c)	42.20–5(c).
42.20–5(a)	42.20–10(b). 42.20–10(g).
42.20–5(b)	42.20–10(b). 42.20–10(g).
42.20–5(c)	42.20–10(c) (1)–(3), (e), (f).
42.20–7(a)	42.20–10(c) (4) and (5).
42.20–7(b)	42.20–10(c) (4) and (5).
42.20–8(a)	42.20–10(f).
42.20–8(b)	42.20–10(f).
42.20–8(c)	42.20–10(f).
42.20–9(a)	42.20–3(b), 42.20–10(c)(4), 42.20–10(f).
42.20–9(b)	42.20–3(f)(1).
42.20–9(c)	42.20–3(f)(1) and clarification.
42.20–9(d)	New-clarification.
42.20–9(e) (1) and (2)	42.20–3(f)(3).
42.20–9(f)	42.20–3(f)(5).
42.20–10(a)(1)	42.20–3(f)(2).
42.20–10(a)(2)	42.20–3(f)(4).
42.20–10(b)	New-clarification.
42.20–11(a)(1)	42.20–10(d)(1).
42.20–11(a)(2)	42.20–3(c)(2).
42.20–11(b)	42.20–3(c)(2).
42.20–11(c)	42.20–3(c)(3).
42.20–11(c)(1)	42.20–3(c)(3)(i).
42.20–11(c)(2)	42.20–3(c)(3)(ii).
42.20–11(c)(3)	New-clarification.
42.20–11(c)(4)	42.20–3(c)(4).
42.20–11(c)(4)(i)	New-clarification.
42.20–11(c)(4)(ii)	New-clarification.
42.20–11(c)(5)	New-clarification.
42.20–11(d)	42.20–3(d).
42.20–12(a)	42.20–3(e)(1).
42.20–12(b)	42.20–3(e)(2).
42.20–12(c)	42.20–3(e)(3).
42.20–12(d)	42.20–3(e)(5).
42.20–12(e)	42.20–3(e)(4).
42.20–12(f)	New-clarification.
42.20–13	42.20–10(h).

Applicability to Tank Vessels

These regulations reflect an international agreement in the form of an amendment to the International Load Line Convention of 1966 regarding the degree of subdivision expected of a tank vessel (Type A vessel) and the method of calculating that subdivision.

The Load Line Convention of 1966 defines a Type A vessel as a vessel designed to carry only liquid cargoes in bulk. These international regulations have been adopted by many of the nations which have acceded to that convention. Although oil is the most commonly carried liquid cargo, there are other cargoes, including fresh water, wine, edible oils, and slurries loaded as liquids, which could be carried in a Type A vessel.

Oil cargoes, however, have been separately addressed in the Marine Pollution Convention of 1973 (MARPOL '73) and the subsequent Tanker Safety and Pollution Prevention Protocols (TSPP '78). The U.S. Coast Guard has placed these international standards in its Federal Regulations and, in doing so, has stated that "new" tank vessels carrying oil that meet the oil pollution prevention regulations of 33 CFR Part 157 in their entirety are considered to have met the full intent of the subdivision rules of the 1966 International Load Line Convention for Type A vessels. Thus, for oil cargoes only, the oil pollution prevention regulations of Title 33, CFR supersede the load line regulations of 46 CFR Subchapter E. Accordingly, the actual application of these regulations as regards U.S. flag vessels is restricted to tank vessels that are not "new vessels" as defined in 33 CFR 157.03(i), and to tank vessels carrying liquid cargoes other than oil.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 42 of Title 46, Code of Federal Regulations as follows:

1. The authority citation for Part 42 reads as follows:

Authority: Pub. L. 93–115, 87 Stat. 418 (46 U.S.C. 86); Pub. L. 87–620, 76 Stat. 416 (46 U.S.C. 88a); Pub. L. 89–670, 80 Stat. 938 (49 U.S.C. 1655(b)); 49 CFR 1.46(b).

2. By revising § 42.09–5 to read as follows:

§ 42.09–5 All vessels—division into types.

(a) For the purposes of this Part, each vessel to which this Part applies is either a Type "A" or a Type "B" vessel.

(b) A Type "A" vessel is a vessel that—

(1) Is designed to carry only liquid cargoes in bulk;

(2) Has a high degree of watertight and structural integrity of the deck exposed to the weather, with only small openings to cargo compartments that are closed by watertight gasketed covers of steel or other material considered equivalent by the Commandant; and

(3) Has a low permeability of loaded cargo compartments.

(c) A Type "B" vessel is any vessel that is not a Type "A" vessel.

(d) Requirements governing the assignment of freeboards for Types "A" and "B" vessels are in Subparts 42.20 and 42.25 of this Part.

3. By revising paragraph (a)(2) of § 42.09–10 to read as follows:

§ 42.09–10 Stability, subdivision, and strength.

(a) * * *

(2) Additional stability, subdivision, and strength requirements are in §§ 42.09–1, 42.13–1 (a) and (b), and 42.15–1 (a) and (b). The applicable flooded stability requirements are in §§ 42.20–3 through 42.20–13.

* * * * *

4. By revising paragraph (a) of § 42.15–80 to read as follows:

§ 42.15–80 Special conditions of assignment for type "A" vessels.

(a) *Machinery casings.* Machinery casings on Type "A" vessels as defined in § 42.09–5(b) must be protected by an enclosed poop or bridge of at least standard height, or by a deckhouse of equal height and equivalent strength, except that machinery casings may be exposed if there are no openings giving direct access from the freeboard deck to the machinery space. A door complying with the requirements of § 42.15–10 is permitted in the machinery casing if it leads to a space or passageway which is as strongly constructed as the casing and is separated from the stairway to the engine room by a second weathertight door of steel or equivalent material.

* * * * *

§§ 42.20–1 through 42.20–10 [Removed]

5. By removing existing §§ 42.20–1 through 42.20–10 and adding new §§ 42.20–3, 42.20–5, 42.20–7 through 42.20–13 to read as follows:

§ 42.20–3 Freeboard assignment: Type "A" vessels.

(a) A Type "A" vessel, over 150 meters (492 feet) in length, and designed to have empty compartments when loaded to its summer load waterline, must be able to withstand the flooding of any one of these empty compartments, except the machinery space, with an assumed permeability of 0.95, and remain afloat in a condition of equilibrium considered to be satisfactory by the assigning authority. If the vessel is over 225 meters (738 feet) in length, the machinery space is treated as a floodable compartment with an assumed permeability of 0.85. For guidance, the following limits are regarded as satisfactory:

(1) The final waterline after flooding is below the lower edge of any opening through which progressive flooding may take place.

(2) The maximum angle of heel due to unsymmetrical flooding is approximately 15 degrees.

(3) The metacentric height in the flooded condition is positive.

(b) A vessel that meets the requirements in 33 CFR 157.21, or 46 CFR 153.20, 153.21, 153.22 or 154.210 is considered by the Coast Guard as meeting the requirements in this section.

(c) A Type "A" vessel is assigned a freeboard not less than that based on Table 42.20–15(a)(1).

§ 42.20–5 Freeboard assignment: Type "B" vessels.

(a) Each Type "B" vessel is assigned a freeboard from Table 42.20–15(b)(1) that is increased or decreased by the provisions of this section.

(b) Each Type "B" vessel that has a hatchway in position 1, must have the freeboard assigned in accordance with paragraph (a) of this section increased by the amount given in Table 42.20–5(b) unless the hatch cover complies with—

(1) Section 42.15–25(d); or

(2) Section 42.15–30.

Table 42.20–5(b)

Freeboard increase over tabular freeboard for type "B" vessels, for vessels with hatch covers not complying with § 42.15–25(d) or § 42.15–30.

METRIC

Length of vessel (meters)	Freeboard increase[1] (millimeters)	Length of vessel (meters)	Freeboard increase (millimeters)	Length of vessel (meters)	Freeboard increase (millimeters)
[2]108	50	139	175	170	280
109	52	140	181	171	282
110	55	141	186	172	284
111	57	142	191	173	287
112	59	143	196	174	289
113	62	144	201	175	291
114	64	145	206	176	294
115	66	146	210	177	296
116	70	147	215	178	298
117	73	148	219	179	311
118	76	149	224	180	313
119	80	150	228	181	315
120	84	151	232	182	318
121	87	152	236	183	320
122	91	153	240	184	322
123	95	154	244	185	325
124	99	155	247	186	327
125	103	156	251	187	329
126	108	157	254	188	332
127	112	158	258	189	334
128	116	159	261	190	336
129	121	160	264	191	339
130	126	161	267	192	341
131	131	162	270	193	343
132	136	163	273	194	345
133	142	164	275	195	348
134	147	165	278	196	350
135	153	166	280	197	353
136	159	167	283	197	355
137	164	168	285	199	357
138	170	169	287	[3]200	359

[1] Freeboards at intermediate lengths may be obtained by linear interpolation.
[2] 108 and below.
[3] Vessels above 200 meters in length are subject to individual determinations by the Commandant.

ENGLISH

Length of vessel (feet)	Freeboard increase[1] (inches)	Length of vessel (feet)	Freeboard increase (inches)
[2]350	2.0	510	9.6
360	2.3	520	10.0
370	2.6	530	10.4
380	2.9	540	10.7
390	3.3	550	11.0
400	3.7	560	11.4
410	4.2	570	11.8
420	4.7	580	12.1
430	5.2	590	12.5
440	5.8	600	12.8
450	6.4	610	13.1
460	7.0	620	13.4
470	7.6	630	13.6
480	8.2	640	13.9
490	8.7	650	14.1
500	9.2	[3]660	14.3

[1] Freeboards at intermediate lengths may be obtained by linear interpolation.
[2] 350 and below.
[3] Vessels above 660 feet in length are subject to individual determinations by the Commandant.

(c) A Type "B" vessel that is greater than 100 meters (328 feet) in length may have its freeboard reduced up to the total difference between the freeboard from Table 42.20–15(b)(1) and that from Table 42.20–15(a)(1) if, in relation to the amount of reduction granted, the assigning authority is satisfied that—

(1) The measures provided for the protection of the crew are adequate;

(2) The freeing arrangements are determined to be adequate;

(3) The covers in positions 1 and 2 comply with the provisions of § 42.15–30 and have adequate strength, special care being given to their sealing and securing arrangements; and

(4) The vessel complies with:

(i) Section 42.20–7, for a reduction in freeboard of up to 60 percent of the total difference between the freeboards in Table 42.20–15(b)(1) and Table 42.20–15(a)(1); or

(ii) Section 42.20–8, for a reduction in freeboard of up to the total difference

between the freeboards in Table 42.20–15(b)(1) and Table 42.20–15(a)(1).

§ 42.20–7 Flooding standard; 60 percent reduction.

(a) Design calculations must be submitted for each vessel that demonstrate that the vessel will remain afloat in the condition of equilibrium specified in § 42.20–12 after the damage specified in § 42.20–11 is applied to the following locations:

(1) If the vessel is 225 meters or less in length the damage must be applied in all locations on the length of the vessel except on a main transverse watertight bulkhead, in the machinery space, and on a transverse boundary bulkhead of a wing tank that extends inboard from the shell more than the transverse extent of damage specified in § 42.20–12(b).

(2) If the vessel is over 225 meters (738 feet), the damage must be applied in all locations on the length of the vessel except on a main transverse watertight bulkhead.

(b) When doing the calculations required in paragraph (a) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except the machinery space.

(2) 0.85 in the machinery space.

§ 42.20–8 Flooding standard: 100 percent reduction.

(a) Each vessel must—

(1) Comply with § 42.15–80(a)(1), (b)(1), (d)(1), and (d)(2) as if it were a Type "A" vessel; and

(2) Have demonstrated by design calculations that the vessel will remain afloat in the condition of equilibrium specified in § 42.20–12 after the damage in § 42.20–11 is applied to the locations specified in paragraph (b) of this section.

(b) The design calculations must assume that damage is applied to the following locations:

(1) If the vessel is not greater than 225 meters (738 feet) in length, then damage must be applied in all locations on the length of the vessel except that—

(i) No more than one main transverse watertight bulkhead may be damaged at one time; and

(ii) Damage is not applied to a main transverse watertight bulkhead bounding a machinery space.

(2) If the vessel is greater than 225 meters (738 feet) in length, then damage may be assumed to occur on any one main transverse watertight bulkhead at a time.

(c) When doing the calculations required in paragraph (a)(2) of this section, the following permeabilities must be assumed:

(1) 0.95 in all locations except in the machinery space.

(2) 0.85 in the machinery space.

§ 42.20–9 Initial condition of loading.

When doing the calculations required in § 42.20–7(a) and § 42.20–8(a)(2), the initial condition of loading before flooding must be assumed to be as specified in this section:

(a) The vessel is assumed to be loaded to its summer load waterline with no trim.

(b) The cargo is assumed to be homogeneous.

(c) Except as specified in paragraph (d) of this section, all cargo compartments are assumed to be fully loaded. This includes compartments intended to be only partially filled. In the case of fluid cargoes, fully loaded means 98 percent full.

(d) If the vessel is intended to operate at its summer load waterline with empty compartments, these compartments are assumed to be empty rather than fully loaded if the resulting height of the vertical center of gravity is not less than the height determined in accordance with paragraph (c) of this section.

(e) Fifty percent of the total capacity of all tanks and spaces fitted to contain consumable liquids or stores must be assumed to be distributed to accomplish the following:

(1) Except as provided in paragraph (d) of this section, each tank and space fitted to contain consumable liquids or stores must be assumed either completely empty or completely filled.

(2) The consumables must be distributed so as to produce the greatest possible height above the keel for the center of gravity.

(f) Weights are calculated using the following values for specific gravities:
Salt water—1.025
Fresh water—1.000
Oil fuel—0.950
Diesel oil—0.900
Lubricating oil—0.900

§ 42.20–10 Free surface.

(a) When doing the calculations required in § 42.20–7(a) and § 42.20–8(a)(2), the effect of free surface of the following liquids must be included:

(1) For consumable liquids, the maximum free surface of at least one transverse pair of tanks or a single centerline tank must be included. The tank or combination of tanks must be that resulting in the greatest free surface effect.

(2) For cargo liquids, unless the compartment is assumed to be empty as required by § 42.20–9(d), the maximum free surface of each compartment must be included, assuming the compartment to be 70% full. This free surface is included in the calculations even though the initial condition is in accordance with § 42.20–9(c).

(b) The free surface is calculated at an angle of heel of not more than—

(1) 5 degrees for cargo liquids; and

(2) 0 degrees for consumable liquids.

§ 42.20–11 Extent of damage.

(a) When doing the calculations required by § 42.20–7(a) and § 42.20–8(a)(2), the following must be assumed:

(1) The vertical extent of damage in all cases must be assumed to be from the baseline upwards without limit.

(2) The transverse extent of damage is assumed to be equal to B/5 or 11.5 meters (37.7 feet), whichever is less. The transverse extent is measured inboard from the side of the ship perpendicularly to the center line at the level of the summer load waterline.

(b) If damage of a lesser extent than that specified in paragraph (a) of this section results in a more severe condition, the lesser extent must be assumed.

(c) The following assumptions apply to the application of the transverse damage specified in paragraph (a)(2) of this section to a stepped or recessed bulkhead:

(1) A transverse watertight bulkhead that has a step or recess located within the transverse extent of assumed damage may be considered intact if the step or recess is not more than 3.05 meters (10 feet) in length.

(2) Except for the step formed by the after peak bulkhead and the after peak tank top, if there is a step or recess of more than 3.05 meters (10 feet) in length, within the transverse extent of assumed damage, the two compartments adjacent to this bulkhead must be considered as flooded.

(3) If a step or recess is formed by a discontinuity in a transverse watertight bulkhead where it intersects a side tank or a double bottom and the step or recess is more than 3.05 meters (10 feet) long, then only the side tank or double bottom adjacent to the step or recess must be considered to be flooded simultaneously as required in paragraph (c)(2) of this section.

(4) If a side tank has openings into adjacent compartments, the side tanks and adjacent compartments must be considered as one compartment. This provision applies even where these openings are fitted with closing appliances except—

(i) Sluice valves in bulkheads between tanks; and

(ii) Valves controlled from above the bulkhead deck.

(5) A manhole cover with closely spaced bolts is considered equivalent to an unpierced bulkhead except when the manhole connects a topside tank to a hold.

(d) In the calculations required by § 42.20–8, only transverse watertight bulkheads that are spaced apart at least $1/3L^{2/3}$ or 14.5 meters ($0.495L^{2/3}$ or 46.6 feet), whichever is less, may be considered effective. If transverse bulkheads are closer together, then one or more of these bulkheads must be assumed to be non-existent in order to achieve the minimum spacing between bulkheads.

§ 46.20–12 Conditions of equilibrium.

The following conditions of equilibrium after flooding are regarded as satisfactory:

(a) *Downflooding.* The final waterline after flooding, taking into account sinkage, heel, and trim, is below the lower edge of any opening through which progressive flooding can take place. Such openings include air pipes, ventilators, and openings which are closed by means of weathertight doors (even if they comply with § 42.15–10) or covers (even if they comply with § 42.15–30 or § 42.15–45(d)) but may exclude those openings closed by means of—

(1) Manhole covers and flush scuttles which comply with § 42.15–40;

(2) Cargo hatch covers which comply with § 42.09–5(b).

(3) Hinged watertight doors in an approved position which are secured closed while at sea and so logged; and

(4) Remotely operated sliding watertight doors, and side scuttles of the non-opening type which comply with § 42.15–65.

(b) *Progressive flooding.* If pipes, ducts, or tunnels are situated within the assumed extent of damage penetration as defined in § 42.20–11(a), arrangements must be made so that progressive flooding cannot extend to compartments other than those assumed to be floodable in the calculation for each case of damage.

(c) *Final angle of heel.* The angle of heel due to unsymmetrical flooding does not exceed 15 degrees. If no part of the deck is immersed, an angle of heel of up to 17 degrees may be accepted.

(d) *Metacentric height.* The metacentric height of the damaged vessel, in the upright condition, is positive.

(e) *Residual stability.* When any part of the deck outside the compartment assumed flooded in a particular case of damage is immersed, or if the margin of stability in the flooded condition is considered doubtful by the Commandant, the vessel stability must be positive for a minimum range of 20 degrees beyond the position of equilibrium with a maximum righting level of at least 0.1 meter (4 inches) within this range. The area under the righting level curve within this range must not be less than 0.0175 meter-radians (0.689 inch-radans). The Commandant gives consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability.

(f) *Intermediate stages of flooding.* The Commandant is satisfied that the stability is sufficient during intermediate stages of flooding.

§ 42.20–13 Vessels without means of propulsion.

(a) A lighter, barge, or other vessel without independent means of propulsion is assigned a freeboard in accordance with the provisions of this subpart as modified by paragraphs (b), (c), and (d) of this section.

(b) A barge that meets the requirements of § 42.20–3 may be assigned Type "A" freeboard if the barge does not carry deck cargo.

(c) An unmanned barge is not required to comply with § 42.15–75, § 42.15–80(b), or § 42.20–70.

(d) An unmanned barge that has only small access openings closed by watertight gasketed covers of steel or equivalent material on the freeboard deck, may be assigned a freeboard 25 percent less than that calculated in accordance with this subpart.

6. By revising § 42.20–25 to read as follows:

§ 42.20–25 Correction for block coefficient.

If the block coefficient (C_b) exceeds 0.68, the tabular freeboard specified in § 42.20–15 as modified, if applicable, by §§ 42.20–5(b) and (c)(4), and 42.20–20(a) must be multiplied by the factor $(C_b + 0.68)/1.36$.

7. By revising § 42.20–75(a)(1) to read as follows:

§ 42.20–75 Minimum freeboard.

(a) *Summer freeboard.* (1) The minimum freeboard in summer must be the freeboard derived from the tables in § 42.20–15 as modified by the corrections in § 42.20–3 or 42.20–5, as applicable, and §§ 42.20–20, 42.20–25, 42.20–30, 42.30–35, 42.20–60, 42.20–65 and, if applicable, § 42.20–70.

* * * * *

8. By revising paragraph (a) of § 42.25–20 as follows:

§ 42.25–20 Computation for freeboard.

(a) The minimum summer freeboards must be computed in accordance with §§ 42.20–5(a), 42.20–13, 42.20–15, 42.20–20, 42.20–25, 42.20–30, 42.20–35, 42.20–60, and 42.20–65, except that § 42.20–60 is modified by substituting the percentages in Table 42.25–20(a) for those given in § 42.20–60.

* * * * *

Dated: January 28, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82–2983 Filed 2–3–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[BC Docket No. 81–742]

Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Extension of reply comment period.

SUMMARY: This action, by the General Counsel pursuant to delegated authority, grants request by McKenna, Wilkinson & Kittner on behalf of a number of broadcast licensees to extend the time for filing of reply comments in response to the Commission's Notice of Inquiry in BC Docket No. 81–742, Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process.

DATES: The deadline for filing reply comments has been extended from February 5, 1982 to February 15, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sheldon Guttmann, Office of General Counsel, (202) 632–6990.

Order

Adopted: January 29, 1982.

Released: February 2, 1982.

In the matter of formulation of policies relating to the broadcast renewal applicant stemming from the comparative hearing process, BC Docket No. 81–742.

1. The Commission has before it a request for extension of time in which to file reply comments in response to the Commission's Notice of Inquiry in BC

Docket No. 81-742, Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process, FCC 81-499, 46 FR 55279 (Nov. 9, 1981). The extension request was filed by McKenna, Wilkinson & Kittner on behalf of a number of broadcast licensees, and asks that the Commission extend the time for filing reply comments from February 5, 1982 to February 15, 1982. The licensees assert that the additional time is needed because the Commission extended the date for filing initial comments to January 18, 1982, due to the weather; because of difficulty in obtaining copies of the comments; and because such additional time will permit the licensees to fully address the questions raised in the Commission's Notice of Inquiry.

2. Good cause having been shown, the request for extension of time will be granted pursuant to authority delegated to the General Counsel. *See* 47 CFR 0.251(b) (1980).

3. Accordingly, it is hereby ordered that the Request for Extension of Time filed by McKenna, Wilkinson & Kittner is hereby granted; and that the time for filing reply comments is extended to and including February 15, 1982.

Stephen A. Sharp,

General Counsel.

[FR Doc. 82-3032 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-433; RM-3803]

FM Broadcast Stations in College and Fairbanks, Alaska; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving a proposed FM channel assignment to College, Alaska, in response to a request from Interior Broadcasting Corporation.

DATE: Reply comments must be filed on or before February 17, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: January 26, 1982.

Released: January 29, 1982.

By the Acting Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (College and Fairbanks, Alaska); BC Docket No. 81-433 RM-3803.

1. On December 10, 1981, the Commission adopted a *Further Notice of Proposed Rule Making*, 46 FR 60478, published December 10, 1981, in the above-captioned proceeding. Comments have been filed and reply comments are presently due February 2, 1982.

2. On January 22, 1982, counsel for Interior Broadcasting Corporation ("Interior"), licensee of Station KAYY-FM, Fairbanks, Alaska, filed a motion for extension of time in which to file reply comments herein, to and including February 17, 1982. Counsel states that additional time is needed to fully explore the numerous factual allegations set forth in the comments of petitioner, Associated Students of the University of Alaska ("ASUA"), and to allow for the customary mailing delays between Washington, D.C. and Fairbanks, Alaska.

3. Counsel states that counsel for ASUA has consented to the extension request.

4. In view of the foregoing, we believe that additional time is warranted. Such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding.

5. Accordingly, it is ordered, That the motion for extension of time filed on behalf of Interior Broadcasting Corporation, IS GRANTED, and the time for filing reply comments is extended to and including February 17, 1982.

6. This action is taken pursuant to sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-2950 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-33; RM-3967]

FM Broadcast Station in St. Marys, Pennsylvania; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

SUMMARY: Proposed rule.

SUMMARY: This action proposes two optional assignment plans regarding the allocation of an FM channel to St. Marys, Pennsylvania, in response to a petition filed by Robert S. Bayko. The proposal could provide St. Marys with its first FM service. Additionally, this action proposes to reassign Channel 232A from St. Marys to Ridgeway, Pennsylvania, to reflect its actual usage there as a first local aural broadcast service.

DATES: Comments must be filed on or before March 18, 1982, and reply comments must be filed on or before April 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 21, 1982.

Released: February 1, 1982.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (St. Marys, Pennsylvania); BC Docket No. 82-33 RM-3967.

1. Robert S. Bayko ("petitioner"), has filed a petition for rule making[1] seeking the assignment of Class B Channel 248 to St. Marys, Pennsylvania, as its first FM assignment. Petitioner states that he will apply for the channel, if assigned as proposed. An opposition to the proposal was filed by Elk Cameron Broadcasting Co.[2] ("Elk"), to which the petitioner responded. The assignment could be made with a site restriction, as noted *infra*, to conform with the minimum distance separation requirements of § 73.207 of the Commission's rules.

2. St. Marys (population 6,417),[3] in Elk County (population 38,338), is located approximately 152 kilometers (95 miles northeast of Pittsburgh, Pennsylvania. It is currently served by full-time AM Station WKBI. Although St. Marys is assigned Channel 232A, that channel is presently being used at Ridgeway, Pennsylvania, pursuant to § 73.203(b) of the Commission's rules. Therefore, we are proposing herein to reassign Channel 232A to Ridgeway to reflect its actual usage there.

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[1] Public Notice of the petition was given September 9, 1981, Report No. 1308.

[2] Elk Cameron Broadcasting Co. is the licensee of AM Station WKBI in St. Marys, and co-owned Station WIMX (FM, Channel 232A), in Ridgeway, Pennsylvania.

[3] Population figures are derived from the 1980 U.S. Census, Advance Reports.

3. Petitioner states that St. Marys has its own government unit, municipal services, a post office, churches, schools, transportation facilities, cultural institutions, recreational facilities, and civic, fraternal and charitable groups and organizations. According to petitioner, St. Marys' economic base is derived from manufacturing and retailing, although agriculture and mining also contribute to its economy.

4. Petitioner states that the assignment of Channel 248 to St. Marys will cause preclusion on the co-channel and on Channel 249A, in a small area. Further, it appears from petitioner's engineering study that there are no communities containing a population in excess of 1,000 and that are without an FM assignment in the precluded area.

5. In its opposition, Elk states that it does not object to an assignment to St. Marys, *per se*, but does object to the request for a Class B assignment, asserting that no site is available within the permissible area which would not be shadowed by the intervening mountainous terrain. Therefore, it claims that direct line-of-sight to St. Marys could not be provided. It adds that, as an alternative, Channel 257A or 292A could be assigned consistent with the Commission's Rules, to provide city-grade service.

6. In its reply, petitioner supports its proposal basically on the grounds that allocation of Channel 248 would have little preclusive effect and that it could provide all of Elk County and surrounding areas with another diverse voice to serve its needs and interests. Additionally, petitioner submitted information in an attempt to refute Elk's claim regarding shadowing problems. It states that a full-power Class B facility could provide a 70 dBu field strength contour to an average distance of 21 miles, and that the permissible area herein, which is approximately 13 miles north of St. Marys, is well within the distance to which a Class B facility can provide such service in compliance with § 73.315(a) of the rules.

7. Further, it states that Elk's suggestion that a Class A allocation be assigned to St. Marys instead of the proposed Class B proposal, would impact very differently on the Ridgeway and Coudersport, Pennsylvania market, the location of Elk's FM station, WIMX, and its parent (Allegheny Mountain Network) station, WFRM (AM), respectively. Petitioner states that, assuming a transmitter site in St. Marys for the Class A channel, 70 dBu (3.16 mV/m) service would be provided to part of Ridgeway and 60 dBu (1mV/m) over the remainder of Ridgeway. The proposed Class B facility would provide 70 dBu service to all of the Ridgeway and 60 dBu service to Coudersport, Pennsylvania, less than 100 miles away. Thus, only the Class B station would provide competition in the Coudersport market.

8. It appears that Elk's concern is with the possible economic impact that a potentially competitive assignment could have on its station. If so, it must be pointed out that such an issue is misplaced at this stage of the proceeding. Such matters may be more appropriately considered at the application stage where it would be feasible to investigate and consider the merits of such allegations rather than in a rule making proceeding. See *Beaverton, Michigan*, 44 R.R. 2d 55 (Broadcast Bureau, 1978).

9. However, Elk also argues that a Class B channel is not generally appropriate for small communities. Section 73.206(b)(2) of the Commission's rules states that Class B channels be assigned only to larger communities.[4] Exceptions to this policy are made, however, where a Class B channel could provide a significant amount of first or second FM or aural service to surrounding areas and populations or there is otherwise a need for wide coverage area service. Therefore, petitioner should submit a *Roanoke Rapids/Anamosa*[5] study to indicate whether its proposal would cover any unserved and underserved areas. We also wish to look further into the shadowing problems suggested by Elk. Although petitioner claims it could provide a 70 dBu signal over the entire community of St. Marys from a restricted transmitter location, and under our prediction method, such coverage clearly should be obtained, petitioner should demonstrate that the terrain would not inhibit a 70 dBu signal over all of St. Marys.

10. Absent justification for the proposed Class B assignment, a Class A channel may be more appropriate for assignment and, therefore, we are proposing an alternate assignment to St. Marys. Petitioner, or any other interested party, should indicate whether it would be interested in applying for a Class A channel in St. Marys in the event that the Commission determines that a Class B assignment is inappropriate.

11. A staff engineering study indicates that there are no other drop-in Class B channels available to St. Marys. However, Channels 257A and 292A are available for assignment. Of the two, we have chosen Channel 292A as an alternate assignment in the event justification for the Class B proposal is not established.

12. For Channel 248, a site restriction of 19 kilometers (11.8 miles) north of St. Marys is required to avoid short-spacing on the co-channel to Station WESM, Martinsburg, West Virginia. Additionally, Canadian concurrence in the proposal must be obtained.

13. As previously indicated, we are proposing to reassign Channel 232A to Ridgeway, Pennsylvania. The public interest would be served by this action since it would provide that community with its first local aural broadcast service. Additionally, comments are invited on the proposal to amend the FM Table of Assignments, §73.202(b) of the Commission's rules, as follows:

ALTERNATIVE I

City	Channel No.	
	Present	Proposed
St. Marys, Pa.	232A	[illegible]
Ridgeway, Pa.		232A

ALTERNATIVE II

St. Marys, Pa.	292A	292A
Ridgeway, Pa.		292A

14. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

15. Interested parties may file comments on or before March 18, 1982, and reply comments on or before April 2, 1982.

16. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. *See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not apply to rule making to amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

17. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel

[4] See *Cabool, Missouri*, 52 F.C.C. 2d 240 (1975). [5] 9 F.C.C. 2d 672 (1967); 46 F.C.C. 2d 520 (1974).

assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel that was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

[FR Doc. 82-2951 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Adminstration

49 CFR Parts 390 through 399

[BMCS Docket No. MC-98; Notice No. 82-1]

Exemption—Operations Involving Retail Fertilizer Distribution to Farms

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Comments and information are solicited on a petition filed by Fertilized Institute to provide an exemption from the requirements of the Federal Motor Carrier Safety Regulations for operations involving direct retail sale and delivery of fertilizer to the farmer.

DATE: Comments must be received on or before April 5, 1982.

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC-98; Notice No. 82-1, Room 3402, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW, Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Fulnecky, Bureau of Motor Carrier Safety, (202) 426-0033; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Fertilizer Institute (Institute) whose membership includes the producers of approximately 95 percent of the fertilizer used domestically, as well as farm supply distributors, farm equipment manufacturers, retailers, and others interested in the fertilizer industry, filed a petition with the Federal Highway Administration's Bureau of Motor Carrier Safety to amend the Federal Motor Carrier Safety Regulations (FMCSR) to:

1. Establish a category of equipment to be known as "fertilizer distribution and application equipment."

2. Provide for exemptions from the rules of Part 391, Qualifications of Drivers; Part 394, Notification, Reporting, and Recording of Accidents; Part 395, Hours of Service of Drivers; Part 396, Inspection, Repair, and Maintenance; and from certain provisions of Parts 392, 393, and 397 as they presently apply to direct retail sale and delivery of fertilizer to farmers.

The specific revisions requested by the petitioner are as follows:

Definition

The definition of "fertilizer distribution and application equipment," as proposed by the Institute to be added to Part 390, includes nurse tanks, dry and liquid nurse equipment, dry spreaders, and dry and liquid applicators, operated at speeds no greater than 30 m.p.h., primarily during day light hours and within a 30 mile radius of the origin point.

The key aspects of the proposed definition, according to the Institute, are that:

1. The equipment is adapted exclusively for fertilizer distribution and application operations;

2. During the limited time it is operated over the road, the equipment is restricted to a speed of no greater than 30 m.p.h.;

3. The equipment is operated within a 30 mile radius of its origin point; and

4. The equipment is operated primarily during day light hours.

Driver Qualification

Petitioner requests total exemption from Part 391, Qualifications of Drivers, for drivers who operate fertilizer distribution and application equipment. The proposed exemption is based on the premise that the operations are dealing with farming operations in the farming community for the benefit of the farmer. Petitioner states that the operational limitations proposed on this equipment (i.e., speed, range, daylight operation), and the fact that the operators of the equipment must comply with the laws, ordinances, and regulations of the local jurisdiction in which it is operated, clearly obviate the need for applications of this Part.

Driving of Motor Vehicles, Part 392

Petitioner requests that Part 392 continue to apply except insofar as the rules are rendered inapplicable due to the configuration of fertilizer distribution and application equipment.

Parts and Accessories, Part 393

The Institute has requested an exemption from the requirements of Part 393, Parts and Accessories Necessary for Safe Operation, for fertilizer distribution and application equipment, except that the rules in Subpart B, Lighting Devices, Reflectors and Electrical Equipment apply when such equipment is operated over the roads during hours of darkness. The Institute contends that certain of the regulations are inappropriate (e.g., Subpart D, Glazing and Window Construction and certain parts of Subpart G, Parts and Accessories), and that other requirements, such as the braking requirements, are simply not adaptable to such equipment, due to the configuration of the equipment and the nature of its operations.

Accident Reporting, Part 394

Except for the transportation of hazardous materials, the Institute requests a similar exemption as now provided for farm to market operations of a farmer in § 394.5. The Institute contends that during the minimal time period when this equipment is operated over the road, it presents an operational situation quite analogous to the situation presented in the "exempt intracity operation/commmercial zone" operations identified in § 390.16. Coupling the foregoing factors and the requirement that the equipment must be operated in accordance with the laws, ordinances, and regulations of the local jurisdiction, leads them to the conclusion that no useful purpose is served by the application of the accident Federal reporting requirements.

Hours of Service, Part 395

The Institute requests a total exemption from Part 395, Hours of Service of Drivers, for drivers operating fertilizer distribution and application equipment. They contend that the operational limitations proposed on the use of this equipment and the safety record compiled in its operation (accident frequency rate of 3.04 for pull type fertilizer distribution equipment and 4.2 for itself propelled fertilizer distribution equipment—accidents per million miles) supports the request for total exemption. They point out that the regulations have provided certain exemptions from the driver's log requirements of § 395.8 for operations conducted within a 50-mile radius for the past decade. This was recently expended to a 100-mile radius where a carrier maintains certain records concerning hours of service for drivers. In addition, the Institute states that the proposed definition to be added to Part 390 would impose an operational limitation of a 30-mile radius, well below the earlier 50-mile radius. These factors, according to the Institute, together with the highly seasonal nature of the operations of fertilizer distribution and application equipment obviate the need for application of the rules in this part.

Inspection, Repair, and Maintenance, Part 396

The petitioner requests total exemption from the requirements of Part 396, Inspection, Repair, and Maintenance, to the operations of fertilizer distribution and application equipment. The proposed exemption, according to the Institute, is based on the fact that the rules in Part 396 are simply not adaptable to such equipment. They contend that the inspection and reporting requirements are designed specifically for over-the-road vehicles, and as such, do not lend themselves to application to this equipment. In addition, they point out that this equipment incorporates a significant number of features which distinguish it from typical over-the-road equipment. These manufacturing differences are dictated primarily because of the field operations which this equipment is required to perform and substantial changes would have to be made, at great expense to both the operators and to the farmer, to modify this equipment to fully conform to the Federal requirements for highway operations.

Transportation of Hazardous Materials; Driving and Parking Rules, Part 397

An exemption from § 397.2 is requested by the Institute, with the balance of Part 397 being applicable to the operation of this equipment.

Design Characteristics

In support of their petition, the Institute contends that because of the operational requirements imposed on fertilizer distribution and application equipment, the present equipment has several features which distinguish it from the typical highway motor vehicle. They point out that the hub, wheel, and bearing combination on most fertilizer distribution equipment are not designed to be operated at highway speeds. Tires recommended and offered for sale are of the farm implement type. This is normally a special make of tire, of rugged construction, built to withstand an encounter with sharp objects in the fields. The heavy-duty springs, axles, and frames incorporated in fertilizer distribution and application equipment provide further indications that the vehicle is designed primarily for farm use. Consistent with the design of the equipment for use primarily on the farm, fertilizer distribution equipment has only limited use on public highways.

Need for Clarification of the Regulations

The Institute has received numerous inquiries from its membership concerning the applicability of the FMCSR to various types of fertilizer distribution and application equipment which they operate. The Institute states, "these questions have been concerned primarily with such matters as insurance costs for various classifications of equipment, unbalanced or sporadic federal enforcement of the FMCSR and the hazardous materials regulations, and concern with possible inadvertent noncompliance with FMCSR during their farming operations. The main source of confusion and uncertainty, however, centers around the lack of a specifically defined category or class of equipment in the FMCSR denominated as 'fertilizer distribution and application equipment.' Many of our members complain that while virtually every agricultural-intensive state has promulgated rules and regulations which specifically address 'fertilizer distribution and application equipment,' the FMCSR are totally silent in that regard. In some States the definition applies specifically to fertilizer equipment; in others, fertilizer equipment is encompassed within an equipment category identified as 'implements of husbandry.'

Nevertheless, the category of equipment as defined by the States usually includes equipment specifically designed for agricultural or horticultural purposes, which is used exclusively for agricultural operations, and is used principally off the highway.

"To some extent, the FMCSR have accorded recognition to the unique status of the farming community and have delineated regulatory categories such as 'farm vehicle drivers' and 'farm custom operations' for special treatment. However, even these special agricultural categories fail to recognize and take special cognizance of equipment identified as 'fertilizer distribution and application equipment' and, therefore, petitioner is seeking to include that category of equipment within the regulations."

Those desiring to comment on this rulemaking action are asked to submit their views, data, and arguments to the docket at the above address. Comments need not be limited to the area specifically mentioned in the ANPRM. All comments received will be considered before any proposals for rulemaking are developed.

All comments submitted, will be available, both before and after the closing date, for examination by interested persons in the Docket Room of the BMCS, Room 3402, 400 Seventh Street, SW., Washington, D.C. 20590.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

A draft regulatory evaluation has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Joseph J. Fulnecky at the address provided above under the heading "For Further Information Contact." The FHWA specifically requests information upon which to determine whether such action would have a significant economic impact on a substantial number of small entities.

(49 U.S.C. 304, 1655, 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program, Number 20.217, Motor Carrier Safety)

Issued on: January 28, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-2890 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 47, No. 24
Thursday, February 4, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Rich Prairie Livestock Exchange, Inc., Pierz, Minn., et al.; Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
MN–175 Rich Prairie Livestock Exchange, Inc. Pierz, Minnesota.	Nov. 3, 1981.
MN–177 Tri-County Livestock Auction, Inc. Motley, Minnesota.	Jan. 10, 1982.
SC–133 Homewood Stockyard, Inc. Conway, South Carolina.	Nov. 16, 1981.
TN–179 Lewisburg Feeder Pig Market. Lewisburg, Tennessee.	Jan. 18, 1982.
VA–154 Mountain Empire Feeder Pig Association. Seven Mile Ford, Virginia.	Dec. 9, 1981.

Done at Washington, this 29th day of January 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–2872 Filed 2–3–82; 8:45 am]

BILLING CODE 3410–03–M

Sparr Farm & Home Auction, Sparr, Fla., et al.; Proposed Posting of Stockyards

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

FL–130 Sparr Farm & Home Auction
Sparr, Florida
SC–134 Circle "C" Auction
Cambobello, South Carolina

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by February 19, 1982.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 29th day of January 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–2873 Filed 2–3–82; 8:45 am]

BILLING CODE 3410–03–M

Office of the Secretary

Privacy Act of 1974; Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the Department of Agriculture hereby republishes its annual notice of the existence and character of the systems of records currently maintained pursuant to the Privacy Act of 1974. The last such annual republication for the Department of Agriculture can be found at 46 FR 2659 (January 12, 1981). That republication updated the earlier complete publications found at 44 FR 69694 (December 4, 1979) and 43 FR 51268 (November 2, 1978). In addition, the systems of records published by this Department as of December 31, 1980 may be viewed in *Volume 1, Privacy Act Issuance, 1980* Compilation of the Federal Register, in depository libraries and Federal Information Centers nationwide.

Since the last annual republication, the following systems of records have been published:

46 FR 44206 (9/3/81)—Publication of APHIS–6–Veterinary Services—Brucellosis Information System
46 FR 40544 (8/10/81)—Publication of FGIS–5—Occupational injury/illness and motor vehicle accident case files for U.S. Department of Agriculture (USDA), Federal Grain Inspection Service (FGIS)
46 FR 14908 (3/3/81)—Publication of ESS–6, Farm Production Expenditure Survey, Family Living Expense Section(s)

The above-cited Federal Register notices are printed in full below.

Dated: February 1, 1982.

John R. Block,

Secretary of Agriculture.

USDA/APHIS–6

SYSTEM NAME:

Veterinary Services—Brucellosis Information System.

SYSTEM LOCATION:

U.S. Department of Agriculture, Fort Collins Computer Center, Colorado, and each of the various States.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Herd owners whose animals or herds are tested, studied, or restricted because of brucellosis; livestock markets, slaughter establishments; and livestock dealers (including agents and brokers) handling livestock covered by the program; milk processing plants receiving milk or cream from dairy farms; laboratories conducting brucellosis program tests or procedures; State, Federal, and contractual personnal engaged in program activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on herds and individual animals tested, studies, or restricted under the brucellosis program; epidemiologic studies; animals, specimens, or premises sampled, identified, inspected, tested, handled, or restricted under the brucellosis program by State, Federal or contractual personnel; animal identification, health,

and movement data of animals covered under program activities for traceback of disease from livestock markets, slaughter plants, and livestock dealers or livestock brokers or commission firms; milk and cream samples and related identification data for brucellosis testing from milk processing plants receiving fresh farm milk; and brucellosis test data from laboratories approved to do brucellosis program testing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. 111, 112, 114, 114a–1, 115, 120, 121, 125, 134a–134f and Title 9, Code of Federal Regulations, Part 51 and Part 78.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records maintained in the computer system will be routinely used by the Federal and State government personnel for: (1) detecting the foci of infection to reduce the rate of spread of infection to new herds; (2) evaluating brucellosis program activities of State, Federal, and contractual personnel; (3) preparing mailing labels and preaddressed forms to enhance field activities; (4) evaluating program effectiveness; (5) detecting factors of epidemiologic importance in containing or eliminating foci of infected herds; (6) assuring that brucellosis indemnities are promptly and properly paid; (7) notification of livestock owners with the animals at high risk of exposure to brucellosis because of livestock movements or an outbreak of disease or presence of quarantined premises in a community; (8) referral to the appropriate agency, whether Federal, State, local, or foreign, charged with responsibility of investigating or prosecuting a violation of law concerning animal disease control and eradication, or of enforcing or implementing a statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law concerning animal disease control and eradication, whether civil, criminal, or regulatory in nature, and either arising by general statute or particular program statute, or by rule, regulation, or court order issued pursuant thereto; (9) presentation or disclosure to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system as evidence in a proceeding, or which is sought in the course of discovery including disclosure to opposing counsel in the course of settlement negotiations; (10) presentation, as needed, in the course of presenting evidence to the appropriate Government officials charged with the responsibility of defending the Government before a court, magistrate, or administrative tribunal; (11) disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records will be maintained on two mediums depending on how current they are. These are: (1) On-line disk storage and (2) Magnetic Tape.

RETRIEVABILITY:

Under the new system, it will be possible to retrieve and organize data by any of the categories which have been recorded. This will greatly improve the ability to retrieve existing records and to serve the livestock industry in the eradication of brucellosis.

SAFEGUARDS:

The only individuals with access to this system will be Federal and State government employees with a need to know. The data base will be secured on a State-by-State basis. The brucellosis national planning staff will have access to all information in the computerized system without restrictions. The computed files and tapes will be kept in a safeguarded environment with access only by authorized personnel.

RETENTION AND DISPOSAL:

(1) Herd records will be maintained in the data base as follows: (a) Infected herds not depopulated or sold out will always be on-line. (b) Depopulated or sold out herds will be archived. (c) Tested herds but not infected will be kept on-line for 6 months after testing, and then archived on a fiscal year basis. Archived data will be kept for 6 years.

(2) Records pertaining to animals, specimens or premises sampled, identified, inspected, tested, handled, or restricted by State, Federal, or contractual personnel will be kept on-line as long as the individual is working in brucellosis programs. Once employment or accreditation is terminated, the information will be archived by fiscal year for 6 years.

(3) Livestock market, slaughter establishment, livestock dealer, milk processing plant and laboratory records pertaining to animal or herd information will be retained as described under (1) above.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Administrator, Veterinary Services, USDA/APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

NOTIFICATION PROCEDURE:

All inquiries should be addressed to: APHIS Privacy Act Coordinator, Administrative Services Division, USDA/APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

RECORD ACCESS PROCEDURE:

All inquiries should be addressed to the APHIS Privacy Act Coordinator.

CONTESTING RECORD PROCEDURES:

All inquiries should be addressed to the APHIS Privacy Act Coordinator.

RECORD SOURCE CATEGORIES:

(1) Epidemiologic information for herds and animals is obtained from documents and reports completed by Federal and State employees or contractual personnel as a part of testing a herd or animal(s) or as a part of investigating the source and spread of brucellosis within the livestock population.

(2) Information for work related activities is made available by the appropriate State or Federal office for personnel and contractual employees paid from their funds.

(3) Livestock market, slaughter establishment, livestock dealer, milk processing plant, and laboratory information is acquired in the course of obtaining other program activity information such as where samples were collected, where animal identification was applied, where samples were tested, and how the samples or animals were handled or processed prior to or following collection or testing.

USDA/FGIS-5

SYSTEM NAME:

Occupational injury/illness and motor vehicle accident case files for U.S. Department of Agriculture (USDA), Federal Grain Inspection Service (FGIS) employees.

SYSTEM LOCATION:

USDA, FGIS, Safety and Health Office, Kansas City, Missouri.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Any FGIS employee who suffers an occupational injury/illness or is

involved in a motor vehicle accident while in performance of official duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

All forms, correspondence and other data pertinent to processing of illness/injury claims and motor vehicle accident reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Occupational Safety and Health Act of 1970, Pub. L. 91–596, Sec. 19, E.O. 11807 and E.O. 12196, Federal Employees Compensation Act, as amended (5 U.S.C. 8101 et seq.) and 29 CFR 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of records will be limited to FGIS employees authorized to assist employees with processing claims for occupational injury and illness under the Federal Employees Compensation Act as amended; submit, in accordance with the Occupational Safety and Health Act of 1970, an annual report of all occupational injury and illnesses which occur within the Agency to the Department of Labor for them to evaluate incidence of injuries and the incidence and nature of illnesses occurring in the Federal Sector; and to develop statistics for analysis of accident and injury rates in the agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in individual file folders at address listed above.

RETRIEVABILITY:

Records are indexed alphabetically by last name of individual, by FGIS Regional Office, and by calendar year.

SAFEGUARDS:

Records are maintained in government office building, in locked office or locked file cabinet.

RETENTION AND DISPOSAL:

Records are maintained in conformance with appropriate General Services Administration disposal schedules as implemented by AMS/FGIS Instruction 270–1, Records Management Program.

SYSTEM MANAGER(S) ADDRESS:

Director, Safety and Health Office, USDA, FGIS, Kansas City, Missouri.

NOTIFICATION PROCEDURE:

Any individual may request information concerning their records by contacting the system manager.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedure for gaining access to a record in the system that pertains to him/her from the system manager.

CONTESTING RECORD PROCEDURES:

Any individual may obtain information as to the procedure for contesting a record in the system that pertains to him/her from the system manager.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from employees, their supervisors, physicians, and U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP) claim forms and correspondence.

USDA/ESS–6

SYSTEM NAME:

Farm Production Expenditure Survey, Family Living Expense Sections(s), USDA/ESS.

SYSTEM LOCATION

Survey Questionnaires and raw data in machine readable media are located in State Statistical Offices at the Following locations:

Montgomery, AL	Lincoln, NE
Phoneix, AZ	Reno, NV
Little Rock, AR	Concord, NH
Sacramento, CA	Trenton, NJ
Denver, CO	Las Cruces, NM
Washington, DC	Albany, NY
Orlando, FL	Raleigh, NC
Athens, GA	Fargo, ND
Boise, ID	Columbus, OH
Springfield, IL	Oklahoma City, OK
West Lafeyette, IN	Portland, OR
Des Moines, IA	Harrisburg, PA
Topeka, KS	Columbia, SC
Louisville, KY	Sioux Falls, SD
Alexandria, LA	Nashville, TN
College Park, MD	Austin, TX
Lansing, MI	Salt Lake City, UT
St. Paul, MN	Richmond, VA
Jackson, MS	Charleston, WV
Columbia, MO	Madison, WI
Helena, MT	Cheyenne, WY

Addresses of each State Statistical Office are listed in the telephone directories of the respective cities listed above under the heading "United States Government, Department of Agriculture, Economics and Statistics Service" or "Crop and Livestock Reporting Service."

Magnetic tapes and list frame codes that identify individuals are located in the Martin Marietta Data System (MMDS) file, Orlando, Florida.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A sample of farmers and ranchers residing in continental United States.

CATEGORY OF RECORDS IN THE SYSTEM:

Questionnaires and machine readable media containing information as listed under the "Category of Individuals" reported by farmers and ranchers who are interviewed in the survey and who voluntarily report family living expenditures on the Farm Production Expenditure Survey for: (1) Food and household supplies; (2) housing-rent, mortgage payments, maintenance on appliances and furnishings, repairs, utilities purchased; (3) non-farm auto transportation purchases, maintenance and operating expenses of motor vehicles, insurance, public transportation; (4) other family living expenses not reported above (clothing, health insurance, medical and dental care, education, personal insurance, hobbies, recreation, gifts and contributions and magazines); and (5) total expenditure for family living expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 2204.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The family living expenses data is used to update the Index of Prices Paid by Farmers for Commodities and Services, Interest, Taxes and Farm Wage Rates to the current base weight period. Summary data as published do not identify specific data with individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Questionnaires packed in boxes and raw data machine readable media are stored in State Statistical Offices at the locations referred to in the paragraph entitled "Systems Locations."

Magnetic tapes and list frame codes that identify individuals are stored in the tape library on MMDS Network.

RETRIEVABILITY:

Questionnaires, machine readable media and magnetic tapes are indexed by reporter identification numbers and/or location of selected small land areas.

SAFEGUARDS:

Questionnaires and raw data machine readable media are retained in locked storage rooms. Magnetic tapes are stored in an area to which access in limited to authorized personnel of MMDS.

RETENTION AND DISPOSAL:

Questionnaires are retained for a minimum of 30 days after primary data have been summarized. Machine readable raw data media is kept a munimum period of 14 months after satisfactory completion of the summary.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Crop Reporting Board, Economics and Statistics Service, Statistics, USDA, Washington, D.C. 20250, telephone (202–447–4415) or the appropriate Statistician in Charge, State Statistical Office at the address specified above.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records or information as to whether the system contains records pertaining to the individual from the Chairman, Crop Reporting Board, Economics and Statistics Service, USDA, Washington, D.C., telephone (202–447–4415) or the appropriate Statistician in Charge at the address listed above. If the specific location of the record is not known, the individual should address the request to the Chairman, Corp Reporting Board, who, if necessary, will refer it to the appropriate State Statistical Office. A request for information pertaining to an individual should contain name, address and date (month and year) that questionnaire was completed and name of survey.

RECORD ACCESS PROCEDURES:

Any farmer or rancher who was inteviewed in the survey may obtain information as to the procedures for gaining access to a record in the system which pertains to the individuals by submitting a written request to the appropriate official referred to in the paragraph entitled "Notification Procedure."

CONTESTING RECORD PROCEDURES:

Any farmer or rancher who was interviewed in the survey may obtain information as to the procedures for contesting a record in the system which pertains to the individual by submitting a written request to the appropriate official referred to in the paragraph entitled "Notification Procedure."

RECORD SOURCE CATEGORIES:

Information in this system comes solely from farmers and ranchers who were inteviewed in this survey.

[FR Doc. 82–2864 Filed 2–3–82; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Refrigerators, Freezers, Other Refrigerating Equipment and Parts From Italy; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: The Department of Commerce is revoking the countervailing duty order on refrigerators, freezers, other refrigerating equipment and parts from Italy because of the termination of an injury investigation by the International Trade Commission. All entries of this merchandise made on or after April 3, 1980, shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1167).

SUPPLEMENTARY INFORMATION: On March 28, 1973, a final countervailing duty determination on refrigerators, freezers, other refrigerating equipment and parts from Italy, T.D. 73–85, was published in the Federal Register (38 FR 8057).

On April 3, 1980, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that an injury determination for this order had been requested under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980 on all shipments of refrigerators, freezers, other refrigerating equipment and parts from Italy entered, or withdrawn from warehouse, for consumption on or after that date.

On July 17, 1981, the Department published the final results of its administrative review of this order as required by section 751 of the Tariff Act of 1930 (46 FR 37067). The Department determined that a net subsidy on refrigerators, freezers, other refrigerating equipment and parts from Italy, ranging from 20 to 45 lire per kilogram of this merchandise, was being conferred during the period of review and reported that rate to the ITC.

On January 13, 1982, the ITC published its termination of the countervailing duty investigation under section 104(b) of the TAA due to the original petitioner's withdrawal of its petition. The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports from Italy of refrigerators, freezers, other refrigerating equipment and parts covered by the countervailing duty order if the order were revoked (47 FR 1449). As a result, the Department is revoking the countervailing duty order concerning refrigerators, freezers, other refrigerating equipment and parts from Italy (T.D. 73–85) with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise made on or after April 3, 1980 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries. Entries, or withdrawals from warehouse, for consumption made prior to April 3, 1980, are subject to countervailing duties as set forth in the final results of the administrative review.

This revocation is in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 28, 1982.

[FR Doc. 82–2855 Filed 2–3–82; 8:45 am]
BILLING CODE 3510–25–M

Pig Iron From Finland; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

SUMMARY: On November 19, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from Finland. The review covered the one known exporter for the period July 1, 1980, through June 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David Chapman, Office of Compliance, International Trade Administration, U.S. Department of

Commerce, Washington, D.C. 20230 (202–377–2923/2657).

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1971, an antidumping finding with respect to pig iron from Finland was published in the **Federal Register** as Treasury Decision 71–194 (36 FR 13781). On November 19, 1981, the Department of Commerce (" the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 56839). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, currently classifiable under item numbers 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the one known exporter of Finnish pig iron to the United States, OVAKO Oy Ab, for the period July 1, 1980, through June 30, 1981.

Final Results of the Review

Interested parties were invited to coment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this time period and there are no known unliquidated entries.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated duties based on the most recent margin calculated shall be required on all shipments of pig iron from Finland entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Since the most recent margin calculated is zero, the Department waives the deposit requirement for Finnish exports of pig iron. The waiver of deposit shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of July 1983.

This administrative reviw and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 29, 1982.

[FR Doc. 82–2891 Filed 2–3–82; 8:45 am]

BILLING CODE 3510–25–M

Pig Iron From West Germany; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On November 16, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from West Germany. The review covered the period July 1, 1980, through June 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923/2657).

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1971, an antidumping finding with respect to pig iron from West Germany was published in the **Federal Register** as Treasury Decision 71–192 (36 FR 13780). On November 16, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 56228). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, currently classifiable under item numbers 606.1300 and 606.1500 of the tariff Schedules of the United States Annotated (TSUSA).

The review covers the 3 known exporters of West German pig iron to the United States, Metallhuttanwerke G.m.b.H., Rheinstahl A.G., and Duisburger Kupferhutte, for the period July 1, 1980, through June 30, 1981.

Final Results 6f the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this time period and there are no known unliquidated entries.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated duties based on the most recent margin calculated shall be required on all shipments of pig iron from West Germany entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Since the most recent margin calculated is zero, the Department waives the deposit requirement for West German exports of pig iron. The waiver of deposit shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of July 1983.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 28, 1982.

[FR Doc. 82–2888 Filed 2–3–82; 8:45 am]

BILLING CODE 3510–25–M

Spun Acrylic Yarn From Italy; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Duty Order.

SUMMARY: On July 30, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on spun acrylic yarn from Italy. The review covers the eight known manufacturers/exporters of this merchandise to the United States, and generally the period April 1, 1980 through March 31, 1981. Interested parties were given an opportunity to submit written comments or request a hearing.

Comments were submitted by the petitioner in this proceeding. Also, subsequent to pblication of the preliminary resuts, the Department requested and obtained additional information and conducted verifications for three firms. Based on the additional information and on verification, the Department made adjustments which result in reduced weighted-average margins for two of the yarn exporters. We have also extended the reviewed period for two companies.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Larry T. Hampel or David R. Chapman, Office of Compliance, International

Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3058)

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1980, an antidumping duty order with respect to spun acrylic yarn from Italy was published in the **Federal Register** (45 FR 23684). On July 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the preliminary results of its administrative review of the order (46 FR 38945–6). The Department has not completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of spun acrylic plied yarn primarily for machine-knitting, currently classifiable under items 310.5015 and 310.5049 of the Tariff Schedules of the United States Annotated ("TSUSA").

The review does not include shipments of 2/4 count novelty brushed Michel yarn and 2/14 count two-ply spun acrylic brushed yarn. After consideration of comments submitted by interested parties, the Department has concluded that such brushed yarn is not within the scope of this order.

The review covers the eight known firms engaged in the manufacture and exportation of Italian spun acrylic yarn to the United States. The Department reviewed one additional company and found it exported only 2/14 count two-ply spun acrylic brushed yarn during the period. As mentioned, that product is not within the scope of this order.

For five firms, the review covered the period April 1, 1980 through March 31, 1981, and disclosed no shipments of spun acrylic yarn to the Untied States. As stated in the preliminary results, the rate of deposits of estimated duties for these firms shall be based upon the most recent information for each firm.

For Gaston Investments, Inc., the Department extended the review period to include sales made to unrelated U.S. purchasers through April 7, 1981. For Lanificio Fratelli Morganti S.p.A. we extended the review period to include sales through May 6, 1981. For Manifattura Erre-Effe S.p.A. the review period is through June 30, 1981, as stated in the preliminary results.

Analysis of Petitioner's Comments

The Department received comments submitted on behalf of the American Yarn Spinners Association ("AYSA"), the petitioner in this proceeding.

(1) *Comment:* AYSA alleges the Department acted prejudicially by initiating this review before the normal review would have commenced, and by considering information untimely submitted by respondents.

Position: We disagree. The Department routinely commenced this review during April 1981, the anniversary month of the publication of the order. We have completed the review well in advance of the statutory deadline of the end of the April, 1982. Such timely action by the Department has not prejudiced the petitioner. Furthermore, the Department's request for additional information after the publication of the preliminary results was a request for information unavailable at the time of the preliminary results and consideration did not jeopardize our completion of this review on schedule. We therefore accepted and considered the information.

(2) *Comment:* AYSA objected to the Department's examination of profit realized by Manifattura Erre-Effe S.p.A. ("Erre-Effe") on home market sales of fabric and yarn in the calculation of constructed value specifically for spun acrylic yarn. In determining an amount of profit to be added in calculating constructed value, the Department considers: First, the profit realized by the manufacturer on sales of comparable merchandise in the home market; second, the profit realized by that manufacturer on sales of comparable merchandise to third countries; and third, the average profit realized by the foreign industry as a whole on sales of comparable merchandise in the home market. AYSA claimed that a grouping of all fabic and yarn should not be considered comparable to the reprocessed acrylic yarn exported by Erre-Effe.

Position: We agree. However, we found that Erre-Effe had no sales of reprocessed acrylic yarn in the home market or to third countries; nor did Lanificio Fratelli Morganti S.p.A. ("Morganti"), the other producer of reprocessed acrylic yarn examined in this review, have such sales. The Department examined the accounting records of both firms and found expenses and sales recorded in such a manner that profit realized on home market sales of acrylic yarn could not be distinguished from that realized on sales of other products except by allocation. A comparison of the aggregated profit experience of both firms indicated comparable profit margins, and for each firm the profit margin was found to be less than the statutory minimum. In calculating the constructed value of shipments from these manufacturers, the Department properly added an amount for profit equivalent to 8 percent of the sum of materials, fabrication and general selling and administrative expenses.

(3) *Comment:* AYSA's final comment concerns a loss of material experienced by Err-Effe during he winding process, and considered by the Department as a cost of material in calculating constructed value. AYSA suggested that, given the similarity in the production processes of Erre-Effe and Morganti, an equivalent winding loss should be taken into account in calculating Morganti's constructed value.

Position: We agree. Based upon this comment we reviewed our calculation of constructed value for Morganti, and found a twisting and winding shrinkage factor as a cost of material in this calculation also. Erre-Effe acknowledges the loss as a percentage of sales price, while Morganti records it as a pecentage of the cost of spinning, twisting and winding. While the amounts for such loss were not equivalent in the two calculations, we conclude we have appropriately considered such loss on the basis of the exprience of each manufacturer.

Analysis of Additional Information

As a result of information submitted in response to our request and verification subsequent to publication of the preliminary results, we have adjusted the margins cited in the preliminary results for Morganti and Erre-Effe. For Morganti we recalculated constructed value to account for a lower cost of fabrication due to a renegotiated subcontract price for the cost of twisting and winding and a cash discount granted by the subcontractor to Morganti. This resulted in a reduction of the amount by which constructed value exceeded purchase price on the one transaction where a margin was found. We examined a second transaction in the extended review period, and found no margin on that sale. This resulted in a reduction of the final weighted-average margin. For Erre-Effe our preliminary results reflected a margin based upon prospective information estimated by the manufacturer. Since publication of that notice, we obtained and verified data unavailable to Erre-Effe at the time of publication of the preliminary results regarding an actual transaction. We recalculated constructed value based upon verified cost data and corrected our calculation to eliminate erroneous use of an amount for profit realized on sales to the United States. As mentioned above, we were unable to ascertain an amount for profit usually reflected in sales of comparable merchandise by this producer in the

country of exportation, or in sales to third countries. Since the most specific information available regarding the profit included profit realized on sales of non-comparable merchandise, and this amount did not meet the statutory minimum, we have added the statutory minimum of 8 percent of the sum of the costs of materials, fabrication and general selling and administrative expenses. We also recalculated purchase price on this transaction to reflect a deduction for foreign inland freight in the amount actually incurred on the shipment examined. These recalculations resulted in a reduction of the final margin found on this shipment.

Final Results of the Review

After consideration of comments received and as a result of adjustments and corrections made based on the additional information, verification, and our subsequent analysis, we determine the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Fantafil S.p.A	4/1/80-3/31/81	[1] 48.05
Fratelli Razzoli S.p.A	4/1/80-3/31/81	48.05
Fraver S.p.A	4/1/80-3/31/81	[1] 48.05
Lanificio Di Nervesa Della Battaglia S.p.A./Gaston Investments, Inc	4/1/80-4/7/81	0
Lanificio Fratelli Morganti S.p.A	4/1/80-5/8/81	0.34
Maglificio Variainni S.p.A	4/1/80-3/31/81	[1] 48.05
Manifattura Erre-Effe S.p.A	4/1/80-8/30/81	4.91
Orlandi Filatura S.p.A	4/1/80-3/31/81	[1] 48.05

[1] No shipments during period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries, where appropriate, with purchase dates during the periods involved. Individual differences between purchase price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each manufacturer/exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit based on the margins calculated above shall be required on all shipments by these firms of spun acrylic yarn entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. Because the weighted-average margin for Lanificio Fratelli Morganti S.p.A. is less than 0.5 percent and therefore *de minimis*, the Department waives the deposit requirement on shipments from this manufacturer. For any shipment from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for respondents with shipments during the review periods. These deposit requirements, and waiver of deposit, shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of April, 1983.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 29, 1982.

[FR Doc. 82-2890 Filed 2-3-82; 8:45 am]

BILLING CODE 3510-25-M

Steel Reinforcing Bars From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administattion, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On April 9, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on steel reinforcing bars from Canada. The review covered the only manufacturer named in the finding, Western Canada Steel Limited, for consecutive periods throught December 21, 1979.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. Based on written comments received from the respondent, the Department has made adjustments which result in new weighted average margins for certain periods and also has limited the review to direct shipments from Western Canada Steel Limited.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4794/2496).

SUPPLEMENTARY INFORMATION:

Background

On April 24, 1964, a dumping finding with respect to steel reinforcing bars from Canada, manufactured by Western Canada Steel Limited ("WCS") through its subsidiary, Vancouver Rolling Mills Limited of Vancouver, Canada, was published in the **Federal Register** as Treasury Decision 56150 (29 FR 5341-42). On April 9, 1981, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the preliminary results of its administrative review of the finding (46 FR 21218-19). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of steel reinforcing bars, currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated (TSUSA).

Analysis of Respondent's Comments

Interested parties were afforded an opportunity to furnish oral or written comments. The Department received written comments from WCS.

(1) *Comment:* It is WCS's position that steel reinforcing bars produced by Western Canada Steel Limited at its facilities in Vancouver, B.C. and Calgary, Alberta are outside the scope of T.D. 56150. WCS contends that the wording of the finding in this case, "steel reinforcing bars from Canada, manufactured by Western Canada Steel Limited through its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada", delimits the scope WCS is now owned by Cominco, Ltd. and WCS argues that Cominco, Ltd. is the producer at these two plants. Steel reinforcing bars manufactured by Cominco, Ltd. therefore are not of the class or kind of merchandise to which T.D. 56150 applies.

Position: The merchandise produced has not changed with the change in ownership of the manufacturing facilities.

(2) *Comment:* Steel reinforcing bars produced by Cominco Ltd's subsidiary, Western Canada Steel Limited, at its Calgary plant are not within the class or kind of merchandise described in T.D. 56150.

Position: WCS requested the Commissioner of Customs to confirm that steel reinforcing bars produced at the Calgary plant were not subject to T.D. 56150. No record of a ruling by the Commissioner can be found. It is our opinion that all facilities of Western Canada Steel Limited (and its present owner Cominco, Ltd.) are included in the scope of T.D. 56150.

We believe that the original wording of the finding, "* * * through its subsidiary, the Vancouver Rolling Mills Limited of Vancouver, Canada * * *" was a mere factual description of WCS's operations at the time of the finding and not a limitation on the scope of the order.

(3) *Comment:* Comparison of the following sizes of reinforcing bars shipped to the United States in December 1973 to certain home market sizes is not appropriate due to differences in the merchandise: bar numbers 4, 5 and 6, all grade 40, sold ot the U.S. were compared to bar numbers 4, 5 and 6, all grade 60, sold to the home market. WCS suggests that the correct comparisons are sales in the home market of "intermediate grade" bars, number 4, 5, and 6.

Position: Respondent's report of sales states that "intermediate grade" bars are off grade, not guaranteed to meet strength requirements. The American Society for Testing and Materials' 1978 Annual Book of Standards listing for steel reinforcing bars, ANSI/ASTM–A615–76A, does not list "intermediate grade" as a graded class of reinforcing bars. Grade 60 reinforcing bars in comparable sizes, are more similar to grade 40 reinforcing bars than "intermediate grade" reinforcing bars.

(4) *Comment:* The Department neglected to consider reported deductions for "competitive allowances" on domestic sales in determining margins for shipments to the United States of intermediate grade bars during February 1974.

Position: The Department has reviewed the margin computations and made adjustments where applicable.

(5) *Comment:* The Department lacks factual knowledge of entry of shipments of reinforcing bars from WCS to its Canadian customers in 1977 and known to be destined for exportation to the United States, and therefore such sales cannot be considered as sales to United States customers.

Position: In their response to our questionnaire, WCS provided information on sales to domestic customers which WCS believes were destined for delivery to the United States. However, they were uncertain whether these shipments ultimately were shipped to the U.S. Therefore, this review is limited to direct shipments of Western Canada Steel during the periods of review. Shipments by Western Canada Steel's domestic customers will be covered in our next administrative review. However, we have performed a preliminary analysis of these indirect sales and established a 4 percent margin for purposes of cash deposits of estimated dumping duties.

Final Results of the Review:

As a result of adjustments made based on comments received and our subsequent analysis, we determine that the following weighted average margins exist for direct shipments of reinforcing bars to the United States:

Time period	Margin (percent)
10/1/72 to 9/30/73	0
10/1/73 to 9/30/74	6.40
10/1/74 to 12/31/79	16.40

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates during the time periods involved. Individual diferences between purchase price and foreign market value may vary from the perccentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of 6.40 percent, based upon information provided by the respondent covering all direct shipments to the United States for the latest period of this review during which there were shipments, shall be required on all direct shipments by WCS of steel reinforcing bars entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For shipments of steel reinforcing bars produced by Western Canada Steel but shipped by another firm, a cash deposit of 4 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of April 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 28, 1982.

[FR Doc. 82–2889 Filed 2–3–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Marine Mammal Permit; Modification

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) the Scientific Research Permit No. 288 issued to Craig N. McLean, 352 Riverside Avenue, Rutherford, New Jersey 07070, and Steven R. Morello, 182 Michigan Avenue, Paterson, New Jersey 07503 on July 24, 1980 (45 FR 50621) as modified on Decmeber 22, 1980 (45 FR 86524) is further modified as follows:

1. Section B–5 is deleted and replaced by the following new Section:

"5. This Permit is valid with respect to the taking authorized herein until December 31, 1982."

2. The name and address of the Permit Holder as listed in the face of the Permit is changed to read: "Mr. Steven R. Morello, 60 Kip Avenue, Rutherford, New Jersey 07070."

This modification becomes effective on January 28, 1982.

The Permit as modified and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 28, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–2882 Filed 2–3–82; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammal Permit; Receipt of Application

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Southwest Fisheries Center (P77Y).

b. Address: National Marine Fisheries Service, NOAA, P.O. Box 271, La Jolla, California 92038.

2. Type of Permit: Scientific Research/Scientific Purposes.

3. Name and Number of Animals: Hawaiian monk seal *(Monachus schaunislandi).* Up to 490 captured, tagged, and released. Unknown number inadvertently harassed.

4. Type of Take: Capture, tag, and release. Potential harassment.

5. Location of Activity: Northwestern Hawaiian Islands.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before March 8, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 20, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-2983 Filed 2-3-82; 8:45 am]

BILLING CODE 3510-22-M

Fishermen's Contingency Fund; Notification of Claims Received Under Title IV Program

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claims pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 03-82.

SUMMARY: 50 CFR 296.6 requires that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claims received under the Title IV Program. Any interested person may, on or before March 8, 1982, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before March 8, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Service Division, Attention: Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202-634-4688).

SUPPLEMENTARY INFORMATION: Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon receipt of a timely-filed claim which is not clearly ineligible because of statutory exemptions from eligibility, the Chief, FSD, publish a 30-day notice of the claim in the **Federal Register**. Upon expiration of the 30-day period following publication of the **Federal Register** notice, the claim will be referred to the Administrative Law Judge (ALJ). (50 CFR 296.6(a)(1)(iii).)

Dated: January 29, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

The following claims have been received:

Claim No.	Nature of loss and location	Amount	
FCF-25-81	On 5-11-81 claimant damaged his shaft while trawling for shrimp at the following coordinates: 29°16.5' N., 91°25.5' W.	$1,347.13	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		1,347.13	Total.
FCF-29-81	On 9-16-81 claimant lost 2-60 ft. nets, 1-pair 11 x 42 trawl boards, 7 x 42 sled, chain, lazyline, tickler chain, shackles, and bridles while trawling for shrimp at the following coordinates: 29°10'16.61" N., 88°40'36.52" W.	5,227.37	Gear loss.
		0	Economic loss.
		1,198.40	Consequential loss.
		6,425.77	Total.
FCF-01-82	On 9-3-81 claimant damaged his vessel while trawling for shrimp at the following coordinates: 29°19'12.40" N., 91°53'37.12" W.	Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF-05-82	On 8-20-81 claimant lost his vessel while trawling for shrimp at the following coordinates: 30 nautical miles south of Freeport, Texas.[2].	Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF-06-82	On 8-20-81 claimant lost 2-nets while trawling for shrimp at the following coordinates: 7980X27961.5 7980Y46739.4	Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF-08-82	On 10-26-81 claimant lost 2-70 ft. trawl nets while trawling for shrimp at the following coordinates: 29°45'06.36" N., 93°39'33.69" W.	2,825.00	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		2,825.00	Total.
FCF-09-82	On 11-17-81 claimant lost a net, door, and bridles and damaged a net and door, while trawling for shrimp at the following coordinates: 29°45'58.66" N., 97°10'07.06" W.	Unknown	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.

Claim No.	Nature of loss and location	Amount	
FCF-10-82	On 11-16-81 claimant lost a 43 ft. net and accessories while trawling for shrimp at the following coordinates: 28°37'24.12" N., 92°19'43.64" W.	867.92	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		867.92	Total.
FCF-11-82	On 11-4-81 claimant lost a pair of 18 x 30 trynet doors, 8 x 40 dummy sled, 16 ft. trynet, 8 x 40 door, chain, rope, cable, and webbing while trawling for shrimp at the following coordinates: 28°50'05.43" N., 90°03'52.94" W.	5,998.53	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		5,998.53	Total.
FCF-12-82	On 11-29-81 claimant lost a net while trawling for shrimp at the following coordinates: 28°51'28.50" N., 89°55'29.44" W	[1] Unknown	Gear loss.
		[1] Unknown	Economic loss.
		[1] Unknown	Consequential loss.
		[1] Unknown	Total.
FCF-14-82	On 12-28-81 claimant lost one complete rig while trawling for shrimp at the following coordinates: 7980X11108.2 7980Y22978.8.	[1] Unknown	Gear loss.
		[1] Unknown	Economic loss.
		[1] Unknown	Consequential loss.
		[1] Unknown	Total.
FCF-15-82	On 11-5-81 claimant lost 2-50 ft. nets, 8 x 40 sled, 11 x 44 trawl doors, tickler chain, rope, shackles, and drop back chain and 53 hours fishing time while trawling for shrimp at the following coordinates: 7980X29219.6 7980Y46814.0.	[1] Unknown	Gear loss.
		[1] Unknown	Economic loss.
		[1] Unknown	Consequential loss.
		[1] Unknown	Total.
FCF-16-82	On 12-21-81 claimant lost 2-40 ft. nets, trawl boards, sled, bridles, main cable, and chains while trawling for shrimp at the following coordinates: 7980X29196.8 7980Y46815.5.	[1] Unknown	Gear loss.
		[1] Unknown	Economic loss.
		[1] Unknown	Consequential loss.
		[1] Unknown	Total.
FCF-17-82	On 12-18-81 claimant lost 1-65 ft. net and damaged another while trawling for shrimp at the following coordinates: 7980X26764.0 7980Y46983.8.	[1] Unknown	Gear loss.
		[1] Unknown	Economic loss.
		[1] Unknown	Consequential loss.
		[1] Unknown	Total.

[1] Amounts not yet reported at this publishing.
[2] Although claimant was asked to supply the specific location of the casualty and no response has been received, this notification is made as required by the interim final rule published on December 8, 1981, FEDERAL REGISTER Vol. 46, No. 235.

[FR Doc. 82-2959 Filed 2-3-82; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Amended Privacy Act of 1974; Systems of Records

AGENCY: Department of the Air Force,; DOD.

ACTION: Notice of altered systems of records.

SUMMARY: The Air Force proposes to alter four systems of records subject to the Privacy Act of 1974. The system notices for these altered systems of records are published below.

DATES: These alterations shall be effective as proposed without further notice on March 8, 1982, unless comments are received which would result in a contrary determination.

ADDRESSES: Any comments including written data, views or arguments concerning the proposed alterations should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD, Room 4A1088I, The Pentagon, Washington, DC 20330, telephone 202/694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 have been published to date in the Federal Register at:

FR Doc. 81-897 (46 FR 6443) January 21, 1981

FR Doc. 82-674 (46 FR 2544) January 16, 1982

The Department of the Air Force has submitted an alterered system report December 18, 1981 under the provision of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda, No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 1, 1982.

Changes

F12501 SPO E

System name:

Registration Records (Excluding Private Vehicle Records).

F12501 SPO G

System name:

Complaint/Incident Reports.

F12501 SPO J

System name:

Traffic Accident and Violation Reports.

F12501 SPO A

System name:

Vehicle Administration Records.

Change:

Storage:

Change to read, " Maintained in file folders, card files and at selected activities on computer magnetic media and printouts."

F12501 SPO E

SYSTEM NAME:

Registration Records (Excluding Private Vehicle Records).

SYSTEM LOCATION:

Kept by the Chief of Security Police at the installation where an individual registers personal property. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who register firearms, pets, certain types of personal property, bicycles, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes the registration forms for each particular item registered with the security police activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 8012, Title 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to record information on make, model, type, kind, etc., of property. Information is necessary for identifying lost or stolen property and to insure proper control of privately owned firearms maintained on an Air Force installation. The firearm registration form is also used to maintain accountability (logging weapons in/out) of those privately owned firearms stored in government firearm storage facilities. Routine use could include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution or civil court action. Any individual record or part thereof can be transferred to any component of the Department of Defense and the Department of Justice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files and at selected activities on computer magnetic media and printouts.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are kept in the Office of the Chief of Security Police for one year after departure of owner and then destroyed by tearing into pieces.

SYSTEM MANAGER AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force.

Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

The appropriate installation Chief of Security Police should be contacted for information. When requesting information in writing, individual should include full name, social security account number, military status, and home address. During a personal visit, individual will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense director in the appendix to the Air Force's systems notice.

Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES.

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F12501 SPO G

SYSTEM NAME:

Complaint/Incident Reports.

SYSTEM LOCATION:

Kept by the Chief of Security Police at the installation where an individual becomes involved in an incident or complaint, and by the Chief of Security Police at the installation where an individual is assigned if the incident occurs at a different location. Information copies of a report are kept at the individual's organization to which she/he is assigned duty and other organizations which have an interest in a particular incident. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who become involved in complaints or incidents on Air Force installations or Air Force active duty personnel who become involved in incidents regardless of the location.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes the incident or complaint report, statements by the subject or witness, information on seized or acquired property, if applicable, copies of forms referring cases to other agencies for final disposition, and other forms of reports required to complete basic report. Also includes an individual incident reference record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 8012, Title 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to record information on individual involvement in incidents or criminal activity. Reports are used to provide information to the appropriate individual within an organization who insures corrective action is taken. Routine use could include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution or civil court action. Any individual record or part thereof can be transferred to any component of the Department of Defense, the Department of Justice, and The Staff Judge Advocate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files and at selected activities on computer magnetic media and printouts.

RETRIEVABILITY:

Filed by Name. Filed by other identification number or system identifier.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their offical duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

The individual incident record is retained in the office of the Chief of Security Police and destroyed three years after close of year in which last entry was made. Destroyed by tearing into pieces. Incident and complaint reports and parts thereto are retained in office files for one year after annual cutoff. transferred to a staging area for two years, and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Information copies at interested agencies are destroyed one year after annual cutoff by tearing into pieces.

SYSTEM MANAGER AND ADDRESS:

Chief of Security Police, Headquarters. United States Air Force. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

The appropriate installation Chief of Security Police should be contacted for information. When requesting information in writing, individual should include full name, social security account number, military status, home address, and the letter will be notarized. During a personal visit, individual be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers. Information obtained from witnesses. Information may also come from person registering complaints or from those who become victims of a crime.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F12501 SPO J

SYSTEM NAME:

Traffic Accident and Violation Reports.

SYSTEM LOCATION:

Kept by the Chief of Security Police at the installation where an individual becomes involved in a traffic violation or accident. Information copies of traffic accident reports are kept at the Ground Safety, Staff Judge Advocate, and Transportation offices (when a government vehicle is involved). Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who become involved in traffic violations or accidents on an Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes the traffic accident investigation report, statement of witnesses, alcohol influence reports, and reports of traffic violations to include notices or summons.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 8012, Title 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to record information on traffic accidents and violations. Reports are forwarded to the appropriate individual within an organization who insures corrective action is taken, or to US Magistrate as applicable. Routine use could include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or statisticial use. Any individual record or part thereof can be transferred to any component of the Department of Defense or to The Staff Judge Advocate. Additionally, accident reports may be provided to private attorneys, representatives of insurance companies and private citizens.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, cards files and at selected activities on computer magnetic media and printouts.

RETRIEVABILITY:

Filed by Name. Filed by other indentification number or system identifier.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for one year after end of year in which the case was closed, transferred to a staging area for one additional year, then destroying by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER AND ADDRESS:

Chief of Security Police, Headquarters Untied States Air Force. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

The appropriate installation Chief of Security Police should be contacted for information. When requesting information in writing, individual should include full name, social security account number, military status, home address, and the letter will be notarized. During a personal visit, individual will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers. Information obtained from witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FI2503 SPO A

SYSTEM NAME:

Vehicle Administration Records.

SYSTEM LOCATION:

Kept by the Chief of Security Police at the installation where an individual registers or frequently operates a vehicle thereon. Information copies of some portions of this system may be kept at an individual's assigned unit. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who freguently drive or register vehicles on an Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes vehicle registration records, driver records, letters of suspension or revocation as applicable, and forms or letters which are necessary in the vehicle administration program for driver improvement actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 8012, Title 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to record an individual's statement of understanding on financial responsibilities with regard to operation of a vehicle on an Air Force installation. Driver records are maintained to record information about motor vehicle accidents and moving traffic violations that are used to provide for traffic point assessment, suspension, or revocation, or other driver improvement actions affecting driving privileges on Air Force installations. Routine use could include disclosure to law enforcement or investigatory authorities (Divisison of Motor Vehicles) for possible reciprocal action on driver license suspension or revocation. Any individual record or part thereof can be transferred to any component of the Department of Defense or to the Staff Judge Advocate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files and at selected activities on computer magnetic media and printouts.

RETRIEVABILITY:

Filed by Name. Filed by Vehicle Registration Number. Filed by Vehicle License Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Private vehicle registration documentation is destroyed after departure of the registrant to a new duty station, upon termination of an individual vehicle registration, or at the end of the particular registration period. Driver records on employees are transferred to gaining installations when an individual is reassigned or transferred. These are destroyed on permanent separation from active service, termination of employment, or upon deletion of all entries. Destruction of these forms is done by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force, Washington, D.C. 20330.

NOTIFICATION PROCEDURE:

The appropriate installation Chief of Security Police should be contacted for information. When requesting information in writing, individual should include full name, social security account number, military status, home address, and the letter will be notarized. During a personal visit, individual will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers. Information obtained from the bureau of motor vehicles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-2980 Filed 2-3-82; 8:45 am]
BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Water Resources Support Center; Notice of Intent

AGENCY: U.S. Army, Corps of Engineers DOD.

ACTION: Notice of intent to print documents in microfiche form and solicitation of comments.

SUMMARY: This notice announces the U.S. Army Corps of Engineers Water Resources Support Center, Waterborne Commerce Statistics Center proposal to print the "Waterborne Commerce of the United States" (WCUS) and the "Transportation Series" (TS) in microfiche form. The WCUS is a five-part series of waterborne commerce statistics collected, compiled, and published by the center. The TS, an inventory of American commercial shipping vessels used in ocean trade on inland waterways, is published in a three-part series. The annual publications will be available beginning with the 1980 WCUS and the 1981 TS editions. Significantly reduced costs and accelerated distribution will result with this change. Microfiche copies would be available to everyone from the U.S. Army Corps of Engineers sales offices in Waltham, Massachusetts, New Orleans, Louisiana, and San Francisco, California, for approximately $.40 per volume. Hard copies of the microfiche pages, if desired, will be available through the National Technical Information Service for $16.50 per volume. All DOD personnel may obtain hard copies from the Defense Technical Information Center for $3.00 per volume. If this procedure is adopted, an implementation announcement will appear in a later edition of the Federal Register.

DATE: Comments must be received by 26 February 1982.

ADDRESS: Comments may be addressed to: Chief, Waterborne Commerce Statistics Center, P.O. Box 61280, New Orleans, LA 70161.

Dated: February 1, 1982.

John O. Roach II

Army Liaison Officer with the Federal Register.

[FR Doc. 82-2976 Filed 2-3-82; 8:45 am]
BILLING CODE 3710-08-M

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Blood Preservation and Substitutes; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee Blood on Preservation and Substitutes.

Date of Meeting: March 26, 1982.

Time and Place: 0900 hrs, Conference Room AS 3102, Letterman Army Institute of Research, Presidio of San Francisco, CA.

Proposed Agenda

This meeting will be open to the public on 26 March from 0900 to 1300 hrs for the administrative review and discussion of the scientific research program of the Blood Research Division, Letterman Army Institute of Research. Attendance by the public at open session will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on 26 March from 1300–1615 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. J. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561–4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82–2848 Filed 2–3–82; 8:45 am]

BILLING CODE 3710–08–M

Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents
Date of Meeting: March 22 and 23, 1982
Time and Place: 0900 hrs, Room 14, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD

Proposed Agenda

This meeting will be open to the public on 22 March from 0900 to 1300 hrs for the administrative review and discussion of the scientific research program of the U.S. Army Medical Research Institute of Chemical Defense and from 1630 to 1700 on 23 March 1982 for the summation of the meeting. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on 22 March from 1300–1630 and on 23 March from 0900–1630 for the review, discussion and evluation of individual programs and projects conducted by the U.S. Army Medical research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommitte members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82–2842 Filed 2–3–82; 8:45 am]

BILLING CODE 3710–08–M

Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Diseases; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee Subcommittee on Parasitic Diseases
Date of Meeting: March 17, 1982
Time and Place: 0900 hrs., Room 3092, Walter Reed Army Institute of Research, Washington, DC

Proposed Agenda:

This meeting will be open to the public on March 17, 1982 from 0900 to 1000 hrs. for the administrative review and discussion of the scientific research program of the Parasitic Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 17, from 1000 to 1630 hrs. for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg. 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/567–3061) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82–2841 Filed 2–3–82; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Education Statistics Advisory Council; Meeting

AGENCY: Advisory Council on Education Statistics, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forth-coming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the council. Notice of this meeting is required under Section 10(a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: February 25 and 26, 1982; 9 a.m. on Feb. 25 to 4 p.m. and 9 a.m. on Feb. 26 to 1 p.m.

ADDRESS: Room 3000, 400 Maryland Ave., SW, Washington, D.C. 20202

FOR FURTHER INFORMATION CONTACT: Theodore H. Drews, Executive Director, 400 Maryland Avenue SW, (Presidential Bldg. 205), Washington, D.C. 20202. Telephone—(301) 436–7876.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c) (1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

A report by the Administrator, National Center for Education Statistics, on recent activities of the National Center.

The review by the Council of the first draft of the Council's Seventh Annual Report.

A continuation of the discussion among the Council members and Center administrative staff on Center policies and practices in the setting of Center program priorities.

A continuation of the discussion among the Council members and Center administrative staff on Center policies and practices in the recruitment and hiring of Center staff.

Such new business as the chairman or the membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the Executive Director, Advisory Council on Education Statistics, 6525 Belcrest Rd., (Presidential Building, Room 205), Hyattsville, Maryland.

Dated: January 29, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82–2870 Filed 2–3–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket Nos. 50653-2490-01, 02-82]

Consolidated Edison Company of New York, Inc; Acceptance of Certification and Issuance of Proposed Prohibition Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of certification and issuance of proposed prohibition orders to Consolidated Edison Company of New York, Inc.

SUMMARY: The Economic Regulatory Administration (ERA) is giving notice of its acceptance of a certification from Consolidated Edison Company of New York, Inc. (Con Edison) concerning its Arthur Kill powerplants 20 and 30 pursuant to section 301 of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA), as amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA). ERA has reviewed and proposes to concur in Con Edison's certification, filed with ERA on December 29, 1981, which addressed the technical capability and financial feasibility of the powerplants to use an alternate fuel, coal as a primary energy source. Accordingly, pursuant to the authorities contained in FUA, as amended, ERA is issuing proposed prohibition orders to these powerplants. If finalized, these prohibition orders will limit the amount of oil and natural gas which may be consumed in these units.

DATE: Written comments and/or requests for a public hearing are due on or before March 22, 1982.

ADDRESS: All comments and/or requests for a public hearing on individual cases should be directed to the Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, N.W., Washington, D.C. 20461. Correspondence should clearly indicate the ERA docket number for the case in question.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 12th & Pennsylvania Ave., N.W., Room 7120, Washington, D.C. 20461 (202) 633-9451.

Robert L. Davies, Fuels Conversion Division, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 6128 Washington, D.C. 20461 (202) 653-3372.

Edward L. Lublin, Esq., Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 6B-178, Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: Section 1021 of OBRA amended section 301 of FUA to limit the authority of the Secretary of Energy to prohibit oil or natural gas use only where the owner or operator of an existing powerplant has voluntarily certified to the unit's technical capability and financial feasibility to use an alternate fuel.

On December 29, 1981, Con Edison filed a certification and a request for issuance of prohibition orders in accordance with section 1021 of OBRA for Arthur Kill 20 and 30. ERA has examined the basis for the certification and the documentation submitted for each powerplant and believes that it will be able to concur in such certification resulting in the ultimate issuance of final prohibition orders.

ERA published in the Federal Register on November 27, 1981 (46 FR 58051) its proposed regulations reflecting the changes required by section 1021 of OBRA. In accordance with section 501.52 of these proposed regulations, the following procedure for the processing of these proposed orders will be followed:

(1) Pursuant to § 501.52(b)(2) of the proposed regulations, ERA is issuing proposed orders to Arthur Kill 20 and 30. This decision is based on ERA's review of the certification and its supporting information submitted pursuant to section 1021 of OBRA and the information contained in the record of a prior prohibition order proceeding under former section 301 of FUA under Dockets Nos. 50653-2490-01,02-82. ERA is hereby publishing its proposed findings, as required by section 701(b) of FUA.

(2) In accordance with § 501.52(b)(3) of the proposed regulations, the publication of this Notice of Acceptance commences a period of 45 days during which interested persons may submit written comments or request a public hearing. During this period, the recipient of the proposed orders and any other interested person may submit any evidence that they have available relating to the proposed orders, the certification, or the concurrence that ERA must make. A request for an extension of the 45 day period may be granted at ERA's discretion.

(3) If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501. The hearing may consider, among other matters, the sufficiency of the certification that Con Edison, the owner and operator of Arthur Kill 20 and 30, submitted pursuant to § 1021 of OBRA and §§ 504.5, 504.6, and 504.8 of the proposed regulations.

(4) No final prohibition orders may be issued until any necessary environmental review conducted pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. Upon completion of the NEPA review and unless ERA determines on the basis of the information contained in the record of the proceeding that the certification fails to meet the requirements of § 504.4, 504.6, and 504.8 of the proposed regulations, ERA may issue final prohibition orders.

Proposed Prohibition Orders

Subject to the further findings that ERA may make, ERA hereby proposes to prohibit the Con Edison's powerplants listed in the table below from burning petroleum or natural gas as a primary energy source. In accordance with section 1021 of OBRA, and § 504.6(c), (e) and (f) of the proposed regulations, the proposed prohibition orders are based on proposed findings by ERA that each of the powerplants (1) has the technical capability to use coal or another alternate fuel as a priminary energy source without having (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant, and (2) that it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplants. These findings are based on the certification submitted by the proposed order recipient, on data furnished to ERA in support of this certification, and on information contained in the record of the previous proceedings under former section 301 of FUA.

ERA Docket No.	Generating station	Power-plant No.	Megawatt capacity	Location
50653-2490-01-82	Arthur Kill	20	335	Staten Island, N.Y.
50653-2490-02-82	do	30	491	Do.

Issued in Washington, D.C., January 29, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-2906 Filed 2-3-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. 50653-2500-01, 02-82]

Consolidated Edison Company of New York, Inc.; Acceptance of Certification and Issuance of Proposed Prohibition Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of certification and issuance of proposed prohibition orders to Consolidated Edison Company of New York, Inc. [Docket Nos. 50653-2500-01, 02-82].

SUMMARY: The Economic Regulatory Administration (ERA) is giving notice of its acceptance of a certification from Consolidated Edison Company of New York, Inc. (Con Edison) concerning its Ravenswood powerplants 30N and 30S pursuant to section 301 of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA), as amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA). ERA has reviewed and proposes to concur in Con Edison's certification, filed with ERA on December 29, 1981, which addressed the technical capability and financial feasibility of the powerplants to use an alternate fuel, coal, as a primary energy source. Accordingly, pursuant to the authorities contained in FUA, as amended, ERA is issuing proposed prohibition orders to these powerplants. If finalized, these prohibition orders will limit the amount of oil and natural gas which may be consumed in these units.

DATE: Written comments and/or requests for a public hearing are due on or before March 22, 1982.

ADDRESS: All comments and/or requests for a public hearing on individual cases should be directed to the Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW, Washington, D.C. 20461. Correspondence should clearly indicate the ERA docket number for the case in question.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 12th & Pennsylvania Ave., NW, Room 7120, Washington, D.C. 20461, (202) 633-9451

Robert L. Davies, Fuels Conversion Division, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 6128, Washington, D.C. 20461, (202) 653-3372

Edward L. Lublin, Esq., Office of General Counsel, Department of Energy, 1000 Independence Ave., SW, Room 6B-178, Washington, D.C. 20585, (202) 252-2967

SUPPLEMENTARY INFORMATION: Section 1021 of OBRA amended section 301 of FUA to limit the authority of the Secretary of Energy to prohibit oil or natural gas use only where the owner or operator of an existing powerplant has voluntarily certified to the unit's technical capability and financial feasibility to use an alternate fuel.

On December 29, 1981, Con Edison filed a certification and a request for issuance of prohibition orders in accordance with section 1021 of OBRA for Ravenswood 30N and 30S. ERA has examined the basis for the certification and the documentation submitted for each powerplant and believes that it will be able to concur in such certification resulting in the ultimate issuance of final prohibition orders.

ERA published in the **Federal Register** on November 27, 1981 (46 FR 58051) its proposed regulations reflecting the changes required by section 1021 of OBRA. In accordance with § 501.52 of these proposed regulations, the following procedure for the processing of these proposed orders will be followed:

(1) Pursuant to § 501.52(b)(2) of the proposed regulations, ERA is issuing proposed prohibition orders to Ravenswood 30N and 30S. This decision is based on ERA's review of the certification and its supporting information submitted pursuant to section 1021 of OBRA and the information contained in the record of a prior prohibition order proceeding under former section 301 of FUA under Docket Nos. 50653-2500-01,02-82. ERA is hereby publishing its proposed findings, as required by section 701(b) of FUA.

(2) In accordance with § 501.52(b)(3) of the proposed regulations, the publication of this Notice of Acceptance commences a period of 45 days during which interested persons may submit written comments or request a public hearing. During this period, the recipient of the proposed orders and any other interested person may submit any evidence that they have available relating to the proposed orders, the certification, or the concurrence that ERA must make. A request for an extension of the 45 day period may be granted at ERA's discretion.

(3) If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501. The hearing may consider, among other matters, the sufficiency of the certification that Con Edison, the owner and operator of Ravenswood 30N and 30S, submitted pursuant to section 1021 of OBRA and §§ 504.5, 504.6, and 504.8 of the proposed regulations.

(4) No final prohibition orders may be issued until any necessary environmental review conducted pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. Upon completion of the NEPA review and unless ERA determines on the basis of the information contained in the record of the proceeding that the certification fails to meet the requirements of §§ 504.4, 504.6, and 504.8 of the proposed regulations, ERA may issue final prohibition orders.

Proposed Prohibition Orders

Subject to any further findings that ERA may make, ERA hereby proposes to prohibit the Con Edison's powerplants listed in the table below from burning petroleum or natural gas as a primary energy source. In accordance with section 1021 of OBRA, and § 504.6(c), (e) and (f) of the proposed regulations, the proposed prohibition orders are based on proposed findings by ERA that each of the powerplants (1) has the technical capability to use coal or another alternate fuel as a primary energy source without having (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant, and (2) that it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplants. These findings are based on the certification submitted by the proposed order recipient, on data furnished to ERA in support of this certification, and on information contained in the record of the previous proceedings under former section 301 of FUA.

ERA Docket No.	Generating station	Power-plant No.	Megawatt capacity	Location
50653-2500-01-82	Ravenswood	30N	484	Queens, N.Y.
50653-2500-02-82	do	30S	484	Do.

Issued in Washington, D.C., January 29, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 2907 Filed 2-3-82; 8:45 am]

BILLING CODE 6450-01-M

Universal Resources Corp.; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Universal Resources Corporation (Universal) of Dallas, Texas. This Proposed Remedial Order charges Universal with pricing violations in the amount of $426,948.97 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through December 31, 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Special Advisor for Compliance, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7745. On or before February 19, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 13th day of January, 1982.

Herbert F. Buchanan,

Deputy Special Advisor for Compliance, Economic Regulatory Administration.

[FR Doc. 82-2940 Filed 2-3-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
		OHIO DEPARTMENT OF NATURAL RESOURCES							
-ALL STATES OIL & PRODUCING CO INC		RECEIVED: 12/24/81		JA: OH					
8212866		3410322331	107-TF			CROCKER #1	GRANGER	7.5	COLUMBIA GAS TRAN
8212867		3410322332	107-TF			CROCKER #2	GRANGER	8.0	COLUMBIA GAS TRAN
8212868		3410322388	107-TF			CROCKER #3	GRANGER	9.0	COLUMBIA GAS TRAN
8212869		3410322389	107-TF			CROCKER #4	GRANGER	9.5	COLUMBIA GAS TRAN
8212870		3410322390	107-TF			HERRMANN #3	GRANGER	10.5	COLUMBIA GAS TRAN
8212871		3410322556	107-TF			HERRMANN #5	GRANGER	10.0	COLUMBIA GAS TRAN
-AMERICAN EXPLORATION CO		RECEIVED: 12/24/81		JA: OH					
8212876		3411923946	108			BEDNARCZUK #1A		10.0	TIMKEN CO
8212878		3411924069	108			ETHEL STOTTS #1		10.0	TIMKEN CO
8212880		3415722646	108			F EMIG #1		10.0	LIBBEY OWENS FORD
8212872		3405921947	108			G MYERS #2		10.0	LIBBEY OWENS FORD
8212875		3411923885	108			JACK KREAGER #1		0.0	TIMKEN CO
8212877		3411924068	108			MORRISON #1		10.0	TIMKEN CO
8212873		3411923602	108			MURRAY #1		10.0	NATIONAL GAS & OI
8212874		3411923840	108			PAT LIVELY #1		10.0	LIBBEY OWENS FORD
8212879		3411924070	108			SHRIVER #1		10.0	TIMKEN CO
-APPALACHIAN EXPLORATION INC		RECEIVED: 12/24/81		JA: OH					
8212921		3415320760	103	107-TF		A WALENT #1	COPLEY	6.2	AMERICAN ENERGY S
8212931		3415320854	103	107-TF		B WILLIAMS #1	COPLEY	13.1	AMERICAN ENERGY S
8212932		3415320855	103	107-TF		B WILLIAMS #2	COPLEY	5.2	AMERICAN ENERGY S
8212915		3415320751	103	107-TF		BEATY-PETTY UNIT #1	COPLEY	4.2	AMERICAN ENERGY S
8212909		3415123045	103	107-TF		BRUGGER-BRODZINSKI UNIT #1	WASHINGTON	3.0	AMERICAN ENERGY S
8212883		3408520264	103	107-TF		CLAPACS UNIT #1	KIRTLAND	24.7	CONSOLIDATED ALUM
8212918		3415320757	103	107-TF		D FOUSE #1	COPLEY	1.6	AMERICAN ENERGY S
8212920		3415320759	103	107-TF		D FOUSE #2	COPLEY	1.6	AMERICAN ENERGY S
8212919		3415320758	103	107-TF		D FOUSE #3	COPLEY	1.6	AMERICAN ENERGY S
8212924		3415320791	103	107-TF		FABBRO #1	NORTON	242.0	AMERICAN ENERGY S
8212923		3415320773	103	107-TF		FRANKLIN #1	COPLEY	10.2	AMERICAN ENERGY S
8212917		3415320756	103	107-TF		FRASHURE #1	COPLEY	38.0	AMERICAN ENERGY S
8212916		3415320753	103	107-TF		FRASHURE #2	COPLEY	5.5	AMERICAN ENERGY S
8212911		3415123137	103	107-TF		FUNK 2A	OSNABURG	31.2	AMERICAN ENERGY S
8212898		3410322267	103	107-TF		H FIX #3	WADSWORTH	6.9	AMERICAN ENERGY S
8212896		3410322366	103	107-TF		H FIX #5	WADSWORTH	3.7	AMERICAN ENERGY S
8212884		3410322185	103	107-TF		HAMMOND #4	SHARON	5.2	AMERICAN ENERGY S
8212887		3410322208	103	107-TF		J HAHN #1	WADSWORTH	2.6	AMERICAN ENERGY S
8212889		3410322215	103	107-TF		J HAHN #2	WADSWORTH	12.5	AMERICAN ENERGY S
8212895		3410322346	103	107-TF		J HARRISON #1	SHARON	1.6	AMERICAN ENERGY S
8212903		3410322403	103	107-TF		J SOURS #1	WADSWORTH	8.0	AMERICAN ENERGY S
8212926		3415320803	103	107-TF		JACOBY CO #1	COPLEY	31.4	AMERICAN ENERGY S
8212925		3415320802	103	107-TF		K BOSS #2	COPLEY	49.0	AMERICAN ENERGY S

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212913		3415320742		103	107-TF	KOCSIS #1	COPLEY	5.1	AMERICAN ENERGY S
8212922		3415320771		103	107-TF	L GABLE #1	COPLEY	5.2	AMERICAN ENERGY S
8212912		3415320672		103	107-TF	L WEAVER #1	COPLEY	26.0	AMERICAN ENERGY S
8212882		3408520263		103	107-TF	LUKEZ #1	KIRTLAND	36.5	CONSOLIDATED ALUM
8212881		3405520298		103	107-TF	MAYER #1	CHESTER	43.8	CONSOLIDATED ALUM
8212908		3410322396		103	107-TF	MIKLOS #1	SHARON	9.1	AMERICAN ENERGY S
8212927		3415320814		103	107-TF	MILLS-HARTZ #1	COPLEY	20.5	AMERICAN ENERGY S
8212928		3415320820		103	107-TF	MILLS-HARTZ #2	COPLEY	20.5	AMERICAN ENERGY S
8212934		3415320884		103	107-TF	PANZNER #2	COPLEY	8.8	AMERICAN ENERGY S
8212907		3415122861		103	107-TF	PARRISH #1	WASHINGTON	11.0	AMERICAN ENERGY S
8212929		3415320831		103	107-TF	R BENDER #2	COPLEY	82.0	AMERICAN ENERGY S
8212905		3410322411		103	107-TF	R HARTMAN #2	SHARON	11.3	AMERICAN ENERGY S
8212914		3415320765		103	107-TF	R HEMPHILL #2	COPLEY	9.5	AMERICAN ENERGY S
8212897		3410322391		103	107-TF	R SCHENDEL #2	SHARON	17.8	AMERICAN ENERGY S
8212899		3410322395		103	107-TF	R SCHENDEL UNIT #1	SHARON	3.7	AMERICAN ENERGY S
8212908		3415122967		103	107-TF	RITSCHARD #1	WASHINGTON	67.5	AMERICAN ENERGY S
8212885		3410322200		103	107-TF	ROTILI #1	SHARON	18.2	AMERICAN ENERGY S
8212891		3410322309		103	107-TF	S FARKAS #1	SHARON	2.8	AMERICAN ENERGY S
8212892		3410322310		103	107-TF	S FARKAS #2	SHARON	0.9	AMERICAN ENERGY S
8212893		3410322311		103	107-TF	S FARKAS #3	SHARON	1.3	AMERICAN ENERGY S
8212894		3410322345		103	107-TF	SAVAGE #1	SHARON	0.3	AMERICAN ENERGY S
8212904		3410322408		103	107-TF	SEXAUR #1	SHARON	20.1	AMERICAN ENERGY S
8212898		3410322394		103	107-TF	SHANAFELT #4	SHARON	66.4	AMERICAN ENERGY S
8212902		3410322400		103	107-TF	SHANAFELT #5	SHARON	9.1	AMERICAN ENERGY S
8212906		3410322429		103	107-TF	SMITH UNIT #2	SHARON	5.8	AMERICAN ENERGY S
8212938		3415320835		103	107-TF	SPROUSE UNIT #1	COPLEY	2.8	AMERICAN ENERGY S
8212901		3410322398		103	107-TF	VORIS #1	SHARON	7.3	AMERICAN ENERGY S
8212886		3410322206		103	107-TF	W BROWN #2	SHARON	4.2	AMERICAN ENERGY S
8212888		3410322209		103	107-TF	W BROWN #3	SHARON	0.5	AMERICAN ENERGY S
8212933		3415320858		103	107-TF	W ZANDER UNIT #1	COPLEY	16.9	AMERICAN ENERGY S
8212910		3415123114		103	107-TF	ZELLER #1	WASHINGTON	6.6	AMERICAN ENERGY S
-BANDS COMPANY INC				RECEIVED: 12/24/81 JA: OH					
8212937		3411122243		107-DV		F CHRISTMAN #2	MALAGE	2.0	COLUMBIA GAS TRAN
8212936		3411122091		107-DV		HAYES #1	SENECA	20.0	COLUMBIA GAS TRAN
8212935		3401320322		107-DV		LUTHER HOTHEM #2	SOMERSET	20.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY				RECEIVED: 12/24/81 JA: OH					
8212938		3410322589		103	107-TF	V EVERHARD #1	SHARON	18.0	
-BEREA OIL AND GAS CORPORATION				RECEIVED: 12/24/81 JA: OH					
8212943		3415521456		103	107-TF	BROBST #1	MECCA	0.0	COLUMBIA GAS TRAN
8212941		3415520729		108		D & M BUTLER #2	VIENNA	18.0	EAST OHIO GAS CO
8212942		3415521453		103	107-TF	J GOVERNOR #3	MECCA	0.0	COLUMBIA GAS TRAN
8212945		3415521788		103	107-TF	PHILLIPS #1	HARTFORD	0.0	COLUMBIA GAS TRAN
8212944		3415521785		103	107-TF	PUCAK-JOHNSON #1	HARTFORD	0.0	COLUMBIA GAS TRAN
8212939		3411925741		103	107-TF	W BARNA #1	RICH HILL	0.0	COLUMBIA GAS TRAN
8212940		3411925742		103	107-TF	W BARNA #2	RICH HILL	0.0	COLUMBIA GAS TRAN
-BUCKEYE OIL PRODUCING CO				RECEIVED: 12/24/81 JA: OH					
8212954		3411122468		107-DV		AUSTIN WHEELER #1	MALAGA	12.0	TEXAS EASTERN
8212951		3411122390		107-DV		DONALD & DALE WALTERS #1	MALAGA	9.0	TEXAS EASTERN
8212950		3411122389		107-DV		GARY DAVIS #1	MALAGA	0.0	TEXAS EASTERN
8212953		3411122461		107-DV		GARY RUBEL #1	SUMMIT	9.0	COLUMBIA GAS TRAN
8212949		3411122372		107-DV		HAROLD CHRISTMAN #1	MALAGA	14.0	TEXAS EASTERN
8212948		3407523244		103	107-TF	L & C DONLEY #1	PRAIRIE	13.0	COLUMBIA GAS TRAN
8212952		3411122412		107-DV		PAUL LANDEFELD #1	MALAGA	11.8	TEXAS EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212955A		3411122473		103		RAYMOND SNYDER #1	SENECA	9.0	COLUMBIA GAS TRAN
8212955B		3411122473	D	107-TF		RAYMOND SNYDER #1	SENECA	9.0	COLUMBIA GAS TRAN
8212956		3416922824		103	107-TF	WALTER STEINER #1	SUGAR CREEK	16.0	COLUMBIA GAS TRAN
-C J WARREN OIL COMPANY				RECEIVED: 12/24/81 JA: OH					
8213185		3403124298		103		T NASH #1	PIKE	0.0	NATIONAL GAS & OI
-CAMERON BROS				RECEIVED: 12/24/81 JA: OH					
8212957		3411925758		103	107-TF	BERNARD BISSETT #1-A	ADAMS	12.0	
-CARL E SMITH INC				RECEIVED: 12/24/81 JA: OH					
8213150		3410522103		103		DAVID W DODDERER #221	OLIVE	17.0	COLUMBIA GAS TRAN
8213149		3410522101		103		STATE OF OHIO #226	OLIVE	20.0	COLUMBIA GAS TRAN
-CARL E SMITH PETROLEUM INC				RECEIVED: 12/24/81 JA: OH					
8213148		3400922184		103		BARTON UNIT #2	CARTHAGE	24.0	COLUMBIA GAS TRAN
-CARLTON OIL CORP				RECEIVED: 12/24/81 JA: OH					
8212958		3411122090		107-DV		JOHNSON #1	BENTON	50.0	
8212961		3412122480		103		OHIO POWER COMPANY #1	JACKSON	50.0	
8212959		3411122096		107-DV		PIATT #1-K	WASHINGTON	50.0	
8212960		3412122476		103		WICKENS #1	JACKSON	50.0	
-CAVALIER OIL CORP				RECEIVED: 12/24/81 JA: OH					
8212963		3412122610		107-DV		CAVALIER-SINGER #1	ELK	14.6	COLUMBIA GAS TRAN
8212962		3411121926		107-DV		F L SULSBERGER #1	MALAGA	14.6	
-CLAY COUNTY PRODUCTION CO INC				RECEIVED: 12/24/81 JA: OH					
8212968		3416724967		108		KERMIT LANE #3		12.8	COLUMBIA GAS TRAN
8212967		3412724544		108		LUCILLE HURSEY #1		18.3	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED: 12/24/81 JA: OH					
8212969		3411924154		108		CARL MILNER #1		10.0	NATIONAL GAS OIL
8212970		3411924649		108		J-YOST #1		0.0	COLUMBIA GAS TRAN
-CONVEST ENERGY CORP				RECEIVED: 12/24/81 JA: OH					
8212971		3411925831		102-2		LEEDOM #6R	PERRY	35.0	EAST OHIO GAS CO
-DART OIL COMPANY				RECEIVED: 12/24/81 JA: OH					
8212985		3415721168		108		BORY #1		3.3	BUCKEYE-FRANKLIN
8212986		3415721213		108		BORY #2		3.8	BUCKEYE-FRANKLIN
8212988		3415721308		108		BORY-KUGLER #1		3.9	BUCKEYE-FRANKLIN
8212978		3413320120		108		BUNCE #1		7.4	EAST OHIO GAS CO
8212975		3407523146		103	107-TF	C HOXWORTH #10	KILLBUCK	35.0	COLUMBIA GAS TRAN
8212979		3413320133		108		HYLBERT #1		3.9	EAST OHIO GAS CO
8212974		3407523135		103	107-TF	J HOXWORTH #1	KILLBUCK	35.0	COLUMBIA GAS TRAN
8212983		3413322508		103	107-TF	KORAS #1	DEERFIELD	45.0	
8212984		3413322509		103	107-TF	KORAS NO 2	DEERFIELD	45.0	
8212987		3415721307		108		KUGLER #1		3.2	BUCKEYE-FRANKLIN
8212977		3409921322		103	107-TF	OAKRIDGE DEVELOPMENT #1	ALLIANCE	40.0	
8212982		3413322189		107-TF		RICE UNIT #1	DEERFIELD	31.9	VESCORP INDUSTRIE
8212981		3413320375		108		SMITH-POLACK #1		6.6	EAST OHIO GAS CO
8212989		3415721591		108		SUTTLER #1		9.3	BUCKEYE-FRANKLIN
8212976		3409921225		107-TF		WOOLMAN #1	SMITH	7.1	VESCORP INDUSTRIE
8212980		3413320163		108		ZICKEFOOSE #1		0.9	EAST OHIO GAS CO
-DERBY OIL & GAS CORP				RECEIVED: 12/24/81 JA: OH					
8212991		3407523309		103	107-TF	JONAS MILLER #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8212990		3407523300		103	107-TF	MELVIN WEAVER #1	HARDY	12.0	COLUMBIA GAS TRAN
-DERRICK PETROLEUM INC				RECEIVED: 12/24/81 JA: OH					
8212992		3411925813		103		MYRTLE FRAZIER #1	JACKSON	0.0	COLUMBUS GAS TRAN
-DIAMOND OIL CO				RECEIVED: 12/24/81 JA: OH					
8212993		3407322512		103		PARKIN-STARR #1	FALLS GORE	3.0	COLUMBIA GAS TRAN
-DORFMAN PRODUCTION CO				RECEIVED: 12/24/81 JA: OH					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8212995		3409921343		103	107-TF	BEHRINGER UNIT #1	DAMASCUS	11.0	COLUMBIA GAS TRAN
8212996		3409921355		103	107-TF	GRIFFITHS UNIT #1	DAMASCUS	0.0	COLUMBIA GAS TRAN
8212994		3409921334		103	107-TF	STANLEY #1	DAMASCUS	12.0	
-ELKHEAD GAS & OIL COMPANY				RECEIVED:	12/24/81	JA: OH			
8212997		3408322255		108		J BEATTY #1		0.0	COLUMBIA GAS TRAN
8213003		3408322470		108		J BEATTY #2		0.0	COLUMBIA GAS TRAN
8213004		3408322482		108		J BEATTY #3		0.0	COLUMBIA GAS TRAN
8212998		3408322267		108		SCOTT #1		2.0	COLUMBIA GAS TRAN
8213001		3408322334		108		SCOTT #2		2.0	COLUMBIA GAS TRAN
8213002		3408322433		108		SCOTT #3		2.0	COLUMBIA GAS TRAN
8213005		3408322618		108		STUMBO #1		4.0	COLUMBIA GAS TRAN
8212999		3408322274		108		W C BEATTY #1		3.0	COLUMBIA GAS TRAN
8213000		3408322282		108		W C BEATTY #2		3.0	COLUMBIA GAS TRAN
-EMERALD EXPLORATION ASSOCIATES II				RECEIVED:	12/24/81	JA: OH			
8213006		3411122084		107-DV		PAUL & BERNICE MARSHALL #4	BETHEL	20.0	
-ENERGY UNLIMITED INC				RECEIVED:	12/24/81	JA: OH			
8213007		3400922406		103		BOBO #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8213009		3400922407		103		CARTER #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8213008		3400922409		103		WINNER #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	12/24/81	JA: OH			
8213012		3415723619		103	107-TF	CAPPEL FARMS LTD #1	CLAY	0.0	
8213010		3409920744		108		CENTOFANI #1	ELLSWORTH	0.0	AMERICAN ENERGY S
8213011		3409920758		108		CLINGERMAN #1	ELLSWORTH	11.0	AMERICAN ENERGY S
8213013		3415723629		103	107-TF	WHITE UNIT #1	CLAY	0.0	
-EXCELSIOR OIL INVESTORS LTD				RECEIVED:	12/24/81	JA: OH			
8213014		3416724958		107-DV		CECIL & KATHRYN BARNHOUSE #1	LUDLOW	62.0	
-FRANK A CSAPO JR				RECEIVED:	12/24/81	JA: OH			
8212973		3416922243		107-TF		GLEN A TISHER #1	GUILFORD	0.0	COLUMBIA GAS TRAN
8212972		3416922137		107-TF		ROBERT & WANDA LENGACHER #1	MILTON	8.0	COLUMBIA GAS TRAN
-FRONTIER PETROLEUM LTD				RECEIVED:	12/24/81	JA: OH			
8213015		3416725433		107-DV		WALLS #1	LUDLOW	25.0	COLUMBIA GAS T*MI
-FUTURE ENERGY CORPORATION				RECEIVED:	12/24/81	JA: OH			
8213016		3411521964		107-TF		R CAMPBELL #1	WINDSOR	45.0	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED:	12/24/81	JA: OH			
8213017		3413322466		103	107-TF	NICHOLAS UNIT #1	WINDHAM	20.0	EAST OHIO GAS CO
8213018		3413322497		103	107-TF	RUBINO #1	WINDHAM	20.0	EAST OHIO GAS CO
-GENERAL ELECTRIC CO				RECEIVED:	12/24/81	JA: OH			
8213019		3415521930		107-TF		CONSUMER #1	FOWLER	20.0	COLUMBIA GAS TRAN
8213020		3415521931		107-TF		CONSUMER #2	JOHNSTON	20.0	COLUMBIA GAS TRAN
-GLACIER ENERGY CORP				RECEIVED:	12/24/81	JA: OH			
8213022		3410522264		103		PAULINE ATKINS #1	SCIPIO	6.0	COLUMBIA GAS TRAN
-GREEN GAS COMPANY				RECEIVED:	12/24/81	JA: OH			
8213023		3416922232	D	107-DV		EUGENE FETZER #1	CANAAN	2.0	COLUMBIA GAS TRAN
-GREENLAND/PERRY 81-1				RECEIVED:	12/24/81	JA: OH			
8213024		3412725305		107-TF		MORTON #2	MADISON	10.0	COLUMBIA GAS TRAN
-GUERNSEY PETROLEUM CORPORATION				RECEIVED:	12/24/81	JA: OH			
8213025		3411923056		108		C WATSON 1-G		11.5	COLUMBIA GAS TRAN
8213028		3411923626		108		HOWARD DICKSON 2-R		14.0	EAST OHIO GAS
8213033		3412121585		108		HUPP 1-C		15.0	EAST OHIO GAS
8213035		3412121819		108		OHIO POWER 3-MB		12.0	EAST OHIO GAS
8213030		3411924243		108		OHIO POWER 36-ME		18.0	EAST OHIO GAS
8213029		3411924235		108		OHIO POWER 37-ME		8.0	EAST OHIO GAS
8213031		3411924925		108		OHIO POWER 49-MH		18.0	EAST OHIO GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213036		3412122218		108		OHIO POWER 51-MH		7.0	EAST OHIO GAS
8213032		3411925039		108		OHIO POWER 54-MH		15.0	EAST OHIO GAS
8213034		3412121598		108		SLATER-JENNINGS 1-C		7.0	EAST OHIO GAS
8213026		3411923217		108		THOMAS DRAKE 1-G		7.0	EAST OHIO GAS
8213027		3411923620		108		WICKHAM-PAISLEY 1-H		14.0	EAST OHIO GAS
-GULL LAKE ENERGY RESOURCES C/O IRD				RECEIVED:	12/24/81	JA: OH			
8213021		3407522249		107-TF		ROMAN AND EVELYN STUTZMAN #1-78	PRAIRIE	2.0	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED:	12/24/81	JA: OH			
8213045A		3412725203		103		SHELLY #1	HOPEWELL	12.0	COLUMBIA GAS TRAN
8213045B		3412725203		107-TF		SHELLY #1	HOPEWELL	12.0	COLUMBIA GAS TRAN
8213044		3403124488		103	107-TF	WILLIAM HUNTER #1	KEENE	12.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	12/24/81	JA: OH			
8213048		3411925580		107-TF		ANNA HIGHFIELD WOOD #1	PERRY	10.0	COLUMBIA GAS TRAN
8213046		3411925063		107-TF		JOHN SHAW #2	JACKSON	10.0	COLUMBIA GAS TRAN
8213047		3411925561		103	107-TF	LESTER VANDERBARK #1	MUSKINGUM	12.0	COLUMBIA GAS TRAN
-INTEGRATED PETROLEUM COMPANY INC				RECEIVED:	12/24/81	JA: OH			
8213049		3415521916		103	107-TF	SHEW #1	BLOOMFIELD	70.0	
-JADOIL INC				RECEIVED:	12/24/81	JA: OH			
8213054		3411923031		108		ED HILDEBRAND #2		2.5	COLUMBIA GAS TRAN
8213050		3403122545		108		HUBERT & JOY LANGDON #1		0.5	COLUMBIA GAS TRAN
8213055		3411923777		108		L W & B C WISECARVER #1		7.0	COLUMBIA GAS TRAN
8213052		3408322152		108		MAURICE & ALICE MELICK #1		1.5	COLUMBIA GAS TRAN
8213053		3408322157		108		RAY S & CATHERINE GALLWITZ #1		1.5	COLUMBIA GAS TRAN
8213056		3411923824		108		RAYMOND FLUHARTY #1		3.5	COLUMBIA GAS TRAN
8213057		3411923887		108		RICHARD & RUTH WILLIAMS #4		10.0	COLUMBIA GAS TRAN
8213051		3408322140		108		WILLIAM COAKLEY #2		1.5	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED:	12/24/81	JA: OH			
8213061		3415320964		103	107-TF	BOWERS UNIT #1	BLOOMFIELD	0.0	
8213062		3415521838		103	107-TF	BREWSTER-WALTON #1	BLOOMFIELD	125.0	
8213059		3415320736		103	107-TF	CUYAHOGA VALLEY CHRISTIAN ACAD #1	BOSTON	0.0	LIBBY OWENS FORD
8213060		3415320962		103	107-TF	HENDROCK #1	NORTHAMPTON	0.0	LIBBY OWENS FORD
8213058		3415320770		103	107-TF	QUICK #1	NORTHAMPTON	0.0	LIBBY OWENS FORD
-KING DRILLING CO				RECEIVED:	12/24/81	JA: OH			
8213064		3416922982		107-TF		NORMA BYLER #1	GREEN	10.0	COLUMBIA GAS TRAN
8213063		3416922773		107-TF		WAYNE HORST #1	GREEN	10.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED:	12/24/81	JA: OH			
8213065		3410522182		103		FERRELL #1	BEDFORD	15.0	COLUMBIA GAS TRAN
-L & M OPERATING INC				RECEIVED:	12/24/81	JA: OH			
8213067		3416724438		108		CARL HOFFMANN #2		12.8	GAS TRANSPORT INC
8213066		3416724083		108		EARL TORNES #1		12.8	GAS TRANSPORT INC
-L & M PETROLEUM INC				RECEIVED:	12/24/81	JA: OH			
8213078		3416724441		108		BERNARD STRAHLER 8		12.8	GAS TRANSPORT INC
8213068		3412725301		107-TF		LEWIS/PEABODY/FLOWERS #2	CLAYTON	10.0	COLUMBIA GAS TRAN
8213071		3416724703		108		LLOYD LANKFORD #2		12.8	COLUMBIA GAS TRAN
8213072		3416725019		108		RICHARD HARTLINE #1		12.8	COLUMBIA GAS TRAN
8213069		3412725311		103		ROBERT JENKINS #2	READING	12.5	COLUMBIA GAS TRAN
8213073		3416725381		107-TF		WILBUR BOHLEN UNIT #2	LAWRENCE	12.8	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED:	12/24/81	JA: OH			
8213074		3405922984		107-TF		BAY #2	BUCKEYEVILLE	50.0	
-LIBERTY OIL & GAS CORP				RECEIVED:	12/24/81	JA: OH			
8213075		3410521607		108		ADDIE BAKER #1		0.0	COLUMBIA GAS TRAN
8213076		3410521608		108		ELMER BIBBEE #1		0.0	COLUMBIA GAS TRAN
8213077		3410521675		108		LORA & O C GILPIN #1		0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LUC SUPPLY CO				RECEIVED:	12/24/81	JA: OH			
8213079		3408322184		108		CHAPIN #2		1.0	COLUMBIA GAS TRAN
8213080		3408322219		108		CHAPIN #3		1.0	COLUMBIA GAS TRAN
8213081		3408322234		108		CHAPIN #4		1.0	COLUMBIA GAS TRAN
8213082		3408322700		108		CHAPIN #5		1.0	COLUMBIA GAS TRAN
8213078		3408320075		108		CHAPIN #6		1.0	COLUMBIA GAS TRAN
-M C F OIL CO				RECEIVED:	12/24/81	JA: OH			
8213083		3407522451		103		PEARL MANSBURGER #1	MONROE	5.0	COLUMBIA GAS TRAN
-MARAM ENERGY CO				RECEIVED:	12/24/81	JA: OH			
8213084		3408322516		108		WORKMAN #1		7.0	COLUMBIA GAS TRAN
-MARJAC ENERGY CO				RECEIVED:	12/24/81	JA: OH			
8213085		3412724889		103		ASHBAUGH 2		0.7	NATIONAL GAS & OI
-MILLER OIL & GAS CO				RECEIVED:	12/24/81	JA: OH			
8213087		3407523093		103	107-TF	MAST #1	MECHANIC	25.6	COLUMBIA GAS TRAN
-MOHAWK OIL & GAS CORP				RECEIVED:	12/24/81	JA: OH			
8213089		3412122413		107-DV		NOVA CHRISTMAN #2	HARRIETTSVILLE	0.0	COLUMBIA GAS OF O
8213090		3412122462		107-DV		NOVA CHRISTMAN #4	HARRIETSVILLE	0.0	COLUMBIA GAS OF O
-MURPHY OIL CO				RECEIVED:	12/24/81	JA: OH			
8213091		3410521999		107-DV		JOHN HOUDASHELT #1	SUTTON	10.0	
-NICOFIBERS INC				RECEIVED:	12/24/81	JA: OH			
8213097		3412725010		103		NICOFIBERS #2	SALT CREEK TWP	9.0	
8213098		3412725254		103		PATTON #2	READING TWP	8.0	FORAKER GAS CO IN
-NOBLE OIL CORP				RECEIVED:	12/24/81	JA: OH			
8213100		3413321958		108		BRUGMANN #2		21.0	AMERICAN ENERGY S
8213101		3413322428		107-TF		KURZ #2		20.0	AMERICAN ENERGY S
8213102		3413322537		107-TF		MARIK #2	PALMYRA	20.0	GENERAL ELECTRIC
8213099		3413321091		108		RANKIN #1		8.0	AMERICAN ENERGY S
-NORTHEASTERN ENERGY				RECEIVED:	12/24/81	JA: OH			
8213103		3410322226		103	107-TF	GRAFF #1	WADSWORTH	21.0	EAST OHIO GAS CO
-OHIO ASSOCIATES				RECEIVED:	12/24/81	JA: OH			
8213104		3403124450		103	107-TF	J R K SUPPLY CO #2	BEDFORD TOWNSHIP	20.0	COLUMBIA GAS TRAN
-OHIO NATURAL FUEL CO				RECEIVED:	12/24/81	JA: OH			
8213106		3416922102		107-TF 108		EICK #2	PLAIN	14.0	COLUMBIA GAS TRAN
8213105		3416922095		108		HODGEN #1		14.0	COLUMBIA GAS TRAN
-OHIO OIL & GAS CO				RECEIVED:	12/24/81	JA: OH			
8213107 1912		3415520000		107-TF		POWELL #3	FOWLER	20.0	COLUMBIA GAS TRAN
-OMNI PETROLEUM				RECEIVED:	12/24/81	JA: OH			
8213108		3411723394		102-2		GARVERICK #1	NORTH BLOOMFIELD	100.0	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED:	12/24/81	JA: OH			
8213109		3412122484		107-TF		ALBERT H SPURRIER #1	BUFFALO	300.0	EAST OHIO GAS CO
-ORION ENERGY CORP				RECEIVED:	12/24/81	JA: OH			
8213110		3415123079	D	107-TF		FRY #1	PIKE	8.0	COLUMBIA GAS TRAN
8213111		3415123538		107-TF		RUEGG #4	TUSCARAWAS	15.0	
8213112		3415723610		107-TF		SLANKARD UNIT #1	LAWRENCE	20.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	12/24/81	JA: OH			
8213119		3412122667		107-DV		CHARLES WICKENS #1-B	JACKSON	10.0	
8213115		3411122180		107-DV		ELEANOR MIRACLE #1	FRANKLIN	10.0	
8213114		3411122169		107-DV		IRENE HUPP #1	FRANKLIN	10.0	
8213116		3411122182		107-DV		IVIN MIRACLE #1	FRANKLIN	10.0	
8213118		3411122558		107-DV		KAYLEE MCCONNELL #1	FRANKLIN	12.0	
8213120		3416726828		107-DV		LESLIE FULTON #1	SALEM	10.0	
8213113		3411122149		107-DV		LOWELL MIRACLE #1	FRANKLIN	10.0	
8213117		3411122536		107-DV		RALPH BACH #1	FRANKLIN	12.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PAROCO DRLG FUNDS INC				RECEIVED: 12/24/81		JA: OH			
8213122		3415521909		103	107-TF	ANDERSON #1	MECCA	20.0	
8213121		3415521996		103	107-TF	CALLOW #1	MECCA	20.0	
-PAUL A WEBER				RECEIVED: 12/24/81		JA: OH			
8213186		3415123595		103		PAUL WEBER #3	PLAIN	25.0	EAST OHIO GAS CO
-PDI ENERGY INC				RECEIVED: 12/24/81		JA: OH			
8213126		3413322566		103	107-TF	CHAPMAN UNIT #1	AURORA	15.0	
8213125		3413322514		103	107-TF	GOLFWORLD #2	FRANKLIN	20.0	
8213123		3408721653		103	107-TF	PODEMSKI #1	ROME	22.0	
8213124		3408721574		103	107-TF	POPOWICH #1	COLEBROOK	11.0	
-R D MILLER				RECEIVED: 12/24/81		JA: OH			
8213088		3411925713		103	107-TF	CHESTER C FINK #1	HOPEWELL	10.0	NATIONAL GAS & OI
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED: 12/24/81		JA: OH			
8212946		3405320204		108		JOHN E HALLIDAY #1		6.0	COLUMBIA GAS TRAN
8212947		3405320243		108		M COEN #1		2.0	COLUMBIA GAS TRAN
-RELIABLE EXPLORATION & DRILLING CO				RECEIVED: 12/24/81		JA: OH			
8213129		3412122670		103		BIG C RANCH WELL #1	ENOCK TOWNSHIP	50.0	COLUMBIA GAS TRAN
8213127		3411122525		103		CLYDE YOCKEY #1	FRANKLIN TOWNSHIP	0.0	
8213128		3412122659		103		HEISLER WELL #1	ELK TOWNSHIP	50.0	COLUMBIA GAS TRAN
8213130		3412122672		103		ORANGE COAL #1	ENOCH TOWNSHIP	50.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED: 12/24/81		JA: OH			
8213131		3411925952		103	107-TF	CONSOLIDATION COAL CO CR #21	ADAMSVILLE	10.0	COLUMBIA GAS TRAN
-RESOURCE EXPLORATION INC				RECEIVED: 12/24/81		JA: OH			
8213135		3406720463		107-TF		E BRAINERD #3	FRANKLIN TWP	20.0	COLUMBIA GAS TRAN
8213134		3406720458		107-TF		RAYMOND ALBAUGH #2	FRANKLIN TWP	20.0	COLUMBIA GAS TRAN
8213132		3406720265		107-TF		WILBERT DUNLAP #4	WASHINGTON TWP	20.0	COLUMBIA GAS TRAN
8213133		3406720408		107-TF		WILLIAM DUDGEON #1	FRANKLIN TWP	20.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED: 12/24/81		JA: OH			
8213147		3416726754		107-DV		CHARLES ALLOWAY #1	GRANDVIEW	10.0	
8213144		3416726474		107-DV		GLENDA MICHAELS #1	GRANDVIEW	10.0	
8213145		3416726475		107-DV		GLENDA MICHAELS #2	GRANDVIEW	8.8	
8213137		3416726083		107-DV		JOSEPH CRAIG #1	LUDLOW	18.0	
8213146		3416726609		107-DV		KENNETH JACKSON #1	NEWPORT	21.0	
8213142		3416726397		107-DV		LLOYD MILLER #3	SALEM	19.5	
8213143		3416726398		107-DV		LLOYD MILLER #5	SALEM	21.0	
8213140		3416726325		107-DV		NORMAN RIDGEWAY #2	GRANDVIEW	9.1	
8213139		3416726267		107-DV		NORMAN RIDGEWAY #5	GRANDVIEW	7.8	
8213141		3416726368		107-DV		NORMAN RIDGEWAY #6	GRANDVIEW	11.2	
8213136		3411122449		107-DV		PATTSY DANNER #2	BENTON	19.0	
8213138		3416726168		107-DV		WILLIAM CLEGG #1B	GRANDVIEW	10.4	
-SOUTHERN OHIO PETROLEUM CO INC				RECEIVED: 12/24/81		JA: OH			
8213151		3411122312		107-DV		W P MORRISON #1	BETHEL	50.0	COLUMBIA GAS TRAN
-STARCHER LEONARD				RECEIVED: 12/24/81		JA: OH			
8213152		3413320378		108		BATENS COMM #1	PORTAGE	2.0	EAST OHIO GAS CO
-SUMMA OIL INVESTORS LTD				RECEIVED: 12/24/81		JA: OH			
8213153		3416725468		107-DV		GEORGE EDGAR #3	INDEPENDENCE	70.0	
8213154		3416725620		107-DV		JOHN M EDGAR #2A	INDEPENDENCE	60.0	
-SUNSET PETROLEUM INC				RECEIVED: 12/24/81		JA: OH			
8213156		3410522041		107-DV		DALE HILL #1	SUTTON	10.0	COLUMBIA GAS TRAN
8213155		3410522036		107-DV		ROBERT RIEBER #1	CHESTER	10.0	COLUMBIA GAS TRAN
-SUPERIOR PETROLEUM INC				RECEIVED: 12/24/81		JA: OH			
8213157		3411122352	D	107-TF		WARD #3	MALAGA	0.0	TEXAS EASTERN TRA
-SUSIE JANE GAS CO				RECEIVED: 12/24/81		JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213158		3408720254		107-DV		JOHN PRATT #1	UNION	11.5	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	12/24/81	JA: OH			
8213095		3411122521		107-DV		CHRISTMAN #1-M	SENECA	5.0	COLUMBIA GAS TRAN
8213093		3411122386		107-DV		G BAKER #3M	FRANKLIN	10.0	COLUMBIA GAS TRAN
8213092		3411122378		107-DV		M BAKER #2-M	FRANKLIN	10.0	COLUMBIA GAS TRAN
8213094		3411122387		107-DV		M BAKER #3-M	FRANKLIN	10.0	COLUMBIA GAS TRAN
8213096		3411122524		107-DV		ROSSI #3M	SENECA	0.0	COLUMBIA GAS TRAN
-THUNDERBIRD PETROLEUM DEVELOP CO				RECEIVED:	12/24/81	JA: OH			
8213160		3416726568		107-DV		HASKEL SWAIN #1	LUDLOW	48.0	
8213159		3416725717		107-DV		REX & EVELYN SAGER #1	LUDLOW	50.0	
-TIGER OIL INC				RECEIVED:	12/24/81	JA: OH			
8213161		3412122404		107-DV		BECKER SCHRAMM HEINS #4	ELK	0.0	COLUMBIA GAS TRAN
-TIPKA - BARTLO OIL & GAS CO				RECEIVED:	12/24/81	JA: OH			
8213162		3405922662		102-3		M HOLDERBAUM #1	WILLS	50.0	LIBBEY-OWENS-FORD
-TITAN ENERGY CORP				RECEIVED:	12/24/81	JA: OH			
8213167		3415521676		103	107-TF	BROOKFIELD TRI-CO CONS CLUB-UNIT-#1	BROOKFIELD	20.0	
8213166		3405923028		103	107-TF	GEORGE & VIVAN MARTIN #1A	SPENCER	20.0	EAST OHIO GAS CO
8213168		3415521701		103	107-TF	P & V JURKO - #3	BROOKFIELD	20.0	
8213165		3405922994		103	107-TF	RICHARD L SHAW #1	WESTLAND	20.0	EAST OHIO GAS CO
-TOWNER PETROLEUM CO				RECEIVED:	12/24/81	JA: OH			
8213169		3405923066		103		WINN #1	GUERNSEY	0.0	TENNESSEE GAS PIP
-UNIVERSAL EXPLORATION				RECEIVED:	12/24/81	JA: OH			
8213170		3410322539		103	107-TF	SMITH UNIT #1	GUILFORD	75.0	
-VESCORP INDUSTRIES INC				RECEIVED:	12/24/81	JA: OH			
8213174		3413321269		108		ELY #1		0.0	TIMKEN CO
8213171		3400720772		108		HEWITT #1		10.0	TIMKEN CO
8213173		3400720776		108		JACKSON #1		10.0	TIMKEN CO
8213172		3400720775		108		LUCE #1		10.0	TIMKEN CO
8213176		3413321751		108		RIDDLE #2		0.0	TIMKEN CO
8213175		3413321326		108		SHUTWAY #1		10.0	TIMKEN CO
-VICTOR MCKENZIE				RECEIVED:	12/24/81	JA: OH			
8213086		3404520708		103		MILORCO GRIFFIN #2	RUSHCREEK	4.0	NATIONAL GAS & OI
-VIKING RESOURCES CORP				RECEIVED:	12/24/81	JA: OH			
8213184		3415123577		103	107-TF	BAUMBERGER #2	PARIS	30.0	
8213177		3409921403		103	107-TF	R & G BROWN UNIT #1	BERLIN	30.0	
8213178		3409921404		103	107-TF	R & G BROWN UNIT #2	BERLIN	30.0	
8213179		3409921405		103	107-TF	R & G BROWN UNIT #3	BERLIN	30.0	
8213182		3413322695		103	107-TF	THOMAS #12	PALMYRA	30.0	NOT YET DETERMINE
8213183		3413322696		103	107-TF	THOMAS #13	PALMYRA	30.0	
8213180		3413322613		103	107-TF	THOMAS #6	EDINBURGH	30.0	
8213181		3413322614		103	107-TF	THOMAS #7	EDINBURG	30.0	
-WALTER L CHRISTMAN				RECEIVED:	12/24/81	JA: OH			
8212964		3412121905		108		OHIO POWER #1	OHIO POWER	13.2	COLUMBIA GAS TRAN
8212965		3416723843		108		WILBERT SLOTER #1	WILBERT SLOTER	5.0	COLUMBIA GAS TRAN
8212966		3416723889		108		WILBERT SLOTER #2	WILBERT SLOTER FARM	5.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED:	12/24/81	JA: OH			
8213164		3416922758		103	107-TF	CLYDE FILES #3	CHIPPEWA	0.0	EAST OHIO GAS CO
8213163		3416922757		103	107-TF	FILES-LOCKHART #2	CHIPPEWA	0.0	EAST OHIO GAS CO
-WILOCK INC				RECEIVED:	12/24/81	JA: OH			
8213187		3413322668		103	107-TF	AURORA INDUSTRIAL PARK #1	AURORA	20.0	
-WM PAUL HAMBLETON				RECEIVED:	12/24/81	JA: OH			
8213041		3413320350		108		BRANNEN COMM #1	PORTAGE	5.5	EAST OHIO GAS CO
8213038		3413320178		108		BRESKY COMM #1	PORTAGE	2.5	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213185		3415123578		103	107-TF	BAUMBERGER #3	PARIS	30.0	
8213186		3415123579		103	107-TF	BAUMBERGER #4	PARIS	30.0	
8213189		3415123580		103	107-TF	BAUMBERGER #5	PARIS	30.0	
8213190		3415123581		103	107-TF	BAUMBERGER #6	PARIS	30.0	
8213191	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213040		3413320349		108		DUKE COMM #1	PORTAGE	5.5	EAST OHIO GAS CO
8213042		3413320397		108		FOX COMMUNITY #1	PORTAGE	6.5	EAST OHIO GAS CO
8213039		3413320236		108		LULI COMMUNITY #1	PORTAGE	4.5	EAST OHIO GAS CO
8213037		3413320100		108		MAUTZ #1	PORTAGE	4.0	EAST OHIO GAS CO
8213043		3416921339		108		WENGERD #1	PAINT TWP-WAYNE	2.8	OHIO FUEL GAS CO
-MRAY PETROLEUM CORP OF OHIO		RECEIVED: 12/24/81				JA: OH			
8213188		3413322422		103	107-UF	FINNEY #4	NELSON TOWNSHIP	18.0	EAST OHIO GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jursidictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by February 19, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2949 Filed 2–3–81; 8:45 am]

BILLING CODE 6717–01–M

[Volume 506]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 19

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 29, 1982.

JD NO	JA LRT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-MOBIL OIL CORP				RECEIVED:	12/31/81	JA: KS			
8213224	K 81-0787	1518920541		103		HERSHY-LEONARD UNIT #1	PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
8213227	K 81-0677	1509320721		103		ORRA DEAN UNIT #2	PANOMA COUNCIL GROVE	70.0	CITIES SERVICE GA
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	12/31/81	JA: KS			
8213225	K 81-0721	1518920539		103		COMBES #1B UNIT #2	PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
8213226	K 81-0680	1505520451		103		MCCOY #3 UNIT #4	PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
LOUISIANA OFFICE OF CONSERVATION									
-AMINOIL OF LOUISIANA INC				RECEIVED:	12/31/81	JA: LA			
8213237	81-2749	1707522711		102-4		SL 2028 #17	LAKE WASHINGTON	365.0	SOUTHERN NATURAL
8213239	81-2750	1707522794		102-4		SL 2028 #18	LAKE WASHINGTON	400.0	SOUTHERN NATURAL
8213238	81-2811	1707522794		102-4		STATE LEASE 2028 #18-D	LAKE WASHINGTON	219.0	SOUTHERN NATURAL
MISSISSIPPI OIL & GAS BOARD									
-AMERICAN NAT GAS PROD CO				RECEIVED:	01/04/82	JA: MS			
*8213355	102-81-9	2306520143		107-DP		GWINVILLE GAS UNIT #203	GWINVILLE	172.0	SOUTHERN NATURAL
8213350	86-81-147	2314720126		107-DP		MC CAIN #1-24	S E KNOXO	1080.0	
-BROWNING & WELCH				RECEIVED:	01/04/82	JA: MS			
8213362	65-81-117	2302520024		107-TF		J R HAWKINS #1	SILOAM	18.2	TEXAS EASTERN TRA
-CALLON PETROLEUM COMPANY				RECEIVED:	01/04/82	JA: MS			
8213361	67-81-372	2312720057		102-2	103	ESTELLE BERRY #1	OAK GROVE	500.0	SYSTEM FUELS INC
-CARDELL-TLAPEK COMPANY				RECEIVED:	01/04/82	JA: MS			
8213347	80-81-496	2316320149		102-4		WILLIAMS ESTATE #2	MECHANICSBURG	420.0	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	01/04/82	JA: MS			
8213351	81-81-15	2309120093		102-4	103	HUB GAS UNIT 13 #1	HUB	300.0	SOUTHERN NATURAL
-GETTY OIL COMPANY				RECEIVED:	01/04/82	JA: MS			
8213348	84-81-217	2313120019		102-4		ENERGY MINERALS 8-7 #1	BLACK CREEK	546.0	TRANSCONTINENTAL
8213344	98-81-517	2309520313		102-4		SCHLICHT 4-5 #1	NETTLETON	641.0	TEXAS EASTERN TRA
8213343	95-81-517	2309520301		102-4		SCHLICHT 4-8 #1	NETTLETON	340.0	TEXAS EASTERN TRA
8213357	91-81-418	2309120147		107-DP		SIPP 20-9 #2	GREENS CREEK	2257.0	TRANSCONTINENTAL
8213341	97-81-517	2309520319		102-4		STOVALL 3-11 #1	NETTLETON	395.0	TEXAS EASTERN TRA
8213342	96-81-517	2309520327		102-4		STOVALL 5-1 #1	NETTLETON	185.0	TEXAS EASTERN TRA
-GRACE PETROLEUM CORPORATION				RECEIVED:	01/04/82	JA: MS			
8213352	79-81-363	2309520287		103		SIMMONS-BOYD 22-13	MCKINLEY CREEK	0.0	
8213346	85-81-351	2309520202		108-ER		W L PICKENS 1-7	CORINNE	8.5	SOUTHERN NATURAL
-GULF OIL CORPORATION				RECEIVED:	01/04/82	JA: MS			
8213349	87-81-11	2307320226		103		W J HOWARD #13	BAXTERVILLE	15.0	UNITED GAS PIPE L
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	01/04/82	JA: MS			
8213359	88-81-476-1	2309120136		107-DP		FERNWOOD LUMBER CO #1-A	MORGANTOWN	465.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213354	104-81-527-1	2309520305		102-2		H J HURFF #1	COWPENNA CREEK	550.0	TEXAS EASTERN TRA
8213360	88-81-476-2	2309120075		107-DP		JOHN H HAUBERG #1	MORGANTOWN	320.0	TENNESSEE GAS PIP
-MARION CORPORATION				RECEIVED:	01/04/82	JA: MS			
8213358	94-81-418	2306520175		107-DP		W E HATHORN #1	GREENS CREEK	3.3	TRANSCONTINENTAL
-MWJ PRODUCING CO				RECEIVED:	01/04/82	JA: MS			
8213345	92-81-56	2309520314		102-4	103	HARRINGTON #1	ABERDEEN	500.0	
-SYSTEM FUELS INC				RECEIVED:	01/04/82	JA: MS			
8213353	105-81-549	2309120150		102-4	103	COLUMBIA TRAINING SCHOOL WELL NO	TRAINING SCHOOL FIELD	730.0	
-TOMLINSON INTERESTS INC				RECEIVED:	01/04/82	JA: MS			
8213356	100-81-486	2306520183		102-2		JEFF AULTMAN EST 30-13 #1	WEST OAKVALE	495.0	TRANSCONTINENTAL
**********									
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
**********									
-AMERICAN PENN ENERGY INC				RECEIVED:	12/30/81	JA: NY			
8213198	2010	3101315757		103		F M ROSE UNIT #1 (1330)	DEWITTVILLE	25.0	COLUMBIA GAS TRAN
8213201	2071	3101315758		103		M M RICHARDSON #1 (#1331)	DEWITTVILLE	25.0	COLUMBIA GAS TRAN
-ARLINGTON EXPLORATION CO				RECEIVED:	12/30/81	JA: NY			
8213221	1555	3105115480		107-TF		METER KENNEDY & HOWE UNIT #1	DANSVILLE PROSPECT	27.4	
8213222	1557	3110115268		107-TF		VALLEY VISTA VIEW INC #1	RATHBONE PROSPECT	36.5	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	12/30/81	JA: NY			
8213205	2047	3101316058		103		ERIC REED UNIT #1	GERRY	25.0	COLUMBIA GAS TRAN
8213204	2046	3101316279		103		H RISLEY UNIT #1	GERRY	25.0	COLUMBIA GAS TRAN
8213190	2049	3101316217		103		N Y S REF AREA #10 - #4	GERRY	30.0	COLUMBIA GAS TRAN
8213194	2308	3101316219		103		NYS REF #10 - #10	GERRY	30.0	COLUMBIA GAS TRAN
8213191	2309	3101316297		103		NYS REF AREA #10 - #9	GERRY	30.0	COLUMBIA GAS TRAN
-CUMBERLAND OIL CORP				RECEIVED:	12/30/81	JA: NY			
8213212	2038	3101315637		103		C POPIELARZ #1	FORESTVILLE	20.0	NATIONAL FUEL GAS
8213211	2037	3101316312		103		DALLAS ZAHM #2	LAKESHORE	20.0	NATIONAL FUEL GAS
8213192	2313	3101315910		103		DOUGLAS FAIRBANKS #2	FORESTVILLE	20.0	NATIONAL FUEL GAS
8213208	2039	3101315819		103		O HALL #1	FORESTVILLE	20.0	NATIONAL FUEL GAS
8213209	2040	3101315820		103		ORREN HALL #2	FORESTVILLE	20.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	12/30/81	JA: NY			
8213199	2087	3101314341		103		WARNSHIUS #2 #3107	LAKE SHORE	0.0	NATURAL FUEL GAS
-ENPEX NATURAL GAS CORP				RECEIVED:	12/30/81	JA: NY			
8213217	2036	3101312864		108		WILLOWBROOK #1	LAKESHORE	24.0	NATIONAL FUEL GAS
-ENERGY OIL INC				RECEIVED:	12/30/81	JA: NY			
8213197	2331	3102914840		103		KLINGENMEIR #1	BUFFALO CREEK	25.0	
8213195	2328	3102916095		103		SCHULTZ #1	ORCHARD PARK	15.0	
-FEA GAS CO				RECEIVED:	12/30/81	JA: NY			
8213200	2045	3101313810		108		STEBBINS 1023	LAKE SHORE	9.5	NATIONAL FUEL GAS
-GO GAS DRILLING CO				RECEIVED:	12/30/81	JA: NY			
8213202	2044	3101315832		103		SAUNDERS 3173	LAKE SHORE	18.0	NATIONAL FUEL GAS
-J & L WELL SERVICE CO				RECEIVED:	12/30/81	JA: NY			
8213216	1912	3101313958		103		HOLY CROSS #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-J G & A CO-VENTURE				RECEIVED:	12/30/81	JA: NY			
8213220	2007	3100315949		103		JOSEPH & RAYMOND JOYCE #1	INDEPENDENCE	25.0	NATIONAL FUEL GAS
-OILMARK & CO INC				RECEIVED:	12/30/81	JA: NY			
8213214	2041	3101316035		103		G WINCH #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8213213	2042	3101315837		103		GROVER WINCH #2	LAKESHORE	20.0	COLUMBIA GAS TRAN
8213207	2054	3101314830		103		H JOHNSON #1	GERRY	20.0	COLUMBIA GAS TRAN
8213215	1806	3101313794		103		NOCEK #1	LAKESHORE	5.0	NATIONAL FUEL GAS
8213206	2053	3101314828		103		P PETERSON #2	GERRY	20.0	COLUMBIA GAS TRAN
-P & S DRILLING INC				RECEIVED:	12/30/81	JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-P & S DRILLING INC				RECEIVED:	12/30/81	JA: NY			
8213196	2043	3101315836		103		SAUNDERS 3172	LAKE SHORE	18.0	NATIONAL FUEL GAS
-PENNSYLVANIA ENERGY CO				RECEIVED:	12/30/81	JA: NY			
8213193	2048	3101316218		103		NYS REF #10 - #3	GERRY	30.0	COLUMBIA GAS TRAN
-PETRO-LEWIS CORP				RECEIVED:	12/30/81	JA: NY			
8213210	2050	3101316311		103		DALLAS ZAHM #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-PHILLIPS PETROLEUM CO				RECEIVED:	12/30/81	JA: NY			
8213218	2052	3101316310		103		WILLIAM & MARY MCCARTHY #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-SENECA RESOURCES CORP				RECEIVED:	12/30/81	JA: NY			
8213219	2051	3101316309		103		WILLIAM & MARY MCCARTHY #2	LAKESHORE	20.0	NATIONAL FUEL GAS
-SOUTHWESTERN ENERGY CO				RECEIVED:	12/30/81	JA: NY			
8213204	2055	3101316308		103		WILLIAM & MARY MCCARTHY #3	LAKESHORE	20.0	NATIONAL FUEL GAS
-TEXAS EASTERN TRANSMISSION CORP				RECEIVED:	12/30/81	JA: NY			
8213189	2056	3101316307		103		WILLIAM & MARY MCCARTHY #4	LAKESHORE	20.0	NATIONAL FUEL GAS
-TRANSCONTINENTAL OIL CO				RECEIVED:	12/30/81	JA: NY			
8213188	2057	3101316306		103		WILLIAM & MARY MCCARTHY #5	LAKESHORE	20.0	NATIONAL FUEL GAS
-WILLIAMS ENERGY CORP				RECEIVED:	12/30/81	JA: NY			
8213187	2058	3101316305		103		WILLIAM & MARY MCCARTHY #6	LAKESHORE	20.0	NATIONAL FUEL GAS
-WOODWARD-CLYDE CONSULTANTS				RECEIVED:	12/30/81	JA: NY			
8213202	2059	3101316304		103		WILLIAM & MARY MCCARTHY #7	LAKESHORE	20.0	NATIONAL FUEL GAS
-WORTHINGTON GAS CO				RECEIVED:	12/30/81	JA: NY			
8213186	2060	3101316303		103		WILLIAM & MARY MCCARTHY #8	LAKESHORE	20.0	NATIONAL FUEL GAS
-WRIGHT & WRIGHT				RECEIVED:	12/30/81	JA: NY			
8213185	2061	3101316302		103		WILLIAM & MARY MCCARTHY #9	LAKESHORE	20.0	NATIONAL FUEL GAS
-WYOMING OIL & GAS INC				RECEIVED:	12/30/81	JA: NY			
8213184	2062	3101316301		103		WILLIAM & MARY MCCARTHY #10	LAKESHORE	20.0	NATIONAL FUEL GAS
-YOUNG & YOUNG				RECEIVED:	12/30/81	JA: NY			
8213183	2063	3101316300		103		WILLIAM & MARY MCCARTHY #11	LAKESHORE	20.0	NATIONAL FUEL GAS
-ZENITH EXPLORATION CORP				RECEIVED:	12/30/81	JA: NY			
8213182	2064	3101316299		103		WILLIAM & MARY MCCARTHY #12	LAKESHORE	20.0	NATIONAL FUEL GAS
8213181	2065	3101316298		103		WILLIAM & MARY MCCARTHY #13	LAKESHORE	20.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213219	2001	3102914650		108		ZIEZUILA #3	ELMA	66.0	NATIONAL FUEL GAS
-SEIS-EX GEOPHYSICAL LTD				RECEIVED:	12/30/81	JA: NY			
8213196	2325	3101313788		108		SEIS-EX MILLER #1	WILDCAT	13.0	NATIONAL FUEL GAS
-TRISON PETROLEUM				RECEIVED:	12/30/81	JA: NY			
8213193	2349	3102915831		103		BIXBY #1	WEST SENECA	18.0	NATIONAL FUEL DIS
-US ENERGY DEVELOPMENT CORP				RECEIVED:	12/30/81	JA: NY			
8213223	2031	3101315415		103		C OLSON #1	GERRY	20.0	COLUMBIA GAS TRAN
8213210	2030	3101315418		103		H OLMSTEAD #1	GERRY	20.0	COLUMBIA GAS TRAN
8213218	1999	3101314463		103		MARKHAM #2	LAKESHORE	20.0	COLUMBIA GAS TRAN
8213203	2055	3101314827		103		P PETERSON #1	GERRY	15.0	COLUMBIA GAS TRAN
OHIO DEPARTMENT OF NATURAL RESOURCES									
-I R D CORP				RECEIVED:	12/24/81	JA: OH			
82132818		3400721798		103		STANFORD #1	WILLIAMSFIELD	45.0	
82132818		3400721798	D	107-TF		STANFORD #1	WILLIAMSFIELD	45.0	
OKLAHOMA CORPORATION COMMISSION									
-JONES & PELLOW OIL CO				RECEIVED:	12/21/81	JA: OK			
8213189	11783	3508720590		103		MCGREW #13-1	DIBBLE NORTH	36.5	SUN GAS CO
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	01/04/82	JA: VA			
8213371		4502720338		107-TF		J L ELSWICK ESTATE 820596	HAYSI FIELD VIRGINIA	80.0	COLUMBIA GAS TRAN
8213370		4502720426		107-TF		OPAL C & H M THOMAS 820224		182.5	COLUMBIA GAS TRAN
8213372		4502720326		107-TF		PITTSTON CO 820687	HAYSI FIELD VIRGINIA	4.0	COLUMBIA GAS TRAN
-PHILADELPHIA OIL COMPANY				RECEIVED:	01/04/82	JA: VA			
8213363		4505120322		107-TF		ELEXIUS SMITH-P-96	NORA	39.0	KENTUCKY WEST VIR
8213364		4505120358		107-TF		J H COCHRAN-P-106	NORA	67.5	KENTUCKY WEST VIR
8213365		4505120376		107-TF		SAMUEL HENSLEY-P-113	NORA	15.0	KENTUCKY WEST VIR
8213369		4505120331		107-TF		STEINMAN DEVELOPMENT # P-99	NORA	45.4	KENTUCKY WEST VIR
8213367		4505120339		107-TF		TARPON COAL & COKE-P-101	NORA	78.7	KENTUCKY WEST VIR
8213368		4505120334		107-TF		W L F WRIGHT # P-100	NORA	49.2	KENTUCKY WEST VIR
8213366		4505120405		107-TF		WILSON ROSE-P-128	NORA	313.0	KENTUCKY WEST VIR
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	01/04/82	JA: WV			
8213289		4708320437		103		A - 962	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
-APEX DRILLING FUND 1979 LTD				RECEIVED:	12/30/81	JA: WV			
8213246		4708524391		103		RUFUS TAYLOR H-849	UNION DISTRICT	20.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:	01/04/82	JA: WV			
8213303		4710920846		103		PARDEE LAND COMPANY #70 - 91251	LOGAN-WYOMING	15.5	CONSOLIDATED GAS
8213302		4704521079		103		W M RITTER #220 - 091611	LOGAN-WYOMING	15.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/04/82	JA: WV			
8213287		4710721093		107-DV		CREELA DAVIS #1	UNION	4.4	CONSOLIDATED GAS
*8213285		4700121525		103		E NEIL PROUDFOOT #1	VALLEY	730.4	CONSOLIDATED GAS
*8213292		4700121523		102-4		E NEIL PROUDFOOT #1	VALLEY	730.4	CONSOLIDATED GAS
*8213286		4700121524		102-4		H S FITZWATER #1	VALLEY	108.4	CONSOLIDATED GAS
*8213304		4700121524		103		H S FITZWATER #1	VALLEY	108.4	CONSOLIDATED GAS
-BKK PROSPECTING LTD				RECEIVED:	01/04/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213284		4707321040		107-DV		CARL MOORE #1	CARL MOORE #1	5.5	COLUMBIA GAS TRAN
-C W RIGGS INC				RECEIVED:	01/04/82	JA: WV			
8213290		4707320906		107-DV		DILLON #R-167	PLEASANTS FIELD	7.5	COLUMBIA GAS TRAN
8213288		4707321177		107-DV		F SMITH #R-179	PLEASANTS FIELD	12.8	COLUMBIA GAS TRAN
8213291		4707321126		107-DV		SCADDEN #R-176	PLEASANTS	9.1	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	01/04/82	JA: WV			
8213336		4708120519		103		WESTMORELAND #2	SLAB FORK	25.0	COLUMBIA GAS TRAN
8213335		4708120531		103		WESTMORELAND #6	SLAB FORK	20.0	COLUMBIA GAS TRAN
-CARBONIT EXPLORATION INC				RECEIVED:	01/04/82	JA: WV			
8213296		4710720963		107-DV		RALPH M RYMER #2	WILLIAMS	0.0	COLUMBIA GAS TRAN
8213317		4710720963		103		RALPH M RYMER #2	WILLIAMS	0.5	COLUMBIA GAS TRAN
8213316		4710720988		103		RALPH M RYMER #3	WILLIAMS	0.0	COLUMBIA GAS TRAN
-CARDINAL DRILLING FUND 79-1				RECEIVED:	12/30/81	JA: WV			
8213254		4708524386		108		D COX H-845	CLAY DISTRICT	0.5	CARNEGIE NATURAL
8213255		4708524399		108		D MULLENIX H-858	UNION DISTRICT	1.0	CARNEGIE NATURAL
8213279		4708524372		108		J HOWARD H-817	UNION DISTRICT	3.0	CARNEGIE NATURAL
8213252		4708524373		108		J HOWARD H-818	UNION DISTRICT	3.0	CARNEGIE NATURAL
8213253		4708524374		108		J HOWARD H-819	UNION DISTRICT	3.0	CARNEGIE NATURAL
-CARSON PETROLEUM CORP				RECEIVED:	01/04/82	JA: WV			
8213293		4701722781		107-DV		DROPPLEMAN #4	ST CLAIR	35.0	CONSOLIDATED GAS
8213283		4701722864		107-DV		SHAVER #1	ST CLAIR	55.0	CONSOLIDATED GAS
8213295		4704123023		103		TUNING #2	INDIAN FORK	20.0	CONSOLIDATED GAS
8213340		4701722955		103		VANWERTH #1	ST CLAIR	20.0	CONSOLIDATED GAS
8213294		4701722846		107-DV		WYSONG #1	ST CLAIR	35.0	CONSOLIDATED GAS
8213282		4701722848		107-DV		WYSONG #2	ST CLAIR	45.0	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:	12/29/81	JA: WV			
8213229		4701727960	D	107-DV		BURGESS #2	CENTRAL DISTRICT	145.5	COLUMBIA GAS TRAN
8213228		4708524638	D	107-DV		COOL #1	UNION DISTRICT	1.0	COLUMBIA GAS TRAN
-CHASE PETROLEUM				RECEIVED:	01/04/82	JA: WV			
8213305		4708524922		107-DV		GREGG #1	UNION DISTRICT	56.4	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	01/04/82	JA: WV			
8213319		4709901416		108		TCO MINERAL TRACT NO 1 809203	WEST VIRGINIA FIELD A	53.8	COLUMBIA GAS TRAN
-EDNA WASS GAS CO				RECEIVED:	12/30/81	JA: WV			
8213244		4708524502		103		EDNA WASS H-1047	MURPHY DISTRICT	15.0	CONSOLIDATED GAS
-EDWIN DEEM GAS CO				RECEIVED:	12/30/81	JA: WV			
8213245		4708525078		103		EDWIN DEEM H-1217	MURPHY DISTRICT	15.0	CONSOLIDATED GAS
-EVANS-MOATS GAS CO				RECEIVED:	12/30/81	JA: WV			
8213263		4708524374		108		EVANS-MOATS H-754	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-FMF OIL & GAS PROPERTIES				RECEIVED:	12/29/81	JA: WV			
8213235		4708520894		102-4		ARMAND #4 M-2	ROARING CREEK DISTRIC	63.0	COLUMBIA GAS TRAN
8213232		4708520294		102-4		KING #1A ARMAND #1	ROARING CREEK	55.0	COLUMBIA GAS TRAN
8213233		4708520295		102-4		KING #1B ARMAND #2	ROARING CREEK DISTRIC	55.0	COLUMBIA GAS TRAN
8213236		4708520326		102-4		KING #2A	ROARING CREEK	68.0	COLUMBIA GAS TRAN
8213231		4708520328	D	102-4		KING #2B	ROARING CREEK DISTRIC	78.0	COLUMBIA GAS TRAN
8213230		4708520349	D	102-4		KING #2C	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8213234		4708520303		102-4		M-1 ARMAND #3	ROARING CREEK DISTRIC	52.8	COLUMBIA GAS TRAN
-GLENN L HAUGHT & SONS				RECEIVED:	12/30/81	JA: WV			
8213259		4707321142		107-DV		BENSON D WARD H-1237	MCKIM DISTRICT	15.5	COLUMBIA GAS TRAN
8213258		4707320945		107-DV		DON WILSON H-1086	MCKIM DISTRICT	15.0	COLUMBIA GAS TRAN
8213257		4707320871		107-DV		JESSIE TAYLOR H-1009	MCKIM DISTRICT	15.0	COLUMBIA GAS TRAN
8213256		4707320870		107-DV		JESSIE TAYLOR H-1010	MCKIM DISTRICT	15.8	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:	12/30/81	JA: WV			
8213247		4708524392		103		RUFUS TAYLOR H-850	UNION DISTRICT	20.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HAUGHT INC				RECEIVED:	12/30/81	JA: WV			
8213246		4708524393		103		RUFUS TAYLOR H-851	UNION DISTRICT	20.0	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213262		4708524373		108		HOPKINS #1	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213261		4708524372		108		HOPKINS #2	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213260		4708524371		108		HOPKINS #3	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213264		4708524375		108		HOPKINS #4	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213265		4708524376		108		HOPKINS #5	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213266		4708524377		108		HOPKINS #6	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213267		4708524378		108		HOPKINS #7	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213268		4708524379		108		HOPKINS #8	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213269		4708524380		108		HOPKINS #9	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213270		4708524381		108		HOPKINS #10	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213271		4708524382		108		HOPKINS #11	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213272		4708524383		108		HOPKINS #12	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213273		4708524384		108		HOPKINS #13	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213274		4708524385		108		HOPKINS #14	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213275		4708524386		108		HOPKINS #15	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213276		4708524387		108		HOPKINS #16	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213277		4708524388		108		HOPKINS #17	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213278		4708524389		108		HOPKINS #18	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213280		4708524390		108		HOPKINS #19	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213281		4708524391		108		HOPKINS #20	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213286		4708524392		108		HOPKINS #21	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213287		4708524393		108		HOPKINS #22	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213289		4708524394		108		HOPKINS #23	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213285		4708524395		108		HOPKINS #24	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213297		4708524396		108		HOPKINS #25	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213298		4708524397		108		HOPKINS #26	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213299		4708524398		108		HOPKINS #27	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213300		4708524399		108		HOPKINS #28	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213301		4708524400		108		HOPKINS #29	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213302		4708524401		108		HOPKINS #30	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213303		4708524402		108		HOPKINS #31	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213304		4708524403		108		HOPKINS #32	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213306		4708524404		108		HOPKINS #33	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213307		4708524405		108		HOPKINS #34	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213308		4708524406		108		HOPKINS #35	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213309		4708524407		108		HOPKINS #36	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213310		4708524408		108		HOPKINS #37	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213311		4708524409		108		HOPKINS #38	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213312		4708524410		108		HOPKINS #39	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213313		4708524411		108		HOPKINS #40	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213314		4708524412		108		HOPKINS #41	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213315		4708524413		108		HOPKINS #42	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213318		4708524414		108		HOPKINS #43	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213320		4708524415		108		HOPKINS #44	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213321		4708524416		108		HOPKINS #45	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213322		4708524417		108		HOPKINS #46	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213323		4708524418		108		HOPKINS #47	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213324		4708524419		108		HOPKINS #48	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213325		4708524420		108		HOPKINS #49	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213326		4708524421		108		HOPKINS #50	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213327		4708524422		108		HOPKINS #51	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213328		4708524423		108		HOPKINS #52	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213329		4708524424		108		HOPKINS #53	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213330		4708524425		108		HOPKINS #54	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213331		4708524426		108		HOPKINS #55	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213332		4708524427		108		HOPKINS #56	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213333		4708524428		108		HOPKINS #57	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213334		4708524429		108		HOPKINS #58	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213337		4708524430		108		HOPKINS #59	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213338		4708524431		108		HOPKINS #60	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213339		4708524432		108		HOPKINS #61	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213341		4708524433		108		HOPKINS #62	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213342		4708524434		108		HOPKINS #63	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213343		4708524435		108		HOPKINS #64	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213344		4708524436		108		HOPKINS #65	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213345		4708524437		108		HOPKINS #66	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213346		4708524438		108		HOPKINS #67	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213347		4708524439		108		HOPKINS #68	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213348		4708524440		108		HOPKINS #69	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213349		4708524441		108		HOPKINS #70	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213350		4708524442		108		HOPKINS #71	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213351		4708524443		108		HOPKINS #72	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213352		4708524444		108		HOPKINS #73	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213353		4708524445		108		HOPKINS #74	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213354		4708524446		108		HOPKINS #75	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213355		4708524447		108		HOPKINS #76	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213356		4708524448		108		HOPKINS #77	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213357		4708524449		108		HOPKINS #78	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213358		4708524450		108		HOPKINS #79	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213359		4708524451		108		HOPKINS #80	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213360		4708524452		108		HOPKINS #81	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213361		4708524453		108		HOPKINS #82	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213362		4708524454		108		HOPKINS #83	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213363		4708524455		108		HOPKINS #84	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213364		4708524456		108		HOPKINS #85	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213365		4708524457		108		HOPKINS #86	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213366		4708524458		108		HOPKINS #87	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213367		4708524459		108		HOPKINS #88	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213368		4708524460		108		HOPKINS #89	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213369		4708524461		108		HOPKINS #90	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213370		4708524462		108		HOPKINS #91	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213371		4708524463		108		HOPKINS #92	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213372		4708524464		108		HOPKINS #93	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213373		4708524465		108		HOPKINS #94	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213374		4708524466		108		HOPKINS #95	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213375		4708524467		108		HOPKINS #96	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213376		4708524468		108		HOPKINS #97	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213377		4708524469		108		HOPKINS #98	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213378		4708524470		108		HOPKINS #99	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213379		4708524471		108		HOPKINS #100	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213380		4708524472		108		HOPKINS #101	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213381		4708524473		108		HOPKINS #102	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213382		4708524474		108		HOPKINS #103	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213383		4708524475		108		HOPKINS #104	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213384		4708524476		108		HOPKINS #105	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213385		4708524477		108		HOPKINS #106	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213386		4708524478		108		HOPKINS #107	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213387		4708524479		108		HOPKINS #108	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213388		4708524480		108		HOPKINS #109	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213389		4708524481		108		HOPKINS #110	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213390		4708524482		108		HOPKINS #111	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213391		4708524483		108		HOPKINS #112	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213392		4708524484		108		HOPKINS #113	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213393		4708524485		108		HOPKINS #114	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213394		4708524486		108		HOPKINS #115	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213395		4708524487		108		HOPKINS #116	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213396		4708524488		108		HOPKINS #117	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213397		4708524489		108		HOPKINS #118	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213398		4708524490		108		HOPKINS #119	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213399		4708524491		108		HOPKINS #120	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			
8213400		4708524492		108		HOPKINS #121	MURPHY DISTRICT	3.5	CONSOLIDATED GAS
-HOPCO INC				RECEIVED:	12/30/81	JA: WV			

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HUNTINGTON OIL & GAS				RECEIVED:	01/04/82	JA: WV			
8213312		4708523080		108		HARDBARGER #1	UNION	6.5	CARNEGIE NATURAL
8213310		4708522981		108		HARDBARGER #2	UNION	15.0	CARNEGIE NATURAL
8213313		4708523091		108		HARDBARGER #3	UNION	5.5	CARNEGIE NATURAL
8213309		4708522942		108		RADCLIFF 106 ACRE	UNION	4.0	CARNEGIE NATURAL
8213308		4708522930		108		RADCLIFF 32 ACRE #1	UNION	2.3	CARNEGIE NATURAL
8213311		4708522983		108		RADCLIFF 32 ACRE #2	UNION	2.3	CARNEGIE NATURAL
-J & J ENTERPRISES INC				RECEIVED:	01/04/82	JA: WV			
8213338		4701722945		103		J-32	NEW MILTON	30.0	CONSOLIDATED GAS
8213337		4701722946		103		J-33	NEW MILTON	30.0	CONSOLIDATED GAS
8213339		4703322174		108		J-59 (5-551-#1)	SARDIS	0.0	CONSOLIDATED GAS
-M STANLEY GAS CO				RECEIVED:	12/30/81	JA: WV			
8213274		4708524478		108		M STANLEY H-923	GRANT DISTRICT	4.0	CONSOLIDATED GAS
-MID-EASTERN GAS CO INC				RECEIVED:	01/04/82	JA: WV			
8213321		4704920696		108		A J TALKINGTON #1976	GRANT TOWN PAW PAW	0.0	OWENS ILLINOIS GL
8213322		4704920697		108		F J TOOTHMAN #1251	MANNINGTON	7.2	OWENS ILLINOIS GL
8213320		4704920695		108		ROBERT DAVIS #2050	PAW-PAW	7.2	OWENS ILLINOIS GL
-MOUNTAINEER 1979-B				RECEIVED:	12/30/81	JA: WV			
8213248		4708524479		107-DV		ANDERSON-VANCAMPEN H-519	CLAY DISTRICT	35.0	CONSOLIDATED GAS
8213241		4708524482		107-DV		ANDERSON-VANCAMPEN H-924	CLAY DISTRICT	33.0	CONSOLIDATED GAS
-MOUNTAINEER 79-A				RECEIVED:	12/30/81	JA: WV			
8213251		4708524411		107-DV		VANCAMPEN H-879	CLAY DISTRICT	35.0	CONSOLIDATED GAS
-OCTAGON PETROLEUM CORP				RECEIVED:	12/30/81	JA: WV			
8213262		4709500892		103		MELVIN WILEY H-843	CENTERVILLE	30.0	INDUSTRIAL ENERGY
8213261		4709500893		103		O K HESS H-977	CENTERVILLE	30.0	INDUSTRIAL ENERGY
8213260		4709500894		103		O K HESS H-978	CENTERVILLE	30.0	INDUSTRIAL ENERGY
-R & R ASSOCIATES LTD				RECEIVED:	12/30/81	JA: WV			
8213275		4708524368		108		D BETTS H-813	UNION DISTRICT	5.5	CARNEGIE NATURAL
8213276		4708524369		108		D BETTS H-814	UNION DISTRICT	5.5	CARNEGIE NATURAL
8213277		4708524370		108		D BETTS H-815	UNION DISTRICT	5.5	CARNEGIE NATURAL
8213278		4708524371		108		D BETTS H-816	UNION DISTRICT	5.5	CARNEGIE NATURAL
8213266		4708524349		108		DEWILSON LAW H-795	UNION DISTRICT	1.8	CONSOLIDATED GAS
8213267		4708524350		108		DEWILSON LAW H-796	UNION DISTRICT	1.8	CONSOLIDATED GAS
8213268		4708524362		108		L S KEITH H-635	UNION DISTRICT	10.0	CONSOLIDATED GAS
8213264		4708524347		108		THOMAS DUERR H-793	UNION DISTRICT	4.0	CONSOLIDATED GAS
8213265		4708524348		108		THOMAS DUERR H-794	UNION DISTRICT	4.0	CONSOLIDATED GAS
-RAINBOW 1 2 & 3-1979				RECEIVED:	12/30/81	JA: WV			
8213243		4708524519		103		CLIFF WILSON H-930	CLAY DISTRICT	30.0	CONSOLIDATED GAS
8213248		4701722640		103		HENRY STAARMAN H-971	COVE DISTRICT	30.0	CONSOLIDATED GAS
-RAINBOW 4 5 & 6-1980				RECEIVED:	12/30/81	JA: WV			
8213249		4701722641		103		HENRY STAARMAN H-972	COVE DISTRICT	30.0	CONSOLIDATED GAS
8213250		4701722642		103		HENRY STAARMAN H-973	COVE DISTRICT	30.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	01/04/82	JA: WV			
8213324		4705920954		107-DV		C-2	HARDEE	30.0	COLUMBIA GAS TRAN
8213306		4708320448		102-4		J M HUBER #72	MIDDLE FORK	0.8	EQUITABLE GAS CO
-SWIFT ENERGY CO				RECEIVED:	01/04/82	JA: WV			
8213318		4702123785		103		MICK #1-A	GLENVILLE NORTH	50.0	
-UNION DRILLING INC				RECEIVED:	01/04/82	JA: WV			
8213327		4708320412		103		FLOYD WILSON #1 - 1653	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8213330		4709722175		103		GORE CORP #2 - 1619	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8213334		4709722191		103		HARPER-MEARNS #1 - 1635	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8213331		4709722225		103		JAMES E BENNETT #1 - 1639	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8213307		4709722192		103		LOUISE T JEFFRIES #2 - 1636	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213332		4709722220		103		PASCHAL BRAKE #1 - 1644	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8213329		4709722161		103		W H ASPINALL #3 - 1648	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8213328		4709722152		103		WARREN HOSAFLOOK #1 - 1620	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8213333		4709722190		103		WILSON HARPER #1 1652	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
-WARREN ASSOCIATES INC				RECEIVED:	12/30/81	JA: WV			
8213271		4708524410		108		CHESTER LEMON H-860	MURPHY DISTRICT	6.0	CONSOLIDATED GAS
8213270		4708524401		108		CHESTER LEMON H-861	MURPHY DISTRICT	6.0	CONSOLIDATED GAS
8213273		4708524466		108		CHESTER LEMON H-863	MURPHY DISTRICT	6.0	CONSOLIDATED GAS
8213272		4708524469		108		LEMON H-859	MURPHY DISTRICT	6.0	CONSOLIDATED GAS
-WARREN R HAUGHT AGENT				RECEIVED:	12/30/81	JA: WV			
8213268		4708525136		107-DV		BUNNER-GARRISON H-1250	GRANT DISTRICT	18.0	CONSOLIDATED GAS
8213269		4708524367		108		VIRGIL WILSON H-792	UNION DISTRICT	8.0	CONSOLIDATED GAS
-WARREN R HAUGHT AGENT				RECEIVED:	01/04/82	JA: WV			
8213298		4708524909		107-DV		LUCY BOESHAR H-1083	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213325		4708524909		103		LUCY BOESHAR H-1083	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213299		4708524910		107-DV		LUCY BOESHAR H-1084	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213300		4708524911		107-DV		LUCY BOESHAR H-1085	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213301		4708524915		107-DV		LUCY BOESHAR H-1091	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213326		4708524915		103		LUCY BOESHAR H-1091	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213314		4708524916		107-DV		LUCY BOESHAR H-1092	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213315		4708524917		107-DV		LUCY BOESHAR H-1093	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213323		4708524917		103		LUCY BOESHAR H-1093	GRANT DISTRICT	8.0	CONSOLIDATED GAS
8213297		4708524918		107-DV		LUCY BOESHAR H-1094	GRANT DISTRICT	8.0	CONSOLIDATED GAS
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** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM									
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-A&A OPERATING CO INC				RECEIVED:	01/05/82	JA: NM 4			
8213421	NM-1558-81	3004520317		108		FEDERAL M #1	MESAVERDE	13.0	EL PASO NATURAL G
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	01/05/82	JA: NM 4			
8213520	NM-1658-81	3002527355		103		JUSTIS B FEDERAL #1	LANGLIE MATTIX	70.0	EL PASO NATURAL G
-AMERADA HESS CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213411	NM-1483-81	3002504289		108		H W ANDREWS #9	EUNONT	6.6	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	01/05/82	JA: NM 4			
8213392	NM-1380-81	3004523990		103		J F DAY B #1E	BLOOMFIELD-CHACRA	30.0	SOUTERN UNION GAT
8213479	NM 1612-81	3004524372		103		JACK FROST B #2E (DAKOTA)	BASIN-DAKOTA	236.0	EL PASO NATURAL G
8213439	NM-1607-81	3004524372		103		JACK FROST B #2E (GALLUP)	ANGELS PEAK-GALLUP	65.0	EL PASO NATURAL G
8213461	NM-0792-81	3003906084		108		JICARILLA CONTRACT 146 #4 (2ND)	SOUTH BLANCO	21.0	NORTHWEST PIPE LI
8213469	NM-1302-81	3004521715		108		VAN HOOK FEDERAL #1 (2ND)	BLANCO-PICTURED CLIFF	22.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/05/82	JA: NM 4			
8213500	NM-1536-81	3002527265		103		R S CROSBY A #4	LANGLIE MATTIX (7 R Q	12.0	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	01/05/82	JA: NM 4			
8213412	NM-1484-81	3004523484		107-TF		NORTHEAST BLANCO UNIT #202	SOUTH LOS PINOS FRUIT	200.0	EL PASO NATURAL G
8213410	NM-1482-81	3004523485		107-TF		NORTHEAST BLANCO UNIT #203	SOUTH LOS PINOS FRUIT	100.0	EL PASO NATURAL G
8213413	NM 1485-81	3004523601		107-TF		NORTHEAST BLANCO UNIT #205	SOUTH LOS PINOS FRUIT	50.0	EL PASO NATURAL G
-BRAZOS PETROLEUM CO				RECEIVED:	01/05/82	JA: NM 4			
8213476	NM-1575-81	3002527437		103		FERDERBER FEDERAL COM #2	SAWYER (SAN ANDRES)	180.0	WARREN PETROLEUM
-CHEVRON U S A INC				RECEIVED:	01/05/82	JA: NM 4			
8213477	NM-1605-81	3002527120		103		MALJAMAR (GRAYBURG) UNIT 78	MALJAMAR (GRAYBURG)	3.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	01/05/82	JA: NM 4			
8213503	NM-1641-81	3003905343		108		AXI APACHE D #2	AXI APACHE AREA-BALLA	17.1	EL PASO NATURAL G
8213504	NM-1642-81	3003921041		108		AXI APACHE F #6	AXI APACHE AREA-BALLA	19.4	GAS CO OF NEW MEX
8213509	NM-1647-81	3002506496		108		HAWK B-3 #19	NMFU - BLINEBRY	7.7	GETTY OIL CO
8213505	NM-1643-81	3003920422		108		JICARILLA 28 #12	WEST LINDRETH GALLUP	10.6	EL PASO NATURAL G

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8213506	NM-1644-81	3003920136		108		JICARILLA 28 #4	WEST LINDRETH GALLUP	7.4	EL PASO NATURAL G
8213507	NM-1645-81	3002504852		108		LOCKHART B-31 #4	NMFU-JALMAT YATES GAS	15.6	EL PASO NATURAL G
8213510	NM-7648-81	3002509427		108		LYNN B-1 #3	NMFU - JALMAT YATES G	16.0	EL PASO NATURAL G
8213508	NM-1646-81	3002509428		108		LYNN B-1 #4	NMFU - JALMAT YATES	7.2	EL PASO NATURAL G
8213501	NM-1639-81	3002509420		108		LYNN B-25 #1	NMFU-JALMAT YATES GAS	16.8	EL PASO NATURAL G
8213502	NM-1640-81	3001505891		108		RUSSELL 35 FEDERAL #2	NORTH MASON DELAWARE	5.8	PHILLIPS PETROLEU
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213381	NM 0652-81	3003922217		103		APACHE #26	S BLANCO	47.0	NORTHWEST PIPELIN
-DAVID FASKEN				RECEIVED:	01/05/82	JA: NM 4			
8213475	NM-1608-81	3001521748		103		MARALO FEDERAL #2	AVALON (MORROW)	219.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	01/05/82	JA: NM 4			
8213495	NM-1631-81	3004524767		103		FEDERAL 29 #22	WEST KUTZ PICTURED CL	37.0	GAS CO OF NEW MEX
8213496	NM-1632-81	3004524768		103		FEDERAL 29 #23	WEST KUTZ PICTURED CL	86.0	GAS CO OF NEW MEX
8213486	NM 1620-81	3004524792		103		FEDERAL 29 #33	WEST KUTZ PICTURED CL	147.0	GAS CO OF NEW MEX
8213487	NM 1621-81	3004524997		103		FEDERAL 30 #11	WEST KUTZ PICTURED CL	0.0	GAS CO OF NEW MEX
8213491	NM-1625-81	3004524813		103		FEDERAL 30 #23	WEST KUTZ PICTURED CL	37.0	GAS CO OF NEW MEX
8213497	NM-1633-81	3004524769		103		FEDERAL 30 #41	WEST KUTZ PICTURED CL	142.0	GAS CO OF NEW MEX
8213498	NM-1634-81	3004524814		103		FEDERAL 30 #44	WEST KUTZ PICTURED CL	42.0	GAS CO OF NEW MEX
8213494	NM-1630-81	3004524793		103		FEDERAL 32 #21	WEST KUTZ PICTURED CL	191.0	GAS CO OF NEW MEX
8213488	NM 1622-81	3004524795		103		FEDERAL 33 #11	WEST KUTZ PICTURED CL	51.0	GAS CO OF NEW MEX
8213490	NM-1624-81	3004524978		103		FEDERAL 33 #24	WEST KUTZ PICTURED CL	43.8	GAS CO OF NEW MEX
8213489	NM 1623-81	3004524794		103		FEDERAL 33 #31	WEST KUTZ PICTURED CL	43.8	GAS CO OF NEW MEX
8213492	NM-1626-81	3004524967		103		FEDERAL 33 #44	WEST KUTZ PICTURED CL	43.8	GAS CO OF NEW MEX
8213482	NM-1615-81	3003906574		108		MKL #12	S BLANCO - PICTURED C	19.3	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED:	01/05/82	JA: NM 4			
8213493	NM-1627-81	3004524797		103		REDFERN #7	UNDESIGNATED FARMINGT	18.0	EL PASO NATURAL G
8213396	NM-1436-81	3004524560		103		SIXTEEN O'S #3	BISTI LOWER GALLUP	15.0	NORTHWEST PIPELIN
-EL PASO EXPLORATION CO				RECEIVED:	01/05/82	JA: NM 4			
8213373	NM-0029-81-P	3003906725		108		JICARILLA 119 N #12	TAPACITO-PICTURED CLI	20.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/30/81	JA: NM 4			
8213280	NM 0734-81	3003906786		108		SAN JUAN 27-5 UNIT #35 PC & MV	SOUTH BLANCO PICTURED	18.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/05/82	JA: NM 4			
8213499	NM-1635-81	3004524859		103		ALLISON UNIT #44	BLANCO MESAVERDE	200.0	EL PASO NATURAL G
8213473	NM-1473-81	3003982340		108		CANYON LARGO UNIT #107	OTERO-CHACRA GAS	21.0	EL PASO NATURAL G
8213462	NM-0825-81	3003920073		108		CANYON LARGO UNIT #137 PC & CH	BLANCO SOUTH-PICTURED	20.0	EL PASO NATURAL G
8213379	NM-0087-81	3003920766		108		CANYON LARGO UNIT #219	BALLARD PICTURED CLIF	13.0	EL PASO NATURAL G
8213383	NM-0823-81	3003920900		108		CANYON LARGO UNIT #244	BALLARD-PICTURED CLIF	20.0	EL PASO NATURAL G
8213398	NM-1456-81	3003905867		108		CANYON LARGO UNIT #56	BALLARD-PICTURED CLIF	22.0	EL PASO NATURAL G
8213523	NM-1665-81	3004521140		108		CASE #17	BLANCO PICTURED CLIFF	20.0	EL PASO NATURAL G
8213522	NM-1663-81	3004520864		108		DAUM #8	AZTEC - PICTURED CLIF	14.0	EL PASO NATURAL G
8213463	NM-0838-81	3004520444		108		DRYDEN #5	SOUTH BLANCO-PICTURED	20.0	EL PASO NATURAL G
8213399	NM-1459-81	3004523563		108		FEUILLE A #1R	AZTEC-PICTURED CLIFFS	16.0	EL PASO NATURAL G
8213405	NM-1472-81	3004500000		108		FLORANCE C #9	BASIN-DAKOTA	20.0	EL PASO NATURAL G
8213386	NM-1072-81	3004509442		108		GRAMBLING C #2	BLANCO-MESAVERDE	20.0	EL PASO NATURAL G
8213402	NM-1467-81	3003906851		108		HARRINGTON #2	SOUTH BLANCO-PICTURED	22.0	EL PASO NATURAL G
8213403	NM-1468-81	3004506030		108		HUERFANITO UNIT #24	BALLARD-PICTURED CLIF	22.0	EL PASO NATURAL G
8213471	NM-1457-81	3004521191		108		JONES #4	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
8213387	NM-1090-81	3003920651		108		KLEIN #20	OTERO-CHACRA	22.0	EL PASO NATURAL G
8213407	NM-1477-81	3004500000		108		LODEWICK #6	FULCHER KUTZ-PICTURED	20.0	EL PASO NATURAL G
8213468	NM-1297-81	3004506418		108		LODEWICK #9	BASIN DAKOTA	16.0	EL PASO NATURAL G
8213404	NM-1471-81	3004522727		108		LUCERNE A #8	BLANCO-PICTURED CLIFF	20.0	EL PASO NATURAL G
8213406	NM-1474-81	3045056960		108		MCCONNELL #6	BALLARD-PICTURED CLIF	18.0	EL PASO NATURAL G
8213467	NM-1289-81	3004510764		108		MUDGE #12	BLANCO MESAVERDE	19.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8213459	NM-0629-81	3004513208		108		MUDGE #20
8213401	NM-1466-81	3003906927		108		RINCON UNIT #16
8213397	NM-1442-81	3003922642		103		RINCON UNIT #238
8213384	NM-0843-81	3004521263		108		RUSSELL #9
8213458	NM0035-81PB	3003920383		108-PB		S J 27-4 UNIT #57
8213375	NM0630-81	3003920127		108		SAN JUAN 27-4 UNIT #47
8213385	NM-0865-81	3003920723		108		SAN JUAN 27-4 UNIT #69
8213451	NM0966-81	3003920955		108-PB		SAN JUAN 27-4 UNIT #90
8213426	NM-1590-81-B	3003922224		103		SAN JUAN 27-5 UNIT #59M
8213427	NM 1591-81-A	3003922640		103		SAN JUAN 27-5 UNIT #98E
8213428	NM1591-81-B	3003922640		103		SAN JUAN 27-5 UNIT #98E
8213454	NM0041-81-PB	3003920175		108-PB		SAN JUAN 28-4 UNIT #33
8213465	NM-1085-81	3003920574		108		SAN JUAN 28-6 UNIT #130
8213470	NM-1336-81	3003907452		108		SAN JUAN 28-6 UNIT #15
8213460	NM-0666-81	3003920607		108		SAN JUAN 28-6 UNIT #178
8213425	NM 1589-81	3003922761		103		SAN JUAN 28-6 UNIT #223
8213456	NM0043-81-PB	3003907145		108-PB		SAN JUAN 28-6 UNIT #66 PC & MV
8213464	NM-1067-81	3003907449		108		SAN JUAN 28-7 UNIT #21
8213400	NM-1462-81	3003907425		108		SAN JUAN 28-7 UNIT #24
8213457	NM0044-81-PB	3003907886		108-PB		SAN JUAN 30-6 UNIT #36
8213440	NM-1609-81	3003907876		108		SAN JUAN 30-6 UNIT #40X
8213472	NM-1465-81	3004521819		108		SCOTT #8
8213455	NM0042B1PB	3003920723		108-PB		SJ 27-4 UNIT #69 S/11352-01
8213449	NM0034-81PB	3003920176		108-PB		SJ 28-4 UNIT #32
8213452	NM0039-81PB	3003907130		108-PB		SJ 28-6 UNIT #80 MV & PC
8213453	NM0040-81-PB	3003907902		108-PB		SJ 30-4 UNIT #23
8213374	NM0614-81	3003922081		108		VALDEZ #4
-ENERGY RESERVES GROUP INC				RECEIVED:	01/05/82	JA: NM 4
8213480	NM-1613-81	3004523653		108		GALLEGOS CANYON UNIT P C #282
8213430	NM1593-81	3004507420		108		GALLEGOS CANYON UNIT PC #21
8213436	NM 1602-81	3004522238		108		GALLEGOS CANYON UNIT PC #273
8213431	NM-1595-81	3004522236		108		GALLEGOS CANYON UNIT PC #276
8213438	NM 1604-81	3004507268		108		GALLEGOS CANYON UNIT PC #33
8213435	NM 1600-81	3004507293		108		GALLEGOS CANYON UNIT PC #35
8213434	NM-1599-81	3004507330		108		GALLEGOS CANYON UNIT PC #36
8213432	NM-1597-81	3004507557		108		GALLEGOS CANYON UNIT PC #42
8213429	NM-1592-81	3004506920		108		GALLEGOS CANYON UNIT PC #62
8213433	NM-1598-81	3004506837		108		GALLEGOS CANYON UNIT PC #64
8213437	NM 1603-81	3004506938		108		GALLEGOS CANYON UNIT PC #80
8213484	NM-1617-81	3003921304		108		JICARILLA 35 #3
8213485	NM-1618-81	3003921301		108		JICARILLA 35 #4
-ENSERCH EXPLORATION INC				RECEIVED:	01/05/82	JA: OK 4
8213521	NM-1659-81	3593223170		103		PAUL EARLY A FEDERAL #1
-ESTORIL PRODUCING CORP				RECEIVED:	01/05/82	JA: NM 4
8213445	NM 1779-80	3002526675		102-4		UNION FEDERAL #1-A NM 14799
-GRACE PETROLEUM CORPORATION				RECEIVED:	01/05/82	JA: NM 4
8213466	NM 1217-81	3003922335		103		FEDERAL 1-1
8213388	NM-1216-81	3003922324		103		FEDERAL 12-1
8213391	NM-1356-81	3003922263		103		MESA A-3
-GULF OIL CORPORATION				RECEIVED:	01/05/82	JA: NM 4
8213416	NM 1511-81	3004524550		103		SCOTT E FEDERAL COM #16
8213415	NM 1510-81	3004524569		103		SCOTT E FEDERAL COM #18
8213414	NM 1509-81	3004524567		103		SCOTT E FEDERAL COM #19

FIELD NAME	PROD	PURCHASER
BASIN - DAKOTA	19.0	EL PASO NATURAL G
SOUTH BLANCO-PICTURED	22.0	EL PASO NATURAL G
LARGO CHACRA	10.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	19.0	EL PASO NATURAL G
BASIN-DAKOTA GAS	20.0	EL PASO NATURAL G
BASIN-DAKOTA	16.0	EL PASO NATURAL G
BASIN DAKOTA	16.0	EL PASO NATURAL G
TAPACITO PICTURED CLI	20.0	EL PASO NATURAL G
BLANCO MESAVERDE	160.0	EL PASO NATURAL G
BASIN DAKOTA	50.0	EL PASO NATURAL G
BLANCO MESAVERDE	160.0	EL PASO NATURAL G
BASIN - DAKOTA	6.0	EL PASO NATURAL G
BASIN - DAKOTA	20.0	EL PASO NATURAL G
BLANCO - MESAVERDE	15.0	EL PASO NATURAL G
BLANCO SOUTH - PICTUR	22.0	EL PASO NATURAL G
UNDESIGNATED PICTURED	80.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	23.0	EL PASO NATURAL G
BLANCO - MESAVERDE	20.0	EL PASO NATURAL G
BLANCO-MESA VERDE	13.0	EL PASO NATURAL G
BLANCO-MESAVERDE	17.0	EL PASO NATURAL G
BLANCO-MESAVERDE GAS	16.0	EL PASO NATURAL G
BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
BASIN DAKOTA	0.0	EL PASO NATURAL G
BASIN-DAKOTA GAS	8.4	EL PASO NATURAL G
BLANCO-MESAVERDE AND	23.0	EL PASO NATURAL G
BLANCO EAST-PICTURED	14.6	EL PASO NATURAL G
CHOZA MESA PICTURED C	18.0	EL PASO NATURAL G
KUTZ WEST PICTURED CL	12.2	EL PASO NATURAL G
KUTZ WEST PICTURED CL	8.3	EL PASO NATURAL G
KUTZ WEST PICTURED CL	15.9	EL PASO NATURAL G
KUTZ WEST PICTURED CL	20.3	EL PASO NATURAL G
KUTZ WEST PICTURED CL	13.6	EL PASO NATURAL G
KUTZ WEST PICTURED CL	9.4	EL PASO NATURAL G
KUTZ WEST PICTURED CL	5.6	EL PASO NATURAL G
KUTZ WEST PICTURED CL	7.2	EL PASO NATURAL G
KUTZ WEST PICTURED CL	11.2	EL PASO NATURAL G
KUTZ WEST PICTURED CL	6.7	EL PASO NATURAL G
KUTZ WEST PICTURED CL	6.7	EL PASO NATURAL G
OTERO CHACRA AND SOUT	15.6	NORTHWEST PIPELIN
OTERO CHACRA AND SOUT	17.3	NORTHWEST PIPELIN
WILDCAT	105.0	
LEA (PENN)	91.2	LLANO INC
LYBROOK (GALLUP)	0.0	GAS CO OF NEW MEX
LYBROOK (GALLUP)	0.0	GAS CO OF NEW MEX
ESCRITO (GALLUP)	0.0	GAS CO OF NEW MEX
WEST KUTZ PICTURED CL	0.0	GAS CO OF NEW MEX
WEST KUTZ PICTURED CL	0.0	GAS CO OF NEW MEX
WEST KUTZ PICTURED CL	0.0	GAS CO OF NEW MEX

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HARVEY E YATES COMPANY				RECEIVED:	01/05/82	JA: NM 4			
8213377	NM-0056-81	3002526815		102-4		YOUNG DEEP UNIT #1	WILDCAT	120.0	
8213378	NM-0057-81	3002527121		102-4		YOUNG DEEP UNIT #2	UND BONE SPRINGS	120.0	
-M J BRANNON				RECEIVED:	01/05/82	JA: NM 4			
8213519	NM-1657-81	3004525012		103		FEDERAL 20 #1-R	BASIN DAKOTA	175.0	EL PASO NATURAL G
8213518	NM-1656-81	3004525052		103		FEDERAL 29 #1	BASIN DAKOTA	175.0	EL PASO NATURAL G
-MONSANTO COMPANY				RECEIVED:	01/05/82	JA: NM 4			
8213424	NM 1588-81	3002527051		103		BACK BASIN UNIT #1	ANTELOPE RIDGE ATOKA	182.0	COLORADO INTERSTA
8213446	NM0002-81-SA	3004509408		108-SA		VIERSON FEDERAL #1	BASIN DAKOTA	16.0	EL PASO NATURAL G
-MESA PETROLEUM CORP				RECEIVED:	01/05/82	JA: NM 4			
8213515	NM-165381107	3000560970		107-TF		BARN FEDERAL #4	UNDESIGNATED ABO	30.0	TRANSWESTERN PIPE
8213514	NM 1652-81	3000560791		107-TF		BEDFORD FEDERAL #2	UNDESIGNATED ABO	30.0	TRANSWESTERN PIPE
8213516	NM-165481107	3000560677		107-TF		ROCK FEDERAL #3	UNDESIGNATED ABO	170.0	TRANSWESTERN PIPE
-MTS LTD PARTNERSHIP				RECEIVED:	01/05/82	JA: NM 4			
8213441	NM 1610-81	3004524844		103		SOUTH BLANCO FEDERAL 26 #1	LYBROOK GALLUP EXT	44.0	GAS CO OF NEW MEX
8213517	NM-1655-81	3004525098		103		SOUTH BLANCO NAVAJO 25 #2	LYBROOK GALLUP EXT	37.0	GAS CO OF NEW MEX
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213395	NM-1424-81-B	3003922484		103		SAN JUAN 29-5 #101	GOBERNADOR PICTURED C	23.0	NORTHWEST PIPELIN
8213394	NM-1424-81A	3003922484		103		SAN JUAN 29-5 #101 MV	BLANCO MESAVERDE	101.0	NORTHWEST PIPELIN
8213456	NM0048-81PB	3003907567		108-PB		SAN JUAN 29-5 #16	BLANCO MESAVERDE	22.0	EL PASO NATURAL G
8213376	NM0768-81	3004521289		108		SAN JUAN 32-7 #32	BLANCO MESAVERDE	18.0	EL PASO NATURAL G
-OKLAHOMA OIL COMPANY				RECEIVED:	01/05/82	JA: NM 4			
8213408	NM 1479-81-A	3004500000		103		NICKLES #1-M (SEC 11-31-13W)	BLANCO MESA VERDE	100.0	EL PASO NATURAL G
8213409	NM 1479-81-B	3004524076		103		NICKLES #1-M (SEC 11-31N-13W)	BASIN DAKOTA	100.0	EL PASO NATURAL G
-PERRY R BASS				RECEIVED:	01/05/82	JA: NM 4			
8213513	NM 1650-81	3001523629		102-4		BIG EDDY UNIT #85	GOLDEN LANE (MORROW)	182.5	NATURAL GAS PIPEL
-PETRO-LEWIS CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213417	NM-1514-81	3003906178		108		FLORANCE #2	TAPACITO	16.5	EL PASO NATURAL G
8213418	NM-1515-81	3003906137		108		FLORANCE #4	TAPACITO	7.1	EL PASO NATURAL G
-PIONEER PRODUCTION CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213390	NM-1324-81	3004524773		103		DUSTIN #1-E	CHACRA (UNDESIGNATED)	0.0	PIONEER NATURAL G
-SHELL OIL CO				RECEIVED:	01/05/82	JA: NM 4			
8213382	NM-0737-81	3000520119		108		BROWN A FEDERAL #1	CATO SAN ANDRES	2.4	CITIES SERVICE CO
-SOUTHLAND ROYALTY CO				RECEIVED:	01/05/82	JA: NM 4			
8213447	NM0018-81-ER	3004513041		108-ER		A D HUDSON #5	BASIN DAKOTA	0.1	SOUTHERN UNION GA
8213474	NM 1513-81	3001523690		103		DALE H PARKE A TR 1 #11	GRAYBURG-JACKSON	10.0	CONTINENTAL OIL C
8213419	NM 1536-81	3001523557		103		DALE H PARKE C #1	GRAYBURG-JACKSON	10.0	CONTINENTAL OIL C
8213442	NM 1611-81	3001523708		103		F M ROBINSON B TR 2 #2	GRAYBURG-JACKSON	4.3	PHILLIPS PETROLEU
8213511	NM-1649-81-A	3004524996		103		FEDERAL #12-14	BASIN	51.0	EL PASO NATURAL G
8213512	NM-1649-81-B	3004524996		103		FEDERAL #12-14	GALLEGOS	23.0	EL PASO NATURAL G
8213448	NM0019-81ER	3004506644		108-ER		WHITLEY 7	BASIN	12.0	SOUTHERN UNION GA
-SUPERIOR OIL CO				RECEIVED:	01/05/82	JA: NM 4			
8213388	NM 1523-81	3002526844		102-3		TRISTE DRAW FED #1	TRISTE DRAW	0.0	
-SUPRON ENERGY CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213475	NM 1566-81	3004524998		103		RICHARDSON #5	BASIN DAKOTA	480.0	EL PASO NATURAL G
-THELMA FORD SIMMONS				RECEIVED:	01/05/82	JA: NM 4			
8213423	NM-1585-81	3004524771		103		SIMMONS E # 3 R	BLANCO MESAVERDE	192.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	01/05/82	JA: NM 4			
8213422	NM 1582-81	3001523643		103		FEDERAL AB #9	PENASCO DRAW SA-YESO	0.0	TRANSWESTERN PIPE
8213483	NM-1616-81	3004525087		103		KINBETO RG FEDERAL #1	UNDES GALLUP	0.0	
8213444	NM-1777-80	3000560666		102-4		LONG ARROYO MD FED #1	WILDCAT	0.0	TRANSWESTERN PIPE
8213443	NM 1773-80	3001522908		102-4		SUPERIOR "KJ" FEDERAL COM #1	WILDCAT	0.0	TRANSWESTERN PIPE
-HARPER OIL COMPANY				RECEIVED:	01/05/82	JA: OK 4			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8213393	OKA-1400-81	3501520993		107-DP		CHAORISTAH #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/05/82	JA: OK 4
8213420	VA-1541-81	3513700000		108		DOYLE #10-05
-R E YARBROUGH				RECEIVED:	01/05/82	JA: OK 4
8213481	OK-1614-81	3503320521		102-2		PAHKEKUMAH #1
-SUPERIOR OIL CO				RECEIVED:	01/05/82	JA: UT 4
8213389	UA-1282-81	4303730662		103		MCELMO CREEK UNIT 0-21

FIELD NAME	PROD	PURCHASER
WILDCAT	365.0	EL PASO NATURAL G
DOYLE	0.0	AMINOIL USA INC
WEST DUNCAN	73.0	NATURAL GAS OPERA
GREATER ANETH	0.0	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :586

8213285 BROOKLYN UNION GAS CO
8213286 BROOKLYN UNION GAS CO
8213292 BROOKLYN UNION GAS CO
8213304 BROOKLYN UNION GAS CO
8213355 UNITED GAS PL CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by February 19, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2948 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 587]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 29, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AURELIUS GAS CO INC				RECEIVED:	01/06/82	JA: NY			
8213720	2095	3101115962	103			AUGUST AND JOSEPH STAEHR #3	WEST AUBURN	40.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/06/82	JA: NY			
8213570	2102	3101316218	103			NYS REF #10-#7	GERRY	25.0	COLUMBIA GAS TRAN
-BORALDON & CO				RECEIVED:	01/06/82	JA: NY			
8213716	2075	3101312045	108			PLANK #1 20	LAKESHORE	9.9	NATIONAL FUEL GAS
8213573	2076	3101311612	108			WHITE INN #1 21	LAKESHORE	9.9	NATIONAL FUEL GAS
-EBENEZER OIL CO INC				RECEIVED:	01/06/82	JA: NY			
8213560	1228	3100314694	108			HOYT #1-31-003 14664	BOLIVAR	0.0	NATIONAL FUEL GAS
8213559	1469	3100314858	108			HOYT #2-31-00314858	BOLIVAR	1.5	NATL FUEL GAS
8213562	1230	3100314897	108			HOYT #3-31-003-14897	BOLIVAR	1.5	NATL FUEL GAS
8213561	1229	3100315055	108			HOYT #4 31-003-15055	BOLIVAR	1.5	NATL FUEL GAS
8213564	1231	3100315311	108			HOYT #5 31-003-15311	BOLIVAR	1.5	NATL FUEL GAS
8213563	1232	3100315444	108			HOYT #6 31-003-15444	BOLIVAR	1.5	NATL FUEL GAS
8213566	1233	3100315508	108			HOYT #7-31-003-15508	BOLIVAR	1.5	NATL FUEL GAS
8213565	1959	3100315562	108			HOYT #8 31-003-15562	BOLIVAR	1.5	NATL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	01/06/82	JA: NY			
8213549	2086	3101314395	108			BESCH II #3126	LAKE SHORE	9.1	NATIONAL FUEL GAS
8213558	2085	3101314390	108			FERRO #3 #3120	LAKE SHORE	7.4	NATIONAL GAS FUEL
8213547	2083	3101314387	108			FERRO ALLOY #3117	LAKE SHORE	11.2	NATIONAL FUEL GAS
8213548	2084	3101314389	108			FERRO II #3119	LAKE SHORE	8.2	NATIONAL FUEL GAS
8213554	1768	3101314345	108			FRANKS #1 #3111	LAKE SHORE	17.4	NATIONAL FUEL GAS
8213553	2059	3101314347	108			FRANKS III #3113	LAKE SHORE	9.9	NATIONAL FUEL GAS
8213551	1785	3101315000	103			LOWE #3164	LAKE SHORE	0.0	NATIONAL FUEL GAS
8213557	2090	3101314402	108			MASON #3133	LAKE SHORE	14.1	NATIONAL FUEL GAS
8213556	2061	3101314406	108			MEANEY II #3136	LAKE SHORE	10.0	NATIONAL FUEL GAS
8213575	2067	3101314330	103			THOMPSON #2 #3101	LAKE SHORE	25.8	NATIONAL FUEL GAS
8213544	2065	3101314338	108			THOMPSON #5 #3104	LAKE SHORE	9.9	NATIONAL FUEL GAS
8213552	1767	3101314614	108			THOMPSON IV #3103	LAKE SHORE	16.4	NATIONAL FUEL GAS
8213543	2064	3101314400	108			THOMPSON VII #3131	LAKE SHORE	10.6	NATIONAL FUEL GAS
8213555	2063	3101314481	108			THOMPSON VIII #3132	LAKE SHORE	7.5	NATIONAL FUEL GAS
8213545	2081	3101314391	108			WARNSHIUS #10 #3122	LAKE SHORE	8.1	NATIONAL FUEL GAS
8213542	1769	3101314340	108			WARNSHIUS #3106	LAKE SHORE	9.7	NATIONAL FUEL GAS
8213541	1420	3101314344	108			WARNSHIUS #5 #3110	LAKE SHORE	5.3	NATIONAL FUEL GAS
8213574	2069	3101314343	103			WARNSHIUS III #3109	LAKE SHORE	24.8	NATIONAL FUEL GAS
8213546	2082	3101314392	108			WARNSHIUS XI #3123	LAKE SHORE	10.0	NATIONAL FUEL GAS
8213550	2080	3101314393	108			WARNSHIUS XII #3124	LAKE SHORE	9.5	NATIONAL FUEL GAS
-ENERGY OIL INC				RECEIVED:	01/06/82	JA: NY			
8213567	1833	3103716085	103			FENTON #1	ALDEN-LANCASTER	20.0	NATIONAL FUEL GAS
-ESCOLARITE & CO				RECEIVED:	01/06/82	JA: NY			
8213718	2073	3101311984	108			JOY #1 17	LAKESHORE	9.9	NATIONAL FUEL GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213717	2074	3101311985		108		JOY #2 18	LAKESHORE	9.9	NATIONAL FUEL GAS
-KETCHURIAN & CO				RECEIVED:	01/06/82	JA: NY			
8213572	2077	3101312837		108		ST JOSEPH'S #1 23	LAKESHORE	9.9	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	01/06/82	JA: NY			
8213719	2043	3102916337		103		NORDBLUM #1	EVANS	15.0	NATIONAL FUEL SUP
-RESOURCE EXPLORATION INC				RECEIVED:	01/06/82	JA: NY			
8213576	2113	3101312122		108		B J CARPENTER ETAL #3	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8213723	2119	3101311865		108		B SCHRUISE ET AL #1	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8213725	2114	3101311797		108		COWELS #1	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8213722	2118	3101312124		108		D A & M C LYON #2	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8213726	2115	3101312434		108		G D COWLES #2	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8213727	2116	3101312435		108		G H COWLES #4	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8213724	2117	3101312123		108		S & C GLEASON #2	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
-SOBRIETTO & CO				RECEIVED:	01/06/82	JA: NY			
8213721	2072	3101312152		108		JOHN WALKER 16	LAKESHORE	9.9	NATIONAL FUEL GAS
-US ENERGY DEVELOPMENT CORP				RECEIVED:	01/06/82	JA: NY			
8213568	2034	3101314464		103		WESTFIELD FISH & GAME #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8213569	2032	3101315364		103		WESTFIELD FISH & GAME #3	LAKESHORE	20.0	COLUMBIA GAS TRAN
-21 WEST GREEN ST ASSOCIATES				RECEIVED:	01/06/82	JA: NY			
8213571	2078	3101313642		108		SWANSON 29	LAKESHORE	9.9	NATIONAL FUEL GAS
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OHIO DEPARTMENT OF NATURAL RESOURCES									
**********									
-AMERICAN EXPLORATION CO				RECEIVED:	01/06/82	JA: OH			
8213577		3415722620		108		C JOHN #1		10.0	LIBBEY OWENS FORD
-AMTEX OIL AND GAS INC				RECEIVED:	01/06/82	JA: OH			
8213579		3416922178		103	107-TF	EDNA WEAVER #1	SUGARCREEK	300.0	COLUMBIA GAS TRAN
8213578		3416922173		103	107-TF	H C & A H WENGERD #1	PAINT	300.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	01/06/82	JA: OH			
8213580		3416923039		103	107-TF	OPPLINGER #1	RITTMAN	12.0	
-BAY STATE EXPLORATION CO				RECEIVED:	01/06/82	JA: OH			
8213583		3416320499		103	107-TF	C & G GRAY #2	VINTON	36.0	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO. 78				RECEIVED:	01/06/82	JA: OH			
8213584		3401921416		103	107-TF	HENRICH #2 341072	BROWN	36.5	EAST OHIO GAS CO
8213586		3401921469		103	107-TF	JACOB #1 341117	BROWN	36.5	EAST OHIO GAS CO
8213585		3401921460		103	107-TF	M & M COY #1 341111	BROWN	36.5	EAST OHIO GAS CO
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/06/82	JA: OH			
8213589		3405923068		103	107-TF	H CONATI #1	WESTLAND	0.0	COLUMBIA GAS TRAN
8213590		3415521441		103	107-TF	O BOWDEN #1	MECCA	0.0	COLUMBIA GAS TRAN
-BILL BLAIR INCORPORATED				RECEIVED:	01/06/82	JA: OH			
8213591		3402920825		103	107-TF	MILLER #1	HOMEWORTH	14.0	EAST OHIO GAS CO
8213595		3402920862		103	107-TF	SMITH #1	HOMEWORTH	22.0	EAST OHIO GAS CO
8213592		3402920830		103	107-TF	STOFFER #1	HOMEWORTH	14.0	EAST OHIO GAS CO
8213593		3402920831		103	107-TF	STOFFER #2	HOMEWORTH	14.0	EAST OHIO GAS CO
8213594		3402920832		103	107-TF	STOFFER #3	HOMEWORTH	17.0	EAST OHIO GAS CO
-BKK PROSPECTING LTD				RECEIVED:	01/06/82	JA: OH			
8213581		3411119780		107-DV		EMERSON SMITH #3	WAYNE	30.0	COLUMBIA GAS TRAN
8213582		3412122330		107-DV		RALPH & RUTH BETTINGER #2	ELK	30.0	COLUMBIA GAS TRAN
-CARL E SMITH PETROLEUM INC				RECEIVED:	01/06/82	JA: OH			
8213702		3410522144		107-DV		ROBERT ELBERFELD #231	ORANGE	24.0	COLUMBIA GAS TRAN
-CLARENCE SHERMAN				RECEIVED:	01/06/82	JA: OH			
8213701		3415723633		103	107-TF	MABEL TROYER #1	RAGERSVILLE	20.0	EAST OHIO GAS CO
-CLAY COUNTY PRODUCTION CO INC				RECEIVED:	01/06/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213596		3412724506		108		EVANS #1		18.3	COLUMBIA GAS TRAN
8213597		3412724630		108		EVANS #3		17.0	COLUMBIA GAS TRAN
8213598		3412724723		108		LARGE #2		7.3	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED:	01/06/82	JA: OH			
8213599		3411521473		108		HANCHER #1		10.0	COLUMBIA GAS TRAN
8213600		3411521497		108		HANCHER #2		10.0	COLUMBIA GAS TRAN
8213601		3411923982		108		PHILLIP MILLER #1		10.0	NEWZANE GAS CO
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	01/06/82	JA: OH			
8213602		3405520318		103	107-TF	HESS #1	CLARIDON	15.0	EAST OHIO GAS CO
-CONSOLIDATED RESOURCES OF AMERICA				RECEIVED:	01/06/82	JA: OH			
8213603		3405922793		107-DV		MIRIAM L HAWES #1	CLAYSVILLE	10.0	EAST OHIO GAS CO
-DART OIL COMPANY				RECEIVED:	01/06/82	JA: OH			
8213604		3413320115		108		BASTEDO #1		8.9	EAST OHIO GAS CO
8213609		3413320330		108		BELLO #1		6.7	EAST OHIO GAS CO
8213617		3415722772		103		C MUTTI #1		4.1	VESCORP INDUSTRIE
8213607		3413320179		108		EARLEY #1		3.4	EAST OHIO GAS CO
8213616		3415722770		108		ELFVIN #1		13.1	VESCORP INDUSTRIE
8213611		3413320362		108		FAUSNAUGHT #1		3.7	EAST OHIO GAS CO
8213615		3415722769		108		HUFF #1		7.9	VESCORP INDUSTRIE
8213608		3413320187		108		KING #1		3.1	EAST OHIO GAS CO
8213612		3413320363		108		L SEKEL EST #1		2.3	EAST OHIO GAS CO
8213613		3413320401		108		RUSSELL #1		1.1	EAST OHIO GAS CO
8213610		3413320337		108		SCOTT HEIRS #1		7.1	EAST OHIO GAS CO
8213606		3413320177		108		SHILLIDAY #1		2.3	EAST OHIO GAS CO
8213605		3413320144		108		TAYLOR #1		6.3	EAST OHIO GAS CO
8213614		3415722748		108		WEIGAND #1		19.6	VESCORP INDUSTRIE
8213618		3415722773		108		WEIGAND #2		19.6	VESCORP INDUSTRIE
-EDCO DRILLING & PRODUCING INC				RECEIVED:	01/06/82	JA: OH			
8213619		3403124205		103	107-TF	BL-2A KAMM FARMS	CLARK	18.0	
8213620		3415723577		103	107-TF	K8-1A MCDONNELL	OXFORD	18.0	
-ENERGY DEVELOPMENT CORP				RECEIVED:	01/06/82	JA: OH			
8213623		3400721791		103	107-TF	ASHTABULA COUNTY AIRPORT AUTH #9	DENMARK	15.0	
8213622		3400721744		103	107-TF	CHELCIU #1	ROME	17.0	PARK OHIO INDUSTR
8213621		3400721479		103	107-TF	CLEVELAND CAMPFIRE GIRLS #2	AUSTINBURG	5.3	
8213624		3400721801		103	107-TF	FORRISTAL #2	NEW LYME	15.0	SHALE ENERGY - OH
-ENTERPRISE ENERGY CORP				RECEIVED:	01/06/82	JA: OH			
8213625		3405923016		107-TF		MID-OHIO COAL #7	JACKSON	36.5	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED:	01/06/82	JA: OH			
8213626		3415521761		103	107-TF	SHOFF #1	VIENNA	20.0	EAST OHIO GAS CO
-GORMLEY & JOHNSON				RECEIVED:	01/06/82	JA: OH			
8213627		3405320293		108		PAULINE RIFE #1		8.0	COLUMBIA GAS TRAN
8213628		3405320461		108		PAULINE RIFE #2		8.0	COLUMBIA GAS TRAN
8213629		3405320554		108		PAULINE RIFE #3		8.0	COLUMBIA GAS TRAN
8213630		3410521705		108		RAMSBURG #1		7.0	COLUMBIA GAS TRAN
8213631		3410521826		108		RAMSBURG #2		7.0	COLUMBIA GAS TRAN
8213632		3410521963		108		RAMSBURG #3		7.0	COLUMBIA GAS TRAN
-H & S OPERATING COMPANY				RECEIVED:	01/06/82	JA: OH			
8213633		3403123761		107-TF		STURTZ #1 34-031-2-3761-1L##11-14	LINTON	15.0	COLUMBIA GAS TRAN
-I R D CORP				RECEIVED:	01/06/82	JA: OH			
8213634		3400721809		103	107-TF	EASTLAKE #1	WILLIAMSFIELD	45.0	
-JOHN C MASON				RECEIVED:	01/06/82	JA: OH			
8213645		3403140890		107-TF		JOHN MASON #3	CLARK	12.0	NATIONAL GAS & OI
-K S T OIL & GAS CO INC				RECEIVED:	01/06/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213635		3415723397		103	107-TF	HUMMELL-BREYER UNIT #1	YORK	0.0	LIBBY OWENS FORD
8213638		3415320899		103	107-TF	KORBA UNIT #1	BOSTON	0.0	LIBBY OWENS FORD
8213636		3415320662		103	107-TF	SEASONS PROPERTY INVESTORS #1	STOW	0.0	LIBBY OWENS FORD
8213637		3415320769		103	107-TF	SIRPILLA #1	BOSTON	0.0	LIBBY OWENS FORD
8213639		3415320900		103	107-TF	WEBER UNIT #1	NORTHAMPTON	0.0	LIBBY OWENS FORD
8213640		3415320901		103	107-TF	WHARTON #1	BOSTON	0.0	LIBBY OWENS FORD
-L & M PETROLEUM INC				RECEIVED:	01/06/82	JA: OH			
8213641		3412724507		108		EVANS #2		16.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED:	01/06/82	JA: OH			
8213642		3402920884		103	107-TF	CHARLES W BANDY #1	HANOVETON	15.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED:	01/06/82	JA: OH			
8213643		3403124263		103	107-TF	MOORE #2	WASHINGTON	0.0	
-LIBERTY OIL & GAS CORP				RECEIVED:	01/06/82	JA: OH			
8213644		3410521766		107-DV		VERNON R MAXEY 1	OLIVE	18.0	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED:	01/06/82	JA: OH			
8213649		3403124363		103	107-TF	JAMES SIEGRIST #2	WASHINGTON	18.0	COLUMBIA GAS TRAN
8213650		3403124367		103	107-TF	JAMES SIEGRIST #6	WASHINGTON	20.0	COLUMBIA GAS TRAN
8213651		3405923032		103	107-TF	ROBERT COOK #1	LIBERTY	22.0	COLUMBIA GAS TRAN
8213648		3403124150		107-TF		ROBERT DIXON #3	BEDFORD	20.0	
-NUCORP ENERGY COMPANY				RECEIVED:	01/06/82	JA: OH			
8213652		3400721348		103	107-TF	C W STOKES #1	NEW LYME	310.0	OHIO GAS CO
8213654		3400721528		103	107-TF	KARPINSKI #1	NEW LYME	45.6	OHIO GAS CO
8213653		3400721444		103	107-TF	REEVE #1	NEW LYME	146.0	OHIO GAS CO
8213655		3400721549		103	107-TF	REEVE #2	NEW LYME	109.5	OHIO GAS CO
-OHIO OIL & GAS CO				RECEIVED:	01/06/82	JA: OH			
8213666		3415521540		107-TF		ALLEN #2	JOHNSTON	20.0	COLUMBIA GAS TRAN
8213661		3415521222		107-RT		BENNING #1	FOWLER	20.0	COLUMBIA GAS TRAN
8213663		3415521254		107-TF		BIECWORTH 1	FOWLER	20.0	COLUMBIA GAS TRAN
8213660		3415521126		107-RT		CADONIC #1	FOWLER	25.0	COLUMBIA GAS TRAN
8213658		3415520964		107-RT		CLELAND #1	FOWLER	25.0	COLUMBIA GAS TRAN
8213657		3415520956		107-RT		CLUTE #1	FOWLER	25.0	COLUMBIA GAS TRAN
8213668		3415521565		107-TF		DUFF #1	FOWLES	20.0	COLUMBIA GAS TRAN
8213667		3415521550		107-TF		JACOUSON #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8213664		3415521401		107-TF		KINLEYSIDE #2	FOWLER	25.0	COLUMBIA GAS TRAN
8213665		3415521517		107-TF		SIEMBIEDA #1	FOWLER	20.0	COLUMBIA GAS TRAN
8213662		3415521530		107-TF		STEIN #2	FOWLER	20.0	COLUMBIA GAS TRAN
8213656		3415520909		107-RT		YUNGBLUTH #1	FOWLER	20.0	COLUMBIA GAS TRAN
8213659		3415521083		107-RT		YUNGBLUTH #2	FOWLER	25.0	COLUMBIA GAS TRAN
-ORION ENERGY CORP				RECEIVED:	01/06/82	JA: OH			
8213670		3415723491		107-TF		FLICKINGER #1	FRANKLIN	18.0	COLUMBIA GAS TRAN
8213669		3415723490		107-TF		HIMES #1	FRANKLIN	15.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	01/06/82	JA: OH			
8213676		3411923986		108		CLARA ALEXANDER #1		21.0	NATIONAL GAS & OI
8213671		3408322426		108		ETHEL BAILEY #2 (7)		2.0	NATIONAL GAS & OI
8213673		3411521807		108		JOHN BEAVER #1		1.5	NATIONAL GAS & OI
8213672		3411122140		107-DV		LOWELL MIRACLE #1	FRANKLIN	10.0	
8213674		3411920399		108		ROBERT ELLERMAN #1		2.5	NATIONAL GAS & OI
8213677		3411924690		108		ROBERT ELLERMAN #2		2.5	NATIONAL GAS & OI
8213675		3411923331		108		WALTER CHERRY #1		13.0	NATIONAL GAS & OI
-POI ENERGY INC				RECEIVED:	01/06/82	JA: OH			
8213678		3400721302		107-TF		KAMPF #5	ROME	30.0	
-RELIABLE EXPLORATION & DRILLING CO				RECEIVED:	01/06/82	JA: OH			
8213681		3416726333		107-DV		ALMA SHNEIDER #2 16726333	INDEPENDENCE	50.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213682		3416726796		107-DV		AMOS #1 GRANDVIEW TWP 16726796	GRANDVIEW	54.8	RIVER GAS CO
8213680		3412122669		107-DV		PABST #2	ELK	50.0	COLUMBIA GAS TRAN
8213679		3411122526		107-DV		YOCKEY #2 111 2 2526	FRANKLIN	50.0	COLUMBIA GAS TRAN
-REPUBLIC MINERAL CORP				RECEIVED:	01/06/82	JA: OH			
8213683		3416754200		107-DV		LINSCOTT #2	SIMMONS	3254.0	COLUMBIA GAS OF O
-RESOURCE EXPLORATION INC				RECEIVED:	01/05/82	JA: OH			
8213684		3406720198		108		FORREST PYLE #2		4.0	COLUMBIA GAS TRAN
8213685		3406720207		108		MARIE SNYDER #1		3.0	COLUMBIA GAS TRAN
8213686		3407521569		108		NEAL B MILLER #3		2.0	COLUMBIA GAS TRAN
8213687		3407521606		108		ROBERT SCHLABACH #3		2.0	
-RINCO OPERATING INC				RECEIVED:	01/05/82	JA: OH			
8213693		3416922845		103	107-TF	AMSTUTZ #3	CHESTER	12.0	COLUMBIA GAS TRAN
8213689		3416922610		103	107-TF	L SIGLER #2	CHESTER	12.0	COLUMBIA GAS TRAN
8213691		3416922644		103	107-TF	MCCLURE #1	CHESTER	12.0	COLUMBIA GAS TRAN
8213688		3416922582		103	107-TF	MORRISON #1	GREEN	12.0	COLUMBIA GAS TRAN
8213690		3416922613		103	107-TF	MORRISON #3	GREEN	12.0	COLUMBIA GAS TRAN
8213694		3416922861		103	107-TF	PEACOCK #4	CHESTER	12.0	COLUMBIA GAS TRAN
8213695		3416922862		103	107-TF	PEACOCK #5	CHESTER	12.0	COLUMBIA GAS TRAN
8213696		3416922863		103	107-TF	PEACOCK #6	CHESTER	12.0	COLUMBIA GAS TRAN
8213692		3416922679		103	107-TF	TEGTMEIER #9	CONGRESS	12.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:	01/06/82	JA: OH			
8213697		3411122502		107-DV		KENNETH TAYLOR #1	BENTON	10.0	
8213698		3416726536		107-DV		ROAM ADKINS #2	RINARD MILLS	12.5	
-SANTA FE DRILLING CO INC				RECEIVED:	01/06/82	JA: OH			
8213699		3416726311		107-DV		ERNEST BURKHART #1		50.0	
8213700		3416726314		107-DV		GALE & FREDA HENDERSHOT #1	LIBERTY	50.0	
-STOCKER&SITLER INC				RECEIVED:	01/06/82	JA: OH			
8213703		3415723387		107-TF		HOFFMAN UNIT #4	CLAY	146.0	COLUMBIA GAS TRAN
8213705		3415723389		107-TF		SHULL UNIT #2	CLAY	173.0	COLUMBIA GAS TRAN
8213706		3415723390		107-TF		SHULL UNIT #3	CLAY	235.0	COLUMBIA GAS TRAN
8213704		3415723388		107-TF		SHULL UNIT #4	CLAY	213.0	COLUMBIA GAS TRAN
-SUPERIOR PETROLEUM INC				RECEIVED:	01/06/82	JA: OH			
8213707		3401320391	D	107-TF		HAGAN #1	SOMERSET	0.0	TEXAS EASTERN TRA
-THE BENATTY CORPORATION				RECEIVED:	01/06/82	JA: OH			
8213588		3405930950		103	107-TF	REID-SHINGARY #1	VALLEY	30.0	COLUMBIA GAS TRAN
8213587		3400922220		107-DV		W PAE #1	ATHENS	40.0	COLUMBIA GAS TRAN
-THE MIDWEST OIL AND GAS CO				RECEIVED:	01/06/82	JA: OH			
8213646		3403124436		103	107-TF	GEORGE GAMERTSFELDER 4	CLARK	6.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	01/06/82	JA: OH			
8213647		3411122523		107-DV		ROSSI #2M	SENECA	0.0	COLUMBIA GAS TRAN
-TIGER OIL INC				RECEIVED:	01/06/82	JA: OH			
8213708		3412122447		107-DV		EMILENE SCHRAMM #2	ELK	0.0	COLUMBIA GAS TRAN
8213709		3412122650		107-DV		RAY BAKER #1	ELK	0.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED:	01/06/82	JA: OH			
8213710		3405922073		108		A MURRAY #2	RICHLAND	21.7	COLUMBIA GAS TRAN
8213711		3405922453		108		PARRY #2	GUERNSEY	12.7	EAST OHIO GAS CO
8213712		3405923087		107-TF		WRIGHT/MAPLES #1	GUERNSEY	0.0	TENNESSEE GAS PIP
-VIKING RESOURCES CORP				RECEIVED:	01/06/82	JA: OH			
8213714A		3401320433		103		WM JAY FARSON #1	WAYNE	30.0	
8213714B		3401320433	D	107-TF		WM JAY FARSON #1	WAYNE	30.0	
8213713A		3401320432		103		WM TRUEX #1	WAYNE	30.0	
8213713B		3401320432	D	107-TF		WM TRUEX #1	WAYNE	30.0	
-WEBSTER MYERS				RECEIVED:	01/06/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213715		3906720269		107-DV		ELIZABETH TROUT #1	UNION	7.5	COLUMBIA GAS TRAN
SOUTH DAKOTA DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT									
-JERRY A MCCUTCHIN JR				RECEIVED: 01/04/82		JA: SD			
8213540		4006320308		102-4		FEDERAL 2-16	WEST SHORT PINE HILLS	63.9	MONTANA-DAKOTA UT
8213539		4006320307		102-4		FEDERAL 2-21	WEST SHORT PINE HILLS	63.9	MONTANA-DAKOTA UT
8213526		4006320218		102-4		FOX 1-14	CADY CREEK	27.4	MONTANA-DAKOTA UT
8213531		4006320302		102-4		FOX 2-15	CADY CREEK	36.5	MONTANA-DAKOTA UT
8213528		4006320220		102-4		HARRISON STATE 2-16	CADY CREEK	36.5	MONTANA-DAKOTA UT
8213533		4006320298		102-4		HEIKKILA 2-17	WEST SHORT PINE HILLS	63.9	MONTANA-DAKOTA UT
8213538		4006320306		102-4		HEIKKILA 2-8	WEST SHORT PINE HILLS	36.5	MONTANA-DAKOTA UT
8213537		4006320305		102-4		HEIKKILA-CARVER 2-19	WEST SHORT PINE HILLS	91.3	MONTANA-DAKOTA UT
8213534		4006320299		102-4		OLESON 2-18	WEST SHORT PINE HILLS	91.3	MONTANA-DAKOTA UT
8213525		4006320068		102-4		STATE PLACID 1-16	CADY CREEK	36.5	MONTANA-DAKOTA UT
8213530		4006320311		102-4		STATE 1-10	CADY CREEK	27.4	MONTANA-DAKOTA UT
8213535		4006320303		102-4		STATE 2-32	WEST SHORT PINE HILLS	54.0	MONTANA-DAKOTA UT
8213536		4006320304		102-4		STATE 2-5	WEST SHORT PINE HILLS	63.9	MONTANA-DAKOTA UT
8213532		4006320297		102-4		STATE 2-6	WEST SHORT PINE HILLS	365.0	MONTANA-DAKOTA UT
8213529		4006320822		102-4		TRUMAN 1-17	CADY CREEK	18.3	MONTANA-DAKOTA UT
8213527		4006320219		102-4		TRUMAN 1-18	CADY CREEK	27.4	MONTANA-DAKOTA UT
UTAH DIVISION OF OIL,GAS, & MINING									
-COASTAL OIL & GAS CORP				RECEIVED: 01/04/82		JA: UT			
8213524	K-136-B	4304730909		107-TF		NATURAL BUTTES UNIT #62	NATURAL BUTTES	164.0	COLORADO INTERSTA

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by February 19, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2947 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP80–83 and RP80–111]

ANR Storage Co.; Filing

February 1, 1982.

Take notice that on December 30, 1981, ANR Storage Company (ANR), in accordance with the Stipulation and Agreement in the above-captioned dockets approved by the Commission in a letter order dated April 3, 1981, tendered for filing a description of the calculation and cost of debt upon which ANR's rates will be based.

The calculation reflects an average cost of debt for the subject six months, June 1, 1981 to November 30, 1981, of 18.7456%. The Stipulation and Agreement, at Section II, provides that ANR's rates are to reflect only an average cost of debt for the subject six months of 18%. Therefore, ANR's rates will not be adjusted for the succeeding six month period. ANR will utilize the currently effective tariff sheets, which reflect 18% for the cost of debt capital, that were approved by Commission Order dated June 22, 1981.

Copies of the filing were served on all of ANR's customers in Docket Nos. RP80–83 and RP80–111.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2933 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–233–000]

Consolidated Edison Company of New York, Inc.; Filing

January 29, 1982.

The filing Company submits the following:

Take notice that on January 19, 1982, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing proposed changes in its rate schedule for transmission and distribution service to the Power Authority of the State of New York (PASNY), Con Edison Electric Rate Schedule FPC No. 42. The proposed supplement No. 9 would increase revenues from jurisdictional service to PASNY by $516,700 annually.

The proposed increase represents PASNY's proportionate share of additional revenues required by Con Edison to normalize the tax effects of use of the accelerated cost recovery system authorized by the Economic Recovery Tax Act of 1981.

Con Edison proposes an effective date of March 5, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon PASNY, the New York Public Service Commission and the Port Authority of New York and New Jersey.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2934 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF82–44–000]

Ernest L. Copley; Application for Commission Certification of Qualifying Status of Small Power Production Facility

January 28, 1982.

On December 17, 1981, Ernest L. Copley (Applicant) of 526 King Street Suite 401, P.O. Box 1416, Alexandria, Virginia filed with the Federal Energy Regulatory Commission (Commission), an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will generate electricity by means of a solar collector system. The facility will be located at Tilghman's Neck, on Maryland's Eastern Shore. The plant capacity of the facility will be 50 kilowatts. The facility will not use any natural gas, oil or coal. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by March 8, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2935 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-97-001]

Great Lakes Gas Transmission Co.; Proposed Change in FERC Gas Tariff

February 1, 1982.

Take notice that on Jan. 20, 1982, Great Lakes Gas Transmission Company (Great Lakes) filed the following revised tariff sheets with the Commission to reflect a general rate increase:

First Revised Volume No. 1

Eleventh Revised Sheet No. 4
Substitute Fortieth Revised Sheet No. 57

Original Volume No. 2

Seventeenth Revised Sheet No. 53
Eighth Revised Sheet No. 77
Second Revised Sheet No. 183
Second Revised Sheet No. 223
Second Revised Sheet No. 245
First Revised Sheet No. 294

On August 31, 1981, the Commission issued an order which *inter alia,* suspended the effective date of the proposed tariff sheets until February 1, 1982. Ordering Paragraph (F) of the suspension order required Great Lakes to file revisions to the filed tariff sheets to be effective February 1, 1982, that reflect the elimination of all costs associated with certificated facilities not placed in service by January 31, 1982. Great Lakes states that all of the certificated facilities should be in service by January 31, 1982, therefore revised tariff sheets should not be necessary.

Furthermore, Great Lakes states that Fortieth Revised Sheet No. 57, First Revised Volume No. 1 included above reflects the following changes that have occurred during the suspension period:

(i) PGA adjustments to reflect Great Lakes' present gas purchased cost of $4.89603 per Mcf, which was approved by the Commission on October 22, 1981, in Docket No. TA82-1-51-001;

(ii) Surcharge rate adjustment, which became effective November 1, 1981, as approved by the Commission on October 22, 1981, in Docket No. TA82-1-51-001;

(iii) GRI funding unit, which became effective January 1, 1982, as approved by the Commission on December 28, 1981, in Docket No. TA82-1-51-002.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2936 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-34-000]

ITT Continental Baking Co.; Application for Commission Certification of Qualifying Status of Cogeneration Facility

January 28, 1982.

On December 21, 1981, ITT Continental Baking Co. of Rye, New York filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility will be a topping-cycle cogeneration facility located at the DiCarlo Bakery, P.O. Box 711, 1701 North Gaffey Street, San Pedro, California 90733. The primary energy source will be natural gas which will fuel two generating units. Combined capacity of the units will be 894 kilowatts. Exhaust heat from one turbine will be used in a waste heat boiler to generate 4,000 to 4,200 lbs. per hour of 15 psi steam. The second turbine will supply process heat to four baking ovens at a rate of approximately 4.92 million Btu per hour. Installation of the facility will begin in the summer of 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by March 8, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2937 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-123-000]

Kansas City Power and Light Co.; Order Accepting for Filing and Suspending Revised Fuel Adjustment Clause, Denying Request for Summary Rejection, Granting Interventions, and Consolidating Dockets

January 29, 1982.

On December 2, 1981, Kansas City Power and Light Company (KCPL) filed a revised fuel adjustment clause applicable to its sixteen firm power customers. [1] The company has proposed an effective date of December 3, 1981. The revised fuel adjustment clause provides for the recovery of estimated land reclamation expense associated with coal purchases from an unaffiliated coal supplier.

The instant submittal is in response to the Commission's finding in *Kansas Municipal and Cooperative Electric Systems,* Docket No. EL81-11-000 (September 24, 1981) that although reclamation expenses would be considered appropriate for fuel clause treatment, KCPL had failed to file a fuel adjustment clause that provided for recovery of estimated reclamation costs and had failed to establish an appropriate mechanism to compensate for differences between billed and actual costs. Therefore, the Commission ordered KCPL to cease billing estimated coal reclamation expenses through its existing fuel adjustment clause. Such action, however, was without prejudice to filing a revised fuel clause which properly would account for actual expenditures and reflect changes in reclamation costs in relation to an approved base amount.

Notice of KCPL's filing was issued on December 10, 1981, with response due on or before December 29, 1981. The Kansas and Missouri Municipal

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[1] *See* Attachment A for rate schedule designations.

Customers (Cities)[2] filed a timely protest, petition to intervene, request for summary rejection, and alternatively, request for hearing and a five month suspension. Cities seek rejection of KCPL's filing on three grounds: (1) That the submittal does not comply with section 35.13 of the Commission's regulations inasmuch as it fails to include sufficient cost support; (2) that the adjustment mechanism for differences between estimates and actual reclamation costs does not conform to the requirements of the Commission's earlier order because the mechanism only provides for adjustments to reflect updated estimated, not for adjustments to reconcile estimates with actually incurred costs; and (3) that estimated reclamation expenses are not appropriate for fuel clause treatment.

Absent rejection, Cities request that the revised fuel clause be suspended for the maximum period and that a hearing be convened. Cities assert that no circumstances exist to warrant less than a five month suspension and that due to the unusual nature of the filing and the Commission's orders of September 24, 1981, and November 18, 1981,[3] serious doubt exists as to the justness and reasonableness of the revised fuel clause. Cities further objects to consolidation of this filing with the ongoing proceedings in Docket Nos. ER80–315, ER80–450, and EL81–11–000 on the grounds that those proceedings involve the treatment of past accruals for reclamation expenses, whereas the instant submittal concerns the recovery of future expenses.

On January 7, 1982, the Missouri Public Service Commission filed an untimely notice of intervention. The Missouri Commission has raised no substantive issued but requests intervention on the grounds that it has an interest in representing Missouri consumers that will not be represented by any other party. According to the Missouri Commission, its filing was delayed as a result of the holiday season.

On January 18, 1982, KCPL filed an untimely answer to the protests and requests of Cities. KCPL contends among other things, that the Commission's order of September 24 did not require a true-up to actual costs.

[2] Cities consist of Baldwin City, Gardner, Garnett, Osawatomie, Ottawa, and Pomona, Kansas, and Higginsville, Salisbury, Slater, and Marshall, Missouri.

[3] On November 18, 1981, the Commission denied rehearing of the September 24, 1981, order in Docket No. EL81–11–000.

Discussion

The Commission finds that participation in this proceeding by Cities and the Missouri Commission is in the public interest and that good cause exists to permit the Missouri Commission to intervene out of time. Therefore, the petitions to intervene will be granted.

Despite Cities' allegation that KCPL's submittal fails to conform to § 35.13 of the Commission's regulations, our review indicates substantial compliance with the Commission's filing requirements. Accordingly, Cities' motion to reject will be denied.[4] We note that KCPL has not changed the base cost of fuel from that included in its currently effective rates; that base cost reflects fuel costs for a test period ending June 30, 1975. Separate billing for estimated reclamation costs from Arch Mineral Company, however, did not commence until 1978. Because the base cost of fuel proposed by KCPL does not reflect any reclamation expenses, the estimated reclamation costs would be recovered only through the monthly fuel adjustment factor. KCPL has indicated that current estimates of reclamation costs approximate 0.05 mills/kwh.

Our analysis indicates that there may be merit to Cities' contention that the adjustment mechanism proposed by KCPL fails to reconcile differences between billed and actual costs. KCPL's revised fuel clause states that estimates are adjusted on a regular basis to reflect current information on reclamation costs. Review of KCPL's Reclamation Cost Estimation and Adjustment Procedures, which accompany the revised fuel clause, indicates that current information includes updated estimates and actual reclamation costs ultimately billed by the coal supplier. While the adjustment mechanism provides for both upward and downward revisions to the accrual rate to reflect currently available information, it is not clear that billed costs will ultimately be reconciled with actual costs as called for in our September 24 order, contrary to KCPL's argument.

Our analysis indicates that KCPL's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

[4] *See, Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period would lead to harsh and inequitable results. Such circumstances are presented here. The adjustment mechanism reflected in KCPL's filing represents an attempt by the company to recover actual coal-related costs. While we are not satisfied that the proposal is totally acceptable, it does contemplate both upward and downward adjustments thereby minimizing the likelihood of substantial overrecovery of costs over time. We believe that it would be unfair to require KCPL to forego all legitimate coal reclamation costs pending a full five month suspension. It appears that a nominal suspension and a refund obligation should adequately protect KCPL's affected customers without unduly jeopardizing the company's rights. Accordingly, we shall exercise our discretion to suspend the rates for only one day. However, while KCPL requests an effective date of December 3, 1981, one day after filing, it has neither requested nor shown good cause for waiver of the statutory notice requirement. Accordingly, the revised fuel adjustment clause will become effective, subject to refund, one day from sixty days after filing, on February 2, 1982.

With respect to Cities' argument that estimated reclamation expenses are not appropriately recovered through a fuel clause, the Commission has already addressed these arguments in the September 24, 1981 order and the subsequent order denying rehearing in Docket No. EL81–11–000. A further attempt to seek rehearing of the September 24 order does not lie and, in any event, Cities have raised no new arguments that would cause us to reconsider the conclusions expressed in that order.

[5] *E.g., Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80–500, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–488 (August 22, 1980) (one day suspension).

We find that common questions of law and fact may be presented in this docket and in Docket Nos. ER80–315, *et al.* As a result, we will consolidate these dockets for purposes of hearing and decision. We note, however, that the presiding administrative law judge may determine that this portion of the proceeding should be phased in order not to delay the ongoing proceedings.

The Commission orders:

(A) Cities' motion to reject KCPL's submittal in this docket is hereby denied.

(B) KCPL's revised fuel adjustment clause is hereby accepted for filing, and suspended for one day, to become effective on February 2, 1982, subject to refund.

(C) The petitions and untimely notice to intervene are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation shall be limited to the matters set forth in the petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(D) The proceedings in Docket No. ER82–123–000 are hereby consolidated with those in Docket Nos. ER80–315, *et al.,* for purposes of hearing and decision.

(E) The administrative law judge designated to preside in Docket No. ER80–315, *et al.,* shall convene a conference in this proceeding to be held at the earliest convenience of the parties for purposes of establishing the most appropriate means of consolidation of these cases, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2938 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP81–61–002]

Michigan Wisconsin Pipe Line Co.; Corrected Tariff Filing

February 1, 1982.

Take notice that on January 21, 1982, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing under Rate Schedules X–72, X–73, and X–92 of its F.E.R.C. Gas Tariff, First Revised Volume No. 2 certain revised tariff sheets with proposed modifications as follows:

Reference	Proposed modification
X–72	Because of inadvertent duplication, replace First Revised Sheet No. 789, Superseding Original Sheet No. 789, issued on April 30, 1981, with an effective date of November 1, 1981, as approved by the Commission's letter of acceptance dated November 6, 1981, with First Revised Sheet No. 789, Superseding Original Sheet No. 789, issued on May 29, 1981, with an effective date of May 27, 1981, as approved by the Commission's letter of acceptance dated June 30, 1981;
X–73	Because of incorrect chronological order, replace Second Revised Sheet No. 803, Superseding First Revised Sheet No. 803, issued on April 30, 1981, with an effective date of November 1, 1981, as approved by the Commission's letter of acceptance dated November 6, 1981, with Third Revised Sheet No. 803, Superseding Second Revised Sheet No. 803;
X–92	Because of inadvertent duplication, replace First Revised Sheet No. 1249, Superseding Original Sheet No. 1249 issued on April 30, 1981, with an effective date of November 1, 1981, as approved by the Commission's letter of acceptance dated November 6, 1981, with First Revised Sheet No. 1249, Superseding Original Sheet No. 1249 issued on July 16, 1981, with an effective date of June 19, 1981, as approved by the Commission's letter of acceptance dated August 28, 1981;
X–92	Because of inadvertent duplication, replace First Revised Sheet No. 1250, Superseding Original Sheet No. 1250 issued on April 30, 1981, with an effective date of November 1, 1981, as approved by the Commission's letter of acceptance dated November 6, 1981, with First Revised Sheet No. 1250, Superseding Original Sheet No. 1250, issued on July 16, 1981, with an effective date of June 19, 1981, as approved by the Commission's letter of acceptance dated August 28, 1981.

Michigan Wisconsin states that the aforementioned tariff sheets were filed with the Commission during the year 1981 under Rate Schedules X–72, X–73, and X–92 of its F.E.R.C. Gas Tariff, First Revised Volume No. 2 and now require corrections which will not materially affect the context of the subject rate schedules.

Michigan Wisconsin states that certain of the aforementioned tariff sheets to be replaced under its F.E.R.C. Gas Tariff, First Revised Volume No. 2 were originally filed with the Commission pursuant to Michigan Wisconsin's General Rate Increase Filing at Docket No. RP81–61. Because of the suspension period associated with the filing of such tariff sheets, at Docket No. RP81–61, and subsequent tariff revisions at the captioned dockets involving the aforementioned rate schedules, misfiling of the subject tariff sheets has occurred.

Michigan Wisconsin states further, that, the purpose of the subject filing is to replace those tariff sheets, as proposed herein, under Rate Schedules X–72, X–73, and X–92 to its F.E.R.C. Gas Tariff, First Revised Volume No. 2 and to substitute corrected tariff sheets which reflect the proper context and chronological order of Rate Schedules X–72, X–73, and X–92.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2939 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP80–107–006 & TA80–2–26–003 (AP80–2)]

Natural Gas Pipeline Co.; Proposed Change in FERC Gas Tariff

February 1, 1982.

Take notice that on January 15, 1982, Natural Gas Pipeline Company (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following:

Second Substitute Fourth Revised Sheet No. 118, effective December 1, 1980; and

Sixth Revised Sheet No. 118, effective May 31, 1981.

Natural states that these revised sheets are being filed in compliance with Article IX of the subject settlement agreement to effectuate a revision to Natural's Purchase Gas Cost Adjustment (PGA) gas tariff provision which allows it to track variations in gas used and unaccounted for and in the Btu content of gas sold.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make portestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3040 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-95-001]

Pacific Interstate Transmission Co.; Tariff Filing Substitute First Revised Sheet No. 9

February 1, 1982.

Take notice that on January 13, 1982, Pacific Interstate Transmission Company ("Pacific Interstate") tendered for filing a substitute revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, in accordance with the Commission's order of June 13, 1980 in Northwest Alaskan Pipeline Co., *et al.*, Docket Nos. CP78-123, *et al.*

Pacific Interstate states that on July 27, 1981, Pacific Interstate filed First Revised Sheet No. 9 to its FERC Gas Tariff, Original Volume No. 1, designed to increase its rate of return on equity from 13.75 percent to 20 percent, resulting in an overall estimated rate of return of 17.94 percent based on the estimated debt cost of 16.62 percent.

Pacific Interstate states that at the time of its filing of the First Revised Sheet No. 9 on July 27, 1981, Pacific Interstate indicated that it would file a Substitute First Revised Sheet when it acquired permanent debt.

Pacific Interstate states that on August 28, 1981, the Commission issued its order in Docket No. RP81-95 accepting for filing the proposed First Revised Sheet No. 9 and that in so doing the Commission noted that the overall rate of return depicted in the First Revised Sheet No. 9 was based on an estimated debt cost of 16.62 percent. The Commission suspended the effectiveness of said sheet until March 1, 1982 when it will become effective subject to refund, in the manner provided by Section 4 of the Natural Gas Act.

Pacific Interstate states that it has obtained commitments for the acquisition of the necessary permanent debt. Pacific Interstate states that its actual cost of debt is different from the estimate utilized in the July 27, 1981 filing. Therefore, pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act and the Commission's order of June 13, 1980 in Docket Nos. CP78-123, *et al.*, Pacific Interstate tenders for filing and acceptance a Substitute First Revised Sheet No. 9 of its FERC Gas Tariff Original Volume No. 1 to reflect the actual cost of debt. Pacific Interstate requests that this Substitute First Revised Sheet No. 9 become effective on the date designated by the Commission for the First Revised Sheet No. 9, namely March 1, 1982.

Pacific Interstate requests a waiver of Section 154.22 of the Commission's Regulations, and also requests that the Commission grant any waivers of its regulations it may deem necessary for the acceptance of this filing to become effective March 1, 1982.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before February 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3041 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-78-008]

Panhandle Eastern Pipe Line Co.; Change in Tariff

February 1, 1982.

Take notice that on January 15, 1982 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Second Revised Sheet No. 3-A
Nineteenth Revised Sheet No. 3-B
Sixth Revised Sheet No. 3-C.1
Sixth Revised Sheet No. 3-C.2
Sixth Revised Sheet No. 3-C.3

An effective date of March 1, 1982 is proposed.

Panhandle states that these revised tariff sheets reflect rate adjustments as follows:

(1) A DCA Commodity Surcharge Adjustment pursuant to Section 16.6(e) of the General Terms and Conditions; and

(2) A Rate Adjustment pursuant to Section 18.4 of the General Terms and Conditions, such adjustment reflecting a proposed Pipeline Supplier rate adjustment to be effective concurrently herewith; and

(3) A PGA Rate Adjustment pursuant to Section 18.2 of the General Terms and Conditions, such adjustment reflecting the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(4) A "Reduced PGA" rate, and projected incremental pricing surcharges for each direct sale non-exempt industrial boiler fuel facility and each sale-for-resale customer in accordance with Section 21 of the General Terms and Conditions; and

(5) A Purchased Gas Transmission and Compression and Transportation Revenue tracking adjustment pursuant to Article VI of the Stipulation and Agreement dated November 21, 1980 and the Commission's Order of January 27, 1981 in Docket No. RP80-76.

Panhandle states that the PGA Rate Adjustment filed herewith reflects payments to Panhandle's applicable gas suppliers pursuant to the Commission's Order Nos. 93 and 93-A issued in Docket No. RM80-33. Panhandle commenced paying its affected gas suppliers on the basis of Order Nos. 93 and 93-A for purchases made during the month of December, 1981.

On December 24, 1981 the Commission issued an order in Docket No. RM80-33 which vacated the partial stay previously granted in these proceedings. The Commission's order of December 24, 1981 reaffirmed the December 1, 1978 effective date of the so-called "Btu rule" (18 C.F.R. § 270.204) which prescribes the standard for determining the Btu content of natural gas in calculating maximum lawful prices under the Natural Gas Policy Act of 1978. Panhandle has not yet completed the calculations necessary to determine its additional obligation to its affected gas suppliers as a result of the application of Section 270.204 retroactive to December 1, 1978. Therefore, Panhandle has not included

in the instant filing any amounts associated with these retroactive payments. Panhandle will reflect in subsequent PGA filings the appropriate amounts associated with these retroactive payments pursuant to the Commission's order dated December 24, 1981 in Docket No. RM80–33.

In addition, on December 18, 1981, the Commission issued an order in Panhandle's pipeline supplier's, Trunkline Gas Company (Trunkline) pending general rate proceeding, Docket No. RP80–106, which order, with certain modifications, approved the Stipulation and Agreement therein dated August 26, 1981.

Trunkline's rate settlement would impact Panhandle's proposed rate adjustment. However, the 30-day period for filing petitions for rehearing in Trunkline's proceeding has not yet expired. Therefore, Panhandle submits herewith for filing six (6) copies each of the following Alternate Revised sheets to its FERC Gas Tariff Original Volume No. 1:

Alternate Forty-Second Revised Sheet No. 3–A
Alternate Nineteenth Revised Sheet No. 3–B
Alternate Sixth Revised Sheet No. 3–C.1
Alternate Sixth Revised Sheet No. 3–C.2
Alternate Sixth Revised Sheet No. 3–C.3

An effective date of March 1, 1982 is proposed. These alternate tariff sheets reflect Trunkline's settlement rates which incorporate the provisions of the Stipulation and Agreement in Docket No. RP80–106.

Supporting computation sheets are enclosed and copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2942 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–36–000]

Penn-York Energy Corp.; Application

February 1, 1982.

Take notice that on January 19, 1982 Penn-York Corporation (Penn-York"), 10 Lafayette Square, Buffalo, New York 14202, tendered for filing First Revised Sheet No. 29 to its FERC Gas Tariff, Original Volume No. 1, superseding Original Sheet No. 29. Penn-York states that the purpose of this filing is to change the interest rate on late payments by customers of monthly bills to conform to the interest rate specified in § 154.67 of the Commission's Regulations under the Natural Gas Act.

Penn-York states that since the prime rate has escalated to well over the 10 percent rate presently provided in Penn-York's tariff for customers' late payments of bills, Penn-York has noticed that certain of its customers are paying their bills late. The company states that raising the 10 percent interest rate to the level of the prime rate, as provided in Section 154.67 of the Commission's Regulations, will discourage customers delaying payment of their bills.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–2943 Filed 2–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TC81–64–000]

Southern Natural Gas Co.; Tariff Filing

January 28, 1982.

Take notice that on January 21, 1982, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, tendered for filing pursuant to Order No. 29 and Section 281.204 of the Commission's Regulations (18 CFR 281.204) in Docket No. TC81–64–000, the following sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

Tenth Revised Sheet No. 65
Fifth Revised Sheet No. 65A
Eleventh Revised Sheet No. 66
Fifth Revised Sheet No. 66A
Thirteenth Revised Sheet No. 67
Fifth Revised Sheet No. 67A
Thirteenth Revised Sheet No. 71
Fifth Revised Sheet No. 71A
Tenth Revised Sheet No. 76
Fifth Revised Sheet No. 76A
Twelfth Revised Sheet No. 77
Fifth Revised Sheet No. 77A
Thirteenth Revised Sheet No. 78
Fifth Revised Sheet No. 78A
Thirteenth Revised Sheet No. 82
Fifth Revised Sheet No. 82A

The sheets are proposed to be effective February 1, 1982, and reflect further revisions to the Index of Requirements of Southern's curtailment plan on file with the Commission.

Southern states that the filing reflects an increase of 800 Mcf of gas per day in Priority of Service Category 2.1, Essential Agricultural Use Requirements, in Southern's Index of Requirements for Atlanta Gas Light Company (Atlanta), attributable to Archer-Daniels-Midland Company (ADM), a customer of Atlanta. Southern also states that the net increase in requirements in the Index for Atlanta is 170 Mcf per day in total because of reductions in requirements presently in the Index which are attributable to ADM's predecessor company.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before February 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be

taken, but will not serve to make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2945 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-10-001 (PGA82-1, IPR82-1)]

Tennessee Natural Gas Lines, Inc.; Proposed Change in FERC Gas Tariff

February 1, 1982.

Take notice that on January 20, 1982, Tennessee Natural Gas Lines, Inc. (Tennessee Gas) tendered for filing the following reduced rates:

Substitute Thirty-Seventh Revised Sheet No. PGA-1
Fourth Revised Sheet No. PGA-1-A

Tennessee Gas states that the rates reflect:

(1) The proper supplier rates of Tennessee Gas Pipeline Company used in calculating the over/under-collected amounts;

(2) The use of actual monthly Btu adjustments to convert Tennessee Gas' rates from dth's to Mcf's when calculating the over/under-collected amounts.

Copies of this filing were mailed to Nashville Gas Company and the affected state commission, the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2944 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CS71-677-000, et al.]

Total Petroleum, Inc. et al.; Applications for "Small Producer" Certificates [1]

January 28, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS71-677-000	Dec. 15, 1981 [1]	Total Petroleum, Inc. (Hanover Petroleum Corporation), Suite 2950, One Allen Center, Houston, Texas 77002.
CS75-470-001	Dec. 21, 1981 [2]	TXO Production Corp. (Texas Oil & Gas Corp.), 2700 Fidelity Union Tower, Dallas, Texas 75201.
CS78-543-001	Jan. 6, 1982 [3]	Rockwood Resources, Inc. (Rockwood Oil and Gas), 106 Carlton Tower East, Dallas, Texas 75240.
CS80-207	Dec. 4, 1981 [4]	Energy Capital Development Corporation (Harris Energy Corporation) 1700 Broadway, Suite 1420, Denver, Colorado 80290.
CS71-656-000	Dec. 7, 1981 [5]	A. R. Dillard, Jr. and Cobra Oil & Gas Corporation (A. R. Dillard, Jr.), 1600 Tarrin Street, Wichita Falls, Texas 76301.
CS82-13-000	Dec. 23, 1981	Kappa 1981 ST Joint Venture, P.O. Box 5061, Westport, Connecticut 06881.
CS82-14-000	Jan. 19, 1982	The First National Bank and Trust Co. of Tulsa, Successor Trustee of the Francis Lobow Trust, Trust Dept., P.O. Box One, Tulsa, Oklahoma 74193.
CS82-15-000	Jan. 19, 1982	The First National Bank & Trust Co. of Tulsa, Successor Trustee of The General H. Franklin Gregory Trust, Trust Dept., P.O. Box One, Tulsa, Oklahoma 74193.
CS82-16-000	Jan. 26, 1982	Dorothy L. Fisher, First City National Bank Building, Paris, Texas, 75460.

[1] Applicant is filing to change its name from Hanover Petroleum Corporation to Total Petroleum, Inc.
[2] Applicant is filing to change its name from Texas Oil & Gas Corp. to TXO Production Corp.
[3] Applicant is filing to change its name from Rockwood Oil and Gas to Rockwood Resources, Inc.
[4] Applicant is filing to change its name from Harris Energy Corporation to Energy Capital Development Corporation.
[5] Applicant is filing to change its name from A. R. Dillard, Jr. to A. R. Dillard Jr. and Cobra Oil & Gas Corporation.

[FR Doc. 82-2946 Filed 2-3-82; 8:45 am]

BILLING CODE 6717-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Office of Hearings and Appeals

Cases Filed Week of January 8 through January 15, 1982

During the week of January 8 through January 15, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 29, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 8 through Jan. 15, 1982]

Date	Name and location of applicant	Case No.	Type of Submission
Jan. 11, 1982	Collier, Shannon, Rill, & Scott, Washington, D.C.	HFA-0011	Appeal of an Information Request Denial. If granted: The December 10, 1982, Information Request Denial issued by the Disclosure Officer, Office of Special Counsel would be rescinded and Collier, Shannon, Rill, & Scott would receive access to certain DOE information.
Jan. 11, 1982	Glen Martin Heller, d.b.a. Beacon Hill Gulf, Washington, D.C.	HCX-0011	Supplemental Order. If granted: The July 10, 1979, Remedial Order (Case No. DRO-0184) issued to Glen Martin Heller by the Office of Hearings and Appeals would be modified in connection with the December 30, 1981, Order issued by the Federal Energy Regulatory Commission.
Jan. 8, 1982	Kentucky Oil and Refining Company, Inc., Betsy Lane, Kentucky.	HYX-0010	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Kentucky Oil and Refining Comapny, Inc. during its fiscal year ended January, 1981 to determine whether the level of relief accorded the firm was appropriate.
Jan. 12, 1982	National Roofing Company, Albuquerque, New Mexico	HFA-0026	Appeal of an Information Request Denial. If granted: The November 18, 1981 Information Request Denial issued by the Albuquerque Operations Office would be rescinded and National Roofing Company would receive access to certain DOE information.
Jan. 12, 1982	Planning Research Corporation, Washington, D.C.	HFA-0027	Appeal of Information Request Denial. If granted: The January 5, 1982 Information Request Denial issued by the Office of Procurement Operations would be rescinded, and Planning Research Corporation would receive access to certain information relating to RFP No. DE-R001 EI-11847.
Jan. 12, 1982	The Crude Company, Washington, D.C.	HER-0018	Request for Modification/Rescission. If granted: The December 16, 1981 Decision and Order (Case No. BEE-1015) issued to The Crude Company by the Office of Hearings and Appeals would be modified regarding subsitute certification, or the firm's obligation to file reports FEA-P-124-M-O would be stayed until the conclusion of criminal proceedings pending against the firm.
Jan. 15, 1982	Vinson & Elkins, Washington, D.C.	HFA-0021	Appeal of An Information Request Denial. If granted: The December 8, 1981, Information Request Denial issued by the Office of Oil & Gas, Energy Information Administration would be rescinded, and Vinson & Elkins would receive access to documents relating to the prices charged by resellers for regular gasoline in the month of June, 1978.

[FR Doc. 81-2909 Filed 2-3-81; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Floodplain/Wetlands Involvement Determination; Brookings-White Proposed 230-kV Transmission Line Brookings County, South Dakota

AGENCY: Western Area Power Administration, DOE.

ACTION: Floodplain/Wetlands involvement and opportunity for comment.

SUMMARY: The Western Area Power Administration (Western) proposes to construct 13 miles of 230-kV electrical transmission line from Western's existing Brookings Substation east to the proposed White Substation to interconnect with the existing Watertown-Sioux City 345-kV line in Brookings County, South Dakota. The Brookings-White line would be constructed between May and December 1982. The White Substation would not be constructed until the fiscal year 1983-1985 time frame. In the interim, the line would be interconnected in the vicinity of the White Substation with a proposed East River Electric Power Cooperative 115-kV line.

The proposed transmission line would be constructed to 230-kV specifications, but operated initially at 115-kV with the excess capacity being reserved for projected future demand. The proposed design is single concrete poles with an average height of 79 feet. Angles in the line would be accomplished with single-pole guyed structures. The average span between structures would be approximately 700 feet. The facility would be constructed within a 125-foot wide right-of-way easement with additional right-of-way necessary at angle structures to accommodate guy wires.

The proposed transmission line would cross the 100-year floodplain of Sixmile Creek for a distance of approximately 3,550 feet and would cross six reverine and one palustrine wetland types. The riverine wetland types are intermittent stream beds and the palustrine type is an artificial impoundment.

All wetlands would be spanned by the proposed transmission line; and, although structures would be unavoidably located in floodplain areas, no structures would be constructed in "high hazard areas" as defined by the U.S. Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR Part 494.1022).

As required by these regulations, Western is preparing a floodplain/wetlands assessment. Maps and further information are available from Western at the address shown below. Public comments or suggestions regarding Western's activities in these particular floodplain/wetlands are invited.

DATE: Any comments are due immediately. Due to overriding considerations of project effectiveness, the 15-day minimum time period for comments is waived, in accordance with DOE Regulations 10 CFR 1022.18(c).

ADDRESS: Send comments or suggestions to: Mr. James D. Davies, Area Manager, Billings Area Office Attn: B2000, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101.

Issued at Golden, Colorado, January 28, 1982.

William H. Clagett,

Deputy Administrator.

[FR Doc. 82-2909 Filed 2-3-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51390; TSH-FRL-2041-3]

Premanufacture Notices; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNs and provides a summary of each. (PMN 82-46, 82-47, 82-49, & 82-50.)

DATE: Written comments by: March 27, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51390]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTRY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-46

Close of Review Period. April 26, 1982.

Importer's Identity. American Hoechst Corportion, Route 202/206 North, Somerville, NJ 08876.

Specific Chemical Identity. Polymer from 1-propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino), formamide, N-ethenyl, 2-propenamide.

Use. Claimed confidential business information.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Molecular weight—1.2 million
Resignal monomer—About 2 parts per million (ppm)

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 82-47

Close of Review Period. April 26, 1982.

Importer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500 million.
Manufacturing site—Northeastern region.
Standard Industrial Classification Code—2865.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Alkyl, alkanol derivative of ammonia, chloride salt.

Use. The importer states that the PMN substance will be used as a site limited chemical intermediate.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	3,000	5,000
2d year	4,000	6,000
3d year	5,000	7,000

Physical/Chemical Properties

Appearance—Brown cast solid
Melting point—72-73°C
Decomposition temperature—240°C
Solubility:
water—Soluble
ethanol—Soluble
methanol—Soluble
Density—1.01 gm/cm^3

Toxicity Data. Oral toxicity LD_{50} (rat)—>3 g/kg

Exposure. The importer states that during processing and disposal 18 workers may experience dermal exposure 2 hrs/day, 70 days/yr.

Environmental Release/Disposal. The importer states that 10-100 kg/yr will be released to water 2 hrs/day. Disposal is to a plant treatment works.

PMN 82-49

Close of Review Period. April 26, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Manufacturing site—Middle Atlantic region.
Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Modified polyester polyurethane.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	17,500	25,000
2d year	25,000	30,000
3d year	30,000	41,000

Physical/Chemical Properties

Flash point—193°F
Viscosity—V+
Isocyanate equivalent—Infinite
Density—1.09
Color—2 (max.)
Total solids—80%

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use a total of 99 workers may experience dermal and occular exposure up to 7 hrs/day, up to 240 days/yr during extracting, analysing, filling, cleaning, charging, sampling, equipment cleanup and performing.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10-1,000 kg/yr released to land. Disposal is by landfill, incineration or sold as fuel.

PMN 82-50

Close of Review Period. April 26, 1982.

Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Manufacturing site—Middle Atlantic region.
Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Polyester from an alkanedioic acid and polyetherdiols.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that

the PMN substance will be used in an open use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Flash point—>200°F
Viscosity—P
Density—1.126
Acid value—0.75 mg KOH/g
Percent total solids @ 105°C—100

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing a total of 108 workers may experience dermal and occular exposure up to 6 hrs/day, up to 6 days/yr during charging, sampling, testing, directing, shipping and cleanup operations.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–1,000 kg/yr released to land. Disposal is by landfill, incineration or sold as fuel.

Dated: January 27, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-2746 Filed 2-3-82; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51392; TSH-FRL-2042]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 74378). This notice announces receipt of seven PMNs and provides a summary of each.

DATES: Written comments by: PMN 82–53, 82–54, 82–55, 82–56, 82–57, and 82–58—March 28, 1982. PMN 82–59—March 29, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51392]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–53

Close of Review Period. March 27, 1982.

Manufactuer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Ethoxylated ethanol, fatty acid ester.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Liquid.
Flash point, Setaflash—>230° F.
Solubility: water—Soluble.

Toxicity Data. No data were available.

Exposure. The manufacturer states that exposure is negligible.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Disposal is to a publicly owned treatment works (POTW).

PMN 82–54

Close of Review Period. April 27, 1982.

Manufacturer's Identity. American Cyanamid Company, One Cyanamid Plaza, Wayne, NJ 07470.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted amine polymer.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Actue oral toxicity LD_{50} (rat)—1,080 mg/kg.

Acute dermal toxicity LD_{50} (rat)—>2,000 mg/kg.

Primary skin irritation (rabbit)—Moderate irritation.

Primary eye irritation (rabbit)—Marked irritation without washout.

Ames salmonella—Non-mutagenic.

Exposure. The manufacturer states that during manufacture and use a total of 40 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 130 days/yr.

Environmental Release/disposal. The manufacturer states that release to the environment will be negligible. Disposal is to an approved landfill.

PMN 82–55

Close of Review Period. April 27, 1982.

Importer's Identity. American Cyanamid Company, One Cyanamid Plaza, Wayne, NJ 07470.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Organo phosphorus—containing acid.

Use. The importer states that the PMN substance will be used in separation of cobalt from cobalt/nickel solution.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—4,900 mg/kg.

Acute dermal toxicity LD_{50} (rat)—>2,000 mg/kg.

Primary skin irritation (rabbit)—Mild irritation.

Primary eye irritation (rabbit)—Minor irritation without washout.

Ames salmonella—Non-mutagenic.

Environmental Test Data

LD_{50} 96 hr. (bluegill sunfish)—46 parts per million (ppm).

LD_{50} 96 hr (rainbow trout)—22 ppm.

Exposure. The importer states that during use 6 workers may experience dermal and inhalation exposure 3 shifts/day, 250 days/yr.

Environmental Release/Disposal. The importer states that release to the environment will be negligible. Disposal is to an approved landfill.

PMN 82–56

Close of Review Period. April 27, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500 million.

Manufacturing site—Midwest region.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified alkyd polymer.

Use. Claimed confidential business information. Generic use information

provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal exposure 1 hr/day, 30 days/yr during accidental spill.

Environmental Release/disposal. The manufacturer states that 10-100 kg/yr will be released to land. Disposal is by an approved landfill or by incineration.

PMN 82–57

Close of Review Period. April 27, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—$500 million.

Manufacturing site—Midwest region.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Modified alkyd polymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal exposure 1 hr/day, 30 days/yr during accidental spill.

Environmental Release/Disposal. The manufacturer states that 10–100 kg/yr will be released to land. Disposal is by an approved landfill or by incineration.

PMN 82–58

Close of Review Period. April 27, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—$500 million.

Manufacturing site—Midwest region.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Alkyd resin.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as an intermediate in the manufacture of a polymer.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal exposure 1 hr/day, 30 days/yr during accidental spill.

Environmental Release/Disposal. The manufacturer states that 10–100 kg/yr will be released to land. Disposal is by an approved landfill or by incineration.

PMN 82–59

Close of Review Period. April 28, 1982.

Importer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—Over $500 million.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—2865.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Aromatic disazo dye.

Use. The importer states that the PMN substance will be used as a site limited dyestuff for fibers and fabrics.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	400	800
2nd year	1,200	2,000
3d year	2,000	5,000

Physical/Chemical Properties

Appearance—Odorless, deep red powder.

pH (5 g/1)—7–8.

Solubility: water @ 20°C—6 g/1.

Toxicity Data

Oral toxicity LD_{50}(rat)—>5 g/kg.

Skin irritation (rabbit)—Non-irritating.

Eye irritation (rabbit)—Non-irritating.

Exposure. The importer states that during processing 1–3 workers may experience dermal and inhalation exposure 2–3 hrs/day, 70–100 days/yr during weighing and transfer.

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to air and 100–1,000 kg/yr to water 2–3 hrs/day, 75–100 days/yr. Disposal is to a POTW or waste treatment plant.

Dated: January 28, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–2884 Filed 2–3–82; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51391; TSH–FRL–2041–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNs and provides a summary of each.

DATES: Written comments by: PMN 82–43, March 23, 1982. PMN 82–48, March 27, 1982. PMN 82–51 & 82–52, March 28, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51391]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St. SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office Toxic Substances, Environmental Protection Agency, Rm. E–416, 401 M St. SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–43

Close of Review Period. April 22, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Organic acid, lead salt.

Use. The manufacturer states that the PMN substance will be used as a minor

ingredient in the manufacture of articles for industrial use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Specific gravity @ 25° C—1.374.
Flash point, closed cup—150° C (302° F).
Viscosity, Gardner—1,000,000 cps.
Color, Gardner—9–10.

Toxicity Data

Oral toxicity LD_{50}—3,700 to 6,000 mg/kg.
Skin irritation—Toxic.
Inhalation toxicity—Toxic.
Ingestion toxicity—Toxic.

Exposure. The manufacturer states that during manufacture 3 workers may experience exposure 24 hrs/daily, 200 days/yr during loading and transferring.

Environmental Release/Disposal. The manufacturer states that release to the environment is nil.

PMN 82–48

Close of Review Period. April 26, 1982.

Importer's Identity. Huels Corporation, 750 Third Avenue, New York, NY 10017.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of cycloalkene.

Use. The importer states that the PMN substance will be used as a polymer component for blends with other rubbers.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point—55° C.
Solubility: hydrocarbons—Soluble; halogenated hydrocarbons—Soluble.
Density @ 20° C—0.91 g/ml.
Decomposition temperature—250° C.
Ignition temperature, DIN 51794—>400° C.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>12.5.
Skin irritation (rabbit)—Non-irritant.
Eye irritation (rabbit)—Non-irritant.

Exposure. The importer states that during processing no exposure occurs.

Environmental Release/Disposal. The importer states that no release to the environment is anticipated.

PMN 82–51

Close of Review Period. April 27, 1982.

Manufacturer's Identity. Minnesota Mining & Manufacturing Company, 3M Center, St. Paul, MN 55144.

Specific Chemical Identity. Trimethyladipolydichloride.

Use. The manufacturer states that the PMN substance will be used as an intermediate for chemical manufacture of a curing agent.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—yellow liquid, acidic odor.
Specific gravity—1.15.
Boiling point—>300° F.
Flash point—>200° F.
Viscosity—14 cps.
Solubility: water—Reacts.
% volatile @ room temperature—Negligible.

Toxicity Data. No data were available.

Exposure. The manufacturer states that during manufacture and processing a total of 18 workers may experience dermal exposure up to 12hrs/day, up to 15 days/yr.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Disposal is by approved landfill and incineration.

PMN 82–52

Close of Review Period. April 27, 1982.

Manufacturer's Identity. Minnesota Mining & Manufacturing Company, 3M Center, St. Paul, MN 55144.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Perfluoroalkane sulfonic acid, diethanolamine salt.

Use. The manufacture states that the PMN substance will be used as an additive for formulators of plating bath chemicals and as a surfactant for plating.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, light yellow liquid.
Melting point—75° C.
Solubility: water—soluble. n-octanol—soluble. ethanol—soluble. Acetone—soluble. Methanol—soluble.
Octanol/water partition coefficient—0.65.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5,000 mg/kg.
Acute dermal toxicity LD_{50} (rat)—Slightly irritating.
Skin irritation (rabbit)—Slightly irritating.
Eye irritation (rabbit)—Severely irritating.
Ames salmonella—Non-mutagenic.
Skin sensitization (guinea pig)—Weak sensitizer.

Environmental Test Data

COD mg/1—307,000 mg/kg.
BOD_{28}—278,000 mg/kg.
LC_{50} 96 hr. (fathead minnow)—43 mg/1.
LC_{50} 48 hr. (daphnia magna)—18 mg/1.

Exposure. The manufacturer states that exposure will be negligible.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 100–1,000 kg/yr released to land. Disposal is by approved landfill and incineration.

Dated: January 28, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–2985 Filed 2–3–82; 8:45 am]

BILLING CODE 6560–31–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1331]

Petitions for Reconsideration of Actions in Rule Making Proceedings

January 20, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before February 19, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: ITT World Communications, Inc. Required Rate of Return (CC Docket No. 80–693).

Filed by: John M. Scorce, Attorney for Western Union International, Inc., on 1–11–82.

Alexander P. Humphrey, IV, for RCA Global Communications, Inc., on 1–18–82.

Lloyd D. Young, Attorney for TRT Telecommunications Corporation on 1–18–82.

Joseph J. Jacobs, Peter M. Andersen & Richard J. Heitmann, Attorneys for ITT World Communications, Inc., on 1–18–82.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Beaumont, Lake Jackson and Port Lavaca, Texas) (RM's 3744 & 3774) (BC Docket No. 81–234)

Filed by: John R. Feore, Jr. & Noel C. R. Gunther, Attorneys for Turner Broadcasting Corporation (KBUC–FM), on 1–22–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–3013 Filed 2–3–82; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Steering Committee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's Steering Committee scheduled to meet on Thursday, February 11, 1982, at 9:30 a.m., in Room 650 of the Commission's offices at 1919 M Street, N.W., Washington, D.C. The meeting will be open to the public. The preliminary agenda is as follows:

I. General Administrative Matters
II. By-Law Proposals
III. Mission Statement Refinement
IV. Environmental Study Issues
V. Definitional Problems and Questions
VI. Recommendations on General Approach
VII. Other Business
VIII. Presentation of Oral Statements
IX. Adjournment

With prior approval of the Group Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Group Chairman determines that an oral presentation is conducive to the effective attainment of the Committee's objectives. Anyone wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202 634–1509), at least five days prior to the meeting date.

The Commission's Advisory Committee Management Officer has reviewed the need for this abbreviated Notice. Due to the need for the Steering Committee to establish definitive direction and approaches for discussion at the general membership meeting already scheduled for February 26, 1982, this Notice has been approved.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–2912 Filed 2–3–82; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 76

"Maritime Advisory Committee in Preparation for the 1982 Mobile Services World Administrative Radio Conference (1983 Mobile Services WARC)"

Notice of 12th Meeting, Tuesday, February 9, 1982—9:30 a.m., 1st Floor Auditorium, Comsat Building, 940 L'Enfant Plaza, SW, Washington, DC

Agenda

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Consideration of Draft Comments concerning the FCC Fourth Notice of Inquiry.
4. Establishment of future meeting schedule.

Charles Dorian, Chairman, SC–76, Comsat Corporation, Washington, DC, Phone: (202) 554–6756

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are referred, but by provious arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Justification for Less Than Two Weeks Notice in Federal Register

This purpose of this meeting is to consider a proposed response to FCC Docket 81–413. The deadline for filing of comments is February 12, 1982.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–2910 Filed 2–3–82; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 79

"Universal Marine Radiotelephone Compatibility"

Notice of 5th Meeting, Wednesday, February 17, 1982—9:30 a.m., Conference Room A–106, FCC Annex, 1229 20th Street, NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T. B. Miller, Chairman SC–79, WJG Telephone Company, P.O. BOx 9363, Memphis, TN 38109, Phone: (901) 789–3800

Special Committee No. 80

"FCC Rules Review as Required by Regulatory Flexibility Act of 1980"

Notice of 3rd Meeting, Wednesday, February 17, 1982—1:30 p.m., Conference Room A–106, FCC Annex, 1229 20th Street, NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

Charles S. Carney, Chairman SC–80, Nav-Com, Inc., 711 Grand Blvd., Deer Park, NY 11729, Phone: (516) 667–7710

Executive Committee Meeting

Notice of February Meeting, Thursday, February 18, 1982—9:30 a.m., Conference Room A–110, 1229 20th Street, NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Draft Comments on FCC Docket 81–413 concerning Spread Spectrum Techniques.

Special Committee No. 81

"Review of FCC Rules Applicable to VHF–FM Maritime Frequencies"

Notice of 4th Meeting, Wednesday, February 18, 1982—1:30 p.m., Room A–213, FCC Annex, 1229 20th Street, NW., Washington, DC

Agenda

1. Administrative matters.
2. Review of FCC Rules, Parts 81 and 83.

Carl Gray, Chairman SC–81, Consultant, American Waterways Operators, Inc., 1055 Dalebrook Drive, Alexandria, VA 22308, Phone: (703) 360–4625

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Federal Communications Commission.
William J. Tricarico,
Secretary,

[FR Doc. 82-2911 Filed 2-3-82; 8:45 am]
BILLING CODE 6712-01-M

[FCC 82-39]

American Telephone and Telegraph Co.; et al.

AGENCY: Federal Communications Commission.

ACTION: Depreciation rate prescription order.

SUMMARY: The Federal Communications Commission has ordered AT&T and the Bell system operating companies to apply the percentages of depreciation which are set forth in Appendix 4 of the Order. AT&T and the twenty-four Bell companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of the consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Companies are to apply the depreciation rates as of the date or dates set forth in Appendix 4 of the Order. In no case is an effective date prior to January 1, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Kenneth P. Morgan, Chief, Depreciation Rates Branch, (202) 634-1730.

Order

Adopted: January 21, 1982.
Released: January 28, 1982.

In the matter of the prescription of revised percentages of depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for:

American Telephone and Telegraph Company, Long Lines Department
Bell Telephone Company of Nevada
The Bell Telephone Company of Pennsylvania
The Chesapeake and Potomac Telephone Company
The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
Cincinnati Bell, Incorporated
The Diamond State Telephone Company
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
Michigan Bell Telephone Company
The Mountain States Telephone and Telegraph Company
New England Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
The Ohio Bell Telephone Company
Pacific Northwest Bell Telephone Company
The Pacific Telephone and Telegraph Company
South Central Bell Telephone Company
Southern Bell Telephone and Telegraph Company
The Southern New England Telephone Company
Southwestern Bell Telephone Company
Wisconsin Telephone Company

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the companies listed in the following tables in accordance with our rules. Table A lists those companies whose rates had been regularly scheduled for review in 1981. For these companies we have considered revisions in depreciation rates for virtually all plant accounts. Table B lists those companies which had not been regularly scheduled for review in 1981, but which had filed special requests for revised depreciation rates applicable to terminal equipment, digital data systems (DDS) equipment, and station connections. For these companies we have considered revisions in depreciation rates for only the accounts covered in the special filings.

Table A

American Telephone and Telegraph Company, Long Lines Department
The Chesapeake and Potomac Telephone Company
The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
New England Telephone and Telegraph Company
South Central Bell Telephone Company
The Southern New England Telephone Company

Table B

Bell Telephone Company of Nevada
The Bell Telephone Company of Pennsylvania
Cincinnati Bell, Incorporated
The Diamond State Telephone Company
Michigan Bell Telephone Company
The Mountain States Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
The Ohio Bell Telephone Company
Pacific Northwest Bell Telephone Company
The Pacific Telephone and Telegraph Company
Southern Bell Telephone and Telegraph Company
Southwestern Bell Telephone Company
Wisconsin Telephone Company

II. Background

3. Since the late 1940's, the Commission staff has reviewed depreciation rates of approximately one-third of the larger FCC-subject telephone carriers each year. Each year it has arrived at its recommendations for the prescription of depreciation rates only after the following actions have been completed:

(1) A staff review of the carrier's filings and underlying studies.

(2) Independent staff analysis of such information as plant mortality data and carrier equipment retirement plans.

(3) Preparation of preliminary staff recommendations.

(4) Discussion of the carrier's filings and the preliminary proposals of the FCC and state commissions at a conference in which representatives of the carriers and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

4. This year, however, several complications arose which caused the represcription of rates undertaken in this order to be more extensive than had been the case in prior years and which required, at least in some instances, a departure from the traditional procedures described above. Thus, there was a need this year to consider a special blanket request by AT&T for the

represcription of terminal equipment accounts for all companies; there was a need to consider a blanket request by AT&T for the represcription of two DDS subaccounts; there was a need to implement remaining-life procedures for the first time; and, finally, there was a need to review the new station connections filings required by our decision in CC Docket No. 79–105, 85 FCC 2d 818 (1981).

A. Terminal Equipment Blanket Filing

5. On September 22, 1980, all of the AT&T companies (the Table A companies scheduled for review in 1981, as well as the Table B companies scheduled for review in later years) jointly filed for a blanket represcription of depreciation rates for terminal equipment (accounts 231 and 234). This blanket filing was apparently prompted by the perception that continuing changes in the terminal equipment market had reduced lives for such equipment to the point where they were substantially shorter than those underlying current rates and had thereby created a situation which if left uncorrected, could result in serious reserve deficiencies.[1]

6. In its blanket filing AT&T proposed to: (1) Reduce service lives for most accounts below those underlying currently prescribed depreciation rates; (2) allocate portions of the overall book reserve (account 171) to reserve subaccounts corresponding to accounts 231 and 234; and (3) calculate depreciation rates using the remaining-life method, effective January 1, 1981. Upon review of the AT&T studies, the staff found that the basis for these studies was primarily marketing analysis rather than the traditional life and salvage analysis (i.e., statistical mortality studies) normally used to support such requests. For this reason, these requested revisions could neither be compared with earlier studies nor verified using generally accepted life and salvage analysis techniques. The staff concluded that there was insufficient supporting detail to justify the rates AT&T was requesting and therefore requested additional data and studies including updated mortality and salvage data. Subsequently, on January 8, 1981, the staff issued a public notice (entitled "AT&T Filing for Revised Depreciation Rates for Terminal Equipment") inviting both the states and the general public to comment either in support of or in opposition to the relief sought by AT&T. Although the issuance of a public notice prior to the staff's recommendation of new depreciation rates to the Commission was a departure from the usual practice, it was deemed advisable given the magnitude of the changes requested in the blanket filing and given the fact that the filing was somewhat out of the ordinary (since it involved companies not scheduled for review in 1981). By issuing a public notice and allowing for comments prior to the three-way meeting, public participation in this very important matter could be enhanced. There was also the recognition, at the outset, that time and resource constraints would very likely make it impossible to hold three-way meetings for non-1981 carriers and that, as a consequence, alternative means would have to be found to assure the opportunity for active involvement by the various state jurisdictions.

B. DDS Blanket Filing

7. On November 21, 1980, AT&T, on behalf of the Bell Operating Telephone Companies (BOTC's) and its Long Lines Department, filed for new depreciation rates for the DDS subaccounts, DDS-Circuit 221.157 and Large PBX–DDS 234.03. In that blanket filing AT&T requested that these carriers be permitted to: (1) Establish the two separate classes of depreciable plant ordered in our Memorandum Opinion and Order, released July 6, 1979 (Mimeo No. 19056); (2) calculate depreciation rates on a remaining-life basis effective retroactive to January 1, 1980 for subaccount 221.157 and effective January 1, 1981 for subaccount 234.03; and (3) disaggregate the overall depreciation reserve to establish initial reserve balances corresponding to these subaccounts.

C. Remaining-Life Rates

8. Since we first prescribed depreciation rates in the late 1940's, we have used only the whole-life depreciation method for telephone companies' plant. This changed with our final decision in Docket No. 20188, where we revised our rules to allow the use of the remaining-life method. *See* 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981). We also recognized that the BOTC's had not maintained book reserves in sufficient detail to calculate remaining-life rates; we ordered the staff to determine the most reasonable allocation of the entire book reserve among all the plant accounts, instead of the allocation requested by AT&T of only a portion of the book reserve to those accounts covered by the blanket terminal equipment and DDS filings.

9. On January 23, 1981, the staff issued a public notice (entitled "Initiation of Proceedings to Allocate Depreciation Reserve as required by Docket No. 20188"). This public notice requested comments assessing alternative methods for allocating the reserve, including: (1) An allocation method based upon historical recordation of debits and credits; and (2) an allocation method based upon a distribution determined from theoretical reserve studies. Interested parties were invited to file comments, and in response to this notice, thirty-two parties provided comments and seven parties provided reply comments.

10. In our Supplemental Opinion and Order in the Docket No. 20188, FCC 81–463, released October 9, 1981, we reopened that docket and incorporated these comments and reply comments into the record. We concluded that the historical recordation of debits and credits as required in § 31.171(c) of our rules, 47 CFR § 31.171(c), is the method by which the accumulated depreciation reserve should be allocated to individual plant accounts and thereafter maintained. We stated that carriers should disaggregate account 171 in accordance with that order and that henceforth each carrier should maintain depreciation reserves for each category of property for which we prescribe depreciation rates.

11. In late October, all of the BOTC's filed requests for revised depreciation rates using the remaining-life method. The Table A companies proposed an effective date of January 1, 1981, and the Table B companies proposed an effective date of July 1, 1981.

D. Station Connections.

12. This year all AT&T carriers made special filings seeking revised depreciation rates for station connections in accordance with the accounting changes which we ordered in CC Docket No. 79–105, 85 FCC 2d 818 (1981). In that docket we amended the accounting rules for station connections, 47 CFR 31.232, and ordered that all FCC-subject carriers identify and assign the investment in account 232, Station Connections, to at least two subclases of plant—Station Connections-Inside Wire and Station Connections-Other. The Station Connections-Inside Wire subclass would consist primarily of the costs associated with the installation of wire or cables located inside customer buildings and houses, the installation and Connection of station apparatus, and the assignment and testing of customer lines. The Station Connections-Other subclass would

[1] Several weeks later, on November 7, 1980, GTE made a similar blanket filing on behalf of all of the GTE Operating Companies.

consist primarily of the costs associated with the installation of the drop (i.e., the wire which connects the carrier's distribution facilities with the inside wire) and the protector. Our order required carriers to expense future costs associated with the Station Connections-Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize future costs associated with the Station connections-Other subclass.

13. Because the retirement ratios and mortality dispersion patterns of the Station Connections-Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed for the Station Connections Account could not be applied to the Station Connections-Other subclass. Instead, new rates had to be developed. In order to facilitate the prescription of these new rates, the staff held discussions with the companies and suggested that each of the AT&T companies request changes in the depreciation rates for the Station Connections-Other subclass. The staff recommended that a 5% rate be used until there was sufficient data to ascertain specific mortality characteristics which could then be used to prescribe more precise depreciation rates for this subclass. In accordance with this recommendation, all AT&T companies filed requests for permission to adopt a 5% depreciation rate for the Station Connections-Other subclass, and all AT&T companies except for Pacific Northwest Bell requested that this rate be made effective as of January 1, 1981.[1]

14. In general, for those companies listed in Table A, the staff followed its customary procedures for reviewing the depreciation studies and supporting detail. The one departure, mentioned earlier, was the issuance of a public notice on January 8, 1981 requesting comments on AT&T's blanket terminal equipment filing. the staff arrived at its preliminary rate proposals for terminal equipment after fully considering: (1) The carriers' filings and underlying studies; (2) the results of its independent analysis of the basic data provided in support of the carriers' filings; and (3) the comments and reply comments submitted in response to the terminal equipment public notice. These preliminary staff proposals as well as those of the carriers became the subjects of joint review and discussion at the three-way meetings.

15. For the companies listed in Table B, the staff reviewed only the special depreciation rate requests submitted for the terminal equipment, DDS, and station connections accounts. For these accounts the staff arrived at its preliminary rate proposals in much the same manner as described above for Table A companies. However, for Table B companies, three-way conferences were not held to resolve the life and salvage factors. Instead, the various studies and proposals were discussed through correspondence and telephone conversations.

16. By late October 1981, three-way agreement regarding the appropriate life and salvage factors had been reached at the staff level for most of the companies for the terminal equipment and other accounts studied. In addition, each of the BOTC's filed depreciation reserve balances for each plant account for which a depreciation rate was prescribed as of December 31, 1980. These reserves were reviewed by the staff for conformity with the reserve allocation methodology which we had previously ordered, and copies were forwarded to each of the respective state commissions. Each of the carriers for which agreement had been reached filed requests with the Commission for revised depreciation rates based on the agreed upon life and salvage factors. These filings contained both whole-life and remaining-life studies as required by our final decision in Docket No. 20188. Following its usual procedures, on October 30, 1981, the staff issued a public notice (entitled "Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies"). The public notice was limited to those proposed rates where the state commissions had concurred with the life and salvage factors underlying the rates but not necessarily with the methods used to compute the rates. The public notice requested interested persons to comment on the staff's recommendations.

17. For the companies for which three-way agreement regarding life and salvage factors had not been reached, discussion continued. By mid-November three-way agreement was reached regarding life and salvage factors for four additional jurisdictions. For the remaining jurisdictions, agreement on these factors was reached between the BOTC's and the FCC staff, but not with the states. The BOTC's then filed requests with the Commission for revised depreciation rates based upon the life and salvage factors agreed to with the FCC staff. These filings also contained both whole-life and remaining-life studies. On November 24, 1981, a further public notice was issued announcing that the Commission had under consideration changes in depreciation rates with which some of the states had not concurred. The public notice requested interested parties to comment on the proposed rates. Copies of both the October 30 and November 24 public notices and the associated carrier filings were sent to each state with jurisdiction over a carrier listed in Table A or Table B.

III. Summary of Comments

18. The major issues raised by the parties in response to the January 8, October 30, and November 24, 1981 public notices are reviewed briefly in this section. The comments of all the parties are also set forth at somewhat greater length in Appendix 1 (for the January 8 comments), Appendix 2 (for the October 30 comments), and Appendix 3 (for the November 24 comments).

A. January 8, 1981 Public Notice

19. The January 8, 1981 public notice invited comments on the following topics: (1) the companies' future life estimates; (2) the companies' future net salvage estimates; (3) the adequacy of the studies and detail submitted in support of the companies' estimates of both future life and salvage; (4) the product life cycle approach which the companies used to estimate future lives; and (5) the effective dates for implementation of the proposed rates. In response to the public notice, the following parties filed comments and/or reply comments: AT&T, Independent Data Communications Manufacturers Association, Inc. (IDCMA), International Communications Association (ICA), North American Telephone Association (NATA), the National Association of Regulatory Utility Commissioners (NARUC), Mr. John Rives, Southern Pacific Communications Company (SPCC) and the state public utility commissions of Alabama, Arkansas, California, Colorado, Delaware, the District of Columbia, Florida, Georgia, Illinois, Michigan, Missouri, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. These comments and reply comments addressed not only the resolution of the issues raised in the public notice, but also the manner in which they should be resolved (i.e., three-way meetings). They also raised other issues, including the

[1] On November 12, 1981, Pacific Northwest Bell submitted a request for a 5% depreciation rate effective October 1, 1981 for the Station Connections-Other Account for the state of Washington. The October 1, 1981 effective date was requested to comply with a Washington Utilities and Transportation Commission order.

use of remaining-life rates, the competitive position of AT&T, its marketing strategies, and the potential effects of changes in depreciation rates on customer tariffs.

20. A large majority of the parties filing comments and reply comments did not find the study techniques, supporting data or the results of the life cycle analyses to be an adequate basis for the represcription of depreciation rates for terminal equipment. Many stated that the basic approach was conceptually appropriate and that it provided useful insights and information not normally obtainable with the more traditional techniques. Nevertheless, the parties pointed to a number of serious deficiencies including the lack of comparability to either prior studies or other analyses; the lack of information to enable them to analyze the underlying models or to assess the reasonableness and accuracy of the forecasts; and the inappropriateness of using retirement forecasts expressed in product units rather than dollar amounts. Almost all parties requested supplemental information, either the underlying data and analysis for the product life cycle studies or the mortality data which normally constitutes the basis for life and salvage analysis.

21. Comments regarding the estimated future life and salvage parameters proposed in the filing were also disparate. A few parties stated that the requests were very similar to those underlying some of the 1980 prescriptions and therefore presented no novel problems. Others stated that they were in no position to assess the validity of the proposals without an analysis of the underlying data. Still others stated—without elaborating on specific reasons for their conclusions—that the proposals appeared reasonable.

22. There was some dispute as to the effective dates of the proposed changes in depreciation rates. Some parties recommended acceptance of AT&T's proposed effective dates,[3] while others recommended postponement of the implementation of the new rates contingent upon the completion of the implementation proceeding for the *Second Computer Inquiry*, 77 FCC 2d 384, *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, FCC 81-481, released October 30, 1981, which is pending before the Commission.

23. Comments and reply comments also addressed the three-way meeting process, the method traditionally used in our represcription proceedings to solicit the views of the states with jurisdiction over carriers subject to those proceedings. The overwhelming majority of states responding supported the continuation of the three-way meetings as the traditional vehicle for resolving questions central to the prescription of depreciation rates. The sentiment of the states is perhaps best summarized by the response from the State of New York:

> The three-way meeting process allows for resolution of differences and gives the State regulators first hand knowledge of exactly how much consideration their views are given in the represcription process. The submission of written comments to an anonymous FCC analyst who then decides the issues via a process completely hidden from State regulatory view is both unacceptable and unnecessary. The long standing, three-way meeting process should be preserved.

Other respondents indicated a desire to participate in the represcription process as well.

24. AT&T's comments and reply comments, submitted on behalf of the BOTC's, reaffirmed its position as to the accuracy and usefulness of the product life cycle studies submitted as support for its proposed revisions of terminal equipment depreciation rates. AT&T stated that it used the product life cycle analysis in the ordinary course of its business, that the supporting detail reflects the rapidly changing nature of today's markets for terminal equipment, and that the salvage estimates are consistent with the estimated future lives. AT&T contended that the traditional forms of life and salvage analysis are inadquate to determine appropriate depreciation rates in a rapidly changing environment.

B. October 30, 1981 Public Notice

25. The October 30, 1981 public notice requested comments upon the depreciation rates for which three-way agreements regarding the appropriate life and salvage factors had been reached. In response to that notice the following parties submitted comments related to the proposed rates: AT&T, ICA, IDCMA, General Telephone Company of Ohio (General of Ohio), the Maryland Office of the People's Counsel, the New England Conference of Public Utility Commissioners, SPCC, and the state public utility commissions of Arkansas, California, Delaware, the District of Columbia, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, New York, Ohio, Pennsylvania, Tennessee, and Virginia.

26. Comments addressing the use of remaining-life rates reflected a wide range of opinion. While the Delaware and Mississippi Commissions found the remaining-life rates filed by the carriers to be acceptable, the Ohio and Arkansas Commissions stated that remaining-life rates were unacceptable for some, if not all, accounts. Pennsylvania stated that it has not approved of the remaining-life method for intrastate ratemaking purposes. The New York and California Commissions found the rates to be acceptable with certain modifications. A few states recommended that the impact of the implementation of remaining-life rates should be lessened through such devices as the amortization of reserve deficits or the adjustment of the reserve allocation. The New England Conference of Public Utilities Commissioners, Inc., stated that the remaining-life rates which had been filed by the carriers should not be accepted because there had been no discussion of the remaining-life factors (average remaining life, future net salvage, depreciation reserve) at the three-way conference attended by its members in July, 1981. ICA, SPCC, and IDCMA objected to the increased rates because of adverse effects upon themselves or their members. AT&T stated that its filings are in compliance with the FCC rules and that in Docket No. 20188 the FCC had expressed its desire for carriers to file for remaining-life rates.

27. As mentioned earlier, in the past AT&T did not disaggregate its reserve by separate plant account. It was therefore necessary for the Commission to order such disaggregation before it could implement remaining-life rates. Generally, the parties did not dispute the use of the historical method (i.e., debits and credits) chosen by the Commission as the basis for disaggregation. Some of the parties, however, suggested adjustments to the results obtained by the historical method. Specifically, Tennessee suggested minor adjustments to the reserve for the Aerial Wire-Toll Account. Virginia recommended an adjustment of the proposed reserve allocation for the station connections accounts. Arkansas recommended adjustments in the terminal equipment reserve allocation. New York requested adjustments to virtually all reserve allocations. And California requested that the reserves for virtually all of the accounts be adjusted to correspond with records which it has for many years required the Pacific Telephone and Telegraph Company (the AT&T company within its juridiction) to maintain for use in calculating

[3] As noted in paragraph 11, the Table A BOTC's requested a January 1, 1981 effective date and the Table B BOTC's requested a July 1, 1981 effective date for the remaining-life rates.

remaining-life rates for intrastate ratemaking purposes.

28. The state of Kentucky raised the issue as to the appropriate date for implementing revised depreciation rates. Kentucky opposed applying the revised depreciation rates on a retroactive basis, while AT&T asserted that such retroactivity was consistent with previous regulatory treatment.

29. ICA expressed concern that, based on a detailed analysis of rates proposed for several states, the average remaining—life tentatively agreed to by the FCC staff, the respective state commission, and the carrier was often shorter than that proposed in AT&T's initial filing. ICA further noted that a comparison of actual and forecast retirements led it to conclude that equipment lives were becoming longer rather than shorter. AT&T stated that the FCC staff proposed no rates using lives shorter than those supported in AT&T's most recent studies.

30. Two respondents addressed what they perceived to be an FCC staff endorsement of AT&T's migration strategy. Both ICA and IDCMA asserted that the staff, by considering the migration strategy in arriving at its recommendations for depreciation rates, has effectively endorsed such action by AT&T. IDCMA further stated that any consideration of AT&T's migration strategy is clearly inappropriate for determining depreciation rates. ICA added that depreciation rates should reflect true costs, not marketing strategies, and alleged that, in certain instances, state commissions have refused to allow tariff rate increases sought by AT&T in furtherance of its migration strategy. ICA expressed the belief that, under these circumstances, AT&T's migration strategy would be defeated and that it was, therefore, inappropriate for this Commission to adopt the shorter lives sought by AT&T on the basis of its migration strategy.

31. The product life cycle approach used to support AT&T's blanket terminal equipment filing was addressed by three respondents. ICA and the Arkansas Commission staff contended that the FCC has agreed with the product life cycle approach and that the staff apparently used it to develop its recommended depreciation rates. AT&T claimed that the FCC has recognized the value of the product life cycle analysis.

32. ICA and SPCC contended that contacts of an *ex parte* nature occurred between FCC staff members, the staffs of the various state commissions, and representatives of the companies. ICA also contended that parties other than AT&T, the state commissions, and the FCC were precluded from participating and that the information provided by the FCC staff was not properly distributed to other parties responding to the January 8, 1981 public notice. In addition, ICA requested that the FCC make public all documents and records of communications pertaining to this proceeding and establish dates for public comment on such materials. AT&T stated that the FCC staff's public notice was just and inquiry—and not a rulemaking—and that *ex parte* rules do not apply.

33. ICA and IDCMA also expressed concern about the relationship between the represcription of depreciation rates and other proceedings currently underway at the Commission. Both asserted that the represcription should be coordinated with proceedings which are related to the deregulation of terminal equipment. AT&T stated that ICA's contention that depreciation rates of terminal equipment should be considered in FCC proceedings directly related to the *Second Computer Inquiry* was clearly made only to delay the prescription of revised depreciation rates.

C. November 24, 1981 Public Notice

34. The November 24, 1981 public notice requested comments on the depreciation rates for which agreement had been reached between the BOTC's and the FCC staff, but not necessarily with the states. In response to this public notice, the following parties commented: NATA and the state public utility commissions of Idaho, Iowa, Kansas, Michigan, Montana, New Jersey, New Mexico, New York, Wisconsin, and Wyoming.

35. Montana approved of the FCC method for allocating AT&T's depreciation reserve, while New York and Wisconsin proposed a different allocation than that obtained by the FCC methodology. New York requested that the station connections reserve be allocated between the Station Connections subclasses (i.e., Station Connections—Inside Wire and Station Connections—Other) on the basis of their relative investments. Reasons for this included the difficulty of analyzing historical reserve activity, the probable effects of use of phone stores by New York Telephone, and the recent growth in the reserve attributable to the total station connections investment. Wisconsin proposed that the depreciation reserve be allocated to all accounts in a manner consistent with accounting records and reporting required by that state since 1936.

36. Responses concerning the proposed rates varied considerably. New Jersey concurred with the proposed rates; NATA and the states of Idaho, Iowa, Kansas, Michigan, and Wyoming declined to comment; New York submitted an alternative proposal for Station Connections—Other, and Wisconsin submitted an alternative proposal for all the terminal equipment and DDS rates. NATA contended that the *ex parte* and *in camera* nature of the deliberation made it impossible to comment either in support of or in opposition to the proposed rates. Idaho, Iowa, Kansas, Michigan and Wyoming declined to comment for a variety of reasons, including: (1) The pendency of state rate proceedings in which life and salvage estimates were under consideration; (2) a claim that the basis for recommendations was unclear and did not include consideration of two-tier pricing; and (3) the fact that use of remaining-life rates for intrastate purposes had not been resolved.

37. New York, citing the durability of the Station Connections-Other facilities and a filing by the New York Telephone Company, proposed the use of a 2.5% rate for Station Connections-Other. Wisconsin proposed a series of adjusted whole-life rates for the DDS and terminal equipment accounts. These rates were designed to recover reserve deficits over the average remaining life of the investment and were based upon records of depreciation reserves required by Wisconsin.

38. Responses by Montana, New Mexico, and Wyoming addressed the role of the three-way meetings. Wyoming expressed a desire to participate in the next meeting. Montana and New Mexico expressed a desire to review the proposed depreciation rates for terminal equipment in the context of the next scheduled three-way meeting. Montana stated that it would be more appropriate to discuss the proposed changes for all accounts at the same time, and both Montana and New Mexico raised questions regarding the acceleration of retirements in terminal equipment. Montana also proposed that alternative methods to cushion the effects of the transition to remaining life be explored.

IV. Discussion

A. Procedural Issues

39. As noted, some of the states filed comments expressing concern over our failure to hold three-way meetings in some cases before prescribing new depreciation rates. In our reconsideration order in Docket No. 20188, 87 FCC 2d 916, we made it clear that although three-way meetings were not required as a matter of law we

intended to continue these meetings with the states insofar as we possibly could. This remains our position. In our view, three-way meetings are an excellent way of coordinating our activities in the depreciation rate-setting area with our counterparts at the state level, and we will continue to rely upon three-way meetings as a critical element of the depreciation represcription process.

40. On the other hand, we must also recognize that there may be situations when time, resource or other constraints may prevent the holding of three-way meetings. Our overriding obligation is not to follow any particular procedure in setting depreciation rates but, rather, to protect the public interest. The need to hold three-way meetings must be weighed against factors such as the importance of a filing; the degree to which it is in controversy; the staff's workload; the availability of travel funds; the need for expeditious action; and the suitability of other means of coordination with the states. This year, it was necessary to depart from the three-way meeting process for the revision of at least some depreciation rates. The decision to bypass the three-way meeting process in certain instances during 1981 was taken with reluctance. It was simply not possible, given staff and budgetary constraints, to hold three-way meetings for all AT&T carriers this year, and timely resolution of AT&T's request required the use of methods other than the three-way meetings to obtain the views of interested parties. Because AT&T's blanket terminal equipment and DDS filings were limited in scope mainly to two primary plant accounts (accounts 231 and 234), it was feasible to use a public notice as one of several alternative means of obtaining the required information. Similarly, the blanket filing for station connections involved a situation where there was only a single account under consideration, where limited analysis was called for, and where inputs from the states could be readily obtained through written comments and telephone conversations. In short, the departure this year involved mainly only three primary plant accounts for non-1981 AT&T companies. In all other cases, resolution of issues relating to service lives and salvage values was accomplished through the three-way meeting process.

41. Notwithstanding the fact that three-way meetings could not be held in all cases, the staff made every effort to advise the states of new developments and to insure the opportunity for the states to participate in the depreciation represcription process. Thus, our staff notified each state commission having jurisdiction over a carrier which filed for new depreciation rates of the pendency of that filing. Our staff contacted each state commission, presented its proposals and solicited counter-proposals from the state commission. Some state staffs submitted written responses to our staff's proposals; others did not. When a state commission staff did not respond to telephone inquiries, our staff sent a written request for comments. Attached to each letter requesting comments was a report containing a summary of our staff's recommendations and a discussion of the factors considered in reaching them. These reports were also made available to the public at the offices of the Depreciation Rates Branch, and interested persons were given the opportunity to comment upon their contents. *See* October 30, 1981 public notice.

42. Plainly, these efforts satisfy the requirements of Section 220(i). We believe that the public notices issued prior to the formulation of the staff recommendations and our decision in this case have afforded the states substantial opportunity for input into our decisionmaking processes.

43. Some parties have suggested that *ex parte* communications between our staff and the staffs of the state commissions and representatives of carriers participating in this proceeding have triggered the applicability of Commission Rule 1.1231(b), 47 CFR 1.1231(b). We note that all filings, supporting data, and studies upon which our staff relied in making its recommendations to us today were made available to interested persons. *See* October 30, 1981 public notice and November 24, 1981 public notice. Assuming *arguendo* that the Commission's *Ex Parte* Rules do apply to pre-represcription activities, all of these *ex parte* contacts were initiated by the staff, and, therefore, only significant data or arguments presented during such proceedings must be reflected in the public record before we issue our prescription order.[4] All significant data and information is in the public record and has already been made available for review by any interested person. For this reason we need not address in detail in this proceeding the applicability of the Commission's *Ex Parte* Rules to pre-represcription activities of Commission staff.

44. Several of the states responding to our public notice asserted that they have jurisdiction over depreciation rates for intrastate ratemaking purposes. This issue is before us on reconsideration in CC Docket No. 79-105 and need not be addressed in this proceeding.

45. In the *Second Computer Inquiry* we ordered the deregulation of all terminal equipment. Parties have suggested that we should act upon the requested represcription of depreciation rates for terminal equipment within the proceeding we shall initiate shortly to implement our decision to deregulate such equipment. We cannot agree with this suggestions. It is clear that AT&T's terminal equipment is presently underdepreciated and that new depreciation rates must be prescribed if this situation is to be corrected. There is no reason why such correction should not take place in this proceeding together with the prescription of new depreciation rates for other AT&T accounts and as part of our overall represcription process. Delaying the represcription of AT&T's terminal equipment rates so that they can be considered in the *Second Computer Inquiry* implementation proceeding would in no way assist in resolving the issues in that proceeding. Rather, prompt represcription of new depreciation rates for AT&T's terminal equipment at this time might conceivably help our efforts to implement the *Second Computer Inquiry* by bringing the book value of AT&T's terminal equipment closer to that which would exist absent regulatory lag.

B. Substantive Issues

46. We now turn to the resolution of the substantive issues raised by the responses to the January 8, October 30 and November 24 public notices.

1. Use of Remaining-Life

47. Some respondents have objected to the staff's recommendation that new depreciation rates be prescribed based upon the remaining-life method. For example, certain states have claimed that the remaining-life methodology is inappropriate because its use would lead to increased local revenue requirements and because the states, in some instances, have not approved its use.

48. The remaining-life depreciation rates requested by AT&T are based upon estimates of future life expectancies, future net salvage values, and depreciation reserves determined in

[4] See Rule 1.1231(b) governing these contacts. The test for significance is subjective; a presentation is significant if and only if it influences the staff member receiving it. Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking, 78 FCC 2d 1384, 1401, n. 30 (1980).

accordance with the guidelines contained in the NARUC publication entitled *Public Utility Depreciation Practices* (1968). *See id.* at pp. 91–93. Moreover, the remaining-life rates themselves are computed using the methodology contained in that publication. In making its recommendations, the staff has relied in large part on the fact that the rates filed by AT&T conform to these standard practices and means of implementation. No party has raised any substantive objection to the techniques employed by AT&T in implementing remaining-life rates. Rather, the challenge is to the use of the remaining-life methodology itself. This proceeding, however, is not the appropriate forum in which to litigate the propriety of the remaining-life methodology. That methodology was considered and adopted in our recent decision in Docket No. 20188. At the present time, the use of the remaining-life method for calculating depreciation rates is explicitly allowed by Section 31.02–80(d) of our rules, 47 CFR 31.02–80(d), and filings based upon the remaining-life methodology are, if othewise appropriate, clearly entitled to acceptance. Accordingly, we find the remaining-life method used to develop depreciation rates under consideration in this order to be proper.

. Wisconsin proposed as an alternative to remaining-life a series of "adjusted whole-life rates" designed to recover reserve deficits over the average remaining life of the investment. While we note that the resulting depreciation rates are very similar to those filed by Wisconsin Telephone Company and the methodology may be consistent with our rules, we do not believe it would be prudent to adopt such techniques wihout either detailed examination of the proposed method or recognized authoritative support. For this reason, we do not accept the proposal by the state of Wisconsin but urge further exploration of the proposed method at the staff level.

50. Several respondents suggested that there is a need to adjust the reserves which underlie the proposed remaining-life rates because of the adverse impact they have on rates. For example, the Tennessee Commission noted that for one small account (Aerial Cable-Toll) South Central Bell filed reserve balances in excess of its corresponding recoverable plant investment and that, unless corrected, the remaining life formula would require that a negative depreciation rate be prescribed. A reserve balance in excess of corresponding plant investment is clearly inconsistent with the principle of allowing only 100% captial recovery for each class of plant, a principle which we emphasized in our final decision in Docket No. 20188. Furthermore, using accepted remaining-life methods, this condition may result in negative depreciation rates and expenses. The staff anaylzed the BOTC's accounting data to determine the reason for these inconsistencies and found that the primary cause was the transfer of plant from one account to another without a corresponding transfer or reserve amounts. The staff made minor adjustments to the reserves which correspond to the plant account transfers. These adjustments were discussed with the carriers and the respective state commissions and agreements was reached at the staff level. We believe that minor reserve modifications are more consistent with generally accepted accounting principles than the use of negative depreciation rates. As a result, we find the adjustments to the reserves made by the staff to be appropriate. Because the timing of plant retirements and the amount of net salvage cannot be predicted with certainty, it is likely that reserves in excess of recovery investment will result for some accounts in the future. We now direct the staff to begin to formulate procedures which will resolve this problem and eliminate the need to prescribe negative remaining-life rates in the future.

51. Several states have requested a more general reallocation of AT&T's depreciation reserve. Specifically, California and Wisconsin have requested that the reserve be allocated based upon the historical records which these states have required local BOTC's to keep. We have been aware for some time now that California has required disaggregated depreciation reserve records to be kept and are familiar with its practices in this regard. The historical reserve allocation methodology used by the California Commission is quite similar to that which we ordered in Docket No. 20188. Any differences between our own reserve allocations and those of California are not terribly significant on an overall basis and would in no way impede the accomplishment of federal regulatory objectives in Docket No. 20188 or elsewhere. Therefore, as a matter of comity, we will accept California's proposal.

52. The Wisconsin proposal raises more serious problems: In contrast to the California situation, we are not familiar with the recordkeeping requirements of the Wisconsin Commission. Indeed, up to the time Wisconsin filed comments in this proceeding, we were not even aware that it had requried carriers to keept disaggregated reserve records. Wisconsin did not file comments in response to the January 23, 1981 public notice which the staff issued prior to our resolution in Docket No. 20188 of the question of AT&T's reserve allocation.[5] We cannot, under the circumstances, grant the relief Wisconsin seeks here. Thus, at the present time, we are unable to determine whether its reserve allocation methodology is consistent with the requirements of Docket No. 20188 or is otherwise appropriate. This decision, however, would appear to have no serious practical consequences at this time. The Wisconsin Telephone Company is a 1983 company, and remaining-life rates are being prescribed for it by this order only for the terminal equipment and DDS accounts. Because the depreciation rates proposed by Wisconsin for the terminal equipment and DDS accounts are very similar to those filed by Wisconsin Telephone pursuant to Docket No. 20188, adopting Wisconsin's proposal would not significantly alter the carrier's depreciation rates. On the other hand, we would point out that there are significant differences in the reserves for other accounts (e.g., central office equipment) which could result in significant variances in remaining-life rates in the future. We urge that the Wisconsin Commission work with our staff to explore the future use of reserves derived from records maintained at the request of the Wisconsin Commission prior to the next review of depreciation rates for those accounts currently scheduled for 1983.

53. New York proposed the reallocation of reserves by major category of plant (e.g., outside plant) with a detailed disaggregation within these categories based upon current theoretical reserve studies. We cannot accept the allocation proposed by New York at this juncture. The methodology for disaggregation of AT&T's depreciation reserve was an issue decided in Docket No. 20188. New York has not provided any reason for us to reopen the allocation issue here or to reserve our decision in Docket No. 20188.

54. New York and Virginia proposed the allocation of the station connections reserves to the subaccounts (i.e., Station Connections-Inside Wire and Station

[5] In contrast, California did file comments in response to the January 23, public notice, bringing our attention to their recordkeeping requirements regarding reserve disaggregation.

Connections-Other) on the basis of relative plant investment. Inasmuch as the depreciation rates for station connections under consideration here are not based upon the remaining-life method and, thus, are not affected by the relative magnitude of the reserve, we find the reserve allocation for station connections has no bearing here. We therefore dismiss the contentions of New York and Virginia in this proceeding without prejudice. These states remain free to raise such contentions in other contexts, either on an informal basis at the staff level or by filing a formal petition for relief.

55. In our final decision in Docket No. 20188, 83 FCC 2d 267, we had required carriers requesting remaining-life rates to file both whole-life and remaining-life studies so that we could ascertain the effects of replacing one method with the other. In our reconsideration order in that docket, 87 FCC 2d 916, the staff compared these studies and concluded that approximately two-thirds of the requested increase in depreciation expense is attributable to the change from whole-life to remaining-life rates. The magnitude of this increase suggests that it will be desirable to monitor the effects of the changes in depreciation methods. For this reason, we conclude that, at least for the next represcription cycle, the BOTC's should submit filings containing both whole-life and remaining-life studies.

2. Effective Dates for Changes in Rates

56. The appropriate effective date for the changes in depreciation rates is an issue raised by serveral responses to the public notices. Section 43.43 of our rules, 47 CFR 43.43, contains the guidelines which govern the dates for implementing depreciation rate changes. That section requires that carriers report changes in depreciation rates to this Commission and permits revisions to be made retroactive to a date no earlier than the beginning of the year in which the filing occurs.

57. Our examination of the carriers' filings for proposed changes in depreciation rates shows us that they comply with the requirements of Section 43.43 of our rules. All of the filings we have under consideration here were received in 1981, and none of the carriers has requested an effective date earlier than January 1, 1981, for either the whole-life or remaining-life depreciation rates.

58. However, we find that there is a significant gap between the study dates supporting the proposed depreciation rates and the effective dates for the rates requested by several respondents. Most of the studies were completed using year-end 1980 data. If we were to make the rate changes effective on January 1, 1982, as proposed by Kentucky, these depreciation rates would be based upon studies which would be approximately a year old when the rates became effective. When we consider these requested effective dates in light of our recognition in Docket No. 20188 of the importance of timely capital recovery, it is apparent that the earlier effective dates proposed by AT&T may facilitate such recovery. In Docket No. 20188 we determined that proper capital recovery is predicated in large measure upon a timely application of the correct depreciation rates. We also noted that if inaccurate depreciation rates are applied, the resulting misstatement of operating expenses could harm present and potential investors and, ultimately, ratepayers by denying not only to them but also to regulators an accurate, objective financial picture of the companies' operations and capital requirements. Consequently, we find the effective dates requested by AT&T to be generally acceptable.

59. Montana and New Mexico requested that depreciation rates not be represcribed before the next three-way meetings are held for the AT&T companies operating in their jurisdictions. Both Idaho and Wyoming stated that they could not comment on the rates because of the pendency of the same matters in state rate proceedings. It should be noted that the BOTC's operating in these four jurisdictions are scheduled for a complete review of depreciation rates in 1982 and that these companies, in their current filings, have proposed remaining-life rates to be effective retroactive to July 1, 1981. Inasmuch as rates determined in 1982 through the standard review process (including three-way meetings) can be routinely applied retroactive to January 1, 1982, a delay of only six months will result. We belive that, with more detailed review requested by the New Mexico and Montana Commissions, the record compiled in the state rate proceedings in Idaho and Wyoming, and the three-way meetings scheduled for 1982, more accurate rates would likely result in 1982 than would be the case if the rates were based upon the studies and discussion which have taken place this year. We believe that the merits of the increased accuracy for capital recovery justify the six month delay in the prescription of the rates, and we, therefore, defer the prescription of rates for these jurisdictions until 1982.

60. Three-way agreement regarding life and salvage factors was not reached for Michigan Bell and Iowa (Northwestern Bell). Furthermore, neither state provided comments which were responsive to the staff's proposals for these jurisdictions in the November 24, 1981 public notice. These states are not scheduled for three-way meetings until 1983, and deferral of the prescription of depreciation rates in these jurisdictions would result in a delay of at least eighteen months before proper rates of capital recovery could be put in place. We believe that such a delay is excessive, particularly for relatively short-lived investment, and, in the absence of comments to the contrary, we believe that the proposals by the staff for prescription of depreciation for Michigan Bell and Northwestern Bell (for Iowa) are appropriate.

3. Depreciation Rates for Terminal Equipment and Other Plant Accounts

61. although the October 30 and November 24 public notices had solicited comments regarding proposed revised depreciation rates for virtually all plant accounts, parties generally commented upon the life and salvage estimates for only the terminal equipment accounts. The only exception was New York, whose comments provided support for the use of a 2.5% depreciation rate for Station Connections—Other. As New York pointed out, the accounting for this subaccount has not yet been resolved and, as a result, there is some question as to the appropriate depreciation rate. Furthermore, New York Telephone Company recently submitted studies to the New York Commission in a rate case using a 2.5% depreciation rate for this subaccount. We find New York's proposal acceptable.

62. In the absence of any comments objecting to the carriers' proposed rates for non-terminal equipment accounts (other than the New York problem disposed of above) or to the life and salvage factors underlying these rates, and given the staff's concurrence in these rates and the factors underlying them, we find the proposed rates for plant other than terminal equipment to be acceptable.

63. We agree with the Kansas Commission's contention that the effect on equipment lives of the two-tier and other term contracts requires further evaluation. To date, there has been little data available regarding the effect of these pricing contracts. We are also uncertain that there will be significant amounts of this data available in the next few years, since most of the contracts have been in service for a relatively short period of time.

Furthermore, the term of the pricing contracts is only one factor which affects service lives, and there is little evidence to indicate that it is the major determinant of life. Because of the significant changes in service lives that are in fact now occurring, to refrain from represcribing depreciation rates until the impact of only one of many factors affecting life can be determined seems inappropriate. A more purdent course to follow in setting depreciation rates would appear to be to continue the timely consideration of those changes in service lives that are evident based upon analysis of existing data, and to delay explicit consideration of the impact of such pricing contracts until relevant data becomes available.

64. ICA has challenged staff recommendations of shorter service lives (and higher depreciation rates) than proposed in the initial AT&T filing. We believe those staff recommendations for equipment lives shorter than AT&T initially proposed are valid for the following reasons. When AT&T had initially filed for revised terminal equipment rates in September, 1980, it had submitted studies prepared as of January 1, 1980 to support its filings. Remaining-life rates, however, should be based on studies as current as possible; for this reason the staff requested that AT&T update its studies to January 1, 1981.[6] The updated studies submitted by AT&T indicated that certain of the average remaining lives had declined. This was not an unexpected development because, in those accounts in which few new installations are being made, each year brings the existing equipment closer to its ultimate retirement date. This Commission is not restricted to prescribing rates based upon service lives that are as long as or longer than those which the carriers propose. Our policies require that the staff make the best estimate of service lives it can based on available data, regardless of whether these estimates yield lives longer or shorter than those proposed by the carriers.

65. The implications of AT&T's migration strategy for the prescription of depreciation rates has also been matter of concern to some parties. We recognize that AT&T customers may have concerns regarding the potential effects of AT&T's marketing strategies if such activities lead to significant increases in rates. We note, however, that management plans or strategies are one of several factors of which estimations of prospective service lives routinely take account. *Public Utility Depreciation Practices* summarizes these factors:

> Determination of service lives basically involves an engineering estimate of the future effect of wear and tear, decay, action of the elements, inadequacy, obsolescence, and public requirements. In some cases other factors such as anticipated changeover to new or improved kinds of plant, or *specific plans of management*, must be given consideration. To arrive at a satisfactory estimate of future conditions, past experience generally gives an indication which can be used as at least one element in the estimate. The weight to be given past experience depends upon the extent to which conditions affecting service life in the future are expected to be similar to or different from those in the past. (Emphasis added.)

ID. at p. 105. Thus, consideration of the migration strategy would clearly appear to be within the purview of a thorough review of factors which could potentially affect service lives.

66. We do not suggest that the staff has condoned or approved of AT&T's migration strategy. We believe that it is important to distinguish between establishing requirements for financial reporting, the task of a represcription proceeding, and determining whether a management decision is prudent, normally the task of a ratemaking proceeding. Consequently, in previous decisions, we have directed the staff to inform us of significant matters, which may be beyond the scope of staff review of depreciation rates. In fact, in conjunction with the 1980 prescription orders, the staff had already informed us of AT&T's migration strategy and its potential impact on depreciation rates. IN 1980 and 1981 this strategy and its potential effect upon local rates were discussed both in the three-way meetings and in the staff reports to each of the state commissions. This insured that the states were made aware of the existenoe of the strategy and of some of the potential effects. We urge parties concerned about the effects of the strategy to bring their concerns to the attention of the state commissions. The overwhelming majority of terminal equipment is tariffed at the state level, and it is the states which, for the most part, have the jurisdiction to determine whether rate increases for terminal equipment should be disallowed because of any improper marketing objectives of AT&T.

67. Several parties question the use of AT&T's product life cycle studies as the basis for the prescription of depreciation rates. The staff, however, did not rely upon these studies. Rather, the staff recommendations concerning the depreciation rates under consideration in this order are based on traditional life and salvage analysis, rather than on product life cycle studies. Since we also do not rely upon AT&T's product life cycle studies, we need not address this issue in depth at this time. Our preliminary view is that, while marketing analysis similar to that initially submitted by AT&T can provide insight into the future life of terminal equipment, it is inappropriate to use such judgements in isolation as the decisional basis for the life estimates and, thus, for the prescription of depreciation rates.

68. The staff has performed an extensive analysis of the materials initially submitted by the carriers to support their proposed depreciation rates for terminal equipment as well as the supplementary information requested by the staff. It has also reviewed the information provided in the comments and reply comments responding to the January 27 public notice. This analysis, based upon both literature related to the past, present, and future markets for terminal equipment and the study of historical mortality data, revealed that the lives of terminal equipment have been consistently decreasing in recent years and that they will likely decrease even more in the future.

69. The primary factors leading to the reduction in equipment lives are (1) changes in technology, (2) increasing competition, and (3) carriers' marketing strategies. The advent and refinement of technological changes, particularly large scale integration of electronic components, is likely to result in an even more rapid rate of technological obsolescence for much of the existing equipment. Newer, more technologically advanced equipment tends to be much more modular, versatile, and amendable to upgrading than does the carriers' older equipment. Certain types of service changes such as the rearrangement of work stations can now be accomplished by the customer so that

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[6] An examination of the relationship between the parameters underlying whole-life and remaining-life depreciation rates leads us to conclude that timing may be even more important when remaining-life rates are to be used. A whole-life rate is a function of the average life and the average net salvage of the investment. Use of these parameters effectively blends historical experience with forecasts of future life and salvage. Changes in whole-life depreciation rates (either positive or negative) are therefore cushioned because they reflect an average of both future estimates and past experience. A remaining-life rate, however, is a function of the average remaining life, the future net salvage, and the depreciation reserve of the investment. Changes in remaining-life depreciation rates due to changes in future life and salvage are not dampened by history, and are therefore more responsive to changes in perceptions of the future. These changes may be exacerbated by reserve surpluses or deficiencies. Because of these differences, timely implementation is perhaps even more important for remaining-life than for whole-life rates.

visits by telephone company craft personnel are no longer required. Taken together these factors have resulted in new equipment offering the potential of significant future savings to the customer. Thus rapid technological advance tends to encourage early retirements and consequently to reduce the useful life of older terminal equipment.

70. Moreover, as competition has increased, terminal equipment lives have decreased. Competition has led to customers having a constantly increasing array of product lines from which they can choose to meet their specific communications needs, and has enabled them to replace older equipment more easily with new selections which better satisfy their needs. Since there is little evidence to suggest that the level of competition will moderate or decrease in the foreseeable future, it is reasonable to assume that competition will likely result in an even greater reduction in future terminal equipment lives than that experienced in the recent past.

71. The third major factor affecting the length of terminal equipment service lives is the marketing effort of the operating telephone company personnel. Rates of retirement and installation of equipment are not only the result of technological obsolescence and competition, but are also influenced by the efforts of the company to cause customers to migrate from older equipment types to more modern products which are potentially more profitable to the company. Major facets of that marketing effort include repricing of the existing equipment and incentive programs to encourage sales personnel to aggressively solicit business from both existing customers and customers served by competitors' equipment.

72. Because they have provided all this equipment under either federal or state tariff, the carriers have also had to expend a major effort in the regulatory arena to obtain authorization to make the desired price adjustments and service offerings. The company's marketing success is not dependent upon any single element, such as pricing, but rather upon the effect of the combination of pricing, incentive programs, and regulatory approval of product offerings and tariffs.

73. Based upon the results of its extensive mortality analysis, the staff concluded that terminal equipment lives are likely to decline in the future. The similarity of the results obtained from the product life cycle studies and those obtained from the mortality studies offers additional support for the reduction in the service lives underlying depreciation rates for terminal equipment. The fact that similar results were obtained by independent analysis using widely disparate methods only underscores the dramatic reduction in service lives we have seen in this prescription. Consequently, we find the service lives underlying the depreciation rates for terminal equipment we prescribe today to be appropriate.

V. Ordering Clauses

74. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), it is ordered, that the percentages of depreciation set forth in Appendix 4 of this order are prescribed effective retroactively to the dates listed.

75. It is further ordered, that nothing in this order shall be construed to amend or rescind that part of the Commission's previous prescription orders which requires these companies to file with the Commission, until further ordered by the Commission, certain specified information relating to the companies' plans for replacing central office equipment presently in service with electronic and other types of switching systems.

76. It is further ordered, that the companies shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next represcription period.

77. It is further ordered, that the compaines shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note.—Due to the effort to minimize publishing costs, the Appendices to this order will not be printed herein. Interested parties may inspect the Appendices on file in the FCC Library, Room 639, 1919 M St., NW., Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-2966 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-41]

Continental Telephone Company of Virginia and Continental Telephone Company of Upstate New York, Inc.; Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act, As Amended

AGENCY: Federal Communications Commission.

ACTION: Depreciation rate prescription order.

SUMMARY: The Federal Communications Commission has ordered the named Continental Telephone Companies to apply the percentages of depreciation which are set forth in the Appendix to the Order. The named companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Companies are to apply the depreciation rates as of the date or dates set forth in the Appendix to the Order. In no case is an effective date prior to January 1, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief Depreciation Rates Branch, (202) 634-1730.

Order

In the matter of the prescription of revised percentages of depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended, for: Continental Telephone Company of Virginia, Continental Telephone Company of Upstate New York, Incorporated.

Adopted: January 21, 1982.

Released: January 28, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of these classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the Continental Telephone Company of Virginia (Continental-Virginia) and the Continental Telephone Company of Upstate New York, Incorporated (Continental-New York) in accordance with our rules. Continental-Virginia's rates had been regularly scheduled for review in 1981, and, accordingly, we have considered revisions in depreciation rates for virtually all of its plant accounts. Continental-New York, which had not been regularly scheduled for review in 1981, filed a special request for revised depreciation rates for its

terminal equipment and station connections accounts. For Continental-New York we have considered revisions of depreciation rates for only the accounts covered in the special filing.

II. Background

3. Since the late 1940's, the Commission staff has reviewed depreciation rates of approximately one-third of the larger FCC-subject telephone carriers each year. Each year it has arrived at its recommendations for the prescription of depreciation rates only after the following actions have been completed:

(1) A staff review of the carrier's filings and underlying studies.

(2) Independent staff analysis of such information as plant mortality data and carrier equipment retirement plans.

(3) Preparation of preliminary staff recommendations.

(4) Discussion of the carrier's filings and the preliminary proposals of the FCC and state commissions at a conference in which representatives of the carriers and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

4. This year, however, several complications arose which required a departure from the traditional procedures described above. First, on October 13, 1981 Continental-New York filed for a represcription of depreciation rates for terminal equipment (accounts 231 and 234). This filing was apparently prompted by the perception that continuing changes in the terminal equipment market had reduced lives for such equipment to the point where they were substantially shorter than those underlying current rates and had thereby created a situation which, if left uncorrected, could result in serious reserve deficiencies.[1] In its filing Continental-New York proposed to reduce service lives for most accounts below those underlying currently prescribed depreciation rates, and calculate depreciation rates using the remaining-life method, effective January 1, 1981.

5. Another problem which complicated the represcription process this year was the need to implement remaining-life procedures. Since we first prescribed depreciation rates in the late 1940's, we have used only the whole-life depreciation method for telephone companies' plant. This changed with our final decision in Docket No. 20188, where we revised our rules to allow the use of the remaining-life method. *See* 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981). Following adoption of that order, both Continental companies filed proposed revised depreciation rates using the remaining-life method, to be effective January 1, 1981.

6. Finally, there was a need this year to review the special filings for revised depreciation rates for station connections submitted by both Continental companies in accordance with the accounting changes which we ordered in CC Docket No. 79-105, 85 FCC 2d 818 (1981). In that docket we amended the accounting rules for station connections, 47 CFR 31.232, and ordered that all FCC-subject carriers identify and assign the investment in account 232, Station Connections, to at least two subclasses of plant—Station Connections-Inside Wire and Station Connections-Other. The Station Connections-Inside Wire subclass would consist primarily of the costs associated with the installation of wire or cables located inside customer buildings and houses, the installation and connection of station apparatus, and the assignment and testing of customer lines. The Station Connections-Other subclass would consist primarily of the costs associated with the installation of the drop (i.e., the wire which connects the carrier's distribution facilities with the inside wire) and the protector. Our order required carriers to expense future costs associated with the Station Connections-Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize future costs associated with the Station Connections-Other subclass.

7. Because the retirement ratios and mortality dispersion patterns of the Station Connections-Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed for the Station Connections Account could not be applied to the Station Connections-Other subclass. Instead, new rates had to be developed. In order to facilitate the prescription of these new rates, the staff held discussions with Continental and the respective state commissions and suggested that each of the Continental companies request changes in the depreciation rates for the Station Connections-Other subclass. The staff recommended that a 5% rate be used for Continental-Virginia and a 2.5% rate be used for Continental-New York until there was sufficient data to ascertain specific mortality characteristics which could then be used to prescribe more precise depreciation rates for this subclass. In accordance with this recommendation, these companies filed requests for permission to adopt these depreciation rates for the Station Connections-Other subclass, effective October 1, 1981.

8. In general, for Continental-Virginia, the staff followed its customary procedures for reviewing the depreciation studies and supporting detail. The staff arrived at its preliminary rate proposals for terminal equipment after fully considering the carrier's filing and underlying studies and the results of its independent analysis of the basic data provided in support of the carrier's filing. These preliminary staff proposals as well as those of Continental-Virginia and the Virginia Commission became the subjects of joint review and discussion at a three-way meeting.

9. For Continental-New York, the staff reviewed only the special depreciation rate requests submitted for the terminal equipment and station connections accounts. For these accounts the staff arrived at its preliminary rate proposals in much the same manner as described for Continental-Virginia. However, for Continental-New York a three-way conference was not held to resolve the life and salvage factors. Instead, the various studies and proposals were discussed through correspondence and telephone conversations.

10. By late October 1981, three-way agreement had been reached at the staff level regarding the appropriate life and salvage factors for Continental-Virginia's plant investment. Continental-Virginia then filed a request with the Commission for revised depreciation rates based on the agreed upon life and salvage factors. This filing contained both whole-life and remaining-life studies as required by our final decision in Docket No. 20188. Following its usual procedures, on October 30, 1981, the staff issued a public notice (entitled "Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies"). This public notice requested that interested persons submit comments on the staff's recommendations for Continental-Virginia.

11. By mid-November, agreement regarding the life and salvage factors was reached between Continental-New York, the FCC staff and the staff of the New York Commission. Continental-New York then filed a request with the Commission for revised depreciation rates based upon these life and salvage factors. This filing also contained both whole-life and remaining-life studies. On November 24, 1981 a further public notice was issued announcing that the

[1] On September 22, 1980, AT&T had made a blanket terminal equipment filing on behalf of all of the Bell Operating Telephone Companies and the Long Lines Department. This was followed by a similar GTE filing on November 7, 1980.

Commission had under consideration changes in depreciation rates for Continental-New York. The public notice requested that interested persons submit comments on the proposed rates. Copies of the October 30 and November 24 public notices and the associated carrier filings were sent to the respective state commissions.

III. Summary of Comments

12. The major issues raised by the parties in response to the October 30 and November 24, 1981 public notices are reviewed briefly in this section.

A. October 30, 1981 Public Notice

13. The October 30, 1981 public notice requested comments on the proposed depreciation rates for Continental-Virginia. Responses were received from the Virginia State Corporation Commission.

14. Virginia examined the parameters filed by Continental-Virginia and found them to be the same as those previously agreed to by its staff. However, it expressed concern about the impact that the change to remaining-life rates will have on revenue requirements. It stated that the accruals for Continental-Virginia would increase 21% because of revised life and salvage factors and another 31% because of the shift to the remaining-life method. This would result in a 58% depreciation expense increase in one year. This increase was attributed to deficiencies built up over many years in the Step-by-Step, Crossbar, Large PBX-Other, Station Apparatus and Aerial Wire Accounts. A five year amortization of the difference in the revised whole-life and remaining-life rates was recommended to cushion the effects of implementing remaining-life rates. Finally, Virginia agreed with Continental-Virginia's proposal for allocating the account 232 reserve to the Station Connections-Inside Wire and Station Connections-Other subaccounts based on their relative plant investments.

B. November 24, 1981 Public Notice

15. The November 24, 1981 public notice requested comments on the depreciation rates for Continental-New York. In response to this public notice, comments were filed by the North American Telephone Association (NATA).

16. NATA stated that it did not respond to the October 30, 1981 public notice because it was in no position to oppose or support the FCC staff recommendations. It contended that the *ex parte* and *in camera* nature of the discussions made it impossible to comment on the proposed rates because the basis for the staff recommendations could not be ascertained. Finally, it recommended that the prescription of depreciation rates for customer premises equipment be considered in conjunction with the implementation of the *Second Computer Inquiry*, 77 FCC 2d 384, *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, FCC 81–481, released October 30, 1981.

17. Further comments filed by NATA requested that the prescription of depreciation rates for Continental-Virginia scheduled for December be postponed pending consideration of the interrelationship to implementation of the *Second Computer Inquiry* and the receipt of statements in response to the November 24, 1981 public notice.

IV. Discussion

A. Procedural Issues

18. Some parties have suggested that *ex parte* communications between our staff and representatives of carriers subject to state commissions participating in this proceeding have triggered the applicability of Commission Rule 1.12311(b), 47 CFR 1.123(b). We note that all filings, supporting data, and studies upon which our staff relied in making its recommendations to us today were made available to interested persons. *See* October 30, 1981 public notice and November 24, 1981 public notice. Assuming *arguendo* that the Commission's *Ex Parte* Rules do apply to pre-represcription activities, all of these *ex parte* contacts were initiated by the staff, and, therefore, only significant data or arguments presented during such proceedings must be reflected in the public record before we issue our prescription order.[2] All significant data and information is in the public record and has already been made available for review by any interested person. For this reason we need not address in detail in this proceeding the applicability of the Commission's *Ex Parte* Rules to pre-represcription activities of Commission staff.

19. In the *Second Computer Inquiry*, we ordered the deregulation of all terminal equipment. Parties have suggested that we should act upon the requested represcription of depreciation rates for terminal equipment within the proceeding we shall initiate shortly to implement our decision to deregulate such equipment. We cannot agree with this suggestion. It is clear that Continental's terminal equipment is presently underdepreciated and that new depreciation rates must be prescribed if this situation is to be corrected. There is no reason why such correction should not take place in this proceeding together with the prescription of new depreciation rates for other Continental accounts and as part of our overall represcription process. Delaying the represcription of Continental's terminal equipment rates so that they can be considered in the proceeding implementing the *Second Computer Inquiry* would in no way assist in resolving the issues in that proceeding. Rather, prompt represcription of new depreciation rates for Continental's terminal equipment at this time might conceivably help our efforts to implement the *Second Computer Inquiry* by bringing the book value of Continental's terminal equipment closer to that which would exist absent regulatory lag.

B. Substantive Issues

20. We now turn to the resolution of the substantive issues raised by the responses to the October 30 and November 24 public notices.

1. Use of Remaining-Life

21. Virginia has objected to the staff's recommendation that new depreciation rates be prescribed based upon the remaining-life method, and has claimed that the remaining-life methodology proposals of Continental-Virginia are inappropriate because their use would lead to very large increases in depreciation expense.

22. The remaining-life depreciation rates requested by Continental-Virginia are based upon estimates of future life expectancies, future net salvage estimates and depreciation reserves determined in accordance with the guidelines contained in the NARUC publication entitled *Public Utility Depreciation Practices* (1968). *See id.* at pp. 91–93. Moreover, the remaining-life rates themselves are computed using the methodology contained in that publication. In making its recommendations, the staff has relied in large part on the fact that the rates filed by Continental-Virginia conform to these standard practices and means of implementation. Virginia has raised no substantive objections to the techniques employed by Continental-Virginia in implementing remaining-life rates. Rather, the challenge is to the use of the remaining-life methodology itself. This proceeding, however, is not the appropriate forum in which to litigate

[2] See Rule 1.1231(b) governing these contacts. The test for significance is subjective: a presentation is significant if and only if it influences the staff member receiving it. Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking, 78 FCC 2d 1384, 1401, n. 30 (1980).

the efficacy of the remaining-life methodology. That methodology was considered and adopted in our recent decision in Docket No. 20188. At the present time, the use of the remaining-life method for calculating depreciation rates is explicitly allowed by Section 31.02–80(d) of our rules, 47 CFR 31.02–80(d), and filings based upon the remaining-life methodology are, if otherwise appropriate, clearly entitled to acceptance. Accordingly, we find the remaining-life method used to develop depreciation rates under consideration in this order to be proper.

23. Our final decision in Docket No. 20188, 83 FCC 2d 267, required carriers requesting remaining-life rates to file both whole-life and remaining-life studies so that we could ascertain the effects of replacing one method with the other. In accordance with our reconsideration order in that docket, 87 FCC 2d 916, the staff compared these studies and concluded that approximately two-thirds of the requested increase in depreciation expense is attributable to the change from whole-life to remaining-life rates. The magnitude of this change suggests that it will be desirable to monitor the effects of the changes in depreciation methods. For this reason, we conclude that, at least for the next represcription cycle, the Continental companies should submit filings containing both whole-life and remaining-life studies.

2. *Allocation of the Depreciation Reserve*

24. Virginia proposed the allocation of the station connections reserve to the subaccounts (i.e., Station Connections-Inside Wire and Station Connections-Other) on the basis of relative plant investment. Inasmuch as the depreciation rates for station connections under consideration here are not based upon the remaining-life method and, thus, are not affected by the relative magnitude of the reserve, the reserve allocation for station connections has no bearing here. We therefore dismiss the contentions of New York and Virginia in this proceeding without prejudice. These states remain free to raise such contentions in other contexts, either on an informal basis at the staff level or by filing a formal petition for relief.

3. *Depreciation Rates for Terminal Equipment and Other Plant Accounts*

25. Although the October 30 and November 24 public notices solicited comments regarding proposed revisions in depreciation rates for virtually all plant accounts, no parties commented adversely on the life and salvage estimates underlying these rates. In the absence of any comments objecting to the carriers' proposed rates or to the life and salvage factors underlying these rates, and given the staff's concurrence in these rates and the factors underlying them, we find the proposed rates to be acceptable.

26. Having considered the responses to the public notices, the recommendations of the staff, and the proposals of the companies, we find the resulting whole-life and remaining-life rates to be appropriate rates to be applied, unless modified by further order of this Commission.

V. Ordering Clauses

27. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i) and 220(b), It is ordered, That the percentages of depreciation set forth in the Appendix to this order are prescribed effective retroactively to the dates listed.

28. It is further ordered, that the companies shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next represcription period.

29. It is further ordered, that the companies shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note.—Due to the effort to minimize publishing costs, the Appendix to this order will not be printed herein. Interested parties may inspect the Appendix on file in the FCC Library, Room 639, 1919 M St., N.W., Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–2969 Filed 2–3–82; 8:45 am]

BILLING CODE 6712–01–M

[FCC 82–40]

General Telephone Company of Florida, et al; Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act, as Amended

AGENCY: Federal Communications Commission.

ACTION: Depreciation rate prescription order.

SUMMARY: The Federal Communications Commission has ordered the named General Telephone Companies to apply the percentages of depreciation which are set forth in Appendix 4 of the Order. The named companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Companies are to apply the depreciation rates as of the date or dates set forth in Appendix 4 of the Order. In no case is an effective date prior to January 1, 1981.

ADDRESSES: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634–1730.

Order

In the matter of the prescription of revised percentages of depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended, for: General Telephone Company of Florida; General Telephone Company of Indiana, Incorporated; General Telephone Company of Michigan; General Telephone Company of the Northwest, Incorporated; General Telephone Company of Ohio; General Telephone Company of the Southeast; General Telephone Company of the Southwest; Hawaiian Telephone Company.

Adopted: Jan. 21, 1982.

Released: January 28, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of these classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the companies listed in the following tables in accordance with our rules. Table A lists those companies whose rates had been regularly scheduled for review in 1981. For these companies, we have considered revisions in depreciation rates for virtually all plant accounts. Table B lists those companies which had not been regularly scheduled for review in 1981, but which had filed special requests for revised depreciation rates for their terminal equipment and station connections accounts. For these

companies we have considered revisions of depreciation rates for only the accounts covered in the special filings.

Table A

General Telephone Company of Florida
General Telephone Company of Indiana, Incorporated
General Telephone Company of Michigan
General Telephone Company of Ohio

Table B

General Telephone Company of the Northwest, Incorporated
General Telephone Company of the Southeast
General Telephone Company of the SouthwestHawaiian Telephone Company

II. Background

3. Since the latae 1940's, the Commission staff has reviewed depreciation rates of approximately one-third of the larger FCC-subject telephone carriers each year. Each year it has arrived at its recommendations for the prescription of depreciation rates only after the following actions have been completed:

(1) A staff review of the carrier's filings and underlying studies.

(2) Independent staff analysis of such information as plant mortality data and carrier equipment retirement plans.

(3) Preparation of preliminary staff recommendations.

(4) Discussion of the carrier's filings and the preliminary proposals of the FCC and state commissions at a conference in which representatives of the carriers and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

4. This year, however, several complications arose which caused the represcription of rates undertaken in this order to be more extensive than had been the case in prior years and which required, at least in some instances, a departure from the traditional procedures described above. First, on November 7, 1980, all of the GTE companies (the Table A companies scheduled for review in 1981, as well as the Table B companies scheduled for review in later years) jointly filed for a blanket represcription of depreciation rates for terminal equipment (accounts 231 and 234). This blanket filing was apparently prompted by the perception that continuing changes in the terminal equipment market had reduced lives for such equipment to the point where they were substantially shorter than those underlying current rates and had thereby created a situation which, if left uncorrected, could result in serious reserve deficiencies.[1]

5. In their blanket filing the GTE companies proposed to: (1) reduce service lives for most accounts below those underlying currently prescribed depreciation rates, and (2) calculate depreciation rates using the remaining-life method, effective the month following Commission action. Upon review of the GTE studies, the staff determined that there was insufficient supporting detail to justify the rates GTE was requesting and therefore requested additional data and studies including updated mortality and salvage data. Subsequently, on January 27, 1981, after GTE had provided the additional data requested, the staff issued a public notice (entitled "GTE Filing for Revised Depreciation Rates for Terminal Equipment") inviting both the states and the general public to comment either in support of or in opposition to the relief sought by GTE. Although the issuance of a public notice prior to the staff's recommendation of new depreciation rates to the Commission was a departure from the usual practice, it was deemed advisable given the magnitude of the changes requested in the blanket filing and given the fact that the filing was somewhat out of the ordinary (since it involved companies not scheduled for review in 1981). By issuing a public notice and allowing for comments prior to the three-way meeting, public participation in this very important matter could be enhanced. There was also the recognition, at the outset, that time and resource constraints would very likely make it impossible to hold three-way meetings for non-1981 carriers and that, as a consequence, alternative means would have to be found to assure the opportunity for active involvement by the various state jurisdictions.

6. Another problem which complicated the represcription process this year was the need to implement remaining-life procedures. Since we first prescribed depreciation rates in the late 1940's, we have used only the whole-life depreciation method for telephone companies' plant. This changed with our final decision in Docket No. 20188, where we revised our rules to allow the use of the remaining-life method. *See* 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981). Following the adoption of that order, all the GTE companies listed in Tables A and B filed for revised depreciation rates for virtually all plant accounts which were calculated using the remaining-life method. In these filings the GTE companies requested a January 1, 1982 effective date. The staff, however, reviewed rates only for those accounts for which the companies had submitted current studies. The carriers listed in Table A submitted current studies for virtually all their plant accounts, whereas the carriers listed in Table B provided current studies for only their terminal equipment accounts.

7. This year all GTE carriers submitted special filings seeking revised depreciation rates for station connections in accordance with the accounting changes which we ordered in CC Docket No. 79-105, 85 FCC 2d 818 (1981). In that docket we amended the accounting rules for station connections, 47 CFR 31.232, and ordered that all FCC-subject carriers identify and assign the investment in account 232, Station Connections, to at least two subclasses of plant—Station Connections—Inside Wire and Station Connections—Other. The Station Connections—Inside Wire subclass would consist primarily of the costs associated with the installation of wire or cables located inside customer buildings and houses, the installation and connection of station apparatus, and the assignment and testing of customer lines. The Station Connections—Other subclass would consist primarily of the costs associated with the installation of the drop (i.e., the wire which connects the carrier's distribution facilities with the inside wire) and the protector. Our order required carriers to expense future costs associated with the Station Connections—Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize future costs associated with the Station Connections—Other subclass.

8. Because the retirement ratios and mortality dispersion patterns of the Station Connections—Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed for the Station Connections Account could not be applied to the Station Connections—Other subclass. Instead, new rates had to be developed. In order to facilitate the prescription of these new rates, the staff held discussions with the companies and suggested that each of the GTE companies request changes in the depreciation rates for the Station Connections—Other subclass. The staff recommended that a 5% rate be used until there was sufficient data to ascertain specific mortality characteristics which could then be used

[1] Several weeks earlier, on September 22, 1980, AT&T had made a similar blanket filing on behalf of all of the Bell Operating Telephone Companies and the Long Lines Department.

to prescribe more precise depreciation rates for this subclass. In accordance with this recommendation, all GTE companies filed requests for permission to adopt a 5% depreciation rate for the Station Connections—Others subclass, effective October 1, 1981.

9. In general, for those companies listed in Table A, the staff followed its customary procedures for reviewing the depreciation studies and supporting detail. The one departure, mentioned earlier, was the issuance of a public notice on January 27, 1981 requesting comments on GTE's blanket terminal equipment filing. The staff arrived at its preliminary rate proposals for terminal equipment after fully considering: (1) The carriers' filings and underlying studies; (2) the results of its independent analysis of the basic data provided in support of the carriers' filings; and (3) the comments and reply comments submitted in response to the terminal equipment public notice. These preliminary staff proposals as well as those of the carriers became the subjects of joint review and discussion at the three-way meetings.

10. For the companies listed in Table B, the staff reviewed only the special depreciation rate requests submitted for the terminal equipment and station connections accounts. For these accounts the staff arrived at its preliminary rate proposals in much the same manner as described above for Table A companies. However, for Table B companies, three-way conferences were not held to resolve the life and salvage factors. Instead, the various studies and proposals were discussed through correspondence and telephone conversations.

11. By late October 1981, three-way agreement regarding the appropriate life and salvage factors had been reached at the staff level for most of the companies for the terminal equipment and other accounts studied. Each of the carriers for which agreement had been reached filed requests with the Commission for revised depreciation rates based on the agreed upon life and salvage factors. These filings contained both whole-life and remaining-life studies as required by our final decision in Docket No. 20188. Following its usual procedures, on October 30, 1981, the staff issued a public notice (entitled "Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies"). The public notice was limited to those proposed rates where the state commissions had concurred with the life and salvage factors underlying the rates but not necessarily with the methods used to compute the rates. The public notice requested interested persons to comment on the staff's recommendations.

12. For the companies for which three-way agreement regarding life and salvage factors had not been reached, discussion continued. By mid-November, agreement regarding the life and salvage factors was reached between the GTE companies and FCC staff, but not with the states. The GTE companies then filed requests with the Commission for revised depreciation rates based on the life and salvage factors ageed to with the FCC staff. These filings also contained both whole-life and remaining-life studies. On November 24, 1981 a further public notice was issued announcing that the Commission had under consideration changes in depreciation rates with which the states had not concurred. The public notice requested interested parties to comment on the proposed rates. Copies of both the October 30 and November 24 public notices and the associated carrier filings were sent to each state with jurisdiction over a carrier listed in Table A or Table B.

III. Summary of Comments

13. The major issues raised by the parties in response to the January 27, October 30, and November 24, 1981 public notices are reviewed briefly in this section. The comments of all the parties are also set forth at somewhat greater length in Appendix 1 (for the January 27 comments), Appendix 2 (for the October 30 comments), and Appendix 3 (for the November 24 comments).

A. January 27, 1981 Public Notice

14. The January 27, 1981 public notice invited comments on the following topics: (1) The companies' future life estimates; (2) the companies' future net salvage estimates; (3) the studies and detail submitted in support of the companies' estimates of both future life and salvage; and (4) the effective dates of implementation of the proposed rates. In response to the public notice, ten comments and two reply comments were filed by the following parties: GTE Service Corporation; the National Association of Regulatory Utility Commissioners (NARUC); and the state public utility commissions of Arkansas, Delaware, Florida, Michigan, Mississippi, New York, North Carolina, Ohio, Oregon and South Carolina. The comments and reply comments contained information pertinent not only to the resolution of the issues raised in the public notice, but also to the manner in which they should be resolved (i.e., three-way meetings). They also raised other issues, including the use of remaining-life rates and the potential effects of changes in depreciation rates on customer tariffs.

15. The Arkansas and Michigan Commissions stated that the supporting data did not provide an adequate basis for the represcription of depreciation rates for terminal equipment. The few responses that addressed the companies' future life estimates noted that these estimates called for shorter lives than those previously prescribed. Asserting that GTE had not shown any change in conditions from those that existed during the last represcription, the South Carolina Commission proposed that remaining-life calculations be based on previously approved service lives.

16. Comments on the companies' future net salvage estimates varied. Michigan noted that, because the same salvage rates approved in 1978 were used in the current filing, it had no objection to the rates. South Carolina, however, contended that, because of the potential sales of in-place terminal equipment, a salvage of 25 percent should be used.

17. Delaware and South Carolina expressed support for the use of remaining-life depreciation rates. Michigan expressed support for the use of remaining-life rates, only if that use could be phased-in to minimize the impact on the customers. Ohio strongly objected to the use of remaining-life rates for General Telephone Company of Ohio (General of Ohio).

18. Parties also discussed whether we should revise the method we have traditionally relied upon to solicit the views of the states with jurisdiction over the carriers subject to this proceeding. The overwhelming majority of states expressed support for the continuation of the three-way meetings which have traditionally been the vehicle for resolving questions central to the prescription of depreciation rates. Other respondents indicated a desire to participate in the process as well.

19. Parties' reactions to the requested effective dates for implementation of the proposed rates also varied. The Michigan Commission favored a phase-in of the new rates beginning January 1, 1981. The Arkansas Commission stated that it would not recommend any changes to the existing rates until the company, the FCC and the Arkansas Commission staff had discussed this matter in a three-way meeting.

B. October 30, 1981 Public Notice

20. The October 30, 1981 public notice requested comments on the depreciation

rates for which three-way agreements had been reached regarding the appropriate life and salvage factors. In response to that public notice, the following persons commented on the rates proposed for GTE companies: Independent Data Communications Manufacturers Association (IDCMA), International Communications Association (ICA), General of Ohio, Southern Pacific Communications Company (SPCC) and the state public utility commissions of Arkansas, Ohio, Tennessee, and Virginia.

21. Two states—Ohio and Arkansas—explicitly commented on the use of remaining-life rates by GTE carriers and found remaining-life rates to be unacceptable for some, if not all, accounts.

22. Responses to the dates of implementation for whole-life and remaining-life rates varied considerably. Tennessee stated that rates should be made effective January 1, 1981. On the other hand, General of Ohio asserted that retroactive changes in depreciation rates would cause changes in depreciation expense which would be inappropriate because previous financial statements had shown net income using existing depreciation rates. Retroactive booking would distort those statements, thus making them less reliable for investors in GTE's publicly traded securities. Moreover, it was argued that this increased depreciation expense would appear on the carriers' books even though there would be no opportunity to recover such expense until new tariffs could be implemented.

23. ICA and SPCC contended that contacts of an *ex parte* nature occurred between FCC staff members, staff members of the various state commissions, and representatives of the companies. ICA also contended that parties other than the carriers, the state commissions and the FCC were precluded from participating and that the information provided by the FCC staff was not properly distributed to other parties responding to the earlier public notices. In addition, ICA requested that the FCC make public all documents and records of communications pertaining to this proceeding and establish dates for public comment on such materials.

24. ICA and IDCMA also expressed concern about the relationship between the prescription of depreciation rates and other proceedings currently underway at the Commission. Both asserted that the represcription should be coordinated with proceedings which are related to the deregulation of terminal equipment.

C. November 24, 1981 Public Notice

25. The November 24, 1981 public notice requested comments on the depreciation rates for which agreement regarding the life and salvage factors had been reached between the GTE companies and the FCC staff, but not with the states. In response to that public notice, the following parties commented: the North American Telephone Association (NATA) and the state public utility commissions of Hawaii, Montana, and New Mexico.

26. Responses from the states indicated a desire for discussion of life and salvage factors in the normal context of the three-way meetings. Hawaii stated that it was constrained from commenting on the merits of the proposed rates because of the pendency of a state rate proceeding. Hawaii suggested that, because the effective date for the proposed rates would not be until January 1, 1982, the matter be held in abeyance until the regularly scheduled 1982 three-way meeting. Hawaii further noted that its suggestion was contingent on retroactive booking of the rates resulting from the discussion. Montana indicated a desire to review all rates simultaneously, while New Mexico objected to the lack of traditional support data underlying the proposed rates; and both requested review in the context of the next scheduled three-way meeting.

27. NATA contended that the *ex parte* and *in camera* nature of the discussions made it impossible to comment on the proposed rates. It recommended that consideration of the prescription of depreciation rates for customer premises equipment must be done in conjunction with the implementation of the *Second Computer Inquiry*, 77 FCC 2d 384, *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, FCC 81-481, released October 30, 1981.

IV. Discussion

A. Procedural Issues

28. As already noted, some of the states filed comments expressing concern over our failure to hold three-way meetings in some cases before prescribing new depreciation rates. In our reconsideration order in Docket No. 20188, 87 FCC 2d 916, we made it clear that although three-way meetings were not required as a matter of law we intended to continue these meetings with the states insofar as we possibly could. This remains our position. In our view, three-way meetings are an excellent way of coordinating our activities in the depreciation-rate-setting area with our counterparts at the state level, and we will continue to rely upon three-way meetings as a critical element of the depreciation represcription process.

29. On the other hand, we must also recognize that there may be situations when time, resource, or other constraints may prevent the holding of three-way meetings. Our overriding obligation is not to follow any particular procedure in setting depreciation rates but, rather, to protect the public interest. The need to hold three-way meetings must be weighed against factors such as the importance of a filing; the degree to which it is in controversy; the staff's workload; the availability of travel funds; the need for expeditious action; and the suitability of other means of coordination with the states. This year, it was necessary to depart from the three-way meeting process for the revision of at least some depreciation rates. The decision to bypass the three-way meeting process in certain instances during 1981 was taken with reluctance. It was simply not possible, given staff and budgetary constraints, to hold three-way meetings for all GTE carriers this year, and timely resolution of GTE's request required the use of methods other than the three-way meetings to obtain the views of interested parties. Because GTE's blanket terminal equipment filing was limited in scope mainly to two primary plant accounts (accounts 231 and 234), it was feasible to use a public notice as one of several alternative means of obtaining the required information. Similarly, the blanket filing for station connections involved a situation where there was only a single account under consideration, where limited analysis was called for, and where inputs from the states could be readily obtained through written comments and telephone conversations. In short, the departure this year involved only three accounts for non-1981 GTE companies. In all other cases, resolution of issues relating to service lives and salvage values was accomplished through the three-way meeting process.

30. Notwithstanding the fact that three-way meetings could not be held in all cases, the staff made every effort to advise the states of new developments and to insure the opportunity for the states to participate in the depreciation represcription process. Thus, our staff notified each state commission having jurisdiction over a carrier which filed for new depreciation rates of the pendency of that filing. Our staff contacted each state commission, presented its proposals and solicited counter-proposals from the state commission. Some state staffs submitted written

responses to our staff's proposals; others did not. When a state commission staff did not respond to telephone inquiries, our staff sent a written request for comments. Attached to each letter requesting comments was a report containing a summary of our staff's recommendations and a discussion of the factors considered in reaching them. These reports were also made available to the public at the offices of the Depreciation Rates Branch, and interested persons were given the opportunity to comment upon their contents. *See* October 30, 1981 public notice.

31. Plainly, these efforts satisfy the requirements of Section 220(i), 47 U.S.C. 220(i). We believe that the public notices issued prior to the formulation of the staff recommendations and our decision in this case have afforded the states substantial opportunity for input into our decisionmaking processes.

32. Some parties have suggested that *ex parte* communications between our staff and representatives of carriers subject to state commissions participating in this proceeding have triggered the applicability of Commission Rule 1.1231(b), 47 CFR 1.1231(b). We note that all filings, supporting data, and studies upon which our staff relied in making its recommendations to us today were made available to interested persons. *See* October 30, 1981 public notice and November 24, 1981 public notice. Assuming *arguendo* that the Commission's *Ex Parte* Rules do apply to pre-represcription activities, all of these *ex parte* contacts were initiated by the staff, and, therefore, only significant data or arguments presented during such proceedings must be reflected in the public record before we issue our prescription order.[2] All significant data and information is in the public record and has already been made available for review by any interested person. For this reason we need not address in detail in this proceeding the applicability of the Commission's *Ex Parte* Rules to pre-represcription activities of Commission staff.

33. Several of the states responding to our public notice asserted that they have jurisdiction over depreciation rates for intrastate ratemaking purposes. This issue is before us on reconsideration in CC Docket No. 79–105 and need not be addressed in this proceeding.

[2] See Rule 1.1231(b) governing these contacts. The test for significance is subjective: a presentation is significant if and only if it influences the staff member receiving it. Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking, 78 FCC 2d 1384, 1401, n. 30 (1980).

34. In the *Second Computer Inquiry*, we ordered the deregulation of all terminal equipment. Parties have suggested that we should act upon the requested represcription of depreciation rates for terminal equipment within the proceeding we shall initiate shortly to implement our decision to deregulate such equipment. We cannot agree with this suggestion. It is clear that GTE's terminal equipment is presently underdepreciated and that new depreciation rates must be prescribed if this situation is to be corrected. There is no reason why such correction should not take place in this proceeding together with the prescription of new depreciation rates for other GTE accounts and as part of our overall represcription process. Delaying the represcription of GTE's terminal equipment rates so that they can be considered in the proceeding implementing the *Second Computer Inquiry* would in no way assist in resolving the issues in that proceeding. Rather, prompt represcription of new depreciation rates for GTE's terminal equipment at this time might conceivably help our efforts to implement the *Second Computer Inquiry* by bringing the book value of GTE's terminal equipment closer to that which would exist absent regulatory lag.

B. Substantive Issues

35. We now turn to the resolution of the substantive issues raised by the responses to the January 27, October 30, and November 24 public notices.

1. *Use of Remaining-Life.*

36. Some respondents have objected to the staff's recommendation that new depreciation rates be prescribed based upon the remaining-life method. For example, certain states have claimed that the remaining-life methodology is inappropriate because its use would lead to increased local revenue requirements and because the states, in some instances, have not approved its use.

37. The remaining-life depreciation rates requested by GTE are based upon estimates of future life expectancies, future net salvage values, and depreciation reserves determined in accordance with the guidelines contained in the NARUC publication entitled *Public Utility Depreciation Practices* (1968). *See id.* at pp. 91–93. Moreover, the remaining-life rates themselves are computed using the methodology contained in that publication. In making its recommendations, the staff has relied in large part on the fact that the rates filed by GTE conform to these standard practices and means of implementation. No party has raised any substantive objection to the techniques employed by GTE in implementing remaining-life rates. Rather, the challenge is to the use of the remaining-life methodology itself. This proceeding, however, is not the appropriate forum in which to litigate the efficacy of the remaining-life methodology. That methodology was considered and adopted in our recent decision in Docket No. 20188. At the present time, the use of the remaining-life method for calculating depreciation rates is explicitly allowed by Section 31.02–80(d) of our rules, 47 CFR 31.02–80(d), and filings based upon the remaining-life methodology are, if otherwise appropriate, clearly entitled to acceptance. Accordingly, we find the remaining-life method used to develop depreciation rates under consideration in this order to be proper.

38. In our final decision in Docket No. 20188, 83 FCC 2d 267, we had required carriers requesting remaining-life rates to file both whole-life and remaining-life studies so that we could ascertain the effects of replacing one method with the other. In accordance with our reconsideration order in that docket, 87 FCC 2d 916, the staff compared these studies and concluded that approximately two-thirds of the requested increase in depreciation expense is attributable to the change from whole-life to remaining-life rates. The magnitude of this change suggests that it will be desirable to monitor the effects of the changes in depreciation methods. For this reason, we conclude that, at least for the next represcription cycle, the GTE companies should submit filings containing both whole-life and remaining-life studies.

2. *Effective Dates for Changes in Rates.*

39. The appropriate effective date for the changes in depreciation rates is an issue raised by several responses to the public notices. Section 43.43 of our rules, 47 CFR 43.43, contains the guidelines which govern the dates for implementing depreciation rate changes. That section requires that carriers report changes in depreciation rates to this Commission and permits revisions to be made retroactive to a date no earlier than the beginning of the year in which the filing occurs.

40. Our examination of the carriers' filings for proposed changes in depreciation rates shows us that these filings comply with the requirements of § 43.43 of our rules. All of the filings we have under consideration were received in 1981 and none of the carriers has requested an effective date earlier than

January 1, 1981, for either the whole-life or remaining-life depreciation rates.

41. However, we find that there is a significant gap between the study dates supporting the proposed depreciation rates and the effective dates for the rates requested by the carriers. Most of the studies were completed using year-end 1980 data, whereas the requested effective dates for the rates range from October 1, 1981 to January 1, 1982, with most falling at the end of 1981. These depreciation rates would therefore be based on studies which would be approximately a year old when the rates became effective. In view of the volatility of some accounts, it would obviously be desirable to avoid this kind of time lag and to apply the rates to the period to which they most closely correspond. In addition, considering the requested effective dates in light of our recognition in Docket No. 20188 of the importance of timely capital recovery, it is apparent that effective dates earlier in the year would better facilitate such recovery. In Docket No. 20188, we determined that proper capital recovery is predicated in large measure upon the timely application of the correct depreciation rates. We also noted that, if inaccurate depreciation rates are applied, the resulting misstatement of operating expenses could harm present and potential investors and, ultimately, ratepayers by denying them and the regulators an accurate, objective financial picture of the companies' operations and capital requirements. Consequently, we would normally have found the requested effective dates unacceptable. This year, however, is the first year we have begun to implement the changes to our accounting rules required by our decisions in Docket No. 20188 and CC Docket No. 79–105. We can understand that there may have been some uncertainty about the standards we would now expect carrier filings to meet and a concomitant reluctance by the state commissions to grant rate increases until we had actually prescribed rates using the new methods. For this reason, we shall accept the effective dates now requested by the GTE carriers for which there is three-way agreement at the staff level regarding the underlying service life and salvage factors.

42. In the future, however, we shall expect that, absent extenuating circumstances, carriers will request effective dates which are as close as possible to the dates on which their underlying studies are completed. Such action would help to meet our concerns regarding the timeliness of the underlying data and the need for proper capital recovery. We note that GTE carriers' future use of the interim booking provisions of which other carriers have already made extensive use could facilitate both the timely recognition of depreciation expense and the timely incorporation of such expense in rate cases. Reliance on interim booking provisions would also enhance the accuracy and integrity of these carrier's financial statements, thus making them more useful to investors.

43. In their comments, the Hawaii and Montana Commissions requested that new depreciation rates not be prescribed before three-way meetings could be held for the GTE companies operating in their jurisdictions (the Hawaiian Telephone Company and the General Telephone Company of the Northwest, respectively). The effective dates requested by the carriers (i.e., January 1, 1982) could be readily obtained if retroactive booking is used in conjunction with the 1982 three-way meetings scheduled between these states, the FCC, and GTE companies. We therefore defer the prescription of revised depreciation rates in those jurisdictions until the discussion of underlying factors have been concluded. On the other hand, deferral of the prescription of revised depreciation rates, which was requested by the New Mexico Commission, would have the effect of postponing capital recovery until 1983, the year in which the next three-way meeting between New Mexico, the FCC and the General Telephone Company of the Southwest (the GTE carrier serving New Mexico) is scheduled. We believe that such deferral is inappropriate and are therefore prescribing the proposed depreciation rates effective January 1, 1982.

3. *Depreciation Rates for Terminal Equipment and Other Plant Accounts.*

44. Although the October 30 and November 24 public notices had solicited comments regarding proposed revisions in depreciation rates for virtually all plant acounts, parties commented upon the life and salvage estimates for only the terminal equipment accounts. We have reviewed the staff's recommendations for revised life and salvage factors for the remainder of the accounts—and in the absence of any objection to these factors—we find them to be acceptable.

45. As for the proposed depreciation rates for terminal equipment, the staff has performed an extensive analysis of the materials initially submitted by the carriers to support their proposed depreciation rates for terminal equipment as well as the supplementary information requested by the staff. It has also reviewed the information provided in the comments and reply comments responding to the January 27 public notice. This analysis, based upon both literature related to the past, present, and future markets for terminal equipment and the study of historical mortality data, revealed that the service lives of terminal equipment have been consistently decreasing in recent years and that they will likely decrease even more in the future.

46. The primary factors leading to the reduction in equipment lives are (1) changes in technology and (2) increasing competition. The advent and refinement of technological changes, particularly large scale integration of electronic components, is likely to result in an even more rapid rate of technological obsolescence for much of the existing equipment. Newer, more technologically advanced equipment tends to be much more modular, versatile, and amenable to upgrading than does the carriers' older equipment. Certain types of service changes such as the rearrangement of work stations can now be accomplished by the customer so that visits by telephone company craft personnel are no longer required. Taken together these factors have resulted in new equipment offering the potential of significant future savings to the customer. Thus, rapid technological advance tends to encourage early retirements and, consequently, to reduce the useful life of older terminal equipment.

47. Moreover, as competition has increased, terminal equipment lives have decreased. Competition has led to customers having a constantly increasing array of product lines from which they can choose to meet their specific communications needs, and has enabled them to replace older equipment more easily with new selections which better satisfy their needs. Since there is little evidence to suggest that the level of competition will moderate or decrease in the foreseeable future, it is reasonable to assume that competition will likely result in an even greater reduction in future terminal equipment lives than that experienced in the recent past.

48. Based upon the results of its extensive mortality analysis, the staff concluded that terminal equipment lives are likely to decline in the future. We draw a similar conclusion and, for this reason, find the service lives underlying the depreciation rates for terminal equipment we prescribe today to be appropriate.

49. Having considered the responses to the public notices, the

recommendations of the staff, and the proposals of the companies, we find the resulting whole-life and remaining-life rates to be appropriate rates to be applied, unless modified by further order of this Commission.

V. Ordering Clauses

50. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), it is ordered, That the percentages of depreciation set forth in Appendix 4 to this order are prescribed effective retroactively to the dates listed.

51. It is further ordered, that the companies shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next represcription period.

52. It is further ordered, that the companies shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note.—Due to the effort to minimize publishing costs, the Appendices to this order will not be printed herein. Interested parties may inspect the Appendices on file in the FCC Library, Room 639, 1919 M St., NW., Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-2070 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

United Inter-Mountain Telephone Co.; Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act, as Amended

AGENCY: Federal Communications Commission.

ACTION: Depreciation rate prescription order.

SUMMARY: The Federal Communications Commission has ordered the United Inter-Mountain Telephone Company to apply the percentages of depreciation which are set forth in the Appendix to the Order. The Company filed for revised depreciation rates for various accounts and submitted studies and data to substantiate its request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The Company is to apply the depreciation rates as of the date or dates set forth in the Appendix to the Order. In no case is an effective data prior to January 1, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634-1730.

Order

In the matter of the prescription of revised percentages of depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended, for United Inter-Mountain Telephone Company.

Adopted: January 21, 1982.

Released: January 28, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of these classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for United Inter-Mountain Telephone Company (United) in accordance with our rules. United had not been regularly scheduled for review in 1981, but filed a special request for revised depreciation rates for its terminal equipment and station connections accounts. We have considered revisions of depreciation rates for only the accounts covered in the special filing.

II. Background

3. Since the late 1940's, the Commission staff has reviewed depreciation rates of approximately one-third of the larger FCC-subject telephone carriers each year. Each year it has arrived at its recommendations for the prescription of depreciation rates only after the following actions have been completed:

(1) A staff review of the carrier's filings and underlying studies.

(2) Independent staff analysis of such information as plant mortality data and carrier equipment retirement plans.

(3) Preparation of preliminary staff recommendations.

(4) Discussion of the carrier's filings and the preliminary proposals of the FCC and state commissions at a conference in which representatives of the carriers and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

4. This year, however, several complications arose which required a departure from the traditional procedures described above. First, on December 12, 1980, United filed for a represcription of depreciation rates for terminal equipment (accounts 231 and 234). This filing was apparently prompted by the perception that continuing changes in the terminal equipment market had reduced lives for such equipment to the point where they were substantially shorter than those underlying current rates and had thereby created a situation which, if left uncorrected, could result in serious reserve deficiencies.[1] In its filing United proposed to reduce service lives for most accounts below those underlying currently prescribed depreciation rates and calculate depreciation rates using the remaining-life method, effective January 1, 1981.

5. Another problem which complicated the represcription process this year was the need to implement remaining-life procedures. Since we first prescribed depreciation rates in the late 1940's, we have used only the whole-life depreciation method for telephone companies' plant. This change with our final decision in Docket No. 20188, where we revised our rules to allow the use of the remaining-life method. *See* 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981). Following the adoption of that order United proposed revised depreciation rates using the remaining-life method in its terminal equipment filing. These rates were requested to be effective January 1, 1981.

6. Finally, there was a need this year to review the special filing for revised depreciation rates for station connections submitted by United in accordance with the accounting changes which we ordered in CC Docket No. 79-105, 85 FCC 2d 818 (1981). In that docket we amended the accounting rules for station connections, 47 CFR 31.232, and ordered that all FCC-subject carriers identify and assign the investment in account 232, Station Connections, to at least two subclasses of plant—Station Connections-Inside Wire and Station Connections-Other. The Station Connections-Inside Wire subclass would consist primarily of the costs associated with the installation of wire or cables located inside customer

[1] On September 22, 1980, AT&T had made a blanket terminal equipment filing on behalf of all of the Bell Operating Telephone Companies and the Long Lines Department. This was followed by a similar GTE filing on November 7, 1980.

buildings and houses, the installation and connection of station apparatus, and the assignment and testing of customer lines. The Station Connections-Other subclass would consist primarily of the costs associated with the installation of the drop (i.e., the wire which connects the carrier's distribution facilities with the inside wire) and the protector. Our order required carriers to expense future costs associated with the Station Connections-Inside Wire subclass on a phase-in or flash-cut basis and to continue to capitalize furture costs associated with the Station Connections-Other subclass.

7. Because the retirement ratios and mortality dispersion patterns of the Station Connections-Other subclass are not similar to those for the account as a whole, the depreciation rates prescribed for the Station Connections Account could not be applied to the Station Connections-Other subclass. Instead, new rates had to be developed. In order to facilitate the prescription of these new rates, the staff held discussions with the company and suggested that United request changes in the depreciation rates for the Station Connections-Other subclass. The staff recommended that a 5% rate be used until there was sufficient data to ascertain specific mortality characteristics which could then be used to prescribe more precise depreciation rates for this subclass. In accordance with this recommendation, United filed a request for permission to adopt a 5% depreciation rate for the Station Connections-Other subclass, effective October 1, 1981.

8. The staff reviewed only United's special depreciation rate requests submitted for the terminal equipment and station connections accounts. For these accounts the staff arrived at its preliminary rate proposals after fully considering the carrier's filing and underlying studies and the results of its independent analysis of the basic data provided in support of the carrier's filing. Three-way conferences were not held to resolve the life and salvage factors; instead, the various studies and proposals were discussed through correspondence and telephone conversations.

9. By mid-November, agreement regarding the life and salvage factors was reached between United, the FCC staff and the staffs of the Virginia and Tennessee Commissions. United then filed a request with the Commission for revised depreciation rates based upon these life and salvage factors. This filing contained both whole-life and remaining-life studies as required by our final decision in Docket No. 20188. On November 24, 1981 a public notice was issued (entitled "Depreciation Rate Prescriptions Proposed for Domestic Telephone Companies") announcing that the Commission had under consideration changes in depreciation rates. The public notice requested that interested persons submit comments on the proposed rates. Copies of the public notice and United's filings were sent to the state commissions which have jurisdiction over United Inter-Mountain (Tennessee and Virginia).

III. Summary of Comments

10. In response to the public notice, the Virginia State Corporation Commission (Virginia) and the North American Telephone Association (NATA) filed comments regarding United's proposal.

11. Virginia stated that it favors the use of remaining-life only when life, salvage and reserve parameters are proven with reasonable certainty. It further stated that the staff had been afforded the opportunity to participate in the review of data and the discussion which resulted in three-way agreement. Examination of the parameters filed by the company showed them to be the same as agreed to by the staff.

12. Virginia expressed reservations concerning the allocation of station connections investment as required in CC Docket No. 79–105 and would like the opportunity to review this allocation in the future. Concerns were also expressed about the allocation of the station connections reserve between the two subaccounts. Virginia stated that United's proposed allocation of the total reserve to the Station Connections-Other subaccount is speculative where there is a positive reserve for the aggregate account and believed that a more appropriate allocation would be to divide the reserve proportional to the investment in the two subaccounts.

13. NATA contended that the *ex parte* and *in camera* nature of the discussions made it impossible to comment on the proposed rates, because the basis for the staff recommendations could not be ascertained. It recommended that the prescription of depreciation rates for customer premises equipment be considered in conjunction with the implementation of the *Second Computer Inquiry*, 77 FCC 2d 384, *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, FCC 81–481, released October 30, 1981.

IV. Discussion

A. Procedural Issues

14. Some parties have suggested that *ex parte* communications between our staff and representatives of carriers subject to state commissions participating in this proceeding have triggered the applicability of Commission Rule 1.1231(b), 47 CFR 1.1231(b). We note that all filings, supporting data, and studies upon which our staff relied in making its recommendations to us today were made available to interested persons. *See* November 24, 1981 public notice. Assuming *arguendo* that the Commission's *Ex Parte* Rules do apply to pre-represcription activities, all of these *ex parte* contacts were initiated by the staff, and, therefore, only significant data or arguments presented during such proceedings must be reflected in the public record before we issue our prescription order.[2] All significant data and information is in the public record and has already been made available for review by any interested person. For this reason we need not address in detail in this proceeding the applicability of the Commission's *Ex Parte* Rules to pre-represcription activities of Commission staff.

15. In the *Second Computer Inquiry*, we ordered the deregulation of all terminal equipment. Parties have suggested that we should act upon the requested represcription of depreciation rates for terminal equipment within the proceeding we shall initiate shortly to implement our decision to deregulate such equipment. We cannot agree with this suggestion. It is clear that United's terminal equipment is presently underdepreciated and that new depreciation rates must be prescribed if this situation is to be corrected. There is no reason why such correction should not take place in this proceeding as part of our overall represcription process. Delaying the represcription of United's terminal equipment rates so that they can be considered in the proceeding implementing the *Second Computer Inquiry* would in no way assist in resolving the issues in that proceeding. Rather, prompt represcription of new depreciation rates for United's terminal equipment at this time might conceivably help our efforts to implement the *Second Computer Inquiry*

[2] See Rule 1.1231(b) governing these contacts. The test for significance is subjective; a presentation is significant if and only if it influences the staff member receiving it. Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking, 78 FCC 2d 1384, 1401, n. 30 (1980).

by bringing the book value of United's terminal equipment closer to that which would exist absent regulatory lag.

B. Substantive Issues

16. We now turn to the resolution of the substantive issues raised by the responses to the November 24 public notice.

17. Virginia proposed the allocation of the station connections reserve to the subaccounts (i.e., Station Connections-Inside Wire and Station Connections-Other) on the basis of relative plant investment. Inasmuch as the depreciation rates for station connections under consideration here are not based upon the remaining-life method and, thus, are not affected by the relative magnitude of the reserve, the reserve allocation for station connections has no bearing here. We therefore dismiss the contentions of New York and Virginia in this proceeding without prejudice. These states remain free to raise such contentions in other contexts, either on an informal basis at the staff level or by filing a formal petition for relief.

18. Although the November 24, 1981 public notice solicited comments for terminal equipment and station connections depreciation rates, no parties commented adversely on the life and salvage estimates underlying these rates. In the absence of any comments objecting to the carrier's proposed rates or the life and salvage factors underlying these rates, and given the staff's concurrence in these rates and the factors underlying them, we find the proposed rates to be acceptable.

19. We have previously recognized the potential for significant changes in depreciation expense as a consequence of the transition from whole-life to remaining-life rates. Our final decision in Docket No. 20188, 83 FCC 2d 267, required carriers to file both whole-life and remaining-life studies so we could ascertain the effects of replacing one method with the other. In accordance with our reconsideration order in that Docket, 87 FCC 2d 916, the staff compared these studies and concluded that over eighty percent of the requested increase in depreciation expense is attributable to the change from whole-life to remaining-life rates. The magnitude of this change suggests that it will be desirable to monitor the effects of the changes in depreciation methods. In addition, we also note that United's filings covered only the terminal equipment accounts. Because of the magnitude of the increase we have seen here, and in view of the fact that the majority of United's depreciation rates have yet to be prescribed on a remaining-life basis, we conclude that United should submit filings containing both whole-life and remaining-life studies for at least the next prescription cycle.

V. Ordering Clauses

20. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i) and 220(b), it is ordered, That the percentages of depreciation set forth in the Appendix to this order are prescribed effective retroactively to the dates listed.

21. It is further ordered, that the company shall submit to the Commission whole-life as well as remaining-life depreciation studies during the next represcription period.

22. It is further ordered, that the company shall notify this Commission within 10 days of any deviation from the depreciation percentages and practices prescribed in this order.

Note.—Due to the effort to minimize publishing costs, the Appendix to this order will not be printed herein. Interested parties may inspect the Appendix on file in the FCC Library, Room 639, 1919 M St., N.W., Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-2971 Filed 2-3-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-9]

Carrier International Corp. v. American Atlantic Lines; Filing of Complaint and Assignment

Notice is given that a complaint filed by Carrier International Corporation against American Atlantic Lines was served January 28, 1982. Complainant alleges that respondent has subjected it to payment of rates for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2866 Filed 2-3-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreements Nos. 10108-7 and 5700-29]

Ratemaking Agreements Covering Trades From Hong Kong, Taiwan and Macao to Atlantic and Gulf Coast Ports of the U.S.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreements Nos. 10108-7 and 5700-29 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Both 10108 and 5700 are ratemaking agreements covering trades from Hong Kong, Taiwan and Macao to Atlantic and Gulf Coast ports of the United States. Agreements Nos. 10108-7 and 5700-29 would extend the authority of the basic agreements to include all cargo moving under joint and through rates to inland destinations *via* United States Atlantic and Gulf Coast ports.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-2865 Filed 2-3-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is hereby given that on December 22, 1981, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between

Committee meetings in System Account holdings of U.S. government and federal agency securities specified in paragraph 1(a) of the authorization for domestic open market operations, effective immediately for the period ending with the close of business on February 2, 1982.

Note.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, January 27, 1982.

Murray Altmann,

Secretary.

[FR Doc. 82-2884 Filed 2-3-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Aldose Reductase Inhibitors; Meeting

Notice is hereby given of the workshop on Aldose Reductase Inhibitors and their Relationship to the Treatment of Diabetic Complications sponsored by the National Eye Institute, March 29 and 30, 1982, 9000 Rockville Pike Stone House, Bethesda, Maryland 20205.

This meeting will be open to the public on March 29, 1982 at 9 A.M. until adjournment on March 30, to discuss the biochemistry of aldose reductase, the design of aldose reductase inhibitors, biological effects of aldose reductase in diabetes and initial results of these inhibitors on diabetic patients. Attendance by the public will be limited to space available.

Jin H. Kinoshita, Ph.D., Scientific Director, National Eye Institute of 9000 Rockville Pike, Bethesda, Maryland 20205, (301) 496-3552 will provide additional information.

(Catalog of Federal Domestic Assistance Program No. 13.869, Cataract Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: January 27, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-2859 Filed 2-3-82; 8:45 am]

BILLING CODE 4140-01-M

Interagency Technical Committee; Meeting

Notice is hereby given of the meeting of the Interagency Technical Committee, sponsored by the National Heart, Lung, and Blood Institute, on March 16, 1982, from 9:00 a.m. to 12:30 p.m., Building 31, C Wing, Conference Room 10 at the National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The entire meeting will be open to the public. The Interagency Technical Committee is meeting to examine and coordinate Federal Research activities which concern heart, blood vessel, lung, and blood diseases and blood resources. Attendance by the public will be limited to space available.

For detailed program information, an agenda, a list of meeting participants, and a meeting summary contact: Ms. Sally Breul, Office of Program Planning and Evaluation, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 5A03, 9000 Rockville Pike, Bethesda, MD 20205, 301-496-5031.

Dated: January 27, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82-2860 Filed 2-3-82; 8:45 am]

BILLING CODE 4140-01-M

NIH Consensus Development Conference on Total Hip Joint Replacement

Notice is hereby given of the NIH Consensus Development Conference on "Total Hip Joint Replacement," sponsored by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases with assistance from the NIH Office of Medical Applications of Research. The conference will be held on March 1, 2, and 3, 1982, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

This conference is designed to conduct a scientific evaluation of the safety and effectiveness of total hip joint replacement procedures. Key questions to be addressed are: (1) what are the indications and contraindications for total hip joint replacement; (2) what are the current scientific principles guiding selection of materials, devices and procedures for total hip joint replacements; and (3) in what directions should the science base and techniques of total hip joint replacement be advanced.

This Consensus Development Conference will convene biomedical and bioengineering research scientists, orthopedic surgeons, rheumatologists, other persons from relevant fields, consumers, and representatives of public interest groups. On the first two days of the conference, experts in the total hip joint replacement procedure will present data on safety and efficacy. A Consensus Panel, composed of specialists and generalists, will consider the evidence presented and issue a draft statement responding to the key conference questions. On the third day, Wednesday, March 3, Consensus Panel Chairman Philip D. Wilson, Jr., Surgeon-in-Chief at the Hospital for Special Surgery in New York City, will read this preliminary Consensus Statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Dr. Stephen L. Gordon, Director, Musculoskeletal Diseases Program, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 405, Bethesda, Maryland 20205, (301) 496-7326. Administrative information may be obtained from Mr. Peter Murphy, Prospect Associates, 11325 Seven Locks Road, Suite 221, Potomac, Maryland 20854, (301) 983-0535.

Dated: January 28, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82-2858 Filed 2-3-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Maintenance Organizations; Voluntary Surrender of Federal Qualification and Revocation of Federal Qualification

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of health maintenance organizations: voluntary surrender of Federal qualification and revocation of Federal qualification.

SUMMARY: On December 7, 1981, the Office of Health Maintenance Organizations (OHMO) received notice from the New Mexico Health Care Corporation/dba Mastercare, 2350 Alamo, S.E. Albuquerque, New Mexico 87106, a federally qualified HMO, that it would voluntarily cease operations on December 31, 1981. OHMO notified Mastercare on December 22, 1981, that it construed this action as a surrender of Mastercare's Federal qualification. Inasmuch as the surrender of Federal qualification has the same effect as revocation, the Director or OHMO has determined that Mastercare's obligations under these circumstances were governed by the regulatory requirements applicable when Federal qualification has been revoked. Accordingly, Mastercare is no longer a federally qualified HMO. This

revocation became effective on December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: The effect of the revocation of the Federal qualification of Mastercare, Inc. is as follows: (1) Mastercare may not seek inclusion in employees' health benefits plans under section 1310 of the Public Health Service Act (Act) and 42 CFR Part 110, Subpart H; (2) with respect to employers including Mastercare in the health benefits plan offered their employees, Mastercare is not a qualified HMO for purposes of section 1310 of the Act and Subpart H; (3) the inclusion of Mastercare in an employees' health benefits plans will be disregarded for purposes of determining whether, and to what extent, the employer is subject to or in compliance with section 1310 of the Act and Subpart H, and (4) Mastercare is not a qualified HMO for purposes of the financial assistance programs under Title XIII of the Act.

Section 1312(b)(1) of the Act requires that a notice of revocation of Federal qualification of an HMO be published in the **Federal Register.**

Dated: January 27, 1982.

Frank H. Seubold,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82–2849 Filed 2–3–82; 8:45 am]

BILLING CODE 4160–17–M

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the auditorium of Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on March 10, 11 and 12, 1982.

This meeting will be open to the public from 8:45 a.m. to 5:00 p.m. on March 10 and 11, and from 8:45 a.m. to adjournment on March 12, 1982. The preliminary agenda topics are as follows:

(1) Summary of current chemical carcinogenesis programs of the National Institutes of Health component of the NTP

(2) Review of tumor responses in previous National Cancer Institute and NTP two-year carcinogenesis bioassays

(3) Modification of the current experimental design of two-year bioassays including:

a. Statistical considerations with respect to number of dose levels, animals per dose, and dose-response

b. Alterations in pathology requirements

c. Consideration of interim (sacrifice) evaluations

(4) Selection of chemical carcinogens for development of reference science data base

(5) Utility of *in vivo* rodent tumor models

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish summary minutes of the meeting, rosters of Board members and expert consultants, and other program information as available.

Dated: January 28, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82–2857 Filed 2–3–82; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Regional Administrator

[Docket No. D–82–662]

Acting Regional Administrator, Region IV (Atlanta); Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Regional Administrator for Region IV.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: George A. Milburn, Jr., Director, Management and Budget Division, Office of Regional Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 664, 75 Spring Street, Atlanta, Georgia 30303, 404–221–4067.

Designation of Acting Regional Administrator For Region IV

The employees appointed to the following positions in Region IV (Atlanta) are hereby designated to serve as Acting Regional Administrator, Region IV, during the absence of the Regional Administrator, with all powers, functions, and duties redelegated or assigned to the Regional Admistrator: Provided, that no employee is authorized to serve as Acting Regional Administrator unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Regional Administrator
2. Executive Assistant to the Regional Administrator
3. Director, Office of Regional Administration
4. Director, Office of Regional Community Planning and Development
5. Director, Office of Regional Housing
6. Director, Office of Regional Fair Housing and Equal Opportunity
7. Regional Counsel
8. Director, Program Planning and Evaluation Staff
9. Special Assistant to the Regional Administrator (Federal Regional Council)
10. Labor Relations Officer

This designation supersedes the designation effective August 28, 1979. (Delegation of Authority by the Secretary effective May 4, 1962 (24 FR 4319, May 4, 1962); Dept. Interim Order II (31 FR 815, January 21, 1966).

This designation shall be effective as of November 30, 1981.

Clifton G. Brown,

Regional Administrator, Region IV.

[FR Doc. 82–2900 Filed 2–3–82; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14934–A and F–14934–B]

Alaska Native Claims Selection

On May 23 and December 11, 1974, Shishmaref Native Corporation, for the Native village of Shishmaref, filed selection applications F–14934–A and F–14934–B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Shishmaref.

As to the lands described below, the applications submitted by Shishmaref Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately

105,666 acres, is considered proper for acquisition by Shishmaref Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 3773, lot 2 situated east of the Village of Shishmaref of Sarichef Island in the Shishmaref Inlet of the Chukchi Sea, Alaska.
Containing 14.25 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 8 N., R. 32 W.
Sec. 1, excluding Native allotment in litigation F–65979 Parcel B;
Sec. 2, excluding Native allotments F–18538 Parcel C, F–18562 Parcel D, and Native allotments in litigation F–65975 Parcel C and F–65979 Parcel B;
Sec. 3, excluding Native allotment F–18539 Parcel B and Native allotments in litigation F–64699 Parcel B and F–65983 Parcel C;
Sec. 4, excluding Native allotments F–18561 Parcel C, F–18669, F–18741 Parcel A, and Native allotments in litigation F–64697 Parcel C and F–65983 Parcel C;
Sec. 5, excluding Native allotments F–18518 Parcel B, F–18534 Parcel C, F–18539 Parcel A, and F–18667 Parcel C;
Secs. 6 to 10, inclusive;
Sec. 11, excluding Native allotments F–18538 Parcel C, F–18553 Parcel D, and Native allotments in litigation F–65975 Parcel C and F–65979 Parcel B;
Sec. 12, excluding Native allotment F–18672 Parcel A, and Native allotment in litigation F–65979 Parcel B;
Secs. 13 to 22, inclusive;
Secs. 27 to 31, inclusive.
Containing approximately 15,707 acres.

T. 9 N., R. 32 W.
Secs. 18 and 19 (fractional);
Sec. 20 (fractional), excluding Native allotments F–18547 Parcels A, B, and C, and F–18774 Parcel A;
Sec. 21 (fractional), excluding Native allotments F–18522, F–18547 Parcel C, and F–18548;
Sec. 22, excluding Native allotment F–18548;
Sec. 23, excluding Native allotment F–18662 Parcel C;
Sec. 24, excluding Native allotments F–18518 Parcel D and F–18662 Parcel C;
Sec. 25, excluding Native allotments F–18518 Parcel D, F–18540 Parcel A, and F–18558 Parcel D;
Sec. 26;
Sec. 27 (fractional), excluding Native allotment F–18538 Parcel D;
Sec. 28 (fractional), excluding Native allotment in litigation F–65973 Parcel B;
Secs. 29, 31, and 32 (fractional);
Sec. 33, excluding Native allotment in litigation F–65973 Parcel B;
Sec. 34, excluding Native allotments F–18518 Parcel B, F–18538 Parcel D, F–18556 Parcel D, and Native allotments in litigation F–64700 Parcel A and F–65982 Parcel A;
Sec. 35, excluding Native allotments F–18555 Parcel A, F–18556 Parcel D, F–18557 Parcel A, F–18667 Parcel C, F–18775 Parcel D, and Native allotments in litigation F–64697 Parcel C, F–64700 Parcel A, and F–65982 Parcel A;
Sec. 36, excluding Native allotments F–18669, F–18776 Parcel B, and Native allotment in litigation F–65978 Parcel A.
Containing approximately 7,313 acres.

T. 8 N., R. 33 W.
Sec. 1, excluding Native allotment F–18511;
Sec. 2, excluding Native allotments F–18663 Parcel D and F–18743 Parcel A;
Sec. 3 (fractional), excluding Native allotment F–18521 and Native allotment in litigation F–65975 Parcel D;
Sec. 4 (fractional), excluding Native allotment F–18663 Parcel C;
Sec. 5 (fractional);
Sec. 7 (fractional), excluding Native allotment F–18775 Parcel C;
Sec. 8 (fractional);
Sec. 9 (fractional), excluding Native allotment F–18663 Parcel C;
Sec. 10, excluding Native allotment in litigation F–65975 Parcel D;
Sec. 11;
Sec. 12, excluding Native allotment F–18511;
Secs. 13 to 16, inclusive;
Sec. 17, excluding Native allotments F–18507 Parcel B and F–18508 Parcels A and B;
Sec. 18 (fractional), excluding Native allotments F–18523 Parcel A, F–18556 Parcel B, and F–18775 Parcel C;
Sec. 19, excluding Native allotments F–18507 Parcel C, F–18523 Parcel A, F–18556 Parcel B, F–18560 Parcel A, and F–18741 Parcel B;
Sec. 20, excluding Native allotment F–18507 Parcel C;
Sec. 21;
Sec. 22, excluding Native allotment in litigation F–65975 Parcel B;
Secs. 23 to 28, inclusive;
Sec. 29, excluding Native allotments F–18507 Parcel C and F–18743 Parcel B;
Sec. 30, excluding Native allotments F–18507 Parcel C, F–18741 Parcel B, and Native allotment in litigation F–65975 Parcel A;
Sec. 32, excluding Native allotment F–18743 Parcels B and C;
Secs. 33 and 36.
Containing approximately 16,741 acres.

T. 9 N., R. 33 W.
Secs. 3 and 4 (fractional);
Sec. 5 (fractional), excluding Native allotment F–18527 Parcel A;
Secs. 6 and 10 (fractional);
Sec. 11 (fractional), excluding Native allotment F–17960;
Sec, 12, excluding Native allotment F–17960;
Secs. 13 and 14 (fractional), excluding Native allotment F–17960;
Sec. 24 (fractional).
Containing approximately 2,985 acres.

T. 10 N., R. 33 W.
Secs. 3 and 4;
Sec. 5 (fractional);
Secs. 6 and 7 (fractional), excluding Native allotment in litigation F–64702 Parcel A;
Sec. 8;
Secs. 17 to 21, inclusive;
Secs. 28 to 34, inclusive.
Containing approximately 10,037 acres.

T. 11 N., R. 33 W.
Secs. 1, 11, 12, and 13 (fractional);
Sec. 14 (fractional), excluding Native allotment F–18770 Parcel B and Native allotment in litigation F–64697 Parcel A;
Sec. 15 (fractional), excluding Native allotments F–18517 Parcel A and F–18519 Parcel B;
Secs. 16 and 19 (fractional);
Secs. 20 and 21 (fractional), excluding Native allotment F–18771;
Sec. 22 (fractional);
Sec. 23 (fractional), excluding Native allotments F–18551 Parcel B, F–18666 Parcel B, and Native allotment in litigation F–64697 Parcel A;
Sec. 24 excluding Native allotment F–18535 Parcel A;
Sec. 27;
Secs. 28, 29, and 30 (fractional);
Sec. 32 (fractional), excluding Native allotment F–18542 Parcel D;
Secs. 33 and 34.
Containing approximately 6,240 acres.

T. 8 N., R. 34 W.
Secs. 7 and 8 (fractional);
Sec. 9 (fractional), excluding Native allotment F–18513;
Sec. 10 (fractional), excluding Native allotment F–18512 Parcel B;
Secs. 13 and 14 (fractional);
Sec. 15 (fractional), excluding Native allotment F–18512 Parcel B;
Sec. 16, excluding Native allotment F–18513;
Secs. 17 to 22, inclusive;
Sec. 23, excluding Native allotment F–18742;
Sec. 24, excluding Native allotments F–18553 Parcel C, F–18560 Parcel B, and F–18742;
Secs. 25 to 29, inclusive.
Containing approximately 10,697 acres.

T. 9 N., R. 34 W.
Secs. 1 and 2 (fractional).
Containing approximately 235 acres.

T. 10 N., R. 34 W.
Secs. 2 to 5 (fractional), inclusive;
Sec. 7 (fractional), excluding Native allotment F–18542 Parcel B;
Secs. 8, 9, 10, and 12 (fractional);
Sec. 13 (fractional), excluding Native allotments F–18510 Parcel A, F–18525 Parcel D, and F–18546 Parcel A;
Sec. 16 (fractional), excluding Native allotment F–18546 Parcel B and F–18560 Parcel C;
Sec. 17 (fractional);
Sec. 18 (fractional), excluding Native allotments F–18542 Parcel B;
Secs. 19, 20, and 23 (fractional);
Secs. 24 and 25;
Secs. 26, 30, and 31 (fractional);
Secs. 35 and 36 (fractional).
Containing approximately 6,535 acres.

T. 11 N., R. 34 W.
Secs. 25, 35, and 36 (fractional).
Containing approximately 690 acres.

T. 8 N., R. 35 W.
Sec. 5 (fractional), excluding Native allotment F–18670 Parcel D;
Sec. 6 (fractional);
Sec. 7;

Sec. 8 (fractional), excluding Native allotments F–18670 Parcel D and F–18776 Parcel C;
Sec. 9 (fractional), excluding Native allotments F–18525 Parcel C and F–18776 Parcel C;
Sec. 10 (fractional), excluding Native allotments F–18525 Parcel C and F–18774 Parcel D;
Secs. 11 and 12 (fractional);
Secs. 13 to 16, inclusive.

Containing approximately 6,774 acres.

T. 9 N., R. 35 W.
Secs. 4 and 5 (fractional);
Sec. 6 (fractional), excluding Native allotment F–18776 Parcel D;
Sec. 7 (fractional);
Sec. 19 (fractional), excluding Native allotment F–18664;
Sec. 20 (fractional), excluding Native allotments F–18664 and F–18678;
Sec. 27 (fractional), excluding Native allotments F–18542 Parcel A and F–18553 Parcel A;
Sec. 28 (fractional), excluding Native allotment F–18553 Parcel A;
Secs. 29 to 32, inclusive;
Secs. 33, 34, and 35 (fractional).

Containing approximately 5,298 acres.

T. 10 N., R. 35 W.
Sec. 13 (fractional), excluding U.S. Survey No. 3773 lot 1;
Sec. 22 (fractional);
Sec. 23 (fractional), excluding ANCSA Sec. 3(e) application F–64912;
Sec. 24 (fractional), excluding U.S. Survey No. 2249, U.S. Survey No. 3773, and U.S. Survey No. 4007;
Secs. 25 to 28 (fractional), inclusive;
Secs. 32, 33 and 34 (fractional).

Containing approximately 1,520 acres.

T. 8 N., R. 36 W.
Secs. 1, 6, 12, and 13.
Containing approximately 2,510 acres.

T. 9 N., R. 36 W.
Sec. 1 (fractional), excluding Native allotments F–18665 Parcel B and F–18775 Parcel B;
Sec. 10 (fractional), excluding Native allotment F–18526 Parcel C;
Sec. 11 (fractional), excluding Native allotments F–18526 Parcel C, F–18667 Parcel B, and F–18776 Parcel A;
Sec. 12 (fractional), excluding Native allotment F–18775 Parcel B;
Sec. 13 (fractional);
Sec. 14 (fractional), excluding Native allotment F–18667 Parcel B;
Secs. 15, 16, and 17 (fractional);
Secs. 19, and 20 (fractional), excluding Native allotment in litigation F–64698 Parcel B;
Secs. 21 and 22 (fractional);
Sec. 24 (fractional), excluding Native allotments F–18671 and F–18674;
Sec. 25;
Sec. 26 (fractional), excluding Native allotment F–18660;
Sec. 27 (fractional), excluding Native allotments F–18546 Parcel C and F–18660;
Secs. 29 and 30 (fractional);
Sec. 32 (fractional), excluding Native allotments F–17961 Parcel B, F–18557 Parcel B, and F–18559 Parcel A;
Sec. 33 (fractional), excluding Native allotments F–18541 Parcel B, F–18546 Parcel C, and F–18557 Parcel B;
Sec. 34, excluding Native allotment F–18546 Parcel C;
Secs. 35 and 36.

Containing approximately 6,877 acres.

T. 8 N., R. 37 W.
Sec. 1;
Secs. 2 and 3 (fractional), excluding Native allotments F–17961 Parcel B and F–18774 Parcel C;
Sec. 4 (fractional), excluding Native allotment F–18662 Parcel A;
Secs. 5 and 6 (fractional);
Sec. 7 (fractional), excluding Native allotment in litigation F–65978 Parcel B;
Sec. 8 (fractional);
Sec. 9 (fractional), excluding Native allotment F–18662 Parcel A;
Sec. 17, excluding Native allotment in litigation F–65978 Parcel B;
Sec. 18 (fractional), excluding Native allotments F–18538 Parcel B, F–18667 Parcel A, and Native allotment in litigation F–65978 Parcel B.

Containing approximately 3,968 acres.

T. 9N., R. 37 W.
Secs. 25 and 26 (fractional);
Secs. 34, 35, and 36 (fractional).

Containing approximately 925 acres.
Aggregating approximately 105,652 acres.
Total aggregated acreage, approximately 105,666 acres.

Excluded from the above-described lands herein conveyed are the submerged lands up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the navigability maps, the originals of which will be found in the easement case file, F–14934–EE.

Also excluded from the above-described lands herein conveyed are lands covered by tidal waters up to the line of mean high tide.

Actual limits of tidal influence for any other water bodies within the lands to be conveyed, if any, will be determined at the time of survey.

All other water bodies within the lands to be conveyed were reviewed. Based on available evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14934–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—the uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two-and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 1 C3, D1, D9) an easement for an existing access trail twenty-five (25) feet in width from Wales entering the selection in Sec. 6, T. 8 N., R. 37 W., Kateel River Meridian, following the coast northeasterly through Shishmaref to Cape Espenberg leaving the selection in Sec. 1, T. 11 N., R. 33 W., Katteel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail. The season of use will be limited to winter.

b. (EIN 2 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Shishmaref in Sec. 23, T. 10 N., R. 35 W., Kateel River Meridian, southerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail. The season of use will be limited to winter.

c. (EIN 24 M) An easement for an existing access trail twenty-five (25) feet in width from Shishmaref in Sec. 23, T. 10 N., R. 35 W., Kateel River Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way F-12032, located in Sec. 24, T. 10 N., R. 35 W., Kateel River Meridian, for a plant site issued to the Alaska Village Electric Cooperative, Inc., under the provisions of the act of March 4, 1911, as amended (43 U.S.C. 961); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit F-030183, issued to Fred Goodhope on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 3 of the permit.

Reindeer Grazing Permit F-11516, issued to Clifford Weyiouanna on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Conditions or Stipulations of the permit.

Shishmaref Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. To date, approximately 105,666 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 8,534 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to Shishmaref Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the NOME NUGGET.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknow parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 8, 1982 to file an appeal.

Any party known or unknow who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Shishmaref Native Corporation, Shishmaref, Alaska 99772

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

Barbara A. Lange,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-2886 Filed 2-3-82, 8:45 am]

BILLING CODE 4310-84-M

[Sale CA 10284]

Realty Action Public Lands in San Bernardino County, California

The following described land has been identified as suitable for disposal by sale under sec. 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), at no less than the fair market value shown. Legal description: W½NE¼NE¼SW¼ sec. 34, T. 5 N., R. 7 W., San Bernardino Meridian, California, containing 5 acres; value, $15,000.00. This Bureau proposes to sell the surface estate to legalize an occupancy trespass which dates back to 1956. The land will be sold by direct sale to Frank L. Hammond, owner of an adjacent 5-acre parcel of land whose improvement were placed on the subject parcel of public land in accordance with an incorrect private survey. The sale land is surrounded by private land on all sides, is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning for the land. The public interest would be served by offering this land for sale. The terms and conditions applicable to the sale are: (1) A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945); (2) All minerals in the land will be reserved to the United States (43 U.S.C. 1719); (3) The patent will be issued subject to a right-of-way not exceeding 33 feet in width, for roadway and public utility purposes, to be located along the boundaries of said land. Detailed information concerning the sale is available for review at the California State Office, Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. For a period of 45 days from the date of first publication of this notice (until March 22, 1982), interested parties may submit comments to the State Director, Bureau of Land Management, at the above address.

Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Dated: January 27, 1982.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82-2848 Filed 2-3-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 20640 (Wash.)]

Sale of Public Land in Walla Walla County, Washington; Realty Action

The following described land has been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value shown:

TOWNSHIP 7 NORTH, RANGE 31 EAST, WILLAMETTE MERIDIAN, WALLA WALLA COUNTY, WASHINGTON

[Adjacent to the Wallula Townsite]

Parcel No	Legal description	Acreage	Value
1	Section 14: Lot 1	25.69	$38,500.00
2	Lot 6	28.02	42,000.00
Total	53.71	80,500.00	

The sale will be held on April 5, 1982, at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202. Registration of bidders will begin at 1:00 p.m., and the sale will start upon completion of registration.

These lots are small and irregularly shaped isolated parcels which are difficult and uneconomic to manage as part of the public lands. They are unsuitable for management by another federal agency. There are no significant resource values which will be affected by this disposal. The sale of these lots will serve the important public objectives of expansion and economic development of the adjacent community of Wallula. The Bureau of Land Management (BLM) plans to dispose of the tracts since they do not complement BLM programs. Legal access is available to these parcels by U.S. Highway 395 and county roads.

The sale is consistent with the BLM's planning for the lands involved and has been discussed with the Walla Walla County Commissioners, Walla Walla County Planning Commission, Wallula Townsite Association, Washington State Department of Natural Resources, Washington State Game Department, residents of Wallula, and the State clearinghouse.

The terms and conditions applicable to this sale are:

1. The land will be subject to a reservation to the United States for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral rights in the land to be patented will be reserved to the United States pursuant to the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1713.

3. Patent to Lot 6 will be issued subject to the following valid existing rights:

a. Transmission line right-of-way OR 12602(W) to Pacific Power and Light.

b. Road right-of-way OR 14682(W) to Washington State Department of Natural Resources.

c. Pipeline right-of-way OR 13203(W) to Wallula District No. 1.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the BLM Spokane District Office.

No bid will be accepted for less than the appraised price and bids for a parcel must include all the lands in the parcel. Federal law requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any State of the United States.

Bids must be made by the principal or his agent, by either: (1) sealed bids mailed or delivered to the Spokane District Office, or (2) oral bids made at the sale. Bids delivered or sent by mail must be received at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202, before 4:00 p.m., April 2, 1982, to be considered. These bids must be in sealed envelopes accompanied by a certified check, bank draft, money order, or cashier's check, for not less than one-fifth the amount of the bid, made payable to the Bureau of Land Management. The envelopes must be marked in the lower left-hand corner as follows: "Bid Parcel No. ———, sale to be April 5, 1982." If identical sealed bids for the same parcel are received, the one with the earliest time of receipt stamped on it by the Bureau of Land Management Office will be determined the high sealed bid.

The highest sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. The highest bid price, either sealed or oral, will establish the sale price. The successful bidder will be required to pay by cash, personnel check, money order, or bank draft, one-fifth the full bid price immediately at the close of sale and the remainer within 30 days.

All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If the parcels are not sold on April 5, 1982, they will remain available for sale on a continuing basis until June 4, 1982.

Roger W. Burwell,

District Manager.

[FR Doc. 82-2850 Filed 2-3-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho Falls District, Non-Competitive Sale I-18481, Public Land in Madison County, Idaho; Realty Action

The following described land has been examined and identified for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Boise Meridian

I-18481

T. 6 N., R. 39 E.

Section 31: Lot 9; 12.59 acres

The above described land is being offered as a direct, noncompetitive sale. The land will be offered to Mel D. Freeman.

Mr. Freeman has historical use of the tract. The land lies within the Omitted Land boundaries on the Henry's Fork of the Snake River. When the determinations were made on the subject tracts in 1972, it was found that they did not meet the criteria for disposal under the Snake River Omitted Lands Act of 1962.

With the passage of the Federal Land Policy and Management Act of 1976, new criteria for the disposal of public lands were identified. The sale of this tract would satisfy this criteria.

The location and physical characteristics of the tract make it difficult and uneconomic to manage as public land. It is not suitable for management by another federal department. The tract is surrounded by lands deeded to Mr. Freeman. There is no legal access, except by river, to the tract. The tract is often flooded by high water during the spring and early summer.

Direct sale of this tract is justified by the limited physical access, lack of legal access, and position of the tract within Mr. Freeman's deeded land. Sale of the tract to a third party would place undue physical and legal hardship on Mr. Freeman.

The land will not be offered for sale for at least 60 days after the date of this notice.

Patent, when issued, will contain the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority

of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral rights in the land to be patented will be reserved to the United States.

3. An easement over and across a 100-foot strip parallel to the high water line of the left bank of the Snake River along the easterly side of the lot for recreational use by the people of the United States generally, and for recreational facilities construct by the authority of the U.S.

And will be subject to:

1. Those rights granted by oil and gas lease I–8634, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437.

Detailed information concerning the sale is available for review at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

For a period of 45 days, interested parties may submit comments to the District Manager of the Idaho Falls District. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior. The required payment, at fair market value, shall then be requested of Mr. Freeman. The payment, in full, is in accordance with 43 CFR 1822.1–2.

Dated: January 28, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82–2849 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–84–M

[I–18480]

Exchange of Public Lands in Custer County, Idaho; Realty Action

The following described public lands have been determined to be suitable for disposal by exchange under Sec. 206 of the Federal Land Policy Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

Township 13 North, Range 19 East.
Section 4, NW¼ of Lot 2 (within) containing approximately 7.19 acres.

In exchange for all or some of these lands, the United States will acquire the following described land in Custer County from the Challis Joint School District No. 181:

Boise Meridian, Idaho

Township 15 North, Range 20 East.
Section 18, Lot 3 (FAP 56–E) containing approximately 3.5 acres.

The purpose of the exchange is to acquire the non-Federal lands for use as a campground and to provide land to the School District to be used for constructing a school site. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with Custer County officials. The public interest will be well served by making the exchange.

The fair market value of the lands involved are approximately equal. The acreage will be adjusted to equalize the values upon completion of the final appraisals of the lands.

The public lands to be transferred from the United States will be subject to the following terms and conditions:

1. The public lands will be subject to valid existing rights including any right-of-way easement and lease of record.

2. The patent will include a reservation to the United States for right-of-ways for ditches and canals under the Act of August 30, 1890 (43 U.S.C. 945)

3. All minerals will be reserved to the United States.

Publication of this notice in the **Federal Register** segregates the public lands, described above, from appropriation under the public land laws, including mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first.

Detailed information concerning the exchange, including the environmental assessment and the record of public contract is available for review at the Salmon District Office, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Jerry Goodman,

Acting District Manager.

[FR Doc. 82–2846 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–84–M

Relocation of Oregon State Office, Portland, Oregon

The Bureau of Land Management, Oregon State Office will relocate its office personnel, equipment, and functions from the present locations at 729 N.E. Oregon Street, and 710 N.E. Holladay Street, Portland, Oregon to the new Lloyd Tower Bldg., 825 N.E. Multnomah Street, Portland, Oregon on evenings and weekends during the month of March 1982.

The Public Land Records, Cashier's Office and the Lands and Minerals Staff will be closed to the public from 7:30 a.m., March 22, 1982 through 4:15 p.m., March 26, 1982. The office will be open for business at 7:30 a.m., March 29, 1982.

In accordance with Title 43 CFR 1821.2; 2–1, 2–3, applications, payments and other documents received for filing in the Bureau of Land Management, Oregon State Office during the normal course of business from March 22, 1982 through March 26, 1982 shall be deemed to be filed or received as of 7:30 a.m., March 29, 1982. Those documents required by rgulations to be filed or received during the period 7:30 a.m., March 22, 1982 through 4:15 p.m., March 26, 1982 will be timely filed if received and time and date stamped in the Cashier's Office in its new location not later than 4:15 p.m., on March 29, 1982. The mailing address for the new office location will be effective March 29, 1982 and will be: Bureau of Land Management, Oregon State Office, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 28, 1982.

Paul Vetterick,

Acting State Director.

[FR Doc. 82–2847 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–84–M

White Pine Power Project; Intent To Prepare an Environmental Impact Statement (EIS) on a Coal-Fueled Steam/Electric Generating Facility

The Bureau of Land Management, Neveda State Office, will be preparing an EIS on the impacts of a proposed coal-fueled steam/electric generating facility, the White Pine Power Project (WPPP), on public lands in White Pine County, Nevada.

The WPPP, as currently proposed, will be jointly owned by White Pine County, Nevada Power Company and Sierra Pacific Power Company. Participants in the WPPP output include eight Nevada companies, power districts, associations or municipalitites and six California municipalities. Los Angeles Department of Water and Power will be the Development and Construction Manager for the project. Nevada Power Company will act as Operating Manager for the project. The participants projected

system loads and needs for power indicate that the proposed new capacity will be required in the 1990's both for load growth and to reduce the current dependence on imported oil.

A three-stage site selection study has been completed, which recommends sites in Butte Valley, North Steptoe Valley, and Spring Valley, within White Pine County, for baseline environmental studies for preparation of the EIS and other permit applications. The selection of these three sites followed nine months of studies in which White Pine County was reduced to 589 Candidate Areas and then 25 Candidate Sites. Eight sites were investigated in detail and evaluated for environmental impacts, engineering costs and fault hazards.

The proposal includes the construction of two 750-megawatt net generating units at one of the three Candidate Sites. The 1500 megawatt net capacity is the maximum allowed for a generating facility in White Pine County under the Nevada County Economic Development Revenue Bond Law.

For evaluation purposes, each site is currently defined as a square three miles on a side. The project will require approximately two square miles of land for the power generation facilities, evaporation ponds and waste disposal areas. In addition, corridors of various widths will be required for new water conveyance pipeline, railroads, access roads and power transmission lines. To the maximum extent possible, all project facilities will be sited on public lands.

The air monitoring plan for WPPP licensing has been approved by the U.S. Environmental Protection Agency (EPA) and the Nevada Division of Environmental Protection and erection of monitoring stations in the County has been completed at each of the three sites. Both meteorological and air quality parameters will be monitored at these stations. In addition, two secondary stations have been located in mountain passes between Butte Valley and Steptoe Valley and between Spring Valley and Steptoe Valley. Steptoe Valley is currently classified as a nonattainment area for sulfur dioxide.

Data collected at the monitoring stations over a one-year period will provide site-specific information to calculate the dispersion characteristics of emissions from the project. Emission control equipment will be provided to comply with EPA requirements for best available control technology. Ground level pollutant concentrations will not exceed levels permitted by National Ambient Air Quality Standards.

It is estimated that WPPP will require approximately 22,000 acre-feet of water annually for cooling purposes. Applications to appropriate groundwater have been filed with the Nevada State Water Engineer in seven basins in White Pine County. Water will be transported from well fields in specific basins to the project site through a buried pipeline.

Depending on the type of coal burned, approximately 5.2 million tons of coal will be required annually for WPPP. A coal source and transportation study has been completed. Based on the results of the study, coal delivery by rail would be more economically attractive than by slurry pipeline. The capability of using coals from the Uinta Region (Utah and Colorado), Green River Region (Wyoming) and the Hams Fork Region (Wyoming) would enhance the project's negotiating position with coal suppliers. The useof Alton (Utah) coal would be dependent on the project's willingness to construct and operate a new railroad into the area. If Alton coal were not considered, access from the north would ensure flexibility in selecting railroad carriers.

Approximately 20 miles of new road access will be required for the Butte Valley site. The other two sites would require approximately three miles of new road access.

Eighteen power transmission system alternatives were investigated for the project. Based on load flow and stability studies and on economic factors, a proposed transmission alternative has been selected for environmental analysis purposes. This system includes two new 500,000-volt alternating current (a-c) transmission lines into the Las Vegas area, which will connect with existing or approved transmission lines to Southern California. In addition, a new 345,000-volt a-c transmission line would be required between the project and Gonder Substation near Ely, Nevada.

Construction of WPPP is expected to begin in mid-1984 with the first unit operational in mid-1989. The second unit would become operational one year later. To meet this schedule, approximately 12.7 million hours of manual labor will be required with a peak construction labor force of 2,345 in mid-1988. It is currently planned to house some of these workers in temporary facilies to be located on the project site.

The operating and maintenance labor requirements will be approximately 440 persons when both units become operational. Most of these workers will probably reside in Ely, East Ely, McGill and Ruth.

Discussions have begun with White Pine County representatives and others to identify project-related socioeconomic impacts and eventually to develop an Impact Alleviation Plan to mitigate those impacts. It is the goal of the project to develop the Impact Alleviation Plan in cooperation with White Pine County representatives to assure support of the Plan by the local community and their elected officials.

The tentative project schedule is as follows:

Sign Development Work Agreement—October 1980
Select Project Study Sites—September 1981
Complete Feasibility Report—April 1983
Issue Draft Environmental Impact Statement—September 1983
Begin Public Comment Period—September 1983
Executive Power Sales Contracts—January 1984
File Final Environmental Impact Statement—Febuary 1984
Construction Permit—May 1984
Commercial Operation Unit 1—July 1989
Commercial Operation Unit 1—July 1990

Alternatives to the proposed action that are being considered for analysis include: (1) No Action, (2) Transmission Line Routes, (3) Location of Worker Accommodations, (4) Power Plant Sites, (5) Plant Capacity, (6) Well Field location, and (7) Railroad Routes.

The Bureau of Land Management's scoping process for the EIS will include: (1) Identification of issues to be addressed, (2) Identification of additional viable alternatives, (3) Notification of interested individuals, groups, and agencies so that additional information concerning these issues can be obtained; and (4) Identification of persons within BLM who can answer questions about the proposed action and alternatives.

The following steps will be utilized to accomplish the scoping process:

—A news release announcing the start of the EIS process.

—Letter of invitation to participate in the scoping process.

—A data sheet which further clarifies the proposal, alternatives, and significant issues being considered will be available.

—A Public Scoping Meeting will be held in Ely, NV on March 3, 1982, at 7 p.m. in the Bristlecone Convention Center.

—Formal briefings will be conducted on March 2, 1982, for State and Federal agencies.

Additional scoping/briefing meetings will be considered if requested.

—The following individuals will be available during the scoping period to answer questions and to receive

information concerning the proposed action, alternatives, and issues to be analyzed in the EIS:

Kathy Lindsey, District Environmental Specialist, Ely, NV. Phone: (702) 289–4865.

Ed Tilzey, Environmental Protection Specialist, Room 3145, Federal Building, 300 Booth Street, Reno, NV 89520. Phone: (702) 784–5602.

Written comments will be accepted until March 19, 1982, and should be sent to the State Director (N–921), Bureau of Land Management, P.O. Box 12000, 300 Booth Street, Reno, NV 89520.

Dated: January 27, 1982.

Roger J. McCormack,

Associate State Director, Nevada.

[FR Doc. 82–2845 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Quintana Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3411, Block 15, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 28, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–2851 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–31–M

Availability of Environmental Documents Prepared for Proposed Oil and Gas Operations on Gulf of Mexico Outer Continental Shelf (OCS)

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration and development/production proposals on the Gulf of Mexico OCS.

SUMMARY: The MMS, in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas exploration and development/production activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/ Operator	Location	FONSI date
Pennzoil Company, EA No. 500; Plan Control No. U–0207.	OCS Blocks A–351 and A–368, High Island Area, East Addition, South Extension; (115 mi. from the Texas coast).	Dec. 30, 1981.
Mobil Oil Exploration & Producing Southeast, Inc., EA No. N–0815.	OCS Block 277, Tarpon Springs Area; (83 mi. from the Florida coast).	Dec. 23, 1981.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Conservation Manager, Offshore Operations Support, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, 504/837–4720.

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS.

The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for the finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–2897 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–31–M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf (OCS)

ACTION: Notice of availability of environmental documents prepared for OCS mineral pre-lease, and exploration proposals on the Alaska OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs) prepared by the MMS for the following oil and gas pre-lease and exploration activities proposed on the Alaska OCS. This listing includes all proposals for which environmental documents were prepared by the Alaska OCS Region in the 3-month period preceding this Notice.

Operator/Activity	Location	FONSI date
Exploration Drilling Program (Tern Prospect) for the Beaufort Sea; Shell Oil Company, as operator for itself and other operators.	The proposed gravel island site is located in the Beaufort Sea, in Foggy Island Bay, approximately 20 miles SE. of Prudhoe Bay and 5 miles N. of the mainland shoreline	Oct. 23, 1981
Deep Stratigraphic Test (DST) well program for the Bering Sea; ARCO Exploration Company as operator for itself and other operators.	The proposed site is located in the Bering Sea north of the Aleutian Islands, and in the southern portion of the St. George Basin. The site location is about 120 miles NE. of Dutch Harbor and about 115 miles WNW. of Cold Bay.	Oct. 26, 1981
Deep Stratigraphic Test (DST) well program for the Bering Sea; ARCO Exploration Company, as operator for itself and other operators.	The proposed site is located in the Bering Sea, north end of the Alaska Peninsula. The site location is about 200 miles NE. of Dutch Harbor and 60 miles NE. of Cold Bay.	Do.
Deep Stratigraphic Test (DST) well program for the Bering Sea; ARCO Exploration Company, as operator for itself and other operators.	The proposed site is located in the Norton Sound area of the Bering Sea. The site location is 60 miles SE. of Nome and 50 miles N. of Kotlik.	Do.
Deep Stratigraphic Test (DST) well program for the Bering Sea; ARCO Exploration Company, as operator for itself and other operators.	The proposed site is located in the Navarin Basin, West of St. Matthew Island in the Bering Sea. The site location is approximately 530 miles WNW. of Cold Bay.	Do.
Exploration Drilling Program (Seal Prospect) for the Beaufort Sea; Shell Oil Company, as operator for itself and other operators.	The proposed gravel island site is located in the Beaufort Sea in the Long Island area, approximately 5.5 miles N. of Point Storkerson.	Nov. 27, 1981.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Alaska OCS are encouraged to contact the below listed MMS office in the Alaska OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Minerals Manager, Offshore Field Operations, Alaska OCS Region, Mineral Management Service, 800 A Street, Suite 205, Anchorage, Alaska 99501, (907) 271–4303.

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EAs and FONSIs proposals which relate to exploration for oil and gas resources on the Alaska OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Joe M. Jones,

Minerals Manager, Alaska OCS Region, Minerals Management Service.

[FR Doc. 82–2898 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–31–M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Pacific Outer Continental Shelf (OCS)

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Pacific OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA/Related environmental assessments (EA's) and findings of no significant impact (FONSI's), prepared by the MMS for the following oil and gas exploration activities proposed on the Pacific OCS. This listing includes all proposals for which environmental documents were prepared by the Pacific OCS Region in the 3-month period preceding this Notice.

Activity/operator and location	FONSI date
Chevron U.S.A. Inc., Exploration plan OCS–P 0331, 0332, 0338 (10 miles S.W. of Point Conception, California).	Sept. 4, 1981.
Chevron U.S.A. Inc., Exploration plan OCS–P 0205 (10 miles W. of Oxnard, California).	Oct. 30, 1981.
Exxon Company, U.S.A., Exploration plan OCS–P 0319, 0341, 0342, 0343 0344, 0352, 0353, 0354, 0356, 0357, 0359, 0360 (Santa Barbara Channel, California).	Oct. 21, 1981.
Exxon Company U.S.A., Chevron U.S.A. Inc., Exploration plan OCS–P 0180, 0181, 0182, 0183 0184, 0185, 1087, 1088, 1089, 0190, 0191, 0192, 0193, 0194, 0195, 0196, 1097, 0326 (Santa Barbara Channel, California).	Nov. 6, 1981.

Copies of the documents are available for inspection in the public information room at the Pacific OCS Region office. Persons interested in obtaining information about EA's and FONSI's proposed or activities on the Pacific OCS are encouraged to contact one of the MMS offices in he Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT:
Deputy Conservation Manager, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Suite 160, Los Angeles, California 90017, (213) 688–2846
District Supervisor, Oil and Gas Office, Ventura District, Pacific OCS Region, Minerals Management Service, 145 No. Brent Street, Suite 202, Ventura, California 93003, (805) 648–5131

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Pacific OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the qulity of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Reid T. Stone,

Regional Conservation Manager Pacific OCS Region.

[FR Doc. 82–2899 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Reclamation

Contract Negotiations With Outlook Irrigation District, Washington; Intent To Begin Contract Negotiations for a Rehabilitation and Betterment Contract

The Department of the Interior, through the Bureau of Reclamation, intends to open negotiations with the Outlook Irrigation District, Outlook, Washington, leading to a contract pursuant to the Rehabilitation and Betterment Act of 1949 (63 Stat. 724), as amended, for the repayment of funds to be used in improving the existing canal system and relocating the pumping plant.

The proposed Rehabilitation and Betterment program will provide up to $2,487,000 to enable the District to relocate the pumping plant, replace 4,400 feet of wood stave pipeline, and reconstruct 38,000 feet of main laterals. The contract repayment schedule will provide for full repayment of funds.

commensurate with water users' payment capacity and willingness to pay, over a 40-year period.

The terms and conditions of the proposed contract are ultimately dependent upon the Secretary of the Interior's approval of the form of the proposed contract, and completion of congressional review of the Secretary's determination regarding the organizations' ability to pay.

The public may observe any negotiating sessions. Advance notice of such meetings, if any, will be furnished on request. Requests must be in writing and must specify that the requesting party is interested in the proposed Outlook Irrigation District contract. Inquiries should be addressed to the Regional Director, Bureau of Reclamation, Attention Code 440, 550 West Fort Street, Box 043, Boise, Idaho 83724.

The availability of a proposed draft contract for public review will be announced in the local news media. Following that announcement, a 30-day period will be allowed for receipt of written comments. All written correspondence concerning the proposed contract will be made available for review or inspection upon receipt of written request pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact Ms. Cathy Kent, Repayment and Statistics Branch, Division of Water, Power, and Lands, Bureau of Reclamation, at the above address, or telephone (208) 334–9011.

Dated: February 1, 1982.

Eugene Hinds,

Assistant Commissioner of Reclamation.

[FR Doc. 82–2987 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–09–M

Office of Surface Mining Reclamation and Enforcement

Availability of Draft Environmental Impact Statement and Public Hearing on the Proposed North Antelope Mine, Campbell and Converse Counties, Wyo.

[Federal Lease Nos. W–60231 and 2–0321779]

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of draft environmental impact statement (OSM–EIS–6) and public hearing

SUMMARY: Pursuant to § 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, has prepared a draft environmental impact statement (EIS) on the proposed North Antelope Mine. The EIS has been written to assist the Department in making a decision on North Antelope Coal Company's application to surface mine about 190 million tons of coal over a period of 39 years. The proposed site is 62 miles south of the City of Gillette, and 58 miles north of Douglas, and 60 miles west of Newcastle, Wyoming. The mine would encompass 3,762 acres of State, private and Federal land (Thunder Basin National Grasslands) of which 2,698 acres would be disturbed for mining, roads, and facilities.

Copies of the draft EIS may be obtained from OSM at the location listed under "**ADDRESSES**" below. Copies are also available for review at locations listed under "**ADDRESSES.**"

A public hearing will be held. All interested parties are invited to attend this hearing to give their comments. See "**DATES**" and "**ADDRESSES**" for time and location.

DATES: A public hearing will be held on March 11, 1982, from 7:00 to 9:00 p.m. The Draft EIS will be available on February 4, 1982 at the address listed under "**ADDRESSES**". All written comments should be received by the Office of Surface Mining at the location listed under "**ADDRESSES**" no later than April 7, 1982.

ADDRESSES: The public hearing will be held at the Campbell County Community Recreation Center in Gillette, Wyoming. Copies of the draft EIS may be obtained from and comments should be addressed to: Richard E. Dawes, Acting Administrator, Office of Surface Mining, Brooks Tower, 1020 Fifteenth Street, Denver, Colorado 80202.

Copies of the EIS are available for review at the Converse County Courthouse; Douglas Library, Douglas, Wyoming; Campbell County Courthouse; George Amos Memorial Library, Gillette, Wyoming; and at the State of Wyoming, Department of Environmental Quality, 401 Ninteenth Street, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Richard E. Dawes (telephone: 303–837–5421) at the location given under "**ADDRESSES.**"

SUPPLEMENTARY INFORMATION: The EIS evaluates three alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Wyoming. Those alternatives are approval, disapproval, and no action.

OSM has not identified a perferred alternative at this time. The State of Wyoming and OSM have identified minor deficiencies in the mine plan, but it is anticipated that the applicant will correct these minor deficiencies. Once this is done, it is probable that the approval alternative will be the preferred alternative.

OSM, with assistance from the Geological Survey, Forest Service, Interstate Commerce Commission, and State of Wyoming, has analyzed the impacts of the alternatives. Public comments are sought on this analysis as presented in the EIS. All substantive comments, written or oral, will be considered in preparing the final EIS and in the final recommendation for action on the subject mining and reclamation plan. See "**DATES**" and "**ADDRESSES**" for information on the hearing and comments.

Dated: February 1, 1982.

James R. Harris,

Director.

[FR Doc. 82–2916 Filed 2–3–82; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29783]

Burlington Northern Railroad Company—Exemption—Trackage Rights—St. Paul, MN to Bayport, MN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The commission exempts from the requirements for prior approval under 49 U.S.C. § 11343 the trackage rights agreement granting Burlington Northern Railroad Company (BN) the right to operate over 19.3 miles of rail line owned by Chicago and North Western Transportation Company (CNW) from St. Paul, MN to Bayport, MN.

DATES: This exemption is effective March 5, 1982. Petition to stay effective date must be filed by February 15, 1982 and petitions for reconsideration of this action must be filed by February 23, 1982.

ADDRESSES: Send pleadings to: (1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave. N.W., Washington, D.C. 20423 and (2) Petitioner's representative: Peter M. Lee, Assistant General Solicitor, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 29783.

Copies of the full decision are available from: Interstate Commerce Commission, Office of the Secretary, Room 2227, Washington, D.C. 20423 or by calling toll-free 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275–7245.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in FD 29783.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3001 Filed 2–3–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-No. 79)]

Illinois Central Gulf Railroad Co.; Abandonment in Jefferson County, KY; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its rail line between milepost 0.24 and –1.27 all within Louisville, KY, a distance of 1.51 miles, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes adminstratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2882 Filed 2–3–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC–FC–79533. By decision of 1–19–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Central Valley Transportation, Inc. of Certificate No. MC–151496 (Sub-No. 1) issued to Wardick Trucking, Inc. authorizing operations as a common carrier, over irregualr routes, transporting coal from points in PA to points in NY. Applicant's representative: Connie Poorman, P.O. Box 125, Howard, PA 16841. TA lease is sought. Transferee is a carrrier.

MC–FC–79567. By decision of 1–19–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to Glenwood Transit Line, Inc. of Glenwood, IA of Certificate No. MC–69036 (Sub-Nos. 9 and 13) issued May 28, 1976 and June 4, 1981 respectively, and of Permit No. MC–69036 (Sub-No. 14) issued May 13, 1981 to Cool Trucks, Inc. of Glenwood, IA authorizing the transportation by irregular routes (A) under the Subs 9 and 13 certificates of *non-motorized farm equipment and supplies, and parts and accessories* used in connection therewith, from the plant site of Farmaster Products, Inc., at Shenandoah, IA, to points in ND, SD, NE, (except Omaha, and points in its commercial zone as defined by the Commission), KS, MN, MO, CO, IL, and WI, restricted to originating at the above-named origin (A) *meats, meat products, and meat by-products, and articles distributed by meat packinghouses,* (except hides and commodities in bulk), from the facilities of Swift & Company at or near Glenwood, IA, to points in SD, NE (except Omaha, and points in its commercial zone as defined by the Commission), CO, KY, MO, KS, IN, IL, WI, MI and MN restricted to shipments originating at the named storage facilities and destined to the indicated destination points; and (3) *meat, meat products, meat by-products, and articles distributed by meat packinghouses,* between points in Fremont County, IA, on the one hand, and, on the other, points in the US and under the Sub-14 permit (B) *food and related products,* between points in the US under continuing contract(s) with Swift Independent Packers Company, of Chicago, IL. Applicant's representative is: Long D. Knox, 600 Hubbell Building, Des Moines, IA 50309. A TA lease is not sought. Transferee is a carrier.

MC–FC–79574. By decision of 1–20–82, Review Board Number 3 approved the

transfer to MX Transport, Inc. of Las Vegas, NV, Certificates No. MC–142335 and (Sub-Nos. 2, 3, 4, 8, 11 and 12) issued to C & E Trucking Co., Inc. of Santa Fe Springs, CA, authorizing: Named commodities, including machinery, materials, supplies, and equipment requiring special equipment; structural steel; recyclable waste and scrap paper; steel, tubing, and appliance coating; pipe and pipe fittings; fire hydrants, and valves, and copper and aluminum wire and cable, radically between named NV and CA points from points in AZ to the facilities of Crown Zellerbach Corporation at Antioch, CA; from points in Los Angeles and San Bernardino Counties, CA, to the facilities of State Industries, Inc. at Henderson, NV; radially between points in CA and NV restricted against traffic from the facilities of Celanese Piping Systems, Inc. in Orange County, CA and Mueller Co., at Sparks, NV; from the facilities of Armco, Inc., Metal Products Division, at Madera, CA to AZ; from Geneva, UT to Henderson, NV, and from Los Angeles and Orange Counties, CA to points in AZ, materials and supplies in the reverse direction. Applicant's representative: Raymond P. Keigher, 401 E. Jefferson Street, Suite 102, Rockville, MD 20850. TA lease is not sought.

MC–FC–79575. By decision of January 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to Anchorage Fairbanks Freight Service, Inc. of Certificate No. MC–142494 (Sub-No. 5)X issued November 24, 1981 to United Cartrage, Inc. authorizing the transportation of general commodities (except Classes A and B explosives, (1) between points in Kings, Ketsup, Snohomish Counties, WA and (2) between points in the Greater Anchorage Area, Kenai Peninsula and Matanuska-Susitna, AK. Applicant's representative is: George Kargihanis, Esq., 2120 Pacific Building, Seattle, WA 98104.

MC–FC–79576. By decision of January 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Nevada General Transportation, Inc., of Draper, UT, of Certificate No. MC–138274 (Sub 15), issued December 19, 1975, to Payne Motor Lines, Inc., of Draper, UT, which authorizes the transportation of *rendering house products,* from the plant site of C.U.I. International at or near Boise, ID, to points in WA, OR, CA, UT, CO, AZ, NE, KS, IA, MN, MO, WI, and IL, with specified restrictions. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. Notes: TA has not been filed. Transferee holds authority under MC–146464 and sub-numbers thereunder. Applicants also seek authority to transfer MC–138274 (Sub 45X). Since this proceeding is still pending and a certificate has not been issued in the Sub 45X proceeding, applicants should file a petition for substitution of applicant.

MC–FC–79583. By decision of January 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to WAYNE WHIDDON, an Individual, of Brunswick, GA, of Certificate No. MC–155949, issued to Dawman S. Gay, Jr., an Individual, of St. Augustine FL, which authorizes the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in St. Johns, Putnam, Duval and Volusia Counties, FL, and extending to points in GA, MS, LA, SC, TN, and DC. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Notes: TA has not been filed. Transferee is not a carrier.

MC–FC–79569. By decision of January 19, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1133, Review Board Number 3 approved the transfer to Heritage Travel, Inc., of Union Square, Putnam, Connecticut 06260, of license No. MC–130371 issued on December 5, 1977, to H. Frances Czarnecki, d/b/a Heritage Travel Agency, of Union Square, Putnam, Connecticut 06260, authorizing it to engage in operations, in interstate or foreign commerce, as a *broker* at Putnam, CT, in arranging for the transportation by motor vehicle of passengers and their baggage, in special and charter operations, in round-trip tours beginning in Windham County, CT and extending to points in the United States, including Alaska and Hawaii. Representative: Sigmund A. Czarnecki, Heritage Travel Inc., Putnam, CT 06260.

MC–FC–79524. By decision of 1–15–82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1133, Review Board Number 3 approved the transfer to South Dakota Automobile Club of 1300 Industrial Avenue, Sioux Falls, SD 57104, of license No. MC–130517F issued on January 12, 1979, to Bestway Travel Agency, Inc., of 107 South Pierre, SD 57501, authorizing it to engage in operations, in interstate or foreign commerce, as a *broker of passengers and their baggage,* in special and charter operations, in all expense round-trip tours, beginning and ending at points in ND and SD and extending to points in the United States, including AK, but excluding HI. Applicants' representative: Mr. E. D. Wiedecker, Vice President–Travel Services, 1300 Industrial Avenue, Sioux Falls, SD 57104.

MC–FC–79587. By decision of 1–25–82 Review Board 3 approved the transfer to Jay Don Transport Lines, Inc. of Wobuan, MA of Permit No. MC–119552 Subs 13 and 15X issued to J&L, Inc. of Providence, RI, authorizing general commodities, between points in the US, under contract with Ralston Purina Co., Farm Corp. and Campbell Filter Co., Potlach Corp. Denton Sales Co., Thompson Can Co.; and Lever Bros. Co., pulp paper and related products, between points in the US, under contract with Simkins Industries, Inc. Applicant's representative: Robert L. Cope, 1730 M St, NW, Washington, DC, 20036, TA lease is not sought. Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–2677 Filed 2–3–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T–684, filed December 23, 1981. Applicant: WEST FARMS EXPRESS, INC., 1095 Close Ave., Bronx, NY 10472. Representative: David A. Malat, 1095 Close Ave., Bronx, NY 10472. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities—Between New York City on the one hand, and, on the other, all points in Albany, Columbia, Delaware, Dutchess, Greene, Nassau, Ontario, Orange, Putnam, Rensselaer, Rockland, Suffolk, Sullivan, Ulster, Westchester Counties and New York City. Intrastate, interstate and foreign commerce

authority sought. HEARING: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-2879 Filed 2-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 227]

Motor Carriers; Permanent Authority Decisions Restriction Removals; Decision-Notice

Decided: January 29, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 18738 (Sub-67X), filed January 25, 1982. Applicant: SIMS MOTOR TRANSPORT, LINES, INC., 610 W. 138th Street, Riverdale, IL 60827. Representative: Walter F. Jones, Jr., 1111 E. 54th Street, Suite 155, Indianapolis, IN 46220. Sub 66F, broaden iron and steel articles to "metal products".

MC 82735 (Sub-7X), filed January 25, 1982. Applicant: HUDSON-BERGEN TRUCKING CO., 200 Central Avenue, Teterboro, NJ 07608. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Sub 5F permit: (1) broaden general commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk); and (2) broaden the territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 82919 (Sub-1X), filed January 25, 1982. Applicant: E & M TRUCKING, INC. d.b.a., DELLA ROSA TRUCKING CO., P.O. Box 150, Martinez, CA 94553. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. Lead, broaden: (1) From petroleum products to "petroleum, natural gas and their products" and from containers for petroleum products to "containers"; (2) remove in container restriction, (3) city to county-wide authority; Port Richmond, Richmond, Avon and Martinez, CA to Contra Costa County, and Alameda, and Oakland to Alameda County and (4) to radial authority.

MC 96607 (Sub-25X), filed January 22, 1982. Applicant: RUCKER BROTHERS TRUCKING, INC., 1820 Stewart St. E., Tacoma, WA 98421. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421. Lead and Subs 2, 9, 12F, 15F, 16F, 17F, and 20F. Broaden: Lumber, lumber except plywood, lumber products, plywood, particle board, and laminated beams to "lumber and wood products" in lead, Subs 2 and 15F; doors to "building materials" in Sub-15F; (c) crushed cars and scrap metal for recyling to "waste or scrap materials not identified by industry producing" in Sub 16F; utility manholes, vaults, and median barriers to "clay, concrete, glass or stone products" in Sub 20F; Tacoma, to Pierce County, WA (Lead and Subs 2, 16F); Seattle to King County, WA (lead); Chehalis to Lewis County, WA (Subs 2, 9); Longview to Cowlitz County, WA; Issaquah to King County, WA (Sub 2); St. Helens and Columbia City to Columbia County, OR (Sub 2) McMinnville to Yamhill County, OR (Sub 16F); and Auburn to King County, WA and Wilsonville to Clackamas County, OR (Sub 20F); to radial service in Lead and Subs 2, 9, 16F; remove restrictions: to service moving to territories and possessions of the U.S. in lead and Sub-2; against transportation of iron and steel buildings and components between WA and OR in Sub-12F; against traffic moving in foreign commerce through ports of entry on the international boundary line between the U.S. and Canada in WA, ID, or MT in Sub-15F part (1); to traffic having prior or subsequent movement by water in Sub-17F.

MC 116092 (Sub-10X), filed December 1, 1981, previously published December 23 1981, republished as follows: Applicant: CHAMPLAIN EXPRESS TRANSPORT (INTERNATIONAL) INC., 411 Rivere, Cowansville, Quebec J2K 1N4. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Broaden in Sub 7F (1) synthetic resin and plastic articles and (2) toliet preparations and cosmetics (except in bulk) to "rubber and plastic articles and chemicals and related products." The purpose of the republication is to include the proper broadening for plastic articles.

MC 145223 (Sub-2X), filed November 20, 1981, previously noticed in the **Federal Register** of December 24, 1981 republished as follows: Applicant: COLE FREIGHT COMPANY, 12805 Seneca Road, Palos Heights, IL 60463. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Lead, broaden (a) linoleum, cork felt base floor covering or tiling, asphalt, composition tiling to "lumber and wood products, petroleum, natural gas and their products, chemicals and related products, clay, concrete, glass or stone products, and metal products"; (b) floor coverings, linoleum, steel rollers, wallboard and pulpboard to "textile mill products, lumber and wood products, pulp, paper and related products, chemicals and related products, rubber and plastic products, clay, concrete, glass or stone products, and metal products;" and in Sub-No. 1 broaden conduit and pipe (other than iron and steel) attachments, parts and fittings to "lumber and wood products, textile mill products, pulp, paper, and related products, rubber and plastic products, clay, concrete, glass or stone products, metal products, and machinery". The purpose of republication is to correct the proposed commodity broadenings.

MC 146873 (Sub-19X), filed October 16, 1981, previously noticed in the **Federal Register** of October 29, 1981, republished as follows: Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 81354. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW, Washington, DC 20001. Sub-No. 5F: Broaden (1) fertilizer, fertilizer solutions, and fertilizer

ingredients, in bulk, to "commodities in bulk"; (2) facilities at Ottawa, IL, to La Salle County, IL; and (3) delete originating at or destined to restriction. The purpose of this republication is to reflect applicant's proposed commodity broadening.

MC 147461X, filed January 13, 1982. Applicant: CLAYTON H. TEN PAS d.b.a. C. H. TEN PAS TRANSPORT, Route 1, Plymouth, WI 53073. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Sub 1F permit: (1) Broaden liquid concrete additives, in bulk, in tank vehicles to "chemicals and related products," and (2) broaden the territorial authority to between points in the U.S. (except AK and HI), under continuing contract(s) with named shipper.

MC 147586 (Sub-1X), filed January 18, 1982. Applicant: TODD & WATSON ENTERPRISES, INC., 2250 South Green St., Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Lead certificate, remove: (1) Facilities restriction, (2) ex-rail and water restriction, and (3) originating or destined to named facilities restriction.

MC 148581 (Sub-3X), filed January 22, 1981. Applicant: JOSEPH RUFFIN d.b.a. RUFFIN'S MOTOR FREIGHT, 5350 Paschall Ave., Philadelphia, PA 19143. Representative: Brian S. Stern, STERN & JONES, 5411-D Backlick Rd., Springfield, VA 22151. MC-30561 and Sub 3 permits and Subs 1 and 2 certificates. Broaden: Lead permit, steel wire springs and component parts thereof, to "metal products"; Sub 3 permit, flat glass, to "clay, concrete, glass, or stone products", and lead and Sub 3 permits to between points in the U.S., under continuing contract(s) with named shippers; Sub 1 certificate, aluminum and aluminum articles, to "metal products", Ravenswood facility to Jackson County, WV; and service to radial authority; Sub 2 certificate, part (1) electric wire and electric cable, to "metal products and machinery", Richmond facility to Madison County, KY; Downers Grove facility to DuPage County, IL; Worcester facility to Worcester County, MA; Patterson, Passaic and North Brunswick facilities to Passaic and Middlesex Counties, NJ; Leetsdale facility to Allegheny County, PA; and Phillipsdale and Ashton facilities to Providence County, RI.

[FR Doc. 82-2878 Filed 2-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 346 (Sub-No. 7)]

Railroad Exemption—Export Coal

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time for filing replies.

SUMMARY: A request for an extension of time to file replies is granted in part. Replies are now due February 24, 1982.

DATE: Time for filing replies is extended to February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: By petition filed January 25, 1982, the Norfolk and Western Railway (NW) and the Chessie System Railroads request a 30-day extension to submit replies. Pursuant to our notice in this proceeding published in the **Federal Register** on October 21, 1981 (46 FR 51674), replies are due February 4, 1982, 45 days after the filing of comments. The Coal Exporters Association and the National Coal Association filed a reply on January 27, 1982, in opposition to the extension. They agree that the railroads should not ask for an extension since they initiated the exemption proceeding and since they had originally wanted only 15 days for replies.

The petition shall be granted in part; parties shall have a 20 day extension to February 24, 1982, to file replies. A voluminous amount of comments, totalling nearly 1200 pages, have been filed. Moreover, the holiday season and inclement weather have affected the ability of railroad personnel to meet with counsel. An extension shall enable all parties to prepare the most complete responses to the comments. Since the NW filed the exemption petition, the extension will not prejudice any party. Finally, we find that a 20, and not 30, day extension is sufficient time to prepare the replies, since parties will have had a total of 65 day to analyze the comments.

It is Ordered:

The petition is granted in part. The time for filing replies is extended to February 24, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Decided: January 29, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3080 Filed 2-3-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-48]

Certain Amplifier Assemblies and Parts Thereof From Japan

AGENCY: International Trade Commission.

ACTION: Change of Date of Public Hearing.

SUMMARY: Notice is hereby given that the public hearing to be held in connection with United States International Trade Commission investigation No. 731-TA-48 (Final), certain amplifier assemblies and parts thereof from Japan, will begin at 10:00 a.m., Thursday, May 20, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. A hearing date of March 16, 1982, had previously been announced in the Commission's notice of institution of investigation as published in the **Federal Register** of January 20, 1982 (46 FR 2946). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) April 29, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.d.t., on May 3, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before May 14, 1982. The Commission's final action, notification of the Department of Commerce, is similarly postponed until July 1, 1982. These changes are made pursuant to the Department of Commerce's granting of an extension of time to the exporter involved in this investigation (see 47 FR 3393).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

Issued: February 1, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2915 Filed 2-3-82; 8:45 am]

BILLING CODE 7020-02-M

[332-131]

Hearing on and Release for Public Comment of Chapters of the Tariff Schedules of the United States Converted Into the Nomenclature Structure of the Harmonized System

AGENCY: International Trade Commission.

ACTION: Setting of public hearing and release for comment from interested parties, pursuant to Commission investigation No. 332–131, under the authority of section 332(g) of the Tariff Act of 1930, as amended, and initiated upon the request of the President of the United States, of the following chapters of the Tariff Schedules of the United States (TSUS) converted into the nomenclature structure of the Harmonized Commodity Description and Coding System (Harmonized System):

Volume I

Chapter 25: Salt; sulphur; earths and stone; plastering materials; lime and cement

Volume II

Chapter 27: Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes

Volume III

Chapter 44: Wood and articles of wood; wood charcoal
Chapter 45: Cork and articles of cork
Chapter 46: Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork
Chapter 47: Pulp of wood or of other fibrous cellulosic materials, waste and scrap of paper or paperboard
Chapter 48: Paper and paperboard; articles of paper pulp, of paper or of paperboard
Chapter 49: Printed books, newspapers, pictures and other products of the printing industry manuscripts, typescripts and plans

Volume IV

Chapter 50: Silk
Chapter 51: Wool, fine or coarse animal hair; horsehair yarn and woven fabric
Chapter 52: Cotton
Chapter 53: Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn
Chapter 54: Man-made filaments
Chapter 55: Man-made staple fibres

Volume V

Chapter 68: Articles of stone, of plaster, of cement, of asbestos, of mica, and of similar materials
Chapter 69: Ceramic products
Chapter 70: Glass and glassware
Chapter 71: Natural or cultured pearls, precious or semi-precious stones, precious metals, metal clad with precious metals, and articles thereof; imitation jewelry; coin

Volume VI

Chapter 84: Nuclear reactors, boilers, machinery and mechanical applicances; parts thereof
Chapter 85: Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders, or reproducers and parts and accessories of such articles

Volume VII

Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof; railway and tramway track fixtures and fittings; mechanical traffic signalling equipment of all kinds (including electro-mechanical)
Chapter 87: Vehicles other than railway or tramway rolling-stock, and parts thereof
Chapter 88: Aircraft and parts thereof
Chapter 89: Ships, boats, and floating structures

SUMMARY: The United States International Trade Commission (hereinafter "the Commission") has completed a draft of the above chapters of the TSUS converted into the nomenclature structure of the Harmonized System, with proposed rates of duty. This notice announces the scheduling of a public hearing on these converted chapters and requests public comment on the draft conversion, including the proposed rates of duty.

WRITTEN SUBMISSIONS: Persons wishing to submit written comments with respect to one or more of the chapters should do so at the earliest possible date, but no later than the close of business (5:15 p.m.) April 30, 1982. The signed original and 19 copies of all written comments must be filed with the Secretary of the Commission at his office in Washington, D.C. and should conform with § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8). Any person desiring confidential treatment as to commercial or financial information must submit that information on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All nonconfidential written submissions will be made available to interested persons.

HEARING: Public hearings on the draft converted chapters will begin on March 29, 1982, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. at 10 a.m. Requests for appearances at the hearing, including the name and address of any witness who will testify and the industry or organization, if any, which the witness represents, should be filed in writing with the Secretary of the Commission no later than the close of business on March 22, 1982. Requests shoud indicate the chapter or heading upon which the witness will express views and a brief indication of any position to be taken. Parties with a common interest in a chapter are encouraged to consolidate their oral presentations. For further information on hearing procedures and rules of general application consult the Commission's rules, part 201 (19 CFR Part 201).

COPIES OF DOCUMENTS: Copies of the chapters which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, DC 20436. The Secretary will also send copies of chapters to interested parties upon request; telephone (202) 523–5178.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Rosengarden, Director, or Mr. Holm Kappler, Deputy Director, Officer of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436; telephone (202) 523–0370 or 0362.

SUPPLEMENTARY INFORMATION: In its public notices of February 8, 1980 (45 FR 9828 of February 13, 1980), March 21, 1980 (45 FR 19696 of March 26, 1980), August 15, 1980 (45 FR 55549 of August 20, 1980), June 24, 1981 (46 FR 34439 of July 1, 1981) and July 17, 1981 (46 FR 37824 of July 22, 1981) the Commission identified the 97 chapters of the Harmonized System for which texts had been provisionally adopted by the Harmonized System and the Nomenclature Committees of the Customs Cooperation Council. Views and comments of interested parties with respect to the 97 chapters were sought, and the structure and technical development of the Harmonized System were described.

In reponse to a request dated August 24, 1981, by the President of the United States, the Commission instituted an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) in order to prepare a basic draft converting the Tariff Schedules of the United States into the nomenclature structure of the Harmonized System. The President directed that the Commission's report, including the converted U.S. tariff schedule, be submitted no later than June 30, 1983. Guidelines for the conversion set by the President were set forth in the Commission's notice of the institution of investigation of September 16, 1981 (46 FR 47897 of September 30, 1981), along with the schedule for the release of the converted chapters. Appropriate supplementary public notices will be issued with respect to the publication of the remaining chapters and hearings thereon.

Currently the Customs Cooperation Council is preparing draft explanatory notes to the chapters of the Harmonized System. As soon as they become available the Commission will release them for public comment. Explanatory notes for all chapters of the Harmonized System are scheduled to be released for comment before the Commission submits the converted tariff schedule to the President in June of 1983.

In preparing the converted U.S. tariff schedules, the Commission is seeking and taking into consideration the views of any interested person, of any trade or industry organization and of interested government agencies. Submissions should be directed at evaluating the draft conversion in light of the President's guidelines, in particular whether the conversion—

(a) Avoids, to the extent practicable and consonant with sound nomenclature principles, changes in rates of duty on individual products;

(b) Simplifies the U.S. tariff structure to the extent possible without rate changes significant for U.S. industry, workers, or trade; and

(c) Alleviates administrative burdens on the Customs Service.

The Commission will utilize the post-MTN rates of duty on individual products when analyzing impacts of any proposed changes.

Submissions should also address the probable effect of U.S. adoption of the converted tariff schedules on U.S. industries, workers, and trade. Submissions aimed primarily at seeking increases or reductions in existing tariff rates are not relevant and will not be entertained by the Commission.

Issued: January 29, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-2914 Filed 2-3-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 2, 1981, Hoffman La Roche Inc., Kingland Road and Bloomfield Avenue, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphaprodine (9010)	II
Levorphanol (9220)	II

Any other such applicant, and any person who is presently registered with the DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 1, 1982.

Dated: January 27, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-2869 Filed 2-3-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 1, 1981, Knoll Pharmaceutical Company, Production Department, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 1, 1982.

Dated: January 27, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-2870 Filed 2-3-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Marine Accident Report—*Grounding of the U.S. Sailboat Mr. B, near Punta Chivato, Mexico, November 25, 1980 (NTSB-MAR-81-13).*

Highway Accident Reports—*Summary Format, Issue No. 2—1980 (NTSB-HAR-81-1).*

Safety Recommendations to—

Federal Aviation Administration, Jan. 20. A-82-1 through -3: Replacement of the mushroom cart restraint device in DC-10 aircraft galley lift system; modification of switch circuitry in DC-10 aircraft lift system; modification of the interlock circuitry.

Federal Aviation Administration, Jan. 25. A-81-163 through -169: Violations of regulations or safety issues concerning parachute jumping; acceptable safe distances; special transponder code with identifiable radar display; Advisory Circular 90-48B; 14 CFR 105.14; 14 CFR 105; Air Traffic Control Handbook 7110.65B.

United States parachute Association, Jan. 25, A-81-170: CFR traffic advisories; safety attained by Mode-C transponders in jump operations.

Federal Aviation Administration, Jan. 28. A-82-6 through -15: Hazard associated with engine inlet pressure probe icing; predeparture deicing procedures; cold weather operations to ensure coverage of all aspects of such operations; compliance with 14 CFR 121.629(b); General Notice (GENOT) to FAA tower and air carrier ground control personnel about the increased potential for aircraft icing during long delays before takeoff and procedural changes so that controllers can implement the gate-hold provisions of Facilities Operations and Administration Manual 7210.3F, paragraph 1232; effect of engine inlet pressure probe blockage on engine instrument readings and addition of information to aircraft flight manuals; Advisory Circulars 91-13c and 91-51; air traffic control procedures when freezing weather conditions and attendant aircraft icing problems exists; training curricula for air traffic controllers and trainees to include structural and engine icing of aircraft hazards; foreign operators involved in cold weather operations.

Recommendation Responses from—

U.S. Coast Guard, Jan. 13, M-81-37. September 2, 1981, meeting with Materials Transportation Board and National Cargo Bureau agreed that stowage of containerized dangerous cargoes near centerline of vessel would be beneficial in preventing pollution incidents; however, requirements could prove to be economic burden on industry and a

severe limition on vessel operations. Plans to use the forum of the Chemical Transportation Advisory Committee to evaluate the recommendation. *Jan. 13, M–81–38.* Currently evaluating the recommendation. *Jan. 13, M–81–39.* Will analyze Mississippi River Gulf Outlet Canal traffic and economics to determine if one-way traffic operations for designated time periods and/or particular locations during dangerous cargo transit is warranted.

Office of the Secretary of Transportation, Jan. 15, H–81–46. Dot and AIRAC will hold regular meetings at least on a quarterly basis.

Burlington Northern Railroad, Jan. 15, R–80–34 and –35. Believes that proper equipment is being used and employees are adequately trained.

Federal Aviation Administration, Jan. 20, A–81–145. Will take actions to reduce the possibility of development of fatigue and stress, accelerate training and staffing to increase the work force, initiate a review to consider the need for, and method of, conducting a monitoring system which would serve to identify controllers who might be suffering from fatigue or stress. *Jan. 20, A–81–146.* Air Traffic Service has implemented two major programs: The Air Traffic Interim Operations Plan and The General Aviation Reservation program. Will be developing and Expanded Tower En Route Control program. *Jan. 20, A–81–147.* Do not occur since there is no means to require available assistance for coordination in every situation.

Note.—Single copies of reports, recommendation letters, and responses are free on written request, identified by recommendation or report number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Multiple copies of reports are obtainable from National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161)

Effie M. Upshaw,

Alternate Federal Register Liaison Officer.

February 1, 1982.

[FR Doc. 82–2975 Filed 2–3–82; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–364]

Alabama Power Co.; Notice of Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–8, issued to Alabama Power Company (the licensee), for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 located in Houston County, Alabama.

The amendment would revise the provisions in the Technical Specifications relating to the spent fuel pool. This change would permit the licensee to replace all of the storage racks in the present spent fuel pool with high density, poisoned racks, increasing its capacity from 675 fuel assemblies to 1,407 fuel assemblies, in accordance with the licensee's application for amendment dated December 18, 1981.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 4, 1982, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opporutnity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 [in Missouri (800) 342–6700]. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch #1, Division of Licensing: (petitioner's name and telephone number); (date petition was mailed); (Farley Unit 2); and publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be

based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 18, 1981, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Dated at Bethesda, Maryland, this 28th day of January, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-2925 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Alvin W. Vogtle Nuclear Power Plant (Unit Nos. 1 and 2) et al.; Negative Declaration

Supporting Amendment No. 3 to CPPR-108 and Amendment No. 3 to CPPR-109 Relating to the Discharge Structure Modifications

In the matter of Alvin W. Vogtle Nuclear Plant, Unit Nos. 1 and 2, Georgia. Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Authority of Georgia and City of Dalton, Georgia

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the amendments to Construction Permits CPPR-108 and CPPR-109 relating to the discharge structure modifications at Alvin W. Vogtle Nuclear Plant, Unit Nos. 1 and 2. The amendments would delete the original multiport, submerged design of the discharge structure and substitute a single-point, submerged discharge structure. In accordance with 10 CFR Part 51, the Commission's Division of Licensing has prepared an Environmental Impact Appraisal (EIA) for the amendments. Based on the EIA the Commission has concluded that an environmental impact statement for this action is not warranted because there will be no adverse environmental impacts affecting the quality of the human environment, attributable to the proposed action, that would be in addition to those impacts already evaluated in the Commission's Final Environmental Statement for Alvin W. Vogtle Nuclear Plant, Unit Nos. 1 and 2, issued in March 1974. A negative declaration is, therefore, appropriate.

The EIA is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the local public document room located at the Burke County Public Library, Fourth Street, Waynesboro, Georgia 30830. A copy of the EIA may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January, 1982.

For the Nuclear Regualtory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-2929 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Consideration of Proposed Modification To Facilities Spent Fuel Storage Pool

The United States Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the spent fuel storage pool of the Calvert Cliffs Nuclear Power Plant Units Nos. 1 and 2 (the facilities), located at Calvert County, Maryland. Operation of the facilities is authorized by Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company (the licensee).

The facilities share a common pool that is divided in two sections and connected by a transfer canal. On September 19, 1980, the NRC issued Amendments 47 and 30 for Calvert Cliffs Units 1, and 2, respectively which authorize a maximum fuel storage capacity of 1760 fuel assemblies. By application dated October 30, 1981, the licensee requested an increase in the maximum authorized fuel storage capacity from 1760 to 1930 fuel assemblies. The modification will require changes to the Technical Specifications and issuance of a license amendment for each facility.

Prior to approval of the proposed modification and license amendments authorizing use of the modified pool, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By March 8, 1982 the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors; (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner may file a supplement to the petition to intervene which may include a list of the contentions which are sought to be litigated in the matter. The bases for each contention must be set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any

limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C. by the above date.

Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark; (petitioner's name and telephone number); (date petition was mailed); (Calvert Cliffs); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to James A. Biddison, Jr. General Counsel, G and E Building, Charles Center, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1981, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland this 29th day of January, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-2926 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-454-OL & 50-455-OL]

Commonwealth Edison Co. (Byron Nuclear Power Station, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding: Stephen F. Eilperin, Chairman, Christine N. Kohl, Dr. Reginald L. Gotchy.

Dated: January 28, 1982.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-2927 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, IC 121–5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Response-Time Testing of Protection System Instrument Channels" and is intended for Division 1, "Power Reactors." It is being developed to provide a method acceptable to the NRC staff for complying with the Commission's regulations with regard to response-time testing of instrumentation in protection systems. This guide, with certain modifications, endorses Draft O of ISA-dS67.06, "Response-time Testing of Nuclear-Safety-Related Instrument Channels in Nuclear Power Plants," which was approved by the Nuclear Power Plant Standards Committee of the Instrument Society of America on October 21, 1980.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 31, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 28th day of January 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research

[FR Doc. 82-2930 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Georgia Power Co. et al.

Georgia Power Co. et al.; Issuance of Amendments to Construction Permits

In the matter of Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Authority of Georgia and City of Dalton, Georgia.

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Construction Permit No. CPPR-108 and Amendment No. 3 to Construction Permit No. CPPR-109. The amendment deletes the original multiport, submerged design of the discharge structure and substitutes a single point submerged discharge structure. The amendment also deletes three conditions which concern chlorine discharge and are inappropriate for the discharge structure modifications. Georgia Power Company has sole responsibility for the design construction and operation of the facilities, which are located in Burke County, Georgia. The amendments are effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I and has concluded that the issuance of the Amendment will not be inimical to the common defense and security or to the health and safety of the public. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

In connection with the issuance of these amendments, the Commission has issued a Negative Declaration and Environmental Impact Appraisal.

For further details with respect to this action, see (1) the application for amendments, dated May 1, 1981, (2) Amendment Nos. 3 to Construction Permits CPPR-108 and CPPR-109, (3) the Commission's related Safety Evaluation, (4) the Environmental Impact Appraisal, and (5) the Negative Declaration supporting the amendments to the Construction Permits. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Burke County Public Library, Fourth Street, Waynesboro, Georgia 30830. In addition, a copy of items 2, 3, 4 and 5 may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Division of Technical Information & Document Control.

Dated at Bethesda, Maryland this 29th day of January, 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-2928 Filed 2-3-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

January 27, 1982.

When Executive Departments and Agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Department and agencies use a number of techniques including public hearing to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published the list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency Clearance Officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the Agency clearance officer (from whom a copy of the form and supporting documents is available)
The Office of the Agency issuing this form
The title of the form
The Agency form number, if applicable
How often the form must be filled out
Who will be required or asked to report
The Standard Industrial classification (SIC) Codes, referring to specific respondment groups that are affected
Whether small businesses or organizations are affected
A description of the Federal budget functional category that covers the information collection
An estimate of the number of responses
An estimate of the total number of hours needed to fill out the form
An estimate of the cost to the Federal Government
An estimate of the cost to the public the number of forms in the request for approval
An indication of whether section 3504(h) of P.L. 96-511 applies
The name and telephone number of the person or office responsible for OMB review and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed Forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. The Agency Clearance Officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for futher improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affiars, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Revisions

• Science and Technical Research
National Voluntary Laboratory Accreditation Program Application
STR–1144
Annually
Businesses or other institutions
Testing laboratories
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 400 responses; 200 hours; $4,900 Federal cost; 1 form not applicable under 3504(h)
William T. Adams, 202–395–4814

To examine competence of testing laboratories in product areas where recognition is needed and to accredit those meetings applicable requirements. Application elicits general laboratory information and provides applicants for accreditation a means for selecting test methods and calculating fees.

DEPARTMENT OF DEFENSE

Agency Clearence Officer—John V. Wenderoth—703–697–1195

New

• Departmental and others
Labor Standards Interview
DD 1567
On occasion
Individuals or households
Construction contract employees
Department of Defense—Military: 60,000 responses; 10,000 hours; $10,000 Federal cost; 1 form not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

The Davis Bacon Act, the Copeland Act and the contract work hours and Safety Standards Act require the establishment of minimum wages, job classification, overtime pay rates and fringe benefits for construction work performed by private contractors for the Federal Government. In order to ascertain that the data submitted by the contractor is correct, the employees must be contacted on a random basis to collect the info requested by the form. This interview is required by 29 CFR 5.6, etc.

Revisions

• Departmental and others
Daily Transaction Reporting
Weekly, other—see SF83
Businesses or other institutions
Fuel Storage Facility (tank farm) oper and pipeline co's.
SIC: 517, 291
Small businesses or organizations
Department of Defense-Military: 9,240 responses; 3,502 hours; $57,250 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Provides status of Government-owned bulk petroleum products held by commercial contractors operating petroleum storage facilities by daily submission of shipments, receipts and inventory data.

Extensions (no change)

• Department of the Army
Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit
DA3126
On occasion
State or local governments
Secondary educational institutions
SIC: 821
Small businesses or organizations
Department of Defense—Military: 400 responses; 400 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The application and agreement form is used to screen secondary institutions desiring to host a junior ROTC Unit.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

Extensions (burden change)

• National Institutes of Health
Audiovisual Evaluation Form
Nonrecurring
Businesses or other institutions
U.S. Health Education professionals who borrow or rent, etc.
SIC: 822, 823, 806
Health: 9,000 responses; 450 hours; $4,000 Federal cost; 1 form; $4,500 public cost; not applicable under 3504(h)

Federal Education Data Acquistion Council, 202–426–5030

Data will be used primarily for the national medical audiovisual center's internal management purposes, to provide a measure of the approximate use of each audiovisual in the film and videotape collections, and to provide input to a follow-up study on the factors affecting the shareability of audiovisuals in the health Sciences.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

Extensions (Burden Change)

• Federal Bureau of Investigation
Monthly Return of Arson Offenses Known to Law Enforcement
DO–73
Monthly
State or local governments
City, city and State law enforcement agencies in the U.S.
Sic: 922
Federal law enforcement activities: 20,592 responses; 10,296 hours; $875,000 Federal cost; 1 form; $102,960 public cost; not applicable under 3504(h)
Andy Uscher 202–395–4814

To determine extent of arsons and related damages nationwide. Summary statistics are published in preliminary semiannual releases and comprehensive annual report.

• Federal Bureau of Investigation
Return A—Monthly Return of Offenses Known to the Police
DO–65
Monthly
State or local governments
City, cty and State law enforcement agencies nationwide
Sic: 922
Federal law enforcement activities: 17,772 responses; 8,886 hours; $906,000 Federal cost; 1 form; $88,860 public cost; not applicable under 3504(h)
Andy Uscher 202–395–4814

To tabulate/estimate total number of crimes and crimes cleared throughout the United States. Summary statistics published in preliminary semiannual releases and comprehensive annual publication.

• Federal Bureau of Investigation
Supplement to Return a Monthly Return of Offenses Known to Police
DO–57
Monthly
State or local governments
City, cty and State law enforcement agencies nationwide
Sic: 922
Federal law enforcement activities: 17,772 responses; 8,886 hours; $596,000 Federal cost; 1 form; $88,860 public cost; not applicable under 3504(h)
Andy Uscher 202–395–4814

To tabulate/estimate value of property stolen and recovered throughout the Unites States. Summary statistics published annually in "Crime in the United States."

• Federal Bureau of Investigation
Supplementary Homicide Report
DO–56
Monthly
State or local governments
City, cty and State law enforcement agencies nationwide

Sic: 922
Federal law enforcement activities: 929 responses; 110 hours; $13,000 Federal cost; 1 form; $1,100 public cost; not applicable under 3504(h)
Andy Uscher 202–395–4814

To tabulate victim, offender, and weapon date re persons murdered. Summary statistics published in annual "Crime in the United States."

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Research and Special Programs Administration
RAM Shipper Registration With USNRC
Nonrecurring
Businesses or other institutions
Shippers of radioactive materials
SIC: 369, 281, 344, 361
Other transportation: 2,600 responses; 1,300 hours; $32,500 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by the Department to ascertain that shippers using packages approved by the UNRC for another person know the amount and type of material allowed in a package and will package the material in a safe and correct manner.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—William Jones—202–452–2983

Revisions

• Statement of Purpose for an Extension of Credit Secured by Margin Stock
FR U–1
On occasion
Businesses or other institutions/ individuals or households,
All banks are subject to this requirement
SIC: 602
Small businesses or organizations
General government: 6,750,000 responses; 209,250 hours; $2,000 Federal cost; 1 form; $2,092,500 public cost; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

Form must be obtained by a bank and retained in its records in connection with an extension of credit secured directly or indirectly by any stock. Completed by borrower and bank. Form used to determine purpose for which loan proceeds will be used, and by signing form, both parties acknowledge that loan proceeds may be subject to restrictions of Regulation U.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

New

• Survey of Correspondence Education
ED (NCES) 2390
Other—See SF83
Businesses or other institutions
Correspondence and vocational schools
SIC: 824
Research and general education aids: 376 responses; 180 hours; $25,000 Federal cost; 1 form; $2,160 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Comprehensive data on home study, an important segment of American education, has not been collected since 1976. These data are needed to implement the mandate of sec. 406(B), 20 U.S.C. 1221E–1 to report on the condition of education. Data on enrollment and curricula will be collected from correspondence schools.

• Student Aid Report (SAR)—Formerly Student Eligibility Report (SER)
ED 255–1
Annually
Individuals or households
Post-secondary education students
Higher education: 4,628,740 responses; 1,157,185 hours; $1,912,000 Federal cost; 1 form; $6,000,000 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The student completes an application form (ED 255) on which he/she provides income and asset information necessary to determine an expected family contribution toward educational expenses. The student sends the form to an ED contractor which determines the amount of the expected family contribution. The ED contractor then sends the student a SAR which is a notification of the results of that determination.

Revisions

• Performance Report and Financial Status Report for Cooperative Education Program Grantees
ED 411, ED 411–1
Annually
State or local governments
Colleges and universities
SIC: 822
Higher education: 235 responses; 1,293 hours; $3,998 Federal cost; 2 forms; $10,340 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

The performance and financial reports are needed by the U.S. Department of Education to monitor and close out grants awarded by the cooperative education program.

Extensions (No change)

• Pell Grant Program Progress Report
ED 255–3
Quarterly
Businesses or other institutions
Post-secondary educational institutions
SIC: 824, 822
Higher education: 15,000 responses; 11,250 hours; $195,000 Federal cost; 1 form; $149,500 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The progress report is a financial report whereby periodic adjustments may be effected in the authorizations of BEOG funds for a particular institution and to make accurate projections of the total demand for program funds assuming full funding which will be used to develop a payment schedule for the calculation students awards.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Ms. Melita Yearwood—202–632–0084

Revisions

• Peace Corps Request for Information
A–16, A33S
On occasion
Individuals or households
Individuals who are interested in receiving additional information on The Peace Corps
Foreign Economic and Financial Assistance: 40,000 responses; 1,333 hours; $132,035 Federal cost; 2 forms; not applicable under 3504(h)

Phillip T. Balazs, 202–395–4814

Individuals express interest in the PC volunteer programs by submitting an information request form. The information is reviewed to determine availability and basic eligibility for service and to create a computer based record for the issuance of information kits, followup letters and statistical data in support of recruitment activities.

NATIONAL FOUNDATION ON THE HUMANITIES

Agency Clearance Officer—Victor Loughnan—202–724–0306

New

• Workshop Evaluation Form
Nonrecurring
Businesses or other institutions
Postsecondary educators
SIC: 999
Research and general education aids: 40 responses; 10 hours; $105 Federal cost; 1 form; not applicable under 3504(h)
Diane Wimberly, 202–395–6880

The forms are needed to evaluate the workshop conducted under contract NEH–C–81–24 and to report to the sponsoring agency under OMB Circular A110, attachment h.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

New

• Protected Employee Election
UI–130
On occasion
Individuals or households
Unemployed Conrail workers
Unemployment compensation: 3,000 responses; 750 hours; $0 Federal cost; 1 form; not applicable under 3504 (h)
Robert Neal, 202–395–6880

Title VII of the Regional Rail Reorganization Act provides protection for Conrail employees deprived of employment. The application obtains information needed to determine if the applicant qualifies for title VII benefits and which benefits the applicant elects to receive.

Arnold Strasser,

Acting Chief, Reports Management.

[FR Doc. 82–2529 Filed 2–3–82; 8:45 am]

BILLING CODE 3110–01–M

Agency Forms Under Review

Background

January 25, 1982.

When Executive Departments and Agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and Agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

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The name and telephone number of the Agency clearance officer (from whom a copy of the form and supporting documents is available),
The Office of the Agency issuing this form,
The title of the form,
The Agency form number, if applicable,
How often the form must be filled out,
Who will be required or asked to report,
The Standard Industrial Classification (SIC) Codes, referring to specific respondent groups that are affected,
Whether small businesses or organizations are affected,
A description of the Federal budget functional category that covers the information collection,
An estimate of the number of responses,
An estimate of the total number of hours needed to fill out the form,
An estimate of the cost to the Federal Government,
An estimate of the cost to the public,
The number of forms in the request for approval,
An indication of whether section 3504(h) of Pub. L. 96–511 applies,
The name and telephone number of the person or office responsible for OMB review, and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the Agency name. The Agency Clearance Officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim. J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Farmers Home Administration
7 CFR 1924–F, Complaints and Compensation for Construction Defects
FMHA 424–4
On occasion
Individuals or households
Rural housing borrowers who experience defects, etc.
Morgage credit and thrift insurance: 9,900 responses; 4,050 hours; $97,620 Federal cost; 1 form; $24,300 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Section 502(c) of the Housing Act of 1949, as amended, authorizes FMHA to establish policies and procedures for receiving and resolving complaints concerning the construction of dwellings financed by FMHA and/or compensating borrowers for structural defects.

• Farmers Home Administration
Insured Soil and Water Loan Policies, Procedures and Authorizations, 7 CFR Part 1943–B
On Occasion
Individuals or households/farms/ businesses or other institutions
Individuals, cooperatives, partnerships and corporations
SIC: 011, 013, 016, 017, 018, 019, 021, 024, 025, 027
Small businesses or organizations
Farm income stabilization: 11,748 hours responses; 2,684; $73,600 Federal cost; 1 form; $16,104 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Regulation contains information necessary in order to determine eligibility status and whether the proposed plan of operation is feasible.

• Farmers Home Administration
Insured Recreation Loan Policies, Procedures and Authorizations—7 CFR Part 1943–C

On occasion
Individuals or households/farms/ businesses or other institutions
Individuals, cooperatives, partnerships and corporations
SIC: 011, 013, 016, 017, 018, 019, 024, 025, 027
Small businesses or organizations
Farm income stabilization: 658 responses; 143 hours; $60,800 Federal cost; 1 form $858 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Regulation contains information necessary in order to determine eligibility status and whether the proposed plan of operation is feasible.

• Food and Nutrition Service
Shelters for Battered Women and Children—Part 273, Recordkeeping
On occasion
State or local governments
State agencies in 46 States
SIC: 832, 943
Food and nutrition assistance: 274 responses; 274 hours; $38,941 Federal cost; 1 form; $1,370 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

State agencies are required to determine if facilities meet program's definition for shelters for battered women and children and to document relevant facts for future reference.

• Farmers Home Administration
Insured Farm Ownership Loan Policies, Procedures and Authorizations, 7 CFR 1943–A
On occasion
Individuals or households/farms
Individuals, cooperative, partnership and corporations
SIC: 011, 013, 016, 017, 018, 019, 021, 024, 025, 027
Farm income stabilization: 66,470 response; 15,439 hours; $104,000 Federal cost; 1 form; $92,650 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Regulation contains information necessary for FMHA to determine eligibility status and whether the proposed plan of operation in feasible.

• Agricultural Marketing Service
Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in All Counties in Oregon except Malheur County (Marketing Order No. 947)
On occasion
Farms/businesses or other institutions
Potato handlers in the production area
SIC: 515
Small businesses or organizations
Agricultural research and services: 553 responses; 45 hours; $442 Federal cost; 5 forms; $150 public cost; Not applicable under 3504 (h)
Charles A. Ellett, 202–395–7340

The Oregon-Northern California Irish potato committee forms are used as a safeguard by the committee for handlers who wish to be exempt from grade, size, quality, or maturity requirements, and also where inspection is a hardship and handlers request a waiver of inspection privileges.

Reinstatements

• Farmers Home Administration
Application for FMHA Services
FMHA 410–1
On occasion
Individuals or households/farms
Farm operators and ranchers unable to obtain credit, etc.
SIC: 011, 013, 016, 017, 018, 019, 021, 024, 025, 027
Small businesses or organizations
Farm income stabilization: 175,000 responses; 87,500 hours; $81,280 Federal cost; 1 form; not applicable under 3504(h)
Nell Minow, 202–395–7340

The Consolidated Farm and Rural Development Act, as amended, authorizes FMHA to collect information necessary to determine applicants eligibility for the requested financial assistance.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

Reinstatements

• Economic and Statistical Analysis
Defense RDT&E Price Index Data Requirements Quarterly
Businesses or other institutions
Private contr. performing RDT&E for Department of Defense
SIC: 331, 335, 344, 348, 365, 366, 372, 376, 381, 382
Other advancement and regulation of commerce: 100 responses; 800 hours; $10,000 Federal cost; 1 form; $20,000 public cost; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures quarterly data on Department of Defense (DOD) purchases of contractual research, development, test, and evaluation (RDT&E) from private contractors. Authorized by 15 U.S.C. 175. Required for the preparation of constant-dollar estimates of DOT purchases of goods and services for incorporation in the National Income and Product Accounts of the United States.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

Extensions (Burden Change)

• Departmental and Others
Application for Review of Discharge or Dismissal From the Armed Forces of the United States
DD–293
On occasion
Individuals or households
Applicants for review of discharge or dismissal
Department of Defense-Military: 25,000 responses; 12,500 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

DD form 293 is the written document that allows an applicant to request review of the disposition of his/her separation if he/she is not satisfied with its current status. The information provided is used to locate and compare with official documents.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Social Security Administration
Request for Funds (Work Incentive Demonstration Program)
SSA–4931 (12–81)
Quarterly
State or local governments
State agencies administering work incentive programs
SIC: 944
Other income security: 104 responses; 52 hours; $400 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Information is required to make Federal funds available to the State agency operating a work incentive demonstration program and to obtain assurance that the non-Federal share of the program costs will be available during the quarter needed.

Reinstatements

• Social Security Administration
Statement of Income and Resources
SSA–8010–F6 (3–79)
On occasion
Individuals or households
Individuals with limited income and resources
Public assistance and other income supplements: 750,000 responses; 250,000 hours; $12,337,500 Federal cost; 1 form; not applicable under 3504(h)

Robert Neal, 202–395–6880

Section 1631 (E) of the Social Security Act provides for information required to establish eligibility for supplemental security income (SSI) benefits. This form elicits information regarding income and resources of a spouse or parent to determine eligibility of the applicant.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

Extensions (Burden Change)

• Housing Programs
Notice of Job Change and Changes in Family Composition
HUD–93115
On occasion
Individuals or households
Households throughout the United States and mortgagees
Mortgage Credit and Thrift Insurance: 135,000 responses; 13,500 hours; $5,382 Federal cost; 1 form; $2,400 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

This form is submitted by mortgagors to notify the mortgagee of job changes and changes in adult family income or composition. Needed to determine eligibility for assistance.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

New

• Bureau of Land Management
Arizona Socioeconomic Wilderness Survey [1]
Nonrecurring
Individuals or households
Arizona registered voters
Conservation and land management: 3,000 responses; 1,500 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Studies of potential wilderness areas are required by the Federal Land Policy Management Act. Socioeconomic information on wilderness areas is stipulated in the BLM wilderness study policy. This survey of a random sample of Arizona registered voters will provide accurate socioeconomic data to enhance management decisions on wilderness recommendations in Arizona.

• Bureau of Land Management
Proof of Construction—Affidavit of Engineer [1]
WY–2800–19
On occasion
Individuals or households/ businesses or other institutions
Individuals and businesses
SIC: 999
Conservation and land management: 300 responses; 15 hours; $209 Federal cost 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

This form serves as certifications that rights-of-way has been constructed as granted and in accordance with grant terms.

• Bureau of Land Management
Performance Bond [1]
WY–3000–2
On occasion
Individuals or households/businesses or other institutions
Individuals and businesses
SIC: 999
Conservation and land management: 15 responses; 1 hour; $12 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

This form enables applicant to comply with a bonding requirement imposed by BLM.

• Bureau of Land Management
Oil and Gas Leasing [1]
WY 3100–75, 3100–73, 3100–74, 3100–80, 3100–81, 3100–82, 3100–90, 3108–1
On occasion
Individuals or households/businesses or other institutions
Individuals and businesses
SIC: 999
Conservation and land management: 4,800 responses: 400 hours; $3,326 Federal cost; 10 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Forms are used to verify applicant's qualification to hold an oil and gas lease.

• Bureau of Land Management
Coal Leases [1]
WY–3400–1, 3400–2, 3400–5
On occasion
Individuals or households/businesses or other institutions
Individuals and businesses
SIC: 999
Conservation and land management: 55 responses; 23 hours; $44 Federal cost; 3 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Forms are used in connection with issuance of coal leases.

• Bureau of Land Management
Relinquishment of Mining Claim [1]
WY–3820–1
On occasion
Individuals or households/businesses or other institutions
Individuals and businesses
SIC: 999
Conservation and land management: 110 responses; 27 hours; $89 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

This form is used to facilitate clearance of mining claim(s) which represent a bond on title of lands to be disposed of under another land disposal authority.

• Bureau of Land Management
Cave Use Application/Permit [1]
01–8250–0
On occasion
Individuals or households
Individuals
Conservation and land management: 100 responses; 17 hours; $73 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Information from this form is needed to insure safety of the public, insure their awareness of regulations and requirements, and to protect cave resources.

• Bureau of Land Management
Application for Rights-of-Way Under Title 23 USC [1] secs. 107 and 317
UT–2800–21, 2800–17
Nonrecurring
State or local government/businesses or other institutions
State and local govt road building agencies, public, etc.
SIC: 999
Small businesses or organizations
Conservation and land management: 32 responses; 32 hours; $4,095 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Forms are used as a guide to insure that all data required for rights-of-way application is complete.

• Bureau of Land Management
Application to Purchase Homesite, Headquarters Site, and Trade and Manfacturing Site and Petition to Survey [1]
AK 2563–1B, 2563–2B, 2213–3

[1] Section 3512 of the Paperwork Reduction Act precludes Federal agencies from penalizing any person failing to maintain or provide information to the agencies if the information collection request was made after December 31, 1981 and does not display a current OMB control number, or fails to state that the request is not subject to the Paperwork Reduction Act. Due to resource constraints, the Department of the Interior was unable to submit complete clearance packages for OMB review for many information collection requests before the December 31 deadline. OMB has agreed to approve the above information collection requests on a provisional basis. In exchange, Interior developed a schedule for submitting complete justification packages for these items. This schedule is available from the Agency Clearance Officer, Vivian A. Keado, at 202–343–6191.

Nonrecurring
Individuals or households/ businesses or other institutions
Individs or small buss (manufacturing, trade, guiding, etc.)
SIC: 999
Small businesses or organizations
Conservation and land management: 45 responses; 23 hours; $8,400 Federal cost; 3 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Forms are needed to identify lands the applicant is applying for and to establish the eligibility of the applicant to settle on lands in Alaska under the Alaska Headquarters Site, Homesite, and Trade and Manufacturing Site Acts (43 U.S.C. 687A) and to receive patents.

• Bureau of Land Management
Simultaneous Filing List and Drawing Results Account,[1] Copy Fee Account
CA–PUB–1 1370–10
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
General public, small and large buss, State and local govts
SIC: 999
Small businesses or organizations
Conservation and land management: 500 responses; 125 hours; $5,000 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Form CA Pub–1 is used to subscribe to the "Simultaneous Filing List and Drawing Results List Account." Form CA 1370–10 is used when making and filing orders with BLM public room or survey and records.

• Bureau of Land Management
Placer Mining Claim Location Notice, Lode Mining Claim Location Notice, Assessment Work Notice [1]
CSO 3800–1, 3800–2, 3800–3
Nonrecurring/annually
Individuals or household/businesses or other institutions
General public
SIC: 104
Small businesses or organizations
Conservation and land management: 48,000 responses; 12,000 hours; $16,500 Federal cost; 3 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

CSO 3800.1 and 3800.2 forms are needed to identify the lands the applicant is applying for and to establish the eligibility of the applicant to mine the minerals on the land. CSO 3800.3 form is needed in order to inform this office which claims are still being worked, and which ones have been abandoned.

• Bureau of Land Management
Death of Injury Report, ORV Permit Undertaking, ORV Permit Affidavit [1]
CA–6260–5, 6260–2, 6260–4
Nonrecurring
Individuals or households
Individs or clubs and organizations representing, etc.
Conservation and land Management: 200 responses; 67 hours; $13,000 Federal cost; 3 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

These forms are needed in obtaining the required information from an applicant prior to and after holding a competitive recreation event on public lands. The forms were developed to assist in compliance with 43 CFR Part 8370 and 43 U.S.C. 1701, et seq.

• Bureau of Land Management
Request and Authorization to Use the Myer Valley [1] Special Area
CA 060–8340–1
On occasion
Individuals or households
Individuals, families, or recreational clubs.
Conservation and land management: 20 responses; 2 hours; $300 Federal cost; 1 form not applicable under 3504(h)
Robert Shelton, 202–395–7340

The form is necessary to eliminate adverse effects of vehicle use in the Myer Valley area and to meet special requirements for legal access to the affected public lands across interstate highway and railroad rights of way.

• Bureau of Land Management
Desert Land Entry Declaration and Publication Affidavit [1]
ID 2520–2, 1824–1
Nonrecurring
Individuals or households/businesses or other institutions
Individuals or newspaper business
SIC: 999
Conservation and land management: 150 responses; 25 hours; $850 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Accomplishment of Desert Land Declaration and Publication Regulations.

• Bureau of Land Management
Transmitting Facilities Data Sheet [1]
ID 2800–2
Nonrecurring
Individuals or households/businesses or other institutions
Individuals and small businesses
SIC: 999
Conservation and land management: 25 responses; 8 hours; $100 Federal cost; 1 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Data covering transmitting facilities located on pubic lands. From communication site applicant in order to advise existing users of frequency.

• Bureau of Land Management
Section Plat—Mining Claim [1]
On occasion
Individuals or Households
Conservation and land management: 1,000 responses; 83 hours; $156,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Recordation of person's mining claim. Information used to identify unpatented mining claims.

• Bureau of Land Management
Election of Slash Disposal Method [1]
ID–5420–1
On occasion
Individuals or households
Individual contractors
Conservation and land management: 25 responses; 4 hours; $1,500 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The slash form is part of memorandum of understanding between BLM and State of Idaho designed to estimate slash disposal costs on BLM lands as a result of timber harvest operations.

• Bureau of Land Management
Actual Grazing Use Summary [1]
ID–4100–18 04–4112
Other-See SF83
Farms
Ranchers
SIC: 021
Conservation and land management: 275 responses; 115 hours; $3,366 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Survey is sent to permittees on BLM lands who have actual use allocations for livestock grazing. The permitter fills out the form at the end of the grazing season. Billings for AUM's are made to these permittees for their response to this survey.

• Bureau of Land Management
Multi-Purpose Social and Economic Survey—Pretest [1]
Nonrecurring
Individuals or households
Indiv. or hhlds. in communities impacted by BLM planning
Conservation and land management: 800 responses; 400 hours; $10,500 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Pretest instrument to collect statistically valid primary social/economic data alternative mehtods cannot provide, to measure public sentiment on BLM actions. Impact assessment for NEPA compliance, public input to resource planning. Would allow managers to measure views of general public against interest group pressures for more balanced decisions.

• Bureau of Land Management
Application Accompanying Documents for Corporations,[1] Associations and Partnerships
ID 1820–2
Weekly
State or local governments/businesses or other institutions
Small businesses
SIC: 999
Small businesses or organizations
Conservation and land management: 65 responses; 65 hours; $1,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Information needed from applicant, other than individuals, to show qualifications to obtain authorization to use or purchase public land.

• Bureau of Land Management
Road Use Fees Paid Report and Timber Sale Contract[1]
Relinquishment
BLM 5450–8, 5480–3
On occasion
Businesses or other institutions
Timber industry contractors or forest product manufacturers
SIC: 081 241
Small businesses or organizations
Conservation and land management: 900 responses; 270 hours; $200 Federal cost; 2 forms; $2,700 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Form 5450–8—The BLM needs road use fees paid information for use in updating cost-sharing data in cooperative road use agreements. Form 5480–3—The BLM needs a relinquishment of claims under a timber sale contract when operations on the contract are complete so the contract can be terminated.

• Bureau of Indian Affairs
General Administration Contracts and Grants[1]
Annually
Individuals or households/State or local governments/businesses or other institutions
Indian tribes, individuals, State education agencies
SIC: multiple
Small businesses or organizations:
Multiple functions: 216,000 responses; 216,000 hours; $2,096,172 Federal cost; 36 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

These forms and information collections are used to execute contracts and grants functions required by 41 CFR Part 1.

• Bureau of Land Management
Mineral Material Disposal—43 CFR Group 3600 [1]
BLM 3600–4 5
Nonrecurring, annually
State or local governments/businesses or other institutions
Sand and gravel operators, construction companies, and others
SIC: 999
Conservation and land management: 6,250 responses; 1,250 hours; $738,110 Federal cost; 2 forms; $4,188 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

43 CFR 3600 regulations need to be revised to clarify Bureau policies and disposal procedures as well as revise present provisions limiting the availability of mineral materials to the public. Information requirements have not changed and are those necessary to make disposal decisions and issue use authorizations for mineral materials.

• Bureau of Land Management
Surface Management of Public Lands Under U.S. Mining Laws [1]
43 CFR Part 3809
Nonrecurring,
Individuals or households/Businesses or other institutions
Owners of mining claims, mill sites and tunnel sites
SIC: 999
Small businesses or organizations
Conservation and land management: 5,790 responses; 5,790 hours; $50,000 Federal cost; 1 form; $231,600 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The 3809 regulations provide procedures whereby claimants exercise their rights granted by the mining laws, and also establishes procedures to prevent unnecessary or undue degradation of the Federal lands which may result from operations authorized by the mining laws. This rulemaking contains an information collection requirement. Information is required from the applicant/claimant in the form of a notice of plan of operations

• Bureau of Land Management
Mining Claims—43 CFR Part 3833 [1]
Annually
Individuals or households/Businesses or other institutions
Owners of unpatented mining claims, mill and tunnel sites
SIC: 999
Small businesses of organizations
Conservation and land management: 250,000 responses; 20,000 hours; $2,000,000 Federal cost; 1 form; $300,000 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The proposal would clarify language in existing regulations and deem certain actions and filings to be in compliance with statute, thus benefiting affected public and preserving rights under the mining law.

• Bureau of Land Management
Geologic and Hobby Mineral Materials, Collecting [1]
Nonrecurring
Individuals or households/businesses or other institutions
General public and mining companies
SIC: 999
Small businesses or organizations
Conservation and land management: 102 responses; 102 hours; $34,400 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The regulations (43 CFR Part 3500) were promulaged to implement the provisions of the Mineral Leasing Act of 1920, as amended. The reporting requirements in the regulations are for the purpose of verifying the permittee/leasee's qualifications to hold Federal mineral leases for other than oil and gas.

• National Park Service
Federal Recreation Fee Program (1) Onsite Evaluation and (2) Annual Report [1]
FMR–8–302
On occasion, annually
Individuals or households
Visitors to National Park Service areas
Recreational resources: 1,000 responses; 500 hours; $30,500 Federal cost; 2 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

To gain the opinion of the visiting public concerning the administration of the Federal recreation fee program, the information resulting from the evaluations is used as pertinent material in the annual Federal recreation fee report to Congress. The report also assists State and Federal governments in administration of their recreation programs.

• National Park Service
Grant-in-Aid Project Completion Data [1]
FHR–8–300
On occasion
State or local governments
State historical preservation officers
SIC: 999

Recreational resources: 55 responses; 145 hours; $93,860 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Administration of historic preservation fund acquisition and development projects and preparation of project materials to be submitted to NPS after project review and approval by NPS.

• National Park Service
Financial Management [1]
SF272, 270
On occasion
State or local governments
State historic preservation officers
SIC: 999
Small businesses or organizations
Recreational resources: 58 responses; 6,670 hours; $230,000 Federal cost; 1 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Grantees submit payment requests for funds obligated to approved grant-in-aid project. Grantees maintain records for audit and respond to audit report.

• National Park Service
National Park Service Permits [1]
On occasion
Individuals or households/businesses or other institutions HHlds., indiv., small business and other affected public
SIC: 999
Recreational resources: 600,000 responses; 48,000 hours; $15,000,000 Federal cost; 4 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

There are currently more than 50 different types of permits in use throughout the service. They vary in purpose but can be grouped into four broad categories: special use, general park permit, commercial use and public use. The authority to issue permits, control and monitor visitor use is provided in various acts creating congressionally classified management areas.

• National Park Service
Annual Work Program (Application and Review) [1]
FHR–8–301
On occasion
State or local governments
A designated agency in each of the 58 States and territories
SIC: 999
Recreational resources: 58 responses; 2,320 hours; $22,737 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

This form will be used by State governments to apply for grant monies from the historic preservation fund and to submit progress reports on the expenditure of these monies, as well as by the NPS to competitively rate State performance for the purpose of apportioning funds.

• National Park Service
Outlay Report and Request for Reimbursement for Construction [1] Programs
FHR 2–280
On occasion
State or local governments
Local government
SIC: 999
Recreational resources: 400 responses; 80 hours; $20,000 Federal cost; 1 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Form is necessary in order to honor reimbursement requests of grantees.

• National Park Service
Concessioner Annual Financial Report [1]
10–356, 10–356(A)
Annually
Businesses or other institutions
Small and large commercial firms doing bus. inside an NPS area
SIC: multiple
Small businesses or organizations
Recreational resources: 500 responses; 9,500 hours; $2,317,000 Federal cost; 2 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information enables the NPS to ensure financial stability of concessioners and compliance with contractual and statutory requirements. Burden is substantially reduced for small concessioners by lifting the audit requirement and providing a short form.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

Revisions

• Employment and Training Administration
National Longitudinal Survey of Work Experience (Mature Women) 1982
LGT–3111, LGT–3113, MT–290
Annually
Individuals or households
Women aged 45–59 in 1982
Training and employment: 23,100 responses; 23,390 hours; $2,100,000 Federal cost; 2 forms; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The information provided in this survey will be used by the Department of Labor to help develop programs designed to ease the employment and unemployment problems faced by men in this age group.

Reinstatements

• Employment and Training Administration
ESARS Handbook—Chapter IV, Reports Preparation
ET Handbook No. 309,
Quarterly, other—see SF83
State or local governments
State employment service offices
SIC: 944
Training and employment: 260 responses; 74,880 hours; $52,650 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The ESARS tables used primarily by uses were originally designed to provide information on services provided by the affiliated State agencies to various applicant groups. The data are used at State and Federal levels for planning, budgeting, operations, and evaluation of the public employment service, WIN and food stamp programs.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Federal Railroad Administration
Steam Locomotive Inspection
On occasion, monthly, annually
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401
Ground transportation: 7,905 responses; 211 hours; $1,500 Federal cost; 5 forms; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

The Locomotive Inspection Act (45 U.S.C. 29) requires carriers to make inspections and repair defects which such inspections disclose on steam locomotives. Records are reviewed to assure carriers are in compliance with the Locomotive Inspection Act.

• Federal Railroad Administration
Identification of cars moved in accordance with Order 13528
On occasion
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401
Ground transportation: 700 responses; 117 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

49 CFR 232 appendix (d) promulgated under 45 U.S.C. 1, 3, 5, 6, 8–10, 11, 12, 16 and 49. U.S.C. 1655 requires a card to identify cars which may move under special order and not be delayed by interchange railroad.

• Federal Highway Administration
Structure inventory and appraisal sheet
On occasion, weekly

State or local governments
State highway agencies
SIC: 962
Ground transportation: 600,000 responses; 1,200,000 hours; $384,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

National bridge inventory, inspection rating and estimation of costs for bridge replacement and rehabilitation. Also, application for Federal funding for bridge replacement or rehabilitation.

• Federal Aviation Administration
Supplemental qualification statement, aviation safety inspector
FAA 3330.XX
On occasion
Individuals or households
Applicants for aviation safety inspector positions
Air transportation: 2,000 responses; 10,000 hours; $204,515 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

This information, in addition to the SF–171, is needed to evaluate a qualifications of applicants for aviation safety inspector positions established by the Federal Aviation Act of 1958. It will be evaluated and rated by subject matter specialists to rank applicants on registers of eligibles maintained by the FAA.

• Office of the Secretary
Follow-up Survey of Industrial Shippers
Nonrecurring
Businesses or other institutions
Manufacturing establishments w/100 or more employees
SIC: multiple
Other transportation: 300 responses; 150 hours; $6,920 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

This follow-up survey is part of DOT's effort to assess the intitl impacts of the Motor Carrier Act of 1980. The results will be used in DOT testimony at congressional oversight hearings on the act to provide information on changes in the quality of service provided by for-hire motor carriers.

• Research and Special Programs Administration
RAM shipments routing—recordkeeping
On occasion
Businesses or other institutions
Motor carriers
SIC: 421
Other transportation: 600 responses; 600 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Needed to compile detailed motor carrier data concerning ram shipments to plan emergency responses in case of accidents and to assure routing will be in the most direct and safe way.

• Research and Special Programs Administration
RAM Shipment Routing
On occasion
Businesses or other institutions
Shippers of RAM
SIC: 421, 281, 369, 344
Other transportation: 600 responses; 200 hours; $10,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Needed by MTB so that the information can be consolidated to develop a data base of shipment patterns. The information will be used to develop and maintain an emergency response system.

• National Highway Traffic Safety Administration
Study of Demographic, situational and motivational factors affecting restraint usage in automobiles
App. A, B
Nonrecurring
Individuals or households
Observed drivers in Baltimore, Md. SMSA and others
Ground transportation: 1,650 responses; 1,050 hours; $88,519 Federal cost; 2 forms; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To identify and analyze relationships among potentially valid spectra of demographic, situational and motivational factors in data obtained via observations, follow-up personal interviews and telephone interviews to identify groups, circumstances or values which are associated with safety belts and child restraint usage by drivers.

Reinstatements

• National Highway Traffic Safety Administration
Odometer Complaint Form
HS 387
On occasion
Individuals or households
Individuals with odometer tampering complaints
Ground transportation: 300 responses; 300 hours; $1,500 federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Pub. L. 92–513 as amended Pub. L. 94–364. The form is used to collect information from used car purchasers in sufficient detail to allow agency to decide whether odometer fraud is likely.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Municipal Wastewater Treatment Facility Construction Grant Program State Project Priority Lists
Annually
State or local governments
State water pollution control agencies
SIC: 999
Pollution control and abatement: 40 responses 4,900 hours; $281,500 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The State project priority lists rank projects eligible for grants by established criteria, using a priority system. They are five-year lists, which are submitted annually and amended.

• Construction Grant Program Report on Operation and Maintenance of Wastewater Treatment Plants
7500–5
Annually, other—see SF83
State or local governments
State water pollution control agencies and others
SIC: 999
Pollution control and abatement: 3,250 responses; 7,500 hours; $188,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Sec. 210 of Pub. L. 92–500 requires an annual survey and report to Congress on the efficiency of operation and maintenance of treatment works constructed with Federal funds. Form 7500–5 is the vehicle by which the results of the survey are reported to Congress.

• State Water Quality Management Information—Consolidated Request for State Work Program and Five-Year Strategy
Annually
State or local governments
State and interstate water pollution control agencies
SIC: 999
Pollution control and abatement: 118 responses; 13,216 hours; $53,963 Federal cost 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

See attachment 1, individual SF 83's.

• Construction Grant Section 205 State Management Assistance Grant Program Information—Consolidated Request (909, 910, 912, 913)
909, 910, 912 and 913
Semiannually, annually

State or local governments
State water pollution control agencies and territories
SIC: 999
Pollution control and abatement: 59 responses; 64,500 hours; $3,923,088 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This consolidated request includes 4 information collections to implement activities and requirements in connection with delegation of the management of the municipal wastewater treatment works construction grants program to the States pursuant to section 101(B) and 205(G) of the 1977 Clean Water Act. (See attachment 1, individual ICR abstracts.)

- Construction Grant Project Review Information—Consolidated Request I, Continuing Activities

831, 836, 837, and 839
Nonrecurring
State or local governments
City, county, other public body, Indian tribe, w/juris.
SIC: 999
Pollution control and abatement: 653 responses; 4,800 hours; $112,600 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This consolidated request (Request I) contains description of 4 ICR's which are not expected to change due to current regulatory reforms. The information requested by each ICR from local Governments is needed for reviews by States and EPA of wastewater treatment projects to determine eligibility for Federal construction grant funds. (See attachment I, individual ICR abstracts, also, see consolidated request II containing ICR's impacted by regulatory revision.)

- Application for EPA Evaluation of Fuel Economy Devices

EPA 618
Nonrecurring
Businesses or other institutions
Manufactures of devices for improving motor vehicle fuel
SIC: 371
Small business or organizations
Pollution control and abatement: 25 responses; 3,325 hours; $350,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

When a manufacturer of a retrofit fuel economy device applies for an EPA evaluation of his product, he uses this "application format" as an outline in providing descriptive information to EPA. The answers submitted according to this format serve as an official application for an EPA evaluation.

Reinstatements

- Source Compliance and State Action Reporting

Quarterly
State of local governments
State or local air pollution control agency
SIC: All
Pollution control and abatement: 220 responses; 118,200 hours; $410.000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This information on source compliance and enforcement actions taken by the States is needed to keep track of the compliance status of all major sources and major State enforcement activities. It is used to assess progress in meeting air quality standards and to assure continued attainment of the standards. This information is stored and utilized through the compliance data system. Five States use the compliance data system as their only source of data management.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

Revisions

- Common Core of Data (CCD)

ED (NCES) 2442, 2443, 2443–1, 2444, 2445, 2446, 2447
Annually
State or local governments
State education agencies (SEAS)
SIC: 941
Research and general education aids: 57 responses; 20,158 hours; $900,000 Federal cost; 9 forms; $544,900 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

These data provide information about student membership, graduates, teachers and related staff and finances by source and function. These data are used for sampling, allocation of federal funds for some education grant programs (ESEA title I), and in carrying out NCES mandated studies (equit profiles).

Extenstions (Burden Change)

- Application for Vocational Education Direct Grant Programs

3176
Annually
State or local governments
Indian tribes or tribal organizations
SIC: 941
Elementary, secondary, and vocational education: 67 responses; 1,340 hours; $45,000 Federal cost; 1 form; $13,400 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The programs for which this application is used are authorized by sections 103A(1)B(III), 172(B)(1), 184(A) of the Vocational Education Act of 1963, as amended by the education amendments of 1976. Under the Vocational Education Grant program for Indian tribes and tribes and tribal organizations (13.588), grants are awarded to Indian tribal organizations to plan, conduct, and administer any of the various type of Vocational Education programs.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–0204

Reinstatements

- Quarterly Report of Revenues Expenses and Stats Class I MC of passengers

QPA
Quarterly
Businesses or other institutions
Class I motor carriers of passenegers
SIC: 413
Ground transportation: 244 responses; 1,464 hours; $12,216 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Financial and operating data are essential to the proper administration of Interstate Commerce Act. Reports are used by the Commission to access industry growth sudden changes in the carrier financial stability and to identify changes and trends that may effect the National Transportation System.

NATIONAL FOUNDATION ON THE HUMANITIES

Agency Clearance Officer—Victor Loughnan—202–724–0308

New

- Four-Month Follow up Evaluation Form

Nonrecurring
Individuals or households
Postsecondary educators, primarily from 2–year institutions
Research and general education aids: 38 responses; 76 hours; $105 Federal cost; 1 form; not applicable under 3504(h)
Diane Wimberly, 202–395–6880

The forms will be used (a) to follow up on post-workshop progress (b) to help participants remain in contact with each other's work-in progress (c) to report to sponsoring agency under contract NEH–C–80–14, and under OMB circular A 110 attachment H.

• Workshop Evaluation Form
Nonrecurring
Individuals or households
Postsecondary educators, primarily from 2–year institutions
Research and general education aids: 60 responses; 15 hours; $105 Federal cost; 1 form; not applicable under 3504(h)
Diane Wimberly, 202–395–6880

The forms are needed to evaluate the workshop conducted under contract NEH–C–80–14, and for reporting to the sponsoring agency under OMB circular A 110 attachment H.

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615–751–2146

New

• TVA New Home Market Analysis
Nonrecurring
Individuals or households/State or local governments/businesses or other institutions
The buyers and comparable buyers of TVA–sponsored, etc.
SIC: 152, 344, 601, 602, 653, 612, 912, 953
Energy supply: 2,478 responses; 689 hours; $52,050 Federal cost; 12 forms; not applicable under 3504(h)
Anita T. Ducca, 202–395–7340

TVA needs qualifiable and quantifiable data on the attitudes, levels of understanding, intent, beliefs, behavior, and perceptions of those individuals who impact the housing markets either as buyers, builders, agencies, or institutions. This information will allow TVA to gauge market potential, barriers, and ultimately penetration of its housing programs.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202–389–2146

Revisions

• Application for Fee Personnel Designation
26–6681, 26–6681
On occasion
Individuals or households
Appraiser applicants
Veterans housing: 5,600 responses; 1,867 hours; $29,305 Federal cost; 1 form; not applicable under 3504(h)
Robet Neal, 202–395–6880

This form is utilized to obtain information on professional experience from applicants. For evaluation by panels for possible VA fee appraiser designation. Fee appraisers recommend the value of properties proposed for VA financing under 38 U.S.C. 1810 and 1811, ascertain whether properties, meet minimum property requirements (38 U.S.C. 1804) and appraise lots for loans authorized by 38 U.S.C. 1819.

Nathaniel Seurry,

Chief, Reports Management.

[FR Doc. 82–2890 Filed 2–3–82; 8:45 am]

BILLING CODE 3110–01–M

Office of Information and Regulatory Affairs

Standard Industrial Classification

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: This notice informs interested parties that no revision to the Standard Industrial Classification (SIC) will be made in 1982.

SUMMARY: Planning for a 1982 SIC revision was initiated in the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce. Following passage of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), responsibility for statistical policy and standards, including the SIC, was transferred to the Office of Information and Regulatory Affairs, Office of Management and Budget on April 1, 1981. A notice of recommended revisions to the SIC was published in the **Federal Register** on January 30, 1981, Part V pages 10116–10134. Comments and appeals to those recommendations were received and considered.

Because of budget limitations, statistical agencies could not implement the proposed revision without making substantial cuts in other important programs. Therefore, the proposed revision of the SIC manual will not be published for use in 1982. The 1972 SIC Manual, as supplemented in 1977,[1] will remain the standard for statistical programs. Plans for future revision of the SIC manual—which would take place in 1987 according to the traditional sequence of revisions—will be announced in 1983.

FOR FURTHER INFORMATION CONTACT: Statistical Policy, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 or call (202) 395–7313.

Christopher DeMuth,

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

[FR Doc. 82–2887 Filed 2–3–82; 8:45 am]

BILLING CODE 3110–01–M

[1] The Standard Industrial Classification Manual 1972 and the 1977 Supplement are available from the Government Printing Office—Stock Numbers and prices—4101–0066 ($15.00) and 003–005–00176–0 ($1.25), respectively.

Withdrawal of Notice of Intention To Develop Circular on Development and Use of Population Projections in Federal Fund Allocations

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Notice of withdrawal of previous notice of intention to develop an Office of Management and Budget Circular on development and use of population projections in Federal fund allocations.

SUMMARY: On December 5, 1979, the Office of Federal Statistical Policy and Standards in the Department of Commerce (since transferred to the Office of Managment and Budget) and the Office of Management and Budget jointly published **Federal Register** notices, proposing to develop a Federal Policy on the preparation and use of standardized population projections in Federal funding decisions. In response to the **Federal Register** notices, a large number of comments were received during an extended review period. The proposal was reviewed and revised by the Statistical Policy Coordination Committee in light of these comments.

The Office of Management and Budget has reviewed this proposal for consistency with the Administration's objectives of regulatory relief, and has concluded that withdrawing the proposal would eliminate a source of further requirements placed on State and local governments. OMB is also concerned that proceeding would establish a process requiring extensive commitment of resources at the Federal, State, and local levels with little potential for resolving disagreements about the distribution of future population increases.

WITHDRAWAL OF INITIATIVE: Based on the considerations mentioned above, the Office of Management and Budget is withdrawing its proposal to develop this circular. OMB will terminate further action on standardizing population projections.

FOR FURTHER INFORMATION CONTACT: Jeanne E. Griffith, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 or call (202) 395–7313.

Christopher DeMuth,

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

[FR Doc. 82–2888 Filed 2–3–82; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12195; 812-4961]

Axe-Houghton Money Market Fund, Inc.; Application

January 28, 1982.

In the matter of Axe-Houghton Money Market Fund, Inc., 400 Benedict Avenue, Tarrytown, NY 10591 (812-4961).

Notice is hereby given that Axe-Houghton Money Market Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 26, 1981, and an amendment thereto on December 28, 1981, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a corporation organized and existing under the laws of the State of Maryland. It has filed a registration statement on Form N-1 with the Commission under the Act and the Securities Act of 1933, which was declared effective on September 8, 1981. Applicant states that it is a "money market" fund whose investment objective is to seek the highest current income available from money market instruments consistent with the preservation of capital and liquidity. Applicant is designed primarily as an investment vehicle for institutions and individuals with cash reserves or temporary cash balances who wish to take advantage of the favorable interest rates available from money market investments. It will invest exclusively in quality money market instruments with remaining maturities of one year or less. Its portfolio may include:

Marketable securities which are direct obligations of the United States government, or securities issued by federal agencies or instrumentalities guaranteed by the United States government; United States dollar-denominated marketable securities issued by the Canadian government or its agencies or instrumentalities, which are guaranteed by and/or are direct obligations of the Canadian government; obligations of banks subject to regulation by the United States government and having total assets of $500 million or more, including Eurodollar obligations of foreign branches of United States banks and obligations of United States branches of foreign banks; non-convertible corporate bonds and debentures, with one year or less remaining to maturity, which are rated at least "A" by Standard & Poor's Corporation ("S&P") or Moody's Investors Service, Inc. ("Moody's"); commercial paper rated at least "P-2" by Moody's or "A-2" by S&P or, if such paper is not rated by either such service, then issued by a company having an outstanding debt issue rated at least "A" by such services; variable rate master demand notes to permit investment of fluctuating amounts at variable interest rates; certificates of deposit of banks and savings institutions with total assets of less than $500 million provided that no more than $100,000 is invested in certificates of a single bank and that such certificates are fully insured in principal amount by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; and certain repurchase agreements with respect to any of the securities in which Applicant is permitted to invest. Applicant states that it will not enter into repurchase agreements of more than one week duration if more than 10% of its net assets would be so invested. All of Applicant's investments will consist of obligations maturing within one year from the date of acquisition, and the dollar-weighted average portfolio maturity of all of its investments will be 120 days or less.

In order to qualify for the exemptive relief requested, Applicant has agreed to: (1) Limit purchases of corporate obligations to those rated "AA" or "Aa" by S&P or Moody's respectively; (2) limit its purchase of unrated commercial paper issues to those issued by corporations which, at the date of purchase, have an outstanding debt issue rated at least "A" by S&P or Moody's and (a) as to which the board of directors has made an independent determination that the instrument purchased presents minimum credit risk and is of "high quality", or (b) unless such purchase is made in accordance with general guidelines set by the board of directors, which guidelines are designed to insure that the class of commercial paper issues in which Applicant is permitted to invest presents minimum credit risks and is of "high quality"; and (3) to the extent that the terms of any master demand notes purchased by Applicant provide for a variable interest rate, that the overall maturity of such instruments will be limited to no more than 180 days, and that interest rate adjustments will occur at least every 30 days. Shares of Applicant will be sold without a sales charge. The minimum initial investment will be $1,000 with additional investments accepted in amounts of $100 or more.

Applicant seeks an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant's assets to be valued according to the amortized cost valuation method. Under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition and thereafter assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to

market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that its board of dirrectors, with the assistance of its investment adviser (E. W. Axe & Co., Inc.), has determined in good faith that the amortized cost method of valuation of portfolio securities is appropriate and is in the best interests of Applicant's shareholders. Applicant states that the difference between the amortized cost method of valuation and the traditional market based valuation method is essentially that the amortized cost method does not take into account any unrealized appreciation or depreciation in the market value of portfolio securities which may be due to changes in interest rates and/or other factors that may influence market prices of securities, whereas traditional valuation methods are based on the market price of the securities involved. Applicant states that under certain circumstances the price at which Applicant's shares are purchased or redeemed on any particular day under the amortized cost valuation method may not reflect capital loss or gain which an investor might otherwise have realized had he or she purchased securities held by Applicant directly. Applicant's board of directors believes, however, that those investors whose needs Applicant is designed to meet will look to Applicant to achieve maximum current income and to insure, to the greatest extent possible, the preservation of his or her principal investment, and further that such investors are willing to forego the opportunity for capital gain in favor of current income and the relative protection which a money market fund may provide for such investors' principal investments.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1-percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 23, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted.

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available case in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request.

As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2917 Filed 2–3–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12197; 812–5009]

First American Money Fund, Inc.; Application

January 28, 1982.

In the matter of First American Money Fund, Inc., 3033 Excelsior Boulevard, Minneapolis, Minnesota 55416 (812–5009).

Notice is hereby given that First American Money Fund, Inc. ("Applicant"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on November 6, 1981, and an amendment thereto on December 16, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions and repurchases of its shares, using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it affords investors the opportunity to invest in a money market fund the objective of which is maximum current income to the extent consistent with the preservation of capital and maintenance of liquidity. Applicant represents that it pursues this objective by investing exclusively in the following money market instruments maturing in twelve months or less: Marketable securities issued or guaranteed by the United States or its agencies or instrumentalities; bank money instruments of United States banks having total assets of not less than $1 billion and foreign branches of such banks, such as certificates of deposit (including variable rate certificates of deposit), time deposits and bankers' acceptances; short-term corporate debt instruments, such as commercial paper and nonconvertible corporate debt securities; and repurchase agreements in connection with obligations that are suitable for investment under the categories set forth above. The application states that, in investing in the above-described money market instruments, Applicant will maintain a dollar-weighted average portfolio maturity of 120 days or less.

The application states that the obligations that Applicant may purchase include both fixed rate and variable rate securities. It is asserted that variable rate obligations have a yield which is adjusted periodically based upon changes in the level of prevailing interest rates. Applicant states that, as a result, the value of variable rate obligations is less affected by changes in interest rates. Applicant represents that, with respect to variable rate certificates of deposit maturing in 180 days or less from the time of purchase with interest rates adjusted on a monthly cycle, Applicant may use the period remaining until the next rate adjustment date for purposes of determining the average weighted maturity of its portfolio. Applicant states that until such time as the Commission has determined otherwise in an order amending any order issued on this application, upon persuasive evidence submitted by Applicant, Applicant will use the remaining period of maturity of all other variable rate instruments for purposes of determining the average weighted portfolio maturity of the portfolio.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

In support of the relief requested, Applicant asserts that it desires to offer its shares to the public at a constant net asset value per share of $1.00 for purposes of sale, redemption and repurchase. The application states that the board of directors of Applicant has determined that the best method currently available for valuing portfolio securities so as to maintain a $1.00 constant net asset value per share, without having to include in a daily dividend realized and unrealized short-term gains and losses on securities in the portfolio, is the amortized cost method. Applicant represents that, since it will invest principally in short-term obligations, and will dispose of portfolio securities prior to their maturity only to a limited degree, realized short-term

capital gains and losses will affect the net asset value and daily income of Applicant only negligibly. The application states that the board of directors of Applicant has determined in good faith that, absent unusual circumstances, amortized cost value will reflect the fair value of the portfolio securities of Applicant and that adherence to certain conditions specified hereinafter will substantially reduce the likelihood of dilution of the assets or income of investors, or of other detrimental effects resulting from over valuation or undervaluation of its shares.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that this request for exemption is made based on its existing management policies; and it agrees that the following conditions may be imposed in any order granting the exemptions requested hereby:

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to the investment advisers of Applicant, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) If the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. If the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the proceeding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 23, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–2918 Filed 2–3–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12196; 811-2342]

Fundamerica of Japan, Inc.; Application

January 28, 1982.

In the matter of Fundamerica of Japan, Inc., 165 Broadway, New York, New York 10080 (811-2342).

Notice is hereby given that Fundamerica of Japan, Inc. ("Applicant"), an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on November 19, 1981, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a corporation under the laws of the State of Delaware, and registered under the Act on December 22, 1972. Applicant states that on February 12, 1981, its Board of Directors approved the Plan of Liquidation and Dissolution ("Plan") which was adopted at a special meeting of Applicant's shareholders held on April 20, 1981. Applicant states that on May 1, 1981 it distributed to its stockholders of record on April 20, 1981, $41.49 per share of common stock.

Applicant states that as of the date of filing of the application it had no assets and was not engaged nor did it propose to engage in any business activity other than that necessary for the winding-up of its affairs, that it has no outstanding liabilities, that it is not a party to any litigation or administrative proceeding, that it has no securityholders, and that it filed a Certificate of Dissolution with the State of Delaware on August 19, 1981 and the Applicant's legal existence under Delaware law was terminated pursuant thereto.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 23, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2919 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22372; 70-6691]

Ohio Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper

January 28, 1982.

In the matter of Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44702 (70-6691).

Ohio Power Company ("OPCo"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder.

OPCo proposes to issue and sell short-term notes to a number of banks and commercial paper to a dealer in commercial paper in an aggregate amount not to exceed $160,000,000 outstanding at any one time. The notes to banks and commercial paper will be issued from time to time and renewed from time to time prior to September 30, 1982, as funds may be required, provided that none of such notes to banks and commercial paper will mature later than March 30, 1983.

It is stated that if the balances maintained and fees paid by OPCo with the banks were maintained and paid solely to fulfill requirements for borrowing by OPCo, the effective annual interest cost to OPCo under any of its various arrangements, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 20% on the basis of a prime commercial rate of 16%. The commercial paper will be sold at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity.

The proceeds of the short-term debt incurred by OPCo will be added to the general funds of OPCo and used to pay its general obligations, including expenses incurred in its various construction projects, and for other corporate purposes. The estimated cost of OPCo's consolidated construction program for the year 1982 is approximately $183,000,000.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 22, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2920 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22373; 70-6631]

Ohio Power Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

January 28, 1982.

In the matter of Ohio Power Company, 301 Cleveland Avenue, SW., Canton, Ohio 44701 (70-6631).

Ohio Power Company ("OPCo"), a public-utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(b)

and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 thereunder.

OPCo proposes to issue and sell, at competitive bidding, up to $120,000,000 aggregate principal amount of its first mortgage bonds in one or more new series, with a maturity of not less then five years and not more than thirty years. The terms will be determined by competitive bidding. The bonds will be issued under OPCo's Mortgage and Deed of Trust dated as of October 1, 1938, as supplemented and amended and as to be further supplemented and amended.

OPCo also proposes to issue and sell up to 1,600,000 shares of a new series of its cumulative preferred stock, par value $25 per share. The terms will be determined by competitive bidding. A cumulative sinking fund may be provided for.

The application-declaration states that if market conditions should not be propitious for the sale of the bonds and/or preferred stock on a competitive bidding basis, OPCo proposes, subject to authorization by this Commission, either to place the bonds and preferred stock privately with institutional investors or to negotiate with underwriters for their sale.

The proceeds from the sale of the bonds and preferred stock will be used to pay maturing long-term obligations of OPCo or to repay unsecured short-term debt of the company, or both, and for other corporate purposes. OPCo estimates that its consolidated construction costs during 1982 will be approximately $183,000,000.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2921 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11498]

RCA Corp.; Application and Opportunity for Hearing

January 29, 1982.

Notice is hereby given that RCA Corporation, a Delaware corporation ("RCA"), has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Morgan Guaranty Trust Company of New York (the "Bank") under a certain indenture which is qualified under the Act and under a new indenture which is not qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under such qualified indenture.

RCA alleges that:

1. The Bank, as Trustee, has entered into an Indenture dated as of August 15, 1974 (the "1974 Indenture") with RCA pursuant to which there has been issued $100,000,000 aggregate principal amount of RCA's 10.20% Sinking Fund Debentures Due August 15, 1992 (the "Debentures"). The 1974 Indenture was filed as Exhibit 2-B to Registration Statement No. 2-51723 under the Securities Act of 1933, as amended, and such Indenture has been qualified under the Act.

2. On January 14, 1982, RCA Overseas Finance N.V., a Netherlands Antilles corporation ("Finance N.V."), RCA Overseas Finance B.V., a Netherlands corporation ("Finance B.V."), RCA and the Bank, as Trustee, entered into an Indenture dated as of January 14, 1982 (the "1982 Indenture") pursuant to which Finance N.V. and Finance B.V. have issued and are to issue U.S. $75,000,000 aggregate principal amount of their 15½% Guaranteed Notes Due January 15, 1987 (the "Notes"). The Notes were issued to provide Finance N.V. and Finance B.V. with funds to loan to RCA, which funds RCA will use to repay unsecured promissory notes that have been issued from time to time at varying market rates. Finance N.V. and Finance B.V. are severally liable for two-thirds and one-third, respectively, of the principal of and premium, if any, and interest on the Notes. Finance N.V. is solely liable for the entire amount of any additional interest that may be required to be paid pursuant to the terms of the Indenture as a result of any present or future taxes, assessments or governmental charges imposed by the Netherlands Antilles or by the United States by reason of any payment of principal of or premium, if any, or interest on any Notes by Finance N.V. and Finance B.V. is solely liable for the entire amount of any additional interest that may be required to be paid pursuant to the terms of the Indenture as a result of any present or future taxes, assessments or governmental charges imposed by the Netherlands or by the United States by reason of any payment of principal of or premium, if any, or interest on any Notes by Finance B.V. The obligations of each of Finance N.V. and Finance B.V. under the Notes and the Indenture rank equally with all of their other unsecured and unsubordinated indebtedness not granted a preference by operation of Netherlands or Netherlands Antilles law. RCA has unconditionally guaranteed the due and punctual payment of principal of and premium, if any, and interest on the Notes when and as the same shall become due and payable, whether by declaration or otherwise (the "Guarantees"). The Guarantees rank equally with all other unsecured and unsubordinated obligations of RCA. All of the outstanding capital stock of Finance N.V. is owned by Finance B.V., and all of the outstanding capital stock of Finance B.V. is owned by RCA Overseas Capital N.V., a Netherlands Antilles corporation, all of the outstanding stock of which is owned by RCA. The Notes have not been registered under the Securities Act of 1933, as amended, and may not be offered or sold directly or indirectly in the United States or to nationals or residents thereof, and the 1982 Indenture has not been qualified under the Act.

3. Under Section 7.08(c)(1) of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1982 Indenture if RCA shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1974 Indenture and under the 1982 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public

interest or for the protection of investors to disqualify the Bank from acting as Trustee under one of such Indentures.

4. No default has at any time existed under the 1974 Indenture or the 1982 Indenture. RCA's obligations in respect of the Debentures and the Notes are wholly unsecured and rank *pari passu*. The 1974 Indenture includes covenants of RCA relating to limitations on liens, sale and leaseback transactions and consolidation, merger and sale, all of which apply to the future. Comparable covenants of RCA, other than a sale and leaseback covenant, are included in the 1982 Indenture.

5. Such differences as exist between the 1974 Indenture and the 1982 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under either of the said Indentures.

RCA has waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than February 22, 1982, request in writing that a hearing be held on such matter, stating that nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is orderd by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2922 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18449; SR-PSE-81-22]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1982.

In the matter of Pacific Stock Exchange, Inc., 301 Pine Street, San Francisco, CA 94104 (SR-PSE-81-22).

The Pacific Stock Exchange, Inc. ("PSE") submitted on December 7, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to limit a specialist's liability in cases where a member firm which has placed an order with the specialist and is due an execution does not receive an execution report from the specialist.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18350, December 18, 1981) and by publication in the **Federal Register** (46 FR 62729, December 28, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2923 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18448; SR-Phlx-81-18]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1982.

In the matter of The Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103 (SR-Phlx-81-18).

The Philadelphia Stock Exchange, Inc. ("Phlx") submitted on December 16, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend its rules relating to the regulation of Phlx equity specialists. The proposed rule change sets forth the affirmative and negative obligations of equity specialists and their responsibilities when acting as broker in securities in which they are registered, and is intended to conform Phlx rules to the requirements of Rule 11b-1 under the Securities and Exchange Act of 1934. In addition, the proposed rule would amend certain other Phlx rules to conform them to current exchange practices and procedures.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18352, December 18, 1981) and by publication in the **Federal Register** (46 FR 62730, December 28, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-2924 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 15; Rev. 2]

Assistant Administrator for Administration; Delegation of Authority

Delegation of Authority No. 15 (37 FR 20753) as amended, (39 FR 1897; 40 FR 18054; 42 FR 18320; 43 FR 17434; and 46 FR 26417) is hereby revised to reflect a change of title from Associate Administrator for Data and Management Services to Assistant Administrator for Administration to comply with the Agency's recent reorganization. Accordingly, Delegation of Authority No. 15, Revision 2, reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Assistant Administrator

for Administration the following authority:

A. *Administrative Service.*

1. To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., subject to limitations contained in section 257 (a) and (b) of that chapter.

2. To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in section 257 (a) and (b) of that Chapter and pursuant to Title 44, U.S.C.

3. To execute grants or cooperative agreements authorized by Federal statute except section 7(j) of the Small Business Act subject to the limitations contained in Pub. L. 95–224, OMB Circular A–110 and OMB Circular A–102.

B. *Claims under the Federal Tort Claims Act.*

To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

C. *Use of Seal of the Small Business Administration.*

To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the non-existence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

II. This delegation is not in derogation of any authority residing in the Deputy Administrator and the Associate Deputy Administrator.

III. The authority herein may be redelegated with the exception of I.B.

IV. All authority delegated herein may be exercised by an SBA employee designated as Acting Assistant Administrator for Administration.

Effective date: February 4, 1982.

Dated: January 29, 1982.

Michael Cardenas,

Administrator.

[FR Doc. 82–2978 Filed 2–3–82; 8:45 am]

BILLING CODE 8025–01–M

[Delegation of Authority No. 13; Rev. 3]

Associate Administrator for Procurement and Technology Assistance

Delegation of Authority No. 13, Revision 1 [39 FR 29444), as amended (40 FR 18055), and Revision 2 (44 FR 20529), is hereby revised to reflect a change of title from Associate Administrator for Procurement Assistance to Associate Administrator for Procurement and Technology Assistance as a result of the recent reorganization within the Small Business Administration.

Accordingly, Delegation of Authority No. 13, Revision 3, reads as follows:

I. Pursuant to the authority vested in the Administrator of the Small Business Administration by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Associate Administrator for Procurement and Technology Assistance the following authority:

A. *Procurement and Technology Assistance.*

1. To (a) enter into, (b) negotiate, and (c) recommend approval of joint agreements and memoranda of understanding with other Government contracting, procurement, or disposal agencies;

2. To take any and all actions necessary to carry out the provisions of joint agreements and memoranda of understanding with other Government contracting, procurement, or disposal agencies;

3. To take any and all actions necessary to carry out SBA's authority to insure that a fair proportion of total Government procurements, including research and development procurements, be made from small business;

4. To take any and all actions necessary to carry out SBA's authority to encourage the letting of subcontracts by prime contractors to small business concerns;

5. To take any and all actions necessary to carry out SBA's authority to insure that a fair proportion of the total sales of Government property be made to small business concerns;

6. To appeal determinations made under joint agreements or memoranda of understanding by Government contracting, procurement or disposal agencies to the heads of such agencies;

7. To take any and all actions relating to SBA's prime contracting authority;

8. To take any and all actions necessary to carry out the certificate of competency provisions of the Small Business Act, including the issuance or denial of such certificates;

9. To take any and all actions necessary to carry out SBA's authority to make an inventory of productive facilities of small business concerns;

10. To take any and all actions necessary to carry out SBA's authority to utilize effectively the productive facilities of small business concerns;

11. To take any and all actions necessary to carry out SBA's authority to enable small business to obtain materials from its normal sources;

12. To take any and all actions necessary to carry out SBA's authority for procurement assistance in surplus labor areas and area redevelopment areas in the implementation of procurement assistance programs in such areas.

II. The authority delegated herein may be redelegated to Central Office officials with the exception of subsections IA1(a) and IA6.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Associate Administrator for Procurement and Technology Assistance.

Effective Date: February 4, 1982.

Dated: January 29, 1982.

Michael Cardenas,

Administrator.

[FR Doc. 82–2979 Filed 2–3–82; 8:45 am]

BILLING CODE 8025–01–M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective February 1, 1982, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 14.815% per annum.

Dated: January 29, 1982.

Edwin T. Holloway,

Acting Associate Administrator for Finance and Investment

[FR Doc. 82–2977 Filed 2–3–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-011]

Qualification of SIBO Kentucky, Inc. as a Citizen of the United States

Notice is given that pursuant to 46 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), SIBO Kentucky, Inc. of 227 River Road, Louisville, Kentucky 40206, incorporated under the laws of the Commonwealth of Kentucky, did on January 15, 1982, file with the Commandant, United States Coast Guard, in duplicate, an oath for qualification as a citizen of the United States following the forms of oath prescribed in Form CG-1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(a) The corporation purchases or produces in the United States its territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on January 15, 1982, issued to SIBO Kentucky, Inc., a certificate of compliance as provided for in 46 CFR 67.23-7. This certificate and any authorization granted thereunder will expire three years from January 15, 1982, unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

February 1, 1982.

[FR Doc. 82-2931 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Pacific-Asia Region Headquarters at Honolulu, Hawaii; Closing

Notice is hereby given that on or about March 21, 1982, the Pacific-Asia Region Headquarters, Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii, 96850, will be closed. Services to the public, formerly provided by this office, will be provided by the Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, California, 90009. Items of local concern, and liaison functions will be handled by a Honolulu Area Coordinator who will remain on-site at the former Pacific-Asia Region Headquarters location. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; [49 U.S.C. 1354])

Issued in Los Angeles, CA, on January 25, 1982.

H. C. McClure,

Director, Western-Pacific Region.

[FR Doc. 82-2838 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-13-M

General Electric CF6-80A/A1/A2/A3 Turbofan Engine Certification and Availability of Documents

Based on a review of the entire certification process, the Director of Federal Aviation Administration (FAA) New England Region approved issuance of the CF6-80A/A1/A2/A3 Type Certificate, E13NE, as recommended by New England Region Staff.

A copy of the "Decision Basis for Type Certification of the General Electric Company Model CF6-80A/A1/A2/A3 Turbofan Engines" is on file in the FAA Rules Docket. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein the General Electric Company was required to demonstrate compliance with the applicable Federal Aviation Regulations.

The text of "Decision Basis" includes delineation of the specific legal compliance required by each rule, a summary of the method by which compliance was established for each, and a bibliography of the reports documenting compliance.

Detailed appendices and attachments include: (1) Minutes of Type Certification Board Meetings; (2) the applicable Federal Aviation Regulations, Orders, and Advisory Circulars; and (3) Type Certificate E13NE and the Type Certificate Data Sheet. The report is available for examination and copying at the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. Copies of the report may be obtained from the Office of the Director, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on January 19, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-2555 Filed 2-3-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-2]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 19, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 26, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
22554	Petroleum Helicopters Inc.	14 CFR 135.261(a)(1)(2)	To permit petitioner's pilots, when operating helicopters, to accept assignment for duty during flight time without regard to the 24-consecutive-hour requirement, provided flight time in a duty period does not exceed 8 hours for a flightcrew consisting of one pilot and 10 hours for a flightcrew consisting of two pilots and only one duty period is allowed during any 24 consecutive hours. Duty periods shall not exceed 14 hours and rest periods between duty periods shall not be less than 10 hours.
22556	American Cyanamid Company	14 CFR 121.343 and 121.359	To permit petitioner to operate a Gates Learjet Model 55 aircraft without a flight data recorder and a cockpit voice recorder.
20052	Air Haiti, S.A.	Portions of 14 CFR Parts 21 and 91	Extension of Exemption 2953B to permit petitioner to operate leased U.S.-registered B-707 aircraft using the FAA-approved master minimum equipment list and maintain the aircraft under continuous airworthiness maintenance programs.
21961	Deere & Company	14 CFR 91.45	Reconsideration of Denial of petition 3421 to permit petitioner to conduct ferry flights with one engine inoperative, on its Lockhead Jetstar, without obtaining a special flight permit for each flight.
22481	Ms. Candy Ann Allen	14 CFR 61.151(a)	To permit petitioner to obtain an airline transport pilot certificate even though she has not reached 23 years of age.
22482	Capitol Air Lines	14 CFR 135.243(a)	To permit Mr. Robert L. Singer, a commuter pilot for Petitioner, to operate multiengine airplanes even though he does not hold an airline transport pilot certificate.
22451	People Express Airlines, Inc.	14 CFR 121.613 and 121.625	To permit petitioner to dispatch or release an aircraft to an airport even though weather reports or forecasts or any combination of these contain statements that weather conditions will or may be "occasionally," "intermittently," "briefly," or have "a chance of" being below authorized minimums at the estimated time of arrival at the destination airport, so long as there is at least one alternative airport for which weather reports or forecasts do not include such language.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22272	Mr. James J. Karukas	14 CFR 135.243(a)	To allow petitioner to obtain an airline transport pilot certificate without meeting the age requirement of 23 years. *Denied 1/12/82.*
21995	Transamerica Airlines,	14 CFR 121.413(c)(1)	To permit petitioner to conduct inflight training of pilot check airmen in an FAA-approved simulator in lieu of actual inflight training conducted in an aircraft. *Denied 1/12/82.*
21844	Airborne Express, Inc	14 CFR § 121.623(a)	To permit petitioner relief from the requirement to list at least one alternate airport for each destination airport in the flight release for its all-cargo aircraft operation. *Granted 1/18/82.*
30663	United Air Lines, Inc	14 CFR 121.351(a) and 121.99	To renew and make permanent Exemption No. 3122 which permits petitioner to operate aircraft in extended overwater operations over the Gulf of Mexico for certain brief periods with one Omega navigation system and/or one high frequency communications radio instead of the two of each such radios which would otherwise be required. *Partial grant 1/18/82.*
22041	Arrow Airways, Inc	14 CFR 121.291(a)	To permit petitioner to introduce its B-707-300C series airplane into passenger-carrying service in a 177-passenger-seat configuration without first conducting a full-seating-capacity emergency evacuation demonstration or simulated ditching demonstration. *Denied 1/12/82.*
22550	Summit Airlines, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1 DC-9: 1 N932F. *Granted 1/12/82.*
22508	Boeing Commercial Airplane Company	14 CFR 47.69(b)	To allow petitioner to use its Dealer's Aircraft Registration Certificate outside the U.S. for flight testing and sales demonstrations. *Partial grant 1/12/82.*
21265	Flight Management Co.	14 CFR 91.169 and 91.181(a)	To amend Exemption No. 3294 to allow petitioner's clients to operate helicopters in addition to small civil airplanes of U.S. registry. *Granted 1/[illegible]*
22114	Columbia Air, Inc.	14 CFR 121.291(a)(b)	To permit petitioner to introduce initial scheduled service in DC-9-32 aircraft in a 119-passenger-seat configuration without conducting a full emergency evacuation demonstration. *Withdrawn 1/13/82.*
20334	Evergreen Helicopters, Inc	14 CFR 135.261	To permit petitioner to continue to operate helicopters in hospital ambulance service with each pilot having at least 8 consecutive hours of rest (rather than 10) during any 24-hour period of duty at contracting hospitals. *Granted 1/21/82.*
17290	Delta Air Lines, Inc	14 CFR 121.99 and 121.361(a)	To extend Exemption No. 2084C which permits petitioner to operate aircraft over the New Orleans, Louisiana, to San Juan, Puerto Rico, route with the capability of communicating with the dispatch office through only one radio system that is independent of any communications system operated by the United States. *Granted 1/21/82.*
22144	Turcal, Inc	14 CFR 91.31	To permit petitioner to operate its DC-6 aircraft under Part 91 at a 5 percent increased zero fuel and landing weight. *Denied 1/21/82.*
22185	Cargo Transport Leasing, Inc.	14 CFR 91.31(a)	To permit petitioner to operate one DC-6 aircraft under Part 125 at a 5 percent increased zero fuel and landing weight. *Granted 1/21/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21990	International Air Associates, Inc	14 CFR 91.31(e)(3)	To permit petitioner to operate a C–118–A aircraft under Part 125 at 5 percent increased zero fuel and landing weight in all cargo operation. *Granted 1/21/82.*
21843	Pan American World Airways (PAA)	14 CFR 121.311(f)	To permit flight attendants to occupy, on petitioner's B–727–100 airplanes, a mid-cabin aisle passenger seat which is not designed to support the flight attendant's head. *Granted 1/21/82.*
22507	The City of New York	14 CFR 93.185(c) and 93.187	To permit certain pilots to operate to and from Flushing Airport, New York, without obtaining air traffic control (ATC) authorization or establishing and maintaining two-way radio communication with LaGuardia Tower, and without prohibition on the direction of takeoff or landing. *Granted 12/23/81.*
22564	Boeing Commercial Airplane company	14 CFR 47.69(b)	To allow petitioner to use its Dealer's Aircraft Registration Certificate outside the U.S. for flight testing and sales demonstrations. *Partial grant 1/21/82.*
21443	Murray Air, Limited	14 CFR 91.90(b)(2)(i)	To permit the petitioner to operate within the Honolulu, Hawaii Terminal Control Area (TCA) without having the aircraft equipped with an operable VOR or TACAN receiver. *Granted 1/18/82.*

[FR Doc. 82–2554 Filed 2–3–82; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: City of Modesto, Stanislaus County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City of Modesto, Stanislaus County, California.

FOR FURTHER INFORMATION CONTACT:

C. Glenn Clinton, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone (916) 440–2521.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an environmental impact statement (EIS) for a project to reconstruct a portion of State Route 132 in the City of Modesto, Stanislaus County, California. The proposed improvement will be approximately 0.5 mile long and will replace a two-lane city street section between D Street and Las Flores Avenue. A four-lane facility currently exists at each end of the proposed project.

The existing two-lane facility creates extensive traffic congestion due to a narrow bridge across Dry Creek and conflicting turning movements. The accident rate is 13.97 MVM (million vehicle miles) compared to an expected rate of 3.26 MVM.

Two build alternatives with variations of each are being considered. One alternative will form a one-way couplet by utilizing the first city street north of the existing facility. The other alternative would reconstruct the existing facility to four lanes. Both alternatives will require a new bridge across Dry Creek. The no-build alternative will be discussed in the EIS for this project.

The scoping process will consist of written notification to the various concerned federal, state and local agencies. If the response from these agencies indicate a need for a formal scoping meeting, these meetings will be held as soon as possible.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

C. Glenn Clinton,

District Engineer.

January 25, 1982.

[FR Doc. 82–2677 Filed 2–3–82; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: City and County of San Diego, California

AGENCY: The Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City and County of San Diego, California.

FOR FURTHER INFORMATION CONTACT:

Glenn Clinton, District Enginneer, FHWA, P.O. Box 1915, Sacramento, California 95809 or Norm Larsen, Project Development Engineer, Branch B, Department of Transportation, District 11, P.O. Box 81406, San Diego, California 92138

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), the United States Fish and Wildlife Service, and the United States Department of the Navy, will prepare an environmental impact statement (EIS) on a proposal to construct State Route 52.

The project is located in the City of San Diego on the Route 52 corridor between Interstate Routes I–805 and Santo Road near I–15, a distance of 5½ miles. It will relieve congestion on local city streets and parallel Federal and State highways.

Depending on the alternative selected the project could include one of the following alternatives. Projects to be constructed may only be a portion of the finally selected alternative.

- Construction of a two lane expressway as the initial stage of an ultimate multilane freeway. Signalized at-grade intersections would be built at certain major city streets. Interchanges would be built at Route 163 and I–15, and modified at the intersection of Route 52 and I–805. Alterntive alignments include two within the Miramar Naval Air Station and one within an industrial area.
- Improvements to one or more of the following arterials: Balboa Avenue (State Route 274), Clairemont Mesa Boulevard, and Miramar Road. The improvements would consist of widening, channelization, signal coordination, elimination of parking, encouragement of the use of carpools, and transit facilities. Together these measures constitute Traffic Systems Management (TSM), and are low capital

cost solutions to transportation problems.

Doing nothing.

Depending on the alternative selected probable environmental effects include:

Visual changes.

• Impacts on State and Federal listed rare plants including San Diego Mesa Mint, Coyote Thistle, Willowy Monardella, and others.

• Impacts associated with construction activities—noise, dust, erosion, and traffic detours.

• Removal of small areas of wildlife habitat.

• Creation of a new urban boundary along Navy property.

• Facilitation of growth.

• Displacement of commercial and industrial facilities.

• Increases in air and noise impacts.

• Continued worsening of congestion and safety conditions.

• Consumption of open space.

This project has been under consideration since the early 1960's, with public meetings which concluded with the adoption of the route described in (2) above on July 21, 1972. The current studies are being prepared as though this route adoption had not occurred. Meanwhile, there is a "Project Development Team" to which local citizens, local agency staff and Caltrans staff provide input. Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Because of this continuing involvement of the public no formal scoping meeting is considered necessary. However, to ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: January 25, 1982.

Glenn Clinton,

District Engineer, FHWA.

[FR Doc. 82–2876 Filed 2–3–82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP82–3; Notice 1]

Toyo Rubber Industry Co., Ltd.; Receipt of Petition for Determination of Inconsequential Noncompliance

Toyo Rubber Industry Co., Ltd., of Osaka, Japan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.3.5 of Standard No. 109 requires each tire with a maximum inflation pressure of 60 psi to have permanently molded onto one or both sidewalls, in letters and numerals not less than ½ inch high (12.7 mm), the words "inflate to 60 psi". Toyo Rubber has failed to comply with this requirement on about 193,000 tires. The requisite information is present in characters only 7 mm high. Petitioner believes that the information it has provided is legible, and that consumers will not be misled. It has received no reports or complaints on the noncompliance, has corrected the mistake in present production, and believes that the noncompliance is inconsequential as the tire otherwise complies with Standard No. 109.

Interested persons are invited to submit written data, views and arguments on the petition of Toyo Rubber Industry Co., Ltd. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: March 8, 1982.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 28, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–2785 Filed 2–3–82; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held February 22, 1982, at 10:00 a.m. until 1:00 p.m. in Room 10234–36 at the Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590. The agenda for the meeting is as follows:

—Adoption of minutes of previous meeting.

—DOT/MESBIC membership.

—Status report on venture capital/surety bonding programs.

—Status of MBRC programs.

—MBRC budget FY 82.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW., Washington, D.C. 20590, telephone (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on January 29, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 82–2839 Filed 2–3–82; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 24
Thursday, February 4, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-342, Amdt. 1, February 1, 1982]

Addition to the February 4, 1982 Board Meeting

TIME AND DATE: 10 a.m., February 4, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 7a. Commuter Carrier Fitness Determination of Dolphin Airways, Inc., Petition for Reconsideration and Request for a Stay. (Memo 992–B, BDA.)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Member Smith wishes to discuss this item. Because of the pressure of Board business, there is not another Board meeting scheduled in the near future so it is necessary to add this item to the February 4, 1982 agenda. Accordingly the following Members have voted that Item 7a be added to the February 4, 1982 meeting and that no earlier announcement of this addition was possible:

Chairman Dan McKinnon
Vice Chairman Elizabeth E. Bailey
Member Gloria Schaffer
Member George A. Dalley
Member James R. Smith

[S–174–82 Filed 2–2–82; 3:51 pm]
BILLING CODE 6320–01–M

2

COMMISSION ON CIVIL RIGHTS

February 2, 1982.

DATE AND TIME: 12:30–4 p.m., Tuesday, February 9, 1982.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

I. Agenda.
II. Minutes From Last Meeting.
III. Approach to Monitoring Block Grant Implementation.
IV. State Advisory Committee Recharter:
A. New York.
V. Civil Rights Developments in the Western Region.
VI. Staff Director's Report:
A. Status of Funds.
B. Personnel Report.
C. Office Directors' Reports.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division, (202) 254–6697.

[S–173–82 Filed 2–2–82; 3:34 pm]
BILLING CODE 6335–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, February 12, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C. Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–170–82 Filed 2–2–82; 2:49 pm]
BILLING CODE 6351–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 1, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of an application of The Wolfeboro Savings Bank, a proposed new bank, to be located at the intersection of Center and Pine Streets, Wolfeboro, New Hampshire, for Federal deposit insurance.

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,090–SR—The Metro Bank of Huntington, Inc., Huntington, West Virginia
Case No. 45,093—The Greenwich Savings Bank, New York, New York

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: February 1, 1982.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S–171–82 Filed 2–2–82; 3:05 pm]
BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 1, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less

than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,092-L—Franklin National Bank, New York, New York

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to the public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)[4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: February 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-172-82 Filed 2-2-82; 3:06 pm]

BILLING CODE 6714-01-M

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Wednesday, February 3, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Council of the Southern Mountains, Inc., v. Martin County Coal Corporation, Docket No. KENT 80-222-D.

TIME AND DATE: 2:30 p.m., Wednesday, February 3, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor v. Alexander Brothers, Inc., Docket No. HOPE 79-221-P. (Issues include whether operation was within the coverage of the 1969 Coal Act.)

2. Secretary of Labor v. Sam Kennedy, d.b.a. Energy Salvage Company, Docket Nos. VINC 78-11 through VINC 78-15. (Issues are same as above.)

3. Southern Ohio Coal Company, Docket No. VINC 79-227-P. (Issues include whether judge properly found violations of 30 CFR § 75.200.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-167-82 Filed 2-3-82; 10:17 am]

BILLING CODE 6820-12-M

7

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 3907, Wednesday, January 27, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, February 1, 1982.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on January 4, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: February 1, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-165-82 Filed 2-1-82; 4:18 pm]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, February 10, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: February 2, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-175-82 Filed 2-2-82; 4:08 pm]

BILLING CODE 6210-01-M

9

FOREIGN CLAIMS SETTLEMENT COMMISSION

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Monday, February 22, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation and claims against the Socialist Republic of Vietnam.

Monday, March 22, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation and claims against the Socialist Republic of Vietnam.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on January 28, 1982.

Judith H. Lock,

Administrative Officer.

[S-169-82 Filed 2-2-82; 2:06 pm]

BILLING CODE 4410-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 3908, January 27, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on February 4, 1982.

CHANGES IN THE MEETING: This meeting has been canceled.

Dated: February 1, 1982.

[S-166-82 Filed 2-2-82; 10:55 am]

BILLING CODE 7600-01-M

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SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 8, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, February 9, 1982, at 10:00 a.m. and on Wednesday, February 10, 1982, following the 10:00 a.m. open meeting. An open meeting will be held on Wednesday, February 10, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 9, 1982, at 10:00 a.m., will be:

Formal order of investigation
Subpoena enforcement action
Regulatory matter regarding financial institution

The subject matter of the closed meeting scheduled for Wednesday, February 10, 1982, following the 10:00 a.m. open, will be:

Consideration of amicus participation

The subject matter of the open meeting scheduled for Wednesday, February 10, 1982, at 10:00 a.m., will be:

1. Consideration of proposed amendments to Rule 11Ac1–1 under the Securities Exchange Act of 1934, which would, in certain specified circumstances, permit market centers to disseminate quotations on a voluntary, rather than mandatory basis. For further information, please contact Robert L. D. Colby at (202) 272–2888.

2. Consideration of Freedom of Information Act ("FOIA") appeal of James G. Drake. Mr. Drake requested access to certain documents relating to Midwest Technical Development Corporation ("MTDC") and to the Commission's 1961 suit against MTDC. The FOIA Officer denied the request pursuant to Exemptions 5 and 7(C) under the FOIA, which exempt inter- and intra-agency memoranda and investigatory records, the disclosure of which would constitute an unwarranted invasion of privacy. For further information, please contact Thomas P. Lemke at (202) 272–2493.

3. Consideration of whether to grant the request of Ben F. Phlegar, Executive Editor of U.S. News and World Report, to waive the fees incurred in complying with his request under the FOIA for travel vouchers of certain Commission employees. For further information, please contact Ted Bloch at (202) 272–2454.

4. Consideration of whether to submit to Congress proposed legislation to amend 18 U.S.C. 209 to permit attorney and accounting fellows hired by the Commission to accept moving expenses to Washington, D.C. from their former private employers. For further information, please contact Myrna Siegel at (202) 272–2430.

5. Consideration of whether to grant delegating authority to the Office of General Counsel to grant waivers of imputed disqualification pursuant to Rule 8(d) of the Commission's Conduct Regulation. For further information, please contact Myrna Siegel at (202) 272–2430.

6. Consideration of whether to grant F. Lamar Watson and Robert V. Holton, Jr. relief from a partial disqualification imposed upon them in a prior administrative proceeding. For further information; please contact Robert Anderson at (202) 272–2916.

7. Consideration of whether to grant Robert Michael Galvin relief from a bar imposed upon him in connection with a prior administrative proceeding. For further information, please contact Robert E. Anderson at (202) 272–2916.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272–2091.

February 1, 1982.

[S–166–82 Filed 2–2–82; 8:52 am]
BILLING CODE 8010–01–M

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Federal Register

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Thursday, February 4, 1982

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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For an advance "look" at the Federal Register, try our information service. A recording will give you selections from our highlights listing of documents to be published in the next day's issue of the Federal Register.

Washington: **202-523-5022**

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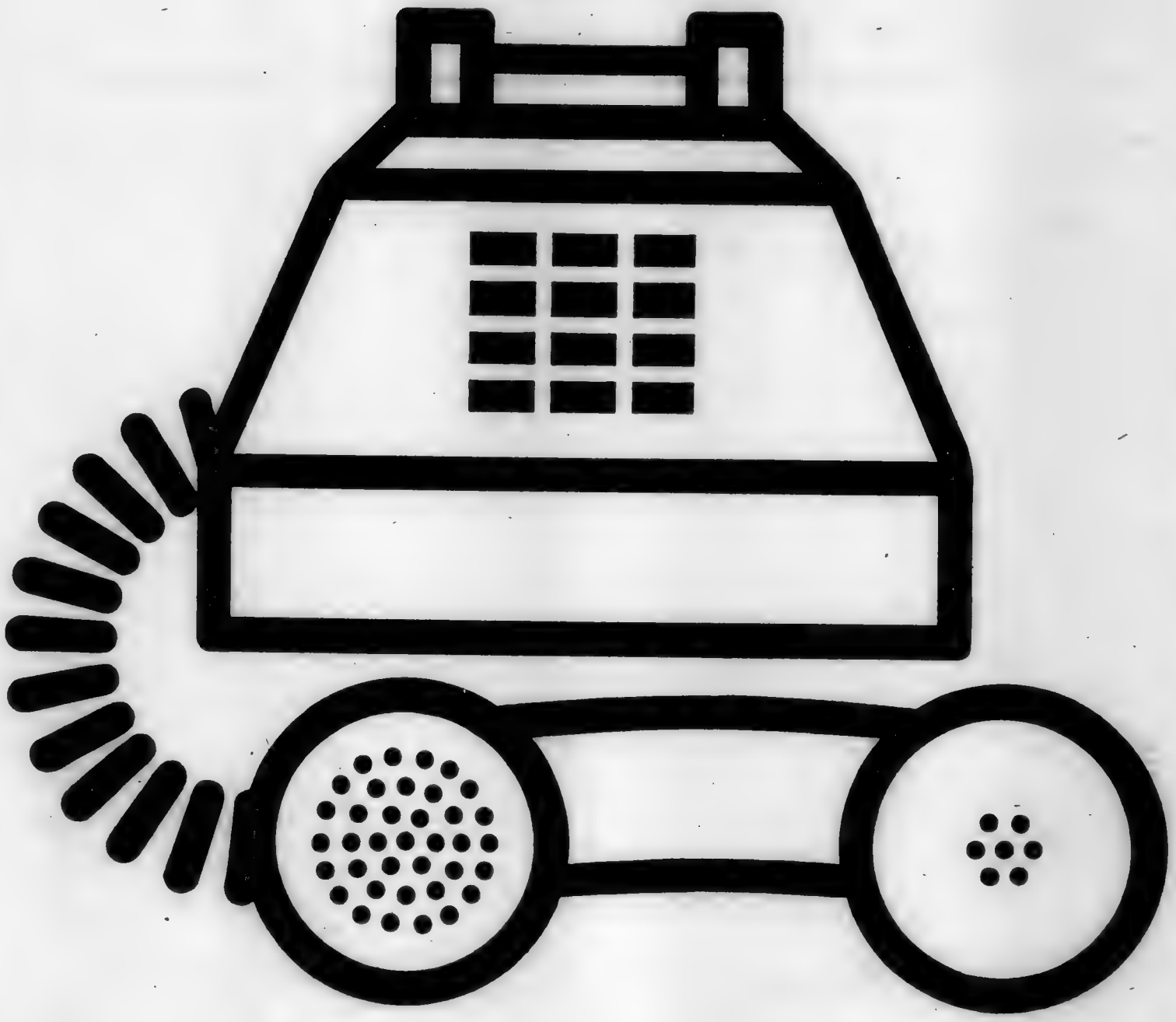

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federal register

Friday
February 5, 1982

Highlights

Cumulative List of Public Laws—The final cumulative list of public laws for the first session of the 97th Congress can be found in the Reader Aids Section of this issue.

5401 **American Heart Month, 1982** Presidential proclamation.

5428 **Money Market Funds** SEC seeks comments on valuation of debt instruments, calculation of current net asset value per share and computation of current price per share by certain registered open-end investment companies.

5410 **Mortgages** HUD adopts revised definition of "mortgage loan" to allow Federal National Mortgage Association involvement in second mortgage purchases.

5439 **Vocational Rehabilitation** ED announces availability of draft proposed regulations for Vocational Rehabilitation Service Projects.

5648 **Aid to Families With Dependent Children** HHS/SSA adopts revised eligibility criteria and procedures for program administration. (Part III of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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5450, 5451 **Grant Programs—Education** ED seeks applicants for noncompeting continuation awards under the Upward Bound Program and Special Services for Disadvantaged Students Program. (2 documents)

5440 **Aged** HHS/HDSO proposes to delete program development and coordination activities as allowable social service costs in grants for State and community programs.

5551 **Nuclear Safety** NRC announces proposed FY 1982 funding to stimulate nuclear power safety research.

5437 **Electric Utilities** DOE/FERC requests comments on reporting of cost of service information.

5688 **Energy Conservation** DOE eliminates certain measures from standby Federal emergency energy conservation plan. (Part IV of this issue)

5694 **Outer Continental Shelf** Interior/MMS seeks comments on tract evaluation procedures for oil and gas exploration and development. (Part V of this issue)

5411 **Prisoners** Justice/PARCOM adopts policy amendments on treatment of parole violators incarcerated with new sentences.

5456 **Toxic Substances** EPA requests comments on Interagency Testing Committee's chemical priority list (ninth report).

5413 **Freedom of Information** HHS amends procurement regulations.

5449 **Countervailing Duty** Commerce/ITA revokes order on steel units for electrical transmission towers from Italy.

5612 **Minimum Wages** Labor/ESA/W&H publishes minimum wages for Federal and federally assisted construction. (Part II of this issue)

5444 **Upland Cotton** USDA/ASCS revises national program acreage and determines allocation factor for 1981 crop.

5571 **Sunshine Act Meetings**

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Federal Register
Vol. 47, No. 25
Friday, February 5, 1982

Presidential Documents

Title 3—

The President

Proclamation 4894 of February 3, 1982

American Heart Month, 1982

By the President of the United States of America

A Proclamation

Diseases of the heart and circulatory system remain our nation's most serious health problem. These diseases affect at least 40 million Americans, many of whom have been seriously and often permanently disabled. Heart disease causes one million deaths each year and costs the nation more than $60 billion a year in lost wages, productivity, and medical expenses.

However, progress has been made in recent years to substantially reduce illness, disability, and death from heart disease. For most heart and blood vessel diseases, death rates have been declining slowly but steadily since 1950. Over the past decade, death rates have declined in all cardiovascular-disease categories and at a pace double that of the death rate for all other causes.

In human terms, we know that 300,000 Americans who would have died from cardiovascular disease during 1981 are still alive today. This development has been a major contributing factor to the three-year increase in the life expectancy of Americans in the past decade.

We have learned much about averting the onset of cardiovascular disease. Americans are increasingly aware of the crucial role lifestyles play in affecting their risk of these diseases. By recognizing the importance of proper nutrition, reduced smoking, exercise, and prevention of high blood pressure, our citizens are making a major contribution to the fight against heart disease. The role of prevention in cardiovascular diseases is especially vital because the initial symptoms are so frequently lethal or permanently disabling.

While we have made significant progress in the treatment of this group of diseases, they still take an appallingly high toll on our people. Cardiovascular diseases still account for more than 50 percent of the deaths in America; coronary heart disease is the primary cause of death.

Clearly, we must continue our vigorous efforts to stem the great amount of death and disability cardiovascular diseases cause in our nation. To this end, the Congress has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of February, 1982, as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, the officials of other areas subject to the jurisdiction of the United States and the American people to join with me in reaffirming our commitment to the resolution of the nationwide problem of cardiovascular disease.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of February, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-3294
Filed 2-3-82; 4:12 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 25
Friday, February 5, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 718

[Amdt. 6]

Determination of Acreage and Compliance

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts as a final rule an interim rule in the Federal Register September 25, 1981 (46 FR 47213–47215) which provided for miscellaneous amendments to the regulations governing determination of acreage and compliance (7 CFR Part 718).

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: H. Paul Newhouse, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–3471.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291, and has been classified as not being a "major rule." It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

On September 25, 1981, there was published in the Federal Register (46 FR 47213–47215) an interim rule amending the regulations set forth at 7 CFR Part 718 which govern the determinations of acreage and compliance under the production adjustment and marketing quota programs administered by the Agricultural Stabilization and Conservation Service (ASCS). The interim rule (1) eliminated a provision for a farm visit to check set-aside compliance, (2) defined "program crops" for 1981 and subsequent years, (3) made "tolerance" applicable to program crops and marketing quota crops, and (4) changed the definition of "variance." It also provided for determining compliance by checking selected farms by aerial methods and clarified procedures for adjustment of acreage for ELS Cotton, peanuts and tobacco (other than flue-cured or burley). Comments were solicited for a period of 60 days after publication of the document. No comments were received during the comment period.

Final Rule

PART 718—DETERMINATION OF ACREAGE AND COMPLIANCE

Accordingly, it has been determined that the interim rule published at (46 FR 47213–47215) amending 7 CFR Part 718 is hereby adopted as a final rule without change.

Signed at Washington, D.C., on January 29, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82–2889 Filed 2–4–82; 8:45 am]
BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 539]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 5–11, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on February 2, 1982 at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee

reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 907.839 is added as follows:

§ 907.839 Navel Orange Regulation 539.

The quantities of navel oranges grown in Arizona and California which may be handled during the period February 5, 1982, through February 11, 1982, are established as follows:

(1) District 1: 935,000 cartons;
(2) District 2: 165,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 3, 1982.

D. S. Kuryloski,
Deputy, Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 3292 Filed 2-4-82; 0:00 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 345]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period February 7–13, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: February 7, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on February 2, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues to be easy.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 910.645 is added as follows:

§ 910.645 Lemon Regulation 345.

The quantity of lemons grown in California and Arizona which may be handled during the period February 7, 1982, through February 13, 1982, is established at 210,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 4, 1982.

D. S. Kuryloski,
Deputy, Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 3355 Filed 2-4-82; 12:29 pm]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33–6379; 34–18450; 35–22370; IC–12193; AS–304; File No. S7–901]

Relationships Between Registrants and Independent Accountants

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces rescission of the rule requiring disclosure in proxy statements about nonaudit services performed by independent accountants for their audit clients. This rule was adopted to facilitate a better understanding by investors of the relationships between registrants and independent accountants at a time when some people were concerned that the performance of nonaudit services might impair accountants' independence. Although information about nonaudit services is important to enable the Commission and others to monitor this activity by accountants, the rule is being rescinded because the Commission has concluded that it is not generally of sufficient utility to investors to justify continuation of the disclosure requirement. In addition, information about nonaudit services performed by accountants will continue to be available to interested persons because a recent revision of the membership provisions of the accounting profession's self-regulatory organization, the SEC Practice Section of the Division for Firms of the American Institute of Certified Public Accountants, requires member firms to disclose additional information about nonaudit service activity in annual reports that cover years ending on or after January 1, 1982.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Linda Griggs or Edmund Coulson (202/272–2130) or LeGrand C. Kirby, III (202–272–2051), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is rescinding Item 8(g) of

the proxy rules (17 CFR 240.14a–101). Item 8(g) was adopted by the Commission in Accounting Series Release No. 250 ("ASR 250") (June 29, 1978) (43 FR 18611) at a time when some people were concerned that performance of nonaudit services might impair accountants' independence. Item 8(g) was intended to facilitate a better understanding by investors of the relationships between registrants and accountants by requiring disclosure in proxy statements about the nonaudit services performed by independent accountants for their audit clients.

In Accounting Series Release No. 296 ("ASR 296") (August 20, 1981) (46 FR 43181), the Commission invited public comment on its proposal to rescind Item 8(g). In that release, the Commission also discussed its withdrawal of Accounting Series Release No. 264 ("ASR 264") (June 14, 1979) (44 FR 36156) in Accounting Series Release No. 297 (August 20, 1981) (46 FR 43411).

The Commission received letters of comment from approximately 140 commentators. Over two-thirds of those commentators expressed support for the Commission's proposal. The Commission also received a petition signed by twenty-five persons requesting that the Commission reinstate ASR 264, "keep ASR 250 in place," and "prohibit CPA firms from selling non-audit computer-related products or services." In light of concerns about the withdrawal of ASR 264, the Commission also reviewed that action.

Discussion

The Commission has determined to rescind Item 8(g) for the reasons more fully discussed in ASR 296. It has concluded that the detailed nonaudit service disclosure required by that provision is not generally of sufficient utility to investors to justify continuation of the disclosure requirement. The commentators did not demonstrate investor interest in the disclosure. Indeed, many of the registrants that commented [1] stated expressly that, in their experience, investors had shown little, if any, interest in the disclosure.

Notwithstanding this action, the Commission believes it should continue to monitor the nonaudit service activity by accountants as a part of its oversight of the accounting profession. Other people may also want to monitor this activity. The Commission is satisfied with the information that will be available because of a recent revision of the membership requirements of the SEC Practice Section of the Division for Firms of the American Institute of Certified Public Accountants. The SEC Practice Section responded promptly to the Commission's comment in ASR 296 that the accounting profession's self-regulatory mechanism should be able to generate sufficient information about nonaudit services performed by accountants to enable the Commission, the Public Oversight Board of the SEC Practice Section, and other interested persons to continue to monitor the nonaudit services performed by accountants. The SEC Practice Section revised its membership provisions to require member accounting firms to disclose additional information about their nonaudit service activity for clients that file with the Commission. In annual reports filed with the Section for years ending on or after January 1, 1982, member firms will be required to report the number of such clients from which they receive fees for management advisory services that, when expressed as a percentage of the audit fees for such clients, are in the range of 1 to 25%, 26 to 50%, 51 to 100% and over 100%. In addition, they will be required to state how many of the audit clients in the "over 100%" category fall into that category for three consecutive years, including the current year. The Commission is satisfied that the additional disclosure required by the SEC Practice Section will enable it to adequately monitor trends in aggregate levels of nonaudit services performed by accountants for their registrant clients.

Analysis of Comments

Two-thirds of the commentators on the Commission's proposal to rescind Item 8(g) of the proxy rules expressed support for that action.[2] These supporters claimed that the disclosure does not assure or contribute to accountants' independence, is not indicative of independence or the lack thereof, or misleads readers who think it is indicative of accountants' independence. Others pointed out that the non-audit service disclosure may obfuscate other more important information included in proxy statements. In addition, a number of registrants and accountants stated that the disclosure requirement has inappropriately curtailed the nonaudit services that accountants perform for their clients.

Less than a third of the commentators opposed the proposed rescission of Item 8(g). Only a few of these critics asserted that shareholders need the disclosure to make informed voting decisions on the selection of auditors or to understand the relationships between registrants and their independent accountants.

Most of the critics,[3] however, stated that accounting firms that provide nonaudit services, and particularly computer or actuarial services, to their audit clients cannot be independent because they audit the very systems they design, develop and implement. In addition, they alleged that accounting firms have an unfair competitive advantage which threatens the existence of computer and actuarial services companies because of their inside position and access to top management and their use of unfair marketing practices and discriminatory pricing in offering their nonaudit services. Most of these commentators also expressed concern about the withdrawal of ASR 264. Some of them, and the petition sent to the Commission, requested that accountants be prohibited from performing data processing and actuarial services for their audit clients and that the Commission conduct hearings on or sponsor an investigation of the nonaudit service activity of accounting firms. In addition, two commentators objected that the SEC Practice Section's revised reporting requirement is inadequate for meaningful oversight because of the omission of information by type of management advisory service and size of the client or because the aggregate information will make analyses of accountants' independence as to particular registrants impossible.

The Commission has considered these comments and believes that the commentators' claims of shareholder interest in the nonaudit service disclosure and their allegations about accountants' independence and fair competition are outweighed by the absence of evidence that investors want or use the disclosure or that performance of nonaudit services impairs accountants' independence. In addition, as indicated above, the Commission is satisfied that, notwithstanding rescission of Item 8(g), continued monitoring of the nonaudit service activity of independent accountants will be possible because of the revised annual reporting

[1] A little over half of the commentators were registrants. A significant number of those expressed support for the proposal.

[2] Approximately 10% of the commentators who supported the Commission's proposal were from the accounting profession and approximately four-fifths were registrants or industry associations.

[3] Almost all of the commentators who expressed opposition to the proposal were management consultants, management consulting companies or associations that represent management consultants.

requirements of the SEC Practice Section. Retention of the disclosure requirement to affect competition in the consulting industry would be inappropriate because the Commission does not have a statutory responsibility to assure fair competition within the management consulting industry. Accordingly, the Commission is rescinding Item 8(g) and has rejected the recommendations that it prohibit accounting firms from providing nonaudit services to their audit clients or conduct hearings or sponsor an investigation of the nonaudit service activity of accountants.

The Commission has also rejected suggestions that it reinstate ASR 264 or repeat the substance of that release. The Commission's views on accountants' independence are clearly articulated in ASR 296 and registrants and accountants understand and appreciate the accountants' independence must be carefully evaluated and preserved. Moreover, the Commission is satisfied that the self-regulatory mechanism established by the accounting profession, accountants, audit committees and managements should ensure that adequate consideration is given to the impact of nonaudit services on accountants' independence.

Conclusion

For the reasons more fully discussed in ASR 296, the Commission is rescinding Item 8(g) of the proxy rules. The Commission has the responsibility and authority under the securities laws to assure that accountants who practice before it are independent. Therefore, as the Commission stated in ASR 296, it is prepared to take further action if either the fact or appearance of accountants' independence is questioned in the future.

Effective Date

Pursuant to 5 U.S.C. 553(d), the rescission of Item 8(g) is effective on January 28, 1982 for good cause and because it grants or recognizes an exemption or relieves a restriction. Good cause exists because the large number of registrants now using or preparing proxy statements for 1982 annual meetings should be able to exclude the nonaudit service disclosure that the Commission has determined is not generally necessary for investors. Accordingly, proxy statements furnished to security holders on or after January 28, 1982 are not required to include the disclosure previously required by Item 8(g).

Commission Action

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a-101 [Amended]

The Commission hereby amends § 240.14a-101 of 17 CFR Part 240 by removing paragrah (g) from Item 8.

This action is taken pursuant to Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 781, 78m, 78n, 78o(d) and 78w).

By the Commission.

George A. Fitzsimmons,

Secretary.

January 28, 1982.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the rescission of Item 8(g) of the proxy rules (17 CFR 240.149(a)-101) set forth in Securities Act Release No. 6379 will not have a significant economic impact on a substantial number of small entities. The reason for this conclusion is that the rescission of Item 8(g) is not expected to have a significant economic impact on any entity, since its effect will be limited to the elimination of an unnecessary disclosure requirement currently contained in the Commission's proxy rules.

Dated: January 28, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82-3133 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 82-30]

Change in the Field Organization of the Customs Service

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This notice amends the Customs Regulations to change the field organization of the Customs Service by establishing, on a 2-year experimental basis, a new Customs port of entry at Springfield, Missouri, in the St. Louis, Missouri, Customs district. The change is being made as part of Customs continuing program to obtain more efficient use of its resources and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Springfield, Missouri, is a community of 165,000 in the southern section of the state. Even though it is served by rail, air, and highway transportation, all imported merchandise destined for Springfield must be entered through distant ports of entry in St. Louis and Kansas City, Missouri, and Peoria, Illinois. The nearest of these, Kansas City, Missouri, is 170 miles away.

On May 7, 1980, the Springfield Chamber of Commerce submitted an application to Customs requesting the establishment of a Customs port of entry in that city. Although data submitted in support of the Chamber's request indicated that Customs-related activity in the area exceeded Customs minimum requirements for establishing ports of entry, it did not include sufficient documentation to permit a fair evaluation of community and business support for the proposal. Accordingly, Customs was reluctant to commit resources to the project until the need for, and potential use of, the port could be shown.

Additional data subsequently forwarded to Customs indicates that strong business support does exist for the establishment of the port of entry and that parties in Springfield are considering the possibility of establishing a foreign trade zone there. In addition, a major national corporation has stated that it is considering radically increasing the production capacity of its Springfield plant.

On the basis of this information, Customs believes that there is potential use for a port of entry at Springfield and that a port of entry should be established there on a 2-year experimental basis. To verify that the projected workload does in fact materialize, Customs will evaluate the activity at Springfield at the end of the 2-year period before making a final determination about the establishment of a permanent port of entry at this location.

Accordingly, to keep pace with the expanding needs of Customs-related activities in the Springfield, Missouri, area, and to provide better service to carriers, importers, and the public, Customs published a notice in the **Federal Register** on October 29, 1981 (46 FR 53448), proposing to establish a new port of entry at Springfield, Missouri, in

the St. Louis, Missouri, Customs district (Region IX).

Three comments were received in response to the notice. One commenter points out that the distance from Peoria is greater than stated in the notice. It is noted that Kansas City, Missouri, which is 170 miles away, is the nearest port of entry to Springfield rather than Peoria, Illinois.

The other two commenters oppose the change because they believe that a detrimental economic impact will occur if the change is implemented, and that a "feasibility study" of the efficiencies of small versus large ports should be conducted.

Further, one of the commenters argues that it is more efficient for Customs to devote its resources (especially commodity specialists) to large "satellite" ports like Kansas City than to establish a number of small ports (like Springfield) having no "direct" international truck or air service.

One aspect of Customs mission is to provide service to the public when and where it is required. The establishment of new ports of entry in various locations throughout the country is a necessary response to the public demand for increased Customs service. Further, Customs does have minimum workload and facility standards for the establishment of new ports of entry which are applied to prevent the unjustified proliferation of new ports. Prior to establishing ports of entry, Customs carefully reviews the data submitted in support of each application to verify that it meets the criteria. The application for Springfield, Missouri, was scrutinized and it appears that Springfield meets the criteria. Further, since the port would be established on a 2-year trial basis, Customs expects that the actual need for Customs service at Springfield will be determined within this 2-year period.

Customs constantly reviews the allocation of its resources to determine how and where it can best serve the importing public as well as meet the goal of fulfulling the mission of the Customs Service. As stated above, this change is being made as part of Customs continuing program to obtain more efficient use of its resources, and to provide better service to carriers, importers, and the public.

Accordingly, Customs has determined to adopt the change as proposed.

Changes in the Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (46 FR 9336), a new Customs port of entry is established at Springfield, Missouri, in the St. Louis, Missouri, Customs district. The geographical limits of the Springfield, Missouri, Customs port of entry would encompass all of the territory within Greene and Christian Counties, Missouri.

Amendment to the Regulations

To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding "Springfield, Missouri, including all of the territory within Greene and Christian Counties, Missouri, (T.D. 82–30)" directly below "Kansas City, Mo., including Kansas City, Kans. and North Kansas City, Mo., (E.O. 8528, Aug. 27, 1940) including the territory described in T.D. 67–56." in the column headed "Ports of entry" in the St. Louis, Missouri, district (Region IX).

Executive Order 12291

Because this will not result in a "major rule" as defined in section 1(b) of Executive Order 12291, the regulatory impact analysis and review prescribed by section 3 of the Executive Order is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has determined that the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the St. Louis, Missouri, district area, it is not expected to be significant because the establishment of Customs ports of entry in other locations has not had a significant economic impact upon substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: January 27, 1982.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-3082 Filed 2-4-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

New Animal Drugs, Oral Dosage Form New Animal Drugs Not Subject to Certification; Monensin-Mineral Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Farmers Friend Mineral Co. providing for the safe and effective use of monensin-mineral granules for increased rate of weight gain in pasture cattle, and to add the firm to the list of approved NADA sponsors.

EFFECTIVE DATE: February 5, 1982.

FOR FUTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Farmers Friend Mineral Co., Inc., 1048 E. Main St., Louisville, KY 40206, filed an NADA (119–823) providing for free-choice feeding of mineral granules containing 610 milligrams of monensin per pound for increased rate of weight gain in slaughter, stocker, and feeder cattle weighing more than 400 pounds on pasture. Approval of the NADA partly relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA 95–735 and NADA 36–878. The NADA's provide for use of monensin premixes for making finished animal feeds used for increased rate of weight gain. Use of the data in NADA 95–735 and NADA 36–878 to support NADA 119–823 has been authorized by Elanco. Because NADA 119–823 provides for use of the loose mineral

granules as an alternative form for administering monensin that does not involve a change in the route of administration and does not otherwise introduce variables expected to affect residues, the Bureau of Veterinary Medicine concludes that it poses no increased human risk from exposure to residues of the drug nor does it change the conditions of the drug's approved use in the target animal species. Accordingly, under the Bureau's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 119–823 has been treated as would an approval of a Category II supplement and did not require reevaluation of safety and effectiveness data in NADA 95–735 or safety data in NADA 38–878. The NADA is approved.

Farmers Friend Mineral Co., Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
. . . . .	
Farmers Friend Mineral Co., Inc., 1048 E. Main St., Louisville, KY 40206	030239
. . . . .	

(2) * * *

Drug labeler code	Firm name and address
. . . . .	
030239	Farmers Friend Mineral Co., Inc., 1048 E. Main St., Louisville, KY 40206
. . . . .	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 520, by redesignating existing § 520.1448 as § 520.1448a and by adding new §§ 520.1448 and 520.1448b, to read as follows:

§ 520.1448 Monensin oral dosage forms.

§ 520.1448b Monensin-mineral granules.

(a) *Specifications.* Each pound of loose mineral granules contains 810 milligrams of monensin as monensin sodium.

(b) *Sponsor.* See No. 030239 in § 510.600(c) of the chapter.

(c) *Related tolerances.* See § 556.420 of this chapter.

(d) *Conditions of use.*—(1) *Amount.* 50 to 200 milligrams of monensin (1 to 4 ounces of product) per head per day.

(2) *Indications for use.* Increased rate of weight gain.

(3) *Limitations.* Medicated mineral granules to be fed free choice to pasture cattle (slaughter, stocker, and feeder) weighing more than 400 pounds. Provide enough feeding stations to ensure that all animals have free access at all times. Do not feed additional salt or mineral. Do not mix with grain or other feeds. Monensin is toxic to cattle when consumed at higher than approved levels. Stressed or feed and/or water deprived cattle should be adapted to the pasture and to unmedicated mineral supplement before using the product. Do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal). Product's effectiveness in cull cows and bulls has not been established.

Effective date. February 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 29, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–2995 Filed 2–4–82; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Dexamethasone Sodium Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wendt Laboratories, Inc., providing for safe and effective use of a dexamethasone sodium phosphate injection in dogs and horses for its glucocorticoid and anti-inflammatory effect.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plaine, MN 56011, filed an NADA (123–815) providing for intravenous use of a dexamethasone sodium phosphate injection in dogs and horses. The product contains 4 milligrams of dexamethasone sodium phosphate per milliliter and is administered for a glucocorticoid and anti-inflammatory effect.

The product is similar to Schering's Azium (dexamethasone sterile injection), a National Academy of Sciences/National Research Council (NAS/NRC) reviewed product which was found effective as an anti-inflammatory agent in dogs, cats, horses, and cattle. Approval of Schering's product is codified in 21 CFR 522.540. Wendt's product is approved based on its being the generic equivalent of the NAS/NRC-reviewed product. The requirement for evidence of in vivo bioavailability has been waived under 21 CFR 320.22(b)(1). NADA 123–815 is approved and the regulations are amended appropriately.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11,

1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.540 by adding new paragraph (e), to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *

(e)(1) *Specifications.* The drug is a sterile aqueous solution. Each milliliter contains 4.0 milligrams of dexamethasone sodium phosphate (equivalent to 3 milligrams of dexamethasone).

(2) *Sponsor.* See No. 015579 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) The drug is given for glucocorticoid and anti-inflammatory effect in dogs and horses.

(ii) Administer intravenously as follows: Dogs—0.25 to 1 milligram initially; may be repeated for 3 to 5 days or until response is noted. Horses—2.5 to 5 milligrams. If permanent glucocorticoid effect is required, oral therapy may be substituted. When therapy is to be withdrawn after prolonged use, the daily dose should be reduced gradually over several days.

(iii) Clinical and experimental data have demonstrated that corticosteroids administered orally or by injection may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(iv) Do not use in viral infections. Anti-inflammatory action of corticosteroids may mask signs of infections. Except when used for emergency therapy, the product is contraindicated in animals with tuberculosis, chronic nephritis, cushingoid syndrome, or peptic ulcers.

(v) Not for use in horses intended for food.

(vi) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: February 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 8, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–2883 Filed 2–4–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Pentazocine Lactate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Sterling Drug, Inc., providing for safe and effective use of its injectable analgesic pentazocine lactate in dogs.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Sterling Drug, Inc., 90 Park Ave., New York, NY 10016, filed a supplemental NADA (44–611) providing revised labeling for pentazocine lactate injection to provide safe and effective use of the analgesic in dogs in addition to its use in horses. The sponsor submitted studies supporting safe and effective use in dogs. The supplemental NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*a*) and (ii)(*e*) (*1T1) and (2*)) which is on file with the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052, May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1698 by revising paragraph (c) to read as follows:

§ 522.1698 Pentazocine lactate injection.

* * * * *

(c) *Conditions of use.*—(1) *Horses.*—(i) *Amount.* 0.15 milligram of pentazocine base per pound of body weight per day.

(ii) *Indications for use.* For symptomatic relief of pain due to colic.

(iii) *Limitations.* Administer intravenously or intramuscularly. Intravenous injections are given slowly in the jugular vein. In cases of severe pain, a second dose is recommended intramuscularly 10 to 15 minutes after the initial dose at the same level. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Dogs.*—(i) *Amount.* 0.75 to 1.50 milligrams of pentazocine base per pound of body weight.

(ii) *Indications for use.* For amelioration of pain accompanying postoperative recovery, fracture, trauma, and spinal disorders.

(iii) *Limitations.* Administer intramuscularly only. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 29, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-2994 Filed 2-4-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nitrofurazone Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wendt Laboratories, Inc., providing for the use of nitrofurazone ointment as a topical antibacterial on dogs, cats, and horses. The application provides labeling that reflects the conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) review of such products.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Wendt Laboratories Inc., 100 Nancy Dr., Belle Plaine, MN 56011, is sponsor of an NADA (118-506) providing for use of an ointment containing 0.2 percent nitrofurazone (2 milligrams per gram) as a topical antibacterial on dogs, cats, and horses. This product is the generic equivalent of one codified for animal use in 21 CFR 524.1580b. The regulation provides that because the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include certain effectiveness data as specified by 21 CFR 514.111. Evidence of in vivo bioavailability is not required because the product is an ointment intended for local therapeutic effect (21 CFR 320.22(b)(2)). Therefore, NADA 118-506 is approved on the basis of generic equivalence and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1580b by revising paragraph (b) to read as follows:

§ 524.1580b Nitrofurazone ointment.

* * * * *

(b) *Sponsor.* For use in dogs, cats, and horses see Nos. 000149, 000864, 023851, and 015579 in § 510.600(c) of this chapter. For use in dogs and horses see No. 017135 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective February 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: January 29, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-2995 Filed 2-4-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 81

[Docket No. R-82-925]

Regulations Implementing Authority of Secretary of Housing and Urban Development Over Conduct of Secondary Market Operations of Federal National Mortgage Association; Change in Definition

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The Secretary is adopting as final an Interim Rule that revised the definition of "mortgage loan." This revision allows FNMA, in response to increased need for creative financing, to submit for the Secretary's approval conventional loan programs involving the purchase of second mortgages.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: John A. Maxim, Jr., Associate General Counsel for Finance and Insured Housing, Office of General Counsel, Department of Housing and Urban Development, Room 9252, 451 Seventh, Street, S.W., Washington, D.C. 20410, (202) 755-6274 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On August 3, 1981, (46 FR 39435), the Secretary published an Interim Rule amending the definition of "mortgage loan" in a manner which would permit FNMA to submit for the Secretary's approval programs involving second mortgages. Provision was made for public comment, and two such comments were received. Both comments were strongly supportive of the Interim Rule and recommended that it become final. One of the comments went beyond the substance of the rule and suggested specific procedures and standards which might be applied in carrying out a second mortgage program. In making the rule final, the Secretary has determined that it is beyond the scope of the regulations to prescribe the procedures and standards recommended by the commentator. In addition, the commentator raised the question whether the purchase of second mortgages by FNMA would create an exemption to state usury laws. The Secretary did not intend that any action he might take under the Charter Act would, at this time, have any effect on state laws. The points raised by the comment are, moreover, matters properly for evaluation by FNMA rather

than HUD and have been forwarded to the Association for further consideration.

A Finding of No Significant Impact with respect to the environment was made on the Interim Rule in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above. Because this rule is unchanged from its interim version, no further finding is required.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant impact on a substantial number of small entities.

This rule does not constitute a "major" rule as defined by Executive Order 12291 because it is not likely to result in: (a) An annual effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item B.1. (S–4–81) under the Office of the Secretary in the Department's Semi-annual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

PART 81—REGULATIONS IMPLEMENTING THE AUTHORITY OF THE SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OVER THE CONDUCT OF THE SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA)

The interim amendment to 24 CFR Part 81, published August 3, 1981 (46 FR 39435), is hereby adopted as final without change.

(Sec. 309(h) of the Charter Act (12 U.S.C. 1723a))

Issued at Washington, D.C., January 20, 1982.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 82-3030 Filed 2-4-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Confirmation of interim rule as final rule.

SUMMARY: The U.S. Parole Commission is confirming as a final rule its interim rule, 28 CFR 2.47, Warrant Placed as a Detainer and Dispositional Review, published on July 10, 1981 at 46 FR 35635. This rule amends the Parole Commission's policy regarding the treatment of parole violators incarcerated with new sentences. Under the amendment, the Commission will commence the unexpired portion of the original sentence upon release from the confinement portion of the new sentence, except when the Commission selects an earlier date for reparole to the new sentence. The amendment also changes the timing of dispositional revocation hearings for parole violators incarcerated on new sentences in a state/local facility. These violators will be heard after service of 24 (rather than 18) months in custody (if not released before that time). A prisoner in a federal facility, in most cases, will have this hearing in conjunction with the initial parole hearing on the new federal sentence. The amendment for state prisoners is made for budgetary reasons, and the amendment for federal prisoners is to reduce duplication in hearings. No public comment has been received on the interim rule.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Toby D. Slawsky, Staff Attorney Office of General Counsel, (301) 492–5959.

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(1), Title 28 CFR 2.47, published as an interim rule at 46 FR 35635, is made a final rule.

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: February 2, 1982.

Cameron M. Batjer,

Chairman, U.S. Parole Commission.

[FR Doc. 82-3131 Filed 2-4-82; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2033-2]

Approval and Promulgation of State Implementation Plans; State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of a final rule.

SUMMARY: On October 30, 1980 the State of Arizona submitted a request to extend the carbon monoxide (CO) attainment date for the Maricopa County Urban Planning Area. On September 14, 1981 (46 FR 45605) EPA approved this revision to; the Arizona State Implementation Plan (SIP) without inviting public comment.

EPA subsequently received a request for an opportunity to submit an adverse or critical comment on this approval action. Accordingly, EPA is today withdrawing its approval of this revision to the Arizona SIP. Elsewhere in today's **Federal Register** EPA is proposing to approve this revision and providing a sixty-day comment period.

DATE: This action is effective on February 5, 1982.

ADDRESSES: Written comments should be addressed to the EPA Region 9 Air Programs Branch (address below). Copies of the revision are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street S.W., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street N.W., Room 8401, Washington, D.C. 20408

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

Maricopa Association of Governments, 1820 West Washington Street, Phoenix, AZ 85007

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8222.

SUPPLEMENTARY INFORMATION: On October 30, 1980 the Governor's designee for the State of Arizona submitted a request to extend the CO attainment date for the Maricopa County Urban Planning Area. On

September 14, 1981 (46 FR 45605) EPA announced the availability of this submittal and approved it as a revision to the Arizona SIP. In the same **Federal Register** notice, EPA also approved a request to extend the CO attainment date for the Truckee Meadows Nonattainment Area as a revision to the Nevada SIP. (For further information about these revisions, see 46 FR 45605.)

In the approval notice EPA advised the public that it was deferring the effective date of its approval for 60 days (until November 13, 1981). EPA announced that, if, within 30 days of the publication of the notice of approval EPA received notice that someone wanted to submit an adverse or critical comment, EPA would withdraw its approval and propose the action.

EPA also published a general notice explaining this special procedure on September 4, 1981 (46 FR 44476).

EPA has received notice that a member of the public wishes to submit an adverse or critical comment on the revision to the Arizona SIP for CO. Therefore, in accordance with the procedure described above, EPA is today withdrawing its September 14, 1981 approval of the CO attainment date extension request for the Maricopa County Urban Planning Area in Arizona.

EPA did not receive notice that anyone wished to submit an adverse or critical comment on the approval of the revision to the Nevada SIP. Therefore, approval of the Nevada CO extension is effective on November 13, 1981.

Elsewhere in today's **Federal Register** EPA is proposing to approve the revision to the Arizona SIP for CO and soliciting comment on its proposed approval.

EPA is withdrawing this action for Arizona without providing prior notice and opportunity to comment. EPA finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable because EPA needs to withdraw its approval as quickly as possible in order to consider objectively the comments which members of the public want to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment (See 46 FR 45605). For the same reasons, EPA finds it has good cause to make this withdrawal immediately effective under 5 U.S.C. 553(b).

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Secs. 110, 129, 172 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7401, 7429, 7502 and 7601(a)))

Dated: February 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120, paragraph (c) is amended by removing and reserving subparagraph (48) as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(48) [Reserved]

* * * * *

2. Section 52.122 is amended by revising paragraph (d)(1) and removing and reserving paragraph (e) as follows:

§ 52.122 Extensions.

* * * * *

(d) * * *

(1) Maricopa County Urban Planning Area for 0_3.

(e) [Reserved]

* * * * *

3. In § 52.131, the entry for the "Maricopa County Urban Planning Area" is revised to read as follows:

§ 52.131 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
* * *	*	*	*	*	*	*	*
Maricopa Intrastate: Maricopa County urban planning area.	d	d	b	b	c	d	d
* * *	*	*	*	*	*	*	*

* * * * * * * *

[FR Doc. 82-3042 Filed 2-4-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[WH-6-FRL-2038-6]

New Mexico Oil Conservation Division Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of New Mexico has submitted an application under Section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing injection wells related to the production of oil or natural gas (Class II wells, as defined by EPA). After careful review of the application and comments received from the public, the Agency has determined that this application meets the requirements of Section 1425 of the Act, and hereby approves it.

EFFECTIVE DATE: This approval is effective February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Julie Coston, Ground Water Protection Section, U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA or Act) establishes a national program to protect underground sources of drinking water from endangerment by underground injections through wells. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State underground injection control (UIC) programs. Section 1422 requires that each State submit an application to administer a UIC program, which must meet the requirements of regulations under Section 1421 to gain EPA approval.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40

CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of New Mexico submitted an application under Section 1425 on September 15, 1981, for the approval of a UIC program governing Class II injection wells to be administered by the New Mexico Oil Conservation Division (NMOCD). On October 5, 1981, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the New Mexico UIC program submitted by the NMOCD (46 FR 48955). A public hearing was held on November 5, 1981 in Santa Fe, New Mexico. After careful review of the application and comments received from the public, I have determined that the New Mexico UIC program submitted by the NMOCD meets the requirements of Section 1425 of the SDWA, and hereby approve it.

In this application, New Mexico chose not to assert jurisdiction over Indian lands or reservations for purposes of this portion of its UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe a UIC program governing injection wells related to the production of oil or natural gas on any Indian lands or reservations in New Mexico.

EPA is publishing this approval effective immediately so that New Mexico can begin issuing UIC permits for Class II wells under the UIC program.

OMB Approval

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1425 of the Safe Drinking Water Act of the application by the New Mexico Oil Conservation Division will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: January 30, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3161 Filed 2-4-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW FRL 1970-3]

Hazardous Waste Management System; Standards Applicable to Generators of Hazardous Waste; State Program Requirements

Correction

In FR Doc. 82-656 appearing on page 1248 in the issue of Monday, January 11, 1982, make the following change:

On page 1251, first column, the last line of § 123.34(c), "263.34" should be corrected to read "262.34".

BILLING CODE: 1505-01-M

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40 CFR Part 403

[WEN-FRL-2032-6]

General Pretreatment Regulations for Existing and New Sources; Postponement of Effective Date

Correction

In FR Doc. 82-2637 appearing at page 4518 in the issue of Monday, February 1, 1982, the following errors are corrected:

1. On page 4518, in the second column in the first sentence of the Summary, the reference to the "Clear Water Act" is corrected to read "Clean Water Act".

2. On page 4521, in the second column, the first sentence following the title of Part 403 is corrected to read as follows:

"The effective date for the following amendments to the General Pretreatment Regulations for Existing and New Sources, 40 CFR Part 403 published at 46 FR 9404, January 28, 1981, and codified in the volume entitled 40 CFR Parts 400-424, 1981 edition, pp 60-99 is suspended indefinitely: * * *"

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3-1

Freedom of Information Act, Treatment of Data in Contract Proposals

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending its procurement regulations by adding a new section on the Freedom of Information Act and revising an existing section on the treatment of technical data in contract proposals.

The section implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, provides guidance and procedures to departmental personnel regarding applicability of the Act to procurement records. The section does not elaborate on the entire FOIA process; it provides procedures to be followed relative to the handling of questionable situations concerning the withholding or disclosing of procurement records when a request is received under the FOIA.

The section concerning the treatment of technical data in contract proposals has been revised to reflect the impact of the FOIA, to extend coverage to other data found in contract proposals (not just technical data), and to update the section based on the Federal Procurement Regulations coverage of unsolicited proposals (41 CFR Subpart 1-4.9).

EFFECTIVE DATE: This amendment is effective March 22, 1982.

FOR FURTHER INFORMATION CONTACT: R. S. Lanham, Division of Procurement Policy, OPAP-OPAL-OASMB-OS, Room 539-H, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201 (202-245-8791).

SUPPLEMENTARY INFORMATION: On July 14, 1980, the proposed rule concerning the Freedon of Information Act (FOIA), 5 U.S.C. 552, as amended, and the treatment of data in contract proposals was published in the **Federal Register** (45 FR 47169) and invited public comments by August 25, 1980. As a result, two responses were received—one from a Federal agency and the other from an educational association.

Both respondents were concerned that the Department of Health and Human Services, as a result of the issuance of the regulations, intends to disregard the intellectual property rights of an offeror or contractor by disclosing, upon receipt of a request under the FOIA, any or all information to the requestor. This is not the intent of the regulations. The regulations are intended to assist departmental personnel in making the proper determination regarding the disclosure or withholding of procurement records. In making this determination, it is sometimes obvious that the record being requested under

the FOIA may be disclosed without compromising the position of either the submitter of the record or the Government. In other instances, it may be apparent that disclosure of the record being requested could cause harm to either the submitter or the Government, and, hence, the record would be withheld from disclosure provided it falls within an exemption to the Act. There are other situations, however, when it may not be clear whether a record is to be disclosed or withheld, and the procedures provided in the regulations are intended to assist departmental personnel in making this decision by requiring that they coordinate with the submitter of the record. These procedures allow the submitter an opportunity to provide documentation to demonstrate that the record in question should not be disclosed, thus affording fair treatment to the submitter of the record. The determination to withhold or disclose the record will then be made by departmental personnel based upon the available information and in compliance with the requirements of the Act.

The respondents were also concerned that use of the revised restrictive legend in the section covering treatment of data in contract proposals would be unfair to submitters of proposals because, even if the submitter uses the restrictive legend, there is no assurance that a record requested under the FOIA would be withheld from disclosure by the Department.

The restrictive legend has been revised to inform submitters of contract proposals of the possibility that a record (part of a contract proposal) requested under the FOIA may have to be disclosed in accordance with FOIA requirements if the record cannot be excepted from disclosure under one of the exemptions contained in the Act. This is not a new policy, but it is the formalization of a policy which has been in effect for some time. The legend has also been revised because the Department has experienced problems with some submitters of proposals who misuse the restrictive legend by insisting that it apply to the complete proposal. Under the requirements of the Act and the Department's implementation, some portions of a proposal may be disclosed if such disclosure would not cause harm to the submitter of the proposal, the Government, or the integrity of the competitive procurement process.

As a result of the comments from the respondents, the Department emphasizes that the regulations are intended to assist departmental personnel in arriving at fair and proper determinations regarding the disclosure or non-disclosure of procurement records while fully complying with the requirements mandated by the Freedom of Information Act. In addition, the regulations have been rewritten to simplify and clarify areas where there seem to have been misunderstandings of intent.

The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Title 41 CFR Chapter 3 is amended as set forth below.

Dated: February 1, 1982.

Matthias Lasker,

Acting Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Under **Subpart 3–1.3, General Policies,** of **Part 3–1, General,** §§ 3–1.352 through 3–1.352–4, **Freedom of Information Act,** are added to **41 CFR Chapter 3,** and § 3–1.353, Treatment of data in contract proposals, is substituted for existing § 3–1.353, Treatment of technical data in contract proposals. In addition, the table of contents for Part 3–1 is amended to add the following:

PART 3–1 GENERAL

Subpart 3–1.3—General Policies

* * * * *

Sec.

3–1.352 Freedom of Information Act.
3–1.352–1 General.
3–1.352–2 Applicability.
3–1.352–3 Availability and nonavailability of specific records.
3–1.352–4 Procedures.
3–1.353 Treatment of data in contract proposals.

* * * * *

§ 3–1.352 Freedom of Information Act.

§ 3–1.352–1 General.

The Department's regulation implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, is set forth in 45 CFR Part 5. This section implements those aspects of the FOIA and 45 CFR Part 5 that apply to procurement and contract records.

§ 3–1.352–2 Applicability.

(a) The FOIA and 45 CFR Part 5 provide that Government records (see 45 CFR 5.5 for the definition of "records") are generally to be made available to the public after receipt of a request. However, the Department may withhold records if they fall within one or more of the specific categories exempted from disclosure by the FOIA.

(b) The FOIA exemption most often cited to deny disclosure of procurement and contract records is exemption (b) (4) (5 U.S.C. 552(b) (4)), i.e., "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Trade secrets, within the meaning of 18 U.S.C. 1905, are exempt from disclosure. Commercial and financial information can be exempted from disclosure only if it is privileged and confidential and is obtained from a person (source) by the Government. Commercial or financial information is generally considered confidential under exemption (b) (4) if disclosure is likely to have either of the following effects:

(1) It would impair the Government's ability to obtain necessary information in the future; or

(2) It would cause substantial harm to the competitive position of the source from whom the information was obtained.

(c) Use of a restrictive legend on a document by the submitter of the document that purportedly identifies confidential information does not by itself place the document under an exemption. (See § 3–1.352–4 for procedures to be followed by the contracting officer and § 3–1.353 for the treatment of data in proposals.)

§ 3–1.352–3 Availability and nonavailability of specific records.

Subpart F of 45 CFR Part 5 identifies specific types of records that may or may not be disclosed under the FOIA. Refer to § 5.71(c) and (d) for general guidance and § 5.72(c), (d), and (e) for details on specific procurement records. In addition, the Appendix to 45 CFR Part 5 provides a list of examples of specific records or information concerning contracts which are generally available and those which are not generally available under the FOIA. Note that these are general guidelines and application may vary based upon the circumstances of each individual case.

§ 3–1.352–4 Procedures.

(a) The contracting officer, upon receiving an FOIA request, shall follow Department and operating division procedures. As necessary, actions should be coordinated with the cognizant Freedom of Information (FOI) official and the Office of General Counsel.

(b) When evaluating an FOIA request for a contract or procurement record which was obtained wholly or in part from a source outside the Department, the contracting officer must consider the origin of the record, its subject matter, and whether it was submitted under a restrictive legend. In instances when it is not certain whether a record or a

portion of a record is to be withheld or disclosed under the FOIA, the following procedures shall be followed.

(1) If there is reason to believe the source may object to release of the record or part of the record, the contracting officer or FOI official shall notify the source in writing that a request has been received, and the Department is considering release of the requested material. The written notification must advise the source of the specific requested material and require that the source provide a justification for withholding the material under an exemption of the FOIA if the source objects to its release. The notification must inform the source that the justification should explain in detail how disclosure of the requested material would result in significant harm to the competitive position of the source or benefit its competitors. The notification must also advise the source that the justification must be provided to the contracting officer or FOI official within five (5) working days from the date of the written notification.

(2) Based on the justification submitted by the source in response to the notification described above and any other pertinent information, the contracting officer and the cognizant FOI official, in consultation with the Office of General Counsel, if necessary, shall consider whether to withhold the record or portions of the record from disclosure. Only the FOI official is authorized to make the determination to withhold the record or portions of the record from disclosure.

(3) If the source objects to the release of the information but the FOI official disagrees with the justification for withholding, that official will notify the source and the requestor in writing of the determination. The notification to the source must include a copy of the material marked as the Department proposes to release it and must state that release will be made five (5) working days from the date of that notification.

§ 3–1.353 Treatment of data in contract proposals.

(a) *General.* (1) the term "data," as used in this section, refers to trade secrets, business data, and technical data. Trade secrets, within the meaning of 18 U.S.C. 1905, include, for example, processes, formulas, and chemical compositions. Business data includes, for example, commercial information, financial information, and cost and pricing data. Technical data includes, for example, plans, designs, suggestions, improvements and concepts.

(2) Data received by the Department may have been obtained under conditions which restrict the Department's right to use the data. Therefore, care must be taken when considering the use of data to assure that the Department has sufficient rights to use it in the manner desired.

(3) One of the principal ways in which the Department receives data is by means of proposals. However, some proposals are offered and received under conditions which may prevent the Department from using the data for other than evaluation purposes.

(b) *Types of proposals.* Proposals received by the Department are of two types—unsolicited and solicited.

(1) Essentially, an unsolicited proposal is a written offer to perform work which does not result from a formal written request from the Department for proposals or quotations. Unsolicited proposals are discussed in detail in Subparts 1–4.9 and 3–4.9.

(2) A Solicited proposal is a written offer to perform work which results from a formal written request from the Department for proposals or quotations.

(c) *Policy for unsolicited proposals.* The policy for treatment of data in unsolicited proposals is located in §§ 1–4.913 and 3–4.913.

(d) *Policy for solicited proposals.* (1) The Department recognizes that requests for proposals may require the offeror, including its prospective subcontractor(s), if any, to submit data which the offeror does not want used or disclosed for any purpose other than for evaluation of the proposal. Each proposal containing data which the offeror desires to restrict must be marked on the cover sheet by the offeror with the legend set forth within paragraph (d)(2) of this section. Proposals, or portions of proposals, so marked shall be handled in accordance with the provisions of the legend.

(2) The following provision shall be included in the RFP:

> The proposal submitted in response to this request may contain data (trade secrets; business data, e.g., commercial information, financial information, and cost and pricing data; and technical data) which the offeror, including its prospective subcontractor(s), does not want used or disclosed for any purpose other than for evaluation of the proposal. The use and disclosure of any data may be so restricted; *provided*, that the Government determines that the data is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, and the offeror marks the cover sheet of the proposal with the following legend, specifying the particular portions of the proposal which are to be restricted in accordance with the conditions of the legend. The Government's determination to withhold or disclose a record will be based upon the particular circumstances involving the record in question and whether the record may be exempted from disclosure under the Freedom of Information Act:
>
> Unless disclosure is required by the Freedom of Information Act, 5 U.S.C. 552, as amended, (the Act) as determined by Freedom of Information (FOI) Officials of the Department of Health and Human Services, data contained in the portions of this proposal which have been specifically identified by page number, paragraph, etc. by the offeror as containing restricted information shall not be used or disclosed except for evaluation purposes.
>
> The offeror acknowledges that the Department may not be able to withold a record (data, document, etc.) nor deny access to a record requested pursuant to the Act and that the Department's FOI Officials must make that determination. The offeror hereby agrees that the Government is not liable for disclosure if the Department has determined that disclosure is required by the Act.
>
> If a contract is awarded to the offeror as a result of, or in connection with, the submission of this proposal, the Government shall have the right to use or disclose the data to the extent provided in the contract. Proposals not resulting in a contract remain subject to the Act.
>
> The offeror also agrees that the Government is not liable for disclosure or use of unmarked data and may use or disclose the data for any purpose, including the release of the information pursuant to requests under the Act.
>
> Offerors are cautioned that proposals submitted with restrictive legends or statements differing in substance from the above legend may not be considered for award. The Government reserves the right to reject any proposal submitted with a nonconforming legend.

(3) Contracting officers receiving proposals which contain restrictive statements or legends not conforming to the above provision must carefully evaluate the form and substance of the restriction before making a determination to reject the proposal. Deviations in form which do not compromise the Government's rights may be accepted if approved by the activity's FOI official and the Office of General Counsel.

(e) *Procedures for handling and disclosing proposals.* (1) The procedures and notice specified in § 1–4.913(c), (d), and (e) shall be used in handling both solicited and unsolicited proposals and for disclosing proposals outside the Government for evaluation purposes.

(2) Decisions to disclose proposals outside the Government for evaluation purposes shall be made by the chief official having programmatic responsibility for the procurement, after consultation with the contracting officer and in accordance with operating division procedures. The decision to

disclose either a solicited or unsolicited proposal outside the Government for the purpose of obtaining an evaluation shall take into consideration the avoidance of organizational conflicts of interest and any competitive relationship between the submitter of the proposal and the prospective evaluator(s).

(3) When it is determined to disclose a proposal outside the Government for evaluation purposes, the following conditions, or similar appropriate conditions, shall be included in the written agreement with the evaluator(s) prior to disclosure (see § 1–4.913(d) and (e)). Also, a review must be made to ensure that the notice required by § 1–4.913(c) is affixed to the proposal before it is disclosed to the evaluator(s).

Conditions for Evaluating Proposals

The evaluator agrees to use the data (trade secrets, business data, and technical data) contained in the proposal only for evaluation purposes.

This requirement does not apply to data obtained from another source without restriction.

Any notice or legend placed on the proposal by either the Department or the submitter of the proposal shall be applied to any reproduction or abstract provided to the evaluator or made by the evaluator. Upon completion of the evaluation, the evaluator shall return the Government furnished copy of the proposal or abstract, and all copies thereof, to the Departmental office which initially furnished the proposal for evaluation.

Unless authorized by the Department's initiating office, the evaluator shall not contact the submitter of the proposal concerning any aspects of its contents.

The evaluator will be obligated to obtain commitments from its employees and subcontractors, if any, in order to effect the purposes of these conditions.

[FR Doc. 82–3040 Filed 2–4–82; 8:45 am]

BILLING CODE 4150–04–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–62

[Adm 7900.8 Chge 1]

Classification Authority; Document Security and Declassification

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Section 105–62.102 is recaptioned and revised to limit original classification authority within GSA to the Administrator, delegable only to the Director, Information Security Oversight Office.

EFFECTIVE DATE: This regulation is effective February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph R. Neri, Chief, Personnel Security Branch (OI), General Services Administration 20405; telephone (202) 566–1421.

PART 105–62—DOCUMENT SECURITY AND DECLASSIFICATION.

Accordingly, 41 CFR, Part 105–62, is amended as follows:

Section 105–62.102 is recaptioned and revised to read as follows:

§ 105–62.102 Authority to originally classify.

(a) *Top Secret, Secret, and Confidential.* The authority to originally classify information as Top Secret, Secret, or Confidential may be exercised only by the Administrator and is delegable only to the Director, Information Security Oversight Office.

(b) *Limitations on delegation of classification authority.* Delegations of original classification authority are limited to the minimum number absolutely required for efficient administration. Delegated original classification authority may not be redelegated.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and Executive Order 12065 dated December 1, 1978)

Dated: January 18, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–3091 Filed 2–4–82; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6102

[C–27445]

Colorado; Powersite Restoration No. 758 Partial Revocation of Powersite Classification No. 359

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes portions of Powersite Classification No. 359, dated August 10, 1944, which withdrew land for water power purpose. This action will permit consummation of a pending exchange between the Forest Service and the Colorado State Board of Agriculture on 200 acres of land. The remaining 40 acres is not part of the exchange and will open to Forest Service management.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, and the determination of the Federal Energy Regulatory Commission in DA–510–Colorado, it is ordered as follows:

1. Powersite Classification No. 359 dated August 10, 1944, which withdrew national forest land for water power development is hereby revoked as to all of the following decribed land:

Sixth Principal Meridian

Roosevelt National Forest

T. 7 N., R. 73 W.,
Sec. 20, W½NE¼, SE¼NW¼,
Sec. 21, NE¼NW¼, SW¼NW¼,
Sec. 29, SW¼NW¼.

The area described contains 240 acres in Larimer County, Colorado.

2. Effective immediately, the 200 acres of land described in sections 20 and 21 above, shall be open to applications for disposal of the land under the General Exchange Act of March 20, 1922, 44 Stat. 465, as amended, 16 U.S.C. 485, 486, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. The land has been and remains open to mineral leasing but is not open to entry under the U.S. Mining Laws because of the Forest Exchange Application C–24788.

3. At 7:45 a.m. on March 5, 1982 the 40 acres of land described in Section 29 above shall be opened to such forms of appropriation as may by law be made of national forest land, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. This land has been and remains open to mineral leasing and to location and entry under the U.S. Mining Laws.

Inquiries concerning this land should be addressed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–3085 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6103

[C–13275]

Colorado; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes portions of three Secretarial orders and a Public Land Order which withdrew 5,744.79 acres of land for reclamation purposes. This action will restore the lands to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of October 8, 1940, withdrawing lands for the Webster Park Reservoir Site; Secretarial Orders of April 25, 1941, and May 23, 1946, withdrawing lands for the Gunnison-Arkansas Reclamation Project and Public Land Order No. 3500 of December 2, 1964, withdrawing lands for the Fryingpan-Arkansas Project, are hereby revoked as to the following described lands:

Sixth Principal Meridian

T. 16 S., R. 68 W.,
Sec. 6, lots 1 through 3, 9 through 11, NE¼SE¼.
T. 19 S., R. 71 W.,
Sec. 1, lots 1 through 4, S½N½, SW¼;
Sec. 2, S¼;
Sec. 3, lots 1 through 4, S½N½, N½SW¼, SE¼;
Sec. 8, S½NE¼, S½;
Sec. 9, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 11, N½, N½S½;
Sec. 12, W½NW¼, SE¼NW¼, N½SW¼, SE¼SW¼, W½SE¼, SE¼SE¼SE¼;
Sec. 15, lots 2, 4,through 9, NE¼, N½NW¼, S½SW¼, W½SE¼;
Sec. 17, All;
Sec. 20, NE¼, S½ exclusive of Mineral Survey 13066;
Sec. 21, All.
T. 18 S., R. 71 W.,
Sec. 33, E½, N½NW¼.

The lands described aggregate approximately 5,744.79 acres in Fremont and Teller Counties.

2. At 7:45 a.m. on March 5, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on March 5, 1982, the lands will be open to location under the United States mining laws. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

January 28, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-3004 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6105

[CA-7519 WR, CA-7049 WR]

California; Revocation of Public Water Reserve No. 90 and No. 114

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive Orders which withdrew land for Public Water Reserve No. 90 and No. 114. This action will restore approximately 13,740 acres to the operation of the public land laws and full operation of the mining laws. Approximately 106,817 acres of land are within an Indian Reservation, other withdrawals, or are patented and will not be subject to disposition under the public land and mineral laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Celia Anderson, California State Office (916) 484–4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714), it is ordered as follows:

1. Executive Orders of March 10, 1924, and February 23, 1928, which withdrew lands for Public Water Reserve No. 90 and No. 114, are hereby revoked in their entirety. The majority of the lands revoked by this order are within an Indian Reservation, other withdrawals, or are patented which continue to segregate the lands from all forms of appropriation under the public land laws.

2. At 10:00 a.m. on March 5, 1982, the lands described in Paragraph 3 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10:00 a.m. on March 5, 1982 shall be considered as simultaneouly filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 5, 1982 the following described lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and will continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws:

Public Water Reserve No. 90, Executive Order of March 10, 1924.

San Bernardino Meridian

T. 10 S., R. 12 E.,
Sec. 14, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 12 S., R. 12 E.,
Sec. 10, N½;
Sec. 14, SW¼;
Sec. 20, NE¼NE¼;
Sec. 22, NW¼.
T. 10 S., R. 13 E.,
Sec. 6, lots 2, 11, 13, 14, 15, E½SW¼, and SE¼;
Sec. 8, W½NW¼, SE¼NW¼, and SW¼;
Secs. 18 and 20;
Sec. 28, W½, and SE¼;
Secs. 30 and 32.
T. 11 S., R. 13 E.,
Sec. 10, SW¼NW¼.

The area described above aggregates approximately 11,550 acres in Riverside and Imperial Counties.

Public Water Reserve No. 114, Executive Order of February 23, 1928

San Bernardino Meridian

T. 10 S., R. 10 E.,
Sec. 26, NE¼, and NE¼SE¼.
T. 9 S., R. 12 E.,
Sec. 26, S½NW¼, and S½.
T. 12 S., R. 12 E.,
Sec. 20, NW¼NE¼, S½NE¼, and SE¼;
Sec. 28, W½NE¼, and E½NW¼.
T. 9 S., R. 13 E.,
Sec. 32, SW¼.
T. 10 S., R. 13 E.,
Sec. 4, SW¼;
Sec. 6, lots 3 to 9 inclusive, and lot 12;
Sec. 8, E½, and NE¼NW¼.
T. 11 S., R. 13 E.,
Sec. 2, lots 5 and 6, and S½NW¼.

The area described above aggregates approximately 2,190 acres in Riverside and Imperial Counties.

The remaining lands containing approximately 106,871 acres are either within an Indian Reservation, other withdrawals, or are privately owned.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E–2841, Federal Office Building, 2800

Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3065 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6106

[Sac. 077399]

California; Public Land Order No. 6025, Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct an error in a land description contained in Public Land Order No. 6025 of October 1, 1981.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, Washington, D.C., 202-343-6486.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of a parcel of land in Public Land Order No. 6025 of October 1, 1981, as published in FR Doc. 81-29340 appearing at page 49870 in the issue of Thursday, October 8, 1981, in the third column under T. 31 N., R. 2 W., line 2 reads "sec. 26, N¼;". It is hereby corrected to read "sec. 26, N½;".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3066 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6107

[W-61130]

Wyoming; Revocation of Public Land Order No. 2656

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order withdrawal affecting approximately five (5) acres of land. The land is in private ownership, therefore, it will not be restored to operation of the public land laws. The land remains open to oil and gas leasing.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2656 of April 12, 1962, which withdrew the following described lands for use by the Department of the Navy as an administrative site in connection with Naval Petroleum Reserve No. 3, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 40 N., R. 79 W.,
Sec. 24, beginning at the southeast corner of said section, thence West, 600 feet; North, 175 feet; West, 1,247 feet; South, 175 feet; East, 1,247 feet to the point of beginning.

The area described contains approximately five (5) acres in Natrona County.

2. The lands and all interests therein, excepting oil and gas, have been conveyed out of the United States by quitclaim deeds to School District No. 2, Natrona County High School, and Natrona County School District No. 1, Casper, Wyoming. The lands have been and shall remain open to leasing for oil and gas.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3067 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6108

[Nev-051751]

Nevada; Revocation of Executive Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a protective withdrawal made by an Executive order for the purpose of examining and classifying 39,310 acres with respect to potash values. This action will restore the lands to the operation of the public land laws, including location of nonmetalliferous minerals under the mining laws. The lands will remain open to location of metalliferous minerals and to mineral leasing.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order dated January 16, 1913 is hereby revoked in its entirety. The following described land is affected:

Mount Diablo Meridian

T. 2 N., R. 35 E.,
Sec. 1, All;
Sec. 2, E½;
Sec. 11, E½;
Secs. 12 and 13, All;
Sec. 14, E½;
Sec. 23, NE¼;
Sec. 24, N½.
T. 2 N., R. 36 E.,
Secs. 1 thru 20, All;
Sec. 21, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 22, all;
Sec. 23, N½, SW¼, N½SE¼;
Sec. 24, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 27, N½N½;
Sec. 28, NE¼NE¼;
Sec. 29, N½NE¼, NW¼, NW¼SW¼;
Sec. 30, NE¼, E½NW¼, NE¼SE¼.
T. 2 N., R. 37 E.,
Sec. 6, Lots 2 thru 7, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 7, Lots 1 thru 4, E½W½, W½SE¼;
Sec. 18, Lots 1 thru 4, E½W½, W½SE¼;
Sec. 19, Lots 1 thru 4, NW¼NE¼, E½NW¼, NE¼SW¼.
T. 3 N., R. 35 E.,
Sec. 23, SE¼;
Sec. 24, S½;
Sec. 25, All;
Sec. 26, E½;
Sec. 35, E½;
Sec. 36, All.
T. 3 N., R. 36 E.,
Sec. 9, S½NE¼, SE¼SW¼, SE¼;
Sec. 10, All;
Sec. 11, W½NW¼, SE¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 13, W½NW¼, SW¼;
Secs. 14 thru 16, All;
Sec. 17, S½NE¼, SE¼NW¼, S½;
Sec. 18, E½SW¼, SE¼;
Sec. 19, NE¼, E½NW¼, S½;
Secs. 20 thru 23, All;
Sec. 24, SW¼NE¼, W½, W½SE¼;
Sec. 25, W½NE¼, NW¼, S½;
Secs. 26 thru 36, All.
T. 3 N., R. 37 E.,
Sec. 30, SW¼, W½SE¼;
Sec. 31, W½E½, W½.

The area described contains 39,309.87 acres.

2. At 10:00 a.m. on March 5, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 10:00 a.m. on March 5, 1982, shall be considered as simultaneously

filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 5, 1982, the lands will be open to location for nonmetalliferous minerals under the United States mining laws.

Inquires concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3080 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6109

[CA-8744]

California; Revocation of Executive Order No. 7471

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew 40 acres of national forest land for a gaging station in San Diego County. The land will be open to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 7471 dated October 15, 1936, withdrawing certain national forest lands for a gaging station site, is hereby revoked.

San Bernardino Meridian

Cleveland National Forest

T. 12 S., R. 2 E.,
Sec. 20, NE¼NW¼.

The area described contains 40 acres in San Diego County.

2. At 10:00 a.m. on March 5, 1982 the land will be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3079 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6110

[M-40880]

Montana; Partial Revocation of Executive Order Dated March 8, 1920, Public Water Reserve No. 70

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order as to 80.00 acres withdrawn as a public water reserve. The lands remain segregated from operation of the public land laws, including location for nonmetalliferous minerals under the mining laws, because they remain withdrawn for the Charles M. Russell National Wildlife Refuge and the Fort Peck Reservoir.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order dated March 8, 1920, which withdrew certain lands for public water reserve purposes is hereby revoked insofar as it affects the following described lands:

Public Water Reserve No. 70

Principal Meridian

T. 20 N., R. 31 E.,
Sec. 30, SE¼NE¼, NE¼SW¼.

The area described contains 80.00 acres in Garfield County.

2. The above described lands are withdrawn as part of the Charles M. Russell National Wildlife Refuge and the Corps of Engineers, Fort Peck Reservoir and remain segregated from operation of the public land laws generally, including nonmetalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-3088 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6111

[OR-19062]

Oregon; Powersite Restoration No. 695; Partial Revocation of Powersite Reserve No. 294

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order in part as to approximately 42,917.83 acres of lands withdrawn for a powersite reserve. The lands remain withdrawn for the Warm Springs Indian Reservation.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-545-Oregon, it is ordered as follows:

1. The Secretarial Order of October 6, 1912, which created Powersite Reserve No. 294 is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Powersite Reserve No. 294

T. 7 S., R. 9 E., unsurveyed.
All land within secs. 3, 4, 9, and 10 (as shown on Protraction Diagram No. 41, accepted July 15, 1966) that is within four miles of the east boundary of the township and within one-half mile of the Warm Springs River.
T. 8 S., R. 9 E., unsurveyed.
All lands lying within one-half mile of Mill Creek.
T. 9 S., R. 9 E.,
Sec. 25, SE¼NE¼, SW¼, and SE¼;
Sec. 26, SE¼SW¼ and S½SE¼;
Sec. 34, S½N½ and N½S½;
Sec. 35, N½NE¼, NW¼, and N½SW¼;
Sec. 36, NW¼NE¼.
T. 10 S., R. 9 E., unsurveyed.
All lands lying within three miles of the east boundary of the township that are within one-half mile of Whitewater Creek.
T. 7 S., R. 10 E.,
Sec. 3, SW¼SE¼;
Sec. 4, SE¼SE¼;
Sec. 8, SE¼NE¼;
Sec. 9, NE¼, NE¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 10, N½NW¼ and SW¼NW¼;
Sec. 11, N½NE¼ and NE¼NW¼.
T. 8 S., R. 10 E.,
Sec. 14, Lots 3 and 4, SW¼NE¼, S½NW¼SW¼, and W½SE¼;
Sec. 15, W½NE¼, SE¼NE¼, NW¼, and S½;
Sec. 16;

Sec. 17;
Sec. 18, E½NE¼, S½SW¼, and SE¼;
Sec. 19, N½NE¼ and N½NW¼;
Sec. 22, NE¼;
Sec. 23, Lots 1, 2, and 3, W½NE¼NW¼, and NW¼SE¼;
Sec. 24, NE¼ and NW¼.
T. 9 S., R. 10 E.,
All lands lying within one-half mile of Shitike Creek.
T. 10 S., R. 10 E.,
All lands lying within one-half mile of Whitewater Creek in the portion of the township that was unsurveyed as of October 8, 1913;
Sec. 21, SE¼.
T. 7 S., R. 11 E.,
Sec. 5, SW¼ and S½SE¼;
Sec. 6, Lots 5, 6, and 7, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, Lots 1 and 2, NE¼, E½NW¼, and N½SE¼;
Sec. 8;
Sec. 9, SW¼NE¼, W½, W½SW¼, and SE¼SE¼;
Sec. 10, S½SW¼;
Sec. 14, SW¼NE¼, W½, and SE¼;
Sec. 15;
Sec. 16, NE¼, E½NW¼, NW¼NW¼, E½SW¼, and SE¼;
Sec. 18, SE¼NW¼;
Sec. 21, NE¼ and NE¼SE¼;
Sec. 22, N½, N½SW¼, and SE¼;
Sec. 23;
Sec. 24, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 25, SW¼NE¼, W½, and SE¼;
Sec. 26;
Sec. 27, NE¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 34, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 35;
Sec. 36.
T. 8 S., R. 11 E.,
Sec. 1, SW¼SW¼;
Sec. 2, Lots 2, 3, and 4, S½N½, and S½;
Sec. 3, Lot 1 and SE¼NE¼;
Sec. 11, NE¼, NE¼NW¼, and SE¼;
Sec. 12, NW¼NW¼, S½NW¼, NE¼SW¼, and SW¼SE¼;
Sec. 13, N½NE¼, SE¼NE¼, W½NW¼, SW¼, and SW¼SE¼;
Sec. 14;
Sec. 15, S½NE¼ and S½;
Sec. 16, SE¼SE¼;
Sec. 19, Lots 1 to 4, inclusive, S½NE¼, SE¼NW¼E½SW¼, and SE¼;
Sec. 20, SW¼NE¼, S½NW¼, and S½;
Sec. 21, NE¼ and S½;
Sec. 22, N½NE¼, NW¼, and W½SW¼;
Sec. 24, N½NE¼ and SE¼NE¼;
Sec. 28, N½NE¼, SW¼NE¼, and NW¼;
Sec. 29, NE¼, N½NW¼, and SE¼NW¼;
Sec. 30, NE¼NE¼.
T. 9 S., R. 11 E.,
Sec. 11, NE¼SW¼, SW¼SW¼, and N½SE¼;
Sec. 12, Lots 12 and 16;
Sec. 13, Lots 10, 15, and 16;
Sec. 14, SW¼NW¼ and NW¼SW¼;
Sec. 15, Lots 4, 5, and Lots 9 to 12, inclusive;
Sec. 16, NE¼, S½NW¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 17, S½N½, and S½;
Sec. 18, NE¼SE¼ and S½SE¼;
Sec. 19, Lots 2, 3, and 4, NE¼, E½W½, and W½SE¼;
Sec. 20, W½NW¼;
Sec. 21, N½NW¼;
Sec. 24, NE¼NE¼;
Sec. 30, Lots 1 and 2, and NE¼NW¼.
T. 7 S., R. 12 E.,
Sec. 30, Lots 3 and 4, and SE¼SW¼;
Sec. 31, Lots 1 to 4, inclusive, W½NE¼, E½W½, and SE¼.
T. 8 S., R. 12 E.,
Sec. 5, S½NW¼ and SW¼;
Sec. 6;
Sec. 7;
Sec. 8, W½;
Sec. 16, SW¼SW¼;
Sec. 17, S½NE¼, NW¼, N½S½, and SE¼SE¼;
Sec. 18, Lots 1 and 2, NE¼, E½NW¼, and NE¼SW¼;
Sec. 19, Lot 1, N½NE¼, and NE¼NW¼;
Sec. 20, SW¼NE¼, N½NW¼, SE¼NW¼, W½SE¼, and SE¼SE¼;
Sec. 21, E½W½ and SW¼SE¼;
Sec. 23, NW¼SE¼;
Sec. 24, SW¼NW¼ and S½SE¼;
Sec. 25, NE¼NW¼ and W½W½;
Sec. 26, SE¼NE¼, SW¼NW¼, W½SW¼, and E½SE¼;
Sec. 27, S½N½, and NW¼SW¼;
Sec. 28, NE¼, NW¼SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 29, E½NE¼;
Sec. 34, NW¼NE¼, S½NE¼, and N½NW¼;
Sec. 35, NE¼NE¼ and S½N½;
Sec. 36, NW¼NW¼.
T. 9 S., R. 12 E.,
Sec. 17, S½NW¼, SW¼, and SW¼SE¼;
Sec. 18, Lots 2, 3, and 4, S½NW¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 19, Lot 1, N½NE¼, and NE¼NW¼;
Sec. 20, N½, N½SE¼, and SE¼SE¼;
Sec. 21, Lots 4, 5, Lots 11 through 15, inclusive, and Lots 17 to 32, inclusive;
Sec. 22, Lots 19 to 23, inclusive, and Lots 25 to 32, inclusive;
Sec. 25, Lots 1 to 16, inclusive, N½SE¼, and NW¼SE¼;
Sec. 26, Lots 1 to 24, inclusive;
Sec. 27, Lots 1, 2, 7, 8, 9, 10, 15, and 16, N½NW¼, and NE¼SE¼;
Sec. 28, NE¼NE¼.
T. 8 S., R. 13 E.,
Sec. 17, SW¼SW¼;
Sec. 19, Lot 3, NE¼SW¼, and N½SE¼;
Sec. 20, NE¼NE¼ and N½SW¼;
Sec. 21, S½NE¼.
T. 9 S., R. 13 E.,
Sec. 19, Lot 4.
T. 8 S., R. 14 E.,
Sec. 17, SE¼SW¼ and S½SE¼;
Sec. 18, NE¼SW¼, SW¼SW¼, and N½SE¼;
Sec. 19, S½NE¼ and N½S½;
Sec. 20, N½SW¼.

The area described aggregate approximately 42,917.83 acres in Jefferson and Wasco Counties.

2. The lands described above are included in the Warm Springs Indian Reservation and are not open to operation of the public land laws, including the mining laws and mineral leasing laws.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 28, 1982.
[FR Doc. 82-3003 Filed 2-4-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6112

[R-822]

California; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Departmental order which withdrew public lands for the Colorado River Storage Project. Of the lands affected by this order, all are privately owned and not subject to the public land laws except for 37.38 acres which is to be conveyed to the City of Needles, California, pursuant to Pub. L. 87-752.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Order dated October 16, 1931, withdrawing lands for the Colorado River Storage Project, is hereby revoked insofar as it affects the following described lands:

San Bernardino Meridian

T. 9 N., R. 23 E.,
Sec. 30, lot 2, SE¼NW¼, N½S½ SE¼SW¼, SW¼SW¼SE¼SW¼, SE¼SE¼SE¼SW¼;
Sec. 31, NE¼, NE¼NE¼NE¼NW¼, NW¼NW¼NE¼NW¼;
Sec. 32, SE¼NW¼, SE¼SE¼.

The area aggregates 337.38 acres in San Bernardino County.

2. Of the lands listed in paragraph one, the surface estates of the NW¼NE¼NE¼, NW¼NE¼ sec. 31 have been conveyed from the United States pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869-4); and the NE¼NE¼NE¼ sec. 31 has been conveyed from the United States pursuant to the Small Tract Act of June 1, 1938 (43 U.S.C. 682a-682e). Therefore, unless and until appropriate regulations are issued, the lands will not be opened to location under the United States mining laws (30 U.S.C. Ch. 2). The

remainder of the lands described in paragraph 1 are patented and not subject to disposition under the public land laws except for lot 2, sec. 30 which remains segregated from the public land laws, including the mining and mineral laws for disposition to the City of Needles, California, pursuant to Pub. L. 87–752. The N½NE¼NE¼, NW¼NE¼, sec. 31, T. 9 N., R. 23 E., has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room E–2811, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82–3067 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6113

[C–13057]

Colorado; Partial Revocation of Reclamation Withdrawals, Collbran Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order and certain Bureau of Reclamation orders which withdrew lands for the Collbran Project. A total of 441.47 acres will be open to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated October 14, 1948, and Commissioner's First Form Reclamation Withdrawal Orders dated June 11, 1957, September 15, 1958, and November 10, 1958, are hereby revoked as to the following described public lands:

Sixth Principal Meridian

T. 10 S., R. 94 W.,
Sec. 2, N½NW¼SE¼;
Sec. 16, E½SE¼NE¼, SW¼SE¼NE¼, N½SE¼NW¼;
Sec. 20, S½SE¼NW¼.
T. 10 S., R. 95 W.,
Sec. 33, N½NE¼SW¼, SE¼SE¼.—
T. 10 S., R. 96 W.,
Sec. 18, lot 4;
Sec. 33, SE¼SE¼SE¼, W½NE¼SE¼;
Sec. 34, N½NE¼SW¼, N½N½NW¼SW¼, SW¼SW¼, S½SE¼SW¼, N½N½N½SE¼, S½SW¼SE¼, S½S½SE¼SE¼;
Sec. 35, N½SW¼.

The lands described aggregate approximately 441.47 acres in Mesa County.

2. At 7:45 a.m. on March 5, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on March 5, 1982, the lands will be open to location under the United States mining laws. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82–3047 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6114

[W–71338]

Wyoming; Revocation of Public Land Order No. 329

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order No. 329, dated October 17, 1946, affecting 156.32 acres of public land withdrawn for use as a Bureau of Land Management administrative site. This action will restore the lands to the operation of the public land laws generally, including the mining laws. They have been and will continue to be open to mineral leasing.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 329 of October 17, 1946, which withdrew the following described public land for use by the Bureau of Land Management as an administrative site is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 47 N., R. 93 W.,
Tract 63 A, lot 51,
Tract 63 D, lot 53,
Tract 63 E, lot 54,
Tract 63 F, lot 55,
Tract 63 G, lot 56,
Tract 63 H, lot 50.

The area described contains approximately 156.32 acres in Washakie County.

2. At 10 a.m. on March 5, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on March 5, 1982. They have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82–3062 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6115

[OR–19082]

Oregon; Powersite Restoration No. 695; Partial Revocation of Powersite Reserve No. 561

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive Order in part as to 40 acres of land withdrawn for a powersite reserve. This action will restore the public land involved to operation of the public land laws generally.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA–545–Oregon, it is ordered as follows:

1. The Executive Order of October 13, 1916, which created Powersite Reserve No. 561 is hereby revoked so far as it affects the following described land:

Willamette Meridian

Powersite Reserve No. 561

T. 3 S., R. 15 E.,
Sec. 18, SW¼NE¼.

The area described contains 40 acres in Sherman County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m., on March 5, 1982, the public land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The land has been open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82–3061 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6116

[Nev–045177]

Nevada; Revocation of Public Land Order No. 2101

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew lands for use by the Federal Aviation Administration and restores 72 acres of public land to operation of the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2101 of May 24, 1960, withdrawing land for use of the Federal Aviation Administration as a remote control air-to-ground communication facility is hereby revoked:

Mount Diablo Meridian

T. 1 N., R. 66 E.,
Sec. 33, In SW¼SE¼SE¼ and SE¼SW¼SE¼.
T. 1 S., R. 66 E., unsurveyed.
Sec. 3;
All lands within a 1,000 foot radius of the center of a parcel described as follows:
Beginning at a point which is 1,300 feet west and 210 feet south of the south corner common to secs. 33 and 34, T. 1 N., R. 66 E., thence south 230 feet; thence west 170 feet; thence north 230 feet; thence east 170 feet to the point of beginning. The southeast corner of this site is 110 feet north of USC & GS BM, elevation 9,395 feet, on a summit of Highland Peak.

The area described aggregates approximately 72 acres in Lincoln County.

2. At 10:00 a.m. on March 5, 1982, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 10:00 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 5, 1982, the land also will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82–3062 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6117

[M–8099(ND)]

North Dakota; Revocation of Executive Order No. 8124, Dated May 10, 1939

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Executive Order No. 8124, establishing Lake Oliver Migratory Waterfowl Refuge. As Federal interest in the land was through a revokable easement, this action will have no effect on the surface or mineral estates which have been and remain in private ownership.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 8124 of May 10, 1939, which established the Lake Oliver Migratory Waterfowl Refuge is hereby revoked. The effect of this action is record clearing only insofar as it affects the following described lands:

Fifth Principal Meridian

T. 141 N., R. 85 W.,
Sec. 36, All.

The area described contains 640.00 acres in Oliver County.

2. This action will not restore the above described lands to operation of the public land, mining or mineral leasing laws as the surface and mineral interests are in private ownership.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82–3060 Filed 2–4–82; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6118

[OR–4011]

Oregon; Partial Revocation of Executive Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order as to a 0.774 acre of land withdrawn for use by the U.S. Coast Guard as an administrative site. The land is excess property and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 205 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 14, 1884, which withdrew certain lands for use by the War Department, is hereby revoked insofar as it affects the following described land which was transferred to the U.S. Coast Guard for use as an administrative site:

Willamette Meridian

T. 26 S., R. 14 W.,
Sec. 2, that portion of lot 2 and unsurveyed accretions thereto described as follows:

Beginning at the center of said Section 2, thence North 19° 58' West, 1307.0 feet to a point and; thence North 11° 43' West, 775.0 feet to the true point of beginning; thence South 78° 17' West, 150 feet to a point; thence South 11° 43' East, 225 feet to a point; thence North 78° 17' East, 150 feet to a point; thence North 11° 43' West, 225 feet to the point of beginning.

The area described contains 0.774 of an acre in Coos County.

2. The above described land has been reported to the General Services Administration for disposition as excess property and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3054 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6119

[M 29832]

Montana; Withdrawal of National Forest Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 170 acres of national forest lands from mineral location and entry and reserves them for the protection of the Big Ice Cave and its water supply.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Edgar D. Stark, Montana State Office 406–657–6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C. Ch. 2) for the Big Ice Cave:

Principal Meridian—Custer National Forest

Unsurveyed, but which probably will be when surveyed:
T. 8 S., R. 27 E.,
Sec. 3, SE¼;
Sec. 10, N½N½NW¼NE¼.

The area described contains 170 acres in Carbon County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3061 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6120

[WASH-04791]

Washington; Partial Revocation of Executive Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order in part as to 10.95 acres of land withdrawn for use by the U.S. Coast Guard as a light station. The land is excess property and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of February 26, 1852, which originally withdrew certain lands for military purposes and transferred in part for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 9 N., R. 11 W.,
Sec. 5, lot 7.

The area described contains 10.95 acres in Pacific County.

2. The above described land has been reported to the General Services Administration for disposition as excess property and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3050 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6121

[I-010254, I-09455]

Idaho; Revocation of Public Land Order Nos. 1835 and 1978

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two withdrawals affecting 83.98 acres of public lands withdrawn for use by the Bureau of Land Management as fire lookout and radio communication sites. This action will restore the lands to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office 208–334–1597.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order Nos. 1835 of April 16, 1959, and 1978 of September 11, 1959, which withdrew the following

described lands, are hereby revoked in their entirety:

Boise Meridian, Idaho

(I–010254, PLO 1978)

T. 14 S., R. 34 E.,
Sec. 23, S½SW¼NE¼SW¼.

(I–09455, PLO 1835)

T. 6 S., R. 35 E.,
Sec. 33, SE¼SE¼.
T. 7 S., R. 35 E.,
Sec. 4, lot 1.

The areas described contain 83.98 acres in Bannock County.

2. At 8:00 a.m. on March 5, 1982, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:00 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands also will be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws, at 8:00 a.m. on March 5, 1982.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 28, 1982.
[FR Doc. 82–3048 Filed 2–4–82; 8:45 am]
BILLING CODE 4310–84–M

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43 CFR Public Land Order 6122

[M–40873]

Montana; Partial Revocation of Executive Order Dated April 30, 1919, Public Water Reserve No. 63

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order as to 40.00 acres of land withdrawn as a public water reserve. This action will restore the land to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Exective Order dated April 30, 1919, which withdrew certain lands for public water reserve purposes is hereby revoked insofar as it affects the following described lands:

Public Water Reserve No. 63

Principal Meridian

T. 21 N., R. 32 E.,
Sec. 24, NE¼SW¼.

The area described contains 40.00 acres in Garfield County.

2. At 8 a.m. on March 5, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The land will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on March 5, 1982. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 28, 1982.
[FR Doc. 82–3049 Filed 2–4–82; 8:45 am]
BILLING CODE 4310–84–M

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43 CFR Public Land Order 6123

[W–27005]

Wyoming; Revocation of Public Land Order No. 5109

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes the South Pass Administrative Site withdrawal affecting 75.90 acres of national forest lands withdrawn for use by the Bureau of Land Management. The action will open the lands to such forms of disposition as may be made of national forest lands under the public land laws, including mining.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2220, extention 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5109 of August 20, 1971, which withdrew the following described national forest lands for use by the Bureau of Land Management as an administrative site is hereby revoked.

Shoshone National Forest

Sixth Principal Meridian

T. 30 N., R. 100 W.,
Sec. 36, lots 9 and 17.

The area described contains 75.90 acres in Fremont County.

2. At 10:00 a.m. on March 5, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 28, 1982.
[FR Doc. 82–3052 Filed 2–4–82; 8:45 am]
BILLING CODE 4310–84–M

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43 CFR Public Land Order 6124

[ORE–015491, ORE–016677]

Oregon; Revocation of Public Land Order No. 4248

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 82.91 acres of land for material site purposes. This action will restore the lands to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4248 of July 6, 1967, which withdrew the following described lands for material site purposes is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 30 S., R. 6 W.,
Sec. 31, S½ of unnumbered Lot (S½SW¼SW¼).
T. 30 S., R. 7 W.,
Sec. 35, N½S½NW¼.
T. 31 S., R. 7 W.,

Sec. 1, W½ of Lot 5 (formerly W½NE¼NW¼).

The areas described aggregate 82.91 acres in Douglas County.

2. At 10 a.m., on March 5, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described above will be open to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Land.

3. At 10 a.m., on March 5, 1982, the lands described above will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3046 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6125

[CA 7533, CA 8745]

California; Revocation of Withdrawals Affecting Deadman's Island, Los Angeles Harbor

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in their entirety two Executive orders affecting Deadman's Island, public land once located in Los Angeles Harbor. As a result of improvement to the main navigational route of the harbor, the island no longer exists. This action is taken primarily for record clearing purposes.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714), it is ordered as follows:

1. Executive Order of March 15, 1872, which withdrew the following described land from sale or grant for use of the War Department for public purposes, is hereby revoked in its entirety:

San Bernardino Meridian

T. 5 S., R. 13 W.,
Sec. 19, lot 1.

The area described contains 2 acres in Los Angeles County.

2. Executive Order No. 2029 of August 26, 1914, as modified by Executive Order No. 3140 of August 6, 1919, which transferred the following described portion of the Military Reservation of Deadman's Island to the Treasury Department for use of the Public Health Service, is hereby revoked in its entirety:

San Bernardino Meridian

T. 5 S., R. 13 W.,
Sec. 19, a portion described as follows:

The point of beginning is S. 12 degrees 13' E. 100.4 feet from U.S. Station "R", which is U.S. Coast and Geodetic Survey Station "Deadman's Island"; thence N. 72 degrees 25' E. 522.72 feet to a point; thence S. 17 degrees 35' E. 500 feet to a point; thence S. 72 degrees 25' W. 522.72 feet to a point; thence N. 17 degrees 35' W. 500 feet to the point of beginning.

3. All of the above described land comprising Deadman's Island no longer exists. The island, once situated in Los Angeles Harbor, was removed in 1928 to make way for improving the main navigational route of the harbor. Since the land originally withdrawn is now nonexistent, this action is taken primarily to clear the records of withdrawals that are no longer serving a useful purpose.

Inquiries concerning the above should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 28, 1982.

[FR Doc. 82-3045 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing Hay's Spring Amphipod as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines Hay's Spring amphipod *(Stygobromus hayi)* to be an endangered species. Survival of this aquatic crustacean is endangered by threatened modification of its habitat by flooding and construction activities and by overcollection for scientific purposes. Hay's Spring amphipod occurs only in a single spring within the National Zoological Park in Washington, D.C. The rule provides protection for wild populations of this species.

DATE: This rule becomes effective on March 8, 1982.

ADDRESSES: Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: For further information on the final rule, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1977 (42 FR 2507-2515), the Service proposed Endangered status for *Stygobromus (-Synpleona, -Stygonectes) hayi* (Hubricht and Mackin, 1940) under the common name "Hay's Spring scud". This proposal was withdrawn on December 10, 1979 (44 FR 70796-70797), following expiration of a time limit on pending proposals which was imposed by the 1978 Amendments to the Endangered Species Act of 1973. Endangered status was reproposed for Hay's Spring amphipod on July 25, 1980 (45 FR 49850-49851), following a re-examination of its habitat. A complete summary of the status of this species and comments on the original proposed listing of this species were summarized in the reproposal.

The reproposal advised that sufficient evidence was on file to support a determination that Hay's Spring amphipod was an endangered species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.)*. That proposal summarized the factors thought to be contributing to the likelihood that the species could become endangered within the foreseeable future. Hay's Spring amphipod is found only in a small Spring within the National Zoological Park. The spring emerges from the rocky western wall of Rock Creek Valley and flows about 35 m into Rock Creek. The portion of the spring inhabited by Hay's Spring amphipod is less than 1 meter wide. The extremely small size of this habitat makes the species exceptionally vulnerable to construction activities, which have drastically reduced the number of springs in Washington (Williams, 1977). The proposed rule also specified the prohibitions which would be applicable if such a determination were made; and solicited comments,

suggestions, objections, and factual information from any interested person.

A letter was sent to Mayor Barry of the District of Columbia on July 30, 1980 notifying him of the proposed rulemaking for Hay's Spring amphipod. On July 3 and July 30, 1980, letters were sent to appropriate Federal agencies and other interested parties notifying them of the proposal and soliciting their comments and suggestions. Comments were received from Mr. S. Dillon Ripley, Secretary of the Smithsonian Institution; and from the National Park Service, National Capital Region.

Summary of Comments and Recommendations

In the July 25, 1980, **Federal Register** proposed rule (45 FR 49850–49851), all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rule.

Public comments received from July 25, 1980, through October 23, 1980, were to be considered. However, no public comments were received.

Mr. S. Dillon Ripley, Secretary of the Smithsonian Institution, commented that Smithsonian Institution staff had reviewed the Draft Environmental Assessment on this proposal and have no objections or comments on the biological conclusions. Mr. Ripley stated that the Smithsonian Institution will continue its efforts to protect the species and that there are no plans to modify the area near the spring habitat at this time.

The National Park Service commented that they supported the proposed listing of Hay's Spring amphipod as Endangered and offered their cooperation in the protection of this and other species in the Rock Creek watershed.

After a thorough review and consideration of all the available information, the Director has determined that Hay's Spring amphipod is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

The summary of factors affecting the species, as required by Section 4(a) of the Act and published in the **Federal Register** of July 25, 1980 (45 FR 49850–49851), are reprinted below. These factors are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Usually high flood levels from Rock Creek reach the level of the spring habitat of Hay's Spring amphipod. This level has been flooded with increasing frequency in recent years (CHM Hill, 1979). Flood waters may adversely affect the spring habitat by removing individual amphipods, as well as the leaves and soft bottom sediments that form their microhabitat, from the spring.

Construction activities, if not carefully carried out, could adversely affect or eliminate the spring habitat. Such activities have eliminated most of Washington's springs during the last 100 years (Williams, 1977). Possible use of the level are just below the spring for parking or equipment storage is now in advanced planning. Although a small fence now surrounds the spring, the significance of this structure could easily be overlooked during parking lot construction. The spring is so small that careless movement of equipment slightly onto the hillside from which the spring flows could have a catastrophic effect on the habitat.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Only a few scientific specialists are potential collectors of Hay's Spring amphipod. Dr. John R. Holsinger (unpublished report; May 11, 1978) has expressed concern about future collecting. Even this modest collecting pressure presents a danger to this extremely rare species.

3. *Disease and predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* Although the National Zoological Park has voluntarily fenced the habitat of this species and alerted personnel to its significance, there is no legal protection for the species.

5. *Other natural or man-made factors affecting its continued existence.* Not applicable.

Critical Habitat

Designation of Critical Habitat for Hay's Spring amphipod would not be prudent. Publication of a map and description of the exact locality, which is required for Critical Habitat designation, could expose the species to destruction of its habitat by vandalism and unauthorized taking. The habitat is within a densely populated urban area. The small size of the species' population and habitat, as well as the fragile nature of the habitat, makes the species vulnerable to isolated acts of vandalism.

Effects of the Rule

Endangered species regulations already published in Title 50 § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This rule requires Federal agencies to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of Hay's spring amphipod. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (703/235–1975).

Note.—The Department of the Interior has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12291 and 43 CFR Part 14.

References

CH2M Hill. 1979. *Draft* Rock Creek Watershed Conservation Study. Prepared for Department of the Interior, National Park Service.

Holsinger, J. R. 1977. A review of the systematics of the holarctic amphipod family Crangonyctidae. Proceedings of the 3rd International Colloquium on *Gammarus* and *Niphargus*, Schlitz, West Germany, 1975. Crustaceana (supplement), 4: 244–261.

Holsinger, J. R. 1978. Systematics of the subterranean amphipod genus

Stygobromus (Crangonyctidae), Part II: Species of the Eastern United States. Smithsonian Contributions to Zoology No. 266. 144 pp.

Hubricht, L. and J. G. Macklin. 1940. Descriptions of nine new species of freshwater crustaceans, with notes and new localities for other species. American Midland Naturalist 23: 187–218.

Williams, G. P. 1977. Washington, D.C.'s vanishing springs and waterways. Geological Survey Circular 752.

Regulations Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, Part 17, Subpart B, Title 50 of the Code of Federal Regulations is amended as set forth below:

1. Section 17.11(h) is amended by adding in alphabetical order under "Crustaceans", the following to the List of Endangered and Threatened Wildlife:

§ 17.11 [Amended]

* * * * * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Stygobromus hayi	Amphipod, Hay's spring	USA (DC)	E	March 8, 1982	NA	NA

Dated: January 28, 1982.

F. Eugene Hester,
Acting Director, Fish and Wildlife Service.

[FR Doc. 82-3149 Filed 2-4-82; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 25
Friday, February 5, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-12206, File No. S7-920]

Valuation of Debt Instruments and Computation of Current Price per Share by Certain Open-End Investment Companies (Money Market Funds)

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today is releasing for public comment a proposed rule regarding the valuation of debt instruments, the calculation of current net asset value per share and the computation of current price per share by certain registered open-end investment companies, commonly referred to as "money market funds." The proposed rule would permit such investment companies, subject to enumerated conditions either: (1) To value portfolio instruments by use of the amortized cost valuation method; or (2) to compute current price per share by rounding the net asset value per share to the nearest one cent, based on a share value of one dollar. The rule would obviate the necessity for money market funds to apply for, and the Commission to issue, individual orders of exemption to permit use of those valuation or pricing methods.

DATE: Comments must be received by April 5, 1982.

ADDRESS: Interested persons wishing to submit their views and comments on the proposed rule should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-920 and will be made available for public inspection at the commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Arthur J. Brown, Chief, Investment Company Act Study, (202) 272-2048, or Cathy G. Douglas, Special Counsel, (202) 272-2024, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for public comment proposed rule 2a-7 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Act") which would allow, subject to specified conditions, certain open-end investment companies, known as "money market funds," to compute their current price per share for purposes of distribution, redemption and repurchase by using either: (1) The "amortized cost" method of valuation to value their portfolio instruments for purposes of calculating their current net asset value per share; or (2) the "penny-rounding" method of computing their current price per share. Under the amortized cost method of valuation, money market funds may calculate their current net asset value for use in computing the current price of their redeemable securities by valuing all portfolio securities and assets, regardless of whether market quotations are readily availble, at the acquisition cost as adjusted for amortization of premium or accumulation of discount rather than at current market value as would be required by rule 2a-4 (17 CFR 270-2a-4).

Under the penny-rounding method of computation, money market funds calculate their current net asset value in conformance with rule 2a-4 by valuing portfolio securities for which market quotations are readily available at current market value, and other securities and assets at fair value as determined in good faith by the board of directors. However, they may then compute the current price of their redeemable securities by rounding the net asset value per share to the nearest one cent on a share value of one dollar.

The proposed rule provides that to use either of the above valuation or pricing methods a money market fund must comply with certain conditions. Those conditions basically: (1) Limit the types of investments that the money market fund can make to short-term, high quality debt instruments; (2) impose on the board of directors (trustees in the case of a trust; hereinafter referred to as "board of directors" or "board") of the money market fund a special obligation to ensure that a stable price per share of one dollar is maintained; and (3) require that the board of directors of the money market fund, in good faith, determines that the valuation or pricing method selected pursuant to this rule will reflect fairly the value of each shareholder's interest in the money market fund and that the money market fund will discontinue its use of such method if such method ceases to reflect fairly each shareholder's interest. In addition, a money market fund using the amortized cost method of valuation must monitor the deviation between the price of its shares computed from a net asset value per share calculated using amortized cost values for its portfolio instruments and the net asset value of such shares calculated using values for portfolio instruments based upon current market factors. If such deviation exceeds one-half of one percent of the price per share or if the amount of deviation may result in material dilution or other unfair results to shareholders, the proposed rule would impose specific obligations on the board of directors to respond to the situation. Likewise, a money market fund using the penny-rounding method to compute its price per share may have to monitor in a similar fashion the valuation of those portfolio instruments (with remaining maturities of sixty days or less) [1] that are valued at amortized cost in order to assess the fairness of that valuation method.

The proposed rule generally codifies the standards that have developed for granting the applications filed by money market funds for exemption from the pricing and valuation provisions of the Act. As described more fully below, the rule expands slightly the scope of the exemption to permit the purchase of additional instruments. In addition, the rule has been fashioned to outline more clearly the obligations of money market funds and their boards of directors when relying on the exemption. In this regard, the rule is not intended to expand the responsibilities and liabilities imposed upon directors beyond those imposed under the exemptive orders.

Background

Section 2(a)(41) of the Act (15 U.S.C. 80a-2(a)(41)), in conjunction with rules 2a-4 and 22c-1 under the Act (17 CFR

[1] *See* footnote 36, *infra*.

270.2a–4 and 270.22c–1), requires a registered investment company to calculate its current net asset value per share, for purposes of distribution, redemption, and repurchase, by valuing (1) its portfolio securities with respect to which market quotations are readily available at current market value, and (2) its other securities and assets at their fair value as determined, in good faith, by the board of directors. Such "fair value" has been interpreted to mean the value that would be received upon the current sale of a security or asset. (Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) and 6295 (December 23, 1970), 35 FR 19986 (December 31, 1970)). On May 31, 1977, the Commission issued an interpretive release (Investment Company Act Release No. 9786 ("Release 9786"), 42 FR 28999 (June 7, 1977)), expressing the view that money market funds, defined as open-end investment companies which invest primarily in short-term debt instruments, and other open-end investment companies that hold a significant amount of debt securities should: (1) Determine the fair value of short-term debt portfolio securities for which market quotations are not readily available with reference generally to current market factors; and (2) calculate their price per share to an accuracy of within .1%, or $.01 based on a share value of $10.00. Release 9786 indicated further that, because the amortized cost method of valuation would not take market factors into account, the use of that method under all but very limited circumstances would be inconsistent with the provisions of rule 2a–4 under the Act.

Subsequent to the issuance of Release 9786, several applications were filed by money market funds requesting orders of exemption from the appropriate provisions of the Act and the rules thereunder, which applications, if granted, would have permitted the use of amortized cost valuation under certain specified conditions and circumstances. In response to requests for a hearing on the applications, the Commission issued an order for a consolidated hearing on such applications. (Investment Company Act Release No. 10201 (April 12, 1978), 43 FR 16830 (April 20, 1978).)

Prior to the commencement of the evidentiary portion of the administrative proceeding, certain of the applicants and the Division of Investment Management reached a partial agreement regarding the manner of valuing assets and pricing shares. As a result of that agreement, a number of the applicants amended their respective applications. Based on the amended applications, the Commission granted an order, Investment Company Act Release No. 10451 (October 26, 1978), 43 FR 51485 (November 3, 1978), which, subject to certain conditions, permitted those applicants to compute their current price per share by rounding the net asset value per share to the nearest one cent on a share price of $1.00 ("penny-rounding"); however, the fair value of the portfolio securities used to determine net asset value was to be assessed in compliance with the views expressed in Release 9786, which required debt securities with more than 60 days remaining until maturity to be valued based on market factors. The conditions of the penny-rounding orders, in general, required: (1) A special undertaking by the board of directors of each applicant to supervise operations of the money market fund in such a manner as to assure, to the extent reasonably practicable, that the share price would not deviate from $1.00; (2) that the dollar weighted average portfolio maturity of the applicant's portfolio would not be in excess of 120 days and no instrument with a maturity of greater than one year would be purchased; and (3) that purchase of portfolio instruments would be limited to those high quality instruments that were specified in each application. Numerous other money market funds subsequently filed applications seeking orders of exemption for penny-rounding subject to conditions which are in substantial conformity with the above mentioned conditions, and the Division has granted the requested orders pursuant to its delegated authority.[2]

The applicants that continued to seek permission to use the amortized cost method of valuation participated in the evidentiary portion of the above administrative hearing, which commenced on November 20, 1978, and concluded on March 26, 1979. Following such proceedings, most applicants submitted Offers of Settlement ("Offers") which provided for the use of the amortized cost method of valuation subject to certain conditions. On August 8, 1979, the Commission issued an order (Investment Company Act Release No. 10824) granting exemptive relief to enable those applicants to use the amortized cost method of valuation, subject to the conditions specified in the Offers, and cancelling as to them the administrative hearing.[3]

The conditions is that order included the same conditions set forth in the original penny-rounding exemptive orders with the following modifications. The obligation imposed upon the board of directors was modified to require that the board undertake to establish procedures reasonably designed, taking into account current market conditions and the fund's investment objectives, to stabilize the fund's net asset value per share at one dollar. The quality of the instruments which could be purchased was changed to the general standard of those instruments which the board determines present minimal credit risks, and which are the high quality as determined by any major rating service or, if unrated, of comparable quality. In addition, the amortized cost exemptive order included three new conditions which basically: (1) Set forth the minimal procedures that a board must adopt to stabilize the fund's net asset value per share at one dollar, which included monitoring the deviation between the net asset value per share using amortized cost values for portfolio instruments and the net asset value per share using market values for those instruments, as well as setting forth when the board would be required to take action to stabilize the fund's net asset value per share; (2) required the fund to maintain a record of the procedures established by the board and any actions taken pursuant to those procedures; and (3) required the fund to file quarterly, as an attachment to Form N–1Q (17 CFR 274.106), a statement as to whether any action had been taken pursuant to those procedures.

Subsequently, more than 90 money market funds have requested, and the Division pursuant to delegated authority has granted, exemptive relief to permit the use of amortized cost valuation, subject to substantially the same conditions as those contained in the original order settling the hearing. Certain minor changes were made in subsequent orders to reflect technical corrections. In addition, subsequent orders permitting amortized cost valuation as well as penny-rounding were issued based upon applications that reflected a broader range of

[2] The changes in the subsequent orders were related primarily to eliminating the condition that the funds would purchase only those specified portfolio instruments of the specified quality set forth in the application and substituting therefor an overall requirement that the portfolio instruments purchased present minimal credit risks and be of high quality as determined by any major rating service, or, if not rated, of comparable quality.

[3] The proceeding was dismissed as to the only remaining applicant, First Multifund for Daily Income, Inc., by the Commission on May 2, 1980 (Investment Company Act Release No. 11152). The Court of Appeals for the District of Columbia upheld that decision on June 18, 1981 (*First Multifund for Daily Income, Inc.* v. *SEC*, No. 80–1508, (D.C. Cir. 1981)).

permissible portfolio investments. Those orders were designed to permit money market funds to utilize newly developed or newly available money market instruments, which were not included explicitly in the original applications and orders, and to remove some of the restrictions on the existing types of instruments.[4]

Most money market funds have sought exemptive relief to enable them to employ either penny-rounding or the amortized cost method of valuation in order to facilitate their ability to provide: (1) A steady flow of investment income at an interest rate comparable to those available by direct investment in money market instruments and (2) a stable share price. Each of the procedures, if properly utilized, has been determined by the Commission under the exemptive standard set forth in section 6(c) of the Act (15 U.S.C. 80a–6(c)) to be appropriate in the public interest and consistent with the protection of investors and the policy and provisions of the Act. Accordingly, the Commission has determined to release for public comment proposed rule 2a–7, which would generally codify the exemptive relief granted permitting money market funds to employ either penny-rounding or the amortized cost method of valuation to achieve a stable price per share.

Discussion

The Commission believes that the proposed rule would obviate the need or certain investment companies to file exemptive applications for relief that is routinely granted. The proposed rule would also allow the investment company to select the manner of computing its price per share which it believes best serves the interests of its shareholders while imposing such conditions as would render the use of such method appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The rule would further benefit shareholders by facilitating the ability of certain investment companies to fulfill their shareholders' investment objectives.

Under proposed rule 2a–7, investment companies that have investment portfolios consisting entirely of U.S. dollar-denominated short-term debt obligations ("money market funds") may use either penny-rounding or the amortized cost valuation method for purposes of computing their price per share, provided that they comply with the conditions enumerated in the rule.[5] Those conditions are designed to ensure that any money market fund that adopts one of the procedures under discussion in an effort to maintain a stable price per share will be able to maintain that stable price per share. The rule also provides, under both methods, for the computation of a share price that will represent fairly the current net asset per share value of the investment company, thus reducing any possibility of dilution of shareholders' interests or other unfair results.[6]

Permissible Portfolio Investments

The rule, like the previously granted exemptive orders, is designed to limit the permissible portfolio investments of a money market fund seeking to use either penny-rounding or the amortized cost valuation method to maintain a stable price per share to those instruments that have a low level of volatility [7] and thus will provide a greater assurance that the money market fund will continue to be able to maintain a stable price per share that fairly reflects the current net asset value per share of the fund. Accordingly, money market funds relying on the rule may purchase only those portfolio instruments which meet the quality and maturity requirements of the rule.[8] The proposed rule, however, would not prohibit a money market fund from holding cash reserves. It should be noted that the proposed rule does not speak to the acquisition or valuation of puts or stand-by commitments by a money market fund wishing to use the subject valuation methods. The Commission is currently considering applications for exemptive orders to permit money market funds using either the amortized cost valuation method or penny-rounding to acquire puts or stand-by commitments. The Commission has granted exemptive orders to permit the acquisition of puts, but only under limited circumstances and subject to certain conditions.[9] At some future time the proposed rule may be amended to include a resolution of the issues concerning the acquisition of puts.

Maturity of Portfolio Instruments

A money market fund would be able to rely on the rule only if its entire investment portfolio consisted of instruments with a remaining maturity of one year or less. As prescribed in the proposed rule, which is generally a codification of positions taken by the Commission regarding the conditions contained in the exemptive orders, the maturity of an instrument generally is deemed to be its stated maturity, with a special exception provided for certain variable and floating rate paper. Accordingly, an instrument is deemed to satisfy the requirement of having a remaining maturity of one year or less for purposes of the rule if, on the date of purchase [10] by the money market fund: (i) The instrument, regardless of the length of maturity when originally issued, currently has no more than 365 days remaining until the principal amount owed is due to be paid or, when originally issued, the principal amount

[4] For example, many of the original applications limited the funds' investments in the securities of banks to those banks with assets or capital exceeding a set amount.

[5] Under the proposed rule, a money market fund that elects to use one of the permitted methods for determining its price per share is not foreclosed from switching to another method. So long as the enumerated conditions for the particular method are fulfilled, a fund may rely on the exemptions provided in paragraphs (a)(2) or (3). However, the proposed rule would not allow a fund to rely on both exemptions at the same time. Therefore, if a fund is using the amortized cost valuation method to calculate its net asset value per share when computing its price, it may not then round its per share net asset value to the nearest cent on a share value of one dollar. Such a fund may round its per share net asset value only to the extent that such rounding would not be deemed to be material, which the Commission believes to be one-tenth of one cent on a share value of one dollar.

[6] If shares are sold based on a net asset value which turns out to be either understated or overstated in comparison to the amount at which portfolio instruments could have been sold, then either the interests of existing shareholders or new investors will have been diluted.

[7] There are basically two types of risks which cause fluctuations in the value of money market fund portfolio instruments: the market risk, which primarily results from fluctuations in the prevailing interest rate, and the credit risk. In general, instruments with shorter periods remaining until maturity and which are of higher quality have reduced market and credit risks and thus tend to fluctuate less in value over time than instruments with longer remaining maturities or of lesser quality.

[8] The applications for exemptive relief have routinely set forth the specific types and quality of instruments in which the money market funds could invest. The instruments consisted exclusively of debt obligations, including such instruments as treasury bills and notes and other government issued or guaranteed debt securities, certificates of deposit and time deposits from domestic banks and thrift institutions and from foreign banks, bankers' acceptances of domestic and foreign banks, commercial paper, corporate bonds and notes and repurchase agreements on other debt obligations. While the rule does not set out the various types of debt instruments in which a money market fund relying on the rule may invest, the proposed rule does require that all portfolio instruments mature in one year or less and be of high quality.

[9] *See, e.g.*, Investment Company Act Release No. 11867, July 21, 1981.

[10] The date of purchase is regarded as the date on which the fund's interest in the instrument is subject to market action. Thus, for securities purchased under normal settlement procedures, the length of maturity would be calculated starting on the trade date. For instruments such as "when issued" securities (securities purchased for delivery beyond the normal settlement date), if the commitment to purchase the instrument includes either a set price or yield, then the maturity will be calculated based upon the commitment date.

owed or the instrument was to be paid in not more than 375 days;[11] (ii) where the instrument has a variable rate of interest [12] and is issued or guaranteed by the United States government or any agency thereof, it is no more than 365 days remaining until the next readjustment or renegotiation of the interest rate to be paid regardless of the stated maturity of the instrument and the board of directors has determined that when the rate will be readjusted it will cause the instrument to have a current market value which approximates its par value; [13] (iii) the instrument (a) has a demand feature which allows the fund unconditionally to obtain the amount due from the issuer upon notice of seven days or less,[14] (b) has either a floating rate of interest [15] or a variable rate of interest that is readjusted to no less frequently than once per year,[16] where, in the case of a variable rate instrument, the board of directors has determined that whenever a new rate will be established it will cause the instrument to have a current market value which approximates its par value and in the case of a floating rate instrument the board has determined that such floating rate feature will ensure that the market value of such instrument will always approximate its par value, and (c) will be reevaluated by the board at least quarterly to ensure that the instrument of high quality; [17] or (iv) where the instrument is a repurchase agreement or an agreement upon which portfolio instruments are lent ("portfolio instrument lending agreement") [18] regardless of the maturity of the security serving as collateral for the agreement, the agreement is to be effected within 365 days or less.[19]

Maturity of the Portfolio

In addition to requirements regarding the maturity of individual portfolio investments, the rule would impose restrictions on the dollar-weighted average maturity of the entire portfolio. Paragraphs (a)(2)(iii) and (a)(3)(ii) of the proposed rule provide that the money market fund must maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. This provision imposes an obligation on the directors of the fund, as a part of their fiduciary duties, to ascertain that the fund is maintaining an average portfolio maturity that, given the then current market conditions, will permit it to maintain a stable price per share. During periods of greater volatility in the market, the board of directors should be aware of the greater difficulty in maintaining a stable price per share and should take steps to ensure that they are providing adequate oversight to the money market fund. In addition, the rule provides that in no event shall the fund maintain a dollar-weighted average portfolio maturity that exceeds 120 days. Should the disposition of a portfolio instrument or some market action cause the dollar-weighted average portfolio maturity to exceed 120 days, the board of directors is obligated to cause the fund to invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For purposes of computing the average portfolio maturity, instruments generally will be deemed to have a maturity equal to the period remaining until the date of maturity of the instrument noted on the face of the instrument. Certain variable or floating interest rate instruments, which are deemed to have a remaining maturity of one year or less for purposes of the rule,[20] may be treated as having a maturity other than that noted on the face of the instrument. Any such variable rate instruments that have demand features may be deemed to have a maturity equal to the longer of the period remaining until the next rate readjustment or the period remaining until the principal amount can be recovered.[21] Any such variable rate instruments that do not have a demand feature may be treated as having a maturity equal to the period remaining until the next calculation of the interest rate rather than the period remaining until the principal amount is due. Any such floating interest rate instruments

[11] This part of the definition has been extended beyond the usual definition of one year (365 days) to encompass securities, particularly government securities such as project notes, which are denominated as and intended to be "one year" notes but which occasionally are issued with maturities slightly longer than 365 days. (*See* Investment Company Act Release No. 11679, March 11, 1981.) This part of the definition is not meant to encompass securities which were originally issued and intended to be longer than "one year" instruments. Those instruments could be purchased by a money market fund relying on this rule only after they have 365 or fewer days remaining until maturity.

[12] Variable rate instruments are those instruments whose terms provide for automatic establishment of a new interest rate on set dates.

[13] *See* Investment Company Act Release No. 11679 (March 11, 1981) and application of Government Investors Trust (File No. 812–4859) filed April 9, 1981. This definition, which goes beyond a codification of orders issued, was expanded based upon the Commission's understanding that the volatility of such instruments would not be greater than the volatility of fixed interest rate instruments having a maturity equal to the readjustment period of the U.S. government guaranteed variable rate notes. However, the Commission's position is based entirely upon experience with Small Business Administration guaranteed debentures ("SBA notes") which are the only instruments currently falling within this category so far as the Commission is aware. Accordingly, the board of directors of a money market fund considering investment in any such instrument other than a SBA note should, as a part of their overall duty to supervise the operations of the fund to ensure stability, determine that it can expect the volatility of such notes not to differ materially from the volatility of fixed rate notes of the same quality. Moreover, the Commission will consider amendment of this or any other provision of the rule if market experience indicates that it is inappropriate to the rule's overall purposes.

[14] In theory, the existence of a demand feature alone should be sufficient to enable a fund to maintain a stable net asset value per share because the holder could receive the principal amount of the instrument in a short period of time regardless of market and creditworthiness changes. However, the Commission has insufficient evidence that (1) funds will exercise such a demand feature whenever interest rates increase or the creditworthiness of the issuer is reduced and (2) there is a market for such instruments and even if there is, whether it always evaluates the instrument at a price approximating its par value.

[15] Floating rate instruments are those instruments whose terms provide for automatic adjustments of their interest rates whenever some set interest rate changes.

[16] *See* application of Municipal Fund for Temporary Investment, (File No. 812–4970) filed September 15, 1981; and letter from Gerald Osheroff, Associate Director, Division of Investment Management to Joel T. Matcovsky, Merrill Lynch Asset Management, Inc., dated December 10, 1981.

[17] If the instrument were ever deemed to be of less than high quality, the fund either would have to sell the instrument or exercise the demand feature, whichever is more beneficial to the fund.

[18] Repurchase agreements may be regarded as securities issued by the entity promising to repurchase the underlying security at a later date. (*See* Securities Act Release No. 6351 (September 25, 1981), 46 FR 48637 (October 2, 1981) and Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979).) Therefore, a money market fund is generally prohibited by the provisions of section 12(d)(3) of the Act (15 U.S.C. 80a–12(d)(3)) from acquiring a repurchase agreement issued by a broker or dealer unless it structures the repurchase arrangement in accordance with the manner described in the Investment Company Act release, which is designed to ensure that the investment company's investment, including accrued interest earned, is fully collateralized. The same analysis may apply to portfolio instrument lending agreements.

[19] Money market funds investing in, or seeking to invest in, an instrument with a maturity not falling within one of the above-described categories would not be able to rely upon the rule, as proposed, to permit the use of either penny-rounding or the amortized cost valuation method. Individual applications for exemptive relief to permit investment in other types of instruments may of course be filed.

[20] *See* the discussion on Maturity of Portfolio Instruments, which sets forth the conditions that must be fulfilled in order for the maturity to be deemed a period other than until the maturity date noted on the face of the instrument.

[21] Because certain of such variable rate demand instruments may not be readily marketable, the demand notice period may be the shortest period during which the holder may practically expect to bear the market risk associated with the instrument.

with a demand feature that meet the conditions enumerated in the prior section of this release may be treated as having a maturity equal to the period remaining until the principal amount due on the instrument can be recovered through demand.[22] Repurchase agreements and portfolio instrument lending agreements shall be treated as having a maturity equal to the period remaining until the agreement is due to be executed.[23] Finally, although variable rate instruments with neither a U.S. government guarantee nor a demand feature may be purchased only if the period until the maturity date set on the face of the instrument is one year or less, the rule will permit, for purposes of determining the dollar-weighted average maturity of the entire portfolio under the rule, such instruments to be treated as having a maturity equal to the period remaining until the next readjustment of the interest rate, provided that the board determines that the new rate will cause the instrument to have a current market rate which approximates its par value.[24]

Quality of Portfolio Instruments

In addition to the above limitations on the maturity of the portfolio of a money market fund seeking to rely on the proposed rule, paragraphs (a)(2)(iv) and (a)(3)(iii) of the proposed rule contain conditions relating to the quality of portfolio instruments. The rule provides that each portfolio instrument must be denominated in United States dollars and must also be an instrument which: (1) The board has determined presents minimal credit risks to the fund; and (2) is rated "high quality" by a major rating service or, if the security is unrated, is determined by the board to be of comparable quality.

The board of directors may fulfill its obligation to determine that the fund purchase only portfolio instruments which present minimal credit risks in a number of ways. For example, the board could set forth a list of "approved instruments" in which the fund could invest, such list including only those instruments which the board had evaluated and determined presented minimal credit risks.[25] The board could also approve guidelines for the investment adviser regarding what factors would be necessary in order to deem a particular instrument as presenting minimal risks. The investment adviser would then evaluate the particular instruments proposed for investment and make only conforming investments. In either case, on a periodic basis the board should secure from the investment adviser and review both a listing of all instruments acquired and a representation that the fund had invested in only those approved instruments. The board, of course, could revise the list of approved instruments or the investment factors to be used by the investment adviser.

In order to fulfill the rule's requirement that the instruments be rated "high quality," the instruments, if rated, must have been given a rating by a major financing rating service such as Standard & Poor's Corporation, Moody's Investors Services or Fitch Investors Service that falls within the rating service's definition of "high quality."[26] Even if the board of directors believes that the rating service incorrectly rated the instrument or that because of changed circumstances the instrument is now of higher quality, this provision of the rule precludes a money market fund which is relying on the rule from investing in any rated instrument which does not have a "high quality" rating.[27]

If an instrument has received no rating from a major rating service, then, assuming that the board has found that it presents minimal credit risks to the fund, it would be a permissible investment under the rule, provided that the board also finds that the instrument is of "comparable quality" to that of instruments that are rated "high quality."[28] In making this finding the board of directors may establish guidelines for determining high quality and delegate to the investment adviser the responsibility of investigating the creditworthiness of the issuer and presenting its findings to the board for its approval.[29]

Liquidity of the Portfolio

While the proposed rule does not limit a money market fund's portfolio investments solely to negotiable and marketable instruments, money market funds, like all open-end management investment companies, are subject to limitations on restricted or illiquid securities. In Investment Company Act Release No. 5847 (October 21, 1969) ("Release 5847") the Commission set forth its view that, because an open-end company has an obligation to value its portfolio correctly and to satisfy all redemption requests within the statutorily prescribed period, it must limit its acquisition of restricted securities and other securities not having readily available market quotations to the extent necessary to ensure that it can fulfill its obligations. In addition, the Commission took the

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[22] If the board determined that a demand instrument, either floating or variable rate, were no longer of high quality, the fund could not base its maturity on the period remaining until recalculation of the interest rate or on the demand period, but, as noted at footnote 17, *supra*, would have to exercise the demand feature or sell the instrument, whichever is more beneficial to the fund.

[23] Although repurchase agreements ("repos") will be treated as having a maturity based upon the length of the agreement and not the maturity of the instruments which serve as collateral, the board of directors should be aware of the risks involved with the purchase of repos that are collateralized by securities with remaining maturities of greater than one year. If the issuer of the repo should default, the security serving as collateral would become a part of the money market fund's portfolio. Securities with longer maturities generally have greater volatility and thus would expose the fund to a greater risk of an unstable price per share. Moreover, the security would not satisfy the provisions defining permissible portfolio instruments. Therefore, the Commission would take the position that such a security should be disposed of as soon as possible. The same analysis would apply to transactions where the money market fund loans portfolio securities and securities having maturities of greater than one year are received as collateral for the loan. If the borrower defaults, the fund would be left with securities which would not meet the provisions of the rule.

[24] This provision reflects a slight expansion of the relief given through exemptive orders, which required periods of renegotiation to be 30 days or less and the remaining maturity of the instrument to be 120 days or less. (Investment Company Act Release No. 11679, March 11, 1981.)

[25] The Commission envisions that the investment adviser would provide the board with the data to evaluate the instruments and make its assessment.

[26] Using bonds as an example, Standard & Poor's, Fitch and Moody's define "high quality" for bonds to be those instruments which receive an AAA or AA (Aaa or Aa) rating. Therefore, a money market fund seeking to rely on this rule could invest only in bonds which were rated AA (Aa) or better.

[27] However, a rated instrument that is subject to some external agreement (such as a letter of credit from a bank), where such external agreement was not considered when the instrument was given its rating, for purposes of this rule, will be considered an unrated security. The Commission believes that agreements such as letters of credit can significantly affect the credit risk associated with an instrument. Therefore, since the security may have significant aspects which are not included in the rating, it is appropriate to consider a security subject to an external agreement, as an unrated security, and thus permit the board to determine whether the instrument, taking into account the external agreements, is of comparable quality. If the board were to consider an external agreement as a basis for judging the quality of an underlying security, that external agreement would have to be unconditional and have terms coextensive with those of the underlying security. Moreover, the instrument could not be judged to be of better quality than that of comparable debt securities of the issuer of the external agreement. It should be noted, however, that if the rating service included the external agreement in its calculation of the rating, the instrument will be regarded as a rated instrument, regardless of the board's concurrence with the rating.

[28] As noted above, provided that certain conditions are met, third party agreements may be analyzed in evaluating whether an instrument is of sufficient quality.

[29] Like the procedures discussed above regarding the board's fulfilling its obligation to determine that the fund purchase only portfolio instruments which present minimal credit risks, the rule would permit the board to approve the purchase before it is made or, if appropriate guidelines are set, after the purchase is made.

position that, in light of those obligations, in no event should the percentage of such securities exceed ten percent of the company's net assets. Therefore, money market funds relying on the rule, like any other open-end management companies, must limit their portfolio investments in illiquid instruments [30] to not more than ten percent of their net assets.[31] However, because of the nature of money market funds, the difficulties that could arise in conjunction with the purchase of illiquid instruments by such funds might be even greater than for other types of open-end management investment companies. Therefore, the board of directors of a money market fund relying on the rule may have a fidiciuary obligation to limit further the acquisition of illiquid portfolio investments.

While the Act requires only that an investment company make payment of the proceeds of redemption within seven days,[32] most money market funds promise investors that they will receive proceeds much sooner, often on the same day that the request for redemption is received by the fund. In addition, most money market funds, because they are primarily vehicles for short-term investments, experience a greater and perhaps less predictable volume of redemption transactions than other investment companies. Thus, a money market fund must have sufficient liquidity to meet redemption requests on a more immediate basis. By purchasing or otherwise acquiring illiquid instruments, a money market fund exposes itself to a risk that it will be unable to satisfy redemption requests promptly.

In addition, as set forth in Release 5847, the management of the investment company's portfolio could also be affected by the purchase of illiquid instruments. If the investment company found that it would have to sell portfolio instruments in order to satisfy redemptions, it might sell marketable securities which it would otherwise wish to retain in order to avoid selling non-negotiable instruments or other illiquid instruments through some alternative means, since the sale of such non-negotiable or illiquid securities would necessitate the money market fund's accepting a reduced price. The judgment as to which securities would be retained would no longer be based upon comparative investment merit. Therefore, the board of directors has a particular responsibility to ensure that when a money market fund purchases or acquires illiquid instruments, such instruments will not impair the proper management of the fund.

Finally, the purchase of illiquid instruments can complicate the valuation of a money market fund's shares and can result in the dilution of shareholders' interests. If illiquid instruments which were valued at amortized cost were disposed of at a reduced price, then, in retrospect, the net asset value of the money market fund would have been overstated. Similarly, if illiquid instruments were valued at a discounted value (to compensate for the possibility that they may have to be disposed of prior to maturity), but were held to maturity and thus yielded their full value, the net asset value of the money market fund would have been understated. Regardless of the types of instruments purchased, the board of directors of a money market fund is under the same obligation to ensure that the price per share correctly reflects the current net asset value per share of the fund. Therefore, when a fund purchases illiquid instruments, the board of directors has a fiduciary duty to see that the fund is operated in such a manner that the purchase of such instruments does not materially affect the valuation of the fund's shares.

Obligation of the Board to Maintain Stable Price

A money market fund that describes itself in its prospectus as having or seeking to maintain a stable price per share through portfolio management and use of a special pricing or asset valuation method has an obligation to the shareholders to continue the chosen method so long as it is consistent with the provisions of the Act, until shareholders are notified of a change in policy. The Commission believes that where a money market fund adopts either the valuation or pricing method under the proposed rule to enhance its ability to maintain a stable price it has a heightened responsibility to shareholders to maintain that stable price. Accordingly, under paragraphs (a)(2)(i) and (a)(3)(i) of the proposed rule, the board of directors of a money market fund wishing to use either penny-rounding or the amortized cost valuation method has a particular obligation to assure that the fund is managed in such a way that a stable price will be maintained.

For a fund seeking to use the amortized cost valuation method, the board of directors has a responsibility to establish procedures reasonably designed to stabilize the fund's price per share. For a fund seeking to use the penny-rounding method, the board of directors has a responsibility, through its supervision of the fund's operations and delegation of special responsibilities to the investment adviser, to assure, to the extent reasonable practicable, that the money market fund's price per share remains stabilized at one dollar.[33]

Testimony by witnesses from the investment company industry presented at the hearings on the original applications for amortized cost valuation alleged that with the limitations on quality and length of maturity provided, short of extraordinarily adverse conditions in the market, a money market fund that is properly managed should be able to maintain a stable price per share.[34] The orders granting exemptive relief and this rule, which codifies those orders, are premised on that representation. Therefore, there is a strong presumption that if a money market fund relying on this rule is unable to maintain a stable net asset value per share, and this is not due to highly unusual conditions affecting the money markets in general, the board of directors has not fulfilled its obligation to ensure that the fund is properly managed.

Monitoring the Fairness of the Valuation or Pricing Method

In addition to the restrictions on the types of portfolio investments that may be made, the provisions of the proposed rule impose obligations on the board of directors to assess the fairness of the valuation or pricing method and take

[30] Illiquid instruments, in this context, would encompass any instrument which cannot be disposed of promptly and in the usual course of business without taking a reduced price. This would include repurchase agreements for greater than seven days, non-negotiable instruments, and instruments for which no market exists.

[31] In the event that changes in the portfolio or other events cause the investments in illiquid instruments to exceed ten percent of the fund's net assets, the fund must take steps to bring the aggregate amount of illiquid instruments back within the prescribed limitations as soon as reasonably practicable. However, this requirement generally would not force the fund to liquidate any portfolio instrument where the fund would suffer a loss on the sale of that instrument.

[32] Section 22(e) of the Act (15 U.S.C. 80a-22(e)).

[33] The proposed rule mandates that the board act in some specific ways to fulfill its responsibility to ensure a stable price: having the fund maintain an appropriate dollar-weighted average maturity and permitting the fund to invest only in instruments which present a minimal credit risk and are of high quality. Thus, for example, it appears that the board of directors should, absent extenuating circumstances, cause the money market fund to dispose of any security as soon as practicable, should the quality of that instrument fall below "high quality." *See also* footnote 17, *supra*.

[34] Proceedings before the Securities and Exchange Commission in the Matter of InterCapital Liquid Asset Fund, Inc., *et al.*, 3-5431, December 20, 1978 at 1414.

appropriate steps to ensure that shareholders always receive their true proportionate interest in the money market fund. Paragraph (a)(1) of the proposed rule provides that the board of directors of each money market fund relying on the rule must determine that, absent unusual circumstances, the valuation or pricing method selected will fairly reflect the value of each shareholder's interest in the fund. That finding must be made prior to the implementation of the selected method, and the board must continue thereafter to believe that the method is fair.[35] Moreover, the minutes should reflect the findings and include the factors that were considered by the board and the board's analysis of those factors in reaching its conclusion. There would be an obligation on the board to discontinue the use of the selected valuation or pricing method if it ceased to reflect fairly each shareholder's interest. In such case, the fund's current price and net asset value per share would ordinarily have to be determined in conformance with the provisions of section 2(a)(41) of the Act and rules 2a–4 and 22c–1 thereunder.

In addition to the general obligation to assess the fairness of the valuation or pricing system, paragraph (a)(2)(ii) of the proposed rule requires the board of a money market fund relying on this rule and using the amortized cost method of valuation to adopt procedures to monitor the deviation between the per share net asset value based on the market value of the portfolio ("market-base value") and the price per share computed from a net asset value per share calculated using the amortized cost valuation of the portfolio and to maintain a record of such review. The rule does not prescribe specific intervals for such monitoring; however, the board must select intervals that are reasonable in light of current market conditions. During periods of high market volatility, this requirement may necessitate that the deviation between such market-based value and price be monitored on a daily basis. During periods of lower volatility, it may be reasonable to monitor such deviation less frequently. The reviews should be frequent enough so that the board may become aware of changes in the market-based per share net asset value before they become material. In determining the market-based value of the portfolio for purposes of computing the amount of deviation, all portfolio instruments, regardless of their length of maturity, should be valued based upon market factors and not their amortized cost value.[36]

In the fund's determination of the market-based value of each instrument, the Commission will not object if the fund, with the approval of its board, uses actual quotations or estimates of market value reflecting current market conditions chosen by the board in the exercise of its discretion to be appropriate indicators of value, or if the fund uses values obtained from yield data relating to classes of money market instruments by reputable sources, provided that certain minimum conditions are met. Any pricing system based on yield data for selected instruments used by a fund must be based upon market quotations for sufficient numbers and types of instruments to be a representative sample of each class of instrument held in the portfolio, both in terms of the types of instruments as well as the differing quality of the instruments. Moreover, the fund must periodically check the accuracy of the system. If the fund uses an outside service to provide this type of pricing for its portfolio instruments, it may not delegate to the provider of the service the ultimate responsibility to check the accuracy of the system.

The rule does not include a specific requirement that a money market fund using the penny-rounding method monitor the market-based value of its shares because such market-based valuation generally is itself the basis for the calcualtion of the per share net asset value upon which the price per share is computed. However, where a penny-rounding money market fund uses the amortized cost method to value portfolio instruments with remaining maturities of 60 days or less,[37] monitoring the deviation between the net asset value per share calculated using the market based value of all its portfolio instruments and its price per share may be necessary in order for the board to fulfill its responsibility to oversee the use of the penny-rounding method. If the price per share obtained through penny-rounding does not fairly represent each shareholder's interest in the fund, the board is obligated to use another pricing system which does fairly reflect each shareholder's interest. Particularly in a volatile market if a penny-rounding fund were to use amortized cost valuation for a material portion of its portfolio, monitoring of actual market values would be necessary in order for the board to make a determination regarding the current fairness of prices obtained under the penny-rounding method. Moreover, the board's obligation to assure that the money market fund is maintaining an appropriate dollar-weighted average maturity to ensure stability may require that the per share net asset value based upon the market value of all the fund's portfolio instruments be monitored in order for the board to make a reasonable determination whether the maturity must be changed to ensure stability. The money market fund should retain a written record of any monitoring and the frequency of such monitoring should be appropriate in light of current market conditions.

Obligation of the Board to Take Action to Stabilize Net Asset Value Per Share

Pursuant to paragraph (a)(2)(i) of the proposed rule, the board of directors of a money market fund using the amortized cost method must establish procedures reasonably designed, taking into account current market conditions and the fund's investment objectives, to stabilize the fund's per share net asset value at one dollar. While the proposed rule does not mandate the specific content of the procedures other than as set forth in paragraph (a)(2)(ii), described below, the procedures must be in writing (paragraph (a)(2)(v)) and should provide for action on the part of the investment adviser or the board of directors to ensure that the per share net asset value remains stable. Examples of types of procedures that boards may wish to consider adopting are: (1) "Early warning systems" whereby the board establishes a procedure requiring the investment adviser to inform the board, and the board to meet and consider what action is appropriate to take, whenever the per share net asset value of the fund, based upon market based valuations, falls below or rises above some predesignated level; and (2) procedures which require the investment adviser to modify its portfolio purchases in specified ways as market conditions change. Although the rule gives the board of directors some

[35] This requirement was not explicitly listed as a condition of the prior exemptive orders; however, the obligation existed as a result of: (1) The general obligation of a board to value portfolio instruments at fair value, which would cause the net asset value per share to fairly reflect each shareholder's interest, and (2) the specific condition of the orders that required the board to take action to eliminate any potential for dilution or unfair results by taking corrective actions, which might include ceasing to use the amortized cost valuation method.

[36] Release 9786 set forth the Commission's position that it would not object to a board of directors determining, in good faith, that it was appropriate for a money market fund to value securities with less than 60 days remaining until maturity at amortized cost, unless the particular circumstances dictate otherwise. The impact of that release was to obviate the necessity of exemptive relief for such valuation; that release, however, does not affect the monitoring procedures under this proposed rule.

[37] *See* footnote 36, *supra*.

discretion regarding what types of procedures they wish to establish to ensure stability, the procedures adopted must satisfy the board's responsibilities undertaken in connection with selecting the valuation method.

Paragraph (a)(2)(ii) of the proposed rule prescribes the minimum procedures that the board must adopt. These procedures include an obligation that, in the event that the deviation between market-based net asset value per share and amortized cost price exceeds 1/2 of 1 percent, the board of directors will promptly consider what action, if any, should be initiated by the board.[38] In fulfillment of that obligation, the Commission takes the position that it is inappropriate, and will not satisfy the condition, for the board of directors to determine that it need not take any action to stabilize the per share net asset value on the basis that the amount of deviation will be reduced over time by anticipated changes in the market or by the maturing of portfolio instruments. The Commission bases its position on the fact that the board has, by undertaking to establish procedures to stabilize the net asset value per share, obligated itself to take affirmative action to ensure stability. Because no one can know, with assurance, what will happen in the market in the future, or at what point the fund might experience a large increase in redemptions, the Commission believes that a decision not to take any action to reduce the deviation, based upon a believe that market action or maturation of portfolio instruments will reduce the deviation, is not an action reasonably designed to ensure stability.

The board is required additionally to take such action as it deems appropriate whenever it believes that the amount of deviation may result in material dilution or other unfair results to investors or existing shareholders.[39] The rule neither specifies what actions the board must take, or lists, as orders of exemption have, possible courses of action. However, there are a variety of methods to reduce the deviation, including: adjusting dividends; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of the money market fund; or redeeming shares in kind.[40]

In any event, as provided in paragraph (a)(1) of the proposed rule, if the board were ever to determine that the deviation was such that it could no longer conclude that the amortized cost price fairly reflected the value of each shareholder's interest in the fund, because of the possibility of dilution or other unfair results, it would have to discontinue use of the amortized cost method of valuation and calculate its price per share in accordance with the provisions of the Act and rules thereunder.[41] It should be noted, however, that the board of directors must undertake, as a fiduciary duty, the responsibility of establishing procedures designed to preclude the necessity for such a switch in valuation methods.

Although the proposed rule does not prescribe the specific actions that the board of directors of a fund using the penny-rounding method must take at a given time to assure that the price per share does not fluctuate, the rule explicitly imposes an obligation on the board to operate the fund in such a manner and, therefore, take action, to preclude a change in the price per share. As the net asset value per share begins to move away from one dollar, the board should consider, among other things, altering the average portfolio maturity or the quality of instruments purchased to stablize the current price per share at one dollar.

With the penny-rounding method, if the net asset value[42] ever fell below .9950 or rose above 1.0050, the fund would have to change its price per share to .99 or 1.01, respectively, or would have to cease to use the penny-rounding method and calculate its price to at least a tenth of a cent. However, under the conditions of the proposed rule, a fund may have to so adjust its price under another circumstance. As noted in Release 9786, a fund using penny-rounding may, if the board deems it appropriate, value portfolio securities with less than 60 days until maturity at amortized cost. If the deviation between the amortized cost value of those securities and their current market value were such that the per share net asset value of all the fund's portfolio, rounded to the nearest cent, did not fairly reflect each shareholder's interest in the fund, then pursuant to paragraph (a)(1) of the rule the fund would have to cease to price its shares at one dollar.

Record of Actions Taken to Stabilize Price

Under paragraph (a)(2)(v) of the proposed rule a money market fund using the amortized cost method must maintain a written record that documents the board's compliance with its obligation to consider and take action where mandated. The rule provides that the documentation, which should include a discussion of all instances where the board considered whether action should be taken and what actions were initiated, must be included in the minutes of the board of directors' meetings and must be preserved for six years. Such documentation must also be made available for inspection by the staff of the Commission. In addition, pursuant to paragraph (a)(2)(vi), if any action is taken pursuant to paragraph (a)(2)(ii)(B) of the rule the board of directors shall cause the fund to file quarterly, as an attachment to Form N–1Q, a statement describing with specificity the circumstances surrounding the action and the nature of action taken. This provision of the proposed rule is a slight departure from the existing orders in that it requires funds to make a filling only if some action was taken.[43] The Commission believes that the modified filing requirement, in conjunction with the board's monitoring, will provide adequate controls over the use of the amortized cost valuation method and is in accord with the purposes of new

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[38] In determining whether the deviation exceeds 1/2 of 1 percent, the market-based per share net asset value must be calculated to the nearest one-hundredth of a cent on a share value of one dollar with no rounding. Therefore, where a fund has an amortized cost price of $1.00, a market-based net asset value per share of .99500 would not be considered as exceeding the 1/2 of 1 percent mark but a value of .99499 could not be rounded up and thus the deviation would be considered to exceed this benchmark.

[39] It should be noted that this requirement of the rule does not depend upon a determination that the deviation *will* result in material dilution, only that it *may*. Because the Commission deems a deviation of 1/2 of 1 percent to be a material amount, under all but highly unusual circumstances, the Commission would find that a deviation exceeding 1/2 of 1 percent *may* result in material dilution or other unfair results to shareholders. Thus, it is unlikely that a board of directors could, in conformance with the provisions of the rule, make a finding that no action was necessary when the deviation reached that level. Moreover a board may find that the possibility of material dilution exists when the deviation is less than 1/2 of 1 percent. In such an event, the board would also be obligated to take corrective action.

[40] The Commission is not proposing to codify such examples in order to avoid any implication that other actions would be inappropriate.

[41] Even without this provision of the rule, the board of directors has an obligation to discontinue a pricing method that does not fairly reflect the value of the fund's securities. As set forth in Release 9786, section 2(a)(41) requires the board of directors to value the fund's assets at fair value as determined in good faith.

[42] The net asset value must be calculated using market-based values for all instruments other than those with less than 60 days until maturity, which generally may be valued at amortized cost, unless particular circumstances dictate otherwise. *See* footnote 36, *supra*.

[43] The existing orders require a quarterly filing stating whether or not any action was taken. In order to eliminate differential treatment, the Division will not recommend that the Commission take any action against a fund if it continued to rely on its individual exemptive order but followed the N–1Q reporting requirement contained in the rule.

provisions regarding the filing of N–1Q's and the reduced paperwork burdens thereof.[44]

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the rule proposed herein will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to the release.

Text of Proposed Rule

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended by adding new § 270.2a–7, as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

§ 270.2a–7 Use of the amortized cost valuation and penny-rounding methods by certain money market funds.

(a) The current price per share, for purposes of distribution, redemption and repurchase, of any redeemable security issued by a registered investment company (hereinafter referred to as a money market fund), notwithstanding the requirements of section 2(a)(41) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(41)) and of rule 2a–4 (17 CFR 270.2a–4) and rule 22c–1 (17 CFR 270.22c–1) thereunder, may be computed either by use of the amortized cost method of valuation or by use of the penny-rounding method of pricing; *Provided,* That:

(1) The board of directors of the money market fund (trustees in the case of a trust) determines, in good faith based upon a full consideration of all material factors, that, absent unusual circumstances, the valuation or pricing method selected will fairly reflect the value of each shareholder's interest in the money market fund and that the money market fund will continue to use such method only so long as the board of directors believes that it fairly reflects the value of each shareholder's interest; and either

(2) In the case of a money market fund using the amortized cost method of valuation:

(i) In supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors (trustees) undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the money market fund's investment objectives, to stabilize the money market fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at one dollar;

(ii) Included within the procedures to be adopted by the board of directors (trustees) shall be the following:

(A) Review by the board of directors (trustees), as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the current net asset value per share as determined by using available market quotations from the money market fund's amortized cost price per share, and maintenance of records of such review.

(B) In the event such deviation from the money market fund's amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors (trustees) will promptly consider what action, if any, should be initiated by the board of directors (trustees), and

(C) Where the board of directors (trustees) believes the extent of any deviation from the money market fund's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results;

(iii) The money market fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; *Provided, however,* That the money market fund will not (A) purchase any instrument with a remaining maturity of greater than one year, or (B) maintain a dollar-weighted average portfolio maturity which exceeds 120 days;

(iv) The money market fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors (trustees) determines present minimal credit risks and which are of "high quality" as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by the board of directors (trustees);

(v) The money market fund will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph (a)(2)(i) above and the money market fund will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' (trustees') considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' (trustees') meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act (15 U.S.C. 80a–30(b)) as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act (15 U.S.C. 80a–30(a)); and

(vi) If any action was taken pursuant to paragraph (a)(2)(ii)(C) above, the money market fund will file a statement describing with specificity the nature and circumstances of such action within 30 days after the close of each calendar quarter during which such action was taken; or

(3) In the case of a money market fund using the penny-rounding method of pricing:

(i) In supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors (trustees) undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting the money market fund's investment objectives, that the money market fund's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar;

(ii) The money market fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; *Provided, however,* That the money market fund will not (A) purchase any instrument with a remaining maturity of more than one year, or (B) maintain a dollar-weighted

[44] *See* Securities Act Release No. 6366 (December 16, 1981), 46 FR 62246 (December 23, 1981).

average portfolio maturity which exceeds 120 days; and

(iii) The money market fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors (trustees) determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors (trustees).

(b) *Definitions.* (1) The "amortized cost method of valuation" is the method of calculating an investment company's current net asset value whereby portfolio securities are valued by reference to the fund's acquisition cost as adjusted for amortization of premium or accumulation of discount rather than by reference to their value based on current market factors.

(2) The "penny-rounding method of pricing" is the method of computing an investment company's price per share for purposes of distributing, redemption and repurchase whereby the current net asset value per share is rounded to the nearest one cent based on a share value of one dollar.

(3) The maturity of an instrument shall be deemed to be the period remaining until the date noted on the face of the instrument as the date on which the principal amount owed must be paid, except that:

(i) If the board of directors (trustees) has determined that whenever a new interest rate on a variable or floating rate instrument is established it will then cause the instrument to have a current market value which approximates its par value, (A) an instrument that is issued or guaranteed by the United States government or any agency thereof which has a variable rate of interest readjusted no less frequently than annually may be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate; (B) an instrument which has a demand feature that entitles the holder to receive the principal amount of such instrument upon no more than seven days' notice and which has a variable rate of interest may be deemed to have a maturity equal to the longer of the period remaining until the interest rate will be readjusted or the period remaining until the principal amount owed can be recoverd through demand, *Provided* That the board of directors (trustees) determines no less frequently than quarterly that the instrument is of high quality; (C) an instrument which has a variable rate of interest may be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate, *Provided* That the period remaining until the date noted on the face of the instrument as the date on which the principal amount owed must be paid is one year or less; (D) and instrument which has a demand feature that entitles the holder to receive the principal amount of such instrument upon no more than seven days' notice and which has a floating rate of interest may be deemed to have a maturity equal to the period of time remaining until the principal amount owed can be recovered through demand, *Provided* That the floating interest rate is adjusted concurrently with any change in an identified market interest rate to which it is pegged and the board of directors (trustees) determines (*1*) that such floating rate feature will ensure that the market value of such instrument will always approximate its par value, and (*2*) no less frequently than quarterly that the instrument is of high quality; and

(ii) A repurchase agreement of portfolio instrument lending agreement may be treated as having a maturity equal to the period remaining until the agreement is to be executed.

(4) "One year" shall mean 365 days except in the case of an instrument that was originally issued as a one year instrument but had up to 375 days until maturity one year shall mean 375 days.

(Sec. 6(c) (15 U.S.C. 80a–6(c)), 22(c) (15 U.S.C. 80a–22(c) and 38(a) (15 U.S.C. 80a–37(a)) of the Act)

By the Commission.

George A. Fitzsimmons,

Secretary.

February 1, 1982.

Regulatory Flexibility Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 2a–7 under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.], set forth in Investment Company Act Release No. IC–12206, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the proposed rule provides an exemption from certain of the Investment Company Act's provisions for certain investment companies and therefore will reduce or have no effect on the costs involved in preparing and filing documents with the Commission.

Dated: January 29, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82-3150 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM82–13]

Collection of Cost of Service Information

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission requests comment on the use of the data filed by electric utilities under section 133 of the Public Utility Regulatory Policies Act of 1978 and whether the data reported is duplicative of other Federal and state reports. Interested parties are also invited to suggest alternatives to, or revisions of, the regulations which would carry out the purpose of section 133 in a less burdensome manner.

DATE: Comments must be filed by not later than March 31, 1982.

ADDRESS: An original and fourteen copies of all comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. (Reference Docket No. RM82–13.)

FOR FURTHER INFORMATION CONTACT:

Daniel G. Lewis, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 376–9227

Michael R. Postar, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033

SUPPLEMENTARY INFORMATION:

Issued: January 29, 1982.

In the matter of collection of cost of service information Under section 133 of the Public Utility Regulatory Policies Act of 1978 (Docket No. RM82–13), notice of inquiry.

By this Notice, the Federal Energy Regulatory Commission (Commission) is soliciting information relating to its regulations (18 CFR Part 290) that implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA)[1]. Comments are requested on: (1) The use of the data collected and reported under those regulations; (2) whether those regulations duplicate other Federal and state reporting requirements; and (3) suggested alternatives to, or revisions of, the regulations which would carry out the

[1] 16 U.S.C. 2601–2645 (1978).

purpose of section 133 in a less burdensome manner.

I. Background

Section 133 of PURPA requires electric utilities to file cost and load data with the Commission and the states. Congress directed the commission to prescribe the methods, procedures, and format to be used by electric utilities in gathering the information described in this section. Congress intended by this section "* * * that good information with regard to costs of providing service must be readily available on a timely basis to everyone."[2]

On June 5, 1979, the Commission issued a final rule implementing section 133 of PURPA.[3] Approximately 260 electric utilities are presently required to file cost and load data under the regulations. Electric utilities with annual retail sales in excess of 1 billion kilowatt-hours, constituting nearly two-thirds of the affected electric utilities, were required to make an initial filing of the data by November, 1980, and biennially thereafter. Electric utilities with smaller annual retail sales were permitted to make their initial filing not later than June 30, 1982, coincident with the second report of the larger utilities.[4]

The cost to utilities of complying with the regulations under section 133 has been a continuing concern of the Commission and the Congress. In addition, on September 14, 1981, the GAO issued a report[5] recommending that the Commission—

> Review and, as appropriate, revise its regulations for implementing section 133 in order to reduce the cost and burden on utilities. In doing so, FERC should, before the next filings are due,
>
> —Review the extent to which data collected under section 133 duplicates other data submitted to the Federal Government,
>
> —Assess whether the number of utilities required to comply with section 133 should be reduced in terms of size, number of utilities reporting per state, etc., and
>
> —Determine whether the data is actually being used by the parties for which it was intended and whether the benefits received from use of the data outweigh the costs.

The purpose of this Notice of Inquiry is to obtain information to aid the Commission in its reexamination of the costs and benefits of its regulations under section 133.

II. Subjects of Inquiry

This Notice of Inquiry is designed to ascertain whether the information contained in the section 133 reports have been employed to further the purposes of PURPA and or have otherwise been used in the regulation of electric utilities. The Commission also seeks comment on whether Part 290 of the Commission's regulations requires utilities to file duplicative information and suggested alternatives to, or revisions of, Part 290 which would carry out the statutory purpose in a less burdensome way. Comment should address the financial impact of the reporting requirements under Part 290. Comments on the following subjects is specifically requested.

A. Use of Reported Information

1. The Commission solicits information on how the information contained in the following sections of the Commission's contained in the following sections of the commission's regulations has been employed in regulatory proceedings: (a) Accounting costs, §§ 290.201–205, (b) marginal costs, §§ 290.301–308, (c) load data, §§ 290.401–406; (d) calculated costs, §§ 290.501–502.

2. Specifically, how useful has this data been in the implementation of PURPA sections 111 and 210 or other sections of PURPA, in retail or wholesale rate cases, and in "Need for Power" proceedings, *i.e.*, applications for new generation facilities?

3. Are marginal costs or load data necessary to assess the cost-effectiveness of investment and pricing actions designed to affect future load characteristics?

4. Should the Commission independently ascertain the accuracy of information submitted under Part 290 of the Commission rules, or should states verify the data at the time the data is used?

5. Are there data requirements under Part 290 which have no practical applications to particular utilities because of special operating or geographic environments?

6. What criteria should the Commission employ in determining whether specific reporting requirements of Part 290 are inappropriate for a particular utility, class of utilities or utilities within a particular state or region?

B. Cost of Compliance

Utilities are requested to describe the costs of collecting, processing and analyzing the load data, as follows: initial investment in hardware (*e.g.*, purchase and installation of metering equipment or computers which are used mainly for section 133 compliance work), and variable costs of continued compliance (on a calendar year basis, if possible).

C. Duplicative Reporting Requirements

The Commission solicits information on three aspects of information collected under section 133:

1. To what extent is the section 133 information duplicative of other Federal or state reporting requirements?

2. What are the added costs of providing the information in section 133 which duplicates information elsewhere available, excluding the cost of photocopying? [6]

3. How might state authorities or interested parties benefit from requiring a utility to collect data which might be duplicative?

D. Alternatives to the Existing Requirements

The Commission also seeks information on practical alternatives to existing regulations.

What provisions of Part 290, including the threshold for applicability of the reporting requirements or the frequency of scheduled filings, are not likely to carry out the purpose of section 133? What revisions to these provisions would be appropriate in light of the statutory purpose of section 133?

III. Comment Procedure

The Commission invites all interested persons to submit comments, views and analyses on the questions presented in this Notice, including the practical effect that alternatives to the current requirements might have on both the interests of the commenter and on the implementation of PURPA.

An original and fourteen copies of all comments must be submitted not later than March 31, 1982. Comments must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should indicate the name, title, mailing address and telephone number of the commenter. All

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[2] Joint Explanatory Statement of the Committee of Conference, House Conference Report No. 95–1750, 95th Cong. 2d Sess. 86 (1978).

[3] Final Regulations, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978 "(Docket No. RM79–6), issued June 5, 1979, 44 FR 33847 (June 13, 1979), *codified at* 18 CFR Part 290. The rules were revised: Order No. 48, (Docket No. RM79–6), issued September 28, 1979, 44 FR 58687 (October 11, 1979), Order No. 48A, (Docket No. RM79–6), issued January 4, 1980, 45 FR 2023 (January 10, 1980); Order No. 48–B, (Docket No. RM79–6), issued August 7, 1980, 45 FR 54033 (August 14, 1980).

[4] 18 CFR 290.102(d), 44 FR 58687, October 11, 1979.

[5] "Burdensome and Unnecessary Reporting Requirements of the Public Utility Regulatory Policies Act Need to be Changed" at 20, September 14, 1981, EMD–81–105.

[6] The Commission currently helps avert such costs by accepting copies of portions of Form No. 1, in lieu of the section 133 requirements, for the same or similar data.

documents submitted must reference Docket No. RM82–13.

All comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, address above, during regular business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142; and the Public Utility Regulatory Policies Act of 1978, 16 U.S.C 2601–2645 (1978))

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3013 Filed 2-4-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF EDUCATION

34 CFR Parts 369, 370, 371, 372, 373, 374, 375, 378, and 379

Vocational Rehabilitation Service Projects

AGENCY: Department of Education.

ACTION: Notice of availability of draft notice of proposed rulemaking.

SUMMARY: Notice is given that a draft of the proposed regulations governing the Vocational Rehabilitation Service Projects under the Rehabilitation Act of 1973, is now available to the public. The regulations were published as final regulations with invitation to comment in the **Federal Register** on January 19, 1981 (46 FR 5416–5435) and became effective on March 30, 1981.

ADDRESS: Copies of this draft Notice of Proposed Rulemaking may be obtained by writing to: Mr. Charles Smolkin, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW, Room 3616, Switzer Office Building, Washington, D.C. 20202–2305.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Smolkin, Telephone: (202) 472–3796.

SUPPLEMENTARY INFORMATION: On March 27, 1981 (46 FR 19000–19002), the Secretary published a notice of his intent to review these final regulations for regulatory burden reduction and opportunities for deregulation.

On October 15, 1981 (46 FR 50809–50810), the Secretary published a notice stating that the regulations for the Vocational Rehabilitation Service Projects would be amended.

A draft Notice of Proposed Rulemaking is now available. The draft notice has not been officially adopted by the Department of Education and has no legal effect. The purpose of this announcement is to provide notice of the availability of the draft Notice of Proposed Rulemaking to all interested parties. It is not to solicit additional public comment on the regulations.

(Catalog of Federal Domestic Assistance No. 84.129, Vocational Rehabilitation Service Projects)

Dated: February 1, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3132 Filed 2-4-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2033-3]

Approval and Promulgation of Implementation Plans; State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On October 30, 1980 the State of Arizona submitted a request to extend the carbon monoxide (CO) attainment date for the Maricopa County Urban Plannng Area. EPA is proposing to approve this revision to the Arizona State Implementation Plan (SIP).

DATE: Comments must be received by April 6, 1982.

ADDRESSES: Written comments should be addressed to the EPA Region 9 Air Programs Branch (address below). Copies of the revision are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, S.W., Room 2404, Washington, D.C. 20460.

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

Maricopa Association of Governments, 1820 West Washington Street, Phoenix, AZ 85007

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8222

SUPPLEMENTARY INFORMATION: On October 30, 1980 the Governor's designee for the State of Arizona submitted a request to extend the CO attainment date for the Maricopa County Planning Area.

On September 14, 1981 EPA announced the availability of this revision and took final action to approve it. In that notice EPA advised the public that it was deferring the effective date of its approval for 60 days (until November 13, 1981). EPA announced that, if, within 30 days of the publication of the approval notice, EPA received notice that someone wished to submit adverse or critical comments, EPA would withdraw the approval and propose the action.

In the same **Federal Register** notice, EPA also approved a request to extend the CO attainment date for the Truckee Meadows Nonattainment Area as a revision to the Nevada SIP.

EPA also published a general notice announcing this special procedure on September 4, 1981 (46 FR 44476).

EPA has received notice that someone wishes to submit an adverse or critical comment on the Arizona SIP revision. Therefore, in accordance with the procedure described above, EPA is today proposing to approve the CO extension request submitted by the State of Arizona. A detailed description of the revision and EPA's rationale for approval are found at 46 FR 45605 (September 14, 1981). Interested persons are invited to submit comments on this proposed approval. EPA will consider all comments received within sixty days of the publication of this notice.

EPA did not receive notice from the public regarding the request to submit an adverse or critical comment on the approval of the revision to the Nevada SIP. Therefore, approval of the Nevada CO extension is effective on November 13, 1981.

Elsewhere in today's **Federal Register**, EPA is taking final action to withdraw its September 14, 1981 approval of the revision to the Arizona SIP for CO.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action, if approved, will constitute a SIP approval within the meaning of the January 27 certification. It imposes no new regulatory requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Secs. 10, 129, 172, and 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7429, 7502, and 7601(a)))

Dated: December 21, 1981.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-3043 Filed 2-4-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-5-FRL 2012-7]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This rulemaking changes the air quality attainment designation relative to the ozone National Ambient Air Quality Standard (NAAQS) for the Ft. Wayne Metropolitan Area, which includes Allen County in Indiana.

On October 5, 1978 (43 FR 45993), EPA designated Allen County nonattainment for the primary National Ambient Air Quality Standards (NAAQS) for ozone. EPA is proposing to designate Allen County attainment/unclassifiable for ozone. The purpose of this notice is to discuss EPA's review of the available monitoring data, to propose to change the attainment status of the above mentioned county, and EPA is today inviting public comments on this action.

DATES: Comments must be received on or before March 8, 1982.

ADDRESSES: Copies of the supporting air quality data are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Air Pollution Control Division, Indiana Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On October 5, 1978, pursuant to section 107 of the Clean Air Act (Act), EPA designated the following area Allen County, Indiana as nonattainment for the ozone National Ambient Air Quality Standards (NAAQS).

EPA's present policy on redesignation for ozone requires that three years of data when available be considered for each monitoring site. If less than three years of data are available, however, such data can be considered for purposes of redesignation. At least one full year of data, however, is necessary to accurately classify an area.

The "Guideline for the Interpretation of the Ozone Air Quality Standards" (EPA 450/4-79-003) and the December 7, 1979, Richard G. Rhoads memorandum to the Directors of the Air and Hazardous Materials Division, Regions I-X entitled "Criteria of Ozone Redesignations Under Section 107" further elaborate and clarify data requirements when designating an area for the ozone NAAQS and are available for inspection at the EPA offices previously mentioned.

Based on recent monitoring data, EPA today is proposing to redesignate Allen County, Indiana from nonattainment to attainment/unclassifiable for ozone.

To support this redesignation, on October 17, 1980, the State of Indiana submitted all available ozone ambient monitoring data for Allen County collected between 1978 and 1980. There are a total of four monitors in the area. The Fort Wayne Police Station's monitor was operated for the period from 1978 thru 1979. The maximum hourly ozone concentration observed at this site was 0.120 ppm. The second monitor, located at 2022 North Beacon, was operated at this site for a partial year during 1979. The highest observed ozone concentration was 0.113 ppm.

The third monitoring site, Woodland High School, had a single observed exceedance during 1980. The maximum hourly ozone concentration at this site was 0.130 ppm.

The fourth monitoring site, Fort Wayne Children's Home, had 2 observed exceedances of the ozone standard during its single year of operation in 1980. The maximum hourly ozone concentration was 0.131 ppm and the second highest concentration was 0.126 ppm. Thus the Fort Wayne Children's Home is the critial monitor, since it is the only monitor recording more than one concentration above the standard.

EPA is today proposing to redesignate Allen County as attainment/unclassifiable for ozone. EPA bases its proposed redesignations on two factors. First, although the data at the critical monitor show exceedances above the ozone standard, the exceedance is extremely marginal. As discussed in detail in the technical support document for this revision, the critical exceedance is only 0.002 ppm over the excursion cut-off level.

Second, section 107(d)(1)(B) authorizes EPA to base designations on projected air quality. (PPG Industries, Inc. v Costle, 630 F2d 462, 1980). EPA believes that the requirements of the Federal Motor Vehicle Control Program alone will be adequate to achieve attainment in Allen County.

For the above reasons, the EPA is redesignating Allen County attainment/unclassifiable. We will continue to review monitoring data submitted for this area and if a trend toward greater exceedances is observed, EPA will propose to redesignate the area as nonattainment.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but only changes area air quality designations. Any regulatory requirements which may become necessary as a result of this action will be dealt with in a separate action.

These regulations were exempted from review by the Office of Management and Budget (OMB) under section 3 of Executive Order 12291. Any regulatory requirement which may occur as a result of this action will be dealt with in a separate notice.

This Notice of Proposed Rulemaking is issued under the authority of Section 107 of the Clean Air Act, as amended.

Dated: December 14, 1981.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-3003 Filed 2-4-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1321

Grants for State and Community Programs on Aging; Deletion of Program Development and Coordination Activities as Allowable Social Services Costs

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The regulations implementing the Older Americans Act provide that the cost of program development and coordination activities are allowable social service costs. The proposed rule would change this provision so that the cost of program development and coordination activities would only be allowable as costs of area agency administration. This action is necessitated by reductions in funding resulting from projected budget decreases, as well as the effects of inflation. It is intended to ensure that this reduction is absorbed through a reduction of administrative costs rather than a reduction in the funding of direct social services to the elderly.

DATE: Comments must be received on or before March 8, 1982.

ADDRESSES: Address comments in writing to Commissioner on Aging, Administration on Aging, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, the public may review the comments submitted in response to this notice in Room 4639, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, between the hours of 9 a.m. and 4 p.m. Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Anita Shalit, (202) 472–3057.

SUPPLEMENTARY INFORMATION: The Older Americans Act (42 U.S.C. 3001 et seq.) was enacted in 1965. It has been amended nine times. The most recent amendments were enacted on December 29, 1981. New regulations, as needed, will be developed to implement this new legislation. The new amendments do not have an impact on the program revisions addressed in this Notice of Proposed Rulemaking. This proposed regulation is being isssued now in response to reductions in the budget for FY 1982.

Title III of the Older Americans Act provides formula grants to States for the purpose of providing social and nutrition services to the elderly. Emphasis is given to those elderly persons with greatest social or economic need. Under the Title III program, Part B concerns provision of social services to the elderly and Part C addresses nutrition services.

It is anticipated that the FY 1982 budget for Part B social services will be approximately $10,604,000 less than in FY 1981. In planning for this budget reduction, the Administration on Aging attempted to identify a strategy which would have the least harmful effect on direct services to the elderly. Available data indicate that in FY 1981 States expended approximately $49 million for program development and coordination activities as social services costs. These activities involve staff functions such as liaison with other agencies and organizations concerning needs of the elderly or services development. The Administration on Aging continues to view these functions as important activities in behalf of the elderly. However, by proposing the elimination of program development and coordination activities as allowable costs of social services, the Administration on Aging intends to assure that the budget reductions are absorbed in area agency administration rather than direct social services to the elderly.

The Older Americans Act (42 U.S.C. 3024(d)(1)(A)) and the Title III regulations at § 1321.199(b) permit States to use up to 8.5 percent of the combined Part B social services allotment and the Part C nutrition services allotment for paying the costs of administering area plans. The remainder is used for providing direct social and nutrition services for the elderly. Currently, States have the option of funding program development and coordination activities as social services costs at a Federal/State matching rate of 85/15, and as costs of administering area plans at a Federal/State matching rate of 75/25. (The Title III regulations have not provided for funding program development and coordination as allowable nutrition services costs.) Since program development and coordination continue to be vital functions of an area agency, this proposed regulation would allow the continued funding of program development and coordination, but only as a cost of administering area plans, and no longer as social services costs.

States currently expend approximately 6 percent, rather than 8.5 percent, of their social and nutrition services allotment for administering area plans. States now spending less than the maximum allowed for adminstering area plans may choose to increase these expenditures to the 8.5 percent level. We anticipate that this will help to offset some of the decreased funding of administrative activities that may result from the elimination of program development and coordination as allowable social services costs.

The proposed effective date of this regulation is April 1, 1982. This time frame provides for a 30 day public comment period. We also believe that an effective date of April 1, 1982 will facilitate achievement of the required budget savings for FY 1982 since States spend the bulk of their funds in the last half of the fiscal year.

Changes in the Regulations

(1) 45 CFR 1321.75 requires that each area plan provide for development of a comprehensive and coordinated service delivery system for social and nutrition services needed by elderly persons in the planning and service area. Section 1321.75(b) lists the service components of a comprehensive and coordinated service delivery system including (a) access services, (b) community services, (c) in home services, and (d) services to residents of care providing facilities. We propose to delete program development and coordination as an element of community services in § 1321.75(b)(2).

(2) 45 CFR 1321.103 prohibits State and area agencies on aging from directly providing services to elderly persons except where necessary to assure an adequate supply of the services. Section 1321.103(c)(2) enumerates the advocacy and service delivery activities which area agencies may directly provide as social services. We propose to delete program development and coordination from among this list of activities.

Impact Analysis

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that these proposed regulations are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Act of 1980.

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businessess. For each proposed rule with a "significant economic impact on a substantial number of small entities" an initial analysis must be prepared describing the proposed rule's impact on small entities. Consistent with the provisions of the Regulatory Flexibility Act, I hereby certify that this proposed rule will not have significant economic impact on a substantial number of small entities.

Recordkeeping and Reporting Requirements

Recordkeeping and reporting requirements will not increase as a result of the proposed regulation. These requirements may be decreased somewhat since State and area agencies on aging will account for program development and coordination only as area agency administrative costs.

(Title III, Older Americans Act (42 U.S.C. 3021 through 3030g). (Catalog of Federal Domestic Assistance Program Numbers: 13.633 Special Programs for Aging, Title III Parts A and B—Grants on Aging; 13.635 Special Programs for Aging, Title III Part C—Nutrition Services))

Dated: December 4, 1981.

Lennie-Marie P. Tolliver,

Commissioner on Aging.

Approved: December 4, 1981.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: January 20, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

Accordingly, it is proposed to amend 45 CFR Chapter XIII, Subchapter C as follows:

PART 1321—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

1. 45 CFR 1321.75(b)(2) is revised as follows:

§ 1321.75 Comprehensive and coordinated service delivery system.

* * * * *

(b) Service components of a comprehensive and coordinated service delivery system that may be funded under this part are—

* * * * *

(2) Services provided in the community, such as congregate meals, continuing education, health and health screening, legal services, advocacy, information and referral, individual needs assessment and service management, casework counseling and assistance (concerning taxes, financial problems, welfare, the use of facilities and services, preretirement or second career), day care, protective services, health screening, services designed for the unique needs of the disabled, emergency services, including disaster relief services, residential repair and renovation, physical fitness, and recreation services, services in helping to obtain adequate housing. Alteration, renovation, acquisition and, where permitted according to the provisions of § 1321.131, construction of facilities to be used as multipurpose senior centers, are community services for purposes of this part;

* * * * *

2. 45 CFR 1321.103(c)(2) is revised to read as follows:

§ 1321.103 Direct provision of services by State and area agencies.

* * * * * *

(c) *Test for adequate supply for services related to area agency statutory functions.*

* * * * *

(2) Services directly related to the statutory advocacy and service delivery functions of the area agency are those which must be performed in a consistent manner throughout the agency's jurisdiction. These services are: information and referral, outreach, advocacy, individual needs assessment and case management.

* * * * *

[FR Doc. 82-3041 Filed 2-4-82; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Docket No. 81-786; RM-3126; RM-3832]

Auditory Training Devices; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: The filing dates for comments and reply comments regarding the Notice of Proposed Rulemaking in General Docket 81-786, released December 14, 1981, concerning the use of auditory training devices are extended. Since notice of the proposed rules did not appear in the **Federal Register** until January 5, 1982 (47 FR 216) the original date of January 15, 1982 for filing comments was found not adequate to allow for meaningful comments.

DATES: The comment and reply comment dates have been extended to February 26, 1982 and March 20, 1982, respectively.

ADDRESS: Federal Communications Commission, Washington, D.C.20554.

FOR FURTHER INFORMATION CONTACT: Ronald Netro, (202) 653-8100, Office of Science & Technology 2025 M Street NW, Room 7002, Washington, D.C.20554.

SUPPLEMENTARY INFORMATION:

Adopted: January 20, 1982.

Released: January 21, 1982.

By delegated authority § 0.241(d).

1. On November 12, 1981, the Commission adopted a notice of proposed rulemaking regarding the above-captioned matter. Filing dates for comments and reply comments were specified as January 15, 1982 and February 1, 1982, respectively. Two requests for extension of these filing dates have been received.[1]

2. Although the Notice was released by the Commission on December 14, 1981, we note that notice of the proposed rules was not published in the **Federal Register** until January 5, 1982. In view of this delay and our desire to give adequate time for filing comments in this proceeding we find that sufficient cause exists to extend the filing dates.

3. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's rules and regulations, that the dates for filing comments and reply comments in the subject proceeding are February 26, 1982 and March 20, 1982, respectively.

Robert S. Powers,

Deputy Chief Scientist.

[FR Doc. 82-3044 Filed 2-4-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

South Atlantic Fishery Management Council; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The South Atlantic Fishery Management Council will hold a public hearing to allow for public input on a portion of the Draft Environmental Impact Statement/Fishery Management Plan for Coral and Coral Reefs.

DATES: Written comments on the full coral and coral reefs plan including this portion will be accepted until March 1, 1982. Individuals or organizations wishing to comment may do so at a public hearing to be held on February 25, 1982.

ADDRESSES: Send comments to: Chairman, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407; or Chairman Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West

[1] Torrad Enterprises, Inc. and the American Speech-Language-Hearing Association.

Kennedy Boulevard, Tampa, Florida 33609.

Hearing location: The hearing will be held at the Holiday Inn Surfside, 2700 N. Atlantic Avenue, Daytona Beach, Florida. The hearing will start at 7:30 p.m. and adjourn at 10:00 p.m. The hearing will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary of the hearing will be prepared.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407 (803) 571–4366.

SUPPLEMENTARY INFORMATION: The hearing will deal with a proposal to include coral reefs composed of *Oculina sp.* located at the edge of the Continental Shelf off central eastern Florida as a Habitat Area of Concern (HAPC) in the Fishery Management Plan for Coral and Coral Reefs (FMP). The geographic area of this proposal is 27°30′N to 28°35′N and 76°56′W to 80°02′W; an area 65 x 6n mi. or 390 mi ^{2}. In addition, the prohibition of the use of bottom trawls, fish traps, pots, and bottom longlines in this HAPC is under consideration.

Only this portion of the FMP is under consideration at this particular hearing. hearings on this particular FMP which did not include this proposal were held during January 1982.

Dated: February 1, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–3079 Filed 2–4–82; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 47, No. 25
Friday, February 5, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1981-Crop Upland Cotton: Determinations Regarding the Proclamation of the National Program Acreage (NPA) and Allocation Factor

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination of National Program Acreage and Program Allocation Factor for 1981 Crop of Upland Cotton.

SUMMARY: The purpose of this notice is to revise the national program acreage and determine the allocation factor for the 1981 crop of upland cotton. The national program acreage was originally announced as 14,021,538 acres on December 15, 1980 (45 FR 83643). The revised national program acreage is 12,837,577 acres. Based on the revised national program acreage, the allocation factor is 93 percent. These actions are taken in accordance with Sections 103(f)(7) and 103(f)(8) of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Acting Deputy Director, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington D.C. 20013, (202) 447–7954. This Notice of Determination serves as the impact statement.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "designated nonmajor." It has been determined that these provisions will not result in: (1) Major increases in costs or prices for consumers, individual industries, Federal, State, or local Government agencies or geographic regions; or (2) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based industries to compete with foreign-based enterprises in domestic or foreign markets. In addition, it has been detemined that while the provisions of this notice will not have an annual impact on the economy of $100 million or more, they could affect budget outlays substantially.

The title and number of the federal assistance program that this notice applies to are: Title—Cotton Production Stabilization, number—10.052, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

Section 103(f)(7) of the Agricultural Act of 1949, as amended, requires that the Secretary of Agriculture establish a national program acreage for the 1978 through 1981 crops of upland cotton. The national program acreage is the number of harvested acres the Secretary determine will be needed to product the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. The nations program acreage is based on the estimated weighted national average of farm payment yields and may be adjusted as the Secretary determines necessary to provide for an adequate but not excessive total supply of upland cotton for the marketing year for the crop for which such national program acreage is established. Section 103(f)(7) further provides that the Secretary may revise the national program acreage for the purpose of determining the allocation factor if he determines it necessary based on the latest available information. If the national program acreage is revised, the Secretry shall announce the revised national program acreage as soon as the revision has been made.

Section 103(f)(8) of the Agricultural Act of 1949, as amended, requires that the Secretary determine a program allocation factor for each crop of upland cotton. The allocation factor (not to exceed 100 percent) is determined by dividing the national program acreage by the number of acres which the Secretary estimates will be harvested for such crop.

A national program acreage of 14,021,538 acres was announced for the 1981 crop of upland cotton on December 15, 1980 (45 FR 83643). It is necessary to revise the national program acreage for the purpose of determining the allocation factor because estimates of domestic use, exports, carryover stocks, and the weighted national average of farm payment yields have changed since that time. Because the determinations of the national program acreage and allocation factor impact upon the calculations of deficiency payments for the 1981 crop of upland cotton, it is essential that this notice be made effective as soon as possible. Therefore, it is hereby determined that compliance with any further rulemaking requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Thus, this notice of determination shall become effective on January 29, 1981.

Accordingly, the revised national program acreage and the allocation factor for the 1981 crop of upland cotton are determined to be the following:

Determinations

1. *Revised national program acreage for the 1981 crop of upland cotton.* The national program acreage for the 1981 crop of upland cotton is hereby determined to be 12,878,391 acres. This determination is based on the following data:

(a) Estimated domestic use, 1981–82 (bales)	5,700,000
(b) Estimated exports, 1981–82 (bales)	7,000,000
(c) Minus estimated imports, 1981–82 (bales)	10,500
(d) Plus adjustment to increase carryover stocks (bales) [1]	1,886,000
(e) Subtotal (bales)	14,576,000
(f) Times pounds per bale	480
(g) Equals total pounds	6,996,480,000
(h) Divided by weighted national average of farm program yield (pounds per acre)	543
(i) Equals national program acreage	12,837,577

[1] The desirable level of ending stocks is 4,500,000 bales. Beginning stocks were 2,614,000 bales. Thus, the stock adjustment is 1,886,000 bales.

2. *Program allocation factor for the 1981 crop of upland cotton.* The program allocation factor for the 1981 crop of upland cotton is hereby determined to be 93 percent. This determination is based on the following data:

(a) National program acreage	12,837,577
(b) Divided by the estimated harvested acreage	13,761,800
(c) Equals program allocation factor (percent)	93

(Secs. 103 (f) (7) and (8), 91 Stat. 030 (7 U.S.C. 1444))

Signed at Washington, D.C., on January 28, 1982.

John R. Block,

Secretary.

[FR Doc. 82-2805 Filed 1-29-82; 4:19 pm]

BILLING CODE 3410-05-M

Forest Service

Adam's Rib Recreation Area; White River National Forest, Eagle County, Colorado; Revision of Notice of Intent To Prepare Environmental Impact Statement

A Draft Environmental Impact Statement (DEIS) for the proposed Adam's Rib Recreation Area was distributed to the public and filed with the Environmental Protection Agency on August 5, 1981.

The Notice of Intent published in the **Federal Register** in November 1980 gave the schedule for publication of the Final Environmental Impact Statement as October 1981. The revised schedule for publication of the Final Environmental Impact statement is May 1982.

Questions about the Environmental Impact Statement should be directed to Richard E. Woodrow, Forest Supervisor, White River National Forest, telephone, 303-945-2521.

Richard E. Woodrow,

Forest Supervisor.

January 26, 1982.

[FR Doc. 82-2999 filed 2-4-82; 8:45 am]

BILLING CODE 3410-11-M

Wayne National Forest Land and Resource Management Plan; State of Ohio; Intent To Prepare Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969 the Forest Service, Department of Agriculture will prepare an Environmental Impact Statement on the proposed Land and Resource Management Plan for the Wayne National Forest in Ohio.

The plan is being prepared in accordance with requirements of the Secretary of Agriculture's regulations developed pursuant to the National Forest Management Act of 1976. It will propose management direction for the natural and human resources within the proclamation boundaries of the Wayne National Forest.

The planning process will begin with the identification of public issues, management concerns, resource use, and development opportunities. Public participation has been an integral part of the planning process. Response forms, meetings, and other public involvement tools were used to identify and verify issues early in the planning process. Major new issues will be considered as they are identified during the planning process.

Planning criteria will be developed and data will be collected and analyzed to determine how the identified issues and concerns can best be resolved. An assessment of the capability of the land resource outputs and the determination of the public's future demands for these outputs will be made. Methods for resolving the identified public issues will be developed from this information and will be used to formulate alternatives.

Alternatives will display a range of resource outputs at several expenditure levels. Each alternative will represent a cost-effective combination of management practices which can best meet the objectives of the alternative. In addition, each identified major public issue will be addressed; each alternative will specify methods to maintain or enhance renewable resources; and a no-change alternative will be included.

A preferred alternative will be selected by ranking the alternatives according to their physical, biological, social, and economic effects. It will include the best combination of resource uses on the Forest and will also provide for a continuous monitoring and evaluation process.

A Draft Environmental Impact Statement (DEIS) and Draft Plan will be released around March of 1983. The Final Environmental Impact Statement (FEIS) and Land and Resource Management Plan will be released approximately seven months later.

Steve Yurich, Regional Forester, Eastern Region, is responsible for approval of the Forest plan. Harold Godlevski, Forest Supervisor of the Wayne National Forest, is the responsible official in charge of preparation and implementation of the plan. Further information about the planning process can be obtained by calling Robert K. Ballantyne, Forest Planner on the Wayne National Forest, at 812 275-5987. Written comments on this Notice of Intent should be directed to: Forest Supervisor, Wayne-Hoosier National Forests, 1615 J Street, Bedford, Indiana 47421.

Dated: January 27, 1982.

Jack L. Craven,

Acting Director of Planning, Programming and Budgeting.

[FR DOc. 82-3014 Filed 2-4-82; 8:45 am]

BILLING CODE 3410-11-M

Fremont National Forest Grazing Advisory Board; Meeting

The Fremont National Forest Grazing Advisory Board will meet at 10:00 A.M. On Friday, March 5, 1982 at the Forest Supervisor's Office, 34 North D Street, Lakeview, Oregon 97630. The purpose of this meeting is:

1. Discuss use of range betterment funds.

2. Review range allotment management planning.

The meeting will be opened to the public. Persons who wish to attend should notify Ralph B. Roberts, 34 North D Street, Lakeview, Oregon 97630, phone 947-2151. Written statements may be filed with the Board before or after the meeting.

The committee has established the following rules for public participation:

1. Must have pre-notice and placed on agenda.

2. Time limit will be announced at meeting.

3. May be oral or written.

4. General Public.

a. Open input on agenda items permitted.

b. May present topics or concerns if prearranged.

Dated: January 20, 1982.

John W. Chambers,

Forest Supervisor.

[FR Doc. 82-3000 Filed 2-4-82; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Dairyland Power Cooperative; Environmental Impact Statement; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with proposed financing assistance by REA to Dairyland Power Cooperative (Dairyland) of La Crosse, Wisconsin. Consequently, no Environmental Impact Statement will be prepared.

Dairyland proposed to convert approximately 47.6 km (29.5 mi) of 34.5 kilovolt (kV) transmission line to 69 kV

and rebuild the existing Canton and Spring Grove 34.5 kV substations to 69 kV operation on different sites. The entire project will be located in Houston and Fillmore Counties, Minnesota, extending between Caledonia and Harmony. REA has reviewed a Borrower's Environmental Report (BER) prepared by Dairyland and determined that it represents an accurate assessment of the environmental impacts of the proposed project. Based upon the BER and information from other sources, REA prepared an Environmental Assessment (EA) concerning the proposed project and has concluded that the project will not represent a major Federal action significantly affecting the quality of the human environment.

REA has determined that the proposed project will have no effect on wetlands, threatened and endangered species, or known historical and archaeological sites, will have no adverse effect on floodplains and will have a negligible effect on important farmlands.

REA has determined that transmission structures will be located within the 100-year floodplain of five creeks or streams. However, there are no practicable alternatives to siting structures within these floodplains. More detailed information concerning the effects of the proposed project on floodplains and other environmental parameters can be found in REA's FONSI and EA, and Dairyland's BER.

The alternatives evaluated by REA included no action, construction of a new transmission line that would follow a route separate from the existing 34.5 kV transmission line, and converting the Canton and Spring Grove Substations at the existing locations. After evaluating these alternatives, REA has determined that construction of the project, as proposed, represents an acceptable alternative when environmental, economic and technical factors are balanced.

Copies of the FONSI, EA and BER may be reviewed at REA in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–1400 or FTS 382–1400, and at the office of Dairyland Power Cooperative, P.O. Box 855, La Crosse, Wisconsin 54601, telephone: (608) 788–4000. A limited number of copies of these documents are available upon request and can be obtained from REA, office of the Director, Power Supply Division at the address given above.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 27th day of January 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-2939 Filed 2-4-82; 8:45 am]

BILLING CODE 3410-15-M

Soyland Power Cooperative, Inc.; Draft Environmental Impact Statement

The Rural Electrification Administration (REA) has prepared a Draft Environmental Impact Statement (DEIS) in connection with potential financing assistance to Soyland Power Cooperative, Inc., (Soyland) P.O. Box A1606, Decatur, Illinois 62525, for construction of a 450 MW coal-fired generating facility, 138 kV and 345 kV transmission lines and related facilities.

The alternatives considered in the DEIS are no action, purchasing additional power from existing sources, alternative energy sources, energy conservation and load management, alternative transmission line corridors, and alternative construction methods.

The preferred alternative is the construction of a coal-fired generating facility to be located on the west bluffs of the Illinois River in Pike County, south of Florence, Illinois. The project consists of a 450 MW (net) coal-fired generating unit scheduled for operation in summer of 1987 and ancillary facilities. The proposed electric transmission associated with this proposed plant involves two 345 kV lines and one 138 kV line. One of the 345 kV lines and the 138 kV line would be constructed on a double circuit tower line 16.1 km (10 mi) east from the Pike County Site to an existing substation in the vicinity of Winchester, Illinois, where the 138 kV line will terminate. The 345 kV line will continue east for another 72.4 km (45 mi) and terminate at an existing substation at Pawnee, Illinois. The second 345 kV line will be constructed 25.7 km (16 mi) north from the Pike County Plant to a proposed substation in the vicinity of Chambersburg, then west for 61.1 km (38 mi) to a proposed substation in the area southeast of Quincy, Illinois, and then 17.7 km (11 mi) southwest to terminate at an existing substation at Palmyra, Missouri.

Transmission line structures may be constructed in the floodplains of the Mississippi and Illinois Rivers. REA has tentatively concluded that there is no practicable alternative to crossing the floodplain. Further information concerning this matter can be found in the DEIS.

Copies of the DEIS have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality regulations. Limited supplies of the DEIS are available upon request to: Mr. Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, 14th St., and Independence Ave., S.W., Washington, D.C. 20250.

The DEIS may also be examined during regular business hours at the following locations and at local libraries in the project area.

Rural Electrification Administration, USDA, 14th St. and Independence Ave., S.W. Room 0230, Washington, D.C.

Soyland Power Cooperative, 675 Imboden Drive, Decatur, Illinois

Persons, organizations, and agencies wishing to comment on the environmental aspects of the proposed project should do so in writing within the 45-day period indicated and address their comments to Mr. Bennett of REA at the address given above. All comments received within the 45-day period will be considered in the formulation of final determinations regarding the Final Environmental Impact Statement (FEIS). Response to all substantive comments will be published in the FEIS.

Any financing assistance which may be made pursuant to Soyland's application will be subject to REA's reaching satisfactory conclusions with respect to the project's environmental effects and after procedural requirements set forth in NEPA and other environmentally related statutes, regulations and executive orders have been met.

This Federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 12th day of January 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-2960 Filed 2-4-82; 8:45 am]

BILLING CODE 3410-15-M

Science and Education

National Agriculture Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub.

L. 92–463, 86 Stat. 770–776) Science and Education announces the following meetings.

Name: Committee meeting of the National Agricultural Research and Extension Users Advisory Board.
Date: February 15, 1982
Time: 2:00 p.m.–6:00 p.m.
Place: Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. 20024
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: The Board will be reviewing and discussing agricultural research and extension program budgets.
Contact Person for Agenda and More Information: Barbara L. Fontana, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 351–A, Administration Building, U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202–447–3684.

Done at Washington, D.C., this 28th day of January 1982.

John G. Stovall,

Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 82–3021 Filed 2–4–82; 8:45 am]
BILLING CODE 3410–03–M

Soil Conservation Service

Southeast Texas R.C. & D. Area; Pocinto Critical Area Treatment Measure, Texas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
George C. Marks, State Conservationist, Soil Conservation Service, 101 South Main, Temple, Texas 76501, telephone 817–774–1214.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pocinto Critical Area Treatment R.C. & D. Measure, Polk and San Jacinto Counties, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treatment of critical erosion at 31 identified sites and includes 205 acres of shaping, 322 acres of vegetation, 13 grade stabilization structures, 4,600 feet of diversion terraces, and fencing as needed.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting George C. Marks. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before March 8, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1982.

George C. Marks,

State Conservationist.

[FR Doc. 82–3012 Filed 2–4–82; 8:45 am]
BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Order 82–2–2]

Application of Alaska Airlines for Certificate Amendment Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (Order 82–2–2).

SUMMARY: The Board is proposing to renew the authority of Alaska Airlines to provide mail-only service over segment 2 of its Route 324 on a permanent basis.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate amendment shall file, and serve upon all persons listed below no later than March 2, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40315, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Alaska Airlines; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT:
Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5335.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–2–2 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–2–2 to that address.

By the Bureau of Domestic Aviation, February 2, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–3153 Filed 2–4–82; 8:45 am]
BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended January 29, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a Show-Cause order, a tentative order, or in appropriate cases a final order without further proceedings

Date filed	Docket No.	Description
Jan. 26, 1982	40424	Yukon Air Service, Inc. d/b/a Air North And Nenana Air Service, c/o Michael J. Roberts, Verner, Lilpfert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Application of Yukon Air Service, Inc. d/b/a Air North And Nenana Air Service, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a certificate of public convenience and necessity which authorizes the following transportation of persons, property and mail: Between the terminal point Juneau, Alaska, and the terminal point Whitehorse, Yukon Territory, Canada. Conforming Applications, motions to modify scope, and Answers may be filed by February 23, 1982.
Jan. 27, 1981	40427	Air Express International Airlines, Inc. Et Al., c/o Robert Reed Gray, Hale Russell & Gray, Suite 400, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Air Express International Airlines, Inc. Et Al. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to perform the following foreign charter air transportation of property and mail: Between any point or points in any state of the United States, or in any territory or possession of the United States, and any point or points in— (a) Canada; (b) Mexico; (c) Jamaica, The Bahamas, Bermuda, Haiti, The Dominican Republic, Trinidad, Tobago, Aruba, The Leeward and Windward Islands, the Canary Islands, The British Virgin Islands, all of the Netherland Antilles, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) Central America; (e) Colombia, Venezuela, Guyana, Surinam and French Guiana; and (f) Europe. Conforming Applications, motions to modify scope, and Answers may be filed by February 24, 1982.

Phyllis T. Kaylor,
Secretary.

[FR. Doc. 82-3155 Filed 2-4-82; 8:45 am]
BILLING CODE 6320-01-M

[Orders 82-1-134—82-1-136]

Commuter Fitness Determination; Northern Airlines, Inc., et al.

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under Section 419 (c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-1-134	Northern Airlines, Inc	Feb. 19, 1982.
82-1-135	SFO Helicopter Airlines, Inc	Feb. 19, 1982.
82-1-136	Simmons L.I. Enterprises, Inc. d.b.a. Simmons Airlines.	Feb. 19, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82-1-134 and -135 with the Special Authorities Division, Room 915, and for Order 82-1-136 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428 for Order 82-1-134: Ms. Joyce Snovitch, (202) 673-5074, for Order 82-1-135: Ms. Patti Szrom, (202) 673-5068; and for Order 82-1-136: Ms. Susan H. Fishbein, (202) 673-5348.

By the Civil Aeronautics Board: January 29, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-3152 Filed 2-4-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 40395; Order 82-1-145]

Non-Affinity Group Fares From Denmark, Norway and Sweden to Florida proposed by Scandinavian Airlines System; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its Office in Washington, D.C., on the 18th day of January 1982.

By Order 81-12-128, December 11, 1981, the Board suspended a tariff filing of Scandinavian Airlines System (SAS) proposing reductions of 8-21 percent in non-affinity group fares from various Scandianavian points to Miami, Ft. Lauderdale, Orlando and Tampa. We suspended the fares because recent actions of the Scandinavian governments denying fare filings of U.S. carriers have severely hampered their ability to compete in the Scandinavian market, and require us to scrutinize SAS fare proposals more closely than we would otherwise prefer.

SAS has now refiled most of its suspended Scandinavia-Florida group fares, at somewhat higher levels. But the carrier's governments have not fully satisfied the concerns which led us to suspend the previous filing, and we have no choice but to suspend SAS' latest filing as well.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the Appendix below, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the fares named in the Appendix from January 30, 1982, to and including January 29, 1983, unless other wise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[1] and unless disapproved by the President it shall become effective on January 30, 1982; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Scandinavian Airlines System and the Ambassadors of Denmark, Norway and Sweden in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[2]
Secretary.

Appendix

International Passenger Rules Tariff No. IPR-2, C.A.B. No. 376, Issued by Airline Tariff Publishing Company, Agent

On 11th and 12th Revised Pages 493, the exception to Paragraph (I) (1) in Rule 4230.

[1] We submitted this order to the President on January 19, 1982.
[2] All Members concurred.

Transatlantic Passenger Fares Tariff No. TAF-1, C.A.B. NO. 377, Issued by Airline Tariff Publishing Company, Agent

All YFLA1 fares:

From	To	On
Copenhagen	Ft. Lauderdale	23rd, 24th Revised Pages 269
Copenhagen	Miami	23rd, 24th Revised Pages 270
Oslo	Ft. Lauderdale	20th, 21st Revised Pages 276
Oslo	Miami	21st, 22nd Revised Pages 277
Stockholm	Ft. Lauderdale	21st Revised Page 280
Stockholm	Miami	23rd, 24th Revised Pages 281

[FR Doc. 82-3154 Filed 2-4-82; 8:45 am]

BILLING CODE 6320-01

DEPARTMENT OF COMMERCE

International Trade Administration Telecommunications Equipment Technicinal Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: March 2, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The committee will meet only in executive session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609 U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: January 29, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-2966 Filed 2-4-82; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council; Change in Subcommittee Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the business meeting of the Export Promotion Subcommittee of the President's Export Council scheduled to be held on Thursday, February 11, in room 4830 at the U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., from 1:30-4:00 p.m., has been changed to Monday, February 22, from 2:00-5:00 p.m., to be held at the same location. The meeting notice was published in the **Federal Register** on January 25. (47 FR 3399-3400).

Dated: February 1, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-3000 Filed 2-4-82; 8:45 am]

BILLING CODE 3510-25-M

Steel Units for Electrical Transmission Towers From Italy; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: As a result of a request by the Government of Italy, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on steel units for electrical transmission towers from Italy would not cause injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise made on or after April 3, 1980, shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1167).

SUPPLEMENTARY INFORMATION: On April 21, 1967, a final countervailing duty determination on steel units for electrical transmission towers from Italy, T.D. 67-102, was published in the **Federal Register** (32 FR 6274).

On April 3, 1980, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that an injury determination for this order had been requested under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980 on all shipments of steel units for electrical transmission towers from Italy entered, or withdrawn from warehouse, for consumption on or after that date.

On August 11, 1981, the Department published the final results of its administrative review of this order as required by section 751 of the Tariff Act of 1930 (46 FR 40719). The Department determined that a net subsidy on steel units for electrical transmission towers from Italy of 18 lire per kilogram of this merchandise was being conferred during the period of review and reported that rate to the ITC.

On December 29, 1981, the ITC published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports from Italy of steel units for electrical transmission towers covered by the

countervailing duty order if the order were revoked (46 FR 62966). As a result, the Department is revoking the countervailing duty order concerning steel units for electrical transmission towers from Italy (T.D. 67–102) with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise made on or after April 3, 1980 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries. Entries, or withdrawals from warehouse, for consumption made prior to April 3, 1980, are subject to countervailing duties as set forth in the final results of the administrative review.

This revocation is in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3068 Filed 2-4-82; 8:45 am]
BILLING CODE 3510-25-M

National Bureau of Standards

Amendment and Anticipated Revision to Federal Information Processing Standard 86; Additional Controls for Use With ASCII

On January 29, 1981, a notice was published in the **Federal Register** (46 FR 9687–9688), announcing the approval of Federal Information Processing Standards Publication (FIPS PUB) 86, Additional Controls for Use with ASCII. Section 11 on Implementation Schedule includes the statement "This standard becomes effective one year after the publication date of this announcement of its approval by the Secretary of Commerce in the **Federal Register**." Therefore, the effective date was projected to be January 29, 1982.

As a result of substantive comments concerning this standard which were received after its adoption, a revision of the applicability section is being considered. In order to provide ample time for all interested parties to comment on the proposed revision to the applicability section, the Secretary of Commerce, on January 28, 1982, approved an amendment to FIPS PUB 86 so that the first sentence of Section 11 now reads: "The provisions of this standard are effective September 30, 1982."

It is anticipated that the proposed revision to the applicability section of FIPS PUB 86 will be published in the **Federal Register** within the next few months, so that all interested parties will have ample time to submit written comments, in order that a revised version of FIPS PUB 86 may be approved by the Secretary of Commerce prior to September 30, 1982.

Persons desiring further information about this proposed revision to FIPS PUB 86 may contact Mr. John L. Little, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301/921–3723.

Dated: February 2, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-3070 Filed 2-4-82; 8:45 am]
BILLING CODE 3510-CN-M

DEPARTMENT OF EDUCATION

Community Education Advisory Council, Meeting

AGENCY: Community Education Advisory Council, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under Section 10 (a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: February 25 and February 26, 1982.

ADDRESS: Department of Education, Federal Office Building No. 6, Room 6004, 400 Maryland Avenue, SW, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ron Castaldi, Department of Education, Community Education Program, 7th And D Streets, SW., Regional Office Building No. 3, Room 5622, Washington, D.C. 20202. Telephone: (202) 245–0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Public Law 95–561. The Council is established to advise on policy matters relating to the interest of community schools.

All sessions of this meeting are open to the public. The meeting will begin at 9:00 a.m. on Thursday, February 25 and end at 4:30 p.m. On Friday, February 26, the meeting will begin at 9:00 a.m. and end at 3:00 p.m.

At the last meeting held in Washington, D.C. on April 30, and May 1, 1981 the Council reviewed and discussed assessment process; examined future roles, functions, and projects; and considered tasks relative to the intergency and state advisory council initiatives and the national evaluation.

Proposed agenda items for this meeting include:

(1) Report on the national evaluation;

(2) Discussion of Council mission, role, priorities, and strategies;

(3) Review of Council's Annual Report to Congress; and

(4) Consideration of other administrative matters and related business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Regional Office Building No. 3, Room 5622, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C., on February 1, 1982.

John Wu,

Executive Assistant to the Secretary of Vocational and Adult Education.

[FR Doc. 82-3162 Filed 2-4-82; 8:45 am]
BILLING CODE 4000-01-M

Special Services for Disadvantaged Students Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1982

Applications are invited for noncompeting continuation awards under the Special Services for Disadvantaged Students Program.

Authority for this program is contained in sections 417A and 417D of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1b)

The Secretary awards grants under this program to institutions of higher education only. Under the new law, combinations of institutions or agencies are no longer eligible applicants. Therefore, applicants currently funded as part of a combination of institutions or as an agency must restructure their project in such a way that they can apply separately for an award as an individual institution.

The purpose of the awards is to allow applicants to carry out projects designed to provide supportive services to disadvantaged students who are

pursuing programs of postsecondary education.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 8, 1982.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.042 (Special Servics for Disadvantaged Students), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information

Successful applicants for noncompeting continuation grants under the Special Services for Disadvantaged Students Program must administer their projects in accordance with the changes made in this program by the Education Amendments of 1980 when they begin operating with Fiscal Year 1982 (Program Year 1982–83) funds. That means that for the Special Services Program at least two-thirds (⅔) of the participants must be either physically handicapped, or low-income individlals who are also first-generation college students. The remaining participants must qualify as low-income individuals, first-generation college students, or physically handicapped persons.

A "low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project.

A "first-generation college student" means a person neither of whose parents received a bachelor's degree.

Available Funds

The Third Continuing Resolution, which expires on March 31, 1982, authorizes $61,344,000 to be made available for noncompeting continuation awards in Fiscal Year 1982. Although processing of the 613 eligible applications will proceed on the basis of this authorization, it should be noted that the level of funding is an estimate which does not bind the Department of Education. Subsequent Congressional actions on spending limits for Fiscal Year 1982 may result in a further reduction of available funds.

Application Forms

Application forms for noncompeting continuation awards are expected to be ready for mailing no later than February 5, 1982. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by February 12, 1982, the grantee should telephone the Information Systems and Program Support Branch of the Division of Student Services at (202) 245–7070.

Applications must be prepared and submitted in accordance with instructions and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR) §§ 75.118(b), (1), (2), (3), and (c); 75.109(a) and 75.125(a); and

(b) Regulations for the Special Services for Disadvantaged Students Program as proposed in 34 CFR Part 646. (Applications are being accepted based on the notice of proposed rulemaking for the Special Services Program which was published in the **Federal Register** on December 31, 1980 (45 FR 86900–86905). If any substantive changes are made in the proposed regulations for this program, applicants will be given an opportunity to revise their applications.)

Further Information

For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514), Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

(20 U.S.C. 1070d, 1070d–1b)

(Catalog of Federal Domestic Assistance Number: 84.042—Special Services for Disadvantaged Students Program)

Dated: February 1, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3130 Filed 2-4-82; 8:45 am]

BILLING CODE 4000-01-M

Upward Bound Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1982

Applications are invited for noncompeting continuation awards under the Upward Bound Program.

Authority for this program is contained in sections 417A and 417C of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1a)

The Secretary awards grants under the Upward Bound Program to institutions of higher education, public and private agencies and organizations, and in exceptional cases to secondary schools.

The purpose of the awards is to allow applicants to carry out projects designed to identify low-income and potential first-generation college students and to generate in them the skills and motivation necessary for their success in education beyond high school.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 8, 1982.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting

continuation applications and may decline to accept it.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.047 (Upward Bound), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information

Successful applicants for noncompeting continuation grants under the Upward Bound Program must administer their projects in accordance with the changes made in this program by the Education Amendments of 1980 when they begin operating with Fiscal Year 1982 (Program Year 1982–83) funds. That means that for the Upward Bound Program at least two-thirds (2/3) of the participants must be low-income individuals who are also potential first-generation college students. The remaining participants must qualify as either low-income individuals or first-generation college students.

A "low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project.

A "potential first-generation college student" means a person neither of whose parents received a bachelor's degree.

Available Funds

The Third Continuing Resolution, which expires on March 31, 1982, authorizes $63,840,000 to be made available for noncompeting continuation awards in Fiscal Year 1982. Although processing of the 446 eligible applications will proceed on the basis of this authorization, it should be noted that the level of funding is an estimate which does not bind the Department of Education. Subsequent Congressional actions on spending limits for Fiscal Year 1982 may result in a further reduction of available funds.

Application Forms

Application forms for noncompeting continuation awards are expected to be ready for mailing no later than February 5, 1982. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by February 12, 1982, the grantee should telephone the Information Systems and Program Support Branch of the Division of Student Services at (202) 245–7070.

Applications must be prepared and submitted in accordance with instructions and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR) §§ 75.118(b), (1), (2), (3), and (c); 75.109(a) and 75.125(a); and

(b) Regulations governing the Upward Bound Program as proposed in 34 CFR Part 645. (Applications are being accepted based on the notice of proposed rulemaking for the Upward Bound Program, which was published in the **Federal Register** on December 31, 1980 (45 FR 86914–86920). If any substantive changes are made in the proposed regulations for this program, applicants will be given an opportunity to revise their applications.)

Further Information

For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

(20 U.S.C. 1070d, 1070d–1a)

(Catalog of Federal Domestic Assistance Number: 84.047—Upward Bound Program)

Dated: February 1, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3139 Filed 2-4-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Switzerland to the United Kingdom (the Thorp facility) for the purpose of reprocessing, 49 irradiated fuel assemblies, containing 15,285 kilograms of uranium, enriched to 0.98% in U-235, and 139 kilograms of plutonium from the Beznau Power Plants No. I and No. II, owned by the Nordostschweizerische Kraftwerk AG. This subsequent arrangement is designated as RTD/EU(SD)–37.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored within the United Kingdom and will not be transferred from the United Kingdom, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended,

it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no soomer than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Dated: February 2, 1982.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 82-2988 Filed 2-4-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-82-001] (OFC Case No. 51518-0672-21-22A)

Acceptance of Petition for Exemption and Availability of Certification; Kissimmee Municipal Electric System

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification.

SUMMARY: On January 5, 1982, the City of Kissimmee Municipal Electric System (Kissimmee) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting one new proposed powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which prohibits the use of petroleum and natural gas as a primary energy source in new electric powerplants. Kissimmee requested a permanent exmption due to inability to obtain adequate capital. The Final Rule contaning the criteria and procudures for petitioning for exemptions from the prohibitions of FUA is published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

The proposed electric powerplant for which the petition is filed is a combined cycle unit (Unit #21) having a primary energy source of natural gas (70%) and No. 2 fuel oil (30%) to be installed at the Roy Hansel Generating Plant in Kissimmee, Florida.

ERA has determined that the petition and certification for the requested exemption is complete in accordance with the Final Rules.

ERA retains the right to request additional relevant information for Kissimmee at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the SUPPLEMENTARY INFORMATION section below.

As provided for in section 701(c) and (d) of FUA §§ 501.31 and 501.33 of the final rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearings.

The public file containing a copy of this Notice of Acceptance and Availabilty of Certification and other documents and supporting materials on this proceeding are available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.-4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register**.

DATES: Written comments are due on or before March 22, 1982. A request for public hearing must also be made within the same 45 day public comment period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room 6114, 2000 M Street, NW, Washington, D.C. 20461.

Docket No. ERA-FC-82-001 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Case Manager, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW, Room 6114J, Washington, D.C. 20461, Telephone (202) 653-3379.

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G-067, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The Powerplant and Industrial Fuel Use Act of 1978 (the "Act") prohibits the use of natural gas and petroleum as a primary energy source in a new electric powerplants unless an exemption from the prohibitions has been granted by ERA. Kissimmee proposes to construct an electric powerplant at its Roy Hansel Generating Plant in Kissimmee, Florida. Unit #21 will consist of a combustion turbine, a heat recovery boiler, cooling tower and two steam turbines. The proposed unit will have a designed heat input rate of 9,010 Btu per KWH (full load heat rate). The combustion turbine will have a rating of 34.5 MW, and the two steam turbines will have a rating of 10.6 MW each at 80 degrees F ambient. This yields a total capactiy of 55.7 MW. The combustion turbine exhaust will be ducted through an exhaust-heat-recovery system steam generator, which will provide steam to power the two steam turbines. The combined cycle facility will be used to provide baseload power. The combustion turbine is scheduled for operation at the end of the second quarter of 1982. The two 10.6 MW steam turbines and the heat recovery steam generator are scheduled to be completed by January 1983.

Section 212(a)(1)(D) of the Act provides for the issuance of a permanent exemption permitting a new unit to use petroleum or natural gas as its primary energy source if the petitioner demonstrates that the required use of coal or another alternate fuel would not allow it to obtain adequate capital for the financing of such a powerplant. In accordance with § 503.35(a) of the final rule, Kissimmee has certified that:

(1) Despite good faith efforts, it will be unable to comply with the applicable prohibitions imposed by the Act because additional capital required for an alternate fuel-capable unit beyond that required for the proposed unit cannot be raised;

(2) The additional capital cannot be raised due to specific restrictions in existing bonds which constrain the system's ability to raise debt.

(3) No alternate power supply exists;

(4) Use of mixtures is not feasible; and

(5) A permanent exemption due to inability to obtain adequate capital would be available at any reasonable alternate site(s) for the facility.

ERA hereby accepts the filing of the petition for the permanent exemption as adequate for filing. ERA retains the right to request additional relevant information from Kissimmee at any time during the pendency of these proceedings where circumstances of procedural requirements may so require. As provided in § 501.3(b)(4) of the final rule, the acceptance of the petition by ERA does not constitute a determination

that Kissimmee is entitled to the exemption requested.

NEPA Compliance

In processing this exemption, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regulations 40 CFR Part 1500 *et seq.*, and the DOE guidelines implementing those regulations (45 FR 20694, March 28, 1980). NEPA compliance may involve the preparation of (1) an environmental impact statement (EIS); (2) an environmental assessment (EA); or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major federal action significantly affecting the quality of the human environment. If an EIS is determined to be required, ERA will publish a Notice of Intent (NOI) to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until NEPA compliance has been completed.

Issued in Washington, D.C. on January 29, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3139 Filed 2-4-82; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FC-81-003; OFC Case No. 51209-1393-27-21]

Gulf States Utilities Co.; Withdrawal of Exemption Request Pursuant to the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Gulf States Utilities Company; notice of withdrawal of exemption request pursuant to the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On July 11, 1980, Gulf States Utilities Company (GSU) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a temporary exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA or the Act) for the future use of synthetic fuels. GSU requested the exemption for a proposed new generation unit, Roy S. Nelson Unit No. 7 (Nelson 7), at its generating plant in Westlake, Louisiana. FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants unless an exemption for such use has been granted by DOE.

The petition was accepted for filing on April 7, 1981, on the condition that GSU would submit all evidence required to obtain the requested exemption on or before October 1, 1981. ERA published notice of its conditional acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on April 14, 1981 (46 FR 21801). Publication of the notice commenced a 45-day public comment period pursuant to section 701 of FUA which expired May 29, 1981. The notice further stated that an additional public comment period might be provided upon receipt of the evidentiary material furnished ERA by GSU.

At the request of GSU, ERA extended the period during which it would accept the required evidentiary material to December 31, 1981. Notice of that extension was published in the **Federal Register** on November 30, 1981 (46 FR 58145).

By letter dated December 18, 1981, GSU withdrew its request for a temporary exemption for the future use of synthetic fuels in the proposed Nelson 7 Unit. GSU stated that its withdrawal of the exemption petition was predicated on changes in the company's future plans for generation and fuel.

Accordingly, notice is hereby given that the proceeding on this petition is terminated and through this action ERA is not required to issue an order granting or denying petitioner's requested exemption pursuant to 10 CFR 501.68.

FOR FURTHER INFORMATION CONTACT:
Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, N.W., Room 6114–G, Washington, D.C. 20461, Phone (202) 653–3379
Christina Simmons, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–178, Washington, D.C. 20585, Phone (202) 252–2967

Issued in Washington, D.C., on January 29, 1982.

James W. Workman,

Director, Office of Fuels Program, Economic Regulatory Administration.

[FR Doc. 82-3138 Filed 2-4-82; 8:45 am]
BILLING CODE 6450-01-M

[Docket PP 77]

New England Electric Transmission Corp.; Application for Presidential Permit

AGENCY: Economic Regulatory Administration, Office of Emergency Operations, DOE.

ACTION: Notice of Application by New England Electric Transmission Company (NEET) for a Presidential Permit to Construct, Connect, Operate, and Maintain an International Electrical Transmission Line.

SUMMARY: On December 11, 1981, NEET filed application for a Presidential Permit (Docket PP 77) with the Department of Energy (DOE) to construct, connect, operate, and maintain an international electrical transmission line across the U.S.-Canadian border. Specifically, this application proposes the construction of a direct current (dc) transmission line with a design voltage of ±450 line kilovolts (kV) between Sherbrooke, Quebec and New England Power Company's Comerford generating station located in Monroe, New Hampshire. The proposed transmission line would enter the United States in Coos County, New Hampshire at approximately the town of Pittsburg. The primary purpose of the proposed interconnection is to obtain access to Canadian hydroelectric energy. The transmission line ultimately will be capable of transferring up to 2000 MW.

Another application was received on the same date (December 11, 1981) from the Vermont Electric Power Company (VELCO) and docketed as Presidential Permit Application PP 76. It proposes the construction of a dc transmission line from Sherbrooke, Quebec to the Comerford Station, Monroe, New Hampshire via a border crossing at Norton, Vermont.

Only one of these two proposed transmission lines eventually will be constructed, i.e., either the line proposed under PP 76 or the line proposed under PP 77. However, that decision will be made by the New England Power Pool (NEPOOL), not the Department of Energy.

FOR FURTHER INFORMATION CONTACT:
Garet Bornstein, Office of Emergency Operations, EP–422, U.S. Department of Energy, Room GH–034–G, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 653–3889
Lise Courtney Howe, Office of General Counsel, GC–11, U.S. Department of Energy, Room 6A–141, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2900

SUPPLEMENTARY INFORMATION: On December 11, 1981, NEET filed with DOE an application for a Presidential Permit (Docket PP 77) to construct, connect, operate, and maintain an international electrical transmission line across the U.S.-Canadian border. NEET is a New Hampshire public utility corporation and is part of the New

England Electric holding company system. NEET has been formed to own, operate, construct, and lease power lines to transmit electricity within and without New Hampshire.

According to NEET's December 11 application, the purpose of the proposed interconnection is to permit the utilities in New England, operating through NEPOOL, to obtain access to the benefits of Canadian hydroelectric energy. The interconnection would connect the facilities of NEPOOL with those of the Hydro-Quebec system and thereby provide access to Hydro-Quebec's hydroelectric energy located in the Province of Quebec. The interconnection not only will improve reliability on both systems by permitting emergency transfers and by providing mutual backup, but also will permit the New England utilities to reduce their dependence on oil and thereby to achieve significant costs savings for their customers.

The agreements between NEPOOL and Hydro-Quebec have not yet been finalized. However, contract negotiations are currently under way, and it is expected that contracts will be executed in the near future.

The applicant proposes to construct an international interconnection at the U.S.-Canadian border in Coos County, New Hampshire, near the town of Pittsburg. The international transmission line will interconnect a new terminal to be located in the vicinity of Sherbrooke, Quebec, and a terminal to be located at the Comerford Station in Monroe, New Hampshire, and constructed by NEET. The Canadian portion of the facilities will be built by Hydro-Quebec. Each of the terminals will, among other things, convert the power being transmitted from alternating current (ac) to direct current (dc), and imported power from dc to ac.

NEET considered several alternative corridors before choosing the preferred route which runs from the border crossing at the Town of Pittsburg, Coos County to the Comerford Station. According to the applicant, "selection of the preferred route was based on an assessment of engineering, economic, and environmental considerations of the several possible routes. The route selected will minimize potential adverse environmental impacts and is sound from engineering and economic perspectives. The preferred route will not unduly interfere with the orderly development of the region nor will it have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, or the public health and safety."

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Office of Emergency Operations, Department of Energy, Room GH-034-G, Forrestal Building, Washington, D.C. 20585, in accordance with §§ 1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed on or before March 22, 1982. Protests will be considered by DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with DOE and will, upon request, be made available for public inspection and copying at the DOE Docket Room, Room 1E-190, Forrestal Building, Washington, D.C., from 8 a.m. to 4 p.m., Monday through Friday.

Issued in Washington, D.C. on January 29, 1982.

Bethel Larey,[1]

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 82-3186 Filed 2-4-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket PP 76]

Vermont Electric Power Co.; Applicantion for Presidential Permit

AGENCY: Economic Regulatory Administration, Office of Emergency Operations, DOE.

ACTION: Notice of Application by Vermont Electric Power Company (VELCO) for a Presidential Permit to Construct, Connect, Operate, and Maintain an International Electric Transmission Line.

SUMMARY: On December 11, 1981, VELCO filed an application for a Presidential Permit (Docket PP 76) with the Department of Energy (DOE) to construct, connect, operate, and maintain an international electric transmission line across the U.S.-Canadian border. Specifically, this application proposes the construction of a direct current (dc) transmission line with a design voltage of ±450 kilovolts (kV) between Sherbrooke, Quebec and New England Power Company's Comerford generating station located in Monroe, New Hampshire via a border crossing at Norton, Vermont. the primary purpose of the proposed interconnection is to obtain access to Canadian hydroelectric energy. The transmission line ultimately will be capable of transferring up to 2000 MW.

A second application was received on the same date (December 11, 1981) from the New England Electric Transmission Corporation (NEET) and docketed as Presidential Permit Application PP 77. It proposes the construction of a dc transmission line from Sherbrooke, Quebec to the New England Power Company Comerford generating station located in Monroe, New Hampshire via a border crossing in Coos County, New Hampshire.

Only one of these two proposed transmission lines eventually will be constructed, i.e., either the line proposed under PP 76 or the line proposed under PP 76. However, that decision will be made by the New England Power Pool (NEPOOL), not the Department of Energy.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Office of Emergency Operations, EP-422, U.S. Department of Energy, Room GH-034-G, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 553-3889

Lise Courtney Howe, Office of General Counsel, GC-11, U.S. Department of Energy, Room 6A-141, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2900

SUPPLEMENTARY INFORMATION: On December 11, 1981, VELCO filed with DOE an application for a Presidential Permit (Docket PP 76) to construct, connect, operate, and maintain an international electrical transmission line across the U.S.-Canadian border. VELCO is a public utility corporation organized in 1956, according to the laws of the State of Vermont, to design and maintain a State-wide transmission system for the delivery of power from the Power Authority of the State of New York to various Vermont utilities.

According to VELCO's December 11, application, the purpose of the proposed interconnection is to permit the utilities in New England, operating through NEPOOL, to obtain access to the benefits of Canadian hydroelectric energy. The interconnection would connect the facilities of NEPOOL with those of Hydro-Quebec system and thereby provide access to Hydro-Quebec's hydrolectric energy located in the Province of Quebec. The interconnection not only will improve reliability on both systems by permitting emergency transfers and by providing

[1] In the recent reorganization of DOE, responsibility for Presidential Permits was transferred from ERA to the Office of Environmental Protection, Safety, and Emergency Preparedness. DOE is in the process of redelegating authority.

mutual backup, but also will permit New England utilities to reduce their dependence on oil and thereby to achieve significant cost savings for their customers.

The agreements between NEPOOL and Hydro-Quebec have not yet been finalized. However, contract negotiations are currently under way, and it is expected that contracts will be executed in the near future.

The applicant proposes to construct an international interconnection at the U.S.-Canadian border near Norton, Vermont. The international transmission line will interconnect a new terminal to be located in the vicinity of Sherbrooke, Quebec, and a terminal to be located at the Comerford Station in Monroe, New Hampshire, and constructed by NEET. The Canadian portion of the facilities will be built by Hydro-Quebec. Each of the terminals will, among other things, convert the power being transmitted from alternating current (ac) to direct current (dc), and imported power from dc to ac.

VELCO considered several alternative corridors before choosing the preferred route which runs from the border crossing at Norton, Vermont to Monroe, New Hampshire. According to the applicant, "the preferred corridor has been found superior to the alternatives because it avoids major settlement areas and all major environmentally sensitive areas, and minimizes the disruption to the aesthetic integrity of the northeast region of Vermont."

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Office of Emergency Operations, Department of Energy, Room GH-034-G, Forrestal Building, Washington, D.C. 20585, in accordance with §§ 1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed on or before March 22, 1982. Protests will be considered by DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with DOE and will, upon request, be made available for public inspection and copying at the DOE Docket Room, Room 1E-190, Forrestal Building, Washington, D.C., from 8 a.m. to 4 p.m., Monday through Friday.

Issued in Washington, D.C. on January 29, 1982.

Bethel Lacey,[1]

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 82-3157 Filed 2-4-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2044-1]

Availability of Environmental Impact Statements Filed

Responsible Agency: Office of Federal Activities, EPA.

Information Contact: Ms. Kathi Wilson (202) 245-3006.

EIS's Filed: January 25-29, 1982.

Comment Due Dates: Drafts—March 22, 1982; Finals—March 8, 1982.

Corps of Engineers (COE): Draft—Bogue Inlet Navigation Improvements, Onslow and Carteret Counties, North Carolina. (EPA EIS #820038)

COE: Final—Crown Bay/Charlotte Amalie Port Facility, Permit, St. Thomas, Virgin Islands. (EPA EIS #820045)

DOI: Office of Surface Mining: Final—Antelope Mining and Reclamation Plan, Approval, Converse County, Wyoming. (EPA EIS #820037)

DOT: Federal Highway Administration (FHWA): Draft—FH-61 Reconstruction, MT-40 to Rt. 8, Flathead National Forest, Flathead County, Montana; Extended Review 3-31-82. (EPA EIS #820035)

DOT: FHWA: Final—A-C Couplet, A Street South from Sixth, Anchorage, Alaska. (EPA EIS #820043)

EPA: Region 4: Final—South Fort Meade Phosphate Mine, NPDES Permit, Polk County, Florida. (EPA EIS #820044)

Department of Housing and Urban Development (HUD): Draft—Desert Falls Country Club, Mortgage Insurance, Riverside County, California. (EPA EIS #820042)

HUD: Final—Crestview Estates Development, Mortgage Insurance, Campbell County, Wyoming. (EPA EIS #820036)

USDA: Rural Electrification Administration: Final—Antelope Valley to Charlie Creek Transmission Line, Billings, Dunn, McKenzie and Mercer Counties, North Dakota. (EPA EIS #820039)

USDA: Soil Conservation Service: Draft—Diamond Creek Watershed Flood Protection Plan, Chase and Morris Counties, Kansas. (EPA EIS #820041)

Interstate Commerce Commission: Final Supplement—Somerset Railroad Construction and Operation; Niagara County, New York. (EPA EIS #820040)

Waiver: DOC: National Oceanic and Atmospheric Administration (NOAA): Final Supplement—Mid-Atlantic Surf Clam and Ocean Quahog, FMP—published FR 1-15-82; this EIS has been granted a reduction of the review period which terminated on 1-26-82. (EPA EIS #820009)

Correction: COE: Draft Supplement—I-70 Construction in Glenwood Canyon, Garfield County, Colorado—correction appearing in FR 1-8-82 should not have been published—refer to original publication in FR 12-31-81. (EPA EIS #811032)

Extended Reviews: DOC: NOAA: Draft—Coral and Coral Reefs FMP, Gulf of Mexico and South Atlantic—published FR 12-18-82; Due 3-1-82. (EPA EIS #810986)

COE: Draft—Wynoochee Hydropower/Fish Hatchery Development, Grays Harbor County, Washington—published FR 12-11-81; Due 2-26-82. (EPA EIS #810983)

DOT: Bureau of Reclamation: Draft—Chikaskia Water Supply Project, Kansas and Oklahoma—published FR 10-9-81 Due 3-1-82. (EPA EIS #810817)

Dated: February 2, 1982.

Paul G. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-3148 Filed 2-4-82; 8:45 am]

BILLING CODE 6560-37-M

[OPTS 41008; TSH-FRL-2043-3]

Ninth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Ninth Report to the Administrator of EPA on October 30, 1981. This report, which revises and updates the Committee's priority list of chemicals, adds three chemicals to the list for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act. It also noted the removal of four entries from the list. The three new chemicals are chlorendic acid, 4-chlorobenzotrifluoride, and tris(2-chloroethyl) phosphite. The deletions from the list are dichloromethane, nitrobenzene, 1,1,1-trichloroethane and the category alkyltin compounds. The Ninth Report is included in this notice. The Agency invites interested persons to submit written comments on the Report and to indicate if an informal meeting would be useful in focusing and narrowing the issues raised by the ITC recommendations.

DATE: Written comments should be submitted by March 8, 1982.

[1] In the recent reorganization of DOE, responsibility for Presidential Permits was transferred from ERA to the Office of Environmental Protection, Safety, and Emergency Preparedness. DOE is in the process of redelegating authority.

ADDRESSES: Send written submissions to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St., Washington, D.C. 20460.

Submissions should bear the Document Control Number OPTS–41008. The public record supporting this action, including comments, is available for public inspection in Rm. E–107 at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Toll Free: 800–424–9065, In Washington, D.C.: 554–1404, Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Sec. 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Sec. 4(e) of TSCA established an Interagency Testing Committee to make recommendations to the Administrator of EPA of chemical substances to be given priority consideration in proposing test rules under Sec. 4(a). Sec. 4(e) directs the Committee to revise its list of recommendations at least every six months as it determines to be necessary. The ITC also may designate chemicals for priority consideration by EPA within 12 months of the date of designation. The total number of designated chemicals on the list may not exceed 50 at any one time. For each designated chemical EPA must, within 12 months, either initiate rulemaking or publish in the **Federal Register** its reasons for not so doing.

II. Status of the List

The ITC's Ninth Report, which was received by the Administrator on October 30, 1981, follows this Notice. In it, the ITC has added three chemicals to the list, designating each for EPA action within 12 months. The chemicals added are chlorendic acid (CAS No. 115–28–6), 4-chlorobenzotrifluoride (CAS No. 98–56–6) and tris (2-chloroethyl) phosphite (CAS No. 140–08–9). The Report also noted the deletion from the list of four previous entries. Dichloromethane, nitrobenzene, and 1,1,1-trichloroethane were removed from the list because EPA proposed test rules for these substances on June 5, 1981 (45 FR 30300). The Committee also has removed the category "Alkytin Compounds" from the list and will reconsider the need for futher testing of such compounds and their appropriate categorization.

Readers of the ITC Ninth Report also should note that EPA recently has taken action on the following eleven chemicals and categories designated by the ITC, fulfilling the Agency's obligation under TSCA section 4(e) with respect to those designations: Alkyl phthalates and benzyl butyl phthalate (46 FR 53775), butyl glycolyl butyl phthalate (46 FR 54487), chlorinated naphthalenes (46 FR 54451), fluoroalkenes (46 FR 53704), polychlorinated terphenyls (46 FR 54482), benzidine-based dyes, o-dianisidine-based dyes, and o-tolidine-based dyes (46 FR 55004), chlorinated paraffins (47 FR 1017) and phenylenediamines (47 FR 973).

III. Public Comments

EPA invites interested persons to submit written comments on the ITC's new recommendations. The Agency is especially interested in receiving information concerning any additional or ongoing health and safety testing of the newly designated chemicals that may respond to the concerns expressed by the ITC. The Agency requests that submissions be received no later than March 8, 1982. All submissions received by that date will be considered by the Agency in determining whether to propose test rules in response to the Committee's new recommendations. Submissions should bear the identifying Docket No. OPTS–41008.

EPA is experimenting with its approach to focusing issues and encouraging public involvement in responding to the ITC recommendations and has decided to hold public meetings to obtain oral comment on the ITC's Ninth Report only: (a) If requested to by interested parties, and (b) if EPA concludes that public discussion will be useful in focusing and narrowing the issues the Agency must address in responding to the ITC's recommendations. Therefore, persons who believe that an informal meeting with EPA technical staff would be useful in achieving such focusing should call the Industry Assistance Office before the close of the written comment period. Any such meetings, if held, will be open to the public; however, active participation will be limited to those persons who requested the opportunity for informal discussions. Persons wishing to attend any such meetings should notify the Industry Assistance Office who will inform them of all such meetings that are scheduled.

Dated: January 28, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

Ninth Report of the TSCA Interagency Testing Committee to The Administrator, Environmental Protection Agency

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94–469) provides for the testing of chemicals in commerce that may present an unreasonable risk of injury to health or the environment. It also provides for the establishment of a Committee, composed of representatives from eight designated Federal agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes such revisions in the List (the section 4(e) Priority List) as it determines to be necessary and transmits them to the EPA Administrator at least every six months.

As a result of its deliberations, the Committee is revising the TSCA section 4(e) Priority List by the addition of three entries and the removal of four. The chemicals being added to the list are presented alphabetically, together with the types of testing recommended, as follows:

Chemical	Recommended studies
Chlorendic acid	Environmental effects: Chemical fate; acute chronic toxicity to fish and aquatic invertebrates; toxicity to aquatic macrophytes and algae.
4-Chlorobenzotrifluoride	Health effects: Chronic effects. Environmental effects: Chemical fate; bioconcentration.
Tris (2-chloroethyl)phosphite	Health effects: Pharmacokinetic and metabolic studies; subchronic effects; reproductive effects. Environmental effects: Chemical fate; acute toxicity to fish, aquatic invertebrates, and algae.

As stipulated by section 4(e)(1)(B) of TSCA, each of the new recommendations is being designated by the Committee for action by the EPA within 12 months of the date of this report.

Dichloromethane, nitrobenzene, 1,1,1-trichloroethane, and the alkyltin

compounds are being removed from the list.

TSCA Interagency Testing Committee

Statutory Member Agencies and Their Representatives

Council on Environmental Quality, Gordon F. Snow, Member [1]
Department of Commerce, Orville E. Paynter, Member, Bernard Greifer, Alternate
Environmental Protection Agency, Joseph Seifter, Member, Carl R. Morris, Alternate
National Cancer Institute, Elizabeth K. Weisburger, Member, [2] Richard Adamson, Alternate, Jerrold Ward, Alternate
National Institute of Environmental Health Sciences, Dorothy Canter, Member [3]
National Institute for Occupational Safety and Health, Vera W. Hudson, Member and Chairperson, Hebert E. Christensen, Alternate
National Science Foudnation, Winston C. Nottingham, Member
Occupational Safety and Health Administration, Patricia Marlow, Member and Vice Chairperson, Lucille Adamson, Alternate [4]

Liaison Agencies and Their Representatives

Consumer Product Safety Commission, Arthur Gregory and Lakshmi Mishra
Department of Agriculture, Homer E. Fairchild and Fred W. Clayton
Department of Defense, Arthur H. McCreesh
Department of the Interior, Charles R. Walker
Food and Drug Administration, Allen H. Heim and Winston deMonsabert
National Toxicology Program, Dorothy Canter

Committee Staff

Martin Greif, Executive Secretary
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Gary W. Dickson [5]—Office of Toxic Substances, EPA
Ellen Siegler—Office of the General Counsel, EPA
Edward Zillioux [6]—Office of Toxic Substances, EPA

References

(1) Dr. Snow was appointed on August 28, 1982.
(2) Dr. Weisburger has previously served as an Alternate member and was appointed to full-member status on September 23, 1981.
(3) Dr. Canter had previously served as an Alternate member and was appointed to full-member status on July 8, 1981.
(4) Dr. L. Adamson terminated her association with the Committee on July 17, 1981.
(5) Dr. Dickson has assisted the Committee since April 1981 and was appointed formally to replace Dr. Zillioux on September 17, 1981.
(6) Dr. Zillioux terminated his association with the Committee on June 25, 1981.

The Committee acknowledges and is grateful for the assistance and support given to it by the staff of Enviro Control, Inc. (technical support contractor) and numerous personnel of the Office of Toxic Substances, EPA, especially the Industry Assistance Office, the Assessment Division, the Management Support Division and the Health and Environmental Review Division. Special cognizance is given to Fumihiko Hayashi, Richard Tucker, and Larry Turner of the Health and Environmental Review Division for their timely review of the environmental effects of chemicals studied by the Committee.

Chapter 1—Introduction

1.1 *Background.* The TSCA Interagency Testing Committee (Committee) was established under section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469). The specific mandate of the Committee is to identify and recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemical substances or mixtures in commerce that should be tested to determine their potential hazard to human health and/or the environment. TSCA specifies that the Committee's recommendations shall be in the form of a Priority List, which is to be published in the **Federal Register**. The Committee is directed to make revisions to the Priority List, as it determines to be necessary, and to transmit such revisions to the EPA Administrator at least every 6 months after submission of the Initial List.

The Committee is comprised of representatives from eight statutory member agencies, five liaison agencies, and one national program. The specific representatives and their affiliations are named in the front of this report. The Committee's chemical review procedures and prior recommendations are described in previous reports (Refs. *1* through *9*).

1.2 *Committee's previous reports.* Eight previous reports to the EPA Administrator have been issued by the Committee and published in the **Federal Register** (Refs. *2* through *9*). Forty-six entries (chemical substances and categories of chemicals) have been designated by the Committee for priority consideration by the EPA Administrator. One entry, chloromethane, was removed (Ref. *8*) after EPA responded to the Committee's recommendation for testing.

1.3 *Committee's activities during this reporting period.* The Committee has continued to review chemicals from its second and third rounds of scoring (see Ref. *2* for methodology). During this reporting period the Committee has evaluated 62 chemicals for priority consideration. Three were designated for inclusion in the section 4(e) Priority List, 34 were deferred from further consideration at this time, and 25 are still under review.

As reported in the Eighth ITC Report (Ref. *9*), the Committee initiated, in the latter part of 1980, a systematic procedure for obtaining from the chemical industry exposure and effects data. The Committee listed in the **Federal Register** (Ref. *11*) the 107 chemicals selected in its 1980 scoring exercise for detailed review. The Committee requested comments on these chemicals to be presented either at a public meeting held November 6, 1980, or subsequently to be submitted in writing.

To further encourage submission of relevant information on the chemicals being studied, letters were written to manufacturers of the chemicals on the 1980 list, inviting submission of data and information on exposure to and effects of the chemicals. Response to the Committee's requests from both the public and private sectors has been excellent. Information received from chemical companies, trade associations and governmental agencies has increased the information base relied upon by the Committee in its review of chemicals.

To date the Committee and its technical support contractor have contacted 72 chemical manufacturers by letter and telephone, requesting information on 97 chemicals. Eighty-two separate written responses were received from 47 chemical companies and trade associations, providing information on 90 chemicals. The information is being used by the Committee in its deliberations, together with that obtained from other sources.

The Committee is continuing the practice of providing EPA with copies of all available data and information relevant to designated chemicals.

During this period the Committee completed the development and implementation of a computerized tracking system for chemicals it has considered since its inception. The tracking system will be kept current as additional chemicals are scored and considered by the Committee.

1.4 *The TSCA section 4(e) Priority List.* Section 4(e)(1)(B) of TSCA authorizes the Committee to: "* * * make sure revisions in the priority list as it determines to be necessary and * * * transmit them to the Administrator together with the Committee's reasons for the revisions." Under this authority, the Committee is revising the Priority List as follows:

Three chemicals, chlorendic acid, 4-chlorobenzotrifluoride, and tris(2-

chloroethyl)phosphite are added. The testing recommended for these chemicals and the rationales for the recommendations are presented in Chapter 2 of this report.

Four entries are removed from the Priority List. Three chemicals (dichloromethane, nitrobenzene, and 1,1,1-trichloroethane) are removed because the EPA Administrator has responded (Ref. *10*) to the Committee's recommendations in accordance with TSCA section 4(e) requirements. In addition, the Committee is withdrawing from the Priority List the alkyltin compounds entry designated to the EPA Administrator in the Committee's Seventh Report (Ref. *8*). Information on alkyltins has recently become available in the medical literature, through EPA's Scoping Workshop (March 12, 1981), and through followup information-gathering activities by EPA with the cooperation of industry, other governmental agencies, and EPA contractors. In view of this information, the Committee concludes that the alkyltin compounds category is too broad to be considered as a single category from the standpoint of chemistry, exposure or effects. Although the Committee is removing the alkyltins category from the Priority List, it continues to be concerned about the potential adverse effects of some members of this category. Consequently, the Committee will reconsider its alkyltin recommendation and submit a revised recommendation within the next twelve months. The Committee welcomes additional information from the public to aid in its deliberations.

With the three designations and four removals in this report, 44 entries now appear on the Priority List (Table 1).

The cumulative list of entries removed by the Committee from the Priority List is presented in Table 2.

TABLE 1—TSCA SECTION 4(e) PRIORITY LIST

Entry	Date of designation
1. Acetonitrile	April 1979.
2. Acrylamide	April 1978 (b) (d).
3. Alkyl epoxides	October 1977(a).
4. Alkyl phthalates	October 1977(a).
5. Aniline and bromo, chloro and/or nitroanilines.	April 1979.
6. Antimony (metal)	April 1979.
7. Antimony sulfide	April 1979.
8. Antimony trioxide	April 1979.
9. Aryl phosphates	April 1978(b).
10. Benzidine-based dyes	November 1979.
11. Benzyl butyl phthalate	October 1980.
12. Butyl glycolyl butal phthalate	October 1980.
13. Chlorendic acid	October 1981.
14. Chlorinated benzenes, mono and di.	October 1977 (a) (c).
15. Chlorinated benzenes, tri-, tetra-, and penta-.	October 1978(c).
16. Chlorinated naphthalenes	April 1978(b).
17. Chlorinated paraffins	October 1977(a).
18. 4-Chlorobenzotrifluoride	October 1981.
19. 2-Chlorotoluene	April 1981.
20. Cresols	October 1977(a).
21. Cyclohexanone	April 1979.
22. o-Dianisidine-based dyes	November 1979.
23. 1,2-Dichloropropane	October 1978.
24. Diethylenetriamine	April 1981.
25. Fluoroalkanes	October 1980.
26. Glycidol and its derivatives	October 1978.
27. Halogenated alkyl epoxides	April 1978(b).
28. Hexachloro-1,3-butadiene	October 1977(a).
29. Hexachlorocyclopentadiene	April 1979.
30. Hexachloroethane	April 1981.
31. Hydroquinone	November 1979.
32. Isophorone	April 1979.
33. Mesityl oxide	April 1979.
34. 4,4'-Methylenedianiline	April 1979.
35. Methyl ethyl ketone	April 1979.
36. Methyl isobutyl ketone	April 1979.
37. Phenylenediamines	April 1980.
38. Polychlorinated terphenyls	April 1978(b).
39. Pyridine	April 1978(b).
40. Quinone	November 1979.
41. o-Tolidine-based dyes	November 1979.
42. Toluene	October 1977(a).
43. Tris(2-chloroethyl)phosphite	October 1981.
44. Xylenes	October 1977(a).

(a) EPA Administrator replied in 43 FR 50134–50136.
(b) EPA Administrator replied in 44 FR 28095–28097.
(c) EPA Administrator replied in 45 FR 48524–48564.
(d) EPA Administrator replied in 45 FR 48510–48512.

TABLE 2—REMOVALS FROM THE TSCA SECTION 4(e) PRIORITY LIST

Removal	Date of removal
1. Alkyltin compounds	October 1981(a).
2. Chloromethane	October 1981(b).
3. Dichloromethane	October 1981(c).
4. Nitrobenzene	October 1981(c).
5. 1,1,1-Trichloroethane	October 1981(c).

(a) Removed by the Committee for reconsideration (This Report).
(b) Responded to by the EPA Administrator in 45 FR 48524–48564.
(c) Responded to by the EPA Administrator in 46 FR 30300–30320.

References

(*1*) Preliminary List of Chemical Substances for Further Evaluation. Toxic Substances Control Act Interagency Testing Committee, July 1977.

(*2*) Initial Report to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the **Federal Register** of Wednesday, October 12, 1977, 42 FR 55026–55080. Corrections published in the **Federal Register** of November 11, 1977, 42 FR 58777–58778. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/001, January 1978.

(*3*) Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1978. Published in the **Federal Register** of Wednesday, April 19, 1978, 43 FR 16684–16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/002, July 1978.

(*4*) Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1978. Published in the **Federal Register** of Monday, October 10, 1978, 43 FR 50630–50635. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–79/001, January 1979.

(*5*) Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1979. Published in the **Federal Register** of Friday, June 1, 1979, 44 FR 31866–31889.

(*6*) Fifth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, November 1979. Published in the **Federal Register** of Friday, December 7, 1979, 44 FR 70664–70674.

(*7*) Sixth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1980. Published in the **Federal Register** of Wednesday, May 28, 1980, 45 FR 35097–35010.

(*8*) Seventh Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1980. Published in the **Federal Register** of Tuesday, November 25, 1980, 45 FR 78432–78446.

(*9*) Eighth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1981. Published in the **Federal Register** of Friday, May 22, 1981, 46 FR 28138–28144.

(*10*) Dichloromethane, Nitrobenzene and 1,1,1-Trichloroethane; Proposed Test Rule. Published in the **Federal Register** of Friday, June 5, 1981, 46 FR 30300–30320.

(*11*) Chemicals to be Reviewed by the TSCA Interagency Testing Committee; Notice of Public Meeting. Published in the **Federal Register** of Tuesday, October 7, 1980, 45 FR 66056–66513.

Chapter 2—Recommendations of the Committee

2.1 *Chemical substances designated for action by the EPA Administrator.* As provided by section 4(e)(1)(B) of TSCA, the Committee is adding the following three chemical substances to the section 4(e) Priority list: Chlorendic acid, 4-chlorobenzotrifluoride, and tris(2-chloroethyl)phosphite. The designation of these entries was determined after considering the factors identified in section 4(e)(1)(A) and other available relevant information, as well as the professional judgment of Committee members.

The studies recommended for these entries and the rationales to support the recommendations are given in section 2.2 of this report. In accordance with section 4(e) of TSCA, the Committee designates these entries for action by the EPA within 12 months of the date of issuance of this Ninth Committee Report.

2.2 *Recommendations and rationales.*

2.2.a. *Chlorendic Acid.*

Summary of recommended studies. It is recommended that chlorendic acid be tested for the following:

A. *Environmental Effects:*
Chemical fate.
Actue and chronic toxicity to fish and aquatic invertebrates.
Toxicity to aquatic macrophytes and algae.

Physical and Chemical Information

CAS Number: 115–28–6.
Structural Formula:

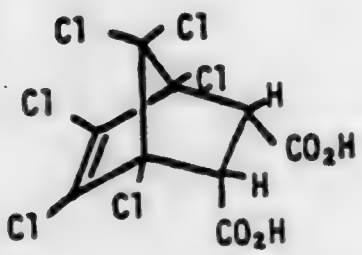

Empirical formula: $C_9H_4Cl_8O_4$.
Molecular Weight: 388.87.
Melting Point: 208–210° C (in sealed tube).

Solubility in Water: 0.35g/100 g at 22.8° C.

Log Octanol/Water Partition Coefficient: No information found.
Description of Chemical: Chlorendic acid is a nearly odorless white solid.

Rationale for Recommendations

I. *Exposure information—A. Production/use/disposal information.* Industrial use of chlorendic acid and the corresponding anhydride (supplied from both U.S. production and importation) is presently estimated to be approximately 7 million pounds a year (EPA, 1981; Asland, 1981). Chlorendic acid and its corresponding anhydride are considered to be two of the most reactive (as contracted with additive) flame retardants in use (Kirk-Othmer, 1980). Chlorendic acid is used to import flame resistance to polyesters, coatings, epoxy resins, and polyurethan (Kirk-Othmer, 1971). Release to the environment may occur during preparation of flame retardant polymers, polyesters and pesticides, and from the hydrolysis of chlorendic anhydride.

B. *Chemical fate information.* Chlorendic acid is a hexachlorobornene compound. Although no information has been found on the photolysis of chlorendic acid, studies on numerous hexachlorobornene compounds have shown that these compounds undergo cleavage of the C–Cl bond at the vinyl carbon with replacement of chlorine by hydrogen (Parlor and Korte, 1979). Chlorendic acid is not expected to present an atmospheric problem because of its low volatility. Additionally, reactions with hydroxyl radicals and ozone, as well as direct photolysis, should rapidly destroy any chlorendic acid directly exposed to air (Parlar and Korte, 1977; Parlar and Korte, 1979; and Shuphan et al., 1972).

Chlorendic acid may enter the environment in wastewater from flameprooofing processes in the textile industry (Friedman et al., 1974) and is expected to favor the aqueous compartment because of its solubility in water. It is likely that chlorendic acid will be formed as a degradation product in soil containing polymers and pesticides having the hexachlorobornene moity (Martens, 1972; menzie, 1978). Chlorendic acid will form also through hydrolysis of chlorendic anhydride. Due to the insolubility of the anhydride at environmental temperatures. This process will be slow (Velsicol, 1968).

With respect to biodegradation, chlorendic acid would be expected to behave like other highly chlorinated norbornene compounds, which exhibit considerable resistance to degradation. Chlorendic acid forms complexes with iron and may sorb to iron oxide colloids in sediments and soil (Berger and McKay, 1975).

II. *Environmental considerations*—A. *Short-term (acute) effects.* No studies on the short-term effects of chlorendic acid have been found for either aquatic animals or plants.

B. *Long-term (subchronic/chronic) effects.* No studies on the long-term effects of chlorendic acid have been found for either aquatic animals or plants.

C. *Other effects (phsiological/behavioral/ecosystem processes).* No studies on physiological, behavioral, or ecosystem effects of chlorendic acid have been found.

D. *Bioconcentration and food/chain transport.* Because of the polar nature of chlorendic acid, it is not expected to bioconcentrate in fatty tissues of organisms. The estimated bioconcentration factor (BCF) in fatty tissues of fish is 1 (Veith, 1981). Chlorendic acid may bind with protein groups (Friedman et al, 1974) thereby increasing the potential for food/chain transport. No data were found on this concern.

E. *Reasons for specific environmental effects recommendations.* Because of the use/disposal patterns and water solubility of chlorendic acid, this compound is expected to accumulate in the aquatic environment. Chemical and biological degradation of chlorendic acid is estimated to be sufficiently slow to persist in the environment. Chemical fate testing is recommended to permit an understanding of movement and compartmentalization of chlornedic acid in the aquatic environment. These tests can provide data on the potential exposure of aquatic organisms to chlorendic acid, as well as an estimate of food-chain transport.

No data were found on the toxicity of chlorendic acid to aquatic organisms. There is concern with this compound because it is structurally similar to other highly chlorinated norbornene compounds, such as the pesticides chlordane, heptachlor, endosulfan, isodrin, dieldrin, and endrin. Therefore, it is recommended that chlorendic acid be tested for acute and chronic toxicity to aquatic animals and plants.

References

(*1*) Ashland. 1981. Communication from Ashland Chemical Company to Enviro Control, Inc., August 13, 1981.

(*2*) Berger, SA, McKay JB. 1975. The solvent extraction of Fe(III) by chlorendic acid. J. Inorg. Nucl. Chem. 37:2565–2567.

(*3*) EPA. 1981. Environmental Protection Agency. TSCA Chemical Substances Inventory (public portion), Washington, D.C.: Environmental Protection Agency.

(*4*) Friedman M, Ash JF, Fox W. 1974. Dyebath application of chlorendic acid for flame-resistant wool. Text. Res. J. 44:555–555[illegible].

(*5*) Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed. 1971. Supplement. New York, NY: John Wiley and Sons, p. 480.

(*6*) Kirk-Othmer Encyclopedia of Chemical Technology, 3rd ed. Vol. 10. 1980. New York, NY: John Wiley & Sons, p. 388.

(*7*) Martens R. 1972. Degradation of endosulfan by soil micro-organisms. Schriftenreihe des Vereins fur Wasser-, Boden-, und Lufthygiene. 37:167–173. (Original article not available; citation from abstract).

(*8*) Menzie CM. 1978. Metabolism of pesticides, update II. Special Scientific Report No. 212. Washington, DC: Fish and Wildlife Service, U.S. Department of the Interior, pp. 131–133.

(*9*) Parlar H, Korte F. 1977. Photoreactions of cyclodiene insecticides under simulated environmental conditions—a review. Chemosphere 6(10):665–707.

(*10*) Parlar H, Korte F. 1979. Photochemical kinetics for the dechlorination reactions of cyclodiene insecticides. Chemosphere 8(11/12):873–876.

(*11*) Shuphan I, Sajko B, Ballschmiter K. 1972. The chemical and photochemical properties of cyclodiene insecticides aldrin, dieldrin, endosulfan and related hexachlorobicyclo-(2,2,1)-heptene derivatives. Z. Natursforsch. 27:147–156.

(*12*) Veith GD. 1981. Memorandum to G. W. Dickson, EPA. August 4, 1981.

(*13*) Velsicol. 1981. Product Application Bulletin on Velsicol Chlorendic Anhydride. Velsicol Chemical Corporation, June 3, 1968.

2.2.b *4-Chlorobenzotrifluoride.*

Summary of recommended studies. It is recommended that 4-chlorobenzotrifluoride be tested for the following:

A. *Health Effects:*
Chronic effects
B. *Environmental Effects:*
Chemical Fate
Bioconcentration

Physical and Chemical Information

CAS Number: 98–56–6.
Structural Formula:

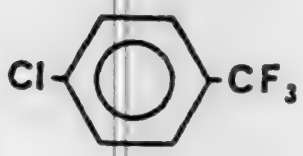

Empirical Formula: $C_7H_4ClF_3$.
Molecular Weight: 181.
Melting Point: −36° C.
Vapor Pressure: 8 mm Hg at 25° C (estimated).
Log Octanol/Water Partition Coefficient: 3.72 (estimated).

Description of Chemical: 4-Chlorobenzotrifluoride is a colorless liquid at room temperature (22° C). It has a low solubility in water and is soluble in most organic solvents.

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/disposal information.* Between 10 million and 50 million pounds of 4-chlorobenzotrifluoride were produced in 1977 (EPA, 1980). The chemical is used primarily as an intermediate. It has been considered for use as a solvent and as a dielectric fluid (Hooker, 1981a). 4-Chlorobenzotrifluoride appears to be released to the environment at production and use sites through wastewaters (Pellizari et al, 1979; Hites, 1980; Yurawecz, 1979) and through drainage from waste disposal areas. The detection of 4-chlorobenzotrifluoride at concentrations of 0.17–2.0 ppm in edible portions of three species of freshwater fish (Yurawecz, 1979) provides further evidence that there is environmental exposure to this chemical.

B. *Chemical fate information.* No test data on the environmental transport or persistence of 4-chlorobenzotrifluoride have been identified. The chemical is sufficiently volatile to enter the atmosphere. Based on its chemical structure, it is expected to resist degradation, persist in the environment, and bioconcentrate (see section III0.

II. *Biological effects of concern to human health*—A. *Short-term (acute) effects.* The acute toxicity of 4-chlorobenzotrifluoride has been well characterized in rodents (Hooker, 1981a). Oral LD_{50} values have been estimated to be greater than 6.8 g/kg in male and female Sprague-Dawley rats. A 4-hour acute inhalation study utilizing male and female Sprague-Dawley rats yielded an estimated LC_{50} value of 33.0 mg/L.

B. *Short-term tests.* Several short-term in vitro tests have been performed ón 4-chlorobenzotrifluoride and the following results have been reported (Hooker, 1981a):

Test	Test results
(1) *Salmonella typhimurium* (TA–1535; TA–1537; TA–1538; TA–98; TA–100).	Negative.
(2) *Escherichia coli* (W3110/*pol* A+; P 3478/*pol* A−).	Negative.
(3) *Saccharomyces cerevisiae* (D_4)	Negative.
(4) Mouse lymphoma forward mutation assay (TK locus in L5178Y cells).	Negative.
(5) Unscheduled DNA synthesis (EUE cells)	Positive.
(6) In vitro transformation (BALB/3T3 cells)	Negative.
(7) Sister chromatid exchange (L5178Y mouse lymphoma cells).	Positive.

Details of the study designs and evaluation criteria were not available to the Committee for review.

C. *Long-term (subchronic/chronic) effects.* No data are currently available to assess the long-term effects of 4-chlorobenzotrifluoride. A 90-day subchronic and reproductive study, by gavage in rats, has been proposed by a sponsor (Hooker, 1981b). The Committee has received no information concerning the status of the study.

D. *Health effects recommendations.* Based on the data provided by industry (Hooker, 1981a) no further acute toxicity testing is recommended. Since two of the seven short-term in vitro tests were positive, there are concerns about its potential for chronic effects.

The potential for 4-chlorobenzotrifluoride to bioconcentrate is of concern because humans may be chronically exposed to this chemical through its manufacture, use, and disposal. Since humans may be exposed through the food chain, as suggested in the following section on Environmental Considerations, there is concern for chronic human health effects. Based on these considerations, 4-chlorobenzotrifluoride is recommended for chronic toxicity testing. The Committee believes, however, that prior to conducting long-term chronic testing, there should be a clarification and subsequent review of the protocols and criteria used for the short-term tests summarized above.

III. *Environmental considerations*—A. *Short-term (acute) effects.* Acute toxicity tests have been conducted under static conditions in fish and daphnids (Hooker, 1981a). LC_{50} values were reported for bluegill sunfish (12.0 mg/L; 96 hr), rainbow trout (13.5 mg/L; 96 hr), and *Daphnia magna* (12.4 mg/L; 48 hr).

B. *Long-term (subchronic/chronic) effects.* A 21-day flow-through test was conducted with *D. magna* (Hooker, 1981a). The maximum allowable toxicant concentration (MATC) was calculated to be 0.03–0.05 mg/L. Results of a 30-day embryo/larval test using fathead minnows produced an MATC of 0.54–1.40 mg/L (Hooker, 1981a).

C. *Other effects (physiological/behavioral/ecosystem processes).* Inhibition of six species of bacteria and fungi was observed at concentrations ranging from 31 to 8,000 ppm (Hooker, 1981a). This data summary also reported inhibition of green and blue-green algal species at 500 ppm.

D. *Bioconcentration and food-chain transport.* The log of the octanol/water partition coefficient, estimated by Hansch and Leo (1979), is 3.72 for 4-chlorobenzotrifluoride. By the method of Veith et al. (1980), the bioconcentration factor is calculated to be 382 for 4-chlorobenzotrifluoride.

E. *Rationale for environmental effects recommendations.* Adequate testing has been completed on the short-term (acute) and long-term (chronic) effects of 4-chlorobenzotrifluoride on aquatic organisms. The results of these tests (Hooker, 1981a) indicates that 4-chloro benzotrifluoride is moderately toxic to fish and aquatic invertebrates.

The compound may enter aquatic systems through wastewater from manufacture, solvent usage and through drainage from waste dump sites. Upon reaching the aquatic environment, 4-chlorobenzotrifluoride is expected to be persistent because of the estimated low rates of chemical and biological degradation (Adler et al, 1978). Chemical fate studies are recommended to provide information necessary to quantify the environmental transport and compartmentalization of 4-chlorobenzotrifluoride.

Because of the relatively high calculated log octanol/water partition coefficient, 4-chlorobenzotrifluoride is expected to bioconcentrate in fatty tissues of living organisms. Yurawecz (1979) detected 4-chlorobenzotrifluoride at concerntrations ranging from 0.17 to 2.0 ppm in the edible portion of three species of freshwater fish (white bass, smallmouth bass, and yellow perch) collected from Niagara River. This potential for bioconcentration increases concern for the effects of food chain transport of 4-chlorobenzotrifluoride. For these reasons and the expected

environmental entry routes, it is recommended that testing be conducted to determine the bioconcentration of 4-chlorobenzotrifluoride.

References

(1) Adler IL, Haines LD, Jones BM. 1978. Gas-liquid chromatographic determination of residues from the herbicide 2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene. J. Assoc. Off. Anal. Chem. 61(3): 605–609.

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2.2.c *Tris(2-Chloroethyl)Phosphite. Summary of recommended studies.* The Committee recommends that tris(2-chloroethyl)phosphite be tested for the following:

A. Health Effects:
- Pharmacokinetic and metabolic studies
- Subchronic effects
- Reproductive effects

B. Environmental Effects:
- Chemical fate
- Acute toxicity to fish, aquatic invertebrates, and algae

Physical and Chemical Information

CAS No.: 140–08–9.

Synonyms: 2-chloroethanol phosphite (3:1), tris(2-chloroethyl) ester of phosphorous acid.

Structural Formula: $(ClCH_2CH_2O)_3P$.

Empirical Formula: $C_6H_{12}Cl_3O_3P$.

Molecular Weight: 269.5.

Boiling Point: 112–115° C at 2.5 mm Hg; estimated vapor pressure at 25° C less than 0.01 mm Hg.

Specific Gravity: 1.34.

Solubility: Hydrolyzed in water; soluble in organic solvents, including acetone, alcohols, benzene, ether, and carbon tetrachloride

Log Octanol/Water Partition Coefficient: <2 (estimated).

Description: Colorless liquid with a characteristic odor.

Rationale for Recommendations

I. *Exposure information*—A. *Production and use information.* The public portion of the TSCA Chemical Substances Inventory discloses aggregate production by three manufacturers in 1977 of between 2.1 and 21 million pounds in the United States (EPA, 1981). Tris(2-chloroethyl) phosphite is an intermediate in the manufacture of various phosphorous-containing monomers, including latexes, forms, adhesives, and coatings (Kirk-Othmer, 1978). It is reported to be used as an extreme pressure additive in lubricants and as a plasticizer for polyvinyl chloride (Stauffer, 1981a); in these applications the compound could occur in consumer products.

No threshold limit value (TLV®) has been designated by ACGIH, although 2 ppm (10 mg/m³) with a short-term exposure limit (STEL) of 5 ppm (25 mg/m³) has been set for an analog, trimethylphosphite (ACGIH, 1981).

B. *Chemical fate information.* Tris(2-chloroethyl) Phosphite probably is hydrolyzed in aqueous environments, with estimated half-lives depending on the pH of the system (rapid at low pH; a few hours at pH 7 and above). The hydrolysis product very likely is 2-chloroethanol. (Smith, 1933; Imaev, 1961a; Imaev, 1961b).

II. *Biological effects of concern to human health*—A. *Toxicity studies.* Tris(2-chloroethyl)phosphite was reported in one study to have an acute oral LD_{50} in the rat of 0.9 ml/kg (1200 mg/kg) (Olin, 1981). Another study found an oral LD_{50} of 100 mg/kg (Mobil, 1980). A third study reported that the LD_{50} is greater than 10 mg/kg and less than 50 mg/kg in female rats. The same source reported an LD_{10} of 50 mg/kg in male rats; in both male and female rats there was 100 percent mortality at doses above 500 mg/kg (Stauffer, 1981b).

Acute dermal LD_{50} values in rabbits, reported by three chemical firms were in the range of 500 to 2000 mg/kg (Olin, 1981; Mobil, 1980; Stauffer, 1981b).

In rabbits a 4-hour skin application elicited only a mild irritant action (Stauffer, 1981b), whereas 24-hour dermal exposure to tris(2-chloroethyl)phosphite caused necrosis and fissures of the skin (Olin, 1981). Edema was noted in intact and abraded skin sites. The test material produced severe corneal, iridial, and conjunctival effects in rabbit eyes; more than 7 days was required for recovery. (Olin, 1981).

In rats, the acute inhalation LC_{50} was greated than 5.0 mg/L in both male and female rats. There was 20 percent mortality in female rats exposed at 5.0 mg/L for 4 hours, but none in males. Both sexes displayed physical signs of toxicity. (Stauffer, 1981b).

In both rats and rabbits, tris(2-chloroethyl)phosphite led to decreases in cholinesterase levels in either red blood cells or plasma. (Olin, 1981).

In view of the variance in reported acute toxicity levels, as well as the difference in response of male and female rats, subchronic studies of the toxicity of tris(2-chloroethyl)phosphite are recommended.

B. *Mutagenicity.* Tris(2-chloroethyl)phosphite was tested in *Salmonella typhimurium* strains TA 98, TA 100, TA 1535, and TA 1537, with and without activation. Two activation systems were used, namely: Aroclor 1254-induced male Sprague-Dawley rat liver S–9 and Aroclor 1254-induced male Syrian hamster liver S–9. No significant mutagenic activity was noted in TA 98, TA 100, TA 1535, or TA 1537, despite the use of doses ranging from 333 to 13,800 μg with and without activation (NTP, 1981a).

C. *Metabolism studies.* No information was found on the absorption, distribution, excretion, or metabolism of tris(2-chloroethyl)phosphite. Thus, pharmacokinetic and metabolic studies should be performed to determine what the possible products are. A long-term study on 2-chloroethanol, one possible metabolite, was initiated in January of 1981 and animal studies will end in February 1983 (NTP, 1981b). 2-Chloroethanol is eventually converted to chloroacetic acid which was not carcinogenic in two hybrid strains of mice (Innes et al., 1969) or in rats (Fuhrman et al., 1955). Depending upon the results of the studies with 2-chloroethanol, further testing requirements for tris(2-chloroethyl)phosphite should be considered.

D. *Teratogenicity and reproductive effects.* No information was available on teratogenicity or reproductive effects. In view of the possible alkylating action of tris(2-chloroethyl)phosphite, alterations in genetic material may result from exposure. Thus, studies of reproductive effects in both sexes are recommended.

III. *Environmental considerations*—A. *Short-term (acute) effects.* No studies on the short-term effects of tris(2-

chloroethyl)phosphite have been found for either aquatic animals or plants.

B. *Long-term (subchronic/chronic)effects.* No studies on the long-term effects of tris(2-chloroethyl)phosphite have been found for either aquatic animals or plants.

C. *Other effects (physiological/behavioral/ecosystem processes).* No studies on physiological, behavioral, or ecosystem effects of tris(2-chloroethyl)phosphite have been found.

D. *Bioconcentration and food-chain transport.* Because of chemical structure, there is no reliable way to estimate the log octanol/water partition coefficient (log P) for this compound. However, based upon solubility characteristics and comparisons with other data (Leo et al., 1971), tris(2-chloroethyl)phosphite is expected to have a log P of less than 2 (Veith, 1981). Because of the relatively low log P estimates and the anticipated rapid in vivo hydrolysis (Smith et al., 1933, Imaev, 1961b), tris(2-chloroethyl)phosphite is not expected to bioconcentrate significantly in fatty tissues. This compound is likely to bind to sediments and thus have the potential to be transported along the food chain. No data were found on food-chain transport.

E. *Reasons for specific environmental effects recommendations.* The reported use/disposal pattern of tris(2-chloroethyl)phosphite indicates that the primary exposure to this compound will occur in the aquatic environment. It is expected to enter the aquatic environment through manufacturers' and processors' wastewater and through degradation of polymers.

Studies of similar trialkyl phosphites (Imaev, 1961a, 1961b) indicate that tris(2-chloroethyl)phosphite will be rapidly hydrolyzed (estimated minutes to hours) in water to a potentially toxic compound, 2-chloroethanol. Sorption of tris(2-chloroethyl)phosphite to sediments may impede hydrolysis. Chemical fate testing is recommended to permit an understanding of the movement and compartmentalization of tris(2-chloroethyl)phosphite in the aquatic environment. These tests can provide data on the expected rate of hydrolysis to 2-chloroethanol. In addition, chemical fate testing will permit estimates of the sorption of tris(2-chloroethyl)phosphite to sediments and its effect on hydrolysis and potential food chain transport.

No test data were located on the toxicity of tris(2-chloroethyl)phosphite to aquatic organisms. Acute toxicity tests in fish, aquatic invertebrates, and algae are recommended because of the aquatic exposure anticipated, the apparent toxicity of a degradation product, and the paucity of toxicity test data on tris(2-chloroethyl)phosphite.

References

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[FR Doc. 82-3071 Filed 2-4-82; 8:45 am]
BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Application for Certificate [Casualty]

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

DFDS Seaways (Bahamas) Ltd.,
DFDS Seacruises (Bahamas) Ltd.,
United Steamship Company (Bahamas) Ltd. and Scandinavian World Cruises (Bahamas) Limited
c/o Scandinavian World Cruises, 1441 Port Boulevard, Port of Miami, Miami, Florida 33132

Dated: February 2, 1982.

Francis C. Hurney,
Secretary.

[FR Doc. 82-3015 Filed 2-4-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banque Nationale de Paris; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as BNP International Corp., Houston, Texas. BNP International Corp. would operate as a subsidiary of Banque Nationale de Paris, Paris, France. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-3028 Filed 2-4-82; 8:45 am]
BILLING CODE 6210-01-M

Bay-Hermann Bancshares, Inc.; Formation of Bank Holding Company

Bay-Hermann Bancshares, Inc., Hermann, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of

Bay-Hermann Bank, Hermann, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3029 Filed 2-4-82; 8:45]

BILLING CODE 6210-01-M

Carter Bancshares, Inc.; Formation of Bank Holding Company

Carter Bancshares, Inc., Carter, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Carter, Carter, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the applciation should submit views in writing to the Reserve Bank, to be received not later than February 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3030 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

Inter First Corp.; Acquisition of Bank

Inter First Corporation, Dallas, Texas, (formerly First International Bancshares, Inc.), has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The Peoples National Bank of Tyler, Tyler, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3031 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

Met-State Corp.; Proposed Acquisition of Metropolitan State Industrial Bank

Met-State Corporation, Brighton, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Metropolitan State Industrial Bank, Commerce City, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of an industrial bank, and sell insurance that is directly related to an extension of credit by a bank or is directly related to the provision of financial services by a bank. These activities would be performed from offices of Applicant's subsidiary in Commerce City, Colorado, and the geographic areas to be served are Commerce City, Colorado and the unincorporated section of Adams County, Colorado that is bounded by the South Platte River to the west; 120th Avenue to the north; the Rocky Mountain Arsenal to the east; and the Adams County Line to the south. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than February 27, 1982.

Board of Governors of the Federal Reserve System, January 28, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3034 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

Republic of Texas Corp.; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The Lubbock National Bank, Lubbock, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing,

identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3032 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

RLG Bancshares, N.V.; Formation of Bank Holding Company

RLG Bancshares, N.V., Houston, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of First Western Bancshares, Inc., a bank holding company, and thereby acquire indirectly 100 percent, less directors' qualifying shares, of Western Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 27, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3035 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

Terre Du Lac Bancshares, Inc.; Formation of Bank Holding Company

Terre Du Lac Bancshares, Inc., Chesterfield, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Leadwood, Leadwood, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 27, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3036 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

Western Holding Company of Wolf Point; Formation of Bank Holding Company

Western Holding Company of Wolf Point, Wolf Point, Montana, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Western National Bank of Wolf Point, Wolf Point, Montana. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 28, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3033 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Govenors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 25, 1982.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (mortgage lending activities; New Jersey and Pennsylvania): To engage through its subsidiary, Colonial Mortgage Service Company Associates, Inc., in the origination of FHA, VA, and conventional residential mortgage loans. These activities will be conducted from offices in Haddonfield and Newark, New Jersey, serving New Jersey and Pennsylvania.

2. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (financing activities; New York, Ohio, and Pennsylvania): To engage through its subsidiary, Congress Financial Corporation, in the solicitation and making of loans secured by accounts receivable, inventory, machinery and equipment and/or other commercial finance collateral from and to businesses and corporations. These activities will be conducted from an office in Elma, New York, serving the

States of New York, Ohio, and Pennsylvania.

B. **Federal Reserve Bank of Chicago.** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Continental Illinois Corporation, Chicago, Illinois (servicing and commercial finance activities; California): To engage, through its existing subsidiary, Continental Illinois Commercial Corporation, in the following previously approved activities: making or acquiring, for its own account or for the account of others, secured and unsecured loans and other extensions of credit (including issuing letters of credit and accepting drafts) to or for business, governmental and other customers (excluding direct consumer lending), and servicing such loans and other extensions of credit. These activities will be performed from an office to be located at 515 Flower Street, in the city of Los Angeles, California, serving the State of California.

C. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, January 29, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3037 Filed 2-4-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR H-38]

Utilization and Disposal; Regional Consolidation of Real Property Disposition Programs

January 28, 1982.

To: Heads of Federal Agencies.

Subject: GSA Regional Consolidation of Real Property Disposition Programs.

1. *Purpose.* This bulletin is issued to notify agencies of the consolidation of real property disposition programs in the GSA regional offices, and to redirect agency inquiries and program documentation accordingly. The real property program provides for the utilization and disposal of excess and surplus real property and related personal property.

2. *Expiration date.* This bulletin will remain in effect until canceled.

3. *Backgound.* In order to conduct the real property disposition programs efficiently with the current and projected resources available, the Federal Property Resources Service (FPRS) is consolidating the Real Property Divisions from 10 regions into 6 regional offices.

4. *General.* On February 28, 1982, the Real Property Divisions in Regions 2, NCR, 6, and 8 will be disestablished and the real property disposition functions transferred to the consolidated Real Property Division regions listed below

Consolidated real property regions	Standard Gas regions covered
Region 1—Boston, MA	Regions 1, 2 (less Puerto Rico and Virgin Islands).
Region 4—Atlanta, GA	Regions 3, NCR, 4 (Puerto Rico and Virgin Islands).
Region 5—Chicago, IL	Region 5.
Region 7—Fort Worth, TX	Regions 6 and 7.
Region 9—San Francisco, CA.	Regions 8 and 9
Region 10—Auburn, WA	Region 10.

5. *Agency action.* Effective February 28, 1982, Standard Forms 118 (Report of Excess Real Property) and accompanying Standard Forms 118a (Buildings, Structures, Utilities, and Miscellaneous Facilities), 118b (Land), and 118c (Related Personal Property), should be submitted to the appropriate consolidated regional Real Property Division listed above. All other matters, except mortgage administration, related to the real property program should also be directed to the consolidated regional Real Property Division. Inquiries regarding property reported to a Real Property Division scheduled to be deactivated should be directed to those regional offices until they are closed out on February 28, 1982. After that date, any remaining workload will be reassigned to the consolidated regional offices listed above.

6. *GSA assistance.*

a. A satellite office with real property disposition program representatives reporting to the consolidated Real Property Division office will be maintained in Regions 2, NCR, and 8 to maintain customer liaison, and related work of a local nature.

b. Additional information needed in connection with this bulletin may be obtained by writing to the Commissioner, Federal Property Resources Service (D), General Services Administration, Washington, DC 20405, or by calling the Office of Real Property (DR), telephone (202) 535-7064.

Roy Markon,

Commissioner, Federal Property Resources Service.

[FR Doc. 82-3016 Filed 2-4-82; 8:45 am]

BILLING CODE 6820-96-M

GOLD COMMISSION

Meeting

Notice is hereby given that the Commission established pursuant to Pub. L. 96-389 to review the role of gold in the domestic and international monetary systems and report its findings and recommendations to the Congress, will meet in the Treasury Department Cash Room on Friday, February 12, 1982, beginning at 9:30 A.M. The meeting is open to the public.

Any comment or inquiry with respect to this notice can be addressed to Ralph V. Korp, Direcfor, Office of International Monetary Affairs, U.S. Department of Treasury, Washington, D.C. 20220, (202) 566-5365.

Dated: February 1, 1982.

Ralph V. Korp,

Director, Office of International Monetary Affairs, Department of Treasury.

[FR Doc. 82-3038 Filed 2-4-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Salsbury Laboratories, Inc.; Polystat and Polystat-3; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Salsbury Laboratories, Inc., providing for use of Polystat and Polystat-3 (sulfanitran, butynorate, dinsed, and roxarsone) in manufacturing complete chicken and turkey feeds. The firm requested the withdrawal of approval.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Bureau of Veterinary Medicine (HFV-232), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: Salsbury Laboratories, Inc., 200 Rockford Rd., Charles City, IA 50616, is the sponsor of NADA 9-638 which provides for use of the combination medicated premixes Polystat (30 percent sulfanitran, 20 percent butynorate, 20 percent dinsed, and 2.5 percent roxarsone) and Polystat-3 (30 percent sulfanitran, 20 percent butynorate, 20 percent dinsed, and 5 percent roxarsone). The premixes are used in manufacturing a complete chicken and turkey feed containing 2 pounds of premix per ton for coccidiosis, large roundworm infections, tapeworm infections, weight gain, feed efficiency, and improved pigmentation, and hexamitiasis in turkeys.

The application originally became effective on December 13, 1954. The NADA was the subject of a notice of opportunity for hearing published in the **Federal Register** of August 29, 1978 (Doc. No. 78N–0230; 43 FR 38628). The notice indicated there is a lack of substantial evidence demonstrating that the products are safe and effective when used as labled. The firm initially responded requesting a hearing. In their letter of October 27, 1981, the firm requested withdrawal of approval of the NADA and of its request for hearing.

Section 514.115(d) (21 CFR 514.115(d)) of the animal drug regulations allows for the voluntary withdrawal of an approved NADA. Section 514.115(d), however, normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA. In this case, however, Salsbury's request is being granted because of the extended time interval which has elapsed since the notice of opportunity for hearing was published and also because the public interest will be served and Salsbury's interests will not be prejudiced by the withdrawal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 9–638 and all its supplements for Polystat and Polystat-3 containing sulfanitran, butynorate, dinsed, and roxarsone is hereby withdrawn, effective February 16, 1982.

Dated: January 29, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–3010 Filed 2–4–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81N–0397]

Revisions of Certain Food Chemicals Codex, 3d Edition, Monographs; Opportunity for Public Comment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on pending changes to certain Food Chemicals Codex, 3d edition, monographs and is soliciting specification information on proposed new monographs. For certain substances used as food ingredients, revised materials, consisting of new monographs, and additions, changes, and corrections in several current monographs, are being prepared by the National Academy of Sciences/National Research Council (NAS/NRC) Subcommittee on Codex Specifications. These revised materials will be published in the first supplement to the Food Chemicals Codex, 3d edition.

DATE: Comments by April 6, 1982. (The NAS/NRC Subcommittee on Codex Specifications advises that comments that are not received by this date cannot be considered for the first supplement but will be considered for later supplements.)

ADDRESS: Written comments to the NAS/NRC Subcommittee on Codex Specifications, National Academy of Sciences (JH 224), 2101 Constitution Ave., NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT:
Robert Mathews, Food Chemicals Codex, Food and Nutrition Board, 2101 Constitution Ave., NW., Washington, DC 20418, 202–389–6537,
or
John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–426–9462.

SUPPLEMENTARY INFORMATION: FDA provides research contracts to the NAS/NRC to support preparation of the Food Chemicals Codex, a compilation of specifications for substances used as food ingredients. In the **Federal Register** of November 2, 1979 (44 FR 63155), FDA announced that the NAS/NRC Subcommittee on Codex Specifications was reviewing the Food Chemicals Codex, 2d edition, and the three supplements issued thereto, in preparation for publication of the Food Chemicals Codex, 3d edition. The public was invited to comment and to make suggestions for consideration for inclusion in that publication. The Food Chemicals Codex, 3d edition, was published in 1981.

The agency now gives notice that the NAS/NRC Subcommittee on Codex Specifications is soliciting comments and information on proposed new monographs and proposed changes to certain current monographs. Information received in response to this notice will be used for developing these new monographs and for determining the necessity of the contemplated changes to the current monographs. These changes and new monographs will be published in the first supplement to the Food Chemicals Codex, 3d edition. Copies of the proposed changes to current monographs may be obtained from the National Academy of Sciences at the address listed above.

FDA emphasizes, however, that it will not consider adopting the first supplement to the Food Chemicals Codex, 3d edition, until the public has had ample opportunity to comment on the changes. The opportunity for public comment will be announced in a notice published in the **Federal Register**.

The NAS/NRC Subcommittee on Codex Specifications invites comments and suggestions of specifications by all interested parties on the proposed monographs and proposed revisions of current monographs.

I. Proposed new monographs:

Synthetic fatty alcohols (cetyl, decyl, hexyl, lauryl, myristyl, octyl, stearyl)
Annatto extract
Dehydrated beets
Casein
Certified food colorants
High fructose corn syrup
Gelatin
Grape skin extract
Hexane
Hydrolyzed vegetable protein
Carbon dioxide
Invert sugar
Lactose
Magnesium sulfate, monohydrate
Propellant gases
Smoke flavor
Triglycerides (refined edible lipids)
Vitamin D concentrate
Calcium sorbate

II. Current monographs in which the NAS/NRC is proposing to make changes:

Aspartame (optical rotation, test for isomeric impurities)
Butylated hydroxyanisole (BHA) (new gas chromatography assay)
Calcium chloride, anhydrous (particulate contaminants)
Calcium oxide (fluoride limit)
Carbon, activated (lead test, polynuclear aromatic hydrocarbon test)
Dimethylpolysiloxane (viscosity range)
Malic acid (fumaric and maleic acid tests)
Sodium saccharin (assay method)
Sodium bicarbonate (assay procedure)
Zinc sulfate, monohydrate (assay range)

Four copies of written comments regarding this notice are to be submitted to the National Academy of Sciences at the address listed above. The National Academy of Sciences will forward copies of each comment to the Dockets Management Branch (HFA–305), Food

and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, to be placed under Docket No. 81N–0397 for public review.

Dated: January 28, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–2861 Filed 2–4–82; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Reports on Bioassays of Selenium Sulfide and Selsun® for Possible Carcinogenicity; Availability

Three long-term animal bioassays of selenium compounds for possible carcinogenicity were conducted by the National Toxicology Program and the National Cancer Institute. Two of the bioassays were skin painting studies designed to approximate the human use of antidandruff shampoos. The bioassays of selenium sulfide were conducted in two ways: by administering it by gavage to mice and rats, and by applying it to the skin of mice. Selsun®, an antidandruff shampoo containing 2.5 percent selenium sulfide, was also tested dermally in mice.

The element selenium is a trace metal that is a dietary constituent for animals and probably for humans. In excess, it is toxic. Various selenium compounds have industrial and medical uses.

Under the conditions of the dermal bioassays, neither selenium sulfide nor Selsun® produced a carcinogenic effect in the mice.

The garage study of selenium sulfide was carcinogenic for F344 rats and female B6C3F1 mice, inducing hepatocellular carcinomas in male and female rats and female mice and alveolar/bronchiolar carcinomas and adenomas in female mice. Selenium sulfide was not carcinogenic for male mice, but they may have been able to tolerate higher doses.

Single copies of the reports, Bioassay of Selenium Sulfide (Gavage) for Possible Carcinogenicity (TR 194), Bioassay of Selsun® for Possible Carcinogenicity (TR 199), and Bioassay of Selenium Sulfide (Dermal Study) for Possible Carcinogenicity (TR 197), and additional information are available from the Office of Cancer Communications, National Cancer Institute, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: January 27, 1982.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 82–2861 Filed 2–4–82; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI–93]

Intended Environmental Impact Statement; KaKa'aKo, Oahu, Hawaii

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: KaKa'aKo, Oahu, Hawaii. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C. February 1, 1982.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

Environmental Impact Statement on the KaKa'aKo, Oahu, Hawaii, Community Development District Plan

The Department of Housing and Urban Development (HUD) Honolulu Area Office and the Hawaii Community Development Authority intend to prepare an EIS on the project described below. The Department hereby solicits comments and information for consideration in the EIS.

Description: The KaKa'aKo Community Development District Plan is a proposal to redevelop KaKa'aKo, a 450 acre area of the Honolulu urban core between the Central Business District and Waikiki. HUD may participate in the implementation of the District Plan by making available mortgage insurance, low rent housing subsidies, and other funds under the Community Development Block Grant Program.

A mixture of commercial, industrial, and residential uses are planned with new public roadways, parks, schools, housing and commercial and industrial uses proposed to be established over a period of the next 25 to 30 years. A population increase from 2,300 to 47,500 persons and a job increase from 18,600 to 69,000 jobs is anticipated.

Need: An EIS is proposed due to HUD threshold requirement in accordance with housing program environmental regulations and probable impact on: Topography, water quality, air quality, noise, vegetation, public sewers, utilities, and traffic volumes.

Alternatives: At this time, the HUD alternatives are: accept the proposed development as submitted, accept the proposed development with modifications, or reject the proposed development.

Scoping: A formal scoping meeting is not anticipated. This notice is part of a process for scoping the EIS. Responses to this notice will be used to help (1) determine significant issues, (2) identify relevant data, and (3) identify cooperating agencies. For further information, please contact Frank Johnson, Environmental Officer, Department of Housing and Urban Development, Honolulu Area Office, P.O. Box 50007, Honolulu, Hawaii 96850. His phone number is (808) 546–2196.

Comments: Comments and questions regarding this proposal should be sent to Robert K. Fukuda, Area Manager, Attention of Frank Johnson, Environmental Officer, HUD Honolulu Area Office, 300 Ala Moana Boulevard, Room 3318, Honolulu, Hawaii 96850. The Area Office phone number is (808) 546–2136.

[FR Doc. 82–3030 Filed 2–4–82; 8:45 am]

BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. D–82–663]

Delegation of Authority Under Multifamily Mortgage Foreclosure Act of 1981

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of certain responsibilities under the Multifamily Mortgage Foreclosure Act to the general counsel.

SUMMARY: This notice delegates to the General Counsel the power under the Multifamily Mortgage Foreclosure Act

(the "Act") to appoint a foreclosure commissioner or commissioners, or a substitute forclosure commissioner to replace a previously designated foreclosure commissioner to fix compensation and to promulgate implementing regulations under the Act.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: John P. Kennedy, Office of General Counsel, U.S. Department of Housing and Urban Development, Room 10270, Area Code (202) 755–6999.

SUPPLEMENTARY INFORMATION: Section 365 of the Multifamily Mortgage Foreclosure Act of 1981, Pub. L. 97–35, 95 Stat. 423 (August 13, 1981) (12 U.S.C. 3704), empowers the Secretary of HUD, by executing a duly acknowledged, written designation stating the name and business or residential address, to appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, to exercise a nonjudical, statutory power of sale with respect to a multifamily mortgage held by the Secretary. Such mortgage may have originated under Title II of the National Housing Act or section 312 of the Housing Act of 1964. Section 369C of the Act states that foreclosure costs incurred by the foreclosure commissioner and a commission as authorized by regulations issued by the Secretary shall be paid from the sale proceeds prior to satisfaction of other claims. Section 369I of the Act empowers the Secretary of HUD to issue such regulations as may be necessary to carry out the provisions of the Act. These responsibilities are being delegated by the Secretary to the General Counsel. Accordingly, the Secretary delegates as follows:

Under section 365 of the Act the power to appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, is hereby delegated to the General Counsel with authority to redelegate.

Under section 369C of the Act, the power to fix compensation is delegated to the General Counsel with authority to redelegate this authority. Foreclosure commissioners shall be compensated from the proceeds of sale in accordance with section 412 of the Act. Should the sale proceeds be insufficient, payment of the commission and costs may be made from the insurance fund contingently obligated when the secured indebtendness was insured on the project being foreclosed.

Under section 369I of the Act the power to promulgate such regulations as may be necessary to carry out the provisions of the Act is delegated to the General Counsel with authority to redelegate.

(Multifamily Mortgage Foreclosure Act of 1981, Pub. L. 97–35, 95 Stat. 423 (August 13, 1981); section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., January 27, 1982.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 82-3019 Filed 2-4-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona Strip Planning and Wilderness Management Proposal

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Amend the Vermillion Management Framework Plan and Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969, the BLM will review public land areas suitable and non-suitable for wilderness designation. This review process will include an amendment to the existing Management Framework Plan to determine proposed recommendations and identify alternates to be utilized in the preparation of an Environmental Impact Statement. The Environmental Impact Statement will also analyze impacts on those areas recommended for wilderness in the Shivwits Management Framework Plan where planning was completed in fiscal year 1981. These areas are in Coconino and Mohave Counties, Arizona.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to review areas of public land determined to have wilderness characteristics.

FLPMA has therefore made wilderness preservation a part of BLM's multiple-use mandate, with wilderness values recognized as a part of the spectrum of resource values and uses to be considered in the resource management planning process. To carry out the wilderness mandate of FLPMA, the Bureau of Land Management has developed a wilderness review process with three phases: inventory, study, and reporting to Congress. In the wilderness inventory, the B.L.M examined the public lands and, with extensive public participation, identified those areas that met the definition of wilderness established by Congress. These areas were identified as Wilderness Study Areas (WSAs). As a result of the wilderness inventory, 41 WSAs, comprising approximately 762,038 acres have been established (March 19, 1981) in the EIS area.

The wilderness study phase consists of the management planning process and Environmental Impact Statement (EIS) development. The EIS will analyze the Management Proposal as the Proposed Action. Other Alternatives will also be analyzed and include:

(1) Continuation of present management (No Action);

(2) Designation of all WSAs as Wilderness; and

(3) Designation of *more* total wilderness acreage than the Proposed Action.

These alternatives present a range of management for the wilderness resources from all to none. When the study has been completed, a report regarding the suitability or unsuitability of each wilderness study area for designation as wilderness will be submitted to the Secretary of the Interior. The Secretary will make recommendations to the President as provided in Section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782). Reports on wilderness study areas must reach the President no later than October 21, 1991, and reach Congress by October 21, 1993. Only Congress can designate an area as wilderness.

Public participation will include news releases, informational mailings requesting comment and participation and public hearings to receive comment on the adequacy of the EIS. Hearing dates and locations will be announced at a later date.

For information concerning the Environmental Impact Statement contact:

Dennis R. Carter, Team Leader, EIS Office, BLM, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770, Telephone: (801) 628–0428

Art Tower, Environmental Coordinator, Arizona State Office, BLM, 2400 Valley Bank Center, Phoenix, Arizona 85073, Telephone: FTS–261–4127, Commercial (602) 261–4127

Dated: January 28, 1982.

Tom Allen,

Acting State Director.

[FR Doc. 82-3076 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial Number: A 17000-G]

Arizona; Classification of Public Lands for State Indemnity Selection

In **Federal Register** Document 82-1470, appearing on pages 3042 and 3043 of the issue for January 21, 1982, the following changes should be made for Application A 17000-G:

In paragraph 1, line 5, "1919" should be "1910".

T. 6 N., R. 2 E.,

Section 5 should be:

Lots 1, 2 the W½ of Lot 3, Lot 4, S½NE¼, N½SW¼NW¼, SW¼SW¼NW¼, E½SE¼NW¼, E½NW¼SE¼NW¼, N½NE¼NE¼SW¼, SE¼NE¼NE¼, SW¼, NE ¼SE¼NE¼SW¼, S½SE¼NE¼SW¼, W½NW¼SW¼, SE¼NW¼SW¼, SW¼SW¼, E½SE¼SW¼, W½SW¼SE¼SW¼, SE¼ [2, 3, 4, 10]

Section 8 should be:

NE¼, NE¼NE¼NW¼, W½W½NE¼NW¼, E½SE¼NE¼NW¼, W½NW¼, E½NE¼SE¼NW¼, W½SE¼NW¼, W½E½SW¼, W½SW¼, SE¼ [2, 3, 4, 10]

Section 29 should be:

E½NE¼NE¼, E½W½NE¼NE¼, W½NE¼NW¼NE¼, W½NW¼NE¼, SE¼NW¼NE¼, SE¼NE¼, E½SE¼NE¼, E½NW¼SE¼NE¼, W½, E½NE¼SE¼, W½W½NE¼SE¼, W½SE¼, NE¼SE¼SE¼, W½W½SE¼SE¼, W½E½SW¼SE¼SE¼, E½W½SE¼ SE¼SE¼, E½SE¼SE¼SE¼, [4, 5, 6, 9, 13, 14]

T. 7 N., R. 2 E.,

Section 29 should be:

N½,SW¼, N½NE¼SE¼, N½S½NE¼ SE½, NW¼SE¼, SE¼NE¼SW¼SE¼, N½NW¼SW¼SE¼, SW¼NW¼SW¼ SE¼, NW¼SW¼SW¼SE¼, SE¼SW¼SE¼, NE¼SE¼SE¼, NE¼NW¼SE¼SE¼, S½NW¼SE¼ SE¼, S½SE¼SE¼ [15, 16]

Section 32 should be:

NE¼NE¼, NE¼NW¼NE¼, E½NW¼NE¼ NE¼, S½NE¼NW¼, S½NW¼, W½NE¼NE¼NW¼, W½NE¼NW¼, NW¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼, W½SE¼SW¼NW¼, W½NW¼SE¼NW¼, E½E½SW¼, E½W½E½SW¼, W½NE¼NW¼SW¼, W½NW¼SW¼; SE¼NW¼SW¼, SW¼SW¼, SE¼ [4, 15, 16]

Dated: January 28, 1982.

William K. Barker,

For the State Director.

[FR Doc. 82-3074 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[SAC 054898]

California; Partial Termination of Proposed Withdrawal and Reservation of Land; Correction

January 27, 1982.

In **Federal Register** Document No. 81-14459 appearing on pages 26701 and 26702 of the issue of May 14, 1981, the seventh line of the second paragraph reads "Sec. 34, S½SW¼NW¼." It is corrected to read, Sec. 34, S½SW¼NW¼ except: A parcel of land in Section Thirty-four (34) Township Thirty-two (32) North, Range Six (6) West, Mount Diablo Meridian, County of Shasta, State of California, having an area of 5.0 acres, more or less, and being all that portion of the Southwest quarter of the Northwest quarter (SW¼ of NW¼) of said Section 34, that is more particularly described as follows:

Commencing at the southwest corner of the Northwest quarter (NW¼) of said Section 34, said corner being marked by a brass cap set by the Bureau of Land Management in 1957, thence along the south line of said Northwest quarter (NW¼) North 88°14' East 1309.9 feet, thence leaving said south line and running along the east line of said Southwest quarter of the Northwest quarter (SW¼ of NW¼) North 5°23' East 180.3 feet to the true point of beginning of this description, thence leaving said east line North 84°37' West 485.0 feet, thence North 5°23' East 450.0 feet, thence South 84°37' East 485.0 feet to a point on the aforesaid east line of the Southwest quarter of the Northwest quarter (SW¼ of NW¼) of said Section 34, thence along said east line South 5°23' West 450.0 feet to the true point of beginning.

Joan B. Russell,

Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 82-3008 Filed 2-4-82; 8:45 am]

BILLING CODE 4301-84-M

[CA 10683]

El Dorado County, California; Conveyance of Public Land

January 25, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Robert and Gail Anderson, 4180 Fort Jim Road, Placerville, California 95667, have purchased by noncompetitive sale public land in El Dorado County, California, described as:

Mount Diablo Meridian, California

T. 10 N., R. 12 E.,
Sec. 20, Lot 6.
Containing 3.00 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Anderson.

Joan B. Russell,

Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 82-3006 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 8576]

Conveyance of Public Land; Imperial County, California

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), the Bombay Beach Community Service District, Star Route 1, Box 134, Niland, California 92257, has purchased by noncompetitive sale public land in Imperial County, California, described as follows:

San Bernardino Meridian, California

T. 9 S., R. 12 E.,
Sec. 28, NE¼ and S½.
Containing 480 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to the Bombay Beach Community Service District.

Dated: January 28, 1982.

Joan B. Russell,

Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 82-3007 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[M 1587]

Montana; Termination of Classification of Public Lands for Multiple Use Management

January 29, 1982.

1. On May 26, 1967 (FR Vol. 32, No. 108, p. 8096) the public lands described in the notice, aggregating approximately 175,922 acres in Petroleum County, Montana, were classified for multiple use management under the Act of September 19, 1964 (43 U.S.C. 1411-18). This classification segregated the land from appropriation under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands remained open to all other applicable forms of appropriations, including the mining and mineral leasing laws.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification

referred to under paragraph one above is hereby terminated. At 8 a.m. on March 5, 1982, the lands described in said notice on May 26, 1967, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 82-3075 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-049863]

Nevada; Classified Vacated

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, small tract classification Nev-049863 is hereby vacated in its entirety. The following township is affected:

Mount Diablo Meridian, Nevada

T. 14 N., R. 20 E.

The land affected comprises approximately 2.50 acres in Carson City, Nevada.

The Small Tract Act was repealed by section 702 of the Federal Land Policy and Management Act of 1976. Accordingly, the classification is no longer applicable and is hereby terminated. The segregative effect of the classification order is removed upon February 5, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-3082 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-049908]

Nevada; Classification Vacated in Part

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, small tract classification Nev-049908 is hereby vacated in part as to the following land:

Mount Diablo Meridian

T. 16 N., R. 21 E.,
Sec. 28, W½SW¼, W½W½E½SW¼;
Sec. 29, E½E½, NE¼SW¼NE¼, NW¼NW¼SW¼NE¼, SE¼NW¼SW¼NE¼, N½NW¼SE¼, N½SW¼NW¼SE¼, E½SE¼NW¼SE¼;
Sec. 32, N½NE¼, SE¼NE¼;
Sec. 33, NW¼NW¼, W½W½NE¼NW¼, N½SW¼NW¼, W½NW¼SE¼NW¼.

The land affected comprises approximately 420.00 acres in Carson City, Nevada.

The Small Tract Act was repealed by section 702 of the Federal Land Policy and Management Act of 1976. Accordingly, the classification is no longer applicable and is hereby terminated. The segregative effect of the classification order is removed on February 5, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-3001 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 51970]

New Mexico; Application

January 29, 1982.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for a 10-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 17 S., R. 32 E.
Sec. 15: SE¼SE¼l
Sec. 21: SE¼NE¼, NE¼SW¼, E½SE¼SW¼, N½SE¼;
Sec. 22: N½NE¼, NE¼NW¼, S½NW¼.

This pipeline will convey natural gas across 1.984 miles of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

John Gregg,

District Manager, Roswell District Office.

[FR Doc. 82-3078 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 14934]

New Mexico; Amended Application

January 28, 1982.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied to amend the existing right-of-way for replacement of a 10 inch natural gas pipeline with a 24 inch pipeline across the following public lands:

New Mexico Principal Meridian, New Mexico

T. 25 S., R. 24 E.
Section 34: NE¼SW¼, E½SE¼;
Section 35: SW¼SE¼.
T. 26 S., R. 24 E.
Section 1: SW¼SW¼;
Section 12: S½SE¼, NW¼SE¼, SW¼NE¼, E½NW¼, NW¼NW¼;
Section 13: E½NE¼.
T. 26 S., R. 25 E.
Section 18: Lots 1, 2, 3, E½SW¼;
Section 19: SE¼, W½NE¼, NE¼NW¼;
Section 29: W½SW¼, SW¼NW¼;
Section 30: E½NE¼.

This pipeline will convey natural gas across 5.199 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

John Gregg,

District Manager, Roswell District Office.

[FR Doc. 82-3072 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

Lakeview Grazing District Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR 4120.6-1(e) that the first meeting of the Lakeview Grazing District Advisory Board will be held on March 2, 1982 at 10:00 A.M. in the BLM's Conference Room at 1000 S. 9th Street, Lakeview, Oregon 97630.

The agenda will include the following topics:

1. Selection of a Chairperson and Vice Chairperson.
2. Review of the Board's duties, activities, etc.
3. Discussion of allotment categorization.
4. The BLM maintenance policy.

The meeting will be open to all interested parties who desire to attend. Interested persons may make oral statements to the Board or file a written statement for the Board's consideration. Persons wishing to make statements should notify the District Manager at the above address by February 26, 1982.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: January 27, 1982.

Richard A. Gerity,

District Manager.

[FR Doc. 82-3005 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-84-M

OCS Oil and Gas Sale No. 67; Tract Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Tract Withdrawal.

SUMMARY: Notice is hereby given that tract No. 67-61 (Vermilion Block 17) scheduled to be offered in OCS Sale 67 on February 9, 1982, is hereby withdrawn. The legal description of the tract that appeared in the **Federal Register** notice of January 8, 1982 (47 FR 1076) was incorrect. This tract may be offered in OCS Sale 69.

FOR FURTHER INFORMATION CONTACT: Robert Samuels, Division of Offshore Resources, BLM, 18th and C Streets, Room 2521, Washington, D.C. 20240; (202) 343-5121

Dated: February 4, 1982.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 82-3334 Filed 2-4-82; 12:02 pm]

BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations with H&RW Irrigation District; Intent To Begin Amendatory Contract Negotiations

The Department of the Interior, through the Regional Director of the Lower Missouri Region, Bureau of Reclamation (Bureau), intends to begin negotiations with the H&RW Irrigation District (District) for conversion of the existing water service and repayment contract No. 7-07-70-W0045 (formerly 14-06-700-1242), as amended, to a water service contract. The proposed contract is being negotiated pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), as amended by the Act of September 21, 1959 (73 Stat. 584).

The District, located in southwestern Nebraska, with its headquarters at Culbertson, Nebraska, depends on Enders Reservoir in Chase County for most of its water supply. Extensive ground-water development upstream of Enders Reservoir has depleted the reservoir inflow over the past several years by nearly 60 percent. Geological Survey study "Quantitative Hydrogeology of Upper Republican Natural Resources District, Southwest Nebraska," Water Resource Investigation 78-38, June 1978, concludes that perennial flow of Frenchman Creek entering Enders Reservoir will be eliminated by 1992 if ground-water development continues. The study also concludes that even with no further ground water development, the perennial flow entering Enders Reservoir will be less than 10 percent of the 1975 flow by year 2000. In either case, the depletion of the inflow to the reservoir will reduce the water supply to and the payment capacity of the District.

Therefore, the District is seeking a revision of the terms of repayment in the existing contract to be commensurate with the quantity of water received and the irrigators' ability to repay. The United States is seeking to minimize loss of the capital investment, while irrigation water is still available and sufficient funds are forthcoming to operate and maintain the system.

All meetings scheduled by the Bureau with the District to discuss terms and conditions of the proposed amendatory water service contract will be open for the general public as observers. Advance notice of the meetings will be furnished to those parties having furnished a written request for such notice at least 1 week prior to a scheduled meeting. When a draft contract form has been negotiated, it will be made available to the public for a 30-day review and comment period. During the review period, the public is invited to submit written comments. However, unless significant public interest in the negotiations is stimulated by this notice or local publicity, the availability of the proposed contract for public review and comment may not be publicized further.

Written comments and requests for information should be directed to Robert D. Kutz, Project Manager, Bureau of Reclamation, P.O. Box 1607, Grand Island, Nebraska 68801, telephone (308) 382-3660. All written correspondence concerning the proposed contract amendment will be made available pursuant to the provisions of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: Feb. 1, 1982.

Eugene Hinds,

Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 82-3280 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-09-M

Contract Negotiations for Water Service Contracts From New Melones Unit; Intent To Initiate Contract Negotiations

The Department of the Interior, through the Bureau of Reclamation, intends to initiate contract negotiations for water service from New Melones Unit, Central Valley Project (CVP), California. New Melones Reservoir was constructed by the Corps of Engineers as authorized under the Flood Control Acts of December 22, 1944 (58 Stat. 887), and October 23, 1962 (76 Stat. 1173). Following construction of New Melones Reservoir, the Corps turned the project over to the Bureau of Reclamation for operation as an integral unit of the CVP. The proposed water service contracts will be negotiated pursuant to the authorities of the Acts of December 22, 1944, October 23, 1962, and the Reclamation Project Act of August 4, 1939 (53 Stat. 1187).

As required by the Act of October 23, 1962, the Secretary of the Interior designated the Stanislaus River Basin and projected the quantity of water necessary to be reserved to satisfy the existing and anticipated future needs within the basin. The approved plan is based on a special report entitled "Stanislaus River Basin Alternatives and Water Allocation" and an accompanying final environmental statement filed with the Environmental Protection Agency. In accordance with the approved plan, the reservoir will be operated to provide 180,000 acre-feet of conservation yield to meet present and future agricultural and municipal and industrial (M&I) water needs until approximately the year 2020. Project annual agricultural water use is approximately 116,000 acre-feet for use within the basin and 49,000 acre-feet for use outside the basin. Projected annual M&I use within the basin is 15,000 acre-feet. The projected allocations by basin subareas are as follows: Copperopolis subarea in Calaveras County—15,000 acre-feet; the Lower Tuolumne County—9,000 acre-feet; the Farmington subarea in Stanislaus and San Joaquin Counties—61,000 acre-feet; and the portion of Cooperstown subarea in Stanislaus County—46,000 acre-feet.

The proposed contracting program will be in accordance with the approved plan and will consist of 3 basic water service contracts; the long-term (40-year) contracts, the long-term *interim* contracts, and the temporary (1-year) contracts.

Pursuant to the authorizing legislation, any diversion outside the Stanislaus River Basin is "subordinate" to

quantities required to satisfy all existing and anticipated future needs of the basin. Therefore, the Department is required to reserve those quantities despite the time necessary for full utilization of that water. In order to protect the repayment of the CVP, the Department is marketing, on an interim basis, those quantities of project water reserved for future use within the basin. As demand within the basin develops, quantities contracted for on an interim basis will be withdrawn for inbasin use.

An interim water supply of 85,000 acre-feet has been allocated, as long as available, on a conjunctive use basis, to the Central San Joaquin Water Conservation District, the Stockton-East Water District, and the South Delta Water Agency. This interim supply would be considered a long-term interim water supply and would be available first to Central San Joaquin Water Conservation District and then to Stockton-East Water District in wet, above-normal, normal, and below-normal water years. In dry and critically dry-water years, it is proposed that the entire interim water supply would be available to South Delta Water Agency, contingent on the agency's contractual commitment to pay CVP Delta water charges and to comply with Reclamation law. The water supply available on an interim basis will decrease as inbasin demand for a firm water supply develops. Any firm or interim supply available and not desired by the basin area or local adjacent areas would be made available on an interim basis first to the Montpelier subarea. Any remaining water would be included in the CVP marketing program and contracted as additional CVP supply.

Because New Melones Dam and Reservoir will be integrated into CVP, the proposed contracting program will follow the proposed Central Valley Project water rate policy. The authorizing legislation for the New Melones Unit did not include provisions for Federal construction of conveyance and distribution systems. It is the water user's responsibility to develop and construct conveyance and distribution systems to transport New Melones Unit water. Therefore, the water rate will be based on storage costs only and will be the minimum CVP water rate; $3.50 per acre-foot for agricultural water use and $9.00 per acre-foot for M&I water use. A 5-year rate adjustment provision will be in each contract to account for any increase in the cost of service, with the first adjustment effective January 1, 1986.

All meetings scheduled by the Bureau of Reclamation with potential contractors for the purpose of discussing terms and conditions of a proposed water service contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meeting. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public. Unless significant public interest is evidenced in response to this notice, the availability of proposed contracts shall not be formally publicized. The Commissioner of Reclamation will review comments submitted, and based on the number, source, and nature of the comments, he will decide whether to hold a public hearing on the proposed contract.

For further information on scheduled negotiation sessions and the proposed contract, please contact Mr. Merv deHaas or Mrs. Betty Riley, Repayment Specialists, Division of Water and Power Reseources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone number (916) 484–4878 or (916) 484–4620.

Dated: February 1, 1982.

Eugene Hinds,

Assistant Commissioner of Reclamation.

[FR Doc. 82-3068 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-09-M

Douglas County Project, Oregon; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement for the Douglas County Project, Oregon. Under provisions of the Small Reclamation Projects Act (Pub. L. 84–984 as amended), Douglas County proposes to develop a dam, reservoir, powerhouse, and related facilities within the Cow Creek basin. The proposed project includes storage for irrigation, municipal and industrial water supply, stream enhancement, flood control, and hydroelectric power generation. The primary objective of the project is to provide a water supply to the southern portion of Douglas County.

Four damsites are being considered. The preferred site is at Galesville, Oregon, on Cow Creek, approximately eight miles upstream from Azalea. Based on feasibility studies, a project at this location would include a 158-foot high dam, have a capacity of 38,000 acre feet, a 620-acre normal pool surface, and 1.8 MW installed hydroelectric generating capability. The right abutment would be on BLM land. Relocation of up to eight private residences might be required.

Two alternative sites on West Fork Cow Creek would meet most of the same objectives as the preferred site. The Gold Mountain site is located on privately-owned timberland and BLM managed lands approximately 7.5 miles from the confluence with main stem Cow Creek. The Honeysuckle site is on both private and BLM lands approximately three miles from the confluence with main stem Cow Creek. Neither site would require relocation of residences.

A third alternative, the Applegate site, is not equivalent to the other three. An impoundment at this location, on Applegate Creek approximately 0.5 mile from its confluence with Cow Creek, would have a capacity of only 9,000 acre feet, 170-acre surface area, and no power generation. Property is owned privately and by the U.S. Forest Service. One residence would require relocation.

The present investigation has been underway since early 1981. During this time, considerable input has been and will continue to be received from interested agencies and individuals. In addition, public meetings were held on August 12, 1981, in Riddle, Oregon, and on August 13, in Portland. Scoping information on the concerns and issues which need to be addressed in the environmental statement was sought during these meetings. Consequently, it is not anticipated that formal scoping sessions will be scheduled. However, to further insure that the full range of issues related to this proposal are discussed in the environmental statement and all significant issues are identified, additional comments and suggestions are invited. The contact person is Ms. Gaye Lee, Environmental Protection Specialist, Bureau of Reclamation (Attention: 150), Box 043, 550 West Fort Street, Boise, Idaho 83724 (Telephone: (208) 334–1926).

The draft environmental statement is expected to be completed and available for review and comment by early 1983.

Dated: February 1, 1982.

Eugene Hinds,

Assistant Commissioner.

[FR Doc. 82-2980 Filed 2-4-82; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "El Greco of Toledo" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to an agreement between the foreign lender and the participating United States museums. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about July 3, 1982, to on or about September 6, 1982; the Toledo Museum of Art, Toledo, Ohio, beginning on or about September 26, 1982, to on or about November 21, 1982; and the Dallas Museum of Fine Arts, Dallas, Texas, beginning on or about December 12, 1982, to on or about February 6, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 29, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82-3080 Filed 2-4-82; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications maybe protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operatations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-15

Decided: January 25, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 16011, filed January 15, 1982. Applicant: LOUIS GAULD, d.b.a. LC TRUCKING, 2244 Greenbrae, Apt. 221, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverage and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160171, filed January 18, 1982. Applicant: REMEL SIMS, 312 S. Jackson, East Wenatchee, WA 98801. Representative: Remel Sims (same address as applicant) (509) 884-6092. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP1-17

Decided: January 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating in part.)

MC 112241 (Sub-5), filed January 22, 1982. Applicant: HUSSEY'S MOVING & STORAGE, INC., 1720 Broadway, Vallejo, CA 94590. Representative: Daniel W. Baker, 100 Pine Street, #2550, San Francisco, CA 94111 (415) 986-1414. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 154631 (Sub-2), filed January 21, 1982. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street, Woonsocket, RI 02895. Representative: Richard J. Wood, Jr. (same address as

applicant) (401) 765–3800. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *food and other edible products, and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, and (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160071, filed January 12, 1982. Applicant: TRANSPORTATION ALTERNATIVES COMPANY, 5333 West 144th St., Hawthorne, CA 90250. Representative: Robert A. Forman, 6606 LBJ Freeway, Suite 5135, Dallas, TX 75240 (214) 934–0963. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160170, filed January 19, 1982. Applicant: CALVIN COLE & STEPHANIE HOWARD, 247 20th Ave. Coos Bay, OR 97420. Representative: Calvin Cole (same address as applicant) (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP2–21

Decided: January 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 160012, filed January 8, 1982. Applicant: CART TRANSPORT, INC., P.O. Box 699, Laurel, DE 19956. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001, 202–628–9243. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160013, filed January 8, 1982. Applicant: TRANS MARK, INC., P.O. Box 351, Hazlet, NJ 07730. Representative: Robert L. Cope, Suite 501, 1730 M St., N.W., Washington, DC 20036, 202–296–2900. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160052, filed January 11, 1982. Applicant: NATIONWIDE BROKERAGE, A DIVISION NATIONWIDE SPECIAL COMMODITIES, INC., 1606–109th St., Grand Prairie, TX 75050. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062 (214) 255–6279. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160053, filed January 11, 1982. Applicant: SAM PECORILLA, Pecorilla Trucking, Rt. 2 Box 141, Monroe, OR 97456. Representative: Sam Pecorilla (same address as applicant) 503–847–5681. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160103, filed January 13, 1982. Applicant: CAL–VALLEY BROKERAGE, INC., 860 Skokie Hwy., Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, 312–726–6525. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3025 Filed 2–4–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–14

Decided: January 25, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 30650 (Sub-2), filed January 15, 1982. Applicant: C. HARRELL, INC., Garrison Road, R.D. 3, Elmer, NJ 08381. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., PO Box 1240, Arlington, VA 22210 (703) 525–4050. Transporting *such commodities* as are dealt in or used by manufacturer and distributor of farm products, between points in the U.S. (except AK and HI), under continuing contract(s) with Agway, Inc., of Syracuse, NY.

MC 87861 (Sub-14), filed January 18, 1982. Applicant: BDX, INC., 4075 East

15th Place, P.O. Box 2600, Gary, IN 46403. Representative: Gregory S. Reising, 607 South Lake Street, Gary, IN 46403, (219) 938–8080. Transporting *iron and steel articles,* between Chicago, IL, on the one hand, and, on the other, points in WI, IA, MO, OH, KY, TN, IL, IN, WV, PA, MN and MI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 119631 (Sub-47), filed January 15, 1982. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with North American Refractories Co., of Cleveland, OH.

MC 124170 (Sub-195), filed January 18, 1982. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521, (312) 629–2900. Transporting *such commodities* as are dealt in by wholesale and retail chain, grocery and food business houses, between points in Waukesha County, WI, Freeborn County, MN, Johnson County, KS, Grimes County, TX and Doughtery County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138691 (Sub-10), filed January 15, 1982. Applicant: FRANK TRANSFER & STORAGE, INC., 324 East 8th St., Sioux Falls, SD 57102. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101, (605) 335–1777. Transporting (1) *food and related products,* between points in IA, MN, and SD, on the one hand, and, on the other, points in AL, AR, IA, KS, LA, MI, MN, MS, MO, NE, OH, OK, SD, TN, TX, and WI, (2) *machinery,* between points in Lake County, SD, on the one hand, and, on the other, points in the U.S., and (3) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between points in Minnehaha County, SD, on the one hand, and, on the other, points in MN, WI, IL, IN, MI, and IA, and (b) between Omaha, NE, on the one hand, and, on the other, those points in SD on and east of the Missouri River, and those in IA on and north of a line beginning at the NE–IA State line and extending along U.S. Hwy 6 to junction U.S. Hwy 69, then along U.S. Hwy 69 to the IA–MN State line.

MC 145701 (Sub-20), filed January 18, 1982. Applicant: D. C. TRANSPORT, INC., 916 South Riverside, St. Clair, MI 48079. Representative: James J. Sheehan (same address as applicant), (313) 329–2211. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the lower peninsula of MI, on the one hand, and, on the other, points in the U.S.

MC 154210 (Sub-1), filed January 18, 1982. Applicant: A & R TRANSPORTATION CO., INC., 21 Ridgecrest Drive, Hudson NH 03051. Representative: Samuel L. Watts, 54 Middlesex Turnpike, Burlington, MA 01803, (617) 273–3530. Transporting *iron and cable products,* between points in the U.S., under continuing contract(s) with Hendrix Wire and Cable Co., of Milford, NH.

MC 156070 (Sub-1), filed June 22, 1981, previously noticed in the **Federal Register** issue of July 29, 1981. Applicant: SIRMAN'S WORLD TRAVEL AGENCY, 435 Race Street, Cambridge, MD 21613. Representative: Eleanor G. Sirman, 809 Radiance Drive, Cambridge, MD 21613, (301) 228–9014. As a *broker* at Cambridge, MD, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, between points in Dorchester County, MD, on the one hand, and, on the other, points in the U.S., including AK and HI.

Note.—This republication clarifies the territorial description.

Condition: Issuance of a license in this proceeding is subject to the coincidental cancellation, at applicant's written request, of License No. MC–156070 Sub 1, issued December 29, 1981.

MC 157371 (Sub-1), filed January 11, 1982. Applicant: CHEM-WASTE, INC., 4435 Washington Road, P.O. Box 250, Evans, GA 30809. Representative: Robert M. Haynie (same address as applicant), (404) 863-8685. Transporting *hazardous waste,* between points in Richmond and Columbia Counties, GA, on the one hand, and, on the other, Greenville, SC, and points in Sumter County, SC. Conditions: The person or persons who appear to be engaged in common control of another regulated carrier must either file and application under 49 U.S.C. §11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 1, Room 6358. The Certificate in this proceeding shall expire 5 years from date of issuance.

MC 159800, filed December 21, 1981. Applicant: ONTARIO FREIGHT LINES CORP., P.O. Box 517, Florida, NY 10921. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374–4565, (212) 275–1000. Transporting *general commodities* (except classes A and B explosives), between New York, NY, and points in Fairfield County, CT, on the one hand, and, on the other, points in NY.

MC 160100, filed January 15, , 1982. Applicant: DALE TAYLOR, d.b.a. TAYLOR TRUCKING, P.O. Box 1057 Green River, WY 82935. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *Mercer commodities,* between points in WY, CO, UT, and NV.

Volume No. OP1–16

Decided: January 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Parker not participating in part.)

MC 2900 (Sub-453), filed January 25, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203, Representative: S. E. Somers, Jr. (same address as applicant), (904) 353–3111. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Kraft, Inc., of Glenview, IL, and Mobay Chemical Corporation, of Pittsburgh, PA.

MC 24060 (Sub-4), filed January 21, 1982. Applicant: HARRY MAHALLY, JR. d.b.a. MAHALLY TRUCKING SERVICE, P.O. Box 1294, Read 289 New Grant St., Wilkes-Barre, PA 18703. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011, (717) 761–0520 or 232–8324. Transporting *general commodities* (except classes A and B explosives), (1) between points in Stark County, OH, on the one hand, and, on the other, points in Howard County, MD, and (2) between Philadelphia, PA, and points in Wayne, Pike, Monroe, Lackawanna, Luzerne, Susquehanna, Wyoming, Carbon, Northampton, Lehigh, Schuykill, Berks, Columbia and Dauphin Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, and those in TX and NM.

MC 59590 (Sub-11), filed January 11, 1982. Applicant: CLIPPER TRANSPORTATION COMPANY, 8

Porete Ave., North Arlington, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting (1) *Clay, concrete, glass or stone products,* and (2) metal products,between points in the U.S., under continuing contract(s) with Formigli Corporation, of Berlin, NJ, in (1) above, and Charles F. Guyon, Inc., of Harrison, NJ, in (2) above.

MC 62821 (Sub-1), filed January 22, 1982. Applicant: CROFUTT & SMITH STORAGE WAREHOUSES, INC., 247 Snyder St., Orange, NJ 07050. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ, (201) 435–7140. Transporting *household goods and furniture,* between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, VA, WV, OH, IN, IL, KY, TN, NC, SC, GA, AL, MS, FL, WI, and DC.

MC 90511 (Sub-8), filed January 21, 1982. Applicant: CONSTABLE TRANSPORT LIMITED, P.O. Box 248, Thorold, Ontario, CN L2V 3Y9. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara St., Buffalo, NY 14202 (716) 854–5870. Transporting *pulp, paper, and related products,* between ports of entry on the international boundary line between the U.S. and Canada in NY and MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 113651 (Sub-351), filed January 20, 1982. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 1, Omaha, NE 68154. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (403) 397–6900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in Fresno and Merced Counties, CA, Morgan County, IL, Grayson County, TX, Gibson County, TN, and Green, Dodge, and Waupaca Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124230 (Sub-45), filed January 15, 1982. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, CO 80264, (303) 861–4028. Transporting (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, (2) *machinery, equipment, materials and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, and (3) *machinery,* between points in AZ, CO, KS, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY.

MC 127820 (Sub-22), filed January 18, 1982. Applicant: TRANS-SERVICE, INC., 1943 South Lawn Ext., Coshocton, OH 43812. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *forest products, lumber and wood products and building materials,* between points in the U.S.

MC 129491 (Sub-1), filed January 18, 1982. Applicant: OGRAC CARGO, INC., 526 S. Main St., New Lexington, OH 43764. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *metal products,* between Detroit, MI, on the one hand, and, on the other, points in OH.

MC 134681 (Sub-10), filed January 21, 1982. Applicant: VULCRAFT CARRIER CORPORATION, 4425 Randolph Road, Charlotte, NC 28211. Representative: Samuel Siegel (same address as applicant), (704) 366–7000. Transporting *scrap metals, iron and steel articles, and crushed auto bodies for recycling,* between points in the U.S., under continuing contract(s) with The David J. Joseph Co., of Cincinnati, OH.

MC 139170 (Sub-6), filed January 18, 1982. Applicant: FRANK W. MADDEN COMPANY, 2070 Wright Road, Akron, OH 44320. Representative: James E. Davis, 611 West Market St., Akron, OH 44303, (216) 376–6111. Transporting *machinery,* between points in Summit County, OH, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 140071, filed January 21, 1982. Applicant: MID-AMERICAN CARTAGE, INC., 1280 Kirk St., Elk Grove Village, IL 60007. Representative: Joel H. Steiner, 29 South LaSalle Street, Suite 905, Chicago, IL 60603, (312) 236–9375. Transporting *floor coverings and floor materials,* between points in IL, IN, IA, MI, and WI.

MC 141700 (Sub-5), filed January 21, 1982. Applicant: KENNETH SCHUCK TRUCKING, INC., R. D. No. 8, Box 392, Allentown, PA 18104. Representative: Robert J. Brooks, Suite 1111, 1828 L Street NW., Washington, DC 20036, (202) 466–3892. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, DE, MD, VA, WV, PA, OH, IN, IL, MI, WI, and DC.

MC 143821 (Sub-2), filed January 22, 1982. Applicant: KRIS'S TRUCK TRANSPORT, INC., 37521 Willow St., Newark, CA 94560. Representative: Betha Kristiansen (same address as applicant), (415) 793–4221. Transporting *transportation equipment,* between points in the U.S. (including AK, but excluding HI).

MC 148791 (Sub-20), filed January 22, 1982. Applicant: TRANSPORT-WEST, INC., 2125 North Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting *tires and wheels,* between points in the U.S., under continuing contract(s) with Charlie Case Tire Company, of Phoenix, AZ.

MC 148831 (Sub-10), filed January 21, 1982. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.R. No. 1, Box 57, Tiro, OH 44887. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1514. Transporting *food and related products,* between points in St. Martin Parish, LA, Wilson County, NC, and El Paso County, TX, on the one hand, and, on the other, points in the U.S.

MC 154631 (Sub-1), filed January 21, 1982. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front St., Woonsocket, RI 02895. Representative: Richard J. Wood, Jr. (same address as applicant), (401) 765–3800. Transporting (1) *plastic articles,* between points in the U.S., under continuing contract(s) with Clearshield Plastics Corporation, of Leominster, MA, and Nypro, Inc., of Clinton, MA, (2) *artificial Christmas trees and related products,* between points in the U.S., under continuing contract(s) with Mr. Christmas, Inc., of East Douglas, MA, and (3) *cereals,* between points in the U.S., under continuing contract(s) with Weetabix-Van Brode Cereals, of Clinton, MA.

MC 157411, filed January 19, 1982. Applicant: CARR AND ORMSBY TRANSPORT, INC., 2215 Pacific Hwy. E., Tacoma, WA 98424. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy., Tacoma, WA 98421, (206) 383–3998. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Borden Chemical of Bellevue, WA, and Petroleum Reclaiming, Inc., of Tacoma, WA.

MC 157430 (Sub-1), filed January 25, 1982. Applicant: G.T.&T. TRANSPORTATION, INC., 280 Henderson St., Store No. 9, Jersey City,

NJ 07302. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Non Ferrous International Corp., of New York, NY.

MC 157720 (Sub-1), filed January 21, 1982. Applicant: B.E.I. TRANSPORT, INC., 799 Garver Road, Monroe, OH 45050. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030, (703) 691–0900. Transporting (1) *pulp, paper and related products, and wste and scrap materials,* between points in AL, AR, CA, CO, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MO, NE, NH, NJ, NC, NY, OH, PA, RI, SC, TN, TX, VT, VA, WV, and WI, (2) *rubber and plastic products, furniture and fixtures, textile mill products, pulp, paper and related products, metal products, chemicals and related products, rubber and plastic products, chemicals and related products, and machinery,* between points in IL, IN, KY, MI, MO, NY, OH, OK, PA, TN, TX, VA, WV, WI, and DC, (3) *lumber and wood products, furniture and fixtures, metal products, and machinery,* between points in IL, IN, KY, MD, MN, MS, NC, OH, PA, SC, TN, VA, WV, WI, and DC, and (4) *tobacco products,* between points in CA, IN, MI, MO, NJ, NC, OH, PA, VA, and WI.

MC 158381 (Sub-3), filed January 20, 1982. Applicant: YELLOW LAKE, INC., P.O. Box 1364, Auburndale, FL 33823. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701–1378, (305) 869–5936. Transporting (1) *food and related products,* (2) *such commodities* as are dealt in by grocery, department and drug stores, and (3) *metal products,* between points in the U.S., under continuing contract(s) with Lykes Pasco Packing Co, of Dade City, FL, in (1) above, Stop & Shop Companies, Inc., of Boston, MA, in (2) above, and Davidson Metals, Inc., of Youngstown, OH, in (3) above.

MC 158930 (Sub-5), filed January 22, 1982. Applicant: U.S. TRANSPORTATION, INC., 585 Valley Blvd., Bloomington, CA 92316. Representative: Frederick J. Coffman, 1834 N. Kelly Ave., P.O. Box 1455, Upland, CA 91786, (714) 981–9981. Transporting *juice concentrates,* between points in Fresno County, CA, on the one hand, and, on the other, points in the U.S.

MC 159331 (Sub-1), filed January 18, 1982. Applicant: J.T.I. TRANSPORTATION CO., P.O. Box 78, Fairmont, NE 68354. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *food and related products,* between points in Hall and Lancaster Counties, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159950, filed January 21, 1982. Applicant: WALSH TRUCKING CO., INC., 346 W. Crawford St., Elkhart, IN 46514. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Universal Forest Products, Inc., of Grand Rapids, MI.

MC 160150, filed January 18, 1982. Applicant: WEAVERTOWN TRANSPORT LEASING, INC., 206 Weavertown Road, Canonsburg, PA 15317. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Petromark, Inc., of Pittsburgh, PA.

MC 160161, filed January 20, 1982. Applicant: SUNRISE FOREST PRODUCTS CO., 6443 S.W. Beaverton Highway, Raleigh Hills, OR 97225. Representative: Timothy W. Whitman, P.O. Box 25060, Portland, OR 97225, (503) 297–4557. Transporting *(1) lumber and wood products, and (2) building and construction materials,* between points in CA, ID, OR, and WA.

MC 160190, filed January 20, 1982. Applicant: PETER BALL TRK & WHSE., INC., 17 Summit Street, Peabody, MA 01960. Representative: David E. McCabe, P.O. Box 402, Kittery, ME 03904, (207) 439–1847. Transporting *general commodities* (except classes A and B explosives), between points in CT, MA, NH, NY, and RI.

MC 160211, filed January 21, 1982. Applicant: F.B.N. TRUCKING CO., P.O. Box 23873, Oakland, CA 94623. Representative: Richard M. Stess (same address as applicant), (415) 232–0892. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with Rocky Mountain Express, Inc., of Oakland, CA.

MC 160221, filed January 22, 1982. Applicant: CARMEN M. PARISO, INC., 273 South Roycroft, Buffalo, NY 14225, (716) 853–0200. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202, (716) 853–0200. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in CO, CT, FL, GA, IL, KY, MA, MI, MO, MN, NJ, NY, NC, OH, OK, PA, SC, VA, VT, WV, and WY.

Volume No. OP2–18

Decided: January 25, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 5723 (Sub-9), filed January 8, 1982. Applicant: VANGUARD INTERSTATE TOURS, INC., 1 Westerly Road, Ossining, NY 10510. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783–3525. Transporting *passengers and their baggage, in the same vehicle with passengers,* in special and charter operations, between points in the U.S. (including AK but excluding HI), under a continuing contract(s) with Action Bus, Inc., of Briarcliff Manor, NY.

MC-139112 (Sub-25), filed January 11, 1982. Applicant: CALEX EXPRESS, INC., Route 29, R.D. 2, Hunlock Creek, PA 18621. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *such commodities* as are dealt in by department stores, between points in the U.S. (except AK and HI).

MC-139973 (Sub-95) filed January 6, 1982. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting (1) *electrical machinery,* and (2) *metals,* between points in Nassau County, NY, on the one hand, and, on the other, points in the U.S.

MC 139973 (Sub-96), filed January 6, 1982. Applicant: J.H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65151. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *food and related products,* between the facilities of Hereford BI–Products, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 139973 (Sub-97), filed January 6, 1982. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the facilities of Delaware Valley Shippers Association, Inc., at points in the U.S.,

on the one hand, and, on the other, points in the U.S.

MC 151992 (Sub-2), filed January 5, 1982. Applicant: STOTTLEMIRE TRUCKING CO., INC., 2365 Refugee Pk., Mellman Industrial Pk., Columbus, OH 43207. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, and containers, between Detroit, MI, and points in Franklin and Montgomery Counties, OH, and Kent and Ottawa Counties, MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA, and (2) *general commodities* (except classes A and B explosives), between the facilities used by Ralston Purina Company and its subsidiaries, at points in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2–19

Decided: January 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 107012 (Sub-760), filed January 11, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant), 219–429–2234. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Electrovert, Inc., of Elmsford, NY.

MC 110252 (Sub-68), filed January 15, 1982. Applicant: J.J.W. TRUCKING, LTD., d.b.a. JAMES J. WILLIAMS, 5711 E. 3rd Ave., Spokane, WA 99206.Representative: John D. Robertson (same address as applicant), 509–535–2411. Transporting *fertilizer and fertilizer ingredients,* between points in WA, ID, OR, MT, WY, UT, and NV.

MC 127303 (Sub-91), filed January 8, 1982. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001, 202–628–9243. Transporting *ores and minerals, and clay, concrete, glass or stone products,* between points in Bureau, Putnam, and La Salle Counties, IL, on the one hand, and, on the other, points in IL, WI, MI, OH, PA, NY, IN, MS, TN, KY, and MO.

MC 134493 (Sub-11), filed January 11, 1982. Applicant: CHICAGO-ST. LOUIS TRANSPORT CO., 808 S. Joliet St., Joliet, IL 60436. Representative: James C. Hardman, 3 N. LaSalle St., Chicago, IL 60602, 312–236–5944. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MO, OH, and WI.

MC 142693 (Sub-6), filed January 11, 1982. Applicant: CUSTOM DELIVERIES, INC., 30800 Telegraph Rd., Suite 4900, Birmingham, MI 48010. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Chrysler Corporation, of Highland Park, MI.

MC 144592 (Sub-11), filed January 11, 1982. Applicant: WAYDENS HEAVY HAULERS, INC., 1400 North 6th Ave., Hiawatha, IA 52233. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, 515–274–4985. Transporting *such commodities* as are dealt in or used by wholesale dealers of lumber and building materials, between points in the U.S., under continuing contract(s) with Iowa Lumber Dealers, Inc., of Cedar Rapids, IA.

MC 148062 (Sub-3), filed January 8, 1982. Applicant: FAR WEST EXPRESS, INC., 2323 Federal Way, Boise, ID 83705. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, 801–531–1300. Transporting *general commodities* (except classes A and B explosives), between points in UT, ID, OR and WA.

MC 152393, filed January 15, 1982. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, P.O. Box 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518, 415–825–1774. Transporting (1) *automobile parts and accessories* used in the manufacture, sale, and distribution of trucks, between points in the U.S., under continuing contract(s) with Mack Trucks, Inc., of Allentown, PA, and (2) *copper and brass tubing,* between points in the U.S., under continuing contract(s) with Reading Tube Division, Reading Industries, Inc., of San Leandro, CA.

MC 152813 (Sub-1), filed January 11, 1982. Applicant: FRESH EXPRESS, INC., 55 Produce Row, St. Louis, MO 63103. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. *Food and related products* (except commodities in bulk), between the facilities of Anderson Clayton Foods, at points in the U.S., (except AK and HI), on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 155742 (Sub-1), filed January 5, 1982. Applicant: COBB TRANSPORT COMPANY, INC., d.b.a. THE COBB COMPANY, 6122 North 76th St., Milwaukee, WI 53218. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, 414–273–7410. Transporting *machinery, metal products, and those commodities which because of their size or weight require the use of special handling or equipment,* between points in Waukesha and Ozaukee Counties, WI, and Milwaukee, WI, on the one hand, and, on the other, points in the U.S.

MC 157463, filed January 12, 1982. Applicant: SOUTHERN MISSOURI TOWING SERVICE, INC., 2230 N. Packer Rd., Springfield, MO 65803. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, 417–883–7311. Transporting *wrecked, disabled and replacement vehicles, and trailers,* between points in the U.S.

MC 159832, filed January 11, 1982. Applicant: PAR TRUCKING, INC., 1006 E. Morven, Lancaster, CA 93535. Representative: Robert Fuller, 13215 E. Penn St. Suite 310, Whittier, CA 90602, 213–945–3002. Transporting (1) *cement, chemicals, and oilwell cementing materials, equipment, and supplies,* between points in CA and NV, on the one hand, and, on the other, points in AZ, CA, NM, NV, TX, and UT, (2) *cement, fly ash, plant machinery and equipment,* between points in AZ, CO, and NV, on the one hand, and, on the other, points in CA, (3) *magnesite, diatomaceous earth and related chemicals, plant machinery and equipment,* between points in NV, on the one hand, and, on the other, points in Los Angeles and San Bernardino Counties, CA, and (4) *soda ash, salt, refractory materials and petroleum coke,* between points in CA, on the one hand, and, on the other, points in Clark County, NV.

MC 159932, filed January 5, 1982. Applicant: CLARENCE KENNEDY, JR., d.b.a. KENNEDY & SON TRUCKING, Rte. 1, Box 81, Tryon, NC 28782. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave. NW., Washington, DC 20005, 202–347–9332. Transporting *textile mill products,* between points in Orange, Los Angeles, and Ventura Counties, CA, on the one hand, and, on the other, points in NC, SC, GA, TN, AL, VA, DE, PA, NJ, and TX.

MC 160042, filed January 11, 1982. Applicant: GEORGE J. STORRIE, INC., 25454 Graceland Circle, Dearborn, MI 48125. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI 48226, (313) 963–3750. Transporting *such commodities* as are manufactured, distributed, or dealt in by food stores, between points in Seneca County, OH,

on the one hand, and, on the other, points in IL, IN, MI, KY, PA, WV and NY.

MC 160092, filed January 13, 1982. Applicant: R.C.S. TRANSPORT, INC., 9130 Griffith-Morgan Lane, Pennsauken, NJ 08110. Representative: George R. Partridge, Jr., 1600 North American Bldg., 121 S. Broad St., Philadelphia, PA 19107, 215–545–5300. Transporting *such comodities* as are dealt in or used by manufacturers and distributors of pet food, between Pennsauken, NJ, on the one hand, and, on the other, points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada.

Volume No. OP2–22

Decided: January 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 109533 (Sub-143), filed January 20, 1982. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, VA 23224–2299. Representative: John C. Burton, Jr., P.O. Box 1216, Richmond, VA 23209–1216, 804–231–8281. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 148103 (Sub 1), filed January 18, 1982. Applicant: BIG JOHN TRANSPORTATION COMPANY, 5805 Greenash, Houston, TX 77081. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, 713–437–1768. Transporting (1) *machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof,* between points in (a) AR, CA, LA, MS, NM, OK, and TX, and (b) AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (2) *agricultural machinery, implements and parts,* between points in (a) *AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (3) road construction machinery and equipment,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (4) *industrial machinery, equipment and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (5) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with* (a) *the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment,* (b) *the completion of holes or wells drilled,* (c) *the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and* (d) *the injunction or removal of commodities into and from holes and/or wells,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (6) *iron and steel articles,* between points in TX, MO, NM, OK, and LA, and (7), *metal buildings, parts and equipment,* (a) between Houston, TX, on the one hand, and, on the other, points in the U.S., and (b) between Houston, TX, on the one hand, and, on the other, Galveston, Freeport, Corpus Christi, Brownsville, Barbers Cut, Port Arthur, Beaumont and Orange, TX, Lake Charles, New Orleans, and Baton Rouge, LA, Gulfport, Biloxi, and Pascagoula, MS, and Mobile, AL.

MC 150942 (Sub 2), filed January 13, 1982. Applicant: STAGE COACH LEASING CO., INC., d.b.a. STAGE COACH CHARTERING SERVICES CO., 3536 Windermere Dr., Hephzibah, GA 30815. Representative: Walter C. Lawton (same address as applicant), 404–790–9157. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations beginning and ending at points in Burke, Columbia, Jefferson, McDuffie and Richmond Counties, GA, and Aiken, Bamberg, Barnwell, Edgefield, Orangeburg and Richland Counties, SC, and extending to points in the U.S. (except AK and HI).

MC 160043, filed January 11, 1982. Applicant: RICHARD GREER TRUCKING, INC., P.O. Box Box 10864, Mehlville, MO 63129. Representative: B.W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. Transporting *sugar,* between points in the U.S., under continuing contract(s) with International Distributing Corp., of St. Louis, MO.

MC 160133, filed January 15, 1982. Applicant: KAYLINE, INC., 3153 So. 30 West, Salt Lake City, UT 84115. Representative: William A. Giles (same address as applicant), 801–484–0421. Transporting *rubber and plastic products,* between points in PA, on the one hand, and, on the other, points in Weber and Salt Lake Counties, UT.

MC 160142, filed January 15, 1982. Applicant: CLASSIC CARTAGE, 13599 Desmond St., P.O. Box 66, Pacoima, CA 91331. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *electronic parts and equipment,* between points in the U.S., under continuing contract(s) with Teledyne Systems Company, of Northridge, CA.

Volume No. OP4–29

Decided: January 26, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 13027 (Sub-28), filed January 22, 1982. Applicant: SHORTWAY LINES, INC., 1 Keeshin Drive, Toledo, OH 43612. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–8500. Transporting *passengers and their baggage* in charter operation, between points in the U.S., under continuing contract(s) with KPI Tours and Travel, Inc., of New York, NY and Toledo, OH.

MC 39416 (Sub-6), filed January 21, 1982. Applicant: THE GRAY LINE COMPANY, P.O. Box 17306, Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *passengers and their baggage* in charter and special operations, beginning or ending at points in OR and WA, and extending to points in the U.S, including AK, but excluding HI.

MC 116127 (Sub-11), filed January 20, 1982. Applicant: GEORGE D. CYRUS, INC., RFD 1, Iola, KS 66749. Representative: Charles H. Apt, P.O. Box 328, Iola, KS 66749, (316) 365–3161. Transporting *petroleum products,* between points in the U.S., under continuing contract(s) with Phillips Petroleum Company, of Bartlesville, OK.

MC 118866 (Sub-16), filed January 22, 1982. Applicant: PAUL L. ZAMBERLAN & SONS, INC., 30 Main St., Lewis Run, PA 16738. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005, (202) 296–3555. Transporting (1) *salt and salt*

products; Mercer commodities; metal products; building materials; rubber and plastic products; lumber and wood products; textile mill products; machinery; and *clay, concrete, glass or stone products,* between points in NY, PA, and OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX; and (2) *clay, concrete, glass or stone products,* between points in Cook, Lake McHenry, Will, Kendall and DuPage Counties, IL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 120616 (Sub-8), filed January 21, 1982. Applicant: A. V. DEDMON TRUCKING, INC., Hwy. 150 East, Shelby, NC 28150. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the points in the U.S., under continuing contract(s) with The Clorox Company, of Oakland, CA.

MC 136077 (Sub-35), filed January 21, 1982. Applicant: REBER CORPORATION, 2216 Old Arch Rd., Norristown, PA 19401. Representative: Richard L. Thurston, One Franklin Plaza, Philadelphia, PA 19102, (215) 854–6444. Transporting *salt and salt products,* between Jersey City, NJ, Baltimore, MD, and points in Schuyler County, NY, on the one hand, and, on the other, points in NJ and PA.

Volume No. OP4–30

Decided: January 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 12347 (Sub-76), filed January 21, 1982. Applicant: CURTIS TRANSPORT, INC., P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transporting *textile mill products,* between Richmond, VA, El Paso, TX, Winston-Salem, NC and points in Edgecombe County, NC, Greenwood and Marlboro Counties, SC, Coshocton County, OH and Claiborne Parish, LA, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 144758 (Sub-11), filed January 22, 1982. Applicant: DEDICATED TRUCKING CORP., P.O. Box 1383, Chehalis, WA 98532. Representative: Henry C. Winters, 12800 S.E. 38th St., Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, VT, WA, and WY.

MC 160186 (Sub-18), filed January 18, 1982. Applicant: VALS LIVERY SERVICE, 152 Paradise Ave., Hamden, CT 06514. Representative: Angelo Valentino (same address as applicant), (203) 248–2371. Transporting *passengers and their baggage,* in the same vehicle with passengers points in CT, MA, RI, Newark, NJ, and New York, NY.

MC 160226, filed January 22, 1982. Applicant: CFH ASSOCIATES, INC., Farrington Rd., Francestown, NH 03043. Representative: Charles F. Holbrook (same address as applicant), (603) 547–3581. To engage in operations, in interstate or foreign commerce as a *broker,* at Francestown, NH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* between points in the U.S.

MC 160236, filed January 25, 1982. Applicant: ROMEO EXPEDITORS, INC., 15355 E. 32 Mile Rd., Romeo, MI 48065. Representative: Robert E. McFarland, 2855 Collidge, Ste. 201A, Troy, MI 48084, (313) 649–6650. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the Lower Peninsula of MI, on the one hand, and, on the other, points in PA, OH, IL, IN, WI, NY, KY, and TN.

FF 416 (Sub-3), filed January 21, 1982. Applicant: IMPERIAL CARRIERS, INC., 57 Freeman St., Newark, NJ 07105. Representative: Stephen A. Alterman, 1730 RI Ave., NW., Washington, DC 20036, (202) 293–1030. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and motor vehicles), between points in the U.S.

Volume No. OP4–32

Decided: February 2, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

FF 586, filed January 20, 1982. Applicant: MIDWEST CONSOLIDATORS, INC., 2711 N. Fairview Ave., St. Paul, MN 55113. Representative: Steven D. Fernlund, P.O. Box 4427, St. Paul, MN 55104, (612) 631–9041. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 37896 (Sub-56), filed January 25, 1982. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., Washington, DC 20006, (202) 833–1170. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Great Dane Trailers, Inc., and its subsidiaries, of Savannah, GA.

MC 15546 (Sub-4), filed January 25, 1982. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 W. Carroll Ave., Chicago, IL 60612. Representative: Abraham A. Diamond, 29 S. La Salle St., Chicago, IL 60603, (312) 236–0548. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, IA, KY, MI, MO, OH, and WI, on the one hand, and, on the other, points in the U.S.

MC 120646 (Sub-32), filed January 27, 1982. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5675, Asheville, NC 28803. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Pickens and Oconee Counties, SC, and Rabun County, GA, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack the authority herein with its irregular-route authority in MC–120646 Sub 30X.

MC 123476 (Sub-74), filed September 15, 1982, previously published in the **Federal Register** issue of September 30, 1981, and republished this issue. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Industrial Ct., Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transportating *textile mill products,* between the facilities of Union Underwear Company, at points in the U.S. on and east of U.S. Hwy 85, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of the certificate in No. MC–123476 Sub 74, served November 30, 1981. To expedite issuance of any authority please submit a copy of applicant's written request for cancellation to Team 4, Room 2410.

Note.—The purpose of this republication is to correct the territorial description.

MC 142186 (Sub-9), filed January 25, 1982. Applicant: WHEELS WEST, INC., 11631 Waddle Creek Rd. S.W., Olympia, WA 98502. Representative: Henry C. Winters, 12800 S.E. 38th St., Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *transportation equipment,* between points in the U.S., under

continuing contract(s) with Webb Division-Marmon Industries, Inc., of Cullman, AL, and Titan Trailer Corporation of Woodland, CA.

MC 143776 (Sub-41), filed January 18, 1982. Applicant: C.D.B. INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *non-ferrous materials,* between points in the U.S.

MC 150726 (Sub-1), filed January 21, 1982. Applicant: HILGO TRANSPORT, INC., P.O. Box 149, Selma, CA 93662. Represenative: Thomas M. Loughran, 100 Bush, 21st Floor, San Francisco, CA 94104, (415) 986–5778.Transporting *commodities in bulk,* between points in AZ, CA, CO, ID, and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY.

MC 150776 (Sub-8), filed January 21, 1982. Applicant: ALFRED DANIELS, INC., P.O. BOX 889, Jackson, OH 45640. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Jeno's Inc., of Duluth, MN

MC 150606 (Sub-6), filed January 18, 1982. Applicant: WECO, INC., 500 Scott St., P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, (913) 232–0601. Transporting *paper and paper products, art supplies, binders, office supplies, and school supplies,* between points in the U.S., under continuing contract(s) with Stuart Hall Company, Inc., of Kansas City, MO.

MC 151136 (Sub-2), filed January 19, 1982. Applicant: CYCLE TRANSPORT, INC., 1418 East Lake St., Minneapolis, MN 55407. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 South 5th St., Minneapolis, MN 55402, (612) 340–0808. Transporting *motorcycles,* between Chicago, IL, on the one hand, and, on the other, points in SD and MN.

MC 151566 (Sub-19), filed January 18, 1982. Applicant: PERRY TRANSPORT, INC., 14375 172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel (same address as applicant), (616) 842–3550. Transporting *steel bedsprings,* between points in the U.S., under continuing contract(s) with Holland Wire Products, of Holland, MI.

MC 155026, filed January 25, 1982. Applicant: JOY McNAMARA d.b.a. SHAMROCK EXPRESS, 2406 N.E. Taylor St., Minneapolis, MN 55418. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting (1) *metal products,* and (2) *waste or scrap materials* not identified by industry producing, between points in IA, IL, MN, ND, SD, and WI.

MC 156536, filed January 25, 1982. Applicant: RISER TRANSPORTATION, INC., Rt. 4, Box 2, Keithville, LA 71047. Representative: Raymond R. Riser (same address as applicant), (318) 925–9079. Transporting *liquefied petroleum products,* between points in LA, TX, AR, OK, MS, AL, and FL, under continuing contract(s) with Aero Energy, Inc., of Shreveport, LA.

MC 155796 (Sub-4), filed January 27, 1982. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 North 72nd St., Omaha, NE 68124. Representative: Arthur J. Cerra, 2100 Charter Bank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Ovaltine Products Inc., of Villa Park, IL.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-3026 Filed 2-4-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as reqiured by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal: BASF Aktiengesellchaft, 6700 Ludwigshafen/Rhein, West Germany.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054
(b) Badische Corporation, P.O. Box Drawer D, Williamsburg, Virginia 23185
(c) BASF Canada Incorporated, P.O. Box 430, Station St. Laurent, Quebec, Canada H4L 4V8
(d) Fritzsche, Dodge & Olcott, 76 Street 9th Avenue, New York, New York 10011
(e) BASF Systems Corporation, Crosby Drive, Bedford, Massachusetts 01730.
(f) Limbacher Paint & Color Works, 3301 Bourke Avenue, P.O Box 38307, Detroit, Michigan 48238.

1. Principal: Harris Corporation, 1025 NASA Boulevard, Melbourne, Florida 32919.

2. Wholly-owned subsidiaries which will participate in the subject transportation:

Harris Data Communications, Inc., 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Harris Domestic International Sales Corporation, 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Harris Far East Ltd., 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Harris International Sales Corporation, 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Harris Italiana, Inc., 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Harris Semiconductor, Inc., 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Harris Video Systems, Inc., 1025 NASA Boulevard, Melbourne, Florida 32919, a California Corporation
Convid International, 1025 NASA Boulevard, Melbourne, Florida 32919, a California Corporation
Digital (DISC) Inc., 1025 NASA Boulevard, Melbourne, Florida 32919, a California Corporation
DRACON Disc, 1025 NASA Boulevard, Melbourne, Florida 32919, a California Corporation.
Harris Installation Corporation, 1025 NASA Boulevard, Melbourne, Florida 32919, a Delaware Corporation
Farinon Electric (DISC), 1025 NASA Boulevard, Melbourne, Florida 32919, a California Corporation.

1. Parent corporation and address of principal office: IT Corporation, 336 West Anaheim Street, Wilmington, California 90744.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) IT Transporation Corporation—California
(ii) IT Corporation—California
(iii) IT Analytical Services—California
(iv) Chemcial Carriers Inc.—California.

1. Parent Corporation and address of principal office: Jovan, Inc., 875 North Michigan Avenue, Chicago, Illinois 60611.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

i. Bocalav, Inc. (Illinois)
ii. Yardley of London, Inc. (Illinois)
iii. Omni Cosmetics Corporation (Illinois)

iv. Beecham Cosmetics and Fragrances, Inc. (Illinois)
v. Lancaster Cosmetics, Inc. (Illinois)
vi. Hermark, Inc. (Illinois)

1. Parent corporation and address of principal office: MacCaferri Gabion Manufacturing Co., Inc., Governor's Lane Blvd., Box 43A Williamsport, MD 21795.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

a. Gabion Construction, Inc.—New York
b. MacCaferri Gabion Inc.—New York

1. Parent Corporation: Polar Manufacturing Company, 247 West Main Street, Lewisville, TX 75067.

2. Wholly-Owned Subsidiaries Which Will Participate in the Operation:

(a) Polar Tank Trailers, Inc., R. R. 1, Holdingford, MN 56340
(b) American Trailers, Incorporated, 910 Morgan Road, P.O. Box 12770, Oklahoma City, Oklahoma 73157
(c) American Trailers, Inc., P.O. Box 368, West Park Addition, Air Industrial Park, Great Bend, KS 67530.

1. Name and Address of Parent Corporation: Trans Mountain Industries, Inc., a Colorado Corporation, P.O. Box 9, Evans, Colorado 80620.

2. Wholly-Owned Subsidiaries which will participate in the operations and State of incorporation:

(i) Saunders Equipment Company, A Colorado corporation.
(ii) Peidmont Exploration, a Colorado corporation
(iii) Bell & Mooney, Inc., a Wyoming corporation
(iv) Saunders Chemical Company, a Colorado corporation
(v) Saunders Petroleum Company of Colorado, a Colorado corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3022 Filed 2-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29801]

Louisville and Nashville Railroad Co.; Exemption; Purchase 5.9-Mile Portion of Track From Cleveland, Cincinnati, Chicago, and St. Louis Railway Co. and Penn Central Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 the purchase by Louisville and Nashville Railroad Company of a 5.9-mile portion of the Evansville, Mt. Carmel and Northern Branch from Cleveland, Cincinnati, Chicago and St. Louis Railroad Company and Penn Central Corporation.

DATES: This exemption will be effective March 8, 1982. Petition to stay the effective date must be filed by February 16, 1982, and petitions for reconsideration must be filed by February 25, 1982.

ADDRESSES:

(1) Interstate Commerce Commission, Section of Finance, Room 5417, Washington, D.C. 20423
(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

For copies of the full decision write to: Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call toll free: (800) 424–5403.

Pleadings should refer to Finance Docket No. 29801.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275–7245.

SUPPLEMENTARY INFORMATION: For further information, see the Commission's decision in Finance Docket No. 29801.

Decided: January 29, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3084 Filed 2-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 85)]

Southern Railway Co., Exemption for Contract Tariff ICC-SOU-C-0094

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr.

or

Jane F. Mackally, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Southern Railway Company (SOU) filed a petition on January 27, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC–SOU–C–0094 to become effective on one day's notice. The tariff was filed to become effective on February 26, 1982. The contract involves volume movements of coal for export to foreign customers.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. In a supporting statment also filed January 27, 1982, the shipper emphasizes that in order to consummate its contracts with foreign customers, it has been necessary to guarantee delivery within certain time periods. Since it takes shipper 3 weeks to load coal in railcars at the mines, and an additional week for the rail carrier to transport the coal to the port, it is essential to begin movement of coal under the contract immediately to assure meeting the scheduled arrival of export ships in late February. Additionally, shipper needs to move this coal under the contract provisions in order to meet the minimum volume requirement of the contract. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

SOU's contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 1, 1982.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie

votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3023 Filed 2-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29772]

Guilford Transportation Industries, Inc.—Control—Delaware & Hudson Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the filing of an application for the approval of control, and establishment of procedural schedule for this proceeding.

SUMMARY: Guilford Transportation Industries, Inc. (GTI), a non-carrier that currently controls the Maine Central Railroad Company (MEC), a class I rail carrier, has filed with the Commission an application to control the Delaware and Hudson Railway Company (D&H), a class I rail carrier. The application is filed under 49 U.S.C. 11343 and 11344. In addition, GTI filed an application on October 28, 1981, to control the Boston and Maine Corporation (B&M), also a class I carrier. GTI has made its application to purchase the D&H contingent upon its acquisition of the B&M. Because the GTI–B&M case must be decided by April 26, 1982, the Commission will not consolidate it with this proceeding. This proceeding will be expedited because section 1164 of the Northeast Rail Service Act of 1981, Pub. L. 97–35, requires the Commission to issue a final decision on or before July 28, 1982.

DATE: A detailed procedural schedule is attached as an appendix to this publication.

ADDRESS AND COPIES: An original and 10 copies of all pleadings in this proceeding should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423; Copies of the full decision are available from: Office of the Secretary, Room 2227, ICC, Washington, DC 20423; or by calling toll-free: (800) 424–5403.

FOR FURTHER INFORMATION CONTACT:

Richard A. Kelly (202) 275–7245; or Ernest B. Abbott (202) 275–3002

SUPPLEMENTARY INFORMATION: The Commission has issued a detailed decision in this proceeding to coincide with publication of this notice. The decision describes the application in greater detail and presents crucial information concerning applicable substantive and procedural legal principles. All interested parties should familiarize themselves with this decision.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

Dated: February 2, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix

January 29, 1982. Primary application for control of D&H by GTI along with supporting evidence is filed with the Commission.

February 5, 1982. Notice of filing and a procedural schedule for the proceeding are published in the **Federal Register**, and a decision is served providing more specific information about this proceeding.

February 24, 1982. Persons interested in participating must submit a concise position statement and provide their name, address, and telephone number, as well as the name, address, and telephone number of their representative (for details concerning the information required to be included in these position statements, see the Commission decision).

Railroads which intend to file responsive applications must give specific prefiling notice.

Written requests for cross-examination of applicants' witnesses (whose verified statements were filed on January 29, 1982) must be submitted.

March 11, 1982. An official service list will be issued.

If any cross-examination is deemed necessary, an order setting a date, time, and place for oral hearing will be issued.

March 22, 1982. [Tentative date for any oral hearing which might be found to be necessary in an order of March 11, 1982.]

April 1, 1982. Responsive applications, including supporting evidence in the form of verified statements, are due.

All evidence (in the form of verified statements) from private parties other than applicants in support of or opposition to the application is due.

April 21, 1982. Verified statements in opposition to the responsive applications are due.

Verified statements of public bodies, including the Departments of Justice and Transportation, are due.

Written requests for cross-examination of witnesses whose verified statements were filed on April 1, 1982 should be submitted.

April 30, 1982. The Commission will issue an order setting the schedule for the remainder of the evidentiary phase of this proceeding, including information concerning the submission of reply statements and briefs, and the scheduling of any further oral hearings warranted by the record.

May 5, 1982. [Tentative date for any oral hearing which might be found necessary in the order of April 30, 1982].

July 28, 1982. Final decision will be issued.

[FR Doc. 82-3253 Filed 2-4-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C 16, Justice sets forth below a *Comment* and its *Response* thereto on the proposed Final Judgment filed in the case of *U.S. v. Bristol-Myers Company*, Civ. No. 822–70 (D.D.C.).

Joseph H. Widmar,

Director of Operations Antitrust Division.

January 27, 1982

Richard H. Stern, Esq.,
818 Connecticut Avenue, NW., Suite 700, Washington, D.C. 20006

Re: United States v. Bristol-Myers Company Civ. No. 822–70 (D.D.C.); M.D.L. Docket No. 50 (Misc. 45–70); DOJ File No. 60–358–154

Dear Mr. Stern: This letter is written in response to your letter of December 18, 1981, which comments on the government's proposed settlement of the *Ampicillin* litigation. You contend that the proposed decree and/or the related competitive impact statement are inadequate in four distinct ways. First, you contend that the government should have discussed and/or explained in the competitive impact statement why it settled its damage claim for $3 million. Second, you contend that the government did not assure that the documents concerning fraudulent patent procurement are maintained so as to provide access for future plaintiffs. Third, you contend that there is a loophole in the mandatory bulk sales provision that would allow Bristol to avoid any obligation to sell pharmaceuticals in bulk form. Fourth, you contend that the competitive impact statment does not provide an adequate explanation of why the proposed judgment does not preclude Bristol from entering or maintaining other patent licenses that contain bulk sales or trademark restrictions analogous to those in the Bristol-Beecham agreements in this litigation. I will respond to these arguments *seriatim*.

A. The Statute Does Not Require That the Competitive Impact Statement Discuss the Settlement of the Damage Claim in Greater Detail

You state that years ago the government was offered more than $3 million in settlement of its damage claim, and that the competitive impact statement is deficient for failing to explain in greater detail why the government ultimately settled for $3 million. In response, the competitive impact

statement notes that the government received a monetary settlement of its damage claim (46 FR at 52055) and the $3 million amount was disclosed when the stipulation was published in the Federal Register alongside the proposed judgment and the competitive impact statement. This is sufficient under the statute which Congress enacted to provide for district court review of proposals for injunctive relief to determine whether or not they are in the public interest.

The competitive impact statement, as its name would suggest, is intended primarily to provide information relevant to assessing the effects on competition resulting from the proposed relief, including the effects on others damaged by the alleged violation. The precise amount of the settlement herein has no effect at all on competition in the marketplace or the remedies available to potential private plaintiffs damaged by the challenged conduct. Therefore, the damage settlement need not be discusses in extensive detail in a competitive impact statement filed pursuant to 15 U.S.C. 16(b).

Nor is a detailed discussion of the damage claim relevant to this court's public interest determination pursuant to 15 U.S.C. 16(e). The amount of the damage settlement does not have the type of impact on the "public generally" upon which the stature is intended to focus. The damage claim involved in the litigation is not an act by the United States in its sovereign capacity, nor is it an act brought in a representative capacity to obtain damages for injury to its citizens. Rather, the damage claim is brought by the United States in its own proprietary interest to recover damages resulting from the government's own direct purchases of ampicillin.

In any event, it is true that the government had previously considered settlement based on a higher sum. The reason that settlement was rejected at that time had nothing to do with its competitive impact. Rather, the United States determined that it would not be appropriate to enter into a separate settlement that excluded other governmental plaintiffs, including various city, county, and state governments, which were relying upon our aid in preparing the litigation for trial. Eventually, these other governmental agencies settled their claims, and we considered ourselves free to consider settling ours.

When negotiations began again, the higher sum previously discussed was no longer available. However, the $3 million eventually agreed upon is considered a fully satisfactory damage settlement from the government's perspective. While our patent fraud claim is tenable, in our opinion the evidence accumultated to date could not be a basis of an unequivocal prediction of victory. With respect to the antitrust claim that did not involve alleged patent fraud, there was extensive factual discovery remaining, and even if we prevailed on the claim, we would not be assured in excess of $3 million in damages.

In addition, the proposed settlement has the benefit of resulting in an immediate payment of $3 million dollars and immediate equitable relief that is essentially equivalent in scope to the full equitable relief requested in the complaint. If we did not settle on these terms now and instead proceeded to trial, even if we were victorious on the issue of liability we were not assured of receiving equivalently broad equitable relief and, in addition, any relief and any damage payment would be postponed until some unknown future date.

B. The Record of the Government's Patent Fraud Evidence Is Being Preserved

You contend that the proposed decree is defective because it neither provides for cancellation of the patents involved nor for preservation of the record concerning the patent fraud charge. You conclude that the defendant is unlikely to "voluntarily preserve the damaging evidence" itself (Letter at 3). In response, the evidence the government developed in support of its charge of fraudulent patent procurement is being adequately preserved to aid future litigants making the same or a similar charge.

First, the government will maintain for a reasonable time and will make available to any private litigant, upon written request and subject to applicable protective orders, copies of relevant deposition transcripts and related exhibits, and copies of all documents produced by defendants and identified in the governent's interrogatory answers relating to the patent fraud claim.

Second, defendant has indicated to the district court that the document depository which contains all documents in this case will be maintained until the expiration of the statute of limitations covering actions based on alleged patent fraud. Memorandum of Bristol-Myers Company Concerning Proposed Consent Judgment, dated January 6, 1982, at 5.

Third, the government set forth its substantive contentions and related evidence concerning the patent fraud charge in considerable detail in the following publicly available papers:

(a) Government's Answers to Certain of Defendant's First Set of Joint Interrogatories, As Modified; Interrogatory Nos. 286–289, 297, and 298; dated June 15, 1972 (7 pages);

(b) Answers and Responses of the United States to Defendant's Joint Interrogatories, First Set; Interrogatory Nos. 291, 292, 300, 302, and 308; dated February 16, 1973 (7 pages);

(c) Supplemental and Amended Answers and Responses of the United States to Certain of Defendants' Joint Interrogatories, First Set; Interrogatory Nos. 297, 298, 300, and 308; dated May 16, 1973 (6 pages); and

(d) Further Answers and Responses of the United States to Defendants' Joint Fraud; Interrogatories Nos. 286–289, dated April 27, 1978 (31 pages).

All publications referred to in those papers are publicly available. Some of those publications and certain United States as well as foreign patents, affidavits, and other documents referred to in the government's interrogatory answers are part of the Patent Office record of the prosecution of the ampicillin patent, or are otherwise available at the Patent Office.

C. There Is No "Loophole" in the Mandatory Bulk Sales Provision

You contend that there is a loophole in the bulk sale obligation included in Section V of the proposed decree which would permit Bristol to avoid its obligation to sell certain products in bulk form simply by channeling all sales to third parties through a Bristol subsidiary. Your interpretation is not consistent with the terms of the porposed decree. The provision in Section V(B)(2) that limits the bulk sale obligation to 15 percent of the amount of those drugs that Bristol sells "to any person other than its subsidiary" merely permits Bristol to avoid counting the same product twice when it sells a product to a subsidiary and the subsidiary ultimately sells the product to an unrelated firm or to unrelated individuals. It does not result in the ultimate sales by that subsidiary not counting as a sale by Bristol. Indeed, Section III(a) of the decree specifically provides that "the provisions of this Final Judgment shall apply to Bristol [and] to each of its subsidiaries. * * *" therefore, under the terms of the decree all sales to the public by Bristol or a Bristol subsidiary would be counted as a sale by Bristol for purposes of the 15 percent bulk sales obligation. In its Memorandum of January 6, 1982, Bristol acknowledges to the court that it so interprets Section V(B)(2).

D. No Further Explanation Is Required in the Competitive Impact Statement Concerning the Injunctive Relief

You contend that the competitive impact statement does not adequately explain why the injunctive relief relating to bulk sales and trademark license restrictions covers only existing Bristol-Beecham semisynthetic penicillin agreements and does not cover Bristol agreements with other drug companies, future agreements, or agreements involving other ethical drugs. You contend that a bulk sales restriction in a patent license has anticompetitive effects equivalent to a price fixing agreement or a group boycott and therefore should similarly be classified as *per se* illegal.

In response, the competitive impact statement does adequately explain the Antitrust Division's rationale for so limiting the relief. Unlike horizontal price fixes and group boycotts involving unpatented products, we explained in the competitive impact statement that bulk sales restrictions in patent licenses are not necessarily anticompetitive in all situations and therefore that a *per se* approach is not appropriate. You do not find this explanation adequate, however, and allege that it is an "about face" from the policy of previous Administrations which requires a further explanation. While the position is different than the Antitrust Division has suggested in some other situations in the past, it is the same basic position taken by the Administration that preceded this one. On June 5, 1980, the Division filed its Preliminary Memorandum of the United States concerning Main Theories of Violation, in which we explain in detail our legal theory in this litigation. Therein, we did not contend that the bulk sales restraints were *per se* illegal, but rather contended then, as we do in the competitive impact statement now, that these provisions were unlawful because in the particular fact

pattern involved the restrictions functioned anticompetitively.

In any event, the proposed judgment contains all of the relief necessary to cure the ill effects of the violation alleged in this case. In this context, the public comment-government response provision of the statute is not an appropriate forum to conduct a comprehensive theoretical dialogue concerning the proper interpretation of the antitrust laws with respect to patent licenses not involved in this litigation. Some limited comments, however, do seem appropriate.

A *per se* illegal approach such as you propose ignores basic economic facts and, by so doing, can result in the antitrust laws functioning anticompetitively rather than promoting competition. First, the patent laws permit the patentee to exclude all firms from competing in the sale of a product covered by a valid patent. Therefore, a license under a patent, even if it permits only dosage sales of the product and not bulk sales, can be procompetitive to the extent that it permits competition in dosage sales which the patentee, under the patent laws, had the power to prevent.

Second, not only can such a license potentially spur competition in the sale of a patented product, but it also can spur competition between the patented product and products with which the patented product competes. For example, a potential licensee may have lower costs than the patentee for dosage sales of a patented pharmaceutical because of a more efficient tabletting process or because of efficiencies resulting from an established sales force which regularly promotes the potential licensee's products to a large number of physicians. In such a case a license permitting the more efficient firm to sell the product in dosage form can have the effect of lowering the cost of sales of the product. Lower costs can result in lower prices to consumers and, thereby, can place the patented product in an improved competitive position vis-a-vis products with which it competes.

In this regard, you are incorrect in your assertion that the economic lesson taught in the Supreme Court's discussion of the procompetitive benefits of vertical restraints in *Continental T.V. Inc. v. GTE Sylvania, Inc.*, 433 U.S. 36 (1977), is totally inapposite to an antitrust analysis of a patent license. In fact, the procompetitive benefits that a patent license will bring to inter-product competition are an important part of the antitrust analysis for the same basic reasons that the Supreme Court in Continental T.V. found relevant the procompetitive benefits that the distributorship arrangement brought to inter-brand competition. Indeed, because the patentee has the power to prevent the sale of the patented product, and analysis similar in part to that used in a vertical context is appropriate when assessing possible procompetitive benefits of the patent license.

On the other hand, a patent license that includes a bulk sales restraint also potentially can produce significant anticompetitive effects. For example, such a license can have the effect of encouraging the licensee to abandon the development or the marketing of a product that can compete with the licensed products and of discouraging an attack on the validity of the patent involved. Whether the anticompetitive effects that are produced actually outweigh the procompetitive effects stemming from the license will vary from case to case depending upon the particular facts including the structure of the markets involved. However, the crucial point is that the anticompetitive effects stemming from the license do not always necessarily outweigh the procompetitive effects. Therefore, the adoption of a *per se* illegal approach will be anticompetitive in that in certain circumstances it will result in patentees being prevented from entering into licenses that are procompetitive in effect. This is obviously contrary to Congress' intent in adopting the antitrust laws.

For all of the reasons set forth above, the United States continues to believe that the competitive impact statement as filed was proper and that entry of the proposed decree is in the public interest. I thank you for your interest in the enforcement of the antitrust laws.

Sincerely yours,

Roger B. Andewelt,

Chief, Intellectual Property Section Antitrust Division.

818 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20006, December 18, 1981

Certified Mail 2086914, return receipt requested

Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Attn.: Roger B. Andewelt, Esq., Assistant Chief, Intellectual Property Section, SAFE 704.

Re: Proposed consent settlement of *U.S. v. Bristol-Myers Co.*, Civ. No. 822–70 D.D.C.

Gentlemen: This letter is written in response to the Government's statutorily-required invitation for public comment on the proposed settlement of the Government's *Ampicillin* litigation, 46 FR 52046–56 (Oct. 23, 1981). The writer does not represent any party connected with this litigation, and the views expressed herein are therefore solely those of the writer as a private person interested in the proper administration of the antitrust laws.[1]

In most respects, the proposed settlement appears to bring an effective and desirable conclusion to more than ten years of hard-fought litigation. The present administration of the Antitrust Division thus deserves high praise for pursuing this matter to a resolution so successful in those respects, in the face of widespread and doubtless unjust criticism that it lacks any commitment to vigorous enforcement of the antitrust laws.

In several other respects, however, the proposed settlement of this case appears to fail to comply with the governing statute (the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h)); to contain possible loopholes that might defeat the stated purposes of the judgment; or have other flaws that require correction or at least deserve reconsideration.[1] In summary, these problems with the proposed decree are as follows:

[1] Any focus in this comment on the shortcomings of the proposed settlement should not be understood as an implied criticism of the rest of it.

—The Competitive Impact Statement does not discuss the $3 million settlement of the Government's claims, which is a figure less than half that of Bristol's previous settlement offer. The government had rejected the higher, prior offer as inadequate to satisfy the public interest. Failure to mention and explain the cash aspect of the relief to be obtained by the consent judgment would appear to violate the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)(3). Accordingly, the statutory 60-day waiting period has still to begin.

—The Final Judgment does not provide for cancellation of the patents that the Government asserted were procured by fraud. The Competitive Impact Statement states that cancellation is unnecessary because the Final Judgment's licensing relief is equivalent to cancellation and private litigants are free to invalidate the patents in private litigation. But the Final Judgment does not provide for preservation and availability of the Government's fraud evidence for necessary use by such private litigants. Clearly, the defendant will not voluntarily preserve the damaging evidence. Hence, the Competitive Impact Statement's assurance that private litigants are free to deal with the fraud is inaccurate, to say the least.

—The consent judgment provides for *mandatory sale of "bulk" drug chemicals.* This provision in the judgment is necessary and important to foster the availability of less-expensive "generic" versions of these drugs. There is a loophole in this part of the judgment, however, which the defendant might utilize to make the judgment ineffective. It would appear that, if defendant decides to channel its sales, this part of the judgment is a dead letter.

—Finally, the decree leaves defendant free, and appears to signal to the drug industry that it too is free, to use agreements *with "bulk sales"* restrictions to keep other drugs out of the hands of price-cutting "generic" sellers. This would facilitate such agreements to stabilize drug prices at the much higher price levels maintained by brand-name manufacturers. The result would thus be to raise drug prices to the public.

—More specifically, bulk sale restrictions are a form of price fixing or its equivalent. But the Competitive Impact Statement asserts that bulk sale restrictions are not necessarily bad and should be judged on a case-by-case basis. This is an about-face from the policy of at least two prior Republican and one Democratic Administration. A new administration has the prerogative of such an about-face, but it owes a reasoned, principled, articulated explanation of why. The Competitive Impact Statement lacks one. It is doubtful that one exists. Scholarly writings, such as those of Professor Baxter, suggest that any possible explanations of this approach would be unsound or even irrational in the extreme.

I turn now to the specifics in more detail.

I. Payment of $3 Million

Paragraph 2 of the Stipulation (46 FR at 52046) requires defendant Bristol to pay the Government $3 million. For some reason left unclear, the settlement papers in this case

differ from others (for example, the Beecham settlement of the same lawsuit, Final Judgment, § XV, 43 FR at 51459, Nov. 3, 1978) by placing the defendant's obligation to pay money to the government in the Stipulation instead of the Final Judgment. Even more remarkably, there is no mention in the Competitive Impact Statement (46 FR 52051–56) of the fact that the Government has settled this case with Bristol for $3 million, let alone any explanation of why it did so.

The importance of mention and explanation of the $3 million settlement is highlighted by the fact that, as is generally well known, Bristol made a much better offer during the incombency of the last Republican-appointed Assistant Attorney General in charge of the Antitrust Division. That offer provided both wider equitable relief (*see, e.g.*, 46 FR at 52055, section E; 52056, § H) and also a payment to the Government from Bristol of more than twice the $3 million now agreed to. The Government conferred at that time with a large number of State Attorneys General and their representatives on whether to accept this settlement proposal. After the Government conferred and deliberated, it rejected Bristol's proposed settlement as insufficient to satisfy the public interest.

Those former Government officials may simply have been ill-advised and wrong. The fair settlement value of this case, for example, may at that time have been only the now-agreed-to fraction of what Bristol then perhaps unwisely proffered and the Government then perhaps unwisely rejected. If so, the public is entitled to know this. If, instead, the facts of the *Ampicillin* case or the Government's antitrust enforcement policies have in some important way changed, the public is entitled to know that, too. That is why the Congress passed the Antitrust Procedures and Penalties Act.

Nothing in the Antitrust Procedures and Penalties Act exempts from explanation in the Competitive Impact Statement the financial side of the Government's settlement with a defendant. *See, e.g.*, 15 U.S.C. 16(b)(3). The Congress required the federal antitrust bureaucracy to file and publish thorough and complete explanations ("Competitive Impact Statements") of settlement agreements with antitrust defendants, because the Congress was concerned with such events as the ITT antitrust settlement scandal of the Watergate period, and because the Congress believed that a requirement of thorough public ventilation of the Government's reasons for settling these cases was an important means to prevent the recurrence of such unfortunate events. Regardless of the unquestioned probity of Government officials in this or any other specific case, they should comply with the statute.

Certainly, burying the cash payment provisions of a settlement in the Stipulation, instead of putting them into the Final Judgment, would not take away the Antitrust Procedures and Penalties Act's requirements. Nothing in the Act suggests this, and any such interpretation of the Act would make it an ineffective sieve. For example, antitrust officials could put practically the whole settlement of a case into the Stipulation, rather than the Final Judgment, and use this as a reason to explain nothing in the Competitive Impact Statement.

Since the Government has not properly complied with the Antitrust Procedures and Penalties Act, it would appear that the *60-day statutory waiting period has not yet begun to run.* If that is correct, the Department is without authority to enter into (and the Court is without authority to ratify) a Final Judgment in this case until 60 days after the Government files a Competitive Impact Statement mentioning and in some way explaining the $3 million settlement.

II. Cancellation

The Government has alleged that Bristol procured certain patents by means of fraud on the patent office, and subsequently misused the patents. The proposed consent decree provides royalty-free licensing of these patents. The Competitive Impact Statement (§ VII(A), 46 FR at 52054) concludes that this relief, rather than cancellation of the patents, adequately satisfies the public interest because royalty-free licensing is substantially equivalent in its effect to cancellation.

The Competitive Impact Statement notes two ways, however, in which the two different remedies are not fully equivalent. First, if someone is defrauded out of royalties that he paid under a patent later cancelled because it was fraudulently procured, he has a right to recover the royalties. Moreover, he may have a right, in some States, to punitive damages for the patentee's willful and wanton misconduct. Second, cancellation may be *prima facie* evidence in private litigation.

The Competitive Impact Statement goes on to state, nonetheless, that these factors are not significant, here, because "such a litigant would still be free to pursue its own suit against Bristol" despite the settlement. This conclusion is probably incorrect. The quoted statement seems at least misleading in the present factual context. It is certainly far too optimistic.

The Government has said that the defendants committed a fraud on the patent office and thus on the public. This is a serious charge and presumably is supported by enough documentary or other evidence to have kept the Government litigating this case against Bristol for more than ten years, through one Democratic and three Republican Administrations. When the Government makes such a serious charge, it has a duty to ventilate the facts and prevent a cover-up of the fraud, or else confess error and admit that it should not have falsely or erroneously maligned the defendant. Yet, here it does neither.

In the course of discovery in this case, the defendants have produced many documents in response to document demands and placed them in a document "Depository." Depositions have been taken, some abroad, at which more documents surfaced. References were made to allegedly incriminating documents in various papers that the Government filed over the years and in its oral arguments to the Court.[2] For example, there was said to be a "Smithers Memorandum" that allegedly contained a bald-faced claim by one of the defendant's patent agents that he had put one over on the U.S. patent office. Some of these documents may be alleged to be "confidential" to the defendants. Some of the documents are covered by protective orders. Surely, not all of these documents, if any, are on the public record and readily accessible, and the Competitive Impact Statement does not state that they are.

These are (if, as the Government alleged, they exist) documents that are important to any prospective private litigant. But these documents are probably about to disappear forever. Under this Final Judgment, there is no legal obligation (and no reason) for the defendant not to "deep-six" the documents before the ink on the consent decree is dry. The Final Judgment does not require the defendant to maintain the Depository in existence, so that future private litigants can get the documents. The Competitive Impact Statement does not disclose whether all the documents on fraud are even in the Depository, or whether they are free of any protective order. In all probability, they are subject to a protective order, uncritically barring access to them so that the public cannot see them.

It may be that the Government has some other means of making sure the pertinent documents do not disappear, are ventilated, and remain available for public scrutiny. The Government may well have some means to prevent a cover-up of what it once claimed was a fraud on the patent office. But the Competitive Impact Statement does not explain any facts that show or even suggest this. These documents will not exist for a future private fraud case, unless the Government takes steps (or has already taken undisclosed steps) to preserve them.

In the circumstances, it is a hollow promise to say in the Competitive Impact Statement (46 FR at 52054) that "any potential or actual private litigant . . . would still be free to pursue its own case against" the fraud, if any, that was committed here. That is, really, like assuring them that they are free to climb Mt. Everest. Either the Government should make the promise in the Competitive Impact Statement good by providing and preserving the necessary documents before they disappear, or else it should go ahead and cancel the patent. If it will do neither, it should then explain in its Competitive Impact Statement why it believes that it is in the public interest for it to do neither. There may well be legitimate justifications for what the Antitrust Division is doing; doubtless, there are. But it is the policy of the Antitrust Procedures and Penalties Act that the Antitrust Division should state them and subject them to public comment. This is a flaw and omission in the Competitive Impact Statement and in the Final Judgment that deserves correction.

III. Bulk-Sale Loophole

The Final Judgment (section V(A)) quite sensibly requires Bristol to sell various semisynthetic penicillin drugs in bulk form to those who request Bristol to do so. The

[2] The writer notes that he was one of the Government's counsel, in the early 1970's, that made such arguments.

remedial purpose is to enable small competitors to make "generic" semisynthetic penicillin drug products to be sold in competition against Bristol and its principal licensees and their higher priced brand-name products, which the generic sellers would otherwise be unable to do. *See generally* 43 FR at 52052 n.8. Moreover, the purpose of this relief is to undo the effects of Bristol's prior drug licensing restrictions against sale in bulk form, a type of price-stabilization restriction against which the Complaint in this case was aimed. Indeed, such mandatory bulk sales relief was specifically approved and commanded by the Supreme Court as a means of undoing this type of antitrust violation. *U.S.* v. *Glaxo Group Ltd.*, 410 U.S. 52 (1973).[3]

But section V(B)(2) of the Final Judgment limits Bristol's bulk-selling duty to 15% of the amount of these drugs that Bristol sells "to any person other than its subsidiary." The quoted language appears to open a loophole in the decree. The Final Judgment contains no provision making it applicable to Bristol's subsidiaries or that prevents Bristol from so restructuring its present distribution methods that it sells all of its output of these products only via a subsidiary. Clearly, 15% of zero is zero. Hence, Bristol could, perhaps, choose to make this part of the Final Judgment a complete nullity and destroy any obligation on its part to sell in bulk to price-cutters or other such applicants. It may do so by channeling all sales via a subsidiary. (Section III(A) does not solve this problem, because trying to apply its general provisions here would be inconsistent with putting the subsidiary exception in section V(B)(2) in the first place.)

The Government may therefore wish to consider a modification of section V(B)(2) to prevent Bristol's possible expansion of the exemption to the point of undercutting the main part of section V. Perhaps, language would be more effective that referred to Bristol's sales to a subsidiary without subsequent resale to a third party by the latter. This language may not capture the precise concept at which the Division aims, here, but it suggests a start. The difficulty with section V(B)(2) is only a technical one, not a matter of policy, and the defendant should have no legitimate objection to a change of this type. In any event, I would think that the Government would want to close this possible loophole, by appropriate drafting, so that the beneficial purposes of the Government's requiring Bristol to sell in bulk form would be accomplished.

IV. Scope of Injunctive Relief

Bristol originally agreed to accept a decree that would prohibit all its restrictions against bulk sale of drugs, with any other drug company, on all "ethical" drugs, in the future as well as now; and the Government considered prohibiting these bulk sale restrictions regardless of which party to Bristol's agreements wanted to impose them. *See* 46 FR at 52056. This would correspond substantially to the decree that Bristol's co-defendants accepted in the same case. *See* FR at 51546 (section V–B).

Despite Bristol's willingness to abandon the challenged practice and to sign a broader Final Judgment, the Government now wishes to cut the injunction in the consent decree back; it would apply only to bulk sale restrictions that Bristol imposes on Beecham, only to already existing (not future) agreements, and to just the particular drug products that were covered by the specific Bristol license agreements involved in this suit. The Competitive Impact Statement (46 FR at 52056) gives these reasons for the change:

> We have reconsidered our position . . . . While those agreements including the challenged bulk sale and trademark restrictions are, in our view, clearly anticompetitive and unlawful in the circumstances of this case, patent license agreements containing such restrictions are not necessarily anticompetitive and unlawful in every circumstance. Accordingly, we prefer to evaluate, on a case-by-case basis, the legality of such restrictions imposed on other parties, involving other drugs and presented in other situations.

A footnote (*id.*, n.18) indicates that the same considerations are thought to apply to other drug manufacturers who impose bulk-sale restrictions on Bristol, to which it willingly or even gratefully acquiesces.

A. What Are and Why Are There Bulk Sale Restrictions in Drug Contracts?

The explanation in the Competitive Impact Statement raises more questions than it answers. To clarify the discussion, I will at the outset define the concept of *bulk sales restrictions* more precisely.

1. *"Pills" and "Bulk".* Drugs reach the consumer in "finished" form. This means a capsule, a tablet, or the like—for simplicity I will refer to these forms of a drug as "pills." A pill manufacturer makes the pill by combining the active drug chemical substance with extenders, binders, chemicals that promote dissolution, etc., and then making the mixture up as a pill, which he sells and the consumer eventually buys. The pill manufacturer either himself manufactures the active drug chemical or he buys it from a manufacturer in large quantities, such as 50-gallon drums. This is the "bulk form" of the drug, which for purposes of this Final Judgment must be contrasted with the finished or pill form of the drug.

2. *"Generic" drug sellers.* "Generic" sellers of drugs sell pills under generic names and in competition with brand-name sellers, such as the defendant, and they usually compete by selling more cheaply. They are price-cutters, and the public is the beneficiary of their price-cutting. Their competition is believed to

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[3] The Supreme Court said in *Glaxo* (410 U.S. at 63):

> Bulk sales would create new competition . . . [and] lead to price reductions as the result of normal competitive forces. There is, in fact, substantial evidence in the record that other drug companies would not only have entered the market, had they been able to make bulk purchases, but also would have charged substantially lower . . . prices. . . . Only by requiring . . . [bulk sale] will the . . . market become competitive.

be an important brake on the price policies of the brand-name sellers. *See generally* the recent and well-considered *amicus curiae* briefs filed by the United States in *SK&F Co.* v. *Premo Pharm. Labs., Inc.*, 625 F.2d 1055 (3d Cir. 1980), and *Ives Labs., Inc.* v. *Darby Drug Co.*, 638 F.2d 538 (2d Cir. 1981).

Typically, generic sellers do not have their own manufacturing capacity (see 43 FR at 51462) and must buy drugs in bulk form from another source. When, as here, the drug is patented, even if the generic firms could manufacture the drug it would be unlawful patent infringement for them to do so. They must buy patented drugs from a licensed source or a customer of a licensed source. When brand-name sellers can keep the bulk form of a drug from falling into the hands of generic sellers, the generic sellers cannot make and sell pills in competition against the former. Preventing bulk drugs from reaching generic sellers thus effectively prevents generic-seller price-cutting on the drug in question, and maintains the integrity of the brand-name price structure.[4]

3. *Horizontal Bulk Sale Restrictions.* A "bulk sale" restriction is a provision in an agreement for the sale or licensing of a drug under which the buyer or licensee is restrained from selling the drug in bulk form. In this comment, I will focus only on a particular kind of bulk sale restriction, which is the kind that was involved in this lawsuit. I will speak only of "horizontal bulk sales restrictions." By that term I mean a provision of an agreement by which drug manufacturer *A* licenses or sells a drug chemical in bulk form to another drug manufacturer *B*, and *B* is restrained or limited from selling the drug chemical in bulk form to any third drug manufacturer *C*; further, in this context, the three drug manufacturers *A*, *B*, and *C* are all actual or potential competitors in the sale of the drug in question.

This is the kind of bulk sale restriction involved in the instant *Ampicillin* case, and in such earlier bulk sales cases brought by the Government as *U.S.* v. *Cib-Geigy Corp.*, 508 F. Supp. 1118 (D.N.J. 1976), and *U.S.* v. *Glaxo Group Ltd.*, 410 U.S. 52 (1973).[5] There may be still other kinds of bulk sale restrictions, but if so they are quite uncommon. In any event, I will not refer to them in this comment.

B. Horizontal Bulk Sales Restrictions and The Antitrust Laws

1. *What do bulk sales restrictions do?* Horizontal bulk sales restrictions are indistinguishable from the kinds of boycott and price-fix arrangement condemned in *U.S.* v. *General Motors Corp.*, 384 U.S. 127 (1966), and *U.S.* v. *McKesson & Robbins, Inc.*, 351 U.S. 305 (1956). They are agreements between patentee drug manufacturers and competing licensee drug manufacturers to keep the product out of the hands of discounters and price-cutters,[6] who are the competitors of both parties to the agreement. In licenses of this form, the patentee ends up not just selling the right to use the invention, but rather a package that includes that right *and* a "sanctuary" from price competition in the sale of the end product. Whether horizontal bulk sales restrictions are regarded as boycotts or as price-fixing agreements, their clear purpose and effect is to stabilize drug prices, and they are therefore illegal *per se*. The antitrust laws do not evaluate price-fixes and boycotts on a "case-by-case" basis. It would make no sense to do so. The antitrust laws do not recognize any "good" price-fixes or "good" boycotts. Using a "rule of reason" or a "case-by-case evaluation" for a price-fix, or crying for determinations in each case whether the price fix promotes "business efficiency," can accomplish no legitimate purpose. It can only be a euphemism or code word for permitting price fixers to gouge the public and violate the antitrust laws with impunity.

Horizontal bulk restrictions have no redeeming virtues.[7] They are uniformly without procompetitive purposes or effects. They are not in any material way like the intrabrand restrictive vertical distribution agreements for which the Court had kind words in *Cintinental T.V. Inc.* v. *GTE Sylvania, Inc.*, 433 U.S. 36 (1977).[8] In this context, therefore, the statement in the Competitive Impact Statement that "such restrictions are not necessarily anticompetitive and unlawful in every circumstance," but instead need an evaluation "on a case-by-case basis," is a very puzzling and unsatisfactory explanation for the scope of the injunction in the Final Judgment.

2. *The about-face in antitrust enforcement.* The statement in the competitive impact statement is clearly an about-face from the

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[4] See note 3 *supra*.

[5] In the *Ciba* case, the trial court properly observed: Although these contracts were reached in a vertical, supplier-purchaser context, they in fact were designed to limit horizontal competition . . . ." 508 F. Supp. at 1146.

[6] See note 3 *supra*. *See also Ciba*, 508 F. Supp. at 1140: By imposing the post-sale restraint on its vendees, CIBA had a purpose to prevent any of its HCT [bulk drug] from ending up in the hands of price-cutters. Finally, by denying Abbott the right to make bulk sales under the license, CIBA effectively shut off the last possible source of an HCT supply for price-cutters.

[7] In *Ciba*, 508 F. Supp. at 1147 n. 14, the court pointed out the absence of any possible business justification for bulk sale restraints. In then observed: "In view of the intensive FDA regulation of the drug field, it is difficult to understand how such a defense legitimately could be offered." *Id.*

[8] If there were such a thing as *vertical*, rather than *horizontal* bulk sale restrictions, similar considerations would compel the conclusion that a patentee in that position should not be permitted to improve his financial position by selling his locensees not merely the right to use the invention but a restrictive licensing arrangement that suppressed competition in the drug industry and worsened the position of the members of the public forced by age or illness to deal with that industry. (No consumer buys the semisynthetic penicillin products involved in this case, for example, unless he has a life-threatening infection.)

Furthermore, it would be irrational in the extreme to permit horizontal bulk sale restrictions to be used by a drug manufacturer, such as the present defendant, because of the possible benefit to other, hypothetical patentees who might desire to use vertical bulk sale restrictions. These points are forcefully explained in more detail in Baxter, *Legal Restrictions on Exploitation of the Patent Monopoly: An Economic Analysis*, 76 Yale L.J. 267, 333 n.101 (1966).

antitrust enforcement policy of at least the two preceding Republican and one Democratic Administration. The statement also appears to mean, although obliquely said, that the Antitrust Division intends not to investigate or prosecute any more drug manufacturers that use bulk sales restrictions to prevent generic price competition; and, rather, to leave the public at the mercy of drug price levels set by the major "ethical" drug firms.

A direct reversal of prior policy is not necessarily wrong. The Nixon and Ford antitrust administrators, for example, may have been misguided in their policies (although I do not believe it). But whatever the bottom line may be, the plain fact of so direct and complete a reversal of field as there is here cries out for more explanation than is furnished. Clearly, there must be some rationale for the present policy other than a determination not to enforce the antitrust laws; and the public, this Court, and the Congress are entitled to hear it.

3. *What is the explanation for the about-face?* It may be that those responsible for this proposed Final Judgment, so much more permissive than that to which Bristol already had agreed, failed to realize that horizontal restraints were involved. Or maybe they subscribe to the until-now discredited theory that, since a patent owner may lawfully refuse to sell or license at all, he therefore may equally lawfully sell or license on any restrictive conditions he sees fit.[9] Maybe they subscribe to the equally unsound theory that, because an alternative open to the patentee is not to sell or license at all, it is better to have him sell or license on *any* terms whatsoever than not at all.

None of these theories holds any water. The idea that half a loaf is better than none, in use of patents, may have a superficial appeal. But as Professor Baxter aptly observed in his seminal article on patent restrictions, the idea sounds much worse after careful scrutiny than before.[10] First, he points out, the prediction that fewer patentees will issue licenses should not trouble us at all, because it is not a believable prediction.[11] Second, licensing on a restrictive basis is likely to have worse effects on the public than no licensing at all. It allows the patentee to buy off his competition by enlisting them in a combination against discounters and aganist the public. Licensing "bribes" the licensee not to challenge invalid patents (which historically outnumber the valid patents) by making the licensee, as Professor Baxter put it, "have no incentive to challenge validity."[12] Yet, "the licensees constitute the group most likely to possess knowledge revealing invalidity,"[13] so that it is well worth it to the patentee to buy them off with a restrictive license and, in Professor Baxter's apt phrase, bring them "aboard the gravy train."[14] For these and other reasons,[15] Professor Baxter concluded: "With rare exceptions readiness of patentees to license is a mixed blessing for which no substantial price should be paid."[16] He was quite right: his conclusion was well considered and sound. The theories listed as possible explanations for the toleration of these drug restrictions by the present antitrust bureaucracy must be rejected as unsound, indeed wrong-minded.

Maybe there is still another theory or policy that justifies or legitimates these patent restrictions whose purpose and effect is to prevent price competition and to raise drug prices.[17] There must be some theory other than the invidious one of determination not to enforce the antitrust laws. Yet, the Competitive Impact Statement never explains it.

4. *The Government owes the public an explanation.* If the present antitrust bureaucracy's explanation can withstand scrutiny and analysis, it shoud be stated. I repeat—there is nothing wrong with a subsequent administration's jettisoning the policies of several prior administrations, but it owes a statement of the new policy and some degree of reasoned explanation. *See, e.g., Tire Company Cases—U.S. Information Memorandum,* CCH Trade Reg. Rep. ¶ 50,259 (Feb. 23, 1976) (statement of A.A.G. Kauper explaining dismissal of tire cases because they were illfounded). Otherwise, rational oversight of the antitrust bureaucracy, by the public and the Congress, is not possible. By the same token, otherwise, the Court cannot determine, as 15 U.S.C. 16(e)–(f) command that it must, whether entry of the consent judgment "is in the public interest."

* * * * *

In sum, the proposed consent decree has an injunctive provision of very limited scope against bulk sale restrictions. The premise is that some horizontal bulk sales restraints are desirable and therefore should not be prohibited by a broadere decree. Earlier, the defendant was willing to agree uncategorically to impose no bulk sales restraints again. The Government has turned down the defendant's concession, reversing prior administrations' policies, because allowing the defendant to make the concession is bad policy. Yet, the challenged practice is the functional equivalent of a conspiracy among competing brandname manufacturers of drugs to stabilize prices and suppress generic competition.

There is surely some non-invidious explanation for the Government's action, but it cannot be found in the Competitive Impact Statement. Even apart from the requirements of the Antitrust Procedures and Penalties Act, a decent regard for the opinions of others (for example, the Congress, teh Courts, the Bar, the public, even academics) would dictate a reasoned explanation from the Antitrust Division.

V. Conclusion

There is room for disagreement on matters of policy. Moreover, the selection of policy is the prerogative of the incumbent Executive Branch. On close judgment calls, reasonable minds can differ. To the extent possible, I have in this comment stayed away from a critique of the accuracy of any of the present Antitrust Division bureaucracy's judgment calls. I would fail in my purpose, moreover, if this comment were understood as a mere disagreement with any judgment calls made in this particular case.

Rather, the basic problem I see here is bureaucratic failure to comply with disclosure requirements that the Congress commanded under the Antitrust Procedures and Penalties Act. Among other things, the Act's disclosure and explanation requirements compel reflection before bureaucratic action, discourage unconsidered action, and furnish disintentives to the *Modus operandi of sentence first, verdict afterwards. My concern with some important parts of this consent judgment is that the proposed consent judgment shows antitrust enforcement policy now being made without reasoned articulation of any consistent policy.*[18] *It is, at best, unclear that any*

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[9] *See* United States v. Masonite Corp., 316 U.S. 265, 277 (1942); Motion Picture Patents Co. v. Universal Film Mfg. Co., 243 U.S. 502, 513–14 (1917); Baxter, *Legal Restrictions,* note 8 *supra,* at 276–77:

[S]ound answers . . . cannot be reached . . . by metaphysical assertions that the right to exclude totally necessarily embraces the right to exclude partially or by framing question-begging generalities about what is "nromally and reasonably adapted to secure pecuniary reward."

[10] Baxter, note 8 *supra,* at 279.

[11] *Id.* at 354.

[12] *Id.* at 336.

[13] *Id.*

[14] *Id.*

[15] *See id.* at 336–37.

[16] *See id.* at 355.

[17] Such a theory, of sorts, might be read between the lines of a recent speech by an Antitrust Division spokesman. *Current Antitrust Division Views on Patent Licensing Practices,* Address by A.B. Lipsky Before *ABA Antitrust Section Notional Institute on Critical Issues in International Antitrust and Unfair Competition Law,* Nov. 5, 1981.

In this speech, Deputy Assistant Attorney General Lipsky states that the present Department of Justice "would reject" the view that it is unlawful for a patentee to require a licensee to adhere to a specified or minimum price on the licensed products. *Id.* at 14. In the specific case of a price fix among competing manufacturers, the patentee and his licensees, Mr. Lipsky perceives an "agonizing choice" because of the patentee's opportunity to set up a cartel reaching to unpatented products. *Id.* at 15. Nonetheless, he concludes that on balance such price-fixes should not be illegal *per se* but instead should be subject to "a fact-sensitive rule of reason approach." *Id.* Earlier, *id.* at 13, he states that generally the Department of Justice should defer to "the patentee's natural and legitimate aspiration to extract" as much money as possible from those who use what the patent controls, and therefore he concludes that the law should prohibit "cartelization" only when it is "unnecessary."

Although the Department's spokesman did not explain how the Department intends to distinguish between "necessary" and "unnecessary" cartels, it seems possible to extrapolate from the speech to this Final Judgment. If on e entertains the belif that direct price-fixing should be subject to a "fact-sensitive" evaluation in each case, one might take the same view of an indirect price-fixing measure, such as these bulk sale restraints. Again, in order not to trample on defendant Bristol's "natural and legitimate aspiration" to enrich itself in the sale of these drugs, one might want not to interfere with Bristol's conduct until it were clearly proved that the resulting cartel was "unnecessary."

It is, of course, not clear that the Department spokesman's words in that speech correctly state the rationale of this proposed Final Judgment. For that, of course, we must look to the Competitive Impact Statement filed on the public record.

[18] Other than perhaps a policy to reverse completely the consistency perceived by Mr. Justice

Continued

reasoned, principled judgment call has been made as to those parts of the decree. There have been drastic changes in the direction of enforcement without explanation, without stated reasons. The premises and assumptions of the Government's present action are also unstated, perhaps unrecognized as well. This should not be done in antitrust enforcement, generally, and it is contrary to the policy of the Antitrust Procedures and Penalties Act to do it when and where a Competitive Impact Statement is required by law, as it is here.

Thus, the fact of the $3 million settlement belongs in the Competitive Impact Statement, along with an explanation of the extraordinary dollar shrinkage in the Government's concept of what the public interest requires from the defendant. A real explanation of why cancellation of the fraudulently procured patents is unnecessary should be made, not one that disregards the obvious facts. Finally, the about-face on the legality of drug manufacturer's price-fixing agreements should be explained in a responsible manner.

The explanations of all these things may be good or bad, sensible or senseless. The Antitrust Procedures and Penalties Act expressly requires that there be a *public* explanation, not that it be a good one. If the explanation rings hollow, or is even foolish, the only sanction is a nonstatutory one—the opinions that others have of those responsible for the explanation. The antitrust bureaucracy is still free to pursue the same policies. Nonetheless, the Act requires a full public explanation of the entire consent settlement. That is considerably more than the Antitrust Division has furnished here. I hope that this comment will stimulate greater reflection on and articulation of reasoned policies in patent antitrust law enforcement. The proposed consent judgment in this case shows that they are badly needed within the Government.

Respectfully submitted,

Richard H. Stern.

cc: Hon. Charles E. Richey, U.S. District Judge, District of Columbia.

[FR Doc. 82-3081 Filed 2-4-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The winter meetings of committees of the Business Research Advisory Council will be held on February 23, 1982.

The Committee on Occupational Safety and Health will hold its meeting in room N–4215 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meetings of the Committees on Price Indexes and Wages and Industrial Relations will be held in room 2433, General Accounting Office Building, 441 G Street, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Tuesday, February 23

9:30 a.m.—Committee on Price Indexes.

1. Status Report on CPI Housing.
2. Postponement of rebasing to 1977=100.
3. Review of 1982 and 1983 budget.
4. Results of BRAC survey on program priorities.
5. Proposal to create futures market for CPI and PPI.
6. Other Business.

Tuesday, February 23

10:00 a.m.—Committee on Occupational Safety and Health.

1. Proposed recordkeeping exemptions.
2. Exogenous factors regarding occupational injuries.
3. 1980 annual survey summary.
4. A discussion of OSHA's proposed voluntary protection program.
5. Other Business.

Tuesday, February 23

1:30 p.m.—Committee on Wages and Industrial Relations.

1. Review of WIR Work in Progress.
2. The WIR Budget Situation.
3. Report by Subcommittee on WIR Program Priorities.
4. Other Business.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272–5241.

Signed at Washington, D.C., this 29th day of January 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82-3164 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council; Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 24, 1982, in room N–5437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Noel A. McBride
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:
   (a) Productivity-Foreign Labor (Status reports on construction, general industry, and Federal Government productivity studies)
   (b) Economic Growth (Employment implications of defense buildup, supply-demand prospects for machinist occupations, and procurement of macro model)
   (c) Price Indexes (Progress on rental equivalency work)
   (d) Wages and Industrial Relations (Review of work in progress and results of subcommittee on program priorities)
   (e)Occupational Safety and Health (Proposed recordkeeping exemptions, exogenous factors re injuries, 1980 annual survey)
4. Other Business
5. Chairman's Closing Remarks

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272–5241.

Signed at Washington, D.C. this 29th day of January 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82-3165 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

Stewart, United States v. Von's Grocery Co., 384 U.S. 270, 301 (1966).

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,265; West Virginia Malleable Iron Co., Point Pleasant, West Va.
TA–W–12,472; Elk Creek Cedar, Inc., Forks, WA
TA–W–10,906; Rexnord, Inc., Roller Chain Div., Springfield, MA
TA–W–11,776; Rexnord, Inc., Roller Chain Div., Worcester, MA
TA–W–11,136; Parker Hannifin Corp., Parker Seal O-Ring Div., Berea, KY
TA–W–11,334; The Lamson and Sessions Co., Cleveland, OH Office
TA–W–12,318; Cummins Engine Co., Fleetguard Div., Cookeville, TN
TA–W–11,954; Pivot Manufacturing Co., Detroit, MI
TA–W–11,637; Merit Clothing Co., Inc., Mayfield, KY
TA–W–12,373; Ritus Rubber Corp., Milwaukee, WI
TA–W–11,211; American Optical Corp., Southbridge, MA
TA–W–11,211A; American Optical Corp., Frederick, MD

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,181; Paragon Leather Services, Inc., Gloversville, NY
TA–W–11,667; Leader Metal Products, Inc., Masury, OH
TA–W–11,068; Sun Ship, Inc., Chester, PA

In the following case the investigation revealed that criterion (3) had not been met, Aggregate U.S. imports of medium duty and heavy duty trucks did not increase as required for certification.

TA–W–11,994; Ford Motor Co., Kentucky Truck Plant, Louisville, KY

I hereby certify that the aforementioned determinations were issued during the period January 25–29, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 9, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–3151 Filed 2–4–82; 8:45 am]

BILLING CODE 4519–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (the "Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 16, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 16, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 29th day of January 1982.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
County Fair Toy & Novelty Corp. (company)	Brooklyn, New York	1/20/82	1/11/82	TA–W–13,187	Supplies, carnival.
Crucible Alloy & Stainless Steel Div. of Colt Industries (USWA)	Midland Pa.	1/15/82	1/12/82	TA–W–13,188	Sheet & strip alloy; bars—stainless steel; disc—agricultural.
Hermitage, Inc. (workers)	Camden S.C	1/15/82	1/11/82	TA–W–13,189	Gauze—surgical.
Matsushita Industrial Company (company)	Franklin Park, Ill	1/22/82	1/18/82	TA–W–13,190	Receivers—television, color; ovens—wave, micro; T.V.'s projection.
Michigan Plating & Stamping Co. (UAW)	Grand Rapids, Michigan	1/12/82	1/5/82	TA–W–13,191	Bumpers—automotive; tanks—gas, trucks.
Phelps Dodge Corp. (USWA)	Tyrone, New Mexico	1/12/82	1/18/82	TA–W–13,192	Copper—mine, concentrate.
Revere Screw & Rivet Corp. (workers)	Wheeling, Ill	1/13/82	1/1/82	TA–W–13,193	Fasteners & solid rivets.
Triple S. Dynamics Breckenridge, Inc. (workers)	Breckenridge, Texas	1/25/82	1/18/82	TA–W–13,194	Equipment—foundry, grain cleaning; systems—reclamation & equipment—misc.
Zenith Electronics Corp. of Pennsylvania (company)	Watsontown, Pa	1/21/82	1/15/82	TA–W–13,195	Systems—stereo, modular, stereo console, radios; players—tape, radios, cabinets—console.
Zenith Radio Corp. (company)	Glenview, Ill	1/21/82	1/15/82	TA–W–13,196	Research, marketing, selling & engineering of stereo systems

[FR Doc. 82–3160 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M-81-252-C]

Freeman United Coal Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Freeman United Coal Mining Company, P.O. Box 100, West Frankfort, Illinois 62896, has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Orient No. 4 Mine located in Williamson County, Illinois, its Crown No. 2 Mine located in Macoupin County, Illinois, its Crown No. 3 Mine located in Montgomery County, Illinois and its Orient No. 3 and No. 6 Mines located in Jefferson County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to lock the battery plug to the receptacle on mobile battery powered machines.

2. Petitioner states that there is an element of danger in having plugs locked together in the event of a short circuit occurring in the machine's electrical components.

3. As an alternative method, petitioner proposes to use the following fasteners in lieu of the locked padlock:

a. Threaded Bolt and Nut or Wing Nut
b. Safety Snap Ring
c. Metal Pin
d. Hair Pin Device

4. Petitioner states that these four devices serve the same purpose as a padlock; the plug could not be pulled apart without removing the necessary fasteners.

5. Petitioner states that the proposed alternative method will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1982. Copies of the petition are available for inspection at that address.

Dated: February 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3145 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-237-C]

G. M. & W. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

G. M. & W. Coal Company, Inc., P.O. Box 112, Jennerstown, PA 15547 has filed a petition to modify the application of 30 CFR 75.155(b)(2) (qualified hoisting engineer, qualifications) to its Grove No. 3 Mine located in Somerset County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that hoistmen have a minimum of one year's experience in operating electric-driven hoists and six months' experience immediately prior to an application for temporary certification in order to have the Secretary grant temporary certification for electric hoisting engineers.

2. Petitioner states that potential electrical hoisting engineers meeting the experience requirements of the standard are unavailable within the work force. In addition, the state of Pennsylvania has no program of qualifying electric hoisting engineers.

3. As an alternative method, petitioner proposes a program of supervised on-site training, operational training and classroom training. In addition, petitioner requests that the hoist operator trainees be granted six months' temporary qualification at the completion of the initial portion of the training program prior to hoist operation requiring qualification. The specified one year training program shall be completed by all such operators.

4. Petitioner believes that the many safety devices installed with the hoisting system have a positive impact on the modification requested:

a. The hoist contains such features as overspeed, overwind, emergency stop, limit switches such as Brakeproofing On/Off/Wear, etc.

b. Two Sanford-Day Brakeman cars have been purchased, one of which will always remain on the descending end of the mantrip, that permit their brakes to be activated manually from the car at any time and will activate automatically over 6 mph.

c. In addition to regular communications at each hoist landing, a 2-way radio will be installed in the mantrip which will transmit and receive to and from several points on the surface including the hoist room.

5. Petitioner states that the procedures outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virgina 22203. All comments must be postmarked or received in that office on or before March 8, 1982. Copies of the petition are available for inspection at that address.

Dated: February 1, 1982.

Patricia W. Silvey,

Acting Director Office of Standards, Regulations and Variances.

[FR Doc. 82-3146 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-70-M]

Noranda Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Noranda Mining, Inc., P.O. Box 1450, Park City, Utah 84060, has filed a petition to modify the application of 30 CFR 57.19-83 (electric hoist requirements) to its Ontario Project located in Sumit County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a torque proving circuit be installed on the mine's No. 6 hoist.

2. The hoist is a Welman Morgan Seaver, manufactured in 1917 and is powered by a 250 hp G.E. motor. The hoist is a reel-type using a ⅝" x 5" flat cable.

3. Petitioner states that installation of a torque proving circuit on the hoist would result in a diminution of safety because:

a. The direct drive hoist has a D.C. motor and a Ward Lenard control system. Since the brakes were designed for "on" or "off" operation only, the

system uses motor plugging to stop and slow down;

b. If the torque proving circuit were installed, the torque applied to the motor to bring the conveyance out of an overtravel condition could cause the conveyance to free fall out of overtravel. The brakes are required to maintain desired speed. At present the motor is plugged to maintain proper speed plugging in the overtravel torque proving mode.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 8, 1982. Copies of the petition are available for inspection at that address.

Dated: February 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3147 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, February 17, 1982, in Room S-4215 C, U.S. Department of Labor, Third and Constitution Avenue, N.W., Washington, D.C.

The purpose of the meeting, which will begin at 9:30 a.m., is to consider the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Administration of Oath of Office to New Members
2. Administrator's Report
3. Communications Work Group Report
4. Council Work Groups—Composition and Priorities
5. Statements from the Public

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before February 16, 1982, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S-4522, Third and Constitution Avenue, N.W., Washington, D.C. 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling, (202) 523-8753.

Signed at Washington, D.C., this 31st day of January 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs.

[FR Doc. 82-2853 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2947]

Proposed Exemption for Certain Transactions Involving Alexander & Alexander Services, Inc., Located in New York, New York and Montag & Caldwell, Inc. Located in Atlanta, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the performance of services for employee benefit plans by Alexander & Alexander, Inc. (A&A), a wholly owned subsidiary of Alexander & Alexander Services, Inc. when those services may result in additional fees for Montag & Caldwell, Inc. (M&C), also a wholly owned subsidiary of Alexander & Alexander Services, Inc. The proposed exemption, if granted, would affect A&A, M&C and those employee benefit plans that retain A&A or M&C to provide services. A&A has a number of subsidiaries all of which are incorporated by reference when reference is made herein to A&A.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 16, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2947. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Carol D. Gold of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406 of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed by Alexander & Alexander Services, Inc., pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

This application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. A&A provides actuarial, consultant, management search, administrative support, and insurance brokerage services to employee benefit plans. The particular combination of services performed for any given plan is a function of such plan's individual needs and desires. A&A's services are generally performed without a written contract with the plan and are in all cases subject to unilateral termination, without cost or penalty, by the plan at any time. A&A undertakes the provision of services to a plan only upon selection and approval of A&A by the plan sponsor or an independent fiduciary.

2. Actuarial services are performed by actuaries enrolled pursuant to ERISA section 3042 and include the preparation of the actuarial reports mandated by ERISA section 103(d) and Code section 6059 regarding plan compliance with the

minimum funding standards of ERISA section 302 and Code Section 412. A&A actuaries also must determine a projected rate of the return for the plan, and, on an ongoing basis, analyze discrepancies between actual and projected returns. A&A may provide the plan's independent fiduciaries with an assessment of whether such discrepancies result from general market trends, the asset mix of the plan (such as the ratio of fixed income to equities), the performance of the plan's investment managers as contrasted to other managers, or other factors. In the course of reviewing a plan's funding requirements as an actuary, A&A will ordinarily conduct analyses of the plan's liquidity and diversification needs and its current and projected benefit payments.

3. Acting as an actuary/consultant, A&A may provide performance evaluation services and advice that focus on (a) a plan's investment performance; (b) the performance of a plan's various investment managers; (c) the plan's portfolio structure or asset mix; and (d) the allocation of plan assets among investment managers. Insofar as a plan's investment managers are sometimes retained because of recognized ability in the handling of particular classes of assets (such as equities only, as compared to both equities and fixed income), A&A's recommendations regarding portfolio structure may include a reallocation of plan assets among investment managers. A&A may also suggest a particular reallocation among investment managers for consideration by an independent plan fiduciary. Statistical analyses of objective financial data play an important role in A&A's advice on the above matters. A&A's consultant services may also include the provision of advice to the plan sponsor or an independent fiduciary on the cost and types of benefits which are or might be provided by a plan. Once the plan sponsor or fiduciary has decided to establish or revise a plan, A&A as consultant may also assist in drafting a plan or amendments to a plan to comply with ERISA and the Code.

4. Management search services consist of the search for and recommendation to a plan of prospective investment managers, and, in the course of its search, A&A uses statistical analysis of data to evaluate prospective managers in much the same manner as A&A evaluates current managers. In addition, A&A uses its professional knowledge of investment managers to predict the effects of objective changes in the composition and operation of such managers.

5. Acting as consultant or insurance broker, A&A may also provide advice and services to plans regarding the use of insurance company investment vehicles, such as separate accounts, and other insurance products. Once an independent fiduciary has decided to obtain a particular insurance product, A&A, as insurance broker, may execute the transaction between the plan and the insurance company.

6. With respect to all the services described in paragraphs 1 through 5 above, A&A's services consist solely of advice or recommendations to the plan's independent fiduciaries. A&A does not have the authority to implement its advice or recommendations and does not participate in the plan's final deliberations regarding the decision to act on such advice. When A&A's services include a management search, A&A generally recommends more than one manager for selection by an independent plan fiduciary. Furthermore, when a management search results in a recommendation of M&C, the applicant represents that at least two other managers, independent of both A&A and M&C, will also be recommended.

7. A&A may also provide administrative support services to a plan, which may include one or more of the following:

(a) Preparation of the plan's annual reports;

(b) Preparation of summary plan descriptions;

(c) Preparation of employee benefit statements;

(d) Preparation of employee termination statements;

(e) Eligibility of benefit determinations;

(f) Preparation of benefit checks;

(g) Resolution of disputes regarding benefits;

(h) Preparation of employee notices and communications;

(i) Handling of employee communications; and

(j) Maintenance of books and records.

8. With the exception of insurance brokerage, all of the above services are provided by A&A at hourly rates or, in limited instances, for set fees. Compensation for insurance brokerage services is customarily in the form of commissions from insurance companies. The provision of insurance advice and brokerage servies to plans and the receipt of commissions from insurance companies as compensation for such services are not prohibited transactions, if provided in accordance with Prohibited Transactions Exemption 77–9, 42 FR 32395 (June 24, 1977), as amended, 44 FR 1479 (Jan. 5, 1979), and 44 FR 52365, (Sept. 7, 1979).

9. M&C provides investment management services to plans. Investment management services are performed pursuant to a written agreement between M&C and an independent plan fiduciary, and the independent fiduciary is informed of the terms on which M&C will perform the services. Such services involve making investment decisions on a discretionary basis as to the buying, holding, and selling of a plan assets for which M&C as investment manager is responsible; attending to the execution of such investment decisions by appropriate instructions to securities broker-dealers and the plan custodian; and periodically reporting to the independent fiduciary or his designated representative as to the market value and performance of plan assets for which M&C as investment manager is responsible.

10. Fees charged by M&C for investment management services are generally computed as a fraction of the market value of assets under management and are set in a written agreement between M&C and the plan.

11. Both A&A and M&C provide services to employee benefit plans and those services are often in the nature of fiduciary services as described in section 3(21) of the Act and section 4975(e)(3) of the Code. Thus, A&A, and M&C are parties-in interest to the employee benefit plans they provide services to, and Alexander & Alexander Services, Inc. is also a party-in-interest. The provision of services is generally exempt from the prohibitions of section 406(a) of the Act and section 4975(a)(1)(A) through (D) of the Code by operation of the exemption provided in section 408(b)(2) of the Act and section 4975(b)(2) of the Code. The Department's regulations section 2550.408b–2 (and similar Treasury regulations) notes that the exemption, however, does not exempt acts described in 406(b) of the Act. A fiduciary may not use the authority, control, or responsibility which makes such person a fiduciary to cause a plan to pay an additional fee to such fiduciary (or to a person in which such fiduciary has an interest which may affect the exercise fo such fiduciary's best judgment as a fiduciary) to provide a service. A person in which a fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary includes, for example, a person who is a party in interest by reason of a relationship to such fiduciary described in section 3(14)

(E), (F), (G), (H), or (I) (emphasis added). Thus, for example, A&A is not afforded exemption by section 408(b)(2) of the Act from an act described in section 406(b)(1) of the Act when it evaluates the performance of its affiliate, M&C, which has been retained to perform investment management to services for a plan.

The applicant has requested an exemption for certain services that appear to be covered by the statutory exemption for the provision of services and that do not appear to involve acts described in section 406(b) of the Act or section 4975(c)(1) (E) or (F) of the Code. An administrative exemption is herein proposed only for those services that are not exempted by the statutory exemption. Other services that are exempted by the statutory exemption must comply with the conditions of that exemption. Specifically, an exemption for the following transactions was requested but is not proposed for the reasons set forth above:

(1) The performance by A&A of acturial services, including the determination by A&A of funding levels for a plan in accordance with ERISA section 302 and Code section 412;

(2) The evaluation by A&A of the investment performance of plans subject to ERISA;

(3) The evaluation by A&A of the composition of the portfolios of plans subject to ERISA and the recommendation of appropriate portfolio compositions by A&A to plans subject to ERISA;

(4) The exercise of investment management services by M&C for plans subject to ERISA.

12. In summary the applicant represents the proposed exemption is in the interest of plans and their participants and beneficiaries because it will assure that independent plan fiduciaries who desire to obtain the services traditionally provided by A&A and M&C may continue to retain both A&A and M&C. It will permit A&A and M&C to continue to provide the full range of traditional actuarial/consultant and investment management services to plans, and the applicant represents, plan fiduciaries have expressed a strong interest in obtaining all of the services described.

The applicant represents that the proposed exemption will be protective of plan participants and beneficiaries because no recommendation by A&A will be adopted and no evaluation by A&A will be followed until acted on by an independent fiduciary who has been provided by A&A with sufficient objection information explaining the basis for the advice.

Finally, the applicant represents that the proposed exemption is administratively feasible because it establishes objective criteria for its application, and compliance with such criteria could be readily determined and audited.

Notice to Interested Persons

Within 10 days of publication in the **Federal Register**, notice of the pending exemption will be provided by A&A or M&C by hand delivery or first class mail to the plan administrators of all employee benefit plans currently served by both A&A and M&C and to the plan administrator of any plan that has since May 30, 1980 received any of the three services described in the "Proposed Exemption" section of this notice.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not believe a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I. Covered Transactions.

If the exemption is granted, effective May 30, 1980, the restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) of the Code shall not apply to:

1. The evaluation by A&A of the performance of M&C as an investment manager retained by an employee benefit plan;

2. The evaluation by A&A of the allocation of plan assets among investment managers, including M&C, retained by employee benefit plans and the recommendation by A&A of an appropriate allocation of plan assets among such investment managers;

3. The selection and retention of M&C by employee benefit plans that follows the evaluation and recommendation of prospective investment managers, including M&C, by A&A to independent fiduciaries of those plans.

Section II. Conditions.

The exemption provided for transactions described in Section I is available only if each of the following conditions is met:

(1) In the case of any recommendation or evaluation by A&A described in Section I, the reasons, including the objective criteria forming the basis for such recommendation or evaluation, are provided by A&A to an independent fiduciary of the plan to which such recommendation or evaluation is provided.

(2) Any recommendation or evaluation by A&A described in Section I is not adopted or followed by the plan until acted upon by an independent

fiduciary of the plan to which such recommendation or evaluation is provided.

(3) Any evaluation or recommendation of M&C by A&A described in Section I shall contain a simple statement notifying the recipient of their corporate affiliation in a manner that neither emphasizes nor minimizes that affiliation.

(4) Except as herein exempted, the provision of the services described in Section I to employee benefit plans meets the conditions of the general statutory exemption for services set forth in section 408(b)(2) of the Act and section 4975(d)(2) of the Code and the regulations written thereunder.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3125 Filed 2-4-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2581]

Proposed Exemption for Certain Transactions; Bee Line Cooling, Ltd., Employees Pension Plan, Bronx, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, effective January 1, 1981 and for a period of two years thereafter, the lease (the Current Leases) of certain real properties (the Bee Line Stores) by the Bee Line Cooling, Ltd. Employees Pension Plan (the Plan) to Bee Line Cooling, Ltd. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries and other persons participating in the transactions.

EFFECTIVE DATE: The effective date of this exemption is January 1, 1981.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2581. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by John Kovacs and Robert Katz, the trustees (the Trustees) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA procedure 75-1 (40 FR 18471, April 28, 1975). Effective Decemer 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a pension plan with approximately four participants and total assets, as of December 31, 1979, of $128,630. The Employer is in the business of sales, installation and servicing of commercial refrigeration and air conditioning equipment. The Trustees are employes of the Employer.

2. On December 22, 1975, the Plan purchased certain real properties (the Properties) for $62,500 from Samuel and Celia Rosenblatt (the Rosenblatts), parties unrelated to the Employer or the Plan. The Properties consist of eight contiguous buildings used as small retail stores. At the time of the purchase, the Properties were leased by the Rosenblatts to individual tenants. Two buildings of the Properties, the Bee Line Stores, were leased to the Employer. The remaining six buildings of the Properties were leased to tenants unrelated to the Employer. Upon acquisition by the Plan of the Properties, the leases of the Properties, remained in effect. The leases for all the Properties, including the Bee Line Stores, were for renewable terms of two years. In August of 1980, the Employer applied to the Department for an exemption for the lease since December 22, 1975 of the Bee Line Stores by the Plan to the Employer. In January of 1981, the Department denied the exemption request. The applicants represent that the Employer will pay all applicable excise taxes as imposed by the Internal Revenue Service by reason of the lease from December 22, 1975 until January 1, 1981 of the Bee Line Stores by the Plan to the Employer within 90 days of the publication of the grant of this exemption.

3. In January of 1981, the Current Leases for the Bee Line Stores were executed by the Plan to the Employer. The applicants are now requesting an exemption for the Current Leases. The Current Leases for the two Bee Line Stores are for two year terms expiring in January of 1983 with rentals of $170 and $230 per month. The rentals charged under the Current Leases were determined to be the fair market rental value of the Bee Line Stores, as of January 1, 1981, by Thomas Romero (Romero). Romero is a licensed real estate broker located in Bronx, New York who has been practicing in the area since 1951 and as a result is familiar with property values, commercial lease rates and real estate management practices customary in the area. Romero is independent of the parties to the transactions. The rentals under the Current Leases were also identical to rentals charged the other six tenants of the Properties, as of January 1, 1981, for substantially identical space.

4. Romero was appointed independent fiduciary for the Plan prior to the execution of the Current Leases of the Bee Line Stores. Romero negotiated the

terms of the Current Leases on the Plan's behalf and determined on January 1, 1981 that the Current Leases of the Bee Line Stores were in the best interests of the Plan and its participants and beneficiaries. Romero has monitored, since January 1, 1981, and will continue to monitor, the terms of the Current Leases of the Bee Line Stores.

5. In summary, the applicants represent that the transactions meet the statutory criteria of section 408(a) of the Act because: (1) Mr. Romero, a party independent of the parties to the transactions, negotiated the Current Leases of the Bee Line Stores and determined that they would be in the best interests of the Plan and its participants and beneficiaries; (2) Mr. Romero has monitored the Current Leases of the Bee Line Stores since their inception in January of 1981 and will continue to monitor the Current Leases throughout their duration; (3) the Current Leases of the Bee Line Stores by the Plan to the Employer are on the same terms as leases by the Plan to other unrelated tenants of the Properties; (4) the Current Leases of the Bee Line Stores are for relatively short terms of two years each; and (5) the Employer will pay all applicable excise taxes imposed by the Internal Revenue Service by reason of the lease from December 22, 1975 until January 1, 1981 of the Bee Line Stores by the Plan to the Employer within 90 days of the publication of the grant of this exemption.

Notice to Interested Persons

Notice of the proposed exemption will be given to all participants and beneficiaries of the Plan within 10 days following the publication of the proposed exemption in the **Federal Register**. The notice will include a copy of the notice of pendency of the proposed exemption as it appears in the **Federal Register** and a statement informing interested persons of their right to comment and/or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Current Leases effective January 1, 1981 and two years thereafter, provided the terms of the Current Leases were and will remain at least as favorable to the Plan as the Plan could obtain in similar transactions with unrelated parties.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration; Department of Labor.

[FR Doc. 82-3096 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2749]

Proposed Exemption for Certain Transactions; Boyd, Veigel and Gay, Inc., Money Purchase Pension Plan and Trust, McKinney, Texas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed contribution to the Boyd, Veigel and Gay, Inc. Money Purchase Pension Plan and Trust (the Plan) by Boyd, Veigel and Gay, Inc. (the Employer), the sponsor of the Plan, of certain parcels of real property (Buildings 3 and 4); and (2) the proposed lease (the Lease) of Buildings 3 and 4 and certain other parcels of real property (Buildings 1, 2, 5 and 6) contiguous to Building 3 and 4 by the Plan to the Employer. The proposed exemption, if granted would affect the Employer, the participants and beneficiaries of the Plan and other parties participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 24, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2749. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan with 19 participants and total assets, as of June 30, 1980, of $980,975. The Republic Bank of Dallas, N.A., which is completely independent of the Employer, is the trustee (the Trustee) of the Plan. The Employer is a professional corporation engaged in the practice of law. Buildings 1 through 6 (collectively, the Buildings) consist of six contiguous buildings used by the Employer as its law offices.

2. Buildings 1 and 2 were purchased by the Employer in 1959. In 1971, Buildings 1 and 2 were contributed by the Employer to the Plan and subsequently leased back to the Employer pursuant to a year to year renewable triple net lease which is currently in effect. Buildings 3 and 4 were leased by an unrelated party to the Employer from 1971 until January of 1978. In January of 1978, the Employer purchased Buildings 3 and 4 and the Plan purchased Buildings 5 and 6 from this same unrelated party. Buildings 5 and 6 were then leased by the Plan to the Employer pursuant to an oral month to month triple net lease which is currently in effect. The applicant has determined that the past lease of Buildings 1 and 2 was entitled to relief as provided by the transitional rules of section 414 of the Act for leases entered into prior to July 1, 1974. In April of 1981, the Department denied the applicant's exemption request for the past lease by the Plan to the Employer of Buildings 5 and 6. The applicant represents that it will pay all applicable excise taxes which are imposed by the Internal Revenue Service as a result of the past lease of Buildings 5 and 6 within 90 days of the publication in the **Federal Register** of the grant of this exemption.

3. The applicant now requests an exemption for the contribution by the Employer to the Plan of Buildings 3 and 4 and the Lease by the Plan to Employer of the Buildings. Upon the grant of this exemption, the past leases for Buildings 1, 2, 5 and 6 will be terminated and the Lease will be executed for the Buildings.

4. The Lease will be a year to year renewable triple net lease which renewabls will extend for a maximum of twenty years. Early B. Milstead, SRA (Milstead), an independent appraiser of McKinney, Texas, valued the Buildings, as of June 27, 1980, at $350,000 with a fair market rental of $3,500 per month. As a result of Milstead's appraisal, the applicants represent that the initial monthly rental payments under the Lease will be $3,500. Rental payments under the Lease will be adjusted at least every three years, or more frequently at the discretion of the Trustee, to reflect the then current fair market rental value of the Buildings. For contribution purposes, Milstead valued Buildings 3 and 4 at $150,000. The applicant represents that the contribution of Buildings 3 and 4 would not exceed the maximum deduction the Employer is entitled to pursuant to the Code.

5. The Trustee has examined the terms and conditions of the proposed transactions and represents that the proposed transactions are protective and in the best interests of the Plan and its participants and beneficiaries. The Trustee also represents that the contributions of Buildings 3 and 4 would consolidate the ownership of the Buildings and provide the Plan with an additional source of income. The Trustee further represents that because the Employer has utilized the business location of the Buildings for the past 21 years, it would be extremely difficult to locate a tenant for the Buildings that could provide the Plan with such a stable source of income or give the same type of care and maintenance to the Buildings as has the Employer. The Trustee will monitor and enforce the terms and conditions of the Lease and will have sole responsibility for the collection of rentals under the Lease.

6. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (1) The Trustee, an independent entity, has determined that the transactions are in the best interests of the Plan; (2) the contribution of Buildings 3 and 4 to the Plan will consolidate the ownership of the Buildings and will represent an additional source of income to the Plan; (3) the fair market value of Buildings 3 and 4 has been determined by an independent appraiser; (4) the contribution of Buildings 3 and 4 will not exceed the maximum deduction the Employer is entitled to pursuant to the Code; (5) the Trustee will monitor and enforce the terms and conditions of the Lease; (6) the initial rentals to be received by the Plan under the Lease were determined by an independent appraiser; (7) rentals to be received by the Plan under the Lease will be adjusted at least every three years to reflect the fair market rental value of the Buildings; (8) the Trustee represents that it would be difficult to locate a tenant other than the Employer for the Buildings; and (9) the applicant will pay all applicable excise taxes imposed by the Internal Revenue Service as a result of the past lease of Buildings 5 and 6.

Notice to Interested Persons

Within 15 days of the publication of the notice of pendency in the **Federal Register** notice will be provided to all Plan participants and beneficiaries by first class mail or by posting at locations within Employer's premises which are customarily used for Employer notices to employees. Notice will include a copy of the notice of pendency as published in the **Federal Register** a statement informing interested persons of their right to comment or request a hearing on the pending exemption within the period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the contribution of Buildings 3 and 4 by the Employer to the Plan, provided that the Employer's federal tax deduction for the contribution of Buildings 3 and 4 will not be greater than their fair maket value on the date of the contribution and the contribution of Buildings 3 and 4 will be valued at their fair market values by the Plan on the date of contribution; and (2) the Lease of the Buildings, provided that the terms and conditions of the Lease are and will remain at least as favorable to the Plan as the Plan could obtain in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3110 Filed 2–4–82; 8:45 am]
BILLING CODE 4510–29–M

[Application No. D–2143]

Proposed Exemption for Certain Transactions; CCR Marine, Inc. Profit Sharing Plan and Trust, Seattle, Washington

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed sale to the CCR Marine, Inc. Profit Sharing Plan and Trust (the Plan) of an interest in a land sale contract by CCR Marine, Inc. (the Employer); and (2) an extension of credit resulting from an agreement by officers and shareholders of the Employer to place collateral with an independent trustee for purposes of securing the Plan's interest in the event of default. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, persons holding interests in the contract, and other persons who would participate in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 15, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2143. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence E. Beaver of the Department of Labor, telephone (202) 523–8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this

notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. On December 7, 1971, the Employer executed a real estate contract (the 1971 Contract) with the fee owners, Alfred and Margarete Biermanski (Biermanski), for the purchase of the Highland Medical Plaza (the Property) located at 1306 North 175th Street, Seattle, Washington. The terms of the 1971 Contract provided for a purchase price of $500,000 with a down payment of $80,000 and monthly installments of $3,500, including interest at 7 percent.

2. The Employer sold the Property on January 20, 1977, to John and Berit Sjong, and others (Sjong) under a real estate contract (the 1977 Contract) for $680,000, of which $150,000 was paid at closing, with the balance of $530,000, to be paid in monthly installments of $4,000, including interest at 8¾ percent. The terms of the 1977 Contract also provide that on or before January 16, 1985, Sjong is obligated to make a balloon payment for all amounts outstanding on the 1977 Contract and to assume the balance owing on the 1971 Contract.

3. The Employer proposes to sell to the Plan for $85,000 the right to receive the amount by which the principal receivable under the 1977 Contract exceeds the principal payable under the 1971 Contract. The purchase price is represented to be the fair market value of the Employer's interest in the contracts and is partially based on offers the Employer received from unrelated third parties for its interest in the Property.

4. An independent investment manager, Robert L. Sheppard III, CFP, of Oakland Financial Group Northwest, stated in a letter dated December 16, 1980, that the purchase of the Employer's interest in the contracts is an excellent investment opportunity for the Plan. Mr. Sheppard also stated that the contract appears to be adequately secured by the Property which has appreciated in value as reflected by a June 1979, sales price of $858,000.

5. Jack E. Chambers, Ralph F. Chambers and Norman Runions, officers and shareholders of the Employer (the officers and shareholders), will deposit securities in an amount equal to 200 percent of the purchase price paid by the Plan in an escrow account maintained by an independent trustee to secure performance under the 1971 and 1977 Contracts. An independent fiduciary, Peter A. Wickstrand of Paine, Webber, Jackson and Curtis, has been selected to oversee the Plan's investment with the power to sell any collateral necessary to cure any default. All securities placed in the collateral account will be marketable and will be publicly traded.

6. All payments under the contracts will be made to the Seattle First National Bank located in Seattle, Washington (the Bank). Biermanski and the Bank have agreed to notify Mr. Wickstrand in writing in the event of a default under the 1971 Contract. Upon receipt of a notice of an installment payment in default, Mr. Wickstrand must notify the officers and directors by certified mail of the default. If Mr. Wickstrand is not notified of the curing of the defect within 10 days of the mailing of the notice, he is to sell that portion of the securities as is necessary to cure the default and remit the proceeds to the Bank.

7. If the amount of securities held in the escrow account is at any time less than 200 percent of the purchase price paid by the Plan, Mr. Wickstrand must immediately make a written demand to the officers and shareholders to deposit additional securities in the account. In the event the securities are not deposited within 15 days of the written demand, Mr. Wickstrand is instructed to sell the securities and deposit the proceeds to the Plan.

8. The Employer further represents that the Plan will not be liable under the 1971 Contract as a result of its purchase of the Employer's interest in the Property. The legal obligation under that contract remains between the Employer and Biermanski. If payments are in default under the 1977 Contract, the Employer remains obligated to make payments under the 1971 Contract. If the Employer does not make the required payments, the independent fiduciary is authorized to sell the collateral to cure the default. In effect, the Plan is agreeing to make payments to Biermanski only to the extent it receives payments due on the 1977 Contract.

9. The Employer represents that the rate of return for the investment to the Plan will be 30.94 percent per year. Furthermore, the amount of plan assets involved in the proposed transaction will be less than 30 percent.

10. In summary, it is represented that the proposed transaction satisfies the statutory criteria of section 408(a) due to the following:

(a) The trustees state that the proposed transaction is in the best interests of the Plan's participants and beneficiaries,

(b) An independent investment advisor has stated that the investment is an excellent investment for the Plan and the Plan's interests are adequately secured,

(c) The Property has appreciated significantly in value, reflected by its June 1979, sales price of $858,000, and

(d) An independent plan fiduciary will oversee the transaction with power over an escrow account in an amount equal to 200 percent of the value of the purchase price paid by the Plan to secure performance under the 1977 Contract.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the pending exemption will be provided to all interested persons, including all participants and beneficiaries of the Plan. The notice will include a copy of the notice of pendency published in the **Federal Register** and will inform each recipient of his right to comment on or request a hearing regarding the pending exemption. The notice will be provided within 10 days of the publication in the **Federal Register** and will be delivered by hand to participants and beneficiaries.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transsaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the

Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the sale by the Employer of its interest in the 1971 and 1977 Contracts; and (2) the guarantee of the Plan's interest in the 1971 and 1977 Contracts by Jack E. Chambers, Ralph F. Chambers and Norman Runions.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 82-3102 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2793]

Proposed Exemption for Certain Transactions; Charter Mortgage Co., Jacksonville, Florida

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) Transactions relating to the origination, maintenance and termination of mortgage pool investment trusts (Mortgage Pools) sponsored by Charter Mortgage Company (Charter); and (2) the acquisition and holding of certain multi-family dwelling mortgage-backed pass-through certificates (Certificates) of Mortgage Pools under certain circumstances by employee benefit plans (Plans) when Charter or Chemical Bank, the trustee (Trustee) of the Mortgage Pools, is a party in interest with regard to the Plans. The proposed exemption, if granted, would affect the Plans and their participants and beneficiaries, Charter, the Trustee and other persons engaging in the transactions described herein.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 5, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2793. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an applicaiton filed by Charter, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Charter is a wholly owned subsidiary of the Jacksonville National Bank, Jacksonville, Florida. Charter presently ranks among the nation's 25 largest mortgage banking companies in terms of volume of mortgage loans serviced for others. The Trustee, a subsidiary of Chemical New York Corporation, conducts a complete domestic and international banking and trust business throughout Greater New York and in foreign money markets.

2. The Government National Mortgage Association (GNMA) is a government corporation operating under the direction of the Secretary of Housing and Urban Development. GNMA operates several multi-family direct mortgage purchase programs which are designed to make low interest rate FHA insured mortgage loans (Project Loans) available to multi-family housing

projects and certain health care facilities during periods of monetary stringency. GNMA accomplishes this objective by committing in advance, generally prior to commencement of construction, to purchase after completion of construction such low interest rate Project Loans at prices substantially above prices at which such mortgage loans could otherwise be sold in the private secondary market. The Project Loans generally have an outstanding principal balance of not less than $200,000 nor more than $20,000,000. The Project Loans normally have a 40 year maturity and an average life of 18 to 20 years. Also, pursuant to FHA regulations, the loan to value ratio on a Project Loan can be no higher than 90 percent. Periodically, as the inventory of these loans builds, GNMA sells the Project Loans in the private market at prevailing commercial rates, which may reflect a substantial discount from the face principal amount. The resulting loss is borne by the U.S. Treasury and is, in fact, a housing subsidy program.

3. The sale of Project Loans is accomplished through an auction procedure. Approximately one month prior to the date selected by GNMA for an auction, GNMA sends an auction invitation to all FHA approved mortgagees, such as Charter. GNMA warrants to each purchaser of a Project Loan that, as of the settlement date with GNMA, such Project Loan (a) is not delinquent under the original or modified terms thereof to the extent of more than one monthly installment of interest, principal or escrow deposits (subject to certain limited exemptions) and is not otherwise in default; (b) is not subject to any defect which would prevent recovery in full or in part against FHA as insured; and (c) is not subject to any outstanding advance or advances by the mortgagee to the mortgagor. GNMA's obligation under this warranty is limited to the correction of such defects as shall be specified in a written notice furnished to it by the purchaser within 90 days of the settlement date with GNMA, or to the repurchase of the related Project Loan in the event that such defects are not corrected promptly.

4. Charter will purchase Project Loans and form Mortgage Pools. The Project Loans in a Mortgage Pool would be secured by geographically dispersed property, thereby reducing the chance that unfavorable economic developments in one geographic area would adversely affect Mortgage Pool yields. Project Loans which are to be assembled in a Mortgage Pool are transferred to the Trustee, whereupon the Trustee authenticates the Certificates. The rate of return (the Pass-Through Rate) to be provided by the Certificates is the Project Loan mortgage rate less Charter's servicing fee. The Certificates are then sold to investors including the Plans at a discount so that the Pass-Through Rate, together with the effect of the discount on the purchase price, produces a current market rate of return to investors. Each Certificate would represent a fractional undivided interest of 1/n or integral multiples thereof in a Mortgage Pool. The applicant represents that the total value of Certificates purchased by a Plan with assets with regard to which Charter or the Trustee is a fiduciary will not exceed 25 percent of the amount of the Certificates in a Mortgage Pool, and, furthermore, at least 50 percent of the aggregate amount of such Certificates will be acquired by persons independent of Charter or the Trustee.

5. A Mortgage Pool will terminate upon (a) the later of the final payment or other liquidation of the last Project Loan in such Pool or the disposition of all property acquired upon foreclosure of any Project Loan; or (b) the repurchase by Charter of all Project loans and all property acquired in respect of any Project Loan remaining in the Mortgage Pool. In no event, however, will a Mortgage Pool continue beyond a period of 60 years from its date of formation.

6. Charter or the Trustee or one of their affiliates may have a pre-existing relationship as a service provider or fiduciary to the Plans. However, all decisions relating to the sale, exchange or transfer of Certificates will be made on the Plans' behalf by fiduciaries independent of Charter or the Trustee or any affiliate thereof.

7. The Certificates are issued pursuant to a Pooling and Servicing Agreement, which is made available to investors for their review prior to investment. The Mortgage Pool consists of: (a) The Project Loans, which are insured by the FHA; (b) the Certificate Account, a non-interest bearing account which contains all collection of principal and interest, as well as any payments under FHA Insurance; (c) any property acquired by foreclosure of a Project Loan or deed in lieu of foreclosure; (d) any FHA debentures received upon the assignment of a Section 221 Loan at the twenty year redemption point (discussed below); and (e) the FHA obligations for the insurance of the Project Loans.

8. The applicant emphasizes that although the Certificates are not insured or guaranteed by any agency or instrumentality of the U.S. Government, the Project Loans underlying the Certificates are insured by the FHA. In addition, Charter would be obligated under the Pooling and Servicing Agreement, to maintain for each Project Loan, or each property acquired upon foreclosure, fire insurance with extended coverage in an amount at least equal to the amount required by the FHA.

9. If a mortgagor defaults on a Project Loan payment, the mortgagee may either assign the mortgage to the FHA or acquire title through foreclosure proceedings, and convey title to such property to the FHA. If the mortgagee elects to assign the mortgage to the FHA, the insurance benefits payable to the mortgagee (either in cash or FHA Debentures which are discussed below) are equal to the sum of (a) the amortized principal balance of the defaulted Project Loan; plus (b) interest accrued from the end of the grace period at the interest rate of FHA Debentures, the rate of which is determined by the higher of the prevailing rate at the time (a) when the commitment for FHA mortgage insurance was issued; or (b) when the Project Loan was initially endorsed for FHA mortgage insurance; *less* (a) an assignment fee of 1% of the principal balance; and (b) legal costs and other expenses associated with the assignment of the Project Loan. The insurance proceeds may be further reduced, however, according to the terms of the GNMA Insurance Proceeds Participation Certificate (IPPC), as discussed more fully below.

10. In the event that the mortgagee elects to acquire title to the mortgaged property and convey title to such property to the FHA, the insurance benefits payable to the mortgagee are computed as above-described except that such benefits are not subject to the 1% assignment fee. The mortgagee is, however, required to pay the costs of foreclosure. Since foreclosure proceedings can be expensive and in some cases, time consuming (during which time, for purposes of insurance proceeds, interest accrues at the applicable FHA Debenture rate rather than at the generally higher Pass-Through Rate), the majority of mortgagees elect to assign the mortgage to the FHA (and incur the 1% assignment fee) rather than foreclose and convey title to the property to the FHA.

11. For defaulted Project Loans, the FHA generally pays 90% of the insurance claim within 15 days of the recordation of the assignment or conveyance (which action may take 30 to 90 days) and the balance of the claim, after completion of an audit, within

three to six months after such recordation.

12. The Certificateholders, in the event of a default on a Project Loan and its subsequent assignment to the FHA, bear the risk of: (a) The loss of 30 days interest during the grace period; (b) forgoing principal and interest payments pending recovery from the FHA in the event Charter does not advance such payments; (c) the accrual of interest at the FHA Debenture rate which is generally lower than the Pass-Through Rate; and (d) the incidence of legal and other expenses associated with the assignment.

13. Insurance proceeds paid on the account of the Project Loans will be payable in cash. The winning bidder on a Project Loan for which FHA insurance proceeds are payable in cash, must sign an Insurance Proceeds Participation Certificate (IPPC) providing for the sharing of a portion of the FHA insurance proceeds with GNMA upon default on a Project Loan, during the first 36 months following the date the Project Loan was purchased from GNMA. The reason for the IPPC is to prevent a potential windfall to a mortgagee due to the fact that a Project Loan is purchased at a discounted price from GNMA because of the low interest rate, while FHA insurance is based on 100% of the principal of the Project Loan.

14. A number of the Project Loans will be Section 221 Loans, under which a mortgagee has the right, pursuant to 24 CFR Section 221.770, to assign such Section 221 Loan to the FHA at the expiration of 20 years from the date of final endorsement of the related mortgage, if the Section 221 Loan is not in default at such time. Such option to assign a Section 221 Loan to the FHA may be exercised at any time during the one year period following the twentieth anniversary of the final endorsement of the related mortgage.

15. Any mortgagee electing to assign a Section 221 Loan to the FHA will receive in exchange therefor, FHA Debentures having a total face value equal to the then outstanding principal balance of the Section 221 Loan plus accrued interest to the date of assignment. The FHA Debentures will mature 10 years from the date of assignment of the related section 221 Loan and will bear interest at the "going Federal rate" on such date. The "going Federal rate" is defined to be the annual rate of interest specified by the Secretary of the Treasury for the six month period which includes the issuance date of the Debentures.

16. In connection with the Mortgage Pools, Charter agrees to service and administer the Project Loans pursuant to the Pooling and Servicing Agreement. As loan servicer, Charter will have the full power and authority to do any and all things in connection with such servicing and loan administration which it may deem necessary or desirable. In addition, Charter may advance delinquent payments on Project Loans to Certificateholders.

17. As compensation for its activities pursuant to the Pooling and Servicing Agreement, Charter is entitled to retain its servicing fee from interest payments on the Project Loans. The aggregate of such servicing fees is an amount equal to the difference between the Pass-Through Rate and the interest rate for each Project Loan in the Mortgage Pool, which would be approximately .10% per annum of the aggregate balance of the Project Loans. In addition to its servicing fee, Charter is entitled to certain other compensation as described in the Pooling and Servicing Agreement. The applicant represents that the sum of all payments made to Charter in connection with a Mortgage Pool will not be more than adequate consideration for the sale of the Certificates, plus reasonable compensation for services provided by Charter to the Mortgage Pool. As its entire compensation for services rendered under the Pooling and Servicing Agreement, the Trustee may invest, for its own benefit, without obligation to pay interest thereon, the cash float-buildup in the Certificate Accounts which results from the delays between the collection of mortgagors' payments and the distribution of such payments to the Certificateholders.

18. In summary, the applicant represents that the transactions discussed herein satisfy the statutory criteria of section 408(a) due to the following:

(a) The Mortgage Pools will be high-yielding investments which will provide a steady flow of income to the Plans;

(b) The Project Loans will be insured by the FHA and will be secured by geographically disbursed property, thereby reducing the chance that unfavorable economic developments in one geographic area will adversely affect Mortgage Pool yields;

(c) Investment in the Certificates will represent a sound method by which the Plans may be able to diversify their investments to include investments in real estate mortgages;

(d) All of the transactions for which Charter seeks exemptive relief will be governed by the terms of the Pooling and Servicing Agreement, which is made available to the Plans' fiduciaries for their review prior to investment;

(e) If Charter or the Trustee is a fiduciary with respect to an investing Plan, the purchase by the Plan of Certificates will be expressly approved by a fiduciary independent of Charter or the Trustee;

(f) The total value of Certificates purchased by a Plan with assets with respect to which Charter or the Trustee is a fiduciary will not exceed 25% of the amount of the Certificates in a Mortgage Pool, and at least 50% of the aggregate amount of such Certificates will be acquired by persons independent of Charter or the Trustee; and

(g) The applicant emphasizes that the exemption requested herein is substantially identical to the class exemption granted as PTE 81-7. The principal difference is that the Charter sponsored Mortgage Pools will consist of first mortgages or deeds of trust on multi-family residential property as opposed to single family residential property in PTE 81-7. The applicant represents that the risk to Plans investing in Mortgage Pools is no greater than the risk in investing in single family, residential property mortgage pools.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary, or other party in interest, or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and

not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be availabe for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

On the basis of the facts and representations set forth in the application, the Department is considering granting the following exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1:

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving Mortgage Pools:

(1) The direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates between Charter and a Plan when Charter or the Trustee of such Pool is a party in interest with respect to such Plan, provided that the Plan pays no more than fair market value for such Certificates, and provided further that the rights and interests evidenced by such Certificates are not subordinated to the rights and interests evidenced by other Certificates of the same Mortgage Pool; and

(2) The continued holding of Certificates acquired pursuant to subparagraph (1) above, by a Plan.

B. The restrictions of sections 406(a), 406(b)(1) and (2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the following transactions involving Mortgage Pools:

(1) The direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates when Charter or the Trustee is a fiduciary with respect to the Plan assets invested in such Certificates provided:

(a) Such sale, exchange or transfer is expressly approved by a fiduciary independent of Charter or the Trustee who has authority to manage and control those Plan assets being invested in such Certificates;

(b) The Plan pays no more for the Certificates than would be paid in an arm's-length transaction with an unrelated party;

(c) No investment management, advisory or underwriting fee or sales commission or similar compensation is paid to Charter with regard to such sale, exchange or transfer;

(d) The total value of Certificates purchased by a Plan does not exceed 25% of the amount of the issue; and

(e) At least 50% of the aggregate amount of the issue is acquired by persons independent of Charter or the Trustee.

C. The restrictions of sections 406(a), 406(b)(1) and (2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code shall not apply to transactions in connection with the servicing and operation of a Mortgage Pool provided that:

(1) Such transactions are carried out in accordance with the terms of the Pooling and Servicing Agreement; and

(2) Such Pooling and Servicing Agreement is made available to investors for their review before they purchase Certificates issued by the Mortgage Pool.

D. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a Plan by virtue of providing services to the Plan (or who has a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act, solely because of the ownership of a Certificate by such Plan.

II. General Conditions

A. The relief provided under section I, above, is available only if the following conditions are met:

(1) The Trustee for each Mortgage Pool must not be an affiliate of Charter provided, however, that the Trustee shall not be considered to be an affiliate of Charter solely because the Trustee has succeeded to the rights and responsibilities of Charter pursuant to the terms of the Pooling and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by Charter; and

(2) The sum of all payments made to and retained by Charter in connection with a Mortgage Pool and all funds inuring to the benefit of Charter as a result of the administration of the Mortgage Pool, must represent not more than adequate consideration for selling the Certificates and underwriting the sale of the Certificates, plus reasonable compensation for services provided by Charter to the Mortgage Pool.

III. Definitions

A. For the purposes of this exemption, the term "Mortgage Pool" means an investment pool the corpus of which

(1) Is held in trust; and

(2) Consists solely of

(a) Interest bearing obligations secured by multi-family residential property;

(b) Property which had secured such obligations and which has been acquired by foreclosure; and

(c) Undistributed cash.

B. For the purposes of this exemption, the term "Certificate" means a certificate representing a beneficial undivided fractional interest in a Mortgage Pool and entitling the holder of such Certificate to pass-through payment of principal and interest from the pooled mortgage loans, less any fees retained by Charter.

C. For the purposes of this exemption, the term "affiliate" of another person means:

(i) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(ii) Any officer, director, partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(iii) Any corporation or partnership of which such other person is an officer, director or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

D. For the purposes of this exemption, a person will be "independent of Charter or the Trustee" only if:

(1) Such person is not an affiliate (as defined in paragraph III(C) of this exemption) of Charter or the Trustee; and

(2) Neither Charter nor the Trustee, nor any affiliate thereof, is a fiduciary who has investment management authority or renders investment advice with respect to any of the assets of such person.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3108 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-37; Exemption Application No. D-2767]

Exemption from the Prohibitions for Certain Transactions Involving Crocker National Bank, San Francisco, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the use of assets of multiemployer pension plans (the Plans) or group trusts (the Group Trusts) consisting of multiemployer pension plans for permanent loans to persons (the Borrowers) who will use the loan proceeds to pay off construction loans originated by Crocker National Bank (Crocker), which serves as corporate co-trustee or as trustee for such Plans and Group Trusts.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 6, 1981, notice was published in the **Federal Register** (46 FR 55168) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No public comments were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and Group Trusts and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans and the Group Trusts.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the use of the assets of the Plans and the Group Trusts for permanent loans to the Borrowers, who will use the loan proceeds to pay off construction loans originated by Crocker.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 28th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3113 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-35; Exemption Application Nos. D-2695 and D-2696]

Exemption from the Prohibitions for Certain Transactions Involving the East Tennessee Orthopedic Clinic P.C. Money Purchase Pension Plan and the East Tennessee Orthopedic Clinic P.C. Profit Sharing Plan, Knoxville, Tennessee

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The proposed purchase of certain real property (the Property) by the East Tennessee Orthopedic Clinic P.C. Money Purchase Plan (the Money Purchase Plan) and the East Tennessee Orthopedic Clinic P.C. Profit Sharing Plan (the Profit Sharing Plan, collectively, the Plans) from C.G.C. & B. Properties (the Partnership), which is a party in interest with respect to the Plans, and (2) the proposed subsequent

leasing of the Property by the Plans to the East Tennessee Orthopedic Clinic (the Employer), the sponsor of the Plans.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57180) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant ahs represented that it has satisfied the notification requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 19780 transferred the authotiry of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the proposed purchase of the Property by the Plans for $800,000 from the Partnership provided that this price is not more than the fair market value of the Property at the time of sale, and (2) the leasing of the Property by the Plans to the Employer provided that the terms and conditions of such lease are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3115 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–29–M

[Exemption Application Nos. D–2724, D–2725, D–2726, D–2727, and D–2728]

Ern Construction Co., Inc., et al.; Exemption Applications

AGENCY: Office of Pension and Welfare Benefit Programs; Labor.

ACTION: Notice of proposed exemption.

SUMMARY: In the matter of proposed exemption for certain transactions involving Ern Construction Co., Inc. Employees' Profit Sharing Plan, Pollution Control Co., Inc. Employees' Profit Sharing Plan, Gordon's Corner Water Company Employees' Profit Sharing Plan, Gordon's Corner Water Company Money Purchase Retirement Plan, A. C. Schultes & Sons, Inc. Pension Plan (collectively, the Plans) located in New Jersey. This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt loans totalling $463,500 by the Plans to Gordon's Corner Water Company (Gordon's Corner), a party in interest with respect to the Plans and the guarantee of repayment by all the stockholders of Gordon's Corner (the Stockholders). The proposed exemption, if granted, would affect participants and beneficiaries of the Plans, Gordon's Corner, the Stockholders and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and

Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D–2724, D–2725, D–2726, D–2727 and D–2728. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sectioin 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. As of December 31, 1980, the assets of each Plan were as follows:

Name of plan	Plan assets	Number of participants
Ern Construction Co., Inc., employees' profit sharing plan (Ern plan)	$294,398	12
Pollution Control Co., Inc., employees' profit sharing plan (Pollution plan)	197,000	10
Gordon's Corner Water Company, employees' profit sharing plan (Gordon's Corner P/S plan)	153,224	12
Gordon's Corner Water Company, money purchase retirement plan (Gordon's Corner ret. plan)	77,517	12
A.C. Schultes & Sons, Inc., pension plan (Schultes pension plan)	[illegible]	60

2. Gordon's Corner is a public utility as defined under New Jersey Statutes (N.J.S.) § 48:2–13, engaged in the business of supplying water. As of December 31, 1980, Gordon's Corner had total assets of $5,018,291. Gordon's Corner is 50% owned by Rochford A. Ern and his family (the Erns) and 50% owned by A.C. Schultes, Jr., James Schultes, Joseph P. Schultes and their families (the Schultes). Ern Construction Co., Inc. is 100% owned by the Erns. Pollution Control Co., Inc. is 50% owned by the Erns. A.C. Schultes & Sons, Inc. is 100% owned by the Schultes.

3. Gordon's Corner, in order to meet increasing demand for service from its customers, needs to borrow $1 million to expand and improve its existing facilities. The Plans have agreed to provide $463,500 of this amount (Ern Plan $105,500, Pollution Plan $50,500, Gordon's Corner P/S Plan $61,000, Gordon's Corner Ret. Plan $31,500 and Schultes Pension Plan $215,000). Each of the above loans is less than 40 percent of the total assets of the Plan making the loan. The remaining $536,500 will be provided by Rochford H. Ern ($197,750), Andrew V. Aldi ($100,000), A.C. Schultes, Jr., James Schultes and Joseph Schultes or their nominees ($238,750).

4. The borrowed funds will be used by Gordon's Corner for drilling a new well; purchasing 500 new water meters; sandblasting and painting stand pipe; extending two company loop mains to maintain water pressure; repairing two existing wells; upgrading filter effluent; making improvements to well No. 10 and obtaining certain variances, both pursuant to township order; making miscellaneous repairs; constructing a new recharge well; retiring existing debt; and such other capital improvements directly or indirectly related to the foregoing or such other items as approved by the Board of Public Utility Commissioners of the State of New Jersey (the Commission).

5. During the week of August 10, 1981, Gordon's Corner filed an application with the Commission for approval of the aforesaid loans and for the granting to each of the lenders of a pro rata security interest in Gordon's Corner's assets. Until such time as the Commission approves the loans and security interest, said loans will be due and payable every month, and will be, at the option of the lenders, renewable for consecutive one month periods.

6. The loans will be advanced as follows:

(a) $463,500 from the Plans, which loans will be made within 60 days after an exemption has been issued by the Department.

(b) The loans from the individuals will be made as funds are required.

7. Gordon's Corner will pay each Plan a commitment fee of ½ percent of the principal amount of the loan made by such Plan.

8. The loans by each of the Plans and by each of the individuals will be evidenced by a promissory note in the full amount of the loan, which note will be payable to the order of each lender and will be executed by Gordon's Corner. Each note will contain the following terms:

(a) Prior to the time the loans are approved by the Commission each note will be due and payable within 5 business days after the Commission approves or disapproves of the loans (hereinafter the "Renewable Notes").

(b) Until such time as the Commission renders its decision with respect to the Renewable Notes, interest due will be payable on the 15th day of every month after the first advance made by any lender. For purposes of the foregoing, interest will be computed upon the average daily principal balance outstanding during such period.

(c) The Renewable Notes may not be renewed or extended for a period of more than six months after the date the Department issues its determination, but in no event later than June 30, 1982.

(d) Interest is to be computed at the rate of 1 percent above the prime lending rate in effect at Citibank N.A., New York, on the day that the advance by the Plans is made and such interest rate will be recomputed on the first day of each succeeding calendar quarter thereafter. Notwithstanding the foregoing, in no event will the rate of interest be less than 10 percent per annum.

(e) All payments made on the Renewable Notes are to be first applied to interest and the balance, if any, towards a reduction of principal.

(f) The Renewable Notes will be secured by personal guarantees of the following individuals:

(1) As to fifty percent by Rochford H. Ern, F. Carole Ern, Gary R. Ern, Robert A. Ern, Gail Ern Altiere and Rocque S. Ern, jointly and severally; and

(2) As to fifty percent by August C. Schultes, Jr., Joseph B. Schultes, Yvonne V. Schultes, Rita Mae Schultes, Ann Marie Schultes, Janice Hall, Elaine Schultes, Richard Schultes, August C. Schultes III as Custodian for each of Claire M., Yvonne M., and Theresa M. Schultes, August C. Schultes III, Denise Schultes, Kathleen Schultes, Monica Schultes, James Schultes, Jr. as Custodian for Susan Schultes, Linda Petraglia, Nancy Lingenfelter, Joseph M. Schultes, Gertrude Duardo, Mary Ann Nostro, Elizabeth S. Lawton, Arthur

Schultes, Edward Schultes, James F. Schultes and Victoria Schultes, jointly and severally. The foregoing individual guarantors are all of the shareholders of Gordon's Corner.

(3) Net worth statements submitted by the applicant on behalf of the Schultes and the Erns indicates that each group of guarantors has a net worth in excess of $3 million.

(g) The Stockholders have agreed to deliver to First National State Bank of New Jersey (Bank) all of the shares of stock of Gordon's Corner duly endorsed for transfer, to be held by said Bank as further security for the full payment of the loans.

9. Upon the approval by the Commission of the loans and the granting of a security interest in Gordon's Corner's assets, the Renewable Notes will be paid and fully satisfied by other notes (hereinafter "Term Notes"), which will be due and payable in 120 consecutive monthly installments, the first installment being due on the 15th day of the first month following the date of the Term Notes. On each installment due date, .8333 percent of the outstanding principal balance and interest thereon will be paid, and full payment of the entire outstanding balance will be due with the 120th consecutive monthly installment. However, in all respects other than security for the loans, terms of the Term Notes will be the same as those for the Renewable Notes.

(a) Each Term Note will be secured by a pro rata security interest in the real and personal property owned by Gordon's Corner.

(b) The security interest in the personal property will be evidenced by a Security Agreement and Financing Statement (U.C.C.–1) executed in accordance with the provision of Uniform Commercial Code, N.J.S. § 12A:9–101 et seq. The security interest on the real property will be evidenced by a mortgage on the real property owned by Gordon's Corner, which mortgage will be duly recorded.

(c) Gordon's Corner agrees to maintain the aforesaid security at a level at least equal to 150 percent of the outstanding principal balance on the Term Notes.

10. Gordon's Corner agrees that so long as any amount is due on the loans from any of the Plans, compensation to any officer of Gordon's Corner will not be in excess of a reasonable amount and any increases in compensation must be approved by the Commission.

11. If Gordon's Corner fails to pay an installment of principal or interest when due, it further agrees that it will not pay any officers' compensation until all payments of principal and interest which are past due are paid.

12. The principal amount of the loans, the interest rate and the repayment terms are substantially similar to a loan commitment Gordon's Corner received from First Peoples Bank of New Jersey (Peoples). The security interest, personal guarantees, escrow and restrictions on officers' compensation are greater than that required by Peoples. The applicants represent that Peoples is not related through ownership of stock, through common directors or officers or through any other common management or ownership relationship. Gordon's Corner presently has one loan with Peoples which would be fully repaid with a portion of the principal received from the proposed loans.

13. On August 4, 1981, Mr. David R. Monie of FPM Associates, Inc. (water engineering and management consultants), an independent party, determined that the minimum value of Gordon's Corner's assets assuming a forced sale would be $1,539,706.

14. The terms of this proposed transaction have been reviewed by the Bank as independent fiduciary for the Plans. The applicant represents that the Bank is not related through ownership of stock, through common directors or officers or through any other common management or ownership relationship with Gordon's Corner, any of the Plans or their sponsors. The Bank will monitor the terms of the loans throughout their duration to assure that the rights of the Plans making the loans are fully enforced. The Bank is given the power and authority to enforce all of the Plans' rights, declare an acceleration of the loans in the case of default, hold and retain the security for the loans and do any and all other acts necessary to protect the Plans' rights.

15. The Bank reviewed the terms and conditions of the proposed loans and made the following representations:

(a) It has reviewed the terms and conditions of the proposed loans and all the documents related thereto;

(b) With respect to each Plan the Bank has determined that said loan is a suitable investment and that based on the availability of alternate investment vehicles that this investment would be in the best interests of each Plan;

(c) To the best of the Bank's knowledge at the present time, and to be reconfirmed by the Bank prior to the making of the loans, each of the Plans would have sufficient liquid assets to pay all expenses and benefits arising during the term of the loan; and

(d) At the time the loans are actually made, the Bank expects that each Plan will continue to have sufficient liquid assets to pay all expenses and future benefits arising during the term of the loans. The Bank agrees to take all steps it deems proper to assure the repayment of the loans including but not limited to obtaining appraisals to verify that the security interest is at least 150 percent of the outstanding debt due, reviewing financial statements and securing such other reports or statements as it deems necessary and taking such other action as it determines to be appropriate to assure the integrity of the loans and the corporation's ability to repay.

16. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans will be approved and monitored by an independent fiduciary;

(b) The loans will be secured by collateral which at all times will be equal to at least 150 percent of the outstanding balances of the loans and by personal guarantees;

(c) The Plans will receive an interest rate of 1 percent over prime with a guaranteed minimum of 10 percent; and

(d) The independent fiduciary has determined that the transactions are appropriate for the Plans and are in the best interests of the Plans' participants and beneficiaries and protective of their interests.

Notice to Interested Persons

Within ten days after the notice of pendency is published in the **Federal Register** notice will be given to all the Plans' participants, beneficiaries, and other interested parties by mail, personal delivery, or by posting in locations where participants work and which are customarily used for notices to employees. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act,

which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to loans totalling $463,500 by the Plans to Gordon's Corner and to the personal guarantee of repayment by the Stockholders, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transactions.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3091 Filed 2-4-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2684]

Proposed Exemption for Certain Transactions; Frederick E. Fried, M.D., P.C. Profit Sharing Plan, Medford, Oregon

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of certain items of artwork (the Artworks) by the Frederick E. Fried, M.D., P.C. Profit Sharing Plan (the Plan) to Frederick E. Fried, M.D., (Fried), a disqualified person with respect to the Plan. The proposed exemption, if granted, would affect Fried, and the beneficiaries of the Plan. Because Fried is the sole owner of Frederick E. Fried, M.D., P.C., the sponsor of the Plan, and is the sole Plan participant, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act and under section 4975 of the Code.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 9, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20216, Attention: Application No. D–2684. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Fried, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan in which Fried is the sole participant. The Western Bank (Western) of Medford, Oregon is the trustee of the Plan. Plan investments are made by Western at the direction of Fried. As of July 31, 1981, the Plan had total assets of $30,959.00.

2. The Artworks consist of two etchings by Boulanger entitled *Ballerina Etching* and *Take Care When You Walk Over the Prairie. Ballerina Etching* was purchased from an unrelated party in October of 1978 for $475. *Take Care When You Walk Over the Prairie* was purchased from an unrelated party in July of 1979 for $1,500. Since their purchase *Ballerina Etching* and *Take Care When You Walk Over the Prairie*

have been offered for sale by The Art Show of Jacksonville, Oregon (the Art Show), a local art gallery, at prices of $875 and $1,700, respectively. The Art Show has been unsuccessful in its attempts to sell the Artworks at these prices.

3. In December of 1980, Western notified Fried that in light of its fiduciary responsibility to the Plan it had concluded that investments in any work of art not in Western's immediate possession was no longer appropriate and that due to Western's lack of storage space it was impossible for Western to retain possession of the Artworks. Western requested that Fried sell the Artworks. Fried has attempted unsuccessfully to locate a successor trustee to Western who would accept the Artworks as part of the Plan's investment portfolio. Fried requests an exemption to permit the cash sale of the Artworks by the Plan to himself for the total price of $2,575.00. This price was determined to be the fair market value of the Artworks, as of August 12, 1981, by the Art Show.

4. In summary, the applicant represents that the proposed transaction meets the criteria for an exemption under section 4975(c)(2) of the Code because: (1) The sale of the Artworks was requested by Western; (2) the Plan has been unable to find a successor trustee who would accept the Artworks as part of the Plan's investment portfolio; (3) the Art Show has been unsuccessful in its attempts to sell the Artworks on behalf of the Plan; (4) the Plan will sell the Artworks at their fair market value as determined by an independent appraiser; (5) the sale will be a one time transaction for cash; and (6) a profit to the Plan will be realized on the sale of the Artworks.

Notice to Interested Persons

The publication of the notice of pendency of the proposed exemption will serve as notice to interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person of certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26. If the exemption is granted, the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale of the Artworks by the Plan to Fried provided that the sales price is at least the fair market value of the Artworks at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3097 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D-2919]

Proposed Exemption for Certain Transactions; Gearhart Employees' Trust Plan, Fort Worth, Texas

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of certain real property (the Property) by the Gearhart Employees' Trust Plan (the Plan) to Gearhart Industries, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 15, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2919. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of

sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedure set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan which, as of October 5, 1981, had 1525 participants and assets of approximately $32,000,000. First National Bank of Ft. Worth (the Bank) in Ft. Worth, Texas is the trustee of the Plan and has the responsibility for making the investment decisions for the Plan.

2. The Employer is requesting an exemption that will permit the cash sale of the Property by the Plan to the Employer. The Property consists of a 19.359 acre tract of land located in Ft. Worth, Texas. The Plan purchased the Property on November 1, 1976 for $309,744 from a party independent of the Plan and/or the Employer. The Property produces no income and the Plan pays all of the carrying costs on the Property. The Employer will pay the Plan $925,000 for the Property. The Property was appraised on July 27, 1981 by an independent appraiser, Mr. Meade B. Crane, MAI (Crane) of Ft. Worth, Texas. Crane represents that the fair market value of the Property as of July 27, 1981 was $925,000. The Property was also appraised on August 3, 1981 by an independent appraiser, Mr. Byron B. Searcy, MAI (Searcy) of Ft. Worth, Texas. Searcy represents that the fair market value of the Property as of August 3, 1981 was $850,000.

3. The applicant represents that the proposed sale will benefit the Plan in that the Plan will be able to sell the Property which produces no income at a substantial profit. The applicant also represents that the Plan will pay no sales commissions or closing costs in the transaction. In addition, prior to the Plan entering into the transaction, the Bank must certify that the proposed transaction is in the best interests of the participants and beneficiaries of the Plan and that the terms and conditions of the transaction are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party.

4. In summary, the applicant represents that the transaction satisfies the criteria of section 408(a) of the Act as follows: (1) The trustee of the Plan represents that the transaction will be in the best interests of the participants and beneficiaries of the Plan; (2) the price of the Property was determined by an independent appraiser; (3) the Plan will pay no sales commission or closing costs in the sale; and (4) the Plan will be able to sell a Plan asset which produces no income at a substantial profit.

Notice to Interested Persons

Within ten days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan of their right to comment or request a hearing will be posted in a manner so that they can be seen by all currently employed participants of the Plan. The same information within the same time frame will be mailed to all other participants and beneficiaries of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and request for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1(A) through (E) of the Code shall not apply to the cash sale of the Property by the Plan to the Employer for $925,000 provided that this amount is at least the fair market value of the Property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to

be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3104 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2730]

Proposed Exemption for Certain Transactions; Hinderliter Profit Sharing Plan and Trust, Tulsa, Oklahoma

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the proposed exchange between the Hinderliter Profit Sharing Plan and Trust (the Plan) and the Hinderliter Energy Equipment Corporation (the Employer), the Plan sponsor, of preferred stock of the Employer (the Stock) presently held by the Plan, for subordinated debentures (the Debentures) of the Employer; and (2) the proposed extension of credit by the Plan to the Employer pursuant to the terms and conditions of the Debentures. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer and any other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 31, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2730. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applicaton contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution profit sharing plan with approximately 269 participants. As of August 31, 1980, the Plan had net assets of approximately $613,000. The trustees of the Plan are Messrs. Richard H. Hughes, Burton C. Person and G. Douglas Fox, each of whom is an officer and director of the Employer.

2. The Employer is a Delaware corporation primarily engaged in the manufacture of equipment used in the oil and gas, mining, logging and construction industries. As of June 30, 1980, the Employer (including its parent and subsidiary companies) has a net worth of approximately $1.4 million.

3. The Plan currently holds 19,246 shares of the Stock which were contributed to the Plan prior to 1972. The Stock is owned by the Plan for the individual account of thirteen Plan participants. Five of the participants are currently employed by the Employer. The other eight participants have terminated employment and their account balances are being held pending distribution in accordance with the terms of the Plan. The Stock receives a dividend of 6% of par value annually, is non-voting, has preferential liquidation rights, and is redeemable at the option of the board of directors of the Employer. The Stock's par value is $5.00 per share and pursuant to terms and conditions stated in the Employer's Articles of Incorporation contains a $.50 per share redemption premium. The Stock is not traded publicly or privately as restrictions on the Stock prevent any transfers of it in the absence of an effective registration statement under the Securities Act of 1933, as amended, or an opinion of counsel that the transfer is exempt from applicable state and federal securities laws. As of October, 1980, twelve other persons held the remaining outstanding 18,983 shares of Stock. Two of the shareholders received Stock pursuant to a distribution of their accounts from the Plan. The other 10 persons purchased their stock from the Employer in transactions not related to the Plan.

4. The applicant seeks an exemption to allow the exchange of the Stock between the Plan and the Employer whereby the Employer will redeem the Stock held by the Plan in return for the Debentures.[1] The Debentures will be due and payable ten years from date of issue (1981), will bear interest of 8% payable semi-annually and will be subordinated to all other Employer indebtedness. The Debentures will maintain a higher priority position than the Stock as Debenture holders will be creditors of the Employer rather than equity holders. The terms of the exchange provide that each preferred shareholder will receive $5.50 face amount of Debenture for each share of $5.00 par value Stock owned. The Debentures received by the Plan trustees will be credited to the individual account of each participant whose account previously held the Stock.

5. By letter dated December 9, 1980, Mr. James P. Dixon, an investment officer and vice president of the Fourth National Bank of Tulsa (Fourth National) states that the fair market value of the Debentures issued by the Employer in exchange for the Stock is greater than or equal to the fair market value of the Stock. Mr. Dixon in rendering his determination examined all relative documents, facts and circumstances pertaining to the proposed exchange including the $.50 premium to be received by the holders

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[1] The applicant represents that the Debentures will not qualify as "qualifying employer securities" under section 407(e) of the Act and therefore seeks administrative exemptive relief for the proposed transactions.

of the Stock and the higher yield and security position of the Debentures. Equidyne Industries, Inc., the parent company of the Employer maintains a commercial relationship with Fourth National. Mr. T. D. Williamson, Jr. serves on the board of directors of the Employer and Fourth National. The applicant represents that Mr. Williamson did not influence the issuance by Fourth National of their valuation letter.

6. Since December 1980, the Employer has proposed the exchange to the outside shareholders. Since that time ten of the twelve outside shareholders, representing approximately 98% of the non-Plan held Stock, elected to exchange their shares of Stock for Debentures on terms identical to those proposed for the Plan.

7. Mr. Patrick G. Walters, C.P.A. (Mr. Walters) located in Tulsa, Oklahoma, has agreed to act as the fiduciary for the Plan with respect to the proposed transactions. Mr. Walters has no other relationship with the Employer or the Plan, does not maintain any financial or economic interest in the proposed transactions, and does a substantial amount of employee benefit plan work. Mr. Walters has considered all relevant facts and circumstances surrounding the proposed exchange, including all of the alternatives available to the Plan regarding the Stock, and has determined that the exchange is in the best interests of the Plan. Mr. Walters will monitor the payment of interest and principal on the Debentures and enforce the terms and conditions of the Debentures with respect to the Plan.

8. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because (a) the trustees of the Plan represent that the proposed transactions are in the best interests of the Plan; (b) Fourth National represents that fair market value of the Debentures to be exchanged for the Stock is greater than or equal to the fair market value of the Stock; (c) outside shareholders of the Stock have exchanged approximately 98% of their shares for Debentures on the identical terms proposed with respect to the Plan; (d) an independent, qualified third party, Mr. Walters, has agreed to serve as the fiduciary for the Plan with respect to the proposed transactions and has determined that the exchange will be in the best interests of the Plan; and (e) Mr. Walters will enforce the terms and conditions of the Debentures with respect to the Plan.

Notice to Interested Persons

Within twenty (20) days after publication of this notice in the **Federal Register** notice will be provided to all participants in the Plan by hand delivery or first class mail. The notice will contain a copy of the notice of pendency as published in the **Federal Register** and a statement informing interested persons of their right to comment on or request a hearing regarding the proposed transactions.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the proposed exchange of the Stock currently held by the Plan for the Debentures to be issued by the Employer provided that the terms and conditions of the exchange are at least as favorable to the Plan as those obtainable from an unrelated third party; and (2) the proposed extension of credit by the Plan to the Employer pursuant to the terms and conditions of the Debentures.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3000 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2540]

Proposed Exemption for Certain Transactions; John F. Long Properties, Inc. Profit Sharing Plan and Trust, Phoenix, Arizona

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the exchange (the Exchange) of one parcel of agricultural property (the Farmland) owned by the John F. Long Properties, Inc. Profit Sharing Plan and Trust (the Plan) for cash and four commercial rental properties (collectively, the Properties) owned by the John F. Long Properties, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries, and any other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 22, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2540. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Department, telephone (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1974). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is an Arizona corporation engaged in the development of real estate. The Plan is a profit sharing plan with 32 participants and net assets of approximately $2,115,785 on April 30, 1980. The trustees of the Plan (the Trustees) are John F. Long, Mary Long, James J. Miller, Clarence L. Hood, Jerry Miller, Rodney K. Kayes and Charles J. Potvin, all of whom are employees of the Employer. Investment decisions for the Plan are made by the Trustees.

2. In 1972, the Plan purchased the Farmland, an 80 acre parcel of agricultural land located west of 91st Avenue and north of Indian School Road in Phoenix, Arizona, for $300,000. The Farmland was purchased from Russell W. Christensen, as trustee for Christine Ann Silva, both of whom are unrelated to the Employer or principals of the Employer. The Farmland is currently leased to an unrelated party for $15,400 per annum, providing an annual return of 5.1% to the Plan. The Farmland was appraised on December 12, 1980 by an independent MAI appraiser, Leslie D. Ryan (Ryan) of L. D. Ryan and Associates, Inc., of Phoenix, Arizona, who valued the Farmland at $1,120,000. During 1980 and 1981, Ryan appraised the Properties, all of which are located in Phoenix. The Properties were found by Ryan to have an aggregate fair market value of $980,330. As the Farmland was valued at $1,120,000 and the Properties at $980,330, the Employer proposes, as part of the Exchange, to contribute cash to the Plan in the amount of $139,670, the difference between the values of the Farmland and the Properties. No real estate commissions or other fees will be charged with respect to any of the properties involved.

3. The Properties consist of the following: (a) The Thunderbird Property: a parcel of improved real property which was valued at $335,000 by Ryan on February 12, 1980 and is leased to The Arizona Bank. In addition to the payment of rent, The Arizona Bank is responsible for all real property taxes, utilities and insurance premiums. The Thunderbird Property provides an annual rate of return of 6.5% of its current fair market value, and based on an escalation formula in the lease, Ryan projects an annual rate of return of 11% in 1984; (b) the Chevron Property: A parcel of improved real property which was appraised at $133,000 by Ryan on February 15, 1980 and is leased to Standard Oil Company of California (Standard). Standard is responsible for all property taxes, utilities and insurance premiums. The Chevron Property lease provides for a percentage rent in addition to a base rental amount. The annual rate of return of the fair market value of this Property is approximately 9.2%; (c) the Maryvale Property: a parcel of improved real property of which was valued at $300,000 on December 8, 1980 by Ryan and is leased to The Arizona Bank. In addition to rent The Arizona Bank pays all real estate taxes, utilities and insurance costs. The Maryvale Property currently provides an annual rate of return of 5.4% of its fair market value, however, Ryan projects based on an escalation formula in the lease, that this rate of return will increase to approximately 13.4% in 1984, and (d) the First Federal Property: a parcel of improved real property which was appraised at $212,300 by Ryan on June 9, 1981. The property is leased to First Federal Savings and Loan Association (First Federal). First Federal is responsible for all property taxes, utilities and insurance. The First Federal Property provides an annual rate of return of approximately 18.3% of its fair market value. The annual rent will be adjusted in 1984, pursuant to a clause in the lease, to reflect the change in the consumer price index from May of 1979 to May of 1984.

4. The Trustees have reviewed the appraisals of the Farmland and the Properties, the Marketability and appreciation potential of these properties, the terms and conditions of the leases involved and the needs of the Plan and have determined that the Exchange is in the best interests of the Plan and its participants and beneficiaries. The Trustees represent that the Exchange would provide the Plan with increased liquidity, a higher

rate of return and greater appreciation potential.

5. A party independent of the Employer, Mr. Robert N. Tellier, Jr. (Tellier), an actuarial consultant and partner in Scott, Tellier and Company, Pension, Profit Sharing and Actuarial Consultants, Phoenix, Arizona, has reviewed the proposed Exchange and represents that it is his opinion that the terms and conditions of the Exchange are fair and would be in the best interests of the Plan participants and beneficiaries. Tellier based his opinion on a detailed analysis of the Plan's financial statements and projected needs for liquidity, as well as an examination of the leases, appraisals and other documents relating to the Exchange.

6. In summary, the applicants represent that the Exchange satisfies the statutory criteria of section 408(a) of the Act because: (a) The Trustees of the Plan represent that the Exchange is in the best interests of the Plan's participants and beneficiaries; (b) an independent party, Tellier, has examined the Exchange in detail and the needs of the Plan and has represented that the terms and conditions of the Exchange are fair and would be in the best interests of the Plan's participants and beneficiaries; (c) the fair market values of the Farmland and the Properties were determined by an independent MAI appraiser; (d) no real estate commissions will be charged; and (e) the Trustees represent that the Exchange would provide the Plan with increased liquidity and secure investments which are expected to provide a high rate of return.

Notice to Interested Parties

Notice will be hand delivered to all of the Plan's participants within 10 days of the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform the Plan's participants of their right to comment and request a hearing within the time period set forth in the notice of the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Exchange as described herein provided that the terms and conditions of the Exchange are at least as favorable to the Plan as those which the Plan could obtain in a similar transaction with an unrelated third party.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in this application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3101 Filed 2-4-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2715]

Proposed Exemption for Certain Transactions; John Wieland Homes, Inc. and Affiliated Companies Profit Sharing Plan; Atlanta, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, for a period of five years, certain proposed loans of money by the John Wieland Homes, Inc., and Affiliated Companies Profit Sharing Plan (the Plan) to John Wieland Homes, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and

Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2715. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 20 participants and total assets, as of June 30, 1980, of $122,000. The Employer is in the home construction business. John Wieland, the president and majority shareholder of the Employer, is the trustee of the Plan.

2. The Employer is requesting an exemption that would permit the entering into of a line of credit agreement (the Line of Credit Agreement) between the Plan and the Employer. Under the Line of Credit Agreement the Plan will periodically lend to the Employer amounts of money up to an aggregate of the outstanding balances of such loans of 30% of the assets of the Plan. The loans made under the Line of Credit Agreement would be made over a five year period. Each loan would have a maturity of ninety days. Upon maturity, the entire principal amount of each loan plus accrued interest will be due and payable. All outstanding loans will mature and become due and payable on or before the last day of the five year duration of the Line of Credit Agreement. The interest rate for any loan granted under the Line of Credit Agreement will be 2% above the prime rate charged as of the last day of each month by the Trust Company Bank of Atlanta, Georgia, but in no event less than 12% per annum.

3. Each loan made under the Line of Credit Agreement will be secured by two Caterpiller loaders (the Collateral) owned by the Employer and used in its business valued respectively, as of May 8, 1981, at $37,500 and $45,000 by the Yancy Brothers Company of Atlanta, Georgia, a local dealer in Caterpiller tractors, who, at the time of the appraisal, was independent of the Employer. The applicant represents that no other lender has a secured interest in the Collateral. Each loan made under the Line of Credit Agreement will also be personally guaranteed by John Wieland. As of January 1, 1980, John Wieland had a net worth of $1,829,420.

4. Mr. Jeffrey P. Ganek, an Atlanta attorney, who is independent of the parties to the transactions, will approve for the Plan the Line of Credit Agreement and will determine prior to the grant of any loan under the Line of Credit Agreement whether the loan is in the best interests of the Plan. Mr. Ganek will also monitor the terms of each loan, enforce collection and will monitor the Collateral so that the value of the Collateral, at all times during the duration of the Line of Credit Agreement, will be maintained at 200% of the balance of all outstanding loans made under the Line of Credit Agreement. The applicant represents that in the event the value of the Collateral falls below 200% of the balance of outstanding loans made under the Line of Credit Agreement additional Caterpiller front end loaders owned by the Employer will be pledged as security. Hazard, fire and theft insurance will be maintained on all items of Collateral throughout the duration of the Line of Credit Agreement. The proceeds of all such insurance will be payable to the Plan. The applicant represents that no other lender has a secured interest in any of these items that may be pledged as additional items of Collateral.

5. In summary, the applicant represents that the proposed loans under the Line of Credit Agreement satisfy the statutory criteria of section 408(a) of the Act because: (1) Mr. Ganek, an independent party, will approve and monitor for the Plan the Line of Credit Agreement and all loans made under the line of Credit Agreement; (2) each loan will have a high rate of interest with a floor of 12% per annum; (3) the Collateral will, at all times, have a value of at least 200% of the balance of all outstanding loans made under the Line of Credit Agreement; (4) John Wieland will personally guarantee repayment of the loans made under the Line of Credit Agreement in the event of default; and (5) the Line of Credit Agreement will be for a relatively short period of time of five years.

Notice to Interested Persons

Notice of the proposed exemption will be given to all participants and beneficiaries of the Plan by mail or by hand delivery within 10 days of the publication of the notice of pendency in the **Federal Register**. Such notice will contain a copy of the notice of pendency as it appears in the **Federal Register** as well as a statement informing all such interested persons of their right to comment or request a hearing in regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975 (c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the

exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply for a five year period to the loans of amounts of money under the Line of Credit Agreement by the Plan to the Employer provided that the outstanding balances of such loans do not exceed 30% of the assets of the Plan, and that the terms of the loans made under the Line of Credit Agreement are at least as favorable to the Plan as those obtainable in a transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-3095 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-36; Exemption Application No. D-1777]

Exemption From the Prohibitions for Certain Transactions; Mead Retirement Master Trust, Dayton, Ohio

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit: (1) The contribution by the Mead Corporation (Mead), the sponsoring employer, to the Mead Retirement Master Trust (the Plan), of several parcels of improved real estate (the Land and Improvements) subject to an existing ground lease (the Lease); (2) the guaranteed payment of rent by Mead to cure an act of default for a limited period of time; and (3) the guaranteed repurchase of the Land and Improvements by mead in the event of a default under the Lease or inability of the Plan to rent or sell such real estate upon the expiration of the Lease.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 20, 1981, notice was published in the **Federal Register** (46 FR 13425) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice and an accompanying statement have been provided to all interested persons in compliance with the notification requirements as set forth in the notice. Public comments were received, one of which included a request that a public hearing be held. Notice of a public hearing was published in the **Federal Register** on June 16, 1981, (46 FR 31543). The hearing was held at the Department in Washington, D.C. on July 10, 1981. At the hearing interested persons presented testimony explaining their views with respect to the proposed exemption.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Summary Restatement of the Factual Representations

Mead and its subsidiaries are the sponsors of numerous qualified employee pension benefit plans. The Plan is a commingled trust fund in which each of the several participating plans maintain separate accounts. On September 30, 1979, the value of Plan assets was approximately $260 million of which approximately $20.5 million represents investments in real estate.

By an agreement dated September 27, 1979 (the Purchase Agreement), Mead sold to Stanley Interiors Corporation (Stanley) three of its operating divisions (the Interiors Divisions) as well as all assets (excluding the real property) of those divisions. The Purchase Agreement provided that Mead lease to Stanley those properties used in the business operations of the affected divisions—the Land and Improvements—pursuant to a written ground lease—the Lease. The Lease was for a period of twenty years with two five year renewal options. Pursuant to the Lease, Stanley has the option to purchase the Land and Improvements, at any time during the Lease or option periods, for the then current fair market value or a fixed price (the value of the Land and Improvements at the time the Lease was executed).

Mead intends to contribute the Land and Improvements, subject to the Lease, in partial satisfaction of its obligation to

fund the Plan for the plan year commencing January 1, 1981. Contributions to the Plan for 1981 will amount to approximately $28 million. The Land and Improvements will be the subject of an independent appraisal to determine the contribution value. Such appraisal will consider the rental terms as negotiated and the present value of the Land and Improvements at the end of the Lease term.

Concurrently with the contribution to the Plan, Mead and Wachovia Bank and Trust Company N.A. (Wachovia) will execute an agreement (the Inducement Agreement) which would require Mead to repurchae the Land and Improvements under certain conditions. Wachovia, the corporate trustee of the Plan, is subject to direction with respect to Plan investments. However, for purposes of this transaction, the trust agreement between Wachovia and the Plan has been amended to provide Wachovia absolute discretion with respect to decisions regarding enforcement of the terms contained in the Lease and rights under the Inducement Agreement.

Discussion of Comments and Testimony Received at The Public Hearing

Following publication of the proposed exemption, the Department received four comments. Three of the comments opposed the granting of the exemption and one, from a participant of the Plan, questioned the impact of the proposed exemption on his individual retirement benefits. The comments in opposition expressed general concerns that were not specifically related to the merits of the proposed exemption. Before the Department agreed to honor the request for a hearing, specific objections to the transactions were requested. Through counsel the commentators responded and spelled out seven specific issues upon which they objected to the proposed exemption. Based on these issues the Department determined that the requested hearing should be held to evaluate whether the transactions satisfied the criteria for the granting of an administrative exemption.

The commentators pointed out that the notice characterized the several plans participating in the master trust as "the Plan" and suggested that the Department had failed to make the necessary findings with respect to each of the participating plans; rather, had made its findings based on the aggregate of the master trust. The commentators further suggested that section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code would be violated where it could not be shown that Plan fiduciaries had considered the "individual best interests" of the several plans participating in the master trust when taking actions affecting the assets of the Plan. The commentators cite as support for their argument that the decision to participate in and the operation of the master trust arrangement constitute violations of section 406(b) of the Act, the opinion of *Cutaiar* v. *Marshall* 590 F. 2d 523 (3d Cir. 1979). The applicant argued that the commentators did not understand the nature of a master trust operating as a pooled investment vehicle. In addition, the applicants suggest a narrower interpretation of the *Cutaiar* decision—namely that in the absence of a statutory or administrative exemption from the prohibited transaction rules, ERISA prohibits a transfer between funds where the trustees are identical but the participants are not.

The commentators suggested that because Wachovia is the trustee of the master trust (such trust represents 3.2 percent of the total assets held in trust by Wachovia) and does limited commercial business with Mead, Wachovia should be disqualified from serving as an independent fiduciary to monitor the terms of the Lease and exercise the Plan's rights, under the Inducement Agreement, for repurchase of the Land and Improvements underlying the Lease. Mead countered by presenting facts demonstrating that while the Plan constitutes 3.2 percent of Wachovia's total trust assets, such figure represents only .6 percent of the gross income earned by the Wachovia Trust Department. Mead also submitted evidence as to the de-minimus nature of its commercial banking relationship with Wachovia.

The commentators further suggested that the notice did not indicate that the Lease schedule of rental payments represented fair market value. The commentators also alleged that below market rental existed based on the language in paragraph 4 of the proposed exemption that should the property be purchased by Stanley in certain years that a premium would be paid which "adjusts for lower rental paid in earlier years." The applicant suggested that the issue of fair market value should be focused on whether the transaction, which is the subject of the exemption request, will enable the Plan to generate a return that constitutes fair market rental value during the period of the Lease and obtain fair market value in the event the Land and Improvements should be sold. The applicants noted that the independent appraiser selected a valuation method that established current fair market value based on the value of the income stream plus the present value of the plan's reversionary interest in the Land and Improvements at the end of the Lease term. It was submitted that this approach is normally used to value property subject to an existing lease encumbrance where the rental income is established by a know schedule. Consequently, the applicant submits that such appraisal would determine the fair market value of the land and Improvements for purposes of the contribution and subsequently the fair market rental value to be received under the existing terms of the Lease.

The commentators argued that participants of the Plan should not be obliged to depend on Mead's continued financial health to be assured of retirement income. The applicant responded that any liability to the Plan is contingent, that Stanley, as lessee, has the primary obligation under the Lease. Only in the event of a default or unleasability of the Land and Improvements after the expiration of the Lease could the Plan's economic status be conditioned on Mead's financial viability.

The commentators further suggested that the application and notice disclosed prior instances of violations of the Act and the Code based on actions taken by the Plan fiduciaries incident to the spin-off of the Interiors Divisions and the resultant transfer of assets and liabilities to the Stanley Plan(s). The applicant respondend by pointing out that both the Act and Code recognize that transfers of assets may occur. These relevant statutory provisions provide that such transfers are permitted only where the benefit levels of participants in the respective plans remain equivalent. The application contained a representation that benefits remained comparable and that the assets transferred were equal to the liability for benefits accrued to the extent accrued benefits were then funded. The applicant further represented that the allocation methods used conform with applicable law, regulations and generally accepted actuarial principles.

In addition, the commentators argued that the Department should not grant the requested relief from section 407 of the Act to exceed the 10 percent limitation, with respect to the acquisition and holding of qualifying employer real property, which could occur should Stanley default under the terms of the Purchase Agreement. Without discussing the merits of this objection, the Department notes that the applicant represents this issue is now moot based on a sale of the subject stock, the

holding of which could have resulted in the excessive holding violation of section 407. The Department has modified the exemption language to reflect this change by deleting that language which provided relief for the contingent violations incidental to the holding of the Stanley stock.

The commentators' final argument suggested that the Plan could experience cash flow problems should it accept the contribution of the Land and Improvements. The applicant countered this allegation by representing that during the plan year 1980 cash receipts totalled $37 million and disbursements were $17 million. Based on cash flow projections for the 1981 Plan year, available cash exceeds cash needs by approximately $18 million. Therefore, since the contribution of the Land and Improvements would be valued at approximately $12 million, no cash flow problem would appear to exist.

The Department has reviewed the entire record and has made a determination that the record supports the applicant's request for an exemption and therefore has decided to grant the exemption subject to the modification from the proposal as discussed above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the following transactions as described in the Purchase Agreement, the Lease and the Inducement Agreement: (a) The contribution by Mead of the Land and Improvements to the Plan subject to the Lease; (b) the payment of rent by Mead to cure an act of default under the Lease by making rental payments for a period not to exceed one year; and (c) the repurchase of the Land and Improvements by Mead in the event of a default on the Lease by Stanley or where the Plan is unable to lease or sell the Land and Improvements after the expiration of the Lease, provided that the consideration received by the Plan shall be at least fair market value at the time of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3112 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–25–M

[Application No. D–2918]

Proposed Exemption for Certain Transactions; Mutual Life Insurance Co. of New York; New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt for a period of 4½ years: (1) The proposed allocation and offering of certain interests in equity real estate investments (the Investments) between the general account (General Account) of Mutual Life Insurance Company of New York (MONY) and PA–7, an equity real estate separate account established by MONY, in which employee benefit plans (the Plans) invest; and (2) the transfer of all or a fractional interest in such Investments by the General Account to PA–7. The proposed exemption, if granted, would affect MONY and the participants and beneficiaries of the Plans.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 5, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2918. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section

4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by MONY, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. MONY is a life insurance company which currently has assets of over $8 billion. PA–7, which was established on May 14, 1981, is a pooled separate account with assets primarily invested in the Investments. MONY has requested an exemption to permit the purchase of Investments by the General Account and subsequent transfer of all or a portion of such Investments by the General Account to PA–7. This arrangement would benefit the Plans by enabling PA–7 to have access to Investments during its initial four and one-half years of operation when PA–7 may not have the funds to purchase Investments at the time such Investments are offered on the open market.

2. The purchase of Investments by the General Account and transfer of such Investments by the General Account to PA–7 would operate in the following manner. MONY's Real Estate and Mortgage Investment Department (the Real Estate Department) locates, recommends and obtains suitable Investments for both the General Account and PA–7. The Investment Committee of MONY's Board of Trustees approves Investments appropriate for the General account and PA–7. A majority of the members of the Investment Committee are not employed by MONY. After the Investment Committee has approved an Investment for acquisition by both the General Account and PA–7, the Vice-President of the Real Estate Department will offer all or a fractional interest in the Investment to an independent committee (the Committee—discussed infra) which is authorized to act for PA–7. Upon receipt of an offer (Offer), the Committee may make a counter-offer (Counter-offer) to purchase a different percentage (up to 100%) of an Investment. The Real Estate Department may accept or reject the Counter-offer or make another Counter-offer. If no portion of a particular Investment purchased by the General Account is to be offered to PA–7, the Committee will be furnished with a statement disclosing the reason for such non-offer (Non-offer). MONY will maintain, for a period of six years, a record of each Offer, Counter-offer, and Non-offer. It is noted that PA/7 is not obligated to purchase Investments solely from the General Account and that if PA–7 has the funds available, it will purchase Investments directly from the sellers of such Investments.

3. An Offer will be made to PA–7 approximately two months before the Investment is to be acquired by the General Account and will remain open for a period of not more than one year from the date the Investment is acquired by the General Account.

4. If the Committee accepts an Offer, the Investment will be transferred from the General Account to PA–7 within 30 days of such acceptance. The PA–7 Committee may withdraw its acceptance of an Offer if PA–7 lacks the funds necessary to purchase the Investment at the time of the transfer to PA–7. In this case, the Offer will be held open by the Vice-President of the Real Estate Department for subsequent acceptance by the Committee, provided that such subsequent acceptance occurs not more than one year from the date the General Account purchased the Investment.

5. At the time an Offer is made and immediately prior to any acquisition by PA–7 of an Investment from the General Account, full disclosure of any existing or potential interest in the Investment to be acquired, or previously acquired by the General Account shall be made to the Committee. Such information will disclose the interest, if any, between MONY and the borrowers, sellers, lessors or other investors, if any, in the real property underlying the Investment. In addition, any affiliation between MONY and any person whose opinion or recommendation will be relied upon by the Committee, such as appraisers and architects, must be disclosed to the Committee.

6. The purchase price of an Investment is established in the following manner. Prior to the acquisition of an Investment by the General Account, an appraisal of the underlying real property by a Member of the American Institute of Real Estate Appraisers (MAI) is completed. Another MAI apprisal will be completed at the General Account's expense prior to PA–7's acceptance of an Offer. Such appraisal must not have been completed more than six months prior to the date on which the Committee accepts the Offer. The consideration paid by PA–7 for the Investment conveyed to PA–7 from the General Account will be based upon such appraisal, plus expenses incurred by PA–7 in connection with the acquisition of the property interest, which are routine expenses normally incurred in similar acquisitions of real property.

7. MONY will appoint the members of the Committee, which will act as an independent fiduciary on behalf of the Plans investing in PA–7 in deciding whether to accept an Offer by the General Account. The members of the Committee will be "outside trustees" of MONY Mortgage Investors (MONYMI), a real estate investment trust for which MONY serves as the manager and investment adviser and in which MONY holds approximately 2% of the common stock. An "outside trustee" may not be a director, officer, trustee or employee of MONY or an affiliate of MONY. It is represented that the Committee members will have extensive real estate investment experience and will be independent of any influence by MONY. In this regard, Committee members will be appointed for three year terms and may not be removed by MONY during such term.

8. The only charge payable by PA–7 to MONY in connection with the above-described transactions will be an asset charge to defray MONY's investment and administrative expenses in connection with PA–7. At present, this asset charge is 1% per annum of the average net assets held in PA–7. The applicant represents that it reviewed the asset management charges imposed by other insurance companies and banks in connection with the management of pooled real estate separate accounts and real estate commingled funds, and concluded that its 1% fee was comparable to the fee charged by other asset managers involving real estate pooled funds similar to PA–7.

9. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act due to the following:

(a) The independent Committee will make all decisions relating to the Offers of Investments;

(b) The exemption will be temporary, expiring in four and one-half years;

(c) The purchase price of an Investment to be purchased by PA–7 would be based upon an MAI appraisal;

(d) PA–7 may make a Counter-offer to any Offer by the General Account;

(e) PA–7 is not obligated to purchase investments solely from the General Account;

(f) The exemption will permit PA–7 to purchase Investments which it may otherwise be unable to purchase due to lack of funds, which would benefit the Plans investing in PA–7; and

(g) The exemption would not interfere with PA–7's right to purchase investments on the open market.

Notice to Interested Persons

A copy of the proposed exemption as published in the **Federal Register** will be provided to the appropriate Plan fiduciary of each Plan participating in PA–7 on the date the proposed exemption is published in the **Federal Register.** Each of these fiduciaries will also be informed of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the allocation and offering by MONY of the Investments between the General Account and PA–7; and (2) the transfer of all or a fractional interest in an investment by the General Account to PA–7.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of Janaury, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3105 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–2869]

Proposed Exemption for Certain Transactions; Pezrow Companies Profit Sharing Plan, Montvale, New Jersey

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the proposed loan of $700,000 by the Pezrow Companies Profit Sharing Plan (the Plan) to Pezrow Enterprises, Inc. (Pezrow), a party in interest with respect to the Plan; and (2) the guarantee of Pezrow's obligations pursuant to the loan by Ken J. Pezrow Corporation (the Employer), the Plan sponsor. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer, Pezrow, and any other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D–2869. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in

an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately 284 participants. As of December 31, 1980, the Plan had net assets of $2,119,585. Messrs. William Daily, Robert Kurz and Arthur W. Markowitz are the trustees of the Plan (the Trustees) and have complete authority to make investment decisions for the Plan. Each of the Trustees is a shareholder, director and officer of the Employer.

2. Pezrow, a wholly-owned subsidiary of the Employer, is involved in the food brokerage business. As of December 31, 1980, the Employer and its subsidiaries had an aggregate net worth in excess of $1,000,000.

3. The applicant is requesting an exemption to allow the Plan to loan Pezrow $700,000 (the Loan) representing approximately 34 percent of the Plan's net assets. The proceeds of the Loan will be used by Pezrow to purchase two parcels of improved real property (the Properties) located in Woburn, Massachusetts. The Loan will be amortized over a twenty (20) year term and will bear interest at a floating rate of 80 percent of the prime rate as quoted by the Peapack-Gladstone Bank of Gladstone, New Jersey (the Bank), adjusted quarterly. In no event during the term of the Loan will the interest rate be less than 12 percent.

4. The Loan will be secured by a duly recorded first mortgage on the Properties. The Properties are located at 71–73 Pine Street, Woburn, Massachusetts and consist of 5.7 acres of land improved by two large commercial buildings. Mr. Robert L. Lyon of W. H. Lyon Realtors, Inc., located in Lexington, Massachusetts, determined that, as of August 20, 1981, the Properties had a fair market value of $1,300,000. Throughout the term of the Loan the Employer will insure at its own expense the Properties against fire and other hazards for an amount not less than the initial Loan amount and will execute a loss payee clause providing for payment of the proceeds of such insurance to the Plan. The Employer will guarantee the obligations of Pezrow under the Loan.

5. The applicant has retained the Bank to serve as the fiduciary for the Plan with respect to the Loan. The Bank is completely independent of the Employer and its subsidiaries and does not maintain any commercial or banking relationship with the Employer, its subsidiaries or its principals. The Bank has examined the terms of the proposed Loan and has determined that the Loan is appropriate, suitable, and in the best interests of the Plan. The Bank specifically represents that the Loan's proposed interest rate of 80 percent of prime is appropriate for such mortgage loans. The Bank will monitor the Loan on behalf of the Plan and maintain full authority and power to pursue collection on behalf of the Plan. The Bank will insure that throughout the term of the Loan the Properties will have a value at least 150 percent of the outstanding Loan balance.

6. In summary, the applicant represents that the Loan will satisfy the criteria of section 408(a) of the Act because (a) the Trustees represent that the Loan will be in the best interests of the Plan; (b) the interest rate on the Loan will be determined by the Bank; (c) the Plan will have a duly recorded first mortgage on two insured parcels of improved real property having a value throughout the term of the Loan not less than 150 percent of the outstanding Loan balance; (d) the Bank, a party completely independent of the Employer and its subsidiaries, represents that the Loan is appropriate, suitable, and in the best interests of the Plan; (e) the Bank will monitor the terms and conditions of the Loan; and (f) the Employer will guarantee the obligations of Pezrow under the Loan.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register** a copy of this notice of pendency will be mailed to each participant in the Plan. Such notice will inform all interested persons of their right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan soley in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested

exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the Loan by the Plan to Pezrow as described above provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party; and (2) the guarantee of Pezrow's obligations under the Loan by the Employer.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3100 Filed 2–4–82; 8:45 am]
BILLING CODE 4510–29–M

[Application No. D–2926]

Proposed Exemption for Certain Transactions; RREEF MidAmerica Fund–II, Chicago, Illinois

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the purchase of a shopping center by RREEF MidAmerica Fund–II (the Fund) from an unrelated party, and the assumption by the Fund of existing leases to Household Finance Corporation (HFC) and its subsidiary, T.G.&Y. Stores Company (TGY), parties in interest with respect to one of the employee benefit plans participating in the Fund. The proposed exemption, if granted, would affect HFC, TGY, the Household Finance Corporation Pooled Investment Trust (the Plan) and other plans that have invested in the Fund.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 19, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective July 30, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2926. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of RREEF MidAmerica (RMA), the Fund's investment manager, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. HFC is an employer whose employees are covered by the Plan. TGY is a wholly owned subsidary of HFC. The Plan is a qualified pension plan with approximately 24,519 participants. The Plan is one of several plans that invests in the Fund. As of July 1, 1981, the Plan had total assets with an estimated market value of approximately $198,000,000.

2. The Fund is a group trust created on April 1, 1980, that meets the requirements of Rev. Rul. 56–267, 1956–1 C.B. 206. It is designed to afford plans, qualified under section 401(a) of the Code and thereby exempt from Federal taxation under section 501(a) of the Code, the opportunity to diversify their portfolios by investing, through the Fund, in real properties. The Fund is engaged primarily in the business of acquiring, improving, operating and holding for investment income-producing real property (as well as personal or mixed property connected therewith), including commercial, office and industrial property dispersed geographically throughout the United States.

3. The Fund is designed for investment by pension or profit-sharing plans, and the minimum investment in the Fund is $1,050,000. At the present time, fourteen pension and profit-sharing trusts have subscribed to invest in the Fund. The total value of assets of the Fund is currently $84,900,000 of which $1,050,000 was invested by the Plan.

4. The trustees of the Fund are Messrs. Claude N. Rosenberg, Jr., Alander F. Hogland, Paul Sack, Johnson S. Bogart, Richard J. Bertero, Orra C. Hyde, III, Donald A. King, Jr., Wayne R. Harkins and Dean M. Greenwood. Discretion over the investments of the Fund, within the limits of the investment objectives and criteria of the Fund, has been assigned to RMA, a general partnership organized in May, 1979 under the laws of the State of California, primarily for the purpose of managing and operating real estate investment programs such as the Fund. RMA is a registered investment adviser under the Investment Advisers Act of 1940. Its address is 200 East Randolph Drive, Suite 7211, Chicago, Illinois 60601.

5. The general partners of RMA are Messr. Rosenberg, Hogland, Sack, Bogart, Bertero, Hyde, King, Harkins, Greenwood and RREEF partners, a limited partnership, the general partners of which are Messrs. Rosenberg, John D. Leland, Jr. and Joseph A. Mark. Investment decisions with respect to real properties for the Fund are made by an investment committee of RMA which consists of all the general partners of RMA.

6. RMA also acts as investment manager for RREEF MidAmerica Fund–I,

a group trust established in 1979. RMA is affiliated with the RREEF Corporation, RREEF America Partners and RREEF USA Partners, which are registered investment advisers for other real estate funds having investment objectives similar to those of the Fund. The RREEF Corporation acts as the investment manager for four RREEF Funds, RREEF USA Partners act as the investment manager for RREEF USA Fund–I and RREEF America Partners acts as investment manager for RREEF USA Fund–II. In addition to the $1,050,000 that the Plan has invested in the Fund, the Plan has also invested $1,050,000 in each of the following funds: RREEF Fund–II, RREEF Fund–III, RREEF Fund West–IV and RREEF MidAmerica Fund–I. This aggregate Plan invesment of $5,250,000 constitutes only 0.8 percent of the total assets of all RREEF funds valued at $640,800,000. Messrs. Rosenberg, Leland and Mark also are principals and employees of Rosenberg Capital Management, a registered investment adviser which provides investment management services with respect to equity and fixed income securities.

7. None of the individuals mentioned above is an officer, director or employee of HFC or TGY, nor do such individuals hold an equity interest in HFC or TGY. Neither HFC nor TGY, nor any officer, director or employee of those companies has any ownership interest in, or employment capacity with RMA or any entity affiliated with RMA.

8. On June 11, 1981, the Fund entered into an agreement to purchase the Brentwood Commons Shopping Center (the Shopping Center), located in Bensenville, Illinois, from LaSalle National Bank as trustee for Wayne Johnson, the beneficial owner (the Seller). Of the 107,000 square feet in the Shopping Center, approximately 104,500 square feet are currently leased. HFC leases 1,169 square feet, and TGY leases 17,000 square feet. The current lease agreement between the Seller and HFC was entered into on March 3, 1980. The lease was arrived at by the Seller and HFC through arm's-length negotiation. The TGY lease agreement was entered into on September 1, 1960 by Elmhurst National Bank, as Trustee (Seller's predecessor) and City Products Corp. TGY's predecessor). The lease was arrived at through arm's-length negotiation. The TGY lease commenced on April 1, 1962. RMA first became aware of the property through information from PCA Financial, an independent broker. Negotiations for purchase commenced well after the dates on which HFC and City Products Corp. entered into their lease agreements.

9. The subject sales transaction was closed on July 30, 1981. It was necessary for the purchase agreement to be entered into, and for the closing to occur, prior to obtaining the prohibited transaction exemption proposed herein, because of business exigencies and Seller's insistence on an early closing date. The Seller needed liquidity and therfore demanded that the purchase transaction proceed quickly. Because of the desirability of the Shopping Center as an investment, and because of the Fund's own business needs, closing occurred shortly after the purchase agreement was entered into. The purchase price for the Shopping Center was $5,564,000, and at closing the Fund paid the full purchase price in cash. At closing, the Seller assigned all existing leases to the Fund, including the leases to HFC and TGY.

10. The Seller is not affiliated with, in control of, or controlled by HFC, TGY, or RMA, or in any way related to HFC, TGY, or RMA, except as lessor to HFC and TGY and seller of property to the Fund.

11. The investment in the Fund by the Plan constitutes less than 1.3% of the Fund's total assets and less than 0.6% of the total assets of the Plan. The purchase price of the Shopping Center itself represents 6.1% of the Fund's total assets, and within the entire Shopping Center, the two subject leases represent about 17% of the rentable space.

12. The purchase price of the Shopping Center was arrived at by the parties through arm's-length negotiation. Because of its expertise in transactions involving commercial real estate, RMA, consistent with its normal practice, has not sought an appraisal of the property by a third party. Neither the Fund, RMA, nor any of the affiliates of RMA is participating in any commission in connection with this transaction, nor do RMA and its affiliates have any fiduciary obligation to the Seller.

13. The applicant represents that the transactions meet the statutory criteria of section 408(a) of the Act because: (1) RMA believes that the Shopping Center is an excellent investment opportunity for the Fund, particularly at a time when such opportunities are difficult to locate; (2) the terms of the sale were arrived at by RMA and the Seller through arm's-length negotiation; and (3) the terms of the leases with HFC and TGY had been negotiated, long before the purchase of the Shopping Center, by the lessees and parties totally unrelated to, and independent of, HFC, TGY and RMA.

Notice to Interested Persons

Within 10 days of the publication of this notice of proposed exemption in the **Federal Register**, RMA will send by mail a copy of this notice to the appropriate fiduciary of each plan or trust that has subscribed to invest in the Fund. The notification will also include a statement advising interested persons of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for

a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective July 30, 1981, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of the Shopping Center by the Seller to the Fund, the lease of a portion of the Shopping Center to HFC, which began on March 3, 1980, and the lease of another portion of the Shopping Center to TGY, which began on April 1, 1982, provided the sale and lease terms are no less favorable to the Fund than those available in arm's-length transactions with unrelated parties.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this proposed exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3108 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. L-2536]

Proposed Exemption for Certain Transactions; Retail Clerks Local 212 Western New York Pension Plan, Buffalo, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed temporary exemption would exempt, effective May 23, 1980, the decision by those trustees of the Retail Clerks Local 212 Western New York Pension Plan (the Plan) who represent Local 212, United Food and Commercial Workers Union (the Union) to retain the Union for a period of five years to provide certain administrative services to the Plan. The proposed exemption, if granted, would affect the Plan trustees (Trustees), participants and beneficiaries and the Union.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 22, 1982.

EFFECTIVE DATE: The effective date of the exemption, if granted, would be May 23, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L–2536. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the Trustees on behalf of the Plan, pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan, which has 678 participants, is a collectively bargained multi-employer pension plan established under section 302(c)(5) of the Labor Management Relations Act of 1947, as amended. The Plan is administered by a joint board of Trustees having equal representation by Union and contributing employer representatives.

2. Since the adoption of the Plan on May 23, 1980, the Union has provided administrative services in the role of Plan Administrator, at no cost to the Plan, with the express understanding between the Trustees and the Union that upon the granting of an exemption, the Plan would reimburse the Union for its direct expenses for past services. It is represented that on the advice of the Plan's legal counsel, no written agreement was entered into between the Plan and the Union to pay the Union's direct expenses because of the prohibited transaction involved. It is further represented that all of the Trustees recognized that the Union, while willing to contribute to the organization and success of the Plan, did not intend to subsidize the operation of the Plan. Therefore, the applicants request an exemption to reimburse the Union for its direct expenses for past services and for future services as such direct expenses are incurred.[1] The provision of services and reimbursement of direct expenses would be controlled by a written agreement (the Agreement) which is terminable at will at the Plan's discretion.

3. The Union's duties as Plan Administrator under the Agreement include the maintenance of necessary books and records concerning contributions, eligibility, pension credits and benefit claims. The Trustees supervise the performance of the Union's duties. The Trustees represent that the Union's duties as Plan Administrator are administrative and involve no exercise of discretion.

4. The expenses for which the Union would be reimbursed would include the sums actually expended for the salaries of Union personnel, state and local taxes in connection with the salaries, and equipment and supplies necessary to the provision of administrative services to the Plan. the Union's estimated annual cost of providing the above-described goods and services to the Plan is $2,000. The Union would not be reimbursed for any indirect expenses. Furthermore, the Trustees would not be

[1] No relief is being proposed from section 406(a) of the Act and Section 4975(c)(1) (A) through (D) of the Code because the Department is not proposing an exemption in this notice beyond the relief which is provided by section 408(b)(2) of the Act.

bound to reimburse the Union for any costs that are not reasonable and necessary, as determined by the Trustees in their sole and exclusive discretion.

5. The Trustees state that if the Union is not permitted to perform the above-described services to the Plan on a direct expense only basis, the Trustees would have to retain a third party whose fee would include indirect expenses and a profit and would therefore be substantially more costly to the Plan.

6. In summary, the Trustees represent that the transaction satisfies the statutory criteria of section 408(a) of the Act due to the following:

a. The board of Trustees, composed of equal numbers of employer and Union representatives, has determined that the retention of the Union to provide administrative services is in the best interests of the Plan and its participants and beneficiaries;

b. The Union would be reimbursed solely for direct expenses and would receive no profit for its provision of services;

c. The Trustees have monitored and would continue to monitor the Agreement and the Plan's reimbursement of the Union's direct expenses;

d. The Trustees state that the Plan has saved and would continue to save a substantial amount of money by retaining the Union as opposed to a third party;

e. The Trustees represent that the services performed by the Union are administrative and not discretionary; and

f. The exemption would be temporary, expiring after a five year period, at which time the applicants may apply to the Department for an extension of the exemption.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested parties including the participants and beneficiaries of the Plan within 15 days of the date of its publication in the **Federal Register**. Notice will be given to all participants by posting it at all Union meeting places. Notice will be given to all beneficiaries by first class mail. The notice will contain a copy of the proposed exemption and will inform each person of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a), 406 (b)(1) and (b)(3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply, effective May 23, 1980, for a five year period, to the decision by the Union Trustees to retain the Union to provide administrative services to the Plan for a five year period as above-described.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction that is the subject of the exemption.

Signed at Washington, D.C., this 30th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3099 Filed 2–4–82; 8:45 am]
BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–36; Exemption Application No. D–2885]

Exemption From the Prohibitions for Certain Transactions; Rex Companies Employees' Profit Sharing Plan and Trust, Lansdale, Pennsylvania

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts a loan by the Rex Companies Employees' Profit Sharing Plan and Trust (the Plan) of $150,000 to Rexmet Corporation (the Employer), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60689) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for

a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of $150,000 by the Plan to the Employer, provided the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3114 Filed 24-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–2845]

Proposed Exemption for a Certain Transaction; Riverside Manufacturing Co. Profit-Sharing Plan, Atlanta, Georgia

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of stock by the Riverside Manufacturing Company Profit-Sharing Plan (the Plan) to the Citizens & Southern Holding Company (C&S Holding), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect C&S Holding, the Citizens and Southern National Bank (C&S National), and participants and beneficiaries of the Plan.

DATE: Written comments and request for a public hearing must be received by the Department of Labor on or before April 2, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective November 10, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2845. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of C&S National and Citizens and Southern Georgia Corporation (C&S Georgia), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procednres set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with approximately 1,150 participants. C&S National is the Plan's trustee. As of October 31, 1980, the total value of the Plan's assets was $3,592,729.97.

2. C&S National is a national banking association organized and existing under the laws of the United States. C&S Georgia is a bank holding company organized and existing under the laws of the State of Georgia. Prior to December 31, 1980, and at the time of the subject transaction, the predecessor in interest of C&S Georgia was C&S holding, a wholly-owned subsidiary of C&S National. As a result of a plan of reorganization (the Reorganization) approved at the annual meeting of C&S National on December 18, 1980, C&S Georgia was created, C&S National became a wholly-owned subsidiary of C&S Georgia, and C&S Holding merged with C&S Georgia.

3. The Citizens and Southern Bank of Albany (C&S Albany) is a state bank chartered under the laws of the State of Georgia, which before the Reorganization was a subsidiary of C&S Holding and after the Reorganization was and continues to be a subsidiary of C&S Georgia. In October 1980, C&S Holding transmitted to all shareholders of C&S Albany common stock an offer (the Offer) to purchase all outstanding common stock of C&S Albany at a price of $108.09 per share. At the time of the Offer, the Plan owned 400 shares of common stock of C&S Albany.

At the time of the Offer, C&S Holding owned 83.9 percent of the outstanding common stock of C&S Albany, and C&S Holding was seeking to purchase 32,264 shares of C&S Albany common stock. There was no active trading market for the shares of C&S Albany, and the most recent sale of C&S Albany common stock prior to the Offer was on December 13, 1979, at which time C&S Holding purchased 400 shares for $103 per share.

5. Cash dividends declared per share of C&S Albany common stock were $.56 per share per quarter during 1978, $.65 per share per quarter during 1979, and $.65 per share for each of the first three quarters of 1980. The Offer indicated that shareholders who did not sell their shares of C&S Albany pursuant to the Offer would be entitled to participate in a proposed special cash dividend of $24 per share, but only if such a dividend were approved by the C&S Albany Board of Directors in November, 1980. The Offer indicated that if the special cash dividend were paid, it was expected that the cash dividend would have a significant negative effect on the price paid by C&S Holding for any shares of C&S Albany in the foreseeable future, if C&S Holding should elect to buy any additional shares of C&S Albany in privately negotiated transactions or otherwise.

6. In October, 1980, C&S National, as trustee for the Plan, received the Offer. Following an analysis of the Offer, the Investment Research Division of the C&S National Trust Department advised that all accounts holding C&S Albany common stock should tender pursuant to the Offer. On November 7, 1980, the C&S National officer responsible for the administration of the Plan and the Administrator of the Plan (the Secretary of the Riverside Manufacturing Company) agreed to accept the Offer. On November 10, 1980, the Plan's trustee tendered 400 shares of C&S Albany common stock pursuant to the Offer, and on November 26, 1980, the Plan received $43,236 in cash for the shares so tendered. This amount represented approximately 1.2 percent of the Plan's assets at that time.

7. Out of 115 shareholders who received the Offer, C&S National was one of 87 shareholders who accepted the Offer. The shares tendered by C&S National as trustee for the Plan represented approximately 1.2% of the shares sought by C&S Holding and 1.5% of the shares actually tendered. Out of 87 shareholders who tendered their stock, 12 were related to the C&S group in some capacity and 75 were not. Shareholders not related to C&S tendered 23,163 shares. They received $108.09 per share tendered, for a total of $2,503,688.67. Shareholders related to C&S in some capacity tendered 4,000 shares. They received $108.09 per share tendered, for a total of $432,360.

8. The applicants represent that before the sale, the Plan had an asset that yielded no more than 2% or 3% in dividend income and that could be sold only with difficulty, if at all. After the sale, the Plan had $43,236 in cash that could be used to pay benefits under the Plan or re-invested in a higher-yield, more marketable asset.

9. In summary, the applicants represent that the subject transaction meets the statutory criteria of section 408(a) of the Act because: (1) The sale was a one-time transaction for cash; (2) all holders of C&S Albany stock who accepted the Offer were treated equally regardless of their relationship to the C&S group; (3) the Plan was able to receive cash in exchange for a low-yield asset with limited marketability; (4) shareholders unrelated to the C&S group tendered 23,163 shares while the Plan tendered 400 shares, and all shareholders received the same consideration for each of their shares; and (5) the Plan's trustee determined that the transaction was appropriate for the Plan and in the best interests of its participants and beneficiaries.

Notice to Interested Persons

Within 21 days from the publication of this proposed exemption in the **Federal Register**, the applicants represent that they will notify all persons who were Plan participants on November 10, 1980, all persons who are currently participants in the Plan, and all persons who are retired participants or beneficiaries receiving periodic distributions from the Plan. Notification will be given to active Plan participants by posting notice of the proposed exemption on the personnel bulletin boards at all locations of the Riverside Manufacturing Company for at least 30 days, and by mailing the notice to all retired participants and beneficiaries. The notice will include a copy of this notice as published in the **Federal Register** and a statement informing interested persons of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the November 10, 1980 sale by the Plan of 400 shares of C&S Albany stock to C&S Holding, for $43,236 in cash, provided such amount was not less than the fair market value of such stock at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this proposed exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3107 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-34; Exemption Application No. D-2632]

Exemption From the Prohibitions for Certain Transactions Involving Spreitzer, Inc. Profit Sharing Trust Located in Cedar Rapids, Iowa

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits for a period of five years the proposed loans of funds (the Loans) by the Spreitzer, Inc. Profit Sharing Trust (the Plan) to Spreitzer, Inc. (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, (202) 523-7352. (This in not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60681) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the proposed Loans by the Plan to the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the requirements set for the in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the

entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Loans of money by the Plan to the Employer as described in the notice of proposed exemption, provided that the terms of the Loans are at least as favorable to the Plan as those which the Plan could obtain in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor

[FR Doc. 82-3118 Filed 2-3-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-23; Exemption Application No. D-2657]

Exemption From the Prohibitions for a Certain Transaction Involving the Sheet Metal Workers Pension Plan of Southern California, Arizona and Nevada and the Los Angeles Sheet Metal Workers Joint Apprenticeship Committee, Local 108 Located in Los Angeles, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the loan of $2,200,000 by the Sheet Metal Workers Pension Plan of Southern California, Arizona and Nevada (the Pension Plan) to the Los Angeles Sheet Metal Workers Joint Apprenticeship Committee, Local 108 (the Apprenticeship Committee).

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7462. (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57170) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for an application filed on behalf of the Pension Plan and the Apprenticeship Committee. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the requirements set forth in the notice of pendency.

Two comments and two requests for a hearing were received by the Department.

The two comments were general in nature and indicated that the writers did not believe that the loan transaction was in the interests of the Pension Plan. The applicant responded to these two comments by noting that the interest rate being charged by the Pension Plan to the Apprenticeship Committee of 16.75 percent, or the rate in effect at the time the loan is made, provides a good return which is a prime way to guarantee the stability of the Pension Plan.

One request for a hearing failed to specify the reasons for the request and did not state any particular objections to the notice of pendency.

The second hearing request was very specific and stated the writer's concern about the security of the loan. A hearing was not scheduled because when the writer was contacted, he informed the Department that he would be unable to attend a hearing in Washington, D.C.

In response to this writer's comments about the security of the loan, the applicant noted the following:

(1) The independent appraisal established that the property to be used as collateral for the loan has a fair market value of $3,400,000 which provides a loan to value ratio of less than 65 percent of the amount of the loan;

(2) The independent appraisal stated that property values in the area where the property is situated have increased dramatically over the past two years due to the scarcity of available land and the demand for office space in the area, thus indicating that the property will appreciate in value;

(3) The Apprenticeship Committee currently has reserves of over $800,000 and its income has been an average of approximately $30,000 more than its expenses over the 12 month period ending June 1981;

(4) The Apprenticeship Committee's rental income will begin at the rate of $10,000 per month, which will supplement its current income of $42,000 to $45,000 per month;

(5) The Apprenticeship Committee's income should be more than aequate to meet all of its obligations, but should a downturn occur, the collective bargaining parties would increase the current 10¢ per hour contribution rate; and

(6) The property which is to be used as collateral for the loan is a commercial building and not limited to use as an apprentice training facility.

After reviewing the comments received and the applicant's response, the Department has concluded that the transaction should be granted as proposed in the notice of pendency.

The notice of pendency was issued and the exemption is being granted soley by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in

accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Internal Revenue Code of 1954 that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a) and 406(b)(1) and (b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Pension Plan and of the Apprenticeship Committee and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Pension Plan and the Apprenticeship Committee.

Accordingly the restrictions of section 406(b)(2) of the Act shall not apply to the loan of $2,200,000 by the Pension Plan to the Apprenticeship Committee, provided that the terms of the loan are those obtainable in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3131 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2462]

Proposed Exemption for Certain Transactions; Tech Plastics, Inc. Employees' Profit Sharing Plan, Arizona

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed exchange (the Exchange) by the Tech Plastics, Inc. Employees' Profit Sharing Plan (the Plan) of 24,160 shares of the common stock (the Stock) of Tech Plastics, Inc. (the Employer), the sponsor of the Plan for certain real property (the Property) owned by Steve Uhlmann (Uhlmann), a party in interest with respect to the Plan; (2) The subsequent proposed leasing of the Property by the Plan to the Employer; and (3) the guarantee by the Employer against any loss by the Plan in the event the Property is sold by the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 15, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2462. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan which as of June 30, 1980 had 122 participants and assets of $441,152. Such assets included 29,445 shares of the common stock of the Employer which represented approximately 94% of the assets of the Plan as of June 30, 1980. The dates, number of shares purchased and the prices paid by the Plan for the common stock of the Employer are as follows: 6/30/75—10,771 shares at $3.85 per share; 6/30/76—9,545 shares at $6.59 per share; 6/30/77—5,939 shares at $8.41 per share; 6/30/79—3,190 shares at $12.53 per share. Uhlmann is the trustee of the Plan. Uhlmann is the principal shareholder and president of the Employer. The Employer manufactures various plastic assembleges used in the construction of medical, cosmetic and electronic products.

2. The Employer is requesting an exemption for transactions that will: (1) Permit the Exchange in which the Plan will exchange the Stock which it owns for the Property which will be owned by the Employer; and (2) allow the Plan subsequent to the Exchange to lease the Property to the Employer. The Stock was appraised on August 11, 1981 by Robert C. Smith (Smith), an independent appraiser of securities located in Phoenix, Arizona. Smith represents that as of August 11, 1981 the Stock had a value of $19.04 per share. The Property consists of land and a building located at 1415 S. McClintock Dr., Tempe, Arizona. The Property was appraised on July 9, 1981 by an independent appraiser, David N. Peterson (Peterson), SREA of the Real Estate Science

Corporation located in Phoenix, Arizona. Peterson represents that as on July 9, 1981 the Property has a fair market value of $600,000. The Property is currently owned by Uhlmann and leased to the Employer.

3. The applicant proposes that the Exchange will take place as follows. Uhlmann will transfer ownership of the Property to the Employer, subject to its outstanding mortgage (the Mortgage), in exchange for the Stock. The Stock, which the Employer will give to Uhlmann in such Exchange, will be obtained by the Employer from the Plan by having the Employer transfer ownership of the Property to the Plan in exchange for the Stock owned by the Plan. The transfer of the Property by the Employer to the Plan will be subject to the Mortgage which is with the First Federal Savings and Loan Association of Phoenix and is currently approximately $140,000. The Plan after receipt of the Property will then lease (the lease) the Property to the Employer. The Lease will be for 10 year period which will cover the term of the Mortgage. The Lease will be triple net Lease with the Employer assuming all responsibilities for maintenance, taxes, insurance, repairs and all other miscellaneous operating expenses. The initial rent will be set by the appraisal performed by Peterson and will be adjusted periodically, so that the rent will be at all times at least equal to the fair market rent. At a minimum, the Lease will be adjusted after the 60th month by a rate which will equal the higher of the average increase in the Consumer Price Index or the local Real Estate Index for commercial rental property. In addition, the Employer will guarantee that the rental payments on the Property will always exceed the obligations of the Mortagage.

4. An independent fiduciary, the First Interstate Bank of Arizona (the Bank) will examine the proposed transactions. Prior to the Plan entering into the transactions, the Bank must certify that the transactions will be in the best interests and protective of the participants and beneficiaries of the Plan and that the terms and conditions are at least as favorable to the Plan as those which they could receive in similar transactions with an unrelated party. The Bank will also have the responsibility for monitoring the Lease, assuring that the rent is always at least equal to the fair market rent and enforcing the terms and conditions of the Lease on behalf of the Plan. In addition, in the event the Bank determines that the continued ownership of the Property by the Plan is not in the best interests of the participants and beneficiaries, the Bank may sell the Property. Should the Property be sold at a price below the price at which the Plan purchased the Property the Employer guarantees that it will reimburse the Plan for such difference.

5. The applicant states that the Stock represents a minority interest in closely-held corporation and that the only available resale market for the Stock is limited to the Employer and family members of Uhlmann. The Plan has never received a dividend distribution on the Stock and the applicant represents that becaue of the Employer's need for industrial equipment, the payment of dividends on the Stock is not a likely event. The applicant further represents that currently there is insufficient liquidity in the Plan to provide benefits to terminating participants. The applicant states that the Exchange and Lease will give the Plan a marketable asset with a cash flow sufficient to meet the liquidity requirements of the Plan.

6. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act as follows: (1) The trustee of the Plan represents that the transactions will be in the best interests of the participants and beneficiaries of the Plan; (2) the transactions will be approved and monitored by an independent fiduciary; (3) the Plan will be able to eliminate the Stock which does not pay a dividend and for which there is no active trading market; and (4) the Plan will receive an asset with a cash flow sufficient to meet the Plan's liquidity requirement.

Notice To Interested Persons

Within ten days of its publication in the **Federal Register**, a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan of their right to comment or request a hearing will be hand delivered or mailed to all participants and beneficiaries in the Plan.

General Information

The attention of interest persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the

Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the proposed Exchange of the Stock by the Plan with Uhlmann for the Property provided that the terms and conditions of the Exchange are at least as favorable to the Plan as those which they could receive in a similar transaction with an unrelated party; (2) the proposed leasing of the Property by the Plan to the Employer provided that the terms and conditions of the Lease are at least as favorable to the Plan as those which the Plan could receive in a similar transaction; and (3) the guarantee by the Employer against any loss to the Plan in the event of a sale of the Property by the Plan.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3100 Filed 2-4-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2770]

Proposed Exemption for Certain Transactions; Tip Top, Inc. Profit-Sharing Plan, Marietta, Ga.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale by the Tip Top, Inc. Profit Sharing Plan (the Plan) to Tip Top, Inc. (the Employer) of an undivided one-half interest held by the Plan in certain unimproved real property. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the trustee, the Employer and other persons participating in the transaction.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 19, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2770. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer, a closely-held corporation located in Marietta, Georgia, is engaged in the poultry processing business. The Employer corporation was formed in 1958 from a partnership (the Partnership) organized by Messrs. A. L. Burruss and Chester A. Austin (Messrs. Burruss and Austin). The Partnership has remained in existence to hold real estate and certain other assets. Messrs. Burruss and Austin are the principal shareholders of the Employer firm.

2. The Plan is a profit sharing plan with 141 participants. The Plan had net assets of $842,341 for the year ending June 30, 1980. Mr. Austin is the trustee of the Plan. Investment decisions for the Plan are made by the First National Bank of Cobb, located in Cobb County, Georgia and Mr. Austin.

3. Among Plan assets is an undivided one-half interest (the Plan's Interest) in certain undeveloped real property (the Real Property) consisting of 25.2 acres. The Real Property is located in Cobb County, Georgia and is specifically identified as the "White Circle Property." In addition, the Real Property is legally described in part as follows: "Land Lot 247 of the 20th District and 2nd Section; and Land Lot 865 of the 16th District and 2nd Section" of Cobb County, Georgia.

In August 1970, the Partnership acquired by warranty deed an undivided one-half interest (the Partnership's Interest) in the Real Property from Ms. Idabel Vance Hunt. The co-tenant holding the remaining interest, which was subsequently to become the Plan's Interest, was Mr. J. H. Henderson, Jr. (Mr. Henderson). At the time the Partnership acquired its Interest, the Real Property consisted of land totaling 30.3 acres in two specific tracts—25.5 acres in Land Lot 247 and 4.8 acres in Land Lot 865. (A later recalculation of the land in the smaller tract shows it is presently recorded on the plat at 4.7 acres.)

In June 1971, 5 acres of the tract containing the 25.5 acres were sold by the co-tenants to Mr. Stancil O. Wise (Mr. Wise), thereby leaving a balance in Land Lot 247 of 20.5 acres. Included within the 5 acre tract sold to Mr. Wise was a roadway easement for access to the Real Property. The easement is for a perpetual duration and is for the use of the parties holding the Real Property.

In April 1974, the Plan acquired its Interest in the Real Property under the terms of a warranty deed conveyance made by Mr. Henderson. The consideration paid by the Plan was $111,904.[1]

4. The Real Property was appraised initially on September 1, 1977 by Messrs. Robert F. Farrar and James H. Bradford (Messrs. Farrar and Bradford), independent appraisers with the appraisal and realty firm of Farrar Properties, Inc. of Decatur, Georgia. As a result of their study, Messrs. Farrar and Bradford placed the fair market value of

[1] With the exception of the Partnership and Employer, it is represented that none of the parties conveying or holding interests in the Real Property are parties in interest with respect to the Plan.

the Real Property at $280,800 or $10,350 per acre. In an updated appraisal of October 6, 1981, Mr. Farrar indicated he had reinspected the Real Property and then estimated it to be worth $312,500 or $12,400 per acre. Thus, the Plan's undivided one-half Interest in the Real Property is $156,250.

5. The Employer proposes to purchase the undivided one-half Interest at the fair market value price of $156,250. The consideration will be paid in cash at closing. Any fees or expenses incidental to the purchase will be borne entirely by the Employer.

6. In summary, it is represented that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (a) It is a one-time transaction for cash; (b) the sales price of the Plan's Interest in the Real Prperty is based upon an independent appraisal; (c) no expenses or fees incurred in connection with the sale will be paid by the Plan; (d) the sale will allow the Plan to divest itself of a non-income producing asset; and (e) the Plan trustee has determined that the transaction is appropriate for the Plan.

Notice to Interested Persons

Notice of the pending exemption will be given to active and retired participants of the Plan, within ten (10) days of the publication of the notice of pendency in the **Federal Register**. The notice will include a copy of the proposed exemption as published in the **Federal Register** and will inform interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Notice will be provided to active participants by posting copies of the notice on bulletin boards located on the Employer's business premises and by distributing copies in active participants' paycheck envelopes. Notice to retired participants will be given by mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plan to the Employer of the Plan's Interest in the Real Property located in Cobb County, Georgia, for $156,250 provided this amount is not less than the fair market value at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3109 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–2706]

Proposed Exemption for Certain Transactions; W. A. Tayloe Co., Inc. Profit-Sharing Plan, Dallas, Tex.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt the proposed loans (the Loans) of money for a period of seven years by the W.A. Tayloe Co., Inc. Profit Sharing Plan (the Plan) to The W.A. Tayloe Co., Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer, and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 22, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2706. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and

Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Lewis of the Department, telephone (202) 523–7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan (the Trustees), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with thirty-four participants and net assets of approximately $496,000 on October 27, 1981. The Employer and sponsor of the Plan is a Texas corporation engaged in the distribution of materials handling equipment. Mr. Philip Eyre and Mr. W. A. Tayloe, both of whom are officers of the Employer, are the Trustees of the Plan. Investment decisions for the Plan are made by the Trustees.

2. The Trustees seek an exemption to allow the Plan to enter into a loan agreement (the Loan Agreement) with the Employer whereby the Plan will periodically lend to the Employer amounts of money (the Loans) up to an aggregate at any point in time of the lesser of $175,000 or 35 percent of Plan assets. The proceeds of the Loans will be used to purchase new cars and trucks (the Vehicles) for use in the Employer's business. No more than 80 percent of the purchase price of the Vehicles will be financed through the Plan. The Loans will be made over a seven-year period, the first day of which will be the date the grant of an exemption is published in the **Federal Register**. All of the Loans will mature and become due and payable on or before the last day of such seven-year period. Each individual Loan will have a maturity of thirty-six months or less, with principal and interest amortized equally in monthly payments. The interest rate for each Loan granted under the Loan Agreement will be set in accordance with the rate that is normally charged in the Dallas, Texas area by lenders making similar loans, but will never be less than the higher of 13 percent per annum or two points avove the existing yield of six-month money market certificates of deposit of $100,000 sold by Texas American Bank of Dallas, Texas. The interest rate on any Loan will be adjusted every six months and will be approved in advance by Arthur Young and Company, the independent fiduciary for the Plan (the Independent Fiduciary). The Trustees represent that the Loans are in the best interests of the Plan and its participants and beneficiaries and that no Loan will be made under the Loan Agreement unless the terms and conditions of the Loan are at least as favorable as those which the Plan could obtain from an unrelated third party.

3. Each Loan made during the seven-year period will be secured by a perfected first lien on the Vehicles, which will be used in the Employer's business. The fair market value of the Vehicles will at all times during the term of the Loan Agreement be not less than 150 percent of the outstanding Loan balances. If at any time the value of the Vehicles falls below this amount, additional collateral will be provided by the Employer. The Employer will warrant to own, throughout the term of the Loan Agreement, all collateral free from any security interests (other than security interests granted to the Plan) or encumbrances. The Vehicles will be fully insured against fire, theft and other hazards, with the Plan named as the beneficiary of the insurance policy. The Employer will pay all costs associated with the maintenance of the Vehicles, including but not limited to paying all taxes, insurance premiums, repairs and storage costs.

4. The Independent Fiduciary will approve, monitor and take any steps necessary to enforce the terms of the Loan Agreement and the terms and conditions of the Loans made pursuant thereto. The Independent Fiduciary has reviewed the needs of the Plan and the transactions as proposed and has concluded that the proposed Loans are in the best interests of the Plan and its participants and beneficiaries. In addition to the duties described above, the Independent Fiduciary will review the collateral quarterly to ensure that the fair market value of the collateral is at all times equal to 150 percent of the outstanding balances of the Loans.

5. In summary, the applicants represent that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (1) The Independent Fiduciary will approve the terms and conditions of each Loan made pursuant to the Loan Agreement, monitor the Loans and the value of the collateral and take any steps necessary to enforce the terms and conditions of the Loan Agreement and the Loans made pursuant thereto; (2) the Loans will be secured by a perfected first security interest in insured collateral which will at all times be maintained in an amount equal to 150 percent of the outstanding balances of the Loans; (3) the interest rates on the Loans will not, in any event, be less than the higher of 13 percent per annum or two points above the existing yield of six-month money market certificates of deposit of $100,000 sold by Texas American Bank; (4) each Loan will be for a relatively short duration, not to exceed thirty-six months; and (5) the Trustees and the Independent Fiduciary represent that the Loans are in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within ten days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan of their right to comment or request a hearing will be hand delivered or mailed to all participants and beneficiaries of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of

the Act; nor does it affect the requirement of section 401(a) Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 406(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based, on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406 (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loans of money under the Loan Agreement by the Plan to the Employer for a period of seven years from the date the grant of an exemption is published in the Federal Register provided that the terms and conditions of each Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3086 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–2736]

Proposed Exemption for Certain Transactions; Retirement Plans of the Westinghouse Electric Corp. and its Affiliates, Pittsburgh, Pennsylvania

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would provide (a) general relief for various transactions involving the assets of a real estate advisory account (the W Account) managed by The Equitable Life Assurance Society of the United States (Equitable) for the retirement plans (the Plans) of the Westinghouse Electric Corporation (Westinghouse) and its affiliates, and (b) specific relief regarding (i) the furnishing by Westinghouse or its affiliates of goods and services with respect to real property investments of the W Account, and (ii) transactions involving places of public accommodation which are acquired for the W Account. The proposed exemption, if granted, would affect Equitable, Westinghouse and its affiliates, the participants, beneficiaries, and trustees of the Plans, and other persons involved in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 26, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective on August 26, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–2736. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund; of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption: (a) From the restrictions of section 406(a)(1)(A) through (D) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, for the general section of the exemption mentioned above; and (b) from the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, for the two specific sections of the exemption. The proposed exemption was requested in an application filed on behalf of Equitable, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. *Westinghouse.* Westinghouse is a large, broadly based industrial company with subsidiaries and affiliates located throughout the world. Westinghouse and its subsidaries also participate in many joint venture and partnership operations with otherwise unaffiliated third parties. Employees of Westinghouse and its affiliates are members of more than 30 national, international and independent unions, and more than 150 local unions located in the United States. Westinghouse is a major supplier of electrical systems, including lighting, heating, air conditioning, elevators, etc., which are used in the construction and operation of commercial buildings. Westinghouse is also involved in numerous other diverse lines of business, such as the manufacture of office furniture and soft drink bottling and distribution.

2. *The Plans.* The names of the Plans, whose assets will be held in the W Account, are:

Westinghouse Consolidated Pension Plan (WCPP)
Thermo King Union Pension Plan
Westinghouse Pension Plan for Operations in Puerto Rico
Westinghouse Hanford Company Retirement Plan
Westinghouse Hanford Company Pension Plan
Retirement Plan for Salaried Employees of Offshore Power Systems

The Plans covered approximately 165,000 participants as of December 31, 1980. In general, all employees of Westinghouse and certain designated affiliates of Westinghouse are eligible to participate in the WCPP or the Westinghouse Pension Plan for Operations in Puerto Rico. Only employees who are members of a union which has bargained to participate in a Taft-Hartley plan are excluded. Some employees participating in the WCPP and employees participating in the Thermo King Union Pension Plan and the Westinghouse Hanford Company Retirement Plan are covered by collective bargaining agreements with unions. However, the unions that are parties to these collective bargaining agreements have no authority, responsibility, or control over the investment of Plan assets and are not involved in the management or operation of the Plans.

3. *The Master Trust.* Most of the assets of the Plans are currently held on a commingled basis in a master trust maintained by Mellon Bank, N.A. At December 31, 1980, the master trust had total assets exceeding $2 billion. More than 95 percent of the assets of the master trust are attributable to WCPP. As of July 17, 1981, 60 percent of the total assets of the master trust were managed by 10 different investment managers who are unrelated to Westinghouse: Andercom Advisors Corp.; Citibank, N.A.; First National Bank of Chicago; Manufacturers Hanover Trust Co.; Mellon Bank, N.A.; Merrill Lynch, Hubbard, Inc.; Provident Capital Management; Putnam Advisory Co., Inc.; Stralem & Co., Inc.; and Wells Fargo Investment Advisors. The remaining 40 percent of the assets of the master trust are managed by an investment management subsidiary of Westinghouse (Westinghouse Pension Investments Corporation). The Westinghouse Pension Plan Administration Committee (PPAC) is responsible for the retention, oversight, and removal of all Plan asset managers, including Equitable with respect to the W Account. The PPAC is composed of seven members, each of whom is either an officer or employee of Westinghouse, appointed by the Westinghouse Board of Directors. Part of the assets of the master trust is currently invested in real estate-related investments. As of March 31, 1981, the master trust had an investment in the First National Bank of Chicago's Commingled Fund F, a real estate equity fund, of more than $40 million and direct investments in mortgages and equity interests in real property of more than $75 million.

4. *Other Plan Assets.* Apart from the master trust, as of May 31, 1981, WCPP had an additional $160.5 million held under two group annuity contracts issued by Equitable to Mellon Bank as trustee for WCPP. Under one of these contracts (AC 500), $4.6 million is invested in Equitable's general account. Under the other contract (AC 3438), $6.2 million is invested in Equitable's short-term pooled separate account (Separate Account No. 2), $37.8 million is invested in Equitable's direct placement pooled separate account (Separate Account No. 6), and $111.9 million is invested in Equitable's real estate pooled separate account (Separate Account No. 8).

5. *Equitable.* Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of that State. It is the third largest insurance company in the United States. Among the range of insurance products and services it offers, Equitable provides funding, asset management, and other services for several thousand employee benefit plans. Equitable maintains several pooled separate accounts in which pension plans participate. Equitable also has several single customer separate accounts and direct investment advisory arrangements pursuant to which it manages all or a portion of the assets of a number of large plans. Equitable has had substantial experience in real estate investments. Of the more than $34.6 billion in total assets held by Equitable at December 31, 1980, the general account held $10.6 billion in mortgage loans on real property and $1.7 billion in equity investments in real property. Additionally, more than $1.2 billion in real property investments are held in Equitable Separate Account No. 8. Equitable has established financial standards and procedures designed to ensure that it is making sound real estate investments at an appropriate rate of return. These standards and procedures involve, among other things, inspections and appraisals of the property proposed for investment, an analysis of the creditworthiness of the major tenants or borrowers, and an evaluation of a broad range of other considerations involving the size, location, and use of the property, financing terms and conditions, taxes, insurance, title requirements, and general compliance with environmental and zoning laws. Uniform investment standards and procedures are applied for all real property investments made by Equitable, including those allocated to Equitable's general account, Separate Account No. 8, and the W Account. These standards and procedures may be modified from time to time to take into consideration new developments in the real estate market.

6. *Relationship of Equitable to Westinghouse.* No officers, directors, or employees of Equitable are directors of Westinghouse or any of its subsidiaries and affiliates. No members of the Westinghouse PPAC are officers, directors, or employees of Equitable. Equitable holds no stock or debt obligations (including publicly-traded bonds, private-placement debt obligations, and commercial paper) of Westinghouse or its subsidiaries and affiliates, except as follows:

(a) Equitable holds title to 54.000 shares of Westinghouse common stock in Separate Account No. 100 (B Portfolio). The total value of the stock equals approximately 1.56 percent of the total asset value of the B Portfolio. Separate Account No. 100 is the equity account for the retirement program of the American Bar Retirement Association. It is divided into two Parts—the A Portfolio and the B Portfolio. The A Portfolio is managed by Equitable. The B Portfolio is managed by Capital Guardian Trust Company (Capital). Equitable holds title to the stock in the B Portfolio, but has no

investment management authority over any of the assets of the B Portfolio, except to assure that such assets are invested in eligible investments for separate accounts under the insurance laws of the State of New York. Equitable and Capital are not commonly owned or managed.

(b) Equitable's general account held a $1,725,000 private-placement debt obligation issued by Westinghouse. The interest rate was 3.5 percent and the obligation matured in December, 1981. This obligation equaled less than .01 percent of the value of the assets of the general account as of September 30, 1981.

(c) Equitable's general account holds $9,375,000 senior notes and $3,125,000 subordinated notes under a private-placement arrangement with Westinghouse Credit Corporation, a subsidiary of Westinghouse. The interest rate is 9.5 percent for the senior notes and 9.9 percent for the subordinated notes. Both obligations are due in December, 1998. The total amount of the obligations equals approximately .05 percent of the value of the assets of the general account as of September 30, 1981.

In summary, the total value of the Westinghouse stock and private-placement debt obligations held by Equitable is less than .05 percent of Equitable's total assets.

7. *The W Account.* Effective May 1, 1981, Equitable and Westinghouse agreed to establish the W Account to invest a portion of the assets of the Plans in a diversified portfolio of equity and debt interests in income-producing real property. The W Account will be a part of the master trust mentioned in paragraph 3, above. Investments will be made by Equitable for the W Account in equity interests in real properties, in interests in joint ventures and partnerships that own properties, and in mortgage and construction loans on real properties. The W Account is designed to invest in, or make permanent mortgage or construction loans secured by various types of commercial real estate, including office buildings, warehouses, industrial properties, research and development facilities, shopping centers, hotels and motels, etc. It is not expected that the W Account will be investing in, or making loans with respect to, any residential-type properties. Equitable will have full and exclusive discretionary authority with respect to the investment of all assets held in the W Account. Investment decisions for the W Account are made by Equitable's home office real estate investment department with assistance from Equitable's real estate field office personnel. All real estate investments are approved by the Investment Committee of Equitable's Board of Directors or are made upon delegated authority from such committee. Day-to-day property management decisions, however, including the leasing of space in properties owned or managed by Equitable, are made by local Equitable real estate field office personnel or by local independent property management firms retained by Equitable and acting under the supervision of Equitable's local field office staff. Neither Westinghouse nor any of its officers, directors, employees, or affiliates have any authority or responsibility with respect to making investment decisions on day-to-day property management decisions for W Account assest.

8. *Plan Assests Acquired for the W Account.* As of October 5, 1981, only one property had actually been acquired for the W Account. Closing for this acquisition took place on August 20, 1981. It is anticipated that another property will be acquired for the W Account before the end of 1981. It is contemplated that the account will ultimately have approximately $225 million in real estate investments. Funds placed in the W Account are expected to come from existing Plan assets and from new contributions made by Westinghouse and its affiliates maintaining the Plans. All contributions to the W Account will be made in cash. Equitable's fee in connection with the W Account will be paid directly by Westinghouse.

9. *The General Transactions.* By the very nature of the investment policies and objectives of the W Account, it is expected that Equitable, on behalf of the W Account, will customarily enter into the following types of transactions: purchases and sales of property; lending and borrowing of money or other extensions of credit in the form of mortage or construction loans; leases of space inproperties owned on behalf of the W Account; the management, development, and operation of property;[1] and the purchase of goods and services. The applicant represents that the other parties to these transactions could be almost anybody, including some of the many parties in interest mentioned in paragraph 10, below. In addition, because many real estate investments currently are customarily structured as joint ventures or partnerships, it is probable that from time to time the W Account may acquire interests in real estate joint ventures and partnerships. In such cases, the other party in the joint venture or partnership may be a real estate developer, property manager, or other professional asset manager who may also be a party in interest with respect to one of the Plans. Thus, certain transactions involving the ownership and management of such joint ventures or partnerships might be deemed to result in prohibited transactions, including, among others, the provision of additional capital to a joint venture or partnership by the W Account or the other partner, the lending of money or other extension of credit to a joint venture or partnership or to a partner, and the buy-out of an interest in a joint venture or partnership. It is conceivable that other types of customary real estate-related transactions may exist currently or may be developed in the future. The applicant therefore seeks broad, general relief, rather than relief relating to a specific list of transactions, so that the W Account may engage in other types of real estate-related transactions as necessary or appropriate.

10. *The Specific Transactions.* Inasmuch as Westinghouse and its affiliates are major suppliers of various types of electrical equipment, office furniture, and soft drink beverages and because Westinghouse ordinarily provides services in connection with the provision or maintenance of the products that it sells, it is possible that Westinghouse and its affiliates will be among the parties in interest who provide goods and services with respect to W Account properties. The applicant represents that the amount involved in the furnishing by Westinghouse and its affiliates of such goods and services in any calendar year will not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the W Account.[2] Finally, in the regular operation of hotels and motels that may be purchased for the W Account, many people, including parties in interest with respect to the Plans, may receive the use of rooms, services, food, etc. Such hotels and motels will typically be managed by hotel management companies who probably would not be aware of the relationships of the hotel and motel

[1] The applicant represents that in most cases the provision of services and incidental goods in connection with the management and operation of properties held in the W Account will be covered by the exemption provided by section 408(b)(2) of the Act. The applicant does not request, and the Department is not proposing, relief beyond that which is provided by section 408(b)(2) of the Act.

[2] This limitation is similar to the limitation contained in section I(b)(2) of Prohibited Transaction Exemption 80-51, which provides an exemption for certain sales of goods to bank collective investment funds and certain leases of property by such funds.

guests to Westinghouse, Equitable, or the Plans. However, the applicant represents that such hotel and motel facilities will be made available to parties in interest on a basis comparable to that on which they are provided to the general public.[3]

11. *Parties in Interest Covered by the General Relief Requested.* The general relief requested covers transactions that customarily occur in connection with investments in commercial real property when the transaction involves persons in certain party in interest categories who would be extremely difficult for Equitable to identify as parties in interest (such as service providers who are not affiliated with Equitable, and employee organizations covering participants in the Plans. The applicant represents that such transactions would be required to be on arm's-length terms and could not involve Equitable, Westinghouse, or generally any person who has discretionary authority, responsibility, or control over the Plan assets involved in the transaction. It is further represented that due to the size of both the Plans and Westinghouse, as well as Westinghouse's widely diversified business operations, there are thousands of parties in interest with respect to the Plans, most of whom have absolutely no ability to influence the investment of Plan assets. For example, the Plans have many service providers (which, in turn, have many persons and entities related to them who are also parties in interest) who are not related to Equitable or Westinghouse; Plan participants and beneficiaries are covered by more than 100 unions, none of which are involved in the operation of the Plans; and there are numerous persons or entities who hold more than 10 percent ownership interests in entities in which Westinghouse has a 50 percent or more ownership interest. A list of all these parties in interest would be changing constantly. The applicant represents that keeping track of all of these parties in interest would be an enormously difficult, if not impossible, task that would significantly increase the costs of managing the W Account and that performing a prohibited transaction compliance check for each transaction would be exceedingly burdensome. For example, every time a new property is purchased for the W Account, a party-in-interest check would have to be done not only for the seller, but also for all mortgagees of the property, for any other partners who may have an interest in the property, and for all lessees of space in the building. For hotel and motel properties, evey overnight guest and every dinner guest would have to be checked for party-in-interest status.

12. *Parties in Interest Excluded From the General Relief Requested.* Parties in interest who would not be covered by the general relief requested are those in positions enabling them to influence the investment or disposition of assets held in the W Account, such as Equitable and various persons related thereto. Further, even though Westinghouse has no authority or responsibility with respect to W Account investments or other W Account transactions, Westinghouse and any of its affiliates would not be covered by the general relief requested because of the potential influence Westinghouse has as an employer with respect to the Plans. Moreover, as a catch-all, the general relief also would not apply to any Plan fiduciary involved in the management or disposition of the Plan assets held in the W Account, including, for example, the members of the PPAC and the Westinghouse Board of Directors (mentioned in paragraph 3, above).

13. *Records.* In the ordinary course of its management of the W Account, Equitable will be maintaining records of each transaction entered into on behalf of the W Account. Equitable will maintain these records for a period of six years and will make them available for examination by the Department, the Internal Revenue Service (the Service), participating employees and employers, Plan beneficiaries, Plan fiduciaries who have the authority to acquire or dispose of Plan assets in the W Account, and the authorized representatives of all such persons. The applicant represents, however, that it will not be possible for Equitable to identify which of these transactions may have been prohibited transactions covered by the requested exemption.

14. *Summary of Safeguards.* In summary, the applicant represents that the proposed transactions meet the criteria for an exemption provided by section 408(a) of the Act because: (a) Exclusive discretionary authority to manage the assets acquired for the W Account has been granted to Equitable, which is not related to Westinghouse other than as described herein, is subject to supervision by the Superintendent of Insurance of New York State, has extensive experience in real estate-related investments, and will apply to W Account investments the same financial and investment standards it applies to investments for its own general account and its real estate pooled separate account; (b) the proposed transactions must all be conducted on an arm's-length basis; (c) Equitable will maintain for a period of six years records of each transaction entered into on behalf of the W Account and will make these records available for examination by the Department, the Service, participating employees and employers, Plan beneficiaries, Plan fiduciaries who have the authority to acquire or dispose of Plan assets in the W Account, and the authorized representatives of all such persons; (d) the general relief requested would apply to only those parties in interest who are unable to influence the investment or disposition of W Account assets; (e) the amount of goods and services furnished by Westinghouse and/or any of its affiliates will not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the W Account; (f) the services, facilities, and goods furnished to parties in interest by places of public accommodation acquired for the W Account will be provided on a basis comparable to that on which they are provided to the general public; and (g) as Plan fiduciaries, the members of the PPAC, who decided to retain Equitable to establish and manage the W Account, are required to perform all of their responsibilities, including the hiring of Equitable and other asset managers, prudently and solely in the interests of Plan participants and beneficiaries.

Notice to Interested Persons

Within 15 days after publication of the notice of proposed exemption in the **Federal Register**, notice of the pending exemption will be posted at all Westinghouse locations (in the United States and Puerto Rico). Such notice will also be mailed to the labor unions of which Plan participants are members. Such notice will include a copy of the notice of proposed exemption as it appears in the **Federal Register** and a statement informing interested persons of their right to comment and to request a hearing before the Department within the time period indicated in the notice of proposed exemption. The notice will be posted on bulletin boards where notices to employees are usually posted.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary

[3] This condition is similar to that provided in section II(d) of Prohibited Transaction Exemption 78-19, the class exemption for insurance company pooled separate accounts, and section I(b)(4) of Prohibited Transaction 80-51, the class exemption for bank collective investment funds.

or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted:

(a) *General Exemption*—the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any transaction arising in connection with the acquisition, ownership, management, development, leasing, or sale of real property (including the acquisition, ownership, or sale of any joint venture or partnership interest in such property) and the borrowing or lending of money in connection therewith, between a party in interest with respect to the Plans and the W Account provided that the following conditions are met:

(1) Such party in interest in not—

(i) Equitable, any person directly or indirectly controlling, controlled by, or under common control with Equitable, any officer, director, or employee of Equitable, or any partnership in which Equitable (on behalf of its general account) is a partner;

(ii) Westinghouse or any affiliate of Westinghouse (within the meaning of section 407(d)(7) of the Act); or

(iii) A person who exercises discretionary authority, responsibility, or control, or who provides investment advice, with respect to the investment of Plan assets in the W Account or with respect to the management or disposition of the Plan assets held in the W Account;

(2) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of Equitable, the terms of the transaction are not less favorable to the W Account than the terms gernerally available in arm's-length transactions between unrelated parties;

(3) Equitable maintains for a period of six years from the date of each transaction mentioned above the records necessary to enable the persons described in paragraph (4) of this section to determine whether the conditions of this exemption have been met, except that (i) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Equitable, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (4) below; and

(4) (i) Except as provided in subparagraph (ii) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (3) of this section are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a Plan who has the authority to acquire or dispose of the interests of the Plan in the W Account or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Plan or any duly authorized employee or representative of that employer,

(D) Any participant or beneficiary of any Plan or any duly authorized employee or representative of such participant or beneficiary;

(ii) None of the persons described in subparagraphs (i)(B) through (i)(D) of this paragraph shall be authorized to examine Equitable's trade secrets or commercial or financial information which is privileged or confidential; and

(b) *Specific Exemptions*—the restrictions of section 406(1)(b) (A) through (D) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to:

(1) *Furnishing of Goods and Services.* The furnishing of goods and services with respect to the real property investments of the W Account described in section (a) above by Westinghouse or any affiliate thereof (within the meaning of section 407(d)(7) of the Act), provided that—

(i) The transaction satisfies the requirements of subparagraphs (a) (2), (3), and (4) of this proposed exemption, and

(ii) The total amount involved in the furnishing of such goods and services in any calendar year does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets acquired for the W Account on the most recent valuation date of the W Account prior to the transaction.

(2) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities, and any goods incidental to such services and facilities by a place of public accomodation acquired for the W Account, to a party in interest with respect to the Plans if the services, facilities, or incidental

goods are furnished on a comparable basis to the general public and if the requirements of subparagraphs (a) (3) and (4) of this proposed exemption are met.

(c) *Effective Date.* This proposed exemption, if granted will be effective as of August 26, 1981.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this proposed exemption.

Signed at Washington, D.C., this 30th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3111 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-31; Exemption Application No. D-2852]

Exemption From the Prohibitions for Certain Transactions Involving the C & R Electric, Inc. Employees Retirement Plan Located in Pewaukee, Wisconsin

AGENCY: Office of Pension and Welfare Benefit Program, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption retroactively exempts the purchase on August 17, 1979 by the C & R Electric, Inc. Employees Retirement Plan (the Plan) of a parcel of real property (the Property) from Raymond G. Wachsmuth and his wife, Cheryl F. Wachsmuth (the Wachsmuths), disqualified persons with respect to the Plan. Because the Wachsmuths are the sole shareholders of C & R Electric, Inc., (the Employer) and Raymond G. Wachsmuth is the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 4, 1981, notice was published in the **Federal Register** (46 FR 59326) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by Raymond G. Wachsmuth. The notice set forth a summary of facts and representations contained in the application for exemption and referred interest persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. Because the Wachsmuths are the sole shareholders of the Employer and Raymond G. Wachsmuth is the only participant in the Plan, it was determined that there was no need to distribute the notice of pendency to interested persons. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; not does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1, C.B. 722 and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase by the Plan of the Property from the Wachsmuths, provided that the purchase price paid by the Plan for the Property was not greater than the fair market value of the property at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms that is the subject of the exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3119 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-30; Exemption Application Nos. D-2690 and D-2691]

Exemption From the Prohibitions for Certain Transactions Involving the Fowler, White, Gillen, Boggs, Villareal, and Banker, P.A. Pension and Profit Sharing Plans and Related Trusts Located in Tampa, Florida

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts a loan (the Loan) by the Fowler, White, Gillen, Boggs, Villareal, and Banker, P.A. Pension and Profit Sharing Plans and Related Trusts (the Plans) of the lesser of $850,000 or 25 percent of the Plans' aggregate assets to Fowler, White, Gillen, Boggs, Villareal, and Banker, P.A. (the Employer), a party in interest with respect to the Plans.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60678) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to all interested persons in compliance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The intention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Loan by the Plans to the Employer of the lesser of $850,000 or 25 percent of the aggregate assets of the Plans, provided that the terms and condition of the Loan are at least as favorable to those which the Plans could receive in a similar transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3120 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-32 Exemption Application No. D-2343]

Exemption From the Prohibitions for Certain Transactions Involving the Hub Surgical Co., Inc. Profit Sharing Plan Located in Williamsport, Pennsylvania

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the proposed sale of the improvements on the real property located at 900 Arch Street, Williamsport, Pennsylvania (the Property) by the Hub Surgical Co., Inc. Profit Sharing Plan (the Plan) and the proposed transfer of the Plan's interest as ground tenant of the Property to Messrs. Kenneth E. McNulty, Orvis A. Koser, and Dale Young (the Owners), who are all parties in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57164) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-mentioned transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at

the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the provisions of the notice of proposed exemption. No requests for a hearing were received by the Department.

The Department received only one comment on the proposed exemption. This comment was submitted by the applicant in order to correct certain representation submitted in the application and related correspondence which were mentioned in the notice of proposed exemption in the Summary of Facts and Representations. The applicant represents, in the comment letter, that: (1) The only improvements to be sold by the Plan to the Owners are those located at 900 Arch Street in Williamsport, Pennsylvania; (2) the land underlying these improvements is the only land leased to the Plan by the Owners; (3) only these improvements are subject to the mortgage described in the notice of proposed exemption (the Mortgage); (4) the proposed sales price of such improvements and the Plan's interest as tenant in the lease of the land underlying such improvements will be $120,000, their fair market value as of February 25, 1981, according to the independent appraisal mentioned in the notice of proposed exemption; (5) as stated in the notice of proposed exemption, the Owners will assume the Plan's obligations under the Mortgage and will apply the outstanding balance thereunder against the sales price; thus, if the sale is consummated on February 28, 1982, the Owners will assume the outstanding principal balance on the Mortgage as of that date, which is expected to be $75,255.80, and will pay the remainder of the sales price, which is expected to be $44,744.20, in cash to the Plan on that date; (6) the property identified in the application and the notice of proposed exemption as 906 Arch Street is a duplex apartment which is actually located at 908 Arch Street; and (7) the Plan owns both the land and the improvements located at 908 Arch Street, leases them to persons who are not parties in interest with respect to the Plan, and will retain its ownership of such property.

The Department has determined that these corrections, which were known to the Plan trustees when they determined that the proposed transactions are in the best interests of the Plan and its participants and beneficiaries, do not materially affect the safeguards provided in the transactions as proposed (see item 8 of the Summary of Facts and Representations in the notice of proposed exemption). Therefore, the Department has decided to grant the exemption as proposed and herein corrected.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan to the Owners of the improvements on real property located at 900 Arch Street, Williamsport, Pennsylvania, and the transfer to the Owners of the Plan's interest as tenant in the ground lease of such real property for a total consideration of $120,000, provided this amount is not less than the fair market value of such improvements and such leasehold interest at the time of their conveyance.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–3118 Filed 2–4–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–33; Exemption Application No. D–2645]

Exemption From the Prohibitions for Certain Transactions Involving the Littler, Mendelson, Fastiff & Tichy Profit Sharing Plan Located in San Francisco, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed loans of funds (the Loans) for a period of three years by the Littler, Mendelson, Fastiff & Ticky Profit Sharing Plan (the Plan) to Littler,

Mendelson, Fastiff & Tichy (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60684) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the proposed Loans by the Plan to the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the requirements set forth in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The Attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Loans of money by the Plan to the Employer as described in the notice of proposed exemption, provided that the terms of the Loans are at least as favorable to the Plan as those which the Plan could obtain in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3117 Filed 2-3-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3078]

Proposed Exemption for Certain Transactions Involving the McGuire Lumber Co., Inc. Pension Plan Located in Yakima, Washington

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan (the Loan) by the McGuire Lumber Company, Inc. Pension Plan (the Plan) of $125,000 to McGuire Lumber Company, Inc. (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan, the participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, Attention: Application No. D-3078. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW, Wahington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Plan trustees, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan with fourteen participants and net assets totaling $577,877 as of August 31, 1980. The Plan is administered by seven trustees, who are also directors, officers and shareholders of the Employer.

2. The Employer is a corporation chartered under the laws of Washington State. The Employer sells lumber, building materials and related hardware items, primarily on a wholesale basis, to contractors. The Employer also bids on jobs to supply lumber and materials to large commercial projects and developments.

3. The Employer wishes to borrow $125,000 from the Plan. The proposed Loan will enable the Employer to obtain partial financing for the construction of a 3,500 foot addition to a building situated on premises it owns. The addition has a projected construction cost of $150,000. When completed, it will be utilized in the Employer's construction business.

4. Terms of the proposed Loan provide for an interest rate of 15 percent per annum. The Employer is to repay the Loan over a ten year period in equal monthly installments of principal and interest. Other Loan terms provide that on the date of closing, the Employer is to execute, in favor of the Plan, a promissory note evidencing the obligation.

5. To secure the Loan and guarantee performance of the promissory note, the Employer is to give a first mortgage on certain real property (the Property) located at 1822 First Street, Yakima, Washington. The Property consists of four structures—a frame office retail building, a ridge steel storage building, a concrete warehouse and a small tool storage building. The subject Property is currently used by the Employer in its business. The mortgage will be recorded in public records.

6. In an appraisal report of March 21, 1981, Messrs. Lonny L. Smart, a real estate appraiser, and Chester R. Sonnabend, an S.R.A. review appraiser in the Yakima, Washington area, determined the fair market value of the Property was $700,000. Thus, the Property securing the Loan would represent more than five times the Loan's value. The Loan would constitute approximately 22 percent of the Plan's net assets.

7. By letter dated March 5, 1981, First Interstate Bank (First Interstate), located in Seattle, Washington and formerly known as the Pacific National Bank of Washington, represented it would consider a loan to the Employer of $125,000. The loan terms extended by First Interstate would provide for maturation of the loan within 10 to 15 years with a 20 year amortization. Payments would be made monthly. The interest rate for such loan would range between 14¾ percent to 15¼ percent. Because of the Employer's compensating balances and the equity the Employer has in its real property, First Interstate indicated it would consider a loan at the lower side of the interest range.

8. First Interstate has formally expressed its willingness to act as the independent fiduciary of the proposed Loan. In a letter dated December 10, 1981, First Interstate has represented that its Trust Department has had no prior business dealings with the Employer or the Plan but that the commercial side of the bank has had a long-standing business relationship with the Employer, Rahier Trucking Company (Rahier) (the Employer's sister corporation) and the individuals who own and operate both companies. However, no principal in either company has ever been involved in the management or directorship of the bank.

First Interstate also has indicated that its Growth Finance Department has made a loan commitment to the Employer for $1 million but that very little of this line of credit has been used and as of December 10, 1981 no balance is owing. In addition, there are no outstanding loans to Rahier. As of mid-November 1981, First Interstate represents it holds demand deposit account balances of $208,500 for the Employer and $139,900 for Rahier. In addition, Rahier and the Employer held time certificates of deposit of $200,000 and $350,000, respectively. Both certificates matured on December 31, 1981. Rahier also holds a Banker's Acceptance in the amount of $102,000. According to First Interstate, these funds represent a very small proportion of the bank's deposit assets which totaled over $1.3 billion as of December 10, 1981.

As independent fiduciary of the proposed Loan, First Interstate has reviewed the terms of the transaction (including the interest rate and duration of the Loan), the collateral offered, the financial positions of the Employer and sister corporation and the ages and status of the Plan participants. Based on these considerations, First Interstate believes the proposed transaction is an appropriate and suitable investment for the Plan. The bank will monitor the Loan until its termination and will take steps necessary and proper to protect the interests of the Plan.

9. In summary, the application states that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Loan will be evidenced by a promisory note and secured by a first mortgage on Property valued at more than five times the amount of the Loan; (b) First Interstate will administer the Loan to ensure the Plan is repaid; and (c) First Interstate has reviewed the terms of the transaction and considers it to be appropriate for the Plan and in the best interests of the Plan participants and beneficiaries.

Notice to Interested Persons

Within the days after the notice of pendency is published in the **Federal Register**, notice will be given to all Plan participants and beneficiaries by mail, personal delivery or by posting such notice in Employer locations where participants work and which are customarily used for providing information to employees. The notice will include a copy of the notice of pendency as proposed in the **Federal Register** and shall inform interested persons of their right to comment on and/or request a hearing with respect to the exemption within the time period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section

408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(A) through (E) of the Code shall not apply to the Loan of $125,000 by the Plan to the Employer, provided the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time the transaction is consummated.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of January, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3122 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2976]

Proposed Exemption for Certain Transactions Involving the Middlesex Ophthalmologists, Inc. Profit Sharing Trust Located in Cambridge, Massachusetts

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the proposed loan of $80,000 (the Loan) from Dr. Charles E. Beyer's (Dr. Beyer) directed investment account (the Account) in the Middlesex Ophthalmologists, Inc. Profit Sharing Plan (the Plan) to the 180 Cambridge Street Trust (Cambridge), a party in interest with respect to the Plan; and (2) the guarantee of the obligations of Cambridge pursuant to the Loan by Middlesex Ophthalmologists, Inc. (the Employer), the Plan sponsor. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Account, Cambridge, the Employer and any other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, Attention: Application No. D-2976. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan providing for participant directed individual accounts. As of June 30, 1981, the Plan had total assets of $123,654 and

two participants. Dr. Beyer's Account, as of June 30, 1981, had a fair market value of $112,696. Plan participants may direct the trustees of the Plan, Dr. Beyer and Mr. Leslie S. Marcus, counsel to the Employer, to invest the assets of their accounts.

2. The Employer is a professional service corporation engaged in the practice of medical and ophthalmological services. Dr. Beyer is the sole shareholder of the Employer.

3. The applicant is requesting an exemption to allow Dr. Beyer to direct the trustees to engage in the Loan with Cambridge. Cambridge is a party in interest with respect to the Plan under section 3(14)(G) of the Act by virtue of being a trust of which 50% or more of its beneficial interest is owned by Dr. Beyer, a fiduciary of the Plan. The Loan amount of $60,000 will represent approximately fifty-three percent (53%) of the Account's assets. The proceeds of the Loan will be used by Cambridge to purchase for $75,000 an improved parcel of real property known as condominium unit number two located at 180 Cambridge Street, Boston, Massachusetts (the Property). The Property will then be leased by Cambridge to the Employer. The Loan will be repaid in 360 equal monthly payments and will bear an interest rate the greater of 17½% per annum plus one and one-half (1½) points or the rate charged by the Charlestown Savings Bank or another major Boston area bank at the time the Loan is made. The rentals received by Cambridge pursuant to the lease of the Property will exceed the monthly payments due under the Loan.

4. The Loan will be secured by granting the Plan a duly recorded first trust deed on the Property. Mr. Peter Mathiasen, a realtor with Olde Forege Realty in Boston, Massachusetts, stated that in his opinion the Property, as of July 29, 1981, had a fair market value of $60,000 to $70,000. The Loan will also be secured by a duly recorded second mortgage on Dr. Beyer's residence which is located at 9 Lowell Road in wellesley, Massachusetts. Ms. Laura R. Kelley, a realtor-associate located in Wellesley stated that in her opinion this property, as of October 5, 1981, had a fair market value of approximately $300,000. As of October 11, 1981, the outstanding first mortgage on the residence had a principal balance of $57,049.

5. The Employer will guarantee the obligations of Cambridge under the Loan. As of June 30, 1981, the Employer had a net worth of $64,072.

6. Mr. Roy Henshaw (Mr. Henshaw), a certified public accountant, will be appointed to maintain sole and complete authority to monitor, enforce and collect the Loan. Mr. Henshaw does not maintain any financial or business relationships with the Employer or Cambridge. Mr. Henshaw will also represent whether, in his opinion, the Loan's interest rate is reasonable and the security for the Loan is adequate.

7. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because (a) the only assets of the Plan which will be affected by the proposed transactions will be from Dr. Beyer's Account and he has directed that the proposed Loan be made; (b) the Employer will guarantee the obligations of Cambridge under the Loan; and (c) an independent party, Mr. Henshaw, will maintain complete and sole authority to monitor and enforce the terms and conditions of the Loan.

Notice to Interested Persons

Because Dr. Beyers Account will be the only Plan assets involved in the proposed transactions it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaires;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the Loan from Dr. Beyer's Account in the Plan to Cambridge provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party; and (2) the guarantee by the Employer of Cambridge's obligations under the Loan.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3123 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2957]

Proposed Exemption for Certain Transactions Involving W. G. Yates & Sons Construction Co., Employee Trust Located in Philadelphia, Mississippi

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt for a period of five years, the proposed loans (the Loans) of money by the W. G. Yates & Sons Construction Company Employee Trust (the Plan) to W. G. Yates & Sons Construction Company (the Employer), the Plan sponsor. The proposed exemption, if granted, would affect the Employer, the Plan and its participants and beneficiaries.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 22, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2957. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee (Trustee) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 125 participants and total assets of $359,289.10 as of November 30, 1980. The Trustee is William G. Yates, Jr., who is also the secretary of the Employer.

2. An exemption is requested to permit the Plan to make Loans to the Employer on a recurring basis for a period of five years. The five year period would begin on the date the exemption grant is published in the **Federal Register.** The proceeds from the Loan would be used by the Employer to finance the purchase of earth-moving or millwright machinery (the Equipment). The Employer's net worth is in excess of $2,000,000.

3. Each Loan would be subject to the following conditions:

(a) The term of each Loan will range from three to five years, depending upon the useful life of the Equipment financed;

(b) The purchase price of each piece of Equipment will range from $100,000 to $300,000 and no Loan will exceed 75 percent of the purchase price of the Equipment;

(c) The Equipment purchased will be either new or used. If the Equipment is used Equipment, it will be appraised by an independent appraiser to establish its value;

(d) Each Loan will be secured by a first lien on the Equipment and a perfected security interest filed under the Uniform Commercial Code;

(e) Each Loan will at all times be collateralized by the Equipment, or if necessary, other assets of the Employer, in an amount equal to at least 200 percent of the outstanding Loan balance;

(f) The interest rate on the Loans will be 1.5 percent over the prime rate set by the Citizens Bank of Philadelphia, Mississippi (the Bank) and will be adjusted on the first day of each calendar quarter to reflect any change in the Bank's prime rate;

(g) The Employer will make regular payments of principal and interest on each Loan on the first day of each calendar quarter;

(h) The Employer will maintain insurance on the Equipment, at its own expense, against fire, theft or other casualty and the Plan will be named insured; and

(i) At the time of its making, no Loan together with other Loans will exceed 35 percent of the total assets of the Plan.

4. The Bank has stated it would loan to the Employer, at the prime rate, 75 percent of the appraised value of the Equipment for a term of three to five years, in an amount up to $1,000,000, provided that the Bank would be given a perfected security interest on each piece of Equipment to collateralize the loan. The Employer represents that interest paid to the Plan by the Employer in excess of fair market interest rates will not cause the annual additions to participants' accounts to exceed the limitations of section 415 of the Code.

5. Prior to entering into any Loan, an independent fiduciary, the Bank, will determine that the Loan is an appropriate and suitable investment for the Plan. The Bank will be responsible for monitoring the fair market value of the collateral and will also be responsible for enforcing the terms and conditions of the Loans. The Bank is independent of the Employer and the Plan.

6. The Trustee represents that the proposed transaction satisfies the statutory criteria of section 408(a) due to the following:

(a) The Loans will be approved and monitored by the Bank, an independent fiduciary;

(b) The interest rate on the Loans will be higher than the Bank's quoted rate.

(c) The Loans will be secured by a perfected security interest and by collateral which will at all times have a value of 200 percent of the outstanding Loan balance; and

(d) The exemption will be for a five year period of time.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and

its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the propsed exemption will be given to all participants and beneficiaries within 15 days of its publication in the **Federal Register** by posting it at the office of the Employer and at all job sites where participants may be employed. Beneficiaries and participants who are not currently employed by the Employer will be notified by mail. The notice will include a copy of the proposed exemption and will inform each recipient of his right to comment on or request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act of the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of setion 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Loans, as above described, provided that the terms and conditions of the Loans remain at least as favorable to the Plan as those it could obtain from an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of January 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-3134 Filed 2-4-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Special Policy Committee; Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Expansion Arts Special Policy Committee will be held on Friday, February 12, 1982 from 9:00 a.m.–4:00 p.m. in room 1426, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Future Program Directions.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 29, 1982.

[FR Doc. 82-3000 Filed 2-4-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Misalignment of High Head Safety Injection Isolation Valve

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). One of the general criteria of the Policy Statement notes that major degradation of essential safety-related equipment can be considered an abnormal occurrence. The following description of the event also contains the remedial actions taken to date.

Date and Place—On June 6, 1981, the NRC was notified by Duquesne Light Company (the licensee) that a manually-operated high head safety injection isolation valve, which should normally be open during routine reactor power operation, had been found closed at Beaver Valley Power Station Unit 1. The Beaver Valley Unit 1 plant utilizes a

pressurized water reactor and is located in Beaver County, Pennsylvania.

Nature and Probable Consequences—On June 6, 1981, with the reactor at 99 percent power, an operator making a routine early morning inspection (to verify the correct position of specific Engineered Safety Features equipment) found that a manually-operated suction isolation valve (SI–26) in the emergency core cooling system was closed and the chain and padlock that were supposed to secure the valve in the open position were missing. The valve, which is to be checked by operators once each shift, was immediately re-opened, chained, and locked into position. The licensee was also aware of a different but similar event that occurred on June 5, 1981. The latter event concerned three auxiliary feedwater pumps' manual suction isolation valves being found unlocked. The chains and locks, which are one element of the administrative controls to ensure the valves are correctly positioned, were missing and could not be found. The difference between the two events is that the auxiliary feedwater valves were found to be in their proper position (open).

The safety implication due to the closure of valve SI–26 is associated with the loss of automatic high head safety injection (HHSI) capability. With the valve shut, emergency core cooling water from the refueling water storage tank would not have been available automatically to the three HHSI pumps for high pressure injection of water into the core under emergency conditions. Manual action by an operator would have been required for the system to complete its intended function through this or an alternative flow path. It should be noted that with the suction valve shut, the HHSI pumps could possibly have been damaged had they been operated. Although the event did not result in any adverse effects on health of the public or licensee personnel, it did represent a major degradation of essential safety-related equipment designed to mitigate the consequences of a major occurrence such as a loss of coolant accident. This event in combination with the June 5th event also raised concern for the possibility of criminal acts or sabotage.

Cause or Causes—Careful consideration of available information has led the NRC to conclude that the mispositioned valve and missing chains and padlocks were possible acts of sabotage, rather than operator errors.

Actions Taken To Prevent Recurrence

Licensee—When the SI–26 valve was found closed, it was immediately opened, chained, and locked. The licensee initiated an investigation of the events including requesting FBI assistance. Access controls to vital areas were strengthened by implementing interim emergency procedures, including restrictions on personnel access and movement control within the plant. The normal Engineered Safety Features (ESF) equipment position checks were supplemented by special tours during each shift to make special verification of ESF equipment. The frequency of security tours of specific vital areas was increased. Stronger chains were installed on all ESF equipment and better accountability and control procedures were instituted for all vital equipment padlocks. The licensee maintained these enhanced safety and security measures in force for an extended period of time, after which the licensee returned to a program upgraded to strengthen the control of plant activities.

NRC—Investigations by both the NRC and the FBI were initiated. The purposes of the NRC investigations were (1) to assure that there were no additional undetected incidents of tampering with safety-related equipment that could impact on continued safe operation of the reactor or endanger the health and safety of plant employees or the public and (2) to determine the details and sequence of events surrounding the incidents of June 5 and 6, 1981. The FBI investigation was to determine if an act of sabotage had been committed and, if so, who had committed the act.

Immediate Action Letter No. 81–25 was issued on June 9, 1981 confirming the actions taken by the licensee, as stated above, with the stipulation that these measures will remain in effect until notification to remove these controls is issued from the NRC. An on-site assessment of the safety and security program was performed on August 17–21, 1981. The purpose of this assessment was to confirm (1) that the vital plant areas and equipment were being protected, and (2) that an acceptable combination of security and safety programs and procedures was in effect to ensure that public safety was not compromised.

Based on this assessment, the NRC staff has approved relaxing, somewhat, the more stringent interim emergency procedures that were implemented shortly after the event occurred.

The NRC investigation was completed and documented in an investigative report (Investigation 50–334/81–16) dated December 10, 1981. Based on this investigation, the NRC issued a notice of violation identifying four violations of the licensee's safety related commitments. Additionally, the investigation identified two generic procedural concerns which may have contributed to the June 5 and 6 events: (1) Procedures did not assure timely withdrawal of access authorizations of individuals being terminated under adverse circumstances, and (2) the criteria for authorizing unescorted access to vital areas was not sufficiently selective.

Future reports on the findings of the investigations will be made, as appropriate, in the Quarterly Report to Congress on Abnormal Occurrences (NUREG–0090 series).

Dated at Washington, D.C. this 2d day of February 1982.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 82–3085 Filed 2–4–82; 8:45 am]

BILLING CODE 7590–01–M

Proposed Availability of FY 1982 Funds for Financial Assistance To Enhance Technology Transfer and Dissemination of Nuclear Energy Process and Safety Information

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Regulatory Research announces proposed availability of FY 1982 funds to support professional meetings, symposia, conferences, national and international commissions and publications for the expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research necessary to provide a technology base to assess the safety of nuclear power. Projects will be funded through grants.

EFFECTIVE DATE: Proposals will be accepted for the period 2–1–82 through 7–31–82.

ADDRESS: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: The cognizant NRC grant official is Mr. Kellogg Morton, telephone (301) 492–4297.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Pursuant to section 31.a and 141.b of the Atomic Energy Act of 1954, as amended, the NRC, Office of Nuclear Regulatory Research proposes to support educational institutions,

nonprofit institutions, state and local governments, and professional societies through providing funds for expansion exchange and transfer of knowledge, ideas and concepts directed toward the research program. The program includes, but is not limited to, support of professional meetings, symposia, conferences, national and international commissions, and publications (hereinafter called project). The primary purpose of this will be to stimulate research to provide a technological base for the safety assessment of systems and subsystems technologies used in nuclear power applications. The results of this program will be to increase public understanding relating to nuclear safety, to enlarge the fund of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety.

B. Eligible Applicants

Educational institutions, nonprofit entities, state and local governments and professional societies are eligible to apply for a grant under this announcement.

C. Research Proposals

A research proposal should describe (i) the objectives and scientific significance of the proposed meeting, symposium, conference, or commission, (ii) the methodology to be proposed or discussed, and its suitability, (iii) the qualifications of the participants and the proposing organization, and (iv) the level of financial support required to perform the proposed effort.

Proposals should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

State and local governments shall submit proposals utilizing the standard forms specified in Office of Management and Budget (OMB) Circular A–102, Attachment M. Nonprofit organizations, universities and professional societies shall submit proposals utilizing the standard forms stipulated in OMB circular A–110, Attachment M.

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exceptions.

1. Cover Page. The Cover Page should be typed according to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of Proposal—To include the term "conference," "symposium," "workshop," or other similar designation to assist in the identification of the project;
Location and Dates of Conference, Symposium, Workshop, etc.;
Name of Principal Participants;
Total Cost of Proposal;
Period of Proposal;
Organization or Institution and Department;
Required Signatures;
Principal Participants:

Name _____
Date _____
Address _____
Telephone Number _____

Required Organization Approval:

Name _____
Date _____
Address _____
Telephone Number _____

Organization Financial Officer:

Name _____
Date _____
Address _____
Telephone Number _____

2. Project Description. Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding.

Applicants must identify other proposed sources of financial support for a particular project.

The information provided in this section must be brief and specific. detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(a) Project Goals and Objectives:
The project's objectives must be clearly and unambiguously stated.
The proposal should justify the project including the problems it intends to clarify and the developments it may stimulate.

(b) Project Outline:
The proposal should show the project format and agenda, including a list of principal areas or topics to be addressed.

(c) Project Benefits:
The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Management:
The proposal should describe the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) Project Costs:
Nonprofit organizations shall adhere to the cost principles set forth in OMB Circular A–122; Educational Institutions shall adhere to the costs principles set forth in OMB Circular A–21; and state and local Governments shall adhere to the cost principles set forth in OMB Circular A–87.
The proposal must provide a detailed schedule of project costs, indentifying in particular:
(1) Salaries—in proportion to the time or effort directly related to the project;
(2) Equipment (rental only);
(3) Travel and Per Diem/subsistance in relation to the project;
(4) Publication Costs;
(5) Other Direct Costs (specify)—e.g., supplies or registration fees;

Note.—Dues to organizations, federations or societies, exclusive of registration fees are not allowed as a charge.

(6) Indirect Costs (attach negotiated agreement/cost allocation plan); and
(7) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

D. Proposal Submission and Deadline

This program announcement is valid for the period of 2–1–82 to 7–31–82. Proposal submissions shall be in 1 signed original and 6 copies.

E. Funds

For Fiscal Year 1982, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research anticipates making $75,000 to $100,000 available for funding the project(s) mentioned herein.

The NRC anticipates that approximately 5 to 10 projects will be funded. Further, the NRC anticipates that its average support will be $5,000–$15,000 per project.

F. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

G. Evaluation Criteria

The award of NRC grants is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

Evaluation of proposals will employ the following criteria:

1. Potential usefulness of the proposed project for the advancement of scientific knowledge;
2. Clarity of statement of objectives, methods, and anticipated results;

3. Range of issues covered by the meeting agenda;
4. Qualifications and experience of project speakers; and
5. Reasonableness of estimated cost in relation to anticipated results.

H. Disposition of Proposals

Notification of award will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be so advised by the Grants Officer.

I. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to:

U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Washington, D.C. 20555

The address for hand-carried applications is:

U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Room 2223, 4550 Montgomery Avenue, Bethesda, MD 20814

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Washington, D.C. this 26th day of January, 1982.

For the U.S. Nuclear Regulatory Commission.

Kellogg V. Morton, *Chief, Research Contracts Branch, Divisions of Contracts, Office of Administration.*

[FR Doc. 82-3069 Filed 2-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-237 and 50-249]

Commonwealth Edison Co.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Provisional Operating License No. DPR-19 and Amendment No. 58 to Facility Operating License No. DPR-25 issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Unit Nos. 2 and 3 located in Grundy County, Illinois. The amendments are effective as of the date of issuance.

The amendments authorize changes to the Technical Specifications to specify actions to be taken in the event the Suppression Pool Water Volume Limiting Conditions for Operation are exceeded.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 30, 1981, (2) Amendment No. 66 to License No. DPR-19 and Amendment No. 58 to License No. DPR-25, and (3) the Commission's letter to the Commonwealth Edison Company dated January 29, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,
Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-3062 Filed 2-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commisson (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (the licensee), which revised the license for operation of the Haddam Neck Plant (facility) located in Middlesex County, Connecticut. This amendment is effective as of its date of issuance and is to be implemented within 60 days of Commission approval in accordance with provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission approved Guard Training and Qualification Plan as part of the license.

The filing, which has been handled by the Commission as an application for amendment, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 515.(fd)(4) and environmental impact statement or negative declaration an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated March 31, and November 17, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 46 to License No. DPR-61, and (2) the Commission's related letter to the licensee dated January 29, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06103. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January, 1982.

For the nuclear regulatory commission.

Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-3063 Filed 2-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating Licensing No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina.

The amendment was authorized by telephone on January 11, 1982, and was confirmed by letter on January 12, 1982. The amendment changes the Technical Specifications to reduce the Boron Injection Tank concentrations for a period of seven days. This amendment was issued on an expedited basis to permit McGuire to return to power during a peak demand period.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated January 11, 1982, (2) Amendment No. 12 to Facility Operating License No. NPF-9 with Appendix A Technical Specification page change, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of Amendment No. 12 and the Commission's related Safety Evaluation may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRC.

[FR Doc. 82-3084 Filed 2-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389A]

Florida Power & Light Co. (St. Lucie Plant, Unit No. 2); Cancellation of Hearing

February 1, 1982.

On motion of all parties, made orally in an informal conference of the parties on January 29, 1982, the hearing scheduled to be held in Fort Lauderdale on February 9, 1982, is cancelled and all further filings in this case are suspended. These actions are an accommodation to ongoing settlement negotiations.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

[FR Doc. 82-3080 Filed 2-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Operating License No. DPR-59 issued to the Power Authority of the State of New York which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment revises the units used in the Technical Specifications to define the maximum allowable enrichment of fuel kept in the spent fuel racks.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 28, 1982, (2) Amendment No. 63 to License No. DPR-59, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-3086 Filed 2-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-522 and STN 50-523]

Puget Sound Power & Light Co., et al. (Skagit/Hanford Nuclear Project, Unites 1 and 2); Receipt of Amended Application for Construction Permits and Facility Licenses and Notice of Hearing on Amended Application for Construction Permits

In the matter of Puget Sound Power & Light Company, Pacific Power and Light Company, The Washington Water Power Company, and Portland General Electric Company (Skagit/Hanford Nuclear Project, Units 1 and 2), formerly (Skagit Nuclear Power Project, Units 1 and 2).

By an application dated September 18, 1974, Puget Sound Power & Light Company, acting for itself and as agent for Pacific Power and Light Company, The Washington Water Power Company, Idaho Power Company, and Washington Public Power Supply System applied for construction permits for two boiling water nuclear reactors designated as the Skagit Nuclear Power Project, Units 1 and 2, each of which was designed for operation at 3800 thermal megawatts with a net electrical output of approximately 1300 megawatts per unit. The proposed facilities were to be located at the applicants' site 5 miles northeast of Sedro Woolley in Skagit County, Washington. By an agreement

dated January 23, 1977, ownership shares in the Skagit facility were reallocated. Idaho Power Company and Washington Public Supply System are no longer co-applicants, and Portland General Electric Company was added as a 30% owner and co-applicant. Hearings on the Skagit application have been convened pursuant to a Notice of Hearing published in the **Federal Register** on December 20, 1974 (39 FR 44065) and also pursuant to an Amended Notice of Hearing published in the **Federal Register** on March 1, 1977 (41 FR 8835).

On September 26, 1981, Puget Sound Power & Light Company submitted Amendment 5 to the application which relocates the proposed nuclear facilities to the Department of Energy's Hanford Reservation in Benton County, Washington, and changes the name of the project from Skagit Nuclear Power Project to Skagit/Hanford Nuclear Project. The proposed facilities, designated Skagit/Hanford Nuclear Project, Units 1 and 2, will retain the same design boiling water reactors as the original application and will be located approximately 8 miles west of the Columbia River, 7 miles north of the Yakima River at Horn Rapids Dam, and 12 miles northwest of the city of North Richland in Benton County, Washington.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", and Part 2, "Rules of Practice for Domestic Licensing Proceedings", notice is hereby given that a hearing will be held at a time and place to be set by the Atomic Safety and Licensing Board (Board) previously designated to preside over the proceeding, to consider the application, as amended. Portions of this hearing may be held jointly between the U.S. Nuclear Regulatory Commission (NRC) and the Washington State Energy Facility Site Evaluation Council (EFSEC) on matters within their jurisdiction, particularly the National Environmental Policy Act of 1969 (NEPA) and the State Environmental Policy Act of 1971 (SEPA). The joint hearing will be governed by the Protocol for the Conduct of Joint Hearings which is set forth in an agreement between the NRC and EFSEC, dated July 31, 1981.

The NRC staff has completed part of its safety evaluation with respect to the Skagit/Hanford Project. These completed reviews are set forth in the staff Safety Evaluation Reports (SERs) for the Skagit/Hanford Nuclear Project, Units 1 and 2 (formerly, Skagit Nuclear Power Project, Units 1 and 2): NUREG-0309 (September 1977); NUREG-0309, Supplement No. 1 (October 1978); and NUREG-0309, Supplement No. 2 (October 1981). Supplement No. 2 to the Skagit/Hanford SER addresses all the action items relative to the accident at Three Mile Island, Unit 2 that currently must be reviewed. Upon completion by the Commission's staff of the final supplement to the SER and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants. In the event that a separate hearing is held with respect to a Limited Work Authorization, Item 6 below describes the matters for consideration.

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

Issue Pursuant to National Environemtnal Policy Act of 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

Issues Pursuant to 10 CFR 2.761a (Limited Work Authorization)

6. Pursuant to 10 CFR 2.761a, a separate hearing and partial decision by the Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the separate hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR 50.10(e) authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine without conducting a *de novo* evaluation of the application: (1) Whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether construction permits should be issued to the applicant.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is

contested or uncontested, the Board will, in accordance with 10 CFR 51.52(c): (1) Determine whether the requirements of Section 102(2) (A), (C), and (E) of NEPA and 10 CFR Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a prehearing conference of the parties, of their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the **Federal Register.**

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement of position on the issues. A limited appearance may be made at any session of the hearing or at any prehearing conference subject to such limits and conditions as may be imposed by the Board. Persons desiring to make a limited appearance are requested to inform the Board by April 6, 1982.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene of who has been admitted as a party may amend a petition, but such an amended petition must satisfy the specificity requirements described above. A petition that sets forth contentions relating only to matters outside the jursidiction of the Commission will be denied.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Atomic Safety and Licensing Board that the petitioner has made a substanital showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v)) and 2.714d.

With respect to the application, as amended, for construction permits for the Skagit/Hanford Nuclear Project, Units 1 and 2, all persons previously admitted as intervenors in this proceeding who wish to further participate with respect to the amended application, shall submit an amended petition for leave to intervene that conforms to the requirements described above. Such amended petitions shall be filed within the time period for the filing of a petition to intervene.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 must be filed by the applicant by March 1, 1982.

A request for a hearing or a petition or amended petition for leave to intervene shall be filed by March 8, 1982 with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. F. Theodore Thomsen, Perkins, Coie, Stone, Olsen & Williams 1900 Washington Building, Seattle, Washington 98101, attorney for the applicant. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and two (2) conformed copies of each such paper with the Commission. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For further details, see the application for construction permits dated September 18, 1974, including site suitability information and the applicant's environmental report, along with any amendments or supplements thereto, which are or will be available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of these documents will be available at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352 between the hours of 10:30 a.m. and 9:00 p.m. on Monday thru Thursday, 5:00 p.m. and 9:00 p.m. on Friday, 10:30 a.m. and 5:30 p.m. on Saturday, and between 1:00 p.m. and 5:00 p.m. on Sundays during the school year only. As they become available, a copy of the safety evaluation report by the Commission's staff, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Licensing, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation reports and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service,

Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

For the U.S. Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 1st day of February, 1982.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 82-3087 Filed 2-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-237]

Tennessee Valley Authority; Issuance of Amendment Facility Operating License No. DPR-77

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-77, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Unit 1 (the facility) located in Hamilton County, Tennessee. This amendment extends the date by which the Commission must confirm that an adequate hydrogen control system for the plant is installed and will perform its intended function, from January 31, 1982, to no later than startup following the first refueling outage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated November 23, 1981, (2) Amendment No. 11 to Facility Operating License No. DPR-77, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Board Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 11 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-3086 Filed 2-4-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 418; Docket No. MC82-1]

Mail Classification Schedule, 1981, Express Mail Flexible Acceptance Times; Order Fixing Date for a Prehearing Conference, Establishing Procedures, Granting Postal Service's Motion for Waiver of Certain Provisions of the Rules of Practice and Conditionally Grant its Motion for Waiver of Rule 54(j)

Issued: February 1, 1982.

On November 10, 1981, the United States Postal Service filed a request with the Postal Rate Commission for a recommended decision on proposed changes in the acceptance time for Regular Express Mail.[1] At the time of filing its Request, the Postal Service filed a motion seeking a waiver of certain of the filing requirements contained in the Commission's rules of practice.[2] The Postal Service seeks "waiver of Rule 64(h),[3] Rule 64(d) and Rule 64(e)."[4] In the Notice of Filing, dated November 16, 1981, the Commission noted the filing of the motion and requested that parties who wished to address the Postal Service's motion file their answers by December 1, 1981. Purolator Courier Corporation (Purolator) and the Officer of the Commission (OOC) have filed responses.[5]

On December 8, 1981, the Postal Service filed a motion for a settlement and/or technical conference.[6] In Commission Order No. 412, dated December 10, 1981, this Commission granted that motion fixing the date for the settlement and technical conference as December 15, 1981. Since that time, the Commission has not learned of any resolutions pertinent to this case arising from the conference. In the interest of expedition, we will proceed with this docket, by scheduling a prehearing conference, establishing procedures, and addressing the Postal Service's motion for waiver in this order.

I. Hearings and Date of Initial Prehearing Conference

In furtherance of the Commission's desire for expeditious consideration and pursuant to section 30(b) of the Commission's rules of practice [39 CFR 3001.30(b)], the Commission will conduct all prehearing conferences and hearings en banc. In an order issued by the Acting Chair on December 3, 1981, Commissioner Simeon M. Bright was designated to serve as the Presiding Officer in this proceeding.[7] 39 U.S.C. 3604(a)(2). An initial prehearing conference will be held on February 9, 1982, and, thereafter, on such further dates as may be designated by the Presiding Officer. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268, and shall be on the record and a transcript made except where the Presiding Officer determines otherwise.

II. Procedures for Expedition

To the degree consistency with procedural fairness permits, it is our intention to expedite the proceedings in Docket No. MC82-1.[8] Accordingly, we are issuing a proposed schedule of procedural stages which all participants should review and be prepared to comment upon at the initial prehearing

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[1] Request of the United States Postal Service for a Recommended Decision on a Change in Express Mail Acceptance Times, November 10, 1981.

[2] Rule 64(h)(3) provides that a waiver may be granted if the Commission believes that the Postal Service has shown that the Proposal will not significantly change the rates and fees on cost-revenue relationships. 39 CFR 3001.64(h)(3).

[3] Except for Rule 64(h)(2)(i) insofar as it incorporates Rules 54(q) and (r).

[4] Motion of United States Postal Service for Waiver of Certain Provisions of the Rules of Practice and Procedure, p. 1 (filed November 10, 1981).

[5] Opposition of Purolator Courier Corporation to Postal Service's Motion for Waiver of Rules, December 1, 1981; Officer of the Commission Answer In Partial Opposition to Motion of the United States Postal Service for Waiver of Certain Provisions of the Rules of Practice and Procedure, December 2, 1981.

[6] Motion of the United States Postal Service for a Settlement Conference and/or Technical Conference, December 8, 1981.

[7] *See* 39 CFR 3001.5(e) and 300.23 for the scope of authority delegated to the Presiding Officer.

[8] The Postal Reorganization Act requires us to consider requests for changes in the classification schedule "promptly" and to conduct proceedings "with utmost expedition consistent with procedural fairness" (39 U.S.C. 3624). While the statute does not specify a particular timeframe for classification cases, we are inclined to adopt the 10-month schedule to which we must adhere in rate cases [*see* 39 U.S.C. 3624(c)] as a general guideline. Of course, some cases can, and will, be completed in considerably less time, and we recognize that others which involve particularly complex or novel issues may require somewhat lengthier proceedings.

conference. This tentative schedule is presented in Attachment B. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy.

III. Prehearing Conference Statements

Participants should serve prehearing conference statements by February 5, 1982. Such statements should contain the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. Any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged to request informally and promptly from the Postal Service any desired preliminary clarification in the Service's presentation which the participant believes necessary in order to expedite this proceeding.

IV. Postal Service Motion for Waiver of Rules 64(d), 64(e) and 64(h)

In its motion, the Postal Service requests waiver of Rule 64(e), requiring a discussion of interclass changes on the ground that the proposal entails no interclass changes.[9] The Postal Service states that Rule 64(h), except for the portion which incorporates Rules 54(q) and 54(r), should be waived because the proposed change does not significantly change the rates and fees on the cost-revenue relationships.[10] The Postal Service also states that the proposed change could result in an increase in volume but such increases would not significantly affect the cost revenue-relationship of Express Mail.[11]

The Postal Service requests the waiver of that portion of rule 64(d) which incorporates Rules 54(h), 54(f) and 54(j). In support of its request, the Postal Service states that compliance with the rules requiring total functionalized accrued costs of the Postal Service and the separation of attributable and assignable costs and the methodology employed, is unnecessary because the proposal involves no change in rates and fees, has no effect on Express Mail unit costs and has an insignificant effect on the Postal Service's total costs.[12]

The Postal Service also states that it should not be required to file estimated revenue, volume, and demand information as section 54(j) directs because the proposal will have no effect on the "trend of increasing volumes" of Express Mail shipments, the size of any increase which may result cannot be "quantified" because no "data exists."[13] It further states that compliance with Rule 54(j) is unnecessary to resolve any issue involved in this proceeding.

In its opposition, Purolator argues that the proposed change could result in increased personnel and other costs. It believes that the proposal would result in a change in the cost-coverage ratio. In addition, Purolator states that the Postal Service's statement that the proposal would not affect the increasing volumes of express mail appears to be inconsistent with its claim that no data on estimated volumes exist.[14]

The OOC opposes only the waiver of section 54(j) which requires the Postal Service to provide estimated revenue and volume information. The OOC points out that the Postal Service's claim that the effect of the proposal on Express Mail volume is contradicted by the Service's statements that Express Mail volumes follow an upward trend.[15] OOC argues that these statements appear to suggest that the Postal Service has estimates of Express Mail volumes and revenues and is able to comply with section 54(j). The OOC also directs this Commission's attention to reports in the *Postal Leader* dated November 17, 1981, which give the impression that the Postal Service is able to estimate Express Mail volumes and revenues to some degree of certainty. The Commission notes, that in that issue, Gordon Morrison, Assistant Postmaster General, Customer Services, made the statement that the proposal "could add to the geographic coverage" of Express Mail.[16]

The Postal Service filed comments in response to the OOC and Purolator replies on December 9, 1981.[17] It states that MC82–1 is a "pure classification case" to which the issues of cost, volume and revenue data requested in section 54(j) has no relevance and is inappropriate. It identifies the issue in this docket as the "level of detail necessary in thge DMCS with respect to acceptance cut-off dates."[18]

The Commission concludes that the requirements for a waiver of 64(h), except for the portion calling for information required by Rules 54(q) and 54(r), have been met. From the Postal Service's filings it appears that rates and fees, and cost-revenue relationships will not be significantly changed by the proposal.

As for Rule 64(e), it does not appear that the proposal will cause any interclass change; therefore, the motion for waiver of 64(e) is granted.

It appears that the requirements of 64(d) insofar as it incorporates 54(h) and 54(f) should also be waived, since it appears from the Postal Service's filings that the proposal does not involve a change in rates or fees; will have no effect on the unit costs attributed and assigned to Express Mail shipments and will have an insignificant effect on the Postal Service's total costs.

Section 54(j), as incorporated by 64(h), requires the filing of revenue and volume information. In its motion for waiver of section 54(j), the Postal Service made the statement that no data exists which quantifies the effect that this proposal will have on volumes. However, there appears to be a strong likelihood that this proposal could present a problem regarding volume and demand analysis as suggested by both Purolator and the OOC. From the papers filed it is impossible to assess what our data needs will be in order to resolve this case. In order to go forward, we are granting a tentative waiver of section 54(j). We anticipate that the parties will bring out the need for and availability of the information called for by section 54(j) in the proceedings. This Commission reserves the right to rescind the grant of this waiver and to condition any provision of the information called for by section 54(j).

The Commission reserves the right to request information covered by the

[9] United States Postal Service Motion for Waiver of Certain Provisions of the Rules of Practice and Procedure, November 10, 1981, at pp. 3–4.

[10] Postal Service Motion, p. 2.

[11] Postal Service Motion, p. 2.

[12] United States Postal Service Motion for Waiver of Certain Provisions of the Rules of Practice and Procedure, November 10, 1981, at p. 3.

[13] Postal Service Motion, p. 3.

[14] Purolator Opposition, pp. 2–3.

[15] OOC Answer, p. 5.

[16] OOC Answer, Attachment A, p. 2.

[17] Comments of the United States Postal Service to Replies to its Motion For Waiver of Certain Provisions of the Rules of Practice and Procedure, December 9, 1981.

[18] Postal Service Comments, p. 2.

waiver as this case develops or to honor a party's request, if adequately supported, for such information.

The Commission Orders

(A) A prehearing conference will be held on February 9, 1982, commencing at 9:30 a.m. in the Postal Rate Commission hearing room, suite 500, 2000 L Street, NW., Washington, D.C. 20268. The Conference will be held for the purposes specified in § 3001.24 of the Commission's rules of practice (39 CFR 3001.24) and in this Order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in Docket No. MC82–1. The Conference proceedings shall be recorded by an official reporter except where otherwise directed by a Presiding Officer.

(B) Parties are to serve prehearing conference statements by February 5, 1982.

(C) The Postal Service's motion for waiver is granted in part, as specified above.

(D) The Postal Service's motion for waiver of section 54(j) as incorporated by Rule 64(h) is tentatively granted, subject to the terms specified above.

(E) The Commission reserves the right to request information covered by the waiver if necessary as this case develops or honor a party's request if adequately supported, for such evidence.

By the Commission.

David F. Harris,

Secretary.

Attachment A—Agenda for Prehearing Conference in Docket No. MC82–1, February 9, 1982

I. Opening statement by the Presiding Officer.
II. Discussion of the appropriate issues to be considered in the proceeding.
III. Discussion of possible stipulations of fact
  A. Discussion of results of any informal settlement attempts conducted between the parties prior to the date of the prehearing conference.
  B. Submission of any stipulations of fact agreed to at the time of the prehearing conference.
  C. Discussion of other areas for which stipulations of fact are possible.
  D. Discussion of who should be assigned responsibility for preparing any draft, stipulations of fact to be submitted.
IV. Discussion of procedural dates. (Preliminary procedural schedule outlining procedural steps, with dates not inserted, appears as Attachment B to this notice.)
V. Discussion of date for second prehearing conference, if one is required.
VI. Discussion of any other matters appropriate for examination at a prehearing conference under § 3001.24 of the Commission's rules of practice.

Attachment B

TENTATIVE SCHEDULE OF PROCEDURAL STEPS

[Docket No. MC82–1]

Procedural step	Date
Filing of direct testimony by proponent(s) of classification change	
Completion of discovery against proponent(s)	
Hearings on direct case of proponent(s)	
Rebuttal cases filed	
Completion of discovery against rebuttal cases	
Hearings on rebuttal cases	
Surrebuttal cases filed (if any)	
Hearings on surrebuttal cases	
Record closes	
Initial briefs of all parties	
Reply briefs of all parties	
Oral argument (if any)	

[FR Doc. 82–3027 Filed 2–4–82; 8:45 am]

BILLING CODE 7715–01–M

REGULATORY INFORMATION SERVICE CENTER

Calendar of Federal Regulations; Correction

AGENCY: Regulatory Information Service Center.

ACTION: Calendar of Federal Regulations; correction.

SUMMARY: The Calendar of Federal Regulations was published in the **Federal Register** on Wednesday, January 13, 1982 (47 FR 1661). This document corrects information that was published concerning the Federal Election Commission's proposed regulation on Communications by Corporations or Labor Organizations.

FOR FURTHER INFORMATION CONTACT: For information about the regulation on Communications by Corporations or Labor Organizations: Susan E. Propper, Assistant General Counsel, Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463, (202) 523–4143.

For information about the Calendar of Federal Regulations and the work of the Regulatory Information Service Center: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, Suite 700, 2100 M Street, NW., Washington, D.C. 20037, (202) 653–7246.

SUPPLEMENTARY INFORMATION: The Calendar of Federal Regulations was published in the **Federal Register** on January 13, 1982 (47 FR 1661). In Chapter 6, Trade Practices, of that publication (47 FR 1921), information was provided on the following regulation: Communications by Corporations or Labor Organizations. This regulation is being considered by the Federal Election Commission as a revision to an existing regulation that has been codified in 11 CFR 114.3 and 114.4.

Certain incorrect information was included in the discussion of this regulation; accordingly, the following correction is made in the entry appearing on page 1921 in the issue of January 13, 1982, as follows:

CHAPTER 6—TRADE PRACTICES

On page 1921, column one, under "Timetable," the information is corrected to read as follows:

Transmittal to Congress—1st or 2nd Quarter 1982. (Pursuant to 2 U.S.C. 438 (d), the FEC must transmit all rules interpreting the Federal Election Campaign Act to Congress. Each House has 30 legislative days to disapprove a regulation submitted under this provision.)

Final Rule—30 legislative days after transmittal to Congress.

Dated: February 2, 1982.

Mark G. Schoenberg,

Executive Director.

[FR Doc. 82–3163 Filed 2–4–82; 8:45 am]

BILLING CODE 3194–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22374; 70–6696]

Appalachian Power Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

January 29, 1982.

Appalachian Power Company ("Appalachian"), 40 Franklin Road, S.W., Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(b) and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

Appalachian proposes to issue and sell up to $60,000,000 aggregate principal amount of its first mortgage bonds, in one or more new series, with a maturity of not less than 5 years and no more than 30 years. The terms will be determined by competitive bidding. The bonds will be issued under Appalachian's Mortgage and Deed of Trust dated as of December 1, 1940, as supplemented and amended and as to be further supplemented and amended.

Appalachian also proposes to issue and sell up to 1,200,000 shares of a new series of its no par cumulative preferred stock with an involuntary liquidation price of $25 per share. The terms will be determined by competitive bidding. A cumulative sinking fund may be provided for.

Appalachian states that if market conditions should not be propitious for the sale of the bonds and/or the cumulative preferred stock on a competitive bidding basis, the company intends to amend the application-declaration so as to provide for their sale on another basis.

It is stated that the proceeds of the bonds and cumulative preferred stock, together with cash capital contributions which may be made by AEP and any other funds which may become available to Appalachian, will be used to repay unsecured short-term indebtedness of the company, consisting of short-term notes and commercial paper, to repay maturing long-term debt, to reimburse the company's treasury for expenditures incurred in connection with its construction program, and for other corporate purposes. It is anticipated that, at the time of issuance and delivery of the bonds and cumulative preferred stock, not less than $90,000,000 aggregate principal amount of short-term debt will be outstanding, portions of which will have been incurred in connections with the company's construction program. Appalachian estimates that approximately $173,000,000 will be expended in 1982 in connection with its consolidated construction program.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 3, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3143 Filed 2-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18458 SR-CBOE-81-5]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 29, 1982.

On April 2, 1981, the Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which expands the definition of a "combination order" to include any order involving the same number of puts and calls in the same underlying security. Pursuant to CBOE rule 6.45(d) such orders are not required to yield priority to bids or offers on the limit order book that are no better than the bids or offers comprising the combination order.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17713, April 13, 1981) and by publication in the **Federal Register** (46 FR 22842, April 21, 1981). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

On August 12, 1981 the American Stock Exchange, Inc. ("Amex") submitted a comment letter opposing the CBOE proposed rule change.[1] It contended that the proposed expansion of the definition of combination orders to include orders involving puts and calls on the same side of the market (*e.g.*, long calls and short puts) would allow totally bullish or bearish positions to be established, increased, or decreased by bettering the price of one "leg" while permitting priority over competing public orders on the other leg. While the Amex recognized that a same side of the market combination order, when hedged with the underlying security, could be used to facilitate conversion and reverse conversion strategies, the Amex asserted that such strategies are employed almost exclusively by trading professionals. As a result, the Amex concluded that the CBOE proposal goes far beyond the scope of the other exceptions to the priority rules in a manner contrary to the interests of public investors.

According to the CBOE, the primary purpose of the rule change is to further facilitate market participants engaging in conversion and reverse conversion transactions.[2] A conversion position is comprised of three positions—long common stock, short a call option and long a put option. A reverse conversion is the opposite of a conversion and also consists of three positions—short common stock, long a call option and short a put option.

Conversions and reverse conversions can be utilized by investors for a number of important purposes. First, conversions and reverse conversions can be used by investors to hedge an existing common stock position. For example, an investor who owns common stock and is concerned about the risk of a price decline, but does not desire to liquidate the stock position could sell a call and buy a put to hedge the risk of adverse price movements. Conversely, an investor who maintains a short stock position and is concerned about the risk of a price increase but does not desire to liquidate the stock position could buy a call and sell a put to hedge the risk of adverse stock price movements.

Further, conversions and reverse conversions can be utilized by investors for cash management reasons. For example, a conversion transaction may be entered into as a means of investing excess cash in order to generate a specific rate of return over the life of the option components. To be attractive for this purpose a coversion must yield a greater return than the yield available from other interest bearing investments such as Treasury bills. Conversely, a reverse conversion may be entered into as a means of generating cash for a specific cost over the life of the option components. To be attractive for this

[1] Letter dated August 12, 1981 from Howard A. Baker, Vice President, Options Division, Amex to George A. Fitzsimmons, Secretary, Securities and Exchange Commission.

[2] *See* letters from William J. Young, Senior Vice President, CBOE, to Richard T. Chase, Branch Chief, Division of Market Regulation, SEC, and Gene Carasick, Assistant Director, Division of Market Regulation, dated January 10, 1982 and September 3, 1981, respectively.

purpose the cost of generating cash through a reverse conversion must be less than the cost of alternative sources of borrowing such as bank loans. If these two types of investors are brought together in the marketplace the investor entering into the conversion would be generating a greater return on excess cash than otherwise available and the investor entering into the reverse conversion would be obtaining cash for a lower cost than otherwise available.

The use of conversions and reverse conversions also may enhance the efficiency and liquidity of the options and stock markets. First, conversions and reverse conversions may be used in order to arbitrage between the stock and option markets or between different series of options. For example, market participants who believe that call option prices are too high and put option prices too low in relation to the price of the underlying stock may initiate transactions to buy stock, sell calls and buy puts (a conversion transaction). The effect of these types of transactions is to bring the relationship between the stock and option markets in line. Further a market maker may as a result of performing his market making function build an inventory of conversion and reverse conversion positions through independent put and call transactions. This inventory may then be offered to broker-dealers or customers as a package. The ability of market makers to dispose of this inventory through conversions and reverse conversions may facilitate their ability to provide tighter and deeper markets in individual options by reducing the risk of carrying this inventory.

Finally, the Commission does not believe that investors with public orders on the limit order book will be disadvantaged by the proposed rule change. CBOE rule 6.45(d) provides that combination orders can only be executed ahead of orders on the limit order book at the same price if both parts of the combination order are executed with one other person at a net debit or credit. Thus, a person who was entering a combination order to establish a conversion position (*i.e.*, selling a call and purchasing a put) would be required to execute the transaction with a second person who was willing simultaneously to both purchase the call and sell the put. Since it is anticipated that the second person likely would be an investor seeking to establish a reverse conversion or a market maker that inventories conversions and reverse conversions, it does not appear that book orders will forego an opportunity for execution by reason of the proposed rule change.

Based on the above, the Commission believes that, on balance, the benefits to the market and to individual investors which can be derived from facilitating conversions and reverse conversions outweigh any detriment which an individual investor with an order on the public limit order book could conceivably suffer as a result of expanding the CBOE's exceptions to its book priority rules to include combination orders on the same side of the market.[3]

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3142 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12204; 812-4956]

Kemper Investors Life Insurance Co., et al.; Filing of Application For an Order Granting Exemptions From Certain Provisions

January 29, 1982.

In the Matter of Kemper Investors Life Insurance Company; Kilico Money Market Separate Account; Kilico Total Return Separate Account; Kilico Income Separate Account, and Kemper Financial Services, Inc., 120 South LaSalle Street, Chicago, Il 60603.

Notice is hereby given, That Kemper investors Life Insurance Company, a stock life insurance company organized under the laws of Illinois ("KILICO"), KILICO Money Market Separate Account, KILICO Total Return Separate Account and KILICO Income Separate Account, separate investment accounts of KILICO (individually referred to as "Account" and collectively referred to as the "Accounts"), and Kemper Financial Services, Inc., the distributor of the Accounts, ("KFS") filed an application on August 17, 1981 and amendments thereto on December 1, 1981, January 25, 1982, and January 28, 1982 for an order of the Commission exempting KILICO, the Accounts, and KFS ("Applicants") from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 26(a)(2)(D), 27(a)(3), 27(c)(1), 27(c)(2), and 27(d) of the Investment Company Act of 1940 ("Act") and Rule 22c-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicants state that (i) the Accounts are used for the purpose of funding individual Flexible Payment and Periodic Payment Contracts; (ii) each Account is registered under the Act as an open-end, diversified management investment company; (iii) the assets of each Account will be held pursuant to a custodial agreement with Continental Illinois Bank and Trust Company of Chicago, Chicago, Illinois; and (iv) purchase payments will not be subject to a front-end sales load, but withdrawals may be subject to a contingent deferred sales load ("Withdrawal Charge") as described below.

According to Applicants, under the contracts, a contractowner may withdraw up to ten percent (10%) of the contract value in any contract year without the assessment of any charge. If the contractowner withdraws an amount in excess of ten percent (10%) of the contract value in any contract year, the amount withdrawn in excess of ten percent of contract value is subject to a Withdrawal Charge. The Withdrawal Charge is six percent (6%) in the first Contribution Year (defined as each contract year in which a contribution is made and each succeeding year measured from the end of the contract year when such contribution is made) and declines by one percent (1%) each Contribution Year so that there is no charge in the seventh and later Contribution Years. In the event that a total withdrawal is made within one calendar year of a partial withdrawal with respect to which all or a portion of the amount withdrawn was not subject to the Withdrawal Charge, such amount or amounts previously withdrawn will be added to the contract value at the time of total withdrawal for the purpose of calculating the Withdrawal Charge at that time. The Withdrawal Charge also applies as a charge against contract value with respect to amounts which are

[3] In order to dissuade individuals from utilizing the rule change as a means for evading CBOE's book priority rules, the CBOE has indicated that it will issue an educational circular explaining that persons who execute combination orders on the same side of the market for the purpose of evading book priority will be considered in violation of CBOE Rule 4.1, pertaining to just and equitable principals of trading.

annuitized and are in the first six Contribution Years. Applicants state, however, that in no event will the aggregate Withdrawal Charges assessed against a contract exceed seven and one-quarter percent (7.25%) of the aggregate purchase payments made under the contract.

Exemptions for Withdrawal Charge

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants assert that the proposed Withdrawal Charge is consistent with the intent of the definition of "sales load" contained in the Act and would come within the definition but for the times of imposition of the charge. Applicants have requested an exemption from Section 2(a)(35) to the extent such exemption may be necessary to permit assessment of the Withdrawal Charge in the manner described.

In general, section 2(a)(32) of the Act defines a "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive "approximately his porportionate share" of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in effect, requires that a holder of a periodic payment plan certificate who redeems the certificate within eighteen months of issuance receive (a) the value of his or her account and (b) an amount equal to the excess paid for sales expenses which is over 15% of the purchase payments made by the certificate holder. Applicants submit that the imposition of the Withdrawal Charge does not violate sections 2(a)(32) and 27(d). Nevertheless, Applicants have requested an exemption from the provisions of sections 2(a)(32) and 27(d) of the Act to the extent that it may be deemed necessary to permit the imposition of the contingent deferred sales charge and to offer the contracts.

Section 27(c)(1) provides, in substance, that no issuer of a periodic payment plan certificate shall sell such certificates unless the certificate is a "redeemable security." Applicants assert that deferring the imposition of the sales charge in no way restricts the contract owner from receiving his proportionate share or current value on withdrawal and has the effect, through deferral of the sales charge until contract value is withdrawn, of increasing the contract value available for redemption. However, Applicants have requested an exemption from the operation of the provisions of section 27(c)(1) to the extent necessary to permit sales charges to be imposed only upon withdrawal of contract values.

In effect, section 27(a)(3) of the Act prohibits the imposition of any sales load in connection with a periodic payment plan certificate if the amount of such sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment. Under the contracts, the contingent deferred sales charge, in the event that a total withdrawal of a contract is requested within one calendar year of a partial withdrawal with respect to which all or a portion of the amount withdrawn was not subject to the contingent deferred sales charge because of the ten percent (10%) free withdrawal provision, such amount or amounts previously withdrawn will be added to the contract value at the time total withdrawal is requested for the purpose of calculating the contingent deferred sales charge at the time of total withdrawal. Applicants have requested an exemption from the provisions of section 27(a)(3) to the extent that it may be deemed necessary to offer the contracts.

Rule 22c–1 promulgated under section 22(c) of the Act, as pertinent, prohibits a registered investment company which issues a redeemable security from redeeming such security except at a price based on the current net asset value of such security which is next computed after receipt of the tender of such security. While Applicants do not believe that the imposition of the contingent deferred sales charge is violative of section 22(c) of rule 22c–1, Applicants have requested an exemption from the provisions of section 22(c) and rule 22c–1 thereunder to the extent necessary to offer the contracts.

Section 27(c)(2) of the Act provides, in substance, that a periodic payment plan certificate company or depositor or underwriter for such a company is prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than the sales load, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants assert that deferring the sales charge and making it contingent upon an event which may never occur does not change the basic nature of the charge as a sales charge for which section 27(c)(2) contains an exception. Thus, Applicants request an exemption from the operation of the provisions of sections 26(a)(2)(C) and 27 (c)(2) of the Act to the extent necessary to permit assessment of the Withdrawal Charge in the manner described.

Exemptions for Payment of Contract Fees and Charges and for Custodianship

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such company from selling periodic payment plan certificates, unless the proceeds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) and held under an agreement containing, in substance, the provisions required by sections 26(a) (2) and (3) of the Act. Applicants request exemptions from sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the payment to KILICO of: (1) an asset charge for mortality and expense risks at the annual rate of one percent (1%) per annum (approximately .70 for mortality risks and .30 for expense risks) to be assessed against amounts attributable to Flexible Payment Contracts; (2) an asset charge for mortality and expense risks and administrative costs at the annual rate of one and three-tenths percent (1.30%) per annum (approximately .70 for mortality risks, 30 for expense risks, and, .30 for administrative costs) to be assessed against amounts attributable to Periodic Payment Contracts; (3) a $25 record maintenance charge to be deducted on December 31st of any calendar year; (4) maximum investment management fees on an annual basis of

one-half of one percent (.50%) of the average daily net assets of KILICO Money Market Separate Account, fifty-five hundredths of one percent (.55%) of the average daily net assets of KILICO Total Return Separate Account, and sixty hundredth of one percent (.60%) of the average daily net assets of KILICO Income Separate Account; and (5) any applicable premium taxes. KILICO has undertaken to reimburse each Account whose operating expenses, excluding taxes, extraordinary expenses and brokerage or transaction costs, exceed eighty hundredths of one percent (.80%) of average daily net assets on an annual basis.

Applicants consent to the order granting the requested exemption being made subject to the following conditions; (1) that charges to contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose; and (2) that the payments of sums and charges out of the assets of the Accounts shall not be deemed to be exempted from regulation by the Commission by reason of the order provided that consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums and charges.

Section 26(a)(2)(D) provides, among other things, that all assets of the trust shall be segregated and held in trust. Applicants request an exemption from the operation of the provisions of sections 26(a)(2)(D) and 27(c)(2) of the Act to the extent necessary to permit the proposed custodial arrangement which may not be deemed to be "in trust" within the language of section 26(a)(2)(D).

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 23, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for the request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3137 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12205; 812-5006]

Money Manager Fund; Filing of Application for Order Exempting Applicant From the Provisions

Notice is hereby given that Money Manager Fund ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on October 30, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to seek as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant will seek to achieve this objective by investing exclusively in high grade, money market instruments maturing in less than one year, including:

(1) Obligations issued or guaranteed as to interest and principal by the government of the United States or any agency or instrumentality thereof ("Government Securities");

(2) U.S. dollar-denominated obligations, including time deposits, certificates of deposit and bankers' acceptances, of U.S. banks and their branches located outside of the U.S., provided that the bank has capital, surplus and undivided profits of $100,000,000 or more at the date of investment ("Major Bank Instruments");

(3) Commercial paper of domestic issuers, including bank holding companies, which at the date of investment is rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investors Service, Inc.;

(4) Certificates of deposit issued by commercial banks of less than the size set forth above, savings banks and savings and loan associations, provided that the principal amount of the instrument is insured in full by the FDIC or FSLIC ("Insured Bank Instruments"); and

(5) Repurchase agreements with member banks of the Federal Reserve System and recognized dealers with respect to Government Securities, even though the security matures in more than one year.

Applicant represents that, as set forth more fully in its Prospectus, its shares will be purchased automatically and on a daily basis with "excess" cash balances in demand deposit accounts maintained by shareholders of Applicant with banks participating in the Money Manager Account Program ("Participating Banks"). Applicant represents that excess cash balances will be the amount by which the bank account balance of the shareholder exceeds an amount established between the shareholder and the Participating Bank. Applicant asserts that where Major Bank Instruments and Insured Bank Instruments (collectively, "Bank Instruments"), are, in the judgment of the Board of Trustees of the Fund, comparable to other obligations in terms of quality, yield and maturity, it is anticipated that Applicant would purchase Bank Instruments being offered by Participating Banks and their holding companies.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with

respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of this application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires portfolio instruments of "money market" funds which have more than 60 days remaining to maturity be valued with reference to market factors and (2) it would be inconsistent with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant believes that its shareholders would be unfairly treated if Applicant were forced to price its portfolio instruments in a manner which would produce artificial price or yield volatility for instruments which Applicant expects to hold until maturity. Applicant states that potential investors in its shares are not concerned with the theoretical differences which might occur between the yield achieves through market pricing and the yield computed on the basis of amortized cost as described in the application. Applicant believes, on the other hand, that such potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis. Applicant believes that by maintaining a portfolio of high quality money market instruments of short maturities, it will be possible to provide the required stability to individual and institutional investors. Applicant, with the advice of its adviser and based on the adviser's experience, has determined that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of its investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the short-term money market. Applicant's request for exemption is based on its proposed policies described in its application and it agrees that the following conditions may be imposed in any order of the Commission granting such relief:

1. In supervising Applicant's operations and in delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources;

(b) In the event such deviation from the Applicant's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated; and

(c) Where the Board of Trustees believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; *provided,* however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and Applicant will include in the minutes of Board of Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its Board's considerations and actions

taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statment indicating whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 23, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–3136 Filed 2–4–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22375; 70–6699]

New England Electric System; Proposed Amendment of Agreement and Declaration of Trust and Solicitation of Proxies

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01581, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 promulgated thereunder.

NEES proposes to amend Article 31 of its Agreement and Declaration of Trust to modify the preemptive rights of shareholders so that, unless the board of directors otherwise prescribes, such rights shall not exist in cases where any common shares are to be issued pursuant to certain programs open to all electric utility customers of the subsidiaries of the company and ohers who reside in the electric service territory of the subsidiaries. The company intends to submit the proposal to its shareholders at the Annual Meeting to be held on April 27, 1982, and proposes to solicit proxies in connection therewith.

It is stated that the proposed amendment will permit NEES to develop programs broadening its shareholder base, to promote a better relationship between the company and the customers served by the holding-company system, and to obtain an additional source of equity funds.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 1, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authrity.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–3144 Filed 2–4–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22377; 70–6547]

Seneca Resources Corp. and National Fuel Gas Co.; Proposed Issuance and Sale of up to $25,000,000 of Short-Term Notes to Banks

Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York 14203 a wholly-owned subsidiary of National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and National have filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

By order in this proceeding dated February 27, 1981 (HCAR No. 21940), Seneca was authorized to borrow up to $15,000,000 pursuant to a line of credit with Houston National Bank (Now, RepublicBank Houston, N.A.) ("Bank"). As of January 28, 1982, Seneca had $10,850,000 outstanding pursuant to the line of credit. Payment of the note is due on March 2, 1982.

Seneca now proposes to renew the loan agreement for a period of one year; to increase the authorized line of credit to $25,000,000; to provide that National guarantee repayment of the note issued under the loan agreement; to provide an alternate means of calculating the interest due on borrowings under the line of credit, resulting in lower interest costs; and to effect borrowings from other banks on equal or better terms (not to exceed the proposed aggregate of $25,000,000). The note to the Bank will bear interest at the prime rate. There will be no compensating balance requirements with the Bank nor any commitment fee.

The post-effective amendment to the declaration and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549,

and serve a copy on the declarants at the addresses specified above. Proof of sevice (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3134 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12203; 812-5020]

Strategic Investments Fund, Inc., Strategic Treasury Positions, Inc., and Preferential Brokerage, Inc.; Filing of Application for an Order Pursuant to Section 11(a) of the Act Approving the Terms of Certain Exchange Offers

Notice is hereby given that Strategic Investments Fund, Inc. ("SIF"), Strategic Treasury Positions, Inc. ("STP"), registered under the Investment Company Act of 1940 ("Act") as open-end, diversified management investment companies, and Preferential Brokerage, Inc. ("Preferential Brokerage"), c/o Howard V. Tygrett, Jr., 715 Preston State Bank Building, 8111 Preston Road, Dallas, Texas 75225, a broker-dealer registered under the Securities Exchange Act of 1934 which acts as principal underwriter for SIF and STP, filed an application on November 20, 1981, and an amendment thereto on December , 1981, for an order of the Commission, pursuant to Section 11(a) of the Act, permitting certain transfers and exchanges between and among SIF and STP, and any other funds which may be organized by Preferential Brokerage in the future (such other funds are referred to hereinafter together with SIF and STF as "Funds"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Preferential Brokerage currently maintains a continuous public offering of the shares of SIF at net asset value plus a maximum sales charge of 8.5% of the public offering price per share on purchases of less than $10,000, such sales charge being reduced on larger purchases. It is further stated that Preferential Brokerage, in acting as principal underwriter for STP, will maintain a continous public offering of the shares of STP at net asset value without a sales charge.

Applicants assert that it would be in the best interests of shareholders of SIF, and of prospective shareholders of STP and other Funds, to provide for an exchange privilege between the Funds to permit an investor to exchange all or part of his shares in one Fund for the shares of another, should the shareholder's financial objectives change.

Section 11(a) of the Act provides, in pertinent part, that it is unlawful for any registered open-end investment company or principal underwriter thereof to make an offer to the holders of its securities or of the securities of any other open-end company to exchange their shares for shares of the same or another such company on any basis other than the relative net asset values of the respective securities unless the terms of the offer have first been submitted to and approved by the Commission.

Applicants propose to permit a shareholder of SIF (or any other Fund imposing a sales charge) to exchange all or part of his shares for shares of STP (or any other Fund not imposing a sales charge) at the net asset value of STP (or any other Fund not imposing a sales charge) at the time of the exchange, without payment of a sales charge, and to re-exchange shares of STP (or any other Fund not imposing a sales charge) acquired pursuant to the exchange from SIF (or any other Fund imposing a sales charge), together with additional STP shares (or the shares of any other Fund not imposing a sales charge) accumulated through reinvestment of dividends and distribution of such shares, for shares of SIF (or any other Fund imposing a sales charge) at the net asset value of SIF (or any other Fund imposing a sales charge) at the time of such re-exchange without payment of a sales charge. It is further stated that under the exchange privilege that Applicants propose, shares of STP (or any other Fund not imposing a sales charge) would be eligible to be exchanged for shares of SIF (or any other Fund imposing a sales charge) only at the public offering price of SIF (or any other Fund imposing a sales charge) at the time of the exchange, which offering price would include the sales charge described in the prospectus for SIF (or any other Fund imposing a sales charge). With regard to such offers of exchange as would be made on a basis other than the relative net asset values of the respective securities, Applicants request that the Commission issue an order pursuant to Section 11(a) of the Act approving the terms of such proposed exchange offers.

In support of the exemption requested, Applicants assert that the imposition of sales charges described in the prospectus for SIF (or any other Fund charging a sales load) upon an exchange for SIF shares (or the shares of any other Fund charging a sales load) of shares of STP (or any other Fund not imposing a sales charge) would be appropriate as a measure which would discourage attempts to circumvent the sales charges generally imposed upon sales of shares of SIF, or which may be imposed by any other Fund. Applicants represent, in addition, that any exchanges made in accordance with the aforesaid terms would be required to meet the minimum investment and eligibility requirements of each Fund, and the restriction that shares not be redeemed for exchange until such shares had been outstanding for thirty or more calendar days, as well as the requirements that (i) an administrative fee be charged for each exchange of securities, and (ii) any exchange be effectuated as of the close of business on the day that the request for exchange is received in proper form, together with all suporting documents, by the Funds' custodian and shareholder services agent.

Notice is further given That any interested person may, not later than February 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in the matter,

including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Divison of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3140 Filed 2-4-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18463, File No. SR-NASD-82-1]

Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc.

February 1, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 15, 1982, the National Association of Securities Dealers ("NASD") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend the buy-in provisions of section 59 of the NASD's Uniform Practice Code ("UPC") by (i) removing the requirement that the selling member's trade comparison (or other document describing the trade) be attached to notices of intent to buy-in; (ii) eliminating the requirement that buy-ins be executed for "cash" or "guaranteed" delivery of certificates and (iii) requiring a member that executes a buy-in to be prepared to defend the price at which the buy-in is executed relative to the current market price at the time of the buy-in. The proposed amendments are intended to streamline the buy-in procedure by reducing the amount of paperwork associated with initiating the procedure and by providing a simpler mechanism for the actual execution of buy-ins.

By eliminating the requirement that the member intending to buy-in ("buying-in member") attach the selling member's trade comparison (or other document describing the trade) to the notice of intent to buy-in, the NASD believes that duplication of effort will be avoided. This is because, in order to prepare a buy-in notice, a buying-in member already must obtain the trade detail needed to identify the trade to be bought in. The elimination of this requirement also will allow members to use advanced communication technologies (*e.g.*, telecopier, telegram, mailgram) in transmitting buy-in notices instead of traditional mail service.

By eliminating the requirement that buy-ins be executed for "cash" or "guaranteed" delivery, the NASD believes that buying-in members will be able to execute buy-ins at reduced execution and administrative costs. Moreover, the NASD believes that buying-in members will be assured of obtaining execution when, in some circumstances, execution would not be obtained. Under the existing procedure, a member attempting to execute a buy-in is occasionally unable to do so because of the inability of selling market makers to insure "cash" or "guaranteed" delivery of securities. If the buy-in cannot be executed with the requisite delivery stipulation on the day the buy-in is due to be executed, the notice of intent to buy-in expires and the procedure must be re-initiated. Similarly, prospective selling market makers, in responding to a request for "cash" or "guaranteed" delivery, must make a time consuming check of their records to ascertain the availability of certificates for "cash" or "guaranteed" delivery. The additional expense caused by this check is generally charged by the market makers to the buying-in member in the form of a premium above the best available market quotation price. By allowing members to execute buy-ins for "regular way" delivery (settlement in five business days after trade date) when the need for securities is not urgent, the proposed rule change will allow buy-ins to be executed at or near the best available market quotation and will eliminate the risks and costs related to the failure to obtain execution. In addition, because the rules of registered clearing agencies exclude "cash" or "guaranteed" delivery transactions from their systems, allowing buy-ins to be executed for "regular way" delivery will facilitate the processing of buy-ins through the less labor-intensive and more efficient facilities of registered clearing agencies.

The NASD believes that the proposed rule change furthers the goal of section 15A(b)(6) of the Act which requires, among other things, that the rules of registered national securities associations be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market. * * *"

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before February 26, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-82-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendment also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3135 Filed 2-4-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18459; File No. SR-NYSE-82-1]

New York Stock Exchange, Inc.; Self-regulatory Organizations

In the matter relating to the Utilization of a Registered Securities Depository for the Confirmation, Acknowledgement and Book Entry Settlement of Depository Eligible COD Transactions. Comments requested on or before February 26, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 18, 1982 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of proposed amendments to Rule 387 (COD [1] Orders) which would require that member organizations, with certain exemptions, accept COD orders only when the customer or its agent utilizes the facilities of a registered securities depository for the confirmation, acknowledgement and book entry settlement of all transactions in depository eligible securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed amendment is to help solve the COD/DK [2] problem, a problem exacerbated during periods of high volume. It is also intended to address the problem of the physical movement of stock certificates, and is responsive to industry concerns regarding capacity to handle sustained volume of 90 million and peaks of 150 million share days. Electronic confirmation, acknowledgement and book entry settlement through a registered securities depository will provide for more expenditious and efficient settlement of COD transactions, thus facilitating more cost efficient operations during normal and high volume periods. It is designed to reduce the clerical, interest and error costs associated with the processing of COD/DK's.

The rule amendment provides an exemption for COD transactions between a member organization and a customer when: the member organization and its agent are not currently participants in a registered securities depository; or, the customer and its agent are not currently participants in a registered securities depository. Therefore, any entity not currently a participant in a registered securities depository will not be required to become one.

(b) The proposed amendment to Rule 387 is consistent with the requirements of section 6(b)(5), 17A.(a) (1) and (2), and 17A(e) of the Act.

The proposal is consistent with Section 6(b)(5) in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

The proposed amendment is consistent with sections 17A.(a)(1) of the Act, in that it addresses the findings of Congress relative to the clearance and settlement of securities transactions in adopting the Securities Acts Amendments of 1975. The proposed amendment is further consistent with the Congressional mandate of section 17A.(a)(2) that the Commission facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities. This amendment, which in effect encourages expanded use by current participants of clearance and settlement facilities already in existence, by design will facilitate the implementation of such a national system. The amendment will encourage the use of more efficient depository procedures for confirmation, acknowledgement and settlement of COD transactions. A diminished reliance on less efficient methods would reduce the clerical, interest and other related costs borne by broker/dealers and eventually passed along to their customers.

Under section 17A(e) of the Act, the Commission is directed to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities consummated by means of the mails or any means or instrumentalities of interstate commerce. To the extent that this proposal will promote book entry settlement, it will correspondingly reduce the physical delivery and receipt of securities in connection with the settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposal does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization has consented, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before February 26, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 1, 1982.

George A. Fitzsimmons,

Secretary.

[1] COD—While the Rule is entitled COD Orders (Collect on Delivery), it also refers and applies to POD Orders (Payment on Delivery).

[2] DK—Don't Know Rejected Trades—Attempted deliveries of securities against payment that are rejected because the receiver says it has no instructions from its customer to accept the securities.

Exhibit A

Rule 387

(a) No member organization shall accept an order from a customer pursuant to an arrangement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless all of the following procedures are followed:

(1) The member or member organization shall have received from the customer prior to or at the time of accepting the order, the name and address of the agent and the name and account number of the customer on file with the agent.

(2) Each order accepted from the customer pursuant to such an arrangement has noted thereon the fact that it is a payment on delivery (POD) or collect on delivery (COD) transaction.

(3) The member organization delivers to the customer a confirmation, or all relevant data customarily contained in a confirmation with respect to the execution of the order, in whole or in part, not later than the close of business on the next business day after any such execution, and

(4) The member organization has obtained an agreement from the customer that the customer will furnish his agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order (even though such execution represents the purchase or sale of only a part of the order), and that in any event the customer will assure that such instructions are delivered to his agent no later than:

(i) In the case of a purchase by the customer where the agent is to receive the securities against payment (COD), the close of business on the fourth business day after the date of execution of the trade as to which the particular confirmation relates; or

(ii) In the case of a sale by the customer where the agent is to deliver the securities against payment (POD), the close of business on the third business day after the date of execution of the trade as to which the particular confirmation relates.

(5) The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgment and book intry settlement of all depository eligible transactions.

. . . Supplementary Material

.10 The following transactions shall be exempt from the provisions of paragraph (a)(5) of thie Rule:

(1) Transactions that are to be settled outside of the United States.

(2) Transactions wherein both a member organization and its agent are not participants in a securities depository.

(3) Transactions wherein both a customer and its agent are not participants in a securities depository.

.20 The exemptions contained in .10 (2) and (3) of this Supplementary Material shall be periodically reviewed by the Exchange in order to determine their continued necessity.

"securities depository" shall mean a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission pursuant to Section 17A(b)(2) of the Act.

.40 For the purposes of this rule, "depository eligible transactions" shall mean transactions in those securities for which confirmation, acknowledgment and book entry settlement can be performed through the facilities of a securities depository as defined in Rule 387.30.

.50 Rule 387(a)(5) and Supplementary Material .10, .20, .30 and .40 shall become effective January 1, 1983.

[FR Doc. 82-3141 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18480; File No. SR-OCC-82-3]

Options Clearing Corp.; Self-Regulatory Organizations

In the matter relating to the disposition of certain open positions of suspended Clearing Members; Comments requested on or before February 26, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 15, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change would amend OCC Rule 1106 in various minor respects. First, it would eliminate OCC's obligation, in the event of the suspension of a Clearing Member, to attempt to transfer segregated long positions and certain covered short positions of suspended Clearing Member to other Clearing Members. Instead, it would require such positions to be maintained by OCC subject to the instructions of the suspended Clearing Member or its representative.

Second, the proposed rule change would make it clear that if and when OCC specifies "automatic exercise" intervals for expiring options on securities other than stocks, those intervals will apply for the purposes of Rule 1106(a) (which provides for the automatic exercise of certain expiring in-the-money options carried by a suspended Clearing Member if OCC is unable to obtain exercise instructions from the Clearing Member or its representative).

Third, the proposed rule change would make it clear that OCC may discharge its obligation to notify customers of a suspended Clearing Member whose short positions are closed out or transferred by giving appropriate notice to the suspended Clearing Member or its representative.

Fourth, the proposed rule change would clarify OCC's authority to pass on to a suspended Clearing Member commissions that it incurs in closing out the Clearing Member's open positions.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to make various minor revisions in OCC's procedures for handling open positions of suspended Clearing Members. Some of the proposed revisions reflect OCC's recent experience with suspensions of Clearing Members; others are of a technical and drafting nature.

The proposed rule change would eliminate OCC's obligation to attempt to transfer certain open positions of suspended Clearing Members to other Clearing Members in order to avoid potential conflicts between the obligations of OCC and the responsibilities of SIPC or other trustees and to relieve OCC of obligations that it may not be able to discharge, both for legal and practical reasons.

The balance of the proposed rule change is intended to clarify and formalize OCC's existing procedures for handling open positions of suspended Clearing Members.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 because it promotes the protection of investors and the public interest by improving OCC's procedures for handling open positions of suspended Clearing Members and eliminating unnecessary

conflicts between the obligations of OCC and the responsibilities of SIPC or other trustees in the event of a Clearing Member's insolvency.

(B) Burden on Competition

The proposed rule change will have no impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before February 26, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 1, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3139 Filed 2-4-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m., Thursday, February 18, 1982, at the U.S. Small Business Administration, 2nd Floor Conference Room, 1441 L Street, NW., Washington, D.C. 20416, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Office of Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6526, in writing or by telephone no later than February 12, 1982.

Dated: February 1, 1982.

Edna E. Powers,

Director, Office of Advisory Councils.

[FR Doc. 82-2992 Filed 2-4-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 25
Friday, February 5, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Special Open Meeting on the subject listed below on Monday, February 8, 1982, at 3:00 p.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Report and Order in General Docket No. 81-768 concerning Random Selection Technique for Choosing Among Mutually Exclusive Applicants for Initial Telecommunications Licenses. *Summary:* The Commission will consider whether and how to establish a system of random selection by amending Part 1.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 1, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-179-82 Filed 2-3-82; 2:16 pm]

BILLING CODE 6712-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

February 3, 1982.

TIME AND DATE: 10 a.m., February 11, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—743rd Meeting, February 10, 1982, Regular Meeting (10 a.m.)

CAP-1. Project Nos. 3142, 3143, 3150 and 3152, City of Ann Arbor, Michigan
CAP-2. Project No. 3824-000, Continental Hydro Corp.; Project No. 3967-000, Energenics Systems, Inc.; Project No. 4512-000, City of Bountiful, Utah; Project No. 4596-000, Utah Municipal Power Co.; Project No. 4867-000, Utah Power & Light Co. and Orangeville City, Utah
CAP-3. Project No. 3592, Fluid Energy Systems, Inc.; Project No. 4125, Kern County Water Agency
CAP-4. (a) Project No. 3635-000, Mitchell Energy Co., Inc.; Project No. 3685-000, Guadalupe Blanco River Authority; Project No. 3955-000, Energenics Systems, Inc.; Project No. 4921-000, Pedernales Electric Cooperative Inc.; (b) Project No. 3635-000, Mitchell Energy Co., Inc., Project No. 3685-000, Guadalupe Blanco River Authority; Project No. 3966-000, Energenics Systems, Inc. Project No. 4291-000, Pedernales Electric Cooperative, Inc.
CAP-5. Project No. 5090-000, City of Idaho Falls, Idaho
CAP-6. Project No. 4805-001, Bloomfield Ranch Hydropower Project
CAP-7. Project No. 4223-000, Little Wood River Irrigation District
CAP-8. Project Nos. 5175 and 5176, Bluepond Associates
CAP-9. Project No. 459, Union Electric Co.
CAP-10. Project Nos. 67 and 2868, Southern California Edison Co.; Project No. 2904, Cities of Anaheim and Riverside, California
CAP-11. Docket Nos. ER81-457-000 and EL81-13-000, Louisiana Power & Light Co.
CAP-12. Docket Nos. ER80-592, et al., Allegheny Power System; Docket No. ER80-592, Allegheny Power System Cos.
CAP-13. Docket No. ER82-155-000 and ER81-188-000, Central Maine Power Co.
CAP-14. Docket No. ER82-160-000, Central Telephone & Utilities Corp. (Western Power Division)
CAP-15. Docket No. ER82-161-000, New England Power Co.
CAP-16. Omitted
CAP-17. Docket No. ER-71, Central Illinois Public Service Co.
CAP-18. Docket Nos. ER81-166-000, ER81-175-000, ER77-354 and ER78-14, Missouri Utilities Co.
CAP-19. Docket No. ER81-708-000, Public Service Co. of Indiana
CAP-20. Docket No. ER81-160-000, Montaup Electric Co.
CAP-21. Docket No. ER81-179-004, Arizona Public Service Co., Town of Wickenberg, Arizona
CAP-22. Docket No. ER-179-005, Arizona Public Service Co. (Washington Water Power Co.)
CAP-23. Omitted
CAP-24. Project No. 4770, Wells River Hydro Associates
CAP-25. Docket No. ER81-177-000, Southern California Edison Co.

Consent Miscellaneous Agenda

CAM-1. Docket No. QF-23-000, Vulcan Materials Co.
CAM-2. Docket No. RN2- , Revision of Annual Report of System Flow Diagrams: Format No. FERC 567
CAM-3. Docket No. RM79-76 (Louisiana—6), High-cost gas produced from tight formations
CAM-4. Docket No. RM79-76 (Louisiana—5), High-cost gas produced from tight formations
CAM-5. Docket No. RM79-76 (Texas—14), High-cost gas produced from tight formations
CAM-6. Docket No. GP80-109, Cabot Oil Corp.; Docket No. GP81-6-000, Pelto Oil Co., et al.; Docket No. GP-10-000, Hurley Petroleum Corp., et al.
CAM-7. Docket No. GP80-24, Transcontinental Gas Pipe Line Corp.
CAM-8. Docket No. GP81-44-000, Railroad Commission of Texas, Section 107 NGPA determination, Tom F. Marsh, Inc., and Clarence Zybach No. 1-14 Well, RRC; Docket No. F-10-026392, FERC No. JD81-12735
CAM-9. Docket Nos. RO81-62-000 and RA81-48-000 (Consolidated), Henry Petroleum Corp.
CAM-10. Docket No. RA80-5 and RA80-62 (Consolidated), San Ann Service, Inc.
CAM-11. Docket No. RM81-33, Montaup Electric Co.

Consent Gas Agenda

CAG-1. Docket No. RP82-36-000, Penn-York Energy Corp.
CAG-2. Docket No. RP81-97-001, Great Lakes Gas Transmission Co.
CAG-3. Docket No. RP80-107-000, Natural Gas Co. of America
CAG-4. Docket No. RP75-05[illegible]-005, Colorado Interstate Gas Co.
CAG-5. Docket No. CP79-84-007, Panhandle Eastern Pipe Line Co.
CAG-6. Docket No. CP77-253-013, Panhandle Eastern Pipe Line Co.
CAG-7. Docket No. TA82-1-10-001 (PGA82-1a), Tennessee Natural Gas Lines Inc.
CAG-8. Docket No. TA82-1-9 (PGA82-1, IPR82-1, DCA82-1, R&D82-1 and GRI82-1), Tennessee Gas Pipeline Co.

CAG–9. Docket No. RP80–106, Trunkline Gas Co.
CAG–10. Docket No. SP82–6–000, Association of Oil Pipe Lines
CAG–11. Docket Nos. ST80–299 and ST80–336, Sugar Bowl Gas Corp.
CAG–12. Docket No. ST82–95, Red River Pipeline Co.
CAG–13. Docket Nos. ST81–106 and CP82–104, Producer's Gas Co.
CAG–14. Docket No. CI82–48–000, Mesa Petroleum Co.; Docket No. CI82–51–000, Pioneer Production Corp.; Docket No. CI82–21–000, McMoran Offshore Production Co.; Docket No. CI82–38–000, The Superior Oil Co.; Docket No. CI82–22–000, Chevron U.S.A. Inc.; Docket No. G–7167–000, Gulf Oil Corp.
CAG–15. Docket No. CI81–437–000, Sonat Exploration Co.
CAG–16. Docket No. CI64–26, Gulf Oil Corp.
CAG–17. Docket Nos. CP81–189–000, CP81–189–001 and CP81–190–000, Delhi Gas Pipeline Corp.
CAG–18. Docket No. CP81–483–000, Equitable Gas Co.; Docket No. CP81–485–000, Texas Eastern Transmission Corp.
CAG–19. Docket No. CP81–349–000, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–20. Docket No. CP82–6–000, Tarpon Transmission Co.
CAG–21. Docket No. CP81–140–000, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–22. Docket No. CP81–532–000, Texas Gas Transmission Corp.
CAG–23. Docket No. CP81–273–000, Cities Service Gas Co.
CAG–24. Docket No. CP79–289, Michigan Wisconsin Pipe Line Co.
CAG–25. Docket Nos. CP82–45–000 and CP82–45–001, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–26. Docket No. CP81–70–000, Mountain Fuel Supply Co.
CAG–27. Docket No. CP81–450–000, Texas Gas Transmission Corp. and Texas Eastern Transmission Corp.
CAG–28. Docket No. CP81–499–000, El Paso Natural Gas Co.
CAG–29. Docket No. CP81–489–000, Panhandle Eastern Pipe Line Co.
CAG–30. Docket No. CP81–475–000, Transcontinental Gas Pipe Line Corp. and Columbia Gulf Transmission Co.

Power Agenda

I. Licensed Project Matters

P–1. Reserved

II. Electric Rate Matters

ER–1. Docket No. ER79–126, Arizona Public Service Co.
ER–2. Docket No. ER82–23–000, West Texas Utilities Co.
ER–3. Docket No. ID–1424, Edwin I. Hatch
ER–4. (a) Docket No. ER81–577–000, Arkansas Power & Light Co.; (b) Docket Nos. ER82–180–000 and ER81–577–000, Arkansas Power & Light Co.

Miscellaneous Agenda

M–1. Docket No. QF82–6–000, Mercy Hospital and Medical Center, Small Power Production and Cogeneration Facilities—Qualifying Status
M–2. Docket No. QF81–19–000, Resources Recovery (Dade County), Inc.
M–3. Omitted
M–4. Reserved
M–5. Reserved
M–6. Docket No. RM82– , Fees Applicable to the Natural Gas Policy Act
M–7. Docket No. RM82– , Discontinuance of quarterly report of pipeline companies; Form ICC–QPS
M–8. Docket No. RM80–42, Tax normalization for certain items reflecting timing differences in the recognition of expenses or revenues for ratemaking and income tax purposes; Docket No. R–424, Accounting for premium, discount and expense of issue, gains and losses on refunding and reacquisition of long-term debt, and interperiod allocation of income taxes; Docket No. R–446, Amendments of the uniform systems of accounts for classes A, B and C public utilities and licensees and natural gas companies: deferred income taxes
M–9. Docket No. GP80–11–002, Columbia Gas Transmission Corp.

Regular Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket Nos. RP79–36, RP80–65 and RP81–11–000, Michigan Wisconsin Pipe Line Co.

II. Producer Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. (a) Docket No. RP76–91, Montana-Dakota Utilities Co.; (b) Docket No. CP81–316, Montana-Dakota Utilities Co.; Docket No. CP81–488, Colorado Interstate Gas Co.; Docket No. CP81–373, MIGC, Inc.; (c) Docket No. CP82–161, Michigan Wisconsin Pipe Line Co.
CP–2. Omitted
CP–3. Docket No. CP81–124–000, Pacific Interstate Transmission Co.
CP–4. Docket No. CP79–470, Interstate Natural Gas Association of America

Lois D. Cashell,

Acting Secretary.

[S–160–82 Filed 2–3–82; 4:11 pm]
BILLING CODE 6717–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

February 2, 1982.

TIME AND DATE: 11 a.m., February 4, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Project No. 199.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb; Telephone (202) 357–8400.

[S–176–82 Filed 2–3–82; 8:45 am]
BILLING CODE 6717–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, February 10, 1982.[1]

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendment to Regulation Z (Truth in Lending) to exempt from the regulation real estate brokers who arrange seller financing of homes. (Proposed earlier for public comment; Docket No. 0368)
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: February 3, 1982.

James McAfee,

Assistant Secretary of the Board.

[S–177–82 Filed 2–3–82; 11:05 am]
BILLING CODE 6210–01–M

5

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, February 18, 1982.

PLACE: Hearing Room, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Drill point screws (Docket No. 795).
5. Investigations 701–TA–86/144 [Preliminary] and 731–TA–53/86 [Preliminary] (Steel)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–178–82 Filed 2–3–82; 2:15 pm]
BILLING CODE 7020–02–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, February 9, 1982.

[1] The closed meeting originally announced for 10 a.m. will convene following the conclusion of the above announced meeting.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, February 9:

2:00 p.m.

Discussion of Phase II of Diablo Canyon Report (Open/closed status to be determined)

ADDITIONAL INFORMATION: By a vote of 3–0, Commissioners Bradford and Ahearne not present, on February 1, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Congressional Testimony (Closed Meeting), held that day, be held on less than one week's notice to the public. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202) 634–1410.

Dated: February 2, 1982.

Walter Magee,

Office of the Secretary.

[S–181–82 Filed 2–3–82; 4:11 pm]

BILLING CODE 7590–01–M

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federal register

Friday
February 5, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Alabama: AL81-1225	Oct. 9, 1981.
Alaska: AK81-5136	July 24, 1981.
California:	
CA81-5119	May 15, 1981.
CA81-5132	July 7, 1981.
CA81-5143	Aug. 21, 1981.
Colorado:	
CO81-5145	Sept. 4, 1981.
CO81-5146	Sept. 4, 1981.
CO81-5148	Sept. 4, 1981.
Idaho: ID81-5157	Oct. 9, 1981.
Maine: ME80-2069	Aug. 15, 1980.
Kansas: KS82-4003	Jan. 15, 1982
Nevada:	
NV81-5102	Feb. 6, 1981.
NV81-5104	Feb. 20, 1981.
NV81-5161	Nov. 6, 1981.
North Dakota: ND81-5131	July 6, 1981.
New Jersey: NJ81-3053	Oct. 9, 1981.
Oregon: OR81-5127	July 6, 1981.
Pennsylvania:	
PA80-3055	Oct. 3, 1980.
PA80-3074	Dec. 12, 1980.
PA81-3027	July 17, 1981.
PA81-3068	Sept. 25, 1981.
PA81-3072	Oct. 2, 1981.
PA81-3086	Oct. 23, 1981.
Washington:	
WA81-5100	Mar. 6, 1981.
WA81-5163	Dec. 4, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Connecticut: CT81-3001 (CT82-3001)	Jan. 23, 1981.
Georgia: GA79-1067 (GA82-1002)	Apr. 20, 1979.
Mississippi: MS80-1121 (MS82-1001)	Dec. 12, 1980.
Montana: MT81-5139 (MT82-5101)	Aug. 7, 1981.
Oregon: OR80-5109 (OR82-5102)	Mar. 14, 1980.

Signed at Washington, D.C., this 29th day of January 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 2
DECISION NO. AK81-5136 (Cont'd)

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION AL81-1295 - Mod. #2 (46 FR 50222 - October 9, 1981)					
Montgomery County, Alabama Building Construction					
CHANGE					
Carpenters	$7.37				
Electricians	7.71				
DECISION NO. AK81-5136 - Mod. #2 (46 FR 38243 - July 24, 1981)					
Statewide, Alaska					
Change:					
Carpenters:					
Area 1:					
Piledrivermen	$20.24	$ .90	$3.00		.20
Areas 2 and 3:					
Piledrivermen	20.24	.90	3.00		.20
Cement Masons:					
Area 1	19.12	1.55	3.00		.15
Area 2	18.87	1.55	3.00		.15
Marble Setters	20.02	1.34	2.80		
Plasterers:					
Area 1	19.12	1.55	3.00		.15
Area 2	18.87	1.55	3.00		.15
Power Equipment Operators:					
Group 1	20.47	1.50	3.25		.15
Group 1-A	21.73	1.50	3.25		.15
Group 2	19.92	1.50	3.25		.15
Group 3	19.40	1.50	3.25		.15
Group 4	18.26	1.50	3.25		.15
Omit:					
Truck Drivers Schedule as originally issued					
Add:					
Truck Drivers:					
Group 1	19.44	2.14	4.10		.30
Group 1-A	20.30	2.14	4.10		.30
Group 2	18.58	2.14	4.10		.30
Group 3	18.01	2.14	4.10		.30
Group 4	17.65	2.14	4.10		.30
Group 5	17.06	2.14	4.10		.30

DECISION NO. AK81-5136 (Cont'd)

TRUCK DRIVERS' CLASSIFICATIONS

Group 1: Ready Mix: over 12 up to and including 15 yards; Semi with double Box Mixer; Dump Trucks (including Rockbuggy and trucks with pups) over 40 up to and including 60 yards; Deltas, Commanders, Rollogons and similar equipment when pulling sleds, trailers or similar equipment; Boat Coxswains; Helicopter Transporters; Lowboys including attached trailers and jeeps 12 axles

Group 1-A: Dump Trucks (including Rockbuggy and trucks with pups) over 60 yards up to and including 100 yards

Group 2: Turn-o-wagon or DW-10 (not self loading); Ready Mix; over 7 yards up to and including 12 yards; All Deltas, Commanders, Rollogons and similar equipment; Mechanics, Dump Trucks (including Rockbuggy and trucks with pups) over 20 yards up to and including 40 yards

Group 3: Dump Trucks (including Rockbuggy and trucks with pups) over 10 yards up to and including 20 yards; Lowboys including attached trailers and jeeps up to and including 11 axles; Oil Distributor Drivers; Ready Mix; over 5 yards up to and including 7 yards; Compactor (when pulled by rubber tired equipment); Water Wagon, when pulled by Euclid or similar equipment

Group 4: Buggymobile; Semi or truck and trailer; Dumpster; Batch Trucks over 5 yards; Dump Trucks (including Rockbuggy and trucks with pups) up to and including 10 yards; Gin Pole Driver; Track Truck Equipment; Stringing Truck; Fuel Truck, Fuel Handler with truck; Grease Truck; Flat Bed, dual rear axle; Hyster Operators (handling bulk aggregate); Lumber Carriers; Ready Mix over 3 yards up to and including 5 yards; Water Wagon, semi; Water Wagon, dual axle; Winch Truck, Wrecker, Flat Bed including "A" Frame over 5 tons; Bull Lifts and Fork Lifts, Fork Lifts with power boom and swing attachment over 5 tons; Front End Loader with forks; Bus Operator over 30 passengers; all Terrain Vehicles; Boom Truck, Knuckle Truck over 5 tons; Foam Distributor Truck/dual axle; Hydro-Seeders, dual axle; Vacuum Trucks, Truck Vacuum Sweepers, dual axle; Loadermaster (air and water); Air Cushion or similar type; Fire Truck, dual axle; Combination Truck - fuel/Grease; Greasers; Rigger-non-warehouse Operation; Expeditor

Group 5: Batch Trucks up to and including 5 yards; Gravel Spreader Box Operator on truck; Flat Beds, single rear axle; Ready Mix up to and including 3 yards; Boom Truck/Knuckle Truck up to and including 5 tons; Pickups (pilot cars and all light duty vehicles); Swampers; Water Wagon, single axle; Winch Truck, Wrecker, Flat Bed including "A" Frame 5 tons and under; Bull Lifts and Fork Lifts (Fork Lifts with power boom and swing attachments up to and including 5 tons); Bus Operators, up to 30 passengers; Farm type rubber tired tractor when material handling or pulling wagons; Foam Distributor, single axle; Team Drivers (horses, mules, and similar equipment); Vacuum Trucks, single axle; Rigger, warehouse operation; Fuel Handler; Ambulance; Hydro-Seeder, single axle

Modification Page 3

DECISION NO. CA81-5119 - Mod. # 4
(46 FR 27017 - May 15, 1981)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders:					
Area 1	$14.73	1.30	1.75		
Area 2	15.48	1.20	2.50		

DECISION NO. CA81-5132 - Mod. # 5
(46 FR 35860 - July 7, 1981)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders:					
Area 1	$14.73	1.30	1.75		
Area 2	15.48	1.20	2.50		

Modification Page 4

DECISION NO. CA81-5143 - Mod. #2
(46 FR 42591 - August 21, 1981)
San Diego County, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$16.81	$1.11	$1.75		.07
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	17.41	1.11	1.75		.07
Piledrivers	17.06	1.11	1.75		.07
Divers:					
Divers	38.62	1.11	1.75		.07
Stand-by Divers	19.31	1.11	1.75		.07
Tenders	18.31	1.11	1.75		.07
Drywall Installers	18.20	1.11	1.75		.07
Drywall Finishers	17.10	1.23	1.78	.75	.07
Lathers	18.20	1.11	1.75		.07
Power Equipment Operators:					
Group 1	15.10	1.25	2.95	1.17	.14
Group 2	15.38	1.25	2.95	1.17	.14
Group 3	15.67	1.25	2.95	1.17	.14
Group 4	15.81	1.25	2.95	1.17	.14
Group 5	16.03	1.25	2.95	1.17	.14
Group 6	16.14	1.25	2.95	1.17	.14
Group 7	16.26	1.25	2.95	1.17	.14
Group 8	16.43	1.25	2.95	1.17	.14
Group 9	16.56	1.25	2.95	1.17	.14
Power Equipment Operators:					
Dredging (Hydraulic Suction Dredge):					
Leverman	16.95	1.25	2.95	.92	.04
Watch Engineer; Welder	16.37	1.25	2.95	.92	.04
Deckmate	16.37	1.25	2.95	.92	.04
Winchman (Stern Winch or Dredge)	15.82	1.25	2.95	.92	.04
Bargeman; Deckhand; Fireman; Oiler; Leveehand	15.53	1.25	2.95	.92	.04
(Clamshell Dredges):					
Leverman	16.95	1.25	2.95	.92	.04
Watch Engineers	16.37	1.25	2.95	.92	.04
Deckmate	16.37	1.25	2.95	.92	.04
Bargemate	15.89	1.25	2.95	.92	.04
Bargeman; Deckhand; Fireman; Oiler	15.38	1.25	2.95	.92	.04

Modification Page 5

Modification Page 6

Modification Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CO81-5145 - Mod. #6 (46 FR 44602-September 4, 1981) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld Counties, Colorado					
Change:					
Boilermakers	$14.97	$1.375	$1.15		.05
Bricklayers; Stonemasons:					
Boulder and Grand Counties	14.35	.85	1.10		.05
Marble Setters:					
Elbert, Lake and Park Counties	13.31	.85	.70		
DECISION NO. CO81-5146-Mod. #5 (46 FR 44607-September 4, 1981) El Paso County, Colorado					
Change:					
Boilermakers	$14.97	$1.375	$1.10		.05
Elevator Constructors' Helpers	10.42	1.345	.95	a	.035
Marble Setters	13.31	.85	1.15		.05
DECISION NO. CO81-5148-Mod. #5 (46 FR 44616-September 4, 1981) Las Animas, Otero, and Pueblo Counties, Colorado					
Change:					
Boilermakers	$14.97	$1.375	$1.15		.05

Modification Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. ID81-5157 - Mod #5 (46 FR 50223 - October 9, 1981) Statewide Idaho					
CHANGE:					
LINE CONSTRUCTION (Area 1): Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$19.30	.45	3% + 2.00	.10	1/2%
Lineman; Pole Sprayer					
Heavy Line Equipment Man					
Certified Lineman Welder	17.44	.45	3% + 2.00	.10	1/2%
Tree Trimmer	15.74	.45	3% + 2.00	.10	1/2%
Line Equipment Man	15.02	.45	3% + 1.30	.10	1/2%
Head Groundman (Chipper);					
Head Groundman; Powderman;					
Jackhammer Man	13.13	.45	3% + 1.30	.10	1/2%
Groundman	12.34	.45	3% + 1.30	.10	1/2%
ZONE PAY FOR AREA 1 ONLY:					
Each classification, with the exception of Tree Trimmer and Head Groundman (Chipper), will receive the Base Rate Plus					
Zone A - $2.00					
Zone B - $2.75					
Zone C - $3.50					
Zone D - $4.75					
ELECTRICIANS:					
Area 1:					
Electricians	18.95	.95	3%+1.30		4.02
Cable Splicers	19.35	.95	3%+1.30		.02
DECISION NO. ME80-2009 - MOD. #4 (45 FR 54614 - August 15, 1980) Cumberland County, Maine					
CHANGE:					
ELECTRICIANS	13.00	.80	3%+.25		.02

Modification Page 7

DECISION #KS82-4003-Mod.#1 47 FR 27048-January 15, 1982 Douglas, Jefferson, Leavenworth, Miami, and Shawnee Counties, Kansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Under Carpenters & Piledrivermen:					
Zone 3	$11.34	.70	.75		.05
Change:					
Cement masons					
Zone 1	$14.11	.80	.85		
Omit:					
Truck Drivers (Page 6)					
Add:					
Truck Drivers (Page 6) schedule attached					

Modification Page 8

DECISION NO. KS82-4003 Page 6

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1: Leavenworth County:					
Group 1	$8.89	.75	$1.00	.75	
Group 2	9.09	.75	1.00	.75	
Group 3	9.40	.75	1.00	.75	
Group 4	9.55	.75	1.00	.75	
Group 5	8.665	.75	1.00	.75	
Zone 2: Douglas and Shawnee Counties:					
Group 1	8.65	.70	.50		
Group 2	8.75	.70	.50		
Group 3	8.90	.70	.50		
Zone 3: Miami County	8.35	.75	1.00	.75	

CLASSIFICATIONS - ZONE 1

Group 1: One Team; Station Wagons; Pickup Trucks; Material Trucks, single axle; Tank Wagon Drivers, single axle

Group 2: Material Trucks; Tandem; Two Teams; Semi-trailers; Winch Trucks-Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix Tank Wagon Drivers, single axle; Tank Wagon Drivers; Tandem or Semi-trailer; Insley Wagons; Dump Trucks; Excavator, 5 cu. yds. and over; Dumpsters; Half-tracks; Speedace; Euclids and other similar excavating equipment

Group 3: A-frame; Lowboy; Boom Truck Drivers

Group 4: Mechanics and Welders

Group 5: Mechanics' Helpers; Oilers and Greasers

CLASSIFICATIONS - ZONE 2

Group 1: Pickups; Panel Trucks; Station Wagons; Flat Beds; Dump and Batch Trucks, single axle

Group 2: Tandem Trucks; Warehousemen or Partsmen; Mechanic Helpers and Servicemen

Group 3: Lowboys; Semi-trailers; all Transit Mixer Trucks (single or tandem axle); A-frame and Winch Trucks when used as such; Euclid, End and Bottom Dump; Tournarockers, Athcys, Dumpsters and similar off-road equipment and Mechanics on such equipment

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

Modification Page 9

Modification Page 10

DECISION NO. NV81-5102 - Mod. #7
(46 FR 11482 - February 6, 1981)
Clark County (does not include the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$20.26	$1.28	$1.52		
Boilermakers	19.61	1.30	1.25	1.00	.04
Bricklayers; Stonemasons	16.59	1.10	.70		.06
Electricians:					
Electricians; Technicians	19.56	1.41	3%+2.80		.08
Cable Splicers	19.89	1.41	3%+2.80		.08
Elevator Constructors:					
Elevator Constructors	18.67	1.345	1.085	a	.035
Helpers	13.07	1.345	1.085	a	.035
Probationary Helpers	9.335				
Marble Masons	16.59	1.10	.70		.06
Marble, Terrazzo, Tile Finishers	12.90	1.10	.70		
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	15.25	1.25	2.80	1.17	.14
Group 2	15.53	1.25	2.80	1.17	.14
Group 3	15.82	1.25	2.80	1.17	.14
Group 4	15.96	1.25	2.80	1.17	.14
Group 5	16.18	1.25	2.80	1.17	.14
Group 6	16.29	1.25	2.80	1.17	.14
Group 7	16.41	1.25	2.80	1.17	.14
Group 8	16.58	1.25	2.80	1.17	.14
Group 9	16.71	1.25	2.80	1.17	.14
Roofers	20.40	1.00			
Soft Floor Layers	17.12	1.65			.25
Terrazzo Workers; Tile Setters	16.59	1.10	.70		.06

DECISION NO. NV81-5104 - Mod. #8
(46 FR 13482-February 20, 1981)
Washoe County, Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$22.36	$1.25	$1.45		.11
Boilermakers	19.61	1.30	1.25	1.00	.04
Bricklayers; Stonemasons	16.32	1.16	.75		.04
Brick Mod Carriers	13.51	1.15	1.35		.10
Carpenters	14.80	1.33	1.93	1.30	.11

DECISION NO. NV81-5104 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons:					
Lake Tahoe Area:					
Cement Masons	$15.55	$1.33	$1.27	$2.00	.10
Mastic, Magnesite and all Composition Masons	15.80	1.33	1.27	2.00	.10
Troweling Machine; Grinder Operator and Kelly Float	16.05	1.33	1.27	2.00	.10
Remainder of Washoe County:					
Cement Masons	13.80	1.33	1.27	2.00	.10
Mastic, Magnesite and all Composition Masons	14.05	1.33	1.27	2.00	.10
Troweling Machine; Grinder Operator and Kelly Float	14.30	1.33	1.27	2.00	.10
Electricians:					
Washoe County, does not include Lake Tahoe Area:					
Electricians; Technicians	20.73	1.09	3%+2.09		.14
Cable Splicers	22.80	1.09	3%+2.09		.14
Lake Tahoe Area:					
Electricians; Technicians	22.23	1.09	3%+2.09		.14
Cable Splicers	24.30	1.09	3%+2.09		.14
Lake Tahoe Area:					
Electricians; Technicians	22.23	1.09	3%+2.09		.14
Cable Splicers	24.30	1.09	3%+2.09		.14
Elevator Constructors:					
Elevator Constructors	24.22	1.345	1.085	a	.035
Helpers	16.95	1.345	1.085	a	.035
Probationary Helpers	12.11				
Laborers:					
Group 1	11.71	1.15	1.35		.10
Group 2	11.81	1.15	1.35		.10
Group 3	11.96	1.15	1.35		.10
Group 4	12.21	1.15	1.35		.10
Group 5	12.51	1.15	1.35		.10
Group 6-A	12.51	1.15	1.35		.10

DECISION NO. NV81-5104 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 6-B	$12.21	$1.15	$1.35		.10
Group 6-C	11.86	1.15	1.35		.10
Marble Masons	15.04	1.16	.75		.01
Marble, Terrazzo, Tile Finishers	8.83	1.16	.75		.01
Painters:					
Brush and Roller	16.79	.84	.75		.02
Brush-swing stage up to 40 ft.; Brush-steel Spray; Taper; Paper-hangers; Sandblaster	17.04	.84	.75		.02
Spray-swing stage, up to 40 ft.; Spray-steel	17.29	.84	.75		.02
Plasterers	17.54	.84	.75		.02
Plumbers; Steamfitters	14.72	1.33	1.50		.05
Sheet Metal Workers:	18.24	1.23	1.25	2.10	.20
Residential Construction not over 3 stories in height where each individual family apartment is individually conditioned by a separate and independent unit or system	13.26	1.30	2.36	1.66	.14
All other residential construction	16.57	1.30	2.36	1.66	.14
Terrazzo Workers; Tile Setters	15.04	1.16	.75		.01

DECISION NO. NV81-5161 - Mod. #1
(46 FR 55210 -November 6, 1981)
Nevada Test Site including Tonopah Test Range in Clark, Lincoln, and Nye Counties, Nevada

Change:

Bricklayers	$16.59	$1.10	.70		.06
Marble Setters	16.59	1.10	.70		.06
Terrazzo Workers, Tile Setters	16.59	1.10	.70		.06
Roofers	20.40	1.00			

DECISION NO. ND81-5131 - Mod. #2
(46 FR 35008 - July 6,1981)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh, and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$14.97	$1.375	$1.15		.05
Bricklayers;Stonemasons:					
Area 3	13.20	.60	.50	.30	
Cement Masons:					
Area 1	13.15				
Drywall Tapers:					
Area 1	12.20	.25	.50		
Electricians:					
Area 1:					
Zone A:					
Electricians	12.95	.75	3%+.80	6%	1%
Cable Splicers	13.60	.75	3%+.80	6%	1%
Zone B:					
Electricians	13.57	.75	3%+.80	6%	1%
Cable Splicers	14.22	.75	3%+.80	6%	1%
Zone C:					
Electricians	14.45	.75	3%+.80	6%	1%
Cable Splicers	15.10	.75	3%+.80	6%	1%
Ironworkers:					
Ornamental; Structural; Reinforcing	13.60	1.16	.88		.10
Laborers:					
Grand Forks, Steele, and Traill Counties:					
Group 1	8.62	.60	.15		
Group 2	8.72	.60	.15		
Group 3	8.87	.60	.15		
Burleigh and Morton Cos.:					
Group 1	8.50	.60	.15		
Group 2	8.60	.60	.15		
Group 3	8.70	.60	.15		
Cass and Richland Cos.:					
Group 1	8.50	.60	.15		
Group 2	8.60	.60	.15		
Group 3	8.70	.60	.15		
Ward County:					
Group 1	8.50	.60	.15		
Group 2	8.60	.60	.15		
Group 3	8.70	.60	.15		
Millwrights	13.96	.80		.60	.02
Plumbers:					
Area 1	14.86	1.04	1.04		.06
Area 2	15.38	.90	.65		.04
Area 3	15.51	.90	.65		.04

DECISION NO. ND81-5131 (Cont'd)

DECISION NO. OR81-5127 - Mod #9

DECISION NO. ND81-5131 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers:					
Area 1	$13.57	.60	.36	.72	.07
Soft Floor Layers:					
Area 2	10.90	.25	.50		
Truck Drivers:					
Site Preparation Excavation and Incidental Paving:					
Single Axle	8.57	.65	.35		
Tandem	8.69	.65	.35		
Agitator Dumpcrete; Off road heavy end dumps, 20 yards and under; Tandem semi, Lowboy	9.00	.65	.35		
Euclid, over 20 yds.	9.77	.65	.35		
Add:					
Piledrivermen to Area 3-					
Carpenters:					
Piledrivermen	12.24	.18	.70		.03
DECISION NO. NJ81-3053 - MOD. #5 (46 FR 50243 - October 9, 1981)					
BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY					
CHANGE:					
LABORERS, BUILDING CONSTRUCTION					
ZONE 9	10.20	.70	.85		.10
ZONE 12	10.15	.85	.75		.10

DECISION NO. OR81-5127 - Mod #9
(46 FR 35019 - July 6, 1981)
Statewide Oregon

CHANGE:
LINE CONSTRUCTION:

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$19.30	21.30	22.05	22.80	24.05
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	17.44	19.44	20.19	20.94	22.19
Group 3: Tree Trimmer	15.74				
Group 4: Line Equipment Man	15.02	17.02	17.77	18.52	19.77
Group 5: Head Groundman, Powderman, Jackhammer Man	13.13	15.13	15.88	16.63	17.88
Group 6: Head Groundman (Chipper)	13.13				
Group 7: Groundman	12.34	14.34	15.09	15.84	17.09

FRINGE BENEFITS PAYMENTS:	GROUPS 1 to 3	GROUPS 4 to 6
Health and Welfare	.45	.45
Pension	3% + 2.00	3% + 1.30
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3055 MOD. NO. 14 (45 FR 65902 - October 3, 1980) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania CHANGE: BUILDING, HEAVY & HIGHWAY CONSTRUCTION ELECTRICIANS ZONE 3 COMMERCIAL	$15.27	6%	3%+13%		1/2 of 1%
DECISION NO. PA80-3074 MOD. NO. 12 (45 FR 81981 - December 12, 1980) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania CHANGE: Plasterers Fulton County	$10.83	.90	.90		.01
DECISION NO. PA81-3027 MOD. NO. 4 (46 FR 37212 - July 17, 1981) Franklin County, Pennsylvania CHANGE: Carpenters Cement Masons Sheet Metal Workers Painters, Brush: Metal, Letterkenny, Hamilton, Green, South Hampton, Lurgan, Fanett, Chambersburg, Shipensburg Townships and Boroughs Washington, Antrim, Hamilton, Guilford, Montgomery, Warren Peters, St. Thomas, Quincy ADD: Plasterers Sprinkler Fitters	$12.65 12.10 13.51 10.92 10.00 10.83 15.56	6½% .90 1.17 .55 .45 .90 .95	8% .90 2.17 .43 .15 .90 1.40	10%	.23 .02 .01 .08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3068 MOD. NO. 3 (46 FR 47403 - September 25, 1981) Lebanon County, Pennsylvania CHANGE: Sheet Metal Workers	$13.51	1.17	2.17		.23
DECISION NO. PA81-3072 MOD. NO. 2 (46 FR 48851 - October 2, 1981) Adams & York Counties, Pennsylvania CHANGE: Cement Masons Adams County Millwrights Adams County Plasterers Adams County Sheet Metal Workers	12.10 12.49 10.83 13.51	.90 .85 .90 1.17	.90 .80 .90 2.17		.03 .01 .23
DECISION NO. PA81-3066 MOD. NO. 2 (46 FR 52082 - October 23, 1981) Dauphin, Cumberland, Perry, Juniata, New Cumberland Depot, in York County, Pennsylvania CHANGE: Cement Masons Plasterers Sheet Metal Workers	12.10 10.83 13.51	.90 .90 1.17	.90 .90 2.17		.01 .23

SUPERSEDEAS DECISION

STATE: CONNECTICUT COUNTIES: FAIRFIELD,

DECISION NO. WA81-5100 - Mod #1 (46 FR 15636 - March 6, 1981) Statewide Washington	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: ELECTRICIANS: King County	$11.95	.98	3% + .10	.24	.05

DECISION NO. WA81-5163 - Mod. #4
(46 FR 59457 - December 4, 1981)
Statewide Washington

CHANGE:
LINE CONSTRUCTION:

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$19.30	21.30	22.05	22.80	24.05
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	17.44	19.44	20.19	20.94	22.19
Group 3: Tree Trimmer	15.74				
Group 4: Line Equipment Man	15.02	17.02	17.77	18.52	19.77
Group 5: Head Groundman, Powderman, Jackhammer Man	13.13	15.13	15.88	16.63	17.88
Group 6: Head Groundman (Chipper)	13.13				
Group 7: Groundman	12.34	14.34	15.09	15.84	17.09

FRINGE BENEFITS PAYMENTS:	GROUPS 1 to 3	GROUPS 4 to 6
Health and Welfare	.45	.45
Pension	3% + 2.00	3% + 1.30
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

SUPERSEDEAS DECISION

STATE: CONNECTICUT
COUNTIES: FAIRFIELD, LITCHFIELD AND WINDHAM
DECISION NO. CT82-3001
DATE: DATE OF PUBLICATION
Supersedes Decision No. CT81-3001 dated January 23, 1981 in 46 FR 7721
DESCRIPTION OF WORK: Building, Residential (excluding Windham Co.), Highway and Heavy (excluding tunnel construction) Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
Area 1	16.04	.90	1.64		
Area 2	15.21	1.04	1.50		.01
Area 3	13.18	1.45	1.63		
BOILERMAKERS	16.53	1.275	10%		.04
BRICKLAYERS, CEMENT MASONS, FINISHERS, MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, TILE SETTERS					
BUILDING CONSTRUCTION:					
Area 1	11.05	.75	.75		
Area 2	11.05	.75	.75		
Area 3	11.05	.75	.75		
Area 4	11.47	.83	.25		
Area 5	13.85	1.20	1.25		.03
Area 6	13.50	.75	1.00	a	
Area 7	11.05	.75	.75		
Area 8	13.50	.75	1.00	a	.03
Area 9	11.05	.75	.75		
HEAVY AND HIGHWAY CONSTRUCTION					
Area 1, 2, 3, 6, 7, 8 & 9	11.90	.75	1.00		
Area 4	12.57	.83	.25		
Area 5	11.45	1.20	1.00		

DECISION NO. CT82-3001

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: FAIRFIELD COUNTY; Litchfield County (Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury & Thomaston); WINDHAM COUNTY (Ashford, Chaplin, Eastford, Hampton, Scotland & Windham)
Area 2: LITCHFIELD COUNTY ounty (Canaan, Colbrook, Norfolk, N. Canaan & Salisbury); WINDHAM COUNTY (Woodstock)
Area 3: WINDHAM COUNTY (Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling, & Thompson)

BRICKLAYERS; CEMENT MASONS; FINISHERS; MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS
Area 1: FAIRFIELD COUNTY (Bridgeport, Easton, Farfield, Monroe, Stratford & Trumbull)
Area 2: FAIRFIELD COUNTY (Ansonia, Derby & Shelton)
Area 3: FAIRFIELD COUNTY (New Canaan, Forwalk, Ridgefield, Weston, Westport & Wilton)
Area 4: FAIRFIELD COUNTY (Darien & Stamford)
Area 5: FAIRFIELD COUNTY (Greenwich)
Area 6: FAIRFIELD COUNTY (Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding & Sherman; LITCHFIELD COUNTY (Bridgewater, Kent, New Milford & Roxbury)
Area 7: LITCHFIELD COUNTY (Barkhamsted, Bethlehem, Canaan, Colebrook, COrnwall, Goshem, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington & Winchester)
Area 8: LITCHFIELD COUNTY (Plymouth, Terryville, Thomaston, Watertown & Woodbury)
Area 9: WINDHAM COUNTY

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN & SOFT FLOOR LAYERS					
BUILDING CONSTRUCTION					
Area 1	12.90	.90	.65	b	c
Area 2	12.60	.90	.65		.10
Residential	11.80	.60	.65		.10
Area 3	12.35	.90	.65		.10
Area 4	12.95	.90	.65		.05
Area 5	12.90	.90	.65		.03
Millwrights	13.40	.90	.65		.03
HEAVY AND HIGHWAY CONSTRUCTION					
Area 1	12.80	.90	.65	d	c
Area 2	12.80	.90	.65	d	.10
Area 3	12.80	.90	.65	d	.10
Area 4	12.80	.90	.65	d	.05
Area 5	12.80	.90	.65	d	.03

AREA DESCRIPTIONS

CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN & SOFT FLOOR LAYERS
Area 1: FAIRFIELD COUNTY (Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston & Westport)
AREA 2: FAIRFIELD COUNTY (Bethel, Brookfield, Danbury, Darien, Greenwich, New Canaan, New Fairfield, Newton, Norwalk, Redding, Ridgefield, Sherman, Stamford, & Wilton)
Area 3: LITCHFIELD COUNTY (Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, WInchester & Woodbury)
Area 4: LITCHFIELD COUNTY (Harwinton, Plymouth, Thomaston & Watertown)
Area 5: WINDHAM COUNTY

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Area 1	13.24	1.18	3%+.65	6%	½%
Area 2	14.55	1.20	3%+1.25		½%
Area 3	15.79	6%+e	9½%	10%	½%+.02
Area 4	14.85	1.07	3%+.65		½%
Area 5	13.10	1.22	3%+.60	e	1/8%
Area 6	14.30	1.25	3%+2.60		½%
ELEVATOR CONSTRUCTORS	14.79	1.345	1.085	f+g	.035
ELEVATOR CONSTRUCTORS' HELPERS	10.35	1.345	1.085	f+g	.035
PROBATIONARY	7.39				
GLAZIERS:					
Area 1	13.75	.66	1.91	.67	.01
Area 2	13.68	1.35	.47	h	.01
Area 3	11.66	.84	2.15	h+.35	
IRONWORKERS	15.80	1.03	2.45	i	.10
LATHERS					
Area 1	10.60	.50	.40		.01
Area 2	10.01	.50	.20	.75	.01
Area 3	10.60	.50	.50		.01
Area 4	11.15	.50	.40		.01
Area 5	9.99	.65	.75		.01

DECISION NO. CT82-3001

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: FAIRFIELD COUNTY (Norwalk, Wilton, Weston & Westport)
Area 2: FAIRFIELD COUNTY (Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newton, Redding, Ridgefield, Shelton, Sherman, Stratford & Trumbull); LITCHFIELD COUNTY (Bridgewater & New Milford)
Area 3: FAIRFIELD COUNTY (Darien, Greenwich, New Canaan & Stamford)
Area 4: LITCHFIELD COUNTY (Plymouth)
Area 5: LITCHFIELD COUNTY (Reaminder of County)
Area 6: WINDHAM COUNTY

GLAZIERS:
Area 1: FAIRFIELD COUNTY (GREENWICH)
Area 2: FAIRFIELD COUNTY (Remainder of County; LITCHFIELD COUNTY
Area 3: WINDHAM COUNTY

LATHERS:
Area 1: FAIRFIELD COUNTY (Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport & Wilton)
Area 2: FAIRFIELD COUNTY (Greenwich, New Canaan, Norwalk & Stamford)
Area 3: FAIRFIELD COUNTY (Bethel, Brookfield, Danbury, New Fairfield, Newton & Sherman); LITCHFIELD COUNTY (Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford, N. Canaan, Plymouth, Roxbury, Thomaston, Terrington, Warren, Washington, Watertown & Woodbury)
Area 4: LITCHFIELD COUNTY (Barkhamsted, Colebrook, New Hartford, Norfolk & Winchester); WINDHAM COUNTY (Chaplin, Hampton, Scotland & Windham)
Area 5: WINDHAM COUNTY (Danielson)

DECISION NO. CT82-3001	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Area 1					
Lineman	13.15	6%+e	9½%	10%	.02
Compressor Operator	10.94	6%+e	9½%	10%	.02
Lamp Changer	10.22	6%+e	9½%	10%	.02
Area 2					
Linemen, Cable Splicers & Dynamite Man	15.15	.70	3%+1.00	j	
Heavy Equipment Operator	13.79	.70	3%+1.00	j	
Equipment Operator, Tractor Trailer Driver, Field Mechanic	13.01	.70	3%+1.00	j	
Material Man	12.79	.70	3%+1.00	j	
Groundman Truck Driver	11.69	.70	3%+1.00	j	
Groundman	10.34	.70	3%+1.00	j	
PAINTERS: BRIDGE					
Structural Steel	20.20				
Sandblaster and power tool operator	21.20				
Spray	23.70				
PAINTERS:					
Area 1					
Brush, Structural Steel, Paperhangers, Tapers	13.25	.20	.75	.30	
Spray	18.30	.20	.75	.30	
Area 2					
Brush	11.05	.50	.65	k	
Bosun Chair, Swing Stage	11.80	.50	.65	k	
Spray, Epoxy	13.55	.50	.65	k	
Taper	11.55	.50	.65	k	
Sandblasting	13.05	.50	.65	k	
Area 3					
Brush	11.80	.50	.75	.30	.01
Roller, Paperhangers, Tapers, Epoxy	12.30	.50	.75	.30	.01
Spray	14.00	.50	.75	.30	.01

DECISION NO. CT82-3001	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 4					
Brush	14.60	.50	1.00	k	
Steel	16.40	.50	1.00	k	
Tapers	14.60	.50	1.00	k	
Epoxy	17.50	.50	1.00	k	
Residential	12.85	.50	1.00	k	
Spray	21.90	.50	1.00	k	
Vinyl & all wall covering	16.00	.50	1.00	k	
Area 5					
Brush	11.65	.70	1.33	.50	
Spray	12.65	.70	1.33	.50	
Steel, Swing Stage, Boatswain chair	13.314	.70	1.33	.50	
Drywall, Taper	12.45	.70	1.33	.50	
AREA 6					
Brush	13.00	.50	1.00	1	.01
Hand roller, paperhangers, swing stage	13.50	.50	1.00	1	.01
Structural Steel, polyester	14.00	.50	1.00	1	.01
Spray	17.00	.50	1.00	1	.01
Epoxy	15.00	.50	1.00	1	.01
Are 7					
Brush & Tapers	12.85	1.20	1.25		.03
Paperhangers	13.35	1.20	1.25		.03
Riding Steel, Steam-cleaning, Sandblasting, tanks, towers, & hazardous work	13.43	1.20	1.25		.03
Spray	15.85	1.20	1.25		.03
Area 8					
Brush	12.95	.80	.90		.01
Sandblasting and steam cleaning	17.14	.80	.90		.01
Paperhanging, taping	13.91	.80	.90		.01
Rollers	13.46	.80	.90		.01
Structural steel, swing stage	13.76	.80	.90		.01
Spraying oil paint	16.11	.80	.90		.01
Spraying epoxy	18.64	.80	.90		.01

AREA DESCRIPTIONS

LINE CONSTRUCTION:
Area 1: FAIRFIELD COUNTY (Darien, Greenwich, New Canaan, Stamford, & that portion of Norwalk, West of Five Mile River)
Area 2: FAIRFIELD COUNTY (Remainder of County); LITCHFIELD COUNTY; WINDHAM COUNTY

PAINTERS:
Area 1 - FAIRFIELD COUNTY (Greenwich)
Area 2: FAIRFIELD COUNTY (Bridgeport, Easton, Fairfield, Southport, Stratford & Trumbull)
Area 3: FAIRFIELD COUNTY (Darien, Stamford, New Canaan, Norwalk, Weston, Westport & Wilton)
Area 4: FAIRFIELD COUNTY (Bethel, Brookfield, Newton, Redding, Ridgefield, Sandy Hook & Sherman); LITCHFIELD COUNTY (New Milford)
Area 5: FAIRFIELD COUNTY (Byran)
Area 6: FAIRFIELD COUNTY (Monroe and Shelton)
Area 7: WINDHAM COUNTY (Willimantic & Windham); LITCHFIELD COUNTY (Remainder of County)
Area 8: WINDHAM COUNTY (Remainder of County)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
Area 1					
Plumbers	16.21	1.10	1.39		.20
Pipefitters	15.08	1.16	2.00		.13
Area 2	13.88	1.00	1.40	8%	.07
Area 3	15.44	.75	1.40	5%	.07
Area 4	15.45	.75	1.40	5%	.07
Area 5	15.80	.75	1.40	.70	.07
Area 6	15.75	.75	.80	5%	.07
Area 7	15.20	.88	1.40	n	.05
Area 8	17.17	.80	1.95	o	.10
ROOFERS:					
Area 1	14.90	1.35	.45		
Area 2					
Composition	12.05	.675	.95	.55	
Slate and tile	12.55	.675	.95	.55	

AREA DESCRIPTIONS

PLUMBERS & PIPEFITTERS:
Area 1: WINDHAM COUNTY (Windham)
Area 2: FAIRFIELD COUNTY (Greenwich)
Area 3: FAIRFIELD COUNTY (Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford & Trumbull)
Area 4: FAIRFIELD COUNTY (Georgetown, Norwalk, S. Norwalk, Weston, Westport, & Wilton)
Area 5: FAIRFIELD COUNTY (Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield & Sherman); LITCHFIELD COUNTY (Bridgewater & New Milford)
Area 6: FAIRFIELD COUNTY (Darien, New Canaan & Stamford)
Area 7: LITCHFIELD (Remainder of County)
Area 8: WINDHAM COUNTY (Remainder of County)

ROOFERS:
Area 1: FAIRFIELD COUNTY; LITCHFIELD COUNTY (Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington & Woodbury)
Area 2: WINDHAM COUNTY; LITCHFIELD COUNTY (Remainder of County)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: FAIRFIELD AND LITCHFIELD COUNTIES	13.91	9½%	7%		.03
WINDHAM COUNTY	13.24	.81	1.23		.09
SPRINKLER FITTERS	14.00	.85	1.20		.08
TILE, MARBLE & TERRAZZO FINISHERS	10.65	.50	1.00		

DECISION NO. CT82-3001

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day, G-Good Friday, H-Washington's Birthday, I-Columbus Day, J-Christmas Eve, K-Friday after Thanksgiving, L-New Year's Eve

FOOTNOTES:
a. Paid Holidays: ½ day on J & L
b. Paid Holidays: B, C, D, and G provided employee works 14 consecutive days prior to holiday
c. $100 per year
d. Paid Holidays: B, C, and D
e. Paid Holidays: ½ day on J
f. Paid Holidays: A through G
g. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit
h. Paid Holidays: A through I
i. Paid Holiday: The last 4 hours on Christmas Eve if employee has worked 5 consecutive days prior to Christmas Eve
j. Paid Holidays: A through H and a floating holiday provide employee has been employed for a period of 5 working days prior to the holiday and workd the schedule work days immediately preceding and following the holiday
k. Paid Holidays: C and D providing the employee works the day before and the day after the holiday
l. Paid Holidays: B, C, D and E providing the employee works the day before and the day after the holiday
m. Paid Holidays: Labor Day
n. Paid Holidays: B and D and one half day on G, J, and K
o. Paid Holidays: D and one half day on K

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
BUILDING CONSTRUCTION:					
Laborers, carpenter tenders, wrecking laborers	10.05	.80	1.20		.15
Jackhammer hammer operator, mason tenders, mortar mixer, pipe layers, plasterers tenders, power buggy operators, powdermen	10.30	.80	1.20		.15
Air track operators, wagon drill operators, sand blasters, blasters	10.80	.80	1.20		.15
Open air caisson, cylindrical work and boring crew:					
Bottom men	10.55	.80	1.20		.15
Top men	10.05	.80	1.20		.15
HEAVY & HIGHWAY CONSTRUCTION:					
Laborers	10.05	.80	1.20		.15
Acetylene burners; asphalt raker; chain saw operator; concrete & power buggy operators; fence & guard rail erectors; form setters; hand operated vibratory compactor operators; mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	10.30	.80	1.20		.15
Air track operators; block paver; curb setters	10.55	.80	1.20		.15
Blasters	10.80	.80	1.20		.15

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:					
Derrick, hoisting engineer 2 drums and over, hoisting structural steel, pile driver & setting stone	15.29	1.20	1.25	a	.20
Dragline forklift - over 5' lift, front end loader - 7 cy. or over, gradall, hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, motive power or operation), Koehring scooper loader and/or hoe, master mechanic, shovel & tower crane	15.14	1.20	1.25	a	.20
Maintenance engineer	15.00	1.20	1.25	a	.20
Central mix operator, Coleman loader and screening plant or similar equipment, combination hoe and loader over ¾ yd, conveyors - regardless of motive power, front end loader 3 cy. up to 7 cy. joy drill limited to joy heavy weight champion or equivalent, mucking machine, post hole digger, pumpcrete machine, rock boring machine, vibratory hammer, welder & wall digger	14.65	1.20	1.25	a	.20
Asphalt spreader	14.35	1.20	1.25	a	.20
Bulldozer, carry-all Operators, grader & scraper pan	14.26	1.20	1.25	a	.20

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Combination hoe and loader machine, concrete mixer - 5 bags and over, front end loader under 3 cy., powerstone spreader	14.20	1.20	1.25	a	.20
Fork lift not over 4' & Steam Jenny	14.05	1.20	1.25	a	.20
Mechanical Heater	12.82	1.20	1.25	a	.20
Roller	13.91	1.20	1.25	a	.20
Dinky machine, power pavement breaker	13.68	1.20	1.25	a	.20
Fireman (High Pressure	12.53	1.20	1.25	a	.20
Oiler	11.88	1.20	1.25	a	.20

Crane with boom excluding jib, over 150' - $.25 extra

Crane with boom, excluding jib, over 200' - $.50 extra

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Good Friday

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY					
Class 1	15.33	1.20	1.25	a	.20
Class 2	15.11	1.20	1.25	a	.20
Class 3	14.67	1.20	1.25	a	.20
Class 4	14.40	1.20	1.25	a	.20
Class 5	14.18	1.20	1.25	a	.20
Class 6	13.93	1.20	1.25	a	.20
Class 7	13.63	1.20	1.25	a	.20
Class 8	12.40	1.20	1.25	a	.20
Class 9	12.55	1.20	1.25	a	.20
Class 10	13.04	1.20	1.25	a	.20
Class 11	13.53	1.20	1.25	a	.20
Class 12	11.91	1.20	1.25	a	.20
Class 13	12.95	1.20	1.25	a	.20
Class 14	7.88	1.20	1.25	a	.20
Crane with 150' boom $.25 extra					
Crane with 200' boom $.50 extra					

Class 1: Erecting and handling structural steel; front end loader (7 cy. or over)
Class 2: Piledriver; power shovel and crane; dragline; gradall; trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; koehring loader (scooper) master machine
Class 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; post hole digger; well digger; & hammer (vibratory) central mix; combination hoe & loader (over ½ yd.)
Class 4: Asphalt spreader
Class 5: Front end loader (3 yds. or over); grader; power stone spreader; combination hoe and loader
Class 6: Asphalt roller; bulldozer; carryall; maintenance engineer concrete mixer (5 bags and over); welder
Class 7: Front end loader (under 3 yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine
Class 8: Compressor; pump
Class 9: Fireman (high pressure)
Class 10: Well point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; bulk cement
Class 14: Track backhoe oiler

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day Labor Day, Thanksgiving Day, Christmas Day and Good Friday

DECISION NO. CT82-3001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Class 1	10.26	1.14	1.20	a	
Class 2	10.36	1.14	1.20	a	
Class 3	10.46	1.14	1.20	a	
Class 4	10.41	1.14	1.20	a	
Class 5	10.51	1.14	1.20	a	
Class 6	10.56	1.14	1.20	a	

Class 1: Two axle trucks; helpers
Class 2: Three axle trucks; two axle ready mix
Class 3: Four axle trucks; heavy duty trailer-up to 40 tons
Class 4: Three axle ready mix
Class 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-the road trucks and semi-trailer (including Euclids)
Class 6: Heavy duty trailer-40 tons and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Good Friday

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SUPERSEDEAS DECISION

STATE: GEORGIA

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Statewide

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: BRYAN, BULLOCH, CHATHAM, EFFINGHAM, EVANS, LIBERTY, LONG, SCREVEN.
DECISION NUMBER: GA82-1002 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA79-1067, dated April 20, 1979, in 44 FR 23735.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 7.18				
BRICKLAYERS	8.00				
CARPENTERS	6.26				
CEMENT MASONS	7.20				
DRYWALL FINISHERS	9.43				
DRYWALL HANGERS	7.52				
ELECTRICIANS	7.22				
INSULATION INSTALLERS	5.09				
LABORERS:					
Unskilled	4.12				
Mason tenders	4.32				
Asphalt rakers	4.75				
PAINTERS	6.87				
PLASTERERS	7.30				
PLUMBERS & PIPEFITTERS	7.17				
ROOFERS	5.87				
SHEET METAL WORKERS	7.10				
SOFT FLOOR & CARPET LAYERS	8.22				
TILE SETTERS	8.14				
TRUCK DRIVERS	5.05				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt spreader/paver	5.90				
Backhoe	8.00				
Bulldozer	7.00				
Front end loader	6.27				
Motor grader	6.77				
Roller	5.08				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Statewide
DECISION NUMBER: MS82-1001 DATE: Date of Publication
Supersedes Decision Number MS80-1121 dated December 12, 1980 in 45 FR 81975
DESCRIPTION OF WORK: Heavy Construction (including Water & Sewer Lines) excluding all work in conjunction with the Tennessee Tombigbee Waterway Project.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$8.00				
Carpenters	6.23				
Cement Masons	4.50				
Electricians	9.84				
Ironworkers	8.15				
Laborers:					
Unskilled	3.82				
Pipelayers	4.68				
Drillers	4.95				
Painters	7.00				
Plumbers	7.81				
Power Equipment Operators:					
Backhoe	5.56				
Bulldozer	5.38				
Crane	6.61				
Dragline	5.94				
Front End Loader	5.40				
Mechanic	8.15				
Motor Grader	5.25				
Scraper	5.00				
Oiler	5.51				
Welders - receive rate for craft towhich it is incidental					

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT82-5101 DATE: Date of Publication
Supersedes Decision No. MT81-5139 dated August 7, 1981, in 46 FR 40448
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$18.84	.78	$1.45		.04
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS; MARBLE MASONS:*					
Area 1	14.20		.55		
Area 2	14.60	1.15	.55		
Area 3	16.20		.90		
Area 4	12.55	.70	.60		
Area 5	14.15		.55		
Area 6	15.45	.85	1.00		
Area 7	13.60	.90	.75		
Area 8	14.45	.90	.55		
Area 9	12.00				
CARPENTERS:*					
Area 1:					
Carpenters	12.05	.90	1.25		.06
Piledrivermen	13.05	.90	1.25		.06
Millwrights	12.30	.90	1.25		.06
Area 2:					
Carpenters	11.93	.90	1.25		.06
Piledrivermen	12.93	.90	1.25		.06
Millwrights	12.18	.90	1.25		.06
Area 3:					
Carpenters	12.52	.90	1.25		.06
Piledrivermen; Millwrights	12.77	.90	1.25		.06
Area 4:					
Carpenters	11.93	.90	1.25		.06
Piledrivermen	13.12	.90	1.25		.06
Millwrights	12.23	.90	1.25		.06
Area 5:					
Carpenters	12.08	.90	1.25		.06
Piledrivermen	12.23	.90	1.25		.06
Millwrights	13.08	.90	1.25		.06
Area 6:					
Carpenters	12.98	.90	1.25		.06
Piledrivermen; Millwrights	13.48	.90	1.25		.06
CEMENT MASONS:*					
Area 1:					
Cement Masons	13.75	1.00	.50		
Grinder, Bush Hammer and Chipping Gun, preparing finished surface, Epoxy	14.10	1.00	.50		

*See AREA Descriptions - Page 2

AREA DESCRIPTIONS

BRICKLAYERS; MARBLE MASONS:
Area 1: Beaverhead County; Jefferson County (except northern tip of County); Madison County, and Silver Bow Counties
Area 2: Gallatin and Park Counties
Area 3: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 4: Broadwater, Lewis & Clark, and Meagher Counties
Area 5: Deer Lodge, Powell, and Granite Counties
Area 6: Cascade, Chouteau, Glacier, Pondera, and Teton Counties
Area 7: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties
Area 8: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 9: Fergus, Garfield, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland Counties

CARPENTERS:
Area 1: Cascade, Chouteau, Fergus, Glacier, Judith Basin, Liberty, Meagher, Pondera, Teton, and Toole Counties
Area 2: Blaine, Broadwater, Carter, Custer, Daniels, Dawson, Fallon, Flathead, Gallatin, Hill, and Jefferson Counties; Lake County (excluding the area south of the Town of Ravalli from the point where Highways #10-A and #93 intersect, excluding the area east of the Town of Superior); Lewis & Clark, Lincoln, Madison, and McCone Counties; Mineral County (that portion lying southeast of the southeastern City limits of the Town of Superior); Park, Phillips, Powder River, Prairie, Richland, and Roosevelt Counties; Sanders County (except S. E. corner portion); Sheridan, Sweet Grass, Valley, and Wibaux Counties
Area 3: Deer Lodge and Granite Counties; Powell County (area lying south of the N.E. corner of Granite County)
Area 4: Lake County (southern area including the Town of Ravalli from the point where Highways #10-A and #93 intersect); Mineral County (area southeast of the southeastern City limits of the Town of Superior); Missoula County; Powell County (area lying north of the N. E. corner of Granite County); Ravalli County); Sanders County (southeastern portion)
Area 5: Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland, and Yellowstone Counties
Area 6: Beaverhead and Silver Bow Counties

CEMENT MASONS:
Area 1: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (Southern area including Town of Wickes); Madison County; Powell County (southern area, including Town of Deer Lodge); Silver Bow County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:* (Cont'd)					
Area 2	$11.95	.85	.40		
Area 3	12.30	1.00			
Area 4	10.00				
ELECTRICIANS:*					
Area 1	15.75	.70	3%+.50		.08
Area 2:					
Electricians	16.30	.70	3%+.75		1/2%
Cable Splicers	16.75	.70	3%+.75		1/2%
Area 3	11.47		3%		1/2%
Area 4:					
Contracts under $75,000:					
Electricians	14.45	.70	3%+.75		1/2%
Cable Splicers	15.17	.70	3%+.75		1/2%
Contracts over $75,000:					
Electricians	15.90	.70	3%+.75		1/2%
Cable Splicers	16.70	.70	3%+.75		1/2%
Area 5:					
Electricians	14.95	.70	3%+.50		1/2%
Area 6:					
Electricians	15.90	.70	3%+.75		1/2%
Cable Splicers	16.70	.70	3%+.75		1/2%
Area 7:					
Electricians	17.61	.70	3%+.50		1/2%
Cable Splicers	18.49	.70	3%+.50		1/2%
Area 8:					
Electricians	14.05	.70	3%+.50		1/2%
Cable Splicers	14.75	.70	3%+.50		1/2%
Area 9:					
Electricians	13.85	.70	3%+.50		1/2%
Cable Splicers	14.54	.70	3%+.50		1/2%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	14.865	1.345	1.085	a	.035
Helpers	10.405	1.345	1.085	a	.035
Probationary Helpers	7.43				
IRONWORKERS:*					
Area 1	14.41	1.05	1.60		.15
Area 2	16.74	1.00	2.15		.15
Area 3	14.41	1.05	1.60		.15

*See AREA DESCRIPTIONS - Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:*					
Area 1:					
Lineman, Pole Sprayer	$14.71	.45	3%+.50		1/2%
Cable Splicer	15.73	.45	3%+.50		1/2%
Line Equipment Operator; Powderman	13.00	.45	3%+.50		1/2%
Groundman	10.52	.45	3%+.50		1/2%
Area 2:					
Lineman	13.92	.45	3%+.50		1/2%
Cable Splicer	15.49	.45	3%+.50		1/2%
Pole Sprayer	12.37	.45	3%+.50		1/2%
Line Equipment Operators	11.87	.45	3%+.50		1/2%
Powderman, Jackhammerman, Compressorman	10.29	.45	3%+.50		1/2%
Groundman "A"	9.65	.45	3%+.50		1/2%
Tree Trimmer	12.83	.45	3%+.50		1/2%
PAINTERS:*					
Area 1:					
Brush, Roller; Floor Layers	11.56	.78	.50		.10
Brush, Roller on steel and roofs, Pot Tender; Paperhanger	11.81	.78	.50		.10
Perfataper (hand tools)	11.66	.78	.50		.10
Perfataper (machine tools)	12.06	.78	.50		.10
Spray (not steel)	12.54	.78	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	12.79	.78	.50		.10
Area 2:					
Brush; Preparatory work; Pot Tender; Parking Lot Striping and related work; Roller up to 9"	12.42	.69	.40		1%
Hand Taper	12.82	.69	.40		1%
Machine Taper	14.07	.69	.40		1%
Paperhanger, Brush on steel	12.92	.69	.40		1%
Roller over 9" long	16.02	.69	.40		1%
Spray and Roller (in shop)	12.78	.69	.40		1%
Spray and Roller(out shop)	14.18	.69	.40		1%

*See AREA Descriptions - Page - 5

AREA DESCRIPTIONS

CEMENT MASONS: (Cont'd)
Area 2: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties
Area 3: Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton, and Toole Counties
Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Richland, and Wibaux Counties

ELECTRICIANS:
Area 1: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, and Silver Bow Counties
Area 2: Big Horn, Carbon, Carter, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 3: Custer and Garfield Counties
Area 4: Blaine, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland Counties
Area 5: Broadwater, Lewis & Clark, and Meagher Counties
Area 6: Cascade County
Area 7: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 8: Gallatin County
Area 9: Park and Sweet Grass Counties

IRONWORKERS:
Area 1: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, and Jefferson Counties; Lewis & Clark County (the City of Wolf Creek and area south of an east-west line at that point); Madison, Park, Powell, Ravalli, and Silver Bow Counties
Area 2: Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, and Sanders Counties
Area 3: Remaining Counties (including northern half of Lewis & Clark County)

LINE CONSTRUCTION:
Area 1: Statewide, except Flathead, Lake, and Lincoln Counties
Area 2: Flathead, Lake, and Lincoln Counties

PAINTERS:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux, and Yellowstone Counties
Area 2: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2: (Cont'd)					
Water and Sandblasting; Application of cold tar products, epoxies and polyurethanes and acid resistant paints; Spraying and airless spray	$14.67	.69	.40		18
Area 3:					
Painters	10.02				
Perfataper	10.27				
Paint Mitts	10.52				
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water sandblasting and steam cleaning; Stacks and Steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet	12.80				
Area 4:					
Wet sandblasting, brush or roller; Application of cold tar epoxies, and acid resistant materials	14.08	.59	.50		.03
Brush or Roller; Prep work; Pot Tender	12.08	.59	.50		.03
Spray application of cold tar epoxies, and acid resistant materials	17.08	.59	.50		.03
Paper or Vinyl Hanger	12.08	.59	.50		.03
Structural steel; Brush or Roller	14.08	.59	.50		.03
Perfataping	12.58	.59	.50		.03
Structural Steel; Spraying	15.08	.59	.50		.03
Airless Spraying	13.08	.59	.50		.03
Area 5	10.90				
Area 6	13.67	.84	.50		.04

*See AREA Descriptions - Page 8

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$10.50	.75	.35		
Area 2	13.75	1.00	.50		
Area 3	10.95	.85	.40		
Area 4	10.00				
PLUMBERS:*					
Area 1	15.78	.75	.70		.15
Area 2	16.20	.90	1.10		.17
Area 3	16.45	.85	1.00		.10
Area 4	17.60	1.00	1.10		.20
ROOFERS; Waterproofers:*					
Area 1:					
Roofers	12.94		.25		
Kettleman	12.81		.25		
Area 2:					
Roofers	11.40	.95	.25		
Irritable bituminous Roofer, Waterproofer, Kettleman	13.40	.95	.25		
Area 3	11.32	.70	.60		
Area 4:					
Roofers	13.65	.95	.75		.10
Irritable bituminous Roofer, Waterproofer, Kettleman	15.15	.95	.75		.10
Area 5:					
Roofers	13.00	.95	.50		.10
Irritable bituminous Roofer, Waterproofer, Kettleman	15.00	.95	.50		.10
Area 6	13.50	.55			
SHEET METAL WORKERS:*					
Area 1	15.47	.83	.66		.24
Area 2	15.38	.83	.98		.24
Area 3	15.19	1.34	.98		.24
Area 4	15.19	.83	.75		.24
Area 5	14.99	.83	.98		.24
SOFT FLOOR LAYERS:*					
Area 1	12.50				
SPRINKLER FITTERS	14.81	.95	1.40		.08
TERRAZZO WORKERS & TILE SETTERS:					
Area 1	12.55		.60		
Area 2	15.00	.70	.75		
Area 3	14.45	.90	.55		
Area 4	13.60	.90	.75		
Area 5	14.45	1.00	.85		

*See AREA Descriptions - Pages 8 & 9

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six (6) Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA DESCRIPTIONS

PAINTERS: (Cont'd)
Area 3: Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg
Area 4: The entire Counties of Beaverhead, Gallatin, Park, and Silver Bow. The northern portion of Jefferson County from a line running east and west (5) miles south of the southern City limits of Boulder, Montana; The south part of Jefferson County from a line running due west from the south limits of Tosten, Montana; the southern portion of Lewis & Clark County from a line running east and west through the southern limits of Craig, Montana; the southern portion of Powell County from a line running east and west through the southern limits of Helmsville, Montana; the west part of Madison County from a line running north and south through the west limits of Harrison, Montana
Area 5: Blaine, Hill, and Liberty Counties; Chouteau County (north of the southern limits of the City of Big Sandy)
Area 6: Flathead County; Granite County (northern area north of the limits of Phillipsburg); Lake County (southern area including the City of Ronan); Lincoln, Mineral, and Missoula Counties; Powell County (northern area through south limits of Helmsville); Ravalli and Sanders Counties

PLASTERERS:
Area 1: Granite County; Lake County (southern area, including the City of Pablo); Mineral and Missoula Counties; Powell County (northern area including the City of Helmsville); Ravalli County; Sanders County (south portion, including the City of Paradise)
Area 2: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (southern area, including Town of Wickes); Madison County; Powell County (southern area, including Town of Deer Lodge); Silver Bow County
Area 3: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties
Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties

PLUMBERS:
Area 1: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties
Area 2: Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Meager, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Counties

AREA DESCRIPTIONS (Cont'd)

PLUMBERS: Cont'd)
Area 3: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis & Clark, Madison, Park, Powell, Silver Bow, and Sweet Grass Counties
Area 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux, and Yellowstone Counties

ROOFERS; Waterproofers:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 2: Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith Basin, Liberty, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties
Area 3: Deer Lodge, Powell, and Silver Bow Counties
Area 4: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties
Area 5: Lewis and Clark County
Area 6: Beaverhead, Broadwater, Gallatin, Jefferson, Madison, Meagher, Park, Sweet Grass, and Wheatland Counties

SHEET METAL WORKERS:
Area 1: Broadwater County; Jefferson County (including north half of the City of Boulder); Lewis & Clark and Meagher Counties
Area 2: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 3: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wibaux, Wheatland, and Yellowstone Counties
Area 4: Blaine, Cascade, Chouteau, Glacier, Hill, Judith Basin, Liberty, Pondera, Teton, and Toole Counties
Area 5: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (southern half); Madison, Powell, and Silver Bow Counties

SOFT FLOOR LAYERS:
Area 1: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Broadwater, Lewis & Clark, and Meagher Counties; Jefferson County (northern area north of Boulder Hill)
Area 2: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 3: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 4: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties
Area 5: Cascade, Chouteau, Glacier, Pondera, and Teton Counties

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 1:					
Group 1	$10.16	.75	.65	.30	.05
Group 2	10.36	.75	.65	.30	.05
Group 3	10.41	.75	.65	.30	.05
Group 4	10.66	.75	.65	.30	.05
Group 5	10.76	.75	.65	.30	.05
AREA 2:					
Group 1	10.29	.75	.65	.30	.05
Group 2	10.45	.75	.65	.30	.05
Group 3	10.54	.75	.65	.30	.05
Group 4	10.79	.75	.65	.30	.05
Group 5	10.89	.75	.65	.30	.05
AREA 3:					
Group 1	10.03	.75	.65	.30	.05
Group 2	10.19	.75	.65	.30	.05
Group 3	10.29	.75	.65	.30	.05
Group 4	10.53	.75	.65	.30	.05
Group 5	10.63	.75	.65	.30	.05
AREA 4:					
Group 1	10.50	.75	.65	.30	.05
Group 2	10.66	.75	.65	.30	.05
Group 3	10.75	.75	.65	.30	.05
Group 4	11.00	.75	.65	.30	.05
Group 5	11.10	.75	.65	.30	.05

AREA DESCRIPTIONS

AREA 1: Beaverhead and Deer Lodge Counties; Jefferson County (south half, excluding the City of Boulder); Madison County (west of the Gravely Mountain Range); Powell County (west of a north-south line at the west edge of the Town of Elliston); and Silver Bow County
AREA 2: Broadwater County (north of an east-west line north of the City of Tosten); Jefferson County (north half, including the City of Boulder); Lewis & Clark and Meagher Counties; Powell County (east of a north-south line at the west edge of the Town of Elliston)
AREA 3: Broadwater County (south of an east-west line north of the City of Tosten); Gallatin County; Madison County (east of the Gravely Mountain Range); Park, Sweet Grass, and Wheatland Counties
AREA 4: Cascade, Chouteau, and Fergus Counties; Glacier County (excluding Glacier National Park); Judith Basin, Pondera, Teton, and Toole Counties

LABORERS:
(AREAS 1, 2, 3, and 4)

Broadwater, Cascade, Chouteau, Deer Lodge, Fergus, Gallatin, Glacier, Jefferson, Judith Basin, Lewis & Clark, Madison, Meagher, Park, Pondera, Powell, Silver Bow, Sweet Grass, Teton, Toole, and Wheatland Counties

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketman and Signalman; Cosmoline, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer - Building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblasting Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Houseman; Tool Checker

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types); Laser Equipment Operator; Pipewrapper

Group 3: Asphalt Raker; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Cutting Torch and Air Arc Operator

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 5:					
Group 1	$10.60	.75	.65	.30	.05
Group 2	10.75	.75	.65	.30	.05
Group 3	10.90	.75	.65	.30	.05
AREA 6:					
Group 1	10.20	.75	.65	.30	.05
Group 2	10.42	.75	.65	.30	.05
Group 3	10.45	.75	.65	.30	.05
Group 4	10.75	.75	.65	.30	.05
AREA 7:					
Group 1	10.35	.75	.65	.30	.05
Group 2	10.57	.75	.65	.30	.05
Group 3	10.60	.75	.65	.30	.05
Group 4	10.75	.75	.65	.30	.05

AREA DESCRIPTIONS

AREA 5: Flathead County, and Glacier National Park; Lake County (north of a line (5) miles north of the 5th Parallel); Lincoln County; Sanders County (north of a line (5) miles north of the 5th Parallel)
AREA 6: Carter, Custer, Dawson, Fallon, Powder River, Prairie, and Wibaux Counties
AREA 7: Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure, and Yellowstone Counties

LABORERS (Cont'd)
(AREA 5)

Flathead County and Glacier National Park; Lake County (north of a line (5) miles north of the 5th Parallel); Lincoln County; Sanders County (north of a line (5) miles north of the 5th Parallel)

Group 1: General Laborers; Form Strippers; Carpenter Tender

Group 2: Concrete Handlers, conveying and handling concrete; Nozzlemen (air or water); Sand Blast Tail Hoseman; Powderman Tender ; Power driven Wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman (small air tool Operators, including Blow Pipe) Small Power Tool Operators; Rigger; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping; Pipe Wrapper; Pot Tender; Concrete Pumper Hoseman; Jackhammer; Pavement Breakers; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipe Layers (non-metallic); Metal Culvert Pipe Layer; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging open ditches; Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, cat or truck mounted air operated Drills; Sand Blaster (wet or dry); Gunite Nozzleman; Barco Tamper; Welder, Laser Equipment and tools; Cutting Torch, Equipment Man

AREAS 6 and 7
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Group 1: Axeman; Car and Truck Loaders (weighing loaded trucks); Cosmoline, applying and removing; Concrete Laborer; Chucktenders and Nippers; Crusher Laborer; Form Stripper; General Laborer; Hand Faller; Landscape Laborer; Riprap Tender; Stake Jumper

Group 2: Applicator, hand or nozzle (applying hot protective material of oil or asphalt base); Asphalt Raker; Barco Tamper; Caulker, Collarman, Jointer, Mortarman; Cement Handler (sack or bulk); Choker Setter; Concrete and Asphalt Saws; Concrete Bucketman; Creosote Material Handler; Curb Machine; Dumpman, Grademan; Dumpman, Spotter; Equipment Handler (trucks, Bobcats); Form Setters; Gunite, Pumpcrete and Placo Machine Operator; Machine Operator; Jackhammer Operator; Mechanical Tampers; Laser Beam Operator; Pipelayers (all types); Plastic Pipe Layer; Pavement Breaker Operator; Pneumatic and electric tool Operator; Pipe Wrapper; Powderman Tender, Primerhouseman; Power-driven Wheelbarrow; Power Saw (bucking and falling); Rip Wrapper (hand placed); Rodder and Spreader; Shoring and Lagging (open ditch); Tar Pot Operator

Group 3: Air Track mounted drills; Air Cat mounted Drills; Cat or truck mounted drills; Core Drill Operator; High Scaler; Mobile Drills; Nozzleman, concrete (outside); Powderman; Riggers and Jackers; Wagon Drillers

Group 4: Tenders, Trowel Trades (scaffolding, staging, forklifts for Masons and Plasterers)

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 8:					
Group 1	$10.57	.75	.65	.30	.05
Group 2	10.82	.75	.65	.30	.05
Group 3	10.97	.75	.65	.30	.05
AREA 9:					
Group 1	10.50	.75	.65	.30	.05
Group 2	10.75	.75	.65	.30	.05
Group 3	10.85	.75	.65	.30	.05
Group 4	10.90	.75	.65	.30	.05
Group 5	11.00	.75	.65	.30	.05
Group 6	11.22	.75	.65	.30	.05

AREA DESCRIPTIONS

AREA 8: Granite County (western portion); Lake County (south of a line (5) miles north of the 5th Parallel); Mineral, Missoula, and Ravalli Counties; Sanders County (south of a line (5) miles north of the 5th Parallel)
AREA 9: Blaine, Daniels, Garfield, Hill, Liberty, Petroleum, Phillips, Richland, Roosevelt, Sheridan, and Valley Counties

LABORERS: (Cont'd)
AREA 8

Granite County (western portion); Lake County (south of a line (5) miles north of the 5th Parallel); Mineral, Missoula, and Ravalli Counties; Sanders county (south of a line (5) miles north of the 5th Parallel)

Group 1: General Laborers; Form Strippers; Carpenter Tenders; Concrete Handler, conveying and handling concrete

Group 2: Nozzleman (air or water); Sand Blast Tailhoseman; Powderman Tender; Power driven Wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman; Rigger; Small Air Tool Operators, including Blow Pipes; Small power tool Operators; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping; Pipe Wrapper; Pot Tenders; Concrete Pumper Hoseman; Cutting Torch; Jackhammer; Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipelayers (non-metallic); Metal Culvert Pipelayers; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging Open Ditches; Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, Cat or Truck mounted air operated Drills; Laser Equipment and Tool, Welder; Sand Blaster (wet or dry); Gunnitemen; Barco Tamper

AREA 9
Blaine, Daniels, Garfield, Hill, Liberty, Petroleum, Phillips, Richland, Roosevelt, Sheridan, and Valley counties

Group 1: General and Building Laborers and Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (Spotter); Small power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers includes installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers

Group 2: Dumpmen (Grade)

Group 3: Power driven Concrete Buggies or power driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzleman, Placo Operator, Jackhammer, Pavement Breaker, Vibrator (2½" and over); Darco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, Tar Pot Tender; Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang, Pot Tender; Chuck Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders handling bricks and blocks only

Group 5: Hod Carriers and Plaster Tenders (men carrying mortar either by hod, pail or barrow); High Scaler; Wagon Driller, Cat or truck mounted air operated Drills; Asphalt Rakers and Tampers, Gunite, Form Setter (slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powdermen; Laser Tools and Equipment; Small Concrete Mixers; Concrete Saw

POWER EQUIPMENT OPERATORS: Broadwater, Flathead, Lake, Lewis & Clark, Lincoln, Mineral, Missoula, Northern half of Powell, Ravalli and Sanders Counties:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$12.80	.97	.85	.50	.10
Air Compressor, single	12.49	.97	.85	.50	.10
Air compressor, two or more	12.66	.97	.85	.50	.10
Air Doctor	12.96	.97	.85	.50	.10
Asphalt Paving Machine Operator	12.96	.97	.85	.50	.10
Asphalt Paving Machine Screed Operator	12.96	.97	.85	.50	.10
Automatic Finegrader, Gurries and other similar types	13.09	.97	.85	.50	.10
Belt Finish Machine Operator	12.66	.97	.85	.50	.10
Bit Grinder	12.96	.97	.85	.50	.10
Bituminous Mixer Paving, Travel Plant	12.96	.97	.85	.50	.10
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	12.55	.97	.85	.50	.10
Boring Machine (large)	12.96	.97	.85	.50	.10
Broom, self-propelled	12.63	.97	.85	.50	.10
Cableway Highline Operator	13.47	.97	.85	.50	.10
Cement Silo Operator	12.75	.97	.85	.50	.10
Central Mixing Plants, Concrete dam and stationary	13.21	.97	.85	.50	.10
Chain Bucket Loader	12.68	.97	.85	.50	.10
Chip or Gravel Spreader, self-propelled	12.68	.97	.85	.50	.10
Concrete Batch Plant, one and two Mixers	12.96	.97	.85	.50	.10
Concrete Batch Plant, three and four Mixers	13.16	.97	.85	.50	.10
Concrete Batch Plant, five Mixers and over	13.36	.97	.85	.50	.10
Concrete Batch Plant Oiler, up to and including two Mixers	12.48	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Batch Plant Oiler, three Mixers and over	$12.79	.97	.85	.50	.10
Concrete Bucket Dispatcher	12.96	.97	.85	.50	.10
Concrete Curing Machine	12.96	.97	.85	.50	.10
Concrete Finish Machine Paving	12.96	.97	.85	.50	.10
Concrete Float-Spreader	12.96	.97	.85	.50	.10
Concrete Mixer, three bags and under	12.55	.97	.85	.50	.10
Concrete Mixer, four bags and over	12.72	.97	.85	.50	.10
Concrete Power Saw, self-propelled	12.96	.97	.85	.50	.10
Concrete Travel Batcher	12.96	.97	.85	.50	.10
Concrete Conveyor under 40 feet	12.54	.97	.85	.50	.10
Concrete Conveyor over 40 feet	13.29	.97	.85	.50	.10
Concrete Pump	13.29	.97	.85	.50	.10
Conveyor Loader Operator, up to and including 42' belt	12.54	.97	.85	.50	.10
Conveyor Loader Operator over 42' belt	12.66	.97	.85	.50	.10
Crane, to and including 80' boom	13.12	.97	.85	.50	.10
Crane, 81' to 130' boom	13.27	.97	.85	.50	.10
Crane, 131' to 150' boom	13.32	.97	.85	.50	.10
Crane, 151' boom and over	13.37	.97	.85	.50	.10
Crane Oiler	12.53	.97	.85	.50	.10
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.96	.97	.85	.50	.10
Crusher Oiler	12.45	.97	.85	.50	.10
Crusher Conveyor, when required	12.42	.97	.85	.50	.10
Distributor Operator	12.96	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DW 10, 15, or 20 tractor pulling Roller	$12.68	.97	.85	.50	.10
Electric Overhead Cranes	13.14	.97	.85	.50	.10
Elevating Grader	12.96	.97	.85	.50	.10
Farm type tractor up to and including 50 HP engine	12.42	.97	.85	.50	.10
Farm Type tractor, over 50 HP engine	12.50	.97	.85	.50	.10
Fireman	12.55	.97	.85	.50	.10
Forklift, on construction job site	12.77	.97	.85	.50	.10
Form Grader Operator	12.73	.97	.85	.50	.10
Gradall Operator	12.96	.97	.85	.50	.10
Grade Setter	12.42	.97	.85	.50	.10
Heavy Duty Drills, all types	12.96	.97	.85	.50	.10
Herman-Nelson Heaters and similar type	12.50	.97	.85	.50	.10
Hoist Operator, single drum	12.73	.97	.85	.50	.10
Hoist, two or more drums	12.96	.97	.85	.50	.10
Helicopter Hoist Operator	13.46	.97	.85	.50	.10
Hot Plant Operator	12.96	.97	.85	.50	.10
Hot Plant Fireman, when in operation	12.96	.97	.85	.50	.10
Hot Plant Oiler, 100 ton per hour or over	12.45	.97	.85	.50	.10
Hydra Lift and similar types	12.86	.97	.85	.50	.10
Industrial Locomotive all classes	12.96	.97	.85	.50	.10
Mechanic and/or Welder on job	13.06	.97	.85	.50	.10
Mechanic Shop (Dec. - April 1)	12.66	.97	.85	.50	.10
Mixermobile	13.04	.97	.85	.50	.10
Motor Patrol Operator	13.09	.97	.85	.50	.10
Mountain Logger or similar type	12.96	.97	.85	.50	.10
Mucking Machine Operator	12.96	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Driver, Rubber tired Cranes	$12.53	.97	.85	.50	.10
Oiler, other than Shovels and Cranes	12.45	.97	.85	.50	.10
Oiler, Hoist House, dams	12.86	.97	.85	.50	.10
Pavement Breakers, Emsco and similar	12.96	.97	.85	.50	.10
Paving and Mixing Machine	13.09	.97	.85	.50	.10
Power Auger, large truck or tractor mounted and Punch	12.96	.97	.85	.50	.10
Power Mixer, single or double drum	12.96	.97	.85	.50	.10
Power Saw, multiple cut, self-propelled	12.96	.97	.85	.50	.10
Pumpcrete or Grout Machine	12.96	.97	.85	.50	.10
Pumpman	12.49	.97	.85	.50	.10
Push Tractor	12.96	.97	.85	.50	.10
Quad Cat	13.26	.97	.85	.50	.10
Quad Loader and similar type	13.54	.97	.85	.50	.10
Radiator Repairman	12.77	.97	.85	.50	.10
Raygo Gaint	13.54	.97	.85	.50	.10
Refrigeration Plant Operator	12.96	.97	.85	.50	.10
Retort Operator	12.55	.97	.85	.50	.10
Roller, on blade or hot mix oil paving	12.96	.97	.85	.50	.10
Roller, on other blade or hot mix paving	12.66	.97	.85	.50	.10
Roller, 25 ton or over	12.96	.97	.85	.50	.10
Ross and similar type Carriers, on construction site	12.96	.97	.85	.50	.10
Rubber-tired Dozer	12.96	.97	.85	.50	.10
Rubber-tired Front End Loader, 1 cu. yd. and under	12.67	.97	.85	.50	.10
Rubber-tired Front End Loader, 1 cu. yd. to and including 3 cu. yds.	12.96	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, over 3 cu. yds. to and including 5 cu. yds.	$13.08	.97	.85	.50	.10
Rubber-tired Front End Loader, over 5 cu. yds. to and including 10 cu. yds.	13.18	.97	.85	.50	.10
Rubber-tired Front End Loader, over 10 cu. yds. to and including 15 cu. yds.	13.28	.97	.85	.50	.10
Rubber-tired Front End Loader, over 15 cu. yds.	13.38	.97	.85	.50	.10
Scraper, DW 15, 20, 21 and similar type if power unit is not used	12.96	.97	.85	.50	.10
Scraper, single or twin engine pulling Belly Dump Trailer	13.34	.97	.85	.50	.10
Scraper, single engine	13.09	.97	.85	.50	.10
Scraper, twin engine	13.19	.97	.85	.50	.10
Scraper, tandem engine or 3 engine	13.45	.97	.85	.50	.10
Self-propelled Sheepfoot and similar type	12.96	.97	.85	.50	.10
Shovels, including all attachments, under 1 cu. yd.	12.96	.97	.85	.50	.10
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	13.14	.97	.85	.50	.10
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	13.41	.97	.85	.50	.10
Shovels, including all attachments over 5 cu. yds.	13.54	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Shovel Oiler, 3 cu. yds. and under	$12.45	.97	.85	.50	.10
Shovel Oiler, over 3 cu. yds.	12.86	.97	.85	.50	.10
Slip Form Paver Operator	13.09	.97	.85	.50	.10
Stiff Leg Derrick and Guy Derrick	13.41	.97	.85	.50	.10
Track-type Front End Loaders, up to and including 5 cu. yds.	12.96	.97	.85	.50	.10
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	13.19	.97	.85	.50	.10
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	13.29	.97	.85	.50	.10
Track-type Front End Loaders, over 15 cu. yds.	13.39	.97	.85	.50	.10
Track-type Tractor w/wo attachments	12.96	.97	.85	.50	.10
Track-type Tractor, on Euclid Loader	13.14	.97	.85	.50	.10
Trenching Machine	12.96	.97	.85	.50	.10
Turnhead Conveyor, or Head Tower on Batch Plant	12.96	.97	.85	.50	.10
Wagner Roller and similar type	12.96	.97	.85	.50	.10
Whirley Crane Operator	13.49	.97	.85	.50	.10
Whirley Crane Oiler	12.86	.97	.85	.50	.10
Water Pull when used for compaction	12.96	.97	.85	.50	.10
Washing and Screening Plant Operator	12.96	.97	.85	.50	.10
Washing and Screening Plant Oiler	12.45	.97	.85	.50	.10
Yo-Yo Cat, both ends	13.16	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Big Horn, Carbon, Carter, Custer, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties:					
A-Frame Truck Crane Operator	$12.71	.97	.85	.50	.10
Air Compressor Operator, single	12.45	.97	.85	.50	.10
Asphalt Paving Machine Operator	12.96	.97	.85	.50	.10
Air Doctor	12.96	.97	.85	.50	.10
Belt Finishing Operator	12.63	.97	.85	.50	.10
Bit Grinder	12.96	.97	.85	.50	.10
Bituminous Mixer Operator	12.96	.97	.85	.50	.10
Bulldozer Operator	12.96	.97	.85	.50	.10
Boring Machine Operator, small	12.52	.97	.85	.50	.10
Boring Machine Operator, large	12.96	.97	.85	.50	.10
Cableway Operator	13.48	.97	.85	.50	.10
Cement Silo Operator	12.73	.97	.85	.50	.10
Concrete Batch Plant Operator	12.85	.97	.85	.50	.10
Concrete Finish Machine, paving	12.96	.97	.85	.50	.10
Concrete Float Operator and Spreader	12.96	.97	.85	.50	.10
Conveyor Operator	12.66	.97	.85	.50	.10
Chip and Gravel Spreader	12.66	.97	.85	.50	.10
Crane Operator, to and including 80' boom	13.12	.97	.85	.50	.10
Crane Operator, 81' to 130' boom	13.27	.97	.85	.50	.10
Crane Operator, 131' to 150' boom	13.32	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Big Horn, Carbon, Carter, Custer, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties:					
Crane Operator, 151' to 180' boom	$13.42	.97	.85	.50	.10
Crane Operator, 181' to 200' boom	13.52	.97	.85	.50	.10
Crane Operator, 201' to 250' boom	13.62	.97	.85	.50	.10
Crane Operator, 251' to 300' boom	13.72	.97	.85	.50	.10
Crane Operator, 301' to 350' boom	13.82	.97	.85	.50	.10
Crane Operator, 351' to 400' boom	13.92	.97	.85	.50	.10
Crane Operator, 401' to 450' boom	14.02	.97	.85	.50	.10
Crane Operator, 451' to 500' boom	14.12	.97	.85	.50	.10
Crane Operator, 501' to 550' boom	14.22	.97	.85	.50	.10
Crane Operator, 551' to 600' boom	14.32	.97	.85	.50	.10
Crane Operator, 601' to 650' boom	14.42	.97	.85	.50	.10
Crane Operator, 651' to 700' boom	14.52	.97	.85	.50	.10
Crane Operator, 701' to 750' boom	14.62	.97	.85	.50	.10
Crane Operator, 751' to 800' boom	14.72	.97	.85	.50	.10
Crane Operator, 801' to 850' boom	14.82	.97	.85	.50	.10
Crane Operator, 851' to 900' boom	14.92	.97	.85	.50	.10
Crane Operator, 901' to 950' boom	15.02	.97	.85	.50	.10
Crane Operator, 951' to 1000' boom	15.12	.97	.85	.50	.10
Crane Operator, 1001' to 1050' boom	15.22	.97	.85	.50	.10
Crane Operator, 1051' to 1100' boom	15.32	.97	.85	.50	.10
Crane Operator, 1101' to 1150' boom	15.42	.97	.85	.50	.10
Crane Operator, 1151' to 1200' boom	15.52	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Big Horn, Carbon, Carter, Custer, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties:					
Crane Operator, 1201' to 1250' boom	$15.62	.97	.85	.50	.10
Crane Operator, 1251' to 1300' boom	15.72	.97	.85	.50	.10
Crane Operator, 1301' to 1350' boom	15.82	.97	.85	.50	.10
Crane Operator, 1351' to 1400' boom	15.92	.97	.85	.50	.10
Crane Operator, 1401' to 1450' boom	16.02	.97	.85	.50	.10
Crane Operator, 1451' to 1500' boom	16.12	.97	.85	.50	.10
Crane Operator, 1501' to 1550' boom	16.22	.97	.85	.50	.10
Crane Operator, 1551' to 1600' boom	16.32	.97	.85	.50	.10
Crane Operator, 1601' to 1650' boom	16.42	.97	.85	.50	.10
Crane Operator, 1651' to 1700' boom	16.52	.97	.85	.50	.10
Crane Operator, 1701' to 1750' boom	16.62	.97	.85	.50	.10
Crane Operator, 1751' to 1800' boom	16.72	.97	.85	.50	.10
Crane Operator, 1801' to 1850' boom	16.82	.97	.85	.50	.10
Crane Operator, 1851' to 1900' boom	16.92	.97	.85	.50	.10
Crane Operator, 1901' to 1950' boom	17.02	.97	.85	.50	.10
Crane Operator, 1951' to 2000' boom	17.12	.97	.85	.50	.10
Crane Operator, 2001' to 2050' boom	17.22	.97	.85	.50	.10
Crane Operator, 2051' to 2100' boom	17.32	.97	.85	.50	.10
Crane Operator, 2101' to 2150' boom	17.42	.97	.85	.50	.10
Crane Operator, 2151' to 2200' boom	17.52	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Crane Operator, 151' to 170' boom (an additional $0.05 per hour is added for each 20' of boom) All Cranes with jibs, an additional $0.25 per hour is added to above Crane rates.	$13.37	.97	.85	.50	.10
Crane Oiler-Driver, rubber tired	12.51	.97	.85	.50	.10
Electric Overhead Crane Operator	13.15	.97	.85	.50	.10
Crusher and/or Screening Plant Operator, portable	12.96	.97	.85	.50	.10
Crusher and/or Screening Plant Tender, if over 2 units	12.45	.97	.85	.50	.10
Crusher and/or Screening Plant Operator, Stationary	12.85	.97	.85	.50	.10
Distributor Operator	12.96	.97	.85	.50	.10
Drilling Machine Operator, does not include Jackhammer, Wagon Driller, Waterliner	12.86	.97	.85	.50	.10
Euclid Loader and similar type	13.15	.97	.85	.50	.10
Tractor, rubber-tired, Industrial	12.40	.97	.85	.50	.10
Elevating Grader	12.96	.97	.85	.50	.10
Fireman	12.52	.97	.85	.50	.10
Fork Lift on construction site	13.75	.97	.85	.50	.10
Front End Loader, rubber-tired, under 1 yard	12.65	.97	.85	.50	.10
Front End Loader, 1 yard and including 3 yards	12.96	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Front End Loader, rubber-tired, over 3 yards and including 5 yards	$13.09	.97	.85	.50	.10
Front End Loader, rubber-tired, over 5 yards and including 10 yards	13.19	.97	.85	.50	.10
Front End Loader, rubber-tired, over 10 yards and including 15 yards	13.29	.97	.85	.50	.10
Front End Loader, rubber-tired, over 15 yards (factory struck rating, not to include sideboards)	13.39	.97	.85	.50	.10
Grade Setter	12.42	.97	.85	.50	.10
Heavy Duty Drills-Rotary-Quarry Master	12.96	.97	.85	.50	.10
Heavy Duty Rotary Drill Tender	12.41	.97	.85	.50	.10
Helicopter Hoist Operator	13.46	.97	.85	.50	.10
Herman Nelson Heaters and similar type	12.42	.97	.85	.50	.10
Hoist Operator, single drum	12.71	.97	.85	.50	.10
Hoist Operator, two or more drums	12.96	.97	.85	.50	.10
Hot Plant Operator	12.96	.97	.85	.50	.10
Hot Plant Fireman	12.96	.97	.85	.50	.10
Industrial Locomotive	12.96	.97	.85	.50	.10
LeTourneau Operator, single and similar type	13.09	.97	.85	.50	.10
LeTourneau Operator, Tandem and similar type	13.26	.97	.85	.50	.10
Loaders, Barber Green and similar types	12.60	.97	.85	.50	.10
Mechanic and/or Welder on job	13.06	.97	.85	.50	.10
Mechanic and/or Welder Tender	12.41	.97	.85	.50	.10
Mixer Operator, Concrete, 3 bags or under	12.52	.97	.85	.50	.10
Mixer Operator, Concrete, 4 bags or over	12.77	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mixermobile	$13.05	.97	.85	.50	.10
Motor Patrol Operator	13.09	.97	.85	.50	.10
Mucking Machine Operator	12.96	.97	.85	.50	.10
Oiler	12.41	.97	.85	.50	.10
Pavement Breaker, Emsco and similar type	12.96	.97	.85	.50	.10
Paver Mixer Operator	12.96	.97	.85	.50	.10
Power Saw Operator, self-propelled, multiple cut	12.96	.97	.85	.50	.10
Pumpcrete or Grout Machine Operator	12.96	.97	.85	.50	.10
Pumpman	12.46	.97	.85	.50	.10
Quad Cat	13.26	.97	.85	.50	.10
Retort Operator	12.52	.97	.85	.50	.10
Roller Operator, grade or finish	12.65	.97	.85	.50	.10
Roller Operator, finish high type pavement	12.96	.97	.85	.50	.10
Ross and similar type Carriers, on construction site	12.96	.97	.85	.50	.10
Roller, 25 ton or over	12.96	.97	.85	.50	.10
Screed Operator	12.96	.97	.85	.50	.10
Shovels, including all attachments under 1 yard	12.96	.97	.85	.50	.10
Shovels, including all attachments 1 yard to and including 4 yards	13.15	.97	.85	.50	.10
Shovels, over 4 yards	13.45	.97	.85	.50	.10
Shovel Oiler for shovel over 4 yards ($.05 per hour under Shovel Operator)					
Stiff Leg and Guy Derrick Operator	13.45	.97	.85	.50	.10
Tournapull, DW 20, 21, and similar type	13.15	.97	.85	.50	.10
Scraper, twin engine	13.19	.97	.85	.50	.10
Scraper, Tandem, 3 engine	13.45	.97	.85	.50	.10

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track type Tractor, with or without attachments including Track-type Loader, Front end up to and including 5 yards	$12.96	.97	.85	.50	.10
Track type Front End Loaders, over 5 yards to and including 10 yards	13.19	.97	.85	.50	.10
Track type Front End Loaders, over 10 yards to and including 15 yards	13.29	.97	.85	.50	.10
Track type Front End Loaders, over 15 yards	13.39	.97	.85	.50	.10
Traxcavator, and Athey type Loader	12.96	.97	.85	.50	.10
Trench Machine Operator	12.90	.97	.85	.50	.10
Wagner Roller and similar type	12.96	.97	.85	.50	.10
Winch Truck Operator with Hydraulic Boom	12.86	.97	.85	.50	.10
Tower Crane	13.45	.97	.85	.50	.10
Automatic Finegrader, Gurries and similar type	13.09	.97	.85	.50	.10
Concrete Conveyor, under 40'	12.54	.97	.85	.50	.10
Concrete Conveyor, over 40'	13.29	.97	.85	.50	.10
Concrete Pump	13.29	.97	.85	.50	.10
Raygo Giant	13.54	.97	.85	.50	.10
Quad Loader and similar type	13.54	.97	.85	.50	.10
Leadman: $0.25 per hour above highest paid Operator					

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Welder, Combination Welder and Pipelayer	$13.05	.97	.85	.50	.10
Welder, Underground	13.09	.97	.85	.50	.10
Welder, Underground, Combination Welder and Pipelayer	13.09	.97	.85	.50	.10
Welder, Underground, Combination Welder and Pipelayer, Welding Certificate	13.09	.97	.85	.50	.10
Welder, Underground, Welding Certificate	13.09	.97	.85	.50	.10
Welder, Welding Certificate	13.05	.97	.85	.50	.10
Well Driller	13.09	.97	.85	.50	.10
Well Driller, Helper	12.41	.97	.85	.50	.10
Work Boat Operator	13.09	.97	.85	.50	.10
Yo Yo Operator	12.96	.97	.85	.50	.10
TRUCK DRIVERS:					
Dump Truck, 4 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 4 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, 5 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 5 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, 6 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 6 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, 7 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 7 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, 8 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 8 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, 9 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 9 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, 10 axle, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, 10 axle, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, Articulated, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, Articulated, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, Euclid and similar type, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, Euclid and similar type, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, Euclid and similar type, 16 cubic yards and under, Articulated	12.96	.97	.85	.50	.10
Dump Truck, Euclid and similar type, over 16 cubic yards, Articulated	13.09	.97	.85	.50	.10
Dump Truck, Euclid and similar type, 16 cubic yards and under, Articulated, Tandem	12.96	.97	.85	.50	.10
Dump Truck, Euclid and similar type, over 16 cubic yards, Articulated, Tandem	13.09	.97	.85	.50	.10
Dump Truck, Euclid and similar type, 16 cubic yards and under, Tandem	12.96	.97	.85	.50	.10
Dump Truck, Euclid and similar type, over 16 cubic yards, Tandem	13.09	.97	.85	.50	.10
Dump Truck, Tandem, 16 cubic yards and under	12.96	.97	.85	.50	.10
Dump Truck, Tandem, over 16 cubic yards	13.09	.97	.85	.50	.10
Dump Truck, Tandem, 16 cubic yards and under, Articulated	12.96	.97	.85	.50	.10
Dump Truck, Tandem, over 16 cubic yards, Articulated	13.09	.97	.85	.50	.10
Dump Truck, Tandem, 16 cubic yards and under, Articulated, Tandem	12.96	.97	.85	.50	.10
Dump Truck, Tandem, over 16 cubic yards, Articulated, Tandem	13.09	.97	.85	.50	.10
Dump Truck, Tandem, 16 cubic yards and under, Tandem	12.96	.97	.85	.50	.10
Dump Truck, Tandem, over 16 cubic yards, Tandem	13.09	.97	.85	.50	.10
Dump Truck, Tandem, 16 cubic yards and under, Articulated, Tandem, Articulated	12.96	.97	.85	.50	.10
Dump Truck, Tandem, over 16 cubic yards, Articulated, Tandem, Articulated	13.09	.97	.85	.50	.10
Dump Truck, Tandem, 16 cubic yards and under, Tandem, Articulated	12.96	.97	.85	.50	.10
Dump Truck, Tandem, over 16 cubic yards, Tandem

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: Statewide, except Gallatin, Park, Sweet Grass, Broadwater (south of U.S. Highway #12) Counties:					
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.05 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.00	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.05	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.90	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd) Broadwater County (south of U.S. Highway #12); Gallatin, Park, and Sweet Grass Counties					
DUMP TRUCKS:					
7 yards or less	$10.43	$1.23	.61		
Over 7 yards to and including 10 yards	10.68	1.23	.61		
Over 10 yards to and including 15 yards	10.84	1.23	.61		
Over 15 yards to and including 20 yards	10.98	1.23	.61		
PICKUP DRIVEN, hauling materials	10.43	1.23	.61		
FLAT TRUCKS:					
Less than 2-ton factory rating	10.43	1.23	.61		
2 - 5 tons	10.58	1.23	.61		
5 - 8 tons	10.68	1.23	.61		
SEMI and 4-WHEEL TRAILERS	10.68	1.23	.61		
SERVICE TRUCKS and A-FRAME TRAILERS	10.43	1.23	.61		
HOUSE MOVERS	10.52	1.23	.61		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Lane, Linn, and Marion

DECISION NUMBER: ORS2-5102 DATE: Date of Publication

Supersedes Decision No. ORS0-5109 dated March 14, 1980 in 45 FR 16810

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS:					
Lane and Linn Counties	$13.85	$ .95	$1.00		.12
Marion County	14.26	.95	1.00		.15
CARPENTERS	8.70				
ELECTRICIANS:					
Lane County (western part)	15.45	.90	3%+2.00		.04
Lane County (eastern part), Linn and Marion Counties	18.05	.90	3%+2.00		.06
LABORERS	6.50				
PAINTERS:					
Painters	10.82	.55	.70		.10
Tapers	11.42	.55	.70		.10
PLUMBERS:					
Linn (northern half) and Marion Counties	12.18	1.60			.12
Lane County (except the City of Florence) and southern half of Linn County	11.00	1.54			.21
POWER EQUIPMENT OPERATORS:					
Asphalt Roller	10.96	1.00	1.21	.50	.05
Blade, Finish	11.34	1.00	1.21	.50	.05
Loader, 4 cu. yds. or less	11.12	1.00	1.21	.50	.05
ROOFERS	9.00				
SHEET METAL WORKERS:					
Lane County	13.715	.71	.60		.045
Linn and Marion Counties	14.24	3%+.98	1.28	1.00	.08
SOFT FLOOR LAYERS	10.435	.50	.90	*	.08
TRUCK DRIVERS:					
Dump Trucks under 6 cu. yds.	10.30	.68	.70	.88	.05

*FOOTNOTE:

SOFT FLOOR LAYERS:

4% of all gross wages to be paid to the credit of employees with less than one year of service; 6% of all gross wages to be placed to the credit of employees with more than one year of service.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5 (a)(1)(ii)

[FR Doc. 82-2808 Filed 2-4-82; 8:45 am]

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federal register

Friday
February 5, 1982

Part III

Department of Health and Human Services

Social Security Administration

Aid To Families With Dependent Children; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Parts 205, 206, 232, 233, 234, 235, 238 and 239

Aid to Families With Dependent Children

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations implement changes made in the Aid to Families With Dependent Children (AFDC) program by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). The statutory changes are generally effective October 1, 1981. The key provisions fall within four basic areas, as follows:

(1) Enable families to move from welfare dependency to job-based self-sufficiency by providing States flexibility to develop work alternatives, including community work experience, provision of jobs instead of welfare, and by letting each State agency, if it so requests, demonstrate its own work incentive (WIN) program.

(2) Target assistance to the neediest by:

—Setting a total income limit of 150 percent of the State's need standard; and

—Standardizing and changing the sequence of the earned income disregards by allowing a standard $75 disregard, actual child care costs up to $160 per child, then $30, then one-third of the remainder. The $30 and one-third disregards will be applied only to the first 4 consecutive months in which they occur.

(3) In calculating need, count existing sources of income which are available to families but which were previously excluded by:

—Counting the income of a stepparent, after appropriate disregards, to determine the need of stepchild(ren) with whom he or she is living;

—Allowing States to count the value of Food Stamps and housing subsidies an AFDC family receives to the extent this value is duplicated by money for food and housing in the AFDC payment;

—Assuming on an ongoing basis receipt of the advance earned income credit (EIC) for those eligible to receive it;

—Counting nonrecurring income in excess of the State's need standard as available to meet future needs; and

—Treating resources (excluding the home and a reasonably valued car, and at State option certain basic items essential to day-to-day living) in excess of $1,000 equity value (or a lower State-set limit) as available to meet needs, thereby making the family ineligible.

(4) Improve program administration through requiring:

—Retrospective accounting and monthly recipient reporting;

—Recovery of all overpayments and payment of underpayments to current recipients; and

—Elimination of payments to those eligible for amounts less than $10.

Changes made by these final regulations are limited to the AFDC program and do not affect the adult financial assistance programs in the territories.

EFFECTIVE DATE: These final regulations interpret the statutory changes required by Pub. L. 97–35 and were effective on October 1, 1981, except § 233.20 which contains information collection requirements subject to OMB approval.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Siegel, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20201, (202) 245–2141.

SUPPLEMENTARY INFORMATION:

Timing and Form of Regulations

On September 21, 1981, we published interim final regulations for the Aid to Families with Dependent Children Program. (See Volume 46 of the **Federal Register**, pages 46750–46773.) In accordance with section 2321 of Pub. L. 97–35, these interim final regulations were effective on October 1, 1981, except where the State welfare agency satisfactorily demonstrated to the Secretary that legal barriers under State law prevented its compliance on that date. In such case, the Secretary, after review, could waive the effective date for one or more provisions with legal impediments until no later than the first month beginning after the close of the next session (of any sort) of the State legislature.

Regulatory Burden

Regulatory Impact Analysis

These regulations may have an annual effect on the economy of more than $100 million. They may, therefore, be "major rules" as defined in Executive Order 12291, and require a regulatory impact analysis. Such analysis must contain a description of potential benefits and costs and net benefits of the rule (including those that cannot be put into monetary terms) and a description of alternative approaches and their potential costs and benefits. For the reasons stated below, we have not written a separate analysis but instead have incorporated it into the preamble on a section-by-section basis.

The statutory changes which these regulations implement are projected to save the Federal government more than $6 billion, and State and local governments more than $5 billion, over the next five years. These savings arise primarily from retargeting scarce resources on these most in need and restricting eligibility to the truly needy.

These reforms will have effects both on AFDC recipients and on the economy as a whole. Their aim is fair allocation of scarce resources among the most needy; cost savings through more efficient program administration, and increased opportunities for work that will be of value both to the recipients and their communities. These statutory changes represent, in the best judgment of the legislative and executive branches of the Federal government, the kinds of reductions of cost and retargeting of benefits that will be the most productive for both recipients and taxpayers.

To effect these savings, the statute contains numerous provisions affecting the AFDC program. The provisions with the greatest fiscal effects on Federal and State budgets and on recipients leave little regulatory latitude. For example, receipt of the $30 and one-third disregard is statutorily limited to four consecutive months; work expense deductions are standardized at $75 for full-time employment.

For the most part, therefore, the economic effects of these changes are not created or caused by these regulations. There are, however, several provisions of these regulations which result in substantial costs. Although these costs may not meet the criteria for a major rule, we have voluntarily prepared a regulatory impact analysis.

Because of the above considerations, this regulatory impact analysis is limited in scope. For purposes of the regulatory impact analysis, there were two areas in the legislation in which there are both regulatory latitude and the effects of adopting different options could significantly impact on costs and benefits—Determination of Resources and, the Community Work Experience Program. We have focused the regulatory impact analysis on the major decisions which were made in these two areas of the regulation. Overall economic effects of adopting different alternatives are small in comparison to the projected economic effects of the statutory changes as a whole. Furthermore, the available information

on costs that are expressible in monetary terms is limited to costs to Federal, State and local governments. Because of these limitations, it seems preferable not to prepare a separate analysis, but instead to expand discussions of non-selected options, which would be required independently of whether an impact analysis was undertaken, into cost/benefit tradeoffs as far as this is possible.

The Secretary, with the concurrence of the General Counsel, has determined in accordance with Executive Order 12291, that these regulations are clearly within the authority delegated by law and are consistent with Congressional intent.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each particular rule with a "significant impact on a substantial number of small entities" (e.g., small businesses), we must publish an initial analysis describing the rule's impact on small business. This analysis should indicate the purpose and reason for the rule, the number of small businesses to which it would apply, anticipated reporting and recordkeeping requirements, possible overlap and conflict with other Federal rules, and a description of possible alternative means of accomplishing the stated objectives which would minimize the impact on small businesses.

The primary impact of these regulations are on State governments and individuals. We do not believe that any provision will have a significant impact on a substantial number of small businesses. The only provision that could conceivably have such an effect is the Earned Income Credit (EIC). Because of this possibility, we have voluntarily incorporated a regulatory flexibility analysis into the individual discussion of this provision in the preamble. However, we do not conclude that this provision would in fact have a "significant impact."

Recordkeeping/Reporting Burden

OMB has determined that the following five information collection requirements are subject to review and approval under the Paperwork Reduction Act of 1980 (Pub. L. 96–511): State plan requirements discussed throughout the regulation, Work Incentive Program (WIN) demonstration provision (§ 205.80), Community Work Experience Program (CWEP) (§ 238.64), monthly reporting (§ 233.36), and maintenance of overpayment recovery records (§ 233.20). OMB has approved the first four of these information collection requirements. The State plan requirements are cleared under OMB No. 0960–0252, the WIN demonstration provision under OMB No. 0960–0254, the CWEP recordkeeping requirements under OMB No. 0960–0256, and the monthly reporting requirement under OMB No. 0960–0260. We will seek OMB approval for the fifth requirement.

Discussion of Major Provisions and Response to Comments

A discussion follows of the major AFDC provisions of Pub. L. 97–35 and the options that we considered in developing the implementing regulations. Where appropriate to a particular provision, regulatory impact analysis or regulatory flexibility analysis is included in the discussion of the provision. For ease of reference, we are including where appropriate the discussion of each provision and options which were published in the interim final followed by a comment and response section based on comments received in response to the interim final.

The Department accepted and considered all comments on the interim final regulations received by December 7, 1981. Although the official comment period closed on November 20, 1981, the vast majority of comments were received after that date. In order to give full consideration to all relevant issues raised by interested parties in response to the interim rules we have also considered these late comments. Sixty-four letters of comment were received from States, agencies, organizations, private citizens, and in one case an institution of higher education. This preamble addresses any significant changes from the interim final regulations and responds to the comments received. Discussion of the specific provisions also includes issues raised at the State implementation conferences held in Philadelphia and Phoenix in September 1981. Many of the comments the Department received, such as raising the $1,000 resource limit and extending the time limit on the $30 and one-third income disregard are incompatible with the statute. We have not provided a rebuttal in this preamble to comments or criticism of the statute itself, but we do address all regulatory areas of concern. This discussion also indicates any changes we made based on public comment.

Section 205.10(a)(5) regarding State plan requirements for hearings has been returned to that language in effect prior to the interim rules. This revision and other revisions throughout the final regulation reinstates wording that was inadvertently deleted but is applicable to the adult financial assistance programs in the territories.

We have also made a number of minor and technical changes as the result of our own review of the interim final regulations. Incorrect citations and cross-references have been corrected and regulatory language has been clarified as necessary to aid implementation of these provisions.

Prohibition Against Payment of Aid in Amounts Below Ten Dollars (Section 233.20 of Final Regulations)

Under the new legislation, State payments of aid to assistance units for any month in which the amount of such payment would be less than $10 are prohibited.

Several options were reviewed in the development of the implementing regulations. An issue surfaced concerning those States in which payments are made on a "twice-a-month" basis. For example, if an AFDC family is determined eligible to receive a benefit of $16 per month, and the State issues two checks in the month for $8 each, these payments would still be permitted, under the interim regulations since the payments for the month total more than $10. The important element is whether the amount of the monthly grant which the AFDC family is determined eligible to receive is less than $10, prior to any adjustment. We believe this interpretation supports the intent of Congress.

A similar issue with respect to issuing checks under $10 arose concerning the recovery of overpayments. For example, an AFDC family is eligible to receive a monthly assistance payment of $28; and the State recovers an overpayment of $20. Under the implementing regulations, since the actual payment for the month prior to any adjustment is more then $10, the State would issue the $8 check to the AFDC family. The regulations also provide that any AFDC family denied a payment of aid solely because it is under $10 is deemed to be receiving AFDC for all other purposes except for eligibility to participate in a Community Work Experience Program (CWEP). This means that the family would still be considered eligible for Medicaid, social services, and where appropriate be required to register for the Work Incentive Program (WIN).

Comment: One commenter suggested that States should accrue payments of aid of less than $10 and issue a payment to the assistance unit whenever the total reached $10. States could also use this accrual for potential overpayments.

Response: This recommendation was rejected. Not only would this action be administratively very cumbersome, but Federal Financial Participation (FFP) is clearly prohibited under Section 402(a)(32) of the statute as "* * * no payment of aid shall be made under the plan for any month if the amount * * * would be less than $10 * * *".

Comment: A question was raised as to whether States may make payments of less than $10 to assistance units out of State funds only without having this payment considered as a quality control (QC) error.

Response: These cases will not be included in the regular quality control sample universe because there is no Federal matching. However, they could be sampled through the Negative Case Action sample which also includes suspensions, denials, and terminations.

Comment: Another commenter questioned whether the prohibition against payments of aid in amounts of less than $10 applies to foster care payments.

Response: The provision clearly applies to all payments made under title IV–A, including foster care payments.

Comment: One of the commenters did not agree that checks should be issued in cases where the recovery of an overpayment resulted in an assistance payment of under $10.

Response: We do not concur. The amount of aid to which the assistance unit is entitled for that month is over $10, even though the recoupment of the overpayment may reduce the amount actually paid directly to the recipient below $10.

Comment: One commenter asked how the treatment of monthly child support collections will be affected when the AFDC case is eligible for less than $10 per month.

Response: All eligible cases for IV–A payments must have an assignment of rights to support, and these cases are referred to the child support enforcement agency under 45 CFR 235.70. The cases are entitled to all of the services of that agency. Any collections made on a monthly support obligation will be distributed under 45 CFR 302.51, in the same manner as cases receiving a IV–A payment.

Limitation on AFDC to Pregnant Women (Section 233.90(c)(2) of Final Regulations)

Although the prior statute did not directly reference payments to pregnant women for their unborn children, AFDC regulations permitted such payments as a State option. A total of 34 States now make some kind of payments starting at varying stages of the pregnancy.

Under the new statutory provision, money payments with respect to a pregnant woman otherwise eligible for AFDC can begin with the third month prior to the month that it has been medically verified that the child is expected to be born. However, FFP is not available to meet the needs of the unborn child, only those of the pregnant woman.

Under the final regulation, therefore, the State may cover pregnant women having no other children. Under these circumstances the payment would be based on the amount identified in the standard for one adult. The payment may not include an amount for the unborn child. Similarly, the monthly assistance paid to an AFDC mother cannot be increased for the unborn child.

Special needs for pregnant women with no other children and those already receiving AFDC. A State can also provide for a pregnant woman through a special need. A special need is considered an amount in recognition of a special circumstance that is included as an item in the standard in addition to basic needs. For example, the State may wish to provide in its standard for a special need such as a special diet, a crib, or other items needed to prepare for the birth of the child. As specified in § 233.20(a)(2)(v) of the final regulations, if the State agency includes such special needs items in its standard it must describe those that will be recognized, the circumstances under which they will be included, and provide that they will be considered in the need determination for all applicants and recipients requiring them. This means that such special needs items must be available to all pregnant women, including recipients.

When coverage for pregnant women begins. States may not pay pregnant women under this provision until the sixth month of a medically verified pregnancy. For example, for the pregnant woman with no other children, if it has been medically determined that she is expected to deliver her baby in December, the State may make AFDC payments to that woman as early as September. For the woman who is already on the rolls, and who is expected to deliver her baby in December, the State may increase the existing payment as early as September for any special need identified in the State plan in recognition of her pregnancy. The State must identify in its State plan when coverage will begin, i.e., in the 6th, 7th, 8th, or 9th month.

Changes in circumstance. A premature or late birth will not create an underpayment or overpayment, provided all eligibility conditions were met. The present rule at 45 CFR 206.10(a)(9) relating to changes in circumstances applies to such changes.

Once the child is born, the State will apply its current policy of payment when a child joins the assistance unit in effecting payment for the child.

Medicaid coverage. Based on the new statute, in order to provide pregnant women with access to prenatal care during the entire period of pregnancy, States may provide Medicaid coverage to pregnant women (prior to the 6th month of pregnancy and eligibility for a cash benefit) who would qualify for AFDC if the child were born and living with her. This coverage may be provided at any time after the pregnancy has been medically verified.

Comment: Seven commenters were concerned with limiting AFDC eligibility for pregnant women to the last four months of pregnancy and the impact this would have on the health of the mother and her unborn child.

Response: The new statute permits States, at their option, to provide Medicaid coverage to an AFDC eligible pregnant woman after the pregnancy has been medically verified. This coverage can provide access to prenatal care and health services over the entire term of pregnancy.

Comment: Several commenters stated that the father's needs should be included in the assistance payment when the pregnant woman's eligibility is based on his unemployment or incapacity.

Response: Section 406(b) of the Act limits payment in such situations to only the pregnant woman. The father's eligibility is tied to the deprivation of the child and no dependent child's needs can be recognized in the payment to the pregnant woman.

Comment: One commenter believes it is inconsistent to limit the assistance payment to the needs of a pregnant woman but allow a special need item which appears to address the needs of the unborn child.

Response: The statute clearly prohibits any payments (including special needs) to meet the needs of an unborn child. The special needs allowance can only meet the needs of the woman occasioned by or resulting from her pregnancy and in preparation for the birth of the child.

Removal of Limit on Restricted Payments (Section 234.60 of Final Regulations)

The new statutory provision removes the 20 percent limit on the number of State AFDC cases in which protective,

vendor or two-party payments may be made. These determinations will continue to be made according to the existing regulations at 45 CFR 234.60, which describes the special provisions the State must consider before concluding that mismanagement exists, and requires documentation for the case file.

Under the new law and regulations, States, at their option, may also issue protective, vendor, or two-party payments when the recipient voluntarily chooses to have them made. The request must be made in writing and included in the case file. These payments are made without regard to the special provisions applicable to mismanagement situations; and must be discontinued promptly at the written request of the recipient.

Comment: Four commenters expressed concern that the interim regulations do not ensure that recipients' requests for voluntary restricted payments are truly voluntary. These commenters asked that States be required to notify recipients who request restricted payments that they do not have to agree to such payments except under specified circumstances, and that they may terminate the restricted payments at any time.

Response: We believe that existing regulations sufficiently address these concerns. States are currently required at § 206.10(a)(2)(i) to inform applicants of their rights and obligations under the program.

Comment: One commenter requested that States be required to immediately implement requests from recipients to terminate voluntary restricted payments.

Response: We believe that the provision at § 234.60(a)(14)(iii), which requires that any voluntary restriction be discontinued promptly upon the written request of the recipient, adequately addresses this concern.

Work Supplementation Program (Part 239 of Final Regulations)

The new statutory provision establishes an optional Work Supplementation Program. The purpose of the program is to allow States to make jobs available to recipients on a voluntary basis, as an alternative to aid otherwise provided under the State plan. States have broad discretion in administering the program. States will set their own eligibility criteria for participation, may adjust need standards, and may operate the program notwithstanding the July 1, 1969 floor for need standards (Section 402(a)(23)), definitions currently used by the State agency (Section 406), statewideness (Section 402(a)(1)), and current earned income disregards (Section 402(a)(8)).

States may use funds accrued from reducing need standards and modifying earned income disregards to help defray the costs of subsidizing employment opportunities. The total amount of program costs that will be matched by the Federal Government will be limited based on the formula set forth in the legislation and regulations.

Eligibility. The State shall determine which recipients are eligible to participate in the Work Supplementation Program. For purposes of administering the program, determining eligibility and adjusting need standards, a State may develop two or more categories of recipients.

Adjustment in need standards and payment levels. Need standards may vary among categories of recipients as the State determines to be appropriate on the basis of ability to participate in the Work Supplementation Program. Need standards in effect in areas of the State with a Work Supplementation Program may be different from the need standards in effect in areas that do not have such a program.

States may also reduce payments to recipients in order to offset increases in benefits from government supported needs related programs and reduce or eliminate the amount of earned income disregarded under the State plan.

A State may make these adjustments in need standards and payment levels prior to providing the recipient of aid with a subsidized job. The number of jobs to be provided through a Work Supplementation Program will be determined by the State. Eligible participants may choose to volunteer for jobs to the extent such jobs are available under a State's program. If the reduction in a State's standard results in no cash assistance payment, this does not affect eligibility for the Work Supplementation Program.

Matching funds and jobs. States may subsidize employment opportunities with public agencies administering the State plan, public and non-profit organizations, and under certain conditions proprietary day care centers.

States are to use money saved from lowering grant levels to subsidize employment opportunities. The amount of Federal funding to cover the cost of subsidizing employment opportunities (known as "program costs" or "cost under the State plan") is limited as stated in the legislation and Federal regulations. The Act limits Federal funding to the amount that would be available to a State under May 1981 standards in the State plan as modified by mandatory Federal law provisions enacted since that date. However, if the number of recipients increases and/or demographic changes occur, the amount available would correspondingly change.

Wages and conditions of work. Recipients who take a job under this program will be paid wages which will be treated as earned income for purposes of any other law. A State has discretion in negotiating with an agency hiring recipients under this program as to the wages, hours, benefits, and all other conditions of work including the length of time a subsidized position will be available for recipients.

State welfare agencies and other public agencies hiring recipients under this program are not required at any time to give participants "employee status." Non-profit agencies and proprietary day care centers need not give employee status to a person receiving a subsidized job during the first 13-week period of such person's tenure in such job. States may assign persons receiving a subsidized job for whatever length of time that the State and the job giver deem appropriate. Recipients may be assigned a series of jobs or placed in one job to run for a specified period of time.

A State may provide medicaid coverage to program participants and their families if such individuals would qualify for such coverage if the State did not have a Work Supplementation Program.

Participation in other work programs. A recipient is not excused from the requirements of the Work Incentive (WIN) Program or the Community Work Experience Program (CWEP) because of participation in the Work Supplementation Program. Coordination between the Work Supplementation Program and other work related programs is the responsibility of the State and the State agency administering the Work Supplementation Program.

Comment: Several States commented that imposing a ceiling on the total amount of FFP available for overall program and administrative costs as a condition of operating a Work Supplementation Program was inappropriate.

Response: We agree that the position taken in the interim rule is not compelled under the statute and acts as a substantial deterrent to States which otherwise would like to implement such a program. We believe that the statute may also be read so that the ceiling should be limited to expenditures under the Work Supplementation Program. Therefore, § 239.62 of the final

regulation is amended so that FFP is available to a State for the costs of its Work Supplementation Program to the extent that those expenditures do not exceed the amount of Federal savings resulting from the reductions in assistance payments made to eligible participants designated by the State. (This FFP availability is to be reduced by increased payment costs due to State plan amendments made after May 1981 unless required by Federal law.) To the extent that program costs are less than the savings generated through the reduction in assistance payments, both State and Federal governments derive a saving. No FFP is available to the State for expenditures which exceed the savings in FFP. Program costs which a State may claim within this FFP limitation include wage subsidies, necessary employment related services, and administrative overhead.

Training Costs (Section 235.64 of Final Regulations)

The Act changes the Federal matching rate for State and local training costs under title IV–A. Prior to October 1, 1981, the Federal government matched at the rate of 75 percent for the cost of training for State employees. All other administrative expenses were matched at a rate of 50 percent. The new law provides that all expenses related to adminiustration, including training expenses, will be matched by the Federal government at the regular 50-percent rate. The new regulation reflects this change. There are no changes in the coverage of training costs subject to Federal matching.

Unemployed Parents (Section 233.100 of Final Regulations)

The Supreme Court ruled in June 1979, in the case of "Califano v. Westcott", that section 407 of the Act (Dependent Children of Unemployed Fathers) unconstitutionally discriminated against similarly situated unemployed mothers. The effect of this decision has been that needy, intact families can qualify for welfare when either parent, if otherwise eligible, is unemployed—even if the other parent is employed. The statute at section 407 of the Act and these regulations now provide that only the unemployed principal earner can qualify the family for benefits. The principal earner is whichever of the dependent child's parents, in a home in which both parents of the child live, earned the greater amount of income over the 24-month period immediately preceding the month in which an application is filed for aid because of the parent's unemployment. This designation of a principal earner remains effective for each consecutive month for which the family receives AFDC–UP benefits on that basis. In calculating which parent will be the principal earner, it does not matter when their relationship started or whether, during the 24-month period prior to the date of application, the father and mother were not married to each other or living together. This is solely a test of the amount of earned income each had over the prior 24-month period. A State must use the same method of verification of earnings for AFDC–UP applicants and recipients that it uses for other applicants and recipients.

In the few cases that may arise where both parents have an identical amount of income, the State shall designate which parent will be considered the principal earner.

The principal earner must still meet all other eligibility requirements of the AFDC–UP program. As of October 1, 1981, all new AFDC–UP applicants must meet the "principal earner" test for the 24-month period prior to the month of application.

States with AFDC–UP programs which previously provided benefits to families in which the parent's unemployment resulted from participation in a strike may no longer provide these benefits. (Also, see preamble and regulation sections on strikers.)

The entire family would be ineligible for AFDC if the principal earner does not register for work or training, or refuses to participate in WIN or CWEP without good cause.

The regulation also provides that individuals may earn a quarter of work (to establish attachment to the work force, i.e., 6 of the last 13 quarters) by participating in CWEP under the amended section 409 of the Act and the implementing regulations. The regulation deletes "any other work and training program subject to the limitations in such section 409" as a way to earn a quarter of work. Thus, participation in other work programs—in and of itself—does not confer a "quarter of work" on those participants.

Comment: Several commenters stated that it is an administrative burden to require States to locate wage information for current recipients for the 24-month period prior to initial application.

Response: We agree that in some cases the information could be unavailable. Therefore, in order to provide some flexibility for determining the principal earner where the State is unable to secure the primary wage information, § 233.100(a)(3)(vi)(A) is revised so that, under the final rule, the State can designate the principal earner using the best evidence available. Section 233.100(a)(3)(vi)(A) is also revised to clarify that the relationship of the parents during the 24-month period preceding date of application has no effect on the calculation of the principal earner.

Technical changes have been made in the final regulations to reinstate portions of sections that were inadvertently omitted in the interim rules.

150 Percent Income Limit for Eligibility (Section 233.20(a)(3) of Final Regulations)

Under the previous law there was no limit on the amount of gross income a family could have and still be eligible for AFDC. Some families received AFDC even when they had high earnings. In order to limit assistance and ensure benefits for those most in need, the statute provides for an income limit at 150 percent of the State's need standard.

Implementing regulations provide that assistance units with gross income in excess of 150 percent of the need standard are ineligible to receive AFDC.

The first step in determining financial eligibility for AFDC will be to apply the assistance unit's total income, without benefit of the income disregards described in section 402(a)(8) of the Act, against a dollar standard equal to 150 percent of the State need standard for a family of the same size. If the unit has gross income in excess of the 150 percent limit, then it is not eligible. For recipients, if the agency determines that the assistance unit's income expected in a future month will be in excess of the 150 percent limit, the agency will not make a payment for that month. On the other hand, if the agency has not denied assistance prospectively, and the recipient's report of income during the budget month exceeds the 150 percent limit, the family is ineligible to receive a payment for the corresponding payment month. An assistance unit's gross income includes the income of those individuals who apply for or receive AFDC, the income of the natural, adoptive or stepparents (less applicable disregards in States without a law of general applicability), and any other persons whose income is taken into account in determining the AFDC grant.

Comment: Many commenters asked what is included in gross income to determine whether a family has income in excess of 150 percent of the standard of need.

Response: Gross income is all earned and unearned income that the State counts in determining need and the

amount of the assistance payment without application of disregards under 45 CFR 233.20(a)(11) (i) and (ii) (earned income of students, work and child care expense disregards, and the 30 and one-third disregard). However, a State shall apply applicable disregards to stepparent income (§ 233.20(a)(3)(xiv)) and to the income of an alien's sponsor (§ 233.51) before including it in applying the 150 percent needs test. Gross income also includes (1) the earned income credit advance payment that is considered in determining need and the amount of the assistance payment, (2) self-employment income after deducting business expenses as defined in § 233.20(a)(4), and (3) child support collections reported to the IV–A agency by the IV–D agency. We considered excluding the earned income credit from gross income but, after careful review, decided against this. It has no direct relationship to withholding or FICA payments and including it is more consistent with the intent of the provision.

Counting Food Stamps and Housing Subsidies as Income (Section 233.20(a)(3) (xi) and (xii) of Final Regulations)

Until enactment of this provision, States were prohibited by the Food Stamp Act from counting the value of food stamps as income in determining eligibility and the amount of the AFDC payment. In recent years, the substantial growth of Federal in-kind assistance programs has led to duplication of benefits at the Federal and State levels. This provision recognizes that overlap and under the implementing regulations States are permitted to reduce the amount of AFDC paid to the extent that the value of the food stamp coupons or housing subsidies duplicates the maximum amount payable under the plan for food or shelter to a family of the same composition with no income.

A State which chooses to implement this provision must specify in its plan how much of its payment standard, by family size, covers food, shelter, or both separately. If a State has adopted a consolidated payment standard and the components are no longer identified, it must define that portion of its consolidated payment standard which is for food and/or shelter by either historical projections or some other reasonable and supportable method. The regulations provide that the agency must determine the AFDC unit's share of food stamps in food stamp households which contain persons not in the assistance unit or similar situations in subsidized housing.

Comment: Four commenters suggested that the regulations should prohibit State agencies from counting as income any portion of the payment standard designated for food which the family actually spends on food over and above what it obtains by use of its food stamps. Likewise, the commenters suggested that State agencies be prohibited from counting any portion of the payment standard for housing which the family actually spends on housing.

Response: The statute provides that a State may count as income (to the extent it determines appropriate) an amount not to exceed the value of a family's food stamp allotment and/or housing subsidy to the extent it duplicates the amount for food and/or housing included in the maximum amount payable to a family of the same composition with no other income. The Conference Report published with Pub. L. 97–35 states that this would be done by treating the value of the food stamp coupons or housing subsidy as income up to the amount for food or shelter that is included in the State payment standard. A State may determine that it is appropriate to count less than the full value of the food stamp allotment or housing subsidy. It is our position that Congress intended to permit maximum flexibility for the States in this regard.

Comment: Two commenters questioned how the option to count the value of housing subsidies would operate in "as paid" States, which are States that provide an AFDC grant for shelter covering only what the family actually pays, up to a maximum.

Response: The State agencies in "as paid" States are permitted, as are all other State agencies, to count as income the value of a family's housing subsidy up to the amount for housing included in the maximum amount that would be payable to a family with no income. In "as paid" States, the maximum amount for housing that would be payable to any particular family is the actual amount that the State pays them for housing. There is no specific amount payable to a family with no income. Therefore, the State agency may in any case count the value of the housing subsidy up to the amount paid for housing to the family. Again, the State may determine that it is appropriate to count less than the full value of the subsidies.

Comment: Nine commenters expressed concern over the fact that in some cases, after a family's AFDC benefits are reduced due to the counting of their food stamp allotment and/or housing subsidy, the family may be entitled to an increase in its food stamp allotment and/or housing subsidy. This could lead to further reduction in the AFDC grant, again resulting in a possible increase in the subsidy and/or food stamp allotment. In some cases, such circular calculations could continue. Several commenters suggested that the regulations should require coordination between the various administering agencies to ensure that adjustments are prompt and accurate. Four commenters suggested requiring State agencies to notify affected individuals that when their AFDC grant levels are reduced, they may be entitled to an increase in their food stamp allotment and/or housing subsidy. Two commenters suggested requiring State agencies to inform affected individuals of the amount that is being counted as income, and in particular to inform them of the value of the housing subsidy.

Response: States differ in their methods of administering the AFDC, food stamp and housing subsidy programs. Some States already have joint program administration at the local level and may be able to provide automatic adjustment of housing subsidies and food stamp allotments when the AFDC grants are reduced. Some States may choose to prohibit more than one adjustment of the AFDC grant level due to the counting of the food stamp allotment or housing subsidy. We have decided that the best approach is to allow each State to determine the most efficient way to administer this provision, and not to hamper such efforts by setting out detailed administrative requirements.

Comment: Six commenters suggested that the regulations should specify how the State agencies should determine the value of the housing subsidies.

Response: There are various HUD programs which provide subsidies to benefit renters and buyers. Our agency is working with HUD to identify which programs are involved, how they operate and some ideas on how subsidies could be valued. We will publish an Action Transmittal in the near future. It is our position that, in the meantime, State agencies are free to develop reasonable and supportable approaches to valuing the subsidies provided.

Comment: One commenter suggested that the regulation should provide a safeguard to prevent States from exaggerating food and shelter allocations.

Response: The regulation does require that, in identifying the amounts in the assistance and payment standards which are for food and shelter, States which have a flat grant system must

estimate the amounts based on historical data or some other justifiable procedure.

Comment: Two commenters suggested that we amend § 233.20(a)(4)(ii)(*a*) of our current regulations to eliminate conflict with the option States now have of counting the value of food stamps. Section 233.20(a)(4)(ii)(*a*) prohibited State agencies from counting the value of the food stamp allotment.

Response: Section 233.20(a)(4)(ii)(*a*) has been amended by these final regulations to apply only in States which do not choose the option to count the value of food stamp allotments under § 233.20(a)(3)(xi).

Comment: One commenter suggested that we also amend §§ 233.20(a)(4)(ii) (*c*) and (*l*) to avoid conflict with the option.

Response: Section 233.20(a)(4)(ii)(*c*) requires States to disregard payments received under Title II of the Uniform Relocation Act of 1970. That Act requires that such payments be disregarded in determining eligibility for all Social Security Act programs. Therefore, the section has not been amended.

Section 233.20(a)(4)(ii)(*l*) required State agencies to disregard payments made under the Experimental Housing Allowance Program. These payments are made by HUD to households to help pay their housing costs. To the extent a State chooses to count governmental housing subsidies, it may count these payments. The final regulation has been amended to reflect this by deleting this section.

Comment: One commenter suggested that the regulation should require any State choosing the option to count food stamps or housing subsidies as income to raise benefit levels.

Response: Each State has the flexibility under the AFDC program to set benefit levels for the State. If a State chooses the option to count food stamps or housing subsidies, it may decide whether or not to raise benefit levels. That is a State decision.

Assumption of Stepparent Income (Section 233.20(a)(3)(xiv) of Final Regulations)

The new statute changes considerably how many States treat stepparent income. Under the prior law, the income of a stepparent could not be assumed available to the child unless the State had a law of general applicability holding the stepparent legally responsible to the same extent as the natural or adoptive parent. Currently, there are six States with laws of general applicability. These States are: Nebraska, New Hampshire, South Dakota, Utah, Vermont, and Washington. In these States, because the stepparent is held legally responsible to support his stepchildren as would be a natural or adoptive parent, no deprivation factor exists whenever the stepparent lives in the same household and is not incapacitated or in some States unemployed. Since no deprivation exists, the family is ineligible. The income of the stepparent living with the child is assumed available under the State plan just as if he or she were a natural or adoptive parent.

While the new statutory provision is silent as to whether it should be applied in States which have laws of general applicability as described above, we believe that Congress did not intend to disturb the way stepparents are treated in these States. The legislative history of this provision suggests that Congress was satisfied with these stepparent procedures and merely intended to require the other States to have minimal procedures for counting stepparent's income when he or she is in the same household as the assistance unit.

Further, support for this view of the statute can be found in the colloquy between Senators Dole and Gorton in the Congressional Record of July 31, 1981. In this discussion, Senator Dole, who was the floor manager of the reconciliation bill, states that the new stepparent statute represented a minimum level of stepparent responsibility and was not intended to weaken procedures in effect in States with laws of general applicability.

Accordingly, the regulation provides that in States which do not have a law of general applicability, the following disregards will be applied to stepparent income before it is counted in reducing the AFDC grant: (1) The first $75 of the stepparent's gross earned income. The State shall establish a lesser amount for a stepparent who is not employed on a full-time basis or not employed throughout the month if he or she lives in the same household; (2) and additional amount for the support of the stepparent and other individuals who are living in the home, but whose needs are not taken into account in making the AFDC eligibility determination and are claimed by the stepparent as dependents for purposes of determining his or her Federal personal income tax liability. This disregard amount shall equal the State's need standard amount for a family group of the same composition as the stepparent and the other individuals not in the assistance unit; (3) alimony and child support payments to individuals not living in the household; and (4) amounts actually paid by the stepparent to individuals not living in the home but who are claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability.

The following alternative approaches to several issues were considered but rejected:

- Whether the regulation should specify a maximum amount that could be allocated toward the support of a stepparent's dependents living outside the home.

The decision was made that States shall not be allowed to establish a maximum on the basis that: (1) The Act does not set a maximum; (2) stepparents should be able to establish the level of support they wish to provide dependents outside the household; and (3) stepparents should not be prohibited from paying the high cost of care of dependents in institutions such as nursing homes. However, the State is required to disregard only the obligations actually paid by the stepparent.

- Whether the regulations should specify how the work expense allowance should be adjusted for stepparents who work less than full-time or who are not employed throughout the month.

The Act requires that stepparents who are working full-time receive a $75 work expense allowance and gives the Secretary the authority to adjust the allowance for persons working less than full-time. The decision, on which the regulation is based, is to require a disregarded amount less than $75 for stepparents working less than full-time and permit States to establish their own procedures for determining and applying this amount. This approach provides increased State flexibility and recognizes that each State is in the best position to determine local circumstances and conditions particular to that State.

- Whether the stepparent disregards for alimony and child support payments refer to amount owed or actually paid.

The decision was to deduct only amounts actually paid rather than owed on the basis that it more clearly reflects the language in the Act. Therefore, a stepparent who fails to make his court-ordered support and/or alimony payment would not receive the disregard.

- Whether Supplemental Security Income (SSI) received by a stepparent can be counted as income. Section 402(a)(24) of the Act prohibits the counting of income and benefits of SSI recipients for purposes of determining

AFDC eligibility or benefit amounts. Therefore, the State may not consider the income of a stepparent receiving SSI to be available to the AFDC assistance unit.

Based on our own review in developing the final regulations, the stepparent provision has been modified slightly and appears in a different part of § 233.20. It formerly appeared under the part of § 233.20 entitled "Disregard of income." As a result, there was some confusion between the disregards which apply to stepparents and those which apply to applicants and recipients. Since the purpose of the regulations is to require that States count a portion of the incomes of certain stepparents, it is more appropriate to place the regulation with others detailing what the States must or may count as income to an assistance unit.

Two minor additions to the regulation were made to clarify two of the disregards. Subsections (B) and (C) deal with the disregard of amounts actually paid to individuals who are claimed by the stepparent as dependents for purposes of determining his or her Federal personal income tax liability.

Comment: One State asked what to do in the case where a stepparent is included in the assistance unit, specifically whether or not to apply to the general disregards or those related to stepparents in particular.

Response: Where the stepparent chooses to be included in the assistance unit and to receive benefits, the disregards which apply to all other applicants and recipients apply. To apply the broader disregards otherwise applicable to stepparents would result in unfair treatment since stepparents would be eligible for assistance at higher levels of income than other individuals. The broader disregards applicable to the incomes of stepparents were designed for those not seeking assistance.

Comment: Several States have asked whether the stepparent must have actually claimed dependents in order for the disregard to apply or whether it was sufficient that the stepparent could claim the individual as a dependent on a Federal income tax form.

Response: We believe that Congress intended to allow the disregards in cases where the stepparent actually claims the dependent on a Federal income tax form or where the stepparent could claim the individual as a dependent under the IRS rules. If the disregards were applied only to cases where the stepparent actually claimed the individual as a dependent on a Federal income tax form, those stepparents with the lowest incomes would not have the advantage of the disregards since they may not be required to file Federal income tax forms at all. The important factor is whether the stepparent could claim the individual as a dependent under the IRS rules, not whether the individual is actually claimed.

Comment: One State asked whether the fact that the stepparent claims his or her stepchildren as dependents for Federal income tax purposes has any effect on the stepchildren's eligibility for AFDC.

Response: The fact that the stepchildren are claimed as dependents for that purpose does not affect their eligibility. What does affect their eligibility is the amount of the payments the stepparent actually makes to the children or the amount of the stepparent's income which the State agency counts as available to them.

Comment: One organization suggested that the regulations should make clear that any State which decides to enact a law of general applicability and thus count all the income of a stepparent can do so.

Response: We believe the regulation, as written, leaves it open for States to enact laws of general applicability in the future thus making the stepparents' provision inapplicable.

Comment: Two organizations suggested that the regulation should define a "stepparent."

Response: The current definition which appears at 45 CFR 233.90 already applies. A stepparent is defined as a person who is ceremonially married to the child's parent under the State law.

Comment: One State has asked in its comments for clarification as to what payments and types of payments are allowable deductions from the stepparent's income when such payments are made to individuals living outside the home.

Response: The statute clearly provides that the State shall disregard from the stepparent's income amounts actually paid to individuals not living in the home but who are claimed as dependents by the stepparent. The statute does not in any way restrict the types of payments as long as they are made to an individual who can be claimed as a dependent. In writing the interim regulations we considered whether the regulation should specify a maximum amount that could be allocated to a dependent outside the home. We decided that States should not be allowed to set a maximum amount because the Act does not set a maximum. The same basis applies here. The statute does not limit payments to dependents outside the home to those payments required for support or any other particular purpose. The difficulty of judging each payment made to an individual outside the home to determine whether it is necessary for support or other purpose also favors a decision not to define the types of payments which can be disregarded from the stepparent's income. The important factor is that they be made to a dependent.

Comment: Two commenters suggested that the regulations should allow a disregard from the stepparent's income for the cost of childcare for his or her children living in the home but not receiving AFDC. They cited a situation where the stepparent's spouse is disabled or unavailable to provide care for the stepparent's children.

Response: The statute clearly sets out the disregards that will be allowed from a stepparent's income. An amount is disregarded for the support of each of the stepparent's dependents living in the home. A specific disregard for childcare expenses was not included.

Treatment of Income in Excess of the Standard of Need (Section 233.20(a)(3) of Final Regulations)

Prior to enactment of the new provision, any payments to an assistance unit that met the definition of income (e.g., retroactive Social Security benefits) were counted as income in the month of receipt, and considered a resource, to the extent retained, in the following months.

The new section 402(a)(17) of the Act requires all income to be considered available to meet the present and future needs of AFDC recipients. It is the responsibility of the caretaker relative to budget accordingly. To do this, States must first determine whether the family's total amount of earned and unearned income (excluding the AFDC grant and after applying income disregards) exceeds the State's need standard in the month of receipt of the income. If it does not exceed the unit's needs, States shall compute the grant as for any usual month. If it does exceed the unit's needs, but was caused by a regular and periodic extra paycheck from a recurring income source, the unit may be suspended (see § 233.34(d)). However, if it does exceed the State's standard of need, the rules provide that the unit will be ineligible for aid for the number of full months (including month of receipt) derived by dividing the total income by the need standard applicable to the family. (Please refer to comment and response section on this subject for an explanation of the change which has

been made in the final regulations.) In addition, any income remaining after this calculation is treated as if it is income received in the first month following the period of ineligibility and is considered available for use at that time.

An example of how this policy can be implemented is as follows. If an assistance unit has $800 nonrecurring income in October, it has $300 other countable income in that month (after the disregards) and the State's need standard for four is $400, the unit is ineligible in October and November and shall be considered to have $100 of income for December if the unit reapplies in that month. In drafting these rules, a question arose as to how this provision should be applied when the State discovers a nonrecurring income after the month of receipt. Must the assistance unit be considered ineligible in the month of receipt, or can States consider the first month of ineligibility to be in the month of discovery, or in the payment month corresponding to the month of receipt?

For the interim rule, the Department interpreted the statute and legislative history to require that a State consider the unit ineligible in the month of receipt of the nonrecurring income as this would represent the first month of ineligibility for which any overpayments would be recouped.

After a State makes a determination of future ineligibility based on this provision, future changes in family composition or other relevant circumstances do not change or alter the period of ineligibility for the members of the assistance unit which has been determined ineligible. There is also no waiver or good cause provision which can be applied to reduce the period of ineligibility. This provision applies to an applicant family only in the month of filing.

Comment: There were many comments strongly opposed to triggering the lump sum provision in every instance that income exceeds the standard of need. The commenters believed that the intent of the provision was to cover nonrecurring lump sum payments.

Response: We agree that the intent of this provision can be construed to encourage recipients to budget nonrecurring lump sum income. Therefore, we have revised § 233.20(a)(3)(ii) (D) of the final rule accordingly.

Comment: There were many suggestions that the period of ineligibility for assistance begin with the month following the month of receipt, or with the corresponding payment month, rather than the month of receipt. The commenters stated that neither the agency nor the family may know when the lump sum income will be received. Therefore, when ineligibility begins with the month of receipt, such income will usually be reported after the payment for that month has been issued, and is not compatible with retrospective budgeting.

Response: We believe, after careful review, that the statute can be interpreted to permit States to begin the period of ineligibility no later than the corresponding payment month, and have modified § 233.20(a)(3)(ii)(D) to enable States to process cases for which the lump sum provision applies in a more efficient manner and to avoid the overwhelming administrative problems cited by the States.

Comment: Many commenters proposed that the regulations should permit States to recalculate the period of ineligibility when former recipients reapply and there is good cause why their lump sum income is not available for the full period of ineligibility. They noted that there can be extenuating circumstances e.g., the assistance unit subsequently breaks up.

Response: We are aware that certain life-threatening circumstances may arise prior to the expiration of the period of ineligibility which require the assistance unit to expend part or all of the lump sum income in meeting such circumstances. The effect of this would be that the lump sum income would not be available for meeting the assistance unit's other needs during the entire period of ineligibility. Accordingly, under these circumstances, a State may shorten the period of ineligibility where it finds a life-threatening circumstance exists, and the non-recurring income causing the period of ineligibility has been or will be expended in connection with the life-threatening circumstance. Further, until that time the non-recurring income must have been used to meet essential needs and currently the assistance unit must have no other income or resources sufficient to meet the life-threatening circumstances.

Comment: Several commenters asked that we clarify how the lump sum policy applies when there is an addition to the family, e.g., a baby is born during the period of ineligibility. They were concerned that the preamble in the interim rule precluded payments to family members who were not in the assistance unit when the lump sum was received.

Response: The lump sum provision applies only to individuals receiving AFDC for the month in which the lump sum payment was received. Other family members who apply may be eligible as a separate assistance unit.

Comment: Several questions were raised asking whether "the need standard applicable to the family" includes the stepparent when his/her lump sum income causes the AFDC unit's ineligibility for a period of time. The commenters contend that the standard of need should also be applicable to the stepparent to recognize his/her needs during the period of ineligibility.

Response: We agree and have revised § 233.20(a)(3)(ii)(D) of the final rule to require that States use the standard of need applicable to the size of the assistance unit plus any individual whose income is counted in determining the period of ineligibility.

Comment: Several commenters asked that we clarify how the lump sum policy applies to a sum of money which is earmarked for a specific purpose, i.e., monies paid for back medical bills resulting from accidents or injury.

Response: The Omnibus Budget Reconciliation Act of 1981 did not change how States treat income. States have always been permitted to exclude income which the recipient receives as settlement for back medical bills, compensation for loss of resources, etc., so long as the money is used for that purpose. Thus, this final rule does not alter this Federal policy.

Resources Considered in Determining Need (Section 233.20(a)(3) of Final Regulations)

Pub. L. 97–35 sets statutory limits for the first time on the amount of resources an assistance unit may have and be eligible for AFDC. Formerly, resource limitations were prescribed in the regulations. Those regulations prohibited States from setting the asset limit at more than $2,000 per recipient, excluding, as allowed by the State, a home, personal effects, an automobile, and income producing property. The courts ruled in "NWRO v. Weinberger" that in determining the $2,000 limit, equity value was to be used.

States must now set a resource limit of $1,000 or less on the equity value of the resources an assistance unit may own. A State must:

1. Deduct from the fair market value of the resources (as determined by the State) any obligations or debts still outstanding on those resources;

2. Exclude from consideration the equity value of a car up to $1,500 or at State option such lower limit as set in its State plan;

3. Exclude the value of a home owned by a member of the assistance unit and occupied by it;

4. Count the equity value of all other resources, except at State option basic items essential to day-to-day living, such as clothing, furniture, and other similarly essential items of limited value.

Prior to these changes, States had the option under regulations to exclude personal effects, income producing property, burial plots, cash value of life insurance policies, etc. This will no longer be permitted. Under the new regulations, States must exclude only those items specifically cited in the interim regulations of the home and the automobile up to $1,500 equity value. In addition, we have permitted States, at their option, to also exclude certain items of personal property essential to day-to-day living if they have limited value. The reason for this very limited exclusion is that we have been advised by States that the administrative cost of verifying the existence and nominal value of such items would far exceed any savings in assistance payments which might accrue if they were counted in determining a family's eligibility. Accordingly, in these regulations, we permit but do not require States to value all such items.

States will continue to establish their own methods for evaluating personal property and verifying resources. We chose $1,500 as the maximum equity value for an automobile on the basis of a Spring 1979 survey of food stamp recipients. Data from that survey suggest that 96 percent of all food stamp recipients who own cars had equity value in them of $1,500 or less. In that the Federal maximum limit should be set within the range of the vast majority of current recipients and given that the food stamp population tends to be, on the average, more affluent than AFDC recipients, this limit appears reasonable and supportable.

Comment: Several comments addressed the question of whether the Secretary has the authority to permit States to set a lower limit on the maximum $1500 equity value of one automobile.

Response: Section 402(a)(7)(B) provides that States have the authority to include as a resource "* * * so much of the family member's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe * * *" Clearly the statute authorizes the Secretary to set such a lower limit and this authority has been delegated to the States, because each State is in the best position to determine local circumstances and conditions particular to the State.

Comment: In relation to $1,500 equity value of one automobile the rationale for the limit set by the Secretary was questioned by a number of commenters.

Response: We stand by our original position. The choice of $1,500 as the maximum equity value for an automobile was based on the data from a Spring 1979 survey of food stamp recipients. We regard the limit of $1,500 equity value in an automobile as reasonable and supportable.

Comment: Another issue raised in relation to the maximum limit of $1,500 was whether the State should apply any amount over the $1,500 equity value of one automobile to the $1,000 resource limit.

Response: This is clarified under the final regulations (§ 233.20(a)(3)(i)(B)(*2*)) that the States must so apply excess equity value.

Comment: One State commented that the interim regulation language permitting at State option the exclusion of basic items essential to day-to-day living was worded too broadly to be of help to States in identifying and verifying non-essential items as personal property. Other commenters reacted to the State option to exclude certain items of personal property as too restrictive, or wanted the regulation to mandate that States exclude such basic and essential items. Still another respondent believed the Secretary overstepped his authority by permitting exceptions to the $1,000 resource limit for basic items of personal property essential for day-to-day living, and recommended that at the very least, the regulation should be written so that it clearly stresses the basic nature of these items and leaves no room for luxuries to be excluded.

Response: All of these comments were discussed and carefully reviewed. The law places a $1,000 limit on the resources of the assistance unit. The option to permit States at their own choice to exclude certain personal property items of limited value essential to day-to-day living is a reasonable interpretation of the statute and was included in the regulations from the standpoint of administrative efficiency in that the administrative costs of verifying the value of these basic items of little monetary value would far exceed any savings in assistance payments that might accrue. By permitting the option, State flexibility in the administration of the AFDC program is provided and the maximum Federal savings will be achieved. States can continue to establish their own methods for evaluating personal property and verifying resources and describe these methods in their State plans.

Comment: Several comments raised a concern about how the quality control system will treat identification and verification of essential and non-essential items of personal property.

Response: The regulations pertaining to Quality Control Systems (45 CFR 205.40) have not been changed. Quality Control reviews will continue to be based on permissible State practices.

Comment: Clarification was requested on how to proceed when an applicant or recipient has non-liquid resources such as a car or real property that could meet current need, but which must be disposed of to retain eligibility.

Response: Assistance cannot be paid for any month in which the recipient has liquid or non-liquid resources which exceed the $1,000 limit prescribed by the statute.

Comment: Several questioners asked how States should proceed when an applicant or recipient receives money from a third party that is for payment of medical bills, funeral and burial costs, replacement or repair of other resources.

Response: The new statute does not alter the current policy which permits States to exclude money received from a third party for such expenses in determining the availability of the income or resources to meet current need. Accordingly, this policy is not changed by this regulation.

Comment: One of the comments asked for a definition of "currently available" when applied to evaluating resources.

Response: The existing regulation at § 233.20(a)(3)(ii)(D) gives a clear statement of what "currently available" means, and is unchanged by the new statute.

Comment: One commenter questioned whether money received from the sale of allowable resources is exempt.

Response: As the term resources includes both liquid and non-liquid assets, the change from a non-liquid asset, e.g., a bicycle valued at $50 to cash of $50 through the sale of that asset, does not change the total value of the assets held and such resource would be exempt if the allowable statutory amount were not exceeded.

Comment: There was a suggestion that the States be given the option to exclude from the resource limit for a temporary period of time income producing property such as carpenter, plumber, or other worker tools when such an individual is temporarily out of work.

Response: States continue to have flexibility in defining what represents income producing property. However, the statute does not provide for the

exclusion of income producing property such as rental property, etc.

Comment: One of the commenters recommended that one burial plot per member of the assistance unit be exempt from the resource limit.

Response: The statute does not include this option. With the exception of a house and one automobile, the statute requires all resources to be included in the $1,000 equity value limit.

Comment: It was also brought to our attention that as regards the resources exclusion, an automobile cannot be used as a primary mode of transportation in certain areas of the country.

Response: Since we believe the intent of the statute was to permit a limited exemption for a primary mode of transportation, we agree that it is a reasonable construction of the statute to permit States to exempt an alternative primary means of transportation where determined appropriate by the State. Accordingly, the final rule in § 233.20(a)(3)(ii)(E) is amended.

Comment: One of the comments recommended a simplification of the method of determining the value of insurance policies. The recommendation was to either disregard insurance policies entirely, or be consistent with other assistance programs which disregard the cash value rather than loan value of the policies.

Response: Section 233.20(a)(3)(ii)(E) of the interim final rules required that States determine the loan value of insurance policies as a resource. We concur with the recommendation to count the cash value of insurance policies in determining its value. This method is administratively less cumbersome, more accurately reflects the total amount available to the recipient as a resource, and is less time consuming since the cash value of the policy can often be obtained from the policy without contacting the insurance company. Therefore, this change is made in the regulation at § 233.20(a)(3)(ii)(E). Insurance policies cannot be totally disregarded because they can be a resource.

Comment: One of the commenters questioned why checking accounts are considered resources since most AFDC recipients only have in their checking account money received from their current payments.

Response: As a point of clarification, assistance payments are not to be counted as resources for the month in which they were paid; however, any carry-over into the following month must be considered a resource. This is long-standing policy identified at § 233.30(a)(3)(ii)(E) and has not been affected by the new statute and interim rules.

Comment: One letter stated that the regulatory definition of fair market value was too cumbersome and relied too heavily on securing local estimates of value. They suggested language that would permit the States to determine the method for arriving at the equity value.

Response: We do not believe there are sufficient and compelling reasons to change the present definitions. It permits States to determine, through the use of objective means, the price of the item if sold on the open market in their geographic area. This method already permits flexibility and takes into account fluctuations in different localities.

Comment: One of the comments recommended a reconsideration of the use of the word "net" income at § 233.20(a)(3)(ii)(D).

Response: We agree that in this context, its use is confusing and have clarified it. Prior to the new statute, work expenses were always deducted from gross income in determining countable income on which to base eligibility and the amount of payment. However, because of the new 150 percent income test, this is no longer the case.

Comment: One letter asked whether a State can specify that a recipient may not retain certain resources while receiving assistance.

Response: Prior to the Omnibus Budget Reconciliation Act, the statute did not address how states should treat resources. The new statutory provision clearly specifies that, with certain narrow exclusions, all resources must be valued and considered towards the overall resouce limit. No authority exists for states to specify that certain resources cannot be owned by applicants or recipients as a condition of eligibility for assistance.

Community Work Experience Program (Part 238 of Final Regulations)

The Act provides that States may, if they choose, establish a Community Work Experience Program (CWEP). The purpose of CWEP is to provide on-the-job training and work experience for recipients in order to assist them in moving into regular employment. Participants in CWEP will continue to receive their regular AFDC checks and will neither be paid by, nor be considered employees of, the agencies with which they are assigned.

Eligibility.

Only recipients of aid, and not applicants for aid, may be required to participate in CWEP. A State may require AFDC recipients who are required to participate in the WIN program to participate in CWEP unless such persons are currently working no less than 80 hours per month and are earning not less than the applicable minimum wage, or are recipients of a monthly grant that is less than $10.00. Persons exempt from WIN due to caring for a child between the ages of three and six may also be required by a State to participate in CWEP if adequate child care is available. Additionally, persons exempt from WIN due to their residing too far away from a WIN project may be required to participate in CWEP, provided they do not have to travel an unreasonable distance from their home to the CWEP project site. The maximum number of hours a person may be required to work is to be calculated by dividing the total grant of the family by the higher of the State or Federal minimum wage. In the interim final, we took the position that where two or more persons in the same family meet the CWEP eligibility requirements, a State could require each family member to work the same number of hours as would be required if only one member of the family were eligible for CWEP (total family aid/minimum wage).

Types of jobs and conditions of work.

All job creation projects developed under CWEP must serve useful public purposes, as defined by the State. These projects are limited to public agencies and non-profit organizations. Private for-profit entities may not be CWEP sponsors.

States implementing CWEP must assure that in all training and work experience projects certain conditions are met. Some of the most important conditions are:

- Maintenance of appropriate health standards
- Reasonable conditions of work are maintained, taking into account the proficiency of participants
- Recipients cannot fill established unfilled position vacancies
- Participants cannot be required to travel more than a reasonable distance from their homes or remain away from their homes overnight.

A State must provide for transportation and other costs directly borne by the participant which are both reasonably necessary and directly related (as defined by the State) to participation in the program. The maximum reimbursement to a recipient for costs such as transportation, etc., is $25 monthly. This is a federally matchable administrative cost. However, any child care costs incurred

by CWEP participants are matchable only under this provision and not as a routine administrative cost or as a special need. For this specific need, States should consider establishing CWEP projects to provide day care services using other participants and AFDC recipients.

A State may, if it wishes, provide transportation and other services to participants so that they do not incur any costs directly related to their participation. A State may also wish to provide for these costs with in-kind services. If this is the case, these services shall be matched as a routine administrative cost.

States may choose to provide program participants with worker's compensation or comparable protection. If a State provides such protection, the cost of providing the coverage shall be considered an administrative expense for purposes of Federal matching funds.

Sanctions and hearings. Should a person refuse to participate in CWEP, the penalties applied for failure to participate in WIN will apply. Regular AFDC hearing procedures shall be used.

Coordination. The Chief Executive Officer (CEO) of the State is required to coordinate CWEP and WIN and insure that job placement has priority over participation in CWEP.

The CEO shall insure that a person is not denied aid under the State plan, because of refusal to participate in either WIN or CWEP while satisfactorily participating in the other. However, a State may require that a person participate on a part-time basis in both programs.

Expenditures. The Federal Government will match State administrative expenditures necessary for the proper and efficient administration of the program. Such costs may not include the purchase of equipment or materials in connection with the work performed under the program. Federal funds are also not available to help pay the costs of supervision of work performed under CWEP.

Placement of CWEP participants in profit-making firms. The Act states that CWEP "shall be limited to projects which serve a useful public purpose* * *". Discussion was devoted to whether, and the extent to which, private for profit entities should be permitted to participate in CWEP. The alternatives that evolved from this discussion were to: (1) Restrict work to the public sector only; (2) restrict work to public sector and non-profit organizations; (3) permit work in public sector, non-profit organizations, and private for profit entities. The second option was selected.

Permitting participation of private for profit entities may have permitted creation of the greatest number of CWEP work possibilities, permitted maximum State flexibility, and may have promoted transition to the private sector of more CWEP participants. However, we believe that these benefits are outweighed by the higher risk that CWEP participants might displace regular employees because potentially less control could be exercised over private for profit entities. In addition, the use of a pool of free labor by profit making entities, even though it might further the independence of participants, has a high potential for damaging the overall CWEP effort (for example, by allowing one employer to obtain an unfair market advantage through the use of free labor). Restricting the CEWP program to public agencies and non-profit organizations will still create substantial employment opportunities, while minimizing the above-described risks.

Worker's compensation for CWEP participants. The new statute requires a State which chooses to operate CWEP programs to provide appropriate standards for health, safety, and other conditions applicable to the performance of work. This consideration gives rise to two issues: (1) Whether to allow, or require, States to provide worker's compensation or similar coverage; and (2) whether to permit Federal reimbursement of such expenses. The decision is to permit States to provide worker's compensation or similar coverage and to reimburse these expenditures as a valid administrative expense.

The estimated cost of this coverage if all States elected this option is approximately $27 million (combined Federal and State share) over the FY 1982–86 period. This decision is not necessarily the most expensive option in that the potential for injuries to CWEP participants will have to be dealt with in some fashion, and other alternatives could prove to be more expensive. This group is very vulnerable because they lack existing protections. To allow that worker's compensation is a valid administrative expenditure suggests that its cost should be shared by the Federal and State governments.

Comment: Five commenters took issue with the $25 limit on participation costs stating it was inadequate and would not cover actual costs.

Response: Considerable weight in developing this limit was given to the experience of the Utah WEAT project and related workfare type demonstration programs. Specifically, the Utah WEAT program arrived at the $25 limit after averaging years of data on participant expenses. Experience in the Food Stamp workfare projects has shown work related project costs to be even substantially lower. The cap is intended to be reasonable but not result in inflated costs that might negate savings. However, a State may pay more than $25 using State funds. States also have flexibility in designing their CWEP projects and can limit the participant target group and the number of days a participant is required to participate in the program. Since CWEP is a new program, we intend to monitor it closely to determine if any future revisions to the $25 limit are required.

Comment: Five commenters expressed concern that the regulations do not provide adequate protection for participants with respect to employment status, work standards, and improving employability.

Response: We do not agree. The regulations permit the States to provide worker's compensation (§ 238.16) for participants. Section 238.52 provides that the CWEP project cannot violate applicable Federal, State, or local health and safety standards. However, failure to include the statutory reference to "reasonable work conditions" in the interim regulations was an oversight and we are now including this reference in § 238.52 of the final rule.

Comment: Another commenter stated that "employment status" should be included as a protection in the CWEP regulations.

Response: This would be inappropriate as section 409(a)(2) of the Act and § 238.20(d) preclude authorizing payment of aid as compensation for work performed, and at no time can a participant be entitled to a salary as a result of participation in a CWEP.

Comment: Five commenters questioned allowing a State to require each eligible family member to work an amount equal to the family's benefit. They point out that this has the effect of each participant in a family working for less than the minimum wage.

Response: We agree and have revised § 238.20 accordingly.

Comment: Two commenters noted that, while participants "may not displace persons currently employed," they may be permitted to perform similar functions and displacement could result.

Response: Displacement is a statutory prohibition which will be monitored closely.

Comment: One commenter noted that the regulation at § 238.16(a) provides

that participants may not be required to use their assistance or other income to pay participation costs. Because this is not specified in the statute, the commenter recommends that it be deleted, as it would permit participants to claim inability to participate because of "on-the-job meals costs" or "costs of wear on shoes and clothes."

Response: We believe Congress did not intend to have CWEP participation result in financial hardship to the participants. However, reimbursement for participation costs does not include expenses which would exist whether the individual participates in CWEP or not.

Comment: One commenter recommends that the regulation at § 238.52(e) be withdrawn. This section requires that no CWEP projects can be developed in response to a strike, lockout, or other bona fide labor dispute. Because CWEP projects are restricted to public or not-for-profit agencies which do not permit strikes, there is no need for this section.

Response: The fact that strikes in most public agencies are unlawful does not preclude a group from engaging in a walkout. Additionally, strikes do occur in private, not-for-profit operations. Therefore, we believe this section has relevance and should remain.

Comment: Eight commenters assert that the current regulations do not adequately provide for appropriate protections for day care services for CWEP participants.

Response: The regulations are developed to provide States with the greatest flexibility in designing and implementing CWEP. However, implicit in the regulations are requirements that any existing Federal, State, and local laws which impact on CWEP must be recognized. For example, § 238.52 requires that a State plan authorizing CWEP must provide that CWEP projects "are not in violation of applicable Federal, State, or local health and safety standards." Therefore, if a State chooses to operate a day care center as a CWEP project, it follows that all existing State and local statutes and regulations relating to that operation must be met.

Earned Income Credit (Section 233.20(a)(6)(ix) of Final Regulations)

The earned income credit (EIC) supplements the earnings of low income workers. Eligible employees may file an Earned Income Advance Payment Certificate (Form W–5) with their employers and receive the credit in advance payments which will be added to their pay checks. Under current law, any individual applying for or receiving AFDC who receives the earned income tax credit has that amount counted as earned income when it is received, whether received as a lump sum or in advance payments.

Pub. L. 97–35 requires States to count as earned income the amount of the earned income credit advance payments an individual is entitled to receive, whether or not the individual actually receives them. Therefore, the amount of these advance payments will be counted whether or not they elect to receive them. However, if the family makes every effort to file for and receive the advance EIC but cannot receive it for some documented reasons, e.g., the employer refuses to process it, the State may determine that it is not available and not deem it as income.

In order for an employee to receive the earned income credit in advance amounts, the employee must file the proper certificate with his employer and thereby certify that he reasonably expects to be eligible to receive the earned income credit. The regulation requires, therefore, that when a State agency includes as earned income the amount of the advance payments not actually received, the State agency must be reasonably certain that the individual will be eligible to receive the credit. This requires the State agency to determine in advance whether an individual will be eligible to claim the earned income credit on his Federal income tax form for the current taxable year. The State agency must make that determination by applying the rules of the Internal Revenue Code which deal with the earned income credit and advance payments of the credit. These appear at 26 U.S.C. sections 43 and 3507, and under the corresponding regulations at 26 CFR 1.43–1, 1.43–2, and 31.3507–2.

In applying the rules of the Internal Revenue Code which deal with the support and maintenance of household tests, the State agency must not count AFDC benefits as support provided by the parent. These are support or maintenance provided by the State, not by the AFDC applicant or recipient.

The State agency shall determine the amount of the advance payments an employee is eligible to receive by consulting the tables prescribed by the Secretary of the Treasury.

If the State agency counts the amount of the advance payments an individual is eligible to receive but which are not actually received, the State agency may not also count the amount of the earned income credit which the individual does receive later as a lump sum. This is to avoid double counting of the same income.

Where the State agency determines that the individual is eligible to receive the earned income credit in advance payments and counts an amount as earned income each month, the State must make later adjustments if the individual was not, in fact, eligible for the advance payments. The State agency must also make adjustments where it assumed the individual was eligible to receive more or less than the actual amount of the credit. These adjustments shall be made according to the rules the State has established for payments of underpayments and recovery of overpayments. Adjustment will also be required where the amount of the advance payments an employee actually receives are more or less than the actual amount he was entitled to receive.

Flexibility analysis of earned income credit. Based on a sample survey of recipients and after the estimated effects of the recent amendments, we estimate that an average of 230,000 families have earnings each month. We have no descriptive information about the employers of AFDC recipients and therefore cannot estimate how many are small businesses.

In addition to the fact that many of the 230,000 recipients do not work for small employers, many of these recipients will not meet the EIC dependency test and thus will not be eligible to receive the EIC. On the other hand, some recipients may work for several employers and the 230,000 estimate is based on a point in time not an annual total. If these opposite factors cancel each other, a maximum of 230,000 small businesses would be potentially affected.

No new reporting or recordkeeping requirements are being imposed by the new rules concerning EIC. The existing requirements associated with the EIC under IRS regulations are not being augmented; AFDC recipients are already entitled to file for and receive an advance EIC payment.

Currently, receipt of the EIC as an advanced payment is very infrequent. Since receipt of advanced EIC will be deemed even if not requested, an increased number of AFDC recipients should file for an advanced EIC. Thus, the effect of the regulation could be to increase the workload burden under existing IRS regulations if the advance payment option is exercised more frequently. This could result in additional work for the individual employer, since the EIC amount must be computed, added to the paycheck, and deducted from the withholding amount. We do not believe that this will be a significant impact.

There are no alternatives to the regulation which would lessen the effect

on small entities. It would be inconsistent with the law not to deem the advanced EIC to recipients whose employers are small businesses. Beyond this possibile impact the regulation affects only AFDC eligibility and payment procedures.

Comment: Some commenters suggested that we detail the eligibility requirements specified in the Internal Revenue Code and regulations thereunder.

Response: The Department of Treasury is responsible for writing the regulations under the Internal Revenue Code. It is their regulations that should serve to interpret the Code. The Office of Family Assistance will provide, in an Action Transmittal, copies of the law and regulations governing the earned income credit and advance payments of the credit and the tables which show the advance amounts for which individuals are eligible. In light of this fact, one section of the interim regulations has been deleted from the final regulations. That section dealt with the IRS rule that AFDC payments are not to be considered as support provided by a parent. They are support provided by the State. This rule remains in effect; however, since we are providing State agencies with the law and rules governing the EIC a restatement is unnecessary. We did, however, want to highlight this particular rule in the preamble.

Comment: Two commenters suggested that before a State agency counts the amount of the advance payments as income, the State agency should be required to allow some time during which the individual can apply for the advance payments and the employer can process the request. Several commenters were concerned that many individuals are not aware of the earned income credit and would not know that the State agency will count the advance amounts which the individual does not actually receive.

Response: The final regulation at § 233.20(a)(6)(ix)(A)(*1*) permits State agencies at their option to not count the amount of the advance payments as income until the applicant or recipient has a chance to file for and receive it; however, in no case shall the State agency wait more than 14 days from the date of notification to the applicant or recipient. The State shall inform individuals that after that time the State agency will count the amount of the advance payments for which the individual is eligible whether or not they are actually received. Where an applicant or recipient is actually receiving the advance payments, the State agency must, begin counting them immediately. Also, where the individual begins to receive them prior to the end of the time allowed by the State agency, they must be counted whenever received. Once the time allowed by the State agency has passed, it must begin to count the amount of the advance payments for which the individual is eligible whether or not they are actually received unless the individual has made every possible effort to obtain the advance payments but cannot receive them for some documented reason, e.g., the employer refuses to process the request. At that point, the State is not required to count the advance amounts as income. (This exception was stated clearly in the preamble to the interim regulations but was not included in the regulation itself. To avoid confusion, the exception is incorporated into the regulation at § 233.20(a)(6)(ix)(A)(*2*).)

Comment: Several commenters pointed out the difficulty State agencies will have determining with certainty whether or not an individual will be eligible to receive the EIC and the probability of high error rates.

Response: Section 233.20 (a)(6)(ix)(B)(*1*) of the final regulation provides that the State agency must determine that an individual is eligible to receive advance payments of the earned income credit only where the State agency reasonably expects that the individual will be eligible to receive the earned income credit for the current taxable year. This language appears in the preamble to the interim regulation but does not appear in the interim regulation itself. The interim regulaton was interpreted by several commenters to require that the State must determine in every case that, in fact, the individual will be eligible to receive the credit. Since the Internal Revenue Code requires that an individual applying to his or her employer for advance payments of the earned income credit must certify only that he or she reasonably expects to be eligible for the credit, to require that the State agency determine with certainty whether an individual will be eligible is inconsistent and unnecessarily burdensome. Therefore, the final regulation makes clear that the State agency, in determining whether to consider an individual as eligible to receive advance payments, must only establish that it can reasonably expect the individual to be eligible for the credit. If the State agency makes the proper detrermination based upon its reasonable exceptation, it is not in error when it turns out at the end of the individual's taxable year that the individual was or was not, in fact, eligible. This lessens the administrative burden upon the State agencies and protects State agencies and individuals applying for or receiving assistance from the consequence of high error rates.

Comment: Numerous States and organizations commented that the administrative burden involved in reconciling all cases at the end of the tax year would be tremendous.

Response: Section 233.20(a)(6)(ix)(C) of the final regulations has been completely rewritten and now requires reconciliation only in cases where the State agency counted the advance payments an individual actually received or was eligible to receive and that amount exceeds the actual allowable credit determined at the end of the individual's taxable year. At that time, the State agency is required to adjust the benefits of current recipients in order to repay the amount of AFDC benefits lost. The State agency is not required to repay former recipients.

Since April of 1980, the Social Security Act has required State agencies to count earned income credit advance payments actually received as earned income to the individual. Pub. L. 97–35 expands this requirement to count such payments if the individual could receive them. The Act has also required since 1980 that whenever the amount of the advance payments actually paid to an individual by his or her empolyer exceeds the earned income credit allowable, the State must adjust the individual's AFDC benefit amount to provide payment to the individual of the amount of benefits lost. Pub. L. 97–35 did not amend this rule and the law still requires reconciliation only where the case involves actually paid advance payments which exceed the allowable credit.

We are also requiring State agencies to repay benefits lost where it counted advance payments not actually received and the amount counted exceeds the credit for which the individual is eligible. In both situations, the individual lost AFDC benefits because an amount attributed to the tax credit was included as income and the individual is not entitled to the amount. These two reconciliation requirements should not create difficulty for the State agency as they apply only to current recipients.

Where the State agency counted the amount of the advance payments an individual actually received or was eligible to receive and that amount is less than the amount of the allowable credit determined at the end of the taxable year, the State agency is required to count the amount of any earned income credit the individual receives after subtracting the amount

that the State agency already counted. This avoids double counting of the same income. The amount that is counted shall be treated as earned income in the month received. Section 233.20(a)(6)(ix)(C) has been revised to reflect the above changes.

Work Incentive Demonstration Program (Section 205.60 of Final Regulations)

The amendments provide that, as an alternative to the Work Incentive (WIN) program otherwise provided for in title IV–C of the Act, any State may elect to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of the Act. Since these are demonstration programs of limited duration, they will operate only within guidelines established by the Department and without implementing regulations. However, the regulation requires a State to report data which the Secretary has determined is necessary to carry out his responsibility to evaluate these programs.

Comment: Four commenters asked that we establish standards by which these programs will be evaluated.

Response: Specific evaluation standards for individual States will be developed after their respective WIN demonstration programs have been designed.

Income, Resources, and Disregards (Section 233.20(a)(3) of Final Regulations)

These final regulations reflect the new statutory changes which prohibit States from excluding the following in determining need:

(1) Income set aside for the future identifiable needs of the child;

(2) $5 of income from any source;

(3) Income received or deemed to be received as an earned income credit.

States are also now permitted to consider as income the value of housing subsidies and food stamps which is duplicated in an assistance unit's AFDC payment. (See the preamble discussion on the treatment of housing and Food Stamp subsidies.)

Changes in the earned income disregards. Besides changing what States can exclude from income, Pub. L. 97–35 also significantly changes both the order of application of the disregards from earned income and the disregards themselves.

States are required to disregard the following amounts from the earned income of each individual with earnings for eligibility determination in the following order:

(1) The first $75 of monthly earnings for full-time employees (or such lower amount as the State may establish for part-time work); plus

(2) The actual cost of care for a child or incapacitated adult, up to $160 per child or incapacitated adult per month (or such lower amount as the State may establish for part-time work).

The statute also requires States to apply income disregards in the following manner for benefit calculation of each individual in the assistance unit: Student income; the first $75 of the monthly earnings for other full-time employees (or such lower amount as the State may require for part-time work); child care expense; and $30 plus one-third of the earnings not already disregarded.

$30 plus one-third of the remainder. The $30 and one-third can not be used in establishing initial eligibility of an assistance unit (unless the unit received AFDC in one of the prior 4 months), but, after it has been applied to an individual for 4 consecutive months, is unavailable to that individual until the expiration of a 12-month period during which the individual has not been an AFDC recipient.

In addition, none of the disregards (the first $75, the $160 dependent care costs, the $30 and one-third) will be applied to any earned income of any individual receiving assistance who, without good cause, as specified in the State plan, terminated employment, reduced earnings, refused an offer of employment, or failed to make a timely report.

The regulations as written embody both changes clearly required by Pub. L. 97–35 and decisions made on issues arising from the legislation. Issues regarding each disregard and a full explanation of the change are outlined in the discussion that follows.

The work expense disregard. The new regulations standardize the work expense disregard at $75 per month for full-time employees. Formerly, States were required to disregard actual reasonable work expenses. The new regulations require that each full-time employee in the assistance unit receive a $75 disregard for his or her work expenses. The new legislation also gives the Secretary of HHS the authority to adjust the $75 disregard for part-time employees or those working less than a full month. In keeping with the President's commitment to assure State's adequate flexibility in developing their own programs, and because States, based on their prevailing individual circumstances, are in the best position to determine at what lower level it should be set and what process should be used, the Secretary has decided to require States to adjust the $75 work expense deduction for those working less than full-time or not working throughout the month. In this way, the Secretary will be carrying out his responsibility under the law in a way which best ensures that all individuals covered in these regulations will be treated fairly and equitably under State AFDC plans.

With respect to self-employed individuals, States must specify in their State plans, and exclude from gross income, work expenses related to producing the goods or services and without which the good or service could not be produced. Specifically not excluded are items such as depreciation, personal business and entertainment expense, personal transportation, purchases of capital equipment, and payments on the principal of loans.

Child care disregards and incapacitated adult care disregards. The legislation requires that after the work expense disregard is applied to the earned income of the assistance unit, a State must disregard the actual cost of care for a child or incapacitated adult up to $160 per month per child or incapacitated adult if the individual is employed full-time. The legislation gave the Secretary the authority to set a cap lower than $160 in the case of an individual employed less than full-time. As for work expenses, States can set limits below $160 for part-time workers.

Issues regarding the $30 and one-third disregard. Pub. L. 97–35 clearly specifies that the $30 and one-third disregard is the final disregard applied, but it did not clearly specify to whose income and under what circumstances it is permitted.

In the final regulation, the approach taken is to apply the $30 and one-third disregard to the earned income of each individual in the assistance unit rather than to the total earnings of the unit. Each individual receives his own $30 and one-third disregard for four consecutive months. The individual may then not receive the disregard until he has been off AFDC assistance for twelve consecutive months.

A second issue was whether States start counting the four consecutive months as soon as the legislation becomes effective or whether recipients who have received the disregard for four consecutive months prior to October 1 would not be eligible for the disregard on October 1. The decision was made to permit current recipients (i.e., receiving assistance in September) to receive the $30 and one-third disregard for consecutive months from October 1981 through January 1982.

A third issue was whether recipients who did not receive the $30 and one-third disregard for four consecutive months because they, without good cause, terminated employment, reduced earnings, refused an offer of employment, or failed to make a timely report of earnings could be considered to have received the disregard for purposes of the four-month period of eligibility for the disregard. After careful review, we decide that it was the intent of the provision to not extend the $30 and one-third disregard for four additional months under these circumstances. In addition, if an assistance unit asks to have its case closed, we decided to count the months the $30 and one-third disregard was withheld toward the individual's four-month eligibility if the State finds that such action was taken solely to avoid the running of the four consecutive month period.

WIN—Public Service Employment (PSE) disregards. The new legislation and regulations do not change the requirement that the State must disregard the $30 monthly incentive payment and the reimbursement for training-related expenses made by the manpower agency (pursuant to section 432(b)(2) of the Act). Also unchanged is the requirement that the $30 and one-third disregard not be applied to the earned income of public service employees.

Comments: Comments were received objecting to considering money previously excluded and allowed to be set aside for future educational use as a resource. On a related issue, some commenters questioned the regulation requiring the counting of student income of the assistance unit towards the 150 percent of need eligibility test.

Response: We are unable to make any change in response to these comments because the statute clearly requires that all income of every member of the assistance unit be included in determining the unit's gross income as applied to the 150 percent of the standard of need limit. Furthermore, the statute no longer permits any money set-aside for education.

Comment: Several comments were also received regarding a perceived inconsistency between references to students who attend a college or university, in § 233.20(a)(11)(ii)(A), and changes in the age requirements for child recipients at §§ 233.90(b)(3) and 233.29(b)(1)(ii).

Response: We have carefully reviewed the language of these sections and believe no inconsistency exists between the two provisions. It is still possible, although admittedly rare for an eligible 16 or 17 year old to be enrolled in a college or university and be a full-time or part-time student with earnings that would be disregarded. Therefore, no changes were made in language between the interim regulation and the final version.

Comment: Several commenters called attention to the interim regulations at § 233.20(a)(11)(i)(B)(1) which discussed how States were to treat self-employment income. They pointed out that there was conflict between the interim regulation at § 233.20(a)(11)(i)(B)(1) and existing regulations at § 233.20(a)(6) (iii), (iv) and (v). In § 233.20(a)(11) of the interim rules, self-employment exclusions were limited to work expenses directly related to providing the goods and services and without which the goods or services could not be produced. However, regulations at § 233.20(a)(6)(v) continued to permit a comparison of total self-employment expenses with gross receipts in determining the amount of self-employment income to be considered.

Response: We believe discussion of self-employment income is better placed at § 233.20(a)(6) which relates to methods of considering earned income. Therefore, we have moved discussion of self-employment income from § 233.20(a)(11) and amended § 233.20(a)(6). This method of determining self-employment income is to be used for all purposes of the AFDC program.

For consistency with the new statutory requirements, the definition of earned income at § 233.20(a)(6)(iii) has been revised for AFDC. The option of reporting farm income under the OASDI method has been deleted. Determination of earned income from self-employment, including farm income, is defined under § 233.20(a)(6)(v)(B) for AFDC.

Comment: Questions were also raised on how stock and inventory accumulated by self-employed individuals are to be considered.

Response: We believe that stock and inventory are not resources, but goods necessary in the production of goods or services and, therefore, are exempt from consideration as either income or resources. Accordingly, § 233.20(a)(6)(v) is amended.

Comment: Several letters suggested that the amount of work expense disregards applicable to part-time employment and to stepparents whose income is to be counted should be prescribed by the Secretary rather than be left to State decision making.

Response: By law, the Secretary has been given the prerogative to set an amount less than $75 and $160 for part-time employees and stepparents. However, in keeping with the goal of enhancing and expanding State decision making in the AFDC program, and in recognition that State administrators can set these amounts with more precision based on State and local conditions, the Secretary grants this discretion to the States.

Comment: One comment asked how the $30 incentive pay from CETA is to be treated.

Response: The $30 incentive payment available to CETA participants continues to be totally disregarded as income or resources.

Comment: States with approved waivers for later implementation dates for one or more provisions have questioned when to begin counting the four consecutive months limit for receiving the $30 and one-third disregard for current recipients. It was suggested by a commenter that the approved effective date granted under the waiver, rather than October 1, 1981 should be the point to begin counting the four months.

Response: Current recipients can receive the $30 and one-third disregard through the months before the month of the effective date of the waiver or January 1982, whichever is later. We believe this decision has support in the statute and maximizes savings.

Comment: A question was raised about how suspended cases are to be treated for purposes of counting four consecutive months of the application of the $30 and one-third disregard.

Response: Where cases are suspended or terminated because of periodic extra paychecks resulting from an extra regular payday falling within a month which makes the individual ineligible for one month, there is no break in the counting of the four month period. Receipt of an extra pay check periodically is a usual occurrence for people who remain employed throughout the year. To permit a majority of employed individuals to continuously receive the $30 and one-third disregard would circumvent the intent of Congress to limit the $30 and one-third disregard to four months. However, it should be made clear that in these cases the month in which the $30 and one-third disregard is not applied is not counted as a month of receipt of the disregard. For example, if a person is employed, received the $30 and one-third disregard for two consecutive months, and then in the third month received an additional pay check and is ineligible for aid that month, the $30 and one-third disregard is not applied to that month since no aid is given. In the fourth

month, when the person is once again eligible for aid, this fourth calendar month represents the third consecutive month of the application of the $30 and one-third disregard.

Finally, an editorial change was made at § 233.20(a)(11)(ii)(A) to make clear that a person must not be a recipient of AFDC for at least twelve consecutive months before he can be eligible for the $30 and one-third disregard should he or she once again become a recipient of AFDC.

Comment: Several commenters suggested that it would be extremely difficult to prove that a person terminated assistance for the "sole" purpose of avoiding receipt of the $30 and one-third disregard for four consecutive months. They suggested that the regulation should say "primary" instead of "sole" reason.

Response: We agree. Thus, we replaced the word "sole" with "primary" in § 233.20(a)(11)(iii)(D) of the final regulation.

Additional Clarifications of Disregards Based on Our Own Review

Under former law and regulations, States were permitted to provide for the cost of child care for AFDC recipients as a special need. New statutory language on child care disregards considerably tighten this option. States can no longer pay for child care expenses related to employment as a special need. Provision for treatment of these expenses only as an earned income disregard is clearly stipulated by the new statutory change at section 402(a)(8). This does not, however, prohibit a State from providing child care as a special need item in the IV–A State plan as long as it is for purposes other than employment.

We have revised sections in the former regulations that pertain to consideration of actual work expenses and self-employment business expenses that are inconsistent with the new statute.

Retrospective Budgeting and Monthly Reporting (Sections 233.31–233.37 of Final Regulations)

Retrospective budgeting. Consistent with Pub. L. 97–35, these rules amend final rules published (at 44 26075–26084) on May 4, 1979, which specified the budgeting methods States may use in determining eligibility for and the amount of the assistance payments.

These new rules specify that a State must determine eligibility using prospective budgeting and the amount of the payment using retrospective budgeting. Prospective budgeting means that the agency shall determine eligibility for any payment month based on its best estimate of income and circumstances which will exist in that month. States must determine the amount of the grant for the month of application prospectively and at the State's option the following month.

Retrospective budgeting means that the agency shall compute the amount of the payment based on income and circumstances which existed in a previous month, called the budget month. States have the option of making the budget month the first or second month preceding the payment month. However, if a State chooses the budget month to be the second preceding month, it must also pay the second month after application prospectively. Otherwise, in the second month after application when the State changes to retrospective budgeting, the month would be the month prior to application.

Determining eligibility prospectively. The rules require that a State must consider all factors of eligibility prospectively. This means that the State agency shall establish eligibility based on its best estimate of income and circumstances which will exist in the month for which the assistance payment is made. For example, a State would determine eligibility for the month of June by considering income and circumstances which are reasonably expected to exist during the month of June. If the agency becomes aware of a change in income or circumstances through information provided on the monthly report, or through direct contact with the client, and the change will make the recipient ineligible for June, the agency would not make the payment for the month. They will not issue a payment even though the recipient had no income in the prior budget month.

Computing the assistance payment in the initial one or two months. States must determine the amount of the payment for at least the first month prospectively, i.e., using its best estimate of income and circumstances which will exist in that month. The statute provides that the State could only determine the amount of the payment for the second month prospectively where the Secretary determined it to be appropriate.

The rules provide that States must determine the amount of the assistance payment retrospectively for the first and second month in certain situations. This rule requires States to compute the amount of the payment retrospectively if the applicant received assistance or would have, except for the restriction on making monthly payments of less than $10, for the immediately preceding payment month.

A second exception is that the State must compute the payment retrospectively for the first and second months if assistance had been suspended (due to an extra pay day) instead of closing the case. Experience with prior regulations on retrospective budgeting shows that when recipients have stable incomes and become ineligible for one month solely because there were five paydays in the budget month, rather than the usual four, the requirement to determine the amount of the payment prospectively serves no useful purpose. In fact, the continuous switching back and forth between propspective and retrospective budgeting is confusing to both agency workers and recipients and is error prone. These rules correct this situation by providing that States shall suspend assistance for one payment month and continue to compute the amount of the assistance payment retrospectively for the following payment months whenever the agency has knowledge of, or reason to believe, that suspension would be only for one payment month, suspension for that payment month was caused by a regular and periodic extra paycheck from a recurring income source, and no significant change in the family's circumstances occurred. (See § 233.34(d) for other circumstances.)

Computing the assistance payment after the initial one or two months. The statute did not change previous regulations which provide that after the initial one or two months of assistance, the amount of each subsequent month's payment shall be computed retrospectively, i.e., on the basis of income received and other relevant circumstances which occurred in the corresponding budget month. There is, however, one situation regarding treatment of income received for a period greater than the budget month. Current Federal regulations at 45 CFR 233.20(a)(3)(iii), which provide that States may average income received by individuals paid on a contractual basis (i.e., school teachers), farmers, self-employed individuals, remain applicable. If a State elects this option, the income must be averaged over the number of months covered under the contract, regardless of whether the employee chooses to receive the income in fewer months than the contract covers or whether it is paid in fewer months at the convenience of the employer. This does not conflict with the requirement that only "income available for current use and currently available resources shall be considered" (45 CFR 233.20(a)(3)(ii)(D)). That regulation is directed against assuming

income not actually received. Income received, for example, in a 10- or a 12-month contract, may be considered as periodic payments of an annual salary and, therefore, may be considered as available for all months regardless of when it is received.

That rationale also supports our decision to permit States to average intermittent income received quarterly, semi-annually, or yearly, such as farm income, over the period covered by the income if it is reasonably expected to continue in the future. In addition, when an eligible individual is added to an existing assistance unit, the rules require a State to reflect that individual's needs in the assistance unit promptly. This means that if a recipient advises the agency that her child was born in June, the agency shall reflect the child's needs in the July 1 payment, even though the child was not born during May, the corresponding budget month.

Computing the payment for the first month in which retrospective budgeting is used. This rule requires States to compute the amount of the payment for the first month in which retrospective budgeting begins by counting all income received during the corresponding budget month (usually the month of application) which is of a continuous nature. Alternatively, it requires that States disregard all income received during the corresponding budget month when there is evidence that the income will not continue.

Monthly reporting. Consistent with Pub. L. 97-35, the rules provide that States require all recipients to submit monthly report forms to the agency. The rules further state that with prior approval of the Secretary the State may exempt certain categories of recipients from reporting monthly. Approval of exceptions will be based on State criteria for assuring that exempted cases are unlikely to incur changes in circumstances from month to month which would impact their eligibility or payment amount and that the administrative costs of processing monthly reports would be unwarranted. Quality control data findings and error prone profiling systems should represent good sources of information upon which to base justifications.

Families required to file reports each month must do so as a condition of eligibility for receipt of AFDC as well as for continuation of benefits associated with receipt of AFDC, e.g., Medicaid, when recipients do not receive a payment due to the prohibition on payments of less than $10 or the application of the recoupment provision.

Content of the monthly report. Previous regulations contained in 45 CFR 233.28, which address monthly reporting, are deleted for AFDC. The new rules for AFDC reporting under § 233.36 require that the States collect information on the budget month's income, family composition, and other circumstances relevant to the amount of the assistance payment. The rules also specify that recipients must report changes in income or other circumstances which the assistance unit expects to occur in future months which affect continued eligibility. We have deleted the previous detailed requirements relating to the content of the form in order to ensure that State agencies have maximum flexibility in designing the report forms to meet their own program requirements. We no longer require States to provide a stamped, self-addressed envelope for return of the monthly report, but will match such costs if the State opts to do so.

In addition to requiring that recipients submit a monthly report form to the agency, States must direct recipients to contact the agency, rather than waiting to submit the report form, when they become aware of expected changes which will affect their eligibility. For example, States should tell recipients to call their caseworker as soon as they know they will be employed.

Timely reporting. The new statute specifies that none of the earned income disregards in section 402(a)(8)(A)(ii–iv) of the Social Security Act will be applied if the monthly report, required under these regulations, is not filed "timely."

States must specify in their plans a definition of timeliness related to the filing of a monthly report and the number of days an individual has to report changes in earnings which impact eligibility. States must inform recipients what constitutes timeliness and that no disregard of earnings as described in § 233.20(a)(11)(i)(B) as well as (a)(11)(ii) ($30 and one-third, child care, and work expenses) will be applied to any earnings which are not reported in a timely manner.

Because of the substantive changes to the statute on the timely reporting requirement and due to the mandatory retrospective budgeting, we will not be publishing proposed rulemaking on the prior statutory language enacted in June 1980 in section 302 of Pub. L. 96-272.

What happens if a completed monthly report is received on time. If a completed monthly report is received on time, the rules require States to process the payment and notify the recipient if there are changes from the prior payment and the basis for those changes. The agency must mail the notice at the same time as the resulting payment or in lieu of the payment if assistance has been terminated or suspended. A recipient whose benefit is reduced or terminated is protected because he or she may have his or her previous month's level of assistance reinstated by requesting a fair hearing within 10 days of the date of the notice.

What happens if a completed monthly report is received by the agency. Section 233.37(b) of the interim regulations addresses situations in which recipients either fail to return monthly reporting forms prior to the State's due date or return incomplete forms. When this occurs, these rules provide that States are required to notify recipients not later than the expected payment date that the report was not received or that it was incomplete and, accordingly, no check is being issued and assistance is being terminated.

If recipients notify the agency and file a completed report within 10 days of learning their assistance has been terminated, the rules require States to accept the replacement form. The States must reinstate assistance if the information on the replacement form indicates that the recipient is still eligible. If the recipient is found ineligible or eligible for an amount less than the prior month's payment, the State must promptly notify the recipient of his right to a fair hearing and his right to have assistance reinstated at the prior month's level, if he files for a hearing within 10 days of the date of the notice.

Supplemental payments. Previous regulations at 45 CFR 233.23 are deleted because supplemental payments are prohibited. In its place under § 233.32 the States are required to specify the time period covered by the payment (payment month) and the period used to determine the amount of that payment (budget month). This is necessary for quality control purposes.

Comment: Many commenters at the conferences in Philadelphia and Phoenix asked for clarification of policy regarding the prospective determination of eligibility. They were particularly concerned that it would require recoupment of a payment issued on the first of the payment month because a State would be unable to predict that the recipient's income circumstances would change during that month.

Response: The requirement to determine eligibility prospectively means that a State shall not make a payment to any family for any payment month when there is a reasonable expectation that the family will not meet all factors of eligibility for that month.

For example, when a recipient starts working in June, and advises the agency promptly, the agency must determine whether the new income which the recipient expects to receive will render the assistance unit ineligible for any month and, if so, when the period of ineligibility begins. If still eligible for both June and July, no change is made. Any increase in countable income in the budget month will result in a lower payment in the corresponding payment month. If the unit will be ineligible for June and July, the State must terminate the unit and recover any money issued for either month.

Note.—To the extent the previously issued payments were based on accurate, timely reports and were computed correctly, no Quality Control (QC) error exists even though the amount paid is an overpayment and must be recovered.

If the unit will be ineligible in June but not in July—if, for example, one unit member gets a relatively high paying but short-term job—the State may either terminate for June and recover any payment issued for June or later, or the State may suspend for the payment month which corresponds to the June budget month. If the unit will be eligible for June but not for July, then the State must determine whether the ineligibility is expected to continue through August. If not, the State may either terminate for July or handle the case through a suspension during the payment month corresponding to the July budget month. If the ineligibility is expected to continue through August, the State must terminate effective with the July payment month and, if a July payment has been issued, recover it.

Comment: Several commenters asked how to apply the striker provision at 45 CFR 233.106(b) under retrospective budgeting.

Response: The striker provision is a factor of eligibility for the month of payment. If a recipient participates in a strike on the last day of a payment month, any payment issued for that month is an overpayment. Under certain conditions, payment may be withheld the same as for other changes in circumstances under retrospective budgeting. (See § 233.20(a)(13)).

Comment: One commenter asked whether the 150 percent eligibility test is ever applied retrospectively based on a monthly report.

Response: The statute is clear that there is no assistance payment payable for any month in which the assistance unit is not eligible. Factors of eligibility must be applied both prospectively and retrospectively whenever the State learns of a change in circumstances which results in ineligibility. It is not material when the State is made aware of the change. Similarly if a prospective ineligibility decision were made and, later, circumstances changed which, viewed retrospectively, allowed the unit to actually be eligible for that same period, the unit is eligible and assistance must be reinstated.

Comment: Several commenters oppose § 233.34(c) which requires a State to compute the amount of the payment for the initial month of assistance retrospectively if assistance had been suspended. They contended that the statute requires that a prospective determination be used if the month follows a one-month period of ineligibility. Furthermore, they are concerned that families who were denied assistance prospectively because of anticipated income will later be denied assistance based on that same income.

Response: The Congress recognized that many families apply for assistance following a loss of income. In order to avoid a waiting period which might result if the payment at application were based on prior earnings, the statute requires that the payment for the first month in a period of consecutive months shall be computed prospectively. Suspension is consistent with this concept. Suspended cases can only be reinstated retrospectively if the family's circumstances have not changed significantly from those reported in the budget month. This avoids a delay in payment that would result if the family was required to reapply. Furthermore, it facilitates the administration of retrospective budgeting.

Comment: Several commenters requested that States be permitted to suspend cases for any reason, e.g., when there is ineligibility for one month because of a lump sum payment. Others asked whether suspension is an option.

Response: The optional suspension provision was purposefully very narrowly drawn to permit suspension only when there is an extra paycheck in a month based on the calendar but the individual's actual earnings have not increased. However, there are convincing administrative reasons for suspending recipients whenever ineligibility for only one month occurs and § 233.34(d) is revised to authorize such actions. However, all other situations which result in loss of eligibility for more than one month represent ongoing changes in circumstance which must be treated as terminating events.

Comment: Several commenters stated that the regulations were not clear as to when the agency must reflect the needs of an individual who is prospectively added to an assistance unit.

Another commenter asked whether the agency must count the individual's income prospectively. Other commenters asked whether this provision conflicts with Section 403(a)(5) of the Act which prohibits supplemental payments.

Response: The rule at § 233.35(a) has been revised to require States to meet the needs of eligible individuals added to an existing assistance unit as if such individuals were applicants for assistance. For example, a mother reports to the agency on June 15 that her baby was born on June 10 or that her 16 year old child moved back home. If the State pays back to the date of application, it must issue a payment to meet the needs of the newborn or the 16 year old back to June 15. If the individual has income, the income should be counted prospectively in determining the individual's need.

The requirement to reflect the needs of an individual added to an existing unit prospectively does not conflict with section 403(a)(5) of the Act. That section of the statute prohibits supplemental payments required by 45 CFR 233.27 in effect for AFDC prior to the Omnibus Budget Reconciliation Act and is still in effect for Titles X, XIV, and XVI. Those supplemental payments were required under AFDC to reflect a significant reduction is income under retrospective budgeting systems.

Comment: Commenters suggested that the problem, which § 233.35(b) corrects also occurs in the second month of retrospective budgeting if a State computes the amount of the payment prospectively for the initial two months. That is, income which is not of a continuous nature is counted twice, once to determine the second month's payment and again in the second retrospective budgeting month. They proposed that § 233.35(b) be expanded to include the second month of retrospective budgeting.

Response: We have revised the rule at § 233.35(b) to require that for the first and the second month in which retrospective budgeting is used, States may not count income reported for the budget month if that income is not of a continuous nature.

Comment: Several commenters were opposed to the granting of State flexibility in the composition of the monthly report. They suggested that the final rule should incorporate the monthly reporting requirements in § 233.28 which were retained for Titles X, XIV, and XVI.

Response: We believe States require greater flexibility to design their own monthly reporting forms and to establish time frames and procedures for mailing and receiving of the forms which are more consistent with their own needs.

Comment: Many commenters suggested that 6-month eligibility redeterminations be eliminated if a State requires a recipient to complete a comprehensive report each month which addresses all factors of eligibility.

Response: The requirement for monthly reports by recipients and the requirement that States make 6-month redeterminations are separate and independent requirements. Monthly reports cannot substitute for scheduled redeterminations. However, consideration is being given to possible rulemaking which would permit error prone profiles to be used as the basis for redetermining low risk cases at intervals greater than every 6 months but not less frequently than every 12 months.

Comment: Several commenters were opposed to requiring agencies to direct recipients to report changes as soon as they become aware of them in addition to submitting a monthly report form. They said that this imposes a substantial burden on recipients and is not permitted under the statute.

Response: Section 233.36(c) is consistent with the statutory language and is necessary to meet the requirement that eligibility be determined prospectively. Section 420(a)(14)(A) of the Act requires that recipients complete a monthly report on their income and circumstances and references "other reports or information received by the State agency." Under prospective eligibility, agencies are required to discontinue payments to ineligible recipients immediately. They must know promptly about changes which impact eligibility. Both States and recipients benefit from the early reporting of changes because it avoids overpayments, underpayments and subsequent corrections. States may want to reduce the number of contacts by clearly defining the changes which they want recipients to report to the agencies in addition to the monthly report.

Comment: Many commenters asked whether a State must provide timely notice when assistance is terminated based on information received through a method other than the monthly report.

Response: Sections 233.37 (a) and (b) permit States to dispense with timely notice (as defined at 45 CFR 205.10(a)(4)(i)(A)) when they reduce or terminate payments based on information provided in a monthly report or if the agency terminates assistance because it did not receive a completed monthly report. However, under § 205.10(a)(4)(i)(A) if an agency takes action to reduce, suspend, or terminate assistance through a method other than the monthly report or other exceptions already listed in § 205.10(a)(4)(ii), (iii), (iv), it must provide that requirements for timely notice are met.

Comment: One commenter raised the question as to whether the timely reporting penalty can be invoked if a recipient does not report a change, or whether it can only apply when a monthly report is filed late, or when pertinent data is omitted from the monthly report. A second comment asked whether the earned income disregards can be disallowed solely for failure to complete sections of the report which are unrelated to the earned income.

Response: The regulations at § 233.37(c) provide that States must specify in their plans a definition of timeliness related to the filing of a monthly report and the number of days an individual has to report changes which impact on eligibility. This rule is consistent with the statutory language of Section 402(a)(8)(B) which ties the timely reporting requirement to Section 402(a)(14), which speaks to other reports or information received by the agency in addition to the monthly report. Therefore, the timely reporting penalty can be invoked if a recipient does not report a change timely and there is not good cause for reporting the change late. In response to the second comment, the earned income disregards under this provision can only be disallowed if the recipient fails to make a timely or accurate report of earned income. We have modified § 233.37 (b) and (c) to emphasize this.

Comment: Several commenters expressed concern about how Title IV–D requirements mesh with retrospective budgeting.

Response: Under 45 CFR 232.20, the IV–A agency must use collections on a monthly support obligation to redetermine eligibility for assistance not later than the second month after the month in which the report was received from the IV–D agency. This reported amount, in addition to any other sums or changes in circumstance given in a monthly report, will be used to determine eligibility for the payment month. If the reported support collection does not cause ineligibility (either alone or in combination with other income), the reported support collection is not used in the computation of the assistance payment.

Comment: One commenter stated that averaging seasonal and self-employment income over the actual months of employment conflicts with the statutory provisions for retrospective budgeting which provide that payments for a month are to be based on income received in a prior month.

Response: After careful review we do not agree that the statutory language for retrospective budgeting compels a change in the long-standing policy which allows States to prorate income when individual case circumstances warrant it. To do otherwise would result in eligibility for AFDC by some with high annual incomes who can manipulate the receipt of that income. This would fly in the face of the congressional concern that benefits go only to those most in need.

Comment: Several commenters were concerned that the Secretary did not limit the circumstances under which a State may use a two month retrospective budgeting system. They believe that the Congress meant to impose an obligation on the Secretary to define the circumstances under which States may use a two month retrospective budgeting system.

Response: The Secretary has the authority to permit States to have a two month retrospective system with a payment date as late as the last day of the second month. States need flexibility to establish time frames in recognition of their processing capabilities.

Eligible Aliens (Sections 233.50–233.52 of Final Regulations)

Pub. L. 97–35 requires States to provide under the AFDC program only for the needs of U.S. citizens and aliens who are lawfully admitted for permanent residence or otherwise lawfully residing in the United States on a permanent basis under the color of law.

The regulations at § 233.50 on citizenship and alienage are now revised to add new references made in the 1980 amendments to the Immigration and Nationality Act (Pub. L. 96–212). These changes recognize the elimination of certain restrictions on conditional entrant refugees in Section 203(a)(7) in effect prior to April 1, 1980 and expansion of the definition of these refugees within a new Section 207(c) effective after March 31, 1980. Section 203(a)(7) still however, applies to aliens who were granted legal resident status prior to April 1, 1980. The revision also recognizes the eligibility status of aliens who are admitted under the new political asylum procedures of Section 208 of that Act. The eligibility status of

aliens temporarily paroled as refugees into the U.S. at the discretion of the Attorney General under Section 212(d)(5) of that Act also continues unchanged in this regulation.

Attribution of a sponsor's income and resources to an alien. State Agencies now have to consider the income and resources of a sponsor when determining the financial eligibility of certain aliens applying for AFDC.

This requirement applies to legally admitted aliens, unless specifically exempted, who apply for AFDC for the first time after September 30, 1981 for 3 years after their entry into the United States. We define an alien's "date of admission or date of entry" to be the date established by the Immigration and Naturalization Service as the date the alien was admitted for permanent residence.

Aliens who are exempted from this provision are aliens who were:

- Paroled into the U.S. as refugees;
- Granted political asylum by the Attorney General;
- Admitted as Cuban or Haitian entrants;
- Admitted under Section 203(a)(7) of the Immigration and Nationality Act prior to April 1, 1980;
- Admitted under Section 207(c) of the Act after March 31, 1980.

Alien children of sponsors (or such sponsors' spouses) are also exempted.

The alien is responsible for obtaining the cooperation of his or her sponsor and supplying the information and documentation which the agency requests to determine the alien's eligibility. This will include material provided in support of the alien's immigration application.

Aliens who do not obtain this cooperation or supply this information will not be eligible for assistance.

The agency will determine if the alien has a sponsor and if that sponsor signed an agreement to guarantee the alien's support.

Under the approach taken in the interim final regulations, a sponsor is a person who signed an affidavit or other statement accepted by INS as an agreement to support an alien as a condition of the alien's admission for permanent residence in the United States.

Under the law, the Department of Justice and the Department of State are to inform sponsors that information they supply will be given to HHS and that they may be asked for additional information if the aliens apply for AFDC benefits.

- When the State evaluates whether to deem income and resources, the income and resources of a sponsor who is receiving AFDC or SSI will not be counted in determining deemable income or resources. We believe that, while the statute attempts to reinforce the obligation of the sponsor to support, when a sponsor has been determined as financially needy under one of these benefit programs, his or her income and resources have been considered in determining the amount of his or her payment. The individual's income and resources should not be deemed available for the support of others.
- A portion of the earned and unearned income and resources of the sponsor and the sponsor's spouse (if they are living together) will be counted as available to the alien. The spouse's income and resources will be counted even if the sponsor and spouse have married since the signing of the agreement. Amounts specified in the statute will be set aside for work expenses, living expenses, and payments of alimony or child support.
- We disregard actual payments to dependents outside the home. We define "dependent" as used in the Internal Revenue Code for personal income tax purposes. We were concerned that a sponsor might arrange to pay large amounts to a dependent in an attempt to avoid the deeming procedure. We considered placing a ceiling on the amount that a sponsor could claim as payment to a dependent outside the home. However, we have concluded that we will allow actual payments as a deduction in deeming.

The agency will assess the sponsor's *current* ability to support. The agency may require the alien to provide this information. INS reports that sponsors frequently revoke their sponsorship agreement. Although there is no INS requirement for the alien to obtain a new sponsor, our deeming requirements are not waived. Agencies will, therefore, consider the income and resources of the individual who executed the support agreement even if the person claims to have given up sponsorship responsibilities. Deeming of income and resources occurs for purposes of determining eligibility whether or not the income and resources are actually available to the alien.

There are individuals who agree to sponsor a number of alien families. The statute is clear that when a person sponsors multiple alien families living together, the income of the sponsor will be divided equally among the aliens. The statute does not address the distribution of deemed income and resources from a sponsor to multiple aliens when the aliens are not living together. The agency will consider the total deemable income and resources from a sponsor in determining the needs of eligible aliens. Therefore, if a person sponsors four alien families and only one applies for assistance, the sponsor's total deemable income and resources would be applied to the needs of the one family. If three of the alien families applied for AFDC, then the sponsor's total deemable income and resources would be divided in proportion to the number of sponsored aliens in each unit. If the sponsor actually gives the alien more than is needed to meet his or her need, the excess will be counted in determining the needs of unsponsored children in the same assistance unit.

Overpayments to aliens where sponsors provided income information. Where the sponsor fails to provide correct information, the sponsor and alien are liable for any overpayment except where such sponsor was without fault or where good cause existed. Recovery will be made by the State through its regular recoupment procedures. Any overpayment under this section not repaid or recovered must be withheld from subsequent payments to which the alien or sponsor is or becomes entitled under any Social Security Act program. The State must define its procedures for determining "good cause" or "without fault" in its approved State plan. The State may then declare that the sponsor was without fault or had good cause for failure to provide correct information in accord with its approved State plan procedure and the sponsor would not be liable for the overpayment. (The preamble to the interim regulations stated that neither the sponsor nor the alien would be liable for overpayments where the sponsor was without fault or had good cause; however, we have revised this position in response to a comment addressed below.)

Comment: One commenter asked to what extent an alien has an obligation to submit monthly reports on the income of his or her sponsor and the effect on unsponsored family members of failure to provide such information.

Response: The final regulation states that a sponsored alien's eligibility is contingent both on providing necessary information with respect to the sponsor and on obtaining any cooperation necessary from the sponsor. The information submitted by the alien in the monthly report must be sufficient to permit a determination of the sponsor's income and resources deemed available to the alien for that month. A sponsored

alien is ineligible in any month in which adequate information concerning the sponsor's income and resources is not provided, regardless of the reason the alien failed to provide the information. Unsponsored family members are not ineligible if a sponsored alien fails to provide information concerning the sponsor; however, any income the unsponsored family members actually receive from the sponsor must be reported and considered in determining their eligibility. Accordingly, § 233.51 has been revised.

Comment: One commenter suggested that we clarify in the regulations that the income and resources of a sponsor's spouse must be considered for purposes of deeming.

Response: We have revised the language at § 233.51 to reflect this comment.

Comment: The Act now requires that the Secretary enter into agreements with the Attorney General and the Secretary of State to obtain information necessary to implement the new alien eligibility provisions. One commenter requested that the regulations describe the type of information that will be exchanged and specify the procedures States should follow to obtain this information.

Response: We are working with the Department of Justice and the Department of State to develop these procedures.

Comment: One commenter requested that the provision at § 233.51(c) concerning dividing a sponsor's deemable income and resources when he or she sponsors more than one alien be amended so that all sponsor's income and resources would be deemed to each alien unless sponsored aliens reside in the same home.

Response: The statute does not address deeming from one sponsor to two or more aliens living separately. However, we did not accept this comment because we do not believe that Congress intended an unreasonable result. To do otherwise would result in determinations that more than 100 percent of the sponsor's income and resources is available to meet the sponsor's need and the need of the sponsored aliens.

Comment: The interim regulation (at § 233.51(b)(2)) requires that if the alien and the sponsor reside in different States, the monthly resources deemed available to the alien are determined as if the sponsor were applying for assistance in his or her State of residence, less $1500. One commenter believed that if the alien and sponsor reside in different States, the resource rules of the alien's State of residence, rather than the sponsor's State of residence, should be used.

Response: We agree with the commenter that this change would eliminate the administrative inconvenience and potential for error that would exist when one State is required to obtain and apply the resource rules of another State. We have accepted this comment and have revised § 233.51(b)(ii)(A) of the regulations accordingly.

Comment: One commenter requested that we require deeming of the income and resources of organizations and institutions that sponsor aliens.

Response: Under the new statute, the nature of the income disregards for the sponsor (e.g., the appropriate cash needs standards, child support and alimony payments) indicates that they were intended to apply only to individuals who sponsor aliens. Accordingly, we do not believe there is current authority under the Social Security Act to deem income to aliens from sponsoring organizations or institutions.

Comment: One commenter questioned the effective date of the provision (at § 233.50(b)(1)) concerning the eligibility of refugees admitted under section 207(c) of the Immigration and Nationality Act.

Response: The effective date of section 207(c), which appeared incorrectly in the interim regulation, has been corrected in the final regulation.

Comment: We received an inquiry regarding the provision for calculating the monthly income deemed available to an alien from a sponsor. There was concern that the regulation could be interpreted to require that the full amount of costs associated with self-employment income be disregarded twice.

Response: This was not the intent of the deeming provision, and the language at § 233.51(b)(1)(i) has been clarified.

Comment: Section 415(d) of the Act now requires that any overpayments to an alien which are not recovered must be withheld from future benefits to which the alien or the sponsor (for overpayments for which the sponsor is held liable) otherwise would be entitled under the Social Security Act. Two commenters requested that we include in the regulation the procedures that States should follow to implement this provision.

Response: A similar provision was enacted with respect to overpayments to aliens under the suppplemental security income program. Due to the complexity of the requirement, we have not yet developed implementing procedures; however, we will develop procedures which can be used to accommodate the requirement for both programs. After we develop procedures, we will determine whether it would be appropriate for those procedures to be published as regulations.

Comment: We also received an inquiry about aliens' liability for overpayments. Section 233.52(b) of the interim regulation states that if a sponsored alien receives an overpayment due to the sponsor's failure to provide correct information, the sponsor and the alien are jointly and severally liable, except that where the sponsor was without fault or where good cause existed, the sponsor will not be held liable and recovery will not be made.

Response: The preamble to the regulation incorrectly stated that the alien would also be exempt from liability when the sponsor was without fault or had good cause. We do not believe that Congress intended to single out one category of AFDC recipients from whom recovery of overpayments is not made. Therefore, we have amended the regulation (at § 233.52 (b) and (c)) to clarify that in the case of any overpayment to an alien, only the sponsor is exempt from liability when he or she was without fault or had good cause.

Strikers (Section 233.106 of Final Regulations)

The statute contains a new provision which requires States to deny AFDC benefits to persons participating in a strike. Previously, the program did not specifically prohibit AFDC benefits to those who were engaged in a strike. Regulations, however, did give States the option of prohibiting payment to AFDC–UP families if the qualifying parent's unemployment resulted from participation in a labor dispute.

The new regulation requires that the State plan must provide for the denial of AFDC benefits to strikers. The statute provides for this denial of benefits to any family for any month in which any caretaker relative is participating in a strike on the last day of that month. For the interim final we interpret this portion of the regulation to apply to any caretaker relative, regardless of whether that relative is legally or non-legally liable for the support of the dependent child and regardless of whether that relative is needy or non-needy. The regulation also provides that the State must deny AFDC benefits to any individual (other than the caretaker relative) for any month in which that individual is participating in a strike on the last day of the month. If the individual is the only dependent child in

the family, the State will deny assistance for the family. If the individual is one of several children or other individuals in the family, the State will deny assistance for that individual and will not take into account that individual's needs in determining the need for assistance.

The regulations require States to define a "strike" according to the National Labor Relations Board (NLRB) definition (29 U.S.C. 142) or any other definition of the term that is currently in State law. We considered several alternatives, including allowing the States to define the term, requiring the States to use a Federal definition or another definition of the term in State law or rules which the State already uses for any other State purpose, or requiring a Federal definition of a strike. We decided to permit States to use the NLRB statute or a definition already in State law. The regulations require States to define "participating in a strike" in their State plan. The State must deny assistance for any month in which the caretaker relative or other individual participates in a strike on the last day of the month.

If the caretaker relative or individual is participating in a strike on the last day of the month and if the payment for that month has been made, the State must recoup that payment and take action to stop future payments where it is anticipated that the strike will continue. States must use regular recoupment procedures in these instances.

Comment: One commenter questioned whether the denial of AFDC to a family should occur when the caretaker relative is not a parent and another commenter also questioned the denial if the caretaker relative is not included in the assistance unit and is not legally responsible for the children in the assistance unit.

Response: After careful review of the legislative history, we agree that Congress did not intend for strikers who are not natural or adoptive parents of AFDC children to result in denial of aid to the assistance unit. On the other hand we find no support for the concept that the family could continue to receive AFDC if the natural or adoptive parent who strikes is not a member of the assistance unit. We have included a definition in §233.106(b) to define "caretaker relative" for purposes of this provision as a natural or adoptive parent. Any other caretaker relative in the assistance unit will, by striking, only have his or her needs not included in the grant.

Comment: One commenter suggested that the requirement that ineligibility for a month based on being on strike on the last day of that month be instead based on the monthly report following that month and apply to the corresponding payment month.

Response: We agree, but point out that it may only be used if the ineligibility is expected to be for only one month. If the individual is on strike on the last day or two or more consecutive months and no payment is due, as a result, any payment issued in those months must be recovered.

Comment: One commenter suggested that Federal definitions of "strike" and "participating in a strike" should be used exclusively or that States be strictly scrutinized to ensure that their definitions, if other than Federal, conform with Congressional intent.

Response: While we do not agree that a single, Federal definition is required by the statute—nor is such a single definition supported by the legislative history—we will, of course, through our process of approval of State plans and our compliance process, ensure that Congressional intent is not subverted.

Age Limit of Dependent Child (Section 233.90 of Final Regulations)

The provision limits AFDC eligibility to children under age 18, or at State option, children under age 19 who are full-time students reasonably expected to complete a program of secondary school (or the equivalent level of vocational or technical training) before reaching age 19. For example, an 18 year old who will complete high school before reaching age 19 is eligible. However, an individual who will become 19 before completing high school is ineligible once he or she reaches 18. Also an 18 year old who has completed high school and who is in a vocational training program that will be completed before he or she reaches 19 is ineligible. This is the case because after a child reaches 18, eligibility for AFDC may continue only until the secondary education or equivalent training is completed.

The major issue considered in developing the regulation was whether we should provide Federal definitions for "full-time student" and other terms used in the statute. The decision was that it shall be left to each State to define full-time student in accordance with State law, to determine which vocational or technical training courses are equivalent to the level of secondary school, and to decide which factors the State agency will consider in deciding whether an individual may reasonably be expected to complete the program of study or training before reaching age 19. Leaving these definitions to each State permits States maximum flexibility to develop definitions that are consistent with their own State laws and Board of Education policies.

Comment: We received one comment requesting that we include in the final regulation the definition of "full-time student."

Response: In developing the interim regulation, we considered a Federal definition but decided it should be left to each State to define "full-time student" in accordance with State law. The Act (at Section 406(a)(2)) was amended to delete the requirement that the Secretary issue standards with respect to school attendance and we believe that leaving these definitions to the States allows flexibility to develop definitions that are based on and are consistent with individual State laws and Board of Education policies. Accordingly, we have not changed this in the final rule.

Comment: We also received one comment requesting that we define "secondary school" and provide guidelines for determining "the equivalent level of vocational or technical training."

Response: In the past, we have allowed States to use definitions that were consistent with State laws and policies. In the absence of a statutory requirement or other compelling reason to regulate in this area, we have decided to continue to allow States to develop their own definitions.

In developing definitions to implement this provision, States should consider the intent to limit assistance to 18 year old children. Congress intended that AFDC be available to an 18 year old child only if he or she is enrolled in a program below the college level and may reasonably be expected to complete the program before he or she reaches age 19.

Adjustment of Incorrect Payments (Section 233.20(a)(13) of Final Regulations)

Under prior regulations States were allowed, but not required, to collect overpayments. If they collected overpayments they had to also make underpayments. In cases where the overpayment was caused by a recipient's willful withholding of information, recovery could be made from any income and resources and the assistance payment. However, the State had to determine that the monthly amount to be recovered would not cause undue hardship. In cases where the recipient did not willfully withhold information the State could recover only

from any available income and resources.

States could waive overpayments and underpayments where administrative cost exceeded the amount to be recovered or paid. Corrective underpayments were not considered as income or resources for purposes of determining the recipient's continuing eligibility and amount of assistance.

Based on the new legislative provision, these regulations require that each State must attempt to recover all overpayments. The State must also pay all underpayments to current recipients. There is no distinction between willful and non-willful withholding of information by the recipient. States must promptly take all reasonable and practical steps to correct and collect any overpayment that is known to the State. A State may recover each month from any income, liquid resources and assistance payments as long as the assistance unit retains from its combined income, liquid resources, and assistance payment an amount equal to 90% of the amount payable under the State's plan to an assistance unit of the same composition with no other income.

In cases where the assistance unit which received the overpayment is no longer eligible, or the person responsible for the overpayment has left the household, a State under its appropriate laws, can recover from the individual who caused the overpayment or from any other individual who was a member of an overpaid assistance unit.

Any underpayment must be promptly corrected if the affected assistance unit is currently eligible—or would have been currently eligible if the error had not occurred. However, no underpayments to other former recipients can be matched because they are no longer in current need. Corrective payments cannot be considered as income or as a resource either in the month the payment is made or in the following month.

The statutory language does not address the issue of waivers for cost effectiveness. The Act requires correction of "any" overpayment or underpayment. We believe that it is cost effective to attempt to recover all overpayments. If an attempt is not made, it cannot be determined that the overpayment could not be recovered. Furthermore, we believe there is a deterrent effect. Also, other unrelated overpayments are often discovered. In all situations in which the overpayment is made to a current recipient, recovery must be accomplished either through direct reimbursement and/or from the grant.

If an assistance unit has both an outstanding overpayment and an underpayment, the State may offset one against the other before adjusting the incorrect payment.

Where a former recipient with an outstanding overpayment reapplies and is found to be eligible the State must recover the overpayment considering the current income, resources, and assistance payment of the recipient in determining the monthly recovery amount. Similarly, the State must make corrective payments to a former recipient who has an outstanding underpayment, who reapplies and is found to be eligible.

Comment: Three commenters wrote that States should be prohibited from recovering overpayments that occurred prior to October 1, 1981. Conversely, two commenters wrote that the interim rules should be applied to any overpayment prior to October 1, 1981.

Response: The statute requires that *any* overpayment be recovered. Therefore, any overpayment identified after the effective date of the statute October 1, 1981 must be recovered whether or not the overpayment actually occurred prior to or after October 1, 1981. Underpayments identified after October 1, 1981 must be treated in the same manner. We have added § 233.20(a)(13)(iii) to make this clarification.

Comment: Four commenters wrote that there should be some time limit or statute of limitations in adjusting incorrect payments. Two of the commenters wanted to treat underpayments differently than overpayments with respect to time frames and who caused the underpayment.

Response: There is no basis in the statute or legislative history for treating overpayments and underpayments differently. Also, the statute requires the correction of all overpayments or underpayments. We do not believe that the statute allows the flexibility to establish time limits. Also we believe that it is cost effective to attempt to recover all overpayments. If at least an attempt is not made to recover an old overpayment, it cannot be determined that the overpayment is not recoverable.

Comment: Three commenters wrote that the rules should address cases where a correct payment is made in the payment month and circumstances during the month subsequently change.

Response: We agree, and § 233.20(a)(13)(i) has been revised to permit the State to adjust for the change in circumstances in the corresponding payment month, as long as no more than one such payment month is used consecutively, rather than recover against the budget month. We believe that this allows States the flexibility needed to utilize their retrospective budgeting systems to avoid unnecessary recovery activity and at the same time adjust for this type of overpayment.

Comment: Three commenters requested that in defining whether in determining the amount available monthly for recovery, we indicate whether the State should use the income, resources, and aid in the payment month or the budget month. One of the commenters recommended the budget month, citing that the income and resources would have to be estimated for the payment/recovery month and that recipients would have an incentive to dispose of resources so that they would not be included in the calculation.

Response: While we understand these problems, the statute stipulates that the aid payable for any month cannot be less than 90% of the payment standard for that month for an assistance unit with no other income. In addition, serious inequities could result in cases where in the payment month the income assumed available in the budget month was in fact no longer available. Therefore, we believe that the statute and equity require that the payment month should be used in calculating the monthly recovery amount.

Comment: Four commenters suggested that recovery should be limited to the individual causing the overpayment or to the caretaker relative, particularly where the responsible party moves from the unit which received the overpayment to a new unit. Also, three commenters recommended that States have the option of choosing which recovery source to utilize.

Response: Because all individuals in the assistance unit receive the benefit of the overpayment, each member has a responsibility for the overpayment. The statute provides that aid to a family that has a recipient who has an outstanding overpayment shall be reduced or the individual may repay. Any individual who has been a member of a unit which has received an overpayment and moves to a new unit carries to the new unit a responsibility to repay the overpayment. The State can choose to recover from any or all available recovery sources; the current unit, a unit to which a member of the original unit has moved, or any individual from the overpaid unit whether or not currently eligible.

Comment: Two commenters suggested that underpayments should be made to former recipients. One of the commenters

wrote that it was inequitable to require reconciliation of the EIC, and recovery with respect to overpayments to former recipients, and not require States to make EIC related underpayments to former recipients.

Response: Payments under title IV–A are intended for individuals who have current need. Accordingly, it is not appropriate to make payments to former recipients who are no longer in need.

Comment: Two commenters expressed concern that the rules do not allow States to cease attempts to recover overpayments unless court action is initiated and that this often would not be cost effective.

Response: We do not intend that each overpayment case be pursued through litigation. However, the State should make an attempt to recover each overpayment and all reasonable steps should be taken in accordance with State law. In determining how to collect the overpayment the State generally has the flexibility to decide whether court action is appropriate.

Comment: One commenter was concerned that the formula for determining the monthly recovery amount was too severe and could be punitive.

Response: The statute and regulations explicitly define the maximum that a State may recover each month. States are free to establish varying recovery rates less than the maximum rate as long as the recovery is prompt. If more than one rate is established the State must define the criteria for applying the rates and assure that they are applied equitably and on a statewide basis.

Comment: One commenter suggested that in cases where there is an outstanding overpayment and no monthly payment is made because the payment amount is less than $10, that the amount not paid be used to offset the outstanding overpayment.

Response: Under the statute no payment of aid can be made when an assistance unit is eligible for less than $10. Since payment cannot be made, we do not agree that a subsequent outstanding overpayment should be offset because to do so would, in effect, treat the amount under $10 the same as if it were a payment and, thereby, be contrary to the statute.

Comment: One commenter suggested that we should not require States to recover overpayments that result from administrative errors.

Response: We do not believe that the statute permits exceptions to recovery nor does it differentiate based on the source of error. This includes overpayments that result from so-called technical errors related to IV–D, IV–C and enumeration. These technical requirements are conditions of eligibility under the law. If not met and a payment to an ineligible individual has occurred, it must be recovered.

Comment: One commenter suggested that an agreement by a recipient to reimburse should be recognized as payment.

Response: There is no support in the statute or legislative history to suggest that an intent to repay constitutes payment.

Comment: One commenter recommended that the rules stipulate that any underpayment resulting from an inaccurate report by a recipient should not have to be corrected.

Response: We do not agree. The statute requires that any underpayment be corrected just as any overpayment must be corrected. It is only equitable that we treat both types of incorrect payments in the same manner.

Comment: One commenter requested that we define overpayment and address the point at which an overpayment occurs.

Response: We have amended the rule at § 233.20(a)(13)(i) in response to these requests to define both overpayment and underpayment. We have also taken the opportunity to clarify "prompt" recovery of an overpayment at § 233.20(a)(13)(i)(F). Prompt recovery of an overpayment means that a State must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified: (1) Recover the overpayment, (2) initiate action to locate and/or recover the overpayment from a former recipient, or (3) execute a monthly recovery agreement from a current recipient's grant or income/resources.

Comment: One commenter suggested that refusal to cooperate in repayment of an overpayment from an assistance unit's income and resources, where the State is entitled to repayment from those sources, should constitute a condition of eligibility allowing the State to terminate assistance to the caretaker relative.

Response: Neither the statute nor the legislative history support making refusal by a recipient to repay an overpayment from his/her income and resources a condition of eligibility. There is explicit statutory authority for all conditions of eligibility, including child support assignment, registration for WIN and securing a social security number. We have therefore added language to § 233.20(a)(13)(i)(B) that clarifies that States should pursue repayment in these situations by taking appropriate action under State law.

Comment: One commenter wrote that we should specify that States maintain records ralating to identifying and recovering overpayments to current and former recipients.

Response: We agree. Currently there is little data available in States and no report is required by the Federal government. We believe that necessary records should be maintained so that State and the Federal government can assess the success of this activity and make any necessary adjustments. We have, therefore, established minimum State recordkeeping requirements in the regulation and also required that States report the data under a schedule that will be established. (These recordkeeping and reporting requirements are not effective until OMB clearance is obtained.)

Comment: One commenter questioned how overpayments will be computed when caused by excess resources. Is the overpayment computed on the basis of the amount of assistance payments incorrectly paid, or the amount by which the excess resource exceeds the allowable resource limit? For example, the State discovers a recipient with $1500 in resources, who has been overpaid 5 months of assistance totaling $2000. Is the overpayment $500 or $2000?

Response: There is no provision in the statute for considering the cause of the overpayment. Therefore, the overpayment is $2000, computed on the incorrectly paid assistance payments.

Other Issues

In the course of consulting with States over these implementing regulations, there is a related issue which merits brief discussion—the extent to which timely notice must be given and recipients can file for hearings and request that aid be paid pending the hearing decision based on individual case changes.

The current regulations at 45 CFR 205.10 are unchanged and still apply. When changes in either State or Federal law require automatic grant adjustment for classes of recipients, timely notice must be given at least 10 days prior to the action which includes a statement of the intended action, the reason, a reference to the specific change in law requiring such action and a statement of the circumstances under which a hearing may be obtained and assistance continued.

A hearing need not be granted in these instances unless the reason for an individual appeal is an incorrect grant computation. For example, if the recipient wishes to appeal his or her termination because he or she is age 19

and in high school, a hearing need not be granted. However, if the recipient disagrees with his or her termination of assistance because he or she has only received the $30 and one-third for 3 months and not 4, a hearing must be granted. Where a hearing is held and it is determined that the sole issue is one of State or Federal law or policy, aid paid pending the hearing decision is not required.

Assigned Support Payments for Spouses, as Well as for Children, Must Be Treated as Income (Section 232.20 of Final Regulations)

Under section 2332 of Pub. L. 97–35, child support agencies may elect to collect assigned support payments for a child's parent with whom the child is living if a support obligation has been established for the parent. This provision eliminates the confusion previously caused when a court ordered a single amount for both the parent and the child without specifying the amount payable on behalf of each. This change was inadvertently omitted from the interim rules published on September 21, 1981.

In States where the IV–D agency implements this optional provision under the Title IV–D State plan, IV–A agencies will receive monthly reports of amounts collected on a current month's support obligation for both parent and child(ren). These reported amounts will be treated as if they were income under § 232.20 which has been amended in these rules to allow for the treatment of both child and spousal support and to correct several technical errors.

Referral to the IV–D Agency—(Section 235.70 of Final Regulations)

The statute contains three provisions which affect current IV–A agency procedures in relation to child support enforcement. These are (1) that an individual who is denied aid solely because his assistance payment would be less than $10 is deemed a recipient for all other purposes except CWEP, (2) that, at State option, assistance may be provided for the pregnant woman, and (3) under Title IV–D, at State option, support may be collected for a child's parent with whom the child is living if a support obligation has been established for the parent.

Those individuals who are deemed to be recipients though not actually receiving a money payment have completed an assignment of rights to support and still are expected to cooperate in establishing paternity and securing support. They are entitled to all of the services of the IV–D agency as AFDC recipients. Any support collected for these recipients is distributed under § 302.51, as for all other support collections.

The eligibility requirements for a pregnant woman include the assignment of rights to support on her own behalf. Her eligibility for assistance is determined the same as if the child were born and living with her, i.e. the deprivation factor must be met. The case must be referred to the IV–D agency. Eligibility must be established for the child when it is born. Assignment of rights to child support must be taken if rights are not automatically assigned by operation of State law and the case must be referred to the IV–D agency. This change was inadvertently omitted from the interim rules published on September 21, 1981.

The asterisks used throughout the regulatory text represent material within a codified paragraph or section that is not being amended by these final regulations.

These regulations are issued under the authority of Section 1102 of the Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97–35, 95 Stat. 843.

(Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid))

Dated: January 5, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: January 8, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Part 205 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. Section 205.10 is amended by adding a new paragraph (a)(4)(ii)(H) and by revising paragraph (a)(5) to read as follows:

§ 205.10 Hearings.

(a) *State plan requirements.* * * *

(4) * * *

(ii) * * *

(H) For AFDC, the agency takes action because of information the recipient furnished in a monthly report or because the recipient has failed to submit a complete or a timely monthly report without good cause. (See § 233.37);

* * * * * *

(5) An opportunity for a hearing shall be granted to any applicant who requests a hearing because his or her claim for financial assistance (including a request for supplemental payments under §§ 233.23 and 233.27) is denied, or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by any agency action resulting in suspension, reduction, discontinuance, or termination of assistance, or determination that a protective, vendor, or two-party payment should be made or continued. A hearing need not be granted when either State or Federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation.

* * * * * *

2. A new § 205.80 is adopted and revised to read as follows:

§ 205.80 Evaluation of the Work Incentive Demonstration Program.

(a) If a State plan for AFDC under title IV–A of the Social Security Act provides for single State agency operation of a Work Incentive Demonstration program under the provisions of section 445 of title IV of the Social Security Act, the State is required to report data which the Secretary determines to be necessary to carry out his responsibility to evaluate the demonstration program. The report shall include, but not be limited to, such data as—

(1) Number of registrants;

(2) Number of registrants who enter full-time employment;

(3) Number of registrants who entered employment who are still employed 30 days later;

(4) Number of registrants whose AFDC grants are reduced or terminated because of participation in a work incentive demonstration program; and

(5) Amount of reduction in AFDC grants due to participation in a work incentive demonstration program.

(b) Such data are to be reported at a schedule to be determined by the Secretary, but not more frequently than quarterly.

(c) The State agency shall cooperate with the Department in the required evaluation of the work incentive demonstration program.

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Part 206 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

3. Section 206.10 is amended by adding paragraph (a)(1)(vi) and by revising paragraph (a)(4) to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* * * *

(1) * * *

(vi) Every recipient in a State which provides a supplemental payment under § 233.27 of this chapter shall have an opportunity to request that payment without delay.

(4) Adequate notice shall be sent to applicants and recipients to indicate that assistance has been authorized (including the amount of financial assistance) or that it has been denied or terminated. Under this requirement, adequate notice means a written notice that contains a statement of the action taken, and the reasons for and specific regulations supporting such action, and an explanation of the individual's right to request a hearing

* * * * *

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

Part 232 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

4. Section 232.1 is revised to read as follows:

§ 232.1 Scope.

This part implements provisions of titles IV–A and IV–D of the Social Security Act that are applicable only to the AFDC program and establishes other administrative and fiscal requirements.

5. Section 232.20 is revised to read as follows:

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV–A Program.

(a) The State plan must provide that in any case in which support payments are collected for a recipient of AFDC with respect to whom an assignment under § 232.11 is effective:

(1) Upon notification to the IV–A agency by the IV–D agency of the amount of a support collection, such amount will be used to redetermine eligibility for an assistance payment under § 206.10(a)(9). This use of these amounts so collected shall not be later than the second month after the month in which the IV–A agency received a report of the monthly collections from the IV–D agency. In determining whether a support collection made by the State's IV–D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the support for the month will be considered to be income and the IV–A agency will notify the family and will inform the IV–D agency to pay such collection to the family in the month for which the family was determined to be ineligible. If such treatment does not make the family ineligible for an assistance payment, such collection will not be considered to be income and will be retained by the State's IV–D agency for distribution pursuant to § 302.51 of Chapter III of this title and the assistance payment will be calculated without regard to such collection.

(2) Any payment received pursuant to § 302.51(b) (3) or (5) shall be treated as income in the month following the month to which the redetermination in paragraph (a)(1) of this section applies.

(b) From any amounts of assistance payments which are reimbursed by support collections made by the IV–D agency, the IV–A agency shall pay the Federal government its share of the collections made, after the incentive payments, if any, have been made pursuant to § 302.52 of Chapter III of this title.

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

6. Section 233.10 is amended by revising paragraph (b)(2)(ii)(*a*)(*1*) to read as follows:

§ 233.10 General provisions regarding coverage and eligibility.

* * * * *

(b) *Federal financial participation.* * * *

(2) * * *

(ii) AFDC—for:

(*a*) * * *

(*1*) Under the age of 18, or age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19;

* * * * *

7. Section 233.20 is amended by revising paragraphs (a)(2) (iii) and (v) to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.* * * *

(2) *Standards of assistance.* * * *

* * * * *

(iii) Provide that the standard will be uniformly applied throughout the State except as provided under § 239.54.

* * * * *

(v) If the State agency includes special need items in its standard, (A) describe those that will be recognized and the circumstances under which they will be included, and (B) provide that they will be considered for all applicants and recipients requiring them. Except that under AFDC, work expenses and child care (or care of incapacitated adults living in the same home and receiving AFDC) resulting from employment or participation in CWEP cannot be special needs.

8. Section 233.20 is further amended by revising the heading of paragraph (a)(3), revising paragraphs (a)(3)(i), (a)(3)(ii) (B), (D), and (E) and the flush paragraph that follows (E), paragraphs (a)(3)(iii), (a)(3)(iv)(*a*), (a)(3)(viii), (a)(4)(i), (a)(4)(ii)(*a*), (a)(6)(i), (iii), and (v), the portion of paragraph (a)(7)(i) preceding the colon; paragraph (a)(7)(ii) and (a)(11), and the heading of paragraph (a)(12); removing paragraph (a)(4)(ii)(*l*); and adding paragraphs (a)(3) (xi)–(xv), (a)(6)(ix), and (a)(13); to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.* * * *

(3) *Income and resources.* (i) *OAA, AB, APTD, AABD.* (A) Specify the amount and types of real and personal property, including liquid assets, that may be reserved, i.e., retained to meet the current and future needs while assistance is received on a continuing basis. In addition to the home, personal effects, automobile and income producing property allowed by the agency, the amount of real and personal property, including liquid assets, that can be reserved for each individual recipient shall not be in excess of two thousand dollars. Policies may allow reasonable proportions of income from businesses or farms to be used to increase capital assets, so that income may be increased; and (B) in AFDC—The amount of real and personal property that can be reserved for each assistance unit shall not be in excess of one thousand dollars equity value (or such lesser amount as the State specifies in its State plan) excluding only—

(*1*) The home which is the usual residence of the assistance unit;

(*2*) One automobile, up to $1,500 of equity value or such lower limit as the State may specify in the State plan; (any excess equity value must be applied towards the general resource limit specified in the State plan); and

(3) At State option, basic maintenance items essential to day-to-day living such as clothes, furniture and other similarly essential items of limited value.

(ii) * * *

(B) In determining financial eligibility and the amount of the assistance payment all remaining income (except unemployment compensation received by an unemployed principal earner) and, except for AFDC, all resources may be considered in relation to either the State's need standard or the State's payment standard. Unemployment compensation received by an unemployed principal earner shall be considered only by subtracting it from the amount of the assistance payment after the payment has been determined under the State's payment method;

* * * * *

(D) Net income, except as provided in paragraph (a)(3)(xii) of this section, and resources available for current use shall be considered; income and resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. When the AFDC assistance unit's income, after applying applicable disregards, exceeds the State need standard for the family because of receipt of nonrecurring lump sum income, the family will be ineligible for aid for the full number of months derived by dividing the sum of the lump sum income and other income by the monthly need standard for a family of that size. Any income remaining from this calculation is income in the first month following the period of ineligibility. The period of ineligibility shall begin with the month of receipt of the nonrecurring income or, at State option, as late as the corresponding payment month. For purposes of applying the lump sum provision, family includes the AFDC assistance unit and any other individual whose lump sum income is counted in determining the period of ineligibility. A State may shorten the period of ineligibility where it finds that a life-threatening circumstance exists, and the non-recurring income causing the period of ineligibility has been or will be expended in connection with the life-threatening circumstance. Further, until that time the non-recurring income must have been used to meet essential needs and currently the assistance unit must have no other income or resources sufficient to meet the life-threatening circumstance.

(E) Income and resources will be reasonably evaluated. Resources will be evaluated according to their equity value.

For purposes of this paragraph (a)(3): Automobile means a passenger car or other motor vehicle used to provide transportation of persons or goods (In AFDC, in appropriate geographic areas, one alternate primary mode of transportation may be substituted for the automobile); Equity value means fair market value minus encumbrances (legal debts); Fair market value means the price an item of a particular make, model, size, material or condition will sell for on the open market in the geographic area involved (If a motor vehicle is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle); Liquid assets are those properties in the form of cash or other financial instruments which are convertible to cash and include savings accounts, checking accounts, stocks, bonds, mutual fund shares, promissory notes, mortgages, cash value of insurance policies, and similar properties; Need standard means the money value assigned by the State to the basic and special needs it recognizes as essential for applicants and recipients; Payment standard means the amount from which non-exempt income is subtracted;

(iii) States may prorate income received by individuals employed on a contractual basis over the period of the contract or may prorate intermittent income received quarterly, semiannually, or yearly over the period covered by the income. In OAA, AB, APTD and AABD, they may use the prorated amount to determine need under § 233.23 and the amount of the assistance payment under §§ 233.24 and 233.25. In AFDC, they may use the prorated amount to determine need under § 233.33 and the amount of the assistance payment under §§ 233.34 and 233.35.

(iv) * * * (a) Except for AFDC, income equal to expenses reasonably attributable to the earning of income (including earnings from public service employment); * * *

* * * * *

(viii) Provide that: (A) payment will be based on the determination of the amount of assistance needed: (B) if full individual payments are precluded by maximums or insufficient funds, adjustments will be made by methods applied uniformly statewide; (C) in the case of AFDC no payment of aid shall be made to an assistance unit in any month in which the amount of aid prior to any adjustments is determined to be less than $10; and (D) an individual who is denied aid solely because of the limitation specified in (C) of this paragraph shall be deemed a recipient of aid for all other purposes except participation in the Community Work Experience Program.

* * * * *

(xi) In the case of AFDC if the State chooses to count the value of the food stamp coupons as income, provide that the State plan shall (A) Identify the amount for food included in its need and payment standards for an assistance unit of the same size and composition. (States which have a flat grant system must estimate the amount based on historical data or some other justifiable procedure.); and (B) Specify the amount of such food stamp coupons that it will count as income. Under this requirement, the amount of food stamp coupons which a State may count as income may not exceed the amount for food established in its payment standard for an assistance unit of the same size and composition.

(xii) In the case of AFDC if the State chooses to count the value of the governmental rent or housing subsidies as income, provide that the State plan shall: (A) Identify the amount for shelter included in its need and payment standards for an assistance unit of the same size and composition. (States which have a flat grant system must estimate this amount based on historical data or some other justifiable procedure.); and (B) Specify the amount of such housing assistance that it will count as income. Under this requirement, the amount of such rent or housing subsidies which a State may count as income may not exceed the amount for shelter established in its payment standard for assistance unit of the same size and composition.

(xiii) Under the AFDC plan, provide that no assistance unit is eligible for aid in any month in which the unit's income (other than the assistance payment) exceeds 150 percent of the State's need standard (including special needs) for a family of the same composition (including special needs), without application of the disregards in paragraph (a)(11) (i) and (ii) of this section, except in States that do not have a law of general applicability, the stepparents disregards in paragraph (a)(3)(xiv) of this section and the alien sponsors disregards in 45 CFR 233.51 must be applied in making this determination.

(xiv) For AFDC, in States that do not have laws of general applicability holding the stepparent legally responsible to the same extent as the natural or adoptive parent, the State

agency shall count as income to the assistance unit the income of the stepparent of an AFDC child who is living in the household with the child after applying the following disregards (exception: if the stepparent is included in the assistance unit, the disregard under paragraph (a)(11) (i) and (ii) of this section apply instead):

(A) The first $75 of the gross earned income of the stepparent if he or she is employed full-time. The State agency shall have in place a procedure under which it determines and applies a disregarded amount less than $75 for stepparents who are not employed on a full-time basis or not employed throughout the month;

(B) An additional amount for the support of the stepparent and any other individuals who are living in the home, but whose needs are not taken into account in making the AFDC eligibility determinations and are or could be claimed by the stepparent as dependents for purposes of determining his or her Federal personal income tax liability. This disregarded amount shall equal the State's need standard amount for a family group of the same composition as the stepparent and those other individuals described in the preceding sentence;

(C) Amounts actually paid by the stepparent to individuals not living in the home but who are or could be claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability; and

(D) Payments by such stepparent of alimony or child support with respect to individuals not living in the household.

(xv) For AFDC, provide for the consideration of the income of an alien's sponsor, as provided in § 233.51.

(4) *Disregard of income in OAA, AFDC, AB, APTD, OR AABD.* (i) For all programs except AFDC. If the State chooses to disregard income from all sources before applying other provisions for disregarding or setting aside income, specify the amount that is first to be disregarded, but not more than $7.50 per month, of any income of an individual, child or relative claiming assistance. All income must be included such as social security or other benefits, earnings, contributions from relatives, or other income the individual may have.

(ii) * * *

(*a*) In OAA, AB, APTD, and AABD, the value of the coupon allotment under the Food Stamp Act of 1964 in excess of the amount paid for the coupons;

* * * * *

(*l*) [Reserved]

* * * * *

(6) * * *

(i) A definition of "earned income" in accordance with the provisions of paragraphs (a)(6) (iii) through (ix) of this section; and

* * * * *

(iii) The term "earned income" encompasses income in cash or in kind earned by an individual through the receipt of wages, salary, commissions, or profit from activities in which he is engaged as a self-employed individual or as an employee. Such earned income may be derived from his own employment, such as a business enterprise, or farming; or derived from wages or salary received as an employee. It includes earnings over a period of time for which settlement is made at one given time, as in the instance of sale of farm crops, livestock, or poultry. For OAA, AB, APTD and AABD only, in considering income from farm operation, the option available for reporting under OASDI, namely the "cash receipts and disbursements" method, i.e., a record of actual gross, of expenses, and of net, is an individual determination and is acceptable also for these assistance programs.

* * * * *

(v) (A) For OAA, AB, APTD, and AABD, with respect to self-employment, the term "earned income" means the total profit from business enterprise, farming, etc., resulting from a comparison of the gross income received with the "business expenses," i.e., total cost of the production of the income. Personal expenses, such as income-tax payments, lunches, and transportation to and from work, are not classified as business expenses.

(B) For AFDC, with respect to self-employment the term "earned income" means the total profit from business enterprise, farming, etc., resulting from a comparison of the gross receipts with the "business expenses," i.e., expenses directly related to producing the goods or services and without which the goods or services could not be produced. However, items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment and payments on the principal of loans for capital assets or durable goods are not business expenses

* * * * *

(ix) In the case of an applicant or recipient of AFDC, "earned income" for any month shall include the amount of the advance payments of the earned income credit which the individual receives or is eligible to receive in that month.

(A)(*1*) When the State agency determines that an individual applying for or receiving AFDC is eligible to receive advance payments of the earned income credit, the State agency may allow a reasonable amount of time (up to a maximum of 14 days) before counting the amount of the advance payments to permit the recipient to file for and receive the advance earned income credit.

(*2*) Where an individual who is eligible to receive advance payments of the earned income credit has made all possible efforts to receive the advance payments but does not receive them because of the refusal of the employer to issue them, the State agency shall not count the amount as earned income.

(B)(*1*) The State agency shall determine that an individual is eligible to receive advance payments of the earned income credit only where the State agency reasonably expects that the individual will be eligible to receive the earned income credit for the current taxable year. The State agency shall make the determination based upon the requirements specified in the Internal Revenue Code under 26 U.S.C. 43 and 3507, and under the corresponding regulations at 26 CFR 1.43–1, 1.43–2, 31.3507–1 and 31.3507–2, which establish eligibility criteria for receipt of the earned income credit and advance payments of the credit.

(*2*) In order to determine the amount of the advance payments an individual is eligible to receive, the State agency shall consult the tables provided by the Secretary of the Treasury.

(C) In any case where the amount of the advance payments counted by the State agency exceeds the amount of the allowable credit, the State agency shall adjust the benefits of an individual who is a current recipient to provide payment of the amount equal to the amount of the benefits lost. Such adjustments shall be made with reasonable promptness. In any case where the amount of the advance payments counted by the State agency is less than the allowable credit, the State agency shall count as earned income in the month received any earned income credit payment received by the individual at the end of the taxable year to the extent it exceeds the amount counted as advance payments.

(7) *Disregard of earned income; method.* (i) Provide that for other than AFDC, the following method will be used for disregarding earned income:

(ii) In applying the disregard of income under paragraph (a)(11)(ii)(B) of this section to an applicant for AFDC, there will be a preliminary step to determine whether the assistance unit in

which he or she is a member is eligible without the application of any AFDC provisions for the disregard in (a)(11)(ii)(B) by applying the unit's earnings (less the disregards in (a)(11)(i) and (a)(11)(iv)) and all other income to the State's standard of need. This preliminary step does not apply if the assistance unit received assistance in one of the four months prior to the month of application.

* * * * *

(11) *Disregard of income applicable only to AFDC.* (i) For purposes of eligibility determination, the State must disregard from the monthly earned income of each individual whose needs are included in the eligibility determination:

(A) Disregard all of the monthly earned income of each child receiving AFDC if the child is a full-time student or is a part-time student who is not a full-time employee. A student is one who is attending a school, college, or university or a course of vocational or technical training designed to fit him or her for gainful employment and includes a participant in the Job Corps program under the Comprehensive Employment and Training Act of 1973 (CETA).

(B) The first $75 (or a lesser amount in the case of an individual not engaged in full-time employment or not employed throughout the month). The State agency shall have in place a procedure under which it determines and applies a disregarded amount less than $75.

(C) An amount equal to the actual cost, but not to exceed $160 (or a lesser amount in the case of an individual not engaged in full-time employment or not employed throughout the month), for the care of each dependent child or incapacitated adult living in the same home and receiving AFDC. The State agency shall have in place a procedure under which it determines and applies a disregarded amount less than $160.

(D) Where appropriate, an amount equal to $30 plus one-third of the earned income not already disregarded of an individual who received assistance in one of the four prior months.

(ii) For purposes of benefit calculation for individuals found eligible under paragraph (a)(11)(i) of this section, the following disregards must be made by the State:

(A) Disregard all of the monthly earned income of each child receiving AFDC if the child is a full-time student or is a part-time student who is not a full-time employee. A student is one who is attending a school, college, or university or a course of vocational or technical training designed to fit him or her for gainful employment and includes a participant in the Job Corps program under the Comprehensive Employment and Training Act of 1973 (CETA).

(B) Disregard from any other individual's earned income the amounts specified in paragraphs (a)(11)(i) (B) and (C) of this section, and $30 plus one-third of his earned income not already disregarded. However, the State may not provide the disregard to an individual after the fourth consecutive month (any month for which the unit loses the $30 plus one-third disregard because of a provision in subparagraph (iii) of this section, shall be considered as one of these months) it has been applied to his earned income until after an additional twelve consecutive months during which he is not a recipient of AFDC. If income from a recurring source resulted in suspension or termination due to an extra paycheck, the month of ineligibility does not interrupt the accumulation of consecutive months of the $30 and ⅓ disregard, nor does it count as one of the consecutive months.

(iii) The applicable earned income disregards in subparagraphs (i) (B) and (C) and (ii)(B) of this paragraph do not apply to the earned income of the individual for the month in which one of the following conditions apply to him:

(A) An individual terminated his employment or reduced his earned income without good cause (as specified in the State plan) within the period of 30 days preceding such month;

(B) An individual refused without good cause (as specified in the State plan) within the period of 30 days preceding such month to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment;

(C) An individual failed without good cause (as specified in the State plan) to make a timely report (as defined in § 233.37(c)) of that income; or

(D) The individual voluntarily requests assistance to be terminated for the primary purpose of avoiding receiving the $30 and one-third disregard for four consecutive months.

(iv) The treatment of earned income and expenses under WIN is as follows:

(A) For earned income from regular employment or on-the-job training, pursuant to section 432(b)(1) of the Act the disregards in subdivisions (i) and (ii)(B) of this subparagraph shall apply.

(B) For institutional and work experience training, pursuant to section 432(b)(2) of the Act, the $30 monthly incentive payment and the reimbursement for training related expenses made by the manpower agency are totally disregarded; and

(C) For public service employment, pursuant to section 432(b)(3) of the Act, work related expenses (the disregards in subdivision (i) (B) and (C)) are deducted, but the $30 plus one-third disregard of subdivision (i)(D) or (ii)(B) does not apply.

(12) *Recoupment of overpayments and correction of underpayments for programs other than AFDC.* * * *

(13) *Recovery of overpayments and correction of underpayments for AFDC.*

(i) Specify uniform Statewide policies for recovery of overpayments of assistance, including overpayments resulting from assistance paid pending hearing decisions. Overpayment means a financial assistance payment received by or for an assistance unit for the payment month which exceeds the amount for which that unit was eligible. (The agency may deny assistance for the corresponding payment month rather than recover if the assistance unit was ineligible for the budget month, the State becomes aware of the ineligibility when the monthly report is submitted, the recipient accurately reported the budget month's income, and other circumstances, and the assistance unit will be eligible for the following payment month.

(A) The State must take all reasonable steps necessary to promptly correct any overpayment.

(*1*) Any recovery of an overpayment to a current assistance unit must be recovered through repayment (in part or in full) by the individual responsible for the overpayment or recovering the overpayment by reducing the amount of any aid payable to the assistance unit of which he or she is a member, or both.

(*2*) If recovery is made from the grant, such recovery shall result in the assistance unit retaining, for any payment month, from the combined aid (family income and liquid resources), (without application of section 402(a)(8) of the Act) not less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income. Where a State chooses to recover at a rate less than the maximum, it must recover promptly.

(B) The State shall recover an overpayment from (*1*) the assistance unit which was overpaid, or (*2*) any assistance unit of which a member of the overpaid assistance unit has subsequently become a member, or (*3*) any individual members of the overpaid assistance unit whether or not currently

a recipient. If the State recovers from individuals who are no longer recipients, or from recipients who refuse to repay the overpayment from their income and resources, recovery shall be made by appropriate action under State law against the income or resources of those individuals.

(C) If through recovery, the amount payable to the assistance unit is reduced to zero, members of the assistance unit are still considered recipients of AFDC.

(D) In cases which have both an underpayment and an overpayment, the State may offset one against the other in correcting the payment.

(E) Prompt recovery of an overpayment: A State must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified: (*1*) recover the overpayment, (*2*) initiate action to locate and/or recover the overpayment from a former recipient, or (*3*) execute a monthly recovery agreement from a current recipient's grant or income/resources.

(ii) Specify uniform Statewide policies for prompt correction of any underpayments to current recipients and those who would be a current recipient if the error causing the underpayment had not occurred. Underpayment means a financial assistance payment received by or for an assistance unit for the payment month which is less than the amount for which the assistance unit was eligible, or failure by the State to issue a financial assistance payment for the payment month to an eligible assistance unit if such payment should have been issued. Under this requirement, for purposes of determining continued eligibility and amount of assistance, such retroactive corrective payments shall not be considered as income, or as a resource in the month paid nor in the next following month.

(iii) Paragraph (a)(13) of this section is effective for incorrect payments which are identified subsequent to September 30, 1981.

(iv) In locating former recipients who have outstanding overpayments the State should use appropriate data sources such as State unemployment insurance files, State Department of Revenue information from tax returns, State automobile registration, Bendex, and other files relating to current or former recipients.

(v) The State must maintain information on the individual and total number and amount of overpayments identified and their disposition for current and former recipients.

9. Section 233.20 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 233.20 Need and amount of assistance.

* * * * * *

(b) *Federal financial participation; General.* * * *

(2) Federal participation is available within the maximums specified in the Federal law, when the payments do not exceed the amount determined to be needed under the statewide standard, and are made in accordance with the State method for determining the amount of the payments, as specified in 45 CFR 233.34 and 233.35 for AFDC and in §§ 233.24 and 233.25 for OAA, AB, APTD, and AABD.

* * * * *

(4) For all assistance programs except AFDC, Federal participation is available for supplemental payments in the retrospective budgeting system.

10. Section 233.21 is amended by revising the heading and by revising paragraph (a) to read as follows:

§ 233.21 Budgeting methods for OAA, AB, APTD, and AABD.

(a) *Requirements for State plans.* A State plan for OAA, AB, APTD, and AABD shall specify if assistance payments shall be computed using a prospective budgeting system or a retrospective budgeting system. A State electing retrospective budgeting shall specify which options it selects and the State plan shall state that it shall meet the requirements in §§ 233.21 through 233.29. Budgeting methods for AFDC are described in §§ 233.31–233.37.

* * * * *

11. Section 233.30 is redesignated as § 233.39 and is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 233.39 Age.

* * * * *

(b) *Federal financial participation.*

(1) * * *

(ii) In AFDC, under 18 years of age; or age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19.

* * * * *

12. A new § 233.31 is added to read as follows:

§ 233.31 Budgeting methods for AFDC.

(a) *Requirements for State plans.* A State plan for AFDC shall specify that all factors of eligibility shall be determined prospectively and the amount of the assistance payment shall be determined using retrospective budgeting as provided in §§ 233.31–233.37 except as provided in § 233.34. Budgeting methods for OAA, AB, APTD, and AABD are described in §§ 233.21–233.29.

(b) *Definitions.* The following definitions apply to §§ 233.31 through 233.37:

(1) "Prospective budgeting" means that the agency shall determine eligibility (and compute the amount of assistance for the first one or two months) based on its best estimate of income and circumstances which will exist in that month. This estimate shall be based on the agency's reasonable expectation and knowledge of current, past or future circumstances.

(2) "Retrospective budgeting" means that the agency shall compute the amount of assistance for a payment month based on actual income or circumstances which existed in a previous month, the "budget month."

(3) "Budget month" means the fiscal or calendar month from which the agency shall use income or circumstances of the family to compute the amount of assistance.

(4) "Payment month" means the fiscal or calendar month for which an agency shall pay assistance. Payment is based upon income or circumstances in the budget month. In prospective budgeting, the budget month and the payment month are the same. In retrospective budgeting, the payment month follows the budget month.

13. A new § 233.32 is added to read as follows:

§ 233.32 Payment and budget months (AFDC).

A State shall specify in its plan for AFDC the time period covered by the payment (payment month) and the time period used to determine that payment (budget month) and whether it adopts (a) a one-month or two-month retrospective system; and (b) a one-month or two-month prospective system for the initial payment months. If a State elects to have a two-month retrospective system it must also elect a two-month prospective system.

14. A new § 233.33 is added to read as follows:

§ 233.33 Determining eligibility prospectively for all payment months (AFDC).

(a) The State plan for AFDC shall provide that the State shall determine all factors of eligibility prospectively for all payment months. Thus, the State agency shall establish eligibility based on its best estimate of income and circumstances which will exist in the month for which the assistance payment is made.

(b) When a IV–A agency receives an official report of a child support collection it shall consider that

information as provided in § 232.20(a) of this chapter. (§ 232.20(a) explains the treatment of child support collections.)

15. A new § 233.34 is added to read as follows:

§ 233.34 Computing the assistance payment in the initial one or two months (AFDC).

A State shall compute the amount of the AFDC payment for the initial month of eligibility—

(a) Prospectively (except as in paragraphs (b) and (c) of this section); or

(b) Retrospectively if the applicant received assistance (or would have except for the prohibition on payments of less than $10) for the immediately preceding payment month (except where the State pays the second month after application prospectively); or

(c) Retrospectively if:

(1) Assistance had been suspended as defined in paragraph (d) of this section; and

(2) The initial month follows the month of suspension; and

(3) The family's circumstances for the initial month had not changed significantly from those reported in the corresponding budget month, e.g., loss of job.

(d) A State may suspend, rather than terminate, assistance when—

(1) The agency has knowledge of, or reason to believe that ineligibility would be only for one payment month; and

(2) Ineligibility for that one payment month was caused by income or other circumstances in the corresponding budget month.

(e) If the initial month is computed prospectively as in paragraph (a) of this section, the second month shall be prospective if the State elects a 2-month retrospective budgeting system.

16. A new § 233.35 is added to read as follows:

§ 233.35 Computing the assistance payment after the initial one or two months (AFDC).

The State plan for AFDC shall provide:

(a) After the initial one or two payment months of assistance under § 233.34, the amount of each subsequent month's payment shall be computed retrospectively, i.e., shall be based on income and other relevant circumstances in the corresponding budget month except as provided in § 233.20(a)(3)(iii). In any month for which an individual will be determined eligible prospectively and will be added to an existing AFDC assistance unit, the State must meet the individual's needs to the same extent it would if the individual were an applicant for AFDC.

(b) Except as provided in § 233.34(b), for the first and second payment month for which retrospective budgeting is used, the State shall not count income from the budget month already considered for any payment month determined prospectively which is not of a continuous nature.

17. A new § 233.36 is added to read as follows:

§ 233.36 Monthly reporting (AFDC).

(a) Except as provided in paragraph (b) of this section, a State plan for AFDC shall require each assistance unit to submit a report form to the agency monthly on—

(1) Budget month income, family composition, and other circumstances relevant to the amount of the assistance payment; and

(2) Any changes in income, resources, or other relevant circumstances affecting continued eligibility which the assistance unit expects to occur in the current month or in future months.

(3) Stepparent's income and alien sponsor's income and resources where appropriate.

(b) A State may exempt categories of recipients from reporting each month with prior approval by the Secretary. The plan shall include criteria for assuring (1) that exempted cases are unlikely to incur changes in circumstances from month to month which would impact their eligibility or amount of assistance and (2) that the administrative cost of requiring those categories to report monthly will be greater than the program savings which would accrue.

(c) States shall also direct recipients to report information as defined in paragraph (a)(2) of this section to the agency as they become aware of expected changes rather than waiting to inform the State on the monthly report.

18. A new § 233.37 is added to read as follows:

§ 233.37 How monthly reports are treated and what notices are required (AFDC).

(a) *What happens if a completed monthly report is received on time.* When the agency receives a completed monthly report as specified in § 233.36, and if all eligibility conditions are met, it shall process the payment. The agency shall notify the recipient of any changes from the prior payment and the basis for its determinations. This notice must meet the requirements of § 205.10(a)(4)(i)(B) of this chapter on adequate notice if the payment is being reduced or assistance is terminated as a result of information provided in the monthly report. The notice must be mailed to arrive no later than the resulting payment or in lieu of the payment. A recipient has 10 days from the date of the notice to request a hearing in order to receive reinstatement.

(b) *What happens if a completed monthly report is not received by the agency.* An agency may terminate assistance if it has received no report or has received only an incomplete report as defined by the State. In this case, the agency must send the recipient a notice meeting the requirements of § 205.10(a)(4)(i)(B) to arrive not later than the date it would have made payment if the agency had received a completed monthly report on time. If the recipient notifies the agency and files a completed report within 10 days of the date of this notice, the agency must accept the replacement form and make a payment based on the information on the form if the information indicates that the person is still eligible (without the applicable earned income disregards if the State agency determines no good cause exists for failing to file a timely report of earnings). If the recipient is found ineligible or eligible for an amount less than the prior month's payment, the State must promptly notify the recipient of his or her right to a fair hearing and his or her right to have assistance reinstated. A recipient has 10 days from the date of the notice to request a hearing in order to receive reinstatement.

(c) *What happens if a completed monthly report is received but is not timely.* States must specify in their plans a definition of timeliness related to the filing of a monthly report and the number of days an individual has to report changes in earnings which impact eligibility. States must inform recipients what constitutes timeliness and that no disregard of earnings as described in § 233.20(a)(11)(i) and (ii)(B) ($30 and one-third, child care, and work expenses) will be applied to any earnings which are not reported in a timely manner without good cause. The State must provide recipients an opportunity to show good cause for not filing a timely report of earnings. If the State finds good cause, then applicable earned income disregards will be applied in determining payment. If the State does not find good cause, then applicable earned income disregards will not be applied. If the recipient is found ineligible or eligible for an amount less than the prior month's payment, the State must promptly notify the recipient of his or her right to a fair hearing and his or her right to have assistance reinstated. A recipient has 10 days from the date of the notice to request a

hearing in order to receive reinstatement.

19. Section 233.50 is revised to read as follows:

§ 233.50 Citizenship and alienage.

A State plan under title I (OAA); title IV–A (AFDC); title X (AB); title XIV (APTD); and title XVI (AABD-disabled) of the Social Security Act shall provide that an otherwise eligible individual, dependent child, or a caretaker relative or any other person whose needs are considered in determining the need of the child or relative claiming aid, must be either:

(a) A citizen, or

(b) An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, including certain aliens lawfully present in the United States as a result of the application of the following provisions of the Immigration and Nationality Act:

(1) Section 207(c), in effect after March 31, 1980—Aliens Admitted as Refugees.

(2) Section 203(a)(7), in effect prior to Aporil 1, 1980—Individuals who were Granted Status as Conditional Entrant Refugees.

(3) Section 208—Aliens Granted Political Asylum by the Attorney General.

(4) Section 212(d)(5)—Aliens Granted Temporary Parole Status by the Attorney General.

20. A new § 233.51 is added to read as follows:

§ 233.51 Deeming of sponsor's income and resources to the sponsored alien.

Definition: Sponsor is any person who executed an affidavit(s) of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States. A State plan under title IV–A of the Social Security Act shall (with regard to an alien applying for AFDC for the first time after September 30, 1981, who is not exempted under paragraph (e) of this section and his or her sponsor) provide that:

(a) For a period of three years following entry for permanent residence into the United States, a sponsored alien shall provide the State agency with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if application and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

(b) For all sections under this part, the income and resources of a sponsor and the sponsor's spouse shall be deemed to be the unearned income and resources of an alien for three years following the alien's entry into the United States.

(1) Monthly income deemed available to the alien from the sponsor and the sponsor's spouse not receiving AFDC or SSI shall be:

(i) The total monthly unearned and earned income of the sponsor and sponsor's spouse reduced by 20 percent (not to exceed $175) of the total of any amounts received by them in the month as wages or salary or as net earnings from self-employment.

(ii) The amount described in paragraph (b)(1)(i) of this section reduced by:

(A) The cash needs standard under the plan in the alien's State of residence for a family of the same size and composition as the sponsor and those other people living in the same household as the sponsor who are or could be claimed by the sponsor as dependents to determine his or her Federal personal income tax liability but whose needs are not taken into account in making a determination under § 233.20 of this chapter;

(B) Any amounts actually paid by the sponsor or sponsor's spouse to people not living in the household who are or could be claimed by them as dependents to determine their Federal personal income tax liability; and

(C) Actual payments of alimony or child support, with respect to individuals not living in the household.

(2) Monthly resources deemed available to the alien from the sponsor and sponsor's spouse shall be the total amount of their resources determined as if they were applying for AFDC in the alien's State of residence, less $1500.

(c) In any case where a person is the sponsor of two or more aliens, the income and resources of the sponsor and sponsor's spouse, to the extent they would be deemed the income and resources of any one of the aliens under the provisions of this section, shall be divided equally among the sponsored aliens.

(d) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

(e) The provisions of this section shall not apply to any alien who is:

(1) Admitted as a conditional entrant refugee to the United States as a result of the application, of the provisions of section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Nationality Act;

(2) Admitted as a refugee to the United States as a result of the application of the provisions of section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act;

(3) Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act;

(4) Granted political asylum by the Attorney General under section 208 of the Immigration and Nationality Act; or

(5) A Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422); or

(6) The dependent child of the sponsor or sponsor's spouse.

(f) The Secretary shall make information necessary to make a determination under this section and supplied under agreement with the Secretary of State and the Attorney General, available upon request to a concerned State Agency.

21. A new § 233.52 is added to read as follows:

§ 233.52 Overpayment to aliens.

A State Plan under Title IV–A of the Social Security Act, shall provide that:

(a) Any sponsor of an alien and the alien shall be jointly and severally liable for any overpayment of aid under the State plan made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information under the provisions of § 233.51, except as provided in paragraph (b) of this section.

(b) When a sponsor is found to have good cause or to be without fault (as defined in the State plan) for not providing information to the agency, the sponsor will not be held liable for the overpayment and recovery will not be made from this sponsor.

(c) An overpayment for which the alien or the sponsor and the alien are liable (as described in paragraphs (a) and (b) of this section) shall be repaid to the State or recovered in accordance with § 233.20(a)(13). If the agency is unable to recover the overpayment through this method, funds to reimburse the agency for the overpayment shall be withheld from future payments to which the alien or the alien and the sponsor are entitled under:

(1) Any State administered or supervised program established by the Social Security Act, or

(2) Any federally administered cash benefit program established by the Social Security Act.

22. Section 233.90 is amended by revising paragraphs (a)(1) and (b)(3). Paragraph (c) of § 233.90 is revised by removing paragraph (c)(1)(vi), removing paragraph (c)(2)(ii), redesignating paragraphs (c)(2)(iii) and (c)(2)(iv) as paragraphs (c)(2)(ii) and (c)(2)(iii), and by adding a new paragraph (c)(2)(iv), to read as follows:

§ 233.90 Factors specific to AFDC.

(a) *State plan requirements.* * * *

(1) The determination whether a child has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or (if the State plan includes such cases) the unemployment of his or her parent who is the principal earner will be made only in relation to the child's natural or adoptive parent, or in relation to the child's stepparent who is ceremonially married to the child's natural or adoptive parent and is legally obligated to support the child under State law of general applicability which requires stepparents to support stepchildren to the same extent that natural or adoptive parents are required to support their children. Under this requirement, the inclusion in the family, or the presence in the home, of a "substitute parent" or "man-in-the-house" or any individual other than one described in this paragraph is not an acceptable basis for a finding of ineligibility or for assuming the availability of income by the State; and

* * * * *

(b) *Conditions for plan approval.*

* * *

(3) A state may elect to include in its AFDC program children age 18 who are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and who may reasonably be expected to complete the program before reaching age 19.

* * * * *

(c) *Federal financial participation.*

* * *

(2) * * *

(iv) At State option, (A) payments with respect to a pregnant woman with no other children receiving assistance, and additionally, at State option, (B) payments for the purpose of meeting special needs occasioned by or resulting from pregnancy both for the pregnant woman with no other children as well as for the pregnant woman receiving AFDC. However, for both (A) and (B) of this paragraph, it must be medically verified that the child is expected to be born in the month such payments are made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment, would be eligible for aid to families with dependent children. Federal financial participation is not available to meet the needs of the unborn child. (Refer to Medicaid regulations at 42 CFR 435.115 for Medicaid coverage of pregnant women.)

23. Section 233.100 is amended by revising the section heading and by revising the portion of paragraph (a) preceding (a)(1), the portion of paragraph (a)(1) preceding (a)(1)(i), paragraph (a)(i)(ii) and the flush paragraph that follows it, the portion of paragraph (a)(2) preceding the parenthetical phrase, paragraph (a)(3)(i), the portion of paragraph (a)(3)(ii) preceding (a)(3)(ii)(*a*), paragraphs (a)(3)(ii)(*b*) and (a)(3)(ii)(*c*), the portion of paragraph (a)(3)(iii) preceding (a)(3)(iii)(*a*), paragraphs (a)(3)(iv), (a)(5)(i), (a)(5)(ii), (a)(6), (a)(7), and (c)(1)(iii), the portion of paragraph (c)(1)(iv) preceding (c)(1)(iv)(*a*) paragraph (c)(1)(iv)(*a*), the portion of paragraph (c)(1)(v) preceding (c)(1)(v)(*a*), paragraph (c)(1)(v)(*a*), and paragraphs (c)(2)(i)–(iii); and adding paragraph (a)(3)(vi); to read as follows:

§ 233.100 Dependent children of unemployed parents.

(a) *Requirements for State Plans.* If a State wishes to provide AFDC for children of unemployed parents, the State plan under title IV–A of the Social Security Act must, except as specified in paragraph (b) of this section:

(1) Include a definition of an unemployed parent who is the principal earner which shall apply only to families determined to be needy in accordance with the provisions in § 233.20. Such definition must include any such parent who:

* * * * *

(ii) Exceeds that standard for a particular month, if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for the prior 2 months and is expected to be under the standard during the next month; except that at the option of the State, such definition need not include a principal earner who is unemployed because of participation in a labor dispute (other than a strike) or by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the State's unemployment compensation law.

(2) Include a definition of a dependent child which shall include any child of an unemployed parent * * *

(3) * * *

(i) His or her parent who is the principal earner has been unemployed for at least 30 days prior to the receipt of such aid.

(ii) Such parent has not without good cause, within such 30-day period prior to the receipt of such aid, refused a bona fide offer of employment or training for employment. Before it is determined that such parent has refused a bona fide offer of employment or training for employment without good cause, the agency must make a determination that such an offer was actually made. (In the case of offers of employment made through the public employment or manpower agencies, the determination as to whether the offer was bona fide, or whether there was good cause to refuse it, will be made by that office or agency.) The parent must be given an opportunity to explain why such offer was not accepted. Questions with respect to the following factors must be resolved:

* * * * *

(*b*) Any questions as to the parent's inability to engage in such employment for physical reasons or because he has no way to get to or from the particular job; and

(*c*) Any questions of working conditions, such as risks to health, safety, or lack of worker's compensation protection.

(iii) Such parent * * *

* * * * *

(iv) A "quarter of work" with respect to any individual means a period (of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31) in which he or she received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 213(a)(2) of the Act), or in which he or she participated in a community work experience program under section 409 of the Act or the work incentive program established under title IV–C of the Act.

* * * * *

(vi)(A) The "parent who is the principal earner" means, in the case of any child, whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent. If the State cannot secure primary evidence of earnings for this period, the State shall designate the principal earner, using the best evidence available. The earnings of each parent are considered in determining the principal earner

regardless of when their relationship began. The principal earner so defined remains the principal earner for each consecutive month for which the family receives such aid on the basis of such application. This requirement applies to both new applicants and current AFDC unemployed parent families who were eligible and receiving aid prior to October 1, 1981.

(B) If both parents earned an identical amount of income (or earned no income) in such 24-month period, the State shall designate which parent shall be the principal earner.

* * * * *

(5) * * *

(i) If and for so long as such child's parent unless exempt under 45 CFR 224.20, is not currently registered for the work incentive program or if exempt under paragraph (b)(6) of § 224.20, is not currently registered with a public employment office in the State, and

(ii) With respect to any week for which such child's parent qualifies for unemployment compensation under an unemployment compensation law of the State or of the United States but refuses to apply for or accept such unemployment compensation.

(6) Provide that within 30 days after the receipt of aid with respect to such children, such unemployed principal earners will be certified for participation in the Work Incentive Program, as provided in section 402(a)(19) of the Act and the regulations relating thereto.

(7) Provide, where application for aid with respect to a dependent child (as defined by the State pursuant to paragraph (a)(2) of this section) is made within 6 months after the effective date of the modification of the State plan in accordance with the provisions in paragraphs(a)(1) through (6) of this section, that the parent of such child will be considered to have met the requirements of paragraph (a)(3)(iii) of this section if he or she met such requirements at any time after April 1961 and prior to the date of such application.

(8) * * *

(b) *Exception.* * * *

(c) *Federal financial participation.* (1) * * *

(iii) Who has been deprived of parental support or care by reason of the fact that his or her parent who is the principal earner is employed less than 100 hours a month; or exceeds that standard for a particular month if his or her work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for 2 prior months and is expected to be under the standard during the next month.

(iv) Whose parent who is the principal earner (*a*) has six or more quarters of work (as defined in paragraph (a)(3)(iv) of this section within any 13-calendar-quarter period ending within 1 year prior to the application for such aid,

(v) Whose parent who is the principal earner (*a*) is currently registered with the public employment offices in the State, and

(2) * * *

(i) For any part of the 30-day period prior to the receipt of such payment, if during the period the parent who is the principal earner was not unemployed (as defined by the State pursuant to paragraph (a)(1) of this section);

(ii) For such 30-day period if during that period the parent refused without good cause a bona fide offer of employment or training for employment; and

(iii) For any period beginning with the 31st day after the receipt of aid, if and for as long as no action is taken during the period to certify the parent for participation in the Work Incentive Program as provided in section 402(a)(19) of the Act and the regulations relating thereto.

24. A new § 233.106 is added to read as follows:

§ 233.106 Denial of AFDC benefits to strikers.

(a) *Condition for plan approval.* A State plan under title IV–A of the Social Security Act must:

(1) Provide that participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept, employment.

(2)(i) Provide for the denial of AFDC benefits to any family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike; and

(ii) Provide that no individual's needs shall be included in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike.

(b) *Definitions.* (1) The State must define "strike" by using the National Labor Relations Board definition (29 U.S.C. 142(2)) or another definition of the term that is currently in State law.

(2) The State must define the term "participating in a strike."

(3) For purposes of paragraph (a)(2)(i) of this section, "caretaker relative" means any natural or adoptive parent.

§ 233.140 [Removed]

25. Section 233.140 is removed.

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Part 234 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

26. Section 234.60 is amended by revising paragraph (a)(1), and (a)(12) removing and reserving paragraph (a)(5), removing paragraph (a)(11)(iii), adding a new paragraph (a)(14), and amending paragraph (b)(1) by striking the (1) and removing all of paragraph (b)(2).

§ 234.60 Protective, vendor, and two-party payments for dependent children.

(a) *State plan requirements.* (1) If a State plan for AFDC under title IV–A of the Social Security Act provides for protective, vendor, and two-party payments for other than WIN and Community Work Experience Programs (CWEP) cases, and cases in which the caretaker relative fails to meet the eligibility requirements of §§ 232.11 or 232.12 of this chapter, it must meet the requirements in paragraphs (a)(2) through (11) of this section. In addition, the plan may provide for protective, vendor, and two-party payments at the request of the recipient as provided in paragraph (a)(14) of this section.

* * * * *

(12) For WIN and CWEP cases, the State plan must provide that, when protective or vendor payments are made pursuant to §§ 224.51(a)(1) and 238.22 of this chapter (because an individual has been found to have refused without good cause to participate in the WIN or CWEP program or to accept a bona fide offer of employment) * * *

(13) * * *

(14) If the plan provides for protective, vendor, or two-party payments:

(i) The State may use any combination of protective, vendor, or two-party payments (at the request of the recipient),

(ii) The request must be in writing from the recipient to whom payment would otherwise be made in an unrestricted manner and must be recorded or retained in the case file, and

(iii) The restriction will be discontinued promptly upon the written request of the recipient who initiated it.

* * * * *

PART 235—ADMINISTRATION OF FINANCIAL ASSISTANCE PROGRAMS

Part 235 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

27. Section 235.64 is amended by revising the introductory text to read as follows and by removing the footnote:

§ 235.64 FFP rates, and activities and costs matchable as training expenditures.

Under title I, X, XIV, or XVI (AABD) of the Act, FFP is available at the rate of 75 percent, and under title IV–A effective October 1, 1981, FFP is available at the rate of 50 percent for the following costs:

* * * * *

28. Section 235.70 is revised to read as follows:

§ 235.70 Prompt notice to child support agency.

(a) A State plan under title IV–A of the Social Security Act must provide for prompt notice to the State or local child support agency designated pursuant to section 454(3) of the Social Security Act whenever (1) aid is furnished to a child who has been deserted or abandoned by a parent, to the parent(s) with whom the child lives, or to a pregnant woman under § 233.90(c)(2)(iv), or

(2) any of the persons in paragraph (a)(1) of this section is deemed to be a recipient of aid under § 233.20(a)(3)(viii)(D).

(b) In this section—

(1) "Aid" means Aid to Families with Dependent Children, or AFDC Foster Care.

(2) "Prompt notice" means written notice including a copy of the AFDC case record, or all relevant information as prescribed by the child support agency. The prompt notice shall be provided within two working days of the furnishing of aid or the determination that an individual is a recipient under § 233.20(a)(3)(viii)(D). The title IV–A agency and the child support agency may agree to provide notice immediately upon the filing of an application for assistance.

(3) "Furnish" means the date on which cash is given to the family, a check or warrant is mailed to the family, a deposit is made in a bank for the family, or other similar circumstances in which an assistance payment is made to the family, or the date on which individuals are determined to be recipients under § 233.20(a)(3)(viii)(D).

(4) "A child who has been deserted or abandoned by a parent" means any child whose eligibility for AFDC is based on continued absence of a parent from the home, and includes a child born out of wedlock without regard to whether the paternity of such child has been established.

29. A new Part 238 is added to read as follows:

PART 238—COMMUNITY WORK EXPERIENCE PROGRAM

Subpart A—Introduction

Sec.
238.01 Scope of this part.

Subpart B—Administration and Program Requirements

238.10 Agency administering the program.
238.12 Statewideness.
238.14 Establishment of a mandatory participant group.
238.16 Participant reimbursement.
238.18 Participant protection.
238.20 Participation requirements.
238.22 Sanctions.
238.24 Hearings and notices.
238.26 Chief Executive Officer.

Subpart C—Sponsor and Project Requirements

238.50 Sponsor requirements.
238.52 Project requirements.
238.54 Project assignment criteria.

Subpart D—Federal Financial Participation

238.60 Allowable administrative costs.
238.62 Expenses not matchable.
238.64 Fiscal reporting requirements.

Authority: Sec. 2307, Pub. L. 97–35; 95 Stat. 846; (42 U.S.C. 609).

Subpart A—Introduction

§ 238.01 Scope of this part.

General. States may operate community work experience programs (CWEP) which serve a useful public purpose, and require AFDC recipients to participate in them as a condition of AFDC eligibility. The purpose of these CWEP programs is to provide work experience for AFDC recipients. CWEP projects must meet appropriate standards for health and safety and may not displace persons currently employed or fill established unfilled vacancies. Participants must be reimbursed for amounts not to exceed $25 for reasonable necessary expenses (as defined by the State) directly related to participation in the programs. Allowable costs to operate CWEP (see Subpart D) are matched by the Federal government at the AFDC administrative match level (50%).

Subpart B—Administration and Program Requirements

§ 238.10 Agency administering the program.

Each State with a plan approved under Title IV–A of the Social Security Act may establish and operate a CWEP program in accordance with the requirements in this part. If the State chooses to establish and operate CWEP, it must administer the program through the single State agency designated in its title IV–A State plan to administer or supervise the AFDC program.

§ 238.12 Statewideness.

The State plan shall specify the geographic areas for which the State will implement CWEP. These may include all areas of the State or only certain subareas at the Agency's discretion.

§ 238.14 Establishment of a mandatory participant group.

(a) The State plan must identify the groups or categories of AFDC recipients who will be required to participate in CWEP. Under this requirement, States may require that any AFDC recipient, as a condition of eligibility for AFDC, participate in CWEP unless the individual—

(1) Meets the WIN exemption criteria under 45 CFR 224.20, except as provided in paragraph (b) of this section;

(2) Is both currently employed for at least 80 hours per month and earning not less than the legally established or defined minimum wage for such employment (for jobs which do not have an established minimum wage, recipients currently employed 80 hours must be exempted from CWEP regardless of wage level.);

(3) Was denied AFDC solely because the amount of his or her entitlement would have been less than $10 per month;

(b) A recipient who is exempt from WIN may nevertheless be required to participate in CWEP if—

(1) He or she was exempt due to remoteness from a work incentive project under 45 CFR 224.20(b)(6); or

(2) He or she was exempt as a caretaker of a child at least three years old, under 45 CFR 224.20(b)(8), and appropriate child care can be secured to enable participation in the CWEP project.

(c) Applicants for aid to families with dependent children may not be required to participate in CWEP.

(d) A State plan may provide for voluntary participation in CWEP projects by all, or any subgroups, of AFDC recipients who desire to do so. If the plan provides for voluntary participation, it will identify the categories of voluntary participants to whom CWEP is available and any conditions which attach to their participation.

§ 238.16 Participant reimbursement.

The State plan shall specify the amount and types of participation costs the State will reimburse to recipients. Under this requirement—

(a) Participants may not be required to use their assistance or their income or resources to pay participation costs.

(b) States must provide reimbursement for transportation and other costs that the State determines are necessary and directly related to participation in CWEP incurred by the participant. For FFP purposes, this amount shall not exceed $25 per month, per participant. (See Subpart D for FFP requirements.)

§ 238.18 Participant protection.

States may provide worker's compensation or other comparable protection for their CWEP participants. The cost of this protection shall be considered an administrative expense and matched accordingly.

§ 238.20 Participation requirements.

(a) States determine CWEP participation within broad Federal requirements:

(1) Where more than one member of an assistance unit meets the criteria, under the State's plan for participation in CWEP, the State may require that each eligible individual participate in accordance with paragraph (b) of this section.

(2) Part-time participation in WIN and CWEP may be required where it is deemed appropriate by the State. The State plan shall specify whether part-time participation will be required and the circumstances under which it will be deemed "appropriate."

(b) The State plan must specify the maximum number of hours and the formula used to determine the mandatory hours of participation where the State specifies a lesser maximum. No assistance unit may be required monthly to participate in CWEP more than the number of hours which would result from dividing the family's grant amount by the greater of the Federal or the applicable State minimum wage.

(c) The State must have procedures under which there is coordination between CWEP and WIN to insure that job placement will have priority over CWEP participation.

(d) Nothing in Section 409 of the Act, nor in this part shall be construed as authorizing the payment of AFDC as compensation for work performed.

§ 238.22 Sanctions.

The State plan shall provide that where a mandatory CWEP participant has been determined to have failed or refused without good cause to participate in CWEP, the sanctions specified in 45 CFR 224.51 (and further described in § 234.60) shall apply. Under this requirement the State plan shall specify the criteria to be used in determining whether or not there was "good cause" in refusing or failing to participate in CWEP.

§ 238.24 Hearings and notices.

The State plan shall specify that the provisions of 45 CFR 205.10, which relate to hearing and notice procedures, apply to CWEP participants.

§ 238.26 Chief Executive Officer.

The Chief Executive Officer of the State—

(a) Shall provide coordination between a CWEP and the WIN program—

(1) To insure that job placement will have priority over participation in CWEP; and

(2) To insure that individuals who are required to participate in both WIN and CWEP may not be denied aid under the State plan on the grounds of "failure to participate" in one program if they are actively and satisfactorily participating in the other;

(b) May require that a participant who satisfactorily meets the requirements of CWEP may also be required to participate in a WIN program for the remainder of that month.

Subpart C—Sponsor and Project Requirements

§ 238.50 Sponsor requirements.

The State agency will designate a sponsor to operate each project or, at the agency's option, more than one project. Only public agencies and non-profit organizations may be sponsors.

§ 238.52 Project requirements.

The State plan must provide that CWEP projects—

(a) Serve a useful public purpose;

(b) Do not result in the displacement of persons currently employed or the filling of established, unfilled position vacancies. This means that CWEP participants may not perform tasks which would have been undertaken by employees or which have the effect of reducing the work of employees. However, CWEP participants may perform the same type of tasks as performed by employees;

(c) Are not in any way related to political, electoral, or partisan activities;

(d) Are not in violation of applicable Federal, State or local health and safety standards, and provide reasonable work conditions; and

(e) Have not been developed in response to, or in any way associated with, the existence of a strike, lockout or other bona fide labor dispute, or violate any existing labor agreement between employees and employers.

§ 238.54 Project assignment criteria.

The State plan must provide that—

(a) Assignments to CWEP projects will take into consideration to the extent possible, the prior training, proficiency, experience and skills of a participant;

(b) Participants will not be assigned to projects which require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

Subpart D—Federal Financial Participation

§ 238.60 Allowable administrative costs.

Federal financial participation is available for administrative costs of the AFDC program for Community Work Experience program expenditures, when CWEP has been approved as part of the State plan under Title IV–A of the Act. Such costs include amounts paid to participants which (as identified in the State plan) are reasonably necessary and directly related to participation in CWEP not in excess of $25 per month per participant.

§ 238.62 Expenses not matchable.

FFP is not available for:

(a) Capital expenditures, or depreciation or use allowances in connection with a CWEP;

(b) The cost of making or acquiring materials or equipment in connection with participation in a CWEP project;

(c) The cost of supervision of CWEP participants; and

(d) Costs associated with the use of any facilities of the State public employment offices used to find employment opportunities for participants.

§ 238.64 Fiscal recordkeeping requirements.

To support claims for FFP, States shall identify in their accounting records all CWEP costs which represent direct payments to participants in the program. States must also identify in their monthly assistance rolls those individuals to whom participant expenditures were made during any month. The identification in the accounting records and monthly assistance rolls shall be in such form as to permit verification of the monthly direct payments to each individual participant subject to FFP.

30. A new Part 239 is added to read as follows:

PART 239—WORK SUPPLEMENTATION PROGRAM

Subpart A—Introduction

Sec.
239.01 Scope of this part.

Subpart B—Program Description and Administration of the Work Supplementation Program

239.10 Agency administering the program and State plan requirements.
239.12 Eligibility.
239.14 Types of jobs.
239.16 Providing or subsidizing jobs.
239.18 Conditions of employment.
239.20 Wages.
239.24 Participation in other work programs.
239.26 Hearings and notices.

Subpart C—Standards of Need and Treatment of Earned Income

239.50 Adjustment of standard of need.
239.52 Differential need standards—geographical areas.
239.54 Differential need standards—categories of recipients.
239.56 Further adjustments in amount of aid paid.
239.58 Earned income disregard.

Subpart D—Federal Financial Participation

239.80 Wage subsidies.
239.82 Ceiling.
239.84 Claiming Federal Financial Participation.

Authority: Sec. 2306, Pub. L. 97–35, 95 Stat. 848; (42 U.S.C. 614).

Subpart A—Introduction

§ 239.01 Scope of this part.

Under the Work Supplementation Program States may use AFDC funds to develop and subsidize work for AFDC recipients as an alternative to aid provided to AFDC recipients. The Work Supplementation Program may be implemented notwithstanding the definitions contained in Section 406 of the Social Security Act or any other provision of law. Under this program AFDC recipients may choose, on a voluntary basis, to accept an offer of work to the extent such jobs are made available. In order to pay for the costs of developing and subsidizing these jobs, a State may reduce need standards in effect for selected categories of recipients on the basis of their ability to participate in the Work Supplementation Program. The reduction of needs standards may be made for either the entire State or for selected geographical areas. The total amount of Federal financial participation for operation of a State's Work Supplementation Program is limited as provided in Subpart D of this part.

Subpart B—Program Description and Administration of the Work Supplementation Program

§ 239.10 Agency administering the program and State plan requirements.

States which elect to have a Work Supplementation Program shall administer the program through either (a) the agency designated to administer or supervise the administration of the State plan under section 402(a)(3) of the Act; or (b) the agency (if any) designated to administer the Community Work Experience Program under section 409 of the Act. A State choosing to implement a Work Supplementation Program shall amend its State plan in accordance with the following provisions.

§ 239.12 Eligibility.

A State shall determine who is eligible to participate in a Work Supplementation Program from among the persons who would, at the time of their placement in such program, be eligible for assistance under the State plan as in effect in May 1981, or as modified thereafter as required by Federal law.

§ 239.14 Types of jobs.

Within certain limits described herein, a State may provide or subsidize any job position under the program as such State determines to be appropriate, but acceptance of any such position shall be voluntary. The job positions which may be provided for recipients of aid must be of the following general types:

(a) A job position provided to an eligible individual by the State or local agency administering the State plan under this part;

(b) A job position provided to an eligible individual by a public or non-profit entity for which all or part of the wages are paid by such State or local agency; or

(c) A job position provided to an eligible individual by a proprietary entity involving the provision of child day care services for which all or part of the wages are paid by such State and local agency, but only if such entity does not claim a credit for any part of the wages paid to such eligible individual under section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of the Work Incentive Program) or section 44B of the Code (relating to credit for employment of certain new employees).

§ 239.16 Providing or subsidizing jobs.

The State agency administering this program may use whatever means such State determines are appropriate in order to provide or to subsidize jobs for participants in the Work Supplementation Program. A State may make whatever arrangements it deems appropriate with regard to the type of work provided, the length of time the position is to be provided or subsidized, the amount of wages to be paid to the recipient receiving the work supplemented job, the amount of subsidy to be provided by the State or local agency and the conditions of participation.

§ 239.18 Conditions of employment.

(a) A State or local agency administering the State plan is not required to provide employee status to any eligible individual to whom it provides a job position under the Work Supplementation Program, or with respect to whom it provides all or part of the wages paid to such individual by another entity under this program.

(b) A State or local agency administering the program is not required to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks during which they fill such position.

§ 239.20 Wages.

Participants in the Work Supplementation Program will be paid wages which shall be considered to be earned income for purposes of any provision of law.

§ 239.24 Participation in other work programs.

No individual receiving a grant under the State plan shall be excused, by reason of the fact that such State has a Work Supplementation Program, from any requirement of title IV–A or title IV–C relating to work requirements.

§ 239.26 Hearings and notices.

The State plan shall specify that the provisions of 45 CFR 205.10, which relate to hearing and notice procedures, apply for purposes of the Work Supplementation Program.

Subpart C—Standards of Need and Treatment of Earned Income

§ 239.50 Adjustment of standard of need.

A State operating a Work Supplementation Program under this part may adjust the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out such program. Such changes in need standards may be made notwithstanding 45 CFR 233.20.

§ 239.52 Differential need standards—geographical areas.

A State operating a Work Supplementation Program under this part may provide that the needs standards in effect in those areas of the State in which such program is in operation may be different from the needs standards in effect in the areas in which such program is not in operation.

§ 239.54 Differential need standards—categories of recipients.

A State operating a Work Supplementation Program under this part may provide that the needs standards for categories of recipients of aid may vary among such categories as the State determines to be appropriate on the basis of ability to participate in the Work Supplementation Program.

§ 239.56 Further adjustments in amount of aid paid.

A State may make further adjustments in the amounts of aid paid under the plan to different categories of recipients in order to offset increases in benefits from other government-provided, needs-related programs as the State determines necessary and appropriate to further the purposes of the Work Supplementation Program.

§ 239.58 Earned income disregard.

A State operating a Work Supplementation Program under this part may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the Work Supplementation Program.

Subpart D—Federal Financial Participation

§ 239.80 Wage subsidies.

Payments by the State to individuals or to entities providing jobs for recipients under the program shall be expenditures incurred by the State for aid to families with dependent children except as limited by the ceiling for Federal financial participation described in this Subpart.

§ 239.82 Ceiling.

Federal funds may be paid to a State under this part with respect to expenditures incurred in operating a Work Supplementation Program. The amount subject to matching for any quarter for expenditures incurred in operating a Work Supplementation Program shall not exceed the amount of savings in FFP derived from reducing assistance payments (as specified in §§ 239.54, 239.56 and 239.58) to categories of recipients designated by the State as eligible to participate, reduced by costs of non-federally mandated changes to its State plan since May 1981. Expenditures which a State may claim for operating a Work Supplementation Program within the FFP ceiling include wage subsidies, necessary employment related services, and administrative overhead.

§ 239.84 Claiming Federal financial participation.

A State must calculate the amount subject to FFP for its Work Supplementation Program and maintain records to support its claim in accordance with procedures established by the Secretary.

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Part IV

Department of Energy

Office of Environmental Protection, Safety, and Emergency Preparedness

Emergency Energy Conservation Plan

DEPARTMENT OF ENERGY

Office of Environmental Protection, Safety, and Emergency Preparedness

10 CFR Part 477

[CAS-RM-79-507 and CAS-RM-80-513-B]

Emergency Energy Conservation

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today amends the standby Federal emergency energy conservation plan (the Federal plan) by eliminating the following measures from the Federal plan: The odd-even motor fuel purchase restrictions, the employer-based commuter and travel measure, the speed limit enforcement and reduction measure, and the non-residential building temperature restrictions. These measures had originally been included in the Federal plan as interim final rules.

The Federal plan, which is required by the Emergency Energy Conservation Act of 1979 (EECA or the Act), now includes public information measures and a minimum automobile fuel purchase restrictions measure. Under limited circumstances specified by the Act, the President could activate these measures during a severe energy supply interruption.

DOE is eliminating the measures listed above because, according to most comments and DOE's own analysis, they would likely create social and economic disruptions that would outweigh any benefits during a supply interruption. This action was precipitated by the President's decontrol of crude oil and petroleum products in January 1981 and DOE's policy that the free market, unfettered by counterproductive government controls, can more effectively allocate scarce energy supplies in the event of an energy supply interruption. By encouraging production and reducing demand, the free market directly contributes to alleviating shortages.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT:

W. Lorn Harvey, Office of Energy Contingency Planning (Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness), Department of Energy, 2000 M St., N.W., Room 4014B, Washington, D.C. 20461, telephone (202) 252-4000.

Christoper T. Smith, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 6B-144, Washington, D.C. 20585, telephone (202) 252-0510.

SUPPLEMENTARY INFORMATION:

I. Background

Section 213(a) of the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102, 93 Stat. 757 *et seq.* (1979), 42 U.S.C. 8501 *et seq.)* (EECA or the Act) required the Department of Energy (DOE) to establish a standby Federal emergency energy conservation plan (the Federal plan) within 90 days after the date of enactment. As required by the Act, DOE established the Federal plan on February 4, 1980.

As published (45 FR 8462, February 7, 1980), the Federal plan contained seven interim final measures (10 CFR 477.41, 477.42, 477.43, 477.44(a)-(e), 477.45, 477.51, and 477.52), with four additional measures proposed for inclusion (10 CFR 477.44(f), 477.46, 477.47, and 477.48).[1] Comment was invited on both the interim and the proposed measures, and extensive comments were received. On May 16, 1980 (45 FR 34015, May 21, 1980), DOE withdrew the proposed section 477.48, the recreational watercraft restrictions measure, effective retroactively to April 23, 1980.

In both the written comments on the Federal plan and at public hearings held in eight cities across the country, many individuals and business representatives expressed their concern that several of the emergency energy conservation measures, if adopted and implemented, would interfere excessively in their lives and businesses, were unnecessary restrictions, and would impose costs far in excess of their benefits. In addition, comments often indicated that energy emergencies could be better addressed by an unregulated marketplace.

On January 28, 1981, the President removed all remaining Federal price and allocation controls on U.S. crude oil and petroleum products (46 FR 9909, January 30, 1981). The President's action was the first step in effectuating the Administration's policy that the free market, unfettered by counterproductive government controls, can more effectively allocate scarce energy supplies in the event of an energy supply interruption. Reliance on market mechanisms also is expected to stimulate increased levels of private petroleum stocks, increased domestic production, and more efficient energy use.

Against this background, on February 23, 1981, DOE published a notice which proposed a major revision to the Standby Federal Emergency Energy Conservation Plan (46 FR 13517). In this notice, DOE rescinded those measures previously proposed for inclusion in the Federal plan: the compressed workweek measure, the vehicle-use sticker measure, and that section of the employer-based commuter and travel measure dealing with work schedules and transit subsidies for employees. The notice also proposed the revocation of certain measures which had been published as interim final rules: the odd-even day motor fuel purchase restrictions, the balance of the employer-based commuter and travel measure, the speed limit enforcement and reduction measure, and the non-residential building temperature restrictions measure.

The notice outlined the Department's views favoring an energy program free of counterproductive constraints—a

[1] Section 477.41 provides for a State-based multimedia information and publicity program designed to inform the public about the availability and means of using fuel-efficient travel options, means of increasing vehicle fuel efficiency, and means by which the total amount of automobile travel could be reduced in an emergency.

Section 477.42 provides for restricting individual minimum motor fuel purchases to $7.00 (6.2 gallons at $1.13) for vehicles having an engine with 8 or more cylinders and to $5.00 (4.4 gallons at $1.13) for vehicles with fewer than 8 cylinders.

Section 477.43 sought to manage shortages by restricting purchases of motor fuel for use in motor vehicles whose license plate corresponds in the prescribed manner with odd-even calendar days.

Section 477.44(a)-(e) sought to conserve motor fuel use by requiring certain employers to take steps to reduce the amount of motor fuel used by employees in commuting through a variety of options, including: carpools, pre-paid transit systems, and preferential parking for high-occupancy vehicles.

Section 477.45 sought to conserve fuel by requiring that States take stricter measures to enforce the 55 MPH speed limit on all highways, reduce by 5 MPH current speed limits on all or selected portions of roads, or increase enforcement of the reduced speed limits—all of the above to achieve a minimum compliance rate of 70 percent.

Section 477.51 seeks to conserve middle distillates such as home heating oil by providing for the widest practicable and regular dissemination of conservation information to middle distillate consumers, including information about low-cost conservation measures.

Section 477.52 sought to conserve the use of middle distillates by restricting thermostat settings for heating, cooling, and hot water in certain non-residential buildings.

Section 477.44(f) sought to conserve motor fuel use by employees by requiring certain employers to introduce one or more measures such as staggered work hours, flexible work hours, subsidies for a portion of employee commuting costs, and emergency work-at-home programs.

Section 477.46 sought to conserve energy by requiring all government and private employees to reduce their workweek by one day (though compensation for the lost time might be effected by expanding work hours on the remaining work days).

Section 477.47 sought to conserve motor fuel by prohibiting the use of non-exempted vehicles for one, two, or three days a week, depending on the severity of the shortage.

Section 477.48 sought to conserve motor fuel by prohibiting the use of non-exempted watercraft for one or two days of a weekend, depending on the severity of the shortage.

program designed to promote domestic petroleum production and market-based pricing—and requested public comment on the actions discussed above and, more generally, on how best to respond to an energy supply interruption.

II. Summary of Public Comments and DOE Responses

In response to the Federal Register notice published February 23, 1981, 11 witnesses testified at the public hearing held in Washington, D.C., and 40 organizations and individuals submitted written comments. All of the comments are included in the public record of this rulemaking and are available for review through the DOE Freedom of Information Reading Room. A discussion of the comments follows.

Comments on Proposal to Withdraw Interim Final Measures

In the February 23 notice, DOE proposed to withdraw the following interim final rules: the odd-even day motor fuel purchase restrictions, the employer-based commuter and travel measure, the speed limit enforcement and reduction measure, and the non-residential building temperature restrictions. The commenters, including those who testified at the hearing and those who submitted written comments, overwhelmingly supported withdrawal of these measures. In addition, the commenters generally supported the view that an unregulated market for petroleum and petroleum products should provide an orderly adjustment to an energy supply interruption and that DOE should support a policy which promotes vigorous domestic production and conservation efforts driven to the maximum extent possible by marketplace forces.

Commenters from the private sector—businesses, associations, and individuals—generally supported DOE's proposal to withdraw the measures described above because they would interfere with the functioning of the marketplace and with decisions by State and local governments and individuals about how best to respond to an energy emergency. In elaborating on these points, some commenters stated that an unregulated market for energy sources should be the cornerstone of DOE's emergency response plans and that, by decontrolling crude oil and refined products, the President had taken an essential forward step to reduce our vulnerability to supply interruptions by stimulating domestic production and encouraging more efficient energy use.

Several commenters argued that these measures could be counterproductive for the following reasons. First, by interfering with unrestrained supply and demand patterns, the measures would result in more costly use of energy supplies because the market would be unable to direct energy supplies to their most highly valued uses. Second, implementation of some of the measures would impose greater costs and administrative inconvenience than would be justified by any energy saved and would thereby adversely affect productivity and profitability. Finally, one commenter said that mandatory government measures may lead people to believe that they do not need to prepare themselves for an emergency because the government would do so instead.

Commenters provided other reasons for supporting DOE's proposal to revise the Federal plan. One commenter wrote that government conservation programs should not be used to circumvent consumers' independent energy purchase and use decisions. Another commenter stated that the measures proposed for withdrawal may have been necessary if motor gasoline remained subject to price regulation. The President's decontrol order, however, eliminated the need for mandatory demand restraint measures. Finally, several commenters from the private sector also emphasized that the states are in the best position to develop and implement measures of this type and that eliminating the measures from a cumbersome Federal regulatory program does not preclude the states from including them in their own plans.

Several states and other governmental organizations provided the primary opposition to the generally stated belief that an unregulated market should be the cornerstone of an effective response to a supply interruption and to DOE's proposal to remove certain measures from the Federal plan. The opposing commenters indicated that the marketplace may not adequately protect the public welfare and allow for essential services. A few states also mentioned that during the oil embargo in 1973–1974 the public looked to the Federal Government to solve problems caused by energy shortages and that this is likely to recur. A final general comment made by several of these commenters was that the Federal Government, rather than the private sector, is responsible for preparing an energy emergency response plan which will help the country continue its economic activities during a supply interruption in case the unregulated market's response proves inadequate.

These opposing commenters also generally contended that DOE's proposal retreats from government responsibility to protect the health, safety, and welfare of the public; that withdrawing these measures eliminates a source of information, guidance, and possibly authority for states which could otherwise be available to them through the program; and that although any mandatory measure will interfere with individuals' lives and businesses, the interferences would be warranted and necessary during a supply interruption. Some States also indicated that they will continue to include mandatory measures in their emergency energy conservation plans.

Taking a different perspective, one state noted that in the absence of price controls, the market will balance demand with available supplies through increasing prices. Therefore, this state believed that in an unregulated marketplace demand restraint measures are less effective, and it indicated that it would include all of its conservation measures in a comprehensive public information program.

Concerning the specific measures, commenters opposing the odd-even day motor fuel purchase restrictions measure noted that it is inconsistent with a policy which relies on the marketplace to allocate motor fuels, that it would impose particular problems for highway travelers and businesses which require daily use of their vehicles, and that it would interfere with the duties of service station owners and operators. In the alternative, some commenters thought that this measure was effective as an easy way to maintain order during an emergency.

Regarding the employer-based commuter and travel measure, the majority of the commenters supported eliminating this measure because it would interfere with business activities, would impose significant administrative inconveniences on affected businesses, and would be very difficult to enforce. In addition, one commenter argued that this measure would have a disproportionate effect on businesses because of differences in business operations, geography, and so forth. A few commenters stated that this measure should be retained in the standby Federal plan primarily because employers should be compelled to maintain the mobility of their employees.

Most commenters addressing the speed limit enforcement and reduction measure supported its withdrawal. These commenters expressed their concerns that any speed limit reduction would interfere excessively with day-to-day business activity, might cause schedule disruptions and reductions in

business productivity, could lead to less efficient intermodal shifts, and that the measure would be expensive to enforce. Some states in particular emphasized the expanded resources which would be required to increase enforcement of this measure. Supporters of the measure argued that it was effective and easy to enforce.

Finally, concerning the non-residential building temperature restrictions measure, most commenters endorsed the proposal to eliminate this measure from the standby Federal plan. Several commenters mentioned that the restrictions were not uniformly enforced when the program was in effect and that an unregulated energy market would accomplish the ends sought by the measure without the regulatory burden. Those who supported the measure argued that it offered a cheap, effective way to conserve energy.

In addition to these comments, DOE has considered an extensive regulatory and economic analysis of the Federal plan, which was prepared for DOE by the Argonne National Laboratory, together with Resource Planning Associates and the Massachusetts Institute of Technology. That analysis, published only in draft form, is available in DOE's Freedom of Information Reading Room. Its findings tend to cast doubt on the benefits of several of the measures, to underscore the economic and social disruptions they might cause, to highlight the impracticalities and high costs of implementation and enforcement, and to substantiate the uncertain character of the savings which might be expected from these measures.

Based on the comments, DOE's own analysis, and the fact that price controls have been lifted on crude oil and petroleum products, DOE has concluded that the measures proposed for withdrawal from the standby Federal plan—odd-even day motor fuel purchase restrictions, the employer-based commuter and travel measure, the speed limit enforcement and reduction measure, and the non-residential building temperature restrictions—would, if implemented, impose unnecessary burdens and restrictions on the public and on businesses, would be inconsistent with DOE's commitment to an unregulated energy market, and may be counterproductive since the implementation costs would likely outweigh the benefits produced by these measures. Accordingly, by this rule, DOE removes these measures from the standby Federal plan.

At the same time, while withdrawing these measures from the plan, DOE recognizes the concerns expressed by several commenters, primarily states, regarding adequate protection of the public welfare during a severe energy supply interruption. The Federal Government intends to help facilitate the free market and, where appropriate, to minimize the harmful effects of any future oil import disruptions. Thus, in a severe shortage, the free market can be assisted by drawdown of the Strategic Petroleum Reserve (SPR). Due to DOE's acceleration of purchases for the Strategic Petroleum Reserve, the Reserve has grown substantially over the last 10 months. In addition, the following are some of the contingency planning activities now underway which DOE believes will protect the health, welfare, and national security of our country, without creating the distortions and dislocations caused by oil price and allocation controls and mandatory conservation measures:

- Identify and remove regulatory, environmental, technical, and economic barriers to efficient emergency energy use;
- Provide leadership for greater public understanding of the need for energy emergency preparedness and provide for effective public information and communication during crises;
- Work closely with the International Energy Agency to achieve the most efficient international production, transportation, and use of energy and the most effective response to major supply disruptions;
- Remove disincentives and assess the need for incentives for private sector self-help measures, including petroleum stockpiling, supply interconnections, and standby additions to existing facilities;
- Work with state regulatory agencies to develop practical standby procedures to permit prompt increases in oil and gas production during emergencies;
- Conduct studies of likely future energy emergencies, including the forms future oil disruptions might take and their impacts on the U.S. and other consuming nations;
- Identify essential energy requirements of the military and defense industries during emergencies, including mobilization for war;
- Study the feasibility of designing standby plans for emergency withholding tax reductions, increases in transfer payments, and other means of recycling selected tax revenues during major oil supply disruptions;
- Analyze data to provide accurate and timely assessments of energy markets and conditions;
- Reactivate and revamp the Executive Reserve Administrations (Emergency Petroleum and Gas Administration, Emergency Solid Fuels Administration, and the Emergency Electric Power Administration) to strengthen the partnership between the private sector and government in preparing for and managing future energy emergencies;
- Coordinate closely with State and local governments in energy emergency preparedness activities.

Finally, reliance on the free market does not preclude limited government involvement in the event of a major supply disruption. For example, in addition to the President's authority to draw down SPR oil, the President also has the authority to assure that national security needs are met by directing petroleum suppliers to furnish fuel for national defense needs; to impose quotas or fees on imports of crude oil and petroleum products to limit or discourage consumption; and to temporarily waive regulatory requirements affecting domestic energy production and use.

Comments on Measures Withdrawn

In the February 23, 1981, **Federal Register** notice discussed above, DOE withdrew from consideration for inclusion in the standby Federal plan the compressed workweek measure, the vehicle-use sticker measure, and that portion of the employer-based commuter and travel measure concerning transit subsidies and work schedules. Comments received on these measures overwhelmingly supported DOE's action. Commenters emphasized that these measures were most intrusive and burdensome; they might create legal, contractual, enforcement, or fiscal problems; they could not be implemented quickly enough to respond to an energy emergency; and that they would interfere excessively with the activities of both individuals and businesses. One commenter who supported the inclusion of these measures acknowledged that they would require significant adjustments and contended, nonetheless, that they may be necessary during an emergency.

Based on these comments and its own analyses, DOE has concluded that these measures should remain withdrawn from consideration for inclusion in the standby Federal Plan.

Comments on Measures Retained in the Standby Federal Plan

The commenters who addressed the public information measures and the minimum automobile fuel purchase restrictions measure, which remain in the standby Federal plan, unanimously supported them. These measures were generally viewed as being consistent

with an unregulated market and an appropriate governmental role which does not interfere excessively with the activities of individuals or businesses, or impose serious administrative burdens. Some commenters suggested, however, that DOE should expand its public information program to educate the public about the potential problems that can be expected during supply interruptions and the problems associated with direct governmental intervention in the market, and to provide accurate information during an emergency about the shortage and fuel availability. DOE concurs with this suggestion and is working to implement it. Finally, DOE concludes that these two measures will effectively complement the workings of an unregulated market and that this combination of measures and an unregulated market meets the Act's requirements.

III. Alternative Emergency Response Strategies

In the February 23, 1981, **Federal Register** notice, DOE also requested that commenters suggest alternative approaches for responding to any future energy emergency. A number of commenters did suggest alternatives, among them that: companies should be allowed to develop private reserves which are free from government seizure; industrial/utility fuel switching should be added to the plan; a surcharge on oil should be imposed as soon as a shortage occurs to provide market equilibrium in the short term; DOE should assure that interstate planning activities do not create unacceptable conflicts; State and local governments should immediately implement conservation measures such as reserved street or highway lanes and parking facilities for high occupancy vehicles, and develop plans to augment regular public transit services; and tax credits for car/van pools should be enacted.

As discussed above, DOE is committed to the principle that the free market, unfettered by counterproductive government controls, is by far the most efficient allocator of resources in a shortage. By encouraging production and reducing demand, the free market directly contributes to alleviating shortages. Consequently, DOE will evaluate the recommendations made in this proceeding in the light of this policy.

IV. Additional Matters

Environmental Matters

When the measures which are being withdrawn by this notice were first published as interim final rules, the Department of Energy determined (45 FR 8492, February 7, 1980) that they, along with the other measures proposed for the Federal plan, did not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA). The measures have never been placed into effect. Withdrawing the measures will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA

Regulatory Flexibility Act Analysis

This notice partially withdraws a plan which is in a standby status and is not now, nor scheduled to be, in effect in any jurisdiction. Since it is not now affecting any small entities nor is it certain that it will ever affect any small entities, the withdrawal will have no effect on small entities. Therefore, pursuant to the Regulatory Flexibility Act (Pub. L. 96–354), this notice constitutes certification that, if promulgated, this regulation will not have a significant economic impact on a substantial number of small entities, and an analysis is not required under this Act. DOE received no comments related to the Regulatory Flexibility Act.

Regulatory Impact Analysis and Review

The Department of Energy determined that this revision to the EECA regulation is not a major rule as defined by Presidential Executive Order 12291 (46 FR 13193, February 19, 1981) because this action eliminates certain standby regulatory restrictions. Therefore, no regulatory impact analysis developed in accordance with Executive Order 12291 is required for the revised regulations. Copies of the previous draft regulatory analysis and other relevant supporting documentation will be made available for public review in the Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

For the reasons set forth above, Part 477, Chapter II, of Title 10 of the *Code of Federal Regulations*, is amended as set forth below.

Issued in Washington, D.C., January 25, 1982.

Guy W. Fiske,
Under Secretary.

PART 477—STANDBY FEDERAL EMERGENCY ENERGY CONSERVATION PLAN

§§ 477.43, 477.44, 477.45, 477.52 [Removed]

Sections 477.43, 477.44(a)–(e), 477.45, and 477.52 of Title 10 of the *Code of Federal Regulations*, which were published on February 7, 1980 (45 FR 8500–8504), are removed.

(Title II of the Emergency Energy Conservation Act of 1979, Pub. L. 96–102, 42 U.S.C. 8501 *et seq.*; Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7101 *et seq*)

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Friday
February 5, 1982

Part V

Department of the Interior

Minerals Management Service

Tract Evaluation Procedures to Assure Receipt of Fair Market Value for Outer Continental Shelf Oil and Gas Leases

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Tract Evaluation Procedures To Assure Receipt of Fair Market Value for Outer Continental Shelf Oil and Gas Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments.

SUMMARY: The Department seeks to identify the most efficient, practicable, and reliable method or methods of tract evaluation for purposes of assuring receipt of fair market value of lands it leases for oil and gas exploration and development on the Outer Continental Shelf (OCS) pursuant to the OCS Lands Act 43 U.S.C. 1801 et seq. This solicitation is necessary to obtain comments and recommendations from representatives of Federal, State, and local governmental agencies, industry, and the public. Current tract evaluation procedures and three options are presented for comment.

DATES: Comments must be submitted in writing and received in Room 6651, Main Interior Building by 12:00 noon, EST, March 8, 1982.

ADDRESSES: Comments may be mailed or delivered to Mr. William P. Pendley, Acting Director, Minerals Management Service, Room 6651, Main Interior Building, 18th and C Streets NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Rioux, (703) 860–7581, (FTS) 928–7581, or Mr. James N. Parrish, (703) 860–7835, (FTS) 928–7835.

Current Tract Evaluation Procedures

The Secretary of the Interior is required by law to assure that the Federal Government receives fair market value for the lands leased and the rights conveyed when leasing OCS resources. See 43 U.S.C. 1344(a)(4) (Supp. II 1978). Under past procedures all high bids received for OCS leases are examined to determine whether or not they constitute fair market value. The high bids submitted are compared with the presale estimate of value assigned to each tract by the Minerals Management Service (MMS), (formerly the Conservation Division of the U.S. Geological Survey).

MMS utilizes a "Monte Carlo Analysis Method" to obtain a "range of values" to determine MMS' presale estimate of value for each tract. The Monte Carlo simulation method has been considered appropriate for the evaluation of oil and gas exploratory prospects because of the uncertainty of the data which must be used in the evaluations. The following is a description of the Monte Carlo method:

1. MMS estimates the range and distribution of possible values of each variable that will affect the ultimate outcome of the oil and gas venture.

2. One value from the estimated distribution of each variable is selected at random and the tract value is computed using this combination of variables. This computation determines one point in the final distribution of possible tract values. A second value from the distribution of each of the variables is then selected at random, and the resulting tract value is computed to determine the second point in the distribution of possible tract values.

3. This process is repeated, each time with a set of values selected from the estimated distribution of each variable.

The mean of these values and the dry hole costs are then subjected to a risk factor to determine the presale estimate of value for a tract. The risk factor reflects the quality and quantity of the data used in determining the characterists of the proposed, as well as the past successes and failures encountered in the geologic trend. Thus, while the quality and quantity of data available to evaluate offshore tracts are important, the Monte Carlo simulation method of evaluation provides a means for determining a reliable presale estimate of value even in the case of uncertainty regarding the precise measure of a particular variable.

The Department of the Interior (DOI) currently uses three major criteria for determining the adequacy of bids. The Monte Carlo simulation method provides two presale estimates of value for each tract—the mean range of values (MROV) and the discounted mean range of values (DMROV). The MROV represents the Government's presale estimate of value for a given tract. The DMROV represents a value estimate reflecting revenue delays to the Government if the bid is rejected, i.e., it represents the present value of leasing the tract at a later time. The third criterion, which is prepared by the Bureau of Land Management (BLM), is the average evaluation of tract (AEOT), which is the average of all bids received on a tract, including the Government's presale estimate of value. The AEOT is the mechanism whereby market prices and competition are implicitly considered. If a bid exceeds the MROV or the DMROV, the bid is almost always always accepted. If the bid is below both the MROV and DMROV, the bid is then compared to the AEOT. In determining whether the AEOT is a reliable criterion to assess the receipt of fair market value in a particular instance, MMS and BLM consider, among other things, (1) the number of bids on a tract, (2) the reliability of the evaluation data, and (3) the existence of an anomalously low bid on the tract.

The current procedure for tract evaluation is, in essence, an attempt to provide a separate, additional nonmarket, and hence artificial, estimate of the value of each tract offered. Tract value estimation involves geophysical and geological mapping and analysis coupled with an elaborate and complex, and by its nature arbitrary, computer program. An established procedure has been developed for the use of such tract value estimates in recommending bid acceptance or rejection. These procedures, in part, adjust for the information contained in other bids to reduce the chances that bids will be rejected, not because they are too low, but because the tract value estimate is too high. The inherent uncertainty in any nonmarket, and hence artificial, estimate of a tract's value raises serious questions about the wisdom and effectiveness of a strategy that incurs substantial costs for tract value estimates in an attempt to determine what specific high bids do not constitute fair market value.

Streamlined Evaluation Approaches

One of the proposals for streamlining and accelerating the OCS leasing process is to increase reliance on the marketplace and the presence of competitive bidding for offered tracts, rather than to rely on a Government established presale evaluation on every tract, as the primary means of assuring receipt of fair market value. There are clear gains in the internal efficiency of the Department's leasing activities if the costs of tract evaluation can be reduced. More importantly, the economic efficiency of exploration and development can be improved by relying more fully on the leasing market and less on Government decisionmaking to determine which tracts are leased. Greater reliance on the free market and competitive bidding for assurance of receipt of fair market value reduces the likelihood that exploration of a prospect will be unnecessarily delayed because of a bid rejection that was based on artificial and uncertain assumptions.

However, the tract evaluation system may have added an additional deterrent to discourage systematic underbidding and collusion by, in effect, introducing the Government as an additional bidder. This assurance while subject to the same deficiencies has been considered important on drainage, proven, or

development tracts on which one bidder has potentially superior information.

Although a strong case can be made that the lease market itself assures receipt of fair market value, there would appear to be a benefit from continuing an appropriately sized and designed effort to review at lease some of the bids received. Substantial changes in bidding patterns or the limited availability of information on resource prospects could provide opportunities for some bidders to gain from underbidding or collusion. An evaluation process is needed that will provide assurance that fair market value will be received for leases even if such opportunities should arise. A review procedure that provides a credible and cost-effective deterrent against underbidding and collusion would effectively meet this need.

In the OCS program, the market value of "the lands leased and rights conveyed" clearly depends on the oil and gas prospects of the tracts, the expected prices of oil and gas, the costs of OCS operations, the supply of leases and substitutes, and the financial, market, and technological characteristics of potential bidders. The market value of leases is not the market value of the oil and gas eventually discovered or produced, but the value of the right to explore, and, if there is a discovery, develop and produce, subject to a wide array of constraints. The market value of a lease is its value at the time it is offered, given conditions at that time. It is not necessarily the same as the value of the lease at a later time.

In summary, to assure receipt of fair market value for the rights conveyed by an OCS lease, the Secretary must determine that the payment received for the lease is the price that is, or would be, set by a market which is sufficiently competitive to yield fair transactions between buyers and sellers. We define fair market value as the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. We believe the following guidelines should be reflected in any procedure adopted:

1. In deciding how to assure receipt of fair market value, the Secretary should consider and weigh a variety of objectives and factors enumerated in the OCS Lands Act as amended, including costs, administrative burdens, and delays in exploration.

2. Bid rejection decisions should be based on evaluations so as to be defensible as not arbitrary and capricious.

3. Tract evaluations should be done postsale to avoid the excessive and unnecessary workload involved in evaluating tracts on which bids are not received.

4. Competition in the lease market should be used as a principal basis for accepting bids as fair market value.

5. Random selection of tracts for evaluation should be used in establishing a deterrent against underbidding and collusion.

The DOI is in the final stages of developing a procedure to conduct postsale evaluation of a portion rather than all tracts receiving bids. A consideration in designing this procedure will be the effect on Government revenues for a given evaluation technique.

In designing a system, the costs of tract evaluation and bid rejection must be weighed against the benefits. Two types of costs are being considered. The first is the cost of the evaluation procedure itself. The second is the cost of the delay in resource exploration and development that results when a high bid is rejected. The income expected to be generated by the development of the resources of a tract must be discounted to reflect the effects on the productivity of the economy of delaying the availability of valuable resources. The extent of the delay caused by rejection of a bid depends on the timing of the next sale, assuming of course that it will be bid on and leased at that time.

Options

The DOI is in the final stages of reviewing options with regard to evaluation practices for OCS lease sales. Three options are under active consideration which present a range of considerations. Option 1 reflects reliance upon competition at a three or more bid level for bid acceptance with perhaps no sampling; or a 5 percent random sample of these bids combined with a 30 to 60 percent sample of one and two bid tracts which could be random, or part random and part based on predetermined criteria. Analysis of tracts sampled could be based partially on comparative analysis.

Option 3 would place more reliance upon Monte Carlo quantitative evaluations for a sample of prospects sufficient to cover about 60 percent of the tracts receiving bids.

Option 2 would combine elements of Options 1 and 3 through a phased screening process. DOI analysis to date has focused on this option. An initial screen would provide for acceptance of all high bids on structures having tracts which receive three or more valid bids, unless they contain drainage, proven or development tracts, or are selected for further evaluation by MMS and BLM in a 25 percent sample using predetermined criteria or selected in an additional 5 percent random sample. Subsequently, an evaluation of sampled tracts may be made using comparative analyses. A final screen would employ Monte Carlo techniques.

A description of proposed procedures to implement each of these three options is presented in the following section. Respondents should consider the following problems in commenting on any of the three options:

Workload implications with resultant

(1) Government expense of proposed sample sizes.

(2) Difficulty in applying comparative analyses that are credible and yield consistent predictable results without simply adding an element of layering between use of competition and quantitative analysis.

(3) Most of the technical effort involved is employed in mapping to define the nature of the prospect or structure and in developing input for the Monte Carlo model. Increased reliance on competition avoids these two high workload area. Comparative analyses are dependent on quantitative evaluations to identify possible candidates for rejection.

(4) Evaluations of one tract on a structure or prospect will require mapping of the entire structure or prospect. Sample size should therefore reflect all tracts on a structure or prospect basis.

Examples

The following are examples of proposed procedures for each of the three options under consideration. Various combinations are of course possible. Respondents may address each of the three options and/or any other evaluation procedures they choose to recommend.

Option I—Primary Reliance on Competition

This option focuses on evaluating few-bid tracts and relying on competition shown on many-bid tracts to give confidence of receipt of fair market value.

This option employs the following steps:

Step 1—Apply "noise bid" criteria to all bids received to discount for anomalously low, speculative, or random bids.

Step 2—Accept 100 percent of the high bids on tracts receiving three or more valid bids. Alternatively, subject all

tracts receiving three or more bids to a 5 percent random sample.

Step 3—All tracts on a structure or prospect containing a tract receiving three of more bids, unless randomly selected in Step 2, would be deemed to be competitively bid and accepted.

Step 4—Subject a sample of 30 to 60 percent of all tracts receiving one or two bids to a comparative (qualitative) evaluation. All tracts on a structure or prospect would be included in the sample.

Step 5—Accept bids on all structures not selected above for sampling. Accept bids where there is no identifiable structure or prospect associated with tracts receiving at least minimum bids.

Step 6—If the structure or prospect is evaluated, accept all high bids if the sum of all tract (or structure) evaluations done by MMS does not exceed the sum of the high bids for the structure or prospect value.

Questions

1. Should the Government rely on the market alone to assure receipt of fair market value (i.e., accept high bids on tracts without evaluation) or should it review (evaluate) a sample of tracts receiving bids?

2. Should tracts be selected for evaluation randomly or according to predetermined criteria (selective)? Should the sample be split between random and selective tracts? If so, how?

3. How large a sample should be selected for evaluation? Should it be between 25–60 percent of all tracts bid on? Is a 5 percent random sample sufficient to prevent and/or detect collusion and systematic underbidding?

4. If selectively sampled, what, if any, of the following or other criteria should be used?

a. The adequacy and availability of geological and geophysical data for further evaluation of certain tracts in a timely and cost-effective manner.

b. MMS interpretations of geological and geophysical data which are available may clearly indicate that certain tracts or groups of tracts can be judged to have no identifiable structure. These tracts would not be included in the sample.

c. Competition for certain tracts or competition for the sale in general mey be deemed sufficient to warrant that the structure(s) not be included in the joint sample. A greater reliance can be placed on the market especially if the number of bids is high, even if it is possible that an independent evaluation would generate a high value. Where possible, competition should be judged relative to available MMS data.

d. The history of a tract as evidenced by past offering, leasing, rejection, and exploration may be the basis for nonselection. Past high bids and past evaluations may be considered in conjunction with current high bids.

e. Unique bidding patterns specific to a sale may indicate that companies view geologic trends in a different manner than MMS, and therefore, MMS may wish to carefully review possible alternate interpretations. In addition, where specific bidders may differ substantially from other bidders further evaluations may be recommended. Structures containing a pattern of anomalously bid tracts would be selected for further evaluation.

f. Selection will focus a greater proportion of the evaluation on tracts receiving fewer bids. If systematic underbidding is to be deterred, percentage guidelines for each bid category would be flexible and permit sale specific considerations. Generally, unless predetermined departmental criteria indicate a necessity for further evaluation, structures containing tracts receiving three or more bids will be considered to represent adequate competition and will be deemed to be acceptable.

g. Present value delays in Government receipts associated with the time consumed by an evaluation will be considered. Structures containing tracts receiving high front-end bonuses will be more carefully compared to other selection criteria than lower bid tracts, if all other factors are equal.

5. Should all tracts selected be evaluated on a structure or prospect basis?

6. At what level should the bid cutoff point indicating adequate competition be? At three bids? Higher? Lower?

7. Would one or two bids be adequate competition for assuring receipt of fair market value if there is a particular number of bidders in a sale? For example, if there were 20 active bidders in a sale and only one bid is received on a tract or structure, does this represent a zero bid by all other participants? If year, how many bidders would constitute a competitive sale? What combination of number of bids received on a tract with the number of bidders in a sale assures receipt of fair market value? Should the number change from frontier areas to developed areas, or not?

8. If a comparative evaluation process is used to recommend acceptance or rejection of bids on tracts selected for evaluation, what methods could be employed? The use and efficacy of such methods should be discussed.

9. Would a comparative evaluation process be sufficient as a basis for bid rejection or should a comprehensive economic, resource (quantitative) evaluation be done?

10. Should the high bids on the tracts on a structure or prospect be accepted if the sum of the high bids received exceeds the Government's value for the entire structure or prospect?

11. On which basis should the Government attempt to assure receipt of fair market value—(1) on each tract leased, (2) each structure leased, or (3) for the entire sale area taken as a whole?

12. What is the value of and the potential problem associated with having the high bidder(s) on one tract, in effect, subsidize the high bid(s) on other tracts, as would happen when all the high bids on a structure are accepted if the sum of the high bids exceeds the sum of the tract values on the structure?

13. If at least one tract on a structure is determined to be competitively bid, should the high bid on all other tracts on the structure or prospect be accepted?

14. How should a "structure" or "prospect" be defined? Closing contour? Reasonable development and operating unit? Other?

Option 2—Intermediate Option Using a Phased Screening Process

Preliminary Evaluation

Step 1. Apply noise bid criteria to bids received in sale to discount speculative or random bids.

Step 2. Accept all high bids on structures having tracts which received three or more bids unless the structures contain drainage, proven, or development tracts or are selected for further evaluation by MMS and BLM in a 25 percent sample of all tracts receiving bids selected on the basis of predetermined criteria (see Option I, question 4) or selected in an additional 5 percent random sample. The selection of tracts for further evaluation will be made on a structure or prospect basis, i.e., all tracts on a sample structure or prospect will be further evaluated.

The following definitions apply to these tracts:

Drainage Tract—A tract which has a nearby well which is capable of producing oil or gas, and the tract could suffer if and when such a well is placed on production. The reservoir is interpreted to extend under the drainage tract to some extent.

Proven Tract—A previously leased tract which is now expired but contains known oil and/or gas reserves. Volume of reserves may or may not be known.

Development Tract—A tract which has nearby wells with indicated hydrocarbons and which is not indicated to have a productive reservoir extending under the tract. There should be some indication that some part of the tract is on the same general structure as the proven productive well or wells.

Comparative Evaluation

Step 1. All tracts not recommended for acceptance in the initial phase may be considered for a comparative evaluation. These will include all tracts receiving bids on (1) structures containing tracts identified as drainage, proven, or development; (2) structures having no tracts receiving three or more bids; and (3) structures selected on the basis of predetermined criteria or as part of a random sample. The comparative screening process is designed to expeditiously and efficiently identify tracts for which bid acceptance recommendations are appropriate without the need for a detailed engineering and economic discounted cash flow evaluation. This testing process involves comparison of the high bid value with acceptable bids on tracts on comparable structures and/or resource economic values calculated presale for hypothetical tracts with similar geologic and other physical characteristics such as resource potential, a real extent of potential reservoirs, depth to potential reservoirs, probable producing characteristics, water depth, and distance from shore.

If, based upon this comparison, the high bid for a tract is favorable, it will be recommended for acceptance. Failure of a high bid to meet comparative evaluation criteria will not result in a bid rejection recommendation, but in a further quantitative evaluation.

Step 2. All high bids on a structure or prospect will be accepted if they exceed the value or value judgment placed upon the structure or prospect as determined by this comparative evaluation.

Quantitative Evaluation

All tracts not previously recommended for acceptance will undergo a detailed Monte Carlo type discounted cash flow analysis. Bid acceptance rejection decisions will be based upon the MROV, DMROV, and AEOT.

Questions

1. (a) What are the appropriate techniques for sampling tracts or structures to be evaluated?

(b) Advantages and disadvantages of selective vs. random sampling?

(c) What are appropriate selection criteria?

(d) What is a sufficient sample size to deter and/or detect collusion and systematic underbidding?

2. Should all bid acceptance/rejection decisions on a structure or prospect be based upon the same criteria, such as sufficient competition, a comparative analysis, or a quantitative evaluation?

3. How should a "structure" or "prospect" be defined? Closing contour? Reasonable development and operating unit? Other?

4. On which basis should the Government attempt to assure receipt of fair market value—(1) on each tract leased, (2) each structure leased, or (3) for the entire sale area taken as a whole?

5. What is the value of and the potential problems associated with having the high bidder(s) on one tract, in effect, subsidize the high bid(s) on other tracts, as would happen when all the high bids on a structure are accepted if the sum of the high bids exceeds the sum of the tract values on the structure?

6. If at least one tract on a structure is determined to be competitively bid, should the high bid on all other tracts on the structure or prospect be accepted?

Option 3—Reliance on Quantitative Evaluation Employing Monte Carlo Techniques on Tracts Covering a Sample of Prospects

This option would employ two steps:

Step 1. A sample of tracts would be selected to be evaluated utilizing predetermined criteria developed by MMS and BLM (see Option 1, question 4). All tracts on a prospect or structure would be included in the sample to be evaluated. The sample would equal about 60 percent of the tracts receiving bids. The sample would be drawn in a manner that includes a substantial portion of tracts receiving three or four bids, even if that means a slight reduction in the sample of tracts receiving one bid.

Step 2. Complete a Monte Carlo type quantitative evaluation of each tract included in the sample.

Questions

1. (a) What are the appropriate techniques for sampling tracts or structures to be evaluated?

(b) Advantages and disadvantages of selective vs. random sampling?

(c) What are appropriate selection criteria?

(d) What is a sufficient sample size to deter and/or detect collusion and systematic underbidding?

2. Should the percentage be varied with bid level? If so, how should it vary?

3. Should the sample be entirely selective? Part selective and random, or totally random?

Alternative Bid Acceptance Criteria for Frontier Areas: Applicable to all of the above options is the consideration of special bid acceptance criteria for frontier areas in the OCS.

Three of the purposes of the OCS Lands Act are: (1) To make OCS resources available to meet the Nation's energy needs as rapidly as possible, (2) to balance orderly development with environmental protection, and (3) to insure that the extent of oil and natural gas resources is assessed at the earliest practical time. Since as much as one-third of the Nation's undiscovered oil and gas resources are estimated to underlie the OCS and much of the OCS is in frontier areas where little detailed geological information exists because it is available only through the drilling of boreholes, it is critical that new frontier areas be quickly explored. A principal return obtained by leasing these tracts expeditiously is the information gained from increased exploration and the resultant reduction in risks in subsequent offerings. In addition, decisionmaking is enhanced due to improved data. Finally, orderly development will be enhanced in the OCS which increases efficiency and Government receipts. The following potential alternative methods for incorporating the goals relating to expeditious and orderly exploration and development into our fair market value criteria are offered for comment.

1. *Reduce the reservation price by an estimate of the value of information.* Since this value is greater in frontier areas, these tracts are more likely to be accepted. This reduction would be based on accepted, nonarbitrary methods of estimating the decrease in risk of subsequent offerings and the alternative costs of obtaining such information.

2. *Reduce the reservation price by the efficiency benefits due to orderly development.* The rejection of a bid may have a negative impact on the efficient development of adjacent tracts. Production may not be feasible unless a large group of tracts are leased. Government revenues may be reduced if efficient development is impaired. Delays in development of entire units may be attributable to individual tracts. These types of costs would be subtracted from our MROV's.

3. *Incorporate the uncertainty of MMS information in frontier areas into the criteria.* A distinguishing feature of frontier areas is the greater range of the estimated resources values and

exploration and development costs for a given tract compared to the more developed regions. This is largely due to the greater uncertainty for many of the parameters. At present, a reliability rating is provided for each tract but this rating has not been used as a bid acceptance or rejection criterion since it is based on subjective interpretations of the MMS definitions for each rating. An explicit method of incorporating this uncertainty into our criteria could be developed and evaluations in frontier areas where information is tenuous would receive less weight. One technique would be to assign an uncertainty based on the standard deviations of the MMS values and use this to weight the MROV within the AEOT. This would provide a greater weight to the market in frontier areas. Other techniques include use of the median range of values or use of specific statistical intervals around the MROV.

General Questions

To assist in the determination of policy direction regarding OCS tract evaluation procedures, each respondent is requested to offer comments with regard to each of the three options presented, any additional options that may be offered, and alternative frontier area bid acceptance criteria. Respondents may wish to recommend options beyond those described as currently under consideration by the Department in this notice. In describing or recommending options other than those presented in this notice, respondents are requested to provide sufficient details so that distinction can be made between the options involved, and so that all the options can be fully evaluated. Repondents are specifically requested to address the following general questions with regard to each option:

1. What bid level is an adequate indicator of competition?

2. What sample size should be employed for evaluation purposes?

3. What credible comparative or qualitative analyses could be employed for use under each option?

4. What affect would adoption of each option have on:
   (a) Bidding strategies or patterns?
   (b) Bid amounts?
   (c) Competition?
   (d) Exploration?
   (e) Development and Production?
   (f) Governmental Revenues?
   (g) Administrative burdens?
   (h) Detection of systematic underbidding and collusion?

5. Contingency payments represent a related problem in determining tract values, especially where comparative methods are employed. How should such contingent payments be taken into account in determining fair market value?

6. What is an appropriate minimum submissible per acre bid for OCS lease tracts? Should that bid vary by region, by evaluation approach, by contingency payment, or by any other factor?

Dated: February 4, 1982.

William P. Pendley,

Acting Director.

[FR Doc. 82-3361 Filed 2-4-82; 11:38 am]

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PUBLIC LAWS

This is the final cumulative list of public laws for the first session of the 97th Congress. The continuing list of public laws published after enactment in the "Reader Aids" section of the **Federal Register** will be maintained on a current basis. Any comments may be addressed to the Director, Office of the Federal Register, Washington, D.C. 20408. The text of laws may be ordered in individual pamphlet form from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Jan. 26	S.J. Res. 16	97-1	95:3	Designating January 29, 1981, as "A Day of Thanksgiving To Honor Our Safely Returned Hostages".	1.50
Feb. 7	H.R. 1553	97-2	95:4	To provide for a temporary increase in the public debt limit.	1.50
Feb. 10	S. 253	97-3	95:5	To increase the number of members of the Commission on Wartime Relocation and Internment of Civilians.	1.50
Feb. 17	S. 272	97-4	95:6	To increase the membership of the Joint Committee on Printing.	1.50
Mar. 13	H.R. 2166	97-5	95:7	To amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program.	1.50
Mar. 31	S. 509	97-6	95:8	To amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support price of milk be adjusted semiannually.	1.50
Apr. 9	S. 840	97-7	95:9	To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period.	1.50
	S.J. Res. 61	97-8	95:10	To authorize and request the President to issue a proclamation designating April 9, 1981, as "African Refugee Relief Day".	1.50
Apr. 14	H.J. Res. 182	97-9	95:11	To designate April 26, 1981, as "National Recognition Day for Veterans of the Vietnam Era".	1.50
May 1	H.J. Res. 155	97-10	95:12	To authorize and request the President to issue a proclamation designating May 3 through May 10, 1981, as "Jewish Heritage Week".	1.50
May 22	S. 730	97-11	95:13	To ensure necessary funds for the implementation of the Federal Crop Insurance Act of 1980.	1.50
June 5	H.R. 3512	97-12	95:14	Supplemental Appropriations and Rescission Act, 1981.	3.75
June 12	S.J. Res. 50	97-13	95:97	Designating July 17, 1981, as "National P.O.W.-M.I.A. Recognition Day".	1.50
June 16	S. 1070	97-14	95:98	Youth Employment Demonstration Amendments of 1981.	1.50
June 17	H.R. 2156	97-15	95:99	To amend title 38, United States Code, to extend by twelve months the period during which funds appropriated for grants by the Veterans Administration for the establishment and support of new State medical schools may be expended.	1.50
June 23	S. 1213	97-16	95:100	To amend title I of the Marine Protection, Research, and Sanctuaries Act, as amended.	1.50
June 29	H.J. Res. 288	97-17	95:101	To correct Public Law 97-12 due to an error in the enrollment of H.R. 3512.	1.50
June 30	H.R. 3991	97-18	95:102	To amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income.	1.50
July 6	S. 1123	97-19	95:103	To permit certain funds allocated for official expenses of Senators to be utilized to procure additional office equipment.	1.50
	S. 1124	97-20	95:104	To authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programing services.	1.50
July 9	H.J. Res. 238	97-21	95:105	To approve a Constitution for the United States Virgin Islands.	2.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
July 10	H.R. 3807	97-22	95:124	Defense Officer Personnel Management Act Technical Corrections Act.	1.75
July 17	H.R. 3520	97-23	95:139	Steel Industry Compliance Extension Act of 1981.	1.50
July 23	S. 1395	97-24	95:143	To extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, and to eliminate the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held grain reserve.	1.50
July 27	H.R. 31	97-25	95:144	Cash Discount Act.	1.50
July 29	H.J. Res. 308	97-26	95:146	Making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1981.	1.50
Aug. 4	H.J. Res. 84	97-27	95:147	Designating the week of October 4 through October 10, 1981, as "National Diabetes Week".	1.50
	S.J. Res. 28	97-28	95:148	Designating the week beginning March 7, 1982, as "Women's History Week".	1.50
Aug. 6	H.J. Res. 191	97-29	95:149	Designating August 8, 1982, as "National Children's Day".	1.50
	S. 1040	97-30	95:150	To amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.	1.50
	H.R. 4074	97-31	95:151	Maritime Act of 1981.	2.00
	S.J. Res. 64	97-32	95:169	Designating August 13, 1981, as "National Blinded Veterans Recognition Day".	1.50
Aug. 7	S. 1104	97-33	95:170	To amend the International Investment Survey Act of 1976 to provide an authorization for further appropriations, to avoid unnecessary duplication of certain surveys, and for other purposes.	1.50
Aug. 13	H.R. 4242	97-34	95:172	Economic Recovery Tax Act of 1981.	4.50
	H.R. 3982	97-35	95:357	Omnibus Budget Reconciliation Act of 1981.	7.50
Aug. 14	H.J. Res. 141	97-36	95:934	Authorizing and requesting the President to issue a proclamation designating the period from October 4, 1981, through October 10, 1981, as "National Schoolbus Safety Week".	1.50
	H.R. 1100	97-37	95:935	Former Prisoner of War Benefits Act of 1981.	1.50
	S. 547	97-38	95:938	To enable the Secretary of the Interior to erect permanent improvements on land acquired for the Confederated Tribes of Siletz Indians of Oregon.	1.50
	S. 694	97-39	95:939	Department of Defense Supplemental Authorization Act, 1981.	1.50
	S. 640	97-40	95:944	To amend the District of Columbia Self-Government and Governmental Reorganization Act to extend the authority of the Mayor to accept certain interim loans from the United States and to extend the authority of the Secretary of the Treasury to make such loans.	1.50
	S. 875	97-41	95:945	To authorize the generation of electrical power at Palo Verde Irrigation District Diversion Dam, California.	1.50
	S. 1278	97-42	95:946	Saccharin Study and Labeling Act Amendment of 1981.	1.50
Aug. 20	S.J. Res. 87	97-43	95:947	To authorize and request the President to designate September 13, 1981, as "Commodore John Barry Day".	1.50
Sept. 17	S.J. Res. 62	97-44	95:948	To authorize and request the President to designate the week of September 20 through 26, 1981, as "National Cystic Fibrosis Week".	1.50
Sept. 25	H.R. 2120	97-45	95:949	Product Liability Risk Retention Act of 1981.	1.50
	H.R. 4416	97-46	95:953	To enable the Secretary of Agriculture to assist, on an emergency basis, in the eradication of plant pests and contagious or infectious animal and poultry diseases.	1.50
Sept. 30	H.R. 2903	97-47	95:954	To extend by one year the expiration date of the Defense Production Act of 1950.	1.50
	H.J. Res. 266	97-48	95:955	To provide for a temporary increase in the public debt limit.	1.50
	H.J. Res. 265	97-49	95:956	To provide for a temporary increase in the public debt limit.	1.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 1475	97-50	95:957	To extend the expiration date of section 252 of the Energy Policy and Conservation Act.	1.50
Oct. 1	H.J. Res. 325	97-51	95:958	Making continuing appropriations for the fiscal year 1982, and for other purposes.	1.75
Oct. 2	S.J. Res. 78	97-52	95:969	To provide for the designation of October 2, 1981, as "American Enterprise Day".	1.50
	S.J. Res. 103	97-53	95:970	To authorize and request the President of the United States to issue a proclamation designating the seven calendar days beginning October 4, 1981, as "National Port Week".	1.50
Oct. 5	S.J. Res. 65	97-54	95:971	Proclaiming Raoul Wallenberg to be an honorary citizen of the United States, and requesting the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom.	1.50
Oct. 6	H.R. 618	97-55	95:973	To convey certain interests in public lands to the city of Angels, California.	1.50
	H.R. 2218	97-56	95:976	To direct the Secretary of Agriculture to convey certain National Forest System lands in the State of Nevada, and for other purposes.	1.50
Oct. 9	H.J. Res. 263	97-57	95:978	To designate May 6, 1982, as "National Recognition Day for Nurses".	1.50
	H.R. 4084	97-58	95:979	To improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes.	1.75
	S. 1033	97-59	95:988	Granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary.	1.50
Oct. 14	S. 1181	97-60	95:989	Uniformed Services Pay Act of 1981.	2.00
	S.J. Res. 98	97-61	95:1009	To authorize and request the President to issue a proclamation designating October 16, 1981, as "World Food Day".	1.50
	S. 1712	97-62	95:1010	To extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982.	1.50
Oct. 16	S. 304	97-63	95:1011	National Tourism Policy Act.	1.50
	H.R. 4048	97-64	95:1019	Granting the consent of Congress to the agreement between the States of Kansas and Missouri establishing their mutual boundary in the vicinity of the French Bottoms near Saint Joseph, Missouri, and Elwood, Kansas.	1.50
	H.R. 3136	97-65	95:1021	Overseas Private Investment Corporation Amendments Act of 1981.	1.50
Oct. 17	S. 917	97-66	95:1026	Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981.	1.75
Oct. 20	H.R. 4612	97-67	95:1039	To temporarily delay the October 1, 1981, increase in the price support level for milk and to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982.	1.50
Oct. 26	S. 1191	97-68	95:1040	To extend for three additional years the provisions of the Fishermen's Protective Act of 1967 relating to the reimbursement of United States commercial fishermen for certain losses incurred incident to the seizure of their vessels by foreign nations; and for other purposes.	1.50
	S. 1224	97-69	95:1041	To amend the provisions of title 39, United States Code, relating to the use of the frank, and for other purposes.	1.50
	S. 1687	97-70	95:1045	To make a technical amendment to the International Investment Survey Act of 1976.	1.50
	H.J. Res. 268	97-71	95:1046	To designate October 23, 1981, as "Hungarian Freedom Fighters Day".	1.50
Nov. 3	H.R. 3499	97-72	95:1047	Veterans' Health Care, Training, and Small Business Loan Act of 1981.	2.00
	S. 1209	97-73	95:1064	Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.	1.50
	S. 1000	97-74	95:1065	Independent Safety Board Act Amendments of 1981.	1.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S.J. Res. 4	97-75	95:1067	To authorize the President to issue a proclamation designating the week beginning November 22, 1981, as "National Family Week".	1.50
Nov. 5	H.R. 4608	97-76	95:1068	To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period, and for other purposes.	1.50
Nov. 13	S. 1322	97-77	95:1069	To designate the United States Department of Agriculture Boll Weevil Research Laboratory building, located adjacent to the campus of Mississippi State University, Starkville, Mississippi, as the "Robey Wentworth Harned Laboratory"; to extend the delay in making any adjustment in the price support level for milk; and to extend the time for conducting the referenda with respect to the national marketing quotas for wheat and upland cotton.	1.50
Nov. 16	H.R. 3975	97-78	95:1070	To facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits.	1.50
	S. 736	97-79	95:1073	Lacey Act Amendments of 1981.	1.75
Nov. 20	S. 999	97-80	95:1081	To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction programs and the fire prevention and control program, and for other purposes.	1.50
	H.R. 4792	97-81	95:1085	Military Justice Amendments of 1981.	1.75
	H.R. 4734	97-82	95:1091	To recognize the organization known as the Italian American War Veterans of the United States.	1.50
	S.195	97-83	95:1094	To recognize the organization known as the United States Submarine Veterans of World War II.	1.50
	S. 1672	97-84	95;1097	To expand the membership of the United States Holocaust Memorial Council from sixty to sixty-five and for other purposes.	1.50
Nov. 23	H.J. Res. 368	97-85	95:1098	Making further continuing appropriations for the fiscal year 1982.	1.50
Dec. 1	S. 815	97-86	95:1099	Department of Defense Authorization Act, 1982.	2.50
	S. 1133	97-87	95:1134	To amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1982, and for other purposes.	1.50
Dec. 4	H.R. 4144	97-88	95:1135	Energy and Water Development Appropriation Act, 1982.	2.00
	H.R. 3454	97-89	95:1150	Intelligence Authorization Act for Fiscal Year 1982.	2.00
	H.R. 3413	97-90	95:1163	Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982.	1.75
	H.R. 4522	97-91	95:1173	District of Columbia Appropriation Act, 1982.	1.75
Dec. 15	H.J. Res. 370	97-92	95:1183	Making further continuing appropriations for the fiscal year 1982, and for other purposes.	2.25
	S.J. Res. 115	97-93	95:1204	To approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976.	1.50
Dec. 17	H.R. 4591	97-94	95:1205	To amend the mineral leasing laws of the United States to provide for uniform treatment of certain receipts under such laws, and for other purposes.	1.50
	S.J. Res. 136	97-95	95:1206	To validate the effectiveness of a plan for the use or distribution of funds appropriated to pay a judgment awarded to the San Carlos Tribe of Arizona.	1.50
Dec. 21	S. 1098	97-96	95:1207	National Aeronautics and Space Administration Authorization Act, 1982.	1.75
	H.R. 4845	97-97	95:1212	To designate the building known as the Lincoln Federal Building and Courthouse in Lincoln, Nebraska, as the "Robert V. Denney Federal Building and Courthouse."	1.50
Dec. 22	S. 884	97-98	95:1213	Agriculture and Food Act of 1981.	4.75
Dec. 23	H.R. 3455	97-99	95:1359	Military Construction Authorization Act, 1982.	2.50
	H.R. 4035	97-100	95:1391	Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes.	2.25

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 4034	97-101	95:1417	Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1982.	2.25
	H.R. 4209	97-102	95:1442	Department of Transportation and Related Agencies Appropriation Act, 1982.	2.25
	H.R. 4119	97-103	95:1467	Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1982, and for other purposes.	2.25
	H.R. 3484	97-104	95:1491	George Washington Commemorative Coin Act.	1.50
	H.R. 4910	97-105	95:1493	To amend the District of Columbia Self-Government and Governmental Reorganization Act and the charter of the District of Columbia with respect to the provisions allowing the District of Columbia to issue general obligation bonds and notes and revenue bonds, notes, and other obligations.	1.75
	H.R. 4241	97-106	95:1503	Military Construction Appropriation Act, 1982.	1.75
	H.R. 5273	97-107	95:1509	To allow the George Washington University Higher Education Facilities Revenue Bond Act of 1981 of the District of Columbia to take effect immediately.	1.50
	H.R. 1465	97-108	95:1510	State and Local Government Cost Estimate Act of 1981.	1.50
Dec. 26	S. 1003	97-109	95:1512	To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982 and 1983, and for other purposes.	1.50
	H.R. 4879	97-110	95:1513	International Banking Facility Deposit Insurance Act.	1.50
	S. 1948	97-111	95:1517	To permit to become effective certain Farm Credit Administration regulations which expand the authority of financing institutions, other than farm credit system institutions, to borrow from and discount with Federal intermediate credit banks.	1.50
Dec. 29	H.R. 4894	97-112	95:1518	To authorize the Secretary of the Interior to disburse certain trust funds of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, and for other purposes.	1.50
	S. 1196	97-113	95:1519	International Security and Development Cooperation Act of 1981.	3.00
	H.R. 4995	97-114	95:1565	Department of Defense Appropriation Act, 1982.	2.50
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	H.R. 4506	97-118	95:1634	To name the lock and dam authorized to replace locks and dam 26, Mississippi River, Alton, Illinois, as "Melvin Price Lock and Dam".	1.50
	H.R. 5159	97-119	95:1635	To amend the Internal Revenue Code of 1954 to provide a temporary increase in the tax imposed on producers of coal, and for other purposes.	1.75
	S. 657	97-120	95:1646	To designate the Department of Commerce Building in Washington, the District of Columbia, as the "Herbert Clark Hoover Department of Commerce Building".	1.50
	H.R. 4559	97-121	95:1647	Foreign Assistance and Related Programs Appropriations Act, 1982.	1.75
	H.R. 4431	97-122	95:1658	To provide for the designation of the E. Michael Roll Post Office.	1.50
	H.R. 4331	97-123	95:1659	To amend the Omnibus Reconcilation Act of 1981 to restore minimum benefits under the Social Security Act.	1.75
	H.R. 3799	97-124	95:1666	To extend the Federal tort claims provisions of title 28, United States Code, to acts or omissions of members of the National Guard, and to provide that the remedy under those provisions shall be exclusive in medical malpractice actions involving members of the National Guard.	1.50
	S. 1192	97-125	95:1667	Union Station Redevelopment Act of 1981.	1.75
	H.R. 2494	97-126	95:1674	To designate the John Archibald Campbell United States Courthouse.	1.50
	S. 1946	97-127	95:1675	Czechoslovakian Claims Settlement Act of 1981.	1.75
	S. 1493	97-128	95:1681	To deauthorize several projects within the jurisdiction of the Army Corps of Engineers.	1.75
	S. 1211	97-129	95:1686	To amend the Toxic Substances Control Act to authorize appropriations for fiscal years 1982 and 1983.	1.50

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	S. 271	97-130	95:1687	Record Carrier Competition Act of 1981.	1.75
	S.J. Res. 34	97-131	95:1692	To provide for the designation of the week commencing with the third Monday in February 1982 as "National Patriotism Week".	1.50
	S.J. Res. 100	97-132	95:1693	Multinational Force and Observers Participation Resolution.	1.75
	H.J. Res. 377	97-133	95:1698	Providing for the convening of the second session of the Ninety-seventh Congress.	1.50
	H.R. 3210	97-134	95:1699	Federal-Aid Highway Act of 1981.	1.75
	S.J. Res. 57	97-135	95:1704	To provide for the designation of February 7 through 13, 1982, as "National Scleroderma Week".	1.50
	S. 831	97-136	95:1705	To authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes.	1.50
	H.R. 2241	97-137	95:1709	To provide for the establishment of the Bandon Marsh National Wildlife Refuge, Coos County, State of Oregon, and for other purposes.	1.50
	S.J. Res. 84	97-138	95:1713	To proclaim March 19, 1982, "National Energy Education Day".	1.50
	S.J. Res. 121	97-139	95:1715	To provide for the designation of the year 1982 as the "Bicentennial Year of the American Bald Eagle" and the designation of June 20, 1982, as "National Bald Eagle Day".	1.50
	H.R. 779	97-140	95:1717	To authorize the Secretary of the Army to contract with the Tarrant County Water Control and Improvement District Numbered 1 and the city of Weatherford, Texas, for the use of water supply storage in Benbrook Lake, and for other purposes.	1.50
	S. 1551	97-141	95:1719	Federal Physicians Comparability Allowance Amendments of 1981.	1.50
	H.R. 4926	97-142	95:1721	To authorize the Secretary of the Army to acquire, by purchase or condemnation, such interests in oil, gas, coal, and other minerals owned or controlled by the Osage Tribe of Indians as are needed for Skiatook Lake, Oklahoma, and for other purposes.	1.50
	S. 1976	97-143	95:1723	To amend the Act of July 31, 1946, as amended (40 U.S.C. 193a).	1.50
	S.J. Res. 117	97-144	95:1725	To authorize and request the President to designate the week of January 17, 1982, through January 23, 1982, as "National Jaycee Week".	1.50
	H.R. 3567	97-145	95:1727	Export Administration Amendments Act of 1981.	1.50

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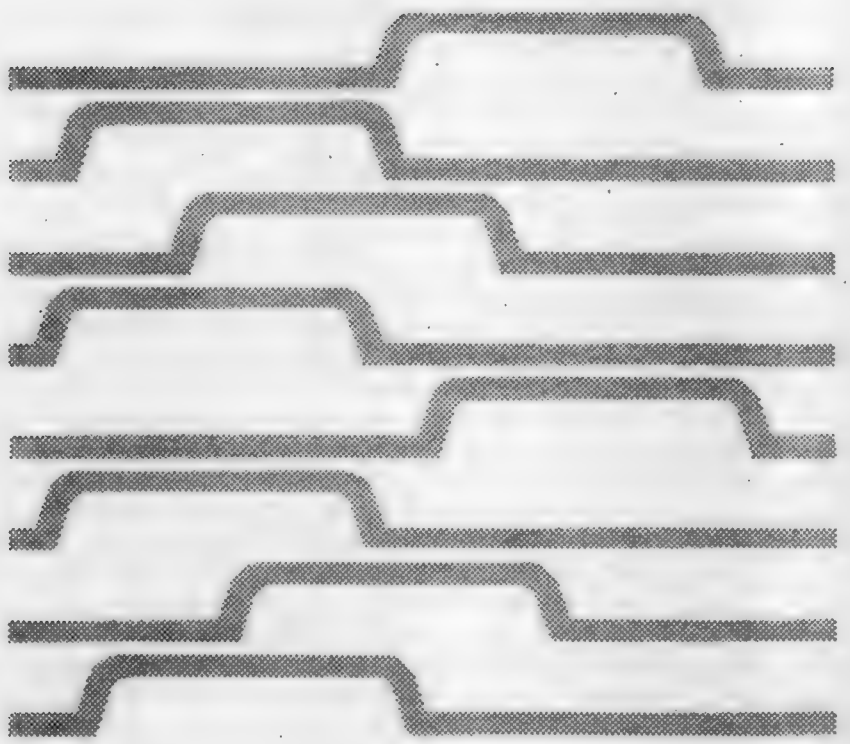

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federal register

Monday
February 8, 1982

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5712, 5728 **Income Taxes** Treasury/IRS issues temporary regulation and proposal on collection of past-due child and spouse support from Federal tax refunds. (2 documents)

5701 **Banks, Banking** Treasury/Comptroller summarizes policies on eligibility of securities for purchase, dealing in, underwriting and holding by national banks.

5835 **Grant Programs—Transportation** DOT/FHWA and UMTA announce policy on State administration of funds for public transportation in nonurbanized areas.

5864 **Air Pollution Control** EPA issues stack height regulations. (Part II of this issue)

5732 **Defense Communications** DOT/MA delays rulemaking on national defense communication equipment program.

5781 **International Agreements** GSA/OFR announces availability of agreements between the American Institute in Taiwan and the Coordination Council for North American Affairs.

5718 **Grant Programs—Volunteer Service** ACTION revises rules and review procedures for denial of current recipients' applications for refunding.

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

5756 **Loan Programs—Education** ED announces special allowances paid to holders of eligible loans under Guaranteed Student Loan and PLUS Programs.

5804 **Law Enforcement** Justice/NIJ announces general guide to proposed programs and priorities for FY 1982.

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5754 **Countervailing Duties/Antidumping** Commerce/ITA terminates duties and investigations of certain steel products from Belgium, Brazil, France, Romania, South Africa, and Spain.

5720 **Vessels** DOT/CG revokes obsolete load line regulations.

5782 **Privacy Act Document** HUD

5838 **Sunshine Act Meetings**

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5864 **Part II, EPA**

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 6, Amdt. 5]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Tangerine Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers to Florida No. 1 Golden the minimum grade requirement on domestic and export shipments of fresh Florida Honey tangerines during the period February 5 through August 22, 1982. Currently, such shipments must meet the requirements of Florida No. 1 Grade. During the same period this amendment also lowers the minimum diameter requirement for Florida Honey tangerines for domestic and export shipment to 2$^{9}/_{16}$ inches, down from 2$^{10}/_{16}$ inches for domestic shipment and 2$^{10}/_{16}$ inches for export shipment. The changes in minimum grade and size are necessary due to current and prospective supply and demand for the fruit and to maintain orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers. This regulation is issued under the marketing agreement and Order No. 905, (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum grade and size requirements, herein specified, for domestic and export shipments reflect the committee's and the Department's appraisal of the current and prospective supply and market demand conditions for Florida Honey tangerines in recognition of the recent freeze in Florida. It is designed to assure an adequate supply of acceptable quality Honey tangerines to consumers consistent with the quality of the crop.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. Handlers have been apprised of such provisions and the effective date.

Accordingly, it is found that the provisions of § 905.306 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 6; (46 FR 60170; 60411; 61441; 47 FR 589) should be and are amended by revising Table I paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, grapefruit, tangerine, and tangelo regulation 6.

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Tangerines: Honey	Feb. 5, 1982, thru Aug. 22, 1982.	Florida No. 1 Golden.	2$^{9}/_{16}$
	On and After Aug. 23, 1982.	Florida No. 1.	2$^{10}/_{16}$

(b) * * *

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Tangerines: Honey	Feb. 5, 1982, thru Aug. 22, 1982.	Florida No. 1 Golden.	2$^{9}/_{16}$
	On and After Aug. 23, 1982.	Florida No. 1.	2$^{10}/_{16}$

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 3, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-3322 Filed 2-5-82; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1900

Delegations of Authority

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its delegations of authority to reflect changes in organizational titles resulting from a recent reorganization of its headquarters structure. This action is taken to keep the public informed of the Agency structure.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Vance Remillard, Acting Director, Organization, Management and Training Division, Room 528, 6525 Belcrest Road, Hyattsville, MD 20782, telephone (301) 436–6544.

SUPPLEMENTARY INFORMATION: This regulation does not directly affect any FmHA programs or projects which are subject to A-95 clearinghouse review. This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal agency management and organization. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the changes involves internal agency management and publication for comment is unnecessary.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

A reorganization of the National Office of the Farmers Home Administration was approved by the Department of Agriculture on January 11, 1982. Therefore, it is necessary that this Subpart be revised to reflect the new position titles of the revised organizational structure.

PART 1900—GENERAL

Accordingly, the introductory text of § 1900.2 and § 1900.3 of Subpart A of Part 1900, Chapter XVIII, Title 7, Code of Federal Regulations are revised to read as follows:

§ 1900.2 National Office Staff and State Directors.

The following officials of the Farmers Home Administration, in accordance with applicable laws, and the regulations implementing these laws, are severally authorized, for and on behalf of and in the name of the United States of America or the Farmers Home Administration, to do and perform all acts necessary in connection with making and insuring loans, making grants and advances, servicing loans and other indebtedness and obtaining, servicing and enforcing security and other instruments related thereto: The Deputy Administrator Program Operations, the Assistant Administrators for Farmer Programs, Housing, and Community and Business Programs, the Assistant Administrator Accounting and Director Finance Office; each Director and the Insured Loan Officer, Finance Office; the Directors for the Water and Waste Disposal Division, the Community Facilities Division, the Business and Industry Division, the Multi-Family Housing Processing Division, the Multi-Family Housing Servicing and Property Management Division, the Single Family Housing Processing Division, the Single Family Housing Servicing and Property Management Division, the Farm Real Estate and Production Division, the Emergency Division; and each State Director within the area of that State Director's jurisdiction; and in the absence or disability of any such official, the person acting in that official's position; and the delegates of any such official. The authority includes, but is not limited to, the authority to:

* * * * *

§ 1900.3 State, District and County Office employees.

The following officials and employees of the Farmers Home Administration, in accordance with applicable laws, and the regulations implementing these laws, for and on behalf of, and in the name of the United States of America or the Farmers Home Administration, are also severally authorized within the area of their respective jurisdictions to perform the acts specified in paragraphs (k) to (r), both inclusive, of § 1900.2: Chief, Farmer Programs/Specialist; Chief, Rural Housing/Specialist; Chief, Community Programs/Specialist; Chief, Business and Industry/Specialist; Property Management/Specialist; each District Director, Assistant District Director, Loan Specialist General, County (including Parish) Supervisor, Assistant County Supervisor, Emergency Loan Supervisor, Assistant Emergency Loan Supervisor, or other supervisor or assistant supervisor; and in the absence or disability of any such official or employee, the person acting in the position.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO, 29 FR 14764, 33 FR 9850)

Dated: February 1, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-3311 Filed 2-5-82; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 82-013]

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of El Paso County in Colorado from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that

the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to exotic Newcastle disease concerning only one premises, and that premises is not owned by a small entity.

This amendment releases a portion of El Paso County in Colorado from the areas quarantined because of exotic Newcastle disease. The restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 82.3 [Amended]

1. In § 82.3(c)(1), relating to the State of Colorado, the following premises is removed: (ii) Mr. Steve Kehayas, Bird Paradise Pet Shop, 3959 Palmer Park Blvd., Colorado Springs, El Paso County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141))

Done at Washington, D.C., this 2d day of February 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-3211 Filed 2-5-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 1

[Docket No. 82-2]

Eligibility of Securities for Purchase, Dealing in, Underwriting and Holding by National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: These guidelines summarize the past practice of the Office of the Comptroller of the Currency regarding the eligibility of securities for purchase, dealing in, underwriting and unlimited holding by national banks. The guidelines reflect those areas of the law which have been sufficiently clarified through repeated individual rulings. It is expected that the guidelines will reduce the need by banks and bank counsel to request official rulings on similar forthcoming issues.

DATES: The guidelines will be effective February 8, 1982. The Office will accept comments on the final guidelines until March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Raija H. Bettauer, Senior Attorney, Legal Advisory Services Division, (202) 447–1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The principal drafter of this document was Raija H. Bettauer, Senior Attorney, Legal Advisory Services Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

Background Information

In December 1979, the Office of the Comptroller of the Currency ("Office") determined that it would not be practicable to continue to publish in the Code of Federal Regulations the Office's individual rulings regarding eligibility of securities for purchase, underwriting, dealing in, and unlimited holding by national banks. 44 FR 76263 (December 26, 1979). The Office recognized, however, that banks and bank counsel would require assistance in independently applying the law and the regulations. To determine the optimal method of providing such assistance, the Office requested comments from the interested parties. 45 FR 6407 (January 28, 1980). As suggested in the comments, the Office then decided to develop general principles which summarized the bulk of the individual rulings of the past 18 years. The notice of the proposed rulemaking ("Notice"), containing the proposed principles and soliciting comments from the industry and the public, was published on February 19, 1981. 46 FR 12978.

Special Studies

Because the Regulatory Flexibility Act does not apply to interpretive guidelines, no regulatory flexibility analysis has been prepared for the guidelines. The Office believes that the guidelines do not constitute a "major rule" under Executive Order 12291, and, therefore, has not prepared a Regulatory Impact Analysis. As proposed, the guidelines will not require national banks to expend any funds or to file reports and will not cause an increase in their prices or costs. Rather, the guidelines seek to reduce the national banks' administrative and legal expenses in applying the statutes and regulations in this area. The Office also believes that, given the historic statutory restraints on the activities of commercial banks in this area, the guidelines will not adversely affect the competitive posture of national banks.

Comments

In response to the Notice, the Office received 11 comment letters, two of which were from the trade associations representing the banking industry, one from a trade association representing the securities industry, four from national banks, two from law firms representing national banks, one from a state-chartered bank, and one from a bank-holding company.

As a general rule, the banks, bank counsel and the trade associations representing the banking industry thought that the general principles would be helpful. A number of comments expressed concern, however, that, by adopting principles which do not reflect all the details of the past rulings or which might exclude novel financing techniques, the Office intends to read the statute restrictively. The Office emphasizes again, as it did in the Notice, that the proposed principles were not intended to be exclusive or exhaustive. The principles merely reflected those parts of the Office practice which had been crystallized through repeated rulings over the past years. A detailed description of the obligations and all the surrounding

circumstances was omitted where these details were not directly relevant to the final conclusion. Those rulings which necessitated consideration of a complex set of details, or which did not represent well-established Office practice, were not included in the guidelines. Because of their retrospective nature, the principles obviously could not reflect financing techniques which had not yet been addressed by the Office.

A trade association representing the securities industry thought that the idea of general principles was ill-advised and urged the Office to withdraw the proposal. Essentially, this commenter maintained that the past rulings go beyond the statute and the case law interpreting it (*see, The Port of New York Authority v. Baker, Watts & Co.*, 392 F.2d 497 (D.C. Cir. 1968)). The commenter also thought that the guidelines would substitute for careful review of the eligibility of future individual issues. In response, the Office notes that the proposed principles were based on a comprehensive review of the past rulings and the applicable law, including the *Baker, Watts* decision. For instance, the rulings issued in the early 1960's which were not subsequently upheld by *Baker, Watts* were not reflected in the principles. With regard to the need for individual case-by-case review, the Office expects banks and bank counsel to continue to review each individual issue carefully. Obviously, in this, as well as in other areas of banking law, the Office cannot provide specific legal advice to banks on each and every question that may arise in the course of their daily business.

The Guidelines

The comments did not prompt any major substantive changes in the proposed principles. In certain areas, additional detail has been added, as discussed below. Drafting changes were also made to clarify principles which may have been ambiguous or subject to misinterpretation.

As an initial matter, the Office has concluded that it would be more appropriate to call the outline in question "guidelines" than "principles" in order to reflect their advisory and flexible character. Also, some of the paragraphs are renumbered in an attempt to simplify future reference to the guidelines.

One commenter requested that the guidelines be supplemented with a reference to the status of prior rulings. Another commenter suggested that the guidelines restate the procedures for obtaining interpretive rulings. In view of the apparent uncertainty about the nature of the guidelines, as expressed in the comments, the Office agrees that it may be helpful to clarify the status of the past rulings in the guidelines, and a sentence to that effect has been added to § 1.100(a). As the guidelines already refer to the procedures for obtaining specific rulings pursuant 12 CFR 1.9, further elaboration of those procedures does not seem to serve any useful purpose.

Some commenters suggested that the guidelines state that they will be reviewed annually. The Office agrees that it may be useful to highlight the flexible nature of the guidelines and has included a sentence in § 1.100(b) to that effect. As the frequency of the review needs to be adjusted depending on the volume of specific rulings, the guidelines do not establish any firm time period for the review process.

Obligations of the United States

The limitations and restrictions of 12 U.S.C. 24(7) regarding the securities activities of national banks do not apply to "obligations of the United States." The proposed principles (§ 1.110) explained that the Office has interpreted this term to include (a) obligations issued by a department or an agency of the United States Government which commit the full faith and credit of the United States for their repayment; (b) obligations issued by a municipal agency or a private corporation which are fully and unconditionally guaranteed by the Government of the United States or a department or agency thereof; and (c) obligations issued by a department or an agency of the United States which represent a legal or beneficial interest in a loan or a pool of loans made to third parties and where the full faith and credit of the United States has been validly pledged for the full and timely payment of interest on, and principal of, such loans in the event of non-payment by the third-party obligor(s).

Most of the comments regarding this principle addressed the wording of paragraph (b). It was suggested that the term "municipal agency" used in § 1.110(b) and (c) be changed to read "any state or any political subdivision thereof or any agency or instrumentality of a state or political subdivision," and that the term "private corporation," as used in § 1.110(b), is too narrow, as the applicable statutes may provide U.S. guarantees also in support of obligations issued by partnerships, trusts, and joint ventures. One commenter thought that § 1.110(b) should explicitly set forth that the guaranty must constitute a full faith and credit obligation of the United States. It was also noted that the proposed guidelines did not explicitly reflect the effect of insurance supplied by a department or an agency of the United States. Finally, one commenter noted that the term "unconditionally guaranteed" is ambiguous. The commenter noted that, for instance, guarantees under Title XI of the Merchant Marine Act of 1936, as amended, 46 U.S.C. 1271 *et seq.*, provide for the expiration of the guarantee if the bondholder fails to demand payment within a specified time. Similarly, other government-guaranteed programs may provide for the termination of the guarantees in the event of fraud or misrepresentation.

After a careful review of the rulings, the Office has decided to combine paragraphs (a) and (b) in a single subparagraph which addresses "obligations issued, insured, or guaranteed by a department or an agency of the United States Government." In each instance, the obligation, insurance, or guarantee must commit the full faith and credit of the United States Government, and, to the extent this condition is met, the identity of the issuer or the specific terms of the guarantee are irrelevant for the purposes of 12 U.S.C. 24(7).

Addressing § 1.110(c), one commenter noted, without further elaboration, that a mere legal interest (as opposed to beneficial) in an obligation would not be sufficient to render the obligation eligible. The Office agrees that it is difficult to arrive at a common characterization of the interest in question—on the other hand, such a characterization is not necessary in this context if the interest is supported by the full faith and credit of the United States. Consequently, the final guidelines omit the words "legal or beneficial."

Indirect General Obligations

The guidelines describe the Office's practice regarding the eligibility of "indirect general obligations," *i.e.*, obligations issued by an obligor not possessing general powers of taxation but which are supported by an unconditional promise of an obligor possessing general powers of taxation to make sufficient funds available for all required payments in connection with the obligation. As recognized by the *Baker, Watts* court, such indirect support is sufficient to qualify an obligation as a "general obligation" for the purposes of 12 U.S.C. 24(7). Specifically, the principles noted that the required support of a State or a political subdivision thereof possessing general powers of taxation has been found, for instance, in its commitment to make various payments to the issuer,

such as lease rentals, payments for services or resources provided through or by the issuer, or other comparable support. Also, obligations are indirectly supported by the taxing powers of a State or a political subdivision thereof if they are secured by its general obligations or obligations of the United States. Tax or bond anticipation notes have also been found to qualify as indirect general obligations if their repayment is ultimately guaranteed by the exercise of the general taxing powers.

1. *Lease/rental agreements.* One commenter noted that, although in some jurisdictions the local government cannot execute leases in excess of one year, the government may be committed as a practical matter to renew such leases. The commenter suggested that such short-term renewable leases should be included in the guidelines. Another commenter suggested that the guidelines should require a specific governmental commitment for the appropriation of the rental payments, in addition to the promise to make such payments. Further, it was suggested that the guidelines address the effects of possible contractual disputes regarding bankruptcy, failure of consideration, and destruction of leased premises.

As a general rule, the past rulings of the Comptroller require that the commitment by a State or a political subdivision possessing general powers of taxation extend for the maturity or the life of the obligation in question. Therefore, the guidelines will not address, as suggested, renewable "moral obligation" leases. On the other hand, the lease agreement need not specify the details of implementing the pledge, such as the required appropriations process. For the purposes of the guidelines, it is sufficient to ascertain that the commitment is valid and enforceable against the State or the political subdivision possessing general powers of taxation. The Office also believes that discussion on prospective defenses would add unwarranted detail to the guidelines, particularly as the rulings do not spell out any explicit Office policy in this respect.

2. *Refillable Reserves.* The proposed principles state that an indirect general obligation may be found where a State or a political subdivision thereof possessing general powers of taxation is committed to maintain a debt service reserve fund sufficient to meet any succeeding year's payments on the obligation. One commenter thought that the proposed guidelines is too restrictive, as some past rulings have indicated that it is sufficient to maintain reserves which meet the *next* year's payments. Another commenter again noted that requiring full reserves at all times is too stringent as, for instance, bonds issued by the Municipal Assistance Corporation for the City of New York ("MAC") are supported by reserves which are built up over a number of years, and the Office has in the past concluded that these bonds qualify as indirect general obligations.

A review of the past rulings indicates that the specific level of required reserves depends on the State law in question. Thus, under one State law, the reserve may be required to meet *any succeeding* year's payments, while under another State's law, the reserves are required to meet the *next succeeding* year's payment. The guidelines have been revised to reflect the statutory variations on this point.

While MAC bonds did not have a full initial reserve fund, their eligibility was based on a number of additional factors which, taken together, constituted a sufficient commitment by the City to the payment of the bonds. Because of the complexity of the factual situation and legal considerations involved, the Office believes that the MAC rulings do not lend themselves, at least at this point, to a reasonably simple general guideline.

The comment from the securities industry representative noted that a statutory commitment for reserves is not effective without a corresponding actual appropriation, and that the proposed principle failed to reflect this element. The Office recognizes that, in some instances, a State statute which provides for the reserve fund may require additional measures for its implementation, such as annual appropriations by the local legislature. The Office believes, however, that a statutory promise of a State or a political subdivision possessing general powers of taxation is usually in itself a reliable indicator of the commitment of its faith and credit in support of the obligation, and that such support qualifies an obligation as a general obligation under 12 U.S.C. 24(7), as construed in *Baker, Watts.*

Tax and Bond Anticipation Notes

The proposed guidelines stated that tax anticipation notes may be regarded as indirect general obligations if they are repayable from the current and future general revenues of a State or a political subdivision thereof possessing general powers of taxation. Similarly, bond anticipation notes may qualify as indirect general obligations if they are repayable from the proceeds of future general obligations issued by a State or a political subdivision thereof possessing general powers of taxation.

One commenter noted that the proposed principle regarding tax anticipation notes is more restrictive than the Comptroller's past rulings "which concluded that certain tax anticipation notes were eligible notwithstanding a limitation on repayment to current revenues, so long as the financial condition of the obligor was such that no reasonable likelihood of nonpayment was presented." The Office believes that the commenter has misconstrued the language of the past rulings which start from the premise that, to be eligible as general obligations, tax anticipation notes must be ultimately repayable from the general revenues. In addition, the Office has then analyzed the immediate availability of the current revenues based on the cash flow statements. A positive cash flow alone, however, does not qualify notes as indirect general obligations for the purposes of 12 U.S.C. 24(7).

Another commenter suggested that the wording of the principle regarding tax anticipation notes should be changed to read that such notes must be repaid from "any legally available (unencumbered) funds." The Office believes that while the suggested language follows more accurately the wording of the relevant California statutes, it is substantially synonymous with the proposed principle and has therefore retained the more general language.

With regard to bond anticipation notes, it was pointed out that the proposed principle did not distinguish between notes which are payable only from the anticipated general obligation bonds and those notes which may be payable also from other funds. The Office recognizes that, in practice, anticipation notes may be repaid from proceeds other than the anticipated bonds and the broad language of the proposed principle is not intended to disqualify bond anticipation notes in such instances.

The securities industry representative noted that the applicable law does not support the proposed principle. The Office disagrees with this conclusion. An analysis of the relevant legal authority, including, *Baker, Watts*, does not exclude bond anticipation notes from the scope of indirect general obligations if the note is supported by a promise of the State or the political subdivision thereof possessing general powers of taxation to issue a general obligation for the repayment of the note.

Taxing Powers

The proposed principles outlined the practice of the Office with respect to evaluating the impact of quantitative restrictions on the general powers of taxation of a State or a political subdivision thereof for the purposes of 12 U.S.C. 24(7). The review of the past practices indicates that, using current and reasonable financial projections, the Office has sought to estimate whether such limited taxing authority will provide sufficient tax revenues for full and timely payments on the obligation.

The securities industry representative objected to including a general guideline which does not establish specific standards for evaluating the sufficiency of available revenues. The Office agrees that, because of the complexity of the fact situations and the variety of relevant state laws, the impact of quantitative restrictions must ultimately be evaluated on a case-by-case basis. Nevertheless, the Office believes that a general guideline outlining the direction of this evaluative processes would benefit banks and bank counsel.

Type II Investment Securities

1. Obligations issued for university purposes. The proposed principles summarized the Office practice regarding the most prevalent Type II securities, *i.e.*, revenue bonds issued by a State or political subdivision or any agency of a State or a political subdivision for university and housing purposes.

The comment from the securities industry questioned the premise of these rulings, noting that they cannot be justified either by the language of the statute or under *Baker, Watts.* In response, the Office notes that the rulings regarding Type II investment securities are based on the 1968 amendment of 12 U.S.C. 24(7) which specifically authorizes limited underwriting of revenue bonds by national banks when the obligations are issued for "housing, university and dormitory purposes." While the Office recognizes that, subsequent to the adoption of the amendment, attempts were made in Congress to restrict its scope, none of those efforts succeeded. As for *Baker, Watts,* that decision addressed the eligibility of indirect general obligations, and the Office has not used that opinion as a reference for its rulings regarding Type II investment securities.

One commenter suggested that the Office enumerate in the guidelines those elements that are crucial in establishing a sufficient nexus between a university and a hospital. Although the past rulings do not explicitly spell out specific criteria on this point, the Office recognizes that additional elaboration of the applicable standards is possible. Consequently, the final guidelines note that the nexus has been established by affiliation agreements between the university and the hospital, and by graduate or college level teaching programs offered by the hospital for medical students, interns, residents, and nurses.

It was also suggested that obligations which finance other than medical facilities at non-university establishments, such as libraries and galleries, may have a sufficient "university purpose" when those facilities are used by university students. The commenter urged, therefore, that the eligibility of those issues should be explicitly addressed in the guidelines.

Although one prior ruling discussed such a nexus, the Office does not believe that further detail is warranted at this point. Moreover, the general guideline has been further clarified, as suggested, by indicating that construction or improvement of facilities located at, *or used by,* a university or a degree-granting college level institution would qualify the obligations in question as Type II investment securities. Consequently, the guidelines already sufficiently address the general requirements for a university nexus.

2. Obligations issued for housing purposes. One commenter noted that the proposed guideline should be redrafted to make it clear that obligations issued to finance single family residences for low- or moderate-income persons may qualify as Type II investment securities. As past rulings support such a statement, the Office has revised, as suggested, § 1.140(c)(1) to read: "Obligations issued * * * for the primary purpose of financing housing for low- or moderate-income persons * * *."

Recordkeeping Requirements

Under 12 CFR 1.8, a national bank is required to maintain in its files information adequate to demonstrate that it has exercised prudence in its securities activities. In accordance with the initiative of the Department of Treasury to establish specific retention periods for all recordkeeping requirements, the Notice solicited comments from the industry as to the specific length of the retention period for information required in § 1.8.

Five commenters addressed the record retention issue. One commenter suggested, without further elaboration, that the retention period should be five years. Another commenter noted that the Municipal Securities Rulemaking Board ("MSRB") Rules adopt a three-year retention period for certain activities of municipal securities dealers, and that a similar retention period should be established in 12 CFR Part 1.

Three commenters suggested that the retention period should depend on the type of the transaction. For instance, for securities purchased for the bank's own account, relevant information should be retained as long as the security remains in the bank's portfolio. For underwriter activities, information should be retained for the life or the maturity of the obligation, and this information could be stored also in microfiche. Finally, the commenters agreed that for bank dealer activities the MSRB Rule G-9 establishes acceptable recordkeeping requirements.

The Office has concluded that the retention period should reflect the nature of the transaction. As suggested, the Office amends 12 CFR 1.8 to require the following retention periods:

(1) For securities purchased for the bank's own portfolio, as long as the security remains in the portfolio;

(2) For underwriting activities, for the maturity or the life of the security; and

(3) For dealer activities, for the periods referred to in the Rules of the Municipal Securities Rulemaking Board.

The Office recognizes that the dealer activities may concern, in addition to municipal securities, U.S. Government securities which are not subject to the MSRB Rules. For the sake of uniformity, however, the Office determined that it would be reasonable to establish a similar recordkeeping period for dealer activities regarding U.S. Government securities.

The Office also recognizes that it may be difficult to file all the necessary information in its original form for extensive periods. Therefore, the amended § 1.8 indicates that the required information may also be stored in microfiche or in other similar manner which can be readily retrieved and copied in a readable form.

Additional Issues

1. *Revision of 12 CFR 1.9.* One commenter noted that 12 CFR 1.9(b), which currently requires that a request for ruling must be received at least three weeks before the ruling is needed, is not satisfactory. The commenter thought that the three-week period is too long to permit banks to effectively participate in the negotiations, and requested that § 1.9(b) be revised to provide for a more flexible approval procedure. The Office notes that, while § 1.9 may warrant

review, the February notice did not address this issue. Therefore, it would be inappropriate to include it in the final rule.

2. *Participations in pools of general obligations.* It was suggested that the guidelines address the status of fractional interests in a non-managed pool of general obligations issued by a State or a political subdivision thereof. As the past rulings do not address this issue, it would be inappropriate to include it in the guidelines at this point.

PART 1—INVESTMENT SECURITIES REGULATION

12 CFR Part 1 is amended as follows:

1. The authority citation for Part 1 is revised to read as follows:

Authority: R.S. 324, et seq., as amended (12 U.S.C. 1, et seq.); Paragraph Seventh of R.S. 5136, as amended (12 U.S.C. 24(7)).

2. 12 CFR 1.8 is revised to read as follows:

§ 1.8 Prudent banking judgment; credit information required.

(a) Every bank shall maintain in its files credit information adequate to demonstrate that it has exercised prudence in making the determinations and carrying out the transactions described in §§ 1.4 and 1.5.

(b) Such information shall be retained:

(1) In case of securities purchased for the bank's own portfolio, as long as the security remains in the portfolio;

(2) In case of securities underwritten by the bank, for the maturity or the life of the security; and

(3) With respect to dealer activities, for periods referred to in the relevant Rules of the Municipal Securities Rulemaking Board.

(c) The information may be stored in microfiche or in other similar manner which can be readily retrieved and copied in a readable form.

3. 12 CFR Part 1 is amended by adding §§ 1.100 through 1.140 to read as follows:

Sec.

1.100 Eligibility of securities for purchase, dealing in, and underwriting by national banks; general guidelines.
1.110 Obligations of the United States; general guidelines.
1.120 Indirect general obligations; general guidelines.
1.130 Taxing powers of a State or a political subdivision thereof; general guidelines.
1.140 Type II securities; general guidelines.

§ 1.100 Eligibility of securities for purchase, dealing in, and underwriting by national banks; general guidelines.

(a) The Office of the Comptroller of the Currency has issued a number of specific rulings at the request of national banks regarding the applicability of federal banking law and regulations to the purchase, underwriting, dealing in, and holding of securities. The following guidelines outline those interpretations of law and regulations which are frequently repeated in these rulings. The issuance of the general guidelines does not rescind the individual past rulings which still remain effective.

(b) The general guidelines are issued to assist national banks and bank counsel in independently applying the relevant law. Due to their summary character, the guidelines are not exclusive or exhaustive. For instance, the guidelines do not provide guidance in evaluating issues which, because of their unique or complex characteristics, are not susceptible to generalization. Neither do the guidelines address novel legal problems which are not reflected in the past rulings. In encountering such complex or novel issues, national banks may wish to request a specific ruling pursuant to the procedure contained in § 1.9. The general guidelines will be reviewed and amended periodically to reflect new rulings.

§ 1.110 Obligations of the United States; general guidelines.

(a) The limitations and restrictions contained in 12 U.S.C. 24(7) regarding the authority of national banks to deal in, underwrite and purchase securities do not apply to "obligations of the United States." Obligations issued, insured, or guaranteed by a department or an agency of the United States Government qualify as such exempt securities, provided that the obligation, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the obligation.

(b) Obligations issued by a department or an agency of the United States or an agency of a State or a political subdivision thereof may in some instances represent an interest in a loan or a pool of loans made to third parties. Such obligations qualify as "obligations of the United States" provided that the full faith and credit of the United States has been validly pledged for the full and timely payment of interest on, and principal of, such loans in the event of non-payment by the third party obligor(s).

§ 1.120 Indirect general obligations; general guidelines.

As § 1.3(g) indicates, an obligation issued by an obligor not possessing general powers of taxation may qualify as "general obligation of any State or any political subdivision thereof" for the purposes of 12 U.S.C. 24(7), provided that an obligor possessing general powers of taxation has unconditionally promised to make sufficient funds available for all required payments in connection with the obligation. Such indirect commitment of the full faith and credit of a State or a political subdivision in support of an obligation may be demonstrated by any of the following methods, alone or in combination:

(a) *Lease/rental agreement.* A State or a political subdivision thereof possessing general powers of taxation may pledge its full faith and credit in support of an obligation in a lease agreement, provided that the lease agreement is valid and binding on the State or the political subdivision, and that the State or the political subdivision in the lease agreement unconditionally promises to pay rentals which, together with any other available funds, are sufficient for the timely payment of interest on, and principal of, the obligation. Such lease/rental agreements may, for instance, provide support for obligations financing the acquisition or operation of public projects in the areas of education, medical care, transportation, recreation, public buildings and facilities, etc.

(b) *Service/purchase agreement.* A State or a political subdivision thereof possessing general powers of taxation may pledge its full faith and credit in support of an obligation in a service or purchase agreement, provided that the agreement is valid and binding on the State or the political subdivision, and that the State or the political subdivision unconditionally promises in the agreement to make payments for services or resources provided through or by the issuer of the obligation, and such payments, together with any other available funds, are sufficient for the timely payment of interest on, and principal of, the obligation. An agreement to purchase municipal sewer, water, waste disposal, or electric services may, for instance, provide support for obligations financing the construction or acquisition of facilities supplying such services.

(c) *Refillable reserve fund.* A State or a political subdivision thereof possessing general powers of taxation may pledge its full faith and credit in support of an obligation in a statutory provision or a valid and binding agreement which requires the State or the political subdivision to maintain a refillable debt service reserve fund for the obligation. Such reserve funds must by maintained at least at the amount necessary to meet the annual payment of interest on, and principal of, the obligation as required by the applicable

law. The maintenance of such a refillable reserve fund may be provided, for instance, by statutory direction for an appropriation or by statutory automatic apportionment and payment from the State funds of such amounts as are necessary to restore the fund to the required level.

(d) *Other grants or support.* A State or a political subdivision thereof possessing general powers of taxation may pledge its full faith and credit in support of an obligation in a statutory provision or a valid and binding agreement (in instances other than those described above) which unconditionally commits the State or the political subdivision to provide funds which, together with other available funds, are sufficient for the timely payment of interest on, and principal of, the obligation. Such funds may, for instance, be supplied in the form of annual grants or may be advanced whenever the other available revenues are not sufficient for the payment of principal and interest.

(e) *Obligations secured by U.S. obligations or general obligations of a State or a political subdivision thereof.* The standards in § 1.3(g) are satisfied where an obligation is secured by an escrow fund consisting of obligations of the United States or general obligations of a State or a political subdivision thereof, and the escrowed obligations produce interest earnings sufficient for the full and timely payment of interest on, and principal of, the obligation.

(1) If the interest earnings from the escrowed general obligations alone are not sufficient to guarantee the full repayment of an obligation, it may be further supported by a promise of a State or a political subdivision thereof possessing general powers of taxation to maintain a reserve fund for the timely payment of interest on, and principal of, the obligation.

(2) For instance, an obligation issued to refund an indirect general obligation may be supported in a number of ways which in combination are sufficient at all times to pledge in support of the obligation the full faith and credit of the United States or a State or a political subdivision thereof possessing general powers of taxation. During the period following its issuance, the proceeds of the refunding obligation may be invested in U.S. obligations or municipal general obligations, which produce sufficient interest income for payment of principal and interest. Upon the retirement of the outstanding indirect general obligation bonds, the refunding obligation will be supported by the same indirect commitment, such as a lease agreement or a reserve fund, that supported the prior issue.

(f) *Tax anticipation notes.* Tax anticipation notes are supported by the full faith and credit of a State or a political subdivision thereof possessing general powers of taxation, provided that the notes are repayable from the general revenues of the State or the subdivision.

(g) *Bond anticipation notes.* Bond anticipation notes are supported by the full faith and credit of a State or a political subdivision thereof possessing general powers of taxation, provided that the notes are repayable from the proceeds of general obligations to be issued at a later date by the State or the political subdivision.

§ 1.130 Taxing powers of a State or a political subdivision thereof; general guidelines.

(a) Quantitative restrictions on the general powers of taxation of a State or a political subdivision thereof do not necessarily disqualify an obligation supported by such limited taxing powers as a "general obligation of a State or a political subdivision thereof" for the purposes of 12 U.S.C. 24(7). The eligibility of such obligations is determined by reviewing, on a case-by-case basis, whether tax revenues available under the limited taxing powers are sufficient for the full and timely payment of interest on, and principal of, the obligation. Current and reasonable financial projections may be used in calculating the availability of the revenues.

(b) As § 1.3(g) indicates, an obligation is supported by the full faith and credit of a State or a political subdivision possessing general powers of taxation when the promise or other commitment of the State or the political subdivision will produce funds "which (together with any other funds available for the purpose) will be sufficient to provide for all required payments in connection with the obligation." In order to evaluate whether a commitment of a State or a political subdivision is likely to generate such sufficient funds, the Office has considered the impact of any possible limitations regarding the State's or political subdivision's taxing powers, as well as the availability of funds in view of the projected revenues and expenditures.

(c) Obligations supported exclusively by excise taxes or license fees are not "general obligations" for the purposes of 12 U.S.C. 24(7). Nevertheless, an obligation which is primarily payable from a fund consisting of excise taxes or other pledged revenues may qualify as a "general obligation," provided that, in the event of a deficiency of such revenues, it is also supported by the general revenues of a State or a political subdivision thereof possessing general powers of taxation.

§ 1.140 Type II securities; general guidelines.

(a) *Investment quality.* Pursuant to 12 U.S.C. 24(7), obligations issued for "housing, university, or dormitory purposes" may be eligible for dealing in and underwriting (subject to the 10 percent limitation) provided that they "are at the time eligible for purchase by a national bank." Consequently, in determining whether an obligation is eligible for underwriting and dealing in as a Type II investment security, it is first necessary to evaluate whether the obligation is of sufficient investment quality and marketability, as indicated in § 1.5, and, as a second step, whether the obligation has been issued for the appropriate purpose and by a qualifying issuer.

(b) *Obligations issued for university purposes.* (1) Obligations issued by any State or political subdivision or any agency of a State or a political subdivision for the purpose of financing the construction or improvement of facilities at or used by a university or a degree-granting college-level institution, or financing loans for studies at such institutions, demonstrate a "university" purpose sufficient to qualify as Type II securities. Facilities financed in this manner have included student buildings, classrooms, university utility buildings, cafeterias, stadiums, and university parking lots.

(2) Obligations which finance the construction or improvement of facilities used by a hospital may be eligible as Type II securities, provided that the hospital is a department or a division of a university, or otherwise provides a sufficient nexus with university purposes, such as an affiliation agreement between the university and the hospital, faculty positions of the hospital staff, and training of medical students, interns, residents, and nurses.

(c) *Obligations issued for housing purposes.* (1) Obligations issued by any State or a political subdivision or any agency of a State or a political subdivision for the primary purpose of financing housing for low- or moderate-income persons qualify as Type II securities.

(2) Obligations issued for such housing purposes by a nonprofit corporation acting as an agent or an instrumentality of a public housing agency may qualify as Type II securities. For instance, such obligations may be issued to finance housing projects under Section 8 of the Housing Act of 1937, as

amended, and found by the Department of the Housing and Urban Development to be tax-exempt under Section 11(b) of the Housing Act.

Dated: February 1, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-3177 Filed 2-5-82; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-1-AD; Amdt. 39-4313]

Airworthiness Directives; Beech Model 76 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD), AD 82-02-03, applicable to certain Beech Model 76 airplanes. The AD requires, prior to further flight, a onetime visual inspection of the elevator down cable for condition and proper routing. This action is necessary because two separate incidents of inflight elevator control cable failure due to a misrouted cable have occurred on Beech Model 76 airplanes. Cable failure can result in loss of elevator control which could prove to be catastrophic during critical flight maneuvers.

EFFECTIVE DATE: February 14, 1982, to all persons except those to whom it has already been made effective by priority mail letter from the FAA dated January 8, 1982.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Beechcraft Safety Communique Number 76-62, applicable to this AD, may be obtained from Beech Aircraft Corporation, Liberal Division, Liberal, Kansas 67901; Telephone (316) 624-1613. A copy of the Safety Communique is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don L. Williams, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: Two in-flight failures of the forward elevator control cable assembly (P/N NAS 314-25-1411) have been reported on Beech Model 76 airplanes. It was subsequently determined that the elevator control cable failed as a result of being installed over, rather than under, a guide pin on the forward pulley during manufacture. Cable failure can result in loss of elevator control which could prove to be catastrophic during critical flight maneuvers. The airplane manufacturer issued Beechcraft Safety Communique 76-62 calling for inspection of the elevator control cable routing prior to further flight.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby requiring the issuance of an AD. It was also determined that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated January 8, 1982. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 82-02-03.

The AD, which is applicable to Beech Model 76 airplanes, requires, prior to further flight, inspection of the elevator down cable for broken or frayed strands and to determine proper cable routing on the pulley. Any misrouted cables must be replaced. Since the unsafe condition described herein may still exist on other Beech Model 76 airplanes, the AD is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the exemption provisions of section 8(a)(1) of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553(b) were considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Beech: Applies to Model 76 (Serial Numbers ME-1 through ME-435) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished. To ensure the integrity of the elevator control cable and determine proper cable routing, accomplish the following:

(A) Prior to further flight, accomplish all of the following:

1. Remove the large inspection panel located in the center of the bottom skin just aft of the Station 68 frame.

2. Drill a ⅝-inch diameter inspection hole in the forward flange to which the inspection panel was attached as follows: Center the hole laterally on the elevator cable pulley and fore and aft on the flange. Use a thin bucking bar or wood block between the flange and the pulley and cable to prevent damage to the pulley and/or cable when drilling the inspection hole.

Note.—Airplane Serial Numbers ME-418 and after have the ⅝-inch diameter inspection hole already drilled in the forward flange.

3. Deburr the inspection hole and visually inspect the elevator down cable for broken or frayed strands and ensure the cable is on the pulley under all three guard pins.

4. If the cable is riding over any of the guard pins, replace the P/N NAS 427K12 guard pins over which the cable was routed, replace the P/N NAS 314-25-1411 cable, and rig in accordance with the Beech Model 76 Maintenance Manual.

5. Reinstall the inspection panel, and record compliance with this AD by an appropriate entry in the airplane maintenance records.

(B) Within 48 hours, report misrouted cables or other defects found as a result of any inspection required herein to the FAA via a Malfunction or Defect (M or D) Report (FAA Form 8010-4) or a letter to the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209. Describe the defect found, total time-in-service on the airplane or part at time of discovery, and the aircraft serial number. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

(C) Airplanes may be flown in accordance with FAR 21.197 to a location where the provisions of Paragraph (A) of this AD can be performed provided the following is accomplished:

1. Remove the large inspection panel located in the center of the bottom skin just aft of the Station 68 frame.

2. Visually inspect the elevator down cable for broken or frayed strands while the elevator control column is slowly moved fore and aft. Pay particular attention to the cable strands near the elevator cable pulley.

3. If no frayed or broken cable strands are found, reinstall the inspection panel.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7000.

Beechcraft Safety Communique 76-62 pertains to the subject matter of this AD.

This amendment becomes effective February 14, 1982, to all persons except those to whom it has already been made effective by a priority mail letter from the FAA dated January 8, 1982, and is identified as AD 82-02-03.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation under the President's memorandum of January 29, 1981, and an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if prepared and when filed, may be obtained by contacting the Office of the Regional Counsel, FAA, Room 1558, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5446.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on January 29, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-3169 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-EA-72; Amdt. 39-4312]

Airworthiness Directives; Piper PA-23

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This directive revises Airworthiness Directive (A.D.) 81-04-05, applicable to the flaps of Piper PA-23 aircraft. This A.D., which requires the inspection and repair, if necessary, of components of the flap control system, is amended to require the installation of a reinforcement gusset to the flap torque tube bearing block attachment bracket on the right side. This revision is made to clarify the intent of the original A.D.

EFFECTIVE DATE: February 11, 1982. Compliance is required as set forth in the A.D.

ADDRESS: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT: C. Kallis, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: This A.D. was originally prompted by field reports of cracks in components of the flap control system of some models of the Piper PA-23 aircraft. The A.D., among other things, required the inspection and repair, if necessary, of the flap control system in accordance with Piper Service Bulletin No. 671. It was intended that step 9 of the Service Bulletins' instructions (installation of a reinforcement gusset) be mandatory.

Field reports indicate that some persons have not accomplished the A.D. as intended, and the installation of the reinforcement gusset has been omitted. This amendment is intended to clarify the original A.D.

In view of the fact that this revision is clarifying in nature and does not add any additional burden on any person, notice and public procedure are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by amending A.D. 81-04-05 as follows:

Amend AD 81-04-05 as follows:

Amend paragraph (b)(1), (1)(i), and (1)(ii) to read: (b)(1) For all referenced airplanes, inspect the flap control system for cracks and repair if necessary in accordance with steps 1 through 13 under "instructions" in Piper Service Bulletin No. 671 dated October 20, 1980 or equivalent, and alter in accordance with step 9, as follows:

(i) Airplanes with more than 1000 hours in service but not exceeding 2000 hours, comply with (b)(1) within the next 100 hours in service, unless already accomplished.

(ii) Airplanes with more than 2000 hours in service, comply with (b)(1) within the next 50 hours in service, unless already accomplished.

Effective Date: This amendment is effective February 11, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "For Further Information Contact."

It is certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as it merely clarifies an existing A.D.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Jamaica, New York, on January 28, 1982.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 82-3166 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ASW-59]

Alteration of Transition Area: Lafayette, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Lafayette, LA. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Acadiana Regional Airport, New Iberia, LA. This amendment is necessary to provide protection for aircraft executing an instrument approach procedure using the Lake Martin Nondirectional Radio Beacon (NDB).

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: On December 10, 1981, a notice of proposed rulemaking was published in the Federal Register (46 FR 60463) stating that the Federal Aviation Administration proposed to alter the Lafayette, LA, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901 GMT, May 13, 1982, by adding the following:

* * * and within 3 miles east of the 181° bearing from the Lake Martin NDB (Latitude 30°11'33" N., Longitude 91°52'56" W.) extending from the 6.5-mile radius to 10 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Fort Worth, TX, on January 27, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-3107 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 81-AWP-22]

Temporary Restricted Area GALLANT EAGLE 82

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) designate temporary Restricted Areas GALLANT EAGLE 82 in the vicinity of Death Valley, CA, to contain a major military exercise. Those segments of restricted areas that penetrate the Continental Control Area have been designated as controlled airspace. This action permits military exercises, both ground and air, to be conducted in a safe and secure environment.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 31, 1981, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary Restricted Areas R-2538A through R-2538H to contain a major joint military exercise called GALLANT EAGLE 82 (46 FR 63318). This exercise provides training for several military commands operating under the sponsorship of the United States Readiness Command. The air activities associated with the exercise will be such that flights of nonparticipating aircraft cannot be safely conducted within the temporary restricted airspace when the airspace is in use by the military.

Approximately 115 aircraft will be utilized to conduct about 160 daily sorties. Communications equipment has been installed and maintained between the appropriate military and FAA facilities to coordinate the operations of nonparticipating aircraft through the temporary restricted area whenever military activity permits. Additionally, a reverse charge telephone number has been established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The restricted area has been designated as joint use to permit authorization by the controlling agency (FAA) for access/egress by VFR and IFR traffic whenever military activity permits. All airports within the temporary restricted area will be given relief by excluding the airspace 1,200 feet AGL and below within a 3 nautical mile (NM) radius of the airport. Exercise aircraft will remain clear of VFR nonparticipating aircraft outside restricted airspace. Appropriate altitude separation will be used to provide separation from IFR nonparticipating aircraft.

A provision has been made to accommodate civil aircraft through the exercise area, except for the permanent restricted airspace, on a noninterference basis.

The Tactical Air Command/DEEV will serve as lead agency for purposes of compliance with the National Environmental Policy Act. (NEPA). The certification of NEPA compliance has been forwarded to the FAA Western Region, Attention: Mr. Thomas Binczak, telephone number (213) 966-6182. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.25 of Parts 71 and 73 were republished on January 2, 1981 (46 FR 446 and 787).

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) designate temporary Restricted Area GALLANT EAGLE 82, R-2538A through R-2538H to contain a major joint military exercise. This exercise provides training for several military commands of the United States Readiness Command.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.151 and § 73.25 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (46 FR 446 and 787) are amended, effective 0901 GMT, March 18, 1982, as follows:

§ 71.151 [Amended]

By adding the following temporary restricted areas:

R-2538A, GALLANT EAGLE 82
R-2538B, GALLANT EAGLE 82
R-2538C, GALLANT EAGLE 82
R-2538D, GALLANT EAGLE 82
R-2538E, GALLANT EAGLE 82
R-2538F, GALLANT EAGLE 82
R-2538G, GALLANT EAGLE 82
R-2538H, GALLANT EAGLE 82

§73.25 [Amended]

By adding the following temporary restricted areas:

R-2538A, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°59' N., long. 116°53' W.; to lat. 35°01' N., long. 116°41' W.; to lat. 35°39' N., long. 115°53' W.; to lat. 37°12' N., long. 117°20' W.; to lat. 37°12' N., long. 118°10' W.; to lat. 36°39' N., long. 117°57' W.; to lat. 36°20' N., long. 117°23' W.; to lat. 35°48' N., long. 117°16' W.; to lat. 35°36' N., long. 117°16' W.; to lat. 35°30' N., long. 117°26' W.; to lat. 35°16' N., long. 117°26' W.; to lat. 35°16' N., long. 117°05' W.; to point of beginning.

Designated altitudes. 100 feet AGL to FL 500 (3,000 feet AGL minimum altitude over Death Valley National Monument).

Time of designation 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538B, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°59′ N., long. 116°53′ W.; to lat. 35°01′ N., long. 116°41′ W.; to lat. 35°39′ N., long. 115°53′ W.; to lat. 34°43′ N., long. 115°27′ W.; to lat. 34°43′ N., long. 116°26′ W.; to lat. 34°34′ N., long. 116°35′ W.; to point of beginning.

Designated altitudes. FL 350 to FL 500.

Time of designation 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538C, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°41′ N., long. 116°30′ W.; to lat. 34°43′ N., long. 116°26′ W.; to lat. 34°43′ N., long. 116°02′ W.; to lat. 35°22′ N., long. 116°14′ W.; to lat. 35°01′ N., long. 116°41′ W.; to point of beginning.

Designated altitudes. 100 feet AGL to 7,500 feet MSL.

Time of designation 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538D, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°14′ N., long. 115°44′ W.; to lat. 34°17′ N., long. 115°40′ W.; to lat. 34°22′ N., long. 115°35′ W.; to lat. 34°43′ N., long. 115°27′ W.; to lat. 34°43′ N., long. 116°26′ W.; to lat. 34°34′ N., long. 116°35′ W.; to lat. 34°14′ N., long. 116°19′ W.; to point of beginning.

Designated altitudes. 500 feet AGL to FL 500.

Time of designation 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538E, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°03′ N., long. 116°11′ W.; to lat. 34°08′ N., long. 115°53′ W.; to lat. 34°14′ N., long. 115°44′ W.; to lat. 34°14′ N., long. 116°19′ W.; to point of beginning.

Designated altitudes. 2,000 feet AGL to 17,000 feet MSL.

Time of designation 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538F, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 36°01′ N., long. 116°13′ W.; to lat. 36°28′ N., long. 115°26′ W.; thence NW along boundary of R–4806; to lat. 36°41′ N., long. 115°55′ W.; to lat. 36°21′ N., long. 116°32′ W.; to point of beginning.

Designated altitudes. 14,000 feet MSL to 15,000 feet MSL.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538G, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 36°53′ N., long. 117°01′ W.; to lat. 37°03′ N., long. 116°43′ W.; to lat. 37°20′ N., long. 116°59′ W.; to lat. 37°12′ N., long. 117°20′ W.; to point of beginning.

Designated altitudes. FL 210 to FL 220.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

R–2538H, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 36°53′ N., long. 117°01′ W.; to lat. 37°03′ N., long. 116°43′ W.; to lat. 37°20′ N., long. 116°59′ W.; tolat. 37°12′ N., long. 117°20′ W.; to point of beginning.

Designated altitudes. 100 feet AGL to 2,000 feet AGL.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED) Langley AFB, VA 23665.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 2, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–3171 Filed 2–5–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 22580; Amdt. No. 1209]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less then 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

. . . *Effective March 18, 1982*

Texarkana, AR—Texarkana Muni-Webb Fld, VOR Rwy 13, Amdt. 12
Stockton, CA—Stockton Metropolitan, VOR Rwy 29R, Amdt. 16
Honolulu, HI—Honolulu Intl, VOR or TACAN Rwy 8L, Amdt. 16
Honolulu, HI—Honolulu Intl, VOR or TACAN Rwy 8R, Amdt. 3
Evansville, IN—Evansville Dress Regional, VOR Rwy 4, Amdt. 3
Pocahontas, IA—Pocahontas Muni, VOR/DME Rwy 29, Amdt. 2
Northampton, MA—LaFleur, VOR–A, Amdt. 4, cancelled
Minneapolis, MN—Flying Cloud, VOR Rwy 36, Amdt. 8
Natchez, MS—Hardy-Anders Field Natchez-Adams County, VOR Rwy 17, Amdt. 8
Ozark, MO—Air Park South, VOR Rwy 17, Amdt. 2
Charlotte, NC—Douglas Muni, VOR Rwy 5, Amdt. 8
Charlotte, NC—Douglas Muni, VOR/DME Rwy 18R, Amdt. 2
Charlotte, NC—Douglas Muni, VOR Rwy 36L, Amdt. 1
Charlotte, NC—Douglas Muni, VOR Rwy 36R, Amdt. 1
Gastonia, NC—Gastonia Muni, VOR/DME–A, Original
Akron, OH—Akron-Canton Regional, VOR Rwy 23, Amdt. 4
Cincinnati, OH—Cincinnati-Blue Ash, VOR Rwy 6, Amdt. 2
Cincinnati, OH—Cincinnati-Blue Ash, VOR Rwy 24, Amdt. 2
Aguadilla, PR—Borinquen, VOR or TACAN Rwy 8, Amdt. 2
Mayaguez, PR—Mayaguez Airfield, VOR Rwy 8, Amdt. 7
Ponce, PR—Mercedita, VOR Rwy 29, Amdt. 7
San Juan, PR—Puerto Rico Intl, VOR Rwy 7/10, Amdt. 8
San Juan, PR—Puerto Rico Intl, VOR Rwy 25, Amdt. 17

. . . *Effective February 18, 1982*

Westerly, RI—Westerly State, VOR–A, Amdt. 7

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

. . . *Effective March 18, 1982*

Anchorage, AK—Anchorage Intl, LOC Rwy 6L, Amdt. 5
Texarkana, AR—Texarkana Muni-Webb Fld, LOC BC Rwy 4, Amdt. 7
Clinton, IA—Clinton Muni, LOC Rwy 3, Original
International Falls, MN—Falls Intl, LOC BC Rwy 13, Amdt. 6
Natchez, MS—Hardy-Anders Field Natchez-Adams County, LOC Rwy 17, Amdt. 2
Charlotte, NC—Douglas Muni, LOC/DME BC Rwy 23, Amdt. 1
Akron, OH—Akron-Canton Regional, LOC BC Rwy 19, Amdt. 8, cancelled
St. Louis, MO—Lambert-St. Louis Intl, LOC Rwy 12L, Original

. . . *Effective March 4, 1982*

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, LOC Rwy 23, Original

. . . *Effective February 18, 1982*

Davenport, IA—Davenport Muni, LOC Rwy 15, Original
Westerly, RI—Westerly State, LOC Rwy 7, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . *Effective March 18, 1982*

Anchorage, AK—Anchorage Intl, NDB Rwy 6R, Amdt. 5
Point Hope, AK—Point Hope, NDB Rwy 1, Original
Point Hope, AK—Point Hope, NDB Rwy 19, Original
Texarkana, AR—Texarkana Muni-Webb Fld, NDB Rwy 22, Amdt. 8
Stockton, CA—Stockton Metropolitan, NDB Rwy 29R, Amdt. 13
Americus, GA—Souther Field, NDB Rwy 22, Amdt. 6
Evansville, IN—Evansville Dress Regional, NDB Rwy 22, Amdt. 11
Clinton, IA—Clinton Muni, NDB Rwy 3, Original
Clinton, IA—Clinton Muni, NDB Rwy 3, Amdt. 1, Cancelled
Pocahontas, IA—Pocahontas Muni, NDB Rwy 11, Amdt. 3
West Branch, MI—West Branch Community, NDB Rwy 27, Amdt. 4
Natchez, MS—Hardy-Anders Field Natchez-Adams County, NDB Rwy 17, Amdt. 2
Charlotte, NC—Douglas Muni, NDB Rwy 5, Amdt. 25
Charlotte, NC—Douglas Muni, NDB Rwy 23, Amdt. 1
Circleville, OH—Pickaway County Memorial, NDB Rwy 18, Amdt. 2
Wilmington, OH—Airborne Airpark, NDB Rwy 22, Amdt. 4
San Juan, PR—Puerto Rico Intl, NDB Rwy 7, Amdt. 6
San Juan, PR—Puerto Rico Intl, NDB Rwy 10, Amdt. 5

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

. . . *Effective March 18, 1982*

Anchorage, Ak—Anchorage Intl, ILS Rwy 6R, Amdt. 6
Texarkana, AR—Texarkana Muni-Webb Fld, ILS Rwy 22, Amdt. 10
Stockton, CA—Stockton Metropolitan, ILS Rwy 29R, Amdt. 17
Honolulu, HI—Honolulu Intl, ILS Rwy 8L, Amdt. 15
Evansville, IN—Evansville Dress Regional, ILS Rwy 4, Original
Evansville, IN—Evansville Dress Regional, ILS Rwy 22, Amdt. 19
Frederick, MD—Frederick Muni, ILS Rwy 23, Amdt. 1
Nantucket, MA—Nantucket Memorial, ILS Rwy 24, Amdt. 10
Charlotte, NC—Douglas Muni, ILS Rwy 5, Amdt. 28
Charlotte, NC—Douglas Muni, ILS Rwy 18R, Amdt. 1
Charlotte, NC—Douglas Muni, ILS Rwy 36L, Amdt. 3
Akron, OH—Akron-Canton Regional, ILS Rwy 1, Amdt. 30
Akron, OH—Akron-Canton Regional, ILS Rwy 19, Original
Akron, OH—Akron-Canton Regional, ILS Rwy 23, Amdt. 3
Wilmington, OH—Airborne Airpark, ILS Rwy 22, Original
San Juan, PR—Puerto Rico Intl, ILS Rwy 7, Amdt. 12
San Juan, PR—Puerto Rico Intl, ILS Rwy 10, Amdt. 3

* * * *Effective January 28, 1982*

Lancaster, PA—Lancaster, ILS Rwy 8, Amdt. 7

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective March 18, 1982*

Anchorage, AK—Anchorage Intl, RADAR–1, Amdt. 8
Evansville, IN—Evansville Dress Regional, RADAR–1, Amdt. 4
Charlotte, NC—Douglas Muni, RADAR–1, Amdt. 15
Akron, OH—Akron-Canton Regional, RADAR–1, Amdt. 14
San Juan, PR—Puerto Rico Intl, RADAR–1, Amdt. 2
Spokane, WA—Felts Field, RADAR–1, Amdt. 2, cancelled
Spokane, WA—Spokane Intl, RADAR–1, Amdt. 11, cancelled

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective March 18, 1982*

Evansville, IN—Evansville Dress Regional, RNAV Rwy 4, Amdt. 6
Jamestown, NY—Chautauqua County, RNAV Rwy 13, Original
Jamestown, NY—Chautauqua County, RNVA Rwy 31, Original
Gastonia, NC—Gastonia Muni, RNAV Rwy 3, Amdt. 2
San Juan, PR—Puerto Rico Intl, RNAV Rwy 10, Amdt. 7

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

Issued in Washington, D.C. on January 29, 1982.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-2985 Filed 2-5-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 304

[T.D. 7808]

Collection of Past-Due Support From Federal Tax Refunds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations; final regulations.

SUMMARY: This document contains temporary regulations and certain final regulations on procedure and administration relating to the collection of past-due support from Federal tax refunds. Changes to the law were made by the Omnibus Budget Reconciliation Act of 1981. These regulations affect all taxpayers who are owed refunds for a taxable year and who are liable for past-due support. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATE: These temporary and final regulations are effective October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3294.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations on procedure and administration relating to the collection of past-due support from Federal tax refunds under section 464 of Part D of Title IV of the Social Security Act and section 6402(c) of the Internal Revenue Code of 1954, as added by section 2331(a) of Title 13 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 357). Also contained in this document are final regulations on procedure and administration conforming the regulations to certain changes made to section 6305 of the Internal Revenue Code of 1954. Section 6305 incorporates by reference section 452(b) of the Social Security Act. That Act was amended by section 2332 (b) and (g) of the Omnibus Budget Reconciliation Act of 1981 to include within the collection procedures provided for in section 6305 child and spousal support obligations and obligations for support fixed by order of a State administrative process (as well as those determined by court order). Further, a new Part 304, Temporary Regulations under Title 13 of the Omnibus Budget Reconciliation Act of 1981, is added by this document to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Under new section 6402(c), the Secretary of the Treasury is required to offset amounts of past-due support from the amount of any overpayment to be refunded to a taxpayer who owes this support.

The term "past-due support" is defined in the regulations as the amount of a delinquency, determined under a court order or an order of an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living. Only amounts of support that are $150.00 or greater, that are at least three months delinquent, and that have been assigned to a State under section 402(a)(26) of the Social Security Act (as a condition for eligibility for aid and service to needy families with children) are eligible for this new offset procedure.

The regulations provide that a State to which this support has been assigned

under the Social Security Act shall notify the Department of Health and Human Services, Office of Child Support Enforcement of the amount of past-due support, the name and social security number of the parent owing the support, and the alphabetical designation of the State submitting the notification. The Office of Child Support Enforcement will consolidate this information and transmit it to the Internal Revenue Service on behalf of the participating States.

The Internal Revenue Service will determine whether an overpayment exists against which the past-due support may be offset and will make the offset after a crediting of the overpayment to any outstanding existing liability for any tax owed by the person making the overpayment. The Internal Revenue Service will notify the taxpayer of the amount and date of the offset, and of the State which submitted the notification of liability for past-due support.

Monies collected by offset will be transferred to a special account maintained by the Bureau of Government Financial Operations and, after authorization of the Division of Finance of the Social Security Administration, will be transmitted to the States. The Office of Child Support Enforcement will be notified of the name and social security number of the taxpayer from whom the past-due support was collected, the amount and date of the offset, and the State which submitted the notification of liability for past-due support for that taxpayer. Although section 464(a) of the Social Security Act also requires the Internal Revenue Service to notify the participating States of the home addresses of the taxpayers from whom the past-due support was collected, the Office of Child Support Enforcement has agreed to obtain these addresses on behalf of the States through its Parent Locator Service. Thus, the regulations do not make separate provision for the transmittal of these addresses.

Evaluation of the effectiveness of these regulations will be based on comments received from officers within the Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to States submitting notifications of liability for past-due support by October 1, 1981. For this reason, Roscoe L. Egger, Jr., Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of Treasury Directive 50.04F for improving government regulations must be waived.

Drafting Information

The principal author of these regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 304, Temporary Regulations under Title 13 of the Omnibus Budget Reconciliation Act of 1981 is added to Title 26 of the Code of Federal Regulations, and the following changes to Part 301 are adopted:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. Section 301.6305–1 is amended by revising paragraphs (a), (b)(1) and (2), (b)(6) and (c)(4) and by adding paragraph (b)(4)(iii) to read as follows:

§ 301.6305–1 Assessment and collection of certain liability.

(a) *Scope.* Section 6305(a) requires the Secretary of the Treasury or his delegate to assess and collect amounts which have been certified by the Secretary of Health and Human Services as the amount of a delinquency determined under a court order, or an order of an administrative process established * under State law, for support and maintenance of a child or of a child and the parent with whom the child is living. These amounts, referred to as "child and spousal support", are to be collected in the same manner and with the same powers exercised by the Secretary of the Treasury or his delegate in the collection of an employment tax which would be jeopardized by delay. However, where the assessment is the first assessment against an individual for a delinquency described in this paragraph for a particular individual or individuals, the collection is to be stayed for a period of 60 days following notice and demand. In addition, no interest or penalties (with the exception of the penalties imposed by sections 6332(c)(2) and 6657) shall be assessed or collected on the amounts, paragraphs (4), (6) and (8) of section 6334(a) (relating to property exempt from levy) shall not apply; and, there shall be exempt from levy so much of the salary, wages, or other income of the individual which is subject to garnishment pursuant to a judgment entered by a court for the support of his or her minor children. Section 6305(b) provides that sole jurisdiction for any action brought to restrain or review assessment and collection of the certified amounts shall be in a State court or a State administrative agency.

(b) *Assessment and collection*—(1) *General rule.* Upon receipt of a certification or recertification from the Secretary of Health and Human Services or his delegate under section 452(b) of Title IV of the Social Security Act as amended (relating to collection of child and spousal support obligations with respect to an individual), the district director or his delegate shall assess and collect the certified amount (or recertified amount). Except as provided in paragraph (c) of this section, the amount so certified shall be assessed and collected in the same manner, with the same powers, and subject to the same limitations as if the amount were an employment tax the collection of which would be jeopardized by delay. However, the provisions of subtitle F with respect to assessment and collection of taxes shall not apply with respect to assessment and collection of a certified amount where such provisions are clearly inappropriate to, and incompatible with, the collection of certified amounts generally. For example, section 6861(g) which allows the Secretary or his delegate to abate a jeopardy assessment if he finds a jeopardy does not exist will not apply.

(2) *Method of assessment.* An assessment officer appointed by the district director pursuant to § 301.6203–1 to make assessments of tax shall also make assessments of certified amounts. The assessment of a certified amount shall be made by the assessment officer signing the summary record of assessment. The date of assessment is the date the summary record is signed by the assessment officer. The summary record, through supporting records as necessary, shall provide—

(i) The assessed amount;

(ii) The name, social security number, and last known address of the individual owing the assessed amount;

(iii) A designation of the assessed amount as a certified amount, together with the date on which the amount was certified and the name, position, and governmental address of the officer of the Department of Health and Human Services who certified the amount;

(iv) The period to which the child and spousal support obligation represented by the certified amount relates;

(v) The State in which was entered the court or administrative order giving rise to the child and spousal support obligation represented by the certified amount;

(vi) The name of the person or persons to whom the child and spousal support obligation represented by the certified amount is owed; and

(vii) The name of the child or children or the parent of the child or children for whose benefit the child and spousal support obligation exists.

Upon request, the individual assessed shall be furnished a copy of pertinent parts of this assessment which set forth the information listed in subdivision (i) through (vii) of this paragraph (b)(2).

* * * * *

(4) *Method of collection.* * * *

(iii) The district director or his delegate may offset the amount of any overpayment of any internal revenue tax (as described in section 301.6401–1) to be refunded to the person making the overpayment by the amount of any past-due support (as defined in the regulations under section 6402) owed by the person making the overpayment. The amounts offset under section 6402(c) may be amounts of child and spousal support certified (or recertified) for collection under section 6305 and this section or they may be amounts of past-due support of which the Secretary of the Treasury has been notified under section 6402(c) and the regulations under that section.

* * * * *

(6) *Disposition of certified amounts collected.* Any certified amount collected shall be deposited in the general fund of the United States, and the officer of the Department of Health and Human Services who certified the amount shall be promptly notified of its collection. There shall be established in the Treasury, pursuant to section 452 of Title IV of the Social Security Act as amended, a revolving fund which shall be available to the Secretary of Health and Human Services or his delegate, without fiscal year limitation, for distribution to the States in accordance with the provisions of section 457 of the Act. Section 452(c)(2) of the Act appropriates to this revolving fund out of any monies not otherwise appropriated, amounts equal to the certified amounts collected under this paragraph reduced by the amounts credited or refunded as overpayments of the certified amounts so collected. The certified amounts deposited shall be transferred at least quarterly from the general fund of the Treasury to the revolving fund on the basis of estimates made by the Secretary of the Treasury or his delegate. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. See, however, paragraph (c)(1) of this section for the special rule requiring retention in the general fund of certain penalties which may be collected.

(c) *Additional limitations and conditions.* * * *

(4) *First assessment.* In the case of a first assessment against an individual for a certified amount in whole or part for the benefit of a particular child or children or the child or children and their parent, the collection of the certified amount shall be stayed for the period of 60 days immediately following notice and demand as described in section 6303. However, no other stay of the collection of a certified amount may be granted. Thus, the provisions of section 6863(a), relating to bonds to stay collection of jeopardy assessments, shall not apply to the collection of certified amounts.

* * * * *

Par. 2. Section 301.6402–1 is revised to read as follows:

§ 301.6402–1 Authority to make credits or refunds.

The Commissioner, within the applicable period of limitations, may credit any overpayment of tax, including interest thereon, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the person making the overpayment and the balance, if any, shall be refunded, subject to section 6402(c) and the regulations thereunder, to that person by the Commissioner.

Par. 3. Section 301.6402–3(a)(6) is revised to read as follows:

§ 301.6402–3 Special rules applicable to income tax.

(a) * * *

(6) Notwithstanding paragraph (a)(5) of this section, the Commissioner, within the applicable period of limitations, may credit any overpayment of individual, fiduciary, or corporation income tax, against any outstanding liability for any tax (or for any interest, additional amount, additions to the tax, or assessable penalty) owed by the taxpayer making the overpayment. After crediting an overpayment of tax by an individual taxpayer against any outstanding liability for any tax or other amount described in the preceding sentence, the Commissioner shall offset the balance, if any, of the overpayment by amounts of past-due support under procedures set forth in the regulations under section 6402(c). Only the balance, if any, of the overpayment remaining after credit against outstanding liability for tax or other amount and offset of past-due support shall be treated in the manner so elected.

* * * * *

Par. 4. A new Part 304 consisting of § 304.6402–1 is added to Title 26 of the Code of Federal Regulations:

PART 304—TEMPORARY REGULATIONS UNDER TITLE 13 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Sec.

304.6402–1 Offset of past-due support against overpayments.

Authority: 26 U.S.C. 7805, unless otherwise noted.

§ 304.6402–1 Offset of past-due support against overpayments.

(a) *Introduction*—(1) *Scope.* Section 6402(c) requires the Secretary of the Treasury or his delegate to reduce the amount of any overpayment to be refunded to a person making an overpayment by the amount of past-due support owed by that person of which the Secretary has been notified in accordance with section 464 of the Social Security Act. Past-due support shall be collected by offset under section 6402(c) and this section in the same manner as if it were a liability for tax imposed by the Internal Revenue Code of 1954 (except that a liability for tax shall be given priority with respect to offset arising under section 6402(a)). Collection by offset under section 6402(c) of this section is a collection procedure separate from the collection procedures provided by section 6305 and § 301.6305–1, relating to assessment and collection of certain child and spousal support liabilities. The sole collection procedure provided by section 6402(c) and this section is that of offset against overpayment. Section 6305 and § 301.6305–1, by contrast, provide for other collection procedures in addition to collection by offset against overpayment. Sections 6305 and 6402(c) have differing procedural requirements and may be used separately or in conjunction with each other.

(2) *General rule.* An amount of past-due support qualifies for offset under this section if it satisfies the requirements of paragraph (b) of this section. A State shall submit to the Department of Health and Human Services a notification of liability for qualifying past-due support containing

the information described in paragraph (c) of this section. A qualifying amount of past-due support owed by a taxpayer who has made an overpayment shall be collected in accordance with the procedures set forth in paragraph (d) of this section. Under paragraph (d), the balance of any overpayment remaining after crediting of the overpayment under section 6402(a) to any liability for an internal revenue tax on the part of the taxpayer shall be offset by the amount of past-due support of which the Internal Revenue Service has been notified. The amount of the overpayment not subject to offset for any liability for an internal revenue tax or for past-due support shall be promptly refunded to the taxpayer. Paragraph (e) of this section requires that the Internal Revenue Service notify the taxpayer of the amount of the offset and of the State to which it has been paid. Under procedures set forth in paragraph (f) of this section, amounts collected by offset shall be transferred to a special account maintained by the Bureau of Government Financial Operations for distribution to the States. The Internal Revenue Service shall make monthly collection reports to the Secretary of Health and Human Services or his delegate. The States shall reimburse the Secretary of the Treasury for the full cost of the refund offset under paragraph (g) of this section.

(b) *Past-due support*—(1) *Definition.* For purposes of this section, the term "past-due support" means the amount of a delinquency, determined under a court order, or an order pursuant to an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living.

(2) *Past-due support qualifying for offset.* Past-due support qualifies for offset under section 6402(c) and this section if—

(i) There has been an assignment of the support obligation to a State pursuant to section 402(a)(26) of the Social Security Act (relating to aid and service to needy families with children) and that State has made reasonable efforts to collect the amount of the obligation;

(ii) The amount of past-due support is not less than $150.00;

(iii) The past-due support has been delinquent for three months or longer; and

(iv) A notification of liability for past-due support has been received by the Secretary of the Treasury as prescribed by paragraph (c) of this section.

(c) *Notification of liability for past-due support*—(1) *Form.* A State shall, by October 1 of each year, submit a notification (or notifications) of liability for past-due support on magnetic tape to the Special Collection Activities Unit, Office of Child Support Enforcement, Department of Health and Human Services, 6110 Executive Boulevard, Suite 900, Rockville, Maryland 20852, Attention: Tax Refund Offset—Tape Processing.

(2) *Content.* The notification of liability for past-due support shall contain with respect to each taxpayer—

(i) The name of the taxpayer who owes the past-due support;

(ii) The social security number of that taxpayer;

(iii) The amount of past-due support owed; and

(iv) The alphabetical designation of the State submitting the notification of liability for past-due support.

The Secretary of Health and Human Services may also require such other information from the State submitting the notification as is necessary for his orderly consolidation of data for transmittal to the Internal Revenue Service.

(3) *Transmittal of notification to Internal Revenue Service.* The Secretary of Health and Human Services shall, by December 1 of each year, consolidate and transmit to the Internal Revenue Service on magnetic tape the data contained in the notifications of liability for past-due support submitted by the participating States.

(4) *Correction of notification.* If, after submitting a notification of liability for past-due support, a State determines that an error has been made with respect to the information contained in the notification, or if a State receives a payment or credits a payment to the account of a taxpayer named in this notification, the State shall promptly notify the Internal Revenue Service and the Internal Revenue Service shall make the appropriate correction of the notification of liability for past-due support. However, in no case shall a State notify the Internal Revenue Service under this paragraph (c)(4) of an increased amount of past-due support owed by a taxpayer named in its notification of liability for past-due support. The correction notification described in this paragraph (c)(4) is to be submitted only for the purpose of completing or correcting the information contained in the notification of liability for past-due support.

(d) *Collection*—(1) *Priority of offset for outstanding tax liability.* Under section 6402(a) and § 301.6402–1, the Commissioner may credit any overpayment of tax against any outstanding liability for any tax owed by the person making the overpayment. Only the balance remaining after such crediting is available for offset under section 6402(c) of this section. Thus, if a taxpayer making an overpayment has both an outstanding tax liability and a liability for past-due support subject to this section, then the entire amount of the overpayment shall be credited first against the outstanding tax liability under section 6402(a) and § 301.6402–1 and only the remainder, if any, of the overpayment will be offset by the amount of past-due support. However, an overpayment shall be offset by an amount of past-due support under section 6402(c) before any crediting of the overpayment to any future liability for an internal revenue tax. Thus, for example, if no outstanding tax liability is owed and the amount of an overpayment is equal to or less than the amount of past-due support, the Internal Revenue Service shall offset the overpayment by the amount of past-due support before crediting the overpayment against the taxpayer's estimated income tax for the succeeding taxable year under section 6402(b).

(2) *Amounts subject to offset.* The balance of any overpayment remaining after a crediting of the overpayment under section 6402(a) to any outstanding liability for tax on the part of the taxpayer shall be offset by the amount of past-due support of which the Internal Revenue Service has been notified under this section.

(3) *Amounts not subject to offset.* The amount of an overpayment not subject to offset for any liability for tax or for past-due support shall be promptly refunded to the taxpayer.

(e) *Notice of offset.* The Internal Revenue Service shall notify the taxpayer in writing of the amount and date of the offset for past-due support and of the State to which this amount of past-due support has been paid.

(f) *Disposition of amounts collected.* Amounts collected under this section shall be transferred to a special account maintained by the Bureau of Government Financial Operations. The Internal Revenue Service shall advise the Secretary of Health and Human Services or his delegate on a monthly basis of the names and social security numbers of the taxpayers from whom the amounts of past-due support were collected, of the amounts collected from each taxpayer, and of the State on whose behalf each collection was made. After authorization by the Division of Finance of the Social Security Administration, the Bureau of Government Financial Operations of the Department of the Treasury shall pay to the participating States amounts equal to the amounts collected under this section.

(g) *Fee.* A refund offset fee in the amount of $17.00 per offset for taxable year 1981, or such greater or smaller amount as the Secretary of the Treasury

and the Secretary of Health and Human Services have agreed to be sufficient to reimburse the Internal Revenue Service for the full cost of the offset procedure, shall be billed and collected from the participating States by the Secretary of Health and Human Services or his delegate and deposited in the United States Treasury and credited to the appropriation accounts of the Internal Revenue Service which bore all or part of the costs involved in making the collection.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision because the States must submit notifications of liability for past-due support to the Department of Health and Human Services by October 1, 1981. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805); sec. 2332(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357), amending sec. 464(a) of the Social Security Act (88 Stat. 2351))

Joseph T. Davis,

Acting Commissioner of Internal Revenue.

Approved: November 9, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

The Secretary of Health and Human Services
Washington, D.C., January 27, 1982.

Honorable Donald T. Regan,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

Dear Mr. Regan: I have reviewed the Internal Revenue Service regulations entitled "Collection of past-due support from Federal tax refunds". This letter constitutes my approval of those regulations as required by Section 2331 of P.L. 97–35, the Omnibus Budget Reconciliation Act of 1981.

Sincerely,

Richard S. Schweiker,

Secretary.

[FR Doc. 82–3299 Filed 2–3–82; 5:02 pm]

BILLING CODE 4830–01–M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1602, 1605, 1609, 1618, 1621, 1624, 1627, 1630, 1633, 1636, 1639, 1642, 1645, 1651, and 1653

Deferment or Exemption From Military Service

Correction

In FR Doc. 82–2436, appearing at pages 4640–4665 in the issue for Monday, February 1, 1982, the amendatory language which appears in the middle column of page 4643 should read as set forth below:

"32 CFR Chapter XVI is amended by revising Parts 1602, 1609, 1621, 1624, 1627 and 1630, and by adding new Parts 1605, 1618, 1633, 1636, 1639, 1642, 1645, 1648, 1651, 1653 and 1659 to read as set forth below:"

BILLING CODE 1505–01–M

POSTAL SERVICE

39 CFR Part 775

National Environmental Policy Act (NEPA); Amendment of Categorical Exclusions

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends four categorical exclusions in the Postal Service's National Environmental Policy Act (NEPA) regulations. These exclusions deal with (1) certain limited size new construction; (2) limited expansion or improvement of an existing facility; (3) purchase or lease of a limited size existing building; and (4) disposition of unimproved land. All of the exclusions were expanded because there was very little significant environmental impact in actions much more extensive than those excluded.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Royal Rasmussen, (202) 245–4354.

SUPPLEMENTARY INFORMATION: On November 30, 1981, the Postal Service published for comment in the **Federal Register**, 46 FR 58097, proposed changes to 39 CFR 775.4(b) as described in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by December 30, 1981. No such comments were received. Accordingly, the Postal Service hereby adopts, without change, the following revisions of title 39, Code of Federal Regulations:

PART 775—ENVIRONMENTAL PROCEDURES

In § 775.4, paragraphs (b)(1), (2), (3), and (5) are revised to read as follows:

§ 775.4 Typical classes of action.

* * * * *

(b) * * *

(1) New construction, including lease-construction, of 20,000, or less, net square feet.

(2) Expansion or improvement of an existing building where the gross square footage is not increased by more than forty percent, and the site size is not increased substantially.

(3) Purchase or lease of an existing building containing 50,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved and purchase or lease of an existing building of any size that is currently occupied by the Postal Service where a substantially enlarged operation is not involved.

* * * * *

(5) Disposal of unimproved land.

* * * * *

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 82–3295 Filed 2–5–82; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–3–FRL–2037–1]

Approval of Revisions of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Delaware has submitted amendments to its air pollution control regulations pertaining to permit procedures, control of open burning, and control of volatile organic compound (VOC) emissions from dry cleaning operations and automobile coating lines. The State requested that these amendments be reviewed and approved as revisions of the Delaware State Implementation Plan (SIP). EPA has reviewed the State's requests and finds them to be acceptable in accordance with the requirements of the Clean Air Act and 40 CFR Part 51. Therefore, EPA approves the requested revisions of the Delaware SIP.

EFFECTIVE DATE: These actions will be effective on April 9, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments on these revisions of the Delaware SIP.

ADDRESSES: Comments should be sent to Henry J. Sokolowski, P. E., Chief Maryland-Delaware-D.C. Metro Section, Air and Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106. Attn.: AH013DE (Amendments to Regulations II, XIII); AH305DE (Amendments to Regulation XXIV).

Copies of Delaware's amendments of its regulations and accompanying support materials are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Media and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn.: Harold A. Frankford (3AW12)
Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Delaware 19901, Attn.: Robert R. French
Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., (Waterside Mall), Washington, D.C. 20460
The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford, (3AW12), U.S. Environmental Protection Agency, Region III, Air Media and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn.: AH013/305DE, (215) 597–8392.

SUPPLEMENTARY INFORMATION: On September 22, 1981, the State of Delaware submitted amendments to its Regulations Governing the Control of Air Pollution and requested that they be reviewed and processed as revisions of the Delaware State Implementation Plan (SIP). These amendments are described as follows:

1. Amendment to Regulation II (Permits)

The amendment to Section 3.2 (Registration and Permits) would eliminate the requirement that the Department give notice of its written approval of air contaminant sources and instead, give notice of written approval to those who have submitted a written request for such notice. The State contends that adequate notice is given by the statutory requirement to advertise receipt of permit application and that such notice is mailed directly to interested parties. The State contends that the second notice that announces the issuance of the operating permit rarely produces any public response. However, the State maintains that public service is generated by the mailed notices, and therefore, this service should continue for those parties requesting such notice.

2. Amendment to Regulation XIII (Open Burning)

The amendment to Section 2.5 states that the Department of Natural Resources and Environmental Control will not approve an application for open burning within the municipality unless the municipality concurs with the approval and, where governing local ordinances are in effect, certifies in writing to the Department that the open burning operation will not conflict with the existing local ordinances. In accordance with this amendment, Section 2.3 has also been amended to remove the general prohibition of open burning within the corporate boundaries of any municipality located south of the Chesapeake and Delaware Canal.

3. Amendments to Regulation XXIV

The State submitted two amendments to Regulation XXIV pertaining to control of volatile organic compound (VOC) emissions in New Castle County:

(a) An amendment to Section 13.2b which adds a requirement for determining compliance with the State regulation controlling dry cleaning emissions.

(b) Amendments to the chart referenced in Section 9.4 pertaining to control of VOC emissions from automobile coating lines. The amendments serve to correct erroneous schedule dates for prime coat/surfaces and topcoat operation by which certain increments of progress will be met.

Certification of Public Hearing

The State of Delaware certified that a public hearing was held in Dover on July 9, 1981 in accordance with the requirements of 40 CFR 51.4.

EPA Evaluation

EPA has reviewed the amendments in Regulations II, XIII, XXIV, and considers them to be approvable. With respect to amendments in Regulation II, EPA believes that the State affords adequate notice to the public by its requirements to announce receipt of permit application and provide notices of approval to those who submit a written request. The amendments to Regulation XIII are nonregulatory in nature, as open burning is not considered to be a control strategy for the control of total suspended particulates (TSP) emissions.

The amendments to Section 13.2b of Regulation XXIV are approvable as they reflect reasonably available control technology (RACT) for controlling VOC emissions from dry cleaning operations. The amendments to the chart (Table 2) referenced in Regulation XXIV, Section 9.4 are approvable as they serve to correct typographical errors contained in the SIP-approved version.

EPA Actions

In view of the above evaluation, EPA approves the above discussed amendments to the Delaware Regulations Governing the Control of Air Pollution as revision of the Delaware State Implementation Plan. At the same time, 40 CFR 52.420 (Identification of Plan) of Subpart I (Delaware) is revised to reflect the Administrator's approval actions.

The public is advised that these actions will be effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of the State's regulatory amendments, the appropriate action or actions will be withdrawn and subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Delaware was approved by the Director of the Federal Register on July 1, 1981.

(42 U.S.C. 7401–642)

Dated: February 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52, Subpart I of the Code of Federal Regulations is amended to read as follows:

Subpart I—Delaware

1. In § 52.420, paragraphs (c)(26) and (c)(27) are added to read as follows:

§ 52.420 Identification of Plan.

* * * * *

(c) * * *

(26) Amendments to Regulation II (Registration and Permits) and XIII (Open Burning) [non-regulatory] of the Delaware Regulations governing the Control of Air Pollution submitted on September 22, 1981 by the Secretary, Department of Natural Resources and Environmental Control.

(27) Amendments to Section 9.4 (Surface Coating operations) and 13.2 (Dry Cleaning) of Regulation XXIV (Control of Volatile Organic Compound Emissions) of the Delaware Regulations governing the Control of Air Pollution submitted on September 22, 1981 by the Secretary, Department of Natural Resources and Environmental Control.

[FR Doc. 82-3223 Filed 2-5-82; 8:45 am]
BILLING CODE 6560-38-M

ACTION

45 CFR Part 1206

Grants and Contracts Suspension and Termination and Denial of Application for Refunding

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: These are final regulations revising the rules and review procedures for the denial of a current recipient's application for refunding. Certain modifications and revisions have been made in response to comments and recommendations received from volunteers, program sponsors, members of Congress, and other members of the public. A recent review of the denial of refunding procedures indicated a need for revision in order to make them consistent with the new policy, fiscal and programmatic initiatives of the Agency.

DATE: This regulation shall take effect on March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur F. Fergenson, General Counsel, ACTION, Room M-607, 806 Connecticut Avenue, NW., Washington, D.C. 20525, (202) 254-3116, FTS, 254-3116.

SUPPLEMENTARY INFORMATION: The existing Denial of Application for Refunding regulation was published in 1974 pursuant to Sections 402, 412 and 420 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*).

On August 31, 1981 ACTION published for comment (46 FR 43707) proposed revisions to 45 CFR Part 1206, Subpart B. The public was invited to comment by September 30, 1981. The comment period was extended at the request of interested members of Congress to allow for further review and comment.

The Agency has considered all comments received (without regard to a cut-off date) and has determined to adopt the proposed rule with modifications based on an analysis of the comments.

I. Description of the Regulation

This regulation establishes procedures for the denial of a current recipient's application for refunding. If, after review of a recipient's application for refunding, ACTION makes a tentative decision to deny the application, the recipient is provided with notice and an opportunity to submit written materials and to meet informally with an ACTION official. The reasons for the tentative decision must be stated in the notice from the Agency to the recipient. If the recipient requests an informal meeting it must address itself to the reasons set forth by the Agency.

Both the recipient and ACTION have a right to be represented by counsel or other authorized representatives in all proceedings under this subpart.

II. Discussion of Comments Received

A. Nature of Comments

The Agency received approximately forty letters containing numerous comments on the proposed rule published in the **Federal Register** on August 31, 1981. Of the letters, thirteen were received from members of Congress. One such letter was accompanied by a Memorandum from the Congressional Research Service. That memorandum will be addressed in a separate paragraph.

The vast majority of the comments raised objection to the provision in § 1206.2-1(b) which makes the denial of refunding procedures inapplicable to those VISTA projects which have been in existence for a period of at least three years. Concern was also expressed, in a number of the comments regarding the deletion of the provision for payment of attorney's fees and travel and per diem expenses for representatives of the sponsor to attend the informal meeting. The following is the Agency response to the substantive comments and the resulting modifications.

B. Response

1. In the VISTA Guidance Papers of September 10, 1979, 44 FR 52703, the prior Administration of ACTION/VISTA determined that all VISTA Projects at least three years old would no longer receive special consideration through denial of refunding procedures, but would rather be remitted to the competitive status occupied by proposals for new projects. The prior Administration took this action without discussion, but we understand that behind that policy change may have been the notion that those projects which have been funded for three years should be expected by that time to achieve such success in fighting poverty that further support could be expected to be provided by sources within the local community. The expectation created by the 1979 policy in all VISTA projects thereafter entering into Memoranda of Agreement with ACTION was that alternative resources would be found within three years.

The policy of the prior Administration was never challenged to our knowledge, certainly not before this Administration, in what amounted to simply a recodification of the prior Administration's three-year rule, republished the policy as part of the regulations at issue. The Agency, under its new leadership, has considered the comments of those who have protested the three-year rule, and finds substantial reason to agree with them that the prior Administration acted wrongly in promulgating the policy; the 1979 Guidance Papers adoption of that rule is hereby repealed. The Agency has determined that all VISTA projects which are denied refunding will be offered an opportunity to show cause why an application for refunding should not be denied.

The Agency has added an exception for short-term VISTA extension requests. While applications for refunding of six months or longer call into play the underlying rationale for the informal hearing mechanism of this part, it is plain that extension requests for relatively short periods of time, to wit, under six months, do not. First, short extensions are sought most often for administrative reasons that frequently have nothing to do with the integrity or purpose of the project itself; for example, the period of service of VISTA volunteers assigned to a VISTA project may extend beyond the period covered by the memorandum of agreement which fixes the life of the project. While, in this example, the VISTA sponsor may wish to accommodate the VISTA volunteers by continuing the project for a few extra months, the VISTA volunteers are, it should be emphasized, the ultimate responsibility of ACTION, not the project sponsor. Administrative considerations, and the use of volunteer reassignment procedures, are matters for ACTION to be concerned with, not

the sponsor. Denial of refunding procedures are for the use of the sponsor to represent its, and the project's interests, not those of the VISTA volunteers.

It is, furthermore, the case that the denial of refunding procedures are meant for substantial proposals for continuation, which the sponsor should seek through the usual application for one-year refunding. Liberalizing the applicable period to six momths is a reflection of the flexibility that ACTION believes ought to be shown to VISTA sponsors. Any further deviation from the evident purpose of the denial of refunding procedures, would amount to a virtual evisceration of the carefully developed procedures which are designed to protect not only the interests of the sponsor, but also those of the volunteers, the poor whom VISTA is to serve, and the taxpaying public. The enormous resources of ACTION that would have to be devoted to the essentially administrative determination involved in decisions whether to approve short-term extensions, would be diverted from the main purposes of VISTA, and would jeopardize VISTA's continued ability to properly administer VISTA projects and to serve ACTION's VISTA volunteers.

2. In those other instances where ACTION and a recipient agree, in advance, that a project should receive funding for not more than a predetermined number of years, there is no expectancy of continuation beyond that time on the part of either party. This is not a denial of refunding; it simply means that the agreed-upon time limit for the project has been reached. In effect, it is much like any contract where parties agree to perform a certain function by a certain date. This type of situation does not, in the opinion of the Agency, fit within the meaning of denial of refunding and thus does not require the agency to provide such recepient with a show cause informal meeting.

The Agency, in many instances, will fund demonstration or test projects to gather data and develop agency experience in a wide range of volunteer activities, or to deal with a specific time-bound problem in a particular community. Recipients of these limited grants understand from the inception of the projects that they are created to achieve specific goals within a specific time limit.

For instance, the Mini-Grant Program provides funds on a one-time, non-renewable basis for a project period not to exceed one year. Projects must have measurable goals achievable in a specified timeframe in order to qualify for these funds.

The Agency will continue to utilize such programs and projects in order to meet national needs and to achieve Agency goals. There is no justification for the comment that the Agency must provide an opportunity for recipients of these limited grants to show cause why an application for refunding should not be denied. The Agency will continue to make absolutely clear to the recipients of such grants that the grants are only for pre-established periods of time.

The report from the Congressional Research Service apparently urges an extremely narrow interpretation of Section 412 of the Domestic Volunteer Service Act of 1973. To read the section as a "seemingly absolute mandate for reasonable notice and opportunity to show cause why a refunding application should not be denied" would mean that there can be no exceptions to its provisions under any circumstances. This line of reasoning fails to consider the mini-grant and demonstration grant process as well as the existing statutory exception regarding the University Year for Action (UYA) Program and the effect on a project if the Governor of the State in which the project is located withdraws approval. The statute is not an absolute requirement that informal meetings be provided all disappointed renewal seekers and in the opinion of the Agency it was not so intended.

3. Two comments expressed the opinion that the Older American Volunteer Programs should be expressly excluded from this section. However, after careful review of the provision the Agency does not concur.

It is the Agency's intent that the local projects established under the Older American Volunteer Programs (other than specifically identified time-limited demonstration projects) be ongoing projects. Usually, those projects which have successfully achieved local and national goals and objectives and are in compliance with Agency Regulations and policies are renewed on an annual basis. In instances when there is an indication that projects have failed to meet agreed-upon goals and objectives and/or comply with Agency Regulations and policies, the proposed procedures provide safeguards for the Agency and the sponsor to protect the program integrity.

4. Several comments raised objection to the deletion of the provision for payment of attorney's fees and expenses and travel and per diem expenses from grant funds for a representative of the recipient to attend the informal meeting. Concern was expressed that there are a number of low budget organizations (Older American and VISTA) that would not have the funds necessary to attend an informal meeting which may be scheduled far from the location of the project whose application for refunding has been denied.

Agency funds, in light of the need of all parts of Government to economize to make economic revitalization possible, are at a premium. Those funds that are available will be directed, to the greatest extent possible, to the volunteers and to the operation of the project; the payment of travel-related expenses and attorney's fees for denial of refunding informal meetings does not meet this paramount objective. As explained above, a denial of refunding preliminary decision is rare in the case of the Older Americans projects, the overwhelming number of which will never face the prospect of a denial of refunding at any time.

Recipients involved in denial of refunding proceedings retain the right to be represented by an attorney at the informal meeting; however, it is not economically feasible for the Agency to continue to pay attorney's fees.

Pursuant to Section 3(c)3 of E.O. 12291, entitled "Federal Regulation" the required review process has been completed by the Director of the Office of Management and Budget.

PART 1206—GRANTS AND CONTRACTS—SUSPENSION AND TERMINATION AND DENIAL OF APPLICATION FOR REFUNDING

Accordingly Subpart B of Part 1206 of Title 45 of the Code of Federal Regulations is revised to read as follows:

* * * * *

Subpart B—Denial of Application for Refunding

Sec.

1206.2–1 Applicability of this subpart.
1206.2–2 Purpose.
1206.2–3 Definitions.
1206.2–4 Procedures.
1206.2–5 Right to counsel.

Authority: Secs. 402(12), 412 and 420 of Pub. L. 93–113, 87 Stat. 394, 411 and 414.

Subpart B—Denial of Application for Refunding

§ 1206.2–1 Applicability of this subpart.

This subpart applies to grantees and contractors receiving financial assistance and to sponsors who receive volunteers under the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 *et seq.* The procedures in this subpart do not apply to review of applications for the following:

(a) University Year for ACTION projects which have received federal funds for five years;

(b) Mini-grants;

(c) Other projects for which specific time limits with respect to federal assistance are established in the original notice of grant award or other document providing assistance, where the specified time limit has been reached; and

(d) VISTA project extensions of less than six months.

§ 1206.2-2 Purpose.

This subpart establishes rules and review procedures for the denial of a current recipient's application for refunding.

§ 1206.2-3 Definitions.

As used in this subpart—"ACTION," "Director," and "recipient" shall be defined in accordance with § 1206.1-3.

"Financial assistance" and "assistance" include the services of volunteers supported in whole or in part with ACTION funds.

"Program account" means assistance provided by ACTION to support a particular program activity; for example, VISTA, Foster Grandparent Program, Senior Companion Program and Retired Senior Volunteer Program.

"Refunding" includes renewal of an application for the assignment of volunteers.

§ 1206.2-4 Procedures.

(a) The procedures set forth in paragraphs (b) through (f) of this section shall apply only where an application for refunding submitted by a current recipient is rejected or is reduced to 80 percent or less of the applied-for level of funding or the recipient's current level of operations, whichever is less. It is further a condition for application of these procedures that the rejection or reduction be based on circumstances related to the particular grant or contract. These procedures do not apply to reductions based on legislative requirements, or on general policy or in instances where, regardless of a recipient's current level of operations, its application for refunding is not reduced by 20 percent or more. The fact that the basis for rejecting an application may also be a basis for termination under subpart A of this part shall not prevent the use of this subpart to the exclusion of the procedures in subpart A.

(b) Before rejecting an application of a recipient for refunding ACTION shall notify the recipient of its intention and shall offer the recipient an opportunity to submit written material and to meet informally with an ACTION official to show cause why its application for refunding should not be rejected or reduced. Written notification of ACTION's intention shall be sent to the recipient as far in advance of the end of the recipient's current program year or grant budget period as possible. The notice shall inform the recipient that a tentative decision has been made to reject or reduce an application for refunding. The notice shall state the reasons for the tentative decision to which the recipient shall address itself if it wishes to make a presentation, and notify the recipient of the date by which it must request an informal meeting.

(c) If the recipient requests an informal meeting with an ACTION official as described in paragraph (b) of this section, such a meeting shall be held on a date specified by ACTION. However, the meeting may not, without the consent of the recipient, be scheduled sooner than 14 days after ACTION has mailed the notice to the recipient or, in any event more than 21 days after the mailing of the notice. If the recipient requests an informal meeting the meeting shall be scheduled by ACTION as soon as possible after receipt of the request.

(d) The official who shall conduct this meeting shall be an ACTION official who is authorized to finally approve or make the grant of assistance in question, or his designee. The meeting shall be held in the city or county in which the recipient is located, in the appropriate Regional Office, or another appropriate location. Within the limits stated in the preceding sentence, the decision as to where the meeting shall be held will be made by ACTION.

(e) The recipient shall be informed of the final Agency decision on refunding and the basis for the decision, by the deciding official.

(f) If the recipient's budget period expires prior to the final decision by the deciding official, the recipient's authority to continue program operations shall be extended until such decision is made and communicated to the recipient. If a volunteer's term of service expires after receipt by a sponsor of a tentative decision not to refund a project, the period of service of the volunteer may be similarly extended. No volunteers may be reenrolled for a full 12-month term, or new volunteers enrolled for a period of service while a tentative decision not to refund is pending. If program operations are so extended, ACTION and the recipient shall provide, subject to the availability of funds, operating funds at the same levels as in the previous budget period to continue program operations.

§ 1206.2-5 Right to counsel.

In all proceedings under this subpart, whether formal or informal, the recipient and ACTION shall have the right to be represented by counsel or other authorized representatives, at their own expense.

Signed at Washington, D.C., this 1st day of February 1982.

Thomas W. Pauken,

Director.

[FR Doc. 82-3189 Filed 2-5-82; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 42, 43, 44, 45, 46, 70, 71, 72, 73, 74, 90, 92, 93, 175, 177, 188, and 191

[CGD 80-120]

Revocation of Obsolete Load Line Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These rules revoke certain obsolete load line regulations, revise various authority citations, and make editorial corrections related to these actions. The load line regulations, 46 CFR Part 43, for merchant vessels on foreign and coastwise voyages, were superseded in 1968 when the Coast Guard issued new load line regulations (46 CFR Part 42) based on the International Load Line Convention, 1966, but were retained for vessels whose keels were laid before July 1, 1968. Since all vessels whose keels were laid since that date must comply with Part 42 and since, in 1973, the Congress repealed the authorizing statute, there is no need or authority to continue the older regulations. A vessel whose keel was laid before July 1, 1968 may retain its original load line assigned under Part 43, as long as that vessel is not significantly altered or has not been assigned a reduced freeboard.

EFFECTIVE DATE: These amendments are effective on March 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank K. Thompson, Merchant Marine Technical Division, Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: Because this rule making revokes obsolete and superseded regulations and makes other nonsubstantive administrative and editorial amendments, the Coast Guard finds that notice and public procedure thereon are unnecessary and may be omitted under 5 U.S.C. 553(b)(3)(B).

Discussion of Part 43 Revocation

The origin of this statutory requirement dates back to the 19th century. The natural interest of ship owners to maximize revenue led them frequently to load vessels to a point beyond safety. As a result, the greater the weight of the vessel's load, the lower it would ride in the water, making it more vulnerable to heavy seas with the consequence that may seamen lost their lives.

This led to legislation in England which required ships to inscribe on their sides marks showing the limits of safety for different seas and seasons. These marks are commonly known as "load lines." In 1929, the United States Congress passed a Foreign Voyage Load Line Act and in 1931, the U.S. acceded to the International Load Line Convention of 1930 (1930 Convention); establishing worldwide standards in this matter. Regulations for these were established in 46 CFR Part 43. In July 1968, a second convention on load lines went into force worldwide superseding the original convention. The 1966 Convention established new uniform rules with respect to the safe limits to which ships on international voyages may be loaded. Its intent was to bring international load line regulations into accord with modern ship construction developments and techniques. In some cases deeper loading of ships can now be safely permitted.

The International Voyage Load Line Act (Act), Pub. L. 93–115, 87 Stat. 418 (46 U.S.C. 86), repealed the law (46 U.S.C. 85a–85g) which authorizes Part 43 and substituted the changes required by the 1966 Convention and its annexes.

The Act authorized 46 CFR Part 42 which required all vessels whose keels were laid after June 30, 1968 to comply with the new Part. Part 43 was temporarily retained during an official changeover period lasting till 1973. Old ships which had freeboards issued under Part 43 and which have not changed their freeboard or any items affecting freeboard are permitted to retain their existing freeboards. If these ships are significantly altered or if the owner wishes to obtain a reduced freeboard, Part 42 load lines will now be assigned.

Discussion of Authority Citation Change

Originally, the statutory authority for both 46 CFR Parts 42 and 43 came from the Load Line Act of 1929 (45 Stat. 1493; 46 U.S.C. 85–85g). In 1973, however, Congress enacted the International Voyage Load Line Act of 1973 (87 Stat. 418; 46 U.S.C. 86–86i) and repealed the 1929 Act. The authority notes in Part 42 and other citations and references to the 1929 Act throughout Title 46 have never been updated. The Coast Guard is correcting these references and citations to refer to the 1973 Act.

Section 42.03–10 has been further revised to clarify that the regulations in Part 42 apply to existing foreign vessels of 150 gross tons or over and new foreign vessels of 79 feet in length or more in accordance with the applicability of the International Voyage Load Line Act of 1973. (The 1929 Act applied to vessels of 150 gross tons or over only.)

Drafting Information

The principal persons involved in drafting these amendments are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lt. Collin Lau, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation

These rules have been evaluated under Department of Transportation Order 2100.5 "Policies and Procedures for Simplification, Analysis, and Review of Regulations" dated May 22, 1980, and Executive Order 12291 and have been determined to be not significant or major.

These rules revoke the obsolete load line regulations of Part 43 (Foreign and Coastwise Voyages by Existing Merchant Vessels). That part is being revoked because Part 42 (Domestic and Foreign Voyages by Sea) now supersedes Part 43. The rules clarify the applicability of Part 42 to new and existing foreign vessels.

Part 43 was retained in 1968 only on a transitional basis lasting until 1973. Since all vessels now fall under the regulations of Part 42, adopted in 1968, there is no need to continue the older regulations. Since the deletion of Part 43 and associated changes will be merely editorial, it will have no effect on the economy in terms of domestic or international competition, cost or price increases, employment, investment, productivity or innovation.

For the reasons stated above, the expected impact of this rule is so minimal that no final evaluation has been prepared.

Regulatory Flexibility Analysis

These amendments have been evaluated under the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1168) and are certified to have no significant impact on a substantial number of small entities. No significant impact was found because the amendments are of an administrative or editorial nature.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is amended as follows:

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

1. By revising the Authority Note of Part 42 to read as follows:

Authority: Sec. 2, 87 Stat. 418, (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended, (Sec. 2, 76 Stat. 415, 46 U.S.C. 86a); 49 CFR 1.46(b).

2. By revising § 42.01–1 to read as follows:

§ 42.01–1 Authority for regulations.

The statutory authority to prescribe rules and regulations requiring certain vessels to have and display load line marks indicating the maximum amidship draft to which such vessels may be safely loaded and certification thereof by the assigning authority is in the International Voyage Load Line Act of 1973, as amended (46 U.S.C. 86–86i), and Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i).

§ 42.01–5 [Removed]

3. By removing § 42.01–5.

4. By revising § 42.01–10(b) to read as follows:

§ 42.01–10 Purpose of regulations.

* * * * *

(b) This subchapter sets forth the uniform minimum requirements for load line marks on various categories of vessels. It also sets forth requirements for surveys relating to the assignment of load lines, the issuing of load line certificates by authorized issuing authorities, and the carriage of load line certificates aboard vessels.

* * * * *

§ 42.03–1 [Removed]

5. By removing § 42.03–1.

5a. By revising paragraph (a)(1) and the first sentence of paragraph (b)(1)(ii) of § 42.03–5 to read as follows:

§ 42.03–5 U.S. flag vessels subject to the requirements of this subchapter.

(a) * * * (1) All U.S. flag vessels which engage in foreign voyages or international voyages by sea (other than

solely in Great Lakes voyages) are subject to this part; except the following:

(i) Ships of war;

(ii) New vessels of less than 79 feet in length;

(iii) Existing vessels of less than 150 gross tons;

(iv) Pleasure yachts not engaged in trade; and

(v) Fishing vessels.

* * * * *

(b) * * * (1) * * *

(ii) Vessels which are mechanically propelled and numbered by a State or the Coast Guard under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.) and not required by other laws to be inspected or certified by the U.S. Coast Guard (* * *).

* * * * *

6. By revising § 42.03–10 to read as follows:

§ 42.03–10 Foreign vessels subject to this subchapter.

(a) *General.* All existing foreign merchant vessels of 150 gross tons or over, and new foreign vessels of 79 feet in length or more, loading at or proceeding from any port or place within the jurisdiction of the United States or its possessions for a foreign voyage by sea, or arriving within the jurisdiction of the United States or its possessions from a foreign voyage by sea, in both cases the Great Lakes excepted, are subject to the International Load Line Act of 1973, as amended (46 U.S.C. 86–86i), and the regulations in this part applicable to such service. All foreign merchant vessels of 150 gross tons or over, loading at or proceeding from any port or place within the United States on the Great Lakes of North America, or arriving within the jurisdiction of the United States on the Great Lakes, are subject to the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 86–86i) and the regulations in Part 45 of this subchapter applicable to such service.

(b) *Canadian vessels.* All vessels of Canadian registry and holding valid certificates issued pursuant to Canadian laws and regulations are assumed to be in compliance with the applicable provisions of the International Load Line Act of 1973, as amended (46 U.S.C. 86–86i) and the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 86–86i), the International Convention on Load Lines, 1966, and the regulations in this subchapter.

(c) *Vessels of countries signatory to or adhering to the 1966 Convention.* The enforcement and control of load line requirements regarding vessels of countries signatory to or adhering to The International Convention on Load Lines, 1966, (the 1966 Convention) are as described in § 42.07–60 in this part, which is in accord with provisions of Article 21 of the 1966 Convention. Such vessels when holding currently valid certificates issued pursuant to the 1966 Convention, or recognized under such Convention, are assumed to be in compliance with the applicable provisions of such Convention. Such vessels are deemed to be in compliance with the load line requirements found to be equally effective as those established in this part and therefore in compliance with the applicable load line provisions of the International Load Line Act of 1973, as amended, the Coastwise Load Line Act of 1935, as amended, and the regulations in this part as authorized by such laws. Vessels engaged in navigation on the Great Lakes are subject to application of seasonal international marks as specified in Part 45 of this subchapter.

(d) *Vessels of countries not signatory to or adhering to the 1966 Convention.* (1) Vessels of countries not signatory to or adhering to the 1966 Convention, when within the jurisdiction of the United States, shall be subject to the International Load Line Act of 1973, as amended, the Coastwise Load Line Act of 1935, as amended, and the regulations in this subchapter as authorized by such laws.

(2) Vessels of countries signatory to or adhering only to International Loan Line Convention, London, 1930 (the 1930 Convention), and holding valid certificates issued under that Convention, are subject to the applicable law described in paragraph (a) of this section and the regulations prescribed thereunder in this subchapter.

§ 42.03–17 [Amended]

7. By removing paragraph (c) of § 42.03–17.

§ 42.05–30 [Amended]

8. By removing paragraphs (b) and (c) of § 42.05–30.

§ 42.05–50 [Amended]

9. By removing paragraphs (b) and (c) of § 42.05–50.

10. By revising paragraphs (e), (e)(2), and (f) of § 42.07–1 to read as follows:

§ 42.07–1 Load Lines required.

* * * * *

(e) Existing U.S.-flag vessels, as defined in § 42.05–30(a) of this chapter, engaged in international or coastwise voyages, may retain the load line assigned under previous regulations, provided:

(1) * * *

(2) The form of the load line certificate issued to and carried on board the vessel conforms to the requirements of Subpart 42.50 of this part or § 44.05–35 or § 46.10–30 of this chapter.

(f) This part applies to foreign vessels of countries—

(1) Signatory to or adhering to the 1966 Convention;

(2) Adhering to the 1930 Convention and not acceding to the 1966 Convention, or;

(3) Not adhering to either the 1930 Convention or the 1966 Convention but subject to the load line acts.

11. In § 42.07–45, by removing paragraphs (b)(1) and (b)(2) and revising paragraph (e)(2) to read as follows:

§ 42.07–45 Load Line certificates.

* * * * *

(b) * * *

(1) (Removed)

(2) (Removed)

* * * * *

(e) * * *

(2) Certificate issued to foreign vessels belonging to countries that have not ratified or acceded to the 1966 Convention as follows:

* * * * *

12. In § 42.07–50, by revising paragraphs (a), (b)(1), (b)(2), (b)(3), (c), and (d) to read as follows:

§ 42.07–50 Penalties for violations.

(a) The penalties for violation of various provisions of the load line acts or the regulations established thereunder are set forth in Title 46, United States Code, sections 86i and 88g. The Secretary of Transportation by 49 CFR 1.46(b) has transferred to the Commandant authority to assess, collect, remit or litigate any monetary penalty imposed under these laws.

(b) * * *

(1) Detain a vessel if deemed to be overloaded in violation of Title 46, United States Code, section 88g or 88c in accordance with section 86h or 86f, and have the vessel surveyed by three disinterested surveyors.

(2) Assess and collect applicable monetary penalties for certain violations as provided in Title 46, United States Code, sections 86i and 88g.

(3) Initiate a criminal prosecution for certain violations when required by Title 46, U.S. Code, section 86i or 88g.

* * * * *

(c) In determining offenses the provisions of Title 46, United States Code, sections 86i and 88g, both provide that "Each day a vessel is in violation of this act shall constitute a separate offense."

(d) The procedures governing the assessment, collection, remission and litigation of any monetary penalty proposed under Title 46, United States Code, section 86i or 88g for a violation of either load line law or the applicable regulations in this subchapter, as well as the appeal procedures to be allowed, are in 33 CFR Subpart 1.07.

13. By revising § 42.09–20(a)(i) to read as follows:

§ 42.09–20 Surveys of foreign vessels.

(a) * * *

(1) The vessel is exempted by the provision of section 8 of the International Load Line Act of 1973, as amended (46 U.S.C. 86f); or

* * * * *

14. By revising § 42.09–50(c) to read as follows:

§ 42.09–50 Repairs or alterations to vessel after it has been surveyed.

* * * * *

(c) An existing vessel, which had a load line assigned under previous regulations which undergoes repairs, alterations, or modifications of a major character, shall meet the requirements for a new vessel in this part insofar as the assigning and issuing authority and the Commandant deem reasonable and practicable.

15. By revising § 42.11–1(b) to read as follows:

§ 42.11–1 General.

* * * * *

(b) The Commandant is responsible for the administration of the load line acts, the 1966 Convention, other treaties regarding load lines, and the implementing regulations in this subchapter which include prescribed form and content of applicable load line certificates.

* * * * *

PART 43—FOREIGN AND COASTWISE VOYAGES BY EXISTING MERCHANT VESSELS [REMOVED]

16. By removing Part 43—Foreign and Coastwise Voyages by Existing Merchant Vessels.

17. By revising the heading and authority note of Part 44 to read as follows:

PART 44—VARIANCE FOR CERTAIN VESSELS

* * * * *

Authority: Sec. 2, 49 Stat. 888, as amended, (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a); 49 CFR 1.46(b).

18. By revising § 44.05–10(a) to read as follows:

§ 44.05–10 Load line markings.

(a) The load line marks on the vessel's sides must be in accordance with § 42.13–25(a) of this subchapter, except seasonal markings such as "Winter North Atlantic" which are not applicable to the voyage are omitted.

* * * * *

PART 45—GREAT LAKES LOAD LINES

19. By revising the authority note following § 45.159 to read as follows:

§ 45.159 Special conditions of assignment for type A vessels.

* * * * *

(Sec. 2, 87 Stat. 418, (46 U.S.C. 86), Sec. 2, 49 Stat. 888 as amended (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a), 49 CFR 1.46(b))

PART 46—SUBDIVISION LOAD LINE FOR PASSENGER VESSELS

20. By revising the authority note of Part 46 to read as follows:

Authority: Sec. 2, 87 Stat. 418, (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (Sec. 2, 76 Stat. 415, 46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 (46 U.S.C. 369); R.S. 4490, 19 Stat. 252 (46 U.S.C. 482); 49 CFR 1.46(b).

21. By revising § 46.01–5(a) to read as follows:

§ 46.01–5 Authority.

(a) The regulations regarding subdivision and subdivision load lines interpret or apply Title 46, U.S. Code, sections 86, 88a, 363, 367, 369, 482, 483, and 1333, and Title 50, U.S. Code, section 198.

* * * * * *

22. By revising § 46.01–15(d) to read as follows:

§ 46.01–15 Application of regulations.

* * * * *

(d) No foreign passenger vessel belonging to a country that has ratified or acceded to the applicable International Convention for Safety of Life at Sea shall arrive or depart from any port or place under the jurisdiction of the United States, and no foreign passenger vessel subject to the International Load Line Act of 1973 as amended (46 U.S.C. 86–86i) or the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i), shall arrive or depart from any port or place under the jurisdiction of the United States, including ports on the Great Lakes, unless that vessel has been marked with subdivision load lines in accordance with the regulations in this Part and has on board a valid certificate certifying to the correctness of the location of such subdivision load line marks.

* * * * *

23. By revising § 46.01–20(a) to read as follows:

§ 46.01–20 Penalties for violations.

(a) Penalties for violations of the regulations in this part by passenger vessels of the United States engaged in foreign voyages shall be in accordance with those laws which require the inspection and certification of the vessel. In addition, for passenger vessels subject to the International Load Line Act of 1973, as amended (46 U.S.C. 86–86i), or the Coastwise Load Line Act of 1935, as amended (46 U.S.C. 88–88i), which engage in voyages described in §§ 42.03–5, 42.03–10, or 45.01–1, the penalties for violations of the regulations in this part shall be those set forth in the load line act applicable to the vessel.

* * * * *

24. By revising § 46.10–30(d) to read as follows:

§ 46.10–30 Subdivision load line certificates.

* * * * *

(d) Annual inspections of passenger vessels shall be as required by § 42.09–40 and 46.10–15 of this subchapter and renewal of passenger vessels' load line certificates shall be as required by §§ 42.09–15 and 42.09–20.

* * * * *

PARTS 2, 70, 90, AND 188 [AMENDED]

25. In the following sections, by striking out the citation "46 U.S.C. 85a" and inserting in its place, the citation "46 U.S.C. 86":

a. Section 2.85–1(b).
b. Section 70.01–10(d).
c. Section 70.01–10(e).
d. Section 90.01–10(d).
e. Section 188.01–10(a).

PARTS 2, 72, 73, 74, 92, 93, 175, 177, AND 191 [AMENDED]

26. In the authority notes of the following Parts, Subparts and sections, by striking out the citations "Sec. 2, 45 Stat. 1493" and "46 U.S.C. 85a" and inserting in their respective places the citations "Sec. 2, 87 Stat. 418", and "46 U.S.C. 86":

a. Section 2.85–1.
b. Section 72.40–1.
c. Section 72.40–5.
d. Section 72.40–90.
e. PART 73—Watertight Subdivision.
f. PART 74—Stability.
g. Section 92.25–1.
h. Section 92.25–5.
i. Section 92.25–90.
j. Part 93—Stability (incorrectly printed as 45 Stat. 1943).

k. Subpart 175.07—Load Lines.
l. Section 177.35–1.
m. Part 191—Subdivision and Stability.

Dated: January 28, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-2962 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 22

[RM-3753]

Establish a New Filing Date for FCC Form 430

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has granted requests made on behalf of licensees and permittees in the Domestic Public Fixed and the Public Land Mobile Radio Services to change the deadline for filing FCC Form 430 (Annual Common Carrier and Satellite Radio Licensee Qualification Report) from January 31 to March 31. Form 430 provides information concerning licensees' legal, financial and character qualifications. The present reporting date works a hardship upon licensees because the forms must be submitted so soon after the end of the reporting period. It also creates additional work for the staff because requests for extension of time filed by individual carriers must be processed.

EFFECTIVE DATE: March 11, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Terrence E. Reideler, (202) 632–6430.

SUPPLEMENTARY INFORMATION:

In re amendment of §§ 21.11(a)(2) and 22.11(a)(2) of the rules to establish a new filing date for FCC Form 430; RM–3753, proceeding terminated.

Report and Order

Adopted: January 27, 1982.

Released: February 2, 1982.

1. Blooston and Mordkofsky, a law firm which represents licensees and permittees in the Domestic Public Fixed Radio Services and the Public Mobile Radio Services, has filed a Petition for Rule Amendment requesting that §§ 21.11(a)(2) and 22.11(a)(2) of the Rules be amended to change the filing deadline for the Commission's annual Common Carrier and Satellite Radio Licensee Qualification Report (FCC Form 430) from January 31 to March 31. No comments were submitted.

2. Petitioner states that the present January 31 filing date for FCC Form 430 works a hardship upon licensees in the affected services. Because the reports must cover the licensee's operations for the entire preceding year, it is impracticable to begin their preparation prior to January 1 due to the frequency of year-end assignments, transfers and mergers and of year-end change-overs in officers and directors. Moreover, following as it does immediately upon the disruptions of the holiday season, the month of January is an extremely busy time for common carrier and satellite radio licensees since their administrative and clerical staffs must devote substantial amounts of time to the preparation of tax, financial and other year-end reports. As a result, numerous common carrier and satellite radio licensees each year request extensions of time.

Discussion

3. We believe grant of the petition will serve the public interest. The Commission's primary interest lies in obtaining and assuring the currency of the information requested in FCC Form 430. We do not believe that there will be any loss to the public or inconvenience to the Commission if these reports are submitted by March 31 rather than by January 31. While we did not intend the present January 31 filing to work a hardship upon any of our common carrier radio licensees, experience has shown that a significant numbers of licensees do, in fact, seek extensions of time each year.[1] This imposes additional costs on the licensees and added processing burdens on our staff.[2]

4. Amending the Rules to extend the deadline for filing FCC Form 430 from January 31 to March 31 will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354). Indeed, no new recordkeeping, reporting or other requirements are imposed upon licensees. Instead they are afforded greater flexibility to adapt their needs to the Commission's requirements. But the new deadline does not prevent a common carrier radio licensee from filing its annual report on or before January 31; therefore, a licensee is under no obligation to alter its annual reporting procedure. Accordingly, it is certified that sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. See 5 U.S.C. 605(b).

5. Commission authority for adoption of Rule amendments contained herein is set forth in section 4 (i) and (j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r). Furthermore, because these Rule amendments merely extend an existing reporting deadline, the adoption of new §§ 21.11(a)(2) and 22.11(a)(2) relates solely to Commission procedure. Therefore, pursuant to the provisions of section 553(b)(A) of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), the Commission, without issuing a notice of proposed rulemaking, hereby amends §§ 21.11(a)(2) and 22.11(a)(2) of its rules, 47 CFR 21.11(a)(2) and 22.11(a)(2), to change the filing deadline for FCC Form 430 from January 31 to March 31 of each year.

6. Accordingly, it is ordered, that the Petition for rulemaking filed by the Law Offices of Blooston and Mordkofsky is granted.

7. It is further ordered, that, effective March 11, 1982, §§ 21.11(a)(2) and 22.11(a)(2), 47 CFR 21.11(a)(2) and 22.11(a)(2), are amended, as set forth in the attached Appendix.

8. It is further ordered, that the Secretary shall cause these amendments to be published in the **Federal Register.**

(Secs. 4, 303, 307, 48 Stat, as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 21 and 22 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 21—DOMESTIC PUBLIC RADIO SERVICES

1. In § 21.11 paragraph (a)(2) is revised to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) * * *

(2) Annually no later than March 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public

[1] On January 13 and 20 of this year, the Mobile Services Division and the Domestic Facilities Division of the Common Carrier Bureau issued respective public notices extending the time for filing Form 430's for 1981 until March 1, 1982.

[2] Consideration of this petition has caused us to question whether there is a need for the annual filing of Form 430, in view of the obligation of licensees to keep the information on file current. We are initiating a separate proceeding proposing to dispense with the annual filing requirement.

service was offered at any time during that calendar year.

* * * * *

PART 22—PUBLIC MOBILE RADIO SERVICES

2. In § 22.11 subparagraph (a)(2) is revised to read as follows:

§ 22.11 Miscellaneous forms shared by all domestic public radio services.

(a) * * *

(2) Annually no later than March 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public service was offered at any time during that calendar year.

* * * * *

[FR Doc. 82-3227 Filed 2-5-82; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 26
Monday, February 8, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 81-AGL-48]

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate controlled airspace near St. Jacob, Illinois, to accommodate a new instrument approach into Shafer Metro East Airport, St. Jacob, Illinois, established on the basis of a request from the Shafer Metro East Airport officials to provide that facility with instrument approach capability.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before February 27, 1982.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 81-AGL-48, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 81-AGL-48, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before February 27, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot contolled airspace transition area near St. Jacob, Illinois. Subpart G of Part 71 was published in the **Federal Register** on January 2, 1981 (46 FR 540).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (46 FR 540) the following transition area is added:

St. Jacob, Illinois

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Shafer Metro East Airport (latitude 38°43'55" N., longitude 89°48'17" W.), and within 1.75 miles each side of the VORTAC facility 090° radial, extending from the 5-mile radius to 6.5 miles east of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 30 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 20, 1982.

Paul K. Bohr,

Acting Director, Great Lakes Region.

[FR Doc. 82-2804 Filed 2-5-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ANW-9]

Proposed Alteration VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter several airways in the Yakima, WA, area. We have agreed to support an International Civil Aviation Organization (ICAO) mandate to delete alternate airways from the National Airspace System (NAS) and this action supports that mandate.

DATE: Comments must be received on or before March 10, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest/Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 81–ANW–9, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81–ANW–9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of several airways in the vicinity of Yakima, WA. These changes are in conjunction with our agreement with ICAO to eliminate alternate airways from the NAS. This proposal supports that commitment. Section 71.123 of Part 71 was republished on January 2, 1981, (46 FR 409).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) as follows:

1. *V–187 [Amended]*

By removing the words "Pasco, WA." and substituting the words "Pasco, WA; INT Pasco 321°T(300°M) and Ellensburg, WA, 107°T(086°M) radials; Ellensburg; INT Ellensburg 274°T(253°M) and McChord, WA, 096°T(075°M) radials; McChord; INT McChord 275°T(254°M) and Olympia, WA, 031°T(010°M); Olympia; to Astoria, OR."

2. *V–4 [Amended]*

By removing the words "Seattle; Yakima, WA; including a south alternate from Seattle to Yakima via INT Seattle 163° and McChord, WA, 096° radials and INT McChord 096° and Yakima 305° radials, excluding the airspace between the main and this alternate airway; Pendleton, OR; including a north alternate from Seattle via Ellensburg, WA; INT Ellensburg 107° and Pasco, WA, 321° radials; Pasco, to Pendleton; Baker, OR;" and substituting for them the words "Seattle, WA; Yakima, WA; Pendleton, OR; Baker, OR;"

3. *V–204 [Revised]*

"V–204 From Hoquiam, WA; Olympia, WA; INT Olympia 114°T(093°M) and Yakima, WA; 271°T(250°M) radials; Yakima; Pasco, WA; INT Pasco 035°T(014°M) and Spokane 221°T(200°M) radials; to Spokane."

4. *V–298 [Amended]*

By removing the words "to Yakima, INT Yakima 129° and Pasco, WA, 274° radials; Pasco;" and substituting for them the words "to Yakima; Pasco, WA;"

5. *V–112 [Amended]*

By deleting the words "From Astoria, OR," and substituting for them "From Hoquiam, WA; INT Hoquiam 182°T(161°M) and Astoria, OR, 309°T(288°M) radials; Astoria;" and by removing the words "Pendleton; 53 miles, 28 miles, 45 MSL, Spokane, WA, including a W alternate from Pendleton via Pasco, WA, 35 miles; 35 MSL INT Pasco 035° and Spokane 221° radials; 6 miles 35 MSL, to spokane," and substituting for them the words "Pendleton; 53 miles, 28 miles, 45 MSL, Spokane, WA;"

6. *V–27 [Amended]*

By removing the words "Astoria, OR; Hoquiam, WA, including a west alternate via INT Astoria 309° and Hoquiam 182° radials; Seattle, WA, including an east alternate from Astoria to Seattle via Olympia, WA, and INT Olympia 010° and Seattle 249° radials." and substituting for them the words "Astoria, OR; Hoquiam, WA; Seattle, WA."

7. *V–444 [New]*

"V–444 From Walla Walla, WA; 22 miles, 48 miles, 45 MSL, to Spokane, WA."

8. *V–468 [New]*

"V–468 From Portland, OR, INT Portland 075°T(054°M) and Yakima, WA, 222°T(201°M) radials, Yakima; INT Yakima 305°T(284°M) and Ellensburg, WA, 191°T(170°M) radials; Ellensburg."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 29, 1982.

John W. Baier,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–3168 Filed 2–5–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 21727; Notice No. 82–2]

Flightcrew Requirements for Aircraft Certificated Under SFAR 41

Correction

In FR Doc. 82–2245 appearing at pages 4092–4094, in the issue of Thursday,

January 28, 1982, make the following changes:

1. On page 4093, 1st column, the first two lines should read: "Regulations relating to general operating and flight rules to allow certain operations of . . ."

2. On page 4093, in the 3rd column, the first word in the 2nd full paragraph which now reads "GMA", should read "GAMA".

3. On page 4093, in the 3rd column, 3rd full paragraph, 4th line, the last word which now reads "safety", should read "safely".

4. On page 4093, in the 3rd column, last paragraph, the second word in the 3rd line from the bottom which now reads "requries" should read "requires".

5. On page 4094, 1st column, 5th line, the last word which now reads "safety", should read "safely".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[LR-189-81]

Collection of Past-Due Support From Federal Tax Refunds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations on procedure and administration relating to the collection of past-due support from Federal tax refunds. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 9, 1982. The amendments are proposed to be effective as final regulations [30 days after their publication as final regulations in the **Federal Register**.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-189-81).

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Explanation

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** and a new Part 304 to Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to be based on the text of those temporary regulations, would be added to Part 301 of Title 26 of the Code of Federal Regulations as final regulations under section 6402 of the Internal Revenue Code of 1954. The temporary regulations implement section 6402 (c) of the Internal Revenue Code of 1954 which provides for the collection of past-due support by offset against Federal tax refunds. For the text of the temporary regulations, see FR Doc. 82-3299 published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains their provisions.

These regulations are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7805; 68A Stat. 917) and section 2331(a) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 357) amending section 464 (a) of the Social Security Act (88 Stat. 2351).

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this Notice of Proposed Rulemaking as it will not have a significant economic impact on a substantial number of small entities. The regulations impose recordkeeping duties only upon State agencies responsible for child and spousal support enforcement.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferrably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Joseph T. Davis,

Acting Commissioner of Internal Revenue.

[FR Doc. 82-3300 Filed 2-3-82; 5:00 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

Reclamation and Enforcement

30 CFR Parts 700, 701, 764, 770, 771, 779, 780, 783, 784, 785, 786, 788, 816, 817, 825 and 828

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Reopening of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; Reopening of comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is reopening the comment period on the two-acre exemption rule, published at 47 FR 41, January 4, 1982, which closed on February 3, 1982. OSM is reopening the comment period in response to requests from members of the public.

DATE: The comment period will extend until 5:00 PM on February 16, 1982.

ADDRESSES: Comments may be mailed to: Administrative Record (R&I-03) Office of Surface Mining, Room 5315-L, South Interior Building, 1951 Constitution Avenue, NW., Washington, DC 20240.

Comments may be hand-carried to: Office of Surface Mining, Room 239, 1951 Constitution Avenue, NW., Washington, DC

Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dean Hunt, (202) 343-4264.

Dated: February 3, 1982.

J. S. Griles,

Deputy Director, Office of Surface Mining.

[FR Doc. 82-3287 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 81-099]

Drawbridge Operation Regulations; Corte Madera Creek, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Marian Council, Inc., Boy Scouts of America, a yacht harbor, four mariners and 30 homeowners along Corte Madera Creek, the Coast Guard is considering changing the regulation governing the Northwestern Pacific Railroad bridge over Corte Madera Creek near Greenbrae, California, to require the bridge to remain open except for the passage of trains or rail maintenance equipment. The bridge is presently operated 14 hours a day, from May 1 through October 31 on Saturdays, Sundays, and holidays that are observed on Monday and Friday during this period, with 24 hours notice at all other times. This action is intended to meet the needs of increased waterway traffic.

DATE: Comments must be received on or before March 10, 1982.

ADDRESS: Comments should be submitted to and are available for examination from 7 a.m. to 4 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, Room 936, San Francisco, California 94126.

FOR FURTHER INFORMATION CONTACT: Rose E. Guerra, Bridge Administrator, at (415) 556-8668 or at the above address.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed postcard or envelope. The Commander, Twelfth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Rose E. Guerra, Bridge Administrator, and Lieutenant Commander W. A. Cassels, Project Attorney, District Legal Office, Twelfth Coast Guard District.

Discussion of the Proposed Rule

The Corte Madera Creek railroad bridge is a low-level, hand operated, single-leaf bascule bridge built in 1924. It provides 9.7 feet vertical clearance when closed, and must open for the safe passage of many of the vessels moored upstream. The adjacent highway bridge is a fixed bridge providing 20.4 feet vertical clearance above MHW. Waterway traffic is recreational in nature. Until about one year ago, a commercial fishing vessel was moored upstream of the bridge and with increased access, it is possible that fishing vessel moorings will be reestablished. Riparian property upstream of the bridge is mostly residential, and many residents have docks and boats. Since the last change to the bridge regulation which increased service, a number of larger cabin cruiser type craft have been moored upstream of the bridge, and the owners of those vessels have made requests to the Coast Guard for better bridge service. The Northwestern Pacific Railroad Company proposed to abandon the line on which the bridge is located, in 1976; however, to date, the Interstate Commerce Commission has not authorized that abandonment. There is only one rail customer on the Corte Madera line, and there have been few if any rail movements during the past year. Due to the decline of traffic, the railroad company has been leaving the bridge open except for the passage of trains. The proposed regulation would make the current mode of operation mandatory.

Regulatory Evaluation

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, the impact of the proposed regulation is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.712(e) to read as follows:

§ 117.712 Tributaries of San Francisco Bay and San Pablo Bay, Calif.

* * * * *

(e) Corte Madera Creek, Northwestern Pacific railroad bridge near Greenbrae. The draw shall remain open except for the passage of trains or rail maintenance equipment.

* * * * *

(Sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); Sec. 6(g)(2), Pub. L. 89-670, 80 Stat. 931, at 937, as amended (49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: January 26, 1982.

J. P. Stewart,

Vice Admiral, U.S. Coast Guard Commander, Twelfth Coast Guard District.

[FR Doc. 82-3239 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2004-3]

Massachusetts Group II Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this document is to announce EPA's proposed action on the July 21, 1981, submittal by Massachusetts of Regulations for surface coating of miscellaneous metal parts and products, graphic arts—rotogravure and flexography, dry cleaning systems perchloroethylene, and for petroleum liquid storage in external floating roof tanks. EPA is proposing to approve the regulations for surface coating of miscellaneous metal parts and products, graphic arts—rotogravure and flexography, and for dry cleaning systems perchloroethylene but to take no action on test methods and specialty printing for graphic arts—rotogravure and flexography, and test methods for dry cleaning systems perchloroethylene. EPA is also proposing to take no action at this time on the regulations for petroleum liquid storage in external

floating roof tanks. EPA's proposed approval of these regulations meet requirements of Part D of the Clean Air Act.

DATE: Comments must be received on or before March 10, 1982.

ADDRESSES: Comments should be sent to Harley F. Laing, Chief, Air Branch, Room 1903, John F. Kennedy Federal Building, Boston, Massachuetts 02203.

Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M. St., SW., Washington, D.C. 20460; and the Department of Environmental Quality Engineering, (DEQE), One Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5630.

SUPPLEMENTARY INFORMATION: In the September 16, 1980 final rulemaking notice (45 FR 61293), EPA approved the ozone portion of the Massachusetts Part D non-attainment plan and stated that submittal of additional Reasonably Available Control Technology (RACT) regulations for Control Technique Guideline (CTG) Group II categories for volatile organic compounds (VOC), published between January 1978 and January 1979, were required by January 1, 1981. The CTGs provide information to the states on available control techniques. The recommended emission limitations contained in the CTGs are a "presumptive norm"—that is, they are emission limitations which EPA believes may be attained by applying RACT. EPA acknowledges that what is RACT for a general source category may not be reasonably available for a particular source or even several sources within a source category. It is EPA policy to accept, as part of a state's VOC control strategy, emission limitations for particular sources or source categories which are different from the EPA-recommended numbers if such new emission limitations are based upon documented evaluations of what RACT is for each source or group of sources within the source category.

Public hearings were held on Regulations 310 CMR 7.18(11) surface coating of miscellaneous metal parts and products; (12) graphic arts—rotogravure and flexography; and (13) dry cleaning systems—perchloroethylene, on December 1, 2, and 4, 1980. On July 21, 1981 the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted these three regulations as SIP revisions and certified that there are no sources in Massachusetts for the four categories of synthesized pharmaceutical products, manufacture of pneumatic rubber tires, surface coating of flatwood paneling, and petroleum refinery equipment. DEQE also submitted an existing state Regulation, 310 CMR 7.02(12) for petroleum liquid storage in external floating roof tanks. For reasons discussed later in the Notice, Massachusetts did not submit a regulation for leaks from gasoline tank trucks and vapor recovery systems. EPA's evaluation and proposed action for each of the regulations submitted is discussed below.

A. Surface Coating of Miscellaneous Metal Parts and Products 310 CMR 7.18(11)

The surface coating of miscellaneous metal parts and products Regulation 310 CMR 7.18(11) is consistent with EPA guidance as referenced in the CTG: *Surface Coating of Miscellaneous Metal Parts and Products*, except that sources committed to achieving the emission limitations through the development of low/no solvent volatile organic compound (VOC) coatings may apply to the Department for an extended compliance date up to, but no later than December 31, 1985. EPA guidance allows a time extension for reformulation (see Rhoads memo of April 25, 1980 "Compliance Schedules for Low Solvent Technology Programs for the Graphic Arts CTG Category" available at locations cited in the Addresses section of this Notice). Therefore, EPA is proposing to approve this regulation.

Proposed Action: EPA is proposing to approve Regulation 310 CMR 7.18(11).

B. Graphic Arts—Rotogravure and Flexography 310 CMR 7.18(12)

The graphic arts—rotogravure and flexography Regulation 310 CMR 7.18(12) is consistent with EPA guidance as referenced in the CTG: *Graphic Arts Rotogravure and Flexography*, except that it does not cover specialty printing and it does not contain methods for testing compliance. In an EPA policy memo of December 2, 1980, "RACT for Specialty Printing Operations" (available at locations cited in the Addresses section of this Notice) the states were asked to cover specialty printing, defined as, "* * * all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging printing" under either the paper and fabric regulation or the graphic arts regulation. Massachusetts Regulation 310 CMR 7.18(12) went to hearing before the above mentioned EPA policy memo was issued. EPA has discussed this issue with the state and the DEQE has agreed to cover specialty printing under the Graphic Arts Regulation. Therefore, EPA proposes to approve this regulation as it meets the requirements for control of graphic arts—rotogravure and flexography (except for testing methods), but to take no action on the control of specialty printing.

The Clean Air Act requires each State Implementation Plan (SIP) to contain EPA approved methods for testing compliance with SIP requirements. Additionally, when a state regulation lacks EPA test methods, EPA Regulation 40 CFR 51.12(c) states that EPA will use test methods as prescribed in 40 CFR Part 60 for compliance determination.

Massachusetts graphic arts—rotogravure and flexography regulation does not include EPA test methods for determining compliance, but DEQE has agreed to revise its SIP to require that EPA approved test methods be used. In the interim, EPA will use reference methods 24 and 25 as prescribed in Appendix A of 40 CFR Part 60, and as currently amended, for enforcement purposes. Therefore, EPA proposes to take no action on the test methods for graphic arts—rotogravure and flexography.

Proposed Action: EPA is proposing to: (1) Approve Regulation 310 CMR 7.18(12) for graphic arts—rotogravure and flexography, (2) take no action on test methods for graphic arts—rotogravure and flexography and, (3) take no action on the control of specialty printing.

C. Dry Cleaning Systems—Perchloroethylene 310 CMR 7.18(13)

The dry cleaning systems—perchloroethylene Regulation 310 CMR 7.18(13) is consistent with EPA guidance as referenced in the CTG: *Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems* except that it does not contain test methods. The DEQE has agreed to revise its SIP to require that EPA test methods be used. For reasons discussed above, EPA proposes to approve this regulation, but to take no action on the test methods for dry cleaning systems—perchloroethylene. In the interim, EPA will use the test method described in section 6–1 to 6–4 of the above mentioned CTG and any other applicable EPA reference methods for enforcement purposes.

Although not a requirement for approval, EPA suggests that Massachusetts consider revising its emission limit from 100 ppmv of perchloroethylene to either a mileage rate of 5 pounds of VOC per 100 pounds of clothing cleaned or a percent reduction of at least 90 percent VOC reclaimed, averaged over the dryer exhaust cycle. This change would be consistent with EPA guidance, and it would expand the types of control options available to the industry to achieve compliance. If Regulation 310 CMR 7.18(13) is revised to include such changes, EPA proposes to approve the revision without further opportunity for public comment.

Proposed Action: EPA is proposing to: (1) Approve Regulation 310 CMR 7.18(13) and, (2) take no action on the test methods for dry cleaning systems-perchloroethylene.

D. Petroleum Liquid Storage in External Floating Roof Tanks 310 CMR 7.02(12)

The DEQE submitted its existing Regulation 310 CMR 7.02(12), Organic Material, Bulk Plants and Terminals Handling Organic Material for a petroleum liquid storage in external floating roof tanks regulation. This regulation is not consistent with EPA guidance as referenced in the CTG: *Control of Volatile Organic Emissions from Petroleum Liquid Storage External Floating Roof Tanks* because it does not require secondary seals, inspection of those seals, or a compliance date. Therefore, EPA will take no action pending Massachusetts' submittal of an approvable regulation for this source category, or federally enforceable permits for applicable sources.

Proposed Action: EPA is proposing to take no action at this time.

E. Leaks from Gasoline Tank Trucks and Vapor Collection Systems

Massachusetts did not submit a regulation for leaks from gasoline tank trucks and vapor collection systems. The Northeast States for Coordinated Air Use Management (NESCAUM), which includes the six states in Region I plus New York and New Jersey, have identified several problems associated with developing regulations in a highly urbanized area such as the Northeast where the states are small and where there is a significant amount of interstate transport of gasoline.

The problems include the need for regulatory consistency, the lack of resources, procedures for enforcing the program, the lack of readily available inventory of tank trucks, and self-certification for independents. NESCAUM believes that the solutions to these problems should be consistent throughout the region and therefore the states are working collectively with EPA to develop a suitable control strategy which will be consisent regionwide.

Proposed Action: EPA is proposing to take no action on leaks from gasoline tank trucks and vapor collection systems at this time, and has made a commitment to continue to work with the NESCAUM states to develop satisfactory regulations.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities, 46 FR 8709 (January 27, 1981). The attached rule, if promulgated, constitutes SIP approval under sections 110 and 172 within the terms of the Janaury 27 certification. This action will impose no new requirements, and will only approve state-determined control levels.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore, subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because, if promulgated, it will only approve Massachusetts state actions enabling sources to meet state-determined control levels and will add no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to section 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601 (a) and 7601 (a)).

Dated: November 6, 1981.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 82-3331 Filed 2-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 122, 123, 124, and 146

[WH-4-FRL-2044-3]

Florida Department of Environmental Regulations; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the Florida Department of Environmental Regulation requesting its approval for the Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Florida Department of Environmental Regulation to regulate Classes I, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 8, 1982; Public Hearing will be held on March 18, 1982 9:00 a.m.–1:00 p.m. and 7:00 p.m.–9:00 p.m. Comments must be received by March 31, 1982. Should EPA not receive sufficient public comments or requests to present oral testimony by March 8, 1982, the Agency reserves the right to cancel the public hearing.

ADDRESSES: Comments and requests to testify may be mailed to Curtis Fehn, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia, 30365. Copies of the application and pertinent material are available between 9:00 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region IV, Library, 1st Floor, 345 Courtland Street, Atlanta, Georgia, 30365, (404) 881–3866)

Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301, (904) 488–3601.

The Hearing will be held at the Florida Department of Environmental Regulation Board Room, 7601 Highway 301, North, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Curtis Fehn, Ground Water Section, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia, 30365; (404) 881–3781.

SUPPLEMENTARY INFORMATION: This application from the Florida Department of Environmental Regulation is for the

regulation of all Class I, III, IV, and V injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the Florida Department of Environmental Regulation and the Region IV office of the Environmental Protection Agency.

Dated: February 2, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-3230 Filed 2-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[WH-6-FRL-2044-4]

Texas Railroad Commission; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Texas Railroad Commission requesting approval of its Underground Injection Control program: (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application from the Texas Railraod Commission to regulate oil and natural gas related injection wells; wells used for in situ combustion of fossil fuels or for the recovery of geothermal energy; and geothermal wells used for heating or aquaculture.

DATES: Requests to present oral testimony should be filed by March 4, 1982; the public hearing will be held on March 11, 1982, beginning at 10:00 a.m. The public comment period closes March 18, 1982. Comments must be received by that date.

ADDRESSES: Comments and requests to testify should be mailed to Ronald Van Wyk, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. Copies of the application and pertinent material are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767-7341

Texas Railroad Commission, Underground Injection Control Section, 1124 South Interstate Highway 35, Austin, Texas 78711 (512) 445-1373

The hearing will be held in the 29th Floor Conference Room, 1201 Elm Street, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Ronald Van Wyk, Ground Water Protection Section, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774.

SUPPLEMENTARY INFORMATION: This application from the Texas Railroad Commission is for the regulation of all oil and natural gas related injection wells, wells used for in situ combustion of fossil fuels or for recovery of geothermal energy, and geothermal wells used for heating or aquaculture in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority and a memorandum of agreement between the Texas Railroad Commission and the Region 6, Office of the Environmental Protection Agency.

Dated: February 2, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-3236 Filed 2-5-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 251

Delay in Rulemaking for the National Defense Feature Communications Equipment Program

AGENCY: Maritime Administration, Maritime Subsidy Board, DOT.

ACTION: Delay in rulemaking action.

SUMMARY: The Maritime Administration published, with opportunity for public comment, an advance notice of proposed rulemaking in 46 FR 45164 (September 10, 1981). Rulemaking is with respect to implementing authority in Pub. L. 96-387 to pay vessel operators, when funds become available, for the purchase and installation of communications equipment on existing U.S.-flag vessels found to be suitable for use by the United States Government in time of war or national emergencies. The purpose of this notice is to inform all interested parties that rulemaking action has been suspended until further notice due to the non-availability of funding.

FOR FURTHER INFORMATION CONTACT: Mr. James C. McCoy, Jr., Manager Electronic Systems, Office of Ship Construction (Code MAR-721), Maritime Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-5727.

Robert Patton,

Secretary, Maritime Administration, Maritime Subsidy Board.

[FR Doc. 82-3172 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-61-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 22

[CC Docket No. 82-37; FCC 82-46]

Abolish the Annual Filing of FCC Form 430

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: It appears that the annual filing of FCC Form 430 (Annual Common Carrier and Satellite Radio Licensee Qualification Report) may be unnecessary. Licensees in the Domestic Public Fixed and Public Land Mobile Radio Services are required to file updated information when the information on file is no longer accurate. Accordingly, the Federal Communications Commission is initiating a proceeding which proposes to eliminate the annual filing requirement and seeks comment on whether burdens imposed by the Form can be lessened.

DATES: Comments are due by March 10, 1982 and replies by March 25, 1982.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Terrence E. Reideler, (202) 632-6430.

SUPPLEMENTARY INFORMATION:

In re amendment of §§ 21.11(a) and 22.11(a) of the Rules to abolish the annual filing of FCC Form 430; CC Docket No. 82-37.

Notice of Proposed Rulemaking

Adopted: January 27, 1982.
Released: February 2, 1982.

1. Notice is hereby given of proposed rulemaking in the above entitled matter.

2. Sections 21.11(a) and 22.11(a) of the Rules require, in part, that licensees and permittees in the Domestic Public Fixed Radio Services and the Public Mobile Radio Services annually file a Common Carrier and Satellite Radio Licensee Qualification Report (FCC Form 430). Form 430 is a three page qualification report which seeks citizenship and other ownership information regarding various Commission licensees.[1]

3. Today we granted a Petition for Rulemaking filed by the Law Offices of Blooston and Mordkofsky and adopted Report and Order (RM–3753), amending §§ 21.11(a)(2) and 22.11(a)(2) of the Rules to extend the filing deadline for FCC Form 430 from January 31 to March 31. We amended these portions of the Rules in order to afford greater flexibility to licensees and permittees in the Domestic Public Fixed Radio Service and the Public Mobile Radio Service to adapt their needs to our requirements as well as to eliminate added attendant processing burdens placed on our staff by individual requests for extensions of time. In processing RM–3753, it became apparent that requiring affected parties to make an annual filing is an unnecessary burden. Sections 21.11(a) and 22.11(a) require licensees and permittees in the radio common carrier services to keep the information provided in Form 430 current. There appears to be no significant public interest reason for requiring the annual filing of information which has not changed. When information changes licensees and permittees in the affected services are obliged to submit amended information. We are therefore proposing that §§ 21.11(a) and 22.11(a) of the Rules be amended to abolish the requirement that licensees and permittees in the affected services file a FCC Form 430 annually.

4. We also invite interested persons to submit comments as to whether the form can be simplified. The present form may be completed primarily by checking yes—no responses, and thus does not seem to impose a substantial workload on licensees. However, we question whether some of the questions are unnecessarily intrusive. Parties are asked to identify such questions and offer other suggestions as to how the burdens imposed by the form might be lessened.[2]

5. Although the proposed rulemaking will affect all licensees and permittees in the Domestic Public Fixed Radio Services and the Public Mobile Radio Services, we believe the impact will not be substantial within the meaning of the Regulatory Flexibility Act of 1980 (Pub. L. 696–354). The proposed rule changes, if adopted, will impose no new recordkeeping, reporting or other requirements upon the affected parties. Instead, abolishing the requirements that a separate Form 430 be filed every year, regardless of the absence of change in the carrier's regulatory profile, will reduce further the reporting burden borne by holders of licenses and permits in the common carrier radio services.

6. Authority for the rule amendments specified in the attached appendix is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.415 of the Rules, interested persons may file comments on those proposed rule changes contained in the attached appendix on or before March 10, 1982 and reply comments on or before March 25, 1982. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken with respect to the proposals contained in the appendix. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

8. In accordance with the provisions of § 1.419 of the Rules, an original and five copies of all comments, replies, pleadings, briefs of other documents shall be furnished to the Commission. Responses will be made available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. For purposes of this non-restricted notice and comment rule-making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission Secretary for inclusion in the public files. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comment for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Rules.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission

William J. Tricarico,

Secretary.

Appendix

It is proposed to amend Parts 21 and 22 of Chapter I of Title 47 of the Code of Federal Regulations as follows:

PART 21—DOMESTIC PUBLIC RADIO SERVICES

1. In § 21.11 paragraph (a) introductory text shall be revised as follows and paragraph (a)(2) shall be removed.

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) Licensee qualifications. FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed for each radio service and shall be kept current under § 1.65.

* * * * *

[1] Section 310 of the Communications Act, 47 U.S.C. 310, generally prohibits aliens from becoming licensees of radio stations. Section 308 of the Act permits the Commission to obtain other information it may require. Applicants requesting authorizations to construct and operate domestic statellite earth stations or Section 214 certification of telecommunications facilities other than radio also utilize Form 430 to provide common carrier qualification information.

[2] For example, where a licensee is controlled by another corporation, the addresses of the ten largest stockholders of the controlling corporation must be identified (question 5(e)).

PART 22—PUBLIC MOBILE RADIO SERVICES

2. In § 22.11 paragraph (a) introductory text shall be revised as follows and paragraph (a)(2) shall be removed.

§ 22.11 Miscellaneous forms shared by all domestic public radio services.

(a) Licensee qualifications. FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed for each radio service and shall be kept current under § 1.65.

* * * * *

[FR Doc. 82-3228 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-43; RM-3989]

TV Broadcast Stations in Hays, Garden City and Randall, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commision.

ACTION: Proposed rule.

SUMMARY: This action proposes to reassign Channel *9 from Garden City, Kansas, and from Randall, Kansas, to Hays, Kansas, and to substitute Channel *18 at Garden City in response to a petition filed by Smoky Hills Public Television Corp. which has a permit to operate on Channel *14 at Hays. We also propose to delete Channel *14 from Hays.

DATES: Comments must be filed on or before March 22, 1982, and reply comments must be filed on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 27, 1982.

Released: February 3, 1982.

In the matter of an amendment of \$73.606(b), Table of Assignments, Television Broadcast Stations. (Hays, Garden City and Randall, Kansas), BC Docket No. 82-43, RM-3989; notice of proposed rulemaking.

1. The Commission has before it the petition for rulemaking filed by Smoky Hills Public Television Corp. (SHPTV) requesting an exchange of reserved TV Channels between Garden City, Randall and Hays, Kansas.[1] No comments have been received.

2. Hays (population 16,301), seat of Ellis County (population 26,098) [2] is located 400 kilometers (250 miles) west of Kansas City, Kansas. It is served by commercial Station KAYS-TV (Channel 7) and by noncommercial educational Station KSMH-TV (permit held by SHPTV) (Channel *14).

3. Garden City (population 18,250), seat of Finney County (population 23,825) is located 310 kilometers (193 miles) west-northwest of Wichita, Kansas. It is served by two commercial TV stations (KGLD, Channel 11 and KUPK-TV, Channel 13) and a permit has been issued for a noncommercial educational station on Channel *9 to Garden City Community Junior College for Station KSWK-TV.

4. Randall (population 154), in Jewell County (population 5,241), is located 225 kilometers (140 miles) north of Wichita. It has no TV service with its only channel assignment (Channel *9) unoccupied.

5. SHPTV is the permittee for Station KSMH-TV on Channel *14. It seeks to move to Channel *9 at Hays by deleting that channel from Garden City and from Randall. At Garden City, Channel *9 has a permittee (Garden City Community College (GCCC)) which, in a letter attached to the petition, states that it would not object to transferring its channel to Hays so as to expedite the initiation of noncommercial educational service in northwestern Kansas. Channel *18 has been suggested as a replacement at Garden City. GCCC indicates that although it has been authorized to construct its station, it has the same problem as SHPTV, that being the recent development of the withdrawal of state funding for public television stations in Kansas. Thus, GCCC does not anticipate a commencement of service in the near future. The Randall channel has remained unoccupied since it was assigned in 1979 (BC Dkt. 78-321). At that time the channel was assigned as consistent with the Kansas Public TV Board's network plan for the state. SHPTV has suggested that Channel *28 could be substituted at Randall but several other UHF channels are also available there.

6. SHPTV relates that it applied for Channel *14 to provide service to the northwestern region of Kansas and was to be a participant in the proposed state public television network. Funding for the station was to come from local, state and federal sources, according to SHPTV. However, we are told that the state legislature withdrew its appropriation for this purpose causing SHPTV to consider other ways of affording the operation expenses. SHPTV argues that the costs of constructing and operating a VHF station are considerably less than that for a UHF station as indicated by the following:

	Capital costs	Annual energy costs	Area served [1]	Population served
Channel *14	$1,150,000	$47,553	8,075 sq. miles	105,031
Channel *9	730,050	14,778	14,526 sq. miles	122,106

[1] This estimation is based on the use of 25 dBk at 2000 ft. HAAT for Channel *9 and 33 dBk at 2000 ft. HAAT for Channel *14.

SHPTV asserts that the state withdrawal of funds (approximately \$500,000) can be met by the construction of a VHF station instead of a UHF station along with funding from local sources. The funding problems of public broadcasters are said to be recognized by the Commission in its *Second Report and Order* in Docket 21136.

7. We believe that SHPTV has made a sufficient showing to warrant the issuance of a *Notice of Proposed Rule Making* to solicit comments from the public, although we generally hold that a licensee's interest in obtaining a lower TV channel is not of public benefit.[3] However, where a public interest reason is found, we have no objection to the use of the lower channel.[4] Here, SHPTV argues that the use of a VHF channel rather than a UHF channel will expedite the initiation of service to Hays and to the northwestern portion of Kansas by providing a means for SHPTV to afford to construct and operate its proposed station. The effect of the state's withdrawal of funding has apparently had a substantial impact in SHPTV's plans for initiating service which can also be seen by the willingness of GCCC to divest its rights to a VHF channel with no prospects of constructing a station in the near future. The difference in costs between constructing and operating VHF and UHF channels, particularly in energy costs, is demonstrated sufficiently in the chart in para. 6, *supra*. Here the lower costs

[1] Public Notice of the petition was given on October 22, 1981, Report No. 1314.

[2] Population data are taken from the 1980 U.S. Census, Advance Reports.

connected with VHF channels plus the recent cutbacks or elimination of funding to noncommercial educational stations provides a sufficient basis for proposing to make an exception to our policy of refusing to commence a rule making proceeding on a broadcaster's preference of TV channels (see, fn. 3, *supra*).

8. We are also proposing to delete Channel *9 from Randall. That channel was originally allocated based on its availability there without a definite commitment from the Kansas Public TV Board for implementing service from Randall. Without an expression of interest and with the withdrawal of state participation, we shall assume that there is no interest in a replacement channel for Randall.

9. In view of the above, the Commission proposes to amend the Television Table of Assignments (See § 73.606(b) of the Commission's Rules), as follows:

	Channel No.	
	Present	Proposed
Garden City, Kans	*9, 11+, 13—	11+, 13—, *18
Hays, Kans	7—, *14	7—, *9
Randall, Kans	*9—	

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

13. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters. 1919 M Street, NW., Washington, D.C.

[FR Doc. 82–3224 Filed 2–5–82; 8:45 am]

BILLING CODE 6712-01-M

[3] See, *High Point, N.C.*, 44 FR 67665 (1979); and *Mansfield and Marion, Ohio*, 45 FR 81203 (1980).

[4] See, *Booneville, Miss.*, 27 R.R. 2d 246 (1973).

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47 CFR Parts 81 and 83

[Docket No. 21349]

Assignment of Marine Radiotelephone Frequencies; Extension of Comment and Reply Comment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, extension of comment/reply comment period.

SUMMARY: This action extends the time for filing comments and reply comments in Docket No. 21349 regarding the implementation of the new frequency allotment plan for coast stations operating in the exclusive maritime mobile bands between 4000 and 23000 kHz adopted at the World Maritime Administrative Radio Conference, Geneva, 1974.

DATES: Comments must be received on or before February 12, 1982, and reply comments must be received on or before March 8, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: January 29, 1982.

In the matter of an amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 27500 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974, Docket No. 21349 (46 FR 62113; 12/22/81) order.

1. Martin W. Bercovici, of the firm of Keller and Heckman, counsel for three public coast stations, has requested that

the Chief, Private Radio Bureau extend the time for filing comments and reply comments ten days.

2. Counsel indicates that the time available for pursuing finalization of comments for this proceeding is severely limited by virtue of his participation in oral argument scheduled for January 28, 1982, in the U.S. Court of Appeals for the District of Columbia, concerning the Commission's Gen. Docket No. 80-1 rulemaking proceeding. It is further submitted that the grant of the brief extension requested will not adversely impact any interested party or the public interest.

3. We find that the public interest will be served by granting the brief extension of time requested in order to permit full and thorough preparation of comments of interested public coast station licensees. Accordingly, the request for extension of time filed by Martin W. Bercovici IS GRANTED. The date for filing comments and reply comments in this proceeding is extended to February 12, 1982, and March 8, 1982, respectively.

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 82-3225 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 26
Monday, February 8, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of The Secretary

Meeting of the Citizens' Advisory Committee on Equal Opportunity

Notice is hereby given that a Citizens' Advisory Committee meeting has been scheduled for March 22–23, 1982. In Washington, D.C. The meeting will begin at 9:00 a.m., on March 22 and 9:00 a.m., on March 23, The agenda will include an overview of equal opportunity programs in U.S. Department of Agriculture.

Persons wishing additional information concerning this meeting may contact Elda Inoue, Office of the Assistant Secretary for Administration, U.S. Department of Agriculture, Washington, D.C. 20250 (Telephone No. 447–7043).

John E. Schrote,

Deputy Assistant Secretary for Administration.

February 3, 1982.

[FR Doc. 82–3313 Filed 2–5–82; 8:45 am]

BILLING CODE 3410–35–M

COMMISSION ON CIVIL RIGHTS

Minnesota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:00 p.m., and will end at 9:00 p.m., on February 26, 1982, at the Holiday Inn, 1313 Nicolett Mall, Minneapolis, Minnesota, 55403. The purpose of this meeting is to review the Duluth Desegregation project, followup report on the Twin Cities Police Task Force, and discuss program plans for 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Lupe Lopez, 210.5 Stillwater, White Bear Lake, Minnesota, 55101, (612) 227–8954 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–3181 Filed 2–5–82; 8:45 am]

BILLING CODE 6335–01–M

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on February 23, 1982, at the University of Vermont, the Waterman Building, Room 409, South Prospect Street, Burlington, Vermont, 05405. The purpose of this meeting is to discuss the materials of the project on prejudice and stereotyping in Vermont.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and Powell, P.C., Burlington, Vermont, 05401, (802) 658–4300 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–3182 Filed 2–5–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 183]

Baltimore Maryland; Resolution and Order Approving Application Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Baltimore, Maryland, filed with the Foreign-Trade Zones Board (the Board) on August 17, 1981, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Baltimore, within the Baltimore Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone In Baltimore, MD.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To

provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Baltimore, Maryland (the Grantee) has made application (filed August 17, 1981) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Baltimore, within the Baltimore Customs port of entry;

Whereas, notices of said applications has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 74 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

Im witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 21st day of January 1982, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Joseph R. Wright, Jr.,

Acting Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-3325 Filed 2-5-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 182]

Detroit, Michigan; Resolution and Order Approving Application for a Special-Purpose Subzone Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 18a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 70, filed with the Foreign-Trade Zones Board (the Board) on August 10, 1981, requesting authority to establish a special-purpose subzone for Chyrsler Corporation's Jefferson Assembly Plant in Detroit, within the Detroit Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisifed, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish A Foreign-Trade Subzone In Detroit, Michigan

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenace of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 70, Detroit, Michigan, has made application (filed August 10, 1981) in due and proper form to the Board for authority to establish a special-purpose subzone at Chrysler Corporation's Jefferson Assembly Plant, 12200 East Jefferson Avenue, Detroit;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed August 10, 1981, the Board hereby authorizes the establishment of a subzone at Chrysler Corporation's Jefferson Assembly Plant in Detroit, designated on the records of the Board as Foreign-Trade Subzone No. 70B at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though

the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 22nd day of January 1982 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-3324 Filed 2-5-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Initiation of Countervailing Duty Investigations Certain Steel Products From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in France of certain steel products receive benefits that constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202)/377-4036.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in France of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determinations, April 6, 1982.

France is a "country under the Agreement" within the meaning of section 701(6) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in France of certain steel products receive benefits that constitute subsidies within the meaning of section 771(5) of the act. If our investigations proceed normally, we will make our preliminary determinations of April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars and cold-formed alloy steel bars. For a further description of these products, see the appendix to this notice.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in France receive the following benefits that constitute subsidies: preferential loans and loan guarantees, the recapitalization of the French carbon steel industry under the 1978 Rescue Plan, grants and preferential loans through the Short-term Industrial Adaptation Fund, regional development incentives, labor-related aid, research and development funding, incentives to supplier industries, preferential export credits, and export insurance.

The petitions also allege that producers, manufacturers, or exporters in France of certain steel products benefit from the following European Communities subsidies: preferential loans and loan guarantees, research and development incentives, and assistance to labor. Therefore, we will investigate both French government and European Communities programs as applicable.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

Appendix—Description of Products

For purposes of these investigations:

1. The term *carbon steel structural shapes"* covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2 of the *Tariff Schedules of the United States Annotated ("TSUSA")*, for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the *TSUSA*, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes.

2. The term *"hot-rolled carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615, or 607.94, of the *Tariff Schedules of the United States Annotated ("TSUSA");* and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

3. The term *"hot-rolled carbon steel sheet and strip"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or if not in coils under 0.1875 inch in thickness; as currently provided for in items 607.6610, 607.6700, 607.8320, 607.8342, or 607.9400 of the *Tariff Schedules of the United States Annotated ("TSUSA"). PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 607.6610 AND 607.8320).* Hot-rolled carbon steel strip is a flat-rolled steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled, not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and not over 12 inches in width; as currently provided for in items 608.1920, 608.2120, or 608.2320 of the *TSUSA*. Hot-rolled carbon steel strip originally rolled less than 12 inches in width and containing over 0.25 percent carbon is not included.

4. The term *"cold-rolled carbon steel sheet and strip"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or if not in coils under 0.1875 inch in thickness; as currently provided for in items 607.8320 or 607.8344 of the *Tariff Schedules of the United States Annotated ("TSUSA"). PLEASE NOTE THAT THE DEFINITION OF COLD-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEM 607.8320).* Cold-rolled carbon steel strip is a flat-rolled carbon steel product; cold-rolled, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width; as currently provided for in items 608.1940, 608.2140, or 608.2340 of the *TSUSA*. Cold-rolled carbon steel strip originally rolled less than 12 inches in width and containing over 0.25 percent carbon is not included.

5. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA"). NOTE THAT THE DEFINITION OF GALVANIZED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 608.0710 AND 608.11).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

6. The term *"hot-rolled carbon steel bars"* covers hot-rolled carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plates with metal, as currently provided for in items 606.8310, 606.8330, or 606.8350 of the *Tariff Schedules of the United States Annotated.*

7. The term *"hot-rolled alloy steel bars"* covers hot-rolled alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plated with metal, as currently provided for in item 606.97 of the *Tariff Schedules of the United States.*

8. The term *"cold-formed carbon steel bars"* covers cold-formed carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, and not coated or plated with metal, currently provided for in items 606.8805 or 606.8815 of the *Tariff Schedules of the United States Annotated.*

9. The term *"cold-formed alloy steel bars"* covers cold-formed alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, and not coated or plated with metal, as currently provided for in item 606.99 of the *Tariff Schedules of the United States.*

[FR Doc. 82-3191 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of petitions filed with the Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from France are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202)/377–4036.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation, and from counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the

Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from France are being, or are likely to be, sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than cost of production. If our investigations proceed normally, we will make our preliminary determinations by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register**.

Notification of ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3192 Filed 2-8-82; 11:50 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Steel Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufactures, or exporters in the Federal Republic of Germany (FRG) of certain steel products receive benefits that constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may be determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manfuacturers, or exporters in the FRG of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of these steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, April 6, 1982.

The FRG is a "country under the Agreement" within the meaning of section 701(6) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products, and we have found that the petitions on the products listed in the "Scope of the Investigations" section of this notice meet these requirement.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in FRG of certain steel products as listed in the "Scope of Investigations" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: Carbon steel structural shapes, hot-rolled carbon steel sheet plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars, and cold-formed alloy steel bars. For a further description of these products see the appendix

appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Allegations of Subsidies

The petitions allege that producers, manufactures, or exporters in the FRG receive the following benefits that subsidies: Preferential loans and loan guarantees, coal and coke subsidies, transportation subsidies, debt forgiveness, debt conversion and equity infusions, capital grants, tax exemptions, labor-related aid, research and development funding, and other general and regional incentives.

The petitions also allege that producers, manufacturers, or exporters in the FRG of certain steel products benefit from the following European Communities subsidies: preferential loans and loan guarantees, research and development incentives, and assistance to labor. Therefore, we will investigate both the FRG government and European Communities programs as applicable.

Notification to ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982, whether there is a reasonable indication that imports of certain steel products from the Federal Republic of Germany are materially injuring, or threating to materially injury a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3193 Filed 2-6-82; 11:56 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation and counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports from the Federal Republic of Germany of certain steel products are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from the Federal Republic of Germany are being, or are likely to be, sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than cost of production. If our investigations proceed normally, we will make our preliminary determination by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are carbon steel structural shapes, hot-rolled carbon steel plates, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from the Federal Republic of Germany are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will

terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3194 Filed 2-3-82; 11:56 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations/Dismissal of Countervailing Duty Petitions; Certain Steel Products From the Netherlands

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in the Netherlands of certain steel products receive benefits that constitute subsidies within the meaning of the countervailing duty law. Concurrently, we are dismissing other petitions on steel bar products. Additionally, a petitioner withdrew a petition on carbon steel structural shapes. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in the Netherlands of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of these steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determinations, April 6, 1982.

The Netherlands is a "country under the Agreement" within the meaning of section 701(6) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products, and we have found that petitions on products listed in the "Scope of the Investigations" section of this notice meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in the Netherlands of certain steel products as listed in the "Scope of the Investigations" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet, and galvanized carbon steel sheet. For a further description of these products, see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Withdrawal

On January 26, 1982, the Five withdrew their petition on carbon steel structural shapes.

Dismissals

We are dismissing the Five's petitions with respect to hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed barbon steel bars, and cold-formed alloy steel bars because there have been no or only *de minimis* imports of those products at any time in recent years. A prerequisite for the imposition of countervailing duties is that the foreign government "* * * is providing, directly or indirectly, a subsidy with respect to * * * merchandise imported into the United States * * *" (19 U.S.C. 1671). We have concluded that the statutory standard is not met where there have been either no imports or a *de minimis* level of imports within recent years.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in the Netherlands receive the following benefits that constitute subsidies: Preferential loans and loan guarantees, interest rebates, preferential export financing, capital grants, tax exemptions, labor-related aid, research and development funding, debt forgiveness, debt conversion and equity infusions, energy subsidies, and other general and regional incentives.

The petitions also allege that producers, manufacturers, or exporters in the Netherlands of certain steel products benefit from the following European Communities subsidies: Preferential loans and loan guarantees, research and development incentives, and assistance to labor. Therefore, we will investigate both the Netherlands government and European Communities programs as applicable.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission (ITC) of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from the Netherlands are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these

investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3196 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From the Netherlands

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from the Netherlands are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1962.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation and from counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from the Netherlands are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products, and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from the Netherlands are being, or are likely to be, sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than cost of production. If our investigations proceed normally, we will make our preliminary determination by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from the Netherlands are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3196 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Steel Products From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in Belgium of certain steel products receive benefits which constitute subsidies within the meaning of the countervailing duty law. Additionally, a petitioner withdrew a petition on hot-rolled alloy steel bar. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982, and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in Belgium

of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before our preliminary determinations, April 6, 1982.

Belgium is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervaailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products, and we have found that they meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers or exporters in Belgium of certain steel products receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, hot-rolled carbon steel bars, cold-formed carbon steel bars and cold-formed alloy steel bars. For a further description of these products, see the appendix with the notice of "Initiation of Countervailing Duty Investigation, Certain Steel Products form France", in this issue of the Federal Register.

Withdrawal

On January 26, 1982, the Five withdrew their petition on hot-rolled alloy steel bar.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in Belgium receive the following benefits from the Belgian government that constitute subsidies: Capital grants; interest rebates; preferential loans and loan guarantees; special government purchases of convertible debentures; debt consolidation, extension, and conversion; tax incentives; commercial risk assistance; labor-related aids; and research and development advances and loans. The petitions also allege that producers, manufacturers, or exporters in Belgium of certain steel products benefit from the following European Communities subsidies: Preferential loans and loan guarantees, research and development incentives, coal and coke input subsidies, and assistance to labor. Therefore, we will investigate both Belgian government and European Communities programs as applicable.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982, whether there is a reasonable indication that imports of certain steel roducts from Belgium are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3197 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from Belgium are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation, and from counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from Belgium are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from Belgium are being, or are likely to be,

sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than cost of production. If our investigations proceed normally, we will make our preliminary determinations by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the Federal Register.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from Belgium are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3196 Filed 2-3-82; 11:36 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Steel Products From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in Italy of certain steel products receive benefits which constitute subsidies within the meaning of the countervailing duty law. Additionally, a petitioner withdrew a petition on carbon steel structural shapes. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982, and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in Italy of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determinations, April 6, 1982.

Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products and we have found that the petitions on products listed in the "Scope of the Investigations" section of this notice meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers or exporters in Italy of certain steel products as listed in the "Scope of the Investigations" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars and cold-formed alloy steel bars. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the Federal Register.

Withdrawal

On January 31, 1982 the Five withdrew their petitions on carbon steel structural shapes.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in Italy receive the following benefits that constitute subsidies: Preferential loans and loan guarantees, interest subsidies, capital grants, local and federal tax exemptions, recapitalizations, debt forgiveness, debt conversion and equity infusions, research and development funding, labor-related aid, utility subsidies, and other general and regional incentives.

The petitions also allege that producers, manufacturers, or exporters in Italy of certain steel products benefit from the following European Communities subsidies: Preferential loans and loan guarantees, research and development incentives, and assistance to labor. Therefore, we will investigate both Italian government and European Communities programs as applicable.

Notification to ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from Italy are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3199 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of petitions filed in proper form with the U.S. Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from Italy are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation and from counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a decision on the validity of the allegation on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain carbon steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from Italy are being, or are likely to be, sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than the cost of production. If our investigations proceed normally, we will make our preliminary determination by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the Federal Register.

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from Italy are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3200 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly, Office of Investigations,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202)/377–2923.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation and from counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act"), and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from the United Kingdom are being, or are likely to be, sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than cost of production. If our investigations proceed normally, we will make our preliminary determinations by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are carbon steel structural shapes, hot-rolled carbon steel plate, cold-rolled carbon steel sheet and strip, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Withdrawal

On January 30 United States Steel Corporation withdrew its petition on hot-rolled carbon steel sheet.

Notification of ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Director of the Office of Compliance, Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982, whether there is a reasonable indication that imports of certain steel products from the United Kingdom are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Leonard M. Shambon,

Director, Office of Compliance, Import Administration.

[FR Doc. 82–3201 Filed 2–3–82; 11:56 am]
BILLING CODE 3510–25–M

Initiation of Countervailing Duty Investigations; Certain Steel Products From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in the United Kingdom of certain steel products receive benefits that constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in the United Kingdom of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determinations, April 6, 1982.

The United Kingdom is a "country under the Agreement" within the meaning of section 701(6) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products, and we have found that they meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in the United

Kingdom of certain steel products receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determination by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars and cold-formed alloy steel bars. For a further description of these products, see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the Federal Register.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in the United Kingdom receive the following benefits that constitute subsidies: Preferential loans and loan guarantees, transportation subsidies, overdraft guarantees, debt forgiveness, debt conversion and equity infusions, capital grants, subsidization of inputs, direct grants in return for overvalued equity, concessional export financing, labor-related aid, research and development funding, and other general and regional incentives.

The petitions also allege that producers, manufacturers, or exporters in the United Kingdom of certain steel products benefit from the following European Communities subsidies: Preferential loans and loan guarantees, research and development incentives, and assistance to labor. Therefore, we will investigate both United Kingdom government and European Communities programs as applicable.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Director of the Office of Compliance, Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from the United Kingdom are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Leonard M. Shambon,

Director, Office of Compliance Import Administration.

[FR Doc. 82-3302 Filed 2-3-82; 11:36 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigations; Certain Steel Products From Luxembourg

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating antidumping investigations to determine whether certain steel products from Luxembourg are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation and from counsel for Bethlehem Steel Corporation, on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from Luxembourg are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. The petitions also allege that sales in the home market of certain steel products have been made at less than the cost of production. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determinations, June 21, 1982.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating antidumping investigations to determine whether certain steel products from Luxembourg are being, or are likely to be, sold at less than fair value. We will also investigate whether sales in the home market of certain steel products have been made at less than cost of production. If our investigations proceed normally, we will make our preliminary determination by June 21, 1982.

Scope of the Investigations

The products covered by these investigations are carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet, and strip, and galvanized carbon steel sheet. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the Federal Register.

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written

consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982 whether there is a reasonable indication that imports of certain steel products from Luxembourg are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3203 Filed 2-3-82; 11:56 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations/Dismissal of Countervailing Duty Petition Certain Steel Products From Luxembourg

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in Luxembourg of certain steel products receive benefits which constitute subsidies within the meaning of the countervailing duty law. Concurrently, we are dismissing the petitions on hot-rolled alloy steel bar. Additionally, a petitioner withdrew petitions on cold-formed carbon steel bar and cold-formed alloy steel bar. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982 and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; from counsel for Bethlehem Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in Luxembourg of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671)a(5)) (the "Act") and that imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determinations, April 6, 1982.

Luxembourg is a "country under the Agreement" within the meaning of section 701(6) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that petitions on products listed in the "Scope of the Investigations" section of this notice meet these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Luxembourg of certain steel products as listed in the "Scope of the Investigations" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determination by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, cold-rolled carbon steel sheet and strip, galvanized carbon steel sheet, and hot-rolled carbon steel bars. For a further description of these products, see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Withdrawals

On January 26, 1982, the Five withdrew their petitions on cold-formed carbon steel bars and cold-formed alloy steel bars.

Dismissals

We are dismissing the Five's petition with respect to hot-rolled alloy steel bars because there have been no or only *de minimis* imports of those products at any time in recent years. A prerequisite for the imposition of countervailing duties is that the foreign government "* * * is providing, directly or indirectly, a subsidy with respect to * * * merchandise imported into the United States * * *" (19 U.S.C. 1671). We have concluded that this statutory standard is not met where there have been either no imports or a *de minimis* level of imports within recent years.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in Luxembourg receive the following benefits that constitute subsidies: Preferential loans and loan guarntees, interest subsidies on loans, preferential export financing, capital grants, tax concessions, labor-related aid, research and development funding, Societe Nationale de Credit et d' Investissement credits, and special government purchase of convertible debentures.

The petitions also allege that producers, manufacturers, or exporters in Luxembourg of certain steel products benefit from the following European Communities subsidies: Preferential loans and loan guarantees, research and development incentives, and assistance to labor. Therefore, we will investigate both Luxembourg government and European Communities programs as applicable.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it

confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982, whether there is a reasonable indication that imports of certain steel products from Luxembourg are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3204 Filed 2-3-82; 11:58 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations Certain Steel Products From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in South Africa of certain steel products receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigations proceed normally, we will make our preliminary determinations on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377–1774.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation and Cyclops Corporation, (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26) the petitions allege that producers, manufacturers, or exporters in South Africa of certain steel products receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Critical circumstances also have been alleged.

Since South Africa is not a "country under the Agreement", section 303 of the Act applies to these investigations. In addition, the merchandise is dutiable; therefore, an injury determination is not required.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products, and we have found that petitions on products listed in the "Scope of the Investigations" section of this notice meet these requirements.

Therefore, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in South Africa of certain steel products as listed in the "Scope of the Investigations" section of this notice receive bounties or grants. If our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Since South Africa is not a "country under the Agreement" and this investigation is under section 303 of the Act, the critical circumstances provision is not applicable (see section 303(b)(3)). Accordingly, we will take no further action on the critical circumstances allegation.

Scope of the Investigations

The products covered by these investigations are: Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, and cold-formed carbon steels bars. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Withdrawals

On January 31, 1982, the Five withdrew their petition on cold-formed alloy steel bar.

Allegations of Bounties or Grants

The petitions allege that manufacturers, producers, or exporters of certain steel products in South Africa receive the following benefits that constitute bounties or grants; Reduced transportation rates; refunds of shipping costs; export credit insurance; preferential pre- and post-shipment financing for exports; preferential development loans, direct grants, and preferential loans given to a government-owned steel producer; tax deductions and investment allowances for certain export development expenses; employee training programs, doing business in certain development areas, and beneficiation of base minerals; the steel export incentive scheme; and other export incentives.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3205 Filed 2-3-82; 11:59 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Steel Products From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in Brazil of certain steel products receive benefits that constitute subsidies within the meaning of the countervailing duty law. Additionally, a petitioner withdrew petitions on galvanized carbon steel sheet, hot-rolled alloy steel bars and cold-formed alloy steel bars. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of certain steel products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before February 25, 1982, and we will make ours on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, NW., Washington, D.C. 20230, (202)/377–1167.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petitions allege that producers, manufacturers, or exporters in Brazil of certain steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1671a(5)) (the "Act") and that imports of these steel products are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determinations.

Brazil is a "country under the agreement" within the meaning of section 701(6) of the Act; therefore, title VII of the Act applies to these investigations.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petitions on certain steel products, and we have found that petitions on products listed in the "Scope of the Investigations" section of this notice meet these requirements.

Therefore, in accordance with section 702(c) of the act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Brazil of certain steel products as listed in the "Scope of the Investigations" section of this notice receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Scope of the Investigations

The products covered by these investigations are: carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, hot-rolled cabon steel bars, and cold-formed carbon steel bars. For a further description of these products, see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Withdrawal

On January 26, 1982, the Five withdrew their petitions on hot-rolled alloy steel bars and cold-formed alloy steel bars; on January 31, 1982, the Five withdrew its petition on galvanized carbon steel sheet.

Allegations of Subsidies

The petitions allege that producers, manufacturers, or exporters in Brazil of certain steel products benefit from the following subsidies: preferential loans and loan guarantees, preferential working capital and export financing, capital grants, tax exemptions, investment subsidies from tax rebates, overrebate of indirect taxes, special amortization and tax-loss carry forward privileges for export-oriented projects, subsidized factor inputs and transportation subsidies.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982, whether there is a reasonable indication that imports of certain steel products from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3200 Filed 2-3-82; 11:30 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation/Dismissal of Antidumping Petitions Certain Steel Products From Romania

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation/dismissal of petitions.

SUMMARY: On the basis of petitions filed in proper form with the Department of Commerce, we are initiating antidumping investigation to determine whether hot-rolled carbon steel plate from Romania is being, or is likely to be, sold in the United States at less than fair value. Concurrently, we are dismissing petitions on other steel products. Additionally, petitions on some steel products have been withdrawn. We are notifying the U.S. International Trade Commission ("ITC") of these actions so that it may determine whether imports of the merchandise are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before February 25, 1982 and we will make ours on or before June 21, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377–1784.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982 we received petitions from United States Steel Corporation; and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of certain steel products from Romania are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the

date of our preliminary determination, June 21, 1982.

The United States Steel Corporation and the Five petitions allege that Romania is a state-controlled economy country within the meaning of the Act. They allege that sales of certain steel products in Romania do not permit a determination of foreign market value and that the Department of Commerce must choose a non-state-controlled economy country to be used as a surrogate for the purpose of determining foreign market value of the product.

The petitions suggest that Italy be chosen as the surrogate country and that an Italian manufacturer, Italsider, is representative of the entire Italian steel industry. It is also alleged that sales by Italsider are made at prices below the cost of production.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products and we have found that they meet these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether hot-rolled carbon steel plate from Romania is being, or is likely to be, sold at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by June 21, 1982.

Scope of the Investigation

The product covered by this investigation is hot-rolled carbon steel plate. For a further description of this product see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the **Federal Register.**

Withdrawals

On January 26, 1982, the Five withdrew their petitions on carbon steel structural shapes, hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars, and cold-formed alloy steel bars. On January 31, 1982, the Five withdrew their petition on galvanized carbon steel sheet.

Dismissals

We are dismissing the Five's petitions with respect to hot-rolled carbon steel sheet and cold-rolled carbon steel sheet because there have been no or only *de minimis* imports of those products in recent years, and no evidence has been provided of bona fide offers on merchandise for export to the United States. One of the two prerequisites for imposition of antidumping is a determination by the Department of Commerce that "* * * a class or kind of foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value * * *" (19 U.S.C. 1673). We have concluded that, where there have been either no imports or a *de minimis* level of imports within recent years, and where no evidence has been furnished of a current offer the acceptance of which is reasonably expected, then no adequate allegation has been made of current or likely sales at less than fair value.

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 25, 1982, whether there is a reasonable indication that imports of hot-rolled carbon steel plate from Romania are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3307 Filed 2-3-82; 11:50 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations Certain Steel Products From Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigations.

SUMMARY: On the basis of petitions filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in Spain of certain steel products receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigations proceed normally, we will make our preliminary determinations on or before April 6, 1982.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230 (202)/377-1273.

SUPPLEMENTARY INFORMATION:

Petitions

On January 11, 1982, we received petitions from United States Steel Corporation and from counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products. In compliance with the filing requirements of 355.26 of the Commerce Regulations (19 CFR 355.26) the petitions allege that producers, manufacturers, or exporters in Spain of certain steel products receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Critical circumstances also have been alleged.

Since Spain is not a "country under the Agreement," section 303 of the Act applies to these investigations. In addition, the merchandise is dutiable; therefore, no injury determination is required.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions on certain steel products, and we have found that petitions on products listed in the "Scope of the Investigations" section of this notice meet these requirements.

Therefore, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Spain of certain steel products, as listed in the "Scope of the Investigations" section of this notice, receive bounties or grants. If

our investigations proceed normally, we will make our preliminary determinations by April 6, 1982.

Since Spain is not a "country under the Agreement," and this investigation is under section 303 of the Act, the critical circumstances provision is not applicable (see section 303(b)(3)). Accordingly, we will take no further action on the critical circumstances allegation.

Scope of the Investigation

The products covered by these investigations are: Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, galvanized carbon steel sheet, hot-rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars and cold-formed alloy steel bars. For a further description of these products see the appendix appearing with the notice of "Initiation of Countervailing Duty Investigations, Certain Steel Products from France", in this issue of the Federal Register.

Allegations of Bounties or Grants

The petitions allege that producers, manufacturers, or exporters of certain steel products in Spain receive the following benefits that constitute bounties or grants: Excessive remission of indirect taxes; export credit insurance at premium rates; preferential loans and loan guarantees; preferential export financing programs; capital grants; refinancing of existing debt; amendment of annual financial investment plans; exceptional credit for new investments; deferral of tax and social security benefits; research and development funding; and other general and regional incentives.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3208 Filed 2-3-82; 11:00 am]

BILLING CODE 3510-25-M

Termination of Countervailing Duty and Antidumping Investigations; Certain Steel Products from Belgium, Brazil, France, Romania, South Africa, and Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Termination of countervailing duty and antidumping investigations.

SUMMARY: We are terminating the countervailing duty and antidumping investigations on certain steel products from Belgium, Brazil, France, Romania, South Africa, and Spain that the Department of Commerce initiated in November 1981 under the steel Trigger Price Mechanism. The terminations are based on our initiation of investigations encompassing all the products and allegations covered by the November 1981 cases. These initiations are the result of countervailing duty and antidumping petitions filed by several U.S. steel manufacturers on behalf of the domestic steel industry.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: F. Lynn Holec, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377-3793.

SUPPLEMENTARY INFORMATION: On November 18, 1981, the Department of Commerce self-initiated three countervailing duty investigations regarding carbon steel plate from Belgium, Brazil, and South Africa; one countervailing duty investigation regarding hot-rolled steel sheet from France; and one antidumping investigation regarding carbon steel plate from Romania. On November 24, 1981, we self-initiated one countervailing duty investigation on structural steel from Spain. These investigations were self-initiated based upon information, developed under the steel Trigger Price Mechanism, which indicated that imports of these products might be benefitting from subsidies or were being, or were likely to be, sold in the United States at less than fair value.

On January 11, 1982, several U.S. steel manufacturers, on behalf of the domestic steel industry, filed petitions, alleging that steel products imported from eleven countries were receiving subsidies upon their manufacture, production or exportation and/or were being, or were likely to be, sold in the United States at less than fair value. These petitions covered a greater number of products, programs and countries than the self-initiated cases discussed above. However, included within the petitions were allegations sufficient to cover the entire scope of investigation of our self-initiated cases. On February 1, 1982, we initiated countervailing duty and antidumping investigations based on the petitions filed on behalf of the domestic steel industry.

Sections 704(a) and 734(a) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. (1671c(a), 1673c(a)), provide that "An investigation under this subtitle may be terminated by either the administering authority or the Commission after notice to all parties to the investigation, upon the withdrawal of the petition by the petitioner." Under section 103(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1303) and 19 CFR 355.30 investigations under section 303 of the Act also may be terminated on this basis.

We have determined that in self-initiated investigations the administering authority is the petitioner for purposes of these provisions and may, in appropriate circumstances, withdraw its petitions and terminate the investigations.

Termination of the self-initiated cases will consolidate, on a single timetable, both the Department of Commerce and the International Trade Commission ("ITC") investigations. Consolidation of all the cases will ease the administrative burden and allow simultaneous consideration of issues common to all investigations. Thus, the Department has concluded that the termination of these investigations is in the public interest.

The Department of Commerce has notified all parties to the investigations that it is terminating the self-initiated investigations and has consulted with the ITC regarding this action.

Accordingly, I hereby terminate these investigations.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3209 Filed 2-3-82; 11:00 am]

BILLING CODE 3510-25-M

Importers' and Retailers' Textile Advisory Committee; Renewal

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Renewal.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, and after consultation with the General Services Administration, the delegate of the Secretary of Commerce has determined that the renewal of the Importers' and Retailers' Textile Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Commerce by law.

The Committee was initially established by the Secretary of Commerce on August 13, 1963. Its purpose was, and continues to be, to advise Department officials on the effects on import markets and retailing of cotton, wool and man-made fiber textile agreements. The information and recommendations of the Committee are

not only essential to the effective administration of the textile agreements, but are invaluable to U.S. negotiators in reaching new textile agreements. The Committee represents retailers and importers who are directly affected by the textile program.

The Committee will have balanced representation of not more than 25 members who are directly involved in importing and for retailing imported textile and apparel products, or who represent consumer or public interest groups. Members will be appointed by the Secretary of Commerce and will serve two-year, renewable terms.

The Committee will continue to function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress concurrent with the publication of this notice.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Committee Control Officer, Arthur Garel, Director, Office of Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Room 2808, Washington, D.C. 20230, telephone: (202) 377–5078 or Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce (202) 377–4217.

Dated: February 2, 1982.

Dennis C. Boyd,

Executive Director, Information Resources Management.

[FR Doc. 82-3306 Filed 2-5-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C.1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Mr. Harold M. Brundage III (P298), Ichthyological Associates, Inc.

b. Address: 100 South Cass Street, Middletown, Delaware 19709.

2. Type of Permit: Scientific Research.

3. Names and Number of Animals: Shortnose sturgeon *(Acipenser brevirostrum), 2,500.*

4. Type of Take: Juvenile and adult shortnose sturgeon will be captured with experimental gill nets and bottom trawls. Eggs and larvae will be sampled with an epibenthic sled and an anchored bottom-set plankton net.

5. Location of Activity: Delaware River and Bay.

6. Period of Activity: 5 years.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: February 3, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammal and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-3308 Filed 2-5-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95–202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on January 13, 1982, that the service of the members of the group known as the American Merchant Marine Who Were in Active Oceangoing Service During the Period December 7, 1941, to December 31, 1946, not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

For further information contact: Technical Sergeant Stephen J. Koegle, USAF telephone: 694–5380, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), The Pentagon, Washington, DC 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-3251 Filed 2-5-82; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 4, 1982.

The USAF Scientific Advisory Board Chief's Technical Advisory Group will meet at the Pentagon on February 23, 1982. the purpose of the meeting will be to review the current status of several technical programs to be provided by the Air Staff. The meeting will convene at 0930 and adjourn at 1700.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-3301 Filed 2-5-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Date of meeting: 3 March 1982

Time: 0830–1700 hours, 3 March 1982 (Closed)

Place: Foreign Science & Technology Center, Charlottesville, Virginia

Proposed Agenda: The Army Science Board Study Group on Chemical Warfare will meet to present and receive classified briefings and hold discussions to address the following Terms of Reference:

—Are current Army programs appropriately balanced (offensive/defensive), considering threats, national policy, Defense guidance, and the Army's key chemical role in DoD?

—Are research, development, and acquisition programs adequately funded and managed?

—Are Army and contractor research and development capabilities adequate to meet projected systems acquisition and fielding milestones?
—What technical and management initiatives should be implemented?
—What costs are involved (people, facility, funding)?
—What changes to the current Chemical Action Plan, if any, are required?

This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82–3174 Filed 2–5–82; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Dates of meeting: 8 March 1982, 9 March 1982
Times: 0830–1700 hours, 8 March 1982 (Closed), 0830–1600 hours, 9 March 1982 (Closed)
Place: The Pentagon, Room 2E715B, Washington, D.C.
Proposed agenda: The Army Science Board Ad Hoc Subgroup conducting a study on Laser Eye Protection will meet to present and receive briefings and hold discussions of a classified nature on 8 March. Discussions and an executive writing session will constitute the business on 9 March. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82–3175 Filed 2–5–82; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)
Dates of meeting: 4 March 1982, 5 March 1982
Times: 0830–1700 hours, 4 March 1982 (Closed), 0830–1600 hours, 5 March 1982 (Closed)
Place: U.S. Army Armor Center, Fort Knox, Kentucky
Proposed Agenda: The Army Science Board Ad Hoc Subgroup on Manning Army Systems will meet to present and receive briefings of a classified nature and to conduct a facility visit in connection with this study effort. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82–3176 Filed 2–5–82; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).
Dates of Meeting: Thursday, March 4, 1982, Friday, March 5, 1982.
Times: 0830–1700 hours on March 4, 1982 (Open), 0830–1500 hours on March 5, 1982 (Open).
Place: The Carnegie-Mellon Institute of Research, Pittsburgh, Pennsylvania.
Proposed Agenda: The Army Science Board Ad Hoc Subgroup conducting a study on Robotics and Artificial Intelligence will meet to present and receive briefings and hold discussions addressing the following Terms of Reference:

(1) What opportunities exist for the Army to use commercially developed/modified industrial production machines in government owned facilities (e.g., ammunition plants, arsenals)?

(2) How could tactical applications of robotics and artificial intelligence increase combat capabilities and decrease personnel requirements (particularly in very hazardous tasks)? To what extent might overall costs be reduced?

(3) What applications of robotics and artificial intelligence should be made in the training, personnel, and logistics support areas? To what extent might machines be substituted for support forces?

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The Army Science Board Administrative Officer, Helen M. Bowen, may be contacted for further information and specific meeting locations at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82–3256 Filed 2–5–82; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Guaranteed Student Loan Program and PLUS Program; Special Allowances for Quarter Ending December 31, 1981

AGENCY: Education Department.

ACTION: Notice of special allowances for quarter ending December 31, 1981.

The Secretary announces that for the three-month period ending December 31, 1981, except with respect to loans to which section 438(b)(2)(B) of the Higher Education Act of 1965, as amended, applies, a special allowance at an *annual rate* of nine (9) percent will be paid to holders of eligible loans made prior to October 1, 1981 under the Guaranteed Student Loan Program having an applicable annual interest rate of seven (7) percent, and a special allowance at an *annual rate* of seven (7) percent will be paid to holders of eligible loans made prior to October 1, 1981 under the Guaranteed Student Loan Program or PLUS Program having an applicable annual interest rate of nine (9) percent.

The Secretary also announces that for the same three-month period, except with respect to loans to which section 438(b)(2)(B) of the Act applies, a special allowance at an *annual rate* of 8.92 percent will be paid to holders of eligible loans made on or after October 1, 1981 under the Guaranteed Student Loan Program having an applicable annual interest rate of seven (7) percent, a special allowance at an *annual rate* of 6.92 percent will be paid to holders of eligible loans made on or after October 1, 1981 under the Guaranteed Student Loan Program having an applicable annual interest rate of nine (9) percent, and a special allowance at an *annual rate* of 1.92 percent will be paid to holders of eligible loans made on or after October 1, 1981 under the PLUS Program having an applicable annual interest rate of fourteen (14) percent.

These special allowance rates were computed under the statutory formula of section 438(b) of the Higher Education Act of 1965, as amended by the Postsecondary Student Assistance Amendments of 1981, Title V–B of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981). Under the amended statutory formula, the special allowance rates for loans made on or after October 1, 1981 are not rounded up to the nearest one-eighth of one percent.

Loans Made Prior to October 1, 1981. Under the statutory formula, each quarterly special allowance rate for loans made prior to October 1, 1981, is computed by determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during that three-month period (12.42 percent), by substracting from that average either three and one-half (3.5) percent for seven (7) percent loans (8.92 percent) or five and one-half (5.5) percent for nine (9) percent loans (6.92 percent), by rounding the remainders upward to the nearest one-eight of one percent (9 percent and 7 percent, respectively), and by dividing the resultant percentages by four (2.25 percent and 1.75 percent, respectively).

Thus, the percentage rates of the two special allowances to be paid for the three-month period ending December 31, 1981 for loans made prior to October 1, 1981, will be 2.25 percent for loans with an applicable annual interest rate of seven (7) percent, and 1.75 percent for loans with an applicable annual interest rate of nine (9) percent, computed on the average unpaid principal balance (not including unearned interest added to principal) of all eligible loans held by lenders under the Guaranteed Student Loan Program or the PLUS Program.

Loans Made on or After October 1, 1981. Under the amended statutory formula, each quarterly special allowance rate for loans made on or after October 1, 1981 is computed by determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during that three-month period (12.42 percent), by subtracting from that average the interest rate applicable to each loan (yielding remainders of 5.42 percent for 7 percent loans, 3.42 percent for 9 percent loans, and −1.58 percent for 14 percent loans), by adding 3.5 percent to the remainders (8.92 percent, 6.92 percent, and 1.92 percent, respectively), and by dividing the resultant percentages by four (2.23 percent, 1.73 percent, and 0.48 percent, respectively).

Thus, the three percentage rates for the special allowances to be paid for the three-month period ending December 31, 1981 for loans made on or after October 1, 1981 will be 2.23 percent for loans with an applicable annual interest rate of seven (7) percent, 1.73 percent for loans with an applicable annual interest rate of nine (9) percent, and 0.48 percent for loans with an applicable annual interest rate of fourteen (14) percent, computed on the average unpaid principal balance (not including unearned interest added to principal) of all eligible loans held by lenders under the Guaranteed Student Loan Program or the PLUS Program.

(20 U.S.C. 1087–1(b))

Dated: February 2, 1982.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Progam and PLUS Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3214 Filed 2–5–82; 8:45 am]

BILLING CODE 4000–01–M

National Commission on Excellence in Education; Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule of the third full meeting of the National Commission on Excellence in Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: February 25, 1982.

LOCATION: Hubert H. Humphrey Building, 200 Independence Avenue SW., Penthouse, Room 800.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, 1200 19th Street NW., Washington, D.C. 20208, (202) 254–7920 or Betty Baten, Program Assistant, (202) 254–7924.

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

The meeting of the Commission is open to the public. The agenda will include presentations by: Barbara Burn, Christopher J. Hurn, Max Eckstein, Catherine Ailes, Thorsten Husen.

The presenters will focus on comparisons of American education with educational systems overseas, mathematics and science education in the U.S. and the U.S.S.R., and the International Education Assessment.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street NW., Room 639, from the hours of 8 a.m. to 5 p.m.

Dated: February 3, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82–3231 Filed 2–5–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81–32–NG]

Natural Gas Imports; Midwestern Gas Transmission Company; Application for Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application by Midwestern Gas Transmission Company for authorization to import Canadian natural gas from TransCanada PipeLines Limited.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application from Midwestern Gas Transmission Company (Midwestern) to amend its existing import authorization in order to permit it to import up to 222,360 Mcf of Canadian natural gas per day from TransCanada PipeLines Limited (TransCanada) from November 1, 1984, through October 31, 1994. The application is filed with ERA pursuant to Section 3 of the Natural Gas Act (NGA) and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m., on March 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Earl D. Bragdon (Natural Gas Branch), Economic Regulatory Administration, 2000 M Street NW., Room 6304, RG–13, Washington, D.C. 20461, (202) 653–3623.

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue SW., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: On April 14, 1980, Midwestern agreed to purchase

up to 204,000 Mcf per day of Canadian natural gas from TransCanada over a twenty-five year term ending December 15, 1985. This agreement (Contract No. 1) was subsequently amended on May 19, 1964, when TransCanada agreed to increase the volumes available to Midwestern to 222,360 Mcf per day from November 1, 1967, through the balance of the term of Contract No. 1. That Contract was further amended on June 3, 1981, when the parties agreed to extend the term of the agreement through October 31, 1994, contingent upon all necessary U.S. and Canadian regulatory approvals being obtained on terms satisfactory to both parties.

TransCanada was authorized initially to export gas for sale to Midwestern by Canadian Export License No. GL–1, which expired on May 14, 1981. That authorization was extended by Export License No. GL–60, which authorized TransCanada to export 223,000 Mcf per day through November 1, 1984. From November 1, 1984, through October 31, 1985, volumes approved for export to Midwestern were reduced to a maximum daily quantity of 167,249 Mcf per day and total of 55,000 MMcf and for the period from November 1, 1985, through December 14, 1985, further reduced to a maximum daily quantity of 111,502 Mcf per day and a total of 4,907 MMcf.

The Federal Power Commission (FPC) authorized Midwestern to import 204,000 Mcf per day in FPC Opinion No. 331, issued October 31, 1959 (22 FPC 775). This authorization was amended by FPC Opinion No. 469, issued August 19, 1965 (34 FPC 457), which increased the volumes approved for import to 222,360 Mcf per day. In its application filed with the ERA on August 31, 1981, Midwestern requests ERA to extend its authorization to import Canadian natural gas from TransCanada from November 1, 1984, through October 31, 1994, in accordance with the terms of Contract No. 1, as amended, which entitles it to purchase up to 222,360 Mcf per day during this period. Midwestern also states that the gas would continue to be purchased and imported at a point near Emerson, Manitoba, where Midwestern's Northern System interconnects with TransCanada's facilities.

Midwestern asserts that its application for an extension of its authorization is not inconsistent with the public interest. Midwestern's application indicates that Contract No. 1 has the largest daily and annual purchase entitlements of any of its four gas purchase contracts with TransCanada. Midwestern further notes that its Northern System has been supplied solely with Canadian natural gas since the system was placed in service in 1960, and that because of its geographical location and its lack of pipeline access to domestic producing areas, it has no practical alternative sources of domestic supply to meet its customers' needs. Midwestern's Northern System includes Michigan, Minnesota, North Dakota and Wisconsin. Midwestern states that unless it is authorized to continue to import the same daily and annual volumes of gas as are currently available to it under Contract No. 1 for the additional ten-year contract period, it will not be able to continue serving the requirements of its Northern System customers at current levels.

With respect to TransCanada's efforts to obtain authorization to export the gas for resale to Midwestern and several other U.S. customers, Midwestern indicates that TransCanada has filed applications with the Canadian National Energy Board (NEB) for such authorization. Midwestern notes that it has intervened in the following import applications filed with ERA by TransCanada's other customers: Tennessee Gas Pipeline Corporation (ERA Docket No. 81–24–NG); Transcontinental Pipe Line Company (ERA Docket No. 81–29–NG); and Boundary Gas, Inc. (ERA Docket No. 81–04–NG).

Midwestern states that it believes that TransCanada can demonstrate to the NEB its ability to support all its proposed exports, and that it does not oppose the corresponding import applications before ERA. In the event, however, that the NEB determines that the amount of surplus gas available for export is inadequate to satisfy all export applications, Midwestern states that the United States government should indicate to the Canadian government a preference for continuing export service to U.S. companies that have historically relied on Canadian gas supplies over new import projects.

Other Information

Any person wishing to become a party to the proceeding or to participate as a party in any conference or hearing which might be convened must file a petition to intervene.

Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6304, RG–13, 2000 M Street, N.W., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., March 10, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for a hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Midwestern's application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6013, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 29, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–3235 Filed 2–5–82; 8:45 am]

BILLING CODE 6450–01–M

Northwest Pipeline Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Northwest Pipeline Corporation and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by March 10, 1982.

ADDRESS: Send comments to: Thomas A. Elliott, Deputy Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466.

FOR FURTHER INFORMATION CONTACT: Thomas A. Elliott, Deputy Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, (816) 374–5936.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On November 10, 1981, the ERA executed a proposed Consent Order with Northwest

Pipeline Corporation of Salt Lake City, Utah. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Northwest Pipeline Corporation ("Northwest") with its home office located in Salt Lake City, Utah, is a firm engaged in the sale of natural gas liquids and natural gas liquid products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212 during the period covered by this Consent Order. (February 1, 1974 through January 28, 1981). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Northwest transactions involving natural gas liquids and natural gas liquid products during the period February 1, 1974 through January 28, 1981, the ERA and Nortwest entered into a Consent Order, the significant terms of which are as follows:

A. The ERA alleges that, during the period covered by this Consent Order, Northwest sold product at prices in excess of the applicable ceiling or maximum lawful selling prices in violation of 10 CFR 212.73, 212.82, 212,83, 212.143 and 212.163.

B. Northwest will refund the sum of $1,500,000, which includes interest, in twelve (12) equal monthly installments commencing within thirty (30) days after the effective date of the Consent Order. Each installment payment will include installment interest computed at the average prime rate for the calendar quarter.

C. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds and Civil Penalty

Under this Consent Order, Northwest will pay the sum of $1,500,000, plus applicable installment interest, to the DOE in twelve monthly installments commencing within thirty (30) days after the effective date of this Consent Order. The ERA will determine the ultimate disposition of these funds. Upon full satisfaction of the terms and conditions of this Consent Order by Northwest, the DOE releases Northwest from any civil claims that the DOE may have arising out of the specified transactions during the settlement period.

Northwest agrees to pay the sum of $7,500 in compromise of civil penalties relating to the above-described transactions within thirty (30) days after the effective date of this Consent Order. The penalty is payable to the U.S. Department of Energy.

III. Submission of Written Comments

Interested person are invited to submit written comments concerning this Consent Order to the address given above. Comments should be identified on the outside of the envolope and on the documents submitted with the designation, "Comments on Northwest Pipeline Corporation Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time on or before March 10, 1982. Any information or data considered confidential by the person submitting it must be identifed in accordance with the procedures in 10 CFR 205.9(f).

Issued: in Washington, D.C. on the 28th days of January 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-3236 Filed 2-5-82; 8:45 am]

BILLING CODE 6450-01-M

T.W. Oil, Inc., Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with T.W. Oil, Inc. and provides an opportunity for public comment on the Consent Order.

DATE: Comments by March 10, 1982.

ADDRESS: Send comments to: Albert Mancini, Chief, Audit Operations, Reseller Division, Economic Regulatory Administration, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT: Albert Mancini, Chief, Audit Operations, Reseller Division, Economic Regulatory Administration, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597-4550.

Copies of the Consent Order may be obtained free of charge by written or telephone request to this office.

SUPPLEMENTARY INFORMATION: On October 13, 1981, the ERA executed a Consent Order with T.W. Oil, Inc. (formerly JOC Oil, Inc.) of New York, New York. Under 10 CFR 205.199J(b), a Proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

T.W. Oil, Inc. (formerly JOC Oil, Inc.), with its home office located in New York, New York, is a firm engaged in the wholesale and retail sales of petroleum products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211 and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212 in connection with JOC's transactions involving No. 2 and No. 6 heating oil during the period November 1, 1973 through June 30, 1974 ("the period covered by this Consent Order"), the ERA and T.W. Oil, Inc. entered into a Consent Order, the significant terms of which are as follows:

A. As a result of the ERA's audit of JOC, the ERA alleges that during the period from November 1, 1973 through June 30, 1974, T.W. Oil, Inc. recovered in its sales of No. 2 and No. 6 oil, revenues in excess of amounts allowed by the applicable price rule, 10 CFR 212.93.

B. It is alleged that T.W. Oil, Inc. incorrectly computes its maximum allowable selling price in its sales of No. 2 and No. 6 oil to an end-user customer, the Commonwealth of Virginia, and to other unidentifiable purchasers during the period covered by this Consent Order.

C. T.W. Oil, Inc., without admitting that it has violated any statute or regulations or overcharged any customer, has agreed to undertake the actions specified below as a means of settling all issues with ERA with respect to its sales of No. 2 and No. 6 oil during the period from November 1, 1973 through June 30, 1974.

II. Refunds and Civil Penalty

Under this Consent Order, T.W. Oil, Inc. will pay the sum of $607,808, plus applicable installment interest if the firm elects to pay the sum in installments as permitted by the Consent Order.

The amount of $294,739, together with any applicable installment interest, shall be refunded to the Commonwealth of Virginia, an end-user customer. The remaining sum of $313,069, together with any applicable installment interest, will be remitted to the United States Department of Energy. The DOE will determine the ultimate disposition of these monies. Upon full satisfaction of the terms and conditions of this Consent Order by T.W. Oil, Inc., the DOE releases T.W. Oil, Inc. (and its predecessor JOC Oil, Inc.) from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

T.W. Oil, Inc. agrees to pay the sum of $12,156 in compromise of civil penalties relating to the above described transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms, conditions, or procedural aspects of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on T.W. Oil, Inc. Consent Order." The ERA will consider all comments which it receives by 4:30 p.m., Eastern Standard Time, on March 10, 1982. Any information of data considered confidential by the person submitting it must be identifed in accordance with the procedures in 10 CFR 205.9(f).

Issued: in Washington, D.C. on the 26th day of January 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-3237 Filed 2-5-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-713-002]

Arkansas Power & Light Co.; Compliance Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Arkansas Power & Light Company (AP&L), on January 22, 1982, tendered for filing proposed changes in its rates and charges to five municipalities, as reflected in revised Rate Schedule WM3, and one rural electric cooperative, as reflected in revised Rate Schedule WC3. The revised rates represent a redetermination of AP&L's wholesale rates based upon a cost of service study utilizing the same test year, costing methodology and other revenue requirement determinations reflected in AP&L's retail rates ordered in Arkansas Public Service Commission Docket No. U-3108. The redetermined rates, which are lower than the rates originally filed in this proceeding, have been calculated in accordance with the August 8, 1980 Settlement Agreement between AP&L and its Arkansas wholesale customers, filed in this proceeding and approved by the Commission by Order issued October 21, 1980.

Copies of the filing were served on AP&L's jurisdictional customers affected by the filing. Copies were also served on the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Missouri Public Service Commission and the Tennessee Public Service Commission.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3272 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-251-000]

Consumers Power Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company on (Consumers) on January 26, 1982, tendered for filing Supplemental Agreement No. 1 to its contract for wholesale for resale electric service with the City of Bay City, Michigan. The aforementioned contract was dated and became effective on February 7, 1980.

Consumers states that Bay City is presently installing an electric generating unit and desires to operate the same in parallel with Consumer's generating system. Supplemental Agreement No. 1 provides that Consumers gives permission for such parallel operation to Bay City.

Consumers requests an effective date of December 21, 1981, and therefore requests waiver of the Commission's notice requirements.

According to Consumers, copies of the filing were served on Bay City and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3273 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-138-000]

East Tennessee Natural Gas Co.; Application

February 4, 1982.

Take notice that on December 29, 1981, East Tennessee Natural Gas Company (Applicant), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP82-138-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a long-term storage agreement with the Mid-Continent Gas Storage Company (Mid-Continent) and the construction and operation of certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to the terms of a long-term storage agreement with Mid-Continent to store summer valley gas which is available under Applicant's current gas purchase agreement with its pipeline supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for redelivery during subsequent seasons. Applicant asserts that under such agreement it would purchase for storage injection a portion of its contractual entitlement from Tennessee at a new delivery point to be established

at the existing interconnection of the facilities of Tennessee and United Gas Pipe Line Company (United) near West Monroe, Louisiana, where Applicant would deliver equivalent volumes to United for the account of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern). It is further submitted that United and Northern would exchange equivalent volumes with Northern's transporting such volumes from Ogden, Iowa, to East Dubuque, Illinois, for delivery to Mid-Continent at an existing Northern Illinois Gas Company (NI Gas) delivery point for the account of Applicant. Applicant states that Mid-Continent would accept such gas for storage pursuant to its limited-term storage agreement with NI Gas and that on withdrawal Mid-Continent would deliver withdrawal volumes by displacement at an existing NI Gas delivery point to Midwestern Gas Transmission Company (Midwestern) for Applicant's account. Applicant further states that Midwestern would transport the withdrawal volumes by displacement to Tennessee at Portland, Tennessee, for the account of Applicant and Tennessee would transport the volumes by displacement for delivery to Applicant at the existing Ridgetop delivery point.

Applicant states that under such arrangement it would store 1,000,000 Mcf of natural gas for the 1982–1983 heating season and 4,000,000 Mcf of natural gas for the 1983–1984 heating season and beyond with certain options to increase the storage quantity.

Applicant further proposes to construct and operate facilities to expand pipeline capacity. Specifically, Applicant proposes to construct and operate 2.5 miles of 12-inch loop lines in Sullivan County, Tennessee, and 9.0 miles of 12-inch loop in Virginia; 0.600 mile of 6-inch lateral loop in Blount County, Tennessee, two 1,100 horsepower compressor stations in Smyth and Wythe Counties, Virginia, one 1,100 horsepower addition in Washington County, Virginia, and 3,300 horsepower addition in Trousdale and Putnam Counties, Tennessee.

Applicant estimates the cost of the proposed facilities to be $16,809,600 which would be financed with borrowed funds.

Applicant also requests authorization to rearrange the maximum daily quantities of certain of its customers prior to the 1982–1983 heating season and to increase the contract demand in the amount of 25,089 Mcf for certain of its customers prior to the 1983–1984 heating season as more fully set forth in Exhibit I to the application.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20428, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3274 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-237-000]

Florida Power & Light Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Flordia Power & Light Company (FP&L) on January 22, 1982, tendered for filing four documents entitled "Exhibit I to Service Agreement for Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service." This filing is proposed to amend FERC Electric Tariff Original Volume II (Sheet Nos. 1–19).

FP&L states that under the Exhibit I FP&L will transmit power and energy for Orlando Utilities Commission (Orlando) as is required by Orlando in the implementation of its interchange agreements with the City of Homestead, Fort Pierce Utilities Commission, City of Vero Beach and the Jacksonville Elecrtic Authority.

FP&L requests waiver of the Commission's notice requirements and proposed that the Exhibits become effective immediately.

FP&L states that copies of the filing were served on Orlando Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 925 North Capitol Street, NE., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3275 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-578]

Kansas Gas & Electric Co.; Refund

February 3, 1982.

The filing Company submits the following:

Take notice that on January 22, 1982, Kansas Gas and Electric Company filed a refund report for the City of Augusta, Kansas. Such filing is made in accordance with Opinion 80–B, dated November 24, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3278 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-126-000]

Mississippi Power and Light Co.; Order Accepting for Filing and Suspending Proposed Rates, Granting Intervention, Granting in Part and Denying in Part Motions for Summary Disposition, and Establishing Procedures

Issued: February 2, 1982.

On December 4, 1981, Mississippi Power and Light Company (MP&L) tendered for filing revised rates, proposed to become effective February 3, 1982, for service to five full requirement customers and four transmission customers,[1] the proposed rates would result in an increase of approximately $4,762,782 (45.02%) based on the twelve month period ending December 31, 1982.

Notice of the filing was issued on December 10, 1981, with comments, protests, or petitions to intervene due on or before December 31, 1982. On December 14, 1981, The Municipal Energy Agency of Mississippi (MEAM) and its members, the municipal customers of MP&L[2] (hereafter collectively referred to as MEAM), requested that the due date for filing protests and petitions to intervene be changed to January 5, 1982. On December 22, 1981, the Commission's Secretary issued a notice which granted MEAM's request.

On January 5, 1982 MEAM filed a protest and petition to intervene. In this filing, MEAM alleges a number of improper cost of service calculations, requests a five-month suspension, and requests summary disposition of the following issues: (1) MP&L's asserted right to reserve for an evidentiary hearing the option of adding an attrition allowance in calculating its overall rate of return; and (2) MP&L's present capitalization of AFUDC for projects completed during 1976. As a final matter, MEAM alleges that MP&L's proposed rates may result in a price squeeze.

On January 5, 1982, South Mississippi Electric Power Association (SMEPA) filed a protest and petition to intervene. SMEPA is a generation and transmission association of distribution cooperative systems, receiving transmission service from MP&L. In its petition, SMEPA asserts that MP&L's rate filing lacks the workpapers required by § 35.13 of the Commission's regulations. Accordingly, SMEPA requests that the Commission issue a deficiency letter directing MP&L to submit workpapers prior to the Commission's establishing a filing date for MP&L's proposed rate increase. SMEPA also argues that MP&L's rates must be suspended for five months. SMEPA indicates that a number of issues relating to cost of service and terms and conditions will have to be explored at an evidentiary hearing. However, SMEPA requests that the Commission summarily dispose of the following issues: (1) MP&L's present capitalization of AFUDC for projects completed during 1976; (2) MP&L's inclusion of deferred taxes related to unbilled revenues, as an addition to rate base; and (3) MP&L's $1,725,000 adjustment to operating income to reflect the accrual of non-cash expense reserves.

On January 20, 1982, MP&L filed separate answers to the pleadings filed by MEAM and SMEPA. MP&L contends that its filing substantially complies with the Commission's filing requirements, that summary disposition is inappropriate, that the matters raised by the intervenors should be pursued at hearing, and that a five month suspension is unwarranted. In addition, MP&L characterizes MEAM's price squeeze allegation as speculative.

Discussion

Initially, we note that participation in this proceeding by MEAM and SMEPA is in the public interest. Consequently, we shall grant their petitions to intervene.

As a threshold matter, we have reviewed MP&L's filing and find that it substantially complies with the Commission's filing requirements; thus, we shall deny SMEPA's request that we issue a deficiency letter.[3]

We shall grant, however, MEAM's request for summary disposition relating to MP&L's use of an attrition allowance. We note that MP&L's cost of service does not reflect an attrition allowance. Yet, MP&L has proposed a specific attrition allowance which it reserves the right, in an evidentiary hearing, to provide as an addition to its cost of service calculations. According to the prepared testimony submitted by MP&L,[4], the purpose of this allowance is to offset prospective increases in costs which MP&L's filed cost of service did not anticipate. The Commission has previously summarily rejected an attrition allowance which, as the one MP&L now proposes, lacked specific cost support while increasing costs beyond test year projections.[5] We see no reason to depart from this precedent.

The remaining requests by MEAM and SMEPA for summary disposition will be denied. These issues as well as the matters raised by the petitions of MEAM and SMEPA present questions of law or fact more appropriately resolved on the basis of an evidentiary hearing which we direct below

Our analysis of MP&L's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[6] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that the rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

No such circumstances have been presented here. Accordingly, we shall suspend the rates for a period of five months to become effective, subject to refund, on July 3, 1982.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79-339, order issued August 6, 1979, we shall phase the price squeeze issue raised by MEAM. As we have noted in prior orders, this procedure will allow a

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[1] *See* Attachment A for the list of customers and rate schedule designations.

[2] Specifically the Mississippi cities of Canton, Durant, Kosciusko, Leland, Itta Bena, Clarksdale, Greendale and Yazoo City. The first five cities receive full requirements service; the latter three cities receive transmission service.

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

[4] *See* Prepared Direct Testimony of John C. Dunn at pages 38-42.

[5] *See Southern California Edison Company*, Docket No. ER81-177-000 (February 13, 1980).

[6] *E.g., Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five month suspension); Alabama Power Co., Docket Nos. ER80-506, et al. (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-468 (August 22, 1980) (one day suspension).

decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenor or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission Orders:

(A) SMEPA's request for an issuance of a deficiency letter is hereby denied.

(B) MP&L's proposed rates are hereby accepted for filing and are suspended for five months, to become effective July 3, 1982, subject to refund.

(C) MEAM's motion for summary disposition on the issue of attrition allowance is hereby granted. All other motions by MEAM and SMEPA for summary disposition are hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning MP&L's rates.

(E) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(F) The Commission Staff shall serve top sheets in this proceeding on or before February 16, 1982.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consoldiate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price sequeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

RATE SCHEDULE DESIGNATIONS.—Mississippi Power & Light Company

[Docket No. ER82-128-000]

Designation	Description	Other party
(1) Supplement No. 9 to Rate Schedule FPC No. 87 (Supersedes Supplement No. 8)	Rate Schedule MW-16	City of Kosciusko, Miss.
(2) Supplement No. 9 to Rate Schedule FPC No. 88 (Supersedes Supplement No. 8)	do	City of Canton, Miss.
(3) Supplement No. 9 to Rate Schedule FPC No. 93 (Supersedes Supplement No. 8)	do	City of Leland, Miss.
(4) Supplement No. 5 to Rate Schedule FPC No. 236 (Supersedes Supplement No. 4)	do	City of Durant, Miss.
(5) Supplement No. 5 to Rate Schedule FPC No. 238 (Supersedes Supplement No. 4)	do	City of Ita Bena, Miss.
(6) Supplement No. 2 to Supplement No. 6 to Rate Schedule FPC No. 239	Amendment No. 1 to Revised Service Schedule E	Greenwood Utilities Commission.
(7) Supplement No. 2 to Supplement No. 6 to Rate Schedule FPC No. 243	do	City of Clarksdale, Miss.
(8) Supplement No. 2 to Supplement No. 5 to Rate Schedule FERC No. 254	do	Yazoo City, Miss.
(9) Supplement No. 1 to Supplement No. 8 to Rate Schedule FERC No. 251	Amendment No. 1 to Revised Service Schedule TS-2.	South Mississippi Electric Power Association.
(10) Supplement No. 1 to Supplement No. 11 to Rate Schedule FERC No. 251	Amendment No. 1 to Revised Service Schedule TS-1.	Do.

[FR Doc. 82-3277 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-115-000]

Mitco Pipeline Co.; Application

February 4, 1982.

Take notice that on December 14, 1981, Mitco Pipeline Company, (Applicant), P.O. Box 4000, The Woodlands, Texas 77380, filed in Docket No. CP82-115-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with § 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on it own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3278 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-236-000]

Pacific Power & Light Co.; Cancellation

February 3, 1982.

The filing Company submits the following:

Take notice that on January 21, 1982, Pacific Power & Light Company (PP&L) tendered for filing a notice of cancellation of Rate Schedule FPC No. 104, dated June 22, 1972, between PP&L and the City of Ashland.

PP&L requests waiver of the Commission's notice requirements in order to allow for an effective date of February 27, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3279 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-558]

Philadelphia Electric Co.; Refund

February 3, 1982.

The filing Company submits the following:

Take notice that on January 18, 1982, Philadelphia Electric Company filed a refund report in accordance with the Commission's letter dated December 11, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3280 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-239-000]

Southern California Edison Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that on January 22, 1982, Southern California Edison Company (Edison) tendered for filing an energy delivery agreement with the California City of Burbank providing for the delivery by Edison of power purchased by Burbank from Metropolitan Water District of Southern California (MWD). Edison will charge Burbank for transmission, dispatching and scheduling services and for losses between the Points of Attachment to MWD and the Point of Delivery to Burbank.

Edison requests that the Agreement be made effective as an initial rate schedule on minimum statutory notice; i.e., 60 days after receipt by the Commission for filing, but in no event, later than April 1, 1982.

Copies of this filing were served upon the City of Burbank, California, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3281 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI77-851-001, et al.]

Superior Oil Co. (Successor In Interest to Alminex U.S.A. Inc.), et al.; Application of Superior Oil Co. for Certificates of Public Convenience and Necessity Authorizing Continuance of Service Being Rendered by Alminex U.S.A., Inc.; and Request for Redesignation of Rate Schedules

February 2, 1982.

Take notice that on January 25, 1982, Superior Oil Company (Superior), of P.O. Box 1521, Houston, Texas 77001, as successor in interest to Alminex U.S.A. Inc., (Alminex), filed an application in Docket Nos. CI77-851-001, *et al.*, in order that Superior may succeed to certain certificates of public convenience and necessity issued to Alminex, to redesignate certain rate schedules, and to substitute Superior for Alminex in any pending proceedings before the Commission.

By assignment, effective July 31, 1981, Alminex conveyed and transferred to Superior certain of its oil and gas properties and assets together with all rights and privileges, obligations and responsibilities incident thereto, and did thereby transfer all gas sales contracts and amendments pertaining thereto.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a Hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene

is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applications to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3283 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. ER82-238-000]

Tampa Electric Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Tampa Electric Company (Tampa Electric), on January 22, 1982, tendered for filing an Agreement for Interchange Service between Tampa Electric and the City of St. Cloud (St. Cloud), together with Service Schedules A, B, and C thereunder.

Tampa Electric states that Service Schedules A, B, and C provide for emergency, schedules short-term, and economy energy interchange service, respectively, between Tampa Electric and St. Cloud.

Tampa Electric proposes an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on St. Cloud and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All Such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3285 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-235-000]

Tucson Electric Power Co.; Cancellation

February 3, 1982.

The filing Company submits the following:

Take notice that on January 21, 1982, Tucson Electric Power Company (Tucson) tendered for filing a notice of cancellation of Rate Schedule FPC No. 37, dated July 1, 1980, between Tucson and the Community Public Service Company.

Tucson requests an effective date of December 31, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3284 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-137-000]

Transcontinential Gas Pipe Line Corp.; Application

February 4, 1982.

Take notice that on December 28, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-137-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation of up to 5,000 dekatherms (dt) equivalent of natural gas per day for the City of Lexington, North Carolina (Lexington), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on behalf of Lexington up to 5,000 dt equivalent of natural gas per day which Lexington would purchase from North Carolina Gas Service, Division of Pennsylvania & Southern Gas Company (NC Gas Service). Applicant explains that it would receive such quantities from NC Gas Service at an existing point of delivery between NC Gas Service and Applicant. It is submitted that NC Gas Service would make such gas available by reducing its takes from Applicant. It is stated that Applicant would then redeliver equivalent quantities by displacement to Lexington at the existing delivery points between Applicant and Lexington.

Applicant indicates that the proposed transportation service would be for a term beginning on the date of initial deliveries and ending no later than November 1, 1982. It is said that the transportation would be interruptible at Applicant's sole discretion and would be subordinate to Applicant's deliveries to Lexington under Applicant's Rate Schedules CD, ACQ, LGA, GSS and WSS.

Applicant submits that for the proposed transportation service Lexington would initially pay Applicant 3.5 cents per dt equivalent of gas with no retainage for compressor fuel and line loss make-up.

It is indicated that Lexington would use the gas to be transported by Applicant to reduce anticipated curtailment to high priority customers during the current winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on it own review of the

matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3285 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-144-000]

Upper Peninsula Power Co.; Refund

February 3, 1982.

The filing Company submits the following:

Take notice that on January 19, 1982, Upper Peninsula Power Company filed a refund report pursuant to the Commission's order approving settlement issued November 20, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3286 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-242-000]

Arizona Public Service Co.; Proposed Change of Rate

February 3, 1982.

The filing Company submits the following:

Take notice that Arizona Public Service Company (Company) on January 25, 1982, tendered for filing Amendment No. 1 dated November 30, 1981 to the Firm Transmission Service Agreement between the Utah Power & Light Company (Utah) and Company.

Waiver is requested under the provisions of Section 35.11 so that this Amendment becomes effective as of December 1, 1981 in accordance with its terms.

A copy of this filing was served upon Utah and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3280 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1992-000]

James F. Cobey, Jr.; Application

February 3, 1982.

The filing individual submits the following:

Take notice that on January 18, 1982, James F. Cobey, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Connecticut Yankee Atomic Power Company

Director, President, and Chief Operating Officer—United Illuminating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with that §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3281 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-247-000]

Consumers Power Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on January 26, 1982, tendered for filing Amendment No. 1 to its contract for wholesale for resale electric service with the Village of Union City, Michigan. The aforementioned contract was dated and became effective on September 30, 1975.

Consumers states that Union City has entered into a Power Sales Contract with the Michigan South Central Power Agency organized by the Cities of Coldwater, Hillsdale and Marshall and the Villages of Clinton and Union City, Michigan under which that agency will sell to Union City all electric power and energy required by Union City for its electric system in excess of that produced from cogeneration facilities and nonelectric generating activities. The Agency plans to be a generally self-sufficient generating entity and is engaged in the construction of a fossil fuel-fired steam electric generating unit located at Litchfield, Michigan and presently expected to be in commercial operation by July 1, 1982. Amendment No. 1 supplements and modifies the term of the September 30, 1975 contract so that the said contract will terminate when Union City commences to purchase its bulk power supply requirements from the South Central Power Agency.

Consumers requests an effective date of October 29, 1981, and therefore requests waiver of the Commission's notice requirements.

According to Consumers copies of the filing were served on Union City and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3282 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-248-000]

Consumers Power Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on January 26, 1982, tendered for filing Amendment No. 2 to its contract for wholesale for resale electric service with the City of Marshall, Michigan. The aforementioned contract was dated and became effective on March 10, 1977.

Marshall has entered into a Power Sales Contract with the Michigan South Central Power Agency organized by the Cities of Coldwater, Hillsdale and Marshall and the Villages of Clinton and Union City, Michigan under which that agency will sell to Marshall for its electric system in excess of that produced from cogeneration facilities and nonelectric generating activities. The Agency plans to be a generally self-sufficient generating entity and is engaged in the construction of a fossil fuel-fired steam electric generating unit located at Litchfield, Michigan and presently expected to be in commercial operation by July 1, 1982. Amendment No. 2 supplements and modifies the term of the March 10, 1977 contract so that the said contract will terminate when Marshall commences to purchase its bulk power supply requirements from the South Central Power Agency.

Consumers requests an effective date of October 29, 1981, and therefore requests waiver of the Commission's notice requirements.

According to Consumers, copies of the filing were served on Marshall and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3283 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-249-000]

Consumers Power Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on January 26, 1982, tendered for filing Amendment No. 1 to its contract for wholesale for resale electric service with the City of Coldwater, Michigan. The aforementioned contract was dated and became effective on March 10, 1977.

Consumers states that Coldwater has entered into a Power Sales Contract with the Michigan South Central Power Agency organized by the Cities of Coldwater, Hillsdale and Marshall and the Villages of Clinton and Union City, Michigan under which that agency will sell to Coldwater all electric power and energy required by Coldwater for its electric system in excess of that produced from cogeneration facilities and nonelectric generating activities. The Agency plans to be a generally self-sufficient generating entity and is engaged in the construction of a fossil fuel-fired steam electric generating unit located at Litchfield, Michigan and presently expected to be in commercial operation by July 1, 1982. Amendment No. 1 supplements and modifies the terms of the March 10, 1977 contract so that the said contract will terminate when Coldwater commences to purchase its bulk power supply requirements from the South Central Power Agency.

Consumers requests an effective date of October 29, 1981, and therefore requests waiver of the Commisson's notice requirements.

Copies of this filing were served upon Coldwater and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3284 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-250-000]

Consumers Power Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Consumers' Power Company (Consumers) on January 26, 1982, tendered for filing a Transmission Service Agreement between Consumers and the City of Bay City, Michigan. The aforementioned contract was dated and became effective on December 15, 1981.

Consumers states that Bay City proposes to operate a dual fuel diesel electric generating unit, with an expected rating of 6,000 kW, located near Bay City's Saginaw Street Municipal Substation, and proposes to deliver electric capacity and energy from said unit to Consumers' system at the 46,000 volt bus of the said substantion to four delivery points, being the 46,000 volt bus of each of Bay City's other four substations as described in the agreement.

Consumers' further states that the rate to be charged for such transmission service is the standard rate charged by Consumers for firm transmission service, previously accepted for filing by this Commission on January 21, 1981 in Docket No. ER80-98. The weekly rate of $0.096 per kW of billing demand is the incremental rate for firm transmission service at 46,000 volts ($.318 per kW) approved in Docket No. ER80-98, the component of said rate attributable to firm service at 138,000 volts ($.222 per kW) approved in the same docket.

Consumers requests waiver of the Commission's notice requirements in order to allow for an effective date of December 15, 1981.

According to Consumers, copies of the filing were served on Marshall and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should fila a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8,

1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3285 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-243-000]

Florida Power & Light Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FP&L) on January 25, 1982, tendered for filing documents entitled "Exhibit I to Service Agreement for Interchange Transmission Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts For Interchange Service." FP&L states that this filing is proposed to amend FERC Electric Tariff Original Volume II (Sheets Nos. 1–19).

According to FP&L under Exhibit I FP&L will transmit power and energy for Fort Pierce Utilities Authority (Fort Pierce) as is required by Fort Pierce in the implementation of its interchange agreement with Sebring Utilities Commission.

FP&L requests waiver of the Commission's Regulations be granted and that the proposed Exhibit be made effective immediately.

Copies of the filing were served on Fort Pierce Utilities Authority.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3286 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-246-000]

Florida Power & Light Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FP&L) on January 25, 1982, tendered for filing documents entitled "Exhibit I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service." FP&L states that this filing is proposed to amend FERC Electric Tariff Original Volume II (Sheet Nos. 1–19).

FP&L states that under the Exhibit I FP&L will transmit power and energy for the Utilities Commission, City of New Smyrna Beach (New Smyrna) as is required by New Smyrna in the implementation of its interchange agreement with the City of St. Cloud.

FP&L requests waiver of the Commission notice requirements and requests that the proposed Exhibit be made effective immediately.

According to FP&L copies of the filing were served on the Utilities of New Smyrna Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3287 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-241-000]

Public Service Co. of Indiana, Inc.; Proposed Tariff Change

February 3, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. (PSCI) on January 25, 1982, tendered for filing pursuant to the Interconnection Agreement between PSCI and Louisville Gas and Electric Company a Seventh Supplemental Agreement to become effective March 22, 1982.

PSCI states that said Supplemental Agreement increases the demand charge for Short Term Power from 85¢ per kilowatt per week to $1.05 per kilowatt per week.

PSCI further states that copies of the filing were served upon Louisville Gas and Electric Company, Kentucky Public Service Commission and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3288 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-240-000]

Southern California Edison Co.; Tariff Change

February 3, 1982.

The filing Company submits the following:

Take notice that on January 22, 1982, Southern California Edison Company ("Edison") tendered for filing a change of rates for firm transmission service under the provisions of Edison's agreements with the parties listed below as embodied in their FERC Rates Schedules. Edison requests that the new rates for these services be made effective May 1, 1982.

Entity	Rate schedule FERC No.
1. City of Burbank ("Burbank")	135
2. City of Glendale ("Glendale")	136
3. City of Pasadena ("Pasadena")	137
4. Imperial Irrigation District ("IID")	138
5. San Diego Gas and Electric Company ("SDG&E")	139

Edison states that the filing is in accordance with the terms of each of these agreements, which state that the rates for these services will be redetermined 90 days prior to commencement of service under the agreements to reflect the current California Public Utilities Commission authorized rate of return for Edison's retail operations and any system changes since the agreements were originally executed.

Copies of this filing were served upon the California cities of Burbank, Glendale, and Pasadena, IID, SDG&E, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3269 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-244-000]

Virginia Electric and Power Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that Virginia Electric and Power Company (VEPCO) on January 25, 1982, tendered for filing a supplemental contract on behalf of the Rappahannock Electric Cooperative (REC) which requests a change in delivery voltage from 12.5 kV to 115 kV at the Kings Dominion Delivery Point.

The proposed change is as follows:

Delivery point	Present FERC No.	Proposed FERC No.	Proposed effective date
Kings Dominion.	101-16	To be designated by FERC.	Sept. 11, 1981.

VEPCO states that the revised contract supplement for Kings Dominion Delivery Point supersedes FERC Rate Schedule No. 101-16 dated February 22, 1980.

VEPCO requests an effective date of September 11, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3270 Filed 2-5-82; 8:45 am]

BILLING CODE 6117-01-M

[Project No. ER82-252-000]

West Texas Utilities Co.; Filing

February 3, 1982.

The filing Company submits the following:

Take notice that on January 27, 1982, West Texas Utilities Company ("WTU") submitted for filing three (3) executed Delivery Point and Service Specifications sheets providing for changes in conditions of service under Service Agreements between WTU and the Stamford Electric Cooperative, Inc. executed under WTU's FERC Electric Tariff, Original Volume No. 1. The changes provide for the decrease or increase in stated maximum contract demand at the existing delivery point.

WTU states that copies of the filing have been sent to the Public Utility Commission of Texas and the Stamford Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on application with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3271 Filed 2-5-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 82-31, 82-32; File Nos. 21774-CD-P-(4)-81, 22428-CD-P-(1)-81]

Airsignal International, Inc. and Gulf Coast Electronic, Inc.; Designated Applications for Consolidated Hearing on Stated Issues

Adopted January 19, 1982.

Released February 1, 1982.

In re applications of Airsignal International, Inc., for a construction permit to add additional locations on frequency 35.22 MHz for Station KKG501 in the Domestic Public Land Mobile Radio Service at Houston, Texas, CC Docket No. 82-31, File No. 21774-CD-P-(4)-81; Gulf Coast Electronics, Inc., for a construction permit to add an additional location on frequency 35.22 MHz for Station WXS436 in the Domestic Public Land Mobile Radio Service near Hamshire, Texas, CC Docket No. 82-32, File No. 22428-CD-P-(1)-81.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Airsignal International, Inc. (Airsignal) and Gulf Coast Electronics, Inc. (Gulf Coast). The Airsignal application proposed facilities at four new locations, numbers 8, 9, 10 and 11. The Airsignal proposal at location 9 and the Gulf Coast proposal are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. Airsignal's proposed locations 8, 10 and 11 are not mutually exclusive with any other pending applications.

2. We find the applicants to be legally, technically and otherwise qualified to construct and operate the proposed

facilities. We further find that a grant of the request by Airsignal at locations 8, 10 and 11 to operate on frequency 35.22 MHz will serve the public interest, convenience, and necessity.

Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Airsignal International, Inc., File No. 21774–CD–P–(4)–81 at locations 8, 10 and 11 is granted and that the application of Airsignal International, Inc., File No. 21774–CD–P–(4)–81 at location no. 9 and the application of Gulf Coast Electronics, Inc., File No. 22428–CD–P–(1)–81 are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[1] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[2] and services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

3. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

4. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, that the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.2212(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Order.

6. The Secretary shall cause a copy of this Order to be published in the Federal Register.

William F. Adler,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-3243 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82–25, 82–26; File Nos. BPH–801128AK, BPH–810427AM]

Coleman Broadcasting Co. and Lynn L. Martin; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 18, 1982.

Released: February 1, 1982.

In re applications of Anne Gail Coleman, d.b.a. Coleman Broadcasting Company, Alva, Oklahoma, Req: 104.7 MHz, Channel 284, 100 kW (H&V), 526 feet, BC Docket No. 82–25, File No. BPH–801128AK; Lynn L. Martin Alva, Oklahoma, Req: 104.7 MHz, Channel 284, 100 kW (H&V), 776.98 feet, BC Docket No. 82–26, File No. BPH–810427AM; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Anne Gail Coleman d.b.a. Coleman Broadcasting Company (Coleman) and Lynn L. Martin (Martin).

2. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give notice of the filing of their applications. The must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that either Coleman or Martin published the required notice. To remedy this deficiency, both will be required to publish local notice of their applications and to file a statement of publication with the presiding Administrative Law Judge.

3. *Martin.* Since no determination has been reached that the antenna proposed by Martin would not constitute a menace to air navigation, an issue regarding this matter is required.

4. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether there is a reasonable possibility that the tower height and location proposed by Martin would constitute a hazard to air navigation.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

7. It is further ordered, that, Coleman and Martin file a statement of publication of local notice of their respective applications, in accordance with § 73.3580(f) of the Commission's rules, with the presiding Administrative Law Judge.

8. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

9. It is further ordered, that in the event the application of Lynn L. Martin is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, Lynn L. Martin will divest himself of either his interest in Radio Station KALV–AM or his FM station in accordance with the requirements established in such rulemaking proceeding.

10. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

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[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from Sectom 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R–6404, equation 8.

[2] Section 22.504(a) of the Commission's rules and regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 35 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

11. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3574 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-3344 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-56—82-58; File Nos. BPH-800918AC, etc.]

B & M Communications, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of B & M Communications, Inc., Mountain Home, Arkansas, Req: 105.5 MHz, Channel 288A, 1.13 kW (H&V), 457 feet, BC Docket No. 82-56, File No. BPH-800918AC; Mountain-Valley Broadcasters, Inc., Mountain Home, Arkansas, Req: 105.5 MHz, Channel 288, 0.794 kW (H&V), 585 feet, BC Docket No. 82-57, File No. BPH-810204AB; Dr. Ambrose T. Walker, M.D., Mountain Home, Arkansas, Req: 105.5 MHz, Channel 288, 1.0 kW (H&V), 480 feet, BC Docket No. 82-58, File No. BPH-810210AD; for construction permit for a New FM Station.

Adopted: January 29, 1982.

Released: February 3, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration (i) the above-captioned mutually exclusive applications filed by B & M Communications, Inc. (B&M), Mountain-Valley Broadcasters, Inc. (MVB), Dr. Ambrose T. Walker, M.D. (Dr. Walker), (ii) a Motion For Designation of Issues, filed February 9, 1981 by MVB, and (iii) a responsive Motion to Dismiss or For Extension of Time, filed by B&M on February 23, 1981.[1]

2. *B&M.* Analysis of the financial portion of B&M's application reveals that it will require $177,778 to construct the proposed facility and operate for three months, itemized as follows:

Equipment down payment	$10,217
Equipment payments with interest	3,485
Land	21,300
Building	70,500
Miscellaneous and other costs	49,581
Operating costs (three months)	22,695
Total	177,778

B&M plans to finance construction and operation with the following funds: (i) Existing capital—$387; (ii) unfulfilled stock subscriptions by James D. Lewis and James L. Reinhard—$5,712 each, or $11,424 total; (iii) two bank loans—$300,000; (iv) further stockholder loan commitments or stock subscriptions by Messrs. Lewis and Reinhart of $50,000 and $10,000, respectively; and (v) "other" sources—$10,741. However, Mr. Lewis' financial statement indicates he has only $35,562 in net liquid assets to meet his commitment. In addition, the bank loan letters fail to comply with Paragraph 4(e) of Section III of FCC Form 301, in that they do not specify the length of the loan or the terms of repayment. Finally, the source of $10,741 is not disclosed. Therefore, the applicant has shown only $51,661, an amount insufficient to meet proposed costs of $177,778. A limited financial issue will be specified.

3. *MVB.* Analysis of the financial portion of MVB's application reveals that it will require $129,216 to construct the proposed facility and operate for three months, itemized as follows:

Equipment	$62,016
Building (leased)	
Miscellaneous and other costs	39,000
Operating costs (three months)	28,200
Total	129,216

MVB plans to finance construction and operation with $3,000 cash on hand and $100,000 in loans from each of the two principals, Messrs. Bruce L. Higgins and Allen S. McGaughey. Mr. McGaughey's balance sheet discloses only $195 in net liquid assets. Although he intends to rely upon a bank loan, Mr. McGaughey's letter of commitment from the First Bank & Trust Co. of Mountain Home fails to comply with Paragraph 4(e) of Section III of FCC Form 301 in that it does not specify the interest rate of the loan or the terms of repayment. As a result, MVB has shown only $103,195 available to meet a commitment of $129,216. Moreover, MVB does not include a copy of the lease agreement or indicate the leasing costs it will incur in acquiring, remodeling or constructing buildings. Accordingly, a financial issue will be specified.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and population which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to B&M:

(a) The source and availability of additional funds over and above the $51,661 indicated;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(2) To determine with respect to MVB:

(a) The source and availability of additional funds over and above the $103,095 indicated;

(b) The costs of leasing, acquiring, remodeling, and/or constructing buildings; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

(4) To determine which of the proposals would, on a comparative basis, best serve the public interest.

(5) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating

[1] Pursuant to the Commission's *Report and Order in re Revised Procedures for the Processing of Contested Broadcast Applications; Amendments of Part I of the Commission's rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by MVB in its pleadings have not been considered in this Order. Accordingly, an opportunity to raise any allegations contained in the Petition which have not been discussed herein will be afforded the parties post designation, pursuant to § 1.229.

an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually of, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

9. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is further ordered, that the following issue is specified:

(3) To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by Mountain-Valley Broadcasters, Inc.

10. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-3243 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-48, 82-49; File Nos. BPH-800925AB, BPH-801211AD]

CM Broadcasting Co. and Dr. Ambrose T. Walker; Hearing Designation Applications Order on Stated Issues

Adopted: January 28, 1982.

Released: February 2, 1982.

In reapplications of Carl G. and Mary F. Minton, d.b.a. CM Broadcasting Co., West Plains, Missouri, Req: 102.3 MHz, Channel 272A, 3 kW (H&V), 300 feet, BC Docket No. 82-48, File No. BPH-800925AB; Dr. Ambrose T. Walker, M.D., West Plains, Missouri, Req: 102.3 MHz, Channel 272A, 3 kW (H&V), 300 feet, BC Docket No. 82-49, File No. BPH-801211AD, for construction permit for a New FM Station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Carl G. and Mary F. Minton, d.b.a. CM Broadcasting Co. and Dr. Ambrose T. Walker, M.D.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to §1.221(c) of the Commission's rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

7. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, it is further ordered, that the following issue is specified:

(1) To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Carl G. and Mary F. Minton, d.b.a. CM Broadcasting Co. and Dr. Ambrose T. Walker, M.D.

8. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-3248 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-46, 82-47; File Nos. BPH-800710AF, 801003AA]

Cedar Creek Radio Co. and Henderson County Radio; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 28, 1982.

Released: February 3, 1982.

In re applications of Edd Lowe Routt, Norma Lee Routt, Edd L. Routt, Jr. and Kendall A. Minter, d.b.a. Cedar Creek Radio Company, Malakoff, Texas, Req: 95.9 MHz, Channel 240, 3 kW (H&V), 300 feet, BC Docket No. 82-46, File No. BPH-800710AF; Kenneth R. Jones and Glenda J. Jones, d.b.a. Henderson County Radio, Malakoff, Texas, Req: 95.9 MHz, Channel 240, 3 kW (H&V), 300 feet, BC Docket No. 82-47, File No. BPH-801003AA, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (1) Above-captioned mutually exclusive applications filed by Edd Lowe Routt, Norma Lee Routt, Edd L. Routt Jr. and Kendall A. Minter, d.b.a. Cedar Creek Radio Company (Cedar Creek), and Kenneth R. Jones and Glenda J. Jones d.b.a. Henderson County Radio (Henderson County).

2. *Cedar Creek.* Applicants for new broadcast stations are required by § 73-3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that Cedar Creek published the required notice. To remedy this deficiency, Cedar Creek will be required to publish local notice of its application, if it has not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

3. From the evidence before us, the engineering exhibit submitted by Cedar Creek appears to contain an inconsistency concerning the proposed transmitter site. Sec. V-B, paragraph 4 shows the transmitter site 2.5 miles SE of Malakoff on Route 2636 at 32°08'48"

north latitude, 95°58'24" west longitude. The June 22, 1980 lease in Attachment C of the February 2, 1981 amendment obligates the lessor to build at a transmitter site 32°08'13" north latitude, 95°58'18" west longitude, which appears to be 5 acres in the city of Malakoff. Therefore, it appears that Cedar Creek has amended its transmitter site without making the necessary amendment of Section V–B. Accordingly, an issue will be specified to determine the site of Cedar Creek's transmitter and whether a proper engineering amendment is required.

4. *Henderson County.* Henderson County has also failed to submit the local notice required by § 73.3580(f) of the Commission's Rules. To remedy this deficiency, it will be required to publish local notice, if it has not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

5. Section 73.1125 of the Commission's rules requires that the main studio of an FM state be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Henderson County proposes to locate its main studio outside the corporate limits of Malakoff, Texas on State Highway 31 near Crescent Heights, Texas. The applicant alleges that the proposed location is easily accessible from Malakoff. Under these circumstances, we believe that adequate justification has been provided for the proposed studio location.

6. Analysis of the financial data submitted by Henderson County reveals that $55,884 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$18,240
Equipment payments with interest	2,736
Land lease (transmitter and studio)	[illegible]
Miscellaneous	16,500
Building	1,200
Operating costs (three months)	15,000
Total	55,884

Henderson County plans to finance construction and operation with the following funds: $31,000 in existing capital; $98,000 bank loan; and $23,850 from KTLR profits. The First State Bank letter dated September 25, 1980 requires a first lien on all station equipment of the applicant. However, the broadcast equipment is being purchased on credit from McMartin Industries, Inc. Therefore, a question arises as to whether the loan is available. Additionally, the existing capital of $31,000 to be supplied by Kenneth R. Jones appears to be unavailable. Jones has $31,000 in current liquid assets offset by $12,300 in current liabilities, leaving $18,700 in existing capital available. Therefore, Henderson County has failed to provide documentation to support more than $42,550 available to meet the $55,884 required for construction and operation. Accordingly, a limited financial issue will be specified.

7. Data submitted by the applicants indicate that there would be a significant difference in the size of the area and population which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the site of Cedar Creek's transmitter and whether a proper engineering amendment is required.

(2) To determine with respect to Henderson County: (a) The source and availability of additional funds over and above the $42,550 indicated; and (b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(3) To determine which of the proposals would, on comparative basis, better serve the public interest.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, that, Cedar Creek Radio Company shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580(f) of the Commission's rules.

11. It is further ordered, that, Kenneth R. Jones and Glenda J. Jones, d.b.a. Henderson County Radio shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580(f) of the Commission's rules.

12. It is further ordered, that to avail themselves of the opportunity to be heard, the applications herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-3241 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 82-29, 82-30; File Nos. 20292-CD-P-80, 21011-CD-P-80]

Larry D. Swartz and Radio Telephone Company of Daytona Beach, Inc.; Memorandum Opinion and Order Designating Applications Consolidated Hearing on Stated Issues

Adopted January 13, 1982.

Released February 2, 1982.

In re applications of Larry D. Swartz for a construction permit to establish a new two-way station to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service at Flagler Beach, Florida, CC Docket No. 82–29, File No. 20292–CD–P–80; Radio Telephone Company of Daytona Beach, Inc., for a construction permit to add two-way frequency 454.175 MHz to existing Station KWU540 in the Domestic Public Land Mobile Radio Service at Bunnell, Florida, CC Docket No. 82–30, File No. 21011–CD–P–80.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the above-captioned applications of Larry D. Swartz (Swartz) and Radio Telephone Company of Daytona Beach, Inc. (RTC). As originally filed, both applications requested the use of the same frequency in the same

geographic area and were found to be electrically mutually exclusive and entitled to comparative consideration pursuant to § 22.31 of the Commission's rules.[1] In a "Petition to Dismiss Amended Application," RTC argues that as a result of certain actions taken in connection with Swartz's application, these applications are not longer mutually exclusive and that Swartz's application must be returned as defective. Swartz did not file a response.

2. The events giving rise to RTC's petition are as follows. In a letter dated June 13, 1980, C.T. Simpson, Swartz's consulting engineer, requested amendment of Swartz's application to change the frequency requested from 454.175 MHz to 454.200 MHz. This letter amendment, which was not signed by Swartz, appeared on the Bureau's Public Notice of Applications Accepted for Filing dated July 8, 1980. According to RTC, no consideration was offered or provided to Swartz by RTC in connection with this amendment.

3. On July 9, 1980, the Bureau received a telegram bearing the names of both Simpson and Swartz which referred to a telephone conversation of July 8, 1980 with the staff confirming "our desire to cancel" the previous amendment (the June 13 letter). This telegram was followed by a letter received by the Bureau on July 15, 1980 signed by Simpson and confirming the telegram's request to withdraw the previous amendment.[2] Notice of amendment of Swartz's application to change the frequency requested from 454.200 MHz to 454.175 MHz (the originally requested frequency) appeared on the Bureau's Public Notice of Applications Accepted for Filing dated July 29, 1980.

4. RTC's petition notes that a pending mobile radio application may be amended as a matter of right prior to designation for hearing and that a change in (or addition of) a radio frequency is considered a major amendment to a mobile radio application.[3] RTC also points out that an application that has been amended by a major amendment will be considered a newly filed application for purposes of § 22.31.[4] Therefore, according to RTC, the letter dated June 13, 1980 constituted a major amendment to Swartz's application that was effective when filed, and the effort to withdraw that amendment constituted an attempt at a second major amendment back to the frequency originally requested by both Swartz and RTC. RTC argues that since RTC's application had been pending for more than 60 days when the June 13, 1980 letter amendment was filed, its application was subsequently considered to be a protected "cut-off" status pursuant to Section 22.31 and Swartz could not amend his application back to frequency 454.175MHz. RTC claims that Swartz's application must be returned as defective and cites the Commission's decision in *Dial-A-Page, Inc.*, 75 FCC 2d 432 (1980) as controlling in this case.

[1] 47 CFR 22.31. Swartz's application was listed as acceptable for filing on the Common Carrier Bureau's Public Notice dated December 18, 1979. RTC's application was received on February 15, 1980. Notice of the mutually exclusive situation and applicability of the Commission's *ex parte* rules appeared on our Public Notice dated June 24, 1980.

[2] Copies of the telegram and the letter received on July 15, 1980 were not served on RTC or its counsel. These communications did not specify whether Swartz participated in the July 8, 1980 telephone conversation.

[3] 47 CFR 22.23(a)(c).

[4] 47 CFR 22.21(e).

Discussion

5. We believe that RTC has relied on a flawed assumption which ultimately renders its arguments without merit. Pursuant to Sections 308(b) and 319(a) of the Communications Act of 1934, as amended,[5] all applications for stations licenses, modifications, renewals, and construction permits must be signed by the applicant or licensee. The Commission has specified in §§ 22.6(d), 22.23(g), 1.743(a), and 1.744(a) of the rules [6] that mobile radio applications and amendments, including letter amendments, as in this case, must be personally signed by the applicant if, as here, the applicant is an individual. Since neither of the purported amendments was personally signed by Swartz, they should have been returned as unacceptable for filing pursuant to § 22.20 of the rules,[7] and we have no power to act on them. *Johnstown Broadcasting Co.* v. *FCC*, 175 F. 2d 351, 356 (D.C. Cir. 1949), *on remand*, 14 FCC 472 (1950), *applied in Jane A. Roberts*, 29 FCC 141, 150 (1960); *B. J. Hart*, 44 FCC 2088, 2090 (1960). *See also Communication Gaithersburg, Inc.*, 60 FCC 2d 537, 541–42 (1976). Therefore, our July 8 and July 29, 1980 Public Notices listing amendments to Swartz's application were in error. Because the amendments were not effective, the Commission's decision in *Dial-A-Page, Inc., supra*, is not applicable here. Thus, we conclude that Swartz's application has remained mutually exclusive with the RTC application for frequency 454.175 MHz thoughout this proceeding and that a comparative hearing should be held to determine which applicant would better serve the public interest, convenience, and necessity.

6. RTC also argues that Swartz violated the Commission's *ex marte* rules [8] because RTC was not served copies of the July 9 telegram or the July 15 letter (which were sent after the June 24, 1980 Public Notice announcing the mutually exclusive situation and the restricted nature of the proceeding). Although Swartz should have served copies of those communications on RTC pursuant to § 22.23(e) of the Rules,[9] those communications were not directed to decision-making personnel, as defined in Rule § 1.1205, and thus were not considered *ex parte* presentations under § 1.1201(g).

7. We find both applicants to be legally, technically, and otherwise qualified to be Commission licensees and to operate their proposed facilities.

8. Accordingly, it is ordered, that the application of Larry D. Swartz, File No. 20292–CD–P–82, and Radio Telephone Company of Daytona Beach, Inc., File No. 21011–CD–P–82, are designated for hearing in a consolidated proceeding, pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free areas within the 39 dBu contours,[10] based upon the standards set forth in § 22.504(a) of the Commission's rules,[11] and to determine and compare the need for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the

[5] 47 U.S.C. 308(b) and 319(a).

[6] 47 CFR 22.6(d), 22.23(g), 1.743(a), and 1.744(a).

[7] 47 CFR 22.20. This section may be considered to apply to amendments also. *See* CFR 1.740(a) and the rule sections cited at n. 6.

[8] 47 CFR 1.1201 *et. seq.*

[9] 47 CFR 22.23(e).

[10] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal equal to or greater than R in FCC Report No. R–6406, equation 8.

[11] Section 22.504(a) of the Commission's rules and regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies on the 450–470MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult the Bureau in an effort to submit joint technical exhibits.)

foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

9. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

10. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

11. It is further ordered, that the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issue specified in this Memorandum Opinion and Order.

12. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-3245 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 82-54, 82-55; File Nos. 10288-CM-P-80, 50003-CM-P-81]

Northstar Communications and Microband Corporation of America; Memorandum Opinion and Order on Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 25, 1982.

Released: February 2, 1982.

In re applications of Northstar Communications, CC Docket No. 82-54, File No. 10288-CM-P-80; and Microband Corporation of America, CC Docket No. 82-55, File No. 50003-CM-P-81; for construction permits in the Multipoint Distribution Service for a new Station in the Altoona, Pennsylvania area.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 in the Altoona, Pennsylvania area. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Northstar Communications, Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 82-3239 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband to Tymshare. *See* Application for Transfer of Control *Memorandum Opinion, Order and Authorization*, File Nos. 11-76-CM-TC-(69)-80, 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[BC Docket Nos. 82-50, 82-51; File Nos. BP-800515AD, BP-801105AD]

Pathfinder Communications Corp. and Premier Broadcasting Corp.; Memorandum Opinion and Order on Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 28, 1982.

Released: February 3, 1982.

In re applications of Pathfinder Communications Corporation, WBZA, Glens Falls, New York, Has: 1410 kHz, 1 kW, Day, Req: 1230 kHz, 250 W, 1 kW-Ls, U, BC Docket No. 82-50, File No. BP-800515AD; Premier Broadcasting Corporation, South Glens Falls, New York, Req: 1230 kHz, 250 W, 1 kW-LS, U, BC Docket No. 82-51, File No. BP-801105AD; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned application of Pathfinder Communications Corporation to change the facilities of station WBZA; (b) the above-captioned mutually exclusive application of Premier Broadcasting Corporation for a new AM station at South Glens Falls, New York; (c) Pathfinder's petition to dismiss or deny the Premier application; and (d) related pleadings.[1]

2. *Initial matter.* While both proposals would result in prohibited overlap with existing co-channel class IV stations, in violation of § 73.37(a) of our rules, waiver is warranted. Had either applicant first proposed daytime facilities of 250 watts, no overlap with any existing operation would have been caused. Hence such an application would have been granted. The permittee could have then, pursuant to § 73.37(d), immediately increased its power to one kilowatt, notwithstanding the resulting overlap. Logic and convenience favor eliminating this two-step procedure through initial waiver of § 73.37(a). *Everette Broadcasting Co.*, FCC 76-1117, 39 RR 2d 255 (1976).

3. *Pathfinder Communications Corporation.* Pathfinder requests waiver of § 73.24(j),[2] but its request is

[1] Berkshire Broadcasting Co., Inc., licensee of station WMNB, North Adams, Massachusetts, filed and then withdrew petitions to deny raising an interference issue concerning both applications, a lack of candor issue concerning Pathfinder, and a suburban community issue concerning Premier. The first and third of these questions are considered herein, either on our own motion or on that of one of the applicants. The second question was inadequately supported when made, and will not be pursued further.

[2] Section 73.24(j) requires in pertinent part that AM proposals provide nighttime interference-free service to all residential areas of their communities.

unnecessary. The proposal complies substantially with our requirements, in that the nighttime interference-free contour would encompass 92 percent of the area and 98.9 percent of the population of Glens Falls. See *Dowric Broadcasting Co., Inc.*, FCC 72-162, 37 FR 4376, 23 RR 2d 926 (1972).

4. Pathfinder's local notice of its application did not state the operating power proposed. It must give a corrected local notice and file the necessary statement.

5. *Premier Broadcasting Corporation.* On March 24, 1981, Premier notified the Commission of the death of Robert G. Jennings, its vice president, director, 33⅓ percent stockholder, and proposed general manager. On May 20, 1981, Premier again amended its application, this time to report that Jennings' widow had been elected vice president and director, that she would vote the stock held by his estate, and that she would assume the position of bookkeeper. Carleton R. Reis, president, director, 33⅓ percent stockholder, and proposed technical director, would assume the now vacant position of general manager, it also reported. Pathfinder partially opposes Premier's petition for leave to amend, arguing that Premier may not enhance its comparative postion through an amendment filed after the amendment as of right period has ended. However, the rule Pathfinder states does not apply to this situation. Where Premier originally proposed to integrate two principals (Robert G. Jennings and Carleton R. Reis) into its operation on a full-time basis, it now proposes one fully integrated principal (Carleton R. Reis) and a second principal (Joyce Jennings) whose position has not been specified a full-time commitment. Certainly there is no comparative benefit to the applicant in this change, and thus no barrier to acceptance of the amendment. The petition for leave to amend is therefore granted.

6. Premier's application shows that its nighttime proposal would not serve about 25 percent of South Glens Falls' land area. That this area constitutes the only part of the village where future residential growth can occur is a proposition accepted, apparently, by the applicant. As for the number of people now residing in the unserved area, while the parties do differ as to the precise figure, even the lowest estimate represents a substantial portion (10.8 percent) of South Glens Falls' population. Arguing that waiver of § 73.24(j) is warranted, Premier maintains that its transmitter site, to the northeast of Glens Falls, was chosen to provide necessary clearance to co-channel stations requiring protection and to avoid environmental and zoning problems through close association with existing towers. Significant as these factors may be, however, there is no suggestion that they could not be furthered at other sites. In fact, Premier itself acknowledges clearances of one and three miles between its proposal's and the other stations' relevant contours. A waiver cannot be granted absent hearing under these circumstances.[3]

7. Closely related to the waiver issue is the question of Premier's service intentions.[4] As a village of 3,714 (1980 U.S. Census) with its own mayor, village board, court system, taxes and budget, municipal services, schools, and business establishments, South Glens Falls is a licensable community for our purposes. See *e.g. Teche Broadcasting Corp.*, 52 FCC 2d 970 (Rev. Bd. 1975). Pathfinder maintains, however, that Premier does not in fact plan to serve the village, but proposes instead a service to the larger adjacent community of Glens Falls, with its population of 15,897 (1980 U.S. Census). Given the proximity of the two communities—Glens Falls and South Glens Falls face each other from opposite banks of the Hudson River—it is unlikely that one could be served satisfactorily without the other being served as well. As Pathfinder points out, though, Premier would provide better coverage to Glens Falls than to South Glens Falls, in that proportionately more of the larger city than the smaller city would be served during daytime and nighttime hours.

8. This coverage difference, all parties agree, is the result of Premier's transmitter site selection, the site being closer to Glens Falls than to South Glens Falls.[5] If, as Premier claims, this selection was dictated by technical considerations (see paragraph 6 *supra*), then no inferences as to the applicant's service intentions can properly be drawn from the choice. If, however, other feasible sites were available, Premier's selection of a site so favorable to Glens Falls would be inherently suspect. To permit a full consideration of this matter, we will specify both a suburban community issue and a § 73.24(j) waiver issue. We intend in this manner to allow both a full hearing into the reasons underlying Premier's selection of its proposed transmitter site and a complete evaluation of the consequences flowing from its choice.[6]

9. Premier's local notice of its application was also deficient, in that it did not include the proposed antenna height, as required by § 73.3580(f)(5) of the rules. Premier must publish a corrected local notice and file a statement of that publication.

10. *Other matters.* Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive and must be set for hearing in a consolidated proceding. Although the proposals are for different communities, they would serve substantial areas in common. Consequently, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue also will be specified.

11. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the proposal of Premier Broadcasting Corporation would provide the nighttime coverage of all residential areas of South Glens Falls required by § 73.24(j) of the Commission's rules, and if not whether circumstances exist which warrant waiver of the rule.

2. To determine whether the proposal of Premier Broadcasting Corporation would realistically provide a local transmission service for South Glens Falls, New York, or for Glens Falls, New York.

3. To determine, in the event it be concluded pursuant to issue 2 that the Premier Broadcasting Corporation proposal would not realistically provide a local transmission service for South Glens Falls, New York, whether the proposal meets the technical provisions

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[3] Pathfinder's argument to the contrary notwithstanding, § 73.24(j) does not require that every business in the community be encompassed by the 25 mV/m contour. It is sufficient that the central business district be covered, a test which the Premier proposal meets.

[4] Given the size of Glens Falls (under 30,000 population), our suburban community presumption does not arise here. *Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities*, 2 FCC 2d 190 (1965), *reconsid. denied*, 2 FCC 2d 396 (1966). Hence, a specific factual showing is necessary to warrant an issue. See *KBMR, Inc.*, FCC 70-253, 44 FR 61258 (1979).

[5] In fact, a portion of Glens Falls lies between South Glens Falls and the proposed transmitter site.

[6] With respect to ascertainment (required when the application was filed), Premier's application provides an analysis of South Glens Falls and interviews with community leaders and members of the general public. Its programming adequately addresses ascertained needs.

of the rules for AM broadcast stations assigned to Glens Falls, New York.

4. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

6. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

12. It is further ordered, that the petition to dismiss or deny filed by Pathfinder Communications Corporation, is granted to the extent indicated herein, and is denied in all other respects.

13. It is further ordered, that Pathfinder Communications Corporation and Premier Broadcasting Corporation shall give corrected local notice of the filing of their applications, and shall file the necessary statements with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

14. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

15. It is further ordered, that pursuant to Section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-3240 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-27, 82-28; File Nos. BP-810402AA, BP-810806AD]

Radio Voice of Yauco, Inc. and Gauthier and Rodriguez Radio Associates; Designating Applications for Consolidated Hearing on Stated Issues

In re application of Radio Voice of Yauco, Inc., Yauco, Puerto Rico, Req: 880 kHz, 500 W, DA–2, U, BC Docket No. 82–27, File No. BP–810402AA; Gauthier and Rodriguez Radio Associates, Sabana Grande, Puerto Rico, Req: 880 kHz, 1 kW, DA–1, U, BC Docket No. 82–28, File No. BP–810806AD, for construction permit.

Adopted: January 18, 1982.

Released: February 2, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations.[1]

2. *Radio Voice of Yauco, Inc.* Analysis of the financial portion of Radio Voice's application reveals that $64,497 will be required to construct and operate for three months, itemized as follows:

Equipment	$28,379
Other construction costs	21,100
Operating costs	15,000
Total	64,479

The applicant proposes to finance the station with $145,300 existing capital. However, the corporate balance sheet for Radio Voice is vague and shows no more than $10,000 net liquid assets. A limited financial issue will be specified.

3. Figures 2 and 4 of Radio Voice's engineering exhibit show that because of terrain irregularities, the proposed antenna towers will be built at significantly different elevations. We would ordinarily expect an applicant proposing such a site to show what effect the vertical dispersion would have on the radiation pattern, and what special measures (if any) will be taken to minimize such effects. This applicant has not, however, and must therefore do so by amendment.

4. *Gauthier and Rodriguez Radio Associates.* Analysis of the financial data Gauthier and Rodriguez submitted reveals that $95,348 will be required for its proposed station, itemized as follows:

Equipment	$27,098
Land and buildings	35,900
Other construction costs	12,000
Operating costs	10,350
Total	85,348

The applicant proposes to finance the station with $50,000 existing capital, a $40,500 (net) bank loan, and a $13,000 loan from Mrs. Verena Alicia de Rodriguez. However, Mrs. Rodriguez has not furnished a personal balance sheet showing her ability to meet the commitment. A limited financial issue will be specified.

5. We have no evidence that Gauthier and Rodriguez published the local notice of its application required by Section 73.3580 of the Rules. It must therefore demonstrate that it did.

6. *Other matters.* Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Although the proposals are for different communities, they would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

7. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to Radio Voice of Yauco, Inc.:

a. The source and availability of additional funds over and above the $10,000 indicated; and

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to Gauthier and Rodriguez Radio Associates:

a. The source and availability of additional funds over and above the $90,500 indicated, and

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair,

[1] For good cause shown, Radio Voice's November 16, 1981 petition for leave to amend is granted and the associated amendment accepted.

efficient, and equitable distribution of radio service.

5. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine in light of the evidence adduced pursuant to the foregoing issues, which application, if either, should be granted.

8. It is further ordered, that Radio Voice shall file the amendment described in paragraph 3 above within 30 days after this order is published in the **Federal Register.**

9. It is further ordered, that Gauthier and Rodriguez shall published local notice of its application (if it has not already done so), and shall file a statement of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**[3]

10. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

11. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of this designation for hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-3249 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

Senior Executive Committee; Appointment of Members

As requested by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Mark S. Fowler has appointed Commissioners Anne P. Jones and James H. Quello to the Senior Executive Committee, Federal Communications Commission, which functions as the Performance Review Board for SES members reporting directly to the Chairman. Chairman Fowler had previously been approved to serve as permanent Chairman of the Committee.

As required by the Civil Service Reform Act of 1978 (Public Law 95-454), Chairman Mark S. Fowler has appointed the following members to the Performance Review Board, Federal Communications Commission, for the terms indicated:

Edward J. Minkel, Managing Director—Chairman

Henry L. Baumann, Deputy Chief, Broadcast Bureau—Member, term expires April 22, 1982

James C. McKinney, Chief, Private Radio Bureau—Member, term expires October 28, 1983

Arlan K. vanDoorn, Deputy Chief, Field Operations Bureau—Member, term expires October 28, 1982

Sheldon M. Guttmann, Associate General Counsel for Administrative Law—Member, terms expires October 28, 1982.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-3250 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 82-39-82-41; File Nos. 4372-CM-P-80, etc.]

Summitridge Communications Corp., et al.; Memorandum Opinion and Order on Designating Applications For Consolidated Hearing on Stated Issues

Adopted: January 22, 1982.

Released: February 2, 1982.

In re-applications of Summitridge Communications Corporation, CC Docket No. 82-39, File No. 4372-CM-P-80; and Microband Corporation of America, CC Docket No. 82-40, File No. 5877-CM-P-80; and Channel View, Inc., CC Docket No. 82-41, File No. 5923-CM-P-80; for construction permit in the Multipoint Distribution Service for a New Station at Provo, Utah, and Hydra Communications, Inc., CC Docket No. 82-42, File No. 4373-CM-P-80; for construction permit in the Multipoint Distribution Service for a New Station near American Fork, Utah.

1. For consideration are the above-referenced applications.[1, 2] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 in the Provo/American Fork, Utah area. The applications are therefore mutually exclusive and under present procedures, require comparative consideration. These applications have been amended as result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[3]

2. Upon reveiw of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [4]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Summitridge Communications Corporation, Microband Corporation of America, Channel View, Inc., Hydra Communications, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

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[3] Gauthier and Rodriguez has also been requested by predesignation letter to file certain environmental information about its proposal. If it has not yet done so, it must file that information within 30 days after this order is published in the **Federal Register.**

[1] An amendment to application File No. 4372-CM-P-80 was filed on June 11, 1981, to change applicant's name from Jeff R. Burton d/b/a Summit Ridge Communications to Summitridge Communications Corporation. This results in a minor adjustment in ownership. The applicant, Jeff R. Burton, owns 100% stock of the corporation.

[2] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband to Tymshare. *Transfer of Control/MDS*, 85 FCC 2d 1023 (1981).

[3] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 82-3147 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-18, 82-19; File Nos. BR-800801WH, BP-801103AG; FCC 82-18]

Tele-Broadcasters of California, Inc. and Life Broadcasting Company, Inc.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 13, 1982.

Released: February 1, 1982.

By the Commission: Chairman Fowler not participating.

In re applications of Tele-Broadcasters of California, Inc., San Gabriel, California, Has: 1430 kHz, 5kW-U, DA-2, BC Docket No. 82-18, File No. BR-800801WH, for renewal of license of Station KALI, San Gabriel, California; Life Broadcasting Company, Inc., San Gabriel, California, Req: 1430 kHz, 5kW-U, DA-2, BC Docket No. 82-19, File No. BP-801103AG, for construction permit.

1. The Commission has under consideration the license renewal application of Tele-Broadcasters of California, Inc. ("Tele-Broadcasters") for AM Radio Station KALI in San Gabriel, California, and an application for a construction permit and a November 5, 1980 "Petition for Expedited Processing," filed by Life Broadcasting Company, Inc. ("Life Broadcasting"). Because the applications are mutually exclusive, they must be designated for a consolidated hearing.[1]

2. *Tele-Broadcasters.* According to its 1980 renewal application for Station KALI, Tele-Broadcasters of California, Inc. is a wholly-owned subsidiary of Tele-Broadcasters, Inc. Tele-Broadcasters, Inc., in turn, is more than 90 percent owned by United Broadcasting Co. (United). United, until very recently, was wholly-owned by Richard Eaton.[2]

3. Over the past several years, the Commission has denied or revoked four of United's licenses.[3] Recently in *United Broadcasting Co. (WOOK(FM))*, 86 FCC 2d 452 (1981), the Commission held that these prior adverse determinations reflected a pattern of serious misbehavior by United and thereby raised a *prima facie* question about its qualifications to operate WOOK(FM). In designating a qualifications issue, we noted that, although we lacked sufficient evidence to determine whether Richard Eaton was personally responsible for United's misconduct, even if Eaton was removed from United's ownership, a serious question would still remain regarding the soundness and reliability of the licensee's operations. 86 FCC 2d at n. 24.

4. In designating these applications for hearing, we are again confronted with the question whether United's past misconduct should reflect adversely on its qualifications to remain the licensee of KALI. Our decision is that it is unnecessary to add a basic qualifications issue to this proceeding at this time.[4] The question of which individuals were responsible for United's prior misconduct is being explored fully in the WOOK(FM) proceeding. After the Administrative Law Judge issues an initial decision in WOOK(FM), the parties to this proceeding may then argue to the Administrative Law Judge whether issues should be added to consider the significance that the findings there have on Tele-Broadcasters' qualifications. A final determination as to KALI's qualifications will therefore be conditioned on the outcome of the WOOK(FM) proceeding. Whether Richard Eaton's death has any effect on the resolution of any qualification issue, or the addition of any issues, is a matter, of course, for the Administrative Law Judge to decide initially.

5. In the interest of administrative efficiency, we believe that the Chief Administrative Law Judge should assign this matter to the same judge currently presiding in the WOOK(FM) proceeding.

6. Except as limited by our discussion above, a review of Tele-Broadcasters' license renewal application indicates that it is qualified to be a Commission licensee.

7. *Life Broadcasting.* Life Broadcasting states that it is a corporation organized under the laws of the State of California. As a corporate applicant, Life Broadcasting is required to file a duly certified copy of its by-laws with its application. (*See* FCC Form 301, Section II, Paragraph 3.) Although Life Broadcasting did submit a copy in its application (Exhibit No. 1), our review of the document reveals that several key provisions concerning its principal offices, its directors, and its annual meetings were left blank. Accordingly, the Commission will require the applicant to submit a completed and duly certified copy of its by-laws. Otherwise, an examination of Life Broadcasting's mutually exclusive application indicates that it also appears legally, teachnically and financially qualified to operate as proposed.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of Tele-Broadcasters of California, Inc. and Life Broadcasting Company, Inc. are designated for consolidated hearing, at a time and place to be specified in a subsequent order, upon the following issues: [5]

1. To determine, in light of the findings made above, which of the proposals

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[1] Life Broadcasting's petition argues that the rationale of *United Broadcasting Co.*, 45 RR 2d 101 (1979), review denied in *Memorandum Opinion and Order* (FCC 79-323), released June 8, 1979, should be applied to the instant proceeding. In that decision, the Commission, in order to promote its policy of encouraging minority ownership of broadcast facilities, ordered expedited processing for a minority-owned applicant to relieve it of the substantial delay the Commission was experiencing in designating mutually exclusive applications for hearing. Life Broadcasting's application indicates that each of its principals are United States citizens of Korean ancestry. However, the Commission's action in designating the applications for a consolidated proceeding, we believe, moots Life Broadcasting's petition for expedited processing, so that its merits need not be addressed.

[2] On April 16, 1981, the Circuit Court for Montgomery County, Maryland, appointed Suburban Trust Company to act as temporary guardian of the property of Richard Eaton. As a result of this appointment, applications were filed with the Commission on May 18, 1981, for consent to the involuntary transfer of control of United and its various licensee subsidiaries. On June 1, 1981, Richard Eaton died, and his property was transferred, pursuant to the terms of his will, to his Personal Representatives, Suburban Trust Company and Dennison L. Mitchell. As a result of this transfer, and prior to any Commission action on the May 18, 1981, applications, new applications for consent to the involuntary transfer of control of United and its various licensee subsidiaries to Richard Eaton's Personal Representatives were filed on July 1, 1981. On August 24, 1981, the Commission granted simultaneously both the May 18 and July 1, 1981, applications, with the result that control of United and its various licensee subsidiaries has been transferred to Suburban Trust Company and Dennison L. Mitchell, Personal Representatives.

[3] *United Television Co.*, 46 FCC 2d 698 (1974) (WFAN-TV) and *United Television of New Hampshire*, 46 FCC 2d 702 (1974) (WMET), aff'd. 514 F.2d 279 (D.C. Cir. 1975); *United Broadcasting of Florida*, 55 FCC 2d 832 (1975), *recon. denied* 60 FCC 2d 816 (1976 (WFAB); *United Television Co.*, 55 FCC 2d 416 (1975), *recon. denied* 59 FCC 2d 663 (1976), *aff'd. sub nom. United Broadcasting Co.* v. *FCC*, 569 F.2d 699 (D.C. Cir 1977), *cert. denied* 434 U.S. 1076 (1978) (*WOOK(AM)*).

In the first two decisions, we revoked two of United's television stations because they had been dark for more than two years, thereby depriving viewers of service over those frequencies. In the latter two, we denied two radio station renewals, finding that United was unfit to operate those broadcast facilities.

[4] See our similar decision in *Intercontinental Radio, Inc.*, FCC 81-571, released December 21, 1981.

[5] Our determination that Tele-Broadcasters possesses the basic qualifications to remain a Commission licensee is conditioned upon the outcome of the WOOK(FM) proceeding. See paragraphs 2-4, *supra*.

would, on a comparative basis better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

9. It is further ordered, that Life Broadcasting Company, Inc. shall file a completed and properly certified copy of its by-laws as an amendment to its application within 40 days after this Order is published in the **Federal Register**.

10. It is further ordered, that Life Broadcasting Company, Inc.'s "Petition for Expedited Processing" is dismissed as moot.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give local notice of the hearing (either individually, or if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

13. It is further ordered, that this case be assigned to the same Administrative Law Judge presently presiding in the United Broadcasting Co. (WOOK(FM)) proceeding.

14. It is further ordered, that the Broadcast Bureau shall send, by *Certified Mail—Return Receipt Requested,* a copy of this *Memorandum Opinion and Order* to each of the parties named herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-3246 Filed 2-5-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

El Centro Federal Savings and Loan Association, Dallas, Texas; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in Section 5 (d) (6) (A) of the Home Owner's Loan Act of 1933, as amended (12 U.S.C. 1464(d) (6) (A) (1976)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as conservator for El Centro Savings and Loan Association, Dallas, Texas, effective January 15, 1982.

Dated: February 3, 1982.

James J. McCarthy,

Acting Secretary.

[FR Doc. 82-3314 Filed 2-5-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Celaya—Guerin International (Betty L. Celaya and Robert L. Guerin, a partnership, d.b.a), 215 S. Fellowship Road, Maple Shade, NJ 08052.

Sebang (Global) Enterprises, Inc., d.b.a. Global Express Lines 17 Battery Place, Suite 2043, New York, NY 10004. Officers: J. K. Koh, President; M. S. Lee, Vice President; E. S. Lee, Director; P. S. Chung, Director; J. S. Ahn, Director; C. H. Lee, Director.

Dated: February 3, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-3183 Filed 2-5-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Chase Bank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Chase Bank International, Newark, Delaware, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Atlanta, Georgia, and San Francisco, California. Chase Bank International operates as a subsidiary of Chase Manhattan Bank (National Association), New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3184 Filed 2-5-82; 8:45 am]

BILLING CODE 6210-01-M

Citizens National Corp.; Proposed Acquisition of Chandler Leasing, Inc.

Citizens National Corporation, Wisner, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Chandler Leasing, Inc., Omaha, Nebraska.

Applicant states that the proposed subsidiary would engage in the activity of personal property leasing. These activities would be performed from offices of Applicant's subsidiary in Omaha, Nebraska and the geographic areas to be served are Douglas and Sarpy Counties, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue

concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be agrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than March 2, 1982.

Board of Governors of the Federal Reserve System, February 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3196 Filed 2-5-82; 8:45 am]

BILLING CODE 6210-01-M

Lawton Financial Corp.; Formation of Bank Holding Company

Lawton Financial Corp., Lawton, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Citizens Bank, Lawton, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3196 Filed 2-5-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

Agreements Between the American Institute in Taiwan and the Coordination Council for North American Affairs

AGENCY: Office of the Federal Register (NARS), GSA.

ACTION: Notice of availability of agreements.

SUMMARY: The American Institute in Taiwan has concluded a number of agreements with the Coordination Council for North American Affairs in order to maintain cultural, commercial and other unofficial relations between the American people and the people on Taiwan. The Director of the **Federal Register** is publishing the list of these agreements on behalf of the American Institute in Taiwan in the public interest.

SUPPLEMENATARY INFORMATION: Cultural, commercial and other unofficial relations between the American People and the people on Taiwan are maintained on a nongovernmental basis through the American Institute in Taiwan (AIT), a private nonprofit corporation created under the Taiwan Relations Act (Pub. L. 96–8; 93 Stat. 14). The Coordination Council for North American Affairs (CCNAA) is its nongovernmental Taiwan counterpart.

Under Section 12(a) of the Act, agreements concluded between the AIT and the CCNAA are transmitted to the Congress, and according to sections 6 and 10(a) of the Act, such agreements have full force and effect under the law of the United States.

The texts of the agreements are available from the American Institute in Taiwan, 1700 North Moore Street, 17th floor, Arlington, Virginia 22209. For further information contact Joseph Kyle at this address, telephone (703) 525–8474.

Following is a list of agreements concluded by AIT with CCNAA as of December 31, 1981.

Aviation

Air transport agreement, with exchange of letters. Signed at Washington March 5, 1980; entered into force March 5, 1980.

Memorandum of agreement relating to aeronautical equipment and services, with annexes. Signed at Arlington and Washington September 24 and October 23, 1981; entered into force October 23, 1981.

Education and Cultural

Implementing agreement financing certain educational and cultural exchange programs. Exchange of letters at Taipei April 14 and June 4, 1979; entered into force June 4, 1979.

Privileges and Immunities

Agreement relating to privileges and immunities of courier system. Signed at Washington and Arlington December 31, 1979 and January 7, 1980; entered into force January 7, 1980.

Agreement on privileges, exemptions and immunities. Signed at Washington October 2, 1980; entered into force October 2, 1980.

Scientific Cooperation

Agreement relating to cooperation in science and technology. Exchange of letters at Arlington and Washington September 4, 1980; entered into force September 4, 1980.

Security of Information

Protection of information agreement. Signed at Arlington and Washington September 15, 1981; entered into force September 15, 1981.

Trade and Commerce

Agreement on trade matters, with annexes. Exchange of letters at Arlington and Washington October 24, 1979; entered into force October 24, 1979.

Implementing agreement relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington November 5 and 21, 1979; entered into force November 21, 1979.

Implementing agreement relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington December 13 and 17, 1979; entered into force December 17, 1979.

Implementing agreement relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington March 7 and April 10, 1980; entered into force April 10, 1980.

Implementing agreement concerning export limitations relating to trade in cotton, wool and man-made fiber textiles and textile products. Exchange of letters at Arlington and Washington July 25 and August 25, 1980; entered into force August 25, 1980.

Agreement relating to exports of color television receivers, with annexes. Signed at Taipei June 28, 1980; entered into force June 28, 1980.

Agreement implementing tariff reductions on a Most Favored Nation basis, with annexes. Exchange of letters

at Arlington and Washington December 31, 1981. Entered into force December 31, 1981; effective September 30, 1982, or on a mutually agreed earlier date.

Weather Observations

Agreement relating to provision to AIT of ionospheric weather observations by CCNAA. Signed at Taipei November 26, 1980; entered into force November 26, 1980.

Agreement modifying the agreement on November 26, 1980 relating to provision to AIT of ionespheric weather observations by CCNAA. Signed at Taipei February 2, 1981; entered into force February 2, 1981.

Dated: January 27, 1982.

Joseph B. Kyle,

Corporate Secretary, American Institute in Taiwan.

Dated: February 3, 1982.

John E. Byrne,

Director, Office of the Federal Register.

[FR Doc. 82-3326 Filed 2-5-82; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Reconsideration of Disapproval of Rhode Island State Plan Amendments; Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 2, 1982 in Boston, Massachusetts to reconsider our decision to disapprove Rhode Island plan amendments 81–2 and 81–8. These plan amendments relate to provision of nursing home services for medically needy individuals under Medicaid based on a variable income standard.

CLOSING DATE: Request to participate in the hearing as a party must be received by February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Albert Miller, Hearing Officer, Bureau of Program Policy, 1–G–5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 597–2896.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decisions to deny Rhode Island State plan amendments 81–2 and 81–8.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before February 23, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to provision of Medicaid coverage of nursing home services for some, but not all, medically needy individuals. The two State plan amendments submitted by Rhode Island, 81–2 and 81–8, set out medically needy income standards by family size, but provide an exception to the limit that would be applicable only to those individuals with income over 300 percent of the SSI payment standard. These proposed State plan amendments violate the Medicaid statutory requirement that services to inividuals within a medically needy group must be equal in amount, duration, and scope. Moreover, they do not comport with the Medicaid regulatory requirement that a medically needy income level be uniform for all individuals in a covered group. Finally, the amendment excludes institutionalized individuals whose income is below a certain level from ever being medically needy, even though they cannot qualify as a categorcially needy (e.g., their resources exceed the categorical limit). Therefore, the amendment violates the regulatory requirement that States allow applicants to choose which category they wish to apply for.

The notice to Rhode Island announcing an administrative hearing to reconsider our denial of these State plan amendments reads as follows:

February 4, 1982.

Mr. John J. Affleck,
Director, Department of Social and Rehabilitative Services, Aime J. Forand Building, 600 New London Avenue, Cranston, Rhode Island 02920

Dear Mr. Affleck: This is to advise you that your letter of December 28, 1981 requesting a reconsideration of the decision to disapprove Rhode Island State plan amendments 81–2 and 81–8 was received on January 6, 1982. You have requested a reconsideration of whether the Rhode Island plan amendment proposal to provide Medicaid coverage of nursing home services for some medically needy individuals based on whether their income is over 300 percent of the SSI payment standard conforms to the requirements for approval under the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on April 5, 1982 at 10:00 a.m. in Room 1211, John F. Kennedy Building, Boston, Massachusetts. If this date is not satisfactory, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller to serve as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 597–2896.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Sec. 1116, Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: February 4, 1982.

Carolyne K. Davis,

Administration Health Care Financing.

[FR Doc. 82-3304 Filed 2-5-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–82–1109]

Privacy Act of 1974; System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of system of records.

SUMMARY: The Department is giving notice of a system of records it maintains which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective 30 calendar days from its publication date, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–755–5336. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The system is HUD Employee Locator Files (HUD/DEPT.-76). It will contain information concerning location of HUD employees. The system is used to locate HUD employees and to produce the HUD Telephone Directory. Appendix A, which lists the addresses of HUD's offices was published at 46 FR 54914 (November 4, 1981). A new stystem report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on December 31, 1981.

HUD-DEPT-76

SYSTEM NAME:

HUD Employee Locator Files

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of all Changes in Telephone Listings, SF-146, submitted by Administrative Officers. The following data will be included in the records: Name of employee, office telephone number, room number and location, and organization symbol.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and file folders.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

The automatic records and manual files are kept in a secured area, with access limited to authorized personnel.

RETENTION AND DISPOSAL:

These records are disposed of in accordance with the Mandatory General Records Schedules contained in HUD Handbook 2228.2, General Records Schedules.

SYSTEM MANAGER AND ADDRESS:

Director, Publications and Information Division
Office of Administrative Services
Department of Housing and Urban Development
451 Seventh Street, SW
Washington, D.C. 20410

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Administrative Officers.

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of Hud Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., February 2, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-3287 Filed 2-5-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT-DEIS-82-3]

Ellis-Pahsimeroi Grazing Draft Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of and public hearing on the Draft Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Impact Statement for a proposed grazing management program for the Ellis-Pahsimeroi Planning Unit of the Salmon District in central Idaho. The proposal includes changes in stocking rates, implementing improved grazing systems, and installation of range improvements on 380,458 acres of public land. Copies of the Draft Environmental Impact Statement are availabile for review at the following locations:

Salmon District Office, Bureau of Land Management, Highway 93 South, Box 430, Salmon, Idaho 83467. Telephone (208) 756-2201.

Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724. Telephone (208) 334-1770.

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, NW, Washington, D.C. 20240. Telephone (202) 343-5717.

DATES: Written comments on the draft statement are invited and should be submitted by March 29, 1982. A public hearing regarding the proposal will be held on March 9, 1982 at 7:00 p.m. MST.

ADDRESSES: Written comments should be submitted to: District Manager, Bureau of Land Management, Box 430, Salmon, Idaho 83467.

The public hearing will be held at the Salmon Public Library, Main Street, Salmon, Idaho.

FOR FURTHER INFORMATION CONTACT: Jerry Wilfong, Bureau of Land Management, Box 430, Salmon, Idaho 83467. Telephone (208) 756-2201.

SUPPLEMENTARY INFORMATION: Individuals wishing to testify may do so by appearing at the hearing place previously specified. Persons wishing to give testimony will be limited to 10 minutes, with written submissions invited. Prior to giving testimony at the public hearing, individuals or spokespersons are requested to complete a hearing registration form. Registration forms are available in the draft statement or may be obtained by contacting the Salmon District Manager at the above address.

Dated: January 29, 1982.

Clair M. Whitlock,

State Director, Idaho.

[FR Doc. 82-3188 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-84-M

[2520 (U-050)]

Management Framework Plans for Topaz and Confusion Planning Units, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with 43 CFR 1601.3 that the Bureau of Land Management intends to amend the Management Framework Plans (MFP) for the Topaz and Confusion Planning Units. The purpose of the amendments is to incorporate three petitions for lands to be reclassified for entry under the Desert-Land Act.

The Bureau of Land Management has received one petition for reclassification of the following 320 acre tract near Eskdale in Millard County, Utah:

T. 19 S., R. 19 W.,
Sec. 22: E½SE¼, SE¼NE¼,
Sec. 26: E½E½, NW¼SE¼.

Petitions have been received for the following two 320-acre tracts near Gandy in Millard County, Utah:

T. 15 S., R. 19 W.,
Sec. 33: W½SE¼, SE¼SW¼, S½SE¼,
Sec. 34: SW¼SW¼.
T. 16 S., R. 19 W.,
Sec. 3: Lots 4 & 5, NE¼SE¼,
Sec. 4: Lots 1, 2, 3, 6, 7, 8 E½SW¼, SW¼SE¼,
Sec. 9: NW¼NE¼, NE¼NW¼.

The existing MFP's state, "* * * all lands will be retained for multiple use management except isolated or irregular shaped lands which are hard for BLM to manage." The above described lands are not isolated or irregularly shaped; therefore, their disposal under the Desert Land Act would not conform to the existing MFP's. The disposal of these lands would be contingent upon the ability of the applicant to meet the requirements for desert land entry.

BLM will prepare an environmental assessment of the proposed reclassification under the Desert Land Act with a no action alternative.

The general issues related to the proposed reclassification of the described tracts under the Desert Land Act are: (1) The removal of 960 acres from multiple resource use opportunities, (2) loss of grazing privileges amounting to 19 animal unit months on the Gandy tract and 11 animal unit months on the Eskdale tract.

Notice is also hereby given that the public is invited to comment on the identified issues. Comments will be accepted until March 10, 1982 and should be directed to Bureau of Land Management, Box 778, Fillmore, Utah 84631. Other public participation activities will be conducted in accordance with 43 CFR Part 1601. Dates and locations will be announced through local media and mailings to interested publics.

FOR FURTHER INFORMATION CONTACT: Tom Terry, Lands Specialist at the Fillmore BLM Office, may be contacted at the above address or telephone (801) 743-6811.

Larry R. Oldroyd,

Associate District Manager.

[FR Doc. 82-3004 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-84-M

Fortymile Resource Area; Draft Environmental Assessment for Coal Preference Right Lease Application; Hearing

The Fortymile Resource Area of the Fairbanks District Office, Bureau of Land Management, will conduct a public hearing Wednesday, February 24, 1982. The meeting will begin at 7:30 p.m. at the Delta School, Delta, Alaska.

The purpose of the hearing is to seek public comment on the draft Environmental Assessment (EA) for a Coal Preference Right Lease Application. The proposed lease area is located approximately 40 miles south of Big Delta, Alaska.

Further information may be obtained from the Fortymile Resource Area Office, P.O. Box 367, Tok, Alaska 99780, or by calling (907) 883-5121.

Donald E. Runberg,

Acting District Manager.

[FR Doc. 82-3252 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Outer Continental Shelf (OCS); Oil and Gas Information Program

NOTICE: Availability of Arctic Summary Report.

SUMMARY: The first edition of a report for the Arctic Region, one in a series that provides affected States with current planning information on OCS oil and gas activities, has been published in accordance with section 26 of the OCS Lands Act Amendments of 1978 and 30 CFR 252.4. The report is a synthesis of recent data regarding both OCS and State-related activities including current oil and gas resource estimates, reserves, and production levels; magnitude and timing of onshore and offshore exploration, development, and production; strategies for transporting oil and gas; and the nature and location of nearshore and onshore facilities.

The next Summary Report to be published in April 1982 by the Office of OCS Information will cover the Pacific OCS Region.

EFFECTIVE DATE: Immediately.

ADDRESSES: Copies of the reports may be obtained free upon request from the Office of OCS Information, U.S. Geological Survey, 640 National Center, Reston, VA 22092.

FOR FURTHER INFORMATION CONTACT: Louis G. Hecht, Jr., Acting Chief, Office of OCS Information, U.S. Geological Survey, 640 National Center, Reston, VA 22092 (703) 860-7166.

Richard B. Krahl,

Acting Deputy Division Chief, Offshore Minerals Regulation Conservation Division.

January 5, 1982.

[FR Doc. 82-3078 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Aminoil USA, Inc., Unit Operator of the East Cameron Block 195 Federal Unit Agreement No. 14-08-0001-8855, submitted on January 25, 1982, a proposed annual plan of development/production describing the activities it proposes to conduct on the East Cameron Block 195 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested

parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 28, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-3077 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10:00 a.m., CST, on Friday, February 26, 1982, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by the Act of November 5, 1966, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. John R. Schnurlein (Chairperson)
Mr. Ronald Benz
Mr. Lynton Caldwell
Ms. Anna R. Carlson
Mr. R. M. Gacki
Ms. Lynne Kaser
Mr. James H. Lahey
Mr. William L. Lieber
Ms. Celia Nealon
Ms. Gail H. Pugh
Mr. John Tucker
Mr. Norman E. Tufford

Matters to be discussed at this meeting include:

1. Status of land acquisition.
2. Status of planning and development for Indiana Dunes National Lakeshore.
3. Status of 1982 operations.
4. Discussion of small boat harbor for Burns Waterway and Lake Michigan.
5. Discussion of National Park Service impact on Beverly Shores municipality.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: January 26, 1982.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 82-3233 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Death Valley National Monument; Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Pfizer, Inc. has filed a supplementation on its plan of operations in support of proposed mining activities on lands embracing the SUNSET, WONDER and SUPERIOR NO. 3 lode mining claims within Death Valley National Monument. The plan is available for public inspection during normal business hours at Death Valley National Monument Headquarters, Death Valley, California.

Dated: January 21, 1982.

Richard S. Rayner,

Acting Superintendent, Death Valley National Monument.

[FR Doc. 82-3232 Filed 2-5-82; 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 1:30 p.m., Tuesday, February 23, 1982, at the Federal Building, 727 E. Durango, Rm. A206, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95–629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

—Park Operations Update;

—Report on Progress Since Opening of Park Office;

—Report on Nomination Process for Second Term Commission Appointments;

—Ownership of San Jose Mission Lands;

—Commissioners Visit to Nuestra Señora del Espiritu Santo de Zuniga.

The meeting will be opened to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first come, first serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent 727 E. Durango, Room A612, San Antonio, Texas 78206, telephone (512) 229–6000.

Minutes of the meeting will be available for public review four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: January 28, 1982.

Robert L. Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-3234 Filed 2-5-82; 8:45]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Issuance of Certificates

Chairman Reese H. Taylor, Jr., announced today that the Interstate Commerce Commission has decided to make all Division decisions in motor carrier licensing proceedings effective 25 days from the date of service. He also noted that the filing of an appeal in such a proceeding does not automatically stay a decision, and since certificates may be issued upon the effective date of Division decisions, parties should not wait until the last moment to file an appeal.

The practical effect of this change is to provide basic due process to protestants who file discretionary appeals, while not delaying the issuance of certificates by more than 3 days.

This notice is effective on February 8, 1982.

Decided: January 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Gresham

concurred in part and dissented in part with a separate expression.

James H. Bayne,

Acting Secretary.

Commissioner Gresham, concurring in part and dissenting in part:

Appellate Division licensing decisions now become effective 15 days after service and are administratively final unless stayed. These policies were adopted in response to section 25 of the Motor Carrier Act of 1980, which eliminated multiple levels of automatic appeals, with the goal of expediting the licensing process.

By today's notice, the majority automatically adds an extra ten days of regulatory lag to every appellate division licensing decision. In those few licensing cases arguably involving errors of fact or law, and which are the subject of petitions for discretionary review, I believe the existing administrative stay and judicial stay remedies are adequate. If a party fails to seek a stay, or if a party seeks a stay and loses (both at the Commission and in federal appellate court), then basic due process has been served.

I would not extend the current 15-day effective period. I do, however, strongly endorse the majority's instructions to our staff that, unless the Commission or a court formally stays a decision, the issuance of a certificate should not be held up informally pending the disposition of the discretionary appeal.

[FR Doc. 82-3215 Filed 2-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388]

State Intrastate Rail Rate Authority

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission has decided to extend the provisional certification of 36 States, thereby enabling them to continue to exercise jurisdiction over intrastate railroad rates under section 214 of the Staggers Rail Act of 1980. This provisional certification will expire April 9, 1982 for any State not filing revised standards and procedures addressing in greater detail its ability and intent to exercise jurisdiction in conformance with Federal law. The provisional certifications of Maine, Mississippi, North Carolina and Rhode Island are withdrawn. Maine has specifically indicated that it no longer wishes to regulate intrastate transportation. The other three states have not pursued their prior requests for certification.

DATES: Each State must file its revised standards and procedures with the Commission by April 9, 1982. Railroads and other interested persons may then file comments by April 29, 1982.

ADDRESS: An original and 15 copies of all documents should be submitted to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

Copies of the complete decision are available by writing to Interstate Commerce Commission, Office of the Secretary, Room 2227, Washington, D.C. 20423 or by calling toll-free 800-424-5403.

CONTACT: Jane F. Mackall, (202) 275-7656, or Martin D. Zell, (202) 275-7138.

SUPPLEMENTARY INFORMATION: Section 214 of the Staggers Rail Act of 1980, Pub. L. 96-448, requires the States to obtain certification from the Interstate Commerce Commission of their standards and procedures for rate regulation in order to retain jurisdiction over intrastate railroad transportation. States exercising this jurisdiction must do so consistent with Federal law.

In the prior decision (46 FR 23335, April 24, 1981), we provisionally certified 40 States, although we required them to refile additional information regarding their standards and procedures. Of these, 36 States responded. These filings have been reviewed and (in a decision being served concurrently with this Federal Register notice) have been again found deficient in various respects. The States are being accorded another opportunity to remedy the deficiencies in their presentations, which are addressed in some detail in the Commission's decision.

The provisional certification for each of the 36 States will continue, unless the State fails to file or update its standards and procedures filing by April 9, 1982. A final determination on whether to certify each State will be made within 90 days after the close of the record.

(49 U.S.C. 10321 and 11501)

Dated: January 25, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Gresham concurred with a separate expression.

James H. Bayne,

Acting Secretary.

Commissioner Gresham, concurring:

The States should be aware that the appendix to this decision is incomplete. As the decision cautions, the appendix should not be viewed as a minimum standard which can be adopted without further analysis. Total reliance on the appendix may, in fact, preclude certification.

[FR Doc. 82-3219 Filed 2-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29807]

Tradewater Railway Company—Temporary Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission, grants Tradewater Railway Company's [TRC] petition exempting it from the requirement that TRC receive approval of its pending application under 49 U.S.C. 10901 prior to performing operations on various Illinois Central Gulf Railroad (I.C.G.) lines in Kentucky.

DATES: The exemption is effective on February 8, 1982 and remains effective until the effective date of a Commission decision on TRC's pending application under 49 U.S.C. 10901, unless earlier revoked. Petitions to reopen for reconsideration must be filed by March 1, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave., Washington, D.C. 20423

(2) Petition's Representatives: Samuel H. Moerman, Suite 743, 1511 K Street NW., Washington, D.C. 20005.

COPIES: Copies of the full decision are available from: Office of the Secretary, Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or by calling toll-free 800-424-5403.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275-7245

or

Elaine Sehrt, (202) 275-7889.

SUPPLEMENTARY INFORMATION: The decision in Finance Docket No. 29807 being served by the Commission contains further information and may be obtained from the Office of the Secretary.

Decided: January 29, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3216 Filed 2-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two

(2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–188

The following applications were filed in Region I: Send Protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 160263 (Sub-1–1TA), filed January 26, 1982. Applicant: APPLE BUS & COACH CO., INC., 1751 Bath Avenue, Brooklyn, NY 11214. Representative: Norman Turk, 233 Broadway, New York, NY 10279. *Passengers and baggage by motor coach in non-scheduled special round trip service* between the Counties of Suffolk, Nassau, Queens, Bronx, New York, Kings and Richmond in the State of NY, on the one hand, and, on the other, Atlantic City, NJ. Supporting shipper(s): T & M Travel Service, Inc., 4812 Avenue I, Brooklyn, NY 11234; Bay Parkway Travel Service, 2169 Bath Avenue, Brooklyn, NY; Edshel Investors, Inc., 136 William St., New York, NY 10038.

MC 140950 (Sub-1–6TA), filed January 25, 1982. Applicant: BROOKVILLE TRANSPORT, LIMITED, 1170 Old Rothesay Road, St. John, New Brunswick, CD. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Fruit juice* from Auburndale, FL to points in the U.S. on the U.S./CD border in ME, under continuing contract(s) with Leonard and MacDonald, Ltd., St. John, New Brunswick, CD. Supporting shipper: Leonard and MacDonald, Ltd., 311 Rothesay Avenue, St. John, New Brunswick, CD.

MC 142603 (Sub-1–33TA), filed January 27, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., 1071 Dwight Street, P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same as applicant). *Contract carrier:* irregular routes: *Paper and unprinted paper and newsprint* between points in Miami, FL on the one hand, and, on the other, NY, Chicago, IL; TN, Atlanta, GA; and WI under continuing contract(s) with Coral Paper Corp., Perez Trading Company, Inc., Miami, FL. Supporting shipper: Coral Paper Corp./Perez Trading Co. Inc., 3490 N.W. 125th Street, Miami, FL 33167.

MC 149830 (Sub-1–2TA), filed January 27, 1982. Applicant: COUSINS LEASING CORPORATION, Arnold Drive, Huntington, NY 11743. Representative: George Carl Pezold, Esq. Augello, Pezold & Hirschmann, P.C., 120 Main Street, Huntington, NY 11743. *Contract carrier:* Irregular routes: *(1) Plastic raw materials, and materials, equipment and supplies used in the manufacture and distribution thereof;* and *(2) Bank supplies, and material and equipment used by banks,* between points in the U.S., under continuing contract(s) with (1) Nicos Polymers & Grinding, Inc. of West Babylon, NY; and (2) Control Papers Company, Inc. of Summit, NJ. Supporting shipper: Nicos Polymers & Grinding, Inc., 84 Kean Street, West Babylon NY 11704; Control Papers Co., Inc., 245 Broad Street, Summit, NJ 07901.

MC 157430 (Sub-1–1TA), filed January 25, 1982. Applicant: G. T. & T. TRANSPORTATION, INC., 280 Henderson St., Store No. 9, Jersey City, NJ 07302. Representative: Jack L. Schiller, 123–60 83rd Avenue, Kew Garden, NY 11415. *Contract carrier:* Irregular routes: *Copper tubing* from Wynne, AR to Bensonville, IL, South Kearney, NJ and Dallas, TX, under continuing contract(s) with Non Ferrous International Corp., New York, NY. Supporting shipper: Non Ferrous International Corp., 300 Park Avenue, New York, NY.

MC 160215 (Sub-1–1TA), filed January 22, 1982. Applicant: KEN GIBERSON TRANSPORT, LTD., 135 Bridge Road, Chatham Head, N.B., CD E1V 3J1. Representative: Ken Giberson, P.O. Box 362, Newcastle, N.B., CD E1V 3M5. *Contract carrier:* Irregular routes: *Diverse horticultural products, in particular jiffy pots manufactured from peat moss* from US/CD border at Houlton, ME to points in CO, NY, PA, OH, TN, NC, SC, VA, GA, KY, AL, NJ, ME, NH, MA, and MD under continuing contract with JPA, West Chicago, IL. Supporting shipper: JPA, 1400 Harvester Road, P.O. Box 338, West Chicago, IL 60183.

MC 148560 (Sub-1–5TA), filed January 25, 1982. Applicant: GOLD STAR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: A. David Millner, Bowes, Millner and Rodgers, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* Irregular routes: *Such commodities as are dealt in or used by retail supermarket and drug stores, and materials, supplies and equipment used in such businesses,* between Cleveland, TN, on the one hand, and on the other, points in AL, AR, FL, GA, IN, KY, MS, MO, NC, OH, SC, TN, TX, VA and WV, under continuing contract(s) with Peyton's-Southeastern, Inc., Cleveland, Tenn. Supporting shipper: Peyton's Southeastern, Inc., Refreshment Lane, Appalachian Industrial Park, Cleveland, TN 37311.

MC 160262 (Sub-1–1TA), filed January 26, 1982. Applicant: GARY TORNABENE, d.b.a. J.T.T., 308 West Lewis Street, Canastota, NY 13032. Representative: Herbert M. Canter, Esq., Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. *Contract carrier:* Irregular routes: *Ice milk mix and milk shake mix, in containers,* from Canastota (Madison County), NY to Edison (Middlesex County), NJ, under continuing contract(s) with Queensboro Farm Products, Inc., of Long Island City, NY. Supporting shipper: Queensboro Farm Products, Inc., 35–13 41st Street, Long Island City, NY 11101.

MC 126427 (Sub-1–1TA), filed January 25, 1982. Applicant: L. P. TRANSPORTATION, INC., Cross & Main Street, Chester, NY 10918. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Liquefied Natural Gas in bulk (LNG)* from Trussville, AL, to Westfield, MA. Supporting shipper: Western Gas & Electric Light Dept., 100 Elm Street, Westfield, MA 01085.

MC 140252 (Sub-1–1TA), filed January 27, 1982. Applicant: M. K. M. ASSOCIATED TRUCKING CORP., 117 Dutch Road, East Brunswick, NJ 08816.

Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Metal Scraps and metal products* from Temple, PA to Baltimore, MD and Elizabeth, NJ, under continuing contract(s) with Can Corp. of America, Temple, PA. Supporting shipper: Can Corporation of America, P.O. Box 300, Blandon Road, Temple, PA 19560.

MC 30114 (Sub-1–1TA), filed January 25, 1982. Applicant: MOLA TRUCKING, INC. d.b.a. MITCHKO TRUCKING, 650 Myrtle Ave., Boonton, NJ 07005. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Chemicals, except in bulk and hazardous waste, and (2) Materials, equipment, and supplies used in the manufacture and sale of chemicals,* between the facilities used or utilized by Drew Chemical Corporation, its subsidiaries, divisions, or vendors at points in the US, on the one hand, and, on the other, points in the US. Supporting shipper: Drew Chemical Corporation, 1 Drew Plaza, Boonton, NJ 07005.

MC 151193 (Sub-1–7TA), filed January 21, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *(1) Dairy products, fresh and frozen, and (2) cpmmodities-dealt in and sold by supermarkets, and materials, equipment, and supplies used in the manufacture, sale and distribution of commodities in (1) and (2) (except bulk),* between points in AZ, CA, CO, FL, GA, IL, IA, MA, MD, NE, NJ and VA, under continuing contract(s) with Tuscan Dairies, Inc./Tuscan Foods, Inc., Union, NJ. Supporting shipper: Tuscan Dairies, Inc./Tuscan Foods, Inc., 750 Union Avenue, Union, NJ.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 150444 (Sub-II–8TA), filed January 25, 1982. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (same as applicant). *Contract; irregular: Iron, steel, and related products, metal doors, door frames, partitions, windows, window frames, door and wall systems, and parts, accessories and hardware for such commodities,* between pts. in the U.S., for 270 days, under continuing contract(s): with Williamsburg Steel Products Co., Inc., Brooklyn, NY. Supporting shipper(s) Williamsburg Steel Products Co., Inc., 73 Paidge Ave., Brooklyn, NY 11222.

MC 138000 (Sub-II–39TA), filed January 25, 1982. Applicant: ARTHUR H. FULTON, INC., P.O. Box 99, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417 Hagerstown, MD 21740. *Contract; irregular: Non-woven synthetic and polyester mesh, including materials, equipment and supplies,* between Wrens, GA, including its commercial zone, on the one hand, and, on the other, Cleveland and Toledo, OH; Washington, D.C. and Coatesville, PA, including their respective commercial zones, for 270 days under continuing contract(s) with Glit, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Glit, Inc., 809 Broad St., Wrens, GA 30833

MC 81908 (Sub-II–7TA), filed January 25, 1982. Applicant: GARNER TRUCKING, INC., Route #4, Findlay, OH 45840. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Fruit drinks,* except in bulk, from Detroit, MI to Jacksonville, FL. An underlying ETA seeks 120 days authority. Supporting shipper: NFP Corp., Box 30541, Gahanna, OH 43230.

MC 160240 (Sub-II–1TA), filed January 25, 1982. Applicant: ROBERT J. HAYES TRUCKING, INC., 24 Rose St., Forty Fort, PA 18704. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Contract Carrier, Irregular Routes, transporting *plastic articles* and materials, supplies and equipment used in the manufacture and distribution of plastic articles between Luzerne County, PA on the one hand, and, on the other, points in the U.S. (except AK & HI) under a continuing contract(s) with Injection Molding Company, Wilkes-Barre, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Injection Molding Company, 1600 Route 315, Wilkes-Barre, PA 18702

MC 42266 (Sub-II–1TA), filed January 25, 1982. Applicant: LANCASTER & NEW YORK MOTOR FREIGHT SERVICE, INC., RD #2, Box 208, Elizabethtown, PA 17022. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, D.C. 20036. *Such commodities* as are delat in or used by manufacturers of confectionery from Philadelphia, PA to Hackettstown, NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: M&M/Mars, High Street, Hackettstown, NJ 07840.

MC 159283 (Sub-II–1TA), filed January 25, 1982. Applicant: W. L. LOGAN TRUCKING CO., 3224 Navarre Rd., S.W., Canton, OH 44706. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Iron and steel articles* between Cleveland, OH, on the one hand, and, on the other, Cedartown, GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Chesterfield Steel Co., 1220 E. 222nd St., Cleveland, OH 44117.

MC 160237 (Sub-II–1TA), filed January 25, 1982. Applicant: MANCUSO TRANSPORTATION, INC., P.O. Box 404, Carbondale, PA 18407. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. (1) *Waste or scrap materials* not identified by industry producing between Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except AK & HI); (2) *Building Materials* between Lackawanna County, PA, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, MD, DE, VA, WV, OH, MI, IN, IL, NC, and SC; (3) *Such commodities as are dealt in by retail and wholesale grocery stores,* between Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except AK & HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Harry Letzie, Inc., 1 Railroad St., Box 511, Cabondale, PA 18407; Mancuso Lumber and Building Products, 23 River St., Box 404, Carbondale, PA 18407; Osucnam, Inc., 23 River St., P.O. Box 404, Carbondale, PA 18407.

MC 159780 (Sub-II–2TA), filed January 25, 1982. Applicant: R. W. TINNEY, INC., Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Sheet and coil steel,* between the facilities of Miami Industries Division of MSL Industries, Incorporated, at or near Piqua, OH, on the one hand, and, on the other, State Line Steel Corporation and Bedford Steel Processing, Inc., at or near Erie, MI, and Form Tec, Inc., at or near Temperance, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Miami Industries Div of MSL Industries, Incorp., P.O. Box 912, N. Dixie Hwy, Piqua, OH 45356.

MC 155529 (Sub-II–3TA), filed January 26, 1982. Applicant: G & D TRANSPORT, INC., 14763 Oyster Rd., Alliance, OH 44601. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. *Metal products,* between the facilities of Agra Steel Corp., located at or near Columbus, GA; Wathena, KS; and Spokane, VA, on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Agra Steel Corp., P.O. Box 3486, Kimberling City, MO 65686.

MC 143730 (Sub-II–5TA), filed January 27, 1982. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Dr., New Castle, DE 19720. Representative: Richard M. Ochroch, 316 South 16th St., Philadelphia, PA 19102. *Contract; irregular: Meats, meat products and meat by-products, and articles distributed by meat-packing houses,* between points in the U.S. for 270 days, under continuing contract(s) with Hygrade Food Products Corp., Detroit, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Hygrade Food Products Corp., P.O. Box 4471, Detroit, MI 48219.

MC 144859 (Sub-II–5TA), filed January 28, 1982. Applicant: SCOTT PALLETS, INC., P.O. Box 341, Amelia, VA 23002. Representative: Jo Anne Scott (same address as applicant). *Contract; irregular:* (1) *Tires, rubber,* from pts. in OH and PA to pts. in VA; and (2) *Steel bars, shapes, coils and steel products,* from Canton, Massillon, and Warren, OH; Sharon, PA; and Baltimore, MD, and their respective commercial zones, to Petersburg, VA and its commercial zone, for 270 days, under continuing contracts with Dick's Place, Inc., Amelia, VA and Brenco, Inc., Petersburg, VA. An underlying ETA seeks 120 days. Supporting shippers: Dick's Place, Inc., Amelia, VA 23002; Brenco, Inc., P.O. Box 389, Petersburg, VA 23803.

MC 160305 (Sub-2–1TA), filed January 27, 1982. Applicant: SPRINT CONTAINER SERVICE CO., INC., 630 22nd St., Chesapeake, VA 23324. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014. (1) *Portable air compressors,* (2) *compressor parts,* and (3) *master drills and compactors* from Campbellsville, KY; Davidson and Mocksville, NC; Shippensburg, PA; Painted Post, NY and Piscataway, NJ to Newport News, Norfolk, Portsmouth, and Richmond, VA; Wilmington and Morehead City, NC; Charleston, SC; Savannah, GA; Miami and Jacksonville, FL; Baltimore, MD; Newark and Elizabeth, NJ; Brooklyn and New York, NY; and New Orleans, LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ingersoll-Rand Corp., Sandford Ave., Mocksville, NC 27028.

MC 160293 (Sub-II–1TA), filed January 28, 1982. Applicant: I. W. SMITH, 237 Glen Road, Pasadena, MD 21122. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Contract; irregular: such; merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business,* between Baltimore, MD on the one hand, and, on the other, points in DE, MD, PA, VA, WV, and DC under continuing contract(s) with Acme Markets, 124 N. 15th St., Philadelphia, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Acme Markets, Inc., 124 N. 15th St., Philadelphia, PA 19101.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 154103 (Sub-3–26TA), filed January 25, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Contract Carrier;* irregular routes; liquid and dry chemicals, between the plant sites and facilities of Ashland Chemical located in Atlanta, GA; Etowah, TN; Catawba, SC; Chicago, IL; Acme, NC; Lancaster, SC; Cincinnati, OH; Mobile, AL, on the one hand, and, on the other, points in the US, excluding AK and HI. Supporting shipper: Ashland Chemical Company, P.O. Box 2219, Columbus, OH 43216.

MC 143792 (Sub-3–2TA), filed January 26, 1982. Applicant: BIG "M" TRANSPORT, INC., 3100 Hilton Street, Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *(1) Chemicals and related products (except in bulk), (2) Toilet preparations,* between Duval County, FL on the one hand, and, on the other, points in the U.S. (except HI and AK). Supporting shipper: Roux Laboratories, 6831 Stuart Avenue, Jacksonville, FL 32205.

MC 145738 (Sub-3–8TA), filed January 26, 1982. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Selmer, TN 38375. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., 315 Union Street, Nashville, TN 37201. *Wine, brandy, champagne and vermouth* between Sonoma, Napa, Stanislaus, San Joaquin, Sacramento, Santa Clara, Monterey and Mendocino Counties, CA, and San Francisco, CA, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Intermedal Traffic Consultants (ITCO), 2211 Wood Street, Oakland, CA 94607.

MC 160229 (Sub-3–1TA), filed January 26, 1982. Applicant: OMNI EXPRESS, INC., 640 Terrell Mill Road, College Park, GA 30349. Representative: Wayne A. Wilkins (same address as applicant). *Common:* Regular: *General Commodities, except household goods, in interstate or foreign commerce* between Atlanta, GA and Columbus, GA via U.S. Hwy. I–75 to intersection with GA Hwy 54; GA Hwy 54 to Fayetteville; GA Hwy 85 to Senoia; GA Hwy. 16 to Digbey; unnumbered county road (Hollonville) to jct. of GA Hwy 18; GA Hwy 18 to Zebulon; GA Hwy. 18 to Woodbury; GA Hwy. 85W to Warm Springs; U.S. Hwy 27A to Manchester; GA Hwy 41 to Talbotton; GA 315 to jct. GA Hwy 208; GA Hwy 208 to Waverly Hall; U.S. Hwy 27A to Columbus, GA serving all intermediate points; also serving Geneva, GA as an off-route point from Columbus and Talbotton, GA via State Hwy. 22. There are seven (7) support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA. Applicant intends to interline with other carriers at Atlanta, GA and Columbus, GA.

MC 143956 (Sub-3–24TA), filed January 26, 1982. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 2613–J Paces Ridge, Atlanta, GA 30339. *Hoses, pipes, automotive equipment, parts and products related thereto* from Van Wert, OH, to Heber Springs, AR, Cranbury, NJ, Lakeville, MN, Columbia, SC, Charolotte, NC, San Francisco, CA, Salem, OR, Dallas, TX, and Tucker, GA. Supporting shipper: Aeroquip Corporation, 1225 West Main Street, Van Wert, Ohio 45891.

MC 160260 (Sub-3–1TA), filed January 26, 1982. Applicant: JAMES EARL WEAVER, R.F.D. #3, Box 296, West Jefferson, NC 28694. Representative: Wade E. Vannoy, Jr., 306 East Main Street, West Jefferson, NC 28694. *Contract:* Irregular: *Cheese and Cheese Products* from West Jefferson, NC, to points in the states of AL, FL, GA, NC, SC, MO, TN, MS, MN, KY, WV, VA, NY, PA, WI, NJ, IN, IL, AR, DC. Supporting shipper: Ashe County Cheese, Inc., 308 East Main Street, West Jefferson, NC 28694.

MC 160276 (Sub-3–1TA), filed January 27, 1982. Applicant: BIGELOW TRANSPORTATION CO., INC., P.O. Box 3089, Greenville, SC 29602. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. *Contract:* Irregular: *general commodities except household goods, commodities in bulk, Classes A & B explosives and hazardous materials,* between points in the U.S. except AK and HI, under continuing contract(s) with United Forwarding, Inc., Omaha, NE 68106. Supporting shipper:

United Forwarding, Inc., 7000 West Center Rd., Suite 445, Omaha, NE 68106.

MC 155013 (Sub-3–3TA), filed January 27, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 488, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Contract;* Irregular; *Petroleum products (except in bulk)* (1) from Dunn, NC to points in GA, VA, and SC; and (2) from Bradford, PA, Sewaren, NJ and Charleston, SC to Dunn, NC. Under continuing contract(s) with Warren Oil Company. Supporting shipper: Warren Oil Company, P.O. Box 251, Dunn, NC 28334.

MC 159855 (Sub-3–1TA), filed January 27, 1982. Applicant: SHERRIN TRUCKING, INC., Rt. 1, Box 606, Wingate, NC 28174. Representative: David W. Erdman, 300 Law Building, Charlotte, NC 28202–3088. *Foodstuffs, frozen or refrigerated foods,* from Charlotte and Monroe, NC to points in FL. Supporting shipper: Associated Grocers Mutual of Carolinas, Inc, 701 Lawton Road, Charlotte, NC 28233.

MC 149133 (Sub-3–20TA), filed January 27, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, Post Office Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as above). *Contract carrier;* irregular routes; *Such commodities as are dealt in or used by retail department stores;* between New York, NY and Chicago, IL. Restricted to service performed under a continuing contract or contracts with Wieboldt Stores, Inc., of Des Plaines, IL. Supporting shipper: Wieboldt Stores, Inc., 300 South Wieboldt Drive, Des Plaines, IL 60016.

MC 160275 (Sub-3–2TA), filed January 27, 1982. Applicant: TOM MILLER TRUCKING COMPANY, P.O. Box 99, Claremont, NC 28610. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Such commodities as are dealt in by auto supply houses* between points in NC on the one hand and on the other, points in PA, GA, NJ, TN, IL, SC, OH, VA, WV, and MI. Supporting shipper: Superior Petroleum and Fuel Co., Inc., P.O. Box 268, Newton, NC 28658.

MC 154103 (Sub-3–27TA), filed January 27, 1982. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell, (same address as applicant). *Contract carrier;* irregular routes; *Electrical parts NOI,* between the facilities of Sun Electric Co. at Crystal Lake, IL to points in the U.S. excluding AK and HI. Supporting shipper: Sun Electric, Route 176, Crystal Lake, IL 60014.

MC 158941 (Sub-3–2TA), filed January 27, 1982. Applicant: PIONEER TRUCKING COMPANY, INC., U.S. Hwys. 64–70 East, P.O. Box 1961, Hickory, NC 28601. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *Chemicals and starch,* between the facilities of Tillett Chemical, Inc. at Pineville, NC, on the one hand, and, on the other, points in CA, GA, IA, IL, IN, LA, MA, NJ, NY, OK, RI, SC, TN, TX, VA, WA, and WV; (2)(a) *Chemicals,* and, (b) *materials, supplies, and equipment used in the manufacture, sale, and distribution of chemicals,* between the facilities of Carolina Solvents, Inc. at Hickory, NC, on the one hand, and, on the other, points in AL, GA, KY, IL, MD, MA, MI, MO, NJ, NY, OH, PA, SC, TN, and VA; (3) *General Commodities, except Class A and B explosives, household goods as defined by the Commission, and commodities in bulk,* between points in AL, FL, GA, KY, IL, IN, MA, MD, MI, NC, NJ, NY, OH, PA, SC, TN, VA, and WV, restricted to shipments moving for Carter Sales Inc. Supporting shippers: Tillett Chemical Inc., 316 College Street, Pineville, NC 28134, Caroline Solvents, Inc., P.O. Box 57, Hickory, NC 28601, Carter Sales, Inc., Route 9, Box 1014, Hickory, NC 28601.

MC 160275 (Sub-3–1TA), filed January 27, 1982. Applicant: TOM MILLER TRUCKING COMPANY; P.O. Box 99, Claremont, NC 28610. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Food and related products* between points in NC on the one hand, and, on the other, points in the U.S. on the east of the Mississippi River. Supporting shipper: Western Steer—Mon 'n' Pop's, Inc., P.O. Box 399, Claremont, NC 28610.

MC 146447 (Sub-3–14TA), filed January 27, 1982. Applicant: TANBAC, INC., 2941 S.W. 1st Terrace, Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166. *Contract carrier,* irregular routes: *General commodities (except classes A and B explosives and waste material)* between Anaheim, Irvine and Los Angeles, CA, Jacksonville and Miami, FL, Atlanta, and Savannah, GA, Wooster, OH, and Jeannette, PA, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with W. M. Industries, Inc., Atlanta, GA. Supporting shipper: W. M. Industries, Inc., 5616 Peachtree Road, Atlanta, GA 30341.

MC 37896 (Sub-3–10TA), filed January 27, 1982. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Building, 918 16th Street, N.W., Washington, DC 20006. *Contract carrier,* irregular routes, *Plastic Products,* between: Los Angeles, CA on the one hand, and, on the other, points in the states of IL, MD, MA, MI, MN, NJ, NY, OH, PA, RI and WI, under a continuing contract(s) with 20th Century Plastics, Inc., of Los Angeles CA. Supporting shipper: 20th Century Plastics, Inc., 3628 Crenshaw Blvd., Los Angeles, CA 90016.

The following applications were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 19311 (Sub-4–8TA), filed January 22, 1982. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue (same address as applicant). *Contract;* Irregular, *General Commodities,* restricted to the transportation of traffic moving under contract(s) with American Motors Corporation, between points in IL; IN; MI; OH; WI; Boone, Campbell, Jefferson and Kenton Counties, KY; those points in NY on, west and north of U.S. Hwy 11; and those points in PA on and west of U.S. Hwy 219. Supporting shipper: American Motor Corporation, 14250 Plymouth Road, Detroit, MI 48232.

Note.—Applicant holds common carrier authority in Docket MC–19311 to transport general commodities in this same area.

MC 109571 (Sub-4–1TA), filed January 25, 1982. Applicant: REILE'S TRANSFER AND DELIVERY, INC., 54 South 27½ Street, Fargo, ND 58103. Representative: Mike Miller, Solberg, Stewart, Boulger & Miller, P.O. Box 1897, Fargo, ND 58107. *Contract* irregular: *Paper and paper products and building material* between points in the U.S. Restricted to traffic moving under continuing contracts with Champion International Corporation; Pierce Roofing and Sheet Metal, Inc.; and Thompson Roofing Company. Supporting shippers: Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020; Pierce Roofing and Sheet Metal, Inc., 2236 Seventh Avenue North, Box 5233, NDSU Station, Fargo, ND 58105; and Thompson Roofing Company, 2902 First Avenue North, P.O. Box 585, Fargo, ND 58107.

MC 119583 (Sub-4–2TA), filed January 25, 1982. Applicant: L. E. BOLING, INC., 718 Commercial Street, Kewanee, IL 61443. Representative: Donald S. Mullins and T. M. Schlechter, 1033 Graceland Avenue, Des Plaines, IL 60016, 312–298–1094. *(1) Malt Beverages; (2) Materials, Equipment, and Supplies used in the manufacture and distribution of malt beverages,* (1) From Memphis, TN, to

Kewanee, IL; (2) From Kewanee, IL, to Memphis, TN. Supporting shipper: Boswell Distributing, 217 W. 3rd St., Kewanee, IL 61443.

MC 134210 (Sub-41 TA), filed January 20, 1982. Applicant: PRINS TRUCKING, INC., 5718 Lawndale, P.O. Box 35, Hudsonville, MI 49426. Representative: D. Richard Black, Jr., 7610 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428. *Contract* irregular: *Such commodities, materials, supplies and equipment as are dealt with and used by manufacturers and distributors of food products* between the facilities of Bil-Mar Foods, Inc., in Zeeland, MI on the one hand and on the other points in OH, PA, NY, WV. Restricted to traffic moving under continuing contract with Bil-Mar Foods, Inc. Supporting shipper: Bil-Mar Foods, Inc., 8300 96th Ave., Zeeland, MI 49464.

MC 142763 (Sub-4–1TA), filed January 25, 1982. Applicant: G. W. CANNON COMPANY, P.O. Box 1209, Muskegon, MI 49443. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Industial sand* from the facilities of Nugent Sand Company and McCormick Sand, Incorporated, in Muskegon County, MI to points in Seneca County, OH. Supporting shippers: Nugent Sand Company, P.O. Box 1209, Muskegon, MI 49443; McCormick Sand, Incorporated, P.O. Box 1209, Muskegon, MI 49443.

MC 142868 (Sub-4–7), filed January 20, 1982. Applicant: COX TRANSFER, INC., Box 168, Eureka, IL 61530. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Beer and malt beverages, and materials and supplies used in the manufacture and distribution of such commodities,* between points in Milwaukee County, WI on the one hand, and on the other, points in KS, MN, ND and SD. Supporting shipper: Pabst Brewing Company, 917 West Juneau Ave., Milwaukee, WI 53201.

MC 144927 (Sub-4–13TA), filed January 25, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Jack Luck (address same as applicant). *Wine and foodstuffs* (except in bulk) from the plantsite of Pompeian, Inc. at Baltimore, MD to warehousing locations in Jacksonville, Tampa, and Miami, FL; Greenville, SC; Atlanta, GA; Houston and Dallas, TX; Kansas City, MO; Los Angeles, CA; New Orleans, LA; Portland, OR; Denver, CO; Cleveland, OH; Phoenix, AZ; Chicago, IL; and Memphis, TN. Supporting shipper: Pompeian, Inc., 4201 Pulaski Highway, Baltimore, Maryland 21224.

MC 148994 (Sub-4–2), filed January 19, 1981. Applicant: MICHAEL W. AMABILE, d.b.a. TRIPLE AAA TRUCKING, 29891 Red Arrow Highway, Paw Paw, MI 49079. Representative: Nancy J. Amabile (same as applicant). *Contract* irregular: *Metal products,* (except commodities in bulk) STCC code 33, 34—between points in the U.S., under continuing contract(s) with Hastings Aluminum Products, Inc. Supporting shipper: Hastings Aluminum Products, Inc., Division of National Aluminum, Subsidiary of National Steel, 429 S. Michigan Avenue, Hastings, MI 49058.

MC 144298 (Sub-4–5), filed January 22, 1982. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Dearborn, MI 48126. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. *Contract, Irregular, Office and Library Furniture and materials used in their manufacture* between points and places east of the Mississippi River. Supporting shipper: Art Metal-USA Inc./Steel Sales, Inc., 300 Passaic Street, Newark, NJ 07104.

MC 156088 (Sub-4–4TA), filed January 25, 1982. Applicant: R & S TRUCK LEASING, INC., 1651 Walker Road, Muskegon, MI 49442. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Rubber bands* between Alliance, OH on the one hand, and, on the other, points in AZ, NV, and CA. Supporting shipper: Keener Rubber Company, 14700 Commerce NE, Alliance, OH 44601.

MC 156909 (Sub-4–2TA), filed January 22, 1982. Applicant: MIDWEST CONSOLIDATORS, INC., 32934 Schoolcraft, Livonia, MI 48150. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. *Motor vehicle parts and components* between the ports of entry on the international boundary line between the U.S. and Mexico in TX, on the one hand, and, on the other, points in MI. Supporting shipper: Moto Diesel Mexicana, S.A., Aguascalienties, Mexico.

MC 160179 (Sub-4–1TA), filed January 19, 1982. Applicant: BELL WAREHOUSE, INC., 1200 Greenwood Ave., Maywood, IL 60153. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract,* irregular: *Paper and paper products* between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in IN under continuing contracts with Industrial Mill, Inc. and L. L. Hanson Company, Inc. Supporting shippers: Industrial Mill, Inc., 4157 West Kinzie, Chicago, IL 60624, and L. L. Hanson Company, Inc., P.O. Box 69, 1200 Greenwood Avenue, Maywood, IL 60153.

MC 160217 (Sub-4–1TA), filed January 22, 1982. Applicant: DASH MESSENGER SERVICE, INC., 541 West Roosevelt Rd., Chicago, IL 60607. Representative: William H. Taylor (same address as applicant). *Printing Ink, printed matters, and products* used in conjunction with printing ink and printed matters, from IL, to points in IN, IA, MO, OH and WI. An underlying ETA seeks 120 Days Authority. Supporting shippers: Printing Master Service, 633 S. Plymouth CTC., Chicago, IL 60605, Acme Printing Ink Co., 1419 W. Carroll St., Chicago, IL 60607.

MC 160259 (Sub-4–1TA), filed January 25, 1982. Applicant: ARBOR FREIGHT SERVICE, INC., P.O. Box 117, Altoona, WI 54720. Representative: Michael S. Varda, 121 S. Pinckney Street, Madison, WI 53703. *Paper and paper products* from Eau Claire and Ladysmith, WI, to points in IL, IN, IA, KY, MI, MN, MO, NE, OH, and TN, and, on return, *equipment, materials, and supplies* used in the manufacture and distribution of the named commodities from the named destination states to Eau Claire and Ladysmith, WI. Supporting shipper: Pope & Talbot, Inc., 1200 Forest St., P.O. Box 330, Eau Claire, WI 54701.

MC 159203, filed September 28, 1981. Applicant: ARGOSY TRUCKING LTD., 149 Oak Point Road, Winnipeg, Manitoba, Canada, Canada, R2R 1T7. Representative: Mr. Harold Huppe (same address as applicant). *Contract* Irregular *packaged chemical additives (bulk excluded)* from points in the States of PA, IL, MN, LA, WI, OK, MD, NH, DE, to Winnipeg, Manitoba, Canada under continuing contract with MacKenzie & Feimann Limited, of Winnipeg, Manitoba, Canada. Supporting shipper: MacKenzie & Feimann Limited, 875 Bradford Street, Winnipeg, Manitoba, Canada.

MC 118838 (Sub-4–13TA), filed January 28, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Iron and steel articles* between Plymouth, MN, on the one hand, and, on the other, Denver, CO; Chicago, IL; Kansas City and St. Louis MO; Dallas and Houston, TX and Spokane, WA, under a continuing contract(s) with Ex-L-Tube, Inc. of Minneapolis, MN. SS: Ex-L-Tube, Inc., 1605 N. Cty. Rd., 18, Minneapolis, MN 55441.

MC 148485 (Sub-4–4TA), filed January 25, 1982. Applicant: SMITH CARTAGE,

INC., 104 South Vine Avenue, Marshfield, WI 54449. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* Irregular; *fireplaces, oil and gas space heaters, materials, equipment and supplies* used in their manufacture and distribution, from Wood and Portage Counties, WI, to points IA, IL, IN, KS, MO, NE, OH, and PA. Restriction: Restricted to transportation performed under continuing contract(s) with Preway, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Preway, Inc., 1430 2nd Street, North, Wisconsin Rapids, WI 54494.

MC 150187 (Sub-4–8TA), filed January 26, 1982. Applicant: D & L TRUCKING SERVICE, INC., 1419 South Clark Blvd., Clarksville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Transporting empty containers,* from Cincinnati, OH, and its commercial zone to Danville, IL and French Lick, IN. Supporting Shipper: The Clorox Company, P.O. Box 1033, Louisville, KY 40201.

MC 152744 (Sub-4–2TA), filed January 26, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Avenue, Chicago, IL 60601. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Contract; irregular; Beer,* from the facilities of The Stroh Brewery Company at Detroit, MI, to points in IL, under continuing contract(s) with the Stroh Brewery Company of Detroit, MI. Supporting shipper: The Stroh Brewery Company, No. 1 Stroh Drive, Detroit, MI 48226.

MC 153191 (Sub-4–2TA), filed January 27, 1982. Applicant: SANTERRE SERVICE, INC., P.O. Box 6174, Duluth, MN 55807. Representative: Ray L. Hickey, 908 N. 57th Ave. West, Duluth, MN 55807. *Malt beverages,* from Memphis, TN, and Longview, TX to Virginia and Duluth, MN. Supporting shippers: Starkovich Distributing, 331 S. 5th St., Virginia, MN, Rolhfing Distributing, 1 S. 24th Ave. West, Duluth, MN.

MC 154283 (Sub-4–2TA), filed January 25, 1982. Applicant: ELGIN MILK SERVICE, INC., Route 1, Elgin, MN 55392. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. (1) *Canned goods* and (2) *materials and supplies used in the manufacture of the commodities in (1) above* between Plainview, MN and Manitowoc, WI on the one hand, and on the other, points in IA, IL, IN, KS, MI, MN, MO, NE, ND, SD, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Lakeside Packing Company, P.O. Box 1127, 508 Jay Street, Manitowoc, WI.

MC 154928 (Sub-4–3TA), filed January 28, 1982. Applicant: KNUTE TRUCKING, INC., P.O. Box 198 (Hillcrest), Rochelle, IL 61068. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract* irregular: *Malt beverages,* from Chicago, IL; Memphis, TN; Longview, TX; and Milwaukee and Monroe, WI, to Sycamore, IL, under continuing contract(s) with B.B. Distributors, Inc. Supporting shipper: B.B. Distributors, Inc., 321 Park Avenue, Sycamore, IL 60178.

MC 155775 (Sub-4–3TA), filed January 28, 1982. Applicant: NORTHWESTERN MICHIGAN TRUCKING, INC., 9196 11 Mile Rd., Bear Lake, MI 49614. Representative: William B. Elmer, 615 E. Eighth Street, Traverse City, MI 49684. Food and related products between Sandusky, OH, Columbus, OH and Caryville, TN on the one hand, and, on the other, points in the U.S. Supporting shipper: Chef's Pantry, Inc., Sandusky, OH 44870.

MC 155775 (Sub-4–4TA), filed January 28, 1982. Applicant: NORTHWESTERN MICHIGAN TRUCKING, INC., 9196 11 Mile Rd., Bear Lake, MI 49614. Representative: William B. Elmer, 615 E. Eighth Street, Traverse City, MI 49684. *Food and related products* between points in PA, OK, Berkely County, WV and DeKalb County, GA, on the one hand, and, on the other, points in the U.S. Supporting shipper: Pet Incorporated, Frozen Foods Division, of St. Louis, MO 63102.

MC 157457 (Sub-4–10TA), filed January 27, 1982. Applicant: CONGOLEUM CARTAGE CORPORATION, 2323 17th Street, Elkhart, IN 46514. Representative: H. Barney Firestone, Sullivan & Associates, Ltd., 10 S. LaSalle, Suite 1600, Chicago, IL 60603. *Plastic tanks and sprayers,* between Mishawaka, IN on the one hand, and, on the other, points in and east of IA, MO, AR, LA and MN. Supporting shipper: Rotec, Inc., 2401 Schumacher Drive, Mishawaka, IN 46544.

MC 159976 (Sub-4–1TA), filed January 27, 1982. Applicant: SPECIALTY CARTAGE, INC., 880 Harrison St., Huntington, IN 46750. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204–3491. *General commodities* (except Classes A and B explosives, commodities in bulk and household goods), between Fort Wayne, IN and Huntington, IN, over U.S. Hwy 24, serving all intermediate points and all points in Huntington County, IN as off-route points. Supporting shippers 11.

MC 160266 (Sub-4–1TA), filed January 26, 1982. Applicant: DETRA TRUCKING, INC., RR #1, Thomson, IL 61285. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. *Contract* irregular. *Crystalline fructose, in containers,* from points in Carroll County, IL, to points in US, under continuing contracts with the American Xyrofin, Inc., Thomson, IL. Supporting shipper: American Xyrofin, Inc., Thomson, IL 61285.

MC 160268 (Sub-4–1TA), filed January 28, 1982. Applicant: TOMBSTONE PIZZA CORPORATION, 940 S. Whelen Avenue, Medford, WI 54451. Representative: Linda Heller Kamm, 1775 Pennsylvania Avenue NW., Washington, D.C. 20006. *Food and related products,* in tractors and trailers, between both Ft. Atkinson, WI and Oak Creek, WI and points in IA, IL, IN, and MO. Supporting shippers: Redi-Serve Foods, Inc., 1200 Industrial Drive, Ft. Atkinson, WI 53538; Foran Spice Co., Inc., 7616 So. 6th St., Oak Creek, WI 53154.

MC 160290 (Sub-4–1TA), filed January 28, 1982. Applicant: GERARD C. PETERS AND JOHN G. PETERS, d.b.a. PETERS BROS. TRUCKING, 4948 North Oakley Avenue, Chicago, Il 60625. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract* irregular: *Contractor's Equipment, Parts and Accessories; Electric, Electronic Apparatus, Wire and Cable;* between points in IL, IN and WI, on the one hand, and, on the other, points in the U.S., under continuing contracts with Italtractor America, Inc. and Cable TV Supply Co. Supporting shippers: Italtractor America, Inc., 315 Faribanks, Addison, IL 60101 and Cable TV Supply Co., 250 Gerri Lane, Addison, IL 60101. (An underlying ETA seeks 90 days authority.)

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 112713 (Sub-5–35TA), filed January 25, 1982. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Overland Parks, KS 66207. Representative: William F. Martin, Jr., (Same as Applicant). Contract, irregular; *general commodities (Except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk)* between all points in the US, under continuing contract with the K Mart Corp. Supporting

shipper: K Mart Corporation, Troy MI 48084.

MC 144616 (Sub-5–7TA), filed January 26, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Saginaw, TX 76179. Representative: Earl Lehman (same as applicant). *Food and related products* between the facilities of or used by Swift Independent Packing Company and points in the U.S. Supporting shipper: Swift Independent Packing Company, 115 W. Jackson Blvd., Chicago, IL. 60604.

MC 147196 (Sub-5–42TA), filed January 26, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181–0686. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Store fixtures and materials, equipment and supplies used in the manufacture and distribution thereof* between Terrell, TX, on the one hand, and, on the other, all points in the states of AR, CA, CO, FL, GA, IL, IN, KS, LA, MO, MN, NC, OH, OK, SC, and TX. Supporting shipper: Maytex Store Fixtures P.O. Box 729, Terrell, TN.

MC 147196 (Sub-5–43TA), filed January 26, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181–0686. Representative: Martin White, P.O. Box 5387 Richardson, TX 75080. *Paint, paint brushes, rollers, roller pans, paint cans, pigments and related materials, equipment and supplies used in the manufacture and distribution thereof* between the plant site facilities of Sherwin Williams Company located in TX, OH, IL, and CA on the one hand, and on the other, all points in the U.S. Supporting shipper: Sherwin Williams Co., 2802 W. Miller Rd. Garland, TX.

MC 148599 (Sub-5–1TA), filed January 25, 1982. Applicant: SIMONSEN TANK LINES, INC., Box 157, Quimby, IA 51049. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract irregular *Pet food* between pts in CO, IA IL, KS, MN, MO, NE, ND, OK, SD and WI, under continuing contract(s) with Simonsen Mill, Inc. Supporting shipper(s): Simonsen Mill, Inc., Box 157, Quimby, IA 51049.

MC 153163 (Sub-5–3TA), filed January 25, 1982. Applicant: CROSSROADS CHARTER COACHES, HOWARD D. and BEVERLY J. SCROGGINS, Rt. 4, Box 158–A, Joplin, MO 64801. Representative: Howard D. Scroggins (same as applicant). *Passengers and their baggage in special and charter operations in round trip pleasure tours,* beginning and ending at points in Jasper County, MO to points in the US including Alaska. Supporting shippers: Carl E. Driskill, Jr., Joplin, MO 64801; Ozark Bible College, Joplin, MO 64801; Robert Davidson, Joplin, MO 64801; See America Club, Joplin, MO 64801.

MC 154768 (Sub-5–11TA), filed January 25, 1982. Applicant: IOWA EXPRESS DISTRIBUTION, INC., 2165 N.W. 108th St., Des Moines, IA 50322. Representative: Harold W. Sternberg, 2165 N.W. 108th, Suite B, Des Moines, IA 50312. Contract irregular *Soap and soap products,* (1) Between pts in IA, (2) between pts in IA, on the one hand, and, on the other, Omaha, NE, and (3) between Omaha, NE, and pts in IA, on the one hand, and, on the other, pts in Rock Island County, IL, under continuing contract(s) with Desoto, Inc., of Des Plaines, IL. Supporting shipper: Desoto, Inc., 7700 S. Mount Prospect Road, Des Plaines, IL.

MC 160224 (Sub-5–1TA), filed January 25, 1982. Applicant: BYRON WATSON TRUCKING CO., INC., P.O. Drawer J, Kirbyville, TX 75956. Representative: Brian E. Brewton, P.O. Drawer 1375, Winnfield, LA 71483. *Drilling rigs, machinery, materials and supplies related to drilling and completing oil and gas wells* between LA and TX on the one hand, and, on the other, points in NM and OK. Supporting shipper: Matagorda Marine Drilling, Corpus Christi, TX.

MC 160231 (Sub-5–1TA), filed January 25, 1982. Applicant: J. T. SMITH, INC., 5910 Ranger, Oklahoma City, OK 73119. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Machinery, materials, equipment and supplies used in replacing, servicing and repairing machinery, equipment and supplies used in or in connection with the discovery, development, refining, manufacture, processing, storage, and transmission of natural gas and petroleum and their products and by-products,* between points in Oklahoma County, OK on the one hand, and, on the other, points in AR, CO, KS, LA, NM, TX and WY. Supporting shippers: Gramco Wellhead Div. of CMI Corp., Oklahoma City, OK, Tesoro Land & Marine Rental, Oklahoma City, OK.

MC 160238 (Sub-5–1), filed January 26, 1982. Applicant: THOMAS C. WILLIAMS, INC., 308 Burke St., Versailles, MO 65084. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Contract Irregular: *Foodstuffs,* between Boone County, MO on the one hand, and, on the other, all points in the U.S. Supporting shipper: Diggs Packing Company, Colombia, MO.

MC 160242 (Sub-5–1TA), filed January 26, 1982. Applicant: GEORGE E. NOAK d.b.a. NOAH ENTERPRISES, 3210 No. 97 Bristol Square, Omaha, NE 68134. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Contract Irregular; *Food and Related Products (Except in bulk, in tank vehicles)* from facilities of Dugdale of Nebraska, at or near Norfold, NE, to Pts in the Commercial Zones of Chicago, IL, Denison, IA, Denver, CO, Milwaukee, WI, Minneapolis, MN, Rockport, MO, Sioux City, IA, Wichita, KS. Supporting shipper: Dugdale of Nebraska, 1500 So. Logan, Norfolk, NE 68701.

MC 4709 (Sub-5–1TA), filed January 29, 1982. Applicant: M & S TRANSFER, INC., 340 3rd Street, David City, NE 68632. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Commodities used in the manufacture and sale of precision electronic components,* between York, Norfolk, and Columbus, NE, on the one hand, and, on the other, Yankton, SD. Supporting shipper: Dale Electronics, Inc., P.O. Box 609, Columbus, NE 68601.

MC 115554 (Sub-5–6TA), filed January 27, 1982. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R. R. No. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Plastic door panel inserts,* from Morganfield, KY to Iowa City, IA. Supporting shipper: Sheller-Globe Corporation, Iowa City Division, 2500 Highway 6 East, Iowa City, IA 52240.

MC 119399 (Sub-5–83TA), filed January 27, 1982. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64802. Representative: Keith R. McCoy (Address same as applicant). *General commodities (except in bulk, Classes A and B explosives and household goods as defined by the Commission)* between Oklahoma City, OK and commercial zone, and Tulsa, OK and commercial zone, on the one hand, and on the other, points in the U.S. (except AK and HI); between points in the U.S. (except AK and HI) restricted to the facilities used by Sperry Vickers, Inc. Supporting shipper: Willson Safety Products, Oklahoma City, OK; Oklahoma Steel Castings Co., Tulsa OK; Sperry Vickers, Inc., Omaha, NE.

MC 123476 (Sub-5–15TA), filed January 29, 1982. Applicant: CURTIS TRANSPORT, INC., P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). *Plastic and rubber products, and materials, equipment and supplies used in the manufacture and distribution thereof (except in bulk in tank vehicles)* between St. Louis County MO, on the one hand, and on the other hand all point in the United States in or

east of MT, WY, CO, and NM. Supporting shipper: Cupples Company, Manufacturers, 9430 Page, St. Louis, MO 63132.

MC 123773 (Sub-5–1TA), filed January 29, 1982. Applicant: BLACK HILLS STAGE LINES, INC., 720 East Norfolk Ave., Norfolk, NE 68701. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101. (1) *Passengers and their baggage, and express and newspapers, in the same vehicle with passengers,* between Grand Island, NE and Hastings, NE, and serving intermediate pts; and (2) *passengers and their baggage, in charter or special service,* between pts in NE and pts in the U.S. Supporting shippers: 12. Applicant intends to interline.

MC 142215 (Sub-5–2TA), filed January 29, 1982. Applicant: DUKE TRANSPORTATION, INC., Route 3, Box 29–A, Scott, LA 70583. Representative: Colleen McDaniel, Post Office Box 3959, Lafayette, LA 70502. (1) *Machinery, equipment, materials and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products, and* (2) *machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof,* from, to and between points in LA, MS, AR, TX and OK. Supporting shippers: (1) American Rental Tools, Post Office Box 51164, Lafayette, LA 70505; (2) Bailey's Equipment Rental, Post Office Box 52631, Broussard, LA 70518; (3) Dual Drilling, Inc., Post Office Box 52880, Lafayette, LA 70505; (4) Power Rig Drilling Co., Post Office Box 52808, Lafayette, LA 70505; (5) Cliff's Drilling Co., Post Office Box 888, Scott, LA 70583.

MC 159982 (Sub-5–2TA), filed January 28, 1982. Applicant: O. L. EXPRESS, LTD., P.O. Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. (1) *Non-alcoholic beverages, beverage mixes and ingredients,* from Warwick, RI to points in AR, IL, IA, KS, MN, MO, NE, OK, and TX, and (2) *Meat,* from Des Moines, Spencer and Dubuque, IA; Omaha, NE and Rockport, MO, to the facilities of City Packing Company, Inc. at Boston, MA. Supporting shippers: Jefferson Bottling Company, 101 Jefferson Boulevard, Warwick, RI 02888 and City Packing Company, Inc., 115 Newmarket Square, Boston, MA 02118.

MC 160270 (Sub-5–1TA), filed January 27, 1982. Applicant: EARL PIERCE, d.b.a. AG ENTERPRISES, P.O. Box 5362, Arlington, TX 76011. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Metal products,* between points in the U.S. under continuing contract(s) with Engineered Gratings, Inc., Houston, TX.

MC 160286 (Sub-5–1TA), filed January 28, 1982. Applicant: GARY WAYNE RUSHING, d.b.a. CHUCKWAGON TRUCKING, P.O. Box 542, Cold Springs, TX 77331. Representative: Claude W. Ferebee, 3910 F.M. 1960 W., Suite 106, Houston, TX 77068. *Construction equipment, materials and supplies,* between the facilities of UMC, Inc., on the one hand and points in the U.S. on the other. Supporting shipper: UMC, Inc., Pasadena, TX.

MC 160313 (Sub-5–1TA), filed January 29, 1982. Applicant: JIM LOONEY TRUCKING, 2805 S. Hickory, Sapulpa, OK 74066. Representative: Vernon D. Mitchael, 3540 E. 31st St., Tulsa, OK 74135. *Boneless beef, in boxes,* from facilities of Service Packing Co., Tulsa, OK to Los Angeles, CA. Supporting shipper: Service Packing Co., 3920 E. Pine, Tulsa, OK 74115.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 160230 (Sub-6–1TA), filed January 20, 1982. Applicant: ALBERT N. AND AUDREY R. TRIPLETT, d.b.a. A & A TRUCKING COMPANY, P.O. Box 9366, Casper, WY 82609. Representative: Eric A. Distad, P.O. Box 2314, Casper, WY. 82602. *Machinery, materials, equipment and supplies used in replacing, servicing and repairing machinery and equipment used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, including electrical and geothermal energy and ore,* between points in WY, MT, ND, SD, CO, NM, UT for 270 days. Supporting shippers: There are ten (10) shippers. Their statements may be examined at the Regional Office listed above.

MC 148178 (Sub-6–TA), filed January 19, 1982. Applicant: FORREST D. BELVIN, d.b.a. DALE BELVIN TRUCKING, P.O. Box 1077, Clovis, CA 93612. Representative: Dale Belvin (same as applicant). *Contract carrier,* irregular routes: (1) *Iron and steel products* and (2) *Plasterboard* from Westlake and Medina, OH to points in the U.S. (except AK & HI) for 270 days. Supporting shipper: Donn Corp.: Westlake and Medina, OH 44118.

MC 115716 (Sub-6–TA), filed January 25, 1982. Applicant: DENVER-LIMON-BURLINGTON TRANSFER CO., 3650 Chestnut Pl., Denver, CO 80216. Representative: Edward C. Hastings, 666 Sherman St., Denver, CO 80203. *Food and related products* between Denver, Jefferson and Morgan counties CO, on the one hand, and, on the other, points in AZ, OR and WA for 270 days. Supporting Shipper(s): Sigman Meat Co., Inc., 6000 W. 54th Ave, Arvada CO; Colorado Boneless Beef, 4555 Kingston, Denver, CO; Denver Lamb Co., 4900 Clarkson St., Denver, CO.

MC 154561 (Sub-6–1TA), filed January 21, 1982. Applicant: EATON TRANSPORTATION COMPANY, INC., 2951 Coors Court, Santa Rosa, CA 95401. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111. (1) *Beer and malt liquors,* from Golden, CO, on the one hand, and, on the other, points in Sonoma County, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Eaton Distributing Co., Inc., 2951 Coors Court, Santa Rosa, CA 95401.

MC 159558 (Sub-6–1TA), filed January 28, 1982. Applicant: EIGHTEEN WHEEL TRANSPORTATION, INC., 355 So. Santa Fe St., Los Angeles, CA 90013. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. *Vehicles and vehicle parts and accessories,* between points in the U.S. (except AK and HI) for 270 days. Supporting shipper: There are 6 shippers. Their statements may be examined at the Regional Office listed above.

MC 160211 (Sub-6–1TA), filed January 14, 1982. Applicant: F.B.N. TRUCKING CO., P.O. Box 23873, Oakland, CA 94623. Representative: Richard M. Stess (same as applicant). *Contract Carrier,* Irregular routes: *General Commodities* (except Class A & B explosives, household goods as defined by the Commission, commodities in bulk and the transportation of hazardous waste materials), between points in CA, OR & WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY for the account of Rocky Mountain Express, Inc., for 270 days. Supporting shipper: Rocky Mountain Express, Inc., 730 11th Avenue, Oakland, CA 94606.

MC 41096 (Sub-6–2TA), filed January 26, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K St., N.W.,

Washington, D.C. 20006. *Contract carrier,* irregular routes, *general commodities (except classes A and B explosives, household goods and commodities in bulk),* between points in the U.S. under continuing contracts with Eastman Kodak Company of Rochester, NY, for 270 days. Supporting shipper: Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650.

MC 145124 (Sub-6–2TA), filed January 20, 1982. Applicant: GOLD CITY TOURS & TRAVEL LTD., 8620 Jasper Ave., #102, Edmonton, Alberta, CD T5H 3S6. Representative: George La Bissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Passengers and their baggage, in the same vehicle with passengers* in special or charter operations beginning and ending at the Port of Entry on the International Boundary Line between the U.S./CD located at or near Portal, ND, and extending to points in ND, SD, NE, KS, AR, LA, FL, GA, TN, MO, IA, MN, MS, AL, KY and IL, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper: Majestic Tours & Travel Ltd., 8610 Jasper Ave., #102, Edmonton, Alberta, CD T5H 3S5.

MC 160206 (Sub-6–1TA), filed January 20, 1982. Applicant: DON P. or MARY G. KAY, d.b.a. KAY TRUCKING, Stock St. 14th Loop, Rt. 2 Box 9178, Show Low, AZ 85901. Representative: Mary G. Kay (same as applicant). (1) *Lumber & wood products,* from Navajo County, AZ to Houston County, TX; (2) *Clay, concrete, glass or stone products & building materials,* from points in TX to points in NM, AZ, & CA; and from points in CA to points in AZ, for 270 days. Supporting shipper: Speciality Forest Products, 4433 N. 19th Ave., Suite 102, Phoenix, AZ 85015.

MC 135430 (Sub-6–1TA), filed January 22, 1982. Applicant: LEAVITT'S FREIGHT SERVICE, INC., 3855 Marcola Rd., Springfield, OR 97447. Representative: David E. Wishney, P.O.B. 837, Boise, ID 83701. *Treated poles,* from the facilities of L.D. McFarland Co., located at or near Olympia and Tacoma, WA, Eugene, OR, Sandpoint, ID and Bozeman, MT to points in MN, ND and SD, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: L.D. McFarland Co., P.O.B. 670, Sandpoint, ID 83864.

MC 160222 (Sub-6–1TA), filed January 18, 1982. Applicant: BILL CHRISTOPHER & MARY HOXIE, a partnership, d.b.a., M & B TRUCKING, 19224 Anza Ave., Torrance, CA 90503. Representative: Bill Christopher (same as applicant). *Contract Carrier;* irregular route: *Forklifts, attachments and parts,* from Los Angeles, CA to Dallas and Houston, TX, for 270 days. Supporting shippers: Kimatsu Forklift Inc., 14815 Firestone St., La Mirada, CA.

MC 127115 (Sub-6–6TA), filed January 19, 1982. Applicant: MILLERS TRANSPOORT, INC., 510 W. 4th N., Hyrum, UT 84319. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract Carriage,* irregular routes, *oil field machinery and equipment,* between Weber County, UT on the one hand and on the other points in CA, CO, IL, IN, MI, NJ, OH, MT, OK, PA, and TX under a continuing contract(s) with Knoll Rig & Equipment Co., Ltd. of Ogden, UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Knoll Rig & Equipment Co., Ltd. 3629–93 Street, Edmonton, AB, CN T6H4N6.

MC 146464 (Sub-6–16TA), filed January 21, 1982. Applicant: NEVADA GENERAL TRANSPORTATION, INC., 11560 So. State, Draper, UT 84020. Representative: Carl I. Sundeaus (same address as applicant). *Chemicals and Related Products* (1) from Los Angeles County, CA to Sparks, NV; Glendale, AZ; Oklahoma City, OK; Knoxville and Memphis, TN; N. Augusta, NC and all points in TX; (2) between Los Angeles County, CA on one hand, and, on the other, Chicago IL; Fairfield, NJ; Providence and Woonsocket, RI; Newton, NJ; Salt Lake City, UT; Cleveland, OH; and Somerset, PA; and (3) from Cincinnati, OH; Jacksonville, MS and Deep River, CT to Los Angeles County, CA, for 270 days: Supporting shippers: DEP Corp., 12821 W. Jefferson Blvd., Los Angeles, CA 90066, The Andrew Jergens Co., 99 W. Verdugo Ave., Burbank, CA 91502.

MC 152393 (Sub-6–3TA), filed January 21, 1982. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, P.O. Box 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *Contract Carrier,* Irregular routes: *Wallpapers and Wallpaper Supplies,* from Dayton, ID to points in CA for the account of Wallpapers to Go, a Subsidiary of General Mills, for 270 days. Supporting shipper: Wallpapers to Go, a Subsidiary of General Mills, 3131 Corporate Place, Hayward, CA 94545.

MC 72423 (Sub-6–3TA), filed January 21, 1982. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 E. Chestnut St., Sterling, CO 80751. Representative: Lee E. Lucero 445 Capitol Life Center, Denver, CO 80203. *Sugar, in bags or boxes,* between Ft. Morgan, Sterling and Ovid, CO, on the one hand, and, on the other, Akron, CO, restricted to the transportion of shipments having a prior or subsequent movement by railroad, for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: The Great Western Sugar Co., 1530–16th Street, Denver, CO 80217.

MC 117589 (Sub-6–5TA), filed January 14, 1982. Applicant: PROVISIONER BROKERAGE, INC., 3801 7th Ave. S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Meats, Meat Products and Meat By-Products and articles distributed by meat packinghouses, as described in Appendix I to the report in descriptions in Motor Carriers Certificates, 61 MCC 209 and 766,* between Grand Island, NE to points in SD for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Monfort of Colorado, P.O.B. G, Greeley, CO 80632.

MC 4810 (Sub-6–1TA), filed January 21, 1982. Applicant: ROCKY MOUNTAIN TRUCKING COMPANY, P.O. Box 2180, Casper, WY 82602. Representative: David E. Driggers, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and (2) *machinery, equipment, materials, and supplies,* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, (except the stringing and picking up of pipe in connection with main or trunk pipe lines), between points in Garden County, NE, Fremont County, IA, Atchison and Nodaway Counties, MO, and Phillips County, KS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Banner Drilling Co., 222 West 27th Street, Scottsbluff, NE 69361.

MC 160265 (Sub-6–1TA), filed January 25, 1982. Applicant: BO KYUNG PAK, d.b.a. SEOUL TRUCKING CO., 9313 S Tacoma Way, Tacoma, WA 98499. Representative: Kwang Pil Yun (same address as applicant). *Food and other edible products,* between points in King, Pierce and Snohomish Counties, WA, on the one hand, and on the other, points in OR and CA, for 270 days. There are 5 shippers whose statements may be examined at the regional office listed above.

MC 160051 (Sub-6–1TA), filed January

18, 1982. Applicant: TALENT TRUCKING CO., P.O. B 320, Talent, OR 97450, Representative: John A. Anderson, Suite 801—The 1515 Bldg., 1515 SW 5th Ave., Portland, OR 97201. *Wrapped and packaged food and food products, and commodities dealt in by retail gift shops, in vehicles equipped with mechanical refrigeration,* from the facilities of Harry and David at or near Medford, OR to points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Harry and David, P.O. B 712, Medford, OR 97501.

MC 148445 (Sub-6–7TA), filed January 19, 1982. Applicant: WLD TRUCKING COMPANY, P.O. Box 32458, Phoenix, AZ 85064. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012. *Contract Carrier:* Irregular routes: *dry dog food* from Tupelo, MS, to points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VT, VA, and WV, for the account of Sunshine Mills, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sunshine Mills, Inc., P.O. Box 1483, Tupelo, MS 38801.

MC 160258 (Sub-6–1TA), filed January 21, 1982. Applicant: TECOPA HOT SPRINGS TRANSPORTATION, P.O.B. 393, Tecopa, CA 92389. Representative: Carroll Wallace (same as applicant). *Common carrier;* regular route: *Passengers, baggage and light express,* (1) Between Tecopa Hot Springs, CA and Las Vegas, NV, via Old Spanish Trail, NV. 160 and Interstate Hwy 15; (2) Between Tecopa Hot Springs, Ca and Pahrump, NV, via CA. Hwy. 127, CA. Hwy. 178 and NV. Hwy 372, for 180 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional Office listed.

MC 154636 (Sub-6–2TA), filed January 4, 1982. Applicant: WAYNE S. STEWART TRUCKING, 5456 Edgewood Drive, Salt Lake City, UT 84117. Representative: Wayne S. Stewart (same as applicant). *Medical supplies, drugs, medicines, hospital products, disposables, health care products, bakerygoods, chewing gum, candies and materials and supplies used in manufacture, sale and distribution of these products* (except in bulk) between points in the U.S. restricted to the transportation of shipments originating at or destined to the facilities of Warner-Lambert Company, its divisions, affiliates and subsidiaries, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Warner-Lambert Company, 201 Tabor Road, Morris Plains, NJ 07950.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3222 Filed 2-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3,, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–19

Decided: January 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating in part.)

MC 160241, filed January 25, 1982. Applicant: HOYLE ENTERPRISES, INC., Rt. 8, Box 447, Hickory, NC 28601. Representative: Jim Hoyle (same address as applicant), (704) 324–6208. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP3–020

Decided: February 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 145695 (Sub-10), filed January 21, 1982. Applicant: MAZCO SYSTEMS, INC., 140 Grand St., Carlstadt, NJ 07072. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 157515, filed January 27, 1982. Applicant: AMI TRANSPORTATION, INC., 2700 Lively Boulevard, Elk Grove Village, IL 60007. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting (1) for or on

behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, (3) as a *broker of general commodities* (except used household goods), and (4) *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160175, filed January 19, 1982. Applicant: JOHN R. BUCHANAN, 4045 – 7th Ave., S., Seattle, WA 98108. Representative: John R. Buchanan (same address as applicant), (206) 621–1088. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160204, filed January 21, 1982. Applicant: RICHARD GREB, 8783 Shaw Sq. Rd. S.E., Aumsville, OR 97325. Representative: Richard Greb (same address as applicant), (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers*, and *other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160205, filed January 21, 1982. Applicant: HOWARD S. REEDER INC., 1001 N. America Way, Miami, FL 33132. Representative: Howard S Reeder, Jr. (same address as applicant), (305) 371–8431. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160235, filed January 22, 1982. Applicant: JOHN GARLAND, 184 Hayden Bridge Way, Springfield, OR 97477. Representative: John Garland (same address as applicant). (503) 726–8697. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160244, filed January 25, 1982. Applicant: RICHARD L. STOUT, d.b.a. S&H TRANSPORT, 4195 S 500W #33, Murray, UT 84107. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and other edible products and byproducts intended for human consumption* except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160264, filed January 26, 1982. Applicant: J & B TRUCKING, INCORPORATED, 6627 N. 32nd Street, Arlington , VA 22213. Representative: Mel P. Booker, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. Transporting (a) *food and other edible products and byproducts intended for human consumptioin* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, and (b) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 159614, filed December 8, 1981. previously noticed in the Federal Register on December 22, 1981. Applicant: AMERICAN PARCEL SERVICE, 65 Reservoir Ave., Randolph, NJ 07869. Representative: Kris E. Hoffman (same address as applicant), (201) 366–4738. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Note.—This republication corrects the commodity description,.

Volume No. OP4–31

Decided: February 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 158286 (Sub-2), filed January 25, 1982. Applicant: M. T. TRUCK LINE, INC., 4947 W. 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Parrott and Weston, GA Malesus and Bolivar, TN, University Park, TX, and Lexington, McClary, College Hill, Oxford, Water Valley, Taylor, Reform, Cumberland and Mantee, MS, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

MC 159796, filed January 27, 1982. Applicant: CARLEN DISTRIBUTION SYSTEM, INC., 955 West Side Ave., Jersey City, NJ 07306. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave., NW., Washington, DC 20036, (202) 785–0048. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160256, filed January 25, 1982. Applicant: S & S ENTERPRISES OF WILMINGTON, INC., 2802 Market St., Wilmington, NC 28401. Representative: Frank B. Gibson, Jr., 16 N Fifth Ave., Wilmington, NC 28401, (919) 763–2426. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160246, filed January 25, 1982. Applicant: NIMROD CORPORATION, 244 E. Ogden Ave-Suite 114, Hinsdale, IL 60521. Representative: T. M. Schlechter, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP5–22

Decided: January 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160088, filed January 15, 1982. Applicant: TRAILER TRANSIT, INC., 719 Wabash St., Michigan City, IN 46360. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 725–2177. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions) between points in the U.S.

MC 160108, filed January 15, 1982. Applicant: LUTHER E. MARTIN AND MINNIE MARTIN d.b.a. MARTIN'S LEASING COMPANY, 3502 Evergreen Pkwy., Flint, MI 48503. Representative: Robert E. McFarland, 2355 Coolidge Rd., Ste. 201A, Troy, MI 48084, 313–649–6650. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions); (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds; (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle; (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate

service on behalf of the Department of Defense, between points in the U.S.

MC 160109, filed January 15, 1982. Applicant: JENSON BROKERAGE, INC., 3209 Produce Row, Houston, TX 77023. Representative: David H. Baker, 888 17th St., N.W., Washingon, DC 20006, 202–298–8600. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160168, filed January 19, 1982. Applicant: CLARENCE D. McMASTER, 1432 Regent Dr., San Leandro, CA 94577. Representative: Clarence D. McMaster (same address as applicant), 415–483–9072. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160189, filed January 19, 1982. Applicant: CHRIS & MARNY FARRAR, 9000 NE Union Sp. #148, Portland, OR 97211. Representative: Chris Farrar (same address as applicant), (503) 283–0639. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP5–24

Decided: January 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160228, filed January 25, 1982. Applicant: BRADY MOVING & STORAGE COMPANY, INC., 2 North 17th St., Fort Dodge, IA 50501. Representative: John K. Duvall (same address as applicant), (515) 576–2159. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160239, filed Janaury 25, 1982. Applicant: STEVE KLINGES, d.b.a. S & D TRUCKING, 1801 N. Division St., Morris, IL 60450. Representative: Steve Klinges or Diane Klinges (same address as applicant), (815) 942–4991. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3220 Filed 2–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.–All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–18

Decided: January 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating in part.)

MC 109540 (Sub-36), filed January 25, 1982. Applicant: YEARY TRANSFER COMPANY, INC., P.O. Box 398, Lexington, KY 40505. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *building materials,* between points in Clark County, KY, on the one hand, and, on the other, points in IN, OH, TN, and WV.

MC 128410 (Sub-2), filed January 22, 1982. Applicant: BALISTRERI TRUCKING, INC., P.O. Box 451, Morgan, PA 15064. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of iron and steel articles and construction materials, (2) *such commodities* as are dealt in or used by retail grocery stores, (3) *plastic articles,* (4) *chemicals,* and (5) *lumber,* between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 145040 (Sub-4), filed January 22, 1982. Applicant: RAMSEY'S TRAILWAYS, INC., 825 Hudson Ave., Jonesboro, LA 71251. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. (1) Over regular routes, transporting *passengers and their baggage, and express and newspapers,* in the same vehicle with passengers, (a) between El Dorad, AR, and Shreveport, LA, from El Dorado over U.S. Hwy 82 to Magnolia, AR, then over AR Hwy 132 to

Springhill, LA, then over LA Hwy 7 to U.S. Hwy 80, then over U.S. Hwy 80 to Shreveport, and return over the same route, (b) between Shreveport and Monroe, LA, from Shreveport over U.S. Hwy 71 to Elm Grove, LA, then over LA Hwy 154 to Ringgold, LA, then over LA Hwy 4 to Chatham, LA, then over LA Hwy 34 to Monroe, and return over the same route, and (c) between Jonesboro and Winnfield, LA, over U.S. Hwy 167, serving all intermediate points in routes (a), (b) and (c) above; and (2) transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in AR and LA, and extending to points in the U.S.

MC 148791 (Sub-18), filed January 22, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531-1777. Transporting *such commodities* as are dealt in or used by manufacturers of glassware, between points in the U.S., under continuing contract(s) with Libby Glass, Division of Owens Illinois, Inc., of Toledo, OH.

MC 148791 (Sub-19), filed January 22, 1982. Applicant: TRANSPORT-WEST, INC., 2125 North Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531-1777. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Albertson's, Inc., of Boise, ID.

MC 148791 (Sub-21), filed January 22, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531-1777. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with General Products Manufacturing, Inc., of Wilsonville, OR.

MC 152450, filed January 21, 1982. Applicant: WEGMAN'S FOOD MARKETS, INC., 1500 Brooks Ave., Rochester, NY 14603. Representative: Guy D. Richardson, 3596 Ransomville Road, Ransomville, NY 14131, (716) 791-4259. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between points in Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, and Wayne Counties, NY, on the one hand, and, on the other, points in the U.S.

MC 153951, filed January 22, 1982. Applicant: NESEL FAST FREIGHT INC., 2480 Lawrence Avenue East, Unit 7, Scarborough, Ontario, Canada M1P 2R7. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854-5870. Transporting *furniture and fixtures*, between ports of entry on the international boundary line between the U.S. and Canada in ME, MI, NH, NY, and VT, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MS, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WV, and WI.

MC 154971 (Sub-1), filed January 22, 1982. Applicant: JERRY HAMMANN TRANSPORTATION, INC., P.O. Box 86, Cohasset, MN 55721. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Blandin Paper Company, of Grand Rapids, MI.

MC 158391, filed January 22, 1982. Applicant: ROCKY MOUNTAIN HOT SHOT SERVICE, INC., P.O. Box 1616, Mills, WY 82644. Representative: Charles M. Williams, 1600 Sherman Street, Denver, CO 80203, (303) 839-5856. Transporting (1) *petroleum, natural gas and their products, and* (2) *Mercer commodities*, between points in CO, UT, NM, SD, ND, NE, WY, MT, TX, KS, OK, ID, and NV.

MC 158400, filed January 25, 1982. Applicant: SCREAMING EAGLE, INC., 5011 Alcova Route, Box 17, Casper, WY 82601. Representative: Dale Urban (same address as applicant), (307) 265-0006. Transporting *oilfield tools and equipment*, between Casper, WY, on the one hand, and, on the other, points in CO, ID, MT, ND, SD, OK, UT, NM, WY, TX, AZ, NV, CA, KS, and NE.

MC 159741, filed January 25, 1982. Applicant: COMDISCO TRANSPORT, INC., 6400 Shafer Court, Rosemont, IL 60018. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200-A, Park Ridge, IL 60068 (312) 698-2235. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Comdisco, Inc., of Rosemont, IL.

MC 160100 (Sub-1), filed January 25, 1982. Applicant: DALE TAYLOR d.b.a. TAYLOR TRUCKING, P.O. Box 1057, Green River, WY 82935. Representative: Irene Warr, 311 S. State St. Ste., 280, Salt Lake City, UT 84111 (801) 531-1300. Transporting *Mercer commodities*, between points in WY, CO, UT, and NV.

MC 160180, filed January 19, 1982. Applicant: HARVARD LEASING COMPANY, 4217 E. 49th St., Cleveland, OH 44125. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215 (614) 224-3161. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in OH, and (2) *metal products, machinery, and building materials*, between points in DE, IL, IN, KY, MD, MI, NJ, NY, OH, PA, VA, and WV.

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Decided: January 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 16903 (Sub-91), filed January 15, 1982. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846-6655. Transporting *building materials and prefabricated buildings*, between points in Monroe County, IN, on the one hand, and, on the other, points in GA, PA, AL, SC, FL, MS, IL, TN, WI, WV, OH, MO, MI and KY.

MC 93882 (Sub-24), filed January 11, 1982. Applicant: COLES EXPRESS, 444 Perry Road, Bangor, ME 04401. Representative: Lee M. Greiner (same as applicant) (207) 942-7311. Transporting *general commodities* (except classes A and B explosives), between points in CT, DE, MA, ME, MD, NH, NJ, NY, OY, PA, RI, VA, VT, WV and DC.

MC 118842 (Sub-1), filed January 12, 1982. Applicant: H & L TRUCKING, INC., Route 6, Weston, OH 43569. Representative: Herman D. Crawford, P.O. Box 6 Belle Glade, FL 33430, 305-996-4232. Transporting *farm equipment*, between points in MI and FL.

MC 129923 (Sub-25), filed January 4, 1982. Applicant: SHIPPERS TRANSPORT, INC., 5010 Commerce St, West Memphis, AR, 72301. Representative: Edward G. Grogan, Twentieth Fl., First Tennessee Bldg., Memphis, TN 38103, 901-526-2000. Transporting *metal products and machinery*, between points in the U.S. (except AK and HI.)

MC 136293 (Sub-3), filed January 11, 1982. Applicant: LOUIS SENSKE AND JIM SENSKE d.b.a. Senske & Son Transfer, 117 4th Ave. N., Crookston, MN 56716. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402 (612) 340-0808. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Norman, Chippewa, Clay, Polk, Ramsey, and Hennepin Counties, MN, and Cass,

Grand Forks and Pembina Counties, ND, on the one hand, and, on the other, points in the U.S.

MC 143522 (Sub-8), filed: January 15, 1982. Applicant: CONSOLIDATED CARRIERS, INC., P.O. Box D, Irwin, PA 15642. Representative: John T. Wirth, 717–17th St., Ste. 2600, Denver, Co 80202 (800) 245–1162. *Such Commodities* as are dealt in or used by manufacturers and distributors of accessories for recreational vehicles and transportation equipment, between the facilities of Scott & Fetzer Company (Carefree of Colorado Division), at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 143732 (Sub-2), filed January 11, 1982. Applicant: PICK–A–TREAT, INC., 3820 West Wisconsin Ave., Milwaukee, WI 53208. Representative: Lawrence Kahn, 633 West Wisconsin Ave., Milwaukee, WI 53203, 414–276–2260. Transporting *dated publications and printed matter,* between points in IL, IN, IA, MI, MN, ND, SD, and WI, on the one hand, and, on the other, points in the U.S.

MC 144963 (Sub-4), filed January 13, 1982. Applicant: JOBBERS FREIGHT SERVICE, INC., 111 N. College St., Grangeville, ID 83530. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting *general commodities* (except used household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Foremost-McKesson, Inc., division McKesson Drug Co., and Genuine Parts Co., both of Spokane, WA.

MC 148183 (Sub-48), filed January 11, 1982. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348, Pennsylvania Bldg., 425–13th St., N.W., Washington, DC 20004–1879, 202–737–2188. Transporting *food and related products,* between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 152082 (Sub-11), filed January 11, 1982. Applicant: R. C. SERVICE, INC., P.O. Box 823, Bensenville, IL 60106. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603 (312) 263–1600. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with H. B. Fuller Co., of Palatine, IL.

MC 152082 (Sub-12), filed January 15, 1982. Applicant: R. C. SERVICE, INC., P.O. Box 823, Bensenville, IL 60106. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, 312–263–1600. Transporting *such commodities* as are dealt in or used by printers or distributors of printed matter, between points in the U.S., under continuing contract(s) with Alden Press, Inc., of Elk Grove Village, IL.

MC 153873 (Sub-1), filed January 7, 1982. Applicant: JIM JACOBS TRUCKING, INC., 21850 Lemoyne Rd., Luckey, OH 43443. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603 (419) 255–8220. Transporting *containers, container closures, glassware, packaging products, container components and scrap materials,* between the facilities of Owens-Illinois, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160023, filed January 11, 1982. Applicant: PORTER EXPRESS COMPANY, 400 S. 13th St., Louisville, KY 40203. Representative: Steven L. Weiman, Suite 145 4 Professional Dr., Gaithersburg, MD 20879, 301–840–8565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contracts with (a) Porter Paint Co., of Louisville, KY, (b) Woodbury Business Forms, Inc., of La Grange, GA, (c) Armstrong Containers, Inc., of Westchester, IL, (d) Deeks & Company, of Louisville, KY, and (e) Colgate-Palmolive Company, of Evansville, IN.

MC 160032, filed January 11, 1982. Applicant: TRANS-MOTOR LEASING, INC., Carpenter Rd., P.O. Box 462, Defiance, OH 43512. Representative: A. Charles Tell, 100 E. Broad St., Columbus OH 43215, 614–228–1541. Transporting *such commodities* as are dealt in or used by breweries, between points in the U.S., under continuing contract(s) with River Valley Distributing, Inc., and ABC Distributing Co., both of Defiance, OH.

MC 160033, filed January 11, 1982. Applicant: PENN TRUCKING & WAREHOUSING CO., 2147 South Delaware Ave., Philadelphia, PA 19146. Representative: Barbara S. Chesarek, 2600 The Fidelity Building, Philadelphia, PA 19109 (215) 875–7000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA and NJ, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

Volume No. OP4–33

Decided: February 2, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 121826 (Sub-3), filed January 26, 1982. Applicant: OUACHITA MOUNTAIN EXPRESS, INC., 1911 S.W. 1st St., Oklahoma City, OK 73106. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73174 (405) 424–3301. Transporting *general commodities* (except classes A and B explosives), between points in Pulaski, Benton, Conway, Crawford, Faulkner, Franklin, Logan, Johnson, Perry, Polk, Pope, Washington, and Yell Counties, AR, and points in OK. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit of proof of filing the application(s) for common control to team 4, Room 2410.

MC 128546 (Sub-2), filed January 26, 1982. Applicant: ABLE EXPRESS, INC., 57 Appletree Lane, Valparaiso, IN 46383. Representative: William R. Sawyer (same address as applicant) (219) 464–4122. Transporting *metal articles, rubber, plastic, clay, concrete, glass, or stone products, machinery, electrical machinery, chemicals, and building materials,* between points in Mahaska County, IA, Coshocton County, OH, and points in IL, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, NE, NY, OH, PA, and SD.

MC 146666 (Sub-4), filed September 10, 1981, previously noticed in the **Federal Register** of September 28, 1981. Applicant: EDWARD R. CORCORAN, P.O. Box 1472, Billings, MT 59103. Representative: Edward R. Corcoran (same address as applicant) (406) 245–6065. Transporting (1) *coal and coal products,* and (2) *Mercer commodities,* between points in ND and WY, on the one hand, and, on the other, points in AZ and CA.

Note.—The purpose of this republication is to include the state of CA, which was inadvertently omitted from the previous notice.

MC 157946 (Sub-1), filed January 22, 1982. Applicant: G & G TRUCKING, INC. 26661 W. Ten Mile Rd. Southfield, MI 48034. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084 (313) 649–6650. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.; under continuing contract(s) with Haden-

Schweitzer Corporation, of Madison Heights, MI.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3221 Filed 2-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

[Volume No. OP1-20]

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleadings shall address specifically the issue(s) indicated as the purpose for republication.

MC 85970 (Sub-40F) (republication), filed June 30, 1980, previously noticed in the **Federal Register** issue of October 15, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Larry Kilzer, 1625 Hornbrook St., Dyersburg, TN 38024. A Decision by the Commission, Division 2, acting as an Appellate Division decided October 16, 1981, and served November 17, 1981, finds on appeal that applicant is authorized to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between Hickman, KY, on the one hand, and, on the other, points in AR, IL, IN, KY, MO, and TN. The purpose of this republication is to note that applicant intends to tack this authority with its existing regular-route authority.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3217 Filed 2-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 226]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 2, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

James H. Bayne,

Acting Secretary.

MC 9644 (Sub-14)X, filed January 6, 1982. Applicant: HAYES TRUCK LINE, INC., 1410 Intercity Trafficway, P.O. Box 4060, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Sub 13 certificate: (A) Broaden to (1) "machinery, lumber and wood products and metal products" from cross arms, cross arm braces, and metal fittings (irregular route-part 1); and (2) "machinery, lumber and wood products, metal products, rubber and plastic products, and clay, glass, concrete, or stone products" from pole line transmission materials (irregular route-part 3); (B) Remove the (1) "excet commodities of unusual value and commodities requiring special equipment" restrictions from the general commodities description (regular and irregular routes); (2) "intermediate point" restriction (regular route-part 1); and, (3) restriction prohibiting service between specific points (regular route-parts 1 and 2, and irregular route-part 4); (C) Broaden (1) (regular route portion) off-route points to county-wide authority: (a)(Bee and Phillips) Seward and Hamilton Counties, NE (part 1); (b) (Bruno, Brainard, Ulysses, Bee, Dwight, Loma, Surprise, Prague, Abie, Octavia, Weston and Linwood) Seward, Butler, and Saunders Counties, NE; and (Thayer) York County, NE (parts 2 and 3); and (2)(irregular route portion) county-wide authority: (Facilities, Seward) Seward County, NE (parts 1 and 3); and (3) radial authority (irregular route-parts 1 and 3).

MC 65781 (Sub-12)X, filed January 18, 1982. Applicant: BARRETT MOVING & STORAGE COMPANY, 7100 Washington Ave. So., Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. Lead and Subs 4 and 5 (acquired in MC-FC-76154) and E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11, E12, E13, E14, E15, E16, E17, E18, E19, E20, and E22 letter notices: (A) broaden to "household goods and furniture and fixtures" from household goods and/or electronic computers, components and parts, all certificates; (B) remove "originiating at or destined to" restriction, Sub 5; and (C) broaden to (1) county-wide authority: Lake, Cook, Will, and DuPage Counties, IL, and Lake and Porter Counties, IN (Chicago), lead and Sub 4; and (2) radial authority, lead.

MC 93840 (Sub-68)X, filed 1-25-82. Applicant: GLESS BROS. INC., P.O. Box 219, BLue Grass, IA 52627. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Lead and Sub-Nos. 23, 25, 26, 28, 29, 30, 31, 33, 34, 35F, 36F, 40F, 41F, 43F, 46F, 47F, 48F, 50F, 54F, 55F, 56F, and 57F certificates: (1) remove restrictions against serving intermediate points in Lead to authorize service at all intermediate points (2) replace off-route points with counties, La Salle County, IL, for Marseilles; Will County, IL, for Wilmigton, IL; 35 miles of Lost Nation, IA to Linn, Jones, Clinton, Delaware, Dubuque, Jackson, Scott, Muscatine, Cedar, and Johnson Counties; Whiteside and Lee Counties, IL, for Sterling, IL; DeKalb County, IL, for DeKalb, IL; and Lake County, IL and Kenosha County, WI, for Waukegon, IL, in Lead (3) delete the "facilities of" restrictions in lead and Sub-Nos. 25, 26, 28, 29, 30, 33, 34, 35F, 36F, 40F, 41F, 43F, 50F, 54F, and 55F; (4) delete the "in bulk" restrictions in Lead and Sub-Nos. 23, 34, 35F, and 40F; (5) to radial authority in all certificates; (6) remove the "in bulk, in dump or tank vehicles" restrictions in Sub-Nos. 25, 28, 29, 30, 31, and 56F; (7) delete "in dump vehicles" restriction in Sub-No. 50; (8) broaden from tanks, wire, fencing materials and agricultural implements to "metals, lumber and wood products, machinery, and equipment and supplies" in Lead; agricultural

implements and parts to "metals, and machinery," in Lead; coal to "petroleum and coal products" in Lead; roofing, and iron, steel and wire products to "metals, clay, concrete, glass and stone products, petroleum and coal products, and pulp, paper and related products" in Lead; livestock, poultry, and eggs to "farm products and food and related products" in Lead; feed, egg case materials, and fertilizer to "food and related products, containers and chemicals and related products" in Lead; brick, tile and clay products, in Lead and cement (Sub 41F) to "clay, concrete, glass, and stone products"; feed (Lead) meat scraps and tankage, liquid feed, liquid feed supplements, and molasses, Liquid animal feed and liquid animal feed supplements (Lead; liquid feed (Subs 33 and 48F), vegetable oils (Sub 46F), and feed phosphate (Sub 50F) to "food and related products"; livestock to "farm products" in Lead; salt and salt products in Lead and Subs 43F, 54F, and 55F to "chemicals and related products and food and related products;" iron steel articles and materials and supplies in Lead and Sub 47F to "metals and metal products"; caustic soda to "chemicals and related products and waste and scrap materials" in Sub 23; gypsum and limestone in Subs 25, 28 and 35F to "ores and minerals and clay, concrete, glass and stone products"; fertilizer and fertilizer solutions (Sub 26), liquid fertilizer (Subs 29, 30 and 56F), dry fertilizer and dry fertilizer materials (Sub 31), fertilizer and fertilizer materials (Sub 34), fertilizers (Sub 36F), fertilizer and fertilizer ingredients (Sub 40F), and chemicals (Sub 57F) to "chemicals and related products;" and (9) replace points with countywide authority, Cook County, IL, for Riverdale and Forest Park, IL, Scott and Muscatine Counties, IA, for Blue Grass, IA, Muscatine County, IA, for Pleasant Prairie, IA, Henry and Rock Island Counties, IL and Scott County, IA, for Moline, IL, Rock Island County, IL, for East Moline, IL, Dane County, WI, for Madison, WI, and Cedar County, IA, for Clarence, IA, in Lead; Rock Island and Henry Counties, IL, and Scott County, IA, for Rock Island, IL in Lead and Sub 43F; Muscatine, Scott and Cedar Counties, IA, for Durant, IA, in Lead and Subs 29 and 30; Cedar and Muscatine Counties, IA, for Wilton, IA, in Lead and Sub 47F; Scott and Muscatine Counties, IA and Rock Island County, IL, for Buffalo, IA, in Subs 23, 41F, and 57F; Des Moines County, IA, for Sperry, IA, in Sub 25; Whiteside County, IL, and Clinton County, IA, for Fulton, IL, in Sub 26; LaSalle County, IL, for Oglesby, IL, in Sub 28; Peoria and Tazwell Counties, IL, for Pekin, IL, in Subs 31 and 55F; Knox and Warren Counties, IL, for Galesburg, IL, in Sub 33; Whiteside County, IL, and Clinton County, IA, for Albany, IL, in Sub 34; Jo Daviess County, IL, Dubuque County, IA, and Grant County, WI, for East Dubuque, IL, in Sub 36F; Cerro Gordo County, IA, for Mason City, IA, in Sub 40F; Clinton and Scott Counties, IA and Whiteside and Carroll Counties, IL, for Clinton, IA, in Sub 43F; Dubuque County, IA, Grant County, WI, and Jo Daviess County, IL, for Dubuque, IA, in Sub 43F; Lee County, IA, Hancock County, IL and Clark County, MO, for Keokuk, IA, in Sub 43F; Jones County, IA, for Olin, IA, in Sub 48F; Muscatine and Scott Counties, IA for Montepelier IA, in Sub 50; and Roquois County, IL, for Ashkum, IL, in Sub 50F; (10) remove originating at and/or destined to restrictions in Lead and Subs 26, 31.

MC 107605 (Sub-31)X, filed December 7, 1981. Applicant: ADVANCE-UNITED EXPRESSWAY, INC., 2601 Broadway Road N.E., Minneapolis, MN 55413. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Lead and Subs. 10, 12, 13, 16, 17, 18, 19, 20, 22 (MC–F–13844), 23, 25 and 27 certificates to: (1) Broaden: (a) Lead and Subs 12, 16, 17, 18, 19, 20, 22, 23, 25, and 27 to remove all exceptions from general commodities, except classes A and B explosives: (b) Lead canned goods, and malt beverages to "food and related products"; and empty malt beverage containers to "containers"; (c) Sub 10 meat and related products to "food and related products"; (d) Sub 13 potatoes and potato products to "food and related products"; (e) Sub 18 feed to "farm products and animal food and related products"; from livestock to "farm products"; and ensilage cutters, hammer mills, portable feed grinders and coal stokers to "machinery"; (f) Sub 27 hardware, roofing, linseed oil, and iron and steel fence posts to "building materials, food and related products, and metal products"; (2) broaden lead and Subs 18, 20, 23, 25, 27 to authorize service at all intermediate points on regular routes; (3) remove the following restrictions: (a) in lead Part A (regular routes) against radial service between a plantsite at Oak Brook, IL, and IL and IN; lead Part B (regular routes) limiting the provision of two-way service, limiting service to or from designated points, and limiting service to truckload lots; (b) Sub 10, originating at or destined to a plantsite at Rochelle, IL; (c) in Subs 12 and 16 (regular routes) limiting service to shipments moving between designated points; and (d) Sub 17, (regular routes) against transportation of traffic originating at or destined to Chicago; (e) Sub 22 limiting service at commercial zone points; (f) Sub 27, para. 2 (regular routes) against transportation of traffic moving between designated points; (4) replace: (a) lead Part A, plantsite at Oak Brook, IL with Cook County, IL, Portage, IN with Porter County, IN; (b) in lead Part B, Fox Point, Greendale, West Milwaukee, Shorewood, Wauwatosa, and Whitefish Bay, WI with Milwaukee County, WI; Racine, Kenosha, Franksville, Cudahy, Granville, Carrollville, South Milwaukee and West Allis, WI with Milwaukee, Kenosha and Racine Counties, WI; plantsite in Ramsey County, MN with Ramsey County, MN; plantsite at Fridley, MN with Anoka County, MN; (c) lead Part C, Minneapolis, St. Paul, South St. Paul and Newport, MN with Hennepin, Ramsey, Dakota and Washington Counties, MN; Moorhead and Thief River Falls, MN and Fargo and Grand Forks, ND with Clay, Pennington and Polk Counties, MN and Cass and Grand Forks Counties, ND; Moorhead, MN and Fargo, ND with Clay County, MN and Cass County, ND; and plantsite in Ramsey County, MN with Ramsey County, MN; (d) Sub 10, plantsite at Rochelle, IL with Ogle County, IL; (e) Sub 13, Barnsville, MN with Clay County, MN; (f) Sub 17, facility in DuPage County, IL with DuPage County, IL; (g) Sub 18, facility in Dakota County, MN with Dakota County, MN; Bayport, South St. Paul, North St. Paul, Newport and Minneapolis, MN with Washington, Dakota, Ramsey and Hennepin Counties, MN; St. Paul, MN with Ramsey County, MN; St. Paul, South St. Paul and Newport, MN and Eau Galle, WI with Dakota, Washington and Ramsey Counties, MN and Dunn County, WI; Olivet and El Paso, WI with Pierce County, WI; East Ellsworth, WI with Pierce County, WI; Inver Grove Heights, Lakeland and St. Croix Beach, MN with Dakota and Washington Counties, MN; St. Joseph, Hudson, Troy, Warren and Kinnikinnic, WI and South St. Paul and Newport, MN with St. Croix County, WI and Dakota and Washington Counties, MN; South St. Paul, MN and Burkhardt, WI with Dakota County, MN and St. Croix County, WI; Hudson, WI with St. Croix County, WI; and Chippewa Falls, WI with Chippewa County, WI: (h) Sub 19, facility at Maple Grove, MN with Hennepin County, MN; (i) Sub 20, Fox Point, Greendale, Kenosha, Racine, Shorewood, Wauwatosa, West Milwaukee and Whitefish Bay, WI and Chemolite, MN with Kenosha, Milwaukee and Racine Counties, WI and Washington County, MN; (j) Sub 23, Isanti, MN with Isanti

County, MN; (k) Sub 25, Sheboygan, Kohler, Sheboygan Falls and Manitowoc, WI with Sheboygan County, WI; East Troy, Elkhorn, Delavan, Burlington and Union Grove, WI with Racine and Walworth Counties, WI and (l) Sub 27, Chicago Heights, IL with Cook County, IL; (5) replace regular route radial authority with regular route between authority in lead; and (6) replace one-way with radial authority in lead Part C, and Subs 13 and 18.

MC 119741 (Sub-312)X, filed January 27, 1982. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant) Sub-285F broaden wooden flush garage door sections to "lumber and wood products", and to radial authority.

MC 123269 (Sub-4)X, filed January 15, 1982. Applicant: NORMAN LINES, INC., 765 East California, Dolton, IL 60419. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60603. Subs 1, 2, and 3 certificates: (A) Broaden to (1) "food and related products" from (a) meats, meat products, meat by-products, articles distributed by meat packinghouses and/or dairy products, Sub 2(13), (14), (15), (18), (19), (21), (23), (24), (25), (26), (27), and (28), and Sub 3 (1) and (2); (b) dressed poultry and dairy products, Sub 2(5); (c) dairy products, Sub 2(6); (d) cheese, Sub 2 (9 & 12); (e) fresh meats, Sub 2(8 & 20); (f) edible animal fats, animal oils, vegetable oils and products thereof and oleomargarine to and return shipments, Sub 2(16 & 17); (g) frozen bakery dough products, Sub 2(22); (2) "food and related products and such commodities as are dealt in or used by meat packers," from packinghouse products, packing-house supplies, dress poultry, and dairy products, Sub 2(4) and Sub 3(3); (3) "such commodities as are dealt in or used by meat packers," from (a) equipment and supplies useful in meat packinghouses, Sub 2(7); (b) such commodities as are used by meat packers in the conduct of their business, Sub 2(19 & 24); (4) "petroleum and natural gas and their products"; from lubricating oils and greases, Sub 2(10); (b) petroleum products, Sub 2(1); (5) "metals and metal products" from (a) iron and steel products, Sub 2(2); and (D) tinplate, Sub 2 (3); and (6) "containers" from empty containers, Sub 2(11); (B) remove the (1) facilities restriction, Sub 2(13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28) and Sub 3 (1 and 2); (2) in tank, in containers and/or hides, restriction, Sub 2((1, 10, 13, 14, 15, 18, 19, 20, 21, 24, 25, 26 and 28) and Subs 3 (1 & 2); (2) commodities or liquid commodities in bulk restriction, Sub 2 (13, 14, 15, 18, 19, 21, 23, 24, 25, 26, 27 and 28) and Sub 3 (1 and 2); (3) originating at and/or destined to restriction, Sub 2 (13, 14, 15, 16, 18, 19, 20, 21, 22, 23a, 25, 26, 27, and 28) and Sub 3 (1 & 2); and (4) subsequent movement by rail or moving in foreign commerce restriction, Sub 2 (23b); (C) broaden to county-wide authority: (1) Sub 2(1), Bradford and Rouseville, PA and Chicago, IL (McKean, Venango, Crawford, Forest, Clairon, and Mercer Counties, PA; Cattaraugus County, NY; Lake and Porter Counties, IN, and Lake, Cook, McHenry, Kane, DuPage and Will Counties, IL); (2) Sub 2(2), Martins Ferry, OH, Wheeling, Benwood, Warwood and Beech Bottom, WV; Chicago, IL, and St. Louis, MO (Belmont, Jefferson, Monroe and Harrison Counties, OH and Brooke, Ohio and Marshall Counties, WV, and Washington and Greene Counties, PA; Porter and Lake Counties, IN, and Cook, Lake, McHenry, Kane, DuPage, Will, Monroe, St. Clair and Madison Counties, IL; and Jefferson, St. Louis, and St. Charles Counties, MO, and St. Louis, MO); (3) Sub 2(3), Canton and Toronto, OH, Follansbee, WV, and Chicago, IL (Wayne, Tuscarawas, Holmes, Stark, Summit, Portage, Columbia, Carroll, and Jefferson Counties, OH; Hancock, Brooke and Ohio Counties, WV, and Allegheny and Beaver Counties, PA; Porter and Lake Counties, IN, and Lake, Cook, McHenry, Kane, DuPage and Will Counties, IL); (3) Sub 2(4), Chicago, IL; Jamestown and Buffalo, NY; Newark, NJ; Wheeling, WV, and points within 25 miles thereof (Porter and Lake Counties, IN, and Lake, Cook, McHency, Kane, DuPage and Will Counties, IL; Chautaugua and Cattaraugus Counties, NY; Erie, Niagara, Wyoming, and Genesee Counties, NY; Essex, Union, Somerset, Middlesex, Morris, Passaic and Bergen Counties, NJ, and Nassau County, NY; and Ohio, Hancock, Brooke, Marshall, and Wetzel Counties, WV; (4) Sub 2(13), plantsite, Rochelle, IL, Buffalo and Jamestown, NY, Newark, NJ, Wheeling, WV, and point within 25 miles, thereof in WV (Ogle County, IL; Erie, Niagara, Wyoming and Geenesee Counties, NY; Chautauqua and Cattaraugus Counties, NY; Essex, Union, Somerset, Middlesex, Morris, Passaic and Bergen Counties, NJ and Nassau County, NY; and Ohio, Hancock, Brooke, Marshall, and Wetzel Counties, WV; (5) Sub 2(5), Buffalo and Norfolk, NY, Newark, NJ (Niagara, Genesse, Wyoming, Erie, and St. Lawrence Counties, NY, and Bergen, Middlesex, Union, Somerest, Essex, Morris, and Passaic Counties, NJ); (6) Sub 2(6 and 7), Rochester (Fulton County, IN); (7) Sub 2(9), Rochester, IN, and Wilmington, DE (Fulton County, IN and New Castle County, DE); (8) Sub 2(8), Milwaukee and Pittsburg (Ozaukee, Washington, Racine, Milwaukee, and Waukesha Counties, WI and Washington, Beaver, Butler, Allegheny, and Westmoreland Counties, PA); (9) Sub 2(10) and (11), Bradford, PA, and Benton Harbor, MI, McKean County, PA and Cattaraugus County, NY; and Cass, Barrien and Van Buren Counties, MI; (10) Sub 2(12), Marshield, Monroe and Portage, WI (LaFayette, Green, Rock, Columbia, Marquette, Adams, Sauk, Wood, Jackson, Clark, Marathon, and Portage Counties, WI, and Jo Daviess, Stephenson and Winnebago Counties, IL); (11) Sub 2(14a), plantsite, Worthington, MN, Wheeling, WV and points within 25 miles thereof, (Nobles County, MN, Hancock, Brooke, Ohio, Marshall, and Wetzel Counties, WV); (12) Sub 2(14b), plantsite, Sterling (Whiteside County, IL); (13) Sub 2 (16 and 17), Bradley, IL, Wheeling, WV, and points within 25 miles thereof, (Ford, Iroquois, Kankakee, and Grundy Counties, IL, and Hancock, Brooke, Ohio, Marshall, and Wetzel Counties, WV); (14) Sub 2(18), Huron (Sanborn, Jerauld, Beadle, Kingsbury, and Spink Counties, SD); (15) Sub 2 (19a and b), plantsite, Joslin Rock Island County, IL); (16) Sub 2(20), plantsite, Fort Madison (Lee County, IA); (17) Sub 2(21), plantsite, Hospers, (Sioux County, IA); (18) Sub 2(22), plantsite, Madelin (Watonwan County, MN); (19) Sub 2 (23 and 24), plantsite, Wagner (Charles Mix County, SD); (20) Sub 2(25), plantsite, Madison, NE (Madison County, NE); (21) Sub 2(26), plantsite, Huron (Beadle County, SD); (22) Sub 2(27), plantsite, Worthington, MN (Nobles County, MN); (23) Sub 2(28), plantsites, Britt and Mason City (Hancock and Cerro Gordo Counties, IA); (24) Sub 3(1), plantsite, Rochelle, IL, St. Louis and Kansas, MO and Omaha, NE (Ogle County, IL; Monroe, St. Clair, and Madison Counties, IL, Jefferson, St. Louis, St. Charles, Cass, Jackson, Clay, and Platte Counties, MO, St. Louis, MO, Washington, Douglas, Sarpy, Cass, Saunders, and Dodge Counties, NE, Mills, Pottawattomie and Harrison Counties, IA, and Johnson and Leavenworth Counties, KS); and (25) Sub 3(3) and Sub 1, Chicago, IL, Kansas City, KS, St. Louis and Kansas City, MO, and East St. Louis, IL, and points in MO within 50 miles of St. Louis (Lake, Cook, McHenry, Kane, DuPage, and Will Counties, IL, and Lake and Porter Counties, IN, Johnson and Leavenworth Counties, KS, Jefferson, St. Louis, St. Charles, Cass, Jackson, Clay, Platte,

Clinton, Buchanon, Pike, Lincoln, Warren, Franklin, Washington, St. Francois, and Ste. Genevieve Counties, MO, and Monroe, St. Clair and Madison Counties, IL); and, (D) broaden to radial authority, Sub 2 and Sub 3(2).

MC 138741 (Sub-133)X, filed January 18, 1982. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 914 East Hwy. H, Liberty, MO 64068. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. Subs 38, 67F, 68F, and 108F: (A) Broaden to "metal products" from (1) iron and steel articles, Sub 38; (2) steel tubing, Subs 67F, 68F, and 108F, (B) Remove the "except Valley, NE", "except Porter County, IN" from Chicago commercial zone "originating at", "except in bulk and cement" from building and construction materials and facilities restrictions, Sub 38; and, (C) Broaden to (1) county-wide authority: (a) Franklin County, MO (Gerald), Sub 67F; and (facilities-Union), Subs 68F and 108F; and (b) Cook, Will, McHenry, DuPage, Kane, and Lake Counties, IL, and Porter and Lake Counties, IN (facilities-Chicago and commercial zone), Sub 38, and (2) radial authority, Subs 38, 67F, 68F and 108F.

MC 141737 (Sub-2)X, filed October 23, 1981, previously noticed in **Federal Register** on November 10, 1981, republished to notice the following omission: Applicant: WALKER FREIGHT LINE, INC., P.O. Box 241, Black Hawk, SD 57718. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Lead: remove restriction against tacking or joinder to correspond with applicant's Sub-No. 1 certificate.

[FR Doc. 82-3218 Filed 2-5-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Forty-seventh meeting of the Board for International Food and Agricultural Development (BIFAD) on February 25, 1982.

The purpose of the meeting is to consider a study of BIFAD functions, structure, relationships and staffing; to receive and discuss a report on study of university consortia and alternative contractual forms of technical assistance; to discuss status report on study of incentives for university involvement in international programs; to review the application of Arizona State University for Title XII roster status; and to meet with the BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:30 p.m., and will be held in Room 1105, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 2:00 p.m. and adjourn at 3:30 p.m. This meeting will be held in Room 2248, New State Department Building, 22nd and C Streets, NW, Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: February 2, 1982.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 82-3187 Filed 2-5-82; 8:45 am]
BILLING CODE 8116-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Program Plan: Fiscal Year 1982

AGENCY: National Institute of Justice, Justice.

ACTION: Information.

SUMMARY: The National Institute of Justice (NIJ) presents this program plan as a general guide to its proposed programs and priorities for FY 1982. It outlines topics of interest for research emphasis under the sponsorship of NIJ's Office of Research Programs, Office of Research and Evaluation Methods, Office of Program Evaluation, and Office of Development, Testing and Dissemination.

This program plan is not a commitment to funding any project described in the following pages. All programs and projects are subject to change, pending final action by the Congress on the NIJ FY 1982 appropriation and contingent upon a Department-wide review of all research programs of the Department of Justice.

FOR FURTHER INFORMATION CONTACT: Mr. James L. Underwood, Acting Director, National Institute of Justice, Department of Justice.

Foreword

Criminal justice research has too often been episodic and fragmentary, a many-colored coat composed of strings and patches that often did not fit together with sufficient cohesion to achieve recognizable goals. In announcing its research program for fiscal year 1982, the National Institute of Justice seeks a better integrated approach by organizing its research agenda around the major focal points of the criminal justice process.

All NIJ research, evaluation, testing, and dissemination efforts can be subsumed under one or more of the following topics, which represent a rough flow chart of the criminal justice process. Each of these subjects will receive significant attention in both long-range and short-term projects.

- The causes of crime;
- The prevention of crime;
- The detection and apprehension of those who ahve committeed crimes;
- The efficient and equitable processing of criminal cases in the courts in a manner that gives due regard to the rights of society, the victim, and the defendant;
- The imposition of the appropriate sanction on the convicted criminal; and
- The implementation of that sanction in the most effective and just correctional setting.

These pivotal points of criminal justice provide a quality of constancy to NIJ's research efforts. Blending intimately with these key stable themes of criminal justice research are studies and experiments designed to support the Administration's effort to combat violent crime as expressed in the mandates of the Attorney General's Task Force on Violent Crime. The major themes of the Task Force report are interwoven throughout our research agenda for 1982, as outlined in this Plan. Summarized below are some key Task Force recommendations and proposed research responsive to them.

Exclusionary rule Reform

Research and develop alternatives to the exclusionary rule.

Bail Reform

Explore the concept of dangerousness and its use in pretrial decisionmaking.

Assistance to Victims

Prepare and disseminate a model program on victim services for State and local governments.

Conduct a comparative evaluation of victim assistance projects.

Study how the degree of victim harm is utilized in criminal justice decisionmaking.

Study the impact of evidentiary rules on victim participation in criminal proceedings.

Complete evaluation of a test involving victim participation in plea bargaining.

Prepare and disseminate a guide on victim compensation programs for State legislatures.

Career Criminals

Evaluate programs for selective prosecution of violent habitual offenders.

Expand the Institute's research program on career criminals.

Firearms

Support research to detect and apprehend persons unlawfully carrying guns:

—Illicit firearms market;

—Development of gun detection devices.

Violent Crime

Conduct with the Bureau of Justice Statistics an analysis of violent crime trends and patterns.

Support research on the control of robbery and homicide.

Develop better methods for postrelease control of violent offenders.

Support research on methods to improve prediction of violent behavior.

Develop programs to:

—Improve directed police patrol strategies

—Enhance commercial security against robbery and burglary.

Conduce a training workshop on the criminal courts' response to nonstranger violence.

The six key elements of the research agenda described above, mixed with the revitalizing ingredient of the serious crime initiative, compose a relatively well-organized, clearly articulated research policy. More precise definition of the fundamental research needs of the criminal justice process is needed, however. Accordingly, I have organized a long-range planning group, which will assess NIJ's traditional priorities to determine what progress has been made in each area and which subjects remain unexplored or incompletely explored. The long-range planning group will not limit itself to an examination of the degree of success achieved under each topic of emphasis; it will also address the more fundamental question of whether NIJ is giving priority to the right questions in setting its research agenda.

In constructing our program for fiscal year 1982, we have consulted with many members of the research and practitioner communities. A continuing dialog with knowledgeable professionals outside NIJ will be even more important as we proceed with long-range planning. to that end, I invite your opinions and comments on the appropriateness of NIJ's priorities and methods.

James L. Underwood,

Acting Director.

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Introduction

The National Institute of Justice (NIJ) is a research center within the U.S. Department of Justice. Established in 1979 by the Justice System Improvement Act, NIJ builds upon the foundation laid by the former National Institute of Law Enforcement and Criminal Justice, the first major Federal Research program on crime and justice.

Mandate

Carrying out the mandate assigned by the Congress, the National Institute of Justice supports:

- Basic and applied research and development to build knowledge about crime and improve and strengthen the criminal justice system.
- Evaluations of the effectiveness of crime prevention and control policies and programs, identifying those that promise to be successful if continued or repeated.
- Tests and demonstrations of new and improved approaches to stem criminal activity and strengthen the justice system.
- Training of criminal justice practitioners in research and evaluation findings, and assistance to the research community through fellowships and special seminars.
- Dissemination of information from research, demonstrations, evaluations, and special programs to Federal, State, and local governments, including operation of an international clearinghouse of justice information.

Organization

NIJ is organized into four offices, reflecting its mandated functions:

Research Programs

The Office of Research Programs administers NIJ's basic, applied, and developmental research activities primarily through external grants and contracts. The Office includes five divisions: Police, Adjudication, Corrections, Community Crime Prevention, and the Center for the Study of the Correlates of Crime and Determinations of Criminal Behavior.

Research and Evaluation Methods

The Office of Research and Evaluation Methods supports methodological research and development activities, including programs in crime control theory and performance measurement. Activities focus on research and evaluation measurement problems and systemwide research and evaluation in criminal justice.

Program Evaluation

The Office of Program Evaluation sponsors evaluations of criminal justice improvement programs. Among the studies sponsored by the Office are assessments of federally funded national programs, State and local justice system initiatives, and experimental field tests sponsored by NIJ's Office of Development, Testing, and Dissemination.

Development, Testing, and Dissemination

The Office of Development, Testing, and Dissemination assures that NIJ research and evaluation findings are disseminated and applied. The Office identifies and develops program models; seeks out and documents programs of proven effectiveness; designs and sponsors field tests; supports training workshops and information sharing; provides reference, dissemination; and information services; and tests and develops standards for major items of equipment used by criminal justice agencies.

Overall Direction

The National Institute of Justice operates under the general authority of the Attorney General. The NIJ Director oversees the entire Insititute program and approves the awarding of all grants, contracts, and cooperative agreements. Institute-wide planning, analysis, and management functions are handled by a special unit which fosters a coordinated approach that builds on the results of past research.

Advisory Board

The Justice System Improvement Act of 1979 authorized creation of a 21-member NIJ Advisory Board to be appointed by the President. The Board is to recommend policies and priorities to NIJ and advise on peer review procedures. The act specifies that the Board should represent the constituencies NIJ serves: State and local governments, criminal justice practitioners, researchers, community groups, and the general public.

Long-Range Research Priorities

NIJ is authorized to support research and experimentation dealing with the full range of crime prevention and criminal justice issues and related civil justice matters.

In setting research agendas, NIJ is guided by its congressional mandate, priorities established by the Attorney General, and the recommendations of researchers and practitioners in the field.

Foremost among its priorities is research on violent crime and the violent offender. In FY 1982, NIJ will pursue a systematic research agenda on serious, violent crime, a major national concern and a priority for the Department of Justice.

The Institute will expand and intensify its efforts to accumulate knowledge about criminal violence problems and about the most promising methods for stemming serious crime.

NIJ's long-range agenda also includes these priorities:

- Career criminals and habitual offenders
- Sentencing
- Deterrence
- Utilization and deployment of police resources
- Pretrial process: consistency, fairness, and delay reduction
- Rehabilitation
- Community crime prevention
- Correlates of crime and determinants of criminal behavior
- Performance standards and measures for criminal justice

Funding Mechanisms

NIJ is authorized to enter into grants, cooperative agreements, and contracts with public agencies, institutions of higher education, private organizations, and individuals. The particular funding mechanism used for each project depends upon the nature of the work to be performed. Projects typically are supported for 12 to 24 months; for certain projects, longer term funding may be provided in annual increments, depending upon satisfactory progress in the research.

NIJ also enters into interagency agreements with other Federal agencies for research of mutual interest. As one of several Federal research programs dealing with aspects of the crime problem, NIJ seeks opportunities to work with other Federal agencies to minimize potential overlap and pool resources, expertise, and data to study particular problems.

Information on Funding Opportunities

This booklet outlines new research and program activities proposed for FY 1982. It is published as a general guide only, and does not indicate a commitment to funding any of the projects described in this report. Detailed specifications, funding, deadlines, and application and review procedures are set forth in program solicitations issued throughout the year. Solicitations may be quite specific or may indicate broad areas of interest, allowing applicants to articulate precise topics for study as well as to propose the research design.

Solicitations proposed for each NIJ office for FY 1982 are briefly described in this Plan. Readers interested in receiving a program solicitation when it is published should write to the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. Please specify the title of the announcement.

To ensure wide dissemination, NIJ program solicitations are announced in the **Federal Register**. Each **Federal Register** notice contains either the full text or a brief description of the official program announcement and instructions for obtaining additional information. Researchers interested in applying for Institute funds are urged to watch for these notices. (The **Federal Register** is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.)

Requests for proposals for competitive contracts are published in the *Commerce Business Daily.*

NIJ also disseminates information on research plans through its *Research Bulletin,* published from time to time throughout the year. (To receive copies of the *Bulletin,* please write: Research Bulletin, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.)

How to Apply

Solicited Research Program

The bulk of NIJ funds are awarded each year for projects outlined in the Program Plan. Interested applicants must obtain a copy of the program solicitation, which spells out application and review procedures to be followed and specifies the deadline. Generally, solicitations call for submission of concept papers or preliminary proposals. The length may vary depending upon the topic, but concept papers usually should not exceed 20 pages. The paper should summarize the proposed study, including objectives, methodology, milestones, anticipated products, and preliminary budget, and indicate the applicant's competence to perform the work proposed.

Based on a careful review of the concept papers, selected applicants are invited to submit full or final proposals. For programs in which the research objectives and issues are particularly well defined, NIJ may waive the concept paper stage and solicit full proposals.

Requests for full proposals do not represent a commitment by the National Institute of Justice to support a project. Final decisions on awards are made by the NIJ Director.

Peer Review Process

NIJ uses the peer review process to ensure fair and knowledgeable evaluation of papers and proposals. For each solicitation, the Institute obtains written reviews of proposals from in-house reviewers and outside experts drawn from the criminal justice and academic communities, research organizations, and private industry. Usually, reviews are obtained at the

concept paper stage and again at the proposal stage.

Selection Criteria

Proposals are evaluated according to the criteria specified in the program solicitation. The specific method may vary from formal numerical rankings based on weighted criteria to narrative responses only for a combination of both. In making decisions on grant awards, NIJ is guided by the recommendations of the review panel and by the following considerations:

- Compatibility with the NIJ legislative mandate;
- Relationship to the NIJ plan and priorities set by the Attorney General;
- Probability of acquiring important new knowledge that advances the understanding of and the ability to solve critical problems relating to crime and the administration of justice;
- Originality, adequacy, and economy of the research design and methods;
- Experience, competence, and past performance record of the organization and staff.

Special Programs

Unsolicited Research Program

To ensure that creative approach to justice research issues are not overlooked, NIJ also sponsors an Unsolicited Research Program. In FY 1982, there are two funding cycles for unsolicited research. As set forth in the program solicitation, the first deadline was December 1, 1981, and the second will be in June 1, 1982. Grants normally range from $10,000 to $120,000 for research projects of up to 2 year's duration.

The goal of the program is to fund a limited number of research proposals that address significant crime and criminal justice issues, that are of sound methodological design, and that have important implications for criminal justice policy, practice, research, and/or theory. NIJ is interested in projects submitted by experienced researchers dealing with important problems, using appropriate methodologies, and involving the analysis of data with broader research objectives.

The following types of projects are encouraged: relatively small research projects for which there are few alternative funding mechanisms; projects conducted by qualified researchers who are relatively new to the criminal justice field; replication of completed research whose findings are important to criminal justice; basic or applied research on interdisciplinary subject areas relevant to crime and criminal justice; exploratory studies in criminal justice areas in which there has been little previous work; and research aimed at developing practical responses to criminal justice problems.

Visiting Fellowship Program

This program is open to highly qualified criminal justice professionals and scholars. Fellowship recipients come to Washington, D.C., to work on research of their own design. Project periods range from 3 months to 2 years. an annual program announcement is published by NIJ; applicants are required to submit concept papers by November 15 of each year.

Graduate Research Fellowships

Each year a limited number of Institute-funded fellowships are awarded to doctoral candidates through sponsoring universities. The fellowships support students engaged in the research and writing of doctoral dissertations in criminal justice.

For Information

For additional information on these Special Programs, please request the program announcement by sending a self-addressed mailing label to Announcement (name of program), NCJRS, Box 6000, Rockville, Maryland 20850.

The FY 1982 Program Plan

NIJ's FY 1982 research and program activities are briefly summarized in the following pages, listed under the responsible Office and Division. All programs and projects are subject to change, pending final action by the Congress on the NIJ FY 1982 appropriation and contingent upon the results of a Department-wide review of research programs of the Department of Justice. In addition, other topics for research may be selected in response to priorities identified throughout the fiscal year. The final nature and scope of research projects will be set forth in NIJ program solicitations.

Office of Research Programs

W. Robert Burkhart, Director

The Office of Research Programs (ORP) plans and sponsors basic and applied research to increase knowlege about crime and criminal behavior and develop more effective approaches to crime prevention and control. The research agenda addresses issues related to the criminal law, formal and informal crime control processes, crime causes and correlates, the nature and impact of specific types of crime, offender characteristics and behavior, victimization, and the operations of the criminal justice system.

The Office has five divisions: Police, Adjudication, Corrections, Community Crime Prevention, and the Center for the Study of Crime Correlates and Determinants.

The projects planned for FY 1982 are designed to attack critical criminal justice problems, including the pressing issue of serious, violent crime. At the same time, the projects build on significant results from past research, adding increments of information that help form a body of knowledge that can ultimately lead to more informed and effective crime control policies.

Police Division

Joseph Kochanski, Acting Director

NIJ's police research program is designed to enhance State and local law enforcement capabilities by expanding knowledge about police practices. Research has concentrated on exploring the effectiveness and efficiency of police management and operations. NIJ research on patrol, criminal investigations, response time, and alternative responses to calls for service has yielded findings that challenged traditional approaches and suggested promising new ways of delivering police services. The Division also sponsors technological studies relating to enforcement and forensics. Research planned for FY 1982 continues the development of information and strategies that can improve police operations. The following solicitations are proposed:

FY 1982 Plans

Improved Police Policies for Maintaining Public Order: There is little empirical knowledge about which police actions are appropriate and effective in the range of situations that fall under the heading of "maintaining public order." The purpose of this project is to develop sanction and control mechanisms for maintaining public order which are more appropriate than the formal arrest sanction in such situations. Some examples may be wider use of police summons, fines, peace bonds, and new point sysems similar to those used in traffice enforcement. The objective of this exploratory phase would be to determine the feasibility of developing improved guidelines for judicious use of force appropriate to the variety of situations requiring police intervention.

Detecting and Apprehending Persons Unlawfully Carrying Guns: In response to a recommendation of the Attorney General's Task Force on Violent Crime, this project will investigate the state of the art and the feasibility of methods to

detect weapons carried in violation of the law. The study also will analyze the legal aspects of using a particular technology to detect guns. Based on the outcome of the study, subsequent prototype development may be undertaken.

Alternatives to and the Impact of the Exclusionary Rule: Despite continuing debate about the exclusionary rule—which prohibits admission of evidence that may have been obtained illegally or improperly—little empirical data on its effects exist. This project will gather information on the nature and extent of the impact of the exclusionary rule on police operations, criminal case processing, and case outcomes. The debate on the exclusionary rule has increasingly focused on whether or not means other than the exclusionary rule can be used effectively to enforce fourth amendment standards against unreasonable search and seizure. Among the suggested alternatives are internal police department discipline proceedings and civil suits against the officer or the government entity conducting the police operation. Proponents of these alternatives suggest that they protect the citizen against police misconduct but do not punish society by making it possible for a criminal to go free because of a technical error by a policeman. The feasibility of these alternatives to the exclusionary rule will be studied.

Adjudication Division

Cheryl Martorana, Director

Adjudication Division research seeks to develop knowledge about methods to improve the fairness and efficiency of the adjudication process. The Division gives priority to studies focusing on reducing unnecessary case attrition and improving consistency in the pretrial process and on enhancing the consistency and effectiveness of sentencing. In addition, research addresses the issues of selecting appropriate forums for disputes and identifying improved practices for courts, prosecutors, and defense agencies.

FY 1982 Plans

Projects proposed for fiscal year 1982 include:

Dangerous Defendants and Pretrial Release: Recently completed research sponsored by NIJ found that approximately one out of six defendants in an eight-city sample was rearrested during the pretrial period. Almost one-third were rearrested more than once, some as many as four times, before their original cases were settled. In the past few years, a growing number of jurisdictions have enacted legislation to permit judges to consider not only the traditional concern of flight before trial but also the community's safety in determining conditions for release of a defendant. Building upon a pilot study now in progress, this research will examine how "danger" and "community safety" are being defined, the extent to which the new laws have affected release and detention rates, release alternatives, and jail crowding.

Use of Sentence Enhancement Laws: A major goal of sentencing reform has been to reduce disparity in sentences for similarly situated offenders. At the same time, there has been increased recognition that certain offenders should receive more severe punishment, and sentencing enhancement laws have been passed providing special penalties for certain types of offenders. If such laws are applied only rarely and unevenly, disparity is reintroduced. This study will assess the use of such provisions as consecutive sentencing, habitual offender laws, and "aggravated circumstances" penalties.

Forensic Evidence in the Court: Expenditures for forensic labs nationwide are estimated to exceed $1 billion a year. An evaluation currently underway is assessing the contribution of forensics to the investigative process. The project will conduct a similar analysis of the use of forensic evidence by prosecutors and courts, with an eye toward suggesting ways to enhance the value of forsensics to the courts.

Impact of Evidentiary Rules on Victim Participation in the Criminal Justice Process: A number of questions could be addressed by research in this area: Do the rules of evidence inhibit crime reporting and the willingness of victims to cooperate with the prosecution of a case? Do State substantive and evidentiary laws on rape affect reporting of this crime and subsequent cooperation by the victim with police and prosecutors? Have recent changes in State rape laws had an effect on reporting, victim cooperation, and rape conviction rates? Are there legal alternatives that can reduce the burden on victims without infringing upon the constitutional and legal protections accorded defendants? The precise scope of this project will be defined following a review of ongoing and recently completed research in this area by NIJ and other agencies.

Corrections Division

John Spevacek, Director

Corrections Division research is divided into three categories: (1) Use of criminal sanctions, particularly studies of sentencing and use of incarceration; (2) correctional programs, particularly those in the area of rehabilitation; (3) correctional management and administration.

FY 1982 Plans

In FY 1982, the Division will emphasize studies relating to serious, violent offenders. Among the projects planned:

Improved Handling of Long-Term Offenders: The nation's medium and maximum security prisons are heavily populated by young offenders with serious criminal histories who are serving lengthy terms for violent crimes. These offenders create serious management problems for prison officials, particularly when institutions are overcrowded. The proposed study would attempt to identify methods for dealing with such offenders that can reduce prison tensions and improve management's ability to control prisons with predominantly long-term populations.

Controlling Offenders in the Community: One way of alleviating the current strain on prisons is through alternative corrections programs in the community for selected offenders. Knowledge is lacking about which specific forms of nonprison correctional programs can be used effectively to control specific types of offenders while allowing them to remain in the community. The proposed research would examine specific types of community alternatives—including analysis of the costs of such programs compared to the cost of incarceration—through case studies in one or more States or possibly one of more quasi-experiments.

Post-Release Control of Violent Offenders: Even though the number of prison commitments and the length of prison terms are increasing, most incarcerated violent offenders eventually will be released. The aim of this research would be to identify those offenders most in need of close control after release and to determine the forms of supervision or community restraints most effective in deterring future violent behavior.

Community Crime Prevention Division

Research by the Community Crime Prevention Division focuses on several priority topics: violent crime, community crime prevention, and the needs of victims. Studies supported by the Division seek to clarify issues involved in individual and collective efforts to prevent crime and factors that influence

the effectiveness of crime prevention approaches. Questions about victimization and the needs of crime victims are also being addressed. In addition, research is directed at major types of crime—particularly violent crime, but also property, white-collar, and organized criminal activity.

FY 1982 Plans

Research proposed for FY 1982 includes:

Controlling Robbery and Homicide: The randomness and viciousness of much criminal violence is one of the most serious—and frightening—issues inherent in the current crime problem. This research would focus on those crimes in which violence occurs, typically robberies and homicides. The study will assess the extent to which violence in increasing, the circumstances under which it occurs, and interventions that may be effective in preventing or controlling violent attacks.

Analysis of Violent Crime Trends and Patterns: The objective of this project would be to survey all major available reported crime and victimization data to provide an overview of crime trends and patterns. The work would entail secondary analysis of existing data, with special attention given to identifying emerging research questions and operational needs. The project would be carried out in cooperation with the Bureau of Justice Statistics.

Impact of Victim Harm on Criminal Justice Decisions: Concern about the rights of crime victims and their role in criminal prosecution has been increasing. The Attorney General's Task Force on Violent Crime underscored such concerns and made several recommendations dealing with victim needs and rights. Among the issues raised is the need to consider the full impact of the crime on the victim as part of the criminal justice decisionmaking process. While judges do consider the degree of harm to the victim in sentencing, some jurisdictions have formalized the process by including "victim impact" statements as part of the presentence report. Other decisions besides sentencing, however, could take victim harm into account, beginning with the police response to the filing of charges and the processing of cases. This project would study the extent to which criminal justice decisions weigh victim harm, the specific approaches used, and the effects of such consideration on the victim and the criminal justice system.

Violence and the Media: The National Institute of Mental Health is completing a critical review of the empirical data relating to the media and violence. A report on the topic, which updates an earlier Surgeon General's report, is to be available soon. The report concludes that the pattern of empirical evidence now supports the conclusion that there is a link between exposure to violence in the media and various forms of violent and aggressive behavior. This project would permit a distinguished group of legal scholars and social scientists to examine the findings and implications of the NIMH report and to suggest various approaches to deal effectively with the issues it raises.

Center for the Study of Crime Correlates and Determinants of Criminal Behavior

Richard Linster, Acting Director

Development of more effective crime prevention and control policies can be advanced by a clearer understanding of the variety of factors that may contribute to criminal behavior and how these influences can be controlled. To this end, the Center supports research that analyzes the correlates of crime and delinquency and seeks more accurate information on the causes of crime, particularly serious crime. Because of the complexity of such research, the Center generally emphasizes multidisciplinary and interdisciplinary inquiries and longitudinal designs. Research conducted to date includes programs devoted to studies of criminal violence, career criminals, employment and crime, and econometric studies of the criminal justice system.

FY 1982 Plans

In FY 1982, the Center plans to issue an open solicitation for continued research on the career criminal. Plans also call for re-funding three long-term research projects now in progress. The open solicitation is:

Research on Career Criminals: Research to date points to the conclusion that a small number of offenders are responsible for a disproportionately large volume of crime. The research has lent support to the view that public policy aimed at more effective control of this handful of offenders will result in significant inroads against the crime problem. The career criminal research program will support several projects aimed at continued development of knowledge that can help in formulation of sound theories and effective crime control policies relating to career criminals.

Race, Crime and Social Policy: For the most part, theories and data that purport to explain the high rate of crime among minorities fail to demonstrate the existence of policy variables that are realistically within the control of decisionmakers. The current research in progress is examining crime rates and crime production theories among the five major U.S. racial groups. The research is focusing on racially identifiable communities, studying crime production and control as functions of variables that relate to community structure, as well as variables describing decision processes within the criminal justice system.

Drugs, Alcohol and Crime: Drug and alcohol abuse and crime are major social problems that are considered to be interrelated and mutually reinforcing. Little systematic research on the subject has been done, however, and knowledge about the effectiveness of control strategies is uncertain and often disputed. This research focuses on the initiation of these forms of behavior and how they develop. The emphasis is on situational factors leading to particular types of drug/alcohol abuse and their outcome in specific incidents, as well as long-term patterns. The research complements and is coordinated with efforts in other Federal agencies directed at the supply of drugs and treatment programs for abusers.

Research on the Causes of Theft: This program is studying the nature of various kinds of theft against American business—commercial burglary, commercial larceny, and employee theft. Such crimes threaten the viability of many businesses and result in a "theft" tax upon consumers as businesses charge higher prices to offset the costs of crime.

Office of Research and Evaluation Methods

Richard Linster, Director

The Office of Research and Evaluation Methods supports projects that explore methodological and measurement problems facing criminal justice researchers and evaluators. The research usually entails the development or adaptation of advaned analytical techniques to problems in crime analysis and the evaluation of criminal justice programs and processes. The Office gives priority to research programs on crime control theory and performance measurement.

Crime Control Theory

The Crime Control Theory Program is concerned with one of the most fundamental criminal justice research questions: How effective are the system's sanctioning powers in actually controlling crime? The goal of the research is to develop a scientific

understanding of how crime rates are affected by formal sanctioning practices and treatments.

Research in this area explores the direct impact of incarceration on crime rates as well as the deterrent effect achieved by the threat of formal punishment. Projects funded under the program have focused on serious and violent crimes as well as other types of crime and included examinations of variations in crime rates among different jurisdictions and for different time periods. Much of the research in this area has explored the effects of recent legislation passed by States to change some aspect of formal criminal sanctions—mandating specific sentence lengths for certain crimes, for example. Other projects have examined the deterrent effects associated with sanctions imposed for particular types of crimes, such as bank robbery.

Measuring the effectiveness of crime control policies presents special difficulties. It requires credible methods of counting events that never take place—for example, how many additional crimes will *not* be committed if convicted offenders are incarcerated for longer periods. Obviously, the validity of such estimates rests on the credibility of the models from which they are derived. For that reason, the crime control research program is concerned with devising or refining theories and model structure, testing their underlying assumptions, and validating their predictive power.

FY 1982 Plans

A single solicitation has been issued inviting research proposals relating to crime control theory. The broad program offers funds for projects that range over the spectrum of theoretical and applied research and encourages the diversity of insights afforded by a variety of disciplinary approaches. Among the general types of research eligible for support are:

Theoretical and conceptual studies aimed at explaining how the efficacy of crime control agencies might relate to more fundamental theories of social and behavioral control.

Modeling studies aimed at continued development of general frameworks of analysis that embody in their structure some plausible theory of crime control and facilitate empirical testing of theory.

Criminal classification research directed toward development of improved taxonomies of career patterns or toward achieving a better understanding of how criminal justice system interventions affect the evolution of offender lifestyles.

Perceptions research investigating questions such as determinants of variability in some populations' assessment of sanction risk or sanction cost.

Experiments or quasi-experiments intended to collect empirical evidence on variation in crime control effects with variation in sanction threat.

Design studies concerned with such things as refinement of the conceptual bases of a larger piece of contemplated research, development and pretesting of measuring instruments, etc. Generally, the program can support only modest projects of this type, and the award of such design grants does not reflect an NIJ commitment for continued support of the research.

Two review and funding cycles are anticipated for the program.

Performance Measurement

The aim of research in this area is to develop and validate performance measures to be used as management and accountability tools by criminal justice practitioners and municipal officials. As part of this aim, efforts necessarily have been directed toward developing a conceptual framework that relates performance to the actual operations of an agency and to particular issues relating to the nature of public sector agencies. In FY 1978, the Office began a multiphase program to develop a conceptual framework for evaluating performance and performance measures. That year the Office awarded five grants—one each for studies of police, prosecution and public defense, courts, adult corrections, and the system as a whole. Operating as a consortium, the grantees reviewed and synthesized their findings on performance measures within the sectors of the criminal justice system and reported on their findings. Continuing into the second phase of their research, consortium members are now conducting empirical studies based on their earlier research.

FY 1982 Plans

For FY 1982 funding, a series of awards are anticipated, exploring topics along these general lines:

Defining Performance: Issues pertaining to oversight of an agency could be addressed by questions such as: Who evaluates an agency's performance? What are the evaluation criteria? Do agencies use formal or informal definitions of performance? What sources of information (statistics, media, peers) exert the greatest influence on the performance assessment?

Understanding Agency Technologies: Identifying agency products and services and describing how they are produced would be the focus of this research area. Building on the few studies on this topic, the research would identify the services delivered by agencies and the possible tradeoffs among these services under various combinations of resources.

Developing Causal Links: The relationships of agency activities, products, and outcomes would be addressed under this topic. Studies would examine the process of translating agency resources into services in order to identify the critical points in this process where the measurement of performance is essential. The studies also would furnish evidence detailing to what degree agency objectives are achievable.

Methodology Research

This program supports research of high technical merit that advances the capability of studying crime and evaluating criminal justice programs and processes. The program is aimed at improving the precision and accuracy of measures used in crime and criminal justice studies, promoting economy and efficiency in study designs, and enhancing the significance and cogency of study conclusions. Among the studies funded under this program are: (1) a microeconomic model of the prison system as an industry; (2) the testing of a special randomized response technique for improving the accuracy of responses in studies relying on self-reports of criminal activity; (3) an examination of possible models for estimating the incidence and prevalance of criminal activity for use in assessing the effectiveness of crime control policies; (4) a study of the various definitions of "arrest" as it is reported by police departments for the Uniform Crime Reports.

Another emphasis of the program is the development of valid techniques for classifying offenders. Classification of the dangerous defendant or the serious offender—these and similar decisions for handling and treating offenders are made at critical stages throughout the criminal justice process. In turn, the grouping of offenders bears on predictions about their future behavior. Despite the crucial need to develop reliable classification techniques that also may serve to predict future behavior with confidence, there have been few systematic and rigorous examinations of the validity of either existing classification systems or prediction techniques.

FY 1982 Plans

Research support for studies on offender taxonomy and prediction techniques will be strongly emphasized in FY 1982. It is anticipated that about half of the funds for methodology research would be available for projects that explore classification and prediction approaches.

Office of Program Evaluation

Lawrence A. Bennett, Director

The Office of Program Evaluation assesses criminal justice programs and procedures, evaluating their efficiency and effectiveness as well as the feasibility of their implementation in other jurisdictions. A key aim of the Office is to furnish evidence to the criminal justice community about what programs work best, under what conditions, and at what costs.

In carrying out its function, the Office's evaluation efforts fall into several broad categories. Criminal justice programs that have been widely funded and implemented in a number of sites are examined to learn what aspects of the programs seem to work best, and why, and what difficulties might be encountered by other jurisdictions that are considering a similar program. In addition, the Office supports the independent evaluation of NIJ-sponsored field tests and assists in constructing the Institute designs for field tests.

Finally, the Office evaluates special experimental or innovative programs at the State or local level to determine their impact and usefulness for other localities. Assessment of the impact of shifts in criminal justice policy, especially as a result of legislative initiatives, also fall within the Office's area of responsibility.

In coordination with other NIJ offices, the Office of Program Evaluation assesses whether research results offer a testable hypothesis that is also operationally feasible, and whether the programs can achieve the desired goals as well as the anticipated outcome. For the most part, these functions are carried out in conjunction with NIJ-sponsored field tests of experimental programs, under the direction of the Office of Development, Testing, and Dissemination. Related responsibilities may involve evaluating concepts or recommendations originating from NIJ research, sponsored by the Office of Research programs, as well as techniques developed or assessed under the sponsorship of the Office of Research and Evaluation Methods.

The following evaluations are proposed:

FY 1982 Plans

Evaluation of Early Appointment of Defense Counsel Field Test: Building on an NIJ study of the appointment of defense counsel, this field test will examine whether the assignment of a defense attorney earlier in the criminal justice process leads to a more cost effective disposition as well as a fairer representation of the defendant. The evaluation will examine factors related to defendant representation and efficient case disposition as well as such measures as the level and rate of negotiated pleas and their outcome, the attitudes of victims and defendants, the rate of changes in appealed verdicts, the speed of case disposition, the caseload of the public defender's office, and prosecutorial practices.

Reintegrating the Serious Offender: This proposed field test would replicate an experiment in the mid-sixties at the Vacaville corrections facility in California. The "New Careers" program provided short-term, intensive training to a small group of inmates—most with lengthy criminal histories—just prior to their release. Evaluation showed that the participants did better on parole than a control group and were more successful than their base expectancy scores predicted. An individual followup showed significant professional and academic advancement by the "New Careerists." Because of the small sample size and the time that has elapsed since the experiment, it is impossible to generalize from the results. The proposed field test will examine whether the model can be implemented by new trainers under current conditions with similar results. It will also seek to learn whether the results hold up if the number of participants is increased, to document the costs and benefits of the approach, and to clarify the theoretical implications of the model.

Comparative Assessment of Victim Assistance Projects: An NIJ-sponsored assessment of victim/witness programs throughout the country gathered available information and concluded that the programs are meeting the needs of their clients. In addition to determining what could be learned about the programs, the evaluation also identified gaps in knowledge that need to be addressed. Among these are the relative benefits of alternative approaches to crisis intervention. Immediate assistance to the victims, at the scene, is generally considered preferable to the alternative approach of screening police reports or relying on other sources for delivering services to victims. Nevertheless, the on-scene crisis intervention approach is implemented less often because of the greater costs in time and resources. This evaluation will compare the two approaches, assessing their costs and relative benefits to clients and to police.

Selective Prosecution of Violent Offenders: Through LEAA's Career Criminal Program, the special prosecutors' units throughout the country employ a variety of techniques for building stronger cases leading to conviction and stiffer sentences for the habitual offender. Building on an earlier NIJ-evaluation of selected career criminal sites, this assessment would focus on the prosecution of the violent offender in two or three career criminal programs, gauging the impact of their strategies on such measures as the rates of conviction and the length of sentences.

Evaluation of Model Prison Classification Systems: A burgeoning prison population, the rise in prison violence, and the ever-increasing costs of constructing maximum custody facilities underscore the need for a reliable inmate classification system. Research funded by the National Institute of Corrections has produced two classification models which presently are being implemented in a number of States. This evaluation would assess the adequacy of each system. Also explored would be the extent to which the systems provide a useful method for incarcerating inmates in appropriate housing quarters and in a manner that increases safety as well as reduces costs.

General Evaluation Program: To ensure that ample opportunity is provided for assessing particularly innovative programs in the criminal justice community, a general solicitation is proposed which will offer support for evaluations of concepts or programs that might be adopted on a larger scale. It is anticipated that three or four projects would be funded under this program.

Office of Development, Testing, and Dissemination

Paul Cascarano, Director

The Office of Development, Testing, and dissemination supports a range of applied research and dissemination programs that respond to NIJ's legislative mandate. The Office is responsible for assessing research results for program implications, testing promising new crime control methods, and recommending actions States and localities can take to enhance the capabilities of the criminal justice system. Its functions also include

identifying and disseminating information on programs that have demonstrated success, training criminal justice administrators and practitioners in the practical application of research and evaluation findings, disseminating new knowledge to the field, and operating an international clearinghouse for information relating to crime and justice.

The programs supported by the Office are designed to enable State and local governments to understand and apply knowledge produced by NIJ research and experimentation. The Office identifies findings with practical value for practitioners and policymakers, validates their effectiveness and usefulness through applied research, and, through a variety of dissemination vehicles, transfers research and test results to State and local authorities who can take action. This work is carried out by three divisions: the Model Program Development Division, the Testing and Training Division, and the Reference and Dissemination Division.

Model Program Development Division

Virginia Baldau, Acting Director

The process begins in the Model Program Development Division, which identifies research findings with implications for action, assesses related practical experience, and designs field tests of promising new approaches. Results are presented in publication series targeted to practitioners and policymakers. The Division also conducts the Exemplary Projects Program—a systematic method of identifying and transferring knowledge about successful programs at the State and local level. A description of the Division's products and FY 1982 plans follows:

Research Assessment and Program Development

Most products are developed under a contract. Work on a particular product may be subcontracted to individuals or research organizations with expertise in specific topic areas.

Program Models

Program Models are state-of-the-art syntheses of research and evaluation findings, operational experience, and expert opinion in a topic area. Each study includes a literature review, extensive interviews with practitioners, and on-site assessments of operational projects. An advisory group of researchers and practitioners knowledgeable in the topic area critique the methodology, advise on site selection and review the final report. Based on their data analysis, the researchers present a range of program options that local jurisdictions can consider and review the advantages and disadvantages of each. In addition, the study may reveal hypotheses suitable for field testing or gaps in knowledge requiring further research.

A total of 24 Program Models have been developed. Among those recently published are *Arson Prevention and Control, Rape: Guidelines for a Community Response,* and *Employment Services for Ex-Offenders.*

FY 1982 Plans

In FY 1982, work will begin on Program Models drawn from among the following topics:

Police Fiscal Decisionmaking: This study will provide decisionmaking models for maximizing police performance and minimizing employee dissatisfaction during periods of fiscal austerity. The report will focus upon the experiences of a number of jurisdictions which have recently undergone major police budget cuts. The researchers will review methods for planning and analyzing alternative budget decisions and provide examples of cost-cutting measures.

Investigative Information Systems for Police: NIJ research has shown that case screening and involvement of patrol officers in preliminary investigations can improve the investigative process. Field testing indicates, however, that reaping the full benefit of these concepts requires a monitoring system that provides information on investigative performance and data on types of cases that are or should be screened. This study will synthesize research and practical experience, formulating guidelines on collecting, storing, and retrieving the information needed to manage the investigative function.

Restitution Program: This project will draw on an NIJ evaluation of approximately 10 restitution programs throughout the country. In addition to a synthesis of this and related research, the study will incorporate results from a current examination of several other restitution programs. The report will outline options for policymakers and practitioners interested in installing restitution programs in their jurisdictions.

Organizing Neighborhoods Against Crime: NIJ-funded research has demonstrated the affectiveness of citizen efforts in impeding crime, enhancing security, and contributing to effective police response as well as the investigation and prosecution of offenders. This study will focus on neighborhood crime prevention activities, emphasizing the link between the criminal justice system and citizen and community activities. Among the topics to be addressed are formal and informal social controls in the neighborhood; cirme prevention activities including the targeting of specific crimes, block patrols, property marking, and residential security inspections; and reclaiming deteriorated areas. The document is designed for community organizations and police departments, emphasizing the crime prevention strategies and organizational arrangements found effective for different types of neighborhoods.

Victim Services: Meeting the Needs of the Individual and the Criminal Justice System: The experiences of victim/witness program throughout the country and recently completed research findings will serve as the foundation for this state-of-the-art analysis. The report will identify programs that have achieved both careful treatment of victims as well as strong relationships with criminal justice personnel, particularly the police. In addition, the document will address the problem of providing effective services for victims and witnesses in the face of shrinking resources.

Victim Compensation: In response to a recommendation of the Attorney General's Violent Crime Task Force, this study will build on earlier NIJ work and other research on the topic, updating information on the experience with different forms of victim compensation programs and focusing on issues of current concern. In addition to assessing the relative advantages and disadvantages of different program structures, it will gather more recent information on costs and revenue sources of various programs. Also included will be a detailed analysis of the experience of States which fund programs from fines and those which have made recent changes in their benefit structure and/or eligibility requirements. The experience of States where victim compensation programs have incurred significant problems and/or been abandoned will be examined for the instruction they may provide for future efforts.

Cost Analysis in the Courts: This study will assist State and local court systems in applying cost analysis techniques in court administration. The report will draw upon research on performance measures for court systems as well as cost analyses techniques developed by State and local court systems. The roport will isolate individual fucntions of prosecutors, defense counsel, and the courts and

examine the costs of specific tasks—such as bail hearings, continuances, and trials—involved in each function.

Policy and Design Considerations in Constructing Correctional Facilities: This 2-volume Program Model will draw on the wealth of information relating to prison construction, including the extensive NIJ-sponsored study of the costs and capacity of the Nation's prisons and jails, recently developed accreditation standards, and architectural and planning policy. The first volume will focus on the decision to build, examining the nature and magnitude of prison crowding problems, the issues and costs to be considered in deciding whether or not to construct new facilities, and the advantages and disadvantages or available nonconstruction options for managing crowding pressures. The second volume will focus on the policy, design, and operating issues that become critical once the decision to build, expand, or renovate has been made. Particular attention will be given to the implications of these decisions for prison management and long-term operating costs.

Correctional Management of Violent, Long-Term, and Other Special Inmates. Inmates who threaten the security of institutions or who pose special treatment problems because of alcohol or drug dependency or mental or physical handicaps are the focus of this analysis. The report will draw on previous research including studies of inmate violence and prison discipline as well as programs for the mentally retarded offender and the drug abuser. Issues to be addressed include classification techniques, grievance procedures, protective custody, and inmate rights and discipline. Designed as a tool for correctional administrators, the report will describe effective strategies for handling and treating these particular groups of inmates.

Throughout the fiscal year, research findings are reviewed for possible Program Model topics. Depending upon the outcome of research and evaluation now in progress, the following topics may become candidates for study:

Vertical vs. Horizontal Case Processing in Prosecution: Research and experience have highlighted the importance of how cases are handled by the prosecutor. One issue that has emerged is vertical vs. horizontal processing: whether a case is assigned to one assistant prosecutor through disposition or sentencing or to different assistants at various stages in the process. The proposed study would review research and practice and report on the number and type of prosecutors' offices now using vertical processing, the extent of use within different types of offices, and the background, rationale, and evaluation of those choices. The report will identify which offices have successfully integrated vertical prosecution in their operations.

Correctional Accreditation as a Management Tool: This study will review the results of the LEAA Accreditation Program, a series of 11 statewide demonstration projects to determine whether a wide range of improvements in correctional services and facilities could be achieved through systematic implementation of standards and subsequent accreditation. The report will synthesize the findings of the program and highlight the most promising management strategies and techniques for upgrading correctional facilities and services through accreditation.

Work is in progress on the following Program Models, which are expected to be completed in FY 1982:

- Citation in Lieu of Arrest.
- Measuring the Costs of Police Services.
- Police Work Scheduling.
- Police Resource Sharing.
- Coping With Stress in Policing.
- Vehicle Theft Prevention Strategies.
- Economic Analysis Techniques in Corrections.
- Managing the Institutional Environment.
- Probation Under Fiscal Constraints.
- Mediation and Arbitration in Small Claims Courts.
- Non-Financial Pretrial Release Practices.
- Social Service Programming in Defender's Offices.
- Interpreting Services in the Criminal Courts.

Monographs

The Division also publishes monographs on significant topics. These reports critically review available research and selected program experience and pinpoint areas that require further study.

The following monograph is proposed for FY 1982:

Crime in Schools: In response to a recommendation of the Attorney General's Task Force on Violent Crime, a sourcebook for school administrators, law enforcement personnel, and the courts will be developed. It will provide an overview and analysis of the problem of crime, victimization, and fear in schools as well as a review of programs to prevent, deter, and prosecute crime in school settings. Key policy issues will be discussed, which will provide guidance to school administrators in addressing school crime. Practical recommendations for the reduction of school crime will be made, including methods for data collection and analysis, policy formulation, and improved coordination through memoranda of understanding between school districts, law enforcement personnel, and the courts.

Completion of the following monographs is anticipated in FY 1982:

- Fraud and Abuse in government Benefit Programs: The Case for a Prevention Focus.
- Grand Jury Reform.
- Crime Prevention: Midwood-Kings Highway Development Corporation Project.
- Decriminalization of Public Drunkenness.

Test Designs

Test Designs are detailed experimental or quasi-experimental designs for testing the effectiveness of particular concepts or programs under actual operating conditions in selected jurisdictions. Each design is developed by an inter-Office team chaired by Division staff and reviewed by an external advisory board. The test design spells out the experimental conditions for implementation and evaluation, defines the methodology and the hypotheses to be tested, and specifies criteria for selecting the experimental sites. Implementation of the tests is monitored by ODTD's Training and Testing Division; evaluations of the experiments are conducted under the auspices of the Office of Program Evaluation.

FY 1982 Plans

Field Test programs to be designed in FY 1982 include:

Police Citation in Lieu of Arrest: Increasingly, police departments must cope with budgets that shrink or remain stable in the face of higher costs. The ability to expend enforcement efforts in such priority areas as serious crime means that existing resources must be reallocated. Police citations rather than formal arrest for some crimes offers promise as a tool for achieving greater efficiency. Although a large number of States and jurisdictions have laws authorizing extensive use of citation in lieu of arrest, few use the approach for any but the most minor offenses. Building on previous research and demonstration results, the proposed Test Design will apply police citation to a wider range of offenses, including some felonies. The test will determine the impact of the approach on police workload, failure to appear rates, jail

populations, court workload, and criminal justice costs.

Reintegrating the Serious Offender: The proposed test would replicate an experiment in the mid-sixties at the Vacaville corrections facility in California. The "New Careers" program provided short term, intensive training to a small group of inmates—most with lengthy criminal histories—just prior to their release. Evaluation showed that the participants did better on parole than a control group and were more successful than their base expectancy scores predicted. An individual followup showed significant professional and academic advancement by the "New Careerists." Because of the small sample size and the time that has elapsed since the experiment, it is impossible to generalize from the results. The proposed field test will examine whether the model can be implemented by new trainers under current conditions with similar results. It will also seek to learn whether the results hold up if the number of participants is increased, to document the costs and benefits of the approach, and to clarify the theoretical implications of the model.

Program Designs

Program Designs are detailed implementation guides for model programs that have been refined on the basis of evaluations of either NIJ field tests or LEAA demonstration programs. Program Designs explain the practical constraints on the test or demonstration model and the lessons the experience provides for communities interested in replicating the model program. The Program Design serves as a guidebook for communities on promising approaches, outlining what to do, how to do it, and what to avoid.

FY 1982 Plans

In FY 1982, program designs are tentatively planned on:

Directed Patrol Strategies: This report will synthesize findings of the Managing Patrol Operations Field Test and results from several research, evaluation, and field experiments. Primary emphasis will be on reviewing tactics that are effective in controlling specific types of criminal activity—for example, blend and decoy operations targeted against street crimes—or those which enable police to provide cost-effective services—for example, telephone reporting of certain types of crime. The report will aid local departments in planning and implementing these strategies and will describe conditions necessary for their success.

Commercial Security Against Robbery and Burglary: This Program Design will review the findings from the NIJ Commercial Security Field Test Program. It will assess the effectiveness of implementing a cooperative strategy between police and business in conducting crime prevention surveys; stimulating business participation in crime prevention; and improving the rate of compliance with survey recommendations. The report also will analyze the extent to which the cooperative approach improves long-term police/business community relations.

Policy Briefs

Policy Briefs are concise reviews of the implications of significant research for legislators and government executives. The publications usually include sample legislation. Begun in 1979, the series has covered *Administrative Adjudication of Traffic Offenses, Career Criminals, Neighborhood Justice Centers,* and *Crime Victim Compensation.* Briefs on *Mandatory Sentencing* (based on evaluations of the New York Drug Law and Massachusetts Gun Law), and *Consumer Fraud Legislation* are nearing completion.

FY 1982 Plans

Topics planned for the series in FY 1982 include the following:

Dealing with School Crime: This Brief will examine the many complex organizational and legal issues which influence efforts to reduce crime in the schools. Organizational issues to be addressed include interactions among the schools, law enforcement personnel, and the court. Legal issues will address search and seizure, chain of custody, legal liability, double jeopardy resulting from school and court actions and procedural due process. The Brief also will include an analysis of legislative developments in this field.

Support for Child Victims of Sexual Abuse: This Brief will synthesize available information on approaches that can improve the criminal justice system's handling of child victims of sexual abuse. It will focus on legislative reforms, such as changes in sexual assault statutes or elimination of corroborating evidence requirements in cases involving child victims. Procedural changes also will be reviewed, such as joint interviewing of the child victim by both police and prosecutor to minimize trauma to the child.

Statewide Court Administration: This Brief will summarize research findings on statewide consolidation of courts, identifying the problems and benefits of the approach. Examples of legislation authorizing the change to statewide administration will be included. Plans call for additional reports to be developed in the future on other aspects of statewide delivery of criminal justice services.

Pending review of anticipated research results, Policy Briefs also may be developed on:

The Mental Health Evaluation: Competency To Stand Trial: This Brief would review the policy implications of research on a defendant's ability to assist in his/her own defense and understand the proceedings in which he/she is involved. The report will look at a variety of models for dealing with the competency evaluation, including experience with pretrial screening units, and provide information on standardized instruments and criteria for assessing competency to stand trial.

State Experience with Parole Guidelines: This Brief will summarize existing knowledge about development and implementation of Federal parole guidelines and report on evaluation findings regarding implementation of parole guidelines in Oregon. Advantages and disadvantages of the Oregon approach will be delineated, including characteristics and benefits common to other sentencing reforms such as determinate sentencing and sentencing guidelines, changes in existing law or practice required, effect on judicial and parole discretion, and effect on prison populations.

Exemplary Projects

The Exemplary Projects Program identifies and validates criminal justice initiatives at the local or State level whose success has been verified by evaluation. All applications for Exemplary Project status are carefully screened by Division staff and validated by an independent contractor. Final selection is made by a board of NIJ representatives and outside experts.

FY 1982 Plans

Beginning in 1982, the emphasis in the Exemplary Projects Program will shift from identifying projects addressing needs or problems in any aspect of the criminal justice system, to a specific focus identified each year. In addition, NIJ will actively seek out qualified projects as well as continue to accept nominations from State and local agencies.

In FY 1982, the focus is on police, prosecution, and corrections programs to combat violent crime. Through literature reviews, interviews, and expert opinion, NIJ is launching an

intensive effort to uncover innovative, successful anticrime projects that can be adopted by other jurisdictions. Projects identified through this process will be invited to submit applications. NIJ also plans additional dissemination vehicles for the information developed through this search. A survey report, for example, will be published to give State and local agencies prompt information about useful approaches to controlling serious crime.

Training and Testing Division

Louis Mayo, Director

The Training and Testing Division oversees implementation of NIJ Field Tests and sponsors the Criminal Justice Research Utilization Program to accelerate awareness and understanding of research findings and to encourage application of new concepts and approaches in criminal justice.

Field Tests

The Field Test Program rigorously examines the implementation of experimental policies and practices in selected jurisdictions. Typically, the experimental program is tested in up to three different locations for periods of 18 months to 2 years. Working in conjunction with NIJ research, development, and evaluation staff, the Training and Testing Division participates in developing the test designs described earlier and then supervises site assessment, funding, and implementation of the model to be tested. Specialized training and technical assistance is provided in each site through the Criminal Justice Research Utilization Program described below.

FY 1982 Plans

The following field tests are planned for implementation in FY 1982:

Early Representation by Defense Counsel: This test will determine the effects of prompt appointment of defense counsel on the operations of participating public defender agencies, the quality of attorney-client relations, and felony case processing. Each site will develop procedures that permit indigent clients to be represented at or soon after arrest and sufficiently in advance of the initial court appearance. The test will determine whether early representation speeds case disposition and improves the overall quality of counsel.

Reintegrating the Serious Offender:
(This field test is described on page 45.)

Criminal Justice Research Utilization Program

The program supports training and technical assistance to field test sites and a nationwide series of workshops that transfer research findings with policy and program implications to senior State and local officials. The program also includes special national workshops on particularly significant research findings or issues of critical concern to the criminal justice systems. A limited amount of funds are also made available to permit selected State and local officials to observe firsthand the operations of projects of proven effectiveness.

FY 1982 Plans

In FY 1982, two workshop series are planned. Topics will be selected from among the following:

Cost-Effectiveness in Police Programs: This workshop would build upon considerable NIJ research and materials from a previous workshop on "Managing the Pressures of Inflation in Criminal Justice." The workshop would give police administrators and planners a state-of-the-art review of performance measurement and cost accounting and a look at how selected cities are using such tools to manage police budgets more effectively.

Non-Stranger Violence: The Criminal Courts' Response: Research suggests that in a significant number of felony cases in the criminal courts, the victim and defendant know each other. The influx of "prior relationship" cases raises questions about their impact on the courts: Are they a drain on resources that hinders the courts' ability to handle other cases of serious crime? Results of NIJ research now in progress would form the basis of the workshop.

Cost Analysis Techniques in Corrections: This workshop would cover economic analysis techniques for corrections decisionmakers. Course content will be based upon a forthcoming Program Model, "Economic Analysis Techniques in Corrections," scheduled for completion in FY 1982.

The Research Utilization Program also includes the Technology Transfer Program, which supports visits by State and local officials to selected Exemplary Project sites for periods of up to 2 weeks. The opportunity to observe and participate in project operations enhances the prospects for replication of these successful projects.

Reference and Dissemination Division

The Reference and Dissemination Division helps fulfill NIJ's wide-ranging mandate to disseminate results from its research and to serve as a clearinghouse for information on crime and justice. The Division handles publication of all Institute reports, produces a variety of publications and informational materials for the research and practitioner community, sponsors an annual review of justice research, and prepared a biennial report to the Congress on the state of justice research. In addition, the Division supports an applied research program that assesses technological needs of justice system agencies, and maintains a standard-setting and testing process to meet those needs.

International Clearinghouse

The Division operates The National Criminal Justice Reference Service, an international clearinghouse of information on crime and justice. Its computerized data base contains more than 60,000 items and serves an audience of 40,000 users. Reference specialists respond to individual requests with data base searches or bibliographic packages on justice topics. NCJRS publishes a range of materials including bibliographies and a bimonthly bulletin—the Selective Notification of Information—announcing important new acquisitions to the data base. NCJRS also provides copies of NIJ research solicitations on request. Write: NCJRS, Box 6000, Rockville, Maryland 20850.

FY 1982 Plans

NCJRS will continue operations under an existing contract. Plans call for an emphasis on cost recovery, with some services offered at a modest fee.

Publications

The Division supervises publication and distribution of Institute research and program documents. Its in-house publications program produces specialized information products including newsletters, the annual program plan, and the biennial report to Congress. It also supports an annual review of research, *Crime and Justice.* Volumes I, II, and III of *Crime and Justice* have been published, and Volume IV will appear in the fall of 1982. Contributors include noted scholars from the United States and abroad.

Technology Assessment Program

The Division also is responsible for an applied research program that assesses the technological needs of justice system agencies, sets performance standards for specific items, tests commercially available equipment against those

standards, and disseminates the test results. The Program operates through:

- The Advisory Panel of practitioners and researchers, which identifies priorities;
- The Standards Laboratory (within the National Bureau of Standards), which develops scientifically sound standards for needed equipment and certifies independent laboratories to conduct tests of equipment available on the market; and
- The Information Center (operated by the International Association of Chiefs of Police), which supervises the test process, disseminates the results to criminal justice agencies, and also maintains a toll-free telephone number that State and local agencies can use to obtain information and advice on specific problems.

FY 1982 Plans

- Continuation of the Program is planned for FY 1982 under existing grants and interagency agreements. Plans call for developing performance standards for police dispatch systems, weapons, alarms, and investigative aids; certifying independent laboratories for testing; and developing standard reference materials for forensic laboratories.

James L. Underwood,

Acting Director, National Institute of Justice.

[FR Doc. 82-3173 Filed 2-5-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

National Science Foundation Advisory Council; Task Group #20; Meeting

In accordance with the Federal Advisory Council Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group #20 of the NSF Advisory Council

Place: National Science Foundation, Rm. 523, 1800 G Street, NW., Washington, D.C. 20550.

Date: Friday, February 26, 1982.

Time: 9:00 a.m. to 5:00 p.m.

Type of meeting: Open.

Contact person: Ms. Jeanne Hudson, Executive Secretary of the NSF Advisory Council, National Science Foundation, Rm. 518, 1800 G Street, NW., Washington, D.C. 20550, Telephone: 202/357-9419.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the contact person at above stated address.

Agenda: The Task Group is asked to provide a clear and concise statement of the relationship of Foundation programs to DOD R&D activities, together with recommendations about how NSF can better coordinate its programs with those of the defense research agencies.

M. Rebecca Winkler,

Committee Management Coordinator.

February 3, 1982.

[FR Doc. 82-3309 Filed 2-5-82; 8:45 am]

BILLING CODE 7555-01-M

Social and Economic Science Advisory Committee, History and Philosophy of Science Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for History and Philosophy of Science Advisory Committee for Social and Economic Science.

Date and Time: February 25th, 26th and 27th, 1982: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 642, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Ronald J. Overmann, Program Director, History and Philosophy of Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9677.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in History and Philosophy of Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

February 3, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82-3310 Filed 2-5-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-334]

Duquesne Light Co.; Ohio Edison Co.; Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Appendix A Technical Specifications to maintain the redundancy necessary to assure adequate AFW flow for normal transient and accident conditions.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 20, 1981, (2) Amendment No. 47 to License No. DPR-66, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of February, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-3288 Filed 2-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Operating License No. DPR-59 issued to the Power Authority of the State of New York which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment modifies the Technical Specifications to reflect scram discharge volume (SDV) long-term modifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1981, (2) Amendment No. 62 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-3289 Filed 2-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Operating License No. DPR-59 issued to the Power Authority of the State of New York which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment modifies the Technical Specifications to reflect the following changes: (1) Revised maximum average planar linear heat generation rate (MAPLHGR) data, (2) power spiking penalty, and (3) use of the ODYN computer program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated November 18, 1981 (2) Amendment No. 64 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief Operating Reactors Branch No. 2 Division of Licensing.

[FR Doc. 82-3290 Filed 2-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR.32 and Amendment No. 75 to Facility Operating License No. DPR-37 issued to Virginia Electric & Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively, (the facilities), located in Surry County, Virginia. The amendments are effective as the date of issuance.

The amendments revise the Technical Specifications to reduce the minimum number of thimbles required for incore flux mapping from 40 to 38 which is the same as that used in the Standard Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 5, 1981, (2) Amendments Nos. 74 and 75 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are

available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 2nd day of February, 1982.

For The Nuclear Regulatory Commission.

Steven A. Varga, Chief,

Operating Reactors Branch No. 1, Division of Licensing

[FR Doc. 82-3291 Filed 2-5-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 1, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the office of management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 USC chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of responses;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
An estimate of the cost to the public;
The number of forms in the request for approval;
An indication of whether section 3504(h) of Pub. L. 96-511 applies;
The name and telephone number of the person or office responsible for OMB review; and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

• Extension Service
Joint Committee on the Future of Cooperative Extension
Q10S
Nonrecurring
Individuals or households/State or local governments/Farms/Businesses or other Institutions
Actual & potential extension clientele & interested others
SIC: 881, 911
Small businesses or organizations
Agricultural research and services: 5,000 responses; 1,667 hours; $5,000 Federal cost; 1 form; $16,670 public cost; not applicable under 3504(h)
Nell Minow, 202-395-7340

"Extension in the "80's" will inform the public and cooperative extension employees about the project and let them know what the issues are also, the need for this data is essential to the functioning of the joint committee (on the future of cooperative extension) which will set the criteria for the next 10 years for CES.

• Food and Nutrition Service
Application for Participation (Sponsor and Site Information Sheet (SFSP)
FNS-81 81-1
Annually
Businesses or other institutions
Sponsors, sites, hhlds. of children participating in SFSP
SIC: 943
Small businesses or organizations
Food and nutrition assistance: 56,894 responses; 70,666 hours; $122,410 Federal cost; 2 forms; $706,660 public cost; not applicable under 3504(h)
Nell Minow, 202-395-7340

Form FNS-81 application for participation, must be submitted by sponsors wishing to participate in the SFSP. Form FNS 81-1 site information sheet, is necessary for administering agencies to evaluate the suitability for participation at each site the sponsor wished to operate.

Extensions (Burden Change)

• Agricultural Marketing Service
Plan for Estimating Daily Livestock Slaughter Under Federal Inspection
Other—See SF83
Businesses or other institutions
Livestock slaughter plants
SIC: 201

Agricultural research and services:
17,680 responses; 583 hours; $20,000 Federal cost; 1 form; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The estimated daily livestock slaughter is provided at the request of industry and is used by industry to make production and marketing decisions. Slaughter information which is obtained from individual packers is confidential. Divulging individual information would provide competitors with an economic advantage.

• Rural Electrification Administration
Manual for Preservation of Borrowers' Records (Electric)
REA Bull. 180–2
On occasion
Businesses or other institutions
REA electric borrowers
SIC: 491
Small businesses or organizations
Energy supply: 51,220 responses; 1,024,400 hours; $229,156 Federal cost; 1 form; $5,122,000 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

This bulletin is used by REA borrowers to determine the period that records are to be retained to meet REA's audit objectives and for other financial purposes.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627.

New

• Bureau of the Census
June 1982 Fertility, Birth Expectations, and Child Care Survey
CPS–1
Annually
Individuals or households
Interviewed households in the June 1982 CPS
Other advancement and regulation of commerce: 45,490 responses; 1,706 hours; $200,000 Federal cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The data obtained on childbearing, future birth expectations, and child care arrangements working mothers make for their young children will be used to update estimates of current and future birth rates, examine trends in family development, and provide a current data base for an analysis of the relationship between fertility, child care, and employment.

Revisions

• International Trade Administration
Petition by a Firm Certification of Eligibility To Apply for Trade Adjustment Assistance
ITA–840 (formerly ED–435)
On occasion
Businesses or other institutions
Import-impacted producing firms
SIC: Multiple
Small businesses or organizations
Area and regional development: 600 responses; 4,800 hours; $280,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Authority: 19 U.S.C. 2341, CFR Sec. Subpart B to determine the eligibility of petitioners, the impact of foreign imports on their markets and to certify their acceptability for Federal financial assistance under the Trade Adjustment Assistance Act.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

• Departmental and Others
CHAMPUS/CHAMPVA Claim Form
CHAMPUS 500
On occasion
Individuals or households/businesses or other institutions
Physicians and other prof. providers of medical care
SIC: 801, 802, 803, 804, 805, 806, 807, 808, 809, 832
Small businesses or organizations
Department of Defense-Military: 2,200,000 responses; 1,240,000 hours; $1,417,400 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Collection is necessary to evaluate eligibility for civilian health benefits authorized by 10 U.S.C., Chapter 55, and to issue payment upon establishment of eligibility and determination that medical care received is authorized by law. Used to control and process med. claims.

Reinstatements

• Department of the Air Force
Report of Government Vehicles, Equipment, and Material in the Hands of Contractors
AFTO Form 439, AFIO Form 11, 392, 814, and G009
Monthly
Businesses or other institutions
Maintenance repair contractors and interservicing rep. facls.
SIC: Multiple
Small businesses or organizations
Multiple functions: 923,628 responses; 178,294 hours; $6,211 Federal cost; 3 forms; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

AF Forms 414, 413 and 412 and AFTO Form 439 are manual systems used to report Air Force inventory and production data. 2. The AF Forms 412 are manual systems used to report spare parts inventories. 3. The GFM transaction reporting system replaces the AF Form 412, 413 and 414 when applied to high value contracts. All of these collections are required for input to Air Force financial management and production or requirements computations systems.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–0770

Revisions

• Economic Regulatory Administration
Public Utility Regulatory Policies Act (PURPA) and Annual
Report on Electric and Gas Utilities
ERA–166
Annually
Businesses or other institutions
Gas and elec. utilities state regulatory agencies
SIC: Multiple
Energy information, policy, and regulations: 138 responses; 2,001 hours; $259,160 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The ERA–166, will be filed annually to collect data to be used by the Economic Regulatory Administration in annual reporting to the President and to Congress on the progress of State regulatory authorities and certain non-regulated electric and gas utilities in considering and making determinations with respect to the standards established by PURPA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• National Institutes of Health
Telephone Survey of Physicians to Determine Awareness of NIH Consensus Development Program—Phase I
Nonrecurring
Businesses or other institutions
Physicians in continental U.S.
SIC: 801
Small businesses or organizations
Health: 700 responses; 35 hours $29,600 Federal cost; 1 form $350 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

The telephone survey of 700 medical specialists will be conducted to determine the effectiveness of agency efforts to disseminate information about

the NIH Consensus Development program and the meeting on total hip joint replacement to be held March 1–3, 1982. The results of the survey will enable the agency to better inform the relevant community, resulting in greater professional and public input into the consensus program.

• Human Development Services
Assessment of the Adequacy of In-Home Services
Nonrecurring
Businesses or other institutions
Clients/providers of in-home services in 4 areas
SIC: 835
Multiple functions: 292 responses; 145 hours; $30,456 Federal cost; 2 forms; $1,450 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

This project will assist in the development of voluntary performance indicators for in home services (E.G. chore, home management, etc). The project will develop criteria to Assess the adequacy of the system in terms of—comprehensive, coordination, targeting (to those most in need), tailoring (to individual's needs), and client statisfaction. Cost effectiveness of services will also be determined. No other HHS project is developing criteria in this area.

• Health Care Financing Administration
Medicated Quality Control Review Schedule (HCFA)301
HCFA–301
On occasion
Individuals or households
Title XIX beneficiaries
Health: 155,438 responses; 969,600 hours; $10,947,628 Federal cost 1 form; not applicable under 3504(h)
• Richard Eisinger, 202–395–6880

The HCFA 301 and worksheets are used by the States to summarize MQC review findings. These data are used by MQC to determine the Accuracy of the eligibility determinations, claims processing systems, and utilization of third parties. States and HCFA design corrective action initiatives based on these MQC data.

Revisions

• Social Security Administration
Report of New Information in Disability Cases
SSA–612–EV (2–82)
On occasion
Individuals or households
Disabled social security beneficiaries
General retirement and disability insurance: 200,000 responses; 16,666 hours; $94,460 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 224 of the Social Security Act provides for information regarding reduction of disability benefits due to workmen's compensation. This form is also used to report other information that may affect continuing entitlement to disability benefits.

• Social Security Administration
Reporting Changes That Affect Your Social Security Payment
SSA–1425–EV (1–82)
On occasion
Individuals or households
Social security beneficiaries
General retirement and disability insurance: 70,000 responses; 5,833 hours; $18,378 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Sections 202 and 203 of the Social Security Act Provide for Information collected in event, of a change in the beneficiary's circumstances. This form is used to determine which changes may affect entitlement, benefit amounts, or check delivery.

Extensions (burden change)

• Health Care Financing Administration
Request for Medicare Payment—Ambulance Service
HCFA–1491
On occasion
Business or other institutions
Ambulance suppliers
SIC: 809
Small business or organizations
Health: 477,000 responses; 79,500 hours; $1,144,800 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

This form is used by suppliers of ambulance services to obtain payment under part-B of the medicare program.

Reinstatements

• Health Care Financing Administration
Medicaid Quality Control Third Party Resource Worksheet (HCFA 301C)
HCFA–301–C
On occasion
Individuals or households
Title XIX beneficiaries
Health: 155,438 responses; 50,715 hours; $233,800 Federal cost; 1 form; $507,150 public cost; not applicable under 3504(h)
Richard Eisinger, 202–395–6880.

The HCFA 301C is used by MQC in the identification of third party liability (TPL) resources. This information is used in the TPL review to determine the accuracy of the utilization of third parties and to estimate the amount of misspent medicaid funds. These data are used by States and HCFA for corrective action planning to improve the management of the medicaid program.

• Health Care Financing Administration
Integrated Quality Control Review Worksheet
HCFA–316
On occasion
State or local governments
Medicaid beneficiaries
SIC: 919
Health: 3,719 responses; 55,781 hours, $86,984 Federal cost; 1 form; $86,984 public cost; not applicable under 3504(h)
Richard Eisinger, 202–395–6880.

The HCFA–316 form's use is optional over the HCFA–301A. It is used by MQC, food stamps quality control (FS–QC), and AFDC–QC to record data from the case record evaluation, personal interview, and collateral contacts performed during the QC review. MQC review findings are made based on data from the HCFA 316 and are summarized on the HCFA–301.

• Health Care Financing Administration
State Medicaid Quality Control Sample Selection Lists
HCFA–319
Monthly
On occasion
State or local governments
State governments
SIC: 919
Health care services: 636 responses; 20,352 hours; $76,800 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880.

State MQC sample selection lists are submitted on a monthly basis, and are a necessity for selection of the Federal subsample. The lists are generally computer-generated, although some States perform this task manually. The lists are later used as a check of completed case reviews.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184.

New

• Housing Programs
PHUIP Reporting and Monitoring System HUD–53441, HUD–53442, HUD–53661, HUD 53662, HUD–53441, 53442, 53661, 53662
On occasion
State or local governments
Public housing agencies
SIC: 953
Public assistance and others income supplements: 670 responses; 335

hours; $15,310 Federal cost; 4 forms; not applicable under 3504(h)
Richard Sheppard, 202–395–6880.

Authorization title HDC 1974, Pub. L. 93–383, 88 Stat. 633, submitted by PHAS and will be used to monitor the progress and status of work by all PHA participants in the PHUIP.

Extensions (no change)

• Housing Programs
Application by Indian Housing Authority for Indian Low-Income Housing Program
HUD–52730
On occasion
State or local governments
Indian housing authorities
SIC: 953
Public Assistance and other income supplements: 160 responses; 1,280 hours; $34,700 Federal cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880.

Application required in order for an eligible entity to obtain HUD financial and technical assistance, as well as a preliminary loan to cover the cost of preliminary surveys and planning for the proposed project, pursuant to the United States Housing Act of 1937, as amended. Also, see supporting statement and justification.

• Housing Programs
Requisition for Disbursement of section 202 Loan funds
HUD–92403–EH
On occasion, monthly
Businesses or other institutions
Non-profit borrower corporations
SIC: 836
Small businesses or organizations
Mortgage credit and thrift insurance: 4,800 responses; 2,400 hours; $460,000 Federal Cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Subject form is used by the borrower entity to obtain disbursements on its HUD funded building loan under the section 202 Elderly Housing program. Its use during the construction period enables the borrower to obtain funds so that he may settle his obligations or be reimbursed in a timely manner.

• Housing Programs
Claim for Payment of HUD Security Deposit Guarantee and Compensation for Vacancy Loss
HUD–52670
On Occasion
State or local Governments
Public housing agencies
SIC: 953
Public assistance and other income supplements: 70,000 responses; 350,000 hours; $20,000 Federal cost; 1 form; $20,000 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Provides limited coverage to section 8 owners who sustain losses when tenants vacate prior to expiration of the lease and the security deposit is not large enough to cover unpaid rents, damages, or loss because of vacancy in violation of the lease. Form is submitted to cover a claim for any of these situations.

Reinstatements

• Policy Development and Research
PD&R Contracting Planning and Status Reporting Forms
HUD–441, 442, 443, 661, 662, 663
On occasion, monthly, quarterly
State or local governments/businesses or other institutions, organizations providing contract research support to PD&R
SIC: 953
Small businesses or organizations
Community development: 3,600 responses; 18,000 hours; $50,000 Federal cost; 6 forms; $200,000 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

The forms are used by HUD's research contractors to provide baseline plans for their projects and then to provide progress reports comparing progress against planned progress. The information permits HUD administrative oversight, guidance, and control of the projects.

• Community Planning and Development
Indian Community Development Block Grant Program (PRE and Full Application, Grantee Performance Reports, Close Out Form HUD 4011)
HUD–4011, 4322, 4323, 4324, 4324.1, 4325, 4325.1, 4326, 4326.1, 4327, 4328
Annually
Individuals or households
Indian tribes and Alaskan natives
Community Development: 660 responses; 28,675 hours; $250,000 Federal cost; 11 forms; $372,775 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Housing and Community Development Act of 1974 (Pub. L. 96–383) 88 Stat 633), Title I, Section 104—application and review requirements—requires an application for community development block grant funds. In addition, grantee performance reports are required annually from recipients of block grant funds. Indian CDBG application requirements are outlined in 24 CFR part 571 subparts D&E. Grantee performance report requirements outline in § 571.702 Federal regulations.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6101

New

• Geological Survey
Plan of Exploration, Development and Production and Environmental Reports
Nonrecurring
Businesses or other institutions
Oil and Gas Lessees on OCS
SIC: 131, 132, 138
Other natural resources: 1,233 responses; 546,219 hours; $31,500 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202–395–7340

This information will be used by the director, Geological Survey, to determine if activities proposed in plans of exploration, development and production and environmental reports, are carried out in a safe and environmentally acceptable manner.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

Extensions (burden change)

• Federal Bureau of Investigation
Age, Sex, Race, and Ethnic Origin of Persons Arrested
DO–62 and DO–62A
Monthly
State or local governments city, county, and State law enforcement agencies nationwide
SIC: 922
Federal law enforcement activities: 16,452 responses; 8,226 hours; $1,164,000 Federal cost; 2 forms; not applicable under 3504(h)
Andy Uscher, 202–395–4814

To tabulate/estimate data regarding persons arrested by city, county, and State law enforcement agencies throughout the United States. Summary statistics published annually in "Crime in the United States."

Extensions (no change)

• Federal Bureau of Investigation
Law Enforcement Officers Killed
DO–76, DO–76A, DO–76B
On Occasion
State or local governments
Loc., State, and Fed. law enforcement agencies with off. kil.
SIC: 922
Federal Law Enforcement Activities: 180 responses; 83 hours; $24,000 Federal cost; 1 form; $830 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

To collect victim and offender data re law enforcement officers killed.
Summary and detailed information published annually in "Law Enforcement Officers Killed."

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Office of the Secretary
The Impact of Deregulation on Intercity Bus Operations in Florida
Nonrecurring
Businesses or other institutions
Bus operators and agents, former agents, and bus service users
SIC: 413
Small businesses or organizations
Other transportation: 300 responses; 150 hours; $10,000 Federal cost; 3 forms; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

This survey is part of DOT's research on the impacts of deregulation of the motor carrier industry in Florida. The results of this study will be used in formulating DOT policy on bus regulatory reform and will be used in DOT testimony and work with Congress on this issue.

Revisions

• Coast Guard
Plan Approval and Records for Marine Engineering Systems
46 CFR subchapter F
CG–2936 CG–2832
On occasion
Businesses or other institutions
Pressure vessel manufacturers, shipbuilders and shipowners
SIC: 441 442 373
Small businesses or organizations
Water transportation: 10,332 responses; 2,583 hours; $461,247 Federal cost; 2 forms; $485,100 public cost; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

These new regulations will replace current Coast Guard requirements for plan approval and shop inspection of pressure vessels that do not contain hazardous materials with requirements that they be inspected and stamped in accordance with the ASME boiler and pressure vessel code. These regulations will reduce the time required for pressure vessel approvals.

Department of the Treasury

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394.

Extension (Burden Change)

• United States Customs Service
Protest
CF 19
On occasion
Individuals or households/businesses or other institutions
Importers, customhouse brokers, law firms
SIC: all
Small businesses or organizations
Federal law enforcement activities: 29,468 responses; 88,404 hours; $3,388,297 Federal cost; 1 form; $11,757,732 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

A document that sets forth the facts surrounding a protest and application for further review against decisions by a district director of customs involving a customs entry. It is a recordkeeping requirement pursuant to 19 CFR 174.12 with a retention period of 3 years after final court action. Alternatively, a form containing the same data listed on CF may be use.

COMMISSION ON CIVIL RIGHTS

Agency Clearance Officer—Dr. Eugene Mornell—202–254–6644.

New

• Readership Survey of the Report—Affirmative Action in the 1980s—Dismantling the Process of Discrimination
Semiannually
Individuals or households/businesses or other institutions
Individuals/organizations interested in civil rights issues
SIC: 881 913 823 938
Federal law enforcement activities: 700 responses; 210 hours; $1,341 Federal cost; 1 forms; $1,341 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This information collection request will assist the Commission in reviewing its program and projects in preparation for budget submissions.

• Update Readership Survey
Semiannually
Individuals or households/businesses or other institutions
Individuals by Federal agencies
SIC: 881 913 823 938
Federal law enforcement activities: 1,700 responses; 510 hours; $1,341 Federal cost; 1 form; $1,341 public cost; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The evaluation of the Commission's monthly newsletter, Civil Rights Update, is intended to provide information concerning the impact and use of publications. The results of the evaluation are to be used for in-house review and will not be published.

• Readership Survey of the Report—Indian Tribes—A Continuing Quest for Survival
Semiannually
Individuals or households/businesses or other institutions
Individuals/organizations interested in civil rights
SIC: 881 913 823 938
Federal law enforcement activities: 700 responses; 210 hours; $1,341 Federal cost; 1 forms; $1,341 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This information collection request will assist the Commission in reviewing its programs and projects in preparation for budget submissions.

• Readership Survey of the Report—The Voting Rights Act
Unfulfilled goals
Semiannually
Individuals or households/businesses or other institutions
Individuals/organizations interested in civil rights issues
SIC: 881 913 823 938
Federal law enforcement activities: 700 responses; 210 hours; $1,341 Federal cost; 1 form; $1,341 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The information collection will be used to assess the impact of the problems addresed in the publication.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Clearance Officer—Panos Konstas—202–389–4481.

Revisions

• Uniform Form for Registration as a Transfer Agent and for Amendment to Registration as a Transfer Agent
TA–1
On occasion
Businesses or other institutions
Insured banks or subsidiaries not members of FRS
SIC: 602 603
Small businesses or organizations
Mortgage credit and thrift insurance: 134 responses; 134 hours; $1,594 Federal cost; 1 form; $1,206 public cost; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

This form is used to register as a transfer agent, and to provide updating amendments to the Registration form. These are required under section 17A(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78Q4 1(C)). Part 341 of FDIC's rules and regulations (12 CFR 341)

governs the applicability of the law to banks under FDIC's jurisdiction.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6825.

Extensions (No Change)

- Application for Permission to Change Office Location

1150
Nonrecurring
Businesses or other institutions
Savings and loan industry
SIC: 999
Mortgage credit and thrift insurance: 146 responses; 2,336 hours; $4,285 Federal cost; 1 form; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

12 CFR 545.15 requires Federal associations to submit to the bank board applications to change the location of an existing branch office. The purpose of this application is to determine if the branch can be established at the new location without supervisory concern and undue injury to other local thrift institutions.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—William Jones—202–452–2983

Reinstatements

- Report of Bank Holding Company Intercompany Transactions and Balances

FRY–8
Semiannually
Businesses or other institutions
Domestic bank holding companies
SIC: 671
General Government: 672 responses; 10,282 hours; $70,000 Federal cost; 1 form; $308,448 public cost; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

The F.R. Y–8 is a report required of domestic bank holding companies with consolidated assets of $300 million or more. The data are screened to identify fund flows, internal transactions, and balances that may have an adverse impact on the financial condition of the subsidiary bank(s).

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson–202–426–7304

New

- Technology and Basic Skills Videodisc—Microcomputer Evaluation

ED–842
Other—see SF83
State or local governments
Elementary and secondary school staff
SIC: 941
Elementary, secondary, and vocational education: 1,980 responses; 90 hours; $94,842 Federal cost; 2 forms; $900 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Information is needed to support policy choices among technologies proposed for improving basic skills instruction. During 1982–83, data will be gathered on usage of videodisc-microcomputer systems for basic skills instruction, and specif courseware will be evaluated to assess the potential for this technology in the schools.

- Financial/Performance Report for the Incentive Grant Program for FY–81

ED 716–1, 716–2
Annually
State or local governments
State education agencies
SIC: 941
Elementary, secondary, and vocational education: 116 responses; 116 hours; $1,102 Federal cost; 2 forms; $1,160 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This form will be used to collect data on the incentive grant program, authorized by Pub. L. 94–142, section 619, for compliance monitoring of program activities and to prepare the annual report to the Congress.

- Request for collections assistance under federally insured Student loan program

ED 1249–1
On occasion
Businesses or other institutions
Educational institutions acting as lenders
SIC: 822, 602, 603, 604, 605
Small businesses or organizations
Higher education: 43,000 responses; 21,500 hours; $50,494 Federal cost; 1 form; $172,000 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The ed form 1249–1 is used by lenders to request skip trace assistance on delinquent student loans where the lender is unable to locate the student borrower.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—202–566–1164).

New

- Request, Proposal and Acceptance Covering Construction Contract Modification

GSA–1137
On occasion
Businesses or other institutions
Indiv., firms, and organ. who are perform. on GSA const contr
SIC: 154, 161, 171, 172, 173, 174, 175, 176, 177, 179
Small Businesses or organizations
General property and records management: 6,000 responses; 1,500 hours; $5,490 Federal cost; 1 form; $10,230 public cost; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

GSA form 1137 provides a proposal covering contract modifications. The information is used to determine the acceptance or rejection of the proposal.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82–2867 Filed 2–5–82; 8:45 am]
BILLING CODE 3110–01–M

Agency Forms Under Review

February 3, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of responses;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
An estimate of the cost to the public;
The number of forms in the request for approval;
An indication of whether section 3504(h) of Pub. L. 96–511 applies;
The name and telephone number of the person or office responsible for OMB review; and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

Revisions

• Soil Conservation Service
Flood Damage Survey-Cropland Drainage
SCS–WS–6
On occasion
Individuals or households/farms/ businesses or other institutions
Farms
SIC: 999
Small businesses or organizations
Water resources: 4,040 responses; 2,020 hours; $103,020 Federal cost; 1 form; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Watershed Protection and Flood Prevention Act (Pub. L. 83–566) authorized the Secretary of Agriculture to provide technical and financial help to local organizations in planning and carrying out watershed projects. Section 3 of the law directs the Secretary to determine whether benefits anticipated from project development exceeds costs. To this end, SCS carries out studies analyses in watershed areas.

Exentions (Burden Change)

• Economics and Statistics Service
Kentucky Burley Tobacco Objective Yield Survey
Other—See SF83
Farms
Tobacco growers
SIC: 013
Small businesses or organizations
Agricultural research and services: 360 responses; 31 hours; $12,000 Federal cost; 8 forms; $496 public cost; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Provides data from randomly selected burley tobacco fields on plant counts, leaf counts, measurements and weights. Indications from this survey are used in conjunction with monthly farm report (535–0002) to estimate burley tobacco yields in Kentucky. Estimates used by farmers, Government and tobacco related businesses in their marketing decisions.

Extensions (No Change)

• Agricultural Stabilization and Conservation Service
Request for Long-Term Agreement—Agriculture and Consumer Protection Act
ACP–310
On occasion
Farms
Farmers and ranchers
SIC: 019, 191
Farm income stabilization: 10,000 responses; 5,000 hours; $11,000 Federal cost; 1 form; $16,750 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

This form is used by farmers when requesting approval of a long term agreement to perform practices (under ACP program) over a period of 3–10 years. According to an approved farm plan developed by SCS (Pub. L. 93–86).

Reinstatements

• Rural Electrification Administration
Request for Approval To Sell Capital Assets
REA form 369
On occasion
Businesses or other institutions
REA electric borrowers
SIC: 491
Small businesses or organizations
Energy supply: 260 responses; 780 hours; $3,640 Federal cost; 1 form; $9,360 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

Since all capital assets of REA borrowers are ordinarily mortgaged or pledged to the Federal Government as loan security, this form provides a means whereby REA can approve the sale of those capital assets.

• Rural Electrification Administration
Uniform System of Accounts Prescribed for Electric Borrowers of REA
REA 181–1
On occasion
Businesses or other institutions
REA Electric Borrowers
SIC: 491
Small businesses or organizations
Energy supply: 51,220 responses; 4,097,600 hours; $926,190 Federal cost; 1 form; $20,488,000 public cost; not applicable under 3504(h)
Nell Minow, 202–395–7340

This bulletin precribes the system of accounts to be used by REA electric borrowers to conform to Federal Energy Regulatory Commission requirements.

DEPARTMENT OF ENERGY

Agency Clearance Office—John Gross—202–633–9770.

New

• Energy Information Administration

Annual Uranium Exploration Survey
EIA–717
Annually
Businesses or other institutions
Larger firms engaged in exploring for uranium
Sic: 999
Multiple functions: 130 responses; 325 hours; $15,350 Federal costs; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

This annual survey is the only established system for collecting and reporting total U.S. uranium exploration costs. The data will permit uranium reserve additions to be related to exploration costs and drilling footages and will provide a useful measure for determining future levels of exploration expenditures necessary to insure an adequate domestic uranium supply. Collection will begin upon approval by OMB.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

- Research and Special Programs Administration

Ram Shipper Registration With USNRC
Nonrecurring
Businesses or other institutions
Shippers of radioactive materials
Sic: 369, 281, 344, 361
Other transportation: 2,600 responses; 1,300 hours; $32,500 Federal costs; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by the department to ascertain that shippers using packages approved by the USNRC for another person know the amount and type of material allowed in a package and will package the material in a safe and correct manner.

ACTION

Agency Clearance Officer—Richard D. English—202–254–8523

Revisions

- Project Profile and Volunteer Activity Survey Older American Volunteer Programs

A–1021
Annually
Businesses or other institutions
1090 project directors of OAVP
Sic: 833
Small businesses or organizations
Social services: 1,090 responses 13,080 hours; $5,400 Federal costs; 1 form; not applicable under 3504(h)
Diane Wimberly, 202–395–6880

Annual survey is conducted to collect and update information from project sponsors on number of volunteers, volunteers hours delivered, activities, volunteer stations, etc.

CONSUMER PRODUCT SAFETY COMMISSION

Agency Clearance Officer—Charles Casper—301–634–7770.

Extensions (no change)

- Certification and Labeling Requirements—Architectural Glazing Standard, 16 CFR S.1201.5(A)

Nonrecurring
Businesses or other institutions
Architectural glazing manufacturers
Sic: 321
Small businesses or organizations
Consumer and occupational health and safety: 4,500 responses 7,200 hours; $0 Federal costs; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340.

Regulations require that architectural manufacturers certify that their product meets the standard. The manufacturers therefore perfom tests according to their quality control program and maintain these records as required to verify their certification.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

Revisions

- Application for Equipment Authorization—Radio Frequency Devices

FCC 731
On occasion
State or local governments
Domestic marketers and mfgrs., and fgn. mfgrs. of radio, etc.
SIC: 365, 366, 506
Small businesses or organizations.
Other Advancement and Regulation of Commerce: 8,500 responses; 212,500 hours; $700,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

The form, when submitted with descriptive information, test data and sometimes test sample, comprise an application for approval of radio frequency equipment by the FCC. Such equipment may be a transmitter, receiver, low power communication device, or industrial, scientific and medical (ISM) device using radio frequency energy. Such application is required by FCC rules, principally for reduction of radio frequency interference caused by such devices.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

Revisions

- FY 1984–86 State Plan Under Part B of the Education of the Handicapped Act, as Amended by Pub. L. 94–142

9055
Other—see SF83
State or local governments
State education agencies
SIC: 941
Elementary, Secondary, and Vocational Education: 58 responses; 1,450 hours; $30,000 Federal cost; 1 form; $14,500 public cost; not applicable under 3504(h)

- Federal Education Data Acquisition Council, 202–426–5030

Any State meeting the eligibility requirements of section 612, Pub. L. 94–142 may apply for participation in the part B, EHA State grant program by submitting an application as prescribed in ED 9055. The State plan also is used for compliance review and enforcement and a determination of technical assistance needs.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—Ms. D. Lynn Gordon—202–357–1202

Extensions (No Change)

- Compliance Questionnaire

Other—see SF83
Business or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortage Credit and Thrift Insurance: 3,000 responses; 9,000 houfs; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The purpose of this collection is to assist in determining and enforcing consumer law compliance in Federal credit unions. This collection is necessary due to the reduced staffing allocation for enforcement. Beginning date estimated January 1, 1982.

- 702.3 Full and Fair Disclosure Required

12 CFR 702.3
On occasion
Businesses or other institutions
Federal credit unions
SIC: 614
Small businesses or organizations
Mortgage Credit and Thrift Insurance: 12,578 responses; 301,872 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The regulation, which generally requires full and fair disclosure by an FCU of its financial condition to its members, requires FCU financial statements to disclose all assets, liabilities, member equity, all income and expenses. This is the statement of financial condition.

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301-492-8585

Extensions (Burden Change)

- Physical Protection of Formula Quantities at Nonpower Reactors

Other—see SF83
Businesses or other institutions
NRC licensees
SIC: 483
Energy Information, Policy, and Regulation: 15 responses; 1,200 hours; $58,600 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

NRC proposes rulemaking change to affect changes in its regulations to require additional physical protection measures for formula quantities of strategic nuclear material used in operation of nonpower reactors.

Nathaniel Scurry,

Chief, Reports Management.

[FR Doc. 82-3307 Filed 2-5-82; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opporunity for Hearing

Febuary 2, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

EnerServ Products, Inc. Common Stock, $1 Par Value (File No. 7-6123)
Four-Phase Systems, Inc. Common Stock, $.04 Par Value (File No. 7-6124)
Hardwicke Companies, Inc., Common Stock, $1 Par Value (File No. 7-6125)
Integrated Energy, Common Stock, $.01 Par Value (File No. 7-6126)
Iroquois Brands Ltd., Common Stock, $1 Par Value (File No. 7-6127)
Mitel Corp., Common Stock, No Par Value (File No. 7-6128)
OKC Corp., Common Stock, $.25 Par Value (File No. 7-6129)
Refrigerated Transport Co., Inc., Common Stock, $.50 Par Value (File No. 7-6130)
SEDCO Inc., Common Stock, $1 Par Value (File No. 7-6131)
Supron Energy, Common Stock, $1 Par Value (File No. 7-6132)
Texas General Resources, Common Stock, $.10 Par Value (File No. 7-6133)
Texscan Corp., Common Stock, No Par Value (File No. 7-6134)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3303 Filed 2-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12210; 812-5022]

MB Canada Funding, Inc.; Filing of Application

February 3, 1982.

Notice is hereby given that MB Canada Funding, Inc. ("Applicant"), One Liberty Plaza, 165 Broadway, New York, NY 10080, a Delaware corporation, filed an application on November 24, 1981, and an amendment thereto on January 11, 1982, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of Delaware on November 11, 1981. Its sole business will consist of selling Applicant's commercial paper ("Notes") in the United States and depositing the proceeds of the sale of the Notes with Morgan Bank of Canada ("Morgan Canada"), a Canadian banking corporation. Applicant states that none of its outstanding common stock is or in the future will be owned by Morgan Canada or by Morgan Guaranty Trust Company of New York ("Morgan New York") or by an affiliate of either and that there has been, and that in the future there will be, no public offering of Applicant's common stock or of any other equity security of Applicant. Substantially all of the Applicant's assets will consist of a certificate of deposit of Morgan Canada evidencing Applicant's deposits (the "Deposits"). Prior to October 8, 1981, Morgan Canada was a Canadian financial corporation engaged in a limited range of banking activities under the name of J. P. Morgan of Canada Limited. In 1976, Morgan Canada applied for and received an order of the Commission exempting it from all the provisions of the Act pursuant to Section 6(c) of the Act (Release No. 9316, June 9, 1976).

Applicant represents that Morgan Canada is a wholly-owned subsidiary of J. P. Morgan Overseas Capital Corporation, a Delaware corporation which is a wholly-owned subsidiary of Morgan Guaranty International Finance Corporation. Morgan Guaranty International Finance Corporation in turn is a wholly-owned subsidiary of Morgan New York, a New York banking corporation and member bank of the Federal Reserve System. Morgan New York is a wholly-owned subsidiary of J. P. Morgan and Co., Incorporated, a Delaware corporation and a bank holding company registered under the Bank Holding Company Act of 1956. On October 8, 1981, Morgan Canada became a chartered Canadian banking corporation under the Bank Act of Canada (the "Bank Act").

According to the application, the principal business activities of Morgan Canada are: commercial loans; money market activities (primarily by investing and dealing in commercial paper and government obligations); and foreign exchange transactions. For the fiscal year ended October 31, 1980, loan activities accounted for approximately 52% of Morgan Canada's annual revenues, money market activities for approximately 39%, and foreign exchange transactions for approximately 2%, with the remaining approximately 7% accounted for by inter-bank operations. At the end of that fiscal year, Morgan Canada's consolidated assets were $434,145,000 and its liabilities were $410,676,000.

Applicant proposes to issue and sell in the United States short-term negotiable promissory notes of the type exempt from the registration requirements of the Securities Act of 1933 by virtue of paragraph 3(a)(3) thereof. The Notes will be sold in minimum denominations of $100,000, will have a maturity not exceeding 270 days, and will neither be payable on demand prior to maturity nor eligible for any extension, renewal, or automatic "rollover" at the option of either the holder or the issuer. Prior to their issuance, the Notes and any future issue of Applicant's debt securities offered for sale in the United States will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization. No such rating will be obtained with respect to an issue if, in the opinion of counsel, an exemption is available for the issue pursuant to Section 4(2) of the Securities Act of 1933.

Applicant also undertakes not to market the Notes before receiving an opinion of counsel to the effect that the proposed offering of commercial paper is entitled to the exemption afforded by Section 3(a)(3) of the Securities Act of 1933 from that Act's registration requirements. Applicant undertakes that, in respect of any future offerings of debt securities in the United States, it will obtain an opinion of counsel as to compliance with, or the availability of the exemption from, the registration provisions of the securities Act of 1933. Applicant has not requested Commission review or approval of counsel's opinion regarding the availability of an exemption under Section 3(a)(3) of that Act.

Applicant states that except for amounts needed to repay maturing Notes and to meet Applicant's expenses, Applicant will deposit all proceeds from the sale of the Notes with Morgan Canada. Applicant will issue Notes only in aggregate amounts substantially equal to the amounts of Deposits which Morgan Canada desires. Applicant believes, on the basis of estimates provided by Morgan Canada, that in the first year in which the Notes are issued the face amount outstanding will average approximately $225,000,000.

Based upon representations made to Applicant by Morgan Canada, Applicant understands that the Deposits will be deposit liabilities of Morgan Canada and will rank at least *pari passu* with all other unsecured indebtedness of Morgan Canada, including other deposit liabilities except for deposits of, or any other liabilities for borrowed money to, the Government of Canada or any Province of Canada. Morgan New York will unconditionally guarantee payment by Morgan Canada of amounts due in respect of the Deposits and it is Applicant's understanding that the guarantee of Morgan New York will rank *pari passu* with all other unsecured and unsubordinated indebtedness of Morgan New York, including its deposit liabilities except to the extent that such deposits are secured or subject to priorities created by New York State or Federal banking law.

Applicant states that the Notes will be offered publicly through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in United States commercial paper markets. While an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to ensure that each dealer in the Notes will furnish each offeree memoranda describing the business of Morgan Canada, Morgan New York and Applicant and providing the most recent annual and quarterly financial information for Morgan Canada and Morgan New York. Applicant represents that the memoranda prepared by each dealer will be updated promptly to reflect any material adverse changes in the financial status of Applicant, Morgan Canada or Morgan New York and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States. In addition, Morgan Canada's financial information, including its most recent fiscal year-end balance sheet and full fiscal year income statement, updated as necessary, will have been audited in such a manner as is customary for Morgan Canada's auditors, accompanied by a description of any differences between Canadian accounting principles applied in the preparation of the financial statements therein and generally accepted accounting principles in the United States. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon Applicant's compliance with all of its undertakings regarding disclosure documents.

Applicant undertakes to select a major commercial bank to act as issuing and paying agent for the Notes (the "Depository"). As trustee for the benefit of holders of the Notes, the Depositary may receive an assignment of all of Applicant's rights, title, and interest in and to the Deposits and a registered certificate of deposit of Morgan Canada evidencing Applicant's Deposits and will receive an assignment of all of Applicant's rights, title, and interest in and to the Morgan New York guarantee of Morgan Canada's obligations. The Depositary will receive proceeds from Applicant's sale of the Notes and collect payments made in respect of the Deposits upon maturity. Maturing Notes will be paid by the Depositary from the foregoing sources.

Morgan Canada agrees to submit to the jurisdiction of any State or Federal Court in the City of New York, and Morgan Canada will authorize an agent in the City of New York to accept service of process in any action against Morgan Canada based on the Deposits. Applicant states that Morgan Canada's consent to jurisdiction, and appointment of an agent to accept service of process, will be irrevocable until all amounts due and to become due in respect of the Deposits have been paid.

Section 3(a)(3) of the Act defines investment company to mean any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percentum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Applicant states that under the Act's definition of security, the Deposits, which would constitute virtually all of Applicant's assets, might be deemed to be investment securities and accordingly, Applicant might be deemed to be an investment company subject to the Act's registration statement.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt and person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The pending application states that a provision of the Bank Act prohibits Canadian banks owned by foreign parents from establishing foreign branches or subsidiaries. As a Canadian bank owned by a United States parent, Morgan Canada would be precluded from using a United States branch or subsidiary to effect sales of commercial paper in the United States. Applicant

contends that, while the option of establishing a branch or subsidiary in the United States to market commercial paper is not avialable to Morgan Canada because of the provisions of the Bank Act, Applicant's operations would be virtually identical to the operations of foreign bank subsidiaries which have been granted exemptions under Subsection 6(c) of the Act and, like the operations of those subsidiaries, would be conducted for the sole purpose of providing funds to a foreign bank which is not an investment company.

Applicant asserts that approval of this application is (i) necessary and appropriate in the public interest, (ii) consistent with the protection of investors, and (iii) consistent with the purposes of the Act and that the rationale for the exemptions granted to foreign bank subsidiaries in previous cases extends to Applicant as well, since Applicant's purpose, characteristics, and operations would be virtually identical to those of the subsidiaries of foreign banks to which the Commission previously has granted exemptions under the Act. Applicant further states that its limited business purpose and its obligation to invest only in Deposits, which are guaranteed by Morgan New York, obviate the need for the regulatory safeguards provided by the Act and that Applicant's only "investment" activity would be the purchase of a Canadian bank certificate of deposit guaranteed by one of the largest banks in the United States.

In addition, Applicant states that Morgan Canada is subject to a comprehensive bank regulatory scheme which, like the regulatory schemes applicable to banks in the United States, adequately protects depositors and that Applicant's operations do not lend themselves to the abuses against which the Act was directed—excessive management or brokerage fees, insider loans at highly favorable terms, and other forms of self-dealing. Applicant also contends that because the Notes will generate funds for "current transactions", will have a maturity of 270 days or less, exclusive of days of grace, and will neither be payable on demand nor provide for any extension, renewal, or automatic "rollover", the characteristics of the Notes themselves will limit the possible exposure of United States investors as well as the possibility of the abuses against which the Act is directed.

Finally, Applicant cites Section 3(c)(3) of the Act, which excludes from the definition of investment company under the Act any "bank" subject to supervision by State or Federal regulatory agencies and states that Applicant's only investment will be in a certificate of deposit of Morgan Canada which will be unconditionally guaranteed by Morgan New York. Applicant states that, although it is not a "bank" as defined in Section 2(a)(5) of the Act, by limiting its investments to an instrument which is the functional equivalent of a deposit with Morgan New York, Applicant's business operations will provide safeguards against the abuses the Act proscribes equivalent to the safeguards provided by the operations of banks. Applicant states that since its business operations will be related to those of Morgan Canada and Morgan New York and Applicant's investments will be limited to purchasing a certificate of deposit of Morgan Canada guaranteed by Morgan New York, Applicant should be exempted from the Act to the same extent that Morgan Canada has been exempted from the Act by an order pursuant to Section 6(c) of the Act and that Morgan New York and other banks are exempted from the Act by Section 3(c)(3) of the Act. Applicant states that it does not believe that the Commission's grant of the exemption requested in the application would confer on Morgan Canada any advantage over United States banks in connection with issuances of a commercial paper.

Notice is further given that any interested person may, not later than March 1, 1982, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–3301 Filed 2–5–82; 8:45 am]

BILLING CODE 8010–01–M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 2, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Commodore International Ltd., Capital Shares, $1 Par Value (File No. 7–6121)

Ocean Drilling & Exploration Co., Common Stock, $.50 Par Value (File No. 7–6122)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–3304 Filed 2–5–82; 8:45 am]

BILLING CODE 8010–01–M

Scanner Energy Exploration Corp.; Order of Suspension of Trading

February 3, 1982.

It appearing to the Securities and Exchange Commission that there has been a lack of accurate and adequate

information concerning, among other things, the number of Scanner Energy Exploration Corporation shares outstanding, the identity of its current officers and directors and the current status of its assets and operations, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Scanner Energy Exploration Corporation.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that the suspension of trading on such securities will be effective at 1:30 p.m. on February 3, 1982 and terminate at midnight on February 12, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3305 Filed 2-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18462; File No. SR-MSTC-82-1]

Midwest Securities Trust Co.; Proposed Rule Change Relating to an Interface System Between the Midwest Securities Trust Company and the Depository Trust Company for Settlement of Institutional Trades; Self-Regulatory Organizations

Comments requested on or before March 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 27, 1982, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The operations of the National ID System are summarized as follows:

1. Broker/dealer submission of trades may occur through T+2, using the national ID system format, via hard copy, telecommunications transmission, keypunch card, or magnetic tape.

2. Once submitted, trades will generate a legal confirmation for the broker, institution, agent bank, and money manager. Also provided for brokers is a Trade Error List, detailing trades with edit errors.

3. After trades have been input, it is the responsiblity of the institution to affirm the terms of the trade, via hard copy, telecommunication transmission, magnetic tape or the MST Communication System.

4. Affirmed trades will generate an Eligible Trade Report for the broker, institution, agent bank and money manager. Also, the broker will receive the Unaffirmed Report on the morning T+3 which reflects trades which have not yet been affirmed by the institution.

5. Trades which have been affirmed by T+3 and appear on the Eligible Trade Report will settle automatically within the depository interface system. Trades made between a participant of MSTC and a participant of DTC will be settled by an automatic book entry movement of securities, via the Third Party Interface, to the long (buying) participant. Trades made between two MSTC participants will be settled via an automatic book entry movement of securities on an inter-participant D.D.I. (Depository Delivery Instruction).

The National ID System will also have an "Interested Party" capability which will allow a maximum of two confirms to be generated for use by the institution to knowledge a trade with an investment advisor, plan manager, money manager, etc.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Midwest Securities Trust Company (MSTC) and the Depository Trust Company (DTC) have entered into an agreement for the purpose of providing an interface betwen MSTC and DTC Systems for automatic settlement of trades between broker-dealer participants and institutional participants and institutional participants or institutions whose trades in such system are settled by a participant agent bank.

MSTC is availing itself of the DTC-operated Institutional Delivery System (ID System) and is discontinuing the operation of its own system. The new system will be known at MSTC as the National Institutional Delivery System.

The purpose of the change in the MST System for automatic settlement of institutional trades is that the ID System will provide uniformity and standardization of procedures throughout the financial community for institutional trades.

The new procedure is consistent with Section 17A of the Act in that it will facilitate the linking of MSTC and DTC clearance and settlement facilities regarding institutional trades, thus promoting the prompt and accurate clearance and settlement of securities transactions and fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change. Rather, it believes that it will encourage the linking of all markets in the development of a national clearance and settlement system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street,

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before March 1, 1982.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: February 1, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3302 Filed 2-5-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 790]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783) August 24, 1978, the Department is submitting its December 1980 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the **Federal Register** on August 24, 1978.

Dated: December 18, 1981.

John W. Kimball,

Director, Office of International Conferences.

United States Delegation to the Committee on Buffer Stock Operations International Natural Rubber Organization Kuala Lumpur, September 21–22, 1981

Representative

Fred W. Siesseger
Director
Resources Policy Division
Department of Commerce

Alternate Representative

James C. Todd
Chief
Industrial and Strategic Materials Division
Bureau for Economic and Business Affairs
Department of State

Advisers

Gregory F. Christopulos
Office of Agricultural Affairs and Commodity Policy
Office of the U.S. Trade Representative
Executive Office of the President

Elizabeth Shelton
U.S. Embassy
Kuala Lumpur

Private Sector Advisers

Howard Chapel
Managing Director
Goodyear Orient Private Ltd.
Republic of Singapore

Harold Ross Miller
Managing Director
Goodrich Company Private Ltd.
Republic of Singapore

United States Delegation to the Committee on Buffer Stock Operations International Natural Rubber Organization (INRO) Kuala Lumpur, November 12–13, 1981

Representative

Frederic W. Siesseger
Resources Policy Division
Department of Commerce

Alternate Representative

James C. Todd
Bureau of Economic and Business Affairs
Department of State

Advisers

Gregory F. Christopolous
Office of the U.S. Trade Representative
Executive Office of the President

Elizabeth Shelton
United States Embassy
Kuala Lumpur

Private Sector Advisers

Howard Chapel
Goodrich Orient Private Ltd.
Singapore

Howard Ross Miller
Goodyear Company Private Ltd.
Singapore

United States Delegation to the Council International Natural Rubber Organization (INRO) Kuala Lumpur, November 17–20, 1981

Representative

James C. Todd
Bureau of Economic and Business Affairs
Department of State

Alternate Representative

Frederic W. Siesseger
Resources Policy Division
Department of Commerce

Advisers

Gregory F. Christopolous
Office of the U.S. Trade Representative
Executive Office of the President

Elizabeth Shelton
United States Embassy
Kuala Lumpur

Private Sector Adviser

Charles Smith
Firestone Tire and Rubber Company
Singapore

United States Delegation to the Annual Meeting of the International North Pacific Fisheries Commission (INPFC) Vancouver, British Columbia, November 3–6, 1981

Commissioners

The Honorable
Elmer Rasmuson
Chairman, U.S. Section
Chairman, National Bank of Alaska
Anchorage, Alaska

The Honorable
Dayton Alverson
Managing Partner
Natural Resources Consultants, Inc.
Seattle, Washington

The Honorable
Robert W. McVey
Director, Alaska Region
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Commerce
Juneau, Alaska

The Honorable
Robert M. Thorstenson
Chairman, Icicle Seafoods
Seattle, Washington

Advisers

Christine L. Dawson
Office of Oceans and Fisheries Affairs
Bureau of Oceans and International Environmental and Scientific Affairs
Department of State

Douglas W. McCaleb
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Commerce

Private Sector Advisers

Alvin Burch
Commercial Fisherman
Kodiak, Alaska

David Cline
National Audubon Society
Anchorage, Alaska

Gordon Jensen
Alaska Board of Fisheries
Petersburg, Alaska

Herman McDevitt
Pacific Regional Fishery Management Council
Pocatello, Idaho

Robert Moss
Commercial Fisherman
Homer, Alaska

United States Delegation to the Diplomatic Conference on Privileges and Immunities International Maritime Satellite System (INMARSAT) London, November 9–17, 1981

Representative

Horace F. Shamwell, Jr.
Deputy Assistant Legal Adviser for Management
Office of the Legal Adviser
Department of State

Adviser

Edward R. O'Connor
United States Embassy
London

Private Sector Adviser

Robert D. Bourne
Communications Satellite Corporation
Washington, D.C.

United States Delegation to the Thirty-Third Session of the Subcommittee on the Carriage of Dangerous Goods of the Intergovernmental Maritime Consultative Organization (IMCO) London, December 7–11, 1981

Representative

Keith B. Schumacher, Captain, USCG
Chief, Cargo and Hazardous Materials Division
Office of Merchant Marine Safety United States Coast Guard
Department of Transportation

Alternate Representative

Kevin J. Eldridge, Lieutenant, USCG
Cargo and Hazardous Materials Division
Office of Merchant Marine Safety,
United States Coast Guard
Department of Transportation

Advisers

John P. Aherne
Cargo and Hazardous Materials Division
Office of Merchant Marine Safety
United States Coast Guard
Department of Transportation

Edward A. Altemos
International Standards Coordinator
Materials Transportation Bureau
Department of Transportation

Harvey Clew
Shipping Attache
American Embassy
London

Private Sector Advisers

Michael T. Bohlman
Sea-Land Services, Inc.
Elizabeth, New Jersey

Donald W. Gates
National Cargo Bureau, Inc.
New York, New York

United States Delegation to the Second Session of the Assembly International Maritime Satellite System (INMARSAT), London, November 23–25, 1981

Representative

Arthur L. Freeman
Director
Office of International Communications Policy
Bureau of Economic and Business Affairs
Department of State

Advisers

John Gilsenan
Common Carrier Bureau
Federal Communications Commission

Edward O'Connor
American Embassy
London

Private Sector Adviser

Robert D. Bourne
Communications Satellite Corporation
Washington, D.C.

United States Delegation to the Committee on Other Measures, International Natural Rubber Organization (INRO), Kuala Lumpur, November 11, 1981

Representative

James C. Todd
Bureau of Economic and Business Affairs
Department of State

Alternate Representative

Frederic W. Siesseger
Resources Policy Division
Department of Commerce

Advisers

Gregory F. Christopolous
Office of the U.S. Trade Representative
Executive Office of the President

Elizabeth Shelton
United States Embassy
Kuala Lumpur

Private Sector Advisers

Howard Chapel
Goodyear Orient Private Ltd.
Singapore

Harold Ross Miller
Goodrich Company Private Ltd.
Singapore

Charles Smith
Firestone Tire and Rubber Company
Singapore

United States Delegation to the Executive Committee (60th Session) of the Council (47th Session) of the Intergovernmental Committee for Migration (ICM), Geneva, November 20–December 2, 1981

Representative

The Honorable Richard D. Vine
Ambassador
Director, Bureau for Refugee Programs
Department of State

Alternate Representatives

The Honorable Geoffrey Swaebe
Ambassador
United States Mission
Geneva

Don C. Eller
Deputy Chief of Mission
United States Mission
Geneva

Advisers

Karl S. Beck
Counselor for Humanitarian and Refugee Affairs
United States Mission
Geneva

John A. Buche
Deputy Counselor for Humanitarian Affairs
United States Mission
Geneva

Sam I. Feldman
District Director for Europe
United States Immigration and Naturalization Service.

Frank Moss
Bureau for Refugee Programs
Department of State

Congressional Advisers

The Honorable Romano L. Mazzoli
United States House of Representatives.

The Honorable F. James Sensenbrenner, Jr.
United States House of Representatives

Congressional Staff Advisers

Garner J. Cline
House Judiciary Committee
United States House of Representatives

Peter Regis
House Judiciary Committee
United States House of Representatives

Private Sector Adviser

Father Harold Bradley
Director, Center for Immigration Policy
Georgetown University
Washington, D.C.

United States Delegation to the Thirty-Eighth Session of the International Conference on Education International Bureau of Education of the United Nations Educational, Scientific and Cultural Organization (UNESCO/IBE) Geneva, November 10–19, 1981

Representative

The Honorable
John H. Rodriquez, Ph.D.
Deputy Under Secretary for Intergovernmental and Interagency Affairs
Department of Education

Alternate Representative

The Honorable
Robert Worthington, Ph.D.
Assistant Secretary for Vocational and Adult Education
Department of Education

Advisers

Stewart Tinsman, Ed.D.
Acting Director, International Affairs Services
Department of Education

Raymond Wanner, Ph.D.
Education Attache
U.S. Permanent Delegation to UNESCO
Paris

Private Sector Advisers

Anne Campbell, Ed.D.
Commissioner of Education
Department of Education
Lincoln, Nebraska

Joseph L. Knutson, Ph.D.
President Emeritus, Concordia College
Moorhead, Minnesota

William Stevenson, Ed.D.
Superintendent, Shore School District
Seattle, Washington

United States Delegation to the Eleventh General Assembly of the Organization of American States (OAS) Castries, Saint Lucia, December 2–11, 1981

Representatives

The Honorable
Alexander M. Haig, Jr. (Chairman)
Secretary of State

The Honorable
Thomas O. Enders (Vice Chairman)
Assistant Secretary of State for Inter-American Affairs

The Honorable

J. William Middendorf, II (Vice Chairman)
Permanent Representative of the United States to the Organization of American States

Alternate Representatives

The Honorable
Milan D. Bish
Ambassador
United States Embassy
Bridgetown

Everett E. Briggs
Deputy Assistant Secretary for Inter-American Affairs
Department of State

Herbert B. Thompson
Deputy Permanent Representative of the United States to the Organization of American States

Philip K. Johnson
Alternate Representative of the United States to the Organization of American States

Owen B. Lee
Alternate Representative of the United States to the Organization of American States

Robert Shuler
Alternate Representative of the United States to the Organization of American States

Donald E. Stewart
Alternate Representative of the United States to the Organization of American States

Ernesto Uribe
Alternate Representative of the United States to the Organization of American States

Advisors

Joshua Bolten
Office of the Legal Advisor for Inter-American Affairs
Department of State

Sherwood R. Goldberg
Executive Assistant to the Secretary of State

Robert Kohn
Director, Latin American Affairs
United States Trade Representative

Randolph Marcus
Economic Adviser
United States Mission to the Organization of American States

Paul J. Saxton
Public Affairs Officer
United States Embassy
Panama

Proposed Delegations to Meetings of Citel Working Groups Lima, November 30–December 4, 1981

Working Group on Planning

Delegate

Jack D. Smith
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission

Private Sector Advisors

Cecil Crump
Overseas Department
AT&T Long Lines
Morris Plains, New Jersey

Thomas Sorge
Director of Latin American Affairs
RCA Global Communications
New York, New York

Working Group on Tariffs

Delegate

Kenneth A. Levy
Tariff Division
Common Carrier Bureau
Federal Communications Commission

Private Sector Advisors

Joseph F. S. Araujo
Director, Rates
Tariff Department
Western Union International
New York, New York

Richard G. Brolly
Vice President and Director
Inernational Agreements and Arrangements
ITT World Communications
New York, New York

John C. Cahill, Jr.
Director
International Traffic Relations
TRT Telecommunications Corporation
Washington, D.C.

Richard J. Szigety
Manager, Rates and Tariffs
FTC Communications
New York, New York

Carmine Taglialatella
Manager of Service Tariffs
RCA Global Communications
New York, New York

United States Delegation to the First Meeting of the Joint Working Party SMM (Maritime Mobil Service) International Telephone and Telegraph Consultative Committee (CCITT) International Telecommunication Union (ITU) Geneva, November 9–13, 1981

Representative

Earl S. Barbely
Federal Communications Commission
Washington, D.C.

Private Sector Advisers

Richard Brolly
International Telephone and Telegraph Company
New York, New York

John Klotsche
RCA Globecom
New York, New York

Ronald Sabecek
TRT Telecommunications Corporation
Washington, D.C.

Peter Scott
American Telephone and Telegraph Co.
Morris Plains, New Jersey

Edward Slack
Communications Satellite Corporation
Washington, D.C.

Proposed United States Delegation to the Annual Meeting of the International Commission for the Conservation of Atlantic Tuna (ICCAT) Tenerife, Canary Islands, November 2–17, 1981

Commissioners

The Honorable
Carmen J. Blondin
Chairman, U.S. Section
Director for International Fisheries Affairs
National Marine Fisheries Service
National Oceanic and Atomospheric Administration
Department of Commerce

The Honorable
Frank B. Carlton
Executive Secretary
National Coalition for Marine Conservation
Savannah, Georgia

The Honorable
John McGowan
Consultant
Castle and Cooke, Inc.
San Francisco, California

Advisors

Brian S. Hallman
Office of Oceans and Fisheries Affairs
Bureau of International Environmental and Scientific Affairs
Department of State

Barbara Rotschild
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Commerce

Gary T. Sakagawa
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Commerce

Richard Stone
National Maine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Commerce

Private Sector Advisors

Gordon C. Broadhead
Living Marine Resources
San Diego, California

August Felando
American Tuna Boat Association
San Diego, California

Frank Mather
Woods Hole Oceanographic Institution
Woods Hole, Massachusetts

United States Delegation to the Fourth Meeting of the Operations Panel of the International Civil Aviation Organization (ICAO) Montreal, November 16 to December 4, 1981

Panel Member

Thomas Imrich
Flight Standards Division
Northwest Mountain Region
Federal Aviation Administration
Seattle, Washington

Alternate Member

Jerald Davis
Flight Technical Programs Branch
Federal Aviation Administration
Washington, D.C.

Adviser

Claude G. Pettyjohn, Major
Headquarters AFCC/FFOS
Scott Air Force Base, Illinois

Private Sector Advisers

James Forgas
Air Line Pilots Association
Washington, D.C.

Lawrence Gillespie
Air Transport Association of America
Washington, D.C.

United States Delegation to the Meeting of the International Telephone and Telegraph Consultative Committee (CCITT) Study Group XVII, International Telecommunication Union (ITU) Geneva, November 23–30, 1981

Representative

Thijs de Haas, National Telecommunication and Information Administration, Department of Commerce, Boulder, Colorado

Adviser

Frank McLelland, National Communications Systems, Arlington, Virginia

Private Sector Advisers

Claude C. Kleckner, American Telephone & Telegraph Co., Basking Ridge, New Jersey
Daale M. Walsh, General DateComm Industries, Danbury, Connecticut

Proposed United States Delegation to the Annual Meeting of the International North Pacific Fisheries Commission (INPFC) Vancouver, British Columbia, November 3–6, 1981

Commissioners

The Honorable Elmer Rasmuson, Chairman, U.S. Section, Chairman, National Bank of Alaska, Anchorage, Alaska
The Honorable Dayton Alverson, Managing Partner, Natural Resources Consultants, Inc., Seattle, Washington
The Honorable Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Juneau, Alaska
The Honorable Robert M. Thorstenson, Chairman, Icicle Seafoods, Seattle, Washington

Advisors

Christine L. Dawson, Office of Oceans and Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Douglas W. McCaleb, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisors

Alvin Burch, Commercial Fisherman, Kodiak, Alaska
David Cline, National Audubon Society, Anchorage, Alaska
Gordon Jensen, Alaska Board of Fisheries, Petersburg, Alaska
Herman McDevitt, Pacific Regional Fishery Management Council, Pocatello, Idaho
Robert Moss, Commercial Fisherman, Homer, Alaska

United States Delegation to the Second Session of the Regional Administrative MF (AM) Broadcasting Conference, International Telecommunications Union (ITU), Rio De Janeiro, Brazil, November 9 to December 10, 1981

Representative

Kalmann Schaefer, Assistant to the Chairman for International Communications, Federal Communications Commission

Alternate Representatives

William H. Jahn, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State
Wilson A. La Follette, Technical and International Branch, Broadcast Bureau, Federal Communications Commission

Advisers

John J. Boursy, Broadcast Facilities Division, Broadcast Bureau, Federal Communications Commission
James R. Carroll, Frequency Management Office, Department of the Navy
Anna L. Case, Frequency Division, Voice of America, International Communication Agency
Douglas Crombie, National Telecommunications and Information Administration, Department of Commerce
Rick Engleman, Field Operators Bureau, Federal Communications Commission
William H. Hassinger, Engineering Adviser to the Chief of the Broadcast Bureau Federal Communications Commission
William Meintel, Technical and International Branch, Broadcast Bureau Federal Communications Commission
Larry W. Olson, Technicial and International Branch, Broadcast Bureau, Federal Communications Commission
Steven Selwyn, Office of Science and Technology, Federal Communications Commission
Louis C. Stephens, Policy and Rules Division, Broadcast Bureau, Federal Communications Commission
Henry Straube, Broadcast Facilities Division, Broadcast Bureau, Federal Communications Commission

Congressional Adviser

The Honorable Charles Rose, House of Representatives

Congressional Staff Adviser

Joan Teague, Director, House Broadcasting System, House of Representatives

Private Sector Advisers

Elizabeth L. Dahlberg, Lohnes and Colver Consulting Engineers, Washington, D.C.
Donald G. Everist, Electricial Engineer, Cohen Dippell, Washington, D.C.
Wallace E. Johnson, Executive Director, Association for Broadcast Engineering Standards, Washington, D.C.
Vincent Pepper, Attorney, Smith and Pepper, Washington, D.C.

United States Delegation to the Committee on Administration International Natural Rubber Organization (INRO) Kuala Lumpur, November 10–11, 1981

Representative

James C. Todd, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Frederic W. Siesseger, Resources Policy Division, Department of Commerce

Advisers

Gregory F. Christopolous, Office of the U.S. Trade Representative, Executive Office of the President
Elizabeth Shelton, United States Embassy, Juala Lumpur

Private Sector Advisers

Howard Chapel, Goodyear Orient Private Ltd., Singapore
Harold Ross Miller, Goodrich Company Private Ltd., Singapore
Charles Smith, Firestone Tire and Rubber Company, Singapore

United States Delegation to the Steel Committee, Working Party Organization for Economic Cooperation and Development (OECD) Paris, November 16–17, 1981

Representative

J. D. Darroch, Office of Basic Industries, Department of Commerce

Advisers

Mary Chavez, Office of International Trade, Department of the Treasury
Dennis Finnerty, Bureau of Economic and Business Affairs, Department of State
Joseph Papovich, Bureau of International Labor Affairs, Department of Labor

Private Sector Advisers

Frank Fenton, Vice President, American Iron and Steel Institute, Washington, D.C.
William Hoppe, Manager Economic Studies, Bethlehem Steel Corp., Bethlehem, Pennsylvania
William J. Pendelton, Director of Corporate Affairs, Carpenter Technology, Reading, Pennsylvania
Jack Sheehan, Director, Legislative Department, United Steelworkers of America, Washington, D.C.

United States Delegation to the Thirteenth Session of the Committee on Tungsten, United Nations Conference on Trade and Development (UNCTAD) Geneva, December 7–11, 1981

Representative

Frederic W. Seisseger, Director, International Resources Division, Department of Commerce

Alternate Representative

Frederick McEldowney, Office of the U.S. Trade Representative, Geneva

Adviser

Phillip Stafford, Bureau of Mines, Department of the Interior

Private Sector Adviser

Louis Brooks, Union Carbide Corporation, London

United States Delegation to the Forth-Fifth Session of the Maritime Safety Committee (MSC), Intergovernmental Maritime Consultative Organization (IMCO) London, November 11–18, 1981

Representative

Clyde T. Lusk, Jr., Rear Admiral, USCG, Chief, Office of Merchant Marine Safety, United States Coast Guard, Department of the Treasury

Alternate Representative

Daniel F. Sheehan, Technical Adviser, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisers

Donald J. Kerlin, Technical Adviser, Merchant Marine Technical Division, United States Coast Guard, Department of Transportation

Gerard P. Yoest, International Affairs Staff, United States Coast Guard, Department of Transportation

Private Sector Advisers

William H. Hannan, Vice President, American Bureau of Shipping, New York, New York

Edward H. Middleton, Technical Adviser, Maritime Institute for Research and Industrial Development, Washington, D.C.

Office of International Conferences, Department of State.

December 14, 1981.

[FR Doc. 82-3315 Filed 2-5-82; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD82-009]

IALA Maritime Buoyage System

AGENCY: Coast Guard, DOT.

ACTION: Notice of informational meetings on IALA Buoyage System (B).

SUMMARY: The Coast Guard will hold meetings with the public to present information concerning plans to modify the U.S. buoyage system to conform with the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System (B). The meetings will provide an opportunity for the public and Coast Guard officials to discuss the proposed changes and how they could affect the marine industry and the boating public. The IALA Buoyage System calls for changing the color or rhythm, or both, of some lighted aids, and the color of some buoys. Details concerning the changes, and the plan for painting buoys without additional funding will be presented for oral comments from the public. Those who wish to present oral comments at the meeting are requested to advise the Coast Guard at the address or telephone number listed under "For Further Information" and indicate how long they expect to talk.

DATES: The informational meetings will be held as follows: Washington, DC on March 9, 1982 at 10:00 a.m.; Cleveland, OH on March 11, 1982 at 1:30 p.m.; San Francisco, CA on March 25, 1982 at 10:00 a.m.; New Orleans, LA on March 30, 1982 at 10:00 a.m. Written comments will be accepted until April 9, 1982.

ADDRESSES: The informational meetings will be held at the following locations:

U.S. Coast Guard Headquarters, Rm 3201, 2100 Second Street SW, Washington, D.C.

Ninth Coast Guard District, Auditorium, 31st Floor, 1240 East 9th St., Cleveland, OH

Twelfth Coast Guard District, Rm 524, 630 Sansome St., San Francisco, CA

U.S. Coast Guard Base New Orleans, 4640 Urquhart St., New Orleans, LA

Written comments may be submitted to Commandant (G–NSR/14 CGD 82–009) U.S. Coast Guard Headquarters, 2100 Second St., SW, Washington, DC 20593. Comments will be available for examination at the Marine Safety Council (G–CMC/44 CGD 82–009), Room 4402, U.S. Coast Guard Headquarters, 2100 Second St. SW, Washington, DC 20593, between 7 a.m. and 5 p.m. Monday through Thursday, except holidays.

FOR FURTHER INFORMATION CONTACT: Capt. Robert C. Williams (G–NSR/14) U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, D.C. 20593, (202) 426–1973, 7 a.m. to 5 p.m., Monday through Thursday, except holidays.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

February 3, 1982.

[FR Doc. 82-3257 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-14-M

[GD 82-012]

Inland Navigational Rules Act of 1980; Effective Date for Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Notice of effective date.

SUMMARY: This notice establishes the effective date of the Inland Navigational Rules Act of 1980 for the Great Lakes. The effective date is July 1, 1982.

EFFECTIVE DATE: The effective date of the Inland Navigational Rules Act of 1980 for the Great Lakes is July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Llana, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, (202) 426–4958.

SUPPLEMENTARY INFORMATION: The Inland Navigational Rules Act of 1980 (Pub. L. 96–591, 94 Stat. 3415) unified the existing inland navigation rules and brought the unified rules into closer conformance with the International Regulations for Preventing Collisions at Sea. This new law was enacted on December 24, 1980, and stated that except for the Great Lakes, the new Inland Navigation Rules would become effective one year from the date of enactment. The Act requires the Secretary of Transportation to establish the effective date for the Great Lakes. The authority to establish this effective date has been delegated from the Secretary of Transportation to the Commandant of the Coast Guard. (49 CFR 1.46(n)(14)).

This flexibility in the effective date for the Great Lakes was provided to accommodate anticipated Canadian legislation paralleling the new United States Inland Rules, so that both the new United States and the new Canadian navigation rules for the Great Lakes could become effective at the same time. The Canadian government has recommended that July 1, 1982 be the effective date. Earlier, an April 1 effective date had been informally planned but because of unexpected delays in the implementation of new Canadian legislation, that date had to be moved up to July 1. The effective date gives adequate notice to Great Lakes mariners and is acceptable to the United States.

The effective date of the Inland Navigational Rules Act of 1980 on the Great Lakes is hereby established as July 1, 1982.

(Sec. 7, Pub. L. 96–591; 49 CFR 1.46(n)(14)

Dated: February 2, 1982.

R. A. Bauman,

Rear Admiral, Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-32 Filed 2-5-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular on Radio Technical Commission for Aeronautics (RTCA) Document DO–178

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of draft Advisory Circular (AC) and request for comments.

SUMMARY: The draft Advisory Circular is intended to provide guidance on the use of RTCA document DO–178 when seeking certification of installed airborne computers programmed for the control of any aircraft system.

DATE: Commenters must identify file AC 00–XX number and comments must be received on or before April 9, 1982.

ADDRESS: Send all comments in duplicate on the draft Advisory Circular to: Federal Aviation Administration, Attention: Systems Branch (AWS–130), 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to Room 334, 800 Independence Avenue SW., Washington, D.C. 20591. Comments delivered must be marked file number AC 00–XX. Comments may be inspected at Room 351B, FAA Headquarters Building (FOB–10A), between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Frank C. Rock, Chief, Systems Branch, (AWS–130), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426–8395.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are solicitd on all aspects of the draft Advisory Circular. A copy of the draft advisory circular may be obtained by contacting the person identified under "For Further Information Contact."

Issued in Washington, D.C. on February 1, 1982.

M. C. Beard,

Director of Airworthiness.

Subject: Radio Technical Commission for Aeronautics (RTCA) Document DO–178

1. *Purpose.* This Advisory Circular (AC) calls attention to the Radio Technical Commission for Aeronautics (RTCA) Document DO–178, Software Considerations in Airborne Systems and Equipment Certification. It discusses how the document may be applied with FAA Technical Standard Order (TSO), Type Certification (TC), and Supplement Type Certification (STC) authorizations

2. *Cancellation:* None.

3. *Related FAR Sections.* FAR Part 21, Subpart O.

4. *Background:* RTCA Document DO–178 was issued November 1981 to establish software considerations for developers, installers and users when the aircraft equipment design is implemented using microcomputer techniques. It is expected that future avionics designs will make extensive use of this technology. The RTCA document outlines verification, validation, documentation and maintenance procedures to be used in microcomputer systems.

5. *Use of DO–178 Procedures.* An applicant for a TSO, TC or STC authorization for any electronic equipment or digital computer system may use the considerations outlined in RTCA Document DO–178 as a means, but not the only means, to secure FAA approval.

6. *Where To Obtain Copies of RTCA Document DO–178.* Copies of DO–178 may be obtained from: RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006.

[FR Doc. 82–3170 Filed 2–5–82; 8:45 am]

BILLING CODE 4910–13–M

[Docket No. 82–ASW–1AC]

Costruzioni Aeronautiche Giovanni Agusta; Model A109A II Helicopter; Aircraft Certification and Availability of Documents

The formal certification process for Agusta Model A109A II helicopter initiated in March 1981 was completed December 5, 1981.

The Chief, Aircraft Certification Office, ANE–100E, Europe, Africa and Middle East has reviewed a document entitled "Decision Basis for the Type Certification of the Agusta Model A109A II Helicopter."

Based on this summary of the certification process, the Chief, Aircraft Certification Office, has approved issuance of Type Certificate H7EU, amended December 4, 1981, to add the Model A109A II helicopter.

A copy of the Decision Basis for the Type Certification of the Agusta Model A109A II Helicopter is on file in the FAA Rules Docket. The Decision Basis includes a copy of the Type Certificate H7EU. The report is available for examination and copying at the FAA Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. Copies of the report may be obtained from the Chief, Aircraft Certification Office, ANE–100E, Europe, Africa, and Middle East, Federal Aviation Administration, c/o American Embassy, APO New York 09667.

Issued in Fort Worth, Texas on January 27, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82–2991 Filed 2–5–82; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA–WA–EIS–80–06–D]

Environmental Impact Statement; Snohomish County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of withdrawal.

SUMMARY: The FHWA is issuing this notice to advise agencies and the public that a Final Environmental Impact Statement for the proposed improvement of the Mukilteo Ferry Terminal and WA–525 in the City of Mukiteo, Snohomish County, Washington, will not be completed. Notice of the availability of the Draft EIS was published in the December 12, 1980 **Federal Register.** The preferred long-range solution for this project has been indefinitely postponed due to unresolved financial, environmental and mixed community concerns.

FOR FURTHER INFORMATION CONTACT: William J. Glover, Environmental Engineer, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, Telephone: (206) 753–9460.

Issued on: January 28, 1982.

William J. Glover,

Environmental Engineer, Washington Division, Olympia, Washington.

[FR Doc. 82–3011 Filed 2–5–82; 8:45 am]

BILLING CODE 4910–22–M

Federal Highway Administration

Urban Mass Transportation Administration

State Management Plan for Public Transportation in Nonurbanized Areas (Section 18 Program)

AGENCY: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: This Notice informs States that they have the option to administer the Formula Grant Program for Areas Other Than Urbanized Areas (Section 18 of the Urban Mass Transportation Act) under an approved State Management Plan (SMP). It also provides guidance on the content and approval of the SMP.

EFFECTIVE DATE: The SMP option is effective on March 10, 1982.

FOR FURTHER INFORMATION CONTACT: FHWA—Douglas J. McKelvey, Program Management Division (202) 426–0153, or Lee J. Burstyn, Office of the Chief Counsel, (202) 426–0754; or UMTA—

Catherine A. Regan, Office of Transit Assistance, (202) 426–2053 or Douglas G. Gold, Office of the Chief Counsel (202 426–1909. The FHWA and UMTA are located at 400 Seventh Street, SW, Washington, D.C. 20590. The FHWA office hours are from 7:45 a.m. to 4:15 p.m. and UMTA office hours are from 8:30 a.m. to 5:00 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 18 was added to the Urban Mass Transportation Act by Section 313 of the Surface Transportation Assistance Act of 1978, 92 Stat. 2748, Pub. L. 95–599. The purpose of this Notice is to inform States that they have the option of administering the Formula Grant Program for Areas Other Than Urbanized, Section 18, under an approved SMP. The SMP describes the State's procedures for managing the Section 18 program. The SMP is an agreement which identifies the State's procedures and responsibilities in administering the Section 18 program. Prior to implementing the SMP procedures, the State must indicate in writing its desire to pursue the option and its willingness to accept its responsibilities. The Division Administrator shall then determine if the State has the ability to meet those responsibilities consistent with 23 CFR 825.

Background

An SMP approach was envisioned from the beginning of the Section 18 program. The FHWA and UMTA agreed to the approach in a joint Memorandum of Understanding dated November 30, 1978. The concept of an SMP was included in the December 14, 1978 letter to the Governors announcing the Section18 program. A final rule for the Section 18 program was issued on an emergency basis on December 13, 1978 (43 FR 58308) and codified at 23 CFR Part 825. The regulation did not discuss the SMP.

Section 18(f) provides that grants are to be subject to such terms and conditions as the Secretary of Transportation may prescribe. The SMP is offered as an option and alternative to the project-by-project review provided by Part 825. The SMP process is similar to the certification acceptance (CA) procedures developed under the Federal-aid highway program.

Under an approved SMP, the State's authority and responsibilities increase and FHWA involvement decreases. The FHWA would no longer review every requirement for every project. The FHWA's role would be limited primarily to:

1. Reviewing and approving the annual program of projects.
2. Authorizing funds for projects developed under SMP procedures.
3. Monitoring State procedures and projects for compliance with the SMP.

The UMTA role would be limited to:

1. Providing advice and guidance to the FHWA on the implementation of the program.
2. Conducting periodic management reviews of the Section 18 program of projects in consultation with the FHWA.

Experience with managing the Section 18 program indicates that an SMP would not be appropriate for all States. Therefore, given that experience, the SMP is offered as an option to the States. We believe that this option will reduce paperwork (for those States that adopt it) and is a responsive approach to State and local needs. If a State does not adopt the SMP option, the Division Administrator would continue to approve the annual program of projects and each project under existing procedures.

State Management Plan Guidelines

The following are guidelines for the development and review of the SMP. The SMP should declare that the State and other project applicants will comply or assure compliance with the requirements of Appendices A and B of 23 CFR Part 825. The SMP should also describe how the State will comply or assure compliance with the Appendices. The SMP should also include:

1. The name and organization of the agency designated by the Governor to administer the Section 18 program.
2. A description of the State's goals and objectives of the program and the criteria for fairly and equitably distributing Section 18 funds within the State, including Indian reservations. The description should identify any consultations with State agencies, local governments, and the public that may have occurred in establishing these objectives and criteria.
3. A description of and rationale for the criteria for project selection and approval.
4. A description of the State's plan for providing technical and management assistance. Specific technical assistance projects do not need to be described in the SMP but should be included in the annual program of projects.
5. A description of how the State-designated agency will coordinate the implementation of this program with other appropriate State agencies, particularly social service agencies and other federally funded transportation services.
6. A description of the procedures to be used for contracting and vehicle procurement. These procedures must comply with the Office of Management and Budget Circular A–102, Attachment O.
7. A description of the State's procedures for encouraging participation by private providers at the beginning of the local planning process and in the provision of service. Also, the State should describe its procedures for hearing and resolving complaints from transportation providers.
8. A description of the State's monitoring and evaluation procedures, including reporting requirements, if any, for local projects. Reporting requirements should be kept to a minimum.

These descriptions should be brief. If other available documents contain a description, a reference is sufficient.

Approval

In accord with the December 1978 Memoradum of Understanding between FHWA and UMTA, those States that adopt the option should forward the SMP to the FHWA Division Administrator for review and approval. The Division Administrator will provide the opportunity for the FHWA's and the UMTA's regional offices to review and comment on the SMP prior to approval. The Division Administrator is authorized to approve the SMP. The Division Administrator may approve some or all of the SMP and use SMP procedures only for the approved portions.

If there are new Federal requirements, or if the State makes a significant change in its procedures, the SMP shall be amended. Amendments require the Division Administrator's approval. Approval of the SMP does not constitute approval or rejection of any individual project. Under an approved SMP, the Division Administrator will continue to review and approve the annual program of projects. Projects developed under the procedures of an approved SMP will be authorized for Federal funding by the Division Administrator at the State's written request. However, each project's compliance with the provisions of 23 CFR Part 771 (environment), 42 U.S.C. 2000d (civil rights), and 42 U.S.C 460 *et seq.* (right-of-way) shall be ascertained by the FHWA Division Administrator prior to authorization.

If the Division Administrator determines that the State is not fulfilling its responsibilities in accordance with the SMP, he/she may withdraw some or all of the approval. If the Division Administrator determines that a project

is not satisfying the Federal requirements, he/she may deauthorize the project.

Monitoring

The FHWA Division Administrator shall monitor the State's procedures and projects to insure compliance with the SMP and Federal regulations. The Division Administrator shall consult the regional offices of FHWA and UMTA regarding periodic management reviews of the Section 18 program and projects. The State should monitor projects in accordance with the procedures in its SMP.

Reporting

There are no new Federal reporting requirements under the SMP. State reporting requirements should be kept to a minimum.

(Catalog of Federal Domestic Assistance Program Number 20.509, Public Transportation for Rural and Small Urban Areas, Federal Highway and Urban Mass Transportation Administrations. The provisions of OMB Circular A–95 regarding State clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

Issued on: February 1, 1982.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82–3258 Filed 2–5–82; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82–26]

Cancellation of Customhouse Broker's License No. 4951

Notice is hereby given that the Commissioner of Customs, on January 22, 1982, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the Customs Regulations, as amended (19 CFR Part 111) cancelled with prejudice the individual customhouse broker's license No. 4951 issued to Robert L. Andersen, Seattle, Washington, on May 30, 1974, for the Customs District of Seattle, Washington. The decision is effective as of January 22, 1982.

William T. Archey,

Acting Commission of Customs.

January 22, 1982.

[FR Doc. 82–3190 Filed 2–5–82; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances, that on March 15, 1982, at 9:00 a.m., the Portland, Oregon Regional Office Station Committee on Educational Allowances shall at Room 1427, Federal Building, 1220 SW. Third Avenue, Portland, Oregon, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Pilot Personnel International, Inc., Albany, Oregon, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 28, 1982.

R. J. Vogel,

Director, VA Regional Office, 1220 SW. Third Avenue, Portland, Oregon 97204.

[FR Doc. 82–3316 Filed 2–5–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 26
Monday, February 8, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 4636, February 1, 1982.

PREVIOUSLY ANNOUNCING TIME AND DATE OF THE MEETING: 10 a.m., February 4, 1982.

CHANGES IN THE MEETING: The meeting of February 4, 1982 was cancelled. Item 1 on the Agenda concerning Section 6(b) CPSA has been rescheduled for February 11, 1982.

[S–164–82 Filed 2–4–82; 2:11 pm]

BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, February 11, 1982.

LOCATION: Room 456, Westwood Tower, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Open to the public:

1. *Section 6(b) CPSA—Proposed Rule:* The staff will brief the Commission on a proposed rule which would establish the Commission policy and procedure for the public disclosure of information under Section 6(b) of the Consumer Product Safety Act.

2. *Hazard Data Task Force Report:* The Commission will consider a Report of the Hazard Data Task Force. The report addresses issues involving the collection and use of hazard data.

Closed to the Public

3. Enforcement Matters OS 1099: The staff will brief the Commission on issues related to an enforcment matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, DC 20207; Telephone (301) 492–6800.

[S–185–82 Filed 2–4–82; 2:11 pm]

BILLING CODE 6355–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be announced.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11 a.m., February 4, 1982.

CHANGE IN THE MEETING: The following item has been added to the closed meeting of February 4, 1982:

Item, Docket No., and Company

American Electric Power Co. v. *FERC*, D.C. Cir, No. 80–1789.

Kenneth F. Plumb,

Secretary.

[S–186–82 Filed 2–4–82; 2:38 pm]

BILLING CODE 6717–01–M

4

FEDERAL MARITIME COMMISSION:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 5072, February 3, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., February 10, 1982.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

1. Docket No. 79–83: Investigation of Unfiled Agreements in the North Atlantic Trades—Status of Proceeding.

[S–182–82 Filed 2–4–82; 9:37 am]

BILLING CODE 6720–01–M

5

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, February 11, 1982.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Revised policy on sale of loan portfolios.
3. Proposed extension of effective date and revision to Part 721 of the NCUA Rules and Regulations regarding insurance and group purchasing activities.
4. Proposed amendment to Part 747 of the NCUA Rules and Regulations regarding administrative hearings for insolvency proceedings initiated under Sections 120 and 207 of the Federal Credit Union Act.
5. Applications for charters, amendments to charters, bylaw amendments, mergers that may be pending at that time.

RECESS: 10:45 a.m.

* * * * * *

TIME AND DATE: 11 a.m., Thursday, February 11, 1982.

PLACE: Seventh floor board room, 1776 G Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed charter amendment. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Proposed merger. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative adjudication. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
4. Administrative action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Requests for mergers with special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–183–82 Filed 2–4–82; 12:49 pm]

BILLING CODE 7535–01–M

Monday
February 8, 1982

Part II

Environmental Protection Agency

Final Stack Height Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD–FRL 2010–1; Docket No. A–79–01]

Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Section 123 of the Clean Air Act requires EPA to promulgate regulations to assure that the degree of emission limitation required for the control of any air pollutant under an applicable State Implementation Plan (SIP) is not affected by that portion of any stack height which exceeds good engineering practice (GEP) or by any other dispersion technique. Regulations to implement Section 123 were proposed on January 12, 1979 at 44 FR 2608 and reproposed October 7, 1981 at 46 FR 49814. Today's action incorporates changes to the reproposal and finalizes these regulations.

DATE: These rules are effective March 10, 1982.

ADDRESS: Docket A–79–01, containing material relevant to this action, is located in the Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Polkowsky, MD–15, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Telephone: (919) 541–5540.

SUPPLEMENTARY INFORMATION:

Docket Statement

All pertinent information concerning the development of these regulations is included in Docket No. A–79–01. The Docket is open for inspection by the public between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA Central Docket Section, West Tower Lobby, Gallery One, 401 M Street, SW., Washington, D.C. Background documents normally available to the public, such as **Federal Register** notices and Congressional reports, are not included in the docket. A reasonable fee may be charged for copying documents.

I. Background

A. Statute

Section 123 was added to the Clean Air Act by the 1977 Clean Air Act Amendments. It prohibits stacks taller than good engineering practice (GEP) height and other dispersion techniques from affecting the emission limitations required to meet the national ambient air quality standards (NAAQS) or prevention of significant deterioration air quality increments (PSD increments). Section 123 requires EPA to promulgate regulations which define GEP stack height, and which restrict the use of other dispersion techniques, including intermittent or supplemental control techniques. This rulemaking fulfills this requirement. In the near future, EPA also intends to propose rules on the use of intermittent control techniques.

B. Rulemaking

On January 12, 1979 (44 FR 2608), EPA published a notice proposing limitations on stack height credit and other dispersion techniques. The notice proposed specific rules to be used in determining GEP stack height for any source and specific requirements for State Implementation Plan (SIP) revisions. EPA provided an extended period for the submission of public comments on these proposed regulations. EPA held a public hearing on May 31, 1979 followed by a 30-day period for the submission of additional comments (44 FR 24329, April 25, 1979). EPA provided for comments on additional technical information (44 FR 40359, July 11, 1979 and 46 FR 24596, May 1, 1981). Finally, EPA recently reproposed the regulations with changes made in response to the comments received (46 FR 49814, October 7, 1981).

Forty individuals and groups commented on the October 1981 proposal. EPA has considered all comments and has made a number of changes in the regulations in response to these comments. Most of these changes simply clarify the proposed rules. The revisions are outlined in Section IV: "Changes in the Regulations from the October 1981 Proposal." In addition, EPA has prepared a document entitled "Summary of Comments and Responses on the October 7, 1981 Proposal of the Stack Height Regulations." This document has been placed in Docket A–79–01, and, depending upon available supplies, copies may also be obtained from: EPA Library (MD–35), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. A copy of this document will be sent to all persons who submitted comments on the October 1981 proposal.

C. Documents

In conjunction with the regulations, EPA developed several technical and guidance documents. These served as background information for the regulations and all are included in Docket No. A–79–01. The following documents have been placed in the National Technical Information Service (NTIS) system and may be obtained by contacting NTIS at 5285 Port Royal Rd., Springfield, Virginia 22161.

(1) "Guideline for Determination of Good Engineering Practice Stack Height (Technical Support Document for Stack Height Regulations)," July 1981, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, EPA–450/4–80–023. (NTIS PB82 145301)

(2) "Guideline for Use of Fluid Modeling to Determine Good Engineering Practice Stack Height," July 1981, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, EPA–450/4–81–003. (NTIS PB82 145327)

(3) "Guideline for Fluid Modeling of Atmospheric Diffusion," April 1981, U.S. Environmental Protection Agency, Environmental Sciences Research Laboratory, EPA–600/8–81–009. (NTIS PB81 201410)

II. Program Overview

A. The Problem

There are two general methods for preventing violations of the NAAQS and PSD increments. Emission controls reduce, on a continuous basis, the quantity, rate, or concentrations of pollutants released into the atmosphere from a source. In contrast, dispersion techniques rely on the dispersive effects of the atmosphere to carry pollutant emissions away from a source and to prevent high concentrations of pollutants near the source. The Clean Air Act requires pollution sources to meet the NAAQS and PSD increments by complying with emission limitations instead of relying on dispersion techniques.[1] Section 123 defines stack height exceeding GEP as a dispersion technique.

Tall stacks and intermittent or supplemental control systems (ICS or SCS) are the two basic types of dispersion techniques. Tall stacks enhance dispersion by releasing pollutants into the air at elevations high above ground level, increasing the volume of air through which pollutants must travel to reach the ground. Releasing pollutants from a tall stack allows a source to reduce the ambient levels of its pollution as measured at ground level without reducing the amount of pollution it releases. Intermittent and supplemental control systems vary a source's rate of emissions to take advantage of

[1] See Sections 110(a)(2)(B), 123, 302(k), and 302(m) of the Act, 42 U.S.C. 7410(a)(2)(B), 7423, 7602(k), and 7602(m). The Notice of Proposed Rulemaking contains a more detailed discussion of the Act's prohibition of the use of dispersion techniques. See 44 FR 2608–2610.

meteorological conditions. When atmospheric conditions do not favor dispersion and an NAAQS may be violated, the source temporarily reduces its pollutant emissions. When conditions favor rapid dispersion, the source emits pollutants at higher rates.

Use of dispersion techniques instead of constant emission controls can result in additional atmospheric loadings which may contribute to undesirable environmental effects. The use of tall stacks increases the possibility that pollution will travel long distances before it settles to the ground.

Although dispersion techniques may produce adverse effects, some stack height is needed to prevent excessive concentrations of pollutant emissions created by airflow disruptions caused by structures, terrain features, and ground-level meteorological phenomena. These excessive concentrations result from interference with the plume. Section 123 responds to this problem by allowing EPA to give a source credit for that portion of its stack height needed to prevent excessive concentrations near the source. This height is called GEP stack height.

The regulations promulgated today define "excessive concentrations," "nearby," and other important concepts. They also establish methods for determining the GEP stack height for all stationary sources to which these regulations apply.

B. The Program

These regulations do not limit the physical stack height of any source, nor require any specific stack height for any source. Instead, they set limits on the maximum stack height credit to be used in ambient air quality modeling for the purpose of setting an emission limitation and calculating the air quality impact of a source. Sources are modeled at the physical stack height unless that height exceeds their GEP stack height. The regulations apply to all stacks constructed and all dispersion techniques implemented since December 31, 1970.

1. Methods of Determining GEP Stack Height. The regulations establish three basic methods of calculating a source's GEP stack height.

(a) De minimis height—EPA is adopting 65 meters as the minimum GEP stack height for all sources regardless of the size or location of any structures or terrain features. Sixty-five meters represents a reasonable estimate of the height needed to insure that emissions will not be affected by common ground-level meteorological phenomena which may produce excessive pollutant concentrations. Typical causes of these phenomena include surface roughness and the temperature changes caused by the solar heating and terrestrial cooling cycle (see page 26 of the Technical Support Document).

Virtually all significant sources of SO_2 can justify stack height credits greater than 65 meters. Accordingly, this de minimis height will have little effect on atmospheric loadings of sulfur dioxide.

(b) Mathematical Formulas—Excessive concentrations may be produced by downwash, wakes, and eddies caused by structures located near the stack. EPA is adopting two formulas with which to calculate the GEP stack height: One for stacks in existence on January 12, 1979 (the date of publication of EPA original proposed rules), and one for stacks constructed after that date.

For stacks in existence on January 12, 1979, EPA has adopted the traditional engineering formula of two and one-half times the height of the nearby structure ($H_g=2.5H$) as the formula for determining the GEP stack height. For stacks constructed after January 12, 1979, EPA has established a refined formula of the height of the nearby structure plus one and one-half times the height or width of the structure, whichever is less ($H_g=H+1.5L$) as the formula for determining the GEP stack height.

(c) Physical Demonstration—In some cases, a source may need a stack taller than the height predicted by the formulas to prevent excessive concentrations of a pollutant due to downwash, wakes, or eddies created by structures or terrain obstacles. In such cases, Section 123 provides that a source may obtain credit for all of the stack height necessary to avoid excessive concentrations provided it demonstrates to the satisfaction of the reviewing authority that the additional height is necessary.

EPA is requiring such a source to demonstrate that maximum concentrations caused by the source's emissions from its proposed stack height, without consideration of nearby structures or terrain obstacles, will increase by at least 40 percent when the effects of the structures or terrain obstacles are considered. This difference in concentrations must be shown either by a fluid model study conducted in accordance with guidelines published by EPA or by a field study which has been approved by the reviewing authority.

Before a source can obtain credit for a GEP stack height determined by a fluid model or field study demonstration, Section 123(c) requires that the reviewing authority must notify the public of the availability of the source's demonstration study and must provide an opportunity for a public hearing.

2. Method of Adjusting GEP Stack Height for Elevated Terrain Areas. As traditionally defined, plume impaction occurs when a plume emitted from a stack interacts with terrain that is taller than the stack. The contact between the plume and the terrain can produce high pollutant concentrations. EPA is establishing a procedure which will allow sources to adjust their GEP stack height to avoid modeled plume impaction on elevated terrain causing one to predict violations of the NAAQS or applicable PSD increments which will not occur. (This procedure is explained in Section IV.C.) The predicted violations will not occur because the physical stack height is sufficient to ensure that the plume passes over the elevated terrain.

Before a source can obtain credit for a GEP stack height based on allowances for terrain impaction, the reviewing authority must notify the public of the availability of the source's demonstration study and must provide an opportunity for a public hearing.

3. Grandfathered Stack Height. The 1970 Clean Air Act became effective on December 31, 1970. Prior to that date some sources had constructed stacks taller than their GEP height. In Section 123, Congress recognized this and exempted those sources' stack heights. Section 123 allows credit for stack height in existence on December 31, 1970. A source's stack is considered to be "in existence" if that stack was part of the design of a facility on which construction commenced prior to December 31, 1970.

4. Other Dispersion Techniques. The regulations prohibit the use of other dispersion techniques to attain or maintain any NAAQS or protect a PSD increment. Those techniques include major alteration of plume characteristics such as the manipulation of exhaust flow rates or temperatures for the purpose of enhancing plume rise. The regulation defines three types of dispersion techniques: (1) tall stacks, (2) use of ICS or SCS, and (3) addition of a fan or reheater to obtain a less stringent emission limitation. However, the regulations exempt (1) reheating of a gas stream following the use of a pollutant control system, (2) smoke management in agricultural or silvicultural programs, and (3) combining exhaust gases from several stacks into one stack.

III. State Implementation Plan Requirements

EPA is establishing a two-stage process for the implementation of these

regulations. All States must review and revise, as necessary, their SIPs to include provisions that limit stack height credits and dispersion techniques in accordance with these regulations. Section 406(d)(2) of the Clean Air Act Amendments of 1977 requires that these SIP revisions be submitted within nine months of promulgation of these regulations.

After EPA approves a State's stack height rules, the State must review existing limitations to determine whether these limitations have been affected by stack height credit above GEP levels or any other dispersion technique. If so, the State must revise the emission limitations to be consistent with its revised SIP.

IV. Changes in the Regulations From the October 7, 1981 Proposal

EPA has made several changes in the proposed regulations as a result of the public comments on the reproposed regulations. These changes are noted below.

A. Prospective Application of the New GEP Formula

On February 18, 1976 (41 FR 7450), EPA published the "Stack Height Increase Guideline" which provided guidance on its policy for the use of tall stacks. The guideline permitted credit for stacks up to two and one-half times the height of the facility it served. On November 3, 1977, after passage of the Clean Air Act Amendments of 1977, EPA promulgated a final rule on some changes to its prevention of significant deterioration (PSD) program (42 FR 57459). As part of the preamble to that notice, EPA defined GEP as "two and one-half times the height of the source" (2.5H).

On January 12, 1979 (44 FR 2608), EPA proposed regulations to implement Section 123 which refined the two and one-half times rule by defining GEP stack height as the height of a nearby structure plus one and one-half times the lesser of the height or width of the nearby structure (H+1.5L). That proposal and the reproposal of that regulation on October 7, 1981 (46 FR 49814) would have made the new formula retroactive to December 31, 1970.

Four commenters argued that EPA's definition of GEP, until January 12, 1979, had been based on two and one-half times the building height and that sources in good faith had constructed stacks in accordance with that definition. Applying the new formula retroactively would be unfair to those sources. The commenters argued that the new formula should be applied prospectively.

In response to these comments, EPA has developed two formulas for determining GEP stack height: (1) For stacks in existence on January 12, 1979, the formula is $H_g = 2.5H$; (2) for all other stacks, the formula is $H_g = H + 1.5L$.

B. Definition of "in existence"

Section 123 does not affect stack heights "in existence" on December 31, 1970. In October 1981, EPA proposed to define "in existence" to mean that the owner or operator of a stack had obtained all necessary preconstruction permits or approvals required by Federal, State or local air pollution control agencies, and either (1) actually commenced construction, or (2) entered into a binding commitment for construction.

Comments on the reproposed definition stated that this new definition would discriminate unfairly against sources located in the few States or local jurisdictions which required construction permits for air pollution sources in 1970. (There were no Federal permit programs in 1970.) EPA agrees that the reproposed definition might operate unfairly. EPA has deleted the requirement for such approvals or permits in determining whether a source's stack is "in existence" as of December 31, 1970.

However, the regulations now apply the two and one-half times formula for determining GEP only to stacks "in existence" on January 12, 1979. Federal requirements for preconstruction permits for air pollution sources were effective well before 1979. Accordingly, EPA is retaining the permit requirement for sources which want to claim credit for stacks "in existence" as of January 12, 1979. EPA has changed § 51.1(ii), which defines GEP, to require sources wishing to use the two and one-half times formula to show that they had obtained, prior to January 12, 1979, all preconstuction permits required by 40 CFR Parts 51 and 52.

The remaining portions of the definition of "in existence" are identical to the October 1981 proposal.

C. Impaction Credit

Many comments on the January 1979 proposal asked EPA to provide stack height credit for a source which experiences plume impaction. Plume impaction occurs when a plume emitted from a stack interacts with a terrain feature that is taller than the stack. The contact between the plume and the terrain feature can produce high pollutant concentrations, especially under stable atmospheric conditions in which the plume disperses slowly.

EPA decided that sources should receive stack height credit when impaction produces concentrations high enough to violate an NAAQS or applicable PSD increment. EPA included in its October 1981 reproposal a procedure for determining the amount of credit needed to prevent plume impaction.

EPA has received three types of comments on the proposed impaction credit. Environmental groups claimed that Section 123 does not authorize impaction credits. Several industrial commenters asked EPA to clarify the proposed procedures for impaction credits. Finally, some industrial commenters asked EPA to modify a portion of its proposed procedures. To respond to these comments, EPA is presenting below a brief description of its rationale and procedures for impaction credits. EPA is also providing a brief explanation of its reason for declining to make procedural modifications.

(1) Rationale

Plume impaction resembles downwash, wakes, and eddies. In all of these events, structures or terrain features interfere with plume dispersion. If the interference occurs relatively close to the stack, before the plume has had adequate opportunity to disperse, high concentrations of pollutants can occur.

In enacting Section 123, Congress decided that sources should be allowed sufficient stack height credit to prevent high pollutant concentrations caused by downwash, wakes, and eddies. Congress called this height "good engineering practice." Any additional stack height was to be regarded as a dispersion technique that might allow a source to relax its emissions limitations. Section 123 does not mention impaction. However, neither the language of the statute nor the legislative history show that this omission was deliberate. EPA considers impaction to be enough like downwash that the same rationale should apply. GEP stack height should include credit needed to avoid high concentrations caused by impaction. Accordingly, EPA has decided to exercise general rulemaking authority to establish stack height credit needed to prevent high concentrations caused by plume impaction.

EPA recognizes Congress did not want the stack height rules to grant too much credit to sources locating in complex terrain, for "the result could be an open invitation to raise stack heights to unreasonably high elevations." H.R.

Rep. No. 95-294, 95th Cong., 1st Sess. at 93 (1977). Therefore, EPA has carefully tailored impaction credit procedures to provide only the minimum stack height credit needed to avoid high concentrations [2] produced by impaction. These procedures are described in more detail below.

EPA is convinced that its narrowly drawn rules represent a reasonable solution for a plume effect that closely resembles the phenomena of downwash, wakes, and eddies. Credits for plume impaction, when carefully limited, should not be regarded as a dispersion technique. Although the promulgated procedure allows for the use of some stack height to avoid high pollutant concentrations on elevated terrain, it does not permit excessive dispersion credits.

(2) Explanation of Procedures

EPA has developed a three-step procedure for determining the amount of stack height credit appropriate for a source with a predicted impaction concentration violating an NAAQS or applicable PSD increment.

First, a source must determine its downwash GEP height—the amount of stack height that can be justified based on downwash, wakes, or eddies—using any of the three methods described in Section II.B. above. Using this GEP height, the source must show that its plume would come into contact with elevated terrain (defined as terrain taller than this GEP height) and together with background concentrations cause a violation of an NAAQS or applicable PSD increment. If the source cannot show that a violation would occur, it cannot claim any impaction credit. Its stack height credit would be limited to the GEP height already calculated.

If a violation is modeled, the second step is to determine the source's maximum allowable emission limitation. In this step the source would model its air quality impact using the previously determined GEP height and assuming that the terrain feature(s) causing impaction is no taller than its downwash GEP height. Using the appropriate maximum concentration from this modeling scenario, the source would calculate an emission limitation which would become its maximum allowable emission limitation.

The third step allows the source to adjust its GEP stack height to account for the plume impaction on actual terrain features above the downwash GEP stack height. The source cannot adjust its maximum allowable emission limitation. The source would model its air quality impact again, this time using actual terrain elevations, but limiting its emissions to the rate fixed by the emission limitation developed in step two. The source would increase the height of the stack in the model to the height at which the maximum concentration predicted to occur on elevated terrain equaled the maximum concentration predicted to occur in step two. This increased stack height is the source's maximum GEP height to avoid high concentrations due to impaction.

Like the downwash GEP height, this stack height will represent maximum allowable credit. The source would not be able to claim this credit if its physical (actual or proposed) stack height were not as tall as its maximum creditable height. In that case, the source would be able to claim only its physical stack height. A source with physical stack height lower than its allowable GEP height would have to adjust its emission limitation downward to prevent a violation of an NAAQS or applicable PSD increment.

(3) Modification Requested by Commenters

The electric utilities requested that EPA assume, during the Step two modeling, that all terrain features are no taller than ground elevation at the base of the stack or, in other words, that the source is located in absolutely flat terrain. The utilities believe that this assumption is necessary to ensure equity between sources located in elevated terrain and sources in flat terrain.

EPA has decided not to make this change to its procedure. EPA's objective is to provide the minimum stack height credit needed to allow a source to avoid high concentrations caused by plume impaction. A source in assumed flat terrain would obtain a less restrictive emission limitation than a source in terrain assumed to be as tall as its downwash GEP height. The flat terrain assumption would thus allow a source to obtain more stack height credit than needed to prevent impaction. It would also have a greater negative impact on air quality by allowing taller stacks and more relaxed emission limits.

D. Dispersion Technique

EPA received numerous comments on the definition of the term "dispersion technique." Most of these comments stated that wording concerning the enhancement of plume rise was vague. Comments specifically mentioned that many changes in operation or equipment made for engineering purposes, to improve reliability or efficiency, could be construed as a disperison technique. This is not the intent of the definition. EPA has changed the definition of dispersion technique to prevent the addition of a fan or reheater to obtain a less stringent emission limitation. The purpose of this change is to prevent only the installation of equipment clearly intended to enchance plume rise. The new definition should not prevent equipment changes intended to improve reliability and efficiency.

E. Definition of "Stack"

Comments on the January 1979 proposal urged EPA to exempt "flares" from the definition of "stack." EPA agreed that flares, which are designed to dispense heat and vent emissions intermittently for safety purposes, do not serve the same purpose as stacks, which are typically a source's major and most constant emissions point. EPA announced that it would exempt flares from the stack height regulations in the preamble to the October 1981 reproposal. New comments urged EPA to include this exemption in the regulations themselves to eliminate any potential for confusion or misunderstanding. In response to these comments, EPA is incorporating a specific exemption for flares into the definition of "stack."

F. Section 123 and Physical Stack Height

EPA received several comments on the October 1981 reproposal which indicated that the commenters believed that the proposed regulations would give EPA authority to limit a source's actual stack height. EPA did not intend to create this impression. In fact, EPA stated in the preamble to the reproposal that Section 123 expressly prohibits the Agency from limiting physical stack height. Section 123 limits only the theoretical stack height used in determining a source's emission limitation. However, to eliminate this confusion, EPA is adding a statement to §§ 51.12(j) and 51.18(l) of the regulations stating that these regulations do not restrict in any manner the actual height of any stack at any source.

[2] EPA considers "high concentrations" to be a violation of an NAAQS or applicable PSD increment. Unlike "excessive concentrations" caused by downwash, high concentrations caused by plume impaction occur in different meteorological conditions than downwash and are longer in duration. High concentrations due to plume impaction can be compared easily to an NAAQS or applicable PSD increment. Therefore, EPA has required that the concentration caused by plume impaction must be in excess of an NAAQS or applicable PSD increment before a source can adjust its GEP stack height.

G. Measurement of Stack Height

In the proposed definition of a "stack," EPA stated that the "stack height is the distance from the ground-level elevation of the plant to the elevation of the stack outlet." Several commenters requested clarification in the establishing the ground-level elevation of the plant. For instance, the commenters noted that where a plant was built on a slope the regulation could have varying interpretations. Also, some commenters asked whether the entire plant site should be included or just the portion of the plant site considered "nearby" the stack.

EPA is changing the regulations to clarify this point. EPA deleted from the definition of a "stack," the statement defining stack height. However, EPA clarified the methods for determining GEP stack height by stating that all stack and structure heights are measured from the ground-level elevation at the base of the stack.

If a stack is on top of a building, the ground-level elevation of the building is used as the base elevation. In order to appropriately assess the impact of nearby structures on this stack height, the height of structures is also determined relative to the ground-level elevation of the stack.

H. Minor Wording Changes

Several commenters identified typographical errors and areas where minor wording changes could clarify the regulations. These and other wording changes have been made to correct and to clarify the regulations. These changes did not have any significant effect on the regulations.

V. Impact Analysis

EPA has prepared a series of impact analyses on these regulations. These analyses are in Docket A–79–01. The analyses show that the expected "worst-case" national annual costs to fossil-fuel fired power plants should be less than $45 million per year. These costs result from conservative estimates of required purchases of lower sulfur coal and estimates of required retrofit of electrostatic precipitators at some plants which purchase the lower sulfur coal. The worst-case analyses show that the expected reduction in SO_2 emissions is less than 200,000 tons per year. Nationally, these costs could increase electric utility rate charges approximately 0.1 to 0.2 percent. Increases for individual power company rates could range from 0.5 to 30 percent.

VI. Regulatory Flexibility Analysis

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have significant economic impact on a substantial number of small entities. This rule applies only to large sources. The impact assessment predicted that these regulations would not have significant impact on any small entities. Based upon our impact analysis, only electric utility plants and possibly one smelter will be significantly affected by these regulations.

VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it does not result in an annual effect on the economy of $100 million, nor does it result in a major increase in costs or prices for consumers, Federal, State, or local governments or individual industries, including the electric power industry.

VIII. Judicial Review

EPA believes that this rule is based on determinations of nationwide scope and effect. Nothing in Section 123 limits its applicability to a particular locality, State, or region. On the contrary, Section 123 applies to sources wherever located. Because of the rule's national applicability, Section 307(b) (42 U.S.C. 7607(b)) requires that any petition for review of the promulgated rule be filed only in the United States Court of Appeals for the District of Columbia and within 60 days of the date of publication.

(Secs. 110, 123, 301, Clean Air Act as amended (42 U.S.C. 7410, 7423, and 7601)

Dated: January 31, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Part 51 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 51.1 is amended by revising paragraph (z) and by adding paragraphs (ff), (gg), (hh), (ii), (jj), (kk), (ll), and (mm) as follows:

§ 51.1 Definitions.

* * * * *

(z) "Emission limitation" and "emission standard" mean a requirement established by a State, local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

* * * * *

(ff) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(gg) "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

(hh) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or by addition of a fan or reheater to obtain a less stringent emission limitation. The preceding sentence does not include: (1) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; (2) the use of smoke management in agricultural or silvicultural programs; or (3) combining the exhaust gases from several stacks into one stack.

(ii) "Good engineering practice (GEP) stack height" means the greater of:

(1) 65 meters;

(2)(i) For stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under this Parts 51 and 52 of this Title 40, $H_g = 2.5H$

(ii) for all other stacks,

$H_g = H + 1.5L$, where

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension (height or projected width) of nearby structure(s);

(3) The height demonstrated by a fluid model or a field study approved by the

reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain obstacles.

(jj) "Nearby" as used in § 51.1(ii)(2) is that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile). The height of the structure is measured from the ground-level elevation at the base of the stack.

(kk) "Excessive concentrations" for the purpose of determining good engineering practice stack height in a fluid model or field study means a maximum concentration due to downwash wakes, or eddy effects produced by structures or terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(ll) "Plume impaction" means concentrations measured or predicted to occur when the plume interacts with elevated terrain.

(mm) "Elevated terrain" means terrain which exceeds the elevation of the good engineering practice stack as calculated under paragraph (ii) of this section.

2. Section 51.12 is amended by adding paragraphs (j), (k), and (l) as follows:

§ 51.12 Control strategy: General.

* * * * *

(j) The plan must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in § 51.12(k) and (l). The plan must provide that before a State submits to EPA a new or revised emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by § 51.1(ii) (1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This Section does not require the plan to restrict, in any manner, the actual stack height of any source.

(k) The provisions of §§ 51.12(j) and 51.18(l) shall not apply to (1) stack heights in existence, or dispersion techniques implemented prior to December 31, 1970, or (2) coal-fired steam electric generating units, subject to the provisions of Section 118 of the Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

(l) The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards or applicable prevention of significant deterioration increments can be adjusted by determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the GEP stack height as determined in § 51.1(ii) and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted GEP stack height is greater than the stack height the source proposes to use, the source's emission limitation and air quality impact shall be determined using the proposed stack height and the actual terrain heights.

3. Section 51.18 is amended by adding paragraph (l) as follows:

§ 51.18 Review of new sources and modifications.

* * * * *

(l) Such procedures must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in § 51.12(k) and (l). Such procedures must provide that before a State issues a permit to a source based on a good engineering practice stack height that exceeds the height allowed by § 51.1(ii) (1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This section does not require such procedures to restrict, in any manner, the actual stack height of any source.

[FR Doc. 82-3212 Filed 2-5-82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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federal register

Tuesday
February 9, 1982

Highlights

5871 **National Scleroderma Week** Presidential proclamation.

5873 **National Poison Prevention Week, 1982** Presidential proclamation.

5990 **Aliens** Justice/INS and State withdraw transit without visa privilege for Afghan citizens. (2 documents) (Part IV of this issue)

5902 **Income Tax** Treasury/IRS proposes regulations on partial exclusion of dividends and interest from gross income.

5906, 5910 **Occupational Safety and Health** Labor/OSHA solicits comments on safety standards on concrete and masonry construction and on employee exposure to cotton dust. (2 documents)

5928 **Grant Programs—Education of Handicapped** ED seeks applications for noncompeting continuation projects under the Regional Education Programs for Handicapped Persons.

5974 **Juvenile Delinquency** Justice/JJDPO requests comments on proposed priorities for 1982 and proposed "valid court order" regulations. (2 documents) (Part III of this issue)

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

5887 **Housing Standards** HUD/FHC provides states with five year period to obtain full approval of plans for enforcement of manufactured home construction and safety standards.

5939 **New Animal Drugs** HHS/FDA announces availability of draft guidelines on safety evaluations.

5924 **Antidumping** Commerce/ITÅ reopens investigation on certain steel I-beams from Belgium.

5924 **Countervailing Duty** Commerce/ITA issues preliminary negative determination on Spanish potassium permanganate.

5926 **Imports—Textiles** CITA publishes additions to textile category system.

5966 **Deep Seabed Mining** Commerce/NOAA establishes application procedures for deep sea mineral exploration. (Part II of this issue)

5926 **Fishing** Commerce/NOAA adopts policy for marine recreational fisheries and makes report available.

5877 **Canned Applesauce** USDA/AMS revises voluntary U.S. grade standards.

5880 **Canned Celery** USDA/AMS establishes voluntary U.S. grade standards.

5961 **Sunshine Act Meetings**

Separate Parts of This Issue

5966 **Part II, Commerce/NOAA**
5974 **Part III, Justice/JJDPO**
5990 **Part IV, Justice/INS and State**

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Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

Presidential Documents

Title 3—

The President

Proclamation 4895 of February 5, 1982

National Scleroderma Week

By the President of the United States of America

A Proclamation

Scleroderma, a disease that causes hardening of the skin, is a serious connective tissue disorder which affects not only the skin, joints and muscles, but certain internal organs of the body as well. Although the disease can occur at any age, it usually affects several thousands of middle-aged Americans during their productive years and is more prevalent among women than men.

The outlook for victims of scleroderma has improved significantly in recent years. In the past three years, medical researchers have discovered that aggressive treatment with newly-developed antihypertensive drugs succeeds in lowering blood pressure, improving kidney function, and saving lives.

Advances in medical research and education mean that scleroderma patients can now look forward to the opportunity to live more productive and happy lives. Additional research findings and early treatment and diagnoses are vitally needed if we are to eliminate scleroderma and improve the quality of life for its victims.

To increase awareness of scleroderma, recognize progress, and emphasize the need for a continued effort to defeat this disease, the Congress has, by Senate Joint Resolution 57, designated the week of February 7 through February 13, 1982, as National Scleroderma Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of February 7 through February 13, 1982, as National Scleroderma Week. I urge the people of the United States and educational, philanthropic, biomedical research and health care organizations to work together to discover the cause and cure of scleroderma and other rheumatic diseases and to alleviate the suffering caused by these disorders.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of February, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-3511
Filed 2-5-82; 3:58 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4896 of February 5, 1982

National Poison Prevention Week, 1982

By the President of the United States of America

A Proclamation

The pills and medication we use to relieve pain and sickness as well as the products we use in our homes are a boon for the consumer, but they may also be hazardous to the health of our children. Instinctively, very young children place things within reach into their mouths, including household substances which may be poisonous when not used as intended.

The well-being—even the lives—of our children depend on parental care and alertness. Medicines and other household products must be stored out of reach and, preferably, out of sight. Unfortunately, the warning, "KEEP OUT OF REACH OF CHILDREN," has become so commonplace that it is often carelessly ignored. Because children are naturally curious, parents and those responsible for child care must exercise strict supervision and provide the training which can help eliminate cases of accidental poisoning.

Over the years, manufacturers have worked to improve the quality of child-resistant packaging. Local communities have taken the lead in developing programs which stress the use of safety packaging for potentially toxic substances and emphasize the need for their proper storage, handling, and disposal. Poison control centers have streamlined their operations to provide better service to the public by informing consumers of appropriate first aid, improving treatment procedures, and participating in poison prevention programs. Through increased public awareness and cooperation, we can build upon the progress of the past two decades and actually eliminate the serious injuries to our children which result from the abuse of harmful products.

To aid in encouraging the American people to learn of the dangers of accidental poisoning and to take such preventive measures as are warranted, the Congress, by a joint resolution approved September 26, 1961 (75 Stat. 681), requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 21, 1982, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of Feb., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-3512
Filed 2-5-82; 3:59 pm]
Billing code 3195-01-M

EXPLANATORY NOTE

The Bill seeks to amend the Land Acquisition Act, 1894 (1 of 1894) in its application to the Union territories, so as to provide for the payment of solatium in addition to the market value of the land acquired under the said Act.

2. Clause 2 of the Bill seeks to amend section 7 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the market value of the land, the Collector shall also allow an amount calculated at the rate of fifteen per centum on such market value.

3. Clause 3 of the Bill seeks to amend section 23 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

4. Clause 4 of the Bill seeks to amend section 28 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

5. Clause 5 of the Bill seeks to amend section 34 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

6. Clause 6 of the Bill seeks to amend section 54 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

7. Clause 7 of the Bill seeks to amend section 55 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

8. Clause 8 of the Bill seeks to amend section 56 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

9. Clause 9 of the Bill seeks to amend section 57 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

10. Clause 10 of the Bill seeks to amend section 58 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

11. Clause 11 of the Bill seeks to amend section 59 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

12. Clause 12 of the Bill seeks to amend section 60 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

13. Clause 13 of the Bill seeks to amend section 61 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

14. Clause 14 of the Bill seeks to amend section 62 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

15. Clause 15 of the Bill seeks to amend section 63 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

16. Clause 16 of the Bill seeks to amend section 64 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

17. Clause 17 of the Bill seeks to amend section 65 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

18. Clause 18 of the Bill seeks to amend section 66 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

19. Clause 19 of the Bill seeks to amend section 67 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

20. Clause 20 of the Bill seeks to amend section 68 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

21. Clause 21 of the Bill seeks to amend section 69 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

22. Clause 22 of the Bill seeks to amend section 70 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

23. Clause 23 of the Bill seeks to amend section 71 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

24. Clause 24 of the Bill seeks to amend section 72 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

25. Clause 25 of the Bill seeks to amend section 73 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

26. Clause 26 of the Bill seeks to amend section 74 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

27. Clause 27 of the Bill seeks to amend section 75 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

28. Clause 28 of the Bill seeks to amend section 76 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

29. Clause 29 of the Bill seeks to amend section 77 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

30. Clause 30 of the Bill seeks to amend section 78 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

31. Clause 31 of the Bill seeks to amend section 79 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

32. Clause 32 of the Bill seeks to amend section 80 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

33. Clause 33 of the Bill seeks to amend section 81 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

34. Clause 34 of the Bill seeks to amend section 82 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

35. Clause 35 of the Bill seeks to amend section 83 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

36. Clause 36 of the Bill seeks to amend section 84 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

37. Clause 37 of the Bill seeks to amend section 85 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

38. Clause 38 of the Bill seeks to amend section 86 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

39. Clause 39 of the Bill seeks to amend section 87 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

40. Clause 40 of the Bill seeks to amend section 88 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

41. Clause 41 of the Bill seeks to amend section 89 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

42. Clause 42 of the Bill seeks to amend section 90 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

43. Clause 43 of the Bill seeks to amend section 91 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

44. Clause 44 of the Bill seeks to amend section 92 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

45. Clause 45 of the Bill seeks to amend section 93 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

46. Clause 46 of the Bill seeks to amend section 94 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

47. Clause 47 of the Bill seeks to amend section 95 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

48. Clause 48 of the Bill seeks to amend section 96 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

49. Clause 49 of the Bill seeks to amend section 97 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

50. Clause 50 of the Bill seeks to amend section 98 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

51. Clause 51 of the Bill seeks to amend section 99 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

52. Clause 52 of the Bill seeks to amend section 100 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

53. Clause 53 of the Bill seeks to amend section 101 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

54. Clause 54 of the Bill seeks to amend section 102 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

55. Clause 55 of the Bill seeks to amend section 103 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

56. Clause 56 of the Bill seeks to amend section 104 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

57. Clause 57 of the Bill seeks to amend section 105 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

58. Clause 58 of the Bill seeks to amend section 106 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

59. Clause 59 of the Bill seeks to amend section 107 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

60. Clause 60 of the Bill seeks to amend section 108 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

61. Clause 61 of the Bill seeks to amend section 109 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

62. Clause 62 of the Bill seeks to amend section 110 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

63. Clause 63 of the Bill seeks to amend section 111 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

64. Clause 64 of the Bill seeks to amend section 112 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

65. Clause 65 of the Bill seeks to amend section 113 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

66. Clause 66 of the Bill seeks to amend section 114 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

67. Clause 67 of the Bill seeks to amend section 115 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

68. Clause 68 of the Bill seeks to amend section 116 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

69. Clause 69 of the Bill seeks to amend section 117 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

70. Clause 70 of the Bill seeks to amend section 118 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

71. Clause 71 of the Bill seeks to amend section 119 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

72. Clause 72 of the Bill seeks to amend section 120 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

73. Clause 73 of the Bill seeks to amend section 121 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

74. Clause 74 of the Bill seeks to amend section 122 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

75. Clause 75 of the Bill seeks to amend section 123 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

76. Clause 76 of the Bill seeks to amend section 124 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

77. Clause 77 of the Bill seeks to amend section 125 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

78. Clause 78 of the Bill seeks to amend section 126 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

79. Clause 79 of the Bill seeks to amend section 127 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

80. Clause 80 of the Bill seeks to amend section 128 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

81. Clause 81 of the Bill seeks to amend section 129 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

82. Clause 82 of the Bill seeks to amend section 130 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

83. Clause 83 of the Bill seeks to amend section 131 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

84. Clause 84 of the Bill seeks to amend section 132 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

85. Clause 85 of the Bill seeks to amend section 133 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

86. Clause 86 of the Bill seeks to amend section 134 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

87. Clause 87 of the Bill seeks to amend section 135 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

88. Clause 88 of the Bill seeks to amend section 136 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

89. Clause 89 of the Bill seeks to amend section 137 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

90. Clause 90 of the Bill seeks to amend section 138 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

91. Clause 91 of the Bill seeks to amend section 139 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

92. Clause 92 of the Bill seeks to amend section 140 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

93. Clause 93 of the Bill seeks to amend section 141 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

94. Clause 94 of the Bill seeks to amend section 142 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

95. Clause 95 of the Bill seeks to amend section 143 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

96. Clause 96 of the Bill seeks to amend section 144 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

97. Clause 97 of the Bill seeks to amend section 145 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

98. Clause 98 of the Bill seeks to amend section 146 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

99. Clause 99 of the Bill seeks to amend section 147 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

100. Clause 100 of the Bill seeks to amend section 148 of the Land Acquisition Act, 1894 (1 of 1894) so as to provide that in addition to the matters referred to in that section, the Court shall also take into consideration the amount of solatium payable under section 7 as amended by clause 2 of the Bill.

Rules and Regulations

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Apple Juice [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Apple Juice. This rule was developed by the U.S. Department of Agriculture (USDA) at the request of the processed apple industry. This rule will: (1) provide uniform descriptive terms for the quality factors of color and flavor; (2) provide a separate defect requirement for Style I and Style II apple juice in Grade A; (3) change the minimum Brix requirement for Grade A; (4) replace dual grade nomenclature with single letter grade designations; and (5) change the format of the grade standards. This revision will improve the standards and promote efficient and orderly marketing.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Romeo V. Villaluz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–6247.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

The processed apple industry, through the Processed Apples Institute, Inc. (PAI), has requested USDA to revise the voluntary U.S. Standards for Grades of Canned Apple Juice. These standards were last revised in 1971.

This final rule will update the grade standards for canned apple juice to meet industry and consumer demands. This rule contains three changes requested by PAI as well as two other changes which are needed to make the standards more effective.

The first change will provide uniform descriptive terms for the quality factors of color and flavor. This action will change the terms "very good" color and "very good" flavor for Grade A to "good" color and "good" flavor. And for Grade A, Style II, Cloudy, the term "hazy" will be changed to "cloudy." This action will also change the terms "good" color and "good" flavor for Grade B to "reasonably good" color and "reasonably good" flavor. These descriptive terms are in line with the terms used in other U.S. grade standards, and this change will not affect the quality requirements.

Secondly, this action will provide separate defect requirements for Style I, Clear and Style II, Cloudy in Grade A apple juice. The defect requirements for Grade A canned apple juice in Style I and Style II in the current standards allow a slight amount of sediment or residue of an amorphous nature. This action will provide that Style I canned apple juice may possess a slight amount of sediment or residue of an amorphous nature and Style II may possess a moderate amount of sediment or residue of an amorphous nature.

The third change will reduce the minimum Brix requirement for Grade A from 11.5 degrees Brix to 11.0 degrees Brix. The various reasons warranting this change include differences in growing conditions in various parts of the country, increased use of more varieties of apples in the manufacture of canned apple juice, consumer preference for a less sweet product, and different processing techniques.

The fourth change will implement the current policy of replacing dual grade nomenclature with single letter designations. Under this action, "U.S. Grade A" or "U.S. Fancy," and "U.S. Grade B" or "U.S. Choice" will become simply "U.S. Grade A" and "U.S. Grade B." Finally, this rule will change the format of the grade standards to make them simple and easy to read.

This action is in concurrence with the recommendations and information submitted by the PAI.

Comments: The proposed rule to revise the voluntary grade standards for canned apple juice was published in the **Federal Register** on September 1, 1981 (46 FR 43836–43838). A total of twenty-three comments were received. The Processed Apples Institute, Inc., a national organization consisting of twenty-five apple processors, fully endorsed the revision of the U.S. Standards for Grades of Canned Apple Juice. Two food products brokers and dealers expressed strong support for the revision of these standards. An assistant professor of food science from Cornell University, Ithaca, New York, fully endorsed the revision of these standards, stating that these changes are in line with goals for uniform product grading and product description. One consumer fully endorsed the revision of these standards.

A college professor from the College of Agriculture at the University of Maryland, commented on the wording in the product description. Consequently,

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

editorial changes in the product description have been made to clarify its meaning. The statement under the product description—"No water may be added directly to the finished food," is not intended to prevent the production of apple juice using new juice extraction technology. A Food and Drug Administration (FDA) official commented on the use of a refractometer as the official Brix measuring device. A Brix hydrometer may be used only as an alternate when a refractometer is not available.

Some Agricultural Commodity Graders (ACG's), representing U.S. Department of Agriculture personnel responsible for grading processed fruits and vegetables also endorsed the revision of these standards with some comments for minor editorial changes. Other ACG's have some reservations about the lower Brix requirement for Grade A, stating it may have an effect on flavor. A lower soluble solids (Brix) content does not have a significant effect on flavor. The restoration of natural volatile apple juice components (apple essence) combined with a good sugar-acid balance, is necessary for a good apple juice flavor.

Two companies and one grower's association from the northwest expressed their opposition to the lower Brix requirement, stating that northwest apples when picked and stored have a Brix average of 12.5 degrees Brix or higher. The Brix requirements provided for in these standards are the minimum requirements for each grade. Lowering the Brix requirement in Grade A by half a degree Brix will accommodate apple processors using varieties that have a lower soluble solids compared with other varieties processed in other parts of the country.

Some editorial changes have been made in the final publication to clarify the standards.

In consideration of the foregoing, Subpart—United States Standards for Grades of Canned Apple Juice (7 CFR 52.301 through 52.312) are hereby revised to read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Apple Juice

Sec.

52.301 Product description.
52.302 Styles of canned apple juice.
52.303 Definitions of terms.
52.304 Grades.
52.305 Fill of container.
52.306 Determining the grade.
52.307 Determining the rating for each factor.
52.308 Requirements for grades.
52.309 Determining the grade of a lot.
52.310 Score sheet for canned apple juice.
52.311 [Reserved].
52.312 [Reserved].

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

Subpart—United States Standards for Grades of Canned Apple Juice

§ 52.301 Product description.

(a) Canned apple juice is the unfermented juice obtained from sound, ripe apples, with or without parts. Concentrated apple juice may be added, provided that any added apple juice concentrate shall not contribute more than one-fourth of the total apple juice solids in the finished apple juice. No water may be added directly to the finished food. Natural volatile apple juice components (apple essence) may be restored to a level that provides a natural apple juice flavor.

(b) The apple juice may be processed with or without the addition of antioxidants and is sufficiently processed to assure preservation of the product in hermetically sealed containers.

§ 52.302 Styles of canned apple juice.

(a) Style I, Clear—typical of clarified apple juice.

(b) Style II, Cloudy—typical of non-clarified apple juice, but not a crushed or disintegrated apple product.

§ 52.303 Definitions of terms.

(a) *Absence of defects* means the degree of freedom from sediment or other residue, dark specks, particles of seeds, coarse particles of pulp, or other defects.

(b) *Acid* means grams of acid, calculated as malic acid, per 100 g of apple juice determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

(c) *Brix* means the percent, by weight, of natural apple soluble solids in the apple juice, corrected to 20° C (68° F).

(d) *Color* means the apple juice is typical of freshly pressed juice.

(e) *Flavor* means the degree of excellence and palatability of the apple juice with a distinct flavor and aroma typical of apple juice that has been properly processed.

§ 52.304 Grades.

(a) *U.S. Grade A* is the quality of canned apple juice that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned apple juice that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of canned apple juice that fails to meet the requirements for U.S. Grade B.

§ 52.305 Fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container is not a factor of quality for the purposes of these standards. It is recommended that each container be filled as full as practicable with apple juice and that the product occupies at least 90 percent of the volume of the container.

§ 52.306 Determining the grade.

(a) The grade of canned apple juice is determined by considering the requirements of each grade with respect to the factors of color, absence of defects, and flavor.

(b) The relative importance of each factor is expressed numerically on the scale of 0 to 100 points. The maximum number of points that may be given each factor is:

Factors	Points
Color	20
Absence of defects	20
Flavor	60
Total score	100

§ 52.307 Determining the rating for each factor.

The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.308 Requirements for grades.

TABLE I.—STYLE I, CLEAR

Factors	Grade A	Grade B
Color	Good (bright, sparkling)	Reasonably good (slightly translucent)
Score points	18–20	16–17
Absence of defects:		
Amorphous sediment or residue	Slight	Moderate
Nonamorphous sediment or residue, dark specks	Trace	Moderate
Particles of seeds, pulp or other defects	None	Slight
Score points	18–20	16–17
Flavor	Good	Reasonably good
Score points	54–60	48–53

TABLE I.—STYLE I, CLEAR—Continued

Factors	Grade A	Grade B
Total score	90–100	80–89
Analytical:		
Brix:		
Minimum (degrees)	11.0	10.5
Acid: (calculated as malic)		
Minimum (g/100 g)	0.24	0.19
Maximum (g/100 g)	0.67	0.77

TABLE II.—STYLE II, CLOUDY

Factors	Grade A	Grade B
Color	Good (slightly translucent to definitely cloudy)	Reasonably good (typical but not off-color)
Score points	18–20	16–17
Absence of defects:		
Amorphous and non-amorphous sediment or residue	Normal	Normal
Dark specks	Trace	Moderate
Particles of seeds, coarse particles of pulp or other defects	None	Slight
Score points	18–20	16–17
Flavor	Good	Reasonably good
Score points	54–60	48–53
Total score	90–100	80–89
Analytical:		
Brix:		
Minimum (degrees)	11.0	10.5
Acid: (calculated as malic)		
Minimum (g/100 g)	0.24	0.19
Maximum (g/100 g)	0.67	0.77

§ 52.309 Determining the grade of a lot.

The grade of a lot of canned apple juice covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.310 Score sheet for canned apple juice.

Size and kind of container .....
Container mark or identification .....
Label .....
Liquid measure (fl. oz and/or ml) .....
Vacuum (in inches) .....
Brix (degrees) .....
Acid (malic: g/100 g) .....

Factors		Score points	
Color	20	(A)	18–20
		(B) [1]	16–17
		(SSTD) [2]	0–15
Absence of defects	20	(A)	18–20
		(B) [1]	16–17
		(SSTD) [2]	0–15
Flavor	60	(A)	54–60
		(B) [1]	48–53
		(SSTD) [2]	0–47
Total score	100		
Grade			

[1] May not be graded above Grade B.
[2] May not be graded above Substandard.

§§ 52.311 and 52.312 [Reserved]

Done at Washington, D.C. on February 3, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-3302 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 52

United States Standards for Grades of Canned Applesauce [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Applesauce. This final rule was developed by the U.S. Department of Agriculture (USDA) at the request of the processed apple industry. This final rule will: (1) Provide uniform descriptive terms used for the quality factors of color and finish; (2) change the minimum Brix requirement for Grade A in sweetened style; (3) replace dual grade nomenclature with single letter grade designations; and (4) change the format of the grade standards. Its effect will be to improve the standards and promote efficient and orderly marketing.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Romeo V. Villaluz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–6247.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

The U.S. Standards for Grades of Canned Applesauce were last revised in 1974. The revision was made to bring the grade standards in line with the Food and Drug Administration Standards of Identity for Canned Applesauce and the Codex Alimentarius Recommended International Standards for Canned Applesauce.

Recently, the Processed Apples Institute, Inc. (PAI), a national organization consisting of twenty-five apple processors, requested the USDA to revise the voluntary grade standards for canned applesauce. This rule includes two changes requested by PAI as well as two other changes which are needed to make the standards more effective.

The first change will provide uniform descriptive terms for the quality factors of "color" and "finish." This action will change the term "fairly bright" color for artificially colored applesauce in Grade B to "reasonably bright" color and will change the term "fairly good" finish for Grade B applesauce to "reasonably good" finish. These descriptive terms are in line with terms used in other U.S. grade standards, and this change will not affect the quality requirements.

Secondly, this final rule will reduce the minimum Brix requirement for Grade A in sweetened applesauce from 16.5 degrees Brix to 15.5 degrees Brix. The various reasons warranting this change include differences in growing conditions in various parts of the country, increased use of more varieties of apples in the manufacture of canned applesauce, consumer preference for a less sweet product, and different processing techniques.

The third change will implement the current policy of replacing dual grade nomenclature with single letter grade designations. Under this rule, "U.S. Grade A" or "U.S. Fancy," and "U.S. Grade B" or "U.S. Choice" will become simply "U.S. Grade A" and "U.S. Grade B." Finally, this rule will change the format of the grade standards to make them simple and easy to read.

This action is in concurrence with the

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

recommendations and information submitted by the PAI.

COMMENTS: The proposed rule to revise the voluntary grade standards for canned applesauce was published in the Federal Register on September 1, 1981 (46 FR 43838–43840). A total of twenty comments were received. The Processed Apples Institute, Inc., a national organization consisting of twenty-five apple processors fully endorsed the revision of these standards. Agricultural Commodity Graders (ACG's), representing U.S.D.A. personnel responsible in grading processed fruits and vegetables also endorsed the revision of these standards with some comments for minor editorial changes. One consumer fully endorsed the revision of the U.S. Standards for Grades of Canned Applesauce. An assistant professor of food science from Cornell University, Ithaca, New York, fully endorsed the revision of these standards, stating that these changes are in line with goals for uniform product grading and product description. A food products broker and dealer expressed strong support for a revision of these standards. Two companies from the northwest expressed their opposition to lowering the Brix requirement, stating that lowering the Brix requirement may result in the utilization of less fresh product. The change in lower Brix requirement for canned applesauce is only in Grade A sweetened type. There is no change made in the unsweetened type. Therefore, the revision will address the use of less sweeteners—not the use of less apple materials.

Some editorial changes have been made in the final publication to clarify the standards.

In consideration of the foregoing, Subpart—United States Standards for Grades of Canned Applesauce (7 CFR 52.331 through 52.349) are hereby revised to read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

* * * * *

Subpart—United States Standards for Grades of Canned Applesauce

Sec.

52.331 Identity.
52.332 Color types.
52.333 Flavor types.
52.334 Types of pack.
52.335 Styles.
52.336 Definitions of terms.
52.337 Grades.
52.338 Fill of container.
52.339 Recommended sample unit size.
52.340 Determining the grade.
52.341 Determining the rating for each factor.
52.342 Requirements for grades.
52.343 Soluble solids determination.
52.344 Determining the grade of a lot.
52.345 Score sheet for canned applesauce.
52.346 through 52.349 [Reserved]

Authority: Agricultural Marketing Act of 1946, Secs 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

§ 52.331 Identity.

"Canned applesauce" is the product represented as defined in the Standards of Identity for Canned Applesauce (21 CFR 145.110) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

§ 52.332 Color types.

(a) *Natural Color.* (1) Canned applesauce in which the color of the finished product is derived wholly from the apple ingredient.

(2) When a spice or spices have been added, consideration is given to the color, if any, imparted by the added spice or spices.

(b) *Artificially colored.* Canned applesauce in which the color of the finished product is derived from an artificial coloring substance as permitted in the Federal Food and Drug definitions and Standards of Identity.

§ 52.333 Flavor types.

(a) *Natural flavor.* Natural flavor canned applesauce is the product in which the flavor is derived from the apple ingredient and other permitted additives exclusive of flavorings or spices.

(b) *Flavored.* Flavored canned applesauce is the product in which the flavor is derived substantially from an added flavoring ingredient, including artificial flavorings.

(c) *Spiced.* Spiced canned applesauce is the product in which the flavor is derived substantially from the added spice or spices.

§ 52.334 Types of pack.

(a) *Unsweetened.* Canned applesauce prepared without the addition of nutritive carbohydrate sweeteners. The product shall test not less than 9 degrees Brix.

(b) *Sweetened.* Canned applesauce with nutritive carbohydrate sweeteners added.

§ 52.335 Styles.

(a) *Regular (or comminuted).* Canned applesauce in which the apple ingredient has been comminuted into granular particles.

(b) *Chunk (or chunky).* Canned applesauce in which the apple ingredient has been chopped into small pieces.

§ 52.336 Definitions of terms.

(a) *Absence of defects* means the degree of freedom from particles of seeds, discolored apple particles, peel, carpel tissue, stamens, and other objectionable particles.

(b) *Brix* means the percent, by weight, of natural apple soluble solids and added sweetener, if any, corrected to 20° C (68° F).

(c) *Carpel tissue* means the tough, sometimes hard and sharp tissue from the center portion (core) of the apple surrounding the seed cavity.

(d) *Color* means the color typical of the variety or varieties used in other than "spice flavored" or "artificially colored."

(e) *Consistency* means the flow characteristic of the product and the degree of separation of free liquid.

(f) *Discolored apple particles* mean apple particles that are discolored by bruise or other means to the extent that they do not blend well with the normal color of the product and are noticeable.

(g) *Finish* means the following: the texture and tenderness of the apple particles; the evenness of the division of apple particles in regular (or comminuted) style; and the proportion of chunks or pieces of apples in relation to fine apple particles in chunk (or chunky) style.

(h) *Flavor* means the degree of excellence of the natural flavor and aroma of the apple ingredient; the apparent relationship of the acidity to sweetness; the freedom from undesirable flavors; and with respect to flavored and spiced types, the flavor balance of the apple ingredient in relation to the added flavor of spice ingredient(s).

(i) *Peel* means apple peel that does not blend well with the normal color of the product and is noticeable or that is tough whether or not it is visually noticeable.

(j) *Seed particles* mean whole seeds or pieces of seed and portion of the core of the apple.

(k) *Stamen* means the dark hairlike substance from the blossom end of the apple.

§ 52.337 Grades.

(a) *U.S. Grade A* is the quality of canned applesauce that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned applesauce that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of canned applesauce that fails to meet the requirements for U.S. Grade B.

§ 52.338 Fill of container.

The fill of container is not incorporated in the grades of the finished product, since fill of container is not a factor of quality for the purposes of these standards. The standard of fill of container as specified in the Standard of Fill of Container for Canned Applesauce (21 CFR 145.110(c)) issued under the Federal Food, Drug, and Cosmetic Act, is a fill of not less than 90 percent of the total capacity of the containers (21 CFR 130.12(b)); except that in the case of glass containers having a total capacity of 192 ml (6.5 fl oz) or less, the fill is not less than 85 percent.

§ 52.339 Recommended sample unit size.

The sample unit size for evaluating the factors of absence of defects and consistency is the amount of applesauce required to fill level full a cylinder measuring 7.6 cm (3 in) inside diameter and 8.3 cm (3.25 in) high.

§ 52.340 Determining the grade.

(a) The grade of canned applesauce is determined by considering the respective ratings for the factors of color, consistency, absence of defects, finish, and flavor.

(b) The relative importance of each factor that is scored is expressed numerically on the scale of 0 to 100 points. The maximum number of points that may be given each factor is:

Factors	Points
Color	20
Consistency	20
Absence of defects	20
Finish	20
Flavor	20
Total score	100

§ 52.341 Determining the rating for each factor.

The essential variations within each factor that is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "18 to 20 points" means, 18, 19, or 20 points).

§ 52.342 Requirements for grades.

TABLE I.—REGULAR (OR COMMINUTED)

Factors	Grade A	Grade B
Color:		
Natural	Bright, practically uniform, typical of variety or varieties used, no discoloration due to oxidation or scorching.	Dull, reasonably uniform, typical of variety or varieties used. Slightly brown, slightly pink or slightly grey.
Spice flavored	Characteristic of the color imparted by added spice, free from discoloration due to oxidation or scorching.	The color imparted by added spice may be slightly affected by pink or gray color, but is not off color.
Artificially colored	Bright and distinct	Reasonably bright and distinct.
Score points	18 to 20	16 to 17.
Consistency:		
Product flow	Not more than 6.5 cm (2.5 in)	Not more than 8.5 cm (3.3 in).
Free liquid	Not more than 0.7 cm (0.3 in)	Not more than 1 cm (0.4 in).
Score points	18 to 20	16 to 17.
Absence of defects:		
Dark Stamens	Not more than 3	Not more than 5.
Seed particles, peel, discolored apple particles, carpel tissue.	Not more than 0.5 cm^2 (0.08 in^2) total but	Not more than 1.0 cm^2 (0.16 in^2) total but
Medium and dark colored particles.	Not more than 0.25 cm^2 (0.04 in^2)	Not more than 0.5 cm^2 (0.08 in^2).
Score points	18 to 20	16 to 17.
Finish	Evenly divided, not lumpy, pasty, or salvy	Evenly divided, slightly salvy or pasty.
Score points	18 to 20	16 to 17.
Flavor	Good natural sugar-acid balance	Reasonably good natural sugar-acid balance.
Unsweetened	Slightly tart or slightly bland. Free from astringent flavor	Moderately tart, may be bland, slightly astringent flavor.
Sweetened	Slightly tart to sweet. Free from astringent flavor	May be tart, not excessively sweet, slightly astringent.
Spice flavored	Flavor is distinct and characteristic of the added spice(s) or flavoring(s) but not strong.	Flavor derived from added flavoring(s) or spice(s) may be slightly weak or strong but not objectionable.
Score points	18 to 20	16 to 17.
Total score	90 to 100	80 to 89
Analytical:		
Brix unsweetened	Not less than 9.0 degrees	Not less than 8.0 degrees.
Brix sweetened	Not less than 15.5 degrees	Not less than 14.5 degrees.

TABLE II.—CHUNK (OR CHUNKY)

Factors	Grade A	Grade B
Color:		
Natural	Bright, practically uniform, typical of variety or varieties used. No discoloration due to oxidation or scorching.	Dull, reasonably uniform, typical of variety or varieties used. Slightly brown, slightly pink or slightly grey.
Spice flavored	Characteristic of the color imparted by added spice, free from discoloration due to oxidation or scorching.	The color imparted by added spice may be slightly affected by pink or grey color, but is not off color.
Artifically colored	Bright and distinct	Reasonably bright and distinct.
Score points	18 to 20	16 to 17.
Consistency:		
Product flow	Not more than 7.5 cm (2.95 in)	Not more than 9.5 cm (3.75 in)
Free liquid	Slight amount	Moderate amount.
Score points	18 to 20	16 to 17.
Absence of defects:		
Dark stamens	Not more than 3	Not more than 5.
Seed particles, peel, discolored apple particles, carpel tissue.	Not more than 0.5 cm^2 (0.08 in^2) total but	Not more than 1 cm^2 (0.16 in^2) total but
Medium and dark colored particles.	Not more than 0.25 cm^2 (0.04 in^2)	Not more than 0.5 cm^2 (0.08 in^2).
Score points	18 to 20	16 to 17.

TABLE II.—CHUNK (OR CHUNKY)—Continued

Factors	Grade A	Grade B
Finish	High proportion of apple chunks. Any fine apple particles present, do not more than moderately affect the appearance or eating quality of the product.	Fairly high proportion of apple chunks. Any fine apple particles present do not seriously affect the appearance or eating quality of the product.
Score points	18 to 20	16 to 17.
Flavor	Good natural sugar-acid balance	Reasonably good natural sugar-acid balance.
Unsweetened	Slightly tart or slightly bland. Free from astringent flavor	Moderately tart, may be bland, slightly astringent flavor.
Sweetened	Slightly tart to sweet, free from astringent flavor	May be tart, not excessively sweet, slightly astringent.
Spice flavored	Flavor is distinct and characteristic of the added spice(s) or flavoring(s) but not strong.	Flavor derived from added flavoring(s) or spice(s) may be slightly weak or strong but not objectionable.
Score points	18 to 20	16 to 17.
Total score	90 to 100	80 to 89.
Analytical:		
Brix unsweetened	Not less than 9.0 degrees	Not less than 9.0 degrees.
Brix sweetened	Not less than 15.5 degrees	Not less than 14.5 degrees.

§ 52.343 Soluble solids determination.

The soluble solids content of canned applesauce is the soluble solids as determined by the refractometric method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," except that no correction is made for water-insoluble solids. The soluble solids is expressed as "degrees Brix".

§ 52.344 Determining the grade of a lot.

The grade of a lot of canned applesauce covered by these standards is determined by the procedures set forth in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.345 Score sheet for canned applesauce.

Size and kind of container
Container mark or identification
Label
Net weight (oz or g or kg)
Brix (degrees)
Style
Vacuum (in inches)

Factors	Score points	
Color	20	(A) 18 to 20. (B)[1] 16 to 17. (SSTd)[2] 0 to 15.
Consistency	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Absence of defects	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Finish	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Flavor	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Total	100	
Grade		

[1] May not be graded above Grade B.
[2] May not be graded above Substandard.

§§ 52.346 Through 52.349 [Reserved]

Done at Washington, D.C., on: February 3, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-3388 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 52

United States Standards for Grades of Canned Celery [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to establish voluntary U.S. Standards for Grades of Canned Celery. The final rule was developed by the U.S. Department of Agriculture (USDA) at the request of the Florida celery industry. This final rule will promote orderly and efficient marketing.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6193.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

Currently, there are no U.S. grade standards for canned celery. The USDA was petitioned by the Florida celery industry to develop grade standards for canned celery. The grade standards will be based on a numerical score point system (0-100 points) of quality grading, similar to the system used for many other fruit and vegetable items.

These standards will provide incentive for using fresh celery which is customarily wasted. The main sources of this celery are surplus acreage and edible portions which are lost during sorting for the fresh market.

The grade standards will expedite purchasing canned celery for school lunch programs. The standards provide for two (2) types of pack—acidified and brine cooked. The acidified celery is used mainly in salads and other similar items, while the brine cooked is used mainly in the formulation of soups, vegetable mixes, and casseroles.

There will be three (3) styles of canned celery—sliced (cut), diced, and chopped. The grade standards specify two (2) quality levels—U.S. Grade A and U.S. Grade B—because available data indicate two quality levels are needed in marketing canned celery.

The factors of quality for canned celery in the standards are: similar varietal characteristics; brightness; flavor and odor; color; character (e.g., uniformity of texture and freedom from coarseness, stringiness, or toughness); and defects (e.g., freedom from blemishes, basal portions, extraneous

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

vegetable material, celery leaf material, and mechanical damage).

The standards will provide canners and commercial users with uniform guidelines for marketing canned celery.

COMMENTS: The proposed rule to establish voluntary grade standards for canned celery was published in the **Federal Register** on August 21, 1981 (46 FR 42487–42489). Three comments were received. One comment came from the Florida Celery Exchange and another comment came from a celery processor in Florida. Both parties fully endorsed the adoption of the grade standards as proposed. The third comment came from a community college in Colorado stating that they did not have enough information concerning overall quality of canned celery. This third comment did not, however, address the proposed grade standards for canned celery as published in the **Federal Register.**

It is found that good cause exists for making this document effective upon publication in the **Federal Register** (5 U.S.C. 553) since there were no adverse comments to the proposed rule. It is further found that postponing the effective date of this final rule would serve no useful purpose to the celery industry and the consuming public.

Minor editorial changes in the text were made for clarification purposes.

After review of the comments received and in order to promote the orderly and efficient marketing of canned celery, USDA hereby establishes U.S. Standards for Grades of Canned Celery, to be codified as 7 CFR 52.6571 through 52.6582. The Table of Contents will read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

* * * * *

Subpart—United States Standards for Grades of Canned Celery

Sec.
52.6571 Product description.
52.6572 Types of pack.
52.6573 Styles.
52.6574 Definitions of terms.
52.6575 Recommended fill of container.
52.6576 [Reserved].
52.6577 Recommended sample unit size.
52.6578 Grades.
52.6579 Factors of quality.
52.6580 Requirements for grades.
52.6581 Sample size.
52.6582 Lot quality requirements.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

Subpart—United States Standards for Grades of Canned Celery

§ 52.6571 Product description.

Canned celery is the product represented as defined in the applicable Standards of Identity for Certain Other Canned Vegetables (21 CFR 155.200) issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.6572 Types of pack.

(a) Canned salad celery (acidified).
(b) Canned cooked celery.

§ 52.6573 Styles.

(a) *Diced* means canned celery consisting of stalks that have been cut into approximately cube-shaped units.

(b) *Sliced or cut* means canned celery consisting of stalks that are cut transversely into units approximately 19 mm (3/4 in) or less in length. Sliced may be one of the following sub-styles:

(1) *Straight cut* means canned celery stalks that are cut at approximately right angles to the length of the stalk.

(2) *Bias cut* means canned celery stalks that are cut at approximately 45° angle to the length of the stalk.

(c) *Chopped* means canned celery consisting of stalks that have been randomly chopped into units of varying sizes and shapes.

§ 52.6574 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Basal portion* means the objectionable, fibrous material from the base of the celery plant or roots from below the base of the celery plant which affect the appearance or eating quality.

(b) *Blemished* means any unit of celery which is affected internally or externally by discoloration, insect injury, pathological damage or any other cause to the extent that the appearance or eating quality is affected:

(1) Materially; or
(2) Seriously.

(c) *Brightness* means the extent that the overall appearance of the sample unit as a mass is affected by dullness from improper processing or any other cause.

(1) Canned celery which has a good characteristic bright appearance typical of the type of pack may be assigned a score of 18 to 20 points.

(2) Canned celery which has a reasonably good characteristic bright appearance typical of the type of pack may be assigned a score of 16 or 17 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Canned celery that fails to meet the requirements for reasonably good characteristic bright appearance may be assigned a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product.

(d) *Character* refers to the uniformity of texture and freedom from coarseness, stringiness, or toughness, with consideration given to the type of pack.

(1) *Canned salad celery.* (i) *Good character* means celery which is uniform in texture, and is practically free from coarse, stringy, or tough units. The celery units are crisp and firm. Canned salad celery which has a good character may be assigned a score of 27 to 30 points.

(ii) *Reasonably good character* means celery which lacks uniformity in texture, and is reasonably free from coarse, stringy, or tough units. The celery units lack crispness and firmness. Canned salad celery which has a reasonably good character may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(iii) Canned celery that fails to meet the requirements for reasonably good character may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(2) *Canned cooked celery.* (i) *Good character* means celery which is uniform in texture, practically free from coarse, stringy, or tough units, and is pliable and tender but not soft. Canned cooked celery that has a good character may be assigned a score of 27 to 30 points.

(ii) *Reasonably good character* means celery which lacks uniformity in texture, is reasonably free from coarse, stringy, or tough units, and is lacking pliability and tenderness, and may be soft but not mushy. Canned cooked celery that falls into this classification may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(iii) Canned cooked celery that fails to meet the requirements for reasonably good character may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(e) *Chip* means any unit in diced style that has a volume that is less than one-half of a normal full size unit.

(f) *Color.* (1) *Good color* means canned celery color which is uniform in the range between green to white units characteristic of the type of pack. Canned celery which has a good color

may be assigned a score of 18 to 20 points.

(2) *Reasonably good color* means canned celery color which lacks uniformity in the range between green to white units characteristic of the type of pack. Canned celery which has a reasonably good color may be assigned a score of 16 or 17 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Canned celery that fails to meet the requirements for reasonably good color may be assigned a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product.

(g) *Defects* refer to the freedom from extraneous vegetable material, mechanical damage, celery leaf material, blemished units, and basal portions.

(1) *Practically free from defects* means celery which conforms with the applicable tolerances as specified in Table I. Canned celery which is practically free from defects may be assigned a score of 27 to 30 points.

(2) *Reasonably free from defects* means celery which conforms with the applicable tolerances as specified in Table I. Canned celery which is reasonably free from defects may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Canned celery that fails to meet the requirements for reasonably free from defects may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(h) *Extraneous vegetable material (EVM)* means any objectionable vegetable material from other than the celery plant which is harmless.

(i) *Flavor and odor* means the freedom from objectionable flavor and odor of any kind.

(j) *Large piece* means any unit in diced style that is larger than a normal full size unit to the extent that it materially affects the appearance of the sample.

(k) *Leaf* means the celery leaf which is normally removed during processing and exceeds 0.64 cm (0.25 in) in the greatest dimension.

(l) *Mechanical damage* means any unit of celery which is adversely affected by harvesting or processing equipment and includes sizing imperfections.

(m) *Unit* means any individual slice, dice, cut, chop, heart, or piece of canned celery.

(n) *Varietal characteristics* mean the appearance, stalk characteristics and any other indicator of the variety of celery.

§ 52.6575 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that each container of canned celery be filled with celery as full as practicable without impairment of quality and that the product and packing medium occupy not less than 90 percent of the total capacity of the container.

§ 52.6576 [Reserved]

§ 52.6577 Recommended sample unit size.

The requirements for all factors of quality are based on evaluation of: 900 g of drained product or the entire drained contents of a container, whichever is lesser.

§ 52.6578 Grades.

(a) *U.S. Grade A* is the quality of canned celery that:

(1) Meets the applicable requirements of Table I; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned celery that:

(1) Meets the applicable requirements of Table I; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of canned celery that fails to meet the requirements for *U.S. Grade B.*

§ 52.6579 Factors of quality.

The grade of a lot of canned celery is based on meeting the requirements for the following quality factors:

(a) Varietal characteristics;
(b) Flavor and odor;
(c) Brightness;
(d) Color;
(e) Character; and
(f) Defects.

§ 52.6580 Requirements for grades.

TABLE I.—CANNED CELERY

Factors of quality	Grade A	Grade B
Varietal characteristics	Similar	Similar.
Flavor and odor	Normal	Normal.
Brightness	Good (18 to 20 points)	Reasonably good (16 to 17 points).[1]
Color	Good (18 to 20 points)	Reasonably good (16 to 17 points).[1]
Character	Good (27 to 30 points)	Reasonably good (24 to 26 points).[1]
Defects: (Drained weight basis) [2]	(27 to 30 points)	(24 to 26 points).[1]
	Tolerance	Tolerance.
1. Blemished:		
a. Materially	5% m/m	10% m/m.
b. Seriously	2% m/m	4% m/m.
2. Basal Portion:		
a. Fibrous material	2% m/m	4% m/m.
b. w/roots attached	1% m/m	2% m/m.
3. EVM	1 pc/900 g (31.7 oz)	2 pcs/900 g (31.7 oz).
4. Leaf:		
Diced; chopped	20 pcs/900 g (31.7 oz)	40 pcs/900 g (31.7 oz).
Sliced	10 pcs/900 g (31.7 oz)	20 pcs/900 g (31.7 oz).
5. Mechanical damage:		
a. Diced (chips plus large pieces)	40% m/m	50% m/m.
b. Bias or straight cut [crushed units but not discolored plus units less than 3 mm (⅛ in)]	10% m/m	15% m/m.
6. Other defects not specifically defined	Slightly affect appearance or eating quality	Materially affect appearance or eating quality.

[1] Shall not be graded above U.S. Grade B.

[2] m/m indicates percentage by weight. Example: 10 percent m/m blemished material means 40 g in total 400 g drained celery.

NOTE.—Chips in diced style may be separated by using the sieve method. All units that pass through the meshes of a 5/16 in (8 mm) sieve are counted as chips. The sieve to be used is a five-sixteenths (5/16 in) sieve as listed in Table I of "Standard Specifications for Sieve," published March 1, 1940, in L.C. 584 National Bureau of Standards, U.S. Department of Commerce.

§ 52.6581 Sample size.

The sample size to determine the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1–52.83).

§ 52.6582 Lot quality requirements.

A lot of canned celery is considered as meeting the requirements for quality if:

(a) The requirements specified in § 52.6580 are met; and

(b) The sampling plans and acceptance procedures in 7 CFR 52.38 are met.

Done at Washington, D.C., on February 3, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-3390 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Free and Reserve Percentages for the 1981–82 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule designates final marketing percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins from California's 1981 production. The estimated 1981 production of these raisins is in excess of domestic and Western Hemisphere market needs. The percentages are intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside the Western Hemisphere.

EFFECTIVE DATES: August 1, 1981 through July 31, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 21 handlers.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The relevant provisions of this part require that the percentages designated herein for the 1981–82 crop year apply to all standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired by handlers from the beginning of that crop year; (2) handlers are marketing 1981 crop raisins and this action must be taken promptly to achieve its purpose of making the full free tonnage computed for these varietal types available to handlers; (3) handlers are aware of this action as recommended by the Raisin Administrative Committee (Committee) at an open meeting and require no additional time to comply; and (4) this action relieves restrictions on handlers.

This final rule designates final free tonnage percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins of 80 percent and 89 percent, respectively, for the 1981–82 crop year. Also designated for that crop year are final reserve tonnage percentages for these raisins of 20 percent and 11 percent, respectively. These percentages would apply to all standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired during the 1981–82 crop year.

These final marketing percentage designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended under § 989.54(b) by the Committee, which is established under the order as the agency to work with USDA in administering the order.

Preliminary percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins for the 1981–82 crop year were issued November 27, 1981, and published in the **Federal Register** on December 3, 1981 (§ 989.235; 46 FR 58640). These percentages made 85 percent of the free tonnage computed for these varietal types available to handlers.

Under § 989.54(b) of the order, no later than February 15 of a crop year the Committee is required to recommend free tonnage percentages which, when applied to the final production estimate of a varietal type, will tend to release the full free tonnage computed for that varietal type. Section 989.54(b) also provides that any difference between the free tonnage percentage and 100 percent shall be the reserve percentage.

On January 15, 1982, the Committee recommended final free and reserve percentages for the 1981–82 crop year, and made its final 1981 production estimates for Natural (sun-dried) Seedless and Dipped Seedless raisins.

The Committee estimated the 1981 production of Natural (sun-dried) Seedless raisins at 224,281 natural condition tons (9,281 tons more than its preliminary estimate of 215,000 natural condition tons). Dividing the computed free tonnage of 180,430 natural condition tons by the estimated production and rounding to the nearest full percent results in a final free percentage of 80 percent, and a final reserve percentage of 20 percent.

For Dipped Seedless raisins, the Committee estimated the 1981 production to be 7,526 natural condition tons (474 tons less than its preliminary estimate of 8,000 tons). Dividing the computed free tonnage of 6,691 natural condition tons by the estimated production and rounding to the nearest full percent results in a final free percentage of 89 percent, and a final reserve percentage of 11 percent.

After consideration of all relevant matter presented, including that in the notice issued in connection with the designation of preliminary free and reserve tonnage percentages applicable to these two varietal types, the information and recommendations submitted by the Committee, and other available information, it is further found that the designation under § 989.55 of the free and reserve percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins, set forth below, will tend to effectuate the declared policy of the act.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Therefore, § 989.235 is revised to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 989.235 Free and reserve percentages for the 1981–82 crop year.

The percentages of standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired by handlers during the crop year beginning August 1, 1981, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	80	20
Dipped Seedless	89	11

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: February 4, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-3432 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

[Bulletin 345–89]

Public Information; Appendix A—REA Bulletins Specification for Filled Telephone Cable With Expanded Insulation

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: This rule amends Appendix A by adding Bulletin 345–89. This action will permit the use of expanded insulation as an alternate to solid insulation in filled telephone cable. This Bulletin provides a specification for filled telephone cables containing 200 or more conductor pairs intended for direct burial and underground applications. Bulletin 345–89, Specification for Filled Telephone Cable with Expanded Insulation, PE–89, will supplement, but not replace Bulletin 345–67, Specification for Filled Telephone Cables, PE–39, which addresses cables with solid insulation.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA amends Appendix A by adding Bulletin 345–89, Specification for Filled Telephone Cable with Expanded Insulation, PE–89. This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as "not major". A Regulatory Flexibility Analysis is not required and an OMB Circular A–95 review is not applicable to this action.

(Catalog of Federal Domestic Assistance as 10.851 Rural Telephone Loans and Loan Guarantees.)

This new specification is being added to allow the use of expanded insulation in multipair telephone cable in REA systems. Expanded insulation represents a major advancement in extrusion techniques and offers the REA borrower the option of using the smaller diameter, material saving, insulation in lieu of solid insulation.

As an option, not promulgating this specification was considered. This was rejected as it would have denied REA borrowers a smaller, lighter weight alternate to solid insulation and would have discouraged further innovation by cable manufacturers. Promulgating this specification as an addendum to the aforementioned Bulletin 345–67 was also considered. However, this was not done since it would have been confusing to specification users.

On May 26, 1981, a Notice of Proposed Rule Making was published in the **Federal Register** (46 FR 28170). A comment to this notice was received from The Essex Group which raised the following points:

1. The limitation of the expanded insulation to only 200 and larger pair cables; and
2. The exclusion of 19-gauge conductors.

The Agency response to these comments is summarized as follows:

1. REA has chosen to limit the use of expanded insulation to the larger size cables to minimize the risk of maintenance to the better staffed companies.
2. Advancements in electronic devices and the expense of the large 19-gauge copper conductor has directed the telephone industry to the smaller copper conductors. REA is reluctant to include the 19-gauge conductor since economics is curtailing its use in telephony.

Therefore, Appendix A (7 CFR 1701) is amended by adding Bulletin 345–89, Specification for Filled Telephone Cable with Expanded Insulation.

(7 U.S.C. 901–950(b), 7 U.S.C. 1921 et seq.).

Dated: February 1, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3296 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

Revision of Commodity Control List Entry No. 4757B

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule revises entry No. 4757B of the Commodity Control List (CCL) to delete extraneous language in the *Code of Federal Regulations* that remained in the entry following the transfer of certain commodities controlled by that entry to entry No. 1757A. The transfer of commodity coverage to entry No. 1757A was published in the **Federal Register** of May 12, 1981, 46 FR 26275–26284, and modification of the entry was announced August 4, 1981, 46 FR 39585–39587.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.
2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*
3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*
4. This rule is not a major rule within the meaning of section 1(b) of Executive

Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Accordingly, the Commodity Control List, Supplement No. 1 to § 399.1 of the Export Administration Regulations (15 CFR Parts 368–399), is amended as follows:

Entry No. 4757B is revised to read as follows:

Export control commodity No. and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
4757B Single crystal sapphire substrates. (Specify by size and weight.)	.....	PQSTVWYZ	[1] 500	MG	1

[1] The GLV $ value limit for Country Group Q is $100.

Authority: Sections 5, 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980).

Dated: December 9, 1981.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-3340 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3082]

American Honda Motor Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Gardena, Calif. motor vehicle dealer to cease failing to mail to each owner of a Honda automobile which was purchased as new, or is currently registered in certain states, a "notice package" containing information regarding the company's redress program for premature fender rusting. The company must timely remove and replace, at no cost to the owner, the front fenders of any Honda automobile experiencing premature rusting within 36 months-in-service, and reimburse eligible owners of affected vehicles for monies spent in trying to correct the premature rusting problem. Respondent is also required to inform its dealers of the firm's obligations under the provisions of the order, and provide them with adequate supplies or reimbursements for replacing rusted fenders. Additionally, the order requires respondent to maintain documents demonstrating compliance with the order for a period of not less than three years.

DATES: Complaint and order issued January 22, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Joel Winston, Washington, D.C. 20580, (202) 724–9002.

SUPPLEMENTARY INFORMATION: On Wednesday, August 5, 1981, there was published in the **Federal Register**, 46 FR 39833, a proposed consent agreement with analysis In the Matter of American Honda Motor Co., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosure, § 13.533–25 Displays, in-house, § 13.533–35 Employment of independent agencies, § 13.533–45 Maintain records, § 13.533–55 Refunds, rebates and/or credits, § 13.533–57 Restitution.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 82-3319 Filed 2-8-82; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3081]

Renuzit Home Products Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Philadelphia, Pa. manufacturer and distributor of transmission and hydraulic fluids and motor oils to cease making any representations concerning the API Service Classification, SAE Viscosity or any performance or quality characteristic of its motor oils unless the company possesses documentation supporting those representations. Respondent is further prohibited from misrepresenting the purpose, content, or conclusions of any test or survey, and required to furnish all personnel engaged in advertising, quality control or policy-making with a copy of the order.

DATE: Complaint and order issued January 20, 1981.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Michael Dershowitz, Washington, D.C. 20580. (202) 724–0726.

SUPPLEMENTARY INFORMATION: On Wednesday, November 4, 1981, there was published in the **Federal Register**, 46 FR 54758, a proposed consent

[1] Copies of the Complaint and the Decision and Order filed with the original document.

agreement with analysis In the Matter of Renuzit Home Products Co., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.245 Specifications or standards conformance; § 13.255 Surveys. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements, § 13.533–45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys; § 13.1762 Tests, purported. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 82-3316 Filed 2-8-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-82-957]

Multifamily Housing Mortgage Insurance Eligibility of Mortgages on Existing Projects

Correction

In FR Doc. 82-2455 appearing at page 4507 in the issue of Monday, February 1, 1982, make the following changes:

On page 4508, middle of second column, in the amendatory language for "*§ 207.32a Eligibility of mortgages on existing projects.*", fourth line, "(1)(1)" should read "(e)(1)", and in the fifth line, "(1)(1) should read, "(e)(1)".

BILLING CODE 1505-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Chapters V, IX, XX and Part 3610

[Docket No. R-82-961]

Organizational Changes

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner/HUD and Office of the Assistant Secretary for Community Planning and Development/HUD.

ACTION: Final rule.

SUMMARY: The Secretary is making certain technical revisions to Title 24 in order to reflect recent organizational changes within the Department. Prior to this amendment, Chapter IX had been headed by the title of Office of Interstate Lands Sales Registration and Chapter XX had been headed by title of Office of Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection (NVACP); however, NVACP no longer exists as the result of a recent Departmental reorganization. Responsibilities under Chapter IX and under four of the five parts of Chapter XX have now been delegated to the Assistant Secretary for Housing. A fifth part under Chapter XX relates to a program responsibility now delegated to the Assistant Secretary for Community Planning and Development. In order to reflect these organizational changes, Chapters IX and XX are now being entitled "Office of the Assistant Secretary for Housing—Federal Housing Commissioner" and Part 3610, relating to the Neighborhood Self-Help Development Program, is being transferred to Chapter V, Office of the Assistant Secretary for Community Planning and Development.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Telephone (202) 755-6207. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Secretary finds that comment and public procedure are unnecessary with respect to this rule which governs HUD organization. 24 CFR 10.2. The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this rule from the 30-day delay in effectiveness provided in the Administrative Procedure Act (5 U.S.C. 553(d)). Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers and they have been granted. Accordingly, this amendment shall become effective on the effective date set forth above.

The rule has no impact upon the quality of environment and therefore no environmental impact statement or finding of inapplicability has been prepared, in accordance with 24 CFR Part 50.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule does not constitute a "major" rule as defined by Executive Order 12291 because it is not likely to result in: (a) an annual effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program Numbers are 14.800 and 14.804.

Accordingly, Title 24 is amended by:

(1) Revising the title of Chapters IX and XX to read: Office of Assistant Secretary for Housing—Federal Housing Commissioner.

CHAPTER IX—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

PART 3610—NEIGHBORHOOD SELF-HELP DEVELOPMENT PROGRAM [REDESIGNATED AS PART 595]

(2) Transferring Part 3610,

"Neighborhood Self-Help Development Program," from Chapter XX to Chapter V, and redesignating it as Part 595 with corresponding changes to section numbers and internal references.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C. on January 18, 1982.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 82-3360 Filed 2-8-82; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-82-963]

Manufactured Home Procedural and Enforcement Regulations

AGENCY: Department of Housing and Urban Development (HUD)/Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: The interim rule would amend the manufactured housing procedural and enforcement regulations to provide every state with a period of five years within which to obtain full approval of its state plan for participation as a State Administrative Agency (SAA). Under the present regulation, the participation of many conditionally approved states will soon lapse. Since their participation is vital to the implementation of the Act, the Secretary has concluded that a provision which permits a case by case waiver of the present deadlines is appropriate. Moreover, the Secretary believes that it is important to establish a uniform period of time for obtaining full approval. The interim rule would also authorize the Secretary to extend the period during which a state may participate with conditional approval.

DATES: Effective date February 9, 1982. Comment due date April 12, 1982.

ADDRESS: Comments may be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the document number and date. Copies of the comments will be available during regular business hours, both before and after the specified closing date, at the above address, for examination and copying by interested persons.

FOR FURTHER INFORMATION CONTACT: Tobias A. Gottesman, Director of State and Consumer Liaison Division, Office of Mobile Home Standards, Room 3244, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755-6584 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* (the Act) requires any state which desires to assume responsibility for the enforcement of manufactured home construction and safety standards to submit to the Secretary a plan for enforcement of those standards. Section 623(c) of the Act, 42 U.S.C. 5422(c), specifies eleven standards which the plan must meet before the Secretary may approve it. In 24 CFR 3282.302, the Secretary has established a two-tiered system for review for state plans. Plans meeting all but four of the criteria listed in § 3282.302 (a) and (b) will be given conditional approval, while plans meeting all criteria will be given final approval. Under the present regulation, a state which was granted conditional approval before August 1, 1978, must obtain full approval within five years of gaining conditional approval or its participation will lapse. States granted conditional approval after August 1, 1978, must obtain full approval within three years. There is no provision for waiver of these deadlines.

The first state plans were conditionally approved in the summer of 1976. Since that time, most conditionally approved states have had difficulty in meeting the requirements for full approval. The conditionally approved SAAs have performed valuable services, and their failure to obtain full approval is largely due to circumstances beyond their control. Under the present regulation, the participation of many conditionally approved states will soon lapse. Since their participation is vital to the implementation of the Act, the Secretary has concluded that a provision which permits a case by case waiver of the present deadlines is appropriate. Moreover, the Secretary believes that it is important to establish a uniform period of time for obtaining full approval. Accordingly, the interim rule provides that all states must obtain full approval within five years after receiving conditional approval, and that the Secretary may extend a state's conditional approval if good cause is shown.

The subject matter of this rulemaking action relates to contracts and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedures Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after affectiveness of the action, notwithstanding the statutory exemption. The Secretary has determined that, in this case, notice and public procedure thereon are impracticable and contrary to the public interest and that good cause exists for making this rule effective immediately after publication because the deadline for some states to gain full approval has already passed and deadlines for several others are quickly approaching. A full comment period could cause the participation of many states to terminate. By February 1982, conditional approval for more than half of the states will have expired.

The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this interim rule from the 30-day delay in effectiveness provided in the Administrative Procedure Act (5 U.S.C. 553(d)). Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers and they have been granted. Accordingly, this amendment shall become effective on February 9, 1982.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 19, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on

competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semi-annual Agenda of Regulations published on August 17, 1981, (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Programs number is 14.804 Manufactured Housing.

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Accordingly, 24 CFR 3282.302(c) is revised to read as follows:

§ 3282.302 State plan.

* * * * *

(c) A state plan may be granted conditional approval if all of the requirements of § 3282.302 (a) and (b) are met except paragraphs (b)(2), (b)(3), (b)(6) or (b)(13). When conditional approval is given, the state shall not be considered approved under section 623 of the Act, 42 U.S.C. 5422, but it will participate in all phases of the program as called for in its State plan. Conditional approval shall last for a maximum of five years, by which time all requirements shall be met for full approval, or conditional approval shall lapse. However, the Secretary may for good cause grant an extension of conditional approval upon petition by the SAA.

* * * * *

(Sec. 625, National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424)

Issued at Washington, D.C., on January 18, 1982.

Philip D. Winn,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 82-3357 Filed 2-8-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Washington State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Washington State plan including: administrative rules providing for inspections, extension of abatement dates, variances, employee complaints of hazard or discrimination, posting of citations and notices; rules of practice and procedure for contested cases before the Board of Industrial Insurance Appeals; a revised compliance manual for safety operations; and a compliance manual with revisions for the health program operations.

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8045.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision and describing the plan.

On April 27, 1976 a notice was published in the **Federal Register** inviting public comment on a supplement to the Washington State plan which provided administrative rules for extension of abatement dates, posting of citations, variances, and employee complaints of hazards. The State of Washington subsequently submitted additional State-initiated and developmental change supplements addressing: rules for employee complaints of discrimination and conduct and scheduling of inspections; rules governing contested cases before the Board of Industrial Insurance Appeals; revisions to the previously approved field compliance manual including clarification on existing variance procedures; and an industrial hygiene field operations manual modeled after the Federal manual, with revisions.

Following Regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for approval. Additional Federal review of the supplements indicated some procedural concerns which the Washington Department of Labor and Industries addressed, in a detailed letter of assurance and clarification to the Regional Administrator dated January 18, 1982.

Description of Plan Supplements

1. Washington Administrative Rules (WAC 296, Chapters 27 and 350). In accordance with the requirements of 29 CFR 1952.123(c), the State of Washington adopted rules providing procedures for extension of abatement dates, conduct and scheduling of inspections, employee complaints of hazard and discrimination, variances, posting of citations and notices, informal review of employee complaints, etc. The State originally submitted regulations which became effective on May 14, 1975, and were subsequently revised effective December 31, 1980 and July 22, 1981.

2. Rules of Practice and Procedure Before the Board of Industrial Insurance Appeals. In accordance with the requirements of 29 CFR 1952.123(c), the State of Washington adopted rules effective April 4, 1975 governing the review of contested cases, which were revised effective March 26, 1976. The rules include procedures for conduct of hearings, duties and powers of hearing examiners, election of party status, etc.

3. Operations Manual, Division of Industrial Safety and Health. The State submitted a revised version of its previously approved compliance manual effective June 23, 1980, with further revisions effective October 20 and December 18, 1980. These revisions reflect both State-initiated and required Federal program changes. In addition to compliance procedures the revised

manual contains details on the procedures for consideration of variances and includes a provision for publication of all variance applications.

4. State of Washington Industrial Hygiene Operations Manual. The State submitted a manual detailing field compliance procedures for its occupational health program effective March 1, 1980. This manual is modeled after the Federal manual and was subsequently revised effective July 1 and September 21, 1981, to reflect all Federal program changes through March 2, 1981.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N–3613, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174

Department of Labor and Industries, General Administration Building, Olympia, Washington 98501

Public Participation

Under 29 CFR 1953.2 the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Washington administrative rules and rules for review of contested cases were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary. The plan supplements which provide the revised manual for safety compliance operations and the manual for industrial hygiene operations are substantially in agreement with requirements of comparable Federal program changes and good cause is therefore found for approval of those supplements without public comment and notice.

Decision

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Washington plan supplements outlined above are approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, § 1952.124 of 29 CFR Part 1952 is amended to reflect the completion of developmental steps by revising paragraph (c) and adding paragraphs (i) and (j) to the list of completed developmental steps as follows:

§ 1952.124 Completed developmental steps.

* * * * *

(c) The Washington State compliance operations manual modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, October 20, and December 18, 1980 and was approved by the Assistant Secretary on January 26, 1982.

* * * * *

(i) An industrial hygiene operations manual, effective March 1, 1980, with revisions effective July 1 and September 21, 1981, modeled after the Federal manual was approved by the Assistant Secretary on January 26, 1982.

(j) In accordance with 29 CFR 1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazards and discrimination, posting of citations and notices, effective May 14, 1975 and revisions effective December 31, 1980 and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules effective April 4, 1975 governing practice and procedure for contested cases with revision effective March 26, 1976. These regulations and rules were approved by the Assistant Secretary on January 26, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1600, 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 26th day of January 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–3422 Filed 2–8–82; 8:45 am]

BILLING CODE 4510–26–M

29 CFR Part 1952

Certification of Completion of Developmental Steps For Washington State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The State of Washington on or before January 26, 1976 submitted documentation attesting to the completion of all structural and developmental aspects of its approved State plan. After extensive review of those documents and subsequent revisions, and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the final evaluation phase of State plan development. This certification attests only to the fact that Washington now has in place those structural components necessary for an effective program. It renders no judgment on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as defined by the U.S. Court of Appeals decision in "AFL–CIO v Marshall," 570 F. 2d 1030 (1978).

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two-step procedure. First a State must submit its plan for an initial determination under section 18(b) of the

Act. If the Assistant Secretary, after reviewing the State submission determines that the plan satisfies or will satisfy within a maximum three year developmental period the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with the maintenance of concurrent enforcement authority by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. Pursuant to 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the **Federal Register** (see 29 CFR 1902.34 and 1902.35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine on the basis of actual operations, whether the plan adequately provides safety and health protection to the employees in the State. Certification does not render judgment as to the adequacy of State performance.

The second step of the approval process is final approval of the plan under Section 18(e) of the Act and 29 CFR Part 1902. Final approval may not be granted until at least three years after initial approval and one year after certification of completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the criteria are being met, a decision of final approval may be granted. This decision is based on a thorough evaluation of the State plan under Section 18(e) of the Act and reflects a determination that on the basis of actual operations the plan adequately protects the safety and health of the State's workers. In making this evaluation under Section 18(e), the Assistant Secretary must monitor the continuing development of the State program applying criteria which assure that the State will have an at least as effective program for achieving the goals of the Act, except with respect to staffing and funding levels, which must reflect a fully effective program pursuant to *AFL–CIO v. Marshall*, 570 F. 2d 1030 (1978).

On January 26, 1973, a notice was published in the **Federal Register** (38 FR 2421) initially approving the Washington developmental plan and adopting Subpart F of Part 1952 containing the decision, a description of the plan and the developmental schedule. During the three year period ending January 26, 1976, following commencement of State operations, the Washington Department of Labor and Industries submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Agency review and subsequent explanation and modification of the State's submissions in response to Federal comment, the Assistant Secretary has approved the completion of all individual developmental steps.

Completion of Developmental Steps

All developmental steps specified in the January 26, 1973, notice of initial approval and other relevant steps not explicitly referred to have been completed as follows:

(a) In accordance with the requirements of 29 CFR 1952.123(a) the Washington Industrial Safety and Health Act of 1973, hereinafter referred to as WISHA (S.B. 2386, RCW Chapter 49.17), as signed by the Governor on March 9, 1973, and effective on June 7, 1973, was approved by the Assistant Secretary on July 3, 1974 (39 FR 25326).

(b) In accordance with the requirements of 29 CFR 1952.10, the Washington State Poster submitted on October 6, 1975, was approved by the Assistant Secretary on December 17, 1975 (40 FR 59345).

(c) The Washington State compliance operations manual, modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, 1980, October 20, 1980 and December 18, 1980, and was approved by the Assistant Secretary on January 26, 1982, as set out elsewhere in this issue.

(d) In accordance with 29 CFR 1952.123(c) Washington regulations covering Reassumption of Jurisdiction were adopted by the Washington Department of Labor and Industries on June 7, 1974, and were approved by the Assistant Secretary on March 19, 1976 (41 FR 12655).

(e) In accordance with 29 CFR 1952.123(e) Washington has completed the training as described in that section, which completion was approved by the Assistant Secretary on April 27, 1976 (41 FR 17548).

(f) In accordance with 29 CFR 1952.123(d) Washington has developed and implemented a computerized Management Information System, which action was approved by the Assistant Secretary on April 27, 1976 (41 FR 17548).

(g) In accordance with 29 CFR 1952.123(f) Washington has completed the upgrading of salaries of safety personnel, which completion was approved by the Assistant Secretary on June 11, 1976 (41 FR 23672).

(h) In accordance with 29 CFR 1952.123(c) Washington has adopted rules and regulations covering recordkeeping and reporting of occupational injuries and illnesses requirements, which were initially approved by the Assistant Secretary on November 19, 1976 (41 FR 51016) with revisions approved on August 12, 1980 (45 FR 53459).

(i) An industrial hygiene operations manual, effective March 1, 1980, with revisions effective July 1 and September 21, 1981, modeled after the Federal manual and reflecting changes made in the Federal program through March 2, 1981 was approved by the Assistant Secretary on January 26, 1982 as set out elsewhere in this issue.

(j) In accordance with 29 CFR 1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazard and discrimination, posting of citations, and notices of May 14, 1975 with revisions on December 31, 1980 and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules governing practice and procedure for contested cases on April 14, 1975 with revisions on March 26, 1976. These rules and regulations were approved by the Assistant Secretary on January 26, 1982 as set out elsewhere in this issue.

(k) Washington occupational safety and health standards as effective as Federal standards have been promulgated, subsequently amended to reflect changes in and additions to Federal standards, and approved by the Regional Administrator on August 8, 1975 (40 FR 33500), August 15, 1975 (40 FR 34491), January 30, 1976 (41 FR 4687), February 6, 1976 (41 FR 5465), March 16, 1976 (41 FR 11088), May 4, 1976 (41 FR 18484), June 4, 1976 (41 FR 22655), August 17, 1976 (41 FR 34836), May 5, 1978 (43 FR 19480), May 30, 1978 (43 FR 23024), May 22, 1979 (44 FR 29747),

February 22, 1980 (45 FR 11946), July 15, 1980 (45 FR 47549), July 7, 1981 (46 FR 35229), October 13, 1981 (46 FR 50445), and January 12, 1982 (47 FR 1354). Three additional standards submissions were approved by the Regional Administrator on January 11 and 20, 1982, and by the Assistant Secretary on January 26, 1982.

(1) The personnel operations of the Washington Industrial Safety and Health Administration under merit system rules were certified by the Director of the Seattle Regional Office, United States Office of Personnel Management (previously U.S. Civil Service Commission) as being in accordance with merit system standards by letter of January 21, 1976. The letter also judged Washington's affirmative action plan to be in compliance with the intent of these standards.

This certification covers all occupational safety and health issues covered under the Federal program as well as the State's program covering State and local government employees.

Location of the Plan and Its Supplements For Inspection and Copying

Copies of the supplements along with the approved plan, may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210
Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174
Department of Labor and Industries, General Administration Building, Olympia, Washington 98501

Effect of Certification

The Washington plan is certified effective January 26, 1982 as having completed all developmental steps on or before January 26, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance.

The Washington occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program.

Level of Federal Enforcement

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662, and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during the evaluation period. However, under the terms of an operational status agreement entered into between OSHA and the Washington Department of Labor and Industries effective May 30, 1975 (40 FR 44133), the exercise of this authority will continue to be limited to, among other things: complaints about employee discrimination; enforcement of new Federal standards including temporary emergency standards until adopted by the State, enforcement of standards in areas excluded from plan coverage; investigations for fulfillment of monitoring obligations under sections 18 (e) and (f) of the Act; and abatement dates from OSHA-issued citations, which extend beyond the date of State assumption of inspection responsibility Pursuant to 29 CFR 1954.3(f)(1) the agreement provides for resumption of Federal enforcement activity for failure to substantially comply with the provisions of the agreement or as a result of evaluation or other factors.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with this certification 29 CFR 1952.124 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (k) as follows:

§ 1952.124 Completion of developmental steps and certification

* * * * *

(k) In accordance with § 1902.34 of this chapter, the Washington occupational safety and health plan was certified effective January 26, 1982, as having completed all developmental steps specified in the plan as approved on January 26, 1973 on or before January 26, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 26th day of January 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-3421 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1953

Approval of Washington State Standards

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice approves revised State standards comparable to Federal standards under 29 CFR 1926.451 Scaffolding. The State's adoption of the standards constitutes a change to the State's occupational safety and health plan in response to a Federal action proposing to reject previously submitted State construction scaffolding standards. This notice also terminates the rejection proceedings.

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8045.

SUPPLEMENTAL INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards which are at least as effective as Federal standards promulgated pursuant to an approved State plan in accordance with section 18 (c)(2) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

Consistent with the State's schedule for adoption of State standards, by letter of October 7, 1976, the State submitted standards comparable to 29 CFR Part 1926, as published in the **Federal Register** (39 FR 22801) dated June 24, 1974. The State standards were promulgated after public hearing held on February 19, 1976.

Regional review pursuant to 29 CFR 1953.4 indicated that the State standards for construction scaffolding, WAC 296-155-485, contained additional provisions

under WAC 296–155–485(1)(e), General Requirements and WAC 296–155–485 (18) Plasterers' and Lathers' Tubular Welded Frame Scaffolds, which made the scaffolding standards less effective than those in 29 CFR 1926.451, Scaffolding. On August 16, 1977 a notice of the Regional Administrator's intent to reject the standards, which provided in detail the reasons therefor, was published in the **Federal Register** (42 FR 56812). Subsequently, a hearing was held before a Federal administrative law judge, Rhea M. Burrow, in Seattle, Washington, November 29, 1977, at the request of the State, to provide opportunity for the State and the Regional Administrator to present their cases. Following the hearing the parties agreed to waive a tentative decision by the Regional Administrator, and the records of the proceedings and post-hearing submissions, together with related material, were sent by way of Judge Burrow to the Assistant Secretary for a final decision.

After his consideration the Assistant Secretary concurred with the Regional Administrator that the standards were less effective than the Federal scaffolding standards. By letter dated November 18, 1981, Assistant Secretary Thorne G. Auchter advised the State designee for the Washington program, Samuel Kinville, Director of the Washington Department of Labor and Industries, that he intended to reject the State's scaffolding standards.

The State responded by using its emergency promulgation procedures to withdraw those portions of its scaffolding standards at WAC 296–155–485(1)(e) and 296–155–485(18) which rendered the original submission, WAC 296–155–485, Scaffolding, less effective than the Federal 29 CFR 1926.451, Scaffolding. The remaining provisions of WAC 296–155–485 are now substantially identical to 29 CFR 1926.451. The State's action took effect December 10, 1981; a copy of the standard reflecting the deletion of the less than effective portions was submitted by letter dated December 15, 1981. The State has expressed an intention to follow this emergency action with permanent promulgation. The State standards comparable to 29 CFR 1926.451 for construction scaffolding are now substantially identical to corresponding Federal provisions.

Location of the Plan Supplement for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room N3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause consistent with applicable law. The Assistant Secretary finds that the Washington plan supplement described above is substantially identical to comparable Federal provisions. Good cause is therefore found for the approval of the State standards without further public comment and notice.

Decision

After careful consideration the Washington standards described above, WAC 296–155–485 Scaffolding, are hereby approved under Subpart C of Part 1953 of this Chapter. The rejection proceedings relative to State scaffolding standards began on August 16, 1977 (42 FR 56812) are hereby terminated. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 28th day of January, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 82-3423 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 297

Deletion of Part; Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff Implementation of the DOD Freedom of Information Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense has cancelled the source document of 32 CFR Part 297 on implementation of the DoD Freedom of Information Program. This action removes this Part from the CFR since it is no longer valid.

EFFECTIVE DATE: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mrs. M. S. Healy, Federal Register Liaison Officer, Office of the Secretary of Defense, Pentagon, Washington, D.C. 20301, Telephone 202–697–4111.

PART 297—OFFICE OF THE SECRETARY OF DEFENSE/ ORGANIZATION OF THE JOINT CHIEFS OF STAFF IMPLEMENTATION OF THE DEPARTMENT OF DEFENSE FREEDOM OF INFORMATION PROGRAM [REMOVED]

Accordingly, 32 CFR is amended by removing Part 297.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 3, 1982.

[FR Doc. 82-3350 Filed 2-8-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6 FRL 2009-6]

Approval and Promulgation of State Implementation Plans; Revisions to the Wyoming Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving several revisions to the Wyoming State Implementation Plan (SIP). These revisions, submitted on August 26 and 27, 1981, eliminate the possibility for any Class III designations in the State, make several changes to the new source permitting program, provide information on Wyoming's air monitoring program in response to 40 CFR 58, and revise the Emergency Episode Contingency Plan. This Action will be effective on April 12, 1982 unless we receive notice by March 11, 1982 that someone wishes to submit adverse or critical comments.

DATES: This action is effective April 12, 1982.

ADDRESSES: Copies of the revision are available for public inspection between 8 a.m. and 4 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295;

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460;

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Barry Levene, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837–3711.

SUPPLEMENTAL INFORMATION: The State of Wyoming has submitted two sets of revisions to the Wyoming State Implementation Plan (SIP). The August 26, 1981, submittal contains (1) changes to the new source permitting regulations, (2) the Wyoming Air Monitoring Plan as required by 40 CFR 58, and (3) changes to the Emergency Episode Contingency Plan. The August 27, 1981, submittal consists of revisions to the Prevention of Significant Deterioration Regulation which eliminate references to designations of Class III areas.

Changes to Permit Requirements

Permit requirements in Section 21 of the Wyoming Air Quality Regulations have been revised to achieve three objectives:

(1) Provide for a self-issuance permit system for portable sources.

(2) Establish a requirement that a permit applicant demonstrate ownership of property as part of a permit application.

(3) Provide the Wyoming Air Quality Division Administrator with the specific authority to determine that a proposed minor source has an insignificant emission rate and air quality impact and thus is exempt from the permit system.

EPA has reviewed these changes and has found them to be consistent with the New Source Review requirements in 40 CFR 51.18. The changes will enable Wyoming to streamline its permitting program with no adverse effect on air quality.

Air Monitoring Program

Subpart C of 40 CFR 58 contains the requirements that states must follow in submitting a SIP revision which describes its air quality monitoring plan. The August 26, 1981, submittal contains Wyoming's Air Quality Monitoring Plan which meets the requirements of 40 CFR 58.

Emergency Episode Contingency Plan

This plan is being revised to remove references to Coefficient of Haze measurements as a basis for determining emergency episodes. This measurement method is not a universally accepted technique. Measurement of total suspended particulate is satisfactory for emergency episodes.

Prevention of Significant Deterioration Program Revisions

On August 27, 1981, the State of Wyoming submitted revisions to its Air Quality Standards and Regulations which eliminate references to the possibility of designating areas of the State as Class III under its Prevention of Significant Deterioration Program. Federal regulations (40 CFR 51.24) allow states to designate certain areas to Class III. The air quality in such areas would then be allowed to deteriorate a larger incremental amount than other areas but not further than the National Ambient Air Quality Standards (NAAQS). The intent is to allow for substantial increases in industrial growth in these specified areas.

The State of Wyoming has determined that the preservation of high quality clean air is of prime importance to the citizens of Wyoming and that degradation of this resource would have a detrimental impact on the quality of life for Wyoming residents and the tourist industry. The State has also determined that industrial development is proceeding without the need to designate Class III areas and that clean air is easier to maintain than to restore. Elimination of Class III areas will allow the State to better manage its clean air resource. This provision is more stringent than federal requirements.

EPA today is approving these revisions. The public is advised that this action will be effective April 12, 1982. However, if we receive written notice by March 11, 1982 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it imposes no new requirements. It only approves requirements adopted by the State.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Wyoming was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

(1) In § 52.2620, paragraph (c)(13) is added as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(13) On August 26, 1981 and August 27, 1981, Wyoming submitted revisions to the requirements for Prevention of Significant Deterioration, the Air Quality Monitoring Plan, revisions to the Emergency Episode Contingency Plan, and revisions to stationary source permitting regulations.

[FR Doc. 82-3213-Filed 2-8-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 55

[A-1-FRL-2026-4]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Delayed Compliance Order for New England Power Company's Salem Harbor Generating Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) announces the issuance of an administrative order called a Delayed Compliance Order (DCO) to New England Power Company (NEPCO), allowing generating units 1, 2, and 3 of its Salem Harbor Generating Station, located in Salem, Massachusetts to convert from burning oil to burning coal. The increased particulate emissions caused by coal burning will mean that NEPCO will be unable to comply with certain provisions of the Massachusetts

State Implementation Plan (SIP) until December 31, 1985. Between now and December 31, 1985, NEPCO will be allowed to burn coal despite this noncompliance. During this interim period, however, NEPCO must install the pollution control equipment necessary to achieve final compliance with the Massachusetts SIP. This DCO sets forth a compliance schedule, emissions limitations, and other requirements of Section 113(d)(5) of the Clean Air Act.

EFFECTIVE DATE: February 9, 1982.

ADDRESSES: Copies of all comments received and EPA's responses to these comments are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts; and at the Salem Planning Department, One Salem Green, Church Street, Salem, Massachusetts. All reports required under the DCO also will be available for public inspection at EPA Region I.

FOR FURTHER INFORMATION CONTACT: Brian Hennessey at the U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203 or telephone (617) 223–4448.

SUPPLEMENTARY INFORMATION: On April 15, 1981, NEPCO requested a DCO under Section 113(d)(5) of the Clean Air Act, 42 U.S.C. 7413(d)(5), to enable it to burn coal in generating units 1, 2, and 3 of its Salem Harbor plant in Salem, Massachusetts. These units have a net power output generating capacity of approximately 81, 81, and 148 megawatts respectively when burning coal. NEPCO proposed an immediate conversion from oil to coal burning and stated that this would cause temporary noncompliance at Salem Harbor with the following regulations contained in the EPA-approved Massachusetts SIP:

310 CMR 7.02(8)—limiting particulate emissions to 0.12 pounds per million Btu heat input;

310 CMR 7.05(4)—limiting the ash content of fossil fuels to 9% dry weight (interpreted by the state as measured on a cargo received basis); and

310 CMR 7.06(1)—limiting visible emissions to 20 percent opacity, except up to 40 percent for no more than 6 minutes in any hour.

On July 31, 1981, EPA proposed (46 FR 39175) to issue a DCO to NEPCO, deferring the particulate and VE emission requirements for 43 months after initial burning of coal (or December 31, 1985, whichever is earlier), and the ash content regulation for two months after initial burning of coal (or July 31, 1982, whichever is earlier). EPA's proposal also contained interim pollution control requirements and emission limitations, as well as emissions, ambient air monitoring and reporting requirements. These requirements, as well as EPA's findings on Salem Harbor's eligibility for a DCO, are explained in detail in EPA's proposed rulemaking notice and will not be repeated here.

The comment period on EPA's proposal ran from July 31 to September 24, 1981. A public hearing was held in Salem, Massachusetts on September 2, 1981. Forty-two people testified at the public hearing and/or submitted written comments during the comment period. Of these forty-two commenters, five opposed the proposed DCO, five were neutral, twenty-six favored the proposed DCO, and six favored the DCO but also expressed other concerns. As previously stated, EPA's responses to all the comments submitted are contained in documents which are available for public inspection. Only those comments which address questions posed in EPA's proposed rulemaking notice or which have resulted in substantive changes in EPA's proposal will be discussed in today's notice.

1. *Best Practicable System of Emission Reduction (BPSER)*—NEPCO's original request contained commitments to implement certain upgrading measures and maintenance procedures on the existing electrostatic precipitators (ESPs), coal handling equipment and ash removal system, as well as to evaluate the effectiveness of flue gas conditioning (FGC) on one unit for possible application on all units. NEPCO predicted that these measures would result in emission rates varying from 0.67 to 0.85 pounds per million Btu heat input.

EPA's proposal specified a BPSER emission rate of 0.60 pounds per million Btu heat input for the first four months of burning conforming ash ("new") coal, and a rate thereafter of 0.35 pounds per million Btu heat input. These emission rates were based on projected emissions resulting principally from restoring the ESPs to design condition, installing and operating FGC systems, and installing additional transformer-rectifier (T–R) sets on all three units. However, EPA's proposal did not require the installation and operation of specific controls; rather, EPA proposed to allow NEPCO to select controls to meet the BPSER emission rates, and to submit their selection to EPA for approval prior to coal burning.

One commenter opposed EPA's proposed limits as being too lenient, especially with respect to fine particulates. Another commenter requested that EPA either specify the installation and operation of FGC systems and T–R sets in the Order; or release NEPCO's plan for 30 day public comment prior to any EPA action on the plan. A third commenter, NEPCO, opposed EPA's BPSER limits as being too stringent. During the comment period, NEPCO presented additional data pertaining to the effectiveness of the existing ESPs for controlling particulate emissions resulting from burning the quality coal intended for use at Salem Harbor. NEPCO did not revise its particulate emission estimates. Based on this new information, EPA has revised its estimate of BPSER emission rates of 0.60 and 0.35 pounds per million Btu. Therefore, the emission rates required by the order are 0.60 and 0.45 pounds per million Btu heat input. EPA believes this revision to the proposed limits is reasonable given the uncertainties inherent in this type of engineering estimate of predicting the efficiency of restored ESPs and in estimating the emission benefits of the modifications NEPCO will make to the ESPs.

NEPCO also presented new proposals for BPSER which included installation of FGC on all units, ESP resectionalization, additional upgrading measures on the existing ESPs, performance of ESP gas flow distribution tests, installation of a dry flyash hopper evacuation system, and installation of four new T–R sets with provision for additional T–R installations if FGS proves to be effective. These proposals correspond closely to the control equipment selection upon which EPA based its proposed BPSER emission rates. However, as previously stated, NEPCO did not predict an improvement in particulate control from implementation of these measures; NEPCO prefers to establish a final particulate emission limit after each unit is tested.

Upon consideration of public comment and review of NEPCO's new BPSER proposals, EPA has concluded that the new proposals should be incorporated in the Order. EPA continues to believe that the emission rates contained in the Order are achievable, but that NEPCO is the best judge of the most cost-effective way to achieve these rates. EPA has, therefore, accepted NEPCO's revised plan as described above with two minor modifications. In its revised plan, NEPCO agreed to install FGC systems on all three units. FGC systems from several vendors are available for use at Salem Harbor; FGC effectiveness may vary among the units and systems used. In order to ensure that installation of

FGC has a maximum effect on reducing emissions, EPA is requiring NEPCO to experiment with FGC systems from two vendors and to select, install and operate the more effective system within 6 months of coal burning. In its revised BPSER plan, NEPCO also agreed to perform gas flow distribution tests on two units. The Order requires NEPCO to implement improvements if the tests show that gas flow distribution significantly decreases ESP effectiveness.

2. *Plantwide Emissions Cap or "Bubble"*—EPA's proposal solicited comments on NEPCO's request that EPA impose a total plantwide emission rate as an alternative to specific emission rates for each unit. EPA's proposal further solicited comments on NEPCO's request that such plantwide emission rates be specified in terms of weight of particulates per unit time, and on how such a plantwide emissions cap could be enforced. In addition to NEPCO, four commenters addressed these questions. Two of these commenters supported the concept of a plantwide emissions cap and two opposed it.

NEPCO's comments suggested that EPA implement the plantwide emissions cap by first determining an emission rate in pounds per million Btu's for each unit, then coverting each emission rate to a pounds per hour emission rate assuming full load operation, and finally summing the pounds per hour emission rates for the three units to determine a single pounds per hour plantwide emission rate.

NEPCO suggested that EPA enforce the plantwide emissions cap by first requiring stack tests to determine emission rates as a function of various loads for each unit, next requiring NEPCO to plot graphs of emission rates (expressed in pounds per hour) versus power output (expressed in megawatts) for each unit, then requiring NEPCO to operate the plant such that the sum of the emissions from all units at any given time is less than the plantwide emissions cap, and finally requiring NEPCO to track and record hourly power output correlated with total emissions.

The effect of the plantwide emissions cap as expressed in terms of pounds per hour is to allow pollution credit for reduced load operation. EPA has determined that a plantwide emissions cap is legally permissible in this case. EPA will consider an emissions cap in this case provided the source installs and operates pollution control equipment which satisfies the requirements in the Act for use of the best practicable system of emission reduction. However, at this time, EPA believes that the Salem Harbor units individually are capable of meeting the emission rates contained in today's Order. Therefore, no final action is being taken today on NEPCO's proposal for a plantwide emissions cap. At a future date, EPA may supplement the Order to include such a cap in the event that any of the units fails to demonstrate compliance with the DCO's final emission rates after NEPCO has made all reasonable efforts to comply. Such data will be available for public inspection at the addresses listed above. Currently, EPA is refining the procedures to implement a plantwide emissions cap.

3. *Primary NAAQS for Sulfur Dioxide (SO_2)*—EPA's proposal discussed the potential for violations of the primary NAAQS for SO_2 during the DCO resulting from plume downwash from the three short stacks presently serving units 1, 2, and 3. EPA believes that if an SO_2 problem does presently exist at Salem Harbor, it will be resolved by the end of the DCO period. The permanent coal conversion includes the replacement of the three short stacks with a single taller stack representing good engineering practice, thus eliminating downwash. However, since at the time of proposing the DCO EPA had not required NEPCO to model SO_2 emissions under the tall stack configuration, EPA had no data that would demonstrate NAAQS attainment. One commenter argued persuasively that the public had a right to such a demonstration. EPA therefore required NEPCO to provide this modeling, which NEPCO submitted on December 2, 1981. EPA has reviewed this submission and has performed additional analyses of its own, and has concluded that Salem Harbor will not cause or contribute to a violation of any NAAQS for SO_2 when the tall stack is completed. This modeling, as well as EPA's review, is also available for public inspection.

Additionally, the Massachusetts Department of Environmental Quality Engineering (DEQE), as a condition of their permit to NEPCO allowing the Salem Harbor Plant to burn fuel with a sulfur content up to 1.21 pounds per million Btu heat release potential, has required NEPCO to maintain a supply of low (1%) sulfur oil on site. The DEQE has further required NEPCO to install a telemetry system within the plant to record the ambient SO_2 levels measured at the monitors around the plant. These monitors are required as part of the DCO. If these monitors measure SO_2 concentrations which approach the NAAQS, the DEQE will required NEPCO to convert one or more of its coal burning units to the low sulfur oil until the elevated levels decrease.

4. *Ash Content in Fuel*—NEPCO requested that EPA delay compliance with the Massachusetts 9% (dry weight) coal ash limitation in order to accommodate NEPCO's current contract for coal which specifies a 10% (as received) ash content. NEPCO's experience with this contract shows that occasionaly the coal it receives exceeds 9% ash by dry weight. NEPCO's submissions however show that most of the contracted coal complies with the state's ash regulation. In discussions with NEPCO, EPA had suggested that NEPCO monitor the ash content of coal shipments before delivery, so that lower ash shipments may be sent to Salem Harbor and higher ash shipments to another NEPCO plant. While monitoring and shipping arrangements to accomplish this may pose problems, NEPCO has not shown that these problems are insurmountable. More importantly, NEPCO has not documented that it cannot obtain coal elsewhere which complies with the state regulation.

NEPCO will be permitted to burn the high ash coal currently on-site, but only for a 60 day period. Due to severe space limitations this on-site coal must be disposed of before complying coal can be stored. All coal burned after this 60 day period must conform to the state regulation.

5. *Miscellaneous Testing and Reporting Requirements*—Based on comments received pertaining to the frequency, nature and timeliness of proposed data reporting requirements, EPA has revised its proposal in the following areas:

(a) increased the number of particulate stack tests,

(b) decreased the number of correlations of stack opacity with observations of visible emissions,

(c) accelerated the operation of the ambient monitoring network,

(d) reduced the sampling frequency of certain TSP monitors,

(e) changed the range of operation of the SO_2 monitors,

(f) added a provision for potential future analysis of TSP filters for fine particulates,

(g) extended the ambient data reporting deadlines,

(h) increased the availability of ambient data records to the public,

(i) extended the time for stack testing and installing opactiy monitors.

In addition, EPA made other minor administrative changes to its proposal. These changes are discussed more fully in EPA's responses to public comments.

Therefore, after considering all comments received, the DCO request by the New England Power Company, EPA's findings, and the written concurrence from the Governor of the Commonwealth of Massachusetts, this Order is hereby issued. In addition, this Order is being made effective February 9, 1982.

(42 U.S.C. 7413(d))

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

Before the United States Environmental Protection Agency Region I, John F. Kennedy Federal Building, Boston, MA 02203.

Statutory Authority

This Order is issued under sections 113(d)(5) and 114 of the Clean Air Act [the Act], as amended, 42 U.S.C. 7413(d)(5) and 7414. This Order contains a compliance schedule, interim requirements, monitoring and reporting requirements and other requirements which satisfy the terms of these Sections of the Act. Public notice has been provided under section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Governor of the Commonwealth of Massachusetts has concurred with issuance of this Order.

In consideration of the foregoing, 40 CFR Part 55 is amended as follows:

PART 55—FEDERAL ADMINISTRATIVE ORDERS ISSUED UNDER SECTION 113(d)(5) OF THE CLEAN AIR ACT

Subpart W—Massachusetts

1. By adding § 55.472 to read as follows:

§ 55.472 Federal administrative orders issued under Section 113(d)(5) of the Act.

Findings

The Administrator of EPA (Administrator) makes the following findings:

1. New England Power Company (NEPCO) owns and operates the Salem Harbor Generating Station (Salem Harbor) located in Salem, Massachusetts.

2. Salem Harbor is a major stationary source, having the potential to emit more than 100 tons per year of particulates and sulfur dioxide (SO_x) while using pollution control equipment.

3. Currently, units 1, 2 and 3 at Salem Harbor burn residual oil.

4. On April 3, 1980, the U.S. Department of Energy (DOE) published a proposed order under the Powerplant and Industrial Fuel Use Act (FUA), 42 U.S.C. 8301 *et seq.*, which would prohibit units 1, 2 and 3 from burning oil. On June 10, 1981, DOE published a Notice of Intent to Proceed on the Salem Harbor Prohibition Order (46 FR 30682).

5. A state implementation plan (SIP) to regulate air pollution in Massachusetts has been approved by the Administrator of EPA under Section 110 of the Act, 42 U.S.C. 7410.

6. 310 CMR 7.02(8), which concerns emission limitations, is part of the applicable SIP within the meaning of Section 113(d)(5) of the Act and reads in pertinent part as follows:

> No person owning, leasing, or controlling the operation of any fossil fuel utilization facility shall cause, suffer, allow, or permit emissions therefrom in excess of those emission limitations set forth in the following tables * * * [0.12 lbs. of particulate per million Btu heat input].

7. 310 CMR 7.05(4), which concerns ash content of fuels, is part of the applicable SIP within the meaning of section 113(d)(5) of the Act and reads in pertinent part as follows:

> (b) No person shall cause, suffer, allow or permit the burning in the District [Boston Metropolitan] of any fossil fuel containing an ash content in excess of nine per cent (9%) by dry weight.

8. 310 CMR 7.06(1), which concerns visible emissions, is part of the applicable SIP within the meaning of section 113(d)(5) of the Act and reads in part as follows:

> (a) No person shall cause, suffer, allow, or permit the emission of smoke which has a shade, density, or appearance equal to or greater than No. 1 of the Chart [20%] for a period, or aggregate period of time in excess of six minutes during any one hour, provided that at no time during the said six minutes shall the shade, density, or appearance be equal to or greater than No. 2 of the Chart. [40%].

9. EPA has determined that units 1, 2 and 3 will be unable to meet the requirements of 310 CMR 7.02(8), 7.05(4) and 7.06(1) if the units convert to coal burning.

10. Salem Harbor is located in the Metropolitan Boston Air Quality Control Region (AQCR). The city of Salem is located within this AQCR and EPA has designated Salem as an area which is attaining the primary national ambient air quality standard (NAAQS) for total suspended particulates (TSP).

11. The Administrator has determined that the emission limits, requirements respecting pollution characteristics of coal and other enforceable measures contained in the following Order are sufficient to assure that the burning of coal at Salem Harbor will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any primary NAAQS for such pollutant.

12. The Administrator also has determined that the compliance schedule in the following Order requires compliance with 310 CMR 7.02(8), 7.05(4) and 7.06(1) as expeditiously as practicable and before December 31, 1985.

13. Furthermore, the Administrator has determined that the interim requirements of the following Order require the best practicable systems of emission reduction (BPSER) to protect the public health and minimize noncompliance with 310 CMR 7.02(8), 7.05(4) and 7.06(1).

Based on the foregoing findings, it is hereby ordered:

I. SIP Limitation

As specified in this Order, units 1, 2 and 3 of the Salem Harbor Generating Station owned by NEPCO shall comply with the interim limitations, compliance schedules, and other enforceable requirements set forth in this Order. The emission limits contained in this Order are authorized only until NEPCO can install the pollution control equipment necessary to achieve compliance with Sections 310 CMR 7.02(8), 7.05(4), and 7.06(1) of the Massachusetts SIP while burning coal at Salem Harbor. These regulations govern particulate emissions, coal ash content and visible emissions, respectively.

As used in this Order, the term "old coal" means the high ash (over 17%) coal on site at Salem Harbor before April 15, 1981, when NEPCO petitioned EPA to allow coal burning at the plant. "New coal" as used in this Order, refers to coal which complies with the 9% ash limit of 310 CMR 7.05(4) (interpreted by the state as measured on a cargo received basis).

II. Interim Requirements

EPA has determined that the following interim requirements ensure that the burning of old or new coal in units 1, 2 and 3 will not cause or contribute to violations of the primary NAAQS for TSP:

A. Preliminary and General Measures

1. Prior to the burning of any coal at Salem Harbor, NEPCO shall submit to EPA a detailed program for minimizing fugitive particulate emissions from coal and coal ash handling. Upon approval by EPA, this program shall become enforceable under this Order.

2. (a) Prior to the burning of old coal in any unit Salem Harbor, NEPCO shall install a flue gas conditioning system in that unit to enhance the collection efficiency of its electrostatic precipitator. This flue gas conditioning system shall remain in operation when the unit converts to burning new coal.

(b) Prior to the burning of new coal in a second unit at Salem Harbor, NEPCO shall install another flue gas conditioning system in that unit. This second flue gas conditioning system shall be supplied by a different vendor than the one that supplied the system required by (a) above.

(c) Prior to the burning of new coal in the third unit at Salem Harbor, NEPCO shall install a flue gas conditioning system in that unit. This third flue gas conditioning system may be supplied by any vendor.

(d) Within 180 days after initial burning of old coal at Salem Harbor, NEPCO shall evaluate the effectiveness of the flue gas conditioning systems, shall select the more effective system, and shall install the more effective system on all three units. In the event that the systems are ineffective, EPA may eliminate the requirement for installation and operation of the system.

(e) For the duration of this Order, the selected flue gas conditioning systems shall be operated in a manner recommended by the supplier of the conditioning agents.

3. (a) Within 180 days after initial burning of old coal at Salem Harbor, NEPCO shall complete implementation of all measures identified as best practical system of emission reduction of NEPCO's September 24, 1981 submittal to EPA, summarized as

items 1–10 in Figure 12 of the testimony of G. P. Sasdi.

(b) Within 210 days after initial burning of old coal at Salem Harbor, NEPCO shall submit to EPA for approval a plan which details any corrective measures NEPCO intends to implement as a result of gas flow distribution tests (Item 7 in Figure 12). NEPCO shall be required to implement corrective measures if tests show that the existing gas flow distribution significantly decreases the effectiveness of the electrostatic precipitators. Upon approval by EPA, the terms of the above plan shall become enforceable under this Order.

4. (a) Within 30 days after initial burning of old coal at Salem Harbor, NEPCO shall submit to EPA a preliminary plan to optimize particulate emission reduction from operating the flue gas conditioning system or systems.

(b) In addition, NEPCO shall submit to EPA monthly status reports on the implementation of this plan.

(c) Within 210 days after initial burning of old coal at Salem Harbor, NEPCO shall conduct particulate emission tests on each unit to demonstrate optimization of the flue gas conditioning systems.

(d) Within 210 days after initial burning of old coal at Salem Harbor, NEPCO shall submit to EPA for approval a plan for installing any additional new transformer-rectifier sets. NEPCO shall be required to install additional new transformer-rectifier sets if flue gas conditioning optimization tests show that flue gas conditioning significantly enhances the effectiveness of the electrostatic precipitators. Upon approval by EPA, the terms of the above plan shall become enforceable under this Order.

(e) Within 240 days after initial burning of old coal, NEPCO shall submit to EPA a final plan to optimize particulate emission reduction from operating the flue gas conditioning system. Upon approval by EPA, this final plan shall become enforceable under this Order.

B. *Old Coal Burn*

1. Not later than 14 days before burning old coal in any unit, NEPCO shall submit to EPA written notice of the date it intends to start burning old coal in that unit.

2. (a) NEPCO shall be authorized to burn old coal for no more than 60 actual days of coal burning following the effective date of this Order, and not later than July 31, 1982.

(b) NEPCO shall burn old coal during this period only in either unit 2 or unit 3, but not in both units at the same time.

(c) During this time, unit 1 shall not burn any coal.

3. For the 60 days of burning of old coal under this Order, net electric power generation from coal burning shall not exceed the following rates:

(a) Unit 2: 64 MW

(b) Unit 3: 100 MW

Compliance with this limitation shall be based upon the monitoring and reporting required by IV(B)(5) of this Order.

4. For the 60 days of burning of old coal under this order, no unit shall burn coal at any time unless all fields of its electrostatic precipitator are fully energized and operating properly. Compliance with this requirement shall be verified by electrostatic precipitator records kept as required by IV(A)(6) of this order.

C. *New Coal Burn*

1. Not later than 14 days before burning new coal in any unit, NEPCO shall submit to EPA written notice of the date it intends to start burning new coal in that unit.

2. (a) Upon initial burning of new coal in any unit, particulate emissions from that unit shall not exceed 0.60 pounds per million Btu gross heat input.

(b) Within 60 days of initial burning of new coal in any unit, and not later than 150 days from the initial burning of any coal at Salem Harbor, NEPCO shall conduct particulate emission tests on that unit to demonstrate compliance with this emission limit.

3. (a) Within 240 days of initial burning of any coal at Salem Harbor under this Order, particulate emissions from each unit shall not exceed 0.45 pounds per million Btu gross heat input.

(b) Within 240 days of initial burning of any coal at Salem Harbor, NEPCO shall conduct a particulate emission test on each unit to demonstrate compliance with this emission limit.

(c) Eighteen months after completing (b) above, NEPCO shall conduct an additional particulate test on each unit to demonstrate continued compliance with the emission rate.

4. Within 30 days of completing each set of particulate emission tests required by II(C)(3), NEPCO shall submit to EPA a report which correlates visible emissions from each unit as determined by EPA Method 9 (40 CFR Part 60, Appendix A) as a function of particulate emissions from coal burning.

(a) Each report shall propose an enforceable visible emissions opacity limit for each unit covered by this Order.

(b) EPA shall set an opacity limit for enforcement under this Order within 30 days of receipt of each report.

(c) Each report also shall propose an opacity monitor reading which correlates with particulate emissions from coal burning.

(d) Within 30 days of receipt of each report, EPA shall set an opacity monitor reading which will be used as an indicator of continuous compliance with the emission limits of this Order.

(e) EPA may require NEPCO to submit additional visible emission analyses under IV(A)(5) of this Order, and may use the additional data to revise opacity limits applicable to coal burning under this Order.

III. Compliance Schedule

Before commencing the burning of old coal under this Order, NEPCO shall continue to comply at all times with 310 CMR 7.02(8), 7.05(4), and 7.06(1). Once the burning of old coal has commenced, NEPCO shall proceed as expeditiously as practicable to achieve compliance with 310 CMR 7.02(8), 7.05(4), and 7.06(1).

A. Increments of Progress

NEPCO shall achieve the following increments of progress towards final compliance no later than the earlier of the times specified in the following compliance schedule:

Compliance Schedule and Increment of Progress

1. Prior to the initial burning of old coal in any unit, or May 31, 1982—Hire an architect/engineer for coal conversion project design and engineering.
2. 2 months after initial burning of old coal in any unit, or July 31, 1982—Attain compliance with 310 CMR 7.05(4). (Compliance shall be determined from reports and fuel analyses required under (IV)(B) of this Order.)
3. 9 months after initial burning of old coal in any unit, or February 28, 1983—Enter contracts or place purchase orders for all major equipment including electrostatic precipitators, and ductwork, necessary for final compliance with 310 CMR 7.02(8) and 7.06(1).
4. 21 months after initial burning of old coal in any unit, or February 28, 1984—Initiate on-site construction or installation of electrostatic precipitators and ductwork.
5. (a) 31 months after initial burning of old coal in any unit, or December 31, 1984—Tie unit 1 into its completed electrostatic precipitator and ductwork.

(b) 35 months after initial burning of old coal in any unit, or April 30, 1985—Tie unit 2 into its completed electrostatic precipitator and ductwork.

(c) 39 months after initial burning of old coal in any unit, or August 31, 1985—Tie unit 3 into its completed electrostatic precipitator and ductwork.

6. (a) 34 months after initial burning of old coal in any unit, or March 31, 1985—Perform an emission test demonstrating compliance of unit 1 with 310 CMR 7.02(8) and 7.06(1).

(b) 38 months after initial burning of old coal in any unit, or July 31, 1985—Perform an emission test demonstrating compliance of unit 2 with 310 CMR 7.02(8) and 7.06(1).

(c) 43 months after initial burning of old coal in any unit, or December 31, 1985—Perform an emission test demonstrating compliance of unit 3 with 310 CMR 7.02(8) and 7.06(1).

B. Force Majeure

In the event NEPCO is unable to comply with any of the schedule increments established in III(A) above, and such failure is due to an act of God, war, strike, or other causes beyond its control, NEPCO may petition EPA to extend the time for compliance with such schedule increment and all subsequent schedule increments by a period equal to the delay caused by such circumstances. NEPCO shall bear the burden of proving that a delay is caused by circumstances clearly beyond its control. Any delay caused by such circumstances shall not be deemed a violation of this Order. In no event, however, shall final compliance be achieved later than December 31, 1985.

C. Compliance Reporting Requirements

1. NEPCO shall submit written notice of its compliance status with each of the above listed compliance milestones within 10 calendar days after the date for achieving such milestones.

2. If noncompliance is reported, notification should include the following information:

(a) A description of the noncompliance;
(b) A description of any actions taken or proposed by NEPCO to comply with the elapsed schedule requirements;
(c) A description of any factors which tend to explain or mitigate the noncompliance;
(d) An approximate date by which NEPCO will perform the required action.

3. Furthermore, NEPCO shall submit calendar quarterly construction progress reports to EPA for the duration of this Order.

IV. Monitoring and Reporting Requirements

A. Emissions Monitoring and Reporting Requirements

1. All particulate emission testing shall be conducted in accordance with Reference Method 5, 40 CFR Part 60, Appendix A, under operating conditions approved by EPA and in the presence of EPA personnel or EPA representatives.
(a) NEPCO shall provide safe access to safe sampling platforms on all units to be tested.
(b) For the purposes of this Order, a particulate emission test shall consist of four Method 5 sampling runs. If NEPCO chooses to sootblow its boilers continuously as its normal mode of boiler operation, then each sampling run shall be conducted under continuous sootblow. If NEPCO chooses not to sootblow continuously, however, then one of the four sampling runs shall be conducted during the normal boiler sootblowing cycle, and three runs shall be conducted without sootblowing.
(c) The average emission rate for a particulate emission test shall consist of the arithmetic average of the three non-sootblow runs prorated in a manner specified by EPA to account for the change in emissions encountered during the sootblow run.

2. For all particulate emission tests required by II(A)(4)(c) of this Order, the following additional requirements shall apply:
(a) Two sets of tests shall be performed on each unit; one set while the flue gas conditioning system is operating, and one set while it is not operating.
(b) The same type of coal shall be burned during both sets of tests.
(c) The boiler load, sootblowing operations and the amount of excess air shall be the same for both sets of tests.
(d) Both sets of tests shall be made while the unit and its electrostatic precipitator are operating under normal operating conditions.
(e) The tests with conditioning agents shall be preceded by at least 10 days of operation with conditioning agents to allow the precipitator to stabilize. Similarly, the tests without conditioning agents shall be preceded by a period of precipitator operation without conditioning agents, as specified by EPA.
(f) After the flue gas conditioning systems have been optimized on new coal, if the approximate composition or usage rate of the conditioning agent changes at any time during the life of this Order, NEPCO shall notify EPA in writing within 15 days of the change. If such change occurs after NEPCO has performed the testing detailed above, EPA may require additional tests. If EPA decides to require additional tests, NEPCO shall be notified in writing. NEPCO shall perform the additional tests within 30 days of receipt of the written notice.

3. For any emission or performance specification testing under this Order:
(a) NEPCO shall submit a pretest report to EPA at least 30 days before the proposed test date for any unit.
(b) No fewer than 5 days before NEPCO conducts any such test, appropriate NEPCO personnel and any representatives of the contractor responsible for the performance of the tests shall meet with EPA to discuss and finalize the testing protocol.
(c) NEPCO shall submit a written emission test report to EPA within 30 days of completing any EPA required emission testing.
(d) Pretest reports and emission test reports shall contain information as required by EPA and shall be presented in a format specified by EPA.

4. NEPCO shall install and operate continuous opacity monitoring equipment on each unit before burning new coal in that unit.
(a) NEPCO shall demonstrate that each opacity monitor complies with performance specifications within 30 days after coal is burned in the unit on which the monitor is installed. NEPCO shall comply with the provisions of 40 CFR Part 51, Appendix P, and the performance specification test requirements cross-referenced under 40 CFR Part 60, Appendix B. If two or more opacity monitors are used to report opacity from any single boiler, NEPCO shall submit to EPA prior to conducting performance specifications tests for the monitors, an approvable method for correlating each monitor to the total opacity at the stack outlet at any time after the effective date of this Order. NEPCO shall notify EPA 10 days before removing any monitor from its location. This notification also shall include data which demonstrates that the new location for the monitor or its replacement meets the requirements of 40 CFR Part 60, Appendix B. Additionally, the monitor or its replacement shall be completely recertified according to 40 CFR Part 60, Appendix B before it is reinstalled. Data demonstrating recertification shall be provided to EPA upon request.
(b) Not later than 30 days prior to initial start-up of the continuous opacity monitoring equipment, NEPCO shall submit to EPA an approvable quality assurance program for the monitoring system.
(c) NEPCO shall report to EPA on a monthly basis all hourly average opacity readings for each opacity monitor which exceed the limits specified by EPA under II(c)(4) of this Order. These summary reports shall be submitted to EPA within 15 days of the end of each month; records of all hourly average opacity readings shall be retained at Salem Harbor for inspection for the duration of this Order.

5. NEPCO shall perform any additional testing required by EPA within 30 days of receipt of written notification of such requirement. Among other things, additional testing may be required to quantify changes in emissions due to such factors as changes in coal characteristics or changes in boiler or precipitator operations. Additional tests also may be required to quantify suspected changes in emissions indicated by frequent opacity exceedences. Any proposal made by NEPCO to limit total station emissions by derating one or more generating units may result in additional testing requirements for that unit or units at any proposed generation levels.

6. NEPCO shall maintain a logbook available for EPA inspection containing the following data for each electrostatic precipitator serving a unit burning old or new coal under this Order.
(a) NEPCO shall log secondary voltage, secondary current, and spark rate for each transformer-rectifier set every 4 hours while the unit is burning old or new coal.
(b) NEPCO shall log voltage current relationships across each transformer-rectifier set's operating range every 15 days for the first 60 days after initial burning of old coal. Thereafter the data shall be logged every 30 days for the duration of this Order.

B. Coal Monitoring and Reporting Requirements

Within 30 days of the effective date of this Order, NEPCO shall submit an approvable fuel monitoring plan to EPA. As a minimum, such plan shall include a commitment on the part of NEPCO to do the following:

1. NEPCO shall perform proximate analyses of all coal cargoes off-loaded at the Salem Harbor Generating Station.
(a) ASTM D 3172 shall be used for the performance of the proximate analyses.
(b) ASTM D 2234, with systematic spacing shall be used for sample increment collection.
(c) Paragraph 7.1.5.2 and Table 2 of ASTM D 2234 shall be used to determine the number and weight of increments required per gross sample.
(d) One gross sample shall be collected for each shipment or for each 10,000 tons of coal, whichever is less.

2. NEPCO shall perform daily coal sampling and analyses for sulfur content, ash content and gross calorific value for coal burned at the station under this Order.
(a) ASTM D 2234, with systematic spacing shall be used for sample increment collection.
(b) As a minimum, one increment shall be collected from each coal conveyor during each hour that an individual conveyor is in operation. Such increments from all conveyors are to be composited for analysis on a daily basis.
(c) Table 2 of ASTM D 2234 shall be used to determine the weight of each increment.

(d) ASTM D 2013 shall be used for sample preparation.
(e) ASTM D 3177 or an equivalent method approved by EPA shall be used for sulfur analysis.
(f) ASTM D 3174 shall be used for ash analysis.
(g) ASTM D 2015 or ASTM D 3286 shall be used for gross calorific value determinations.

3. NEPCO shall participate in the EPA coal analysis methods audit program conducted by the Quality Assurance Division, Environmental Monitoring Systems Laboratory in Research Triangle Park, North Carolina. Coal audit samples shall be analyzed according to ASTM procedures for percent sulfur, moisture, ash content and gross calorific value and will be provided by EPA on a periodic basis.

4. Monthly reports containing coal cargo shipment sizes, coal analyses, cargo and daily coal analyses shall be submitted to EPA within 15 days of the close of each month in a format approved by EPA.
(a) Such reports also shall contain 30-day "rolling average" sulfur content values for the coal burned, calculated for each day of the month.
(b) The results of any audit coal sample analyses performed during that month also shall be included.
(c) All coal analysis data shall be presented on a dry basis.

5. NEPCO shall submit to EPA on a monthly basis, hourly average net megawatts generated by each unit. Monthly data shall be reported within 15 days of the end of each month in a format approved by EPA.

C. Ambient Monitoring and Reporting Requirements

1. (a) Within 60 days of the effective date of this Order but in no case later than the start of coal burning and subject to the provisions of IV(C)(5) of the order, NEPCO shall install and operate a network of ambient monitors to measure SO_2 concentration on a continuous basis, and TSP concentration on a frequency as specified in IV(C)(2) below.
(b) As a minimum, NEPCO shall place both TSP and SO_2 monitors near each of the following locations:
(i) Water Tower, Green Street, Marblehead
(ii) Winter Island Dam, Salem
(iii) NEPCO right-of-way, north of Fort Avenue, Salem
(iv) NEPCO property southeast of Derby and English Streets
(v) Beverly north of Mackerel Cove
(c) The burning of coal at Salem Harbor under this order constitutes acceptance by NEPCO that ambient monitoring data collected on its property is representative of ambient air quality levels in the surrounding area. EPA may use this data as such for any purpose appropriate under the Act.

2. The sampling frequency at the Green Street, Marblehead and Beverly TSP sites shall be once every three days unless an exceedence of the secondary NAAQS for TSP is measured. In this event, daily sampling is required. The sampling frequency at all the remaining TSP sites shall be daily; however, the sampling frequency at any TSP monitoring site may be reduced to once every three days if the following conditions are met at such site during any continuous 365 day period after new coal has been burned at all three units:
(a) Every 24-hour TSP concentration measured at the site must be less than 200 micrograms per cubic meter and;
(b) The annual geometric mean for TSP measured at the site must be less than 60 micrograms per cubic meter.

3. All ambient monitoring locations and equipment installations must be approved by EPA prior to operation and must meet 40 CFR Part 58, Appendix B (Quality Assurance), Appendix C (Ambient Air Quality Monitoring Methodology), and Appendix E (Probe Siting Criteria).
(a) All SO_2 analyzers are to be operated on the 0.5 ppm or 1.0 ppm ranges unless ambient air quality levels exceed this concentration. If this case occurs, then any such instrument must be operated on the appropriate higher range.
(b) Within 30 days of the effective date of this Order, NEPCO shall submit in writing to EPA an approvable quality control program.
(c) EPA will accept performance audits by the Massachusetts Department of Environmental Quality Engineering (DEQE) to satisfy the requirements for the quarterly accuracy audit (40 CFR Part 58, Appendix B, Section 3), but it will be NEPCO's responsibility to provide independent performance audits for any calendar quarter not audited by DEQE.

4. Within 60 days of the effective date of this Order, NEPCO shall construct a meteorological tower at a location near the company right of way north of Fort Avenue.
(a) NEPCO shall operate continuous monitoring instruments on this tower to measure and record wind speed and direction.
(b) The exact location and height of the tower shall be selected by NEPCO and approved by EPA in writing before the tower is constructed.
(c) All meteorological instrumentation shall comply with EPA requirements as specified in EPA Guideline 450/4–80–012.
(d) All meteorological monitoring procedures must be submitted to EPA for approval at least 30 days before they are implemented.

5. NEPCO shall obtain all the necessary permits, easements or permissions necessary to locate the monitors and meteorological towers required by IV(C)(1) and (4) of this Order. EPA may grant time extensions for monitor siting, select alternative sites, or eliminate sites altogether, but NEPCO shall bear the burden of establishing that a change is necessary.

6. NEPCO shall receive permission in writing from EPA prior to conducting any further analysis of the TSP filters. NEPCO must keep all TSP filters in a suitable condition for further analysis for a period of 12 months after termination of this order. NEPCO must supply any of these filters to EPA upon request for further analysis. If the Federal Reference method for total suspended particulates is modified or replaced during the period of this Order, EPA reserves the right to require NEPCO to modify or replace any or all existing particulate monitors.

7. All monitoring and meteorological data shall be submitted to DEQE within 30 days of the close of each month in machine-readable SAROAD format.
(a) The data reported to DEQE shall be for individual hourly observations of SO_2, wind speed, and direction, as well as daily averages for TSP.
(b) NEPCO shall insure that EPA receives the above information within 90 days of the end of each calendar quarter.
(c) NEPCO shall notify EPA of any exceedence of any primary NAAQS for SO_2, within 72 hours of its occurrence. NEPCO shall notify EPA of any exceedence to any primary NAAQS for TSP within 15 days of its occurrence.
(d) Within 30 days of the close of each month, NEPCO shall submit to both EPA and the DEQE, Northeast Regional Office, Woburn, one paper copy of all monitoring and meteorological data. This data will be maintained for public inspection at the EPA Regional Office, Boston, and the DEQE Regional Office, Woburn, during normal working hours.
(e) EPA may grant time extensions to these reporting requirements for this Section, but NEPCO shall bear the burden of establishing that extensions are necessary.

8. Within 30 days of the occurrence of any violation of the primary NAAQS for TSP, NEPCO shall submit to EPA all relevant data under Section 113(d)(5)(D)(i) through (iii) of the Act.

V. General Requirements

A. This Order shall not be effective during any interval after EPA finds, and notifies NEPCO, that (1) a primary NAAQS for TSP is being exceeded in the Metropolitan Boston AQCR (Section 113(d)(5)(D)), and (2) NEPCO has failed to prove that the requirements of Sections 113(d)(5)(D)(i) through (iii) of the Act have been satisfied. During any such intervals, NEPCO shall comply with 310 CMR 7.02(8), 7.05(4) and 7.06(1). If NEPO violates these regulations, it shall be subject to enforcement action under any and all authorities of the Act.

B. Nothing herein shall affect the responsibility of NEPCO to comply with any applicable local, state or federal regulations except as specified in this Order.

C. NEPCO shall submit a copy of all correspondence and reports required under this Order to the Director, Air and Waste Management Division, EPA, Region I, JFK Federal Building, Boston, MA 02203.

NEPCO may assert a business confidentiality claim covering part or all of the information requested by this Order, in the manner described by 40 CFR 2.203(b). Information covered by such a claim will be disclosed by EPA only as set forth in 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to NEPCO. Certain categories of information are not properly the subject of such a claim. For example, the Act provides that emission data

shall in all cases be made available to the public. See 42 U.S.C. 7414(c).

D. NEPCO is hereby notified that its failure to achieve final compliance at its Salem Harbor Station with 310 CMR 7.02(8), 7.05(4) and 7.06(1) by the compliance date specified in III(A)(6) of this Order may result in an assessment of a noncompliance penalty under section 120 of the Act, 42 U.S.C. 7240. This penalty may be imposed at an earlier date, as provided under section 113(d) and section 120 of the Act, in the event that this Order is terminated or violated as provided in V(E) and (F) below. In either event, NEPCO will be formally notified of its noncompliance, under section 120(b)(3) of the Act or any regulations promulgated thereunder.

E. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines, on the record, after notice and opportunity for hearing, that the inability of NEPCO to comply with 310 CMR 7.02(8), 7.05(4), and 7.06(1) as approved by EPA, no longer exists with respect to its Salem Harbor Station. Additionally, if NEPCO demonstrates compliance with 310 CMR 7.02(8), 7.05(4), and 7.06(1) prior to the applicable compliance dates specified in III(A)(2) and (6) of this Order, then this Order shall be terminated at that earlier date.

F. Under section 113 (d)(9) of the Act, 42 USC 7413(d)(9), violation of any requirement of this Order shall result in one or more of the following actions:

1. Enforcement of such requirement under section 113(a), (b), or (c) of the Act, 42 U.S.C. 7413(a), (b), or (c);
2. Revocation of this Order, after notice and opportunity for a public hearing;
3. Notification of noncompliance and assessment of a noncompliance penalty under section 120 of the Act.

G. This order is effective upon publication in the **Federal Register** and after having received concurrence from the Governor of the Commonwealth of Massachusetts.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

[FR Doc. 82-3435 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL-2045-5]

Approval of a Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of correction of final rule.

SUMMARY: This notice clarifies and corrects the language contained in the rulemaking sections of EPA's approval of two revisions to Pennsylvania's State Implementation Plan (SIP), published in the **Federal Register** on October 26, 1981 (46 FR 52107) and on November 30, 1981 (46 FR 58083).

In the rulemaking sections of the notices approving the SIP revisions, the paragraphs appeared out of sequence. This notice merely corrects the rulemaking section, presenting it as it should appear in the Code of Federal Regulations. These changes do not in any way affect the regulations that were submitted to and approved by EPA.

FOR FURTHER INFORMATION CONTACT:

Gregory D. Ham (3AW11), Air Media and Energy Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, (215) 597-2745.

[42 U.S.C. 7401-7642]

Dated: January 22, 1982.

Peter N. Bibko,

Regional Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 62.9600, Identification of Plan—negative declaration, is revised to read as follows:

§ 62.9600 Identification of Plan—negative declaration.

(a) The Pennsylvania Department of Environmental Resources submitted on December 1, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

(b) The Allegheny County Bureau of Air Pollution Control submitted a letter on August 18, 1978 certifying that there are no phosphate fertilizer plants in the County subject to part 60, Subpart B of this Chapter.

2. Section 62.9601, Identification of Plan—negative declaration, is amended by the following change in title and by the revision of paragraphs (a) and (b) as follows:

§ 62.9601 Identification of Plan.

(a) The Allegheny County Bureau of Air Pollution Control submitted a letter on August 18, 1978 certifying that there are no sulfuric acid plants in the County subject to Part 60, Subpart B of this Chapter.

(b) A plan for the control of sulfuric acid mist emissions from existing sulfuric acid plants in the Commonwealth of Pennsylvania, submitted on May 30, 1978 and supplemented on August 17, 1981.

[FR Doc. 82-3434 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-38-M

Proposed Rules

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

REA Bulletins 181–1, Uniform System of Accounts Prescribed for Electric Borrowers and 181–3, Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletins 181–1, Uniform System of Accounts Prescribed for Electric Borrowers, and 181–3, Accounting Interpretations for Rural Electric Borrowers, to include the criteria, as specified in Financial Accounting Standard No. 43, for accuring the borrower's liability arising from compensated employee absences. A previous proposal was issued in the May 5, 1981, **Federal Register** (Vol. 46, No. 86, p. 25096). In response to questions concerning the accounting procedures necessary to implement that proposal, we are revising our rulemaking to include an accounting interpretation on that topic.

DATE: Public comments must be received by REA no later than April 12, 1982.

ADDRESS: Persons interested in the proposed revision may submit written data, views, suggestions, or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4063, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 382–9550. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A to 7 CFR 1701 be revising REA Bulletins 181–1, Uniform System of Accounts, and 181–3, Accounting Interpretations for Rural Electric Borrowers. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation. Since no significant effect on the economy will occur, since no significant increase in cost for consumers, industries or government will result, and since no significant impact on economic conditions will be caused, this action has been determined to be "not major."

The Regulatory Flexibility Act (Pub. L. 96–354) is not applicable to this action, therefore a Regulatory Flexibility Analysis will not be prepared.

Current accounting procedures prescribed by REA in Bulletin 181–1, Uniform System of Accounts Prescribed for Electric Borrowers, provide for the accrual of vacation and holiday leave. It states that the employer has no obligation to the employee for sick leave unless sickness occurs. Accrued sick leave, therefore, is only a contingent liability and as such, is not recorded on the general books.

The Financial Accounting Standards Board recently issued Financial Accounting Standard (FAS) No. 43, Accounting for Compensated Absences, in which four criteria were established for the accrual of employee compensation for future absences (vacation, holiday, sickness). They are as follows:

1. The employer's obligation for payment for future absences is attributable to employees' services already performed;

2. The obligation relates to employee rights which vest or accumulate; (Vested rights are considered those for which the employer is obligated to make payment even if the employee terminates. Rights which accumulate are those earned but unused rights to compensated absences which may be carried forward to one or more periods subsequent to the period in which they are earned.)

3. Payment of the compensation is probable; and

4. The amount can be reasonably estimated.

The obligation related to employees' accumulating rights (nonvested) to receive compensation for future absences that are contingent on the absences being caused by an employee's future illness may be excluded from the accrual if they cannot be reasonably estimated.

We are proposing to revise Account 242.3, Accrued Employees' Vacations and Holidays, in REA Bulletin 181–1 to adopt the principles of FAS No. 43 as outlined above. The revision is detailed below.

Proposed Revision to REA Bulletin 181–1—Uniform System of Accounts

Page REA–9

242.3 Accrued Compensated Absences

All borrowers shall account for compensated absences. Accordingly, borrowers shall accrue a liability for employee's compensation costs covering absences from employment for vacation, holiday, sickness or other personal activities for which it is expected that an employee will be paid. Accumulated rights to receive compensation for future absences (those rights that are contingent on the absences being caused by an employee's future illness and for which the employee will receive no benefit upon termination) may be excluded from the accrual if they cannot be reasonably estimated.

In addition, we are proposing to establish a new account 435.1, Cumulative Effect on Prior Years of a Change in Accounting Principle, to account for the non-restated cumulative effect of this change and other changes in accounting principles.

Page REA–13

435.1 Cumulative Effect on Prior Years of a Change in Accounting Principle

This account shall include the cumulative effect on prior years' earnings of a change in accounting principle.

This account is closed to operating margins at year's end.

We are also proposing the following accounting interpretation to provide the necessary accounting procedures.

Proposed Accounting Interpretation—REA Bulletin 181–3

I. *General:* Financial Accounting Standard (FAS) #43, Accounting for Compensated Absences, requires employers to accrue a liability for certain costs of employees' paid absences. Under accural accounting, the employer's expense for compensated absences should be recorded when they are earned rather than when they are paid.

FAS #43 goes on to state that the obligations related to employees' accumulating rights to receive compensation for future absences that are contingent on the

absences being caused by an employee's future illness may be excluded from the accrual if they cannot be reasonably estimated.

The provisions of the Statement do not, however, apply to severance or termination pay, post-retirement benefits, deferred compensation, stock or stock options, long-term disability pay, group insurance or other long-term fringe benefits.

The following questions and answers are designed to provide uniformity in accounting for employees' compensated absences.

II. *Questions and Answers:*

1. *Question:* What criteria have been established for accruing compensated absences?

Answer: The following criteria have been established:

a. The employer's obligation for payment for future absences is attributable to employees' services already performed;

b. The obligation relates to employee rights which vest or accumulate; (Vested rights are considered those for which the employer is obligated to make payment even if the employee terminates. Rights which accumulate are those earned but unused rights to compensated absences which may be carried forward to one or more periods subsequent to the period in which they are earned.)

c. Payment of the compensation is probable; and

d. The amount can be reasonably estimated.

All four criteria must be met.

2. *Question:* How should the liability for compensated absences be calculated?

Answer: A company's liability should be estimated (using current labor costs) based on the payments it expects to make for employees' work already performed. This estimate should be updated yearly to account for changes in employee leave patterns and labor costs.

3. *Question:* How should the monthly liability be recorded in the utility's accounting records?

Answer: The following journal entry should be made: Dr. Account 926, Employee Pensions and Benefits, Cr. Account 242.3, Accrued Compensated Absences. Account 926 should then be credited for the amounts directly attributable to plant construction and retirement activities if a direct distribution to those accounts was not made.

4. *Question:* What entry in the accounting records is necessary to account for the cumulative effect of the unrecorded liability from previous years?

Answer: The cumulative effect of this accounting change should be applied retroactively. In the year it is first applied, the financial statements should disclose the nature of any restatement and its effect on income before extraordinary items and net income for each year restated. If retroactive restatement of all years presented is not practicable, the financial statements presented should be restated for as many consecutive years as practicable and the cumulative effect should be included in determining net income of the earliest year restated. If it is not practicable to restate any prior year, the cumulative effect should be included in the net income of the current period. Account 435.1, Cumulative Effect on Prior Years of a Change in Accounting Principle, should be charged with the cumulative amount. The balance in this account is closed, at year's end, to operating margins.

(Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: February 1, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3298 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-83-80]

Partial Exclusion of Dividends and Interest; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the partial exclusion of dividends and interest from gross income. The applicable law was amended by the Crude Oil Windfall Profit Tax Act of 1980 and the Economic Recovery Tax Act of 1981. The statutory amendments expanded the scope of the exclusion to include interest in addition to dividends and increased the amount of the exclusion for taxable years beginning in 1981. The regulations would provide individuals and certain payors of interest and dividends with guidance in determining what portion of dividends and interest received during an individual's taxable year beginning in 1981 is eligible for the exclusion.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 12, 1982. The amendments are proposed to be effective for dividends and interest received by an individual in the individual's taxable year beginning in 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-83-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 202-566-3297, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 116, 854, 857, and 1232 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 404 of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223, 94 Stat. 305) and section 302(b)(1) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 272). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Amendments

Section 116 of the Internal Revenue Code prior to amendment by the Crude Oil Windfall Profit Tax Act provided an exclusion from gross income of $100 of dividends received by an individual. A married couple filing a joint return could exclude $200 if each spouse received at least $100 of dividends. For taxable years beginning in 1981 and 1982, section 404 of the Crude Oil Windfall Profit Tax Act increased the amount of the exclusion to $200 for individuals ($400 for married couples filing joint returns, without regard to which spouse received the dividends) and expanded the exclusion to apply to certain types of interest received by individuals from domestic corporations. Section 302(b)(1) of the Economic Recovery Tax Act of 1981 limited these amendments to taxable years beginning in 1981.

Section 116(c)(1) lists five categories of indebtedness interest on which qualifies for the exclusion; it also provides that the list may be expanded through regulations to include other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public. The proposed regulations add commercial paper and repurchase agreements to the list and provide that original issue discount with respect to any listed category of indebtedness shall be treated as qualifying interest. In addition, the proposed regulations would provide that original issue discount excluded under section 116 would be considered included in gross income under the basis adjustment provisions of section 1232(a)(3)(E). The result would be that even though original issue discount is excluded from gross income under section 116 it would be added to the bondholder's basis in the obligation under section 1232(a)(3)(E).

In the case of distributions received by individuals from conduit-type entities (such as trusts, regulated investment companies, and real estate investment trusts), sections 116, 854 and 857 as amended provide that the distributions generally qualify for the exclusion to the same extent that the gross income of the entity consists of eligible dividends or eligible interest. The proposed regulations would provide that the taxable year of the individual in which the individual receives the distribution will determine the amount and the scope of the distribution which the taxpayer may exclude from gross income under section 116.

Under the proposed regulations, a regulated investment company or a real estate investment trust would compute the percentage of gross income which qualifies for the exclusion on the basis of its gross income for its taxable year but would use the date of distribution to the shareholder to determine which items qualify for exclusion. To simplify preparation of notices to shareholders with respect to the excludability of dividends, the proposed regulations would provide that the entity could assume that the taxable year of all recipient shareholders is the calendar year. Shareholders whose taxable year is not the calendar year would be allowed to request a special notice from the entity based on the shareholder's different taxable year.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. The following new § 1.116–3 is to be added after § 1.116–2.

§ 1.116–3 Special rules for taxable years beginning after December 31, 1980 and before January 1, 1982.

(a) *In general.* This section provides special rules for taxable years beginning after December 31, 1980 and before January 1, 1982. The provisions of § 1.116–1 are applicable to those taxable years to the extent that those provisions are consistent with the rules of this section. References to "dividends" in § 1.116–1 shall be deemed to be references to "interest" as well, where appropriate for purposes of this section.

(b) *Amount excludable.* Section 116 excludes from gross income the first $200 of dividends from domestic corporations and interest received by an individual in a taxable year which begins after December 31, 1980, and before January 1, 1982. In the case of a joint return, the first $400 of dividends from domestic corporations and interest may be excluded, without regard to which spouse was the actual recipient of the dividends and interest.

(c) *Interest defined*—(1) *In general.* The only payments or credits included within the term "interest" for purposes of section 116 are enumerated in section 116(c)(1) and paragraph (c)(4) of this section.

(2) *Evidences of indebtedness issued in a registered form.* The phrase "evidences of indebtedness" includes bonds, debentures, notes, certificates and other similar instruments regardless of how denominated. An evidence of indebtedness is in registered form if it is registered as to both principal and interest (or, for purposes of reporting with respect to orignial issue discount, if it is registered as to principal) and if its transfer must be effected by the surrender of the old instrument and either the reissuance by the corporation of the old instrument to the new holder or the issuance by the corporation of a new instrument to the new holder.

(3) *Original issue discount.* Original issue discount that, prior to application of section 116, would be properly includable in income in the taxable year shall be considered interest for purposes of the exclusion provided in section 116, if interest on the underlying obligation (if the obligation were interest-bearing) would be interest within the meaning of section 116(c)(1). See § 1.1232–3A(c) for rules relating to adjustments to basis in respect of any original issue discount excluded from gross income under the provisions of this paragraph.

(4) *Other evidences of indebtedness issued by a domestic corporation.* Interest paid in respect of commercial paper issued by a domestic corporation and interest paid pursuant to a repurchase agreement with a domestic corporation shall be considered interest for purposes of section 116.

(d) *Distributions from real estate investment trusts.* Distributions from real estate investment trusts qualify for exclusion under section 116 to the extent provided in section 857(c) and § 1.857–6(d)(2).

(e) *Time dividends and interest are received.* The general rule provided in § 1.116–1(f), relating to the determination of when dividends are received, shall apply for purposes of determining the amount of the exclusion applicable to dividends or interest received by a beneficiary from an estate or trust. The special rule provided in § 1.116–1(g) shall not apply to amounts includable in income of beneficiaries for taxable years beginning after December 31, 1980 and before January 1, 1982.

Par. 2. Section 1.854–1 is amended by adding new paragraphs (c) (4) and (e). These new paragraphs read as follows:

§ 1.854–1 Limitations applicable to dividends received from regulated investment company.

* * * * *

(c) *Rule for dividends other than capital gains.* * * *

(4) For special rules with respect to dividends received in a taxable year of the shareholder beginning after December 31, 1980 and before January 1, 1982, see paragraph (e) of this section.

* * * * *

(e) *Special rule for dividends (other than capital gain dividends) for taxable years beginning after December 31, 1980 and before January 1, 1982*—(1) *In general.* In the case of a dividend (other than a capital gain dividend) received from a regulated investment company (which meets the requirements of

section 852(a) for the taxable year during which it paid the dividends) by a shareholder in a taxable year of the shareholder which begins after December 31, 1980 and before January 1, 1982, this paragraph shall apply.

(2) *Portion of the dividend eligible for exclusion under section 116*—(i) *Entire amount.* When either the aggregate interest received or the aggregate dividends received by a regulated investment company constitute at least 75 percent of its gross income for that taxable year, the entire dividend paid by the regulated investment company to the shareholder may be treated as an amount qualifying for exclusion under section 116.

(ii) *Partial amount.* When the aggregate interest received by a regulated investment company during a taxable year is less than 75 percent of its gross income and the aggregate dividends received by it are less than 75 percent of its gross income, the portion of the dividend received by the shareholder that may be treated as an amount qualifying for exclusion under section 116 is that amount that bears the same ratio to the amount of the entire dividend as the sum of the aggregate dividends and the aggregate interest received by the regulated investment company bears to the gross income of the regulated investment company.

(iii) *Adjustment for interest deduction.* For purposes of computing the portion of the dividend eligible for the exclusion under section 116, gross income and aggregate interest received shall each be reduced by the lesser of—

(A) The deduction allowable by section 163 for the taxable year, or

(B) The aggregate interest received for the taxable year (computed without regard to this subdivision).

(iv) *Gross income.* For purposes of this paragraph, the term "gross income" does not include gain from the sale or other disposition of stock or securities.

(v) *Aggregate dividends received.* For purposes of this paragraph, the term "aggregate dividends received" includes only dividends received from domestic corporations other than dividends described in section 116(b)(2) (relating to dividends not eligible for exclusion from gross income). Accordingly, dividends received from foreign corporations will not be included in the computation of "aggregate dividends received".

(vi) *Aggregate interest received.* For purposes of this paragraph, the term "aggregate interest received" includes only interest described in section 116(c)(1) and § 1.116–3(c).

(3) *Notice to shareholders.* In preparing the notice to shareholders described in section 854(b)(3) and § 1.854–2, the regulated investment company shall assume:

(i) That the taxable year of every shareholder is the calendar year, and

(ii) That all dividends are received by shareholders on the date on which they are distributed by the regulated investment company. The regulated investment company shall upon request provide any shareholder with respect to whom these assumptions result in an erroneous determination for purposes of section 116 a special notice that takes into account the actual facts of the case. The special notice shall be deemed to be a timely notice for purposes of section 854(b)(3) if it is mailed within 45 days of the date that the regulated investment company receives a request from a shareholder.

(4) *Examples.* The following examples illustrate the provisions of this paragraph:

Example (1). (i) R, a regulated investment company having a fiscal year ending June 30, makes regular distributions to its shareholders on September 1, December 1, March 1, and June 1 each year.

(ii) For its taxable year ending June 30, 1981, R has the following items of gross income:

$60,000	Dividends (all of which qualify for exclusion under section 116).
35,000	Interest (all of which qualifies for exclusion under section 116).
5,000	Capital gains from the sale of securities.
8,000	Other income.
112,000	

R has $7,000 of interest expenses which are deductible under section 163 for its taxable year ending June 30, 1981.

(iii) In computing the portion of the distributions that may qualify for exclusion under section 116, R assumes that its shareholders are calendar year taxpayers who receive distributions on the date of distribution. Therefore, R assumes that its shareholders received the September and December distributions in the taxable year beginning January 1, 1980 and the March and June distributions in the taxable year beginning January 1, 1981. Applying the rules of paragraph (c) of this section, R determines that 61.68 percent (66/107) of the September and December distributions (other than capital gains dividends) may be excluded. R applies the rules of this paragraph (e) to determine the portion of the March and June distributions that qualifies for exclusion under section 116.

(iv) For purposes of computing the portion of the March and June distributions that qualifies for exclusion under section 116, R's gross income is deemed to be $100,000 and R's aggregate interest is deemed to be $28,000. These amounts are determined as follows:

$112,000	gross income received.
−5,000	capital gains from sale of securities.
107,000	gross income prior to adjustment for interest expense.
−7,000	interest expense.
100,000	gross income net of interest expense.
35,000	aggregate interest received prior to adjustment for interest expense.
−7,000	interest expense
28,000	aggregate interest received net of interest expense.

(v) Neither the aggregate dividends received ($66,000) nor the aggregate interest received ($28,000) constitute at least 75 percent of R's gross income ($100,000). Therefore, it is necessary to determine what portion of the dividend qualifies for the partial exclusion under section 116. Applying the rules of paragraph (e), R determines that 94 percent ($66,000+$28,000/$100,000) of the March and June distributions (other than capital gains dividends) qualify for the partial exclusion under section 116.

Example (2). Assume the same facts as in example (1), except that S is a fiscal year taxpayer whose taxable year ends March 31. In July, 1981, S requests that R provide S with a special notice taking into account the fact that S is a fiscal year taxpayer and designating the amount of each dividend eligible for the section 116 exclusion. Within 45 days, R notifies S that 61.68 percent of the September, December, and March distributions and 94 percent of the June distribution will qualify for exclusion. The excludable portion of the March 1981 dividend is computed under the rules of paragraph (c) of this section because S received the dividend in a taxable year of S which began before January 1, 1981.

Example (3). Assume the same facts as in example (1), except that in addition to the four regular distributions R declares a dividend on July 15, 1981 which it distributes to its shareholders on August 28, 1981. R elects under section 855 to treat the August dividend as paid in its taxable year ending June 30, 1981. Because of this election, R refers to its gross income for its taxable year ending June 30, 1981, for purposes of determining what percentage of the August dividend qualifies for exclusion under section 116. R assumes that its shareholders use the calendar year as the taxable year and that the shareholders receive the dividend on August 28, 1981, the date of distribution. Therefore, R notifies the shareholders that 94 percent of the August dividend qualifies for exclusion under section 116.

Example (4). Assume the same facts as in example (3) except that R distributes the dividehd on January 2, 1982, and does not make the regular distributions in September and December of 1981. Since the shareholders receive the distribution in 1982 and since interest cannot be excluded under section 116 in 1982, R takes only excludable dividends into account in determining the percentage of the distribution that qualifies for exclusion. Therefore R notifies its shareholders that 61.68 percent (see paragraph (iii) of example (1)) of the January dividend qualifies for exclusion under section 116.

Par. 3. Paragraph (d) of § 1.857–6 is revised to read as follows:

§ 1.857–6 Method of taxation of shareholders of real estate investment trusts.

* * * * *

(d) *Dividend received credit, exclusion, and deduction not allowed.*—(1) *In general.* Any dividend received from a real estate investment trust which, for the taxable year to which the dividend relates, is a qualified real estate investment trust shall not be eligible for the dividend received exclusion under section 116 (except as provided in subparagraph (2) of this paragraph), or the dividend received deduction under section 243.

(2) *Special rule for dividends (other than capital gain dividends) for taxable years beginning after December 31, 1980 and before January 1, 1982*—(i) *In general.* In the case of dividends (other than capital gain dividends) received from a real estate investment trust by a shareholder in a taxable year of the shareholder which begins after December 31, 1980, and before January 1, 1982, this subparagraph shall apply.

(ii) *Portion of the dividend eligible for exclusion under section 116.*—(A) *Entire amount.* When the aggregate interest received by the real estate investment trust constitutes at least 75 percent of its gross income for the taxable year, the entire dividend received by the shareholder may be treated as an amount qualifying for exclusion under section 116.

(B) *Partial amount.* When the aggregate interest received by the real estate investment trust during its taxable year is less than 75 percent of its gross income, the portion of the dividend received by the shareholder that may be treated as an amount qualifying for exclusion under section 116 is that amount that bears the same ratio to the entire dividend as the aggregate interest received by the real estate investment trust bears to its gross income.

(C) *Adjustment for interest deduction.* For purposes of computing the portion of the dividend eligible for exclusion under section 116, gross income (within the meaning of paragraph (d)(2)(ii)(D) of this section) and aggregate interest received (within the meaning of paragraph (d)(2)(ii)(E) of this section) shall each be reduced by the lesser of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust), or the aggregate interest received for the taxable year (computed without regard to this subdivision (C)).

(D) *Gross income.* For purposes of this paragraph, the term "gross income" means gross income reduced by the sum of the net capital gain of the real estate investment trust in the taxable year and the taxes imposed by paragraphs (4), (5) and (6) of section 857(b).

(E) *Aggregate interest received.* For purposes of this paragraph, the term "aggregate interest received" means interest described in section 116(c)(1) and § 1.116–3(c).

(iii) *Notice to shareholders.* In preparing the notice to shareholders described in section 857(c)(5), the real estate investment trust shall assume—

(A) That all shareholder recipients are calendar year taxpayers, and

(B) That all dividends are received by the shareholders on the date they are distributed by the real estate investment trust.

The real estate investment trust shall upon request provide any shareholder with respect to whom these assumptions result in an erroneous determination for purposes of section 116 a special notice that takes into account the actual facts of the case. The special notice shall be deemed to be a timely notice for purposes of 857(c)(5) if it is mailed within 45 days of the date that the real estate investment trust receives a request from a shareholder for such a notice.

(3) *Examples.* The following examples illustrate the provisions of this paragraph:

Example (1). (i) R, a real estate investment trust having a fiscal year ending June 30, makes regular distributions to its shareholders on December 1 and June 1 of each year.

(ii) In its fiscal year ending June 30, 1981, R has $115,000 of gross income, $80,000 of which is interest income and $7,000 of which is net capital gains. R has $40,000 of interest expenses which are deductible by R under section 163 in its taxable year ending June 30, 1981, $32,000 of which represents interest paid on mortgages on real property owned by R. No tax is imposed on R under section 857(b)(4), (5), or (6) for that taxable year.

(iii) In computing the portion of the distributions (other than amounts designated as capital gains dividends) that may qualify for exclusion under section 116, R assumes that its shareholders are calendar year taxpayers who receive distributions on the date of distribution. Therefore, R applies the rules of paragraph (d)(1) of this section to determine that no portion of the December 1980 distribution qualifies for exclusion under section 116. R applies the rules of paragraph (d)(2) of this section to determine the portion of the June distribution that qualifies for exclusion under section 116 because it is assumed that that distribution is received by shareholders in a taxable year beginning in 1981.

(iv) For purposes of computing the portion of the June distribution that qualifies for exclusion under section 116, R's gross income is deemed to be $100,000 and R's aggregate interest received is deemed to be $72,000. These amounts are determined as follows:

$115,000	gross income received
−7,000	net capital gains.
108,000	gross income prior to adjustment for interest expense.
−8,000	interest expense.
100,000	gross income net of interest expense.
80,000	aggregate interest received prior to adjustment for interest expense.
−8,000	
72,000	aggregate interest received net of interest expense.

(v) The aggregate interest received does not exceed 75 percent of R's gross income. Therefore, R notifies its shareholders that 72% of the June distribution (other than capital gains dividends) qualifies for exclusion under section 116.

Example (2). Assume the same facts as in example (1), except that in addition to its regular distributions R declares a dividend August 1, 1981 which it distributes to its shareholders November 1, 1981. R elects under section 858 to treat the November dividend as paid in its taxable year ending June 30, 1981. Because of this election, R refers to its gross income for its taxable year ending June 30, 1981, for purposes of determining what percentage of the November dividend qualifies for exclusion under section 116. R assumes that its shareholders use the calendar year as the taxable year and that the shareholders receive the dividend on November 1, 1981, the date of distribution. Therefore R notifies its shareholders that 72 percent of the November dividend qualifies for exclusion under section 116.

Example (3). Assume the same facts as in example (2) except that R distributes the dividend on January 2, 1982 and does not make the regular distribution in December of 1981. Since the shareholders receive the distribution in 1982 and since interest cannot be excluded under section 116 in 1982, R determines that no portion of the January distribution qualifies for exclusion under section 116.

* * * * *

Par. 4. Paragraph (c) of § 1.1232–3A is amended by adding the following new sentence at the end:

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(c) *Basis adjustment.* * * * Any original issue discount that is considered interest and excluded from gross income under section 116 and § 1.116–3(c)(3) will be considered included in gross income for purposes of

the basis adjustment under section 1232(a)(3)(E) and this section.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 82-3427 Filed 2-4-82; 5:07 pm]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-052C]

Occupational Exposure to Cotton Dust

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice requests comments regarding OSHA's reevaluation of the occupational health standard regulating employee exposure to cotton dust, 29 CFR 1910.1043. The purpose of this notice is to assess the effects of the current standard and to gather additional information concerning those provisions which may be made clearer, more effective or less burdensome. Major issues include the cost effectiveness of various provisions, permissible exposure limits, incorporation of an action level, alternative provisions for small businesses, the use of sampling devices other than the vertical elutriator, and other technical issues.

Information is requested on the health effects of the cotton dust exposures in non-textile industries, including knitting, where the standard is generally not in effect, and on whether a significant risk is presented in those industries. Comments are also requested on health effects and on the exposure levels set for the textile industry including the potential for implementing more cost-effective compliance methods.

DATES: Comments must be submitted by March 26, 1982.

ADDRESSES: Written comments should be submitted in quadruplicate to the Docket Officer, Occupational Safety and Health Administration, Docket No. H-052C, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Introduction

On June 19, 1978, the Occupational Safety and Health Administration (OSHA) issued an occupational health standard regulating exposure to cotton dust, 29 CFR 1910.1043, at 43 FR 27350. This new standard was intended to supersede the previous OSHA standard which had been adopted by OSHA pursuant to section 6 (a) of the Occupational Safety and Health Act from the prior federal rule under the Walsh-Healey Act.

The apparent necessity for a more stringent and comprehensive regulation was based on the body of scientific and medical evidence showing a severe risk of debilitating respiratory disease, particularly among cotton textile workers. The standard included a permissible exposure limit for airborne concentrations of cotton dust to be met through engineering controls, supplementary use of respirators, implementation of specified work practices, a medical surveillance program, and a program for employee education and training. OSHA found that these elements of the standard were both technologically and economically feasible.

The standard was immediately challenged in the Court of Appeals by affected employees and by various groups of affected employers. On pre-enforcement review, the United States Court of Appeals for the District of Columbia Circuit upheld the standard as it applied to the textile industry, among others, in *AFL-CIO, et al.* v. *Marshall, et al.*, 617 F.2d 636 (1979). The textile industry petitioned for review in the Supreme Court of the United States, asserting that the standard was invalid because of the failure of the agency to justify it on a cost-benefit basis and because the industry argued that OSHA had not adequately demonstrated economic feasibility.

The Supreme Court in *American Textile Manufacturers Institute Inc., et al. (ATMI)* v. *Donovan*, 101 S.Ct 2478 (1981) upheld the decision issued by the Court of Appeals concluding that the Occupational Safety and Health Act requires that exposure levels be reduced to the most protective levels, limited only by the significance of the risk and by feasibility, and that cost-benefit analysis was not to be used in setting exposure limits for toxic substances.

The Court also held that OSHA had demonstrated feasibility, and consequently affirmed the standard. However, it vacated and remanded the provision for wage retention following medical transfers because the agency had not adequately demonstrated the need for the provision.

On March 31, 1981, before the Supreme Court's decision, OSHA published a **Federal Register** notice at 46 FR 19501 requesting comments on some of the issues discussed in this notice as well as on the use of cost-benefit analysis in setting exposure levels. Information already submitted in response to the March, 1981 advance notice of proposed rulemaking need not be resubmitted. As noted, the *ATMI* v. *Donovan* decision precludes consideration of many of the comments submitted on the cost-benefit issue and has made it inappropriate to apply the use of a cost-benefit test in setting exposure levels for cotton dust. However, new health data and consideration of more cost-effective compliance methods may result in reconsideration of the present exposure levels.

Status of the Standard

The status of the cotton dust standard varies for different industries. The Cotton dust standard (as printed at 29 CFR 1910.1043 (1980)) remains in effect in the "cotton textile" industry which primarily includes yarn production and weaving and slashing.

All provisions are in effect except the completion of the installation of engineering controls which, if not delayed, are required by March 27, 1984 (§ 1910.1043(m)(2)) and the wage retention provision of § 1910.1043(f)(2)(v) which was vacated by the Supreme Court.

OSHA administratively stayed the new standard (45 FR 50328, July 29, 1980) for the warehousing and classing industries to review the significance of the health risk in those segments in response to the Supreme Court's decision regarding OSHA's benzene standard, *Industrial Union Department, AFL-CIO* v. *American Petroleum Institute, (IUD* v. *API)*, 448 U.S. 607 (1980).

OSHA has also administratively stayed the new standard for the knitting and hosiery industries for the same reasons and in order to review the results of medical surveillance data which had been submitted by the knitting industry. Although knitting, by ordinary definition, would be considered part of the textile industry, the standard included it with the non-textile segments, and this classification has been maintained.

The cotton dust standard has been stayed by the District of Columbia Circuit of Appeals Court for the waste processing, cotton batting, bedding and

upholstery industries pending judicial review. The agency has undertaken a review of the record and the standard as it applies to these industries and has made a preliminary determination that the preamble may not provide an adequate statement of rationale for imposing the standard on these industries, in light of the decision in *IUD* v. *API*. The agency has also concluded that it is appropriate to reopen the record for additional evidence of the health risk in these industries. Since the agency has decided to reconsider the standard, it will request a remand from the Court of Appeals for that purpose.

The District of Columbia Court of Appeals vacated the standard for the cottonseed oil industry based on a lack of economic feasibility information, *AFL–CIO* v. *Marshall*, 617 F.2d 636 (1979).

The Fifth Circuit Court of Appeals vacated a separate standard issued for the cotton ginning industry (43 FR 27418, June 23, 1978; 29 CFR 1910.1044) on the ground that the record did not demonstrate a significant risk of adverse health effects. *Texas Ind. Ginners Assoc.* v. *Marshall*, 630 F.2d 398 (1980).

A major purpose of this Advance Notice and the subsequent rulemaking is to finally resolve the status of the standard in the segments where it is not in effect. The first step in the process will be to determine whether a significant health risk exists in those segments.

Proposed Rulemaking

While the agency has determined that the application of cost-benefit analysis to this standard is precluded by the Supreme Court's decision, the agency has concluded that it is totally appropriate to reexamine new health data and alternative compliance approaches, as well as other matters relevant to the implementation and enforcement of the cotton dust standard. This proceeding is also to provide the opportunity to reconsider and reevaluate several issues which have created difficulties in the monitoring, medical surveillance and enforcement of the standard and to allow the agency to set a more technically accurate and cost-effective standard. For the most part, the issues set forth for comment pertain to provisions of the standard which have been identified by labor, industry and governmental agencies as needing improvement, or which may be made clearer, more effective or less burdensome. In addition, a review of the health effects from exposure to cotton dust in the non-textile segements is necessary to determine whether a significant risk of adverse health effects is present at current exposure levels. A review of new health data regarding the textile segments is also appropriate.

OSHA is not dissolving at this time existing stays in the non-textile and knitting segments where evidence of adverse health effects is more controversial, pending the ongoing review of those effects. OSHA will periodically review those stays, depending both on health data submitted and reasonable progress on ongoing studies.

Issues

OSHA requests written comments and information on the following issues:

1. *Health effects in the non-textile industries.* The standard has been vacated and remanded or administratively or judicially stayed for most of the non-textile segments of the cotton industry (which includes knitting). Resolution of the issues involving the application of this standard to the non-textile industries is important. Necessary to this resolution is a review of health data on the non-textile industry sectors.

The Supreme Court in the benzene decision ruled that there must be sufficient data to support a determination of significant risk of adverse health effects in order to justify issuing new standards. In this regard, the National Institute for Occupational Safety and Health (NIOSH), has conducted research on some non-textile industry segments and has indicated that this data will be available in the near future. In addition, representatives of the knitting industry have submitted to OSHA a study involving a review of their industry's medical surveillance data and this information will be entered into the record. Evidence on health effects in the non-textile sectors in the existing record will be considered along with new information which is submitted.

OSHA requests comments and information on the following:

(a) What is the evidence of risk of adverse health effects in workers exposed to cotton dust in non-textile industries?

(b) What significant epidemiological studies on the effects of exposure to cotton dust in non-textile industries are presently available? What conclusions may be drawn from these studies?

(c) Does the medical surveillance data from workers in non-textile industries show significant risk of adverse health effects from exposure to cotton dust?

(d) What are the specific and average cotton dust exposure levels to which workers are exposed in the non-textile industries? What sampling methods were used to determine employee exposures?

(e) What are the types of occupations, job classifications and industries other than textiles in which workers are exposed to cotton dust? How many workers are exposed in each of the above categories?

(f) Do certain workplaces, processes or occupations expose workers consurrently to toxic substances in addition to cotton dust, which may result in adverse health effects for employees?

2. *New health data in the textile industries.* On review, the United States Court of Appeals for the District of Columbia Circuit upheld the standard as it applied to the textile industry and approved the extensive analysis of health data set forth in the preamble to the standard. After petition by the textile industry, the Supreme Court of the United States reviewed the Court of Appeals' decision and upheld the Secretary's determination that exposure to cotton dust represents a significant health hazard to employees. However, OSHA is aware that there may be new studies to justify reopening the issue of health effects and permissible exposure limits in the textile segments.

OSHA requests comments and information on the following:

(a) What new epidemiological studies on the effects of exposure to cotton dust in textile industries are presently available? What conclusions may be drawn from these studies?

(b) Based upon medical surveillance data from workers in textile industries, what are the levels of risk of adverse health effects to those workers from exposure to cotton dust?

(c) What are the specific and average cotton dust exposure levels to which workers are exposed in the textile industries? What sampling methods were used to determine employee exposures?

(d) What are the types of occupations and job classifications in which workers are exposed to cotton dust? How many workers are exposed in each of the above categories?

(e) Do certain workplaces, processes or occupations expose workers concurrently to toxic substances in addition to cotton dust, which may result in adverse health effects for employees?

3. *Action level.* The cotton dust standard does not contain an action level. An action level is an exposure level below the permissible exposure limit, frequently one-half of the permissible exposure limit, at which some provisions of the standard begin to

apply. Where appropriate, action levels would reduce or eliminate regulatory burdens in instances where the health risks are low. Also, in the case of non-threshold toxins it may improve employee health by encouraging employers who can readily do so to control employee exposures to a level below the permissible exposure limit in order to avoid most or all regulations. It should be noted, however, that in some cotton industry segments, health data show adverse health effects at very low levels and it may not be appropriate to exclude all medical surveillance provisions in those instances.

Some segments of the cotton industry appear to show some evidence of risk at higher levels, but most exposures are substantially below the § 1910.1043 exposure limits, and at those low levels, there appear to be few health problems. An action level is a method to insure that employers will perform initial measurement of worker exposure to determine whether dust levels are either low enough to exclude the workplace from regulation, or high enough to require worker protection from adverse health effects. Because the determination is made on a plant-by-plant basis, an action level may be a more cost-effective approach than either complete coverage or complete exclusion.

OSHA requests comments and information on the following:

(a) Is an action level appropriate for some or all segments of the cotton industry? What impact would an action level have on employee health?

(b) What are appropriate exposure limits for action levels in the various industry segments? Which regulatory provisions should be eliminated when exposures are under the action level?

(c) What would be the cost savings resulting from an action level provision?

4. *Definitions.* OSHA has received inquiries concerning the definition of various terms which are used in the current standard. Specifically, the definitions of the terms "cotton dust" and "washed cotton" have been questioned.

Under the present standard, "cotton dust" is defined to include, "dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods." The definition does not exclude oil mists, mineral dust from various sources and other miscellaneous contaminants which are measured together with raw cotton dust by the vertical elutriator. The issue is complex because the health data used to set the permissible exposure limits are based on studies in which the "cotton dust" evaluations and measurements contained some of these various components. Excluding these components from the measurements may, therefore, increase the health risk at a given exposure level.

In addition, the effect of other potential contaminants has not been fully considered in relation to the measurement of "cotton dust." An example of this situation is the contribution of synthetic fibers to the measurements of "cotton dust" in a blending operation. Such synthetic fibers may not have been adequately considered in the studies upon which the standard is based.

Some health studies indicate that "washed cotton" does not have adverse effects on human health. The current standard provides an exemption for "washed cotton," but is restrictive in its definition of that term. It has been suggested that a clearer and broader definition would encourage the development and use of commercially acceptable washing techniques.

OSHA requests comments and information on the following:

(a) How should "cotton dust" be defined?

(b) If the term "cotton dust" were more narrowly defined would there be an acceptable method of measuring the quantity of certain individual contaminants? Are there any analytical methods which can test single samples both qualitatively and quantitatively; that is, methods that can separate raw cotton dust from other materials and quantify the amount of raw cotton dust in a single sample?

(c) If the term "cotton dust" were more narrowly defined, could an alternative monitoring approach be developed that would permit adjustment of a total sample by a factor representing the amount of non-toxic substance likely to be present?

(d) Would narrowing the definition of "cotton dust" result in any increased risk for employees? Would such action have any major economic affects? If the definition were more narrowly defined, what would be the relationship between the amount of raw cotton dust and the existing permissible exposure limits?

(e) How should "washed cotton" be defined?

(f) Could the definition of "washed cotton" be improved by adopting a performance definition keyed to respiratory effects? What criteria could be used to set performance requirements and to certify compliance?

(g) What would be the health and economic effects of changing the definition of "washed cotton"?

5. *Compliance methods—Engineering controls.* The current standard requires employers to institute a program of engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit. The standard permits the use of respirators, however, in those cases where the employer can demonstrate that engineering and work practice controls are not feasible. Recent information and comments from news articles, State and Federal compliance officers, labor and industry, and representatives of larger establishments have indicated that many segments of the cotton textile industry are rapidly approaching a substantial level of full compliance with the current standard. Apparently, such compliance has come about through the use of a new generation of textile equipment that is more productive, produces higher quality yarn and cloth, and keeps dust levels lower. Indeed, low dust levels are often needed for the efficient operation of this equipment. Examples include automatic opening, chute-fed and high speed cards, open-end spinning, and shuttleless looms.

OSHA requests comments and information on the following:

(a) Are there more cost-effective ways of reducing cotton dust related illnesses?

(b) Are there specific areas where there are unusual technical difficulties in meeting the present engineering control and work practice requirements?

(c) Are there particular operations where there are persistent problems in meeting the permissible exposure limits through the use of engineering controls? If so, do these problems exist in newly designed plants that have new equipment?

6. *Tiering.* "Tiering" is the tailoring of regulatory requirements to fit the special circumstances of designated classes of regulated entities, such as small businesses. Consideration of tiering to make standards less burdensome for small businesses is a requirement of the recently enacted Regulatory Flexibility Act (5 U.S.C. 601 et seq.) for standards proposed or amended after January 1, 1981.

OSHA requests comments and information on the following:

(a) Is there a need for alternative compliance methods for small businesses? What statistical and economic data, resource limitations and other data indicate this need?

(b) What kinds of alternative compliance methods should be considered? Would longer compliance periods be appropriate? Could such alternatives provide employees of small businesses with adequate protection?

7. Cotton dust sampling devices. The cotton dust standard requires that either the vertical elutriator cotton dust sampler or an equivalent device be used to measure or monitor levels of lint-free respirable dust. The vertical elutriator was the dust sampling instrument used in the epidemiological studies on which the cotton dust standard was based and therefore measurements utilizing it correlate best with the then existing health data.

The use of the vertical elutriator, however, has resulted in several technical problems. It is heavy and hard to set up, a technician or industrial hygienist can take few measurements per work day and disputes can develop over proper location or placement of the device.

New cotton dust sampling instruments are now available and these alternative instruments may be accepted as equivalent to the vertical elutriator if they meet the criteria specified in the standard. There have been very few attempts, however, to qualify these alternative instruments as equivalent to the vertical elutriator, although an alternative instrument has been accepted as capable of equivalency in specific situations.

OSHA requests comments and information on the following:

(a) What problems exist with the use of the vertical elutriator?

(b) Are there more appropriate methods of monitoring than the vertical elutriator?

(c) Are there better methods of criteria for establishing equivalency? Can equivalency criteria be developed so that alternate methods could be accepted under most conditions?

(d) Are there any devices that can be shown to have a record of equivalency to the vertical elutriator throughout the various cotton industries or in specific major industry segments?

(e) Are there any devices that can measure cotton dust and other contaminants both qualitatively and quantitatively in a single sample?

(f) What monitoring frequency is necessary? Are there substantial differences between the exposure levels of various work shifts at the same physical locations?

8. Medical surveillance requirements. Several questions have been raised concerning the medical surveillance program contained in the present standard. Interested parties appear not to disagree either with the need for or with the general requirements of the program. They have argued, however, that a number of specific requirements are inappropriate and/or place an unnecessary burden on the industry.

An example is the requirement for pre-employment physical examinations. Many plants hire only one or two people per week and do not have a company physician. It may be difficult for these employers to provide the required pre-employment exam within the time prescribed by the current standard. It has been suggested that this requirement could be made more flexible, while providing employees the same protection at a lower cost.

OSHA requests comments and information on the following:

(a) Should the section which deals with initial medical examinations be modified to allow more latitude for the physicians in regard to the specific examination requirements? If so, how should the section be modified?

(b) Should the standard require a system to be used to determine the dyspnea and bronchitis grade for each employee? If so, what system should be used?

(c) If an action level were incorporated into the standard, what provisions of the medical surveillance section could be excluded for those establishments which comply with such an action level?

(d) Should the standard require that all employees exposed to cotton dust be informed of the additive adverse effects which may be caused by cigarette smoking?

(e) Should the section of the standard that deals with maintaining records of the medical surveillance program be modified? If so, what modifications should be made?

(f) Should the paragraph which describes what information an employer must provide to the examining physician be modified? If so, how should it be modified?

(g) Should the paragraph which describes the information which must be contained in the physician's written opinion be modified? If so, how should it be modified?

(h) Should the requirement for six month follow-up examinations for certain categories of employees be modified? If so, how should it be modified?

9. Wage retention following medical transfer. Section 1910.1043(f)(2)(v) provides generally that if a physician determines that an employee is unable to wear any form of respirator where its use is necessary, that employee is to be given the opportunity to transfer to a location or job where cotton dust levels are below the permissible exposure limit, if such locations or jobs are available. The standard also provided that employers should guarantee no loss of earnings because of such a transfer.

The Supreme Court decision vacated and remanded to the agency for further consideration the wage guarantee provisions of the standard. The Supreme Court did not address the question of whether OSHA had statutory authority to include such provisions but stated that the agency had not explained how the provision was related to employee health.

In response to the remand, OSHA requests comments and information on the following:

(a) Would a wage retention provision contribute either directly or indirectly to employee health?

(b) How many employees have been transferred due to their inability to wear a respirator? Did the employees who were transferred suffer any loss in earnings? Have employees who were unable to wear respirators been discharged from employment? What is the current practice concerning employees who are unable to wear respirators?

(c) What were the actual costs associated with the wage retention provision prior to the Supreme Court's decision and what cost estimates can be projected for provisions which would require employee wage retention following medical removal?

(d) Should a wage retention provision be included in the cotton dust standard and, if so, what should the provision contain?

10. Economic Data. OSHA's rulemaking will comply with Executive Order 12291, which requires the preparation of a regulatory impact analysis for all major actions; and with the Regulatory Flexibility Act, which requires the preparation of regulatory flexibility analyses for actions having a significant economic impact on a substantial number of small entities. Consequently, OSHA is soliciting information on the financial condition of the affected industries, and the economic implications of compliance with the present cotton dust standard.

OSHA requests comments and information on the following:

(a) For each industry affected by the cotton dust standard, what are the major production processes for which workers are exposed to respirable cotton dust? How many workers are exposed at each process and at what dust level?

(b) What has the industry spent to implement the various provisions of the current cotton dust standard? How effective were these controls in reducing dust levels? How has the more modern machinery affected productivity at the plant while limiting dust emissions? Have these controls helped to reduce other workplace hazards such as toxic emissions or high noise levels?

(c) Where compliance with the current standard for dust exposure has not yet been achieved, what methods will be used to achieve such compliance? Which dust-control operations will rely upon retrofitting existing plant and equipment and which will depend upon the purchase of new modernized equipment? What will be the cost of implementing these procedures and controls, and what effect will these new technologies have on plant productivity and output levels? How does the time required for the installation of engineering controls affect these costs? Do these estimates apply to small as well as large firms?

(d) Over the previous 5 years, what was the industry's annual employment turnover rate? What percentage of the new hires were not previously engaged in that same industry?

11. *Environmental effects.* The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the Council on Environmental Quality (CEQ) regulations (40 CFR Part 1500; 43 FR 55978, November 29, 1978), and the Department of Labor (DOL) NEPA Compliance Regulations (29 CFR Part 11; 45 FR 51187 et seq., August 1, 1980) require that Federal agencies give appropriate consideration to environmental issues and impacts of proposed actions significantly affecting the quality of the human environment. OSHA is currently collecting written information and data on possible environmental impacts that may occur outside of the workplace as a direct or indirect result of promulgation of a revised standard for occupational exposure to cotton dust. Such information should include any negative or positive environmental effects that could result from the revised regulation.

OSHA requests comments and information on the following:

(a) In particular, how would alternative regulations of worker-exposure to cotton dust alter ambient air quality, water quality, solid waste, or land use?

Public Participation

Interested parties are asked to submit written comments by March 26, 1982 in quadruplicate to the Docket Officer, Docket No. H-052C, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. All written comments submitted in response to this notice will be available for inspection and copying in the Docket Office, Room S-6212 at the above address between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday. All timely written submissions, as well as other information gathered by this agency will be considered in determining the nature of any proposal.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655) 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed at Washington, D.C. this 4th day of February 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-3480 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1926

[Docket No. S-301]

Concrete, Concrete Forms, and Shoring; Advance Notice of Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is planning to revise its safety standards contained in Subpart Q of 29 CFR Part 1926 §§ 1926.700 through 1926.702. The existing standards cover safety hazards associated with concrete and masonry construction.

The purpose of this notice is to solicit information regarding the appropriate content and scope of a complete revision of Subpart Q as a future rulemaking action. This notice is not a proposal to revise Subpart Q. When a proposal is developed, it will be referred to the Advisory Committee for Construction Safety and Health for review and recommendations before publication in the **Federal Register**.

DATE: The written information requested in this notice should be postmarked on or before April 10, 1982.

ADDRESS: Written comments, data, or information requested in this notice should be submitted in quadruplicate to the Docket Officer, Docket No. S-301, Room S-6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. Roger McClellan, Directorate of Safety Standards Programs, Office of Construction and Civil Engineering Safety Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3510, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523-7198.

SUPPLEMENTARY INFORMATION:

Background

The provisions currently in Subpart Q of Part 1926 were promulgated by OSHA in 1971 as established Federal standards, under Section 6(a) of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 655(a). The standards in Subpart Q, §§ 1926.700 through 1926.702 cover safety hazards associated with concrete construction.

The hazards addressed in Subpart Q include those associated with concrete construction including premature removal of forms, form erection, shoring, reshoring, concrete pumping, reinforcing steel erection, concrete curing, and concrete placement.

The question of the adequacy of the existing standards in Subpart Q has received considerable attention as a result of several concrete construction accidents over the past few years, including the disastrous collapses of the Willow Island, West Virginia cooling tower, the Skyline Tower Plaza in Fairfax County, Virginia and the condominium in Cocoa Beach, Florida.

Several factors indicate to OSHA that a comprehensive revision of its Subpart Q may be necessary. One factor is that OSHA has been petitioned by interested parties to adopt standards requiring in-place testing of concrete and to make other changes to the existing standards.

Another factor concerns the possible need for broader coverage of precast concrete and masonry operations. For example, current OSHA standards may not adequately address significant hazards associated with precast concrete placement and the bracing of masonry walls during construction.

OSHA also recognizes that since the adoption of Subpart Q in 1971, there have been advances in technology and construction practices associated with concrete and masonry construction. These changes may have created a need for revising the present Subpart Q standards to better address concrete safety.

For these reasons, OSHA has concluded that a comprehensive review and revision of its Subpart Q standards may be necessary to assess the appropriateness of the existing standards under current conditions and to provide more effective protection, if

feasible, for employees who are engaged in concrete and masonry construction.

This will also enable the Agency to continue its efforts to streamline and simplify standards while focusing on the more serious workplace hazards.

Any rulemaking proceeding to revise Subpart Q will be conducted in accordance with section 6(b) of the Act (29 U.S.C. 655(b)) and 29 CFR Part 1911, and will provide adequate public notice of the opportunity to comment on proposed changes. In addition, under Section 107 of the Construction Safety Act (40 U.S.C. 333), any proposed revisions to Subpart Q will be submitted to the Construction Safety and Health Advisory Committee for review and recommendation.

Comments and Information Requested

Through this advance notice, OSHA invites interested persons and organizations to provide written comments relating to the need for and content of a Subpart Q revision. In particular, OSHA invites comments regarding any needed changes, additions, or deletions to Subpart Q and information in response to the questions below.

OSHA also invites comments pertaining to the cost effectiveness of alternative approaches to reducing the workplace hazards associated with concrete, concrete forms and shoring. Therefore, OSHA requests specific estimates of the costs of various methods of reducing risks in these areas. OSHA further requests that any available accident and injury data relating to concrete construction be provided where applicable.

The revision of OSHA's concrete construction standards may have an economic impact on a substantial number of small entities, particularly small businesses. In accordance with the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA invites information regarding the economic impact which either the contemplated revisions or the existing provisions of Subpart Q may have on small businesses, and solicits data on alternative risk reduction measures which may be more appropriate for small entities.

All of the standards in Subpart Q will be subject to discussion in this advance notice. Discussions will be limited to safety issues and will not address health issues. OSHA invites written or oral comments and information regarding the following general and specific issues concerning Subpart Q.

A. *General Issues:* Several issues have been raised which are common to a number of the concrete construction standards contained in Subpart Q. OSHA invites comments on these general issues.

(1) Should OSHA use a different regulatory approach in revising its concrete construction standards? Should this approach involve the use of performance standards that are accompained by several nonmandatory appendices which contain compliance guidelines? In this format, compliance can be effected through the means suggested in the appendices or in some other manner as long as the level of performance required by the standard is met. Additionally, an Appendix to Subpart Q could also contain a list of applicable references to provide additional information which will be helpful in the implementation of the mandatory performance standards. Comments are invited on the advantages or disadvantages of such a format. For an example of the use of such a format, see revised Subpart L of Part 1910 (Fire Protection).

(2) Do particular provisions of Subpart Q need simplification or clarification? For example, § 1926.700(a) incorporates ANSI A10.9-1970 by reference. Would it be simpler to set forth within the text of Subpart Q, those provisions of ANSI A10.9 which are appropriate for OSHA purposes, thus eliminating the need for incorporation by reference? If so, what provisions of ANSI A10.9 should be applicable to concrete construction and masonry work? Comments which identify those Subpart Q provisions in need of simplification or clarification are invited as well as recommendations as to how best to revise these provisions.

(3) Are there significant gaps in the coverage of Subpart Q with regard to both the hazards and types of workplaces covered? For example, current OSHA standards do not address the hazards associated with flying deck forms, and unbraced masonry walls. How can OSHA best eliminate these gaps; through the revision of existing standards, the development of new standards, or both?

(4) What accident and injury data are available concerning employees performing concrete construction activities? What information is available on the causative factors related to accidents and injuries in concrete construction?

(5) Should OSHA establish different levels of requirements for different classes of concrete construction? How should structure or construction be classified? What criteria should be used for classification?

(B) *Specific Issues.* In addition to the general issues discussed above, OSHA invites comments on the following specific issues relating to concrete and masonry construction.

(1) OSHA's standards for testing and determining the time concrete forms must remain in place and support wet concrete are contained in § 1926.700(a), as prescribed in sections 6.4.7 and 6.4.8 of ANSI A10.9-1970. OSHA has received requests to modify these standards to require additional or alternative tests to determine form removal time. In recent years a number of nondestructive and other situ test methods have been tried with varying degrees of success to determine in-place strength of concrete. Before any of these methods can be adopted as standard test methods, technical data is needed to evaluate the effectiveness of the methods.

OSHA wishes to receive well-documented research and field data which can be used to evaluate potential test methods for in-place strength determination of concrete. In addition, OSHA invites comments on the following questions: What are the skills and abilities required to perform the alternative tests? What training should be required for anyone performing these tests? What specialized equipment is used in this testing, and is such equipment readily available? To what extent are the alternative tests used by employers today? What economic impact would be placed upon employers if OSHA required the alternative tests? Would these tests place small businesses at a competitive disadvantage? Should OSHA require specific compressive strengths prior to form removal? If so, what should these strengths be?

(2) Ceiling drop wires supported by concrete decks are often installed to support ceilings. OSHA has received requests to provide new standards for employees working in or around these wires. OSHA seeks information on potential hazards these ceiling drop wires create. Are new standards needed to cover these hazards? If so, what should they require? What alternative means of protection are available? Are these methods generally feasible for all installation of ceiling drop wires? What would be the economic impact and cost effectiveness of these alternative approaches?

(3) The existing standard, § 1926.700(d)(6), covering pumpcrete systems, only requires the employer to provide pipe supports designed for 100 percent overload. What hazards, if any, of pumpcrete systems does this standard not cover? What specific standards are

needed to cover these hazards? Do pipe connectors also need to be designed for 100 percent overload?

(4) Single post shores require horizontal braces in both the longitudinal and transverse directions along with diagonal bracing, in accordance with § 1926.701(d)(1). OSHA has received requests to eliminate these bracing requirements. What hazards, if any, would the elimination of bracing requirements create? What standards are needed to protect employees exposed to these hazards?

(5) Tests have been developed to determine the air content and slump of concrete prior to placement. These qualities can affect the setting of the concrete. Should OSHA require that such tests be performed? Should the person performing these tests be certified, and by whom? Are there currently people available to perform these tests? What hazards, if any, would these tests help prevent? Are additional standards needed to cover these hazards? What would be the economic impact of a requirement for air and slump tests by a certified technician? What would be the competitive effect of this requirement on small businesses? What records of air and slump tests should be mandated and for how long?

(6) Should the standards require the employer to designate a competent person to determine when concrete is strong enough for forms to be removed? What should this person's qualifications be? What criteria should this person employ in his determination?

Public Participation

Written Comments and Information

The written comments and information requested in this notice should be postmarked by April 10, 1982, and submitted in quadruplicate to the Docket Officer, Docket No. S–301, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

All information gathered by the Agency will be considered by OSHA in the development of revisions to Subpart Q. In addition, these submissions will be available for inspection and copying during normal business hours at the OSHA Docket Office.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); sec. 107, 83 Stat. 96 (40 U.S.C. 333); 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 4th day of February 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–3481 Filed 2–8–82; 8:45 am]

BILLING CODE 4510–26–M

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–3–FRL–2017–7]

State of Maryland; Proposed Revision of the Maryland State Implementation Plan

Correction

In FR Doc. 82–2638 appearing on page 4704 in the issue of Tuesday, February 2, 1982, third column, last line under DATE, "February 12, 1982." Should read "March 4, 1982."

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 10)]

Rail General Exemption Authority; Hops

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking; exemption.

SUMMARY: Responding to a petition filed by Union Pacific Railroad Co. and Burlington Northern Railroad Co., the Commission is proposing to exercise its authority under 49 U.S.C. 10505 to exempt hops (STCC No. 01–192) from regulation to permit rail carriers to compete more effectively with motor carriers for this traffic.

COMMENT DATE: March 11, 1982.

ADDRESS: An original and ten copies of comments should be sent to: Room 5340, Interstate Commerce Commission.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company and Burlington Northern Railroad Company, petitioners, request that the Commission exempt interstate rail transportation of hops (STCC No. 01–192) from regulation.

Hops are used primarily in brewing beer. Although hop production has increased over the years (by approximately 12,000 tons between 1975–1980), the rail market share decreased from 38 percent in 1971 to 28 percent in 1980. The two petitioning railroads also show that the total tonnage of hops transported annually is relatively small (37,726 tons in 1980).

Petitioners transport hops throughout the United States from the four major producing States of Oregon, Idaho, Washington, and California. They argue that the transportation is subject to the same competitive forces as are fresh fruits and vegetables and should be exempt from regulation for the same reasons. They point out that they compete with motor carriers for this traffic. Hops transportation by motor carrier is exempt from regulation.

We have also undertaken our own analysis. The 1980 DOT 1-percent waybill sample contains 7 shipments of hops. Six originated in Washington, and one in Oregon. Each was a 1-carload movement.

As amended by section 213 of the Staggers Rail Act of 1980 (Pub. L. 96–448), 49 U.S.C. 10505 authorizes the Commission to exempt certain traffic from regulation when: (1) regulation is not necessary to carry out the transportation policy enumerated in 49 U.S.C. 10101a; and (2) either the service is of limited scope or abuses of market power are unlikely to occur.

Regulation here does not appear necessary to carry out the transportation policy of section 10101(a). In fact, paragraphs (1), (2), and (3) of section 10101a appear especially to support this exemption. Morever, the service appears to be of limited scope. Tonnages seem low, and the production area is limited. Abuses of market power also appear unlikely because there seems to be strong motor carrier competition, and the rail market share has been declining. The exemption could enhance intermodal competitive forces. Furthermore, the 1-percent waybill sample shows that hops move in 1-car lots an average of 25.5 tons). As such, hops appear to be easily divertable to motor carriage. The 1-percent waybill sample also indicates a limited number of hops movement by rail.

We request comments on these tentative conclusions, as well as prospective competition and rail market power.

This action does not significantly affect the quality of the human environment or conservation of energy resources. We also certify that the proposed exemption will not significantly affect a substantial number of small entities.

(Sec. 49 U.S.C. 10505, 5 U.S.C. 553)

Decided: January 27, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Gresham dissented in part.[1]

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3300 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will jointly be holding public hearings to receive comments on the 1982 Amendment and Draft Supplemental Environmental Impact Statement (DSEIS) of the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California.

DATES: Written comments on the 1982 Amendment and the DSEIS for the ocean salmon plan from members of the public are invited until March 15, 1982.

Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

February 26, 1982—Seattle, Washington
February 26, 1982—Astoria, Oregon
February 26, 1982—Eureka, California
February 27, 1982—Sacramento, California
February 27, 1982—North Bend, Oregon
March 1 1982—Pocatello, Idaho

The hearings in Seattle, Astoria, Eureka, and Pocatello will start at 7 p.m. and adjourn at approximately 10 p.m. or when all public testimony has been received. The hearings in Sacramento and North Bend will start at 2 p.m. and adjourn at approximately 5 p.m. or when all public testimony has been received.

The hearings will be recorded and the recordings will be filed as official transcripts of the proceedings. A written summary will be prepared on each hearing.

ADDRESS: Send comments to:

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, or

H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, Washington 98115

HEARING LOCATIONS:

February 26, 1982

Park Hilton Hotel, Sixth and Seneca Street, Seattle, Washington 98101, Glacier/Yellowstone Room.

Astoria Middle School, 1100 Klaskanine, Astoria, Oregon 97103.

Eureka Inn, 7th and J Streets, Eureka, California 95501.

February 27, 1982

California Department of Fish and Game, Committee Room, Resources Building, 1416 Ninth Street, Sacramento, California 95814.

Pony Village Lodge, Virginia Avenue, North Bend, Oregon 97459.

March 1, 1982

Idaho State University, Rooms 406 and 407, Student Union Building, 6th Street, Pocatello, Idaho 83201.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221-6352, or

H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, Washington 98115, (206) 527-6150.

SUPPLEMENTARY INFORMATION: The hearings will deal with the proposed 1982 amendment ot the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California.

The amendment consists of a discussion of 1982 salmon fishery management problems, a review of the 1981 commercial and recreational salmon fisheries, an evaluation of 1981 ocean salmon management (including an assessment of harvest guidelines and quotas), a discussion of the socio-economic trends in the ocean salmon fisheries, a preliminary report on the resource status in 1982, and a presentation of management alternatives and strategies for the 1982 fisheries.

The most recent information on the status of the Pacific salmon stocks and fisheries indicates that respecification and adjustment of the 1981 management measures are necessary to meet the plan's goals for 1982.

The Council proposed five management options for the coastwide ocean commercial troll fishery and three management options for the coastwide ocean recreational fishery. The options range from less restrictive than to more restrictive than the 1981 regulations.

Management measures for the 1982 ocean salmon seasons will be determined from among these options by the Pacific Fishery Management Council at its March 17-19 meeting in Portland, Oregon.

The draft 1982 salmon plan amendment, including the DSEIS, will be mailed to individuals and organizations who are currently on the Council's mailing list. A limited number of copies also will be available at the public hearings.

Dated: February 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-3633 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-22-M

[1] Commissioner Gresham, dissenting in part, would grant a "provisional exemption" using the more streamlined procedures adopted by the Commission in Ex Parte No. 346 (Sub-No. 6), *Rail General Exemption Authority*, 365 ICC 40 (1981).

Notices

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Public Access and Information; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Public Access and Information of the Administrative Conference of the United States, to be held at 10:30 a.m., Wednesday, February 17, 1982, in the Library of the Administrative Conference, 2120 L Street, NW, Suite 500, Washington, D.C.

The Committee will meet to discuss the scope of any response by the Committee to proposed recommendations of the ACUS Committee on Regulation of Business on the subject of the treatment of confidential business information under the FOIA. The meeting was previously scheduled for January 12, 1982, and then cancelled (*see* notice of cancellation, 47 FR 1157).

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Michael W. Bowers (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
February 3, 1982.
[FR Doc. 82-3327 Filed 2-8-82; 8:45 am]
BILLING CODE 6110-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

Notice is hereby given in accordance with § 800.6(d) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that a special meeting of the Advisory Council on Historic Preservation will take place on February 22–23, 1982, in Wallace, Idaho. The meeting will begin at 9:00 a.m. The meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior; Agriculture; Housing and Urban Development; Treasury; Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conferenced of State Historic Preservation Officers; a Governor; a Mayor, and eight non-Federal members appointed by the President.

At the meeting, the Council will consider, in accordance with Section 106, the proposed construction of Interstate Highway 90 through Wallace, Idaho, an undertaking funded by the Federal Highway Administration. It has been determined that this undertaking will have an adverse effect upon various properties listed in or potentially eligible for the National Register, including the Northern Pacific Depot and the Wallace Historic District.

The Council will also conduct its regular business during this meeting. The provisional agenda for the meeting includes the following:

I. Consideration of the Proposed Construction of Interstate 90 through Wallace, Idaho.

A. Introduction by the Executive Director.

B. Tour of Wallace Historic District and report of the Idaho State Historic Preservation Officer.

C. Report of the Secretary of the Interior.

D. Report of the Federal Highway Administration.

E. Statements from State and local agencies and the Public.

F. Conclusions by Executive Director.

G. Development of comments.

II. Consideration of Revised Section 106 Regulations.

III. Conflict of Interest Regulations.

IV. Litigation Report.

V. Budget Discussion.

VI. New Business.

Pesons wishing to make brief oral remarks should notify the Executive Director no later than Wednesday, February 17. Those wishing to have written statements distributed to Council members prior to the meeting should ensure that the Executive Director receives copies of their statements no later than February 10. Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, NW., Washington, D.C. 20005, 202–254–3967.

Dated: February 2, 1982.

Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 82-3347 Filed 2-8-82; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Burley Tobacco; 1982 National Marketing Quota for Burley Tobacco; Determination

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Determination of 1982–83 Marketing Quota.

SUMMARY: The purpose of this notice is to announce a number of determinations with respect to the 1982 crop of burley tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended. Along with other determinations, the Secretary has declared that the 1982 marketing quota for burley tobacco shall be 661 million pounds, 3 percent above last year's quota. The Secretary is required by

statute to announce the 1982 marketing quota by February 1, 1982.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736,South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This action has been classified as "not major" since implementation of these determinations will have an annual effect on the economy of less than $100 million.

The title and number of the Federal Assistance Program that this notice applies to is: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice is issued in accordance with the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), in order to announce for the 1982 marketing year for burley tobacco the following.

1. The amount of the national marketing quota.
2. The national factor.
3. The national reserve.
a. For establishing quotas for new farms.
b. For making corrections and adjusting inequities in old farms.

Producers approved in a referendum (45 FR 40095) marketing quotas on a poundage basis for the 1980, 1981, and 1982 marketing years.

The determinations by the Secretary issued in this notice have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from burley tobacco producers and others pursuant to a notice (46 FR 57942) given in accordance with the provisions of 5 U.S.C. 553 and Executive Order 12291.

Discussion of Comments

A total of 19 comments was received from producers, manufacturers, state departments of agriculture, farm bureaus and other interested parties. Five comments recommended that the 1982 burley quota remain the same; four requested increases ranging from 2½ percent to 12 percent. Ten other respondents either gave no specific recommendations or commented on unrelated matters.

In addition, a meeting was held in the producing area to get views and recommendations. There was a total of 14 responses. Ten recommended that the quota remain unchanged, while four recommended increases of up to 12 percent.

The major concern of most commenters was that adequate supplies be maintained in the face of a worldwide shortage of burley tobacco.

Section 319(c) of the Act provides that the national marketing quota determined under such section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 percent of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount no in excess of 1 percent of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms.

In accordance with section 319(e) of the Act, the 1982 farm marketing quota for burley tobacco is required to be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under section 31q(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for 1982: *Provided*, that such national factor shall not be less than 95 percent.

The reserve supply level is defined in Section 301(b) of the Act as 105 percent of the normal supply. The normal supply is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption, in accordance with Section 301(b)(11)(B) of the Act, is the yearly average quantity of burley tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports are defined in Section 301(b)(12) of the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 years marketing immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The reserve supply level is 1,678 million pounds, based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds. The average domestic usage for the past 10 marketing years amounts to 507 million pounds. However, domestic usage has trended downward. The 10 year average exports amounted to 97 million pounds. Exports have averaged 120 million pounds during the past three marketing years and are expected to continue their upward trend in the future as foreign manufacturers upgrade their blends. In view of these data and estimates, a reserve supply level of 1,678 million pounds appears reasonable.

The total supply for the 1981–82 marketing year, October 1 carryover stocks plus estimated production of the 1981 crop, is 1,717 million pounds. This is 39 million pounds above the reserve supply level.

Total disappearance for the 1982–83 marketing year is estimated at 663 million pounds. Depsite burley tabacco being in excess of the reserve supply level it has been determined that an upward adjustment of the quota is necessary to maintain adequate supplies due to a worldwide shortage of this kind of tabacco. Accordingly, the national marketing quota for burley tobacco for the marketing year beginning October 1, 1982, is determined to be 661 million

pounds. The sum of the preliminary farm marketing quotas for the 1982–83 marketing year is 660,148,806 pounds. The quota of 681 million pounds, less a national reserve of 1,000,000 pounds, results in a national factor of 1.03.

Since farmers are now making their plans for 1982 production of burley tobacco and need to know immediately the marketing quota for their farms for the 1982–83 marketing year and since Section 319(b) of the Act requires that this announcement be made by February 1, 1982, it is hereby determined that no further rulemaking is required. Therefore, this notice shall be effective February 1, 1982.

Determinations 1982–83 Marketing Year

For burley tobacco for the marketing year beginning October 1, 1982:

(a) *National marketing quota.* The national marketing quota on a poundage basis is 681 million pounds. This quota is based upon expected utilization and exports for the 1982–83 marketing year with an upward adjustment of 18 million pounds, due to a worldwide shortage.

(b) *National factor.* The national factor determined under § 319(e) of the Act is 1.03.

(c) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm marketing quotas and for establishing marketing quotas for new farms is 1,000,000 pounds.

(Secs. 301, 319, 375, 52 Stat. 38, as amended, 65 Stat. 23, 52 Stat. 66, as amended, 7 U.S.C. 1301, 1314e 1375)

Signed at Washington, D.C. on February 3, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-3321 Filed 2-4-82; 10:13 am]

BILLING CODE 3410-05-M

1982 National Marketing Quotas and Acreage Allotments For Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 & 52), and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 & 55) Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination of 1982–83 Marketing Quota and Acreage Allotments.

SUMMARY: The purpose of this notice is to announce a number of determinations with respect to the 1982 crops of fire-cured, dark air-cured, sun-cured, cigar-binder, and cigar-filler and binder tobacco. Along with other determiantions, USDA has declared national acreage allotments for the following kinds of tobacco: Fire-cured (type 21), 9430.70 acres; fire-cured (types 22–24), 26,353.99 acres; dark air-cured (types 35 & 36), 11,986.68 acres; Virginia sun-cured, 1,320.11 acres; cigar binder (types 51 & 52), 3223.95 acres; cigar-filler and binder (types 42–44; 53–55), 15,194.53 acres. The law requires that these announcements be made by February 1, 1982. In addition, separate referendums for fire-cured and dark air-cured tobaccos will be held during the period February 22–26 by mail to see whether or not these producers favor quotas for the next three marketing years.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Argicultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notie and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This action has been classified as "not major" since implementation of these determinations will have an annual effect on the economy of less than $100 million.

The title and number of the Federal Assistance Program that this notice applies to is: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act," requires the Secretary to proclaim national marketing quotas for fire-cured (type 21), fire-cured (types 22 & 24), and dark air-cured (types 35–36) tobaccos for each of the three marketing years beginning October 1, 1982, October 1, 1983 and October 1, 1984. The Act also requires the Secretary to announce the reserve supply level and the total supply of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco for the marketing year beginning October 1, 1981, and to announce for the 1982–83 marketing year the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder, cigar-filler and binder tobaccos.

These determinations have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from tobacco producers and ohers as provided in a notice (46 FR 61157) given in accordance with the provisions of 5 U.S.C. 553.

It is determined that acreage-poundage quotas will not be announced for the 1982–83 marketing year for any of these kinds of tobacco.

Discussion of Comments

Six written responses were received. Some responses contained recommendations on more than one kind of tobacco. A summary by kind of tobacco is as follows:

Fire-cured (type 21)—Two comments were received recommending that quotas remain unchanged.

Fire-cured (types 22–24)—One comment was received recommending quotas remain unchanged.

Dark air-cured (types 35–36)—One comment was received recommending quotas be reduced 7½ percent.

Virginia sun-cured (type 37)—Two comments were received recommending quotas remain unchanged.

Cigar binder (types 51–52)—Two comments were received. One recommended a ten percent reduction in quotas while the other recommended that quotas be suspended for the 1982–83 marketing year.

Cigar-filler and binder (types 42–44; 53–55)—One comment was received recommending that quotas be reduced ten percent.

There were no comments regarding the method or period for holding the referendums.

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota is the total quantity of a

kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it is determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Definitions.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in Sections 301(b)(10)(B) of the Act as a normal Year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in Section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1981–82), adjusted for current trends in such consumption.

A "normal year's exports" is defined in Section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1981–82), adjusted for current trends in such exports.

Fire-Cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1981–82 marketing year was about 1.9 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1981–82 marketing year was 3.6 million pounds (farm sales weight basis). Domestic use has trended upward, while there does not seem to be a pattern to exports. Accordingly, a normal year's domestic consumption has been set at 2.2 million pounds while a normal year's exports has been set at 3.6 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 12.6 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1981, as 8.3 million pounds. The 1981 fire-cured (type 21) tobacco crop is estimated to be 4.9 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1981–82 marketing year is 13.2 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 5.0 million pounds. By deducting this disappearance from the total supply, a carryover of 8.2 million pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 4.4 million pounds represents the quantity of fire-cured (type 21) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 52 percent of the announced national marketing quotas during the past 5 marketing years has been produced, it is hereby determined that a national marketing quota of 8.448 million pounds is necessary to make available production of 4.4 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 10.138 million pounds is deemed to be justified in order to avoid undue restriction of marketing. This results in a national marketing quota of 10.138 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,075 pounds per acre, results in a 1982 national acreage allotment of 9,430.70 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 20 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Fire-Cured (types 22–24) Tobacco

The yearly average quantity of fire-cured (Types 22–24) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year was about 15.4 million pounds. The average annual quantity of fire-cured (types 22–24) tobacco produced in the United States and exported during the 10 marketing years preceding the 1981–82 marketing year was 20.0 million pounds (farm-sales weight basis). Domestic use has recently trended upward, while exports are very irregular. Accordingly, a normal year's domestic consumption has been set at 20.0 million pounds and a normal year's exports at 22.0 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 95.9 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22–24) tobacco held on October 1, 1981, as 63.1 million pounds. The 1981 fire-cured (types 22–24) crop is estimated to be 37.0 million pounds. Therefore, the total supply of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1981 is 100.1 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 36.0 million pounds. By deducting this disappearance from the total supply, a carryover of 64.1 million pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 31.8 million pounds represents the quantity of fire-cured (types 22–24) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 81 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 39.3 million pounds is necessary to make available production of 31.8 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 47.2 million pounds is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 47.2 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,791 pounds per acre, results in the 1982 national acreage allotment of 26,353.99 acres.

Pursuant to the provisions of Section 313(g), a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 65 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

Dark Air-Cured Tobacco

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year was about 14.9 million pounds, and the average annual quantity produced domestically and exported during this period was 2.3 million pounds (farm-sales weight basis). Exports have trended downward slightly while domestic use has been erratic. With this in mind, 16.7 million pounds have been used as a normal year's domestic consumption and 2.2 million pounds as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 52.0 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1981, as 36.4 million pounds. The 1981 dark air-cured crop is estimated to be 17.4 million pounds. Therefore, the total supply for the marketing year beginning October 1, 1981, is 53.8 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 16.0 million pounds. By deducting this disappearance from the total supply, a carryover of 37.8 million pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 14.2 million pounds represents the quantity of dark air-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 79 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 18.0 million pounds is necessary to make available production of 14.2 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 21.6 million pounds is deemed to be justified in order to avoid undue restrictions of marketings. This results in a national marketing quota of 21.6 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,802 pounds per acre, results in a 1982 national acreage allotment of 11,986.68 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of .90 is determined by dividing the national acreage allotment, less a national reserve of 40.0 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-Cured Tobacco

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1981–82 marketing year was about 740 thousand pounds, and the average annual quantity produced in the United States and exported during the same period was about 190 thousand pounds (farm-sales weight basis). Both domestic use and exports have trended downward. Accordingly, 600 thousand pounds have been used as a normal year's domestic consumption and 140 thousand pounds have been used as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 1,975 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1981, as 1,626 thousand pounds. The 1981 Virginia sun-cured tobacco crop is estimated to be 649 thousand pounds. Therefore, the total supply of Virginia sun-cured tobacco for the 1981–82 marketing year is 2,275 thousand pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 800 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,475 thousand pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 500 thousand pounds represents the quantity of Virginia sun-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 41 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 1,220 thousand pounds is necessary to make available production of 500 thousand pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 1,464 thousand pounds is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 1,464 thousand pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,109 pounds per acre, results in a 1982 national acreage allotment of 1,320.11 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 12.0 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-Binder (Types 51 and 52) Tobacco

The yearly average quantity of cigar-binder (types 51 & 52) tobacco produced in the United States, which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year, was about 2.6 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1981–82 marketing year was 0.1 million pounds (farm-sales weight basis). Domestic use and exports are erratic. Accordingly, 2.7 million pounds have been used as a normal year's domestic consumption and 0.1 million pounds have been used a normal year's exports. Application of the formula presecribed by the Act results in a reserve supply level of 8.0 million pounds. Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1981, as 6.1 million pounds. The 1981 cigar-binder crop is estimated to be 3.1 million pounds.

Therefore, the total supply of cigar-binder tobacco for the 1981–82 marketing year is 9.2 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 2.5 million pounds. By deducting the estimated disappearance during the 1981–82 marketing year from the total supply, a carryover of 6.7 million pounds at the beginning of the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover

on October 1, 1982, of 1.3 million pounds represents the quantity of cigar-binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 28 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 4.7 million pounds is necessary to make available production of 1.3 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the computed quota by 20 percent to 5.6 million pounds is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 5.6 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota of 5.6 million pounds, divided by the 1977–81 5-year national average yield of 1,737 pounds per acre, results in a 1982 national acreage allotment of 3,223.95 acres.

Pursuant to the provisions of Section 313(g), a national acreage factor of 0.85 is determined by dividing the national acreage allotment, less a national reserve of 25 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national allotment, less the national reserve, to old farms.

Cigar-Filler and Binder Tobacco

The yearly average quantity of cigar-filler and binder tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year was about 23.4 million pounds. The average annual quantity of cigar-filler and binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1981–82 marketing year was less than .1 million pounds. Domestic use is increasing, while exports are steady.

Accordingly, a normal year's domestic consumption has been set at 28.4 million pounds while a normal year's exports has been set at 0.06 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 82.1 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder tobacco held on October 1, 1981, as 57.8 million pounds. The 1981 cigar-filler and binder crop is estimated to be 28.6 million pounds. Therefore, the total supply of cigar-filler and binder tobacco for the 1981–82 marketing year is 86.4 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 22.5 million pounds. By deducting this disappearance from the total supply, a carryover of 63.9 million pounds at the beginning of the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 18.2 million pounds represents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 76 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 24.1 million pounds is necessary to make available production of 18.2 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the computed quota by 20 percent to 28.9 million pounds, is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 28.9 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota of 28.9 million pounds, divided by the 1977–81 5-year national average yield of 1,902 pounds per acre, results in the 1982 national acreage allotment of 15,194.53 acres. Pursuant to the provisions of Section 313(g), a national acreage factor of .80 is determined by dividing the national acreage allotment, less a national reserve of 60 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Reasons for Immediate Implementation

Since section 312 of the Act requires that the amount of the national marketing quotas for the 1982 crops of the minor kinds of tobacco be announced by February 1, 1982, it is hereby determined that no further public rulemaking is required. Therefore, this notice shall become effective February 1, 1982.

Proclamations 1982–83 Marketing Year

For fire-cured tobacco for three consecutive years beginning October 1, 1982. Since the 1981–82 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for fire-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1982, October 1, 1983, and October 1, 1984 is hereby proclaimed.

For dark air-cured tobacco for three consecutive years beginning October 1, 1982. Since the 1981–82 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for dark air-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1982, October 1, 1983, and October 1, 1984, is hereby proclaimed.

Method and Period for Holding Referendums

It is hereby determined and announced that separate referendums of farmers engaged in 1981 production of fire-cured and dark air-cured tobaccos will be conducted by mail ballot during the period February 22–26, 1982 inclusive. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning October 1, 1982.

Determinations 1982–83 Marketing Year

For fire-cured (type 21) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (type 21) tobacco is 12.6 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 2.2 million pounds and a normal year's exports of 3.6. million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1981, is 13.2 million pounds, calculated in accordance with the Act, from a carryover of 8.3 million pounds and estimated 1981 production of 4.9 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1982, is 8.2 million pounds, calculated in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 5.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 4.4 million pounds. Because producers have been producing only about 52 percent of the announced national marketing quota during the past 5 marketing years, it is

[1] Rounded to the nearest tenth of a million.

hereby determined that a national marketing quota of 8.448 million pounds is necessary to make available production of 4.4 million pounds. Accordingly, a national marketing quota of 8.448 million pounds is hereby announced.

It is determined, however, that a national marketing quota in an amount of 8.448 million pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (type 21) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 10.138 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calulated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,075 pounds, is 9,430.70 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 20.0 acres, of which 10.0 acres are made available for 1982 new farms, and 10.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

For fire-cured (types 22–24) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (types 22–24) tobacco is 95.9 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 20.0 million pounds and a normal year's exports of 22.0 million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (type 22–24) tobacco for the marketing year beginning October 1, 1981, is 100.1 million pounds calculated, in accordance with the Act, from a carryover of 63.1 million pounds and estimated 1981 production of 37.0 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1982, is 64.1 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 36.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of fire-cured (types 22–24) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 31.8 million pounds. Because producers have been producing only about 81 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota of 39.3 million pounds is necessary to make available production of 31.8 million pounds. Accordingly, a national marketing quota of 39.3 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 39.3 million pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent.

Therefore, the amount of the national marketing quota for fire-cured (types 22–24) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 47.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,791 pounds, is 26,353.99 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 65 acres, of which 10 acres are made available for 1982 new farms, and 55 acres are made available for making corrections and adjusting inequities in old farm allotments.

For dark air-cured tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply level for dark air-cured tobacco is 52.0 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 16.7 million pounds and a normal year's exports of 2.2 million pounds.

(b) *Total supply.*[1] The total supply of dark air-cured tobacco for the marketing year beginning October 1, 1981, is 53.8 million pounds calculated, in accordance with the Act, from a carryover of 36.4 million pounds and estimated 1981 production of 17.4 million pounds.

(c) *Carryover.*[1] The estimated carryover of dark air-cured tobacco for the marketing year beginning October 1, 1982, is 37.8 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 16.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of dark air-cured tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 14.2 million pounds. Because producers have been producing only about 79 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota of 18.0 million pounds is necessary to make available production of 14.2 million pounds. Accordingly, a national marketing quota of 18.0 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 18.0 million pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for dark air-cured (types 35–36) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 21.6 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,802 pounds, is 11,986.68 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is .90. It was calculated in accordance with the Act by dividing the national acreage allotment, less the reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 40 acres, of which 10 acres are made available for 1982 new farms, and 30 acres are made available for making corrections and adjusting inequities in old farm allotments.

For Virginia sun-cured tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[2] The reserve supply level for Virginia sun-cured tobacco is 1,975 thousand pounds calculated, as provided in the Act, from

[1] Rounded to the nearest thousand pounds.

a normal year's domestic consumption of 600 thousand pounds and a normal year's exports of 140 thousand pounds.

(b) *Total supply.*[2] The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1981, calculated in accordance with the Act, is 2,275 thousand pounds, consisting of carryover of 1,626 thousand pounds and estimated 1981 production of 649 thousand pounds.

(c) *Carryover.*[2] The estimated carryover of Virginia sun-cured tobacco for the marketing year beginning October 1, 1982, is 1,475 thousand pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 800 thousand pounds from the total supply of such tobacco.

(d) *National marketing quota.*[2] The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 500 thousand pounds. Because producers have been producing only about 41 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 1,220 thousand pounds is necessary to make available production of 500 thousand pounds. Accordingly, a national marketing quota of 1,220 thousand pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 1,220 thousand pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for sun cured (type 37) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 1,464 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,109 pounds, is 1,320.11 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982.

(g) *National reserve.* The national acreage reserve is 12 acres, of which 5 acres are made available for 1982 new farms, and 7 acres are made available for making corrections and adjusting inequities in old farm allotments.

For cigar-binder (types 51 & 52) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[2] The reserve supply level for cigar-binder (types 51 & 52) tobacco is 8.0 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 2.7 million pounds and a normal year's exports of 0.1 million pounds.

(b) *Total supply.*[1] The total supply of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1981, is 9.2 million pounds, calculated in accordance with the Act, from a carryover of 6.1 million pounds and estimated 1981 production of 3.1 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1982, is 6.7 million pounds, calculated, in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 2.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-binder (types 51 & 52) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 1.3 million pounds. Because producers have been producing less than 28 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 4.7 million pounds is necessary to make available production of 1.3 million pounds. Accordingly, a national marketing quota of 4.7 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 4.7 million pounds would result in undue restriction of marketings during the 1982–83 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-binder (types 51 & 52) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 5.6 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,737 pounds, is 3,223.95 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is .85. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 25 acres of which 10 acres are made available for new farms, and 15 are for making corrections in adjusting inequities in old farm allotments.

For cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply for cigar-filler and binder (types 42–44, 53–55) tobacco is 82.1 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 28.6 million pounds and a normal year's exports of 0.06 million pounds.

(b) *Total supply.*[1] The total supply of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1981, is 86.4 million pounds, calculated in accordance with the Act from a carryover of 57.8 million pounds and estimated 1981 production of 28.6 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1982, is 63.9 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 22.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-filler and binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 18.2 million pounds. Because producers have been producing less than 76 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 24.1 million pounds is necessary to make available production of 18.2 million pounds. Accordingly, a national marketing quota of 24.1 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 24.1 million pounds would result in undue restriction of marketings during the 1982–83 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent.

Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42–44; 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 28.9 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing qutoa for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,902 pounds, is 15,194.53 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is .80. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 60 acres, of which 50 acres are made available for 1982 new farms, and 10 acres are made available for making corrections and adjusting inequities in old farm allotments.

The provisions of this subpart are issued under Section 301, 312, 375, 52 Stat. 38, as amended, 46, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375.

Signed at Washington, D.C. on February 3, 1982.

John R. Block,

Secretary.

[FR Doc. 82-3320 Filed 2-4-82; 10:15 am]

BILLING CODE 3410-05-M

Forest Service

Apache National Forest Grazing Advisory Board; Meeting

The Apache National Forest Grazing Advisory Board will meet at 10:30 A.M., March 19th at the Safire Restaurant in Springerville, Arizona. The purpose of this meeting is to include a discussion on expenditure of Range Betterment funds for F.Y. 1983 for the Apache Forest. Discussion on Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938 (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: Any interested persons besides the Advisory Board members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: January 27, 1982.

Nick McDonough,

Forest Supervisor.

[FR Doc. 82-3309 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-11-M

Sitgreaves National Forest Grazing Advisory Board; Meeting

The Sitgreaves National Forest Grazing Advisory Board will meet at 10:00 a.m., March 17th at the Maxwell House Restaurant in Show Low, Arizona. The purpose of this meeting is to include a discussion on expenditure of Range Betterment funds for FY 1983 for the Sitgreaves Forest. Discussion on Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938 (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: Any interested persons besides the Advisory Board members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: January 27, 1982.

Nick McDonough,

Forest Supervisor.

[FR Doc. 82-3370 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare a supplemental environmental impact statement in connection with proposed supplemental financing assistance by REA for Soyland Power Cooperative, Inc., (Soyland) of Decatur, Illinois, and Western Illinois Power Cooperative, Inc., (WIPCO) of Jacksonville, Illinois. This action by REA will enable Soyland and WIPCO to finance their ownership share for the completion of the Clinton nuclear power plant (Project) which is being constructed by Illinois Power Company (IPC) of Decatur, Illinois.

The environmental effects of the Project are discussed and evaluated in the Final Environmental Statement issued in October 1974, the Operating License Stage Environmental Report issued in June 1981, and the Borrower's Environmental Report dated July 1981.

Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the Project are adequately considered in the above listed documents.

Based upon REA's independent review of these documents, a Finding of No Significant Impact was reached in accordance with REA.

Various alternatives were considered by REA. The alternatives include no action (end participation), purchased power from other sources, and completion of the project now under construction. After considering these alternatives, REA determined that the proposed action of providing additional financing assistance to Soyland and WIPCO for completion of the Project is an acceptable alternative.

Copies of REA's Finding of No Significant Impact and the support documents listed previously may be reviewed in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–1400 or at the offices of Soyland Power Cooperative, Inc., P.O. Box A1606, Decatur, Illinois 62525 and Western Illinois Power Cooperative, Inc., P.O. Box 609, Jacksonville, Illinois 62650.

(Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 2d day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3312 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-15-M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory

Committee to the Commission will convene at 10:00 a.m., and will end at 11:00 a.m., on February 24, 1982, at the Post Office and Courthouse, 87 State Street, 3rd Floor, Montpelier, Vermont, 05602. The purpose of this meeting is to conduct a press conference to release the report Civil Rights Developments in Vermont, 1981.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, Hoff, Wilson and Powell, P.C., 192 College Street, Burlington, Vermont, 05401 (802) 658–4300 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 5, 1982

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3352 Filed 2-8-82; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and Regulations of the U.S Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on March 5, 1982, at the Edgewater Hotel, 666 Wisconsin Avenue, Madison, Wisconsin, 53701. The purpose of this meeting is to discuss the Business Incentives and Minority Employment projects and approve the final draft of the Bilingual Assessment report.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Herbert M. Hill, 2127 Van Hise Avenue, Madison, Wisconsin, 53705, (608) 263–1642 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3353 Filed 2-8-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 1–82]

Proposed Foreign-Trade Zone, Mobile, Alabama; Public Hearing Rescheduled

The public hearing which was originally scheduled for February 5, 1982, concerning the foreign-trade zone application of the City of Mobile (47 FR 992, 1–8–82) has been rescheduled to March 25, 1982 at the applicant's request. The hearing will be held in the Conference Room of Building A, City Hall, Dauphin Street and I–65, Mobile, beginning at 9:00 a.m.

The period for public comments has been extended to April 23, 1982.

Dated: February 3, 1982.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82-3419 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 7–82]

Proposed Foreign-Trade Zone-San Antonio, Texas; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Antonio, Texas, requesting authority to establish a general-purpose foreign-trade zone in San Antonio and Bexar County, within and adjacent to the San Antonio Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 1, 1982. The applicant is authorized to make this proposal under Article 1446.10 of Vernon's Annotated Revised Civil Statutes of the State of Texas.

The proposed zone will cover a total of 556 acres on three separate parcels. Site 1 is a 52-acre parcel in an industrial area on Coliseum Road at Interstate 35 in San Antonio. Three buildings totaling 287,000 square feet are available for initial zone processing and warehousing operations. Site 2 covers 4 acres at 315 Medina Street adjacent to the downtown business district with 174,000 square feet of warehouse space. Site 3 is located within the Southwest Industrial Center on Quintana Road and Interstate 35 in Bexar County. Covering 500 acres this site will be used to accommodate firms requiring their own facilities and to provide standby space for future zone development. The City has designated Scobey Moving and Storage Company as operator for the zone project.

The application contains evidence of the need for zone services in the San Antonio area. Prospective users have indicated an interest in zone procedures for storage, exhibiton, testing, packing and assembly of machinery, fabricated metal products, roofing materials, medical equipment, household appliances, wood products, electronic components and products,clothing, footwear, paper products, and beer.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Director (Inspection and Control), U.S. Customs Service, Region VI, 500 Dallas Street, Houston, Texas 77002; and Colonel Donald J. Palladino, District Engineer, U.S. Army Engineer District, Ft. Worth, P.O. Box 17300, Fort Worth, Texas 76102.

As part of its investigation, the Examiners Committee will hold a public hearing on March 4, 1982, beginning at 9:00 a.m., in the City Council Chambers, City Hall, Commerce and Flores Streets, San Antonio. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377–2862) by February 24, 1982. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through April 3, 1982. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 1802 N.E. Loop 410, San Antonio, Texas 78217

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721,

14th and Constitution, NW.,
Washington, D.C. 20230

Dated February 3, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-3420 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Agriculture Subcommittee of the President's Export Council; Notice of Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade. The Agriculture Subcomittee was formed by the Council to study agricultural trade issues.

TIME AND PLACE: February 24, 1982, at 10:00 a.m. The meeting will take place at the Hall of States, 444 North Capitol St., Washington, D.C., Room 283–285.

AGENDA: *General Session.*

10:00 Welcome by Chairman.

10:15 Trade Barriers to U.S. Agricultural Exports.

11:15 Foreign Infrastructure Development.

12:30 Foreign Market Development Cooperator Program; Panel Discussion.

4:30 Adjournment.

Public Participation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mr. Jeffrey Jackson, President's Export Council Staff, Room 2128, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–1125.

Dated February 4, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-3417 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel I-Beams From Belgium; Reopening of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Reopening of antidumping investigation.

SUMMARY: The Department of Commerce is reopening the cost of production aspect of the antidumping investigation of certain steel I-beams from Belgium, in accordance with an order from the U.S. Court of International Trade. As ordered by the Court, the final results will be provided to the court no later than March 24, 1981.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Room 3075, Washington, D.C. 20230 (202–377–1276).

SUPPLEMENTARY INFORMATION:

Reopening of Investigation

As ordered by the Court of International Trade, we are reopening the antidumping investigation on certain steel I-beams from Belgium for the purpose of seeking additional information regarding cost of production as specifically requested by the Court in its order of November 24, 1981. The Court has ordered that we report the final results of this reopened investigation by March 24, 1982.

Background

On September 20, 1979, a notice of "Determination of Sales at Not Less Than Fair Value" was published in the **Federal Register** (44 FR 54579). For the purposes of both that determination and this notice the term "certain steel I-beams" means hot-rolled steel I-beams with symmetrical flanges or with one or more flanges offset, less than six inches in height and weighing not over 4½ pounds per linear foot, provided for under item number 609.80 of the Tariff Schedules of the United States.

On February 27, 1980, the Department of Commerce (the Department) published a "Notice of petition filed by an American manufacturer indicating a desire to contest a determination by the Secretary under 19 U.S.C. 160" in the **Federal Register** (45 FR 12589). On March 12, 1980, counsel for the petitioner filed suit in the U.S. Customs Court to challenge the Department's final antidumping determination (*Connors Steel Company* v. *United States*, 80–3–00478). The plaintiff alleged, *inter alia*, that the Secretary erred in failing to investigate whether Cockerill-Sambre S.A. of Seraing, Belgium, was selling the merchandise in question at less than the cost of production.

On November 24, 1981, the U.S. Court of International Trade (successor to the U.S. Customs Court) ordered that the Secretary of Commerce "shall conduct an investigation into whether the sales of these beams in the home market were at prices representing less than their cost of production and shall report his findings to the Court within 120 days from the date of this decision".

The United States has moved for a rehearing and modification of the Court's order in this case. If the Court modifies its order in such a way as to make this investigation unnecessary, we will publish a notice announcing termination of the investigation. Otherwise, we will continue the investigation. If continued, we will not publish a preliminary determination, nor hold a hearing. We will publish a notice announcing the final results of this reopened investigation.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-3400 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Negative Countervailing Duty Determination; Potassium Permanganate from Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We have preliminarily determined that the government of Spain is not giving its manufacturers, producers and exporters of potassium permanganate benefits that constitute bounties or grants. If our investigation proceeds normally, we will make our final determination by April 19, 1982.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Supervisory Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–1273.

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is no reason to believe or suspect that through the "Desgravacion Fiscal a la Exportacion" program and the operating capital loans program, that the government of Spain is giving its manufacturers, producers or exporters

of potassium permanganate benefits that constitute bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act of 1930 as amended (the "Act"). If our investigation proceeds normally, we will make our final determination by April 19, 1982.

SUPPLEMENTARY INFORMATION:

Case History

On November 10, 1981, we received a petition in proper form from counsel representing the Carus Chemical Company of La Salle, Illinois. The petition alleged that the government of Spain subsidizes its producers and exporters of potassium permanganate through a tax rebate which exceeds the amount of indirect taxes physically incorporated and borne by the final product. This rebate is provided through a program called the "Desgravacion Fiscal a la Exportacion." The petitioner estimated the amount of the rebate for this program to range from 10 percent to 12 percent of the value of the product.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an investigation. Therefore, on December 4, 1981, we announced our initiation (46 FR 59282).

Section 303 of the Act applies to this investigation, because Spain is not a "country under the Agreement" within the meaning of section 701(b) of the Act. In addition, the merchandise covered in this investigation is dutiable. Therefore, no injury determination is required.

Scope of Investigation

The merchandise we have investigated, potassium permanganate, is a purple salt used primarily as an oxidant in the manufacture of organic chemicals, as a disinfectant, as a deodorizer, and as a bleach. It is currently classifiable under item 420.28 of the Tariff Schedules of the United States.

We presented a questionnaire to the government of Spain concerning programs which we believed, or suspected to be, bounties or grants. On January 20, 1982, we received a response to our questionnaire.

In its response, the government of Spain provided data for the calendar year of 1980 and for the first nine months of 1981. Asturquimica, S.A. is the only known Spanish producer and exporter of this merchandise to the United States. Based on its response, two programs, "Desgravcion Fiscal a la Exportacion", and an operating capital loan program, have been utilized by the Spanish exporter.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion—Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy and services used in the final stage of production. The Spanish government studied the incidence of prior stage taxes on inputs in various sectors of the economy in order to determine more precisely the cumulative indirect tax incidence on the exported product, in this case, potassium permanganate. Then, under the Desgravacion Fiscal a la Exportacion program, the government rebated upon exportation the total indirect taxes calculated to be physically incorporated and borne by the final product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: 1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Department of Commerce's Regulations) and 2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation must be determined for each product in each case. We will verify the information provided in response to our questionnaire, and we will determine the extent to which each input is physically incorporated into the final product.

In this case, we have preliminarily determined that the following items are physically incorporated in the final product: pyrolusite, caustic potash, secondary/free flowing materials, electricity (used in the electrolysis process), packing and final stage taxes.

Additionally, we have preliminarily determined that the following items are not physically incorporated in the final product: fuel oil, electricity (used as a fuel source for utilities), depreciation, and other manufacturing expenses.

The rebate of the following additional final stage taxes is allowable when calculating whether or not there is an overrebate of indirect taxes under the Desgravacion Fiscal: the tax on export freight and insurance, the parafiscal tax on export licenses, and the IGTE sales tax applicable to the final stage transaction.

As of January 1, 1982, the Spanish government increased the turnover tax rate from 2.4 percent to four percent. We have reviewed the Spanish government study of the tax incidence of physically incorporated inputs and final stage taxes and have taken this tax rate increase into account. Based upon this review, we have determined preliminarily that there is no overrebate of indirect taxes with respect to this product.

(2) Operating Capital Loans—The government of Spain requires banks to set aside funds to provide short term (less than one year's duration) operating capital loans. These loans are made at a 10 percent interest rate that is 1.5 percent below the commercially available rate of 11.5 percent. These rates have been in effect in Spain since November of 1981; previously the rates had been 8 percent and 9.5 percent, respectively. These operating capital loans are available to exporters of certain goods including potassium permanganate, which are specified by the government of Spain. The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. Asturquimica, S.A., the only known Spanish producer exporting potassium permanganate to the United States, does not have an exporter's card and its maximum eligibility on potassium permanganate is 20 percent of the value of its exports of this product. The net benefit conferred to Asturquimica is 0.2 percent ad valorem, which is *de minimis*.

We have preliminarily determined that no benefit which constitutes a bounty or grant is provided to the Spanish producer and exporter of potassium permanganate under the Desgravacion Fiscal a la Exportacion program and that the benefit received under the operating capital loan program is 0.2 percent. Therefore, we preliminarily find the total benefit bestowed to be *de minimis*.

Verification

In accordance with § 355.39 of the Commerce Department's Regulations, we will verify all data used in this investigation before making our final determination.

Public Comment

As described in § 355.35 of the Commerce Department's Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. This hearing is scheduled to be held on February 26, 1982, at 10:00 a.m. at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

All requests for hearings must be submitted within ten days of this notice's publication in the **Federal Register** to the Deputy Assistant Secretary for Import Administration, Room 3099–B, at the same address. They should contain (1) the party's name, address and telephone number (2) the number of participants, (3) the reason for attending, and (4) a lost of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 19, 1982. Oral presentations will be limited to the issues raised in the briefs. All written briefs should be filed in accordance with 19 CFR 355.34, on or before March 11, 1982, at the above address, and in at least ten copies.

This determination is published in accordance with section 703(f) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary.

February 3, 1982.

[FR Doc. 82-3116 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Recreational Policy; Availability of Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of new marine recreational fisheries policy and availability of report.

SUMMARY: NOAA issues notice that the National Marine Fisheries Service has adopted a new policy for marine recreational fisheries (MRF) and makes available to the public a final report on that policy. The main purpose of this policy change is to integrate more fully MRF throughout all of the Agency's major program offices and activities.

DATE: Effective October 13, 1981.

ADDRESS: Report of the Task Group dated April 24, 1981, is available at a cost of five dollars ($5.00) from Dr. Robert F. Hutton, Marine Recreational Fisheries Coordinator, National Marine Fisheries Service, Washington, D.C. 20235; checks should be made payable to NOAA/Commerce.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert F. Hutton 202–254–5536.

SUPPLEMENTARY INFORMATION:

Background: Marine recreational fishing is important to the United States in terms of its popularity, economic contributions, source of food, and consequence to management of marine fisheries resources. It is estimated that in 1970, the most recent year for which national catch statistics are available, 1.6 billion pounds of finfish were caught in marine waters by recreational anglers. The major portion of those fish was consumed. In 1975, an estimated 16.4 million anglers spent an estimated 207.2 million days sport fishing in marine waters and contributed approximately $3.5 billion in direct expenditures to the Nation's economy. In 1980, NMFS estimates that direct expenditures approached $8 billion, not including the total indirect economic impacts generated from these expenditures. In addition, marine recreational fishing helps to improve the quality of life for U.S. citizens in many ways that are not easily quantified.

Although the National Marine Fisheries Service (NMFS) has responsibilities for living marine resources, (both commercial and recreational), under the Magnuson Fishery Conservation and Management Act of 1976, as amended, and other laws, the marine recreational fishing (MRF) activities of NOAA have been limited and fragmented. Traditionally, MRF activities of NMFS have been in biological research and data collection geared toward providing better information for conservation and management of the fisheries resources. The NMFS has been involved in other MRF activities on an ad hoc basic such as technical assistance on artificial reef research and development, sponsoring MRF symposia, and various other liaison activities with State, other Federal agencies, and various interest groups.

Marine Recreational Fisheries Policy: At the request of the NMFS Assistant Administrator for Fisheries, a Task Group was established to recommend a policy that would integrate more fully MRF into all of the Agency's major program offices and activities.

Using the MRF evalution report prepared by the evaluation staff of the NMFS Office of Policy and Planning as a starting point, the Task Group developed and recommended an Agency MRF policy. Their recommendations were presented to the Assistant Administrator for Fisheries in the final report of the MRF Task Group dated April 24, 1981. The Task Group defined MRF in terms of three elements—the resource (fish and habitat), the users (fishermen, consumers, general public), and the industry (supporting industries which provide goods and services, e.g., bait, tackle, boats, motors, charter/headboat services, etc.). Problems associated with each of these three elements were discussed in the report. The policy recommended by the Task Group states that:

> MNFS, through its various programs, will protect, conserve, enhance, manage, and develop fishery resources of importance to the Nation in order to increase the Nation's food supply; promote increased opportunity for both commercial and marine recreational fishermen consistent with the concept of optimum yield; and promote activities which will assist the commercial and marine recreational fishing industries to thrive and expand.

This policy carries out the NOAA Administrator's guidance on policy and management priorities, and emphasizes international competitveness of American industry, improving productivity and innovation by American enterprise, and reducing Government regulation of industry. The Task Group also made ten recommendations with respect to implementation of the policy.

William G. Gordon, Assistant Administrator for Fisheries, NMFS, agreed with recommendations of the MRF Task Group, and formally adopted the MRF policy for the Agency on October 13, 1981. That policy is now being implemented through the strategic planning process of NMFS, taking into account Federal budgetary constraints.

Dated: February 4, 1982.

Robert K. Crowell,

Acting Executive Director, National Marine Fisheries Services.

[FR Doc. 82-3115 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additions to the Textile Category System

February 3, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Additions to the Textile Category System to provide for proper category placement of apparel articles imported as parts of apparel entireties.

(For purposes of the textile program, the term "entireties" is used to describe

sets of apparel, such as jackets and skirts, or sweaters and skirts, among others which are customarily sold together and intended to be worn together.)

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), and October 27, 1981 (46 FR 52409)).

SUMMARY: Beginning on January 1, 1982, the U.S. Customs Service denied entry to some parts of apparel sets because the category of the items visaed was not correct. This resulted from the lack of 7-digit T.S.U.S.A. numbers in the new tariff classification for particular apparel product categories. (For further details, see 47 FR 842, January 7, 1982). The list of new 7-digit numbers to correct the situation follows this Federal Register Notice. The automatic visa waiver procedure established by the Committee for the Implementation of Textile Agreements on January 7, 1982, will remain in effect until February 8 to allow all U.S. Customs Ports of Entry the time necessary to obtain the new 7-digit numbers.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 1, 1982 Additions to the Textile Category System

Category and Addition

334

379.6445 Other men's and boys' wearing apparel, of cotton, not ornamented, not knit: Coats imported as parts of sets
379.0833 Other men's and boys' wearing apparel of cotton, ornamented, not knit: Coats imported as parts of sets

335

383.0857 Other women's, girls' and infants' wearing apparel of cotton, ornamented, not knit: Coats imported as parts of sets.
383.3075 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Coats imported as parts of sets
383.5076 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Coats imported as parts of sets

336

383.3085 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Dresses imported as parts of sets
383.5088 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Dresses imported as parts of sets

339

383.0355 Other women's, girls' and infants' wearing apparel of cotton, ornamented, knit: Blouses and shirts imported as parts of sets
383.3065 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Blouses and shirts imported as parts of set

340

379.0839 Other men's and boys' wearing apparel of cotton, ornamented, not knit: Shirts, imported as parts of sets
379.6455 Other men's and boys' wearing apparel of cotton, not ornamented, not knit: Shirts imported as parts of sets

341

383.0656 Other women's, girls' and infants' wearing apparel of cotton, ornamented, not knit: Blouses and shirts imported as parts of sets
383.5062 Other women's, girls' and infants' wearing apparel of cotton, not ornamented not knit: Blouses and shirts imported as parts of sets

342

383.0265 Other women's, girls' and infants' wearing apparel of cotton, ornamented, knit: Skirts imported as parts of suits
383.0632 Other women's, girls' and infants' wearing apparal, of cotton, ornamented, not knit: Skirts imported as parts of suits

345

383.0360 Other women's, girls' and infants' wearing apparel of cotton, ornamented, knit: Sweaters imported as parts of sets
383.3070 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Sweaters imported as parts of sets

347

379.3338 Other men's and boys' wearing apparel of cotton, ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

348

383.0659 Other women's, girls' and infants' wearing apparel of cotton, ornamented, not knit: Trousers, slacks and shorts imported as parts of sets
383.3080 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Trousers, slacks and shorts imported as parts of sets
383.5086 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

350

379.6450 Other man's and boys' wearing apparel of cotton, not ornamented, not knit: Dressing gowns, including bathrobes and beachrobes imported as parts of sets
383.5080 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Dressing gowns, including bathrobes and beachrobes imported as parts of sets

359

383.0635 Women's, girls' and infants' cotton ornamented, knit suits, vests, trousers, slacks and shorts: Other

435

383.1137 Other women's, girls' and infants' wearing apparel of wool, ornamented, knit: Coats, imported as parts of sets
383.5840 Other women's, girls' and infants' wearing apparel of wool, not ornamented knit, valued not over $5 per pound: Coats imported as parts of sets
383.6390 Other women's, girls' and infants' wearing apparel of wool, not ornamented, knit, valued over $5 per pound: Coats imported as parts of sets
383.6660 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Coats imported as parts of sets
383.7570 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Coats imported as parts of sets

440

383.1617 Other women's, girls' and infants' wearing apparel of wool, ornamented, not knit: Blouses and shirts imported as parts of sets
383.6655 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Blouses and shirts imported as parts of sets
383.7565 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Blouses and shirts imported as parts of sets

634

379.3332 Other men's and boys' wearing apparel of man-made fiber, ornamented, not knit: Coats imported as parts of sets
379.9637 Other men's and boys' wearing apparel of man-made fiber, not ornamented, not knit: Coats imported as parts of sets

635

383.2056 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented knit: Coats imported as parts of sets
383.2354 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented not knit: Coats imported as parts of sets
383.6607 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Coats imported as parts of sets
383.9273 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, not knit: Coats imported as parts of sets

639

383.2052 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, knit: Blouses and shirts imported as parts of sets
383.6663 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Blouses and shirts imported as parts of sets

640

379.3334 and 379.3336 Other men's and boys' wearing apparel of man-made fiber, ornamented, not knit: Dress shirts imported as parts of sets. Other shirts imported as parts of sets

379.9639 and 379.9641 Other men's and boys' wearing apparel of man-made fiber, not ornamented, not knit: Dress shirts imported as parts of sets. Other shirts imported as parts of sets

641

383.2352 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, not knit: Blouses and shirts imported as parts of sets

383.9270 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, not knit: Blouses and shirts imported as parts of sets

646

383.2054 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, knit: Sweaters imported as parts of sets

383.2358 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, not knit: Sweaters imported as parts of sets

383.8665 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Sweaters imported as parts of sets

647

379.3338 Other men's and boys' wearing apparel of man-made fiber, ornamented not knit: Trousers, slacks and shorts imported as parts of set

379.9643 Other men's and boys' wearing apparel of man-made fiber, not ornamented not knit: Trousers, slacks and shorts imported as parts of set

648

383.2058 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, knit: Trousers, slacks and shorts imported as parts of sets

383.2356 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

383.8669 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Trousers, slacks and shorts imported as parts of sets

383.9278 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

[FR Doc. 82-3419 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Autodin II: Advisory Committee Meeting

The Defense Science Board Task Force on Autodin II will meet in closed session on March 4–5, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on March 4–5, 1982 the Task Force will be briefed by members of the Defense Communications Agency AUTODIN II Evaluation Group and concerned members of the Defense Department.

In accordance with 5 U.S.C. App. 1 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 3, 1982.

[FR Doc. 82-3350 Filed 2-8-82; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement (DEIS) for Proposed Water Supply Storage in Abiquiu Reservoir, Rio Chama, New Mexico.

AGENCY: Army Corps of Engineers, Albuquerque District, DOD.

ACTION: Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed Action and Alternative Solutions.* The proposed action is the storage of imported San Juan-Chama water in Abiquiu Reservoir, Rio Chama, New Mexico. The reservior is an existing Corps of Engineers project which was initially authorized for flood control and sediment storage. Public Law 97–140, enacted on 29 December 1981, authorized storage of up to 200,000 acre-feet of water. The proposed action would provide the city of Albuquerque and other water users with a storage area to meet future water supply needs. Alternatives under consideration consist of no action and water storage ranging from the present sediment pool of 63,000 acre-feet to about 650,000 acre-feet.

2. *Public Involvement and Scoping processes.* The process for determining the scope of issues to be addressed and identifying significant issues related to the action and alternatives has been initiated through a general public involvement program. An initial public meeting has been held to identify significant issues. A scoping process will be carried out in which all interested persons and agencies will be provided opportunity to identify and determine the scope of the DEIS and to further identify significant issues to be addressed. Affected Federal, State and local agencies, Indian Tribes, and other interested private organizations and individuals will be invited to participate.

This study is being coordinated with the U.S. Fish and Wildlife Service pursuant to the requirements of the Fish and Wildlife Coordinaton Act of 1958 (72 Stat. 563) (Pub. L. 85–624) and the Endangered Species Act of 1973, as amended (87 Stat. 884) (Pub. L. 93–205). Consultation with Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Officer and the National Park Service will be initiated pursuant to the National Historic Preservation Act of 1966 (80 Stat. 915) as amended (94 Stat. 2987) and the Reservoir Salvage Act of 1960 (74 Stat. 220), as amended (88 Stat. 174 and 94 Stat. 2987).

3. *Significant Issues to be Analyzed.* Significant issues to be analyzed in depth in the DEIS will include the impact of the action on the rural hispanic social setting and effects of higher pool levels on terrestrial and aquatic habitats.

4. *Public Review.* The present estimated date that the DEIS will be available for public review is 1 December 1983.

5. *Further Information.* Questions regarding the proposed action and the DEIS may be directed to:

Ms. Anita E. Culp, Biologist, Albuquerque District, Corps of Engineers, P.O. Box 1580, Albuquerque, NM 87103, Phone: (505) 766–3577, (FTS) 474–3577

or

Mr. William E. Huntley, Study Manager, Albuquerque District, Corps of Engineers, P.O. Box 1580, Albuquerque, NM 87103, Phone: (505) 766–3862, (FTS) 474–3862

Dated: January 28, 1982.

Julian E. Pylant,

Lieutenant Colonel, CE, Commanding.

[FR Doc. 82-3328 Filed 2-8-82; 8:45 am]

BILLING CODE 3710-KR-M

DEPARTMENT OF EDUCATION

Regional Education Programs for Handicapped Persons

AGENCY: Department of Education.

ACTION: Application notice establishing closing date for transmittal of applications for the Regional Education Programs for handicapped persons—

continuation demonstration grants for fiscal year 1982.

Applications are invited for noncompeting continuation projects under the Regional Education Programs for Handicapped Persons.

Authority for this program is contained in section 625, Part C of the Education for the Handicapped Act (20 U.S.C. 1424a).

The purpose of this program is to develop and operate specially designed or modified programs of vocational, technical, postsecondary or adult education for deaf or other handicapped persons.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 31, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.078D, 400 Maryland Avenue, SW, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW, Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Available Funds: Funding for the second year demonstration projects is anticipated to range between $15,000 and $50,000 per project.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to Regional Education Programs for Handicapped Persons, Special Education Programs, Department of Education, 400 Maryland Avenue SW, (Donohoe Building) Washington, D.C. 20202–4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges that only the information required by the application form and instructions be submitted.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Regional Education Programs for Handicapped Persons (34 CFR Part 338, formerly 45 CFR Part 121k). Amendments to these regulations were published on April 3, 1980 (45 FR 22533) and January 19, 1981 (46 FR 5381–5382). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended; and

(b) The Education Department General Administrative Regulations (EDGAR), (34 CFR Parts 75 and 77, formerly 45 CFR Parts 100a and 100c).

FOR FURTHER INFORMATION CONTACT:

Dr. Joseph Rosenstein, Regional Education Program, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Donohoe Building) Washington, D.C. 20202–4714, telephone (202) 245–9722.

(20 U.S.C. 1424a)

(Catalog of Federal Domestic Assistance No. 84.078, Regional Education Programs)

Dated: January 29, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3367 Filed 2-8-82; 8:45 am]

BILLING CODE 4000-01-M

National Diffusion Network Program

Correction

In FR Doc. 82–2378 appearing on page 4329 in the issue of Friday, January 29, 1982; on page 4330, first column, sixth and seventh lines should be removed. They read as follows:

"$39,000 up to 84 Continuing Developer Demonstrator projects, averaging".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81-CERT-028]

American Cyanamid Company; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 15, 1981, American Cyanamid Company (American Cyanamid), One Cyanamid Plaza, Wayne, New Jersey 07470, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 3,000 Mcf of natural gas per day to displace approximately 20,000 gallons (476 barrels) of No. 6 fuel oil (2.5 percent sulfur) per day at its acrylic fiber plant located in Pensacola, Florida. The eligible seller of the natural gas is Conecuh-Monroe Counties Gas District (Conecuh-Monroe), and the gas will be transported by United Gas Pipe Line Company. Notice of that application was published in the **Federal Register** (47 FR 3159, January 22, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On February 5, 1981, American Cyanamid received a recertification (ERA Docket No. 81-CERT–002) of an eligible use of natural gas at the Pensacola Plant purchased from Conecuh-Monroe for a period of one year, which expires February 4, 1982.

The ERA has carefully reviewed American Cyanamid's application for recertificaiton in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas

to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that American Cyanamid's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification, is available for public inspection at the Natural Gas Branch Docket Room, Room 6013, 2000 M Street, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3407 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-003]

Consolidated Edison Co. of New York, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On January 26, 1982, Consolidated Edison Company of New York, Inc. (Con Edison), filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for certification of an eligible use of approximately 750 million cubic feet of natural gas until March 31, 1982, which is estimated to displace approximately 121,900 barrels of residual fuel oil (0.3 percent sulfur), approximately 2,700 barrels of kerosene (0.05 percent sulfur), and approximately 700 barrels of No. 2 fuel oil (0.2 percent sulfur) between February 1, 1982, and March 31, 1982, at its Astoria, East River, Narrows, Ravenswood, Waterside, and 60th Street steam and electric generating facilities in New York City. The eligible seller of the natural gas is Cabot Corporation, 1400 Charleston National Plaza, P.O. Box 1473, Charleston, West Virginia 25325. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77001.

Con Edison has requested that the certification be issued expeditiously in order that Con Edison may be in a position to purchase all of the natural gas and to displace the full volumes of fuel oil.

The ERA has carefully reviewed Con Edison's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Con Edison's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, 2000 M Street, NW, Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested certification is being issued prior to the 10-day public comment period because it involves the displacement of large volumes of fuel oil, and it is in the public interest to maximize the displacement of fuel oil. The application also states that the use of this natural gas will be available to displace fuel oil only for a limited period ending March 31, 1982. Given the limited availability of the gas and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.08), it is not in the public interest to permanently lose this opportunity to displace large volumes of fuel oil while public comments are being solicited. Based upon the applicant's representatations as to the limited availability of the gas and because they form the basis for our granting expedited treatment, the certificate will expire on March 31, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Natural Gas Branch, Room 6304, RG-13, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Paula Daigneault, on or before February 19, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any inerested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Con Edison and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3408 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-001]

Energy Systems Co., Division of InterNorth, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On January 18, 1982, Energy Systems Company, Division of InterNorth Inc. (Energy Systems), formerly Energy Systems Division of Northern Natural Gas Company, 25 Main Place, Council Bluffs, Iowa 51501, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of 550,000 Mcf of natural gas per year, which is estimated to displace the use of approximately 4 million gallons (95,238 barrels) of No. 2 fuel oil (0.2 to 0.3 percent sulfur) per year at Energy Systems' Howard Street Plant facility located in Omaha, Nebraska. The eligible seller of the natural gas is Peoples Natural Gas Company, Division of InterNorth, Inc.

The gas will be transported by the Northern Natural Gas Company (Northern), an interstate pipeline company, and by Metropolitan Utilities District, a local distribution company. Incidental transportation of the natural gas to Northern will be provided by Panhandle Eastern Pipeline Company, an interstate pipeline. Notice of that application was published in the **Federal Register** (47 FR 4549, February 1, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. Previously, on January 18, 1981, Energy Systems had received recertification (ERA Docket No. 80-CERT-038) of an eligible use of natural gas purchased from Peoples Natural Gas Company for use at this same facility for a period of one year expiring on January 17, 1982.

Energy Systems explained in its application that its earlier identical recertification had inadvertently lapsed

and requested expedited processing of its application to minimize disruption in the use of gas to displace fuel oil. On January 25, 1982, ERA received from the applicant a letter again requesting expedited action on its application to enable it to minimize the interruption of currently available gas to displace fuel oil. In its letter, Energy Systems further indicated that it had inadvertently failed to file its application on time due to the transfer of key personnel. It also stated that it has a contracted supply of gas available and the disruption of the gas, because its previous certificate has expired, is causing a loss of oil displacement. This loss of oil displacement amounts to approximately one thousand (1,000) barrels per day of No. 2 heating oil. The cost savings to Energy Systems and its customers of using natural gas in lieu of fuel oil is approximately $25,000 per day. Energy Systems' customers consist primarily of schools, hospitals, and local and county government agencies. It is, therefore, not in the public interest to delay or interrupt unnecessarily the displacement of this fuel oil.

The ERA has carefully reviewed Energy Systems' application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Energy Systems' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification, is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, RG–13, 2000 M Street, NW, Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Due to the lateness in the applicant's filing for recertification, continuity with the earlier recertification was not possible. However, to minimize the unavoidable interruption, this recertification is being issued prior to the expiration of the 10-day comment period and being made effective on issuance.

The recertification involves the potential immediate displacement of fuel oil and it is in the public interest to maximize such displacement, especially since this same purchase and use of gas at this facility has qualified as an "eligible use" for the past two years. Therefore, we are granting this recertification before the end of the public comment period. Public comments will still be accepted by ERA for the remainder of the ten (10) day public comment period. If, as a result of any comment, we find there is reason not to allow the continued extension of this certification, the Administrator can terminate a recertification for good cause (10 CFR 595.08).

Issued in Washington, D.C., on February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3409 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

Turbo-Resources; Petition for Exemption and Availability of Certification

[Docket No. ERA–FC–82–002; OFC Case No. 67040–9216–21–24]

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of acceptance of petition for exemption and availability of certification.

SUMMARY: On January 19, 1982, Turbo-Resources filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) (FUA or the Act). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain major fuel burning installations (MFBIs). Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are published in the Federal Register at 46 FR 59872 (December 7, 1981) ("final rules"). The cogeneration exemption is contained in § 503.37 of the final rules. Turbo-Resources' petition addresses both the noncertification public interest and certification oil and natural gas savings criteria for the exemption. In light of the different procedures applicable to certification and non-certification exemptions, Turbo-Resources has indicated its concurrence in proceeding solely on the certification portion of its petition at this time.

The powerplant for which the petition was filed is a 48 MW refinery fuel gas or natural gas fired combined cycle cogeneration facility to produce electricity for sale to the Pacific Gas and Electric Company and steam and heat for sale to Tosco Corporation (Tosco) at Tosco's Bakersfield, California, refinery. Tosco will operate the facility for Turbo-Resources in accordance with provisions of an agreement between Tosco and Turbo-Resources. ERA has determined that the petition includes sufficient evidence to support an ERA determination, and is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTAL INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and §§ 501.31 and 501.33 of the final rules interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request to the case manager identified below. ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period of public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments are due on or before March 26, 1982. A request for a public hearing must also be made on or before March 26, 1982.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room 6114, 2000 M Street NW., Washington, D.C. 20461.

Docket No. ERA–FC–82–002 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW, Room 6114J, Washington, D.C. 20461, Telephone (202) 653–3379

Allan Stein, Office of General Counsel, Department of Energy, Forestal Building, Room 6B–178, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252–2967

SUPPLEMENTAL INFORMATION: Turbo-Resources plans to install a 48 MW refinery fuel gas or natural gas fired (with fuel oil backup) cogeneration powerplant to produce electricity and steam at Tosco's Bakersfield, California, refinery. The cogeneration facility, which will be operated by Tosco and owned by Turbo-Resources, will consist of two 20 MW General Electric LM 2500 gas turbine generators connected to two supplementary fired waste heat recovery boilers, one carbon monoxide boiler operated in conjunction with an existing fluid coker unit, one thermal catalytic cracker carbon monoxide boiler, and one 8 MW steam turbine generator. All electricity produced in the combined cycle cogeneration facility will be sold to Pacific Gas and Electric Company. Approximately 25 percent of the cogeneration facility's total energy output will be in the form of electricity. The balance of the facility's output, in the form of steam and heat, will be sold to Tosco for process and other uses within the refinery. The cogeneration facility is classified as a powerplant under FUA because more than 50 percent of its annual electric power generation will be sold. Turbo-Resources expects the cogeneration facility to have a 95% capacity factor and to have it placed in service in early 1983.

Seciton 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the certification procedures of § 503.37 (a)(1) of the final rules, Turbo-Resources certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility; and

2. The use of a mixture of oil and gas and an alternate fuel in the cogeneration facility is not feasible.

In accordance with the evidentiary requirements of § 503.37(c), Turbo-Resources has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under § 503.13 of the final rules, including a description of the facility and its proposed operations and fuel capability, a description of the existing environment, direct and indirect environmental impacts of the proposed action, and a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for the proposed facility.

Pursuant to § 501.3 of the final rules, ERA herby accepts Turbo-Resources' petition for a permanent cogeneration exemption. The acceptance of the petition by ERA does not constitute a determination that Turbo-Resources is entitled to the exempton requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 82-3410 Filed 2-8-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51393; TSH-FRL-2045-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by: PMN 82-60 & 82-61, March 30, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51393]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA;

PMN 82-60

Close of Review Period. April 29, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Zinc, O,O-bis alkylphosphorodithioate.

Use. The manufacturer states that the PMN substance will be used as a lubricant additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, Clear
Specific gravity, 1.176
Flash point, 188°C

Toxicity Data. No data were available.

Exposure. The manufacturer states that during manufacture, processing and disposal 20 workers may experience dermal and inhalation exposure 3 hrs/day, 80 days/yr during cleaning, loading and sampling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with more than 10,000 kg/yr released to land. Disposal is to an approved landfill.

PMN 82-61

Close of Review Period. April 29, 1982.

Manufacturer's Identity. Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, MO 63167.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyoxypropylene ester acyl caprolactam.

Use. The manufacturer states that the PMN substance will be used to produce nylon based plastic parts via reaction injection molding.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, Light tan viscous liquid
Specific gravity @ 20°C, 1.05
Flash point, Closed cup, 450°F
Viscosity @ 20°C, 10^4 cp
Solubility:
  Water, Insoluble
  Alcohol, Soluble
Vapor pressure, Negligible
Molecular weight, Approximately 10,700
Auto ignition temperature, 680°F

Toxicity Data

Oral Toxicity LD_{50} (rat), Non-toxic
Dermal toxicity LD_{50} (rat), Non-toxic
Skin irritation (rabbit), No irritation
Eye irritation (rabbit), Slight irritation

Exposure. The manufacturer states that during manufacture and processing

a total of 506 workers may experience dermal, inhalation and ingestion exposure up to 6 hrs/day, up to 200 days/yr during accidental spill.

Environmental Release/Disposal. The manufacturer states that release to land will be minimal. Disposal is by landfill.

Dated: February 1, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-3371 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51394; TSH-FRL-2045-7]

Hybrid Urethane; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of one PMN and provides a summary.

DATES: Written comments by: PMN 82-62 April 2, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51394]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the PMN received by EPA:

PMN 82-62

Close of Review Period. May 2, 1982.

Manufacturer's Identity. Olin Corporation, P.O. Box 30-275, 275 South Winchester Avenue, New Haven, Ct. 06511.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Hybrid urethane.

Use. The manufacturer states that the PMN substance will be used in fiber reinforced plastics.

Production estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Ames salmonella, Not mutagenic

Exposure. The manufacturer states that 10-100 workers may experience dermal and inhalation exposure 4 hrs/day, 50 days/yr.

Environmental Release/disposal. The manufacturer states that minimal release will be to the land.

Dated: February 1, 1982.

Woodson W. Bercaw,

Acting Director Management Support Division.

[FR Doc. 82-3372 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59074B; TSH-FRL-2046-1]

Protein Associated Biopolymer Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-49) under section 5 of the Toxic Substances Control Act (TSCA) on December 14, 1981. Notice of receipt of the application was published in the **Federal Register** of December 23, 1981 (46 FR 62311). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Ehrensberger, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-220, 401 M St., SW., Washington, D.C. 20460, (202-382-3745).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements of certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 14, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to test market a new chemical substance. The application was assigned test marketing exemption number TM-81-49. The submitter has claimed its identity, that of the chemical, the marketing volume, the chemical uses, and exposure data as confidential business information. The test marketing period planned for the TME chemical, which was identified generically as protein associated biopolymer, is 55 days. A notice published in the **Federal Register** of December 23, 1981 (46 FR 62311) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-49 will not present any unreasonable risk of injury to health provided that dust masks are used during manufacture of the TME chemical. Since the TME substance contains protein fragments, allergic responses may occur in exposed humans if inhalation exposure is not reduced. The submitter has indicated that dust masks will be employed in those manufacturing operations which give rise to inhalation exposure. No other exposure routes were identified as presenting a potential for significant adverse health effects.

EPA has low concern for the environmental effects of the TME chemical. Environmental release is expected to be relatively low. The TME substance is expected to rapidly biodegrade, and absorption by aquatic organisms is not expected to occur.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to their customers, and the quantities shipped in each shipment and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

5. The test marketing acitvity approved in this notice is limited to a period of 55 days commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: February 1, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3374 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59060; TSH-FRL-2045-6]

Substituted Aryl Alkyl Siloxane; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: February 24, 1982.

ADDRESS: Written comments, identified by the document control number ["OPTS-59060]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washigton, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the TME received by the EPA:

TME 82-3

Close of Review Period. March 18, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—Greater than $500 million.

Manufacturing site—Midwest region.

Standard Industrial Classification Code—2869.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Substituted aryl alkyl siloxane.

Use. The manufacturer states that the PMN substance will be used as a chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, White granular, odorless solid

Solubility:

Water, Insoluble in cold water—slowly hydrolyzes to a partially water-soluble product.

Toxicity Data. No data were submitted.

Exposure: Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

Dated: February 1, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-3373 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW, Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 1, 1982, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-4024.

Filing Party: Mr. H. H. Wittren, Assistant Director of Real Estate, Port of

Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–4024, between the Port of Seattle (Port) and West Coast Container Services, Inc. (WCCSI), provides for the lease by the Port to WCCSI of 4.5155 acres of land including 19,000 square feet of storage buildings located at Terminal 25, Seattle, Washington. The premises shall be used for storage and repair of containers, trailers and ancillary equipment. The lease shall have a term of five years and six months. WCCSI shall pay to the Port a rental of $15,392.08 per month, subject to certain rental abatement and renegotiation provisions as provided for in the agreement.

Agreement No.: T–4025.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4025, between the Port of Palm Beach (Port) and Mid-Florida Service Corporation (MFSC), provides for the lease by the Port to MFSC of Lots 8 and 9, in Block 28, Rivera Beach, Florida. The agreement's term is month-to-month, beginning January 1, 1982, and terminating upon no less than on a 90 days' written notice. MFSC shall pay to the Port a monthly rental of $75. The premises will be used for the storage and sales of bottled gas, including the sales of appliances and equipment.

Agreement No.: T–4026.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4026, between the Port of Palm Beach (Port) and Johnson's Shipping Agency, Inc. (JSA), is a restatement and consolidation of Agreement No. T–3894, as amended, and provides for the lease by Port to JSA of 14,466 square feet of warehouse space and 240 square feet of office space. As compensation, JSA will pay Port the sum of $33,748.50 per annum, as well as all applicable tariff charges. JSA also agrees that it shall ship through and over the docks of the Port a minimum of twelve thousand (12,000) short tons on an annual basis. The term of the agreement is for five years, with option to renew for additional one-year terms.

Agreement No.: T–4027.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4027, between the Port of Palm Beach (Port) and Lund & Pullara, Inc. (L&P), provides for the lease by the Port to L&P of office space in the Port's soon to be completed Maritime Office Building. The premises are to be used in connection with L&P's freight forwarding business at the Port. The term of the lease shall be ten years with an option to extend it for an additional five years. As rental for the premises L&P will pay an annual amount of $9,450 to the Port. L&P shall also pay to the Port $28,800, in monthly installments of $380.61, for non-standard improvements performed by the Port at the leased premises.

Agreement No.: T–4028.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4028, between the Port of Palm Beach (Port) and Greenbaum Management Company (GMC), provides for the lease by the Port to GMC of office space in the Port's soon to be completed Maritime Office Building. GMC is involved as a consultant for importers/exporters and will use the premises in that business. The term of the lease will be for three years with an option to renew for up to two consecutive terms of three years each. As rental GMC shall pay to the Port $4,785 annually.

Agreement No.: 5660 DR–3

Filing Party: Ms. Sandra L. Richardson, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 5660 DR–3 would amend the Merchant's Contract of the Marseilles/North Atlantic U.S.A. Freight Conference for the purpose of adding a rebuttable presumption providing that whoever pays the freight charges, either the shipper or consignee, shall have the legal right at the time of shipment to select the carrier.

Agreement No.: 10435

Filing Party: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10435 establishes a Joint Loading Agreement by and between Transconex, Inc. and Tuya International Corp., both Non-Vessel Operating Common Carriers by Water, and covers the joint loading of cargo to be transported from ports in the State of Florida to ports in El Salvador, Guatemala, Honduras, Venezuela, and provides that the participating NVO carriers, when authorized by the other, may accept and receipt shipments in the name of and on behalf of each other for consolidation and forwarding with the shipments of the receiving NVO carrier to be shipped via Vessel Operating Common Carriers by Water.

Dated: February 3, 1982.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-3329 Filed 2-8-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2344]

Contract Crating, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Contract Crating, Inc., 400 Greg Street, Houston, TX 77020 was cancelled effective January 27, 1982.

By letter dated December 30, 1981, Contract Crating, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2344 would be automatically revoked unless a valid surety bond was filed with the Commission.

Contract Crating, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 2344 be and is hereby revoked effective January 27, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2344 issued to Contract Crating, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Contract Crating, Inc.

Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 82-3330 Filed 2-8-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-10]

Containerfreight Terminals Company, et al. v. Pacific Maritime Association; Filing of Complaint and Assignment

Notice is given that a complaint filed by Containerfreight Terminals

Company, et al. against Pacific Maritime Association was served February 3, 1982. Complainants allege that the Container Freight Station Program Fund provisions of Respondent's July 1, 1961 agreement with the International Longshoremen's and Warehousemen's Union are violative of Sections 15, 16, and 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Initial decision in this mater will be issued on or before October 1, 1982 (Rule 75). Any hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-3411 Filed 2-8-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

A.B.T. Corp.; Formation of Bank Holding Company

A.B.T. Corporation, Savannah, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Atlantic Bank and Trust Company, Savannah, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3335 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Andrew Johnson Bancshares, Inc.; Formation of Bank Holding Company

Andrew Johnson Bancshares, Inc., Greeneville, Tennessee, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.9 per cent or more of the voting shares of Andrew Johnson Bank, Greeneville, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3333 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

BWC Financial Corp.; Formation of Bank Holding Company

BWC Financial Corp., Walnut Creek, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Walnut Creek, Walnut Creek, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3334 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Country Bank Co.; Formation of Bank Holding Company

Country Bank Company, Forsyth, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Monroe County Bank, Forsyth, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3335 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

First Charter Bancshares, Inc.; Formation of Bank Holding Company

First Charter Bancshares, Inc., Springdale, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank of Springdale, Springdale, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3336 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

ILB Financial Corp.; Formation of Bank Holding Company

ILB Financial Corp., North Manchester, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Indiana Lawrence Bank and Trust Company, North Manchester, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3337 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Indian Springs Bancshares, Inc.; Formation of Bank Holding Company

Indian Springs Bancshares, Inc., Kansas City, Kansas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Indian Springs State Bank, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3338 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Jefferson Bancorporation, Inc.; Formation of Bank Holding Company

Jefferson Bancorporation, Inc., Haverford, Pennsylvania, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Jefferson Bank, Haverford, Pennsylvania. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3339 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Kansas Bancorp II, Inc.; Formation of Bank Holding Company

Kansas Bancorp II, Inc., Concordia, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Bank & Trust, Concordia, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3340 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Texas Corp.; Acquisition of Bank

Mercantile Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Gessner Southwest Bank & Trust, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3341 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Morgan County Bancorp; Formation of Bank Holding Company

Morgan County Bancorp, Mooresville, Indiana, has applied for the Board's

approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Morgan County Bank and Trust Company, Eminence, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3342 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Roxton Corp.; Formation of Bank Holding Company

The Roxton Corporation, Roxton, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Roxton Bancshares, Roxton, Texas and thereby indirectly acquire 100 percent of the voting shares of The First Bank, Roxton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3344 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

San Saba National Corp.; Formation of Bank Holding Company

San Saba National Corporation, San Saba, Texas, has applied for the Board's approval under section 3(a)(1) of the Bnak Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The San Saba National Bank, San Saba, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.

Assistant Secretary of the Board.

[FR Doc. 82-3343 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than March 3, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (financing activities; Texas): To expand the activities of an existing office of its subsidary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for loans. Such activity would be conducted from an office in Houston, Texas serving the entire state of Texas.

B. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

First Bank System, Inc., Minneapolis, Minnesota (mortgage banking activities; Colorado): To engage through its subsidiary, FBS Mortgage Corporation, in making, acquiring, brokering and servicing loans secured by real estate mortgages. These activities will be conducted from offices in Denver, Colorado, serving the Denver metropolitan area.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Heritage Bancorp*, Anaheim, California, (mortgage banking activities; southern California): To engage through its direct subsidiary, Heritage Mortgage Corporation, in the activities of making real estate mortgage loans and servicing real estate construction and mortgage

loans. These activities will be conducted from a *de novo* office in Irvine, California serving the southern California area.

2. *Imperial Bancorp*, Inglewood, California (data processing; New York, Pennsylvania, Massachusetts, Texas, Colorado, Washington): Through a wholly-owned subsidiary, Imperial Automation, Inc. (the "Company"), proposes to engage in the same activities which the Company has previously been authorized to provide, such as, marketing management consulting advice to nonaffiliated banks, bookkeeping or data processing services, and storing and processing other banking, financial or related economic data in the states listed in the caption and will service the United States and its territories. Comments on this application must be received not later than February 24, 1982.

3. *Seafirst Corporation*, Seattle, Washington (industrial banking and insurance activities; Colorado): To engage through *de novo* subsidiaries Seafirst Larimer Square Industrial Bank, and Seafirst Belcaro Industrial Bank, in industrial banking activities as authorized by Colorado law. Such activities will include accepting deposits as authorized for industrial banks by Colorado law, making loans and other extensions of credit, including personal credit lines, both secured and unsecured, second mortgages, and small business loans; and acting as an agent or broker for the sale of credit life, accident and health insurance directly related to its extensions of credit. The subsidiaries will conduct business in the state of Colorado from offices in Denver.

D. Other Federal Reserve Banks. None.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3345 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81D-0214]

Availability of Draft Guidelines; Target Animal Safety for New Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the availability of draft guidelines developed by its Bureau of Veterinary Medicine concerning evaluation of the safety of new animal drugs to the target animal species. Interested persons are invited to review and submit written comments on the draft guidelines.

ADDRESSES: Written comments and requests for single copies to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

DATE: Comments on or before June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including that it be safe for use as labeled.

Under the provisions of the act, the agency has a continuing obligation to assure that drugs are safe for the animals to which they are administered (target species). The Bureau of Veterinary Medicine has prepared draft guidelines describing the types of data needed to establish the safety of the drug for the target species. The guidelines have been formulated to aid sponsors of new animal drugs in developing protocols for experiments to satisfy this need for safety data. The draft is a compilation in a single document of several safety data guidelines for the following target animal species: dogs and cats, horses, ruminants, swine, and poultry. These guidelines reflect current scientific principles and most of these guidelines have been developed over the years as a result of FDA commenting on sponsor protocols. Those safety data guidelines that are new (Chapter VII C.3.a., "Anti-Mastitis Products Toxicity Studies," and Chapters V, VI, VII, and VIII, "Addendum No. 3 Clinical Pathology, Fecal Examination") will not be placed into effect until comments are received and evaluated.

The agency believes that these guidelines will aid in providing uniformity in the establishment of target species safety. The Bureau of Veterinary Medicine is inviting comments from the regulated industry, academia, and other interested persons on the guidelines. Such comments will be considered in determining whether revision of the guidelines is warranted. The agency is also prepared to meet with interested parties during the comment period to discuss the guidelines.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency.

A person who follows a guideline is assured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. The agency is prepared to meet with persons who choose to depart from the guidelines to discuss the matter further to prevent unnecessary expenditure of resources for work that the agency may later determine to be unacceptable.

Requests for single copies of the guideline should be addressed to the Docket Management Branch (address above). A copy of the guideline is on file in the Dockets Management Branch.

Interested persons may submit written comments on the guideline to the Dockets Management Branch (HFA-305) on or before June 4, 1982. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. The guidelines and received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: February 3, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-3440 Filed 2-8-82; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 82–1837, appearing on page 3606, in the issue of Tuesday, January 26, 1982, and corrected at page 4744, in the issue of Tuesday, February 2, 1982, make the following change:

In the third column, the Table should appear as set forth below:

State	City	Type of office	Address	ZIP code
New York	Brooklyn	Field/District Office	850 Third Ave	11232
		Import District Office		
		New York Laboratory Div		
	Buffalo	District Office	599 Delaware Ave	14202

BILLING CODE 1505–01–M

Privacy Act System of Records; Amendment of a Routine Use and Change in Locations

Correction

In FR Doc. 82–1208 appearing at page 2510 in the issue of Monday, January 18, 1982, make the following changes:

(1) On page 2511, first column, first full paragraph, sixth line, "not" should be corrected to read "now".

(2) On page 2511, first column, under "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM", "Pubic" should be corrected to read "Public".

BILLING CODE 1505–01–M

Block Grant Funds; Delegation of Authority; Health Services Administration

Notice is hereby given that in furtherance of the delegation (46 FR 62184–62185) by the Secretary of Health and Human Services to the Assistant Secretary for Health on November 24, 1981, of authority under Title XVII, Subtitle C, Chapter 2 of the Omnibus Budget Reconciliation Act of 1981, Block Grant Funds (31 U.S.C. 1243 note), the Assistant Secretary for Health has delegated to the Administrator, Health Services Administration, with authority to redelegate to officials who report directly to the Administrator and through customary channels to the Regional Health Administrators, the authority delegated to the Assistant Secretary for Health under Chapter 2, Block Grant Funds, of Subtitle C of Title XVII of the Omnibus Budget Reconciliation Act of 1981 (31 U.S.C. 1243 note), as amended, insofar as it pertains to the Hypertension Program, Home Health Program, and Emergency Medical Services Program.

The delegation to the Administrator, Health Services Administration, became effective on January 28, 1982 and may continue in effect until October 1, 1982.

Dated: January 28, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82–3388 Filed 2–8–82; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF EDUCATION

Assessment Policy Committee, National Assessment of Educational Progress (NAEP)

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: The Secretary announces a meeting of the Assessment Policy Committee for the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide policy guidance and direction to the NAEP project which is supported by the National Institute of Education. The entire meeting will be open to the public and interested persons are invited to attend.

DATE: February 12, 1982, 9:00 a.m. to 5:00 p.m.; February 13, 9:00 a.m. to conclusion of the agenda.

LOCATION: Holiday Inn-Downtown, Gold Link Room, 15th and Glenarm Place, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Mr. Dunlap Scott, Jr., National Assessment of Educational Progress, 1860 Lincoln Street, Room 700, Denver, Colorado 80295 (303/830–3721).

SUPPLEMENTARY INFORMATION: NAEP has as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communications. The Assessment Policy Committee is established under section 405(k)(2)(A) of the General Education Provisions Act, as amended by section 1242 of the Education Amendments of 1978. The Assessment Policy Committee is responsible for the design of NAEP, including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of results, and studies to evaluate and improve the form and utilization of NAEP.

The proposed agenda for the meeting includes:

- Action on previous minutes.
- Director's report.
- Review and discussion of the Wirtz and Lapointe report, "Measuring The Quality of Education", an independent report to NAEP.
- Discussion and decision regarding the use of unreleased assessment items by SEAs and LEAs.
- Discussion of the Annual Report.
- Miscellaneous housekeeping items.

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, persons may contact Mr. Dunlap Scott, Jr. In order to receive an advance copy of the Wirtz and Lapointe report, persons may contact Wirtz and Lapointe, Suite 414, 1211 Connecticut Avenue, N.W., Washington, D.C. 20036 (202/887–6810).

(Catalog of Federal Domestic Assistance 84.117, Education Research and Development)

Dated: February 5, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3382 Filed 2–8–82; 10:47 am]

BILLING CODE 4000–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Nisqually Indian Reservation, Washington; Ordinance Regulating the Use, Possession, Sale and Distribution of Intoxicating Beverages

January 26, 1982.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance No. 2–1981 relating to the application of the Federal Indian Liquor laws on the Nisqually Indian Reservation, Washington, were adopted on August 5, 1981, by the Nisqually Community Council which has

jurisdiction over the area of Indian country included in this Ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Liquor Ordinance of the Nisqually Indian Tribe Ordinance No. 2–1981

Section 1. Title

This ordinance shall be known as the "Nisqually Liquor Ordinance."

Section 2. Findings and Purpose

(a) The introduction, possession and sale of liquor within Indian country have, since treaty time, been clearly recognized as matters of special concern to Indian tribes and to the United States government. The control, of liquor within Indian country remains exclusively subject to United States and tribal government authority.

(b) Beginning with the Treaty of Medicine Creek, 10 Stat. 1132, Art. 9, to which the ancestors of the Nisqually Indian tribe were parties, the Federal government has respected this Tribe's determinations regarding liquor-related transactions and activities on the Nisqually Indian Reservation. At treaty time, this Tribe's ancestors desired to exclude "ardent spirits" from their Reservation. Federal law currently prohibits the introduction of liquor into Indian country (18 U.S.C. 1154), leaving to tribes a decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

(c) Present day circumstances make a complete ban of liquor within the Nisqually Indian Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over liquor distribution.

(d) The enactment of a tribal ordinance governing liquor possession and sales on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at the same time, will provide an important source of revenue for the continued operation and strengthening of tribal government in the delivery of tribal governmental services.

(e) In order to provide for increased tribal control over liquor distribution and possession on the Reservation and to provide for an urgently needed additional revenue source, the Nisqually Community Council adopts this liquor ordinance pursuant to the powers vested in it by Article V, Sec. 1(e), 1(f), and 1(h), of the Constitution and Bylaws of the Nisqually Indian Community of the Nisqually Reservation, Washington, and the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. Sec. 1161.

(f) Provisions of this ordinance shall be liberally construed to achieve the purposes set forth save when otherwise plainly stated or clearly apparent from the context of the language used herein.

Section 3. Relation to Other Tribal Laws

All prior ordinances and resolutions of the Nisqually Indian Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and are of no further force and effect.

Section 4. Definitions

As used in this ordinance, the following definations shall apply unless the context clearly indicates otherwise:

(a) "Liquor" includes the four varieties of liquor hereinafter defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating. Every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be liquor within the meaning of this ordinance.

(b) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(c) "Spirits" means any beverage which contains alcohol by distillation, including wines exceeding seventeen percent of alcohol by weight.

(d) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural products containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

(e) "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by weight and not less than one-half of one percent of alcohol by volume. For the purposes of this ordinance, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as "strong beer."

(f) "Sale" and "sell" include the exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying or distributing, by any means whatsoever of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or wine, by any person to any person; and also includes a sale or selling within an area of tribal jurisdiction to a foreign consignee or his agent.

(g) "Tribal Court" means, for purposes of this ordinance, the Nisqually Tribal Court, which is herewith granted jurisdiction to hear and determine all matters and disputes which may arise under this ordinance subject to the limitations set forth in Section 12.

(h) "Restaurant" means any establishment provided with special space an accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public.

(i) "Board" means the Nisqually Tribal Liquor Board.

(j) "Licensee" means the holder of a liquor license issued by the Board, and includes any employee or agent of the licensee.

(k) "Package" means any container or receptacle used for holding liquor.

(l) "Council" means the Nisqually Community Council.

(m) "Reservation" means the Nisqually Indian Reservation.

(n) "Tribe" means the Nisqually Indian Tribe.

(o) "Business Committee" means the Nisqually Tribal Business Committee.

(p) "Nisqually Tribal Enterprise" means any business or activity managed or operated directly by the Tribe, acting through its Council, Business Committee or Board.

Section 5. Regulation and Control of Liquor

The purchase, sale, or dealing in liquor for commercial purposes, other than when done by the Nisqually Indian Tribe acting through its Liquor Board, or by an individual or entity pursuant to a license issued under this ordinance, is prohibited. The Federal Indian Liquor Laws are intended to remain applicable to any act or transaction which is not authorized by this ordinance and

violators of this ordinance shall be subject to federal prosecution as well as to legal action in the court as with tribal law.

Section 6. Conformity with State Law

Tribally authorized liquor transactions shall comply with Washington State Liquor law standards to the extent required by 18 U.S.C. sec. 1161.

Section 7. Nisqually Tribal Liquor Board

The Business Committee of the Nisqually Indian Tribe is hereby constituted as the "Nisqually Tribal Liquor Board" and empowered to administer this ordinance, including general control, management, and supervision of all liquor sales, places of sale, and sales outlets, and to exercise all of the powers and accomplish all of the purposes thereof as herein set forth and may do the following acts and things for and on behalf of and in the name of the Nisqually Indian Tribe:

(a) To adopt and enforce rules and regulations for the purpose of carrying into effect the provisions of this ordinance and the performance of its functions;

(b) Collecting, auditing, and issuing fees, licenses, taxes, and permits;

(c) Purchasing, warehousing, and selling of liquor in an original package;

(d) Executing all contracts, papers, and documents in the name of the Nisqually Indian Tribe or the Nisqually Tribal Liquor Board;

(e) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(f) Hiring and firing of employees, fixing their duties, and delegating to such specific powers and authorities;

(g) Paying all customs, duties, excises, charges, and obligations whatsoever related to the business of the Board;

(h) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

Section 8. Liquor Licenses

The Board may license one or more liquor retail outlets within the jurisdiction of the Nisqually Indian Tribe. Licenses shall be issued only to an enrolled member of the Nisqually Indian Tribe or to a Nisqually Tribal Enterprise and each outlet shall be located on Indian trust or restricted or tribally owned land within the exterior boundaries of the Nisqually Indian Reservation.

Section 9. Liquor License—Application Fee

Each application for a liquor license shall be accompanied by a processing fee in the amount of $250, except that the processing fee is hereby waived for an application by a tribal enterprise. The Board shall receive and process applications and shall be the official representative of the Tribe in matters relating to liquor licenses, taxes, fees or other matters arising under this ordinance. Each license must be approved by the Liquor Board prior to issuance.

Section 10. Liquor Licenses—Annual Fees

Every liquor license issued under this ordinance shall be subject to the payment of an annual fee in the amount of $——— and shall be subject to all conditions and restrictions imposed by this ordinance or duly promulgated regulations in force from time to time.

Section 11. Liquor Licenses—Issuance, Refusal Suspension, Cancellation, Conditions and Restrictions

(a) *Issuance.* (1) Applications for liquor licenses shall be submitted in a form to be prescribed by the Board. The Board may, within its sole discretion, subject to the provisions of this Ordinance and the provisions of the Indian Civil Rights Act, (25 U.S.C. 1301 et seq.), issue, condition the issuance of, or refuse to issue a liquor license applied for by a member of the Nisqually Tribe or by a Nisqually Tribal Enterprise.

(2) For the purpose of considering any application for a license, the Board may cause an inspection of the premises to be made or by approval of detailed engineering or architectural plans for construction and may inquire into all matters in connection with the construction and operation of the premises and may require that a bond be posted in an amount sufficient to assure that plans be followed.

(3) No liquor license shall be issued to:

(a) A person who is not a member of the Nisqually Indian Tribe;

(b) A partnership or limited partnership, unless all of the partners thereof are qualified to obtain a license, as provided in this section;

(c) A corporation organized under the laws of any state;

(d) A person who has been convicted of a violation of any federal, tribal, or state law concerning the manufacture, possession, or sale of alcoholic liquor within the last preceding five years, or has forfeited his or her bond to appear in court within the last preceding five years to answer charges for any such violation when such conviction or bail forfeiture is for a felony;

(e) A person who is not twenty-one (21) years of age.

(4) The preceding prohibitions against the issuance of a liquor license to certain persons to entities shall in no way be construed to prevent the issuance of a liquor license to a Nisqually Tribal Enterprise.

(5) Every license shall be issued in the name of the applicant and no license shall be transferable, nor shall the holder thereof allow any other person to use the license.

(6) Before the Board shall issue a liquor license, notice of the application for the license shall be posted in public places on the Reservation and comments shall be received on the application for a period of twenty (20) days at the Board's office.

(7) Before the Board shall issue any license it shall give due consideration to the location of the business to be conducted under such license with respect to existing or planned land uses in adjacent or proximately adjacent areas.

(8) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the licensed premises.

(b) *Inspection.* (1) All licensed premises used in the storage or sale of liquor, or any premises or parts of premises used or in any way connected phycially or otherwise, with the licensed business, shall at all times be opened to inspection by any tribal inspector, tribal police officer or Board member.

(2) Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal inspector, tribal police officer or Board member demanding to enter therein in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or officer of the peace, or who refuses or neglects to make any return required by this ordinance or the regulations passed pursuant thereto shall thereby be deemed to have violated this ordinance.

(c) *Suspension and Cancellation.* (1) The Board may, for violation of this ordinance, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated as the case may be. Prior to cancellation or suspension the Board shall send notice of its intent to cancel or suspend the license to the licensee. The Board shall provide notice to the licensee at least ten (10) days prior to the cancellation or

suspension. The licensee shall have the right, prior to the cancellation or suspension date, to apply to the Tribal Court for a hearing to determine whether the license was rightfully suspended or cancelled. The sovereign immunity of the Nisqually Tribe is waived for this hearing; provided, however, that such waiver shall not be construed to allow an award of money damages against the Tribe nor any other relief other than a declaration of rights, nor shall it be construed to waive the sovereign immunity of the Tribe in any court but Tribal Court.

(2) Upon suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the Board. Where the license has been suspended only, the Board shall return the license to the licensee at the expiration or termination of the period of suspension, with a memorandum of the suspension written or stamped upon the face thereof in red ink.

(d) *Expiration.* Unless sooner cancelled, every liquor license issued by the Board shall expire at midnight on the thirtieth day of January of the year following its issuance.

Section 12. Sovereign Immunity Preserved

Except for the limited waiver of sovereign immunity provided for in Section 11, nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Nisqually Indian Tribe. The Board and its members and employees shall not be authorized, nor shall they attempt, to waive the immunity of the Tribe.

Section 13. Liquor Purchase by Licensees

All licensees under this ordinance shall purchase their liquor for ultimate resale from the Nisqually Tribal Liquor Board.

Section 14. Illegal Activities

(a) *Liquor Stamp—Contraband.* No liquor, other than that sold pursuant to a retail tribal license, shall be sold on the Nisqually Indian Reservation unless there shall be affixed a stamp of the Nisqually Tribal Liquor Board. Any sales made in violation of this provision shall be a violation of this ordinance which shall be remedied as set out in Section 15. All liquor, other than beer or wine sold pursuant to a tribal license, not so stamped which is sold or held for sale on the Nisqually Indian Reservation is hereby declared contraband, and in addition to any penalties imposed by the Tribal Court for violation of this section, it may be confiscated and forfeited in accordance with the procedures set out in Section 11 herein.

(b) *Proof of Unlawful Sale—Intent.* In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish *prima facie* the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

(c) *Use of Seal.* No person other than an employee of the Nisqually Tribal Liquor Board shall keep or have in his or her possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor outlet, nor shall any person keep or have in his or her possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person violating this provision shall be in violation of this ordinance.

(d) *Illegal Sale of Liquor by Drink or Bottle.* Any person who sells any liquor by the drink or by the bottle without a license to do so shall be in violation of this ordinance.

(e) *Illegal Transportation, Still, or Sale Without Permit.* Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this ordinance, or who shall operate or have in his or her possession without a permit, any mash capable of being distilled into liquor, shall be in violation of this ordinance.

(f) *Illegal Purchase of Liquor.* Any person within the boundaries of the Nisqually Indian Reservation who buys liquor from any person other than at a properly authorized tribal liquor outlet or tribal licensee shall be in violation of this ordinance.

(g) *Illegal Possession of Liquor—Intent to Sell.* Any person who keeps or possesses liquor on his or her person or in any place or on premises conducted or maintained by him or her as a principal agent with the intent to sell it contrary to the provisions of this ordinance, shall be in violation of this ordinance.

(h) *Sales to Persons Apparently Intoxicated.* Any person who sells liquor to a person apparently under the influence of liquor shall be in violation of this ordinance.

(i) *Intoxication in a Public Place.* Any person who is intoxicated who remains in any public place shall be in violation of this ordinance.

(j) *Drinking in a Public Conveyance.* Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be in violation of this ordinance. Any person who shall drink any liquor in a public conveyance shall be in violation of this ordinance.

(k) *Furnishing Liquor to Minors.* No person under the age of twenty-one (21) years shall consume, acquire, or have in his or her possession any alcoholic beverages except when such beverage is being used in connection with religious services or for medicinal purposes by a licensed physician's written direction. No person shall give or otherwise supply liquor to any person under the age of twenty-one (21) to consume liquor on his or her premises or on any premises under his or her control except as allowed in this section. Any person violating this section shall be in violation of this ordinance.

(l) *Sales of Liquor to Minors.* Any person who shall sell any liquor to any person under the age of twenty-one (21) years shall be in violation of this ordinance.

(m) *Unlawful Transfer of Identification.* Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be in violation of this ordinance; provided, that corroborative testimony of a witness other than the minor shall be a requirement for a judgment against the defendant.

(n) *Possession of False or Altered Identification.* Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years shall be in violation of this ordinance.

(o) *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

(1) Liquor Control Authority Card of Identification of any State.

(2) Driver's license of any state or "Indenti-Card", issued by any State Department of Motor Vehicles.

(3) United States Active Duty Military Identification.

(4) Passport

(5) Nisqually Tribal Identification or Enrollment Card.

(p) *Defense To Action for Sale to Minors.* It shall be a defense to a suit for serving liquor to a person under twenty-

one (21) years of age if such person has presented a card of identification; and;

(1) In addition to the presentation by the holder, and verification by the licensee of such card of identification, the licensee shall require the person whose age may be in question to sign a card and place a date and number of his card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any tribal police officer, employee of the Board, or Board member at all times.

(2) Such card in the possession of a licensee may be offered as a defense in any hearing held by the Tribal Court for serving liquor to the person who signed the card.

(q) *Pharmaceutical Exceptions.* Nothing in this ordinance shall apply to or prevent the sale, purchase or consumption (1) of any pharmaceutical preparation containing liquor which is prepared by a druggist according to a formula of the pharmacopeia of the United States, or the dispensatory of the United States; or (2) of any proprietary or patent medicine; or (3) of wood alcohol or denatured alcohol, except in the case of the sale, purchase, or consumption of wood alcohol or denatured alcohol for beverage purposes either alone or combined with any other liquid or substance.

Section 15. Contraband—Seizure—Forfeiture

(a) All liquor within the Nisqually Reservation held, owned, or possessed by any person or licensee operating in violation of this ordinance is hereby declared to be contraband and subject to forfeiture to the Tribe. Upon presentation of a sworn affidavit, the Tribal Judge shall issue an order directing a Tribal Law Enforcement Officer to seize contraband liquor within this Reservation and deliver it to the Board. A copy of the court order shall be delivered to the person from whom the property was seized or shall be posted at the place where the property was seized.

(b) Within three weeks following the seizure of the contraband a hearing shall be held in Tribal Court, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

(c) Notice of the hearing of at least ten [10] days shall be given to the person from whom the property was seized if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at other public places on the Reservation. The notice shall describe the property seized, and the time, place, and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized.

(d) *Judgment of Forfeiture—Disposition of Proceeds of Property.* If upon the hearing, the evidence warrants, or, if no person appears as claimant, the Tribal Court shall thereupon enter a judgment of forfeiture, and order such articles sold or destroyed forthwith.

Section 16. Abatement

(a) *Declaration of Nuisance.* Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or any lawful regulations made pursuant thereto, or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such a place, are hereby declared to be a public nuisance.

(b) *Institution of Action.* The Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this ordinance. The plaintiff shall not be required to give bond in this action. Restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause, and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of up to one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the penal sum of not less than One Thousand Dollars ($1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or any other applicable tribal law, and that he or she will pay all fines, costs, and damages assessed against him or her for any violations of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided in this ordinance.

(c) *Abatement.* In all cases where any person has been found by the Tribal Court to have violated this ordinance, applicable tribal regulations or tribal laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought in Tribal Court by the Board to abate as a nuisance any activity involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and *prima facie* evidence that the room, house, vessel, boat, building, vehicle, struture, or place against which such action is brought is a public nuisance.

Section 17. Revenues

All revenues received, funds collected, and property acquired by the Nisqually Tribal Council acting through the Nisqually Business Committee or by the Nisqually Liquor Board pursuant to this ordinance shall be the property of the Nisqually Indian Tribe. The net proceeds shall be paid through the tribal treasurer into the general tribal fund of the Nisqually Indian Tribe for the general governmental services of the Tribe.

Section 18. Liquor Sales Excise Tax

(a)(1) There is hereby levied and shall be collected a tax upon each sale of liquor, except beer and wine, in whatever packages or container, in the amount of three (3) cents per fluid ounce or fraction thereof contained in such package or container.

(2) There is hereby levied and shall be collected a tax upon each sale of beer and wine in the amount of five percent (5%) of the selling price.

(b) These excise taxes shall be added to the sale price of the liquor sold by the licensee and shall be paid to the Nisqually Tribal Liquor Board which shall collect the same and hold these taxes in trust until remitted to he Treasurer of the Nisqually Indian Tribe on the twenty-fifth (25th) day of each month to be deposited in the Tribal Treasury. The taxes provided for herein shall be the only taxes applicable to activities of the Nisqually Liquor Board or licensees.

(c) All tax revenues transferred to the Tribal Treasurer for deposit in the Tribal funds shall be used for the benefit of the Reservation and the Tribal community. In appropriating from these revenues, the Council acting through the Nisqually Business Committee, shall give priority to:

(1) Strengthening tribal government, which shall include but not be limited to

strengthening Tribal Court and Law Enforcement systems and the system for administering and enforcing this ordinance.

(2) Fire protection, roads, and water and sewage services.

(3) Health, education, and other social services, and land acquistion and development needs.

The Council acting through the Nisqually Business Committee, shall have the discretion to determine which of the above priorities shall receive an appropriation and the amount of the appropriation for a given priority.

(d) The Nisqually Liquor Board and all licensees shall keep such recordsrequired by the Tribal Treasurer to determine that amount of taxes owing and shall complete the tax returns in accordance with instructions from the Tribal reasurer.

(e) Amendments to the amounts and types of taxes levied on the sale of liquor in this section may be made from time to time by the Nisqually Tribal Liquor Board.

Section 19. Violations—Remedies

(a) If any person is found to have violated this ordinance or any lawful regulation or rule made pursuant thereto for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than Five Hundred Dollars ($500.00) plus court costs per violation.

(b) The Nisqually Tribal Court shall have jurisdiction over any case brought by the Nisqually Tribe for violations of this ordinance. The Tribal Court may, in addition to the above penalty, grant to the Tribe such other relief as is necessary and proper for the enforcement of this ordinance, including but not limited to injunctive relief against acts in violation of this ordinance.

Section 20. Severability

(a) If any clause, part, or section of this ordiance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the ordinance, but shall be confined in its operation to the clause, part, or section directly involved in the controversy in which such judgment was rendered.

(b) If any application of this ordinance or any clause, part or section thereof, is adjudged invalid, such judgment shall not be deemed to render that provision inapplicable to other persons or circumstances.

Section 21. Effective Date

This ordinance shall be and become effective upon the date that the Secretary of the Interior or his designee certifies this ordinance and publishes it in the **Federal Register.**

Certification

I certify that the above Ordinance No. 2–1981 was adopted at a special Business Committee meeting, under the authority of the October 1970 Resolution, after being scheduled for action at a Community Council meeting, of the Nisqually Indian Community of the Nisqually Indian Reservation held on the 5th day of August, 1981 at Olympia, Washington, at which a quorum was present by a vote of 4 for and 0 against.

Stephanie Scott,

Secretary; Nisqually Indian Community.

Attest:

George M. Kalama,

Chairman; Nisqually Indian Community.

[FR Doc. 82–3382 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AA–6673–A thru AA–6673–K]

Alaska Native Claims Selection

The purpose of this decision is to modify the Decision to Issue Conveyance (DIC), dated December 14, 1979, and published in the **Federal Register** on page 72685. The DIC, dated December 14, 1979, included those water bodies determined to be navigable as recommended in the Alaska State Director (SD), BLM, memorandum dated October 5, 1979, concerning final easements for the village of Kokhanok.

On May 6, 1980, the Alaska Native Claims Appeal Board directed the Bureau of Land Management to modify its navigability determinations (VLS 80–2).

On July 14, 1980, an amendment to the SD Memorandum of October 5, 1979, was issued which contained an administrative redetermination of navigability of the water bodies within the Kokhanok conveyance area. Therefore, the navigability information is (44 FR 72688) modified as follows:

The paragraph beginning "Within the above described lands" now reads:

Within the above described lands, only the following inland water body is considered navigable: Iliamna Lake.

This paragraph is hereby modified to add the following water bodies to the list:

Kokhanok Lake;
Gibraltar Lake;
Gibraltar Creek;
Lower (Little) Pike Lake, located in Secs. 2 and 3, T. 8 S., R. 31 W., Seward Meridian;
Unnamed slough connecting Lower (Little) Pike Lake with Copper River;
The Copper River, up to the falls located in Sec. 30, T. 7 S., R. 29 W., Seward Meridian.

This modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

The DIC of December 14, 1979, approved conveyance of the surface estate of the beds of the above-described water bodies to Kokhanok Native Corporation and conveyance of the subsurface estate of the same land to Bristol Bay Native Corporation. As the water bodies are now considered navigable, the submerged lands beneath them are not public lands and are therefore not available for conveyance to the Native corporations under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5(g)). Therefore, the DIC of December 14, 1979, is hereby modified to exclude the submerged lands of the above-described water bodies from the approval for conveyance to Kokhanok and Bristol Bay Native Corporations. The acreage of the lands will not be charged against the village corporation's entitlement.

Except as modified by this decision, the decision of December 14, 1979, stands as written.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–3383 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–84–M

[CA–790]

California; Termination of Proposed Withdrawal and Reservation of Land

February 1, 1982.

Notice of U.S. Department of the Navy application CA–790 for withdrawal and reservation of the following described land from all forms of appropriation under the public land laws including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, was published as FR Doc. 74–1378 on page 2114 of the issue of January 17, 1974, and republished as FR Doc. 78–14735 on page 22454 of the issue of May 25, 1978. The application has been denied in its entirety by Secretary of the Interior letter dated October 18, 1978 and denial reaffirmed by Secretary of Interior letter dated November 17, 1981.

Mount Diablo Meridian

Public land:

T. 30 S., R. 22 E., Sec. 2, All,
T. 30 S., R. 23 E., Sec. 4, Lots 1 and 2 of NW¼ and S½.

Patented lands with all minerals reserved to the United States:

T. 30 S., R. 23 E., Sec. 6, All.
Patented lands with oil and gas reserved to the United States:
T. 30 S., R., 23 E., Sec. 4, Lots 1 and 2 of NE¼.

The areas described aggregate 1,917.95 acres in Kern County, California.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), these lands shall at 10 a.m. on March 12, 1982 be relieved of the segregative effect of the above mentioned application.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82-3386 Filed 2-8-82; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Shoshone District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–529, and 43 CFR part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Wednesday, March 3, 1982, at 9 a.m., at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

The purpose of the meeting will be to disburse Advisory Board funds for range improvements, review the district's cooperative weed control program with the counties, coordinated resource management planning and the Forest Service/BLM land interchange sensing program.

SUPPLEMENTARY INFORMATION: The public is invited to attend and make written or oral statements which should not exceed 15 minutes in length. Requests for these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone 208–886–2206. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

Dated: January 28, 1982.

Charles J. Hassler,

District Manager.

[FR Doc. 82-3384 Filed 2-8-82; 8:45 am]

BILLING CODE 4310-84-M

[W-72495]

Natrona County, Wyoming; Conveyance of Public Land

January 28, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), the Town of Midwest, Wyoming, has purchased by noncompetitive sale public land in Natrona County, Wyoming, described as:

Sixth Principal Meridian

T. 40 N., R. 78 W.,
Sec. 30, lot 9.
T. 49 N., 79 W.,
Sec. 24, lots 1, 2, 6, 7, 8, 9, 10, 11, SW¼NE¼SE¼, SW¼SW¼SE¼, W½NE¼SE¼SE¼, NW¼SE¼SE¼, N½NE¼SW¼SE¼SE¼, SE¼NE¼SW¼SE¼SE¼, NW¼SW¼SE¼SE¼.

Containing 95.045 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to the Town of Midwest, Wyoming.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-3385 Filed 2-8-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: John M. Adaska, San Diego, CA, PRT 2–8760.

The applicant requests a permit to purchase in interstate commerce two captive-bred Indian pythons (*Python molurus molurus*) from Mr. Joe Terry, Miami, Florida for enhancement of propagation.

Applicant: Mr. L. C. Ruby, Ruby Fur Farm, Inc., New Sharon, IA, PRT 2–8634.

The applicant requests a permit to export two captive-bred gray wolves (*Canis lupus*) to a zoological park in Japan for enhancement of propagation and survival.

Applicant: Mr. Donald W. Sada, Leader, Eastern Mohave Desert Fishes Recovery Team, U.S. Fish and Wildlife Service, Reno, NV, PRT 2–8760.

The applicant requests a permit to take, capture, and sacrifice up to 300 Warm Spring Pupfish (*Cyprinodon nevadensis pectoralis*) from Nevada to be used in genetic research at Virginia Polytechnic Institute and State University to satisfy certain aspects of the Warm Spring Pupfish Recovery Plan.

Applicant: Charles C. Nugent, Kimbolton, OH, PRT 2–8775.

The applicant requests a permit to purchase in interstate commerce two captive-bred Nene geese (*Branta sandvicensis*) from the San Antonio Zoo, San Antonio, Texas for enhancement of propagation.

Applicant: Roger Anderson, Starbuck, MN, PRT 2–8787.

The applicant requests a permit to purchase in interstate commerce one gray wolf (*Canis lupus*) from the Dakota Zoo, Bismark, North Dakota, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S.Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 3, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-3414 Filed 2-8-82; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 1, 1982. Pursuant to §60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 24, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALABAMA

Calhoun County

Anniston, *Caldwell Building*, 1001 Noble St.

Dallas County

Summerfield, *Summerfield District*, Selma-Summerfield and Marion Rds., Centenary and College Sts.

Elmore County

Robinson Springs, *Robinson Springs United Methodist Church*, AL 14 and AL 143

Montgomery County

Montgomery, *Court Square Historic District*, Court Sq., 21–35 Court St. Plaza, 1–2 Dexter Ave., and 18–24 N. Court St.
Montgomery, *Lower Commerce Street Historic District*, Roughly bounded by RR tracks, N. Court, Commerce, and Bibb Sts.
Montgomery, *Pastorium, Dexter Avenue Baptist Church*, 309 S. Jackson St.
Montgomery, *Pepperman House*, 17 Mildred St.

CALIFORNIA

Butte County

Oroville, *Lee, Fong, Company*

Los Angeles County

Pasadena, *Haskett Court*, 824–834 E. California Blvd.
Pasadena, *Rainway Court*, 380 Parke St.

Santa Clara County

Gilroy, *Live Oak Creamery*, 88 Martin St.

Sonoma County

Cloverdale, *Pinschower, Simon, House*, 302 N. Main St.

Tuolumne County

Sonora, *Cady House*, 72, N. Norlin St.

Yolo County

Woodland, *I. O. O. F. Building*, 723 Main St.

CONNECTICUT

Hartford County

East Granby, *Phelps, Ezekiel, House*, 36 Holcomb St.
Suffield, *Gothic Cottage*, 1425 Mapleton Ave.
Suffield vicinity, *King's Field House*, 627 North St.

New Haven County

Madison, *Allis-Bushnell House*, 853 Boston Post Rd.
Middlebury, *Bronson, Josiah, House*, Breakneck Hill Rd.

INDIANA

Allen County

Fort Wayne, *Saint Paul's Evangelical Lutheran Church*, 1120 S. Barr St.

Kosciusko County

Warsaw, *Warsaw Courthouse and Jail Historic District*, Bounded by Center, N. Lake, Main, and Indiana Sts.

Switzerland County

Vevay, *Old Hoosier Theatre*, Cheapside and Ferry Sts.

KENTUCKY

Fleming County

Flemingsburg Junction vicinity, *Johnson, Ben, House*, KY 161

Jefferson County

Louisville, *Almstedt Brothers Building*, 425 W. Market St.
Louisville, *St. Anthony's Roman Catholic Church, Rectory, Convent and School*, 2222–2238 W. Market St.
Louisville, *James Roman Catholic Church, Rectory and School*, 1430 Bardstown Rd., 1626 and 1618 Edenside Ave.
Louisville, *St. Patrick's Roman Catholic Church, Rectory and School*, 1301–1305 W. Market St.
Louisville, *St. Paul's German Evangelical Church and Parish House*, 213 E. Broadway

Kenton County

Covington, *Trinity Episcopal Church*, 320 Madison Ave.

Mason County

Maysville, *Maysville Downtown Historic District*, Roughly bounded by McDonald Pkwy., Front, Wall, Limestone, and 3rd Sts.

Oldham County

Crestwood vicinity, *Carpenter-Smith House (Forest Home Farm)* Covered Bridge Rd.

LOUISIANA

Acadia Parish

Crowley, *Crowley Historic District*, LA 13 and U.S. 90

Avoyelles Parish

Marksville, *Marksville Commercial Historic District*, Roughly bounded by Monroe, Washington, N. Ogden and Bontempt Sts.

Caddo Parish

Shreveport, *Old Commercial National Bank Building*, 509 Market St.
Shreveport, *Shreveport Commercial Historic District*, Roughly bounded by Commerce, Crockett, Common and Travis Sts.

East Baton Rouge Parish

Baton Rouge, *Roseland Terrace Historic District*, Bounded by Government, 18th, Myrtle and 22nd Sts.

St. Mary Parish

Franklin, *Franklin Historic District*, U.S. 90

St. Tammany Parish

Abita Springs, *Abita Springs Historic District*, LA 435, LA 36 and LA 59
Covington, *Division of St. John Historic District*, U.S. 190 and LA 21

MASSACHUSETTS

Essex County

Lynn, *Fabens Building*, 312–344 Union St.
Lynn, *Mowers' Block*, 7 Willow St. and 67–83 Blake St.

NEW HAMPSHIRE

Cheshire County

Keene, *United Church of Christ in Keene*, 23 Central Sq.
Surry, *Mason-Watkins House*, Off NH 12

Grafton County

Littleton, *Thayer's Hotel*, 136 Main St.

Hillsborough County

Manchester, *Gay, Alpheus, House*, 184 Myrtle St.
Wilton vicinity, *Whiting, Oliver, Homestead*, Old FR

Merrimack County

Concord, *Farrington House*, 30 S. Main St.

Rockingham County

Portsmouth, *Rockingham Hotel*, 401 State St.

Strafford County

Barrington, *Canaan Chapel*, aka Canaan Rd.
Dover, *First Parish Church*, 281 Central Ave.
Dover, *First Parish Church Site—Dover Point*, Dover Point Rd.

Sullivan County

Plainfield, *Mothers' and Daughters' Club House*, Main St.

NEW YORK

Bronx County

Bronx, *Bronx Borough Courthouse*, E. 161st St., 3rd and Brook Aves.

Kings County

Brooklyn, *Boys' High School*, 832 Marcy Ave.

New York County

New York, *Former Emigrant Industrial Savings Bank*, 51 Chambers St.

OKLAHOMA

Oklahoma County

Oklahoma City, *Putnam Heights Historic Preservation District*, Georgia and McKinley Blvds., 35th, 36th, 37th and 38th Sts.

PENNSYLVANIA

Allegheny County

Homestead, *Leona Theater*, 240 E. 8th Ave.,
Pittsburgh, *Market Street Buildings*, 101–113 Market St.
Thornburg, *Thornburg Historic District*, Off PA 69

Berk's County

Oley vicinity, *Reiff Farm*, SW of Oley on SR T454
Reading, *Wilhelm Mansion and Carriage House*, 730 Centre Ave.
Womelsdorf, *Womelsdorf Historic District*, Roughly bounded by Water, 4th, Franklin, and Jefferson Sts.

Centre County

Boalsburg vicinity, *Jack, Michael, Estate*, U.S. 322
Wingate vicinity, *Fisher Farm Site (36Ce36)*

Crawford County

Meadville, *Rouseche House*, 702 Park Ave.

Dauphin County

Elizabethville vicinity, *Shoop Site (36Da20)*

Erie County

Waterford, *Site of Fort Leboeuf*, 1st and High Sts.

Franklin County

Chambersburg, *Chambersburg Historic District*, U.S. 11 and U.S. 30

Huntingdon County

Huntingdon vicinity, *Corbin Bridge Site (36HU50)*

Juniata County

Mifflin vicinity, *Book Site (36Jul)*

Lancaster County

Conestoga vicinity, *Roberts Farm Site (36La1)*
Ephrata, *Mountain Springs Hotel*, 320 E. Main St.
Holtwood vicinity, *Bare Island Prehistoric District (36La51, 56, 67)*
Pequea vicinity, *Shenks Ferry Site (36La2)*
Washington Boro, *Frey-Haverstick Site (36La6)*
Washington Boro, *Washington Boro Prehistoric Site Complex (36La4, 8, 12, 54, 92)*
Washington Boro vicinity, *Shultz-Funk Site (36La7 and 36La9)*

Lehigh County

Allentown, *Symphony Hall (Lyric Theatre)* 23 N. 6th St.
Vera Cruz vicinity, *Vera Cruz Jasper Quarry Site (36Lh12)*

Northampton County

Bath, *Steckel, Daniel, House*, 207 W. Northampton St.
Easton, *State Theatre*, 454 Northampton St.
Philadelphia County
Philadelphia, *First Baptist Church of Philadelphia*, 17th and Sansom Sts.
Philadelphia, *Franklin, Benjamin, Hotel*, 822–840 Chestnut St.
Philadelphia, *Wesley Building, Board of Home Missions of the United Methodist Church*, 1701–1709 Arch St.
Philadelphia, *Winston, John C., Building*, 1006–1016 Arch St.

Tioga County

Nelson, *Beechers Island United Presbyterian Church*

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Kuehn, Andrew, Warehouse*, 401 N. Phillips Ave.

TENNESSEE

Lincoln County

Fayetteville vicinity, *Childress House*, 9 mi. W of Fayetteville on U.S. 64

UTAH

Beaver County

Milford vicinity, *Frisco Charcoal Kilns*, W of Milford off UT 21

Carbon County

Price, *Parker and Weeter Block (Mahleres-Siampenos Building)*, 85 W. Main St.
Spring Glen, *Manina, Camillo, House*, Off U.S. 6/50

Sanpete County

Mount Pleasant, *Seely, John H., House*, 91 S. 5th West St.

Summit County

Kamas vicinity, *Myrick, William and Martha, House*, 1½ mi. N of Kamas

WASHINGTON

King County

Seattle, *Immanuel Lutheran Church*, 1215 Thomas St.
Seattle, *Kraus, Joseph, House*, 2812 Mt. St. Helens Pl.
Seattle, *Ye College Inn*, 4000 University Way, NE.

Kittitas County

Ellensburg vicinity, *Kinkade, John W., Farmstead*, Off U.S. 7B
Ellensburg vicinity, *Nelson, Albert, Farmstead*, Manastash Rd.

Snohomish County

Marysville, *Marysville Opera House*, 1225 3rd St.

Spokane County

Mica, *American Firebrick Company*, WA 27

WISCONSIN

COLONY OF ST. GREGORY OF NAZIANZEN THEMATIC RESOURCES. Reference—see individual listings under Manitowoc County.
COUNTY COURTHOUSES OF WISCONSIN THEMATIC RESOURCES. Reference—see individual listings under Adams, Ashland, Bayfield, Brown, Calumet, Crawford, Dodge, Douglas, Grant, Green, Green Lake, Iowa, Iron, Juneau, Kenosha, Lafayette, Langlade, Lincoln, Manitowoc, Marquette, Milwaukee, Monroe, Oconto, Oneida, Ozaukee, Pepin, Pierce, Polk, Racine, St. Croix, Sauk, Sheboygan, Taylor, Vernon, Waukesha, Waushara, Washington, and Winnebago Counties.

Adams County

Friendship, *Adams County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 402 Main St.

Ashland County

Ashland, *Ashland County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 201 W. 2nd St.

Bayfield County

Bayfield, *Old Bayfield County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Washington St. (previously listed in the National Register 12–27–74)
Drummond vicinity, *Island Lake Camp*, Island Lake Rd.
Washburn, *Bayfield County Courthouse (County Courthouses of Wisconsin, Thematic Resources)*, 117 E. 5th St. (previously listed in the National Register 1–17–75)

Brown County

Green Bay, *Brown County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 100 S. Jefferson St. (previously listed in the National Register 1–1–76)

Calumet County

Chilton, *Calmet County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 206 Court St.

Crawford County

Prairie du Chien, *Crawford County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 220 N. Beaumont Rd.

Dane County

Madison, *Bowen, James B., House*, 302 S. Mills St.

Dodge County

Juneau, *Dodge County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 220 E. State St.

Douglas County

Superior, *Douglas County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 1313 Belknap St.

Eau Claire County

Eau Claire, *Steven House*, 216 Hudson Ave.
Fairchild, *California Wine and Liquor Store*, 201 Farmers St.

Grant County

Lancaster, *Grant County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 126 W. Main St. (previously listed in the National Register 10–19–78).

Green County

Monroe, *Green County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Courthouse Sq. (previously listed in the National Register 3–21–78).

Green Lake County

Green Lake, *Green Lake County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 492 Hill St.

Iowa County

Dodgeville, *Iowa County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Iowa and Chapel Sts. (previously listed in the National Register 2–1–72).

Iron County

Hurley, *Iron County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 303 Iron St. (previously listed in the National Register 7–28–77).

Juneau County

Mauston, *Juneau County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 220 E. State St.

Kenosha County

Kenosha, *Kenosha County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 912 56th St.

La Crosse County

La Crosse, *Freight House*, 107—109 Vine St.

Lafayette County

Darlington, *Lafayette County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 626 Main St.

(previously listed in the National Register 12–22–78).

Langlade County

Antigo, *Langlade County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 800 Clermont St. (previously listed in the National Register 7–25–77).

Lincoln County

Merrill, *Lincoln County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 1110 E. Main St. (previously listed in the National Register 4–19–78).

Manitowoc County

Manitowoc, *Manitowoc County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 8th St. (previously listed in the National Register 4–16–81).

St. Nazianz, *Loretto Shrine Chapel (Colony of St. Gregory of Nazianzen Thematic Resources)* Off WI A.

St. Nazianz, *St. Gregory's Church* (Colony of St. Gregory of Nazianzen Thematic Resources) 212 Church St.

St. Nazianz, *St. Mary's Convent (Colony of St. Gregory of Nazianzen Thematic Resources)* 300 S. 2nd Ave.

Marathon County

Wausau, *Wright, Ely, House*, 901 6th St.

Marquette County

Montello, *Marquette County Courthouse, Sheriff's Office and Jail (County Courthouses of Wisconsin Thematic Resources)* 77 W. Park St.

Milwaukee County

Milwaukee, *Milwaukee County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 901 N. 9th St.

Milwaukee, *Milwaukee News Building and Milwaukee Abstract Association Building*, 222 E. Mason St.

Monroe County

Sparta, *Monroe County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 418 W. Main St.

Oconto County

Oconto, *Oconto County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 300 Washington St.

Oneida County

Rhinelander, *Oneida County Courthouse (County Courthouses of Wisconsin Thematic Resources)* S. Oneida Ave. (previously listed in the National Register 3–20–81)

Ozaukee County

Port Washington, *Old Ozaukee County Courthous (County Courthouses of Wisconsin Thematic Resources)* 100 W. Main St. (previously listed in the national Register 12–12–76)

Pepin County

Durand, *Pepin County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 607 W. Madison

Pierce County

Ellsworth, *Pierce County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 411 W. Main St.

Polk County

Balsam Lake, *Polk County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Main St.

Racine County

Racine, *Racine County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 730 Wisconsin Ave. (previously listed in the National Register 7–28–80)

Racine, *Rickeman Grocery Building*, 415 6th St.

Racine, *Uptown Theater*, 1426–1430 Washington Ave.

Racine, *Young Men's Christian Association Building*, 314–320 6th St.

Waterford vicinity, *Beardsley, Elam, Farmhouse*, 5601 Northwest Hwy.

St. Croix County

Hudson, *St. Croix County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 904 3rd St.

Sauk County

Baraboo, *Sauk County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 515 Oak St.

Sheboygan County

Sheboygan, *Sheboygan County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 615 N. 6th St.

Taylor County

Medford, *Taylor County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Courthouse Sq. (previously listed in the National Register 5–14–80)

Vernon County

Viroqua, *Vernon County Courthouse (County Courthouses of Wisconsin Thematic Resources)* N. Dunlap Ave. (previously listed in the National Register 1–8–80)

Washburn County

Spooner, *Siegner, George V., House*, 513 Dale St.

Washington County

West Bend, *Washington County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 320 S. 5th Ave.

Waukesha County

Waukesha, *Old Waukesha County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 101 W. Main St. (previously listed in the National Register 3–27–75)

Waupaca County

King vicinity, *Halfway House*, Potts Ave.

Waushara County

Wautoma, *Waushara County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 209 St. Marie St.

Winnebago County

Oshkosh, *Winnebago County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 415 Jackson St.

[FR Doc. 82-3280 Filed 2-8-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–491, published at page 1044, on Friday, January 8, 1982, on page 1046, in the first column, in the last paragraph "MC 124170 (Sub-193)", in the second line from the bottom "WI, WY, WY" should be corrected to read "WI, WV, WY".

BILLING CODE 1505-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is

neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP4–34

Decided: February 1, 1982.

By The Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 34027 (Sub-24), filed January 25, 1982. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *empty containers*, and (2) *nonalcoholic beverages, flavoring extracts, syrups, and compounds*, (1) between points in Porter County, IN, on the one hand, and, on the other, points in Muskogee County, OK, and (2) between points in Muskogee County, OK, on the one hand, and, on the other, points in KS, MO, MS, AR, NM, CO, TX, TN, and LA.

MC 63837 (Sub-9), filed January 25, 1982. Applicant: DIGGINS & ROSE, INC., 3 Sagamore Park Rd., Hudson, NH 03051. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting (1) *household goods*, and (2) *furniture and fixtures*, between points in AL, AR, CT, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 93147 (Sub-34), filed January 25, 1982. Applicant: DELTA TRANSPORT CORPORATION, 595 Cottage St., Springfield, MA 01104. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 129857 (Sub-14), filed January 20, 1982. Applicant: G.R.M., Inc., d.b.a. PORT TERMINAL TRANSPORT,INC., 700 Henry Ford Ave., Long Beach, CA 90810. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213 627–8471. Transporting *transportation equipment* between points in the U.S. under continuing contract(s) with Toyota Motor Sales, U.S.A., Inc., of Torrance, CA.

MC 119837 (Sub-27), filed January 25, 1982. Applicant: OZARK MOTOR LINES, INC., 27 W. Illinois Ave., Memphis, TN 38106. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767–5600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between West Plains and Springfield MO, Memphis, TN, Evansville and points in Posey County, IN, and Randolph County, AR, on the one hand, and, on the other, points in the U.S.

MC 147727 (Sub-4), filed January 25, 1982. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *food and related products*, between points in Walla Walla and Yakima Counties, WA, and Ada County, ID, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, UT, WA, and WY.

MC 159537, filed January 22, 1982. Applicant: TRANSPORT PACKAGING, INC., P.O. Box 3171, Irving, TX 75061. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Pro-Line Corporation, of Dallas, TX.

MC 160187, filed January 19, 1982. Applicant: E. D. RUFF, R.R. #3, Bethany, MO 64424. Representative: E. D. Ruff (same address as applicant), (816) 425–8139. Transporting *fertilizer*, between points in Jefferson, Leavenworth, Douglas, Shawnee, and Johnson Counties, KS, on the one hand, and, on the other, points in Harrison, Gentry, Worth, Grundy, Daviess, Clinton, Nodaway, Marion, and St. Louis Counties, MO.

Volume No. OP4–36

Decided: February 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 103967 (Sub-28), filed January 5, 1982. Applicant: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Representative: David Earl Tinker, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, D.C. 20036. Transporting *household goods*, between points in OK, TX, NM, AZ, CA, NC, SC, and MD.

Note.—Applicant seeks to tack this authority with that acquired in MC–F–14495, although expressly not authorized by that decision.

MC 149137 (Sub-14), filed January 21, 1982. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Joel J. Nagel, 19 Back Dr., Edison, NJ 08817, (201) 985–7206. Transporting *office and library furniture*, between points in the U.S., under continuing contract(s) with Art Metal-USA Inc./Steel Sales Inc., of Newark, NJ.

MC 145787 (Sub-3), filed January 22, 1982. Applicant: HERBERT TRUCKING, INC., R.R. #1, Macon, IL 62544. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *soft drinks, glass bottles and pallets*, between points in the U.S., under continuing contract(s) with Decatur Bottling Co., of Decatur, IL.

MC 145067 (Sub-11), filed January 21, 1982. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18641. Representative: Edward F. V. Pietrowski, 430 Scranton Life Bldg., Scranton, PA 18503, (717) 346–5761. Transporting *liquefied petroleum gas*, between points in NY, NJ, PA, DE, and MD. Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 119917 (Sub-71), filed January 21, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Dr. SE., Atlanta, GA 30316. Representative:

Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *such commodities* as are dealt in by manufacturers and distributors of containers, container closures, charcoal and related products; fire logs; hickory chips; lighter fluid; paper and paper products; plastic and plastic products; and tobacco (except commodities in bulk and used household goods), between points in the U.S.

Volume No. OP5–21

Decided: January 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2428 (Sub-41), filed January 20, 1982. Applicant: H. PRANG TRUCKING CO., INC., 112 New Brunswick Ave., Hopelawn (Perth Amboy), NJ 08861. Representative: Morton E. Kiel, Suite 1832, World Trade Center, New York, NY 10048–0640, 212–466–0220. Transporting *such commodities* as are dealt in or used by a manufacturer or distributor of building materials, between points in the U.S. under continuing contracts with IKO Manufacturing, Inc. of Edgemoor (Wilmington), DE.

MC 39249 (Sub-22), filed January 19, 1982. Applicant: MARTY'S EXPRESS, INC., 4201 Tacony St., Philadelphia, PA 19124. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036, 202–537–2900. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in PA, DE, and NJ on the one hand and on the other, points in NY, CT, DE, MD, VA, NC, SC, and DC.

MC 105269 (Sub-111), dated January 20, 1982. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *paper and related products,* between points in Hamilton County, OH and Cook County, IL, on the one hand and on the other, points in IA, IL, IN, KY, MI, MN, MO, OH, PA, WV, and WI.

MC 110948 (Sub-7), filed January 19, 1982. Applicant: MOTORWAYS (1980) LIMITED, 60 Eagle Dr., P.O. Box 738, Winnipeg, Manitoba, Canada R3C 2L8. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), in foreign commerce only, between points on the International boundary line between the United States and Canada in WA, ID, MT, ND, MN, MI, and NY, on the one hand, and, on the other, points in ID, IA, IL, IN, MI, MN, MO, NE, ND, NY, OH, OR, PA, SD, WA, WI and WY.

MC 116509 (Sub-2), filed January 21, 1982. Applicant: FOOD PRODUCTS REFRIGERATED EXPRESS, INC., 1 Hackensack Ave., South Kearney, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting (1) *food and related products,* between New York, NY, Elkhart, IN, Chicago, IL, Philadelphia, PA, and Baltimore, MD, on the one hand, and, on the other, points in the U.S., and (2) *chemicals,* between New York, NY, on the one hand, and, on the other, points in the U.S.

MC 125018 (Sub-7), filed January 20, 1982. Applicant: TENNESSEE TRUCK LINES, INC., Route 4, Dandridge, TN 37725. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which, because of their size or weight, require the use of special equipment), between points in the U.S., under continuing contract(s) with H. T. Hackney Company of Knoxville, TN.

MC 125978 (Sub-11), filed January 18, 1982. Applicant: DEPENDABLE CAR TRAVEL SERVICE, INC., 103 W. 42nd St., New York, NY 10036. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, 914–835–4411. Transporting *transportation equipment,* with or without baggage, personal effects of owners, and sporting equipment, between points in the U.S. (except AK and HI).

MC 147378 (Sub-5), filed January 19, 1982. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth St., Tulsa, OK 74103, (918) 583–9000. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with The Original Chili Bowl, of Tulsa, OK.

MC 150099 (Sub-3), filed January 18, 1982. Applicant: ALL STATE TRUCKING CO., INC., 3400 Mesa Rd., Houston, TX 77013. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, 713–437–1768. Transporting (1) *Mercer commodities,* between points in AR, CA, LA, MS, NM, OK, and TX; and between points in AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S. (2) *machinery and earth drilling equipment,* between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM; and between AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S. (3) *metal products and instruments,* between Houston, TX, on the one hand, and, on the other, points in the U.S. (4) *iron and steel articles,* between points in TX, MO, NM, OK, and LA.

MC 151819 (Sub-10), filed January 18, 1982. Applicant: CARGO-MASTER, INC., 2815 Gaston Ave., Dallas, TX 75226–1306. Representative: Jackson Salasky (same address as applicant), 214–824–6120. Transporting *malt beverages,* between points in Tarrant County, TX, on the one hand, and, on the other, points in LA.

MC 156329 (Sub-1), filed January 15, 1982. Applicant: CHISM, INC., 2160 E. Thoman, Springfield, MO 65803. Representative: Bob Chism (same address as applicant), 417–865–4127. Transporting *such commodities as are dealt in, distributed by,* or used in wholesale and retail grocery houses (except commodities in bulk), between points in the U.S. under continuing contract(s) with Lever Brothers Company of New York, NY.

MC 147228 (Sub-5), filed January 18, 1982. Applicant: ROBERT D. BOWHAY, d.b.a. BOWHAY TRUCK LINE, P.O. Box 150, Summerfield, KS 66541. Representative: Donald L. Stern, Suite 610, 7170 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *metal and metal products,* between points in Lancaster County, NE, on the one hand, and, on the other, points in IA, SD, ND, KS, WY, CO, MO, AR, OK, IL, and MO.

Volume No. OP5–23

Decided: January 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-73), filed January 25, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Eastman Kodak Company of Rochester, NY.

MC 66906 (Sub-11), filed January 22, 1982. Applicant: MULLEN BROS. OF NORTH ADAMS, MASS., INC., P.O. Box 1285, Pittsfield, MA 01201. Representative: Robert J. Gallagher, 1000

Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036 (202) 785–0024. Transporting *household goods*, as defined by the Commission, between points in MA, NY, VT, ME, NH, RI, CT, NJ, PA, VA, AL, DE, FL, GA, KY, MD, NC, OH, SC, TN, WV, and DC, on the one hand, and, on the other, points in OH, IN, IL, MI, and WI.

MC 102679 (Sub-4), filed January 22, 1982. Applicant: COLLINS MOVING SYSTEMS, INC., 904 West Morgan, Kokomo, IN 46901. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036, 202–785–0024. Transporting (1) *tires, tubes, flaps and rims or wheels*, (2) *electrical products*, between points in the U.S. under continuing contract(s) with Fouts Tire, Inc. of Kokomo, IN and Essex Controls, Inc. of Logansport, IN.

MC 121589 (Sub-11), filed January 20, 1982. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9000. Transporting *such commodities* as are used or dealt in by retail and discount stores and catalog showrooms (except household goods as defined by the Commission, commodities in bulk, and Classes A and B explosives), between points in IL, IA, MO, SD, NE and KS.

MC 133178 (Sub-7), filed January 18, 1982. Applicant: PAPER CARGO CORPORATION, P.O. Box 13, Grandville, MI 49418. Representative: Gregory G. Prasher, 500 Calder Plaza, Grand Rapids, MI 49503 (616) 459–9487. Transporting *such commodities* as are dealt in or used by a manufacturer of expanded plastic packaging materials between points in the U.S. (except AK and HI), under continuing contract(s) with Free Flow Packaging Corporation, of Red Wood City, CA.

MC 140919 (Sub-1), filed January 19, 1982. Applicant: DESERT STAGE LINES, 73–555 29 Palms Hwy., 29 Palms, CA 92277. Representative: Ardella Irene Cook (same address as applicant) 714–367–3581. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter or special operations, between points in Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in AZ, NM, NV, and UT.

MC 145738 (Sub-26), filed January 25, 1982. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Selmer, TN 38375. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., 315 Union St., Nashville, TN 37201 (615) 244–2820. Transporting *such commodities* as are dealt in or used by retail and discount stores and catalog showrooms between points in Clay County, MS, on the one hand, and, on the other, points in the U.S.

MC 150499 (Sub-7), filed January 18, 1982. Applicant: ENGELS TRUCK SERVICE, INC., RR3, Box 58 Worthington, MN 56187. Representative: A. J. Swanson, 226 N. Phillips Ave., P.O. Box 1103 Sioux Falls, SD 57101 (605) 335–1777. Transporting *food and related products*, (a) between points in WA, OR, and ID, on the one hand, and, on the other, points in CA, (b) between Chicago, IL and points in WI, MN, and IA, on the one hand, and, on the other, points in AZ, ID, NM, OK, TX, UT, and WY, (c) between points in Cache County, UT, Lincoln County, WY, Jerome County, ID, and Spokane County, WA, and (d) between points in Lincoln County, WY, Jerome County, ID, and Spokane County, WA, on the one hand, and, on the other, points in CA, CO, IL, and MI.

MC 151589, filed January 18, 1982. Applicant: PRODUCE TRANSPORT, 27 Thorne Ave., Lewiston, ME 04240. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101 (207) 773–5651. Transporting *paper and paper products* between points in ME, on the one hand, and, on the other, points in CT, DE, MA, MD, NH, NJ, NY, PA, RI, VA, and DC.

MC 152108 (Sub-3), filed January 22, 1982. Applicant: RELCO SYSTEMS, INC., 7310 Chestnut Ridge Rd., Lockport, NY 14094. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., N.W., Washington, DC 20005, 202–347–9332. Transporting *food and related products*, between points in NY and PA, on the one hand, and, on the other, points in the U.S. in and east of MI, IN, KY, TN, and MS.

MC 156988 (Sub-2), filed January 21, 1982. Applicant: CLIFFORD VAN DE BRAKE, Rt 3 B 3752, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *food and related products*, between points in Hood River and Multnomah Counties, OR on the one hand, and, on the other, Los Angeles, CA.

MC 157819 (Sub-1), filed January 22, 1982. Applicant: TRUK-TRAK TRANSPORTATION, INC., P.O. Box 28655, Dallas, TX 75228. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 70562, 214–255–0279. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. under continuing contract(s) with Sunbelt Consolidators, Inc. of Dallas, TX.

MC 160088 (Sub-1), filed January 18, 1982. Applicant: TRAILER TRANSIT, INC., 719 Wabash Ave., Michigan City, MI 46360. Representative: Brian R. Busch (Same address as applicant) 219–879–8547. Transporting *transportation equipment*, between points in the U.S.

MC 156909 (Sub-1), filed January 22, 1982. Applicant: MIDWEST CONSOLIDATORS, INC., 32934 Schoolcraft, Livonia, MI 48150. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084 (313) 649–6650. Transporting *motor vehicle parts and components* between ports of entry on the international boundary line between the United States and Mexico in TX, on the one hand, and, on the other, Detroit, MI.

MC 160129, filed January 15, 1982. Applicant: ALLEGHENY LABEL TRUCKING, INC., P.O. Box 95, Pittsburgh Street, Cheswick, PA 15024. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219 (412) 281–0494. Transporting *printing equipment* and *printed matter*, between points in the U.S., under continuing contract(s) with Allegheny Label, Inc., of Cheswick, PA.

MC 160140, filed January 18, 1982. Applicant: DON TEUNISSEN, d.b.a. TEUNISSEN TRANSPORTATION, Route 1, Box 176, Cedar Grove, WI 53013. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203 (414) 273–7410. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Charter Manufacturing Co., Inc., of Mequon, WI.

MC 160206, filed January 21, 1982. Applicant: CLIFFORD E. MORRIS, d.b.a. C. E. MORRIS TRUCKING, 105 E. Madison Ave., P.O. Box 273, Pandora, OH 45877. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017 (614) 889–2531. Transporting *fertilizer* between points in IN, OH, and MI.

MC 160218, filed January 22, 1982. Applicant: HENDRUM FERTILIZER COMPANY, INC., P.O. Box 150, Hendrum, MN 56550. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108 (701) 237–4223. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with J. R. Simplot Company of Boise, ID.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3360 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 229]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 3, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 34485 (Sub-4)X, filed January 27, 1982. Applicant: CLARK & REID COMPANY, INC., P.O. Box 426, Burlington, MA 01803. Representative: Charles Ephraim, 406 World Center Building, 918–16th Street, N.W., Washington, DC 20006. Sub 3 certificate, broaden from household goods to "household goods and furniture and fixtures".

MC 94201 (Sub-202)X, filed January 25, 1982. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203–3868. Sub 194F certificate: remove all exceptions from the general commodities description, except classes A and B explosives and household goods.

MC 121673 (Sub-6)X, filed January 18, 1982. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 West Sheridan, P.O. Box 83065, Oklahoma City, OK 73148. Representative: C. L. Phillips, Classen Terrace Bldg., Room 248, 1411 N. Classen, Oklahoma City, OK 73106. Sub 4F certificate, (1) remove household goods exception from general commodities authority; (2) regular routes, authorize service on all intermediate points: (a) except those on alternate route in part II (h), and (b) except Cordell, Clinton and Weatherford, OK in parts II (a) and (c).

MC 124393 (Sub-9)X, filed January 27, 1982. Applicant: FRANK POTTER TRUCKING CO., A CORPORATION, P.O. Box 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. Sub 5F permit: broaden to (a) "food and related products" from beer and coctail mixes, and (b) between points in the U.S. (except AK and HI), under continuing contract(s) with unnamed shippers.

MC 142848 (Sub-15)X, filed January 11, 1982. Applicant: JAMES R. POSHARD AND SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representatives: Norman R. Garvin, Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204–3491. Subs 2, 3, 5, 8F, 9F, 10F, 12F and 13F. Broaden: Subs 2, 3, 5, 8F, 9F, and 10F from coal, fertilizer, in bulk, dry commodities, in bulk, sand, in bulk, and fertilizer to "commodities in bulk"; Subs 5, 8F, 12F and 13F from Mt. Vernon, IN, facilities to Posey County, IN; Sub-No. 5, from Vincennes to Knox County, IN; Sub-No. 10F from Henderson to Henderson County, KY; Subs 3, 5, 9F, and 10F to radial authority; remove restrictions to traffic having prior movement by rail/water in Subs 5, 8F, 10F, 12F, and 13F; "originating at/destined to" in Subs 5, 8, 10, 12, and 13; "in dump vehicles" in Subs 5 and 9F; and dry commodities in bulk, fertilizer, and unusual value commodities from general commodities in Sub 13F.

MC 143502 (Sub-2)X, filed January 26, 1982. Applicant: G & M AUTO COMPANY, INC., 7224 Euclid Avenue, Cleveland, OH 44103. Representative: Andrew J. Burkholder, 275 East State Street, Columbus, OH 43215. Lead and Sub 1: broaden wrecked, disabled and repossessed motor vehicles (except trailers designed to be drawn by passenger automobiles) and replacement vehicles for wrecked or disabled motor vehicles (except trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only to "transportation equipment."

MC 147769 (Sub-1)X, filed January 22, 1982. Applicant: SHORE AIR FREIGHT SERVICE, INC., P.O. Box 8692, Baltimore, MD 21240. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006. Lead certificate: (1) Remove the (a) "prior to subsequent movement by air" restriction, and (b) exception of points in Anne Arundel County located in the Baltimore Commercial Zone, and (2) broaden to county-wide authority: Anne Arundel County, MD (airport-Glen Burnie).

MC 147906 (Sub-9)X, filed January 27, 1982. Applicant: KOHN TRANSPORT INC., 4850 Southway S.W., Canton, OH 44706. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. Lead certificate: (1) Broaden to (a) "food and related products" from alcoholic beverages and (b) "clay, concrete, glass or stone products and metal products" from alcoholic beverage containers; (2) remove "except in bulk" restriction; and, (3) broaden to radial authority.

[FR Doc. 82-3982 Filed 2-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP-3-019]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification; Permanent Decision

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 148964 (Sub-1) (republication) filed August 31, 1981, published in the **Federal Register** issue of September 16, 1981, and republished this issue. Applicant: W. L. WAGGONER TRUCKING CO., No. 4 Caine Drive—

Stephen Maeras, Industrial Park, Madison, IL 62060. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. A Decision of the Commission, Review Board Number 2, decided December 22, 1981, and served January 18, 1982, finds that the performance by applicant of the service described herein will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting those *commodities* which because of their size or weight require the use of special handling or equipment, between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX, VA, WV, and WI; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect service to points in LA which was inadvertently ommitted from previous publication.

MC 156884 (republication), filed July 1, 1981, published in the **Federal Register** of July 22, 1981, and republished this issue. Applicant: EDWIN M. STALEY, d.b.a., RIVER DRIVE WRECKER SERVICE, 4101 North Front St., Harrisburg, PA 17110. Representative: Lloyd R. Person, P.O. Box 729, Harrisburg, PA 17108. A Decision of the Commission, Review Board Number 2, decided October 16, 1981 and served October 23, 1981, and A Decision of the Commission, Division 2, Acting as an Appellate Division, decided December 24, 1981, and served December 31, 1981, finds on further consideration that the performance by applicant of the service described herein will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wrecked and disabled vehicles, and replacement vehicles and parts for wrecked and disabled vehicles*, between points in the U.S. in and east of MN, IA, MO, AR, and LA; and (2) *abandoned or repossessed vehicles*, between points in Dauphin County, PA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-3361 Filed 2-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 86)]

Rail Carriers; Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, Exemption for Contract Tariff ICC–BM–C–0008

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (BM), filed a petition on January 29, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC–BM–C–0008 to become effective on one day's notice. The tariff was filed to become effective on March 1, 1982. The tariff provides for the track storage of pulp, paper, and paper products (STCC–26 commodity series) at local stations on BM Railroad, in equipment carrying BM Railroad reporting marks.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Petitioner states that because of a production problem, the shipper requires the immediate storage of some of its product. The shipper does not have suitable storage facilities at his plant and this contract will allow the continuation of his production on an uninterrupted basis. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

The BM's contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 2, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-3360 Filed 2-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB–6 (Sub-No. 104F)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Benson, Pierce, and Rolette Counties, ND; Findings

The Commission has found that the public convenience and necessity requires the abandonment by Burlington Northern Railroad Company of a portion of its rail line known as the York to Dunseith line extending from milepost 14.4 near Wolford to milepost 41.79, at the end of the line near Dunseith, ND in Pierce and Rolette Counties, a total of 27.73 miles, subject to certain conditions. The Commission has also found that the public interest requires retention of that portion of the line extending from milepost 0.00 near York to milepost 14.4 near Wolford. The abandonment will become effective 3 days after this publication unless the Commission also finds that: (1) A financially responsible person has

offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies sent to Mr. Richard Kelly, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this notice.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3366 Filed 2–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 87)]

Rail Carrier; Union Pacific Railroad Company, Exemption for Contract Tariff ICC–UP–C–0014

AGENCY: Interior Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on January 29, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC–UP–C–0014 to become effective on one day's notice. The tariff was filed to become effective on February 28, 1982. The tariff provides for the movement of corn, sorghum and soybeans to the port of Long Beach, California.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The grain to be moved by the UP is the subject of an agreement negotiated between the shipper and the Taiwanese and South Korean governments. The overseas shipments are scheduled to begin in early February. Petitioner urges that the contract be allowed to become effective on short notice to ensure that the grain will be available for loading as soon as possible. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 3, 1982.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3364 Filed 2–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: February 3, 1982.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.9-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 6.7-percent surcharge for the bus carriers, or the 2.0-percent surcharge for United Parcel Service.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m. February 5, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

February 1, 1982.

Appendix—Fuel Surcharge

Base date and price per gallon (including tax)

Jan. 25, 1979 ..... 63.5

Date of current price measurement and price per gallon (including tax)

Feb. 1, 1982 ..... 130.8

	Transportation performed by—			
	Owner-operator[1]	Other[2]	Bus carrier	UPS
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.9	3.1	6.7	[3] 1.3
Percent surcharge allowed	18.0	3.1	6.7	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 25, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already including in UPS rates.

[FR Doc. 82–3339 Filed 2–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. Section 10706(a)(5) Application No. 1[1]]

Shippers Equitable Compensation Action Committee

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of agreements and request for comments.

SUMMARY: Under the provisions of 49 U.S.C. 10706(a)(5)(A), shippers wishing to enter into agreements among themselves to discuss the amount of compensation to be charged rail carriers for the use of privately owned cars must apply to the Commission for approval of such agreements. The Commission will approve such an agreement only upon finding that it furthers the transportation policy set forth in 49 U.S.C. 10101a, and, if necessary, can impose conditions to further that policy. If such an agreement is approved, the antitrust laws do not apply to parties and other persons with respect to the making and carrying out of the agreement. 49 U.S.C. 10706(a)(2).

Applications have been filed by four shipper groups: No. 1 by Shippers Equitable Action Committee (SECAC) on behalf of members who own or lease railroad cars bearing the Association of American Railroads' mechanical designation "RB," "RBL" and "LU;" No. 2 by LO Shippers Action Committee, on behalf of members who own or lease covered hopper cars bearing the AAR designation "LO;" No. 3 by National Electrical Manufacturers, on behalf of three members who own or lease heavy capacity and special type flat cars; and No. 4 by the American Petroleum Institute, on behalf of members who own or lease tank cars.

The applications may be inspected at the Office of the Secretary, Interstate Commerce Commission, in Washington, D.C.

COMMENTS: Comments are invited on the proposed agreements, with special attention to the following subjects:

(1) How will these agreements further the transportation policy set forth in 49 U.S.C. 10101(a)?

(2) Are there any anti-competitive effects that may result because of such agreements?

(3) Must individual shippers be allowed under such agreements the right of independent action to negotiate separately car compensation rates?

(4) What, if any, safeguards are necessary to insure that the proposed agreements will not have an undesirable anti-competitive effect or suppress competition among members of the respective associations?

(5) What other matters should the Commission consider in determining whether such agreements should be approved?

DATES: An original and 10 copies of comments by interested parties should be filed within 20 days of the date of publication of this notice in the **Federal Register.**

ADDRESS: Comments should be addressed to: Interstate Commerce Commission, Office of Proceedings, Room 5340, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7656.

While it does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources, comments on these issues are also invited.

(49 U.S.C. 10706(a)(5))

Dated: January 26, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Gilliam.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3363 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[1] Embraces Section 10706(a)(5) Application Nos. 2, 3, and 4.

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-12,466]

Stephanie Coat, Inc., Hoboken, New Jersey; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 16, 1981 in response to a worker petition received on March 9, 1981 which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Stephanie Coat, Inc., Hoboken, New Jersey.

An active certification covering the petitioning group of workers remains in effect (TA–W–6811). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 27th day of January 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-3412 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,518 and TA-W-12,519]

Parr, Incorporated Cleveland, Ohio; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 23, 1981 in response to a worker petition received on March 12, 1981 which was filed on behalf of workers at two Cleveland, Ohio plants of Parr, Incorporated.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 27th day of January 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-3413 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Sections 1952.120–124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letters from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to Federal standard 29 CFR Part 1926. These letters were dated as follows: December 31, 1981 containing the basic standards; December 15, 1981

containing Ground Fault Protection as published in the **Federal Register** (41 FR 55696) on December 21, 1976 plus State-initiated amendments and corrections to WAC 296–155—Ladder, Scaffolding, and Trenching standards; December 1, 1981 containing emergency temporary standards deleting the scaffolding standards identified by Region X as not at least as effective; June 19, 1981 incorporating Guarding of Low-Pitched Roof Perimeters during the Performance of Build-Up Roofing Work published in the **Federal Register** (45 FR 75618) on November 14, 1980 plus State-initiated amendments and corrections to WAC—Excavations, Trenching, and Shoring. The original Federal standards were published in the **Federal Register** (37 FR 27503) on December 16, 1972. Subsequent revisions were published in the **Federal Register** (39 FR 22801) on June 24, 1974, (41 FR 55696) on December 21, 1976, (44 FR 20940) on April 6, 1979, and (45 FR 75618) on November 14, 1980.

Washington's Construction Safety and Health Standards, which are contained in Chapter 296–155 WAC, were promulgated pursuant to 30.04 RCW and to the Open Public Meetings Act of 1971, Chapter 42.30 July 10, 1970. Subsequent amendments were promulgated to accommodate the State and Federal amendments and corrections following the original publication of 29 CFR Part 1926.

The State of Washington, after a public hearing on February 19, 1976 promulgated Construction Standards WAC 296–155 including provisions for scaffolding which were determined to be not at least as effective. The State requested a hearing by letter dated September 1, 1977 after **Federal Register** Notice of Intent to Reject the scaffolding portion of the standard appeared in the **Federal Register** (42 FR 41335) on August 16, 1977. The hearing was held in Seattle, Washington on November 29, 1977. Following the hearing, on January 6, 1978, the State and interested persons, who participated in the hearing, requested a waiver of the tentative decision by the Regional Administrator in accordance with 29 CFR 1902.21, thereby placing the final decision with the Assistant Secretary of Labor for Occupational Safety and Health. By letter dated November 23, 1981, Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, informed Samuel Kinville, State designee, that he intended to reject the State's scaffolding standards. On December 10, 1981 the State, by emergency temporary rule, deleted the standards at issue and adopted the identical Federal standards, which were submitted on December 15, 1981 and approved by the Assistant Secretary on January 26, 1982.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are as effective as the comparable Federal standards and accordingly should be approved.

Significant differences are: (a) the State has adopted additional standards for definitions and clarification of scaffolding, site clearing, excavations and trenching, cranes and derricks, and uniform traffic control; (b) Live Line Bare Hand Work, 29 CFR 1926.955(e), is covered by previously approved WAC 296–45–330.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N–3613, 200 Constitution Ave. N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective February 9, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 20th day of January, 1982.

James W. Lake,

Regional Administrator.

[FR Doc. 82-3236 Filed 2-8-82; 8:45 am]
BILLING CODE 4510-26-M

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Sections 1952.120–124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letters dated: November 9, 1981 containing the basic standards; March 24, 1981 incorporating Alcohol, Tobacco, and Firearms standards; December 15, 1981 containing an emergency temporary rule to correct deficiencies identified by Region X; and January 6, 1982 containing permanent rules to correct deficiencies identified by Region X, from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to Federal standard 29 CFR 1910.109, Explosives and Blasting Agents. The original Federal standard was published in the **Federal Register** (36 FR 10669) on May 29, 1971. Subsequent revisions were published in the **Federal Register** (43 FR 49751) on October 24, 1978 and (47 FR 51760) on November 7, 1978.

Washington's standard on the Possession, Handling and Use of Explosives, which is contained in Chapter 296–52 WAC, was promulgated pursuant to 34–04 RCW and to the Open Public Meetings Act of 1971, Chapter 42.30 on July 10, 1970. Subsequent amendments were promulgated to accommodate State/Federal amendments and corrections since the original publication of 29 CFR 1910.109.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State Standard is as

effective as the comparable Federal standard and accordingly should be approved. Further, the State must promulgate permanent standards to replace emergency temporary rules.

Significant differences are: (a) The State has retained standards equivalent to those revoked in the **Federal Register**, Vol. 43, No. 206, dated October 24, 1978 and subsequent corrections appearing in the **Federal Register**, Vol. 43, No. 216, dated November 7, 1978 because the State's coverage includes public service employees. Additionally, retention of the standards allows the State's administrative standards to be in concert with the State's statutory explosive code; (b) the State has adopted the provisions of 27 CFR 181.187 through 181.200 from the Bureau of Alcohol, Tobacco, and Firearms in lieu of 29 CFR 1910.109(c), Storage of Explosives as applies to magazines, American Table of Distances for Storage of Explosives, and the storage of slightly increased quantities of certain explosive materials; (c) allowances have been made to accommodate the "state-of-the-art" concerning the use of fiberglass/plastic approved tamping poles and skewers.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N-3613, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective February 9, 1982.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 11th day of January 1982.

John A. Granchi,

Acting Regional Administrator.

[FR Doc. 81-3425 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Panel (Wider Availability of Museums); Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Panel (Wider Availability of Museums) to the National Council on the Arts will be held on March 2, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark;

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 2, 1982.

[FR Doc. 82-3387 Filed 2-8-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-325 and 50-324]

Carolina Power and Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 44 and 67 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to permit a specific individual to fill the Manager-Operations position during the interim period until the formal licensing requirements can be scheduled and completed.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated January 8, 1982, (2) Amendment Nos. 44 and 67 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-3401 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment Facility Operating License No. NPF-9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. This amendment changes the date by which the Commission must confirm the adequacy of the hydrogen control system from January 31, 1982, to prior to startup following the first refueling outage. The amendment is effective as of its date of issuance.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 13 to Facility Operating License No. NPF-9 and (2), the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commmission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 82-3402 Filed 2-8-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-70 and Amendment No. 5 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications related to hydraulic and mechanical snubbers. In particular, the principle changes involve the addition of mechanical snubbers to the snubber surveillance program and provide clarification of the inservice test requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 10,1981, (2) Amendment Nos. 40 and 5 to License Nos. DPR-70 and DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of February 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 82-3403 Filed 2-8-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment clarifies the surveillance requirements in the Technical Specifications for snubbers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated Spetember 1, 1981, (2) Amendment No. 71 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items

(2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, d.c. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of February 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 82-3404 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Byron Station Units 1 and 2; Meeting

The ACRS Subcommittee on Byron Station Units 1 and 2 will hold a meeting on February 26, 1982, at the Ramada Inn, 7550 East State Street, Rockford, IL. The Subcommittee will review the application of the Commonwealth Edison Company for an operating license for Units 1 and 2. Notice of this meeting was published January 20.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981, (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, February 26, 1982—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, The Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentation by and hold discussions with representatives of the Commonwealth Edison Company, NRC Staff, there consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST

Dated: February 1, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-3406 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

State Assessment of Need for Power In Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Convening of workshop.

A workshop on forecasting electricity demand by state agencies is being held February 23, 1982 at 1717 H. Street NW, Room 1046, Washington, D.C. from 8:30 a.m. to 4:30 p.m. It is to be co-sponsored by the Nuclear Regulatory Commission and Oak Ridge National Laboratory. Analysts from state agencies who are developing need for power assessments will present forecasting models and methodologies. These analysts will then act as a panel in evaluating the appropriateness of the models for their intended uses. The workshop is part of an overall effort by the Nuclear Regulatory Commission to place substantial reliance on state assessments of need for power to fulfill NRC's NEPA responsibilities.

The public is invited to attend. A period for discussion and comments from the audience will be provided.

FOR FURTHER INFORMATION CONTACT:

Darrel A. Nash, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Telephone (301) 492–9882.

Dated at Bethesda, Maryland this 3rd day of February 1982.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 82-3405 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

January 19, 1982.

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 12, 1982, at 9:30 a.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 621, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Television Service & Repairman Apprenticeship Program, Miller TV & Electric, 12 North Summit Street, Crescent City, Florida 32012, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 19, 1982.

Carlos L. Rainwater,

Director.

[FR Doc. 82-3323 Filed 2-8-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-342, Amdt. 2]

Addition and Closure of Items to the February 4, 1982 Board Meeting

February 3, 1982.

TIME AND DATE: 10 a.m. (after open meeting) February 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

10. Upcoming Negotiations with Scandinavia and Canada to begin February 8 and 9, 1982, respectively (BIA)
11. Negotiations with the United Kingdom (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673-5068.

[S 192-82 Filed 2-5-82; 3:06 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-342, Amdt. 3]

Addition to the February 4, 1982 Board Meeting

February 3, 1982.

TIME AND DATE: 10 a.m., February 4, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 9a. Docket 39992, Selection of Carrier to Provide Essential Air Service to Elko and Ely, Nevada (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673-5068.

[S 193-82 Filed 2-5-82; 3:06 pm]

BILLING CODE 6320-01-M

3

CIVIL AERONAUTICS BOARD

[M-342, Admt. 4]

Closure of Item on the February 4, 1982 Board Meeting.

February 4, 1982.

TIME AND DATE: 10 a.m. (after open meeting) February 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 39634, U.S.-London Case (1982) Instructions to the Staff (OGC).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673-5068.

[S-194-82 Filed 2-5-82; 3:06 pm]

BILLING CODE 6320-01-M

4

CIVIL AERONAUTICS BOARD

[M-342, Admt. 5]

Addition and Closure of Items to the February 4, 1982 Board Meeting.

February 4, 1982.

TIME AND DATE: 10 a.m. (after open meeting) February 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

12. Informal Discussions with Italy (BIA).
13. Discussion of CAB Budget.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673-5068.

[S 195-82 Filed 2-5-82; 3:06 pm]

BILLING CODE 6320-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, February 16, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Application of the Kansas City Board of Trade for designation as a contract market in the Value Line Average.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-189-82 Filed 2-5-82; 10:40 am]

BILLING CODE 6351-01-M

6

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, February 11, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 11, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW.

Agenda, Item No., Subject

General—1—*Title:* Amendment of Part 2 of the Commission's rules to add a footnote regarding Government usage in the fixed and mobile services at 14.4-14.5 GHz. *Summary:* The 14.4-14.5 GHz band is currently allocated to the non-Government fixed-satellite service and Government fixed and mobile services on a co-equal primary basis. This imposes certain constraints on the fixed-satellite service users. The Commission will consider a change to Part 2 in order to provide the non-Government fixed-satellite service priorty status.

General—2—*Title:* Rulemaking to establish minimum performance requirements for VHF maritime receivers. *Summary:* The FCC will consider whether to adopt an Order (Docket No. 20074) terminating this proceeding. FCC Industry coordination looking to development of these receiver requirements was initiated in February 1972, resulting in release of a Notice of Proposed Rule Making on June 13, 1974.

Private Radio—1—*Title:* In the matter of Amendment of Sections 90.313(c) and 90.377(b) of the Commission's Rules to eliminate the portable to vehicular mobile ratio in loading criteria for private land mobile radio systems operating above 470 MHz, RM 3965. *Summary:* The FCC has before it for consideration a Notice of Proposed Rule Making that proposes to amend Part 90 of the Commission's Rules that would treat portable transmitters as equals to mobile transmitters for loading purposes. The proceeding seeks to ascertain whether reasons exist to continue to treat them differently.

Private Radio—2—*Title:* Report and Order to provide for the use of automatic aviation weather observation systems at certain

airports. *Summary:* The FCC will consider whether to amend Part 87 to provide for the use of automatic weather observation systems at airports with neither a full-time control tower nor a full-time FAA flight service station. These automatic observation systems are designed to provide pilots with such aeronautical information as the wind, weather, visibility, altimeter setting and other pertinent information.

Private Radio—3—*Title:* Amendment of the Amateur Radio Service Rules (Part 97) regarding expansion of the telephony segments of the Amateur Radio Service high frequency (HF) bands. *Summary:* The Commission will consider whether to adopt a Notice of Inquiry and Proposed Rule Making proposing to amend Part 97 of the Rules to expand the number of frequency segments available for telephony use in the 14 MHz amateur band and inquiring into making additional frequencies available for telephony use in the other HF bands.

Private Radio—4—*Title:* Notice of Proposed Rule Making to update and codify the GMRS Rules, Part 95, Subpart A. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to update and codify the Rules for the General Mobile Radio Service.

Private Radio—*Title:* Report and Order concerning the general exemption from the radiotelegraph requirements for cargo vessels of 1600 gross tons and upward engaged on coastwise voyages. *Summary:* The Commission will consider granting a general exemption from the radiotelegraph requirements of the Communications Act to cargo ships of 1600 gross tons and upward when navigated on domestic voyages along the coasts of the contiguous 48 states. The ships will be required to have specific radiotelephone equipment for both terrestrial and satellite communications and also meet additional operational requirements.

Common Carrier—1—Application for review of Bureau's grant of Public Mobile Radio Service applications of Burlington, Brighton & Wheatland Telephone Company and other affiliate telephone companies in Wisconsin.

Common Carrier—2—Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L). In response to a Petition for Rulemaking from Mobilfone Service, Inc., the Common Carrier Bureau proposes to reduce the reporting burden associated with FCC Form L.

Common Carrier—3—*Title:* Request of Amte-Communications, Inc., for a Declaratory Ruling on the lawfulness of certain practices of American Telephone and Telegraph Company, Western Electric Company, Inc. and various Bell System Operating Companies. *Summary:* The Commission will decide (a) whether it should defer jurisdiction over local rate changes to the states; and (b) whether the local rate changes violate Part 68 of the rules.

Common Carrier—4—American Telephone & Telegraph Company *et al.* For Authority Under Section 214 of the Communications Act to Construct and Operate a Submarine Cable System (Third Florida-St. Thomas Cable) Between the Continental United States and St. Thomas, U.S. Virgin Island. (I–P–C–81–050) We are considering the aforementioned joint application for authority pursuant to Section 214 of the Communications Act of 1934 as amended to participate in the construction and operation of an approximately 3,000 circuit submarine cable (SG type—3,150 4 KHz circuits) between Florida and St. Thomas, U.S. Virgin Island. Of the 3,000 circuits, the joint applicants intend to place 1,901 in service initially to be used solely for international service.

Common Carrier—5—*Title:* Application by AT&T, ITTCIVI, ITT Worldcom, RCA Globcom, TRT, and WUI-(joint applicants) for a cable landing license to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands. *Summary:* The joint applicants request a license pursuant to the provisions of 47 U.S.C. §§ 34–39 to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands.

Common Carrier—6—*Title:* In the matter of National Microwave Interconnect Company's Request for Waiver and Simultaneous Consideration of Pending Applications. *Summary:* The Commission considers the request (File No. CCB–DFD–1) of National Microwave Interconnect Company to clarify the procedures to be used in deciding which Digital Electronic Message Service applications are mutually exclusive and also which applications are entitled to comparative consideration with previously filed applications.

Cable Television—1—Petitions for Issuance of Tax Certificates (CSR–1843, CSR–1945) filed November 28, 1980, and May 15, 1981, by Kansas State Network, Inc., licensee of several television broadcast stations, seeks tax certificates, pursuant to Section 1071 of the 1954 Internal Revenue Code, for divestitures of its cable television interests.

Renewal—1—*Title:* Competing applications of International Television Corporation for renewal of license of Station WEZF–TV, Burlington, Vermont and Lake Champlain Television Corporation for a construction permit. *Summary:* The Commission considers designating the mutually exclusive applications for hearing in a consolidated proceeding.

Aural—1—*Subject:* Memorandum Opinion and Order in re petition for review filed by ICBC Corporation, New York, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in declining to waive § 73.37(a) so as to accept for filing the applicant's request to change frequencies and operate on an unlimited time basis.

Aural—2—*Subject:* Memorandum Opinion and Order in re petition for review filed by Bunkfeldt Broadcasting Corp., Utica, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in returning as unacceptable for filing the applicant's request for changes in the facilities of its station WUTQ. At issue is whether § 73.37(e) should have been waived on the applicant's behalf.

Aural—3—*Title:* In re application of Portorican American Broadcasting Company, Inc. (WOQI) for improvement of its station in Ponce, Puerto Rico. *Summary:* The Commission will consider the aforementioned application and a petition by the licensee for reconsideration of a previous denial of a waiver for a short spaced transmitter site.

Television—1—*Title:* Applications for review of the Broadcast Bureau's action denying the Joint Request for Production of Documents filed by Channel 50, Inc., STVGW and New Vision, Inc. *Chesapeake Television, Inc.*, Mimeo No. 003696, released October 1, 1981. *Summary:* Channel 50, Inc., licensee of WCQR (TV), Washington, D.C., STVGW (Channel 50's STV franchisee), and New-Vision, Inc., permittee of WNUV–TV, Baltimore, Maryland, seek review of the Bureau's denial of their Joint Request for Production of Documents whereby they requested that Chesapeake Television, Inc., licensee of WBFF (TV), Baltimore, Maryland, be ordered to produce certain documents referred to by Chesapeake in its opposition to a petition to deny Chesapeake's STV proposal filed by applicants herein. The issue is whether applicants have made a showing justifying grant of their application for review.

Broadcast—1—*Title:* Amendment of Part 74, Subparts D, E, F and H of the Commission's Rules to provide for short-term operation without prior FCC approval. *Summary:* The Commission will consider a *Report and Order* in BC Docket 81–407 concerning RM–3702 (Creation of a new auxiliary broadcast service license class to permit non-broadcast station license holders to be licensed to operate radio relay stations for direct rebroadcast of program material) and a Commission-originated alternative which would eliminate the "120 day equipment installation requirement" in Subparts D and H of Part 74 and provide for short-term operation (up to 30 days annually per frequency) by Part 73 licensees on certain Part 74 frequencies.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: February 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–197–82 Filed 2–5–82; 3:40 pm]

BILLING CODE 6712–01–M

7

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 11th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the February 11,

1982, Open Meeting and previously listed in the Commission's Notice of February 4, 1982.

Agenda, Item No., Subject

Television—1—*Title:* Applications for review of the Broadcast Bureau's action denying the Joint Request for Production of Documents filed by Channel 50, Inc., STVGW and New Vision, Inc. *Chesapeake Television, Inc.*, Mimeo No. 003696, released October 1, 1981. *Summary:* Channel 50, Inc., licensee of WCQR(TV), Washington, D.C., STVGW (Channel 50's STV franchisee), and New-Vision, Inc., permittee of WNUV–TV, Baltimore, Maryland, seek review of the Bureau's denial of their Joint Request for Production of Documents whereby they requested that Chesapeake Television, Inc., licensee of WBFF(TV), Baltimore, Maryland, be ordered to produce certain documents referred to by Chesapeake in its opposition to a petition to deny Chesapeake's STV proposal filed by applicants herein. The issue is whether applicants have made a showing justifying grant of their application for review.

Issued: February 5, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–198–82 Filed 2–5–82; 3:46 pm]

BILLING CODE 6712–01–M

8

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Thursday, February 11, 1982

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, February 11, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m. Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., Subject

Hearing—1—Joint request for approval of settlement agreement in the Van Buren, Arkansas, comparative FM proceeding (BC Docket Nos. 80–362 and 80–363).

Hearing—2—Application for Review of the Designation Order in the Breckenridge, Texas, FM broadcast proceeding (BC Docket Nos. 81–485 and 81–486).

Hearing—3—Applications for Review in the Gulf Coast Communications, Inc., Tampa, Florida Public Coast III–B Maritime Mobile Radio proceeding. (PR Docket No. 78–250–60).

Hearing—4—Two applications for Review of the Review Board Decision in the Birmingham, Alabama educational FM proceeding (BC Docket Nos. 78–61 and 78–62).

Hearing—5—Exceptions to the Initial Decision in the Simon Geller, WVCA–FM comparative renewal proceeding, Gloucester, Massachusetts (Docket Nos. 21104 and 21105).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202)254–7674.

Issued: February 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S 199–82 Filed 2–5–82; 3:46 pm]

BILLING CODE 6712–01–M

9

FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forward to the Federal Register on Wednesday, February 3, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, February 10, 1982.

CHANGES IN THE MEETING: Change in the time of the above open meeting to 10:30 a.m., Wednesday, February 10, 1982.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: February 5, 1982.

James McAfee,

Assistant Secretary of the Board.

[S. 190–82 Filed 2–5–82; 10:52 am]

BILLING CODE 6210–01–M

10

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9 a.m., Thursday, February 4, 1982.

PLACE: NTSB Board Room, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Closed pursuant to Exemption 2 of the Government in the Sunshine Act. (5 U.S.C. 552B(c)(2)).

MATTER TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Safety Board Personnel/Program Reductions.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–382–6525.

February 4, 1982.

[S 197–82 Filed 2–5–82; 10:20 am]

BILLING CODE 4910–58–M

11

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 8, 1982 and Week of February 15, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Tuesday, February 9:

2:00 p.m.:
Discussion of Phase II of Diablo Canyon Report (open/closed status to be determined) (as announced)

Thursday, February 11:

10:00 a.m.:
Briefing by Regulatory Reform Task Force (public meeting)

3:00 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Revised General Statement of Policy and Procedure for Enforcement Actions
b. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations
c. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings (postponed from February 4)
d. Amendments to Parts 1 and 2 to Implement the Commission's Delegation of OL Antitrust Determination to Directors of NRR and NMSS (postponed from February 4)
e. Commission Order re Hearing Requests of City of West Chicago (Tentative)

Friday, February 12:

2:30 p.m.:
Discussion of Clinch River Breeder Reactor (open-closed status to be determined)

Tuesday, February 16:

10:00 a.m.:
Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting)

2.00 p.m.
Continuation of Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting)

Friday, February 19:

10:00 a.m.
Presentation by GE on BWR Mark III Containment Design Basis (public meeting)

2:00 p.m.
Affirmation-Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Proposed Rule Change on Technical Specifications

b. Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System
c. Final Rule (1) to Eliminate Requirements with Respect to Financial Qualifications for Power Reactor Applicants, and (2) to Require Power Reactor Licensees to Maintain Property Damage Insurance

ADDITIONAL INFORMATION: Affirmation of Diablo Canyon Physical Security—Governor Brown's Request for Public Disclosure of Non-Protected Information, scheduled for February 4, was cancelled. By a vote of 5–0 on February 4, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules, that Commission business required that affirmation and/or discussion of Proposed Policy Statement on Safety Goals for Nuclear Power Plants and Revised General Statement of Policy and Procedure for Enforcement Actions, held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.

[S-109-82 Filed 2-5-82; 2:30 pm]
BILLING CODE 7590-01-M

12

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Wednesday, February 17, 1982 at 9:00 a.m. (Closed Portion): 10:15 a.m. (Open Portion).

PLACE: Offices of the Corporation. Seventh floor Board Room; 1129 20th Street N.W., Washington, D.C.

STATUS: The first part of the meeting from 9:00 a.m. to 10:15 a.m. will be closed to the public. The open portion of the meeting will start at 10:15 a.m.

MATTERS TO BE CONSIDERED: (Closed to the Public: 9:00 a.m. to 10:15 a.m.):

1. OPIC Internal Criteria and Procedures to Comply with Statutory Performance Requirement Provisions.
2. Coverage of Contractors' Risks.
3. Insurance for Projects in East Asian Country.
4. Insurance Project in Middle Eastern Country.
5. Insurance Project in Middle Eastern Country.
6. Insurance Project in East Asian Country: Amendment.
7. Claims Report.
8. Information Reports: General.
9. Information Reports: Project Status.

FURTHER MATTERS TO BE CONSIDERED: (Open to the Public: 10:15 a.m.):

1. Approval of the Minutes of the Previous Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Investment Encouragement Program.
4. Presentation of Marketing Department Plans.
5. OPIC Budget: Proposed for FY 1983 and Amended to FY 1982: Status report.
6. Financial Statements for the Three Months Ended December 31, 1981.
7. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653–2925.

Elizabeth A. Burton,
Corporate Secretary.

February 5, 1982.

[S 104-82 Filed 2-5-82; 11:32 a.m.]
BILLING CODE 3210-01-M

13

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 4386, January 29, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 26, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, February 4, 1982, following the 3:30 p.m. open meeting:

Consideration of amicus participation.
Regulatory matter regarding financial institution.
Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

February 4, 1982.

[S 103-82 Filed 2-5-82; 10:27 am]
BILLING CODE 8010-01-M

federal register

Tuesday
February 9, 1982

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Deep Seabed Mining Regulations for Exploration Licenses; Procedures for Pre-enactment Explorer Applications and New Entrant Applications

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses; Correction

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Final rules; correction.

SUMMARY: This document corrects typographical errors in the final rules on deep seabed mining that appeared in the **Federal Register** of Tuesday, September 15, 1981, (46 FR 45890). This document also amends Subparts X and Z of 15 CFR Part 970 originally published at 45 FR 76661, November 20, 1980 to conform to the final rules published on September 15, 1981 because the definitions and confidentiality of information provisions in the September 15, 1981 rules supersede similar provisions in the November 20, 1980 rules.

DATE: These corrections become effective upon February 9, 1982.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235, Telephone: (202) 653–7695.

Dated: February 4, 1982.

John V. Byrne,

Administrator.

(30 U.S.C. 1401 *et seq.*)

Accordingly, the following corrections are made in 15 CFR Part 970, appearing at 46 FR 45890, September 15, 1981:

1. On page 45898, in § 970.100(c)(1), "incorparate" in the first sentence is corrected to read: "incorporate".

2. On page 45901, in § 970.208(b), "payable to the National Oceanic and Administration" is corrected to read: "payable to the National Oceanic and Atmospheric Administration".

3. On page 45901, at the end of § 970.210, "this subpart" is corrected to read "§§ 970.201 through 970.208".

4. On page 45905, in § 970.512(a)(1), "recongized" is corrected to read: "recognized".

5. On page 45905, in § 970.512(b), "recipient of notice of proposed modification" is corrected to read: "receipt of notice of proposed modification."

6. On page 45915, in § 970.1002(f), "Ex parte communications subject in . . ." in § 970.1002(f), is corrected to read: "Ex parte communications subject to . . .".

The following conforming amendments are made in 15 CFR Part 970, Subparts X and Z:

§ 970.2401 [Amended]

1. Section 970.2401 is amended by:

(a) removing §§ 970.2401(a), (b), (c), (e), (f), and (g); and

(b) renumbering § 970.2401(d) as § 970.2401(a).

§ 970.2602 [Removed]

2. Section 970.2602 is removed.

[FR Doc. 82-3426 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-12-M

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses—Procedures for Pre-enactment Explorer Applications and New Entrant Applications

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Final rules.

SUMMARY: On September 15, 1981, at 46 FR 45890, the National Oceanic and Atmospheric Administration (NOAA) issued regulations, effective October 15, 1981, to implement certain provisions of the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283, "the Act"). At that time, however, NOAA reserved Subpart C of the regulations, which sets forth the dates on which applications will be accepted, certain procedures unique to applications filed by U.S. citizens who were engaged in deep seabed mining exploration prior to enactment of the Act and procedures for resolving conflicts resulting from multiple applications for the same area of the deep seabed. NOAA had previously included Subpart C in its proposed rules and had received public comment on these rules, but the agency wanted to ensure that the final regulations would be compatible with the equivalent concepts and procedures being considered by other seabed mining nations likely to become reciprocating states under section 118 of the Act. NOAA has concluded that such compatibility exists, and therefore issues the following final rules, subject to the possibility that amendments to these rules may be necessary if international agreements undertaken for the purpose of reciprocating state designation are amended.

DATE: These rules become effective February 9, 1982.

ADDRESS: Inquiries should be directed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235, Telephone: (202) 653–7695.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, Telephone: (202) 653–7695.

SUPPLEMENTARY INFORMATION: This Subpart C sets forth procedures pursuant to which: (1) pre-enactment explorers (i.e., U.S. citizens engaged in exploration for deep seabed hard minerals prior to the date of enactment of the Act, or June 28, 1980) will apply for licenses to continue exploration under the terms of the Act; (2) new entrants will apply for exploration licenses; and (3) conflicts which may be created by multiple applications referring to the same area of the deep seabed will be resolved. NOAA issued these rules in proposed form on March 24, 1981, and invited public comment (46 FR 18448). A number of comments were submitted on the proposed Subpart C.

With respect to resolving conflicts among pre-enactment explorers' applications, the primary thrust of the comments was that NOAA should assure that the domestic procedures in these rules and comparable procedures agreed to among reciprocating states should be conformed in essential respects. NOAA agrees, and Subpart C of the proposed regulations has been amended to reflect concepts and procedures that have evolved from U.S. negotiations with prospective reciprocating states. Thus, there is now a voluntary amendment period of approximately 3 months in which the pre-enactment explorer applicants may resolve a conflict among original applications and obtain a pre-enactment explorer priority of right for amendments resolving conflicts.

A commentor suggested that the regulations either limit the total number of applications or total area for which an applicant may apply, or alternatively, grant one logical mining unit for each pre-enactment explorer before recognizing a second for any of them. However, NOAA believes that the Act does not provide legal authority for either approach.

With respect to processing those portions of applications not in conflict, NOAA has incorporated the suggestion that the applicant need not state that loss of the area in conflict will not materially affect his ability to carry out his exploration plan; the applicant need only indicate that he will continue to seek a license for such proposed exploration activities in the part of the application area that is not in conflict.

In response to several comments, NOAA has deleted the specific reference to the possibility of resolution of conflicts by subunits.

With respect to the application of principles of equity to resolve conflicts among U.S. pre-enactment explorer applications, NOAA has accepted the suggestion to drop the distinction between primary and secondary equities. As for the date at which equities cease to accrue, the regulations specify a cut-off as of January 1, 1982, provided that the applicant must prove at-sea activities in the conflict area prior to June 28, 1980. Also, in response to comments, the reference to applying discount rates to account for funds expended in different years has been changed to terms of constant dollars.

Finally, in response to a comment, the regulations now specify that the applicants may settle a dispute voluntarily at any time while the conflict persists, i.e., prior to the Administrator's decision in the case of a domestic conflict or, in the case of an international conflict, prior to the decision of the arbitral tribunal. This settlement could take a variety of relevant forms, including formation of a joint venture.

These regulations also establish June 30, 1982, as the initial date for the filing of applications by new entrants. Procedures for resolution of conflicts arising from new entrant applications are set forth in § 970.303.

These regulations supersede the Subpart C rules published at 47 FR 3762 (January 27, 1982).

NOAA hereby advises prospective applicants and other interested persons of the possibility that NOAA may find it necessary to amend these regulations, including the deadline for filing pre-enactment explorer applications, if certain provisions of agreements that have been negotiated with prospective reciprocating states are amended.

Classification Under Executive Order 12291

NOAA determined that the overall regulations for deep seabed mining exploration should be considered as major under Executive Order 12291 of February 17, 1981, because they will foster and govern development of the United States deep seabed mining industry. Thus, NOAA prepared a final regulatory impact analysis for the regulations, pursuant to section 3 of the Executive Order, which was transmitted to the Office of Management and Budget. The Administrator of NOAA determined that these final rules are clearly within the authority delegated by law and are consistent with Congressional intent. The rules are authorized by section 308 of the Act, and respond to specific provisions of requirements found in sections 101 through 118 of Title I of the Act.

Since the final regulatory impact analysis has already considered the criteria and procedures relating to pre-enactment explorers found in Subpart C and since Subpart C is only a small part of the deep seabed mining regulations, NOAA further has determined that, under the criteria in section 1(b) of the Executive Order, this Subpart C, alone, is not a major regulation.

The final regulatory impact analysis was done in such a way as to include a final regulatory flexibility analysis as required by the Regulatory Flexibility Act, Pub. L. 96-354. Copies of the analysis may be obtained by writing to the Director, Office of Ocean Minerals and Energy, NOAA, at the address specified in the ADDRESS section of this preamble.

Paperwork Reduction Act, Pub. L. 96-511

Because of the limited number of persons initially subject to the regulations (historically there have been four consortia with U.S. companies participating which are involved in deep seabed mining development, and these four are expected to apply to NOAA for exploration licenses), NOAA believes the regulations do not contain "collection of information" requests within the meaning of 44 U.S.C. 3502(4) and 3502(11). Accordingly, § 970.906 of the final regulations, issued on September 15, 1981, contains a statement that the information requested is not subject to the requirements of 44 U.S.C. 3507. NOAA plans to review these regulations periodically, and to revise them if necessary based on that review. During the review, or earlier if necessary, NOAA will review its projections of the expected number of license applications and take any actions necessary under the Paperwork Reduction Act on that basis.

Environmental Impact Statement

Pursuant to section 109(c) of the Act and the National Environmental Policy Act of 1969, NOAA has prepared a final programmatic environmental impact statement (PEIS) assessing the environmental impacts of exploration and commercial recovery in the area of the oceans in which such activities by any United States citizen will likely first occur under the authority of the Act. The PEIS has been filed with the Environmental Protection Agency. Copies may be obtained by writing the Director, Office of Ocean Minerals and Energy, NOAA, at the address specified in the ADDRESS section of this preamble.

Effective Date

In order that U.S. pre-enactment explorers be allowed to file applications in a timely manner compared to pre-enactment explorers filing applications with foreign governments likely to become reciprocating states under section 118 of the Act, and in order to allow compatibility with the schedule for processing pre-enactment explorer applications as agreed to by the United States Government and the governments of prospective reciprocating states, and for other foreign policy reasons, procedures in this Subpart C must become effective immediately. Accordingly, NOAA finds that good cause exists under 5 U.S.C. 553(d) to make these regulations effective February 9, 1982.

Accordingly, several sections of Title 15, Part 970 of the Code of Federal Regulations are amended to incorporate clarifications that will apply to applications submitted pursuant to Subpart C. Also, Subpart C of Part 970, as published at 47 FR 3762 (January 27, 1982), is revoked, and a new text for Subpart C is issued. The text of the changes to Part 970 follows:

Dated: February 4, 1982.

John V. Byrne,

Administrator.

(30 U.S.C. 1401 et seq.)

PART 970—DEEP SEA MINING REGULATIONS FOR EXPLORATION LICENSES

1. Section 970.101(m) is revised to read as follows:

§ 970.101 Definitions.

* * * * *

(m) "New entrant" means any applicant, with respect to:

(1) Any application which has not been accorded a pre-enactment explorer priority of right under § 970.301; or

(2) Any amendment which has not been accorded a pre-enactment explorer priority of right under § 970.302.

§ 970.200 [Amended]

* * * * *

2. Section 970.200(b) is amended by adding the following sentence to the end of paragraph (b): "The Administrator may waive, in whole or in part, at his discretion, the requirement that 30 copies of an application be filed with NOAA."

§ 970.208 [Amended]

* * * * *

3. Section 970.208(b) is amended by adding at the end of the sentence the following: "If an applicant elects to pursue the 'banking' option under § 970.601(d), and exercises that option by submitting two applications, only one application fee needs to be submitted with respect to each use of the 'banking' option."

4. Section 970.601(d) is revised and a new paragraph (c) is added to read as follows:

§ 970.601 Logical Mining Unit.

* * * * *

(d) At the applicant's option, for the purpose of satisfying a possible obligation under a future Law of the Sea Treaty, the applicant may propose an exploration area which includes two exploration logical mining units. The applicant should specify in the application if this "banking" option is chosen, and any applicant choosing this option and filing an application based on pre-enactment exploration under § 970.301 shall so notify the Administrator in accordance with § 970.301(g).

(e) Applicants are advised that NOAA will not accept an application or issue a license for an exploration area larger than 150,000 square kilometers unless the applicant can demonstrate the necessity of a larger area based on factors such as topography, nodule abundance, distribution and ore grade. If the applicant elects to pursue the "banking" option described in paragraph (d) above, and wishes to apply for an exploration area larger than 150,000 square kilometers, the applicant must file a second application with respect to at least the area in excess of 150,000 square kilometers, unless the applicant justifies such excess area as part of a single application under the preceding sentence.

6. The table of contents to Part 970 is amended by removing the heading for Subpart C and the term "[Reserved]", and inserting instead the following:

* * * * *

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980; Resolution of Conflicts Among Overlapping Applications; Applications by New Entrants

Sec.
970.300 Purposes and definitions.
970.301 Requirements for applications based on pre-enactment exploration.
970.302 Procedures and criteria for resolving conflicts.
970.303 Procedures for new entrants.
970.304 Action on portions of applications or amendments not in conflict.

7. Subpart C of Part 970 is added to read as follows:

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980; Resolution of Conflicts Among Overlapping Applications; Applications by New Entrants

§ 970.300 Purposes and definitions.

(a) This subpart sets forth the procedures which the Administrator will apply to applications filed with NOAA covering areas of the deep seabed where the applicants have engaged in exploration prior to June 28, 1980, and to the resolution of conflicts arising out of such applications. This subpart also establishes the date on which NOAA will begin to accept applications or amendments filed by new entrants, and certain other procedures for new entrants.

(b) For the purposes of this subpart, the term:

(1) "Amendment" means an amendment to an application which changes the area applied for;

(2) "Application" means an application for an exploration license which is filed pursuant to the Act and this subpart;

(3) "Conflict" means the existence of more than one application or amendment with the same priority of right:

(i) Which are filed with the Administrator or with the Administrator and a reciprocating state; and

(ii) In which the deep seabed areas applied for overlap in whole or part, to the extent of the overlap;

(4) "Original conflict" means a conflict solely between or among applications;

(5) "New conflict" means a conflict between or among amendments filed after March 25, 1982, and on or before June 18, 1982;

(6) "Domestic conflict" means a conflict solely between or among applications or amendments which have been filed with the Administrator;

(7) "International conflict" means a conflict arising between or among applications or amendments filed with the Administrator and a reciprocating state.

§ 970.301 Requirements for applications based on pre-enactment exploration.

(a) Pursuant to section 101(b) of the Act, any United States citizen who was engaged in exploration before the effective date of the Act (June 28, 1980) qualifies as a pre-enactment explorer and may continue to engage in such exploration without a license:

(1) If such citizen applies under this part for a license with respect to such exploration within the time period specified in paragraph (b) of this section; and

(2) Until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(b) Any application for a license based upon pre-enactment exploration must be filed, at the address specified in § 970.200(b), no later than 5:00 p.m. EST on February 19, 1982 (or such later date and time as the Administrator may announce by regulation). All such applications filed at or before that time will be deemed to be filed on such closing date.

(c) Applications not filed in accordance with this section will not be considered to be based on pre-enactment exploration, and may be filed only as new entrant applications under § 970.303.

(d) To receive a pre-enactment explore priority of right for issuance of a license, an application must be, when filed, in substantial compliance with requirements described in § 970.209(b). An application which is in substantial but not full compliance will not lose its priority of right if it is brought into full compliance according to § 970.210.

(e) Any application based on pre-enactment exploration must be for a reasonably compact area with respect to which the applicant is a pre-enactment explorer, and, notwithstanding any part of § 970.601 which indicates otherwise, such area must be bounded by a single continuous boundary.

(f) The coordinates and any chart of the logical mining unit applied for in an application based on a pre-enactment exploration must be submitted in a separate, sealed envelope.

(g) On or before February 18, 1982, the applicants must indicate to the Administrator, other than in the sealed portion of the application: (1) The size of

the area applied for; (2) Whether the applicant or any person on the applicant's behalf has applied, or intends to apply, for the same area or substantially the same area to one or more nations, and the number of such other applications; and (3) Whether the applicant is pursuing the "banking" option under § 970.601(d), and the number of applications filed, or to be filed, in pursuit of the "banking" option.

§ 970.302 Procedures and criteria for resolving conflicts.

(a) *General.* This section governs the resolution of all conflicts between or among applications or amendments having pre-enactment explorer priority of right.

(b) *Identification of applicants.* On February 22, 1982, the Administrator will meet with representatives of reciprocating states to identify their respective pre-enactment explorer applicants, and the coordinates of the application areas applied for by such applicants.

(c) *Initial processing.* On or before March 16, 1982, the Administrator will determine whether each domestic application is entitled to a priority of right based on pre-enactment exploration in accordance with § 970.301.

(d) *Identification of conflicts.* On March 17, 1982, the Administrator will meet with representatives of reciprocating states to exchange lists of applications accorded pre-enactment explorer priorities of right, and to identify any conflicts existing among such applications.

(e) *Notification to applicants of conflicts.* If the Administrator identifies a conflict, he will send, no later than March 25, 1982, written notice of the conflict to each domestic applicant involved in the conflict. The notice will:

(1) Identify each applicant involved in the conflict in question;

(2) Identify the coordinates of the portions of the application areas which are in conflict;

(3) Indicate that the applicant may request from the Administrator the coordinates of the application areas from any other applications filed with the Administrator or with a reciprocating state (such coordinates will be provided subject to appropriate confidentiality arrangements);

(4) State whether:

(i) Each domestic application involved in the conflict is in substantial or, if known, full compliance with the requirements described in § 970.209(b); and

(ii) Each foreign application involved in the conflict meets, if known, the legal requirements of the reciprocating state in which it is filed;

(5) Notify each domestic applicant involved in a conflict that he may, after March 25, 1982, and on or before July 20, 1982, resolve the conflict voluntarily according to paragraph (f) of this section, and that on or after July 21, 1982, any unresolved conflict shall be resolved in accordance with paragraph (j) or (k) of this section, as applicable; and

(6) In the case of an international conflict, include a copy of any applicable conflict resolution procedures in force between the United States and its reciprocating states pursuant to section 118 of the Act.

(f) *Voluntary resolution of conflicts.* Each U.S. applicant involved in a conflict may resolve the conflict after March 25, 1982, and on or before July 20, 1982, by:

(1) Unilaterally, or by agreement with each other applicant involved in the conflict, filing an amendment to the application eliminating the conflict; or

(2) Agreeing in writing with the other applicant(s) involved in the conflict to submit it to an agreed binding conflict resolution procedure.

(g) *Amendments.*—(1) Amendments must be filed in accordance with the requirements for applications described in § 970.200.

(2) The Administrator will:

(i) Accept no amendment prior to March 26, 1982;

(ii) Accord pre-enactment explorer priority of right only to amendments which:

(A) Pertain to areas with respect to which the applicant has engaged in pre-enactment exploration;

(B) Resolve an existing conflict with respect to that application;

(C) Do not apply for an area included in an application filed pursuant to § 970.301 which is accorded pre-enactment explorer priority of right or an application identified pursuant to § 970.302(b) which has been filed with a reciprocating state; and

(D) Are filed on or before June 18, 1982; and

(iii) Accord amendments which meet the requirements of this paragraph (g) the same priority of right as the applications to which they pertain.

(3) The area applied for in an amendment need not be adjacent to the area applied for in the original application.

(4) Amendments not accorded pre-enactment explorer priority of right may be filed as new entrant amendments under § 970.303.

(h) *Notification of amendments and new conflicts.* The Administrator will:

(1) No later than June 28, 1982, notify each reciprocating state of any amendment accorded pre-enactment explorer priority of right pursuant to paragraph (g) of this section and, in cooperation with such states, identify any new conflicts;

(2) No later than June 30, 1982, notify each domestic applicant who is involved in a new conflict. The notice will:

(i) Identify each applicant with whom each new conflict has arisen;

(ii) Identify the coordinates of each area in which the applicant is involved in a new conflict;

(iii) Indicate that the applicant may request from the Administrator the coordinates of each area included in an amendment accorded pre-enactment explorer priority of right pursuant to paragraph (g) of this section, or for which notice has been received from a reciprocating state (such coordinates will be provided subject to appropriate confidentiality arrangements);

(iv) Notify the applicant that he may, on or before July 20, 1982, resolve the conflict voluntarily according to paragraph (f) of this section, and that on or after July 21, 1982, any unresolved conflict shall be resolved in accordance with paragraph (j) or (k) of this section, as applicable; and

(v) In the case of an international conflict, include a copy of any applicable conflict resolution procedures in force between the United States and its reciprocating states pursuant to section 118 of the Act.

(i) *Government assistance in resolving international conflicts.* If, by June 29, 1982, the applicants have not resolved, or agreed in writing to a specified binding procedure to resolve, an original international conflict, or new international conflict, the Administrator, the Secretary of State of the United States, and appropriate officials of the government of the reciprocating state to which the other applicant involved in the conflict applied will use their good offices to assist the applicants to resolve the conflict. After July 20, 1982, any unresolved international conflicts will be resolved in accordance with paragraph (k) of this section.

(j) *Unresolved domestic conflicts.*—(1) *Procedure.*

(i) In the case of an original domestic conflict or a new domestic conflict, the applicants will be allowed until December 31, 1982 to resolve the conflict or agree in writing to submit the conflict to a specified binding conflict resolution procedure. If, by December 31, 1982, all applicants involved in an original or new domestic conflict have not resolved that conflict, or agreed in writing to

submit the conflict to a specified binding conflict resolution procedure, the conflict will be resolved in a formal hearing held in accordance with Subpart J of this part, except that:

(A) The General Counsel of NOAA will not, as a matter of right, be a party to the hearing; however, the General Counsel may be admitted to the hearing by the administrative law judge as a party or as an interested person pursuant to § 970.1001 (f)(2) or (f)(3); and

(B) The administrative law judge will take such actions as he deems necessary and appropriate to conclude the hearing and transmit a recommended decision to the Administrator in an expeditious manner.

(ii) Notwithstanding the above, at any time on or after July 21, 1982, and on or before December 30, 1982, the applicants involved in the conflict may, by agreement, request the Administrator to resolve the conflict in a formal hearing as described above.

(2) *Decision principles for NOAA formal conflict resolution.*

(i) The Administrator shall determine which applicant involved in a conflict between or among pre-enactment explorer applications or amendments shall be awarded all or part of each area in conflict.

(ii) The determination of the Administrator shall be based on the application of principles of equity which take into consideration, with respect to each applicant involved in the conflict, the following factors:

(A) The continuity and extent of activities relevant to each area in conflict and the application area of which it is a part;

(B) The date on which each applicant involved in the conflict, or predecessor in interest or component organization thereof, commenced activities at sea in the application area;

(C) The financial cost of activities relevant to each area in conflict and to the application area of which it is a part, measured in constant dollars;

(D) The time when the activities were carried out, and the quality of the activities; and

(E) Such additional factors as the Administrator determines to be relevant, but excluding consideration of the future work plans of the applicants involved in any conflict.

(iii) For the purposes of this paragraph (j), the word "activities" means the undertakings, commitments of resources investigations, findings, research, engineering development and other activities relevant to the identification, discovery, and systematic analysis and evaluation of hard mineral resources and to the determination of the technical and economic feasibility of commercial recovery.

(iv) When considering the factors specified in paragraph (j)(2)(ii), the Administrator shall hear, and shall (except for purposes of apportionment pursuant to paragraph (j)(2)(v) of this section) limit his consideration to, all evidence based on the activities specified in paragraph (j)(2)(ii) which were conducted on or before January 1, 1982, provided however that an applicant must prove at-sea activities in the area in conflict prior to June 28, 1980, as a pre-condition to presentation of further evidence to the Administrator regarding activities in the area in conflict.

(v) In making his determination, the Administrator may award the entire area in conflict to one applicant involved in the conflict, or he may apportion the area among any or all of the applicants involved in the conflict. If, after applying the principles of equity, the Administrator determines that the area in conflict should be apportioned, the Administrator shall (to the maximum extent practicable consistent with the Administrator's application of the principles of equity) apportion the area in a manner designed to satisfy the plan of work set forth in the application of each applicant which is awarded part of the area.

(vi) Each applicant involved in the conflict must file an amendment to its application if necessary to implement the determination made by the Administrator.

(k) *Unresolved international conflicts.*—(1) If, by July 21, 1982, all applicants involved in an original or new international conflict have not resolved that conflict, or agreed in writing to submit the conflict to a specified binding conflict resolution procedure, the applicants shall proceed in accordance with the conflict resolution procedures agreed to between the United States and its reciprocating states pursuant to section 118 of the Act.

(2) Each applicant whose application is involved in an international conflict shall be responsible for actions required in the conduct of the conflict resolution procedures, including bearing a proportional cost of implementing the procedures, representing himself in any proceedings, and assisting in the selection of arbitrators if necessary.

(l) *Continued opportunity for voluntary resolutions.* Each applicant may resolve any conflict by voluntary procedures at any time while that conflict persists.

(m) *Effect on priorities of new entrants.*—(1) A pre-enactment explorer is entitled to a priority of right over a new entrant for any area in which the pre-enactment explorer has engaged in exploration prior to June 28, 1980 if, with respect to that area, the pre-enactment explorer files an application in accordance with this part on or after January 25, 1982 and on or before the closing date for pre-enactment explorer applications established under § 970.301(b).

(2) Any amendment which is filed by a pre-enactment explorer on or before June 18, 1982, relates back to the date of filing of the original application and shall give the pre-enactment explorer priority of right over all new entrants if the amendment is accorded a pre-enactment explorer priority of right under paragraph (g) of this section.

§ 970.303 Procedures for new entrants.

(a) *Filing of new entrant applications or amendments; priority of right.* New entrant applications or amendments must be filed in accordance with § 970.200. A new entrant may file an application or amendment only at or after 1500 hours G.m.t. (11:00 a.m. EDT) June 30, 1982. All applications or amendments filed at that time shall be deemed to be filed simultaneously, and, if in accordance with § 970.209, shall have priority of right over any application or amendment filed subsequently. Priority of right for any application or amendment filed after that time will be established as described in § 970.209.

(b) *Conflicts.*—(1) If a domestic conflict exists between or among new entrant applications or amendments, the applicants involved in the conflict shall resolve it.

(2) If an international conflict exists between or among new entrant applications or amendments, the conflict shall be resolved in accordance with applicable conflict resolution procedures agreed to between the United States and its reciprocating States pursuant to section 118 of the Act. The Administrator will provide each domestic applicant involved in an international conflict a copy of any such procedures in force when the Administrator issues notice to the applicant that an international conflict exists. Each applicant whose application is involved in an international conflict shall be responsible for actions required in the conduct of the conflict resolution procedures, including bearing a proportional cost of implementing the procedures, representing himself in any proceedings, and assisting in the selection of arbitrators if necessary.

§ 970.304 Action on portion of applications or amendments not in conflict.

If an applicant so requests, the Administrator will proceed in accordance with this part to review that portion of an area included in an application or amendment that is not involved in a conflict. However, the Administrator will proceed with such review only if the applicant advises the Administrator in writing that the applicant will continue to seek a license for the proposed exploration activities in the portion of the application area that is not in conflict. To the extent practicable, the deadlines for certification of an application or amendment and issuance of a license provided in § 970.400 and § 970.500, respectively, will run from the date of filing of the original application."

[FR Doc. 82-3428 Filed 3-8-82; 8:45 am]

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Tuesday
February 9, 1982

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention: Meeting and Hearings on 1982 Program Priorities; Formula Grants for Juvenile Justice: Hearings and Request for Comments on Proposed Implementation of Valid Court Order Amendment

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet on Monday, March 15, 1982, in the Hubert H. Humphrey Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. The meeting will be open to the public and will begin at 9:00 a.m.

This meeting will feature a presentation and discussion of research concerning Native American Youth. Immediately following this meeting, the public hearing to obtain comments concerning the Coordinating Council program recommendations and priorities for 1982 is scheduled.

For further information, contact Mr. William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, N.W., Room 442, Washington, D.C. 20531, Telephone: (202) 724–7751.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82–3178 Filed 2–8–82; 8:45 am]

BILLING CODE 4410–18–M

Coordinating Council on Juvenile Justice and Delinquency Prevention; Program Priorities 1982

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Department of Justice.

ACTION: Comments and public hearings on proposed Coordinating Council program priorities for 1982.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention, an interagency Cabinet level organization of the Federal government (See Supplementary Information, Section I), is requesting comments from State and local officials, private and public youth-serving organizations, other interest groups and private citizens on the substantive priorities and recommendations under Council consideration for action during 1982. The four priority areas under consideration are: Schools and Delinquency, Substance Abuse, Treatment Alternatives, and Youth Development. Precis of the issue papers summarizing the literature and Federal involvement, along with draft recommendations for Council action in each of the areas, are presented under Supplementary Information (Section II A–D). Complete issue papers are available from OJJDP upon request.

Results of the hearings and written comments will be presented in a report to the Council at its April 1982 meeting, at which time priorities and recommendations for Council actions beginning in 1982 will be established. The findings and recommendations will become part of the Council's workplan. Findings from the hearing and written comments will be included in the Sixth Analysis and Evaluation of Federal Delinquency Programs that is presented annually to the President and Congress.

Interested parties are urged to provide either written comments and/or oral testimony at either of the two hearings in Washington, D.C. or Denver, Colorado.

DATES: Requests to testify must be communicated to OJJDP in writing by February 22, 1982. Written comments or copies of testimony may be submitted at the hearing or mailed to OJJDP and received on or before March 4, 1982, in order ensure consideration. Public hearings will be held in Washington, D.C. on March 15 and 16, 1982; beginning at 10:00 a.m. on March 15 and at 9:00 a.m. on March 16th. Hearings will also be held in Denver, Colorado on March 22 and 23, 1982. These hearings will begin at 9:00 a.m. OJJDP will be responsible for scheduling the time and length of individual testimony.

Locations

Public hearings held on March 15th and 16th will be held in the Department of Health and Human Services' Hubert Humphrey Building, 200 Independence Avenue, S.W., in the Hubert H. Humphrey Auditorium, Washington, D.C.

The March 22nd and 23rd public hearings will held in Denver, Colorado at the Federal Office Building, Room 239, 1961 Stout Street, Denver, Colorado 80294.

Procedure

The Coordinating Council on Juvenile Justice and Delinquency Prevention invites all interested parties to comment on the priorities and recommendations under consideration for action by the Coordinating Council beginning in 1982.

Persons can comment on the priorities and recommendations by presenting written and/or oral testimony. All persons intending to provide oral testimony must make their intention known to OJJDP by February 22, 1982. Intent to present oral testimony may be communicated in writing or by phone to the contact person noted below. Your intent letter should include the location you would like to present your testimony. Persons desiring to submit written comment only will have until March 24, 1982 to do so. Persons presenting written comments or testimony should supply five (5) copies. Notice of intent to testify, as well as written comments, should be communicated to William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 442, Washington, D.C., 20531, 202/724–7751.

OJJDP will notify all persons requesting to provide oral testimony of the date, time, location, and length of time allocated for their testimony by March 1, 1982. Because the Office is conducting two sets of hearings (Valid Court Order and Coordinating Council), we will, where possible, schedule those organizations desiring to make presentations on both issues on the second day of the Coordinating Council hearings.

Conduct of Hearings

Mr. Charles A. Lauer, Acting Administrator of OJJDP, or his designee, will preside at the hearings. Appropriate Coordinating Council members or staff may join Mr. Lauer to form a panel. This will not be a judicial or evidentiary-type hearing and there will be no cross-examination. However, if time permits, clarifying questions or discussion may follow a presentation.

Any person who wishes to have a question answered at the hearing may submit the question in writing at the registration desk. The presiding official will determine whether the question is relevant and whether time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding official.

A transcript of the hearings will be made. The entire record of the hearings, including the transcript, will be retained by OJJDP and made available to the public. Any person may purchase a copy of the transcript from the reporter.

FOR FURTHER INFORMATION CONTACT:
Mr. William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, N.W., Room 442, Washington, D.C. 20531, 202/724–7751.

SUPPLEMENTARY INFORMATION:

I. Background on Federal Coordinating Council
II. Program Priority Areas and Recommendations for Consideration
A. Schools and Delinquency

B. Substance Abuse
C. Treatment Alteratives
D. Youth Development

I. Background on Federal Coordinating Council

The Coordinating Council on Juvenile Justice and Delinquency Prevention was established by Section 206(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415) as amended by the Juvenile Justice Amendments of 1980 (Pub. L. 96–509). The Council is charged with the responsibility "to coordinate all Federal juvenile delinquency programs." The Council is an independent organization in the Executive branch of the Federal government. It provides a central focus to the delinquency prevention and control efforts of the myriad of Federal justice, human services, education, and other programs.

The Council is composed of the Attorney General; the Secretary of Health and Human Services; Secretary of Labor; Secretary of Education; Secretary of Housing and Urban Development; the Director of the Office of Drug Policy; ACTION; Bureau of Prisons (Justice); Commissioner of the Bureau of Indian Affairs (Interior); Director for the Office of Special Education and Rehabilitation Services (Education); Commissioner for the Administration of Children, Youth, and Families (HHS); Director of the Youth Development Bureau (HHS); Director of the Office of Justice Assistance, Research and Statistics; Administrator of the Law Enforcement Assistance Administration; Administrator of OJJDP; Deputy Administrator of the Institute for Juvenile Justice and Delinquency Prevention; and Director of the National Institute of Justice; and representatives of other such agencies as the President shall designate. Membership of the Coordinating Council was significantly increased with passage of the 1980 amendments. The Attorney General serves as Chair of the Council; the Administrator of OJJDP serves as Vice-chair and acts as Chair in the absence of the Attorney General.

The Council's statutory obligations under the JJDP Act are:

1. The Council must meet at least quarterly. (Section 206(d))

2. The Council must "make recommendations to the President and to the Congress at least annually with respect to the coordination of overall policy and development of objections and priorities for all Federal juvenile delinquency programs and activities." As a part of this requirement, the Council is specifically authorized to review the degree to which Federal agencies expend funds in a manner that is consistent with the provisions of the JJDP Act concerning status offenders and the separation of juveniles from adults in corrections institutions. "The Council shall review, and make recommendations with respect to any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented by the Council." (Section 206(c))

3. The Council is to assist and advise the Administrator of OJJDP in his or her responsibilities for implementing overall policy and developing objectives and priorities for all Federal deliquency efforts. Specifically, the Council is to assist the Administrator in developing an "annual analysis and evaluation" of and a "comprehensive plan" for all Federal juvenile deliquency programs. Recommendations in the plan are to address "modifications in organization, management, personnel, standards, budget requests, and implementation plans." The President is required to respond to these recommendations within 90 days by submitting a detailed report to the Congress and to the Council.

4. The Council shall receive annually from each Federal agency which administers a juvenile deliquency program, a "juvenile justice development statement which shall include an analysis of the extent to which the juvenile justice programs of the agencies submitting such a statement conforms and further Federal juvenile deliquency prevention treatment goals and policies" (Section 204(1)1–3.)

The Juvenile Justice Amendments of 1980, made several statutory changes in the Council's mandate. These amendments added nine new subcabinet members to the Council; required the Council to report to the Congress, as well as to the President; required review by the Council of joint funding proposals involving the Office of Juvenile Justice and Delinquency Prevention; required meetings at least quarterly rather than four times a year; and required, rather than permitted, personnel and staff support for Council activities, up to a maximum authorization of $500,000 annually.

The Coordinating Council held four meetings in 1981. It began to develop an agenda for 1982 and assumed an active role in issues such as serious and violent juvenile crime; service needs of Native American youth; and research and development, technical assistance and training priorities of Council member agencies for fiscal 1982. With continued strong leadership, the commitment of the statutory Council members, and continued staff support, the Council is in a position to achieve many of the goals that Congress and the Council members have set. These goals include:

- Develop a consistent Federal posture toward juvenile justice and delinquency prevention that can quide future development of Federal youth programs;
- Focus Federal efforts on effective approaches and eliminate ineffective programs;
- Enhance the sharing of knowledge about effective approaches among existing Federal programs;
- Assess the need to modify, consolidate, or eliminate existing programs or create new ones;
- Reduce duplication and conflict among Federal programs;
- Orchestrate an efficient allocation of staff and financial resources in researching, planning, implementing, evaluating, and disseminating juvenile justice and delinquency prevention approaches;
- Reduce inconsistency and complexity of Federal statutes, regulations, and guidelines; and
- Facilitate State and local government utilization of Federal resources to meet local youth needs.

The Council's 1982 Program Plan

At the July 29 meeting, the Coordinating Council agreed to undertake a structured process to develop a program plan for calendar 1982. This plan would include certain issues that would receive high priority attention by the Council. The Council instructed its staff to undertake two sets of acivities before the September meeting:

- Research prior Council meeting minutes, prior annual Analysis and Evaluation reports, and other documents to identify priority issues requiring Council attention; and
- Conduct interviews with key representatives of Council member agencies and significant others to obtain their views on priority issues and appropriate roles for the Council.

The results of that process were discussed by the Council at its September meeting. Based on the interviews and other research, the Council agreed that four topic areas merited further research and discussion:

1. Substance abuse;
2. Schools and delinquency;
3. Youth development;
4. Treatment alternatives;

The staff developed issue papers, summarizing the literature and Federal involvement, and recommendations for

Council action in each of the areas. These issue papers and recommendations form the basis for selection of final issues and areas upon which to concentrate Council attention.

At the December 16th meeting, the Council asked for a review of the issue papers and the recommendations by representatives of State and local governments and interest groups. Subsequently, Council members suggested agencies and organizations whose input should be sought in the development of the program plan. Hearings have been scheduled for interest groups and State and local officals to present their views on the Council's program plan. Opportunity for these organizations and officials to respond in writing is also being provided.

The staff will present a report to the Council at its April 1982 meeting on the results of the hearings and written comments. These will assist the Council in establishing its final list of 1982 priorities. Council staff will prepare a workplan to be submitted to the Council for its final approval.

This process provides Council members with the broadest possible scope of input for their deliberations. It is clearly in line with the Council's mandate to assist Federal agencies establish priorities for juvenile justice and delinquency prevention efforts. At the same time it permits State and local governments and agencies representing State and local governments to become familiar with the Council and to begin to use the Council as a mechanism to have access to Federal agency program activities.

II. Program Priority Areas and Recommendations for Consideration

A. Schools and Delinquency

During adolescence, school is the single most influential institution with respect to delinquent behavior. Data indicates that school-related variables are among the strongest predictors of both drop-out and delinquency for males and females, and that delinquency increases for students who remain in school under conditions of failure and alienation. Educational practices and policies can provide increased opportunities for all youth to attain academic success, become involved in conventional activities, and interact with a greater number of conventional others. By enhancing skills acquisition and the consistancy of rewards, schools can provide the necessary conditions for all students to become involved in conventional activities and thus develop the commitment and attachment to the social order necessary to prevent alienation and delinquency.

Background

School violence, vandalism, truancy, class disruption, and assaults upon students and teachers are problems in themselves and symptoms of other problems that plague the school system. Many students fail to respond to the educational process when they discover that their needs cannot be met, they become alienated, they fail academically, and end their school experience—or remain in school to become "problem students." Many are suspended, placed in detention, or often expelled—rejected as unsuitable for the school environment.

The acting-out behavior of many students is an indication of other problems—low self-esteem, low academic performance, problems at home or with peers—that lessen the attachment and commitment to school and ultimately to the community as a whole. Schools can provide all youth the opportunities to experience success by broadening the definition and number of tasks and rewards that are sanctioned as valuable. Opportunities for students of low socioeconomic status to achieve according to their abilities and interests should be addressed and expanded. By involving students in the governance process of the school and instructing them in the skills to do so successfully, they can learn how to contribute to their communities as adults. Disciplinary procedures should be made consistent and fair in order for students to develop belief in the system. Learning problems appear to increase the likelihood that a young person will become a delinquent. At the same time, the diagnosis of a learning problem should not be used to label a child nor to force a child into lower school achievement groups. A recent study indicates that juveniles with learning disabilities are more likely to be involved in delinquent behavior and to be arrested and adjudicated than are non-learning disabled youth. Therefore, early special education services are necessary to prevent future delinquency.

Another approach to improving opportunities for young people at risk is developing school-community linkages. Many communities have taken steps to open the school system both to student participation in the community for academic experience and credit and to bring social and health service agencies and private industry into the school to provide reinforcement. Partnerships like these can provide increased opportunities for young people to experiment with positive adult roles.

Summary of Key Strategies

Key strategies through which schools can encourage positive youth behavior and thereby reduce delinquency are:

- Reduce school violence, vandalism, class disruptions and assaults on students and teachers; reduce use of suspensions and expulsions to control such behavior.
- Develop processes that allow students experiencing academic failure to have positive academic experiences.
- Initiate efforts to increase student involvement in governance processes within schools by providing skill training for successful participation.
- Expand efforts to develop vocational opportunities for students not planning on a college education.
- Recognize the relationship between learning and other disabilities; and develop appropriate strategies to reduce those disabilities and the risk of delinquent behavior.
- Increase the linkages between schools and community organizations to expand the opportunities for students to learn through work by broadening the definition of tasks, mentors and role models in the community, and give academic credit for vocational experiences.
- Increase collaboration and strong partnerships with family, local, and state agencies in managing the educational process.
- Promote community educational strategies to develop wider access to services for youth and to improve the relationships between schools and the community.

Recommendations for Council Action

1. *Interagency effort to reduce and control violence and vandalism in schools.* The Council should examine existing and planned Federal programs designed to prevent, reduce, and control the violence and vandalism occurring in schools. The Council should ascertain what programs and practices appear most promising and coordinate the planning and implementation of Federal information transfer, program funding, and research activites.

Possible Council Activities

The Council should survey the Federal agencies most directly involved in the prevention, reduction, and control of school violence and vandalism, i.e., ED, HUD, HHS, DOL, and OJJDP. The survey should also include the coordination of future programs, including joint funding, replication of exemplary programs, and information dissemination. In addition, the Council's efforts could include coordinating the development of training

and technical assistance programs for faculty, administrators, and other school staff in the most promising academic practices and encourage the development of programs for youth participation in school decisionmaking. The Council should review the progress and results of the National School Enhancement Research and Development project funded by OJJDP/NIJJDP, and facilitate the replication and continuation of this comphrensive model for academic improvement and school delinquency prevention. The Council should review the results of the OJJDP-DOE school crime program and its evaluation and consider the value of the school team approach for improving the school climate and the reduction of delinquency and school disruption.

Expected Outcomes

Coordination of Federal agency activities in the area of violence and vandalism in the schools and the development of a compendium of data on existing and planned projects and models to facilitate the replication of successful approaches. Data should be used to suggest operational goals for various Federal agencies.

2. *Facilitation of the Development of School-Based Approaches to Preventing Juvenile Delinquency.* The Council should examine existing school-based programs designed to prevent delinquency and coordinate efforts to promote further refinement, demonstration and dissemination of the most promising programs and practices.

Possible Council Activities

The Council should review the results of DOE and NIJJDP's Law-Related Education programs and consider the applicability of LRE to youth development, and more specifically as an integral component of the educational process. The Council should also review the results of the OJJDP Alternative Education Program and its evaluation, and assess the value of such approaches for delinquency control and upgrading the quality of educational opportunities. The progress and results of the OJJDP/NIJJDP Delinquency Prevention Research and Development Program should be monitored to assess the efficacy of this comprehensive model for youth development and school crime prevention and reduction.

Expected Outcomes

The development of interagency, multi-institutional approaches to youth development and prevention of juvenile delinquency. Dissemination of the most promising models and strategies.

3. *Interagency coordination of school-based youth-community programs.* The Council should collaborate with all appropriate Federal agencies to facilitate the development of youth-community programs within the school environment. Strategies selected should emphasize youth development and an increased utilization of the school as a community center for the residents of the community and its neighborhoods.

Possible Council Activities

The Council should facilitate collaborative efforts among DOL, ACTION, OJJDP, the Youth Development Bureau, and other Federal agencies with related programmatic concerns to develop and facilitate youth-community programs located in schools and/or in conjunction with school activities. The youth-community programs suitable and desirable for this type of project include health services, social services, community businesses, and community center projects. Non-traditional ways in which students could be utilized in a greater capacity in their community through employment and educational opportunities that exists in the community should be investigated, encouraged and supported.

Expected Outcomes

The use of existing models and the development of new approaches to increased participation of youth in their communities through the coordinated efforts of Federal agencies. Outcomes can include jointly funded experimental programs for new approaches and supportive use of resources among agencies to sustain financial support for community-school programs.

4. *Facilitation of research and development on learning disabilities.* The relationship between learning disabilities and delinquency should be examined by the Council in 1982. In addition, the Council should encourage appropriate Federal efforts in this area.

Possible Council Activities

The Council should direct and facilitate the efforts of NIE, NIJJDP and NIMH to conduct further research in the area of learning disabilities and to further develop and implement programs for learning disabled youth. Specifically, OJJDP should disseminate the results of the Learning Disabilities and Juvenile Delinquency Research and Development Program, research the relationship between learning disabilities and serious/violent delinquency, further develop training materials and sponsor training programs for juvenile justice system personnel. HHS and DOE should the development of programs, based on the ACLD remediation model (tested under the NIJJDP Learning Disabilities and Juvenile Delinquency R&D Program), at the local level through expansion, demonstration, and evaluation of the model's applicability to youth not involved in the juvenile justice system. This work should include improvement of diagnostic techniques, training programs, and a broad range of public awareness activities.

Expected Outcomes

Interagency coordination of research and development activities in the area of learning disabilities. Dissemination of increased knowledge and awareness of the relationship between delinquency and learning. Development of more effective remediation programs to improve the capabilities of LD youth generally, and reduce the likelihood of their involvement in delinquency.

B. Substance Abuse

Substance abuse by juveniles is a widespread and continuing problem despite many large scale efforts designed to curb it and to provide treatment for abusers. Presented here are overviews of the issues and the relationship between juvenile substance abuse and serious and violent crime.

Background

Emphasis in this area focuses on the complex relationship between substance abuse and serious juvenile crime. Alcohol, the substance most frequently abused by juveniles, is often implicated in violent criminal behavior. Marijuana, the second most widely used substance, tends not to be associated with violence. Drug use does not appear to induce crime. Rather, most research indicates that drug use and criminal behavior patterns form a mutually reinforcing relationship.

Youth are the primary target of prevention and education. The types of approaches and the results of demonstration projects have not been widely disseminated. In some cases, promising projects are not replicated widely because potentially interested States or communities have no reliable source of information on what approaches have succeeded or failed elsewhere. An additional preventive measure is the enactment and enforcement of legislation at the appropriate levels to curb the purchase, use, and abuse of substances by juveniles.

Prevention and treatment programs for the youthful offender who is also a substance abuser have often been complicated. Service eligibility and

regulatory guidelines have obstructed efforts to deal effectively with this proglem.

Summaries of Key Strategies

Key strategies in preventing and treating substance abuse by juveniles are:

- Coordinate existing and planned efforts in the area of substance abuse prevention and education.
- Develop regulatory and legislative strategies to curb and control juvenile substance abuse.
- Develop and use treatment models targeted for the youthful offender who is also identified as a substance abuser.
- Enhance the role of Federal agencies in the development, improvement and replication of prevention and treatment strategies.

Recommendations for Council Action

1. *Coordination of drug abuse prevention and education.* The Council should undertake an effort to examine existing strategies regarding drug abuse prevention and education utilized by Federal, State, and local governments, the business community, and volunteer organizations. This effort should include coordination of research and development strategies to determine which existing or proposed strategies demonstrate the most promise.

Possible Council Activities

After an examination of the variety of planned and on-going projects in the areas of demonstration, research and development, and technical assistance and training, the Council should develop recommendations—for all organizations involved—for improving and coordinating planning, funding, and evaluating projects related to juvenile substance abuse and prevention. Special attention should be given to those activities culminating in the design of replicable models, strategies, and recommendations for future efforts, and those that facilitate the possiblities of partnerships between the public and private sector entities.

Expected Outcome

Increased consistency in the national effort with regard to drug abuse prevention and education.

2. *Model State legislation to curb juvenile alcohol abuse.* The Council should examine potential strategies States could employ, through their statutory and regulatory powers, to reduce access to alcoholic beverages by juveniles. Among the efforts the Council should examine are existing model legislation regulating the sale and consumption of alcohol to juveniles, State experiences with the control and sale of alcohol to juveniles, and other potential intervention strategies to restrict the sale of alcohol.

Possible Council Activities

The Council could convene a forum of key Federal and State agency officials with responsibility in this area. Federal agencies with enforcement responsibility could provide assistance and information on existing strategies. Proceedings of the forum could provide the basis implementation at the State level.

Expected Outcome

Model State legislation and regulations controlling the sale of alcohol to juveniles.

3. *Treatment alternative for alcohol abusing serious juvenile offenders.* The Council could undertake an interagency effort to design, develop, and implement a limited, experimental program to provide treatment services to serious juvenile offenders who are also alcohol abusers. An initial effort should be undertaken to determine what approaches have been employed in the treatment of this population and to evaluate the effectiveness of those approaches.

Possible Council Activities

The Council could encourage collaboration among agencies in the development of research and development activities, based on existing information and the need for future research. Efforts should be made to disseminate information on existing approaches that have proven effective and ascertain potential approaches to treatment that offer promise for success. The final stage should be the development of a limited program for field testing of promising strategies.

Expected Outcomes

The development of a limited, experimental program to treat serious juvenile offenders who are alcohol abusers.

4. *Examination of Federal statutory and regulatory barriers to treatment of substance abusers.* The Council should examine all Federal programs that have the potential to serve substance abusers to determine which, if any, have statutory, regulatory, or guideline barriers that result in the denial of service by those programs to drug or alcohol abusers.

Possible Council Activities

A survey could be conducted of all Federal programs designed to provide services to the youthful alcohol and drug abuser in order to examine the statutory, regulatory, and legislative barriers to effective service delivery. In addition, a hearing could be held to convene Federal, State and local program administrators to identify and develop strategies for the redesign, reform, or repeal of the impediments to the delivery of services to this target group.

Expected Outcomes

Increased availability and improved delivery of services designed for juvenile substance abusers.

C. Treatment Alternatives

Two issues that confront the Federal financial and technical assistance system for youth at risk are:

1. The extent of problems and service needs posed by certain youth—status offenders, dependent, neglected and abused youth, runaways, and delinquents, among others; and
2. Organizational and institutional issues that confront the State and local service-delivery system attempting to serve youth at risk. The reliance on categorical Federal funding by agencies serving those youth by State and local public and private sector agencies has resulted in a patchwork quilt system that often must mislabel in order to serve or refuse to provide service, because the youth does not meet the specified target population or eligibility criteria.

Background

The Department of Health and Human Services has estimated that 5.6 million children need social services. These include youth who are learning disabled, mentally retarded, emotionally disturbed, physically, sexually, and psychologically abused, or runaways and other youth at risk. There are 400,000 youth in residential placement and another 400,000 in foster care.

The juvenile justice system has responsibility for many of these youth. Over 2 million arrests of juveniles are recorded every year. Slightly more than 10 percent of the juvenile population is arrested each year. Young people, ages 10 to 17, who constitute 14 percent of the total population, account for 39 percent of all arrests. More specifically, they account for 20 percent of all arrests for violent crime and 44 percent of arrests for serious property crime. Over 250,000 status offenders are processed through the nation's juvenile courts each year.

The organization of the Federal financial and technical assistance system for these youth confuses its operators, mesmerizes those who run programs, and often leads to

counterproductive results for those it is supposed to serve—the nation's youth. The *Fifth Analysis and Evaluation* counted 45 Federal programs in six departments and one independent agency that target services for delinquency prevention, reduction, or control. Often Federal programs hold similar objectives without formal reference to any of these goals. The *Analysis* catalogued 64 target groups with 111 eligibility criteria in those 45 programs alone.

The State and local service-delivery system itself is confused, often duplicative and overlapping. The reult, combined with the fractured Federal effort, is a service non-system that often becomes more involved in its own internecine struggles. The result for youth is less service, and less commitment to efficient use of scarce resources. Juvenile courts run treatment services in many jurisdictions. This results in the court having exercising protection and control functions. The capacity of juvenile court judges to order treatment varies among States. The end result of this division is often lack of communication, even hostility, between executive and legislative branches that further hinders efforts at effective service delivery.

Summary of Key Strategies

Key strategies in developing and providing treatment alternatives are:

- Identify programs, approaches, and techniques for effective service delivery and service coordination and integration.
- Concentrate resources to address the needs of particular youth.
- Reduce eligibility criteria, target populations, and the administrative burdens imposed by the Federal financial and technical assistance system at the State and local level.
- Maintain adequate resources for youth under the jurisdiction of the juvenile justice system whether in institutions or community programs.
- Initiate a need for a dialogue among Federal, State, and local elected and appointed officials to gain agreement on strategies, provide feedback on the operational impact of Federal programs, and assure the provision of relevant technical assistance, training, research, and information.
- Include public, private, and voluntary sector agencies in the process of developing Federal policy and programs and recognize the role of private, foundation, charitable, corporate, and other sources of funding in the design of Federal policies and programs.
- Reduce the mislabeling of youth that often occurs to provide services or to facilitate the service-delivery system's operations; recognize each youth's needs and the development of mechanisms to meet those needs.
- Create a climate where the goal is the strengthening, wherever possible, of a family unit and the reunification of the youth with his or her family.
- Develop a Federal policy to assist in the reduction and the control of serious and violent juvenile crime; and
- Assist State and local governments to develop effective reintegration strategies for youth returning from secure detention, correctional, mental health, or developmental disabilities facilities.

Recommendations for Council Action

1. *Removal of barriers to integrated service delivery.* The Council should examine the barriers posed by Federal programs serving youth at risk, and barriers to coordinated or integrated service delivery at the State and local level. This effort should involve a review of Federal statutory, regulatory, and guideline requirements that unreasonably diminish the capacity of State and local public and private agencies to provide services to status offenders, neglected, dependent and abused children, runaways, and delinquents who may need services from other programs. Such an effort should include attempts to reduce the number of eligibility criteria and to develop standard definitions for target populations.

Possible Council Activities

The Council should examine Federal Law, regulations, and guidelines of programs serving the target populations listed above; hold hearings and forums in conjunction with the Advisory Commission on Intergovernmental Relations and representatives of State and local governments on the impact of Federal laws and regulations upon their delivery systems; develop information packages on successful State and Local coordination efforts and successful attempts by Federal agencies to reduce regulatory barriers to integrated service delivery; and prepare a report to the Office of Management and Budget on legislative and regulatory changes that could be undertaken to reduce such barriers.

Expected Outcome

Changes and reductions in Federal law and regulations that adversely impact State and local service delivery in order to increase available services for youth at risk.

2. *Development of community reintegration strategies.* The Council should solicit, compile, and disseminate information on successful programs that attempt to reintegrate juveniles returning from secure facilities into the community. An examination of Federal agencies policies and the impact of those programs at the State and local level regarding reintegration should be conducted.

Possible Council Activities:

The Council could document successful programs targeted at youth returning to their communities from secure detention, correctional, mental health, and developmental disabilities facilities. Federal agency policies, data and other information concerning reintergration needs and approaches could be collected and analyzed. A forum could be conducted involving State and local governmental elected and appointed officials to discuss the implications of reintegration strategies on their programs and services.

Expected Outcomes

An increase of programs and services available to persons returning from secure detention and a consistent Federal approach to promoting successful reintegration to the community.

3. *Examination of the role of non-governmental agencies and individuals in Federally funded programs.* The Council should examine successful programs that involve private and voluntary sector organizations in services to youth. This examination should consist of the integration of Federal and other public sector funds with corporate, foundation, and other philanthropic sources. The Council should explore roles volunteers can undertake in federally funded youth programs as well as programs and policies that promote the use of volunteers. A complilation of successful efforts to use volunteers in roles as advocates and guardians should be undertaken.

Possible Council Activities

The Council should gather Federal policies relating to non-public sector funding in programs affecting youth and examine barriers to the use of such funding. The Council should gather information and models of successful programs that have used youth in the devising, implementation and operation of programs. Similary, the Council should examine the role of volunteers in federal youth-serving programs and examine the potential role the Federal

government could take in facilitating the use of volunteers generally and particularly in such non-traditional roles as guardians-ad-litem, advocates, and ombudsman. The results of this examination of Federal agency programs, policies, and practices should be disseminated in a manual; and a report outlining successful approaches and making recommendations for changes in Federal statutes, regulations, guidelines and other policies should be prepared.

Expected Outcomes

Increased opportunities for multiple funding of youth programs to lessen the effects of Federal funding cutbacks; the establishment of mechanisms to increase the use of volunteers by Federal programs; and increased opportunities for youth to fulfill those volunteer roles.

4. *Development of interagency efforts to reduce and control serious violent juvenile crime.* the Council should undertake an effort to develop information, research and potential programs that could be field-tested to reduce the amount of violent crime and other serious crime caused by juveniles. This examination of serious and violent juvenile crimes should examine the value of adult versus juvenile prosecutions and the efficacy of secure institutional versus community-based programs for these offenders.

Possible Council Activities:

The Council should gather information and statistics on the prevalance, extent of and location of serious and violent juvenile crimes. The information should include a record of Federal efforts in this area, successful programs at the State and local level the policies, practices and programs of Federal agencies regarding work with chronic, serious and violent juvenile offenders. This information should be presented to an interagency panel to consider future program, research, technical assistance and training efforts the Federal government could undertake to assist State and local governments and private non-profit agencies in cooperative ventures to reduce and control such behavior.

Expected Outcomes

An interagency research and program effort to develop potential model strategies to assist State and local public and private agencies reduce serious and violent juvenile crime.

D. Youth Development

A strategy of youth development is based on the belief that negative experiences of alienation, helplessness, and frustration lead to withdrawal from the community and to the increased possibility of undesirable and destructive acts. Conversely, youth who perceive that they have access and involvement in socially gratifying and desirable roles are more likely to become useful adults.

Background

Whereas traditional program focus has been on the individual juvenile, a youth development approach looks to the possibility that failures of the social system and its institutions are the causes of youth problems. The goals of these institutions, therefore, must be directed at increasing access to desirable and conventional roles. These roles must be identified and supported at all levels—from the Federal government to the neighborhood and the family.

The process impacts on all the institutions that affect youth. Information on the experiences of the wide variety of institutions and their practitioners must be collected and examined. A collaborative effort is necessary for the implementation of a policy that necessarily influences and is influenced by the institutions concerned.

The family has undergone numerous changes over the past fifty years. The growth of leisure time, the development of two income families, and the increase of divorced and single parent families have reshaped the family into new, different, and often problematical structures. The family is the primary socializing agent for children and can, therefore, be a basis for a youth development policy that could reduce many of the social problems caused by the interaction of youth and society.

Similarly, work is the main arena in which people establish a sense of postive self image and in which personal legitimacy may be gained or lost. Current unemployment and underemployment rates for young people deprive society of valuable resources and youth of opportunities to develop the positive self-image and sense of identify so crucial to adult success.

Summary of Key Strategies

The strategies pertinent to youth development are:

- Determine and integrate the roles of the wide variety of governmental and private institutions in the coordination of activities designed to structure a youth development policy and programs for effective youth involvement in their communities.
- Exchange, examine and disseminate information from practitioners from the institutions influencing the lives of young people.
- Increase the emphasis upon and involvement of the family as the primary socializing institution, including reunification of youth in alternative residential placements with their families where feasible.
- Explore the role of employment and career experimentation for youth in a time of economic change.

Recommendations for Council Action

1. *Federal role in the improvement of youth-community involvement.* The Council should examine potential activities for the Federal government to influence in the identification of new and meaningful roles for youth in their communities.

Possible Council Activities

The Council could examine existing Federal programs in agencies such as OJJDP, OHDS, ACTION, DOL and USDA to develop mechanisms for coordinating program resources and information. The examination should focus on the organizational and interorganizational changes required, institutional barriers to constructive youth participation, and the social and economic changes affecting family life.

Expected Outcomes

The development of a Federal youth policy for all Federal efforts in this area. In addition, the identification of existing and planned activities that provide for more substantive and meaningful roles for the nation's youth.

2. *National forum on youth development issues.* The Council could encourage and facilitate the exchange of information among the various agencies and organizations interested in youth involvement in the community and the wider society.

Possible Council Activities

The Council should convene representatives of agencies from Fedeal, State, and local governments, the private sector, and from the community-based organizations concerned with the improvement and promotion of effective youth advocacy and participation.

Expected Outcomes

A comprehensive report of the forum's discussion and development of recommendations on the role of youth in society and the Federal responsibilities for programs and activities designed to reach the goals of a youth development strategy.

3. *Examination of Federal policy regarding families.* The Council should undertake, possibly in conjunction with the White House Conference on Families, an examination of the impact of Federal law, regulations, and various agencies' policies regarding families. The Council should examine those policies and make recommendations to various Federal agencies on efforts that could be taken to strengthen the ability of families to assist their children.

Potential Council Activities

The Council should collect data and information, laws, and other policy statements on Federal programs that impact on families. It could perform an analysis of that data and suggest operational goals for various Federal agencies.

Expected Outcomes

A more consistent Federal policy with respect to families and youth.

4. *Documentation of programs that assist youth in employment and career development.* The Council should gather information on existing programs and strategies that assist young people find employment opportunities and explore interests, either through the school or other community efforts. The Council should examine two research questions: (1) Do young people have access to existing jobs? and (2) Are the work settings supportive of positive social development through the provision of appropriate social rewards?

Possible Council Activities

The Council should gather information on Federal programs and policies regarding employment and career exploration and convene a panel of Federal agencies concerned with those programs to develop an interagency effort to coordinate the Federal role.

Expected Outcomes

The development of new strategies and the coordination of Federal effort regarding youth employment.

Charles A. Lauer,

Acting Administrator.

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BILLING CODE 4410-18-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants for Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of public hearings and request for comments on proposed regulations to implement valid court order amendment.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) requests comments on the versions of the proposed regulation on Valid Court Order published in the **Federal Register** on June 1, 1981, and September 3, 1981, and on suggestions offered by commentators and published in the **Federal Register** on December 31, 1981, regarding the proposed regulation.

DATES: The hearings are scheduled as follows:

March 16 and 17, 1982, 9:00 a.m., Washington, DC

March 23 and 24, 1982, 9:00 a.m., Denver, Colorado

Requests to testify must be communicated to OJJDP by February 22, 1982.

Written comments may be submitted at the hearing or mailed to OJJDP and received on or before March 24, 1982.

ADDRESSES: The hearings will be held at the following locations:

March 16 and 17, 1982—Department of Health and Human Services' Hubert Humphrey Building, 200 Independence Avenue, S.W., in the Hubert H. Humphrey Auditorium, Washington, DC.

March 23 and 24, 1982—Federal Office Building, Room 239, 1961 Stout Street, Denver, Colorado 80294.

Send comments and requests to testify to: Mr. Frank M. Porpotage II, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 742, Washington, DC 20531, (202) 724–5917.

FOR FURTHER INFORMATION CONTACT: Mr. Frank M. Porpotage II, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 742, Washington, DC 20531, (202) 724–5917.

SUPPLEMENTARY INFORMATION: On December 31, 1981, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published in the **Federal Register** final regulations for implementation of the Formula Grant Program for Juvenile Justice established by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The regulations, 28 CFR Part 31, were final with the exception of § 31.303(i)(3), Valid Court Order, which was reserved.

The origin of the valid court order amendment to Section 223(a)(12)(A) (42 U.S.C. 5633) of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, is explained in an issue paper published by OJJDP in February of 1981 (Supplementary Information—Appendix A). On June 1, 1981, OJJDP initially published in the **Federal Register** proposed regulations to implement the Formula Grant Program in Fiscal Year 1982. The proposed valid court order regulation is set forth at Appendix B.

Following public comment, substantive changes were made in the proposed valid court order regulation and an additional period of public comment on the regulation announced in the **Federal Register** of September 3, 1981. The published explanation for the changes and the second draft valid court order regulation are set forth at Appendix C.

A substantial number of comments, many raising new issues, were received in response to this draft regulation. Consequently, OJJDP reserved the valid court order proposal for further consideration. The discussion of valid court order comments, excerpted from the December 31, 1981 **Federal Register**, is set forth at Appendix D. Finally, a brief explanation of the stated basis for the alternative suggestions and proposals submitted by commentators (listed in Appendix D) is included at Appendix E.

OJJDP is interested in receiving public input on the substantive (programmatic and constitutional/legal) merit and impact of the various valid court order options. This additional public testimony and comment will form the basis for a proposed final regulation which will be subject to a final 30 day written comment period. Interested parties are urged to provide written comment and/or oral testimony at either of the two hearings in Washington, D.C. or Denver, Colorado.

Procedure

OJJDP requests comment on valid court order implementation from State and local officials, private and public youth-serving organizations, other interest groups, and private citizens. Comments may be written, oral, or both. All persons intending to provide oral testimony must notify OJJDP by February 22, 1982. Intent to present oral testimony may be communicated in writing or by phone to the contact person noted below. Intent letters should include the location and preferred date of testimony. All writtern comment must be received by March 24, 1982. Five (5) copies of any written comment are requested. Notice of intent to testify, as well as written comment, should be communicated to Mr. Frank M. Portpotage, II, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 742, Washington, D.C. 20531, 202/724–5917.

OJJDP will notify all persons requesting to provide oral testimony of the date, time, location, and length of time allocated for their testimony by March 1, 1982. Because the office is conducting both valid court order and Federal Coordinating Council hearings, organizations desiring to testify on both matters will be scheduled on the first day of valid court order hearings (the second day of Coordinating Council hearings).

Conduct of Hearing

Mr. Charles A. Lauer, Acting Administrator of OJJDP, or his designee, will preside at the hearing. Appropriate agency staff may join Mr. Lauer to form a panel. This is not a judicial or evidentiary-type hearing, and there will be no cross examination. However, if time permits, clarifying questions or discussion may follow a presentation.

Any person who wishes to have a question answered at the hearing may submit the question, in writing, at the registration desk. The presiding official will determine whether the question is relevant, and whether time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

A transcript of each hearing will be made. The entire record of the hearings, including the transcript and all written comments, will be retained by OJJDP and available for public inspection and review at OJJDP. Any person may purchase a copy of the transcript from the reporter.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

Appendix A—OJJDP Issue Paper, March 6, 1981

This Appendix sets forth a paper, produced by OJJDP for use at a reauthorization meeting, and is intended to provide background information on the legislative history of the amendment and the preliminary policy conclusions which led to the first proposed Valid

Court Order regulation published in the Federal Register of June 1, 1981.

VALID COURT ORDER EXCEPTION TO DEINSTITUTIONALIZATION REQUIREMENT

I. Evaluation of the Amendment

The Section 223(a)(12)(A) deinstitutionalization mandate of the Juvenile Justice and Delinquency Prevention Act was modified to permit the confinement, in secure juvenile detention and correctional facilities, of a juvenile who has violated a valid court order. Section 223(a)(12)(A), as amended by the Juvenile Justice Amendments of 1980, reads as follows:

12(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult *or offenses which do not constitute violations of valid court orders*, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities * * * (Relevant new language underlined.)

This amendment was first offered in the Subcommittee on Human Resources of the House Education and Labor Committee by Representative Coleman. The amendment was accepted by the Subcommittee but later rejected by the full Committee on a vote of 23 to 9. Supplemental Views on this issue are set forth in the House Committee Report on the Amendments, H.R. No. 96–946, May 13, 1980, at pages 76–77. This amendment was subsequently offered during House floor consideration of H.R. 6704 by Representative Ashbrook. The amendment was accepted by the full House on a vote of 239 to 123.

In debate on the floor of the House, Representative Ashbrook explained that the intent of his amendment was to return to the juvenile court "its traditional discretionary power to enforce valid court orders" and "to enable juvenile courts to place status and nonoffenders in secure detention and correctional facilities if they are found to be in violation of a valid court order." (126 Cong. Rec. H 10932–10936, November 19, 1980). Representative Ashbrook said the amendment would return to the courts their flexibility "to respond to youth who chronically refuse voluntary treatment" but would at the same time "assure the continued protection of the basic rights of these youths". He explained the procedure as follows:

First, the respective court must issue a "valid order." This means that any such order must, first, be given [by] a court of competent jurisdiction; second, involve a judiciable controversy where the legal rights of the parties need to be resolved by the court; third, that the court must enter a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures; and fourth, where the court has the statutory power to act.

These rights are further protected [at the hearing on the violation of a valid court order] by the requirement that these youth receive their due process rights, which were specifically enumerated by the Supreme Court in re Gault as follows:

(i) the right to have the charges against the juvenile in writing, served upon him a reasonable time before the hearing;

(ii) the right to a hearing before a court;

(iii) the right to an explanation of the nature and consequences of the proceedings;

(iv) the right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(v) the right to confront witnesses;

(vi) the right to present witnesses;

(vii) the right to have a transcript or record of the proceedings; and

(viii) the right of appeal to an appropriate court. (Cong. Rec., *supra*, at H 10932)

In an exchange with Representative Miller, who spoke in opposition to the amendment, Representative Ashbrook indicated that his amendment would allow violations of a valid court order to be treated by the juvenile court with a contempt citation, thus permitting the court to respond to such a violation in the context of a civil proceeding. (Cong. Rec., *supra*, at H 10936). To fail to act affirmatively on his amendment, Representative Ashbrook stated, "would be to augment the growing trend to make violations of court orders a criminal offense and thus subject the youth immediately to incarceration." (Cong. Rec., *supra*, at H 10932)

II. Current Practice

As a condition precedent to receipt of Federal assistance under the juvenile justice formula grant program, States must submit a plan which, pursuant to Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, will eliminate the practice of confining status offenders and nonoffenders such as dependent and neglected youth in juvenile detention or correctional facilities. Prior to passage of the Juvenile Justice Amendments of 1980, there was no exception to the prohibition on the secure confinement of status and nonoffenders who violate valid court orders, whether such violation was civil or criminal in nature.

III. Issues

Note.—The following responses to issues raised represent tentative policy and legal determinations.

1. If State legislation currently prohibits the secure confinement of status and nonoffenders who violate a valid court order, would legislative change be required if a State wanted to have the authority to confine status offenders who violate such orders?

Yes, States which have legislation prohibiting the secure placement of status offenders who violate valid court orders are not authorized by the JJDP Act to place such youth in secure confinement. The more restrictive State legislation would take precedence over the latitude allowed by the amendment to Section 223(a)(12)(A) of the JJDP Act.

2. May a status offender who is confined as a consequence of a violation of a valid court order be confined with juveniles alleged to be or adjudicated delinquent? Accused or convicted adult criminal offenders?

There is no prohibition in the JJDP Act against the commingling of status offender and juvenile criminal-type offenders, although State legislation may restrict such confinement. However, a status offender who is confined as a consequence of a violation of a valid court order may not be held in regular contact with incarcerated adult persons. Thus, the "separation" requirement of Section 223(a)(13) continues to be applicable to all status offenders, even if they are found to have violated a valid court order.

3. What effect does the valid court order amendment have on the preparation, submission, and OJJDP action on the December 31, 1980 minitoring report?

None. The first monitoring report which should reflect the extent to which status offenders are placed in secure confinement will be the 1981 report. However, if a State is found ineligible for continued participation because of a failure to achieve full compliance with de minimis exceptions, such State will be allowed to incorporate the "valid court order" issue as an exceptional circumstance in their request for a finding of full compliance with de minimis exceptions.

4. Does a status offender who is adjudicated by the juvenile court for the violation of a valid court order remain a status offender? Does he/she become a delinquent?

A status offender who violates a valid court order remains a status offender and for the purposes of monitoring is not reclassified as a delinquent or criminal-type offender.

5. What constitutes a valid court order, i.e., what conditions must be present to consider an order as being "valid"?

In order to be in violation of a valid court order, a juvenile must first have

been brought into a court of competent jurisdiction and made subject to a "valid order." Thus, no first time status offender could be incarcerated under this provision. The court order must involve a judiciable controversy where the legal rights of the parties need to be resolved by the court *and* the court must enter a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedure. The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued. Such warning must be provided to the juvenile in writing or be reflected in the court record and proceedings.

6. What are the full "due process" rights which must be accorded a status offender accused of violating a valid court order? When must these due process rights be accorded the juvenile offender—at the time of issuance of the order or in the proceeding relative to the alleged violation of that order?

The full "due process" rights are those enumerated in *In Re Gault* and include:

(i) The right to have the charges against the juvenile in writing, served upon him a reasonable time before the hearing;

(ii) The right to a hearing before a court;

(iii) The right to an explanation of the nature and consequences of the proceedings;

(iv) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(v) The right to confront witnesses;

(vi) The right to present witnesses;

(vii) The right to have a transcript or record of the proceedings; and

(viii) The right of appeal to an appropriate court.

The due process rights should be accorded the juvenile at the adjudicatory hearing but must be provided at the violation hearing. The violation hearing must be a judicial proceeding before a court of competent jurisdiction. In entering the order that directs or authorizes disposition of placement in a secure facility, the judge must certify that all the elements of a valid court order and the applicable due process rights were afforded the juvenile and that there is no rational alternative to incarceration of the juvenile.

7. How do the "due process" requirements apply to the predetention hearing detentions of youth who are accused of violating valid court orders (i.e., a youth who runs away from a nonsecure placement)? In our State, detention hearings must be held within 72 hours.

There can be no detention of a juvenile accused of violating a court order except for the 24 hour grace period permitted under OJJDP monitoring policy.

8. If a status offender is adjudicated and placed on probation and, under State law may be placed in secure detention for a limited period of time for violating his probation order twice, would this constitute a violation of a valid court order?

Yes, if the other conditions for valid court orders are met.

9. If a juvenile is placed in a "nonsecure shelter facility" as a result of a finding that the juvenile violated a valid court order, must that juvenile go through the process again, if he runs away from the nonsecure facility, prior to his placement in a secure facility?

No, at the time that a judicial determination is made that a juvenile violated a valid court order: (1) A new order could be entered or the old order revised to direct a new or continuing nonsecure placement with the express condition that any new violation of the new or revised order will result in placement in a secure facility; or (2) the juvenile could be committed to the cognizant social service or correctional agency for appropriate placement.

10. Can a referee commit under a valid court order?

It depends. If a referee in a particular jurisdiction has the authority to assert the court's jurisdiction over a status offender, hold a hearing on the facts, determine the legal rights of the parties in a judiciable controversy, and enter a judgment and/or remedy in accordance with established legal principles, then a referee could, like a judge, be empowered to commit a juvenile under the valid court order amendment.

11. One of the *Gault* rights is to have a transcript or record of the proceedings. If a State provides a hearing on the violation of a valid court order, without a transcript, but with the right to appeal and receive a trial de novo, must a transcript still be required in order to satisfy the juvenile's due process rights?

No.

12. Would the lawful order of a juvenile court, entered after a preliminary hearing for a juvenile alleged to be a status offender, constitute a "valid court order," subjecting the juvenile to secure placement for a violation of that order during the period of time it is in force?

Yes.

13. Will OJJDP require that the valid court order exception be used sparingly?

No, limitations are set by the constraints established in the implementing regulations. If monitoring reports indicate a pattern or practice of abuse, the guidelines could be modified or the situation reported to the Congress for possible legislative action.

14. If a court order places an adjudicated status offender into the custody of the Department of Social Services or Corrections for appropriate placement, the juvenile is placed in shelter care and subsequently runs away, can the agency or the court find that the juvenile has violated a valid court order?

No.

Appendix B

This Appendix sets forth a reprint from the June 1, 1981 **Federal Register**, which was the first proposed Valid Court Order regulation published by OJJDP for public comment. OJJDP seeks further public comment on this proposed regulation.

§ 31.703 Substantive requirements.

* * * * *

(h) * * *

(3) *Valid Court Order (Section 223(a)(12)(A).* For the purposes of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority.

(ii) The court must enter a judgement and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile in writing or be reflected in the court record and proceedings.

(iv) Once a juvenile is alleged to have violated a valid court order, a violation hearing, in the form of a judicial proceeding before a court of competent jurisdiction must be held.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right to appeal to an appropriate court.

(vi) In entering the order that directs or authorizes disposition of placement in a

secure facility, the judge presiding over the violation hearing must certify on the record that all the elements of a valid court order, (i, ii, iii above), and the applicable due process rights, were afforded the juvenile and that there is no rational alternative to incarceration of the juvenile.

* * * * *

Appendix C

This Appendix sets forth a reprint from the September 3, 1981, **Federal Register** which (1) reviewed comments received in response to the June 1, 1981, proposed Valid Court Order regulation, and (2) sets forth the text of a second Valid Court Order regulation published for further comment. OJJDP seeks further comment on this proposed regulation.

Draft regulations were originally published in the **Federal Register** on June 1, 1981 for public comment. Upon review of written responses from 23 separate organizations and individuals, the Office has rewritten the proposed regulations. Three major changes have occurred through this process. * * *

Thirdly, substantive changes were made in the proposed "valid court order" exception to the deinstitutionalization mandate of the Act. These changes are proposed after careful consideration of comments received. They would permit judges to hold status offenders alleged to have violated a valid court order in secure detention, pending a violation hearing, based on a judicial determination, at a hearing, that there is probable cause to believe the juvenile violated the court order. Such a juvenile could then be held for such period of time as is permitted by State law, with a recommended maximum of ten days. Following the violation hearing, the judge would be required to "determine" that all the elements of a valid court order were provided at the violation hearing (rather than providing a "certification on the record") and there would be no requirement for a finding of "no rational alternative" to incarceration of the juvenile.

The change to permit secure detention prior to a due process violation hearing is based on the fact that a plain reading of the statute excepts juveniles *alleged* to have violated a valid court order, as well as those adjudicated, from the scope of the deinstitutionalization requirement. The requirement that the judge "determine" that the elements have been met leaves the State free to establish appropriate procedures to meet this requirement. The deletion of the "no rational alternative" language does no harm to the substantive protections afforded juveniles by the regulation.

§ 31.303 Substantive requirements

* * * * *

(i) * * *

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present, where applicable, prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile in writing or be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, only if there has been a judicial determination, based on a hearing, that there is probable cause to believe the juvenile violated the court order. In such case the juvenile may be held, pending a violation hearing, for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed ten days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order, (paragraphs (i)(3), (i), (ii), (iii)) of this section and, in the case of a violation hearing, the applicable due process rights, (paragraph (i)(3), (v) of this section), were afforded the juvenile.

* * * * *

Appendix D

This Appendix sets forth a reprint from the December 31, 1981, **Federal Register,** which reviewed the comments and suggestions received in response to the September 3, 1981, proposed Valid Court Order regulation. OJJDP seeks further comment on the suggestions offered by the commentators.

Valid Court Order

There was substantial comment on and criticism of the revised valid court order guideline (§ 31.303(i)(3)). Fifteen of the commentators voiced the opinion that the revised provision failed to correctly reflect the Congressional intent underlying the valid court order amendment to Section 223(a)(12)(A) of the Juvenile Justice Act. These commentators generally favored retention of the initial implementing guideline published for comment in the **Federal Register** on June 1, 1981 (46 FR 29438, § 31.703(h)(3), at 29443). Specifically, they called for reinstatement of the following features of that guideline:

(1) *No secure detention under any circumstance* of a juvenile status offender or nonoffender *alleged* to have violated a valid court order;

(2) Reinstate the requirement that the judge presiding over the violation hearing, in entering a dispositional order directing or authorizing placement in a secure facility, *certify on the record* (rather than determine) *that all the elements of a valid court order have been met;* and

(3) Reinstate the requirement that the judge in (2) above also certify on the record (rather than make no certification or determination) that *there is no rational alternative to incarceration of the juvenile.*

In addition, a variety of suggestions were offered by commentators seeking to increase or clarify the protections afforded to juvenile status offenders and nonoffenders who may be subject to incarceration as a result of a court order violation. These suggestions are as follows:

(1) For a court order to be deemed valid the juvenile status offender or nonoffender should have had the *right to counsel* at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered;

(2) For a court order to be deemed valid, the juvenile status offender or nonoffender should have received the *full range of due process rights* listed in § 31.303(i)(3)(v)(A)–(H) at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered;

(3) The warning to the juvenile of the consequences of violating the court order (§ 31.303(i)(3)(iii)) should be provided to the juvenile *and to his attorney and/or to his parents or guardian;*

(4) The warning referenced in (3) above should be in writing *and* (rather than "or") be reflected in the court record and proceedings;

(5) The term "court of competent jurisdiction" (§ 31.303(i)(3)(iv)) should be defined so that a juvenile would only be subject to valid court order violation proceedings before the *same judge* in the *same court* in which the order was entered;

(6) The "24-hour grace period" referenced in § 31.303(i)(3)(iv) should clearly specify that this means 24 hours *exclusive of nonjudicial days* (i.e., holidays and weekends) consistent with OJJDP monitoring policy;

(7) The guideline should require that any judicial *determination of probable cause,* used as a basis for detaining a juvenile pending a violation hearing, must be held *within the 24-hour grace period;*

(8) There should be no *provision for a probable cause hearing.* Rather, the guideline

should require that the violation hearing be held within the 24-hour grace period or the juvenile released to an appropriate nonsecure placement pending the violation hearing;

(9) A juvenile held in a secure detention facility, after a probable cause hearing pending a violation hearing, should be held for the minimum time necessary to schedule and hold a violation hearing, but in no event longer than:

(a) *3 calendar days;* or

(b) *72 hours;* or

(c) *72 hours exclusive of nonjudicial days;* or

(d) *5 calendar days;* or

(e) *10 calendar days or the number of days that an alleged delinquent offender* may be held under State law in secure detention prior to an adjudicatory hearing, whichever is less;

(10) Where a judicial determination is made that there is probable cause to believe that a status offender or nonoffender violated a valid court order, placement in a secure detention facility pending a violation hearing should require, at a minimum, a judicial finding that:

(a) There is a *probability that the juvenile will not appear for further proceedings;* or

(b) The *juvenile* poses a danger to self or to community safety;

(11) The authority to hold a juvenile status offender or nonoffender in a "secure detention facility" or a "secure correctional facility" should specify that such facilities include only those which are *exclusively for juvenile offenders;*

(12) The full due process rights enumerated in § 31.303(i)(3)(v) should include a *standard of proof beyond a reasonable doubt;* and

(13) OJJDP should establish *maximum numbers of juvenile status offenders and nonoffenders* who can be held for valid court order violations and establish a *maximum length of secure incarceration* for juveniles who violate valid court orders.

A lesser number of respondents believed that the guideline, rather than failing to provide adequate due process protection to juveniles, failed to provide sufficient judicial flexibility, offering the following suggestions to increase judicial discretion:

(1) The determination of probable cause to believe a juvenile status offender or nonoffender violated a valid court order should be made by a judge *or any duly authorized officer of the court acting on behalf of the judge;* and

(2) OJJDP should *defer to State law* in determining the maximum length of time a status offender or nonoffender alleged to have violated a valid court order may be held in secure detention pending a violation hearing.

As can be seen, there is a wide divergence of views on valid court order amendment implementation. This stems in part from a legislative history that is inconclusive on certain points, differences in various State laws, policies and practices, and the complex legal issues that underlie the treatment of juvenile status offenders and nonoffenders who violate valid court orders. It is OJJDP's conclusion that publication of a final regulation governing implementation of the valid court order amendment at this time, given the expressed concerns and information available, would not further the proper implementation of the amendment.

Consequently, OJJDP believes that further exploration and consideration of the issues raised above (and other relevant valid court order considerations) are desirable before a final rule is promulgated. Therefore, OJJDP plans to schedule at least two hearings to receive oral testimony and to give interested parties the opportunity to submit further written input on valid court order implementation. A notice will be placed in the Federal Register regarding the date and time for such hearings and providing for the receipt of written submissions. OJJDP anticipates that this notice will be published within 30 days. The notice will explain the rationale of the various positions and options presented in response to the Federal Register drafts. OJJDP's primary objective is to fully implement the congressional intent, considering the input and experience of practitioners, and to provide for a workable regulation that does not create unrealistic policies, and does not, by implication, undermine State procedural law.

OJJDP will reserve § 31.303(i)(3) of the final regulations. Pending the publication of a final regulation, States should continue to follow applicable State law and Constitutional principles of due process in their implementation and monitoring of the valid court order amendment. OJJDP urges States not to consider modifications of existing State law or policy regarding the secure incarceration of juvenile status and nonoffenders who violate the lawful orders of the court until a final regulation is published.

Appendix E—Explanation of Proposals Received in Response to Draft Valid Court Order Regulations

This Appendix sets forth a brief explanation of the stated bases for the suggestions offered by the commentators responding to the September 3, 1981, Federal Register. It is intended to assist individuals to comment further on the two proposed regulations already published by OJJDP and reprinted in Appendices B and C.

Proposal

The regulation should not permit, under any circumstances, the secure detention, of a juvenile status offender or nonoffender alleged to have violated a valid court order.

Comment

This is a central valid court order issue. Proponents contend that a court order should not be considered "valid," and hence secure detention authorized, until there has been a full judicial hearing with all attendant due process protections provided to the juvenile. They believe Congress intended to provide the flexibility to use secure placements for court order violators *only* after full due process rights have been provided. They cite legislative history limiting the exception to juveniles *found* to be in violation of a valid court order, and state that only in this way can the potential for judicial abuse be minimized.

Other commentators suggest that pre-violation hearing detention is essential for the protection of certain juveniles, particularly runaways, and that it makes no sense to place a juvenile who has run away from a nonsecure placement back into another nonsecure setting pending a hearing, particularly when the judge reasonably believes that the juvenile will run again.

Finally, other commentators recognize that circumstances may require limited use of pre-violation hearing detention but suggest appropriate safeguards such as:

(1) Require that a probable cause hearing be held within 24 hours of the juvenile being taken into secure custody.

(2) Further restrict the maximum length of permissible pre-violation hearing detention following a probable cause determination, e.g. limit to 72 hours.

(3) Require that the probable cause determination be made by the same judge entering the order (or the same court).

(4) Require the separation of status and nonoffender juveniles from juvenile criminal-type offenders in secure detention facilities.

(5) Require a judicial determination of "no rational alternative" to secure detention pending a full due process violation hearing.

(6) Limit pre-violation hearings detention to situations where the judge determines, in addition to findings probable cause, that there is either a probability the juvenile will not appear for further proceedings or that the release of the juvenile would constitute a danger to self or to community safety.

(7) Require that the juvenile have a right to counsel at the probable cause hearing.

(8) Permit no detention based on a probable cause determination unless the juvenile received full due process rights at the initial status offense adjudication which resulted in the valid court order.

Proposal

Reinstate the requirement that the judge presiding over the violation hearing, in entering a dispositional order directing or authorizing placement in a secure facility, *certify on the record* (rather than determine) *that all the elements of a vaild court order have been met.*

Comment

This suggestion is based on the belief that only by requiring a "certification on the record" can there be assurance that the judge has appropriately determined that all valid court order elements are present and met. Others suggest that the judiciary should be free to make the determination in accordance with State or local practice and procedure.

Proposal

Reinstate the requirement that the judge in (above) also certify on the record (rather than make no certification or determination) that *there is no rational alternative to incarceration of the juvenile.*

Comment

Proponents argue that Congress intended incarceration of valid court order violators to be a last resort, to be used sparingly, and only where absolutely necessary. Thus, certification or determination of no rational alternative is important to meeting that intent. The opposing view is that judges simply do not incarcrerate juveniles where alternatives are available and that an explicit requirement would only serve to open the exercise of a judge's sound discretion to legal challenge.

Proposal

For a court order to be deemed valid the juvenile status offender or nonoffender should have had the *right to counsel* at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered.

Comment

The rationale for this position is that without having the right to counsel at the initial proceeding on which the order was based, subsequent incarceration based on that order violates the Constitutional right to counsel. This right applies in any situation where an individual is subjected to a loss of liberty as a result of a judicial proceeding.

Many States require the appointment of counsel to represent juveniles alleged to be status offenders and some extend this right to nonoffenders. However, other States, particularly those which prohibit the secure incarceration of status and nonoffenders by State law, do not extend the right to counsel to proceedings which invòlve these juveniles. It is argued that had Congress intended to restrict the valid court order authority to States providing the right to counsel at all proceedings resulting in a court order, they would have done so explicitly.

Proposal

For a court order to be deemed valid, the juvenile status offender or nonoffender should have received the *full range of due process rights* listed in § 31.303(i)(3)(v)(A)–(H) at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered.

Comment

See above.

Proposal

The warning to the juvenile of the consequences of violating the court order (§ 31.303(i)(3)(iii)) should be provided to the juvenile *and to his attorney and/or to his parents or guardian.* The warning should be *in writing* and (rather than "or") be reflected in the court record and proceedings.

Comment

These proposals are designed to insure that all parties are fully aware to the possible consequences of a vaild court order violation and to enable a subsequent determination to be easily made that, in fact, a full and adequate warning was provided.

Proposal

The term "court of competent jurisdiction" (§ 31.303(i)(3)(iv)) should be defined so that a juvenile would only be subject to valid court order violation proceedings before the *same judge* in the *same court* in which the order was entered.

Comment

This proposal is intended to insure consistency and to deter a too broad application, such as a court in one State using a violation of an order entered in another State as the basis for secure incarceration of a status offender.

Proposal

The "24-hour grace period" referenced in § 31.303(i)(3)(iv) should clearly specify that this means 24 hours *exclusive of nonjudicial days* (i.e., holidays and weekends) consistent with OJJDP monitoring policy.

Comment

OJJDP intends to include such clarification in any future regulation.

Proposal

The guideline should require that any judicial *determination of probable cause,* used as a basis for detaining a juvenile pending a violation hearing, must be held *within the 24-hour grace period.*

Comment

If such a determination were not made within the 24-hour grace period, and the juvenile was held beyond 24 hours exclusive of nonjudicial days, this would be a violation of Section 223(a)(12)(A) even if a permissible probable cause determination was subsequently made.

Proposal

There should be no *provision for a probable cause hearing.* Rather, the guideline should require that the violation hearing be held within the 24-hour grace period or the juvenile released to an appropriate nonsecure placement pending the violation hearing.

Comment

OJJDP questions whether it is possible to hold a violation hearing, with the full panoply of *Gault* rights, within 24 hours of a juvenile's being taken into custody. However, a probable cause hearing, involving narrow factual issues that are more readily determinable, could generally be held within the 24 hour time-frame.

Proposal

A juvenile held in a secure detention facility, after a probable cause hearing and pending a violation hearing, should be held for the minimum time necessary to schedule and hold a violation hearing, but in no event longer than:

(a) 3 calendar days; or

(b) 72 hours; or

(c) 72 hours exclusive of nonjudicial days; or

(d) 5 calendar days; or

(e) 10 calendar days or the number of days that an alleged delinquent offender may be held under State law in secure detention prior to an adjudicatory hearing, whichever is less.

Comment

State laws vary on the maximum length of secure detention permitted before an adjudicatory hearing must be held in a delinquency matter. Clearly, the focus in a valid court order violation hearing would be on providing adequate time to obtain counsel and prepare witnesses and other evidence for the hearing. The factual issues would generally not be complex. Therefore, OJJDP's preliminary view is that if detention based on a probable cause determination is permitted, the detention period should never be longer than the minimum period of time determined by State law to be reasonably necessary to prepare for and hold such a hearing.

Proposal

Where a judicial determination is made that there is probable cause to believe that a status offender or nonoffender violated a valid court order, placement in a secure detention facility pending a violation hearing should require, at a minimum, a judicial finding that:

(a) There is a *probability that the juvenile will not appear for further proceedings;* or

(b) The *juvenile poses a danger to self or to community safety.*

Comment

The basis for this suggestion is that a juvenile should never be held in secure detention for allegedly violating a court order as a means of punishment. Therefore, necessity must be the perceived motivation.

Proposal

The authority to hold a juvenile status offender or nonoffender in a "secure detention facility" or a "secure correctional facility" should specify that such facilities include only those which are *exclusively for juvenile offenders.*

Comment

Sections 223(a)(13) and (14) would mitigate against the placement of any status or nonoffender juvenile in a facility where adult criminal offenders are incarcerated.

Proposal

The full due process rights enumerated in § 31.303(i)(3)(v) should include a *standard of proof beyond a reasonable doubt.*

Comment

This suggestion is based on the Supreme Court's holding in *In re Winship,* 397 U.S. 358 (1970).

Proposal

OJJDP should establish *maximum numbers of juvenile status offenders and nonoffenders* who can be held for valid court order violations and establish a *maximum length of secure incarceration* for juveniles who violate court orders.

Comment

Congress did not indicate any intent to place an absolute limit either on the number of juveniles held or on the length of incarceration (see Issue Paper Question 13).

Proposal

The determination of probable cause to believe a juvenile status offender or nonoffender violated a valid court order should be made by a judge *or any duly authorized officer of the court acting on behalf of the judge.*

Comment

It is OJJDP's tentative position that this proposal is inconsistent with good juvenile court practice, the due process rights of noncriminal juveniles, and the Congressional intent that this exception be used only in carefully prescribed circumstances.

Proposal

OJJDP should *defer to State law* in determining the maximum length of time a status offender or nonoffender alleged to have violated a valid court order may be held in secure detention pending a violation hearing.

Comment

OJJDP intends to deter to State law in formulating a final regulation in all respects where such deferral is consistent with the Congressional intent which underlies the valid court order amendment.

[FR Doc. 82-3180 Filed 2-8-82; 8:45 am]
BILLING CODE 4410-18-M

federal register

Tuesday
February 9, 1982

Part IV

Department of Justice
Department of State

Immigration and Naturalization Service
Bureau of Consular Affairs

Afghanistan; Restriction for Citizens and Nonimmigrant Visas Documentary Waivers

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Direct Transits; Restriction for Citizens of Afghanistan

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule restricts citizens of Afghanistan from transiting the United States without visas. This waiver of visas for transits from Afghanistan has become a means of circumventing immigration laws once they arrive in the United States. Citizens of Afghanistan must have visas and passports to transit the United States regardless of their ultimate destination.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536; Telephone: (202) 633–3048. For Specific Information: Edward K. Burns, Immigration Inspector, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536; Telephone: (202) 633–3996.

SUPPLEMENTARY INFORMATION: The Department of State and the Department of Justice have established that citizens of Afghanistan, believing they have a claim to refugee status, are trying to circumvent refugee procedures abroad by using the transit without visa waiver privilege to enter the United States as supposed transits and, upon arriving in the United States, applying for asylum as refugees. Other Afghan nationals destroy their travel documents and onward airline tickets while in flight to prevent continuation of their travel beyond the United States.

Because of the continuing nature of these schemes, and imminent arrival of additional groups, the Department of State and Immigration and Naturalization Service are jointly withdrawing the transit without visa privilege as it applies to Afghan citizens.

In view of the emergency situation which exists, compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date would be impractical and contrary to the public interest.

This rule is exempt from the requirements of E.O. 12291 under section 1.(a)(2) thereof since it is issued with respect to a foreign affairs function of the United States.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. In § 212.1, paragraph (e) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(e) *Direct transits*—(1) *Transit without visa.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Service under the provisions of section 238(d) of the Act on Form I–426 to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided,* That such alien is in possession of a travel document or documents establishing his/her identity and nationality and ability to enter some country other than the United States.

(2) *Waiver of passport and visa.* On the basis of reciprocity, the waiver of passport and visa is available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, the German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he/she is transiting the United States by aircraft of a transportation line signatory to an agreement with the Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

(3) *Unavailability to transit.* This waiver of passport and visa requirement is not available to an alien who is a citizen of Afghanistan, Cuba, Iraq, Iran, North Korea ("Democratic People's Republic of Korea") or Democratic Republic of Vietnam and is a resident of one of the said countries.

(4) *Foreign government officials in transit.* If an alien is of the class described in section 212(d)(8) of the Act only a valid unexpired visa and a travel document valid for entry into a foreign country for at least 30 days from the date of admission to the United States are required.

* * * * *

(Secs. 103, 212 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1182))

Dated: February 4, 1982.

Alan C. Nelson,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 82–3576 Filed 2–8–82; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Departmental Reg. 108.816]

Nonimmigrant Visas Documentary Waivers; Afghanistan

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department is amending the regulations relating to transit without visa to withdraw the waiver of visa privilege to citizens of Afghanistan. This privilege is a means of facilitating the passage through the United States of aliens in transit to third countries.

In the case of citizens of Afghanistan, this waiver has recently become a means of circumventing normal immigration procedures and laws. Withdrawal of the visa waiver privilege will eliminate this practice.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Legislation and Regulations Division, Visa Services, (202) 632–2907.

SUPPLEMENTARY INFORMATION: Aliens accepted for transit without a visa are not required to be in possession of a valid visa in order to effect passage through the United States en route to an ultimate destination. In recent months, however, citizens of Afghanistan believing they have a claim to refugee status have tried to circumvent refugee procedures abroad by using the transit without a visa waiver privilege to enter the United States and immediately applying for asylum as refugees. The Department has verified cases in which Afghan citizens whose applications for United States refugee and/or visa status had been denied at U.S. missions

abroad, have entered the United States without visas. Other cases concern Afghan citizens who destroyed their travel documents and onward tickets on aircraft in flight to prevent continuation of their travel beyond the United States. These Afghan citizens remain in the United States pending adjudication of applications for political asylum. Several groups have already reached the United States under these circumstances and it is believed probable that another large group is about to follow.

In view of the continuing nature of this scheme and the imminent arrival of additional groups the Department of State and the Department of Justice have agreed to withdraw the transit without visa privilege to Afghan citizens.

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Due to the emergency nature of this action, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, relative to notice of proposed rulemaking are impracticable and contrary to the public interest in this instance. In addition, because it is issued with respect to a foreign affairs function, this rule is also exempt from the requirements of Executive Order 12291 on the same basis. In light of the foregoing the third sentence in subparagraph (1) of paragraph (e) of section 41.6 is removed and the second sentence is revised to read:

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

* * * * *

(e) *Aliens in immediate transit*—(1) *Aliens in bonded transit.* * * * This waiver of visa and passport requirements is not available to an alien who is a citizen of Afghanistan, Cuba, Iran, or Iraq.* * *

* * * * *

(Sec. 101, Stat. 116, 8 U.S.C. 1101; 109(b), 91 Stat. 847)

Dated: February 9, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

Dated: February 1, 1982.

D. M. Meissner,

Acting Deputy Commissioner, Immigration and Naturalization Service.

[FR Doc. 82-2993 Filed 2-8-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/SLSDC			DOT/SLSDC	
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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

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federal register

Wednesday
February 10, 1982

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5993 **Synthetic Fuels** Executive order.

6162 **Oil Imports and Exports** ITC institutes investigation on probable impact of expanding petrochemical industry in oil producing nations.

5997 **Community Development** Commerce/EDA expands standards for designation of areas eligible for assistance.

6194 **Budget Rescissions and Deferrals** OMB publishes President's report to Congress. (Part IV of this issue)

6026 **Consumer Protection—Home Insulation** FTC invites comments on intention to lift stay of effective date of regulations on labeling and advertising.

5999 **Old Age, Survivors and Disability Insurance** HHS/SSA issues interim regulations changing application of earnings test for retirement purposes.

6034 **Procurement** HHS/Sec'y proposes to establish uniform profit policy.

6021 **Radio** FCC amends licensing procedures under Industrial Radio Services regulations.

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

6124 **Treasury Notes** Treasury announces interest rates on Series L–1985 and Series A–1992. (2 documents)

6004 **Excise Taxes** Treasury/IRS amends regulations on manufacturers excise tax on tires, tubes and tread rubber.

6002 **Income Tax** Treasury/IRS issues regulations on deductions for foreign moves and moves to the United States by retirees or dependents of decedents who were working abroad.

6138 **Oil and Gas Leasing** Interior/MMS proposes to consolidate orders applicable to operations on Alaska Region Outer Continental Shelf. (Part II of this issue)

6098 **Social Security** HHS issues notice of determination of "Old-Law" contribution and benefit base.

Import Investigations ITC issues notices on the following:

6116 Birch three-ply door skins from Japan.
6117 Certain card data imprinters and components thereof.
6118 Certain thermal conductivity sensing gem testers and components thereof.
6119 Drycleaning machinery from West Germany.
6118 Preparation of monthly reports on U.S. auto industry.
6120 Preparation of synthetic organic chemicals reports.

6182 **Imports** ITC revises rules for conduct of investigations on injury to domestic industries. (Part III of this issue)

Countervailing Duties ITC issues notice on the following:

6117 Carbon steel structural shapes from Italy and the Netherlands and hot-rolled carbon steel sheet and strip from the United Kingdom.
6117 Hot-rolled carbon steel bar from Italy and Luxemburg.

6059 **Imports** CITA announces increase in import restraint levels for certain wool and man-made fiber textile products from Socialist Republic of Romania.

6125 **Sunshine Act Meetings**

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6182 **Part III, ITA**
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Wednesday, February 10, 1982

Presidential Documents

Title 3—

The President

Executive Order 12346 of February 8, 1982

Synthetic Fuels

By the authority vested in me as President by Section 305(k) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2095(k)), and having determined that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980 (Public Law 96–294; 94 Stat. 633 *et seq.*), and to provide for an orderly transition of synthetic fuel responsibilities from the Department of Energy to the United States Synthetic Fuels Corporation, it is hereby ordered as follows:

Section 1. No new awards for purchases or commitments for financial assistance shall be made under the provisions of Section 305 of the Defense Production Act of 1950, as amended.

Sec. 2. Synthetic fuels projects or actions initiated by the Department of Energy shall, to the extent provided in the Supplemental Appropriations and Rescissions Act, 1980 (Public Law 96–304; 94 Stat. 880–881), transfer to the Corporation upon a majority vote of the Board of Directors of the Corporation, and unexpended balances of the funds obligated for such projects shall be transferred to the Corporation to the extent such projects are transferred to the Corporation.

Sec. 3. The balance of the amounts not committed or not conditionally committed by the Department of Energy which were appropriated by Public Law 96–304 and Public Law 96–126 from the Energy Security Reserve to the Department of Energy are available as provided in the Supplemental Appropriations and Rescissions Act, 1981 (Public Law 97–12; 95 Stat. 48), to carry out the provisions of Title I of the Energy Security Act (Public Law 96–294; 94 Stat. 616 *et seq.*).

Sec. 4. Executive Order No. 12242 of September 30, 1980 is revoked.

Sec. 5. Notwithstanding the revocation of Executive Order No. 12242, the provisions of that Order shall continue in full force and effect with respect to any loan guarantee issued under the provisions of that Order.

Ronald Reagan

THE WHITE HOUSE,
February 8, 1982.

[FR Doc. 82–3752
Filed 2–9–82; 10:56 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 47, No. 28
Wednesday, February 10, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 921

Fresh Peaches Grown in Designated Counties in Washington; District Representation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes district representation on the Washington Fresh Peach Marketing Committee to reflect shifts in peach production. The rule allocates 8 members (currently 6 members) to represent District 2 (Yakima) and allocates 4 members (currently 6 members) to represent District 1 (Wenatchee) on the committee. The committee locally administers the marketing order regulating the handling of peaches grown in designated counties in Washington.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

On August 13, 1981, notice of proposed rulemaking was published in the **Federal Register** (46 FR 40892), regarding proposed reapportionment of district representation on the committee. This notice allowed interested persons until September 14, 1981, to file written comments pertaining to this proposed rule. None were submitted. The rule was recommended by the committee which locally administers the marketing agreement and Order No. 921 regulating the handling of fresh peaches grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 921.31(m) of the order provides for the apportionment of members and alternate members of the committee on the basis, insofar as practicable, of the relative production of fresh peaches within both districts of the production area. In recent years District 2 has accounted for about 80 percent of fresh peach shipments from the production area. Increased peach production in District 2 compared to District 1 warrants the reapportionment. This action increases District 2's producer representation by one member and handler representation by one member, while decreasing such representation for District 1 by one producer member and one handler member.

PART 921—FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Therefore, a new § 921.101 is added to 7 CFR Part 921, Subpart—Rules and Regulations, to read as follows:

§ 921.101 Changes in district representation.

Beginning with the 1982–83 fiscal period, the representation on the Washington Fresh Peach Marketing Committee is reapportioned as follows:

(a) Three grower members and their respective alternates shall be producers of peaches in District 1;

(b) Five grower members and their respective alternates shall be producers of peaches in District 2;

(c) One handler member and alternate shall be handlers of peaches in District 1;

(d) Three handler members and their respective alternates shall be handlers of peaches in District 2.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: February 4, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–3570 Filed 2–9–82; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

Peanuts; 1980 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The purpose of this document is to correct the loan maturity date that was published incorrectly in FR Doc. 81–35131, at 46 FR 59958, December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20013, 202/447–7987.

At 46 FR 59958, third column, second line in 7 CFR 1421.288, the loan maturity date should read "April 30."

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and 714c), secs. 101, 108, 401, 403, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445c, 1421, 1423, 1425))

Signed at Washington, D.C. on February 2, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82–3569 Filed 2–9–82; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

9 CFR Part 53

[Docket No. 81–086]

Foot-and-Mouth Disease, Pleuropneumonia, Rinderpest, and Certain Other Communicable Diseases of Livestock and Poultry

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of final rule.

SUMMARY: This document affirms the final rule prohibiting claims for

indemnity for destruction of animals or materials which have been moved or handled by the owner thereof, or his or its officer, employee or agent, acting within the scope of his or its office, employment or agency, in violation of a law or regulation administered by the Secretary for the prevention of the introduction or dissemination within the United States of any communicable disease of livestock or poultry for which the animal or material was destroyed or in violation of a law or regulation for the enforcement of which the Secretary enters or has entered into a cooperative agreement for the control or eradication of such disease. This action is necessary to prevent the payment of indemnity when the owner of animals or materials or his or its officer, employee or agent acting within the scope of his or its office, employment or agency, has violated the various laws or regulations mentioned above. The purpose of this amendment is to discourage the movement or use of animals and materials in violation of such laws or regulations.

EFFECTIVE DATE: February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. W. W. Buisch, APHIS, Emergency Programs, Room 748, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action would have an annual effect on the economy of less than one hundred million dollars; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; would not have a significant adverse effect on competition, employment or investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Background

A document published in the **Federal Register** on December 31, 1980 (45 FR 86410–86411), amended the "Foot-and-Mouth Disease, Pleuropneumonia, Rinderpest, and Certain Other Communicable Diseases of Livestock or Poultry" regulations by not allowing claims for indemnity arising out of the destruction of animals or materials which have been moved or handled by the owner thereof or his or its officer, employee, or agent, acting within the scope of his or its office, employment or agency, in violation of a law or regulation administered by the Secretary for the prevention of the introduction into or dissemination within the United States of any communicable disease of livestock or poultry for which the animal or material was destroyed or in violation of a law or regulation for the enforcement of which the Secretary enters or has entered into a cooperative agreement for the control or eradication of such disease.

The only alternative considered in connection with the final rule was not to amend the regulations.

This alternative was not adopted because the Department has found that claims for indemnity have been made on animals and materials destroyed because they were found to be infected or exposed to a communicable disease referred to in 9 CFR Part 53, although the owner thereof, or his or its officer, agent or employee while acting within the scope of his or its office, employment or agency, had violated laws or regulations administered by the Secretary to prevent the introduction or dissemination of communicable diseases of livestock or poultry or laws or regulations for which the Secretary enters or has entered into a cooperative agreement for the control or eradication of such disease.

The regulations were amended to discourage this from happening in the future.

The benefits of the final rule are (1) to discourage introduction into the United States of communicable diseases referred to in 9 CFR Part 53, and (2) to disallow claims for indemnity when an owner thereof or his or its officer, employee or agent, while acting within the scope of his or its office, employment or agency, handles or moves the animal or material in violation of such a law or regulation.

Written comments were solicited for 60 days after publication of the amendment. No written comments were received in response to the amendment.

The factual situations which were set forth in the document of December 31, 1980, still provide a basis for the amendment.

PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES IN LIVESTOCK OR POULTRY

Accordingly, it has been determined that the final rule amending § 53.10 by adding a new paragraph (d) should remain effective as published in the **Federal Register** on December 31, 1980 (45 FR 86411).

(Sec. 2, 32 Stat. 792, and sec. 11, 23 Stat. 32, as amended (21 U.S.C. 111, 114a); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 4th day of February, 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-3396 Filed 2-9-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 82-82]

Net Worth Amendment; Correction

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; correction.

SUMMARY: The Federal Home Loan Bank Board corrects a misstatement in the Preamble to the amendments to the Board's Net Worth Regulations which were published at 47 FR 3543 (Jan. 26, 1982).

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 ((202) 377–6457).

SUPPLEMENTARY INFORMATION: By Resolution No. 82–19, the Federal Home Loan Bank Board adopted amendments to its net worth regulations, 12 CFR 563.13. In the Preamble to that resolution at the end of paragraph four, it was stated that these amendments would be effective only until December 31, 1983. This statement was erroneous and should be disregarded.

(Sec. 409, 94 Stat. 160, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730), sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437), sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 Comp., p. 1071))

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

February 5, 1982.

[FR Doc. 82-3582 Filed 2-9-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 302 and 308

Agency Implementation of the Community Economic Development Act of 1981; Designation of Areas; Special Economic Development and Adjustment Assistance Grants

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: This rule implements the requirement of the Community Economic Development Act of 1981 that EDA expand its standards for the designation of areas eligible for assistance under the Public Works and Economic Development Act of 1965. The changes in EDA's regulations allow areas which meet the standards of the Community Economic Development Act to qualify for assistance available pursuant to titles I, II and IX of the Public Works and Economic Development Act. This rule also adds community development corporations to the list of recipients eligible for assistance under title IX of the Public Works and Economic Development Act.

EFFECTIVE DATE: February 10, 1982.

FOR FURTHER INFORMATION CONTACT: James F. Marten, Deputy Chief Counsel for Operations and Administration, Economic Development Administration, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202) 377–5441.

SUPPLEMENTARY INFORMATION: 1. As part of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 1331, *et seq.*), Congress enacted the Community Economic Development Act of 1981 (42 U.S.C. 9801, *et seq.*) ("CEDA"). The purpose of CEDA is to encourage the development of special programs by the residents of low-income areas to improve the quality of their economic and social participation in community life. These special programs are expected to involve a combination of self-help, mobilization of the community at large, and appropriate Federal assistance. The Federal assistance available for these programs is to include grants and loans currently authorized under the Public Works and Economic Development Act of 1965 (42 U.S.C. 312, *et seq.*) (PWEDA). This rule makes three changes in the regulations of the Economic Development Administration (EDA), which administers PWEDA. These changes implement the mandate of CEDA that EDA make areas selected for CEDA assistance, and community development corporations, eligible for assistance under certain EDA programs.

2. Subpart A of 13 CFR Part 302 sets forth alternative criteria for the designation of redevelopment areas under section 401(a) of PWEDA. CEDA prescribes that areas selected for assistance under its provisions must also be deemed redevelopment areas for PWEDA purposes. The revised language of § 302.10 adds CEDA assistance areas to those now designated redevelopment areas.

Subpart A of 13 CFR Part 308 details the requirements for assistance available under EDA's Special Adjustment Grants Program authorized by title IX of PWEDA. Section 308.2 defines "eligible recipients" of these grants. This rule expands this subsection to include community development corporations as defined by CEDA.

Section 308.4 of Subpart A describes the areas eligible for title IX grants. A new subsection (a)(3) is added to make CEDA assistance areas eligible to receive title IX grants.

3. This rule is published in response to the requirement of Section 626 of CEDA that regulations be promulgated making possible community economic development area and community development corporation eligibility for PWEDA assistance. Because of this statutory mandate, these regulations are being initially published as a final rule. Since this rule relates to EDA's grant and loan programs, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). In accordance with Section 3(c)(3) of Executive Order No. 12291, this rule has been submitted to the Director of the Office of Management and Budget. This rule is not a major rule as defined in that Order. This rule does not fall within the provisions of the Regulatory Flexibility Act, nor will it create any information collection burdens on the public because of its subject matter, so as to be governed by the Paperwork Reduction Act.

Accordingly, Chapter III of Title 13 of the Code of Federal Regulations is amended as follows:

PART 302—DESIGNATION OF AREAS

1. By revising the table of contents of Subpart A to read as follows:

Subpart A—Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act

Sec.
302.1 Designation on the basis of unemployment.
302.2 Designation on the basis of loss of population.
302.3 Designation on the basis of median family income.
302.4 Designation on the basis of Indian lands.
302.5 Designation on the basis of sudden rise in unemployment.
302.6 Designation on the basis of Area Redevelopment Act.
302.7 Designation of public works impact program areas.
302.8 Designation of special impact areas.
302.9 Recognition of redevelopment areas designated under the Economic Opportunity Act of 1964.
302.10 Recognition of redevelopment areas designated under the Community Economic Development Act of 1981.
302.11 Designation on the basis of per capita employment.
302.12 Designation on the basis of substantial unemployment and the national average rate of unemployment.
302.13 Designation on the basis of long-term economic deterioration.
302.14 Exception to criteria for qualification.

Authority: Sec. 701, Pub. L. 89–135, 79 Stat. 570, as amended (42 U.S.C. 3211; Dept. of Commerce Organization Order 10–4 (Sept. 30, 1975), as amended (40 FR 56702 as amended), unless otherwise noted.

§ 302.10 [Redesignated as § 302.11]; § 302.11 [Redesignated as § 302.12]; § 302.12 [Redesignated as § 302.13]; and § 302.13 [Redesignated as § 302.14]

2. By redesignating § 302.10 as § 302.11; redesignating § 302.11 as § 302.12; redesignating § 302.12 as § 302.13; redesignating § 302.13 as § 302.14.

3. By adding § 302.10 to read as follows:

§ 302.10 Recognition of redevelopment areas designated under the Community Economic Redevelopment Act of 1981.

Areas selected for assistance under Chapter 8, Subchapter A of the Omnibus Budget Reconciliation Act of 1981 (Community Economic Development Act of 1981, 42 U.S.C. 9801) will be deemed redevelopment areas within the meaning of section 401 of the Act. Such areas qualify for assistance under the provisions of titles I and II of the Act and shall be deemed to have met the overall economic development program requirements of section 202(b)(10) of the Act.

PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS

1. By revising § 308.2 to read as follows:

§ 308.2 Definitions.

"Eligible recipient" as used in this part means a redevelopment area or

economic development district established under title IV of this Act, an Indian tribe, the Governor of a State or a State agency designated by him, a city or other political subdivision of a State, a consortium of such political subdivisions, or a community development corporation as defined in Section 613 of the Community Economic Development Act of 1981 (42 U.S.C. 9802).

§ 308.4 [Amended]

2. By adding a new § 308.4(a)(3), reading as follows:

(a) * * *

(3) The area has been selected for assistance under the Community Economic Development Act of 1981 (42 U.S.C. 9801, *et seq.*).

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211), Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended)

Dated: January 21, 1982.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 82-3543 Filed 2-9-82; 8:45 am]

BILLING CODE 3510-24-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 10 and 12

Commission Review of Initial Decisions in Administrative and Reparations Proceedings Prior to Judicial Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission is amending its Rules of Practice (17 CFR Part 10) and Reparations Rules (17 CFR Part 12) to make clear that a party is required to seek Commission review of an initial decision rendered by a Presiding Officer prior to seeking judicial review of that decision. At present, such a requirement is not expressed in the Commodity Exchange Act ("Act") or the Commission's regulations.

DATE: These amendments are effective on February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy E. Yanofsky, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K St., NW., Washington, D.C. 20581 (202) 254–5716.

SUPPLEMENTARY INFORMATION: Pursuant to the Commission's regulations, the Commission's Presiding Officers are authorized to render initial decisions in administrative proceedings conducted pursuant to various sections of the Act, and reparations proceedings conducted pursuant to Section 14 of the Act. See, *e.g.*, 7 U.S.C. 9 and 18 (1976 and Supp. III, 1979); 17 CFR 10.8(a)(8), 10.84, 12.43(i), 12.84 and 12.95. Any party to an administrative or reparations proceedings may seek review by the Commission of a Presiding Officer's initial decision by filing an appeal (administrative proceedings) or application for review (reparations proceedings) within 15 days after service of the initial decision. 17 CFR 10.102 and 12.101. Furthermore, within 30 days of the initial decision, the Commission, on its own motion, may decide to review an initial decision and place the case on its own docket. 17 CFR 10.84(c)(2), 12.84(e)(2) and 12.95(e)(2).

In the event Commission review is not sought by a party to the proceeding and the Commission does not take review on its own motion, the initial decision of the Presiding Officer becomes the final decision of the Commission 30 days after service. 17 CFR 10.84(c), 12.84(e) and 12.95(e). An initial decision is not effective against any party who has filed an application for review or an appeal to the Commission until the appellate process is completed. 17 CFR 10.84(c)(1), 12.84(e)(1), and 12.95(e)(1). Similarly, if the Commission takes review of a case on its own motion, the initial decision is not effective as to any party until completion of the review. 17 CFR 10.84(c)(2), 12.84(e)(2), and 12.95(e)(2).

The Act and the Commission's regulations, when read together with Section 10(c) of the Administrative Procedure Act, 5 U.S.C. 704, may be ambiguous as to whether a party to an administrative or reparations proceedings must seek Commission review prior to petitioning a court of appeals for review. Section 10(c) of the Administrative Procedure Act, 5 U.S.C. 704, in relevant part provides (italics supplied):

> Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section [concerning judicial review] whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, *unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative*, for an appeal to superior agency authority.

Congress has thus expressly authorized agencies to adopt rules, such as the rules being adopted here, which require a party to an administrative proceeding to pursue an internal administrative appeal prior to seeking judicial review.

Accordingly, the Commission is amending its regulations to make clear that an appeal (administrative proceedings) or an application for review (reparations proceedings) to the Commission is a prerequisite to judicial review. Under the amended regulations, a party's failure to seek review of an initial disposition of a case or raise an issue on appeal will constitute a waiver of exception to the final disposition of the case or issue and in the Commission's view of judicial review.[1]

The amended rules will ensure appropriate Commission oversight over opinions and orders issued by its Presiding Officers. In this regard, it should be noted that on January 30, 1981, the Commission published proposed amendments to its Reparations Rules which, *inter alia*, contained a provision virtually identical to the amendments being adopted here. 46 FR 9958 (Jan. 30, 1981). One commentator objected to the amendment proposed there on the grounds that it would delay reparations proceedings and urged that it would be more efficient to have the courts of appeals review purely legal issues. The Commission believes that the benefits of providing it with an opportunity to review initial decisions prior to judicial review outweigh the delay which may result from requiring a party to seek Commission review. This is particularly so where significant legal issues concerning the commodities industry are presented.[2]

The rules being adopted pertain solely to agency procedure and practice. Accordingly, the requirements of notice and opportunity for participation by the public under the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply.[3] The Commission is publishing the amended rules as final rules, effective February 10, 1982.

Accordingly, pursuant to Sections 2(a)(11) and 8a(5) of the Commodity

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[1] See *Montgomery* v. *Rumsfeld*, 572 F.2d 250, 252–253 (9th Cir. 1978).

[2] In any event, in reparations proceedings it is unlikely that any substantial delay will occur in light of the Commission's practice of accepting review of initial decisions only where significant legal or factual issues are presented.

Under Rule 12.101, 17 CFR 12.101, the Commission has discretion whether to accept review of an initial decision issued by a Presiding Officer in a reparations proceedings. On the other hand, the parties to an administrative proceeding conducted pursuant to Section 6(b) of the Act, 7 U.S.C. 9, have a right to appeal an initial decision to the Commission. See 17 CFR 10.102.

[3] Thus, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply. See 5 U.S.C. 603, which mandates a regulatory flexibility analysis only when an agency "is required * * * to publish general notice of proposed rulemaking[.]"

Exchange Act, as amended, 7 U.S.C. 4a(j) and 12a(5) (1976 and Supp. III, 1979), and Section 10(c) of the Administrative Procedure Act, 5 U.S.C. 10(c), the Commission hereby amends § 10.102 of Subpart H of Part 10, and § 12.101 of Subpart H of Part 12, of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 10—RULES OF PRACTICE

§ 10.102 [Amended]

1. A new paragraph (f) is added to § 10.102 to read:

* * * * *

(f) *Effect of failure to file an appeal.* Timely appeal to the Commission for review of an initial decision is mandatory as a prerequisite to seeking judicial review of a final decision entered pursuant to these Rules of Practice.

PART 12—RULES RELATING TO REPARATIONS PROCEEDINGS

§ 12.101 [Amended]

2. A new paragraph (f) is added to § 12.101 to read:

* * * * *

(f) *Effect of failure to file an application for review.* A timely application for Commission review of an initial decision is mandatory as a prerequisite to judicial review of a final decision and order entered pursuant to these Rules Relating to Reparations Proceedings.

Issued in Washington, D.C., on February 4, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-3485 Filed 2-9-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR 404

Federal Old-Age, Survivors, and Disability Insurance; Earnings Test

AGENCY: Social Security Administration, HHS.

ACTION: Interim Regulations.

SUMMARY: The Social Security Administration is issuing interim regulations to implement sections 1, 3, and 4 of Pub. L. 96–473 (enacted October 19, 1980) that make a number of changes in the application of the earnings test for retirement purposes. The provisions are designed to eliminate some unintended and harsh effects of the limitations on the use of the monthly earnings test imposed by the Social Security Amendments of 1977.

Section 1 permits the use of the monthly earnings test by those beneficiaries entitled to child's benefits, young wife's and young husband's benefits (entitled only by reason of having an entitled child in their care) or mother's and father's benefits, in the year that entitlement terminates, if termination is for a reason other than death and the beneficiary is not entitled to another type of Social Security benefit for the month following the month of termination. Section 3 excludes from gross income, for purposes of the annual earnings test, self-employment income which is received in a year after the initial year of entitlement to insurance benefits under title II (other than disability benefits and childhood disability benefits) and is not attributable to services performed after the month of entitlement. Section 4 provides for all beneficiaries the use of the monthly earnings test in the first taxable year after 1977 in which a beneficiary has a non-service month in or after the month of entitlement to benefits.

EFFECTIVE DATE: These interim regulations are effective February 10, 1982. We will consider any comments received on or before April 12, 1982.

ADDRESSES: Send your written comments to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Ms. Clara Barrett Powell, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7459.

SUPPLEMENTARY INFORMATION:

Use of Monthly Earnings Test After 1977

The Social Security Act provides in section 203 (b) and (f) for a deduction from benefits if the beneficiary is under age 72 (age 70 beginning January 1983) and earns over the applicable exempt amount of annual earnings during the course of a taxable year. This provision does not apply to those persons receiving disability benefits under section 223 of the Act or to disabled widows, disabled widowers, or disabled children receiving auxiliary or survivor benefits under section 202 of the Act. Before the Social Security Amendments of 1977 (Pub. L. 95–216), two tests were used to determine the amount of benefits payable for each year. They were the annual earnings and the monthly earnings tests.

The two tests worked as follows: The annual test was first considered. If a beneficiary's earnings for a taxable year were not more than the annual exempt amount, his or her monthly benefit payments for that year were paid in full, and the monthly test was not used. If the beneficiary's earnings for a taxable year exceeded the annual exempt amount, then $1 was deducted from benefits for every $2 the beneficiary earned over the exempt amount. Deductions were made beginning with the first month of the taxable year for which benefits were payable.

However, before making these deductions, it was necessary to apply the monthly test. Under the monthly test, a beneficiary could receive full monthly benefit payments without deductions for all "nonservice" months, regardless of the amount of excess earnings for the year. A "nonservice" month is one in which a beneficiary does not earn wages exceeding the applicable monthly exempt amount (one-twelfth of the annual exempt amount) and does not perform substantial services in self-employment. The application of the monthly earnings test resulted in beneficiaries who earned the same amount of income in a given year receiving different total annual benefits simply because of differences in their work patterns.

To correct this inequity, the Social Security Amendments of 1977 eliminated the monthly earnings test except for the first taxable year in which a beneficiary has a nonservice month in or after the month of entitlement to Social Security benefits. That first year (usually the year of retirement) is referred to as the "grace year". The test was retained for the grace year to allow individuals who retire at any time during the year to receive benefits immediately upon retirement, regardless of how high their earnings were before retirement.

The elimination of the monthly earnings test had the effect of reducing or eliminating benefits to some individuals beginning in 1978 who received benefits before 1978 but had not yet actually retired. For example, a beneficiary who used his or her grace year before 1978 could actually retire in

the middle of some later year, but receive no benefits for the rest of that year because of his or her earnings in the months before retirement. This change caught many beneficiaries unaware and without adequate opportunity to make personal retirement decisions necessary to meet the effects of the change to an annual earnings test only, after the initial grace year.

Section 4 of Pub. L. 96–473 remedies this situation by providing for the use of the monthly earnings test in at least one year after 1977 for all beneficiaries. As a result, people who lost Social Security benefits under the Social Security Amendments of 1977 may have some of their benefits restored.

Monthly Earnings Test To Apply in Year Entitlement Ends for Certain Beneficiaries

The elimination of the monthly earnings test without a phasing-in process produced some harsh and unintended results in the year benefits terminated for beneficiaries receiving child's (including student's) benefits, young wife's or young husband's benefits (if entitled by reason of having a child in their care), and mother's or father's benefits. These beneficiaries frequently entered the work force after benefits terminated, and had substantial earnings in the year their benefits ended. When those earnings were over the annual exempt amount, deductions were imposed on benefits already received in the year, resulting in overpayments that had to be repaid. Frequently, these beneficiaries did not know at the beginning of the year whether they would have earnings later in the year or how much they would be. Requiring these beneficiaries to repay Social Security benefits received earlier in the year caused financial hardship and tended to discourage some of them from returning to work.

Section 1 of Pub. L. 96–473 remedies this situation by providing that a beneficiary entitled to a type of benefit just described is entitled to a "grace year" (and use of the monthly earnings test) in the year benefits terminate unless such entitlement terminates because of death or because of entitlement to another type of Social Security benefit. This change is effective for months after 1977 so that beneficiaries who lost benefits in a year of termination as a result of the aforementioned provisions of the Social Security Amendments of 1977 may have those benefits restored.

Exclusion of Certain Income From Self-Employment

The monthly earnings test in effect before 1978 allowed a self-employed beneficiary to receive a benefit for any month in which he or she did not render substantial services in self-employment and did not earn over the applicable monthly limit in wages, regardless of total yearly earnings. A threshold of 45 hours of work per month was the primary test used to determine whether an individual had engaged in substantial services.

Several categories of self-employed persons were adversely affected by the modification of the monthly earnings test under the 1977 Amendments. Particularly affected were self-employed insurance agents. Many of these agents sold insurance policies in one year on which they receive renewal commissions in subsequent years. These subsequent renewal commissions in many cases were long planned for use as retirement income. However, self-employment income is counted as income for Social Security purposes in the year in which the income is received. As long as the monthly earnings test was in effect, the agents could receive 12 months of Social Security benefits even though their annual earnings were over the exempt amount, since they were not rendering substantial services in self-employment and were not earning over the monthly limit in wages. With the elimination of the monthly earnings test, except in the grace year, many of these agents lost some or all of their social security benefits when their commissions were substantial.

Similarly affected by the change in the monthly earnings test provisions were persons who received income from their businesses after their initial month of entitlement, but perform little or no work, such as retired partners who receive a distributive share of the partnership income after retirement. Under the monthly earnings test before 1978, retired partners receiving such payments could receive Social Security benefits for any month in which they did not perform substantial services. With the elimination of the substantial services test under the 1977 provisions, the payments to such retired partners resulted, in many cases, in partial or complete loss of benefits.

Another group of self-employed beneficiaries affected were farmers. The law in effect before 1978 permitted farmers to sell a crop after retirement without causing a loss of post-retirement benefits, as long as the farmer did not perform substantial services in self-employment in any month of the year the crop was sold. Under the 1977 amendments, applying the annual earnings test, deductions were imposed on a retired farmer's benefits if the income from the sale of the crop exceeded the annual exempt amount, even if the retired farmer did not perform substantial services after retirement.

Section 3 of Pub. L. 96–473 relieves such problems by providing that, for purposes of the earnings test, income received in a year after the initial year of entitlement to insurance benefits under title II (other than disability or childhood disability benefits) that is not attributable to services performed after the month in which the beneficiary initially became entitled to Social Security benefits shall be excluded from gross income. This provision is effective for taxable years ending after 1977, with respect to benefits payable after that year, so that beneficiaries who lost benefits because of the receipt of income either earned before entitlement to Social Security benefits, or not based on significant services of the beneficiary, will have those benefits restored.

Interim Rule

We are publishing these amendments to the regulations as interim rules rather than as proposed rules (Notice of Proposed Rulemaking). Sections 1, 3, and 4 of Pub. L. 96–473 (which these regulations reflect) are retroactively effective as of January 1978. Since the public has a right to have without further delay a clear and binding description of our rules, the effect of which is remedial, and there are available no substantive policy choices, except those adopted that accord with the intent of Congress, we find that publication of a Notice of Proposed Rulemaking would be unnecessary and contrary to the public interest. Accordingly, we are making these interim rules effective immediately under the authority of 5 U.S.C. 553(b)(B).

However, we are providing an opportunity for public comment and we will consider those comments in drafting our final regulations.

Regulatory Procedures

Executive Order 12291: These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. While these regulations cost almost $100 million in FY 1981, they will cost considerably less in subsequent years. They do not constitute a major rule because (a) in FY 1981 much of the cost

represented retroactive payments to beneficiaries for benefits we withheld under the provisions of the Social Security Amendments of 1977, some of which have accumulated and are now due under the provisions of Pub. L. 96-476; and, (b) the amount to be paid is a consequence of law under which there is minimal regulatory discretion. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act: We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only individuals.

Paperwork Reduction Act: These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Secs. 203 and 1102 of the Social Security Act as amended; 49 Stat. 623 as amended, 49 Stat. 647 as amended (42 U.S.C. 403 and 1302; Sections 1, 3, and 4 of Pub. L. 96-473))

(Catalog of Federal Domestic Assistance Program Nos. 13.803 Social Security-Retirement Insurance and 13.805 Social Security Survivors Insurance)

Dated: October 21, 1981.

John A. Svahn,

Commissioner of Social Security.

Approved: January 19, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.429 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 404.429 Earnings; defined.

* * * * *

(b) *Net earnings from self-employment; net loss from self-employment.* * * *

(2) For the sole purpose of the earnings test under this subpart—

(i) An individual who has attained age 65 on or before the last day of his or her taxable year shall have excluded from his or her gross earnings from self-employment, royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained age 65 if the copyright or patent is on property created by his or her own personal efforts; and

(ii) An individual entitled to insurance benefits, under title II of the Act, other than disability insurance benefits or child's insurance benefits payable by reason of being under a disability, shall have excluded from gross earnings for any year after 1977 any self-employment income received in a year after his or her initial year of entitlement that is not attributable to services performed after the first month he or she became entitled to benefits. As used in this paragraph (b)(2)(ii), "services" means any significant work activity performed by the individual in the operation or management of a trade, profession, or business which can be related to the income received. Such services will be termed "significant services." Where a portion of the income received in a year is not related to any significant services performed after the month of initial entitlement, only that portion may be excluded from gross earnings for deduction purposes. The balance of the income counts for deduction purposes. Not counted as "significant services" are—

(A) Actions taken after the initial month of entitlement to sell a crop or product if the crop or product was completely produced or created in or before the month of entitlement. This rule does not apply to income received by an individual from a trade or business of buying and selling products produced or made by others; for example, a grain broker.

(B) Those activities that are related solely to protecting an investment in a currently operating business or that are too irregular, occasional, or minor to be considered as having a bearing on the income received, such as—

(*1*) Hiring an agent, manager or other employee to operate the business;

(*2*) Signing contracts where the owner's signature is required so long as the major contract negotiations were handled by the owner's agent, manager, or other employees in running the business for the owner;

(*3*) Looking over the company's financial records to assess the effectiveness of those agents, managers or employees in running the business for the owner;

(*4*) Personally contacting an old and valued customer solely for the purpose of maintaining good will when such contact has a minimal effect on the ongoing operation of the trade or business; or

(*5*) Occasionally filling in for an agent, manager or other employee or partner in an emergency.

(iii) An individual is presumed to have royalties or other self-employment income countable for purposes of the earnings test until it is shown to the satisfaction of the Social Security Administration that such income may be excluded under § 404.429(b)(2)(i) or

* * * * *

(4) An individual's net earnings from self-employment is the excess of gross income over the allowable business deductions (allowed under the Internal Revenue Code). An individual's net loss from self-employment is the excess of business deductions (that are allowed under the Internal Revenue Code) over gross income. Expenses arising in connection with the production of income excluded from gross income under § 404.429(b)(2)(ii) can not be deducted from wages or other net earnings from self-employment that are not excluded under that section.

2. Section 404.435 is amended by revising paragraph (c) (1) (2) and (4) and revising example 2 to read as follows:

§ 404.435 Excess earnings; months to which excess earnings cannot be charged.

* * * * *

(c) *Grace year defined.* (1) A beneficiary's initial grace year is the first taxable year after 1977 in which the beneficiary has a nonservice month (see paragraph (b) of this section) in or after the month in which he or she is entitled to a retirement, auxiliary, or survivor's benefit.

(2) A beneficiary may have another grace year each time his or her entitlement to one type of benefit ends and, after a break in entitlement of at least one month, he or she becomes entitled to a different type of retirement or survivors benefit. The new grace year would then be the taxable year in which occurs the first nonservice month after the break in entitlement.

* * * * *

(4) A beneficiary entitled to child's benefits, to young wife's or young husband's benefits (entitled only by reason of having a child in his or her care), or to mother's or father's benefits, is entitled to a termination grace year in any year(s) the beneficiary's entitlement to these types of benefits terminates. This provision does not apply if the termination is because of death or if the beneficiary is entitled to a Social Security benefit for the month following the month in which the entitlement ended. The beneficiary is entitled to a termination grace year in addition to any other grace year(s) available to him or her.

Example 1: * * *

Example 2: Marion has been entitled to mother's insurance benefits since 1978 because she had a child in her care.

Because she had a nonservice month in 1978, 1978 was her initial grace year. Marion's child married in May 1980 and entitlement to mother's benefits terminated in April 1980. Since Marion's entitlement did not terminate by reason of her death and she was not entitled to another type of Social Security

benefit in the month after her entitlement to mother's benefit ended, she is entitled to a termination grace year for 1980, the year in which her entitlement to mother's insurance benefits terminated.

She applied for and became entitled to widow's insurance benefits effective February 1981. Because there was a break in entitlement to benefits of at least one month before entitlement to another type of benefit, 1981 will be a subsequent grace year if Marion has a nonservice month in 1981.

3. Section 404.446 is amended by revising paragraph (a) to read as follows:

§ 404.446 Definition of "substantial services" and "services."

(a) *General.* In general, the substantial services test will be applicable only in a grace year (including a termination grace year) as defined in § 404.435(c)(1). It is a test of whether, in view of all the services rendered by the individual and the surrounding circumstances, the individual reasonably can be considered retired in the month in question. In determining whether an individual has or has not performed substantial services in any month, the following factors are considered:

* * * * *

[FR Doc. 82-3566 Filed 2-9-82; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7810]

Income Tax; Taxable Years Beginning After December 31, 1953; Moving Expense Deduction for Foreign Moves and for Retirees or Dependents of Decedents, Who Were Working Abroad

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to special rules for foreign moving expenses and the allowance of moving expense deductions in the case of retirees or dependents of decedents who were working abroad. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. The regulations provide necessary guidance to the public for compliance with the law.

DATE: The regulations are effective for expenses paid or incurred in taxable years beginning after December 31, 1978, and for expenses paid or incurred in the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95-615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

On May 22, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 217 (h) and (i) of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to section 204 of the Foreign Earned Income Act of 1978 (92 Stat. 3106). After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

The effectiveness of these regulations will be evaluated on the basis of comments and information received from the public, other Government agencies, and offices within the Treasury Department and Internal Service. Under the regulations, no additional reporting or filing requirements have been imposed on taxpayers.

Special Rules for Foreign Moves

The regulations reflect the special rules for the deduction of moving expenses in the case of foreign moves. In the case of a foreign move, the new rules change the 30-day limitation on the deduction of the cost of temporary quarters to 90 days. The new rules increase the ceiling on deductibility of these temporary living costs and costs of searching for a new residence from $1,500 to $4,500 for a foreign move. The $3,000 limitation applicable for the deductibility of the aggregate qualified residence sale, purchase or lease expenses is raised to $6,000 for a foreign move. Deductible foreign moving expenses are changed to include the cost of certain storage fees.

Moving Expense Deduction for Retirees or Decedents Who Were Working Abroad

The regulations reflect the new rules allowing for the deduction of qualified retiree moving expenses and qualified survivor moving expenses. Qualified retiree moving expenses are expenses that are incurred by an individual whose former principal place of work and former residence were outside the United States and that are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual. The regulations define "bona fide retirement" generally to mean the permanent withdrawal from gainful full-time employment and self-employment. An individual who at the time of withdrawal from gainful full-time employment or self-employment, intends the withdrawal to be permanent shall be considered to be a bona fide retiree even though the individual ultimately resumes gainful full-time employment or self-employment. An individual's intention is determined by relevant facts and circumstances. One comment stated that the definition of bona fide retirement is too restrictive and should be revised to delete the requirement of permanent withdrawal from employment. This suggestion was not adopted. Under the regulations, whether resumption of employment disqualifies an individual as a bona fide retiree depends on the particular facts and circumstances of each situation. This rule provides sufficient flexibility for making the determination.

Qualified survivor moving expenses are expenses that are paid or incurred by the spouse or any dependent of a decedent who had a principal place of work outside the United States. The expenses must be incurred for a move to the United States from a former residence outside the United States that was the residence of the decedent and the taxpayer. The move must begin within 6 months after the death of the decedent. The proposed regulations provide that a move begins when either the taxpayer's household goods and personal effects are packed and in transit to a residence in the United States or the taxpayer leaves the former residence to travel to a new place of residence in the United States or both. One comment noted that it may be impossible to accomplish the requisite packing and movement of household goods in a six-month period due to internal conditions of the foreign country and requested that a more flexible rule for determining when a move begins, be adopted. In response to this suggestion, the regulations have been revised to provide that a move will also be considered to begin when the taxpayer contracts for the moving of his or her household goods and personal effects to a residence in the United States but only if the move is completed within a reasonable time thereafter.

Drafting Information

The principal author of this regulation is David R. Haglund of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR Part 1 is amended to read as follows:

Section 1.217–2 is amended by redesignating paragraph (h) as paragraph (j) and adding new paragraphs (h) and (i), to read as follows:

§ 1.217–2 Deduction for moving expenses paid or incurred in taxable years beginning after December 31, 1969.

* * * * *

(h) *Special rules for foreign moves*—(1) *Increase in limitations.* In the case of a foreign move (as defined in paragraph (h)(3) of this section), paragraph (b)(6) of this section shall be applied by substituting "90 consecutive" for "30 consecutive" each time it appears. Paragraph (b)(9) (ii), (iii) and (v) of this section shall be applied by substituting "$6,000" for "$3,000" each time it appears and by substituting "$4,500" for "$1,500" each time it appears. Paragraph (b)(9)(ii) of this section shall be applied by substituting "$5,000" for "$2,000" each time it appears and by substituting "1979" for "1977" and "1980" for "1978" each time they appear in the last sentence. Paragraph (b)(9)(v) of this section shall be applied by substituting "$2,250" for "$750" each time it appears. Paragraph (b)(9)(vi) of this section does not apply.

(2) *Allowance of certain storage fees.* In the case of a foreign move, for purposes of this section, the moving expenses described in paragraph (b)(3) of this section shall include the reasonable expenses of moving household goods and personal effects to and from storage, and of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

(3) *Foreign move.* For purposes of this paragraph, the term "foreign move" means a move in connection with the commencement of work by the taxpayer at a new principal place of work located outside the United States. Thus, a move from the United States to a foreign country or from one foreign country to another foreign country qualifies as a foreign move. A move within a foreign country also qualifies as a foreign move. A move from a foreign country to the United States does not qualify as a foreign move.

(4) *United States.* For purposes of this paragraph, the term "United States" includes the possessions of the United States.

(5) *Effective date.* The provisions of this paragraph apply to expenses paid or incurred in taxable years beginning after December 31, 1978. The paragraph also applies to the expenses paid or incurred in the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

(i) *Allowance of deductions in case of retirees or decedents who were working abroad*—(1) *In general.* In the case of any qualified retiree moving expenses or qualified survivor moving expenses, this section (other than paragraph (h)) shall be applied to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States and the limitations of paragraph (c)(4) of this section (relating to the minimum period of employment) shall not apply.

(2) *Qualified retiree moving expenses.* For purposes of this paragraph, the term "qualified retiree moving expenses" means any moving expenses which are incurred by an individual whose former principal place of work and former residence were outside the United States and which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual. "Bona fide retirement" means the permanent withdrawal from gainful full-time employment and self-employment. An individual who at the time of withdrawal from gainful full-time employment or self-employment, intends the withdrawal to be permanent shall be considered to be a "bona fide retiree" even though the individual ultimately resumes gainful full-time employment or self-employment. An individual's intention may be evidenced by relevant facts and circumstances which include the age and health of the individual, the customary retirement age of employees engaged in similar work, whether the individual is receiving a retirement allowance under a pension annuity, retirement or similar fund or system, and the length of time before resuming full-time employment or self-employment.

(3) *Qualified survivor moving expenses.* (i) For purposes of this paragraph, the term "qualified survivor moving expenses" means any moving expenses—

(A) Which are paid or incurred by the spouse or any dependent (as defined in section 152) of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

(B) Which are incurred for a move which begins within 6 months after the death of the decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense.

(ii) For purposes of paragraph (i)(3) (i) (B) of this section, a move begins when—

(A) The taxpayer contracts for the moving of his or her household goods and personal effects to a residence in the United States but only if the move is completed within a reasonable time thereafter;

(B) The taxpayer's household goods and personal effects are packed and in transit to a residence in the United States; or

(C) The taxpayer leaves the former residence to travel to a new place of residence in the United States.

(4) *United States.* For purposes of this paragraph, the term "United States" includes the possessions of the United States.

(5) *Effective date.* The provisions of this paragraph apply to expenses paid or incurred in taxable years beginning after December 31, 1978. The paragraph also applies to the expenses paid or incurred in the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95–615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 4, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-3010 Filed 2-5-82; 4:07 pm]

BILLING CODE 4830-01-M

26 CFR Parts 48, 142, and 144

[T.D. 7809]

Manufacturers Excise Tax on Tires, Tubes and Tread Rubber

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: The Internal Revenue Service is amending its existing regulations regarding manufacturers excise tax on tires, tubes and tread rubber. These regulations include provisions concerning the imposition and rates of excise tax on tires, imposition of tax on tires and tubes delivered to the manufacturers retail outlet, the imposition of tax on original equipment tires on imported articles, exemptions for certain tires, and definitions of terms such as "tires of the type used on highway vehicles" and "manufacturers". These amendments conform the existing regulations to provisions of the Act of August 1, 1966, the Revenue Act of 1971, the Highway Revenue Act of 1978, the Technical Corrections Act of 1979 and the Act of December 24, 1980.

DATE: Except as otherwise provided in this document, the amendments are effective March 12, 1982. However, the fact that the regulations in this document are prospective does not preclude the application of prior Internal Revenue Service positions to periods prior to the effective date of the regulations.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1980, the **Federal Register** published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations [26 CFR Part 48] under sections 4071 through 4073 of the Internal Revenue Code of 1954 (45 FR 80309). These amendments were proposed to conform the regulations to certain provisions under section [1] (a) of the Act of Aug. 1, 1966, Pub. L. 89–523, 80 Stat. 331; section 401(f) of the Revenue Act of 1971, 85 Stat. 533; section 502(a)(4) of the Highway Revenue Act of 1978, 92 Stat. 2756; and section 108(c)(2)(C) of the Technical Corrections Act of 1979, 94 Stat. 227. After consideration of comments received in response to the notice of proposed rulemaking, those amendments are adopted as modified by this Treasury decision. In addition, this Treasury decision conforms the regulations to section 4(a) of the Act of December 24, 1980, Pub. L. 96–596, 94 Stat. 3475.

Explanation of Provisions

The final regulations update and revise the existing regulations regarding manufacturers excise tax on tires, tubes and tread rubber. These amendments supersede and delete §§ 48.4071–1 through 48.4073–4 of the Manufacturers and Retailers Excise Tax Regulations, § 142.3–1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971, and Part 144 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet.

The final regulations include provisions concerning the imposition and rates of the excise tax on tires, the imposition of tax on tires and tubes delivered to the manufacturer's retail outlet, the imposition of tax upon original equipment tires on imported articles, exemptions for certain tires, and definitions of terms such as "tires of the type used on highway vehicles" and "manufacturers."

Section 48.4071–1(b) revises the current provisions regarding the rates at which excise tax is imposed upon tires, inner tubes, and tread rubber to reflect modifications made in Code section 4071 by section 4(a) of the Act of December 24, 1980, Pub. L. 96–596.

Section 48.4071–3 incorporates, with minor revisions, and supersedes those rules now contained in § 144.1–1 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet.

Section 48.4071–4 incorporates, with minor revisions, and supersedes those rules now contained in § 142.3–1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971.

Several comments were received in response to the notice of proposed rulemaking published in the **Federal Register** for December 4, 1980. One commentator recommended that § 48.4071–2(a) regarding determination of the weight of tires and inner tubes be amended to provide that manufacturers who do not use the alternative method of determining weight allowed by § 48.4071–2(b) must use the actual weight of each tire and inner tube in computing their excise tax liability under section 4071. This suggestion was not followed because although only one alternative method of weighing has thus far been permitted by the Commissioner, this does not mean that other alternative methods may not be approved by the Commissioner in the future.

Two commentators expressed concern that inclusion within the definition of taxable tread rubber of "a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing" could require rubber strip, slabs, or pellet used as raw material for the extrusion process to be taxed as "tread rubber." In response to their requests for clarification, § 48.4072–1(b) has been revised to provide that the term "tread rubber" does not include rubber in various forms used as raw material for the extrusion process.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public. These regulations will impose no additional reporting or recordkeeping requirements.

Drafting Information

The principal author of this regulation is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Amendments To The Regulations

The amendments to 26 CFR Part 48, 26 CFR Part 142, and 26 CFR Part 144 are as follows:

PART 142—TEMPORARY EXCISE TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

§ 142.3–1 [Removed]

Paragraph 1. Section 142.3–1 is removed.

PART 144—TEMPORARY EXCISE TAX REGULATIONS RELATING TO TAX ON TIRES AND TUBES DELIVERED TO MANUFACTURER'S RETAIL OUTLET [Removed]

Par. 2. Part 144 is removed.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 3. Sections 48.4071–1, 48.4071–2, 48.4072–1, and 48.4073–1 through 48.4073–4 are revised and 48.4071–3 and 48.4071–4 are added to read as follows:

Tires, Tubes, and Tread Rubber

§ 48.4071–1 Imposition and rates of tax.

(a) *Imposition of tax.* Section 4071 imposes a tax upon the following articles sold by the manufacturer thereof:

(1) Tires made wholly or in part of rubber;

(2) Inner tubes (for tires) made wholly or in part of rubber, and

(3) Tread rubber.

For definitions of the terms "tires," "inner tubes," "tread rubber," "rubber," and "manufacturer," see § 48.4072–1.

(b) *Rates and computation of tax*—(1) *Rates of tax.* Tax is imposed upon each of the above-mentioned taxable articles at the rate applicable on the date on which the article is sold, as specified below:

	Cents per pound
(i) *Tires:*	
(A) Of the type used on highway vehicles:	
(*1*) For the period July 1, 1965, to December 31, 1980, inclusive	10
(*2*) For the period January 1, 1981, to September 30, 1984, inclusive	9.75
(*3*) On or after October 1, 1984	4.875
(B) Of the type used on other than highway vehicles:	
(*1*) For the period July 1, 1965, to December 31, 1980, inclusive	5
(*2*) On or after January 1, 1981	4.875
(C) Laminated tires. On or after July 1, 1965	1
(ii) *Inner Tubes:*	
(A) For the period July 1, 1965, to September 30, 1984, inclusive	10
(B) On or after October 1, 1984	0
(iii) *Tread rubber:* For the period July 1, 1965, to September 30, 1984, inclusive	5

(2) *Computation of tax.* The tax on tires, inner tubes, and tread rubber is computed by applying to the total weight (including a fractional part of a pound) of the article the rate in effect at the time the article is sold. See § 48.4071–2, relating to determination of weight.

(c) *Liability for tax.* The tax imposed by section 4071 is payable by the manufacturer when the manufacturer makes a sale of a taxable article, or as provided in section 4071 (b) and § 48.4071–3 for a manufacturer who sells at retail, when the manufacturer delivers a taxable article to a retail store, or to a retail outlet, of the manufacturer.

(d) *Recapped or retreaded tires.* The recapping or retreading of a tire (other than from bead to bead) does not constitute manufacture of a taxable article. The tax imposed by section 4071 does not apply to the sale of a tire so recapped or retreaded, if before such sale there had been a sale of the tire in the United States and the tire was a taxable tire at the time of such previous sale in the United States as distinguished from a carcass that has lost its utility as a tire. The recapping or retreading of a tire from bead to bead (whether or not the original tire is a carcass that had lost its utility as a tire) does constitute manufacture of a taxable tire. The tax imposed by section 4071 applies to the sale or use of a tire that has been so recapped or retreaded.

§ 48.4071–2 Determination of weight.

(a) *In general*—(1) *Tires.* (i) Metal rims or rim bases are not to be included in determining the total weight of a tire. However, the wire, staples, darts, clips, and other material or fastening devices which form a part of the tire or are required for its use must be included in determining the total weight of the tire. Studs are considered to be part of a tire and are to be included when determining the weight of a tire. In the case of a tubeless tire, the total weight includes the weight of the air valve and stem or any other mechanism that functions as a part of the tire and is used in connection with inflating the tire or maintaining its air pressure.

(ii) When tires are sold with metal rims or rim bases attached, the manufacturer must maintain records that will establish what portion of the total weight of the finished product represents the tire exclusive of the metal rim or rim base.

(2) *Inner tubes.* The total weight of an inner tube includes the weight of the air valve and stem or any other mechanism attached to the inner tube that is used in connection with inflating the tube or maintaining its air pressure.

(b) *Alternative method of determining weight of tires and inner tubes.* A manufacturer who has received permission from the Commissioner may, subject to such conditions as the Commissioner may prescribe, determine total weight of tires and inner tubes manufactured and sold by the manufacturer on the basis of the average weight for each type, size, grade, and classification shown in schedules published by the tire industry. The average weights must be established in accordance with the method approved by the Commissioner and apply for such periods as the Commissioner may prescribe. The Commissioner may terminate the approval granted any manufacturer. In the case of the termination of the approval granted any manufacturer, the termination becomes effective 10 days from the date of the receipt by the manufacturer of the notice of termination. A manufacturer may effect termination, as of a specified date, of the privilege to determine total weight in accordance with provisions of this paragraph by giving no less than 10 days written notice of such intention to the Commissioner. The termination of the approval given a manufacturer does not affect a manufacturer's tax liability for tires and inner tubes sold prior to the effective date of the notice of termination.

§ 48.4071–3 Imposition of tax on tires and tubes delivered to manufacturer's retail outlet.

(a) *General rule.* If, on or after October 1, 1986, a tire or inner tube is delivered by the manufacturer thereof to a retail outlet of the manufacturer, the manufacturer is liable for tax in respect of the tire or tube at the rate set forth in section 4071 in the same manner as if the tire or tube had been sold at the time it was delivered to the retail outlet. The amount of tax payable shall be computed in accordance with the provisions of paragraph (b)(2) of § 48.4071–1, and of § 48.4071–2.

(b) *Definition of retail outlet.* For purposes of this section, the term "retail outlet" includes the term "retail store." A retail outlet is a facility maintained by a manufacturer for selling tires or tubes at retail. A facility may be a retail outlet even though some sales are made at wholesale at such facility; see paragraph (d)(1) of this section. A facility may also be considered to a retail outlet for the purposes of this section notwithstanding that its main activity is in another area than selling tires or inner tubes. For example, if a manufacturer operates a facility for both automotive repair and the selling of tires at retail, the facility is considered a retail outlet for the purposes of this section even if the primary activity of the facility is automotive repair. No facility is considered a retail outlet for the purposes of this section if it is determined that less than 15 percent of the taxable tires and inner tubes removed from such facility are sold at retail by such facility. The determination described in the preceding sentence is made on the basis of the experience of a representative period, of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. See also paragraph (c)(3) of this section, relating to imposition of tax where a retail outlet is maintained as an adjunct to a production facility or distribution center.

(c) *Delivery*—(1) *In general.* A manufacturer of tires or inner tubes

may, at its option, treat either of the following events as constituting delivery to a retail outlet:

(i) Delivery of tires or inner tubes to a common carrier (or, where the tires or tubes are transported by the manufacturer, the placing of the tires or tubes into the manufacturer's over-the-road vehicle) for shipment from the plant in which the tires or tubes are manufactured, or from a regional distribution center of tires and inner tubes, to a retail outlet or to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.

(ii) Arrival of the tires or tubes at the retail outlet, or, where shipment is to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet, the arrival of the tires or tubes at such location.

In its excise tax return for the first return period beginning after September 30, 1966, a manufacturer of tires or inner tubes must elect to determine the date of delivery to retail outlets in accordance with one of the two subdivisions of this paragraph (c)(1) and must determine the dates of all deliveries made to all retail outlets in accordance with the subdivision which the manufacturer has elected to apply. The election may be made in a statement attached to the return for such period. Having elected to treat one of the events listed in subdivision (i) or (ii) of this paragraph (c)(1) as constituting delivery to a retail outlet for purposes of its return for the first return period after September 30, 1966, the manufacturer may not use a different criterion for a subsequent return period unless permission of the district director is obtained in advance.

(2) *Deliveries made in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.* (i) For purposes of this section, any delivery which is made in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet is deemed to be a delivery to the retail outlet. For the purpose of the preceding sentence, a location is considered to be in the immediate vicinity of a retail outlet if the distance between the location and the retail outlet is sufficiently small so that it is feasible to transport tires and inner tubes between the location and the retail outlet by means of dollies, fork lift trucks, pushcarts, and similar vehicles of the type normally used around the premises of factories and similar establishments, as opposed to highway motor vehicles. For the purpose of the preceding sentence, it is immaterial that a public thoroughfare must be used in order to transport tires or inner tubes to a retail outlet from another location. Tires and inner tubes delivered to a location in the immediate vicinity of a retail outlet are considered to to be delivered to the location "primarily for future delivery" to the retail outlet if it is determined that a majority (by number) of the tires and tubes removed from the location are delivered to the retail outlet. The determination described in the preceding sentence is made on the basis of the experience of a representative period of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. If it is determined that the majority of all tires and inner tubes removed from a given location are delivered to a retail outlet of the manufacturer in the immediate vicinity of the location, tax is imposed upon all tires and tubes delivered by the manufacturer to the location, even though all or part of the tires or tubes comprising a particular shipment to the location may be intended for further transportation to a location other than the retail outlet. If it is determined that a majority of all tires and inner tubes removed from a given location are not delivered to a retail outlet of the manufacturer in the immediate vicinity of the location, tax is imposed upon the removal of a tire or inner tube from the location to the premises of the retail outlet. See also paragraph (d)(2) of this section, relating to sales by the manufacturer at facilities other than retail outlets.

(ii) The provisions of this paragraph (c)(2) may be illustrated by the following examples.

Example. A manufacturer of tires and tubes whose plant is located in City X operates two facilities in City Y: Warehouse A and Store Q. Store Q is a retail outlet within the meaning of paragraph (b) of this section, and Warehouse A is in the immediate vicinity of Store Q. During the 12-month period ending September 30, 1966, 60 percent of the tires and inner tubes removed from Warehouse A were delivered to Store Q. All tires or inner tubes delivered by the manufacturer to Warehouse A are subject to a tax under section 4071(b) and this section (unless, before such delivery, tax was imposed on the same tires and tubes).

(3) *Retail outlet maintained as adjunct of production or distribution facility.* If a retail outlet is maintained as an adjunct to and in the immediate vicinity of a facility which is not a retail outlet (as, for example, a production plant or a regional distribution center), delivery to the retail outlet is deemed to occur at the earlier of—

(i) The date when a tire or inner tube is removed from the general storage facilities in the facility which is not a retail outlet for transfer to the premises of the retail outlet, or

(ii) The date when a tire or inner tube is designated to be sold by or at the retail outlet.

(d) *Special rules*—(1) *Retail outlets which also sell at wholesale.* Tax applies to all shipments of tires and inner tubes delivered to a retail outlet as defined in paragraph (b)(2) of this section. Thus, for the purposes of section 4071(b) and this section, it is immaterial that all or part of the tires or inner tubes of a particular delivery to a retail outlet are intended for sale at wholesale. See also paragraph (d)(3) of this section.

(2) *Sales by manufacturer at facilities other than retail outlets.* Sales by the manufacturer of tires and inner tubes at facilities other than retail outlets are subject to tax under section 4071(a).

(3) *Deliveries of tires or tubes on which tax has been previously imposed.* (i) Tax is not imposed under section 4071(b) and this section on any tire or inner tube in respect of which there was previously imposed a tax under section 4071(a). Similarly, a tire or inner tube is taxed only once under section 4071(b) and this section.

(ii) The provisions of this paragraph (d)(3) may be illustrated by the following example:

Example. A manufacturer has two selling facilities, Store No. 1 and Store No. 2. Only retail sales are made at Store No. 2, which obtains its merchandise from Store No. 1. Assume that, although wholesaling and distribution activities are conducted at Store No. 1, the sale of tires and tubes at retail is conducted at Store No. 1 to the extent that Store No. 1 is a retail outlet within the meaning of paragraph (b) of this section, with the result that tax is imposed on deliveries by the manufacturer of tires and tubes to Store No. 1. Tax is not imposed on a delivery of tires or inner tubes from Store No. 1 to Store No. 2.

§ 48.4071–4 Original equipment tires on imported articles.

The tax imposed by section 4071(a) applies with respect to tires and inner tubes (other than bicycle tires and inner tubes) that are original equipment for an imported article upon which no tax is imposed under section 4061 if the article is sold on or after December 11, 1971. In such a case, the importer of the article is treated as the manufacturer and vendor of the tires and inner tubes with which

the article is equipped. However, the tax imposed by section 4071(a) is not imposed with respect to tires and inner tubes if the imported article is an automobile bus chassis or an automobile bus body. Solely for purposes of this section, the provisions of section 4218 (relating to use by a manufacturer or importer considered a sale) do not apply in cases where an individual imports an article having original equipment tires and tubes and on which article no tax is imposed under section 4061 if the article is imported solely for the individual's personal use and is so used.

§ 48.4072–1 Definitions.

For purposes of the regulations in this part, unless otherwise expressly indicated:

(a) *Rubber.* The term "rubber" includes synthetic and substitute rubber.

(b) *Tread rubber.* The term "tread rubber" means any material (1) which is commonly or commercially known as tread rubber or camelback, or (2) which is a substitute for any material commonly or commercially known as tread rubber or camelback and is of a type used in recapping or retreading tires. The term includes, for example, strips of material, wholly or partially of rubber, natural or synthetic, intended to be vulcanized or otherwise affixed to a tire casing to form the outside perimeter of the tire, smooth or treaded. It also includes treading material produced by reprocessing scrap, salvage, or junk rubber and a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing. The term does not include rubber in various forms such as strip, slab, pellet, etc. which is used as raw material for the extrusion process. Tread rubber loses its identity as such when it has been used in the recapping or retreading of a tire of a type used on a highway vehicle (without regard to the actual use ultimately made of the tire) or has deteriorated in quality to the point where it is no longer suitable for use in recapping or retreading of a tire. (In the case of such deterioration, see section 6416(b)(2) and § 48.6416(b)–2 to secure a refund or credit of the tax paid.)

(c) *Tires of the type used on highway vehicles.* (1) The term "tires of the type used on highway vehicles", for purposes of §§ 48.4071–1 through 48.4073–3 means tires of the type used on—

(i) Motor vehicles that are highway vehicles (within the meaning of § 48.4061(a)–1(d)), or

(ii) Vehicles of the type used in connection with motor vehicles that are highway vehicles (within the meaning of § 48.4061(a)–1(d)).

The term "tires of the type used on highway vehicles" does not include bicycle tires. Bicycle tires, however, are included in the term "other tires" as used in section 4071(a)(2).

(2) For purposes of paragraph (c)(1)(i) of this section, tires of the type used on motor vehicles that are highway vehicles include tires used on motor trucks, buses, passenger automobiles, motor homes, highway tractors, trolley buses or coaches, and motorcycles.

(3) For purposes of paragraph (c)(1)(ii) of this section, tires of the type used on vehicles of the type used in connection with motor vehicles that are highway vehicles include tires used on truck or bus trailers, truck semitrailers, mobile homes, housetrailers, or utility trailers.

(d) *Inner tubes.* The term "inner tubes" includes air containers of all types made wholly or in part of rubber and designed and manufactured for use in pneumatic tires.

(e) *Tires.* The term "tires" includes rubber casings, hoops, and strips or bands of all kinds designed and shaped or built to form the tread of or to fit a vehicle wheel. Tires of either the pneumatic or solid type which fit or form the tread for wheels of any article which is capable of use as a means of transporting a person or burden are taxable as tires. Examples of articles which may be equipped with taxable tires are motor scooters, minibikes, industrial trucks, farm tractors, wheelbarrows, and similar articles. See section 4073(a) and § 48.4073–1 with respect to the exemption of tires of certain sizes, and section 4073(b) and § 48.4073–2 with respect to the exemption for tires with internal wire fastening.

(f) *Laminated tires.* For purposes of the tax imposed by section 4071, the term "laminated tires" means tires (1) which are not "tires of the type used on highway vehicles" within the meaning of paragraph (c) of this section, and (2) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent.

(g) *Manufacturer.* The term "manufacturer" means manufacturer, producer, or importer. A person who converts, by any process, a new tire taxable under section 4071 at one rate of tax into a tire taxable under section 4071 at a different rate (as for example, an off highway-type tire converted into a highway-type tire) is considered to be a manufacturer of the converted tire. If a conversion results in a reduced rate of tax for the converted tire, see section 6416(b)(2) and § 48.6416(b)–2 to secure a credit or refund of part of the tax paid. The term "manufactured" includes "produced" and "imported".

(h) *Cross references.* For other definitions, see § 48.0–2.

§ 48.4073–1 Exemption of tires of certain sizes.

The tax does not apply to sales of tires of all-rubber construction (whether hollow center or solid) if they have no fabric or metal reinforcement and do not exceed either of these measurements: (a) 20 inches in diameter measured to the outside circumferences, and (b) 1¾ inches in cross-section. The exemption provided by section 4073(a) is to be determined solely on the measurements of the tire and not on the purpose for which it is designed or used.

§ 48.4073–2 Exemption of tires with internal wire fastening.

The tax does not apply to sales of tires of any size or dimension manufactured from extruded tiring that is fastened or held together by means of internal wire or other metallic material.

§ 48.4073–3 Exemption of tread rubber used for recapping nonhighway tires.

(a) *Sold direct by manufacturer for nontaxable use.* The tax does not apply to the sale of tread rubber by the manufacturer to any person for use by that person otherwise than in the recapping or retreading of tires of the type used on highway vehicles. In determining whether tread rubber is sold for a taxable or nontaxable use, the type of vehicle on which the recapped or retreaded tire is to be used, or the actual or intended use of the recapped or retreaded tire, is immaterial. The controlling factor is whether the tire resulting from the recapping or retreading is of a type that is used otherwise than on a highway vehicle. For definition of "tires of the type used on highway vehicles", see paragraph (c) of § 48.4072–1.

(b) *Sales for resale for nontaxable use.* No sale of tread rubber may be made tax free for resale even though it is known at the time of the sale that the tread rubber will be resold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles. However, where the tread rubber is resold for such use, the manufacturer who paid the tax on a sale of the tread rubber may secure a refund or credit in accordance with the provisions of section 6416(b)(2) and § 48.6416(b)–2.

(c) *Evidence required to establish exemption.* (1) To establish the right to sell tread rubber tax free under section 4073(c), the manufacturer must obtain

from the purchaser and retain in its possession a properly executed exemption certificate.

(2) Where only occasional sales of tread rubber for exempt use are made to a purchaser, a separate exemption certificate should be furnished for each order. However, where sales are regularly and frequently made to a purchaser for exempt use, a certificate covering all purchases during the period not to exceed 12 calendar quarters is acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations in Subpart Q.

(d) *Acceptable form of exemption certificate.* The following form of exemption certificate is acceptable for the purposes of this section and must be adhered to in substance:

Exemption Certificate

(For use by persons who purchase tread rubber from the manufacturer, producer, or importer thereof for use otherwise than in recapping or retreading tires of the type used on highway vehicles (section 4073(c) of the Internal Revenue Code).)

(Date) ————, 19——

I, the undersigned, certify that I am the purchaser, or the (Title) ——— of (Name of purchaser if other than the undersigned) ———— who is the purchaser of: —— The tread rubber specified in the accompanying order or contract, or —— All tread rubber specified in contracts or orders entered into or placed with (Name of seller) ——— for the period commencing ——— and ending ——— (period not to exceed 12 calendar quarters), and that such tread rubber will not be used in the recapping or retreading of tires of the type used on highway vehicles, but will be used for the following purposes:

———————————

———————————

———————————

The undersigned understands that if the tread rubber is used for the recapping or retreading of tires of the type used on highway vehicles, or is sold or otherwise disposed of, such fact must be promptly reported to the manufacturer. The undersigned also understands that the fraudulent use of this certificate for the purpose of securing this exemption will subject the undersigned or any other party making such fraudulent use to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. The purchaser also understands that the purchaser must be prepared to establish by satisfactory evidence the purpose for which the tread rubber was used.

(Signature) ————————————

(Address) ————————————

(e) *Exemption certificate not obtained prior to filing of manufacturer's excise tax return.* If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on the sale may be filed, or a credit for the amount may be taken upon a subsequent return, as provided by section 6416(b)(2) and § 48.6416(b)–2.

§ 48.4073–4 Other tax-free sales.

(a) *Cross references.* For provisions relating to tax-free sales of articles referred to in section 4071, see:

(1) Section 4221, relating to certain tax-free sales, and the regulations thereunder in Subpart H;

(2) Section 4222, relating to registration, and the regulations thereunder in Subpart H;

(3) Section 4223, relating to special rules pertaining to further manufacture, and the regulations thereunder in Subpart H; and

(4) 28 FR 348, January 12, 1963, relating to the authorization of an exemption from the tax imposed by section 4071 by the Secretary of the Treasury under section 4293 for sales of certain tires and inner tubes sold to the American Red Cross on or after March 1, 1963.

(Secs. 4071(b), 4071(c), 4073(c), and 7805, Internal Revenue Code of 1954. (80 Stat. 331, 26 U.S.C. 4071(b); 68A Stat. 482, 26 U.S.C. 4071(c); 70 Stat. 389, 26 U.S.C. 4073(c); 68A Stat. 917, 26 U.S.C. 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 2, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82–3317 Filed 2–9–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS STEPHEN W. GROVES (FFG 29) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS STEPHEN W. GROVES (FFG 29) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that, USS STEPHEN W. GROVES (FFG 29) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS STEPHEN W. GROVES (FFG 29) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISION AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i) Annex I
• • • • •		
USS STEPHEN W. GROVES	FFG 29	1.6
• • • • •		

2. Table Four of §706.2 is amended by adding the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy to existing paragraph 8: USS STEPHEN W. GROVES (FFG 29).

3. Table Four of § 706.2 is amended by adding the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy to existing paragraph 9:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
• • • • •		
USS STEPHEN W. GROVES	FFG 29	2.75

(Executive Order 11964; 33 U.S.C. 1605)

Dated: January 22, 1982.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 82-3491 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS BOSTON

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS BOSTON (SSN 703) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine, and (2) has found that USS BOSTON (SSN 703) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 11, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocte General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS BOSTON (SSN 703) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS BOSTON (SSN 703) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS BOSTON (SSN 703).

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function.

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
• • • • •		
USS BOSTON	SSN 703	3.5
• • • • •		

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), annex I
•	•	•	•	•	•	•	•	
USS BOSTON	SSN 703				4.2	6.2	3.8	1.7 below.
•	•	•	•	•	•	•	•	

(Executive Order 11964; 33 U.S.C. 1605)

Dated: January 11, 1982.

Approved:

George A. Sawyer,

Acting Secretary of the Navy.

[FR Doc. 82-3490 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS HOUSTON

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS HOUSTON (SSN 713) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS HOUSTON (SSN 713) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 11, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS HOUSTON (SSN 713) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS HOUSTON (SSN 713) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS HOUSTON (SSN 713).

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) annex I
•	•	•
USS HOUSTON	SSN 713	3.5
•	•	•

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), annex I
•	•	•	•	•	•	•		
USS HOUSTON	SSN 713			225°	4.3	6.1	3.4	1.7 below.
•	•	•	•	•	•	•		

(Executive Order 11964; 33 U.S.C. 1605)

Dated: January 11, 1982.

Approved:

George A. Sawyer,

Acting Secretary of the Navy.

[FR Doc. 82-3489 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 754

Navy Affirmative Salvage Claims; Miscellaneous Amendments

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending 32 CFR Part 754 pertaining to Navy affirmative salvage claims. Paragraph (a) of § 754.2 is revised to increase per diem rates for Navy salvage services bringing them back into line with the rates offered in existing commercial salvage contracts and with known existing rates in the salvage industry. Additionally, minor editorial changes have been made to paragraphs (b), (d), and (g) of § 754.2.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Captain C. E. Lundin, JAGC, USN, Ret., Assistant Supervisor of Salvage, USN, 1313 Federal Office Building, 90 Church Street, New York, NY 10007, Telephone: (212) 264-5982(3).

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in 5 U.S.C. 301 and 10 U.S.C. 7361-7367, the Department of the Navy amends 32 CFR Part 754. 32 CFR Part 754 is derived from the Naval Sea Systems Command Instruction 4740.4 series. It has been determined that this Final Rule is not a "major rule" within the criteria specified in section 1(b) of the Executive Order 12291 and does not have substantial impact on the public. The rule is being published by the Department of the Navy solely for the guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has further been determined in accordance with 32 CFR Parts 296 and 701 that publication of this amendment for public comment prior to its adoption is impractical, unnecessary and contrary to the public interest in that it merely revises previously established rates to bring them back into line with existing rates in the salvage industry, and makes minor editorial changes. Accordingly, 32 CFR Part 754 is amended as follows:

§ 754.2 [Amended]

1. The introductory paragraph and subparagraphs (1)-(3) of § 754.2(a), are revised to read:

(a) Effective February 1, 1982, and subject to the rules set forth in paragraphs (b) through (g) of this section, the following rates per day of 24 hours or part thereof have been established for salvage services rendered by the Department of the Navy:

(1) Ships, tugs and floating craft:

Salvage ship (ATS)	$25,000
Salvage ship (ARS)	23,000
Fleet tug (ATF)	21,000
Fleet tug (T-ATF 166):	
With salvage equipment/crew	20,000
Without salvage equipment/crew	18,000
Rescue ship (ASR):	
With saturation diving systems	24,000
Without saturation diving systems	22,000
Large tug (YTB)	5,000
Medium tug (YTM)	4,000
Small tug (YTL)	3,000
Floating crane (YD) (200 Ton)	7,500
Diving tender (YDT)	5,000

Rates for other types of ships used in salvage operations will be established on a case-by-case basis, with consideration being given to their special features as required for the particular operation.

(2) *Harbor clearance craft:* Rates for harbor clearance craft, pulling barges, launches, and support equipment in general will be decided on a case-by-case basis.

(3) *Special equipment:* Bottom habitats, submersible vehicles, special surface navigation systems, and underwater search and navigation systems will be charged at rates to be determined on a case-by-case basis.

* * * * *

2. The last sentence of § 754.2(b) is amended by removing the phrase "lost or destroyed" and inserting in its place the phrase "lost, damaged, or expended".

3. The first sentence of § 754.2(d) is amended by removing the word "the" in the fourth line, between "if" and "distressed", and inserting in its place the word "a".

4. The last sentence of § 754.2(g) is amended by removing the words "private commercial ships" and inserting in their place the words "privately owned vessels".

(5 U.S.C. 301; 10 U.S.C. 7361-7367)

Dated: February 5, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-3488 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2034-7]

Approval and Promulgation of Implementation Plans Revisions; Holyoke Gas & Electric Dept., Holyoke, Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Massachusetts State Implementation Plan (SIP) which was submitted on October 13, 1981. This revision amends Regulation 7.05(1)(e) "Sulfur Content of Fuels and Control Thereof for the Pioneer Valley Air Pollution Control District" to allow the Holyoke Gas and Electric Department (Holyoke Gas and Electric), Holyoke, Massachusetts to increase its sulfur-in-fuel content from 1.0% to 2.2%. The facility will be limited to a reduced firing rate while burning the higher

sulfur content oil. The effect of this revision is to allow Holyoke Gas and Electric to burn less expensive fuel. This action will be effective on April 12, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective April 12, 1982.

ADDRESSES: Written comments should be addressed to Harley Laing, Chief, Air Branch, EPA Region 1 (see address below). Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region 1, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. and Department of Environmental Quality Engineering, Division of Air and Quality Control, 1 Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region 1, Room 1903, JFK Federal Building, Boston, Massachusetts, 02203, (617) 223–4448.

SUPPLEMENTARY INFORMATION: On October 13, 1981 the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) submitted a request for EPA approval of a revision to Regulation 7.05(1) "Sulfur Content of Fuels and Control Thereof" which would allow Holyoke Gas and Electric to burn higher sulfur content fuel oil at a reduced firing rate provided that the facility's four boilers are vented through an existing 69 meter stack. (A stack height of 69 meters is considered good engineering practice.) Previously, two boilers rated at 100 million Btu per hour each were vented through a 29 meter stack. Holyoke Gas and Electric, rated at approximately 765 million British thermal units (Btu) per hour heat input capacity, is located in the Pioneer Valley Air Pollution Control District (Pioneer Valley). Regulation 7.05(1)(e) allows approved sources in Pioneer Valley rated at 100 million Btu per hour heat input capacity or greater to burn fuel with a maximum sulfur content of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil by weight).

Technical support for this revision includes an evaluation of compliance with National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) based on a reduced firing rate, using mathematical modeling and monitoring data. NAAQS are maximum ambient pollutant concentrations which are set to protect public health and welfare. The NAAQS for SO_2 are 80 micrograms per cubic meter ($\mu g/m^3$) (annual average); 365 $\mu g/m^3$ (24-hr. average); and 1300 $\mu g/m^3$ (3-hr. average). Estimated background concentrations were based on monitoring data from the nearest representative monitoring site. EPA approved dispersion models were used to predict the impact that emissions from Holyoke Gas and Electric will have on air quality. The modeling analyses considered the emissions from other major sources near Holyoke Gas and Electric.

This technical analysis demonstrates that at a reduced firing rate the burning of fuel oil having a sulfur content of 2.2% by weight at Holyoke Gas and Electric will not cause or contribute to violations of air quality standards.

Holyoke Gas and Electric is required to meet Prevention of Significant Deterioration (PSD) increments under EPA's PSD regulations promulgated on August 7, 1980 (45 FR 52676). The PSD increments are allowable incremental increases in ambient pollutant concentrations which are set to limit air quality degradation over baseline levels. The PSD increments for SO_2 are 20 $\mu g/m^3$ (annual average); 91 $\mu g/m^3$ (24-hr. average); and 512 $\mu g/m^3$ (3-hr. average). Increases in sulfur dioxide emissions resulting from relaxations of sulfur-in-fuel limits must show compliance with PSD increments if the increases occur in or impact on an area in which a baseline date has been established. A baseline date is the date after August 7, 1977 on which the first PSD permit application in that area was filed with EPA by a source subject to the PSD regulations as amended on August 7, 1980. The baseline date is set in the area designated attainment under Section 107 of the Clean Air Act in which the source subject to the PSD regulations is located and all Section 107 designated attainment areas on which the source has an annual impact of 1 $\mu g/m^3$ SO_2. A baseline date has been set in the towns of Belchertown, Ludlow, Granby, Palmer, South Hadley and Wilbraham, Massachusetts which constitute one section 107 designated attainment area. The emissions from Holyoke Gas and Electric impact on these areas but do not consume more than the available increment.

Although 2.2% fuel oil burning will cause an increase in particulate emissions, the current particulate emission limitation (0.12 pounds per million Btu) will not be violated.

Since this SIP revision affects only one source and the increase in SO_2 emissions is small and will not cause or contribute to any violation of the NAAQS or a PSD increment, this rulemaking is considered noncontroversial. Based on past experience with similar SIP revisions in Region I, no comments are expected. Therefore, this SIP revision is being published as a final rulemaking. EPA believes that publishing a notice of proposed rulemaking will be unnecessary.

However, if notice is received by March 12, 1982, that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking, by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective April 12, 1982.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule constitutes a SIP revision approval under the January 27 certification. This action approves only state actions. It imposes no new requirements. In addition, this action applies to only one facility.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought to enforce these requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts State Implementation Plan.

(Secs. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1981.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart W—Massachusetts

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 52.1120, paragraph (c) is amended by adding subparagraph (45) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(45) A revision to Regulation 7.05(1)(e) "Sulfur Content of Fuels and Control Thereof for the Pioneer Valley Air Pollution Control District" allowing the burning of higher sulfur content fuel oil at the Holyoke Gas and Electric Department, Holyoke.

[FR Doc. 82-3487 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2022-7]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: In the November 4, 1981, Federal Register (46 FR 54767), EPA proposed to approve as a revision to the Michigan State Implementation Plan (SIP) three source-specific Abatement Orders. These Abatement Orders were submitted as a revision to the total suspended particulate (TSP) portion of the Michigan SIP. No public comments were received on EPA's proposed rulemaking. The purpose of today's notice is to announce final approval of this revision to the Michigan SIP.

EFFECTIVE DATE: This final rulemaking is effective on March 12, 1982.

ADDRESSES: Copies of these SIP revisions are available for review at the following addresses:

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: In the May 6, 1980, Federal Register (45 FR 29790) EPA approved the strategy developed by the State of Michigan for attaining the primary and secondary TSP standards. EPA stated at that time, however, that source-specific Abatement Orders were to be submitted to EPA for review and approval as revisions to the Michigan SIP.

On May 24, and July 17, 1980 and March 4, 1981, the State of Michigan submitted source-specific Abatement Orders for three sources located in the primary nonattainment areas of Genesee and Saginaw Counties and two sources located in the secondary nonattainment areas of Macomb and Saginaw Counties.

The May 24, 1980, submission was "Stipulation for entry of Consent Order and Final Order APC No. 10-1979 (Order 10-1979)" entered into by the Michigan Department of Natural Resources (MDNR) and the Buick Motors Division of General Motors Corporation (GM). Order 10-1979 contains regulations for the Buick Motor Division Complex (BMDC) located in the City of Flint, Genesee County. Supplementary information for Order 10-1979 was submitted by MDNR on December 2, 1980.

The July 17, 1980, submission was "Stipulation for entry of Consent Order and Final Order APC No. 01-1980 (Order 01-1980)" entered into by MDNR and the Chevrolet Motor Division of GM. Order 01-1980 contains regulations for the Grey Iron Casting Plant and Nodular Iron Casting Plant located in the Saginaw County primary nonattainment area. Supplementary information for Order 01-1980 was submitted by MDNR on September 5, 1980 and February 6, 1981.

The March 4, 1981, submission was "Stipulation and Final Order, APC No. 12-1980 (Order 12-1980)" entered into by MDNR and the New Haven Foundry. Order 12-1980 contains regulations for the New Haven Foundry, located in Macomb County, a secondary nonattainment area.

On November 4, 1981, EPA proposed approval of these Abatement Orders as a revision to the Michigan SIP (46 FR 54767).

EPA reviewed Orders 10-1979, (Genesee County primary nonattainment area), 01-1980, (Saginaw County primary nonattainment area), 12-1980, (Macomb County secondary nonattainment area), and the air quality data submitted with each of these Orders, and determined that these Orders contain enforceable emission limitations and control measures. EPA also determined that implementation of the measures stipulated in each of the Orders will significantly reduce TSP emissions in the affected nonattainment areas.

EPA, therefore, approves Orders 10-1979, and 01-1980, as part of the Michigan SIP because implementation of the control measures contained in these Orders, in conjunction with Michigan's particulate regulations, will be sufficient to ensure attainment of the primary TSP standard in Genesee and Saginaw Counties by December 31, 1982.

EPA also approves Order 12-1980 and concurs with the State's demonstration that the implementation of control measures in Order 12-1980, in conjunction with its particulate regulations, will be sufficient to attain the secondary TSP standard by June 30, 1985 in the Macomb County nonattainment area. EPA agrees that the State's commitment to study the TSP emission in each area and to implement additional control measures as necessary, (45 FR 29790) is sufficient to ensure attainment of the secondary TSP standards.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981, (46 FR 8709) that approvals of SIPs under Section 110 or 172 of the Act would not have a significant economic impact on a substantial number of small entities. Because this final action approves a State action taken pursuant to Section 110 and 172 of the Act, it falls within this certification. Further, it imposes no new requirements beyond those which the State has already imposed.

These regulations were exempted from review by the Office of Management and Budget (OMB) under Section 3 by Executive Order 12291.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director of Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act)

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraphs (c) (45), (46), and (47) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(45) On May 24, 1980, the State of Michigan, Department of Natural Resources (MDNR) submitted Consent Order APC No. 10–1979 for the Buick Motor Division Complex (BMDC) of the Buick Motors Division, General Motors Corporation. The BMDC is located in the City of Flint, Genesee County, a primary nonattainment area. On December 2, 1980, supplementary information was submitted by MDNR. The Consent Order contains enforceable emission limitations and control measures for the attainment of the primary TSP standards in Genesee County by December 31, 1982.

(46) On July 17, 1980, the State of Michigan, Department of Natural Resources (MDNR) submitted Consent Order APC No. 01–1980 for the Grey Iron Casting Plant and the Nodular Iron Casting Plant, of the Chevrolet Motor Division, General Motors Corporation. The two plants are located in Saginaw County, a primary nonattainment area. On September 5, 1980 and February 6, 1981, supplementary information was submitted by MDNR. The Consent Order contains enforceable emission limitations and control measures for the attainment of the primary TSP standards in Saginaw County by December 31, 1982.

(47) On March 4, 1981, the State of Michigan, Department of Natural Resources (MDNR) submitted Consent Order APC No. 12–1980 for the New Haven Foundry located in Macomb County, a secondary nonattainment area. The Consent Order contains enforceable emission reductions to achieve the secondary TSP standards by June 30, 1985.

§ 52.1175 [Amended]

2. Section 52.1175(e) table is amended by adding compliance schedules for the Buick Motors Division, New Haven Foundry, and Grey Iron Casting and Nodular Iron Casting Plants.

MICHIGAN

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
•	•	•	•	•
GENESEE COUNTY				
Buick Motor Division	City of Flint	R336.1301	May 5, 1980	Dec. 31, 1982.
•	•	•	•	•
MACOMB COUNTY				
New Haven Foundry	Macomb County	R336.1301, R336.1331, R336.1901.	Aug. 14, 1980	June 30, 1985.
•	•	•	•	•
SAGINAW COUNTY				
Grey Iron Casting and Nodular Iron Casting Plants.	Saginaw County	R336.1301	Apr. 16, 1980	Dec. 31, 1982.

[FR Doc. 82-3484 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-1-FRL-2034-6]

Approval and Promulgation of Implementation Plan Revisions; Vermont

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On November 12, 1981 EPA published a notice of proposed rulemaking (NPR) in the Federal Register (46 FR 55719) proposing approval of several amendments to the Vermont State Implementation Plan (SIP). These amendments include revisions to Vermont Regulations 5–101, "Definitions"; 5–501, "Review of Construction or Modification of New Air Contaminant Sources"; 5–502, "Major Stationary Sources"; and Section 9 of the non-regulatory portion of the SIP, entitled "New Source Review." In that NPR, EPA also proposed approval of a revision to delete Regulations 5–253(1), "Storage of Volatile Organic Compounds" and 5–253(3), "Bulk Gasoline Terminals" from the federally approved Vermont SIP; a revision to Regulation 5–101(34), to define the term Major Stationary Source for sources of lead emissions; a revision to repeal Regulation 5–231(4), "Potentially Hazardous Particulate Matter"; a revision to add Regulation 5–261, "Control of Hazardous Air Contaminants"; and a revision to Table 3 of the Vermont Regulations, "Levels of Significant Impact for Nonattainment Areas." EPA initiated rulemaking on these revisions concurrently with the state's administrative procedures for amending their SIP. This concurrent review is referred to as parallel-processing. No letters of comment were received on the NPR. The state formally submitted these revisions, as described in the NPR, to EPA on August 24, 1981. On November 3, 1981, in accordance with Vermont's administrative procedures, those revisions became effective in the State of Vermont. The purpose of this notice is for EPA to take final action approving the revisions.

EFFECTIVE DATE: February 10, 1982.

ADDRESSES: Copies of the Vermont submittal which is incorporated by reference are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, J.F.K. Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; and the Vermont Agency of Environmental Conservation, State Office Building, Montpelier, VT 05602.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Air Branch, EPA Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts, 02203, (617) 233–4448.

SUPPLEMENTARY INFORMATION: On August 7, 1980 EPA promulgated amendments to 40 CFR 51.24 and 40 CFR 51.18(j) in response to the decision of the U.S. Court of Appeals for the D.C. Circuit in *Alabama Power Company* v. *Costle*, 636 F 2d 323 (D.C. Cir. 1979). Vermont has revised its SIP requirements for the permitting of new major sources and major modifications

in both attainment and nonattainment areas in accordance with the August 7, 1980 amendments to 40 CFR 51.24 and 51.18(j), (45 FR 52729–52735 and 52742–52746, respectively). EPA has evaluated the revisions made by the state to the requirements for preconstruction permitting of new major sources and major modifications, and found them to be equivalent to or, in some instances, more stringent than the requirements of 40 CFR 51.24 and 40 CFR 51.18(j), as revised.

The NPR also proposed approval of a revision submitted by the state requesting that Regulations 5–253(1) and 5–253(3) be withdrawn from the federally approved SIP.

EPA also proposed approval of a revision to Regulation 5–101(34) to define the term Major Stationary Source for sources of lead emissions.

Additionally, the NPR proposed approval of revisions to delete Regulation 5–231(4) and add Regulation 5–261 to provide more comprehensive regulation of hazardous air contaminants by the State of Vermont.

Finally, EPA proposed approval of a revision to Table 3 of the Regulations to include a level of significant impact for the pollutant lead.

A thorough discussion of these revisions to the Vermont SIP and EPA's reasons for approving them were presented in the NPR, cited above, and will not be repeated here.

ACTION: EPA is taking final action to approve the following Vermont SIP revisions:

(1) Amendments to Regulations 5–101, "Definitions"; 5–501, "Review of Construction or Modification of New Air Contaminant Sources"; 5–502, "Major Stationary Sources"; and Section 9 of the non-regulatory portion of the SIP for new major source and major modification review and permitting as consistent with 40 CFR 51.24 and 40 CFR 51.18(j);

(2) Deletion of Regulations 5–253(1), "Storage of Volatile Organic Compounds" and 5–253(3), "Bulk Gasoline Terminals" from the federally approved SIP;

(3) Amendment to Regulation 5–101(34) to define a major stationary source of lead;

(4) Deletion of Regulation 5–231(4), "Potentially Hazardous Particulate Matter";

(5) Addition of Regulation 5–261, "Control of Hazardous Air Contaminants"; and

(6) Amendment of Table 3 of the Regulations, "Levels of Significant Impact for Nonattainment Areas," to include such a level for lead.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves state actions and imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Agency finds that good cause exists for making this action effective immediately since these implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

After evaluation of the State's submittal, the Administrator has determined that the Vermont revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to the Vermont State Implementation Plan.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Note.—Incorporation by reference of the State Implementation Plan for the State of Vermont was approved by the Director of the Federal Register on July 1, 1981.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN REVISIONS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart UU—Vermont

Section 52.2370 is amended by adding paragraph (c)(15) as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified:

* * *

(15) Revisions to amend Regulations 5–101 "Definitions", 5–501 "Review of Construction or Modification of New Air Contaminant Sources", 5–502 "Major Stationary Sources", and Section 9 of the non-regulatory portion of the SIP; to delete Regulations 5–253(1) "Storage of Volatile Organic Compounds", 5–253(3), "Bulk Gasoline Terminals", and 5–231(4) "Potentially Hazardous Particulate Matter"; to add Regulation 5–261 "Control of Hazardous Air Contaminants"; and to amend Table 3 of the Regulations "Levels of Significant Impact for Nonattainment Areas"; submitted by the Secretary of the Vermont Agency of Environmental Conservation on August 24, 1981.

[FR Doc. 82–3608 Filed 2–9–82; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 52

[A–6–FRL–2036–5]

Approval and Promulgation of Revisions to Louisiana State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve certain elements of the State Implementation Plan (SIP) for Louisiana which were proposed for approval on November 10, 1980, (45 FR 74518), and to remove conditional approval of the State's new source review program, granting it full approval. The parts of the SIP approved by this notice are the revised Sections 6.3.8, 22.3, 22.5, 22.6.1, 22.6.2, 22.8(c), 22.10, and 22.12.4. The revised sections were submitted by the Governor of Louisiana in four packages on April 30, 1979, June 20, 1979, July 7, 1979, and December 10, 1979. This notice amends 40 Code of Federal Regulations at § 52.970 to remove the Part D Conditional Approvals in § 52.973 and § 52.976 and to indicate full approval.

EFFECTIVE DATE: March 12, 1982.

ADDRESSES: Copies of the materials submitted by Louisiana, the public comments, and EPA's Evaluation Report may be examined during normal business hours at the following locations:

EPA, Region 6, Library, 1201 Elm Street, Dallas, TX 75270;

EPA, Public Information Reference Unit, Library Systems Branch, 401 M Street, SW., Washington, D.C. 20460;

The Office of the Federal Register, Room 8401, 1100 L St. NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

J. Ken Greer, Jr., State Implementation Plan Section, Air and Waste Management Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2742.

SUPPLEMENTARY INFORMATION:

I. Background

The Governor of Louisiana submitted to EPA revisions to the State's SIP for air pollution control on April 30, 1979, June 20, 1979, July 7, 1979, and December 10, 1979. The submittals revised Sections 6.3.8, 22.3, 22.5, 22.6.1, 22.6.2, 22.8(c), 22.10, and 22.12.4 of the SIP. EPA proposed approval of the revised sections and proposed to remove the existing conditional approval of the Louisiana SIP on November 10, 1980 (45 FR 74518).

The conditional approval of Sections 6.0, 22.6 and 22.12.4 of the Louisiana SIP was published in the **Federal Register** on February 14, 1980 (45 FR 9903). Detailed descriptions of the revised sections of the Louisiana SIP which are approved by this notice can be found in the February 14, 1980 and the November 10, 1980 **Federal Register** notices. Brief descriptions of the revised sections of the SIP and EPA's actions are outlined below.

II. Revisions to Regulation 6.0

As previously noted, on February 14, 1980, EPA conditionally approved Regulation 6.0 on the condition that the State revise the regulation to comply with the requirements of Sections 173 (2) and (3) of the Clean Air Act. In that notice, EPA specified that the regulation must be revised to require that new or modified major sources located in nonattainment areas comply with the lowest achievable emission rate (LAER), and that owners or operators demonstrate that all major stationary sources owned or operated in the State are in compliance with applicable portions of the SIP or are on a schedule of compliance.

A revision to Regulation 6.0 (i.e. Section 6.3.8) was submitted by the Governor on December 10, 1979. EPA suggested to the State changes to this section which included: 1) stating that modified as well as new sources must comply with LAER and, 2) that owners or operators of the sources be required to demonstrate that all major stationary sources owned or operated in the State are in compliance with applicable portions of the SIP, or on a schedule of compliance. The State agreed to these changes and on October 23, 1980, after adequate public notice and hearing, the Governor submitted the requested revision to Section 6.3.8. Therefore, EPA is approving the revision to Section 6.3.8 and thereby issuing full approval to Section 6.0 of the Louisiana SIP with respect to new source review.

III. Revisions to Regulation 22.0

On November 10, 1980 (at 45 FR 74518), EPA published a notice proposing to approve revised sections of Louisiana Regulation 22.0. These sections include 22.3, 22.5, 22.6.1, 22.6.2, 22.8 (b) and (c), 22.10, and 22.12.4.

Revisions to Section 22.3 were submitted to EPA on June 20, 1979 and on July 7, 1979, and an administrative change to this section was submitted on December 10, 1979.

Revisions to Section 22.5 were submitted on April 30, 1979, and on July 7, 1979.

Sections 22.8 (b) and (c) were submitted on June 20, 1979. EPA chooses to take no action regarding 22.8(b) at this time because it relates to halogenated products of combustion for which there are no applicable National Ambient Air Quality Standards.

Section 22.10 was submitted on June 20, 1979, and a revision to this submittal was submitted on December 10, 1979.

Sections 22.6.1, 22.6.2, and 22.12.4, were conditionally approved by EPA on February 14, 1980. The conditions for approval were met when the revised sections were submitted to EPA on December 10, 1979.

The above revised sections were all submitted under the Governor's signature and made available to the public for review and comment. The only comments received related to section 22.8(c). Discussion of the public's comments and EPA's reply are outlined below in the *Public Comments* Section.

All of the above sections were proposed for approval in the November 10, 1980 **Federal Register** notice. This notice approves the revised sections discussed above, and removes the conditional approval of Section 22 of the Louisiana SIP.

IV. Public Comments

All the comments received by EPA related to the November 10, 1980 **Federal Register** notice and were in response to EPA's interpretation of Section 22.8(c). That section authorizes exemptions for control of certain waste gas streams at industrial facilities in Louisiana.

In the proposal notice, EPA had indicated that part of the Section appeared to be ambiguous. Comments from the public stated that EPA's interpretation did not agree with the State's intent. The State has submitted a resolution defining its interpretation of the Section. Upon consideration of the comments received and the State's resolution, EPA has determined that the exemption clause in Section 22.8(c) is appropriate (see Evaluation Report, available at addresses listed in Addresses section). Therefore EPA is granting final approval to Section 22.8(c) as submitted by the State.

EPA's Action

EPA approves the revisions to Sections 6.3.8, 22.3, 22.5, 22.6.1, 22.6.2, 22.8(c), 22.10, and 22.12.4 of the Louisiana SIP as submitted by the Governor of the State. EPA also removes the conditional approvals of Sections 6 and 22 of the Louisiana SIP and grants full approval since the State has met the conditions and has submitted to EPA the necessary revisions to Sections 6.3.8, 22.6.1, 22.6.2, and 22.12.4 of the SIP.

Pursuant to the provisions of 5 U.S.C. § 605(b) I hereby certify that approval of these revisions will not have a significant economic impact on a substantial number of small entities. This action only approves revisions to existing State regulations.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 12, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Louisiana was approved by the Director of the Office of the Federal Register on July 1, 1981.

(Sec. 110(a) of the Clean Air Act, as amended 42 U.S.C. 7410(a))

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by revising subparagraph (16) to read as set forth below, and by adding new subparagraphs (20), (21) and (22) as follows:

§ 52.970 Identification of Plan.

* * * * *

(c) * * *

(16) Evidence of notice and public hearing for the April 30, 1979 plan was submitted by the Governor on June 20, 1979.

* * * * *

(20) Revised Regulation 22.8(c) was submitted by the Governor on June 20, 1979. This regulation was adopted by the Louisiana Air Control Commission on March 27, 1979.

(21) Revised Regulation 22.5 was submitted by the Governor on April 30, 1979. This regulation was adopted by the Louisiana Air Control Commission on March 27, 1979. A second revision to Regulation 22.5 was submitted by the Governor on July 7, 1979, as adopted by the Louisiana Air Control Commission on June 26, 1979.

(22) Revised Regulations 6.3.8, 22.3, 22.6.1, 22.6.2, 22.10, and 22.12.4 were submitted by the Governor on December 10, 1979. These regulations were adopted by the Louisiana Air Control Commission on November 27, 1979. A second revision to Regulation 6.3.8 was submitted by the Governor on October 23, 1980. The second revision was adopted by the Louisiana Air Control Commission on September 25, 1980.

* * * * *

§ 52.973 [Removed and Reserved]

2. § 52.973 is removed and reserved.

§ 52.976 [Amended]

3. In § 52.976, paragraph (c) is removed from the section.

[FR Doc. 82-3564 Filed 2-9-82; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 2036-6]

Approval and Promulgation of Implementation Plans for Georgia and South Carolina; Prevention of Significant Deterioration Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On August 7, 1980 (45 FR 52676), EPA promulgated revised regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit revised regulations for PSD. The States of Georgia and South Carolina on December 18, 1980, and April 14, 1981, respectively, submitted to EPA revised regulations meeting EPA's most recent requirements. EPA proposed approval on November 10, 1981 (46 FR 55550), and no comments were received; therefore, EPA is today approving the PSD revisions of Georgia and South Carolina.

DATE: These actions are effective March 12, 1982.

ADDRESSES: Copies of the materials submitted by Georgia and South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington D.C. 20460;
Library, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;
Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005.

Materials submitted by Georgia may also be examined at: Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington, Street, SW., Atlanta, Georgia 30334.

Materials submitted by South Carolina may also be examined at: South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Programs Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978 (43 FR 26380), EPA promulgated further guidance. On August 7, 1980 (45 FR 52676), EPA promulgated the latest guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements.

The State of Georgia has complied with these requirements and has adopted and submitted a revised regulation, rule 391-3-1-.02 section (7), "Prevention of Significant Deterioration of Air Quality," which incorporates EPA's PSD regulations by reference. In its submittal, the State noted that the phrase "Director of EPD" should be substituted for "Administrator" in each instance where the latter word appeared in the federal PSD regulations adopted by reference. Subsequently, in a May 12, 1981, letter to EPA, the State clarified its intent that this substitution was not intended to apply to PSD provisions set forth at 40 CFR 51.24 which specifically require the approval of the EPA Administrator. Accordingly, the State has complied with EPA's SIP guidance on PSD regulations. In addition, the State has full delegation of authority under these same regulations to carry out the PSD program in Georgia.

The State of South Carolina has also complied with these requirements and has adopted and submitted a revised regulation, Regulation 62.5, Standard No. 7, "Prevention of Significant Deterioration". EPA's review and analysis has shown that this regulation is equivalent to EPA's PSD regulations. In addition, the State has full delegation of authority under these same regulations to carry out the PSD program in South Carolina.

No comments were received from the public in response to the notice of November 10, 1981, proposing approval (46 FR 55550).

Action. Based on the foregoing, EPA hereby approves Georgia's and South Carolina's submittals as satisfying the requirements of an acceptable plan for implementing PSD. This action is effective March 12, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of these revisions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 12, 1982. Under Section 307 (b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that these rules will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plans for the States of Georgia and South Carolina was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 161, Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. In § 52.570, paragraph (c) is amended by adding subparagraph (26) as follows:

§ 52.570 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(26) Prevention of significant deterioration SIP, submitted on December 18, 1980, by the Georgia Department of Natural Resources.

§ 52.581 [Amended]

2. Section 52.581, Significant deterioration of air quality, is amended by removing paragraphs (a) and (b).

3. In § 52.2120, paragraph (c) is amended by adding subparagraph (21) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.* * *

(21) Prevention of significant deterioration SIP, submitted on April 14, 1981, by the South Carolina Department of Health and Environmental Control.

§ 52.2131 [Amended]

4. Section 52.2131, Significant deterioration of air quality, is amended by removing paragraphs (a) and (b).

[FR Doc. 82-3397 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 9E2202/R398; PH-FRL-2044-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Phenmedipham

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide phenmedipham in or on spinach. This regulation to establish the maximum permissible level for residues of phenmedipham in or on spinach was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on February 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking that published in the **Federal Register** of December 9, 1981 (46 FR 60217) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 9E2202 to the EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, California, and Oklahoma. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR 180.278 by establishing a tolerance for residues of the herbicide phenmedipham in or on the raw agricultural commodity spinach at 0.5 part per million (ppm). No comments were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material has been evaluated and it is concluded that establishment of this tolerance will protect the public health. Therefore, 40 CFR 180.278 is amended as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted to quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: February 10, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: January 29, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.278 is revised by reformatting the commodities in an alphabetized columnar listing and alphabetically inserting the raw agricultural commodity "spinach", to read as follows:

§ 180.278 Phenmedipham; tolerances for residues.

Tolerances are established for residues of the herbicide phenmedipham [methyl *m*-hydroxycarbanilate *m*-methlycarbanilate] in or on the following raw agricultural commodities:

Commodities	Parts per million
Beets	0.2(N)
Beets, sugar, roots	0.1(N)
Beets, sugar, tops	0.1(N)
Spinach	0.5

[FR Doc. 82-3397 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 9F2270/R394; PH-FRL-2044-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide chlorpyrifos in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of chlorpyrifos in or on these commodities was requested by Dow Chemical Co.

EFFECTIVE DATE: Effective on February 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of December 4, 1979 (44 FR 69726) that DOW Chemical Co., P.O. Box 1706, Midland, MI 48640, had filed pesticide petition number 9F2270 with the EPA. The petition proposed that 40 CFR 180.342 be amended for residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)] phosphorothioate as follows: To increase the established tolerances for fat, meat, and meat byproducts of goats and sheep from 0.5 part per million (ppm) to 1.0 ppm; and to include soybeans at 1.0 ppm; soybean forage at 8.0 ppm; and soybean straw at 10.0 ppm.

The petition was subsequently amended to include the metabolite 3,5,6-trichloro-2-pyridinol; to decrease the proposed tolerance for soybeans from 1.0 to 0.5 ppm; and to increase the tolerance for soybean, straw from 10.0 ppm to 15.0 ppm. No comments were received in response to the notice of filing.

The scientific data reported and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included: a 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect level (NOEL) of 01. milligram (mg)/kilogram (kg) of body weight (bw) per day; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day and using a safety factor of 100, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from these tolerances and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 3.0 ppm does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing these tolerances.

The insecticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that tolerances will protect the public health. Therefore, 40 CFR 180.342 is amended as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: February 10, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: January 28, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 18—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.342 is amended by increasing the tolerances for fat, meat, and meat byproducts of goats and sheep and adding and alphabetically inserting the raw agricultural commodities soybeans; soybean, forage; and soybean, straw as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Goats, fat	1.0
Goats, meat	1.0
Goats, mbyp	1.0
* * * * *	
Sheep, fat	1.0
Sheep, meat	1.0
Sheep, mbyp	1.0
* * * * *	
Soybeans	0.5
Soybean, forage	8.0
Soybean, straw	15.0
* * * * *	

[FR Doc. 82-3398 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 1F2481/R389; PH FRL-2046-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl)-Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl(methyl 4-chloro-alpha-(1-methylethyl)-benzeneacetate in or on certain raw agricultural commodities. This regulation to establish the maximum

permissible level for residues of the insecticide in or on the commodities was requested by Shell Oil Co.

EFFECTIVE DATE: Effective on February 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 5, 1981 (46 FR 25137) which announced that the Shell Oil Co., 1025 Conn. Ave., NW., Washington, DC 20460, had submitted a pesticide petition (PP 1F2481) proposing that 40 CFR 180.379 be amended by the establishment of tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)-benzeneacetate in or on the raw agricultural commodities watermelons, cantaloupes, honeydew melons, muskmelons, pumpkins, and winter squash at 1.0 part per million (ppm).

There were no comments received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included: An acute oral rat toxicity study with median lethal dose (LD 50) of 1–3 grams (g)/kilogram (kg) of body weight (bw) (water vehicle) and 450 milligrams (mg)/kg of bw (dimethyl sulfoxide (DMSO) vehicle); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10–50 ppm for males and 50–250 ppm for females (no oncogenic effects were noted at 1,250 ppm, the highest dose tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested) (significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (highest level fed), no oncogenic effects were observed; a 3-generation rat reproduction study with a NOEL of 250 ppm (highest level fed); teratology studies (in mice and rabbits, both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative); and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI) is calculated to be 0.1250 mg/kg/day based on the 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 7.5000 mg/day (60 kg). Approval of the tolerances for watermelons, cantaloupes, honeydew melons, muskmelons, pumpkins, and winter squash would result in a theoretical maximum residue contribution (TMRC) of 1.4906 mg/day (1.5 kg) and utilize 19.88 percent of the ADI.

The metabolism of the insecticide is adequately understood for this use, and adequate analytical methods (gas chromatography) are available for enforcement purposes. There are currently no regulatory actions pending against the registration of this pesticide. The tolerances for residues in or on the meat, fat, (including milk fat), and meat byproducts of cattle, goats, hogs, horses, and sheep are adequate to cover secondary residues resulting from the proposed uses as delineated in 40 CFR 180.6(a)(2). There is no reasonable expectation of residues in poultry and eggs as delineated in 40 CFR 180.6(a)(3).

The insecticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: February 10, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: January 29, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodities watermelons, cantaloupes, honeydew melons, muskmelons, pumpkins, and winter squash as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)-benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cantaloupes	1.0
* * * * *	
Honeydew melons	1.0
* * * * *	
Muskmelons	1.0
* * * * *	
Pumpkins	1.0
* * * * *	
Watermelons	1.0
* * * * *	
Winter squash	1.0
* * * * *	

[FR Doc. 82–3386 Filed 2–9–82; 8:45 am]

BILLING CODE 6560–22–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 57, Supplement 1]

Purchases Under the Trade Agreements Act of 1979

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement provides for the identification of items which may be subject to the International Agreement on Government Procurement, pursuant to the Trade Agreements Act of 1979; reduces the operating floor for procurements which may be subject to the Agreement from $196,000 to $182,000; and includes a reference to the Maritime Administration, Department of Transportation. These changes were requested by the United States Trade Representative, who is responsible for the administration of the Agreement. The intended effect is to increase the effectiveness of the United States implementation of the Agreement and the Act.

DATES: Effective date: February 2, 1982. Expiration date: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (202–523–4755).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following supplement to FPR Temporary Regulation 57 is listed in the Appendix at the end of the chapter.

February 2, 1982.

[Federal Procurement Regs.; Temporary Reg. 57 Supplement 1]

Purchases Under the Trade Agreements Act of 1979

1. *Purpose.* This regulation supplements FPR Temporary Regulation 57.

2. *Effective date.* This regulation is effective February 2, 1982.

3. *Expiration date.* This regulation will continue in effect until January 31, 1984.

4. *Background.* a. Federal Procurement Regulations (FPR) Temporary Regulation 57, January 12, 1981, implemented the International Agreement on Government Procurement, which is one of the multilateral agreements, or codes, resulting from the Tokyo Round of Multilateral Trade Negotiations. The authority to implement the Agreement is provided by the Trade Agreements Act of 1979 (Pub. L. 96–39, 19 U.S.C. 2511–2518), Executive Order 12260, December 31, 1980 (46 FR 1653, January 6, 1981), and Determinations by the United States Trade Representative.

b. The Trade Agreements Act authorizes designated countries to bid on U.S. Government procurements pursuant to the provisions of the International Agreement on Government Procurement, notwithstanding the requirements of the Buy American Act and the Balance of Payments Program.

c. The United States Trade Representative requested that (1) a numbered note be included in the Commerce Business Daily that will identify procurements which may be subject to the provisions of the International Agreement; (2) the applicable dollar threshold under § 1–6.1601, Definitions, be changed from $196,000 to $182,000, as provided in a rule published by the Trade Representative in the **Federal Register** (46 FR 58390, December 1, 1981); and (3) the Maritime Administration, Department of Transportation, be added to the list of agencies covered by the Agreement.

5. *Explanation of changes.* a. Section 1–1.1003–7 is amended to add a new paragraph (b)(11) as follows (see FPR Temporary Regulation 57, January 12, 1981 (46 FR 3519, January 15, 1981)):

§ 1–1.1003–7 Preparation and transmittal.

* * * * *

(b) * * *

(11) Each synopsis shall also include a reference, as appropriate, to numbered note 12, which will appear in the Commerce Business Daily as follows:

"12. One or more items under this procurement may be subject to the requirements of the Agreement on Government Procurement approved and implemented in the United States by the Trade Agreements Act of 1979. All offers shall be in the English language and U.S. dollars. The procurement solicitation procedure is open; that is, all interested suppliers may submit an offer."

b. Section 1–6.1601(e) is revised to read as follows (see FPR Temp. Reg. 57, January 12, 1981):

§ 1–6.1601 Definitions.

* * * * *

(e) "Dollar threshold" means $182,000 or such other dollar amount as may be specified by the United States Trade Representative, from time to time.

c. Section 1–6.1613 is amended by adding, in its proper alphabetical sequence, the following agency (see FPR Temp. Reg. 57, January 12, 1981):

§ 1–6.1613 Agencies covered by the Agreement.

* * * * *

Maritime Administration of the Department of Transportation.

* * * * *

6. *Agency action.* Pending the issuance of a permanent amendment to the Federal Procurement Regulations, agencies shall follow the policies and procedures in this temporary regulation and its supplement.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-3441 Filed 2-9-82; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 81–493; FCC 82–50]

Private Land Mobile Radio Services; Amendment of the Commission's Rules Concerning General Eligibility in the Industrial Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts a rule amendment to permit the licensing of non-profit corporations and associations of eligible users in the Business and Special Industrial Radio Services in the bands below 512 MHz. The FCC now permits the licensing of non-profit corporations and associations of eligible users in each of the Industrial Radio Services except the Business and Special Industrial Radio Services below 800 MHz and permits it in all Industrial Radio Services including Business and Special Industrial above 800 MHz. The amendment will eliminate this exception.

DATE: Effective March 15, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau (202) 632–7597.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 5, 1982.

By the Commission.

In the matter of Amendment of § 90.61 of the Commission's rules and regulations. Report and Order (Proceeding Terminated), PR Docket 81–493.

1. As part of our on-going program to simplify our rules governing the private

land mobile radio services and, where possible, to eliminate unnecessary restrictions and limitations on the use of available radio communication channels, we proposed amendment of Section 90.61 of our rules (47 CFR 90.61) to permit the licensing of non-profit corporations and associations of eligible users in the Business and Special Industrial Radio Services in the bands below 512 MHz. Notice of Proposed Rulemaking, PR Docket No. 81-493 (FCC 81-346, released August 6, 1981); August 17, 1981, 46 FR 41535.

2. In support of this proposal we noted that in licensing private systems in the bands above 800 MHz, there is no such restriction; and in the bands below 512 MHz the Section 90.61 limitation applies only to the Business and Special Industrial Radio Services. We stated our view that the ban in these services should be removed, for it is a limitation which we felt served no useful purpose. Moreover, we said our experience demonstrated that this licensing option promoted efficient and effective use of scarce radio frequencies by centralizing operations, thus minimizing interference potentials and maximizing site availability. Further, we noted administrative practices are simplified, since fewer reports are necessary and there is no need for duplicate or multiple applications in many instances.

3. Additionally, we stated that service provided by non-profit corporations and associations of users licensed under the provisions of Section 90.61 (47 CFR 90.61) is subject to the requirements of Section 90.181 (47 CFR 90.181). Such service may be either without charge or capital and operating expenses may be shared, but only on a not-for-profit, cost-shared basis, with expenses prorated on an equitable basis among the participants served by the licensee. The proposed rule reflected this policy.

4. Comments in this proceeding were filed by the National Association of Business and Educational Radio, Inc. (NABER), the Special Industrial Radio Service Association, Inc. (SIRSA), and the Association of American Railroads (AAR). Each of the three comments supported the proposed rule making. No reply comments were filed.

5. The Commission has certified that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule change is procedural in nature, since the effect will be to remove a bar to licensing non-profit corporations and associations of users. It creates no new substantive rights in terms of persons eligible for licensing in the Business and Special Industrial Radio Services; rather it permits persons already eligible to apply for licensing in the form of a corporation or association, but extends no new substantive rights as eligibles in the services in question. Further, the proposed amendment imposes no new recordkeeping, reporting or other requirement upon license applicants or holders.

6. In view of the support received for this proposed amendment, we affirm our previous conclusions regarding the desirability of modifying this rule section and we adopt the changes set forth in the Notice of Proposed Rule Making.

7. Accordingly, it is ordered, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that § 90.61 of the Commission's Rules is amended as set forth in the attached Appendix. This action terminates PR Docket No. 81-493. This amendment is effective March 15, 1982. For further information, contact John J. Borkowski, (202) 632-7597.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Subpart D of Part 90 of the Commission's Rules and Regulations is amended as follows:

Section 90.61 is revised to read as follows:

§ 90.61 General eligibility.

In addition to the eligibility shown in each Industrial Radio Service, eligibility is also provided for any corporation proposing to furnish non-profit radio communications service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary provided the party served is regularly engaged in any of the eligibility activities set forth in the particular service involved. Eligibility is also provided for a non-profit corporation or association that is organized for the purpose of furnishing a radio communications service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.181.

[FR Doc. 82-3873 Filed 2-9-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-second Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATES: 12:01 a.m., February 6, 1982, and continuing in effect until 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: February 4, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which would otherwise be deprived of essential rail transportation.

Pursuant to paragraph (d) of Sixth Revised Order No. 1495, Burlington Northern Railroad Company (BN) has notified the Railroad Service Board (Board) of its intention to terminate its interim operations over the Rock Island (RI) line between Phillipsburg and Caruso, Kansas, effective 11:59 p.m., February 14, 1982. Separate applications have been received from Cadillac and Lake City Railway Company (CLK) and

Kyle Railroad Company (KYLE) to operate this line segment.

CLK currently provides service over approximately 200 miles of RI lines in Colorado and Kansas, and has trackage rights over an additional 83.8 miles in Colorado. In its application, CLK proposes to assume the operations presently performed by BN between Caruso and Phillipsburg, Kansas. In addition, CLK offers to operate the line segment previously granted to the KYLE between Phillipsburg and Belleville, Kansas (see Twenty-ninth Revised Service Order No. 1473, served December 23, 1981), which authority has not yet been exercised by KYLE. In sum, CLK offers to provide service to shippers immediately over 308 miles of RI lines, with the potential for an additional 95 miles if KYLE is either unwilling or unable to exercise the authority previously granted to it.

In its application, KYLE also offers to operate the line vacated by BN between Phillipsburg and Caruso, Kansas, which along with its present authority would total approximately 243 miles of operation over RI lines. Further, KYLE states that shippers between Belleville and Phillipsburg have an immediate and urgent need for the resumption of rail service, yet no service has been instituted during the period, since December 26, 1981, that KYLE has been authorized to provide that service.

It is the conclusion of the Board that CLK offers to provide the greater service to the public, that CLK is in a position to commence that service immediately, and that CLK should be granted the authority as requested. Appendix A, to the previous order, is revised by adding at Item 12 C., the authority for CLK to extend its operations to Phillipsburg, Kansas. In its request to assume the BN operations, KYLE also requested an extension of its existing authority of 2.4 miles at Belleville and 3 miles at Phillipsburg. Appendix A, to the previous order, is revised by adding at Item 22 A., that authority. In granting the additional authority to KYLE at Phillipsburg, joint service to shippers at that location will be permitted. In the interest of order, however, CLK is designated the supervising carrier, and is responsible for coordinating operations where necessary and for performing maintenance of the jointly used track. KYLE is responsible to share the costs of that maintenance on a mutually agreed upon basis. We recognize CLK's offer to switch traffic at Phillipsburg for KYLE at no charge, based on the presumption that KYLE would share in maintenance and rental costs. However, we believe that KYLE should be permitted initially to develop its traffic base and determine the costs associated with providing that service.

Appendix A, to the previous order, is further revised by adding at Item 2 B., the authority for the Peoria and Pekin Union Railway Company (PPU) to operate between Peoria and Mossville, Illinois, and on the Keller Branch. In its request for this additional authority, PPU proposes to provide a greater service to affected shippers and is interested in permanently acquiring the line. BN has indicated that by February 5, 1982, it will shorten its operations to exclude Mossville, Illinois. Further, BN has indicated that it wishes the remaining authority continued only until March 2, 1982. In exercising the authority granted herein, PPU must coordinate the commencement of this additional operation with the BN to effect an orderly transition of services. The BN's authority for this segment contained in Sixth Revised Service Order No. 1495 will remain in effect until 11:59 p.m., February 14, 1982, in order to permit the necessary transition.

Appendix A, to the previous order, is further revised by adding at Item 16 B., the authority for the Atchison, Topeka and Santa Fe Railway (ATSF) to operate at St. Joseph, Missouri, and at Item 21 B., the authority for the Chicago Short Line Railway (CSL) to operate an additional 3,000 feet westerly from Rock Island Junction.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B of this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered

§ 1033.1473 Thirty-second Revised Service Order No. 1473.

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least thirty (30) days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously

operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(l) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 6, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

James H. Bayne,

Acting Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*
   A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
2. *Peoria and Pekin Union Railway Company (PPU):*
   A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
   B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).
3. *Union Pacific Railroad Company (UP):*
   A. Beatrice, Nebraska.
   B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
4. *Toledo, Peoria and Western Railroad Company (TPW):*
   A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
5. *Chicago and North Western Transportation Company (CNW):*
   A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
   B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
   C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.
   D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).
   E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).
   F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
   G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
   H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
   I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
   J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).
   K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
   L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
   M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
   N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
   O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).
   P. Sibley, Iowa.
   Q. Worthington, Minnesota.
   R. Altoona to Pella, Iowa.
   S. Carlisle to Indianola, Iowa.
   T. Omaha, Nebraska, (between milepost 502 to milepost 504).
   U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).
   V. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).
6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*
   A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.
   B. Washington, Iowa.
   C. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.
   D. from Davenport to Iowa City, Iowa.
   E. at Davenport, Iowa.
7. *Davenport, Rock Island and North Western Railway Company (DRI):*
   A. Moline, Illinois.
   B. Rock Island, Illinois, including 26th Street yard.
   C. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.
   D. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island Arsenal.
8. *St. Louis Southwestern Railway Company (SSW):*
   A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.
   B. at North Topeka and Topeka, Kansas.
9. *Little Rock & Western Railway Company (LRWN):*
   A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).
   B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).
10. *Missouri Pacific Railroad Company (MP):*
    A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).
    B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).
    C. from Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.
    D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).
11. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to

such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

12. *Cadillac and Lake City Railway Company (CLK):*
A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.
B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.
*C. from Simla, Colorado (milepost 558.3) to Phillipsburg, Kansas (milepost 282.0), a distance of approximately 276.3 miles. With respect to operations and maintenance, CLK is the supervising carrier.
D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

13. *Baltimore and Ohio Railroad Company (BO):*
A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.
B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

14. *Keota Washington Transportation Company (KWTR):*
A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.
B. at Vinton, Iowa (milepost 120.0 to 123.0).
C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

15. *The La Salle and Bureau County Railroad Company (LSBC):*
A. from Chicago (milepost 0.80) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois. Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.
D. from Pullman Junction, Chicago, Illinois (milepost 13.2), running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

16. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*
A. At Alva, Oklahoma.
+B. At St. Joseph, Missouri.

17. *The Brandon Corporation (BRAN):*
A. from Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

18. *Iowa Northern Railroad Company (IANR):*
A. from Cedar Rapids, Iowa (milepost 100.5), to Waterloo, Iowa (milepost 150.76).
B. from Shell Rock, Iowa (milepost 172.1), to Manly, Iowa (milepost 225.1).
C. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

19. *Iowa Railroad Company (IRRC):*
A. from Council Bluffs (milepost 490.15) to Dexter, Iowa (milepost 393.0) a distance of approximately 97.15 miles.
B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.
C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

20. *Missouri-Kansas-Texas Railroad Company (MKT):*
A. from Oklahoma City, Oklahoma (milepost 498.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

21. *Chicago Short Line Railway Company (CSL):*
A. from Pullman Junction easterly for approximately 1,000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.
+B. from Rock Island Junction westerly for approximately 3,000 feet to Irondale Wye.

22. *Kyle Railroad Company (Kyle):*
*A. from Belleville (milepost 187.0) to Phillipsburg, Kansas (milepost 285.0), a distance of approximately 98.0 miles. KYLE will participate in the maintenance of the jointly used track at Phillipsburg as mutually agreed upon with CLK.

23. *North Central Texas Railway, Inc (NCTR):*
A. from Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).
B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

24. *Enid Central Railway, Inc. (ENIC):*
A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.30 to milepost 0.02.

25. *North Central Oklahoma Railway, Inc. (NCOR):*
A. from Ponca City, Oklahoma (milepost 54.8) to North Enid, Oklahoma (milepost 0.30).
B. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).
C. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).
D. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).
E. from El Reno, Oklahoma (milepost 513.31) to Yukon, Oklahoma (milepost 497.37).

+Added.
*Changed.

[FR Doc. 82-3484 Filed 2-9-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 28
Wednesday, February 10, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule; Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment on intention to lift stay of effective date of Final Rule.

SUMMARY: The Federal Trade Commission invites written public comment on its intention to lift the temporary stay of the effective date of § 460.6 of the Rule, which requires that insulation R-values be determined by "representative thickness" testing. The Commission intends to lift the stay because thick calibration samples for such testing have been made available by the National Bureau of Standards.

DATE: Written comments regarding the Commission's intention to lift the stay of § 460.6 of the Rule will be accepted until March 12, 1982.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments should be captioned: "Comment on Intention to Lift Stay of § 460.6 of Home Insulation Rule, FTC File No. 215–59."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's trade regulation rule concerning the labeling and advertising of home insulation (hereinafter cited as "the Rule") was promulgated on August 31, 1979.[1] Following a series of postponements of its effective date, the Rule became effective on September 29, 1980.[2] The postponements of the effective date were occasioned by a series of continuing resolutions passed by Congress which restricted implementation of trade regulation rules by the Commission, and by an appeal of the Rule filed in the United States Court of Appeals for the Tenth Circuit by four manufacturers of mineral wool insulation.[3]

At the time it made the Rule effective, the Commission temporarily stayed Section 460.6 of the Rule, which requires that insulation samples be tested for effectiveness ("R-value") at "representative thickness."[4] The effect of this requirement is to prohibit the extrapolation of R-values from tests performed on thin product samples, unless the manufacturer can demonstrate that its product does not exhibit a thickness effect, *i.e.*, the R-value per inch does not decline with increases in thickness.[5]

The representative thickness testing requirement in the Rule was based in large part on two factual findings. First, the Commission concluded that thin-sample testing is misleading, because it fails to account for the non-linear relationship between thickness and R-value.[6] Second, the Commission concluded that the margin of testing error associated with representative thickness testing was within acceptable limits, despite the unavailability of calibration materials for such testing from the National Bureau of Standards (hereinafter cited as "NBS").[7]

After the Commission promulgated the Rule, issues were raised concerning the effects of thin-sample testing and the feasibility of representative thickness testing of mineral wool batts and blankets. The Commission's staff became engaged in consultations with various parties, including representatives of industry and NBS in an attempt to achieve a fair and workable resolution of the representative thickness testing issue.[8]

Following these consultations, NBS proposed that the Commission adopt an enforcement bulletin which would allow manufacturers of mineral wool batts and blankets to test thin product samples until thick calibration samples, designed for representative thickness testing, were available from NBS.[9] NBS made this recommendation after it consulted with interested industry members and reviewed available literature—including recent results of testing under the Department of Commerce's National Voluntary Laboratory Accreditation Program (NVLAP)—concerning the effects of thin-sample testing and the feasibility of representative thickness testing of mineral wool batts and blankets.[10]

Following this process of consultation on the representative thickness testing issue, the Commission and the four mineral wool manufacturers agreed to ask the Tenth Circuit to remand the Rule to the Commission. On January 4, 1980, the Court approved the joint stipulation of the mineral wool petitioners and the Commission, and remanded the Rule to the Commission for further proceedings.[11]

Under the court's remand order (hereinafter cited as the "Remand Order"), the Commission was required to reconsider issues relating to the representative thickness testing requirement of the Rule.[12] The Commission was required to provide all interested parties with notice and an opportunity for hearings, submissions, and presentations, including cross-examination and rebuttal, in accordance with Sections 1.7–1.20 of the Commission's Rules of Practice, concerning:[13] (1) Whether representative

[1] Statement of Basis and Purpose for Trade Regulation Rule on Labeling and Advertising of Home Insulation, 44 FR 50218 (1979).

[2] Notice of effective date of rule, 45 FR 54702 (1980).

[3] The history of the Rule following its promulgation is described in more detail in the notice of the effective date of the Rule published in the **Federal Register** on August 15, 1980. *Id.*

[4] *Id.*

[5] According to the relevant test methods and § 460.6 of the Rule, the test procedure must be conducted on a sample thickness at which the R-value per unit will vary no more than ±2% with increases in thickness.

[6] *See* note 1 *supra*, at 50228.

[7] *Id.* However, the Commission acknowledged the lack of standard calibration materials as a shortcoming, and encouraged their rapid development. *Id.*

[8] *See* note 2 *supra*, at 54702–03.

[9] *Id.*

[10] *Id.*

[11] *Johns-Manville Corp.* v. *FTC*, No. 79–1955 (10th Cir., filed Aug. 31, 1979), Order of January 4, 1980, FTC File No. 215–59, Document No. S–9. Documents cited in FTC File No. 215–59 are available for public inspection at the Federal Trade Commission, 6th and Pennsylvania Aveune, N.W., Room 130, Washington, D.C. 20580.

[12] *Id.*

[13] *Id.* Under the stipulated remand order, the Commission also was required to conduct further

Continued

thickness testing of mineral wool batts and blankets was feasible, absent thick calibration materials for such testing; and (2) whether present thin-sample testing of mineral wool batts and blankets produces an unfair or deceptive overstatement of their claimed R-values. Paragraph 2 of the stipulation provides that the Commission could dispense with hearings, submissions, and presentations, including cross examinations and rebuttal, if it decided to allow testing of mineral wool batts and blankets pursuant to the enforcement bulletin proposed by NBS, or one agreeable to petitioners.[14] The enforcement bulletin proposed by NBS would have allowed testing of samples at 150 percent of the existing one-inch NBS primary calibration samples, or, for materials of 1.5 inch thickness or less, at the full thickness, until NBS had made available thick calibration samples designed for representative thickness testing.[15]

In response to the Remand Order, the Commission proposed to make the Rule effective, while temporarily staying the representative thickness testing requirement.[16] Following a thirty (30) day public comment period, the Commission announced its final decision to make the Rule effective on September 29, 1980, and to stay temporarily the representative thickness testing requirement until such time as thick calibration materials for such testing were made available from NBS.[17]

Although the Remand Order covered the testing requirements of the Rule only as they apply to mineral wool batts and blankets, the Commission decided that, in the interests of fairness and uniformity, all products should be subject to the same standard. Therefore, the Commission applied the temporary stay on an industrywide basis. The Commission announced that, during the period of the stay, testing of samples could be performed either at representative thickness or at the thickness(es) allowed under the R-value test procedures referenced in the Rule. The Commission stated that it would rescind the stay when thick calibration samples designed for representative thickness testing became commercially available to the industry.[18]

II. Lifting Stay of Representative Thickness Testing Requirement

A. Availability of Thick Calibration Samples

On December 9, 1980, NBS announced that it was prepared to make available on request thick calibration samples for use in conjunction with the representative thickness testing requirement of the Commission's Rule.[19] NBS solicited orders for the specimens for a period of thirty (30) days. According to NBS staff, all samples ordered and necessary technical data concerning each sample were shipped or delivered to ordering laboratories and companies by mid-July, 1981.[20]

According to NBS staff, the samples which NBS prepared typically are accurate within 2¼ percent at a 99 percent confidence level. This accuracy rating takes into account both the apparatus accuracy and the material variability. NBS staff believes that this accuracy is sufficient to calibrate test equipment to perform thick sample testing under the representative thickness requirements of the Commission's Rule.

B. Staff Consultations With Mineral Wool Petitioners

After NBS had announced that it would make the thick calibration samples available, FTC staff consulted with representatives of the four mineral wool petitioners in an effort to better determine the date on which labeling based on representative thickness testing could begin.

Representatives of three of the mineral wool petitioners, Johns-Manville Corporation (hereinafter cited as "JM"), CertainTeed Corporation (hereinafter cited as "CT"), and Rockwool Industries, Inc. (hereinafter cited as "RI"), submitted a chart showing their projected schedule for implementation of the representative thickness testing requirement.[21] According to these companies, they needed six months from their receipt of the thick calibration samples and technical data concerning the samples to begin labeling based on representative thickness testing.[22]

Counsel for Owens-Corning Fiberglas Corporation (hereinafter cited as "OCF") has submitted its timetable separately.[23] OCF, similar to the other three petitioners, stresses the time necessary for testing the new samples, calibrating testing apparatus, altering the design and packaging for each different product line to comply with the new testing results, and altering production methods. Based on these factors, OCF states that it should be in a position to convert its production facilities to representative thickness testing by the end of February, 1982.

One additional issue is presented: the treatment of insulation products already labeled and in inventory at the time the representative thickness testing requirement becomes effective. The JM, CT, and RI agreement that they could begin labeling based on representative thickness testing at the end of a six-month period presumes that they could continue labeling on-going production during that six-month period based on thin-sample testing and that they could sell off this inventory after the six-month period has passed. OCF agrees, arguing that throughout the period for changeover to representative thickness testing, the industry as a whole (including OCF) will need to continue to produce products with existing labeling

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rulemaking proceedings concerning the affirmative disclosure requirements of the Rule insofar as they required disclosures in television advertisements. *See* also note 2 *supra*. On September 25, 1981, the Commission published in the **Federal Register** an advance notice of proposed rulemaking to reconsider the affirmative disclosure requirements for television advertisements. Advance notice of proposed rulemaking, 46 FR 47236 (1981).

[14] *See* note 11 *supra*.

[15] *See* note 2 *supra*, at 54703.

[16] Invitation for public comment on proposed stay of rule, 45 FR 37674 (1980).

[17] *See* note 2 *supra*. In August, 1980, the four (4) mineral wool petitioners and the Commission filed a joint agreement in the Tenth Circuit in which all parties agreed that the Commission's proposal to stay temporarily § 460.6 of the Rule until thick calibration samples for such testing were made available by NBS was action equivalent to adoption of the enforcement bulletin proposed by NBS. *Johns-Manville Corp.* v. *FTC*, No. 79–1955 (10th Cir.), Joint Agreement of the Parties with Respect to Action Taken Pursuant to the Stipulation, FTC File No. 215–58, Docment No. S–10.

[18] *Id.* at 54702–08.

[19] Availability of Calibration Transfer Specimens for Insulation, 45 FR 81080 (1980), FTC File No. 215–59, Document No. W(1)–1.

[20] Twelve (12) companies and laboratories ordered thick calibration samples from NBS. Letter dated March 11, 1981 to Kent Howerton, FTC, from Albert E. Paladino, Deputy Director, Office of Energy Programs, National Engineering Laboratory, NBS, FTC File No. 215–59, Document No. W(1)–2.

[21] Projected Schedule for Implementation of Representative Thickness Testing in the Production of Mineral Fiber Batt and Blanket Products, FTC File No. 215–59, Document No. W(1)–3. The time schedule represented in the chart is also supported by the Mineral Insulation Manufacturers' Association (MIMA), a trade association representing manufacturers of mineral wool insulation products.

[22] Letter dated July 28, 1981, to Kent Howerton, FTC, from Shirley Z. Johnson, Esquire, Baker & Hostetler, FTC File No. 215–59, Document No. W(1)–4. The six-month period represents overlapping time periods for: evaluation and calibration of thermal testing equipment and in-house preparation of secondary, or working, samples for use in calibrating thermal testing equipment in different manufacturing plants; quality evaluation of the impact of representative thickness (or, of the "thickness effect") on current production; determination and implementation of changes required in processes or packaging; and management review of plans and provisions, and conversion to R-value labeling based on representative thickness testing.

[23] Letter dated September 8, 1981 to Kent Howerton, FTC, from Eric F. Stoer, Esquire, Tepper, Edmundson & Stoer, FTC File No. 215–59, Document No. W(1)–5.

and packaging based on thin-sample testing. Therefore, there will be normal inventory levels during the early months of 1982. OCF states that it "does not anticipate any modification to existing inventory after the changeover date, and it is expected that the demand for insulation products at that time will permit the orderly sale of that inventory." [24] OCF also states that it would be impractical and economically unfeasible to achieve a different result.[25]

JM, CT and RI, along with the Mineral Insulation Manufacturers' Association (hereinafter cited as "MIMA") have submitted a chart showing the normal monthly variation of sales and inventory levels for fiberglass insulation production in a typical year.[26] According to that chart, normal fiberglass insulation inventories are at their lowest point at the beginning of December,[27] rising to sixty percent (60%) by the end of February.[28]

III. Conclusions and Tentative Decision

First, the Commission believes that the petitioners' arguments concerning the reasons for the length of time necessary to begin labeling based on representative thickness testing are reasonable. Therefore, the Commission proposes to lift the stay of the representative thickness testing requirement (§ 460.6) of the Rule for all home insulation manufacturers. The Commission solicits written public comment concerning this action.

Second, the Commission recognizes that the cost to industry (and, ultimately, to consumers) of relabeling all packages in inventory as of the date the stay is lifted could be very high, particularly if inventory levels exceed the norm because of low new housing starts and a depressed insulation market. On the other hand, to allow distribution of such inventory will, in effect, allow distribution and sale to consumers of insulation packages labeled with known exaggerated R-values. On balance, however, the Commission believes that it should allow the distribution of inventories accumulated under normal production levels which manufacturers have on hand as of the date the stay is lifted. However, the Commission specifically requests written public comment concerning potential inventory levels which would be affected and the cost of steps to correct labels containing exaggerated R-values.[29]

Following its consideration of the comments, the Commission will publish a notice in the **Federal Register** of its decision. If the Commission determines to life the stay, the Commission will lift the stay 30 days after the notice is published.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-3581 Filed 2-9-82; 8:45 am]

BILLING CODE 6750-01-M

[24] *Id.*

[25] *Id.*

[26] "Fiber Glass Insulation Seasonally Forcast," FTC File No. 215-60, Document No. W(1)-0.

[27] *Id.* However, in view of the depressed new housing market due to current economic conditions, the Commission questions whether in fact the industry's inventory levels were depleted at the beginning of December, as in typical years.

[28] The percentages of "Total Inventory" represented by the "Inventory Build" curve on the chart cited in note 26 apparently relate to the percentage in a given month of the inventory on hand compared to the inventory level at the month of the greatest inventory build-up.

[29] Less costly alternatives to complete repackaging with amended R-value information might include the use of adhesive stickers containing corrected disclosures, or a disclosure to consult the manufacturer's fact sheet for corrected R-value information coupled with the distribution of corrected fact sheets containing accurate disclosures.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Ohio-2)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Ohio that the Berea Sandstone and the "Second Berea" zone of the Bedford Shale be designated as a tight information under § 271.703(d).

DATE: Comments on the proposed rule are due on March 8, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, (202) 357-8511, or John Roy Johnson, (202) 357-8731.

Issued February 4, 1982.

I. Background

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79-76 (Ohio-2).

On January 8, 1982, the State of Ohio Department of Natural Resources, Division of Oil and Gas (Ohio) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Berea Sandstone and the "Second Berea" zone of the Bedford Shale located in portions of Athens, Gallia, Meigs, Morgan, Muskingum, and Perry Counties, Ohio, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Ohio's recommendation that the Berea Sandstone and the "Second Berea" zone of the Bedford Shale be designated a tight formation should be adopted. Ohio's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Ohio has specified certain townships in Athens, Gallia, Meigs, Morgan, Muskingum, and Perry Counties, Ohio, where the Berea Sandstone and the "Second Berea" zone of the Bedford Shale are recommended as a tight formation.

The recommended interval is a depositional unit of early Mississippian age, and lies on the northwestern flank of the Appalachian Basin in southeastern Ohio. It consists of interbedded sandstones, siltstones, and shales which dip gently to the southeast, toward the axis of the Appalachian Basin. The recommended interval is bounded above by the Lower Mississippian Sunbury Shale (called "Coffee Shale" by drillers) and below by the Upper Devonian Ohio Shale. The

average depth to the top of the interval is 1,600 feet.

The Berea Sandstone (called "First Berea" by drillers) ranges from 10 to 54 feet in thickness and is the uppermost formation in the recommended interval. The "Second Berea" is a drillers' term for a siltstone-sandstone lens near the base of the Bedford Shale, with a maximum thickness of 36 feet.

III. Discussion of Recommendation

Ohio claims in its submission that evidence gathered through information and testimony presented at a public hearing held January 6, 1982, by Ohio on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Ohio further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Ohio that the Berea Sandstone and the "Second Berea" zone of the Bedford Shale, as described and delineated in Ohio's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Ohio-2), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 19, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Ohio's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (88) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(68) through (87) [Reserved]

(88) *Berea Sandstone and the "Second Berea" zone of the Bedford Shale in Ohio.* RM79–76 (Ohio-2).

(i) *Delineation of formation.* The designated interval is found in certain townships in Athens, Gallia, Meigs, Morgan, Muskingum, and Perry Counties, Ohio, and occurs within the Lower Mississippian System. The Berea Sandstone (called "First Berea" by drillers) lies above the Bedford Shale, which includes the "Second Berea" (a drillers' term) zone near its base. The vertical limits of the interval are defined by the Sunbury Shale (called "Coffee Shale" by drillers) above and the Upper Devonian Ohio Shale below.

(ii) *Depth.* The average depth to the top of the designated interval is 1,600 feet. The Berea Sandstone ranges from 10 to 54 feet in thickness, and the "Second Berea" zone of the Bedford Shale has a maximum thickness of 36 feet.

[FR Doc. 82-3571 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

Bonneville Power Administration

18 CFR Ch. X

Procedures Governing Bonneville Power Administration Rate Adjustments; Withdrawal of Proposed Rule

AGENCY: Bonneville Power Administration, DOE.

ACTION: Withdrawal of proposed rule and cross reference to notice of adoption.

SUMMARY: On December 9, 1981, BPA proposed to amend procedures governing rate adjustments and to codify the amended procedures in a new Chapter X in Title 18 CFR (46 FR 60406). BPA is hereby withdrawing the proposed establishment of the new chapter and is adopting the procedures governing rate adjustments in a document published in the Notices section of today's **Federal Register** rather than as codified rules.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–4261, or Mr. Michael C. Dotten, Attorney, General Counsel's office, Bonneville Power Administration, P.O. Box 3621, Portland Oregon 97208, 503–230–4214. Toll-free numbers for Oregon callers 800–452–8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800–547–6048.

SUPPLEMENTARY INFORMATION: In accord with the summary above, the proposed establishment of 18 CFR Chapter X is withdrawn. For the text of the final procedures for rate adjustments adopted by BPA see FR Doc. 82–3590 in the Notices section of today's issue.

Earl Gjelde,

Acting Administrator.

[FR Doc. 82-3591 Filed 2-9-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment and Opportunity for Public Hearing on Modified Portions of the Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Iowa Permanent Regulatory Program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Iowa program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on March 11, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for 7:00 p.m. on March 9, 1982, at the address listed below under **"ADDRESSES".**

Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and phone number listed below by February 26, 1982. If no person has contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The public hearing will be held at the Holiday Inn, Capital Plaza, 1050 6th Ave., Des Moines, Iowa 50314. Written comments should be mailed or hand delivered to: Richard Rieke, State Office Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone (816) 374–3920.

Copies of the Iowa program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM State Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, State Office, Scarritt Building, Fifth Floor, 818 Grand Avenue, Kansas City, Missouri 64106

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319

FOR FURTHER INFORMATION CONTACT: Richard Rieke, State Office Director, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 28, 1980, OSM received a proposed regulatory program from the State of Iowa. On October 16, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 68673–68675). The State of Iowa resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of three minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981, **Federal Register** (46 FR 5885–5892).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981, **Federal Register** (46 FR 5885–5892).

The three deficiencies in the Iowa program that the Secretary required be corrected as conditions of approval were as follows:

1. Iowa did not have fully enacted regulations to provide for civil and criminal sanctions for violations of the Iowa law, regulations and conditions of permits and exploration approvals, including penalties consistent with Section 518 of SMCRA (30 U.S.C. 268) and 30 CFR Part 845.

2. The Iowa Administrative Procedures Act requires that an administrative hearing be held prior to the issuance of a cessation order for failure to abate a violation. This requirement conflicts with Section 14(2) of the Iowa Surface Coal Mining Act and with Section 521(a)(3) of SMCRA, which provide that a cessation order shall be issued immediately upon the expiration of the time for abatement if abatement has not been accomplished.

3. The Iowa program did not establish penalties as stringent as those provided in Section 704 of SMCRA relating to protection of employees during performance of their duties.

In accepting the Secretary's conditional approval, Iowa agreed to correct deficiencies numbers 1 and 3 by July 1, 1981, and number 2 by January 1, 1982.

Iowa submitted to OSM on October 1, 1981, regulations to correct deficiencies numbers 1 and 3 above, respectively. The adopted regulations submitted by Iowa to correct deficiency number 1 amend rule 780–4.6(83) to include civil penalty rules covering when a civil penalty will be sought, the amount of penalty recommended, and the procedures for providing notice to the operator of the penalty and for scheduling a hearing. The adopted rule submitted by the State to correct deficiency number 3 amends rule 780–4.35(83A) to require that permits be issued on the condition that State employees are protected in the performance of their duties. The provisions submitted by the State are included in the Iowa Administrative Record under Number 1A–185. The Secretary seeks public comment on whether the provisions submitted correct deficiencies numbers 1 and 3. If the program amendments are approved, the conditions specified in 30 CFR 915.11(a) and 915.11(c) will be removed.

Condition number 2 specified in 30 CFR 915.11(b) will be removed when the Iowa Legislature enacts the necessary legislation. The public comment period announced today does not address that deficiency. A proposed rule to extend the time allowed the State for satisfying condition number 2 was announced in the **Federal Register** on November 17, 1981 (see 46 FR 56433).

Additional Determinations:

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* Regulations concerning satisfaction of conditions of approval of State regulatory programs under SMCRA have been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis

pursuant to Executive Order No. 12291, by a letter from the Office of Management and Budget dated August 28, 1981.

Dated: February 3, 1982.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82-3482 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 942

Public Hearing and Public Comment Period on the Resubmitted Tennessee Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule: Notice of receipt of permanent program resubmission: Schedule for public hearing and public comment period.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of those portions of the proposed Tennessee regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which have been resubmitted by the state. The resubmission includes those portions of the proposed regulatory program which were disapproved by the Secretary of the Interior in his initial decision on October 10, 1980 (45 FR 69940–69970). However, in this resubmission Tennessee has also proposed amendments and/or submitted additional information relating to previously approved portions of its program. Therefore, the Secretary is also soliciting public comments concerning the effect of these program changes on those portions of the Tennessee program which were approved on October 10, 1980.

This notice sets forth the times and locations that the Tennessee program is available for public inspection; the date when and location where OSM will hold a public hearing or the resubmission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the portions of the Tennessee program not previously approved by the Secretary of the Interior will be held at 7:30 p.m. on March 10, 1982, at the address listed under "ADDRESSES".

Comments from members of the public must be received on or before the close of business on March 12, 1982, in order to be considered in the Secretary's decision on those elements of the proposed Tennessee program which were not approved in the initial decision on the proposed program.

ADDRESSES: The public hearing will be held at the Holiday Inn West, 1315 Kirby Road, Knoxville, Tennessee. Written comments should be sent to: Office of Surface Mining, ATTN: Administrative Record Room, Suite 500, 530 So. Gay St., S.W.; Knoxville, Tennessee 37902.

Copies of the full text of the proposed program, a listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region II Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Knoxville Regional Office, Suite 500, 530 So. Gay St., S.W., Knoxville, TN 37902 (615) 971–5100

Division of Surface Mining, 1720 West End Avenue, Nashville, TN 37203.

Copies of the full text of the proposed program are available for inspection during regular business hours at the following locations:

Administrative Record Room, Office of Surface Mining, Region II, 530 So. Gay St., S.W., Suite 500, Knoxville, TN 37902

Division of Surface Mining, 1720 West End Avenue, Nashville, TN 37203

Division of Surface Mining, Dempster Building, 305 West Springdale Avenue, Knoxville, TN 37919

A copy of this notice along with a copy of the Tennessee statutes and regulations regarding the proposed Tennessee regulatory program has been placed on file and is available for inspection in the library of the Office of the Federal Register, Room 5315, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Acting Regional Director, Office of Surface Mining, 530 So. Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902, Phone: (615) 971–5100.

SUPPLEMENTARY INFORMATION: On February 28, 1980, the State of Tennessee submitted to OSM a proposed state regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328), the Regional Director published notification of receipt of the program submission in the March 11, 1980 **Federal Register** (45 FR 15578–15580) and in newspapers of general circulation within the state. In accordance with that announcement, public comments were solicited an a public meeting was held on April 15, 1980, on the issue of the program's completeness.

On April 29, 1980, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be incomplete (45 FR 28369) as required by 30 CFR 732.11(b).

A public hearing on the adequacy of the Tennessee submission was held on July 21, 1980, in Knoxville, Tennessee, by the Regional Director, after due notice on June 23, 1980, in the **Federal Register** (45 FR 41979–41981) and in newspapers of general circulation within the state. The public comment period ended July 24, 1980.

Throughout the period beginning with the submission of the program, OSM had frequent contact with the staff of the Tennessee Division of Surface Mining. Minutes or notes of the discussions were placed in the Administrative Record and made available for public review and comment. The full chronology of the events leading to the Secretary's initial decision is contained in the **Federal Register** notice of the partial approval by the Secretary (45 FR 67372–67395) published on October 10, 1980. That notice also contained the Secretary's findings, detailed explanations of those findings and the Secretary's decision, which approved and disapproved specific parts of the Tennessee program.

In accordance with the procedures set forth in 30 CFR 732.13(f), the State of Tennessee had 60 days from the date of publication of the Secretary's partial approval decision in which to submit a revised program for consideration. On December 5, 1980, the Tennessee Chancery Court enjoined the Tennessee Department of Conservation from submitting or resubmitting to OSM the Tennessee Permanent State Program. On February 2, 1982, the Court agreed to permit the submission to OSM of the revised program. The state submitted its revised program for consideration on February 3, 1982.

In keeping with the public participation mandate of SMCRA, 30 CFR 732.13(f) requires a minimum of 15 days for public review and comment. The comment period for the Tennessee program will end at 4:00 p.m. on March 12, 1982.

During this period the Secretary is soliciting comments from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies, as well as the general public.

Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director a recommended decision along with a record composed of the hearing transcript, written presentations, exhibits, and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that those portions of the program that were not approved in the Secretary's initial decision now be approved or disapproved or conditonally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326–15327). For further details, refer to 30 CFR 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

The Secretary's decision on the program as resubmitted will constitute the final decision by the Department. If the revised program is approved, the State of Tennessee will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal and non-Indian lands in Tennessee. If the revised program is approved, the Secretary and the Governor may also enter into a cooperative agreement governing regulation of these activities on Federal lands in Tennessee. Such an agreement would be the subject of a separate rulemaking and **Federal Register** notice. If the revised program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of the above activities in Tennessee. To codify decisions on state programs, Federal programs, and other matters affecting individual states, OSM has established Subchapter T of 30 CFR, Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Tennessee will be found in 30 CFR Part 942 after Tennessee's resubmission has been approved or disapproved.

At the public hearing on March 10, 1982, parties wishing to comment on the proposed program will be asked to register for placement on the speaker's agenda. The hearing will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. Written comments, data, or other relevant information may be submitted to supplement, or in lieu of, an oral presentation at the hearing.

In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.

2. Based on the number in attendance, each participant may be limited to 10 minutes.

3. Participants will be called in the order in which they register.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Interested members of the public are encouraged to read the Secretary's partial approval of the initial Tennessee program submission (45 FR 67372–67395) published on October 10, 1980. That document contains detailed findings and explanations relating to the parts of the initial submission which were specifically approved and disapproved. Unless a change has been made to a part of the program previously approved, the Secretary will only consider comments relating to those portions previously disapproved or to any portions of the program first appearing in the resubmission.

Set forth below is a summary of the contents of the Tennessee program including resubmission materials:

Section and Description
731.14(a) State Laws and Regulations
731.14(b) Other State Laws and Regulations
731.14(c) Legal Opinion on Authority to Regulate
731.14(d) Designation of an Agency as Regulatory Authority
731.14(e) Description of Regulatory Authority
731.14(f) Memoranda of Agreement
731.14(g) Proposed Systems
731.14(g)(1) Permit Process
731.14(g)(2) Fees for Permits
731.14(g)(3) Bonding System
731.14(g)(4) Inspection Process
731.14(g)(5) Enforcement of Civil and Criminal Penalties
Sec.
731.14(g)(6) Enforcement of Performance Standards
731.14(g)(7) Assessing and Collecting Civil Penalties
731.14(g)(8) Issuing Public Notices
731.14(g)(9) Coordination of Permit Issuance
731.14(g)(10) Consulting with other State and Federal Agencies
731.14(g)(11) Lands Unsuitable for Mining Program
731.14(g)(12) Monitoring Conflict of Interest
731.14(g)(13) Training and Certification of Blasters
731.14(g)(14) Public Participation
731.14(g)(15) Administrative and Judicial Review
731.14(g)(16) Small Operator's Assistance Program
731.14(h) Statistical Information
731.14(h)(1) Annual Coal Production
731.14(h)(2) Number of Mines
731.14(h)(3) Acreage
731.14(h)(4) Geographic Distribution of Mining
731.14(h)(5) Annual Number of Permit Applications
731.14(h)(6) Frequency of Inspections
731.14(h)(7) Status of Current Permits
731.14(h)(8) Coal Production Projections
731.14(i) Existing and Proposed Staffing
731.14(j) Adequacy of Staffing
731.14(k) Other Agency Personnel
731.14(l) Proposed Budget
731.14(m) Physical Resources
731.14(n) Special Performance Standards
731.14(o) Other Programs Administered by the Regulatory Authority
731.14(p) Additional Information

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Tennessee program. Under Section 702(d) of SMCRA (30 U.S.C. 1292(d)) approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1979 (42 U.S.C. 4332).

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions or amendments. Therefore, a regulatory impact analysis and regulatory review by OMB is not needed for this rule.

I have certified that the approval or disapproval of the Tennessee program will not have a significant economic effect on a substantial number of small entities.

Dated: February 4, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-3401 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP OE2394/P212; PH-FRL-2045-2]

Trifluralin; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide and plant growth regulator trifluralin. This amendment to establish a maximum permissible level for residues of trifluralin in or on rape seed and rape straw was requested by the Interregional Research Project No. 4 (IR-4).

DATE: Written comments must be received on or before March 12, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number OE2394 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alaska and North Dakota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide trifluralin in or on the raw agricultural commodities rape seed and rape straw at 0.05 part per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances included: a 2-year rat feeding study with a systemic no-observed-effect level (NOEL) of 2,000 ppm (highest dose tested); a 2-year rat feeding study with a systemic NOEL of 2,000 ppm and a systemic lowest-effect level (LEL) of 20,000 ppm (highest dose tested); a 2-year rat feeding study with an increase in urinary tract tumors in male rats observed at all doses tested (813 ppm, 3,250 ppm, and 6,500 ppm) and in female rats observed at 3,250 ppm and 6,500 ppm, and thyroid tumors in male rats observed; 2-year dog feeding studies with systemic NOELs of 10 milligrams (mg)/kilogram (kg) (highest dose tested) and 25 mg/kg (highest dose tested); a 3-year dog feeding study with a systemic NOEL of 10 mg/kg and a systemic LEL of 25 mg/kg (highest dose tested); a 2-year mouse feeding study negative for oncogenicity in both sexes; a dog reproduction study with a reproductive NOEL of 25 mg/kg (highest dose tested); a supplementary rabbit teratology study; and a supplementary rat study.

Data currently lacking are teratology studies in two species, mutagenicity studies (multi-test evidence), and a rat reproduction study.

Oncogenicity tests conducted by the National Cancer Institute (NCI) with trifluralin technical chemical in rats and mice indicated the chemical is not oncogenic in rats nor in male mice under the terms of the bioassay. Hepatocellular carcinomas and alveolar/bronchiolar adenomas were observed in female mice at a statistically significant incidence when compared to controls, but the incidence appeared to be possibly related to the presence of a dipropylnitrosamine contaminant, *N*-nitroso-di-*n*-propylamine (NDPA), which was found in the trifluralin used in the test at concentrations of 84-88 ppm.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 10 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.1 mg/kg of body weight (bw)/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0417 mg/day; the current action will contribute only 2×10^{-5} mg/day. Published tolerances utilize 0.69 percent of the ADI; the current action will utilize less than 0.01 percent of the ADI.

The nature of the residues is adequately understood and adequate analytical methodology (gas chromatography with an electron capture detector and thin layer chromatography) is available for enforcement purposes.

EPA published in the Federal Register of August 30, 1979 (44 FR 50911) a notice of determination and availability of a position document concerning trifluralin. After extensive review, the Agency determined that the benefits outweighed the risks for all uses if the technical formulated products contained less than 1 ppm of NDPA. However, the Agency will reevaluate all the existing tolerances for trifluralin when the final report and validation audit of the laboratory records on all the chronic toxicity/oncogenicity studies are available.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. In light of the chronic toxicity oncogenicity studies, the agency considers the cancer risk from dietary exposure of trifluralin-treated rape seed and straw to be insignificant since the ADI and TMRC are not affected by the proposed use. It is proposed, therefore, that the tolerances by established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before March 12, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 0E2394/P212]". All written comments filed in response to this petition will be available in the office of Donald Stubbs at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Dated: January 29, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e))).

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.207 be amended by adding and alphabetically inserting the raw agricultural commodities rape seed and rape straw as follows:

§ 180.207 Trifluralin; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Rape, seed	0.05
Rape, straw	0.05
* * * * *	

[FR Doc. 82-3399 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3-3

Price Negotiation Policies and Techniques; Profit or Fee

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is proposing to amend its procurement regulations by adding new sections that establish the Department's uniform profit policy as required by Federal Procurement Regulations Temporary Regulation 61.

DATE: Comments must be received by April 12, 1982.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulation may do so by filing them with F. J. Brennan, Division of Procurement Policy, OPAP, OPAL, OS, Department of Health and Human Services, Room 539H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington D.C. 20201.

FOR FURTHER INFORMATION CONTACT: F. J. Brennan, Division of Procurement Policy (202-245-6154).

SUPPLEMENTARY INFORMATION: Federal Procurement Regulations Temporary Regulation 61, Policies for Establishing Profit or Fee Prenegotiation Objective, dated May 8, 1981, implemented Office of Federal Procurement Policy (OFPP) Policy Letter 80-7, Policies for Establishing the Profit or Fee Prenegotiation Objective, dated December 1980. This Policy Letter requires agencies to adopt a structured approach for determining profit or fee. The new section implements this requirement by providing guidance to Departmental personnel in the development of profit or fee objectives.

The new section essentially follows structured approaches for determining profit or fee that have been in use by other Departments for a number of years. However, a number of modifications have been made to those policies to give consideration to the procurements of this Department.

The Department certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

It is therefore proposed to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: February 1, 1982.

Matthias Lasker,

Acting Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Under Subpart 3-3.8, Price Negotiation Policies and Techniques, of Part 3-3, Procurement by Negotiation, sections 3-3.808 through 3-3.808-7, are proposed to be added to 41 CFR Chapter 3. In addition, the table of contents for Part 3-3 is proposed to be amended to add the new sections as follows:

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.8—Price Negotiation Policies and Techniques

* * * * *

Sec.

3-3.808 Profit or fee.
3-3.808-1 Policy.
3-3.808-2 Structured approach.
3-3.808-3 Profit objective.
3-3.808-4 Profit factors.
3-3.808-5 Contractor effort.
3-3.808-6 Other factors.
3-3.808-7 Facilities capital cost of money.

* * * * *

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3-3.808 Profit or fee.

§ 3-3.808-1 Policy.

(a) *General.* Profit generally is the basic motive of business enterprise and it is the policy of HHS to utilize profit to stimulate efficient contract performance. The Government and its contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits or fees (hereafter referred to as profit), the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost for a service or product, does not provide the motivation to accomplish such performance. Negotiations aimed merely at reducing profits, with no realization of the function of profit are not in the government's best interest. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel effective contract performance by which overall costs are economically controlled. To this end, the profit objective must be fitted to the circumstances of the particular procurement, giving due weight to contractor effort, risk assumed, investment required, complexity of the work to be performed, and other factors appropriate to the circumstances. However, nothing in this regulation requires or suggests the use of a profit objective which is higher than that proposed by the contractor.

(b) *Contractors priced on the basis of cost analysis.* When cost analysis is performed pursuant to § 1-3.807-2, profit consideration shall be in accordance with the objectives set forth below. The Government should establish a profit objective for contract negotiations which will:

(1) Motivate contractors to undertake more difficult work requiring higher skills and reward those who do so;

(2) Allow the contractor an opportunity to earn profits commensurate with the extent of the cost risk it is willing to assume; and

(3) Encourage contractors to provide their own facilities and financing and reward those who do so. The structured approach set forth in § 3-3.808-2, for establishing profit objectives is designed to provide guidance in applying these principles. This approach, properly applied, will tailor profits to the circumstances of each contract and provide a spread of profits which is commensurate with varying circumstances. The structured approach shall be used in all contracts where cost analysis is performed except as set forth in § 3-3.808-2(b) below.

(c) *Contracts priced without cost analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs and profits. Where adequate price competition exists and in other situations where cost analysis is not required (see § 1-3.807), fixed-price type

contracts will be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit which is anticipated, or in fact earned, should not be of concern to the Government. In such cases, if a low offeror earns a larger profit, it should be considered the normal reward of efficiency in a competitive system and effort should not be made to reduce such profits.

(d) *The cost of money for facilities capital.* When profit analysis is required, the cost of money for facilities capital (see HHS Procurement Circular 82.02) shall not be included when measuring the contractor's effort. Contract effort for this purpose shall be restricted to normal, booked costs. Further, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with the Facilities Capital Cost of Money Cost Principle for contracts that will be subject to the cost principles for commercial organizations (see FPR Temporary Regulation 61). This policy shall apply to any tier subcontract or modifications thereto.

§ 3–3.808–2 Structured approach.

(a) *General.* (1) The structured approach provides contracting officers with a technique that will insure consideration of the relative value of the appropriate profit factors described in § 3–3.808–4 in the establishment of a profit objective for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to him/her prior to negotiations. Such information is furnished in proposals, audit data, assessment reports, preaward surveys and the like. The structured approach also provides a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value and complexity of the proposed procurement.

(2) The contractor's proposal will include cost information for evaluation and a total proposed profit. Contractors shall not be required to submit the details of their profit objectives, but they shall not be prohibited from doing so if they desire. Elaborate and voluminous presentations are neither required nor desired.

(3) The negotiation process does not require agreement on either estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective which, as a going-in objective, bears a distinct relationship to the cost objective and any proposed sharing arrangement. Since profit is merely one of several interrelated variables, the Government negotiator generally should not complete the profit negotiation without simultaneously agreeing on the other variables. Specific agreement on the exact weights or values of the individual profit factors is not required and should not be attempted.

(b) *Exceptions.* (1) Under the following listed circumstances, other methods for establishing profit objectives may be used. Generally, it is expected that such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective); however, factors within the structured approach considered inapplicable to the procurement will be excluded from the profit objective.

(i) Contracts not expected to exceed $100,000;

(ii) Architect-engineer contracts;

(iii) Management contracts for operation and/or maintenance of Government facilities;

(iv) Contruction contracts;

(v) Contracts primarily requiring delivery of material supplies by subcontractors;

(vi) Termination settlements; and

(vii) Cost-plus-award-free contracts (however, contracting officers may find it advantageous to perform a structured profit analysis as an aid in arriving at an appropriate fee arrangement).

(2) Other exceptions may be made in the negotiation of contracts having unusual pricing situations. Such exceptions shall be justified in writing by the contracting officer in situations where the structured approach is determined to be unsuitable.

(c) *Limitation.* In the event this or any other method would result in establishing a project objective in violation of limitations established by statute or this regulation, the maximum profit objective shall be the percentage allowed pursuant to such limitations (see § 1–3.405–5).

§ 3–3.808–3 Profit objective.

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, constitutes an appropriate amount of profit for the procurement being considered. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to the negotiation of a contract, change order, or contract modification where cost analysis is undertaken, the negotiator shall develop a profit objective. The structured approach, if applicable, shall be used for developing this profit objective. If a change or modification is of a relatively small dollar amount and is basically the same type of work as required in the basic contract, the application of the structured approach will generally result in a profit objective similar to the profit objective in the basic contract and, therefore, this basic rate may be applied to the contract change or modification. However, in cases where the change or modification calls for substantially different work or if the dollar amount of the change or contract modification is significant, a detailed analysis should be made.

(b) Development of a profit objective should not begin until the following actions have been accomplished:

(1) A thorough review of proposed contract work;

(2) A review of all available knowledge regarding the contractor pursuant to § 1–1.12, including audit data, preaward survey reports and financial statements, as appropriate; and

(3) An analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

§ 3–3.808–4 Profit factors.

(a) The following factors shall be considered in all cases in which profit is to be negotiated. The weight ranges listed after each factor shall be used in all instances where the structured approach is used.

Profit factors	Weight ranges (percent)
Contractor effort:	
Material acquisition	1 to 5
Direct labor	4 to 15
Overhead	4 to 9
General management (G&A)	4 to 8
Other costs	1 to 5
Other factors:	
Cost risk	0 to 7
Investment	−2 to +2
Performance	−1 to +1
Socioeconomic programs	−.5 to +.5
Special situations	

(b) Under the structured approach, the contracting officer shall first measure "Contractor Effort" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. The amount calculated for the cost of money for facilities capital is not to be included for the computation of profit as part of the cost base. A complete discussion of how this cost is determined and how it will

be applied and administered is set forth in HHS Procurement Circular 82.02.

(c) The suggested categories under "Contractor Effort" are for reference purposes only. Often individual proposals will be in a different format, but since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) After computing a total dollar profit for "Contractor Effort," the contracting officer shall then calculate the specific profit dollars assigned for cost risk, investment, performance, socioeconomic programs, and special situations. This is accomplished by multiplying the total Government Cost Objective, exclusive of any cost of money for facilities capital, by the specific weight assigned to the elements within the "Other Factors" category. Form HHS–674, Structured Approach Profit/Fee Objective, or its equivalent, should be used, as appropriate, to facilitate the calculation of this profit objective.

(e) In making a judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in § 3–3.808–5 and § 3–3.808–6.

(f) The structured approach was designed for arriving at profit objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at profit objectives for nonprofit organizations. Therefore, the structured approach, as modified in subparagraph (2) below, shall be used to establish profit objectives for nonprofit organizations.

(1) For purposes of this section, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(2) For contracts with nonprofit organizations where profit is involved, an adjustment of up to 3 percentage points will be subtracted from the total profit objective percentage. In developing this adjustment, it will be necessary to consider the following factors:

(i) Tax position benefits;

(ii) Granting of financing through advance payments; and

(iii) Other pertinent factors which may work to either the advantage or disadvantage of the contractor in its position as a nonprofit organization

§ 3–3.808–5 Contractor effort.

(a) *General.* Contractor effort is a measure of how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish a conversion of ideas and materials into the final service or product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration, particularly in connection with experimental, developmental, or research work, is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to existing technology and/or equipment or only refinements to these items. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(b) *Material acquisition* (Subcontracted items, purchased parts, and other material). Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required subcontracted items, purchased parts, material or services. The contracting officer shall determine whether the contractor will obtain the items or services by routine order from readily available sources or by detailed subcontracts for which the prime contractor will be required to develop complex specifications. Consideration shall also be given to the managerial and technical efforts necessary for the prime contractor to select subcontractors and to perform subcontract administration functions. In application of this criterion, it should be recognized that the contribution of the prime contractor to its purchasing program may be substantial. Normally, the lowest unadjusted weight for direct material is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the contractor.

(c) *Direct Labor* (Professional, service, manufacturing and Other labor). Analysis of the various labor categories of the cost content of the contract should include evaluation of the comparative quality and quantity of professional and semiprofessional talents, manufacturing and service skills, and experience to be employed. In evaluating professional and semiprofessional labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce talent needed in contrast to nonprofessional effort. The assessment should consider the contribution this talent will provide toward the achievement of contract objectives. Since nonprofessional labor is relatively plentiful and rather easily obtained by the contractor and is less critical to the successful performance of contract objectives, it cannot be weighted nearly as high as professional or semiprofessional labor. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semiprofessional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., quality control, receiving and inspection, etc.) which do not fall within the definition for professional, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above will be applied.

(d) *Overhead and general management (G&A).* (1) Analysis of these overhead items of cost should include the evaluation of the makeup of these expenses and how much they contribute to contract performance. To the extent practicable, analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses, such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the

elements of the overhead pools will be the profit consideration given the pools as a whole. The procedure for assigning relative values to these overhead expenses differs from the method used in assigning values of the direct labor. The upper and lower limits assignable to the direct labor are absolute. In the case of overhead expenses, individual expenses may be assigned values outside the range as long as the composite ratio is within the range.

(2) It is not necessary that the contractor's accounting system break down overhead expenses within the classifications of research overhead, other overhead pools, and general administrative expenses, unless dictated otherwise by Cost Accounting Standards (CAS). The contractor whose accounting system reflects only one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the composite rate which could be classified as research overhead, other overhead pools, and general and administrative expenses, and follow the appropriate evaluation technique.

(3) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a contract for a new program for research or an item which is on the cutting edge of the state of the art will cause more problems and require more managerial time and abilities of a higher order than a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward because many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(4) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same project with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in (3) above are involved.

(c) *Other costs.* Analysis of this factor should include all other direct costs associated with contractor performance (e.g., travel and relocation, direct support, and consultants). Analysis of these items of cost should include:

(1) The significance of the cost to contract performance;

(2) Nature of the cost; and

(3) How much they contribute to contract performance.

Normally, travel costs require minimal administrative effort by the contractor and, therefore, usually receive a weight no greater than 1%. Also, the contractor may designate individuals as "consultants" but in reality these individuals may be obtained by the contractor to supplement its workforce in the performance of routine duties required by the contract. These costs would normally receive a minimum weight. However, there will be instances when the contractor may be required to locate and obtain the services of consultants having expertise in such fields as medicine or human services. In these instances, the contractor will be required to expend greater managerial and technical effort to obtain such services and, consequently, such costs should receive a much greater weight.

§ 3-3.808-6 Other factors.

(a) *Contract cost risk.* The contract type employed basically determines the degree of cost risk assumed by the contractor. For example, where a portion of the risk has been shifted to the Government through cost-reimbursement provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit should be less than where the contractor assumes all the risk.

In developing the prenegotiation profit objective, the contracting officer will need to consider the type of contract anticipated to be negotiated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor should be one of the most important in arriving at prenegotiation profit objectives.

(1) Evaluation of this risk requires a determination of:

(i) The degree of cost responsibility the contractor assumes;

(ii) The reliability of the cost estimates in relation to the task assumed; and

(iii) The complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk which falls on the procurement office such as the risk of not acquiring a satisfactory report, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task and a firm fixed-price contract for a service or a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract selection has been made, the regard for risk by contract type would usually fall into the following percentage ranges:

	Percent
Cost reimbursement type contracts	0-3
Fixed price type contracts	2-7

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar related efforts. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(5) Contractors are likely to assume greater cost risk only if contracting officers objectively analyze the risk incident to proposed contracts and are willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract will not justify a reward for risk in excess of 0.5 percent, nor will a firm fixed-price contract justify a reward of less than the minimum in the structured approach. Where proper contract-type selection has been made, the reward for risk, by contract type, will usually fall into the following percentage ranges:

(i) Type of contract and percentage ranges for profit objectives developed by using the structured approach for research and development and manufacturing contracts:

	Percent
Cost-plus-fixed fee	0 to 0.5
Cost-plus-incentive fee:	
With cost incentives only	1 to 2
With multiple incentives	0.5 to 3

	Percent
Fixed-price-incentive:	
With cost incentives only	2 to 4
With multiple incentives	3 to 5
Prospective price redetermination	3 to 5
Firm fixed-price	5 to 7

(ii) Type of contract and percentage ranges for profit objectives developed by using the structured approach for service contracts:

	Percent
Cost-plus-fixed-fee	0 to 0.5
Cost-plus-incentive fee	1 to 2
Fixed-price-incentive	2 to 3
Firm fixed-price	3 to 4

(6) The contractor's subcontracting program may have a significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance, that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract costs represents subcontracts without any substantial transfer of contractor's risk.

(7) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, unpriced change orders, and unpriced orders under BOA's, consideration should be given to the effect on total contracts cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances—not just the portion of costs incurred or percentage of work completed prior to definitization.

(8) Time and material and labor hour contracts will be considered to be cost-plus-a-fixed-free contracts for the purpose of establishing profit weights, unless otherwise exempt under § 3–3.808-2(b) in the evaluation of the contractor's assumption of contract cost risk.

(b) *Investment.* HHS encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. As such, it is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor should include an analysis of the following:

(1) *Facilities* (Including equipment). To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source and financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. On the other hand, contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Cases between the above examples should be evaluated on their merits with either a positive or negative adjustments, as appropriate, in profit being made. However, where a highly facilitized contractor is to perform a contract which does not benefit from this facilitization or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted. When applicable, the prospective contractor's computation of facilities capital cost of money for pricing purposes under CAS 414 (see HHS Procurement Circular 82.02) can help the contracting officer identify the level of facilities investment to be employed in contract performance.

(2) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for advance payments and payments more frequent than monthly with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for a capital turn-over-rate on the contract which is less than the contractor's or the industry's normal capital turn-over-rate.

(c) *Performance.* (Cost-control and other past accomplishments). The contractor's past performance should be evaluated in such areas as quality of service or product, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas in comparison with other contractors in similar circumstances, such performance merits a proportionately greater opportunity for profit. Conversely a poor record in this regard should be reflected in determining what constitutes a fair and reasonable profit.

(d) *Federal Socioeconomic programs.* This factor, which may apply to special circumstances or particular acquisitions, relates to the extent of a contractor's successful participation in the Government sponsored programs such as small business, small disadvantaged business, labor surplus area, and energy conservation efforts. The contractor's policies and procedures which energetically support Government socioeconomic programs and achieve successful results should be given positive consideration. Conversely, failure or unwillingness on the part of the contractor to support Government socioeconomic programs should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(e) *Special situations.* (1) *Inventive and developmental contributions.* The extent and nature of contractor-initiated and financed independent development should be considered in developing the profit objective; provided, that the contracting officer has made a determination that such effort will benefit the contract. The importance of the development in furthering health and human services purposes, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the development cost was recovered directly or indirectly from Government sources should be weighed.

(2) *Unusual pricing agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to cost ceilings, e.g., a ceiling on overhead rates for conditions other then those discussed at § 1–3.707(b). In such circumstances, the contractor should

receive favorable consideration in developing the profit objective.

(3) This factor need not be limited to situations which only increase profit levels. A negative consideration may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products or services with commercial application).

§ 3-3.808-7 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital of cost of money allowed in accordance with the Facilities Capital Cost-of-Money Cost Principal. If the contractor does not propose this cost, a provision must be inserted in the contract that facilities capital cost of money is not an allowable cost. (See HHS Procurement Circular 82.02.)

Note.—Form HHs-674 Structured Approach Profit/Fee objective.is filed with the original document.

[FR Doc. 82-3127 Filed 2-9-82; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 31, 33, 42, and 43

[CC Docket No. 78-196; FCC 82-43]

Revision of the Uniform System of Accounts and Financial Reporting Requirements for Telephone Companies

AGENCY: Federal Communications Commission.

ACTION: Appointment of additional members to Advisory Group.

SUMMARY: In accordance with a previous order this *Order* appoints additional members to the Telecommunications Industry Advisory Group which will prepare a recommended Uniform System of Accounts for telephone companies. Initial members were appointed in a December 17, 1981 *Memorandum Opinion and Order*, FCC 81-579 (released January 7, 1982; not published in the **Federal Register**).

FOR FURTHER INFORMATION CONTRACT: Stephen Duffy, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

SUPPLEMENTARY INFORMATION: In the matter of revision of the Uniform System of Accounts and Financial Reporting Requirements for Telephone Companies (Parts 31, 33, 42 and 43 of the FCC's rules), CC Docket No. 78-196, 46 FR 53463, October 29, 1981.

Memorandum Opinion and Order

Adopted: January 20, 1982.

Released: January 22, 1982.

1. On October 20, 1981, the Commission released a *Second Supplemental Notice of Proposed Rulemaking and Order*, FCC 81-480, in the above-captioned proceeding. In this *Order* we defined our rationale for revising the Commission's Uniform System of Accounts for Class A and Class B Telephone Companies (USOA) on a financial (rather than cost) accounting basis and established the Telecommunications Industry Advisory Group (Group) to assist in the design and development of the revised USOA.

2. On December 17, 1981, the Commission adopted a *Memorandum Opinion and Order*, FCC 81-579, appointing the initial members to the Group. At that time, the Commission noted that additional appointments to the Group would be made by subsequent order. This *Order* appoints further members to the Advisory Committee.

3. The following individuals are appointed to the Group and shall be included as part of the service list for service of written materials submitted to the Group. The additional members are as follows:

National Association of Regulatory Utility Commissioners

Joseph Barden, Director, Technical Services Division, Michigan Public Service Commission, Mercantile Building, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909.

Sheldon Chazin, Director, Accounting and Auditing Division, REA-USDA, Washington, DC 20252.

Frank Herbert, Acting Director, Accounting and Utility Finance, New York Public Service Commission, Empire State Plaza, Albany, New York 12223.

Gregory Follensbee, Director, Auditing and Financial Analysis Department, Florida Public Service Commission, 101 East Gaines Street, Fletcher Building, Tallahassee, Florida 32301.

Whitfield Burcham, Director, Accounting Division, Tennessee Public Service Commission, C1-141 Cordell Hull Building, Nashville, Tennessee 37219.

John J. Gibbons, Assistant Director, Revenue Requirements Division, California Public Utilities Commission, 445 Golden Gate Avenue, Room 7168, State Building, Civic Center, San Francisco, California 94102.

Non-Telco Communications Equipment Manufacturers

Edwin B. Spievack, Cohn and Marks, Suite 600, 1333 New Hampshire Avenue, NW., Washington, DC 20036.

Large Users

Gerald L. Decker, Telecommunications Service Manager, Ford Motor Company, 1580 FMCC Building, American Road, Dearborn, Michigan 48121.

Kenneth L. Phillips, Vice President, Citibank, Office of Telecommunications, 37th Floor, Zone 8, 399 Park Avenue, New York, New York 10043.

Small Telephone Companies

Francis E. Bowers, President, Moultrie Independent Telephone Co., Lovington, Illinois 61937.

4. The Commission may make further appointments to the Group by subsequent order.

5. Accordingly, it is ordered, pursuant to Sections 4(i) and 220 of the Communications Act of 1934, As Amended, 47 U.S.C. 154(i) and 220, That the above-listed individuals are appointed to the Telecommunications Industry Advisory Group and are added to the service list for the Group.

6. It is further ordered, that the Secretary shall serve a copy of this *Memorandum Opinion and Order* on each state commission and on each individual on the service list for the Telecommunications Industry Advisory Group.

7. It is further ordered, that the Secretary shall cause a copy of this *Order* to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-3228 Filed 2-9-82; 8:45 am]

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47 CFR Part 73

[BC Docket No. 80-494; RM-3597 and RM-3754]

FM Broadcast Station in Farmville and Appomattox, Virginia; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and order to show cause: Extension reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning the proposed assignment of an FM channel to Farmville or Appomattox, Virginia, in response to a request by Genesis Communications, Incorporated. Genesis

states that additional time is needed to prepare an informed response to the comments filed in response to a *Request for Supplemental Information.*

DATE: Reply comments in response to the *Request* must be filed on or before March 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: February 1, 1982.

Released: February 4, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Farmville and Appomattox, Virginia); BC Docket No. 80–494, RM–3597, RM–3754.

1. On November 30, 1981, the Commission adopted a *Request for Supplemental Information,* 46 FR 60480, published December 10, 1981, in the above-entitled proceeding. Comments have been filed in response thereto, and reply comments are due February 2, 1982.

2. We now have before us for consideration a request for extension of time for filing reply comments, to and including March 4, 1982, filed by Genesis Communications, Incorporated ("Genesis"), an interested party. It states that in response to the Commission's *Request for Supplemental Information,* it filed a notice of intent to participate herein, and effectuated service on all parties of record. However, it notes that it has not been served with any of the comments filed in response to the *Request,* and seeks additional time in which to secure and review said filings, and to enable it to prepare an informed response. Genesis states that it will attempt to contact the other parties in an effort to expedite receipt of the comments.

3. Although Genesis apparently did not seek the consent of other parties regarding the extension, they were served with a copy of the request.

4. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the deadline. Although this request was not received within the required timeframe, the Commission is of the view that, under the circumstances cited, additional time is warranted in which to formulate reply comments. Additionally, the Commission believes it would be in the public interest to have this material available to it in arriving at a decision herein.

5. Accordingly, it is ordered, That the time for filing reply comments in response to the *Request for Supplemental Information,* in BC Docket No. 80–494 (RM–3597, RM–3754), is extended to and including March 4, 1982.

6. This action is taken pursuant to authority contained in §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–3575 Filed 2–9–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1244

[Ex Parte No. 385 (Sub No. 1)]

ICC Waybill Sample Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing to amend 49 CFR Part 1244 to add needed data items to the ICC Waybill Sample. With the addition of the proposed items, the Commission believes that the Waybill Sample would supply all needed items for the preparation of studies and reports concerning the costs of rail shipments.

The publication *Documentation of the ICC Waybill Sample* is proposed to be revised pending the final outcome of this proceeding. The proposed changes to the publication appear in this notice as Appendix B.

DATE: An original and 10 copies of any comments should be filed on or before March 12, 1982.

ADDRESS: Comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Sidney Fine (202) 275–7220.

SUPPLEMENTARY INFORMATION: In Ex Parte 385, *Waybill Analysis of Transportation of Property—Railroads* (49 CFR Part 1244), 364 ICC 928 (1981), (46 FR 26781, May 15, 1981, as clarified at 46 FR 45141, September 10, 1981) the Commission acted under the authority of 49 U.S.C. 10709 and 11144 to modify the waybill reporting requirements for subject railroads by permitting computerized reporting of waybills, using modern statistical procedures to improve the reliability of the waybill study, and reducing some of the reporting requirements. Further study of the Staggers Rail Act of 1980 leads us to believe that additional amendments to 49 CFR Part 1244 are necessary.

Under the provisions of 49 U.S.C. 10709 (d)(5)(A) (see also 49 U.S.C. 10311) we are required to prepare studies and reports concerning the costs of rail shipments.

Accurate information on shipment characteristics is necessary for these studies. The ICC Waybill Sample provides the Commission with most of the necessary information; and with the addition of the items described in this proceeding, we believe the Waybill Sample will supply all needed items.

First, the Commission must be able to identify shipments affected by either a surcharge or a joint rate cancellation. The proposed regulations require the necessary shipment identification.

Another necessary item of information is an indication of the operating characteristics of multiple-car shipments. Different service characteristics have a significant effect on costs. It is therefore necessary for the Commission to receive accurate data on these shipments. The proposed regulations require rail carriers to include multiple-car shipment data on the waybill submitted to the Commission.

The Staggers Rail Act explicitly authorized rail carriers to enter into contracts with purchasers of rail services. In order to monitor contract rate-making under 49 U.S.C. 10713, the Commission needs to know whether a shipment moves under a contract. The proposed regulations require rail carriers to identify shipments moving under contract rates.

Information on TOFC/COFC shipments is currently collected in the ICC Waybill Sample. However, the different types of shipments are described by rate plans. TOFC/COFC traffic was exempted from most regulation in Ex Parte 230, Sub No. 5, *Improvement of TOFC/COFC Regulation,* effective March 23, 1981. However, like the fresh fruit and vegetable traffic, which was exempted from rate regulation but not from ICC reporting requirements in Ex Parte No. 346 (Sub-No. 1), *Rail Exemption Authority—Fresh Fruits and Vegetables,* 361 ICC 211 (1979), TOFC/COFC traffic was also not exempted from reporting requirements. See 49 CFR 1039.11. Information on TOFC/COFC will continue to be required for use in the annual cost recovery percentage

calculations. To prevent confusion and to comply with the spirit of the exemption from rate regulation, TOFC/COFC waybill information will be described by type of service rather than by type of rate. This change will preserve the service information needed by the Commission.

In the months since Ex Parte No. 385 was served, questions have arisen as to the relationship between a waybill and a shipment. Ordinarily, each shipment has a waybill. However, in some cases, waybills for several shipments are merged into a single document. In other cases, different cars in the same shipment may have separate documents, sometimes called "running waybills." As explained in the previous decision in this proceeding, the Commission requires a standard unit of analysis. For the purpose of collecting the waybill sample, each shipment must be represented by one document, called the revenue waybill.

The proposed revisions to the waybill order (49 CFR Part 1244) are set forth in Appendix A. One of the proposed regulations requires the reporting rail carriers to submit the waybill data items that will be included in the Commission's publication, *Documentation of the Waybill Sample.* The relevant section of that document as it is proposed to be revised in Appendix B of this rulemaking. Each reporting railroad must provide certain information about each shipment represented by a waybill selected for the sample. Most of this information is on waybills that are currently used. Consequently, the Commission has never listed the required data items in the Code of Federal Regulations. These items, their descriptions, and their codings are technical in nature and should remain in the purview of Commission and industry statisticians.

The ICC Waybill Sample is a necessary tool for the Commission to fulfill its statutory obligations. Although these proposed regulations will require rail carriers to adjust their methods of gathering and reporting waybill data, we believe that the costs of doing so will be small.

Regulatory Flexibility Certification

Revisions contemplated in this document will not, if promulgated, have a significant economic impact on a substantial number of small entities. While additional statutorily prescribed reporting requirements are proposed here, railroads having less than 4,500 carloads a year and not being subsidiaries of reporting railroads are not required to submit waybill information.[1] The additional compliance costs to reporting railroads are modest and will not adversely affect their operations.

A review of our records discloses that relatively few TOFC/COFC and multiple car shipments are handled by small railroads. Larger railroads often handle and sample the waybills on these shipments for smaller railroads because they control the smaller railroad or they have special interline agreements with the smaller railroads. In such cases, the revisions proposed here would not represent a burden for smaller railroads. In other cases, we do not view the additional requirements as burdensome.

The reporting mechanism proposed has been designed to facilitate compliance by affected railroads. We have explored possible alternatives to this scheme. No feasible alternative exists.

The proposed regulations will not significantly affect the quality of the human environment or conservation of energy resources.

Attached are Appendix A, which is the proposed revision to 49 CFR Part 1244 and Appendix B, which is the proposed list of waybill data elements.

This action is taken under the authority of 49 U.S.C. 10331, 10709, and 11144, and 5 U.S.C. 553.

Dated: January 26, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

Appendix A

PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

Part 1244 of Title 49 of the Code of Federal Regulations is amended as follows:

1. Section 1244.1 would be amended by adding the following sentence to the end of paragraph (c):

§ 1244.1 Definitions.

* * * * *

(c) * * * Each rail freight shipment must have a separate waybill for the purposes of this part. For each shipment, the waybill must provide information on the entire shipment.

2. Section 1244.1 would be amended by adding paragraph (d) as follows:

§ 1244.1 Definitions.

* * * * *

(d) Required waybill sample information shall be those items listed as "Waybill Data Elements" in the publication, *Documentation of the ICC Waybill Sample,* issued by the Interstate Commerce Commission.

3. Section 1244.3 (c)(1) and (d)(1) would be revised to read as follows:

§ 1244.3 Sampling of waybills.

* * * * *

(c) *The Computerized system.* (1) the tape shall be required to conform to the standards and format specified in *Documentation Of The ICC Waybill Sample* issued by the Interstate Commerce Commission, which may be revised from time to time.

* * * * *

(d) *Controls and Annual Counts.* (1) Each subject railroad shall maintain a control procedure to ensure complete and accurate reporting for the waybill sampling. All required waybill sample information shall be included on hard copy waybill submissions including inbound references for transit waybills and on computer tape submissions. All such information must be legible or machine readable for the computer tape submissions.

* * * * *

4. Section 1244.7 would be revised to read as follows:

§ 1244.7 Analysis of waybill data.

Users of the waybill when presenting waybill analysis before the Commission shall ensure that the appropriate weighting factors are applied to account for the stratified sampling. See Documentation Of The ICC Waybill Sample for guidelines for weighting waybill data and for computing sampling errors.

Appendix B: Waybill Data Elements

General Instructions

Include the total railroads' revenue, total weight of lading and total number of cars and TOFC/COFC units as covered by the study waybill in the appropriate item of this list of waybill data elements. All line haul revenue waybills selected per the order in 49 CFR 1244 must be submitted for the ICC Waybill Study including Less Than Carload (LCL); transit; substituted truck for rail service; traffic exempt from rate regulation such as fresh fruits and vegetables, and TOFC/COFC; rebills; circus trains; and rail equipment shipped on its own wheels.

For the Computerized System Only

One fixed sized main record is to be developed for each selected waybill. Left justify alpha-numerics—space fill; right justify numerics—zero fill. Maintain validation check against overflows or alpha entering into the numeric field or vice versa. Round revenue items to the nearest dollar

[1] Approximately 90 of 312 line-haul railroads will be affected by the revisions, as proposed. Of the 90 about 20 will be class III railroads with revenue less than 10 million dollars.

(e.g., $.49 rounds down; $.50 rounds up). Show weight of lading in units of hundredweight (CWT) although units originally on the waybill are other than pounds. Submit conversion factors to Commission used to convert units other than hundred weight such as cords, units, board feet, or gallons.

1. *Waybill number:* (6 digit numeric) The waybill number is the identification number an originating railroad assigns to each waybill.

2. *Waybill date (month, day, year):* (6 digit numeric) The waybill date is the date that the waybill is prepared.

3. *Accounting period (month, year):* (4 digit numeric) The accounting (audit) period is the month and year during which the study waybill was entered into the railroad's revenue accounting system. This information is subsequently reflected in the net income statement of the company for the specified account month.

For the manual system.—The accounting (audit) period is already required by the transmittal form OPAD–2 which accompanies each waybill submission and need not be inserted on each waybill. If a smaller railroad (submitting less than 1,000 waybills per year) chooses to report on a quarterly basis, the accounting quarter is to be reported instead of the month.

4. *Number of carloads:* (4 digit numeric) The total number of cars used in the shipment as represented by the waybill.

5. *Car initials of the first car:* (4 character alpha-numeric) The car initials are the identification of the car ownership as recorded in the Official Railway Equipment Register.

6. *Car number of the first car:* (6 digit numeric) The car number is assigned by the owner and, when combined with the owner's car initial code, uniquely identifies the freight car used in the move.

7. *TOFC/COFC type of service:* (2 digit numeric)

For the manual system.—The waybill must indicate the type of service provided by the rail carrier(s) handling the shipment. The plan numbers below refer to the service described.

Plan Definitions

Plan 1.0—The railroad transports trailers or containers provided by a motor carrier ramp-to-ramp.

Plan 2.0—The railroad transports railroad provided trailers or containers and furnishes pickup and delivery services.

Plan 2.1—The railroad transports railroad provided trailers or containers ramp-to-ramp. The railroad provides pickup service but not delivery.

Plan 2.2—The railroad transports railroad provided trailers or containers ramp-to-ramp. The railroad provides delivery service but not pickup service.

Plan *2.5*—Using railroad-provided trailers or containers, the railroad performs ramp-to-ramp services only. Pickup and delivery services are the responsibility of the shipper.

Plan *3.0*—The railroad transports trailers or containers provided by shippers ramp-to-ramp.

Plan *4.0*—The railroad transports in ramp-to-ramp service trailers or containers provided by the shipper on flat cars provided by the shipper.

Plan *5.0*—The railroad transports trailers or containers ramp-to-ramp under through billing at joint rail-truck rates. The railroad supplies neither pickup nor delivery services.

Plan *5.1*—The railroad transports trailers or containers ramp-to-ramp under through billing at joint rail-truck rates. The railroad provides pickup service but not delivery service.

Plan *5.2*—Is similar to Plan 5.1, except that the railroad provides delivery service and not pickup service.

All other TOFC/COFC service not indicated above.

For the computerized system.—The code for the TOFC/COFC plan as defined above must be entered in the first two digits of the field.

(0) Not a piggyback shippment
(1) TOFC/COFC Plan 1.0
(2) TOFC/COFC Plan 2.0
(3) TOFC/COFC Plan 2.1
(4) TOFC/COFC Plan 2.2
(5) TOFC/COFC Plan 2.5
(6) TOFC/COFC Plan 3.0
(7) TOFC/COFC Plan 4.0
(8) TOFC/COFC Plan 5.0
(9) TOFC/COFC Plan 5.1
(10) TOFC/COFC Plan 5.2
(11) All other TOFC/COFC service
(99) Unknown

8. *Number of trailer/container units:* (4 digit numeric) The number of trailer/container units for the study waybill must be indicated.

9. *Trailer or container initials:* (4 character alpha-numeric) The ownership of the trailer or container on flat car is generally recorded in the Intermodal Equipment Register. Enter the initials of the first trailer or container in record for this study waybill.

10. *Trailer or container number:* (6 digit numeric) The trailer or container number is assigned by the owner and, when combined with the owner's trailer/container initials, uniquely identifies the trailer/container used in the move.

11. *Commodity code (STCC–HAZMAT):* (7 digit numeric) The Standard Trasportation Commodity Code (STCC) identifies the product designation for the commodity being transported. For hazardous materials or hazardous substances, the 49 series HAZMAT Code is used instead of the regular STCC.

12. *Billed weight (CWT):* (9 digit numeric) The total billed weight is the weight of the shipment used for billing purposes.

13. *Actual weight of lading (CWT):* (9 digit numeric) The total actual weight of lading as shown on the waybill should be recorded for the commodity being transported.

14. *Freight revenue ($):* (9 digit numeric) The total freight line-haul revenue *including* surcharges from origin to destination on the waybill must be shown in *dollars*. For TOFC/COFC plan 5 movements, the freight charges for the participating motor carrier should be excluded from the freight revenue for this item.

(For the next following items (#15 to #25), the codes used by railroads on the computerized reporting system are shown. Railroads using the manual system of reporting should ensure that the submitted waybills contain the information in these items generally in a standard place on the waybill. The manual waybills will be coded in processing after submission.)

15. *Surcharge revenues ($):* (36 digit numeric) For the study waybill, report the revenue in dollars generated by surcharges authorized under 49 U.S.C. 10705a for each *individual* railroad applying the surcharge. Identify the respective railroads.

	Railroad AAR code	Surcharge revenue
First RR	3 digits	9 digits
Second RR	3 digits	9 digits
Third RR	3 digits	9 digits.

16. *Miscellaneous charges indicator:* (1 digit numeric) Are there any miscellaneous or accessorial charges shown on the revenue waybill?

(1) Yes
(2) No
(3) Unknown

17. *Transit code:* (1 digit numeric)

(0) Not a transit movement
(1) Transit—indicates that the shipment is the outbound movement from a transit point where some service has been performed to the destination point, which can be another transit point.
(9) Unknown

18. *Lake movement code:* (1 digit numeric)

(0) Not a Lake movement
(1) Ex-Lake (From Great Lakes to reporting railroad)
(2) Lake cargo (rail to Great Lakes)
(9) Unknown

19. *Rebill code:* (1 digit numeric)

(0) Not a rebill
(1) Rebill—indicates that the shipment is rebilled at a portion of the through rate from origin to destination involving non-through railroad(s). Do not code transit, Lake or Ex-Lake movements as a rebill for purposes of this item.
(2) Unknown

20. *Type of through rate:* (1 digit numeric)

(0) Not an interline shipment
(1) Single factor joint through rate—The shipment moves on more than one railroad under a single rate.
(2) Combination of local or proportional rates—The shipment moves on more than one railroad, each of which applies its own rate to the shipment.
(3) All other interline rates
(9) Unknown

21. *Multiple-car service characteristics* (1 digit numeric) Two kinds of codes are given below for types of multiple-car service. Railroads reporting on the manual system should use the alphabetic code with the word service, e.g., "U Service". Railroads using the computerized system of submission should use the numeric code.

(U/5) Unit train service: Train handling of a single shipment consisting of a single commodity or consisting entirely of trailers/containers on flat cars (TOFC/COFC), moving under load from one origin, delivered intact to one destination and returning empty to the same origin in continuous dedicated shuttle service. Switching, coupling and

uncoupling of cars in the loading and unloading process or setting out bad order cars shall not vitiate this definition.

(A/4) Trainload A service: All train handlings of a single shipment consisting of one commodity or consisting entirely of trailers/containers on flat cars (TOFC/COFC) moving under load from one origin to one destination. The cars in the train are *not* dedicated to the service nor required to be returned empty to the same origin for reloading.

(B/3) Trainload B service: All trainload handlings of a single shipment consisting of a single commodity or consisting entirely of trailers/containers on flat cars (TOFC/COFC), originating at more than one point, consolidated at a point into a trainload to a single destination. The cars in the train are not necessarily dedicated to the service nor required to be returned to the same origins.

(C/2) Trainload C service: All trainload handlings of a single shipment consisting of a single commodity of consisting entirely of trailers/containers on flat cars (TOFC/COFC), originating at one point and moving to another point for distribution to more than one consignee. The cars in the train are not necessarily dedicated to the service nor required to be returned to the same origin.

(M/1) Multi-car service: All shipments consisting of six or more cars on one revenue waybill that do not qualify as unit train or trainload service as defined above.

(D/0) All other car service: All shipments not previously described consisting of one through five carloads on one revenue waybill. Instead of coding "D service" on each hard copy for this service, a railroad reporting on the manual system may segregate these waybills when making submissions to the Commission.

22. *Contract rate code* (1 digit numeric)
For the computerized system
(0) Not a contract
(1) Shipment moves under a contract as authorized by 49 U.S.C. 10713.
(9) Unknown
For the manual system.—Railroads using the manual system should clearly identify contract-rate shipments on the submitted waybills.

23. *Reporting railroad:* (3 digit numeric)
For the computerized system.—The reporting railroad's AAR code must be identified. The reporting railroad's code might differ from the terminating railroad's code as shown in item 23 since the reporting railroad might be reporting for its subsidiary or for other railroads under jointline settlement agreements.
For the manual system.—The reporting railroad's AAR code is entered on transmittal form OPAD–2 and so does not need to be on the submitted waybills.

24. *Routing:* (Total of 85 characters)
For the computerized system.—The routing is to be reported by using code abbreviations for interchanges (junctions) and numerical codes for railroads from the Freight Mandatory Rule 280 as published by the Association of American Railroads. See the following format layout for a description of the data required. For an origin FSAC (Freight Station Accounting Code), record the code for the actual originating station on the origin railroad; for a termination FSAC, record the code for the actual termination station on the terminating railroad.

Routing	Digits	Form*
Origin FSAC	5	N.
Origin railroad	3	N.
Interchange #1 rule 260	5	A.
First bridge RR	3	N.
Interchange #2 rule 260	5	A.
Second bridge RR	3	N.
Interchange #3 rule 260	5	A.
Third bridge RR	3	N.
Interchange #4 rule 260	5	A.
Fourth bridge RR	3	N.
Interchange #5 rule 260	5	A.
Fifth bridge RR	3	N.
Interchange #6 rule 260	5	A.
Sixth bridge RR	3	N.
Interchange #7 rule 260	5	A.
Seventh bridge RR	3	N.
Interchange #8 rule 260	5	A.
Eighth bridge RR	3	N.
Interchange #9 rule 260	5	A.
Termination railroad	3	N.
Termination FSAC	5	N.

*N—numeric. A—alphabetic.

For the manual system.—The routing must be clearly indicated. Either numeric or alphabetic AAR codes for railroads may be used. The origin and destination stations must be identified by FSAC numbers.

25. *Stratum identification:* (1 digit numeric)
For the computerized system
(1) One to two carloads per waybill
(2) Three to fifteen carloads per waybill
(3) Sixteen to sixty carloads per waybill
(4) Sixty-one to one hundred carloads per waybill
(5) Over one hundred carloads per waybill
For the manual system
(6) One to five carloads per way bill
(7) Six to twenty-five carloads per waybill
(8) Over twenty-five carloads per waybill
For the computerized system.—If a railroad chooses to submit 100% of its waybills in a reporting period, then neither a stratum identification nor a subsample code is reported. When the FRA selects a waybill sample from the 100% submission, it will identify the sample stratum and sample code.

26. *Subsample code number:* (1 digit numeric)
For the computerized system only.—The subsample code number which identifies the waybill as being selected in subsample 1, 2, 3, or 4 must be entered.

27. *Docket 28,300 miles:* (4 digit numeric)
For the computerized system only (optional).—The Docket 28300 miles of the terminating railroad should be entered for the study waybill movement.

28. *Weight code:* (1 digit numeric)
For the computerized system only.—Indicate the code for the basic unit which is used to determine the weight of the lading (hundredweight).
(1) *Pound,* hundredweight or ton.
(2) *Unit* which is used to develop a count of uniform objects.
(3) *Cord*—a measure of wood cut for pulpwood.
(4) *Board foot*—a unit of measure of lumber.
(5) *Gallon*—a liquid measure.
(6) All other units of measure used to determine weight.
(7) Unknown.

29. *Waybill identifier for retrieval:* (25 digits alpha-numeric)
For the computerized system only.—The waybill identifier for retrival is a code(s) or number(s) to be filled in by the reporting railroad which will aid the reporting railroad in identifying and retrieving a copy of the study waybill, as required, for error checks or for an ICC special study.

30. *Filler:* (7 digits)
To be used for the computerized system only.

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BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

Pacific Coast Groundfish Fishery and Foreign Fishing; Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; notice of approval and availability of a fishery management plan; notice of preliminary management estimates.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) approved the fishery management plan (FMP) for the Pacific Coast groundfish fishery, with the exception of one provision, on January 4, 1981. This document announces the availability of the FMP and proposes regulations to govern domestic and foreign fishing for groundfish in the fishery conservation zone off the coasts of Washington, Oregon, and California. The purpose of this FMP and its proposed implementing regulations is to achieve the optimum yield from the Pacific Coast groundfish fishery.

DATE: Comments on the proposed regulations and management estimates must be received by March 29, 1982.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115.

Copies of the FMP and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis are available from the Pacific Fishery Management Council, 526 SW. Mill Street, Second Floor, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6140; or the Pacific Fishery Management Council, 503–221–6352.

SUPPLEMENTARY INFORMATION:

History

Section 305(a) of the Magnuson Fishery Conservation and Management Act, Pub. L. 94–265, as amended, 16 U.S.C. 1801 *et seq.* (Magnuson Act), authorizes the Secretary of Commerce (Secretary) to promulgate regulations implementing approved FMPs prepared by the regional fishery management councils for their geographic areas of concern. Under Title III of the Act, the Pacific Fishery Management Council (Council) developed an FMP for groundfish in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California. The FMP was prepared by a team of State and Federal fisheries scientists and economists with substantial guidance from the Council's Groundfish Advisory Subpanel, Scientific and Statistical Committee, and the concerned public.

The combined draft FMP/Environmental Impact Statement (EIS) was first made available to the public on November 29, 1979. Public hearings were held in Monterey, CA (December 14, 1979), North Bend, OR (December 15, 1979), Long Beach, CA (December 15, 1979), Arcata, CA (December 17, 1979), and Seattle, WA (January 5, 1980). Public comments were accepted until February 4, 1980. As a result of comments received during the comment period, significant changes were made to the FMP/EIS, including the selection of preferred management measures which made further public review of the draft desirable. A second set of hearings was held in Westport, WA (January 29, 1981), Newport, OR (January 30, 1981), Eureka, CA (January 30, 1981), and Santa Barbara, CA (January 31, 1981).

The resulting FMP provides sound coastwide-coordinated management and is widely supported by fishermen, processors, and State fishery agencies. To provide flexibility to respond to current management needs, certain changes in regulatory provisions may be made without an amendment to the FMP, including: (1) Respecification of management estimates—optimum yield (OY), acceptable biological catch (ABC), estimated domestic annual harvest (DAH), estimated domestic annual processing (DAP), joint venture processing (JVP), reserve, total allowable level of foreign fishing (TALFF); (2) responses to points of concern; (3) adjustments within precribed limits of numerical OYs and ABCs; (4) issuance of experimental fishing permits; and (5) changes in incidental catch and retention percentages. The FMP provides necessary protection and conservation for the fishery resources with a minimum of regulations which reduce fishing efficiency.

The FMP was partially approved by the Assistant Administrator on January 4, 1982, under a delegation of authority from the Secretary. One management measure was not approved, which would have limited foreign processing vessels from receiving Pacific whiting (whiting) from U.S. vessels to the area seaward of 6 nautical miles. There was no justification for this restriction which would have increased the costs of operation for U.S. vessels participating in joint ventures with foreign processors. Because domestic trawlers providing U.S.-harvested fish to foreign processing vessels would have to tow their codends beyond 6 nautical miles, and because whiting deteriorates rapidly once caught, this restriction would have increased vessel energy consumption and lowered the quality and value of U.S.-harvested fish taken inside of 6 nautical miles, rendering much of it unsuitable for human consumption. Consequently, the Secretary will allow joint venture processors to operate between 3 and 200 nautical miles, the full extent of the FCZ.

It should be noted that the FMP requires that a U.S. observer be placed on each foreign fishing vessel operating in the FCZ, consistent with the Magnuson Act, as amended by the American Fisheries Promotion Act. This requirement may not be implemented if funds are not appropriate to implement that portion of the Magnuson Act.

The FMP supersedes the preliminary fishery management plan (PMP) for the foreign trawl fisheries off Washington, Oregon and California (42 FR 8578), as amended. These regulations are proposed to replace those implementing the PMP which were first published on February 11, 1977 (42 FR 8815) and revised on November 28, 1977 (42 FR 60682), June 1, 1979 (44 FR 31652), May 21, 1980 (45 FR 34003), and May 20, 1981 (46 FR 27483).

Scope of these Regulations

These regulations govern all foreign and domestic fishing, both commercial and recreational, for almost fifty species of groundfish in the FCZ off Washington, Oregon and California. Unless otherwise stated, those portions of these regulations which specify numerical amounts of fish (such as trip limits) and management estimates (such as OY) include groundfish taken in the territorial sea (0–3 nautical miles) as well as in the FCZ. The FMP and its regulations will remain in force indefinitely, although they will be reviewed annually.

Although final regulations will be implemented after January 1, 1982, the management estimates (OY, ABC, DAH, DAP, JVP, TALFF) will apply for the entire calendar year 1982. The foreign and joint venture fisheries for whiting normally start in late spring and should not be affected by delayed implementation of these regulations. Domestic vessels will continue under State regulation until the final regulations to implement the FMP are effective. Quotas for 1982 will include U.S. landings during the period the fishing is still under State management.

Regulations to implement this plan will authorize the Secretary or designee to make certain in-season or between-season changes following consultation with the Council and State fishery directors. Procedures specified for decisions provide varying degrees of public review and comment depending on the amount of discretion and judgment involved in the decision.

Need for the FMP

The Council believes that independent State management will no longer protect groundfish stocks due to: (1) The rapid increase in U.S. fishing capacity available to exploit the fishery, (2) the increased mobility of the fleet, (3) the improved technology being used by these vessels, (4) the ability of larger vessels to fish in adverse weather, effectively lengthening the season, (5) the OYs and ABCs of a number of species being exceeded, (6) an increase in the number and intensity of conflicts among various user groups, and (7) the lack of effective State jurisdiction over domestic vessels fishing outside 3 nautical miles. Consistent regulations implemented coastwide are essential for management of the fishery. The State fishery directors agree with the need for Federal management and are expected to adopt similar regulations in State territorial waters so that management measures can be uniform throughout the range of the groundfish stocks.

In the past five years, the Pacific coast groundfish fishery has changed considerably, marked by increased involvement and effort, expanded markets (notably direct sales at sea to foreign processors in joint venture operations), and technological advancements which improved fishing efficiency and capabilities. The number of vessels has increased not only in response to developing markets, but also as a result of displacement from other fisheries. In 1979 alone, as estimated 123 commercial fishing vessels entered the

trawl fishery for the first time, an increase of 34 percent. As a result, the domestic groundfish catch more than doubled from 1974 to 1979 and continues to rise. Concurrently, U.S. landings of some groundfish species (or species groups) have exceeded or are nearing the estimates of ABC. In 1979, eight ABCs were surpassed and additional cases are expected after the catch data for 1980 and 1981 are examined. With the exception of Pacific ocean perch, the States have elected not to limit fishing on those species whose ABCs have been reached. The FMP presents a system for monitoring of stocks for signs of stress and mechanisms for relieving stress. It also provides a systematic approach to rebuilding depleted Pacific ocean perch stocks over the next 20 years through the use of consistent coastwide landing limits.

The increase in number, effort, and efficiency of domestic fishing vessels and gear types may require allocation of the groundfish resource among user groups. Uniform mangement under this FMP will facilitate any allocation decisions needed in the future.

Regulations and management measures may be incompatible or uncoordinated when proposed separately by the three States.

State laws governing registered vessels operating outside 3 miles sometimes conflict and can only be applied to vessels registered by that State. Singular jurisdiction outside 3 miles is particularly critical given the increased participation of U.S. trawlers delivering fish to foreign processors in the FCZ. Currently, these U.S. catches are not readily susceptible to either State or Federal regulation since the fish are not "landed" in a State's territorial waters (0–3 nautical miles) and the existing PMP governs only foreign activities in the FCZ. The FMP provides a mechanism for consistent, coordinated management on a coastwide basis.

The FMP provides a framework for more efficient management of the complex groundfish fishery and is expected to address the inadequacies of current management of the Pacific Coast groundfish resources.

Objectives

The FMP adopts the following nine major objectives:

(A) Promote the availability of quality seafood to the consumer.

(B) Promote rational and optimal use, in the biological, social and economic senses, of the region's fishery resources as a whole.

(C) Provide a favorable climate for existing domestic commercial and recreational groundfish fisheries within the limitations of other objectives and guidelines. When change is necessary, institute the regulation which accomplishes the change while minimizing disruption of current domestic fishing practices, marketing procedures, and environment.

(D) Provide for the orderly development of domestic groundfish fisheries, including new fisheries, consistent with (B) and (C) above, at the expense of foreign participation.

(E) Provide for foreign participation in the fishery consistent with (B), (C), and (D) above, to take that portion of the optimum yield not utilized by domestic fisheries.

(F) Prevent overfishing of stocks which can be managed as a unit, including rebuilding those stocks which are now depleted.

(G) Minimize gear conflicts among users.

(H) Recognizing the multispecies nature of the fishery, establish a concept of managing by species and by gear, or by groups of interrelated species.

(I) Attain an information flow on the status of the fishery and the fishery resource which allows for informed management decisions as the fishery occurs.

To achieve these objectives in the context of a workable management plan, the FMP and these regulations propose coordinated application of several management measures. The major strategies are summarized below.

Management Strategies

Optimum yield. The optimum yield for most groundfish species is defined as all fish that are harvested under regulations adopted by the Secretary. For this group of groundfish, OY is not expressed numerically. This allows the flexibility to manage for the maximum yield from the group as a whole rather than the maximum yield from a few species. However, special circumstances require that five species be managed individually. The five species that have individual numerical OYs are Pacific whiting, Pacific ocean perch, shortbelly rockfish, widow rockfish, and sablefish.

Annual specifications. At the beginning of each calendar year, management estimates will be specified for each species with a numerical OY (except for Pacific ocean perch, which is managed under a rebuilding program). The proposed determinations of OY, ABC, DAH, DAP, JVP, and TALFF are effective for 1982 and subsequent years, unless amended by the Secretary under the procedures in the regulations. They also appear in the final approved FMP.

Points of Concern

Points of concern mechanism—The FMP provides for continuous monitoring of fishing, catch, and effort data on the separate species comprising the mixed stocks for which individual quotas have not been established. Critical biological factors have been identified as points of concern which, when noted, will trigger a detailed Council/NMFS evaluation of whether additional management measures should be applied. The points of concern mechanism would apply management measures when certain signs of stress indicated trouble for one or more species. These management measures include:

Cessation of foreign fishing, cessation of both foreign and domestic fishing for a particular species or species group, area or subarea closures, time closures, gear limitations, quotas, and trip limits. The measure or measures selected would depend on the cause of the concern and the priority of the various FMP objectives, and will be implemented by field orders without an FMP amendment.

Adjustments of numerical OYs. Numerical OYs and associated ABCs may be adjusted at any time. Any number of increases may occur as long as the sum of the increases for any given year does not exceed 30% of the OY estimate at the beginning of the year. Downward adjustments of any amount may be made for resource conservation purposes on a case-by-case basis through the points-of-concern mechanism. These changes are implemented by the Secretary, following consultation with the Council, its groundfish monitoring team, and the State fishery directors. Procedures specified for the various decisions take into account the Administrative Procedure Act requirements and provide for varying degrees of public review and comment depending on the amount of discretion and judgement involved in the decision.

Pacific ocean perch rebuilding schedule. In order to rebuild stocks within 20 years, trip limits are imposed on vessels fishing Pacific ocean perch. U.S. fishermen are advised that the regulation proposed at § 663.27(b)(2) may be adjusted in the final regulations. If the proposed 10,000 lb. or 10% limitation exceeds the 20-year rebuilding schedule in either the Vancouver or Columbia Subarea in 1981, the final rule at § 663.27(b)(2) will read:

(2) Pacific ocean perch in all subareas. No person shall land more than 5,000 pounds or 10% by weight of all fish on board, whichever is greater, of Pacific ocean perch per fishing trip.

Allocations. Some allocations between user groups are addressed in the FMP. These allocations are implemented by trip limits, gear specifications, and area closures. The Council incorporated into the FMP a California State law in effect on the date of FMP approval, with respect to ocean set netting requirements in the waters

south of 38° N. latitude. The State law is determined to be consistent with the Magnuson Act and the objectives of the FMP.

To avoid further delay in implementing the FMP, the Council intends to adopt any other allocation measures by FMP amendment.

Domestic Gear Requirements. Some fishermen will sustain economic hardship in complying with specifications for codend mesh sizes and chafing gear for certain trawls, as stated in § 663.26. An estimated $30,000 in existing gear would need to be replaced immediately. Further, web for construction of replacement gear is commonly not a shelf item, but must be ordered in advance. Nearly all fishermen presently possess some gear which is legal under § 663.26 and the illegal gear will be replaced over the next several months as it wears out and as new, legal material becomes available. NOAA will consider comments on delaying implementation of the gear specifications until January 1, 1983. This delay would not have a significant impact on stocks of fish, but would substantially reduce the economic impact on domestic fishermen.

Experimental fishing permits. The Secretary may issue experimental fishing permits (EFPs) which would authorize, for limited experimental purposes, the direct or incidental harvest of groundfish which would otherwise be prohibited.

Notice of preliminary management estimates and retention amounts.

At this time, the Secretary is announcing preliminary management estimates for the 1982 calendar year. The data upon which these estimates are based are available at the offices of the Regional Directors in Seattle, WA, and Los Angeles, CA. Comments on the amounts available in 1982 will be accepted for 45 days rather than the 30 days specified at § 611.70(d)(4)(ii) in these proposed regulations.

a. Preliminary estimates of Acceptable Biological Catch for 1982.

ESTIMATES OF ABC (THOUSANDS OF METRIC TONS) FOR 1982.

Species	Vancouver	Columbia	Eureka	Monterey	Conception	Total
Roundfish:						
Lingcod	1.9	4.0	0.5	1.1	[illegible]	7.0
Pacific cod	2.2	0.8	(1)	(1)	(1)	3.1
Pacific Whiting						[2] 175.5
Sablefish			2.5	[3] 2.5		[2] 13.4
Rockfish:						
Pacific Ocean Perch	0.0–0.8	0.0–0.95	(1)	(1)	(1)	0.0–1.55
Shortbelly						[2] 10.0
Widow	(4)	10.6	7.7	(4)	(4)	[2] 25.0
Other Rockfish [5]						
Bocaccio	(1)	(1)	(1)	4.1	2.0	6.1
Canary	4.8	1.3	0.8	(1)	(1)	5.0
Chilipepper	(1)	(1)	(1)	1.3	1.0	2.3
Yelloweye	2.3	2.4	0.3	(1)	(1)	5.0
Remaining Rockfish	2.0	2.5	1.9	4.3	3.3	14.0
Flatfish:						
Dover Sole	1.0	4.0	8.0	5.0	1.0	19.0
English Sole	0.8	2.0	0.8	0.9	0.2	4.5
Petrale Sole	0.6	1.1	0.5	0.8	0.2	3.2
Other flatfish (except arrowtooth flounder)	0.7	0.9	1.7	1.8	0.5	7.7
Other fish: [6]						
Jack Mackerel						[2] 12.0
Others	3.5	7.8	3.0	2.0	2.0	16.0

[1] These species are not common nor important in the areas footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted and rockfish species are included in the "remaining rockfish" category for the areas footnoted only.
[2] Total all areas.
[3] Monterey Bay only.
[4] Insufficient data available to estimate ABC.
[5] "Other rockfish" means rockfish species which do not have a numerical OY as listed in § 663.21(a)(4).
[6] "Other fish" includes sharks, skates, ratfish, morids, grenadiers, jack mackerel, arrowtooth flounder, and, in the Eureka, Monterey, and Conception areas, Pacific cod. "Other fish" is part of the "other species" category listed in § 663.21(a)(4).
[7] North of 39°N. latitude.

b. Preliminary specification of optimum yield and its distribution for 1982.

CALENDAR YEAR 1982 OPTIMUM YIELD (1,000's METRIC TON)

Species	Total OY	DAH	DAP	JVP	Reserve	TALFF
Pacific Whiting	175.5	105.0	5.0	100.0	25.0	25.5
Sablefish	[2] 13.4	13.4	13.4	[3] 0.0	0	[4] 0.0
Pacific ocean perch	[5] 1.55	1.55	1.55	[6] 0.0	0	[3] 0.0
Shortbelly rockfish	10.0	10.0	10.0	[3] [4] 0.0	0	[3] [4] 0.0
Widow rockfish	25.0	25.0	25.0	[3] [4] 0.0	0	[3] [4] 0.0
Other species	[7]	[7]	[7]	[3] [8] 0.0	0	[3] [8] 0.0

[1] Of this 13,400 mt, 2,500 mt is from part of the Monterey subarea. See § 663.21(a)(2).
[2] Incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173%, Pacific Ocean perch 0.062%, rockfish excluding Pacific ocean perch 0.738%, flatfish 0.1%, other species 3.5% (of which no more than 0.5% is species other than jack mackerel). See footnotes 4 and 6 of this table. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture operations.
[3] Of this 1,550 mt, 600 mt is for the Vancouver subarea and 950 mt for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).
[4] In foreign trawl and joint venture processing operations, shortbelly and widow rockfishes are included in the category "rockfishes excluding Pacific ocean perch."
[5] The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under sections 611.70 and 663. See § 663.21(a)(4) for species listing.
[6] In foreign trawl and joint venture processing operations, "other species" means all species, including non-groundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, and prohibited species.

Classification

The Assistant Administrator has determined that the FMP is necessary and appropriate for the conservation of Pacific groundfish, and that it is consistent with the national standards and other provisions of the Magnuson Act as well as other applicable law.

The Administrator of NOAA has determined that these regulations are not a major rule under E.O. 12291.

A Regulatory Impact Review (RIR) has been prepared, which also serves as the Initial Regulatory Flexibility Analysis (IRFA) required by the Regulatory Flexibility Act. The RIR/IRFA indicates that the proposed regulations are not major and that the FMP will result in several quantifiable and non-quantifiable benefits.

The FMP provides an environment for orderly expansion of the Pacific coast groundfish fishery. The projected dockside value of the 1981 U.S. catch is $50.8 million (which does not include joint venture sales projected at $6.8 million). Although the rate of increase in U.S. catches cannot be predicted with certainty, NMFS estimates that by the end of the decade the annual dockside values of increased catches will range between $80 million and $100 million (1981 prices). In addition, U.S. exports of fishery products are expected to increase as joint ventures (sale of fish by U.S. fishermen to foreign processing vessels) continue to expand. An important non-quantifiable benefit is the maintenance of stocks at high levels of abundance to support economically viable U.S. commercial and recreational fisheries.

The management measures in the FMP will control the rate of harvest of U.S. and foreign fishermen to prevent overfishing. The total annual Federal costs of implementing and enforcing the FMP (NMFS and U.S. Coast Guard) are estimated at $758,000 for 1982.

National Environmental Policy Act of 1969

The Council prepared a draft EIS under Section 102(2)(C) of the National Environmental Policy Act of 1969. The EIS describes the affected marine, coastal and human environments and discusses the possible impacts from the preferred and alternate management measures presented in the FMP. The draft EIS was filed with the Environmental Protection Agency (EPA) on November 29, 1979 and reviewed by the public in combination with the draft FMP. It was modified and submitted as a supplemental EIS to the EPA on January 3, 1981. The Assistant Administrator considered the analyses in the FMP/EIS, public comments, and alternate management measures before approving the FMP. The final EIS is being submitted to EPA with publication of these proposed regulations. A separate notice of availability for the EIS will be published soon.

Paperwork Reduction Act of 1980

The FMP relies predominantly on data already required by the States. There are two Federal requests for information from domestic interests. The first is a survey of fish processors conducted twice each year to determine the amount of Pacific whiting and other species that will be processed during the season. The OMB control number for this survey is 648–0114. This survey enables determination of DAH, and therein the amounts available to joint ventures. The second request for information concerns vessels seeking an experimental fishing permit (EFP). The FMP is explicit on the information needed to evaluate the merits of an EFP application.

There are some new requests for information from foreigners. These include a radio report when starting or stopping joint venture operations, a record and report of Dungeness crabs caught, and records of receipts and disposition of U.S-harvested fish. The latter was formerly part of the conditions and restrictions on foreign permits to engage in joint ventures. The NMFS will still provide logbooks to the foreign vessel operators.

Under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the new information collection provisions contained in these proposed rules have been submitted for approval to the Office of Management Budget. They will not be made final until OMB approval has been obtained.

Dated: February 4, 1982.

Robert K. Corwell,

Deputy Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, it is proposed to amend 50 CFR Part 611 as follows:

1. The authority citation of 50 CFR Part 611 is:

Authority: 16 U.S.C. 1821, 1855.

2. In appendix I, item B to § 611.9 is amended by adding the following species code for Dungeness crab as follows:

§ 611.9 Reports and recordkeeping.

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Appendix I—Species Codes

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B. PACIFIC OCEAN FISHES

* * * * *

Invertebrates

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690 Dungeness crab (*Cancer magister*).

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3. Section 611.70 is revised to read as follows:

Subpart E—Northeast Pacific Ocean

§ 611.70 Pacific Coast groundfish fishery.

(a) *Purpose.* This Subpart regulated all foreign fishing for groundfish conducted under a Governing International Fishery Agreement within the fishery conservation zone seaward of the States of Washington, Oregon, and California. For regulations governing fishing for groundfish in the same area by vessels of the United States, see Part 663 of this chapter.

(b) *Definitions.* For purposes of this section:

(1) "Directed fishing" means fishing for the primary purpose of catching a particular groundfish species.

(2) "Incidental catch" means groundfish species which are unavoidably caught during a directed fishery.

(3) "Joint venture processing" means processing by a foreign fishing vessel of U.S.-harvested groundfish species, whether directly or incidentally caught.

(4) "Prohibited species" means salmonids, Pacific halibut, and Dungeness crab.

(5) "Regional Director" means the Northwest Regional Director, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115.

(6) "Secretary" means the Secretary of Commerce or the person(s) to whom appropriate authority has been delegated.

(c) *Authorized foreign fishing.*—(1) *Amounts.* the total allowable levels of foreign fishing (TALIFF), joint venture processing (JVP), incidental catch and retention allowance percentages, amounts of fish set aside as reserves, and for the estimated domestic annual harvest (DAH) and domestic annual processing (DAP) will be published in the **Federal Register** to reflect changes in resource condition and performance of the U.S. industry.

(2) *Restriction on Joint Venture Incidental Retention Allowance.* The incidental retention allowance percentages will be published in the **Federal Register** to reflect changes in resource condition and performance of

the U.S. industry. The allowance percentages will apply to each 5000 mt of Pacific whiting received from vessels of the United States by vessels of a foreign nation. If the retained amount of an incidental species or species complex reaches the specified percentage of 5000 mt of Pacific whiting received by vessels of a foreign nation, no further amount of that species or species complex may be retained until vessels of that nation have received the 5000 mt of Pacific whiting.

(d) *Modifications to Authorized Foreign Fishing.*— (1) *Modifications of Amounts.* The Secretary may modify the amounts of TALFF, JVP, and corresponding incidental catch and retention allowances by publishing a notice in accordance with the provisions of paragraph (d)(2) of this section.

(i) TALFF may be increased by any part of the reserve and initial estimated DAH for the species under consideration that the Secretary determines will not be harvested by U.S. fishermen during the remainder of the calendar year.

(ii) JVP may be increased by the amount of DAH for the species under consideration that the Secretary determines will not be processed by U.S. processors during the remainder of the fishing year. Any increase in the amounts of incidental catch or retention allowances will be published in the Federal Register.

(2) *Procedures to Reassess DAH and DAP.* (i) Preliminary Reassessment: On July 1, or as soon as practicable thereafter, the Secretary shall reassess DAH and DAP for each species for which a TALFF or JVP exists. The Secretary shall consult with the Pacific Fishery Management Council and shall consider the following factors in making the reassessments:

(A) U.S. catch and effort as of July 1;

(B) Projected U.S. catch and effort for the remainder of the fishing year;

(C) U.S. processing performance as of July 1; and

(D) Projected U.S. processing performance for the remainder of the fishing year.

The preliminary reassessments will be published in the Federal Register on or about July 1.

(ii) Final Reassessment: On August 1, or as soon as practicable thereafter, the Secretary shall make a final reassessment of DAH and DAP for each species for which a TALFF or JVP exists. The Secretary shall consult with the Pacific Fishery Management Council and take into consideration all information received under paragraph (d)(2)(iv) of this section, all factors considered in making the preliminary reassessments under paragraph (d)(2)(i) of this section, and any additional relevant information. The final reassessment will be published in the Federal Register on or about August 1 with the reasons for the determinations.

(iii) Availability of Data: All data relevant to the preliminary and final reassessments under paragraphs (d)(2)(i) and (d)(2)(ii) of this section will be available in aggregate form for public review at the Regional Director's office, during normal business hours during the public comment period.

(iv) Public Comment: Comments from the public that are relevant to preliminary and final reassessments in paragraphs (d)(2)(i) and (d)(2)(ii) of this section should be submitted to the Regional Director, before August 1.

(3) *Modifying the Incidental Catch and Retention Allowance Percentages.* The Secretary may modify an incidental catch or retention allowance percentage for any species or species complex in the directed fishery at any time during the calendar year by publishing a notice in accordance with the provisions of paragraph (d)(4) of this section.

(4) *Procedures for Modification of Incidental Catch and Retention Allowances.* (i) Preliminary Modifications: At any time during the calendar year, the Secretary may modify the incidental catch and retention allowance percentages for any groundfish species or species complex. The Secretary shall consult with the Pacific Fishery Management Council and shall consider the following factors in making the modification:

(A) Observed rates of incidental catches in previous foreign directed fishery or joint venture operations;

(B) Current estimates of the relative abundance and availability of species caught or received incidentally;

(C) Ability of the foreign fishery to attain TALFF or JVP;

(D) Past and projected foreign and U.S. fishing efforts;

(E) Status of the stock;

(F) Impact on domestic industry; and

(G) Other relevant scientific information.

The preliminary modification will be published in the Federal Register.

(ii) Final Modification: Within thirty days or as soon as practicable following the publication of the preliminary modification, the Secretary may make a final modification of incidental catch and retention allowance percentage. The Secretary shall consult with the Pacific Fishery Management Council and take into consideration all information received under paragraph (d)(4)(i) of this section, all factors considered in making the preliminary modification under paragraph (d)(4)(i) of this section and additional relevant information. Any final modification and any notice issued under paragraph (d)(3) of this section will be published in the Federal Register with the reasons for the modifications.

(iii) Availability of Data: Data relevant to the preliminary and final modifications under paragraphs (d)(4)(i) and (d)(4)(ii) of this section, will be available in aggregate form for public review at the Regional Director's office during the public comment period.

(iv) Public Comment: Comments from the public that are relevant to preliminary and final modifications in paragraph (d)(4)(i) and (d)(4)(ii) of this section may be submitted to the Regional Director by the dates specified in the relevant Federal Register notice.

(e) *Fishery Closures.*—(1) *General.* The catching, retention, or receipt of any species or species complex is prohibited after the applicable open season has ended or after the fishery has been closed under a regulation or Field Order issued under this section or Part 663.

(2) *Directed fishery.* The catching and retention of any species or species complex is prohibited after the vessels of a foreign nation have caught:

(i) That nation's allocation of TALFF; or

(ii) The maximum incidental catch allowance for that nation of any species or species complex.

(3) *Joint Venture fishery.* (i) The receipt of any species of U.S.-harvested fish for which there is a JVP allowance is prohibited after the maximum JVP amount has been received.

(ii) The retention of any species of U.S.-harvested fish for which there is a JVP incidental retention allowance is prohibited after the maximum JVP incidental retention allowance for that species or species complex has been retained.

(f) *Seasons.* (1) Directed fishery. Directed foreign fishing authorized under this Subpart may begin at 0701 G.m.t. (0001 P.d.t.) June 1 and will end not later then 0800 G.m.t. on November 1 (2400 P.s.t. on October 31), unless a different period of time is specified in a foreign fishing permit.

(2) Joint venture fishery. There is no season restriction unless specified in a foreign fishing permit.

(g) *Closed Areas.* (1) Directed fishery. No directed foreign fishing shall be conducted:

(i) Shoreward of a line drawn twelve nautical miles from the baseline used to measure the U.S. territorial sea;

(ii) North of 47°30' N. latitude;

(iii) South of 39°00′ N. latitude;

(iv) Within the "Columbia River Recreational Fishery Sanctuary"—that area between 46°00′ N. latitude and 47°00′ N. latitude and east of a line connecting the following coordinates in the order listed: 46°00′ N. latitude, 124°55′ W. longitude; 46°20′ N. latitude, 124°40′ W. longitude; and 47°00′ N. latitude, 125°20′ W. longitude; or

(v) Within the "Klamath River Pot Sanctuary"—that area between 41°20′ N. latitude and 41°37′ N. latitude and east of a line connecting the following coordinates in the order listed: 41°20′ N. latitude, 124°32′ W. longitude; and 41°37′ N. latitude, 124°34′ W. longitude.

(2) Joint venture fishery. No U.S.-harvested Pacific whiting shall be received:

(i) Shoreward of a line drawn three nautical miles from the baseline used to measure the U.S. territorial sea; or

(ii) South of 39°00′ N. latitude.

(h) *Gear restrictions—directed fishery.* (1) Except as authorized under paragraph (h)(2), of this section, gear other than a pelagic trawl with a minimum stretched mesh size of 100 mm, measured inside when wet after use, is prohibited. No liners will be used in the codend of the trawl. Devices or methods which would have the effect of reducing the mesh size in the codend are prohibited. Fishing on the seabed is prohibited.

(2) Any outer protective mesh covering (outer bag or chafing gear) of a mesh size less than two times the mesh size of the inner codend is prohibited. Any outer protective mesh covering which is not aligned knot-to-knot to the inner net and tied to the straps and the riblines is prohibited. Such outer mesh will not be connected directly to the terminal (closed) end of the codend. Thread size of an outer protective mesh covering greater than four times the diameter of the thread size of the inner net is prohibited.

(i) *Directed fisheries.* (1) It is unlawful for any operator or owner of a foreign fishing vessel to conduct a directed fishery for species other than a species for which that nation as an allocation of TALFF.

(2) It is a rebuttable presumption that any trawl that contains more than 50 percent by weight of any species or species complex (such as "other species") was conducted for the purpose of catching that species or species complex and therefore constitutes a directed fishery for that species or species complex.

(j) *Reports and recordkeeping.* (1) In addition to the vessel reporting requirement of § 611.4, the operator of each foreign fishing vessel permitted for both directed fishing and joint venture operations shall notify the appropriate Coast Guard commander (see § 611.4, Tables I and II) before beginning and before ending a period of joint venture processing. Such notice shall be *transmitted before the event requiring notice* and *delivered* within 72 hours of the event. The notices required by this paragraph shall contain the following information:

the message identifier "VESREP" to indicate it is a required vessel report, vessel name, international radio call sign, date (month and day), time (hour and minutes G.m.t.), latitude and longitude (degrees and minutes), fishing area (use code specified in Appendix II to § 611.9), and the action code "START JV OPS" or "END JV OPS."

An illustration of a sample report is as follows: The stern trawler NAVIS, LTUX, will begin joint venture processing on July 7, 1982, at 1320 G.m.t. at position 43°40′ N, latitude, 124°30′ W. longitude in the Columbia area.

The required message would be transmitted as follows:

FROM: M/V NAVIS, LTUX
TO: Coast Guard Pacific Area San Francisco CA
VESREP
NAVIS/LTUX/0707/1320/4340N/12430W/71/START JV OPS

(2) In addition to the reports and record-keeping requirements in § 611.9 (including requirements for the maintenance of daily cumulative catch logs and transfer logs), the operator of each foreign vessel shall maintain daily fishing logs, and the operator of each foreign vessel receiving at sea U.S.-harvested fish shall maintain daily receipt and daily cumulative receipt logs in accordance with the provisions of this paragraph. The daily fishing, transfer, and receipt logs will be the basis for all reports. Logbooks which include daily, cumulative, and transfer logs will be supplied by the National Marine Fisheries Service before entry into the fishery. Required data must be recorded in duplicate. Weights recorded in the daily and cumulative logs will be round weights (the weight of the whole fish). Weights recorded in transfer logs will be product weights (the weight of processed fish). On-deck estimates (round weight) of catch or amounts received in each haul will be logged before the next codend is on deck. The factory weight (product weight converted to round weight) of each haul or codend received will be recorded within 24 hours after the codend is on deck. The daily fishing, daily cumulative catch, daily receipt, daily cumulative receipt, and transfer logs will be available for inspection by the National Marine Fisheries Service or United States Coast Guard personnel who may remove the original copy at any time. All original entries in the logbooks (excluding those removed by the National Marine Fisheries Service or United States Coast Guard personnel) will be submitted to the Regional Director within three weeks after termination of a fishery. Duplicate copies shall be retained on the foreign vessel throughout the period the vessel is permitted to fish.

(3) Daily logs—fishing, receipt, and transfer. The following information must be recorded accurately in the daily fishing, daily receipt, and transfer logs as applicable:

(i) Vessel name and permit number;

(ii) Radio call sign;

(iii) Dates;

(iv) Times and vessel's positions (in degrees and minutes of latitude and longitude) at the beginning and end of each set (when the net is at fishing depth);

(v) Bottom depth, averaged over length of tow;

(vi) Depth of gear, averaged over lenght of tow;

(vii) Time and vessel's position (in degrees and minutes of latitude and longitude) at each transfer of fish or fish products between foreign vessels;

(viii) Product weight or number, by species, of all fish or fish products transferred between foreign vessels;

(ix) Time and vessel's position (in degrees and minutes of latitude and longitude) at each receipt of U.S.-harvested fish (does not apply to directed fishery operations);

(x) On-deck estimates (round weight) of the amount of catch or receipt and the factory weight (product weight converted to round weight) to the nearest tenth of a metric ton (0.1 m.t.) of Pacific whiting in each haul or codend received;

(xi) On-deck estimates (round weight) of the amount of catch or receipt and the factory weight (product weight converted to round weight) to the nearest hundredth of a metric ton (0.01 m.t.) in each haul or codend received of species for which vessels of that nation have an incidental catch allowance;

(xii) Amount of catch or receipt in numbers in each haul or codend received of marine mammals and prohibited species (salmonids, pacific halibut, Dungeness crab); and

(xiii) Disposition of the fish caught or received, including fish for human consumption (including consumption on board), fishmeal, and fish discarded.

(4) Daily cumulative receipt logs. Operators of foreign vessels receiving at sea U.S.-harvested fish shall maintain, in English, a daily cumulative receipt log. This log will have recorded, on a

daily and a cumulative basis, the round weight of all species received during the permit period, whether retained or discarded. Information for each fishing area shall be maintained on a separate page of the log. The following information will be recorded accurately in the daily cumulative receipt log:

(i) Name and call sign of the vessel;

(ii) Permit number;

(iii) Date;

(iv) Allocated and incidental species by common name and species code number;

(v) Fishing area and area code number where received;

(vi) Daily receipts of allocated and incidental species to nearest tenth of a metric ton (0.1 m.t. round weight);

(vii) Disposition of species received: human consumption (including consumed on board), fishmeal, or discarded; and

(viii) Cumulative total receipts (round weight) of each allocated and incidental species in each fishing area.

(5) Weekly report of receipts of U.S.-harvested fish by foreign processing vessels. Weekly reports must be submitted as specified in § 611.9. In addition to the information required by § 611.9 (f), weekly reports must contain:

(i) Weight of fish discarded, by species, rounded to the nearest tenth of a metric ton (0.1 m.t.). Discard amounts must be followed by the word "DISCARD." Amounts of fish not reported as discarded are presumed to be retained.

(ii) For each foreign vessel receiving at sea U.S.-harvested fish, the total number of U.S. vessels that delivered codends and the total number of codends received, by area, during the reporting period. At the end of the reprort for each area (see § 611.9, Appendix 5, Item C, Example of a weekly report for receipt of U.S.-harvested fish) add the letter "V" (for "vessel") followed by the number of U.S. vessels which delivered fish, and the letter "R" (for "received") followed by the number of codends received. Example: The stern trawler NAVIS, operating under permit number LT–82–0001–A which authorizes the receipt of U.S.-harvested Pacific whiting and other associated species in the Washington, Oregon, and California trawl fishery, received 26 codends from four U.S. vessels in the Columbia area (code 71) during the week of June 7–13, 1981. The following species and amounts were received: Pacific whiting (code 704) 156.3 mt; rockfish excluding Pacific ocean perch (code 849) 0.2 mt; jack mackerel (code 208) 27.0 mt; and other finfish (code 499) 5.0 mt (of which 0.1 mt was retained and 4.9 mt were discarded). During the same week, NAVIS received 2 codends containing a total of 8.0 m.t. of whiting from one U.S. vessel in the Eureka area (code 72). The text of the Telex report would appear as follows:

```
RECREP
NAVIS/LT820001A/0613//
71//
704/156.3//849/.2//208/27.0//499/.1//499/4.9
DISCARD//V4/R26//
72//
704/8.0//V1/R2//
```

(6) In addition to the requirements of § 611.9, the operator of each foreign fishing vessel must submit reports as follows to the Regional Director.

(i) *Daily report.* From the time the Secretary estimates that 90 percent of a nation's allocation or incidental catch allowance of any species or species complex has been reached, and so notifies the designated representative of that nation, the information required under § 611.9(e) (Weekly Catch Report) and § 611.9(f) (Weekly Reports of Receipts of U.S.-Harvested Fish) must be submitted on a daily basis and must reach the Regional Director no later than three days after the reported fishing day.

(ii) *Annual report.* Each nation with fishing vessels conducting directed fishery operations must report annual catch and effort statistics by May 30 of the following year in tabular form as follows:

(A) Effort in hours trawled, by vessel-class, by gear-type, by month by ½° latitude by 1° longitude statistical areas:

(*1*) To the nearest tenth of a metric ton (0.1 m.t. round weight) for the following species or species complex: Pacific whiting, Pacific ocean perch, rockfish (excluding Pacific ocean perch), sablefish, flatfish, and other species; and

(*2*) In numbers of fish for salmonids, Pacific halibut, and Dungeness crab.

(7) *Report of fish on board when entering fishery.* Before operating in this fishery, each foreign vessel with fish on board will report to the Regional Director the species and amounts of fish on board which were harvested in any other fishery. Any fish on board not so reported will be presumed to have been harvested in this fishery. Such reports must be submitted under the procedures specified in § 611.4(b).

4. For the reasons set out in the preamble, it is proposed to add to 50 CFR Part 663 to read as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

Subpart A—General Provisions

Sec.

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663.2 Definitions.
663.3 Relation to other laws.
663.4 Catch reports.
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663.6 Vessel identification.
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Subpart B—Management Measures

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663.26 Gear restrictions.
663.27 Catch restrictions.
663.28 Restrictions on other fisheries.
663.29 Scientific research.

Authority: 16 U.S.C. 1855.

Subpart A—General Provisions

§ 663.1 Purpose and scope.

(a) The regulations in this Part govern fishing for groundfish by fishing vessels of the United States in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California.

(b) Regulations governing fishing for groundfish by fishing vessels other than vessels of the United States are published at 50 CFR 611.70.

(c) These regulations implement the Pacific Coast Groundfish Plan developed by the Pacific Fishery Management Council for groundfish fisheries off the coasts of Washington, Oregon, and California.

§ 663.2 Definitions.

In addition to the definitions in the Act, the terms used in this Part have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

(a) "Act" means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801–1882, as amended.

(b) "Acceptable Biological Catch (ABC)" means a seasonally determined catch that may differ from maximum sustainable yield (MSY) for biological reasons.

(c) "Authorized Officer" means:

(1) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(2) Any special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the U.S. Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(4) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

(d) "Commercial fishing" means fishing by a person in possession of a valid personal State commercial fishing license, or fishing by a person on a vessel which also has aboard a person in possession of a valid personal State commercial fishing license.

(e) "Fishery conservation zone (FCZ)" means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line, each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

(f) "Fishery management area" means the fishery conservation zone off the coasts of Washington, Oregon, and California between 3 and 200 miles offshore, and bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico.

(g) "Fishing" means:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described above.

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(h) "Fishing gear": Fishing gear definitions and restrictions are contained in § 663.26.

(i) "Fishing Trip" means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

(j) "Fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) Fishing; or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(k) "Fishing year" means the year beginning at 0801 GMT (0001 PST) on January 1 and ending at 0800 GMT on January 1 (2400 PST on December 31).

(l) "Groundfish" means those species managed by the Pacific Coast Groundfish Plan.

(m) "Incidental catch" means groundfish species caught while fishing for the primary purpose of catching a different species.

(n) "Land" or "landing" means bringing fish to shore or offloading fish, without regard to where the offloading occurs.

(o) "Maximum sustainable yield (MSY)" means an average over a reasonable length of time of the largest catch which can be taken continuously from a stock.

(p) "Operator," with respect to any vessel, means the master or other individual on board and in charge of that vessel.

(q) "Pacific Coast Groundfish Plan" means the fishery management plan (FMP) for the Washington, Oregon, and California groundfish fishery developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce on January 4, 1982, as amended.

(r) "Person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(s) "Recreational fishing" means fishing by a person not in possession of a valid personal State commercial fishing license, unless such person is on a vessel which also has aboard a person in possession of a valid personal State commercial fishing license.

(t) "Regional Director" means the Northwest Regional Director, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115; for fisheries occurring primarily or exclusively in the fishery management area seaward of California, "Regional Director" means the Northwest Regional Director, National Marine Fisheries Service, acting upon the recommendation of the Southwest Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

(u) "Secretary" means the Secretary of Commerce or the person(s) to whom appropriate authority has been delegated.

(v) "Trip limit" means the total allowable amount of a groundfish species or species complex by weight or by percentage of weight of fish on board which may be landed in a single fishing trip.

(w) "Vessel of the United States" means (1) a vessel documented or numbered by the Coast Guard under United States law; or (2) a vessel, under five net tons, which is registered under the laws of any State.

§ 663.3 Relation to other laws.

(a) *Federal laws.*—(1) *Pacific halibut*—Fishing for Pacific halibut is governed by the regulations promulgated by the International Pacific Halibut Commission and approved by the United States (see 50 CFR Part 301).

(2) *Salmon*—Fishing for salmon in the Pacific Fishery Management Council's fishery management area is governed by Federal regulations at 50 CFR Part 661. Fishing for pink and sockeye salmon between 48°00′ N. latitude and the Provisional International Boundary between the United States and Canada (U.S. Convention waters) is governed by the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System as amended by the Pink Salmon Protocol (see 50 CFR Part 371).

(3) *Anchovy*—Fishing for northern anchovy in the Pacific Fishery Management Council's Pacific Anchovy Fishery Area (south 38°00′ N. latitude) is governed by Federal regulations at 50 CFR Part 662.

(b) State laws. This Part recognizes that any State law which pertains to vessels registered under the laws of the State while in the fishery management area, and which is consistent with the Pacific Coast Groundfish plan, including any State landing law, shall continue in effect with respect to fishing activities regulated under this Part.

§ 663.4 Catch reports.

This Part recognizes that catch and effort data necessary for implementing the Pacific Coast Groundfish plan are collected by the States of Washington, Oregon, and California under existing State data collection requirements. No additional catch reports are required of fishermen or processors as long as the data collection and reporting systems operated by State agencies continue to provide the Secretary with statistical information adequate for management.

§ 663.5 Management subareas.

(a) The fishery management area is divided into five subareas for the regulation of groundfish fishing, with the following designations and boundaries:

(1) *Vancouver.* (i) Northeastern boundary—that part of a line connecting the light on Tatoosh Island, Washington, with the light on Bonilla Point on Vancouver Island, British Columbia (48°35′75″ N. latitude, 124°43′0″ W. longitude) southerly of the International Boundary between the United States and Canada (at 48°29′37″ N. latitude,

124°43'33" W. longitude), and northerly of the point where that line intersects with the boundary of the United States territorial sea.

(ii) Northern and northwestern boundary is a line connecting the following coordinates, which is the provisional international boundary of the U.S. FCZ as shown on NOAA/NOS Charts #18480 and #18002: 48°29'37.19" N. latitude, 124°43'33.19" W. longitude; 48°30'11" N. latitude, 124°47'13" W. longitude; 48°30'22" N. latitude, 124°50'21" W. longitude; 48°30'14" N. latitude, 124°52'52" W. longitude; 48°29'57" N. latitude, 124°59'14" W. longitude; 48°29'44" N. latitude, 125°00'06" W. longitude; 48°28'09" N. latitude, 125°05'47" W. longitude; 48°27'10" N. latitude, 125°08'25" W. longitude; 48°26'47" N. latitude, 125°09'12" W. longitude; 48°20'16" N. latitude, 125°22'48" W. longitude; 48°18'22" N. latitude, 125°29'58" W. longitude; 48°11'05" N. latitude, 125°53'48" W. longitude; 47°49'15" N. latitude, 126°40'57" W. longitude; 47°38'47" N. latitude, 127°11'58" W. longitude; 47°22'00" N. latitude, 127°41'23" W. longitude; 46°42'05" N. latitude, 128°51'56" W. longitude; 46°31'47" N. latitude, 129°07'39" W. longitude.

(iii) Southern limit: 47°30' N. latitude.

(2) *Columbia.* (i) Northern limit: 47°30' N. latitude.

(ii) Southern limit: 43°00' N. latitude.

(3) *Eureka.* (i) Northern limit: 43°00' N. latitude.

(ii) Southern limit: 40°30' N. latitude.

(4) *Monterey.* (i) Northern limit: 40°30' N. latitude.

(ii) Southern limit: 35°30' N. latitude.

(5) *Conception.* (i) Northern limit: 35°30' N. latitude.

(ii) Southern limit: The United States-Mexico International Boundary, which is a line connecting the following coordinates: 32°35'22" N. latitude, 117°27'49" W. longitude; 32°37'37" N. latitude, 117°49'31" W. longitude; 31°07'58" N. latitude, 118°36'18" W. longitude; 30°32'31" N. latitude, 121°51'58" W. longitude.

(b) Any person fishing subject to this part is bound by the above-described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the United States.

(c) The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the "3-mile limit").

(d) The other boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the United States and Canada or Mexico.

§ 663.6 Vessel identification.

(a) *Official number.* The official number is the documentation number issued by the Coast Guard or the certificate number issued by a State or by the Coast Guard for undocumented vessels. The operator of a groundfish fishing vessel which is over 25 feet in length shall display the vessel's official number in contrasting block Arabic numerals on the port and starboard sides of the deckhouse or hull, and on a weatherdeck so as to be visible from above. The numerals must be at least 18 inches in height for vessels over 65 feet and at least 10 inches in height for vessels between 25 and 65 feet in length. The length of a vessel for purposes of this section is the length set forth in Coast Guard or State records.

(b) *Duties of operator.* The operator of a groundfish fishing vessel shall keep the identifying markings required by paragraph (a) of this section clearly legible and in good repair, and shall ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 663.7 General prohibitions.

It is unlawful for any person to:

(a) Fish for, take and retain, or land groundfish in violation of the Act, this part, the terms and conditions of an Experimental Fishing Permit issued under § 663.10, a field order issued under Subpart B of this part, or any other regulation promulgated under the Act;

(b) Possess, have custody or control of, ship or transport, offer for sale, sell, purchase, import, or export any groundfish taken, retained, or landed in violation of the Act, this part, the terms and conditions of an Experimental Fishing Permit issued under § 663.10, a field order issued under Subpart B of this part, or any other regulation promulgated under the Act;

(c) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this part, the terms and conditions of an Experimental Fishing Permit issued under § 663.10, a field order issued under Subpart B of this part, or any other regulation promulgated under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer in the conduct of any inspection or search described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this Part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(g) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search conducted in the process of enforcing the Act;

(h) Fail to comply with enforcement and boarding procedures specified in § 663.8;

(i) Transfer, or attempt to transfer, directly or indirectly, any U.S.-harvested groundfish to any foreign fishing vessel within the fishery management area unless the foreign vessel has been issued a permit which authorizes the receipt by such vessel of U.S. harvested fish of the species being transferred;

(j) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing;

(k) Retain any species of salmon caught by means of fishing gear authorized by or under this part (unless that gear and the manner of its use is also authorized by 50 CFR Part 611 or Part 371); or

(l) Violate any other provision of this Part, the Act, the terms and conditions of an experimental fishing permit issued under § 663.10, a field order issued under Supart B of this Part, or any other regulation promulgated under the Act.

§ 663.8 Enforcement.

(a) *General.* The operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of the fishing vessel shall be alert for signals conveying enforcement instructions. The following signals are among those which may be used:

(1) Flashing light signal "AA AA AA, etc." means you should listen on VHF–FM channel 16 (emergency channel) for instructions to shift to another VHF–FM

channel and receive boarding instructions.

(2) Flag signal "RV–CY" means "Proceed, a boat is coming to you."

(3) Flag signal "SQ3" means "You should stop or heave to; I am going to board you."

(4) "L" means "You should stop your vessel instantly."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the boarding party to come aboard;

(2) Provide a safe ladder for the boarding party;

(3) When necessary to facilitate the boarding, provide a manrope, safety line, and illumination for the ladder; and

(4) Take such other actions as necessary to ensure to the safety of the boarding party.

§ 663.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Part 620 (Citations) and Part 621 (Civil Procedures), and other applicable laws.

§ 663.10 Experimental fisheries.

(a) *General.* The Secretary may authorize, for limited experimental purposes, the direct or incidental harvest of groundfish managed by the Pacific Coast Groundfish Plan which would otherwise be prohibited by this Part. No experimental fishing may be conducted unless authorized by an experimental fishing permit (EFP) issued by the Secretary in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Application.* An applicant for an EFP shall submit to the Regional Director at least 60 days before the desired effective date of the EFP a written application including, but not limited to, the following information:

(1) The date of the application;

(2) The applicant's name, mailing address, and telephone number;

(3) A statement of the purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP;

(4) A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals;

(5) For each vessel to be covered by the EFP:

(i) Vessel name;

(ii) Name, address, and telephone number of owner and master;

(iii) Coast Guard documentation, State license, or registration number;

(iv) Home port;

(v) Length of vessel;

(vi) Net tonnage; and

(vii) Gross tonnage.

(6) A description of the species (target and incidental) to be harvested under the EFP and the amount(s) of such harvest necessary to conduct the experiment;

(7) For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used; and

(8) The signature of the applicant.

The Secretary may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected in writing.

(c) *Issuance.* (1) If an application contains all of the required information, the Secretary shall publish a notice of receipt of the application in the **Federal Register** with a brief description of the proposal, and shall give interested persons an opportunity to comment. The Secretary shall also forward copies of the application to the Pacific Fishery Management Council, the U.S. Coast Guard, and the fishery management agencies of Oregon, Washington, California, and Idaho, accompanied by the following information:

(i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the target and incidental species for which an EFP is being requested;

(ii) A citation of the regulation or regulations which, without the EFP, would prohibit the proposed activity; and

(iii) Biological information relevant to the proposal.

(2) At a Pacific Fishery Management Council meeting following receipt of a complete application, the Secretary shall consult with the Pacific Fishery Management Council, its Groundfish Management Team, and the Directors of the State fishery management agencies concerning the permit application. The Council shall notify the applicant in advance of the meeting at which the application will be considered and invite the applicant to appear in support of the application if the applicant desires.

(3) Within 5 working days after the consultation in subparagraph (2) of this section, or as soon as practicable thereafter, the Secretary shall notify the applicant in writing of the decision to grant or deny the EFP, and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(i) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application; or

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way; or

(iii) Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose; or

(iv) Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of the Pacific Coast Groundfish Plan; or

(v) The applicant has failed to demonstrate a valid justification for the permit; or

(vi) The activity proposed under the EFP would create a significant enforcement problem.

(4) The decision of the Secretary to grant or deny an EFP is final and can not be appealed. If the permit is granted, the Secretary shall publish a notice in the **Federal Register** describing the experimental fishing to be conducted under the EFP. The Secretary may attach terms and conditions to the EFP consistent with the purpose of the experiment including, but not limited to:

(i) The maximum amount of each species which can be harvested and landed during the term of the EFP, including trip limits, where appropriate;

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP;

(iii) The time(s) and place(s) where experimental fishing may be conducted;

(iv) The type, size, and amount of gear which may be used by each vessel operated under the EFP;

(v) The condition that observers be carried aboard vessels operated under an EFP;

(vi) Data reporting requirements; and

(vii) Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the

objectives of the Pacific Coast Groundfish Plan.

(d) *Duration.* Unless otherwise specified in the EFP or a superseding field order or regulation, the EFP shall continue in effect for one year, or until it is revoked, suspended, or modified under Part 621 (Civil Procedures). EFPs may be renewed in accordance with the application procedures in this section.

(e) *Alteration.* No person shall alter, erase, or mutilate any EFP. Any permit that has been altered, erased, or mutilated is invalid.

(f) *Transfer.* EFPs issued under this part are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(g) *Inspection.* Any EFP issued under this part must be carried aboard the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any Authorized Officer.

(h) *Sanctions.* Failure of the holder of an EFP to comply with the terms and conditions of an EFP, a field order issued under Subpart B of this part, any other applicable provision of this part, the Act, or any other regulation promulgated thereunder, shall be grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP will be governed by Part 621, Subpart D.

Subpart B—Management Measures

§ 663.21 General limitations.

(a) *Optimum Yield:* (1) Numerical optimum yields (OYs) for Pacific whiting (*Merluccius productus*), sablefish (*Anoplopoma fimbria*), Pacific ocean perch (*Sebastes alutus*), shortbelly rock fish (*Sebastes jordani*), and widow rockfish (*Sebastes entomelas*) in the five regulatory subareas are published in the **Federal Register**. OYs for those five species are the maximum amount which may be harvested during the fishing year in each fishing area and include fish caught in the territorial sea (0–3 miles). The "other species" complex has no numerical OY and is regulated by the gear, area, and catch restrictions set forth in this Subpart B.

(2) The OY for sablefish in the Monterey subarea pertains to that part of the subarea between 37°00′ N. latitude and 36°30′ N. latitude only. The OY for sablefish for the remainder of the Monterey subarea is included in the "Total OY" for sablefish.

(3) Pacific ocean perch are categorized as "other species" in the Eureka, Monterey, and Conception subareas. This species is not common or important in these subareas. Accordingly, Pacific ocean perch are included in the "other species" category for these subareas only.

(4) The category "other species" is comprised of: *SHARKS*: leopard shark (*Triakis semifasciata*), soupfin shark (*Galeorhinus zyopterus*), spiny dogfish (*Squalus acanthias*); *SKATES*: big skate (*Raja binoculata*), California skate (*R. inornata*), longnose skate (*R. rhina*); *RATFISH*: ratfish (*Hydrolagus colliei*); *MORIDS*: finescale codling (*Antimore microlepis*); *GRENDADIERS*: Pacific rattail (*Coryphaenoides acrolepis*); *ROUNDFISH*: lingcod (*Ophiodon elongatus*), Pacific cod (*Gadus macrocephalus*), that segment of the jack mackerel (*Trachurus symmetricus*) stock north of 39°00′ N. latitude; *ROCKFISH*: black rockfish (*Sebastes melanops*), blue rockfish (*S. mystinus*), boccaccio (*S. Paucispinis*), canary rockfish (*S. pinniger*), chilipepper (*S. goodei*), copper rockfish (*S. caurinus*), cowcod (*S. levis*), darkblotched rockfish (*S. crameri*), greenspotted rockfish (*S. chlorostictus*), longspine thornyhead (*Sebastolobus altivelis*), olive rockfish (*Sebastes serranoides*), redstripe rockfish (*S. proriger*), rougheye rockfish (*S. aleutianus*), sharpchin rockfish (*S. zacentrus*), shortspine thornyhead (*Sebastolobus alascanus*), silvergray rockfish (*Sebastes brevispinis*), splitnose rockfish (*S. diploproa*), stripetail rockfish (*S. saxicola*), vermilion rockfish (*S. miniatus*), yellowmouth rockfish (*S. reedi*), yellowtail rockfish (*S. flavidus*), yelloweye rockfish (*S. rubberimus*); *FLATFISH*: arrowtooth flounder (turbot) (*Atheresthes stomias*), butter sole (*Isopsetta isolepis*), Dover sole (*Microstomus pacificus*), English sole (*Parophrys vetulus*), flathead sole (*Hippoglossoides elassodon*), Pacific sanddab (*Citharichthys soridus*), petrale sole (*Eopsetta jordani*), red sole (*Glyptocephalus zachirus*), sand sole (*Psettichthys melanostictus*), and starry flounder (*Platichthys stellatus*).

(b) *Field orders.* If the Secretary determines that the numerical OY for any species in the fishery management area or in any regulatory subarea will be reached during the fishing year, the Secretary shall issue a field order in accordance with the provisions of § 663.23 prohibiting retention or landing of that species caught in the fishery management area or in the applicable regulatory subarea.

§ 663.22 Inseason adjustments.

(a) *Reduction of fishing levels.* (1) Except as otherwise provided by Section 305(e) of the Act [16 U.S.C. 1855(e)], after receiving a recommendation and written report by the Pacific Fishery Management Council, the Secretary may issue one or more field orders in accordance with the provisions of § 663.23 to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species/species complex. Biological stress may exist when:

(i) Exploitable biomass or spawning biomass is below a level expected to produce MSY for a species/species complex;

(ii) Recruitment is substantially below replacement level;

(iii) Fishing mortality rate exceeds that required to take ABC for the calendar year;

(iv) Catch for the calendar year is projected to exceed the best current estimate of ABC; or

(v) Any other abnormality in the biological characteristics of the species/species complex is discovered, such as changes in age composition, size composition, or age at maturity.

(2) A public hearing will be held before any determination that continued fishing at levels then in effect would result in biological stress to any species/species complex and before the issuance of any field order to reduce fishing levels on any species/species complex.

(3) In issuing any field order under this paragraph in order to reduce fishing levels, the Secretary may adjust the management measures in this part. Adjustments to management measures may include: size, trip and bag limits; termination of directed and/or incidental harvest by foreign or domestic fishermen, or both, of a species/species complex; area and subarea closures; time closures; gear limitations; and quotas. To the extent practicable, adjustments to management measures will be consistent with the objectives and priorities of the Pacific Coast Groundfish Plan.

(b) *Increase in numerical OYs.* (1) After receiving a recommendation and written reports from the Pacific Fishery Management Council, the Secretary may issue one or more field orders in accordance with the provisions of § 663.23 to increase the numerical OY for any species during the fishing year if it is determined that such increase would not cause biological stress to that or any other species and would promote full utilization of the groundfish resource. The Secretary shall consider the following in making the determination:

(i) Exploitable biomass and spawning biomass relative to MSY levels for the species under consideration;

(ii) Fishing mortality rate relative to MSY levels for the species under consideration;

(iii) Magnitude of incoming recruitment;

(iv) Projected effort and corresponding catches relative to ABC;

(v) In the case of species normally taken in mixed catches, the relative contribution of the species to the total catch;

(vi) The impact, if any, of the proposed increase in OY on other species.

(2) A public hearing will be held before any determination is made which forms the basis for an increase to the numerical OY for any species and before the Secretary issues any field order to implement such increase.

(3) The sum of any increases to a numerical OY during a single fishing year may not exceed 30% of the OY for that species at the beginning of the fishing year.

§ 663.23 Field orders.

(a) The Secretary shall publish the field orders described in § 663.21 or § 663.22 in proposed form in the **Federal Register** for public comment before they are made final, unless the Secretary finds for good cause that such notice and public procedures are impracticable, unnecessary, or contrary to the public interest. During the public comment period, the aggregate data upon which the proposed field order is based will be available for public inspection at the appropriate Regional Office during business hours.

(b) If the Secretary determines, for good cause, that a field order described in § 663.21 or § 663.22 must be issued without affording a prior opportunity for public comment, public comments on the field order shall be received by the Secretary for a period of 15 days after the effective date of the field order. During any such 15-day period, the aggregate data upon which the field order was based will be available for public inspection in the office of the appropriate Regional Director during business hours.

(c) Any field order issued under this Section will not be effective until 30 days after publication in the **Federal Register**, unless the Secretary finds and publishes with the field order good cause for an earlier effective date. Information on field orders will be disseminated to public news media.

(d) Field orders issued under this section will remain in effect until the expiration date stated in the order, or until rescinded, modified, or superseded.

(e) Nothing contained in this section shall limit the authority of the Secretary to issue emergency regulations under Section 305(e) of the Act as specified in § 663.29.

§ 663.24 Annual adjustments.

(a) Each year, the Secretary shall publish a notice in the **Federal Register** that specifies optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish. The Secretary also shall publish season and area restrictions, and incidental catch and receipt allowance restrictions for any TALFF or JVP amount that may be specified for species other than Pacific whiting. The Secretary shall also publish the annual ABCs for groundfish in the **Federal Register.** Annual specifications of numerical OYs and ABCs by the Secretary shall not exceed 30% of the OYs and ABCs specified during the previous year.

(b) *Procedures.* (1) Preliminary specifications: On November 1, or as soon as practicable thereafter, the Secretary shall make and publish in the **Federal Register** preliminary specifications for the next calendar year as described in paragraph (a) of this section. The Secretary shall consult with the Pacific Fishery Management Council and consider the following factors in making the preliminary specifications:

(i) Results of a survey of domestic processors and joint venture operations to estimate processing capacity and planned utilization;

(ii) Results of a survey of fishermen's trade associations to estimate fishing capacity and planned utilization; and

(iii) Relevant scientific information.

(2) Final Specifications: On December 1, or as soon as practicable thereafter, the Secretary shall make final specifications for the next calendar year as described in paragraph (a) of this section. The Secretary shall consult with the Pacific Fishery Management Council and take into consideration all information received under paragraph (b)(4) of this section, all factors considered in making the preliminary determinations under paragraph (b)(1) of this section, and additional relevant information. The final specifications shall be published as a notice in the **Federal Register** on or about December 1 with the reason for the specifications.

(3) Availability of Data: All data relevant to the preliminary and final specifications under paragraphs (b)(1) and (b)(2) of this section will be compiled in aggregate form and be available for public review at the office of the Regional Director during the public comment period.

(4) Public Comment: Comments from the public that are relevant to the preliminary and final specifications in paragraphs (b)(1) and (b)(2) of this section may be submitted to the Secretary until December 1.

§ 663.25 Season. [Reserved]

§ 663.26 Gear restrictions.

(a) Except as provided in § 663.28, it is unlawful for any person to fish for groundfish species except by means of fishing gear defined in this § 663.26 or authorized by an experimental fishing permit issued under § 663.10.

(b) *Definitions and restrictions.* (1) "Bottom trawl" means a trawl in which the otter boards or the footrope of the net are in contact with the seabed, and includes Danish and Scottish seine gear. A net used in a bottom trawl must have a minimum of two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend if the fishing vessel is simultaneously carrying aboard a net of less than 4.5-inch minimum mesh size.

(2) "Codend" means the terminal, closed end of a trawl net.

(3) "Chafing gear" means webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear. Chafing gear must not be connected directly to the terminal (closed) end of the codend.

(i) For all bottom trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(ii) For all pelagic trawls, and roller and bobbin trawls in the Vancouver, Columbia, and Eureka subareas, chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6 inches.

(4) "Double-walled codend" means a codend constructed of two walls of webbing. The double-walled portion of the codend must be tied knot-to-knot to the trawl net, and may not be longer than 25 trawl meshes or 12 feet, whichever is greater. The use of double-walled codends is prohibited in all pelagic trawls, and in roller and bobbin trawls in the Vancouver, Columbia, and Eureka subareas.

(5) "Hook-and-line" means one or more hooks attached to one or more lines.

(6) "Longline" means a stationary, buoyed, and anchored groundline with hooks attached. Longlines must be marked at the surface at each terminal

end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner. Longlines must also be marked at the surface every one mile of groundline with a pole, and a flag, light, or radar reflector. Longlines must be attended at least once every 7 days.

(7) "Pelagic (off-bottom) trawl" means a trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. Pelagic trawl nets must have unprotected footropes at the trawl mouth (without rollers, bobbins, or discs). Footropes must be less than 1.75 inches in diameter, including twine necessary for seizing material. Sweeplines, including the bottom leg of the bridle, must be bare.

(8) "Roller or bobbin trawl" means a trawl net with footropes equipped with roller, bobbins, or discs made of wood, steel, rubber, plastic, or other hard material which protect the net during fishing on the seabed. In the Eureka, Columbia, and Vancouver subareas, rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

(9) "Set net" means a stationary, buoyed, and anchored gillnet or trammel net. A gillnet is a single-walled, rectangular net which is set upright in the water. A trammel net is a gillnet made with 2 or more walls joined to a common float line. Fishing for groundfish species with set nets is prohibited in the fishery management area north of 38°00′ N. latitude.

(10) "Single-walled codend" means a codend constructed of a single wall of webbing knitted with single or double-ply mesh. Double-ply mesh means double twine tied into a single knot.

(11) "Spear" means a sharp, pointed, or barbed instrument on a shaft. Spears may be propelled by hand or by mechanical means.

(12) "Trap" or "pot" means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats. Traps must have biodegradable escape panels constructed with #21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches in diameter results when the twine deteriorates. Traps set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Traps laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, and radar reflector, and a buoy displaying clear identification of the owner. Traps laid on a groundline must also be marked at the surface every one mile of groundline with a pole and a flag, light, or radar reflecter. Traps must be attended at least once every 7 days.

(13) "Trawl mesh size" means the distance between the inside of one knot and the inside of the opposing knot in trawl mesh. Minimum trawl mesh size requirements are met if a stainless steel wedge can be passed without undue force through 16 of 20 sets of 2 meshes each of wet mesh in the codend. Unless otherwise authorized, no person shall use trawl mesh less than the minimum sizes set forth below.

MINIMUM TRAWL MESH SIZES (IN INCHES)

Type of Trawl	Subarea				
	Vancouver	Columbia	Eureka	Monterey	Conception
Bottom	4.5	4.5	4.5	4.5	4.5
Roller or bobbin	3.0	3.0	3.0	4.5	4.5
Pelagic	3.0	3.0	3.0	3.0	3.0

(14) "Trawl net" means a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Trawl nets may be used both on and off the seabed. Trawl nets may be fished with or without trawl doors, and may employ warps or cables to herd fish.

(15) "Trawl riblines" means heavy rope or lines that run down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

(c) *Recreational fishing.* No person shall engage in recreational fishing for groundfish species in the fishery management area using fishing gear other than hook-and-line or spear.

§ 663.27 Catch restrictions.

Groundfish species harvested in the territorial sea (0–3 miles) will be counted toward the catch limitations in this section.

(a) Recreational fishing for lingcod and rockfish in all subareas. No person engaged in recreational fishing may fish for, take, retain, possess, or land more than 3 lingcod per day or more than 15 rockfish per day, unless otherwise authorized by a valid permit issued by the State of California which provides for multi-day trips.

(b) *Commercial fishing.* (1) Certain rockfish species in the Conception and Monterey subareas. No person fishing with a pelagic trawl with mesh size less than 4.5 inches in the Conception or Monterey subareas may land more than 500 pounds or 5% by weight of all fish on board, whichever is greater, of the species group composed of bocaccio, chilipepper, splitnose, and yellowtail rockfishes, per fishing trip.

(2) Pacific ocean perch in all subareas. No person may land more than 10,000 pounds or 10% by weight of all fish on board, whichever is greater, of Pacific ocean perch per fishing trip.

(3) Sablefish in all subareas. When it is determined that 95% of the OY for that portion of the Monterey subarea between 37°00′ N. latitude and 36°30′ N. latitude or for the fishery management area as a whole will be reached, the Secretary shall issue a field order in accordance with § 663.23 establishing a trip limit for the area being considered. The trip limit will be based on the most recent data available for the season and will be equal to the average percentage of sablefish in all trawl landings containing sablefish in the area being considered (37°00′ N latitude–36°30′ N. latitude or the fishery management area as a whole), but in no event will the trip limit exceed 30% by weight of all fish on board. No person may land sablefish in excess of a trip limit established under this section.

§ 663.28 Restrictions on other fisheries.

(a) *Pink Shrimp.* No person engaged in fishing for pink shrimp shall land from a fishing trip more than 1,500 pounds (multiplied by the number of days of the fishing trip) of groundfish species other than Pacific whiting, shortbelly rockfish, or arrowtooth flounder.

(b) *Spot and ridgeback prawns.* No person engaged in fishing for spot or ridgeback prawns shall land more than 1,000 pounds of groundfish species per fishing trip.

§ 663.29 Scientific research.

Nothing in this part is intended to inhibit or prevent any scientific or oceanographic research which is conducted in the fishery management area by a scientific research vessel. The Secretary shall acknwledge any notification of any scientific or oceanographic research with respect to groundfish being conducted by a scientific research vessel, by issuing to the operator or master of that vessel a letter of acknowledgment, containing information on the purpose and scope (locations and schedules) of the activities. The Secretary shall transmit copies of such letters to the Pacific Fishery Management Council, and to State and Federal administrative and enforcement agencies, to ensure that all concerned parties are aware of the research activities.

[FR Doc. 82–3577 Filed 2–9–82; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 638

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to review status reports on the development of fishery management plans (FMP's); consider foreign fishing applications, if any; conduct a public comment period on the Coral and Coral Reef FMP and the proposed oculina bank habitat area of particular concern as well as the regulations contained in the Coral and Coral Reef FMP. The Council will also discuss any needed changes to that plan and adopt the plan for submission to the Secretary of Commerce, as well as conduct other fishery management business.

DATES: The meetings, which are open to the public, will convene on Wednesday, March 10, 1982, at approximately 8:30 a.m., and adjourn at approximately 5 p.m.; reconvene on Thursday, March 11, 1982, at approximately 8:30 a.m., and adjourn at approximately 4 p.m.

ADDRESS: The public meetings will take place at the Holiday Inn, Banquet Room D, State Capitol, 924 Madison Avenue, Montgomery, Alabama.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: February 5, 1982.

Jack L. Falls,

Chief, Administrative Support Staff National Marine Fisheries Service.

[FR Doc. 82–3586 Filed 2–9–82; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 47, No. 28
Wednesday, February 10, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Stillwater PGM Resource's Proposed Platinum Mining and Milling Facilities, Gallatin National Forest, Big Timber Ranger District, Sweet Grass County, Montana; Interagency Meeting

The Forest Service and the Montana Department of State Lands will hold an interagency meeting to update all interested agencies on the progress of the environmental impact statement that is being prepared for the platinum mining and milling facility proposed by Stillwater PGM Resources in the East Boulder drainage south of Big Timber, Montana.

The meeting will be held in Bozeman, Montana on the third floor of the Federal Building on Wednesday, February 17, 1982 at 8:30 a.m. Questions about the meeting should be directed to Sherm Sollid at 406–587–5271 or FTS 585–4386.

Dated: January 29, 1982.

Richard F. Creed,

Forest Engineer.

[FR Doc. 82-3442 Filed 2-9-82; 8:45 am]

BILLING CODE 3410-11-M

Stillwater PGM Resource's Proposed Platinum Mining and Milling Facilities, Gallatin National Forest, Big Timber Ranger District; Sweet Grass County, Montana; Public Scoping Meeting

The Forest Service and the Montana Department of State Lands will hold a public scoping meeting on the environmental impact statement that is being prepared for the platinum mining and milling facility proposed by Stillwater PGM Resources in the East Boulder drainage south of Big Timber, Montana. An update of the project and the baseline studies will be presented.

The meeting will be held at 7:30 p.m. on Wednesday, February 17, 1982 in the Big Timber Public School gym, Big Timber, Montana. Questions about the meeting should be directed to Sherm Sollid, the geologist in the Forest Supervisor's Office (Phone 406–587–5271).

Dated: January 29, 1982.

Richard F. Creed,

Forest Engineer.

[FR Doc. 3443 Filed 2-9-82; 8:45 am]

BILLING CODE 3410-11-M

Committee Of State Foresters; Meeting

The Committee of State Foresters will meet in Albuquerque, New Mexico, on March 11, 1982. The meeting will convene at 8:30 a.m. on March 11 in the Sandia Room of the Winrock Inn, Winrock Center, Albuquerque, New Mexico.

The Committee, comprised of seven members who are the Executive Committee of the National Association of State Foresters, consults with the Secetary of Agriculture and various agencies of the Department on the implementation of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). The Assistant Secretary for Natural Resources and Environment will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, John H. Ohman, Deputy Chief for State and Private Forestry, USDA—Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone (202) 447–0657. Written statements may be filed with the Committee before or after the meeting.

Douglas R. Leisz.

Associate Chief.

February 3, 1982.

[FR Doc. 82-3469 Filed 2-9-82; 8:45 am]

BILLING CODE 3410-11-M

Payette National Forest Grazing Advisory Board; Meeting

The Payette National Forest Grazing Advisory Board will neet at 1 p.m., April 6, 1982, at the District Forest Ranger's Office, Council, Idaho. The purpose of this meeting is for the Board to make recommendations on the utilization of Range Betterment Funds for fiscal year 1982 and review Range Betterment Funds project proposals for FY 1983.

The meeting will be open to the public. Persons who wish to attend should notify Pete Pierson, Range Staff Officer, Payette National Forest, McCall, Idaho, 634–2255. Written statements may be filed with the Board before or after the meeting.

Dated: February 1, 1982.

Kenneth D. Weyers,

Forest Supervisor.

[FR Doc. 82-3468 Filed 2-9-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Dockets 31619 and 39049]

Enforcement Proceedings; Ruth C. A. Keene vs. Trans International Airlines, Inc., and Transamerica Airlines, Inc., Cancellation of Hearing

In the matter of Ruth C. A. Keene v. Trans International Airlines, Inc., Part 252 Enforcement Proceeding (Docket 31619), and Transamerica Airlines, Inc., Compliance with Part 252 Enforcement Proceeding (Docket 39049).

Notice is hereby given that the hearing in the above-entitled proceeding, which was assigned to be held on February 16, 1982 (46 FR 62129, December 22, 1981) is hereby cancelled.

Dated at Washington, D.C., February 5, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-3503 Filed 2-9-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Aspen Recreational Products, Ltd., P.O. Box G–3, Aspen, Colorado 81612, producer of audio cassette tape players (accepted

January 11, 1982); (2) Calvert Manufacturing Company, Inc., P.O. Box 3237, Seattle, Washington 98144, producer of men's, women's and children's jackets, vests and pants (accepted January 12, 1982); (3) Neotech International Corporation, 100 N. Avery, Walla Walla, Washington 99362, producer of hand grips and bicyle seat covers (accepted January 12, 1982); (4) KuBar Bearings, Inc., 21 Erie Street, Cambridge, Massachusetts 02139, producer of ball bearings (accepted January 12, 1982); (5) Item House, Inc., 2920 South Steele Street, Tacoma, Washington 98411, producer of men's and women's coats and jackets (accepted January 27, 1982); (6) Barber Manufacuring Company, P.O. Box 220564, Charlotte, North Carolina 28222, producer of webbing, belting and other fabrics (accepted January 29, 1982); (7) Moline Tool Company, Inc., 102 20th Street, Moline, Illinois 61265, producer of machine tools (accepted February 2, 1982); and (8) Recreatives Industries, Inc., 60 Depot Station, Buffalo, New York 14206, producer of all-terrain vehicles (accepted February 2, 1982).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of artricles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calender day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-3579 Filed 2-9-82; 8:45 am]

BILLING CODE 3510-25-M

Committee for the Implementation of Textile Agreements

Announcement of Increases in the Import Restraint Levels for Certain Wool and Man-Made Fiber Textile Products from the Socialist Republic of Romania

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the import levels for men's and boy's wool suits in Category 443 from 7,557 to 8,010 dozen and man-made fiber woven suits in Category 643pt./644pt. from 24,537 dozen to 26,009 dozen, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1981 by the application of carryforward.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)).

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania provides, among other things, for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the succeeding year's level. At the request of the Government of the Socialist Republic of Romania, an increase for carryforward is being applied to the levels of restraint for Categories 443 and 643pt./644 pt.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–2184).

SUPPLEMENTARY INFORMATION: On March 25, 1981, there was published in the **Federal Register** (46 FR 18576) a letter dated March 19, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of wool and man-made fiber textile products, including Categories 443 and 643pt./644pt. produced or manufactured in Romania and exported to the United States during the twelve-month period which began on April 1, 1981 and extends through March 31, 1982. In accordance with the terms of the bilateral agreement, as amended, and at the request of the Government of the Socialist Republic of Romania, the United States Government has agreed to increase the levels for wool and man-made fiber textile products in Categories 443 and 643 pt./644pt. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels to the designated amounts.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 4, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on March 19, 1981, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilaterial Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on February 4, 1982, and for the twelve-month period beginning on April 1, 1981 and extending through March 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Categories 443 and 643 pt./644pt., produced or manufactured in Romania, in excess of the following adjusted levels of restraint:

Category	Adjusted 12-month level of restraint [1] (dozen)
443	8,010
643 pt./644 pt.[2]	26,009

[1] The levels of restraint have not been adjusted to reflect any imports after March 31, 1981.
[2] In Category 643 pt./644 pt., only T.SU.S.A. numbers 379.3160, 379.6876, 379.9560, 379.9565, 383.2230, 383.5362 and 383.9000.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of wool and man-made fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-3378 Filed 2-9-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for a Proposed Dredging of Berry's Creek, Bergen County, New Jersey

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. Description of Proposed Action. The New Jersey Department of Environmental Protection has requested a permit from the New York District of the Corps of Engineers under Section 404 of the Clean Water Act of 1977 to dredge mercury contaminated bottom sediments from Berry's Creek, Bergen County, N.J., and transport the dredged material to a secure dewatering/disposal facility. It is estimated at this time that approximately 175,000 cubic yards of sediment will be dredged in an approximate 12,000 foot reach of the creek.

2. *Reasonable Alternatives.* At the present time, no feasible alternative modes of dredging or disposal have been suggested, except the no action alternative. All viable alternative modes of dredging and disposal will be identified and evaluated as to their reasonableness during the EIS process.

3. *Scoping Process.*—a. *Public Involvement.* Public & Agency input is anticipated via scoping meetings & the public notice process. Anyone wishing to comment at any time during the draft EIS development process should write the N.Y. District. The draft EIS will be made available for public inspection.

b. *Significant Issues Requiring In-depth Analysis.* 1. Impact of Dredging and Dredged Material Disposal (particularly as it applies to release of mercury during these processes)

2. Environmental pros and cons of the viable alternatives

c. Assignments. To be determined as soon as practicable.

d. Environmental review and consultation. Coordination with appropriate Federal, state & local agencies as well as interested individuals and groups will take place pursuant to appropriate Corps Regulations.

4. Scoping Meeting will be held April 16, 1982, time 10 a.m., location: room 2038, 26 Federal Plaza, New York, N.Y. 10278.

5. Estimate date of statement availability April 1, 1983.

ADDRESS: Project Manager: Attn.: Bart D'Martino, Tel. No. (212) 264-0184; EIS Coordinator; Attn.: Robert J. Will, Tel. No. (212) 264-4662. U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: January 28, 1982.

Samuel P. Tosi,

Acting Chief, Planning Division.

[FR Doc. 82-3444 Filed 2-9-82; 8:45 am]

BILLING CODE 3710-06-M

Office of the Secretary

Defense Science Board Task Force on EW; Advisory Committee Meeting

The Defense Science Board Task Force on EW will meet in closed session March 3, 1982, at the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering and to provide a long-range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of the electromagnetically controlled weapons employed or projected for employment by potentially hostile forces and identify electronic warfare countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that the Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 5, 1982.

[FR Doc. 82-3458 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Command Support; Advisory Committee Meetings

The Defense Science Board Task Force on Command Support will meet in closed session on 18–19 March 1982, at the Pentagon, Washington, D.C. 20301.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research, engineering and acquisition issues and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current technological application currently employed in the area of command support and will advise upon improvements which appear possible and practical. They will also consider training emphasis and possibilities for improvement in the internal management process.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that the Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(4) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 5, 1982.

[FR Doc. 82-3459 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Command Support; Advisory Committee Meetings

The Defense Science Board Task Force on Command Support will meet in closed session on 15–16 April 1982 at the Pentagon, Washington, D.C. 20301.

The mission of the Defense Science Board Task Force is to advise the

Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research, engineering and acquisition issues and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current technological applications currently employed in the area of command support and will advise upon improvements which appear possible and practical. They will also consider training emphasis and possibilities for improvement in the internal management process.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that the Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(4) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 5, 1982.

[FR Doc. 82-3458 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Rapid Deployment Forces (RDF): Advisory Committee Meeting

The Defense Science Board Task Force on Rapid Deployment Forces will meet in closed session on 3–4 March, and again on 24–25 March 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meetings on 3–4 and 24–25 March 1982, the Task Force will continue discussions on the application of technology to rapidly deploying forces.

In accordance with 5 U.S.C. App. 1 10(d) (1976), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 5, 1982.

[FR Doc. 82-3457 Filed 2-9-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the quarterly meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: March 1–2, 1982, 9:00 am to 5:00 pm.

ADDRESS: Brown Daniel Library, Tennessee State University, Main Campus, 3rd Floor Conference Room, 3500 Centennial Boulevard, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, 1100 17th Street, NW., Suite 702–6, Washington, D.C. 20036, AC 202 653–7558.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

This Committee was established to examine all approaches to the higher education of Black Americans as well as enhancement of the historically Black colleges and universities and then to make recommendations to the Secretary of Education in the identification of several courses of action to raise substantially the participation of Black Americans in all sectors and at all levels of higher education.

The proposed agenda will include among other items a report on the current status of Black higher education and Black colleges and universities; a statement on Black women in higher education; report on important relevant ongoing research external to the Committee; discussion of current status of Department of Education higher education programs; and status of Blacks in graduate and professional schools and relevant data on nonresident alien enrollment and completions.

The Committee tries to convene at least one of its quarterly meetings in a setting conducive to maximum input from the public concerning its mandate. Hence, at the March meeting statements from the public on issues relevant to the Committee's areas of concern are especially welcome. Two hours have been set aside on the morning of March 2nd for this purpose, and interested individuals and/or organizations are encouraged to participate in the Committee's deliberations. This may be done by requesting time on the agenda or by submitting a written statement of no more than 3 pages in length.

The statements should specifically address the problems and/or potential solutions to the problems presently experienced by Blacks in higher education and/or the historically Black colleges and universities. Questions concerning the forthcoming meeting should be addressed to the Program Delegate, Ms. Carol J. Smith, 1100 17th Street, N.W., Suite 702–6, Washington, D.C. 20036 (202) 653–7558. Requests for agenda time or an indication of intent to submit a statement should be received by Ms. Smith on or before COB February 15, 1982.

Records are kept of all Committee proceedings and are available for public inspection at the office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities, 1100 17th Street, N.W., Suite 702–6, Washington, D.C. 20036, from the hours of 8:30 am to 5:00 pm.

Dated: February 4, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-3483 Filed 2-9-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA82-1-20-003]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

February 5, 1982.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on January 28, 1982, tendered for filing 58th Revised Sheet No. 10 and Fifth Revised Sheet No. 10–B to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that these sheets are being filed pursuant to

Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. The rates as shown on Sheet No. 10 reflect the following: (i) An adjustment to amortize the December 31, 1981 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account 191) and (ii) an adjustment to reflect higher purchased gas costs to be charged by its supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), to Algonquin Gas proposed to be effective February 1, 1982, under Texas Eastern's Revised Sixty-first Revised Sheet No. 14D; Sheet No. 10–B reflects Projected Incremental Pricing Surcharges for the period March, 1982 through August, 1982.

Algonquin Gas requests that the proposed effective date of the revised tariff sheets as prescribed in Section 17 be as of March 1, 1982.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3519 Filed 2-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3705–001]

American Hydro Power Co.; Application for Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

February 5, 1982.

Take notice that American Hydro Power Company filed with the Federal Energy Regulatory Commission on November 9, 1981, an application for exemption for its Gilpin Falls Project No. 3705 from all or part of Part I of the Federal Power Act pursuant to 18 CFR Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980.[1] The proposed project would be located on Northeast Creek in Cecil County, Maryland.

Correspondence with the Applicant should be directed to: Mr. Peter A. McGrath, President, Two Aldwyn Center, Villanova, Pennsylvania 19085.

This application was filed during the term of Applicant's preliminary permit for Project No. 3705.

Project Description—This run-of-the-river project would consist of: (1) an existing concrete and masonry dam with an overall length of 161 feet and a maximum height of 6 feet, consisting of a 73-foot long overflow section and a 60-foot long spillway section; (2) an impoundment with a surface area of 2.75 acres and with a gross storage of 8 acre-feet at an elevation of 295 feet m.s.l.; (3) a 30-foot long intake structure; (4) an existing 200-foot long 36-inch diameter penstock; (5) a new 1,300-foot long 36-inch diameter penstock; (6) a new 17.5-foot square powerhouse containing three 110-kW turbine/generator units operating under a design head of 108 feet; (7) a new tailrace 10–15 feet wide and 25 feet long; (8) a new 1,600-foot long transmission line; and (9) appurtenant facilities.

The annual average generation of 850,000 kWh would be sold to the Conowingo Power Company.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 23, 1982, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than July 13, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

[1] Pub. L. 96–294, 94 Stat. 611. Section 408 of the ESA amends *inter alia*, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§ 2705 and 2708).

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3534 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5453-000]

Appomattox River Water Authority; Application for Preliminary Permit

February 4, 1982.

Take notice that Appomattox River Water Authority (Applicant) filed on October 5, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5453 to be known as the Genito Dam Hydropower Project located on the Appomattox River near the City of Petersburg, in the counties of Amelia, Powhatan, and Cumberland in the State of Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard D. Hartman, General Manager, Appomattox River Water Authority, 21300 Chesdin Road, Petersburg, Virginia 23803.

Project Description—The proposed project would consist of: (1) A proposed dam approximately 1,500 feet long with a maximum height of 65 feet and constructed of compacted earth; (2) a proposed concrete spillway 1,400 feet in length; (3) a proposed 11,000 acre impoundment with a storage capacity of approximately 238,700 acre-feet; (4) the proposed construction of a powerhouse with the installation of two 2,000 kW generating units producing a total installed capacity of 4 MW; (5) the proposed construction of a penstock under the earth dam; (6) a proposed transmission line interconnecting with Virginia Electric Power Company near the dam site; and (7) appurtenant facilities. The Applicant estimates that the average annual energy production will be 14 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the feasibility studies to be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on of before April 19, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 17, 1982

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests of other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing in the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3549 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5839-000]

Appomattox Hydro Associates; Application for Preliminary Permit

February 4, 1982.

Take notice that Appomattox Hydro Associates (Applicant) filed on December 31, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5839 to be known as the Harvell Dam Project located on the Appomattox River in Dinwiddie County, Virginia. The Application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Wayne L. Rogers, Appomattox Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) The existing, 400-foot long and 10-foot high, concrete gravity Harvell Dam; (2) an existing 7 acre reservoir containing 85 acre-feet of storage capacity; (3) an existing powerhouse to contain an installed generating capacity of 1,100 kW; and (4) appurtenant facilities. The applicant estimates the average annual energy generation to be 6.3 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a license application. The applicant's estimated total cost for performing these studies is $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or beforeApril 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3580 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 2530-001 and 2530-002]

Central Maine Power Co.; Application for New License and Amendment of License

February 4, 1982.

Take notice that two applications were filed with the Federal Energy Regulatory Commission on December 7, 1981, under the Federal Power Act, 16 U.S.C. 791(a)–825(r)] by Central Maine Power Company (Applicant), for (1) an amendment of its existing license, and (2) a new license for its Hiram Project, FERC No. 2530. The project is located on the Saco River in Cumberland and Oxford Counties, Maine.

Correspondence with the Applicant on this matter should be addressed to: Mr. Charles E. Monty, Senior Vice-President, Engineering and Production, Central Maine Power Company, Edison Drive, Augusta, Maine 04336.

Project Description—The Hiram Project presently consists of (1) A 249-foot long concrete overflow dam with a maximum height of 30 feet with 4.66-foot high hinged steel flashboards (2) a 102-foot long gate section integral with the dam containing a deep sluice gate, a log sluice gate, a trash sluice and a Taintor gate; (3) a 25-foot wide, 26.9-foot high intake section integral with the dam; (4) an 85-foot long timber bulkhead section at the east abutment with a maximum height of 26.9 feet; (5) a 255-acre reservoir with a usable storage capacity of 572-acre feet at elevation 349.0 feet (U.S.G.S.); (6) a 427-foot long, 11-foot diameter wood stave penstock; (7) a powerhouse containing a single 2.4 MW turbine-generator; (8) a 3,000 kVA, 3 phase, 2.3/34.5-kV step-up transformer; and (9) appurtenant facililties.

Applicant also requests that the license for the Hiram Project be amended by changing the expiration date of the license from December 31, 1993, to coincide with the date of issuance of a new 50 year license for the redevelopment and continued operation of the Hiram Project. Applicant proposes to install, under the new license, a new intake structure, trash rack and stop log slots in place of the existing timber bulkhead structure, an additional 330-foot long, 14-foot diameter steel or fiberglass penstock and a powerhouse containing a new turbine-generator unit with a total rated capacity of 8.5 MW to be located adjacent to the existing powerhouse and utilizing the existing dam and reservoir. The redeveloped project would generate an additional 32.6 million kWh annually saving the equivalent of 52,800 barrels of oil or 14,900 tons of coal. Energy generated at the project would continue to be distributed to the Applicant's customers.

Project No. 2530 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The Applicant has calculated that the estimated net investment in the project would amount to $332,681 as of June 30, 1981. The Applicant's estimated severance damages as of June 30, 1981, would amount to $70,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 19, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3551 Filed 2-9-82; 8:45 am]

Billing Code 6717-01-M

[Docket No. TA82-1-21-001 (PGA82-1, IPR82-1 and AP82-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1982.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 29, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Seventy-Ninth Revised Sheet No. 16.

Twenty-Seventh Revised Sheet No. 16A.

Twenty-First Revised Sheet No. 64.

Sixth Revised Sheet Nos. 64E through 64I.

These proposed changes to be effective March 1, 1982, reflect the following:

(1) A PGA rate adjustment, pursuant to § 20.3 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover an increase in the cost of gas purchased of $132,724,665 based on the six months ending August 31, 1982.

(2) A Commodity Surcharge, pursuant to Section 20.6 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover the deferred purchased gas cost balance of $86,903,952 at December 31, 1981, over the six-month period March 1, 1982 through August 31, 1982.

(3) An Advance Payment Adjustment, pursuant to Article IX of the Stipulation and Agreement in Docket No. RP76-94, *et al.*, approved by Commission Letter Order issued March 16, 1978. Such Advance Payment Adjustment provides for an annual increase of $912,384.

Copies of the filing were served upon the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3535 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-146-000]

Commonwealth Edison Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Motions To Reject, Denying Summary Disposition in Part and Directing Summary Disposition in Part, Granting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: February 5, 1982.

On December 9, 1981, Commonwealth Edison Company (Commonwealth) tendered for filing a proposed increase in its tariff rates for firm service to five full requirements and two partial requirements customers.[1] Based on a calendar 1982 test year, the proposed rates would increase jurisdictional revenues by approximately $11,829,000 (27.88 percent).[2] Commonwealth proposes an effective date of February 7, 1982.

Commonwealth's two partial requirements customers are currently served under the same rate as the full requirements customers, except for certain scheduled energy deliveries in excess of contract demand. As part of the instant filing, the company seeks to establish a separate tariff for partial requirements service. In addition to stating rates for firm energy transactions, the proposed partial requirements tariff would establish separate charges for economy, emergency, and maintenance energy.

Notice of Commonwealth's filing was issued on December 15, 1981, with responses initially due on or before January 4, 1982; the comment deadline was subsequently extended through January 11, 1982, at the request of several affected customers. Timely petitions to intervene were filed by the Village of Winnetka, Illinois (Winnetka) and, jointly, by the Cities of Batavia, Naperville, Geneva, St. Charles, Rock Falls, and Rochelle, Illinois (Cities).

Winnetka, one of the partial requirements customers, requests that the Commission reject Commonwealth's filing for failure to comply with Part 35 of the Commission's regulations. The village complains that Commonwealth has used inconsistent data to compute revenues, relied on improper methodologies to separate firm and non-firm energy sales, improperly priced economy, maintenance, and emergency energy, and erroneously allocated demand costs. In several respects, Winnetka challenges Commonwealth's methodologies as being inconsistent with an initial decision issued by an administrative law judge in a prior Commonwealth rate case (Docket Nos. ER79-182 and ER80-106, issued June 3, 1981), but not yet addressed by the Commission. In addition, Winnetka alleges that the proposed rates will create a price squeeze.

The Cities also request that the filing be rejected or, in the alternative, suspended for five months. In support of their request, the Cities raise a number of cost of service and rate design issues, and object to revised terms and conditions of service as well as modifications to Commonwealth's fuel adjustment clause. The Cities also allege that the filing is patently discriminatory and will engender substantial price squeeze consequences.

In the event that the filing is accepted, the Cities request summary disposition as to the following elements of the company's filing: (1) Expenses attributable to permanent disposal of spent nuclear fuel; (2) use of a 4 CP demand cost allocation methodology; (3) chemical cleaning costs; (4) decommissioning expenses; (5) reclamation costs; and (6) inclusion of an 80 percent demand ratchet. As to other issues raised in their petition, the Cities request that Commonwealth be directed to file additional justification within thirty days, and that such submission be treated as the company's complete case-in-chief for purposes of hearing. Absent rejection, the Cities request that the Commission depart from its customary practice of phasing price squeeze procedures and allow the price squeeze claim to be litigated together with the remaining issues raised in this docket.

On January 20, 1982, Commonwealth filed an answer to the petitions of Winnetka and the Cities. The company disputes the allegations raised by the petitioners and requests that the various motions be denied. Commonwealth also

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[1] *See* Attachment A for rate schedule designations and affected customers.

[2] Approximately $11,328,000 of the increase is allocated to the full requirements customers and $50,000 to the partial requirements customers.

requests that any suspension of its filing be limited to one day.

Discussion

Initially, we find that participation by each of the petitioners is in the public interest and we shall therefore grant the petitions to intervene.

We find that Commonwealth's filing substantially complies with §35.13 of the Commission's regulations;[3] accordingly, we shall deny the petitioners' motions to reject the filing. We shall deny the Cities' request to compel Commonwealth to tender additional support at this time inasmuch as the presiding judge will be better able to delineate the matters at issue, assess the positions of the parties and the available evidence, and prescribe procedures for discovery in appropriate evidentiary submissions.

In view of the issues raised by the intervenors and our preliminary analysis, we find that the proposed change in rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Commonwealth's rates for filing and suspend them as ordered below.

In a number of suspension orders,[4] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted where suspension for the maximum period may lead to too harsh and inequitable results. Such circumstances have been presented here. We note that the intervenors have raised numerous substantive issues, including price squeeze. However, our review indicates that the proposed rates may not produce substantially excessive revenues. Under these circumstances, a nominal suspension and a refund obligation should provide adequate protection to Commonwealth's customers pending the outcome of a hearing. Accordingly, we shall suspend the rates for one day from sixty days after filing, to become effective, subject to refund, on February 9, 1982.

Regarding the questions of the 4–CP demand allocation methodology, the chemical cleaning of nuclear fuel and the allocation of partial requirements customers' demand and energy requirements into firm and non-firm amounts, issues which were previously litigated in Docket Nos. ER79–182, *et al.*, we find that these issues should be subject to the outcome of the Commission's decision in that docket. With respect to the remaining issues for which the Cities have requested summary disposition, we find that they present questions of law and fact most appropriately resolved on the basis of an evidentiary hearing. The motion for summary disposition will therefore be denied.

As to the request that the price squeeze issue be tried in conjunction with the remainder of this case, the Cities contend that the increase in rates proposed by Commonwealth is of such magnitude that it may result in their ouster from the retail distribution market. While the Commission appreciates the concerns of these municipal systems, barring extraordinary circumstances, we believe that the scheduling of hearings is best controlled by the presiding judge. Furthermore, we have observed on a number of occasions that the most logical manner in which to pursue price squeeze allegations generally is to conduct a phased proceeding. This procedure allows a decision first to be reached on the cost of service, capitalization, and rate of return issues; the rate which would be deemed just and reasonable but for a consideration of price squeeze, can then be analyzed to determine whether a price squeeze exists. We believe that the facts should be further developed in order to determine how the hearing in this case would best be handled. Therefore, in accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issues but permit the presiding judge to modify this schedule upon a showing of good cause.

Finally we note that Commonwealth's partial requirements tariff includes a ten percent adder to the cost of purchased power for emergency and maintenance energy sales. Under §35.23(c) of the Commission's regulations, a utility which includes a percentage adder for transmission or purchase and resale of power must establish a limit on the revenues to be recovered. Because Commonwealth has failed to include such a cap for its ten percent adder, we shall direct the company to file within thirty days revised tariff sheets reflecting a limitation on its percentage adder in accordance with the Commission's regulations.

The Commission orders:

(A) The motions of Winnetka and the Cities to reject the filing submitted by Commonwealth are hereby denied.

(B) The Cities' motion for summary disposition is denied. The issues of use of a 4–CP demand allocator the chemical cleaning of nuclear fuel and the allocation of partial requirements customers' demand and energy requirements into firm and non-firm amounts shall be determined by the Commission's decision on these questions in Docket Nos. ER79–182, *et al.*

(C) The Cities' motion to compel the filing of additional data is hereby denied.

(D) Within thirty (30) days of the date of this order, Commonwealth shall file revised tariff sheets which establish a limitation on the percentage adder for emergency and maintenance energy transactions, in accordance with §35.23 of the Commission's regulations.

(E) Commonwealth's proposed rates, as modified by Paragraph (D) above, are hereby accepted for filing and suspended for one day from sixty days after filing, to become effective on February 9, 1982, subject to refund.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of Commonwealth's rates.

(G) The petitions to intervene filed by Winnetka and the Cities are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *provided, however*, that participation by such intervenors shall be limited to the matter set forth in their petitions to intervene; and *povided, further*, that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

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[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[4] *E.g., Boston Edison Co.*, Docket No. ER80–508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80–506 *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–488 (August 22, 1980) (one day suspension).

(H) The Commission staff shall serve top sheets in this proceeding on or before February 11, 1982.

(I) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(J) The Commission hereby orders the initiation of price squeeze proceedings and further orders that this docket be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause. The price squeeze claim shall be governed by § 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant docket.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A.—COMMONWEALTH EDISON COMPANY

[Docket No. ER82-146-000, Rate Schedule Designations]

FPC Electric Tariff, Original Volume No. 1

Sheet No.	Supersedes sheet No.	Description
First revised sheet No. A	Original sheet No. A	Table of contents.
Tenth revised sheet No. 1.	Ninth revised sheet No. 1.	Rate 7S.
Fifth revised sheet No. 1A.	Fourth revised sheet No. 1A.	Do.
Fourth revised sheet No. 1B.	Third revised sheet No. 1B.	Rate 7S.
First revised sheet No. 1C.	Original sheet No. 1C	Do.
Original sheet No. 1D	do	Do.
First revised sheet No. 3.	Original sheet No. 3	Terms and conditions
Second revised sheet No. 6.	First revised sheet No. 6.	Rider No. 6.
Third revised sheet No. 7.	Second revised sheet No. 7.	Rider No. 7.
Original sheet No. 7A	do	Do.
Second revised sheet No. 8.	First revised sheet No. 8.	Rider No. 8.

ATTACHMENT A.—COMMONWEALTH EDISON COMPANY—Continued

[Docket No. ER82-146-000, Rate Schedule Designations]

FPC Electric Tariff, Original Volume No. 1

Sheet No.	Supersedes sheet No.	Description
Third revised sheet No. 9.	Second revised sheet No. 9.	Rider No. 9.
First revised sheet No. 10.	Original sheet No. 10	Rider No. 11.
Fifth revised sheet No. 12.	Fourth revised sheet No. 12.	Rider No. 20.

Cancelled sheets: original sheet No. 4, original sheet No. 12.10.

Full requirements customers: Batavia, Geneva, Naperville, Rock Falls, and St. Charles.

Partial requirements customers: Rochelle and Winnetka.

[FR Doc. 82-3552 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA82-1-22-000 (PGA82-1) (1PR82-1) and (R&D82-1)]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1982.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 29, 1982, filed revised tariff sheets, pursuant to Sections 12 (PGA Clause), 12A (Incremental Pricing Surcharges), and 13 (Research, Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff. The revisions, shown on Twenty-Ninth Revised Sheet No. 16 and Sixth Revised Sheet No. 72–C, provide for Consolidated's semi-annual PGA to be effective March 1, 1982.

Consolidated has included in its filing:

(a) Rate changes from pipeline suppliers in the amount of $66.3 million;

(b) Rate changes from producer suppliers in the amount of $32 million; and,

(c) A surcharge of 11.60 cents per dekatherm to recoup amounts accumulated in account 191, Unrecovered Purchased Gas Costs.

Consolidated states that the reates contained on Twenty-Ninth Revised Sheet No. 16 reflect old pipeline production (production from wells drilled prior to January 1, 1973, on leases acquired prior to October 6, 1969) on a cost-of-service basis and new pipeline production priced pursuant to the Natural Gas Policy Act of 1978. Consolidated states that in previous general rate change and PGA filings, it applied for NGPA pricing of old as well as new pipeline production, but the Commission rejected this treatment in several orders. These orders are pending judicial review in *Consolidated Gas Supply Corp.* v. *FERC*, 4th Cir. No. 79-1546. Furthermore, states Consolidated, additional Commission action on pipeline production was taken in order Nos. 58 and 98, which orders were vacated by the United States Court of Appeals for the Fifth Circuit on December 23, 1981, in *Mid Louisiana Gas Co.* v. *FERC*, No. 80-3804 and *Consolidated Gas Supply Corp.* v. *FERC*, No. 80-4010, respectively. Consolidated states that because the Fifth Circuit's December 23, 1981, decision is subject to rehearing and possible further judicial review, and because proceedings before the Fourth Circuit have been suspended pending the final outcome of the *Mid-Louisiana* case, Consolidated had not attempted, in this filing, to reflect any change in the cost-of-service pricing of old pipeline production. Consolidated does, however, reserve the right to make rate adjustments as may be required to conform with the decisions of the courts in the referenced proceedings.

Consolidated states that it has not yet made retroactive adjustments in its payments to producers to reflect the "as delivered" basis which Order Nos. 93 and 93-A would purport to allow. For the same reason, Consolidated states that Appalachian purchases and pipeline production have not yet been converted to the "as delivered" basis for purposes of computing this PGA. Consolidated states that if and when future adjustments and payments, if any, permitted by Order Nos. 93 and 93-A are made (whether retroactive or current) Consolidated will flow through such amounts to its customers in its regular semi-annual PGA, through entries to Account No. 191.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3536 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-363]

Delmarva Power & Light Co.; Compliance Filing

February 5, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Delmarva Power & Light Company (Delmarva) filed a refund compliance report in accordance with the Commission's letter order dated December 11, 1981 in which the Commission accepted the joint offer of settlement between Delmarva and the Town of Clayton, Delaware.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, on or before February 25, 1982. Comments will be considered by the Commisson in determing the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3520 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT82-16-000]

El Paso Natural Gas Co., Tariff Filing

February 5, 1982

Take notice that on January 20, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following original and revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 and Third Revised Volume No. 2.

Original Volume No. 1

Twenty-third Revised Sheet No. 92
Twenty-fourth Revised Sheet No. 93
Twenty-sixth Revised Sheet No. 94
Nineteenth Revised Sheet No. 95
Sixth Revised Sheet No. 95-A

Third Revised Volume No. 2

First Revised Sheet No. 1-C.9
Original Sheet No. 1-C.10

El Paso states that the tendered tariff sheets, when accepted for filing and permitted to become effective, will provide a current Index of Purchasers for El Paso's Original Volume No. 1 Tariff and a current Table of Contents for El Paso's Third Revised Volume No. 2 Tariff.

El Paso has requested that the tendered tariff sheets be accepted for filing and permitted to become effective after thirty (30) days following the date of filing.

El Paso further states that copies of the instant tender have been served upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before February 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person whishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3537 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-24-000]

Equitable Gas Co.; Proposed Change in Rates

February 5, 1982.

Take notice that Equitable Gas Company (Equitable) on January 29, 1982, tendered for filing with the Commission Third Revised Sheet No. 10-G to its FERC Gas Tariff, First Revised Volume No. 1, to become effective March 1, 1982. Equitable Gas Company states that the change in rates results from the application of the Purchased Gas Cost Rate Adjustment provision in Section 5 of Rate Schedule GS-2 of FERC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. CP 80-473.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket No. CP 80-473).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3538 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-13-00 (PGA82-1a)]

Gas Gathering Corp.; Compliance Filing Under Purchased Gas Adjustment Clause Provision

February 5, 1982.

Take notice that Gas Gathering Corporation (GGC), on January 29, 1982 tendered for filing a revised compliance rate in its FERC Gas Tariff providing for charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under G.G.C.'s PGA clause. The revised rate would decrease the rate currently permitted to be charged Transco by 10.8041 cents per Mcf. The proposed changes are proposed to be made effective January 1, 1982. G.G.C. states that the revised rates are filed to reflect the use of subaccounts in the calculation of its recovery of its unrecovered purchased gas cost and to employ the gathering charge presently authorized in Docket No. RP 82-7-000.

A copy of the filing has been serviced upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Copies of this filing are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3521 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5850-000]

Goshen Hydro Associates; Application for Preliminary Permit

February 5, 1982.

Take notice that Goshen Hydro Associates (Applicant) filed on January 4, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5850 to be known as the Goshen Dam Hydropower Project located on the Little Calfpasture River in Rockbridge County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) an existing 1,300-foot long and 38-foot high concrete dam; (2) a reservoir with a surface area of 700 acres and a gross storage capacity of 11,200 acre-feet; (3) a proposed powerhouse located at the right abutment of the dam with a total generating capacity of 250 kw; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates the annual energy output to be 1.0 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to the Virginia Electric Power Company by the Applicant.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 18 month permit, during which time studies would be made to determine the engineering, environmental and economic feasibility of the project, secure financing commitments, consult with Federal, State and local government agencies for information, comments and recommendations, relevant to the project, and prepare an application for FERC license, including an environmental report. The Applicant estimates the cost of the studies to be $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 16, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service or Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3530 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-34-000]

Gulf States Utilities Co.; Application

February 4, 1982

Take notice that on January 27, 1982, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204 of the Federal Power Act, authorizing the issuance of intermediate notes in an aggregate principal amount not to exceed $800,000,000 at any one time outstanding under a loan agreement with certain banks.

Any person desiring to be heard or to make any protest with reference to the application should on or before February 19, 1982, file with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commisssion and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3540 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5783-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

(February 5, 1982)

Take notice that Homestake Consulting & Investments, Inc. (Applicant) filed on December 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5783 to be known as the Woodward Tributary Project located on a tributary to South Woodward Creek, in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P. O. Box 1467, Noxon, Montana 59853.

Project Description—The proposed project would consist of: (1) a 3-foot high concrete structure; (2) a 16-inch diameter, 2,750-foot long penstock; (3) a powerhouse containing two generating

units with a total installed capacity of 200 kw; and (4) a 4.7-mile long transmission line. The estimated average annual energy production is 877,000 kwh. The proposed project would occupy lands within the Flathead National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 36-month permit during which time field engineering, environmental, and feasibility studies will be undertaken in order to prepare an application for license or an exemption. No new roads would be required to conduct the studies. The applicant estimates the cost of these activities will be $2,405.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 19, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 17, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3541 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-105-000]

Indiana & Michigan Electric Co.; Refund

February 5, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Indiana & Michigan Electric Company filed a refund report pursuant to the Commission's letter order issued on January 19, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 25, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3522 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-39-000]

Lawrenceburg Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 5, 1982.

Take notice that Lawrenceburg Gas Transmission Corporation (Lawrenceburg), on January 28, 1982, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, in order to effectuate a general increase in its jurisdictional wholesale natural gas rates proposed to become effective February 28, 1982.

The proposed changes would increase revenues from jurisdictional sales and service by $48,895 based on the twelve months period ended November 30, 1981 as adjusted.

The increase in tariff rates has been occasioned by increases in costs which are known and measurable, and which are now effective or will become effective within nine months of November 30, 1981. These increased costs are attributable to (1) increased operating expenses, (2) increased rate base and (3) increase in rate of return and associated taxes.

Copies of this filing were served upon Lawrenceburg's two jurisdictional wholesale customers and to the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3523 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5809-000]

Lockheed Missiles & Space Co., Inc.; Application for Preliminary Permit

February 4, 1982.

Take notice that Lockheed Missiles and Space Company, Incorporated (Applicant) filed on December 23, 1981,

an application for preliminary permit [pursuant to the Federal Power Act, 16, U.S.C. 791(a)–825(r)] for Project No. 5809 to be known as the Big Creek Water Power Project located on Big Creek in Santa Cruz County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. L. Hubbard, Vice-President Lockheed Missiles and Space Company, Incorporated, Bldg. 101, Dept. 40–01, 1111 Lockheed Way, Sunnyvale, California 94086.

Project Description—The proposed project would consist of: (1) A 400-foot high, 1,200-foot long earthen dam; (2) an additional 75-foot high, 200-foot long earthen dam; (3) a 7,000-foot long, 26-inch diameter penstock; (4) a powerhouse with a total rated capacity 1.5 MW; and (4) a 3.5-mile long transmission line from the powerhouse to an existing 12-kV transmission line. The Applicant estimates that the average annual energy production would be 9 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. The applicant estimates that the cost of undertaking these studies would be $90,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 15, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–3563 Filed 2–9–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA82–1–60–000]

Locust Ridge Gas Co.; Change in Rates

February 5, 1982.

Take notice that on January 29, 1982, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and the following tariff sheets to be effective March 1, 1982:

Ninth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a revision in Locust Ridge's rate to reflect proposed changes in the Purchased Gas Adjustment (PGA) component of Locust Ridge's rate for the period of March 1, 1982 thru August 31, 1982. The overall effect of the filed for adjustments to Locust Ridge's G–1 sales rate is an increase of $.4925.

Locust Ridge requests waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1982.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–3562 Filed 2–9–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP81–61–002]

Michigan Wisconsin Pipe Line Co.; Proposed Modification in FERC Gas Tariff

February 5, 1982.

Take notice that on January 20, 1982, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing modifications under Rate Schedules X–72, X–73 and X–92 of Michigan Wisconsin's FERC Gas Tariff, First Revised Volume No. 2 which was originally filed with the Commission pursuant to Michigan Wisconsin's General Rate Increase Filing at Docket No. RP81–61.

Michigan Wisconsin states that because of the suspension period associated with the filing of such tariff sheets at Docket No. RP81–61, and subsequent tariff revisions involving the aforementioned rate schedules, misfiling of the subject tariff sheets occurred.

Furthermore, Michigan Wisconsin states that the corrections will not materially affect the context of the subject rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3524 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5855-000]

Milburnie, Inc.; Application for Preliminary Permit

February 4, 1982.

Take notice that Milburnie, Inc. (Applicant) filed on January 6, 1982 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5855 to be known as the Milburnie Hydroelectric Power Project located on the Neuse River in Wake County, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Howard F. Twiggs, Milburnie, Inc., 143 Fayetteville Street Mall, Raleigh, North Carolina 27602.

Project Description—The proposed project would consist of: (1) An existing, 625-foot long and 14.5-foot high, stone masonry dam; (2) a proposed powerhouse with an installed generating capacity of approximately 1.2 MW; and (3) appurtenant facilities. The Applicant estimates the average annual energy generation to be 5,665 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a licence application. The applicant's estimated total cost for performing these studies is $1,500.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 15, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3554 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-25-006]

Mississippi River Transmission Corp.; Rate Change Filing

February 5, 1982.

Take notice that on January 29, 1982 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Eighty-First Revised Sheet No. 3A and Fifth Revised Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of March 1, 1982 is proposed.

Eighty-First Revised Sheet No. 3A is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account, and also reflects a base rate reduction being made in accordance with procedures set out in the Stipulation and Agreement at Docket No. RP78-77. Fifth Revised Sheet No. 3D indicates that Mississippi projects zero incremental pricing surcharges to its direct market and sale for resale customers.

The instant filing also contained Alternate Eighty-First Revised Sheet No. 3A carrying an effective date of March 1, 1982. Such sheet tracks an alternate PGA tariff sheet filed by Trunkline Gas Company, one of Mississippi's pipeline suppliers, also to be effective March 1, 1982. Mississippi requests Alternate Eighty-First Revised Sheet No. 3A be approved in the event the Commission approves the underlying, Trunkline alternate rate sheet.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3525 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-71-000]

Montana-Dakotas Utilities Co.; Settlement Conference

February 4, 1982.

Take notice that a settlement conference in the above-captioned docket will be convened at 10:00 a.m., on February 24–26, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3543 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-38-000]

National Fuel Gas Supply Corp.; Proposed Tariff Change

February 5, 1982.

Take notice that on January 28, 1982, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 17, proposed to be effective March 1, 1982.

National states that the purpose of this revised tariff sheet is to change the definition of the term "day", the term "month" and the term "total heating valve" contained in the General Terms and Conditions of National Fuel Gas Supply Corporation's FERC Gas Tariff Original Volume No. 1. This change in terms will make National's operations more compatible with the operations of it major pipeline suppliers.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure 18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3526 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-26-001]

Natural Gas Pipeline Co. of America; Change in Rates

February 4, 1982.

Take notice that on January 20, 1982, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective March 1, 1982:

Forty-sixth Revised Sheet No. 5
Fifth Revised Sheet No. 5C
Fifth Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under the PGA and incremental pricing sections of its tariff. The overall effect of the filed for adjustments is to increase Natural's DMQ–1 rates by $0.01 in the demand component and 17.49¢ in the commodity component. Appropriate adjustments were also made to Natural's other sales rate schedules. The adjustments and annualized revenue increase, amounting to approximately $160.0 million, are summarized below.

	Rate schedule DMQ–1 rate adjustment		Annualized jurisdictional revenue increase (decrease) (millions of dollars)
	Demand	Commodity (cents)	
Purchased gas cost adjustment:			
Producer supplier		12.59	$114.8
Pipeline supplier	$0.01	1.55	14.6
Deferred purchased gas cost		3.35	30.6
Total	0.01	17.49	160.0

Sheet Nos. 5C and 5D reflect projected incremental pricing surcharges (MSAC) of $11,342 for the six month period beginning March 1, 1982. Only three of Natural's offsystem sales customers had MSAC's to report.

Natural states that the deferred purchased gas balance was restated to reflect provisions of Articles VII and IX of the Stipulation and Agreement at Docket No. RP80–107 which was approved by Commission order issued December 7, 1981.

Natural states that its deferred purchased gas cost recovery rate includes $7.7 million for amounts due under Order Nos. 93 and 93–A for the period April 24, 1981 through August 31, 1981. Natural has requested waiver of the Commission's regulations and Order 93–A to include the retroactive payments in this PGA filing. Natural states that inclusion at this time would permit more timely recovery and save Natural's customers approximately $410,000 in carrying charges.

Natural requests any additional waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1982.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3561 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-254-000]

Niagara Mohawk Power Corp; Proposed Tariff Change

February 5, 1982.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on January 27, 1982, tendered for filing as a rate schedule, an agreement between Niagara and the Department of Public Service for the State of Vermont (Public Service) dated November 1, 1981.

Niagara states that the agreement provides for the purchase for resale to the Department of Public Service for the State of Vermont of short term power and associated energy from Ontario Hydro and to provide transmission service for the delivery of said short term power and associated energy.

Niagara requests an effective date of November 1, 1981, and therefore requests waiver of the Commission's notice requirements.

According to Niagara copies of the filing were served upon the Department of Public Service and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3527 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5766-000]

Frank B. Nichols; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 5, 1982.

Take notice that on December 14, 1981, Frank B. Nichols (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) 16 U.S.C. 2705 and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5766) would be located on the South Fork Bear Creek, near Shingletown, in Shasta County, California. Correspondence with the Applicant should be directed to: Dennis Dorratcague, Ott Water Engineers, 2334 Washington Avenue, Redding, California 96001.

Project Description—The proposed project would consist of: (1) A 6-foot high rock-fill diversion structure; (2) a 55-foot long and 11-foot high concrete box intake structure; (3) a 6,900-foot long, 42-inch diameter penstock; (4) a 5,000-foot long, 36-inch diameter penstock; (5) a reinforced concrete powerhouse, containing three generating units, two rated at 1,500 kW and one rated at 200 kW; (6) an access road; and (7) a 1.7-mile long transmission line. The average annual energy generation is estimated to be 10.6 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 31, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 31, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to : Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE, Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3544 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP73-8-028]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

February 5, 1982.

Take notice that North Penn Gas Company (North Penn) on January 29, 1982, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective March 1, 1982.

The change in rates contaned in this filing reflects an increase of 48.204¢ per Mcf pursuant to § 14.1 (PGA Clause) of North Penn's tariff to reflect supplier

rates which will be in effect on March 1, 1982.

Additionally, this filing reflects a surcharge credit of 17.236¢ per Mcf pursuant to Section 14.2 and Section 14.3 of North Penn's tariff which results from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period July 1, 1981 through December 31, 1981; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with Commission Regulations and a carry-over balance from the surcharge credit effective for the period March 1, 1981 through August 31, 1981.

In compliance with § 282.602(d) of the Commission's Regulation, North Penn states that it has had no activity in either of the accounts 192.1 or 192.2 for the prior PGA period.

North Penn respectfully requests a waiver of any of the Commission's Rules and Regulations as may be required to permit Sixty-Eighth Revised Sheet No. PGA–1 and Fifth Revised Sheet No. 15H, submitted herewith, to become effective March 1, 1982 as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3545 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-52-002]

Northern Natural Gas Company Division of InterNorth, Inc. Proposed Changes in F.E.R.C. Gas Tariff

February 5, 1982.

Take Notice that Northern Natural Gas Company Division of InterNorth, Inc. (Northern), on February 1, 1982 tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. These tariff sheets reflect the reduced annual level of revenue increase agreed to in settlement of the issues in Docket No. RP81–52. The revised tariff sheets filed by Northern, reflecting an increase in rates from jurisdictional market area sales of approximately $40 million to be effective October 27, 1981, would supersede those tariff sheets made effective October 27, 1981 by Commission Order of December 30, 1981 which reflected an increase in rates for jurisdictional market area sales of approximately $158 million.

Northern is also filing revised tariff sheets to be effective December 27, 1981 which would replace those made effective December 27, 1981 by Commission Order dated December 24, 1981 in Docket No. TA82–1–59 and reflect the revised base rates to be effective October 27, 1981 being filed in the previously described tariff sheets.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3546 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-167-001]

Oasis Pipe Line Co.; Extension Reports

February 5, 1982

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional period of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days proceeding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. The letter "C" indicates transportation by an intrastate pipeline under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 26, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 Subpart	Effective date
ST80–167–001	Oasis Pipe Line Co. P.O. Box 1188, Houston, TX 77001	Natural Gas Pipeline Co. of America	1/06/82	C	4/07/82
ST80–168–001	Houston Pipe Line Co. P.O. Box 1188, Houston, TX 77001	Natural Gas Pipeline Co. of America	1/06/82	C	4/07/82
ST80–173–001	United Gas Pipe Line Co. P.O. Box 1478, Houston, TX 77001.	Transcontinental Gas Pipe Line Corp	1/15/82	G	4/14/82
ST80–175–001	United Gas Pipe Line Co. P.O. Box 1478, Houston, TX 77001.	Texas Eastern Transmission Corp	1/04/82	G	4/01/82

[FR Doc. 82-3528 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5652-000]

George and Melvin Osborne; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 5, 1982

Take notice that on November 16, 1981, George and Melvin Osborne (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5652) would be located on Fall Creek near American Falls, in Power County, Idaho. Correspondence with the Applicant should be directed to: Dale Hatch, P.O. Box 1071, Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) An existing 5-foot high concrete diversion dam; (2) an intake; (3) a 36-inch diameter steel pipeline; (4) a powerhouse containing one generating unit rated at 50 kW; (5) a 6-foot high concrete diversion structure; (6) a 2,640-foot long, 36-inch diameter steel pipeline; (7) a powerhouse containing one generating unit rated at 110 kW; and (8) a transmission line. The average annual energy generation is 740,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before March 23, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 23, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE, Washington, D.C.20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each represenntative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3547 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5713-000]

Owens Corning Fiberglas Corp., 1-S; Application for Preliminary Permit

February 4, 1982

Take notice that Owens Corning Fiberglas Corporation, 1-S (Applicant) filed on December 3, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5713 to be known as the Ashton Dam Hydroelectric Project located on the Blackstone River in Providence County, Rhode Island. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Domenic Mitchroney, Plant Manager, Owens Corning Fiberglas Corporation, 1-S, Front Street, Ashton, Rhode Island 02864, and Mr. Steven R. Krous, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914.

Project Description—The proposed run-of-the-river project would consist of: (1) The existing granite block Ashton Dam (owned by Ronci Manufacturing Co., Inc.); (2) a reservoir with a storage capacity of about 112 acre-feet at surface elevation 73.6 feet m.s.l.; (3) a modified gate structure; (4) a new powerhouse to contain a 690-kW turbine/generator unit; (5) a 2,300-foot long transmission line; and (6) other appurtenances. The estimated annual generation would average about 4,219,000 kWh. Project energy would be sold to Blackstone Valley Electric Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 2 years during which time Applicant would investigate project design alternatives, financial feasibility,

environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $28,200.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself [See 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3555 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-141-000]

Public Service Company of New Hampshire; Order Accepting for Filing and Suspending Proposed Rates, Granting Intervention, and Establishing Procedures

Issued February 5, 1982.

On December 7, 1981, Public Service Company of New Hampshire (PSNH) tendered for filing a proposed tariff [1] for non-firm transmission service over facilities of PSNH designated by the New England Power Pool (NEPOOL) Agreement as Pool Transmission Facilities or PTF. There are currently no purchasers under the tariff, which is not designed to apply to service available under the NEPOOL Agreement. The proposed rate of $9.87 per kilowatt per year, for service provided during 1981, is based on data for 1980. The tariff anticipates an annual updating of this charge based on actual costs of the preceding calendar year. PSNH requests an effective date of February 5, 1982, and indicates that it will file executed service agreements under the tariff as customers contract for the service.

Notice of the filing was issued on December 15, 1981, with responses due on or before January 4, 1982. On January 4, 1982, the Vermont Department of Public Service (VDPS) and the Vermont Electric Power Company (VELCO) filed petitions to intervene. Neither VDPS nor VELCO has raised specific substantive issues; VDPS notes that the proposed rate represents a substantial increase over existing rates for transmission service while VELCO contends that the proposed rates are unjust and unreasonable and requests suspension and a hearing.

Also on January 4, 1982, the Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company, which are three operating subsidiaries of Northeast Utilities (NU Companies), filed a petition to intervene and a protest. NU Companies allege that the proposed rate, which is based on a minimum one-month billing period, is unjust and unreasonable because it does not properly reflect actual usage on less than a monthly basis. NU Companies further state that the proposed monthly minimum charge is contrary to past practice between the parties and to the present practice among electric utilities in New England.

Discussion

The Commission finds that participation in this proceeding by VELCO an NU Companies is in the public interest. Accordingly, their petitions to intervene will be granted. The timely filed pleading by the VDPS is sufficient to initiate its participation as intervenor.

While the intervenors do not challenge PSNH's method for developing the annual transmission cost or the specific annual cost stated as a basis for the 1981 unit charge, they do object to the billing and billing demand provisions contained in the proposed tariff, arguing that these provisions may result in excessive charges. We agree that these matters present questions to be pursued at a hearing. Upon review of the filing, the Commission concludes that PSNH's proposed tariff has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed tariff for filing and suspend its operation as ordered below.

In a number of suspension orders, [2] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and

[1] Designated as: *Public Service Company of New Hampshire*, FERC Electric Tariff, Original Volume No. 1, Original Sheets Nos. 1–12.

[2] E.g., *Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, et al. (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-486 (August 22, 1980) (one day suspension).

inequitable results. Such circumstances have been presented here. The Commission notes that no customer is currently taking service under the proposed tariff and that no service may be rendered pursuant to the tariff absent filing (and notice) of an appropriate service agreement. As a result, a nominal suspension, a refund obligation, and the initiation of a hearing should adequately protect the interest of the parties to this proceeding as well as any other potential tariff customers. Accordingly, we shall exercise our discretion to suspend the operation of the tariff for one day, permitting it to take effect, subject to refund, on February 7, 1982.

The Commission Orders

(A) PSNH's proposed tariff is hereby accepted for filing and suspended for one day, to become effective on February 7, 1982, subject to refund.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, paraticularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of PSNH's transmission tariff.

(C) VELCO and NU Companies are hereby permitted to intervene in this proceeding subject to rules and regulations of the Commission; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* That the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates, and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3556 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-105-000]

Sierra Pacific Power Co.; Order Accepting for Filing and Suspending Revised Rates, Waiving Regulations, Granting Interventions and Establishing Price Squeeze and Hearing Procedures

Issued: February 5, 1982.

On November 16, as revised on December 9, 1981,[1] Sierra Pacific Power Company (Sierra) tendered for filing a proposed two-step increase in rates for firm power service to five wholesale customers.[2] The proposed first step (Phase I rates) would result in an increase in revenues of $2,319,000 (39.0%) for the twelve month period ending December 31, 1982. The proposed second step (Phase II rates) would result in an additional increase in revenues of $459,000 (7.7%). The total increase in revenues (Phase I and II) would be $2,778,000 (46.8%). Sierra requests an effective date of January 17, 1982,[3] for both the Phase I and Phase II rates. Sierra states that if the Phase I rates are suspended for no more than one day, it would not object to a five-month suspension of the Phase II rates; however, if the Phase I rates are suspended for more than one day, Sierra requests that the Commission deem the Phase I rates withdrawn with the Phase II rates to become effective after the suspension period.

Notice of the filing was issued on November 27, 1981, with comments, protests, or petitions to intervene due on or before December 14, 1981. On December 14, 1981, CP National Corporation (CP National) filed a petition to intervene. In its petition, CP National raises no substantive issues but requests participation in any proceedings which may be ordered.

On December 14, 1981, Pacific Gas and Electric Company (PG&E) filed a petition to intervene. PG&E states that because its load characteristics are significantly different from the rest of the wholesale customer class, it may be subsidizing the wholesale class under the methodology employed by Sierra.

On December 14, 1981, Mt. Wheeler Power, Inc. (Mt. Wheeler) filed a petition to intervene which requests that both phases of the proposed rate be suspended for five months. In support of its request Mt. Wheeler raises cost of service, rate design, and capital structure issues, including allegations of Sierra's failure to reflect Mt. Wheeler's extensive investment in transformation facilities, an excessive return on common equity, a twelve-month billing demand ratchet which is discriminatory to seasonal purchasers, and that the cost of service does not reflect reduced fuel costs associated with the commencement of operation of the Valmy plant.

On December 14, 1981, the Truckee-Donner Public Utility District, California and the City of Fallon, Nevada (TDPUD and Fallon) filed a protest and petition to intervene requesting a hearing and five months suspension for both phases of the proposed rate increase. TDPUD and Fallon challenge the test period income tax deductions, O&M expenses, the return on common equity, the working capital allowance, and the inclusion of PG&E's increased rate for power sold to Sierra in Docket No. ER81-679-000. In addition to the cost of service issues, TDPUD and Fallon allege price squeeze.

In addition to the petitions to intervene, residential customers in the Truckee-Donner Public Utility District filed a number of protests which object to the proposed rate increase.

On December 31, 1981, Sierra filed an answer to the petitions to intervene and protest refuting the allegations raised.

On January 4, 1982, the Secretary of the Army (Secretary) filed an untimely protest and petition to intervene which raises no new substantive issues, but requests the maximum suspension period. According to the Secretary, an intervening federal holiday prevented earlier filing of its petition.

On January 13, 1982, TDPUD and Fallon filed a response to Sierra's answer to its petition to intervene.

Discussion

Initially, we find that participation in this proceeding by each of the petitioners is in the public interest. Also,

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[1] Sierra amended its initial rate increase request to correct certain inadvertent errors in its cost of service which were brought to the attention of the company by staff.

[2] See Attachment A for rate schedule designations. Sierra notes that one of its current wholesale customers, CP National Corporation, is excluded from its test period cost of service study because Sierra is acquiring CP's system. An application for approval of the acquisition pursuant to section 203 of the Federal Power Act was filed in Docket No. EC81-15-000 and was approved by the Commmission at its December 22, 1981, meeting.

[3] The requested effective date is 60 days after the date of initial submission of material in this docket.

we find that good cause exists to permit the Secretary of the Army to intervene out of time. Therefore, the petitions to intervene will be granted.

We believe that good cause has been shown to grant Sierra's request for a waiver of the notice requirements because its amended filing was made merely to correct inadvertent errors in its cost of service study, and the effect of such changes was a reduction in the revenue request.

Our analysis indicates that Sierra's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

In a number of suspension orders,[4] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here with regard to the proposed Phase I rates. While the intervenors have raised issues warranting further inquiry, our preliminary review of the filing suggests that Sierra's Phase I rates may not produce excessive revenues. However, no circumstances have been presented here to show that suspension of the proposed Phase II rates for the maximum period may lead to harsh and inequitable results. Accordingly, we shall suspend the Phase I rates for one day to become effective, subject to refund, on January 18, 1982, and we shall suspend the Phase II rates for five months to become effective, subject to refund, on June 17, 1982.

Finally, it is noted that a portion of the purchased power expenses included in Sierra's cost of service is being collected, subject to refund, in *Pacific Gas and Electric Company*, Docket No. ER81-679-000 (October 23, 1981). Therefore, both the Phase I and Phase II rates in this proceeding shall be subject to the outcome of the proceedings in that docket.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79-339, order issued August 6, 1979, we shall phase the price squeeze issue raised by the intervenors. As we have noted in prior orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) Sierra's request for waiver of the notice requirements is hereby granted for good cause shown.

(B) Sierra's Phase I rates are hereby accepted for filing and are suspended for one day to become effective, subject to refund, on January 18, 1982.

(C) Sierra's Phase II rates are hereby accepted for filing and are suspended for five months to become effective, subject to refund, on June 17, 1982.

(D) Sierra's Phase I and Phase II rates shall be subject to the outcome of the proceedings in Docket No. ER81-679-000.

(E) Pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning Sierra's rates.

(F) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before February 9, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procudure.

(I) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulation as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

SIERRA PACIFIC POWER COMPANY

[Docket No. ER82-105-000]

Rate schedule designations

Designation and description	Other party
(1) Supplement No. 2 to supplement No. 7 to rate schedule FC No. 11 (revised sheets); revised sheet Nos. 4 and 8, schedule R, phase I rates.	Mt. Wheeler Power Company.
(2) FPC electric tariff, original volume No. 1, twelfth revised sheet No. 4, eight revised sheet No. 8, (supersedes eleventh revised sheet No. 4 and seventh revised sheet No. 8); schedule R, phase I rates.	Tariff customers.
(3) Supplement No. 3 to supplement No. 7 to rate schedule FPC No. 11 (revised sheets); revised sheet No. 4, schedule R, phase II rates.	Mt. Wheeler Power Company.
(4) FPC electric tariff original volume No. 1, thirteenth revised sheet No. 4 (supersedes twelfth revised sheet No. 4); schedule R, phase II rates.	Tariff customers.

[FR Doc. 82-3557 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-5258-001, et,al.]

Transcontinental Gas Pipe Line Corporation, et al.; Filing of Pipeline Refund Reports and Refund Plans

February 5, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date

[4] *E.g., Boston Edison Co.*, Docket No. ER80-509 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 19, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
10/19/81	Transcontinental Gas Pipe Line Corporation	G-5258-001	Report.
1/4/82	Tennessee Natural Gas Lines, Inc	RP81-143-003	LFUT Report.
1/18/82	Tennessee Gas Pipeline Company	RP81-38-005	Report.
1/18/82	Transcontinental Gas Pipe Line Corporation	G-5258-002	Report.
1/20/82	Cost Verification Committee	RP78-20	Filing.
1/22/82	Alabama-Tennessee Natural Gas Company	RP81-126-006	LFUT Report.
1/26/82	National Fuel Gas Supply Corporation	RP80-95-005	SRO report.

[FR Doc. 82-3548 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5843-000]

Tranquillity Irrigation District; Application for Preliminary Permit

February 4, 1982.

Take notice that Tranquillity Irrigation District (Applicant) filed on December 31, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5843 to be known as the Kaiser Creek Project located on Kaiser and Westfall Creeks, within Sierra National Forest in Fresno County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Keith Miller, Tranquillity Irrigation District, P.O. Box 487, 25390 Silveira Street, Tranquillity, California 93668.

Project Description—The proposed project would consist of: (1) A concrete faced rock fill storage dam on Kaiser Creek, 115 feet high with 2,700 acre-feet capacity at water surface elevation 5,310 feet and two diversion dams, one on Kaiser Creek 20 feet high, crest elevation 5,160 feet and one on Westfall Creek 10 feet high, crest elevation 5,170 feet, both with negligible storage; (2) diversion pipelines 700, 12,900 and 3,150 feet long; (3) two powerhouses containing turbine generators with capacities of 630 kW and 7,900 kW and annual energy outputs of 2.2 GWh and 29.4 GWh, respectively; and (4) transmission lines 2.3 and 11.4 miles long. The Southern California Edison Company is a potential customer for project-generated power.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which time engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $350,000.

Competing Applications—This application was filed as a competing application to Hydroelectric Power Engineer's application for Project No. 5359 filed on September 14, 1981, and Modesto Irrigation District's application for Project No. 5446, filed on October 2, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3558 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-37-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern), on January 26, 1982 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

First Revised Sheet, No. 120
Original Sheet, No. 121
Original Sheet, No. 122
Original Sheet, No. 123
Third Revised Sheet, Nos. 124 through 141

The purpose of this filing is to set forth a new Section 27 to the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1, to provide for the tracking of electric power costs attributable to compressor stations on Texas Eastern's system which have electric motor prime movers.

Texas Eastern is unique as compared to other pipelines in that approximately 27 percent of the compressor horsepower on its pipeline is electric motor driven, as contrasted with only

approximately .5 percent of electric motor driven horsepower for the aggregate of 28 other interstate pipelines. Such electric power costs have been increasing by 20 percent compounded annually and are currently approximately $31,000,000 to Texas Eastern for the twelve month period ended December 31, 1981. Additional substantial increases are anticipated. Because the costs involved are equivalent to gas costs for gas fueled units, Texas Eastern believes that the proposed tracker is consistent with the prupose and objective of Section 154.38 of the regulations which permit the tracking of increases in gas costs, including increases in the cost of gas to fuel compressors. Further, in light of the fact that Texas Eastern incurs such a substantial amount of costs related to electric motor-driven compressor stations as compared to other pipelines, Texas Eastern feels it appropriate for the Commission to place it on a cost-tracking parity with other interstate pipeline companies.

The proposed effective date is March 1, 1982.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commision, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such Petitions or Protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are availale for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3562 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-29-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

February 5, 1962.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on January 29, 1982 Third Revised Twenty-Second Revised Sheet No. 12, Third Revised Twenty-Second Revised Sheet No. 15 and Fifth Revised Sheet No. 16 to Second Revised Volume No. 1, and Second Revised Twenty-Eighth Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective March 1, 1982, reflect a net increase of 20.8¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S–2 rate schedules, a net increase of 22.9¢ per dt in the commodity charge under the ACQ rate schedule, and a net decrease of 2.1¢ per dt in the delivery charge of the X–20 rate schedule.

Transco states that these changes have been computed in accordance with applicable tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under Transco's PGA clause amounts to an increase of 22.9¢ per dt in the commodity or delivery charge in its CD, G, OG, E, PS, S–2 and ACQ rate schedules. This increase is comprised of a 4.3¢ per dt decrease in the Deferred Adjustment offset by a 27.2¢ per dt increase in the current gas cost adjustment. The decrease in the Deferred Adjustment represents the difference between the currently effective negative Deferred Adjustment of 14.0¢ per dt and the proposed negative Deferred Adjustment of 18.3¢ per dt required to eliminate, over the six-month period commencing March 1, 1982, the credit balance of $61,364,003 accumulated in Transco's Unrecovered Purchased Gas Cost Account at December 31, 1981. Transco further states that its tracking rate change to reflect curtailment credits is a decrease of 2.1¢ per dt in the commodity or delivery charge under its CD, G, OG, E, PS, S–2 and X–20 rate schedules. This decrease represents the difference between the currently effective unit adjustment of 1.2¢ per dt and the proposed unit adjustment of (0.9)¢ per dt, and is designed to eliminate, over the six-month period beginning March 1, 1982, the estimated credit balance in the Deferred Account as of February 28, 1982 in accordance with Section 20 of the General Terms and Conditions of Second Revised Volume No. 1 of Transco's FERC Gas Tariff.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3529 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-106-004]

Trunkline Gas Co.; Change in Tariff

February 5, 1982.

Take notice that on January 26, 1982 Trunkline Gas Company (Trunkline) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Thirty-Eighth Revised Sheet No. 3–A

An effective date of January 1, 1982 is proposed.

Trunkline states that this submittal implements the settlement in Docket No. RP80–106 approved by Commission Order dated December 18, 1981 utilizing the current 1982 GRI Funding Unit as approved by Commission order in Docket No. RP81–72 (TA82–1–30–000) (GRI82–1).

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3530 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-30-001]

Trunkline Gas Co.; Change in Tariff

February 4, 1982.

Take notice that on January 15, 1982 Trunkline Gas Company (Trunkline) tendered for filing Thirty-Ninth Revised Sheet No. 3–A and Sixth Revised Sheet No. 3–B to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that these revised tariff sheets reflect rate adjustments as follows:

(1) A PGA Rate Adjustment in accordance with Section 18 of the General Terms and Conditions which reflects increases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(2) A "Reduced PGA" rate, and projected incremental pricing surcharges for each direct sale non-exempt industrial boiler fuel facility and each sale-for-resale customer in accordance with Section 21 of the General Terms and Conditions.

An effective date of March 1, 1982 is proposed.

Truckline states that this PGA Rate Adjustment filed herewith reflects payments to Trunkline's applicable gas suppliers pursuant to the Commission's Order Nos. 93 and 93–A issued in Docket No. RM80–33. Trunkline commenced paying its affected gas suppliers on the basis of Order Nos. 93 and 93–A for purchases made during the month of August, 1981.

On December 24, 1981 the Commission issued an order in Docket No. RM80–33 which vacated the partial stay previously granted in these proceedings. The Commission's order of December 24, 1981 reaffirmed the December 1, 1978 effective date of the so-called "Btu rule" (18 CFR 270.204) which prescribes the standard for determining the Btu content of natural gas in calculating maximum lawful prices under the Natural Gas Policy Act of 1978. Therefore, in view of the Commission's order of December 24, 1981 Trunkline has also included an amount in the instant PGA Rate Adjustment to reflect payments to affected producers retroactive to December 1, 1978 based on the application of Section 270.204 of the Commission's Regulations. The amount of retroactive payments included herein is $25,587,818, which is a portion of Trunkline's obligation to its gas suppliers as a result of the application of Section 270.204 retroactive to December 1, 1978. Trunkline is in the process of finalizing its computations with respect to its total obligations related to these retroactive payments. However, the amount included herein, $25,587,818, has been identified by Trunkline as a portion of its obligation to make these retroactive payments, and such amounts will be disbursed by Trunkline prior to March 1, 1982 effective date of the instant PGA Rate Adjustment.

In addition, on December 18, 1981, the Commission issued an order in Trunkline's pending general rate proceeding, Docket No. RP80–106, which order, with certain modifications, approved the Stipulation and Agreement dated August 26, 1981. This Stipulation and Agreement disposed of all issues in this proceeding with the exception of the issues relating to the transportation, handling and separation of natural gas liquids and liquefiable hydrocarbons, which the parties proposed to resolve in a subsequent phase of the Docket No. RP80–106 proceeding.

This Stipulation and Agreement would impact the proposed rate adjustment. However, the 30-day period for filing petitions for rehearing has not yet expired. Therefore, Trunkline submits herewith for filing six (6) copies each of the following alternate revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Alternate Thirty-Ninth Revised Sheet No. 3–A

Alternate Sixth Revised Sheet No. 3–B

An effective date of March 1, 1982 is proposed. These alternate tariff sheets reflect this PGA Rate Adjustment, incorporating the provisions of the Stipulation and Agreement in Docket No. RP80–106. Other rate adjustments included in this alternate submittal are as follows:

(1) A Purchased Gas Transmission and Compression tracking adjustment pursuant to Article V of the Stipulation and Agreement in Docket No. RP80–106; and

(2) A Gas Purchase Prepayments tracking adjustment pursuant to Article X of the Stipulation and Agreement in Docket No. RP80–106; and

(3) An Advance Payment tracking adjustment pursuant to Article IV of the Stipulation and Agreement in Docket No. RP80–106.

If the Sitpulation and Agreement in Docket No. RP80–106 becomes effective pursuant to Article XIII thereof prior to March 1, 1982, Trunkline proposes that these alternate tariff sheets be accepted for filing and approved by the Commission in lieu of the proposed revised sheets.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825, North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3883 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-253-000]

Union Electric Co.; Filing

February 5, 1982.

The filing Company submits the following:

Take notice that on January 26, 1982, Union Electric Company (Union) tendered for filing a new delivery point under Appendix II of the Interchange Agreement between Union and Associated Electric Cooperative, Inc. (AEC). Such delivery point provides for a new connection between the parties and facilities use payments by AEC to Union.

Union requests an effective date of November 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3531 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-245-000]

Virginia Electric and Power Co.; Filing

February 5, 1982.

The filing Company submits the following:

Take notice that Virginia Electric and Power Company (VEPCO) on January 25, 1982, tendered for filing a supplemental contract on behalf of Prince William Electric Cooperative (Prince William) which corrects incorrect lists for certain items due to changes made in the past at the delivery points by the company and the Cooperative.

The proposed changes are as follows:

Present FERC No., 83-49.
Proposed FERC No., To be designated by FERC.
Requested effective date, May 20, 1981.
Items corrected, 5. (1), 10, 11.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3532 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-61-001 (PGA82-1)]

West Lake Arthur Corp.; Proposed Change in FERC Gas Tariff

February 5, 1982.

Take notice that on January 18, 1982, West Lake Arthur Corporation (West Lake) tendered for filing First Revised Sheet No. 4 proposed to be effective February 1, 1982.

Copies of this filing were mailed to West Lake's jurisdictional customer and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3533 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3131-001]

Williams River Electric Corp.; Application for License (5 MW of less)

February 4, 1982.

Take notice that Williams River Electric Corporation (Applicant) filed on November 30, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as Brockways Mills Hydro Project No. 3131. This application was filed during the term of the Applicant's preliminary permit for Project No. 3131. The project would be located on the Williams River in Windham County, Vermont. Correspondence with the Applicant should be directed to: David F. Buckley, President, Williams River Electric Corporation, 18 Bridge Street, Bellow Falls, Vermont 05101.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) A new dam, 135 feet long and 15 feet high, located at an old damsite and constructed of concrete with a 107-foot long ogee spillway section and provision for 3-foot high flashboards to an elevation of 442 feet m.s.l.; (2) a reservoir having minimal pondage; (3) a new intake structure located just upstream of the dam at the right river bank; (4) a new 400-foot long penstock consisting of a 5.5-foot square reinforced concrete conduit, underground, transitioning to a 5.5-foot diameter steel pipe, above ground, and leading to (5) a new powerhouse containing two new turbine-generator units with a rated capacity of 772 kW and 343 kW, respectively, for a total rated capacity of 1,115 kW; (6) a tailrace; (7) a new underground transmission line, approximately 400 feet long, connecting to an existing above ground transmission line; and (8) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 3,432,000 kWh. Project energy will be sold to electric utilities in the state of Vermont.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, The National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 19, 1982, either the competing application itself [see 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in §§ 4.33(c) or 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the

Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3559 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5640-000]

Winchester Water Control District; Application for Preliminary Permit

February 4, 1982.

Take notice that Winchester Water Control District (Applicant) filed on November 12, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5640 to be known as the Winchester Water Control District located on North Umpqua River in Douglas County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Don Akre, P.O. Box 661, Winchester, Oregon 97495.

Project Description—The proposed project would consist of: (1) an inlet structure on the existing dam reservoir; (2) a powerhouse with a total installed capacity of 4,000 kW; and (3) a 250–foot long transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 22.9 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct tehnical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $108,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 18, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commisssion's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must by sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3560 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-255-000]

Wisconsin Public Service Corp.; Filing

February 5, 1982.

The filing Company submits the following:

Take notice that Wisconsin Public Service Corporation (WPS) on January 28, 1982, tendered for filing a Supplement dated January 21, 1982 to its Rate Schedule FERC No. 41, which is a power service Agreement, dated October 16, 1981, between WPS and Wisconsin Public Power Incorporated System, Sun Prairie, Wisconsin (WPPI).

WPS also tendered for filing together with the Supplement above referred to an agreement for cancellation of the following service agreement and rate schedule with the City of Eagle River (City), a municipal wholesale customer:

Rate Schedule FPC No. 24—Agreement dated November 20, 1967, between WPS and City of Eagle River

WPS further states that the Supplement to Rate Schedule FERC No. 41 provides for designation of the City as an additional Delivery Point under that rate schedule at which electricity is to be delivered by WPS and purchased by WPPI for resale to the City. When the cancellation of Rate Schedule FPC No. 24 and the Supplement to Rate Schedule FERC 41 become effective, the City will cease to purchase energy from WPS and will thereafter be supplied by WPPI. Initially, WPS will continue to delivery energy for use by the City at the same delivery point and in the same manner as heretofore. Under the terms of the Agreement with WPPI (Rate Schedule FERC No. 41) on an interim basis until a new rate schedule for service by WPS to WPPI is filed, the charge for electric service furnished to WPPI at the City will be determined separately in the same manner as if the City were still a separate customer of WPS purchasing energy under WPS's standard rate schedule W–1 for primary resale service or other then applicable rate schedule, with the result that the quantitiy of service and revenues of WPS for electricity delivered by WPS at the City under the Agreement with WPPI will be the same as if the City were still a direct wholesale customer of WPS continuing to receive service under WPS's standard W–1 rate schedule.

Except for the designation of the City as an additional Delivery Point under the Agreement with WPPI, Rate Schedule FERC No. 41, this filing will result in no change in rates, schedules, or revenues of WPS.

WPS proposes an effective date of February 1, 1982, for the cancellation of the above-listed rate schedule and agreement with the City of Eagle River and the date when service to Eagle River as an additional Delivery Point to WPPI under the Rate Schedule FERC No. 41 will commence, and WPS therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3564 Filed 2-9-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed, Week of January 15 Through January 22, 1982

During the week of January 15 through January 22, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occur first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 3, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 15 through January 22, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 18, 1982	Bonneville Power Administration, Portland, Oregon	HER-0021	Request for Modification/Rescission. If granted: The December 7, 1981 Decision and Order (Case No. HFA-0008) issued to Sunbelt Energy Systems by the Office of Hearings and Appeals would be modified.
Jan. 18, 1982	Christian's 66 Service, Norman, Oklahoma	HRG-0007	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Christian's 66 Service in response to the Proposed Remedial Order (Case No. BRO-1538) issued to the firm.
Jan. 18, 1982	Texaco, Inc., Washington, D.C.	HRZ-0014	Interlocutory Order. If granted: The Office of Special Counsel would be deemed to have admitted certain matters specified in Texaco, Inc.'s Statement of Factual Objections, Third Submission, filed in Case No. DRO-0199.
Jan. 20, 1982	Everett St. Exxon, San Francisco, California	HRR-0020	Request for Modification/Recission. If granted: The December 9, 1981 Decision and Order (Case No. BRO-1465) issued by the Office of Hearings and Appeals to Everett St. Exxon would be rescinded.
Jan. 20, 1982	Frank J. Mikula, Kansas City, Missouri	HFA-0030	Appeal of an Information Request Denial. If granted: The December 14, 1981 Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Frank J. Mikula would receive access to certain DOE information.
Jan. 20, 1982	Frank Rollnot, St. Helens, Oregon	HEE-0010	Exception from the Reporting Requirements. If granted: Frank Rollnot would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report".)
Jan. 20, 1982	Gulf Oil Corporation, Washington, D.C.	HRZ-0015	Interlocutory Order. If granted: Certain factual representations in Gulf Oil Corporation's Factual Objections (Case No. DRO-0194) would be established as admitted.
Jan. 20, 1982	Milder Oil Company, Omaha, Nebraska	HES-0005	Request for Stay. If granted: Milder Oil Company would receive a stay of the December 12, 1977 Consent Order issued to the firm, pending a final determination on its Application for Exception (Case No. BEE-1326).
Jan. 22, 1982	Newsday, Long Island, New York	HFA-0032	Appeal of an Information Request Denial. If granted: The December 22, 1981, Information Request Denial issued by the Office of Special Counsel would be rescinded, and Newsday would receive access to documents relating to the gasoline allocation fractions used in 1979 by eleven oil companies.
Jan. 22, 1982	Paul B. Woodall, Jr., Washington, D.C.	HFA-0031	Appeal of an Information Request Denial. If granted: The December 10, 1981, Information Request Denial issued by the Director of the Office of Personnel would be rescinded, and Paul B. Woodall, Jr. would receive access to documents forwarded to his physician.

[FR Doc. 82-3450 Filed 2-9-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 21 Through December 25, 1981

During the week of December 21 through December 25, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Gulf Oil Corp., 12/23/81, BEA-0246, BEA-0390

Gulf Oil Corporation filed Appeals of two Assignment Orders issued by the DOE Region IV Office of Petroleum Operations (OPO). The Assignment Orders, issued on January 17, 1980 and February 6, 1980, respectively, required Gulf to assume the supply obligation for two new retail motor gasoline outlets, Jim Brown's Service and Milson Service Center. In both Appeals, Gulf alleged that the Assignment Orders were arbitrary and capricious for failure to consider explicitly the cumulative effects of all DOE Assignment Orders issued to Gulf on the firm's allocation fraction. In considering the Appeals, the DOE found that the firms had failed to demonstrate that the two Assignment Orders were arbitrary, capricious or erroneous in fact or in law. In particular, the DOE found that the OPO's failure to make

explicit findings regarding the cumulative effect of all Assignment Orders on Gulf's allocation fraction was not a fatal defect requiring the rescission of the Orders, since at the time the Orders were issued, the regulations and other official agency pronouncements did not require consideration of the cumulative effect of all Assignment Orders on a prime supplier before issuance of an Assignment Order. Accordingly, the Appeals were denied.

Rocky Flats/Nuclear Weapons Facilities Project, 12/23/81, BFA–0832

The Rocky Flats/Nuclear Weapons Facilities Project filed an Appeal from a partial denial by the Director of the DOE's Office of Classification of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the portions of the documents which were withheld contain Restricted Data as that term is defined in the Atomic Energy Act of 1954. The DOE therefore concluded that the material properly falls within Exemption 3 of the FOIA and should be withheld from the Project. Accordingly, the Appeal was denied.

Remedial Order

Ray MacAnanny, d.b.a. Safford Marina, 12/21/81, BRO–1454

Ray MacAnanny d.b.a. Safford Marina, filed a Notice of Objection to a Proposed Remedial Order issued to the firm by the Office of Enforcement on December 30, 1980. However, the firm did not file a Statement of Objections. Accordingly, the DOE determined that the Proposed Remedial Order should be issued as a final Remedial Order of the DOE.

Request for Exception

Mutual Oil Company, 12/23/81, DEE–2576

Mutual Oil Company filed an Application for Exception on March 19, 1979, seeking an increase in its base period allocation of motor gasoline. Specifically, the firm, a distributor of motor gasoline, contended that investments it made in reliance on the 1972 base period allocation justified an increase in the smaller base period allocation provided the firm through the updated November 1977 to October 1978 base period. In considering the request, the DOE found that the firm qualified for exception relief pursuant to the standards set forth in *Leo Anger, Inc.*, 4 DOE ¶ 81,037 (1978) and, therefore, found that the firm's base period allocation should be increased by an amount sufficient to permit the firm to obtain a reasonable return on its investment. Accordingly, exception relief was approved.

Motion for Discovery

Gulf Oil Corporation, 12/23/81, BRD–0112

The Gulf Oil Corporation filed a motion to compel discovery in connection with an enforcement proceeding pending before the Office of Hearings and Appeals. Gulf sought to compel the Office of Special Counsel for Compliance (OSC) to disclose documents which it had withheld from discovery on grounds of privilege.

As an initial matter, the DOE determined that the terms of a stipulation entered into by Gulf and the OSC prevented the OSC from contesting the discoverability of the documents at issue on relevance and materiality grounds. The DOE then addressed the OSC's invocation of the privilege for intra-agency communications, the attorney-client privilege, and the work-product doctrine. The DOE determined that it was not essential that the privilege for intra-agency communications be asserted by the Secretary of Energy. The DOE then determined that the OSC's privilege assertions with respect to three of the documents withheld should be upheld and that three other documents should be submitted to the Office of Hearings and Appeals for an *in camera* inspection. Finally, the DOE determined that the OSC had waived its right to invoke claims of privilege against Gulf with respect to one document which the OSC had inadvertently released to that firm. Accordingly, the motion was granted in part.

Supplemental Order

Gulf Oil Corporation, 12/22/81, HEX–0007

On November 24, 1981, the DOE issued a Decision and Order which increased Gulf's entitlements purchase obligation by $8.5 million on a subsequent Entitlements Notice. The November 24 Decision modified the provisions of a prior Decision that relates to the manner of providing exception relief to the Citronelle Unit. *Gulf Oil Corp.*, 9 DOE ¶ 82,509 (1981). In a submission received subsequent to the issuance of the November 24 Order, Gulf claimed that the entitlements purchase obligation was overstated. In considering the firm's submission, the DOE found that Gulf's claims were correct. Accordingly, the DOE issued a Supplemental Order that reduced Gulf's entitlements purchase obligation by approximately $125,000.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Ashland Oil, Inc.; DRA–0465, DRA–0540, BRA–0373.
Lampton-Love, Inc., DEE–2032.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 3, 1982.

[FR Doc. 82–3451 Filed 2–9–82; 8:45 am]
BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders, Week of January 11 Through January 15, 1982

During the week of November 16 through November 20, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Watkins, Ludlam & Stennis, 1/15/82, HFA–0017

Watkins, Ludlam & Stennis filed an Appeal from a partial denial by the Manager of the DOE Chicago Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In its request, Watkins sought copies of proposals submitted by Ertec concerning the DOE's National Waste Terminal Storage Program. In considering the Appeal, the DOE found that the Manager had properly withheld the proposals under Exemption 4 but that the withholding of resumes of employees, subcontractors and consultants had not been adequately justified. The Appeal was therefore granted in part and the matter remanded to the Manager.

Motion for Modification and/or Rescission

Caribou Four Corners, Inc., 1/15/82, BYR–0129

On May 5, 1981, Caribou Four Corners, Inc. (Caribou) filed a Motion for Reconsideration of a Supplemental Order issued to the firm by the Office of Hearings and Appeals of the Department of Energy on April 20, 1981. In the April 20 order, the DOE reviewed the entitlements exception relief granted to the firm for its 1980 fiscal year, which ended March 31, 1980. The DOE determined in that Order that Caribou should purchase $55,317 of entitlements to repay excessive exception relief the firm received during its 1980 fiscal year. In its Motion for Reconsideration, Caribou requested that the DOE modify the April 20 Order. In considering the firm's request, the DOE found that the firm did not qualify for prospective relief under the *Delta* standards, and that no compelling reasons existed for granting the firm retroactive relief. Furthermore, the DOE found that Caribou's entitlements purchase obligation should be increased to $341,637 to account for excessive exception relief accorded to the firm during its 1980 fiscal year. Accordingly, the firm's Motion for Reconsideration was denied.

Request for Exception

Texas City Refining, Inc., 1/15/82, DEE–1419, BER–0139

Texas City Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought exception relief from its entitlement purchase obligations during its fiscal year ended 1979.

In considering the request, the DOE found that the firm failed to qualify for relief from its entitlement purchase obligations. The DOE therefore affirmed a previously issued Supplemental Order which requires Texas City to repay the stay relief granted to the firm. In addition, the DOE found that Texas City does not qualify for entitlements relief on the basis of an expanded crude oil inventory. Accordingly, exception relief was denied. Among the issues discussed in the Decision and Order are the factors which determine a firm's eligibility for exception relief under the *Delta* standards.

Motions for Discovery

Ashland Oil, Inc., 1/13/82, HED–0020

Ashland Oil, Inc. filed a Motion for Discovery in connection with a pending exception request from its entitlement purchase obligations. In its Motion, Ashland submitted interrogatories which the firm wishes to pose to six participants in the Entitlements Program specified by Ashland. After considering Ashland's submission and comments of the six selected refiners, the DOE determined that the information sought by Ashland is critical to the firm's underlying exception request. In addition, the DOE determined that the scope of the discovery is adequate at this stage of the exception proceeding. Accordingly, Ashland's Motion for Discovery was granted.

Office of Special Counsel for Compliance, 1/15/82, BRD–0135

The Office of Special Counsel for Compliance (OSC) filed a Motion for Discovery directed toward the Marathon Oil Company relating to Marathon's objections to a Proposed Remedial Order (PRO) that was issued to the firm on May 1, 1979. In the motion, the OSC sought discovery concerning Marathon's "corporate state of mind" in applying the DOE Mandatory Petroleum Price Regulations and antecedent regulations governing the first sale price of domestic crude oil. The DOE determined that the material sought by the OSC motion was relevant, because Marathon had placed its corporate state of mind into issue by indicating it would raise affirmative defenses to the PRO. Accordingly, the OCS Motion for Discovery was granted.

Interlocutory Order

Office of Special Counsel for Compliance, 1/15/82, HRZ–0009

The Office of Special Counsel for Compliance (OSC) sought an order dismissing proposed alternative findings of fact and additional factual representations submitted by the Standard Oil Company of Ohio (Sohio) in connection with an enforcement proceeding pending before the Office of Hearings and Appeals and deeming certain factual propositions to have been admitted by the firm. The Office of Hearings and Appeals determined that in view of a stipulation entered into by the OSC and Sohio, the firm should be required to submit all existing documentation in support of its factual assertions in the enforcement proceeding. Sohio, however, was not required to submit affidavits in place of evidence which it intends to introduce by oral testimony. The Office of Hearings and Appeals further determined that the OSC should file a supplemental submission specifying with particularity the allegations which it claims have been admitted by Sohio.

Supplemental Order

Mid-Atlantic Legal Foundation, 1/12/82, BCX–0214

On April 3, 1980, the Office of Hearings and Appeals issued a Decision on a Freedom of Information Act (FOIA) Appeal filed by the Mid-Atlantic Legal Foundation. That Appeal concerned a determination in which the Director of Buildings and Community Systems of the Office of the Assistant Secretary for Conservation and Solar Energy (Director) had denied Mid-Atlantic access to portions of two proposals which the Consumer Energy Council of America (CECA) had submitted to the DOE. In the April 3, 1980 Decision, the OHA determined that the Director had properly withheld these portions under 5 U.S.C. § 552(b)(4) (Exemption 4). Mid-Atlantic subsequently sought judicial review of the OHA decision in the United States District Court for the Eastern District of Pennsylvania, and on April 29, 1981, the Court remanded the matter to OHA for further proceedings.

On August 19, 1981, Mid-Atlantic filed a Motion for Evidentiary Hearing, and on October 2, 1981, OHA issued a Decision granting that Motion, and scheduling an evidentiary hearing. On December 8, 1981, the OHA received a letter from CECA in which the organization stated that it withdrew from the case. In response, the OHA sent a mailgram to CECA stating that it would view the organization's failure to participate in the hearing as a waiver of the organization's claim of confidentiality for the withheld material. The OHA directed CECA to telephone it within two days if the organization intended to participate in the hearing, and stated that if it did not hear from CECA within that period of time, it would assume that CECA had decided not to participate and had therefore waived its claim of confidentiality. CECA did not contact the OHA. Accordingly, the OHA concluded that CECA had waived its claim of confidentiality and that the withheld material was therefore not exempt from mandatory disclosure under Exemption 4. The OHA therefore ordered that CECA be given seven days notice of the OHA's intent to release the two CECA proposals to Mid-Atlantic, and that after that period had elapsed, the material would be released to Mid-Atlantic in its entirety.

Dismissals

Company Name and Case No.

Armour Oil Company—BER–0157
Tony Barbaria, d/b/a Barbaria Shell Service—BRO–1478
Charter Oil Company—BEE–0284
Oil Transport Co., Inc.—BEE–1660
Office of Special Counsel/ARCO—HRZ–0013
Richard Ayers, Jobber, Inc.—BRD–1241, BRO–1241
Roger's Standard—BRW–0060

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commerically published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 3, 1982.

[FR Doc. 82–3482 Filed 2–9–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders, Week of January 18 Through January 22, 1982

During the week of January 18 through January 22, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of

1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 3, 1982.

Hatcher & Arthur Production Co., Irving, Texas, BEE–1687, crude oil

Hatcher & Arthur Production Co. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Hatcher & Arthur to recertify as newly discovered crude oil certain crude oil produced and sold during the months of September and October 1980. On January 19, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Hilo Coast Processing Company, et al., Washington, D.C., BEE–1697 through BEE–1701, petroleum substitutes

Hilo Coast Processing Company, Ka'u Sugar Company, Inc., Davies Hamakua Sugar Company, Mauna Loa Macadamia Nut Corporation, and Olokele Sugar Company filed Applications for Exception from the provisions of 10 CFR § 211.67(a)(5)(i)(F)–(H). The exception requests, if granted, would permit the applicants to receive benefits from the Entitlements Program as producers of petroleum substitutes. On January 19, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception requests be denied.

[FR Doc. 82-3453 Filed 2-9-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Consolidated Power Marketing Plan: Public Meetings Loveland—Fort Collins Area Office

AGENCY: Western Area Power Administration, Energy.

ACTION: Notice of public information meeting—Loveland-Fort Collins Area Office.

SUMMARY: The Western Area Power Administration (Western) announces the first public information meeting held to discuss criteria for the marketing of power resources by Western's Loveland-Fort Collins Area Office (LFCAO) commencing with the end of the 1989 summer season.

DATES: The public information meeting will be held on February 18, 1982, beginning at 9:30 a.m., in the Marabella Room of the Holiday Inn Northglenn. The Holiday Inn Northglenn is located north of Denver at 120th Avenue and I–25 (Exit 223), in Northglenn, Colorado.

Written comments on issues raised at the meeting may be submitted until March 20, 1982, to the LFCAO Area Manager at the address given below.

Interested parties are requested to submit Applicant Profile Data to the LFCAO Area Manager by April 8, 1982, at the address given below.

FOR FURTHER INFORMATION CONTACT: Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522, Telephone: (303) 224–7201.

Pursuant to the provisions of the Paperwork Reduction Act of 1980, Western is seeking clearance for the collection of information under these rules from the Office of Management and Budget and the Department of Energy, Energy Information Administration. A copy of these proposed rules has been sent to the Office of Management and Budget prior to publication in the **Federal Register.**

SUPPLEMENTARY INFORMATION: Western was established on December 21, 1977, under the Department of Energy Organization Act (DOE Act). The DOE Act transferred to the Secretary of Energy all the functions of the Secretary of the Interior with respect to the power marketing functions of the Bureau of Reclamation. Western was established to administer those functions transferred from the Bureau of Reclamation. Western's Loveland-Fort Collins Area Office markets power generated at 16 hydroelectric powerplants to customers in Colorado, Wyoming, Nebraska, and Kansas.

Most of the existing contracts for the sale of firm power and energy marketed by the LFCAO will expire at the end of the 1989 summer season. The LFCAO is developing criteria for the marketing of area Federal hydroelectric power commencing with the 1989–1990 winter season. Topics that will be discussed at the public information meeting on February 18, 1982, include: LFCAO power resources, LFCAO marketing history, and some marketing issues central to development of a LFCAO Post-1989 Power Marketing Plan.

Questions from interested persons will be allowed. If a question cannot be answered at the meeting, it will be addressed by Western either in writing or by making relevant documents available for inspection or copying. The public information meeting will be transcribed; copies of the transcript will be available from the transcription service for a fee. Brochures containing the presentations to be made at the public information meeting will be distributed at the meeting. Brochures may also be obtained from the LFCAO Area Manager at the address given above.

Written comments may be submitted to the LFCAO Area Manager until March 20, 1982. Parties interested in purchasing LFCAO power commencing with the 1989-1990 winter season are requested to submit the Applicant Profile Data, as described in the appendix to the brochure, by April 8, 1982.

Issued at Golden Colorado, February 1, 1982.

Robert L. McPhail,

Administrator.

Applicant Profile Data

1. *Eligibility.* A statement of eligibility as a preference customer under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

2. *Organization.* A brief description of the organization that will interact with the Western Area Power Administration (Western) on contracts and billing matters.

3. *Loads.* a. Number and type of customers served: residential, commercial, industrial, military base, and agricultural.

b. Maximum demand and energy use for 1978, 1979, and 1980 versus Contract Rate of Delivery (CROD).

c. Twenty-four-hour load curves for winter and summer peak days in 1978, 1979, and 1980.

d. 1978–1980 average annual and monthly load factors for your total system. Project load factors, if available, for the 1981–1994 period.

e. Projected monthly capacity and energy demand, 1981–1994. Indicate forecasting method and basic assuptions.

4. *Resources.* a. List of operating generating resources (if any), capacity, location, and 1980 availability factor.

b. Percent of total supply received from Western, 1981–1994.

c. Status of power supply contracted with parties other than Western.

5. *Transmission.* a. Voltage of service required and possible delivery points.

b. A brief description of the type of transmission service being requested of Western—direct or wheeled.

6. *Renewable Resources and Cogeneration Projects.* a. List of future firm and planned resources (if any), capacity location, scheduled operation date, and expected annual average lifetime capacity factor.

b. Estimated busbar cost (cent/kWh) of each project in 1980 dollars.

c. As appropriate, proposed plans for wheeling to Western's system.

7. The name, address, and telephone number (of a contact person) of the consulting firm used, if any.

8. Any other information the applicant desires to include.

9. The signature and title of an appropriate official who is able to attest to the validity of the data submitted and who is authorized to submit the application.

[FR Doc. 82-3454 Filed 2-9-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30169A; PH-FRL-2046-3]

American Cyanamid Co.; Approval of Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by American Cyanamid Co. to conditionally register the pesticide product Pay-Off Insecticide containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2 Rm. 207, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 19, 1980 (45 FR 32769) that American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted an application to register the pesticide product Pay-Off Insecticide containing 30 percent of the active ingredient (±)cyano (3-phenoxyphenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate, an ingredient not included in any previously registered product.

The application was approved on January 15, 1982 for restricted use in pesticide formulation. The product was assigned EPA registration No. 241-259.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: January 28, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-3375 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-C31054; PH-FRL-2046-4]

Certain Companies; Applications to Conditionally Register Pesticide Products Involving Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

DATE: Comments by March 12, 1982.

ADDRESS: Written comments, identified by the document control number [OPP-C31054] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to conditionally register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. EPA File Symbol: 40810-L.

Applicant: Ciba-Geigy Corp., Plastics and Additives Division, 444 Saw Mill River Road., Ardsley, NY 10502.

Product Name: Belclene 319 Algicide.

Active Ingredient: Terbutylazine (2-(*tert*-butylamino)-4-chloro-6-(ethylamino)-*s*-triazine) 44.7%.

Proposed new use: Presently registered for manufacturing use only. New use will include algae control in chlorinated swimming pools.

Proposed use classification: General.

Product manager (PM) 32: Arturo Castillo, (703-557-7170).

2. EPA File Symbol: 241-EAU.

Applicant: American Cyanamid Co., Agri. Research Division, P.O. Box 400, Princeton, NJ 08540.

Product Name: Maxforce Insecticide Roach Feeder.

Active Ingredient: Tetrahydro-5, 5-dimethyl-2-(1*H*)-pyrimidinone (3-[4-trifluoromethyl)-phenyl]-1-(2-[4-trifluoromethyl)-phenyl] ethenyl)-2-propenylidene) hydrazone 1.65%.

Proposed new use: Presently registered for general outdoor use. New use will include indoor use to control cockroaches under sinks, along baseboards, and storage areas.

Proposed use classification: General.

Product manager (PM) 15: George LaRocca, (703-557-2400).

Notice of approval or denial of an application to register, or amend registration of, a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) FIFRA, as amended)

Dated: January 25, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-3376 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-C30213; PH-FRL-2046]

Certain Companies; Applications to Conditionally Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register pesticide products containing active ingredients not included in any previoulsy registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by March 12, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–C30213] and the file number, should be submitted to: Franklin Gee, Product Manager (PM–17), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin Gee (PM–17) (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA received applications to conditionally register the following pesticide products containing active ingredients not included in any previously registered pesticide product in accordance with the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the application.

Applications Received

1. File Symbol: 10182–AL.
Applicant: ICI Americas, Inc., Agricultural Chemicals Division, Concord Pike and New Murphy Road, Wilmington, DE 19897.
Product name: Cymbush 3E.
Active ingredient: (±) Alpha-cyano-(3-phenoxphenyl) methyl (±)-*cis, trans*-3-(2,2-dichlorethenyl)-2,2-dimethyl-cyclopropanecarboxylate 35.6%.
Proposed classification: Insecticide. Restricted use on cotton.
2. File Symbol: 10182–AU.
Applicant: ICI Americas, Inc.
Product name: Cymbush 2E.
Active ingredient: (±) Alpha-cyano-(3-phenoxphenyl) methyl (±)-*cis, trans*-3-(2,2-dichlorethenyl)-2,2-dimethyl-cyclopropanecarboxylate 22.66%.
Proposed classification: Insecticide. Restricted use on cotton.
3. File Symbol: 46403–R.
Applicant: Universal Products Corp., P.O. Box 26124, Milwaukee, WI 53226.
Product name: No Squito.
Active ingredient: 3[(4 Amino-2-methyl-5 pyrimidinil) methyl]-5-(2 hydroxyethyl)-4-methyl-, chloride monohydrochloride, 99.7%.
Proposed classification: Insecticide. Restricted use as an insect repellent.
Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 26, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–3376 Filed 2–9–82; 8:45 am]

BILLING CODE 6560–32–M

[OPP–C30212; PH–FRL–2046–5]

Janssen R and D, Inc.; Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to conditionally register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 12, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–C30212] and the file symbol, should be submitted to: Henry Jacoby, Product Manager (PM–21), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to conditionally register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Application Received

File Symbol: 43813–E.

Applicant: Janssen R and D, Inc., 501 George Street, New Brunswick, NJ 08903.

Product name: Imazalil Technical.

Active ingredient: Imazalil (1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole 97.5%.

Proposed classification: General use for pesticide formulation.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 27, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–3377 Filed 2–9–82; 8:45 am]

BILLING CODE 6560–32–M

[PF 178C; PH-FRL-2045-3]

Janssen R&D, Inc.; Filing of Pesticide, Food, and Feed Additive Petitions; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice amends a notice of filing of pesticide, food, and feed additive petitions for residues of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole in or on certain raw agricultural commodities, food, and feed items.

ADDRESS: Written comments to: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF 178C]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holiday.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 22, 1980 (45 FR 27009) that Janssen R&D Inc., 501 George St., New Brunswick, NJ 08903, had submitted a pesticide petition (PP 0F2331) and food and feed additive petition (FAP 0H5254) to the EPA. These petitions proposed the following:

PP 0F2331. Proposed that 40 CFR Part 180 be amended by establishing tolerance for residues of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole resulting from postharvest application in or on the crop grouping citrus fruit at 10 parts per million (ppm) (of which no more than 0.1 ppm is in edible pulp).

FAP 0H5254. Proposed that 21 CFR Part 193 be amended by establishing a regulation for residues of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole in citrus oil at 20 ppm.

FAP 0H5254. Proposed that 21 CFR Part 561 be amended by establishing a regulation for residues of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl]-1*H*-imidazole in dried citrus pulp at 20 ppm.

Janssen R&D Inc., has submitted amendments to these petitions as follows:

(a) PP 0F2331. Include the following raw agricultural commodities:

Commodities	Part per million
Cattle, fat	0.04
Cattle, liver	0.8
Cattle, meat	0.04
Cattle, mbyp (exc. liver)	0.04
Goats, fat	0.04
Goats, liver	0.8
Goats, meat	0.04
Goats, mbyp (exc. liver)	0.04
Hogs, fat	0.04
Hogs, liver	0.8
Hogs, meat	0.04
Hogs, mbyp (exc. liver)	0.04
Horses, fat	0.04
Horses, liver	0.8
Horses, meat	0.04
Horses, mbyp (exc. liver)	0.04
Milk	0.04
Sheep, fat	0.04
Sheep, liver	0.8
Sheep, meat	0.04
Sheep, mbyp (exc. liver)	0.04

(b) FAP 0H5254. Increase the tolerance limitations from 20 ppm to 25 ppm for both citrus oil and dried citrus.

The proposed analytical method for determining residues is gas chromatography.

(Secs. 408(d)(1), 409(b)(5); 68 Stat. 512, 72 Stat. 1786; (7 U.S.C. 135), (21 U.S.C. 348))

Dated: January 27, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide.

[FR Doc. 82-3380 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP 180599; PH-FRL-2045-4]

Pesticides; Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists 178 specific exemptions for the use of various pesticides issued by EPA to 41 States, the U.S. Departments of Agriculture and the Interior, and Puerto Rico during the period of April through September 1981. It also lists 46 crisis exemptions for the use of various pesticides initiated by 23 States and the U.S. Department of Argiculture during the same period.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: During the time period April through September 1981, the Agency granted 178 specific exemptions to 41 States, the U.S. Department of Agriculture and the Interior, and Puerto Rico. In addition, 46 crisis exemptions were taken by 23 States and the U.S. Department of Agriculture.

A. Specific Exemptions

The following specific exemptions were granted to:

1. Alabama for the use of permethrin on soybeans to control soybean loopers, effective from August 7, 1981, to October 31, 1981.

2. Arizona for the use of imazalil on citrus to control *Penicillium* spp., effective from June 10, 1981, to June 10, 1982.

3. Arizona for the use of fenvalerate on corn to control southwestern corn borers and earworms, effective from July 29, 1981, to September 30, 1981.

4. Arizona for the use of permethrin on corn to control southwestern corn borers and earworms, effective from July 10, 1981, to September 30, 1981.

5. Arkansas for the use of acifluorfen on rice to control hemp sesbania, effective from April 22, 1981, to October 31, 1981.

6. Arkansas for the use of coumatetralyl on rice to control sheath blight, effective from July 7, 1981, to August 1, 1981.

7. Arkansas for the use of permethrin on soybeans to control insects, effective from August 26, 1981, to October 31, 1981.

8. California for the use of imazalil on citrus to control post-harvest fruit decay, effective from June 10, 1981, to June 10, 1982.

9. California for the use of paraquat on cucumbers to control BL and grass weeds, effective from April 11, 1981, to March 31, 1982.

10. California for the use of 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone on grapes to control powdery mildew, effective from April 28, 1981, to June 15, 1981.

11. California for the use of paraquat on onions to control wild oats, effective from April 22, 1981, to June 30, 1981.

12. California for the use of propargite on sweet corn to control spider mites, effective from May 15, 1981, to October 31, 1981.

13. California for the use of oxytetracycline on sweet cherries to control Western-X disease, effective from May 11, 1981, to March 15, 1982.

14. California for the use of fenvalerate on tomatoes to control pinworms, effective from May 10, 1981, to January 15, 1982.

15. California for the use of permethrin on almonds to control navel orangeworms, effective from June 2, 1981, to October 31, 1981.

16. California for the use of carbaryl on pomegranates to control filbert worms, effective from May 19, 1981, to December 31, 1981.

17. California for the use of carbaryl on cactus to control cochineal scale, effective from June 18, 1981, to June 17, 1982.

18. California for the use of benomyl on crucifer seeds to control blackleg, effective from July 8, 1981, to July 1, 1982.

19. California for the use of copper ethylenediamine complex in potable irrigated water to control *Hydrilla* spp., effective from July 30, 1981, to December 31, 1981.

20. California for the use of ethephon on grapes to control *Botrytis cinerea*, effective from July 8, 1981, to October 31, 1981.

21. California for the use of methiocarb on grapes to repel birds, effective from July 30, 1981, to November 30, 1981.

22. California for the post-harvest use of methyl bromide on strawberries to control the Mediterranean fruit fly, effective from September 15, 1981, to September 5, 1982.

23. California for the use of permethrin on lettuce to control *Heliothis* spp., effective from September 24, 1981, to March 31, 1982.

24. Colorado for the use of permethrin on corn to control European corn borers, effective from May 15, 1981, to September 15, 1981.

25. Colorado for the use of fenvalerate on cabbage to control cabbage loopers, effective from June 18, 1981, to October 15, 1981.

26. Connecticut for the use of methiocarb on grapes to repel birds, effective from August 20, 1981, to October 31, 1981.

27. Delaware for the use of acephate on non-bell peppers to control European corn borers, effective from May 21, 1981, to October 31, 1981.

28. Delaware for the use of permethrin on mushrooms to control sciarid flies, effective from September 16, 1981, to September 15, 1982.

29. Florida for the use of permethrin on green beans to control vegetable leafminers, effective from April 4, 1981, to June 30, 1981.

30. Florida for the use of benomyl on potatoes to control stalk rot, effective from August 21, 1981, to March 31, 1982.

31. Florida for the use of permethrin on tomatoes to control leafminers, effective from July 31, 1981, to June 30, 1982.

32. Florida for the use of oxamyl on snap beans to control nematodes, effective from August 25, 1981, to June 30, 1982.

33. Florida for the use of permethrin on soybeans to control soybean loopers, effective from August 7, 1981, to October 31, 1981.

34. Florida for the use of permethrin on lettuce and celery to control leafminers, effective from August 26, 1981, to June 30, 1982.

35. Georgia for the use of permethrin on soybeans to control soybean loopers, effective from August 7, 1981, to October 31, 1981.

36. Hawaii for the use of hexakis on papayas to control flat mites, effective from August 14, 1981, to February 28, 1982.

37. Idaho for the use of carbofuran on hops to control strawberry root rot, effective from April 27, 1981, to August 1, 1981.

38. Idaho for the use of acephate on hops to control Bertha armyworms, effective from July 31, 1981, to September 30, 1981.

39. Idaho for the use of metalaxyl on hops to control downy mildew, effective from April 3, 1981, to May 31, 1981.

40. Idaho for the use of parathion on lentils to control pea and cowpea aphids, effective from June 25, 1981, to September 1, 1981.

41. Idaho for the use of benomyl on wheat to control *Cercosporella* foot rot, effective from September 29, 1981, to May 15, 1982.

42. Illinois for the use of permethrin on pumpkins (process) to control squash bugs, effective from June 17, 1981, to November 1, 1981.

43. Indiana for the use of chlorothalonil on spearmint to control leafspot and rust, effective from April 22, 1981, to July 31, 1981.

44. Indiana for the use of acephate on non-bell peppers to control European corn borers, effective from July 8, 1981, to September 30, 1981.

45. Kansas for the use of permethrin on field corn to control southwestern corn borers, effective from May 15, 1981, to September 15, 1981.

46. Kansas for the use of permethrin on corn (field, seed) to control southwestern corn borers, effective from May 15, 1981, to September 15, 1981.

47. Kansas for the use of carbosulfan on sorghum (grain, seed) to control chinch bugs and greenbugs, effective from May 29, 1981, to September 20, 1981.

48. Maine for the use of metalaxyl on potatoes to control late blight, effective from September 1, 1981, to October 15, 1981.

49. Maryland for the use of methiocarb on grapes to repel birds, effective from July 30, 1981, to November 30, 1981.

50. Massachusetts for the use of acephate on cranberry bogs to control brown spanworms, effective from May 18, 1981, to July 31, 1981.

51. Massachusetts for the use of fenvalerate on eggplants to control Colorado potato beetles, effective from June 10, 1981, to October 1, 1981.

52. Massachusetts for the use of methiocarb on grapes to repel birds, effective from August 20, 1981, to October 31, 1981.

53. Michigan for the use of permethrin on grapes to control the cutworm complex, effective from April 4, 1981, to June 1, 1981.

54. Michigan for the use of chlorothalonil on mint to control rust and leafspot, effective from April 22, 1981, to July 31, 1981.

55. Michigan for the use of acephate on peppers to control European corn borers, effective from May 21, 1981, to October 31, 1981.

56. Minnesota for the use of asulam on flax to control wild oats, effective from April 4, 1981, to October 31, 1981.

57. Minnesota for the use of paraquat on dry edible beans for desiccation, effective from August 1, 1981, to November 15, 1981.

58. Mississippi for the use of coumatetralyl on rice to control sheath blight and stem rot, effective from July 29, 1981, to August 31, 1981.

59. Mississippi for the use of permethrin on soybeans to control soybean loopers, effective from August 7, 1981, to October 31, 1981.

60. Missouri for the use of sodium chlorate on wheat as a harvest aid, effective from September 4, 1981, to September 30, 1981.

61. Missouri for the use of methiocarb on grapes to repel birds, effective from July 30, 1981, to November 30, 1981.

62. Montana for the use of chlorpyrifos on small grains to control army and pale western cutworms, effective from April 29, 1981, to June 15, 1981.

63. Montana for the use of strychnine to control rabid skunks, effective from June 4, 1981, to June 1, 1982.

64. Nebraska for the use of permethrin on corn (field, seed) to control European corn borers, effective from May 15, 1981, to September 15, 1981.

65. Nebraska for the use of carbosulfan on sorghum fields to control chinch bugs and greenbugs, effective from May 29, 1981, to September 20, 1981.

66. Nebraska for the use of permethrin on corn fields (popcorn) to control European corn borers, effective from July 23, 1981, to October 1, 1981.

67. New Jersey for the use of bitertanol on apples to control apple scab, effective from April 3, 1981, to October 15, 1981.

68. New Jersey for the use of azimphosmethyl on carrots to control carrot weevils, effective from April 22, 1981, to August 31, 1981.

69. New Jersey for the use of fenvalerate on eggplants to control Colorado potato beetles, effective from May 18, 1981, to December 1, 1981.

70. New Jersey for the use of acephate on peppers to control European corn borers, effective from May 21, 1981, to October 31, 1981.

71. New Jersey for the use of permethrin on tomatoes to control Colorado potato beetles, effective from May 4, 1981, to June 30, 1981.

72. New Jersey for the use of cyhexatin on eggplants to control two-spotted spider mites, effective from April 27, 1981, to October 1, 1981.

73. New Jersey for the use of captafol on eggplants to control *Phytophthora* blight and fruit rot, effective from May 18, 1981, to November 15, 1981.

74. New Jersey for the use of captafol on summer squash to control *Phytophthora* blight and fruit rot, effective from April 29, 1981, to October 31, 1981.

75. New Jersey for the use of fenvalerate on cabbage to control cabbage loopers, effective from May 27, 1981, to November 30, 1981.

76. New Jersey for the use of fenamiphos on bearing peach and nectarine trees to control nematodes, effective from August 14, 1981, to May 1, 1982.

77. New Jersey for the use of captafol on peppers to control pepper blight, effective from April 29, 1981, to October 31, 1981.

78. New Jersey for the use of vinclozolin on lettuce to control lettuce drop, effective from June 25, 1981, to October 30, 1981.

79. New Jersey for the use of fenamiphos on nectarine trees to control nematodes, effective from August 14, 1981, to May 1, 1982.

80. New Jersey for the use of methiocarb on grapes to repel birds, effective from July 30, 1981, to November 30, 1981.

81. New Mexico for the use of monocrotophos on corn to control Banks grass mites, effective from June 22, 1981, to October 31, 1981.

82. New Mexico for the use of permethrin on corn to control corn earworms, effective from July 10, 1981, to September 30, 1981.

83. New Mexico for the use of fenvalerate on corn to control corn earworms, effective from July 29, 1981, to September 30, 1981.

84. New Mexico for the use of fenvalerate on lettuce to control *Heliothis* spp., effective from September 24, 1981, to June 1, 1982

85. New York for the use of 1-(4-chlorophenoxy)-3,3-dimethy-1-(1H-1,2,4-triazol-1-yl)-2-butanone on grapes to control powdery mildew, effective from April 28, 1981, to September 30, 1981.

86. New York for the use of methiocarb on grapes to repel birds, effective from July 30, 1981, to November 30, 1981.

87. New York for the use of permethrin on cabbage to control cabbage loopers, effective from August 7, 1981, to October 15, 1981.

88. New York for the use of paraquat on dry beans as a harvest aid, effective from July 8, 1981, to November 15, 1981.

89. New York for the use of permethrin on broccoli to control cabbage loopers, effective from August 7, 1981, to October 15, 1981.

90. New York for the use of permethrin on cauliflower to control cabbage loopers, effective from August 7, 1981, to October 15, 1981.

91. North Carolina for the use of captafol on strawberries to control anthracnose, effective from April 4, 1981, to September 30, 1981.

92. North Carolina for the use of dicloran on peanuts to control sclerotinia blight, effective from July 18, 1981, to October 31, 1981.

93. North Carolina for the use of acephate on non-bell peppers to control European corn borers, effective from September 1, 1981, to October 31, 1981.

94. North Dakota for the use of asulam on flax to control wild oats, effective from April 22, 1981, to October 31, 1981.

95. North Dakota for the use of trifluralin on rapeseed to control weeds, effective from April 22, 1981, to July 15, 1981.

96. North Dakota for the use of 2,4-dichlorophenoxyacetic acid on millet to control broadleaf weeds, effective from May 27, 1981, to September 15, 1981.

97. North Dakota for the use of paraquat on dry beans for desiccation, effective from August 1, 1981, to November 15, 1981.

98. Ohio for the use of methoprene at the Cincinnati Zoo to control pharaoh ants, effective from August 19, 1981, to December 31, 1981.

99. Ohio for the use of acephate on hot peppers to control European corn borers, effective from May 21, 1981, to October 31, 1981.

100. Ohio for the use of methiocarb on grapes to repel birds, effective from June 8, 1981, to November 30, 1981.

101. Ohio for the use of acephate on leafy-type lettuce to control green peach aphids, effective from July 28, 1981, to October 31, 1981.

102. Ohio for the use of metaloxyl on potatoes to control late blight, effective from September 1, 1981, to October 15, 1981.

103. Oklahoma for the use of acifluorfen on peanuts to control hophornbeam copperleaf, effective from July 18, 1981, to October 31, 1981.

104. Oklahoma for the use of dicloran on peanuts to control sclerotinia blight, effective from August 25, 1981, to October 31, 1981.

105. Oregon for the use of oxamyl on peppermint to control lesion nematodes, effective from April 6, 1981, to December 31, 1981.

106. Oregon for the use of metalaxyl on hops to control downy mildew, effective from April 3, 1981, to May 31, 1981.

107. Oregon for the use of 1-napthaleneacetic acid on cherries to control cracking of fruit, effective from April 11, 1981, to July 1, 1981.

108. Oregon for the use of disulfoton on asparagus to control asparagus aphids, effective from May 22, 1981, to October 31, 1981.

109. Oregon for the use of methiocarb on grapes to repel birds, effective from June 8, 1981, to November 30, 1981.

110. Oregon for the use of carbofuran on mint to control strawberry root weevils, effective from July 8, 1981, to October 30, 1981.

111. Oregon for the use of fenvalerate on broccoli, cabbage, and caulifower to control lepidopterous insects, effective from September 8, 1981, to November 30, 1981.

112. Oregon for the use of benomyl on wheat to control *Cercosporella* foot rot from September 29, 1981, to June 30, 1982.

113. Pennsylvania for the use of methiocarb on grapes to repel birds, effective from June 8, 1981, to November 30, 1981.

114. Pennsylvania for the use of metalaxyl on potatoes to control late blight, effective from September 1, 1981, to October 15, 1981.

115. Pennsylvania for the use of permethrin on mushrooms to control sciarid flies, effective from September 16, 1981, to September 15, 1982.

116. Puerto Rico for the use of lindane on sugarcane to control white grubs, effective from June 25, 1981, to May 19, 1982.

117. South Carolina for the use of fenvalerate on fresh market tomatoes to control tomato fruit worms, effective from June 9, 1981, to December 31, 1981.

118. South Carolina for the use of permethrin on soybeans to control soybean loopers, effective from August 7, 1981, to October 31, 1981.

119. South Dakota for the use of 2,4-dichlorophenoxyacetic acid on millet to control broadleaf weeds, effective from May 27, 1981, to August 1, 1981.

120. South Dakota for the use of permethrin on irrigated and dryland corn to control European corn borers, effective from May 15, 1981, to September 20, 1981.

121. Texas for the use of coumatetralyl on rice to control sheath blight and sheath spot, effective from June 5, 1981, to August 1, 1981.

122. Texas for the use of monocrotophos on corn to control Banks grass mites, effective from July 23, 1981, to November 30, 1981.

123. Texas for the use of permethrin on corn to control European and southwestern corn borers, effective from July 10, 1981, to October 31, 1981.

124. Texas for the use of permethrin on soybeans to control soybean loopers, effective from September 4, 1981, to October 31, 1981.

125. Utah for the use of oxytetracycline on cherries to control Western-X disease, effective from May 11, 1981, to January 1, 1982.

126. Vermont for the use of zinc phosphide on sugar maple orchards to control red squirrels, effective from April 6, 1981, to June 1, 1981.

127. Virginia for the use of methiocarb on grapes to repel birds, effective from June 8, 1981, to November 30, 1981.

128. Virginia for the use of Dicloran on peanuts to control sclerotinia blight, effective from July 16, 1981, to October 31, 1981.

129. Washington for the use of metalaxly on hops to control downy mildew, effective from April 3, 1981, to May 13, 1981.

130. Washington for the use of carbofuran on cranberries to control root weevils, effective from June 17, 1981, to August 1, 1981.

131. Washington for the use of disulfoton on asparagus to control European asparagus aphids, effective from May 22, 1981, to October 31, 1981.

132. Washington for the use of parathion on lentils to control aphids, effective from June 25, 1981, to September 1, 1981.

133. Washington for the use of methiocarb on grapes to repel birds, effective from August 21, 1981, to November 30, 1981.

134. Washington for the use of benomyl on wheat to control *Cercosporella* foot rot, effective from September 29, 1981, to June 15, 1982.

135. Wisconsin for the use of metalaxyl on potatoes to control late blight, effective from July 2, 1981, to October 15, 1981.

136. Wyoming for the use of strychnine in Campbell and Cook Counties to control rabid animals, effective from May 5, 1981, to December 31, 1981.

137. U.S. Department of the Interior (USDI) for the use of sodium cyanide on Agattu Island to control Arctic foxes, effective from May 26, 1981, to May 26, 1982.

138. USDI for the use of sodium cyanide on Grays Lake to control wild canids, effective from October 1, 1981, to September 30, 1982.

139. U.S. Department of Agriculture (USDA) for the use of chlorpyrifos on ornamental sod to control fire ants, effective from May 19, 1981, to May 1, 1982.

140. USDA for the use ethylene oxide and carbon dioxide on ship cargo to control snails and slugs, effective from April 16, 1981, to April 16, 1982.

141. USDA for the use of hydrogen cyanide on ship cargo to control insects, effective from April 16, 1981, to April 16, 1982.

142. USDA for the use of methyl bromide on ship cargo to control khapra beetle, effective from April 16, 1981, to April 16, 1982.

143. USDA for the use of methyl bromide on machinery to control insects and witchweed, effective from April 16, 1981, to April 16, 1982.

144. USDA for the use of methyl bromide on logs to control oak wilt fungus, effective from April 16, 1981, to April 16, 1982.

145. USDA for the use of methyl bromide on fallow fields to control witchweed, effective from April 16, 1981, to April 16, 1982.

146. USDA for the use of aluminum phosphide on ship cargo to control miscellaneous pests, effective from April 16, 1981, to April 16, 1982.

147. USDA for the use of formaldehyde on rice to control miscellaneous pests, effective from April 16, 1981, to April 16, 1982.

148. USDA for the use of formaldehyde on infested materials to control nematodes, effective from April 16, 1981, to April 16, 1982.

149 USDA for the use of formaldehyde on seeds to control plant diseases, effective from April 16, 1981, to April 16, 1982.

150. USDA for the use of phenothrin on aircraft cagro containers to control fruit files, effective from April 16, 1981, to April 16, 1982.

151. USDA for the use of pyrethrum on aircraft cargo containers to control fruit files, effective from April 16, 1981, to April 16, 1982.

152. USDA for the use of malathion on ships and piers (asphalt) to control quarantine insects, effective from April 16, 1981, to April 16, 1982.

153. USDA for the use of malathion on ships and piers (metal and wood) to control quarantine insects, effective from April 16, 1981, to April 16, 1982.

154. USDA for the use of carbaryl, dicofol, and malathion on orchids to control insects and mites, effective from April 16, 1981, to April 16, 1982.

155. USDA for the use of carbaryl and malathion on plants to control insects and mites, effective from April 16, 1981, to April 16, 1982.

156. USDA for the use of lime sulfur on plant surfaces to control plant diseases, effective from April 16, 1981, to April 16, 1982.

157. USDA for the use of carbon disulfide on seeds) propagation to control miscellaneous pests, effective from April 16, 1981, to April 16, 1982.

158. USDA for the use of sodium hypochlorite on plant parts (propagation) to control pests, effective from April 16, 1981, to April 16, 1982.

159. USDA for the use of sodium hypochlorite on surfaces that might be exposed to swine vesicular disease, effective from April 16, 1981, to April 16, 1982.

160. USDA for the use of sulfuric acid on cotton seed to control miscellaneous pests, effective from April 16, 1981, to April 16, 1982.

161. USDA for the use of captan and zineb on seeds to control pests, effective from April 16, 1981, to April 16, 1982.

162. USDA for the use of copper sulfate on dead plant material to control miscellaneous pests, effective from April 16, 1981, to April 16, 1982.

163. USDA for the use of copper carbanate on seeds to control miscellaneous pests, effective from April 16, 1981, to April 16, 1982.

164. USDA for the use of zineb on plants to control plant diseases, effective from April 16, 1981, to April 16, 1982.

165. USDA for the use of propoxur in insect traps to control insects, effective from April 16, 1981, to April 16, 1982.

166. USDA for the use of dichlorvos in insect traps to control gypsy moths and khapra beetles, effective from April 16, 1981, to April 16, 1982.

167. USDA for the use of naled in insect traps to control fruit flies, effective from April 16, 1981, to April 16, 1982.

168. USDA for the use of ethyl acetate in black light traps to control insects,

effective from April 16, 1981, to April 16, 1982.

169. USDA for the use of trifluralin on established lawns and turf to control witchweed, effective from April 16, 1981, to April 16, 1982.

170. USDA for the use of sodium carbonate on surfaces in aircraft exposed to animal diseases, effective from April 16, 1981, to April 16, 1982.

171. USDA for the use of sodium carbonate and sodium silicate in aircraft to control foot and mouth diseases, effective from April 16, 1981, to April 16, 1982.

172. USDA for the use of sodium hydroxide on exposed surfaces, animal product containers, hay and straw to control animal diseases, effective from April 16, 1981, to April 16, 1982.

173. USDA for the use of sodium o-phenylphenate on surfaces exposed to animal diseases, effective from April 16, 1981, to April 16, 1982.

174. USDA for the use of methyl bromide on kiwi fruit, leafy vegetables, lentils and faba beans, macadamia and pistachio nuts, potato starch, root crops, sweet potatoes and yams, and miscellaneous fruits and vegetables to control miscellaneous pests, effective from June 4, 1981, to June 4, 1982.

175. USDA for the use of methyl bromide on cereals, flours, and spices to control khapra beetles, effective from June 4, 1981, to June 4, 1982.

176. USDA for the use of diflubenzuron on forests to control gypsy moths, effective from May 21, 1981, to July 31, 1981.

177. USDA for the use of diflubenzuron on nursery stock (trees and shrubs) to control gypsy moths, effective from May 21, 1981, to July 31, 1981.

178. USDA for the use of acephate on rangeland to control grasshoppers, effective from June 22, 1981, to September 1, 1981.

B. Crisis Exemptions

The following crisis exemptions were initiated by:

1. Arkansas on June 5, 1981, for the use of sodium chlorate on wheat to control excessive vegetation in wet fields.

2. California on April 27, 1981, for the use of paraquat on rice to control broadleaf weeds and grasses.

3. California on June 25, 1981, for the use of methiocarb on seeds to repel birds.

4. California on June 26, 1981, for the use of diazinon on trees and shrubs to control the Mediterranean fruit fly.

5. California on July 1, 1981, for the use of malathion on trees and shrubs to control the Mediterranean fruit fly.

6. California on June 26, 1981, for the post-harvest use of methyl bromide on raspberries to control the western flower thrip.

7. California on July 10, 1981, for the use of dichlorvos on figs to control dried fruit beetles.

8. California on July 31, 1981, for the use of propargite on soybeans to control spider mites.

9. California on August 13, 1981, for the use of methyl bromide on cactus pears to control the Mediterranean fruit fly.

10. California on August 24, 1981, for the use of permethrin on celery to control leafminers.

11. California on September 4, 1981, for the use of propargite on non-bearing avocados to control 6-spotted mites.

12. California on September 14, 1981, for the use of paraquat on mung-dry beans for desiccation.

13. Hawaii on April 6, 1981, for the use of hexakis on papayas to control flat mites.

14. Hawaii on August 31, 1981, for the post-harvest use of thiabendazole on papayas to control stem-end rot and anthracnose.

15. Idaho on August 28, 1981, for the use of tetraethyl pyrophosphate on hops to control Bertha armyworms.

16. Illinois on May 19, 1981, for the use of 1-(4-chloro-phenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone on wheat to control powdery mildew.

17. Illinois on May 19, 1981, for the use of benomyl on wheat to control powdery mildew.

18. Indiana on May 27, 1981, for the use of 1-(4-chloro-phenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone on winter wheat to control powdery mildew and septoria leaf blotch.

19. Indiana on May 27, 1981, for the use of benomyl on winter wheat to control powdery mildew and septoria leaf blotch.

20. Iowa on June 8, 1981, for the use of chlorpyrifos on soybeans to control cutworms.

21. Iowa on September 11, 1981, for the use of paraquat on shell beans for desiccation.

22. Kansas on July 2, 1981, for the use of sodium chlorate on wheat for desiccation.

23. Maine on July 2, 1981, for the use of metalaxyl on potatoes to control late blight.

24. Michigan on July 24, 1981, for the use of metalaxyl on potatoes to control late blight.

25. Michigan on August 28, 1981, for the use of paraquat on dry beans as a harvest aid.

26. Minnesota on July 31, 1981, for the use of metalaxyl on potatoes to control late blight.

27. Missouri on June 18, 1981, for the use of sodium chlorate on wheat as a harvest aid.

28. Montana on May 27, 1981, for the use of 1-(4-chloro-phenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone on wheat to control leaf stripe and rust stripe.

29. New Jersey on May 18, 1981, for the use of fenvalerate on eggplants to control Colorado potato beetles.

30. New York on May 7, 1981, for the use of methomyl on pears to control green fruit worms and OBL leafrollers.

31. North Carolina on July 8, 1981, for the use of acephate on non-bell peppers to control European corn borers.

32. North Dakota on August 13, 1981, for the use of mancozeb on dry beans to control rust.

33. Ohio on March 20, 1981, for the use of methoprene at the Cincinnati Zoo to control pharaoh ants.

34. Ohio on June 15, 1981, for the use of chlorpyrifos on soybeans to control cutworms.

35. Oklahoma on April 13, 1981, for the use of quintozene on peanuts to control peanut sod pod rot.

36. Oklahoma on May 22, 1981, for the use of acifluorfen on peanuts to control the hophornbeam copperleaf.

37. Oklahoma on June 12, 1981, for the use of sodium chlorate on wheat for desiccation.

38. Oklahoma on July 30, 1981, for the use of monocrotophos on field corn to control Banks grass mites.

39. Pennsylvania on July 10, 1981, for the use of metalaxyl on potatoes to control late blight.

40. South Carolina on June 5, 1981, for the use of fenvalerate on fresh-market tomatoes to control tomato fruitworms.

41. Texas on May 19, 1981, for the use of monocrotophos on corn to control Banks grass mites.

42. Texas on May 13, 1981, for the use of sodium chlorate on wheat as a harvest aid.

43. Texas on June 23, 1981, for the use of paraquat on dry beans and field peas for desiccation.

44. Wisconsin on May 12, 1981, for the use of oryzalin and trifluralin on English peas to control common root rot.

45. Wisconsin on August 24, 1981, for the use of paraquat on dry beans as a harvest aid.

46. U.S. Department of Agriculture on August 10, 1981, for the use of malathion on fruit trees to control the Mediterranean fruit fly.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: January 27, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-3381 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

[PP 1G2522/T347; PH-FRL-2044-5]

Phenmedipham; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide phenmedipham [methyl-*m*-hydroxycarbanilate *m*-methylcarbanilate (ester)] in or on the raw agricultural commodity sunflower seeds. This temporary tolerance was requested by Nor-Am Agricultural Products, Inc.

DATE: This temporary tolerance expires December 29, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1800).

SUPPLEMENTARY INFORMATION: Nor-AM Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566, has requested the establishment of a temporary tolerance for residues of the herbicide phenmedipham [methyl-*m*-hydroxycarbanilate *m*-methylcarbanilate (ester)] in or on the raw agricultural commodity sunflower seeds at 0.1 part per million (ppm).

This temporary tolerance will permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 2139-EUP-27 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 29, 1983. Residues in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

OMB has exempted this temporary tolerance from section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: January 27, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-3379 Filed 2-9-82; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

Meetings of the Telecommunications Industry Advisory Group and its Steering Committee

Pursuant to Section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group scheduled to meet on Friday, February 26, 1982, at 9:30 a.m. in Room 856 of the Commission's offices at 1919 M Street, NW., Washington, D.C. A meeting of the Group's Steering Committee will convene in Room 856 immediately following the above general membership meeting. These meetings will be open to the public. The preliminary agendas are as follows:

Advisory Group Meeting

I. General Administrative Matters
II. Steering Committee Proposals
III. General Discussion
IV. Task Proposals and Assignments
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

Steering Committee

I. General Administrative Matters
II. Further Discussion of Steering Committee Functions
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of the Group Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Group Chairman determines that an oral presentation is conducive to the effective attainment of Advisory Group or Steering Committee objectives. Anyone not a member of the Advisory Group and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman (202 634-1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-3516 Filed 2-9-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1333]

Listing of Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

February 8, 1982.

The following listings of petitions for reconsideration and applications for review filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration and applications for review must be filed on or before February 25, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Request amendment of § 73.202(b), FM Table of Assignments by deleting Ch. 252A from Clarksville, Virginia. (RM-3715)
Filed by: James E. Greeley & Peter Gutmann, Attorneys for Cape Fear Broadcasting Company, (WQSM), on 1-28-82. (Application for Review)
Subject: Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations, (Sacramento, California). (BC Docket No. 80-755, RM-3626)

Filed by: Herbert D. Miller, Jr., Attorney for Koplar Communications of California, Inc., (KRBK–TV), on 1–19–82.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–3517 Filed 2–9–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Goudchaux's Incorporated

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Goudchaux's Incorporated is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Philadelphia Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–3472 Filed 2–9–82; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

[E–82–2]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving intrastate electric service rates, Docket No. 81–747.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Illinois Commerce Commission involving the application of the Iowa-Illinois Gas and Electric Company for an increase in intrastate electric service rates, Docket No. 81–747.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: February 2, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82–3473 Filed 2–9–82; 8:45 am]

BILLING CODE 6820–AM–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations; Reestablishment of Compliance by Kaiser Foundation Health Plan, Inc.

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of health maintenance organizations: Reestablishment of compliance.

SUMMARY: On December 4, 1981, the Office of Health Maintenance Organizations (OHMO) notified Kaiser Foundation Health Plan, Inc. that Kaiser-Georgetown Community Health Plan, Inc.), (formerly Georgetown University Community Health Plan, Inc.), 4200 Wisconsin Avenue, NW., Suite 300, Washington, D.C., a federally qualified health maintenance organization (HMO), had successfully reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e–11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the **Federal Register** notices of determinations made under that section.

On July 7, 1980, Georgetown University Community Health Plan, (GUCHP) was officially notified that it was not in compliance with the assurance it had given the Secretary that it would maintain a fiscally sound operation as required by section 1301(c)(1)(A) of the Act. The determination of noncompliance did not affect GUCHP's status as a federally qualified HMO. Subsequently, on August 1, 1980, Kaiser Foundation Health Plan, Inc. signed an agreement with GUCHP for the management of GUCHP, whose name was changed to Kaiser-Georgetown Community Health Plan, Inc. (K–G). K–G has successfully implemented corrective action to return to compliance with its assurances. On December 4, 1981, Kaiser Foundation Health Plan, Inc. was notified by OHMO that K–G had reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound

operation. This determination took effect on December 1, 1981.

Dated: February 2, 1982.

Frank H. Seubold,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-3445 Filed 2-9-82; 8:45 am]

BILLING CODE 4156-17-M

Office of the Secretary

1982 Contribution and Benefit Base Under Pre-1977 Amendment Law

AGENCY: Social Security Administration, HHS.

ACTION: Notice of determination of the "old-law" social security contribution and benefit base.

SUMMARY: The Social Security Amendments of 1977 set the contribution and benefit base at $22,900 for 1979, $25,900 for 1980 and $29,700 for 1981. After 1981, the base will increase as average wage levels rise. The contribution and benefit base is the maximum annual amount of earnings that is subject to Social Security taxes and is creditable toward Social Security benefits. The 1977 amendments also provide for separate annual determinations of the contribution and benefit base that would have been in effect under old law (pre-1977 law). This "old-law" base is used only for certain purposes under the railroad retirement program and the Employee Retirement Income Security Act of 1974 (ERISA) and for computing special minimum Social Security benefits for workers with many years of low earnings. This notice specifies that the amount for 1982 under pre-1977 law is $24,300.

FOR FURTHER INFORMATION CONTACT: Eli Donkar, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-3365.

SUPPLEMENTARY INFORMATION: The Social Security Amendments of 1977 (Pub. L. 95-216) changed the contribution and benefit base, which is the maximum annual amount of earnings on which Social Security taxes are paid and a person's Social Security benefits are figured. Section 230(c) of the Social Security Act specifies the contribution and benefit base for 1979, 1980, and 1981 and a computation formula to use for years after 1981. Using this computation formula, we determined the contribution and benefit base is $32,400 for 1982. We published this information in the **Federal Register** on October 30, 1981 (46 FR 53791).

"Old-Law" Contribution and Benefit Base

The "old-law" contribution and benefit base is the base that would have been effective in each year after 1977 under the Social Security Act before the enactment of the 1977 amendments. This "old-law" base is used:

(1) For certain purposes under the railroad retirement program and the Employee Retirement Income Security Act of 1974 (ERISA); and

(2) To compute special minimum Social Security benefits for certain workers with many years of low earnings.

The base is computed under section 230 of the Social Security Act as it read prior to the 1977 amendments.

Computation

Under section 230 of the Social Security Act as in effect before the 1977 amendments, we would determine the contribution and benefit base for 1982 by multiplying the "old-law" 1981 base by the ratio of average wages reported for 1980. $12,513.46, to average wages reported for 1979, $11,479.46 or 1.090074. We previously explained in the **Federal Register** how we computed these averages (October 30, 1981 at 46 FR 53791).

Multiplying the "old-law" 1981 contribution and benefit base of $22,200 by the above ratio results in the amount of $24,199.64, which must be rounded to the nearest multiple of $300. Therefore, we determine the "old-law" base for 1982 to be $24,300.

Railroad Retirement Uses

The Railroad retirement program will use the $24,300 base to determine:

(1) Employer tax liability under section 3221(a) of the Internal Revenue Code of 1954;

(2) The portion of the employee representative tax liability under section 3211(a) of the Internal Revenue Code of 1954 which results from the application of the 9.5 percent rate specified in that section; and

(3) Average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, but not annuity amounts determined under sections 3(a) or 3(f)(3) of that act.

These uses are stated in section 230(c) of the Social Security Act.

Employee Retirement Income Security Act (ERISA) Use

Under section 230(d) of the Social Security Act, ERISA will use the 1982 "old-law" base of $24,300 to determine the maximum pension benefit guaranteed by the Pension Benefit Guaranty Corporation for pension benefit plans terminating in 1982.

Social Security Use

Special minimum Social Security benefits are payable to workers with many years of low earnings. If, in 1982, a worker's earnings amount to a least 25 percent of the "old-law" base of $24,300, we will credit the worker with a "year of coverage" for 1982. Years of coverage are used to compute the special minimum benefit payable under section 215(a) of the Social Security Act.

(Catalog of Federal Domestic Assistance Program Nos. 13.803, Social Security-Retirement Insurance; 57.001, Social Security Insurance for Railroad Workers)

Dated: February 4, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-3587 Filed 2-9-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[PHX-077478]

Arizona; Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States under the serial number listed below:

PHX-077478

T. 5 N., R. 4 W., GSR Mer., Arizona
Section 2, lots 1 to 4, inclusive, S½N½, S½.

The area described aggregates 638.64 acres in Maricopa County.

2. The United States did not acquire the mineral rights on any of the lands described in Paragraph 1.

3. All of the lands described in Paragraph 1 have been classified for State Selection purposes. Subject to valid existing rights and the provisions of applicable law, effective February 10, 1922, the lands described in Paragraph 1 are open to application for state Selection under Section 2275 and 2276, Revised Statutes, as amended 43 U.S.C. 851 and 852.

4. Inquires concerning the lands should be addressed to the Bureau of Land Management, Department of the

Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–3446 Filed 2–9–82; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–017512]

Idaho; Termination of Classification for Multiple-Use Management

1. Pursuant to authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), I hereby terminate in its entirety the Bureau of Land Management Multiple-Use Classification Order dated September 27, 1966, (Serial No. I–017512) published in the **Federal Register** October 4, 1966, (Vol. 31, No. 192).

2. The public land area involved in the described order aggregates approximately 265,000 acres in Oneida County. The order provided for the termination of the segregative effect of the classification within two years of the date of publication in the **Federal Register**. Accordingly, the public lands described in the order have been open to all forms of appropriation under the public land laws since September 27, 1968. The lands have been and continue to be open to the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Clair M. Whitlock,

State Director.

[FR Doc. 82–3447 Filed 2–9–82; 8:45 am]

BILLING CODE 4310–84–M

Realty Action; Sale of Public Lands in Owyhee County, Idaho

The following described lots have been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at not less than the fair market value shown:

Boise Meridian, Idaho

T. 5S., R. 3W., Section 6

Building owner name	Lot No.	Acres	Value
Nelle Carver and Gwen Spurgeon	60	0.13	$200.00
Harold Curt	61	0.17	265.00
Roger W. and/or Larry D. Hinton	62	0.25	385.00
Donald L. or D. Darlene Reich	66	0.25	385.00
Richard D. and Barbara Jayo	68	0.35	540.00
Daryl N. Tague	69	0.16	250.00
Robert E. and Carol J. Leonard	[illegible]	0.20	310.00
K.C. Baird and Bill and/or Mary Hansen	105	0.68	1,054.00

The following lots exclude that portion of the lot lying within MS 1577 (cancelled). Acreage and value are more or less depending on final survey.

Building owner name	Lot No.	Acres	Value
Douglas Hyslop	50	0.71	$1,100.00
Dave Wilper and Peter Burrell	59	0.23	355.00

The lots are being sold individually to the above identified building owners, at direct, non-competitive sales, in order to give the Silver City community a more permanent character and the building owners a tenure interest in the land on which the buildings are located. The patents to the lots will contain restrictive covenants to protect and preserve the historic integrity of the community. The sale is consistent with the Bureau's planning recommendations. The sale has been discussed with and concurred in by state and county government officials. The public interest would be served by offering these lots for direct sale to qualified building owners.

The land will not be offered for sale for at least 60 days after the date of this notice.

The terms, conditions, and covenants applicable to the sale of each lot are:

1. Reservation to the United States of ditches and canals constructed by the authority of the United States as provided by the Act of August 30, 1980 (43 U.S.C. 945).

2. Reserving to the United States all minerals in the lands together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe.

3. Excepting and reserving to the public a right-of-way for existing roads across the lots for public access.

4. The patentees, on behalf of themselves, their heirs, assigns, and successors in interest, in consideration for receiving title to this property, covenant and agree to maintain and preserve all buildings and structures, and other improvements on the lot described above, in a good and sound state of repair in order to preserve the historic character of the Silver City Historic District. For this purpose, the patentees bind themselves to the following obligations and covenants:

A. The exterior appearance prior to conveyance by the United States of the land of any building, structure, or other improvement on this lot may not be altered, including, but not limited to, any signs, lights, fences, walls, or other appurtenant fixtures until the plans and specifications for any such changes have been approved by the Secretary of the Interior or by his duly authorized designee, who shall insure their quality of workmanship, harmony of exterior design with existing structures, and their compatibility of location with topography of the lot and finished grade elevation. A county administered review process which has been approved by the Secretary of the Interior or his duly authorized designee shall be deemed sufficient for performing any review functions required by this section. This covenant, however, shall not prevent the ordinary maintenance or repair of the exterior features of such building, structure, or other improvement that does not involve a change in design, building material, or outer appearance thereof, and which is compatible with the historic and architectural character of the building, structure, or improvement and the surrounding district.

B. No residential occupancy, either temporary or permanent, shall be permitted in mobile homes, tents, or other outbuildings. Casual use by campers, motor homes, etc., may be made, but the time of use may not exceed seven continuous days of use.

C. In the event of the destruction of any building, structure, or other improvement by fire or through any other cause, such debris shall be cleared from the land within 180 days unless this requirement is waived by the Secretary of the Interior or his designee because of inaccessibility to the area or upon a finding that the condition of the building does not present an unsafe or dangerous condition to surrounding buildings or structures. The owner of the building or structure may rebuild the building or structure to its original state in accordance with approval requirements of Section A of these covenants.

D. No building, structure, or other improvement may be demolished or removed without the approval of the Secretary of the Interior or his duly authorized designee, who shall insure that the destruction or removal does not damage the historic and architectural character of the district.

E. Archaeological remains present both on and below the surface on this lot shall be the property of the United States and shall continue to be protected as provided for in applicable federal statute.

If the patentees or successors in interest do not comply with these provisions, the Secretary of the Interior or his duly authorized designee, after due notice, may take all appropriate actions, including legal proceedings, to insure compliance with these covenants.

Detailed information concerning the sale, including the planning documents, environmental impact statement, and the record of public discussions, is available for review at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

For a period of on or before March 29, 1982 interested parties may submit comments to the District Manager of the Boise District Office. In the absence of any further action by the District Manager, this realty action will become the final determination of the Department of the Interior. The required payment, at fair market value, shall then be requested of the individual building owners. Payment must be made by certified check, postal money order, bank draft, or cashier's check.

Dated: January 28, 1982.

Martin J. Zimmer,

District Manager.

[FR Doc. 82-3477 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-84-M

[W-28908]

Wyoming; Partial Termination of a Proposed Withdrawal and Reservation of Lands

February 1, 1982.

Notice of application Serial No. W-28908, filed by the Forest Service, U.S. Department of Agriculture, for the withdrawal of approximately 1,146 acres of land from location and entry under the general mining laws for protection of a Roadside Zone, the Libby-Lewis Recreation Area, Crandall Administrative Site and the Sulphur Camp Recreation Site. Published as **Federal Register** Document 71-10960 on pages 14223 and 14224 of the issue of July 31, 1971. The applicant agency has cancelled its application insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

Shoshone National Forest
Sulphur Camp Recreation Site
T. 54 N., R. 106 W. (unsurveyed)

When surveyed, will probably be in: Sec. 8, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼, except approximately 33 acres of patented lands of the Sulphur Mountain Placer, according to the approved Protraction Diagram No. 2, Wyoming.

The described area aggregates approximately 127 acres in Park County, Wyoming.

Therefore, pursuant to the regulations contained in 43 CFR 2310.3-1(c), these lands shall at 7:45 a.m. on March 1, 1982, be relieved of the segregative effect of the above mentioned application and open to such forms of disposition as may be made of National Forest Land.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-3478 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Golden Eagle Management Plan; Draft Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public of the Fish and Wildlife Service's development of a golden eagle management plan and invites public comment. The plan is needed to : (1) identify golden eagle needs; and (2) guide Service management and research efforts for golden eagles. The intended effect of the plan is to protect and conserve golden eagle populations while facilitating balanced development of the Nation's natural resources and the resolution of eagle/man conflicts.

ADDRESS: Request copies of the plan from and forward comments to Director (WM), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

DATE: Written comments are due on or before March 29, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James Gillett, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-632-2202.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service has responsibilities for the conservation and management of golden eagles under several legislated authorities including, but not limited to, the Migratory Bird Treaty Act, the Bald Eagle Protection Act, and the Animal Damage Control Act of 1931. The plan develops Service goals and strategies for fulfilling its responsibilities under these authorities.

The plan covers monitoring the population, reducing man-caused mortality, reducing conflicts with energy development, and resolving depredation problems. Additionally, a number of areas of needed research are addressed in the plan including the development of a population model, synthesis of population data, impacts of energy development on eagle populations and appropriate mitigation measures, as well as new methods for resolving depredation conflicts.

This notice was prepared by Charles R. Danner, Wildlife Biologist, Division of Wildlife Management, Branch of Wildlife Assistance, 202-32-2202.

Dated: February 2, 1982.

Robert A. Jantzen,

Director, Fish and Wildlife Service.

[FR Doc. 82-3479 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Canaveral National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 9 a.m. on Friday, February 19, 1982, at the Atlantic Center for the Arts, 1414 Art Center Avenue, New Smyrna Beach, Florida 32868.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning development and operation of the Canaveral National Seashore. The agenda will include a discussion of the seashore's general Management Plan and other items.

The members of the Advisory Commission are as follows:

Mr. Ney C. Landrum, Chairman
Ms. Doris Leeper
Mr. T. C. Wilder
Mr. Sion Faulk
Mr. Ralph Stroud
Mr. Peter E. Cardiff

The meeting will be open to the public; however, facilites and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Donald Guiton, Superintendent, Canaveral National Seashore, Post Office Box 2538, Titusville, Florida 32780, Telephone 305/867-4675. Minutes of the meeting will be available for public inspection at park headquarters approximately 4 weeks after the meeting.

Dated: January 25, 1982.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 82-3515 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreation River; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: February 26, 1982, 7:00 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreation River, Drawer C, Narrowsburg, N.Y. 12764, (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include (1) implementation of section 704 of Pub. L. 95-625, (2) new business, and (3) installation of new members.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreation River, Drawer C, Narrowsburg, N.Y. 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the new headquarters site of the Upper Delaware National Scenic Recreational River in Damascus Township, Wayne County, Pennsylvania.

Dated: January 29, 1982.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 82-3514 Filed 2-9-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

As indicafed by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the qualify of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Finance Docket No. 29797. By decision of December 28, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1151, Review Board Number 3 approved the transfer to Pearl Forwarding, Inc., of San Diego, CA, of Permit No. FF-449 issued September 10, 1975 to Fernstrom Storage and Van Company of Virginia, of Chicago, IL, authorizing the forwarding of (a) used household goods and unaccompanied baggage, and (b) automobiles, between points in the United States (including Hawaii but excluding Alaska), restricted in (b) to the transportation of export and import traffic. Representative is: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006.

C-FC-79230. By decision of January 27, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to Jerry Perkins, doing business as Karst Stage, Inc., of Bozeman, MT of Certificate No. MC-52298 (Sub-2) issued August 20, 1981, to C.W. Sparks d.b.a. Karst's Stage, of Bozeman, MT, authorizing the transportation of passengers and their baggage, in charter operations, beginning and ending at points in Lewis and Clark Counties, MT, and extending to points in the United States. Representative is: Jerry L. Perkins, 511 North Wallace, Bozeman, MT 59715.

MC 79397. Supplemental decision. By decision of January 27, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to SHEFFIELD POTATO CO., INC., d.b.a. NORTHERN GAS TRANSPORT CO., of Lyndonville, VT, of Certificate Nos. MC-138758 (Sub-3 and 4), issued December 11, 1981, to NORTHERN GAS, INC., of Lyndonville, VT, which authorize the transportation of *propane,* in bulk, in tank vehicles, from Newington, NH, to points in CT, ME, MA, NY, RI, and VT, with restrictions, and *propane,* between points in Albany County, NY, on the one hand, and, on the other, points in NH and VT. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641.

Notes.—By decision of October 14, 1981, we authorized the transfer of MC-138758 (Sub-2). The purpose of this supplemental decision is to authorize the transfer of the above authority which was not susceptible of transfer at the time of the October 14, 1981 decision.

MC FC-79515. By decision of January 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Western Distribution Center, Inc. of a portion of Certificate No. MC-29 issued to Continental Van Lines, Inc. authorizing regular routes: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special

equipment, and those injurious or contaminating to other lading, between Reno, Nev., and Sparks, Nev., serving all intermediate points: From Reno over Interstate Highway 80 (formerly portion U.S. Highway 40), to Sparks, and return over the same route. Irregular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Nevada, within ten miles of Reno, Nev., including Reno. Representative: Michael J. Stecher, 256 Montgomery St., San Francisco, CA 94104. TA lease is not sought. Transferee is not a carrier.

MC FC–79518. By decision of January 19, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer from TFS, INC., of Grand Island, NE to Francis D. Anderson, d.b.a. F. D. Anderson Trucking Co., of Chancellor, SD, of Permit Nos. MC–141575 Sub 2 issued December 22, 1977, Sub 9F, issued October 17, 1979 and Sub 14F issued October 27, 1980 authorizing the transportation of *cheese, commodities* used in the manufacture of cheese, and *pepperoni,* between various points in the U.S., under contract(s) with Oxford Cheese Corporation of Oxford, Nebraska and all or portions of Certificates Nos. MC–145743 Sub 16, issued November 20, 1980, Sub 27, issued September 17, 1981, Sub 25, issued October 14, 1981 and MC–141575 Sub 20,, issued August 13, 1981, authorizing the transportation of *beverages, and alcoholic liquors and wines,* from points in MN, MO, KY, OH, IA, and CA to points in Hall County, NE; *canned goods,* from Belding, MI to points in NE, and SD, restricted to traffic originating at the named origin; *bananas and export agricultural commodities,* in mixed loads with bananas from Wilmington, DE to points in KS, IL, IN, IA, MI, MN, MS, NE, ND, SD, and WI; *animal and poultry feed and frozen inedible meat* (except named bulk commodities), from Seattle, WA to points in CO, KS, MO, LA, AZ, MI, IL, OH, IN and NE and portions of SD, MN, and WI; *meats, meat products, meat by products, and articles distributed by meat packinghouses,* from the facilities of Whitehall Packing Co., Inc., at or near Whitehall and Eau Claire, WI to points in CT, DE, IL, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, DC, IA, KS, MO, NE, ND, and SD. Transferee's representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, South Dakota 57101–1103. Transferee is not a carrier, TA lease is not sought.

MC FC–79546. By decision of January 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ONTARIO FREIGHT LINES CORP. of Florida, NY, of Certificate No. MC–70917 (Sub-Nos. 6, 7, 8, and 9) issued to A.F.D., Inc., of Florida, NY, authorizing: (a) *printed paper,* on rolls from the facilities of Conrail, at or near Fair Oaks and Middletown, NY, to the facilities of Watchtower Farm Factory, a division of Watchtower Bible & Tract Society, at or near Pine Bush, NY, as restricted to traffic having a prior movement by rail (b) *General commodities* (with specified exceptions): (1) From the city Syracuse, NY, to Albany, Buffalo, Kingston, Middletown, Neburgh, Poughkeepsie, Rochester, Utica, and New York, NY; (2) Between the village of Solvay and the town of Geddes, both in Onendaga County, NY, on the one hand, and, on the other, Buffalo, Kingston, Middletown, Newburgh, Rochester, Poughkeepsie, and New York, NY; and those points in NJ within 20 miles of Rutherford, NJ; (3) From New York, NY, to Buffalo, Rochester, Syracuse, and Utica, NY; (4) From Buffalo, NY, to Syracuse and New York, NY; of Solvay (5) From Syracuse, NY, to those points in New Jersey within 20 miles of Rutherford, NJ; (6) Between Central Valley, NY and points within 15 miles of Central Valley, on the one hand, and, on the other, New York, NY and those points in New Jersey within 20 miles of Rutherford, NJ. Representative: Arthur J. Piken, 95–25 Queens Blvd., Rego, Park, NY 11374. TA lease is not sought. Transferee is not a carrier.

MC–FC–79566. By decision of January 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Mountain Oil Transport, Inc., of Walla Walla, WA, of Permit No. MC–124841 (Sub-No. 8) issued September 22, 1980, to D. D. Jacobs, Inc., of Walla Walla, WA, authorizing: *frozen foods and equipment and supplies* used in the manufacturing, distribution, and storage of frozen foods, (except commodities in tank and hopper containers), between Bettendorf, IA, Plover, MI, Clearfield, UT, Brooks, Hermiston, Milwaukee, Portland, Salem, Hillsboro, Woodburn, Ontario, Weston, Pendleton, and Milton-Freewater, OR, Walla Walla, Spokane, Quincy, Burlington, Wheeler, and Connell, WA, and Heyburn, Nampa, Caldwell, Burley, Lewiston, and American Falls, ID, under contract with Termicolk Corporation, of Portland, OR, and D&K Frozen Foods, Inc., of Walla Walla, WA. Representative: George R. LaBissoniere, Attorney, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. TA lease is not sought. Transferee is not a carrier.

MC–FC–79572. By decision of January 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 3 approved the transfer to American Travel, Inc. of Certificate No. MC–152002 issued January 13, 1982 to DOUGLAS A. HILL, INC., d.b.a. MOUNTAIN HAUS TOURS authorizing the transportation of passengers and their baggage, in speical and charter operations, between Plano, Dallas, Richardson, Houston, and Rockwell, TX, on the one hand, and on the other, points in Colorado, New Mexico and Louisiana. Representative is: Thomas F. Sedberry, Esq., P.O. Box 2023, Austin, TX 78768.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3474 Filed 2–9–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform

the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the dupilication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–24

Decided: Frbruary 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 78092 Sub 5, filed January 19, 1982. Applicant: TACONY FREIGHT SYSTEMS, INC., 2301 E. Church St., Philadelphia, PA. 19124. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19123, 215–365–5141. Transporting *general commodities* (except classes A and B explosives), between points in CT, DE, MD, MA, NJ, NY, NC, PA, RI, SC, VA, WV, and DC.

MC 112113 (Sub-13), filed January 19, 1982. Applicant: GYPSUM HAULAGE, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *building materials,* between points in the U.S., under continuing contract(s) with Strober Bros., Inc., and Strober Group, both of Brooklyn, NY.

MC 115703 (Sub-26), filed January 21, 1982. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 2152, Sinking Spring, PA 19608. Representative: Bernard L. Quaglia (same address as applicant), 215–670–2711. Transporting *contractor's equipment, heavy and bulky commodities, machinery and machine parts, and those commodities which because of their size or weight require the use of special handling or equipment,* between points in Cuyahoga, Seneca, and Trumbull Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119343 (Sub-3), filed January 18, 1982. Applicant: MINDEMANN TRUCKING, INC., N63 W22985 Main St., Sussex, WI 53089. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. (414) 273–7410. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of salt, salt products, food seasoning compounds, fertilizer and fertilizer ingredients, between points in IA, IL, IN, KS, MI, MN, MO, OH and WI.

MC 134452 (Sub-6), filed January 20, 1982. Applicant: EUREKA CARTAGE COMPANY, INC., 5821 West Ogden Avenue, Cicero, IL 60650. Representative: William A. Pawlak (same as applicant) (312) 863–1230. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Sunbeam Appliance Company, of Chicago, IL, and Midas International Corporation, of Chicago, IL.

MC 145042 (Sub-14), filed January 19, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Ave., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *clay, concrete, glass or stone products,* between points in Kent and Manistee Counties, MI, on the one hand, and, on the other, points in KS, KY, MN, MO, NE, ND, IL, IN, IA, OH, OK, SD, TN, TX, and WI.

MC 149133 (Sub-11), filed January 25, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC. d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wayatt E. Smith (same address as applicant), 704–588–2109. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Lucky Stores, Inc., of Buena Park, CA.

MC 150993 (Sub-3), filed January 21, 1982. Applicant: NATIONWIDE EXPRESS, INC., Cedar King Rd. P.O. Box 1067, Shelbyville, TN 37160. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd. P.O. Box 1240, Arlington, VA 22210, 703–525–4050. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156253 (Sub-1), filed January 22, 1982. Applicant: ABLE TRANSIT, INC., 600 W. Church St. Newark, OH 43055. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Anchor Hocking Corporation, of Lancaster, OH.

MC 157652, filed January 20, 1982. Applicant: PROTECTIVE FOOD SERVICES, INC., 8242B Sandy Court, Jessup, MD 20794. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910. Transporting *such commodities* as are dealt in by grocery food business houses and drug houses, between Jessup, MD, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA and DC.

MC 157842 (Sub-1), filed January 25, 1982. Applicant: WEBBER PETROLEUM COMPANY, 93 Kensington St., Portland, ME 04101. Representative: Robert E. Sutcliffe, P.O. Box 1401–84 Harlow St., Bangor, ME 04401, 207–947–4501. Transporting *petroleum and petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Belcher New England, Inc., of Revere, MA.

MC 158283 (Sub-1), filed January 19, 1982. Applicant: EXECUTIVE LIMOUSINE LTD, INC., 372 Bennetts Farm Rd. Ridgefield, CT 06877. Representative: Lawrence Hauser, 134 East Ave. Norwalk, CT 06851, (203) 853–7000. Transporting *passengers and their boggage, in the same vehicle with pasengers,* in special and charter operations, between points in Fairfield County, CT, on the one hand, and, on the other, points in NY and NJ.

MC 159883, filed January 18, 1982. Applicant: ELECTRONIC DATA CARRIERS OF TEXAS, INC., Suite 100, 2203 Timberloch Place, Woodlands, TX

77380. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* between points in the U.S., under a continuing contract(s) with E-Systems, Inc.,of Dallas, TX.

MC 160123, filed January 15, 1982. Applicant: RICHARD D. PEASE d.b.a. INTERSTATE SPECIALIZED CARRIERS, P.O. Box 87, Oakdale, WI 54649. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119.Transporting (1)*surplus government property* between points in WI on the one hand, and, on the other, points in the U.S., (except AK and HI), (2) *metal products and machinery,* between points in Juneau County, WI, on the one hand, and, on the other, points in the U.S., (except AK and HI), and (3) *machinery and transportation equipment,* between points in Monroe County, WI, on the one hand, and, on the other, points in the U.S.

MC 160192, filed January 20, 1982. Applicant: DAN TERRELL TRUCKING, INC., 451 Tidewater Rd., Mooresville, IN 46158. Representative: Robert B. Hebert, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, 317–639–4511. Transporting *sand, concrete, and clay products,* between points in IL, IN, KY, MI, and OH, on the one hand, and, on the other, points in AL, AR, CT, GA, IA, IL, IN, KS, KY, MA, MI, MN, MO, MS, NC, NE, NY, OH, OK, PA, SC, TN, TX, UT, VA, WI, and WV.

MC 160243, filed January 25, 1982. Applicant: WILLIS L. SHIFFLET d.b.a. DIAMOND CHARTER LINES 324 Stedman Place, Monrovia, CA 91016. Representative: Willis L. Shifflet (same address as applicant), 213–358–6465. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in CA, on the one hand, and, on the other, points in the U.S.

MC 160252, filed January 25, 1982. Applicant: ROBERT QUINN d.b.a. ROBERT QUINN HOT SHOT SERVICE, 1556 9th St., Rock Springs, WY 82901. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, 712–255–3127. Transporting *Mercer Commodities,* between points in CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, SD, TX, UT, and WY.

Volume No. OP3–18

Decided: February 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 9644 (Sub-15), filed January 25, 1982. Applicant: HAYES TRUCK LINE, INC., 1410 Intercity Trafficway, P.O. Box 4060, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *transportation equipment,* between points in Seward County, NE, on the one hand, and, on the other, points in MO.

MC 14314 (Sub-53), filed January 28, 1982. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway and Vine Sts., Lima, OH 45802. Representative: Ronald D. Mills (same address as applicant), (419) 222–8045. Transporting *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Boman Distribution, the Barnes Group, Inc. of Cleveland, OH.

MC 26825 (Sub-69), filed January 22, 1982. Applicant: ANDREWS VAN LINES, INC., Seventh St. and Park Ave., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. Transporting *general commodities* (except household goods), between points in the U.S., under continuing contract(s) with United Forwarding, Inc. of Omaha, NE.

MC 107605 (Sub-32), filed January 27, 1982. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Rd., N.E., Minneapolis, MN 55413 Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK, HI, and TX).

MC 114274 (Sub-82), filed January 25, 1982. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Pl., Des Moines, IA 50306. Representative: William H. Towle, 180 No. LaSalle St., Chicago, IL 60601, (312) 332–5106. Transporting *food and related products,* between Appleton, WI, on the one hand, and, on the other, points in IA, IL, KS, MN, MO, NE and SD.

MC 115554 (Sub-45), filed January 25, 1982. Applicant: HARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R. R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761 Transporting *such commodities* as are dealt in by manufacturers of transportation equipment, between points in Johnson County, IA, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX.

MC 119704 (Sub-9), filed January 27, 1982. Applicant: R.A. HARRIS & SONS, INC., 3501 22nd St., P.O. Box 237, Menominee, MI 49858–0237 Representative: Dennis R. Harris (same address as applicant), (906) 864–2232. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Frigo Cheese Corporation, of Lena, WI.

MC 129625 (Sub-18), filed January 20, 1982. Applicant: ROBERT COLE TRUCKING COMPANY, P.O. Box M, Falls Creek, PA 15840. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *coal and coal products,* between points in the U.S., under continuing contract(s) with I.U.E. Coal Sales Company, of DuBois PA.

MC 139395 (Sub-9), filed January 27, 1982. Applicant: BULK TRANSIT CORPORATION, 7177 Industrial Pkwy., Plain City, OH 43064. Representative: Paul E. Berry, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting (1) *commodities in bulk* and (2) *lime, limestone and limestone products,* between points in IL, IN, KY, MD, MI, NC, NJ, OH, PA, TN, VA and WV.

MC 140484 (Sub-105), filed January 22, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, DC 20005, (202) 296–3555. Transporting *such commodities* as are dealt in or used by the horticultural industry, between points in the U.S. (except AK and HI).

MC 141425 (Sub-1), filed January 25, 1982. Applicant: THUNDER EXPRESS, LTD., W137 N9418 Highway 145, Menomonee Falls, WI 53051. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203, (414) 273–7410. Transporting (1) *concrete products,* between points in Waukesha County, WI, on the one hand, and, on the other, points in IL, IN, and the Upper Peninsula of MI; and (2) *such commodities* as are dealt in or used by a manufacturer, producer or distributor of lumber, wood products, and packaging supplies, between points in Waukesha and Brown Counties, WI, on the one hand, and, on the other, points in IL, IN, and the Upper Peninsula of MI.

MC 148105 (Sub-3), filed January 18, 1982. Applicant: OVERLAND EXPRESS, INC., P.O. Box 12332, Houston, TX 77017. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting (1) *Mercer Commodities,* (a) between points in AL, FL, GA, AR, CA, LA, MS, NM, OK, and TX, and (b) between points in AL, FL, GA, AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other

points in the U.S., (2) *agricultural machinery,* (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (3) *road construction machinery,* (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (4) *industrial machinery,* (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (5) *iron and steet articles,* between points in TX, MO, NM, OK, and LA, (6) *metal buildings,* (a) between Houston, TX, on the one hand, and, on the other, points in the U.S., and (b) between Houston, TX, on the one hand, and, on the other, Galveston, Freeport, Corpus Christi, Brownsville, Barbers Cut, Port Arthur, Beaumont, and Orange, TX, Lake Charles, New Orleans, and Baton Rouge, LA, Gulfort, Biloxi, and Pascagoula, MS, and Mobile, AL, restricted to traffic having a prior or subsequent movement by water, and (7) *grout and cement,* between Houston, TX, on the one hand, and, on the other, points in LA, OK, MS, and NM.

MC 148554 (Sub-3), filed January 18, 1982. Applicant: WALD TRANSFER & STORAGE CO., a Corporation, P.O. Box 344, Houston, TX 77001. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1788. Transporting (1) *Mercer commodities,* (a) between points in AL, FL, GA, AR, CA, LA, MS, NM, OK, and TX, and (b) between points in AL, FL, GA, AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (2) *agricultural machinery,* (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (3) *road construction machinery,* (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (4) *industrial machinery,* (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, (b) and between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (5) *iron and steel articles,* between points in TX, MO, NM, OK, and LA, (6) *metal buildings,* (a) between Houston, TX, on the one hand, and, on the other, points in the U.S., and (b) between Houston, TX, on the one hand, and, on the other, Galveston, Freeport, Corpus Christi, Brownsville, Barbers Cut, Port Arthur, Beaumont, and Orange, TX, Lake Charles, New Orleans, and Baton Rouge, LA, Gulfport, Biloxi, and Pascagoula, MS, and Mobile, AL, restricted to traffic having a prior or subsequent movement by water, (7) *grout and cement,* between Houston, TX, on the one hand, and, on the other, points in LA, OK, MS, and NM, and (8) *prefabricated buildings,* between points in Tarrant and Dallas Counties, TX, on the one hand, and, on the other, points in Jefferson, Harris, and Galveston Counties, TX.

MC 150294 (Sub-4), filed January 21, 1982. Applicant: CORBIN TRUCKING CO., INC., R.R. 2, Manhattan, IL 60442. Representative: Abraham A. Diamond, 29 S. La Salle St., Chicago, IL 60603, (312) 236–0548. Transporting *metal products,* between points in IL and IN, on the one hand, and, on the other, points in the U.S.

MC 154524 (Sub-1), filed January 25, 1982. Applicant: LIESFELD LUMBER CO., INC., P.O. Box 129, Laurel, VA 23060. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting (1) *metal products* and (2) *rubber and plastic products,* between points in Middlesex County, NJ, on the one hand, and, on the other, points in DE, MD, VA and DC.

MC 154545 (Sub-4), filed January 25, 1982. Applicant: L & M EXPRESS, INC., 3224 Toone St., Baltimore, MD 21224. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *lumber and wood products,* between Baltimore, MD, on the one hand, and, on the other, points in WA, OR, ID, MT, NV, WY, CO, ND, DE, NJ, MN, WI, MI, VA, NC, SC, GA, FL, TN, AL, ME, VT, CT, MA, NY and OH.

MC 155784 (Sub-1), filed January 25, 1982. Applicant: KEN GRAVES d.b.a KPS TRUCKING CO., 504 Florham Ave., San Dimas, CA 90773. Representative: David B. Rosenman, 315 S. Beverly Dr., Ste. 315, Beverly Hills, CA 90212, (213) 277–2323. Transporting (1) *corrugated cardboard* and (2) *wooden containers and related products,* between points in the U.S., under continuing contract(s) with Calpine Containers, Inc. of Walnut Creek, CA.

MC 156515, filed January 25, 1982. Applicant: SAN FRAN CHARTERS, INC., 397 Mullen Avenue, San Francisco, CA 94110. Representative: Arleigh E. Disney, Jr. (same address as applicant), (415) 648–5370. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in San Francisco, San Mateo, Santa Clara, and Alameda Counties, CA, and extending to points in CA, OR, NV, WA, AZ, UT, WY, MT, ID, CO, and NM.

MC 158365, filed January 27, 1982. Applicant: J & J SERVICES, INC., 122 W. Central Ave., Lake Wales, FL 33853. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–2881. Transporting (1) *chemicals* and (2) *empty containers,* between the facilities of Pennsylvania Engineering Company, at points in the U.S., on the one hand, and, on the other points in the U.S. and (3) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between the facilities of Scott Paper Company, at points in the U.S., on the one hand, and, on the other points in the U.S.

MC 158434, filed January 2, 1982. Applicant: TOM SHERMAN, P.O. Box 219, Clarence, IA 52216. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *iron and steel articles,* between points in the U.S. under continuing contract(s) with American Metals Corporation, of Commerce City, CO.

MC 158855, filed January 20, 1982. Applicant: HUGH T. EBMEYER d.b.a. EBMEYER CHARTER SERVICE, 19522 Shasta Rd., Apple Valley, VA 92307. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special or charter operations, in round-trip service, beginning and ending at points in Victorville, Barstow and Apple Valley, CA and extending to points in Clark County, NV.

MC 159074, filed January 22, 1982. Applicant: ABC TRANSPORT, INC., 400 E. Carrie Ave., St. Louis, MO 63147. Representative: Samuel R. Green, 2414 Rustic Ridge, St. Louis, MO 63114, (314) 423–5659. Transporting *such commodities* as are dealt in or used by automotive service stations, automobile repair shops, and automobile parts and service centers, between points in the U.S. under continuing contract(s) with McQuay-Norris, Inc., of St. Louis, MO.

MC 159315, filed January 20, 1982. Applicant: VICTOR BITTER, JR. d.b.a. VICK'S EXPRESS, 165 Stillwater Rd. Barnegate, NJ 080003. Representative: George A. Olsen, P.O. Box 357,

Gladstone, NJ 07934, (201) 435–7140. Transporting *clay, concrete, glass, or stone products,* between points in Saratoga County, NY, on the one hand, and, on the other, points in Passaic County, NJ.

MC 160034, filed January 21, 1982. Applicant: T. M. TRANSIT, LTD., 2828 Wayne St., Stevens Point, WI 54481. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *such merchandise* as is dealt in by chain grocery, food business houses and department stores, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160114, filed January 21, 1982. Applicant: CHAPKOR, INC., P.O. Box 472, Keller, TX 76248. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *food and related products,* between points in Delta County, CO, on the one hand, and, on the other, points in AL, AR, GA, IA, ID, KS, LA, MS, MO, FL, NE, NM, NV, NC, OK, OR, SC, TX, and WA.

MC 160194, filed January 21, 1982. Applicant: HGT GALLANT TRUCKING, LTD., P.O. Box 640, Watson, Saskatchewan SOK 4VO. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, (612) 339–4546. In foreign commerce only, transporting *potash,* between ports of entry on the International Boundary line, between the U.S. and Canada, in the U.S., on the one hand, and, on the other, points in ND, SD, MN, and IA.

MC 160214, filed January 22, 1982. Applicant: STANLEY FRANK BOTURLA d.b.a. P & K TRANSPORT CO., 442 Lanza Ave., Garfield, NJ 07026. Representative: George Milanos, 46 West Clin Ave., Tenafly, NJ 07670, (201) 569–4142. Transporting *machinery,* between points in the U.S., under continiuing contract(s) with Acrison, Inc., of Moonachie, NJ.

MC 160224, filed January 22, 1982. Applicant: BYRON WATSON TRUCKING, INC., P.O. Drawer J, Kirbyville, TX 75956. Representative: Brian E. Bretwon, P.O. Drawer 1375, Winnfield, LA 71483, (318) 628–3156. Transporting *Mercer Commodities,* between points in TX, LA, OK CO, and WY, on the one hand, and, on the other, points in the U.S.

MC 160234, filed January 25, 1982. Applicant: THE HOUSE OF MIDULLA, INC., 5515 Anderson Rd., Tampa, FL 33614. Representative: Ansley Watson, Jr., P.O. Box 1531, Tampa, FL 33601, (813) 223–2411. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Sikes Corporation of Lakeland, FL.

MC 160245, filed January 25, 1982. Applicant: TOMPKINS TRUCKING, INC., 6937 Adams Rd., Bloomfield Hills, MI 48013. Representative: Alex J. Miller, 555 S. Woodward Ave., Suite 512, Birmingham, MI 48011, (313) 647–3350. Transporting *metal products,* between Detroit, MI and points in PA, OH, IL, and IN.

MC 95884 (Sub-2), filed December 15, 1981, previously noticed in the **Federal Register** on January 5, 1982. Applicant: PENN HIGHWAY TRANSIT COMPANY, a Corporation, 825 East Chestnut St., Lancaster, PA 17604. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, D.C. 20005, (202) 783–3525. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, between points in that part of PA bounded on the west by US Hwy 15 and bounded on the north by Interstate Hwy 80, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Conestoga Tours, Inc., of Lancaster, PA.

Note.—This republication corrects the territorial description.

MC 96345 (Sub-7), filed December 28, 1981, previously published in the **Federal Register** issue of January 14, 1982. Applicant: AMERICAN EAGLE MOTOR COACH, INC., 72 Sycamore Street, Fairhaven, MA 02719. Representative: Robert J. Brooks, Suite 1111, 1828 L Street, NW., Washington, D.C. 20036, (202) 466–3892. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in RI and those points in MA on or south of U.S. Hwy 44 and extending to points in the U.S. (including AK But excluding HI).

Note.—This republication correctly reflects the territorial description.

MC 140484 (Sub-104), filed December 28, 1981. previously noticed in the **Federal Register** on January 14, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant), (813) 334–4517. Transporting *rubber and plastic products,* between the facilities used by the Pinckney Molded Plastics, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

Note.—This republication corrects the territorial description.

MC 149105 (Sub-6), filed December 29, 1981, previously noticed in the **Federal Register** on January 14, 1982. Applicant: BAYOU STATE TRUCKING, INC., 639 S. Rendon St., Suite 303, New Orleans, LA 70119. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151, (703) 941–8200. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and related products, plastics and related products, containers and closures, and metal products, between points in the U.S., lighting fixtures, and new furniture and fixtures, between Suffolk, VA, and points in Jackson County, AR, Los Angeles County, CA, and Dade County, FL, on the one hand, and, on the other, points in the U.S.

Note.—This republication corrects the commodity description.

MC 159304, filed November 30, 1981, previously noticed in the **Federal Register** on December 16, 1981. Applicant: INTERMOUNTAIN TRANSIT HOMES, INC., R. R. #1, Box 104–C Inkom, ID 83245. Representative: Eldon E. Bresee, 2881 East 3400 South, Salt Lake City, UT 84109, (801) 485–5154. Transporting (1) *mobile homes, buildings, building sections,* and modules, and (2) *parts and accessories,* for mobile homes, buildings, building sections, and modules, in initial and secondary movements, between points in CO, ID, UT, NV, and WY.

Note.—This republication corrects the territorial description.

MC 159835, filed December 23, 1981, previously noticed in the **Federal Register** on January 14, 1982. Applicant: LENART TRANSPORTATION, INC., 1154 Quinnipiac Ave., New Haven, CT 06513. Representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510 (203) 787–1288. Transporting (1) *electric connectors* and *component parts,* and (2) *interoffice correspondence, reports,* and *payroll records,* between points in the U.S., under continuing contract(s) with Burndy Corporation, of Orange, CT.

Note.—This republication corrects the commodity description.

MC 159895, filed December 29, 1981. previously noticed in the **Federal Register** on January 14, 1982. Applicant: LARRY PHELPS, d.b.a. PHELPS FARMS, 11561 State Rt. 4, Milford Center, OH 43045. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *fertilizer and lawn care products,* between the facilities used by Chem-Lawn Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

Note.—This republication corrects the territorial description.

Volume No. OP5–25

Decided: February 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Jayce, and Dowell.

MC 105269 (Sub-110), filed January 12, 1982. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *building board* and *paper products,* between points in Lenawee and St. Joseph Counties, MI and Duval County, FL, on the one hand, and, on the other, points in the U.S.

MC 112588 (Sub-38), filed January 25, 1982. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St. Columbus, OH 43215, (614) 228–1541. Transporting *such commodities* as are dealt in or used by manufactuers and distributors of construction materials, between points in Erie County, OH, on the one hand, and, on the other, points in CT, MA, ME, NH, RI, AND VT.

MC 113559 (Sub-1), filed January 22, 1982. Applicant: BOITANO PACIFIC TRUCKING CO., INC., 1711 First St., Snohomish, WA 98290. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *lumber and lumber products,* between points in the U.S., under continuing contract(s) with Brady Lumber Company, of Seattle, WA, and Seattle-Snohomish Mill Co. Inc., Nepa Wholesale Lumber Sales, Inc., and Hobart Lumber Co., Inc., all of Snohomish, WA.

MC 144789 (Sub-3), filed January 25, 1982. Applicant: ERNIE'S MOBILE HOME TRANSPORT, INC., P.O. Box 1510, 5779 Feather River Blvd., Marysville, CA 95901. Representative: Louis E. Hall, Jr. (same address as applicant), 916–742–6974. Transporting (1) *trailers, including travel trailers,* (2) *buildings, complete or in sections,* and (3) *motor homes, van conversions and pick-up campers,* between points in the U.S. in and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 146229 (Sub-3), filed January 26, 1982. Applicant: VIRGIL SCHMIDT, d.b.a. SCHMIDT TRUCKING, Route 2, Box 207, Standish, MI 48658. Representative: William B. Elmer, 615 E. Eighth St., Traverse City, MI 49684, (616) 941–5313. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Michigan Agricultural Cooperative Marketing Association of Lansing, MI.

MC 147309 (Sub-1), filed January 25, 1982. Applicant: UNITED SALES & LEASING COMPANY, d.b.a. PATH TRUCK LINES, 3649 E. Lake Rd., Dunkirk, NY 14048. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701, 716–664–5210. Transporting (1) *metal products,* (2) *metal scrap,* (3) building *materials,* between points in the U.S. in and east of WI, IL, KY, and TN and in and north of SC and NC.

MC 153048 (Sub-1), filed January 21, 1982. Applicant: DORSEY DELIVERY CORP., P.O. Box 3587, Wilmington, DE 19807. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Washington, DC 20036, (202) 785–0024. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with J. A. Tucker Co., of Westville, NJ.

MC 153938 (Sub-8), filed January 25, 1982. Applicant: ENERGY EXPRESS, INC., P.O. Box 27605, Salt Lake City, UT 84127. Representative: Norval Millsap (same address as applicant), (801) 364–4532. Transporting *petroleum, natural gas and their products,* between points in the U.S., under continuing contract(s) with Simmons Oil Corporation, of Scottsdale, AZ.

MC 154048 (Sub-2), filed January 25, 1982. Applicant: LAMAR K. HAAS, INC., R.D. 2, Box 652, Slatington, PA 18080. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting *chemicals and related products* between points in Cape Girardeau County, MO, on the one hand, and, on the other, points in the U.S.

MC 155398 (Sub-1), filed January 25, 1982. Applicant: TISCHHAUSER TRUCKING, INC., Rural Route #1, White City, KS 66873. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *fertilizer,* between points in U.S., (except AK and HI), under continuing contract(s) with N-Ren Corporation, of East Dubuque, IL.

MC 155809 (Sub-1), filed January 8, 1982. Applicant: PULLENS TRUCKING, INC., 320 North Point Rd., Suite 6, Baltimore, MD 21224. Representative: Robert L. Cope, Suite 501, 1730 M St., NW, Washington, DC 20036, (202) 296–2900. Transporting *metal, metal products, machinery,* and *electrical equipment and supplies,* between points in Cambria, Dauphin, Lebanon, Lycoming, and North Hampton Counties, PA, Erie County, NY, Porter County, IN, Middlesex County, NJ, and Baltimore County, MD, on the one hand, and, on the other, points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the eastern boundary of Itasca County, MN, then northward along the eastern boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 158608, filed January 19, 1982. Applicant: DARRYL L. OTT, d.b.a. SKI, ETC., 1407 Kentucky, Lawrence, KS 66044. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044, (913) 843–0110. Transporting *passengers and their baggage* in same vehicle as passengers, in special and charter operations, beginning and ending at points in KS and extending to point in the U.S., (except AK and HI).

MC 160229, filed January 25, 1982. Applicant: OMNI EXPRESS, INC., 640 Terrell Mill Rd., College Park, GA 30349. Representative: Wayne A. Wilkins (same address as applicant), 404–768–4954. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk). between Atlanta and Columbus, GA. From Atlanta, GA over Interstate Hwy 75 to junction GA Hwy 54, then over GA Hwy 54 to Fayetteville, GA, then over GA Hwy 85 to Senoia, GA, then over GA Hwy 16 to Digbey, GA, then over unumbered county road (Hollonville) to junction GA Hwy 18, then over GA Hwy 18 to Zebulon, GA, then over GA Hwy 18, to Woodbury, GA, then over GA Hwy 85W to Warm Springs, GA, then over U.S. Hwy 27A to junction GA Hwy 41, then over GA Hwy 41 to Talbotton, GA then over GA Hwy 315 to junction GA Hwy 208, then over GA Hwy 208 to Waverly Hall, GA, then over U.S. Hwy 27A to Columbus and return over the same routes serving all intermediate points, and serving Geneva, GA as an off-route point.

MC 160238, filed January 25, 1982. Applicant: THOMAS C. WILLIAMS, INC., P.O. Box 296, 308 Burke St., Versailles, MO 65084. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Kansas City, MO 64105, (816) 221–1464. Transporting *foodstuffs,* between points in U.S., under continuing

contract(s) with Diggs Packing Company, of Columbia, MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3462 Filed 2-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by the Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251, was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferrring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-23

Decided: February 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160202, filed January 21, 1982. Applicant: SAFETY MOVING & STORAGE, INC., 3817 Fitzgerald Rd. Louisville, KY 40216. Representative: William L. Willis, Suite 702 McClure Bldg., Frankfort, KY 40601, 502-227-7384. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160282, filed January 27, 1982. Applicant: MATCHMAKER TRANSPORTATION SERVICES, 89 Canoe Brook Rd., Trumbull, CT 06611. Representative: James F. Skane, (same address as applicant), 203-268-6153. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4-35

Decided: January 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 160227, filed January 25, 1982. Applicant: JAMES SYLVESTRI, 20 Grove St., S. Hackensack, NJ 07606. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415, (212) 263-2078. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural, limestone, fertilizers and other soil conditioners,* by the owner of the motor vehicle, in such vehicle, between points in the U.S.

Volume No. OP5-26

Decided: February 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 134498 (Sub-6), filed January 22, 1982. Applicant: FREEWAY TRANSPORT, INC., 635 S. E. 11th Ave., Portland, OR 97213. Representative: Earle V. White, 2400 S. W. Fourth Ave., Portland OR 97201, (503) 226-6491. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 148638 (Sub-3), filed January 25, 1982. Applicant: ELMO W. AND GARY D. CARLSON, d.b.a., CARLSTON LEASING CO., 1229 Clarke St., Clay Center, KS 67432. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158338 (Sub-1), filed January 20, 1982. Applicant: R. D. CADLE, d.b.a., RON'S TRUCKING, 53 So. Dawson St., Seattle, WA 98134. Representative: Roland D. Cadle, (same address as applicant), (206) 767-5367. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160188, filed January 19, 1982. Applicant: ARNOLD E. MELCHER, 10381 N.E. Holiday, Portland, OR 97220. Representative: Arnold E. Melcher (same address as applicant), (503) 252-4184. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160219, filed January 21, 1982. Applicant: CANADA DISPATCH, P.O. Box 39712, Solon, OH 44139. Representative: Jerrery R. Konczal (same address as applicant), 216–543–4810. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160248, filed January 25, 1982. Applicant: EL WAYNE E. BUCHHOLZ, d.b.a. BUCHHOLZ TRUCKING, R.R. 1, Box 118, Wyndmere, ND 58081. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160249, filed January 26, 1982. Applicant: SOUTHERN NEW ENGLAND COURIER, P.O. Box 323, Southport, CT 06490. Representative: Christopher M. Kenyon, 15 Osborne Place, Southport, CT 06490, (203) 254–0271. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3475 Filed 2–9–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29817]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment in Granite County, MT; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 the abandonment by Burlington Northern Railroad Company of its 5.12-mile line segment between milepost 0.00 (near Sherryl Spur) and milepost 5.12 (near Elephant) in Granite County, MT.

DATES: This exemption is effective March 12, 1982. Petitions to stay the effective date must be filed by February 22, 1982 and petitions for reconsideration must be filed no later than March 2, 1982.

ADDRESSES: Send petitions to:

(1) Interstate Commerce Commission, Section of Finance, Rm. 5417, Washington, DC 20423, and

(2) Donald E. Engle, Curtis H. Berg and Douglas J. Babb, Attorneys, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

For copies of the full decision write to: Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call Toll Free (800) 424–5403.

Correspondence should refer to Finance Docket No. 29817.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275–7246.

SUPPLEMENTAL INFORMATION: For further information, see the Commission's decision in Finance Docket No. 29817. A copy of the decision may be obtained from the Office of the Secretary.

Decided: February 2, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3476 Filed 2–9–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 347 (Sub–No. 1]

Coal Rate Guidelines Nationwide; Interim Decision; Extension of Time To File Comments

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file comments to interim decision.

SUMMARY: The Commission issued an interim decision in the development of ratemaking standards for the transportation of market dominant coal. Certain final guidelines on a number of cost issues were established. Comments were sought on other related cost issues. The due date for those comments is being extended by this notice.

DATE: Comments are now due April 13, 1982.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: By petition filed January 25, 1982, Gulf States Utilities Company, et al. requested a 60-day extension of time for filing comments. Pursuant to our notice in the **Federal Register** on December 29, 1981 (46 FR 62958), comments are due February 12, 1982. This request was supported by the Dayton Power and Light Company and the Toledo Edison Company.

The petition shall be granted. The issues in this proceeding are complex and will require comprehensive analysis by economic consultants and others. Given the importance of this proceeding, an extension shall benefit both the parties and the Commission by insuring that the most responsive comments are filed in developing the record.

It is ordered: The petition is granted. The time for filing comments is extended to April 13, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Decided: February 4, 1982.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3483 Filed 2–9–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the Provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on April 14, 15 and 16, 1982 at the Pan American Health Organization Building, Conference Room "C" to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. research funding in the areas of food and nutrition, health and population, and science and technology.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to extent the time available for the meeting permits. Dr. Miloslav Rechcigl, Chief of Research and Methodology Division, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Rechcigl, 1601 N. Kent Street, Arlington, Virgania 22209 or call area code (703) 235–9011.

Dated: January 26, 1982.

Miloslav Rechcigl,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 3440 Filed 2–9–82; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 22-44]

Report to the President on Casein, Mixtures of Casein and Lactalbumin

January 29,1982.

Findings and Recommendations

On the basis of the information developed in the course of the investigation, the Commission [1] finds and recommends that casein, mixtures in chief value of casein, and lactalbumin, provided for in items 493.12, 493.17, and 190.15, respectively, of the Tariff Schedules of the United States (TSUS), are not being, and are not practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program for milk undertaken by the Department of Agriculture, or to reduce substantially the amount of any product processed in the United States from domestic milk.

Background

The Commission instituted its investigation on August 24, 1981, following the receipt on August 10, 1981, of a request from the President. The investigation was instituted pursuant to section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether casein, mixtures in chief value of casein, and lactalbumin, provided for in items 493.12, 493.17, and 190.15, respectively, of the TSUS, are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program for milk conducted by the Department of Agriculture, or to reduce substantially the amount of products processed in the United States from domestic milk.

Notice of the Commission's investigation was published in the **Federal Register** of September 2, 1981 (46 FR 44103). A public hearing was held in Washington, D.C. on November 9 and 10, 1981. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

This report is being furnished to the President in accordance with section 22(a) of the Agricultural Adjustment Act. The information in the report was obtained from responses to Commission questionnaires, from information presented at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal and State agencies, and from the Commission's files, submissions from the interested parties, and other sources.

Statement of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, Commissioners Paula Stern and Alfred E. Eckes

Introduction

Section 22 of the Agricultural Adjustment Act provides that the Commission shall advise the President whether articles "are being or are practically certain to be imported * * * in such quantities as to render or tend to render ineffective, or materially interfere with * * *" certain agricultural programs.[2] The President considers the Commission's advice in determining whether relief from import competition should be granted.

Our investigation shows that imported casein probably displaces some domestic dairy products supported by the Department of Agriculture's milk program. However, we find that interference with the program has not risen to the "material" level, nor is there any indication it will do so in the immediate future. As the Commission majority stated in *Certain Tobacco*, investigation No. 22–43 (August 1981), material interference is more than slight, but need not be major interference. In this case, imports cause no more than slight interference.

In addition, we do not find that imports render or tend to render the milk program ineffective. The principal objectives of the program are being met, although admittedly at considerable cost to the Government. This cost is largely a function of price support levels, however, and not of casein imports. No real and imminent harm to the program has been shown to result from the imports and thus the arguments as to future harm are conjectural.

The Milk Program of the USDA

The milk program of the U.S. Department of Agriculture supports the price of milk through purchases of butter, Cheddar cheese, and nonfat dry milk (NFDM) by the Commodity Credit Corporation (CCC) at support prices set by the Congress. The statutory purpose of the milk support program is to support the price of milk at a level "to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs."[3] In addition, an implicit goal of the milk program, as with all commodity programs, is that it be administered without excessive losses. Congress has demonstrated its concern with costs of the commodity program by the enactment of the section 22 protective mechanism and by occasional downward adjustment of the support price level.

Between April 1976 and October 1980, price support levels ranged from 78 percent to 82.3 percent of parity and the support price for milk increased 60 percent. Congress lowered the level in 1981 to 72.9 percent of parity; but years of high support stimulated an increase in milk production from 120 billion pounds in 1976 to an estimated 132 billion pounds in 1981. In the face of this plentiful supply, market prices generally were below support prices for dairy products after 1979, triggering ever higher CCC purchases. In 1981, the Government purchased 851 million pounds of NFDM (over three times 1979 purchases), 546 million pounds of cheese (over nine times the 1979 purchases), and 352 million pounds of butter (more than four times the 1979 purchases). Dairy purchases cost the CCC $2 billion in 1981, roughly half of all the money spent on agricultural price support programs.

Effectiveness of the Program

Notwithstanding these high costs, the statutory purpose of the milk program is being met. There can be no doubt, given the great amount of milk products purchased by the Government and the level of U.S. production, that there is an adequate supply of milk to meet current needs and capacity to meet anticipated future needs. Price support levels have kept pace with changes in the cost of milk production.

In addition, although only limited data are available, net farm income for dairy farmers has increased in recent years

[1] Commissioner Frank dissents in part. Commissioner Frank finds that casein and mixtures in chief value of casein, provided for in items 493.12 and 493.17, respectively, of the TSUS, are being imported into the United States under such conditions and in such quantities as to materially interfere with the price-support program for milk conducted by the United States Department of Agriculture.

[2] The statute also includes a clause referring to products processed from agricultural commodities, and the President included the processing clause within the scope of the requested investigation. USDA did not assert and there were no persuasive arguments before the Commission that imports of casein reduced substantially the amount of any product processed from milk, and therefore we will not address this issue further in this statement.

[3] 7 U.S.C. 1446(c).

due to rising prices for milk and increasing production of milk per cow. Also, the price of milk has risen faster then the cost of feed. Net farm income for dairy farms in Wisconsin and New York, two principal milk-producing states, showed healthy growth between 1977 and 1980.[4]

The Imported Products

Two imported products are the subject of this investigation, casein and mixtures in chief value of casein,[5] and lactalbumin. Casein, the principal protein in milk, is one of the most complete proteins known, containing all of the amino acids necessary in the human diet. It is manufactured commercially from fluid skim milk and is used for a number of purposes, including human foods, animal feed, glues, paper coatings, and paints.

Prior to the 1960's, casein was used almost exclusively for industrial applications. However, casein markets have gradually shifted until, in 1980, human food and animal feed were estimated to account for 85 percent, and industrial uses, for 15 percent of domestic casein consumption. The largest and fastest growing market for casein is imitation cheese, which accounted for an estimated 31 percent of casein used in 1980 and 35 percent during January–August 1981.[6] The properties of casein that make it a desirable product include its binding, emulsifying, and buffering characteristics.

There was once significant production of casein in this country. However, skim milk was diverted into production of NFDM rather than casein because sales to the Government of NFDM were more lucrative than returns from sales of casein. As a result, domestic casein production fell from 18 million pounds in 1949 to 3 million pounds in 1955; since 1968 no production has been reported.[7]

Lactalbumin is another protein derived from milk. When fluid milk is processed into casein, the liquid portion that remains is known as acid whey. Lactalbumin is currently processed from acid whey. Latalbumin is used as a protein complement in breakfast foods, pet foods, miscellaneous high protein foods, medical/nutritional products, and diet foods.

Imports of casein have increased irregularly from 112 million pounds in 1976 to 152 million pounds in 1980.[8] However, recent data show that imports during January–August 1981 totaled 84 million pounds, 22 percent less than the 109 million pounds imported during the same period of 1980. Imports of lactalbumin during 1978–80 fluctuated between 1.0 million pounds and 2.0 million pounds.[9]

Assessment of Present Harm to the Program

Direct displacement.—Casein is not currently produced in the United States and is not like any product covered by the price support program. Thus, any interference with the price support program by casein must be indirect, i.e., by displacement of a dairy product that is purchased by the CCC.

The argument was made that section 22 should not be applied because casein and NFDM and cheese are not "like products." In support of this argument one party cited the U.S. statement in support of its petition for a waiver of obligations under Articles II and XI of the General Agreement on Tariffs and Trade (GATT). The party alleged that statement said section 22 was designed to apply only to "like products," i.e., imported products that are substantially similar in characteristics and uses to products covered by the agricultural program concerned. However, section 22 has no like product requirement. There is ample support for our position. Section 22 is not restricted to like products for three reasons: (1) The U.S. request for a waiver does *not* state that section 22 is applicable only to like products; (2) the statement of the GATT Contracting Parties does not state that section 22 applies only to like products;[10] and (3) there is no indication in the words of the statute or in the legislative history of section 22 that leads to that conclusion.[11] Where like product, it has done so explicitly, as in section 201 of the Trade Act of 1974 or in the Trade Agreements Act of 1979.[12] Section 22, however, applies to imports of "any article or articles."

Indirect displacement.—Although there is no requirement that the imported product have a "like" domestic counterpart for relief to be granted under section 22, the absence of products that are like or directly competitive with each other inevitably makes an analysis of interference much more difficult. Quantification of the impact on a program can become to tenuous as to be speculative.

The tenuous linkage between casein imports and the high costs of the program was reflected in USDA's own testimony at the hearing held as part of this investigation. USDA was unwilling to take the position that material interference with the program is occuring now or will occur in the near future. Rather, USDA stated that there is "reason to believe" that there is present material interference.[13] This is a precondition for a recommendation by USDA that the President request the Commission to conduct a section 22 investigation. However, a "reason to believe" is not a sufficient basis for the Commission to make an affirmative finding.

There is no positive statistical correlation between imports of casein and purchases by the CCC under the dairy program.[14] In examining the costs of the dairy program, that lack of correlation is significant because it shows that casein imports are clearly not a major cause of material interference. Our examination of the estimates of displacement leads us to the conclusion that the effect of imports on the program is in fact only slight.

During this investigation, the Commission received a wide range of estimates from many sources as to the level of displacement of domestic products caused by casein. There is no justification for accepting the assumptions upon which these higher loss estimates must be based. However, we are not adopting any specific estimate of displacement because all such estimates in this involve a large measure of conjecture.

The USDA estimated that $300 million worth of NFDM was displaced by casein in 1980, or about 20 percent of the total cost of the program in that year. We believe that the USDA estimate

[4] Report, pp. A–3 and A–4.

[5] In the remainder of this opinion, both casein and mixtures of casein are referred to as "casein."

[6] Report, pp. A–14 and A–15.

[7] Report, p. A–18.

[8] Report, p. A–66.

[9] Report, p. A–28.

[10] The full statement of the Contracting Parties regarding like product is as follows:

(a) Having also received the statement of the United States: that there exist in the United States governmental agricultural programmes (including programmes or operations which provide price assistance for certain domestic agricultural products and which operate to limit the production or market supply, or to regulate or control the quality or prices of domestic agricultural products) which from time to time result in domestic prices being maintained at a level in excess of the prices at which imports of *like* products can be made available for consumption in the United States in abnormally large quantities or in such manner as to have adverse effects on such programmes or operations unless the inflow of such imports is regulated in some manner. (Emphasis added.)

The thrust of this statement is merely that price support programs may lead to domestic articles being more expensive than imported articles "like" the imports.

[11] In fact, section 22(f) makes it clear that no trade agreement or other international agreement shall be applied in a manner inconsistent with the requirements of section 22.

[12] Section 771(10) of the Tariff Act of 1930, which was added by the Trade Agreements Act of 1979.

[13] Transcript of the hearing, pp. 56–57

[14] Report, pp. A–24 through A–26.

substantially overstates the displacement because of questionable assumptions underlying the methodology used. For example, in the case of imitation cheese, the USDA used a ratio of 5.68 to 1 to convert casein displacement of domestic skim milk solids to a NFDM basis, rather than the generally accepted ratio of 3.16 to 1. No testimony at the hearing supported the higher conversion factor and posthearing submissions by the USDA conceded that "something less than 5.68 seems reasonable." [15] A ratio of 3.16 to 1 applied to casein used in imitation cheese would reduce the USDA estimate of displacement to $225 million.

The USDA grouped casin users into categories based on product lines. In some categories it was assumed that users would switch simultaneously and completely from casein to domestic dairy products as the price of casein increased. However, data from Commission questionnaires indicate that users of casein in these categories would not act with one mind under such circumstances, but that some would continue to use casein long after others had ceased.

The Commission prepared a number of displacement estimates employing a methodology and assumptions similar to those of the USDA but from a data base almost twice as large. The Commission estimated that such displacement would range as high as $103 million to $178 million, but could easily be as low as a few million dollars. In any event, the hypothetical nature of the assumptions needed to reach these estimates and the vast differences between the results clearly demonstrate that all estimates are speculative.

To reach all the high-end estimates of displacement, it must be assumed that natural and filled cheeses made from domestic skim milk would replace casein-based imitation cheese if casein were priced high enough. At the wholesale level, the prices of the domestic products are 50 to 100 percent higher than that of the casein-based product. There are undoubtedly consumers who buy imitation cheese for reasons of economy, health, and diet, who would not buy natural cheese as an alternative. In fact, to some degree, imitation cheese manufacturers have created a new market for their product.

Both the USDA estimate and $95 million of the Commission's $103–178 million estimate assume that domestic casein production would occur at a price near $3.00 per pound. However, there was no testimony at the hearing that there would be such production. Furthermore, both estimates require that all demand at that price be supplied by domestic production. This is unrealistic. A higher U.S. price for casein would encourage greater foreign production rather than less if a market existed at that price. Thus, elimination of imports is not likely to occur naturally and could not be gained by restrictions under section 22.

Most important, both USDA and Commission estimates requires that there would be no further dissemination of existing protein technology and no development of new technology. Such assumptions seem unrealistic. Even at the 1981 price of about $1.50 per pound, there has been sufficient incentive to encourage research and laboratory production of imitation cheese and other products using proteins derived from wheat, whey, soy and other sources. A switch from casein to any of these proteins would be hastened by an increase in the price of casein and would not benefit the USDA price support program at all.

Assessment of Future Harm to the Program

The language of section 22 provides two alternative standards under which the prospective impact of imports may be sufficient for relief to be granted. The first standard is that articles are practically certain to be imported under such conditions and in such quantities as to materially interfer with the milk program. The second standard is that articles are practically certain to be imported under such conditions and in such quantities as to tend to render the milk program ineffective.

A conclusion that casein is practically certain to be imported under conditions or in quantities which would materially interfer with the support program would be conjectural. The data do not support this view. The data show that the quantity of imports of casein leveled off in the 1979–1980 period.[16] In addition, as shown above, recent import figures show falling imports in January–August 1981 compared to the same period of 1980. As users increasingly find substitutes for casein, particularly in imitation cheese products, casein imports may continue to decline or at least not increase substantially. USDA provided information that world production of casein had declined in 1981; thus, no upsurge in casein imports is expected. We see no likelihood that imports will enter the United States in such quantities and under such conditions as to cause future harm to the program in the near future.

Lactalbumin

The USDA took the position that lactalbumin is not causing material interference with the milk program.[17] Consumption of lactalbumin increased from 1.1 million pounds in 1977 to 1.8 million pounds in 1979, and then declined to 1.4 million pounds in 1980. In comparison, imports of casein have averaged over 140 million pounds annually in the same period. Clearly, if imports of casein are too small to cause material interference, the much smaller amount of imports of lactalbumin have not caused material interference. In addition, there is no indication that lactalbumin imports will increase substantially in the near term. Thus, the milk program is not likely to suffer harm from these imports in the future.

Remedy Considerations

We recommend that the President find that imports of casein and lactalbumin are not rendering or tending to render ineffective, or materially interfering with, the milk program.

Although our recommendation is in the negative, a discussion of our findings with respect to proposed remedies is in order. This would apprise the President of the ramifications of such remedies if he were to disagree with our findings regarding material interference.

Under section 22, the President has the authority to impose fees of up to 50 percent ad valorem on imports found to interfere with a program or to impose a quota which would allow entry of at least 50 percent of the total quantity of articles imported during a period he determines to be representative. He may describe these articles by physical qualities, value, use, or upon such other bases as he determines.[18]

Imposing a 50 percent ad valorem tariff on imported casein would be an ineffective way to prevent losses to the dairy price support program. Such a tariff would not likely result in a significant increase in the use of domestic skim milk solids because the resulting increased price of casein would drive users to alternative protein sources or out of production.[19] Two recent studies emphasize other shortcomings of this approach. The USDA estimates that there would be no benefit whatsoever to the CCC, yet there would be a cost to consumers of $47.5 million to $55 million. The Commission study comes to a similar conclusion. It shows that annual CCC purchases would be reduced between $8 million

[15] USDA posthearing submission, pp. 16–17.

[16] Report, p. A–66.

[17] Transcript of the hearing, p. 58.

[18] Section 22(b) (7 U.S.C. 624(b)).

[19] Report, pp. A–34 and A–35.

and $47 million, while the cost to consumers could be as much as $71 million to $83 million.[20]

At first glance a more effective remedy appears to be a quota set at 50 percent of the average 139.3 million pounds of casein imported during the representative period 1976–80. According to the Commission study, this would save the CCC from $8 to $53 million, but it would cost consumers at least $95 million in higher prices paid for casein and dairy products. Using a slightly different approach, the USDA has calculated the effects of a quota based on the 1979–80 period. Under this formulation, annual casein imports would be six million pounds more per year than in the Commission study. But the USDA also concludes that the costs would far outweigh the savings. The Government would save $9 million in CCC purchases, but consumers would pay an additional $115 million. In essence, a 50 percent quota would remove only 3 percent of the alleged interference of $300 million estimated in the USDA study.

A quota could be set at any level above 50 percent. For example, a quota limiting casein to 100 percent of the quantity imported during a representative period could be appropriate if it were determined that interference is imminent. Such a quota would prevent increases in the level of imports while not adversely affecting the existing level of use determined not to be materially interfering with the program. Once again, however, the Commission has not found real or imminent material interference and does not recommend the imposition of this remedy.

One other proposal warrants discussion here. Some parties proposed a preferential licensing system for casein used for medical/nutritive needs. With licensing, it is asserted that end users of products uniquely dependent on casein could obtain the necessary quantities.[21] The Commission solicited opinions from both the U.S. Customs Service and the USDA on the feasibility of administering a use-based licensing system. Neither agency believed that it had the necessary resources to administer such a licensing system. And the costs of such a program would not equal the perceived benefits of such a remedy.

Finally, in any consideration of alternative remedies, it is important to note that the USDA, the agency which administers the price support program and which called for the present investigation, refused to propose a remedy. We cannot recall a single instance in which the USDA has similarly refused to recommend a remedy. This is a further indication that no realistic remedy exists to deal effectively with the slight amount of interference found.

Conclusion

The principal objectives of the milk support program are being met, although at great cost to the Government. However, this cost results from the level at which milk is being supported, not from the importation of casein. Although casein does displace some domestic milk products, that displacement is small. Therefore, we believe that a finding of material interference with the price support program is inappropriate.

Statement of Commissioner Eugene J. Frank

On the basis of the information before me in this investigation I have found that—

(1) Casein and mixtures of casein, provided for in items 493.12 and 493.17 of the Tariff Schedules of the United States (TSUS), are being imported into the United States under such conditions and in such quantities as to materially interfere with the price support program for milk of the Department of Agriculture, but that

(2) lactalbumin, provided for in item 190.15 of the TSUS, is not being and is not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for milk of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such milk.

The program of the USDA

The Agricultural Act of 1949 requires the Secretary of Agriculture to support the price of milk at a level between 75 and 90 percent of parity so as to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. The Food and Agricultural Act of 1977 increased the minimum support level for milk to 80 percent of parity for the period beginning October 1, 1977, and ending September 30, 1981, and directed the Secretary to adjust the support price at the beginning of each semiannual period to reflect any estimated change in the parity index during that semiannual period. This semiannual adjustment was suspended on March 31, 1981. Support levels were further adjusted after enactment of the Agriculture and Food Act of 1981, declining to 72.9 percent of parity.[22]

The program for the support of milk prices operates through purchases by the Commodity Credit Corporation (CCC) of three types of products made from milk. Under the program, the CCC purchases unlimited quantities of butter, Cheddar cheese, and nonfat dry milk (NFDM) at announced prices. The prices paid by the CCC are intended to provide the producers of these three types of products sufficient return so as to allow them to pay farmers a price for milk approximately equal to the legislated support price. The measure of the program is therefore the level of the purchases under the program.

The Status of the Dairy Support Program and the Issue of Material Interference

The support program for milk is clearly suffering interference. An examination of the program shows that purchases of the products purchased by the CCC have increased substantially in recent years and show no sign of any decrease in the foreseeable future. Purchases of butter by the CCC have increassed irregularly from 60 million pounds in 1976 to 352 million pounds in 1981. Purchases of Cheddar cheese increased from 62 million pounds in 1976 to 546 million pounds in 1981. Purchases of NFDM increased from 258 million pounds in 1976 to 851 million pounds in 1981. In the case of all three of these types of milk products, the major increase has occurred in 1980 and 1981.[23] In addition, while these levels of purchases have climbed dramatically, Government owned stocks of all three have also increased to a level far in excess of what can be considered prudent. The total milk equivalent of butter and cheese in CCC stocks at the end of November 1981 was 13.6 million pounds, more than twice the level at the end of November 1980 and thirty-two times the level on December 31, 1976.[24] CCC stocks of NFDM increased 50 percent in 1981 to 751 million pounds at the end of November 1981, and now stand at twice the level of December 31, 1976. Finally, expenditures by the

[20] The low end of the range in the Commission's estimates is based only on the assumption that increases in the cost of casein would result in increased use of NFDM. The high end of the range assumes additionally that producers are limited to existing, widely available technology of alternative proteins for casein.

[21] Assuming that casein imports are restricted, the prices of these necessary products would likely increase.

[22] Report, p. A–7.

[23] Report, p. A–57.

[24] Report, p. A–56.

Government, the measure by which the Commission has traditionally determined the existance of interference with a support program, have increased from $714 million in fiscal year 1977 to $1.3 billion in 1980 and to nearly $2 billion in 1981.[25] These expenditures accounted for about one-half of Government expenditures on all agricultural support programs in 1981 and clearly demonstrate that the program is experiencing difficulty.

The Reagan Administration is clearly cognizant of these problems in the dairy price support program. In his statement of December 22, 1981, President Reagan authorized the release on that date of 30 million pounds of cheese from the CCC inventory for delivery to the States that request it for distribution to the needy. The President in his statement on that date also underscored the possible need for future such distributions:

> The 1981 farm bill I signed today will slow the rise in price support levels, but even under this bill, surpluses will continue to pile up. A total of more than 560 million pounds of cheese has already been cosigned to warehouses, so more distributions may be necessary as we continue our drive to root out waste in government and make the best possible use of our Nation's resources.[26]

The Effect of Imports of Casein on the Program

Casein is the principal protein in milk and is found only in milk. Casein accounts for about 80 percent of the protein content of milk, and is one of the most complete proteins known, containing all the amino acids essential to the human diet. Casein is manufactured commercially from fluid skim milk. The primary alternative use for such skim milk, other than for use in its fluid state for drinking, is the production of NFDM. If a processor chose to make casein from skim milk, he will not be able to make NFDM from the same skim milk, and vice versa. Casein, which in its pure form is insoluble in water, can be made into soluble salts called caseinates. Caseinates are the principal articles which are entered into the United States as mixtures in chief value of casein. Therefore, both casein and caseinates compete for their raw material, skim milk, and it is proper to consider the two together as potentially interfering with the price support program for milk.

The price support program, as mentioned above, purchases NFDM through the CCC as part of its operations. The prices at which such purchases are made are set at the level appropriate to return to farmers the legislated support price for milk and its parts: butterfat, sugar, and protein. The price for NFDM must by law increase according to the parity index. The United States had a casein producing industry for many years after the support program was instituted. Gradually, as the support price for NFDM increased, skim milk not used for drinking was directed to NFDM production rather than to casein production. However, had imports of casein not been available, the demand for casein would have necessarily been satisfied by domestic production, albeit at a higher price. Primarily because of the availability of imported casein at a price below the cost of production in the United States, the domestic casein industry died. By about 1970, casein was no longer produced in the United States. Currently imported casein is available at prices less than one-half of those necessary to elicit domestic production from domestic skin milk.[27]

The USDA and the staff of the Commission provided estimates of the amount of casein which would be produced in the United States if imports were not available. The USDA stated in testimony that 24 million pounds would be produced and utilized by processors if the price of casein was at least $2.65 per pound. The commission staff estimated that at a price of $3.00 per pound about 36 million pounds of casein would be produced and used in the United States.[28] Had U.S.-produced casein been available in these quantities, CCC losses under the program would have been substantially lower, and could range up to $103 million less.

In addition to the lower quantity of NFDM which would have been purchased by the CCC as a result of domestic production of casein, there would be lower purchases of NFDM or even Cheddar cheese resulting from increased sales of domestic cheese. The largest single use for casein is in the production of imitation cheese and the amount of casein used in such cheese increased from 16 million pounds in 1978 to an estimated 49 million pounds in 1981 (based upon data for January–August 1981). The amount of imitation cheese produced from casein has increased from only 60 million pounds in 1978 to an estimated 210 million pounds in 1981, again based upon 8 months data.[29] Further, in terms of casein usage accounted for an estimated 31 percent of casein and mixtures in chief value of casein used in 1980 compared with 12 percent in 1978 and 35 percent in January–August 1981.[30] There is little evidence that this phenomenal growth will slow in the future. Had imported casein not been available for the production of imitation cheese, consumers would have purchased natural and filled cheeses made from domestic milk instead. Although noncasein based imitation cheeses (e.g., "filled cheeses") have been said to compete with natural and process cheeses, production of these noncasein imitation cheeses appears to be small in relation to casein-based imitation cheese production.[31] Such commercial and retail sales would have reduced CCC purchases of domestic dairy products in 1980 by an additional $75 million in the view of the Commission staff.[32] The total displacement of domestic dairy products by imported casein or products made from imported casein is therefore estimated to range from $178 million to $300 million. In 1980, the CCC purchased products valued at $1.3 billion. Therefore, purchases resulting from the importation of casein represented 14 to 23 percent of total CCC purchases in that year.

There has been much discussion about the apparent lack of discernible correlation between the level of casein imports and CCC purchases for specified time periods. In particular, I refer to an extensive correlation analysis done on behalf of the Grocery Manufacturers of America (GMA), especially with regard to CCC purchases of cheese. In that study, it is noted that much of the period data on such purchases approach but do not meet the test of statistical significance. Furthermore, the brief concedes also that much of the data on food and feed uses of casein, derived from the National Milk Producers Federation Prehearing brief of November 2, 1981, is of questionable value. More importantly, I believe it appropriate to point out that correlation analysis, while oftentimes a helpful tool in ascertaining relationships between variables over a period of time, can be misleading: where applicable, significant structural changes involving exogenous factors which may impinge on the variables scrutinized in a time series are not necessarily taken into account. In this case, I believe the radical shift in end-user utilization of casein over a compressed time frame,

[25] Report, p. A–58.

[26] Statement by the President, December 22, 1981, *Weekly Compilation of Presidential Documents*, Monday, December 28, 1981, vol. 17, No. 52, pp. 1398–1399.

[27] Report, pp. A–22 and A–23.

[28] Report, p. A–31.

[29] Report, p. A–64.

[30] Report, pp. A–61 and A–62.

[31] Report, p. A–15.

[32] Report, p. A–32.

particularly with regard to imitation cheese, is such a significant structural change. Also, there appear to have been fairly significant swings in casein inventory carry-overs year-to-year in recent periods which would be an additional exogenous factor ignored in such analysis.

Such analysis intuitively manadates that imports of casein have to be increasing over like periods along with CCC purchase increases to demonstrate substantial impact and resultant displacement. Aside from the fact that the statute and legislative history do not expressly require a determination that such imports are increasing in a finding of material interference, the data presented to me indicate material interference, notwithstanding most recent decline in import levels. The USDA seemed to recognized this important issue during its testimony concerning the growth of casein used in imitation cheese, further underscoring this point by stating that, if such casein usage were to increase under certain conditions, serious displacement of nonfat milk solids will occur, even if imports of casein do not increase.[33]

The reader of the report will note a fairly wide range in figures estimated in terms of displacement resulting from casein imports as well as with regard to the potential impact had the entire commercial demand been supplied by the domestic industry. I believe it important to emphasize the range of displacement estimated both by USDA and the staff and especially repercussions with respect to CCC program costs are governed by certain assumptions as to estimated substitution by other nondairy as well as whey and other protein components. Additionally, certain elasticity assumptions also enter the picture, in terms of displacement, with impact felt even more in discussion on probable effects scenarios predicated on certain tariff and quota remedies suggested by dairy interests.

Even at the lower ranges of displacement cited in the report, I believe it is clear that material interference has occurred in the program. However, I think it appropriate to observe that much of the discussion on various substitution alternatives is an exercise in supposition, particularly concerning the prospective commercial feasibility and timing of alternative technologies. I do not feel, in ascertaining whether material interference *has occurred,* in the absence of convincing and credible testimony and evidence, that indulging in suppositions in this respect and in fact, incorporating them in quantitative analyses of displacement is appropriate.

Additionally, elasticity considerations employed by the USDA and adopted in part by the staff, particularly with regard to demand for natural and imitation cheeses do not appear definitive in application. To cite the report, such application of the same elasticity figure "* * * assumes that all such articles are essentially the same in the mind of the consumer. There is no empirical evidence to support this contention, but neither is there empirical evidence to disprove it." [34] Commission staff also attempted by survey to estimate casein usage in 1980 and production and use of alternative ingredients at various casein price break points (representing increases). The report also qualifies this by stating, I think responsibly, that such responses are "* * * necessarily speculative on the part of the respondents and may not reflect their decisions had the higher prices actually occurred." [35]

Consequently, it appears in my view that there is definitiveness lacking in the critical methodologies employed which has effects not only in estimating potential displacement, but is even accentuated to a greater extent in estimating the impact of various remedies, both in costs saved by the CCC program and those incurred by the consumer as disclosed in the report.

Nonetheless and although there are undoubtedly other influences which have affected the price support program and have caused increased purchases of domestic milk products by the CCC, I believe casein is a material cause of these increased purchases. The wide fluctuations seen in CCC purchases of virtually all products could be the result of an increase in the level of support provided by the Congress until recently, which many believe provided strong economic incentives to produce increasing volumes of milk more rapidly than consumption in recent periods, but there still remains a large and increasing level of purchases, estimated to be at least $178 million, which can be attributed to the importation of casein.

In summary, I have found that, on the basis of increased and projected increases in purchases of NFDM and other products, large and growing increases in stocks owned by the Government of NFDM and other milk products, and large losses to the program which are not likely to decrease substantially in the foreseeable future, the price support program is suffering material interference. In addition, the level of casein imports valued well below the price which would make domestic production feasible and the large and growing production of imitation cheese which displaces domestic cheese clearly demonstrate that imports of casein result in material interference with the price support program for milk administered by the Department of Agriculture.

Having reached a finding of material interference for imports of casein and mixtures in chief value of casein, I did not reach the issue of whether such imports are rendering or tending to render the program ineffective. I note the USDA in its testimony and submissions did not reach such a determination. Also, the information before me shows no conclusive evidence that the dairy industry is experiencing economic distress, and obviously supplies of milk are more than adequate. In this case, I would mirror the observation of Commissioner Bedell in her statement in *Certain Tobacco,* investigation No. 22–43 (August 1981), that the basic objectives of a program may be satisfied but such program nevertheless may be materially interfered with. I believe such is the case here, although I would reiterate that I did not reach the issue of whether such imports are rendering or tending to render the program ineffective.

Remedy

My aforementioned concern with respect to the lack of definitiveness in utilization of related methodologies is particularly applicable to the issue of remedy. Of great concern, too, is the fact that the USDA, in its testimony and submissions to the Commission as the preeminent authority on the program, declined to recommend any level of import restriction appropriate to forestall or remedy any material interference or other adverse effect on the program, if such was found by the Commission. I have been advised this is the first time, at least in recent years, that the USDA has declined to tender any such recommendation to the Commission in connection with a section 22 investigation.

Although the issue of material interference is clear in this investigation, the issue of fashioning an appropriate remedy based responsibly and equitably on economic considerations is clouded in view of the above. Critical aspects in constructing a remedy such as prospective domestic market dynamics, e.g., supply and pricing impacts, even putting the issue of substitution and new technologies aside, I believe may be

[33] Transcript of Hearing, p. 35.

[34] Report, p. A–78.

[35] Report, p. A–80.

precluded from credible quantitative analysis based on the information at hand. The quantitative impact of public interest considerations, i.e., costs to the consumer resulting from the imposition of various remedies, is likewise obscured, for I believe public interest factors are relevant and necessary for consideration in ascertaining the appropriate remedy. I would observe, however, that the statute contains no explicit public interest factors that the Commission is to take into account in determining whether material interference is occurring, and I believe such factors should not be considered in any determination of material interference.

Notwithstanding the above, I would concur with a recent General Counsel's memorandum dealing with this issue to wit:

> The fact that the Commission cannot choose the optimum remedy in a case should not deter it from choosing the best remedy available.[36]

Therefore, I recommend the following:

The USDA should be requested to closely monitor the impact of imports of casein and mixtures in chief value of casein over the next 12 months, scrutinizing closely domestic consumption and pricing patterns of domestic milk solid substitutable products, trends in usage of domestic imitation cheese vis-a-vis natural cheese products, levels of CCC purchases, concomitant with reduction in price support levels in the program. On this basis, and within the context of an equitable end-use license remedy (for which there is precedent in prior Commission remedy recommendations and which I believe is potentially administratively feasible), coupled with a quota imposed on average imports occurring over a USDA determined representative period, USDA could more precisely derive applicable elasticity and substitution factors. In this regard, it would then be possible for USDA to more definitively and defensibly derive quantitative impact of an array of possible remedies and specifically recommend one which at this time it has found itself constrained from doing, should it wish to recommend the initiation of another section 22 investigation at the end of this 12 month period.

In view of the available information as presented in the staff report and in the record, I am unable to recommend a more specific remedy at this time.

[36] GC–E–341, Dec. 22, 1981, p. 10.

The Issue of Material Interference and Lactalbumin

USDA witnesses confirmed the position of the USDA that imports of lactalbumin are not causing material interference with the milk price-support program indicating that imports of lactalbumin in 1980 were at such low levels that material interference was unlikely. Although January–August 1981 consumption figures of 1.8 million pounds (and year-end 1980 consumption of 1.4 million pounds) are *de minimis* compared with average annual consumption levels in recent years of casein and mixtures of casein (about 140 million pounds), I based my negative determination on lactalbumin primarily on the lack of sufficient information on importation and usage of this product.

Issued: January 29, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–3496 Filed 2–9–82; 8:45 am]

BILLING CODE 7020–02–M

Birch Three-Ply Door Skins From Japan; Comments Concerning Review Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Request for comments regarding institution of section 751(b) review investigation concerning affirmative determination in Investigation No. AA1921–150, Birch Three-Ply Door Skins from Japan.

SUMMARY: The Commission invites commments from the public on whether changed circumstances exist which warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)), to review the Commission's affirmative determination in investigation No. AA1921–150 regarding birch three-ply door skins from Japan. The purpose of the proposed section 751(b) review investigation, if instituted, would be to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry would be materially retarded, by reason of imports of birch three-ply door skins from Japan if the antidumping order is modified or revoked with respect to such merchandise provided for in item 240.14 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On January 12, 1976, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act, 1921, by reason of imports of birch three-ply door skins from Japan determined by the Department of the Treasury to be sold or likely to be sold at less then fair value (LTFV).

On February 18, 1976, the Department of the Treasury issued a finding of dumping (T.D. 76–48) and published notice of the dumping finding in the **Federal Register** (41 FR 7389).

On January 8, 1982, the Commission received a request to review its affirmative determination in investigation No. AA1921–150. The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by the law firm of Barnes, Richardson, & Colburn on behalf of the members of the Hokkaido Plywood Manufacturers Association of Sapporo, Japan, manufacturers of birch three-ply door skins in Japan.

Written Comments Requested

Pursuant to § 207.45(b)(2) of the Commission's Rules of Practice and Procedure (46 FR 18023), the Commission requests public comments concerning whether the following alleged changed circumstances are sufficient to warrant institution of a review investigation: (1) the quantity of imports of birch three-ply door skins from Japan has declined more than 75 percent since 1976, the year the dumping finding was published; (2) countries other than Japan are presently the major source of U.S. imports of these products and Japan's share of total imports declined from 70 percent of total imports in 1976 to 19 percent in 1980; (3) there has been a substantial change in the condition of the U.S. industry producing these products. The firm which filed the petition and which represented a majority of U.S. production at that time, ceased production in 1975 and did not resume production after the Commission's determination, although it had indicated it would do so at the time of the Commission's investigation. This left only two small, specialized, noncaptive producers in the domestic industry.

The Request for Review of the Injury Determination

Copies of the request for review of the injury determination and any other public documents in this matter are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0161.

Additional Information

Under § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8), the signed original and 19 true copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436. All comments must be filed no later than March 12, 1982. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). Such request should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Office of Investigations, U.S. International Trade Commission (202–523–0368).

By order of the Commission.

Issued: February 2, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3494 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701–TA–120 (Preliminary), 701–TA–122 (Preliminary), and 731–TA–66 (Preliminary)]

Carbon Steel Structural Shapes From Italy and the Netherlands and Hot-Rolled Carbon Steel Sheet and Strip From the United Kingdom

AGENCY: International Trade Commission.

ACTION: Termination of investigations.

Background

On January 26, 1982, Republic Steel Corp., Inland Steel Corp., Jones & Laughlin Steel, Inc., National Steel Corp., and Cyclops Steel Corp., withdrew their petition for countervailing duty investigations of imports of carbon steel structural shapes from the Netherlands. On January 31, 1982, these forms withdrew their petition for a countervailing duty investigation of imports of carbon steel structural shapes from Italy. On January 30, 1982, United States Steel Corp. withdrew its petition for a antidumping investigation of imports of hot-rolled carbon steel sheet from the United Kingdom. (The scope of this antidumping investigation had been described as "Hot-Rolled Carbon Steel Sheet and Strip" in the Commission's notice of institution of antidumping investigation No. 731–TA–66 (Preliminary) published in the **Federal Register** on Wednesday, January 20, 1982, at pages 2955–2956.) Accordingly, the U.S. Department of Commerce has not initiated investigations for these products and the Commission hereby terminates the captioned investigations pursuant to the authority under § 207.13 of its Rules of Practice and Procedure (19 CFR 207.13).

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission; telephone 202–523–0379.

By order of the Commission.

Issued: February 5, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3589 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–104]

Certain Card Data Imprinters and Components Thereof; Denial of Motion

AGENCY: U.S. International Trade Commission.

ACTION: Denial of motion to amend the complaint and notice of investigation on and motion to add a party complainant.

SUMMARY: Notice is hereby given that the Commission has denied the motion of complainants AM International, Inc. and Bartizan Corporation to amend the complaint and notice of investigation. The Commission has also denied a motion by respondents National Business Systems, Inc. (Canada), and National Business Systems, Inc. (U.S.) to add a party complainant.

AUTHORITY: The authority for the Commission's actions is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.22(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.22(a)).

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by AM International, Inc., and Bartizan Corporation the Commission instituted investigation No. 337–TA–104 to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of card data imprinters, alleged to infringe claim 7 of U.S. Letters Patent 3,272,120 and claim 12 of U.S. Letters Patent 3,340,800. Notice of the Commission's investigation was published at 46 FR 31094 (June 12, 1981).

On December 17, 1981, complainants AM International, Inc., and Bartizan Corporation filed a motion to amend the complaint and notice of investigation to include allegations of price discrimination and other anticompetitive acts by respondents, the effect or tendency of which is to restrain or monopolize trade and commerce in the United States. This motion was opposed by respondents and supported by the Commission investigative attorney. On January 12, 1982, the presiding officer issued and certified to the Commission a recommended determination that the motion be denied (Order No. 116).

Respondents moved on December 29, 1981, to add DBS, Inc., as a party complainant to the invetigation and to amend the notice of investigation accordingly. Complainants and the Commission investigative attorney opposed the motion. On January 20, 1982, the presiding officer issued and certified to the Commission a recommended determination that this motion be denied (Order No. 124).

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

By order of the Commission.

Issued: February 3, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3485 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701–TA–146 and 147 (Preliminary)]

Hot-Rolled Carbon Steel Bar

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigations Nos. 701–TA–146 and 147 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671(b)(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy and Luxemburg of

hot-rolled carbon steel bar, provided for in items 606.8310, 606.8330, and 606.8350 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants are alleged to be paid.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission, telephone 202–523–0312.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed January 11, 1982, on behalf of Republic Steel Corp., Inland Steel Corp., Jones & Laughlin Steel, Inc., National Steel Corp., and Cyclops Steel Corp. The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petitions or by February 25, 1982 (19 CFR 207.17). The investigations will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207), and particularly subpart B thereof.

Written Submissions

Any person may submit to the Commission on or before February 9, 1982, a written statement of information pertinent to the subject matter of the investigations. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

For further information concerning the conduct of the investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

By order of the Commission.

Issued: February 5, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3686 Filed 2-9-82; 10:11 am]

BILLING CODE 7020-02-M

[332-136]

Monthly Reports Providing Information on the U.S. Auto Industry

AGENCY: United States International Trade Commission.

ACTION: At the request of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, and in accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted investigation No. 332–136, for the purpose of providing monthly data on the U.S. automobile industry through December 1982. The monthly reports will include data on automobile production, imports, exports, inventories, retail sales, price adjustments, and employment. The report will also include retail prices of selected comparable Japanese and U.S. produced automobiles on a monthly basis.

The reports issued under this investigation will be similar in scope to those issued under recently completed investigation Nos. 332–121 and 332–129, of like title. Notice of the investigations were published in the **Federal Register** of January 7, 1981 (46 FR 1849) and July 29, 1981 (46 FR 38779), respectively.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James McElroy or Mr. Charles West, Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–0258 and 202–523–0299, respectively).

By order of the Commission.

Issued: February 3, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3490 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-100]

Certain Thermal Conductivity Sensing Gem Testers and Components Thereof; Settlement Agreement, Recommended Termination, and Request for Public Comments

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comments on the recommended termination of the investigation with respect to all parties and all issues, on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has recommended that the Commission grant the joint motion of the complainants, the respondents, and the Commission investigative attorney to terminate this investigation with respect to all parties and all issues on the basis of a settlement agreement. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received by March 12, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting Investigation No. 337–TA–100 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States of certain thermal conductivity sensing gem testers and components thereof, or in their sale, which are alleged to infringe claims 1, 2, and 21–24 of U.S. Letters Patent 4,255,962, and which are alleged to be falsely advertised, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On December 8, 1981, complainants Ceres Electronics Corporation, Adams-Smith, Inc., and MSB Industries, Inc., respondents Brunit Trading AB, Presidium, Inc., Presidium Diamond Pte, Ltd., (Singapore), Gem Instruments Corporation, and Gemological Institute of America, and the Commission investigative attorney filed a joint motion (Motion No. 100–9) to terminate the investigation with respect to all parties and all issues on the basis of a settlement agreement. The presiding officer has recommended that the motion be granted. The settlement agreement and the proposed termination are now before the Commission for final action.

Under the settlement agreement, this investigation and a parallel proceeding in the United States District Court for the Central District of California, will be dismissed with prejudice. Further, respondent Gem Instruments Corporation will advertise complainant Ceres' diamond probe to solicit orders. In return, Ceres will pay Gem Instruments a certain percentage of the retail sales derived from such promotion. Additionally, Ceres may advertise the fact that Gem Instruments represents Ceres in the marketplace.

A nonconfidential version of the agreement is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

All comments must conform to the requirements of § 201.8 of the Commission's rules (19 CFR 210.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Scott M. Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Room 230, Washington, D.C. 20436, telephone 202–523–0350.

By order of the Commission.

Issued: February 4, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3500 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

Drycleaning Machinery From West Germany; Dismissal of a Request To Institute Review Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) review investigation concerning affirmative determination in Investigation No. AA1921–89, Drycleaning Machinery from West Germany.

SUMMARY: The Commission determines that changed circumstances alleged in a request to review the Commission's affirmative determination in investigation No. AA1921–99 regarding drycleaning machinery from West Germany, provided for in item 670.41 of the Tariff Schedules of the United States do not warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)).

SUPPLEMENTARY INFORMATION: On September 29, 1972, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act, 1921, by reason of imports of drycleaning machinery from West Germany determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (LTFV).

On November 8, 1972, the Department of the Treasury issued a finding of dumping (T.D. 72–311) and published notice of the dumping finding in the **Federal Register** (37 FR 23715).

On October 28, 1981, the Commission received a request to review its affirmative determination in investigation No. AA1921–99. The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by the law firm of Barnes, Richardson, & Colburn on behalf of Boewe Maschinenfabrik, GmbH, a West German exporter of drycleaning machinery, and American Permac Inc., a related U.S. importer of such merchandise.

On November 25, 1981, the Commission published a notice in the **Federal Register** (46 FR 57776) requesting public comment concerning whether the following alleged changed circumstances were sufficient to warrant institution of a review investigation: (1) Domestic consumption of drycleaning machines has been increasing steadily during the past five years, (2) sales of machines with large capacity, new technology, and more environmentally safe features used almost exclusively by professional drycleaners have increased, while sales of smaller coin-operated machines have declined markedly, and (3) imports of drycleaning machines from West Germany have declined from 15 percent of U.S. consumption in 1972 to 10 percent in 1981.

The Commission received comments from the law firm of Steptoe & Johnson on behalf of Detrex Chemical Industries, Inc., a U.S. producer of drycleaning machinery. The following U.S. producers of drycleaning machinery endorsed and supported the comments filed by Steptoe & Johnson: Washex Machinery Co., American Laundry Machinery Co., and Paramount Engineering Co. Counsel for another U.S. producer of drycleaning machinery, Vic Manufacturing Co., filed comments separately. All of the U.S. producers were petitioners in the Commission's 1972 investigation and took the comment opportunity to urge that the Commission not institute a review investigation.

After having given careful consideration to written submissions from interested parties, the Commission has determined that the circumstances have not changed enough to warrant the institution of a section 751(b) review investigation and, accordingly, dismisses the request. Specifically the Commission found that the alleged shift from small coin-operated machines to large professional-type machines utilizing new technology and environmentally safe features was not a change circumstance but was merely a continuation of a trend that had been discussed in detail in the staff report of the 1972 investigation. Furthermore, contrary to the allegation in the petition, information available to the Commission indicates that on a value basis imports from West Germany as a share of U.S. consumption in 1980 was greater than it was at the time of the 1972 investigation. The Commission does not find the increase in domestic consumption of drycleaning machines to be a changed circumstance sufficient to warrant reopening this case.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, U.S. International Trade Commission (202–523–0289).

By order of the Commission.

Issued: February 5, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3497 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

[322–137]

Probable Impact on U.S. Petrochemical Industry of Expanding Petrochemical Industries in Oil-Producing Nations

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted, on its own motion, investigation No. 332–137 for the purpose of gathering and presenting information on the expansion of the petrochemical industries in the oil-producing nations and the probable effect of such expansion on the U.S. petrochemical industry. The study will assess possible changes in U.S. imports and exports of petrochemicals and in the structure of operation of the U.S. petrochemical industry through analysis of data obtained during the course of the investigation.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Gersic, Energy and Chemicals Division, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202–523–0451).

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than November 20,

1982. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: February 5, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3498 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

[332-135]

Synthetic Organic Chemicals Reports

AGENCY: United States International Trade Commission.

ACTION: The Commission, in accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), has instituted investigation No. 332-135 for the purpose of collecting data and preparing public reports on synthetic organic chemicals, plastic materials, medicinal chemicals, pesticides, and other organic chemical products. The reports, prepared on an annual and monthly basis, include a directory of manufacturers and data on U.S. production, sales, and imports. The synthetic organic chemicals reports for the past five years were prepared under the now expired authority of Public Law 95-106.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James Emanuel or Dr. A. Jonnard, Energy and Chemicals Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202-523-0334 and 202-523-0387, respectively).

By order of the Commission.

Issued: February 3, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-3499 Filed 2-9-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated November 24, 1981, and published in the **Federal Register** on December 1, 1981 (46 FR 58382) Wyeth Laboratories, Inc., 611 E. Nield Street, P.O. Box 565, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Pethidine Intermediate A (9232), a basic class of controlled substance listed in Schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Durg Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Acting Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer or the basic class of controlled substance listed above is granted.

Dated: February 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-3501 Filed 2-9-82; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 81-25]

Vincent A. Sundry, D. O., Tarpon Springs, Florida; Hearing

Notice is hereby given that on September 1, 1981, the Drug Enforcement Administration, Department of Justice, issued to Vincent A. Sundry, D. O., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application for registration under Section 303 of the Controlled Substances Act (21 U.S.C. 823), executed on November 12, 1980, to prescribe, dispense, distribute, conduct research or otherwise handle controlled substances.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, February 23, 1982 in the Hearing Room, Office of Hearings and Appeals, Social Security Administration, Suite 102, 400 N. Woodlawn, Wichita, Kansas.

Dated: February 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-3502 Filed 2-9-82; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Clinton Power Station Units 1 and 2; Notice of Meeting

The ACRS Subcommittee on Clinton Power Station Units 1 and 2 will hold a meeting on February 25 and 26, 1982, at the CIVIC CENTER, 1-Civic Plaza (Council Chambers) in Decatur, IL. The Subcommittee will review the application of the Illinois Power Company for an operating license for Units 1 and 2. Notice of this meeting was published January 20.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981, (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, February 25, 1982—2:00 p.m. until the conclusion of business

Friday, February 26, 1982—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Illinois Power Company, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with section 10(d) of the Federal Advisory Committee Act, that it may be necessary

to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-3610 Filed 2-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co., (Oconee Nuclear Station, Units 1, 2 and 3); Exemption

I

The Duke Power Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 which authorize operation of the Oconee Nuclear Station, Units 1, 2 and 3 (Oconee or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Oconee County, South Carolina.

II

Section III.G.3 of Appendix R to 10 CFR Part 50 requires that a fixed fire suppression system be installed in an area, room or zone under consideration for alternative safe shutdown modifications. In the case of Oconee, under this provision a fixed fire suppression system would be required in the control room.

The licensee indicated in its April 30, 1981 letter, that the fire protection features currently installed in the control room provide adequate fire fighting capability in the control room and constitute an adequate fixed fire suppression system for the area. However, inasmuch as the term "fixed suppression" has been used to connote sprinklers or gas suppression systems, the licensee has requested an exemption from the requirements of III.G.3 to provide a fixed suppression system.

The licensee's exemption request is based on the following:

—An alternate shutdown system is being provided remote from the control room. This alternate shutdown system provides remote control capabilities for those systems needed to maintain hot shutdown.

—A fire detection system has been installed in the control room.

—A hose station and fire extinguishers have been installed inside the control room.

The modifications which the licensee's exemption request is based on are required by Appendix R to 10 CFR Part 50. Therefore, the above modifications alone do not justify an exemption from the requirement to install a fixed fire suppression system in areas where redundant divisions are located. However, the control room is a unique area of the plant that is required to be continually occupied by the operators. In the event of a fire, manual fire suppression would be effective and prompt. Because the operators provide a continuous fire watch in the control room, a fixed suppression system is not necessary to achieve adequate fire protection in the control room. This is similar to the concept reflected in the NRC staff's acceptance, on a short-term basis, of a continuous fire watch as an alternative to fixed suppression systems when such systems become unavailable per the Oconee Technical Specifications.

Based on our evaluation, we conclude that the licensee's fire protection features for the control room meet the objectives of Section III.G, "Fire Protection of Safe Shutdown Capability", of Appendix R to 10 CFR Part 50, and, therefore, the licensee's request to be exempted from the requirement to provide a fixed fire suppression system in the control room should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, and exemption is authorized by law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 2nd day of February 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-3606 Filed 2-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Provisional Operating License No. DPR-16, issued to GPU Nuclear Corporation and Jersey Central Power & Light Company (the licensees), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment authorizes changes in the Diesel Generator Load Sequence Timers for the Service Water Pump and the Closed Cooling Water Pump, and the requirements for protective instrumentation. The amendment also authorizes a change to the Diesel Generator inspection schedule to be performed at least once per 18 months during shutdown, rather than annually.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 19 and 20, 1981, (2) Amendment No. 60 to License No. DPR-16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of February, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-3505 Filed 2-9-82; 8:45 am]

BILLING Code 7590-01-M

Nuclear Facilities or Materials; Applications for Licenses to Export/Import

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before March 12, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this 4th day of February at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James B. Devine,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Transnuclear, Dec. 28, 1981, Dec. 29, 1981, IU81026.	1.02% enriched uranium	20,000	204	Enriched feed material for Obrigheim toll enriching contract.	From France.
General Elect., Jan. 6, 1982, Jan. 11, 1982, XSNM01906.	4% enriched uranium	53,700	1,500	4 reloads of fuel for Muhleberg	Switzerland.
Mitsubishi Int'l, Jan. 5, 1982, Jan. 11, 1982, XSNM01907.	3.15% enriched uranium	7,920	250	Reload fuel for Genkai plant No. 1	Japan.
Mitsubishi Int'l, Jan. 5, 1982, Jan. 11, 1982, XSNM01908.	3.45% enriched uranium	16,454	568	Reload fuel for Genkai plant No. 2	Japan.
Mitsubishi Int'l, Jan. 7, 1982, Jan. 11, 1982, XSNM01909.	93.3% enriched uranium	56.036	52.302	For use as fuel in the JMTR reactor	Japan.
Exxon Nuclear, Jan. 7, 1982, Jan. 11, 1982, XSNM01911.	3.6% enriched uranium	11,000	396	Reload fuel for Doel No. 2	Belgium.
Transnuclear, Jan. 18, 1982, Jan. 19, 1982, XXNM01912.	3.25% enriched uranium	14,501.000	471.283	Routine reload for Ringhals 2	Sweden.
Transnuclear, Jan. 18, 1982, Jan. 19, 1982, XSNM01913.	3.0% enriched uranium	28,540.000	809.875	Routine reload for Philippsburg I reactor	West Germany.
Babcock & Wilcox, Jan 11, 1982, Jan. 20, 1982, XSNM01914.	2.25% enriched uranium	2,257.000	50.783	Fuel to be used in driver fuel assemblies for WR-1 reactor at WNRE.	Canada.
Edlow Int'l, Jan. 18, 1982, Jan. 21, 1982, XSNM01915.	3.25% enriched uranium	11,474.09	372.90	Reload fuel for Ohi-1	Japan.
Edlow Int'l, Jan. 18, 1982, Jan. 21, 1982, XSNM01916.	3.25% enriched uranium	7,720.41	250.91	Reload fuel for Ohi-2	Japan.
Edlow Int'l, Jan. 18, 1982, Jan. 21, 1982, XSNM01917.	2.85% enriched uranium	7,358.00	209.70	Reload fuel for Takahama unit 2	Japan.
Transnuclear, Jan. 27, 1982, Jan. 27, 1982, XSNM01918.	3.3% enriched uranium	21,828.000	720.325	Reload fuel for Fessenheim 2 reactor	France.
Transnuclear, Jan. 27, 1982, Jan. 27, 1982, XSNM01919.	3.3% enriched uranium	3.000	99	Reload fuel for Chinon B1 reactor	France.
Transnuclear, Jan. 27, 1982, Jan. 27, 1982, XSNM01920.	3.3% enriched uranium	24,828.000	819.325	Reload fuel for Bugey 3 reactor	France.

[FR Doc. 82-3509 Filed 2-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Operating License No. DPR-59 issued to the Power Authority of the State of New York which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment revises the Technical Specifications to allow the reorganization of the FitzPatrick Safety Review Committee.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1982, (2) Amendment No. 65 to License No. DPR-59, and (3) the Commission's letter to the licensee dated February 3, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the

U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors, Branch No. 2, Division of Licensing.

[FR Doc. 82-3508 Filed 2-9-82; 8:45 am]

BILLING Code 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Provisional Operating License No. DPR-18, issued to Rochester Gas & Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, New York. This amendment became effective on January 13, 1982.

The amendment incorporates technical specification changes that clarify the requirements for operability of the Emergency Core Cooling System.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment notarized January 14, 1982), (transmitted by letter dated January 14, 1982) (2) Amendment No. 48 to License No. DPR-18, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Besthesda, Maryland, this third day of February 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-3507 Filed 2-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 81 to Facility Operating License No. DPR-33, Amendment No. 78 to Facility Operating License No. DPR-52, and Amendment No. 50 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3 (the facility) located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to increase the interval of time during which a primary containment integrated leak rate test must be performed from 3⅓ years ± 8 months to 3⅓ years ± 10 months.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 19, 1981, (2) Amendment No. 81 to License No. DPR-33, Amendment No. 78 to License No. DPR-52, and Amendment No. 50 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-3506 Filed 2-9-82; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0430]

Walnut Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)) under the name of Walnut Capital Corp. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with a capitalization of $520,000.

The Applicant will have its place of business at 20 Exchange Place—31st Floor, New York, New York 10005, and it intends to conduct operations primarily in the State of New York. Applicant intends to be equity oriented. It is anticipated that many investments will be in the form of loans combined with or convertible into equity. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be: Julius Goldfinger, 170 West End Avenue, New York, New York 10023—Chairman, President & Director.

Burton W. Kanter, 65 Vine Avenue, Highland Park, Ilinois 60035, (1)—Treasurer & Director.

Hyman L. Federman, 41 Mulberry Road, New Rochelle, New York 10802(2)—Secretary & Director.

Jack Mondlak, San Francisco 1836, Apt. 403, Mexico City, Mexico, (3).

(1) The Holding Corp. (an Illinois Corporation owned 100% by Burton W. Kanter)—50%

(2) Hi Chicago Trust (an irrevocable trust for the benefit of the family of Hyman L. Federman)—25%.

(3) Glamor N.V. (a Curacao Corporation owned 100% by Jack Mondlak), 25%.

Matters involved in SBA's consideration of the application include the general business reputation of the owners and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than February 25, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance program No. 59.011, Small Business Investment Companies)

Dated: February 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

FR Doc. 82-3492 Filed 2-9-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Circular Public Debt Series—No. 3-82]

Treasury Notes, Series A-1992; Interest Rate

February 4, 1982.

The Secretary announced on February 3, 1982, that the interest rate on the notes designated Series A-1992, described in Department Circular—Public Debt Series—No. 3-82 dated January 28, 1982, will be 14⅝ percent. Interest on the notes will be payable at the rate of 14⅝ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-3440 Filed 2-9-82; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Dept. Circular Public Debt Series—No. 2-82]

Treasury Notes, Series L-1985; Interest Rate

February 3, 1982.

The Secretary announced on February 2, 1982, that the interest rate on the notes designated Series L-1985, described in Department Circular—Public Debt Series—No. 2-82 dated January 28, 1982, will be 14⅝ percent. Interest on the notes will be payable at the rate of 14⅝ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-3439 Filed 2-9-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 28
Wednesday, February 10, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 4, 1982.

TIME AND DATE: 10 a.m., Wednesday, February 10, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Eastover Mining Company, Docket No. VA 80–145. (Issues include interpretation and application of 30 CFR 75.1710–1.)

2. U.S. Steel Corporation, Docket No. BARB 76–95, IBMA 77–1. (Issues include whether imminent danger order was properly issued to operator under the 1969 Coal Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–201–82 Filed 2–8–82; 3:54 pm]

BILLING CODE 6820–12–M

2

NATIONAL COUNCIL ON THE HANDICAPPED

DATE: March 2 and 3, 1982.

PLACE: Holiday Inn Georgetown, 2101 Wisconsin Ave. NW., Washington, D.C. 20007.

STATUS AND AGENDA: To be announced in the **Federal Register**, at least one week prior to the meeting date.

Note.—Any individual requiring an interpreter or other special services, please contact NCH staff, no later than February 19, 1982.

CONTACT PERSON FOR MORE INFORMATION: Hilda Gay Legg, National Council on the Handicapped, Staff Assistant; Phone: (202) 245–3498 or 245–3499.

[S–200–82 Filed 2–8–82; 3:53 pm]

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federal register

Wednesday
February 10, 1982

Part II

Department of the Interior

Minerals Management Service

Proposed Orders Governing Oil and Gas Lease Operations on the Alaska Region Outer Continental Shelf (OCS) and Draft Environmental Assessment

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Proposed Orders Governing Oil and Gas Lease Operations on the Alaska Region Outer Continental Shelf (OCS) and Draft Environmental Assessment

AGENCY: Minerals Mamagement Service, Interior.

ACTION: Notice of proposed OCS Orders.

SUMMARY: The Minerals Management Service (MMS), formerly the Conservation Division of the U.S. Geological Survey (USGS), proposes to revise and consolidate the currently effective Gulf of Alaska Area and the Arctic Area Outer Continental Shelf (OCS) Orders into a single set of OCS Orders applicable to all areas of the Alaska Region OCS, including the Bering Sea Area. Discussions of the revisions whch are necessary to consolidate these Orders into proposed Alaska Region OCS Orders are presented in part I. The proposed Orders are presented in part II, and the draft Environmental Assessment (EA) is presented in part III. Comments and recommendations are solicited on the proposed Orders and the draft EA. Comments received on the EA and the Orders will be considered by the MMS before a decision is made to issue final Alaska Region OCS Orders. Comments received will be addressed in a future Notice.

These Orders are necessary to implement the safety and antipollution measures which are contained in the 30 CFR part 250 regulations.

The intended effect of these proposed Orders is to provide a single set of OCS Orders to govern oil and gas lease operations on the entire Alaska OCS.

DATES: Written comments and recommendations on the proposed Orders and draft EA must be received on or before April 12, 1982.

ADDRESSES: Comments to: Mr. Richard B. Krahl, Acting Deputy Chief, Offshore Minerals Management, Minerals Management Service, 640 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Copies of MMS standards (formerly USGS standards) referred to in the Orders are available from:

Mr. Richard B. Krahl, Acting Deputy Chief, Offshore Minerals Management, Minerals Management Service, 640 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Mr. Joseph M. Jones, Minerals Manager, Alaska OCS Region, Minerals Management Service, 800 A Street, Suite 201, Anchorage, Alaska 99510

FOR FURTHER INFORMATION CONTACT: Mr. David A. Schuenke, Chief, Branch of Offshore Rules and Procedures, Offshore Minerals Management, Minerals Management Service, 640 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, telephone (703) 860-7395.

SUPPLEMENTARY INFORMATION: Under the Outer Continental Shelf Lands Act (43 U.S.C. 1334); the Department of the Interior Secretarial Order No. 3071, January 19, 1982, creating the MMS; and 30 CFR 250.10 and 250.11, the Deputy Chief, Offshore Minerals Management, proposes to issue Orders Nos. 1, 2, 3, 4, 5, 7, 8, and 12 governing oil and gas lease operations for all areas of the Alaska Region OSC. On January 19, 1982, the Secretary reorganized the Department of the Interior to create the MMS, which succeeded to the authorities, responsibilities, and functions formerly exercised by the Conservation Division of the USGS. It should be noted that these proposed Orders reflect the MMS Director's delegation of authority and the title changes required by the creation of the MMS. The authority of the Director of the MMS to approve the issuance of OCS Orders has been delegated to the Deputy Chief, Offshore Minerals Management (formerly Deputy Chief, Conservation Division—Offshore Minerals Regulation). The title of the Conservation Manager has been changed to Minerals Manager and the title of the Deputy Conservation Manager has been changed to the Deputy Minerals Manager.

These proposed Orders, if adopted, will be applicable to those lands subject to Federal OCS leasing in the Gulf of Alaska, Bering Sea, and Arctic OCS Areas and will supersede the existing Orders for the Gulf of Alaska and Arctic OCS Areas. These areas are illustrated in figure 1 and are described as follows:

1. *Gulf of Alaska* includes the areas—

a. Gulf of Alaska, north of 56° north latitude and east of 150° west longitude;

b. Lower Cook Inlet—Shelikof Strait, south of 60° north latitude, including the Shelikof Strait;

c. Kodiak, between 150° west and 156° west longitude; and

d. Southern Aleutian Shelf, west of 156° west longitude and south of a line drawn through the Aleutian Islands chain.

2. *Bering Sea* includes the areas—

a. St. George Basin, north of a line drawn through the Aleutian Islands chain, south of 58° north latitude and west of 165° west longitude;

b. Bristol Basin, east of 156° west longitude;

c. Navarin Basin, between 58° and 63° north latitude and west of 165° west longitude; and

d. Norton Basin, between 63° and 66° north latitude.

3. *Arctic* includes the areas—

a. Hope Basin, between 66° and 69° north latitude;

b. Chukchi Sea, north of 69° north latitude and west of 160° west longitude; and

c. Beaufort Sea, east of 160° west longitude.

The proposed planning areas, as published in the **Federal Register** (46 FR 39226, July 31, 1981) with the proposed 5-Year Oil and Gas Leasing Schedule, July 1981, are illustrated in Figure 2.

These proposed Alaska Region OCS Orders were developed by consolidating the existing Gulf of Alaska OCS Orders, effective January 1, 1980 (44 FR 76212, December 21, 1979), as revised effective September 15, 1980 (45 FR 55126, August 18, 1980), and the Arctic OCS Orders, effective February 27, 1981 (46 FR 14660, February 27, 1981).

The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Pub. L. 31, 83rd Congress, 1st Session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

It should be noted that, if adopted, some of the requirements of these proposed Orders will be revised in the near future to reflect the implementation of the "Memorandum of Understanding Between the United States Geological Survey of the Department of the Interior and the United States Coast Guard of the Department of Transportation Concerning Regulation of Activities and Facilities on the Outer Continental Shelf of the United States," signed on

December 18, 1980 (46 FR 2199, January 8, 1981).

It should also be noted that on January 7, 1975 (40 FR 1284), the USGS (now MMS) solicited comments on its intention to develop OCS Orders for the Bering Sea. That Notice "* * * anticipated that OCS Orders similar to those developed for the Gulf of Alaska may also be appropriate for Bering Sea operations." The consensus of the commenters agreed with that anticipation and requested an additional opportunity to comment on the applicability of the final Gulf of Alaska Orders to the Bering Sea Area. This Notice is responsive to those comments.

Copies of the MMS (formerly USGS) standards referred to in OCS Order No. 2 are available from the addressees indicated in the preamble of this document under "ADDRESSES."

Information Collection and Recordkeeping Requirements

Information collection and recordkeeping requirements are contained in various paragraphs and subparagraphs of these OCS orders as set forth below. These requirements are separated into the following two categories:

1. *Information collected on forms which have been approved by the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507.* It should be noted that information collection requirements in this category have been listed in a new section entitled "Information Collection" which has been inserted between the table of contents and OCS Order No. 1. These information collection requirements contained in the following Orders require the submittal of information on the listed forms:

Order No.	Paragraph	Form title	Form No.	OMB clearance No.
2. Drilling operations	1.2. *Application for Permit to Drill*	Application for Permit to Drill, Deepen, or Plug Back	9-331 C	1025-0013
3. Plugging and abandonment of wells.	1. *Application for Approval to Abandon a Well*	Sundry Notices and Reports on Wells	9-331	1029-0011

Order No.	Paragraph	Information required	Form No.	OMB clearance No.
5. Production safety systems	3.12. *Reports*	Well Completion or Recompletion Report and Log	9-330	1025-0034
		Sundry Notices and Reports on Wells	9-331	1025-0011
5	6. *Failure and Inventory Reporting System (FIRS)*	Safety Device Inventory Report	9-1994	1025-0023
		Safety Device Failure Report	9-1995	1025-0024
		(These forms are required by the Failure and Inventory Reporting Program which the USGS (now MMS) has proposed to rescind (46 FR 47874, September 30, 1981).).		

2. *Information collected by submittal of plans, programs, procedures, and other narrative formats which have not been approved by the OMB.* The information collection requirements in this category have been submitted to the OMB for approval as required by 44 U.S.C. 3507. These information collection requirements are contained in the following Orders:

Order No.	Paragraph	Information required
2. Drilling operations	1.1. *Exploration Plan, Development and Production Plan, and Environmental Report.*	The OCS Order requires an Exploration Plan (EP), Development and Production (DPP), and an Environmental Report (ER) to be submitted in accordance with 30 CFR 250.34-1, -2, and -3. (Refer to 44 FR 53686, September 14, 1979; 45 FR 15143, March 7, 1980; 45 FR 37817, June 5, 1980.)
		The OCS Order also requires a list of provisions to deal with emergency situations to be submitted with the EP and DPP.
2	2.1.1. *Fitness of Drilling Unit*	Evidence of the ability of the drilling unit to perform planned drilling operation (submit with EP and DPP).
2	2.1.3. *Well-Site Surveys*	Shallow geologic hazards report, and results and analysis of shallow geologic hazards surveys or other surveys; all data obtained from surveys and all geophysical data relating to shallow hazards, when requested.
2	2.1.4. *Oceanographic, Meteorological, and Performance Data.*	Oceanographic, meteorological, ice conditions, and performance data when this information is not readily available.
2	2.1.5. *Subfreezing Operations*	Evidence that drilling equipment, drilling safety systems, and other associated equipment and materials are suitable for operation during subfreezing conditions.
2	2.1.6.1. *General Welding, Burning and Hot Tapping Plan.*	Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan.
2	2.1.6.2. *Designated Safe-Welding and Burning Area.*	Maintenance on facility of drawing showing location of safe-welding areas.
2	2.2. *Mobile Drilling Units*	Listing of maximum environmental and operational conditions used for design; listing of regional maximum environmental conditions and unusual site-specific environmental conditions anticipated to be encountered at the drill site during drilling operations; current American Bureau of Shipping Classification, U.S. Coast Guard Certificate of Inspection, or other appropriate classification, with operational limitations (submit with Form 9-331 C).
2	3.1. *Well Casing and Cement*	Casing design safety factors for collapse, tension, and burst (submit with Form 9-331 C); Proposal to fill annuli within permafrost zones (submit with Form 9-331 C); Design criteria for wells, including method of calculating anticipated surface pressure (submit with Form 9-331 C); and Yield strengths of casing, if not fabricated to American Petroleum Institute standards, provided these specifications are not on file (submit with Form 9-331 C).

Order No.	Paragraph	Information required
2	3.3.1. *Conductor and Surface Casing Setting Depths.*	Engineering, geophysical, and geological data to substantiate proposed setting depths of the conductor and surface casing (submit with Form 9-331 C).
2	3.3.3. *Surface Casing Cementing Requirements;* 3.4 *Intermediate Casing Setting and Cementing Requirements; and.*	
	3.6 *Pressure-Testing of Casing*	Recording of results of pressure tests in driller's report.
2	4. *Directional Surveys*	Composite directional surveys.
2	5.1.1. *Blowout Preventer (BOP) Equipment*	Well-control procedure indicating how annular preventer will be used and the pressure limitations which will be applied during each mode of pressure control (submit with Form 9-331 C).
2	5.4.1. *Drilling Operations from Bottom-Supported Rigs.*	Schematic diagram and operational procedure for the diverter system (submit with Form 9-331 C).
2	5.4.2. *Floating Drilling Operations*	Description of program which provides for safety in floating drilling operations, where formation competency at the structural casing setting depth is not adequate to permit circulation to the drilling vessel.
2	5.7. *Testing of BOP Systems*	Recording of BOP tests in driller's report.
2	5.9. *BOP Drills*	Recording of BOP drills in driller's report.
2	6.1. *Mud Control*	Recording of various mud control data in driller's report; posting of maximum pressure which can be tolerated on each casing string near driller's console.
2	6.3. *Mud Quantities*	Tabulation of well depth versus minimum quantities of mud material (submit with Form 9-331 C); plans to resupply mud inventories in the event of an emergency; and recording of daily inventories of mud materials and maintenance of recordings at well site.
2	7.3. *Training*	Maintenance of personnel training records at drill site.
2	8. *Hydrogen Sulfide (H^1)*	H^1 Contingency Plan, required by MMS Standard MMS-OCS-1 (formerly GSS-OCS-1).
2	9. *Critical Operations and Curtailment Plans.*	Critical Operations and Curtailment Plan (submit with EP or DPP).
2	11. *Use of Best Available and Safest Technologies (BAST).*	Information necessary to indicate use of BAST, alternatives considered, and rationales concerning specific equipment and procedures or systems.
2	12.1. *Electrical Equipment for Drilling Rigs on Fixed Structures.*	Maintenance at drilling unit of elementary schematic, with functional legend, of drilling unit electrical system.
4. Determination of well producibility.	1. *Application for Determination of Well Producibility.*	Application for Determination of Well Producibility.
5. Production safety systems	1. *Use of Best Available and Safest Technologies (BAST).*	Information necessary to indicate use of the BAST, alternatives considered, and rationales concerning specific equipment and procedures or systems.
5	1.1. *Subfreezing Operations*	Evidence that production equipment, production safety systems and other associated equipment and materials are suitable for operation under subfreezing conditions; evidence that all equipment and operating procedures take into account floating ice, icing, and other extreme environmental conditions.
5	3.7. *Injection Wells*	Annual report certifying no-flow status of well.
5	3.11. *Records*	Maintenance of subsurface-safety device records; maintenance of records for review.
5	3.12. *Reports*	Name of manufacturer; type and installed depth of subsurface-safety device (information to be added to Form 9-330).
5	4.3. *Submittal of Safety System Design and Installation Features.*	Information relative to design and installation features of surface-production safety systems; maintenance of this information at lessee's onshore field engineering office.
5	5.1.1. *Pressure Vessels*	Maintenance at nearest offshore field office of current pressure-recorder charts; information necessary to approve pressure-sensor setting of low-pressure sensors on pressure vessels operating at less than 35 kPa (5 psi); and recording of hydrostatic test data of uncoded pressure vessels.
5	5.1.2. *Flowlines*	Maintenance of current pressure-recorder charts at nearest offshore field office.
5	5.1.4. *Emergency Shutdown System*	Maintenance of schematic of emergency shutdown system on platform or at nearest offshore field office.
5	5.1.8. *Firefighting Systems*	Posting of diagram of firefighting system on platform or structure.
5	5.1.10. *Electrical Equipment*	Maintenance of elementary electrical schematic of platform safety-shutdown system on platform or structure.
5	5.1.11. *Erosion*	Annual report indicating wells which have erosion control programs in effect, and results of programs.
5	5.3.1. *General Plan*	General Plan for Conducting Simultaneous Operations.
5	5.3.2. *Supplemental Plan*	Supplemental Plan for Conducting Simultaneous Operations.
5	5.4.1. *General Welding, Burning, and Hot Tapping Plan.*	Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan; availability of plan in field offices.
5	5.4.2. *Designated Safe-Welding and Burning Areas.*	Maintenance on facility of drawing that shows location of safe-welding and safe-burning areas.
5	5.6. *Records*	Maintenance of installation of surface-safety device records for review.
5	5.7. *Safety Device Training*	Documented evidence of qualifications of individuals engaged in installing, inspecting, testing, and maintaining safety devices; Training Plan.
5	7. *Crane Operations*	Crane operation records of inspection, testing, maintenance, and listing of qualified operators, maintained in field offices.
7. Pollution prevention and control.	1.1.1. *Drilling-Mud Components*	Detailed list of drilling-mud components, a list of the drilling-mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal (submit with Form 9-331 C).
7	1.2.1. *Well Solids*	Method of disposal of drill cuttings, sand, and other well solids.
7	2.3. *Pollution Reports*	Reporting orally and confirming in writing spills of oil and liquid pollutants.
7	3. *Pollution-Control Equipment and Materials and Oil Spill Contingency Plans.*	Description of procedures, personnel, and equipment to be used in reporting, cleanup, and prevention of spread of any pollution resulting from an oil spill.
7	4.1. *Drills*	Time schedule of drills to be held to familiarize personnel with pollution-control equipment and operational procedures; list of equipment to be displayed during drill; recording of drills and availability of records.
7	4.2. *Training*	Retaining by lessee of course completion certificates or attendance records for training classes held to familiarize personnel with pollution-control procedures and availability of these records to MMS authorized personnel.
8. Platforms and structures	2.2. *Certification*	The certification of detailed structural plans and specifications for new platforms or other structures and major modifications by a registered professional structural engineer or civil engineer specializing in structural design.
8	3. *Submissions* (includes) 3.2.1, 3.2.1.1, 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.2, 3.3, and 3.4).	Documentation necessary to approve new platforms or other structures and modifications thereto. More detailed information and data may be required on a case-by-case basis or upon specific request. The documentation is as follows: a. Design Documentation (submit with or subsequent to submittal of EP and DPP) includes— (1) General Platform Information; (2) Environmental and Loading Requirements; (3) Foundation Information; and (4) Structural Information. b. Design Verification Plan (submit with or subsequent to submittal of DPP). c. Fabrication Verification Plan. d. Installation Verification Plan.
8	4. *Records*	As-built structural drawings, design assumptions and analysis, and summary of nondestructive examination records compiled, retained, and made available for review.

Drafting Information

The primary authors of this document are: Mr. Rodney A. Smith, Deputy Minerals Manager, Mr. Rishi Tyagi, Chief, Environmental and Operations Section, and Mr. Stanley Radack, Chief, Regulations and Orders Section, Offshore Field Operations, MMS, Alaska OCS Region, P.O. Box 259, Anchorage, Alaska 99510, telephone (907) 271–4303; and Mr. Lloyd M. Tracey, Chief, OCS Orders and Standards Section, telephone (703) 860–7395, and Mr. Raymond Beittel, Branch of Environmental Management, telephone (703) 860–6461, Office of the Deputy Chief, Offshore Minerals Management, MMS, 640 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

Statement of Significance

The Department has determined that these proposed Orders are not a major action and do not require the preparation of a regulatory impact analysis under Executive Order 12291.

The Department has also determined that these proposed Orders do not have a significant economic effect on a substantial number of small entities and do not require a small entity flexibility analysis under the Regulatory Flexibility Act.

Dated: February 3, 1982.

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

BILLING CODE 4310-MR-M

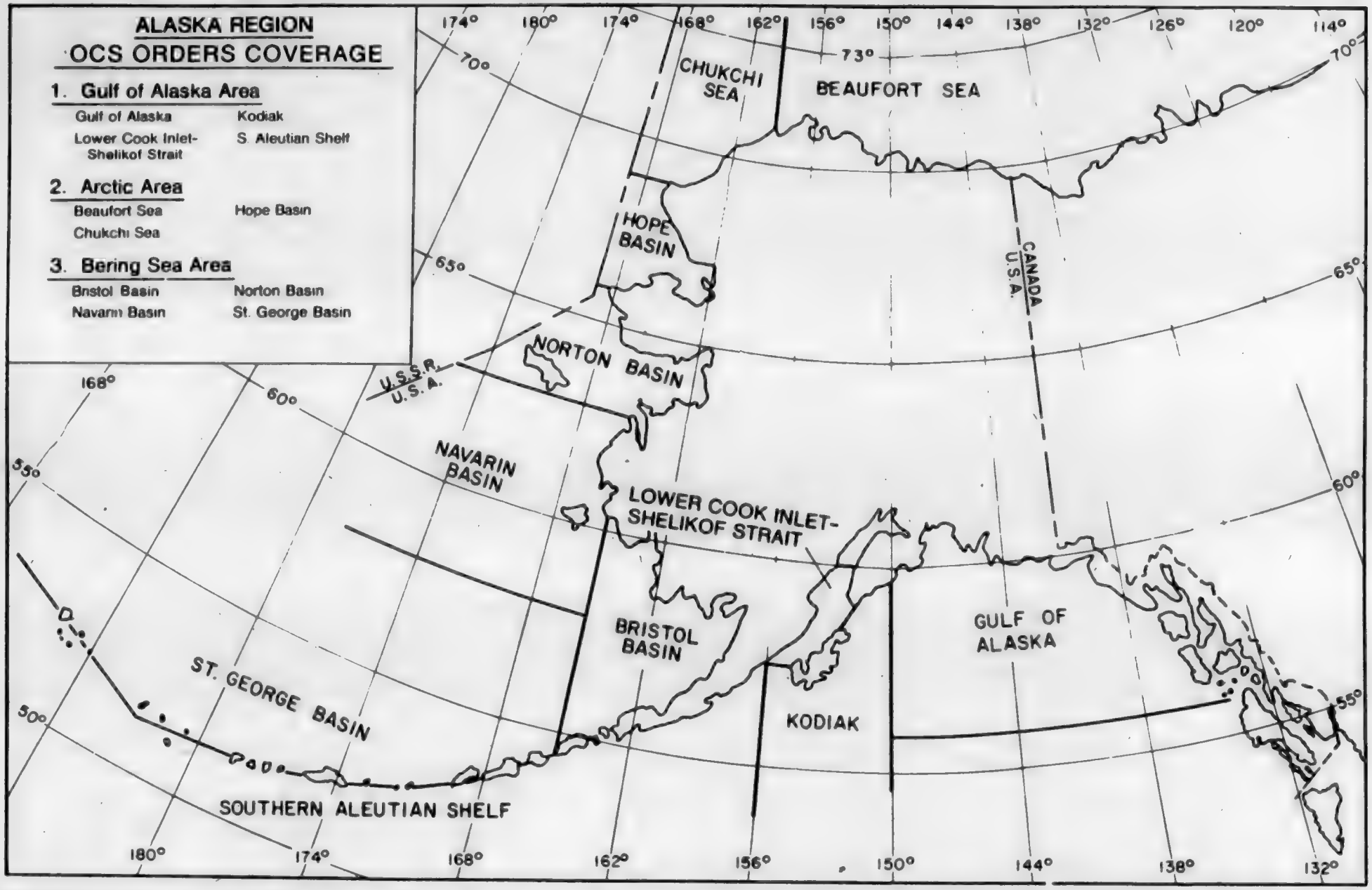

FIGURE 1. Geographical Subdivisions Covered by Alaska Region Outer Continental Shelf (OCS) Operating Orders.

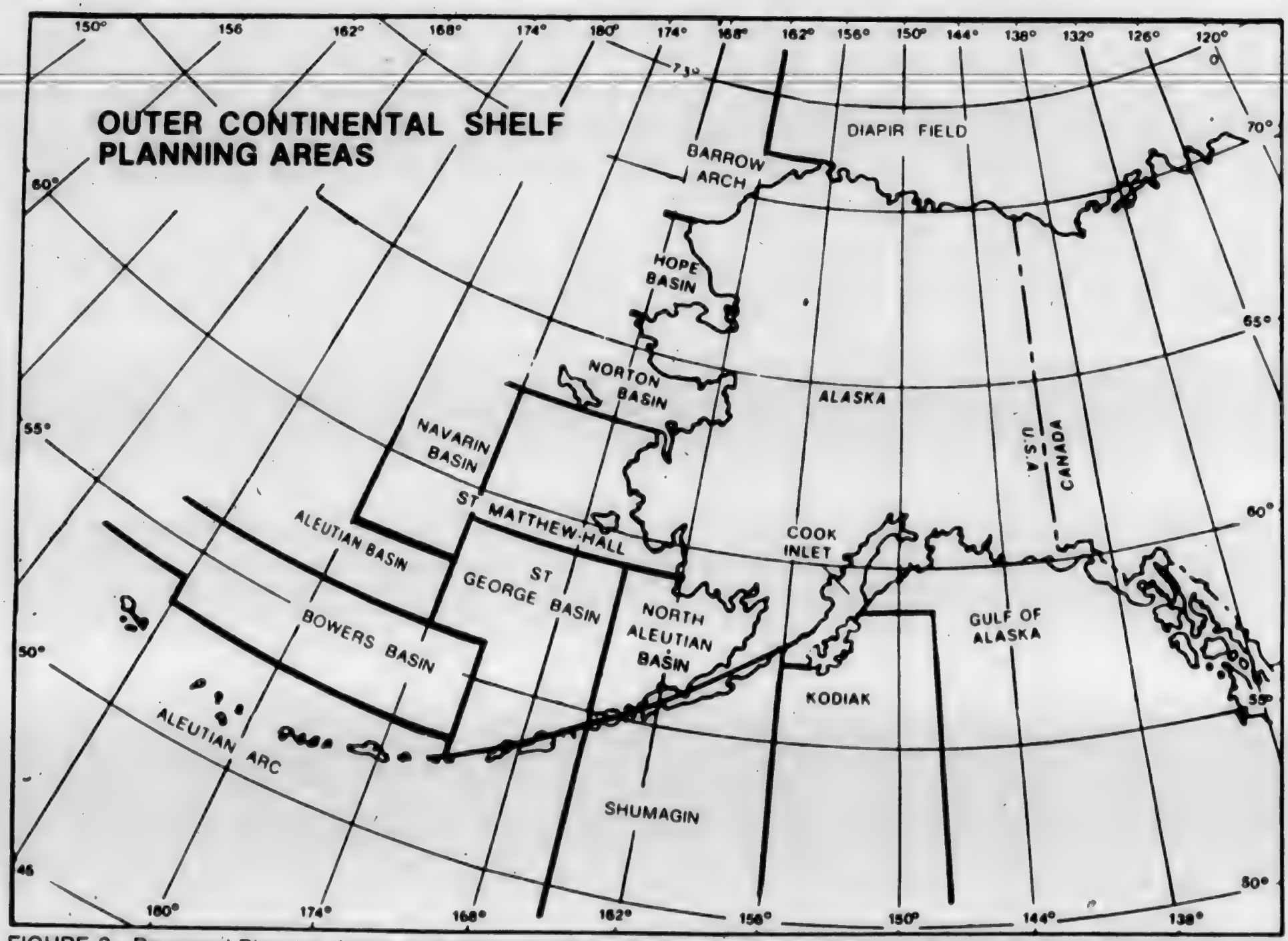

FIGURE 2. Proposed Planning Areas as Published with the Proposed 5-Year Outer Continental Shelf Oil and Gas Leasing Schedule, July 1981.

BILLING CODE 4310-MR-C

I. Discussions of Revisions Required for the Alaska Region OCS Orders

OCS Order No. 1. Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects.

Subparagraphs 1.1 Large Platforms and Structures, and 1.2 Small Structures

Revision. The format of the examples given in subparagraphs 1.1 and 1.2 was revised.

Discussion. The wording of the original subparagraph contained the phrase "shall be abbreviated," which indicated that the method of abbreviation was mandatory. The example was revised to make it clear that the method of abbreviation is optional. Only the dimensions of the lettering are mandatory.

Subparagraph 1.3 Artificial Islands

Revision. Subparagraph 1.3 *Artificial Islands,* which addresses identification of artificial islands such as gravel islands and ice islands in the Arctic Orders, is included in the Alaska Region Orders. This subparagraph was not included in the Gulf of Alaska Order.

Discussion. It is anticipated that artificial islands, such as gravel islands and ice islands, will be utilized in the Arctic and Bering Sea areas. Artificial islands are not contemplated for the Gulf of Alaska Area; therefore, this requirement will probably have no effect on lessees in that area.

OCS Order No. 2.—Drilling Operations

Preamble

Revision. The third paragraph of the preamble referencing paragraph 9, *Requirements for Drilling Rigs,* of OCS Order No. 5 was deleted.

Discussion. It was determined that the reference to paragraph 9, *Requirements for Drilling Rigs,* of OCS Order No. 5, was editorially cumbersome and that it would be simpler to present these requirements directly in appropriate subparagraphs of OCS Order No. 2. It was also determined that a paragraph addressing requirements for drilling rigs was inappropriate in Order No. 5, because the title and content of Order No. 5 is "Production Safety Systems." Therefore, the third paragraph of the preamble of Order No. 2 and paragraph 9 of Order No. 5 were deleted. The requirements of paragraph 9, *Requirements for Drilling Rigs,* of Order No. 5 were included in Order No. 2 under the following subparagraphs:

2.1.6 *Welding and Burning Practices and Procedures.*
2.1.6.1 *General Welding, Burning, and Hot Tapping Plan.*
2.1.6.2 *Designated Safe-Welding and Burning Areas.*
2.1.6.3 *Undesignated Welding and Burning Areas.*
2.1.7 *Employee Orientation and Motivation Programs for Personnel Working Offshore.*
12. Electrical Equipment.
12.1 *Electrical Equipment for Drilling Rigs on Fixed Structures.*
12.2 *Electrical Equipment for Mobile Drilling Units.*

The content of these subparagraphs will be discussed individually under separate discussions for each subparagraph.

Subparagraph 1.1 Exploration Plan, Development and Production Plan, and Environmental Reports

Revision. The title and content of the subparagraph were revised to require the submittal of environmental reports.

Discussion. This revision is necessary to implement the requirements of 30 CFR 250.34–3, which require the lessees to submit environmental reports with their Exploration Plans and Development and Production Plans (44 FR 53698, September 14, 1979 and 45 FR 15143, September 7, 1980).

Revision. The proposed Alaska Region Order contains a requirement derived from the Arctic Order that lessees include in their Exploration Plans and Development and Production Plans provisions to deal with emergency situations involving—

a. A means of drilling a relief well should a blowout occur;

b. Loss or disablement of a drilling unit or a drilling rig;

c. Loss or damage to support craft; and

d. Hazards unique to the site of the drilling operations, including conditions such as solid ice cover, ice loading, freezeup and breakup.

This requirement was not included in the Gulf of Alaska Order.

Discussion. The inclusion of this requirement in the proposed Alaska Region Order constitutes an additional requirement for lessees in the Gulf of Alaska area. We believe this requirement is justified because the same emergency situations could occur in the Gulf of Alaska, and similar contingency plans are necessary for this area, due to the remoteness of some of the lease areas.

It should be noted that the words "ice loading" have been added to item d to make it clear that the Exploration Plans and the Development and Production Plans must include provisions to deal with ice loading of the drilling structure. In order to be consistent and for clarity, it was also necessary to revise subparagraphs 2.2b and 9b(4) to include the specific terms "solid ice cover" and "ice loading" in lieu of "icing" and "ice conditions."

Subparagraph 1.2 Application for Permit to Drill

Revision. The last sentence of the subparagraph was revised to read: "Additionally, the District Supervisor will prescribe the number of public information copies to be submitted."

Discussion. This revision is necessary to reflect the delegation of an administrative function from the Deputy Minerals Manager (DMM), Offshore Field Operations, to the District Supervisor.

Subparagraph 2.1.1 Fitness of the Drilling Unit

Revision. The Arctic Order and the proposed Alaska Region Order contain the words "and ice conditions" in the first sentence of the subparagraph. These words were not included in the final subparagraph for the Gulf of Alaska Order.

Discussion. Ice conditions should be considered in evaluating the fitness of drilling rigs for operations in all areas of the Alaska Region OCS; therefore, the addition of these words to the proposed Alaska Region Order is appropriate.

Subparagraph 2.1.3 Well-Site Surveys

Revision. The last sentence of the subparagraph of the Arctic Order and the proposed Alaska Region Order contain the words "permafrost, and deposits of frozen gas hydrates." These words were not included in this subparagraph for the Gulf of Alaska Order.

Discussion. The inclusion of these words does not constitute an additional requirement for the Gulf of Alaska area because permafrost and gas hydrate zones are not anticipated in the Gulf of Alaska.

Subparagraph 2.1.4 Oceanographic, Meteorological, and Performance Data

Revision. The subparagraph for the Arctic Order and the proposed Alaska Region Order requires the monitoring of ice conditions during the period of operations. This requirement was not included in the Gulf of Alaska Order.

Discussion. Where appropriate, the monitoring of ice conditions during operation in any area of the Alaska Region OCS will provide a valuable source of data with which to measure the performance of drilling rigs under various conditions.

Subparagraph 2.1.6 Welding and Burning Practices and Procedures, and related Subparagraphs 2.1.6.1, 2.1.6.2, and 2.1.6.3

Revision. A new subparagraph, 2.1.6 *Welding and Burning Practices and Procedures,* and related subparagraphs 2.1.6.1, 2.1.6.2, and 2.1.6.3, were incorporated into the proposed Alaska Region Order.

Discussion. As previously stated in the discussion of the revision of the preamble of this Order, the content of this subparagraph and its related subparagraphs were derived from paragraph 9 and subparagraphs 5.4, 5.4.1, 5.4.2, and 5.4.3 of OCS Order No. 5 for the Gulf of Alaska and Arctic areas. The insertion of these subparagraphs into this Order allows Order No. 2 to stand alone without reference to Order No. 5. Sicne these requirements are now presented under the heading of "General Requirements for Drilling from Fixed Platforms and Mobile Drilling Units," the introductory sentences of subparagraph 2.1.6 (formally, subparagraph 5.4. of Order No. 5), were revised to make it clear that these requirements are applicable to any welding or burning practice or procedure performed on drilling rigs during the drilling mode. The other related subparagraphs 2.1.6.1, 2.1.6.2, and 2.1.6.3, were adopted verbatum from subparagraphs 5.4.1, 5.4.2, and 5.4.3 of Order No. 5 for the Gulf of Alaska and Arctic Orders. These are not new requirements.

Subparagraph 2.1.7 Employee Orientation and Motivation Programs For Personnel Working Offshore

Revision. A new subparagraph, 2.1.7 *Employee Orientation and Motivation programs For Personnel Working Offshore,* was incorporated into the proposed Alaska Region Order.

Discussion. As previously stated in the discussion of the revision of the preamble of this Order, the content of this subparagraph was derived from paragraphs 8 and 9 of OCS Order No. 5 for the Gulf of Alaska and Arctic areas. The insertion of this paragraph into the Order allows OCS Order No. 2 to stand alone without reference to Order No. 5. It was also recognized that it is editorially appropriate to include the requirements of this subparagraph under the heading of "General Requirements for Drilling for Fixed Platforms and mobile Drilling Units." No new requirements are imposed.

Subparagraph 3.2 Drive or Structrual Casing

Revision. The last sentence of the proposed Alaska Region Order contains the requirement "and a quantity of cement sufficient to fill the annulus of the drilled hole and the casing shall be used." This language differs slightly from the language of the Gulf of Alaska Order and Arctic Order.

Discussion. The Gulf of Alaska Order contains the requirement "and a quantity of cement sufficient to fill the annular space to the *ocean floor* shall be used." Whereas the Arctic Order contains the requirement" and a qualtity of cement sufficient to fill the annular space of the *drilled hole* shall be used." In some areas of the Arctic it may be necessary to excavate depressions in the sea floor (i.e., "glory holes") deep enough to accommodate the placement of blowout-preventer equipment to protect the equipment from possible damage caused by moving ice; therefore, it would not be appropriate to require cement fill back to the ocean floor. The working of the proposed Alaska Region Order makes it clear that the requirement is to fill *the annulus of the drilled hole and the casing,* regardless of the configuration of the blowout-preventer stack installation.

Subparagraph 3.3.1 Conductor and Surface Casing Setting Depths, and related subparagraphs 3.3.1.1 and 3.3.1.2

Revision. The content of subparagraph 3.3.1 for the proposed Alaska Region Order was reorganized and segregated into two subparagraphs, 3.3.1.1 *Setting Depth Criteria for Permafrost-Free Areas* and 3.3.1.2 *Setting Depth Criteria for Permafrost Areas.*

Discussion. These revisions were necessary to segregate the requirements for permafrost-free areas from the requirements for permafrost areas. It should be noted that the last paragraph of subparagraph 3.3.1 of the Gulf of Alaska Order and Arctic Order has been moved to become the second paragraph of subparagraph 3.3.1 for the porposed Alaska Region Order. This paragraph addresses engineering, geophysical and geological data; therefore, it is appropriate that it should be included as a general requirement under the heading of *Conductor and Surface Casing Setting Depths.* These editorial revisions permit these requirements to be selectively applied, as appropriate, to all areas of the Alaska Region OCS.

Subparagraph 3.3.2 Conductor Casing Cementing Requirements

Revision. In the Arctic Order and the proposed Alaska Region Order, the requirements of this subparagraph were segregated into subparagraphs 3.3.2.1 and 3.3.2.2. The Gulf of Alaska Order did not address cementing requirements for conductor when drilling from artificial islands.

Discussion. Artificial islands are not contemplated for the Gulf of Alaska Area; therefore, this requirement will probably have no effect on lessees in that area. It should be noted that subparagraph 3.3.2.2 *Drilling from Floating and Jackup Drilling Rigs* has been revised to include jackup drilling rigs. It should also be noted that subparagraph 3.3.2.2 has been revised to address cement fill requirements when the BOP stack is set in an excavation (glory hole).

Subparagraph 3.4 Intermediate Casing Setting and Cementing Requirements, and Subparagraph 3.5 Production Casing

Revision. The Arctic Order and the proposed Alaska Region Order contain the following sentence in subparagraphs 3.4 and 3.5: "Any portion of the annulus opposite a permafrost zone not protected by cement must be filled with a liquid which has a freezing point below the minimum permafrost temperature to prevent internal freezeback." This sentence was not included in the Gulf of Alaska Order.

Discussion. The inclusion of this sentence in the Alaska Region Order has no effect on the Gulf of Alaska area lessees, since permafrost zones are not encountered in the Gulf of Alaska.

Subparagraph 5.2 Subsea BOP Requirements

Revision. The Arctic Order and the proposed Alaska Region Order contain the following sentence: "When a subsea BOP stack is to be used in an area which is subject to ice scour, the BOP stack shall be placed in an excavation (glory hole) with the top of the BOP stack below the deepest possible ice scour depth." This sentence was not included in the Gulf of Alaska Order.

Discussion. The inclusion of this requirement in the Alaska Region Order does not constitute an additional requirement for the Gulf of Alaska lessees, because the requirement is only applicable in areas which are subject to ice scour.

Paragraph 6. Mud Program

Revision. The Arctic Order contains the following requirements in the second

paragraph: "Mud temperatures shall be controlled to minimize heat loss to the permafrost and to minimize thawing of the permafrost which can result in serious well problems while drilling through the permafrost. To insure maximum safety, hydrate zones shall be anticipated and diagnosed quickly, and drilled using the latest state-of-the-art methods. Provided that the hydrate zones are adequately protected, drilling can continue on a site-specific basis without the need to control the mud temperatures thereafter."

These requirements were not included in the Gulf of Alaska Order. The proposed Alaska Region Order retains the first two sentences and deletes the third.

Discussion. The third sentence was redundant and was deleted. The first two sentences adequately state the requirement. The inclusion of these requirements in the Alaska Region Order has no effect on the Gulf of Alaska lessees, since permafrost and hydrate zones are not encountered in the Gulf of Alaska.

Subparagraph 6.1 Mud Control

Revision. The second sentence of this subparagraph was revised for the Alaska Region Order as indicated in italics: "Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper *well conditions and mud properties are documented* in the driller's report prior to pulling the drill pipe, as follows."

Discussion. The italicized words were added to clarify the intent that the driller should document safe well conditions and mud properties prior to pulling the pipe.

Revision. The Arctic Order and the proposed Alaska Region Order contain the following sentence: "The maximum pressure which can be tolerated on each casing string shall be posted near the driller's console." In the Gulf of Alaska Order, this requirement was stated in different terms.

Discussion. The language adopted for the Alaska Region Order constitutes an editorial clarification of the requirement of the Gulf of Alaska Order.

Subparagraph 6.4 Safety Precautions in Enclosed Mud-Handling Areas

Revision. A new subparagraph addressing safety requirements for enclosed mud-handling areas was included in the Arctic Order and the proposed Alaska Region Order. This subparagraph was not included in the Gulf of Alaska Order.

Discussion. The insertion of this subparagraph in the Alaska Region Order constitutes an additional requirement for the Gulf of Alaska lessees. Since enclosed mud-handling areas will be utilized in the Gulf of Alaska area, MMS believes that this requirement is necessary for that area.

Subparagraph 7.3 Training

Revision. The December 1, 1979, date for compliance and the "grandfather clause" pertaining to training received during the period December 1, 1975 and December 1, 1979, were included in the Gulf of Alaska Order, but were not included in the Arctic Order and the proposed Alaska Region Order.

Discussion. Since the date for compliance has expired, the date was deleted. The "grandfather clause," which was intended to recognize training received between December 1, 1975 and December 1, 1979, was deleted, because the rationale for this "grandfather clause" is no longer valid. That concession was originally granted to recognize the shortage of certified training schools which existed during that time period. There are now a sufficient number of certified schools to allow personnel to obtain certification prior to the commencement of drilling operations.

Paragraph 9. Critical Operations and Curtailment Plan

Revision. The Gulf of Alaska Order contains a "grandfather clause" to allow lessees 90 days to submit Critical Operations and Curtailment Plans for currently operating mobile drilling units which did not have approved plans. This "clause" was not included in the Arctic Order of the proposed Alaska Region Order.

Discussion. Time has expired for the "grandfather clause". Critical Operations and Curtailment Plans are now to be submitted with the Exploration Plans or Development and Production Plans.

Paragraph 11. Use of Best Available and Safest Technologies (BAST)

Revision. The Arctic Order and the proposed Alaska Region Order contain a new paragraph 11, pertaining to BAST. This paragraph was not included in the Gulf of Alaska Order.

Discussion. The addition of this paragraph to the proposed Alaska Region Order does not constitute a new requirement for the Gulf of Alaska area lessees, because this is an editorial revision. This requirement was originally included in the Gulf of Alaska Order by reference in the preamble of OCS Order No. 2 to paragraph 9 of OCS Order No. 5 which required the use of BAST for mobile and fixed drilling rigs. The reference to BAST for drilling rigs on fixed structures and mobile drilling units was deleted from subparagraphs 9.1 and 9.2 of Order No. 5.

Paragraph 12. Electrical Equipment

Revision. A new paragraph 12 and related subparagraphs 12.1 and 12.2 were incorporated into the proposed Alaska Region Order.

Discussion. As previously stated in the discussion of the revision of the preamble of this Order, the content of this paragraph was derived from paragraph 9, *Requirement of Drilling Rigs,* and subparagraph 5.1.10, *Electrical Equipment,* of the OCS Order No. 5 for the Arctic and Gulf of Alaska areas. The insertion of this paragraph into the Order allows Order No. 2 to stand alone without reference to Order No. 5. It was also recognized that these requirements should be addressed in a separate paragraph as specific equipment requirements. The subsequent paragraph was renumbered paragraph 13.

OCS Order No. 3.—Plugging and Abandonment of Wells

Subparagraph 2.8 Mud, and 2.10 Cement

Revision. The Arctic Order and the proposed Alaska Region Order contain the following requirements which were not included in the Gulf of Alaska Order—

a. In 2.8: "Fluid left in the hole adjacent to permafrost zones shall have a freezing point below the temperature of the permafrost zone and shall be treated to minimize corrosion of the casing. Any oil-base fluid left in the hole will require prior approval of the District Supervisor"; and

b. In 2.10: "The cement used for cement plugs placed across permafrost zones shall be designed to set before freezing and to have a low heat-of-hydration.

Discussion. The insertion of these requirements in the proposed Alaska Region Order does not constitute additional requirements for the Gulf of Alaska lessees, because the requirements are applicable to only those areas where permafrost occurs.

OCS Order No. 4.—Determination of Well Producibility

The requirements for proposed OCS Order No. 4 for the Alaska Region OCS Order are the same as the requirements for the Arctic Order and the Gulf of Alaska Order.

OCS Order No. 5.—Production Safety Systems

Subparagraph 1.1 Subfreezing Operations

Revision. The Arctic Order and the proposed Alaska Region Order contain a new subparagraph, 1.1 *Subfreezing Operations,* which requires: "Lessees shall furnish evidence that the production equipment, production safety systems, and other associated equipment and materials are suitable for operations under subfreezing conditions and that all equipment and operating procedures take into account floating ice, icing, and other extreme environmental conditions that may occur in the area." This subparagraph was not included in the Gulf of Alaska Order.

Discussion. The addition of this subparagraph to the proposed Alaska Region Order does not constitute an additional requirement for Gulf of Alaska lessees, because this requirement editorially summarizes requirements which were included in the following subparagraphs of OCS Order No. 5 for the Gulf of Alaska:

3.4 *Surface-Controlled Subsurface-Safety Valves.*

4. *Design, Installation, and Operation of Surface Production Safety Systems.*

Subparagraph 3.1 Installation, and 3.6 Tubing Plugs in Shut-in Wells

Revision. The Arctic Order and the proposed Alaska Region Order contain the following requirements which were not included in the Gulf of Alaska Order—

a. In 3.1: "In permafrost areas, the setting depth of the subsurface-safety device shall be approved by the District Supervisor on a case-by-case basis"; and

b. In 3.6: "In permafrost areas, each tubing-plug installation shall be approved by the District Supervisor on a case-by-case basis."

Discussion. The addition of these requirements to the proposed Alaska Region Order does not constitute new requirements for Gulf of Alaska lessees, because the requirements are only applicable to areas where permafrost occurs.

Former Subparagraph 3.1.1 Subsurface-Safety Valves

Revision. The Arctic Order and the Gulf of Alaska Order contains a subparagraph 3.1.1, which was deleted from the proposed Alaska Region Order.

Discussion. The intent of former subparagraph 3.1.1 was to make it clear that the use of *surface-controlled* subsurface safety valves is mandatory and that *subsurface-controlled* subsurface safety valves may be approved by the DCM for specific installations where greater reliability or safety can be demonstrated by the use of *subsurface-controlled* subsurface safety valves. It was determined that it is editorially clearer to include this intent as a caveat under the requirements for *surface-controlled* subsurface safety valves contained in subparagraph 3.4. Therefore, the following sentence was added to subparagraph 3.4 of the proposed Alaska Region Order: "Alternatives to this requirement may be approved by the Deputy Minerals Manager (DMM), Offshore Field Operations, when greater reliability or safety can be demonstrated."

Subparagraph 3.2 Specification for Subsurface-Safety Valves

Revision. The proposed Alaska Region Order references the Fifth Edition, April 1981, of API Specification 14A, "American Petroleum Institute Specification for Subsurface-Safety Valves," whereas the Arctic Order and the Gulf of Alaska Order reference the Fourth Edition, November 1979.

The Arctic Order and the proposed Alaska Region Order require that subsurface safety valves shall conform to the specification, "with the exception of section 6, appendix A and appendix J of this specification, except for specific provisions thereof that are required in sections 1 through 5 of this specification."

The Arctic Order and the proposed Alaska Region Order also contain the sentence, "The API monogram is optional, whereas the requirement for the OCS symbol is mandatory." The Gulf of Alaska Order did not contain the exceptions pertaining to section 6 and appendices A and J, and did not contain the sentence which referred to the API monogram and the OCS symbol.

Discussion. The latest edition—the Fifth Edition—of the API Specification was reviewed and approved for use as a reference standard by the Deputy Chief, Offshore Minerals Management. It was necessary to include the exceptions of section 6, and appendices A and J of the specification, because section 6 and appendices A and J address requirements for manufacturer licensing under the API monogram. In accordance with paragraph 2 of OCS Order No. 5, subsurface safety valves are certified in accordance with the quality assurance requirements of ANSI/ASME SPPE–1, "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Oil and Gas Operations." Certification in accordance with this standard is evidenced by use of the OCS symbol; therefore, the citation of the exceptions to the specification and the sentence pertaining to the API monogram and the OCS symbol are necessasry to clarify the intent of the quality assurance and certification program for subsurface safety valves to be certified in accordance with ANSI/ASME SPPE–1.

Subparagraph 4.2 Specification for Wellhead Surface-Safety Valves

Revision. The Arctic Order and the proposed Alaska Region Order require that all wellhead surface-safety valves shall conform to "API Specification for Wellhead Surface-Safety Valves for Offshore Services," API Specification 14D, Third Edition, November 1980, with the exceptions of appendices A and J of this specification, except for provisions thereof that are required in sections 1 through 5 of this specification. The Arctic Order and the proposed Alaska Region Order also contain the sentence, "The API monogram is optional, whereas the requirement for the OCS symbol is mandatory." The Gulf of Alaska Order referenced the second edition of the specification and did not contain the exceptions pertaining to section 6 and appendices A and J and did not contain the sentence which referred to the API monogram and the OCS symbol.

Discussion. The rationale for this revision is the same as the rationale presented in the discussion of subparagraph 3.2, because surface-safety valves are certified under the same ANSI/ASME SPPE–1 as is required for subsurface-safety valves.

Subparagraph 5.1.1 Pressure Vessels

Revision. The Arctic Order and the proposed Alaska Region Order contain the following sentences in subparagraph 5.1.1c: "The low-pressure shut-in pressure-sensor setting shall be no lower than 15 percent or 35 kilopascals (kPa) (5 psi), whichever is greater, below the lowest pressure in the operating range. The pressure-sensor setting of low-pressure sensors on pressure vessels which operate at less than 35 kilopascals (kPa) (5 spi) shall be approved by the District Supervisor on a case-by-case basis."

In the Gulf of Alaska Order, these requirements were stated in different terms.

Discussion. The language adopted in the Alaska Region Order constitutes an editorial clarification of the requirements of the Gulf of Alaska Order.

Subparagraph 5.1.10 Electrical Equipment

Revision. The Arctic Order and the proposed Alaska Region Order contain the following requirement which was not included in the Gulf of Alaska Order:

"f. An auxiliary power supply shall be installed to provide emergency power, capable of operating all electrical equipment required to maintain safety of operations, in the event of failure of the primary electrical power supply. This requirement is not applicable to those systems, or portions of systems, which are designed to fail-safe."

Discussion. The insertion of this requirement in the proposed Alaska Region Order constitutes an additional requirement for the Gulf of Alaska area. This requirement is intended to prevent accidents which might occur as a result of the loss of electrical power. The MMS believes that the requirement for an auxiliary power system is a prudent requirement for all areas of the Alaska Region OCS.

Subparagraph 5.5 Safety Device Testing

Revision. Item j of subparagraph 5.5 of the Arctic Order and the proposed Alaska Region Order requires fire and gas detection systems to be tested and recalibrated every three months, whereas the Gulf of Alaska Order requires testing and recalibration of this equipment every six months.

Discussion. The frequency of testing and recalibration was reduced to three months due to the extreme environmental conditions which are encountered in all areas of the Alaska Region OCS.

Subparagraph 5.7 Safety Device Training

Revision. The dates for compliance with the training requirement contained in the Arctic Order and Gulf of Alaska Order were not included in the proposed Alaska Region Order. The proposed Alaska Region Order requires training to be completed prior to the commencement of production, and the training plan to be submitted one year prior to the anticipated date of commencement of production.

Discussion. Since the prospect for the commencement of production is at least two years in the future for any area of the Alaska Region OCS, it was determined that lessees will have ample time to submit a training plan and complete training of personnel if the training plan is submitted at least one year prior to the commencement of production.

Paragraph 6 Failure and Inventory Reporting System (FIRS)

Revision. Item C of the Gulf of Alaska Order was deleted from the Arctic Order and the proposed Alaska Region Order.

Discussion. It was recognized that item c of paragraph 6 of the Gulf of Alaska Order should be included in subparagraph 6.1.1a for editorial clarity; therefore, the following sentence was added to subparagraph 6.1.1a: "The lessee shall submit the original of the forms to the MMS and retain the two copies."

On September 30, 1981, the USGS (now MMS) published a Notice in the **Federal Register** (46 FR 47874) soliciting comments on a proposal to rescind the FIRS program. All comments received prior to the closing date have been analyzed. A final rulemaking in that regard is now under review.

OCS Order No. 7.—Pollution Prevention and Control

Paragraph 1. Pollution Prevention

Revision. The Gulf of Alaska Order contains the following sentence: "Furthermore, by the disposal of waste materials into the ocean, the lessee shall not create conditions which will adversely affect the public health, life, property, aquatic life, wildlife, recreation, navigation, *commercial* fishing, or other uses of the ocean." In the Arctic Order and the proposed Alaska Region Order, the adjective *commercial* modifying fishing, was deleted.

Discussion. This revision is justified for all areas of the Alaska Region OCS, because the intention was to prohibit adverse effects on any type of fishing, including sport fishing and subsistence fishing.

Subparagraph 1.1.3 Curbs, Gutters, and Drains

Revision. The Arctic Order and the proposed Alaska Region Order segregates the requirements for curbs, gutters, and drains into three subparagraphs 1.1.3.1, 1.1.3.2, and 1.1.3.3, addressing requirements for fixed platforms and structures, artificial islands, and mobile drilling units. The Gulf of Alaska Order did not address artificial islands.

Discussion. Since artificial islands will not be utilized in the Gulf of Alaska, subparagraph 1.1.3.2 will probably have no effect on lessees in that area.

Subparagraph 2.3 Pollution Reports

Revision. The Arctic Order and the proposed Alaska Region Order states: "All spills of oil and liquid pollutants shall also be reported to the U.S. Coast Guard in accordance with the procedures contained in 30 CFR 135.305 and 135.307," whereas the Gulf of Alaska Order references 33 CFR 153.203.

Discussion. This revision was necessary to be consistent with the latest Coast Guard regulations.

OCS Order No. 8.—Platforms and Structures

Subparagraph 1.2 Major Modifications and Repairs

Revision. The second paragraph of subparagraph 1.2 of the Arctic Order and the Gulf of Alaska Order was revised for the proposed Alaska Region Order as follows: "Under emergency conditions, primary structural elements may be repaired to restore the elements to their original condition before the damage occurred, without prior approval. However, the lessee shall, within 24 hours, notify the DMM, Offshore Field Operations, of the damage and request approval of the completed repair. The DMM may require additional or alternative repairs."

Discussion. this revision constitutes an editorial revision to clarify the requirement for the reporting and approval of repairs completed under emergency conditions.

OCS Order No. 12.—Public Inspection of Records

Subparagraphs 2.2.2 After Commencement of Production, and 2.2.3 5-Years' Lapsed Time

Revision. The following caveat was added to the first sentence of subparagraphs 2.2.2 and 2.2.3: "unless previously made available under subparagraph 3.2b and 30 CFR 250.3(b)."

Discussion. This editorial revision was necessary to make it clear that subparagraphs 2.2.2 and 2.2.3 are not in conflict with the requirements of subparagraph 3.2 *Leases Issued After June 11, 1976.*

II. Proposed Alaska Region OCS Orders, applicable to the Arctic Area, the Bering Sea Area, and the Gulf of Alaska Area

Alaska Region, OCS Orders

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Alaska Region.—OCS Orders, Information Collection

The information collection requirements contained in the OCS Orders listed below have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507. The information is collected to obtain definite and firsthand knowledge of the information collection requirements listed below under "Information Collected." This information is used to evaluate, approve, or verify compliance with, these requirements as listed below under "Used to." The obligation to respond is mandatory.

Order No.	Paragraph No.	Information collected/OMB clearance No.	Used to
2. Drilling operations	1.2. *Application for Permit to Drill*	The lessee's plan for drilling each well, submitted on Form 9–331 C/1026–0012. (30 CFR 250.92).	Evaluate the adequacy of the blowout preventer equipment, casing program, mud program and well-control procedures and to determine whether the application should be approved.
3. Plugging and abandonment of wells.	1.1. *Notice of Intension to Abandon a Well*	A detailed statement of the proposed work for abandoning a well, submitted as a "Request for Approval to:," on Form 9–331/1026–001. (30 CFR 250.92).	Approve or disapprove the plans concerning the depth, location, kind, and length of plugs, and plans for mudding, cementing, cutting, testing, and removing casing and other pertinent information.
	1.2. *Subsequent Report of Abandonment*	Detailed report of manner in which the abandonment or plugging work was accomplished, including the nature and quantity of materials used in the plugging, and the location and extent, by depth of casing left in the well; and if an attempt was made to cut and pull the casing string, a description of the methods used and results obtained submitted as a "Subsequent Report of:," on Form 9–331/1026–0011. (30 CFR 250.92).	Evaluate the adequacy of the manner in which permanent or temporary abandonment was accomplished.
5. Production safety systems.	3.12. *Reports*	Subsurface-safety valve data submitted on Form 9–331/1026–001. (30 CFR 250.92).	Verify compliance with or approve the setting depth of subsurface-safety devices. Approve alternatives to requirements. Inspect records to verify compliance with general requirements for subsurface safety devices.
	6. *Failure and Inventory Reporting System (FIRS).*	Initial inventory, periodic updates, and periodic verification. Report of all device failures and deviations, submitted on Forms 9–1994/1026–0023, and 9–1995/1026–0024. (These forms are required by the Failure and Inventory Reporting Program which the USGS (now MMS) has proposed to rescind (46 FR 47874, September 30, 1981).).	Identify items or hardware that are habitual failures. Establish reliability of equipment.

Department of the Interior, Minerals Management Service

Alaska Region, OCS Order No. 1, Effective ————

Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.37 and 250.54.

1. *Identification of Fixed Platforms or Structures.*

1.1 *Large Platforms and Structures.* Platforms and structures having helicopter landing facilities shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimeters (12 inches) in height. The sign shall specify—

a. The name of the lease operator;

b. The area designation based on OCS Official Protraction Diagrams;

c. The block number in which the platform or structure is located; and

d. The platform or structure designation.

Example

When the Blank Oil Company operates "C" platform on Block 999 of the Salisbury Area, the identifying sign on the platform would indicate—BOC–SAL–999–C.

1.2 *Small Structures.* Small structures, including single-well structures which do not have helicopter landing facilities, shall be identified with one sign only, with letters and figures not less than 7.6 centimeters (3 inches) in height.

Example

When the Blank Oil Company operates Well No. 1 which is equipped with a protective structure, in Block 68 in the East Cameron Area, the identifying sign on the protective structure would indicate—BOC–E.C.–68—No. 1.

1.3 *Artificial Islands.* Artificial islands, such as gravel islands and ice islands, shall be identified as required by subparagraph 1.1 of this Order, except that only one sign is required to be installed in a prominent location on the island.

2. *Identification of Mobile Drilling Units.* Floating platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimeters (12 inches) in height affixed to the derrick or to the heliport so as to be visible to approaching traffic. The sign shall specify—

a. The name of the lease operator;

b. The area designation based on OCS Official Protraction Diagrams;

c. The block number in which the drilling unit is located;

d. The OCS lease number; and

e. The well number.

3. *Identification of Wells.* The OCS lease and well numbers shall be painted on the wellhead or on a sign affixed to the wellhead of each singly completed well. In multiple completed wells, each completion shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

4. *Identification of Subsea Objects.* Prior to the installation of subsea equipment required for lease operations, or in the event of the accidental sinking of an object, the owner shall report the submerged equipment or object to the appropriate U.S. Coast Guard District Commander subject to the following limitations. Reports are not required for equipment or objects that—

a. Are submerged in water depths greater than 305 meters (1,000 feet);

b. Weigh 18 kilograms (40 pounds) or less and are of such shape or configuration that they are unlikely to snag or damage fishing devices; or

c. Are determined to be located on the sea floor within 46 meters (150 feet) of fixed structures on which approved aids to navigation are maintained.

The report shall contain the object's description, weight, dimensions, location, and the depth of water in which it is located. The U.S. Coast Guard will determine if it is a hazard to navigation and will determine whether it requires marking in accordance with 33 CFR 64.

5. *Marking of Equipment.* Whenever practicable, all materials, equipment, tools, containers, and items used on the OCS are to be properly color-coded, stamped, or labeled with the owner's identification prior to actual use. For oil and gas operations, this means the owner's identification, as approved or prescribed by the Director, is to be placed upon all materials, cable, equipment, tools, containers, and other objects which could be freed and lost overboard from rigs, platforms, or supply vessels, and are of sufficient size or are of such a nature that they could be expected to interfere with commercial fishing gear if dropped overboard.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Department of the Interior, Minerals Management Service

Alaska Region, OCS Order No. 2: Effective ————

Drilling Operations

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.30, 250.34, 250.36, 250.38, 250.40, 250.41, and the provisions of this Order, except for those provisions superseded by the issuance of field drilling rules.

This Order requires the lessee to submit plans, applications, data, and other information. In all cases where the lessee(s) has (have) identified another party as designated lease operator in accordance with 30 CFR 250.31 and where the term "operator" is defined in accordance with 30 CFR 250.2(gg), the required information may be submitted by the designated lease operator.

1. *Plans and Applications.*

1.1 *Exploration Plan, Development and Production Plan, and Environmental Report.* In accordance with 30 CFR 250.34, the lessee shall submit Exploration Plans, Development and Production Plans, and Environmental Reports to the Deputy Minerals Manager (DMM), Offshore Field Operations, for approval. All wells drilled under the provisions of this Order shall be included in the appropriate plan.

In addition, lessees shall include in their Exploration Plan and Development and Production Plans provisions to deal with emergency situations involving—

a. A means of drilling a relief well should a blowout occur;

b. Loss or disablement of a drilling unit or a drilling rig;

c. Loss of or damage to support craft; and

d. Hazards unique to the site of the drilling operations, including conditions such as solid ice cover, ice loading, freezeup, and breakup.

1.2 *Application for Permit to Drill.* Prior to commencing drilling under an approved Exploration Plan or a Development and Production Plan, the lessee shall file, in triplicate, an Application for Permit to Drill (Form 9–331 C) with the District Supervisor for

approval. Additionally, the District Supervisor will prescribe the number of public information copies to be submitted.

2. *Drilling from Fixed Platforms and Mobile Drilling Units.*

2.1 *General Requirements.*

2.1.1 *Fitness of Drilling Unit.* All fixed and mobile drilling units shall be capable of withstanding the oceanographic, meteorological, and ice conditions for the proposed area of operations. The lessee shall submit with the Exploration Plan or Development and Production Plan evidence to the DMM, Offshore Field Operations, of the fitness of the drilling unit to perform the planned drilling operation.

This evidence shall include the following specifications or other information as requested by the District Supervisor:

a. The rated capacity of all major drilling equipment;

b. Drilling safety systems;

c. Firefighting equipment;

d. Pollution-prevention equipment associated with the drilling operation;

e. A schematic diagram of the drilling unit; and

f. A "Critical Operations and Curtailment Plan" as described in paragraph 9 of this Order.

After a drilling unit has been approved for use in an area, the information listed above need not be resubmitted unless required by the DMM, Offshore Field Operations, or there are changed in equipment which affect the rated capability of the unit.

2.1.2 *Pre-Drilling Inspection.* Prior to commencing operations in an OCS area, all fixed drilling platforms and mobile drilling units shall be made available for a complete inspection by the District Supervisor.

2.1.3 *Well-Site Surveys.* Lessees shall submit a shallow geologic hazards report and conduct such shallow geologic hazard surveys or other surveys as required by the DMM, Offshore Field Operations. The results of these surveys and an analysis of the gelogic hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor. When requested, this data shall include sediment and seabed data, e.g., seabed profiles, sediment consistency, allowable bearing and sliding loads, and nearby potential seabed hazards, i.e., sand waves, slumps, mud slides, permafrost, and deposits of frozen gas hydrates.

2.1.4 *Oceanographic, Meteorological, and Performance Data.* Where such information is not readily available, lessees shall collect and report oceanographic, meteorological, performance data, and monitor ice conditions during the period of operations. The type of information collected, method of collection, and report requirements will be as specified by the DMM, Offshore Field Operations.

2.1.5 *Subfreezing Operations.* Lessees shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment and materials are suitable for operations in those areas which are subject to subfreezing conditions.

2.1.6 *Welding and Burning Practices and Procedures.* The following requirements are applicable to any welding or burning practice or procedure performed on drilling rigs during the drilling mode. For the purpose of this Order, the terms "welding" and "burning" are defined to include arc or acetylene cutting and arc or acetylene welding.

All offshore welding and burning shall be minimized by onshore fabrication when feasible.

2.1.6.1 *General Welding, Burning, and Hot Tapping Plan.* Each lessee shall file for approval by the District Supervisor a "Welding, Burning, and Hot Tapping Safe Practices and procedures Plan." The plan shall include the qualification standards or requirements for personnel and the methods by which the lessee will assue that only personnel meeting such standards or equirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be thoroughly familiar with this plan. An approved plan is required prior to conducting any welding, buring, or hot tapping operation. All welding and burning equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

2.1.6.2 *Designated Safe-Welding and Burning Areas.* The lessee shall establish, if feasible, and so designate areas on the platform determined to be safe-welding areas pursuant to the National Fire Protection Association Bulletin "Cutting and Welding Processes," No. 51 B, 1976, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Approval for the use of such areas shall be obtained from the District Supervisor. These designated areas shall be identified in the General Plan and a drawing showing the location of these areas shall be maintained on the facility. Welding or burning performed in other than designated safe-welding and burning areas shall be performed in compliance with the procedures set forth in subparagraph 2.1.6.3.

2.1.6.3 *Undesignated Welding and Burning Areas.* All welding or burning which cannot be done in an approved safe-welding area shall be performed in compliance with the procedures outlined below:

a. Prior to the commencement of any welding or burning operation on a structure, the lessee's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the lessee-approved qualification standards or requirements for welders. The designated person-in-charge and the welders shall personally inspect the work area for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

b. During all welding and burning operations, one or more persons shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress. If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding.

c. Prior to any welding or burning operation, the Fire Watch shall have in their possession firefighting equipment in a usable condition. At the end of the welding operation, the equipment shall be returned to a usable condition.

d. No welding, other than approved hot tapping, shall be done on piping, containers, tanks, or other vessels which have contained a flammable substance unless the contents have been rendered inert and are determined to be safe for welding or burning by the designated person-in-charge.

e. If drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe-welding areas shall not be conducted unless the well(s) where these operations are in progress contain noncombustible fluids and the entry of formation hydrocarbons into the well bore is precluded. All other

provisions of this section shall also be applicable.

f. If welding or burning operations are conducted in the well-bay or production area, all producing wells shall be shut-in at the surface-safety valve.

2.1.7 *Employee Orientation and Motivation Programs for Personnel Working Offshore.* The lessee shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in their functions. A program to achieve safe and pollution-free operations shall be established. This program shall include instructions in the provision of "API Recommended Practice Orientation Program for Personnel Going Offshore for the First Time," API RP T–1, January 1974, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. "Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," API Bulletin T–5, September 1974, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use shall be used as a guide in developing employee safety and pollution-prevention motivation programs.

2.2 *Mobile Drilling Units.* Applications for drilling from mobile drilling units shall include—

a. A listing of the maximum environmental and operational conditions used for the design;

b. A listing of the regional maximum environmental conditions, including wave, wind, current, solid ice cover, ice loading, storm surges, and seismic motion, and of the unusual site-specific environmental conditions anticipated to be encountered at the drill site during the drilling operations; and

c. Current American Bureau of Shipping Classification, U.S. Coast Guard Certificate of Inspection, or other appropriate classifications, with operational limitations.

2.3 *Fixed Drilling Platforms.* Applications for installations of fixed drilling platforms or structures, including artificial islands, shall be submitted in accordance with OCS Order No. 8. Mobile drilling units which have their jacking equipment removed or have been otherwise immobilized, will be considered fixed drilling platforms, and applications shall also be submitted in accordance with OCS Order No. 8.

3. *Well Casing and Cementing.*

3.1 *General Requirements.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1). The Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst.

In addition, the Application for Permit to Drill shall include a proposal to fill all annuli within permafrost zones with cement or a liquid with a freezing point below the minimum permafrost temperature to prevent internal freezeback. The cement used to cement through permafrost zones shall be designed to set before freezing and shall have a low heat of hydration so as not to thaw frozen formations.

Wells drilled in areas which are underlain by freshwater aquifers shall have casing programs which are designed to protect the freshwater zones. In cases where cement has filled the annular space back to the ocean floor, upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing. If there are indications of inadequate cementing (such as lost returns, cement channeling, or mechanical failure of equipment on the surface, intermediate, and production casing strings), the lessee shall evaluate the adequacy of the cementing operations by pressure testing the casing shoe, running a cement bond log, running a temperature survey, or a combination thereof before continuing operations.

If the evaluation indicates inadequate cementing, the lessee shall recement or take other actions as approved by the District Supervisor. The lessee shall verify the adequacy of the remedial cementing operations as required by the District Supervisor.

The design criteria considered for all wells shall be submitted with the Application for Permit to Drill. The criteria to be considered shall include all pertinent factors for well control, such as—

a. Formation fracture gradients;

b. Formation pressure;

c. Anticipated surface pressure;[1]

d. Casing setting depths; and

e. Permafrost zones.

The lessee shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling-rate evaluation, shale-density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure and to minimize the potential for the well to flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets or exceeds American Petroleum Institute (API) standards, or reconditioned used pipe that has been tested to assure that it will meet or exceed API standards for new pipe. If casing to be used is not fabricated to API standards, the yield strengths of the casing shall be included with the Application for Permit to Drill (Form 9–331 C), provided these specifications are not on file with the MMS.

3.2 *Drive or Structural Casing.* This casing shall be set by driving, jetting, or drilling to a minimum depth of 30 meters (98 feet) below the ocean floor or to other depths, as may be required or approved by the District Supervisor, in order to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annulus of the drilled hole and the casing shall be used.

3.3 *Conductor and Surface Casing Setting and Cementing Requirements.*

3.3.1 *Conductor and Surface Casing Setting Depths.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons, other potential hazards, and water depths. These strings of casing shall be set at the depths specified, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; however, the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, of, if unknown, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. The District Supervisor

[1] Anticipated surface pressure is defined as the surface well pressure which can reasonably be expected to be exerted upon a casing string and its related wellhead equipment. In the calculation of anticipated surface pressure, the lessee shall take into account the drilling, completion, and producing conditions. The lessee shall consider mud densities to be used below various casing strings, fracture gradients of the exposed formations, casing setting depths, total well depth, formation fluid type, and other pertinent conditions. Considerations for calculating anticipated surface pressure may vary for each segment of the well. The lessee shall include as a part of the statement of anticipated surface pressure the calculations used to determine this pressure during the drilling phase and the completion phase, including the anticipated surface pressure used for production string design.

may prescribe the setting depths for those wells which may encounter abnormal pressure conditions.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings, such as estimated fracture gradients, pore pressures, and shallow hazards, shall be furnished with the Application for Permit to Drill.

3.3.1.1 *Setting Depth Criteria for Permafrost-Free Areas.* In permafrost-free areas, except as may otherwise be approved by the District Supervisor under subparagraph 3.3.1, conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) True Vertical Depth (TVD) below the ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,593 feet) TVD below the ocean floor.

3.3.1.2 *Setting Depth Criteria for Permafrost Areas.* In areas containing permafrost, lessees shall submit with their Applications for Permit to Drill, casing programs that incorporate setting depths for conductor and surface casing based on the anticipated depth of the permafrost at the proposed well location, and which utilize the current state-of-the-art methods to safely drill and set casing through the permafrost zones. The casing programs must provide protection from thaw subsidence and freezeback effect, proper anchorage, and well control until the next string of casing is set.

3.3.2 *Conductor Casing Cementing Reqirements.*

3.3.2.1 *Drilling from Artificial Islands.* When drilling from artificial islands, conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space up to the surface. Cement fill to the surface shall be verified by the observation of cement returns. Upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment.

3.3.2.2 *Drilling from Floating and Jackup Drilling Rigs.* When drilling from floating and jackup drilling rigs, conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space up to the ocean floor. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, the method of verifying the cement fill shall be approved by the District Supervisor. Upon approval by the District Supervisor, the cement may be washed out or displaced to a depth not exceeding the depth of the structural casing shoe to facilitate casing removal upon well abandonment. When the BOP stack is to be placed in an excavation (glory hole), in accordance with subparagraph 5.2, conductor casing shall be cemented with a quantity of cement sufficient to fill the calculated annular space up to the top of the casing.

3.3.3 *Surface Casing Cementing Requirements.* Surface casing shall be cemented with a quantity of cement sufficient to protect all freshwater zones, to provide well control until the next string of casing is set, and with sufficient cement to fill the calculated annular space to the top of the permafrost zone, and with the cement fill at least 60 meters (197 feet) inside the conductor casing, or as approved by the District Supervisor. Any portion of the annulus opposite a permafrost zone which is not protected by cement shall be filled with a liquid with a freezing point below the minimum permafrost temperature to prevent internal freezeback.

For floating drilling operations that use a one-stack blowout-preventer (BOP) system, a lesser volume of cement is permissible to prevent sealing the annular space between the conductor casing and surface casing, when approved by the District Supervisor. Any annular space open to the drilled hole shall be sealed in accordance with the requirements in Order No. 3 upon abandonment.

After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maxmium mud weight to be used in the intermediate hole.

3.4 *Intermediate Casing Setting and Cementing Requirements.* One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe or on subsequent pressure tests. After drilling a maximum of 15 meters (49 feet) of new hole, a pressure test shall be conducted to obtain data to be used in estimating the formation fracture gradient. Pressure data shall be obtained either by testing to formation leak-off or by testing to a predetermined equivalent mud weight as approved by the District Supervisor. The results of this test and any subsequent tests of the formation shall be recorded on the driller's report and used to determine the depth and maximum mud weight to be used in the hole below the intermediate-casing string.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. This requirement for isolation may be satisfied by squeeze cementing prior to completion, suspension of operations, or abandonment, whichever occurs first. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required. Any portion of the annulus opposite a permafrost zone not protected by cement must be filled with a liquid which has a freezing point below the minimum permafrost temperature to prevent internal freezeback.

If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string and cemented as required for intermediate casing. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's report. It the test indicates an improper seal, the top of the liner shall be squeeze cemented. If such a liner is subsequently used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

3.5 *Production Casing.* Production casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones above the shoe which contain hydrocarbons; but in any case, a calculated volume sufficient to fill the annular space at least 150 meters (492 feet) above the uppermost hydrocarbon zone must be used. Open-hole and slotted-liner completions are permitted when approved by the District Supervisor. Any portion of the annulus opposite a permafrost zone not protected by cement must be filled with a liquid which has a freezing point below the permafrost temperature to prevent internal freezeback.

When a liner is used as production casing below intermediate casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string

and cemented as required for the production casing. Testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners and recorded on the driller's report. If the test indicates an improper seal, the top of the liner shall be squeeze cemented.

3.6 *Pressure-Testing of Casing.* Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table below. The test pressure shall not exceed 70 percent of the internal yield pressure of the casing. If the pressure declines more than 10 percent in 30 minutes or if there is another indication of a leak, the casing shall be recemented, repaired, or an additional casing string run, and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Casing	Minimum surface pressure
Conductor	1,400 kilopascals (kPa) (203 psi).
Surface	[1] 6,900 kPa (1,000 psi).
Intermediate, Liner, and Production	[1] 10,400 kPa (1,508 psi) or 5 kPa/m (0.22 psi/ft), whichever is greater.

[1] Must not exceed 70 percent of the minimum internal yield pressure.

In the event of prolonged drill pipe operations which could cause damage to the casing, the casing shall be pressure-tested, calipered, or otherwise evaluated, as approved by the District Supervisor. After cementing any of the above strings, drilling shall not be resumed until there has been a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's report.

In addition to the time lapse stated above, sufficient time must elapse to allow the bottom 153 meters (502 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3,448 kPa (500 psi), or, as approved by the District Supervisor, before drilling resumes.

The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

4. *Directional Surveys.* Wells are considered vertical if inclination does not exceed an average of 3 degrees from the vertical. Inclinational surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds an average of 3 degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all planned angle-change portions of the hole.

On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth. Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic-to-true-north correction. A composite dipmeter directional survey including a listing of the directionally computed inclinations and azimuths on a well classified as vertical will be acceptable as fulfilling the applicable requirements of this paragraph.

5. *Blowout Preventer (BOP) Equipment Requirements.*

5.1 *General Requirements.* BOP's and related well-control equipment shall be installed, used, maintained, and tested in a manner necessary to assure well control.

5.1.1 *BOP Equipment.* BOP equipment shall consist of an annular preventer and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any BOP shall exceed the anticipated surface pressure to which it may be subjected, except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi), unless a higher working pressure is required by the District Supervisor. When the anticipated surface pressure exceeds the rated working pressure or the annular preventer, the lessee shall submit with the Application for Permit to Drill a well-controlled procedure which indicates how the annular preventer will be utilized and the pressure limitations which will be applied during each mode of pressure control.

All BOP systems shall be equipped with—

a. A hydraulic actuating system that provides sufficient accumulator capacity to supply 1.5 times the volume necessary to close all BOP equipment units with a minimum pressure of 1,400 kPa (203 psi) above the precharge pressure. An accumulator backup system, supplied by a secondary power source independent from the primary power source, shall be provided with sufficient capacity to close all BOP's and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation control, such as hydraulic, acoustic, or other methods, shall be described and included in the Application for Permit to Drill.

b. At least one operable remote BOP control station, in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor;

c. A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for separate kill and choke lines;

d. A kill line equipped with 2 kill-line valves. The master valve shall be located adjacent to the BOP. This valve shall not normally be used for opening or closing on flowing fluid. The second valve shall be located adjacent to the master valve. This valve shall be used as the control valve;

e. A fill-up line above the uppermost preventer;

f. A choke manifold equipped in accordance with "API Recommended Practice for Blowout Prevention Equipment Systems," API RP 53, First Edition, February 1976, reissued February 1978, Sections 3–A and 3–B, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use;

g. Valves, pipes, flexible steel hoses, and other fittings upstream of, and including, the choke manifold shall have a pressure rating at least equal to the anticipated surface pressure; and

h. A wellhead assembly with a working pressure at least equal to the anticipated surface pressure.

5.1.2 *Auxiliary Equipment.* The following auxiliary equipment shall be provided and maintained in operable condition at all times:

a. A kelly cock shall be installed below the swivel, and an essentially full-opening valve of such design that it can be run through BOP's, shall be installed at the bottom of the kelly. A wrench to fit each valve shall be stored in a conspicuous location readily accessible to the drilling crew.

b. An inside BOP and an essentially full-opening drill string safety valve in the open position shall be maintained on

the rig floor at all times while drilling operations are being conducted. These valves shall be maintained on the rig floor to fit all connections that are in the drill string.

c. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

5.1.3 *Subfreezing Operations.* The BOP's and related control equipment shall be suitable for operations in those areas which are subject to subfreezing conditions.

5.2 *Subsea BOP Requirements.* The minimum requirements for drilling below the casing strings for subsea BOP stacks are tabulated below:

Drive or Structural—See Notes (*1*) and (*2*)
Conductor—1—Annular; 1—Diverter System (*3*) and (*4*)
Surface—1—Annular; 2—Pipe Rams; 1—Blind Shear Ram
Intermediate—1—Annular; 2—Pipe Rams(*5*); 1—Blind Shear Ram

Notes

(*1*) When drilling fluids are circulated to the drilling vessel, a diverter system as described in subparagraph 5.4.1 shall be installed on top of the marine riser.

(*2*) If returns to the surface cannot be established, refer to subparagraph 5.4.2.

(*3*) The choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, can be used for diversion, if approved by the District Supervisor, or an annular preventer or pressure-rotating, packoff-type head, equipped with suitable diversion lines, shall be installed on top of the marine riser.

(*4*) To be installed on top of the marine riser. The diverter system shall provide, as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

(*5*) When a tapered drill string is in use, the BOP stack shall be equipped with one of the following pipe ram configurations:

a. Two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe;

b. Two (2) sets of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe;

c. Two (2) sets of variable bore pipe rams to fit both sizes of pipe;

d. One (1) set of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe; or

e. One (1) set of pipe rams for the larger size string, one (1) set of pipe rams for the smaller pipe, and one (1) set of variable bore pipe rams to fit both sizes of pipe.

Subsea BOP stacks shall be equipped with blind shear rams. A subsea accumulator or a suitable alternate approved by the District Supervisor is required to provide fast closure of the preventers and to operate all critical functions in case of loss of power fluid connection to the surface. The BOP system shall include dual pod control systems in accordance with API RP 53, First Edition, February 1976, reissued February 1978, Subsection 5.B.13, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with seawater. Sufficient hydrostatic head shall be maintained within the well bore to compensate for the reduction in head and to maintain a safe well condition. If repair or replacement of the BOP stack is necessary after installation, this work shall be accomplished after casing has been cemented prior to drilling out the casing shoe or by setting a cement or bridge plug or storm packer to assure safe well conditions.

When a subsea BOP stack is to be used in an area which is subject to ice scour, the BOP stack shall be placed in an excavation (glory hole) with the top of the BOP stack below the deepest possible ice scour depth.

5.3 *Surface BOP Requirements.* The minimum requirements for drilling below the casing strings for conventional surface BOP stacks are tabulated below:

Drive or Structural—1—Annular; 1—Diverter System(*1*)
Conductor—1—Annular; 1—Diverter System(*1*)
Surface—1—Annular; 2—Pipe Rams; 1—Blind Ram
Intermediate—1—Annular; 2—Pipe Rams(*2*); 1—Blind Ram

Notes

(*1*) The diverter system shall include a minimum of two 15-centimeter (6-inch) internal diameter lines and full-opening valves. The flow path from the BOP to the branch point of diverter lines in new systems shall have a minimum internal diameter of 15 centimeters (6 inches).

(*2*) When a tapered drill string is in use, the BOP stack shall be equipped with one of the following pipe ram configurations:

a. Two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe;

b. Two (2) sets of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe;

c. Two (2) sets of variable bore pipe rams to fit both sizes of pipe;

d. Two (2) sets of pipe rams for the larger size string. The blind ram cavity shall be equipped with blind shear rams and the blind ram actuator shall be converted to operate the blind shear rams. A crossover sub to the larger size pipe shall be readily available on the rig floor;

e. One (1) set of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe; or

f. One (1) set of pipe rams for the larger size string, one (1) set of pipe rams for the smaller pipe, and one (1) set of variable bore pipe rams to fit both sizes of pipe.

5.4 *Drive Pipe or Structural Casing BOP Requirements.*

5.4.1 *Drilling Operations from Bottom-Supported Rigs.* Before drilling below this string with a botton setting rig, a diverter system utilizing an annular-type preventer and related equipment shall be installed for circulating the drilling fluid to the drilling structure. The diverter system shall be equipped with remote-control valves in the main and diverter flow lines that can be operated from the control panel prior to shutting in the well. The diverter lines shall vent in different directions to permit downwind diversion. A schematic diagram and an operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9–331 C) to the District Supervisor for approval.

5.4.2 *Floating Drilling Operations.* In drilling operations where a floating or semisubmersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling the conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor-casing seat, and a contingency plan for moving off location.

5.5 *Conductor Casing.* Before drilling below this string, at least one remote-controlled, annular-type BOP shall be installed. A diverter system and other equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed as described in subparagraph 5.4.1

5.6 *Surface and Intermediate Casing.* Before drilling below these strings, the BOP system shall consist of at least four remote-controlled, hydraulically operated BOP's including at least two equipped with pipe rams, one with blind rams, and one annular type. Subsea BOP stacks used with floating drilling vessels shall include one set of blind shear rams.

5.7 *Testing of BOP Systems.* Prior to conducting high-pressure tests, all BOP's shall be tested to a low pressure of 1,400 to 2,000 kPa (203 to 290 psi). All BOP tests shall be recorded in the driller's report.

5.7.1 *BOP Testing Frequency.* Surface and subsea BOP stacks shall be tested–

a. When installed;

b. Before drilling out after each string of casing has been set;

c. At least once each week, but not exceeding 7 days between tests, alternating between control stations. If either control system is not functional, further drilling operations shall be suspended until that system becomes operable. A period of more than 7 days between BOP tests is allowed when well operations prevent testing and remedial efforts are being performed, provided the tests will be conducted as soon as possible before normal operations resume, and the reason for postponing testing is entered into the driller's report. Well operations which prevent testing all stuck drill pipe and pressure-control operations. Testing shall be at staggered intervals to allow each drilling crew to operate the equipment. The weekly test is not required for blind and blind shear rams. These rams need only be tested prior to drilling out after each casing string has been set; and

d. Following repairs that require disconnecting a pressure seal in the assembly.

5.7.2 *Pressure Testing Surface BOP Systems.* Ram-type BOP's and related control equipment including the choke manifold shall be tested at the anticipated surface pressure or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. The annular-type BOP shall be tested at 70 percent of its rated working pressure or 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser.

5.7.3 *Pressure Testing Subsea BOP Systems.* Subsea BOP's and all related well-control equipment shall be stump tested at the surface with water to the anticipated surface pressure, except that the annular-type BOP shall not be tested above 70 percent of its rated working pressure. After the installation of the BOP stack on the sea floor, the control equipment and ram-type BOP's shall be tested as required under subparagraph 5.7.2.

5.7.4 *Actuation of Auxiliary Well-Control Equipment.* In conjunction with the weekly pressure test of surface and subsea BOP systems, auxiliary well-control equipment such as choke manifold valves, kelly cocks, and drill pipe valves shall be actuated. Casing safety valves shall be actuated prior to running casing.

5.8 *Inspection and Maintenance.* All BOP systems, marine risers, and associated equipment shall be inspected and maintained to assure that the equipment will function properly. The manufacturers' recommended inspection and maintenance procedures are acceptable as guidelines in complying with this requirement. The BOP systems and marine risers shall be visually inspected at least once each day if the weather and sea conditions permit the inspection. Inspection of subsea installations may be accomplished by the use of television equipment.

5.9 *BOP Drills.* All drilling personnel shall be indoctrinated in BOP drills and be familiar with the BOP equipment before starting work on the well. A BOP drill shall be conducted for each drilling crew in accordance with the well-control drill requirements of the Minerals Management Service (MMS) Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (MMS–OCS–T 1, formerly GSS–OCS–T 1), First Edition, December 1977, or subsequent revisions thereto. A BOP drill may be required by a MMS designated representative at any time during the drilling operation, after notifying and consulting with the lessee's senior representative present.

All BOP drills shall be recorded in the driller's report.

6. *Mud Program.* The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained readily accessible for use at all times to assure well control.

Mud temperatures shall be controlled to minimize heat loss to permafrost zones and to minimize thawing of the permafrost which can result in serious well problems while drilling through the permafrost. To insure maximum safety, hydrate zones shall be anticipated and diagnosed quickly, and drilled using the latest state-of-the-art methods.

6.1 *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced, or proper well conditions and mud properties are documented in the driller's report prior to pulling the drill pipe, as follows:

a. There is no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

b. The weight of the returning mud is essentially the same as the weight of the mud entering the hole. In the event that the returning mud is lighter than the entering mud by a weight differential equal to or greater than 0.2 pound per gallon, the mud shall be circulated until the annular volume is displaced, and the mud properties shall be checked for the influx of gas or liquid.

c. Other mud properties recorded on the daily drilling report are within the specified ranges required by the mud program.

When the mud in the hole is circulated, the driller's report shall be so noted.

When coming out of the hole with drill pipe, the annulus shall be filled with mud before the change in mud level decreases the hydrostatic pressure kPa (75 psi) or every 5 stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled prior to filling the hole and the equivalent mud volume shall be calculated and posted. A mechanical, volumetric, or electronic device for measuring the amount of mud required to fill the hole shall be utilized.

When there is an indication of swabbing or influx of formation fluids, the necessary safety devices and action shall be employed to control the well. The mud shall be circulated and conditioned on or near bottom, unless well or mud conditions prevent running the drill pipe back to the bottom.

The maximum pressure which can be tolerated on each casing string shall be posted near the driller's console.

An operable gas separator shall be installed in the mud system prior to commencement of drilling operations. The separator shall be maintained for use throughout the drilling and completion of the well.

The mud in the hole shall be circulated or reverse-circulated prior to pulling the drill-stem test tools from the hole.

6.2 *Mud Testing and Monitoring Equipment.* Mud-testing equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour, or more frequently, as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in "API Recommended Practice for Standard Procedure for Testing Drilling Fluids, "API RP 13B, Seventh Edition, April 1978, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. The results of the test shall be recorded and maintained at the drill site.

The following mud-system monitoring equipment shall be installed with derrick floor indicators and used when mud returns are established and throughout subsequent drilling operations:

a. Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include both a visual and an audio warning device;

b. Mud-volume measuring device for accurately determining mud volumes required to fill the hole on trips;

c. Mud-return indicator to determine that returns essentially equal the pump discharge rate; and

d. Gas-detecting equipment to monitor the drilling mud returns, with indicators located in the mud-logging compartment or on the derrick floor. If the indicators are in the mud-logging compartment, there shall be a means of immediate communication with the rig floor, and the equipment shall be continually manned.

6.3 *Mud Quantities.* The lessee shall include with the Application for Permit to Drill, a tabulation of well depth versus minimum quantities of mud material, including weighting material to be maintained at the drill site to assure well control.

When the quantity required exceeds the storage capacity of the drilling facility, the lessee shall maintain maximum mud inventories and must receive approval from the District Supervisor of the lessee's plans to resupply mud inventories in the event of an emergency. The plan shall include an estimate of the time for delivery of the mud supplies.

Daily inventories of mud materials, including weighting material, shall be recorded and maintained at the well site. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table or as modified in the approved plan.

6.4 *Safety Precautions in Enclosed Mud-Handling Areas.* All enclosed mud-handling areas where dangerous concentrations of combustible gases may accumulate shall be equipped with a ventilation system and with gas monitors. These enclosed areas shall be—

a. Ventilated with high-capacity, mechanical ventilation systems capable of changing the air once every 5 minutes on signal from a gas detector or gas detectors that are operative at all times, indicating the presence of one percent of gas, by volume;

b. Maintained at a negative pressure relative to the surrounding areas where discharge to an adjacent enclosed area may be hazardous. The negative pressure areas are to be protected with a pressure sensitive alarm;

c. Fitted with gas detectors and alarms; and

d. Equipped with electrical equipment of the "explosion-proof" type. Alternatively, the equipment may be pressurized to prevent the ingress of explosives gases, and where air is used for pressurizing, the air intake shall be located outside of, and as far as practicable from, hazardous areas.

7. *Supervision, Surveillance, and Training.*

7.1 *Supervision.* A representative of the lessee shall provide onsite supervision of drilling operations on a 24-hour basis.

7.2 *Surveillance.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig-floor surveillance continuously, unless the well is secured with blowout preventers, bridge plugs, storm packer, or cement plugs.

7.3 *Training.* Prior to conducting any drilling operations, lessee and drilling contractor personnel shall be trained and qualified in accordance with the provisions of the MMS Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (MMS–OCS–T 1, formerly GSS–OCS–T 1), First Edition, December 1977, or subsequent revisions thereto.

In order to maintain qualification, any driller, toolpusher, or operator's representative, shall successfully complete a MMS-approved refresher course annually and repeat the basic well-control course every 4 years, as described in the provisions of MMS–OCS–T 1. Credit for these courses shall be obtained from MMS-approved schools.

The refresher course shall be completed within 45 days of the student's anniversary date. The anniversary date is established upon the student's successful completion of a basic course in well control.

Records shall be maintained at the drill site for the affected personnel, indicating the specific training and refresher courses successfully completed, the dates of completion, and the names and dates of the courses.

In those areas which are subject to subfreezing conditions, the lessee shall ensure that personnel responsible for maintenance of the blowout-preventer stack, the associated-control equipment, and the hydraulic control fluids shall be instructed in the proper procedures to prevent freezing of the hydraulic-control fluids in the control system and the fluids in the choke and kill lines.

8. *Hydrogen Sulfide.* When drilling operations are planned which will penetrate reservoirs known or expected to contain hydrogen sulfide (H_2S), or in those areas where the presence of H_2S is unknown, or upon encountering H_2S, the preventive measures and the operating practices set forth in MMS Outer Continental Shelf Standard "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," No. 1 (MMS–OCS–1, formerly GSS–OCS–1), First Edition, February 1976, or subsequent revisions thereto, shall be followed.

9. *Critical Operations and Curtailment Plans.* Certain operations performed in drilling are more critical than others with respect to well control, and for the prevention of fire, explosion, oil spills, and other discharges or emissions. The lessee shall submit with the Exploration Plan or Development and Production Plan a Critical Operations and Curtailment Plan to be followed while conducting drilling operations on each lease. This plan shall include the following:

a. A list or description of the critical drilling operations that are, or are likely to be, conducted on the lease. This list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. This list shall include operations such as—

(1) Drilling in close proximity to another well;

(2) Drill-stem testing;

(3) Running and cementing casing;

(4) Cutting and recovering casing;

(5) Logging or wireline operations;

(6) Well-completion operations; and

(7) Moving the drilling vessel off location in an emergency, repositioning the vessel on location, and reestablishing entry into the well.

b. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but not necessarily be limited to—

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms;

(2) The availability and capability of containment and cleanup equipment and spill-control system response time;

(3) Abnormal or unusual conditions expected to be encountered during drilling operations;

(4) Known or anticipated meteorological, oceanographic, solid ice cover, and ice loading conditions;

(5) Availability of personnel and equipment for particular operations to be conducted; and

(6) Other factors peculiar to the particular lease under consideration.

c. The name of the person who has responsibility as the person-in-charge of overall drilling operations.

When any circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the lessee shall notify the District Supervisor and the lessee shall curtail the critical operations as set forth under subparagraph 9a.

Deviations from the plan shall require prior approval of the District Supervisor. If emergency action requires deviation from the plan, the District Supervisor shall be notified as soon as possible. The lessee shall review the plan at least annually and notify the District Supervisor of the results of this review. Any amendments or modifications of the plan are subject to the approval of the District Supervisor.

10. *Field Drilling Rules.* When sufficient geological and engineering information is obtained as a result of drilling operations, the lessee may make an application or the DMM, Offshore Field Operations, may require an application for the establishment of field drilling rules. After field drilling rules have been established by the DMM, Offshore Field Operations, development wells shall be drilled in accordance with these rules and the requirements of this Order which are not affected by such rules.

11. *Use of Best Available and Safest Technologies (BAST).* The lessee is encouraged to continue the development of safety-system technology. As research and product improvement results in increased effectiveness of existing safety equipment or the development of new equipment systems, such equipment may be used and, if such technologies provide a significant cost-effective incremental benefit to safety, health, or the environment, shall be required to be used if determined to be BAST.

Conformance to the standards, codes, and practices referenced in this Order will be considered to be the application of BAST. Specific equipment and procedures or systems not covered by standards, codes, or practices will be analyzed to determine if the failure of such would have a significant effect on safety, health, or the environment. If such are identified and until specific performance standards are developed or endorsed by the MMS, the lessee shall submit such information necessary to indicate the use of BAST, the alternatives considered to the specific equipment or procedures, and the rationale why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved in the use of such technology and the incremental benefits gained.

12. *Electrical Equipment.*

12.1 *Electrical Equipment for Drilling Rigs on Fixed Structures.* The following requirements shall be applicable to all electrical equipment and systems on drilling rigs on fixed structures:

a. All engines with ignition systems shall be equipped with a low-tension ignition system of a low-fire-hazard type and shall be designed and maintained to minimize the release of sufficient electrical energy to cause ignition of an external, combustible mixture.

b. All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of approval.

c. At the time of approval, wiring methods shall conform to the National Electrical Code, 1978 Edition, or to the Institute of Electrical and Electronic Engineers (IEEE) "Recommended Practice for Electric Installation on Shipboard," IEEE Std. 45–1977, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Each conductor of a wire, a cable, or a bus bar shall be made of copper on all installations.

d. The elementary schematic of the drilling unit electrical system, including a functional legend, shall be maintained on the drilling unit.

e. Maintenance of these systems shall be by personnel who are familiar with the construction and operation of the equipment and the hazards involved.

f. An auxiliary power supply shall be installed to provide emergency power, capable of operating all electrical equipment required to maintain safety of operations, in the event of a failure in the primary electrical power supply. This requirement is not applicable to those systems, or portions of systems, which are designed to fail-safe.

12.2 *Electrical Equipment for Mobile Drilling Units.* Electrical system design and equipment, including designation of classified areas on mobile drilling units is regulated by the U.S. Coast Guard.

13. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Department of the Interior; Minerals Management Service

Alaska Region, OCS Order No. 3, Effective———

Plugging and Abandonment of Wells

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.15 and 250.92. The lessee shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from the appropriate District Supervisor. Oral or telegraphic approvals shall be in accordance with 30 CFR 250.13.

1. *Application for Approval to Abandon a Well.* In accordance with 30 CFR 250.92, the lessee shall submit for approval a Form 9–331, "Sundry Notices and Reports on Wells," containing the following information:

1.1 *Notice of Intention to Abandon a Well.* A detailed statement of the proposed work for abandonment of any well. For all wells, the statement shall describe the proposed work (including, by depths, the kind, location, and length of plugs) and plans for mudding, cementing, shooting, testing, and removing casing, and other pertinent information. The statement as to a producible well shall set forth the reasons for abandonment, the amount and date of last production, and complete data from the last well test.

1.2 *Subsequent Report of Abandonment.* A detailed report of the manner in which the abandonment or plugging work was accomplished, including the nature and quantities of materials used in the plugging and the location and extent, by depths, of casing left in the well, and the volume of mud fluid used. If an attempt was made to cut and pull any casing string, a description of the methods used and results obtained must be included.

2. *Permanent Abandonment.*

2.1 *Isolation of Zones in Open Hole.* In uncased portions of wells, cement plugs shall be spaced to extend 30 meters (98 feet) below the bottom to 30 meters (98 feet) above the top of any oil, gas, and freshwater zones so as to isolate them in the strata in which they

are found and to prevent them from escaping into other strata or the surface. The placement of additional cement plugs to prevent the migration of formation fluids in the well bore may be required by the District Supervisor.

2.2 *Isolation of Open Hole.* Where there is open hole below the casing, a cement plug shall be placed in the deepest casing string in accordance with "a" or "b" below. In the event lost circulation conditions have been experienced or are anticipated, a permanent-type bridge plug may be placed in accordance with "c" below:

a. A cement plug set by the displacement method so as to extend a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the casing shoe.

b. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the casing shoe, with a cement plug calculated to extend at least 30 meters (98 feet) below the casing shoe and 15 meters (49 feet) above the retainer.

c. A permanent-type bridge plug set within 45 meters (148 feet) above the casing shoe with 15 meters (49 feet) of cement on top of the bridge plug. This bridge plug shall be tested in accordance with subparagraph 2.7 prior to placing subsequent plugs.

2.3 *Plugging or Isolating Perforated Intervals.* A cement plug shall be set by the displacement method opposite all open perforations (perforations not squeezed with cement) extending a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the perforated interval or down to a casing plug, whichever is the lesser. In lieu of setting a cement plug by the displacement method, the following two methods are acceptable, provided the perforations are isolated from the hole below:

a. A cement retainer with effective back-pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the top of the perforated interval with a cement plug calculated to extend at least 30 meters (98 feet) below the bottom of the perforated interval and 15 meters (49 feet) above the retainer.

b. A permanent-type bridge plug set within 45 meters (148 feet) above the top of the perforated interval with 15 meters (49 feet) of cement on top of the bridge plug.

2.4 *Plugging of Casing Stubs.* If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub:

2.4.1 *Stub Termination Inside Casing String.* A stub terminating inside a casing string shall be plugged by one of the following methods:

a. A cement plug set so as to extend 30 meters (98 feet) above and 30 meters (98 feet) below the stub;

b. A cement retainer set 15 meters (49 feet) above the stub with a volume of cement equivalent to 45 meters (148 feet) squeezed below the retainer and with an additional 15 meters (49 feet) placed above the retainer; or

c. A permanent bridge plug set 15 meters (49 feet) above the stub and capped with 15 meters (49 feet) of cement.

2.4.2 *Stub Termination Below Casing String.* If the stub is below the next larger string, plugging shall be accomplished in accordance with either subparagraph 2.1 or 2.2.

2.5 *Plugging of Annular Space.* Any annular space communicating with any open hole and extending to the ocean floor shall be plugged with cement.

2.6 *Surface Plug.* A cement plug at least 45 meters (148 feet) in length, with the top of the plug 45 meters (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the ocean floor.

2.7 *Testing of Plugs.* The setting and location of the first plug below the surface plug shall be verified by one of the following methods:

a. By placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the cement plug, cement retainer, or bridge plug. The cement placed above the bridge plug or retainer need not be tested; or

b. By resting the plug with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

2.8 *Mud.* Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling the intervals between the plugs. Fluid left in the hole adjacent to permafrost zones shall have a freezing point below the temperature of the permafrost zone and shall be treated to minimize corrosion of the casing. Any oil-base fluid left in the hole will require prior approval of the District Supervisor.

2.9 *Clearance of Location.* All casing, wellhead equipment, and piling shall be removed to a depth of at least 5 meters (16 feet) below the ocean floor, or to a depth approved by the District Supervisor after a review of the data on ocean bottom conditions. The lessee shall verify that the location has been cleared of all obstructions.

2.10 *Cement.* The cement used for cement plugs placed across permafrost zones shall be designed to set before freezing and to have a low heat-of-hydration.

3. *Temporary Abandonment.* Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for the requirements in subparagraphs 2.6 and 2.9. When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it is not necessary for the cement plug to extend below the casing shoe into the open hole.

The lessee shall set a retrievable or permanent bridge plug, or a cement plug at least 30 meters (98 feet) in length in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

When a casing stub extends above the ocean floor, the lessee shall comply with the requirements of OCS Order No. 1, paragraph 4, *Identification of Subsea Objects.*

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Approved:

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Department of the Interior, Minerals Management Service

Alaska Region, OCS Order No. 4. Effective———

Determination of Well Producibility

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.12. An Outer Continental Shelf (OCS) lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production of oil and gas in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of production has been approved in accordance with 30 CFR 250.12.

1. *Application for Determination of Well Producibility.* An application shall be submitted to the District Supervisor for the determination of every new well's capability of producing until a well, drilled on the lease, has been

determined to be capable of producing oil or gas in paying quantities. The application shall be submitted within 60 days after the drilling rig has been moved from the well.

2. *Criteria for the Determination of Well Producibility.* The Deputy Minerals Manager (DMM), Offshore Field Operations, shall prescribe which of the following criteria is to be used to determine the capability of a well to produce in paying quantities.

2.1 *Production Tests.* All tests must be witnessed by an authorized representative of the Minerals Management Service (MMS). Test data accompanied by the lessee's affidavit, or third-party test data, may be accepted in lieu of a witnessed test, provided approval is obtained from the District Supervisor prior to the performance of the test. All tests must conform to the following minimum requirements:

a. A production test for oil wells of at least 2 hours' duration following stabilization of flow; and

b. A deliverability test for gas wells of at least 2 hours' duration following stabilization of flow or a 4-point back-pressure test.

2.2 *Production Capability Determination.* When the District Supervisor determines that open hole evaluation data such as wireline formation tests, drill-stem tests, core data, and logs, have been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities.

3. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Rodney A. Smith,

Deputy Minerals Manager, Offshore Fields Operations.

Approved:

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Department of the Interior, Minerals Management Service, Conservation Division

Alaska Region, OCS Order No. 5, Effective ————

Production Safety Systems

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 250.11 and in accordance with 30 CFR 250.30, 250.38, 250.45, and 250.46. The lessee shall be responsible for compliance with the requirements of this Order in the installation and operation of the production safety systems on all platforms and structures located on the leasehold including those facilities not operated or owned by the lessee. All applications for approval under the provisions of this Order shall be submitted to the District Supervisor.

This Order requires the lessee to submit plans, applications, reports, data, and other information. In all cases where the lessee(s) has (have) identified another party as designated lease operator in accordance with 30 CFR 250.31, and where the term "operator" is defined in accordance with 30 CFR 250.2(gg), the required information may be submitted by the designated lease operator.

1. *Use of Best Available and Safest Technologies (BAST).* The lessee is encouraged to continue the development of safety-system technology. As research and product improvement results in increased effectiveness of existing safety equipment or the development of new equipment systems, such equipment may be used and, if such technologies provide a significant cost-effective incremental benefit to safety, health, or the environment, shall be required to be used if determined to be BAST.

Conformance to the standards, codes, and practices referenced in this Order will be considered to be application of BAST. Specific equipment and procedures or systems not covered by standards, codes, or practices will be analyzed to determine if the failure of such would have a significant effect on safety, health, or the environment. If such are identified and until specific performance standards are developed or endorsed by the Minerals Management Service (MMS), the lessee shall submit such information necessary to indicate the use of BAST, the alternatives considered to the specific equipment or procedures, and the rationale why one alternative technology was considered in place of another. This analysis shall include a discussion of the costs involved in the use of such technology and the incremental benefits gained.

1.1 *Subfreezing Operations.* Lessees shall furnish evidence that the production equipment, production safety systems, and other associated equipment and materials are suitable for operations under subfreezing conditions and that all equipment and operating procedures take into account floating ice, icing, and other extreme environmental conditions that may occur in the area.

2. *Quality Assurance and Performance of Safety and Pollution-Prevention Equipment.* Safety and Pollution-Prevention Equipment (SPPE) shall conform to the following quality assurance standards:

a. American National Standards Institute/American Society of Mechanical Engineers Standard "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME SPPE–1, latest edition with all addenda; and

b. American National Standards Institute/American Society of Mechanical Engineers Standard "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME–SPP–2, latest edition with all addenda.

The applicable SPPE components and the applicable SPPE specifications are identified in subparagraphs 3.2 and 4.2.

3. *Subsurface-Safety Devices.*

3.1 *Installation.* All tubing installations open to hydrocarbon-bearing zones shall be equipped with a subsurface-safety device such as a Surface-Controlled Subsurface-Safety Valve (SCSSV), a Subsurface-Controlled Subsurface-Safety Valve (SSCSV), an injection valve, a tubing plug, or a tubular/annular subsurface-safety device, unless, after application and justification, the well is determined to be incapable of flowing. Criteria and procedural guidelines for the determination of the capability of a well to flow are established by and are available from the District Supervisor. The device shall be installed within 2 days after production is stabilized. The well shall be attended in the immediate vicinity of the well so that emergency actions may be taken, if necessary, while the well is open to flow from a hydrocarbon-bearing zone, until a subsurface-safety device is installed.

In nonpermafrost areas, the device shall be installed at a depth of 30 meters (98 feet) or more below the ocean floor. In permafrost areas, the setting depth of the subsurface-safety device shall be approved by the District Supervisor on a case-by-case basis.

3.2 *Specification for Subsurface-Safety Valves.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5, which are installed or replaced, shall conform to "American Petroleum Institute (API) Specification for Subsurface-Safety Valves," API Spec 14A, Fifth Edition, April 1981, with the exceptions of section 6, Appendix A and Appendix J of this specification, except for specific provisions thereof that are required in sections 1 through 5 of this specification, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use at the time of installation. The API

monogram is optional, whereas the requirement for the OCS symbol is mandatory. A valve qualified to a previous edition of API Spec 14A is acceptable provided that the valve enters inventory within 3 years of its qualifying performance test date.

For purpses of this requirement, the term "replacement" is defined as occurring when that portion of the valve assembly containing the serial number is removed from inventory and a new certified valve is placed in inventory.

3.3 *Design, Installation, and Operation.* Subsurface-safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3.4 *Surface-Controlled Subsurface-Safety Valves.* All tubing installations open to a hydrocarbon-bearing zone shall be equipped with a surface-controlled subsurface-safety valve, except as specified in subparagraphs 3.1, 3.5, and 3.6. Alternatives to this requirement may be approved by the Deputy Minerals Manager (DMM), Offshore Field Operations, when greater reliability or safety can be demonstrated. The surface controls may be located on the site or at a remote location.

3.4.1 *Testing of Surface-Controlled Subsurface-Safety Valves.* Each surface-controlled, or other remotely controlled, subsurface-safety device installed in a well shall be tested in place for proper operation when installed or reinstalled and thereafter at intervals not exceeding 6 months. If the device does not operate properly, it shall be removed, repaired, reinstalled or replaced, and tested to insure proper operation.

3.5 *Subsurface-Controlled Subsurface-Safety Valves.* Tubing installations in wells completed from single-well or multiwell satellite caissons or ocean floor completions may be equipped with a subsurface-controlled subsurface-safety valve in lieu of a surface-controlled, or other remotely controlled, subsurface-safety valve.

3.5.1 *Inspection and Maintenance of Subsurface-Controlled Subsurface-Safety Valves.* Each subsurface-controlled subsurface-safety valve installed in a well shall be removed, inspected, and repaired or adjusted as necessary and reinstalled at intervals not exceeding—

a. 6 months for those valves not installed in a landing nipple; or

b. 12 months for those valves installed in a landing nipple.

3.6 *Tubing Plugs in Shut-in Wells.* A tubing plug shall be installed in lieu of, or in addition to, other subsurface-safety devices if a well has been shut-in for a period of 6 months. In nonpermafrost areas, tubing plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. In permafrost areas, each tubing-plug installation shall be approved by the District Supervisor on a case-by-case basis. All tubing plugs installed shall be of the pump-through type. All wells perforated and completed but not placed on production shall be equipped with a subsurface-safety valve or tubing plug within 2 days after completion. A surface-controlled subsurface-safety valve of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph, provided the surface control has been rendered inoperative. A shut-in well which is equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. If a liquid leakage rate in excess of 400 cc/min or a gas leakage rate in excess of 7 dm^3/sec (15 cubic ft/min) is observed, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

3.7 *Injection Wells.* A surface-controlled subsurface-safety valve or an injection valve capable of preventing backflow shall be installed in all wells placed in injection service.

Surface-controlled subsurface-safety valves shall be tested in accordance with subparagraph 3.4.1. Injection valves shall be tested in the manner as outlined for testing tubing plugs in subparagraph 3.6.

These requirements are not applicable if the District Supervisor concurs that the well is incapable of flowing. The lessee shall verify the no-flow condition of the well annually and submit an annual report certifying the no-flow status of the well.

3.8 *Remporary Removal for Routine Operations.* Each wireline- or pumpdown-retrievable subsurface-safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of a Sundry Notice and Report on Wells (Form 9–331) for a period not to exceed 15 days. The well shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. The removal of the subsurface-safety device shall be noted in the records as required by subparagraph 3.11g. The well shall be attended in the immediate vicinity of the well so that emergency actions may be taken, if necessary, while the well is open to flow from a hydrocarbon-bearing zone until the subsurface-safety device is reinstalled, unless attendance has been waived by the District Supervisor. The well shall not be open to flow while the subsurface-safety device is removed except when flowing the well is necessary for that particular operation.

The provisions of this paragraph are not applicable to the testing and inspection procedures in subparagraphs 3.4.1, 3.5.1, 3.6, and 3.7.

3.9 *Additional Safety Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface-safety device is installed shall be equipped with a landing nipple, with flow couplings or other protective equipment above and below, to provide for the setting of the subsurface-safety valve. The control system for all surface-controlled subsurface-safety valves shall be an integral part of the platform Emergency Shutdown System (ESD) as defined in Appendix C, Section C1 of "API Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface-Safety Systems on Offshore Production Platforms," API RP 14C, Second Edition, January 1978, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. In addition to the activation of the ESD system by manual action on the platform, the system may be activated by a signal from a remote location. Surface-controlled subsurface-safety valves shall close in response to shut-in signals from the ESD system or the fire loop, or both.

3.10 *Emergency Action.* All tubing installations open to hydrocarbon-bearing zones and capable of flowing and from which the subsurface-safety device has been removed, in accordance with the provisions of this Order, shall be identified by a sign on the wellhead stating that the subsurface-safety device has been removed. A subsurface-safety device shall be available for each well on the platform. In the event of an emergency such as an impending storm, this device shall be properly installed as soon as possible with due consideration being given to personnel safety.

3.11 *Records.* The lessee shall maintain records for a minimum period of 5 years for each subsurface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office. The records may then be transferred to the

onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the MMS. The records to be maintained shall contain verification of—

a. The manufacturer's design, including make, model, and type. For subsurface-controlled valves, number of the spacers, size of beans, springs, and the pressure settings;

b. The devices having been manufactured in accordance with the quality-assurance requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) as required by paragraph 2;

c. The completion and return of the receiving report to the manufacturer as required by ANSI/ASME–SPPE–1;

d. The record of all configuration modifications to the certified design;

e. Installation at the required setting depth and in accordance with the manufacturer's instructions;

f. The identity of the personnel qualified in accordance with subparagraph 5.7 who directed all installations and removals;

g. The results of tests required by this Order, the dates of removals and reinstallations, and the reasons for removals and reinstallations; and

h. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE–2529 and OE–2670 of ANSI/ASME–SPPE–1.

3.12 *Reports.* Well completion reports (Form 9–330) and any subsequent reports of workover (Form 9–331) shall include the manufacturer, the type, and the installed depth of the subsurface-safety devices.

4. *Design, Installation, and Operation of Surface Production Safety Systems.* All production facilities, including separators, treaters, compressors, headers, and flowlines, shall be designed, installed, and maintained in a manner which will facilitate an efficient, safe, and pollution-free operation.

4.1 *New Platforms.* New platform production facilities shall be protected with a basic and ancillary surface-safety system designed, analyzed, tested, and maintained in operating condition in accordance with the provisions of API RP 14C, except Section A9, "Pipelines," which will be covered under OCS Order No. 9, and the additional requirements of OCS Order No. 5. For this application, the word "should" contained in API RP 14C shall be read "shall," except for those contained in explanatory statements, sections 3.4c and 4.3a(4)–(f). If processing components are to be utilized, other than those for which Safety Analysis Checklists (SAC's) are included in API RP 14C, the analysis technique and documentation specified therein shall be utilized to determine the effects and requirements of these components upon the safety system.

4.2 *Specification for Wellhead Surface-Safety Valves.* All wellhead Surface-Safety Valves (SSV's) required by subparagraph 4.1 shall conform to "API Specification for Wellhead Surface Safety Valves for Offshore Service," API Spec 14D, Third Edition, November 1980, with the exceptions of Appendix A and Appendix J of this specification, except for specific provisions thereof that are required in sections 1 through 5 of this specification, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use at the time of installation. The API monogram is optional, whereas the requirement for the OCS symbol is mandatory.

4.3 *Submittal of Safety-System Design and Installation Features.* Prior to installation, the lessee shall submit for approval to the District Supervisor, in duplicate, information relative to design and installation features, as indicated in subparagraphs "a" through "g." This information shall also be maintained at the lessee's onshore field engineering office. All approvals are subject to field verifications. This information shall include—

a. A schematic flow diagram showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices;

b. A schematic flow diagram (reference API RP 14C, example: figure E1) and the related Safety Analysis Function Evaluation (SAFE) chart (reference API RP 14C, Subsection 4.3c). These diagrams and charts shall be developed in accordance with the provisions of API RP 14C and the additional requirements of this Order;

c. A schematic piping diagram showing the size and maximum-allowable working pressure with reference to welding specification(s) or code(s) used. The maximum-allowable working pressures shall be determined in accordance with "API Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems," API RP 14E, Second Edition, October 1980, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. The recommendations contained in API RP 14E are acceptable for the design and installation of the platform piping system;

d. A diagram of the firefighting system;

e. Electrical system information including the following:

(1) A plan of each platform deck outlining any nonrestricted area, i.e., areas which are unclassified with respect to electrical equipment installations and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outline shall include—

(a) Any surrounding production or other hydrocarbon source and a description of the deck, overhead, and firewall; and

(b) Location of generators, control rooms, panel boards, major cabling/conduit routes, and identification of the wiring method, including the identification of each wire and cable type that is utilized;

(2) Elementary electrical schematic of any platform safety-shutdown system with a functional legend; and

(3) Classification of areas for electrical installations in accordance with the National Electrical Code, 1978 Edition, and with the "API Recommended Practice for Classification of Areas for Electrical Installations at Drilling Rigs and Production Facilities on Lands and on Marine Fixed and Mobile Platforms," API RP 500B, Second Edition, July 1973, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use;

f. The design and schematics of the installation and maintenance of all fire and gas detection systems shall include—

(1) Type, location, and number of detection heads;

(2) Type and kind of alarm, including emergency equipment to be activated;

(3) Method used for detection;

(4) Method and frequency of calibration;

(5) Name of organization to perform system inspection and calibration; and

(6) A functional block diagram of the detection system including the electric power supply; and

g. Certification that the design for the mechanical and electrical systems to be installed was approved by registered professional engineers. After these systems are installed, the lessee shall submit a statement to the District Supervisor certifying that the new installations conform to the approved designs or the lessee shall request approval of the "As-Built" Changes

5. *Additional Safety and Pollution-Control Requirements.* The following requirements modify or are in addition to those contained in API RP 14C.

5.1 *Design, Installation, and Operation.*

5.1.1 *Pressure Vessels.* Unless otherwise qualified for use according to subparagraph 5.1.1d below, pressure vessels shall be designed, fabricated, stamped, and maintained in accordance with specific sections of the ASME Boiler and Pressure Vessel Code as listed below. The pressure vessels shall conform to the July 1, 1977, edition of the Code or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use.

a. Pressure-relief valves shall be designed, installed, and maintained in accordance with applicable provisions of sections I, IV, and VIII. The relief valves shall conform to the valve-sizing and pressure-relieving requirements specified in these documents; however, the relief valves shall be set no higher than the maximum allowable working pressure of the vessel. All relief valves and vents shall be piped in such a way as to prevent fluid from striking personnel or ignition sources.

b. Steam generators shall be equipped with Level Safety Low (LSL) controls in accordance with applicable provisions of sections I and IV.

c. The lessee shall determine by the use of pressure recorders, the operating pressure ranges of all pressure-operated vessels in order to establish the pressure-sensor settings. Current pressure-recorder charts shall be maintained at the nearest offshore field office. The high-pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the vessel. This setting shall also be sufficiently below the relief valve's set pressure to assure that the pressure source is shut-in before the relief valve starts relieving. The low-pressure shut-in pressure-sensor setting shall be no lower than 15 percent or 35 kilopascals (kPa) (5 psi), whichever is greater, below the lowest pressure in the operating range. The pressure-sensor setting of low-pressure sensors on pressure vessels which operate at less than 35 kPa (5 psi) shall be approved by the District Supervisor on a case-by-case basis.

d. All pressure or fired vessels used in the production of oil or gas shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, sections I, IV, and VIII, as appropriate, in effect at the time the vessel is ordered. Uncoded vessels shall be hydrostatically tested to a pressure 1.5 times their working pressures prior to placing in service. The test date, test pressure, and working pressure shall be marked on the vessel in a prominent place. A record of the test shall be maintained by the lessee in the field area.

5.1.2 *Flowlines.*

a. All flowlines from wells shall be equipped with high- and low-pressure shut-in sensors located in accordance with Section A1 and Figure A1 of API RP 14 C. The lessee shall determine, by the use of pressure recorders, the operating pressure ranges of flowlines in order to establish pressure-sensor settings. Current pressure-recorder charts shall be maintained at the nearest offshore field office.

The high-pressure shut-in sensor(s) shall be set no higher than 10 percent above the highest operating pressure of the line; but, in all cases, it shall be set sufficiently below the maximum shut-in wellhead pressure or the gas-lift supply pressure to assure actuation of the surface-safety valve. The low-pressure shut-in sensor(s) shall be set no lower than 10 percent or 35 kPa (5 psi), whichever is greater, below the lowest operating pressure of the line in which it is installed.

b. If a well flows directly to the pipeline before separation, the flowline and valves from the well located upstream of, and including the header inlet valve(s), shall have a working pressure equal to or greater than the maximum shut-in pressure of the well, unless the flowline is protected by either—

(1) A relief valve which vents into the platform flare scrubber or some other location approved by the District Supervisor; or

(2) An additional automatic shutdown valve controlled by an independent high-pressure sensor.

The platform flare scrubber shall be designed to handle, without liquid-hydrocarbon carryover to the flare, the maximum anticipated flow of liquid-hydrocarbons which may be relieved to the vessel.

5.1.3 *Pressure Sensors.* Pressure sensors may be of the automatic- or nonautomatic-reset type. When the automatic-reset types are used, a nonautomatic-reset relay shall be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

5.1.4 *Emergency Shutdown System.* The manually operated Emergency Shutdown (ESD) valve shall be quick-opening and nonrestricted to enable the rapid actuation of the shutdown system. ESD stations may utilize a loop of breakable synthetic tubing in lieu of a valve only at the boat landing.

On an emergency shutdown, the Surface-Controlled Subsurface-Safety Valve (SCSSV) shall close in not more than 2 minutes after the shut-in signal has closed the Surface Safety Valve (SSV). Design delayed closure time greater than 2 minutes shall be justified by the lessee based on the individual well's mechanical/production characteristics and approved by the District Supervisor.

Electro-pneumatic systems shall meet the corresponding design and functional requirements as those which apply to pneumatic systems.

A schematic of the ESD system which indicates the control functions of all safety devices shall be maintained on the platform or nearest offshore field office.

5.1.5 *Engine Exhausts.* Engine exhausts shall be equipped to comply with the insulation and personnel-protection requirements of API RP 14C, Section 4.2c(4). Exhaust piping from diesel engines shall be equipped with spark arrestors.

5.1.6 *Glycol-Dehydration Units.* A pressure-relief system or an adequate vent shall be installed on the glycol regenerator, or at a location approved by the District Supervisor, which will prevent overpressurization of all glycol-dehydration units. The set pressure of the pressure-relief system shall be determined by the lessee and approved by the District Supervisor. The discharge of the relief valve shall be vented in a nonhazardous manner. The glycol-dehydration unit shall be properly maintained to prevent overpressurization of the unit.

5.1.7 *Gas Compressors.* Each compressor shall be equipped with the following protective equipment:

a. A pressure sensor-high (PSH), a pressure sensor-low (PSL), a relief valve (PSV), and a level sensor-high (LSH) to protect each interstage and suction scrubber;

b. A level sensor-low (LSL) to protect each interstage and suction scrubber, unless the fluid is dumped through a choke restriction to another pressure vessel. An LSL shut-in control(s) installed in interstage and suction scrubber(s) may be designed to actuate the automatic shutdown valve(s) (SDV's) installed in the scrubber dump line(s);

c. A temperature sensor-high (TSH) on each copressor cylinder or other components as applicable; and

d. In addition to the provisions of API RP 14C, Subsection A8.3, PSH and PSL shut-in sensors and LSH shut-in controls protecting compressor suction and interstage scrubbers shall be designed to actuate automatic SDV's located in each compressor suction and fuel gasline so that the compressor unit and the associated vessels can be isolated from all input sources.

All automatic SDV's installed in compressor suction and fuel gas piping shall also be actuated by the shutdown of the prime mover. Compressor installations of 745 kilowatts (1,000 horsepower) or less are excluded from those requirements of API RP 14C, A8.3d, which provide for installation of a blowdown valve (BDV) on the discharge line.

5.1.8 *Firefighting Systems.* Firefighting systems shall conform to Subsection 5.2, "Fire Water Systems," of "API Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms," API RP 14G, First Edition, September 1978, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use, and the additional requirements of this subparagraph.

A firewater system consisting of rigid pipe with firehose stations shall be installed. The firewater system shall be installed to provide needed protection in all areas where production-handling equipment is located. A fixed water-spray system shall be installed in enclosed well-bay areas where hydrocarbon vapors may accumulate.

Acceptable pump drivers include diesel engines, natural gas engines, and electric motors. Fuel or power shall be available for at least 30 minutes of run-time during platform shut-in time. If necessary, an alternate fuel supply shall be installed to provide for this pump-operating time unless an alternate firefighting system has been approved by the District Supervisor.

A firefighting system using chemicals may be used or may be required in lieu of a water system if the District Supervisor determines that the use of a chemical system provides equivalent fire protection control. A diagram of the firefighting system showing the location of all firefighting equipment shall be posted in a prominent place on the platform or structure.

5.1.9 *Fire and Gas Detection System.*

a. Fire (flame, heat, or smoke) sensors shall be used in all enclosed high-hazard areas. Gas sensors shall be used in all inadequately ventilated, enclosed, high-hazard areas. Adequate ventilation is as defined in API RP 14C, Appendix C, paragraph C1.3b.

b. All detection systems shall be capable of continuous monitoring. Fire detection systems and portions of combustible gas detection systems related to the higher gas concentration levels shall be of the manual-reset type. Combustible gas detection systems related to the lower gas concentration level may be of the automatic-reset type.

c. A fuel gas odorant or an automatic gas-detection and alarm system are required in enclosed, continuously manned areas of the facility.

d. The District Supervisor may require a gas detector or alarm in any potentially hazardous area.

e. Fire detection systems shall be of an approved type, designed and installed in accordance with the National Fire Protection Association Standard for Automatic Fire Detectors, No. 72E, 1974, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Gas detection systems shall be of an approved type, designed and installed in accordance with sections 9.1 and 9.2 of "API Recommended Practice For Design and Installation of Electrical Systems for Offshore Production Platforms," API RP 14F, First Edition, July 1978, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use.

5.1.10 *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems:

a. All engines with ignition systems shall be equipped with a low-tension ignition system of low-fire-hazard type and shall be designed and maintained to minimize the release of sufficient electrical energy to cause ignition of an external combustible mixture.

b. All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500B in effect at the time of approval.

c. At the time of approval, wiring methods shall conform to the National Electrical Code, 1978 Edition, or to the Institute of Electrical and Electronic Engineers (IEEE) "Recommended Practice for Electric Installation on Shipboard," IEEE Std. 45–1977, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Each conductor of a wire, a cable, or a bus bar shall be made of copper on all installations.

d. The elementary electrical schematic of the platform safety-shutdown system required by subparagraph 4.3e(2) shall be maintained on the platform or structure. This schematic shall indicate the control functions of all electrically actuated safety devices.

e. Maintenance of these systems shall be by personnel who are familiar with the construction and operation of the equipment and the hazards involved.

f. An auxiliary power supply shall be installed to provide emergency power, capable of operating all electrical equipment required to maintain safety of operations, in the event of a failure in the primary electrical power supply. This requirement is not applicable to those systems, or portions of systems, which are designed to fail-safe.

5.1.11 *Erosion.* A program of erosion control shall be in effect for wells or fields having a history of sand production. The erosion-control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. An annual report, by lease, indicating the wells which have erosion-control programs in effect and the results of the programs shall be submitted by the first of December to the Deputy Minerals Manager.

5.2 *General Platform Operations.*

a. Surface- or subsurface-safety devices shall not be bypassed or blocked out of service unless they are temporarily out of service for startup, maintenance, or testing procedures. Only the minimum number of safety devices necessary for the operation shall be taken out of service. Personnel shall monitor the bypassed or blocked-out functions. Any surface- or subsurface-safety device which is temporarily out of service shall be flagged.

b. When wells are disconnected from producing facilities and blind-flanged or equipped with a tubing plug, compliance is not required with the provisions of API RP 14C or this Order concerning—

(1) Installation of automatic fail-close SSV on wellhead assemblies;

(2) Installation of the PSH and the PSL shut-in sensors downstream of the choke in flowlines from wells; and

(3) Installation of flow safety valves (FSV's) in header individual flowlines.

C. When pressure or atmospheric vessels are positively isolated from production facilities (for example, inlet valve locked closed or inlet line blind-flanged) and are to remain isolated for an extended period of time, safety device compliance is not required with API RP 14C or this Order.

d. All open-ended lines connected to producing facilities shall be plugged or blind-flanged, except those lines designed to be open-ended, such as a flare or vent lines.

5.3 *Simultaneous Platform Operations.* Prior to conducting activities simultaneously with production operations which could increase the possibility of occurrence of undesirable events, such as harm to personnel or to the environment or damage to equipment, a "General Plan for Conducting Simultaneous Operations" in a producing field shall be filed for approval with the District Supervisor. This plan shall be modified and updated by supplemental plans when actual simultaneous operations

are scheduled which are significantly different from those covered in the General Plan.

Activities requiring these plans are drilling, completion, workover, wireline, pumpdown, and major construction operations.

5.3.1 *General Plan.* The "General Plan for Conducting Simultaneous Operations" shall include—

a. A narrative description of operations; and

b. Procedures for the mitigation of potentially undesirable events including—

(1) The guidelines the lessee will follow to assure coordination and control of simultaneous activities; and

(2) The identity of the person having overall responsibility at the site for the safety of platform operations.

5.3.2 *Supplemental Plan.* The "Supplemental Plan for Conducting Simultaneous Operations" shall include—

a. A floor plan of each platform deck indicating critical areas of simultaneous activities;

b. An outline of any additonal safety measures that are required for simultaneous operations; and

c. Specification of any added or special equipment or procedural conditions imposed when simultaneous activities are in progress.

5.4 *Welding and Burning Practices and Procedures.* The following requirements are applicable to any welding or burning practice or procedure performed on—

a. An offshore mobile-drilling unit during the drilling mode;

b. A mobile workover unit during any drilling, completion, recompletion, remedial, repair, stimulation, or other workover activity;

c. A platform, structure, artificial island, or other installation during any drilling, completion, workover, or production operation; or

d. A platform, structure, artificial island, or other installation which contains a well open to a hydrocarbon-bearing zone.

For the purpose of this Order, the terms "welding" and "burning" are defined to include arc or acetylene cutting and arc or acetylene welding.

All offshore welding and burning shall be minimized by onshore fabrication, when feasible.

5.4.1 *General Welding, Burning, and Hot Tapping Plan.* Each lessee shall file for approval by the District Supervisor a "Welding, Burning, and Hot Tapping Safe Practices and Procedures Plan." The plan shall include the qualification standards or requirements for personnel and the methods by which the lessee will assure that only personnel meeting such standards or requirements are utilized. A copy of this plan shall be available in the field area. Any person designated as a welding supervisor shall be throughly familiar with this plan. An approved plan is required prior to conducting any welding, burning or hot tapping operation. All welding and burning equipment shall be inspected prior to beginning any welding or burning. Welding machines located on production or process platforms shall be equipped with spark arrestors and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

5.4.2 *Designated Safe-Welding and Burning Areas.* The lessee shall establish, if feasible, and so designate areas on the platform determined to be safe-welding areas pursuant to the National Fire Protection Association Bulletin "Cutting and Welding Processes," No. 51 B, 1976, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Approval for the use of such areas shall be obtained from the District Supervisor. These designated areas shall be identified in the General Plan and a drawing showing the location of these areas shall be maintained on the facility. Welding or burning performed in other than designated safe-welding and burning areas shall be performed in compliance with the procedures set forth in subparagraph 5.4.3.

5.4.3 *Undesignated Welding and Burning Areas.* All welding or burning which cannot be done in an approved safe-welding area shall be performed in compliance with the procedures outlined below:

a. Prior to the commencement of any welding or burning operation on a structure, the lessee's designated person-in-charge at the installation shall personally inspect the qualifications of the welder or welders to assure that they are properly qualified in accordance with the lessee-approved qualification standards or requirements for welders. The designated person-in-charge and the welders shall personally inspect the work area for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the designated person-in-charge shall issue a written authorization for the work.

b. During all welding and burning operations, one or more persons shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual welding or burning operations are in progress. If welding is to be done in an area which is not equipped with a gas detector, the Fire Watch shall also maintain a continuous surveillance with a portable gas detector during welding.

c. Prior to any welding or burning operation, the Fire Watch shall have in their possession firefighting equipment in a usable condition. At the end of the welding operation, the equipment shall be restored to a usable condition.

d. No welding, other than approved hot tapping, shall be done on piping, containers, tanks, or other vessels which have contained a flammable substance unless the contents have been rendered inert and are determined to be safe for welding or burning by the designated person-in-charge.

e. If drilling, workover, or wireline operations are in progress on the platform, welding operations in other than approved safe-welding areas shall not be conducted unless the wells where these operations are in progress contain noncombustible fluids and the entry of formation hydrocarbons into the well bore is precluded. All other provisions of this section shall also be applicable.

f. If welding or burning operations are conducted in the well-bay or production area, all producing wells shall be shut-in at the surface-safety valve.

5.5 *Safety Device Testing.* The safety-system devices which are required by this Order shall be tested by the lessee at the intervals specified below or more frequently if operating conditions warrant.

Testing shall be in accordance with API RP 14C, appendix D, and the following:

a. All PSV's shall be tested for operation at least once every 12 months. These valves shall be either bench-tested or equipped to permit testing with an external pressure source.

b. All Pressure Sensors-High/Low (PSHL) shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

c. All SSV's shall be tested for operation and for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The SSV's shall be tested for operation in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection L, and tested for leakage in accordance with subsection M. If the valve does not operate properly or any fluid flow is observed in step 3 of the leakage test, the valve shall be repaired or replaced.

d. All flowline FSV's shall be checked for leakage at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. The FSV's shall be tested for leakage in accordance with the test procedure specified in API RP 14C, appendix D, section D4, table D2, subsection D. If the leakage measured in step 6 exceeds a liquid flow of 400 cc/min or a gas flow of 7dm³/sec (15 cubic ft/min), the FSV's shall be repaired or replaced.

e. All LSH and LSL controls shall be tested at least once each calendar month, but at no time shall more than 6 weeks elapse between tests. These tests shall be conducted by raising and lowering the liquid level across the level-control detector.

f. All automatic inlet SDV's which are actuated by a sensor on a vessel or a compressor shall be tested for operation at least once each calendar month, but at no time shall more than 6 weeks elapse between tests.

g. All SDV's located in liquid-discharge lines and actuated by vessel low-level sensors shall be tested for operation once each calendar month, but at no time shall more than 6 weeks elapse between tests.

h. The TSH shutdown controls installed on compressors in lieu of a PSH and PSL on interstage scrubbers shall be tested every 6 months and repaired or replaced as necessary.

i. All pumps for firewater systems shall be inspected and test-operated weekly.

j. All fire (flame, heat, or smoke) and gas detection systems shall be tested for operation and recalibrated every 3 months.

k. The lessee shall notify the District Supervisor when the lessee is ready to conduct a preproduction test and inspection of the integrated safety system. The lessee shall also notify the District Supervisor upon commencement of production in order that a post-production test and inspection of the integrated system may be conducted.

l. All TSH devices on fired components shall be tested at least once every 12 months.

m. The ESD system shall be tested for operation at least once each calendar month but at no time shall more than 6 weeks elapse between tests. The test may be conducted by closing at least one SSV from each of the ESD stations.

5.6 *Records.* The lessee shall maintain records for a minimum period of 5 years for each surface-safety device installed. These records shall be maintained in the nearest offshore field office for a minimum period of 2 years. If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office, the records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. These records shall be available for review by any authorized representative of the MMS. The records shall show the present status and history of each device, including dates and details of installation, inspection, testing, repairing, adjustments, and reinstallation.

5.6.1 *Surface-Safety Valve and Associated Actuator Records.* Records for surface-safety valves and associated actuators which require compliance with paragraph 2 shall contain additional information showing verification of—

a. The devices having been manufactured in accordance with the quality assurance requirements of ANSI/ASME–SPPE–1 (formerly ANSI/ASME–OCS–1) as required by paragraph 2;

b. The completion and return of the receiving report to the manufacturer as required by ABSI/ASME–SPPE–1; and

c. The completion and submission of all failure reports required by paragraph 6 and all investigation reports required by paragraphs OE–2529 and OE–2670 of ANSI/ASME–SPPE–1.

5.7 *Safety Device Training.* Prior to the commencement of production, the lessee shall ensure that all personnel engaged in installing, inspecting, testing, and maintaining these safety devices have been qualified under a program as recommended by "API Recommended Practice for Qualification Programs for Offshore Production Personnel Who Work With Anti-Pollution Safety Devices," API RP T–2, revised October 1975, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use.

Documented evidence of the qualifications of individuals performing these functions shall be maintained in the field area.

Manufacturers' representatives need not be qualified in accordance with API RP T–2 if they are working on equipment supplied by their company, provided they have received training and are qualified by the manufacturer to install, service, or repair the specific safety device or safety system, and if they are directly supervised by an API RP T–2 qualified person who is capable of evaluating the impact of the work on the total system.

On-the-job trainees working with safety devices shall be directly supervised by a qualified person.

The lessee shall submit a training plan for approval to the Deputy Chief, Offshore Minerals Management, describing the training to be conducted and the methods the lessee will utilize. This plan shall be submitted no later than one year prior to the anticipated date of commencement of production and shall include—

a. A designation of the lessee's representative who is responsible for training and coordinating training matters with the MMS;

b. The categories of personnel to be qualified;

c. The training organizations and courses to be utilized;

d. The method for ensuring the qualification of third-party personnel;

e. The method for determining when additonal training or requalification is required and the method for obtaining this training and requalification;

f. The method of monitoring operations to ensure that only qualified personnel perform certain functions; and

g. The method of maintaining documented evidence of qualification at the work site.

6. *Failure and Inventory Reporting system (FIRS).* The MMS has established a safety and pollution-prevention device Failure and Inventory Reporting System (FIRS), to enhance the reliability and safety of operations in the OCS. This system applies to offshore structures, including satellites and jackets, which produce or process hydrocarbons and includes the attendant portions of hydrocarbon pipelines, when physically located on the structure. When the devices specified herein are used as a part of the production safety and pollution-prevention system, the lessee shall—

a. Submit an initial inventory and periodic updates in accordance with the procedures described in subparagraph 6.1.3; and

b. Report all device failures which occur. The report content and format shall be in accordance with the prodedures described in subparagraph 6.1.4.

6.1 *Data and Reporting Requirements.*

6.1.1 *Format.* Inventory and failure data shall be submitted in a format containing the same information that is in the Safety Device Inventory Report (Form 9–1994) and the Safety Device Failure Report (Form 9–1995), and as outlined in the respective User's Instruction Booklets. Copies of the forms and booklets may be obtained from the MMS Deputy Minerals Manager.

The specific method of submitting the required data may be selected from the following:

a. MMS (formerly USGS) Forms 9–1994 and 9–1995, using a standard

coding convention (e.g., all letters capitalized, Z, I, letter O, number 0). The lessee shall submit the original of the forms to the MMS and retain the two copies;

b. ADP card decks of standard 80-column cards; or

c. Magnetic tapes which are 9-track, 800 BPI, unlabeled, blocking cannot exceed 1,040 characters, odd parity, single gap (i.e., compatible with IBM equipment EBCDIC).

Regardless of which method is used for submitting the inventory and failure data, a cover letter forwarding the data to the MMS shall contain the signature of the person initiating/approving the information contained therein.

When Form 9–1995 is used, the form shall contain in the lower right corner the signature of the person initiating/approving the report.

6.1.2 *Device Coverage.* Inventory and failure reports are to be submitted on the safety and pollution-prevention devices on offshore structures, including satellites and jackets, which produce or process hydrocarbons, and the hydrocarbon pipelines thereon. These reports shall be submitted on the following devices:

a. Blowdown Valves—(BDV).
b. Burner Flame Detectors—(BSL).
c. Check Valves—(FSV).
d. Combustible Gas Detectors—(ASH).
e. Emergency Shutdown Valves—(ESD).
f. Level Sensors—High (LSH); Low (LSL); Hi/Lo (LSHL).
g. Pressure Sensors—High (PSH); Low (PSL); Hi/Lo (PSHL).
h. Relief Valves—(PSV).
i. Shutdown Valves—(SDV).
j. Subsurface-Safety Valves—(SSSV).
k. Surface-Safety Valves—(SSV).
l. Temperature Sensors—High (TSH); Low (TSL); Hi/Lo (TSHL).
m. Valve Actuators on shutdown valves, blowdown valves, and surface-safety valves—(VA).

6.1.3 *Device Inventory Reporting.*

6.1.3.1 *Initial Inventory.* A complete initial inventory of the active safety and pollution-prevention devices shall be submitted no later than 1 month after the initial platform production date.

6.1.3.2 *Inventory Updates.* An updating of or addition/deletion to the latest inventory shall be submitted on a monthly basis so as to maintain a current and accurate data base. The inventory will be updated by using the contents of the Safety Device Inventory Report (Form 9–1994) and the Safety Device Failure Report (Form 9–1995), as described in the FIRS Instruction Booklet.

Inventory updating due to the addition, deletion, or changeout of a device is accomplished *by the lessee* reporting all of the data required in the Safety Device Inventory Report (Form 9–1994). Whenever a device fails and is either replaced with a new device or "fixed" and put back into service, the inventory shall be updated to reflect this change. Inventory updating, due to the failure of a device, will be performed *by the MMS,* using the contents of the Safety Device Failure Report (Form 9–1995). Inventory updating information shall be received no later than 30 days following the month in which the device change was made.

6.1.3.3 *Inventory-Reporting Methods.* Inventory data shall be reported either on the Safety Device Inventory Report (Form 9–1994), punched cards, or magnetic tapes. The reports shall contain all of the required information in the standard format as described in subparagraph 6.1.1.

6.1.3.4 *Inventory Verification.* The device inventory shall be verified by the lessee to ensure that the inventory data base is maintained on a current basis and that changes are being incorporated as they occur. The verification shall be accomplished no more frequently than once each 6-month period. When verification is required, the MMS will provide the lessee with a copy of the information on record in the lessee's selected reporting format. The lessee shall review the information and either submit a letter stating that the information is correct, or make the appropriate corrections to the information provided by the MMS. The letter or appropriate corrections shall be received no later than 30 days following the month in which the inventory information which is to be verified was forwarded to the lessee.

6.1.3.5 *Inventory-Reporting Deviation.* A lessee may submit an inventory, update, or verification report differing from that described in subparagraph 6.1.3 when authorized by the MMS.

6.1.4 *Device Failure Reporting.*

6.1.4.1 *Failure-Data Submittal.* The failure data, as defined in subparagraph 6.1.4.3, shall be received no later than 30 days following the month in which the failure was detected. These data must contain all of the required information and be submitted in the standard format either on Safety Device Failure Report forms (Form 9–1995), punched cards, or magnetic tape, as previously described in subparagraph 6.1.1. Information on the failed device must match that previously submitted in inventory reporting. A formal failure analysis is not required by this Order, but each failed device shall undergo sufficient test/disassembly to establish the basic cause(s) of the failure.

6.1.4.2 *Failure-Data Verification.* After receipt of the complete failure data from the lessees, the MMS will make a printout of all failures by manufacturer, model, and reported cause. Each manufacturer listed will be furnished a copy of the printout containing the reported failures of the manufacturer's devices only. If there is disagreement with the reported failure causes, the manufacturer is invited to investigate the questioned causes in coordination with the reporting lessee and provide a coordinated reply within 6 weeks after receipt of the printout. If no reply is received within that time period, the originally reported causes will be considered to be correct, and the data will be evaluated accordingly.

6.1.4.3 *Failure Definition.* The safety and pollution-prevention device FIRS does not differentiate between a malfunction and a failure. For the purpose of this program, a failure is defined as the inability of a device to perform its designed function within specified limits. A device is considered to have failed if it does not operate properly (perform its function) as required within the specified test tolerances. Examples of device failure are included in the FIRS Instruction Booklet.

A failure report is not required for—

a. Adjustments made within specified tolerances; or

b. Adjustments required due to changes in operating conditions.

6.2 *Records.* The lessee shall maintain FIRS data records for a minimum period of 5 years. Equipment failure records shall be maintained in the nearest offshore field office for a minimum period of 2 years. If the lessee has no such offshore field office, then the records shall be kept in the nearest onshore field office. The records may then be transferred to the onshore field office for the remaining 3 years of the 5-year retention period. The records shall be available for review by any authorized representative of the MMS.

7. *Crane Operations.* Cranes shall be operated and maintained to ensure the safety of facility operations in accordance with the provisions of "API Recommended Practice for Operation and Maintenance of Offshore Cranes," API RP 2D, October 1972, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use. Records of inspection, testing, maintenance, and crane operators qualified in accordance with the provisions of API RP 2D, shall be kept in the field area for a period of 2 years. "API Specification for Offshore Cranes," API Specification 2C, February

1972, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use shall be used as a guide for the selection of cranes.

8. *Employee Orientation and Motivation Programs for Personnel Working Offshore.* The lessee shall make a planned, continuing effort to eliminate accidents due to human error. This effort shall include the training of personnel in their functions. A program to achieve safe and pollution-free operations shall be established. This program shall include instructions in the provisions of "API Recommended Practice Orientation Program for Personnel Going Offshore for the First Time," API RP T–1, January 1974, or subsequent revisions which the Deputy Chief, Offshore Mineral's Management, has approved for use. "Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations," API Bulletin T–5, September 1974, or subsequent revisions which the Deputy Chief, Offshore Minerals Management, has approved for use shall be used as a guide in developing employee safety and pollution-prevention motivation programs.

9. *Departures.* All departures from the requirement specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Approved:

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Departments of the Interior, Minerals Management Service

Alaska Region, OCS Order No. 7, Effective ————

Pollution Prevention and Control

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.43. The lessee shall comply with the following requirements:

1. *Pollution Prevention.* During the exploration, development, production, and transportation of oil and gas, the lessee shall prevent pollution of the ocean. Furthermore, by the disposal of waste materials into the ocean, the lessee shall not create conditions which will adversely affect the public health, life, property, aquatic life, wildlife, recreation, navigation, fishing, or other uses of the ocean.

1.1 *Liquid Disposal.*

1.1.1 *Drilling-Mud Components.* The lessee shall submit, as a part of the Application for Permit to Drill (Form 9–331 C), a detailed list of drilling-mud components including the common chemical or chemical trade name of each component, a list of the drilling-mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal. The disposal of drilling mud is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of drilling-mud disposal into the ocean shall be obtained from the District Supervisor; each request will be decided on a case-by-case basis.

1.1.2 *Hydrocarbon-Handling Equipment.* All hydrocarbon-handling equipment for testing and production such as separators, tanks, and treaters shall be designed and operated to prevent pollution. Maintenance or repairs which are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.3 *Curbs, Gutters, and Drains.*

1.1.3.1 *Fixed Platforms and Structures.* Curbs, gutters, drip pans, and drains shall be installed in all deck areas in a manner necessary to collect all contaiminants and piped to a properly designed, operated, and maintained sump system which will automatically maintain the oil at a level sufficient to prevent discharge of oil into Outer Continental Shelf (OCS) waters. Sump piles shall not be used as processing devices to treat or skim liquids, but shall be used to collected treated produced water, treated sand, liquids from drip pans and deck drains. and as a final trap for hydrocarbon liquids in event of equipment upsets. Improperly designed, operated, or maintained sump piles which do not prevent the discharge of oil into OCS waters shall be replaced as required by the District Supervisor.

1.1.3.2 *Artificial Islands.* On artificial islands, all vessels containing hydrocarbons shall be placed inside a berm lined with an impervious material. The volume enclosed by the berm shall be in excess of the volume of vessels containing hydrocarbons. In addition, all drainage ditches shall be directed away from the drilling rig to a sump. The rig mat, the drainage ditches, and sumps shall be lined with impervious material.

1.1.3.3 *Mobile Drilling Units.* Curbs, gutters, and drains which collect contaminants associated with the drilling operation on a mobile drilling unit shall be installed as required by subparagraph 1.1.3.1. Curbs, gutters, and drains which collect contaminants not associated with the drilling operation are subject to regulation by the U.S. Coast Guard.

1.1.4 *Discharges from Fixed Platforms, Structures, Artificial Islands, and Mobile Drilling Units.* Discharges from fixed platforms or structures and mobile drilling units, including sanitary waste, produced water, drilling mud, and deck drainage, are subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended.

1.2 *Solid Material Disposal.*

1.2.1 *Well Solids.* The disposal of drill cuttings, sand, and other well solids containing oil is subject to the Environmental Protection Agency's permitting procedures, pursuant to the Federal Water Pollution Control Act, as amended. Approval of the method of disposal of drill cuttings, sand, and other well solids shall be obtained from the District Supervisor.

1.2.2 *Containers.* Containers and other similar solid waste materials shall not be disposed of into the ocean.

1.2.3 *Equipment.* Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of equipment disposed of into OCS waters shall be reported to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

2. *Personnel, Inspections, and Reports.*

2.1 *Personnel.* The lessee's personnel shall be instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Contractor personnel providing services offshore shall be informed in writing, prior to executing contracts, of the lessee's obligations to prevent pollution and of the provisions of this Order.

2.2 *Pollution Inspections.*

2.2.1 *Manned Facilities.* Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Maintenance or repairs which are necessary to prevent pollution of the OCS waters shall be undertaken and performed immediately.

2.2.2 *Unattended Facilities.* Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor to determine if pollution is occurring. Daily inspections may be postponed in the event of adverse weather conditions. Necessary maintenance or repairs shall be made immediately.

2.3 *Pollution Reports.* All spills of oil and liquid pollutants shall be reported

orally to the District Supervisor and shall be confirmed in writing. All reports shall include the cause, location, volume of spill, and action taken. Reports of spills of more than 5.0 cubic meters (31.5 barrels) shall include information on the sea state, meteorological conditions, size, and appearance of slick. All spills of oil and liquid pollutants shall also be reported to the U.S. Coast Guard in accordance with the procedures contained in 33 CFR 135.305 and 135.307.

2.3.1 *Spills.* Spills shall be reported orally within the following time limits:

a. Within 12 hours, if spills are 1.0 cubic meters (6.3 barrels) or less; or

b. Without delay, if spills are more than 1.0 cubic meters (6.3 barrels).

2.3.2 *Observed Malfunctions.* Lessees shall notify each other of observed pollution resulting from another's operation.

3. *Pollution-Control Equipment and Materials and Oil Spill Contingency Plans.* The lessee shall submit a description of procedures, personnel, and equipment that will be used in reporting, cleanup, and prevention of the spread of any pollution resulting from an oil spill which might occur during exploration or development activities. The following subparagraphs describe the minimum requirements for pollution-control equipment and procedures.

3.1 *Equipment and Materials.* Pollution-control equipment and materials shall be maintained by, or shall be available to, each lessee at an offshore location or at a location approved by the Deputy Minerals Manager (DMM), Offshore Field Operations. The equipment shall include containment booms, skimming apparatus, cleanup materials, chemical agents and other items needed for the existing climatic conditions, and shall be available prior to the commencement of drilling and production operations. The equipment and materials shall be inspected monthly and maintained in a state of readiness for use. The results of the inspections shall be recorded and maintained at the site.

3.2 *Oil Spill Contingency Plans.* The lessee shall submit an Oil Spill Contingency Plan for approval by the DMM, Offshore Field Operations, with or prior to submitting an Exploration Plan or a Development and Production Plan. Oil Spill Contingency Plans shall be reviewed annually. All modifications of the Oil Spill Contingency Plan and the results from the review of the plan shall be submitted to the DMM, Offshore Field Operations, for approval. The Oil Spill Contingency Plan shall contain—

a. Provisions to assure that full resource capability is known and can be committed during an oil spill, including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment of the equipment;

b. Provisions for varying degrees of response effort depending on the severity of the oil spill;

c. Provisions for identifying and protecting areas of special biological sensitivity;

d. Establishment of procedures for the purpose of early detection and timely notification of an oil spill including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil spill, and the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil spill is discovered; and

e. Provisions for well-defined and specific actions to be taken after discovery and notification of an oil spill, including—

(1) Specification of an oil spill response operating team consisting of trained, prepared, and available operating personnel;

(2) Predesignation of an oil spill response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations;

(3) A preplanned location for an oil spill response operations center and a reliable communications system for directing the coordinated overall response operations; and

(4) Provisions for disposal of recovered spill materials.

4. *Drills and Training.*

4.1 *Drills.* Drills for familiarization with pollution-control equipment and operational procedures shall be the lessee's responsibility and shall be held at least once every 12 months by the lessee or a contractor serving the lessee. The personnel identified as the oil spill response operating team in the Contingency Plan shall participate in these drills. The drills shall be realistic and shall include deploymnent of equipment. A time schedule with a list of equipment to be deployed shall be submitted to the DMM, Offshore Field Operations, for approval. The drill schedule shall provide sufficient advance notice to allow Minerals Management Service (MMS) personnel to witness any of the drills. Drills shall be recorded, and the records shall be made available to MMS personnel. Where drill performance and results are deemed inadequate, the DMM, Offshore Field Operations, may require an increase in the frequency on a change in the location of the drills until satisfactory results are achieved.

4.2 *Training.* The lessee shall ensure that training classes for familiarization with pollution-control equipment and operational procedures are provided for the oil spill response operating team. The supervisory personnel responsible for directing the oil spill response operations shall receive oil spill control instruction suitable for all seasons. The lessee shall retain course completion certificates or attendance records issued by the organization where the instruction was provided. These records shall be available to any authorized representative of the MMS upon request.

5. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the lessee's Oil Spill Contingency Plan shall be subject to modification when directed by the DMM, Offshore Field Operations. The primary jurisdiction to require corrective action to abate the source of pollution shall remain with the DMM, Offshore Field Operations, pursuant to the provisions of this Order and the Memorandum of Understanding (MOU) between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey), dated August 16, 1971. The use of chemical agents or other additives shall be permitted only after approval by the DMM, Offshore Field Operations, in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan, and in accordance with this MOU.

6. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Approved:

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Department of the Interior, Minerals Management Service

Alaska Region, OCS Order No. 8. Effective ———

Platforms and Structures

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10 and 30 CFR 250.11 and in accordance with 30 CFR 250.18.

1. *Applicability.*

1.1 *New Platforms.* Subsequent to the effective date of this Order, all new fixed or bottom-founded platforms or

other structures (e.g., single-pile caissons, ice islands, and gravel islands) shall be designed, fabricated, and installed in accordance with the applicable provisions of the document, entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," and shall require approval under the provisions of this Order.

Where doubt exists as to the applicability of this Order, questions shall be referred to the Deputy Minerals Manager (DMM), Offshore Field Operations.

1.2 *Major Modifications and Repairs.* Major modifications and repairs of damage to all fixed or bottom-founded platforms or other structures shall require approval by the DMM, Offshore Field Operations. Major modifications are defined as any structural change which materially alters the original plan or any major deviation from operations. Major repairs of damage are defined as operations involving members affecting the structural integrity of a portion of or all of the platform or other structure.

Under emergency conditions, primary structural elements may be repaired to restore the elements to their original condition before the damage occurred, without prior approval. However, the lessee shall, within 24 hours, notify the DMM, Offshore Field Operations, of the damage and request approval of the completed repair. The DMM, Offshore Field Operations, may require additional or alternative repairs.

Where doubt exists as to the applicability of this Order, questions shall be referred to the DMM, Offshore Field Operations.

1.3 *Platform Verification.* All new platforms or other structures, and major modifications to platforms or other structures, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the DMM, Offshore Field Operations.

1.4 *References.* Other aspects of the Platform Verification Program are described in more detail in the following documents, and these documents shall be considered as references for this Order.

1.4.1 *Operating Procedures for the OCS Platform Verfication Program.* The document entitled "Operating Procedures for the OCS Platform Verification Program," October 1979, describes the elements of the Platform Verification Program, the verification steps, the function of the Platform Verification Section, and the procedures for resolution of disputes; defines standards which shall be met by individuals or organizations in order to be approved as Certified Verification Agents (CVA); and provides instructions to the CVA.

1.4.2 *Requirements for Verifying the Structural Integrity of OCS Platforms.* The document entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Requirements." It identifies mandatory state-of-the-art performance standards which shall be met in designing, fabricating, and installing platforms or other structures and major modifications to platforms or other structures.

1.4.3 *Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms.* The document entitled "Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Appendices." It identifies alternative engineering design procedures which may be utilized, where applicable, to conform to the "Requirements."

1.4.4 *Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms.* The document entitled "Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms," October 1979, is identified in this Order as "Commentary." It provides an explanation of the basic intent of the "Requirements" and also discusses the "Requirements," the "Appendices," and the current relative development of the state of practice for pertinent parts of both.

2. *Responsibility.*

2.1 *Submission.* All applications for approval under the provisions of this Order shall be submitted to the DMM, Offshore Field Operations. All significant changes or modifications (i.e., any structural change which materially alters the original plan or any major deviation from operations) to approved applications shall be submitted for approval to the DMM, Offshore Field Operations. The lessee assumes risk of making changes or modifications without prior approval of the DMM, Offshore Field Operations. Where doubt exists as to whether a change is significant, questions shall be referred to the DMM, Offshore Field Operations.

2.2 *Certification.* The lessee shall have detailed structural plans and specifications for new platforms or other structures and major modifications certified by a registered professional structural engineer or civil engineer specializing in structural design. The lessee shall also sign and date the following certification:

———— (Lessee) certifies that the design of the ————(structure/modification) has been certified by a registered professional structural engineer or a civil engineer specializing in structural design, and the ————(structure/modification) will be fabricated, installed, and maintained as described in the application and any approved modification thereto. Certified design and as-built plans and specifications will be on file at ————.

2.3 *Verification.* The lessee shall nominate a CVA(s) in the verification plan and have the design, fabrication, and installation of all platforms or other structures and modifications to platforms or other structures which are subject to review under the requirements of the Platform Verification Program, verified by a CVA(s).

2.4 *Approval.* For new platforms or other structures and major modifications thereto subject to review under the requirements of the Platform Verification Program, the lessee shall obtain approval for the design and fabrication from the DMM, Offshore Field Operations, prior to transporting the platform or other structure to the installation site.

2.5 *Notification.* The lessee shall be responsible for notifying the DMM, Offshore Field Operations, at least 1 week prior to transporting the platform or other structure to the installation site.

3. *Submissions.*

3.1 *General.* The lessee shall submit to the DMM, Offshore Field Operations, in triplicate, all documentation necessary for approval of new platforms or other structures and major modifications in accordance with the provisions of this Order. Listed hereafter is the documentation which shall be submitted; however, more detailed information and data may be required on a case-by-case basis and upon specific request by the DMM, Offshore Field Operations.

3.2 *Design*

3.2.1 *Design Documentation.* The lessees shall submit design documentation with or subsequent to the submittal of the Exploration Plan or the Development and Production Plan. The design documentation shall include design drawings and material specifications for primary load-bearing members included in the space-frame analysis, the certification by the lessee, and the name of the registered professional engineer. In addition, the design documentation shall incorporate—

a. General platform information;

b. Environmental and loading information;

c. Foundation information; and

d. Structural information.

3.2.1.1 *General Platform Information.* The general platform information shall include—

a. Identification data including the platform or structure designation, the lease number, the area name, the block number, and the lessee's name;

b. Location data consisting of longitude and latitude coordinates, Universal Transverse Mercator grid system coordinates, state plan coordinates in the Lambert or Transverse Mercator Projection system, and a plat drawn to a scale of 1 centimeter=240 meters (1 inch=2,000 feet) showing surface location and distance from the nearest lease lines;

c. Intended primary use and other intended functions such as planned drilling, production, processing, well protection, compression, pumping or storage facility, or other operations;

d. Personnel facilities, personnel access to living quarters, number and location of boat landings, heliports, cranes, and evacuation routes;

e. Platform or structure details which consist of drawings, plats, front and side elevations of the entire structure, and plan views that clearly illustrate the essential parts (i.e., equipment arrangement, number and location of well slots); design loadings of each deck; water depth; nominal size and thickness of all primary load-bearing jacket and deck structural members; nominal size, makeup, thickness, and design penetration of piling; and

f. Corrosion protection or durability details which consist of the corrosion-protection method, expected life, and durability criteria for the submerged, splash, and atmospheric zones.

3.2.1.2 *Environmental and Loading Information.* The environmental and loading information shall include—

a. Environmental data, which consists of a summary listing of data, as addressed in the "Requirements," that have a bearing on the design, installation, and operation (e.g., wave heights and periods, current, vertical distribution of wind and gust velocities, water depth, storm and astronomical tide data, marine growth, snow and ice effects, and air and sea temperatures); and

b. Derived loads which consist of a listing of total design functional loads and loads due to wind, wave, ice, and current forces for longitudinal, transversal, and diagonal approaches.

3.2.1.3 *Foundation Information.* The foundation information shall include—

a. Seabed testing results which consist of a brief summary of the major strata encountered at the location of the boring(s) presented in tabular form, a detailed subsurface profile illustrating results of field and laboratory testing, a listing of field and laboratory investigations and tests with a basic summary of resultant determinations, the identification of properties and conditions of the seabed and the subsoil, and the identification of any manmade hazards or obstructions;

b. Load effects which consist of a description of the effect of the environmental and functional loads on the foundation;

c. A soil stability report including a determination, with supporting information, of the susceptibility or nonsusceptibility of the area to soil movement and, if susceptible to soil movement, an analysis of slope and soil stability;

d. Foundation design criteria which consist of a summary of the design criteria as specified in the "Requirements"; and

e. Sea floor survey results which consist of a summary of the survey specified in the "Requirements."

3.2.1.4 *Structural Information.* The structural information shall include—

a. Design life criteria which consist of the identification of the basis of the design life of the structure;

b. Design loading and criteria which consist of a summary description of the design load conditions and design load combinations taking into consideration the worst environmental and operational conditions anticipated over the service life of the platform or structure;

c. Material specifications which consist of a listing and description of the appropriate specifications;

d. Design strength criteria which consist of a description of the method(s) used in design (i.e., elastic, plastic ductility, ultimate); and

e. Fatigue assessment details which consist of a summary of the fatigue analysis as specified in the "Requirements." The requirement for fatigue analysis shall be determined on a case-by-case basis. Where doubt exists concerning the requirement for this analysis, questions shall be referred to the DMM, Offshore Field Operations.

3.2.2 *Design Verification Plan.* For new platforms or other structures, and for modifications which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a design verification plan with or subsequent to the submittal of the Development and Production Plan. The verification plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished with the platform application. Furthermore, the documentation listed under subparagraph 3.2.1, as well as computer program descriptions which consist of abstracts of the computer programs used or to be used in various phases of the design process, shall be submitted as a part of the design verification plan.

The design verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

3.3 *Fabrication.* For new platforms or other structures and for modifications which are subject to review under the requirements of the Platform Vertification Program, the lessee shall submit a fabrication verification plan subsequent to the submittal of the design. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall include fabrication drawings and material specifications of all the primary load-bearing members included in the space-frame analysis and a summary description of the following:

a. Structural tolerances;

b. Welding procedures;

c. Fabrication standards;

d. Material quality-control procedures;

e. Methods and extent of Nondestructive Examinations (NDE) for welds and materials; and

f. Quality assurance procedures.

The fabrication vertification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

3.4 *Installation.* For new platforms or other structures and for modifications subject to review under the requirements of the Platform Verification Program, the lessee shall submit an installation verification plan subsequent to the submittal of the fabrication verification plan. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes

how the lessee intends to use the CVA. identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall also include a summary description of the planned marine operations, contingencies considered, alternate courses of action, and a summary description of the inspections to be performed during marine operations, including a graphical identification of areas to be inspected and acceptance/rejection criterion. The installation verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, of if the level of work to be performed by the CVA changes. However, the summary of technical details need not be resubmitted unless changes are made in the technical details.

For structures fabricated and installed in place (e.g., ice islands and gravel islands), the fabrication and installation verification plans may be combined.

4. *Records.* The lessee shall compile, retain, and make available for review for the functional life of the platform or other structure that is subject to the provisions of this Order, the as-built structural drawings, the design assumptions and analysis, and a summary of the NDE records.

5. *Departures.* All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.11(b).

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Approved:

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Department of the Interior, Minerals Management Service

Alaska Region, OCS Order No. 12, Effective ————

Public Inspection of Records

This Order is issued pursuant to the authority prescribed in 30 CFR 250.10, 250.11, and in accordance with 30 CFR 250.3, 250.34, 252.6, and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. 552, will be governed by the provisions of 43 CFR Part 2 (40 FR 7304, February 19, 1975).

1. *Filing of Reports.* All reports on Forms 9–152, 9–330, 9–331, 9–331 C, 9–1869, 9–1870, and the forms used to report the results of multipoint back-pressure tests shall be filed by the lessee in accordance with the following:

a. All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

b. All items on the form not marked "Public Information " shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

c. The copy marked "Public Information" shall be completed in full except that the items described in subparagraphs 2.1 through 2.4 below, and the attachments relating to such items, may be excluded.

2. *Availability of Records.* The following records pertaining to leases and wells in the Outer Continental Shelf (OCS) and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Regional Office:

2.1 *Form 9–152—Monthly Report of Operations.* All information contained on this form shall be available except proprietary information which may be included in the remarks column. The lessee shall delete such proprietary data from the public information copy.

2.2 *Form 9–330—Well-Completion or Recompletion Report and Log.*

2.2.1 *Prior to Commencement.* Prior to commencement of production, all information contained on this form shall be available except—

a. Item 1a, Type of Well;

b. Item 4, Location of Well, at top production interval and at total depth;

c. Item 22, If Multiple Completion, how many;

d. Item 24, Producing Interval;

e. Item 26, Type Electric and Other Logs Run;

f. Item 28, Casing Record;

g. Item 29, Liner Record;

h. Item 30, Tubing Record;

i. Item 31, Perferation Record;

j. Item 32, Acid, Shot, Fracture, Cement Squeeze, etc.;

k. Item 33, Production;

l. Item 37, Summary of Porous Zones; and

m. Item 38, Geologic Markers.

2.2.2 *After Commencement of Production.* After commencement of production, all information shall be available except Item 37, Summary of Porous Zone, and Item, 38, Geologic Markers, unless previously made available under subparagraph 3.2b and 30 CFR 250.3(b).

2.2.3 *5-Years' Elapsed Time.* If production has not commenced after an elapsed time of 5 years from the date of filing Form 9–330 as required in 30 CFR 250.38(b), excluding the total time that operations and production are suspended by direction of the Secretary of the Interior, or the Secretary's duly authorized representative, and further excluding the total time that operations and production are stopped or prohibited by Court Order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, unless previously made available under subparagraph 2.3b and 30 CFR 250.3(b). Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee shall file a Form 9–330 containing all information requested on the form except Item 37, Summary of Porous Zones, and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9–330.

2.3 *Form 9–331—Sundry Notices and Reports on Wells.*

2.3.1 *"Request for Approval to."* When used as a "Request for Approval to" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 *"Subsequent Report of."* When used as a "Subsequent Report of" operations, and after commencement of production, all information contained in this form shall be available, except information contained in Item 17 pertaining to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 *Form 9–331 C—Application for Permit to Drill, Deepen, or Plug Back.* All information contained on this form and the location plat attached thereto shall be available except Item 4, Location of Well at Proposed Production Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 *Form 9–1869—Quarterly Oil Well Test Report.* All information contained on this form shall be available.

2.6 *Form 9–1870—Semiannual Gas Well Test Report.* All information contained on this form shall be available.

2.7 *Multipoint Back Pressure Test Report.* All information contained in this report shall be available.

2.8 *Sales of Lease Production.* Information contained on the monthly Minerals Management Service computer printout showing sales volumes, value, and royalty on production of oil, condensate, gas, and liquid products by lease shall be made available.

2.9 *Availability of Inspection Records.* All accident-investigation reports, pollution-incident reports, facilities-inspection data, and records of enforcement actions are also available for public inspection.

2.10 *Availability of Data nd Information Submitted by Lessees.* Certain information submitted by lessees, as a result of OCS Orders and OCS Notices to Lessees and Operators, is nonproprietary in nature, or release of such information is necessary for the proper development of the lease. This information will be made available for public inspection, except for those portions which the lessee shall designate, with the approval of the Deputy Minerals Manager (DMM), Offshore Field Operations, as trade secrets and commercial or financial information which is privileged or confidential. The available information will include—

a. Notices of support activity;

b. Oceanographic and meteorological data collected from drilling units and production facilities during the period of operations;

c. Results of site surveys required prior to drilling or placement of platforms or structures, such as shallow geologic hazards surveys, archaeological/cultural resource surveys, or other surveys related to the placement of platforms or structures;

d. Drawings, maximum environmental design criteria, and rated capability data of mobile drilling units and structures;

e. Oil Spill Contingency Plans;

f. Critical Operations and Curtailment Plans; and

g. Other data required under 30 CFR 250.34.

2.11 *Expired Leases.* All information is available upon the expiration of a lease.

3. *Information Exempt From Public Inspection.* The information in subparagraphs 2.1 through 2.4 which has been restricted from public inspection is classified as geological and geophysical data. Except as provided in 30 CFR 250.3, 250.4, and 252.7, the release of this data is subject to the following restrictions:

3.1 *Leases Issued Prior to June 11, 1976.* For leases issued prior to June 11, 1976, the classified data is exempt from disclosure under exemption No. (9) of the Freedom of Information Act (5 U.S.C. 552(b)(9) and 43 CFR 2.13 paragraph (c), *Statutory Exemptions,* (9)).

3.2 *Leases Issued After June 11, 1976.* For leases issued after June 11, 1976, the classified data is available in accordance with 30 CFR 250.3, *Data and information to be made available to the public,* as follows:

a. Geophysical data, processed geophysical information, and interpreted geological and geophysical information shall not be available for public inspection, except as provided in subparagraph 2.10c, without consent of the lessee as long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the DMM, Offshore Field Operations, with the approval of the Director, determines that earlier release of this information is necessary for proper development of the field or area.

b. Geological data and analyzed geological information shall not be made available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the DMM, Offshore Field Operations, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area. In accordance with 30 CFR 250.38, *Well Records,* data and well records shall be transmitted to the DMM, Offshore Field Operations, upon request or, if not requested, within 30 days following completion or suspension of any well. For the purpose of orderly release of data, in all cases the date of submission will be considered to be 30 days following such completion or suspension.

4. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.11(b).

Rodney A. Smith,

Deputy Minerals Manager, Offshore Field Operations.

Approved:

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

III. Environmental Assessment for the Proposed Alaska Region OCS Orders

A. Introduction

1. *Description of the Proposal.* The Minerals Management Service (MMS) proposes to adopt OCS operating orders that would govern the manner in which oil and gas exploration, development, and production activities are conducted offshore from Alaska on the Federal OCS under the OCS Lands Act. The proposed Orders, the Alaska Region OCS Orders that currently govern OCS oil and gas activities in the Gulf of Alaska and the Arctic (Beaufort and Chuckchi Seas) Areas. The proposed Orders would apply to all OCS leasing areas offshore from Alaska including the Bering Sea, and would supersede the existing Gulf of Alaska and Arctic OCS Orders. The three major leasing subregions of the Alaska OCS Region that would be subjected to the provisions of the proposed Orders are illustrated by figures 1 and 2. (See the preamble to this Notice.)

The proposed Alaska Region OCS Orders are similar in format to OCS Orders that are in place in all other OCS areas that have been leased for oil and gas exploration, development, and production. The MMS currently proposes to issue the following Orders for the Alaska OCS:

a. Alaska Region OCS Order No. 1—Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects. This proposed Order would require OCS lessees to mark all platforms (drill ships, artificial islands, etc.) and wells to identify the lease operator, the lease number, and well number(s). It would also require that oil and gas related subsea objects posing potential hazards to other users of the OCS be identified by navigational markings.

b. Alaska Region OCS Order No. 2—Drilling Operations. This proposed Order addresses specific procedures for drilling wells. It would require lessees to develop and submit to MMS detailed information about the drilling platform, drilling rig, well casing program, drilling mud program, and well control equipment (e.g., blowout preventer). The proposed Order would also require that lessees submit plans for dealing with certain types of emergency situations that may be encountered during drilling operations and would require that personnel involved in drilling and production operations receive training in the areas of operational safety and well control.

c. Alaska Region OCS Order No. 3—Plugging and Abandonment of Wells. This proposed Order would establish requirements for the plugging and abandonment of wells that have been drilled in the search for oil or gas or that have been used to produce oil or gas.

d. Alaska Region OCS Order No. 4—Determination of Well Producibility. This proposed Order would establish procedures or determining whether the lessee has a well on its lease that is "producible," that is, a well that is capable of producing oil and/or gas in paying quantities.

e. Alaska Region OCS Order No. 5—Production Safety Systems. This proposed Order would establish requirements for the design, testing, installation, and operation of safety systems that are used during the production of oil or gas from an Alaska OCS lease.

f. Alaska Region OCS Order No. 7—Pollution Prevention and Control. This proposed Order would establish rules for disposing of certain types of waste materials that are generated as a result of routine oil and gas operations and requires that the lessee develop and submit for MMS approval a plan for containing and cleaning up accidental oil spills. It also provides that drills and training classes be conducted periodically to familiarize personnel with oil spill pollution-control equipment and operational procedures.

g. Alaska Region OCS Order No. 8—Platforms and Structures. This proposed Order would require that all new platforms and other structures and all major modifications to platforms and other structures proposed for use on the Alaska OCS be subjected to examination under the MMS (formerly USGS) Platform Verification Program. The Program has established procedures for verifying the structural integrity of OCS structures.

h. Alaska Region OCS Order No. 12—Public Inspection of Records. This proposed Order would establish procedures and requirements for making certain types of data and records related to offshore petroleum operations available to the public.

These proposed Orders (see part II for a complete text) include numerous provisions that address the opperating constraints on oil and gas activities conducted in the varied and often harsh environments of the Alaska OCS (e.g., sea ice, permafrost, remote drilling sites, and low temperatures).

2. *Purpose and Need for the Proposed Alaska Region OCS Orders.* The purposes for developing the proposed Alaska Region OCS Orders are to:

a. Provide Alaska OCS oil and gas leaseholders and lease operators with MMS's interpretation of provisions of the OCS Lands Act related to safe and pollution-free OCS operations, and region-specific guidance for complying with the more general provisions of the Department of the Interior (DOI) OCS oil and gas operating regulations (30 CFR Part 250).

b. Establish a set of criteria that MMS can use as a guide for inspecting OCS lease operations, and a basis for evaluating OCS oil and gas proposals and making permit and approval decisions.

c. Consolidate the provisions of two existing sets of OCS Orders (i.e, Gulf of Alaska and Arctic) into a single set of Orders that would apply to all areas of the Alaska OCS, including the Bering Sea.

The proposed Alaska Region OCS Orders are necessary for a number of reasons. First, Alaska OCS lessees need to know MMS's specific requirements related to the conduct of OCS oil and gas activities on the Alaska OCS. Without knowledge of these specific requirements, it is likely that many lessees will fail to submit one or more pieces of information that are required to be included in their exploration, development, and production proposals. This information is needed by the MMS in order to properly evaluate the proposal and make responsible permit and approval decisions. Second, MMS inspectors must have guiding criteria to refer to when conducting routine inspections of lease activities. Without such criteria the inspector would be required to rely on individual experience and expertise and the general DOI regulations for determining whether operations are being conducted in accordance with legal requirements. This situation would probably result in an inspection program that is applied inconsistently and may result in arbitrary interpretation of the regulations by the inspectors. Third, virtually all of the proposed Order requirements that would be applicable to the Bering Sea are contained in either the existing Gulf of Alaska or Arctic OCS Orders. In addition, many of the requirements in these two sets of Orders are identical. In this respect, the proposed Alaska Region OCS Orders are needed to reduce the total amount of paper that MMS and Alaska OCS lessees must cope with, and ensure consistency among requirements for the three major leasing subregions of the Alaska OCS. Finally and most importantly, compliance with the propsed Orders by OCS lessees would assure that Alaska OCS lease operations are conducted in a safe pollution-free manner. Conducting OCS operations in a manner consistent with the proposed Order provisions would provide the necessry assurance that a lessee will not inadvertantly take operational risks that MMS considers unacceptable for safety and environmental reasons and contrary to the requirements of the OCS Lands Act.

3. *History of OCS Order Development in Alaska.* The chronology of OCS Order development for the Alaska OCS has paralleled that of OCS leasing. Orders for the Alaska OCS were first issued in March 1976 (41 FR 10105, March 9, 1976) following the first Alaska OCS lease sale (Sale No. 39, Northern Gulf of Alaska). Those Orders, the Gulf of Alaska OCS Orders, have since undergone two revisions (44 FR 76212, December 21, 1979, and 45 FR 55126, August 18, 1980) and apply only to OCS leases issued in the Gulf of Alaska and lower Cook Inlet. OCS Orders for the Arctic Area were issued in February 1981, (46 FR 14660, February 27, 1981) following the first lease sale for the Arctic OCS (Sale BF, Beaufort Sea) held in December 1979. Those Orders apply to all leases issued for the Arctic OCS. There are no OCS Orders in effect for the third major OCS leasing subregion in Alaska, the Bering Sea. Several OCS lease sales are proposed for the Bering Sea in the DOI's proposed 5-year leasing schedule. The first Bering Sea sale is currently proposed for Norton Sound in late 1982.

B. Alternatives

Three alternatives to the proposed Alaska Region OCS Orders have been considered.

- No OCS Orders for the Bering Sea—Permit OCS oil and gas operations in the Bering Sea to be conducted without subjecting them to the provisions of OCS Orders and allow the existing Gulf of Alaska and Arctic OCS Orders to remain in effect.
- New OCS Orders for the Bering Sea only—Develop a separate set of "Bering Sea OCS Orders," and allow the existing Orders for the Gulf of Alaska and Arctic to remain in effect.
- More stringent Alaska Region OCS Orders—Adopt the proposed OCS Order scheme for all of the Alaska OCS but include some additional, more constraining operating requirements to the proposed Orders.

1. *No OCS Orders for the Bering Sea.* Under this alternative OCS Orders would not be adopted for the Bering Sea. The existing Orders for the Gulf of Alaska and Arctic OCS would remain in effect. OCS lessees in the Bering Sea would have no area-specific guidance to assist them in preparing their oil and gas exploration and development proposals. The lessees would, instead, have to design their proposals based on the general requirements of the DOI regulations (30 CFR Part 250). The ramifications of adopting a "no OCS Orders" alternative for an OCS leasing area are detailed in part III, section A of the environmental assessment (EA) for the Arctic OCS Orders (45 FR 83881, December 19, 1980). That discussion is also applicable to this alternative, and is by this reference incorporated herein. If Bering Sea OCS lessees were allowed to operate without OCS Orders, they might realize some small initial financial savings because they would not be required by Order to report certain kinds of information to MMS. However, it is anticipated that this small savings to industry would be insignificant when compared to time-related expenses that

would likely be incurred in attempting to determine the data and information that MMS must have before making permit and approval decisions.

2. *New OCS Orders for the Bering Sea Only.* Under this alternative the MMS would develop a new set of OCS Orders that apply only to OCS leases issued in the Bering Sea. This would be consistent with past practice in the Gulf of Alaska and Arctic OCS Areas for which individual Order sets were developed. However, the provisions of "Bering Sea OCS Orders" would be identical to those provisions of the proposed Alaska Region OCS Orders that apply to the Bering Sea OCS. The environmental effects of adopting a separate set of OCS Orders for the Bering Sea would be identical to the effects of adopting the proposed Alaska OCS Orders. Therefore, there would be no environmental impact-related advantages to adopting this alternative.

The disadvantage of this alternative is that it fosters proliferation of Government paperwork and burdens the regulated industry with multiple requirements. The MMS believes there is no merit to having three separate and largely identical sets of OCS Orders for the Alaska OCS when one comprehensive set would effectively serve the same purpose and also reduce the total amount of Government paper involved. In addition, it is sometimes necessary to amend or revise an OCS Order. Frequently such amendments or revisions are applicable to Orders in more than one leasing area. The process of amending or revising an OCS Order requires time and paperwork in amounts proportional to the total number of sets of Orders that must be revised. Adopting this alternative would unnecessarily increase the amount of time and effort required to make a revision that applies to more than one set of Orders.

3. *More Stringent Alaska Region OCS Orders.* MMS believes that the more stringent alternatives that were discussed in part III, section C of the EA for the Arctic OCS Orders (45 FR 83884) are applicable to this alternative. That discussion is incorporated herein by reference. The nature of the proposal limits the kinds of more stringent alternatives that may be validly considered. Most of the proposed OCS Order provisions address very precise aspects of engineering practices. Many of these practices have been developed from experience gained through a "real world" trial-and-error process that spans many years. This evolution continues as the oil and gas industry improves its technological capabilities and moves into new and more challenging offshore operating environments. The MMS believes that the provisions of the proposed Alaska OCS Orders contain state-of-the-art engineering principles and practices. It is the policy of MMS to revise its OCS Orders to keep pace with new engineering, safety, and environmental information as it becomes available. MMS proposes to continue this process with the proposed Alaska Region OCS Orders, if adopted. Because the proposed Orders reflect current state-of-the-art practices and procedures, more stringent alternatives are largely theoretical and impractical.

C. Applicability of the Proposed Alaska Region OCS Orders to the Bering Sea OCS

The proposed Alaska Region OCS Orders constitute the combination of two sets of requirements that already exist for parts of the OCS off Alaska. The applicable provisions of the proposed OCS Orders have been successfully applied to OCS lease operations in the Gulf of Alaska and lower Cook Inlet and are just beginning to be applied on the Arctic OCS. It is important to consider whether the proposed Orders may be properly applied to the Bering Sea OCS, because it is in this area that OCS Orders would be implemented for the first time.

The proposed OCS Orders address many kinds of environmental conditions that could affect oil and gas operations on the OCS off Alaska. However, not all of these conditions exist in every OCS area in which operations will take place. For example permafrost is an important consideration in drilling a well on the Arctic OCS, but it is not encountered in the Gulf of Alaska. In recognition of these regional differences, the proposed Alaska Region OCS Orders were designed in a manner that would impose requirements based on operating conditions found in a particular area of the OCS off Alaska. For example, proposed Alaska Region OCS Order No. 2 contains two separate requirements for setting conductor and surface casing. Subparagraph 3.3.1.1 establishes criteria for setting casing in permafrost-free areas, and subparagraph 3.3.1.2 establishes criteria for setting casing in permafrost areas (see part II, Order No. 2).

In order to determine the applicability of the proposed Alaska Region OCS Orders to the operating environment of the Bering Sea OCS, the nature of that environment as it relates to operating constraints must be considered. The Bering Sea OCS exhibits both Arctic Ocean and Gulf of Alaska environmental characteristics. Air temperatures, winds, wave height, sea ice, icing, and sea floor geology are among the physical characteristics that will place constraints on oil and gas operations conducted on the OCS off Alaska. Air temperatures, wind speeds, and wave heights for various areas in the Gulf of Alaska, Bering Sea, and Arctic Ocean have been observed or estimated (U.S. Department of Commerce, 1977). Minimum air temperatures are lowest in the Arctic OCS areas and highest in the Gulf of Alaska. Minimum air temperatures in the Bering Sea vary with latitude. Northern portions of the Bering Sea exhibit air temperature minimums similar to the Arctic OCS areas, and southern portions exhibit air temperature minimums similar to the Gulf of Alaska. Estimates of wind and wave conditions for the three OCS areas indicate that maximum wind speeds and wave heights in the Bering Sea are slightly greater (approximately 10 percent) than Arctic Ocean maximums and virtually the same as maximums estimated for the Gulf of Alaska. The operating constraints associated with air temperatures should be no more severe in the Bering Sea than in the Arctic Ocean, and constraints associated with winds and waves in the Bering Sea should be no more severe than those encountered in the Gulf of Alaska. Therefore, the proposed Order provisions related to consideration of air temperatures, winds, and wave heights adopted from the existing Arctic and Gulf of Alaska OCS Orders are applicable to all OCS areas off Alaska including the Bering Sea OCS.

Sea ice will be of concern to offshore operations in both the Arctic OCS and in portions of the Bering Sea OCS. The occurrence of sea ice in the Gulf of Alaska is confined primarily to the Cook Inlet and the northeast portions of Prince William Sound. Therefore, operating constraints associated with sea ice are not a concern for most of the Gulf of Alaska OCS. Sea ice formation and disintegration are seasonal phenomena that will affect operations in all Arctic OCS areas and most Bering Sea OCS areas. Sea ice distribution and other characteristics have been observed and recorded for these OCS areas (U.S. Department of Commerce, 1977). The proposed Alaska Region OCS Orders have incorporated the provisions of the Arctic OCS Orders related to sea ice. Those provisions were developed to address sea ice in general and, as such, are applicable to the Bering Sea OCS as well as the Arctic OCS.

Icing or ice accretion is a natural phenomenon that may pose threats to the structural integrity of platforms installed in certain portions of the OCS off Alaska. The form of icing that is of greatest concern to oil and gas operations is freezing spray. It can occur when air temperatures fall below the freezing point of sea water, sea temperatures are slightly above freezing, and winds are strong enough to create a spray that comes into contact with the structure. Icing is most likely to occur in the Gulf of Alaska and the southern Bering Sea. Accretion rates of up to eight inches of ice per day have been observed aboard a semisubmersible drilling rig in the Gulf of Alaska (*Offshore*, June 5, 1981). Ice buildups of this nature can create severe structural loading problems. The proposed Alaska Region OCS Orders provide that the lessee consider the potential for ice loading, monitor icing conditions, and present a plan for dealing with ice loading, if it occurs (See part II, Order No. 2, subparagraphs 1.1d, 2.2b, and 9b(4)).

Among the geologic hazards that place constraints on oil and gas operations are active surface or near-surface faults, slumps or unstable bottom sediments, gas charged sediments or shallow gas pockets, permafrost, and seabed erosion. The potential for encountering any one of these hazards will depend on the location within each OCS leasing subregion off Alaska that is being considered. The proposed Orders require that surveys in the area of the proposed well site be conducted and analyzed prior to installing a platform or other structure to determine whether a geologic hazard exists in the area (see part II, Order No. 2, Subparagraph 2.1.3). The specific type of survey needed would be determined by MMS on a case-by-case basis. This approach to surveying geologic hazards is equally applicable to the Gulf of Alaska OCS, the Arctic OCS, and the Bering Sea OCS.

In summary, the proposed Alaska Region OCS Orders do consider the environmental constraints that will be imposed on oil and gas operations on the Bering Sea OCS. The combination of environmental characteristics encountered in the Gulf of Alaska and the Arctic Areas that place constraints on oil and gas operations are generally similar to characteristics found in the Bering Sea. It is appropriate, therefore, that the proposed Orders, which represent the combination of requirements for the Gulf of Alaska OCS and the Arctic OCS, be applied to the Bering Sea OCS.

D. Environmental Effects of the Proposed Alaska Region OCS Orders

The adverse effects of implementing the proposed Alaska Region OCS Orders would be economic. Alaska OCS leaseholders would be obliged to bear the costs of complying with the provisions of the proposed OCS Orders. It is not possible to accurately determine the costs associated with compliance with OCS Orders because the manner in which industry would conduct operations in the absence of OCS Orders and potentials for future activity on the OCS off Alaska are not precisely known. However, MMS has attempted to estimate the cost of complying with the provisions of the proposed OCS Orders. Two estimates were made based on the findings of two analyses related to the costs of complying with OCS regulations and several assumptions made by MMS.

One estimate was made based on an industry analysis (*Safety and Offshore Oil*, Appendix F). That analysis concludes that the industry-wide cost of complying with OCS-related Federal regulations was $155 million in 1979. The study further concludes that 56 percent of that total ($86.8 million) was spent to comply with requirements that the industry would not have expended in the absence of Government requirements. Given the latter figure, MMS used several assumptions to compute the cost of complying with the proposed OCS Orders. Those assumptions are—

- 3.5 percent of the total oil and gas activity on the OCS will take place on the OCS off Alaska.
- No more than 75 percent of the total cost of compliance with OCS-related Federal regulations is attributable to MMS regulations, and 100 percent of the MMS regulatory burden is attributable to compliance with OCS Orders.
- The cost of compliance with MMS requirements (i.e., the proposed Alaska Region OCS Orders) would have been 35 percent greater in 1980 than in 1979 (because of inflation, increased activity, and additional requirements).

MMS subjected the $86.8 million figure to the listed assumptions and computed that the annual incremental cost to industry of complying with the proposed OCS Orders would be $3.1 million (1980 dollars). MMS estimates that the cost to the Government of administering the proposed OCS Orders would be $3.5 million annually (1980 dollars). The total annual cost to the Government and industry is estimated to be $6.6 million (1980 dollars) using this study.

The second estimate was made based on a USGS contract study (*Cost of USGS Regulations in the Western Gulf of Mexico*, Appendix E). This analysis concluded that the estimated incremental cost (i.e., costs incurred by industry it would not have incurred in the absence of regulations) of complying with MMS regulations in "Alaska, North and Northwest" was $38.55 million over 9 years, and the cost of compliance in "Alaska, South and Southwest" was $15.27 million over 6.5 years. Both figures are expressed in terms of 1980 dollars. Given those two figures, MMS used the following assumptions to compute the annual cost of complying with the proposed Orders—

- The annual cost to industry of complying with the proposed OCS Orders on the Arctic OCS is equal to the average annual cost to industry of complying with MMS regulations in "Alaska, North and Northwest" over the 9 years considered (i.e., $4.28 million).
- The annual cost to industry of complying with the proposed OCS Orders on the Gulf of Alaska OCS is equal to the average cost of complying with MMS regulations in "Alaska, South and Southwest" over the 6.5 years considered (i.e., $2.35 million).
- The annual cost to industry of complying with the proposed OCS Orders on the Bering Sea OCS is equal to the average computed for the Arctic OCS and the Gulf of Alaska OCS (i.e., $3.32 million).

Based on the two figures provided in this study and the assumptions described, MMS computed that the annual incremental cost to industry of complying with the proposed OCS Orders would be $9.95 million (1980 dollars). MMS estimates that the cost to Government of administering the proposed Orders would be $3.5 million annually (1980 dollars). The total annual cost to Government and industry is estimated to be $13.5 million (1980 dollars) using this study.

The wide range between these two estimates is perhaps indicative of the uncertainties involved in making such estimates. However, MMS believes that these two studies, both based on broad surveys of OCS industry operators, represent the best information available on industry costs attributable to Government regulations concerning safety and pollution-prevention on the OCS.

The beneficial effects of implementing these OCS Orders are mitigatory in nature. If the proposed OCS Orders are properly implemented, MMS believes

that the potential for accidents resulting in death, injury, or pollution will be smaller than if operations were conducted without OCS orders. It is not possible to quantify the incremental benefits that complying with the OCS Orders would provide.

1. *Alaska Region OCS Order No. 1. Identification of Wells, Platforms, Structures, Mobile Drilling Units, and Subsea Objects.*

A brief description of the provisions of this Order is presented in section A.1.a of this EA. A more detailed description of the Order and a discussion of the environmental effects are contained in part II, section A of the EA for the Arctic OCS Orders (45 FR 83873).

The single difference between the proposed Alaska Region OCS Order No. 1 and Arctic OCS Order No. 1 is in the format of the examples given in subparagraphs 1.1 and 1.2 of Order No. 1 (see part II). A detailed discussion of this format revision is included in part I of this Notice. Implementing the provisions of this Order would have no adverse environmental effects but would serve to mitigate against the possible adverse effects of conducting certain OCS oil and gas activities on fishing, anchoring, shipping, and navigational activities.

2. *Alaska Region OCS Order No. 2.* Drilling Operations. A brief description of this Order is presented in section A.1.b of this EA. A more detailed description of the Order and a discussion of the environmental effects are contained in part II, section B of the EA for the Arctic OCS Orders (45 FR 83873).

With one exception, the provisions of the proposed Alaska Region OCS Order No. 2 are identical to the provisions of Arctic OCS Order No. 2. However, several word changes of an editorial nature have been incorporated into the proposed Order. A detailed discussion of those word changes is included in part I of this Notice. The single substantive difference between the proposed Order and Arctic OCS Order No. 2 is found in subparagraph 1.1 (see part II). The title and content of that subparagraph have been revised in the proposed Alaska Region OCS Order No. 2 to acknowledge that an environmental report must be submitted by lessees with each exploration plan and each development and production plan. This incorporates a provision of the DOI OCS oil and gas operating regulations (30 CFR 250.34–3) which requires that lessees submit an environmental report with each OCS plan. Implementing this requirement will not change the overall impacts of inplementing the Order as described in the EA for the Arctic OCS Orders.

The direct environmental effects of implementing the provisions of proposed Alaska Region OCS Order No. 2 would be limited to a small economic burden on lessees. These impacts are associated primarily with providing MMS with certain kinds of data and information that the lessee would probably not otherwise have the need to assemble. The other proposed Order requirements generally reflect consideration of good engineering and planning practices that would probably be implemented by responsible lessees whether or not they were mandated by the Order. Implementation of the provisions of the proposed Alaska Region OCS Order No. 2 would provide mitigation against the potential for accidents, unnecessary threats to human health and safety, and damage to the physical environment that might otherwise result during drilling.

3. *Alaska Region OCS Order No. 3.* Plugging and Abandonment of Wells. A brief description of the provisions of this Order is presented in section A.1.c of this EA. A more detailed description of the Order and a discussion of the environmental effects are contained in part II, section C of the EA for the Arctic OCS Orders (45 FR 83876).

The provisions of the proposed Alaska Region OCS Order No. 3 and Arctic OCS Order No. 3 are identical. Therefore, the environmental effects of implementing Order No. 3 as presented in the EA for the Arctic OCS Orders also apply to the proposed Order. Briefly, implementation of the proposed Order provisions should minimize the potential for fluid migration between the various strata penetrated by a well, the possibility of casing damage caused by freezeback (in permafrost areas) or casing corrosion which, in turn, may lead to the leakage of formation fluids into the marine environment, and hazards to navigation and fishery interests created by subsea obstructions that might otherwise be left on the sea floor at abandonment.

4. *Alaska Region OCS Order No. 4.* Determination of Well Producibility. A brief description of the provisions of this Order is presented in section A.1.d of this EA. A more detailed description of the Order and a discussion of the environmental effects are contained in part II, section D of the EA for the Arctic OCS Orders (45 FR 83877).

The provisions of the proposed Alaska Region OCS Order No. 4 and Arctic OCS Order No. 4 are identical. The environmental effects of implementing the Order provisions would be limited to small amounts of air pollution that may be created in burning off the oil and gas that is produced during the test.

5. *Alaska Region OCS Order No. 5.* Production Safety Systems. A brief description of the provisions of this Order is presented in section A.1.e of this EA. A more detailed description of the Order and a discussion of the environmental effects are contained in part II, section E of the EA for the Arctic OCS Orders (45 FR 83877).

The provisions of the proposed Alaska Region OCS Order No. 5 are identical to the provisions of the Arctic OCS Order NO. 5. However, several word changes of an editorial nature have been incorporated into the proposed Order. A detailed discussion of those word changes is included in part I of this Notice.

The adverse effects of implementing the proposed Order would be economic in nature. Lessees would have to spend money to comply with some of the Order provisions that they might not otherwise spend, but the extent of the economic impact cannot be quantitatively assessed. MMS expects that the experienced lessee is likely to adopt procedures and practices similar to those proposed in Alaska Region OCS Order No. 5 because of the costly consequences of production-related accidents. Therefore, the added economic burden that lessees would be subjected to in implementing the proposed Order provisions is likely to be small. Implementing the proposed Order provisions would mitigate against the potential for production-related accidents that may be hazardous to human health and safety and cause unnecessary damage to the physical environment.

6. *Alaska Region OCS Order No. 7.* Pollution Prevention and Control. A brief description of the provisions of this proposed Order is presented in section A.1.f of this EA. A detailed description of the Order and a discussion of the environmental effects are contained in part II, section F of the EA for the Arctic OCS Orders (45 FR 83879). The discussion of the Alaska Beaufort Sea Oil Spill Response Body contained in the Artic Orders EA applies only to Arctic OCS operations. A similar concept was used to develop a regional oil spill contingency plan for the Gulf of Alaska, and it is likely that industry will cooperate in a similar manner to develop a regional plan(s) for the Bering Sea OCS.

The provisions of the proposed Alaska OCS Order No. 7 are identical to the provisions of Arctic OCS Order No. 7. However, several word changes of an

editorial nature have been incorporated into the proposed Order. A detailed discussion of those word changes is included in part I of this Notice.

The adverse effects of implementing this proposed Order would be economic and imposed on the lessee. The lessee would be required by this Order to submit information to MMS that it might not otherwise have cause to develop (e.g., the lessee must submit a description of procedures, personnel, and equipment that will be used in reporting, cleanup, and prevention of the spread of any pollution resulting from an oil spill). In addition, some lessees might not handle and dispose of routinely generated waste materials in precisely the manner prescribed by the proposed Order. It is not possible to quantify the extent of economic burden imposed on the lessee in complying with the proposed Order, because the lessee's approach to dealing with pollution may vary in a less strictly regulated environment. Implementing the proposed Order requirements would mitigate against impacts to the coastlines adjacent to the site of accidental hydrocarbon and other chemical spills and would virtually eliminate the potential for adverse environmental impacts associated with drainage of routinely generated waste fluids from drilling and production platforms.

7. *Alaska Region OCS Order No. 8.* Platforms and Structures. A brief description of the provisions of this proposed Order is presented in section A.1.g of this EA. A detailed description of the Order and a discussion of the environmental effects are contained in part II, section G of the EA for the Arctic OCS Orders (45 FR 83880).

The provisions of the proposed Alaska Region OCS Order No. 8 and Arctic OCS Order No. 8 are identical. However, one change of an editorial nature was incorporated into the proposed Orders. That change is explained in part I of this Notice.

Implementing the provisions of the proposed Order would impose some economic burden on the lessee. Information is not currently available for making a quantitive assessment of the economic impacts related to implementing this Order, however. Implementing the provisions of the proposed Order would minimize the potential for platform or other structure failures that may result in loss of human life or serious damage to the physical environment.

8. *Alaska Region OCS Order No. 12.* Public Inspection of Records. A brief description of the provisions of this proposed Order is presented in section A.1.h of this EA. A more detailed description of the Order and a discussion of the environmental effects are contained in part II, section H of the EA for the Arctic OCS Orders (45 FR 83881).

The provisions of proposed Alaska Region OCS No. 12 are identical to the provisions of Arctic OCS Order No. 12. However, one change of an editorial nature was incorporated into the proposed Order. This change is explained in part I of this Notice. Implementation of the provisions of the proposed Alaska OCS Order No. 12 would have no significant environmental effects.

E. References

1. Alaska Weather; *Offshore,* June 5, 1981, pp. 49–54.

2. *Climatic Atlas of the Outer Continental Shelf Waters and Coastal Regions of Alaska;* U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Alaska Outer Continental Shelf Environmental Assessment Program Final Report—Research Unit No. 347; 1977, 3 Volumes.

3. *Costs of USGS Regulations in the Western Gulf of Mexico* (Draft Report), Appendix E—Incremental Costs of USGS Regulations, Estimates for Other Frontier Areas; Arthur D. Little, Inc., Contract #84434, September 18, 1980.

4. Environmental Assessment for the Proposed Arctic OCS Orders; **Federal Register,** December 19, 1980, Volume 45, pp. 83958–83912.

5. *Safety and Offshore Oil;* Marine Board, National Research Council Assembly of Engineering, Appendix F (Background Papers of the Committee on Assessment of Safety of OCS Activities), An Industry Perspective on the Regulation of Oil and Gas Operations on the Outer Continental Shelf; National Academy Press, 1981.

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Part III

International Trade Commission

Conduct of Commission Investigations; Changes and Clarifications in Procedural Rules

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201, 207, and 210

Revisions to the General Procedures for the Conduct of Investigations and the Specific Procedures for the Conduct of Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States

AGENCY: International Trade Commission.

ACTION: Final rules.

SUMMARY: These final rules set forth changes and clarifications in the Commission's procedural rules for the conduct of Commission investigations under section 303 and title VII of the Tariff Act of 1930 (19 U.S.C. 1303 and 2501 *et seq.*) and sections 102 through 107 of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 144). Several of the changes in the procedural rules will affect the conduct of all investigations under the Commission's jurisdiction, including investigations carried out pursuant to the Tariff Act of 1930, the Agricultural Adjustment Act, and the Trade Act of 1974.

EFFECTIVE DATE: February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0350.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 144) approves and implements trade agreements negotiated by the United States in the Tokyo round of Multilateral Trade Negotiations. The Trade Agreements Act has brought about extensive changes in U.S. countervailing duty and antidumping duty laws, primarily through amendment of the Tariff Act of 1930.

In order to implement procedures to carry out the provisions of the Trade Agreements Act, the U.S. International Trade Commission published proposed procedural rules in the **Federal Register** of October 15, 1979. 44 FR 59392. Following an analysis of the comments received, the Commission promulgated final rules, effective January 1, 1980, and published a notice thereof in the **Federal Register** of December 26, 1979. 44 FR 76456. On August 27, 1980, the Commission published a notice in the **Federal Register** that, on the basis of the administrative experience since January 1, the Commission was considering proposing amendments to specific portions of the rules. 45 FR 57148.

On May 28, 1981, the Commission issued a notice of proposed revisions to its procedural rules regarding the general provisions for conducting investigations and the specific procedures for the conduct of investigations of whether injury to domestic industries results from imports sold at less than fair value or from subsidized exports to the United States. 46 FR 28873. The notice requested public comments on the proposed changes in the rules.

In order to analyze the revisions, whether suggested by the Commission and its staff or by public comment, a discussion by subject matter rather than a section-by-section analysis is most appropriate. Each proposal is discussed below.

Number of Copies of Complaint or Petition

It was proposed that the number of copies of the complaint or petition filed with the Commission be changed from 19 to 14. No comments were received regarding this proposal.

Filing of Documents

In order to eliminate confusion about public and confidential versions of a document, it was proposed that the requirement of an original and 14 copies refer specifically to the confidential version. The submitter of a document would be required to submit at least one additional copy, with confidential information deleted, for public inspection. The petition will not be considered "properly filed" until the requisite number of copies is filed. No comments were received regarding this revision.

Certificate of Service

The Commission proposed that a certificate of service be required for each document submitted for filing. Any document that does not contain a certificate of service would not be accepted for filing. These changes will be carried out by adding a new § 201.16(b)(3) and by amending § 201.16(c).

It was also proposed to amend § 201.8(d) by the addition of a new paragraph (2), requiring that a "copy of the petition or complaint or a nonconfidential version thereof" be served on "each person alleged therein to be committing the acts complained of." One comment addressed the proposed change. It argued that the requirement is impractical and, in some cases, compliance would be impossible because petitioners may have difficulty identifying those persons and determining appropriate methods of service.

The Commission agrees that there may be difficulty in identifying such persons in cases other than antidumping and countervailing duty investigations. Therefore, we do not believe that this provision is appropriate in Part 201.

Nevertheless, petitioners are already required to provide this information to the Department of Commerce in antidumping duty petitions, 19 CFR 353.36(a) (6) and (11), and in countervailing duty petitions, 19 CFR 335.26(a) (6) and (10). Therefore, the Commission does not believe that the additional requirement that a petitioner serve each of those enterprises with a copy of petition will create difficulties for petitioners.

Two comments argued that proposed § 201.16(c) does not specify which documents must be served. Both comments suggested that the proposed rule require explicitly that every document filed by a party in an investigation be served on all other parties. One comment suggested that paragraph (b) be amended to state that where service is accomplished by mail, it must be by first class mail. Finally, one of the comments recommended that the certificate of service should also specify the name and address of each person served, as well as the manner and date of service.

The Commission agrees with these suggestions. Therefore, § 201.16 is further revised by adding a new paragraph (b)(4) setting forth the first class mail requirement. The revision that all documents submitted for filing must also be served on all other parties can best be achieved by adding a new paragraph (1) to paragraph (c) and by redesignating the originally proposed subparagraph (1) as subparagraph (2).

Parties

It was proposed to define "party" as any person with a proper interest in the subject matter of the investigation, including an "interested party" as defined in title VII, who files entry of appearance with the Secretary. The entry must state that the person has an interest in the subject matter of the investigation and intends to file a brief therein. It is hoped that by limiting the term "party" in this way, only those persons who have a direct interest in the investigation will become parties. All notices would be screened by the Chairman or other person to preside in the investigation.

It was proposed that the notices must be received at least 3 weeks prior to the

date set for a hearing, or 3 weeks prior to the date on which prehearing briefs are due, or on the date a prehearing conference is scheduled, whichever occurs first. The Secretary would then prepare a service list containing the names and addresses of all the parties or their representatives. A late-filing provision was also proposed.

Four comments addressed the Commission's proposal to define "party" and they all agreed with the necessity of providing a definition. No comment opposed the basic approach to the definition taken in the proposed revisions. Each of the comments, however, suggested various ways in which the definition might be made clearer.

One comment noted that the proposed § 201.13(a) appears to afford the Chairman or other person designated to conduct the investigation broader discretion to determine participation than the definition of "interested party" in section 771(9) of the Tariff Act of 1930 as amended by the Trade Agreements Act of 1979. Although this comment is correct, the Commission does not believe that the proposed rule is defective. The term "interested party," defined in section 771(9), addresses specific legal rights other than the right to participate in an investigation. There is nothing in the Trade Agreements Act or in its legislative history which indicates that Congress intended that only interested parties participate in investigations. Although it is true that the discretion will be fairly broad, it is essentially the discretion to determine when a threshold showing of interest has been made. Any person who fulfills the statutory criteria of interested party clearly meets this threshold. The proposal was drafted in order that persons who are not interested parties might also be party to the investigation, if they have a sufficient interest in the subject matter and are willing to participate actively. The Commission has always encouraged such persons to participate, since they may provide useful information and analysis, unavailable elsewhere. Thus, the Commission sees no need to change the proposal.

Several comments suggested that the basic definition of party in § 201.2(i) could be drafted more clearly, and one of them proposed a draft which the Commission has adopted.

Statements, Briefs, and Testimony

It was proposed that the term "statement" not be used in the rules, and that the terms "brief" and "testimony" be used exclusively. The proposed changes would occur in §§ 207.15, 207.22, 207.23, 207.24, and 210.12(d). No comments were received regarding this proposal.

It was also proposed that prehearing briefs in 120-day final dumping or countervailing duty investigations be filed 10 days after service of the prehearing staff report. The current provision for 15 days appears to consume too large a portion of the final 45 days of an investigation, and the Commission believed that this change would cause relatively little hardship on the parties. Several comments opposed the proposed change on the grounds that ten days is a very short time in which to prepare meaningful comments on the staff reports. This is especially true for respondents for whom the issuance of the prehearing staff report is the basis of their first real opportunity to respond to the petitioner.

Although the arguments in support of a lengthier period to respond to the staff report are significant, the time required for the staff investigatory activity requires that the proposal not be adopted. The additional five days have proven themselves crucial to the receipt of questionnaire data, and to their compilation and verification. In the usual investigation, questionnaire data are not received in sufficient time to permit a complete staff report to be issued when fifteen days is allocated for briefing. Even though this will provide fewer days for briefing, the more complete information in the staff report should permit the parties to focus their arguments better. In addition, the Commission will send copies of the prehearing staff report to parties' representatives by Express Mail or Federal Express.

One comment suggested that rules which require that all briefs be filed simultaneously generate much useless paper and fail to focus issues adequately for decisionmakers. It suggests that the Commission consider sequential filing. Thus, those favoring one side are required to state their case first, after which those favoring the other side have a chance to rebut. Unfortunately, the time limitations imposed by statute for final investigations make this impossible.

A final investigation is conducted by the Commission in a rather short period, with most of the time taken up by staff investigative activities leading to the issuance of a prehearing staff report and the preparation of a final staff report for the Commission. Given the need to hold a hearing and the scheduling difficulties inherent in the hearing, time limitations virtually preclude sequential filing of briefs. In addition, much of the purpose of the sequential filing is met by holding a hearing, since a hearing, pursuant to § 207.23(b), offers the parties an opportunity to rebut the positions taken by their opponents at the hearing and to offer information not available at the time prehearing briefs were filed.

Otherwise, no one objected to replacement of the term "statement" by the term "brief" and "testimony" as appropriate, and in fact, several comments favored the change.

Prepared Testimony

The Commission proposed to eliminate "prepared testimony" in hearings, and to limit written submissions at hearings to explanatory materials of no more than five pages. The purpose of this proposal was to eliminate the practice by certain persons of submitting lengthy prepared testimony for the record, and then summarizing it orally. This practice had been criticized as depriving opponents of a chance to respond to the submission at the hearing. It was also criticized as being, in essence, an additional brief. It was also proposed that each party submit a list of the witnesses it intends to call at a hearing at least three days before the hearing.

One comment urged that the proposal be withdrawn or substantially clarified, since there is no indication whether this section is intended to apply to additional textural material, or to additional graphic material such as charts, diagrams and the like. The comment further states that it is unclear whether testimony or materials offered to rebut unexpected testimony from opponents are included. Thus, it is likely that the five page limitation will be waived more often than enforced. The comment recommends that the page limitation be replaced by a provision that the Chairman or presiding officer be given the option of refusing redundant, irrelevant or superfluous supplementary materials.

The Commission agrees that the proposal needs clarification because the intention was to limit these submissions to information not available at the time of prehearing briefs and to graphic materials (charts and the like), excluding textual material in the nature of a brief.

Another comment argued that the proposal to eliminate prepared testimony goes too far, because it would have the effect of increasing the time necessary for witnesses to present their oral testimony so that they would not be deprived of a chance to present their views. We do not agree that the proposed revision would in any way

deprive any party of its right to present arguments before the Commission.

The principal opportunities for presenting arguments to the Commission are in the prehearing and posthearing briefs. Pursuant to § 207.23, a hearing is relatively limited in scope, and its principal function is to help the Commission focus on issues and critical analytic points in the investigation. Since it is not adjudicative, and since there are other opportunities for parties to present their views (principally the prehearing and posthearing briefs), these limitations would not deprive any party of a right to present its arguments to the Commission.

For the sake of clarity, the commission decided that the provisions for the submission of a list of witnesses, originally proposed for § 201.12(d)(1), be codified separately.

Date of Institution of Final Investigation

It was proposed that the date established by the Trade Agreements Act for the institution of final countervailing duty or antidumping investigations be deemed the date on which the transmittal from the administering authority is received by the Secretary or the date on which the determination is published in the **Federal Register**, whichever occurs first.

One comment was received regarding this proposal. It suggested that the date be only the date of publication in the **Federal Register** since the public has no other means of ascertaining on which date a transmittal letter from the administering authority is received.

The statutory scheme for final antidumping and countervailing duty investigations clearly envisions that the Commission institute its investigation at the same time that such investigations are commenced by the Department of Commerce. This purpose can be served only by having the Commission institute a final investigation when it learns of Commerce's institution. Therefore, the Commission has determined to promulgate the rule as proposed.

Participation in Investigations

The Commission originally proposed that the material currently in § 201.13 be revised and relocated in § 201.12(d) and that new § 201.13 be drafted. If this is done, § 201.12 would refer specifically to hearings and § 201.13 would relate to participation in an investigation. The mechanics of hearings will be dealt with below.

The Commission's review has suggested a structural change in the rules for the sake of clarity. The material in §§ 201.11 and 201.12 dealing with hearings will be consolidated into a new § 201.13. Material currently in § 201.13 regarding appearance as a party will be reorganized and renumbered as § 201.11. The material in § 201.12(i) dealing with requests will become § 201.12. The remainder of this discussion will adopt this codification.

To avoid consusion about terminology and to be consistent with the practice in courts, the term "appearance" will be used in connection with the right to be a party in an investigation. A "participation," then, would refer to hearings exclusively. The notices would be entitled "notice of participation" for hearings and "entry of appearance" for purposes of seeking party status.

Several comments addressed the deadline for filing entries of appearance. One comment stated that it is unduly restrictive, especially in cases under section 201 (the escape clause) and section 22 of the Agricultural Adjustment Act, and recommended that each entry of appearance be filed at least five days before the first brief is due.

If the only purpose of the entry were to prepare the service list, the Commission would agree with the comment. However, the earlier the notice is filed, the earlier the party may begin meaningful particiation and the earlier the Commission may be able to identify those persons with an interest in the investigation. Thus, the earlier the entries are filed, for example, the earlier the Commission may be able to locate persons with information relevant to the investigation. The Commission may, by identifying parties early, give them a change to discuss data collection with the staff and even participate in the field testing of questionnaires. Therefore, the better approach is to require entries of appearance at a relatively early stage of the investigation. Therefore, § 201.11(b) is amended to require that entries of appearance be filed no later than twenty-one (seven days in the case of a preliminary antidumping or countervailing duty investigation) after the date of publication of the Commission's notice of investigation in the **Federal Register**.

One comment suggested that entries of appearance be filed at least one day in advance of the prehearing conference so that the service list can be distributed at the conference. In view of the decision set forth in the preceding paragraph, there is no need to consider this suggestion.

Several comments addressed perceived deficiencies in definitions when discussing § 201.13. One comment suggested that the term "person" be defined and another suggested that the definition in § 210.4 would be adequate. The Commission agrees and, therefore, has determined that § 210.4(d) be redesignated § 201.2(j).

One comment recommended that there be a time limit for the determination of whether the person submitting the entry of appearance has a proper interest. The Commission intends that this be done expeditiously so that no time limit is needed. The comment further recommends that the person submitting the entry be entitled to presume that such interest has been found if the person is not notified to the contrary. The Commission agrees and § 201.11(a) is amended accordingly. In any event, the Commission expects that denials of entries of appearance will be infrequent.

One comment suggested that § 201.11(c) be amended to provide that if an entry of appearance filed after the deadline is accepted, the service list should be amended and redistributed. This a useful suggestion and § 201.11(c) is so amended.

Hearings

The Commission proposed that, to eliminate ambiguity, the material regarding hearings in § 201.13 be revised and relocated in § 201.12(d). It is also proposed to state explicitly that the presiding officials determine who may appear at the hearing. In cases where persons other than parties wish to appear, the Chairman could decide whether a sufficient showing of interest has been made. In certain cases—the appearance of Members of Congress, representatives of other Government agencies, and interested parties—this sufficient interest should be presumed. No comments were received rearding this proposal.

Upon further review, the Commission determined that the material originally proposed regarding witness lists should be placed in a subsection of its own. This is now § 201.13(b). The provisions for supplementary material are now codified in § 201.13(d).

In addition, the deadline for filing notices of participation in a hearing is amended to require that they be filed at least two business days in advance of the day set for the preliminary conference, if one is held, or three days in advance of the hearing itself, whichever occurs first. Witness lists must be filed simultaneously.

In view of the definition of "party" adopted above, the Commission has adopted several changes dealing with posthearing briefs, codified at § 201.13(i). This permits all parties to file briefs. In addition, short statements for the record may be accepted from

persons who are not parties to the investigation.

In addition, the provisions for posthearing briefs in § 207.24 are amended to limit the right to file briefs to the parties.

Recommendation by the Director of Operations

The Commission proposed to amend § 207.16, which currently requires that the Director of Operations make a recommendation to the Commission in preliminary antidumping and countervailing duty investigations. The proposed revision would direct the Director of Operations to prepare a written summary of the information and arguments submitted by parties in the course of a preliminary investigation and at the conference, if one is held.

One comment addressed this proposal. It urged that the summary of information and arguments be served on the parties to permit them "to avail themselves of any extraordinary procedures available to them in the event that they believe that a party's position has been mis-stated." As a practical matter, this suggestion is ill-founded.

By the time the summary is prepared, each active party would have available the briefs of the parties, and the arguments and testimony at the conference. As such, each party should be fully informed of the positions taken by others during the course of the investigation. Thus, the only potential problem in the summary would be one of mischaracterization of a position.

Even where mischaracterization occurs, a remedy already exists. Under recodified § 201.12, any party to a nonadjudicative investigation may request particular action with respect to any aspect of an investigation at any time.

Nevertheless, the Commission has determined to withdraw the proposal and instead eliminate the section. The General Counsel currently prepares a summary of the briefs of the parties and the staff report represents a summary of the information gathered during the investigation. Finally, the transcript of the conference is part of the record and available to the Commission. Since the parties raise the issues which they perceive as important in their briefs, a summarization of those arguments at the conference would be redundant. Therefore, the current text of § 207.16 is eliminated and the section is reserved for future use.

Service of Determinations

It was proposed that §§ 207.16 and 207.28 be amended to require that the Secretary "serve" all parties with copies of Commission actions. No comments were received regarding this proposal.

Protective Order; In-House Counsel

Section 777(b) of the Tariff Act of 1930 (19 U.S.C. 1677f(b)) provides that information submitted to the Commission in confidence may not be released by the Commission without the consent of the submitter. Subsection (c), however, permits the release of confidential business information under protective order, and authorizes the Commission to establish such requirements as it may determine by regulation to be appropriate to control such disclosure. Pursuant to this authority, the Commission promulgated § 207.7. This section has functioned very well, except for the extensive criticism of the provision which prohibits the disclosure of confidential information to in-house counsel.

Beginning shortly after its initial promulgation, this limitation was criticized by law departments of many corporations and the corporate law divisions of several bar associations. These comments stated that all attorneys, whether employed by corporations or by law firms, are members of the bar, and all are subject the highest standards of professional ethics and responsibility. Failure to meet such standards may subject an attorney to investigation and, perhaps, disciplinary proceedings by the appropriate licensing authorities. Failure to abide by the provisions of the protective order would clearly be grounds for instituting disciplinary investigations.

Other comments, however, argued that the ethics and responsibility of in-house counsel (henceforth referred to as corporate counsel) is really not the issue. It is not whether corporate counsel are less trustworthy than other counsel, but rather that the very fact that they are employed full time by their client lends itself to potential for misuse of information. Corporate counsel meet regularly with personnel of the corporation on day-to-day matters and may—however inadvertently—use confidential business information received under protective order in a context other than antidumping or countervailing duty investigations. Once these attorneys have this sensitive information, the comments continued, it is difficult to understand how they could avoid using this acquired knowledge in other contexts. For example, as noted by one comment, it is certainly foreseeable that a corporate attorney, after receiving a competitor's pricing information in the course of an antidumping investigation, would be consulted about the employer's pricing decisions. Such counsel could not credibly claim that the information disclosed under protective order would have no bearing on the advice he renders. One comment noted that the potential sanctions for disclosure of confidential information by corporate counsel "would not as surely jeopardize their careers as would their inability to be fully responsive to the interests of their employer."

Although the Commission has found these comments on the professional responsibility and trustworthiness of corporate counsel to be very persuasive, the Commission is convinced that the real issue is the ability of corporate counsel to segregate their knowledge of sensitive business information obtained under protective order and use it only in antidumping or countervailing duty investigations.

In addition, the comments pointed out another potential defect in the in-house counsel provision. Specifically, the provision restricts access to confidential business information on the basis of the employment status of the attorney, not on the basis of the functions actually performed by that attorney. As a result of all these comments and considerations, the Commission began a search for a workable alternative. If a formula can be found which meets the objections set forth below better than the current provisions, the Commission does not believe that the current restriction should be retained.

In a notice published on August 27, 1980, 45 FR 57148, the Commission proposed a different standard for release of information under protective order: Disclosure would be to those counsel, whether corporate or retained, who do not advise "operating departments" of the client corporation.

This proposal was criticized as vague and unworkable, since the term "operating departments" does not provide any meaningful guidance, and there would be inevitable disputes over what constitutes an "operating department." This argument and the examples offered in some of the comments were persuasive and the Commission began a search for other alternatives. The search culminated in the Commission's notice of May 28, 1981, 46 FR 28673, in which the Commission set forth four alternative methods of dealing with the release of confidential business information. The Commission requested comments on all four alternatives, and the comments received on them will be discussed in detail below.

One comment must be noted before analyzing the alternatives. That

comment argued that it is fundamentally unfair to limit disclosure of confidential business information to attorneys and not permit disclosure to economists. However, if an attorney misuses the information under protective order, that attorney may be subject to disciplinary action by a licensing bar association. Since no such disciplinary proceedings exist for economists, and since there is no effective sanction against an economist who misuses confidential information, the Commission does not believe that economists or other nonattorneys should be given access to confidential business information under protective order.

In addition, the Commission notes that the more generally used term for those attorneys who are employed full time on the staff of the client corporation is "corporate counsel." This term is preferable to the term "in-house counsel" and the Commission will use it henceforth.

In the Commission's original proposal, access to information is limited to attorneys for interested parties. In whatever formulation may be ultimately adopted, this provision will be retained.

As stated in the May 28 notice, consideration of alternate approaches to the release of information under protective order must be carried out in light of several objectives:

1. To enable the Commission to gather confidential business information needed in the course of an investigation;
2. To protect scrupulously that confidentiality;
3. To encourage the voluntary submission of such information;
4. In light of the time limits imposed by statutes, to establish a rule that is self-executing; and
5. To insure that persons who have access to the information will not, even inadvertently, permit confidential information to be made available to their clients.

Two additional goals, which have become apparent in the course of analysis of the comments, should be added to that list:

6. To permit release of information under protective order so that counsel may use the information to focus better the Commission's attention on the factual issues involved in each investigation; and
7. To avoid time-consuming disputes about the release of information under protective order in each individual investigation.

Obviously, several of these goals are in conflict. For example, significant information may not be voluntarily provided by the officials of a corporation if they believe that such information will find its way into the hands of their competitors. Therefore, the Commission must balance the competing objectives and attempt to arrive at that formulation which achieves these goals better than any other formulation. Unfortunately, the task is difficult and does not lend itself to mathematical precision.

In its notice of May 28, the Commission published four alternatives. A fifth alternative was submitted by the Department of Justice during the comment period. This alternative will be denominated Alternative E for purposes of discussion. This notice will summarize and analyze the comments on each alternative published in the May 28 notice. We will discuss each alternative in order, even though many of the comments received addressed the strengths and weaknesses of one proposal in terms of another.

Alternative A. This is the Commission's present proposal. It would permit access to confidential information under protective by an attorney, whether corporate counsel or retained counsel, who certifies under oath to the Commission that he or she does not participate in the determination of the price of his client's products nor give advice regarding the pricing of his client's products.

Several comments generally approved this alternative. Some comments approved the approach since it is based on attorney functions, rather than on the attorney's employment status. Several comments noted that by restricting access as proposed, there should be little chilling effect on the voluntary submission of information.

A number of comments opposed this alternative. In those comments tending to favor Alternative B, Alternative A was critized on the grounds that it is very difficult, in practice, to separate the functions of legal advisor from the functions of corporate officials. Moreover, it would be impossible to ask someone who has received confidential business information for use in one proceeding, to not let that information influence him or her in future corporate matters. In fact, one comment noted that the use of a certification process as proposed would not keep the person who has access to such information from using it in the future. One comment noted that the certificate is not sufficient assurance that the information will be kept in confidence and, therefore, that the alternative is not self-policing.

A number of the comments which favored Alternatives C or D argued that Alternative A is, in reality, nothing more a restatement of the current barrier to access by corporate counsel. These comments argued that almost all corporate counsel give advice on matters which may be considered as being related to the determination of prices or the pricing of products. Several of these comments noted, for example, that many corporate counsel, in their routine duties, give advice to their clients regarding antitrust issues, issues arising under the Robinson-Patman Act, and issues arising under sales-below-cost statutes in several states. The comments point out that giving advice on these issues necessarily entails giving price-related advice. Alternative A would, therefore, bar even those attorneys who give what is considered to be traditional legal advice in the area of pricing.

Several comments argued that Alternative A is not a clear, unambiguous formulation, that it is not self-executing. These comments note that there is no definition given to "pricing" advice so that, as suggested by one comment, there could be frequent disputes as to whether a particular corporate counsel's practice involves pricing matters.

Several of the comments favoring Alternative A also noted these difficulties, and suggested that it could be amended to eliminate or diminish the extent of these problems. The comments suggest that traditional legal advice on prices (for example, giving anti-trust advice) not be a bar to access of information. Specifically, the comments suggest that the reference to giving advice either be eliminated, or in the alternative, be revised to read "does not give advice other than legal advice regarding the pricing of his client's products." Another comment suggested that the problem could be met by redrafting the phrase to read ". . . the pricing of his client's products (other than general advice on anti-trust matters, without knowledge of or involvement in the setting of specific prices)."

Either formulation is certainly preferable to the current proposal. The Commission also agrees with the suggestion that there is a need to extend the prohibition of using confidential business information for a specified time into the future. However, since conditions in each industry, and for that matter, in each plant, may vary, there is no practical alternative to determining this temporal limitation on an ad hoc basis. Unfortunately, if the proposal is amended to require such an ad hoc determination, it loses the advantage of being self-executing. It also invites disputes about the duration of the prohibition.

The comments have convinced the Commission that the basic approach in Alternative A is flawed, in light of the objectives set forth above. Although it attempts to distinguish between attorneys on the basis of function rather than employment, the distinction is not clear. The comments received, both those favoring and those opposing the proposal, lead the Commission to believe that, no matter how carefully drafted, it is not possible to provide a bright-line distinction on the basis of attorney function. There would be inevitable disputes on whether particular advice is of the type envisioned in the rule as barring disclosure. Requiring the Commission to rule on such matters would be time-consuming and would defeat the self-executing nature of the proposal.

In fact, limiting access under a protective order to a corporate counsel if he only gives traditional antitrust advice does not appear to encourage voluntary submission. It is hard to foresee a corporation voluntarily submitting information that could ultimately be used in the formulation of a competitor's antitrust policies and pricing decisions in a manner that could adversely affect the competitive position of the submitter.

Therefore, it is apparent that Alternative A is not a clear and concise formulation. Alternative A will not provide a bright-line distinction, i.e., it will not be self-executing. It will inevitably lead to disputes, and it may discourage the voluntary submission of confidential information. For these reasons, Alternative A is withdrawn from consideration.

Alternative B. Under this alternative, there would be no change in current practice, that is, corporate counsel would be barred from access to confidential business information under protective order.

A number of comments preferred Alternative B to the other three published alternatives. The central theme running through these comments is that permitting corporate counsel access to confidential information greatly increases the chances the information may be disclosed to the client. Several comments argued that it is humanly impossible to compartmentalize information; that once the information is available to an attorney, that attorney could not keep from using that information in other contexts. Several comments argued that only Alternative B provides a bright-line distinction and, therefore, is self-executing.

Several comments noted a recent decision by the Court of International Trade, the court which reviews the Commission's actions. That court has recently discussed its concern for the problems relating to disclosure of information in language which would seem to favor Alternative B.

> The Court is of the opinion that in actions such as these the confidential business information of business competitors should not be disclosed to in-house counsel unless a party has no other reasonable way of adequately preparing its arguments. This preference is not based on any reservation as to the integrity of in-house counsel but is intended to avoid placing them under the unnatural and unremitting strain of having to exercise constant self-censorship in their normal working relationship. *Atlantic Sugar, Ltd., et al.* v. *United States*, C.R.D. 80-81, October 21, 1980.

One comment noted that Alternatives A and B may have an anti-competitive and potentially inflationary impact. To the extent that corporate counsel would be precluded from access, there would be no incentive for law firms to make their services more attractive in terms of cost, quality, efficiency, and other competitive factors. This argument is not convincing. Since there is a growing number of law firms which represent the various parties to antidumping and countervailing duty investigations, we have no doubt that these firms compete effectively for these clients.

Several comments argued that Alternative B does not concord with practice in the federal courts, where protective orders are fashioned in each case according to the facts and circumstances. This argument is not convincing for two reasons. First, even though it may be argued that antidumping and countervailing duty investigations are in some senses adversarial proceedings, the Commission is not required to follow practice in federal courts. Second, the statutory deadlines for investigations preclude the kinds of consideration which enter into the formulation of protective orders in court.

Other comments noted that Alternative B precludes those lawyers who are most familiar with the client's operations and, therefore, those who would be most able to aid the Commission.

On balance, the Commission believes that Alternative B is still preferable to any other, even though it works a disadvantage against a distinguished segment of the bar. Moreover, Alternative B follows the practice in the Court of International Trade, and that Court's views must be given great weight. Finally, this formulation creates a bright-line distinction, is self-executing, precludes disputes about the activities of the attorney, and does not discourage the voluntary submission of information.

Alternative C. This alternative would eliminate the phrase "except in-house counsel" from § 207.7, so that any attorney, regardless of affiliation or employment status, could have access to confidential information under protective order.

A number of comments stated their general preference for Alternative C. Several of them incorporated by reference their previous comments opposing the restrictions against corporate counsel. In addition to the comments made previously, several new arguments regarding Alternative C were brought forward.

One comment stated that Alternative C would impose the least administrative burden on the Commission. Another comment stated that the sworn statement required under paragraph (b) provides full protection for confidential information. The comment argued that an attorney whose role was such that he could not avoid using the information for other purposes could not in good faith make such a statement. Thus, the burden of decision would be on the lawyer seeking access, who is in a better position than any other person to assess the risks of potential disclosure. The comment went on to note that additional conditions may be required by the Secretary before releasing information under protective order, and that this provides the Commission adequate flexiblity to respond appropriately to those cases which may offer too great a potential for abuse.

Most of the comments received in support of Alternative B opposed Alternative C. Obviously, those arguments which tend to favor Alternative B would oppose Alternative C, and vice versa. Significantly, several comments noted that under Alternative C, those attorneys most familiar with the client's operations could be involved in the investigation, to the benefit of the Commission.

To the extent that Alternative C would provide no administrative burden to the Commission it is like Alternative B, since both alternatives are self-executing. Unlike Alternative B, however, we believe that there is an opportunity for inadvertent misuse of information—even if no misuse is intended—when the information is provided to corporate counsel. The Commission agrees with those comments which have argued that it is impossible to segregate information in the human mind. The Commission also agrees with those comments which have

argued that there may be a chilling effect on the submission of confidential business information if there is a chance that such information may become the basis for corporate decisions of a submitter's competitors. Finally, to the extent that this alternative would permit the participation of those attorneys most familiar with the client's operations, Alternative B would uniformly deny access to those same attorneys, so that no class of corporations would be favored by either rule.

On balance, the Commission believes that the disadvantages of Alternative C outweigh its advantages and has withdrawn this alternative from consideration.

Alternative D. This alternative, suggested by a written submission on behalf of numerous corporate counsel, would permit access by any attorney, unless objected to by a submitter of information. Under Alternative D, the person resisting disclosure would need to make a clear showing of a particular competitive injury resulting from disclosure, in which case the Commission could impose additional conditions upon disclosure.

Several comments which supported Alternative C also support Alternative D, although preferring Alternative C. Several comments noted that Alternative D would be in accord with practice in the federal courts. One comment argued that it provides visible reassuring procedures for submitters of information to use where they believe that the information could be improperly used. Another comment noted that Alternative D would give the Commission a chance to focus on the particular harm foreseen from disclosure, thus permitting a determination based on the likelihood of harm, rather than some categorization of attorneys.

Several comments, however, opposed Alternate D. Some argued that Alternate D is really a variant of Alternate C. These comments stated that a person opposing disclosure would have a very difficult, if not impossible, burden of demonstrating whatever is necessary to prevent disclosure. One comment noted that, in a practical sense, the only objection to release would be based on lack of integrity of the requesting attorney. Another comment noted that should such a showing be made, there can be no denial of access of information, only additional conditions placed upon disclosure.

Several comments noted that the proposal is not a model of simplicity and would be cumbersome in operation. One comment noted that use of these procedures would inevitably delay the release of information so that objections would become routine in order to delay release past a time of meaningful disclosure. Another comment argued that Alternate D is not in accord with the practice in federal courts.

The Commission finds these objections to Alternate D persuasive. The Commission is concerned that Alternative D may be unworkable because it is not self-executing. More importantly, the Commission is convinced that the burden on the person objecting to release of the information is impossible to meet and would, therefore, provide no real protection. Moreover, since release of information would not be precluded under the alternative, there would clearly be a chilling effect on the voluntary submission of information needed for an investigation. Finally, the proposed rule is not self-executing and each objection would require Commission consideration of the potential competitive harm. As mentioned in connection with Alternative A, the Commission foresees inevitable time-consuming disputes. Therefore, the Commission has determined to withdraw this alternative.

Alternative E. This proposal was submitted by the Department of Justice during the comment period. Although the Department approves the goal of a self-executing rule, it believes that an *ad hoc* approach would better address the problems associated with a rule on access to confidential information. The Justice Department proposed

> that the ITC adopt a rule placing the burden on the party requesting access to information to demonstrate why the particular requesting counsel needs to obtain the confidential data and to provide a statement setting out the reasons why there is no risk that the data will be used, intentionally or unintentionally, in an anti-competitive manner.

Alternatively, the Department of Justice suggested that the Commission

> could require each party requesting access to confidential information to submit a factual statement setting forth the requestor's particular need for access, the relationship between the requesting party and the corporation, and the reasons why access to confidential information would not place the requester in a position of having to exercise constant self-censorship when performing other functions for the firm. The ITC would then automatically provide the information under protective order unless opposed by an interested person within a reasonably short period.

In the Department's proposal, the burden is upon the requester, not the submitter, and the question is more one of need for information rather than one of potential harm from its release. Although this is preferable to Alternative D, since the requester presumably knows specifically why the information is needed, this proposal also invites disputes which the Commission must resolve. Even if the dispute has no substantive merit, the inherent delay caused by the dispute may mean that the information could not be released in time to be meaningful to the requester, especially in the case of preliminary investigations. The proposal invites argument about what constitutes "need" and how much of a showing of need is required to sustain a request for release under protective order. To this extent, the proposal has the same inherent defects as Alternative A and is therefore withdrawn.

Conclusion. In light of the analysis above, the Commission finds that there is no apparent viable alternative to the current rule. Even though each of the alternatives considered has certain merits, on balance the present restriction best encourages voluntary submission of information, discourages disputes over release of information, and provides a bright-line, self-executing standard. Therefore, the Commission has determined that the current restriction will be retained, except that the phrase "in-house counsel" will be replaced by the phrase "corporate counsel."

The specific rule changes follow.

By order of the Commission.

Issued: February 3, 1982.

Kenneth R. Mason,

Secretary.

PART 201—RULES OF GENERAL APPLICATION

1. Section 201.2 is amended by adding paragraph (h) to read as follows:

§ 201.2 Definitions.

* * * * *

(h) Except for adjudicative investigations under subchapter C of this chapter, "party" means any person who has filed a complaint or petition on the basis of which an investigation has been instituted, or any person whose entry of appearance has been accepted pursuant to § 201.11 (a) or (c).

2. In § 201.8, paragraph (d) is revised to read as follows:

§ 201.8 Filing of documents.

* * * * *

(d) *Number of copies.* Except as provided in § 210.10(a), a signed original and fourteen (14) copies of each document shall be filed. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed,

in which the confidential business information shall have been deleted and which shall have been marked conspicuously "nonconfidential" or "public inspection." The name of the person signing the original shall be typewritten or otherwise reproduced on each copy.

* * * * *

3. Section 201.11 is revised to read as follows:

§ 201.11 Appearance in an investigation as a party.

(a) *Who may appear as a party.* Any interested person may appear in an investigation as a party, either in person or by representative, by filing an entry of appearance with the Secretary. Each entry of appearance shall (1) state briefly the nature of the person's interest in the subject matter of the investigation and (2) state the person's intent to file briefs with the Commission regarding the subject matter of the investigation. Each entry of appearance shall be forwarded to the Chairman or other person designated to conduct the investigation, who shall promptly determine whether the person submitting the entry of appearance has a proper interest in the investigation. If it is found that a person does not have a proper interest in the investigation, that person shall be so notified by the Secretary and shall not be entitled to appear in the investigation as a party. A person found to have a proper interest in the investigation shall be entitled to appear in the investigation as a party. In the absence of a contrary notification by the Secretary, a person submitting an entry of appearance shall be entitled to presume that he is entitled to appear in the investigation as a party.

(b) *Time for filing.* Each entry of appearance shall be filed with the Secretary not later than twenty-one (21) days after publication of the Commission's notice of investigation in the **Federal Register.** In the case of preliminary antidumping and countervailing duty investigations, each entry of appearance shall be filed with the Secretary not later than seven (7) days after publication of the Commission's notice of investigation in the **Federal Register.**

(c) *Late filing.* Any entry of appearance filed with the Secretary after the filing date established in paragraph (b) of this section shall be referred to the Chairman, who shall promptly determine whether to accept such entry for good cause shown by the person desiring to file the notice. The Secretary shall promptly notify the submitter of the decision.

(d) *Service list.* Upon the expiration of the time for filing notices of appearance established in paragraph (b) of this section, the Secretary shall prepare a service list. The service list shall contain the names and addresses of all persons, or their representatives, who are parties to the investigation pursuant to § 201.2(i) and paragraph (a) of this section. Upon the acceptance of a late entry of appearance pursuant to paragraph (c) of this section, the Secretary shall amend the service list to include the name and address of the person whose notice has been accepted and shall promptly forward such notice to all parties to the investigation.

4. Section 201.12 is revised to read as follows:

§ 201.12 Requests.

Any party to a nonadjudicative investigation may request the Commission to take particular action with respect to that investigation. Such requests shall be by letter adressed to the Secretary, shall be placed by him in the record, and shall be served on all other parties. The Commission shall take such action or make such response as it deems appropriate.

5. Section 201.13 is revised to read as follows:

§ 201.13 Conduct of nonadjudicative hearings.

(a) *In general.* Public hearings are held by the Commission when required by law or, if not required by law, when in the judgment of the Commission there is good and sufficient reason therefor. Public hearings will be held at the time and place specified in notices issued under § 201.10. Public hearings are ordinarily held in the Hearing Room of the International Trade Commission Building, in Washington, D.C., but may be held elsewhere at the Commission's discretion.

(b) *Presiding officials*—(1) *Who presides.* Public hearings or conferences in nonadjudicative investigations will be conducted by the Commission or by one or more Commissioners. When the Commission deems it necessary, such hearings will be conducted by one or more designated employees. In all cases the transcript of the testimony at a hearing will be presented for the consideration of the Commission.

(2) *Powers and duties.* The Commission, one or more of the Commissioners, or one or more designated employees shall have all the powers to conduct fair and impartial hearings, to take necessary action to avoid delay in the disposition of proceedings, including the prescription of time allocated to testimony, argument, and questioning, to regulate the course of hearings and the conduct of the parties and their counsel therein, and to maintain order.

(c) *Participation in a hearing*—(1) *Who may participate.* A party may participate in the hearing, either in person or by representative. A nonparty who has testimony or arguments that may aid the Commission's deliberations may also participate, under such conditions as may be established by the presiding officials at the hearing.

(2) *Notices of participation.* Notices of participation in a hearing shall be filed with the Secretary at least three (3) days in advance of the date set for the hearing or two (2) business days in advance of the date set in the notice of investigation for a preliminary conference, whichever shall first occur, except that the presiding officials may waive this requirement for good cause. Witnesses on behalf of persons filing notices of participation need not file separate notices.

(d) *Witness list.* Each person who files a notice of participation pursuant to paragraph (c) of this section shall simultaneously file with the Secretary a list of the witnesses he intends to call at the hearing.

(e) *Order of the testimony.* Unless otherwise ordered by the presiding officials, witnesses will give testimony in the order designated by the Secretary to the Commission. Each witness, after being duly sworn, will be permitted to proceed with his or her testimony without interruption except by presiding officials.

(f) *Supplementary material.* Up to five double-spaced pages of supplementary material, other than remarks read into the record, will be accepted for the record. Supplementary material exceeding five pages may be accepted upon a showing of such cause as may be deemed sufficient by the presiding officials. As used herein, the term "supplementary material" refers to (1) additional graphic material such as charts and diagrams used to illuminate an argument or clarify a position and (2) information not available to a party at the time its prehearing brief was filed.

(g) *Questioning of witnesses.* After completing testimony, a witness may be questioned by any member of the Commission or by its staff. Any participant may, with the permission of the presiding officials, direct questions to the witness, but only for the purpose of assisting the Commission in obtaining relevant and material facts with respect to the subject matter of the investigation.

(h) *Oral argument.* When, in the opinion of the presiding officials, time permits and the nature of the proceedings and the complexity or importance of the questions of fact or law involved warrant, the presiding officials may allow oral argument after conclusion of the testimony in a hearing. The presiding officials will determine in each instance the time to be allowed for argument and the allocation thereof.

(i) *Briefs*—(1) *Parties.* Briefs of the information produced at the hearing and arguments thereon may be presented to the Commission by parties to the investigation. Unless otherwise ordered, fourteen (14) clear copies shall be filed with the Secretary to the Commission. Time to be allowed for submission of briefs will be set after conclusion of testimony and oral argument, if any.

(2) *Nonparties.* Any person who is not a party to an investigation may submit a short statement for the record regarding the subject matter of an investigation.

(j) *Verification of testimony.* Oral or written information submitted at hearings will, upon order of the Commission, be subject to verification from books, papers, and records of the persons submitting the information and from any other available sources.

(k) *Hearing transcripts.* A verbatim transcript of all hearings will be taken. The Commission does not distribute transcripts of the records of such hearings. Any person may inspect the transcript of a hearing at the Commission's office in Washington, D.C., or purchase it from the official reporter.

6. In § 201.16, paragraph (b) is amended by adding subparagraphs (3) and (4) and paragraph (c) is revised to read as follows:

§ 201.16 Service of process and other documents.

* * * * *

(b) *By a party other than the Commission.* * * * (3) When service is by mail, it is complete upon mailing of the document.

(4) When service is by mail, it shall be by first class mail, postage prepaid. In the event the addressee is outside the United States, service shall be by first class airmail, postage prepaid.

(c) *Proof of service; certificate.* (1) Each document filed with the Commission in the course of an investigation as provided in § 210.8 shall be served on each other party of record to the investigation.

(2) Each document served by a party shall include a certificate of service, setting forth the manner and date of such service. The certificate of service shall be deemed proof of service of the document. In the event a document is not accompanied by a certificate of service, the Secretary shall not accept such document for filing and shall promptly notify the submitter.

* * * * *

PART 207—INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OR FROM SUBSIDIZED EXPORTS TO THE UNITED STATES

§ 207.2 [Amended]

7. In § 207.2, paragraph (i) is removed and paragraph (j) is redesignated as paragraph (i).

8. In § 207.7, paragraph (a) is revised to read as follows:

§ 207.7 Limited disclosure of certain confidential information under a protective order.

(a) Upon request of an attorney for an interested party to the investigation, excepting corporate counsel, which (1) describes with particularity the information requested, (2) sets forth the reasons for the request, (3) demonstrates a substantial need for the information in the preparation of his case, and (4) demonstrates that he is unable without undue hardship to obtain the substantial equivalent of the information by other means, the Secretary will make available confidential information concerning the domestic price and cost of production of the like product submitted by the petitioner or by an interested party in support of the petitioner to such attorney under a protective order described in paragraph (b).

* * * * *

9. Section 207.10 is revised to read as follows:

§ 207.10 Filing of petition with the Commission.

(a) *Filing of the petition.* Any interested party who files a petition with the administering authority pursuant to section 702(b)(1) or 732(b)(1) of the Act shall, in accordance with section 702(b)(2) or 732(b)(2) of the Act, file copies of the petition, pursuant to § 201.8, with the Secretary on the same day the petition is filed with the administering authority. If the petition complies with the provisions of § 207.11, it will be deemed to be properly filed on the date on which the requisite number of copies of the petition is received by the Secretary. The Secretary shall notify the administering authority of that date.

(b) *Service of the petition.* A copy of the petition, or a nonconfidential version thereof, shall be served on those persons enumerated in 19 CFR 353.36 (a)(6) and (a)(11) or in 19 CFR 355.26 (a)(6) and (a)(10), as appropriate. Such service shall be attested by a certificate of service as required in § 201.16(b)(c).

10. In § 207.15, the first sentence is revised to read as follows:

§ 207.15 Written briefs and conference.

Any person may submit to the Commission on or before a date specified in the notice of investigation issued pursuant to § 207.12 a written brief containing information and arguments pertinent to the subject matter of the investigation. * * *

11. Part 207 is amended by removing § 207.16.

12. In § 207.18 the first sentence is revised to read as follows:

§ 207.18 Notice of preliminary determination.

The Secretary shall serve copies of the Commission's preliminary determination under section 703(a) or 733(a) of the Act and of the facts and conclusions of law upon which the determination is based on the petitioner, other parties to the investigation, and the administering authority. The Secretary shall publish a notice of such determination in the **Federal Register.**

* * * * *

13. Section 207.20 is revised to read as follows:

§ 207.20 Institution of investigation; notice.

(a) Notice from the administering authority of an affirmative preliminary determination under section 703(b) or 733(b) of the Act and notice from the administering authority of an affirmative final determination under sections 705(a) or 735(a) of the Act shall be deemed to occur on the date on which the transmittal letter of such determination is received by the Secretary from the administering authority or the date on which notice of such determination is published in the **Federal Register,** whichever shall first occur.

(b) Upon receipt of notice from the administering authority of an affirmative preliminary determination under section 703(b) or section 733(b) of the Act or, if the administering authority's preliminary determination is negative, notice of an affirmative final determination under section 705(a) or section 735(a) of the Act, the Commission shall publish in the **Federal Register** notice of its investigation to reach a final determination under section 705(b) or section 735(b) of the Act. Upon receipt by the Commission of

notice from the administering authority of its final negative determination under section 705(a) or section 735(a) of the Act, the corresponding Commission investigation shall be terminated.

14. In § 207.22, the introductory text is revised to read as follows:

§ 207.22 Prehearing brief.

Within ten (10) days after the date of service of the public portion of the staff report by the Commission to the parties, each party may submit to the Commission a prehearing brief. A prehearing brief shall, to the extent possible, refer to the record and shall include:

* * * * *

15. In § 207.23, paragraph (b) is revised to read as follows:

§ 207.23 Hearing.

* * * * *

(b) *Procedures.* Any such hearing shall be conducted after notice published in the **Federal Register**. The hearing shall not be subject to the provisions of subchapter II, chapter 5, title 5, United States Code, or to section 702 of that title. Each party shall limit its presentation at the hearing to a nonconfidential summary of the information and arguments contained in its prehearing brief, a nonconfidential analysis of the information and arguments contained in the prehearing briefs required by § 207.22, and information not available at the time its prehearing brief was filed.

* * * * *

16. Section 207.24 is revised to read as follows:

§ 207.24 Posthearing briefs.

Any party may file a posthearing brief concerning the information adduced at the hearing with the Secretary within a time specified by the presiding officials at the hearing, provided that no such posthearing brief shall exceed ten (10) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this rule.

17. Section 207.28 is revised to read as follows:

§ 207.28 Publication of notice of determination.

Whenever the Commission makes a final determination under section 306 or title VII of the Act, the Secretary shall serve copies of the determination and the facts and conclusions of law upon which the determination is based on the petitioner, other parties to the investigation, and the administering authority. The Secretary shall publish notice of such determination in the **Federal Register**.

PART 210—ADJUDICATIVE PROCEEDINGS

§ 210.4 [Amended]

18. Section 210.4(d) is redesignated as § 201.2(i).

19. In § 210.10, paragraph (a) is revised to read as follows:

§ 210.10 Commencement of proceedings.

(a) *Upon receipt of complaint.* A proceeding is commenced by filing with the Secretary to the Commission the original and fourteen (14) true copies of a complaint, plus one copy for each person named in the complaint as violating section 337 of the Tariff Act.

* * * * *

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federal register

Wednesday
February 10, 1982

Part IV

Office of Management and Budget

Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the impoundment control Act of 1974, I herewith report twenty-two rescission proposals of fiscal year 1982 funds totaling $10,655 million.

In addition, I am reporting revisions to seven deferrals previously reported, which increase the amount deferred by $768 million, as well as 14 new deferrals of funds totaling $2,334 million.

The rescission proposals affect International Development Assistance programs, and programs in the Departments of Agriculture, Commerce, Education, Energy, Housing and Urban Development, Labor, and Transportation as well as the Institute of Museum Services.

The deferrals affect International Security Assistance programs, and programs in the Departments of Agriculture, Commerce, Defense, Energy, Interior, Justice, Labor, State, and Transportation as well as the District of Columbia, the Pennsylvania Avenue Development Corporation, the Small Business Administration and the United States Railway Association.

The details of each rescission proposal and deferral are contained in the attached reports.

Ronald Reagan.

THE WHITE HOUSE,

February 5, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Funds Appropriated to the President	
	International Development Assistance	
R82-4	Functional development assistance program	8,129
R82-5	Sahel development program	2,500
	Department of Agriculture	
	Extension Service	
R82-6	Extension service	2,000
	Department of Commerce	
	National Oceanic and Atmospheric Administration	
R82-7	Coastal zone management	12,000
R82-8	Coastal energy impact fund	7,000
	Department of Education	
	Office of Elementary and Secondary Education	
R82-9	Compensatory education for the disadvantaged	411,933
R82-10	Special programs and populations	65,600
R82-11	Indian education	6,255
	Office of Special Education and Rehabilitative Services	
R82-12	Education for the handicapped	258,572
R82-13	Rehabilitation services and handicapped research	91,171
	Office of Vocational and Adult Education	
R82-14	Vocational and adult education	105,741
	Office of Postsecondary Education	
R82-15	Student financial assistance	141,500
R82-16	Higher and continuing education	42,739
	Office of Educational Research and Improvement	
R82-17	Libraries	22,110
	Departmental Management	
R82-18	Educational, research and training activities overseas (Special foreign currency program)	80
	Office of Bilingual Education and Minority Languages Affairs	
R82-19	Bilingual education	11,504
	Department of Energy	
	Energy Programs	
R82-20	Energy conservation	20,000
	Department of Housing and Urban Development	
	Housing Programs	
R82-21	Subsidized housing programs	9,399,789
	Solar Energy and Energy Conservation Bank	
R82-22	Assistance for solar and conservation improvements	21,850
	Department of Labor	
	Mine Safety and Health Administration	
R82-23	Salaries and expenses	4,095
	Department of Transportation	
	Federal Highway Administration	
R82-24	Highway-related safety grants	9,623
	Other Independent Agencies	
	National Foundation on the Arts and the Humanities	
	Institute of Museum Services	
R82-25	Program operations	10,877
	Subtotal, rescission proposals	10,635,068

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
	Appalachian Regional Development Programs	
D82-1B	Appalachian regional development programs	13,000
	International Security Assistance	
D82-222	Foreign military sales credit	580,000
D82-223	Military assistance	129,512
	Department of Agriculture	
	Farmers Home Administration	
D82-224	Rural housing for domestic farm labor	10,728
	Department of Commerce	
	Bureau of the Census	
D82-225	Periodic censuses and programs	1,015
	Minority Business Development Agency	
D82-226	Minority business development	5,000
	Department of Defense-Military	
	Office of the Secretary	
	Military Construction	
D82-6B	Military construction-all services	767,723
D82-227	Procurement	
	Shipbuilding and conversion, Navy	1,275,000
	Department of Energy	
	Energy Programs	
D82-228	Energy supply research and development activities, operating expenses	4,000
D82-10A	Strategic petroleum reserve	60,860
	Department of the Interior	
	National Park Service	
D82-14A	Land and water conservation fund	30,000
	Bureau of Mines	
D82-16A	Drainage of anthracite mines	991
	Department of Justice	
	Federal Prison System	
D82-17A	Buildings and facilities	3,700

Deferral #	Item	Budget Authority
	Department of Labor	
	Employment and Training Administration	
D82-229	Employment and training assistance.....	88,543
	Department of State	
D82-230	United States bilateral science and technology agreements.....	1,000
	Department of Transportation	
	Maritime Administration	
D82-231	Ship construction.....	10,000
	Other Independent Agencies	
	District of Columbia	
D82-232	Loans to the District of Columbia for capital outlay.....	38,832
	Pennsylvania Avenue Development Corporation	
D82-25A	Land aquisition and development fund.....	20,896
	Small Business Administration	
D82-233	Business and loan investment fund.....	2,500
D82-234	Surety bond guarantees revolving fund.....	3,000
	United States Railway Association	
D82-235	Payments for purchase of Conrail securities.....	84,500
	Subtotal, deferrals.....3,231,800	
	Total, rescission proposals and deferrals.13,886,868	

Summary of Special Messages for FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Eighth special message		
New items.....	10,655,068	2,333,630
Changes to amounts previously submitted.....	---	767,645
Effect of eighth special message..	10,655,068	3,101,275
Previous special messages.....	108,700	4,709,417
Total amount proposed in special messages.....	10,763,768	7,810,692

Rescission Proposal No: R82-4

R82-4

PROPOSED RESCISSION OF BUDGET

Rescission Proposal No: R82-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. ____) $ ____
Bureau: International Development Assistance	Other budgetary resources $8,440,175
Appropriation title & symbol: Functional Development Assistance Program: 11X1023 Food and Nutrition; 11X1025 Education & Human Resources	Total budgetary resources $8,440,175
	Amount proposed for rescission $8,128,550
OMB identification code: 11-1021-0-1-151	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☑ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☑ No-year	Type of budget authority: ☑ Appropriation ☐ Contract authority ☐ Other ____

Justification:

The Agency for International Development's functional development assistance program provides economic resources to developing countries with the aim of bringing the benefits of development to the poor. In 1981, AID identified $28 million of prior-year and current funds for development projects which had not accomplished their objectives, and subsequently deobligated these funds. The Administration proposes that the Congress rescind $8.1 million of no-year funds deobligated, since they are no longer necessary.

Estimated Effects:

This rescission action would reduce budget authority of AID's functional development assistance program by $8.1 million.

Outlay Effect: (in millions of dollars)

1982 Outlay Estimate Without Rescission	1982 Outlay Estimate With Rescission	Outlay Savings 1982	1983	1984	1985
1,098	1,096	*	2	3	3

* Less than $500 thousand.

R82-4

FUNDS APPROPRIATED TO THE PRESIDENT
International Development Assistance
Functional Development Assistance Program

Of the funds provided for "Functional development assistance program", $8,128,550 are rescinded.

Rescission Proposal No: R82-5

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 97-121): $93,757,500
Bureau: International Development Assistance	Other budgetary resources: 2,420,959
Appropriation title & symbol: Sahel Development Program 11X1012	Total budgetary resources: 96,178,459
	Amount proposed for rescission: $2,500,000
OMB identification code: 11-1012-0-1-151	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The African Development Foundation was established in 1981 to promote social and economic development. The Foreign Assistance and Related Programs Appropriation Act, 1982 (P.L. 97-121) earmarked $2.0 million of funds appropriated for the Sahel development program to be used for the Foundation. In addition, the act changed the availability of $500 thousand in unobligated balances available as of September 30, 1981. These funds, which had been previously earmarked for the African Development Foundation in 1981, were made available until expended.

The Administration proposes that Congress rescind the full amount of earmarked funds for the Foundation. The President's 1983 budget does not contain funds for the Foundation in 1983.

Estimated Effects:

This rescission action would reduce budget authority of the Sahel program by $2.5 million in 1982 and would not provide funds for the African Development Foundation programs.

Outlay Effect: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
70	67.5	2.5	--	--	--

R82-5

FUNDS APPROPRIATED TO THE PRESIDENT

International Development Assistance

Sahel Development Program

The funds provided under the Foreign Assistance and Related Programs Appropriation Act, 1982 (P.L. 97-121) for the African Development Foundation ($2,500,000) are rescinded.

Rescission Proposal No: R82-6

R82-6

Rescission Proposal No: R82-6

R82-6

DEPARTMENT OF AGRICULTURE

Extension Service

Of the funds provided for "Payments for cooperative extension work under the Renewable Resources Extension Act of 1978" for fiscal year 1982 in P.L. 97-103, $2 million are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-103): $315,702,000
Bureau: Extension Service	Other budgetary resources: 7,500,000
Appropriation title & symbol: Extension Service 1220502	Total budgetary resources: 323,202,000
	Amount proposed for rescission: $ 2,000,000
MB identification code: 12-0502-0-1-352	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Extension Service, in cooperation with State Land-Grant Institutions, conducts a number of outreach programs. Most are financed under the Smith-Lever Act, as well as from State resources. The Congress, in appropriating Extension Service funds for fiscal 1982, included $2 million specifically for new programs authorized under the Renewable Resources Act of 1978 similar to those already in place. A rescission is proposed for the $2 million provided to implement this new categorical program. Existing resources made available by the federal government through cooperative arrangements with the States are sufficient to assure the continuation of outreach programs while permitting the States to set their own service priorities.

Estimated Effects: This rescission proposal would have no programmatic effects because activities under the Renewable Resources Act have not yet been initiated and no funds are requested for fiscal 1983.

Outlay Effect: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
312.2	310.4	1.8	.2	--	--

Rescission Proposal No: R82- 7

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-92) $ 3,740,000
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources* $43,535,126
Appropriation title & symbol: Coastal Zone Management 13X1451	Total budgetary resources $47,275,126
	Amount proposed for rescission $12,000,000
OMB Identification Code: 13-1451-0-1-302	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation
Type of account or fund: ☐ Annual ☐ Multiple-year (Expiration date) ☒ No-Year	☐ Contract authority ☐ Other

Justification: The Coastal Zone Management Program was authorized to make grants (called program administration grants) in support of ongoing State and territorial coastal zone management activities under section 306 of the Coastal Zone Management Act (as amended). A total of 26 states covering 87% of the nation's coastline have received assistance for the past eight years. In accordance with the President's program for economic recovery, a rescission is proposed for $12 million of the $33 million in prior year unexpended balances transferred into this account in 1981 to begin phasing out the Coastal Zone Management Program. The Department intends to work with each affected grant recipient to ease the transition from Federal support to State support of coastal zone management.

Estimated Effects: The proposed rescission would reduce federal spending in fiscal 1983 without impairing the orderly phaseout of the Coastal Zone Management Program.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
45	45	---	12	---	---

R82-7

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coastal Zone Management

Of the funds provided under this head in P.L. 97-12, making appropriations for the Department of Commerce, $12,000,000 are rescinded.

Rescission Proposal No: R82-8

R82-8

Rescission Proposal No: 82-8

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L.) $
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources $ 19,686,954
Appropriation title & symbol: Coastal Energy Impact Fund 13X4319	Total budgetary resources $ 19,686,954
	Amount proposed for rescission $ 7,000,000
OMB Identification Code: 13-4319-0-3-452	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation
Type of account or fund: ☐ Annual ☐ Multiple-year (Expiration date) ☒ No-Year	☐ Contract authority ☐ Other

Justification:

The Coastal Energy Impact Fund was authorized by Section 308 of the Coastal Zone Management Act (as amended). The program provides financial assistance to States and localities to help mitigate the socio-economic and environmental impact of coastal energy development activities.

In accordance with the President's program for economic recovery, a rescission is proposed for $7 million in the Fund. The impact of coastal oil and gas developments has not proven to be as extensive as anticipated and the development which has occurred can be dealt with by the affected States and localities.

Estimated Effects:

The proposed rescission would reduce federal spending without significantly hampering the States' ability to address the impact of offshore oil and gas activities.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
37	37	---	4	2	1

82-8

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coastal Energy Impact Fund

Of the funds provided under this head in P.L. 95-86, making appropriations for the Department of Commerce, $7,000,000 are rescinded.

Rescission Proposal No: R82-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92): $2,892,980,000 1/
Bureau: Office of Elementary and Secondary Education	Other budgetary resources:
Appropriation title & symbol: Compensatory Education for the Disadvantaged 91209 912/30900	Total budgetary resources: 2,892,980,000
	Amount proposed for rescission: $411,933,000 2/
OMB identification code: 91-0900-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Grants for the Disadvantaged: Authorized under Title I of the Elementary and Secondary Education Act, the programs under this activity make financial assistance available to local educational agencies and State agencies which provide supplementary compensatory education assistance to disadvantaged students. ($411,569,000 to be rescinded)

Migrant Education: The programs under this activity award grants to colleges and universities to: (1) provide education services to low-income migrant and seasonal farmworkers to help them gain a high school diploma or equivalency certificate and (2) offer special services such as tutoring and counseling as well as stipends to migrant students in their first year of college. ($364,000 to be rescinded)

Funds are proposed for rescission under these programs to reduce government spending as part of the President's economic recovery program.

Estimated Effects: The proposed rescission would result in a decline of about 4% to 6% in the number of students served by the Title I and Migrant Education program depending on the program. The federal share of the per pupil contribution would also decrease by approximately 10%.

Outlay Effect: (in million of dollars)

1982 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
3,007	2,978	29	330	45	8

1/ This represents the annual amount expected to become available. Of this amount, $3,576,000 is available from October 1, 1981 through March 31, 1982.
2/ The entire amount, $411,933,000 is attributable to the period April 1, 1982 through September 30, 1982.

R82-9

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Compensatory Education for the Disadvantaged

Notwithstanding the provisions of section 514(a)(2) of the Omnibus Education Reconciliation Act of 1981, $411,569,000 of the amount provided for chapter 1, section 555(d) of the Education Consolidation and Improvement Act of 1981 and for title I, parts A and B of the Elementary and Secondary Education Act of 1965 and $364,000 provided for section 418 of the Higher Education Act under "Compensatory Education for the Disadvantaged" for fiscal year 1982 in any Public Law subsequent to Public Law 97-92 providing appropriations for fiscal year 1982 beyond March 31, 1982, are rescinded: Provided, That of the amounts remaining, $5,760,000 shall be available for purposes of section 555(d) of the Education Consolidation and Improvement Act of 1981 to provide technical assistance and evaluate programs authorized under title I of the Elementary and Secondary Education Act of 1965: Provided further, That of the amounts remaining for title I, parts A and B of the Elementary and Secondary Education Act of 1965, no funds shall be used for the purposes of section 117 of such Act, $202,752,000 shall be for the purposes of subpart 1 of such part B, $116,160,000 shall be used for the purposes of subpart 2 of such part B, and $26,976,000 shall be for the purposes of subpart 3 of such part B, and any reductions required thereby shall be proportionate among the State, local educational agencies, outlying areas, and the Secretary of the Interior: Provided further, That notwithstanding the provisions of section 554(a)(1), section 554(a)(2)(D), and section 554(b)(1)(C) of the Education Consolidation and Improvement Act of 1981 and sections 111(a), 157, and 193 of the Elementary and Secondary Education Act of 1965, the proportional reductions for each State, local educational agency, outlying area, and the Secretary of the Interior shall be based upon the amount allocated to each such entity in the previous year under Public Law 97-12 for the purposes of subpart 1 of part A and subparts 1, 2, and 3 of part B of the Elementary and Secondary Education Act of 1965.

Rescission Proposal No: R82-10

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Education	New budget authority (P.L. 97-92) $ 536,880,000 1/
Bureau Office of Elementary and Secondary Education	Other budgetary resources —
Appropriation title & symbol	Total budgetary resources 536,880,000
Special Programs and Populations 9121000 and 912/31000	Amount proposed for rescission $ 65,600,000 2/
OMB identification code: 91-1000-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:

The Special Programs and Populations account supports the Block Grant for Improving School Programs and a number of categorical programs, including Women's Educational Equity, Follow Through, Training and Advisory Services, General Aid to the Virgin Islands, Territorial Teacher Training, Career Education, Law-Related Education, Biomedical Sciences, and Ellender Fellowships.

The Department of Education proposes to rescind all funding except the block grant and part of the Ellender fellowships. States and Outlying Areas may use their block grant awards to support the activities authorized in the separate categorical programs. All funds provided by Public Law 97-92 not already obligated for Ellender Fellowships are also proposed for rescission. These rescissions are proposed to reduce government spending as part of the President's economic recovery program and to simplify program administration and funding.

1/ This represents the annual amount expected to become available. Of this amount, $35,316,000 is available from October 1, 1981, through March 31, 1982.

2/ Of this amount, $33,495,200 are attributable to the period October 1, 1981, through March 31, 1982, and $32,104,800 for the period April 1, 1982, through September 30, 1982.

R82-10

Estimated Effects:

This rescission proposal would result in reductions in the number of new awards made and in the number of teachers and students participating in the various programs and projects. Continued support for most individual activities would be at the discretion of the States through their block grants.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
38.6	34.0	4.6	41.8	19.2	--

R82-10

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Special Programs and Populations

Of the funds provided for "Special Programs and Populations" for fiscal year 1982 in P.L. 97-92, making further continuing appropriations for the fiscal year 1982, $33,495,200 are rescinded, and in any subsequent Public Law providing appropriations for fiscal 1982 beyond March 31, 1982, $32,104,800 are rescinded. Appropriations rescinded are as follows: $960,000 from title III, part G and $2,880,000 from title III, part L of the Elementary & Secondary Education Act; $9,600,000 from the Career Education Incentive Act; $5,760,000 from title IX, part C of the Elementary & Secondary Education Act; $19,440,000 from the Follow Through Act; $24,000,000 from title IV of the Civil Rights Act of 1964; $1,920,000 from section 1524 and $960,000 from section 1525 of the Education Amendments of 1978; and, $80,000 from Public Law 92-506.

Rescission Proposal No: R82-11

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-100): $ 77,852,000
Bureau: Office of Elementary and Secondary Education	Other budgetary resources: —
Appropriation title & symbol: Indian Education 9120101	Total budgetary resources: 77,852,000
	Amount proposed for rescission: $ 6,255,000
OMB identification code: 91-0101-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation funds activities authorized under the Indian Education Act, P.L. 92-318. These programs support the special educational and culturally-related academic needs of Indian children and adults. With the exception of the Program Administration activity, amounts are proposed for rescission as part of the President's program for economic recovery.

Estimated Effects:

Programs funded under Parts A, B, and C of the Indian Education Act are affected by this rescission proposal. Part A is reduced by $4.58 million, Part B is reduced by $1.24 million and Part C is reduced by $.44 million. It is estimated that under Part A the per pupil expenditure will decrease from $167 to $159; that under Part B about 520 fewer students will be served and 15 fewer fellowships will be awarded; and under Part C, 1,171 fewer adults will participate and 211 fewer high school equivalency certificates will earned.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
73.5	71.5	2.0	3.4	0.8	—

DEPARTMENT OF EDUCATION

Rescission Proposal No: R 82- 12

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Indian Education

Of the funds appropriated for "Indian Education" under Public Law 97-100, making appropriations for the Department of the Interior and Related Agencies, 1982, $4,580,000 are rescinded for part A, $1,240,000 are rescinded for part B, and $435,000 are rescinded for part C of the Indian Education Act.

Rescission Proposal No: R 82-12

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92): $1,042,080,000 1/
Bureau: Office of Special Education and Rehabilitative Services	Other budgetary resources: 6,806,070
Appropriation title & symbol: Education for the Handicapped 9120300 912/30300 911/20300	Total budgetary resources: 1,048,886,070
	Amount proposed for rescission: $ 258,572,000 2/
OMB identification code: 91-0300-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual September 30,1982 ☒ Multiple-year September 30,1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Education for the Handicapped program provides partial support for the education of handicapped children by awarding assistance grants to States based on the number of handicapped children served in each State, age 3 through 21 years old.

This rescission proposal for the State grants program is made to reduce government spending as part of the President's economic recovery program.

Estimated Effects: This rescission proposal would result in a reduction in the average Federal payment for about 4,000,000 handicapped children from $233 to $168 per child.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
1,273.1	1,265.3	7.8	186.2	64.6	---

1/ This represents the annual amount expected to become available. Of this amount, $51,390,000 is available from October 1, 1981 through March 31, 1982..

2/ The entire amount proposed for rescission is attributable to funding expected to be available from April 1, 1982 through September 30, 1982.

R82-12

DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Education For the Handicapped

Of the funds provided for "Education for the Handicapped" for fiscal year 1982 in any Public Law subsequent to Public Law 97-92 providing appropriations for fiscal 1982 beyond March 31, 1982, $758,574,000 are rescinded from amounts available for section 611 of the Education of the Handicapped Act: Provided, that notwithstanding any other provision of law, funds available for section 611 of the Act shall become available for obligation on July 1, 1982, and shall remain available until September 30, 1983.

Rescission Proposal No: R82-13

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92): $952,171,000 1/
Bureau: Office of Special Education and Rehabilitative Services	Other budgetary resources: 1,352,579
Appropriation title & symbol: Rehabilitation Services and Handicapped Research 91X0301 91X0301	Total budgetary resources: 953,523,579
	Amount proposed for rescission: $91,171,000 2/
OMB Identification code: 91-0301-0-1-500	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other:
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other:

Justification: The Rehabilitation Services basic State grant program provides funding to State vocational rehabilitation agencies to assist physically and mentally handicapped individuals to become gainfully employed. A wide range of services is provided to assist these individuals to gain or return to employment. This rescission proposal is made to reduce government spending as part of the President's economic recovery program.

Estimated Effect: This rescission proposal will result in a 10% reduction in the number of persons participating in the basic State grant program.

Outlay Effect:

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
879.8	802.3	77.5	13.7	—	—

R82-13

R82-13

1/ This represents the annual amount expected to become available. Of this amount, $485,807,210 is available from October 1, 1981 through March 31, 1982.

2/ Of this amount, $46,497,210 is attributable to the period October 1, 1981 through March 31, 1981, and $44,673,790 for the period April 1, 1982 through September 30, 1982.

RS2-13

DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Rehabilitation Services and Handicapped Research

Of the funds provided for "Rehabilitation Services and Handicapped Research" for fiscal year 1982 in P.L. 97-92, making further continuing appropriations for the fiscal year 1982 $46,497,210 are rescinded, and in any subsequent Public Law providing appropriations for fiscal 1982 beyond March 31, 1982, $44,673,790 are rescinded. Appropriations rescinded are from amounts available for allotments under section 100(b)(1) of the Rehabilitation Act of 1973.

Rescission Proposal No: R82-14

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92___): $732,505,000 1/
Bureau: Office of Vocational and Adult Education	Other budgetary resources: 99,167,731
Appropriation title & symbol: Vocational and Adult Education 912/30400 911/20400 91X0400	Total budgetary resources: 831,834,186
	Amount proposed for rescission: $105,741,000 2/
OMB identification code: 91-0400-5-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1982 September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Vocational education basic grants - This program provides grants to States and Outlying Areas to extend, improve, and maintain vocational education training for persons who need or desire such training. ($102,361,000 to be rescinded.)

Vocational education program improvement and supportive services - To encourage innovation, improve quality and support developmental efforts in vocational education, this program awards grants to States and Outlying Areas. ($1,460,000 to be rescinded.)

Adult education grants to States - To assist the States and Outlying Areas in reducing illiteracy among the Nation's adults 16 years of age and older, formula grants are awarded to support programs that assist educationally disadvantaged adults in developing the skills they need to function in society. ($1,920,000 to be rescinded.)

Funds are proposed for rescission under these programs to reduce government spending as part of the President's economic recovery program.

Estimated Effect: The effect of this rescission on individuals served will depend on how the States and localities -- which spend $11 for every $1 federal dollar in vocational education -- decide to reallocate resources.

Outlay Effects:

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
1,199.9	1,162.9	37.0	51.7	14.9	2.1

1/ This represents the annual amount expected to become available. Of this amount, no funds are available from October 1, 1981 through March 31, 1982.
2/ The entire amount is attributable to the period April 1, 1982 through September 30, 1982.

R82-14

DEPARTMENT OF EDUCATION

OFFICE OF VOCATIONAL AND ADULT EDUCATION

Vocational and Adult Education

Of the amount provided for fiscal year 1982 under section 102 of the Vocational Education Act of 1963, as amended, $103,821,000 are rescinded (of which $102,361,000 are for activities under part A, subpart 2 of the Act and $1,460,000 are for activities under part A, subpart 3 of the Act) and the amount available under section 102 shall be expended without regard to section 103(a) of that Act. Of the amount provided for the Adult Education Act for fiscal year 1982, $1,920,000 are rescinded.

Rescission Proposal No: R82-15

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92): $3,352,480,000 1/
Bureau: Office of Postsecondary Education	Other budgetary resources: 1,255,041,000
Appropriation title & symbol: Student Financial Assistance 912/30200 911/20200	Total budgetary resources: 4,607,521,000
	Amount proposed for rescission: $ 141,500,000 2/
OMB identification code: 91-0200-5-1-502	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1982 / September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The following funds are proposed for rescission: $91,360,000 from Pell Grants; $44,000,000 from College Work-Study; and $6,140,000 from State student incentive grants. This represents a 4 percent reduction from the total budget authority provided for Student Financial Assistance. This rescission proposal is made to reduce government spending as part of the President's program for economic recovery.

Estimated Effects: This rescission proposal would reduce the Pell Grant program by $91,360,000 resulting in a flat decrease of $80 in each award. This action provides for an effective maximum grant of $1,720. The number of recipients would remain unchanged.

The $44,000,000 rescission in College Work-Study, will reduce the 950,000 awards by 70,000 or about 7%.

The rescission in State student incentive grants for $6,140,000 will reduce the 307,000 awards matched by Federal funds by 14,300 or about 5%.

Outlay Effects:

(in millions of dollars)	1982 Outlay Estimate: Without Rescission	1982 Outlay Estimate: With Rescission	Outlay Savings: 1982	1983	1984	1985
	3,521.1	3,499.1	22.0	116.4	3.1	---

1/ This represents the annual amount expected to become available. Of this amount, $1,709,764,800 is available from October 1, 1981 through March 31, 1982.

2/ The entire amount proposed for rescission is attributable for the period April 1, 1982 through September 30, 1982.

DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Student Financial Assistance

Of the funds provided for "Student Financial Assistance" for fiscal year 1982 in any Public Law subsequent to Public Law 97-92 providing appropriations for fiscal 1982 beyond March 31, 1982, $91,360,000 of the amount appropriated for title IV, part A, subpart 1, $44,000,000 of the amount appropriated for title IV, part C, and $6,140,000 of the amount appropriated for title IV, part A, subpart 3 of the Higher Education Act are rescinded. For carrying out subparts 1,2 and 3 of part A, and parts C and E of title IV of the Higher Education Act, there are appropriated $3,210,980,000, which shall remain available until September 30, 1983: Provided, That amounts appropriated for Pell Grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for Pell Grants published by the Secretary of Education for the 1981-1982 academic year: Provided further, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for Pell Grants which exceed the amounts required to meet the payment schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated for the next fiscal year: Provided further, That notwithstanding section 489 of the Higher Education Act, no funds provided herein to carry out subpart 1 of part A of title IV of the Higher Education Act shall be available to pay institutions for administrative expenses, except that the Secretary may pay institutions from funds appropriated to carry out subpart 1 of part A of title IV of the Higher Education Act up to $2 per Pell Grant recipient to carry out such verification of information on Pell Grant applications as the Secretary may prescribe: Provided further, That notwithstanding section 411(a)(2)(A)(i)(II) of the Higher Education Act, eligibility for a Pell Grant in academic year 1982-1983 shall be based on a maximum grant of $1,800: Provided further, That notwithstanding section 482(d) of the Higher Education Act, the cost of attendance used for calculating eligibility for and amount of Pell Grants shall be established by the Secretary of Education: Provided further, That notwithstanding section 482 of the Higher Education Act, the Secretary shall use for the Pell Grant program for academic year 1982-1983, the family contribution schedule for the Pell Grant program published in the Federal Register on January 6, 1982: Provided further, That notwithstanding sections 411(b)(3)(B)(ii) and (iv) of the Higher Education Act, if funds appropriated herein for Pell Grants are insufficient to pay the amounts set forth in section 411(b)(3)(B)(i), the Secretary shall:

DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Student Financial Assistance

(1) determine each student's scheduled Pell Grant award (the amount a full-time student would receive for a full academic year after taking into account his entitlement under section 411(b)(3)(B)(i) and his cost of attendance under section 411(a)(2)(B)(i));

(2) reduce the student's scheduled Pell Grant award by the the amount by which the sum of his scheduled Pell Grant award, expected family contribution, payments received under chapters 34 and 35 of title 38 of the United States Code and Social Security payments received that he would not have otherwise received if he were not a student, exceeds his cost of attendance;

(3) calculate the student's award taking into account the full-time or part-time nature of the student's enrollment; and

(4) reduce the student's award by $50:

Provided further, That the Secretary of Education may establish or approve separate systems of need analysis for academic year 1982-1983, without regard to the provisions of paragraphs (4), (5), and (6) of section 482 of the Higher Education Act, for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act: Provided further, That notwithstanding the provisions of title IV, part E of the Higher Education Act and title II of the National Defense Education Act, the Secretary of Education shall use as much of the amount provided for title IV, part E of the Higher Education Act as is necessary to make cancellation payments under section 465 of the Higher Education Act and section 208 of the National Defense Education Act: Provided further, That notwithstanding section 463(a)(5) of the Higher Education Act, any sums collected by the Secretary on National Direct Student Loans, after the assignment of such loans to the Secretary, may be used for purposes of the National Direct Student Loan program.

Regulation Proposal No:

R82-16

Rescission Proposal No: R82-16

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	Perm. approp. (Sec. Morrill Act) 2,800,000
Bureau: Office of Postsecondary Education	New budget authority (P.L. 97-92) $372,156,000 1/
Appropriation title & symbol: Higher and Continuing Education 91-20201, 91-X0201	Other budgetary resources 6,638,696
	Total budgetary resources 381,594,696
	Amount proposed for rescission $42,739,000 2/
OMB identification code: 91-0201-0-1-502	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☒ No-year (Indefinite)	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation includes 14 separate activities which provide financial assistance for a wide variety of postsecondary educational programs. A total of $42,739,000 is proposed for rescission under this account:

—New budget authority of $37,372,000 is proposed for rescission: $2,800,000 is permanent authority for Aid to Land-Grant Colleges, $9,880,000 for Special Programs for the Disadvantaged, $4,800,000 for Veterans' Cost of Instruction, $400,000 for Minority Institutions Science Improvement, $10,132,000 for Cooperative Education, $4,240,000 for the Domestic International Education programs, $2,160,000 for the Overseas International Education Programs, $1,920,000 for Public Service Fellowships, $80,000 for Legal Training for the Disadvantaged, and $960,000 for Law School Clinical Experience.

—In addition, $5,367,000 in unobligated balances is proposed for rescission under the Law Enforcement Education Program (LEEP). This program has already been phased out and the balance exists only because of excess funds that have reverted back to the Federal government from the institutions. The Administration is requesting that any funds that become available under LEEP be rescinded. The total amount rescinded may differ from the estimate included here depending upon the balance adjustments that occur.

This rescission proposal is made to reduce government spending as part of the President's economic recovery program.

R82-16

Estimated Effects: The results of this rescission proposal will be to reduce the number of new grant awards made to institutions and individuals. The programmatic impact will vary depending upon the size of the respective reductions and the availability of alternative financial support.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
402.7*	396.6	6.1	29.0	2.3	--

* The 1982 outlays are reflected in the 1983 Budget Appendix under the following accounts:

Foundation for Education Assistance, Higher and Continuing Education...	$347.9
National Science Foundation, Research and Related Activities, Minority Institutions Science Improvement...	$ 3.9
Department of the Treasury, Higher Education Facilities Loans and Insurance, Construction Interest Subsidy Grants...	$ 28.4
International Communication Agency, Educational Research and Training Activities, Language and Area Centers and Fellowships, and Overseas Programs...	$ 22.1
TOTAL	$402.7

1/ This represents the annual amount expected to become available. Of this amount, $189,799,840 is available from October 1, 1981 through March 31, 1982.

2/ Of this amount, $10,932,000 is attributable to the period October 1, 1981 through March 31, 1982, and $31,807,000 for the period April 1, 1982 through September 30, 1982.

R82-16

DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Higher and Continuing Education

Of the funds provided for "Higher and Continuing Education" for fiscal year 1982 in P.L. 97-92, making further continuing appropriations for the fiscal year 1982 $8,132,000 are rescinded, and in any subsequent Public Law providing appropriations for fiscal 1982 beyond March 31, 1982, $26,440,000 are rescinded. Appropriations rescinded are as follows: $34,572,000 of the amount available for title VI, part A, title VIII, title IX, part B for public service fellowships, part D, and part E, and sections 417 and 420 of the Higher Education Act, section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, and section 406A(2) of General Education Provisions Act (20 U.S.C. 1221d-1b(2)). In addition, $2,800,000 in permanent budget authority made available for fiscal year 1982 pursuant to the Act of March 4, 1907 (7 U.S.C. 322); and, such sums as may become available as unobligated balances for the law enforcement education program under section 705 of the Justice system improvement Act, are rescinded.

Rescission Proposal No: R82-17

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Education	New budget authority (P.L. 97-92) $ 80,080,000 [1]
Bureau Office of Educational Research and Improvement	Other budgetary resources ---
Appropriation title & symbol: Libraries 9120104	Total budgetary resources 80,080,000
	Amount proposed for rescission $ 22,110,000 [2]
OMB identification code: 91-0104-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This program provides grants to States to encourage and assist them in the development of public library services, as well as assistance to college and research libraries for the acquisition of books and other published material.

It is felt that State and local governments should assume greater responsibility for the provision of public library services, in view of the fact that about 96 percent of the population now has access to such services. Many years of Federal funding and provision of technical assistance have improved the capability of the States to extend services to the underserved. Consequently, a rescission of $18,750,000 is proposed for this activity.

Resource sharing has become the cornerstone of cost-saving efforts at both the State and local levels; exemplary interlibrary linkages and networks put in place largely through the use of Federal seed money should now serve as models for future development of inter-library cooperation by the States in other regions. This rescission proposal will, if enacted, reduce interlibrary cooperation by $960,000.

The $1,920,000 proposed for rescission in the College Library Resources program would terminate the program. In the absence of authority to base the awards on need, nearly every institution of higher education receives funds under this program. The anticipated average award of $738 in 1982 represents an insignificant supplement to the library budgets of most institutions.

R82-17

For the Research Libraries program, $480,000 is proposed for rescission. It is felt that private sources of funds are available to supplant these funds.

This rescission proposal is made to reduce government spending as part of the President's program for economic recovery.

Estimated Effects: This rescission proposal would reduce the amount of federal funds and number of awards to public, college, and research libraries. The impact of services provided will depend upon the extent to which non-federal support is provided by other governmental, private, and institutional sources.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
92.3	87.3	5.0	6.6	5.6	1.3

1/ This represents the annual amount expected to become available. Of this amount $40,175,200 is available from October 1, 1981 through March 31, 1982.

2/ Of this amount, $10,052,100 is attributable to the period October 1, 1981 through March 31, 1982, and $12,087,900 for the period April 1, 1982 through September 30, 1982.

DEPARTMENT OF EDUCATION

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Libraries

Of the funds provided for "Libraries" for fiscal year 1982 in P.L. 97-92, making further continuing appropriations for the fiscal year 1982 $11,031,300 are rescinded, and in any subsequent Public Law providing appropriations for fiscal 1982 beyond March 31, 1982, $11,078,700 are rescinded. Appropriations rescinded are as follows: $18,750,000 of the amount provided for title I and $960,000 of the amount provided for title III of the Library Services and Construction Act, $1,920,000 of the amount provided for title II, part A and $480,000 of the amount provided for title II, part C of the Higher Education Act.

Rescission Proposal No: R82-18

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92): $ 960,000 1/
Bureau: Departmental Management	Other budgetary resources: 3,849,252
Appropriation title & symbol: Educational, Research and Training Activities Overseas (Special foreign currency program) 91X0802	Total budgetary resources: 4,809,252
	Amount proposed for rescission: $ 80,000 2/
OMB identification code: 91-0802-0-1-500	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year (Indefinite)	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This program provides grants for research and study overseas in order to increase and improve knowledge of foreign languages and world areas, especially those not commonly taught in U.S. schools. This rescission proposal is made to reduce government spending as part of the President's program for economic recovery.

Estimated Effects: The rescission proposal of $80,000 would eliminate funding for two of the 16 group projects abroad which provide training for college and university faculty, elementary and secondary school teachers, and other U.S. education personnel abroad.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings				
Without Rescission	With Rescission	1982	1983	1984	1985	1986
1.22	1.21	.01	.05	.02	---	---

1/ This represents the annual amount expected to become available. Of this amount, $489,600 is available from October 1, 1981 through March 31, 1982.
2/ Of this amount, no funds are attributable to the period October 1, 1981 through March 31, 1982. The entire $80,000 is attributable to the period April 1, 1982 through September 30, 1982.

R82-18

DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Educational Research & Training Activities Overseas

Of the funds provided for "Educational Research & Training Activities Overseas" for fiscal year 1982 in any Public Law subsequent to Public Law 97-92 providing appropriations for fiscal 1982 beyond March 31, 1982, $80,000 are rescinded.

Rescission Proposal No: R82-19

R82-19

Rescission Proposal No: R82-19

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Education	New budget authority (P.L. 97-92): $138,057,000 1/
Bureau: Office of Bilingual Education and Minority Language Affairs	Other budgetary resources: —
Appropriation title & symbol: Bilingual Education 9121300 912/31300	Total budgetary resources: 138,057,000
	Amount proposed for rescission: $11,504,000 2/
OMB identification code: 91-1300-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year, September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Bilingual Education Program provides grants and contracts to school districts and educational units to encourage the development and implementation of bilingual programs for children with limited English proficiency. This rescission proposal is made to reduce government spending as part of the President's program for economic recovery.

Estimate Effect: Activities will be ratably reduced by less than 9 percent as a consequence of the proposed rescission. The total number of students served in Bilingual education will be reduced by approximately 120. In Bilingual vocational training the reduction of $307,000 will result in serving about 136 fewer students.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1981	1983	1984	1985
151.9	151.5	0.4	8.6	2.5	--

1/ This represents the annual amount expected to become available. Of this amount, $68,529,210 is available from October 1, 1981 through March 31, 1982.

2/ The entire amount proposed for rescission, $11,504,000, is attributable to the period April 1, 1982 through September 30, 1982.

R82-19

DEPARTMENT OF EDUCATION

OFFICE OF BILINGUAL EDUCATION

Bilingual Education

Of the funds provided for "Bilingual Education" for fiscal year 1982 in any Public Law subsequent to Public Law 97-92 providing appropriations for fiscal 1982 beyond March 31, 1982, $11,504,000 are rescinded, of which $11,197,000 are for activities under title VII of the Elementary and Secondary Education Act and $307,000 are for activities under part B, subpart 3 of the Vocational Education Act.

Rescission Proposal No: R82-20

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 97-100) $ 145,400,000
Bureau Energy Programs	Other budgetary resources 310,015,294
Appropriation title & symbol: Energy Conservation 89X0215	Total budgetary resources 455,415,294
	Amount proposed for rescission $ 20,000,000
OMB identification code: 89-0215-0-1-999	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☒ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Grants to States for the development of State plans under the Federal Standby Gasoline Rationing Program have been terminated because of the Administration's policy to rely on market forces to allocate gasoline in case of petroleum supply disruptions. Unobligated balances of $5,663,000 appropriated for this program are no longer needed.

In addition, grants to State and local governments to mitigate the adverse consequences of energy resource development under the Energy Impact Assistance Program are being terminated. State and local government should be responsible for assuring that private developers pay sufficient taxes to cover the cost of public services required to support such resource development. Unobligated balances of $14,337,000 appropriated for this program are no longer needed.

Estimated Effects: The effect of this rescission proposal would be to terminate grants to State and local governments under the Energy Impact Assistance Program and to eliminate unneeded funding for the terminated Standby Gasoline Rationing Program.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
345	328	17	3	---	---

Department of Energy

Energy Conservation

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1981 (Public Law 96-514) and the Department of Interior and Related Agencies Appropriation Act, 1980 (P.L. 96-126) are rescinded in the amount of $20,000,000.

Rescission Proposal No: R82-21

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 97-100) $ 145,400,000
Bureau Energy Programs	Other budgetary resources 310,015,294
Appropriation title & symbol: Energy Conservation 89X0215	Total budgetary resources 455,415,294
	Amount proposed for rescission $ 5,663,000
OMB identification code: 89-0215-0-1-999	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☒ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Grants to States for the development of State plans under the Federal Standby Gasoline Rationing Program have been terminated because of the Administration's policy to rely on market forces to allocate gasoline in case of petroleum supply disruptions. Unobligated balances of $5,663,000 appropriated for this program are no longer needed.

In addition, grants to State and local governments to mitigate the adverse consequences of energy resource development under the Energy Impact Assistance Program are being terminated. State and local government should be responsible for assuring that private developers pay sufficient taxes to cover the cost of public services required to support such resource development. Unobligated balances of $14,337,000 appropriated for this program are no longer needed.

Estimated Effects:

R82-21

Rescission Proposal No: R82-21

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Housing and Urban Development	New budget authority (P.L. 97-101) $17,371,928,040
Bureau: Housing Programs	Other budgetary resources 9,952,324,561
Appropriation title & symbol: Subsidized Housing Programs 86X0139	Total budgetary resources 27,325,852,601
	Amount proposed for rescission $9,399,789,165
CMS identification code: 86-0139-0-1-604	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other

Justification:

This account provides budget authority to enter into long-term subsidy contracts for the Lower Income Housing Assistance Payments program (Section 8), the public housing production program and the public housing modernization program. These programs are executed in part through grants to State and local housing authorities.

Budget authority totaling $9,399,789,165 is proposed for rescission in FY 1982. The rescission is proposed because the amount of budgetary resources currently available for obligation under the HUD subsidized housing programs is in excess of anticipated requirements. In addition to the Congressional appropriation of $17.4 billion for FY 1982, deobligations of authority from prior years as well as excess budget authority carried over from 1981 will total almost $10 billion in 1982, bringing resources available in this account to $27.3 billion.

The Administration now proposes to commit subsidized housing budget resources in 1982 under an overall program which will make much greater usage of the Section 8 existing program than initially planned. The Administration now proposes to commit $1.8 billion in support of public housing modernization in 1982 and to fund about 23,000 new Section 8 and public housing units, including nearly 17,000 units supported by the Section 202 housing for the elderly and handicapped loan fund. The proposed 1982 program would also support new contractual commitments for 192,000 units of Section 8 existing housing, with 178,000 of these units to be reserved for the conversion to Section 8 of the rent supplement and rental assistance payments programs, which are now economically unviable.

Estimated Effects:

The proposed rescission will have no effect upon the almost 3.4 million households currently living in HUD subsidized housing, nor will this rescission affect the expected completion in 1982 of another 147,500 units currently under construction.

The current 1982 appropriation of $17.4 billion could be expected to support a net addition to this HUD subsidized housing inventory of another 117,000 units by 1986-87. Under the program now planned in conjunction with the proposed rescission, this net increment would be held to 36,000 units.

Outlay Effects
(in millions of dollars)

1982 Outlay Estimates		Outlay Savings				
Without Rescission	With Rescission	1982	1983	1984	1985	1986
$6,726	$6,726	---	---	308	511	$98

R82-21

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subsidized Housing Programs

Of the amount of authority provided under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, $334,703,321 of contract authority and $9,399,789,165 of budget authority is rescinded: Provided, That the amount of contract authority specified therein for low-income housing for Indian families is reduced by $25,112,000, the budget authority specified therein for public housing construction other than low-income housing for Indian families is reduced by $2,354,400,000, and the contract authority specified therein for modernization of existing low-income housing projects is reduced by $75,000,000: Provided further, That any balances of authorities made available prior to enactment of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which are, or become, available for obligation in fiscal year 1982, shall be added to and merged with the authority approved in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, which remains after the above rescission and, such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1982: Provided further, That up to $1,800,000,000 of available budget authority shall be provided for modernization of existing low-income housing projects (Section 14 of the United States Housing Act of 1937, as amended) including $300,000,000 of budget authority which was deferred by the Supplemental Appropriations and Rescission Act, 1981, Public Law 97-12, with the balance to be provided from deobligations of prior year commitments for Public Housing Projects: Provided further, That none of the merged amounts available for obligation in 1982 shall be subject to the provisions of Section 5(c)(2) and (3) and the fourth sentence of Section 5 (c)(1) of the United States Housing Act of 1937, as amended, (42 U.S.C. 1437c), and Section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439).

Rescission Proposal No: R82-22

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Housing and Urban Development	New budget authority (P.L. 97-101) $ 21,850,000
Bureau Solar Energy and Energy Conservation Bank	Other budgetary resources ---
Appropriation title & symbol	Total budgetary resources $ 21,850,000
Assistance for Solar and Conservation Improvements 862/30179	Amount proposed for rescission $ 21,850,000
OMB identification code: 86-0179-0-1-272	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

This new program was intended to subsidize investments in energy conservation measures and solar technologies in residential, agricultural, and commercial buildings. Substantial economic incentives already exist for such investments. Solar and conservation investments have become more cost-effective as oil prices have risen and can be expected to become more attractive as a result of the decontrol of natural gas. Therefore, additional government incentives are not needed.

Estimated Effects

This rescission action will terminate the initiative.

Outlay Effects
(in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
6.8	-0-	6.8	15	...	...

Rescission Proposal No: R82-23

R82-22

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistance for Solar and Conservation Improvements

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982, $21,850,000 are rescinded.

Rescission Proposal No: R82-23

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Labor	New budget authority (P.L. 97-92): $ 149,313,000 1/
Bureau: Mine Safety and Health Administration	Other budgetary resources: 1,225,495
Appropriation title & symbol: Salaries and Expenses 1621200	Total budgetary resources: 150,538,495
	Amount proposed for rescission: $ 4,095,000 2/
OMB identification code: 16-1200-0-1-554	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Mine Safety and Health Administration (MSHA) is responsible for enforcing the Federal Mine Safety and Health Act of 1977 in coal and other mines. The Continuing Resolution, P.L. 97-92, prohibits the obligation or expenditure of any funds to enforce the Act in connection with the surface mining of stone, clay, colliodal phosphate, sand, gravel; with respect to certain construction activities on the surface areas of coal and other mines; and related to mines owned and operated by States or their political subdivisions. Funds associated with these activities are proposed for rescission.

Estimated Effects: Since the funds cannot be expended for these activities, no program effects are expected as a result of the rescission.

Outlay Effects: These funds would lapse in the absence of the rescission; no outlay effects are expected as a result of its enactment.

1/ This represents the annual amount expected to become available. Of this amount, $80,861,000 is available from October 1, 1981, through March 31, 1982.

2/ Of this amount, $2,953,000 is attributable to the period October 1, 1981, through March 31, 1982.

R82-23

Mine Safety and Health Administration

Salaries and Expenses

Of the funds provided for the Mine Safety and Health Administration for fiscal year 1982 in P.L. 97-92, making further continuing appropriations for the fiscal year 1982, $2,353,000 are rescinded, and in any subsequent Public Law providing appropriations for fiscal year 1982 beyond March 31, 1982, $1,142,000 are rescinded.

Rescission Proposal No: R82-24

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-35): $ 9,869,332
Bureau: Federal Highway Administration	Other budgetary resources: 9,623,498
Appropriation title & symbol: Highway-Related Safety Grants 69X8019	P.L. 97-92 (Not available): -9,623,498
	Total budgetary resources: 9,869,332
	Amount proposed for rescission: $ 9,623,498
OMB identification code: 69-80-19-0-7-401	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year ☐ No-year	September 30, 1982 / September 30, 1983 / September 30, 1984 (expiration date) / September 30, 1985
Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other	

Justification: Section 402 of Title 23 authorizes funds to assist States, localities, Indian tribes, and the Territories of American Samoa, Guam, the Virgin Islands, and the Northern Marianas in implementing highway safety programs, and to help guide and finance additional action at the State and local levels.

Section 1109(c) of the Omnibus Budget and Reconciliation Act of 1981 replaced the $25 million authorization for this program as contained in the Surface Transportation Assistance Act of 1978 with a $10 million authorization for fiscal year 1982. In addition, section 1108(b)(2) of this Act rescinded $40 million of the September 30, 1981, unobligated balance of $49.7 million. For FY 1982, section 1107(b) imposed an obligation limitation of $10 million.

Section 303 of the Department of Transportation and Related Agencies Appropriation Act, 1982, reaffirmed the obligation limitation of $10 million.

This proposed rescission is submitted in support of the Administration's proposed legislation to discontinue the Highway-Related Safety Grants program.

This proposal would rescind any unobligated balances remaining available on September 30, 1982. The $9,623,498 amount proposed above represents the estimated unobligated balance which will be eligible for actual rescission. The $10 million amounts for new contract authority and total budgetary resources (obligation limitation) have been reduced by $130,668 to reflect that amount available to the four territories which must be obligated under the Territorial Highways account.

R82-24

Estimated Effects: Safety projects associated with the Federal-aid system would remain eligible for funding under other programs. Projects associated with off-system work would either have to be funded from State and local sources or not be undertaken.

Outlay Effects: This proposed action will not affect outlays since only unobligated balances not available for obligation are proposed for rescission.

Department of Transportation

Federal Highway Administration

Highway-Related Safety Grants

Funds authorized to carry out the provisions of Title 23, United States Code, Section 402, by the Federal Highway Administration remaining unobligated as of September 30, 1982, are hereby rescinded.

RS2-24

Rescission Proposal No: R82-25

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: National Foundation on the Arts and Humanities	New budget authority (P.L. 97-100) $ 11,520,000
Bureau:	Other budgetary resources:
Appropriation title & symbol: Institute of Museum Services: Program Operations	Total budgetary resources: 11,520,000
	Amount proposed for rescission: $ 10,876,800
OMB identification code: 59-0300-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Institute of Museum Services (IMS) provides grants to museums, primarily for general operating support.

The Administration has proposed the elimination of funding for IMS in 1983. To this end, this proposal would rescind 1982 funds for new grants, providing only sufficient administrative funds for meetings of the National Museum Services Board and to phase down operations during the current year. The Administration believes that the provision of general operating funds to museums is not an appropriate Federal function.

Estimated Effects: No new awards will be made in 1982 to between 500 and 550 museums.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
20.3	20.2	.1	7.4	3.4	--

Institute of Museum Services

R82-25

Of the funds provided for the "Institute of Museum Services" for fiscal year 1982 in Public Law 97-100, $10,876,800 are rescinded.

D82-1B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-1A, transmitted to the Congress on January 22, 1982.

This revision to a deferral for Appalachian regional development programs under Funds Appropriated to the President provides for the full year deferral of funds provided by P.L. 97-88. The $15,000,000 deferred will be used to close out Appalachian Regional Commission projects and pay termination costs for this account.

Deferral No: D82-1B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 97-88): $150,000,000
Bureau: Appalachian Regional Development Programs	Other budgetary resources: 46,493,800
Appropriation title & symbol: Appalachian regional development programs 11x0090 1/	Total budgetary resources: 196,493,800*
	Amount to be deferred: Part of year: $ ____ Entire year: 15,000,000
OMB identification code: 11-0090-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:* The Administration is proposing termination of Federal funding for the Appalachian Regional Commission, area development program and access roads program at the end of 1982. The Appalachian Development Highway System program is proposed to be included in the Department of Tranportation budget funded out of the Highway Trust Fund beginning in 1983.

To provide for closeout of the Commission's open area development projects and to pay termination costs for this account, $15,000,000 of the funds provided By P.L. 97-88 are being deferred.

Estimated Effect: This deferral action will provide for termination costs associated with elimination of funding proposed for the Appalachian Regional Commission.

Outlay Effect: This deferral action will shift $750 thousand in outlays from FY 1982 into FY 1983.

1/ This account was the subject of a similar deferral in FY 1981 (D81-79).

* Revised from previous report.

Deferral No: D82-222

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 97-121): $750,000,000
Bureau: International Security Assistance	Other budgetary resources: --
Appropriation title & symbol: Foreign Military Sales Credit 1121082 1/	Total budgetary resources: 750,000,000
	Amount to be deferred: Part of year: $680,000,000
	Entire year:
OMB identification code: 11-1082-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

JUSTIFICATION:

Pursuant to the Arms Export Control Act, the President is authorized to sell or finance by credit or guarantees defense articles and defense services for friendly countries to facilitate the common defense. The Foreign Assistance and Related Programs Appropriation Act, 1982, Public Law 97-121, appropriates $750,000,000 for fiscal year 1982 to enable the President to carry out those authorities. Under section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for continuous supervision and general direction of sales and exports under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order No. 11958 of January 18, 1977, delegated certain of the President's functions under the Arms Export Control Act to the Secretaries of State and Defense. Executive Order No. 11958 further requires the Secretary of State to obtain the prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guarantee transactions that are based upon national security and financial policies.

These funds have been deferred pending consultation among the Secretaries and approval of specific loans to eligible countries by the Secretary of State.

ESTIMATED EFFECT: This deferral will have no programmatic or budgetary impact.

OUTLAY EFFECT: There is no outlay effect from this deferral because funds will be released as loans are approved.

1/ This account was the subject of a deferral in FY 1981 (D81-23).

Deferral No: D82-223

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 97-121): $176,512,000
Bureau: International Security Assistance	Other budgetary resources: 44,800,000
Appropriation title & symbol: Military assistance 1121080	Total budgetary resources: 221,312,000
	Amount to be deferred: Part of year: $129,512,000
	Entire year:
OMB identification code: 11-1080-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

JUSTIFICATION:

Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish military assistance to foreign countries. The Foreign Assistance and Related Programs Appropriation Act, 1982, Public Law 97-121, appropriates $176,512,000 for fiscal year 1982 to enable the President to carry out those authorities. Section 633(c) of the Foreign Assistance Act charges the Secretary of State, under the direction of the President, with responsibility for the continuous supervision and general direction of military assistance programs including determination of the countries to receive assistance and amounts to be provided. Section 623 assigns the Secretary of Defense other duties with respect to this program. Executive Order No. 12163 of September 29, 1979, delegates various Presidential responsibilities under Charter 2 to the Secretaries of Defense and State.

The funds are deferred pending approval of specific grants to eligible countries by the Secretary of State.

ESTIMATED EFFECT: This deferral will have no programmatic or budgetary impact.

OUTLAY EFFECT: There is no outlay effect from this deferral because funds will be released as grants are approved.

Deferral No: D82-224

Deferral No: D82-225

Deferral No: D82-224

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-103): $13,750,000
Bureau: Farmers Home Administration	Other budgetary resources: 18,977,769
Appropriation title & symbol: Rural Housing for Domestic Farm Labor 12X2004 1/	Total budgetary resources: 32,727,769
	Amount to be deferred: Part of year: $ ____ Entire year: 10,727,769
CMS identification code: 12-2004-0-1-604	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification: A deferral of rural housing for domestic farm labor is requested because this account has a large balance carried over from the previous fiscal year. Obligations over the past five years have averaged $16.1 million per year. Therefore, not all of the new budget authority appropriated under P.L. 97-103 will be required to fund the program at the $22 million requested level for FY 1982.

Estimated Effects: The deferral will maintain the program at a level sufficient to fund the most viable grant applications in 1982.

Outlay Effect: This deferral will shift approximately $400 thousand in FY 1982 outlays into FY 1983 and shift $2 million in FY 1983 outlays into 1984.

1/ This account was the subject of another FY 1982 deferral (D82-173).

Deferral No: D82-225

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-92): $43,949,000
Bureau: Bureau of the Census	Other budgetary resources: 17,394,000
Appropriation title & symbol: Periodic censuses and programs 13X0450	Total budgetary resources: 61,333,000
	Amount to be deferred: Part of year: $ ____ Entire year: 1,015,000
CMS identification code: 13-0450-0-1-376	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification: This appropriation funds legislatively-mandated censuses and surveys of economic and demographic areas once or twice each decade. The current plan for the Agricultural Census will reduce FY 1982 costs by $1,015 thousand and FY 1983 data collection costs by $9 million. Savings realized in 1982 are being deferred for the balance of the fiscal year and will be used to offset program costs in FY 1983. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This deferral action reduces the 1982 program commensurate with proposed 1983 changes in a special area sample (first introduced in 1978), special subject follow-up surveys (farm financing and farm energy, for example) and data collection for the outlying areas (Guam, the Virgin Islands and Puerto Rico, for example) but maintains the essential form data comaprable to previous censuses.

Outlay Effect: This defarral action will have the effect of shifting $1,015 thousand in outlays from FY 1982 into FY 1983.

Deferral No: D82-226

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-92): $20,875,000
Bureau: Minority Business Development Agency	Other budgetary resources: 15,231,762
Appropriation title & symbol: Minority business development 1/ 13X0201	Total budgetary resources: 36,106,762
	Amount to be deferred: Part of year: $ 5,000,000
	Entire year:
OMB identification code: 13-0201-0-1-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Continuing Resolution (P.L. 97-92) provided $20.9 million in budget authority through March 31, 1982, for the Minority Business Development Agency (MBDA) for the delivery of management and technical assistance to minority-owned firms. In addition to this authority, MBDA carried forward into 1982 an unobligated balance of $13.7 million — $10 million greater than anticipated. The proposed deferral of $5 million will allow MBDA to maintain its programs for the first half of the year at an annualized $60 million level. This level would be consistent with the 1982 request and the carryover from 1981.

Estimated Effects: The deferral will maintain MBDA's programs at the planned level of $60M. It will enable MBDA to provide services in 90 standard metropolitan statistical areas, where almost 80% of minority firms are located.

Outlay Effect: This deferral action will have no effect on fiscal 1982 outlays.

1/ This account was the subject of another FY82 deferral (D82-99) and was the subject of a deferral in FY 1981 (D81-103).

D82-6B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-6A transmitted to the Congress on January 22, 1982.

This revision to a deferral of Department of Defense military construction funds increases the amount previously reported as deferred from $52,938,000 to $767,723,000. This net increase of $714,785,000 results primarily from an increase in budgetary resources made available by the Military Construction Appropriation Act, 1982 (Public Law 97-106).

Deferral No: D82-6B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 97-92): $ 5,000,000
Bureau: Military Construction, Army	Other budgetary resources: 762,723,000
Appropriation title & symbol: Military construction, Army 1/ 21X0506	Total budgetary resources: 767,723,000
	Amount to be deferred: Part of year: $ 767,723,000
	Entire year:
OMB identification code: 97-0506-0-1-051	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Continuing Resolution (P.L. 97-92) provided $5 million in budget authority through March 31, 1982, for the Army military construction account. In addition to this authority, $762.7 million was carried forward into 1982 from 1981 — $714.8 million greater than anticipated. The proposed deferral of $767.7 million will allow the Army to maintain its programs for the first half of the year at an annualized level consistent with the 1982 request and the carryover from 1981.

Estimated Effects: The deferral will maintain the Army's programs at the planned level of $1,535.4M. It will enable the Army to provide services in 90 standard metropolitan statistical areas, where almost 80% of minority firms are located.

Outlay Effect: This deferral action will have no effect on fiscal 1982 outlays.

1/ This account was the subject of another FY82 deferral (D82-99) and was the subject of a deferral in FY 1981 (D81-103).

Coverage: 1/

Deferral No: D82-6B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military

Bureau:

Appropriation title & symbol: See coverage section below

OMB identification code: See coverage section below

Grant program: ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☒ Multiple-year: September 30, 1983; September 30, 1984; September 30, 1985; September 30, 1986 (expiration date)
☒ No-year

New budget authority (P.L. 97-108): *$4,961,706,000
Other budgetary resources: * 1,797,332,282
Total budgetary resources: $6,661,038,282

Amount to be deferred:
Part of year: *$ 767,723,000
Entire year:

Legal authority (in addition to sec. 1013):
☒ Antideficiency Act
☐ Other

Type of budget authority:
☐ Appropriation
☐ Contract authority
☐ Other

* Revised from previous report.

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	D82-6B p.2 Amount Deferred*
Military construction, Army	212/62050	21-2050-0-1-051	$ 32,108,000
Military construction, Army	211/52050	21-2050-0-1-051	40,600,000
Military construction, Army	210/42050	21-2050-0-1-051	8,100,000
Military construction, Army	219/32050	21-2050-0-1-051	3,700,000
Military construction, Navy	172/61205	17-1205-0-1-051	168,980,000
Military construction, Navy	171/51205	17-1205-0-1-051	
Military construction, Navy	170/41205	17-1205-0-1-051	
Military construction, Navy	179/31205	17-1205-0-1-051	
Military construction, Air Force	572/63300	57-3300-0-1-051	292,893,000
Military construction, Air Force	571/53300	57-3300-0-1-051	
Military construction, Air Force	570/43300	57-3300-0-1-051	
Military construction, Air Force	579/33300	57-3300-0-1-051	
Military construction, Defense Agencies	972/60500	97-0500-0-1-051	15,000,000
Military construction, Defense Agencies	971/50500	97-0500-0-1-051	536,000
Military construction, Defense Agencies	970/40500	97-0500-0-1-051	
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	
Military construction, Army National Guard	212/62085	21-2085-0-1-051	61,158,000
Military construction, Army National Guard	211/52085	21-2085-0-1-051	
Military construction, Army National Guard	210/42085	21-2085-0-1-051	
Military construction, Army National Guard	219/32085	21-2085-0-1-051	
Military construction, Air National Guard	572/63830	57-3830-0-1-051	53,730,000
Military construction, Air National Guard	571/53830	57-3830-0-1-051	
Military construction, Air National Guard	570/43830	57-3830-0-1-051	
Military construction, Air National Guard	579/33830	57-3830-0-1-051	
Military construction, Army Reserve	212/62086	21-2086-0-1-051	27,216,000
Military construction, Army Reserve	211/52086	21-2086-0-1-051	
Military construction, Army Reserve	210/42086	21-2086-0-1-051	
Military construction, Army Reserve	219/32086	21-2086-0-1-051	
Military construction, Reserve components generally	972/50805	97-0805-0-1-051	
Military construction, Naval Reserve	172/61235	17-1235-0-1-051	13,800,000
Military construction, Naval Reserve	171/51235	17-1235-0-1-051	
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	
Military construction, Air Force Reserve	572/63730	57-3730-0-1-051	14,900,000
Military construction, Air Force Reserve	571/53730	57-3730-0-1-051	
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	
North Atlantic Treaty Organization Infrastructure	97X0804	97-0204-0-1-051	35,000,000
			$767,723,000

1/ These accounts were the subject of a similar deferral during FY 1981 (D81-98).

* Revised from previous report.

Deferral No: D82-227

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 97-114): $8,519,900,000
Bureau:	Other budgetary resources: 2,000,000
Appropriation title & symbol: Shipbuilding and Conversion, Navy* 172/61611	Total budgetary resources: $8,521,900,000
	Amount to be deferred: Part of year: $ ____ Entire year: $1,275,000,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1986 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: These funds are planned to be deferred until September 30, 1982. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multi-year funds are currently being deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effects: Deferral of $1,275,000,000 will have no programmatic or budgetary effect since the funds could not be obligated at this time if made available.

Outlay Effects: This deferral action has no effect on outlays.

* This account was the subject of a similar deferral in FY 1981, (D81-27).

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Justification

The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effect:

These deferrals have no programmatic or budgetary effect because the funds could not be obligated if they were made available.

Outlay Effect:
These deferrals have no effect on FY 1982 outlays.

Deferral No: D82-228

D82-10A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 97-114): $8,519,900,000
Bureau:	Other budgetary resources: 2,000,000
Appropriation title & symbol: Shipbuilding and Conversion, Navy* 172/61611	Total budgetary resources: $8,521,900,000
	Amount to be deferred: Part of year: $ ____ Entire year: $1,275,000,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1986 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: These funds are planned to be deferred until September 30, 1982. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multi-year funds are currently being deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effects: Deferral of $1,275,000,000 will have no programmatic or budgetary effect since the funds could not be obligated at this time if made available.

Outlay Effects: This deferral action has no effect on outlays.

* This account was the subject of a similar deferral in FY 1981, (D81-27).

Deferral No: D82-228

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 97-88): $1,345,926,000
Bureau: Energy Programs	Other budgetary resources: 485,838,221
Appropriation title & symbol: Energy supply research and development activities, Operating expenses 1/ 89X0224	Total budgetary resources: 2,831,764,221
	Amount to be deferred: Part of year: -0-
	Entire year: $ 4,000,000
CFS identification code: 89-0224-0-1-271	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Funds appropriated to this account are used to conduct research, development and demonstrations related to various technologies that can increase the supply of energy. This action defers $4,000,000 from the Ocean Energy Systems program for the remainder of this fiscal year. These funds will be used to support the preliminary design of an Ocean Thermal Energy Conversion pilot plant. Since the contract for the preliminary design will not be awarded until FY 1983, funds for this purpose can be deferred in FY 1982.

Estimated Effects: This deferral action will have no programmatic effect on the pilot plant design schedule.

Outlay Effects: This deferral will have no effect on FY 1982 outlays.

1/ This account was the subject of two deferrals in FY 1981 (D81-31 and D81-49) and was the subject of another deferral in FY 1982 (D82-103).

D82-10A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of
Public Law 93-344

This report updates Deferral No. D82-10 transmitted to the Congress on October 1, 1981.

This revision to a deferral for the strategic petroleum reserve in the Department of Energy increases the amount deferred from $8,000,000 to $60,860,000. The increase of $52,860,000 reflects a delay in land acquisition and procurement associated with Phase III development of the reserve.

In addition, this report reflects the addition to this account of new budgetary resources, primarily those associated with the enactment of the Department of the Interior and Related Agencies Appropriations Act, 1982 (P.L. 97-100).

Deferral No: D82-10A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 97-100): $191,432,000*
Bureau: Energy Programs	Other budgetary resources: 64,987,367*
Appropriation title & symbol: Strategic petroleum reserve 1/ 89X0218	Total budgetary resources: 256,419,367*
	Amount to be deferred: Part of year: $8,000,000
	Entire year: 52,860,000*
CMS identification code: 89-0218-0-1-274	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification*: Funds appropriated to this account are used for storage facilities development, planning, and administration of the Strategic Petroleum Reserve (SPR). Of the deferred funds, $8 million are reserved to provide for unanticipated costs associated with the development of facilities for Phase II of the reserve. These funds will be made available as the need arises. The deferral of $52,860,000 is taken as part of a reconfiguration of the SPR facilities development schedule. While Phase II storage capacity development is being increased, Phase III development is being delayed one year. In particular, construction of the new 140 million barrel (MB) Phase III site at Big Hill, Texas has been rescheduled to begin in 1984. This delay will stretch completion of the full 750 MB system from 1989 to 1990, but has no effect on available storage capacity until 1987.

Consistent with this approach, FY 1982 funds for site acquisition and long-lead procurement at Big Hill will not be required until FY 1983, and therefore are deferred for the remainder of this fiscal year.

The deferral of $8 million is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects*: This deferral action causes land acquisition and long lead procurement at the Big Hill site to be delayed until FY 1983. It will have no effect on available SPR storage capacity or petroleum acquisition in either FY 1982 or FY 1983.

Outlay Effects*: This deferral will have the effect of shifting approximately $25 million in outlays from FY 1982 to FY 1983.

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* Revised from previous report.

1/ This account was the subject of a deferral in FY 1981 (D81-83).

D82-14A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-14, transmitted to the Congress on October 1, 1981.

This revision to a deferral for the land and water conservation fund in the Department of the Interior increases the budgetary resources for the fund from $114,126,000 as previously reported to $130,267,869. The increase of $16,141,869 attributable to both a higher level of unobligated balances being brought forward into FY 1982 than estimated originally and to a higher level of recoveries of prior year obligations than originally estimated. These increased resources do not affect the amount deferred.

Deferral No: D82-14A

D82-16A

Deferral No: D82-14A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior

Bureau: Heritage Conservation and Recreation Service

Appropriation title & symbol:

Land and Water Conservation Fund 1/
14X5005

OMB identification code:
14-5005-0-1-303

Grant program: ☐ Yes ☒ No

Type of account or fund:
☒ Annual 2/
☐ Multiple-year _____ (expiration date)
☒ No-year

New budget authority (P.L. 95-74)	$30,000,000
Other budgetary resources	100,267,869*
Total budgetary resources	130,267,869*
Amount to be deferred: Part of year	$ _____
Entire year	$30,000,000

Legal authority (in addition to sec. 1013):
☒ Antideficiency Act
☐ Other _____

Type of budget authority:
☒ Appropriation
☒ Contract authority
☐ Other _____

Justification: Under P.L. 95-74 (16 U.S.C 460L (10a)), $30 million of contract authority becomes available each fiscal year to the Land and Water Conservation Fund in addition to regular appropriations. The authority is made available by the Congress for use specifically as an anti-escalation measure in purchasing authorized Federal recreation land (Public Law 90-401; Senate Report 90-1071, to accompany S. 1401). This authority was last used in 1969 and 1970. Thus, the contract authority has lapsed in fiscal years 1971-1981. The funds will be utilized in the future, as in the past, on a special case basis for emergency situations consistent with our understanding of congressional intent.

This deferral is consistent with congressional intent to provide no-year funding and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665). This contract authority lapses at the end of each fiscal year if it is not used. An equal amount becomes available at the beginning of the next fiscal year.

Estimated Effect: This reserve for contingencies has no fiscal, economic or budgetary effect in the current year. The funds would be made available and obligated only in unforseeable circumstances.

Outlay Effect: This deferral action has no effect on FY 1982 outlays.

1/ This account was the subject of a similar deferral in FY 1981 (D81-13), and was also the subject of another FY 1982 deferral (D82-126).
2/ The deferred funds have a one-year availability.
* Revised from previous report.

D82-16A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(b) of Public Law 93-344

This report updates Deferral No. D82-16 transmitted to the Congress on October 1, 1981.

This revision to a deferral of funds for the Drainage of Anthracite Mines program in the Bureau of Mines increases the total budgetary resources to reflect actual unobligated balances brought forward on October 1, 1981. The amount deferred does not change. This revision also includes discussion of a request to the Congress to transfer the deferred funds to the Bureau of Mines' "Mines and Minerals" account as a supplemental appropriation to be derived by transfer.

Deferral No: D82-16A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. ____): $ ---
Bureau: Bureau of Mines	Other budgetary resources: 992,840*
Appropriation title & symbol: Drainage of Anthracite Mines 1/ 14X0956	Total budgetary resources: 992,840*
	Amount to be deferred: Part of year: $ 990,703
	Entire year: ____
CMS identification code: 14-0956-0-1-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other: Matching grant provision of P.L. 84-219
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification*: Funds in this account are used to match funds made available by the Commonwealth of Pennsylvania for water monitoring stations and for sealing and other public safety and health projects. Since the Commonwealth of Pennsylvania is not expected to provide further matching funds during the year, all but $2,137 of unobligated balances are deferred pending transfer to help offset supplemental requirements for the Bureau of Mines in the "Mines and Minerals" account.

Estimated Effects: The effect of this deferral will be to preserve these funds pending congressional action on the transfer request. If the transfer is not effected, these no-year funds would be made available in subsequent years for the purpose for which they have been provided.

Outlay Effect: This deferral action has no effect on outlays.

* Revised from previous report.
1/ This account was the subject of a deferral in FY 1981 (D81-15A).

D82-17A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-17, transmitted to the Congress on October 1, 1981.

This revision to a deferral for buildings and facilities under the Federal Prison System of the Department of Justice increases the budgetary resources from $14,787,800 to $22,792,831. The increase of $8,005,031 reflects an increase of $1,139,031 in unobligated balances brought forward into FY 1982, and $6,866,000 made available under the further continuing resolution (P.L. 97-92) through March 31, 1982. These changes do not affect the amount deferred.

Deferral No: D82-17A

Deferral No: D82-229

Deferral No: D82-17 A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 97-92): $ 6,866,000*
Bureau: Federal Prison System	Other budgetary resources: 15,926,831*
Appropriation title & symbol: Buildings and Facilities 15X1003 1/	Total budgetary resources: 22,792,831*
	Amount to be deferred: Part of year: $ ____
	Entire year: 2,700,000
CMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification*: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries and provide a safe and humane environment for staff and inmates. The deferred funds were appropriated in the Departments of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act of 1981 and previous years. Due to the time required for planning, site acquisition, design efforts and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with all these projects during FY 1982. The amount deferred of $2,700,000 represents funding for major and minor repair projects at existing facilities. This deferral is consistent with Congressional intent to provide no-year funding for these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: The amount deferred for the entire year could not be economically used, if made available in FY 1982, because of the planned phased procurement, construction and installation cycle.

Outlay Effect: This deferral action has no effect on FY 1982 outlays.

* Revised from previous report.

1/ This account was the subject of a deferral in FY 1981 (D81-168) and was also the subject of another deferral in FY 1982 (D82-192).

Deferral No: D82-229

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Labor	New budget authority (P.L. 97-92): $2,151,297,570
Bureau: Employment and Training Administration	Other budgetary resources: 848,863,309
Appropriation title & symbol: Employment and training assistance 1/ 161/20174 1620174	Total budgetary resources: 3,000,160,879
	Amount to be deferred: Part of year: $ 88,543,309
	Entire year: ____
CMB identification code: 16-0174-0-1-504	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year: September 30, 1982 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation provides for a system of Federal, State, and local programs of training and other services for economically disadvantaged, unemployed, and underemployed persons intended to lead to permanent gains in employment and increased self-sufficiency. The amount deferred reflects unanticipated unobligated prior year balances of $85,004,824 and $3,538,485 in unanticipated recoveries of prior year obligations. Some of the funds covered by this deferral are proposed for transfer to other Department of Labor agencies to meet operational needs, and some may be used to defray the cost of the October civilian and executive pay increases as amounts needed for those costs are determined. The disposition of the remainder is under review. Should developments indicate that there is not a compelling operational or programmatic need for these funds, they will be proposed for rescission.

Estimated Effect: This deferral action has no programmatic or budgetary effect. The balances were unanticipated and no plans for their use had been developed when 1982 program levels were determined.

Outlay Effect: This deferral has no effect on FY 1982 outlays.

1/ This account was the subject of a deferral in Fy 1981 (D81-388) and two other deferrals in FY 1982 (D82-18 and D82-194).

Deferral No: D82-231

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority ($): 1,850,000
Bureau:	(P.L. 97-92)
Appropriation title & symbol: United States bilateral science and technology agreements 19X1151	Other budgetary resources: —
	Total budgetary resources: 1,850,000
	Amount to be deferred: Part of year: $ 1,000,000
	Entire year:
OMB identification code: 19-1151-0-1-153	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The United States Bilateral Science and Technology Agreements appropriation was called the United States-Yugoslavia Bilateral Science and Technology Agreement appropriation from its inception in FY 1968 until FY 1982 when funding was requested for a similar bilateral science and technology agreement with Poland. The name of the appropriation was then changed to reflect this additional activity.

Funding under this appropriation pays the U.S. share of expenses associated with selected science and technology projects through joint funds established with Yugoslavia and Poland. Projects selected by the managing United States-Yugoslavia Joint Board and the United States-Poland Joint Board are usually in the areas of agriculture, energy, ecology, technology, health, and transportation.

Prior to FY 1982, the United States-Poland Agreement was funded by P.L. 480 funds. The further continuing resolution (P.L. 97-92) does not permit funding for the agreement with Poland. Thus, the funds for the agreement with Poland are deferred until enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1982 which is expected to permit funding of this new activity.

Estimated Effect: Deferral action will delay obligation of funds for the agreement with Poland until passage of the regular appropriation act.

Outlay Effect: This deferral action has no effect on fiscal 1982 outlays.

Deferral No: D82-231

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority ($):
Bureau: Maritime Administration	(P.L.)
Appropriation title & symbol: Ship Construction 69x1708	Other budgetary resources: 49,526,049
	Total budgetary resources: 49,526,049
	Amount to be deferred: Part of year: $
	Entire year: 10,000,000
OMB identification code: 69-1708-0-1-403	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The ship construction program provides subsidies to U.S. shipyards to compensate them for the difference in construction costs between U.S. and foreign shipyards. The subsidies may not exceed 50% of the vessel construction costs.

No new funds are being requested in 1983. This deferral action will provide funds to cover cost escalations in 1983 for contracts already in force.

Estimated Effect: This deferral action will have a minimal effect on the program.

Outlay Effect: This deferral has no effect on outlays.

Deferral No: D HX-232

D82-25A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency District of Columbia	New budget authority (P.L. 97-91) $ 155,000,000
Bureau	Other budgetary resources 28,832,500
Appropriation title & symbol - Loans to the District of Columbia for Capital Outlay 20X0137	Total budgetary resources 183,832,500
	Amount to be deferred: Part of year $ ____ Entire year 38,832,500
OMB identification code: 20-0137-0-1-862	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation provides for loans for capital improvements to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, as amended. This deferral is made pursuant to P.L. 97-91 which restricts the District of Columbia's obligations for capital outlay loans to $145,000,000.

Estimated Effects: The District of Columbia will be limited to new obligations totalling $145,000,000 for the Convention Center and other projects for fiscal year 1982.

Outlay Effects: This deferral will not affect 1982 outlays.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D82-25, transmitted to the Congress on October 1, 1981.

This revision to a deferral of Pennsylvania Avenue Development Corporation land acquisition and development funds increases the budgetary resources for this fund to reflect new borrowing authority provided in P.L. 97-100, making appropriations for the Department of Interior and Related Agencies, 1982, and actual unobligated balances brought forward into FY 1982.

In addition, this report decreases the amount previously reported as deferred from $30,895,523 to $20,895,523. The $10,000,000 has been released in order to acquire properties to be used to develop a park in square 408.

Deferral No: D82-25A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Pennsylvania Avenue Development Corp.	New budget authority (P.L. 97-100): $ 2,400,000*
Bureau:	Other budgetary resources: 44,682,204*
Appropriation title & symbol: Land Acquisition and Development Fund 42X4084 1/	Total budgetary resources: 47,082,204*
	Amount to be deferred: Part of year: $ ____
	Entire year: 20,895,523*
OMB identification code: 42-4084-0-3-451	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other Borrowing Authority

Justification:* This account provides borrowing authority to acquire private property to accelerate redevelopment in the Pennsylvania Avenue project area. The 1974 land use plan for the eastern sector of the project area was reviewed and updated in light of current real estate trends and market conditions. The update consisted of a study to determine what design configuration and mixture of land uses are now appropriate for the eastern area.

In order to ensure that new development will be economically self-sufficient and within the resources available to private developers and to limit the level of net outlays, $20.9 million of borrowing authority is deferred.

Estimated Effects:* The Corporation will not proceed with significant new land acquisition activity in the area east of the FBI building. However, borrowing authority will be released on a case-by-case basis to solve problems when development is delayed by recalcitrant owners declining to sell property at a fair price, by title difficulties or by other causes.

Outlay Effects:* This deferral will shift $5 million of FY 1982 outlays into FY 1983 and $15.8 million of FY 1983 outlays into FY 1984.

* Revised from previous report.
1/This account was the subject of a similar deferral in FY 1981 (D81-40A) and of another deferral in FY 1982 (D82-151).

Deferral No: D82-233

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Small Business Administration	New budget authority (P.L. 97-92): $166,260,000
Bureau:	Other budgetary resources: 674,844,354
Appropriation title & symbol: Business Loan and Investment Fund 73X4154 1/	Total budgetary resources: 841,104,354
	Amount to be deferred: Part of year: $ 2,500,000
	Entire year: ____
OMB identification code: 73-4154-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The Continuing Resolution (P.L. 97-92) provided $166 million through March 31, 1982, as a capital appropriation for the Business Loan and Investment Fund of the Small Business Administration (SBA). This amount would provide for guaranteed business loans at an annual level that is $565 million higher than the $2.7 billion level proposed by the President. These additional funds are not needed to provide an adequate credit assistance program for small businesses in FY 1982 and would undermine seriously the President's efforts to reduce Federal interference in U.S. credit markets. Accordingly, as part of the Administration's comprehensive plan to reduce Federal credit intervention, $2.5 million are deferred.

Estimated Effects: This deferral action will restrain the rate of obligations that would otherwise occur under the Continuing Resolution (P.L. 97-92) to a rate consistent with the President's current FY 1982 budget request. Since SBA will target its available credit assistance more effectively, this reduction should not adversely affect the small business community.

Outlay Effect: This deferral action has no effect on FY 1982 outlays.

1/ This account was the subject of a deferral in FY 1981 (D81-41A). (D81-41A).

DEFERRAL OF BUDGET AUTHORITY

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D82-235

Agency: Small Business Administration Bureau:	New budget authority (P.L. 97-92): $ 9,690,00 Other budgetary resources: 29,083,963 Total budgetary resources: 38,773,963
Appropriation title & symbol: Surety bond guarantees revolving fund 1/ 73X4156	Amount to be deferred: Part of year: $ 3,000,000 Entire year:
OMB identification code: 73-4156-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification: The Continuing Resolution (P.L. 97-92) provided $9.7 million in budget authority through March 31, 1982, to enable the Small Business Administration (SBA) to guarantee surety bonds at an annual rate that would insure up to $1.2 billion in contracts. Under this program, SBA will guarantee a portion of the losses sustained by a surety company as a result of the issuance of a bid, payment, and/or performance bond to a small business concern on a contract. The limited availability of guarantees should serve as an additional incentive to SBA to improve the operations of this program to preclude continuation of the high loss rates which have occurred in recent years.

This deferral action is an integral component of President Reagan's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens.

Estimated Effects: This deferral action will restrain the rate of obligations that would otherwise occur under the Continuing Resolution (P.L. 97-92) to a rate consistent with the President's current FY 1982 budget request. The SBA will still be able to provide bond guarantees at an annual rate that would cover contracts totaling $1.1 billion. By targeting its assistance more effectively, this reduction would have a minimal effect on SBA's ability to assist those clients who are most deserving.

Outlay Effect: This deferral action -- by itself -- has no significant effect on FY 1982 outlays due to its expected short duration. However, if the Congress provides regular appropriations at a level consistent with the President's request, $3,000,000 of the annual savings achieved could be attributed to the funding level now available.

1/ This account was the subject of a similar deferral in FY 1981 (D81-102) and was the subject of another deferral in FY 1982 (D82-154).

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DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: United States Railway Association Bureau:	New budget authority (P.L.): $ Other budgetary resources: 100,000,000 Total budgetary resources: 100,000,000
Appropriation title & symbol: Payments for purchase of Conrail Securities 9X0111 1/	Amount to be deferred: Part of year: $ Entire year: 84,500,000
OMB identification code: 99-0111-0-1-401	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification: This appropriation is used to purchase securities issued by the Consolidated Rail Corporation (Conrail) so that the Corporation will have funds to rehabilitate its plant and equipment and for working capital. Revenues from operations have been sufficient to cover the Corporation's costs for the past six months and are expected to meet its anticipated capital needs for the remainder of this fiscal year. The deferral represents amounts which neither Conrail nor its Federally-funded banker, the U.S. Railway Association, believes should be expended in 1982. However, if Conrail's financial condition deteriorates, thereby necessitating Conrail and the U.S. Railway Association to request use of the deferred funds, some or all of the deferred funds will be released. This deferral is consistent with Congressional intent to provide funding for this appropriation that remains available until expended, and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665). The $15 million outlay estimated in the current year is needed solely for Conrail's workforce reduction program as authorized in the Northeast Rail Service Act of 1981.

Estimated Effects: This deferral will not affect the Corporation's capital investment program this year. Funds not required in 1982 will be available to cover Conrail's needs for capital in subsequent years.

Outlay Effect: This deferral action has no effect on fiscal 1982 outlays.

1/ This account was the subject of a deferral in FY 1981 (D81-129).

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federal register

Wednesday
February 10, 1982

Part V

Department of Energy

Bonneville Power Administration

Procedures Governing Bonneville Power Administration Rate Adjustments

DEPARTMENT OF ENERGY

Bonneville Power Administration

Procedures Governing Bonneville Power Administration Rate Adjustments

AGENCY: Bonneville Power Administration, DOE.

ACTION: Procedures Governing Bonneville Power Administration (BPA) Rate Adjustments.

SUMMARY: On December 5, 1980, the President signed into law the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) (Pub. L. 96–501) which, among many other things, provides at section 7(i) for new procedures for involving the public in the development of BPA's wholesale power and transmission rates. By Federal Register notice of February 10, 1981 (46 FR 11697), BPA published its "Rules of Procedure Governing Bonneville Power Administration Rate Adjustments." That notice requested public comments on the procedures. These procedures were designed to give the public notice of how it could participate in BPA's rate adjustments and elaborate on the statutory procedures called for in the Regional Act. BPA received comments on the procedures from a number of its customers and interested members of public interest groups. In addition, BPA applied the procedures in conducting its 1981 Wholesale Power Rate and Transmission Rate hearings conducted February through May 1981. Amendments were proposed to the procedures by Federal Register notice of December 9, 1981 (46 FR 60406). Comments on the proposed amendments were to be received through December 24, 1981, and a public meeting on the proposed amendments was held and transcribed at the BPA Headquarters Building in Portland, Oregon, on December 21, 1981. By Federal Register notice of December 29, 1981 (46 FR 62867) BPA extended the period for acceptance of public comments on the proposed amendments from December 24, 1981, to January 4, 1982. The amendments adopted by this notice are based upon oral and written comments received by BPA. While applicable to BPA rate proceedings, these procedures do not apply to hearings held pursuant to section 7(m) of the Regional Act concerning impact aid payments to local governments. A separate notice regarding procedures for developing a methodology for such payments will be published later.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–4261, or Mr. Michael C. Dotten, Attorney, General Counsel's office, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, 503–230–4214. Toll-free numbers for Oregon callers 800–452–8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800–547–6048.

SUPPLEMENTARY INFORMATION: The most significant elements of the amendments and discussions relating to amendments proposed by those commenting on the procedures are summarized below, arranged by section:

Section 1010.2: Definitions. The terms defined in this section have been alphabetized and renumbered appropriately.

Section 1010.2(f): A number of customers commented upon the definition and description of parties in section 1010.2(f) of the procedures. The direct service industrial customers of BPA (DSI's) suggest that section 1010.2(f) should also provide that a party "should participate in association with other parties having common positions on major issues," and that "[i]f parties having such common positions do not so associate, the Hearing Officer may require them to avoid repetitive testimony, cross-examination, oral arguments and briefing." The California utilities, Public Utility District No. 1 of Snohomish County (Snohomish), the Public Power Council (PPC), and the Public Generating Pool (PGP) were opposed to the DSI suggestion. Snohomish also suggested that the last sentence of section 1010.2(f) of the proposed procedures be deleted, such sentence providing that associated parties may participate individually on matters where the Hearing Officer determines that the individual parties' interests would otherwise be unrepresented. The California utilities, PPC, and PGP supported section 1010.2(f) as proposed. BPA believes that section 1010.2(f) currently provides the Hearing Officer and the parties the necessary flexibility to ensure the efficient presentation of all issues, while providing an opportunity to avoid dilatory and repetitive cross-examination by parties having nearly identical interests. The experience of the 1981 hearings indicates that such limits on representation do not hamper effective presentation of parties' cases. Forelaws on Board (FOB), an environmental group, suggested that no limitations be placed upon the admission of parties to the rate hearings. BPA addressed this issue in BPA's Summary of Comments related to Rules of Procedure Governing BPA Rate Adjustments, 46 FR 60406, December 9, 1981. FOB suggests that the legislative history of the Regional Act cited in BPA's Summary of Comments which notes the Hearing Officer's authority to limit cross-examination does not require the limitation of parties to the rate proceedings. FOB further suggests that section 7(i)(2)(A) of the Regional Act, which provides that "any person shall be provided an adequate opportunity by the Hearing Officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator," implies that if an individual is not a party to the proceedings, there is insufficient access to materials presented at the proceedings for purposes of rebuttal. In response to these statements BPA notes the continuing concern that should all interested individuals become parties to the rate proceedings, with the attendant obligations and responsibilities required of parties, the hearing process could become nearly interminable. This would also result in burdens upon individuals who might wish to have their views considered but do not wish to be burdened with the requirements of serving all other parties, prefiling testimony, and similar obligations of parties. The distinction drawn between "party" and "participant" remains consistent with Senator McClure's recognition in the legislative history of the Regional Act, 125 Cong. Rec. S. 11599 (daily ed. August 3, 1979) (remarks of Senator McClure), that there must be a logical limit to the number of persons permitted to cross-examine. With regard to the suggestion that materials from the proceedings would not be available to participants in order to provide an adequate opportunity for rebuttal, BPA will mail regular letters to participants during the rate hearings summarizing the proceedings and soliciting requests from participants for materials presented during each week. The materials will then be provided to the requesting participants, with participants' written rebuttal made part of the Official Record.

Section 1010.2(g): Eight privately owned utilities (Privates) suggest that the amended procedures "purport to limit the scope of a rate proceeding to consideration of the monetary charge to be imposed for electric service, totally without consideration of the quantity or quality of such service or the terms, conditions or restrictions under which it is available." The purpose of the rate

hearings is to provide rates for services. The language of section 1010.2(g) of these procedures which defines "rate" in part as the "monetary charge or the formula for computing such a charge for any service provided by BPA" suggests that the quantity, quality, terms, conditions and restrictions regarding service are noted in the rate hearings but are determined by contract, not by ratemaking. The Privates, as well as Pacific Gas and Electric Company, Southern California Edison Company, and the Los Angeles Department of Water and Power (California utilities) suggest that transmission line losses should be included in the definition of "rate." BPA has numerous contracts with differing treatments of line losses, which terms are not subject to unilateral amendment upon changes of rates as are BPA's rate schedules. Computation of line losses for contractually provided services is not a rate or charge for the sale or disposition of power, but rather a means of computing the amount of power to be replaced (due to loss of electricity from the lines) by a party to a contract that uses BPA's transmission lines to wheel power. Furthermore, BPA has begun, through a separate rulemaking process, the development of a transmission policy (46 FR 12658, Feburary 17, 1981) which will deal with the matter of determination of line losses.

Section 1010.2(i): The California Energy Commission (CEC) suggests that the definition of "Record of Decision" be changed to the Administrator's statement of the "final decision establishing a rate or rates" pursuant to section 7(i)(5) of the Regional Act, and must "include a full and complete justification of the final rates," as well as the cost data required by section 7(j) of the Regional Act. BPA concurs with this suggestion and has amended the definition to reflect the statutory standard of section 7(i)(5). The cost data of section 7(j), however, are part of the rate schedules which already constitute a portion of the Record of Decision. See section 4(d)(1) of these procedures, infra.

Section 1010.3(b): Prehearing Conference. FOB suggests that ex parte procedural rulings should not be allowed. FOB had previously expressed this position in its comments on BPA's initial procedures. BPA's position regarding such rulings was discussed at 46 FR 60407, December 9, 1981. During the 1981 hearings the Hearing Officer was required to rule on procedural matters between hearing sessions. Should the Hearing Officer not be allowed to rule ex parte, under some circumstances it is conceivable that a large group of parties, many from long distances away, would be obligated to convene for a hearing for a short period of time only to have a delay motion granted, or a fundamental change made in the hearing schedule. Therefore, we leave the opportunity for ex parte ruling on procedural matters—but have adopted two safeguards suggested in our announcement of proposed amendments. One, the simultaneous filing of all motions of all parties at the time the Hearing Officer is served, the second a requirement that the Hearing Officer render a written ruling to be served on all parties. These provisions were expressly supported by the California utilities.

The DSI's suggest that the Hearing Officer should issue an order after the prehearing conference containing the hearing schedule, prefiling deadlines, a statement of the issues to be considered at the hearings, and any discovery schedules adopted. The DSI's further suggest that the Hearing Officer should serve such an order upon all parties by regular mail. BPA agrees that a prehearing order would be useful and informative and has adopted such provisions in section 1010.3(b).

The DSI's also suggest the addition of a new subsection which would require filing of petitions to intervene by all persons intending to claim party status and would require the Hearing Officer to hear oppositions to petitions to intervene and rule on such petitions. BPA concurs with this suggestion and has revised section 1010.3(b) appropriately. The amendment provides, in effect, the procedure previously used at the prehearing conference for BPA's 1981 Wholesale Power and Transmission Rate Hearings which worked well and occurred without objection.

The DSI's also suggest that a new subsection be added providing that prior to or at the prehearing conference any person filing a petition to intervene may move the Hearing Officer to order the consolidation of certain parties with substantially like interests for purposes of cross-examination, presentations, arguments, and motions. This suggestion mirrors the comments of the DSI's regarding section 1010.2(f), noted above, and is rejected for the reasons previously cited. The Hearing Officer retains the ability to require that cross-examination, the most time-consuming element of multiple representation, be confined to a limited number of counsel where like interests the positions of parties are evident.

Section 1010.3(c): Information Requests. The California utilities object to the provision that information requests can be made of any party by any party. The California utilities suggest that upon a showing of good cause, a request for information may be served upon a party, and that in determining whether good cause exists, the Hearing Officer would consider whether the requested material is relevant, material, and not subject to a privilege or otherwise protected. This suggestion would result in a tremendous and unnecessary consumption of limited and carefully scheduled hearing time. In BPA's 1981 rate case hundreds of information requests were made with thousands of pages of documents provided. To require a showing of good cause and a ruling upon relevancy, materiality and privilege for each such request is clearly unreasonable, if not impossible for practical purposes. If there are objections to information requests, the Hearing Officer under section 1010.3(c)(4) has the authority to mediate disputes. It is commonplace for rules governing administrative hearings to provide for cross-party discovery. Such broad discovery is a method of inquiry for all parties permitting the parties a meaningful opportunity to rebut both BPA's and other parties' cases, a right conferred by section 7(i)(2)(A) of the Regional Act. The proposed limitation of the California utilities would undoubtedly delay timely receipt of data needed to intelligently cross-examine other parties' cases.

Section 1010.3(d)(1): Hearings. The CEC suggests that section 1010.3(d)(1) be amended such that BPA would provide transcripts of the hearings to all parties at the cost of reproduction. During the 1981 BPA rate hearings BPA provided free transcripts to public interest parties. Nearly all other parties arranged to receive transcripts directly from the recording service in order to provide same day or next day service. BPA is willing to provide transcripts at cost to parties; however, due to reproduction time, BPA could not guarantee delivery of such transcripts in less than 5 days after the date of recording.

Section 1010.3(d)(5): Cross-Examination. The Privates object to a provision in the procedures permitting the Hearing Officer to order appropriate limitations on the number of attorneys or other parties permitted to cross-examine and make and argue motions. This issue was addressed in the Federal Register notice regarding Proposed Amendments to Rules of Procedure Governing BPA Rate Adjustments, 46 FR 60406, December 9, 1981. BPA notes that during the course of the 1981 hearings the Hearing Officer used his discretion

in applying section 1010.3(d)(5)(b) in ways which expedited the hearings but gave such interest groups full opportunity to cross-examine. This section is a necessay tool of the Hearing Officer to prevent redundant and dilatory cross-examination. Given the large number of parties in the 1981 case (37) and the potential for each of BPA's more than 150 customers to intervene separately, the Hearing Officer must be able to require group representation. Otherwise, domination of the rate hearings by one or another customer group with a near identity of interests could threaten the participation rights granted by section 7(i) of the Regional Act to other parties. To accomplish the aim of preventing a party from being locked into a lead counsel relationship with other parties without similar interest in some issues, as proposed, this paragraph is amended to permit the Hearing Officer to allow disaggregation of parties on such issues where the party seeking to represent itself on a particular issue can demonstrate that its interest would otherwise not be adequately represented. Such a provision appears to be satisfactory to the California utilities, Public Generating Pool, and Public Power Council.

The Privates also restate their position that the BPA rate hearings are an adjudication. This suggestion is expressly rejected by section 9(e)(2) of the Regional Act. BPA's response to such a suggestion is set forth in the Federal Register notice regarding Proposed Amendments to Rules of Procedure Governing BPA Rate Adjustments, 46 FR 60406, December 9, 1981.

Section 1010.3(d)(7): Briefs, Staff Evaluation, and Oral Argument. Most BPA customers objected to the requirement of a Staff Evaluation of the Record, even though the customers had criticized the Staff Evaluation in the 1981 BPA rate proceedings. The customers generally felt that a document such as the Staff Evaluation served a valuable purpose in demonstrating the staff's views on the issues. The customers also felt that an opportunity should exist to respond to the Staff Evaluation and suggested that briefs and/or oral argument should be mandatory. In order to address these concerns, in addition to provision for a Staff Evaluation, BPA has provided that all parties may, simultaneous with the filing of the Staff Evaluation, file a "brief" which addresses legal issues and evaluates technical matters raised in the proceedings. The BPA brief will address legal issues. The Staff Evaluation will be independant document from the Administrator's Record of Decision addressing significant matters. Presumably, the Staff Evaluation and the briefs of other parties will provide a summary of the significant comments, criticisms, support, and alternatives offered to the proposed rates or revised proposed rates. All parties will subsequently be provided an opportunity to file simultaneous reply briefs to respond to the initial briefs of BPA and all other parties. The procedures have also been amended to provide that the Hearing Officer may provide, in his or her discretion, opportunity for oral argument. To effectuate these changes, BPA has added sections 1010.2(b), 1010.2(j), and 1010.2(k), defining the terms "brief," "reply brief," and "Staff Evaluation of the Record." BPA has also amended section 1010.3(d)(7) to provide that the opportunity to submit briefs and reply briefs is mandatory, and the opportunity for oral argument lies in the discretion of the Hearing Officer. BPA has also added section 1010.4(c)(1)(v) which serves to include briefs and the Staff Evaluation of the Record in the Official Record. Section 1010.4(d)(1) has also been amended to include reference to briefs and the Staff Evaluation as part of the record.

Section 1010.4(d)(1): Record of Decision. The CEC suggests that the Record of Decision should, consistent with the provisions of section 7(i)(5), contain the "full and complete justification of the final rates." BPA agrees that the words of the Regional Act should be inserted and has amended section 1010.4(d)(1) accordingly. The final proposed rate schedules are also a part of the Record of Decision, and such schedules shall include the cost data required by section 7(j) of the Regional Act. BPA also replaces the language "options considered together with evaluations thereof" in section 1010.4(d)(1) which was omitted from the proposed procedures by typographical error.

Section 1010.4(d)(2): Service of Decision. Idaho Consumer Affairs, Inc. suggested that copies of the Record of Decision be served upon all participants to the rate proceedings as well as the parties of record. BPA believes this to be a worthwhile suggestion to keep participations informed and has amended section 1010.4(d)(2) appropriately. A number of parties suggested that the last phrase of section 1010.4(d)(2) be struck in light of section 7(i)(6) of the Regional Act which provides for the expiration of the Secretary of Energy's interim rate approval authority where the Federal Energy Regulatory Commission (FERC) possesses such authority. BPA concurs and has deleted the phrase.

BPA's Amended Rate Procedures follow:

Bonneville Power Administration, Department of Energy, Rules of Procedure Governing Rate Adjustments

Sec.

1010.1 Purpose and scope.
1010.2 Definitions.
1010.3 Rate adjustment procedures.
1010.4 Decision process.

Authority: Section 7(i) of Pub. L. 96–501; and 5 U.S.C. 553.

Section 1010.1 Purpose and scope.

(a) The purpose of this notice is to establish procedures for conducting rate adjustment hearings required to be held by the "Pacific Northwest Electric Power Planning and Conservation Act" (Regional Act) (Pub. L. 96–501). As amended, these procedures supersede BPA's "Procedure for Public Participation in Marketing Policy Formulation," 45 FR 73531 (November 5, 1980) as they apply to rates developed pursuant to section 7 of the Regional Act and "Bonneville's Rules of Procedure Governing Bonneville Power Administration Rate Adjustments," 46 FR 11697 (February 10, 1981).

(b) The Hearing Officer may render any procedural rulings necessary to the conduct of orderly and expeditious hearings. The Hearing Officer may apply the Federal Rules of Evidence and the Federal Rules of Civil Procedure as deemed appropriate, to the extent not inconsistent with these procedures.

Sec. 1010.2 Definitions.

(a) *Administrator.* The Bonneville Power Administrator.

(b) *Brief.* The document filed by a party addressing legal issues and technical matters raised in the rate proceedings. The briefs may contain a summary of the major comments, criticisms, support, and alternatives offered to the proposed rates or revised proposed rates.

(c) *Notice.* A notification required by this procedure and published in the Federal Register or elsewhere if determined by the Administrator to be desirable. Notices shall be effective on date of publication in the Federal Register unless otherwise stated. Wherever a time period is provided, the date of publication of the Federal Register notice shall determine the commencement of the time period unless otherwise stated.

(d) *Official Record.* The compiled and indexed records which document the development of rates. The Official Record is the responsibility of the Hearing Officer.

(e) *Participant.* A person or entity testifying at a hearing or providing written views, data, questions, or argument, but not formally becoming a party.

(f) *Party.* A person or entity declaring itself to be a party to a rate adjustment proceeding and who is determined by the Hearing Officer to be either: (1) A party of right; or (2) a party representing a significant and otherwise unrepresented interest. "Parties of right" are those persons having a power sales or transmission contract with BPA which is subject to adjustment as a result of the proceedings, or an association representing parties of right. Parties will be entitled to participate in any prehearing conferences, to cross-examine witnesses (subject to reasonable limitations), to call witnesses, and to receive service of documents from all other parties. A party will also be subject to cross-examination of its witnesses and, as determined by the Hearing Officer, may be required to serve all other parties with documents. Parties may choose to participate through an association on matters of common concern. Such parties may participate individually on other matters where the Hearing Officer determines that the individual parties' interests would be otherwise unrepresented.

(g) *Rate.* The monetary charge or the formula for computing such a charge for any electric service provided by BPA, including charges for capacity (or demand), energy, or transmission service, and discounts or surcharges; however, it does not include transmission line losses, leasing fees, or other types of facility use charges for other than transmission of non-Federal power, or charges for operation and maintenance of customer-owned facilities. A rate may be set forth in a rate schedule or in a contract.

(h) *Rate Adjustment.* A change in an existing rate or rates, or the establishment of a rate or rates for a new service. It does not include a change in rate schedule provisions or in contract terms, if such change does not involve a change in the price per unit of service, nor does it include changes in the monetary charge pursuant to a formula stated in a rate schedule or a contract.

(i) *Record of Decision.* The Administrator's statement of a final decision establishing a rate or rates including a full and complete justification of the final rates.

(j) *Reply Brief.* The document filed by a party in response to the briefs submitted by other parties.

(k) *Staff Evaluation of the Record.* A written evaluation of the record, prepared by BPA staff, addressing significant technical issues.

Sec. 1010.3 Rate adjustment procedures.

(a) *Notice.* Upon a determination that revenues from existing rates are insufficient or excessive to meet the Administrator's obligations, or where the Administrator determines a rate form needs adjustment, the Administrator may initiate a rate adjustment.

(1) The Administrator may issue a notice of intent to adjust rates and solicit views of interested parties.

(2) The Administrator shall provide notice in the **Federal Register** of proposed rates with a statement of the justification and reasons supporting such proposed rates together with a statement of the research, studies, analyses, and other available information in support of the proposed rates. Such notice shall establish a deadline for filing a notice of intention to claim status as a party. The notice may include such additional rules as necessary for an orderly procedure and shall specify a date for the commencement of the hearing conducted pursuant to paragraph (d) of this section.

(b) *Prehearing Conference.* (1) The Hearing Officer may establish hearing schedules, convene the parties for such prehearing conferences as are necessary for modifying hearing schedules, establish prefiling deadlines, and define issues for consideration at the hearings. The Hearing Officer shall issue an order after the perhearing conference containing the hearing schedule, prefiling deadlines, a statement of the issues to be considered at the hearings, and any discovery schedule adopted. The Hearing Officer shall serve such order upon all parties by regular mail.

(2) All persons who intend to claim party status in the rate adjustment hearings should file a Petition to Intervene with the Hearing Officer. Such petition should either be filed in writing with the Hearing Officer and BPA prior to the prehearing conference, or presented orally or in writing at the prehearing conference. Such petition shall state the name and address of the person and the person's interests in the hearings. The Hearing Officer shall hear oppositions to Petitions to Intervene at the prehearing conference, and shall grant or deny party status to all persons who have filed or presented such petitions at or prior to the prehearing conference.

(3) If seeking an *ex parte* ruling, the moving party shall simultaneously serve any motion upon all parties to the proceeding, in writing, by regular mail at the time of requesting the ruling. The Hearing Officer shall rule upon any *ex parte* motion in writing indicating disposition of the motion and the grounds therefor and serve such ruling upon all parties by regular mail, or if required under the circumstances, the Hearing Officer may notify all parties of the ruling by other means. Disputes regarding procedures may be resolved at subsequent hearing or *ex parte.*

(c) *Information Requests.* (1) Prior to publication of any initial rate proposal information may be requested of BPA pursuant to the Freedom of Information Act (5 U.S.C. 552) or informally by making a written request through BPA's General Counsel.

(2) Upon publication of initial proposed rates, requests for information may be served upon counsel for any party or person petitioning to be a party to the proceeding. Parties or persons petitioning to be parties shall answer such requests within a reasonable time or as set forth in an order issued pursuant to paragraph (c)(3) of this section, to the extent such request is relevant, material, and otherwise not privileged or protected.

(3) The Hearing Officer may issue any necessary orders and mediate any disputes related to such information requests and may establish schedules for providing requested information.

(4) Unless the Hearing Officer, for the convenience of parties and in the interests of justice, orders otherwise, information requests may be made in any sequence.

(5) The Hearing Officer may provide for oral clarifying information requests on the record to permit clarification of prefiled testimony or other matter. The Hearing Officer need not preside at such sessions, and the parties may move to exclude from the record any improper matter. The Hearing Officer shall rule on all such motions.

(d) *Hearing*—(1) *Initial Proposed Rates—Hearing.* One or more hearings shall be conducted as expeditiously as practicable by the Hearing Officer to develop a full and complete record and to receive public comment in the form of written or oral presentation of views, data, questions, and argument related to the proposed rates. In any such hearing—

(i) Any person shall be provided an adequate opportunity by the Hearing Officer to offfer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(ii) The Hearing Officer shall allow reasonable opportunity for cross-examination to develop information and material relevant to any such proposed rate.

(2) *Written Record.* In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by or before the close of hearings shall be made a part of the Official Record.

(3) *Order of Testimony.* Participants and parties may appear personally at the hearings or by qualified counsel. Views, data, questions, and arguments will be received in the order determined by the Hearing Officer subject to such limitations as the Hearing Officer may impose.

(4) *Prefiling of Testimony.* The Hearing Officer may require parties to prefile exhibits or testimony on any issue raised in the proceedings. The Hearing Officer may exclude all or part of such testimony not prefiled by the specified deadline.

(5) *Cross-Examination.* (i) To prevent unnecessary delay, the Hearing Officer may place such limitations on cross-examination deemed necessary.

(ii) Where there are two or more parties having substantially like interests and positions, the Hearing Officer may, in order to expedite the hearing, order appropriate limitations on the number of attorneys or parties appearing *pro se* who will be permitted to cross-examine and make and argue motions and objections on behalf of such parties. Where a party demonstrates that it would not be adequately represented in the joint presentation of an issue or issues, the Hearing Officer may permit separate examination or argument regarding such issue or issues.

(6) *Revised Proposed Rate—Hearing.* After a hearing, the Administrator may propose Revised Proposed Rates, publish such Revised Proposed Rates in the **Federal Register**, and conduct additional hearings in accordance with these procedures.

(7) *Briefs, Staff Evaluation, and Oral Argument.* BPA shall file a brief and a Staff Evaluation of the Record, and the Hearing Officer shall extend an opportunity to other parties to summarize the record and analyze the law through briefs. All briefs and the Staff Evaluation shall be filed simultaneously. The Hearing Officer shall also extend an opportunity to all parties to file reply briefs to the briefs submitted by other parties and the Staff Evaluation. All reply briefs shall be filed simultaneously. The Hearing Officer may provide, in his or her discretion, opportunity for oral argument.

Sec. 1010.4 Decision process.

(a) [Reserved].

(b) *Continuation of Hearings.* If additional hearings are necessary to reflect new factual material previously unavailable to the parties, the Hearing Officer may, upon notice, and consistent with contractual time constraints, reconvene the hearings to allow the presentation of new evidence and to allow rebuttal and cross-examination thereon.

(c) *The Official Record.* The Hearing Officer shall certify the Official Record to the Administrator for decision.

(1) the Official Record shall contain:

(i) All **Federal Register** or other notices provided for by these procedures;

(ii) The principal research, analyses, and other available information, or a summary thereof, used in developing the rates;

(iii) The transcribed record of hearings including documents and exhibits presented at such hearings, written comments and questions from interested persons, and BPA's replies;

(iv) Such records or minutes as exist of workshops or other public meetings on the rates;

(v) Briefs submitted by the parties and the BPA Staff Evaluation of the Record;

(vi) Written views, data, and suggestions submitted by persons before the close of the hearings; and

(vii) Any other information the Hearing Officer or the Administrator determines is relevant.

(2) A copy of the Official Record shall be available for inspection or copying in the office of the BPA Public Involvement Coordinator.

(d) *Final Proposed Rates—(1) Record of Decision.* The Administrator shall develop Final Proposed Rates based upon the record which shall include the hearing transcripts, together with exhibits, briefs, the Staff Evaluation of the Record, and such other materials and information as may have been submitted to, or developed by, the Administrator. The Record of Decision shall include a full and complete justification of the final rates. The Record of Decision shall contain findings of fact, statements of applicable law, major areas of controversy, options considered together with evaluations thereof, principal objections to and statements in suport of the proposed new or revised rates submitted by participants or parties together with summaries of BPA's analyses thereof, and a statement of the reasons for the Administrator's decision.

(2) *Service of Decision.* Upon adopting the Final Proposed Rates, the Administrator shall serve copies of the Administrator's Record of Decision upon all parties and participants and shall promptly file such Final Proposed Rates together with the Official Record with the FERC for confirmation and approval.

Dated: February 3, 1982.

Earl Gjelde,

Acting Administrator.

[FR Doc.82-3500 Filed 2-9-82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
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DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Standards for Whole Dry Peas and Lentils; Revision

AGENCY: Federal Grain Inspection Service,[1] USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is revising the U.S. Standards for Whole Dry Peas to increase the limits for cracked seedcoats by 1.5 percent in each numerical grade for dry peas, and the U.S. Standards for Lentils to add a 15.0 percent limit for skinned lentils to the Sample grade requirements. These changes are made to facilitate the marketing of peas and lentils by reflecting modern methods of handling, storing, and transporting of these commodities. A proposed rule was published in the Federal Register on October 15, 1981 (46 FR 50802).

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: N. Gail Jackson, Director, Standardization Division, FGIS, USDA, Richards-Gebaur AFB, Building 221, Grandview, Missouri 64030, telephone (816) 348–2861.

SUPPLEMENTARY INFORMATION: The U.S. Standards for Whole Dry Peas (7 CFR 68.401–68.410) and the U.S. Standards for Lentils (7 CFR 68.601–68.611) were established under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). This final rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been determined to be nonmajor because the changes are made to facilitate the marketing of these commodities by making the standards consistent with current handling practices and enabling U.S. produced peas and lentils to compete more effectively in world markets. The impact of this action is expected to have less than a $100 million annual effect on the economy, and is not expected to impose any major increase in costs or prices. Kenneth A. Gilles, FGIS Administrator, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The action poses no additional duties or obligations on producers, handlers, or exporters of whole dry peas and lentils, and any impact resulting from the changes is expected to be minor.

The Administrator has determined that in order to facilitate the marketing of peas and lentils by reflecting current methods of handling, storage, and transporting of such commodities for the remainder of the present marketing year good cause is found pursuant to the administrative procedures provisions in 5 U.S.C. 553 to make this final rule effective upon publication in the Federal Register.

In compliance with the requirements for the periodic review of existing regulations, FGIS reviewed and proposed to revise the U.S. Standards for Whole Dry Peas and the U.S. Standards for Lentils in the October 15, 1981, Federal Register (46 FR 50802). Six comments were received from interested parties in the dry pea and lentil industry on the proposed changes. Four of the comments received supported (1) the increase in the limits for cracked seedcoats by 1.5 percent in each numerical grade in the U.S. Standards for Whole Dry Peas, and (2) the addition of a Sample grade limit of 15.0 percent for skinned lentils in the U.S. Standards for Lentils. Two negative responses were received as discussed below. The proposed changes in the limits for cracked seedcoats were supported by the commentors for the following reasons:

Cracked seedcoats are a grade limiting factor, particularly in yellow peas. Smooth yellow dry pea varieties have a thin seedcoat which is brittle and, therefore, more susceptible to cracking. The grade limits for cracked seedcoats appear to have hindered yellow pea export sales. Handlers and exporters of whole dry yellow peas have declined to have pea lots officially inspected because the tolerance for cracked seedcoats is considered to be too strict.

Increasing the cracked seedcoat limits by 1.5 percent in each grade in the U.S. Standards for Whole Dry Peas is made to facilitate the marketing of dry peas, and to reflect current conditions of handling, storing, and transporting whole dry peas.

The American Dry Pea and Lentil Association (ADPLA) recommended quick approval of both the whole dry pea and lentil revisions in order to facilitate orderly marketing of the 1981 crop.

One commentor maintained that increasing the cracked seedcoat limits for whole yellow peas by 1.5 percent would cause appearance to suffer, particularly in the dry States. The commentor further noted in response to our statement that a 1.5 percent increase in grade limits for cracked seedcoats will not have a detrimental effect on the end use quality of peas for canning, that a good portion of the export trade does not use this product for canning. The second negative commentor objected only to the changes proposed for lentils. The higher grade limits for cracked seedcoats more accurately describe the product available in the market. Any changes in visual quality for peas in the dry States would be minimal and would not, as noted above, have a detrimental effect on the end use of peas for canning.

Two commentors stated that, if more than 15.0 percent skinned lentils grades a lot U.S. Sample grade, there should be some limits on skinned lentils for U.S. No. 1 and U.S. No. 2 grades. However, limits for these grades that were suggested appear to be too lenient to be meaningful based on the percentages of skinned lentils in past crops. Because the proposal did not include such changes for comment, and limits for U.S. No. 1 and U.S. No. 2 grades will require further study, a proposed change may be considered at a later date.

Accordingly, the U.S. Standards for Whole Dry Peas, § 68.406, Grades and

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

grade requirements for dockage-free peas, are amended to increase the maximum limits for peas with cracked seedcoats by 1.5 percent in each of the numerical grades, U.S. No. 1, U.S. No. 2, and U.S. No. 3.

The U.S. Standards for Lentils, § 68.607, Grades and grade requirements for dockage-free lentils, are also amended to add a grade limit for skinned lentils to the requirements for Sample grade. The additional grade limit states that samples containing more than 15.0 percent skinned lentils shall be U.S. Sample grade.

Further, the revision makes a limited number of minor changes to the format of the tables which appear in § 68.406 and § 68.607, including a correction to the footnote referenced for the heading Subpart F—U.S. Standards for Whole Dry Peas as published in the proposal. The reference to footnote 2 is changed to read footnote 1.

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Accordingly, 7 CFR Part 68 of the regulations is amended by revising §§ 68.406 and 68.607 as follows:

1. Section 68.406 is revised to read as follows:

Subpart F—U.S. Standards for Whole Dry Peas [1]

§ 68.406 Grades and grade requirements for dockage-free dry peas. (See also § 68.408.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

	Maximum limits of defective peas									
	Weevil-damaged peas (percent)	Heat-damaged peas (percent)	Damaged peas [2] (percent)	Other classes [3] (percent)	Bleached peas [4] (percent)	Split peas (percent)	Shriveled peas (percent)	Peas with cracked seedcoats (percent)	Foreign material (percent)	Minimum requirements for color
U.S. No. 1 [5]	0.3	0.2	1.0	0.3	1.5	0.5	2.0	5.0	0.1	Good.
U.S. No. 2 [5]	0.8	0.5	1.5	0.8	3.0	1.0	4.0	7.0	0.2	Good.
U.S. No. 3 [5]	1.5	1.0	2.0	1.5	5.0	1.5	8.0	9.0	0.5	Poor.

U.S. Sample grade. U.S. Sample grade shall be dry peas which:
(a) Do not meet the requirements for the grades U.S. Nos. 1, 2, or 3; or
(b) Contain metal fragments, broken glass, or a commercially objectionable odor; or
(c) Contain more than 15.0 percent moisture; or
(d) Are materially weathered, heating, or distinctly low quality; or
(e) Are infested with five weevils or other live insects.[6]

[1] Uniformity of Size requirements—Dry peas of any of the numerical grades shall be of such size that not more than 3.0 percent shall pass through the appropriate oblong-hole sieve as follows:

Peas	Appropriate sieve
Winter Dry Peas	9/64 x 3/4
Special grade "Small" peas	19/64 x 3/4
All other peas	11/64 x 3/4

[2] Damaged peas do not include weevil-damaged or heat-damaged peas.
[3] These limits do not apply to the class Mixed Dry Peas.
[4] These limits do not apply to winter field peas and wrinkled peas.
[5] As applied to dockage-free whole dry peas, the meaning of the term "infested" is set forth in Chapter 3 of the Inspection Handbook HB-1.2.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

2. Section 68.607 is revised to read as follows:

Subpart H—U.S. Standards for Lentils [1]

§ 68.607 Grades and grade requirements for dockage-free lentils. (See also § 68.609.)

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

Grade	Maximum limits of					Minimum requirements—color
	Defective lentils			Foreign material		
	Total (percent)	Weevil-damaged lentils (percent)	Heat-damaged lentils (percent)	Total (percent)	Stones (percent)	
U.S. No. 1	2.0	0.3	0.2	0.2	0.1	Good.
U.S. No. 2	3.5	0.8	0.5	0.5	0.2	Fair.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS—Continued

Grade	Maximum limits of					
	Defective lentils			Foreign material		Minimum requirements—color
	Total (percent)	Weevil-damaged lentils (percent)	Heat-damaged lentils (percent)	Total (percent)	Stones (percent)	

U.S. Sample grade—U.S. Sample grade shall be lentils which:
(a) Do not meet the requirements for the grades U.S. Nos. 1 or 2; or
(b) Contain more than 14.0 percent moisture, live weevils or other live insects, metal fragments, broken glass, or a commercially objectionable odor; or
(c) Are materially weathered, heating, or distinctly low quality; or
(d) Contain more than 15.0 percent skinned lentils.

(Sec. 203 (c), (h), Pub. L. 79-733, 60 Stat. 1087 (c), (h), (7 U.S.C. 1622 (c), (h)))

Dated: January 28, 1982.

K. A. Gilles,

Administrator.

[FR Doc. 82-3680 Filed 2-10-82; 8:45 am]

BILLING CODE 3410-EN-M

Animal and Plant Health Inspection Service

7 CFR Part 301

Domestic Quarantine Notices; Gypsy Moth and Browntail Moth Quarantine and Regulations

Correction

In FR Doc. 82-2874 appearing on page 5191 in the issue of Thursday, February 4, 1982, make the following correction:

In the third column of page 5191, the third paragraph under **Background** contained errors and should have read as follows:

The document of October 2, 1981 also included a notice of a public hearing concerning the amendments. Pursuant to this notice, a public hearing was held on November 3, 1981, in St. Louis, Missouri. One oral comment was presented at the public hearing by a representative of the Arkansas State Plant Board. The comment was in support of the amendments and did not suggest any changes.

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 4]

Oranges, Grapefruits, Tangerines, and Tangelos Grown in Florida; Amendment of Grade Requirements

Correction

In FR Doc. 82-2875 appearing on page 5192 in the issue of Thursday, February 4, 1982, make the following correction:

On page 5192, at the bottom of the first column, the first paragraph under **Supplementary Information** contained errors and should have read as follows:

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

BILLING CODE 1505-01-M

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Regulation 6, Amdt. 6]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action lowers the minimum diameter requirement for domestic shipments of Florida pink seedless grapefruit and imports of pink seedless grapefruit from 3 9/16 inches to 3 5/16 inches. This amendment also lowers the minimum diameter requirement for domestic shipments of Florida Temple oranges and Florida tangelos from 2 9/16 inches to 2 5/16 inches, and requires that domestic and export shipments of Temple oranges and tangelos meet the requirements of U.S. No. 1 Golden grade. The changes in minimum size of pink seedless grapefruit, Temple oranges and tangelos and minimum grade for Temple oranges and tangelos recognize the size composition and quality of the remaining supply of such fruit, and is consistent with the available crop in the interest of growers and consumers.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect the costs for the directly regulated handlers. The regulation with respect to Florida pink seedless grapefruit, Florida Temple oranges and Florida tangelos is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida.

The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information.

The minimum grade and size requirements, specified herein, reflect the Committee's and the Department's appraisal of the need to revise the size requirements applicable to Florida pink seedless grapefruit and the grade and size requirements applicable to Florida Temple oranges and tangelos in

recognition of the recent freeze in Florida. The freeze has resulted in some fruit loss and increased market demand for the remaining fruit supply. Specification of these requirements assures that the available supply of marketable fruit reaches the consumer.

Under section 8e of the Act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Thus, size requirements for imported pink seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida pink seedless grapefruit. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified. This amendment relieves restrictions on shipments of Florida pink seedless grapefruit, imports of pink seedless grapefruit and Florida Temple oranges and tangelos.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, it is found that the provisions of § 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6 (46 FR 60170; 60411; 61441; 47 FR 589; 5699) should be and are amended by revising Table I paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, grapefruit, tangerine and tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges: Temple	Feb. 8, 1982 to Aug. 22, 1982	U.S. No. 1 golden	2 1/16
	On and after Aug. 23, 1982	U.S. No. 1	2 1/16
Tangelos	Feb. 8, 1982 to Aug. 22, 1982	U.S. No. 1 golden	2 1/16
	On and after Aug. 23, 1982	U.S. No. 1	2 1/16
		Improved No. 2 (external)	
Grapefruit: Seedless, pink.	Feb. 8, 1982 to Aug. 22, 1982	U.S. No. 1 (internal)	3 1/16
	On and after Aug. 23, 1982	Improved No. 2	3 1/16

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges: Temple	Feb. 8, 1982 to Aug. 22, 1982	U.S. No. 1 golden	2 1/16
	On and after Aug. 23, 1982	U.S. No. 1	2 1/16
Tangelos	Feb. 8, 1982 to Aug. 22, 1982	U.S. No. 1 golden	2 1/16
	On and after Aug. 23, 1982	U.S. No. 1	2 1/16

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 5, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-3662 Filed 2-10-82; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regs. 540 and 539, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Serice, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 12–February 18, 1982, and increases the quantity of such oranges that may be so shipped during the period February 5–February 11, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective February 12, 1982, and the amendment is effective for the period February 5–11, 1982.

FOR FURTHER INFORMATION CONTACT: Wiliam J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committeee following discussion at a public meeting on October 6, 1981. The committee met again publicly on February 9, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based

and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 907.840 is added as follows:

§ 907.840 Navel orange regulation 540.

The quantities of navel oranges grown in Arizona and California which may be handled during the period February 12, 1982, through February 18, 1982, are established as follows:

(1) District 1: 1,262,000 cartons;
(2) District 2: 188,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.839 Navel Orange Regulation 539 (47 FR 5403), is hereby amended to read:

§ 907.839 Navel orange regulation 539.

* * * * *

(1) District 1: 1,232,000 cartons;
(2) District 2: 218,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 10, 1982.

Michael A. Castille,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–3978 Filed 2–10–82; 11:24 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

Federal Aviation Administration

[Airspace Docket No. 81–AEA–62]

Renumbering of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment renumbers certain alternate VOR Federal Airways in the eastern part of the U.S. This action eliminates the assignment of alternate airway segments for the affected airways. It is in accordance with International Civil Aviation Organization (ICAO) agreement to phase out alternate airways from the National Airspace System.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: John Watterson, Airspace Regulations and Obstructions Branch (ATT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V–8N, V–12S, V–16S, V–39E, and V–44E. There would be no change in the amount of designated controlled airspace as a result of this action. The alternate airway segments are renumbered to eliminate the use of alternate airway assignments in accordance with ICAO agreement (46 FR 60464). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) renumbers V–8N, V–12S, V–16S, V–39E, and V–44E. There is no change in the amount of designated controlled airspace and the renumbering is to eliminate the use of alternate airway assignments. This action is in accordance with ICAO agreement to phase out alternate airways from the National Airspace System.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), and amended (45 FR 71773, 46 FR 11508, 11951, 30804, 38345, and 48128), is further amended, effective 0901 GMT, May 13, 1982, as follows:

1. V–8 [Amended]

By deleting the words ", including a north alternate from Grantsville to the INT of Hagerstown, MD, 157° and the Martinsburg 130° radials via Hagerstown."

2. V–438 [New]

By adding "V–438 From Grantsville, MD, via Hagerstown, MD, to the INT of Hagerstown 157° and the Martinsburg, WV, 130° radials."

3. V–12 [Amended]

By deleting the words ", including a S alternate from Johnstown to Harrisburg via St. Thomas, PA." and substituting for them the words "; INT Harrisburg 067° and East Texas, PA, 225° radials; to East Texas."

4. V–469 [Amended]

By Deleting the words "to Johnstown." and substituting for them the words "Johnstown; St. Thomas, PA; to Harrisburg, PA."

5. V–16 [Amended]

By deleting the words "including a S alternate via INT Pulaski 094° and Lynchburg 253° radials;"

6. V–470 [New]

By adding "V–470 From Pulaski, VA, via INT Pulaski 094° and Lynchburg, VA, 253° radials; to Lynchburg."

7. V–39 [Amended]

By deleting the words "including an E alternate via Casanova, VA;"

8. V–453 [New]

By adding "V–453 From Gordonsville, VA, via Casanova, VA, to Linden, VA."

9. V–44 [Amended]

By deleting the words ", including an east alternate via INT Atlantic City 055° and Deer Park 209° radials"

10. V–184 [Amended]

By deleting the words "Atlantic City, NJ." and substituting for them the words "Atlantic City, NJ; INT Atlantic City 055° and Deer Park 209° radials; to the INT Atlantic City 046° and Deer Park 209° radials."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—the FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–3980 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–AAL–17]

Establishment of Point Hope, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a transition area in the vicinity of Point Hope, AK. This action provides controlled airspace needed to accommodate prescribed instrument approach procedures.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT:
Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area to provide controlled airspace in the vicinity of Point Hope, AK, as published in the Federal Register (46 FR 60462). A nondirectional radio beacon (NDB) has been installed at Point Hope, AK, and two instrument approaches have been developed which use this aid. The transition area is needed to provide protected airspace to accommodate these instrument approach procedures. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 was republished on January 2, 1981 (46 FR 540).

The rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes a transition area that extends upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the Point Hope, AK, NDB 020° bearing extending from the NDB to 18.5 miles north of the NDB and within 4.5 miles west and 9.5 miles east of the Point Hope NDB 205° and 025° bearings extending from 1 mile north of the NDB to 18.5 miles south of the NDB.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540), is amended, effective 0901 GMT, May 13, 1982, as follows:

Point Hope, AK [New]

By adding Point Hope, AK, Transition Area to read as follows:

Point Hope, AK

That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the Point Hope NDB (lat. 68°20'40" N., long. 166°47'30" W.) 020° bearing extending from the NDB to 18.5 miles north of the NDB and within 4.5 miles west and 9.5 miles east of the 205° and 025° bearings extending from 1 mile north of the NDB to 18.5 miles south of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-3874 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AEA-65]

Renumbering of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment renumbers certain alternate VOR Federal Airways in the eastern part of the U.S. This action eliminates the assignment of alternate airway segments for the affected airways. It is in accordance with International Civil Aviation Organization (ICAO) agreement to phase out alternate airways from the National Airspace System.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT:
John Watterson, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On November 27, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V-93E, V-143S, V-162S, V-222N, V-375N, and V-433E. There would be no change in the amount of designated controlled airspace as a result of the proposed action. The alternate airway segments are renumbered to eliminate the use of alternate airway assignments, in accordance with ICAO agreement (46 FR 57913). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) renumbers V-93E, V-143S, V-162S, V-222N, V-375N, and V-433E. There is no change in the amount of designated controlled airspace and the renumbering is to eliminate the use of alternate airway assignments. This action is in accordance with ICAO agreement to phase out alternate airways from the National Airspace System.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), and amended (45 FR 71774, 46 FR 23047 and 54928), is further amended, effective 0901 GMT, May 13, 1982, as follows:

1. *V-93 [Amended]*
   By removing the words "including an E alternate via the INT of Baltimore 034° and Lancaster 181° radials;"
2. *V-499 [Amended]*
   By removing the words "From Lancaster, PA," and substituting the words "From Baltimore, MD, via INT of Baltimore 034° and Lancaster, PA 181° radials; Lancaster,"
3. *V-143 [Amended]*
   By removing the words "including an S alternate via Westminster, MD;"
4. *V-457 [New]*
   By adding "V-457 From Lancaster, PA, via Westminster, MD; to Martinsburg, WV."
5. *V-162 [Amended]*

By removing the words ", including an S alternate via INT Harrisburg 067° and East Texas 225° radials"

6. *V–222 [Amended]*
By removing the words "including an N alternate from Lynchburg via Gordonsville, VA."

7. *V–476 [New]*
By adding "V–476 From Lynchburg, VA, via Gordonsville, VA, to INT Brooke, VA, 045° and Richmond, VA, 009° radials."

8. *V–375 [Amended]*
By removing the words "; including an N alternate via the INT Roanoke 035° and Monetebello, VA, 250° and Montebello, VA."

9. *V–473 [New]*
By adding "V–473 From Roanoke, VA, via INT Roanoke 035° and Montebello, VA, 250° radials; Montebello; Gordonsville, VA."

10. *V–433 [Amended]*
By removing the words ", including an E alternate via DUPONT 058° and Yardley 196° radials"

11. *V–479 [New]*
By adding "V–479 From Dupont, DE, via INT DUPONT 058° and Yardley, PA, 196° radials; to Yardley."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-3679 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-2]

Revise Control Zone, Hillsboro, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document amends the Hillsboro, Oregon Control Zone by reducing its size. This relief is a result of the cancellation of an instrument approach procedure to the Hillsboro Airport.

EFFECTIVE DATE: May 13, 1982. Comments must be received on or before March 16, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Chief, Operations, Procedures, and Airspace Branch, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANM–534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767–2610.

SUPPLEMENTARY INFORMATION: The RNAV runway 20 approach to Hillsboro Airport has been cancelled, therefore, the control zone extension along the 039° bearing from the Hillsboro Airport reference point is no longer needed. Since this amendment reduces the size of the control zone, it is relieving in nature and notice and public procedure therein are unnecessary.

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455, January 2, 1981) is amended, effective 0901 GMT, May 13, 1982, as follows:

Hillsboro, Oregon

On line three (3) delete the words, "within 2 miles each side of the 039° bearing from the airport reference point, extending from the 5-mile radius area to 9.5 miles northeast of the airport";

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.–The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, February 2, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-3676 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-3]

Alteration of Control Zone: Corpus Christi NAS, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the control zone at Corpus Christi NAS, TX. This amendment will change the geographical coordinates of the Airport Reference Point (ARP). The amendment is necessary since the ARP of the Corpus Christi NAS has changed and has created an improper description of the control zone which provides protection for aircraft operating under instrument flight rules (IFR).

DATES: Effective date—May 13, 1982. Comments on the rule must be received before March 1, 1982.

ADDRESS: Send comments on the action in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region: Docket No. 82–ASW–3, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart F 71.171 as republished in the Federal Register on January 2, 1981 (46 FR 455), contains the description of control zone designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Alteration of the control zone at Corpus Christi NAS, TX, will necessitate an amendment to this subpart. A review of the necessary controlled airspace has revealed that the geographical coordinates of the ARP have changed, thereby requiring this alteration to accurately describe the control zone.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends the dimensions of the Corpus Christi NAS, TX, control zone. Because this action is a minor change and is basically editorial in nature, I find that notice and public procedure and publication 30 days before the effective date are unnecessary; however, comments are invited on the rule. When the comment period ends, the FAA will use the comments and any other available information to review the regulation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71) as republished (46 FR 455) is amended, effective 0901 GMT, May 13, 1982, by removing * * * "(Latitude 27°41'30"N., longitude 97°17'15"W)" and substituting therefor (latitude 27°41'38"N., longitude 97°17'28"W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. § § 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11/61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Fort Worth, TX, on February 2, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-3972 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 81-AWP-24]

Alteration of Restricted Area R-2311, Army Proving Grounds, Yuma, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the time of designation of temporary Restricted Area R-2311, Army Proving Grounds, Yuma, AZ. Circumstances beyond the control of the using agency have caused a need to add the period of April 1, 1982, through October 31, 1982, to the existing time of designation. This action will allow completion of the flight test program and reduce possible cost overruns.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1981, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to extend the time of designation for temporary Restricted Area R-2311, Army Proving Grounds, Yuma, AZ, as published in the Federal Register (46 FR 60465), by adding the period of April 1, 1982, through October 31, 1982, to the present time designation. The additional period is needed to allow sufficient time for completion of the flight test program which has been delayed by production delays by commercial contractors. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.23 was republished on January 2, 1981 (46 FR 784).

The Rule

This amendment to Part 73 of the Federal Aviation Regulations extends the time of designation for temporary Restricted Area R-2311, Army Proving Grounds, Yuma, AZ, by adding the period of April 1, 1982, through October 31, 1982, to the present time of designation. This action is necessary to allow sufficient time for completion of the flight test program.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.23 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 784), is amended, effective 0901 GMT, May 13, 1982, as follows:

R-2311 Army Proving Grounds, Yuma, AZ [Amended]

Under time of designation by deleting the words "October 1, 1980, through March 31, 1982" and substituting for them the words "October 1, 1980, through October 31, 1982"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 3, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-3969 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 7652]

ABC Vending Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This reopens the proceeding and modifies the Commission's order issued on October 22, 1964 (29 FR 15201) by deleting Paragraph VIII from the order, which limited the amount of time

respondents could contract for exclusive concessionary rights at movie theaters.

DATES: Order issued October 22, 1964. Modifying order issued January 28, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 376–2863.

SUPPLEMENTARY INFORMATION: In the Matter of ABC Vending Corporation, a corporation, and Berlo Vending Company, a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13 and appearing at 29 FR 15201, remain unchanged.

The Order Modifying Cease and Desist Order Issued October 22, 1964 is as follows:

The Federal Trade Commission having considered the September 22, 1981 petition of Ogden Food Service Corporation (successor to ABC Vending Corporation) to reopen this matter and to set aside or, in the alternative, modify the consent order to cease and desist issued by the Commission on October 22, 1964, and having determined that changed conditions of fact warrant reopening and modification of the order,

It is ordered that this matter be, and it hereby is reopened and that Paragraph VIII of the Commission's order be and it is hereby deleted.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-3980 Filed 2-10-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. PL82-1-000]

Natural Gas; Fraud Standard; Statement of Policy

February 4, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Statement of policy.

SUMMARY: The Federal Energy Regulatory Commission (Commission) announces a general policy regarding the meaning of "fraud, abuse, or similar grounds" (fraud standard) in section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432). That section allows interstate pipelines to passthrough the price paid to purchase natural gas if the price, deemed just and reasonable pursuant to section 601(b), is not "excessive due to fraud, abuse, or similar grounds." For future decisions in proceedings in which fraud, abuse, or similar grounds is raised, the Commission hopes to limit consideration of the fraud standard to consideration of whether the amounts paid were excessive as a result of a misrepresentation of any kind. The purpose of this policy statement is to provide guidance for the efficient disposition of cases in which the fraud standard is an issue.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8033.

SUPPLEMENTARY INFORMATION

The Federal Energy Regulatory Commission (Commission) announces a general policy regarding the meaning of "fraud, abuse, or similar grounds" (fraud standard) in section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432) (NGPA). Section 601(c)(2) allows interstate pipelines to passthrough the price paid to purchase natural gas if the price, deemed just and reasonable pursuant to section 601(b), is not "excessive due to fraud, abuse, or similar grounds." For future decisions in proceedings in which fraud, abuse, or similar grounds is raised, the Commission hopes to limit consideration of the fraud standard to consideration of whether the amounts paid were excessive as a result of a misrepresentation of any kind.

The purpose of this policy statement is to provide guidance for efficient disposition of cases in which the fraud standard is an issue. The Commission is mindful that a general policy statement does not have the force and effect of law. Instead, it is an articulation of the Commission's tentative intention which will be followed unless circumstances demonstrate the policy to be inappropriate. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to futher consideration.[1] This general policy is being codified in Part 2 (General Policy and Interpretations) of the Commission's regulations by adding new § 2.300.

[1] With regard to issued statements of policy, the Commission has demonstrated that it does reconsider the policy statement as applied to particular circumstances, and, when appropriate, determines that the policy statement does not apply. For example, in Southern California Edison Co., the Commission determined that the showing required by § 2.17(a)(4)—the resale rates that the wholesale customer would charge—was not necessary to establish a *prima facie* case. Docket No. EC76-36E, Opinion No. 92, at 27 (August 22, 1978).

I. Introduction

The NGPA extended price controls to the intrastate market for the first time, while allowing prices for gas to rise gradually in both the interstate and intrastate markets and permitting the eventual deregulation of a number of specified categories of natural gas. Under section 121(a) of the NGPA, high cost gas regulated under section 107(c)(1)–(4) of the Act was deregulated almost immediately. Certain other categories of gas are scheduled to be deregulated in 1985, and still others in 1987. However, large quantities of gas will remain price-controlled until the supplies are exhausted.

By far the largest share of presently decontrolled gas is that produced from section 107(c)(1) wells, *i.e.*, wells, the surface drilling of which began on or after February 19, 1977, and the completion location of which occurs at a depth of more than 15,000 feet. Prices for that gas now range from about $2.00/MMBtu to over $9.00/MMBtu.[2] In addition, a recent study estimates that the long-term market clearing price in 1982 would be about $4.56 (in 1981 dollars), which is somewhat less than the Btu-equivalent price of low sulfur No. 6 fuel oil with transportation charges subtracted or backed out.[3] Based on these estimated prices, the highest price currently being paid for deregulated natural gas exceeds the long-term market clearing price by about a factor of 2.

II. Fraud Standard in Commission Proceedings

A number of credible and responsible persons have intervened in certain Commission proceedings, objecting to the level of prices being paid for deregulated gas supplies. The first of these proceedings was Transcontinental Gas Pipeline Corporation (Transco), Docket No. TA81–1–29–002, to which a joint notice of intervention was filed by the Public Service Commission for the

[2] *See, e.g.*, Transcontinental Gas Pipe Line Corp., Docket No. TA81–2–29–001 (PGA81–2) filed July 31, 1981 ($9.7705/Mcf); Southern Natural Gas Co., Docket No. TA81–3–7–000 (PGA81–2) filed June 1, 1981 ($9.2820/Mcf); Panhandle Eastern Pipe Line Co., Docket No. TA81–2–28–001 (PGA81–2) filed July 17, 1981 ($1.911010/Mcf settlement); Michigan Wisconsin Pipe Line Co., Docket No. TA81–2–48–000 (PGA81–2) filed March 31, 1981 ($1.915820/Mcf).

[3] U.S. Department of Energy, Office of Policy, Planning and Analysis, A Study of Alternatives to the Natural Gas Policy Act of 1978 (November 1981) p. 22 (hereinafter cited as DOE Study). (The study uses 1980 dollars; the figures in this order have here been converted into 1981 dollars using an assumed 9 percent inflation rate.) The corresponding delivered industrial price projected by the study is $5.48, compared with projected Btu-equivalent prices of $5.19 and $5.07 for low-sulfur No. 6 fuel oil.

State of New York and the North Carolina Utilities Commission (State Commissions).[4] The pattern of interventions in other proceedings[5] is similar to that in the *Transco* case. Although there is some slight variation in the arguments, the *Transco* case will be used for illustrative purposes.

On January 29, 1981, Transco made its semi-annual PGA filing under § 154.38(d)(4) of the Commission's regulations. The State Commissions filed a timely petition to intervene, and this Commission, in an order issued February 28, 1981,[6] characterized the theory of the intervention as follows:

> The State Commissions in their joint notice of intervention protest Transco's filing and request that it be suspended and set for hearing. Specifically, they allege that the Commission cannot find that the increased rates which would be made effective by the instant PGA filing are just and reasonable within the meaning of Sections 4 and 5 of the Natural Gas Act and Section 601(b) of the Natural Gas Policy Act (NGPA), and, therefore, such rates are not appropriate for guaranteed recovery under Section 601(c)(2) of the NGPA. The State Commissions state that the increase in Transco's purchased gas costs has been much more rapid than that of comparable pipelines and that Transco's rates may soon price certain of Transco's distributor customers out of the industrial sales market.

(Mimeo at 2.)

The Commission's consideration of these matters is governed by section 601 of the NGPA. That section was intended to coordinate the NGPA with the Natural Gas Act (15 U.S.C. 717 *et seq.*) (NGA). Section 601(b)(1) provides generally that, for the purposes of sections 4 and 5 of the NGA, any amount paid in any first sale of natural gas shall be deemed just and reasonable either if such amount does not exceed the maximum lawful price allowed by Title I of the NGPA or if there is no applicable maximum lawful price solely by reason of the elimination of price controls pursuant to Title I of the NGPA. Section 601(c) of the NGPA is complementary in that it provides that, for purposes of sections 4 and 5 of the NGA, the Commission may not deny any interstate pipeline recovery of any amount paid with respect to any purchase of natural gas if under section 601(b) such amount is deemed just and reasonable for purposes of sections 4 and 5 of the NGA and such recovery is not inconsistent with specified provisions of Title II, except to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds. Thus, intervenors have selected the "fraud, abuse, or similar grounds" proviso (fraud standard) as the vehicle by which to translate their discontent over higher than market prices into disallowance of the flow through of all or part of such prices to consumers. The argument, with variations, is that the fraud standard is broad enough to encompass imprudent gas-purchase practices, and that the payment of higher than market prices is definitionally imprudent.

In its February 28 order the Commission recognized that "[t]he identity of, or differences between, 'fraud,' 'abuse' or 'similar grounds,' when stated disjunctively in Section 601(c) is a particularly difficult but important question." (Mimeo at 2, n. 3.) Declining for the most part to attempt an interpretation of these words, the Commission indicated that, because the *Transco* case was one of first impression, it was essential that the factual and legal issues relating to section 601(c) be resolved at hearing. However, the Commission did indicate that "[a]buse, in this context, does not refer to imprudence but to serious improprieties." The Commission also indicated that "the protestants have a heavy burden of proof to demonstrate the impropriety that would trigger the 'fraud, abuse or similar grounds' basis for denying passthrough of costs." (Mimeo at 3.)

In the intervening months since the first orders were issued in the *Transco* case and similar proceedings, the Commission has decided to reconsider its decision to leave the interpretation of the fraud standard to the administrative law judges. The Commission is concerned that there are now five of these proceedings. Multiple proceedings have serious negative implications for the allocation of this Commission's resources during a time of severe budget restraint, and they may lead to several inconsistent standards. In short, it would be unwise to conduct numerous duplicative hearings to develop a standard, or to adjudicate cases using inappropriate standards.

For the reasons discussed above, the Commission is issuing this policy statement—fully recognizing the lateness of the hour—to guide the administrative law judges in their deliberations. The effect of this statement is to place litigants on notice of the tentative standard that will be applied in their cases, so that they may make informed decisions as to the strategy and presentation of their litigation.

Hereafter, litigants will be able to obtain a more rapid resolution of the substantive question in the courts of appeals should they elect to do so because the litigation can be concluded more efficiently if the administrative law judges are provided with a standard to guide them.[7]

III. Discussion

A. Commission Orders and Legislative History

Prior to discussion of the fraud standard itself, it is useful to review what the Commission has said about that standard in orders issued since the February 28, 1981, order issued in the *Transco* case. The orders were issued in response to various pleadings styled as petitions for clarification, rehearing or reconsideration of the February 28 order. One such petition was jointly filed by the State Commissions of New York and North Carolina and focused on the Commission's language in its February 28 order that abuse does not refer to imprudence, but serious improprieties. The State Commissions argued that the term "abuse" could include imprudence in some circumstances. Similar arguments were advanced by other parties in other dockets. However, the arguments raised in the *Transco* case and the other proceedings were rejected by the Commission in a clarifying order issued April 30, 1981.[8]

The April 30 order and the concurring opinion of Commissioners Holden and Hughes both dealt at some length with the legislative history of the fraud standard. Neither found a great deal of enlightenment contained in such

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[4] Transcontinental Gas Pipeline Corp., Docket No. TA81-1-29-002, Notice of Interventions, Protest and Motion for Suspension and Hearing of the Public Service Commission of the State of New York and the North Carolina Utilities Commission (filed February 18, 1981).

[5] *See, e.g.*, Columbia Gas Transmission Corp., Docket No. TA81-1-21-001; Trunkline Gas Co., Docket No. TA81-1-30-001; Michigan Wisconsin Pipe Line Co., Docket No. TA81-2-48-000; Colorado Interstate Gas Co., Docket No. TA81-1-32-000.

[6] Transcontinental Gas Pipeline Corp., Docket No. TA81-1-29-002 (PGA81-1, IPR81-1, DCA81-1 and LFUT81-1), Order Accepting for Filing, Subject to Conditions, and Suspending Proposed Tariff Sheets, and Establishing Procedures (issued February 28, 1981), 14 FERC ¶ 61,204.

[7] This order thus accepts the admonition by Commissioners Holden and Hughes that there has been "insufficient guidance toward shaping an appropriate framework for an interpretation of the meaning of the * * * (fraud standard)." Concurring opinion, Columbia Gas Transmission Corp., *et al.*, Docket No. TA81-1-21-001, *et al.* (issued May 12, 1981) (concurring in order issued in the same docket on April 30, 1981) 15 FERC ¶ 61,104.

[8] Columbia Gas Transmission Corp., *et al.*, Docket No. TA81-1-21-001, *et al*, Order Clarifying Prior Orders and Denying Request for Oral Argument, issued April 30, 1981, 15 FERC ¶ 61,104. In the order the Commission said: "We reaffirm our finding that mere imprudence as determined under the NGA does not of itself constitute fraud or abuse under section 601(c) of the NGPA." *Id.* pg. 61,227.

sources.[9] The Commission articulated in that order that the terms "fraud, abuse, or similar grounds" not only were not defined in the statute, but that neither the committee reports nor the floor debates provided substantial definitional guidance. However, as the Commission did state in its April 30 order:

[T]he limited legislative history relating to Section 601(c) suggests rather strongly that "abuse" is a more rigorous test than the prudence standard under the NGA. We note that the Conference Report merely refers to "fraud or abuse", and the floor debates do not further define these terms. Also, the respective House and Senate bills did not even contain the "fraud or abuse" language. However, the June 15, 1978 Committee Print representing the preliminary agreement by the Conferees states their agreement "to include language in the joint statement of managers that makes clear there is no intention to override the inherent *enforcement power* of FERC to police fraud, abuse, etc." (Italics added) It is significant that the Conferees were concerned with the Commission's enforcement power, rather than its general Section 4 and Section 5 ratemaking power. This is particularly significant since the Conferees expressed an intent to "assure that there is no indirect or 'back door' producer regulation by FERC". The continuing discussion in the Committee Print suggests that the Conferees intended to provide this assurance through adoption of the new two-pronged just-and-reasonable standard of Section 601(b) and passthrough provision in Section 601(c). Thus, it would appear that Sections 601 (b) and (c) were intended to function independently of the prudence standard because (i) the application of prudence standard involves an exercise of general Section 4 and Section 5 ratemaking power rather than enforcement power, and (ii) the imposition of the prudence standard would indirectly affect if not directly regulate producer activities. (Footnotes omitted.)[10]

One aspect of the legislative history of the fraud standard that received perhaps inadequate attention in the April 30 order was an observation contained in the Natural Gas Pricing Conference Agreement (Agreement), dated June 15, 1978.[11] Although not a dispositive statement of legislative history because it is the Conference Committee Staff's understanding of the agreement of the Conferees, we do not believe that document should be dismissed out of hand. The Agreement is an official Committee Print of the 95th Congress, 2d Session, and it expressly states (at iii) that it "represents the agreement on natural gas pricing and related issues reached by the Conferees on H.R. 5289."

The Agreement observes that the purpose of the passthrough of wellhead price increases by interstate pipelines is to "[a]ssure that there is no indirect or 'back door' producer regulation by FERC." The statute itself is silent on this matter, and there is no other relevant legislative history. Significantly, the observation contained in the Agreement does not contradict, either directly or by analogy, any provision of the NGPA and is consistent with all other relevant legislative history.

Although this Agreement is not dispositive of Congressional intent, it is certainly *indicative* of Congressional intent. This Conference Agreement, published just five months prior to the passage of the NGPA, provides no more than guidance to the Commission.[12] That there is no Senate, House, or Conference Report on the matter would hardly excuse the Commission's blinding itself to what the Agreement says.

Based on an analysis of the language and the legislative history of the NGPA, the Commission comes to two conclusions. First, the Commission concludes that the task of defining what constitutes "fraud, abuse, or similar grounds" is left entirely to it. This conclusion is based on the lack of specific guidance about the meaning of those words both in the legislative history and the statute, and the implicit statutory injunction that the Commission determine the extent to which the amount paid was excessive due to fraud, abuse, or similar grounds. Second, the Commission concludes that the fraud standard may not be used as a "backdoor" method of regulating otherwise deregulated wellhead natural gas prices. This conclusion obviously suggests that the Commission must allow gas pricing provisions under the NGPA to operate as Congress established them, even if that operation is not economically optimal in light of events occurring since the passage of the NGPA.[13]

B. The Market Ordering Problem and Its Relation to the Fraud Standard

As previously noted, several state commissions have intervened in Commission proceedings and expressed their concern over current levels of price for deregulated gas supplies largely in terms of the presently disordered markets for natural gas. For example, in a Notice of Intervention filed in one proceeding,[14] the Wisconsin Public Service Commission made the following statement:

The PSCW fears that the Section 107 contracts included in Michigan Wisconsin's March 31, 1981, filing are only the tip of the iceberg. Only the cost of gas connected as of the May 1, 1981, effective date of the proposed PGA rate increase is revealed in the filing. There is no disclosure of the additional high cost gas Michigan Wisconsin has already contracted for but not connected, nor the probable effect of the cost of that gas on Michigan Wisconsin rates.

The prices which Michigan Wisconsin is paying in the field for Section 107 gas are surpassing the prices of alternative fuels—not only coal and No. 6 fuel oil, but also No. 2 fuel oil. Even when the cost of this gas is rolled-in with the cost of regulated gas, the addition of transportation costs threatens to make Michigan Wisconsin's gas so expensive at the burner-tip that there will be a loss of industrial load. This will further impact adversely the high-priority customers who continue to take gas in the areas served by Michigan Wisconsin. Those areas have already been deeply affected by the current recession. Massive increases in the price of natural gas can only worsen the situation.

Similarly, the New York and North Carolina Commissions stated in their joint notice of intervention in the *Transco* case:[15]

5. Thus the adjusted base cost of gas on the *Transco* system has risen in the last two-and-one half years from 82.5 cents per dt as of September 1, 1978, to $2.697 per dt as of March 1, 1981, an increase of $1.872 or 227%. This contrasts with an increase in gas costs during the same period for Tennessee of $1.09 or 119% and for Texas Eastern of 69 cents or 105%. Even more important, the latest increase brings the 100% load factor price for contract demand service and the charge under the General Service rate from *Transco* to $3.7614 for Zone 1, $3.7704 for Zone 2 and $3.8294 for Zone 3. These prices are at a level which, when distribution costs are added into the picture (footnote omitted), bring the burner tip price of *Transco* gas to levels which are rapidly approaching a price at which customers with alternate fuel capacity will switch to oil (footnote omitted). Thus as of September 10, 1981, the price for No. 2 oil

[9] The April 30 order accurately characterized the legislative history as "limited." *Id.*

[10] *Id.*

[11] Committee on Interstate and Foreign Commerce, Committee Print No. 95–55, 95th Cong., 2d Sess. (June 15, 1978).

[12] "The events occurring immediately prior to the time when an act becomes law comprise a most instructive source for information indicative of what the Congress had intended to mean. 2A C. D. Sands, Statutes and Statutory Construction section 48.04 (4th ed. 1973).

[13] "The Commission's duty is to administer the law Congress passed in light of the purposes for which it was passed. It is not an agency's prerogative to alter a statutory scheme even if its alteration is as good or better than the congressional one." Mid-Louisiana Gas Co. v. FERC, Nos. 80–3694 & 80–4010, slip. op. at 12823 (5th Cir. 1981).

[14] Michigan Wisconsin Pipe Line Company, Docket No. TA81–2–48–235, Notice of Intervention, Protest and Petition for Suspension and Hearing of the Public Service Commission of Wisconsin (filed April 22, 1981).

[15] Notice of Intervention, *supra* note 4.

in New York City was 99.82 cents per gallon, equivalent to $7.13 per dt, and for low sulfur No. 6 residual oil, 78.8 cents per gallon, equivalent to $5.36 per dt (footnote omitted). Similarly, the current prices for No. 6 high sulfur oil in North Carolina, where it is the principal alternate fuel, is approximately 80.55 cents per barrel at the Port of Wilmington, equating to a burner tip price of about $5.41 per dt. Moreover, even if the instant filing would not result in any substantial loss of sales to alternate fuels, it is apparent that the continued ability of *Transco's* customers to maintain sales to industrial and other end users with alternate fuel capacity will be seriously jeopardized if *Transco's* purchased gas costs, which have escalated at a steadily increasing level over the last six PGA filings from 21.5 cents for the period between September 1, 1978 and March 1, 1979 to over 59 cents in the most recent six-month period, continues to follow this pattern.

6. The problems raised by *Transco's* filing are by no means limited to the possibility of loss of sales where the end users have the ability to utilize alternate fuels. For the *Transco* filing indicates the possibility that unnecessarily high costs for gas are being imposed upon *Transco's* customers as a result of its gas purchasing practices over which this commission retains supervisory control. A substantial portion of the increases which have led to the more than tripling of *Transco's* purchased gas costs in the last two-and-one-half years is of course due to the statutory increases in the NGPA ceiling rates. But an increasing factor in the ever accelerating increases in *Transco's* PGA filings has been the impact of increased purchases of very high cost Section 107 gas.

The observations of these state commissions capture much of the flavor of what has come to be known as the market-ordering problem. The implication of the interventions in the various PGA cases is that Congress intended the fraud standard as a device to cure market disorder otherwise created by the NGPA. For the reasons discussed in this order the Commission disagrees with that contention.

The market-ordering problem has been engendered by major structural defects in the NGPA. The primary flaw in the NGPA is that, rather than eliminating the dual market which existed under the NGA, the NGPA merely substituted another in its place, thereby creating a host of novel market-ordering problems. The problems created by the NGPA's regime of partial regulation are evident in the supply problems of some interstate and intrastate pipelines, as well as in the higher than commodity-value prices being paid for deregulated gas to which the state commissions invite the Commission's attention. These problems promise to be aggravated dramatically when the amount of deregulated gas increases from less than 5 percent of total supplies this year to about 60 percent in 1985.[16]

The dual market created by the NGPA finds its source in the Act's regulation of some prices, but not others. Other structural aspects of the NGPA interplay with this one to create higher than commodity-value prices and burgeoning regional shortages.[17] First, the amount of gas that will be regulated until exhausted is significant.[18] Second, the NGPA provides for a *range* of widely varying prices. Third, the NGPA ties the escalations of gas prices to a seriously understated assumption about the price of oil.[19] Finally, the NGPA at least permits, if not prescribes, so-called rolled-in pricing with only insignificant limits.[20] Taken together, these factors yield widely varying average gas costs among pipelines, both interstate and intrastate. This fact is crucial to an understanding of the market-ordering problem.

A number of terms have come to be associated with various aspects of market disorder, two of which should be identified and defined. The sharp increase in gas prices expected in 1985 under the NGPA as a result of the difference between anticipated and actual oil prices is called the "spike." The quantum of gas that will continue to be price-regulated under the NGPA is called the "cushion." Today's high prices for deregulated deep gas predictably result from the existence of the cushion, as will be pointed out.

There is considerable irony in the consequences of the NGPA. The NGPA was enacted in large part in response to problems caused by partial regulation. Under the NGA, federal price controls applied to the sale of natural gas in interstate commerce. They did not extend to the sale of natural gas sold and consumed within the state in which it was produced. The result of this distinction during the 1970's was the coexistence of severe curtailments in the interstate market with ample supplies in the intrastate markets.

Partial regulation under the NGA was geographical in nature in the sense that sales to the interstate market were regulated, while sales within the intrastate market were not. Within each market, however, regulation was either complete or nonexistent. There was no market within which regulation coexisted with deregulation. The NGPA largely elminated the distinction between interstate and intrastate markets for natural gas. Through it, however, Congress adopted a new form of partial regulation which combined regulated and deregulated supplies. This new system threatens to create problems at least as serious as those resulting from the distinction between interstate and intrastate markets under the NGA.

Under the NGPA, on January 1, 1985, deregulation of more than half the supply of natural gas will coexist in the same market with continued price controls on the remaining supply. Currently, no more than 4 percent of the aggregate gas supply is sold at decontrolled prices. While the cushion in 1985 will be large, it is even larger now.

The gas cushion is unevenly distributed among pipelines now and, in the absence of legislative or administrative remedy, it will continue to be unevenly distributed in the future. This uneven distribution is the result of two factors. First, natural gas is purchased in the field markets at different prices. Under the NGPA, prices range from 25 cents to more than $5 per MMBtu for regulated gas, and up to nearly $10 per MMBTU for some deregulated gas. Concurrently, the amount of gas controlled by a given pipeline in each of these pricing categories is idiosyncratic in the sense that it depends upon the pipleline's own historical and present management and buying practices. Since each pipeline will control different quantities of gas under the various pricing categories, the weighted average cost of each pipeline's supplies is unique or will coincide with the weighted average cost of another pipeline's supplies only as a matter of fortuity.[21] Correlatively, each pipeline's share of "cheap" regulated gas is different from the others or will be the same only as a matter of coincidence. A useful way to view this phenomenon is that the relative "richness" or "poorness" of each pipeline, whether interstate or intrastate, will be reflected

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[16] *DOE Study, supra* note 3.

[17] Oversight Hearings on Title I of the Natural Gas Policy Act of 1978 Before the Senate Committee on Energy and Natural Resources, 97th Cong., 1st Sess. (November 6, 1981) (statement of Robert L. Mitchell at 4; statement of Donald R. Willis at 2, 3, 6).

[18] *DOE Study, supra* note 3, at 7.

[19] Oil products were considered to be the alternative fuels to natural gas, so escalations were pegged to the price of crude oil. When Congress passed the NGPA, that price was expected to be about $19 per barrel in 1985. *See* H.R. Rep. No. 95-543, 95th Cong., 1st Sess., Vol. II at 417. However, the price is much higher than that figure now.

[20] *See* Order No. 167, Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling, Docket No. RM81-27 (issued July 24, 1981) (Concurring Statement of Chairman C. M. Butler III).

[21] This effect would not obtain if all wellhead natural gas prices were regulated at the same level of price or were deregulated. This is the center point of the present debate over total deregulation of natural gas prices.

inversely in the lowness or highness of its weighted average gas cost. That lowness or highness is in turn directly dependent on the share of the regulated gas cushion controlled under contract by each individual pipeline.[22] The consequences of this development under the NGPA will be examined in detail below.

As 1985 approaches, greater and greater quantities of decontrolled gas will be rolled in with gas that is still subject to price regulation. The prices that currently confront, and in the future will confront, natural gas users are average prices. Lying behind those average prices is a broad range of field prices, but the consumer is not faced with the higher of those field prices because of the rolling-in process.[23] Thus, in the absence of a true marginal cost pricing regime, there is no market discouragement of a pipeline's paying higher than commodity-value prices for incremental supplies of gas.

There is apparently relentless competition among pipelines for natural gas supplies. This inter-pipeline competition is also apparently a major factor in the payment of very high prices paid for the small supply of deregulated gas today. Logically, natural gas pipelines prefer to buy gas as cheaply as possible in order to preserve existing markets. However, competition among them makes cheap prices improbable. Because many can average high prices with low prices under the regime of the NGPA, pipelines can be expected to bid unregulated wellhead prices up, even above long-term market clearing levels, to a point where each pipeline's management decides, in the exercise of its business judgement, that it must desist from further bidding.

The theoretical bid ceiling for any pipeline is established by the ability of it and its distribution company customers to market natural gas to buyers of significant volumes at the margin. By and large, it is assumed—as the state commissions implicitly recognize in the filings quoted above—that the marginal customers are large industrial concerns who use gas as boiler fuel. That marginal use has been estimated to comprise as much as one-third of the aggregate natural gas market.[24] It is also believed that a large percentage of such customers have existing fuel-switching capability and that the alternative fuel is low sulfur No. 6 fuel oil.[25] Obviously, this state of affairs may not obtain as to an individual pipeline, but there is strong evidence that the proposition holds *on average*.[26] This suggests that the limit to which pipelines can bid their average, or rolled-in, gas cost is *on average* somewhat below the Btu-equivalent price of low sulfur No. 6 fuel oil, less transportation costs. As earlier stated, that price is estimated to be approximately $4.56.[27] This implies that pipelines will continue to pay prices which may be (and as we have seen, in fact, are) higher than commodity-value until their weighted average gas costs approach market clearing levels.

Three important consequences follow from this analysis. The first is that consumers will receive no direct benefit from the continuation of partial price controls after 1984. In the NGPA, Congress provided for continued price controls after 1984 in order to protect consumers from higher prices. But the direct economic benefit of the low-priced regulated gas will not go to consumers; it will go to the producers of deregulated gas through the competitive bidding process.

The second consequence is that the increase in the average price of natural gas in 1985 is likely to be both large and sudden because of the size and sharpness of the price spike. The NGPA was intended to achieve a smooth transition to decontrol by retaining controls on some gas after 1985 and by applying an annual escalator to the statutory price ceilings before that date. However, given market events since passage of the NGPA, continued price controls on some categories of natural gas will do little if anything to smooth the transition. The price escalator provisions applicable to those categories will be largely ineffective because the rates of escalation were based on the world oil market in 1977 and 1978. Within months after enactment of the NGPA, however, world oil prices more than doubled. Since 1979, oil prices have remained generally stable or even declined somewhat. However, even without further increases, existing oil prices imply a price for either completely or partially deregulated natural gas that is far above the NGPA's statutory price ceilings. Because of the price spike that will be created by the NGPA, the transition to substantially increased partial decontrol in 1985 is likely to be far from smooth.

The third consequence of our analysis is that partial deregulation in 1985 will have severe regional impacts. Such impacts were recognized by the state commissions in their filings. Each pipeline in 1985 will buy part of its gas at a price determined by the NGPA and part at a much higher deregulated price determined by the competitive bidding process. The average cost of gas for each pipeline and its customers thus will depend on three factors: the amount of regulated gas that it controls, the average price of that gas, and the price of the deregulated gas that it must purchase for the rest of its needs.

Because the price of deregulated gas is determined by a competitive bidding process, in theory it should be generally about the same for all pipelines. This is not the case, however, because pipelines differ greatly with respect to the amount of regulated gas that they control and also differ significantly with respect to the price of that regulated gas. The average burner-tip price of natural gas in 1985, therefore, is only part of the story of partial deregulation. That national average probably will be somewhere in the range of the prices that would prevail under complete deregulation. The average cost of natural gas to individual pipelines under partial deregulation, however, will range from substantially below the deregulated price to substantially above that price depending fortuitously on each pipeline's endowment of the regulated gas cushion.

These cost differences will in turn result in shifts of supply, as pipelines with large supplies of inexpensive regulated gas are able to bid supplies away from less fortunate pipelines. The latter pipelines may well include most intrastate pipelines and some interstate pipelines as well.[28] In general terms, interstate pipelines that were in deep

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[22] *See, e.g.*, DOE Energy Information Administration, An Analysis of the Natural Gas Policy Act and Several Alternatives. Part I. The Current State of the Natual Gas Market (December 1981) at 65–66 (Pre-publication Draft) (hereinafter cited as *EIA Study*).

[23] A somewhat similar effect existed under the NGA in the interstate markets because of the Federal Power Commission's distinction between new and flowing gas, and the vintaging distinctions between classes of new gas. The NGPA preserved those distinctions in sections 104 and 106(a), and it added new ones, by establishing new and higher price ceilings for some categories of natural gas and by freeing other categories from price regulation. As a consequence, the difference between the average price paid by consumers and the marginal price for the most costly categories of natural gas is much wider now than it was prior to enactment of the NGPA.

[24] *EIA Study*, *supra* note 22, at 65–66.

[25] *Id.* at 95 (Table 31).

[26] *Id.*

[27] See pp. 2–3 *supra*.

[28] It is not possible on the basis of studies now available to project the consequences of partial decontrol for individual interstate and intrastate pipelines. However, interstate pipelines vary widely in the relative amount of old gas that they control and in their current weighted average cost of gas. *EIA Study*, *supra* note 22, at 66. The range of differences in endowments of old gas and current average prices is so large as to suggest strongly that the position of some interstate pipelines under partial decontrol would be similar to that of the intrastate pipelines.

curtailment in the 1970's or are now facing average natural gas costs approaching parity with residual fuel oil are, at the least, candidates for being carried above the price that they would have to pay under complete deregulation.

The Commission, of course, cannot be certain of the precise consequences of partial deregulation under the NGPA. But the market-ordering problem is not simply a matter of abstract theory. Indeed, in microcosm it exists now and there is every reason to believe that, as partial decontrol continues, market-disordering will increase. The most concrete evidence supporting this expectation can be found by looking at what is currently happening to prices for the unregulated gas produced from below 15,000 feet. Based upon PGA filings with the Commission (some of which the state commissions complain of), it appears that about 450 Bcf of this gas is being delivered annually to the interstate natural gas pipeline system. This comprises 3 percent of annual consumption. The major areas supplying this deregulated gas are South Louisiana (170 Bcf onshore and 100 Bcf offshore), Mississippi (65 Bcf), the Anadarko areas of Oklahoma (40 Bcf), and Wyoming (80 Bcf).[29]

Prices for deep gas range from less than $2.00 to $9.7705 per Mcf.[30] The average price is estimated to be about $7.00 per Mcf with a distinct upward trend in the prices—as much as $3.00 per year in Louisiana and Mississippi and somewhat less in Texas and the Rocky Mountains.[31] Generally each successive PGA filing shows more deep gas as well as higher prices. These volumes and prices may very well be the "tip of the iceberg," as intervenors in subject proceedings claim in their pleadings.

Even the average price for deregulated gas is far in excess of the long-term market clearing price. Certain interstate pipelines are induced to bid these prices apparently either because of their large cushion of low-cost, regulated gas or their desperation to acquire new gas supplies. A few intrastate pipelines have so far been able to match these bids; most, it appears, cannot. Yet this deep gas may be the only significant new source of supply in some parts of the country. As a result, the reserves to production ratio of intrastate pipelines appears to be declining.[32]

These pipelines feel that the intrastate shortages resulting from their bidding disadvantage may appear in a few state markets as early as this winter.[33] The potential problem in Louisiana may be particularly acute. Figures from the intrastate pipelines suggest that as much as 20 percent of the entire Louisiana gas market may be supplied by interstate pipelines on an interruptible basis through offsystem sales.[34] If the winter is a cold one, it is feared that a large part of this source of supply will be diverted to non-producing states. Unless economic conditions operate to reduce the demand for gas in Louisiana, the intrastate pipelines project that the State will face serious curtailments.

Shortages of this kind may confront other markets before 1985 as supplies of other high cost gas (from, for example, tight sands or deep water) come to constitute a larger share of the market supply and are bid to higher prices by those interstate pipelines with ample supplies of cushion gas. Deregulation of more than half of the natural gas supply in 1985 will not change the nature of the problem, but it is likely to drastically increase its seriousness. The Commission must be concerned with pressures that could develop as an inducement for producing states to capture and preserve gas supplies within their borders for the benefit of their citizens, obviously to the detriment of the interstate gas market.[35]

These are the circumstances which have led intervenors to suggest to the Commission that it should define the fraud standard to include imprudence. But, under these circumstances, do the pipeline bidding practices complained of reflect imprudence or a rational business response to a dysfunctional statute? Based on the fact that *most if not all* pipelines are behaving in like fashion—a fact reflected in PGA filings at this Commission—the Commission must at least preliminarily conclude the latter. It would strain credulity to conclude that virtually the entire industry is acting imprudently. Whatever the case, it is unnecessary for the Commission to decide the question in the context of the fraud standard.

To include imprudence in the fraud standard would be, in effect, an attempt to regulate otherwise deregulated gas prices. As previously stated, the fraud standard may not be used for this type of back door regulation. Congress recognized the possibility of market disordering and attempted to address it in Title II of the NGPA.[36] That it did so unsuccessfully does not grant this Commission a charter to ignore what Congress did in other portions of the statute. In short, we find no evidence in the statute or its legislative history to indicate that the fraud standard is to be employed as a market-ordering device. In fact, as already noted, the indications are exactly to the contrary.

C. The Fraud Standard

Section 601 of the NGPA was intended to provide coordination with the NGA. Sections 4 and 5 of the NGA apply, among other things, to sales of natural gas at the wellhead for resale in interstate commerce [37] and requires, among other things, that the rates charged for such sales be "just and reasonable." Section 601(b)(1)(A) of the NGPA provides that for purposes of sections 4 and 5 of the NGPA, "any amount paid in any first sale of natural gas shall be deemed just and reasonable if * * * such amount does not exceed the applicable maximum lawful price * * * or there is no applicable maximum lawful price solely by reason of the elimination of price controls * * *" Section 601(c)(2) then provides for the guaranteed passthrough to ultimate purchasers of the prices deemed just and reasonable, as follows: "For purposes of sections 4 and 5 of the Natural Gas Act, the Commission may not deny any interstate pipeline recovery of any amount paid with respect to any purchase of natural gas if * * * such amount is deemed just and reasonable * * * except to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds."

Certain aspects of the coordination between the NGA and the section 601 language are crystal clear. First, the rate for the sale of gas from producer to pipeline is just and reasonable for purposes of the NGA if there is no applicable *maximum lawful price* solely because of the removal of price controls.

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[29] Foster Associates, Inc., Foster Bulletins on Deregulated Gas (1981).

[30] *See* note 2 *supra*.

[31] Foster Associates, Inc., Foster Bulletins on Deregulated Gas (1981).

[32] EIA Study, *supra* note 22, at 37–41 (see especially Table 8).

[33] Oversight Hearings, *supra* note 17, at statement of Jack Elam.

[34] *Id.*, at statement of Donald R. Willis, 6.

[35] *See Tenneco, Inc.* v. *Sutton*, Nos. 80–17–B & 80–29–B (M.D. La. 1981) (held unconstitutional Louisiana statute that required natural gas to be offered for sale to intrastate users before sale in interstate commerce); *cf. Hughes* v. *Alexandria Scrap Corp.*, 426 U.S. 794 (1976) (upheld constitutionality of Maryland statute offering bounty for processing wrecked cars, but with more stringent requirements for processors outside the state than within); *Reeves, Inc.* v. *Stake*, 447 U.S. 429 (1980) (upheld constitutionality of North Dakota statute that confined sales from a state-owned cement plant to its own residents).

[36] *See* Order No. 107, Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling, Docket No. RM81–27 (issued July 24, 1981) (Concurring Statement of Chairman C. M. Butler III).

[37] *Phillips Petroleum Co.* v. *Wisconsin*, 347 U.S. 672 (1954).

This provision clearly applies to the section 107(c)(1) gas, *i.e.*, gas produced from below 15,000 feet. Yet it is prices paid for such gas that inspire intervenors' complaints. Second, although under the operation of the NGA without the intervention of section 601, costs imprudently incurred must be disallowed because they are definitionally unjust or unreasonable,[38] the test of prudence is eliminated under the language of section 601(b)(1)(A). That provision of the NGPA stipulates that producer-pipeline wellhead transactions are deemed to be just and reasonable when: (1) The price does not exceed the applicable maximum lawful amount authorized by Title I, or (2) there is no applicable maximum lawful amount because price regulation has been eliminated by Title I. The statute thus contains in section 601(c)(2) an exclusive set of exceptions to pipeline passthrough of amounts paid for gas.[39] The Commission believes that this provision contains *no exception* which would enable the Commission to disallow passthrough of the price because for some reason relating to imprudence it is of the opinion that the pipeline has paid too much. Nor is there any legislative history to suggest that we should by rule, adjudication or otherwise engraft such an exception onto section 601(c)(2). In fact, both the structure and legislative history of the NGPA forcefully compel a decision to the contrary. It follows that a statute intending to *deregulate* certain prices does not impose or monitor the level to which those deregulated prices are to rise. That function is left to the marketplace which Congress deemed sufficiently competitive to justify deregulation in the first place.

Our analysis of section 601(c)(2) is consistent with the only permissible interpretation of section 601(b)(1)(A). These sections involve two transactions. One concerns the "amount paid" with respect to a purchase of natural gas in the transfer of funds from pipeline to producer in return for gas. The second involves the "recovery" from a jurisdictional customer of the amount paid by pipeline to producer. Recovery of these amounts in virtually all cases is accomplished through PGA clauses included in pipeline company tariffs pursuant to § 154.38 of the Commission's regulations. Under the NGPA, the Commission *must* allow recovery of the amount paid by pipeline to producer if the amount paid meets the tests of section 601(b)(1)(A) unless the amount paid is excessive under the application of the fraud standard.

The Commission believes that Congress did not intend that the fraud standard should be interpreted to include "imprudent" purchasing practices. In deciding what types of actions are encompassed by the fraud standard, it is necessary to analyze the terms "fraud," "abuse," and "similar grounds."

D. Meaning of "Fraud, Abuse, or Similar Grounds"

The absence of clear legislative guidance as to the meaning of the fraud standard is unfortunate because of the imprecision of the statutory language. Thus, the task of defining "fraud" is not an easy one, as illustrated by the following judicial statement: "The law does not define fraud; it needs no definition; it is as old as falsehood and as versable as human ingenuity." Blachly v. United States, 380 F.2d 665, 671 (5th Cir. 1967) (quoting Justice Holmes). Professor Prosser stated the problem somewhat differently when he referred to the "indiscriminate use of the word 'fraud', a term so vague that it requires definition in nearly every case."[40] Because the use of the word "fraud" is imprecise, it is necessary to review the various legal and equitable actions for fraud in order to fashion an appropriate definition of the term for the purposes of section 601(c).

In its general sense, fraud consists of a *misrepresentation* (by act, omission, or concealment) that is calculated to deceive.[41] Thus, this analysis begins with a discussion of the law of misrepresentation and the common law action of deceit. With respect to the law of misrepresentation, Prosser states:

> So far as misrepresentation has been treated as giving rise in and of itself to a distinct cause of action in tort, it has been identified with the common law action of deceit. The reasons for the separate development of this action, and for its peculiar limitations, are in part historical, and in part connected with the fact that in the great majority of the cases which have come before the courts the misrepresentations have been made in the course of a bargaining transaction between the parties. Consequently the action has been colored to a considerable extent by the ethics of bargaining between distrustful adversaries. Its separate recognition has been confined in practice very largely to the invasion of interests of a financial or commercial character, in the course of business dealings. There is no essential reason to prevent a deceit action from being maintained, for intentional misstatements at least, where other types of interests are invaded * * *. The typical case of deceit is one in which the plaintiff has parted with money, or property of value, in reliance upon the defendant's representations.
>
> The law of misrepresentation is thus considerably broader than the action for deceit. Liability in damages for misrepresentation, in one form or another, falls into three familiar divisions * * * it may be based upon intent to deceive, upon negligence, or upon a policy which requires the defendant to be strictly responsible for his statements without either. For the most part the courts have limited deceit to those cases where there is an intent to mislead, and have left negligence and strict liability to be dealt with in some other type of actions. There has been a good deal of overlapping of theories * * * which has been increased by the indiscriminate use of the word "fraud," a term so vague that it requires definition in nearly every case. (Footnotes omitted.)[42]

The Restatement of Torts sets out the elements of the action of deceit (fraudulent misrepresentation) in the following definition:

> One who fraudulently makes a misrepresentation of fact, opinion, intention or law for the purpose of inducing another to act or to refrain from action in reliance upon it, is subject to liability to the other in deceit for pecuniary loss caused to him by his justifiable reliance upon the misrepresentation.[43]

The term "misrepresentation" is defined as follows:

> "Misrepresentation" is used in this Restatement to denote not only words spoken or written but also any other conduct that amounts to an assertion not in accordance with the truth. Thus, words or conduct asserting the existence of a fact consitute a misrepresentation if the fact does not exist.[44]

The word "fraudulent" in the definition of the action for deceit is used to specify a requirement of scienter.[45] The Restatement provides:

> A misrepresentation is fraudulent if the maker—
>
> (a) Knows or believes that the matter is not as he represents it to be,

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[38] *See*, Opinion No. 25, *Senator Howard Metzenbaum* v. *Columbia Gas Transmission Corp.*, Opinion and Order Reducing Incurred Purchased Gas Costs, Docket No. RP77-35 (issued September 5, 1978).

[39] The maxims *expressio unius est exclusio alterius* and to a lesser degree, *expressium facit cessare tacitum*, are applicable here. Under the former, when what is expressed in a statute is creative, and not in a proceeding according to the common law, it is exclusive, and the power exists only where it is plainly granted; under the latter, that which is expressed puts an end to that which is implied. 2A C.D. Sands, Statutes and Statutory Construction § 47.23 (4th ed. 1973). "What is not spoken is not willed, and *vice versa*, only that is willed that is spoken." *Id.* § 47.24 n.2.

[40] W. Prosser, *Handbook of the Law of Torts (4th ed. 1971) at 694; United States* v. *Neustadt*, 366 U.S. 696, 711 n. 28 (1960) (quoting Prosser).

[41] See 37 Am. Jur. 2d, Fraud and Deceit section 1.

[42] Prosser, *supra* note 40, at 694.

[43] Restatement (Second) of Torts section 525 (1977).

[44] *Id.* Comment b.

[45] *Id.* section 526, Comment a.

(b) Does not have the confidence in the accuracy of his representation that he states or implies, or

(c) Knows that he does not have the basis for his representation that he states or implies.[46]

The general rule for intent in an action for deceit is as follows:

One who makes a fraudulent misrepresentation is subject to liability to the persons or class of persons whom he intends or has reason to expect to act or to refrain from action in reliance upon the misrepresentation, for pecuniary loss suffered by them through their justifiable reliance in the type of transaction in which he intends or has reason to expect their conduct to be influenced.[47]

A rule of specific importance in this connection is the following:

If a statute requires information to be furnished, filed, recorded or published for the protection of a particular class of persons, one who makes a fraudulent misrepresentation in so doing is subject to liability to the persons for pecuniary loss suffered through their justifiable reliance upon the misrepresentation in a transaction of the kind in which the statute is intended to protect them.[48]

The elements of intent and scienter exclude certain classes of misrepresentation from being prosecuted in an action for deceit. For example, an innocent misrepresentation is definitionally made without scienter, but may permit recovery of pecuniary losses on a theory of strict liability.[49] Furthermore, a negligent misrepresentation is not enough for an action in deceit due to the absence of the element of intent, but recovery may be allowed those to whom a duty of care was owed.[50] Both of these actions are discussed separately below. Both of these conclusions comport with Prosser's analysis,[51] which is unsurprising since he was one of the reporters of the Second Restatement of Torts.[52]

Fraudulent concealment and nondisclosure are closely related to misrepresentation. The Restatement contains separate rules for each. As to fraudulent concealment:

One party to a transaction who by concealment or other action intentionally prevents the other from acquiring material information is subject to the same liability to the other, for pecuniary loss as though he had stated the nonexistence of the matter that the other was thus prevented from discovering.[53]

As to nondisclosure:

(1) One who fails to disclose to another a fact that he knows may justifiably induce the other to act or refrain from acting in a business transaction is subject to the same liability to the other as though he had represented the nonexistence of the matter that he has failed to disclose, if, but only if, he is under a duty to the other to exercise reasonable care to disclose the matter in question.

(2) One party to a business transaction is under a duty to exercise reasonable care to disclose to the other before the transaction is consummated, .

(a) Matters known to him that the other is entitled to know because of a fiduciary or other similar relation of trust and confidence between them; and

(b) Matters known to him that he knows to be necessary to prevent his partial or ambiguous statement of the facts from being misleading; and

(c) Subsequently acquired information that he knows will make untrue or misleading a previous representation that when made was true or believed to be so; and

(d) The falsity of a representation not made with the expectation that it would be acted upon, if he subsequently learns that the other is about to act in reliance upon it in a transaction with him; and

(e) Facts basic to the transaction, if he knows that the other is about to enter into it under a mistake as to them, and that the other, because of the relationship between them, the customs of the trade or other objective circumstances, would reasonably expect a disclosure of those facts.[54]

Likewise, the Restatement provides a separate rule for negligent misrepresentations:

(1) One who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in obtaining or communicating the information.

(2) Except as stated in Subsection (3), the liability stated in Subsection (1) is limited to loss suffered

(a) By the person or one of a limited group of persons for whose benefit and guidance he intends to supply the information or knows that the recipient intends to supply it; and

(b) Through reliance upon it in a transaction that he intends the information to influence or knows that the recipient so intends or in a substantially similar transaction.

(3) The liability of one who is under a public duty to give the information extends to loss suffered by any of the class of persons for whose benefit the duty is created, in any of the transactions in which it is intended to protect them.[55]

Finally, as to innocent misrepresentations,

(1) One who, in a sale, rental or exchange transaction with another, makes a misrepresentation of a material fact for the purpose of inducing the other to act or to refrain from acting in reliance upon it, is subject to liability to the other for pecuniary loss caused to him by his justifiable reliance upon the misrepresentation, even though it is not made fraudulently or negligently.

(2) Damages recoverable under the rule stated in this section are limited to the difference between the value of what the other has parted with and the value of what he has received in the transaction.[56]

We believe the survey of the law of misrepresentation in tort provides a useful analogy[57] from which the Commission may fashion a policy with respect to the fraud standard which meets the policy objectives of the NGPA. We begin with Prosser's observation that the use of the word "fraud" has been indiscriminate.[58] The problem began in the equity courts, which were not bound by the rules adopted at law.[59] In those courts, remedies were available for innocent misrepresentations and mistakes, and it was unnecessary to prove intent (and, presumptively, scienter as well) to obtain equitable relief.[60] The whole matter was obscured there by the use of the term "fraud" in several senses.[61] The question for the Commission to decide is whether the term "fraud" as used in section 601(c) of the NGPA was intended to, or should, correspond to the use of that word in the "several different

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[46] *Id.* section 526.

[47] *Id.* section 531.

[48] *Id.* section 586. Section 552(3) deals with similar circumstances in the case of negligent misrepresentations. The theory is that one required to comply with the terms of a statute for the benefit of a class of persons always has reason to expect that the information will reach that class and influence their conduct. *Id.* section 536, Comment c. "[T]he controlling factor is the purpose of the legislature, and not that of the person who furnishes the information." *Id.* Comment d. Thus: "Whether the statute is intended for the protection of a particular class of persons such as investors * * * or in all transactions in which the information furnished may be material, is a question of statutory construction." *Id.*

[49] *Id.* section 552C.

[50] *Id.* section 552.

[51] Prosser, *supra* note 43, section 107.

[52] Incidentally, the distinction between scienter and intent is mentioned in the Restatement, *supra* note 43, section 526, Comment a.

[53] *Id.* section 550.

[54] *Id.* section 551. Note that nondisclosure is treated differently in the case of commercial transactions than it would be in matters involving security of the person, land, or chattels of the recipient of the representation or a third person. *Id.* Comment a.

[55] *Id.* section 552.

[56] *Id.* section 552C.

[57] "[T]he terms have meaning in the law, from which fruitful analogies may be derived * * *." Concurrence of Commissioners Holden and Hughes in Columbia Gas Transmission Corp., *et al.*, Docket No. TA81-1-21-001, *et al.*, mimeo at 12 (issued May 12, 1981) (concurring in order issued in same docket on April 30, 1981).

[58] See p. 34 *supra*.

[59] Prosser, *supra* note 43, at 667.

[60] *Id.*

[61] *Id.* at 668.

senses" suggested by Prosser, so that the terms "abuse" and "or similar grounds" would then be given meaning that ranges beyond the law of misrepresentation. Or, alternatively, should the term "fraud" refer to fraudulent misrepresentation as required by the Restatement in a deceit action, and the terms "abuse" and "or similar grounds" be similarly restricted to the law of misrepresentation? The Commission believes the latter course is intended by the NGPA, is consistent with the structure and objectives of the NGPA, and thus should be adopted by the Commission.

As the roots of the term "fraud" have been confused in legal history, those of the term "abuse" have been obscure. As with fraud, Congress provided little guidance for developing a definition of the word "abuse" as it is used in section 601(c). Although recent discussions of "abuse," are scarce, the term has received some attention in old state decisions. Thus, the Texas Supreme Court defined "abuses," as the term was used in a statute permitting the State of Texas to regulate railroads, to mean "any improper use of a right or privilege; as abuse of a franchise." [62] A more recent case defined abuse as "disregard of a duty." [63] Similarly, the term has been defined as "disregard of a duty imposed by law." [64]

The latter two definitions do not require that the disregard of duty be willful or intentional, but just that it occur. On the other hand, two early New York cases define abuse as a willful or intentional act that indicates an indifference to the demands of public duty. [65] The Commission believes the imposition of a "willful or intentional" requirement for a finding of abuse may be unduly restrictive and inconsistent with the purpose of the NGPA. If fraud is to be restricted to fraudulent misrepresentations as in an action for deceit, the element of intent is encompassed. For that purpose scienter and intent are correlative, albeit distinct, elements. Used in that way, fraud does not include negligent misrepresentations. If the element of intent is eliminated from its definition, however, the term "abuse" *would* include negligent misrepresentations. The word "abuse" was apparently not intended as a synonym for "fraud," and the Commission's policy here adopted provides it with independent meaning.

Similar reasoning applies to the definition of the words "or similar grounds." These are words to which the familiar doctrine of *ejusdem generis* is applicable. We recall the injunction of Judge Wald in a recent decision that "these time-worn talismans are not as useful for navigating legislative language as they are for uttering benedictions or conclusions already reached." [66] However, as in the matter there at bar, [67] Congress clearly used the words "or similar grounds" to restrict the fraud standard to other conduct of the same kind, but which might escape the meaning of the words "fraud" and "abuse." Thus it is both reasonable and consistent with the structure of the NGPA, to use this restricted, but inclusory, language to encompass innocent misrepresentations. In short, it is entirely reasonable for the Commission's policy to be that the terms "fraud, abuse or similar grounds" encompass the whole range of possible misrepresentations which had been so obfuscated throughout legal history by the use of the single word "fraud," if the standard thus adopted comports with the structure and intent of the NGPA. The Commission believes that it does.

The above analysis leads the Commission to articulate the following general policy with respect to consideration in a Commission proceeding of "fraud, abuse, or similar grounds" under section 601(c)(2) of the NGPA. The Commission believes that consideration of "fraud" should be limited to consideration of whether there was a fraudulent misrepresentation of the kind defined in the Restatement's action of deceit. An intervenor alleging "abuse" should show there was a negligent misrepresentation, or other misrepresentation made in disregard of a duty. The term "or similar grounds" would apply to situations where there may have been an innocent misrepresentation. In short, the fraud standard would include the whole range of possibilities in the law of misrepresentation. Accordingly, consistent with the provisions of section 601(c)(2), "the Commission may * * * deny any interstate pipeline recovery of any amount paid * * * to the extent * * * the amount paid was excessive" as a result of a misrepresentation, whether made intentionally, in disregard of duty, or innocently. A misrepresentation would include a positive statement of fact or an omission of material fact in a statement, made by a pipeline, a producer, or by both acting together. The "amount paid" would be considered to have been "excessive" if by reason of the misrepresentation the amount paid was greater than it would have been absent the misrepresentation.

This analysis is consistent with the NGPA in general and section 601 in particular, as well as the Commission's regulations involving the duties imposed on producers and pipelines in connection with qualifying for NGPA prices and passthrough of those prices under PGA clauses. Clearly the "amount paid" language of section 601(c) refers to the prices and the other amounts allowed to be paid under Title I of the NGPA. As stated before, the legislative history of the NGPA makes it clear that the Commission cannot regulate producer prices except as allowed by Title I and that section 601 is not to be used as a "back-door" mechanism by the Commission to regulate prices otherwise set or deregulated under the NGPA. Prices established or deregulated under Title I must be obtained consistent with the Commission's regulations under Part 274, §§ 274.201, *et seq.*, which impose numerous duties on those filing for price categories to provide accurate information. Once the amounts are established under Title I and the regulations, they are recovered pursuant to filings made consistent with Part 154 of the Commission's regulations, particularly § 154.38 which also imposes stringent duties of accuracy upon the filing pipelines.

The fraud standard enunciated in this policy statement is consistent with both the preclusive nature of section 601 and the admonition against back-door producer regulation. This interpretation of section 601(c) does not allow the Commission to deny recovery of amounts paid "except to the extent" that they are "excessive due" to the fraud standard. Importantly, this standard is directed to misrepresentations of the amount paid and does not lead to an inquiry into the question whether the price paid for deregulated gas was prudent or imprudent. Consequently, an attack could be directed against passthrough of the price of gas on the grounds of a rebate scheme or other variety of intentional misrepresentation under the "fraud" rubric. A negligent misrepresentation or other misrepresentation made in disregard of

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[62] Ry. Comm'n of Texas v. Houston & T.C.R. Co., 38 S.W. 750, 754 (Tex. 1897).

[63] State v. St. Louis S.W. Ry. Co. of Texas, 166 S.W. 491, 496 (Tex. Civ. App.—Austin 1913, writ dism. w.o.j.).

[64] 1 C.J.S. *Abuse* section 14 (1936).

[65] See People v. Atlantic Ave. R.R. Co., 28 N.E. 822, 824 (N.Y. 1891); Fradenia v. Prudonia Natural Gas Light Co., 142 N.Y.S. 964, 965 (Ct. App. 1914) *aff'd* 149 N.Y.S. 212 (1915). *See also* Blacks Law Dictionary (4th rev. ed. 1968) at 23 (any positive act "willfully done or caused to be done, the use of rights or franchises as a pretext for wrongs or injuries to the public.").

[66] Ohio Association of Community Action Agencies v. FERC, No. 80-1208, mimeo at 18 (D.C. Cir. 1981).

[67] The words used were "other similar institution." *Id.* at 19.

a duty could lead to the protest of passthrough under the "abuse" rubric,[68] or an innocent mistake could lead to disallowance on "other similar grounds." The possibilities of misrepresentation of the amount actually or lawfully paid is certainly limited, but perhaps there are others that the fraud standard would encompass.

It is clear, however, that the fraud standard does not encompass imprudent business judgment as to how much a pipeline should pay for gas, and that it will not be a back-door mechanism for the Commission to regulate otherwise deregulated prices under the NGPA. In short, the fraud standard is not a market-ordering device. Instead, it is exactly as it appears to be: A device to prohibit charges falsely levied. The Commission empathizes with the concerns of intervenors over the nature and expected impact of disordering under the NGPA, but that does not invest the Commission with the authority to overturn the statute. Congress did not, anywhere, indicate that the right of producers to charge what the market will bear would be qualified by, or limited to, what the Commission deems to be prudent. Indeed, Congress not only provided a structure by which above-market prices could be charged for gas, it arguably did so intentionally, or at least with knowledge of those consequences. One of the stated purposes of Title II of the NGPA was to restrict market disordering in part.[69] It would probably be excessive to conclude that Congress actually intended market disordering, but it would certainly be fair to say that Congress was not unmindful of the possibility. Had Congress intended the fraud standard to operate to control market disordering, it undoubtedly would have so indicated as it did with respect to Title II. Not only is there no such indication, but the little legislative history to be found is to the contrary. It is not the province of the Commission to undo what Congress has done, no matter how undesirable the effects may be, except to the extent that the Commission is statutorily authorized to do so.

[68] This is the only kind of imprudence to which the fraud standard would apply, and is consistent with the observation of Commissioners Holden and Hughes that the fraud standard does not exclude all imprudence. Concurrence of Commissioners Holden and Hughes, *supra* note 57, at 1.

[69] 124 *Cong. Rec.* H13114 (daily ed. October 14, 1978) (remarks of Rep. Dingell).

IV. Codification of the Commission's Policy

Accordingly, for the reasons discussed in this policy statement the Commission, in future decisions, intends to limit the consideration of the fraud standard to a consideration of whether the otherwise just and reasonable price paid by a pipeline is excessive due to a misrepresentation of any kind.[70] The Commission emphasizes again that this policy statement is an articulation of its policy disposition and does not have the force and effect of law. The Commission expects, however, that this policy will apply in a Commission proceeding unless circumstances demonstrate that application of the standard would be inappropriate. The Commission is mindful that, in a particular case, "it must be prepared to support the policy just as if the policy statement had never been issued." (Footnote omitted.)[71]

A new § 2.300 is added to 18 CFR Part 2 which contains Commission statements of policy. That section sets forth the elements that the Commission has tentatively determined should be alleged to make out a cognizable claim under section 601(c)(2) of the NGPA.

Section 2.300 describes the elements of a case of fraud, abuse, or similar grounds. An intervenor would allege that the price paid by an interstate pipeline to any first seller of natural gas was higher than it would have been absent a misrepresentation. In the case of fraud, the misrepresentation would be a fraudulent misrepresentation or concealment made by the pipeline, the first seller, or both acting together. In allegations of abuse, the misrepresentation could be a negligent misrepresentation or concealment, or other misrepresentation or concealment in disregard of a duty. If similar grounds are alleged, the misrepresentation could be an innocent one.

After an intervenor makes the necessary allegations, the Commission envisions that there will be an opportunity for discovery. Thereafter, in the absence of summary disposition, the issue may go to hearing.

In accordance with section 553(b) of the Administrative Procedure Act (5 U.S.C. 553) (APA), the Commission finds that public notice and comment on this statement of policy are unnecessary. In accordance with section 553(d) of the APA, this statement of policy is effective immediately.

[70] This result is consistent with the Commission's earlier orders and the finding that the intervenors' burden of proof is a heavy one. In this connection, some evidence will be necessary to sustain an action under the fraud standard. Mere allegations are not enough.

[71] Pacific Gas & Electric Co. v. FPC, 506 F.2d 33, 38 (D.C. Cir. 1974).

(Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350, (15 U.S.C. 3301-3432))

In consideration of the foregoing, Part 2 of Subchapter A, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 4, 1982.

By the Commission. Commissioner Hughes concurred with a separate statement attached.

Kenneth F. Plumb,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The Table of Contents for Part 2 is amended by adding a new heading and new § 2.300 to follow § 2.202 and to read as set forth below:

Statements of General Policy and Interpretations under the Natural Gas Policy Act of 1978

Sec.

2.300 Statement of policy concerning allegations of fraud, abuse, or similar grounds under section 601(c) of the NGPA.

2. Part 2 is amended by adding a new § 2.300 to read as follows:

§ 2.300 Statement of policy concerning allegations of fraud, abuse, or similar grounds under section 601(c) of the NGPA.

Recognizing the potential for an increasing number of intervenor complaints predicated on the fraud, abuse, or similar grounds exception to guaranteed passthrough, the Commission sets forth the elements of a cognizable claim under section 601(c)(2) which it expects to apply in cases in which fraud, abuse, or similar grounds is raised. The provisions of this policy statement do not establish a binding norm but instead provide general guidance. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration. The procedure prescribed conforms with the NGPA's general guarantee of passthrough by placing the burden of pleading the elements and proving the elements of a case on intervenors who would allege fraud, abuse, or similar grounds as a basis for denying passthrough of gas prices incurred by an interstate pipeline.

(a) In order for the issue of fraud, as that term is used in section 601(c) of the NGPA, to be considered in a proceeding, an intervenor or intervenors must file a complaint alleging that:

(1) The interstate pipeline, any first seller who sells natural gas to the interstate pipeline, or both acting together, have made a fraudulent misrepresentation or concealment; and

(2) Because of that fraudulent misrepresentation or concealment, the amount paid by the interstate pipeline to any first seller of natural gas was higher than it would have been absent the fraudulent conduct.

(b) In order for the issue of abuse, as that term is used in section 601(c) of the NGPA, to be considered in a proceeding, an intervenor or intervenors must file a complaint alleging that:

(1) The interstate pipeline, a first seller who sells to the interstate pipeline, or both acting together, have made a negligent misrepresentation or concealment, or other misrepresentation or concealment in disregard of a duty; and

(2) Because of that negligent misrepresentation or concealment, or other misrepresentation or concealment in disregard of a duty, the amount paid by the interstate pipeline to any first seller of natural gas was higher than it would have been absent the negligent misrepresentation or concealment, or other misrepresentation or concealment made in disregard of a duty.

(c) In order for the issue of similar grounds, as that term is used in section 601(c) of the NGPA, to be considered in a proceeding, an intervenor or intervenors must file a complaint alleging that:

(1) The interstate pipeline, any first seller who sells natural gas to the interstate pipeline, or both acting together, have made an innocent misrepresentation of fact; and

(2) Because of that innocent misrepresentation of facts, the amount paid by the interstate pipeline to any first seller of natural gas was higher than it would have been absent the innocent misrepresentation of fact.

[Docket No. PL82-1-000]

Fraud Standard in Section 601(c)(2) of the NGPA

Issued: February 4, 1982.

Hughes, Commissioner, *concurring:*

I concur with the procedural decision embodied in this statement of policy, and, as hereinafter discussed, with the substantive conclusion contained in the statement.

Specifically, I agree that guidance on the meaning of "fraud, abuse and similar grounds" may help expedite decision on the five cases [73] presently pending before Administrative Law Judges which raise this issue. I recognized the need for such guidance when the issue of setting these cases for hearing was before the Commission previously. At that time, I joined Commissioner Holden in a concurring opinion that was intended as guidance on these cases during the hearing stage, [74] but which also explained why I could not give a complete, inclusive and eternal definition of rather vague statutory language in the abstract. I still cannot do so, since a factual, case-specific record is essential for such undertaking. However, another effort to interpret these legislative terms is a useful undertaking.

I also agree with the conclusion in the statement of policy that fraud, abuse or similar grounds includes all the forms of misrepresentation and concealment discussed therein. However, if the policy statement limits misrepresentation to the amounts paid for natural gas, I would find it too restrictive, as I believe there could be fraudulent or abusive misrepresentations not directly concerning the price, yet prohibited by Section 601(c). Moreover, I reserve opinion on whether actions other than misrepresentation may constitute fraud, abuse or similar grounds within the meaning of the NGPA. I am particularly concerned that abuse may take a form other than misrepresentation or concealment, or arise in instances where elements of the abusive practices may overshadow the misrepresentation element. There may be situations where misrepresentation or concealment, if present, is not the primary indicium of harm. There may also be cases of concerted or repetitive behavior not involving misrepresentation or concealment but which violate or show a disregard of any duty imposed by a pipeline's certificate of public convenience and necessity. Finally, I believe "similar grounds" is an important part of Section 601(c) which cannot be given full meaning until we have determined the meaning of "fraud and abuse". Thus, consistent with my earlier discussion herein, to the extent the policy statement might prove too restrictive on the meaning of "fraud or abuse", it would also be too restrictive in its definition of "similar grounds."

Allegations made in the various pending cases raise issues of serious impropriety, and in each Commission discussion of Section 601(c) since February 28, 1981, [74] we have offered assurance that we view these allegations as serious matters deserving of appropriate scrutiny. I find no diminution of that assurance in this statement of policy.

In addition to my reservations on the conclusions in this statement of policy, I have some concern for the authorities on which it is based. While I consider the Second Restatement of Torts a valuable source for guidance, I do not believe it should be an exclusive source. I would expect that when these cases are presented to the Commission for a decision on the merits, the briefs will discuss the use of the terms "fraud and abuse" in other statutes and case law, as well as earlier Commission orders and the statement of policy. At that time, we will also have the benefit of fully developed evidentiary records, which I consider crucial to a full and meaningful Commission interpretation of these terms. Similarly, I would expect some debate on the statement's conclusion concerning the legislative history and intent.

This is only a statement of policy. As such, it "does not establish a 'binding norm' * * *. A policy statement announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation, it must be prepared to support the policy just as if the policy statement had never been issued." Pacific Gas and Electric Co. v. Federal Power Commission, 506 F.2d 33, 38 (D.C. Cir. 1974).

In conclusion, I emphasize again, the Commission's policy statement does not have the force of law. The Commission will render a final and binding decision on the meaning of these terms when the cases raising the issue are before the Commission for decision on the merits.

J. David Hughes.

[FR Doc. 82-3085 Filed 2-10-82; 8:45 am]
BILLING CODE 6717-01-M

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[73] Transcontinental Gas Pipeline Corporation, Docket No. TA81-1-29-002; Columbia Gas Transmission Corporation, Docket No. TA81-1-21-001; Trunkline Gas Company, Docket No. TA81-1-30-001; Michigan Wisconsin Pipe Line Company, Docket No. TA81-2-48-000; Colorado Interstate Gas Company, Docket No. TA81-1-23-000.

[74] Columbia Gas Transmission Corporation, *et al.*, 15 FERC ¶ 61,104 (concurring opinion issued May 12, 1981).

[75] Transcontinental Gas Pipeline Corporation, 14 FERC ¶ 61,208; Columbia Gas Transmission Corporation, 14 FERC ¶ 61,205; Trunkline Gas Company, 14 FERC ¶ 61,206; Michigan Wisconsin Pipe Line Company, 15 FERC ¶ 61,158 and 15 FERC ¶ 61,004; Colorado Interstate Gas Company, 15 FERC ¶ 61,055 and ¶ 61,228; and Columbia Gas Transmission Corporation, *et al.*, 15 FERC ¶ 61,104.

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10 CFR 157 and 260

[Docket No. RM80-59]

Order Denying Applications for Rehearing

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying applications for rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) denies the applications by General Motors Corporation (General Motors) for rehearing of the interim rule and the final rule to revise Form No. 15. The interim rule was issued November 6, 1980 (45 FR 75192, November 14, 1980) and the final rule was issued August 14, 1981 (46 FR 42281, August 20, 1981).

These rehearing requests are denied because they do not raise any new issues nor present any new data that were not fully considered by the Commission during this rulemaking proceeding.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory

Commission, 825 North Capitol Street, NE., Room 8104–B, Washington, D.C. 20426; (202) 357–8606.

Interstate Pipeline's Annual Report of Gas Supply: Form No. 15; Order Denying Applications for Rehearing

Issued: February 1, 1982.

A. Background

Form No. 15, "Interstate Pipeline's Annual Report of Gas Supply" collects information concerning the total gas supply of each natural gas pipeline company under the jurisdiction of the Commission. On November 6, 1980, the Federal Energy Regulatory Commission (Commission) issued an interim rule to amend Form No. 15 (45 FR 75192, November 14, 1980). On August 14, 1981, the Commission issued a final rule to revise Form No. 15 (Order No. 168, issued August 14, 1981, 46 FR 42261, August 20, 1981).[1]

This rulemaking is part of the Commission's ongoing program to review each of its reporting requirements to determine if those data items are, in fact, needed by the Commission, and to discontinue the collection of any data that are not needed to carry out its decisionmaking and regulatory duties. Such a reduction in burden not only benefits the reporting pipelines by reducing their regulatory costs; it also benefits their customers who ultimately pay those costs.

Both the interim rule and the final rule significantly eased the reporting burdens imposed on pipelines by the previous version of Form No. 15 by eliminating a number of data elements that were no longer required for Commission regulatory functions, by revising, clarifying and updating instructions and definitions in the form, and by amending the regulations that require collection of Form No. 15 data in order to reflect the changes in the form.[2]

B. Rehearing Applications

On December 8, 1980, General Motors Corporation (General Motors) filed a timely application for rehearing of the interim rule. General Motors stated that the interim rule did not adopt the company's comments in response to the notice in which General Motors objected to the deletion of certain data and suggested the addition of new reporting requirements. In response to the General Motors application, the Commission, on January 7, 1981, issued an order denying in part and granting in part for the purposes of further consideration, the application for rehearing of the interim rule. In that order, the Commission stated that "the purpose of the interim rule was very limited—to eliminate certain unnecessary reporting requirements." Thus, the Commission denied General Motors' application with respect to 1980 reports, but stated that its suggestions would be considered in formulating the final rule to amend Form No. 15.

Following the Commission's order on rehearing of the interim rule and further notice and comment, the Commission issued the final rule in this docket. (*See* footnote 2.)

On September 11, 1981, General Motors filed a timely application for rehearing of the final rule. In that application, the company stated that, under the Natural Gas Act, the Commission has a regulatory obligation to consider the adequacy of present and future gas supplies so as to protect consumers from natural gas shortages. General Motors said that the decisions in the final rule were not consistent with this obligation to protect consumers.

In its application for rehearing of the final rule, General Motors repeated the concerns it had raised in its application for rehearing of the interim rule to revise Form No. 15. These concerns pertained to four matters.

The first and most significant of these matters was that the Commission improperly deleted from Form No. 15 the requirement that pipeline companies report their best projections of long-term market requirements. General Motors said that the:

> market projections should be based on known and probable changes in requirements and should correspond to the best estimates used by the pipelines in their own long-term planning. Footnotes should explain in general terms, the assumptions underlying the estimates * * * [and] [s]uch data should be provided for at least ten years.

The company said that the long-term market data are necessary because it is difficult to put a statement of deliverable gas reserves in perspective without relating reserves to the service to be furnished from those reserves. In making this statement, General Motors said that best estimates would be "better than nothing." General Motors added that, if the Form No. 15 does not provide meaningful gas supply data, the Commission must strictly enforce the requirements for additional gas supply and deliverability data that are a part of the requirements of § 157.14(a)(10) of the Commission's regulations pertaining to any application by interstate pipelines for certificates of public convenience and necessity. Section 157.14(a)(1) (Exhibit H) provides requirements for data on the total gas supply of the company. Clause (vi) of Exhibit H provides, among other things, that companies filing the Form No. 15 "will be required to file additional information with regard to gas supply and deliverability" as part of certain applications. General Motors alleged that the requirement for additional gas supply and deliverability data in Exhibit H has been ignored by many respondent companies. The company added that the Exhibit H report should also include the companies' best estimates for long-term gas supply and demand for at least ten years in the future.

The second matter about which General Motors' was concerned pertained to its requests during this proceeding for the Commission to require pipeline companies to attach to the Form No. 15 copies of all long-term supply and demand projections that were given to persons outside of the company and to explain any material differences between the projections. The Commission did not require this information in the interim rule or in the final rule, stating that this requirement could create a new and unnecessary reporting burden on the companies. In the final rule, the Commission added that such information is best collected in individual proceedings, rather than in an annual filing made by all pipeline companies. In response to this, General Motors said that the Commission has the power to expand the Form No. 15 to collect these data and that the data would provide the Commission and the public with an important starting point for evaluating pipeline companies' reports on long-term supply and demand. General Motors added that it is hard to believe that companies would provide so many different projections to people outside of the company that a significant reporting burden would be created by the requirement to report these data.

The third assertion made by General Motors in both rehearing applications was that the data respecting curtailments by suppliers were improperly deleted from Form No. 15. The company disagreed with the Commission's statements in the interim and final rules that these data are

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[1] Prior to the final rule, the title of Form No. 15 was "Annual Report of Gas Supply for Certain Natural Gas Pipelines."

[2] With respect to the 1980 filing, the interim rule eliminated the data that were proposed for deletion in the initial notice of proposed rulemaking (issued August 7, 1980, 45 FR 54082, August 14, 1980). A revised notice of proposed rulemaking proposed certain additional revisions to the Form No. 15 (issued April 2, 1981, 46 FR 21169, April 9, 1981). In the final rule, the Commission adopted the changes proposed in the revised notice and certain other suggestions for additional revisions and clarifications submitted by the commenters to the revised notice.

reported in the Form No. 16, "Report of Gas Supply and Requirements." General Motors said that the Form No. 16 shows only the projected curtailments of its customers and does not provide information respecting deficiency in supplies.

General Motors' final objection was that the Commission, in the interim rule and in the final rule, ignored its requests to clarify the form's instructions to require pipelines to base projections of long-term supplies from their suppliers on "actual projected" service levels (after discounting probable future curtailments from pipeline suppliers), rather than on contract quantities. The particular instructions in the form require pipeline companies to report volumes contracted to be purchased from interstate pipelines and other supply contracts and "explain in a footnote how this data was derived." The company said that, "to the extent that the Commission's instructions give pipelines an option, it is almost certain that pipelines will merely report full contract quantities," whether or not full volumes are likely to be received by those companies at any time in the future.

C. Conclusion

After full consideration of General Motors' objections in its application for rehearing of the interim rule and again in the application for rehearing of the final rule in this docket, the Commission believes that rehearing should be denied in all respects.

The Commission's decision to revise the Form No. 15 was made only after a thorough review of all of the data requirements in the form, over a period of several months. A primary purpose in deleting data from the form was to eliminate unnecessary reporting burdens for the pipeline companies that file the form. The Commission does not believe that an abbreviated Form No. 15 will deprive it of information that is essential to fulfulling the Commission's obligations under the Natural Gas Act and under other legal requirements. This is because additional data from individual companies will be requested, as necessary, in particular proceedings before the Commission. In this manner, the burden of filing these additional data will not be placed unnecessarily on the entire industry. The Form No. 15 as revised, will collect reliable information that is needed by the Commission on an annual basis, and this requirement will place a minimum reporting burden on the companies that must file it.

With respect to the first of General Motors' specific concerns, that the Commission improperly deleted long-term requirements data from the Form No. 15, the Commission believes that for the reasons discussed in the final rule and also discussed in detail, below, the annual requirements provision in the new form will not hamper its ability to make determinations about the adequacy of a pipeline company's supplies. Also, the Commission stated in the final rule that the Form No. 15 is not the proper vehicle for reporting long-term requirements data; rather, the form is a single-point-in-time report of a company's gas supply posture. Long-term reports of requirements data are best obtained in individual proceedings through requirements, such as those specified in Exhibit H of a certificate application, rather than through annual requests that burden the industry as a whole.

Contrary to General Motors' assertion that many companies are permitted to ignore the requirement for additional gas supply and deliverability information in Exhibit H of a certificate application, the Commission does enforce this requirement and frequently requests supplemental reports from companies respecting this information. The Commission also notes that the data provided in Exhibit H are meant to supplement the current Form No. 15 by providing the Commission with the latest available information on gas reserves. Exhibit H collects more recent data in greater detail than does the Form No. 15. With respect to General Motors' suggestion that Exhibit H should include best estimates of long-term gas supply and demand for at least ten years in the future, the Commission notes that the language in clause (vi) of Exhibit H was revised in the final rule to provide for the filing of a ten-year deliverability projection for each new supply source, "and any other information that the Commission may require." The revision was made because the Form No. 15 eliminated the requirement to report individual reservoir data. The Commission, however, still requires such data with respect to new supply sources and believes that information about new supply sources in the Exhibit H is most relevant to certificate applications. The Commission would also obtain any other deliverability or supply data, as needed, in the individual proceedings.

In response to the second General Motors' concern, that the Commission failed to require pipeline companies to attach to Form No. 15 copies of all long-term supply and demand projections given to persons outside of the company, the Commission believes that the data are not so essential to its regulatory functions as to warrant their collection. General Motors was correct in noting that the Commission has the power to expand the Form No. 15 to collect such data. This Commission, however, does not agree with General Motors' contention these data are necessary to Commisson determinations. Should the Commission require this information in individual proceedings, it will request the data at that time.

With respect to the third concern, that data concerning curtailments suppliers should not have been deleted from Form No. 15, the Commission notes, as it did in the final rule, that Form No. 16, "Annual Report of Gas Supply and Requirements" provides adequate information about curtailments. General Motors stated that Form No. 16 only shows a company's projected curtailment of customers, but does not require information on curtailments of supplies. The Commission notes that data concerning curtailments by suppliers are reported in detail in the Form No. 16 in Schedule II, "Actual Sources of Supply Adjusted for Losses" and Schedule VI, "Projected Sources of Supply Adjusted for Losses," specifically in Attachments II and III to each schedule, which are respectively entitled, "Pipeline Suppliers: Contract Volumes by Pipeline" and "Pipeline Suppliers: Deliveries by Pipelines."

The Commission also disagrees with the final General Motors concern, that the Commission ignored its request to clarify the form's instructions to require that pipelines base projections of long-term supplies from their suppliers on "actual projected" service levels, rather than on contract quantities. The Commission did, in fact, revise its instructions in Schedule I, at lines 103–122, column (03), in response to General Motors' suggestion. The revised instructions require pipelines to report volumes contracted to be purchased from interstate pipelines and other supply contracts and also to explain how the data were derived. Thus, a pipeline that reports full contract quantities must give a reason for making such a report.

In conclusion, General Motors has not raised any new issues nor presented any new data that were not fully considered by the Commission in this rulemaking proceeding.

Accordingly, the applications filed by General Motors for rehearing of the interim rule and for rehearing of the final rule in this docket are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3671 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 511

Research and Development Studies Conducted by State Agencies; Technical Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a rule on research and development studies and programs that appeared at page 59534 in the **Federal Register** of Monday, December 7, 1981, (46 FR 59533). The action is necessary to correct an erroneous sentence in the section encompassing definitions.

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Harry H. Hersey, Offices of Research and Development, 703–285–2057; or Lee Burstyn, Office of the Chief Counsel, 202–426–0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–34790, in the issue of Monday, December 7, 1981, on page 59534, in § 511.3(e) remove the word "annual" in the second sentence.

(23 U.S.C. 307(c), 315; 49 CFR 1.48(b))

Issued on: February 3, 1982.

Donald L. Ivers,

Chief Counsel, Federal Highway Administration.

[FR Doc. 82–3720 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Removal of the Conditions of Approval of the Montana Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 926 by removing the conditions of approval of the Montana permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana has submitted provisions to the Office of Surface Mining (OSM) which satisfy all the conditions of the Secretary's approval of April 1, 1980 (45 FR 21560–21580). It also approves an additional amendment to the Montana permanent regulatory program submitted by Montana pursuant to 30 CFR 732.17.

EFFECTIVE DATE: The removal of the conditions of the approval and approval of the program amendment is effective February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background on the Montana Program Submission

On August 3, 1979, OSM received a proposed regulatory program from the State of Montana. Following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of six minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the April 1, 1980 **Federal Register** (45 FR 21560–21580).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Montana program can be found in the April 1, 1980 **Federal Register** (45 FR 21560–21580).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Montana program contained six minor deficiencies.

1. Montana Rule XX(13)(b)(ii) contained provisions that mirrored the suspended Federal regulations in 44 FR 67943 (November 27, 1979): 30 CFR 805.13(d); 808.12(e)(6)(iii), 808.12(g)(7)(iii), and 808.12(c); and 45 FR 51844 (August 4, 1980): 30 CFR 807.11(e) and 808.14(b). As such, Montana Rule XX(18)(b)(ii) was determined to be inconsistent with SMCRA.

2. The Montana Strip and Underground Mine Reclamation Act (SURA) and the Montana regulations did not explicitly contain provisions similar to 30 CFR 843.11(a)(2) relating to: (1) Imposition of affirmative obligations if the cessation order will not completely abate the imminent danger or harm in the "most expeditious manner physically possible" and (2) the requirement, as part of an affirmative obligation, of the use of additional personnel or equipment without regard to cost.

3. The Montana program did not provide for award of costs in administrative proceedings, including attorneys' fees, in accordance with Sections 520 and 525 of SMCRA and 43 CFR 4.1290 *et seq.* Although Montana had enacted the basic authority for the award of costs and expenses, SMCRA and 30 CFR Chapter VII require that a State program include the regulations which detail such matters as who may file, contents of a petition, and who may receive an award.

4. Montana SURA 82–4–223 gives the Department of State Lands discretion in requiring a bond from a political subdivision that is inconsistent with Section 524 of SMCRA, 30 U.S.C. 1274, which provides that political subdivisions which engage in surface coal mining operations are subject to the full requirements of SMCRA.

5. Montana Rule XXIV(1) required that the Montana Department of State Lands inspect to ensure "substantial" compliance with Montana law and regulations. The Secretary expressed concern that "substantial" compliance might be interpreted to mean something less than complete compliance, as provided by 30 CFR Part 840. Therefore, the Secretary conditioned the approval of Montana's program on the State's submitting copies of fully enacted regulations removing from Rule XXIV(1) the word "substantial" in referring to ensuring compliance with Montana law and regulations.

6. The Montana Department of State Lands has the authority under Montana laws, and the Montana program contains provisions in Rule XXIV, to provide small operator assistance. However, Montana 82–4–222(3) implemented the small operator assistance program only to the extent that the State had received Federal funds for this purpose. Such limitation is not consistent with Section 705(c) of SMCRA and the Secretary required that Montana submit copies of fully enacted legislation removing the limitation in Montana 82–4–222(3).

In addition to reponding to the above five regulatory changes and one statutory change which were required by the Secretary, Montana also has submitted an additional regulatory amendment:

"30 CFR 786.23(f) requires the regulatory authority to notify local government officials in the local political subdivisions in which the area of land to be affected is located when a permit has been issued. Montana's regulations in the State's conditionally approved program did not contain this provision. The Secretary expressed in his findings of April 1, 1980, that Montana's regulation for notice to local officials was consistent with SMCRA and 30 CFR 786.23(f). The Secretary based his decision on the premise that since mining is conducted only in six counties and because the issuance of a permit entitles the county to share in the severance tax, local officials are well informed regarding mining activities. Additionally, the Secretary noted that Montana has stated that as a matter of policy the Montana Department of State Lands will notify the local government officials in the local political subdivision within ten days after granting a mining or test pit prospecting permit. However, Montana has now elected to amend Section 26.4.405 of its regulations to specifically require notification of local government officials."

Since the above amendment was not required by the Secretary in his conditional approval, it is considered to be a program amendment under 30 CFR 732.17.

Submission of Revisions

On November 3, 1980, OSM received from Montana revisions to the State regulations intended to satisfy condition numbers 1–5. The State also on November 3, 1980, submitted the additional amendment to its program discussed above.

On August 26, 1981, Montana submitted a single statutory change to the Montana SURA to meet condition 6.

OSM published a notice in the **Federal Register** on October 16, 1981, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies (46 FR 50984–50986). The public comment period ended November 17, 1981. A public hearing scheduled for November 10, 1981, was not held because no one expressed a desire to present testimony. On November 9, 1981, OSM published a notice in the **Federal Register** to cancel the public hearing (46 FR 55275).

On August 26, 1981, when the State submitted the change to meet the single statutory condition of the Secretary's approval, it also made some apparent editorial changes to the Montana SURA. These amendments are not being considered in this **Federal Register** notice and will be the subject of a future **Federal Register** notice pursuant to 30 CFR 732.17.

Secretary's Findings

The Secretary finds the amendments submitted by Montana on November 3, 1980, and August 26, 1981, correct the deficiencies in the Montana program as follows. It should be noted that while the State was in the process of developing its rules, the Montana Secretary of State was developing a new simplified system of codification of rules. On July 1, 1980, when this new system was completed, the Administrative Rules of Montana concerning surface mine reclamation were renumbered according to the new system. This accounts for the difference in the numbering system referred to in the Secretary's Notice of Conditional Approval and that in the State's amendments.

1. Section 26.4.1118 of the Montana regulations reflects the revised Federal regulations pertaining to bonding issued August 6, 1980 (45 FR 52306–52324) and, therefore, corrects deficiency 1.

2. Montana regulation 26.4.1210, as amended, requires that if a cessation order will not completely abate the imminent danger or harm in the most expeditious manner physically possible, the commissioner or his authorized representative shall impose affirmative obligations on the person to whom it is issued to abate the condition, practice, or violation. The order shall specify the time by which abatement shall be accomplished and may require, among other things, the use of existing or additional personnel and equipment. Therefore, the revised Montana regulation is consistent with 30 CFR 843.11(a)(2) and corrects deficiency 2.

3. Montana regulations 26.4.1307, 26.4.1308 and 26.4.1309 provide for award of costs in administrative proceedings, including attorneys' fees consistent with 43 CFR 4.1290–4.1296, and correct deficiency 3.

4. Montana regulation 26.4.1121 requires State agencies and political subdivisions to file bonds before the State regulatory authority may issue a mining permit as required by Section 524 of SMCRA and corrects deficiency 4.

5. Montana regulation 26.4.1201, as amended, provides for frequency of inspections as necessary to enforce compliance with Montana law and regulations consistent with 30 CFR Part 840 and corrects deficiency 5.

6. Section 82–4–222(3) of the Montana SURA, as amended by Senate Bill 244, provides that the small operator assistance program will be implemented to the extent that the State regulatory program has funds for this purpose which is consistent with Section 524 of SMCRA and corrects deficiency 6.

The additional amendment submitted by Montana under 30 CFR 732.17 amends Montana Administrative Rule 26.4.405 to specifically require notification of local government officials in which the area of land is located when a permit has been issued. This amendment is consistent with 30 CFR 786.23(f).

Disposition of Agency and Public Comments

1. The Geological Survey commented that Montana section 26.4.1118 entitled *Bonding: Effect of Forfeiture* should be clarified to indicate that it only pertains to reclamation bonds, and in no way affects Federal lease bonds held by the Department of the Interior for security to assure compliance with the terms and conditions of a Federal coal lease.

The Secretary required as a condition in his November 21, 1980, decision that Montana amend its regulations to delete the phrase "with respect to protection of the hydrologic balance" because the phrase was suspended in the corresponding Federal regulation at 30 CFR 808.12(c). This is the only change made by Montana in section 26.4.1118. Thus, this comment is outside the scope of this rulemaking. However, the Secretary does interpret section 26.4.1118 to pertain only to performance bonds and not lease bonds.

2. The Environmental Policy Institute (EPI), National Audubon Society and the Citizens Mining Project, commented that section 26.4.1307, *Litigation Expenses: When the Department May Award*, of the Montana regulations must be interpreted to mean that fees may be assessed against a citizen only when the citizen acted in bad faith. Also, it must be interpreted to mean that substantial contribution as a basis for an award is a standard and not merely a definition.

In response to the first part of the comment, the Secretary notes that the State in response to a comment during the State rulemaking on section 26.4.1307 indicated that awards against persons other than the permittee and the State regulatory authority may be made only if bad faith or harassment is shown on part of the applicant for the award (See November 3, 1980, letter). In response to the second part of the comment, the Secretary believes that section 26.4.1307(3) of the Montana rules

is consistent with 43 CFR 4.1294 because the Montana provision sets the same criterion of "substantial contribution" as the Federal provision.

3. EPI et al., commented that Montana amendment 26.4.405, *Findings and Notice of Decision*, appeared to have a typographical error because section 26.4.405(3) refers to findings obtained under section 26.4.405 (2) and (3). The commenters further stated that the State regulatory authority acknowledged to them that the section should refer to findings obtained under section 26.4.405 (1) and (2).

The Secretary acknowledges that this is obviously a typographical error and presumes this will be corrected.

Approval Without Condition

Accordingly, the Montana permanent program is hereby fully approved. 30 CFR 926.10 is amended to indicate approval of the November 3, 1980, and August 26, 1981, program amendments. 30 CFR 926.11 which established the conditions of the initial approval is hereby repealed.

Approval of Additional Program Amendment

Accordingly, the program amendment to Montana's permanent program submitted pursuant to 30 CFR 732.17 is hereby approved. 30 CFR 926.10 incorporates approval of the November 3, 1980, program amendment.

The removal of the conditions of the approval of the Montana permanent program and the approval of the program amendment are effective upon publication of this notice.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. This document is not a major rule under E.O. 12291; therefore, no Regulatory Impact Analysis is being prepared on this approval.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On January 30, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Montana permanent program. The amended regulatory provisions approved in this document are not aspects of the Montana permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1947 et seq.).

Dated: February 4, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Accordingly, the Montana permanent program is hereby fully approved. 30 CFR 926.10 is amended to indicate approval of the November 3, 1980, and August 26, 1981, program amendments. 30 CFR 926.11 which established the conditions of the initial approval is hereby repealed.

PART 926—MONTANA

Part 926 of Title 30 is amended as follows:

1. 30 CFR 926.10 is revised to read as follows:

§ 926.10 State regulatory program approval.

The Montana permanent program submitted on August 3, 1979, as amended November 13, 1979, January 4, January 9, January 10, January 12, January 13, January 30, February 1, and February 20, 1980, and as further amended November 3, 1980, and August 26, 1981, is approved effective upon publication of this notice. Copies of the approved program, as amended, are available at:

Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana 59601, Telephone: (406) 449–2074

Montana Department of State Lands, Field Office, 1245 North 29th Street, Billings, Montana 59101, Telephone: (406) 657–2217

Office of Surface Mining, Room 5315, 1100 "L" Street NW., Washington, D.C. 20240, Telephone: (202) 343–4728

§ 926.11 [Removed]

2. 30 CFR 926.11 is hereby removed.

[FR Doc. 82-3660 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD1-80-9-R]

Establishment of Special Anchorage Areas in Boston Inner Harbor, Boston, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing Special Anchorage Areas near the entrance to Fort Point Channel in Boston Harbor, Boston, Massachusetts at the request of the City of Boston. These Special Anchorage Areas are necessary due to the increased number of pleasure craft utilizing Boston Harbor. It will provide needed anchorage space for small craft in the area and would relieve them of the requirement to carry and display anchor lights while utilizing the Special Anchorage Areas.

EFFECTIVE DATE: This amendment become effective on March 15, 1982.

FOR FURTHER INFORMATION CONTACT: LCDR Theophilus Moniz III, U.S. Coast Guard Marine Safety Office, 447 Commercial Street, Boston, Massachusetts 02109, (617) 223–1675.

SUPPLEMENTARY INFORMATION: On June 15, 1981, the Coast Guard published a notice of proposed rulemaking in the Federal Register for these regulations (46 FR 114).

Interested persons were requested to submit comments and forty-three (43) written comments were received. On July 9, 1981, a public hearing was held and sixteen (16) individuals attended within nine (9) choosing to make verbal comments.

Drafting Information

The principal persons involved in drafting this rule are LCDR Theophilus Moniz III, Project Officer, U.S. Coast Guard Marine Safety Office, Boston, Massachusetts and LCDR Thomas F. Murphy, Jr., Project Attorney, Commander (dl), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

Discussion of Comments

The written public comments received strongly favored the establishment of the proposed Anchorage Areas (39 of the 43 commenters). Many identified themselves as recreational boaters affiliated with the Boston Harbor Sailing Club, a sailing club located in close proximity to the proposed Anchorage Areas. The Department of the Army, Corps of Engineers expressed some concern about Area "C" encroaching on the Fort Point Channel approach. One commenter complained that Anchorage Area "A" extended southward interfering with the approach to Rowes Wharf. The two remaining commenters represented commercial interests opposed to the Anchorage Areas, especially Area "C".

During the public hearing, six commenters voiced their support for the Anchorage Areas. One commenter expressed concern about the proximity of Area "C" to the main shipping channel for Boston Harbor. With an average speed of six (6) knots, a large vessel transiting the area could damage

closely anchored sailboats. This commenter also disapproved of the way Area "C" encroached on the Fort Point Channel. Another commenter complained about Area "A" and the difficult approach that would be required by a vessel attempting to moor on Rowes Wharf. The final commenter expressed her concern about the navigational safety of the Fort Point Channel approach reduced by Area "C". She also agreed with the concerns about the approach to Rowes Wharf.

In response to the comments received, the Anchorage Areas "A" and "C" have been modified to accommodate the commercial interests which were considered warranted in their complaints. Each of the areas were plotted on a large scale chart providing for greater accuracy. The southern boundary of Area "A" was moved northward to allow a more favorable approach to Rowes Wharf and the southern boundary of Area "C" was relocated northward to open up the approach to Fort Point Channel. The eastern boundary of Area "C" was moved away from the main shipping channel.

Summary of Final Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed below, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

An Environmental Assessment of the proposed rules was completed in February 1981 which resulted in a finding of no significant impact on the quality of the human environment. Environmental information can be obtained from Mr. P. V. Kaselis, Environmental Specialist, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

The only effect of the regulations is the designation of Special Anchorage Areas near the entrance to Fort Point Channel in Boston Inner Harbor which should relieve the congestion by the random anchorage of small craft. Vessels utilizing this limited area would not be required to display anchor lights.

The limits of the Anchorage Areas are to be marked by appropriate navigational aids which are to be provided and maintained by the City of Boston. The designated Special Anchorage Areas will reduce the width of the navigable approaches to Fort Point Channel but will not impede navigation and will have no economic impact on any entity.

The waters adjacent to the west of the designated Special Anchorage Areas are non-navigable U.S. waters declared by Pub. L. 90–312. The shoreline beyond these adjacent non-navigable waters is bounded by City property controlled by the Boston Redevelopment Authority, and the Harbor Towers at India Wharf, which is privately owned. The owners of the Harbor Towers property have been contacted and indicated no objection to this rule.

These Special Anchorage Areas will be for the use of the general public. Administration of them will be exercised by the Harbormaster, City of Boston, pursuant to local ordinances. In Special Anchorage Areas vessels of not more than 65 feet in length, when at anchor, are not required to carry or display anchor lights.

PART 110—ANCHORAGE REGULATIONS

§ 110.30 [Amended]

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by adding paragraph (m) to § 110.30 to read as follows:

* * * * *

(m)(1) *Boston Inner Harbor A.* The waters of the western side of Boston Inner Harbor adjacent to the entrance to Fort Point Channel bounded by a line beginning at latitude 42°21′26.4″ N, longitude 71°02′56.9″ W; thence to 029° T to latitude 42°21′31.5″ N, longitude 71°02′53″ W; thence 077° T to latitude 42°21′32.6″ N, longitude 71°02′47.3″ W; thence 209° T to latitude 42°21′26.4″ N, longitude 71°02′52″ W; thence along a line bearing 270° T to point of origin.

(2) *Boston Inner Harbor B.* The waters of the western side of Boston Inner Harbor adjacent to the entrance to Fort Point Channel bounded by a line beginning at latitude 42°21′22″ N, longitude 71°02′55.8″ W; thence 207° T to latitude 42°21′20″ N, longitude 71°02′57.3″ W; thence 252° T to latitude 42°21′18.9″ N, longitude 71°03′01″ W; thence 027° T to latitude 42°21′23.1″ N, longitude 71°02′58.3″ W; thence along a line bearing 120° T to point of origin.

(3) *Boston Inner Harbor C.* The waters of the western side of Boston Inner Harbor adjacent to the entrance to Fort Point Channel bounded by a line beginning at latitude 42°21′32.6″ N, longitude 71°02′47.3″ W; thence 138° T to latitude 42°21′28.4″ N, longitude 71°02′42.8″ W; thence 252° T to latitude 42°21′28.4″ N, longitude 71°02′52″ W; thence along a line bearing 029° T to point of origin.

Note.—Administration of the Special Anchorage Areas is exercised by the Harbormaster, City of Boston pursuant to local ordinances. The City of Boston will install and maintain suitable navigational aids to mark the limits of the Anchorage Area.

(33 U.S.C. 2030, 33 CFR 1.05–1(g)(1), 49 CFR 1.46(c))

Dated: December 30, 1981.

L. L. Zumstein,

Rear Admiral, Coast Guard, Commander, First Coast Guard District.

[FR Doc. 82–3729 Filed 2–10–82; 8:45 am]
BILLING CODE 4910–14–M

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33 CFR Part 164

[CGD 81–081]

Electronic Position Fixing Devices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule delays for two years the requirement for installation of a continued tracking complementary system to satellite navigation receivers. Vessels meeting the requirement for carriage of an electronic position fixing device by having satellite navigation receivers installed before June 1, 1984, need not install a continual tracking complementary system until June 1, 1987. Vessels meeting the rule by having satellite navigation receivers installed on or after June 1, 1984, must have the continual tracking complementary system installed at the same time. By delaying the requirement, there will be sufficient time for the Coast Guard to complete a study on the incidence of groundings of vessels that use satellite navigation receivers, and, if appropriate, to propose rules that would eliminate the requirement for the complementary system. The delay will also allow vessel owners considering installation of the complementary system to avoid spending funds on a requirement that may be eliminated by such rulemaking.

EFFECTIVE DATE: This final rule becomes effective on March 29, 1982.

SUPPLEMENTARY INFORMATION: The present rule was published as an interim final rule in the **Federal Register** issue of May 31, 1979 (44 FR 31382) because of an expansion of the area of applicability. The final rule was

published without change in the **Federal Register** issue of January 10, 1980 (45 FR 2027).

Drafting Information

The principal persons involved in drafting this rule are Mr. Tom Falvey, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

Discussion

The requirements for carriage of electronic position fixing devices became effective for all vessels 10,000 gross tons (grt) or more on June 1, 1980. Vessels 1600 grt to 10,000 grt are required to carry this equipment on June 1, 1982. Under current requirements, acceptable electronic position fixing devices include LORAN C (Type I or II as defined in the Radio Technical Commission for Marine Services (RTCM) Paper 12–78/DO–100 (12/20/77) entitled, "Minimum Performance Standards (MPS) Marine LORAN–C Receiving Equipment"), and a hybrid satellite navigation receiver integrated with a continual tracking, complementary system, such as satellite-OMEGA, satellite-LORAN C, and satellite-doppler. Vessels having "stand alone" satellite systems that are installed before June 1, 1982 are not required to have the complementary tracking system until June 1, 1985. Vessels having satellite systems that are installed on or after June 1, 1982, must have the complementary system installed concurrently. In response to the proposed rules for this rulemaking procedure, published on November 14, 1977 (42 FR 59012), 47 letters of comment were received. Of those 47, three contended that a satellite navigation receiver interfaced with speed and gyro inputs normally is as accurate as a satellite-OMEGA hybrid, especially at times of atmospheric disturbance, such as at dawn or dusk. The Coast Guard, in the preamble to the interim final rule, contended that in the absence of set and drift, the statement probably would be correct; however, in the presence of significant set and drift, a considerable error in position might develop between usable satellite passes. Continuing, the preamble states that assuming a prudent navigator would not rely on a single positioning source, and in consideration of the 3000 "stand alone" satellite navigation receivers in use in 1977, a decision was made to review the incidence of groundings of vessels equipped with satellite navigation receivers through 1981 and to make a final determination on the acceptability of "stand alone" satellite navigation receivers after considering the data.

A review of Coast Guard vessel casualty files from 1977 to 1979 for groundings of vessels 1000 grt or more has shown none to involve vessels using satellite navigation receivers. It now appears appropriate to consider elimination of the requirement for the complementary tracking system. In order to avoid having vessel owners allocate or spend funds to install the complementary tracking system, and to provide sufficient time after the review of vessel groundings through 1981 to complete any appropriate rulemaking procedure, it is deemed necessary in the public interest to delay the requirements for the complementary tracking system for two years. Therefore, vessels having a satellite navigation receiver installed before June 1, 1984, need not install a complementary tracking system until June 1, 1987. Vessels having a satellite navigation receiver installed on or after June 1, 1984, must have the complementary system installed concurrently. This change in effective date does not affect the requirement that vessels 1600 grt to 10,000 grt entering U.S. waters must carry a Loran C or a satellite navigation receiver by June 1, 1982. If after a review of the incidence of groundings through 1981 it is deemed appropriate, a notice will be issued to propose elimination of the requirement for the complementary tracking system.

Since it would be contrary to the public interest for this delay to be subject to notice and public procedure thereon, it is published as a final rule under the exception provided by 5 U.S.C. 553(b)(3)(B) and is made effective in less than 30 days by the exception provided by 5 U.S.C. 553(d)(3).

The existing rule was reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979) and determined to be non-major. The postponement of the effective date contained in this document is determined not to be a significant regulation under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT 2100.5, dated May 22, 1980) nor a major rule under Executive Order 12291 of February 17, 1981. It is also certified this postponement will not have a significant economic impact on a substantial number of small entities.

PART 164—NAVIGATION SAFETY REGULATIONS

In accordance with the preceding, Part 164 of Title 33, Code of Federal Regulations, is amended by revising § 164.41(e) to read as follows:

§ 164.41 Electronic position fixing devices.

* * * * *

(e) Each satellite navigation receiver installed before June 1, 1984 that meets paragraph (d) (1) and (2) of this section must meet paragraph (d)(3) of this section on June 1, 1987.

(Sec. 2, 94 Stat. 1477 (33 U.S.C. 1231(a)); 49 CFR 1.46(n)(4))

Dated: December 9, 1981.

W. E. Caldwell,

Rear Admiral, Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 82-3728 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Facing Identification Marks on Official Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends postal regulations to modify the specifications for printing the official mail imprint and to add the requirement that a Facing Identification Mark (FIM) be printed on certain official mail postcards, letter-size envelopes and self mailers. State employment security agencies mailing under the U.S. Department of Labor indicia would also be required to comply with the official mail indicia format required of the executive and judicial branches of the Government. The addition of FIM is expected to improve the processing of official mail of the executive and judicial branches of the United States Government.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: William Maguire, (202) 245–4353.

SUPPLEMENTARY INFORMATION: On May 22, 1981, the Postal Service published for comment in the **Federal Register** a revision of 137.24 of the Domestic Mail Manual to modify the specifications for printing the offical mail imprint and adding the requirement of a Facing Identification Mark (FIM). (46 FR 27970).

The Postal Service received written comments from four federal agencies in response to this proposal. The commenters generally favored the proposal, but requested certain changes which are discussed below.

Three commenters suggested that the proposed effective date of the rule be changed, so that existing contracts would not have to be amended. After discussing this issue directly with the General Services Administration (GSA), which had requested a change to the effective date and is responsible for regulating federal agency envelopes, we made the effective date April 1, 1982. This will accommodate the GSA Federal Supply Schedule.

One commenter asked whether contracts written prior to the effective date must be modified. The regulation only affects procurement contracts entered into after the effective date.

One commenter requested that the FIM mark be allowed on mailing pieces in which postage is paid by permit imprints or meter tapes. The commenter suggested that prohibiting this would require agencies to undergo "uneconomical double ordering, distribution, and stocking of various size envelopes". We don't understand this objection, since Federal agencies using permit imprint envelopes already must order and inventory them separate from mailing envelopes preprinted with the standard penalty indicium. Similarly, agencies using meters must order, distribute, and stock envelopes with no indicia printed in the upper right corner. This rulemaking only changes the format requirement for the standard penalty indicium. It does not change federal agencies' existing ordering, distribution, inventorying, or usage procedures for any of the four types of penalty indicia envelopes. Moreover, § 137.273a(9) of the DMM presently authorizes postmasters to allow Government agencies to put meter impressions on surplus supplies of Postage and Fees Paid envelopes for a limited period so no envelopes need be wasted.

As to permit imprint envelopes, the use of the FIM pattern on such mail would add nothing positive and could have certain negative effects. Permit imprint mail must consist of a minimum of 200 pieces or 50 pounds and be arranged by the mailer so that the address side of all pieces faces the same way. This mail, which must be presented to a post office acceptance unit with a mailing statement, does not go through the facer-canceler. The letters have already been faced by the mailer and there is no postage affixed to be cancelled, so the FIM mark, which is used only to face mail without stamps or meter imprint, would add nothing useful. Moreover, if a piece of permit imprint mail had a FIM mark on it and improperly entered the mailstream through other than a post office acceptance unit, the FIM mark would cause the mail to be treated as Postage and Fees Paid mail and the Postal Service would lose the revenue for that piece.

The same commenter noted that envelopes *without* a FIM pattern whose intended use is for metered or imprint mail could accidentally enter the mailstream without an imprint or a meter strip. If this happened, the Postal Service could lose revenue if the error were not discovered, or there could be a mail delay, or a postage due condition. We recognize these possible results of mail that is unpaid. However, these results could happen now, without regard to FIM. The primary purpose of FIM on federal agency letter-size envelopes with the standard penalty indicium is to efficiently process this mail through postal mechanization, specifically, the Facer/Canceler operation. However, Federal mail affixed with metered postage does not need FIM for facing when processed through this equipment, and permit imprint mail should not be processed through this equipment. The presence of a FIM mark would make it more difficult to identify mail with metered postage omitted, or improperly mailed permit imprint envelopes, while the absence of a FIM mark would provide quicker identification and correction of these erroneous situations.

One commenter expressed concerns that postage overcharges and delays might occur with FIM because the same FIM pattern is being used for Business Reply Mail (BRM). In the second step of the mail processing operation, BRM is routed to a separate holdout according to the ZIP Code. FIM mail that is not BRM follows a different processing route. There is, therefore, no problem with delay or overcharging.

One commenter requested that the Postal Service place a postal cancellation mark on FIM mail, since this would provide the date and city where the mailing piece entered the mailstream. FIM mail which is processed through the Facer/Canceler will receive a cancellation mark. However, routing penalty mail which is already faced through this equipment would require additional processing, and would therefore increase processing costs which are ultimately reflected in postal rates. We are not adopting this suggestion for all penalty mail.

One commenter said that the proposed rule's rearrangement of the indicium would require envelope contractors to make a new printing plate for each agency's letter-size envelopes, and that, since larger than letter-size envelopes (flats) were not covered by the proposal, two printing plates would have to be maintained. Apparently, the commenter overlooked section 137.242c of the proposal, which permits but does not require the FIM pattern and use of the postal emblem on flats.

One commenter suggested changing the Revenue, Pieces and Weight (RPW) numerical code on letter-size mail to an optical-reader code, making it possible for the Postal Service to read the RPW number electronically and transmit volume figures to computer accounts to be used in the billing system. Since this suggestion is beyond the scope of this rulemaking, we are not adopting it at this time. We are, however, forwarding the comment to the appropriate division for analysis and such action as deemed appropriate.

The same commenter requested that FIM marks be permitted on official matter carried outside the U.S. Mail, despite the provisions of proposed 137.246b. The commenter said that if an agency had to resort to an alternate carrier, it would still want its mail to be clearly identified as government mail, and considered that a FIM mark would so identify it. We believe the commenter misconstrues 137.246b. This provision, which was adopted after notice and comment rulemaking in 1979 (44 FR 41777), would not prevent an agency from using Postage and Fees Paid envelopes (with the FIM pattern) for items carried outside the mails if carried by the agency's employees, or by contractors for subsequent entry into the mail, or if postage is paid after written agreement is entered into with the Postal Service. As to items which may be carried outside the mail because they are not covered by the Private Express Statutes, use of the official mail indicium (with the FIM pattern) is prohibited because it may mislead the public for such items to bear the legend "Postage and Fees (have been) Paid". It may also inhibit the ability of the Postal Service to ensure that postage is paid if the item is subsequent deposited in the mails.

Upon consideration of all the comments, the Postal Service hereby adopts the following changes to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (39 CFR 111.1).

Part 137—Official Mail

In part 137.2, revise .24 to read as follows:

.24 *Indicia*

.241 There are four general types of official penalty mail indicia: (a) standard penalty indicium, (b) official

metered indicium, (c) official permit imprint indicium, and (d) official business reply indicium. Each type must conform with an authorized format, as described in 137.242–137.245.

.242 *Standard Penalty Indicium.* All official mail using the standard penalty indicium must comply with the following described specifications.

a. The indicium for letter-size mail must be printed and must consist of the postal emblem (see Exhibit 137.242b) located ⅜ of an inch from the top edge of the mail piece; and immediately below the postal emblem, the words "Postage and Fees Paid," the name of the department or agency and the agency sampling number, if assigned.

b. Except for second-class, and bulk third-class mail (see 137.273b and (c)), the Facing Indentification Mark (FIM), a vertical bar code pattern which functions as an orientation mark for automatic facing and canceling equipment, is required as follows:

(1) An area of 3 inches by 1¾ inches in the upper right corner of the address side of each mail piece must be reserved for the indicium and the FIM. The entire indicium, including the postal emblem, must be within 1¾ inches from the right and within 1¾ inches from the top edge of cards, mailing pieces, letter-size envelopes and self mailers, (see 128) but is not required on labels or envelopes larger than letter-size.

(2) The FIM must be positioned in such a manner that the distance from the right edge of the nearest FIM bar is 2 inches plus or minus ⅛ of an inch, and the top of the FIM pattern is *within* ⅛ of an inch from the top edge of the mail piece. It is permissible for the pattern to touch the top edge of the mail piece. The bars must be at least ½ inch long. A clear area free of any other printing must be maintained around the FIM. This clear area begins 1¾ inches from the right edge of the mail piece and extends 1¼ inches to the left. The height of the clear area is ⅝ of an inch down from the top edge. (See Exhibit 137.242b.) Additional specifications for printing the FIM are contained in Publication 12, *United States Postal Service Instructions Facing Identification Marks.* Because the spacing between the vertical bars requires control, the Postal Service provides negatives for printing the FIM pattern. In all cases, Postal Service specifications and negatives must be used. The specifications and negatives for FIM are available from local post offices or from the Manager, Government Revenue and Examination Branch, Finance Department, U.S. Postal Service Headquarters, Washington, D.C. 20280.

Exhibit 137.242b

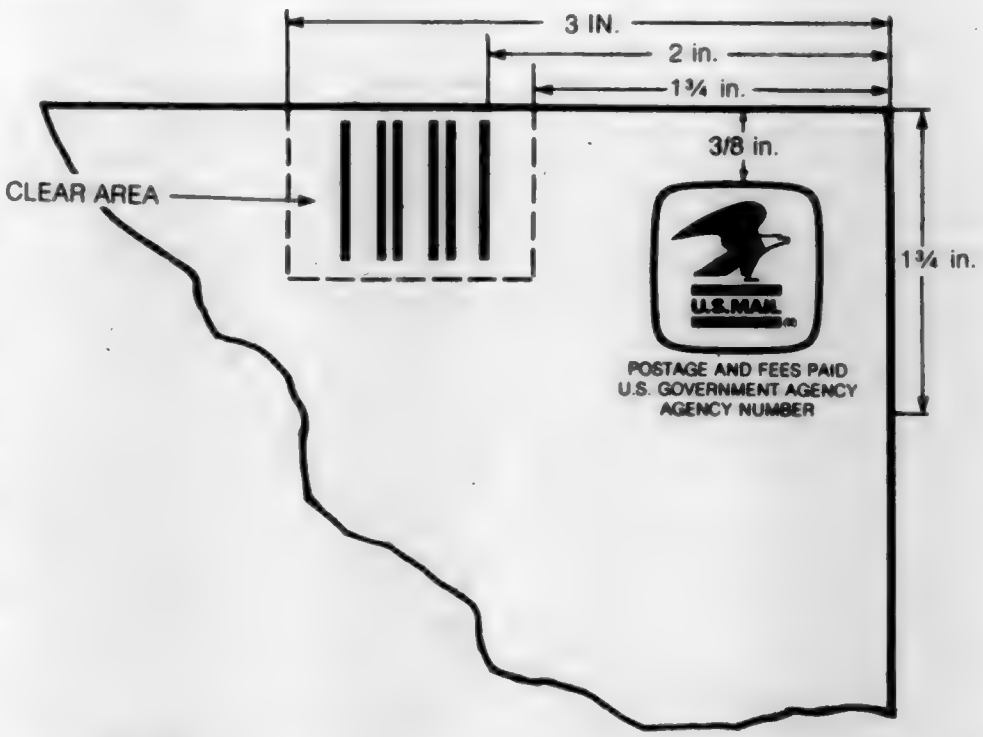

(3) A FIM must appear on all letter-size mailing pieces procured after April 1, 1982. Stocks of cards, envelopes and self-mailers procured prior to April 1, 1982 which do not bear a FIM may be used until exhausted.

c. The FIM Pattern and use of the postal emblem as part of the indicium is optional on larger than letter-size mail.

d. The postal emblem and FIM pattern may be omitted on self-mailers completely printed by computer with no provision for printing designs other than letters and numbers, provided the items are faced, sorted and tied in bundles by ZIP Code.

e. Any endorsement for a special service or class of mail must be placed approximately ¼ inch below the indicium.

f. The complete return address and the words "Offical Business, Penalty for Private Use, $300" must appear in the upper left corner of the mail piece (see Exhibit 137.242f). The penalty statement may not be handwritten or typewritten.

Exhibit 137.242f

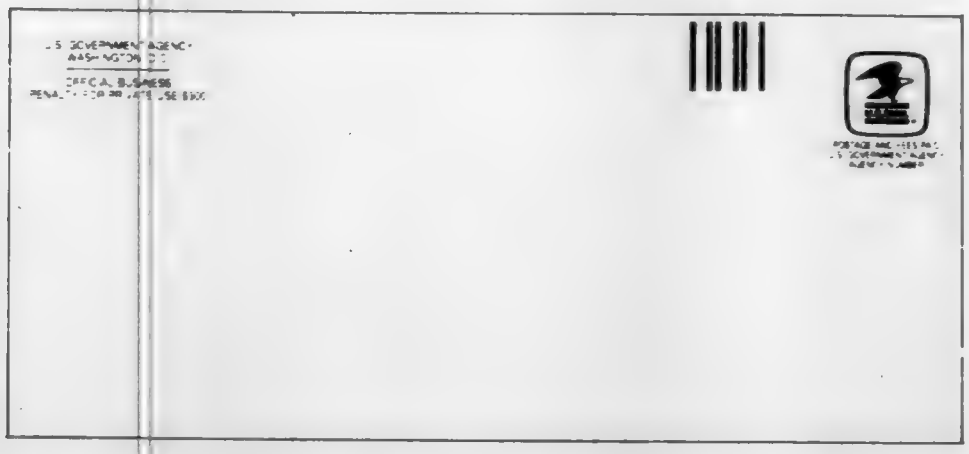

g. Official mail of a designated State extension director must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted without prepayment of postage, followed by the name and title of the designated officer and the words Cooperative Agricultural Extension Work-Acts of May 8 and June 30, 1914. The words "Postage and Fees Paid U.S. Department of Agriculture," and the agency sampling number must appear in the upper right corner of the address side immediately below the postal emblem. The FIM Pattern must be used as described in 137.242b.

h. Official mailings by agricultural experiment stations must bear in the upper left corner of the address side the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the officer in charge of the station, followed by the word "Publication." The title of the bulletin or report may be used. The words "Postage Paid U.S. Department of Agriculture," and the agency number must appear in the upper right corner of the address side immediately below the postal emblem. The FIM pattern must be used as described in 137.242b.

i. Official mailings made by cooperative extension agents described in 137.22c must be prepared in accordance with the provisions of 137.242 a through h.

j. Official mailings made by State employment security agencies cooperating with the Department of Labor must bear in the upper left corner the name and complete return address of the state agency and the words "Official Business, Penalty for Private Use, $300". The words "Postage and Fees Paid, Employment Security Mail, LAB–449" must appear in the upper right corner of the address side immediately below the postal emblem. The FIM pattern must be used as described in 137.242b.

.243 *Official Metered Indicium.* Penalty mail may be sent under official postage meter procedures when an agency has obtained a license for each meter in accordance with 137.273a. Mail sent from agency locations licensed to use meters must bear in the upper right corner a meter stamp or tape with the official meter format illustrated in 144.416 and a complete return address in the upper left corner. The FIM pattern and other indicia described in 137.242b must not be used on official metered mail.

.244 *Official Permit Imprint Indicium.* Permit imprints may be used by government agencies to facilitate postage accountability for larger mailings. Unless a meter is used, permit imprints are required for all First-Class, single piece third-class, and fourth-class mailings made by contractors, and for all presort First-Class and fourth-class bulk rate mailings made either by a government agency or its contractors. Departments and agencies wishing to mail under permit imprint procedures must obtain prior authorization and follow the appropriate procedures in 137.273d and 145. The format for official permit imprint mail is as follows:

a. The official permit imprint indicium must appear in a rectangular box in the upper right corner of the mail piece. It consists of the statement of mail class, the words "Postage and Fees Paid," the agency name and a permit number preceded by the letter, "G." The city of mailing and date may be included but are not required. Illustrations of the official mail permit imprint indicium are provided in 145.5e and f.

b. The FIM pattern and the postal emblem must not be included on official permit imprint mail.

c. The complete return address and the words, "Official Business, Penalty for Private Use, $300" must appear in the upper left corner as illustrated in 137.242f.

.245 *Official Business Reply Indicium.* The format described in 137.252 must be used for cards, envelopes and labels furnished by government agencies for reply purposes.

.246 *Official Penalty Mail Markings.* The markings required in 137.242 through .245:

a. May be used only to transmit official mail, and

b. Must not be used on items carried outside the U.S. Mail except under the following circumstances:

(1) When official items are carried by employees of the originating agency;

(2) When official items are carried by contractors for subsequent entry into the U.S. Mail under the provisions of 137.253 and .254; or

(3) When agencies reach written agreement with the Manager, Government Revenue and Examination Branch, Finance Department, U.S.P.S. Headquarters, to account for and pay postage on official items carried outside the U.S. Mail to avoid violation of the Private Express Statutes (13 U.S.C. 1693–1699 and 39 U.S.C. 601–606).

.247 *Mail Not Using Official Envelopes or Labels.* Mail of departments and agencies which is not sent by use of official envelopes or labels as provided in 137.242 through .245 must have postage prepaid. The rates and conditions applicable to non-federal government mailers apply.

2. Remove 137.4.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

(39 U.S.C. 401(2)(10), 404(a)(2)–(4))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-3670 Filed 2-10-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2016-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) announces today final rulemaking on revisions to the carbon monoxide (CO) and ozone (O_3) portions of the Indiana State Implementation Plan (SIP). The State submitted these revisions to USEPA to satisfy the requirements of Part D of the Clean Air Act (Act). USEPA proposed rulemaking on these revisions to the Indiana SIP in the August 27, 1981 (46 FR 43188) **Federal Register**. One public comment was received.

This notice announces final rulemaking today approving revisions to the Transportation Control Plans (TCP's) for a Lake, Porter, Clark, Floyd, St. Joseph, Elkhart and Allen Counties; approving the O_3 attainment demonstration for Lake, Porter, Clark, and Floyd Counties; and approving the CO strategy for Lake County.

EFFECTIVE DATE: March 15, 1982.

ADDRESSES: Copies of the SIP revision, public comments on the NPR and USEPA's comments are available for inspection at the following addresses:

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Air Pollution Control Division, Indiana Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Copies of the SIP revision only are available at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Gerald Kellman, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6069.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the State of Indiana submitted, among other items O_3 plans for Lake, Porter, Clark, Floyd, St. Joseph, Elkhart, and Allen Counties and a CO plan for Lake County. The State of Indiana submitted revisions to these plans on May 19, 1980, September 24, 1980, October 9, 1980, and October 15, 1980.

On August 27, 1981 (46 FR 43188) USEPA proposed approval of these SIP revisions, and requested comments from the State and the public. The requirements for an approvable transportation plan were referenced in the August 27, 1981 notice of proposed rulemaking. During the public comment period the State commented on USEPA's proposed action. There were no other comments. Based on the previous submittals and a review of the State's comments, USEPA is today briefly summarizing the proposal, addressing the State's comments and acting on the Indiana submittals as revisions to the federally approved Indiana SIP. A discussion of this rulemaking action is presented below for each geographic area:

Clark and Floyd Counties

Based on measured violations of the O_3 National Ambient Air Quality Standards (NAAQS) in the Indiana portion of the Louisville urban area, Clark and Floyd Counties were designated as nonattainment areas for O_3. The TCP for Clark and Floyd Counties was prepared by the Kentuckiana Regional Planning and Development Agency. The transportation control plan contains measures designed to attain and maintain the NAAQS for O_3 in Clark and Floyd Counties.

Based on review of the TCP and the demonstration of attainment, USEPA approves all portions of the TCP and the demonstration of attainment for O_3 in Clark and Floyd Counties.

St. Joseph and Elkhart Counties

The TCP for St. Joseph and Elkhart Counties was prepared by the Michiana Area Council of Governments. It contains measures designed to reduce the level of hydrocarbon emissions in the area. The strategy projects that the percent reduction in hydrocarbon emissions required to ensure attainment of the O_3 NAAQS in the area will be achieved.

USEPA has reviewed the control strategy developed for St. Joseph and Elkhart Counties. The TCP portion of the control strategy satisfies the TCP requirements of an approvable nonattainment area SIP and USEPA approves it. However, USEPA must examine further the adequacy of the State's control requirements for volatile organic compounds for stationary sources. The adequacy of Indiana's requirements for stationary source controls and the demonstration of attainment will be discussed in a future notice of proposed rulemaking.

Lake and Porter Counties

Based on measured violations of the O_3 NAAQS, Lake and Porter Counties were designated as nonattainment areas for O_3. The TCP for Lake and Porter Counties was prepared by the Northwestern Indiana Regional Planning Commission. The transportation control plan contains measures designed to attain and maintain the NAAQS for O_3 in Lake and Porter Counties.

USEPA has reviewed the O_3 control strategy developed for Lake and Porter Counties. The TCP satisfies the TCP requirements for an approvable nonattainment SIP. Based on this review, USEPA approves the transportation control measures for O_3 and the demonstration of attainment for O_3 in Lake and Porter Counties.

USEPA has reviewed the CO control strategy developed for Lake County. While Indiana's submittal did not include all materials for a demonstration of attainment, USEPA concludes that the final requirements can be met through elements of Indiana's transportation plan required to be submitted as part of the 1982 SIP. These requirements were set forth in detail in the notice of proposed rulemaking 46 FR 43188. Therefore, USEPA approves the CO transportation control measures and demonstration of attainment for Lake County. This action removes the Section 110(a)(2)(I) growth restrictions for carbon monoxide in Lake County.

Allen County

The transportation control plan for Allen County was prepared by the Northeastern Indiana Regional Coordinating Council. It contains measures designed to reduce the level of hydrocarbon emissions in the area. USEPA has reviewed the control strategy developed for Allen County. The TCP portion of the control strategy satisfies all of the TCP requirements for an approvable nonattainment area SIP and USEPA approves it. However, USEPA needs to further examine the adequacy of the State's control requirements for volatile organic compounds for stationary sources. The adequacy of Indiana's stationary source requirements and the demonstration of attainment will be discussed in a future notice of proposed rulemaking.

Public Comments and Responses

In response to the August 27, 1981 notice of proposed rulemaking, the State of Indiana submitted the only comments. EPA has carefully considered the State's

comments in reaching today's rulemaking action. The State's comments and USEPA's response follow:

Comment. The State commented that the Indiana SIP submittal includes a demonstration of attainment for St. Joseph, Elkhart and Allen Counties. The State asked EPA to approve the attainment demonstration for these counties.

Response. In the August 27, 1981 **Federal Register**, USEPA proposed to approve the State's submittal with the exception of the demonstration of attainment for St. Joseph, Elkhart and Allen Counties. The State has not required RACT for stationary sources in these counties. EPA policy requires RACT in all ozone nonattainment areas, unless dispersion modeling has been used for the demonstration of attainment. Because dispersion modeling was not used for these counties and because RACT is required in these counties, EPA will not take action on the attainment demonstration at this time. EPA will take action at a later date after additional air quality data is collected and the need for RACT is reassessed.

Comment. The State objected to the statement in the proposed rulemaking which required the State to replace transportation projects which cannot be implemented with a project of equal or greater air quality benefit. The State cites USEPA policy which requires conformance of transportation plans and programs with the SIP, and not with individual transportation projects.

Response. The State's citation of USEPA policy is correct and USEPA agrees with the State's position. USEPA's statement on replacing nonimplemented projects of equal or greater benefit was intended to refer to achieving the total necessary emission reduction goals and not substitution on a project by project basis.

Comment. The State commented that the proposed rule approves the transportation control measures study for Clark and Floyd Counties, although the study has not been completed.

Response. The proposed rulemaking did not propose approval of the study, but proposes approval of the schedule for completing the process which will lead to the adoption of the plan as well as the commitment to adopt the plan.

Comment. The State disagrees with the requirement in the proposed rule that extensive documentation of attainment for CO in Lake County be provided as part of the 1982 SIP.

Response. Because Indiana's transportation submittals for Lake County did not include all information necessary to demonstrate attainment of the CO standards, USEPA is approving the material submitted as only meeting the requirements of the 1979 SIP. EPA still finds that the additional information specified in the notice of proposed rulemaking (46 FR 433188) is necessary in Indiana's transportation plan and requires that it be submitted as a part of the 1982 CO SIP.

Comment. The State objected to the use of the term "Transportation Control Plan" in reference to the Indiana O_3 and CO SIP. The State asserts that this term is outdated and has a negative connotation. Also, the State points out that the term does not adequately reflect all of the activities contained in this portion of the SIP.

Response. USEPA generally agrees with the State's comments related to the term "Transportation Control Plan," but for reasons of consistency with the proposed notices on this subject and with rulemaking actions for the same requirements in other States, EPA is retaining this term for the final notice.

Summary of Action

Lake County:	
CO Transportation control measures	Approved.
O_3 Transportation control measures	Approved.
CO Demonstration of attainment	Approved.
O_3 Demonstration of attainment	Approved.
Porter County:	
O_3 Transportation control measures	Approved.
O_3 Demonstration of attainment	Approved.
Clark and Floyd Counties:	
O_3 Transportation control measures	Approved.
O_3 Demonstration of attainment	Approved.
St. Joseph and Elkhart Counties:	
O_3 Transportation control measures	Approved.
O_3 Demonstration of attainment	Approved.
Allen County:	
O_3 Transportation control measures	Approved.
O_3 Demonstration of attainment	Approved.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that these revisions to Indiana's SIP will not have a significant economic impact on a substantial number of small entities. This action only approves the State's action and imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State was approved by the Director of the Federal Register on July 1, 1981.

(Sec. 110, 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations Chapter I, Part 52 is amended as follows:

1. Section 52.770 is amended by adding paragraph (c)(29) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(29) On June 26, 1979, May 19, 1980, September 24, 1980, October 9, 1980 and October 15, 1980, Indiana submitted transportation control plans and ozone demonstrations of attainment for Lake, Porter, Clark, Floyd, St. Joseph, Elkhart and Allen Counties. It also submitted a carbon monoxide demonstration of attainment for Lake County. EPA is taking no action on the ozone demonstration of attainment for St. Joseph, Elkhart and Allen Counties.

* * * * *

2. Section 52.773 is amended by adding new paragraph (e) as follows:

§ 52.773 Approval status.

* * * * *

(e) The Administrator finds that the carbon monoxide strategy for Lake County satisfies all the requirements of Part D, Title I of the Clean Air Act.

* * * * *

3. The carbon monoxide and ozone attainment dates listed in the table of § 52.783(a) are revised as follows:

§ 52.783 Attainment dates for national standards.

(a) The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Indiana's plan, except where noted.

POLLUTANT

Air quality control region	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
East Central Indiana Intrastate (AQCR 76):							
a. Primary and Secondary	m	m	*h*	*i*	m	l	l.
b. Remainder of AQCR	*a*	*a*	*a*	*a*	e	e	e.
Evansville (Indiana)—Owensboro, Henderson (Kentucky) Interstate (AQCR 77):							
a. Primary and Secondary	m	m	*i*	*i*	m	l	m.
b. Remainder of AQCR	*a*	*a*	d	*a*	e	e	e.
Louisville Interstate (AQCR 78):							
a. Primary and Secondary	m	m	*i*	*i*	m	l	j.
b. Remainder of AQCR	*a*	c	*a*	*a*	e	*a*	e.
Metropolitan Chicago Interstate (Indiana-Illinois) (AQCR 67):							
a. Primary and Secondary	m	m	*h*	*i*	m	j	j.
b. Remainder of AQCR	*a*	c	*a*	c	*a*	*a*	e.
Metropolitan Cincinnati Interstate (AQCR 79):							
a. Primary and Secondary	m	m	*i*	*i*	m	l	l.
b. Remainder of AQCR	*a*	*a*	d	e	e	*a*	e.
Metropolitan Indianpolis Interstate (AQCR 80):							
a. Primary and Secondary	m	m	*h*	*i*	m	h	h.
b. Remainder of AQCR	a	a	a	f	a	k,g	k.
Northeast Indiana Intrastate (AQCR 81):							
a. Primary and Secondary	m	m	*i*	*i*	m	l	h.
b. Remainder of AQCR	*a*	*a*	e	e	e	e	e.
South Bend-Elkhart (Indiana) Benton Harbor (Michigan) Interstate (AQCR 82):							
a. Primary and Secondary	m	m	*i*	*i*	m	l	h.
b. Remainder of AQCR	*a*	*a*	*a*	*a*	e	e	e.
Southern Indiana Intrastate (AQCR 83):							
a. Primary and Secondary	m	m	*i*	*i*	m	l	l.
b. Remainder of AQCR	e	*a*	*a*	*a*	e	e	e.
Wabash Valley Intrastate (AQCR 84):							
a. Primary and Secondary	m	m	*h*	*i*	m	l	l.
b. Remainder of AQCR	*a*	*a*	*a*	*a*	e	e	e.

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the data provided was not acceptable.

NOTE.—For actual nonattainment designations, refer to 40 CFR Part 81.

NOTE.—Sources subject to the plan requirement and attainment dates established under section 110(c)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.783

a. July 1975.
b. Five years from plan approval or promulgation.
c. Eighteen-month extension granted.
d. Air quality levels presently below the primary standards.
e. Air quality levels presently below the secondary standards.
f. Thirteen-month extension granted.
g. Transportation and/or land use control strategy to be submitted no later than April 15, 1973.
h. December 31, 1982.
i. December 31, 1985.
j. December 31, 1987.
k. May 31, 1975.
l. None designated.
m. Attainment date will be specified in the future.

[FR Doc. 82-3609 Filed 2-10-82; 8:45 am]

BILLING CODE 6560-38-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1517

Public Meeting Procedures

February 4, 1982.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final rule amending procedures.

SUMMARY: The Council on Environmental Quality is amending its Public Meeting Procedures to make them consistent with recent judicial direction. Under the former regulations, only Council action which required an affirmative vote of at least two Council Members is subject to the Sunshine Act's open meeting requirement. The proposed revision will apply the Sunshine Act to all meetings of the Council unless otherwise exempted by statute.

DATES: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy Nord, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006; (202) 395-5750.

SUPPLEMENTARY INFORMATION: On October 27, 1980 the Court of Appeals for the District of Columbia Circuit ruled that the Council on Environmental Quality's public meeting regulations were not in conformance with the open meeting requirements of the Government in the Sunshine Act because meetings to formulate advice to the President were excluded. The Court also overturned that portion of the regulations defining the term "official collegial Council business." (See *Pacific Legal Foundation* v. *Council on Environmental Quality*, 636 F.2d 1259 (D.C. Cir. 1980), *petition for rehearing denied).* A rule to bring the Council's public meeting regulations into conformity with this case was proposed on July 27, 1981, at page 38389 in the **Federal Register.** Comments were invited for 30 days with the comment period ending August 26, 1981.

The Council received one comment in response to its invitation. The commenter objected to the proposed rule's use of the word "collegial" to describe the kinds of meetings subject to the procedures since all meetings which result in the joint conduct of agency business must be open to the public. In response, the Council has deleted the word "collegial" describing covered meetings. The rule emphasizes, however, that Council actions to advise the President are outside the scope of these procedures when that advice is not formulated in a collegial manner.

The commenter objected to that portion of the proposal which exempted from the Act's coverage actions taken by the Chairman of the Council acting as Director of the Office of Environmental Quality. This portion of the comments is without merit. The Environmental Quality Act of 1970, 42 U.S.C. 4371 (1970), authorizes the Chairman to take certain action in his capacity as Director of the Office of Environmental Quality. When the Chairman is acting in this capacity his actions do not constitute meetings within the meaning of the Act.

The rule being adopted will bring the Council's public meeting requirements into conformity with the Court decision cited above. The rule also eliminates a requirement that the Council hold biweekly meetings. Accordingly, Title 40 of the Code of Federal Regulations is proposed to be amended as set forth below.

REGULATORY FLEXIBILITY ACT CERTIFICATION: This rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The purpose of the rule is to implement the "open meetings" section of the Government in

the Sunshine Act (90 Stat. 1241; 5 U.S.C. 552b).

A. Alan Hill,
Chairman.

PART 1517—PUBLIC MEETING PROCEDURES OF THE COUNCIL ON ENVIRONMENTAL QUALITY

Section 1517.1 is revised to read as follows:

§ 1517.1 Policy and scope.

Consistent with the policy that the public is entitled to the fullest information regarding the decisionmaking processes of the Federal Government, it is the purpose of this part to open the meetings of the Council on Environmental Quality to public observation while protecting the rights of individuals and the ability of the Council to carry out its primary responsibility of providing advice to the President. Actions taken by the Chairman acting as Director of the Office of Environmental Quality and Council actions involving advice to the President when such advice is not formulated collegially during a meeting are outside the scope of this part. In addition to conducting the meetings required by this part, it is the Council's policy to conduct, open to public observation, periodic meetings involving Council discussions of Council business, including where appropriate, matters outside the scope of this part. This part does not affect the procedures set forth in Part 1515 pursuant to which records of the Council are made available to the public for inspection and copying, except that the exemptions set forth in § 1517.4(a) shall govern in the case of any request made to copy or inspect the transcripts, recording or minutes described in § 1517.7.

§ 1517.2 Definitions [Amended]

2. Section 1517.2 is amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

3. Section 1517.3 is amended by revising paragraph (b) as follows:

§ 1517.3 Open meeting requirement.

* * * * *

(b) The Council will conduct open to public observation periodic meetings involving Council discussions of Council business including where appropriate matters outside the scope of this part. Such meetings will be noticed pursuant to § 1517.6.

* * * * *

[FR Doc. 82-3707 Filed 2-10-82; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6127

[AA-6139, A-062024]

Alaska; Withdrawal of Lands; Partial Revocation of Public Land Order No. 5; Total Revocation of Public Land Order No. 3677

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws and reserves certain lands for use of the Bureau of Land Management as an administrative site in an area known as the Campbell Tract south of Anchorage, and partially revokes Public Land Order No. 5 and totally revokes Public Land Order No. 3677.

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Beau McClure, Washington, D.C., 202–343–6511, or Robert Sorenson, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, 907–271–5060.

The lands in paragraph one of this order are included in a withdrawal, Public Land Order No. 5 of June 26, 1942 (FR Doc. 46–13332), as amended, and reserved under the jurisdiction of the War Department for military purposes. Effective June 10, 1965, Public Land Order No. 3677 further withdrew 160 acres already withdrawn by Public Land Order No. 5 for a Department of the Interior administrative site.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and in accordance with section 12(d)(2) of the Act of January 2, 1976, 89 Stat. 1145, 1153, and paragraph III. C. of the document "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" as clarified August 31, 1976, it is ordered as follows:

1. Subject to valid existing rights, the following described lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, and from selection under Section 6 of the Alaska Statehood Act, 72 Stat. 339, and reserved for use by the Bureau of Land Management for administrative site purposes:

Seward Meridian

T. 12 N., R. 3 W.,
Sec. 2, W½W½E½NW¼, W½NW¼, W½E½W½SW¼, W½W½SW¼;
Sec. 3, S½N½NE¼, S½NE¼NE¼, S½SE¼NW¼NE¼, S½NE¼, SE¼SE¼NW¼, S½NE¼SE¼NW¼, S½SW¼SE¼NW¼, S½SE¼SW¼ NW¼, S½;
Sec. 10, NE¼NE¼, E½NW¼NE¼, NW¼NW¼NE¼, N½SW¼NW¼NE¼, N½N½N½NW¼;
Sec. 11, NW¼NW¼NW¼, W½SW¼NW¼ NW¼.

Containing 730 acres.

T. 13 N., R. 3 W.,
Sec. 34, N½NE¼NE¼;
Sec. 35, NW¼NW¼, N½SW¼NE¼NE¼.

Containing 65 acres.
Aggregating a total of 795 acres.

2. Public Land Order No. 3677 is hereby revoked in its entirety.

3. Public Land Order No. 5 is hereby revoked as to the lands described in paragraph one of this order, excluding the following described tract:

A parcel of land located within the SE¼, sec. 3, T. 12 N., R. 3 W., Seward Meridian, Third Judicial District, State of Alaska; said parcel being described as:

Commencing at the SW corner of said SE¼, thence N., a distance of 800.00 ft., on the west line thereof, to the TRUE POINT OF BEGINNING: thence N. 45° E., a distance of 900.00 ft., thence S. 45° E., a distance of 726.00 ft., thence S. 45° W., a distance of 900.00 ft., thence N. 45° W., a distance of 726.00 ft., to said point of beginning, containing 15 acres, more or less.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 4, 1982.

[FR Doc. 82-3721 Filed 2-10-82; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

43 CFR Part 230

Repeal of Individual Water Right Application Procedures

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: In the **Federal Register** dated June 23, 1981, Vol. 46, No. 120, the Bureau of Reclamation (Reclamation) proposed to repeal 43 CFR 230.71–230.84, which established procedures for individual water right applications under Reclamation Law. Reclamation is required to contract with irrigation districts or other entities organized

under State law for repayment of project costs and delivery of project water, and therefore no longer uses the individual water right applications. There are some older Reclamation projects where individual water right applications continue to be used in accordance with repayment contracts which were executed prior to the legislation requiring Reclamation to contract with water user entities instead of individuals. The repeal of 43 CFR 230.71–230.84 is not intended to prevent the continued use of the individual water right applications on those projects.

DATE: The repeal of 43 CFR 230.71–230.84 will be effective February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Vernon Cooper, Special Projects Officer (202) 343–2148.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that this rulemaking action does not constitute a "major rule" as defined in section 1(b) of Executive Order 12291. Accordingly, no Regulatory Impact Analysis was prepared. In accordance with the Regulatory Flexibility Act, Pub. L. 96–354, the Department has determined that this rulemaking action will not have a significant economic effect on a substantial number of small entities. The continued use of individual water right applications on older reclamation projects does not require approval by the Office of Management and Budget under 44 U.S.C. 3507 since there are fewer than 10 respondents annually.

Dated: January 18, 1982.

David C. Russell,

Acting Assistant Secretary of the Interior.

PART 230—RECLAMATION OF ARID LANDS BY THE UNITED STATES

§§ 230.71–230.84 [Removed]

For the reasons set out in the preamble, 43 CFR Part 230 is amended by removing §§ 230.71 through 230.84.

[FR Doc. 82-3866 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 25

Relocation Assistance and Land Acquisition for Federal and Federally Assisted Programs; Schedule of Moving Expense Allowances; Individuals and Families

AGENCY: Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to reflect changes in the moving expense schedules for displaced persons in the States of Arkansas, Montana, Oklahoma and Texas.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: John Murnane, Relocation Assistance Division, Office of Right-of-Way (202–426–0156); or Reid Alsop, Office of the Chief Counsel (202–426–0800), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours Monday–Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894, provides that a displaced individual or family may elect to be paid for moving expenses on the basis of a moving expense schedule. To ensure statewide uniformity among all agencies operating under the Act, General Services Administration Regulations, governing agency implementation of the Act, 41 CFR Part 101–6, provide in § 101–6.105–1 that moving expense schedules maintained by the respective State highway departments shall be used, and that the schedules will be approved on a current basis and disseminated by the Federal Highway Administration (FHWA).

The regulations of the Office of the Secretary, 49 CFR 25.153, implementing the Uniform Act, direct the FHWA to establish and maintain the moving expense schedule in Appendix A to Part 25 of Title 49 and to update it semiannually. The purpose of this amendment is to revise the current schedule, which was published on July 16, 1981 (46 FR 36856) to reflect changes in the moving expense schedules that have been made by the following States:

Table I—Personalty—Arkansas, Montana Oklahoma and Texas

Table II—Mobile Homes—Arkansas and Texas

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. The FHWA has also determined that the changes reflected in this action will have only minimal impact on the affected States and public. Accordingly, a full regulatory evaluation is not required and, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice and opportunity for comment are not required under DOT regulatory policies and procedures because it is not anticipated that such action would result in the receipt of useful information. Because the moving expense schedules are maintained by the respective State highway departments, the FHWA finds good cause to make these amendments effective on the date that the changes become effective in the States making them. Accordingly, these amendments are effective on January 1, 1982.

Neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the Administrative Procedures Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

(42 U.S.C. 4601 et seq; 41 CFR 101–6.105–1; 49 CFR 25.153)

Issued on: February 2, 1982.

R. A. Barnhart,

Federal Highway Administrator.

49 CFR is amended by revising Appendix A to read as follows:

Appendix A

TABLE I—PERSONALTY

State	Occupant provides furniture										Occupant does not provide furniture	
	Number of rooms of furniture											
	1	2	3	4	5	6	7	8	9	10	First room	Each additional room
Alabama[1]	90	140	190	240	290	300					(1)	(1)
Alaska	75	150	200	250	275	300					15	15
Arizona	50	100	150	200	250	300					25	15
Arkansas	100	160	200	240	280	300					50	30
California	75	100	150	200	250	300					25	15
Colorado	120	150	240	300							30	20
Connecticut	50	90	140	170	230	280	300				15	15

TABLE I—PERSONALTY

State	Occupant provides furniture										Occupant does not provide furniture	
	Number of rooms of furniture											
	1	2	3	4	5	6	7	8	9	10	First room	Each additional room
Delaware	60	100	140	180	220	260	300				25	15
District of Columbia	100	135	170	210	250	290	300				35	15
Florida	75	120	165	210	255	300					25	25
Georgia	100	140	180	220	260	300					40	10
Guam	48	85	120	168	205	240	300				10	10
Hawaii	85	100	135	175	215	255	295	300			45	30
Idaho	80	100	140	180	220	260	300				20	10
Illinois	80	100	150	200	250	300					25	15
Indiana	50	100	150	200	250	300					25	15
Iowa	75	140	195	240	275	300					30	12
Kansas	60	120	180	240	300						30	10
Kentucky	65	130	195	260	300						35	25
Louisiana	60	100	140	180	220	260	300				40	15
Maine	50	90	125	150	175	200	225	250	275	300	15	10
Maryland	100	150	200	250	300						20	10
Massachusetts	60	130	150	190	225	250	275	300			25	15
Michigan	65	150	180	240	300						50	10
Minnesota	75	150	200	250	300						30	15
Mississippi	100	150	200	250	300						50	25
Missouri	50	100	150	200	250	300					25	10
Montana	100	150	200	250	300						50	25
Nebraska	50	100	150	200	250	300					30	10
Nevada	50	100	150	200	250	300					25	15
New Hampshire	100	150	190	230	270	300					25	15
New Jersey	80	140	195	245	300						25	15
New Mexico[3]	158	225	300								(*)	(*)
New York	80	130	175	215	250	275	300				20	10
North Carolina	70	110	160	210	260	300					40	30
North Dakota	75	125	150	200	250	275	300				30	15
Ohio	50	100	150	200	250	300					30	10
Oklahoma	100	150	200	250	300						40	15
Oregon	75	150	225	300							25	25
Pennsylvania	90	140	200	250	300						30	30
Puerto Rico	75	120	165	210	255	300					25	25
Rhode Island	70	140	210	250	275	300					25	10
South Carolina	105	160	220	300							30	10
South Dakota	100	150	200	250	300						50	15
Tennessee	75	100	150	200	250	300					25	15
Texas	95	140	190	245	300						50	25
Utah	75	100	130	155	180	210	240	270	300		25	15
Vermont	100	150	190	230	270	300					25	15
Virginia	60	105	150	195	240	285	300				40	10
Virgin Islands	105	150	195	240	275	300					35	35
Washington	100	150	200	250	300						25	25
West Virginia[3]	60	100	140	180	220	260	300				25	10
Wisconsin	80	150	210	250	300						50	30
Wyoming	60	120	180	240	250	300					40	20

[1] Furnished units including sleeping rooms. Occupant does not own furniture. First room $30; 2 rooms $50; 3 rooms $75; 4 rooms $95; 5 rooms $120; 6 rooms $140; each additional room $15.

[2] Furnished units including sleeping rooms. Occupant does not own furniture. First room $68; 2 rooms $129; 3 rooms $160; 4 rooms $193; 5 rooms $224; 6 rooms $256; 7 rooms $288; 8 rooms $300—to a maximum of $300.

[3] Where occupant does not provide furniture, allowance for 2 rooms is $40.

TABLE II.—MOBILE HOMES

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Alabama			0(0)	200(18.6)			165
			200(18.6)	400(37.2)			225
			400(37.2)	600(55.8)			265
			600(55.8)				300
Alaska	(*)	(*)					300
Arizona			0(0)	300(27.9)		150	
			300(27.9)	400(37.2)			200
			400(37.2)	500(46.5)			250
			500(46.5)				300
Arkansas					0(0)	12(3.7)	200
					12(3.7)	14(4.3)	300
California[1]					0(0)	8(2.4)	(*)
					8(2.4)		(*)
Colorado[2]							(*)
Connecticut[3]					0(0)	8.5(2.6)	100
					8.5(2.6)	10.5(3.2)	150
					10.5(3.2)	12.5(3.8)	200
					12.5(3.8)		250

TABLE II.—MOBILE HOMES—Continued

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Delaware			0(0)	400(37.2)			100
			400(37.2)	600(55.8)			150
			600(55.8)	800(74.4)			200
			800(74.4)	1,000(93)			250
			1,000(93)				300
Florida	(*)	(*)					300
Georgia			0(0)	400(37.2)			125
			400(37.2)	500(46.5)			185
			500(46.5)	600(55.8)			245
			600(55.8)				300
Guam			0(0)	300(27.9)			130
			300(27.9)	400(37.2)			160
			400(37.2)	500(46.5)			210
			500(46.5)	600(55.8)			240
			600(55.8)	700(65.1)			270
			700(65.1)				300
Hawaii			0(0)	300(27.9)			120
			300(27.9)	400(37.2)			160
			400(37.2)	500(46.5)			210
			500(46.5)	600(55.8)			240
			600(55.8)	700(65.1)			270
			700(65.1)				300
Idaho			0(0)	200(18.6)			100
			200(18.6)	400(37.2)			150
			400(37.2)	600(55.8)			200
			600(55.8)	800(74.4)			250
			800(74.4)				300
Illinois	0(0)	24(36.8)			0(0)	8.5(2.6)	100
					8.5(2.6)	10.5(3.2)	150
					10.5(3.2)	12.5(3.8)	200
					12.5(3.8)		250
	24(36.8)	50(80.5)			0(0)	8.5(2.6)	150
					8.5(2.6)	10.5(3.2)	200
					10.5(3.2)	12.5(3.8)	250
					12.5(3.8)		300
Indiana					0(0)	8.5(2.6)	150
					8.5(2.6)	10.5(3.2)	185
					10.5(3.2)	12.5(3.8)	250
					12.5(3.8)		300
Iowa	0(0)	25(40.2)			0(0)	8(2.4)	130
					8(2.4)	10(3)	150
					10(3)	12(3.7)	180
					12(3.7)		230
	25(40.2)	50(80.5)			0(0)	8(2.4)	140
					8(2.4)	10(3)	170
					10(3)	12(3.7)	200
					12(3.7)		300
Kansas			0(0)	200(18.6)			80
			200(18.6)	400(37.2)			160
			400(37.2)	600(55.8)			240
			600(55.8)				300
Kentucky [4]					0(0)	8(2.4)	285
					8(2.4)		300
Louisiana					0(0)	10(3)	175
					10(3)	12(3.7)	200
					12(3.7)	14(4.3)	250
					14(4.3)		300
Maine					0(0)	8(2.4)	150
					8(2.4)	10(3)	200
					10(3)	12(3.7)	250
					12(3.7)		300
Maryland			0(0)	200(18.6)			110
			200(18.6)	400(37.2)			140
			400(37.2)	600(55.8)			165
			600(55.8)	800(74.4)			195
			800(74.4)	1,000(93)			220
			1,000(93)	1,200(111.6)			250
			1,200(111.6)				300
Massachusetts			0(0)	200(18.6)			80
			200(18.6)	400(37.2)			140
			400(37.2)	600(55.8)			200
			600(55.8)				300
Michigan					0(0)	8(2.4)	145
					8(2.4)	10(3)	230
					10(3)	12(3.7)	280
					12(3.7)		300
Minnesota [4]					0(0)	8(2.4)	220
					8(2.4)		300
Mississippi							200
			0(0)	300(27.9)			250
			300(27.9)	400(37.2)			300
			400(37.2)				
Missouri			0	200(18.6)			100
			200(18.6)	400(37.2)			150
			400(37.2)	600(55.8)			200
			600(55.8)	800(74.4)			250
			800(74.4)				300

TABLE II.—MOBILE HOMES—Continued

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Montana [4]					0(0)	10(3)	150
					10(3)	12(3.7)	200
					12(3.7)	14(4.3)	225
					14(4.3)		275
Nebraska			0(0)	400(37.2)			100
			400(37.2)	600(55.8)			150
			600(55.8)	800(74.4)			200
			800(74.4)	2,000(93)			250
			2,000(93)				300
Nevada			0(0)	400(37.2)			150
			400(37.2)	500(46.5)			200
			500(46.5)	600(55.8)			250
			600(55.8)				300
New Hampshire	(*)	(*)					300
New Jersey			0(0)	200(18.6)			100
			200(18.6)	400(37.2)			150
			400(37.2)	600(55.8)			200
			600(55.8)	800(74.4)			250
					800(74.4)		300
New Mexico [4] [5]	0(0)	20(32.2)			0(0)	8.5(2.6)	206
					8.5(2.6)	10.5(3.2)	278
					10.5(3.2)	12.5(3.8)	288
					12.5(3.8)		306
	20(32.2)	50(80.5)			0(0)	8.5(2.6)	243
					8.5(2.6)	10.5(3.2)	258
					10.5(3.2)		328
New York			0(0)	300(27.9)			150
			300(27.9)	500(46.5)			200
			500(46.5)	700(65.1)			250
			700(65.1)				300
North Carolina [4] [5]					0(0)	12(3.7)	200
					12(3.7)		300
North Dakota			0(0)	200(18.6)			125
			200(18.6)	400(37.2)			175
			400(37.2	600(55.8)			225
			600(55.8)	800(74.4)			275
			800(74.4)				300
Ohio [4]	0(0)	10(16)	0(0)	320(29.8)			130
			320(29.8)	500(46.5)			150
			500(46.5)	840(78.1)			170
			840(78.1)	1,120(104.2)			205
			1,120(104.2)				250
	10(16)	25(40.2)	0(0)	320(29.8)			135
			320(29.8)	500(46.5)			155
			500(46.5)	840(78.1)			190
			840(78.1)	1,120(104.2)			220
			1,120(104.2)				275
	25(40.2)	50(80.5)	0(0)	320(29.8)			145
			320(29.8)	500(46.5)			185
			500(46.5)	840(78.1)			230
			840(78.1)	1,120(104.2)			250
			1,120(104.2)				300
Oklahoma					0(0)	10(3)	250
					10(3)		300
Oregon			0(0)	200(18.6)			120
			200(18.6)	500(55.8)			250
			500(55.8)				300
Pennsylvania	(*)	(*)					300
Rhode Island					0(0)	8(2.4)	225
					8(2.4)	10(3)	250
					10(3)	12(3.7)	275
					12(3.7)		300
South Carolina [4]					0(0)	10(3)	175
					10(3)	12(3.7)	200
					12(3.7)	14(4.3)	250
					14(4.3)		300
South Dakota	(*)	(*)					300
Tennessee [4]					0(0)	10(3)	100
					10(3)		150
Texas			0(0)	8.5(2.6)			175
			8.5(2.6)	10.5(3.2)			235
			10.5(3.2)				300
Utah [4]	0(0)	10(16)	0(0)	8(2.4)			140
			8(2.4)	10(3)			145
			10(3)	12(3.7)			165
			12(3.7)				200
	10(0)	25(40.2)			0(0)	8(2.4)	145
					8(2.4)	10(3)	155
					10(3)	12(3.7)	175
					12(3.7)		225
Utah—Continued	25(40.2)	50(80.5)			0(0)	8(2.4)	155
					8(2.4)	10(3)	180
					10(3)	12(3.7)	190
					12(3.7)		250

TABLE II.—MOBILE HOMES—Continued

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Vermont [1]	(*)	(*)					300
Virginia			0(0)	200(18.6)			150
			200(18.6)	400(37.2)			200
			400(37.2)	600(55.8)			250
			600(55.8)	800(74.4)			300
Washington	(*)	(*)					300
Virginia			0(0)	300(27.9)			100
			300(27.9)	450(41.9)			150
			450(41.9)	550(51.2)			225
			550(51.2)				300
Wisconsin					0(0)	8(2.4)	150
					8(2.4)	10(3)	200
					10(3)	12(3.7)	250
					12(3.7)		300
Wyoming [4]					0(0)	8.5(2.6)	135
					8.5(2.6)	10.5(3.2)	165
					10.5(3.2)	12.5(3.8)	210
					12.5(3.8)		300

[1] Width to 8' (2.4 m) Length 40' (12.2 m), $200; Length 40' (12.2 m), $300. Width over 8' (2.4 m) Length 40' (12.2 m), $360; Length 40'+ (12.2 m), $300.
[2] Under 8' (2.4 m) x 40' (12.2 m)—Unskirted, $150; Over 8' (2.4 m) x 40' (12.2 m)—$300.
[3] Plus $50 for expandable trailer.
[4] $300 for double trailer.
[5] Escort fee included.
[6] Personality Only—Width—Under 10 feet (3 m) $60; 10 feet (3 m) $70; 12 feet (3.7 m) $100; and over Doubles $175.
[7] $50 for extras.
[8] All trailers.
[9] All mobile homes.

[FR Doc. 82-3203 Filed 2-10-82; 8:45 am].

BILLING CODE 4810-23-M

Proposed Rules

Federal Register
Vol. 47, No. 29
Thursday, February 11, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Open Season and Other Administrative Actions; Public Hearing

AGENCY: Office of Personnel Management.

ACTION: Notice of public hearing.

SUMMARY: The Office of Personnel Management will hold public hearings on its proposals to hold a health benefits open season in May 1982 and to obtain views on proposed administrative changes in the Federal Employees Health Benefits (FEHB) Program.

DATES: The public hearings will be held at the U.S. Office of Personnel Management beginning at 1 p.m. on February 22 and at 10 a.m. on February 23, 1982, in the Auditorium, Ground Floor, 1900 E Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kevin Burns, Assistant Director for Insurance Programs, Compensation Group, OPM, Room 809, 1717 H St. NW., Washington, D.C. 20415; telephone (202) 632–4670.

SUPPLEMENTARY INFORMATION: On November 12, 1981, interim regulations were published in the **Federal Register** (46 FR 55679), effective November 12, 1981. These interim regulations authorized changes in the regularly scheduled open season by announcement of the Director of OPM through an FPM Bulletin. Also, the open season scheduled for 1981 was postponed to a time to be announced later or to the applicable period during 1982, whichever was earlier.

Subsequent to the publication of OPM's interim regulations, the United States District Court for the District of Columbia ordered the United States Government to hold an open season for a minimum of two weeks beginning on December 7, 1981.

Accordingly, a notice was published in the **Federal Register** (46 FR 59227) on December 4, 1981, announcing a general open season to be held December 7, 1981, through December 31, 1981.

On December 4, 1981, the United States Court of Appeals for the District of Columbia Circuit stayed the prior order of the United States District Court and further directed the United States Government to hold only a limited open season for persons not then enrolled under the FEHB Program. A notice was published in the **Federal Register** (46 FR 61066) on December 15, 1981, announcing this modification.

OPM now proposes to conduct a general open season from May 3, 1982, to and including May 28, 1982, with enrollment changes becoming effective for employees on the first day of the first pay period in July, 1982, and for annuitants on July 1, 1982.

In view of these circumstances, and to assure that all interested parties have an opportunity to present their views, the Director of OPM has decided to hold two days of public hearings on the following proposals:

1. The proposal to conduct a general open season from May 3, 1982, to and including May 28, 1982, with enrollment changes becoming effective for employees on the first day of the first pay period in July, 1982, and for annuitants on July 1, 1982. Among the issues to be addressed are:

(a) What effects, if any, will this proposal have upon the stability of the FEHB Program, particularly with respect to the phenomena of adverse selection and demographic imbalance?

(b) Should the regularly scheduled open season which normally occurs in November–December 1982 also be held if open season is held in May 1982?

(c) Will there be sufficient claims experience to establish rates and benefits for an open season in November–December 1982 following a May 1982 open season?

(d) With what frequency and at what times should future open seasons be held?

2. A proposal to institute a number of other changes to improve the overall administration of the FEHB Program. Among these are:

(a) To discontinue the practice of requiring carriers to offer selected benefits not required of all carriers.

(b) To levy a transfer fee on enrollees who change plans during an open season.

(c) To permit carriers to exclude certain pre-existing health conditions for enrollees who change plans.

(d) To require all plans in the program to accept annuitants.

(e) To impose certain utilization controls such as requiring second surgical opinions and pre-admission diagnostic testing.

(f) To focus more audit effort on claims paid by plans rather than on administrative expenses.

The public will be given an opportunity to make oral presentations. In the discretion of the presiding official, speakers will be limited to a maximum of 7 minutes for their presentations. All requests to make oral presentations for the record should be received no later than February 18, 1982.

OPM will also accept written comments and other appropriate data from any interested party, in advance of the hearings. Written comments and data submitted to OPM should be received no later than February 22, 1982.

Requests to make oral presentations and submission of written comments should be addressed to Kevin Burns, at the office location and telephone number cited above.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–3804 Filed 2–10–82; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF ENERGY

10 CFR Part 378

Diligence Requirements for Federal Coal Leases

AGENCY: Department of Energy.

ACTION: Cancellation of public hearing, and change of address for submitting public comments.

SUMMARY: On December 15, 1981, the Department of Energy (DOE) issued proposed rules regarding diligence requirements for Federal coal leases (46 FR 62226, December 22, 1981). The authority for that proposal was section 302(b) of the DOE Organization Act (Pub. L. 95–91), which transferred to DOE from the Department of the Interior

(DOI) the authority, among others, to issue regulations establishing diligence requirements for operations conducted on Federal leases, including Federal coal leases.

On December 23, 1981, sections 302(b), 302(c) and 303(c) of the DOE Organization Act were repealed by the fiscal year 1982 Department of the Interior and Related Agencies Appropriation Act (Pub. L. 97-100). Repeal of section 302(b) transferred DOE's rulemaking authority for the establishment of coal lease diligence requirements to DOI. Because DOE no longer has authority to issue a final rulemaking, the Denver, Colorado public hearing on the proposed regulation scheduled for February 17 and announced in the December 22, 1981, **Federal Register**, is hereby cancelled.

ADDRESS: DOI has indicated that since rulemaking authority for diligence now belongs to DOI, public comments on DOE's proposed coal diligence regulation should be sent to the U.S. Geological Survey (47 FR 819, January 7, 1982). Specifically, written comments on the proposed rulemaking should be sent to: U.S. Geological Survey, Branch of Coal Management, 653 National Center, Reston, VA 22092.

The above address is in lieu of the DOE address given in the December 22, 1981, **Federal Register** notice. All written comments that are received by DOE will be forwarded to DOI for their consideration.

FOR FURTHER INFORMATION CONTACT: Timothy E. Foley, (Leasing Policy Division), Department of Energy, Room 2113, Federal Building FE-15, 1200 Pennsylvania Ave., Washington, D.C. 20461, (202) 633-9326.

Issued in Washington, D.C., this 3d day of February 1982.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 82-3700 Filed 2-10-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-5]

Airworthiness Directives; Agusta Model A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) which proposed adopting a new airworthiness directive (AD) which would require repetitive inspections and repair, as necessary, of the vertical tail fin of all Agusta Model A109A helicopters. Since publication of the NPRM, the FAA has determined that all affected helicopters have been modified and the proposed inspections are not required. Therefore, the FAA is withdrawing the proposed AD.

DATES: Effective February 15, 1982.

ADDRESS: A copy of the information relied upon may be examined at Office of Regional Counsel, Airworthiness Docket No. 82-ASW-5, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: J. H. Major, Helicopter Policy & Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring repetitive inspections for cracks and, if necessary, repair of the vertical tail fin on all Agusta Model A109A helicopters was published in 43 FR 25830. This information is contained in Docket No. 17948, Rules Docket, (AGC-204), FAA, 800 Independence Avenue, SW., Washington, D.C. 20591.

In response to the proposal, Atlantic Aviation Corporation submitted a letter dated August 9, 1978, stating that all five U.S. Registered Model A109A helicopters have been modified and further mandatory inspections of the vertical tail fin are not needed. Therefore, this proposed AD is not required at this time.

Withdrawal of the notice does not preclude the agency from issuing another notice in the future, or commit the agency to any course of action in the future.

Withdrawal of the Notice

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), the proposed airworthiness directive that was published in the **Federal Register** on June 15, 1978 (43 FR 25830) is hereby withdrawn.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Issued in Fort Worth, Texas, on January 27, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-3679 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-1]

Proposed Alteration of VOR Federal Airway V-190

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter VOR Federal Airway V-190 between Phoenix, AZ, and St. Johns, AZ. The proposed change would eliminate the N alternate between Phoenix, AZ, and St. Johns, AZ, and redefine the airway to avoid the newly relocated Williams 4 Military Operations Area (MOA).

DATE: Comments must be received on or before March 15, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 82-AWP-1, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically

invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AWP–1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redefine VOR Federal Airway V–190 between Phoenix, AZ, and St. Johns, AZ. This action would eliminate the N alternate between Phoenix, AZ, and St. Johns, AZ, and redefine V–190 to avoid the Williams 4 MOA, which has been relocated by separate nonrulemaking action. The Williams 4 MOA was relocated to segregate this military training activity from the busy arrival and departure routes northeast of the Phoenix Airport and now joins the north sides of the Williams 1, 2, and 3 existing MOA's. Redefining V–190 to the north of the Williams 4 MOA would promote safer and more efficient use of the airspace. Section 71.123 of Part 71 was republished on January 2, 1981 (46 FR 409).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) as follows:

V–190 [Amended]

By removing the words "From Phoenix, AZ, 54 miles, 19 miles, 95 MSL, 59 miles, 115 MSL St. Johns, AZ, including a north alternate via INT Phoenix 051° and St. Johns 263° radials" and substituting for them the words "From Phoenix, AZ, via INT Phoenix 043°T(030°M) and St. Johns, AZ, 290°T(256°M) radials; St. Johns"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–3667 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–AWA–14]

Proposed Renumbering of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to renumber certain alternate VOR Federal Airways in the central part of the U.S. This action would eliminate the assignment of alternate airway segments for the affected airways. It is in accordance with International Civil Aviation Organization (ICAO) agreement to phase out alternate airways from the National Airspace System.

DATE: Comments must be received on or before March 15, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 81–AWA–14, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81–AWA–14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA

personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to renumber V–10N, V–12S, and V–13W. There would be no change in the amount of designated controlled airspace as a result of this action. The alternative airway segments are renumbered to eliminate the use of alternate airway assignments. This action would be in accordance with ICAO agreement to phase out alternate airways from the National Airspace System. Section 71.123 of Part 71 was republished on January 2, 1981 (46 FR 409).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) as follows:

1. *V–10 [Amended]*

By removing the words ", including a N alternate via INT Dodge City 060° and Hutchinson 296° radials excluding the airspace between the main and alternate airway" and ", including a N alternate via INT Emporia 050° and Topeka, KS, 099° radials" and ", including a N alternate via INT Napoleon 005° and Kansas City 060° radials".

2. *V–502 [New]*

By adding "V–502 From Dodge City, KS; INT Dodge City 060°T(049°M) and Hutchinson, KS, 296°T(287°M) radials; Hutchinson; Emporia, KS; INT Emporia 050°T(042°M) and Topeka, KS, 099°T(091°M) radials; Napoleon, MO; INT Napoleon 005°T(358°M) and Kansas City, MO, 060°T(052°M) radials; to Kirksville, MO."

3. *V–12 [Amended]*

By removing the words ", including an S alternate from INT Jefferson City, MO, 308° and TIGER 276° radials via Jefferson City to INT of Jefferson City 042° and TIGER 104° radials"

4. *V–504 [New]*

By adding "V–504 From Napoleon, MO; INT Jefferson City, MO, 308°T(302°M) and TIGER, MO, 276°T(270°M) radials; Jefferson City; INT Jefferson City 042°T(036°M) and TIGER 104°T(098°M) radials; Foristell, MO."

5. *V–13 [Amended]*

By removing the words ", including a W alternate from Des Moines to Mason City via Fort Dodge, IA, excluding the airspace between the main and this W alternate and excluding the airspace above 9,000 feet MSL between Des Moines and Fort Dodge" and "including a W alternate from Mason City to Grantsburg via INT Mason City 349° and Gopher, MN, 188° radials; Gopher, excluding the airspace between the main and W alternate"

6. *V–505 [New]*

By adding "V–505 From Des Moines, IA, via Fort Dodge, IA, excluding the airspace at and above 11,000 feet MSL between 27 miles and 64 miles northwest of Des Moines VOR during the time that the Boone Military Operations Area is activated; Mason City, IA; INT Mason City 349°T(343°M) and Gopher, MN, 188°T(182°M) radials; Gopher; to Grantsburg, WI."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 5, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–3675 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–CE–29]

Alteration of Transition Area—Atchison, Kansas; Withdrawal of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This Notice withdraws the proposal to amend the Atchison, Kansas, transition area. The amendment was proposed so as to permit an additional instrument approach procedure resulting from the installation of a Non-Directional Radio Beacon (NDB). The City of Atchison has advised they do not intend to purchase and install an NDB at this time, thereby precluding any further need for Notice of Proposed Rulemaking, Docket No. 80–CE–29.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Notice of Proposed Rulemaking, Docket No. 80–CE–29 (46 FR 24194; April 30, 1981), is hereby withdrawn effective February 1, 1982.

(Sec. 307(a) Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Issued in Kansas City, Missouri, on February 1, 1982.

Murray E. Smith.

[FR Doc. 82–3438 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–AWA–13]

Proposed Renumbering of Federal Airways

Correction

In FR Doc. 82–2437 appearing on page 4528 in the issue of Monday, February 1, 1982, make the following correction:

On page 4529, in the center column, in the amendments to § 71.123, under "**1. V–4 [Amended]**", in the second line of the paragraph, "via Hayes," should have read "via Hays, KS,".

BILLING CODE 1505–01–M

Federal Highway Administration

23 CFR Parts 771, 790, and 795

[FHWA Docket No. 82-5]

Environmental Impact and Related Procedures; Public Hearings and Location/Design Approval; Environmental Action Plans

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to rescind the regulation on the development of environmental action plans and to make corresponding changes in the regulation on environmental impact and related procedures and the regulation on public hearings and location/design approval in order to eliminate unnecessary duplication of environmental procedures.

DATE: Comments must be received on or before March 15, 1982.

ADDRESS: Submit written comments, preferably in triplicate, to Federal Highway Administration, FHWA Docket No. 82-5, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., e.t., Monday through Friday. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Ali F. Sevin, Office of Environmental Policy, 202-426-0107, or Mr. Edward V. A. Kussy, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 109(h) of Title 23, United States Code, which was added by the Federal-Aid Highway Act of 1970, required the Secretary to promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects of highways are fully considered and that project decisions are made in the best overall public interest.

The Process Guidelines were FHWA's response to § 109(h) and are now codified in Part 795 of Title 23, Code of Federal Regulations. They are also contained in Volume 7, Chapter 7, § 1 of the Federal-Aid Highway Program Manual (FHPM 7-7-1). The guidelines call for each State to develop an action plan which describes the organization to be used and the processes to be followed in the development of Federal-aid highway projects. Under these State adopted action plans, State procedures approved in those plans may be used in lieu of following the procedures set forth in 23 CFR Part 790.

The Process Guidelines/Action Plan approach, implemented during a period when State highway departments were gaining familiarity with the environmental analysis process, has accomplished its objective. The National Environmental Policy Act (NEPA) process, as recently revised by FHWA to incorporate the Council on Environmental Quality (CEQ) regulations (45 FR 71968, October 30, 1980), perpetuates the fundamentals of the Process Guidelines. Only in the area of public hearings and public involvement do the Process Guidelines/Action Plans provide significant additional elements to the highway decisionmaking process not presently included in the NEPA process. Therefore, the FHWA is proposing to rescind its present regulation on Process Guidelines/Action Plans and cancel the companion FHWA directive (7-7-1). At the same time, the regulation on environmental and related procedures (23 CFR Part 771 and FHWA directive 7-7-2) would be amended to preserve the substance of the provision now contained in Part 795 regarding the approval of alternative public involvement procedures. The rescission of Part 795 would also require a technical amendment to 23 CFR Part 790, "Public Hearings and Location/Design Approval."

The FHWA recently sought comments on 23 CFR Part 795 through a Federal Register notice published at 46 FR 21620 (April 13, 1981), on the costs, benefits, issues, and degree of controversy of the Process Guidelines/Action Plan requirements. The responses indicated that costs and controversy are not significant, but that while the Process Guidelines/Action Plan program has been effective, it is no longer needed since its goals have been met. Further, comments received emphasized the need to simplify and eliminate duplicative regulations. Approximately 80 percent of the State highway agencies responded and these comments were given careful consideration in the decision to propose rescission of 23 CFR Part 795.

Rescission of Part 795 would not represent a deemphasis of the identification, evaluation, consideration, and mitigation of social, economic, and environmental effects of highway projects. It would not eliminate the section 109(h) requirements, but rather would recognize NEPA as the core of Federal environmental requirements and acknowledge the experience gained under NEPA, its uniform application by Federal agencies and its embodiment of the principles and spirit of 23 U.S.C. 109(h). The successful operation of State Action Plan programs is recognized and these streamlined procedures would allow States to continue to use Action Plans as a State document with greater individual flexibility for their operational needs. Those States which derive benefits from Action Plans would be encouraged to continue to operate under such plans on an optional basis. Section 109(h) would be complied with through the procedures contained in 23 CFR Part 771 (FHPM 7-7-2). Many States now use their NEPA-related procedures to comply with section 109(h). In approving new or different public involvement procedures under the amended procedures proposed today, FHWA would continue to assure that adequate public involvement, consistent with NEPA and 23 U.S.C. 128 is provided.

This regulatory change would not require the States to take any specific action. Alternate public involvement/public hearing and other procedures approved by FHWA for use in lieu of those set forth in 23 CFR Part 790, pursuant to the provisions of 23 CFR Part 795, would remain in effect and could still be utilized. Further, this proposed amendment should not be interpreted to reduce flexibility to seek and obtain approval of alternate procedures. If the current regulations (Part 795) permit approval of any particular procedures (such as, for example, those relating to location/design approval), the amendments proposed today should also be interpreted to permit such alternative procedures to be approved in the future.

Since these proposed amendments would not change FHWA environmental policy, and in view of the fact that the Action Plan regulation has already been the subject of public review and comment, the FWHA has determined that a 30-day comment period is sufficient.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under DOT regulatory procedures. The economic impacts of this action would be minimal. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities. An evaluation of the Action Plan procedures is available for inspection in

the public docket and may be obtained by contacting Mr. Sevin at the address provided above under the heading "FOR FURTHER INFORMATION CONTACT."

(23 U.S.C. 109(h), 128, 138, and 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Research, Planning, and Construction; 20.509, Public Transportation for Nonurbanized Areas; 23.003, Appalachian Development Highway System; 23.006, Appalachian Local Access Roads. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued: February 8, 1982.

R. A. Barnhart,

Federal Highway Administrator.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 23, Code of Federal Regulations, as set forth below.

PART 795 [REMOVED]

1. Part 795, "Process Guidelines for the Development of Environmental Action Plans" is hereby removed from Chapter I.

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

§ 771.101 [Amended]

2. In § 771.101, add the following sentence to the end of the section, "This regulation also sets forth procedures to comply with 23 U.S.C. 109(h)."

3. In § 771.111, revise the title of the section to read, "Early coordination, public involvement, and project development" in the table of sections as well as in the main body of the text. Also, in § 771.111, redesignate paragraph (h) as (i) and add a new paragraph (h) to read as follows:

§ 771.111 Early coordination, public involvement, and project development.

* * * * *

(h) In lieu of the procedures required by 23 CFR 790, a State may, to comply with 23 U.S.C. 128, adopt public involvement and other procedures, subject to FHWA approval, which include provisions for one or more public hearings to be held at a convenient time and place, or the opportunity for hearing(s) to be afforded, on any Federal-aid project which requires the acquisition of significant amounts of right-of-way; or substantially changes the layout or functions of connecting roadways or of the facility being improved; or has a significant adverse impact on abutting real property, or otherwise has a significant social, economic, environmental or other effect. The hearing procedures, other public involvement measures, and other procedures approved hereunder must assure reasonable notice to the public of the hearing opportunity as well as the availability of explanatory information, and must be fully coordinated with the NEPA process. Approvals made by FHWA (prior to the effective date of this amendment) of procedures for use in lieu of Part 790 remain valid. Changes in such procedures require FHWA approval and shall be processed in accordance with the requirements of this section.

* * * * *

4. In § 771.119, revise the second sentence of paragraph (b) and revise paragraph (e) as follows:

§ 771.119 Environmental assessments.

(a) * * *

(b) * * * The applicant will accomplish this through an early coordination process (e.g., State Action Plan or comparable document), or through a scoping process. * * *

* * * * *

(e) When a public hearing is required, the environmental assessment (EA) will be prepared in advance of the notice of public hearing. The notice of the public hearing in local newspapers will announce the availability of the applicant's EA and where it may be obtained or reviewed. The Urban Mass Transportation Administration (UMTA) has a public hearing requirement in all applications for capital and operating assistance.

* * * * *

5. In § 771.123, amend paragraph (b) by revising the third sentence as set forth below. Amend paragraph (h) by removing the third sentence; as revised paragraph (h) reads as set forth below:

§ 771.123 Draft environmental impact statements.

(a) * * *

(b) * * * For FHWA, scoping is normally achieved through the public involvement procedures required by § 771.111 and through other early coordination activities. * * *

* * * * *

(h) The draft environmental impact statement (DEIS) shall be circulated for comment by the applicant on behalf of the Administration. The UMTA requires a public hearing during the circulation period of all DEIS's. If a public hearing is required, the DEIS shall be available for a minimum of 30 days in advance of the public hearing. The availability of the DEIS shall be included in any public hearing notice and mentioned at any public hearing presentation with a request for public comments. If a public hearing is not required, a notice shall be placed in a newspaper similar to a public hearing notice advising where the DEIS is available for review, how many copies may be obtained, and where the comments should be sent.

* * * * *

PART 790—PUBLIC HEARINGS AND LOCATION/DESIGN APPROVAL

6. In § 790.2, existing paragraph (a) is revised to read as follows:

§ 790.2 Applicability.

(a) The provisions of this part apply to the extent that alternative procedures have not been approved or provided for by FHWA under Part 771.

* * * * *

[FR Doc. 82-3794 Filed 2-10-82; 8:45 am]
BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 110

[CCGD11-80-06]

Anchorage Grounds, Los Angeles and Long Beach Harbors, California

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to revise the anchorage regulations for Long Beach Harbor, California. The affected area lies along the Long Beach shoreline from the mouth of the Los Angeles River to the west jetty at the entrance to Alamitos Bay. This area has experienced an increase in recreational boating use over the last few years and present marina construction activity will inject over 2,000 more pleasure craft into this area. The need for adequate control of vessel activity in this area is paramount if the safety for the boating public is to be maintained.

DATE: Comments must be received on or before March 10, 1982.

ADDRESSES: Comments should be mailed to Commander(m), Eleventh Coast Guard District, Union Bank Building, 400 Oceangate, Long Beach, CA 90822. The comments received, Environmental Assessment, and other materials referenced in this notice will be available for examination or copying at the Marine Safety Division, Office of the Commander Eleventh Coast Guard District, Room 917, 400 Oceangate, Long Beach, CA 90822. Normal office hours are between 7:30 a.m. and 4:00 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Commander Lindon A. Onstad, Marine Safety Division, Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822. Phone Number: (213) 590-2301.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each person submitting a comment should include the writer's name and address, identify this notice (CGD 11-80-08), and give the reasons for the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed postcard or envelope.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting the proposal are: Commander Lindon A. Onstad, Project Officer, Marine Safety Division, Eleventh Coast Guard District; and Commander Rene N. Roussel, Project Attorney, District Legal Office, Eleventh Coast Guard District.

Discussion of the Proposed Rule

Long Beach Harbor, from Alamitos Bay to the month of the Los Angeles River, is an area that has experienced substantial increases in recreational boating activity over the last few years. Queensway Bay, located at the mouth of the Los Angeles River, has been most heavily affected as all forms of watercraft including jet skis, water skiers and high speed power boats operate frequently in the area. During the next two years, Queensway Bay, and adjacent area will experience an even more rapid increase in boating use as several marine construction projects are completed. In all, over 2,000 additional recreational boats can be expected to be berthed in the area. The problems associated with this increase will be aggravated by the reduction of useable water space caused by marina construction. Control of boating activities in the area will be required to insure the continued safety of the boating public.

The intent of these revisions is to provide for the control which will be required. Specifically, this proposal will establish Queensway Bay as a nonanchorage area. It will create a recreational boating anchorage along the Long Beach Shoreline adjacent to Queensway Bay and will modify the northern boundary of adjoining anchorages to conform with the newly established anchorage and nonanchorage areas. The proposal will also provide for control of boating activity in these areas by the City of Long Beach. This aspect of the proposal is consistent with the existing Federal Regulations governing Long Beach Harbor at the mouth of the Los Angeles River (Queensway Bay)(33 CFR 110.214(a)(12)) and is a natural extension of the City's authority. The City of Long Beach will exercise either direct or indirect control over all marinas in Queensway Bay. Prior to drafting this proposal, several groups, including the U.S. Army Corps of Engineers, the City of Long Beach (Marine Department and Harbor Department), Long Beach Port Pilots, THUMS Long Beach Company and the Los Angeles County Flood Control District, were consulted. Their input has been incorporated into the revisions where possible and practical. A preliminary environmental evaluation of the proposed changes has been completed and an initial determination has been made that this proposed action would result in no adverse impact on the quality of the human environment.

Detailed Description

The following changes are proposed to the Anchorage Regulations for Long Beach Harbor:

1. Existing General Anchorage P (Section 110.214(a)(12)) will be redesignated Nonanchorage X and will be expanded to the east to encompass the Long Beach Downtown Marina, Oil Islands Grissom and White, and the area immediately adjacent to Pier J. Present and anticipated boating activity in this area mandates that anchoring of vessels be prohibited to insure unimpeded movement of vessels to and from the various marinas and boat launching facilities. Additionally, it is necessary to insure an unimpeded approach to Oil Islands Grissom and White for vessels transferring oil industry personnel and equipment. The nonanchorage area will be placed under operational control of the City of Long Beach. The City will have direct or indirect control of all the marinas and boat launching facilities in Nonanchorage X. Allowing the City to control the water areas adjacent to these facilities will insure freedom of access, provide for full utilization of the area and enhance the safety of the boaters in the area. Usage of the area will be in accordance with City of Long Beach ordinances and will be monitored by law enforcement personnel of the City of Long Beach.

2. A new General Anchorage P will be established along the Long Beach shoreline from the eastern boundary of Nonanchorage X to the Alamitos Bay West Jetty. The anchorage needs of the recreational and other small craft will predominate in this area. Operational control of the anchorage will lie with the City of Long Beach. This anchorage is being established to provide control over small craft now utilizing the area. The need for such an anchorage has been long recognized and will increase as additional recreational facilities are established along the Long Beach shoreline. Providing for control of Anchorage P by the City of Long Beach will insure its effective and efficient use and allow the city direct involvement with vessels anchoring along its shoreline. Usage of the area will be in accordance with City of Long Beach ordinances and will be monitored by law enforcement personnel of the City of Long Beach.

3. The northern boundaries of Commercial Anchorage E and General Anchorage Q will be realigned to conform with the southern boundaries of the proposed Nonanchorage X and General Anchorage P.

Summary of Draft Evaluation

These proposed regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. The proposed regulations are not considered major in accordance with the guidelines established in E.O. 12291 addressing regulatory review. The amendment imposes no economic burden and benefits all small vessel owners through the effective and efficient management of the water areas of Queensway Bay. In accordance with Sec. 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulations

In consideration of the foregoing, it is proposed to amend Part 110 of Title 33, Code of Federal Regulations as follows:

1. By revising the geographical description of Commercial Anchorage E found in § 110.214(a)(5) introductory text to read as follows:

PART 110—ANCHORAGE REGULATIONS

§ 110.214 Los Angeles and Long Beach Harbors, Calif.

(a) * * *

(5) Commercial Anchorage E (Long Beach Harbor). An area enclosed by a line beginning at the southeastern point of Pier J at latitude 33–44–18.6N, longitude 118–11–06.7W; thence northerly to latitude 33–45–06.5N, longitude 118–11–06.7W; thence easterly to the southern lighted marker on Island White at latitude 33–45–06.3N, longitude 118–09–31.0W; thence southeasterly to latitude 33–44–35.5N, longitude 118–08–10.1W; thence southerly to latitude 33–44–19.0N, longitude 118–08–10.1W; thence westerly to the southwest lighted marker on Island Chaffee at latitude 33–44–20.0N, longitude 118–08–20.0W; thence westerly to the southeast lighted marker on Island Freeman at latitude 33–44–23.6N, longitude 118–09–39.1W; thence along the south shore of Island Freeman to the southwest lighted marker at latitude 33–44–25.2N, longitude 118–09–46.0W; thence westerly to the beginning point.

* * * * *

2. By revising § 110.214(a)(12) to read as follows:

§ 110.214 [Amended]

(a) * * *

(12) General Anchorage P (Long Beach Harbor). An area enclosed by a line beginning at Alamitos Bay West Jetty Light "1" at latitude 33–44–14.2N, longitude 118–07–16.2W; thence northwesterly to the northwest corner of Nonanchorage W at latitude 33–44–20.6N, longitude 118–07–28.5W; thence northwesterly to the southern lighted marker on Island White at latitude 33–45–06.3N, longitude 118–09–31.0W; thence along the eastern shoreline of Island White to the northern lighted marker at latitude 33–45–13.5N, longitude 118–09–31.0W; thence northwesterly to latitude 33–45–37.1N, longitude 118–10–35.5W; thence northerly to the shoreline at latitude 33–45–49.6N, longitude 118–10–35.5W; thence easterly and southerly along the Long Beach shoreline and the Alamitos Bay west jetty to the beginning point.

(i) In this anchorage the requirements of recreational and other small craft shall predominate.

(ii) Anchoring, mooring and recreational boating activities conforming to applicable City of Long Beach ordinances and regulations adopted pursuant thereto are allowed in this anchorage.

* * * * *

§ 110.214 [Amended]

3. By correcting the coordinates for the northeastern corner of Commer- Anchorage E found in the description of General Anchorage Q (§ 110.214(a)(13)) to read latitude 33–44–35.5N, longitude 118–08–10.1W.

4. By adding a new paragraph (a)(18) to § 110.214 to read as follows:

§ 110.214 [Amended]

(a) * * *

(18) *Nonanchorage X (Long Beach Harbor).* Mouth of the Los Angeles River (Queensway Bay). The waters extending westward and northward to the head of navigation from a line beginning at the southeastern point of Pier J at latitude 33–44–18.6N, longitude 118–11–06.7W; thence northerly to latitude 33–45–06.5N, longitude 118–11–06.7W; thence easterly to the southern lighted marker on Island White at latitude 33–45–06.3N, longitude 118–09–31.0W; thence along the eastern shoreline of Island White to the northern lighted marker at latitude 33–45–13.5N, longitude 118–09–31.0W; thence northwesterly to latitude 33–45–37.1N, longitude 118–10–35.5W; thence northerly to the shoreline at latitude 33–45–49.6N, longitude 118–10–35.5W.

(i) In Nonanchorage X the requirements of recreational and other small craft shall predominate.

(ii) No vessel may anchor in this area.

(iii) Mooring and recreational boating activities which conform to applicable City of Long Beach ordinances and regulations adopted pursuant thereto are allowed in Nonanchorage X.

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); sec. 6(g)(1)(A), 80 Stat. 937, (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1); 33 CFR 1.05–1(g))

Dated: January 27, 1982.

A. P. Manning,

Rear Admiral, Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 82–3255 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–14–M

VETERANS ADMINISTRATION

38 CFR Part 3

Allowance in Lieu of Government-Furnished Headstone or Marker

AGENCY: Veterans Administration.

ACTION: Proposed regulation change.

SUMMARY: The Veterans Administration is proposing to increase the monetary allowance payable in lieu of a Government-furnished headstone or marker from $59 to $63. The need for this action results from the fact that the actual cost of a Government-furnished headstone or marker increased from $59 to $63. The effect of this proposed amendment would be to permit payment of up to $63 in lieu of a Government-furnished headstone or marker.

DATES: Comments must be received on or before March 15, 1982.

We propose to make this change effective October 1, 1981.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until March 23, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: T.H. Spindle, Jr., 202–389–3005.

SUPPLEMENTARY INFORMATION: Under 38 CFR 3.1612 the Veterans Administration is authorized to pay a monetary allowance in lieu of furnishing a headstone or marker at Government expense under the provisions of 38 CFR 1.631(a)(2) and (b). The amount of the allowance is the lesser of the actual cost of acquiring a non-Government headstone or marker (or adding identifying information to an existing marker) or the average actual cost of a Government-furnished headstone or marker for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was furnished (or identifying information added). (38 CFR 3.1612(e)(2))

The average actual cost to the Veterans Administration of headstones and markers furnished at Government expense for fiscal year 1981 (October 1, 1980 through September 30, 1981) is $63. Consequently, we are amending 3.1612 to include this information.

The Administrator hereby certifies this proposed rule, if promulgated, will not have a significant economic impact in terms of compliance costs, paperwork

and recordkeeping, or any other regulatory burden on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed rule therefore is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this regulation affects individual claimants only. It will have no significant impact on small entities in terms of compliance costs, recordkeeping requirements, or effects on competition.

The Veterans Administration has determined that this regulation is nonmajor in accordance with Executive Order 12291 because it simply implements statutory requirements and would have little or no economic impact, in itself.

(Catalog of Federal Domestic Assistance Program Number is 64.101)

Approved: January 21, 1982.

Robert P. Nimmo,
Administrator.

PART 3—ADJUDICATION

The Veterans Administration proposes to amend 38 CFR Part 3 as follows:

In § 3.1612, paragraph (e)(2)(ii) is revised as follows:

§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.

* * * * *

(e) *Payment and amount of the allowance.* * * *

(2) The amount of the allowance payable is the lesser of the following:

* * * * *

(ii) The average actual cost, as determined by the Veterans Administration, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased or the services for adding the veteran's identifying information on an existing headstone or marker were purchased. The average actual cost of headstones or markers furnished at Government expense for fiscal year 1980 (October 1, 1979 through September 30, 1980) is $59 and $63 for fiscal year 1981 (October 1, 1980 through September 30, 1981).

* * * * *

[FR Doc. 82-3685 Filed 2-10-82; 8:45 am]
BILLING CODE 8320-01-M

38 CFR Part 3

Veterans Benefits; Implementing New Legislation

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendments.

SUMMARY: The Veterans Administration is proposing to amend its adjudication regulations to implement certain provisions of a new law, the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981. The provisions that are the subject of this action are: (1) An increase in the amount of compensation payable to a veteran who has suffered loss or loss of use of two upper extremities; (2) changes in the amount payable and the effective date of a retroactive DIC (dependency and indemnity compensation) award to a child over 18; (3) an increase in the automobile allowance; (4) limitations on the pension reduction for certain hospitalized pensioners; and (5) changes in the 2-year active duty requirement.

DATES: Comments must be received on or before March 15, 1982. We propose to make these changes effective October 1, 1981 or as otherwise noted in the proposed regulation amendments.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until March 23, 1982.

Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr., 202 389–3005.

SUPPLEMENTARY INFORMATION: Section 104, Pub. L. 97–66 amends 38 U.S.C. 314 to increase, effective October 1, 1981, the compensation payable for service-connected loss or loss of use of two upper extremities. Specifically, the rate payable for anatomical loss or loss of use of two hands has been increased from the rate under section 314(l) to the rate under secton 314(m). The rate payable for the anatomical loss or loss of use of both arms at a level, or with complications, preventing natural elbow action with prosthesis in place has been increased from the rate under section 314(m) to the rate under section 314(n). The rate payable for anatomical loss of both arms so near the shoulder as to prevent use of a prosthetic appliance has been increased from the rate under section 314(n) to the rate under section 314(o).

We propose to amend 38 CFR 3.350 (b), (c), (d) and (e) to implement these increases.

Under the authority of 38 U.S.C. 314(p), we are proposing to increase the intermediate and other rates payable to veterans whose service-connected disabilities exceed the requirements of 38 U.S.C. 314 (l) through (n) by reason of loss or loss of use of two upper extremities. Specifically, we propose to increase the rate payable for anatomical loss or loss of use of one hand with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place from the rate between section 314(l) and (m) to the rate between section 314 (m) and (n). We propose to increase the rate payable for loss or loss of use of one hand with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance from the rate under section 314(m) to the rate under section 314(n). We propose to increase the rate payable for anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elblow action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance from the rate between section 314 (m) and (n) to the rate between section 314 (n) and (o).

These proposed increases are mandated by the increases in the statutory rates for loss or loss of use of two upper extremities. We propose to amend 38 CFR 3.350(f) to implement them. In addition, we are proposing to amend § 3.350(f) to list each condition warranting an increase under 38 U.S.C. 314(p), but there is no change in the rates for any of these conditions except for the loss or loss of use of two upper extremities.

Section 204(b), Pub. L. 97–66 amends 38 U.S.C. 3010(e) to provide that if a surviving spouse was receiving additional DIC for a child immediately before the child's 18th birthday, the effective date of an award of DIC to the child based on school attendance shall be the date of the child's 18th birthday if

the child files a claim for DIC within 1 year from the child's 18th birthday. Prior to this change the award would have been effective the first day of the month of attainment of age 18. Thus the child would have been paid for the portion of the month that the child was under age 18. Since the surviving spouse was paid additional benefits for the child for the portion of the month that the child was under age 18, duplication of benefits resulted. The amendment of section 3010(e) eliminates this duplication of benefits.

We propose to amend 38 CFR 3.667 to implement the amendment to 38 U.S.C. 3010(e).

Section 204(a), Pub. L. 97–66 amends 38 U.S.C. 413 to limit, in a certain case, the amount of retroactive DIC payable to a child who files a claim late. This amendment of section 413 can best be explained by an example. Consider three children under age 18 entitled to monthly DIC of $389 ($129.66 for each child). On November 15, 1981 payment to one child is discontinued because the child attained age 18 on that date. Effective that date, payment to the two remaining children was reduced to $301 ($150.50 each). On May 15, 1982 the child over age 18 establishes that he or she is entitled to payment from his or her 18th birthday based on school attendance. Payment to the child for the retroactive period of entitlement will be made at the difference between the monthly rate for three children ($389) and the monthly rate for two children ($301), or $88 monthly. Under the rule in effect prior to the amendment of section 413, the child would have been paid his or her full share for the retroactive period ($129.66 monthly) and an overpayment would have been created against the other children for this period.

We propose to amend 38 CFR 3.650 to implement to 38 U.S.C. 413.

Section 301, Pub. L. 97–66 amends 38 U.S.C. 1902(a), effective October 1, 1981, to increase the automobile allowance from $3,800 to $4,400. We propose to amend 38 CFR 3.808 to implement this increase.

Section 602, Pub. L. 97–66 amends 38 U.S.C. 3203 to extend the period when pension to a single veteran may be paid without reduction required while hospitalized if the purpose of the hospitalization is to provide the veteran with rehabilitation services under chapter 17 of title 38, United States Code. The proposed amendment of 38 CFR 3.551 implements the amendments to 38 U.S.C. 3203.

Section 604, Pub. L. 97–66 adds section 3103A to title 38, United States Code. Section 3103A provides that certain persons who are discharged or released from active duty before completing the shorter of (1) 24 months of continuous active duty, or (2) the full period for which the person was called or ordered to active duty, are not eligible for Veterans Administration benefits based on that period of service. Section 3103A applies to any person who originally enlists (enlisted person only) in a regular component of the Armed Forces after September 7, 1980. It also applies to any other person (enlisted as well as officer) who enters on active duty after October 16, 1981 and who has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under 10 U.S.C. 1171 (early out).

In addition to discharge under 10 U.S.C. 1171, there are four exceptions to this minimum active duty requirement. These are (1) The minimum active duty requirement does not apply to a person who is discharged or released from active duty for a disability incurred or aggravated in line of duty; (2) the minimum active duty requirement does not apply to a person who has a disability that the Administrator has determined to be compensable under chapter 11 of title 38, United States Code; (3) the minimum active duty requirement does not apply to the provision of a benefit for or on account of a service-connected disability, condition, or death; and (4) it does not apply to chapter 19 (insurance) benefits.

A comparison of the entitlement requirements for the programs covered by Part 3, Title 38, Code of Federal Regulations (compensation, pension, specially adapted housing, the automobile allowance, the clothing allowance, the burial allowances and the plot-interment allowance) with the provisions of and exceptions to section 3103A, discloses that section 3101A will not affect entitlement to any of these programs. (Pension is payable only for wartime service; since service after September 7, 1980 is during peacetime, pension entitlement would not be affected.)

Section 3103A precludes application of the minimum length of service requirement in 10 U.S.C. 977 to Veterans Administration programs.

We propose to revise 38 CFR 3.12a to reflect the provisions of section 3103A. Although section 3103A has no effect on any program covered by Part 3 of Title 38, Code of Federal Regulations (the subject of this amendment), 38 CFR 3.12a is needed to help to determine entitlement under other Veterans Administration programs.

The Administrator hereby certifies these proposed rules, if promulgated, will not have a significant economic impact, in terms of compliance costs, paperwork and recordkeeping, or any other regulatory burden, on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these regulations implement a legislative enactment. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Veterans Administration has determined in accordance with Executive Order 12291 that these regulations are nonmajor because they simply implement statutory requirements and would have little or no economic impact, in themselves.

(Catalog of Federal Domestic Assistance Program numbers are 64.100, 64.104.109 and 64.110)

Approved: January 21, 1982.

Robert P. Nimmo,

Administrator.

PART 3—ADJUDICATION

The Veterans Administration proposes to amend 38 CFR Part 3 as follows:

1. Section 3.12a is revised as follows:

§ 3.12a Minimum active-duty service requirement.

(a) *Definitions.* (1) The term "minimum period of active duty" means, for the purposes of this section, the shorter of the following periods.

(i) Twenty-four months of continuous active duty. Non-duty periods that are excludable in determining the Veterans Administration benefit entitlement (e.g., see § 3.15) are not considered as a break in service for continuity purposes but are to be subtracted from total time served.

(ii) The full period for which a person was called or ordered to active duty.

(2) The term "benefit" includes a right or privilege but does not include a refund of a participant's contributions under 38 U.S.C. 32.

(b) *Effect on Veterans Administration benefits.* Except as provided in paragraph (d) of this section, a person listed in paragraph (c) of this section who does not complete a minimum period of active duty is not eligible for any benefit under title 38, United States Code or under any law administered by the Veterans Administration based on that period of active service.

(c) *Persons included.* Except as provided in paragraph (d) of this section,

the provisions of paragraph (b) of this section apply to the following persons:

(1) A person who originally enlists (enlisted person only) in a regular component of the Armed Forces after September 7, 1980 (a person who signed a delayed-entry contract with one of the service branches prior to September 8, 1980, and under that contract was assigned to a reserve component until entering on active duty after September 7, 1980, shall be considered to have enlisted on the date the person entered on active duty); and

(2) Any other person (officer as well as enlisted) who enters on active duty after October 16, 1981 and who has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under 10 U.S.C. 1171 (early out).

(d) *Exclusions.* The provisions of paragraph (b) of this section are not applicable to the following cases:

(1) To a person who is discharged or released under 10 U.S.C. 1171 or 1173 (early out or hardship discharge).

(2) To a person who is discharged or released from active duty for a disability adjudged service connected without presumptive provisions of law, or who at time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability.

(3) To a person with a compensable service-connected disability.

(4) To the provision of a benefit for or in connection with a service-connected disability, condition, or death.

(5) To benefits under chapter 19 of title 38, United States Code.

(e) *Dependent or survivor benefits—*(1) *General.* If a person is, by reason of this section, barred from receiving any benefits under title 38, United States Code (or under any other law administered by the Veterans Administration) based on a period of active duty, the person's dependents or survivors are also barred from receiving benefits based on the same period of active duty.

(2) *Exceptions.* Paragraph (e)(1) of this section does not apply to benefits under chapters 19 and 37 of title 38, United States Code. (38 U.S.C. 3103A)

2. Section 3.350 is amended as follows:

(a) By removing the word "rendering" and inserting the word "making" in the first sentence and removing the word "rendered" and inserting the word "done" in the last sentence of paragraph (a)(3)(i).

(b) By removing the word "intermediate" following the word "rate" in paragraph (f)(2) (i) and (iii) and by inserting the word "other" preceding the word "eye" in paragraph (f)(2)(iii).

(c) By revising the introductory portion of paragraph (b) preceding subparagraph (1) and paragraphs (c), (d), (e) and (f)(1) as follows:

§ 3.350 Special monthly compensation ratings.

* * * * *

(b) *Ratings under 38 U.S.C. 314(l).* The special monthly compensation provided by 38 U.S.C. 314(l) is payable for anatomical loss or loss of use of both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance.

* * * * *

(c) *Ratings under 38 U.S.C. 314(m).* (1) The special monthly compensation provided by 38 U.S.C. 314(m) is payable for any of the following conditions:

(i) Anatomical loss or loss of use of both hands;

(ii) Anatomical loss or loss of use of both legs at a level, or with complications, preventing natural knee action with prosthesis in place;

(iii) Anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place with anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place;

(iv) Blindness in both eyes having only light perception;

(v) Blindness in both eyes leaving the veteran so helpless as to be in need of regular aid and attendance.

(2) *Natural elbow or knee action.* In determining whether there is natural elbow or knee action with prosthesis in place, consideration will be based on whether use of the proper prosthetic appliance requires natural use of the joint, or whether necessary motion is otherwise controlled, so that the muscles affecting joint motion, if not already atrophied, will become so. If there is no movement in the joint, as in ankylosis or complete paralysis, use of prosthesis is not to be expected, and the determination will be as though there were one in place.

(3) *Eyes, bilateral.* With visual acuity 5/200 or less or the vision field reduced to 5 degree concentric contraction in both eyes, entitlement on account of need for regular aid and attendance will be determined on the facts in the individual case.

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for any of the conditions which follow. Amputation is a prerequisite except for loss of use of both arms. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level, the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(1) Anatomical loss or loss of use of both arms at a level, or with complications, preventing natural elbow action with prosthesis in place;

(2) Anatomical loss of both legs so near the hip as to prevent use of a prosthetic appliance;

(3) Anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance with anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance;

(4) Anatomical loss of both eyes.

(e) *Ratings under 38 U.S.C. 314(o).* (1) The special monthly compensation provided by 38 U.S.C. 314(o) is payable for any of the following conditions:

(i) Anatomical loss of both arms so near the shoulder as to prevent use of prosthetic appliance;

(ii) Conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 314(l) through (n);

(iii) Bilateral deafness rated at 60 percent or more disabling (and the hearing impairment in either one or both ears is service connected) in combination with service-connected blindness with bilateral visual acuity 5/200 or less.

(2) *Paraplegia.* Paralysis of both lower extremities together with loss of anal and bladder sphincter control will entitle to the maximum rate under 38 U.S.C. 314(o), through the combination of loss of use of both legs and helplessness. The requirement of loss of anal and bladder sphincter control is met even though incontinence has been overcome under a strict regimen of rehabilitation of bowel and bladder training and other auxiliary measures.

(3) *Combinations.* Determinations must be based upon separate and distinct disabilities. This requires, for example, that where a veteran who had suffered the loss or loss of use of two extremities is being considered for the maximum rate on account of helplessness requiring regular aid and attendance, the latter must be based on need resulting from pathology other than that of the extremities. If the loss or loss of use of two extremities or being permanently bedridden leaves the person helpless, increase is not in order on account of this helplessness. Under no circumstances will the combination

of "being permanently bedridden" and "being so helpless as to require regular aid and attendance" without separate and distinct anatomical loss, or loss of use, of two extremities, or blindness, be taken as entitling to the maximum benefit. The fact, however, that two separate and distinct entitling disabilities, such as anatomical loss, or loss of use of both hands and both feet, result from a common etiological agent, for example, one injury or rheumatoid arthritis, will not preclude maximum entitlement.

(4) *Helplessness.* The maximum rate, as a result of including helplessness as one of the entitling multiple disabilities, is intended to cover, in addition to obvious losses and blindness, conditions such as the loss of use of two extremities with absolute deafness and nearly total blindness or with severe multiple injuries producing total disability outside the useless extremities, these conditions being construed as loss of use of two extremities and helplessness.

(f) *Intermediate or next higher rate.* An intermediate rate authorized by this paragraph shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned. (38 U.S.C. 314 (p))

(1) *Extremities.* (i) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314(l) and (m).

(ii) Anatomical loss or loss of use of one foot with anatomical loss of one leg so near the hip as to prevent use of prosthetic appliance shall entitle to the rate under 38 U.S.C. 314(m).

(iii) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314(l) and (m).

(iv) Anatomical loss or loss of use of one foot with anatomical loss or loss of use of one arm so near the shoulder as to prevent use of a prosthetic appliance shall entitle to the rate under 38 U.S.C. 314(m).

(v) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 314(m) and (n).

(vi) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss or loss of use of one hand, shall entitle to the rate between 38 U.S.C. 314(l) and (m).

(vii) Anatomical loss or loss of use of one leg at a level, or with complications, preventing natural knee action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 314(m) and (n).

(viii) Anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance with anatomical loss or loss of use of one hand shall entitle to the rate under 38 U.S.C. 314(m).

(ix) Anatomical loss of one leg so near the hip as to prevent use of a prosthetic appliance with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314(m) and (n).

(x) Anatomical loss or loss of use of one hand with anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place, shall entitle to the rate between 38 U.S.C. 314(m) and (n).

(xi) Anatomical loss or loss of use of one hand with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance shall entitle to the rate under 38 U.S.C. 314(n).

(xii) Anatomical loss or loss of use of one arm at a level, or with complications, preventing natural elbow action with prosthesis in place with anatomical loss of one arm so near the shoulder as to prevent use of a prosthetic appliance, shall entitle to the rate between 38 U.S.C. 314 (n) and (o).

* * * * *

3. In § 3.551, paragraph (g) is added as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(g) *Hospitalization for rehabilitation*—(1) *General.* The reduction required by paragraph (c)(2) or (c)(3) of this section shall not be made for up to three additional calendar months after the last day of the third month referred to in paragraph (c)(2) of this section, or after the last day of the month referred to in paragraph (c)(3) of this section, under the following conditions:

(i) The Chief Medical Director, or designee, certifies that the primary purpose for furnishing hospital or nursing home care during the additional period is to provide the veteran with a prescribed program of rehabilitation under chapter 17 of title 38, United States Code designed to restore the veteran's ability to function within the veteran's family and community; and

(ii) The veteran is admitted to a Veteran's Administration hospital or nursing home after October 16, 1981.

(2) *Continued hospitalization for rehabilitation.* The reduction required by paragraph (c)(2) or (c)(3) of this section shall not be made for periods after the expiration of the additional period provided by paragraph (g)(1) of this section under the following conditions:

(i) The veteran remains hospitalized or in a nursing home after the expiration of the additional period provided by paragraph (g)(1) of this section; and

(ii) The Chief Medical Director, or designee, certifies that the primary purpose for furnishing continued hospital or nursing home care after the additional period provided by paragraph (g)(1) of this section is to provide the veteran with a program of rehabilitation under chapter 17 of title 38, United States Code, designed to restore the veteran's ability to function within the veteran's family and community.

(3) *Termination of hospitalization for rehabilitation.* Pension in excess of $60 monthly payable to a veteran under this paragraph shall be reduced at the end of the calendar month in which the primary purpose of hospitalization or nursing home care is no longer to provide the veteran with a program of rehabilitation under chapter 17 of title 38, United States Code designed to restore the veteran's ability to function within the veteran's family and community. (38 U.S.C. 3208(a)).

4. Section 3.650 is amended as follows:

(a) By removing the introductory portion preceding paragraph (a).

(b) By revising the introductory portion of paragraph (a) preceding subparagraph (1) and by adding paragraph (c) so that the added and revised material reads as follows:

§ 3.650 Rate for additional dependent.

(a) *Running awards.* Except as provided in paragraph (c) of this section where a claim is filed by an additional dependent who has apparent entitlement which, if established, would require reduction of pension, compensation or dependency and indemnity compensation being paid to another dependent, payments to the person or persons on the rolls will be reduced as follows:

* * * * *

(c) *Retroactive DIC award to a school child*—(1) *General.* If DIC (dependency

and indemnity compensation) is being currently paid to a veteran's child or children under 38 U.S.C. 413(a), and DIC is retroactively awarded to an additional child of the veteran based on school attendance, the full rate payable to the additional child shall be awarded the first of the month following the month in which the award to the additional child is approved. The rate payable under the current award shall be reduced effective the date the full rate is awarded to the additional child. The rate payable to the additional child for periods prior to the date the full rate is awarded shall be the difference between the rate payable for all the children and the rate that was payable before the additional child established entitlement.

(2) *Applicability.* The provisions of paragraph (c)(1) of this section are applicable only when the following conditions are met:

(i) The additional child was receiving DIC under 38 U.S.C. 413(a) prior to attaining age 18; and

(ii) DIC for the additional child was discontinued on or after attainment of age 18; and

(iii) After DIC has been discontinued, the additional child reestablishes entitlement to DIC under 38 U.S.C. 413(a) based on attendance at an approved school and the effective date of entitlement is prior to the date the Veterans Administration receives the additional child's claim to reestablish entitlement. (38 U.S.C. 413(b)).

(3) *Effective date.* This paragraph is applicable to DIC paid after September 30, 1981. If DIC is retroactively awarded for a period prior to October 1, 1981, payment for the period prior to October 1, 1981 shall be made under paragraph (a) of this section and payment for the period after September 30, 1981, shall be made under this paragraph.

5. Section 3.653 is amended as follows:

(a) By inserting the words "or her" following the words "sent to him" in paragraph (c) (1) and (2).

(b) By revising paragraph (b) (gender changes) as follows:

§ 3.653 Foreign residence.

* * * * *

(b) *Retroactive payments.* Any amount not paid to an alien under this section, together with any amounts placed to the alien's credit in the special deposit account in the Treasury or covered into the Treasury as miscellaneous receipts under 31 U.S.C. 123–128 will be paid to him or her on the filing of a new claim. Such claim should be supported with evidence that the alien has not been guilty of mutiny, treason, sabotage or rendering assistance to an enemy, as provided in § 3.902(a). (38 U.S.C. 3109).

* * * * *

6. In § 3.667, paragraph (a)(3) is revised as follows:

§ 3.667 School attendance.

(a) *General.* * * *

(3) An initial award of DIC (dependency and indemnity compensation) to a child in the child's own right is payable from the first day of the month in which the child attains age 18 if the child was pursuing a course of instruction at an approved school on the child's 18th birthday, and if a claim for benefits is filed within 1 year from the child's 18th birthday. In the case of a child who attains age 18 after September 30, 1981, if the child was, immediately before attaining age 18, counted under 38 U.S.C. 441(b) for the purpose of determining the amount of DIC payable to the surviving spouse, the effective date of an award of DIC to the child shall be the date the child attains age 18 if a claim for DIC is filed within 1 year from that date. (38 U.S.C. 3010(e))

* * * * *

7. In § 3.808, the introductory portion preceding paragraph (a) is revised as follows:

§ 3.808 Automobiles or other conveyances; certification.

A certification of eligibility for financial assistance in the purchase of one automobile or other conveyance in an amount not exceeding $4,400 (including all State, local and other taxes where such are applicable and included in the purchase price) and of basic entitlement to necessary adaptive equipment will be made where the claimant meets the requirements of paragraphs (a), (b), and (c) of this section.

* * * * *

[FR Doc. 82-3666 Filed 2-10-82; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 266

Privacy Act of 1974; Privacy of Information

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to claim an additional exemption from specified provisions of the Privacy Act of 1974 for its system of records within which Equal Employment Opportunity (EEO) investigative case files are maintained. This exemption is being proposed in order to provide greater protection of the privacy rights of third parties whose records, by virtue of EEO statutes and regulations, are included in the case files without their consent, during the EEO investigative research process. The Postal Service also proposes to clarify the description of the existing exemption for the same system of records.

DATE: Comments must be received on or before March 15, 1982.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, D.C. 20260, or delivered to Room 8121 at the above address between 8:15 AM. and 4:45 PM. Comments received may also be inspected at Room 8121 between 8:15 AM and 4:45 PM.

FOR FURTHER INFORMATION CONTACT: A. Scott Hamel, (202) 245–4142.

SUPPLEMENTARY INFORMATION: Pursuant to subsections (j) and (k) of 5 U.S.C. 552a, the head of a Federal agency may promulgate rules exempting certain systems of records from designated provisions of section 552a. In reviewing and handling EEO cases under system of records USPS 030.010, Equal Employment Opportunity—EEO Discrimination Complaint Investigations, the Postal Service has considered two privacy issues: (1) The right of access to the file by the subject of the records, and (2) the need to protect the privacy of third parties whose records are included in the case files without their consent. Records of third parties may become part of a file as the investigator researches the case and looks at the records of both the complainant and other individuals for comparative purposes.

The interest here is in protecting the privacy of third parties from the individual who has filed the complaint and upon whom the case file is maintained. Third party records that eventually prove to be irrelevant will be destroyed when the investigator's final report is submitted; however, all precautions need to be taken to protect them from disclosure until that time. Third party records that prove to be relevant and therefore must remain in the case file as supporting documentation will be purged of personal identifiers when the final

report is submitted. These records also require protection prior to such time as they are purged. Premature disclosure of this material or the disclosure of information furnished in confidence to the Postal Service would have a disruptive effect on enforcement efforts. Therefore the Postal Service proposes that the material in the system be subject to disclosure under the circumstances set forth in the proviso to 5 U.S.C. 552a(k)(2) relating to the exemption of material compiled for law enforcement purposes.

This system of records is already exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552(k)(5). This document also proposes to clarify that the (k)(5) exemption applies only to the extent that information in the system is subject to exemption as relating to the identity of a source who furnished information to the Government in confidence as a part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment.

PART 266—PRIVACY OF INFORMATION

Accordingly, the Postal Service proposes to amend Title 39, Code of Federal Regulations Part 266 as set forth below:

In § 266.9 revise paragraph (b)(6) to read as follows:

§ 266.9 Exemption.

* * * * * *

(b) * * *

(6) Equal Employment Opportunity—EEO Discrimination Complaint Investigations, USPS 030.010 from 5 U.S.C. 552a (d)(1)–(4), (e)(4) (G) and (H) and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes and (k)(5) as relating to the identity of a source who has furnished information to the Government in confidence as a part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 82-3677 Filed 2-10-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 2011-2]

Approval and Promulgation of State Implementation Plans: Texas Submission of Volatile Organic Compound (VOC) Regulations for Set II Control Technique Guideline Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This action proposes approval of revisions to the Texas State Implementation Plan (SIP) which were submitted by the Governor on July 25, 1980. Specifically, the State has revised the General Rules and Regulation V to include new definitions and legally enforceable regulations for the source categories addressed in the EPA Control Technique Guideline (CTG) documents issued between January 1978 and January 1979 (Set II CTGs). These additional control measures are required as part of the ozone nonattainment area control strategies developed to meet the requirements of Part D of the Clean Air Act (hereinafter referred to as the Act).

DATE: Interested persons are invited to submit comments or request a hearing on this proposed action on or before March 15, 1982.

ADDRESSES: Written comments should be submitted to the address below:

Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal and copies of the test methods and procedures are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 "M" Street, SW., Washington, D.C. 20560

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723

FOR FURTHER INFORMATION CONTACT: Donna Ascenzi, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Introduction

Provisions of the Act required States to revise their SIPs for areas that had not attained the National Ambient Air Quality Standards (NAAQS). Each State was to submit a SIP revision by January 1, 1979, providing for the attainment of the primary NAAQS as expeditiously as practicable, but no later than the end of 1982 (or the end of 1987 for areas with approved extensions which have particularly difficult ozone or carbon monoxide problems).

The requirements for an approvable SIP were set out in section 110 and Part D of the Act. The Administrator's memorandum of February 24, 1978, published in the **Federal Register** at 43 FR 21673 (May 19, 1978), summarized the elements that an approved SIP must contain in order to meet the requirements of Part D. EPA also published at 44 FR 20372 (April 4, 1979), a General Preamble for proposed rulemaking on approval of SIP revisions for nonattainment areas, summarizing the major considerations guiding EPA's evaluation of nonattainment area plan revisions. EPA published the General Preamble in order to assist the public in commenting on the approvability of the State SIP revisions.

For areas not attaining the ozone NAAQS, the Administrator's memorandum and the General Preamble stated that, at a minimum, the stationary source portion of an approvable ozone SIP revision must include legally enforceable regulations that apply reasonably available control technology (RACT) to those volatile organic compounds (VOC) sources for which EPA had published a CTG by January 1978, and provide for adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning January 1980 for VOC sources covered by CTGs that have been published by January of the preceding year. RACT requirements for the Set II CTG source categories were to be adopted and submitted to EPA by July 1, 1980 (44 FR 50371, August 28, 1979). However, because State regulatory processes took longer than anticipated, but in most cases good faith efforts were being made to adopt the necessary regulations, EPA notified States (at 45 FR 78121, November 25, 1980) that plan revisions setting forth RACT regulations for the following Set II CTG sources were due January 1, 1981:

Factory Surface Coating of Flat Wood Paneling

Petroleum Refinery Fugitive Emissions (Leaks)

Pharmaceutical Manufacture

Rubber Tire Manufacture

Surface Coating of Miscellaneous Metal Parts and Products

Graphic Arts (Printing)
Dry Cleaning, Perchloroethylene
Gasoline Tank Trucks, Leak Prevention
Petroleum Liquid Storage, Floating Roof Tanks

On July 25, 1980, after adequate notice and public hearing, the Governor of Texas submitted, among other things, revisions to Regulation V which consisted of legally enforceable regulations for the following Set II CTG source categories: petroleum liquid storage in external floating roof tanks, leaks from gasoline tank trucks, surface coating of miscellaneous metal parts and products and flat wood paneling, graphic arts, perchloroethylene dry cleaning, pharmaceutical manufacture, and petroleum refinery fugitive emissions. The submittal also contained revisions to the General Rules, which included definitions of new terms used in conjunction with the above mentioned source categories. In addition, on December 18, 1980, the State submitted certification that there were no pneumatic rubber tire manufacturing sources within the ozone nonattainment areas.

EPA has reviewed the State's submittal of July 25, 1980 and developed an evaluation report [1] which discusses the technical aspects of the revisions in detail. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

The remainder of today's notice summarizes EPA's review of the State's submittal and solicits comment on EPA's proposed action on the revisions.

Revisions to Regulation V

As previously noted, the State has revised Texas Air Control Board (TACB) Regulation V entitled, "Control of Air Pollution from Volatile Organic Compounds," to include legally enforceable regulations which address the application of RACT to the Set II CTG source categories listed above. EPA has reviewed the revisions to Regulation V in comparison to EPA's CTG documents. The CTGs provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. EPA believes that the submitted regulations represent RACT, except for the following.

1. Subchapter 115.193(b), as it pertains to the control of VOC emissions from surface coating operations for miscellaneous metal parts and products, contains an exemption for such facilities which will emit, when uncontrolled, less than 100 pounds per day. The State must provide an evaluation of how this exemption affects the reductions achieved for this source category. The State has committed to submit this additional information. Therefore, EPA proposes to approve this portion of the regulation with the understanding that the State will submit the documentation.

2. The State has not included appropriate test methods and procedures for determining compliance with the applicable standards and/or emission limitations for the following Set II CTG source categories; leaks from gasoline tank trucks, surface coating of miscellaneous metal parts and products and flat wood paneling, graphic arts, perchloroethylene dry cleaning, pharmaceutical manufacture, and petroleum refinery fugitive emissions. The lack of such test methods renders these regulations federally unenforceable. However, under 40 CFR 52.12, sources, subject to SIPs which do not specify test methods and procedures, will be tested by means of the appropriate test methods and procedures prescribed in 40 CFR Part 60, for purposes of federal enforcement. Since the Agency has promulgated test methods and procedures under 40 CFR Part 60 which are applicable to several of the Set II CTG source categories, the following source categories will be subject to the test methods and procedures prescribed in Part 60 for purposes of federal enforcement; surface coating of miscellaneous metal parts and products and flat wood paneling, graphic arts, and pharmaceutical manufacture. For the remaining source categories which are not covered by the test methods and procedures specified under 40 CFR Part 60 (i.e., petroleum refinery fugitive emission, perchloroethylene dry cleaning, and gasoline tank truck leaks), EPA proposes to use the test methods and procedures adopted by the State of Louisiana for these source categories, and approved by EPA on October 29, 1981, (at 46 FR 53412) for purposes of federal enforcement. Therefore, EPA proposes to approve these portions of Regulation V on this basis.

EPA has also reviewed the revisions to the General Rules and proposes to approve the revisions.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This proposed regulation is not major because it imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of sections 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7502.

Dated: December 9, 1981.

Frances E. Phillips,
Acting Regional Administrator.

Certification of no Significant Impact for a Substantial Number of Small Entities

Action: Proposed approval of revisions to the Texas State Implementation Plan and the proposed inclusion of three test methods.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the proposed SIP approvals under sections 110 and 172 of the Clean Air Act, if promulgated, would not have a significant economic impact on a substantial number of small entities. The approval would only approve state actions and would impose no new requirements.

The proposal to include the three test methods in the Texas SIP, if promulgated, also would not have significant impact on a substantial number of small entities since it adds no new requirements. It would, if promulgated, merely identify the test method EPA will be use for a particular source category for ascertaining compliance.

Dated: February 4, 1982.

Anne M. Gorsuch,
Administrator.

[FR Doc. 82-3983 Filed 2-10-82; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-7-FRL-2047-5]

Nebraska Application for Interim Authorization, Phase I, Hazardous Waste Management Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region VII.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). Subsequent amendments and additions to this promulgation have occurred since that date. These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Nebraska application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

[1] EPA Review of Texas' State Implementation Plan Revisions for Set II CTG Source Categories, May 1981.

DATES: Comments on the Nebraska interim authorization application must be received by March 31, 1982.

Public Hearing: EPA will conduct a public hearing on the Nebraska interim authorization application at 2 p.m., on March 16, 1982. An evening session of the hearing shall also be conducted on March 16, 1982, at 7 p.m. if a written request to hold such a session is received by Mr. Robert L. Morby of EPA at the address below no later than March 9, 1982. If an evening session is held, notification shall be provided through news releases. The Environmental Protection Agency reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. If you are interested in participating in the public hearing, please notify Mr. Morby at the address below no later than March 12, 1982. The State of Nebraska will participate in any public hearing held by EPA on this subject.

ADDRESSES: Copies of the Nebraska interim authorization application are available during business hours at the following locations for inspection and copying by the public:

Water and Waste Management Division, Department of Environmental Control, Box 94877, State House Station, Lincoln, Nebraska 68509, 402/471-2186. Business Hours: 8-5. $0.20 per page copying charge

U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374-6534. Business Hours: 7:30-5. $0.20 per page copying charge

U.S. Environmental Protection Agency, Office of Solid Waste, 401 M Street, S.W., Washington, D.C. 20460, 202/382-2210. Business Hours: 7:30-4:30.

The public hearing will be held at: Department of Environmental Control, Room 2B, 301 Centennial Mall South, Lincoln, Nebraska 68509, March 16, 1982, 2 p.m.

Submit written comments to: Robert L. Morby, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby, 816/374-6531.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of interim authorization, the State hazardous waste program must:

(1) have had enabling authority in existence prior to August 17, 1980, and

(2) be substantially equivalent to the Federal program. A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479). As noted in the May 19, 1980, **Federal Register**, copies of complete State submittals for Phase I interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant public interest is not expressed.

Regulatory Analysis: The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: February 2, 1982.

John J. Franke, Jr.,

Regional Administrator, Region VII.

[FR Doc. 82-3619 Filed 2-10-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-2-FRL 2047-8]

New York, New Jersey and Puerto Rico; Applications for Phase I Interim Authorization for Their Hazardous Waste Management Programs

AGENCY: Environmental Protection Agency, Region II.

ACTION: Notice of public hearing and public comment period.

SUMMARY: The Environmental Protection Agency (EPA) has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations was promulgated in the **Federal Register** on May 19, 1980 (45 FR 33063), with subsequent amendments. These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. New York, New Jersey and Puerto Rico have submitted applications for Phase I interim authorization of their State programs. Today, EPA is announcing the availability for public review of the New York, New Jersey and Puerto Rico applications for Phase I interim authorization, inviting public comment, and giving notice of public hearings to be held on each of the applications. A complete description of the requirements and procedures for State interim authorization is found at 40 CFR Part 123, Subpart F.

DATES: The public hearing on the New York interim authorization application will be held at 10 a.m. on March 18, 1982. Written comments on the New York interim authorization application must be received by March 25, 1982.

The public hearing on the New Jersey interim authorization application will be held at 10 a.m. on March 24, 1982. Written comments on the New Jersey interim authorization application must be received by March 31, 1982.

The public hearing on the Puerto Rico interim authorization application will be held at 10 a.m. on April 6, 1982. Written comments on the Puerto Rico interim authorization application must be received by April 13, 1982.

EPA reserves the right to cancel any of the public hearings if significant interest is not expressed.

ADDRESSES: The public hearing in New York will be held in Meeting Room No. 6, South Mall, Empire State Plaza, Albany, New York. The public hearing in New Jersey will be held at the State Museum Auditorium, 192 West State Street, Trenton, New Jersey. The public hearing in Puerto Rico will be held in the Second Floor Hearing Room of the Environmental Quality Board Building, Calle del Parque 204, Corner of Pumarada, Santurce, Puerto Rico.

Copies of the applications for interim authorization for all three States are available at the following addresses for inspection and copying by the public:

U.S. Environmental Protection Agency, Region II, Solid Waste Branch, Room 1029, 26 Federal Plaza, New York, New York 10278

U.S. Environmental Protection Agency, Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460

In addition, the New York State application is available at: New York State Department of Environmental Conservation, 50 Wolf Road, Room 419, Albany, New York 12233, as well as all New York State Department of Environmental Conservation Regional offices. Addresses of those offices may be obtained by calling (518) 457-6603.

In addition, the New Jersey application is available at:

New Jersey Department of Environmental Protection, Bureau of Hazardous Waste, 3rd Floor, 32 East Hanover Street, Trenton, New Jersey 08625, (609) 292–8677

New Jersey Air Pollution Control Bureau, Southern Field Office, 100 Lawin Road, Cherry Hill, New Jersey 08034

New Jersey Air Pollution Control Bureau, Newark Field Office, 1100 Raymond Boulevard, Room 510, Newark, New Jersey 07102

In addition, the Puerto Rico application is available at:

Mr. Beato Alvardo, Solid, Toxic & Hazardous Waste Program, Environmental Quality Board, Calle del Parque 204, 3rd floor, Corner of Pumarada, Santurce, Puerto Rico 00910, (809) 725–8992

U.S. Environmental Protection Agency, Caribbean Field Office, FDA Building, Stop 8/12, Avenida Fernandez Juncos, Puerta de Tierra, Santurce, Puerto Rico 00902–0792

Please address written comments and requests to speak at the hearings to: Ms. Barbara Kropf, U.S. Environmental Protection Agency, Region II, Solid Waste Branch, 26 Federal Plaza, Room 1029, New York, New York 10278, (212) 264–3407.

FOR FURTHER INFORMATION CONTACT:
Ms. Barbara Kropf (212) 264–3407.

SUPPLEMENTARY INFORMATION: On May 19, 1980 (45 FR 33063), pursuant to the requirements of Sections 3001 through 3006 of the Resource Conservation and Recovery Act of 1976 (Act), as amended, EPA promulgated Phase I of its regulations to protect human health and the environment from the improper management of hazardous waste. EPA Phase I regulations established, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. Section 3006 of the Act provides for the authorization of a State to administer and enforce a hazardous waste management program in lieu of the Federal program. The Act and EPA regulations provide for two different types of EPA approval of State programs: (1) Interim Authorization, which will become effective in phases and which may extend for 24 months after the final component of Phase II of the Federal program has become effective and (2) Final Authorization. Although for Final Authorization, States must have programs which are "equivalent to" and "consistent with" the full Federal program, during Interim Authorization States need programs that are "substantially equivalent" to the Federal program.

The States of New York and New Jersey and the Commonwealth of Puerto Rico submitted applications for Phase I Interim Authorization of their hazardous waste management programs. This notice solicits public comment on whether the State programs, as set forth in the applications, meet applicable EPA guidelines set forth in 40 CFR Part 123. Copies of the State submittals are available for public inspection and comment as noted above. Public hearings are to be held on the submittals, unless significant public interest is not expressed.

Conduct of Hearing

The hearings are intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Interim Authorization for Phase I of the RCRA program. There will be separate hearings for each State as noted above.

A transcript of the comments received at the hearings will be prepared. To insure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. The hearings will be informally structured. Representatives from the States will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA.

As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify. As a general rule, in order to insure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

Dated: February 3, 1982.

Richard T. Dowling,

Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 82-3715 Filed 2-10-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 1E2478/P207; PH-FRL-2022-1]

Methyl Eugenol/Malathion Combination; Proposed Exemption From Tolerance

Correction

In FR Doc. 82–316, appearing at page 652, in the issue for January 6, 1982, make the following change:

On page 653, in the second column, in § 180.1067 paragraph (c) should be changed to read as follows:

(c) The maximum actual dosage per application per acre shall be 28.35 grams (one ounce avoirdupois) methyl eugenol and 9.45 grams (one-third (0.33) ounce avoirdupois) technical malathion.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation: Reclamation Rules and Regulations and Draft Environmental Impact Statement

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of a postponement of scheduled public hearings on proposed rules and draft environmental impact statement.

SUMMARY: This notice postpones indefinitely the public hearings on proposed rules and regulations and the draft environmental impact statement on acreage limitation which were announced in the **Federal Register** notice (46 FR 63331) published on December 31, 1981. The hearings, scheduled to take place during the last two weeks of February, 1982, are being postponed due to impending action by Congress to reform Federal Reclamation laws dealing with acreage limitation.

FOR FURTHER INFORMATION CONTACT:
Vernon S. Cooper, (202) 343–2148.

Dated: February 3, 1982.

Robert N. Broadbent,

Commissioner, Bureau of Reclamation.

[FR Doc. 82-3366 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 11

[CGD 79-173]

Temporary Licenses and Endorsements

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking, Docket Number 79-173, published in the **Federal Register** on August 18, 1980 (45 FR 54776). The proposed notice invited the public to participate in the development of regulations which would have established temporary licenses and endorsements to be effective only during a national emergency, when licensed officers may not be available in sufficient numbers to man all the vessels required to meet the needs of commerce.

FOR FURTHER INFORMATION CONTACT: Commander Daniel E. Struck, Merchant Vessel Personnel Division (G-MVP), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2240.

SUPPLEMENTARY INFORMATION: An alternative approach to the proposed rulemaking is to have regulations drafted and ready to be published in the event that a national emergency causes a sudden increase in shipping. The approach outlined in the proposed rulemaking was chosen in lieu of this alternative since it was felt, at the time of publishing, that it would be beneficial to have the procedures in the regulations although they would not be put into effect until there was a need. The Coast Guard is now of the opinion that the alternative approach would be more beneficial. The Coast Guard is in the process of revising the entire structure of merchant marine licenses, pursuant to Public Law 96-378. The proposed procedures for temporary licenses and endorsements could be affected by this revision. In addition, the procedures for issuing temporary licenses or endorsements would be better addressed when and if the need arises. Only five comments were received on the proposed rules; however, they were not the basis for the decision to withdraw this rule.

The Notice of Proposed Rulemaking, docket number 79-173, which proposed to add Part 11 published in the **Federal Register** on August 18, 1980 (45 FR 65776), is hereby withdrawn.

Dated: February 8, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-3727 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 401

[CGD 81-088]

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the Great Lakes Pilotage Regulations. These amendments would increase the basic pilotage rates by nine percent in the U.S. Great Lakes pilotage system, eliminate the smallest category in the "range of pilotage units" table, and permit temporarily registered pilots to hold financial interests in pilot organizations. The elimination of the smallest category in the "range of pilotage units" table has the effect of producing an additional 1⅓ percent of revenue to the pilot organizations. These changes are made in order to increase the revenue received by the pilot organizations so that they may cover their increased operating costs.

DATE: Comments must be received on or before March 15, 1982.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44) (CGD 81-088), U.S. Coast Guard, Washington, D.C. 20593. Between the hours 7 a.m. and 5 p.m., Monday through Thursday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC/44), Room 4402, Department of Transportation, Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G-MVP-4/14), Room 1400, Department of Transportation, Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593. (202) 755-8683.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 81-088) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The comment period on this proposal is limited to 30 days. This will assist in meeting an effective date of April 1, 1982 for a final rule so that the effective date of our rate adjustment may coincide with the effective date of Canada's rate adjustment.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the Marine Safety Council address noted above. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and LT Michael Tagg, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Coast Guard has completed a review of revenues earned and expenses incurred by the three Great Lakes pilot organizations during 1981. Revenue requirements for 1982 have been developed and the number of vessels, their size, and route patterns have been projected for 1982.

It is proposed to increase the basic rates for pilotage on the Great Lakes by nine percent so that the pilot organizations may cover their increased operating costs.

As of the end of September 1981, the number of ships entering the Great Lakes System was 31 percent less than the same period last year. It is expected that for the entire season, traffic will be down by 25 percent from the 1980 level.

While traffic has decreased, the costs of providing pilotage services have not, because many of the pilot association's costs are fixed costs. Pilot boats and dispatching facilities must continue to be maintained and staffed regardless of the traffic level. Pilot travel has not decreased as would be expected with less traffic. With reduced traffic levels, turnaround time is longer. Pilots who would normally take another ship from the location of their last assignment must now either remain in hotels longer or be transferred to different locations via commercial transportation. Having a pilot at the proper location at the proper time now becomes relatively more expensive.

In an effort to deal with the decrease in expected revenues resulting from the reduced traffic levels, the pilot organizations have taken steps to reduce their costs including reducing the number of pilots on their rolls.

The charges which are imposed for pilotage services are established in accordance with a formula and table contained in 46 CFR 401.400. The formula is used to obtain a quantity referred to as "pilotage units" through the following computation:

$$\text{Pilotage units} = \frac{\text{length x breadth x depth}}{10{,}000}$$

The table provides weighting factors which are assigned at various increments throughout the range of pilotage units obtained by use of the formula. This is the table as it is presently found in § 401.400:

Range of pilotage units	Weighting factor
0 to 99	0.85
100 to 129	1.00
130 to 159	1.15
160 to 189	1.30
190 and over	1.45

Once the weighting factor is determined by use of this table, it is multiplied by the basic rates and charges for pilotage services found in 46 CFR 401.405, 401.410, 401.420, and 401.425 to obtain the amount that any individual vessel should pay for pilotage service.

The Coast Guard is proposing to eliminate the first category (0–99) in the "range of pilotage units" and the corresponding "weighting factor" of .85. The first category in the table would then become 0–129 with a weighting factor of 1.

It is estimated that approximately 15 percent of the trips made in the system during 1982 will be by first category vessels. It will cost an additional 15 percent more for these first category vessels because they will move from a .85 weighting factor to a weighting factor of 1.

This is proposed because the revenue generated by this first category, in most cases, is insufficient to cover the costs of providing pilotage services to the first category vessel. None of the various costs of the pilot organizations (dispatching, pilot boats, pilot travel, etc.) are related to the size of the vessel, so it costs the pilot organization the same regardless of the ship's size. It is therefore proposed to eliminate the first category in the range of pilotage units table (0–99) and the corresponding weighting factor of .85. The new first category would then be 0–129 with a weighting factor of 1.

This proposed change in the range of pilotage units table and weighting factor is estimated to produce an additional increase in revenue of approximately one-and one half percent. The proposed new table would appear as follows:

Range of pilotage units	Weighting factor
0 to 129	1.00
130 to 159	1.15
160 to 189	1.30
190 and over	1.45

The Coast Guard is also proposing to amend § 401.320(b) to permit temporarily registered pilots to hold stock and other financial interests. Presently, only fully registered pilots may hold stock or other financial interests in a pilot organization and a pilot may not be fully registered once he reaches the age of 70. The proposed change would permit pilots who have reached the age of 70 to remain eligible to own the stock or other financial interests in a pilot organization. A registered pilot, in addition to his piloting capabilities, may be an asset to the pilot organization because of his experience and managerial abilities and this change is proposed in order to permit the pilot organizations to retain an individual in a managerial capacity rather than forcing that person to retire simply because of his age.

It is also proposed to institute a charge of $452 to pilot a vessel through the Black Rock Canal. There is presently no established rate to transit that area because, in the past, vessels didn't use that canal. In recent years, however, vessels have transited the canal and it is now appropriate to have a specific rate to cover the piloting of a vessel through the Black Rock Canal. The fee of $452 is the combination of a lockage and a movage.

These proposed regulations are considered to be nonsignificant and, accordingly, a regulatory evaluation has been prepared and placed in the public docket as required by the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each draft evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State, and local governments, as well as the anticipated benefits and impacts of the regulations. The estimated cost of this proposal is $552,000. This figure is the amount of additional revenue the U.S. pilots should receive under this proposal based on the projected 1982 traffic and the increased amount that shippers would have to pay for pilotage services on the Great Lakes. The benefit of this rule is the value of avoiding or minimizing costly delays and disruptions in shipping attributable to the failure to retain qualified pilots and to attract new qualified pilots. The overall efficiency of the pilotage system is enhanced by having an appropriate number of pilots available to provide the required services. The regulatory evaluation from which this information is taken has been included in the public docket and can be obtained from the Marine Safety Council at the address indicated above. It has also been determined that these regulations are non-major under E.O. 12291.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1166) requires an initial regulatory flexibility analysis for proposed regulations having a significant economic impact on a substantial number of small entities. The pilotage fees in question account for less than five percent of the total shipping costs and will not have a significant impact on the shipping industry. The proposed regulations will impose no additional paperwork burden on the users. For these reasons it has been determined that the proposed regulations do not fall within the purview of the Act. Pursuant to section 605(b) of the Act, it is certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

In the development of this proposal, U.S. and Canadian shipping associations and pilot organizations were consulted.

PART 401—GREAT LAKES PILOTAGE REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 401 of Title 46 of the Code of Federal Regulations as set forth below:

1. By revising § 401.320(b) to read as follows:

§ 401.320 Requirements and qualifications for authorization to establish pools.

No voluntary association shall be authorized to establish a pool unless:

* * * * *

(b) The stock, equity, or other financial interests coupled with voting rights or exercise of any right of control in the management of the voluntary association is held only by member Registered pilots registered pursuant to §§ 401.200, 401.210, or § 401.220(e), excluding Applicant Pilots.

* * * * *

2. By revising § 401.400(b) to read as follows:

§ 401.400 Calculation of pilotage units and determination of weighting factor.

* * * * *

(b) Weighting factor table:

Range of pilotage units	Weighting factor
0 to 129	1.00
130 to 159	1.15
160 to 189	1.30
190 and over	1.45

* * * * *

3. By revising § 401.405 to read as follows:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable for all services and assignments performed by the U.S. Registered Pilots in the areas described in § 401.300.

(a) district 1:

(1) For passage through the District or any part thereof, $7.89 for each statute mile, plus $105 for each lock transited, but with a minimum basic rate of $230 and a maximum basic rate for a through trip of $1010.

(2) For a movage in any harbor, $347.

(b) District 2:

(1) Southeast Shoal to Toledo or any point to Lake Erie west of Southeast Shoal, $538.

(2) Between points on Lake Erie west of Southeast Shoal, $318.

(3) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat, $937.

(4) Southeast Shoal to Detroit/Windsor or any point on the Detroit River, $538.

(5) Southeast Shoal to Detroit Pilot Boat, $390.

(6) Toledo or any point on Lake Erie west of Southeast Shoal and Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat, $1086.

(7) Toledo or any point on Lake Erie west of Southeast Shoal and Detroit/Windsor or any point on the Detroit River, $699.

(8) Toledo or any point on Lake Erie west of Southeast Shoal and the Detroit Pilot Boat, $538.

(9) Detroit/Windsor or any point on the Detroit River and between points on the Detroit River, $318.

(10) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River, $706.

(11) Detroit Pilot Boat to any point on the St. Clair River, $706.

(12) Detroit Pilot Boat to Port Huron Change Point, $548.

(13) Between points on the St. Clair River, $318.

(14) Port Huron Change Point to any point on the St. Clair River, $390.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario, $920.

(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corporation Wharf, $772.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Michigan, $347.

(4) For a movage in any harbor, $347.

4. By revising § 401.410 to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (c) of this section, the basic rates for each 6 hour period or part thereof that a U.S. pilot is on board in the undesignated waters shall be:

(1) In Lake Ontario, $186.

(2) In Lake Erie, $230.

(3) In Lakes Huron, Michigan and Superior, $186 plus $177 for each time a U.S. pilot performs the docking or undocking of the ship.

(b) Between Buffalo and any point on the Niagara River below the Black Rock Lock, $452.

(c) When in direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne, or between Port Colborne and Southeast Shoal, and the vessel's master plans to use an appropriate certificate in lieu of a pilot, the ship shall pick up or discharge the pilot at the Cleveland pilot boat. No charge is to be made for the transit between Southeast Shoal and the Cleveland pilot boat or between the Cleveland pilot boat and Southeast Shoal unless the services of the pilot are utilized.

5. By revising § 401.420 to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) Except as provided in this paragraph, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $29 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $460 for each continuous 24 hour period during which the interruption continues. There is no charge for an interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge shall be made for an interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $29 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $460 for each continuous 24 hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $174;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $29 for each hour or part of an hour including the first hour, with a maximum basic rate of $460 for each 24 hour period.

(6) By revising § 401.428 to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point the pilot shall be paid at the rate of $177 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 5, 74 State. 260 (46 U.S.C. 216c); sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4); 49 CFR 1.46(d))

Dated: February 8, 1982.

Clyde Lusk, Jr.,

Rear Admiral, Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 82-3728 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 82-44; FCC 82-51]

American Telephone and Telegraph Co.; Restrictions on Resale and Sharing of Private Line Services To Form Equivalents of Message Telecommunications Service and Wide Area Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and memorandum opinion and order.

SUMMARY: The Commission will decide whether restrictions in the American Telephone and Telegraph Company's (AT&T) private line tariffs which forbid the use of private line service in such a way as to form equivalents of AT&T's Message Telecommunications Service (MTS) and Wide Area Telecommunications Service (WATS) are in the public interest. The provisions were first filed by AT&T after the Commission decided that private line services could not be resold or shared in such a manner as to form MTS/WATS equivalents. Since that time, however, the Commission has decided that there should be competition rather than monopoly in the provision of MTS and WATS and that MTS and WATS should themselves be subject to resale and sharing. Thus, AT&T's tariff restrictions may not be consistent with current Commission policies.

DATE: Comments must be received on or before February 26, 1982.

ADDRESS: Secretary's Office, Room 222, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nakamura (202) 632-6917.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order and Notice of Proposed Rulemaking

Adopted: January 28, 1982.
Released: February 4, 1982.

In the matter of American Telephone and Telegraph Company, restrictions on resale and sharing of private line services to form equivalents of message telecommunications service and wide area telecommunications service, CC Docket No. 82-44.

1. Various tariffs of the American Telephone and Telegraph Company (AT&T) contain provisions which prohibit the resale and sharing of private line services to form equivalents of Message Telecommunications Service (MTS) or Wide Area Telecommunications Service (WATS). These sections effectively prevent the public from using their private line services [1] in such a manner as to function as substitutes for AT&T's two public switched network telephone services, MTS and WATS.[2] For the reasons indicated below, we seek comment on whether these tariff provisions remain in the public interest in light of changes in Commission policy occurring since these restrictions were filed.

Background

2. The kinds of tariff provisions here under consideration may be found in various AT&T private line tariffs.[3] For example, sections 2.2.2(C) and 2.2.5 of AT&T's Tariff F.C.C. No. 260 provide as follows:

2.2.2(C). Switched private line service furnished for voice or alternate voice communications may be used:

(1) By the Customer [4] for communications between stations of the same Customer;

(2) By the Customer for communications between stations of the same customer and a User [5] connected to the service;

(3) By a User for communications between stations of that User and stations of that customer.

4. By a given User for communications between stations of that User and stations of the same User.

2.2.5 Resale and sharing of a private line service may not encompass the conversion of that private line service into Local Exchange Service, Message Telecommunications Service, Wide Area Telecommunications Service, or the equivalents thereof.

3. The origin of these types of tariff provisions can be traced back to the Commission's *Specialized Common Carrier* decision, 29 F.C.C. 2d 870 (1971, *recon. den.*, 31 F.C.C. 2d 1106 (1971), *aff'd sub nam. Washington Utilities and Transportation Commission v. F.C.C.*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975). There, we decided to allow new entrants into the market for specialized communication services.[6]

4. Subsequently, in *Resale and Shared Use* (Docket No. 20097), 60 F.C.C. 2d 261, *recon.*, 62 F.C.C. 2d 588, *aff'd sub nom. American Telephone and Telegraph Company v. F.C.C.*, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978), we decided that the restrictions on resale and sharing contained in the private line tariffs of many domestic carriers, including AT&T's, were unlawful. However, consistent with our decision in *Specialized Common Carrier* to permit entry only into the market for specialized communications services, we forbade the unlimited resale and sharing of a private line service in a manner which would convert it into MTS or WATS or the equivalent thereof:

> Where analog voice communication services are concerned, as was the case in *Execunet*, [7] the distinctions between private line services and MTS or WATS which were cited in *Execunet* and related decisions clearly govern.

62 F.C.C. 2d at 602-603 (fn. omitted).[8] Similarly, and to the same end, we declined to order the removal of restrictions on the resale and sharing of MTS and WATS. 60 F.C.C. 2d 290-293.

5. AT&T filed the restrictive tariff revisions in response to the Commission's decisions to limit the use which resellers might make of private line service. Aeronautical Radio, Inc. (ARINC) and the Air Transport Association (ATA) filed jointly a petition to reject one of those filings. We declined, stating that we

> "Did not contemplate that sharing and resale arrangements would directly compete with the MTS and WATS services, nor will we permit such arrangements in the name of unlimited resale and sharing to circumvent our long standing policy that private line services may not be used to create competitive substitutes for the switched-voice public message services."

American Telephone and Telegraph Company, 64 F.C.C. 2d 1003, 1009 (1977). We also emphasized the linkage between the limitations imposed upon the specialized carriers in *Specialized*

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[1] *Eg.* Foreign Exchange Service, Common Control Switching Arrangements, Television Program Transmission Service, Dataphone (R) Digital Service, Multischedule Private Line.

[2] The Commission has found MTS and WATS be like communication services under Section 202(a) of the Act. *See* American Telephone and Telegraph Company, 70 F.C.C. 2d 593, *recon. den.* 79 F.C.C. 2d 10 (1980), *review pending sub nam.* Aeronautical Radio, Inc. *et al.* v. F.C.C., No. 80-1676 (D.C. Circuit, filed July 31, 1980).

[3] See, e.g., Tariff FCC No. 267, 6th revised page 13, Section 2.2.5(D); Tariff FCC No. 260, page 13, Section 2.2.1(B)

[4] The "customer" is defined in Section 2.5 of the tariff as the entity which orders service and which is responsible for payment of all charges and compliance with all telephone company regulations.

[5] A "User" is defined in Section 2.5 as a "person, firm, corporation or other legal entity who is designated by the Customer as being allowed to communicate over private line service furnished to the Customer in accordance with 2.2 preceding."

[6] The Order did not define "specialized" services, however. 81 F.C.C. 2d 178.

[7] MCI Telecommunications Corp., 60 F.C.C. 2d 25, *reversed* MCI v. FCC, 561 F. 2d 365 (D.C. Cir.), *cert. denied*, 434 U.S. 1040 (1978).

[8] The court in MCI v. FCC, discussed *infra*, later held that Specialized Common Carrier could not be read to have restricted the OCC's to the provisions of private line service. 561 F.2d 378.

Common Carrier and the limitations imposed upon resellers in *Resale and Shared Use:*

> [W]hat we will not permit the specialized carriers to do under *Execunet* and its progeny, we likewise will prohibit resellers and shared users from doing. Thus, because the specialized carriers are not authorized to directly compete with the MTS and WATS service, neither can resellers and shared users of private line services.

American Telephone and Telegraph Company supra at n. 11. [9]

6. Since AT&T filed the tariff revisions in questions, there have been a number of significant developments. First, in *MCI v. FCC, supra,* the court held that this Commission has no statutory basis for limiting MCI's offering of Execunet, a service which we found to have all the essential characteristics of MTS/WATS. Moreover, it held that AT&T did not have a Commission-granted monopoly over those services. 561 F. 2d 379–380.

7. In response, the Commission instituted Docket No. 78–72 to decide whether the public interest was served by competition in the provision of MTS/WATS. *See MTS and WATS Market Structure,* 67 F.C.C. 2d 757 (1978). The Commission ultimately decided that competition in the provision of MTS/WATS was in the public interest, particularly since

> the impact of cross-elasticity among services has blurred any economic distinction between switched services such as MTS and WATS and so-called private line service. In a very real sense, there is no separate or separable MTS-WATS market and it makes little sense to attempt to create a separate policy for such a market.

MTS and WATS Market Structure, 61 F.C.C. 2d 177, 203–204 (1980).

8. Finally, in Docket No. 80–54, *Resale and Shared Use of Common Carrier Domestic Public Switched Network Services,* 83 F.C.C. 2d 167 (1980), *recon. den.,* 86 F.C.C. 2d 820 (1981), *review pending sub nom. Southern Pacific Communications Company v. F.C.C.,* No. 81–1594 (D.C. Cir., filed May 28, 1981), the Commission decided that MTS and WATS should be subject to unlimited resale and sharing as well. As a result of AT&T tariff revisions implementing that decision, both MTS/WATS and private line services may now be resold.[10] In short, the Commission has removed the barriers to the provision of MTS/WATS and has over the years changed its policy of limiting competition to the provision of specialized or private line communication services. However, while MTS/WATS resale is now permitted, the resale and sharing of private line service to form MTS/WATS equivalents is not.

Discussion

9. Ordinarily, restrictions on use of services by customers are unlawful unless the injury to the public outweighs the private benefit derived from such use. *See, e.g., Carterfone,* 13 F.C.C. 2d 420 (1968), *recon. den.* 14 F.C.C. 2d 605 (1969). In the past, we considered the public injury to be competition that encroached upon MTS/WATS services which we implicitly assumed should be provided on a monopoly basis. 29 F.C.C. 2d 885, 915; 60 F.C.C. 2d 321. Responding to these policies, AT&T filed the tariff provisions here at issue, and the Commission denied petitions to reject them.[11]

10. Since that time, however, the Commission has reevaluated the monopoly status of MTS/WATS. Indeed, as noted above, we have concluded that the public interest is better served by competition rather than monopoly provision of MTS/WATS. Under these circumstances, the question naturally arises as to whether these restrictions, which prevent one form of MTS/WATS competition, now provide any public interest benefits which outweigh the restrictions they continue to impose on customers and whether they are consistent with current Commission policy. In particular, since resale of MTS/WATS is now permitted, there is no apparent reason to forbid resale of private line services to form MTS/WATS equivalents while at the same time allowing the resale of MTS and WATS.

11. The public benefits obtained from resale and sharing were extensively documented in *Resale and Shared Use* and in Docket No. 80–54. It is worth reiterating some of them here. First, resale and sharing would tend to force dominant carriers to use cost-based rates, long a goal of this Commission. Any attempt by a carrier to segment a market by offering a substitutable service at a non-compensatory rate would, in the absence of restrictions on resale and sharing, result in a migration of customers from the nondiscounted service to the discounted service, forcing the carrier to align rates for the discounted service more closely with costs. Because of existing restrictions in AT&T's private line tariff, however, it is possible that our prescription of resale and sharing of private line service in *Resale and Shared Use* was less efficacious then it might have been in forcing private line rates towards costs. The removal of these restrictions would, it seems, allow the broadest possible application of resale.

12. Second, removal of these restrictions should result in the better management of specialized communications networks and more efficient use of existing services. Large business or government users who have extensive private line networks might, for example, resell off-peak capacity to residential users.[12] Third, resellers and sharers may choose to serve specialized submarkets not presently served by underlying carriers, responding to the needs of users not presently met.[13]

13. Yet another reason why we perceive the public interest to be no longer served by these tariff provisions is because services identical to those available under AT&T's Tariff 260 are also available to the OCCs under AT&T Tariff F.C.C. No. 266, "Facilities for Other Common Carriers." The latter tariff, however, does not explicitly limit the OCCs' use of private line service. (Any assumed limitations on the use of these services by the OCCs were, of course, rejected by the court in *MCI v. FCC, supra.*) Thus, the limitations on the customer's use of private line service in Tariff 260 and the lack of such limitations in Tariff 266 raise questions of unreasonable discrimination under Section 202(a) of the Act.

14. In light of the foregoing, we think it appropriate to investigate this matter and to require AT&T and, inferentially, those supporting its positions, to demonstrate why, in light of our changed policies, continued retention of these types of tariff provisions is in the public interest. Moreover, given the extensive record compiled to date in Docket Nos. 20097, 78–72 and 80–54, we think that one round of comments should be sufficient.[14]

15. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 201–205 and 218 of the Communications Act, 47 U.S.C. sections 154(i), (j), 201–205 and 218, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, That a rulemaking proceeding is initiated with respect to the issues discussed in this order. Comments in

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[9] Presently before the Commission is a petition for reconsideration of it decision by ARINC/ATA. We will withhold action on this petition until competition of this proceeding.

[10] Obviously, since MTS and WATS may now be resold, it appears that argument which justified restrictions against formation of MTS/WATS equivalents have been undermined.

[11] American Telephone and Telegraph Company, 84 F.C.C. 2d 1009, *supra.*

[12] *Compare* 60 F.C.C. 2d 301.

[13] *Id.*

[14] The tariffs of a few OCCs contain restrictions similar to those here at issue. In view of AT&T's dominant carrier status and its overwhelming share of the market for private line services, it seems reasonable to consider AT&T's tariffs first.

this proceeding are due on February 26, 1982.

16. It is further ordered, pursuant to Sections 208 and 403 of the Communications Act, 47 U.S.C. 208, 403 That the American Telephone and Telegraph Company demonstrate why tariff restrictions preventing the use of its private line services in such a way as to form MTS/WATS equivalents are not unjust, unreasonable and unduly discriminatory under Sections 201 and 202 of the Communications Act, 47 U.S.C. 201–202.

17. It is further ordered, That in reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

18. For purposes of this non-restricted informal rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time of issuance of a notice of proposed rulemaking until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is an written or oral communication (other than formal written comments/ pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member or the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must state on its fact that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's rules, 47 CFR 1.1231.

19. It is further ordered, That the Secretary shall cause a copy of this order to be published in the **Federal Register.**

20. Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354) it is certified, That Sections 603 and 604 of that Act do not apply because this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b) (1980 Supp.) With the demise of TELPAK, AT&T's bulk discounted private line service, there is substantially less economic incentive to use AT&T's private line services to create networks that duplicate MTS/ WATS. It further appears that the primary impact of this rule, if promulgated, will be upon the large existing private line networks of large business and government users, including those who have petitioned the Commission to resolve uncertainties raised by the manner in which they presently use their privat line services.

(Secs. 1, 2, 4, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 State as amended; 1064, 1066, 1070, 1071, 1072, 1075, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–3574 Filed 2–10–82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 80–136; RM–2910; RM–2939; RM–3281; RM–3302; FCC 82–49]

Amateur Station Identification Requirements; Denial of Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Denial of petition for reconsideration and closing of docket.

SUMMARY: This document denies the petition for reconsideration in PR Docket 80–136, concerning amendment of the Commission's rules regarding amateur station identification requirements. The Commission held that it was clear that the call sign only had to be given when the amateur radio operator finished his conversation with another operator. It also said that a brief phrase or two uttered after the call sign had been given is not a violation. In addition, the Commission said it had complied fully with rule making procedures, even though every detail of the final rule amendments had not been specifically discussed in its Report and Order.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964—Room 5218.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

(Proceeding Terminated)

Adopted: January 28, 1982.

Released: February 4, 1982.

In the matter of Amendment of § 97.84(a) of the Amateur Radio Service Rules. PR Docket No. 80–136, RM–2910, RM–2939, RM–3281, RM–3302.

1. The Commission has before it a Petition for Reconsideration of the action it took on October 1, 1981, in its Report and Order in PR Docket No. 80–136, FCC 81–461, 46 FR 50799 (October 15, 1981). The petition was timely filed on October 28, 1981, by D. Popkin of Englewood, New Jersey.

Background

2. As amended, § 97.84 of the Amateur Radio Service Rules provides, *inter alia*, that effective October 23, 1981, amateur radio operators need transmit the station call sign only at the end of each communication and at ten minute intervals. Prior to the amendments, a station was required to identify at the beginning and end of each transmission; to identify at ten minute intervals; and, to transmit the call sign of the station with which communications were exchanged.

The Petition

3. Petitioner requests reconsideration on the following grounds:

a. That the amended rule to require station identification at the end of each communication differed from the proposal which required identification at the end of an exchange of transmissions.

b. That there was no discussion in the Report and Order of petitioner's suggestion, in comments he filed in the proceeding, to require station identification 10 to 30 seconds before the end of the conversation.

c. That an absence of discussion in the Report and Order on the points raised in a. and b., *supra*, did not comply with the procedural requirements of Section 1.425 of the Commission's Rules.

Discussion

4. Petitioner is correct in stating that the wording of § 97.84(a) in the proposal and in the final amended rule differed. The proposal read: "* * * ends each single transmission or exchange of transmissions, * * *" while the final rule amendment read: "* * * at the end of each communication." The

petitioner's concern is that our final wording will require the giving of the call sign more often than the proposed wording and thus it "would become more unwieldy than the rule it attempted to simplify." Such is not the case. The question is one of semantics. The meaning that we ascribe to the word "communication" in the rule is not the narrow meaning that the petitioner gives it. When the rule speaks of giving the station identification at the end of each communication it means when one has finished a conversation with another amateur operator. This meaning is supported by the fact that if the conversation with the person operating the other station continues for ten minutes or more, the call sign must be given at ten minute intervals "during a communication." The quoted words are contained in the final rule amendments which we adopted.

5. Mr. Popkin's second ground for requesting reconsideration is that the station identification should be made "between 10 or 30 seconds (depending on Commission need) of the end." He believes that this would enable an amateur operator to say "a few short words or comments at the end of a communication without being in violation." The change petitioner requests is not necessary. Any operator who signs off with: "This is WZXXX Good Night", or any other combination of a few extra words at the end of his/her communication, is in compliance with the station identification requirement of § 97.84 and will not be charged with a violation of the rule. In brief, the Commission looks to substance not to form where adherence to its rules is concerned.

6. Petitioner's third ground goes to the Commission's procedures in rule making matters. The Administrative Procedure Act (APA) requires that the Commission issue a Notice of Proposed Rule Making before it adds, deletes or changes substantive rules. After the required notice is given, the Commission must give interested persons an opportunity to participate in the rule making through submission of comments. After consideration of the relevant matter presented, the Commission must incorporate in the rules adopted a concise, general statement of their basis and purpose. Section 1.425 of the Commission's Rules, which implements Section 553(c) of the APA, is virtually a verbatim statement of the APA requirement.

7. With respect to the difference in wording in the proposal and final rules; and, with respect to not incorporating petitioner's suggestion for identification with a 10 to 30 seconds' leeway before the communication ends, petitioner alleges that we did not follow Section 1.425 because there was no discussion of these matters in the Report and Order. We believe that the Report and Order clearly explicates the basis and purpose of the rule amendments. In *Automotive Parts & Accessories Association, Inc.* v. *Boyd,* 407 F. 2d 330, 337 (1968), the court cautioned against an overly literal reading of the statutory terms "concise" and "general". In that same case, at page 338, the court declared:

> We do not expect the agency to discuss every item of fact or opinion included in the submissions made to it in informal rule making.

In the instant proceeding, the Commission was engaged in informal rule making.

8. In *Automotive Parts, supra,* the court likened informal rule making proceedings to legislative committee hearings. It said that its (the court's) paramount objective is to see whether the agency, given an essentially legislative task to perform, has carried it out in a manner calculated to negate the dangers of arbitrariness and irrationality in the formulation of rules for general application in the future. Further, the court noted:

> Rule makers, as the delegates of legislative power, are no more likely than their delegators to make everybody happy with a particular exercise of that power. Our function is to see only that the result is reasonable and within the range of authority conveyed, that it has been formulated in the manner prescribed, *and that the disappointed have had the opportunity provided by Congress to make their views prevail.* (Italic added.)

9. We complied fully with the requirement mandated by Section 553(c) of the APA and § 1.425 of our Rules. One need only to read paragraphs 7 and 8 of our Report and Order (PR Dkt. No. 80–136; FCC 81–461) to observe the thoroughness with which the purpose of the rule amendments was stated. Moreover, petitioner's views were considered. However, petitioner's assumption that the Report and Order must contain a discussion of each comment filed in the proceeding is in error.

Conclusion

10. For all of the reasons set forth above, the instant Petition for Reconsideration should be denied. Accordingly, it is ordered, That the Petition for Reconsideration, filed by D. Popkin, is denied. This proceeding is hereby terminated and the docket is closed.

11. For information concerning this Memorandum Opinion and Order, call Maurice J. DePont, (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-3872 Filed 2-10-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 29
Thursday, February 11, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Extension of Interim Assignment of Geographic Area to the Eastern Iowa Grain Inspection and Weighing Service, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the Federal Grain Inspection Service (FGIS) is extending an interim assignment of geographic area to Eastern Iowa Grain Inspection and Weighing Service, Inc., Blue Grass, Iowa. This geographic area is in the northern section of the State of Illinois, and had previously been serviced by the Illinois Department of Agriculture, Springfield, Illinois.

EFFECTIVE DATE: April 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405, Auditors Building, Washington, D.C. 20250; telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The April 15, 1981, issue of the **Federal Register** (46 FR 22014) contained a notice from the FGIS announcing that the Illinois Department of Agriculture amended its designation to delete a portion of its geographic area in the northern section of the State of Illinois.

This geographic area was assigned on an interim basis to the Eastern Iowa Grain Inspection and Weighing Service Inc. (Eastern Iowa), for the period April 1, 1981, through March 31, 1982, for the performance of official inspection services.

The purpose of this notice is to extend that interim assignment of geographic area from March 31, 1982, to the scheduled termination of designation of Eastern Iowa, on July 31, 1983, so as to provide official service under the U.S. Grain Standards Act, as amended (7 U.S.C. 71, *et seq.*), in the specified geographic area. Requests for service in the specified geographic area, as stated in the April 15, 1981, issue of the **Federal Register**, should continue to be directed to Eastern Iowa at 1908 South Stark Street, Davenport, Iowa 52802; telephone (319) 322–7149.

(Sec. 8, Pub. L. 94–582; 90 Stat. 2873 (7 U.S.C. 79))

Dated: February 5, 1982.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 82–3688 Filed 2–10–82; 8:45 am]

BILLING CODE 3410–EN–M

Forest Service

Environmental Impact Statement: Fluorspar Prospecting in Lusk Creek Area Shawnee National Forest, Pope County, Illinois; Cancellation Notice

A supplement to the draft environmental impact statement for a proposal to prospect for fluorspar and associated minerals within a part of the Lusk Creek Area was distributed to the public and filed with the Environmental Protection Agency on December 15, 1980.

I am terminating the preparation of an EIS because the environmental analysis and public response to the DEIS and the supplement, indicate that there will be no significant environmental impacts from the proposed action.

The environmental analysis will be documented in a combined Decision Notice, Environmental Assessment and Finding of No Significant Impact. Copies of the environmental documents may be obtained from Kenneth Henderson, Forest Supervisor, Shawnee National Forest, 317 East Poplar Street, Harrisburg, Illinois 62946.

Dated: January 20, 1982.

Jack L. Craven,

Acting Director of Planning, Programming and Budgeting.

[FR Doc. 82–3637 Filed 2–10–82; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Bear Creek Watershed, Alabama; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest V. Todd, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Alabama 36830, telephone (205–821–8070).

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bear Creek Watershed, Geneva and Houston Counties, Alabama.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Ernest V. Todd, State Conservationist, has determined that an environmental impact statement is not needed for this action.

This project concerns a plan for watershed protection and flood prevention. The planned works of improvement include the installation of conservation land treatment, critical area treatment, and about 13 grade stabilization structures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Ernest V. Todd. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the

environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 5, 1982.

Ernest V. Todd,

State Conservationist.

[FR Doc. 82-3656 Filed 2-10-82; 8:45 am]

BILLING CODE 3410-16-M

Camp Creek Watershed, Nebraska; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Albert E. Sullivan, State Conservationist, Soil Conservation Service, Federal Building, Room 345, 100 Centennial Mall N., P.O. Box 82502, Lincoln, Nebraska 68501. Telephone: 402-471-5300.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camp Creek Watershed, Lancaster and Cass Counties, Nebraska.

The environmental assessment of this federally assisted action indictaes that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Albert E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This Watershed Plan describes a plan of accelerated land treatment including terraces, grassed waterways or outlets, diversions, grade stabilization structures, critical area plantings, farmstead and feedlot windbreaks, irrigation pit or regulating reservoirs, waste treatment lagoons, pasture and hayland plantings, and range seedings. These conservation practices will reduce soil depletion by sheet and rill erosion, increase production, reduce voiding and depreciation of land by gully erosion, reduce flood plain deposition, improve water quality, and reduce sediment yields

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Albert E. Sullivan.

No administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted program and projects is applicable)

Dated: February 1, 1982.

A. E. Sullivan,

State Conservationist.

[FR Doc. 82-3655 Filed 2-10-82; 8:45 am]

BILLING CODE 3410-16-M

Dover Recreational Park RC&D Measure, Tenn.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee, 37203, telephone 615-251-5471.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dover Recreational Park, RC&D Measure, Stewart County, Tennessee.

The environmental evaluation of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the development of the area formerly known as the Lick Creek Recreation Area to provide water-based recreation opportunities for area residents. Planned works of improvement include construction of picnic shelters, enhancement of existing picnic areas, development of an outdoor games area with equipment, designation of nature trail, construction of a fishing pier, and development of a swimming beach and nature study area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Donald C. Bivens. An environmental assessment has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Donald C. Bivens,

State Conservationist.

February 5, 1982.

[FR Doc. 82-3653 Filed 2-10-82; 8:45 am]

BILLING CODE 3410-16-M

Erin's Southern Gage Flood Prevention RC&D Measure, Tenn.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee, 37203, telephone 615-251-5471.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Erin's Southern Gage Flood Prevention,

RC&D Measure, Houston County, Tennessee.

The environmental evaluation of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention of Southern Gage Company facilities in Erin. Planned works of improvement include construction of a concrete retaining wall, concrete curbs, gutters and piping, installation of submersible electric pumps, construction of water diversions similar to speed bumps, and strengthening of the earthen dike at the west side of the Southern Gage site. In conjunction with these improvements, concrete steps will be constructed at the north personnel entrance and approximately 280 linear feet of stream channel bank along the east retaining wall will be armored to prevent sloughing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Donald C. Bivens. An environmental assessment has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address.

No Administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Donald C. Bivens,

State Conservationist.

February 5, 1982.

[FR Doc. 82–3654 Filed 2–10–82; 8:45 am]

BILLING CODE 3410–16–M

Uncle John Creek Watershed, Okla.; Finding of No Significant Import

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Vandersypen, Assistant State Conservationist, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone number (405) 624–4404.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for two floodwater retarding structures and conservation land treatment remaining to be installed in the Uncle John Creek watershed project, Canadian and Kingfisher Counties, Oklahoma.

The environmental assessment of this federally-assisted action indicates that the action will not cause significant impacts to the human environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360. The finding of no significant impact has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the Finding of No Significant Impact is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and project is applicable)

Dated: February 3, 1982.

Donald R. Vandersypen,

Assistant State Conservationist (Water Resources).

[FR Doc. 82–3652 Filed 2–10–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket 39617; Order 82–1–143]

Air Wisconsin, Inc.; Order To Show Cause

On December 4, 1980, Air Wisconsin filed a notice of intent to suspend service at Jamestown, North Dakota. By Order 81–2–15, we required Air Wisconsin to continue providing essential service for 30 days past the 90 day notice period, beginning March 3, 1981, or until a fit, willing, and able replacement carrier inaugurated service. Orders 81–3–177, 81–4–165, and 81–6–16 extended the service obligations in 30 day segments to July 2, 1981. On June 15, 1981 Big Sky inaugurated service and Air Wisconsin's obligation terminated.

On May 8, 1981, Air Wisconsin filed an application seeking interim compensation of $36,561 per month. The Board, by Order 81–6–187, established an interim rate of $29,249 per 30-day period. Total interim payments were $102,509.

On August 26, 1981, Air Wisconsin filed a petition requesting final compensation of $321,968—$219,459 above the interim amount paid. Following several letters discussing appropriate investment base and rate of return with the staff, Air Wisconsin informally agreed to a final compensation of $204,682, or $102,173 above the interim amount already paid. We tentatively find and conclude that this should be the appropriate final rate of compensation for Air Wisconsin's provision of essential air service at Jamestown, North Dakota, during the period March 3 through June 14, 1981. See attachments[1] for details of the rate calculation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102 and 419, and the regulations promulgated in 14 CFR Parts 302 and 324;

1. We direct Air Wisconsin, Inc., to show cause why we should not adopt the tentative findings and conclusions set forth above;

2. All further procedures shall be in accordance with the rules of practice, particularly Rules 302 *et seq.*, and if there is any objection to the rate proposed in this order, notice of it shall be filed within 7 days, and, if notice is filed, written answer and supporting documents shall be filed within 14 days after the date of service of this order;

3. If notice of objection is not filed within 7 days, or if notice is filed and answer is not filed within 14 days after

[1] Attachments filed with the original document.

service of this order, we shall deem all parties to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and we may enter an order fixing the final rate of compensation specified here; and

4. We shall serve this order on Air Wisconsin, Inc.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor

Secretary.

[FR Doc. 82-3706 Filed 2-10-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Montana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 9:00 a.m., and will end at 12:00 noon, on March 6, 1982, at the Travel Lodge, Last Chance Gulch, Helena, Montana 59601. The purpose of this meeting is to plan the research on the effectiveness of civil rights enforcement in the state of Montana.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Angela V. Russell, Box 333, Lodge Grass, Billings, Montana 59050, (406) 248-7421 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 8, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3622 Filed 2-10-82; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 3:00 p.m., on March 6, 1982, at the Christopher Inn, 300 East Broad Street, Columbus, Ohio, 43215. The purpose of this meeting is to discuss the civil rights issues in the state, and plan activities for calendar year 1982 and fiscal year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Henrietta H. Looman, 1222 Woodland Avenue, N.W., Canton, Ohio, 44703, (216) 454-2278 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3734 Filed 2-10-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 14-81]

Foreign-Trade Zone No. 14, Litle Rock; Application for Subzone at Sanyo Manufacturing Corp. Plant, Forrest City, Arkansas; Record Open for Surrebuttal Comments

At the request of Counsel for the Committee to Preserve American Color Television (COMPACT) and North American Philips Corporation, the record in this case is reopened until February 26, 1982.

Comments during this period are limited to surrebuttals on the material submitted during the period for rebuttals which closed on January 8, 1982 (46 FR 59569, 12-7-81).

Dated: February 5, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-3603 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Float Glass From Belgium; Revised Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revised preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on float glass from Belgium. On June 5, 1981, the Department published the preliminary results of this review. For that notice the Department used information for a period prior to July 18, 1980. These revised preliminary results are based on information for July 1, 1980 through March 31, 1981. The Department has received and verified new information from the two known exporters, Glaceries de Saint-Roch, S.A. and Glaverbel, S.A. As a result of this new information, the Department has preliminarily determined the net subsidy is 0.29 percent *ad valorem.* Because this rate is *de minimis,* the Department intends to instruct the Customs Service not to collect countervailing duties for entries during the period July 18, 1980 through February 19, 1981 and intends to establish a zero duty deposit rate for future entries. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT:

Ms. Claire A. Rickard, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1487).

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 30160) a notice of the preliminary results of its administrative review of the countervailing duty order on float glass from Belgium (46 FR 10905, February 5, 1981) and invited comment by interested parties. On September 3, 1981 a hearing was held at the request of the petitioner. The petitioner argued that, because the data we had utilized was for a period prior to the July 18, 1980 suspension of liquidation, we had no legal authority to conduct a section 751 review relying on that information. The Department believes that it did have the authority to use such data to establish a revised duty deposit rate for future entries as it was the most recent information available at the time of the review.

However, the Belgian government and the float glass companies stated that they would furnish new data for a revised period of review which is after the date of suspension of liquidation. This notice of revised preliminary results relies on the updated information to determine the countervailing duties due and the duty deposit rate for future entries.

Scope of the Review

The merchandise covered in this review is Belgian flat glass

manufactured by the float process. It is currently classifiable under item numbers 543.21 through 543.69 of the Tariff Schedules of the United States. Entries of float glass which has been substantially further manufactured (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty order.

The review covers Glaverbel, S.A. and Glaceries de Saint-Roch, S.A. ("GSR"), the two known exporters of this merchandise to the United States. The revised time period covered by this review is July 1, 1980 through March 31, 1981.

Using updated information we have received from the Belgian government, we preliminarily determined that the float glass producers benefit from four subsidy programs: An interest rebate, capital grants, exemptions from certain property taxes, and an exemption from local taxes.

Analysis of Programs

The Belgian government provides to companies located in qualifying regional development areas interest rebates for a five year period of up to 5 percent on ¾ of the initial investment by a firm. GSR received a rebate during the review period amounting to 0.03 percent *ad valorem*. Glaverbel did not take advantage of this program during our review period.

Both GSR and Glaverbel received capital premiums, normally granted by the government for the acquisition of industrial buildings or equipment, during the review period. Following administrative practice, we have allocated the grants over half the useful life of the assets purchased with the grant money. We determined the average useful life of these assets to be 10 years. The total *ad valorem* value of these grants is 0.24 percent for the two firms.

An exemption from the Précompte Immobilier, a tax on the theoretical rental income of all property owned by a firm, may be granted to firms located in qualifying areas in Belgium. For GSR and Glaverbel we calculated the total *ad valorem* value of the subsidy to be 0.02 percent.

The fourth subsidy program is an exemption from certain local taxes. The value of this subsidy is 0.01 percent *ad valorem* for GSR. Glaverbel did not receive any local tax exemption.

Verification

We verified the submission of the Belgian government through access to certain government and company books and records. Documents examined included regional cadastral revenue records, government documents relating to capital grants, company financial statements, and production and sales records.

Revised Preliminary Results of the Review

As a result of our review of the updated time period, we now preliminarily determine the aggregate net subsidy rate for the period July 1, 1980 through March 31, 1981 conferred upon the production of float glass from Belgium to be 0.46 percent *ad valorem* for GSR, 0.10 percent *ad valorem* for Glaverbel, and 0.29 percent *ad valorem* countrywide. These rates are *de minimis.d*

Therefore, the Department intends to instruct the Customs Service not to assess countervailing duties on unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after July 18, 1980, and entered before February 20, 1981. On February 20, 1981, the International Trade Commission ("the ITC") notified the Department that the Beligian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Because the calculated rate is *de minimis*, even if the ITC should find that there is injury or likelihood of injury to an industry in the United States, as provided in section 104(b)(2) of the TAA, the Department shall instruct the Customs Service not to assess countervailing duties on unliquidated entries of float glass from Beligium entered, or withdrawn from warehouse, for consumption on or after February 20, 1981, and exported on or before March 31, 1981.

Further, because the calculated rate is *de minimis*, the Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This waiver of deposit shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duty at the 2 percent *ad valorem* rate set forth in the **Federal Register** notice of February 5, 1981 shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise and liquidation shall continue to be suspended.

Interested parties may submit written comments on these revised preliminary results on or before March 15, 1982 and may request disclosure and/or a hearing on or before February 26, 1982. Any request for an administrative protective order must be made within 5 days from the date of publication. The Department will publish the final results of its administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C 1675 (a)(1)) and §355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Feburary 8, 1982.

[FR Doc. 82-3730 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement; Atlanta, Ga. SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning June 1, 1982 in the Atlanta, GA SMSA. The cost of the project is estimated to be $410,000. The maximum federal participation amount is $369,000. The minimum amount required for non-federal participation is $41,000. The project number is 04–10–82000–01.

Applicants shall be required to contribute at least 10% the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: March 12, 1982.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. McMillan, Regional Director, (404) 881–4091.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management

assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities that can possibly enhance the BDC program effort-i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included n Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the above address on February 26, 1982 at 1:00 pm.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: February 2, 1982.

Charles F. McMillan,

Regional Director.

[FR Doc. 82–3633 Filed 2–10–82; 8:45 am]

BILLING CODE 3510–21–M

Financial Assistance Application Announcement; Augusta, Ga. SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning June 1, 1982 in the Augusta, GA SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 04–10–82017–01.

Applicants shall be required to contribute at least 10% the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: March 12, 1982.

ADDRESS: Atlanta Regional Office Minority Business Development Agency, 1371 Peachtree Street, NE, Suite 505, Atlanta, Georgia 30309

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. McMillan, Regional Director (404) 881–4091.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contracts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award

document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of over $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. Cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution*—Means cash that is contributed or donate by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the above address on February 26, 1982 at 1:00. PM

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance

Dated: February 5, 1982.

Charles F. McMillam,

Regional Director.

FR Doc. 82-3682 Filed 2-10-82; 8:45 am)

BILLING CODE 3510-21-M

Financial Assistance Application Announcement; Greenville-Spartanburg, S.C. SMSA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning June 1, 1982 in the Greenville-Spartanburg, SC SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 04–10–82016–01.

Applicants shall be required to contribute at least 10% the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: March 12, 1982.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. McMillan, Regional Director, (404) 881–4091.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer tham a full range of management and technical assistance; and serve as a conduit-through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the

application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (references from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the above address on February 26, 1982, at 1:00 PM.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: February 5, 1982.

Charles F. McMillan,

Regional Director.

[FR Doc. 82-3631 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement; San Francisco Region

The Minority Business Development Agency announces that it is seeking applications under its program to operate six San Francisco Region projects for a twelve-month period beginning July 1, 1982. The aggregate total costs of the projects is $1,950,000.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be Cooperative Agreements.

Program Descriptions: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible minority clients in areas related to the establishment and operation of businesses. These proposed projects are specifically designed to provide business information counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities and new/or expanding markets.

* ONE COOPERATIVE AGREEMENT UNDER THE BUSINESS DEVELOPMENT CENTER (BDC) PROGRAM to operate a pilot project for a 12-month period beginning July 1, 1982 in the Tuscon SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I. D. Number is 09-10-82012-01.

* ONE COOPERATIVE AGREEMENT UNDER THE BUSINESS DEVELOPMENT CENTER (BDC) PROGRAM to operate a pilot project for a 12-month period beginning July 1, 1982 in the San Francisco SMSA. This pilot project will operate at a cost not to exceed $700,000 and the project I. D. Number is 09-10-82003-01.

* ONE COOPERATIVE AGREEMENT UNDER THE BUSINESS DEVELOPMENT CENTER (BDC) PROGRAM to operate a pilot project for a 12-month period beginning July 1, 1982 in the Riverside SMSA. This pilot project will operate at a cost not to exceed $410,000 and the project I. D. Number is 09-10-82006-01.

** ONE COOPERATIVE AGREEMENT UNDER THE BUSINESS DEVELOPMENT CENTER (BDC) PROGRAM to operate a pilot project for a 12-month period beginning July 1, 1982 in the Fresno SMSA. This pilot project will operate at a cost not to exceed $250,000 and the project I. D. Number is 09-10-82010-01.

** ONE COOPERATIVE AGREEMENT UNDER THE BUSINESS DEVELOPMENT CENTER (BDC) PROGRAM to operate a pilot project for a 12-month period beginning July 1, 1982 in the Bakersfield SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I. D. Number is 09-10-82014-01.

** ONE COOPERATIVE AGREEMENT UNDER THE BUSINESS DEVELOPMENT CENTER (BDC) PROGRAM to operate a pilot project for a 12-month period beginning July 1, 1982 in the Oxnard SMSA. This pilot project will operate at a cost not to exceed $250,000 and the project I. D. Number is 09-10-82018-01.

* The closing date for submitting an application is March 15, 1982. An application kit is available upon written request.

** The closing date for submitting an application is March 29, 1982. An application kit is available upon written request.

The pre-application conference to assist all interested applicants will be held at 450 Golden Gate Avenue, San Francisco, California 94102, Room 13029, (13th Floor) on February 22, 1982 at 10:00 a.m.

MBDA offers competitive Cooperative Agreements to all individuals, non-profit organizations, for-profit firms, local and state governments, federally recognized American Indian Tribes and educational institutions to perform the functions of a BDC which are:

To provide management and technical assistance to qualified minority firms.

To develop and maintain an inventory of existing minority businesses and prospective entrepreneurs, and

To provide brokering service that will foster and promote new business ownership, business expansions, market opportunities and new capital sources.

Legal services are excluded.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. A fee for services for assistance provided clients will be charged. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for the firms with gross sales of over $500,000. Cost sharing contributions can be in the form of cash contributions, fee for services, or in-kind contributions.

The program is subject to OMB Circular A-95 requirements.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Mr. Mikel Cook at 415/556-6733.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: January 29, 1982.

R. V. Romero,

Regional Director.

[FR Doc. 82-3645 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Reino Aventura; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name Reino Aventura (P294) b. Address Rio Tiber 87-8°-P. Col Cuauhtemoc, Mexico 5, D.F.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Bottlenose dolphins (*Tursiops truncatus*), 3.

4. Type of Take: Animals will be temporarily transferred from a facility in Galveston, Texas to Reino Aventura.

5. Location of Activity: ————

6. Period of Activity: 1982.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before March 15, 1982. Those individuals requesting a hearing

should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: February 5, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-3723 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit Applications; Modification

Notice is hereby given that pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) the Scientific Research Permit No. 184 issued to Dr. Roger Payne, New York Zoological Society, Weston Road, Lincoln, Massachusetts 01773 on May 11, 1977, is modified as follows:

1. Section B is modified by deleting Section B-8 and substituting a new B-8 as follows:

8. This Permit is valid with respect to the taking authorized herein until December 31, 1982.

This modification is effective February 11, 1982.

The permit as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: February 4, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-3724 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit Applications; Modification

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 335 issued to Dr. James R. Gilbert, University of Maine at Orono, Orono, Maine 04469 on May 13, 1981 (46 FR 27514) is modified as follows:

Section A-1 is changed to read:

Of these, thirty (30) adult harbor seals may be instrumented with epoxy attached radio tabs.

This modification is effective February 5, 1982.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: February 5, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-3725 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License

The National Technical Information Service (NTIS), Department of Commerce, intends to grant to Medical Instrument Research Associates, Inc. having a place of business at Waltham, Massachusetts 02154, an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Macula Disc Camera with Improved Resolution," U.S. Patent Application No. 6-239,498 (dated March 2, 1981). The availability of this invention for licensing was announced in the **Federal Register** (46 FR 56002, November 13, 1981). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: February 2, 1982.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-3700 Filed 2-10-82; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additional Import Controls on Certain Wool Textile Products from the Socialist Republic of Romania

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling men's and boys' suit-type and other wool coats in Category 433/434 at a level of 230,000 square yards equivalent and women's, girls' and infants' wool sweaters in Category 446, at 6,720 dozen, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1981 and extends through March 31, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), and October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)).

SUMMARY: Under the terms of the Bilateral Wool and Man-Made Fiber

Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, the United States Government has decided to control imports of wool textile products in Categories 433/434 and 446, produced or manufactured in Romania and exported to the United States during the twelve-month period which began on April 1, 1981, in addition to those categories previously designated.

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT:
Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–2184).

SUPPLEMENTARY INFORMATION: On March 25, 1981, there was published in the **Federal Register** (46 FR 18576) a letter dated March 19, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of wool and man-made fiber textile products, produced or manufactured in Romania, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on April 1, 1981 and extends through March 31, 1982. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of wool textile products in Categories 433/434 and 446, produced or manufactured in Romania and exported to the United States during the same twelve-month period. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of wool textile products in Categories 433/434 and 446, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1981, in excess of the designated levels of restraint. The levels have not been adjusted to reflect any imports after March 31, 1981. Imports in Category 446 during the April-December 1981 period amounted to 2,940 dozen and will be charged. During the same period imports in Category 433/434 amounted to 87,960 square yards equivalent and will also be charged. As the data become available, further charges will be made in both categories to account for the period which began on January 1, 1982 and extends to the effective date of this action.

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.
February 8, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 19, 1981 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on February 11, 1982 and for the twelve-month period beginning on April 1, 1981 and extending through March 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption, of wool textile products in Categories 433/434 and 446, produced or manufactured in Romania and exported on and after April 1, 1981, in excess of the following levels of restraint:

Category	12-mo level of restraint [1]
433/434	230,000 square yards equivalent.
446	6,720 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after March 31, 1980. Imports during the period, April–December 1981 have amounted to 2,940 dozen in Category 446 and 87,960 square yards equivalent in Category 433/434.

Wool textile products in Categories 433/434 and 446 which have been exported to the United States prior to April 1, 1981 shall not be subject to this directive.

Wool textile products in Categories 433/434 and 446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24,1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)].

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of wool textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.82-3731 Filed 2-10-82; 8:45 am]
BILLING CODE 3510-25-m

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Record of Decision for Binary Chemical Munitions Program

Pursuant to regulations implementing procedural provisions of the National Environmental Policy Act (40 CFR, § 1505.2) the Department of the Army on February 8, 1982, announced its decision to establish an integrated binary production facility at Pine Bluff Arsenal, Arkansas.

The decision will provide for the establishment of a single industrial complex at Pine Bluff Arsenal, a military reservation where other conventional munitions and military items are currently produced and stored. These latter operations would continue with those of the new complex, which would be located on a 380-acre site and would house production facilities for critical binary chemical precursors, binary munitions load and packout operations, as well as necessary support facilities for utilities, administration, waste treatment, safety and security.

Alternatives to this action were considered and included (1) procurement of binary munitions and/or precursor chemicals from nonmilitary sources; (2) production of chemical munitions filled with lethal agent as in the past; and (3) no development or production of binary chemical munitions (no action). The no-action alternative was considered to be unacceptable because of national security needs. The other alternatives were considered to be less satisfactory than the preferred alternative because of nonavailability of components and/or potentially significant higher costs (Alternatives

1&2), and greater human and environmental risks (Alternative 2).

In the event a cost-effective commercial supply of the critical chemical precursor of the BIGEYE bomb would become available, the Army would redirect its actions to provide for the industrial procurement of this chemical and limit BIGEYE bomb binary facilities at Pine Bluff Arsenal to those needed for load, packout and support operations. No additional environmental impacts would be created in this approach than those anticipated for full-scale operations described in the Final Programmatic Environmental Impact Statement (PEIS) for the binary program which was filed with the Environmental Protection Agency on December 4, 1981—consequently, as with the selected alternative, no significant environmental impacts would occur.

Interested individuals or organizations may review or obtain copies of the Department of the Army Record of Decision for this action at the Army Environmental office (DAEN–ZCE), Room 1E676, Pentagon, Department of the Army, Washington, DC 20310 (Telephone (202) 694–3434).

Dated: February 8, 1982.

Lewis D. Walker,

Deputy for Environmental, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 82–3713 Filed 2–10–82; 8:45 am]

BILLING CODE 3710–08–M

Corp of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Kansas and Osage Rivers Mineral Intrusion Study

AGENCY: Kansas City District, Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

SUMMARY: 1. The primary purpose of this study is to provide for future mineral intrusion abatement on socioeconomic, aquatic, and terrestrial environments along the Smoky Hill, Saline, and Solomon Rivers in eastern Saline and western Dickinson Counties, Kansas, near the towns of New Cambria, Solomon, and Sand Springs. The area of improvement will also include the Kansas River.

2. Reasonable alternatives that will be studied include:

a. No Federal Action. This measure would result in a continuation of mineral intrusion as it is presently occurring.

b. Interception and Subsurface Disposal. This measure would involve drilling a series of relief wells to intercept saline ground water. The collected saline water would be subsequently injected into deep geological formations lying 3,000 to 3,200 feet below the land surface.

c. Interception and Evaporation Ponds. This measure would involve the collection of saline ground water as in 2.b.; however, the disposal of the saline water would be by means of one or two evaporation ponds.

d. In-Channel Storage. This measure would involve retention and storage of mineralized surface water in that portion of the river channel where the majority of salt intrusion is located. Fresh water would be diverted around the stored saline water via two concrete-lined channels totaling 8 miles in length. The stored saline water would be flushed downstream during periods of high flow.

e. Dilution From Existing Lakes. This measure would use releases from the water stored in the multipurpose pool at the existing Tuttle Creek or Milford Lakes to dilute the Kansas River during periods of high chloride concentrations.

3. Scoping Process:

a. Public Involvement: A public involvement program was developed as a means of soliciting public views on these alternatives and has already begun. A public workshop was held 21 October 1980 in Salina, Kansas, which addressed mineral intrusion problems on the Smoky Hill, Saline, and Solomon Rivers. Two scoping meetings, involving Federal and state agencies, were held in Topeka, Kansas, on 13 February 1980 and 19 May 1981. Additional public meetings will be held to provide additional information for the Draft Feasibility Report (DFR) and DEIS). These documents will be distributed to the public and Federal/state agencies for review and comment. The participation of the public and all interested Government agencies is invited during all stages of the study planning process.

b. Environmental consultation and review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and other applicable laws, regulations, and guidelines.

c. The Kansas City District estimates that the DEIS and DFR for the mineral intrusion study will be available for public review and comment in January 1983.

ADDRESS: Questions concerning the proposed study and the DEIS should be directed to Mr. Dick Taylor, Chief, Environmental Resources Section, Corps of Engineers, 700 Federal Building, Kansas City, Missouri 64106. Phone: (816) 374–3762 or FTS 758–3672.

Dated: February 2, 1982.

Paul D. Barber,

Chief, Engineering Division.

[FR Doc. 82–3635 Filed 2–10–82; 8:45 am]

BILLING CODE 3710–KN–M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 1C of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Monday, 15 March 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the Department of Defense Intelligence Information System.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 8, 1982.

[FR Doc. 82–3709 Filed 2–10–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of the Secretary.

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork; College Assistance Migrant Program

AGENCY: Department of Education.

ACTION: Notice of extension of closing date for transmittal of applications for fiscal year 1982.

This notice extends the closing date of February 19, 1982 for the transmittal of applications under the College Assistance Migrant Program (CAMP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork. (Note.—The previous application notice for this

program was published in the **Federal Register** on October 28, 1981, at 46 FR 53315.)

The authority for CAMP is contained in Section 418A of Title IV of the Higher Education Act, as amended by Pub. L. 96–374 (20 U.S.C. 1070d–2).

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of CAMP is to provide grants to IHEs and other agencies, in cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

New Closing Date for Transmittal of Applications: An applicant must mail or hand deliver its application for a grant to the U.S. Department of Education by March 22, 1982.

Applications Delivered by Mail: An applicant that sends its application by mail must address its application to the U.S. Department of Education, Application Control Center, Attention: 84.149, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an applicant sends its application through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

The Secretary encourages an applicant to use registered or, at least, first class mail. The Secretary notifies a late applicant that its application will not be considered.

Applications Delivered by Hand: An applicant that hand delivers its application must take the application to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, Seventh and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered appliacation betaween 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

The Application Control Center does not accept an application that is hand delivered after 4:30 p.m. on the closing date.

Program Information: The Secretary awards CAMP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker students who are enrolled or are admitted for enrollment on a full-time basis in the first academic year at an IHE. CAMP provides assistance to help migrant and seasonal farmworker students in—

(1) Making the transition from secondary school to postsecondary school;

(2) Generating the motivation necessary to succeed in postsecondary school; and

(3) Developing the skills necessary to succeed in postsecondary school.

Available Funds: The Secretary estimates that there will be $1.063—$1.160 million available for FY 1982 grants. The Secretary estimates that these funds will support 3–5 projects with grants funded at between $100,000 and $400,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations. An applicant may propose a project of one to three years. However, the continued funding for projects approved for more than one year is subject to the availability and amount of a Congressional appropriation.

Application Forms: A prospective applicant may obtain application forms and instructions by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3608), Washington, D.C. 20202–3303.

An applicant must prepare and submit its application in accordance with the regulations, instructions, and forms included in the grant application package. The grant application package is intended to aid applicants in applying for assistance under this program. Nothing in the grant application package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program.

The Secretary strongly urges that the narrative portion of an appliation not exceed 30 pages. The Secretary also urges that an applicant not submit information that is not requested.

Special Procedures: An applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide—

(1) The comments of each clearinghouse that commented on its application; or

(2) A statement that the applicant used the procedures of Part I of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable Regulations: The regulations that apply to CAMP include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Mirgrant Program Regulations (34 CFR Part 206) that were published in the **Federal Register** on July 6, 1981 (at 46 FR 35072) as final regulations.

(2) The Education Department General Administrative Regulations (EDGAR, 34 CFR Parts 75 and 77).

(3) The Grants Administration Regulations (34 CFR Part 74).

Further Information: For further information, contact Mr. Joseph P. Bertoglio, Acting Director, Division of Program Coordination and Support, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3608), Washington, D.C. 20202–3303. Telephone No. (202) 245–2222.

(20 U.S.C. 1070d–2)

(Catalog of Federal Domestic Assistance No. 84.149; Migrant Education/College Assistance Migrant Program)

Dated: February 4, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3617 Filed 2-10-82; 8:45 am]

BILLING CODE 4000-01-M

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork; High School Equivalency Program

AGENCY: Department of Education.

ACTION: Notice of extension of closing date for transmittal of applications for fiscal year 1982.

This notice extends the closing date of February 19, 1982 for the transmittal of applications under the High School Equivalency Program (HEP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork. (Note.—The previous application notice for this program was pubished in the **Federal Register** on October 28, 1981, at 46 FR 53314.)

The authority for HEP is contained in Section 418A of Title IV of the Higher Education Act, as amended by Pub. L. 96–374 (20 U.S.C. 1070d–2).

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of HEP is to provide grants to IHEs and other agencies, in cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

New Closing Date for Transmittal of Applications: An applicant must mail or hand deliver its application for a grant to the U.S. Department of Education by March 22, 1982.

Applications Delivered by Mail: An applicant that sends its application by mail must address its application to the U.S. Department of Education, Application Control Center, Attention: 84.141, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an applicant sends its application through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

The Secretary encourages an applicant to use registered or, at least, first class mail. The Secretary notifies a late applicant that its application will not be considered.

Applications Delivered by Hand: An applicant that hand delivers its application must take the application to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, Seventh and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

The Application Control Center does not accept an application that is hand delivered after 4:30 p.m. on the closing date.

Program Information: The Secretary awards HEP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker "drop-out" students in obtaining the equivalent of a secondary school diploma and subsequently gaining employment or being admitted to an IHE or other postsecondary education or training.

Available Funds: the Secretary estimates that there will be $5.584–$5.851 million available for FY 1982 grants. The Secretary estimates that these funds will support 13–18 projects with grants funded at between $100,000 and $400,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations. An applicant may propose a project of one to three years. However, the continued funding for projects approved for more than one year is subject to the availability and amount of a Congressional appropriation.

Application Forms: A prospective applicant may obtain application forms and instructions by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3608), Washington, D.C. 20202–3303.

An applicant must prepare and submit its application in accordance with the regulations, instructions, and forms included in the grant application package. The grant application package is intended to aid applicants in applying for assistance under this program. Nothing in the grant application package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those spcifically imposed under the statute and regulations governing this program.

The Secretary strongly urges that the narrative portion of an application not exceed 30 pages. The Secretary also urges that an applicant not submit information that is not requested.

Special Procedures: An applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide—

(1) The comments of each clearinghouse that commented on its application; or

(2) A statement that the applicant used the procedures of Part I of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable Regulations: The regulations that apply to HEP include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Migrant Program Regulations (34 CFR Part 206) that were published in the **Federal Register** on July 6, 1981 (at 46 FR 35072) as final regulations.

(2) The Education Department General Administrative Regulations (EDGAR, 34 CFR Parts 75 and 77).

(3) The Grants Administration Regulations (34 CFR Part 74).

Further Information: For further information, contact Mr. Joseph P. Bertoglio, Acting Director, Division of Program Coordination and Support, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3606), Washington, D.C. 20202–3303. Telephone No. (202) 245–2222.

(20 U.S.C. 1070d–2)

(Catalog of Federal Domestic Assistance No. 84.141; Migrant Education/High School Equivalency Program)

Dated: February 4, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3618 Filed 2-10-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

February 11, 1982.

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on February 17, 1982, at the offices of the IEA, 2 Rue Pascal, Paris 16, France, beginning at 10:00 a.m. This meeting is being held in order to permit representatives of some of the members of Subcommittee A to participate in a meeting of a Joint Government/Industry Design Group for the preparation of the fourth IEA allocations system test (AST–4). That Group has been established by the IEA and is meeting at Paris on February 17.

The Agenda for the meeting is as follows:

1. Adoption of the Agenda.
2. Composition of Joint SEQ/IAB Design Group.
3. Introductory Remarks.
4. Scope and Objectives of Test:
—Testing of Pricing Principles;
—Testing of Dispute Settlement Centre;
—Other New Feature Compared with AST–3.
5. Date of Test.
6. Work Program and Meeting Schedule:
—AST–4 Test Guide;
—Test-run Questionnaire A/ Questionnaire B data;
—NESO/ISAG/Secretariat Briefing (Early 1983 proposed);
—Clearance of data for use in Test;
—Dates and places of future meetings.

II. A meeting of the IAB to the IEA be held on February 17, 1982, at the office of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 2:30 p.m.

The Agenda for the meeting is as follows:

1. Opening remarks.
2. Correspondence and communications with Reporting Companies.
3. Future IAB activities.
4. Transfer of IAB Chairmanship.

III. A meeting of the IAB to the IEA will be held on February 18, 1982, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IAB at a meeting of the IEA Standing Group on Emergency Questions (SEQ) which is being held in Paris on that date.

The Agenda for the meeting is under the control of the SEQ. It is expected that the following draft Agenda will be followed:

1. Adoption of the Draft Agenda.
2. Record of Minutes and Matters Arising.
3. December Assessment. January Assessment.
4. Quarterly Oil Forecast.
5. Naptha.
6. Pricing in an Emergency.
7. Stocks and Stock Policies.
8. Demand Restraint—Luxembourg. Demand Restraint Reviews.
9. 1982 Work Program.
10. Base Period Final Consumption.
11. Any other business.
12. Dates of next meetings.

As permittted by 10 CFR section 209.32, the usual 7-day notice period has been shortened because unanticipated procedural delays prevented processing in sufficient time to provide such notice.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., February 3, 1982.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 82-3696 Filed 2-10-82; 10:01 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Little America Refining Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken on Censent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Little America Refining Co. (LARCO) as a final order of the Department.

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, RG–30, 12th & Pennsylvania Avenue N.W., Washington, D.C. 20461 (202) 633–9165.

SUPPLEMENTARY INFORMATION: On November 25, 1981, 46 Fed. Reg. 57723, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with LARCO on November 14, 1981 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order constitutes a comprehensive settlement concerning LARCO's compliance with the Federal petroleum price and allocation regulations for the period August 19, 1973 through January 27, 1981. In settlement of all matters raised in the audit, LARCO agrees to pay $2,175,000 in three bi-monthly installments. The Consent Order is neither a admission by LARCO nor a finding by DOE of a violation of the afforementioned regulations.

Seven comments were received. None of the comments objected to the settlement. Each of he commentors requested that a portion of the refund paid by LARCO pusuant to the Consent Order be paid to them since they were customers of LARCO during the period of the Consent Order.

We agree that refunds should be made to identifiable customers. However, given the operation of the regulations, it is not always possible to identify specific customers or to determine their injury.

The DOE will attempt to identify those customers which purchased product at prices questioned by DOE in the audit. Refunds will be paid to those customers we are able to identify. If we cannot identify such customers or determine their injury, or if the refunds do not exhaust LARCO's payment, the balance not refunded to customers will be disbursed in some other manner, such as payment to the U.S. Treasury.

Based on the comments received, we have determined that the Consent Order should be made final as proposed. Accordingly, the proposed Consent

Order is made final without modification on the date of publication of this notice.

Issued in Washington, D.C. on the 8th day of February, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-3897 Filed 2-10-82 10:02 am]

BILLING CODE 6450-01-M

Jay Petroleum, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a proposed remedial order which was issued to Jay Petroleum, Inc. of Oklahoma City, Oklahoma.

This proposed remedial order charged Jay Petroleum, Inc. with pricing violations in the amount of $376,700.75 in sales of crude oil during the time period September 1, 1973 through January 28, 1981.

A copy of the proposed remedial order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106. On or before February 26, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 26th day of January 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

Concurrence:

David H. Jackson,

Counsel, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-3711 Filed 2-10-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-258-000]

Connecticut Light and Power Co., et al.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, the Connecticut Light and Power Company (CL&P) filed a proposed change to the Transmission Service Agreement dated as of September 25, 1980, between CL&P, the Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company (collectively referred to as the "Northeast Utilities companies") and Connecticut Municipal Electric Energy Cooperative (CMEEC).

CL&P states that the proposed change would increase the rate of return on common equity of the Northeast Utilities companies from 14.5 percent to 17.0 percent and would increase revenues from service under the Transmission Service Agreement by approximately $131,000 based on the 12-month period ending December 31, 1981.

CL&P further states that the proposed change is intended to provide a just and reasonable rate of return to the Northeast Utilities companies on their investment in transmission facilities used by CMEEC. CL&P proposes an effective date of April 1, 1982.

According to CL&P copies of the filing were served upon CMEEC, which is the only utility receiving service under the Transmission Service Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3709 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1991-001]

Thomas W. Coppock; Application

February 8, 1982.

The filing individual submits the following:

Take notice on January 27, 1982 Thomas W. Coppock filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President-Director, Philadelphia Electric Power Company
Vice President-Director, Susquehanna Power Company
Vice President-Director, Susquehanna Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3584 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-263-000]

Indiana & Michigan Electric Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on January 29, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&M), Modification No. 9 dated January 1, 1982 to the Interconnection Agreement dated February 21, 1964 between Public Service Company of Indiana, Inc. (Service Company) and I&M, I&M's Rate Schedule FERC No. 24.

AEP states that Sections 1 and 2 of Modification No. 9 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively, when I&M is the supplying party, and $1.05/kW-week and $5.50/kW-month respectively when Service Company is the supplying party.

AEP requests that both schedules become effective on January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Public Service Company of Indiana, Inc., the Public Service Commission of Indiana, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3595 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-262-000]

Indiana & Michigan Electric Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on January 29, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&M), Modification No. 9 dated January 1, 1982 to the Agreement dated January 2, 1977 between the City of Richmond, Indiana and Indiana & Michigan Electric Company, I&M's Rate Schedule FERC No. 70.

AEP states that Sections 1 and 2 of Modification No. 9 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively. This rate applies to I&M only.

AEP requests that both schedules become effective on January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Richmond Power & Light Company, the Illinois Commerce Commission, the Michigan Public Service Commission, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3596 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-257-000]

Kansas Gas & Electric Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that Kansas Gas & Electric Company (KGE) on January 29, 1982, tendered for filing a Transmission Agreement and related Service Schedules between the Company and Kansas Electric Power Cooperative, Inc. (KEPCo).

Kansas Gas & Electric Company states that the filing represents the culmination of KEPCo's purchase into the Wolf Creek generating station and the resultant assumption of the full requirements power supplier to its individual member cooperatives, eight of whom were formerly full requirements customers of KGE. This filing will provide KEPCo the necessary vehicle to provide service to its members in the KGE power supply area.

Copies of the filing were served upon KEPCo and the Utilities Division of the Kansas Corporation Commission.

KGE requests waiver of the Commission's notice requirements in order to allow an effective date of January 1, 1982.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice of procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-3597 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-256-000]

Oklahoma Gas & Electric Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Oklahoma Gas and Electric Company (OG&E), tendered for filing Revised Sheet Nos. 4 through 16 and Nos. 28–29 to its FERC Electric Tariff, 1st Revised Volume No. 1, containing revised rates and charges, and a revised Index of Purchasers, applicable to OG&E's 22 municipal and 3 rural electric cooperative sales-for-resale customers. The revised rates are contained in proposed Rate Schedules WM–1, WM–2, and WC–1 applicable to municipalities and cooperatives, respectively. Also proposed is a change in the rates charged for wheeling and transmission service agreements with Southwestern Power Administration (SWPA) and Western Farmers Electric Cooperative, Inc., (WFEC). OG&E proposes an effective date of March 31, 1982.

OG&E states that copies of the filing have been sent to its municipal and cooperative customers, to SWPA and its customers, WFEC, the Corporation Commission of the State of Oklahoma and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's rules or practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3598 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-259-000]

Public Service Co. of Indiana, Inc., Proposed Tariff Change

February 8, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. (PSCI) on January 29, 1982, tendered for filing pursuant to the Interconnection Agreement between PSCI and Central Illinois Public Service Company a Ninth Supplemental Agreement to become effective March 29, 1982.

PSCI states that said Supplemental Agreement increases the demand charge for Short Term Power from 85¢ per kilowatt per week to $1.05 per kilowatt per week.

According to PSCI copies of the filing were served upon Central Illinois Public Service Company, Illinois Commerce Commission and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3599 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-80-001]

Public Service Company of Oklahoma; Compliance Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on January 28, 1982, Public Service Company of Oklahoma filed revised Rate Schedules RE-5 and RE-6 in compliance with the Commission's January 8, 1982 order.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3600 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-557-001]

Philadelphia Electric Co.; Compliance Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on January 18, 1982, Philadelphia Electric Company filed revised rate schedules in compliance with the Commission's letter order of December 11, 1981 which approved the proposed settlement in this docket.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3601 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-260-000]

Southern Indiana Gas & Electric Co.; Proposed Tariff Change

February 8, 1982.

The filing Company submits the following:

Take notice that Southern Indiana Gas and Electric Company on January 29, 1982, tendered for filing pursuant to Service Schedule G—Firm Power of the Interconnection Agreement between the United States of America, acting by and through the Administrator of the Rural Electrification Administration, Hoosier Energy Rural Electric Cooperative, Inc., Public Service Company of Indiana, Inc. and Southern Indiana Gas and Electric Company, Rate Schedule FERC No. 222, a Notice to terminate such Service Schedule G—Firm Power on December 31, 1981.

Such Notice of Termination is in accordance with Article 8 of an additional Interconnection Agreement, dated April 15, 1977, between the parties.

A copy of the filing was served upon Hoosier Energy Rural Electric Cooperative, Inc., Public Service Company of Indiana, Inc. and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3602 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-261-000]

Union Electric Co., Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Union Electric Company (Union) tendered for filing an Amendment dated December 1, 1981 to the Wholesale Electric Service Agreement dated June 27, 1977, between the City of Rolla, Missouri and Union. Said Amendment primarily provides for a new delivery points.

Union requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8,

1.10). All such petitions or protests should be filed on or before February 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3603 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AEC OIL & GAS INC			RECEIVED:	01/07/82	JA: TX				
8213888	F-7B-041489	4236732072	102-2			PETREY # 1	WEATHERFORD (ATOKA MI	63.9	INTRASTATE GATHER
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	01/07/82	JA: TX				
8213875	F-84-041102	4235531174	103			W C RIVERS #6	AGUA DULCE FIELD (HAR	30.0	TENNESSEE GAS PIP
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	01/07/82	JA: TX				
8213949	F-8A-042744	4244530952	103			TRUETT FLACHE #2-71	BROWNFIELD S (FUSSELM	0.0	
-AMMEX PETROLEUM INC			RECEIVED:	01/07/82	JA: TX				
8213964	F-03-042942	4214931109	102-2			AMANDA UNIT #1	GIDDINGS (AUSTIN CHAL	180.0	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED:	01/07/82	JA: TX				
8213911	F-08-042091	4200332514	103			BLOCK 9 FUHRMAN MASCHO UNIT #105	FUHRMAN-MASCHO	5.1	PHILLIPS PETROLEU
8213984	F-8A-043171	4230530244	102-4			HERMAN WUENSCHE #1	WILSON WEST (CLEARFOR	6.6	
8213977	F-06-043104	4207330405	102-4			JOHN M DIXON #1	SOUTHERN PINE /TRAVIS	208.0	TEXAS UTILITIES F
-ANDERSON PETROLEUM INC			RECEIVED:	01/07/82	JA: TX				
8213862	F-7C-040499	4243532448	103	107-TF		GUY WYATT ASKEW B 2-42	SAWYER (CANYON)	100.0	SUTTON COUNTY PIP
8213866	F-7C-040616	4243532502	103	107-TF		GUY WYATT ASKEW 1-44	SAWYER (CANYON)	75.0	SUTTON COUNTY PIP
-ARIES PETROLEUM INC			RECEIVED:	01/07/82	JA: TX				
8213910	F-7B-041993	4205933182	102-4			W L LAWRENCE A #1	J R G CANYON	500.0	SOUTHWESTERN GAS
-ARKANSAS LOUISIANA GAS CO			RECEIVED:	01/07/82	JA: TX				
8213747	F-C6-029223	4231530535	103			CROMER (SHALLOW GAS) #2	RODESSA (CHARGED)	40.0	ARKANSAS LOUISIAN
-ATKINSON & FRASER			RECEIVED:	01/07/82	JA: TX				
8213930	F-7B-042603	4213332724	103			R B WEDDINGTON A #1	LEE RAY (LAKE)	32.0	LONE STAR GAS CO
-AUSTEX ENERGY CO INC			RECEIVED:	01/07/82	JA: TX				
8213928	F-7B-042553	4236332742	102-4			HAROLD SLEMMONS A #1-A (95817)	WILLIE MAE (3RD CONGL	145.0	SOUTHWESTERN GAS
8213919	F-7B-042270	4236332740	102-4			MALLORY #1	WILDCAT	410.0	SOUTHWESTERN GAS
-BAKER BIRDWELL & T A WALKER			RECEIVED:	01/07/82	JA: TX				
8213740	F-03-023037	4203931515	102-4			GERTRUDE LEIDER #1	MANVEL (LISSIE 11000)	146.0	HOUSTON PIPELINE
-BLOCKER EXPLORATION CO			RECEIVED:	01/07/82	JA: TX				
8213789	F-04-035382	4247932134	102-2			JOHN R BLOCKER 1045-3 (80268)	BLOCKER RANCH (OLMOS	0.5	HOUSTON PIPELINE
8213788	F-04-035381	4247900000	102-2			JOHN R BLOCKER 1843-1 (ID# 79891)	BLOCKER RANCH(OLMOS N	0.2	HOUSTON PIPELINE
-BTA OIL PRODUCERS			RECEIVED:	01/07/82	JA: TX				
8213794	F-09-033996	4237133293	103	107-TF		8004 JV-P GRANDE #2	PECOS GRANDE (WOLFCAM	1800.0	LONE STAR GAS CO
-C L GAGE JR			RECEIVED:	01/07/82	JA: TX				
8213752	F-7B-030285	4236700000	103			ROBERT RIGGS 2-A	GARNER NW (4400)	270.5	NATURAL GAS PIPEL
-CAROLINA GROUP INC			RECEIVED:	01/07/82	JA: TX				
8213766	F-7B-031715	4214330486	108			SIMMS #1	LUSBY (MARBLE FALLS)	21.0	NORTHERN GAS PROD
-CARTER EXPLORATION CO			RECEIVED:	01/07/82	JA: TX				
8213799	F-02-036578	4223931543	102-4			WEARDEN CORP #1	WEARDEN (VICKSBURG 53	200.0	TRANSCONTINENTAL
-CHAMPLIN EXPLORATION INC			RECEIVED:	01/07/82	JA: TX				
8213751	F-03-030180	4205130871	103			STEGMUELLER #7	GIDDINGS (AUSTIN CHAL	300.0	CLAJON GAS CO
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	01/07/82	JA: TX				
8213764	F-03-031579	4205131059	102-2	103		ALBERT SCHULTZ #1	GIDDINGS	171.9	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213840	F-03-039044	4205100000		102-2	103	ANTON KENSEK #1	GIDDINGS	0.0	FERGUSON CROSSING
8213769	F-03-031898	4205130987		102-2	103	BENNIE SUPAK #1	GIDDINGS	235.0	FERGUSON CROSSING
8213803	F-06-037169	4236500000		103	107-TF	CARTHAGE GAS UNIT 15 #5	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8213785	F-06-035016	4236531230		103	107-TF	CARTHAGE GAS UNIT 35 #2	CARTHAGE (COTTON VALL	766.5	TEXAS GAS TRANSMI
8213784	F-03-035015	4205100000		102-2	103	DOROTHY STECK #1	GIDDINGS	0.0	FERGUSON CROSSING
8213759	F-03-030774	4205100000		102-2	103	ELIZABETH LUSKA #1	GIDDINGS	0.0	FERGUSON CROSSING
*8213842	F-04-039218	4235531802		102-4	103	G P WARDNER #157	STRATTON (G-29 RES 2)	682.5	TENNESSEE GAS PIP
8213853	F-08-040315	4243133994		103		I W TERRY #10	CONGER SW	162.0	NORTHERN NATURAL
8213991	F-08-043213	4243131041		103		I W TERRY #12	CONGER SW (PENN)	60.0	NORTHERN NATURAL
8213883	F-03-041427	4205100000		102-2	103	JENKINS GARRETT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8213871	F-03-040834	4205131798		102-2	103	JUNELL BRINKMAN A #1	GIDDINGS (AUSTIN CHAL	264.0	FERGUSON CROSSING
8213765	F-03-031669	4205131032		102-2	103	LENWOOD WALLACE #1	GIDDINGS	188.0	FERGUSON CROSSING
8213737	F-06-030248	4220330569		102-3	103	LETOURNEAU #2	T A THOMPSON SURVEY	282.0	HYDROCARBON TRANS
-CHEVRON U S A INC				RECEIVED:	01/07/82	JA: TX			
8213891	F-08-041606	4200332663		103		COLUMBUS GRAY 19 #22	FUHRMAN MASCHO	236.0	PHILLIPS PETROLEU
8213896	F-08-041698	4200332502		103		COLUMBUS GRAY 21 #20	FUHRMAN MASCHO	44.0	PHILLIPS PETROLEU
8213895	F-08-041697	4200332682		153		COLUMBUS GRAY 21 #23	FUHRMAN MASCHO	56.0	PHILLIPS PETROLEU
8213890	F-08-041604	4200332501		103		COLUMBUS GRAY 22 #18	FUHRMAN MASCHO	104.0	PHILLIPS PETROLEU
8213885	F-08-041448	4200332500		103		COLUMBUS GRAY 22 #19	FUHRMAN MASCHO	228.0	PHILLIPS PETROLEU
8213881	F-09-041214	4218130775		103		W A DARTER 3 #4	SHERMAN (DAVIS B400)	548.0	LONE STAR GAS CO
8213882	F-09-041228	4218130775		103		W A DARTER 3 #4	SHERMAN (7500 SAND)	19.0	LONE STAR GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	01/07/82	JA: TX			
8213859	F-06-040426	4234730507		102-4		DELONEY A #1	APPLEBY NORTH (TRAVIS	351.0	
-CLAYTON W WILLIAMS JR				RECEIVED:	01/07/82	JA: TX			
8213835	F-03-038697	4205100000		102-2		LOIS GRAHAM A-2	GIDDINGS	0.0	VALERO TRANSMISSI
-CLYDE HOUSTON				RECEIVED:	01/07/82	JA: TX			
8213951	F-78-042769	4213333195		103		MAC #1	FOSTER (MARBLE FALLS)	42.0	ODESSA NATURAL CO
8213952	F-78-042770	4213332933		103		WALKER #1	FOSTER (MARBLE FALLS)	28.0	ODESSA NATURAL CO
-CONOCO INC				RECEIVED:	01/07/82	JA: TX			
8213753	F-10-030607	4206500000		108		BURNETT #33A	WEST PANHANDLE	19.0	CITIES SERVICE GA
8213754	F-10-030608	4206500000		108		BURNETT #51A	WEST PANHANDLE	11.0	CITIES SERVICE GA
8213755	F-10-030609	4206500000		108		BURNETT #52A	WEST PANHANDLE	21.0	CITIES SERVICE GA
8213756	F-10-030616	4206500000		108		H T DEAHL #1	WEST PANHANDLE	3.0	CITIES SERVICE GA
8213757	F-10-030624	4206500000		108		WHITE DEER INV CO #1	WEST PANHANDLE	7.0	CITIES SERVICE GA
-CORDOVA RESOURCES INC				RECEIVED:	01/07/82	JA: TX			
8213962	F-78-042934	4213332544		103		BONNIE BROOKS #4	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
8213963	F-78-042935	4213300000		108	103	SHIRLEY #1	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
8213965	F-78-042952	4213300000		108		UNDERWOOD HEIRS #1	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	01/07/82	JA: TX			
8213901	F-04-041807	4242731563		102-4		F B GUERRA	LA REFORMA W (5580')	0.0	TENNESSEE GAS PIP
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213850	F-10-040072	4229530965		103		KEMP A-2	FRASS (MORROW UPPER)	450.0	
-CPC EXPLORATION INC				RECEIVED:	01/07/82	JA: TX			
8213997	F-03-043226	4205131782		102-4		A G MCNEESE #3 12625	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213993	F-03-043222	4205131633		102-4		GEORGE CROOM #2 LEASE NO 12543	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213996	F-03-043225	4205130433		102-4		GEORGE H CROOM #1 LEASE NO 12543	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213995	F-03-043224	4205131207		102-4		LEGGIO UNIT LEASE NO 13810	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213994	F-03-043223	4205131025		102-2		MATCEK A LEASE NO 13585	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213972	F-03-043016	4214931159		102-2		PETERS HAMFF UNIT #1 LEASE NO 14070	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
8213992	F-03-043220	4205131551		102-4		RATCLIFFE #2 LEASE NO 12046	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213998	F-03-043227	4205113751		102-4		T D RATCLIFFE #3 LEASE NO 12046	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
8213945	F-03-042683	4214930732		102-2		TAYLOR LEASE NO	GIDDINGS (BUDA)	100.0	PHILLIPS PETROLEU
8213946	F-03-042687	4214930953		102-2		TAYLOR-MITSCHKE LEASE NO 13999	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CRAIN OIL CO				RECEIVED:	01/07/82	JA: TX			
8213880	F-7C-041182	4210500000		103		UNIVERSITY 18	FARMER (SAN ANDRES)	0.0	
8213879	F-7C-041181	4210532607		103		UNIVERSITY 23 #3	FARMER (SAN ANDRES)	0.0	
8213878	F-7C-041180	4210500000		103		UNIVERSITY 3N	FARMER (SAN ANDRES)	0.0	
-CRB OIL & GAS INC				RECEIVED:	01/07/82	JA: TX			
8213860	F-03-040449	4214931066		102-2		CLARA #1	GIDDINGS (AUSTIN CHAL	182.0	PHILLIPS PETROLEU
8213868	F-01-043639	4250731468		102-4		LEE RANCH #5	LEE RANCH (SAN MIGUEL	110.0	NORTHERN NATURAL
-DAMSON OIL CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213924	F-02-042432	4223931601		102-4		CLARENCE MULLER #1	WILDCAT	550.0	VALERO GAS TRANSM
8213857	F-02-040369	4225530619		102-4		GREEN GAS UNIT #3	MCCASKILL	16.3	VALERO TRANSMISSI
8213858	F-02-040382	4225530249		102-4		T E GREEN #1	MCCASKILL NE (REKLAW)	82.8	VALERO TRANSMISSI
-DAWSON OPERATING CO INC				RECEIVED:	01/07/82	JA: TX			
8213808	F-78-037693	4236332588		103		PADGETT #1	PALO PINTO CO REG (GA	146.0	SOUTHWESTERN GAS
-DEEP RIVER GAS & OIL EXPL CO INC				RECEIVED:	01/07/82	JA: TX			
8213953	F-78-042772	4236731276		103		WHITE #1 (80577)	WORLEY (STRAWN)	72.0	ENERGY PIPELINE C
-DELTA DRILLING CO				RECEIVED:	01/07/82	JA: TX			
8213855	F-06-040359	4236500000		108		ROSA JONES #1 81009	CARTHAGE (CV)	0.0	TEXAS GAS TRANSMI
-DELTA OIL & GAS CO				RECEIVED:	01/07/82	JA: TX			
8213925	F-78-042433	4242932809		103		JOE ROGERS A	CADDO NORTH (DUFFER)	0.0	LONE STAR GAS CO
8213893	F-78-041665	4242900000		108		JR CODDY 1 U 1L	PIT-ROM (CONGL ZONE A	4.5	LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213886	F-78-041449	4236332587		103		CITY OF GORDON #1	RINGO	33.0	
8213887	F-10-041480	4229530931		103		JAMES ROLAND WHEAT #2-455	LIPSCOMB	486.0	
-DISCOVERY OPERATING INC				RECEIVED:	01/07/82	JA: TX			
8213828	F-7C-038465	4241330731		102-4	103	BEARCE A #1	JKT (CANYON)	54.7	NORTHERN NATURAL
-DORCHESTER EXPLORATION INC				RECEIVED:	01/07/82	JA: TX			
8213909	F-08-041948	4243130905		103		REYNOLDS 3A #1	CONGER (PENN)	2930.0	ESPERANZA PIPELIN
-DOYLE W CLAWSON JR				RECEIVED:	01/07/82	JA: TX			
8213904	F-78-041839	4205933065		103		CHARLES H FOSTER #1	FREDDA (DUFFER LIME)	230.0	SOUTHWESTERN GAS
-EDWIN L COX				RECEIVED:	01/07/82	JA: TX			
8213979	F-02-043128	4212300000		103		ANGERSTEIN #4	S COTTONWOOD CREEK	54.5	LONE STAR GAS CO
8213980	F-02-043129	4212331080		103		BUEHRIG #6	S COTTONWOOD CREEK	17.4	LONE STAR GAS CO
8213978	F-02-043127	4212331081		103		BUEHRIG #7	S COTTONWOOD CREEK	6.6	LONE STAR GAS CO
-EDWIN L & BERRY R COX				RECEIVED:	01/07/82	JA: TX			
8213932	F-03-042606	4232131110		103		COX-DANDY #1	WILDCAT S W LUCKY	547.0	
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/07/82	JA: TX			
8213739	F-7C-28719	4243519201		108-ER		DAVIS F #1	SONORA CANYON UPPER	21.0	EL PASO NATURAL G
8213728	F-7C-028980	4243530702		108-ER		DEBERRY A #8	SONORA CANYON UPPER G	15.0	EL PASO NATURAL G
8213744	F-10-025898	4217923755		108-ER		VAN SANT #1	PANHANDLE WEST - BROW	27.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	01/07/82	JA: TX			
8213936	F-7C-042635	4246131775		102-4		ROSA H BARNETT F #3	AMACKER-TIPPETT SW (W	46.8	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	01/07/82	JA: TX			
8213787	F-05-035359	4216130143		107-TF		C C THOMPSON #1	FREESTONE	224.0	TEXAS UTILITIES F
-ESPERANZA ENERGY CORP				RECEIVED:	01/07/82	JA: TX			
8213811	F-78-037707	4235330998		103		JORDAN #6	WHITE (GARDNER)	4.5	ESPERANZA PIPELIN
-EXCELSIOR OIL CORP				RECEIVED:	01/07/82	JA: TX			
8213914	F-06-042117	4245900083		103	107-TF	J R GUNN #1	ROSEWOOD (COTTON VALL	127.0	WESTERN GAS CORP
-EXXON CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213923	F-08-042392	4249531337		103		BROWN-ALTMAN B #19	EMPEROR EAST (CLEAR F	15.0	PIONEER NATURAL G
8213894	F-7C-041674	4239931551		108		FT CHADBOURNE ODOM LIME UNIT #2810	FORT CHADBOURNE	5.8	EL PASO NATURAL G
8213776	F-10-033797	4219530739		103		HANSFORD GAS UNIT #18 #2L	HANSFORD (MORROW LOWE	306.0	NORTHERN NATURAL
8213854	F-10-040321	4219530798		103		OIL DEVELOPMENT CO OF TX #5	HANSFORD (MARMATON)	11.0	NORTHERN NATURAL
-FABADAU ENERGY CORP				RECEIVED:	01/07/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213954	F-09-042775	4223733495		103		BRADSHAW-HOLT-MARTIN UNIT(2)	CRAFTON WEST (CONGL)	0.0	CITIES SERVICE OI
-FELDERHOFF PRODUCTION CO				RECEIVED:	01/07/82	JA: TX			
8213873	F-09-041345	4233731175		103		J E ELROD #1 (19316)	SUNSET (CONGLOMERATE)	38.0	CITIES SERVICE
-FRANKS PETROLEUM INC ETAL				RECEIVED:	01/07/82	JA: TX			
8213792	F-06-035849	4236531092		103		J D MIMS #1	PAXTON (HILL)	274.0	UNITED GAS PIPELI
8213913	F-06-042133	4241903000		103		MAJORS #1	PAXTON	26.0	UNITED GAS PIPE L
-GALAXY OIL COMPANY				RECEIVED:	01/07/82	JA: TX			
8213981	F-03-043149	4204130622		102-2		THOMPSON SPRINGFIELD #1	BRYAN (AUSTIN CHALK)	182.0	PRODUCERS GAS CO
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	01/07/82	JA: TX			
8213915	F-06-042152	4242330486		103		KINSEY #2	CHAPEL HILL NE (TRAVI	47.5	ETEXAS PRODUCERS
-GHR ENERGY CORP				RECEIVED:	01/07/82	JA: TX			
8213877	F-04-041179	4247932479		102-4	107-TF	LUNDELL #14	CART (LOBO)	5.0	VALERO TRANSMISSI
-GLENN COPE				RECEIVED:	01/07/82	JA: TX			
8213738	F-10-021590	4248300000		108-ER		C T PALMER #1	PANHANDLE EAST	12.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213912	F-08-042102	4237133337		107-DP		FIRST NATL BANK OF MIDLAND-TR I-D	ROJO CABALLOS-DEVONIA	710.0	
*8213829	F-01-038522	4201331174		103		HENDERSON ET AL GAS UNIT #2 #2	FASHING (EDWARDS LIME	350.0	NATURAL GAS PIPEL
-H-M OIL CO				RECEIVED:	01/07/82	JA: TX			
8213865	F-04-040615	4213352590		103		HERMINIA G ROGERS #2	THOMAS LOCKHART (HOCK	0.0	VALERO TRANSMISSI
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	01/07/82	JA: TX			
8213982	F-06-043160	4240130833		107-TF		PRICE GAS UNIT #1	OAKHILL (COTTON VALLE	374.0	HYDROCARBON TRANS
8213814	F-06-037864	4240131185		102-2	107-TF	ROMAN GAS UNIT #1 #2	OAKHILL N W (COTTON V	375.0	UNITED GAS PIPELI
-HIGH CHAPPARAL OIL CO				RECEIVED:	01/07/82	JA: TX			
8213938	F-03-042638	4247300000		102-4		COWAN-ZOLLMAN-HIGH CHAPPARAL #2	COROLLA (YEGUA 5883)	190.0	LONE STAR GAS CO
8213937	F-03-042637	4247330337		102-4		COWAN-ZOLLMAN-HIGH CHAPPARAL #4	COROLLA	297.0	LONE STAR GAS CO
-HNG OIL COMPANY				RECEIVED:	01/07/82	JA: TX			
8213966	F-10-042987	4221131260		103		SHELL FEE "53" #1	CANADIAN SE (DOUGLAS)	100.0	PALO DURO PIPELIN
-HULEN H LEMON				RECEIVED:	01/07/82	JA: TX			
8213927	F-7C-042444	4238300000		103		HUGHES EST #1	SPRABERRY (TREND AREA	28.1	EL PASO NATURAL G
-HUMBLE EXPLORATION CO INC				RECEIVED:	01/07/82	JA: TX			
8213843	F-03-039354	4228730927		102-2	103	ANGELA MARIA #1	GIDDINGS (AUSTIN CHAL	42.3	PHILLIPS PETROLEU
8213805	F-03-037577	4228703000		102-2	103	HERA #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8213839	F-03-038982	4214930957		102-2	103	ISIS #1	GIDDINGS (AUSTIN CHAL	167.9	PHILLIPS PETROLEU
-HUNLEY PETROLEUM CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213959	F-06-042846	4236531170		103		ROBERT WALTON UNIT #2	BETHANY (COTTON VALLE	0.0	TENNESSEE GAS PIP
8213960	F-06-042859	4236531075		103		SCOTT MCGEE UNIT #2-T	BETHANY (COTTON VALLE	186.0	TENNESSEE GAS PIP
-INDIAN WELLS OIL CO				RECEIVED:	01/07/82	JA: TX			
8213986	F-7C-043189	4223531765		102-2		BELLOWS 57 1	PROBANDT (CANYON)	109.5	NORTHERN NATURAL
8213867	F-7C-040623	4210533465		103	107-TF	ROBERTSON #6A-1	OZONA (CANYON SAND)	91.3	DELHI PIPELINE CO
8213985	F-7C-043188	4223531761		103		WINTERBOTHAM 29-3	BROOKS (CANYON K)	27.0	NORTHERN NATURAL
8213987	F-7C-043193	4223531717		103		WINTERBOTHAM 30 3	BROOKS (CANYON K)	127.0	NORTHERN NATURAL
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	01/07/82	JA: TX			
8213969	F-7C-043053	4210533358		103	107-TF	MEADOWS #2	OZONA (CANYON SAND)	275.0	PHILLIPS PETROLEU
-J E CONNER				RECEIVED:	01/07/82	JA: TX			
8213807	F-78-037679	4242932815		103		K STOKER "8" #2	STEPHENS COUNTY REGUL	21.0	WARREN PETROLEUM
-J F CORLEY & S C WOODS TRUSTEES				RECEIVED:	01/07/82	JA: TX			
8213796	F-03-036226	4248131497		108		W C LEVERIDGE AGENT UNIT #2	BERNARD EAST (7708')	0.0	TENNESSEE GAS PIP
-JAMES K ANDERSON INC				RECEIVED:	01/07/82	JA: TX			
8213939	F-7C-042647	4239932010		103		LISSO #1 RRC LEASE #09057	ENOCH JOHNSON (MORRIS	20.0	UNION TEXAS PETRO
-JOHN A TAYLOR				RECEIVED:	01/07/82	JA: TX			
8213823	F-10-038422	4221131316		103		NIX #1	GLAZIER N W (MORROW U	0.0	PHILLIPS PETROLEU
-KADANE OIL CO				RECEIVED:	01/07/82	JA: TX			
8213971	F-09-043011	4209700009		102-4		AMOCO BRATCHER UNIT #1	HANDY NW (K-3)	273.7	CCGP LTD

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KARL WEHMEYER & ASSOCIATES LTD				RECEIVED:	01/07/82	JA: TX			
8213973	F-02-043021	4229731643		108		JOSEPHINE MCCLELLAND #1	SUNRISE (QUEEN CITY)	10.0	TEXAS EASTERN TRA
8213918	F-02-042183	4229731842		108		JOSEPHINE MCCLELLAND #2	SUNRISE (QUEEN CITY)	12.0	TEXAS EASTERN TRA
8213917	F-02-042182	4229732018		108		JOSEPHINE MCCLELLAND #3	SUNRISE (QUEEN CITY)	8.0	TEXAS EASTERN TRA
-KEITH D GRAHAM				RECEIVED:	01/07/82	JA: TX			
8213989	F-03-043195	4214931134		102-2		RAY UNIT #1	GIDDINGS (AUSTIN CHAL	208.4	SOUTH CEN-TEX GAS
8213988	F-03-043194	4205131802		102-2		RIES "A" #1	GIDDINGS (AUSTIN CHAL	81.4	CHAMPLIN PETROLEU
-LA SALLE ENERGY CORP				RECEIVED:	01/07/82	JA: TX			
8213780	F-C1-034214	4217700009		102-2		REMSCHEL #1	PEACH TREE	79.1	TIPPERARY GATHERI
-LADD PETROLEUM CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213983	F-7B-043162	4236731818		103		L B WILSON #3-C	TOTO (CADDO CONGLOMER	83.0	LONE STAR GAS CO
-LEAR PETROLEUM CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213863	F-03-040582	4218530276		102-2		LEAR #1 MCDUFFIE	IOLA (SUBCLARKSVILLE)	720.0	PRODUCER'S GAS CO
-LIVELY ENERGY & DEVELOPMENT CORP				RECEIVED:	01/07/82	JA: TX			
8213795	F-01-036028	4243532496		103	107-TF	EPPS #3	HOLMAN RANCH N (PENN)	0.1	INTRATEX GAS CO
-LOCATOR SERVICE INC				RECEIVED:	01/07/82	JA: TX			
8213874	F-7B-041066	4209330865		102-4		L V PARKS A #1	DELEON N (STRAWN)	115.0	SOUTHWESTERN GAS
-LOGUE AND PATTERSON INC				RECEIVED:	01/07/82	JA: TX			
8213998	F-03-043200	4237330504		103		J T DABNEY #3	CAMP RUBY (YEGUA 3645	73.0	HOUSTON PIPE LINE
8213852	F-03-040291	4248100068		103		JOE E VITERA EST #1	MENEFEE	73.0	TRANSCONTINENTAL
-LONDON & WAGGONER				RECEIVED:	01/07/82	JA: TX			
8213816	F-09-038137	4249732075		103		YANCEY #2	BOONSVILLE (BCG)	128.0	SOUTHWESTERN GAS
-MARSHALL EXPLORATION INC				RECEIVED:	01/07/82	JA: TX			
8213976	F-06-043099	4236530842		108		J A HARRISON #1	BELLE BOWER (TRAVIS P	16.0	TENNESSEE GAS PIP
8213786	F-06-035311	4218330421		103		OUIDA GREEN #1-L	WILLOW SPRINGS (TRAVI	115.0	WESTERN GAS CORP
-MAY PETROLEUM INC				RECEIVED:	01/07/82	JA: TX			
8213933	F-10-042619	4219530771		102-4		PAZOUREEK A #1	SPEARMAN EAST (COUNCI	109.5	PHILLIPS PETROLEU
-MCCORMICK OPERATING CO				RECEIVED:	01/07/82	JA: TX			
8213892	F-06-041618	4240131200		102-2	107-TF	MALONEY GAS UNIT #3	OAK HILL (COTTON VALL	325.0	HYDROCARBON TRANS
8213856	F-03-040368	4220131128		102-4		SWEENEY EST #1	LANGHAM CREEK (YEGUA	55.0	TEXAS INC
-MCFARLANE OIL CO INC				RECEIVED:	01/07/82	JA: TX			
8213779	F-02-034075	4223931282		103		BERTHA BELL MCDOWELL #2 ID #N/A	GABRYSCH (5700)	200.0	UNITED GAS PIPELI
-MCKENZIE OPERATING CO INC				RECEIVED:	01/07/82	JA: TX			
8213800	F-7B-036642	4236300000		102-4		COLLINS #1-A	VAN DYKE (CISCO 600)	83.0	INTRASTATE GATHER
8213802	F-7B-037012	4236300000		102-4		EICHLER #1	MINERAL WELLS S (WHIT	274.0	INTRASTATE GATHER
-MCMAHON-BULLINGTON DRLG CO				RECEIVED:	01/07/82	JA: TX			
8213768	F-09-031865	4223700000		108		CRAFT #3 88979	NORTHRIDGE (ATOKA CON	11.0	TEXAS UTILITIES F
-MCMILLAN OPERATING CO				RECEIVED:	01/07/82	JA: TX			
8213932	F-7B-042368	4209330850		103		JOINER #1	MITTIE (MARBLE FALLS)	73.0	LONE STAR GAS CO
-MCMORAN PRODUCTION CO				RECEIVED:	01/07/82	JA: TX			
8213897	F-02-041719	4205731102		102-4		ST 663-L #3	SIX-SIXTY (4200')	921.0	MATAGORDA PIPE LI
8213846	F-04-039933	4270030021		102-4		STATE TRACT 1064-L N/2 #A-1	BLOCK 1064-L	795.0	VALLEY PIPE LINE
8213847	F-04-039934	4270030025		102-4		STATE TRACT 1064-L N/2 #A-2	BLOCK 1064-L	1825.0	VALLEY PIPE LINE
-MGF OIL CORP				RECEIVED:	01/07/82	JA: TX			
8213920	F-08-042348	4231732259		103		CLINE #1	SPRABERRY (TREND AREA	13.6	PHILLIPS PETROLEU
8213782	F-08-034673	4231732264		103		MCKASTLE #1	SPRAYBERRY (TREND ARE	0.3	PHILLIPS PETROLEU
8213900	F-08-041802	4243130985		103		SELLERS #1	TRIPLE M (WOLFCAMP LO	99.0	PHILLIPS PETROLEU
8213903	F-7C-041829	4238319660		103		UNIVERSITY 17-D #1	SPRABERRY (TREND AREA	104.0	J L DAVIS
8213902	F-7C-041821	4238331959		103		UNIVERSITY 8-A #1	SPRABERRY (TREND AREA	99.0	J L DAVIS
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213746	F-09-028668	4249731755		103		A S C C U #3-7	ALVORD SOUTH (CADDO C	0.0	
8213745	F-09-027660	4249731881		103		ALVORD (3000 STRAWN) UNIT #1-14	ALVORD (3000 STRAWN)	0.0	NATURAL GAS PIPEL
8213735	F-09-15851	4249730495		108-ER		ANNA RENSHAW #1 70920	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL

JD YD	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8213732	F-09-004968	4249700000		108-ER		ANNIE HAMILTON #4 37092	BOONSVILLE BEND CONG	19.8	NATURAL GAS PIPEL
8213961	F-09-042924	4249732121		103		BERNICE PEEK #3	BOONSVILLE (BEND CONG	64.8	NATURAL GAS PIPEL
8213812	F-09-037745	4249732043		103		C C ROBINSON #2	BOONSVILLE (BEND CONG	340.0	NATURAL GAS PIPEL
8213861	F-7C-040492	4210532956		103	107-TF	CHILDRESS 15 #2	KAMA (CANYON)	175.0	VALERO TRANSMISSI
8213828	F-03-038365	4214900000		102-2		GEBERT UNIT A #1	GIDDINGS (AUSTIN CHAL	25.0	SOUTH CEN-TEX
8213763	F-09-031196	4249731860		103		GEORGE ELSOM #3	BOONSVILLE (BEND CONG	320.0	NATURAL GAS PIPEL
8213844	F-09-039738	4249731993		103		GUNHILD-WEBER #2	BOONSVILLE (BEND CONG	300.0	NATURAL GAS PIPEL
8213813	F-03-037746	4214900000		102-2		HOLMES #1 13985	GIDDINGS (AUSTIN CHAL	9145.0	SOUTH CEN-TEX
8213761	F-09-030855	4249731876		103		J A NORWOOD #1	RHOME (CADDO)	200.0	NATURAL GAS PIPEL
8213730	F-09-004183	4249700000		108-ER		J D KARNES #5 28709	BOONSVILLE BEND CONG	1.7	NATURAL GAS PIPEL
8213734	F-09-012291	4249700000		108-ER		J DALY UNIT #1 #1 28616	BOONSVILLE BEND CONGL	10.0	LONE STAR GAS CO
8213736	F-09-019804	4249700000		108-ER		J S MONTFORD #1 40684	BRIDGEPORT (ATOKA CON	18.0	NATURAL GAS PIPEL
8213762	F-09-030859	4249731893		103		J T RICHARDSON #1	BOONSVILLE (BEND CONG	200.0	NATURAL GAS PIPEL
8213907	F-09-041914	4223733314		103		J W LOVING EST #8	JERMYN WEST (CADDO)	0.0	SOUTHWESTERN GAS
8213845	F-78-039743	4236332617		103		JOHN B WALDRUP #1	MEEKER (4400 CONGLOME	40.0	SOUTHWESTERN GAS
8213778	F-03-033984	4214900000		102-2		JOOST #1	GIDDINGS (AUSTIN CHAL	15.0	SOUTH CEN-TEX GAS
8213848	F-09-039979	4249732110		103		L C NABORS #2	BOONSVILLE (BEND CONG	500.0	NATURAL GAS PIPEL
8213773	F-09-032454	4249731833		103		L W HILL #2	BOONSVILLE (BEND CONG	700.0	NATURAL GAS PIPEL
8213741	F-09-023640	4249700000		108-ER		PAUL R DAY #1 28620	BOONESVILLE (BEN CONG	13.7	NATURAL GAS PIPEL
8213793	F-05-035956	4229330555		103	107-TF	R F JACKSON A-1	POKEY EAST (COTTON VA	300.0	SOUTHWESTERN GAS
8213729	F-09-004045	4249700000		108-ER		R M BOYER GAS UNIT #1 28573	BOONSVILLE BEND CONG	21.1	NATURAL GAS PIPEL
8213743	F-09-025295	4249700000		108-ER		R S DEERING #1 28625	BOONESVILLE (BEND CON	11.6	NATURAL GAS PIPEL
8213830	F-09-038583	4249700000		108		ROY M O'NEAL #1 28764	BOONSVILLE (BEND CONG	11.7	NATURAL GAS PIPEL
8213822	F-03-038367	4228700000		102-2		SCHAUTSCHICK UNIT A #1 14300	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
8213821	F-03-038366	4228730716		102-2		SORRELL UNIT A #1 13722	GIDDINGS (BUDA)	0.0	PGP GAS PRODUCTS
8213819	F-09-038361	4249700000		108		W C FULBRIGHT #1 38658	BOONSVILLE (BEND CONG	11.6	NATURAL GAS PIPEL
8213731	F09-004233	4249700000		108-ER		W MACKEY #1 34120	BOONSVILLE BEND CONG	1.8	NATURAL GAS PIPEL
-MR OIL CO				RECEIVED:	01/07/82	JA: TX			
8213940	F-08-042648	4247500000		108		AMERICAN NATIONAL LIFE INS CO #23	WARD-ESTES NORTH	0.4	CABOT CORP
8213941	F-08-042649	4247500000		108		AMERICAN NATIONAL LIFE INS CO #24	WARD-ESTES NORTH	0.4	CABOT CORP
8213942	F-08-042650	4247500000		108		AMERICAN NATIONAL LIFE INS CO #33	WARD-ESTES NORTH	0.4	CABOT CORP
8213943	F-08-042653	4247500000		108		AMERICAN NATIONAL LIFE INS CO #36	WARD-ESTES NORTH	0.4	CABOT CORP
8213944	F-08-042654	4247500000		108		AMERICAN NATIONAL LIFE INS CO #38	WARD-ESTES NORTH	0.4	CABOT CORP
-NELSON JANSSEN				RECEIVED:	01/07/82	JA: TX			
8213810	F-02-037706	4217500000		108		E LANDGREBE #1	WEESATCHE WEST (COOK	4.0	UNITED GAS PIPE L
-OUTLINE OIL CORP				RECEIVED:	01/07/82	JA: TX			
8213864	F-02-040594	4228500000		107-PE		ROBERTSON #1 72100	SPEAKS SOUTHWEST (120	40.0	HOUSTON PIPE LINE
-PAUL DE CLEVA				RECEIVED:	01/07/82	JA: TX			
8213837	F-78-038784	4209330761		103		NORTHCUTT #1	BEATTIE N (MARBLE FAL	10.0	SOUTHWESTERN GAS
8213838	F-78-038785	4209330814		103		WOODRUFF #1	BEATTIE N (MARBLE FAL	133.0	SOUTHWESTERN GAS
-PENNZOIL PRODUCING COMPANY				RECEIVED:	01/07/82	JA: TX			
8213968	F-04-042991	4235531742		103		IRENE WALTON #B-5-D	AGUA DULCE (8,200')	164.0	UNITED GAS PIPE L
8213967	F-04-042990	4235531742		103		IRENE WALTON #B-5-F	AGUA DULCE (7,550')	183.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213947	F-08-042706	4210332446		103		ATLANTIC STATE #5 L	SAND HILLS (TUBB)	10.0	WARREN PETROLEUM
8213948	F-08-042708	4210332446		103		ATLANTIC STATE #5 U	SAND HILLS (MC KNIGHT	20.0	WARREN PETROLEUM
8213934	F-08-042620	4210332429		103		J B TUBB ST #16 L	SAND HILLS (MC KNIGHT	50.0	EL PASO NATURAL G
8213935	F-08-042621	4210332429		103		J B TUBB ST #16 U	SAND HILLS (JUDKINS)	1000.0	WARREN PETROLEUM
8213841	F-08-039212	4210332441		103		JOHNSON STATE #2-L	SAND HILLS (TUBB)	28.0	WARREN PETROLEUM
8213733	F-01-007737	4231139580		102-4	103	RHODE LINDHOLM #1	JAKE HAMON	182.0	TENNESSEE GAS PIP
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/07/82	JA: TX			
8213772	F-08-032381	4210330642		108		BARNSLEY #4	SAND HILLS (MC/KNIGHT	23.5	DELHI GAS PIPELIN
8213950	F-08-042760	4249503432		108		CRUM #5	KEYSTONE (DEVONIAN)	19.3	SID RICHARDSON GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PIONEER PRODUCTION CORPORATION				RECEIVED:	01/07/82	JA: TX			
8213831	F-80-036509	4229530876		103		SCHULTZ "B" #2-961	MAMMOTH CREEK N (CLEV	0.0	TRANSWESTERN PIPE
-POLK & PATTON INC				RECEIVED:	01/07/82	JA: TX			
8213884	F-09-041437	4223732857		103		WOODS #1	JACK COUNTY REGULAR (	214.6	SOUTHWESTERN GAS
-QUINTANA PETROLEUM CORP				RECEIVED:	01/07/82	JA: TX			
8213818	F-02-038318	4239131309		103		MAUDE WILLIAMS A D-114-L	LAKE PASTURE (FT-730	19.0	UNITED TEXAS TRAN
-R H CO				RECEIVED:	01/07/82	JA: TX			
8213970	F-10-043009	4217930934		103		WORL #3 (ID#00504)	PANHANDLE GRAY	74.9	PHILLIPS PETROLEU
-RANDADO OIL & MINERALS INC				RECEIVED:	01/07/82	JA: TX			
8213834	F-01-038680	4216331957		103		O BREGON #1	PEARSALL (AUSTIN CHAL	7.5	T G P INC
8213832	F-01-038667	4216331935		103		O BREGON #2	PEARSALL (AUSTIN CHAL	14.6	T G P INC
-REYNOLDS DRILLING CO INC				RECEIVED:	01/07/82	JA: TX			
8213775	F-06-033275	4236531186		103	107-TF	BOISE-SOUTHERN #1	CARTHAGE-COTTON VALLE	0.0	UNITED GAS PIPE L
-RIDDLE OIL CO				RECEIVED:	01/07/82	JA: TX			
8213905	F-06-041870	4220330695		102-4		HENRY PITTS #1	LANSING NORTH (PETTIT	91.3	ARKANSAS LOUISIAN
8213906	F-06-041873	4220330695		103		HENRY PITTS #1	LANSING-NORTH (PETTIT	91.3	ARKANSAS LOUISIAN
-RK PETROLEUM CORP				RECEIVED:	01/07/82	JA: TX			
8213876	F-08-041149	4222732399		102-2	102-4	CLAY #1	KNOTT CEMETERY (PENN)	78.0	GETTY OIL CO
-ROME EXPLORATION CO INC				RECEIVED:	01/07/82	JA: TX			
8213749	F-01-030037	4250700000		102-4		PRYOR RANCH #1 E LA PRYOR-BRACERO	EAST LA PRYOR	91.3	VALERO TRANSMISSI
8213750	F-01-030038	4250700000		102-4		PRYOR RANCH #2	EAST LA PRYOR (DEL MO	91.3	VALERO TRANSMISSI
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	01/07/82	JA: TX			
8213898	F-04-041720	4250531350		102-4		MERCURIO MARTINEZ #1	LAS OVEJAS LOBO 6	500.0	
-SENTINEL PETROLEUM CORP				RECEIVED:	01/07/82	JA: TX			
8213926	F-78-042443	4213330681		108		STEPHAN 1 13634	FOSTER MARBLE FALLS	0.0	ODESSA NATURAL CO
-SIGMA EXPLORATION CORP				RECEIVED:	01/07/82	JA: TX			
8213955	F-10-042795	4217900000		107-PE		CROWELL # 1 23068	WEST PANHANDLE	24.0	CABOT CORP
8213956	F-10-042796	4217900000		107-PE		OLLINGER #1 23069	WEST PANHANDLE	4.0	CABOT CORP
-SOUTH BEND OIL & GAS INC				RECEIVED:	01/07/82	JA: TX			
8213767	F-09-031852	4250333449		103		H F BRIDGES #1 (NA)	YOUNG COUNTY REGULAR	529.0	SOUTHWESTERN GAS
-SOUTHFORK OIL CO				RECEIVED:	01/07/82	JA: TX			
8213790	F-03-035531	4206100000		102-2		T J ARHOPULOS #2	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	01/07/82	JA: TX			
8213974	F-08-043063	4243100000		103		FLINT EST #5	CONGER	5.0	VALERO TRANSMISSI
8213809	F-08-041777	4249500000		103		SUN JENKINS C #11	KEYSTONE	5.0	TRANSWESTERN PIPE
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	01/07/82	JA: TX			
8213957	F-08-042820	4213532966		103		EAST GOLDSMITH HOLT UNIT #2-2	GOLDSMITH EAST HOLT	4.0	PHILLIPS PETROLEU
8213827	F-06-038450	4236500000		108		J R KYLE #1	CARTHAGE	19.0	TEXAS GAS TRANSMI
8213774	F-02-032672	4246900000		108		MCFADDIN #5-22	MCFADDIN (1900)	24.0	TENNESSEE GAS PIP
8213748	F-06-029833	4236531125		103	107-TF	REED EST UNIT #1	CARTHAGE	55.0	UNITED GAS PIPE L
8213826	F-06-038449	4236500000		108		S J NEAL A #2-L	CARTHAGE	16.7	TENNESSEE GAS TRA
-SUPERIOR OIL CO				RECEIVED:	01/07/82	JA: TX			
8213872	F-03-040891	4206131753		102-2	103	I JUNEK #1	GIDDINGS (AUSTIN CHAL	8.8	
-T A D ENERGY				RECEIVED:	01/07/82	JA: TX			
8213889	F-09-041600	4236332467		103		C P CLAYTON #1	PERRIN SW (CONGL 4850	0.0	LONE STAR GAS CO
-TARTAN OIL & GAS				RECEIVED:	01/07/82	JA: TX			
8213836	F-03-038716	4208900000		103		KORENEK #1 (92096)	NADA (YEGUA 6400)	240.0	HOUSTON PIPELINE
-TENNECO OIL COMPANY				RECEIVED:	01/07/82	JA: TX			
8213771	F-08-032356	4230130264		107-DP		BRUNSON #37-1	BRUNSON RANCH	18.3	TENNESSEE GAS PIP
-TEX-STAR PETROLEUM				RECEIVED:	01/07/82	JA: TX			
8213758	F-7C-030631	4239931478		102-4		FULLER #1-T (08573)	HENSON (MISS)	14.0	UNION TEXAS PETRO
-TEXACO INC				RECEIVED:	01/07/82	JA: TX			
8213886	F-08-037663	4232938970		102-4		A A BRADFORD EST NCT-2 #1	BRADFORD RANCH (ATOKA	16.8	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8213999	F-08-043230	4210931505		103		CULBERSON "U" FEE #5
8213849	F-08-040009	4210931462		103		CULBERSON AA FEE #1
8213958	F-8A-042825	4221933124		103		IRA P DELOACHE #20
8213869	F-09-040641	4223733585		103		MARY I CAMPBELL #3
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	01/07/82	JA: TX
8213921	F-03-042364	4205131652		102-2		WILLIAM-TAYLOR #2
-TEXAS OIL & GAS CORP				RECEIVED:	01/07/82	JA: TX
8213833	F-04-038669	4226130462		102-4		ERCK #12
8213824	F-02-038425	4229732670		102-4		HILL H-1
8213870	F-06-040767	4240131202		102-4		JARRELL #1
8213851	F-8A-040240	4226930946		102-4		MASTERSON B #2
8213777	F-10-033609	4235700000		103		POLLARD A #1
8213804	F-04-037463	4226130624		103		STEWART B-4
8213797	F-03-036229	4207131125		102-4	103	U S STEEL #1
-TIPPERARY OIL AND GAS CORP				RECEIVED:	01/07/82	JA: TX
8213815	F-01-037944	4216331637		103		HURT ARTHUR A #1
-TOM BRIGHTMAN				RECEIVED:	01/07/82	JA: TX
8213931	F-09-042805	4258335051		103		WHITTENBURG A #21292
-TRANS CANADA ENTERPRISES OF TEXAS I				RECEIVED:	01/07/82	JA: TX
8213742	F-08-029195	4204730797		103		HOMER E KILBREATH #1
-TXO PRODUCTION CORP				RECEIVED:	01/07/82	JA: TX
8213783	F-04-034862	4213135139		102-4		BARRERA A-1 RRC ID #92366
8213801	F-02-036846	4228531534		103		HANCOCK H-2 RRC #93434
8213916	F-10-042174	4219530792		103		MCCLELLAN B #1
8213770	F-02-032178	4229732585		102-4		MCCLELLAND #16 RRC ID #92152
-UNION EXPLORATION				RECEIVED:	01/07/82	JA: TX
8213817	F-7B-038296	4205932902		102-4		I H PIPPIN A #2
-VALLEY ENERGY INC				RECEIVED:	01/07/82	JA: TX
8213760	F-02-030825	4223900000		103		M K SIMONS #4
-VALWOOD PRODUCTION CO				RECEIVED:	01/07/82	JA: TX
8213781	F-03-034634	4214930709		102-2		MARVIN BROWN #1
-VANDERBILT RESOURCES CORPORATION				RECEIVED:	01/07/82	JA: TX
8213905	F-01-041936	4217730936		102-4	103	DEBERRY #1
-W & W OIL CO				RECEIVED:	01/07/82	JA: TX
8213798	F-8A-036255	4216500800		103		CATHERINE LAWRENCE A #1
-WARRIOR MANAGEMENT CO				RECEIVED:	01/07/82	JA: TX
8213809	F-01-037702	4231131529		102-4		LINDHOLM #1
-WES-TEX DRILLING COMPANY				RECEIVED:	01/07/82	JA: TX
8213825	F-7B-038433	4235331019		103		COMPTON #4
-WHEELER OIL COMPANY				RECEIVED:	01/07/82	JA: TX
8213975	F-10-043065	4248330806		103		LUMMUS (915231) #1
-WINDSOR PRODUCING CO				RECEIVED:	01/07/82	JA: TX
8213791	F-03-035788	4205130531		102-2		KNOX #1
-6-BAR OPERATIONS INC				RECEIVED:	01/07/82	JA: TX
8213929	F-7B-042533	4204932453		102-4		CHAMBERS B #1
				-4		

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FIELD NAME	PROD	PURCHASER
FORD WEST (4100)	2.2	EL PASO NATURAL G
GERALDINE DELAWARE	1.8	
LEVELLAND	0.0	AMOCO PRODUCTION
NEWPORT S (BEND CONGL	292.0	CITIES SERVICE CO
GIDDINGS (AUSTIN CHAL	109.0	CLAJON GAS CO
MCGILL (8200')	0.0	TRANSCONTINENTAL
CORNELIA (3700')	0.0	DELHI GAS PIPELIN
MINDEN E (PETTIT)	0.0	
MASTERSON STRAWN (543	55.0	DELHI GAS PIPELIN
HANSFORD (MORROW UPPE	547.5	DELHI GAS PIPELIN
SANTA ROSA (10,700')	0.0	TEXAS EASTERN TRA
U S STEEL (VICKSBURG)	0.0	
PEARSALL (AUSTIN CHAL	1.7	T G P INC
YOUNG COUNTY REGULAR	3.0	SUN GAS TRANSMISS
LA GLORIA S (BATOT)	72.0	VALERO INTERSTATE
J R (5618')	0.0	VALERO TRANSMISSI
PROVIDENT CITY (WILCO	0.0	TEXAS EASTERN TRA
GRUVER NW (MORROW UPP	370.0	PANHANDLE EASTERN
OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
JULIE ANN (3240 CADDO	3000.0	LONE STAR GAS CO
TEXANA (5700)	146.0	HOUSTON PIPELINE
GIDDINGS (AUSTIN CHAL	0.0	SOUTH CEN-TEX GAS
PEACH CREEK (BUDA)	75.0	VALERO TRANSMISSI
CARM ANN (SAN ANDRES)	0.0	PHILLIPS PETROLEU
BARRANCA (SLICK)	1460.0	TEXAS EASTERN TRA
JMM (CANYON)	0.0	SUN OIL CO
EAST PANHANDLE	8.0	HIGH PLAINS NATUR
GIDDINGS (AUSTIN CHAL	109.5	PGP GAS PRODUCTS
WILDCAT	0.0	ODESSA NATURAL CO

OTHER PURCHASERS VOLUME NO 584

OTHER PURCHASERS VOLUME NO :58M

8213629 LONE STAR GAS CO
8213842 COLUMBIA GAS TRANS CORP

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
81-37519	OH	Bartle Oil & Gas	#1 Archwood Leasing	448	07-01-81	C:	103 & 107-TF Approved
81-40420	WV	Allegheny & Western	E. H. Carpenter #1	478	08-07-81	C:	107-DV approved; not 107-TF
82-04908	OK	Lee R. Eller	Hamil #1	547	12-09-81	C:	Applicant name; Well name
82-04917	OK	Lee R. Eller	Scott Pool #2	547	12-09-81	C:	Applicant name
82-04922	OK	Lee R. Eller	Scott Pool #1	547	12-09-81	C:	Applicant name
82-05318	TX	Texasgulf Inc.	Thompson J #1	548	12-09-81	C:	103 approved; 102 withdrawn
82-05921	TX	Geochemical Surveys Inc	Simmons Ranch #6	552	12-14-81	C:	103 & 107-TF approved
82-06114	NM	Mesa Petroleum	Comer #1	553	12-14-81	C:	102-2 & 107-TF approved
82-06116	NM	Yates Petroleum Corp	Cockleburr "RD"State #1	553	12-14-81	C:	102-2 & 107-TF approved
82-06381	NY	Appalachian Energy Inc	P. Carlson #2 A-E-117	554	12-14-81	C:	Well name
82-06428	OK	Louis Davis Oil Co.	Clark #1	554	12-14-81	C:	102-4 approved, not 103
82-06491	OH	Carlton Oil Corp	Butler #1	555	12-14-81	C:	107-DV approved; not 107-DP
82-06492	OH	Carlton Oil Corp	Hendricks #1	555	12-14-81	C:	107-DV approved; not 107-DP
82-06494	OH	Collins-McGregor Oper.	W. P. Haring #1	555	12-14-81	C:	107-TF approved; not 107-DP
82-06604	OH	L & M Petroleum Inc.	Wilbur Hoff #1	555	12-14-81	C:	107-DV approved; not 107-DP
82-06731	TX	Diamond Shamrock Corp	Kenner #1	556	12-22-81	C:	Well name
82-07049	WV	David A Freshwater	Pricy Sampson Lease	557	12-22-81	C:	108-ER approved
82-07322	MT	Midlands Gas Corp	2342-1	558	12-22-81	C:	108-ER approved
82-07323	MT	Midlands Gas Corp	3361 33-36-81	558	12-22-81	C:	108-ER approved
82-07365US(NM)		Mesa Petroleum	Foreman Federal #2	559	12-22-81	C:	102-2 & 107-TF approved
82-07398US(NM)		Southland Royalty Co	Nye #17	559	12-22-81	C:	Well name
82-07454	CO	Kansas-Neb. Nat Gas Co	Vincent #1-8	559	12-22-81	C:	108 approved, not 103
82-07868	AL	Enhanced Energy Resource	U.S. Pipe&Foundry 11-2 #2	562	12-29-81	C:	107-CS approved; not 107-TF
82-07869	AL	Enhanced Energy Resource	U.S. Pipe&Foundry 11-6 #3	562	12-29-81	C:	107-CS approved; not 107-TF
82-07870	AL	Enhanced Energy Resource	U.S. Pipe&Foundry 11-9 #5	562	12-29-81	C:	107-CS approved; not 107-TF
82-07871	AL	Enhanced Energy Resource	U.S. Pipe&Foundry 11-7 #4	562	12-29-81	C:	107-CS approved; not 107-TF
82-08154	OH	Bagley Land Improvement	Bagley Land Improvement #2	564	12-29-81	C:	103 approved; not 107-TF
82-08615	PA	Helen E. Sowers	Blose Gas Well #2	566	01-05-82	C:	107-PE approved; not 107-TF
82-08779	TX	Cassell Oil Co.	G. H. Creech #1	567	01-05-82	C:	103 approved; not 102
82-08893	TX	Champlin Petroleum	Mrs Eva M Jones #2-L	567	01-05-82	C:	103 approved; not 102
82-09104US(CO)		Mesa Petroleum	Eckley Federal 29 #33	568	01-05-82	C:	102-2 & 107-TF approved
82-09105US(CO)		Coseka Resources	Federal #2-34-4-101	568	01-05-82	C:	103 & 107-TF approved
82-09111	NM	Fred Pool Jr	Macho #1	568	01-05-82	C:	102-2 & 107-TF approved
82-09550	AR	Hannah Oil & Gas	Rattlesnake #1-C	570	01-05-82	C:	API #03-083-10051
82-09551	AR	Hannah Oil & Gas	Rattlesnake #1-T	570	01-05-82	C:	API #03-083-10051

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3664 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-C

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 5, 1982.

JD NO	J= DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
-AKERS AND FULTZ INC			RECEIVED:	01/07/82	JA: TX			
8214285	F-09-044524	4223733014	103		ROY CHERRYHOMES E 19091	MARINA MAG (CONGL)	13.7	CITIES SERVICE GA
8214365	F-09-044708	4223732383	103		ROY CHERRYHOMES F #1 18694	MARINA-MAG (CONGL)	10.4	CITIES SERVICE CO
8214156	F-09-044126	4223733755	103		ROY CHERRYHOMES F 95015	MARINA MAG (CONGL GAS	1080.0	CITIES SERVICE GA
-AMERADA HESS CORPORATION			RECEIVED:	01/07/82	JA: TX			
8214029	F-RR-043427	4216531943	103		SEMINOLE SAN ANDRES UNIT #1908	SEMINOLE SAN ANDRES	8.1	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO			RECEIVED:	01/07/82	JA: TX			
8214331	F-38-044619	4200332600	103		BLOCK 9 FUHRMAN MASCHO UNIT #107	FUHRMAN-MASCHO	10.6	PHILLIPS PETROLEU
8214333	F-39-044621	4200332509	103		BLOCK 9 FUHRMAN MASCHO UNIT #123	FUHRMAN-MASCHO	25.9	PHILLIPS PETROLEU
8214330	F-36-044618	4200332510	103		BLOCK 9 FUHRMAN MASCHO UNIT #130	FUHRMAN-MASCHO	17.2	PHILLIPS PETROLEU
8214334	F-38-044622	4200332776	103		BLOCK 9 FUHRMAN MASCHO UNIT #135	FUHRMAN-MASCHO	8.0	PHILLIPS PETROLEU
8214332	F-38-044620	4200332943	103		BLOCK 9FUHRMAN MASCHO UNIT #116	FUHRMAN-MASCHO	5.1	PHILLIPS PETROLEU
8214113	F-08-044010	4200332280	103		FRANK COWDEN R/A "A" #12	COWDEN NORTH	14.6	WESTAR TRANSMISSI
8214112	F-08-044008	4200332287	103		FRANK COWDEN R/A "D" #15	COWDEN NORTH	0.4	WESTAR TRANSMISSI
8214082	F-06-043762	4200330823	103	107-TF	FRANK DAVIS EST DEEP GAS UNIT #1	WOODLAWN/COTTON VALLE	270.0	EAST TEXAS INDUST
8214322	F-04-044600	4221531131	102-2		J J SWEENEY #7-L	ALAMO/7180/	912.5	CELANESE CORP
8214325	F-04-044609	4221531131	103		J J SWEENEY #7-U	DONNA/6850/	128.1	CELANESE CORP
8214324	F-04-044608	4235531605	103		JANE W BLUMBERG #10	AGUA DULCE/7850/	64.6	AMOCO GAS CO
8214066	F-04-043670	4235531714	103		JANE W BLUMBERG #12	AGUA DULCE/7850/	129.6	AMOCO GAS CO
8214323	F-04-044607	4235531604	103		JANE W BLUMBERG #9	AGUA DULCE/7850/	80.3	AMOCO GAS CO
8214067	F-02-043671	4239131214	103		M E O'CONNOR #51	M E O'CONNOR FIELD (P	51.1	LA ROSA CORP
8214065	F-03-043669	4220131060	102-4		MARSHALL BROTHERS TRUSTS C G U #1	TOMBALL S E (12250 FB	182.1	TENNESSE GAS PIPE
8214329	F-09-044617	4213533461	103		W F COWDEN "C" R/A "B" #30	ANDECTOR (ELLENBURGER	33.6	PHILLIPS PETROLEU
-ANDOVER OIL COMPANY			RECEIVED:	01/07/82	JA: TX			
8214048	F-03-043507	4219931251	103		ARCO #179	BEECH CREEK SW (Y9)	0.0	ARCO OIL & GAS CO
-ARCO OIL AND GAS COMPANY			RECEIVED:	01/07/82	JA: TX			
8214341	F-7C-044653	4223500026	108		W M NOELKE EST #37	SIXTY SEVEN/CANYON	11.5	NORTHERN NATURAL
8214340	F-7C044652	4223510262	108		W M NOELKE EST #39	SIXTY SEVEN/CANYON	5.3	NORTHERN NATURAL
8214339	F-7C-044651	4223510311	108		W M NOELKE EST #43	SIXTY SEVEN/CANYON	4.2	NORTHERN NATURAL
8214342	F-7C-044656	4223530006	108		W M NOELKE EST #45	SIXTY SEVEN/CANYON	5.9	NORTHERN NATURAL
-B E M ENERGY			RECEIVED:	01/07/82	JA: TX			
8214080	F-JR-041756	4249531411	103		JOHN SEALY - #6	WARD-ESTES NORTH	1.0	WARREN PETROLEUM
-B D K PRODUCTION CO INC			RECEIVED:	01/07/82	JA: TX			
8214064	F-02-043628	4228500000	102-4		W H BORCHERS WELL #1	KEMPER EAST	55.0	LONE STAR GAS CO
-BALL PRODUCING CO			RECEIVED:	01/07/82	JA: TX			
8214370	F-7C-044721	4236332754	102-4		HART 866 #2	MINERAL WELLS N (ELLE	170.0	LONE STAR GAS CO
-BAR-MAC & HOLLUB DRILLING CO			RECEIVED:	01/07/82	JA: TX			
8214271	F-03-044454	4205131878	102-4		MORTON #6 RRC LEASE 13152	INEZ JAMESON (NAVARRO	57.0	FERGUSON CROSSING
-BELCO PETROLEUM CORPORATION			RECEIVED:	01/07/82	JA: TX			
8214058	F-7C-043561	4210533238	103		UNIVERSITY 3-13	INGHAM QUEENS	0.0	EL PASO NATURAL G
-BLAKE HARMAN			RECEIVED:	01/07/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214203	F-09-044208	4223700000		108		FRICK STRICKLAND 1-C 31243	DARNER-HAMMON BEND CO	21.0	CITIES SERVICE CO
-BLUE RIDGE OIL & GAS EXPLOR INC				RECEIVED: 01/07/82 JA: TX					
8214185	F-7C-044175	4210533397		103	107-TF	BAGGETT #3	ADAMS-BAGGETT RANCH (	19.2	DETROIT-TEXAS GAS
8214184	F-7C-044174	4210533424		103	107-TF	BAGGETT #5	ADAMS-BAGGETT RANCH (	13.2	DETROIT-TEXAS GAS
-BOB T MILLER				RECEIVED: 01/07/82 JA: TX					
8214103	F-7B-043908	4242932911		103		HARRIS-HAWKINS A-1 17407	STEPHENS COUNTY REGUL	30.0	WARREN PETROLEUM
-BTA OIL PRODUCERS				RECEIVED: 01/07/82 JA: TX					
8214124	F-7C-044038	4238331803		103		JACKSON -B- #8	SPRABERRY (TREND AREA	35.0	EL PASO NATURAL G
8214061	F-08-043603	4213533683		103		RATLIFF #55	COWDEN NORTH	1.5	AMOCO PRODUCTION
-BURNS PETROLEUM				RECEIVED: 01/07/82 JA: TX					
8214357	F-03-044674	4214930894		103		CAIN "C" #4	GIDDINGS (BUDA)	72.0	PHILLIPS PETROLEU
8214266	F-03-044429	4214930893		103		CARN B #3	GIDDINGS (AUSTIN CHAL	96.0	PHILLIPS PETROLEU
8214269	F-09-044433	4200933790		103		MCGREGOR #75	VOGTSBERGER NORTH	110.0	CORONADO GATHERIN
-CABANA OIL CORP				RECEIVED: 01/07/82 JA: TX					
8214183	F-7C-044173	4241300000		102-4		BAUGH-SPENCE #10-1 ID#84394	JAN-JERRYE SE	0.0	PRODUCERS GAS CO
8214182	F-7C-044172	4241300000		102-4		BAUGH-SPENCE #15-1 ID#87048	JAN-JERRYE SE	0.0	INTRATEX GAS CO
8214188	F-7C-044178	4241300000		102-4		SPENCE EST #2 GAS ID#74786	JAN-JERRYE SE	0.0	PRODUCERS GAS CO
8214181	F-7C-044171	4241300000		102-4		SPENCE EST #3 ID#82108	JAN-JERRYE SE	0.0	PRODUCERS GAS CO
8214187	F-7C-044177	4241300000		102-4		SPENCE EST #4 ID#85615	JAN-JERRYE SE	0.0	PRODUCERS GAS CO
-CANYON CO				RECEIVED: 01/07/82 JA: TX					
8214275	F-7C-044469	4210533250		103	107-TF	HOOVER ESTATE 2-3B	AMERICAN (CANYON)	30.0	EL PASO NATURAL G
-CHAMPLIN EXPLORATION INC				RECEIVED: 01/07/82 JA: TX					
8214208	F-03-044226	4228730848		102-2		MARY BLACKBURN HARRELL #1	GIDDINGS (AUSTIN CHAL	216.0	CLAJON GAS CO
8214207	F-03-044222	4228730850		102-2		MARY BLACKBURN HARRELL #3 ID #93654	GIDDINGS (AUSTIN CHAL	216.0	CLAJON GAS CO
-CHEVRON U S A INC				RECEIVED: 01/07/82 JA: TX					
8214123	F-08-044035	4222732085		103		A M BELL #47	IATAN EAST (HOWARD)	10.9	GETTY OIL CO
8214138	F-08-044077	4222732342		103		A M BELL #5S	IATAN (SAN ANDRES)	2.0	GETTY OIL CO
8214137	F-08-044076	4222732348		103		A M BELL #6 S	IATAN (SAN ANDRES)	6.0	GETTY OIL CO
8214134	F-08-044073	4222732362		103		A M BELL #7 S	IATAN (SAN ANDRES)	12.0	GETTY OIL CO
8214121	F-08-044033	4222732804		103		G M DODGE #56	IATAN EAST (HOWARD)	14.2	GETTY OIL CO
8214140	F-08-044079	4222732082		103		G M DODGE #58	IATAN EAST (HOWARD)	2.5	GETTY OIL CO
8214196	F-8A-044196	4241531650		103		SACROC UNIT 139-3	KELLY-SNYDER	93.0	EL PASO NATURAL G
8214133	F-8A-044072	4241531934		103		SACROC UNIT 68-11	KELLY-SNYDER	26.0	EL PASO NATURAL G
8214136	F-08-044075	4238931096		103		TXL 17-39 #4	SABRE (DELAWARE)	43.8	CONTINENTAL OIL C
8214135	F-08-044074	4238931151		103		TXL 17-39 #5	SABRE (DELEWARE)	36.5	CONTINENTAL OIL C
8214139	F-08-044078	4222732102		103		W L FOSTER 1-60	IATAN EAST (HOWARD)	1.8	GETTY OIL CO
8214122	F-08-044034	4233531651		103		W L FOSTER 1-66	IATAN EAST (HOWARD)	2.5	GETTY OIL CO
-CIRCLE SEVEN PRODUCTION CO				RECEIVED: 01/07/82 JA: TX					
8214252	F-09-044377	4249731648		103		HOWARD UNIT #1 (LEASE NO 20059)	CHICO WEST	0.0	CITIES SERVICE CO
-CITIES SERVICE COMPANY				RECEIVED: 01/07/82 JA: TX					
8214254	F-10-044396	4206530893		103		DEAHL C #14	PANHANDLE CARSON COUN	9.7	CITIES SERVICE GA
8214002	F-03-043237	4214930657		102-2		KELLY C #1 (14496)	GIDDINGS (AUSTIN CHAL	10.7	FALCON GAS CO
-CLEMENTS ENERGY INC				RECEIVED: 01/07/82 JA: TX					
8214237	F-08-044308	4210332430		102-4		BALL #1	TROPORO EAST (WOLFCAM	129.6	NORTHERN NATURAL
-COASTAL OIL & GAS CORP				RECEIVED: 01/07/82 JA: TX					
8214224	F-10-044279	4237530844		103		MASTERSON "A" 8342P	PANHANDLE (RED CAVE)	7.0	COLORADO INTERSTA
8214225	F-10-044280	4237530870		103		MASTERSON "B" 8360P	PANHANDLE (RED CAVE)	6.0	COLORADO INTERSTA
-COCKRELL CORPORATION				RECEIVED: 01/07/82 JA: TX					
8214288	F-03-044539	4216730833		102-4		MARGENE WEST LLOYD #1	WEST (FRIO)	17.8	
-COKE OIL INC				RECEIVED: 01/07/82 JA: TX					
*8214022	F-7C-043378	4239930965		103		WALTER NIEHUES A #1A	MOTLEY NORTH (ODOM LI	27.7	LONE STAR GAS CO
-COLORADO INTERSTATE GAS CO				RECEIVED: 01/07/82 JA: TX					
8214075	F-10-043697	4237500000		108		MASTERSON J-2	PANHANDLE WEST (RED C	15.0	COLORADO INTERSTA

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JD NO	JA AT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214071	F-10-043693	4237500800		108		MASTERSON 16R	PANHANDLE WEST (RED C	0.0	COLORADO INTERSTA
8214072	F-10-043699	4237530041		108		MASTERSON 43R	PANHANDLE WEST (RED C	10.0	COLORADO INTERSTA
8214057	F-10-043552	4237500045		108		MASTERSON 47R	PANHANDLE WEST (RED C	28.0	COLORADO INTERSTA
8214075	F-10-043695	4237530075		108		MASTERSON 50R	PANHANDLE WEST (RED C	5.0	COLORADO INTERSTA
8214074	F-10-043696	4237500800		108		SNEED 2R	PANHANDLE WEST (RED C	0.0	COLORADO INTERSTA
-COLROD CO				RECEIVED:	01/07/82	JA: TX			
8214227	F-8A-044202	4207981434		103		W R COLEMAN #1 (83501)	BONANZA (SAN ANDRES)	9.0	WARREN PETROLEUM
-CONOCO INC				RECEIVED:	01/07/82	JA: TX			
8214209	F-8A-044229	4238900000		108		FORD GERALDINE UNIT #222 I D #21621	GERALDINE FORD	0.3	EL PASO NATURAL G
8214180	F-8B-044561	4215533735		103		GIST UNIT #134 I D #19373	FOSTER	2.9	ODESSA NATURAL CO
8214201	F-8B-044205	4231700033		108		BRISHAM & BREEMAN #17 I D #22261	SPRAYBERRY TREND	0.2	ADOBE OIL CO
8214200	F-8A-044204	4211500080		108		ODESSA DAVENPORT #1 ID#16213	ACKERLY	4.0	TEXACO
8214070	F-8A-043688	4213100000		108		ROBERT DRISCOLL #56	CONOCO-DRISCOLL (DRIS	0.2	TRANSCONTINENTAL
8214199	F-7B-044201	4243300003		108		W Z RUTHERFORD-C-#3 ID #15872	FRANKIRK	0.7	CITIES SERVICE CO
-CONVEST ENERGY CORP				RECEIVED:	01/07/82	JA: TX			
8214059	F-8A-043581	4226336758		102-2		WAYNE WILLIAMS #2-S	WILDCAT	0.0	EL PASO NATURAL G
8214060	F-8A-043582	4226330812		102-2		WAYNE WILLIAMS 3-S	POLLAN (STRAWN "C")	0.0	EL PASO NATURAL G
-COURSON OIL & GAS INC				RECEIVED:	01/07/82	JA: TX			
8214030	F-10-043490	4235700000		103		FIRST NATIONAL TRUST #3-571	ELLIS RANCH	128.0	TRANSWESTERN PIPE
-CROWN EXPLORATION CO				RECEIVED:	01/07/82	JA: TX			
8214111	F-7C-043973	4245100000		102-4		ROBERTSON #1	ALLEN HILL (STRAWN)	0.0	SEAGULL PIPELINE
-DAMERON PETROLEUM CORP				RECEIVED:	01/07/82	JA: TX			
8214046	F-7C-043493	4215532205		103	107-TF	LAURA HOOVER ESTATE #1-67	AMERICAN (CANYON)	10.0	EL PASO NATURAL G
8214104	F-7C-043938	4210533478		102-2		RAY DUNLAP-SEC 91 BLK 1 #1	AMERICAN (SPRABERRY B	144.0	EL PASO NATURAL G
-DANCO OIL & GAS				RECEIVED:	01/07/82	JA: TX			
8214086	F-10-043795	4236530949		103		MCCONNELL #5 (RRC#02982)	PANHANDLE CARSON COUN	2.0	GETTY OIL CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	01/07/82	JA: TX			
8214096	F-7B-043859	4236332731		103		CITY OF GORDON #2	RINGO	556.0	
-DIVERSE ENERGY INC				RECEIVED:	01/07/82	JA: TX			
8214195	F-7B-044190	4236732152		103		BENNETT #1	DIVERSE-BENNETT (GRAN	1086.0	EMPIRE PIPELINE C
-DORCHESTER EXPLORATION INC				RECEIVED:	01/07/82	JA: TX			
8214063	F-11-043617	4217731003		103		BRUBAKER #1	GONZALES (AUSTIN CHAL	36.5	
8214062	F-10-043615	4221131193		103		HOBART #1	HEMPHILL (GRANITE WAS	151.0	
-DR R B WILCHAR				RECEIVED:	01/07/82	JA: TX			
8214167	F-7B-043948	4242932784		102-4		M Q KENNEDY EST C #1	IVAN (DUFFER)	91.0	LONE STAR GAS CO
-EAGLE ENERGY				RECEIVED:	01/07/82	JA: TX			
8214065	F-7B-043251	4237133206		103		RADFORD #1 95355	FORT STOCKTON	72.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/07/82	JA: TX			
8214141	F-10-044083	4208726038		108		BRASHEARS #1	PANHANDLE EAST	24.0	EL PASO NATURAL G
8214126	F-7C-044041	4243519232		108		THOMSON E #1	SONORA CANYON UPPER	16.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	01/07/82	JA: TX			
8214222	F-7C-044271	4236332013		103		ROCKER B W #17	SPRABERRY (TREND AREA	5.0	EL PASO NATURAL G
8214220	F-7C-044269	4236336009		103		ROCKER B W #18	SPRABERRY (TREND AREA	4.5	EL PASO NATURAL G
8214221	F-7C-044270	4236332014		103		ROCKER B W #19	SPRABERRY (TREND AREA	5.0	EL PASO NATURAL G
8214223	F-7C-044272	4236332160		103		ROCKER B W #20	SPRABERRY (TREND AREA	2.9	EL PASO NATURAL G
8214044	F-7C-043491	4236331846		103		VESTER HUGHES #14	SPRABERRY (TREND AREA	18.9	EL PASO NATURAL G
8214045	F-7C-043492	4236331345		103		VESTER HUGHES #15	SPRABERRY (TREND AREA	7.2	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	01/07/82	JA: TX			
8214363	F-10-044695	4206530907		103		HENRY #1 (ID#04912)	PANHANDLE CARSON	160.0	GETTY OIL CO
-EXXON CORPORATION				RECEIVED:	01/07/82	JA: TX			
*8214303	F-34-044565	4213133979		102-4		A H BADGLEY 30D #88573	SEVEN SISTERS WEST (W	73.0	ARMCO STEEL CORP
*8214265	F-7B-044428	4240131851		102-2	107-TF	CHARLES HOLLAND GAS UNIT 1 #1	OAKHILL NW (COTTON VA	215.0	ARMCO STEEL CORP
8214146	F-10-044110	4237133476		103		FORT STOCKTON UNIT #1321	FORT STOCKTON (YATES	125.0	NUECES CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214147	F-08-044111	4237133477	103			FORT STOCKTON UNIT #1624	FORT STOCKTON (YATES	128.0	NUECES CO
8214148	F-08-044112	4237133494	103			FORT STOCKTON UNIT #822	FORT STOCKTON (YATES	1.0	NUECES CO
8214149	F-08-044113	4200332882	103			FULLERTON CLEARFORK UNIT #2119	FULLERTON	15.0	PHILLIPS PETROLEU
*8214047	F-08-043496	4200332834	103			FULLERTON CLEARFORK UNIT #2225	FULLERTON	15.0	PHILLIPS PETROLEU
*8214150	F-08-044114	4200332898	103			FULLERTON CLEARFORK UNIT #531	FULLERTON	15.0	PHILLIPS PETROLEU
8214099	F-08-043884	4200332783	103			FULLERTON CLEARFORK UNIT #619	FULLERTON	15.0	PHILLIPS PETROLEU
*8214087	F-04-043799	4227331542	102-4			K R BORREGOS 562 (95306)	BORREGOS (ZONE 7730'	300.0	ARMCO STEEL CORP
*8214153	F-04-044123	4227331569	103			K R MORGAN M-73 (05154)	BORREGOS WEST (SEG F	18.0	ARMCO STEEL CORP
*8214028	F-03-043417	4247330335	103			KATY GAS FIELD UNIT 1 W-50	KATY (WILCOX 10,200 S	912.0	ARMCO STEEL CORP
*8214003	F-04-043239	4224930935	103			KING RANCH SEELIGSON C-198-F 90404	SEELIGSON (ZONE 20-F-	76.0	ARMCO STEEL CORP
8214100	F-08-043888	4200332833	103			MEANS/SAN ANDRES/UNIT #2160	MEANS	15.0	PHILLIPS PETROLEU
8214145	F-08-044108	4200332778	103			MEANS/SAN ANDRES/UNIT #766	MEANS	15.0	PHILLIPS PETROLEU
*8214284	F-03-044512	4215731139	102-2			PECAN GROVE GAS UNIT 3 #1	PECAN GROVE (8000)	900.0	ARMCO STEEL CORP
8214143	F-10-044105	4239330846	103			R A FLOWERS #4	MENDOTA NW (DOUGLAS L	59.0	TRANSWESTERN PIPE
8214204	F-04-044214	4226130605	103			S K EAST B 38 (95613)	SARITA EAST (FRIO)	1460.0	NATURAL GAS PIPEL
*8214244	F-06-044334	4236531124	103	107-TF		S L HOLMES #3	CARTHAGE (COTTON VALL	100.0	ARMCO STEEL CORP
*8214155	F-04-044125	4226130593	103			SANTA FE RANCH-MULA PAST 29 95614	STILLMAN (SHALLOW)	220.0	ARMCO STEEL CORP
*8214154	F-04-044124	4226130629	103			SANTA FE RANCH-MULA PAST 33 94452	STILLMAN (SHALLOW)	400.0	ARMCO STEEL CORP
8214328	F-04-044616	4248930640	103			SAUZ RANCH MULATOS PAST 169 03366	WILLAMAR	9.0	NATURAL GAS PIPEL
8214144	F-08-044106	4216931474	103			TEXACO FEE D #4	FORD WEST (4100)	3.0	
-FLAG-REDFERN OIL CO			RECEIVED: 01/07/82 JA: TX						
8214229	F-08-044291	4237132633	102-4			MCDONALD #2-L #26425	PUTMAN (ELLENBURGER)	110.0	DELHI PIPELINE CO
8214228	F-08-044290	4237132632	103			MCDONALD STATE (124) #2	PUTMAN (WOLFCAMP)	235.0	DELHI PIPELINE CO
-FOREST OIL CORPORATION			RECEIVED: 01/07/82 JA: TX						
8214097	F-8A-043878	4211531489	103			SCHOOLER #2 (RRC ID 63104)	JO-MILL (SPRAYBERRY)	27.0	TEXACO INC
-FORTUNE PRODUCTION CO			RECEIVED: 01/07/82 JA: TX						
8214101	F-7C-043906	4223531822	103			CRAWFORD #3	BAKER RANCH (CANYON)	188.1	CRA INC
8214102	F-7C-043907	4223531777	103			MURPHEY 1221 #1	CAL SOUTH (CANYON)	31.8	CRA INC
8214142	F-7C-044098	4223531821	103			MURPHEY 1221 #2	CAL SOUTH (CANYON)	79.0	CRA INC
-FRAC INC			RECEIVED: 01/07/82 JA: TX						
8214335	F-08-044629	4200332802	103			THORNBERRY "4W" #2 #26747	FUHRMAN-MASCO	8.2	PHILLIPS PETROLEU
-FULLER PETROLEUM INC			RECEIVED: 01/07/82 JA: TX						
8214336	F-08-044632	4210332622	103			EDWARDS #1 RRC #26616	ARMER (GLORIETA)	28.1	WARREN PETROLEUM
-FURRY OPERATING ACCOUNT			RECEIVED: 01/07/82 JA: TX						
8214257	F-7B-044402	4204931894	103			EDWIN & LESTER SPELLMAN #1 (15460)	BROWN COUNTY REGULAR	14.0	ODESSA NATURAL CO
8214256	F-7B-044401	4204932373	103			F D WILLIAMS #2 (16381)	BROWN COUNTY REGULAR	47.0	ODESSA NATURAL CO
-GENERAL PRODUCTION CORP			RECEIVED: 01/07/82 JA: TX						
8214262	F-03-044419	4205131367	103			EUGENE ARLEDGE #1	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
8214261	F-03-044418	4205131716	103			HERBERT LEE DUDLEY UNIT 1 #1	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY			RECEIVED: 01/07/82 JA: TX						
8214108	F-08-043951	4230130237	107-DP			GLENN BRUNSON 12-26 #1	BRUNSON RANCH (PENN L	1825.0	INTRATEX GAS CO
-GILLRING OIL CO			RECEIVED: 01/07/82 JA: TX						
8214246	F-04-044341	4235500000	102-4			THOMAS DIX #10	AQUA DULCE (DIX 8600'	273.0	HOUSTON PIPE LINE
-GO OIL CORP			RECEIVED: 01/07/82 JA: TX						
8214358	F-7B-044676	4236731868	103			BAGWELL #1 (ID NO 93731)	POOLVILLE S W (BEND C	0.0	NATURAL GAS PIPEL
-GRAHAM-MICHAELIS CORP			RECEIVED: 01/07/82 JA: TX						
8214232	F-10-044296	4242100083	108			HILL #1	TEXAS HUGOTON	6.0	PHILLIPS PETROLEU
-GRAND BANKS ENERGY CO			RECEIVED: 01/07/82 JA: TX						
*8214068	F-7C-043674	4246131676	103			DAVIS "29" #1	DAVIS (WOLFCAMP)	36.0	MOBIL OIL CORP
-GRO-TEX			RECEIVED: 01/07/82 JA: TX						
8214226	F-7B-044281	4236332761	102-4			CARROLL #1	TOMERLIN (CONGL)	1038.0	SOUTHWESTERN GAS
-GULF OIL CORPORATION			RECEIVED: 01/07/82 JA: TX						
8214353	F-10-044667	4217900000	108			BARRETT "A" #1	PANHANDLE GRAY COUNTY	1.0	CITIES SERVICE CO

JD NO	JA UNT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214354	F-10-044668	4217900000		108		BARRETT "A" #2	PANHANDLE GRAY COUNTY	1.0	CITIES SERVICE CO
8214355	F-10-044669	4217900000		108		BARRETT "A" #3	PANHANDLE GRAY COUNTY	1.0	CITIES SERVICE CO
8214356	F-10-044670	4217900000		108		BARRETT "A" #4	PANHANDLE GRAY COUNTY	1.0	CITIES SERVICE CO
8214351	F-10-044665	4217900000		108		BARRETT "B" #10	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214352	F-10-044666	4217900000		108		BARRETT "B" #11	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214345	F-10-044659	4217900000		108		BARRETT "B" #3	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214346	F-10-044660	4217900000		108		BARRETT "B" #4	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214347	F-10-044661	4217900000		108		BARRETT "B" #5	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214348	F-10-044662	4217900000		108		BARRETT "B" #6	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214349	F-10-044663	4217900000		108		BARRETT "B" #8	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214350	F-10-044664	4217900000		108		BARRETT "B" #9	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214343	F-10-044657	4217900000		108		BARRETT B #1	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214344	F-10-044658	4217900000		108		BARRETT B #2	PANHANDLE GRAY COUNTY	0.3	CITIES SERVICE CO
8214131	F-08-044052	4222700000		103		P E LITTLE #1	KNOTT WEST (DEAN)	41.6	GETTY OIL CO
-HARRISON INTERESTS LTD				RECEIVED:		01/07/82 JA: TX			
8214058	F-7C-043880	4210533502		102-4	103	UNIVERSITY LAND 20-33 #24	HOUARDS CREEK (PENN)	0.0	INTRATEX GAS CO
-HENRY URBANCZYK				RECEIVED:		01/07/82 JA: TX			
8214009	F-10-043278	4217900000		108		BASS E CLAY (006600) #1	PANHANDLE GRAY COUNTY	15.0	PHILLIPS PETROLEU
8214008	F-10-043277	4217900000		108		BASS E CLAY (006600) #2	PANHANDLE GRAY COUNTY	15.0	PHILLIPS PETROLEU
8214007	F-10-043276	4217900000		108		BASS E CLAY (006600) #3	PANHANDLE GRAY COUNTY	15.0	PHILLIPS PETROLEU
-HILLIARD OIL & GAS INC				RECEIVED:		01/07/82 JA: TX			
8214269	F-06-043685	4206730351		103	107-TF	CAIN ESTATE #1	KILDARE (COTTON VALLE	486.0	TEXAS EASTERN TRA
8214264	F-06-044426	4206730356		103	107-TF	G B JOHNSON #2	KILDARE (COTTON VALLE	720.0	TEXAS EASTERN TRA
8214245	F-06-044339	4206730348		103	107-TF	HASKELL YOUNG #2	KILDARE (COTTON VALLE	558.0	TEXAS EASTERN TRA
-HLH PETROLEUM CORP				RECEIVED:		01/07/82 JA: TX			
8214337	F-78-044646	4225300000		102-4		C CULLERS & BAILEY "A" #2804 17035	CULLERS & BAILEY (CAN	14.0	PALO DURO PIPELIN
8214338	F-78-044647	4225331720		103		CLAUDE SMITH #21-1 (17443)	MODULE N W (CANYON SA	68.0	PALO DURO PIPELIN
-HNG OIL COMPANY				RECEIVED:		01/07/82 JA: TX			
8214250	F-04-044368	4235500000		108		CHAPMAN HEIRS A 792	CHAPMAN RANCH (7300)	37.2	HOUSTON PIPE LINE
8214006	F-7C-043250	4243532542		103	107-TF	GALBREATH 65 #4	SAWYER (CANYON)	298.0	INTRATEX GAS CO
8214084	F-04-043777	4247932908		103	107-TF	HIRSCH EST 1600 #1	JUANITA (LOBO)	193.0	HOUSTON PIPE LINE
8214076	F-7C-043706	4243532557		103	107-TF	KELLY 3 #1	SAWYER CANYON	162.0	INTRATEX GAS CO
8214249	F-7C-044367	4243500000		108		SAWYER "128" #2	SAWYER CANYON	49.9	INTRATEX GAS CO
8214095	F-7C-043858	4243532183		107-TF		SIMMONS 72 #2	SAWYER CANYON	41.5	INTRATEX GAS CO
-IKE LOVELADY INC				RECEIVED:		01/07/82 JA: TX			
8214327	F-7C-044614	4245130753		103		BEN E KEYES #1	SUSAN PEAK SOUTH (STR	54.7	ARCO OIL & GAS CO
-INDIAN WELLS OIL CO				RECEIVED:		01/07/82 JA: TX			
8214042	F-7C-043476	4223531694		103		HARRIS 80-2	PROSAUT (CANYON)	54.8	NORTHERN NATURAL
8214043	F-7C-043477	4210533463		103	107-TF	ROBERTSON #30-2	OZONA (CANYON SAND)	9.1	DELHI GAS PIPELIN
8214093	F-7C-043846	4241331841		103	107-TF	UNIVERSITY 24-1	UNIVERSITY 93 (CANYON	125.0	ORA INC
-INLAND OCEAN INC				RECEIVED:		01/07/82 JA: TX			
8214238	F-02-044310	4217500000		108		LOTTIE SHAPER (052882)	CABEZA CREEK SO	8.0	UNITED GAS PIPELI
-J & C ENERGY INC				RECEIVED:		01/07/82 JA: TX			
8214077	F-7C-043787	4239330910		102-4		ANN YOUNG #4	DELEON N (STRAWN)	108.0	SOUTHWESTERN GAS
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:		01/07/82 JA: TX			
8214013	F-7C-043343	4210533442		102-4		UNIVERSITY 29-33 #1	UNIVERSITY 29 (STRAWN	293.0	PHILLIPS PETROLEU
8214083	F-7C-043764	4210530472		108		W R BASSETT #1	OZONA (CANYON SAND)	127.0	EL PASO NATURAL G
-J M HUBER CORPORATION				RECEIVED:		01/07/82 JA: TX			
8214214	F-10-044257	4223500000		108		CHRISTIAN A #3	WEST PANHANDLE	20.0	PANHANDLE EASTERN
8214213	F-10-044255	4223500000		108		JAMIESON A #1	WEST PANHANDLE	18.0	PANHANDLE EASTERN
8214212	F-10-044254	4223500000		108		PREMIER A #4	WEST PANHANDLE	19.0	PANHANDLE EASTERN
-JEM PETROLEUM CORP				RECEIVED:		01/07/82 JA: TX			
8214255	F-7C-044408	4243500000		108		STITES #2-11	BRANCH NORTH (CANYON	8.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-JERRY E WYLIE OIL DRILLING COMPANY				RECEIVED:	01/07/82	JA: TX			
8214132	F-78-044364	4209330876		102-4		DEAN KIRK #1 (17080)	DUSTER NE (MARBLE FAL	54.0	LONE STAR GAS CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/07/82	JA: TX			
8214273	F-10-044467	4242100000		108		E E OLDAKER	TEXAS HUGOTON	18.0	PHILLIPS PETROLEU
8214274	F-10-044468	4235700000		108		ODELL A #1	PERRYTON WEST	14.0	NORTHERN NATURAL
-L & M OIL CO				RECEIVED:	01/07/82	JA: TX			
8214248	F-09-044351	4223733769		103		T T WATSON #2 (96164)	ALVORD (ATOKA CONGL)	100.0	CITIES SERVICE CO
-LEEDE OIL & GAS INC				RECEIVED:	01/07/82	JA: TX			
8214206	F-7C-044219	4210532767		103		UNIVERSITY (50) #16	FARMER (SAN ANDRES)	10.0	BIG LAKE GASOLINE
8214205	F-7C-044218	4210532765		103		UNIVERSITY "50" #14	FARMER (SAN ANDRES)	18.8	BIG LAKE GASOLINE
-LIVEOAK PRODUCTION CO				RECEIVED:	01/07/82	JA: TX			
8214186	F-78-043946	4208332126		102-4		A E RICHMOND "A" #1A	TRICKHAM (CROSSCUT LO	49.5	LONE STAR GAS CO
8214185	F-78-043945	4208332651		102-4		A FREEMAN #2	TRICKHAM (CROSSCUT LO	30.6	LONE STAR GAS CO
-MARALO INC				RECEIVED:	01/07/82	JA: TX			
8214304	F-08-044569	4200332893		103		DEERROCK A #7-S	SHAFTER LAKE (SAN AND	20.8	PHILLIPS PETROLEU
-MARIANAS OPERATING CO INC				RECEIVED:	01/07/82	JA: TX			
8214125	F-78-044039	4208332691		102-4		HORNE #2 (15808)	LITTLE LONGHORN (MORR	39.8	ODESSA NATURAL CO
-MARTIN OIL & GAS CO				RECEIVED:	01/07/82	JA: TX			
8214078	F-03-043717	4205100000		102-2		LIGHTSEY #3	CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
-MCCANN CORP				RECEIVED:	01/07/82	JA: TX			
8214027	F-08-043410	4222732071		103		MEADOR #1-37	VINCENT S (STRAWN)	0.0	GETTY OIL CO
-MINERAL DEVELOPMENT CO LTD				RECEIVED:	01/07/82	JA: TX			
8214296	F-08-044555	4237133163		103		MAGNOLIA "EE" #10 #26136	PECOS VALLEY HIGH GRA	0.2	NORTHERN NATURAL
8214295	F-08-044554	4237133318		103		MAGNOLIA "EE" #11 #26136	PECOS VALLEY HIGH GRA	8.3	NORTHERN NATURAL
8214294	F-08-044553	4237133209		103		MAGNOLIA "EE" #12 #26136	PECOS VALLEY HIGH GRA	0.2	NORTHERN NATURAL
8214293	F-08-044551	4237133305		103		MAGNOLIA "EE" #14 #26136	PECOS VALLEY HIGH GRA	21.9	NORTHERN NATURAL
8214292	F-08-044550	4237133296		103		MAGNOLIA "EE" #15 #26136	PECOS VALLEY HIGH GRA	25.5	NORTHERN NATURAL
8214291	F-08-044549	4237133312		103		MAGNOLIA "EE" #16 #26136	PECOS VALLEY HIGH GRA	21.9	NORTHERN NATURAL
8214299	F-08-044558	4237133155		103		MAGNOLIA "EE" #7 #26136	PECOS VALLEY HIGH GRA	25.5	NORTHERN NATURAL
8214298	F-08-044557	4237133260		103		MAGNOLIA "EE" #8 #26136	PECOS VALLEY HIGH GRA	0.2	NORTHERN NATURAL
8214297	F-08-044556	4237133317		103		MAGNOLIA "EE" #9 #26136	PECOS VALLEY HIGH GRA	23.7	NORTHERN NATURAL
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/07/82	JA: TX			
8214052	F-03-043526	4231300000		108		HENRIETTA STONE #1 31715	MADISONVL SUBCLARKSVL	9.7	LONE STAR GAS CO
8214014	F-09-043344	4223733540		102-4		J W LOVING EST #9-U	JERNYN WEST (CADDO)	61.8	SOUTHWESTERN GAS
8214015	F-09-043346	4249732185		103		J W SMITH #2	BOONSVILLE (BEND CONG	214.0	NATURAL GAS PIPEL
8214016	F-09-043347	4249732213		103		R B TAYLOR #3	BOONSVILLE (BEND CONG	205.8	NATURAL GAS PIPEL
8214053	F-09-043528	4223700000		108		RICHARDS 472 #2 66202	JACKSBORO (ATOKA CONG	8.2	SOUTHWESTERN GAS
8214055	F-09-043537	4249700000		108		SAM NIKER #2 31228	BOONSVILLE (BEND CONG	11.6	NATURAL GAS PIPEL
8214180	F-09-044165	4223733477		103		T H MIDDLEBROOK #1	JACK COUNTY REGULAR	142.8	
8214054	F-09-043531	4236700000		108		T R GARRETSON #2 84771	BOONSVILLE (BEND CONG	7.1	NATURAL GAS PIPEL
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	01/07/82	JA: TX			
8214109	F-10-043968	4234130715		103		E C BRITIAN #35	PANHANDLE MOORE COUNT	1.7	PANHANDLE EASTERN
8214219	F-8A-044267	4221933245		103		NORTH CENTRAL LEVELLAND UNIT #359	LEVELLAND	1.8	AMOCO PRODUCTION
8214290	F-10-044565	4206500000		108		SEIBER #1	PANHANDLE WEST	19.1	NORTHERN NATURAL
+8214287	F-08-044532	4247532384		103		STATE "A" #4	CAPRITO (DELAWARE MID	38.8	T LONE STAR GAS C
8214289	F-08-044544	4232930153		108		WALTON JUDKINS #1	AZALEA (DEVONIAN)	19.6	LONE STAR GAS CO
-MONSANTO COMPANY				RECEIVED:	01/07/82	JA: TX			
8214176	F-08-044161	4200332541		103		FISHER #10	SHAFTER LAKE (SAN AND	5.8	PHILLIPS PETROLEU
8214278	F-08-044441	4200332540		103		FISHER #11	SHAFTER LAKE (SAN AND	5.8	PHILLIPS PETROLEU
8214178	F-08-044163	4200332988		103		UNIVERSITY 14-18 #3	SHAFTER LAKE (SAN AND	9.8	PHILLIPS PETROLEU
8214177	F-08-044162	4200332744		103		UNIVERSITY 14-18 #8	SHAFTER LAKE (SAN AND	18.8	PHILLIPS PETROLEU
8214179	F-08-044164	4200332759		103		UNIVERSITY 14-25 #6	SHAFTER LAKE (SAN AND	16.8	PHILLIPS PETROLEU
-MORAN EXPLORATION INC				RECEIVED:	01/07/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214247	F-7C-044344	4223531648		103		ROCKER BR #4	SPRABERRY (TREND AREA	0.0	NORTHERN NATURAL
-MR OIL CO				RECEIVED:	01/07/82	JA: TX			
8214260	F-08-044406	4247532374		103		BENTLEY #2	PAYTON	5.0	
8214259	F-08-044405	4247532322		103		HAWKINS #6	PAYTON	12.0	
8214258	F-08-044404	4247532375		103		HAWKINS #7	PAYTON	65.0	
8214263	F-08-044422	4247532187		103		UNIVERSITY-A- #8	WARD-ESTES NORTH	26.0	CABOT CORP
-MUELLER ENGINEERING CORP				RECEIVED:	01/07/82	JA: TX			
8214211	F-04-044245	4213100000		108		J S BORDOVSKY - STATE OF TX #A-2	NEELY (BRUNI 1900')	3.0	NATURAL GAS PIPEL
-NORTH STAR PETROLEUM CORPORATION				RECEIVED:	01/07/82	JA: TX			
8214309	F-10-044581	4223300000		108		BIVINS #1-RC (27249)	PANHANDLE WEST (RED C	18.0	PHILLIPS PETROLEU
8214308	F-10-044580	4223300000		108		GARLAND #1-RC (27253)	PANHANDLE WEST (RED C	2.0	PHILLIPS PETROLEU
8214152	F-10-044121	4223300000		108		YAKE-B #1	PANHANDLE WEST (RED C	14.0	PANHANDLE PRODUCI
-OCEAN MINERALS INC				RECEIVED:	01/07/82	JA: TX			
8214031	F-7C-043452	4210532356		102-4		UNIVERSITY 24-29 #1	INGHAM (QUEEN)	54.0	SOUTHWESTERN GAS
8214049	F-7C-043508	4210532566		102-4		UNIVERSITY 24-29 #3	INGHAM (QUEEN)	73.0	SOUTHWESTERN GAS
8214032	F-7C-043453	4210532567		102-4		UNIVERSITY 24-29 #4	INGHAM (QUEEN)	73.0	SOUTHWESTERN GAS
8214050	F-7C-043509	4210532605		102-4		UNIVERSITY 24-29 #5	INGHAM (QUEEN)	73.0	SOUTHWESTERN GAS
8214033	F-7C-043454	4210532604		102-4		UNIVERSITY 25-29 #2	INGHAM (QUEEN)	73.0	SOUTHWESTERN GAS
8214051	F-7C-043510	4210532602		102-4		UNIVERSITY 25-29 #3	INGHAM (QUEEN)	73.0	SOUTHWESTERN GAS
-OTIS ENERGY INC				RECEIVED:	01/07/82	JA: TX			
8214278	F-7B-044479	4213332629		102-2		I N HART #2	EASTLAND COUNTY REGUL	182.5	ODESSA NATURAL GA
8214279	F-7B-044481	4213332628		102-2		I N HART #3	EASTLAND COUNTY REGUL	36.5	ODESSA NATURAL GA
8214277	F-7B-044476	4213332627		102-2		I N HART #4	EASTLAND COUNTY REGUL	182.5	ODESSA NATURAL GA
8214276	F-7B-044475	4213332859		102-2		I N HART #7	EASTLAND COUNTY REGUL	109.5	ODESSA NATURAL GA
8214280	F-7B-044482	4213332807		102-2		J S HART #6	EASTLAND COUNTY REGUL	18.3	ODESSA NATURAL GA
-P C BURNS OIL PRODUCERS				RECEIVED:	01/07/82	JA: TX			
8214151	F-09-044120	4207732003		103		W E SANDERS #2 20628	TALLY (STRAWN)	6.0	SANFORD P FAGADAU
-PARKER & PARSLEY INC				RECEIVED:	01/07/82	JA: TX			
8214215	F-08-044261	4232931021		103		BAKER A #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
8214216	F-08-044262	4232931017		103		CRAWFORD #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8214217	F-08-044263	4232931015		103		MUSIC #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
8214218	F-08-044264	4232931014		103		RAY #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PAUL E CAMERON JR INC				RECEIVED:	01/07/82	JA: TX			
8214010	F-03-043291	4218500006		102-4		B I COLE #1	IOLA EAST(GEORGETOWN)	380.0	MORGAS CO
-PETRO-LEWIS CORPORATION				RECEIVED:	01/07/82	JA: TX			
8214283	F-08-044493	4210332441		103		ATLANTIC STATE #4	SAND HILLS (MCKNIGHT)	160.0	WARREN PETROLEUM
8214253	F-08-044365	4210332436		103		ATLANTIC STATE #6	SAND HILLS (MCKNIGHT)	94.0	WARREN PETROLEUM
8214114	F-0a-047016	4237100000		107-DP		DEWITT PARKE #2	GOMEZ	1000.0	LONE STAR GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/07/82	JA: TX			
8214026	F-08-043405	4213520007		108		ALMA #13	TXL (DEVONIAN)	4.0	SHELL OIL CO
8214024	F-08-043403	4200310006		108		EMBAR B #32	GOLDSMITH N (SAN ANDR	22.0	EL PASO NATURAL G
8214025	F-08-043404	4213505823		108		GS ADOBE #38-01	GOLDSMITH (5600)	0.3	EL PASO NATURAL G
8214362	F-08-044694	4213520388		108		N PENWELL #133	PENWELL	2.0	EL PASO NATURAL G
8214361	F-08-044692	4213521113		108		N PENWELL #26	PENWELL	4.0	EL PASO NATURAL G
8214023	F-08-043402	4213520134		108		N PENWELL #83	PENWELL (SAN ANDRES)	7.6	EL PASO NATURAL G
-PNS CO				RECEIVED:	01/07/82	JA: TX			
8214017	F-02-043353	4217500000		102-4	103	O J FRIEDRICHS #1	WILHEN (FRIO 3300) FI	73.0	DELHI GAS PIPELIN
-POLK & PATTON INC				RECEIVED:	01/07/82	JA: TX			
8214301	F-7A-044562	4236332011		102-4		HARRY SIKES UNIT #13 ID-852553	KEECHI CREEK (CONGL 4	219.0	LONE STAR GAS CO
-QUANTUM RESOURCES CORP				RECEIVED:	01/07/82	JA: TX			
8214360	F-08-044687	4231732112		103		SCHARBAUER A-11	SPRAYBERRY (TREND ARE	36.5	ALPINE OIL CO
8214359	F-08-044685	4231732160		103		SCHARBAUER A-9	SPRAYBERRY (TREND ARE	36.5	ALPINE OIL CO
-R L BURNS CORP				RECEIVED:	01/07/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8214089	F-09-043806	4247931577		103		MIDDLETON #1
8214088	F-09-043801	4247931957		103		MIDDLETON "25" #1
-RALPH L WAY INC				RECEIVED:	01/07/82	JA: TX
8214186	F-7C-044176	4238332049		103		UNIVERSITY "10" #8
-REALITOS EXPLORATORY PROGRAM				RECEIVED:	01/07/82	JA: TX
8214344	F-02-044706	4246931594		102-4		BERTHA WILLEMIN TRACT 1 #1
-REO INDUSTRIES INC				RECEIVED:	01/07/82	JA: TX
8214232	F-10-044315	4223300003		103		WHITTENBURG 1-25
8214235	F-10-044306	4223300000		103		WHITTENBURG 2-1
8214241	F-10-044317	4223300000		103		WHITTENBURG 33-8
8214240	F-10-044316	4223300000		103		WHITTENBURG 5-24
8214236	F-10-044307	4223300000		103		WHITTENBURG 5-8
-S R G OIL CORP				RECEIVED:	01/07/82	JA: TX
8214079	F-7D-043752	4247731283		103		B J DAVIS #1 (17522)
-SABIO OIL & GAS INC				RECEIVED:	01/07/82	JA: TX
8214230	F-09-044294	4249700000		108		FANNIE M KNOX ID #28536
8214231	F-09-044295	4249700000		108		R H STONE ID #28543
-SAXON OIL COMPANY				RECEIVED:	01/07/82	JA: TX
8214281	F-7C-044489	4246131801		103		RATLIFF #1
8214041	F-7C-043470	4246131800		103		RATLIFF #2
-SEAGULL OPERATING CO INC				RECEIVED:	01/07/82	JA: TX
8214282	F-03-044490	4205131051		103		COFFIELD B-4 #1
-SECURITY PETROLEUM DRILLING INC				RECEIVED:	01/07/82	JA: TX
8214128	F-10-044049	4217930938		103		EVANS #6 04731
8214127	F-10-044048	4217930939		103		EVANS #7 04731
-SHELL OIL CO				RECEIVED:	01/07/82	JA: TX
8214115	F-8A-044019	4250131870		103		DENVER UNIT #6300
8214116	F-8A-044020	4216531878		103		DENVER UNIT #6435
8214117	F-8A-044021	4216532066		103		DENVER UNIT #6436
8214118	F-8A-044022	4216531874		103		DENVER UNIT #6734
8214119	F-8A-044023	4216532079		103		DENVER UNIT #6823
8214120	F-8A-044024	4216531877		103		DENVER UNIT #7432
-SIMPSON-MANN OIL PRODUCERS				RECEIVED:	01/07/82	JA: TX
8214367	F-7C-044715	4210533508		103	107-TF	DOROTHY FRIEND #10-1-F
8214369	F-7C-044717	4210533542		103	107-TF	J M BAGGETT JR "12" #12-159
8214368	F-7C-044716	4210533544		103	107-TF	J M BAGGETT JR "13" #13-164
-SIOUX NATURAL GAS CORP				RECEIVED:	01/07/82	JA: TX
8214321	F-7B-044598	4205932489		102-4		BARTON SCOTT #1
8214315	F-7B-044591	4205931846		102-4		R L GRIGGS #1
8214314	F-7B-044590	4205932490		102-4		R L GRIGGS #3
8214316	F-7B-044592	4205932823		102-4		R L GRIGGS #4
8214318	F-7B-044595	4205933308		102-4		R L GRIGGS #6
8214319	F-7B-044596	4205933305		102-4		R L GRIGGS #7
8214320	F-7B-044597	4205933225		102-4		R L GRIGGS #8
8214317	F-7B-044593	4205933214		102-4		R L GRIGGS #9
-SOUTHERN CRUDE OIL RESOURCES INC				RECEIVED:	01/07/82	JA: TX
8214094	F-7B-043854	4236732100		102-4		WILLIAMS #1
-SPARKMAN PRODUCING CO				RECEIVED:	01/07/82	JA: TX
8214129	F-09-044053	4221530996		102-4		R L HINOJOSA #1
-STAHL PETROLEUM CO				RECEIVED:	01/07/82	JA: TX
8214210	F-10-044239	4240300300		108		LUMMUS #1
-STROUBE EXPLORATION INC				RECEIVED:	01/07/82	JA: TX
8214157	F-7B-044127	4235331014		103		BROOKS #1 17299

FIELD NAME	PROD	PURCHASER
BOOTH RANCH (OLMOS)	0.0	LONE STAR GAS CO
SEGUNDO (OLMOS)	0.0	LONE STAR GAS CO
FARMER (SAN ANDRES)	7.9	NORTHERN NATURAL
COLETTO CREEK S (4865	45.0	TENNESSEE GAS PIP
PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
THROCKMORTON COUNTY R	40.0	CLEAR FORK GAS CO
BOONSVILLE (BEND CONG	16.5	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	14.0	NATURAL GAS PIPEL
SPRABERRY (TREND AREA	17.5	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	43.8	PHILLIPS PETROLEU
INEZ-JANISON (NAVARRO	72.0	FERGUSON CROSSING
PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
WASSON	0.4	SHELL OIL CO
WASSON	0.4	SHELL OIL CO
WASSON	6.4	SHELL OIL CO
WASSON	5.1	SHELL OIL CO
WASSON	0.7	SHELL OIL CO
WASSON	115.8	SHELL OIL CO
ADAMS-BAGGETT RANCH (	153.0	VALERO TRANSMISSI
ADAMS-BAGGETT RANCH (	177.3	VALERO TRANSMISSI
ADAMS-BAGGETT RANCH (	270.0	VALERO TRANSMISSI
MEXIA CREEK CONGLOMER	5.8	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	11.0	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	13.9	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	0.0	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	18.3	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	0.0	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	0.0	SIOUX PIPELINE CO
MEXIA CREEK CONGLOMER	0.0	SIOUX PIPELINE CO
LAKE MINERAL WELLS (2	0.0	SOUTHWESTERN GAS
LA REFORMA E	36.0	VALERO INTERSTATE
EAST PANHANDLE	0.0	WARREN PETROLEUM
MARYNEAL (CANYON)	10.8	PALO DURO PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214158	F-78-044128	4215131165		103		LAWLISS #2 17028	RAVEN CREEK (CANYON S	10.8	PALO DURO PIPELIN
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	01/07/82	JA: TX			
8214190	F-8A-044183	4250132137		103		BENNETT RANCH UNIT #330	WASSON	20.0	SHELL OIL CO
8214035	F-8A-043457	4250132135		103		BENNETT RANCH UNIT #331	WASSON	26.0	SHELL OIL CO
8214036	F-8A-043458	4221933079		103		CENTRAL LEVELLAND UT #160-A	LEVELLAND	5.8	AMOCO PRODUCTION
8214037	F-8A-043460	4221923683		103		CENTRAL LEVELLAND UT #250	LEVELLAND	10.2	AMOCO PRODUCTION
8214040	F-8A-043464	4221933084		103		CENTRAL LEVELLAND UT #251	LEVELLAND	15.0	AMOCO PRODUCTION
8214038	F-8A-043462	4221933082		103		CENTRAL LEVELLAND UT #252	LEVELLAND	3.7	AMOCO PRODUCTION
8214039	F-8A-043463	4221933097		103		CENTRAL LEVELLAND UT #253	LEVELLAND	6.0	AMOCO PRODUCTION
8214034	F-8A-043455	4221933081		103		CENTRAL LEVELLAND UT #254	LEVELLAND	7.0	AMOCO PRODUCTION
8214192	F-04-044185	4213100000		108		L WEIDERKEHR #95	GOVERNMENT WELLS (N W	12.0	TENNESSEE GAS PIP
8214189	F-04-044182	4224900000		108		SEELIGSON UNIT #1-89L	SEELIGSON (ZONE 16D)	7.0	TENNESSEE GAS PIP
8214191	F-8A-044184	4221933211		103		SOUTHEAST LEVELLAND UNIT #267	LEVELLAND	6.0	AMOCO PRODUCTION
-SUPERIOR OIL CO				RECEIVED:	01/07/82	JA: TX			
8214202	F-09-044207	4210931405		102-2	103	COVINGTON STATE #1	COV MORROW	0.0	
-TEXACO INC				RECEIVED:	01/07/82	JA: TX			
8214000	F-8A-043231	4221933225		103		BOB SLAUGHTER BLK #338	SLAUGHTER	0.0	AMOCO PRODUCTION
8214306	F-78-044578	4235331058		103		C W LAMKIN NCT-2 #2	WHITE (GARDNER)	2.6	CORONADO TRANSMIS
8214001	F-8A-043232	4221933123		103		IRA P DELOACHE #21	LEVELLAND	20.1	AMOCO PRODUCTION
8214302	F-08-044564	4237133333		107-DP		L H R GAS UNIT #2	GOMEZ (DEVONIAN)	1460.0	INTRATEX GAS CO
-TXO PRODUCTION CORP				RECEIVED:	01/07/82	JA: TX			
8214018	F-02-043365	4228500000		108		HANCOCK UNIT #3-1	PROVIDENT CITY (WILCO	0.0	TEXAS EASTERN TRA
-THE DOW CHEMICAL COMPANY				RECEIVED:	01/07/82	JA: TX			
8214092	F-01-043822	4212731743		103		BRISCOE RANCH #25	CATARINA SW (OLMOS)	5.0	VALERO TRANSMISSI
8214091	F-01-043813	4212731955		103		BRISCOE RANCH #32	CATARINA SW (OLMOS)	15.0	VALERO TRANSMISSI
8214090	F-01-043812	4212732084		103		BRISCOE RANCH #33	CATARINA SW (OLMOS)	100.0	VALERO TRANSMISSI
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	01/07/82	JA: TX			
8214004	F-7C-043249	4241331045		103	107-TF	UNIVERSITY 53-20A #1	UNIVERSITY 53 (CANYON	138.2	CRA INC
-TRAVELERS OIL CO				RECEIVED:	01/07/82	JA: TX			
8214313	F-10-044586	4206500000		108		BURNETT #1 04405	PANHANDLE CARSON COUN	13.0	PHILLIPS PETROLEU
8214310	F-10-044583	4206530656		108		BURNETT #2 04405	PANHANDLE CARSON COUN	13.0	PHILLIPS PETROLEU
8214311	F-10-044584	4206530733		108		BURNETT "A" #4 04506	PANHANDLE CARSON COUN	12.0	PHILLIPS PETROLEU
8214312	F-10-044585	4206530753		108		BURNETT "A" #5 04506	PANHANDLE CARSON COUN	12.0	PHILLIPS PETROLEU
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	01/07/82	JA: TX			
8214286	F-10-044530	4229530866		102-4		EUGENE BOOTH #1	BOOTH-PROCTOR (MORROW	75.0	PALO DURO PIPELIN
-W L BRUCE OPERATOR				RECEIVED:	01/07/82	JA: TX			
8214307	F-10-044579	4206530985		103		ANDERWALD RRC#04911	PANHANDLE	144.0	GETTY OIL CO
-W R EDWARDS JR				RECEIVED:	01/07/82	JA: TX			
8214193	F-10-044188	4223300000		103		BEARKILLER #29	PANHANDLE HUTCHINSON	92.0	PANHANDLE PRODUCI
8214198	F-10-044199	4223300000		103		COBLE CATTLE CO #11-1	PANHANDLE HUTCHINSON	90.0	PANHANDLE PRODUCI
8214197	F-10-044198	4223300000		103		COBLE CATTLE CO #13-1	PANHANDLE HUTCHINSON	90.0	PANHANDLE PRODUCI
8214194	F-10-044189	4223300000		103		COBLE CATTLE CO #15-1	PANHANDLE HUTCHINSON	90.0	PANHANDLE PRODUCI
8214233	F-10-044304	4223300000		103		COBLE CATTLE CO 10-1	PANHANDLE HUTCHINSON	90.0	PANHANDLE PRODUCI
8214234	F-10-044305	4223300000		103		COBLE CATTLE CO 21-1	PANHANDLE HUTCHINSON	90.0	PANHANDLE PRODUCI
-WAGNER & BROWN				RECEIVED:	01/07/82	JA: TX			
*8214012	F-08-043308	4243130689		103		BADE #1-15	CONGER (PENN)	305.0	VALERO TRANSMISSI
*8214011	F-08-043302	4243130858		103		BADE "B" #1-17	CONGER (PENN)	157.0	VALERO TRANSMISSI
8214174	F-08-044146	4243130873		103		GLASS "X" #3-4	CONGER (PENN)	168.0	VALERO TRANSMISSI
8214173	F-08-044145	4243130817		103		HILDEBRAND #18-18	CONGER (PENN)	440.0	VALERO TRANSMISSI
8214172	F-08-044144	4243130684		103		HILDEBRAND #27-2	CONGER (PENN)	227.0	VALERO TRANSMISSI
8214171	F-08-044143	4243130685		103		HILDEBRAND #28-3	CONGER (PENN)	297.0	VALERO TRANSMISSI
8214170	F-08-044142	4243130685		103		HILDEBRAND #29-3	CONGER (PENN)	148.0	VALERO TRANSMISSI
8214169	F-08-044141	4243130698		103		HILDEBRAND #30-2	CONGER (PENN)	183.0	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214168	F-08-044143	4243130699		103		HILDEBRAND #31-4	CONGER (PENN)	82.0	VALERO TRANSMISSI
8214167	F-08-044139	4243130726		103		HILDEBRAND #32-20	CONGER (PENN)	101.8	VALERO TRANSMISSI
8214166	F-08-044138	4243130755		103		HILDEBRAND #33-7	CONGER (PENN)	245.0	VALERO TRANSMISSI
8214165	F-08-044137	4243130755		103		HILDEBRAND #34-9	CONGER (PENN)	119.0	VALERO TRANSMISSI
8214164	F-08-044136	4243130775		103		HILDEBRAND #35-12	CONGER (PENN)	322.0	VALERO TRANSMISSI
8214163	F-08-044135	4243130783		103		HILDEBRAND #36-16	CONGER (PENN)	186.0	VALERO TRANSMISSI
8214162	F-08-044134	4243130828		103		HILDEBRAND #37-18	CONGER (PENN)	305.0	VALERO TRANSMISSI
8214161	F-08-044132	4243130835		103		HILDEBRAND #39-10	CONGER (PENN)	122.0	VALERO TRANSMISSI
8214160	F-08-044131	4243130848		103		HILDEBRAND #40-12	CONGER (PENN)	318.0	VALERO TRANSMISSI
8214159	F-08-044130	4243130854		103		HILDEBRAND #41-7	CONGER (PENN)	160.0	VALERO TRANSMISSI
8214175	F-08-044147	4243130772		103		MARGARET #2-13	CONGER (PENN)	35.0	VALERO TRANSMISSI
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		01/07/82 JA: TX			
8214085	F-08-043786	4210332459		103		W N WADDELL 1124	UNIVERSITY WADDELL (D	78.6	EL PASO NATURAL G
8214326	F-08-044613	4210332592		103		W N WADDELL 1198	SAND HILLS (TUBB)	16.2	EL PASO NATURAL G
8214020	F-08-043369	4210332605		103		W N WADDELL 1199	SAND HILLS (TUBB)	54.5	EL PASO NATURAL G
8214081	F-08-043761	4210332591		103		W N WADDELL 1200	SAND HILLS (TUBB)	88.7	EL PASO NATURAL G
8214021	F-08-043310	4210332614		103		W N WADDELL 1210	SAND HILLS (MCKNIGHT)	78.0	EL PASO NATURAL G
8214272	F-08-044464	4210332618		103		W N WADDELL 1212	SAND HILLS (MCKNIGHT)	4.3	EL PASO NATURAL G
-WESSELY ENERGY CORPORATION				RECEIVED:		01/07/82 JA: TX			
8214130	F-06-044051	4228930458		102-2		KENNEDY #1 95681	SUPRON (PETTIT)	630.0	LONE STAR GAS CO
-WESTERN RESERVES OIL CO				RECEIVED:		01/07/82 JA: TX			
8214242	F-08-044323	4217331117		102-4	103	LITTLE WHIT #1	BIG WHIT (WOLFCAMP)	204.5	PHILLIPS PETROLEU
-WESTERN RESERVES OIL COMPANY				RECEIVED:		01/07/82 JA: TX			
8214243	F-08-044324	4217331172		102-4	103	LITTLE WHIT #2	BIG WHIT (WOLFCAMP)	90.4	PHILLIPS PETROLEU
-WILLIAM J AMIS				RECEIVED:		01/07/82 JA: TX			
8214110	F-09-043971	4218100000		102-4		E W MCADEN #4	PHILPICK (6450)	94.0	UNION TEXAS PETRO
-WILLIAM MOSS PROPERTIES INC				RECEIVED:		01/07/82 JA: TX			
8214251	F-7C-044369	4246131620		103		POWELL 24-A #1	SPRAGBERRY (TREND AREA	11.0	MOBIL PRODUCING T
-WILLIAM T LEWIS				RECEIVED:		01/07/82 JA: TX			
8214366	F-09-044710	4250335130		103		ROGERS #21352	LUCILLE (CONGL)	220.0	SUN GAS TRANSMISS
-WILLIAMS PETROLEUM CO				RECEIVED:		01/07/82 JA: TX			
8214019	F-7B-043368	4236300000		103		LANDAR #6	H R A (CONGLOMERATE)	300.0	TEXAS UTILITIES F
-WILSON ENERGY INC				RECEIVED:		01/07/82 JA: TX			
8214305	F-7C-044571	4210500000		103		MAGGIE NEAL #7	WEGER (NORTH)	11.0	BIG LAKE GASOLINE
-WINDSOR PRODUCING CO				RECEIVED:		01/07/82 JA: TX			
8214056	F-03-043543	4214931029		102-2	103	MEINHOLDT #1	GIDDINGS (AUSTIN CHAL	1000.0	CLAJON GAS CO

OTHER PURCHASERS VOLUME NO :589

8214003	E I DUPONT DE NEMOURS & CO INC
8214011	TEXAS UTILITIES FUEL CO
8214012	TEXAS UTILITIES FUEL CO
8214022	UNION TEXAS PET-CORP
8214028	E I DUPONT DE NEMOURS & CO INC
8214047	AMOCO PRODUCTION CO
8214068	LONE STAR CO
8214087	E I DUPONT DENEMOURS & CO INC
8214150	AMOCO PRODUCTION CO
8214153	E I DUPONT DENEMOURS & CO INC
8214154	E I DUPONT DENEMOURS & CO INC
8214155	E I DUPONT DENEMOURS & CO INC
8214244	E I DUPONT DENEMOURS & CO INC
8214265	E I DUPONT DENEMOURS & CO INC
8214284	E I DUPONT DENEMOURS & CO INC
8214287	INTRATEX GAS CO
8214303	E I DUPONT DENEMOURS & CO INC

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3606 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-C

[Volume 500]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 5, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-BENSON MINERAL GROUP				RECEIVED:	01/07/82	JA: KS			
8214400		1504720839		102-4		SCHULTZ J #2-11	WIL	109.5	PANHANDLE EASTERN
-CITIES SERVICE COMPANY				RECEIVED:	01/07/82	JA: KS			
8214401	K-79-0789	1508100000		108-ER		IHLOFF A #1	HUGOTON	0.0	COLORADO INTERSTA
-MOBIL OIL CORP				RECEIVED:	01/07/82	JA: KS			
8214402		1507720626		103		BLANCHE WOOD #3	SPIVEY-GRABS	13.0	KANSAS POWER & LI
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ADAMS WELL SERVICE INC				RECEIVED:	01/08/82	JA: OH			
8214471		3416725924		103		COX-DOBBINS #1	AURELIUS	50.0	
-ALL STATES OIL & PRODUCING CO INC				RECEIVED:	01/08/82	JA: OH			
8214472		3410322247		107-TF		CODDING #1	GRANGER	20.0	COLUMBIA GAS TRAN
-AMERICAN EXPLORATION CO				RECEIVED:	01/08/82	JA: OH			
8214473		3415723271		108		L LANDIS #1		10.0	COLUMBIA GAS TRAN
8214475		3415723294		108		S IMMEL #1		10.0	COLUMBIA GAS TRAN
8214474		3415723275		108		SMITH-GINGERICH #2		10.0	COLUMBIA GAS TRAN
-AMERICAN PETROEL INC				RECEIVED:	01/08/82	JA: OH			
8214477		3416726116		103		AUGENSTEIN #1	ADAMS	6.0	
8214476		3416726111		103		AUGENSTEIN #2	ADAMS	5.0	
8214478		3416726450		103		AUGENSTEIN #3	ADAMS	5.0	
8214479		3416726451		103		AUGENSTEIN #4	ADAMS	6.0	
-AMERICAN WELL MANAGEMENT CO				RECEIVED:	01/08/82	JA: OH			
8214480		3408924212		103		THOMAS TOOMEY #1	LICKING	18.0	
-ATWOOD RESOURCES INC				RECEIVED:	01/08/82	JA: OH			
8214481A		3415123633		103		AMOS-REED #1	NEVARRE	15.0	
8214481B		3415123635	D	107-TF		AMOS-REED #1	NEVARRE	15.0	
-BAKER OIL CO				RECEIVED:	01/08/82	JA: OH			
8214482		3416723809		103		WILBERT SLOTER #2	WILBERT SLOTER	0.0	COLUMBIA GAS TRAN
-BANDS COMPANY INC				RECEIVED:	01/08/82	JA: OH			
8214483		3407523327		107-TF		CASTLE NURSING HOMES #3	HARDY	3.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY				RECEIVED:	01/08/82	JA: OH			
8214486		3410322659		103	107-TF	A NASY #1	SHARON	15.0	
8214485		3410322657		103	107-TF	H HOLLAND #1	SHARON	20.0	
8214487		3410322706		103	107-TF	JANIS UNIT #2	SHARON	20.0	
8214484		3410322484		103	107-TF	M NASY #2	SHARON	15.0	
-BELDEN & BLAKE & CO. 78				RECEIVED:	01/08/82	JA: OH			
8214489		3409921324		103	107-TF	O & R MYERS #7 341060	SMITH	36.5	EAST OHIO GAS CO
8214488		3409921323		103	107-TF	J & M SCHENK #1 341033	SMITH	36.5	EAST OHIO GAS CO
-BELL OIL				RECEIVED:	01/08/82	JA: OH			
8214490		3412725353		103		CHARLES KANGAS #1-B	BEAVERTOWN	5.0	NATIONAL GAS CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BEREA OIL AND GAS CORPORATION		RECEIVED: 01/08/82 JA: OH							
8214491		3411925799		103	107-TF	G OKEY #1	SALT CREEK	0.0	COLUMBIA GAS TRAN
8214492		3411925872		103	107-TF	MOORE #4	RICH HILL	0.0	COLUMBIA GAS TRAN
-BERRESFORD ENTERPRISES INC		RECEIVED: 01/08/82 JA: OH							
8214494		3403124273		103		BOB & RICK'S TIMBER CO #1	TIVERTON	0.0	
8214493		3403124198		103		ROBERT & MIRIAM MIKESELL #1	PIKE	0.0	
-BERWELL ENERGY INC		RECEIVED: 01/08/82 JA: OH							
8214495		3407523214		103		T J BOWMAN #2	RICHLAND	18.0	COLUMBIA GAS TRAN
-BUCKHORN OIL COMPANY INC		RECEIVED: 01/08/82 JA: OH							
8214496		3407523215		103		VIVA TOPA FETTERS #1	MONROE	2.0	COLUMBIA GAS TRAN
-CHARLES O LIGHTHIZER		RECEIVED: 01/08/82 JA: OH							
8214554		3411925687		107-TF		KING #3	MADISON	0.0	COLUMBIA GAS TRAN
8214553		3411925682		107-TF		LYNN #2	MADISON	0.0	COLUMBIA GAS TRAN
-CLINTON OIL CO		RECEIVED: 01/08/82 JA: OH							
8214497		3403124505		103		M W C D #4-565	TIVERTON	10.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT		RECEIVED: 01/08/82 JA: OH							
8214499		3411122579		103		DECKER #3	GRAYSVILLE	18.2	
8214498		3411122571		103		HOGUE #1	FRANKLIN	0.0	
-DART OIL COMPANY		RECEIVED: 01/08/82 JA: OH							
8214500		3407523148		103	107-TF	C HOXWORTH #12	KILLBUCK	0.0	COLUMBIA GAS TRAN
8214501		3415123461		103		NICKELSON CORP #1	BOLIVAR	40.0	BUCKEYE-FRANKLIN
8214502		3415123462		103		NICKELSON CORP #2	BOLIVAR	40.0	BUCKEYE-FRANKLIN
-DERBY OIL & GAS CORP		RECEIVED: 01/08/82 JA: OH							
8214504		3407523305		103	107-TF	ALBERT SCHLABACH #1	HARDY	12.0	COLUMBIA GAS TRAN
8214506		3407523477		103	107-TF	ALBERT SCHLABACH #2	HARDY	12.0	COLUMBIA GAS TRAN
8214503		3407523299		103	107-TF	ALVIN A SCHLABACH #1	HARDY	12.0	COLUMBIA GAS TRAN
8214505		3407523473		103	107-TF	ALVIN A SCHLABACH #2	HARDY	12.0	COLUMBIA GAS TRAN
-DICK HART		RECEIVED: 01/08/82 JA: OH							
8214526		3407322503		103		BURNS #1	STARR	0.5	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC		RECEIVED: 01/08/82 JA: OH							
8214507		3407523100		103	107-TF	ANDY Y MILLER #1	BERLIN	12.0	COLUMBIA GAS TRAN
8214509		3407523171		103	107-TF	IVAN M MAST #1	BERLIN	12.0	COLUMBIA GAS TRAN
8214508		3407523118		103	107-TF	LEVI A RABER #1	BERLIN	12.0	COLUMBIA GAS TRAN
-EDLICO INC		RECEIVED: 01/08/82 JA: OH							
8214511		3408923834		103		YOUNG #2	EDEN	20.0	COLUMBIA GAS TRAN
-ENERGY PRODUCTION INC		RECEIVED: 01/08/82 JA: OH							
8214512		3409921411		103		GROPE UNIT #1	CANFIELD	50.0	EAST OHIO GAS CO
8214513		3409921414		103		SCHULTHEIS #2	CANFIELD	50.0	EAST OHIO GAS CO
-ENERGY RE-DEVELOPMENT		RECEIVED: 01/08/82 JA: OH							
8214514		3416724921	D	108		LANDINGS UNIT #1	MARIETTA	0.0	RIVER GAS CO
-ENERGY UNLIMITED INC		RECEIVED: 01/08/82 JA: OH							
8214516		3400922458		103		GOLDSBERRY #1	LODI	0.0	COLUMBIA GAS TRAN
8214515		3400922408		103		JONES #1	LODI	0.0	COLUMBIA GAS TRAN
8214517		3400922459		103		MERRILL #1	LODI	0.0	COLUMBIA GAS TRAN
-ENINUN INC		RECEIVED: 01/08/82 JA: OH							
8214518		3411925652		103	107-TF	MILLER #2	LICKING	20.0	NATIONAL GAS & OI
-ENTERPRISE ENERGY CORP		RECEIVED: 01/08/82 JA: OH							
8214522		3411522641		103		ALLEN #3	CENTER	36.5	
8214521		3411522621		103		HILL #1	MANCHESTER	36.5	
8214520		3405923185		103		MID-OHIO COAL #2	JACKSON	36.5	COLUMBIA GAS TRAN
8214519		3405923016		103		MID-OHIO COAL #7	JACKSON	36.5	COLUMBIA GAS TRAN
-ESTATE OF BARTON A HOLL		RECEIVED: 01/08/82 JA: OH							
8214532		3407322530		103		LCP U-2	MARION	8.5	COLUMBIA GAS TRAN

JD NO	JA CKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214530		3407822502		103		LINDA L LAMBERT #2	GREEN	7.2	COLUMBIA GAS TRAN
8214531		3407822506		103		PHILIP MICHEL #2	STARR	2.9	GREEN FALLS GAS C
-EVERFLOW EASTERN INC				RECEIVED:	01/08/82	JA: OH			
8214523		3409920732	D	108		MC PHEE #2	ELLSWORTH	1.0	AMERICAN ENERGY S
8214524		3409920910	D	108		WISLER #1-A	GOSHEN	25.0	AMERICAN ENERGY S
-GEO ENERGY INC				RECEIVED:	01/08/82	JA: OH			
8214525		3410322610		103	107-DP	STOSKOPF J #2-1-1	LIVERPOOL	15.5	COLUMBIA GAS TRAN
-HARRY DUGAN OIL CO				RECEIVED:	01/08/82	JA: OH			
8214510		3408924088		103		T & I BILIMAN #4	HICKMAN	100.5	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED:	01/08/82	JA: OH			
8214527		3405320696		103		EMMETT ELLIOTT #1	ADDISON	0.0	COLUMBIA GAS TRAN
8214528		3405320697		103		ORLAND ELLIOTT #1	ADDISON	0.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	01/08/82	JA: OH			
8214534		3411522180		103	107-TF	FRANCIS CARICH #1	MOLTA	15.0	COLUMBIA GAS TRAN
8214533		3411122136		103		J BAKER #2	FRANKLIN	27.0	COLUMBIA GAS TRAN
-HORTIN & HUFFMAN				RECEIVED:	01/08/82	JA: OH			
8214535		3408924160		103		MANES-VAN MET #6	HANOVER	1.0	NATIONAL GAS
-IRVIN PRODUCING COMPANY				RECEIVED:	01/08/82	JA: OH			
8214538		3411925672		103	107-TF	MARVIN HOUK #1	WAYNE	10.0	NATIONAL GAS & OI
8214536		3411522528		103		PENNA FARMS #2	BLOOM	10.0	COLUMBIA GAS TRAN
8214537		3411925304		103	107-TF	WANDA HARRIS #2	SPRINGFIELD	10.0	NATIONAL GAS & OI
-JOHN C MASON				RECEIVED:	01/08/82	JA: OH			
8214566		3407523284		107-TF		MERLE HOOD #5	HARDY	12.0	COLUMBIA GAS TRAN
-JONSU CORP				RECEIVED:	01/08/82	JA: OH			
8214539		3403124321		103		TOM JOHNSTON #1	MONROE	10.0	
-KRAMER EXPLORATION CO				RECEIVED:	01/08/82	JA: OH			
8214540		3410522236		103		TAYLOR #1	PAMEROY	15.0	COLUMBIA GAS TRAN
-L & B OIL & GAS				RECEIVED:	01/08/82	JA: OH			
8214541		3411925812		103		R FISHER #1	NEWTON	25.0	NATIONAL GAS & OI
-LAKE REGION OIL INC				RECEIVED:	01/08/82	JA: OH			
8214546		3407523368		103		JACK BUTLER #1	KILLBUCK	15.0	COLUMBIA GAS TRAN
8214543		3407523127		103		JIM PATTERSON #1	RICHLAND	5.0	COLUMBIA GAS TRAN
8214545		3407523238		103		MARILYN BOLEY #1	RICHLAND	10.0	COLUMBIA GAS TRAN
8214542		3407523200		103		MAUDE LEVENGOOD #1	HILLBUCK	10.0	COLUMBIA GAS TRAN
8214544		3407523236		103	107-TF	THOMAS PATTERSON #1	KILLBUCK	10.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED:	01/08/82	JA: OH			
8214548		3411925263		107-TF		WARDEN WEST #2A	PERRY	25.0	COLUMBIA GAS TRAN
8214547		3411925259		107-TF		WARDEN WEST #3A	PERRY	25.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC				RECEIVED:	01/08/82	JA: OH			
8214552		3411925871		103	107-TF	BICE-KING #1	CASS	14.0	
8214549		3411522232		103	107-TF	DAVIS #1	MEIGSVILLE	12.0	
8214551		3411925761		103	107-TF	KNICELY #2	SALEM	13.0	
8214550		3411925635		103	107-TF	MCELFRESH #1	MUSKINGUM	15.0	
-LOMAK PETROLEUM INC				RECEIVED:	01/08/82	JA: OH			
8214555		3411924611		107-TF		N MOORE #5	BLUE ROCK	8.0	WILLISTON OIL COR
8214556		3411924629		107-TF		RIBBLE #2	HARRISON	15.0	COLUMBIA GAS TRAN
8214557		3411924689		107-TF		W NORMAN #1	HARRISON	24.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED:	01/08/82	JA: OH			
8214559		3415123460		103		CARPER UNIT #2	NIMISHILLEN	6.6	REPUBLIC STEEL CO
8214558		3415123459		103		ENTERPRISE ACRES #2	NIMISHILLEN	9.1	REPUBLIC STEEL CO
8214564		3415123539		103		FLINTKOTE CO #25	NIMISHILLEN	6.6	REPUBLIC STEEL CO
8214563		3415123535		103		LINHART UNIT #1	NIMSHILLEN	5.5	REPUBLIC STEEL CO
8214561		3415123476		103		MARTIG #2	MARLBORO	9.1	REPUBLIC STEEL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214562		3415123534		103		STEGNER #1	NIMISHILLEN	16.4	REPUBLIC STEEL CO
8214565		3415721556		103		WALKER UNIT #2-A	WARREN	18.3	REPUBLIC STEEL CO
8214560		3415123472		103		WESTFALL UNIT #1	MARLBORO	11.0	REPUBLIC STEEL CO
-MILLER DAY ISELI ENERGY CO.				RECEIVED:	01/08/82	JA: OH			
8214572		3411122432		103		BLANEY #1-28	BETHEL	275.0	COLUMBIA GAS TRAN
8214573		3411122433		103		BLANEY #2-28	BETHEL	250.0	COLUMBIA GAS TRAN
8214571		3411122423		103		BLANEY 2-20	WASHINGTON	475.0	COLUMBIA GAS TRAN
8214574		3411122445		103		CLINE #1-25	CENTER	0.0	COLUMBIA GAS TRAN
-MORGAN-PENNINGTON INC				RECEIVED:	01/08/82	JA: OH			
8214580		3407523177	*	107-TF		BELL #1	HARDY	51.1	COLUMBIA GAS TRAN
8214581		3407523180		103		JACK BUREN #1	RICHLAND	6.0	COLUMBIA GAS TRAN
8214578		3407523051		103		L & A BUREN #1	KNOX	9.0	COLUMBIA GAS TRAN
8214579		3407523072		107-TF		LANDFAIR #1	HARDY	36.5	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED:	01/08/82	JA: OH			
8214587		3406720438		103	107-TF	BARBIERI-CRAIG UNIT #1	MONROE	18.0	COLUMBIA GAS TRAN
8214589		3410322586		103	107-TF	H A PORTERFIELD #3	WADSWORTH	21.0	BARTLO OIL & GAS
8214588		3406723477		103	107-TF	JAMES BERG #1	MONROE	18.0	COLUMBIA GAS TRAN
8214586		3406720437		103	107-TF	MASTERS-BARBIERI UNIT #1	MONROE	16.0	COLUMBIA GAS TRAN
-OHIO ASSOCIATES				RECEIVED:	01/08/82	JA: OH			
8214590A		3407523165		103		FLINTSTONE FARMS #7	KILLBUCK	20.0	NATIONAL GAS & OI
8214590B		3407523165	D	107-TF		FLINTSTONE FARMS #7	KILLBUCK	20.0	NATIONAL GAS & OI
-OHIO NATURAL FUEL CO				RECEIVED:	01/08/82	JA: OH			
8214591		3475223066		103		SMETZER #2	KNOX	9.0	COLUMBIA GAS TRAN
-OILTECH INC				RECEIVED:	01/08/82	JA: OH			
8214592		3407523319		107-TF		GERALD HIPP #4	HARDY	8.0	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED:	01/08/82	JA: OH			
8214593		3411521767		107-TF		GLEN (WHITE) #1	REIGSVILLE	18.0	COLUMBIA GAS TRAN
8214594		3411522602		107-TF		ROSE PARMITER #1	MORGAN	36.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	01/08/82	JA: OH			
8214595		3407322448		103		MATHIAS-SCHMITTER #1	GREEN	11.0	
8214596		3411925914		103		PAUL CUBBISON #1	UNION	10.0	
-PETE MILLER				RECEIVED:	01/08/82	JA: OH			
8214577		3411925760		103		WILLIAM & ELOISE MILLER #2	HOPEWELL	8.0	
-PIONEER OIL COMPANY INC				RECEIVED:	01/08/82	JA: OH			
8214597		3408923627		103		C GUTRIDGE #1	BOWLING GREEN	10.0	NEWZANE GAS CO
-QUAKER STATE OIL REFINING CORP				RECEIVED:	01/08/82	JA: OH			
8214598		3404520692		103		JULIAN #1	RUSH CREEK	10.3	
8214599		3407322483		103		SUNDAY CREEK COAL #35	WARD	9.1	COLUMBIA GAS TRAN
-R D MILLER				RECEIVED:	01/08/82	JA: OH			
8214575		3408924175		103		EUGENE J & JANE RAUCH #1	NEWARK	10.0	NATIONAL GAS & OI
8214576		3410322616		103		THEODOCIA CHRISTY #1	LAFAYETTE	15.0	COLUMBIA GAS TRAN
-RICHARD C MEYER INC				RECEIVED:	01/08/82	JA: OH			
8214570		3403124024		103		CARLTON B MOSS #1	NELLIE SOUTHWEST	1.0	COLUMBIA GAS TRAN
-ROEBLING ENERGY CORPORATION				RECEIVED:	01/08/82	JA: OH			
8214600		3409921160	D	102-2		SCHAADE #4	SPRINGFIELD	9.0	
-TEMPLE OIL & GAS CO				RECEIVED:	01/08/82	JA: OH			
8214601		3411522508		103		ISAAC SMITH #11	YORK	6.0	
8214602		3411522509		103		ISAAC SMITH #12	YORK	6.0	
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	01/08/82	JA: OH			
8214584		3412122625		103		ORANGE COAL #1-A	ELK	50.0	
8214585		3412122627		103		ORANGE COAL 4-A	ELK	50.0	
8214582		3411122522		103		R L ROSSI #1-M	SENECA	5.0	COLUMBIA GAS TRAN
8214583		3411122523		103		ROSSI #2M	SENECA	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TIGER OIL INC				RECEIVED: 01/08/82		JA: OH			
8214603		3416726799		103		DICKSON HEIRS #1	DICKSON HEIRS #1	0.0	RIVER GAS CO
-TOWNER PETROLEUM CO				RECEIVED: 01/08/82		JA: OH			
8214610		3405923097		103	107-TF	BLACKWOOD #6	GUERNSEY	0.0	TENNESSEE GAS PIP
8214609		3405923093		103	107-TF	C COMBS #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8214607		3405923081		103		E TOTH #3	GUERNSEY	0.0	TENNESSEE GAS PIP
8214606		3405923073		103	107-TF	EDDY #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8214612		3405923108		103	107-TF	K DUVALL #2	GUERNSEY	0.0	TENNESSEE GAS PIP
8214605		3405923019		103	107-TF	R DRINKWORTH #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8214611		3405923100		103	107-TF	STEEN #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8214608		3405923087		103		WRIGHT/MAPLES #1	GUERNSEY	0.0	TENNESSEE GAS PIP
-VICTOR MCKENZIE				RECEIVED: 01/08/82		JA: OH			
8214569		3412725374		103	107-TF	BEAVER #1	CROOKSVILLE	4.0	COLUMBIA GAS TRAN
8214568		3412725279		103		GILLENWATER UNIT #1	READING	9.0	NATIONAL GAS & OI
8214567		3404520749		103		VAN FOSSEN #1		2.0	NATIONAL GAS & OI
-WILLIAM F HILL				RECEIVED: 01/08/82		JA: OH			
8214529		3407523336		103		EDWARD C PARSONS #1-A	KNOX	8.0	
-WILLIAM N TIPKA				RECEIVED: 01/08/82		JA: OH			
8214604		3412725122		103		CARL CAMPBELL #3	PIKE	0.0	FORAKER GAS CO IN

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OKLAHOMA CORPORATION COMMISSION

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-AMAREX INC				RECEIVED: 01/06/82		JA: OK			
8214386	15085	3512920587		107-DP		HARTMAN #1-35	DEMPSEY	525.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED: 01/06/82		JA: OK			
8214373	11273	3500700000		108		EDWIN A MCGREW UNIT #1	MOCANE-LAVERNE	14.6	TRANSWESTERN PIPE
8214372	11271	3500320591		108		MARY PEKRUL #1	RINGWOOD	11.7	UNION TEXAS PETRO
-BELAMA OIL CO				RECEIVED: 01/06/82		JA: OK			
8214399	09945	3509322004		103		ENSMINGER B #1	RINGWOOD FIELD/SOONER	0.0	CITIES SERVICE GA
-BERRY PETROLEUM CORP				RECEIVED: 01/06/82		JA: OK			
8214393	11951	3507322852		103		RUDD #1-16	NORTH REEDING	36.0	CONOCO INC
8214394	11952	3507322977		103		WHITE #1-23	SOONER TREND	36.0	CONOCO INC
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 01/06/82		JA: OK			
8214388	12095	3515100000		108		DONALD M WHITE #1	STATE LINE	8.5	PANHANDLE EASTERN
8214395	12096	3515100000		108		LOIS PLATT #1	STATE LINE	14.0	PANHANDLE EASTERN
-CON-FORM CORP				RECEIVED: 01/06/82		JA: OK			
8214382	12026	3514300000		103		MCGILL #1		0.0	PHILLIPS PETROLEU
8214381	12025	3514300000		103		MCGILL #2		0.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED: 01/06/82		JA: OK			
8214388	09985	3514920070		107-TF		LEPPKE #1	FT COBB	250.0	SOUTHERN NATURAL
-DONALD C SLAWSON				RECEIVED: 01/06/82		JA: OK			
8214396	13698	3501721914		102-4		JONES #1-17	S E HINTON	350.0	MICHIGAN-WISCONSI
-F C D OIL CORP				RECEIVED: 01/06/82		JA: OK			
8214398	11991	3507322701		103		NEWER 1-22	SOONER TREND	18.3	DALCO PETROLEUM I
-F HOWARD WALSH JR				RECEIVED: 01/06/82		JA: OK			
8214387	15817	3501520869		107-DP		RIDLE-BRADFORD #1		365.0	TENNESSEE GAS PIP
8214371	15819	3501521021		107-DP		STEVENS #1		479.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED: 01/06/82		JA: OK			
8214389	12078	3500735996		108		KORAN #1	LAVERNE	8.0	TRANSWESTERN PIPE
-HARPER OIL COMPANY				RECEIVED: 01/06/82		JA: OK			
*8214397	15290	3503920558		102-2		TOUCHSTONE #1	NE MOOREWOOD	347.0	ARKANSAS LOUISIAN
-J L THOMAS ENGINEERING INC				RECEIVED: 01/06/82		JA: OK			
8214377	12044	3504731300		103		SWIGART #1	SOONER TREND	188.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-JONES EXPLORATION CO				RECEIVED:	01/06/82	JA: OK			
8214375	12004	3513722431		103		HARLEY #1		109.5	AMINOIL USA INC
-KENNEDY & MITCHELL INC				RECEIVED:	01/06/82	JA: OK			
8214374	11885	3515321039		103		WOODWARD #26-412	UNDESIGNATED (NE NE S	185.0	NORTHERN NATURAL
-KLINE & PITTENGER EXPLORATION				RECEIVED:	01/06/82	JA: OK			
*8214376	12016	3526321260		105		PUTNAM #1	CARSON	50.0	PUBLIC SERVICE CO
-LRF CORP				RECEIVED:	01/06/82	JA: OK			
8214385	11100	3506320854		103		WOOTEN #1	DUSTIN	150.0	TRANSOK PIPELINE
-PERIMETER OIL & GAS INC				RECEIVED:	01/06/82	JA: OK			
8214379	12003	3511100000		103		PERIMETER-CRINER #1		36.5	PHILLIPS PETROLEU
-PETROLEUM RESOURCES CO				RECEIVED:	01/06/82	JA: OK			
8214390	11990	3500320808		103		KELTCH #1	S W CHEROKEE	0.0	AMINOIL USA INC
8214392	11966	3500320808		103		MCLAUGHLIN #1	S W CHEROKEE	2.0	AMINOIL USA INC
8214391	11988	3500320714		103		MORGENSON-JENNINGS #1	S W CHEROKEE EXTENSIO	73.0	
-ROXANA PETROLEUM INC				RECEIVED:	01/06/82	JA: OK			
8214378	12045	3508321627		103		MARTIN #2	SOUTH ORLANDO	50.0	EASON OIL CO
-SINGLETERRY OIL & GAS INC				RECEIVED:	01/06/82	JA: OK			
8214384	12068	3524921521		103		FREEMAN #1	WHITEBEAD SOUTHWEST	0.0	WARREN PETROLEUM
-SOUTHWESTERN EXPLOR CONSULTANTS INC				RECEIVED:	01/06/82	JA: OK			
8214383	12066	3508321654		103		MCCONNEL #1	CRESCENT	0.0	EASON OIL CO
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ATLAS RESOURCES INC				RECEIVED:	01/07/82	JA: PA			
8214403	9787	3706326059	D	102-2		SWANK #5		49.0	COLUMBIA GAS TRAN
-BARON CREST ENERGY LTD PTNSP #5				RECEIVED:	01/07/82	JA: PA			
8214404	9877	3703120970		103		MURRELBRINK #1	MECHANICSBURG	3.6	T W PHILLIPS GAS
-CABOT OIL & GAS CORP				RECEIVED:	01/07/82	JA: PA			
8214415	9948	3703920837		107-TF		GERTRUDE PATTERSON #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214405	9945	3703920834		102-2		JOHN E RYNO JR #1	WAYNE	50.0	TENNESSEE GAS PIP
8214413	9944	3703920834		107-TF		JOHN E RYNO JR #1	WAYNE	50.0	TENNESSEE GAS PIP
8214411	9959	3703920719		102-2		ROBERT JOHNSON #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214420	9958	3703920719		107-TF		ROBERT JOHNSON #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214408	9953	3703920699		102-2		ROBERT MORRELL #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214417	9952	3703920699		107-TF		ROBERT MORRELL #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214421	9963	3703920726		107-TF		THOMAS BLOSE	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214412	9961	3703920726		102-2		THOMAS BLOSE #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214409	9954	3703920696		102-2		W L DUNN CONSTRUCTION #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214418	9955	3703920696		107-TF		W L DUNN CONSTRUCTION #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214410	9956	3703920721		102-2		W L DUNN CONSTRUCTION #3	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214419	9957	3703920721		107-TF		W L DUNN CONSTRUCTION #3	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8214407	9951	3703920899		102-2		WALTER SUTTON #1	WAYNE	50.0	TENNESSEE GAS PIP
8214416	9950	3703920899		107-TF		WALTER SUTTON #1	WAYNE	50.0	TENNESSEE GAS PIP
8214406	9947	3703920874		102-2		WAYNE SMITH #1	EAST MEAD	50.0	TENNESSEE GAS PIP
8214414	9946	3703920874		107-TF		WAYNE SMITH #1	EAST MEAD	50.0	TENNESSEE GAS PIP
-CARDINAL OIL CO				RECEIVED:	01/07/82	JA: PA			
8214423	8349	3703920928		107-TF		BETTY JORDAN #80-47 PA CRA-20928	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214435	8361	3703920878		107-TF		ED DUKE #80-28 PA PER CRA-20878	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214424	8350	3703920637		107-TF		JAMES REDDEN #80-2 PA PER CRA-20637	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214434	8360	3703920929		107-TF		JOHN R WILSON #80-42 PA CRA-20929	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214430	8356	3703920843		107-TF		JOHN TAYLOR #80-26 PA PER CRA-20843	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214425	8351	3703920789		107-TF		JOSEPH MORELAND #83-8 PA CRA-20789	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214433	8359	3703920988		107-TF		LEROY WHEELER #80-40 PA CRA-20988	CONNEAUT	0.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214422		3703920938		107-TF		LEWIS DERSCH #80-38 PA CRA-20938	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214432	8358	3703900000		103		PAT CHAMBERLAIN #80-37 PA CRA-20877	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214429	8355	3703920846		107-TF		PAUL INGOLS #80-27 PA PER CRA-20846	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214427	8353	3703921178		107-TF		REVA REVAK #80-29 PA PER ERI-21178	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214426	8352	3703920897		107-TF		RICH H ERTMAN #80-35 PA CRA-20897	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214431	8357	3703920845		107-TF		ROBERT PAYNE #80-23 PA CRA-20845	CONNEAUT	0.0	COLUMBIA GAS TRAN
8214428	8354	3703920906		107-TF		ROBERT THOMPSON #80-39 PA CRA-20906	CONNEAUT	0.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED: 01/07/82 JA: PA					
8214461	7311	3706321455		108		BERYL JOHNSTON #1	WASHINGTON	14.6	T W PHILLIPS GAS
8214440	7071	3706323365		108		BYRON FRICK #1	WHITE	11.1	PEOPLES NATURAL G
8214464	7396	3706323333		108		C BAUN #3	CANOE	0.0	T W PHILLIPS GAS
8214437	7057	3706322424		108		CROSSGATES INC #3 (RINN)	WHITE	9.6	PEOPLES NATURAL G
8214438	7058	3706322425		108		CROSSGATES INC #4 (RINN)	WHITE	9.6	PEOPLES NATURAL G
8214460	7310	3706321480		108		DONALD WHITE #1	CANOE	4.6	T W PHILLIPS GAS
8214459	7309	3706321414		108		EDWARD CARNAHAN #1	WASHINGTON	5.4	T W PHILLIPS GAS
8214466	7403	3706323138		108		FANNIE BYLER #1	NORTH MAHONING	10.0	T W PHILLIPS GAS
8214465	7397	3706323139		108		FANNIE BYLER #2	NORTH MAHONING	0.0	T W PHILLIPS GAS
8214452	7295	3706322268		108		FERRARO #2	SOUTH MAHONING	4.8	T W PHILLIPS GAS
8214468	7406	3706323117		108		FRANK WAINWRIGHT #1	NORTH MAHONING	11.8	T W PHILLIPS GAS
8214467	7405	3706323118		108		FRANK WAINWRIGHT #2	NORTH MAHONING	11.8	T W PHILLIPS GAS
8214463	7348	3712920839		108		GEORGE H STOUT #1	LOYALHANNA	8.2	T W PHILLIPS GAS
8214456	7302	3706321222		108		HELEN SMITH #1	WEST MAHONING	10.1	T W PHILLIPS GAS
8214453	7299	3706520767		108		HOWARD BAUN #1	BELL	9.5	T W PHILLIPS GAS
8214448	7255	3706520737		108		IDA MAE WEAVER #1	BELL	1.7	T W PHILLIPS GAS
8214450	7269	3706321406		108		J W FAIRMAN #1	WASHINGTON	14.2	T W PHILLIPS GAS
8214449	7256	3706321444		108		J W FAIRMAN #2	WASHINGTON	0.2	T W PHILLIPS GAS
8214436	6657	3706324255		108		JOHN MEANS #2 (74A)	NORTH MAHONING	23.3	CONSOLIDATED GAS
8214451	7294	3706321249		108		JOHN W RITCHIE #1	WEST MAHONING	5.5	T W PHILLIPS GAS
8214441	7374	3706323374		108		JOSEPH DONNELLY #1	WHITE	10.5	PEOPLES NATURAL G
8214454	7300	3706321832		108		KAUFMAN AND MARCY #1	WEST MAHONING	9.7	T W PHILLIPS GAS
8214462	7339	3706523501		108		LEE MILLER #1	BELL	5.0	T W PHILLIPS GAS
8214458	7308	3706321359		108		MARGEATE POTAMKIN #1	SOUTH MAHONING	4.3	T W PHILLIPS GAS
8214439	7061	3706323085		108		RICHARD P RINKUS #5	WHITE	14.6	PEOPLES NATURAL G
8214445	7230	3703320610		108		ROBERT KESTER #3	BELL	8.3	T W PHILLIPS GAS
8214444	7229	3703320611		108		ROBERT KESTER #4	BELL	8.3	T W PHILLIPS GAS
8214443	7228	3703320621		108		ROBERT KESTER #5	BELL	8.3	T W PHILLIPS GAS
8214446	7235	3703320612		108		ROYAL OIL & GAS #4	BELL	13.1	T W PHILLIPS GAS
8214447	7236	3703320623		108		ROYAL OIL & GAS #6	BELL	13.1	T W PHILLIPS GAS
8214442	7226	3703320624		108		ROYAL OIL & GAS CO #7	BELL	13.1	T W PHILLIPS GAS
8214469	7427	3706322318		108		T WASICKI #1	CANOE	8.0	T W PHILLIPS GAS
8214457	7305	3706321466		108		THOMAS N CUSTER #1	CANOE	9.2	T W PHILLIPS GAS
8214455	7301	3706321489		108		WAYNE BAUN #1	CANOE	11.2	T W PHILLIPS GAS
-JOYCE WESTERN CORP				RECEIVED: 01/07/82 JA: PA					
8214470	3610	3702320017		108		WHIPPOORWILL #2	WHIPPOORWILL PA TRACT	6.7	CONSOLIDATED GAS

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WEST VIRGINIA DEPARTMENT OF MINES

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-J & J ENTERPRISES INC				RECEIVED: 02/10/81 JA: WV					
8150921		4701722702		103		J-276	WEST UNION	200.0	CONSOLIDATED GAS
8150922		4701722686		103		J-277	WEST UNION	200.0	CONSOLIDATED GAS
8150923		4701722689		103		J-278	WEST UNION	200.0	CONSOLIDATED GAS
				-TF					

OTHER PURCHASERS

8214376 TRANSOK PIPELINE CO
8214697 TRANSOK P L CO

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-3606 Filed 2-10-82; 8:45 am]
BILLING CODE 6717-01-C

[Volume 591]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 5, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-MCOR OIL & GAS CORP				RECEIVED:	01/08/82	JA: CA			
8214646	81-6-0042	0402120201		102-4		O F REIMERS #1	MALTON-BLACK BUTTE	150.0	PACIFIC GAS & ELE
-SHELL OIL CO				RECEIVED:	01/07/82	JA: CA			
8214643	81-4-0075	0402964085		103		LOST HILLS 41-22	LOST HILLS	75.0	KERNRIDGE OIL CO
8214642	81-4-0079	0402962975		103		LOST HILLS 71X-22	LOST HILLS	75.0	KERNRIDGE OIL CO
-SHELL OIL CO				RECEIVED:	01/08/82	JA: CA			
8214647	81-6-0060	0401120189		102-4		THOUSAND ACRE RANCH 1-6	STEGEMAN GAS	300.0	PACIFIC GAS & ELE
-TENNECO OIL COMPANY				RECEIVED:	01/07/82	JA: CA			
8214641	81-4-0073	0402959089		102-4		SARGENT 82X-34	RIO VIEJO	15.0	ARCO OIL & GAS CO
-TEXAS OIL & GAS CORP				RECEIVED:	01/08/82	JA: CA			
8214652	81-6-0047	0402120207		102-4		BARHAM 13-1	BOUNDE CREEK	150.0	
8214649	81-6-0048	0402120208		102-4		TORRES 1-1	BOUNDE CREEK	150.0	
8214651	81-6-0054	0402120204		102-4		TORRES 12-1	BOUNDE CREEK	150.0	
8214650	81-6-0049	0402120205		102-4		TORRES 12-2	BOUNDE CREEK	150.0	
8214653	81-6-0057	0411320644		102-4		TRI-VALLEY MOUND FARMS 17-1	MILLAR GAS (MAIN AREA	100.0	
-TXO PRODUCTION CORP				RECEIVED:	01/08/82	JA: CA			
8214648	81-6-0061	0411320645		103		BRANDENBURGER 10-1	TODHUNTERS LAKE GAS	250.0	
KANSAS CORPORATION COMMISSION									
-A E PERKINS				RECEIVED:	01/11/82	JA: KS			
8214614	K-BC-0237	1501920024		108-ER		BERTHA GRAY #1	SEDAN PERU	0.0	CITIES SERVICE GA
-MOBIL OIL CORP				RECEIVED:	01/11/82	JA: KS			
8214615	K-81-0720	1518920536		103		FRANCIS M GARVER UNIT #2	PANOMA COUNCIL GROVE	70.0	CITIES SERVICE GA
8214613	K 81-0788	1518920542		103		LEWIS A ELLEXSON UNIT #1	PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
MONTANA BOARD OF OIL & GAS CONSERVATION									
-TRICENTROL UNITED STATES INC				RECEIVED:	01/08/82	JA: MT			
8214645	5-81-81	2500521014		108		DEHLBON 5-6-T30N-R18E	TIGER RIDGE UNIT	13.0	NORTHERN NATURAL
NORTH DAKOTA INDUSTRIAL COMMISSION									
-GETTY OIL COMPANY				RECEIVED:	01/08/82	JA: ND			
8214672	442	3310500862		102-2		TEMPLE #32-5	TEMPLE PROSPECT	175.0	
-GULF OIL CORPORATION				RECEIVED:	01/08/82	JA: ND			
8214666	436	3302500204		102-2		CARUS FEDERAL 1-30-1C	LONE BUTTE	100.0	
8214667	437	3302500198		102-2		HOUGHTON SABROSKY 2-34-4D	LITTLE KNIFE	14.0	MONTANA DAKOTA UT
8214669	439	3302500196		102-2		HOUGHTON SABROSKY 3-34-3D	LITTLE KNIFE	14.0	MONTANA DAKOTA UT
8214668	438	3305301248		102-2		REHBERG 1-8-2D	UNDESIGNATED	7.0	
-KOCH INDUSTRIES INC				RECEIVED:	01/08/82	JA: ND			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214671	441	3300700549		102-2		FEDORA #15-34	TREE TOP	110.0	MONTANA-DAKOTA UT
-LADD PETROLEUM CORPORATION				RECEIVED:	01/08/82	JA: ND			
8214654	424	3305300887		102-2		DUNCAN-FEDERAL #30-24 (RED RIVER	SCAIRT WOMAN	546.9	KOCH HYDROCARBON
-PENNZOIL COMPANY				RECEIVED:	01/08/82	JA: ND			
8214665	435	3305300768		102-2		PENNZOIL-DEPCO #1-15 BN	BULL MOOSE	31.9	KOCH HYDROCARBON
8214664	434	3305301156		102-2		PENNZOIL-DEPCO #1X-15 BN	BULL MOOSE	39.8	KOCH HYDROCARBON
8214663	433	3305301030		102-2		PENNZOIL-DEPCO #15-22 BN	FLAT TOP BUTTE	709.8	KOCH HYDROCARBON
8214670	440	3305301221		102-2		PENNZOIL-DEPCO COVERED BRG #3-22 BN	UNNAMED	3.4	KOCH HYDROCARBON
-SAMEDAN OIL CORPORATION				RECEIVED:	01/08/82	JA: ND			
8214659	429	3310500885		102-2		FEDORENKO #1-21	CATWALK	20.0	PHILLIPS PETROLEU
8214660	430	3310500895		102-2		SOC MINERALS #1	NO NAME	250.0	PHILLIPS PETROLEU
8214661	431	3310500823		102-2		STATE #1	CATWALK	11.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	01/08/82	JA: ND			
8214662	432	3300700436		102-2		MESCHKE #1-2	TR	75.0	WESTERN GAS PROCE
8214657	427	3300700559		102-2		ODERMAN #2-26	BIG STICK	75.0	WESTERN GAS PROCE
8214656	425	3300700612		102-2		TENNECO OYHUS 1-2	TR	500.0	WESTERN GAS PROCE
-TEXACO INC				RECEIVED:	01/08/82	JA: ND			
8214655	426	3305301253		102-2		O J ANDERSON #4	BLUE BUTTES	205.0	MONTANA DAKOTA UT
-WILLIAM HERBERT HUNT TRUST ESTATE				RECEIVED:	01/08/82	JA: ND			
8214658	428	3300700394		102-2		ANHELUK-STATE #1 (HEATH-TYLER)	TREETOP	15.0	KOCH HYDROCARBON
********** NEW MEXICO DEPARTMENT OF ENERGY & MINERALS **********									
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/11/82	JA: NM			
8214629		3002527451		103		STATE 731 #1	JALMAT YATES OIL	5.6	PHILLIPS PETROLEU
-COASTAL OIL & GAS CORP				RECEIVED:	01/11/82	JA: NM			
8214622		3002526890		103		ADLONG 5 #2	W SAWYER (SAN ANDRES)	18.0	CITIES SERVICE CO
8214631		3002525881		103		MARR #3	W SAWYER (SAN ANDRES)	18.0	CITIES SERVICE CO
8214625		3002527145		103		PEARL MARR #4	W SAWYER (SAN ANDRES)	8.0	CITIES SERVICE CO
8214626		3002526893		103		SAWYER STATE "A" #2	W SAWYER (SAN ANDRES)	8.0	CITIES SERVICE CO
-DALPORT OIL CORPORATION				RECEIVED:	01/11/82	JA: NM			
8214634		3002500000		108		O L JONES #I	JALMAT TANSILL 7 RIVE	21.0	EL PASO NATURAL G
-JOHN YURONKA				RECEIVED:	01/11/82	JA: NM			
8214623		3002527488		103		E F KING #2	LANGLIE MATTIX	14.0	EL PASO NATURAL G
-MARATHON OIL COMPANY				RECEIVED:	01/11/82	JA: NM			
8214627		3002527185		103		J W GRIZZELL #3	CARY MONTOYA/BRUNSON	7.3	GETTY OIL CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/11/82	JA: NM			
8214636		3001500000		102-2		RUNYAN 30 STATE COM #1	BUNTING RANCH	2.3	
-SOUTHLAND ROYALTY CO				RECEIVED:	01/11/82	JA: NM			
8214624		3004524002		103		TEXACO STATE #2	WEST KUTZ	62.0	GAS CO OF NEW MEX
-STEVENS OPERATING CORP				RECEIVED:	01/11/82	JA: NM			
8214633		3000561030		103		O'BRIEN L #II	TWIN LAKES-SAN ANDRES	1.0	TRANSWESTERN PIPE
-TEXACO INC				RECEIVED:	01/11/82	JA: NM			
8214630		3002527133		103		WEST VACUUM UNIT #54	VACUUM GRAYBURG-SAN A	1.0	PHILLIPS PETROLEU
-UNC TEXAS INC				RECEIVED:	01/11/82	JA: NM			
8214632		3003900000		103		BETTY C 2-31	LYBROOK-GALLUP	20.0	MESA PETROLEUM CO
-YATES PETROLEUM CORPORATION				RECEIVED:	01/11/82	JA: NM			
8214635		3000560036		107-TF		KITCHENS "PH" #1	UNDESIGNATED ABO	0.0	TRANSWESTERN PIPE
8214628		3000561012		107-TF		PLAIN "ON" COM #1	UND ABO	0.0	TRANSWESTERN PIPE
********** OKLAHOMA CORPORATION COMMISSION **********									
-A C RICHARDS				RECEIVED:	01/08/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214721	12180	3504900000		108		R S SHIRLEY #1	GOLDEN TREND	7.0	WARREN PETROLEUM
-AN-SON CORPORATION				RECEIVED:	01/08/82	JA: OK			
8214695	12058	3505320677		103		MILLER #1-16			
*8214722	12183	3513700000		108		MORGAN #1	MAKITA TREND	84.0	SUN GAS CO
8214694	12077	3501922166		103		PRUITT #3-25	VELMA	21.5	GETTY OIL CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/08/82	JA: OK	CADDO	9.5	
8214731	12140	3509300000		108		LLOYD VICKERY UNIT #2			
8214735	11288	3501900000		108		MODELL FORE #1	CEDARDALE N E	12.0	MICHIGAN WISCONSI
8214732	12142	3505100000		108		THOMAS CHARLSON #6	HEALDTON	19.0	
-BECK PRODUCTION CO				RECEIVED:	01/08/82	JA: OK	CHICKASHA	17.0	ARKANSAS LOUISIAN
8214734	15541	3504921799		103		SHAYLA #1			
-BELAMA OIL CO				RECEIVED:	01/08/82	JA: OK	WHITEBEAD	0.0	WARREN PETROLEUM
8214713	09946	3509322003		103		ENSMINGER (A) #1			
-BOSWELL ENERGY CORP				RECEIVED:	01/08/82	JA: OK	RINGWOOD FIELD/SOONER	0.0	CITIES SERVICE GA
*8214704	09943	3509321970		103		CRAMER #1			
-CONTINENTAL RESOURCES CORP				RECEIVED:	01/08/82	JA: OK	RINGWOOD	0.0	PIONEER GAS PRODU
8214714	11923	3509322124		103		GRAHAM 11-1			
-CURT BROWN DRILLING CO				RECEIVED:	01/08/82	JA: OK	EAST CAMPBELL	0.0	DELHI GAS PIPELIN
8214706	12033	3511720982		103		ZIMMERMAN #4			
-DALCO PETROLEUM INC				RECEIVED:	01/08/82	JA: OK	HALLETT	21.0	COLORADO GAS COMP
8214692	12088	3507322770		103		KOENIG #1			
8214693	12087	3507322954		103		LELA #1	SOONER TREND	91.3	CONOCO INC
-DAWN ENERGY CO				RECEIVED:	01/08/82	JA: OK	SOONER TREND	91.3	CITIES SERVICE GA
8214724	12201	3515321197		103		KELTCH #2-6			
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	01/08/82	JA: OK	SHARON	200.0	NORTHERN NATURAL
8214698	12061	3509322176		103		RATZLAFF #2-15			
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/08/82	JA: OK	WEST ORIENTA	165.0	AMINOIL USA INC
8214730	12135	3500935571		108		STORY #1			
-ENERGY QUEST DRILLING FUND LTD				RECEIVED:	01/08/82	JA: OK	ERICK SOUTH (BROWN DO	22.0	EL PASO NATURAL G
8214737	12019	3507122319		103		PARKER-HAYES #3			
-FLINT & ASSOCIATES				RECEIVED:	01/08/82	JA: OK	UNNAMED	13.1	CITIES SERVICES G
8214739	12052	3512321112		103		MOBIL #7			
-GEMINI OIL CO				RECEIVED:	01/08/82	JA: OK	WEST ALLEN	36.5	SUN GAS CO
8214733	15241	3500320726		103		HADDEN #1			
-HAWKINS OIL & GAS INC				RECEIVED:	01/08/82	JA: OK	SOUTHWEST CHEROKEE	0.0	AMINOIL USA INC
8214708	12110	3515321178		103		MAULER #1-35			
-JET OIL COMPANY				RECEIVED:	01/08/82	JA: OK	W SHARON	365.0	PRODUCERS GAS CO
8214728	15568	3508321765		103		KINCAID #1			
-JONES & PELLOW OIL CO				RECEIVED:	01/08/82	JA: OK	MULHALL	9.0	EASON OIL CO
8214718	12092	3501922242		103		GRAY 11-1			
8214717	12091	3501922232		103		PECK 2-2	N W TATUMS	120.0	MOBIL OIL CORP
-LADD PETROLEUM CORPORATION				RECEIVED:	01/08/82	JA: OK	N W TATUMS	180.0	MOBIL OIL CORP
8214710	11905	3509322042		103		BIERIG "B" #4			
8214711	11904	3509322041		103		BIERIG "C" #4	RINGWOOD	191.6	RINGWOOD GATHERIN
8214709	11906	3509322119		103		SHIDDELL #3 (MISSISSIPPI)	RINGWOOD	84.9	RINGWOOD GATHERIN
8214736	11947	3509322125		103		WATSON #3 (MISSISSIPPI)	RINGWOOD(MISSISSIPPI)	246.3	RINGWOOD GATHERIN
-MAY PETROLEUM INC				RECEIVED:	01/08/82	JA: OK	RINGWOOD (MISSISSIPPI	136.9	RINGWOOD GATHERIN
8214703	12028	3500722083		103		MEIER #1 (OTC UNASSIGNED)			
-MUSTANG PRODUCTION CO.				RECEIVED:	01/08/82	JA: OK	MOCANE-LAVERNE GAS AR	91.3	TRANSWESTERN PIPE
8214716	12082	3501121563		103		DUNCAN #1-32			
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	01/08/82	JA: OK	GREENFIELD	100.0	DELHI GAS PIPELIN
8214712	11901	3515121169		103		IRA FOX #1-11			
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/08/82	JA: OK	SOONER TREND	100.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214725	12216	3500700000		108		CROSS A #2	COMO SE TONKAWA	0.0	EL PASO NATURAL G
8214726	12218	3513900000		108		LIVING #1	GUYMON HUGOTON	0.0	PANHANDLE EASTERN
8214723	12188	3501720631		108		LUCUS A #1	N W RICHLAND	4.1	OKLAHOMA GAS & EL
8214705	04295	3504900000		108		SWASSU #57	GOLDEN TREND	7.5	WARREN PETROLEUM
-READING & BATES PETROLEUM CO				RECEIVED:	01/08/82	JA: OK			
8214697	12065	3503920450		103		LLOYD SCOTT A-2	RED FORK	0.0	MICHIGAN WISCONSI
-SHAR-ALAN OIL CO				RECEIVED:	01/08/82	JA: OK			
8214740	12041	3509322077		103		AUGUST SCHROEDER #1	NORTHEAST FAIRVIEW	102.0	PIONEER GAS PRODU
8214738	12037	3509322116		103		JENSEN #2	NORTHEAST FAIRVIEW	280.0	PIONEER GAS PRODU
8214702	12038	3509322137		103		JENSEN #3	NORTHEAST FAIRVIEW	150.0	PIONEER GAS PRODU
8214699	12042	3509321968		103		JOE HOLLAND #1	N CHESTER	700.0	DELMI GAS PIPELIN
8214701	12040	3509321913		103		MARY SPEECE #1	N W CLEO SPRINGS	80.0	PIONEER GAS PRODU
-SITCO INC				RECEIVED:	01/08/82	JA: OK			
8214707	12164	3507322916		103		ARNOLD #1	WEST ROXANNA	85.0	EASON OIL CO
-TEXACO INC				RECEIVED:	01/08/82	JA: OK			
8214720	12099	3507323094		103		BETTY MENZ #1	OKARCHE NE	14.6	CONOCO INC
8214719	12097	3507322949		103		K SCHROEDER #1	OKARCHE NE	9.1	CONOCO INC
-VIERSEN & COCHRAN				RECEIVED:	01/08/82	JA: OK			
8214727	12221	3501121615		103		RADEN HEIRS #1-31	WATONGA TREND	75.0	DELMI GAS PIPELIN
-W B WILSON				RECEIVED:	01/08/82	JA: OK			
8214729	12119	3507100000		103		STATE 36 #9	UNDESIGNATED	10.9	CHASE GATHERING S
-WALKER & WITHROW INC				RECEIVED:	01/08/82	JA: OK			
8214696	12067	3501721910		103		PORTER #35-1	YUKON	233.0	DELMI GAS PIPELIN
-WARREN DRILLING CO INC				RECEIVED:	01/08/82	JA: OK			
8214748	12080	3509300000		103		NIGHTENGALE #2	RINGWOOD	55.0	PHILLIPS PETROLEU
8214715	12081	3509322179		103		REAMES #2	RINGWOOD	50.0	PHILLIPS PETROLEU
SOUTH DAKOTA DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT									
-JERRY A MCCUTCHIN JR				RECEIVED:	01/11/82	JA: SD			
8214644		4006300000		108-ER		MCCUTCHIN #1-28	W SHORT PINE HILLS	0.0	MONTANA DAKOTA UT
TENNESSEE OIL & GAS BOARD									
-A-B-C PETROLEUM				RECEIVED:	01/11/82	JA: TN			
8214812	A-869	4115120569		102-2		JAMES YANCEY #1	UNKNOWN	146.0	INTRASTATE ENERGY
8214811	A-870	4115120506		102-2		JAMES YANCEY #2	UNKNOWN	146.0	INTRASTATE ENERGY
-ACE PETROLEUM CO INC				RECEIVED:	01/11/82	JA: TN			
8214758	A-756	4112920625		103		IRA W NORTHRUP #3	PLEASANT RIDGE	7.0	EAST TENNESSEE NA
8214760	A-757	4112920542		103		IRA W NORTHRUP UNIT 1	PLEASANT RIDGE	10.0	EAST TENNESSEE NA
8214759	A-755	4112920663		103		NORTHRUP - MORGAN #1	PLEASANT RIDGE	8.0	EAST TENNESSEE NA
8214808	A-754	4112920004		102-4		VIRGIL SMITH #1	RUGBY	12.0	EAST TENNESSEE NA
8214807	A-753	4112920010		102-4		VIRGIL SMITH #2	RUGBY	14.0	EAST TENNESSEE NA
-B & W OIL CO				RECEIVED:	01/11/82	JA: TN			
8214790	A-768	4112920521		102-2		ADAM-HOWARD UNIT #1	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8214788	A-773	4112920974		102-2		DAVIS #1	GLADES EAST	15.0	EAST TENNESSEE NA
8214792	A-737	4112920863		102-2		E SCOTT #1	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8214793	A-829	4112923952		102-2		ELEANOR PELC #1	DOUGLAS BRANCH	15.0	EAST TENNESSEE NA
8214786	A-831	4112920564		102-2		LEE BRANSTETTER #3	DOUGLAS BRANCH	15.0	EAST TENNESSEE NA
8214789	A-769	4112910005		102-2		LOY TOMKINS #1	GATEWOOD SCHOOL	0.0	EAST TENNESSEE NA
8214791	A-767	4112910004		102-2		O C DUNCAN UNIT #1	GATEWOOD SCHOOL	10.0	EAST TENNESSEE NA
8214787	A-772	4112920962		102-2		STAGG HEIRS #1	GLADES EAST	12.0	EAST TENNESSEE NA
-B-J INC				RECEIVED:	01/11/82	JA: TN			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214752	A-763	4112918842		102-2		BRADFORD-TINCH EGI #1	INDIAN CREEK	76.6	INTRASTATE ENERGY
8214887	A-847	4112920904		102-4		BROWN-PEMBERTON CA-1981-1 UNIT #1	BOONE CAMP NE	182.8	INTRASTATE ENERGY
8214885	A-849	4104020711		102-2		CARSON HULL-RUGBY LAND CO PFG-V-1	UNKNOWN	24.4	INTRASTATE ENERGY
8214794	A-842	4112920852		102-4		DAVID M GALBRAITH EGI #1	UNKNOWN	52.5	INTRASTATE ENERGY
8214886	A-848	4112920963		102-4		IRVING BROWN & RALPH PEMBERTON EGI	UNKNOWN	161.3	INTRASTATE ENERGY
8214775	A-746	4104920578		102-2		J T LEDBETTER #2		43.8	FENTRESS COUNTY U
8214876	A-784	4115120829		102-2		JOHN V WEST PFG-V-1 #1	GLENMARY	89.2	INTRASTATE ENERGY
8214813	A-858	4115120680		102-2		MILLER-BURKE EGI #1	UNKNOWN	14.6	INTRASTATE ENERGY
8214774	A-747	4115120800		102-4		ONEIDA WOOD INDUSTRIES BJI #1	UNKNOWN	37.9	INTRASTATE ENERGY
8214777	A-749	4112920876		102-2		STARR-JACKS-SCOTT PFG-V-I UNIT #1	INDIAN CREEK FIELD	881.0	INTRASTATE ENERGY
8214776	A-745	4112920693		102-2		THOMAS D MARTIN PFG-V-1 #1	GUM BRANCH	87.6	INTRASTATE ENERGY
-BIG EIGHT ENERGY INC				RECEIVED:	01/11/82	JA: TN			
8214868	A-790	4118520046		102-2		BOB ROBERTS #2-4 PERMIT #2662		0.0	MIDDLE TENNESSEE
8214877	A-775	4118520020		102-2		SUE GEER #1 PERMIT #1882		26.0	MIDDLE TENNESSEE
8214870	A-792	4118520015		102-2		R GEER #1 PERMIT #1863		0.0	MIDDLE TENNESSEE
8214803	A-778	4118520017		102-2		R ROBERTS #1 PERMIT # 1871		12.8	MIDDLE TENNESSEE
8214804	A-779	4118520022		102-2		R ROBERTS #2 PERMIT # 1892		1.4	MIDDLE TENNESSEE
8214869	A-791	4118520043		102-2		R ROBERTS #3 PERMIT #2494		0.0	MIDDLE TENNESSEE
8214802	A-777	4118520013		102-2		TOM SCOTT JR #1 PERMIT #1833		2.0	MIDDLE TENNESSEE
8214805	A-780	4118520045		102-2		TOM SCOTT SR #2 PERMIT #2661		1.5	MIDDLE TENNESSEE
-BILL RAY				RECEIVED:	01/11/82	JA: TN			
8214796	A-798	4115120289		102-2		RUGBY LAND CO #1	UNKNOWN	0.0	INTRASTATE ENERGY
-BLACK GOLD DISCOVERY INC				RECEIVED:	01/11/82	JA: TN			
8214762	A-751	4113320260		102-2		J BILBREY-K SMITH #1	NEW FIELD - WILDCAT	12.0	RURAL GAS GATHERI
8214863	A-752	4113320313		102-2		J H VAUGHN #1	NEW FIELD - WILDCAT	4.8	RURAL GAS GATHERI
8214761	A-750	4113320314		102-2		K CARR-C DUKE #1	NEW FIELD - WILDCAT	12.0	RURAL GAS GATHERI
-CAMAC OIL & GAS CO				RECEIVED:	01/11/82	JA: TN			
8214798	A-802	4115120760		102-2		DUNCAN-ONEIDA WOOD INC #1	UNNAMED	14.0	
8214799	A-801	4112920705		102-2		HEDWIG DITZ #1	UNNAMED	7.5	
8214800	A-800	4112920764		102-2		HEDWIG DITZ #2		1.0	
8214801	A-799	4112920810		102-2		PLATEAU PROPERTIES INC #1		7.5	
8214797	A-803	4112920703		102-2		SCHUBERT #1	UNNAMED	6.0	
-CATOOSA EXPLORATION CORP				RECEIVED:	01/11/82	JA: TN			
8214841	A-850	4104920708		102-2		B & R ENTERPRISES #1		6.5	FENTRESS GAS TRAN
8214748	A-851	4104920749		102-2		B & R ENTERPRISES #2		12.0	FENTRESS GAS TRAN
8214833	A-854	4104920738		102-2		BILL CLARK #1		5.5	FENTRESS GAS TRAN
8214749	A-860	4104920720		102-2		D C CLARK #1		9.5	FENTRESS GAS TRAN
8214835	A-859	4104920786		102-2		D C CLARK #2		10.8	FENTRESS GAS TRAN
8214831	A-852	4104920751		102-2		LOWELL GARRETT #1		8.4	FENTRESS GAS TRAN
8214832	A-853	4104920779		102-2		MONDAY-HEDGECLOTH UNIT #1		11.6	FENTRESS GAS TRAN
8214834	A-863	4104920785		102-2		PEGGY COOK #1		11.6	FENTRESS GAS TRAN
8214842	A-858	4104920721		102-2		PLATEAU PROPERTIES #1		6.0	FENTRESS GAS TRAN
8214838	A-857	4104920750		102-2		PLATEAU PROPERTIES #2		12.5	FENTRESS GAS TRAN
8214839	A-862	4104920754		102-2		PLATEAU PROPERTIES #3		15.0	FENTRESS GAS TRAN
8214840	A-861	4104920755		102-2		PLATEAU PROPERTIES #4		9.0	FENTRESS GAS TRAN
8214836	A-855	4104920787		102-2		RONNIE RAMSEY #1		8.5	FENTRESS GAS TRAN
8214837	A-856	4104920778		102-2		RONNY RAMSEY-BRYAN RAMSEY UNIT #1		10.8	FENTRESS GAS TRAN
-CLOVES & RAY				RECEIVED:	01/11/82	JA: TN			
8214874	A-781	4112920417		102-4		CLARENCE BROWN UNIT #1	UNKNOWN	21.9	INTRASTATE ENERGY
8214875	A-782	4112920745		102-4		GUNTER-BROWN-BROWN UNIT #1	UNKNOWN	73.0	INTRASTATE ENERGY
8214873	A-783	4115120572		102-2		PEMBERTON-BAKER #1	UNKNOWN	36.5	INTRASTATE ENERGY
-CONTINENTAL ENERGY				RECEIVED:	01/11/82	JA: TN			
8214764	A-743	4115120636		102-2		EUNICE PRYOR #1	RUEBEN HOLLOW	20.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214763	A-742	4115120726		102-2		EUNICE PRYOR #2	RUEBEN HOLLOW	20.0	
-CUMBERLAND OIL PRODUCING CO INC				RECEIVED:	01/11/82	JA: TN			
8214783	A-582	4112910449		108		A BRANSTETTER #1	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8214781	A-579	4112920518		108		B PELTZ #2	DOUGLAS BRANCH	3.0	EAST TENNESSEE NA
8214785	A-585	4112920515		108		J WELBORN #1	DOUGLAS BRANCH	3.0	EAST TENNESSEE NA
8214784	A-584	4112920556		108		O COLE #2	DOUGLAS BRANCH	0.0	EAST TENNESSEE NA
8214782	A-580	4112920563		108		P L BRANSTETTER #7	DOUGLAS BRANCH	5.0	EAST TENNESSEE NA
8214795	A-830	4112920564		102-2		P L BRANSTETTER #8	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8214780	A-578	4112920419		108		PLATEAU PROPERTIES #4	DOUGLAS BRANCH	0.0	EAST TENNESSEE NA
-DELOY MILLER				RECEIVED:	01/11/82	JA: TN			
8214846	A-815	4112920607		102-2		DORTCH-GREYSHAW #1	DAN BRANCH	91.2	GAS LINE PARTNERS
8214830	A-838	4112920708		102-2		DORTCH-FRANK #1	DAN BRANCH	150.0	GASLINE PARTNERSH
8214829	A-837	4112920722		102-2		DORTCH-GERHART #1	DAN BRANCH	200.0	GASLINE PARTNERSH
8214884	A-839	4112920698		102-2		FRANK #1A	DAN BRANCH	180.0	GASLINE PARTNERSH
8214882	A-841	4112920701		102-2		FRANK #2	DAN BRANCH	95.0	GASLINE PARTNERSH
8214881	A-842	4112920759		102-2		FRANK #3	DAN BRANCH	200.0	GASLINE PARTNERSH
8214883	A-840	4112920765		102-2		FRANK WENTLAND #1	DAN BRANCH	80.0	GASLINE PARTNERSH
8214854	A-809	4112920448		102-2		HARNEY-SCOTT UNIT #1	DEER LODGE	125.5	INTRASTATE ENERGY
8214853	A-813	4104920593		102-2		LEWALLEN (PLATEAU PROPERTIES #1)	SHIRLEY	500.0	RED FEATHER GAS &
8214848	A-816	4112920429		102-2		NEIL L FRANK #1	DAN BRANCH	214.0	GASLINE PARTNERSH
8214852	A-814	4112920376		102-2		R H WENTLAND #1	DAN BRANCH	101.8	GAS LINE PARTNERS
8214847	A-817	4112920415		102-2		WENTLAND SUB UNIT #1	DAN BRANCH	215.3	GASLINE PARTNERSH
-DICK HYDE				RECEIVED:	01/11/82	JA: TN			
8214817	A-846	4112920892		102-2		STARR-SEXTON #1	WILDCAT	292.0	INTRASTATE ENERGY
-DIXIE-SHAMROCK OIL & GAS INC				RECEIVED:	01/11/82	JA: TN			
8214890	A-843	4115120729		102-2		BRIMSTONE CO #12	UNNAMED FIELD	136.9	
8214889	A-844	4115120801		102-2		BRIMSTONE CO #13	UNNAMED FIELD	9.1	
8214888	A-845	4115120583		102-2		BRIMSTONE CO #2		9.1	
8214768	A-731	4115120641		102-2		BRIMSTONE CO #4	WILDCAT	9.1	
8214867	A-732	4115120651		102-2		BRIMSTONE CO #6		9.1	
-GOODWIN OIL PROPERTIES INC				RECEIVED:	01/11/82	JA: TN			
8214857	A-805	4112920826		102-2		CLEO LOGAN #1	UNKNOWN	21.9	INTRASTATE ENERGY
-HICKORY CREEK DEVELOPMENT CORP				RECEIVED:	01/11/82	JA: TN			
8214754	A-762	4103120044		102-2		JOHN K TART #1	HICKORY CREEK	75.0	
8214755	A-761	4103120058		102-2		K WOOD #1	HICKORY CREEK	75.0	
8214753	A-760	4103120059		102-2		MARY SUE STROUD #1	HICKORY CREEK	75.0	
8214772	A-727	4103120057		102-2		TONY REED #1	HICKORY CREEK	75.0	
8214773	A-726	4103120056		102-2		V STOTTS #1	HICKORY CREEK	75.0	
-HOMESTEAD ENERGY CORP				RECEIVED:	01/11/82	JA: TN			
8214767	A-812	4115120828		102-4		DWAYNE POTTER UNIT #1A	HUNTSVILLE	0.1	CUMBERLAND NATURA
8214766	A-810	4115120777		102-4		ONEIDA WOODS #6	HUNTSVILLE	0.1	CUMBERLAND NATURA
8214765	A-811	4115120787		102-4		RUTH S YELANDER #2A	STANLEY CREEK	0.1	CUMBERLAND NATURA
-KOPPERS CO INC				RECEIVED:	01/11/82	JA: TN			
8214809	A-774	4112920926		102-2		KOPPERS CO #9	RUGBY	321.2	INTRASTATE ENERGY
-LELAND PETROLEUM PRODUCTION INC				RECEIVED:	01/11/82	JA: TN			
8214770	A-728	4112920647		103		BENNY PELC #1 LPPI	SUNBRIGHT	31.5	
8214771	A-729	4104920559		103		ROBERT E DEARMON #1 LPPI	SUNBRIGHT	20.5	
-MCANALLY PETROLEUM LTD				RECEIVED:	01/11/82	JA: TN			
8214843	A-564	4105120809		102-2		HILL #1		72.0	EAST TENNESSEE NA
-NECKLES ENERGY CO				RECEIVED:	01/11/82	JA: TN			
8214880	A-821	4115110202		102-4		BERTHA PHILLIPS #1	HUNTSVILLE	0.0	CUMBERLAND NATURA
8214878	A-820	4115120644		102-4		BERTHA PHILLIPS #2	HUNTSVILLE	0.0	CUMBERLAND NATURA
8214879	A-822	4115120675		102-4		MARY S BYRD	HUNTSVILLE	0.0	CUMBERLAND NATURA

JD NO	JA JKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PARMA PETROLEUM CORP				RECEIVED:	01/11/82	JA: TN			
8214831	A-808	4115120808		102-2		DONY LAWHORN #1	GUM BRANCH	355.1	INTRASTATE ENERGY
8214856	A-770	4115120738		102-4		ONEIDA WOODS #1	HUNTSVILLE	21.9	INTRASTATE ENERGY
-PETRO-AMERICA CORP				RECEIVED:	01/11/82	JA: TN			
8214820	A-825	4112920960		102-2		BROOKS-LINDSAY UNIT #1	UNKNOWN	7.3	INTRASTATE ENERGY
8214750	A-765	4112920798		102-2		BROOKS-MILMOW HEIRS UNIT #1	RUGBY	18.2	INTRASTATE ENERGY
8214751	A-764	4112920513		102-2		DUNCAN-SMITH HEIRS #1	UNKNOWN	18.2	INTRASTATE ENERGY
8214821	A-829	4112920989		102-2		DUNCAN-SMITH HEIRS #2	UNKNOWN	21.9	INTRASTATE ENERGY
8214819	A-827	4112920986		102-2		KEN DAVIS #1		21.9	INTRASTATE ENERGY
8214810	A-771	4115120784		102-2		PEMBERTON-BAKER #1	GUM BRANCH	91.2	INTRASTATE ENERGY
8214806	A-755	4112920879		102-4		PEMBERTON-BAKER #2	BOONE CAMP	21.9	INTRASTATE ENERGY
8214822	A-824	4112920932		102-2		R PRESLEY-GRAVES #1	UNKNOWN	21.9	INTRASTATE ENERGY
8214823	A-823	4112920937		102-2		SHIRLEY BOW #1-A	UNKNOWN	38.9	INTRASTATE ENERGY
8214818	A-828	4112920972		102-2		SMITH-DUNCAN #1	UNKNOWN	365.0	INTRASTATE ENERGY
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	01/11/82	JA: TN			
8214814	A-867	4115120780		102-2		BOLES #1	UNKNOWN	21.9	INTRASTATE ENERGY
8214816	A-865	4115120823		102-2		EMMA STRINGFIELD #1	UNKNOWN	21.9	INTRASTATE ENERGY
8214769	A-730	4115120559		102-2		KISER-REED #1	GUM BRANCH	139.4	INTRASTATE ENERGY
8214815	A-866	4115120622		102-2		RUGBY LAND CO - BYRD-COCHRAN-GOAD 1	UNKNOWN	21.9	INTRASTATE ENERGY
-RED FEATHER GAS & OIL INC				RECEIVED:	01/11/82	JA: TN			
8214778	A-736	4104920037		102-4		CARSON HULL B-1	SHIRLEY	397.7	INTRASTATE ENERGY
8214779	A-735	4104920048		102-4		CARSON HULL B-2	SHIRLEY	188.8	INTRASTATE ENERGY
-SRI DRILLING CO				RECEIVED:	01/11/82	JA: TN			
8214827	A-833	4112920976		103		G C PEMBERTON - RALPH PEMBERTON #3	PLEASANT RIDGE	10.0	EAST TENNESSEE NA
8214824	A-836	4112920975		103		G C PEMBERTON #1	PLEASANT RIDGE	13.0	EAST TENNESSEE NA
8214825	A-835	4112920991		103		G C PEMBERTON #2-A	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8214742	A-882	4112920997		103		G C PEMBERTON #3-A	PLEASANT RIDGE	16.0	EAST TENNESSEE NA
8214744	A-880	4112920998		103		G C PEMBERTON #4A	PLEASANT RIDGE	30.0	EAST TENNESSEE NA
8214746	A-878	4112921008		103		G C PEMBERTON #6-A	PLEASANT RIDGE	1.8	EAST TENNESSEE NA
8214747	A-877	4112921015		103		G C PEMBERTON #7A	PLEASANT RIDGE	15.0	EAST TENNESSEE NA
8214741	A-883	4112921019		103		G C PEMBERTON #8-A	PLEASANT RIDGE	1.8	EAST TENNESSEE NA
8214743	A-881	4112921024		103		G C PEMBERTON #9-A	PLEASANT RIDGE	24.0	EAST TENNESSEE NA
8214745	A-879	4112921002		103		G C PEMBERTON 5-A	PLEASANT RIDGE	3.7	EAST TENNESSEE NA
8214828	A-832	4112920717		103		G C PEMBERTON-R PEMBERTON #2	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8214862	A-795	4112920709		103		G C PEMBERTON-RALPH PEMBERTON #1	PLEASANT RIDGE	12.0	EAST TENNESSEE NA
8214826	A-834	4112920760		103		NORTHRUP-PEMBERTON #2	PLEASANT RIDGE	12.0	EAST TENNESSEE NA
8214859	A-797	4112920659		103		PEMBERTON-NORTHRUP #1	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8214858	A-796	4112920688		103		RALPH PEMBERTON #1	PLEASANT RIDGE	13.0	EAST TENNESSEE NA
8214861	A-794	4112920761		103		RALPH PEMBERTON-G C PEMBERTON #2	PLEASANT RIDGE	13.0	EAST TENNESSEE NA
8214860	A-793	4112920658		103		RALPH PEMBERTON-G C PEMBERTON #1	PLEASANT RIDGE	12.0	EAST TENNESSEE NA
-TARTAN OIL COMPANY				RECEIVED:	01/11/82	JA: TN			
8214855	A-837	4112920902		103		JAMES SILVEY #1-A (PERMIT #4158)	SUNBRIGHT	9.0	
8214850	A-908	4112920955		102-2		LEE GRIFFITH #2 PERMIT #4384	UNNAMED	70.0	
-TENNESSEE LAND & EXPLORATION CO				RECEIVED:	01/11/82	JA: TN			
8214866	A-734	4112920824		102-2		GRIFFITH-HOWARD #1 PERMIT #3851	UNNAMED	86.7	
8214872	A-789	4115120638		102-2		HALL LAWHORN #4 PERMIT #3668	GUM BRANCH	5.8	INTRASTATE ENERGY
8214871	A-788	4115120746		102-2		VERNON LAWHORN #5 PERMIT #3816	GUM BRANCH	5.8	INTRASTATE ENERGY
-TRANS TENN ENERGY				RECEIVED:	01/11/82	JA: TN			
8214844	A-818	4115120690		102-2		LORA MAYE SMITH #1	HONEY CREEK SOUTH	50.0	INTRASTATE ENERGY
8214845	A-819	4115120379		102-2		LORA MAYE SMITH #2	HONEY CREEK	50.0	INTRASTATE ENERGY
-W W KEELER & SONS				RECEIVED:	01/11/82	JA: TN			
8214865	A-748	4104920327		102-2		JOSIE HULL SNELLING HEIRS #1	SHIRLEY	21.6	INTRASTATE ENERGY
8214864	A-749	4104920328		102-2		W O HULL HEIRS #1	SHIRLEY	55.8	INTRASTATE ENERGY

JD NO	JA DAT	API NO	C	SECT1	SECT2	WELL NAME	FIELD NAME	PROD	PURCHASER
-WESTERN RESERVES OIL COMPANY				RECEIVED:	01/11/82	JA: TN			
8214757	A-758	4112920671		102-2		ARNOLD SELF #1	UNKNOWN	47.4	B & W OIL CO
8214756	A-759	4112920856		102-2		DAVIS HEIRS #2	UNKNOWN	93.8	B & W OIL CO
-WILLIAM H YOUNG				RECEIVED:	01/11/82	JA: TN			
8214849	A-733	4115120785		102-2		VELANDER #1	STANLEY CREEK FIELD	1.3	CUMBERLAND NATURA
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-EMERALD ENERGY CO				RECEIVED:	12/14/81	JA: WV			
8214637		4702123511		108		E MILLER #1(47-021-3511)	NORMANTOWN NORTHEAST	25.0	CARNEGIE NATURAL
**********									
WYOMING OIL & GAS CONSERVATION COMMISSION									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	01/11/82	JA: WY			
8214691	NG 250-81	4904120191		103		CHAMPLIN 186 AMOCO "B" #1A (DAKOTA)	BRUFF-DAKOTA	230.8	CITIES SERVICE GA
8214690	NG 249-81	4903721777		102-2		CHAMPLIN 259 AMOCO "B" #1	WILDCAT-FRONTIER	21.0	
8214676	NG231-81	4903721736		102-2		CHAMPLIN 269 AMOCO B #1	UNNAMED-LANCE	85.1	CITIES SERVICE GA
8214681	NG 238-81	4900720485		107-TF		CHAMPLIN 337 AMOCO "F" #1	ECHO SPRINGS - MESAVE	22.1	CITIES SERVICE GA
8214680	NG-237-81	4900720661		107-TF		CHAMPLIN 337 AMOCO J #1 (MESAVERDE)	ECHO SPRINGS - MESAVE	94.0	CITIES SERVICE GA
8214679	NG236-81	4903721748		107-TF		CHAMPLIN 444 AMOCO J #1 (MESAVERDE)	WILDROSE - MESAVERDE	98.9	CITIES SERVICE GA
8214682	NG 239-81	4903721755		107-TF		CHAMPLIN 452 AMOCO "I" #1	SIBERIA RIDGE-MESAVER	109.9	CITIES SERVICE GA
8214685	NG 242-81	4903721605		102-2		CHAMPLIN 533 AMOCO "B" #1	WILDCAT-LEWIS	98.0	CITIES SERVICE GA
8214684	NG 241-81	4904120380		102-2		STATE OF WYOMING "W" #1 (DAKOTA)	BRUFF-DAKOTA	162.8	CITIES SERVICE GA
8214683	NG 240-81	4902320349		102-2		WILSON RANCH UNIT #14 (DAKOTA)	WILSON RANCH-DAKOTA	1279.0	CITIES SERVICE GA
-CIG EXPLORATION INC				RECEIVED:	01/11/82	JA: WY			
8214675	NG 225-81	4903721176		107-TF		STATE 1-36-17-94	WILDROSE	222.0	COLORADO INTERSTA
-EXETER EXPLORATION COMPANY				RECEIVED:	01/11/82	JA: WY			
8214674	NG 216-81	4900921923		103		STATE #15-16	MIKE'S DRAW	50.0	PHILLIPS PETROLEU
-INEXCO OIL COMPANY				RECEIVED:	01/11/82	JA: WY			
8214687	NG 245-81	4900921949		102-4		U W #1-10	SHAWNEE	10.0	INEXCO GASOLINE P
-INTERNORTH INC				RECEIVED:	01/11/82	JA: WY			
8214678	NG235-81	4900921909		103		STATE 025 #3-16	SCOTT	40.0	INTERNORTH INC
8214677	NG234-81	4900921853		103		STATE 025 1-16	SCOTT	30.0	INTERNORTH INC
-LARIAT OIL & GAS				RECEIVED:	01/11/82	JA: WY			
8214689	NG 247-81	4904500006		103		CAROLYN #1	HA CREEK-STEPOUT	35.0	PHILLIPS PETROLEU
-MONSANTO COMPANY				RECEIVED:	01/11/82	JA: WY			
8214686	NG 244-81	4901321113		107-DP		MONSANTO SPRATT #2-4	MADDEN	3205.0	COLORADO INTERSTA
-PANHANDLE WESTERN GAS CO				RECEIVED:	01/11/82	JA: WY			
8214688	NG 246-81	4900526029		103		ELLBOGEN #1	WILDCAT	14.8	PANHANDLE EASTERN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	01/11/82	JA: WY			
8214673	NG 215-81	4900720584		103		UNIVERSAL STATE #1-16	WILDCAT (ALMOND)	0.0	CITIES SERVICE GA
**********									
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM									
**********									
-DUGAN PRODUCTION CORP				RECEIVED:	01/11/82	JA: NM 4			
8214639	NM0045-81-PB	3004522062	D	108-PB		GEORGE WASHINGTON #2	WAW FRUITLAND PC	9.4	EL PASO NATURAL G
-JEROME P MCHUGH				RECEIVED:	01/11/82	JA: NM 4			
8214640	NM-1763-80	3004512101	D	108		HARDIE #4	BASIN DAKOTA	23.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	01/11/82	JA: NM 4			
8214638	NM-0005-81	3001523335		102-4		MOBIL CI FEDERAL #11	UNDES PENASCO DRAW MO	0.0	TRANSWESTERN PIPE
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
**********									
-ARAPAHO PETROLEUM INCORPORATED				RECEIVED:	01/11/82	JA: OK 8			

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214616		3511324343		103		SOUTH BUELL #2	SKINNER	2.3	PHILLIPS PETROLEU
-JAMES W WISE				RECEIVED:	01/11/82	JA: OK 8			
8214621		3511300000		103		VIVIAN #1-36	SOUTH ATLANTIC POOL S	90.0	PHILLIPS PETROLEU
-OKLAHOMA DRILLING CORP				RECEIVED:	01/11/82	JA: OK 8			
8214617		3511300000		103		BILL PRATT #6-B	EAST HAPPY HOLLOW	0.0	PHILLIPS PETROLEU
-TRACY OIL & GAS CO				RECEIVED:	01/11/82	JA: OK 8			
8214618		3511300000		103		MAKER #1-A	OSAGE-HOMINY	6.5	PHILLIPS PETROLEU
8214619		3511300000		103		MAKER #2-A	OSAGE-HOMINY	7.3	PHILLIPS PETROLEU
8214620		3511300000		103		MAKER #3-A	OSAGE-HOMINY	15.6	PHILLIPS PETROLEU

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
81-30581	TX	Delta Drilling Co.	Jetta Willis #1	439	06-17-81	C:	102-2,103 & 107-TF approved
81-38160	PA	Mrs Jane Shaner Switzer	Decker #1	470	07-16-81	C:	Well name
81-45186	KY	Falcon Energy Company	S.D. McCoy, #F.E.-1	498	09-03-81	C:	Well name
82-07696	KS	Lee Banks	Moberly 1-31	561	12-24-81	C:	Well name
82-07888	WV	FMF Oil & Gas Properties	King #2C	562	12-29-81	C:	Well name
82-08781	TX	Diamex Company	Martin Volz #1	567	01-05-82	C:	102-4,103 & 107-TF approved
82-08841	TX	Delta Drilling Co	Riggs #1	567	01-05-82	C:	102-2,103 & 107-TF approved
82-08874	TX	Delta Drilling Co	D. B. Hardy #1	567	01-05-82	C:	102-2,103 & 107-TF approved
82-09522	OK	Southland Royalty Co	Pittman #1-24	569	01-05-82	C:	108-ER approved
82-09528	OK	Jico Exploration	Jico-Graham #2	569	01-05-82	C:	Well name
82-09719	OK	Woods Petroleum Corp	Wade Coulson #5-1	571	01-05-82	C:	Well name
82-09780	OK	Ricks Exploration Co	Mary Lou #1	571	01-05-82	C:	102-4 & 103 approved
82-09824UB(CO)		CIG Exploration Inc	CIGE 78C-16-9-21-P	571	01-05-82	C:	103 & 107-TF approved
82-09854	NM	Mesa Petroleum	Bell Estate #1	571	01-05-82	C:	102-2 & 107-TF approved
82-09857	NM	MTS Ltd Partnership	Ned State #3	571	01-05-82	C:	102-2 & 107-TF approved
82-09858	NM	Mesa Petroleum	Acme #3	571	01-05-82	C:	102-2 & 107-TF approved
82-10724	TX	Joe McGuire	Joe F Bean C #1	575	01-14-82	C:	102-4,103 & 107-TF approved
82-10725	TX	Joe McGuire	Joe F Bean North #1	575	01-14-82	C:	102-4,103 & 107-TF approved
82-12806	OK	Apollo Production Ltd	W. W. Duffy #13-12	584		C:	102-4 & 103 approved

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3807 Filed 2-10-82; 8:45 am]

BILLING CODE 6717-01-C

Office of the Secretary

Intent To Grant Exclusive Patent License; Atom Sciences, Inc.

Notice is hereby given of an intent to grant to Atom Sciences, Inc., of Oak Ridge, Tennessee, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 3,987,502, entitled "Resonance Ionization For Analytical Spectroscopy." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice (on or before April 12, 1982) the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C., on this 5th day of February 1982.

R. Tenney Johnson,

General Counsel.

[FR Doc. 82-3624 Filed 2-10-82; 8:45 am]

BILLING CODE 6450-01-M

Intent To Grant Exclusive Patent License; Electronics, Missiles, and Communications, Inc.

Notice is hereby given of an intent to grant to Electronics, Missiles, and Communications, Inc. of White Haven, Pennsylvania, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 4,253,190, entitled "Communications Systems Using A Mirror Kept In Outer Space By Electromagnetic Radiation Pressure." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice (on or before April 12, 1982) the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C., on this 5th day of February 1982.

R. Tenney Johnson,

General Counsel.

[FR Doc. 82-3623 Filed 2-10-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AS-5-FRL-2046-6]

Assessment and Collection of Noncompliance Penalties by EPA; Settlement of Action Initiated against United Cement Co., Artesia, MS

AGENCY: Environmental Protection Agency.

ACTION: Informational notice.

SUMMARY: Notice is hereby given that EPA and United Cement Company of Artesia, Mississippi, have concluded a noncompliance penalty proceeding under section 120 of the Clean Air Act, 42 U.S.C. 7420, by execution of a consent agreement and final settlement order on November 13, 1981. The agreement settled this administrative penalty proceeding by assessing no penalty against the company.

DATE: This action constitutes "final agency action" within the meaning of section 307(b)(1) of the Clean Air Act; accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the Eleventh Circuit within 60 days of today.

ADDRESS: Copies of the signed consent agreement and final settlement order may be examined during normal business hours at the following location: Office of Regional Counsel, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Second Floor, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: James F. Bycott at the Region IV address given above or at 404/881-3506 (FTS 257-3506).

SUPPLEMENTARY INFORMATION: This penalty proceeding was initiated by EPA, Region IV, pursuant to section 120 of the Clean Air Act by issuance of a Notice of Noncompliance on April 27, 1981, to United Cement Company for alleged violations by the clinker cooler at its Artesia, Mississippi, facility of the particulate matter emissions limitations of EPA's New Source Performance Standards, 40 CFR 60.62(b)(1). In the consent agreement and final settlement order, EPA acknowledged that United Cement submitted test results showing that its clinker cooler was in compliance with the New Source Performance Standards in June 1981. The agreement also states that EPA calculated the noncompliance penalty by the computer model appended to the implementing regulations and that the derived noncompliance penalty is zero, thereby terminating the proceeding.

(Sec. 120, Clean Air Act (42 U.S.C. 7420))

Dated: January 28, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-3634 Filed 2-10-82; 8:45 am]

BILLING CODE 6560-38-M

[TSH-FRL-2043-1; OPTS-59075A]

Arylamine Substitute Polyalkoxy Silane; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–81–51) under section 5 of the Toxic Substances Control Act (TSCA) on December 28, 1981. Notice of receipt of the application was published in the **Federal Register** of January 13, 1982 (47 FR 1414). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Rachel S. Diamond, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M St. SW., Washington, DC 20460, (202–382–3743).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirments of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 28, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–81–51. The manufacturer has claimed its identity, the specific chemical identity, use, production volume, and physical/chemical properities as confidential business information. The generic chemical identity is: arylamine substituted polyalkoxy silane. This substance will be manufactured for a test marketing period not to exceed 24 months. A notice published in the **Federal Register** of January 13, 1982 (47 FR 1414) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments conerning the application.

EPA has established that the test marketing of the substance described in TM–81–51, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. There were no significant health or environmental concerns for the TME substance. Data submitted with the application indicate that the substance is not acutely toxic via oral, dermal, or inhalation routes of exposure, and it is not a skin or eye irritant. Additionally, no chonic or ecological effects are expected.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) and amounts of manufacture of the new chemical, and must make these records available to EPA upon request.

3. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a 24-month period commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–3714 Filed 2–10–82; 8:45 am]

BILLING CODE 6560–31–M

[OPTS–51395; TSH–FRL–2047–6]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of five PMNs and provides a summary of each.

DATE: Written comments by: PMN 82–63, 82–64, 82–65, 82–66, and 82–67, April 3, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51395]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacture on the PMNs received by EPA:

PMN 82–63

Close of Review Period. May 3, 1982.

Manufacturer's Identity. Monsanto Company, 800 N. Lindbergh Boulevard, St. Louis, MO 63167.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted benzene sulfonamide.

Use. The manufacturer states that the PMN substance will be used as a polymer additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Flash point—485° F.
Melting point—70° C.
Solubility: water @ 22–25° C—0.062 ± .030 mg/1.
Vapor pressure @ 20° C—< 5.7 × 10^{-7} torr.

Toxicity Data

Acute oral Toxicity LD_{50} (rat)—> 5 g/kg.
Acute dermal toxicity LD_{50} (rat)—Non-irritant.
Skin irritation (rabbit)—Non-irritant.
Eye irritation (rabbit)—Non-irritant.

Environmental Test Data

LC_{50} 96 hr. (fathead minnow)—>100 mg/1.
LC_{50} 96 hr. (rainbow trout)—>100 mg/1.
LC_{50} 48 hr. (daphnia magna)—>20 mg/1.

Exposure. The manufacturer states that during manufacture 11 workers may experience dermal and inhalation exposure 8 hrs/day, 75 days/yr.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible. Disposal is to a publicly owned treatment works (POTW).

PMN 82–64

Close of Review Period. May 3, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Annual sales—Over $500,000,000. Manufacturing site—East North Central region. Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyamide-acrylic resin.

Use. Claimed confidential business information.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	2,000	10,000
2nd year	5,000	16,000
3rd year	5,000	30,000

Physical/Chemical Properties

Viscosity @ 25° C—80–110 poises.
Acid number—78–82
Glass transition temperature (Tg, via DSC) 9° C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and use 6 workers may experience dermal exposure 2 hrs/day, 4 days/yr during sampling or transfer.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to land.

PMN82–65

Close of Review Period. May 3, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Middle Atlantic region.
Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of vegetable oil acids, alkane diols and car omonocyclic anhydrides.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	30,000	100,000
2d year	100,000	300,000
3d year	150,000	450,000

Physical/Chemical Properties

Flash point—197° F.
Viscosity—U+.
Density—1.147.
Acid value—5.3 mg KOH/gm.
Color—1.
Total solids @ 105° C—65%.
Hydroxyl value—30.6 mg KOH/g.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use a total of 111 workers may experience dermal and occular exposure up to 6 hrs/day, up to 69 days/yr during withdrawal, analysis, filling, shipping and cleanup.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–10,000 kg/yr released to land. Disposal is by landfill or incineration.

PMN 82–66

Close of Review Period. May 3, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Middle Atlantic region.
Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polymer of styrene, alkyl methacrylate and a substituted alkylmethacrylate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	0	25,000
2d year	25,000	125,000
3d year	125,000	450,000

Physical/Chemical Properties

Flash point—114° F.
Viscosity—1 to 3 stokes.
Acid value—0.5–3.0 mg KOH/gm.
Color—1–3 Gardner
Total solids 75%± 3.%

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use a total of 108 workers may experience dermal, inhalation and occular exposure up to 7 hrs/day, up to 250 days/yr during analysis, filling, extraction and cleanup.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with more than 10,000 kg/yr released to land. Disposal is by landfill or incineration.

Close of Review Period. May 3, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Middle Atlantic region.
Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstituted carbomonocycle.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	0	5,000
2d year	5,000	16,000
3d year	14,000	30,000

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use a total of 117 workers may experience dermal and occular exposure up to 8 hrs/day, up to 200 day/yr during filling, sampling, testing, thinning and cleanup.

Environmental Release/Disposal. The manufacturer states that less then 10 kg/yr will be released to air and water with 10–10,000 kg/yr released to land. Disposal is by incineration.

Dated: February 3, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-3470 Filed 2-10-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51396; TSH-FRL-2047-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by: April 4, 1982. PMN 82–68 & 82–69.

ADDRESS: Written comments, identified by the document control number "[OPTS–51396]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–68

Close of Review Period. May 4, 1982.

Importer's Identity. Mobay Chemical Corporation, Penn Lincoln Parkway West, Pittsburgh, PA 15205.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of diphenylmethane diisocyanate and hydroxy alkyl ethers.

Use. The importer states that the PMN substance will be used as a component of a synthetic sports surface.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	50,000	100,000
2d year	150,000	300,000
3d year	300,000	500,000

Physical/Chemical Properties

Appearance—Clear, yellowish liquid.
Specific gravity @ 25° C—1.04 g/cm ^{3}.
Boiling point @ 7013 mbar—230° C.
Vapor density—8.5.
Freezing point—−13° C.
Odor—Slighty musty.
Solubility: water—Reacts slowly to form CO_2 gas.
Vapor pressure @ 25° C—$<10^{-4}$ mbar.

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 82–69

Close of Review Period. May 4, 1982.

Importer's Identity. Mobay Chemical Corporation, Penn Lincoln Parkway West, Pittsburgh, PA 15205.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of diphenylmethane diisocyanate and hydroxy alkyl ethers.

Use. The importer states that the PMN substance will be used as a component of a synthetic sports surface.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	5,000	10,000
2d year	10,000	15,000
3d year	15,000	25,000

Physical/Chemical Properties

Appearance—Clear, yellowish liquid.
Specific gravity @ 20 ° C—1.11g/cm^3.
Boiling point @ 1013 mbar—115° C.
Vapor density—6.5
Freezing point—120° C.
Odor—Slightly musty.
Solubility: water—Reacts slowly to form CO_2 gas.
Vapor pressure @ 25° C—$<10^{-4}$ mbar.

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

Dated: February 3, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-3471 Filed 2-10-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

[Docket No. 81–11]

"50 Mile Container Rules" Implementation by Ocean Common Carriers Serving U.S. Atlantic and Gulf Coast Ports—Possible Violations of the Shipping Act, 1916; Interim Report and Order

The Commission commenced this proceeding by Order of Investigation on February 3, 1981. 46 FR 11357 (1981). Its purpose is to ascertain whether 142 ocean carriers have violated sections 14 Fourth, 16 First, 17 and 18 of the Shipping Act, 1916 (46 U.S.C. 812 Fourth, 815 First, 816 and 817)[1] by engaging in the practices described in the "Management-ILA Rules on Containers" (hereafter "Container Rules"). These rules are embodied in labor contracts collectively bargained for an agreed upon between ocean carriers and direct employer members of management port associations and appropriate organizational units of the International Longshoremen's Association, AFL–CIO (ILA) at U.S. Atlantic and Gulf Coast ports. No ocean shippers are parties to these collective bargaining units. In their simplest form, the Container Rules prohibit ocean carriers from providing shipping containers or trailers to persons located within 50 miles of the carrier's pier, unless the containers or trailers are loaded: (1) By ILA labor; or

[1] The Order of Investigation alleged violations of Shipping Act sections 18(a) and 18(b) and both paragraphs of section 17. Violations of section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844) were also alleged. Section 2 contains the same tariff filing requirements as section 18(b) of the Shipping Act, 1916, insofar as the present inquiry is concerned. Unless otherwise indicated, references to section 18(b) are intended to apply equally to section 2.

(2) by the shipper's own employees at the shipper's own facilities.[2]

The Commission has previously held that carrier conduct derived from an application of an earlier version of the Container Rules (1974 Rules) in the Puerto Rico trade during 1973 and 1975 violated the Shipping Act *Sea-Land Service, Inc.—Proposed Rules on Containers,* 18 S.R.R. 553, 16 S.R.R. 315 (1978), *appeal pending Council of North Atlantic Shipping Associations v. Federal Maritime Commission,* D.C. Cir. Docket No. 78–1776 (hereafter "*Sea-Land*"). In addition, the National Labor Relations Board (NLRB) issued a decision in 1975 which condemned the Container Rules as an unfair labor practice. *Consolidated Express, Inc. v. ILA,* 221 N.L.R.B. 956.[3] The NLRB's decision was later vacated, however, following the Supreme Court's remand of a companion order in *National Labor Relations Board v. International Longshoremen's Association,* 447 U.S. 490 (1980), thereby opening the door to renewed implementation of the Rules by the ILA and affected ocean carriers not bound by the Commission's *Sea-Land* order.

The ILA announced that it would begin enforcing the Container Rules commencing January 1, 1981 on both foreign and domestic commerce shipments. The Commission began this proceeding after receiving complaints from shippers and other information indicating that at least some ocean carriers were adhering to the Container Rules.[4] These practices continued until halted on February 29, 1981 by an injunction issued to preserve the *status quo* pending the remanded NLRB investigation into the Container Rules. *Pascarell v. New York Shipping Ass'n.,* Docket No. 81–13 (D.N.J.), *aff'd* No. 81–0013 (3d Cir. May 20, 1981), 107 L.R.R.M. 2426, *cert. den:* —— U.S. ——, 50 L.W. 3246 (Oct. 5, 1981).[5] Accordingly, the Container Rules were in effect for only two months—January and February, 1981.

PARTIES TO THE PROCEEDING

The New York Shipping Association, Inc., the Council of North Atlantic Shipping Associations and the International Longshoremen's Association, AFL–CIO (jointly), and the Pacific Maritime Association have intervened in support of the individual ocean carriers named as respondents.[6] The International Association of Nonvessel Operating Carriers and the Custom Brokers and Forwarders Association of America intervened in opposition to the Container Rules. The Commission's Bureau of Hearings and Field Operations (Hearing Counsel) is also a party.[7]

Twenty-five ocean carrier respondents requested that they be dismissed from this proceeding on various grounds. On June 12, 1981, Karlander Kangaroo Line, Seapac Container Service and Hanjin Container Lines, Ltd., were dismissed when they presented affidavits demonstrating they did not serve U.S. Atlantic or Gulf ports. An additional 13 Respondents subsequently submitted affidavits indicating that they are either not common carriers by water,[8] do not serve ILA ports,[9] or carry no containers.[10] These Respondents will also be dismissed. In addition, the Commission takes official notice that four other respondent carriers did not offer container service at Atlantic and Gulf ports during January or February, 1981.[11]

Those carriers which sought dismissal without supporting affidavits or which merely alleged that they did not "implement" or "enforce" the Container Rules because they took no action against specific nonconforming containers or offered no rates for consolidated shipments will not be dismissed. The Container Rules seemingly apply to full containerload shipments as well as FAK or "consolidated" shipments and the adoption of the container use policy reflected in the Container Rules, without appropriate tariff amendments, is alone sufficient to violate section 18(b). An announced policy of discrimination may also be sufficient to violate the other Shipping Act sections cited in the Order of Investigation.

There remain 122 ocean carrier Respondents, many of which were members of the New York Shipping Association (NYSA) during January or February, 1981, but most of which have not directly participated in this proceeding.[12]

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[2] The Container Rules as amended through May 27, 1980 are included in Exhibit B to the May 20, 1981 Affidavit of James J. Dickman and involve seven practices expressly identified in the Order of Investigation as possibly violative of the Shipping Act, 1916. These practices are: (1) Refusing to load containers or trailers onto vessels; (2) refusing to deliver containers or trailers; (3) refusing to book cargo or to honor existing bookings; (4) refusing to supply or make available containers, trailers or other equipment owned, leased or used by the carriers at certain off-pier facilities; (5) requiring certain containerizable cargoes to be shipped to the port in a "loose" condition; (6) charging certain shippers for fines assessed against the carrier for violation of the Container Rules; (7) imposing additional charges for stuffing and restuffing containers or trailers at the pier. Future references to "containers" will include "trailers" unless otherwise indicated.

[3] The unfair labor practice involved was a secondary boycott against third or "neutral" party employers prohibited by sections 8(b)(4)(B) and 8(e) of the National Labor Relations Act (29 U.S.C. 158(b)(4)(B) and 158(e)). The present form of these statutes was enacted as part of the 1959 Landrum-Griffith Act (73 Stat. 542) and was intended to eliminate the type of collusive boycott known as "hot cargo clauses." *See* 105 *Cong. Rec.* 15532 (1959); *Woodwork Manufacturers Ass'n v. National Labor Relations Board,* 386 U.S. 612 (1967).

29 U.S.C. 158(e) provides, in pertinent part, that:

[No] labor organization or any employer [shall] enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person, and any contract or agreement entered into heretofore or hereafter containing such an agreement shall be to such extent unenforceable and void.

Despite this language, a secondary boycott may lawfully, as far as the labor laws are concerned, occur when the parties to a collective bargaining unit are implementing a *bona fide* work preservation practice. The presence or absence of a work preservation rule is a matter within the primary jurisdiction of the NLRB and not the FMC.

[4] On January 22, 1981, the International Association of Nonvessel Operating Common Carriers and other persons filed a complaint against a number of ocean carriers based upon implementation of the Container Rules which is pending before an administrative law judge as FMC Docket No. 81–5. A nonvessel operating common carrier (NVO) issues an ocean bill of lading in its own name, but actually moves the goods by using the facilities of a vessel operating carrier in the same manner as any other shipper. NVO's typically load or consolidate container load shipments on behalf of their shipper clients in addition to undertaking the basic ocean transportation.

[5] The *Pascarell* injunction was issued under section 10 of the Norris-LaGuardia Act (29 U.S.C. 160(e), (h) and (j)), which allows "appropriate temporary relief" pending NLRB investigations in order to preserve the Board's primary jurisdiction over labor disputes. On September 29, 1981, an initial decision was issued upholding the Container Rules. *International Longshoremen's Association et al.,* Case Nos. 2–CC–1364 *et al.,* JD–515–81.

[6] The ocean carriers and all persons siding with them are hereafter referred to as "Respondents" unless otherwise indicated.

[7] The nonvessel operating carrier and customs broker interests (NVO's) and Hearing Counsel are hereafter referred to as "proponents" unless otherwise indicated.

[8] Gulf Atlantic Transportation, MTO Liner Services and West India Shipping Company, Inc.

[9] American President Lines; Showa Line Ltd.; Korea Maritime Transport Co., Ltd.; Uruguayan Line; Seaspeed Services; Tropical Shipping and Transportation Co., Ltd.

[10] Jinyang Shipping Co., Ltd.; R.T. Djakarta Lloyd; American Industrial Carriers; and D.B. Turkish Cargo Lines.

[11] CAST Shipping, Ltd.; Black Star Line; Caribe Cargo Express; and Trans World Systems.

[12] Twelve respondent carriers either expressly joined in or endorsed the position taken by NYSA/CONASA/ILA: Atlantic Container Line, Ltd.; Dart Containerline, Ltd.; Puerto Rico Maritime Shipping Authority; Sea-Land Service, Inc.; Trans Freight Lines, Inc.; United States Lines, Inc.; Compagnie maritime d'Affretement; Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; mitsui O.S.K. lines, Ltd.; Nippon Yusen Kaisha; and Yamashita Shinnihon steamship co., Ltd. NYSA purports to speak for all of its ocean carrier members.

Position of the Parties

Five basic issues have emerged from the proceeding to date: (1) Must practices determining the availability of carrier-controlled containers be published in FMC tariffs; (2) does the 1980 Maritime Labor Agreements Act (MLAA) alter the Commission's jurisdiction over tariff rates and practices; [13] (3) is Commission regulation of the Container Rules precluded or limited by the policies of the National Labor Relations Act; [14] (4) does the refusal to furnish containers to non-ILA consolidators located within 50 miles of the carrier's pier, or the other Container Rules practices described in note 2, *supra,* violate sections 14 Fourth, 16 First, 17, or 18(a) of the Shipping Act, 1916; and (5) which of the Respondents have implemented or would necessarily implement all or part of the Container Rules. The position of the parties on each of these issues is described below.

I. Must Practices Determining the Availability of Carrier-Controlled Containers Be Published in FMC Tariffs?

A. *Proponents.* Proponents argue that the Shipping Act requires tariffs to describe the rates applicable to all transportation services provided by the publishing carrier and to state separately "any privileges or facilities granted or allowed which affect these rates in any manner whatsoever." 46 U.S.C. 817(b)(1) and 844. *See also* 46 CFR 5(c)(5). Proponents claim that this language requires that any restrictions in a common carrier's basic undertaking to serve all shippers indiscriminately be fully disclosed in its tariff. *Japan/Korea-Atlantic & Gulf Freight Conference—Chassis Availability Rules,* 19 S.R.R. 1370, 1374 (1980); *South Atlantic and Caribbean Lines, Inc. (SACL),* 12 F.M.C. 237 (1969), *aff'd* 424 F.2d 941 (D.C. Cir. 1970). *A. H. Bull S.S. Co.,* 7 F.M.C. 133 (1962); *Intercoastal Investigation,* 1 U.S.S.B.B., 400, 447–450 (1935); *See Puerto Rican Rates,* 2 U.S.M.C. 117, 129 (1930). Proponents further state that the Container Rules involve service restrictions which were specifically adjudged to be mandatory tariff material in *United States v. Sea-Land Service, Inc.,* 424 F. Supp. 1008, 1011–1012; (D.N.J. 1977), *appeal dismissed,* 577 F.2d 730 (3d Cir. 1978), *cert. den.* 439 U.S. 1072 (1979); *SACL, supra,* 12 F.M.C. at 241–242 (1969). *See also Sea-Land, supra,* 16 S.R.R. at 340.

B. *Respondents.* Respondents note that their charges for packing and unpacking containers are already listed in their tariffs and the Commission has not stated exactly what additional material should be published as a result of the Container Rules. The Respondents then argue that section 18(b) is intended to require only the publication of a carrier's "rates and charges", and that the use of carrier-controlled containers is not a matter intended to "change, affect or determine" rates or charges. [15] In fact, Respondents allege that the Commission has never taken any publicly reported action suggesting that rules relating to the use of carrier-owned or leased containers must be published in tariffs and that such rules are customarily omitted from FMC tariffs in most trades. Respondents also argue that the *A.H. Bull, SACL,* and *United States v. Sea-Land* cases, *supra,* dealt with a carrier's refusal to perform a service already stated in its tariff and did not actually hold that container use practices must be published.

II. Does the Maritime Labor Agreement Act Alter the Commission's Jurisdiction Over Matters Which Must Be Filed in FMC Tariffs?

A. *Proponents.* Proponents allege that the MLAA is directed exclusively at section 15's prior filing and approval requirements and expressly retains Commission jurisdiction over tariff practices of all types. [16]

The statute's plain language is, according to Proponents, further reinforced by the Senate Committee's statement that the MLAA preserves Commission jurisdiction to "ensure equal treatment of shippers, cargo, localities, and to prevent abuses made possible by concerted activity of ocean carriers and others." Sen. Report No. 96–854, 96th Cong., 2d Sess. at 2, 10, 13 (1980). Proponents claim it can make no difference whether the "tariff practices" in question are incorporated verbatim into a maritime labor agreement—as are some of the alleged practices in the instant case—or whether they represent a carrier's unilateral interpretation of its obligations under such an agreement. To limit FMC jurisdiction to the latter situation would allegedly allow ocean carriers to avoid regulation of their tariff practices at will by incorporating apppropriate language into collective bargaining agreements. Proponents find further support for FMC jurisdiction over tariff practices included in a collective bargaining agreement in the fact that the discriminatory effects of the Container Rules were specifically mentioned to Congress during its consideration of the MLAA, Senate Report, *supra,* at 8–9; Sen. Doc. 96–107, *Hearings before the Subcommittee on Merchant Marine and Tourism of the Committee of Commerce, Science and Technology,* 96th Cong., 2d Sess. at 16 (June 4, 1980).

B. *Respondents.* Respondents argue that the MLAA was remedial legislation designed to reduce the impact of the *PMA* decision upon labor activities and should be interpreted as totally exempting maritime labor agreements from Shipping Act jurisdiction even when they contain terms which would otherwise be published in a tariff. [17] Respondents believe that only "unilateral" carrier practices—such as the rates charged for stuffing and stripping containers—are subject to continued FMC regulation under section 5 of the MLAA. It is alleged that all aspects of an actual collective bargaining agreement must be exempt; otherwise, MLAA would merely remove Shipping Act jurisdiction with one hand and replace it with the other. Respondents submit that the legislative history quoted by the Proponents concerning preservation of FMC jurisdiction to "ensure equal treatment of shippers, cargo and localities" relates only to complaints concerning

[13] Pub. L. 96–325, 94 Stat. 1021 (August 8, 1980), amending sections 15 and 45 of the Shipping Act, 1916 (46 U.S.C. 814, 841c).

[14] 29 U.S.C. 151 *et seq.*

[15] Proponents note that tariff filing has been described as "a system of rates and charges." *See, e.g., Pacific Steamship Co. v. Cockette,* 8 F.2d 259, 261 (9th Cir. 1925), *cert. den.* 269 U.S. 586 (1925). *Accord, Intercoastal Investigation,* U.S.B.B. 400, 433, (1935); *Certain Tariff Practices of Sea-Land Service,* 7 F.M.C. 504, 507–508 (1963).

[16] 46 U.S.C. 841(c) provides that:

> The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement.

[17] Respondents focus upon the broad language used in the first sentence of MLAA section 5 which states, in pertinent part, that the Shipping and Intercoastal Acts "shall not apply to maritime labor agreements and all provisions of such agreements * * *." Respondents claim that the second sentence of section 5 merely prevents common carriers from using labor agreements as an excuse to avoid regulation of their own unilateral practices. According to the Respondents, if Congress had intended for the *actual terms* of labor agreements to be regulated as tariff practices, it would have written section 5 to expressly say so. Instead, it wrote a statute which states that only tariff practices "arising out of or related to" labor agreements may be regulated.

nonuniform assessment agreements under section 4 of the MLAA.

III. Is Commission Regulation of the Container Rules Precluded or Limited by the National Labor Relations Act?

A. *Proponents.* Proponents allege that section 5 of the MLAA preserves and clarifies the Commission's jurisdiction over tariff practices and that the so-called "nonstatutory" labor law exemption from Shipping Act regulation is inapplicable to the type of shipper discrimination involved in the Contained Rules. This claim is based upon the Commission's decision in *Sea-Land, Supra,* and the Supreme Court's opinions holding that the presence of some conflict between the Shipping Act and the policy of freely negotiated settlements of labor/management disputes represented by the Labor Relations Act, does not necessarily remove the Commission's authority to regulate. *See Federal Maritime Commission* v. *Pacific Maritime Association (PMA),* 425 U.S. 40, 53–60 (1978), and *Volkswagenwerk, A.G.* v. *Federal Maritime Commission (VW),* 390 U.S. 261 (1968).

Proponents claim that the nonstatutory labor law exemption from Shipping Act regulation is limited to section 15 agreements.[18] Conflict with the labor laws is allegedly a matter to be considered only in determining whether tariff practices are unfair, unjustly discriminatory or unreasonable under the Shipping Act; it does not create a total exemption from Shipping Act regulation. *Burlington Truck Lines v. United States,* 371 U.S. 156, 170 (1962); *Carpenter's Union v. Labor Board,* 357 U.S. 93, 110 (1958). Proponents conclude that general labor policies cannot override an express legislative prohibition against specific ocean carrier practices, and that nothing about the Container Rules or their relationship to a collective bargaining agreement requires exemption from Commission regulation.[19]

B. *Respondents.* Respondents concentrate on the proposition that FMC regulation of the Container Rules impermissibly conflicts with legitimate labor law objectives within the meaning of the Supreme Court's decision in *Burlington Truck Lines, Inc. v. United States, supra. See also PMA, supra.* Respondents claim that the nonstatutory labor agreement exemption from the Shipping Act is co-extensive with the nonstatutory labor agreement exemption from the antitrust laws. Senate Report, *supra,* at 7. *See United Stevedoring Corp. v. Boston Shipping Ass'n (BSA),* 16 F.M.C. 7 (report on remand, 1972); *PMA, supra,* at 58. Consequently, if the Container Rules meet the test for antitrust law exemption described in *BSA, supra,* at 12–13, they would not be subject to Shipping Act regulation.[20] Respondents contend that the Container Rules meet the *BSA* test and, in so doing, argue that the third *BSA* guideline—the imposition of terms on entities outside the bargaining group—has been construed too broadly by the Proponents. According to Respondents, the Container Rules are a work preservation measure valid under section 8(e) of the National Labor Relations Act which necessarily have an adverse economic effect upon third parties. Respondents argue that an *effect* upon third parties does not constitute an impermissible "imposition of terms" upon third parties, *National Woodwork Manufacturers Association v. National Labor Relations Board,* 386 U.S. 612, 627, 635, 644 (1967), and that the Container Rules do not involve an agreement by bargaining unit employers to impose working conditions upon other employers with whom they compete. Respondents contrast *PMA, supra,* where ports outside the bargaining unit were to be bound by the terms agreed upon by PMA and the union.[21]

Respondents also allege that the NLRB is the exclusive forum for judging the lawfulness of secondary boycott schemes and that the Commission is powerless to halt the Container Rules because the Norris-LaGuardia Act prohibits injunctions in cases "involving or growing out of a labor dispute" (29 U.S.C. 101, 104, 114).[22] Respondents cite a recent House of Representatives bill (H.R. 2042, 97th Cong., 1st Sess.) banning the Container Rules as further evidence that the Commission is not presently authorized to regulate in this area. Respondents believe it would be arbitrary and highly unfair if Shipping Act considerations prevented the ILA from exercising work preservation rights available to unions in other industries.

IV. Does the Refusal To Furnish Containers to non-ILA Consolidators Located Within 50 Miles of the Carrier's Pier, or the Other Container Rules Practices Described in Note 2, Supra, Violate Sections 14 Fourth, 16 First, 17 or 18(a) of the Shipping Act, 1916?

A. *Proponents.* Both parties intermingled their arguments concerning the different practices involved in the Container Rules and the different Shipping Act provisions involved. Proponents concentrated their efforts on the claim that the Container Rules constitute unjust discrimination under sections 14 Fourth, 16 First and 17 first paragraph.

Proponents argue that common carriers have a fundamental duty to serve all comers on a reasonable and indiscriminate basis. *Swayne & Hoyt, Ltd. v. United States,* 300 U.S. 297, 303 (1937); *Grace Line, Inc. v. Federal Maritime Board,* 280 F. 2d 790, 792–793 (2d Cir. 1960), *cert. den.* 364 U.S. 933 (1961). Proponents state that the Supreme Court expressly ruled that this duty applies to nonequipment operating carriers in *Interstate Commerce Commission v. Delaware, L. & W. R.R.,* 220 U.S. 235, 252 (1911).

According to Proponents, the record clearly supports a finding that the Container Rules require similarly

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[18] If the Container Rules were subject to the criteria for labor law exemptions articulated by the Commission in *BSA, infra,* Proponents alternatively allege that the Container Rules fail to meet the third standard (see note 20, *infra*) because they impose discriminatory conditions on parties outside the collective bargaining unit.

[19] Proponents contend that a breach of a common carrier's duty to treat shippers in a reasonably equal fashion cannot be nullified by entering into a collective bargaining agreement. *Carpenter's Union v. Labor Board,* 357 U.S. 93, 109–111 (1958); *Merchandise Warehouse Co. v. A.B.C. Freight Forwarder Corp.,* 165 F. Supp. 67, 78 (S.D. Ind. 1958); *Galveston Truck Line Corp.,* 78 M.C.C. 617, 625–630 (1957); *See also Montgomery Ward & Co. v. Northern Pacific Terminal Co.,* 128 F. Supp. 475, 516 (D.C. Ore. 1953); *Pickup & Delivery Restrictions, California Rail,* 303 I.C.C. 579, 594 (1958).

[20] The four *BSA* guidelines patterned after the "nonstatutory labor exemption" from the antitrust laws are:

(1) The agreement was bargained for in good faith;

(2) The matter is a mandatory subject of bargaining;

(3) The agreement does not impose terms on entities outside the collective bargaining group;

(4) The union is acting purely in its own self-interest and ot in conspiracy with management.

Failure to meet any one of these guidelines can defeat exemption.

[21] Respondents cite *Intercontinental Container Transport Corp. v. New York Shipping Ass'n,* 426 F. 2d 884 (2d Cir. 1970), as further support for their claim that the Container Rules are exempt from the antitrust laws. There, the court held that the Container Rules were not sufficiently likely to violate the antitrust laws to warrant the issuance of a preliminary injunction against them pending litigation under the Sherman Act.

[22] Respondents allege that a federal court could not enforce an FMC cease and desist order against the Container Rules because this would constitute injunctive relief against a person "participating or interested in a labor dispute" in violation of the Norris-LaGuardia Act. *See Railroad Telegraphers v. Chicago & N.W. R. Co.,* 362 U.S. 330, 339 n. 15 (1960); *Utilities Services Engineering, Inc. v. Colorado Building and Construction Trades Council,* 549 F. 2d 173, 177–178 (10th Cir. 1977); *Brotherhood of R. Trainmen v. Atlantic Coast Line R. Co.,* 362 F. 2d 649, 655 (5th Cir. 1966); *East Texas Motor Freight Lines, Inc. v. Teamsters Local 568,* 163 F. 2d 10 (5th Cir. 1947); *Lee Way Motor Freight, Inc. v. Keystone Freight Lines, Inc.,* 126 F. 2d 931 (10th Cir.), *cert. den.* 317 U.S. 645 (1942).

situated shippers to receive unjustifiably different treatment, and the Commission invalidated virtually identical practices in its *Sea-Land* decision, *supra*, because they deprived NVO's and shippers using non-ILA consolidation services access to facilities and privileges routinely available to other shippers. Allocating the entire burden of ILA work reductions caused by containerization to shippers that are consolidators or use consolidators is allegedly unfair and unreasonable within the meaning of *VW*, because such shippers are not the only persons that enjoy the benefits of containerization. *See* 390 U.S. at 282.

Proponents contend that the Container Rules violate section 16 First as well as section 14 Fourth and section 17, first paragraph, because the provision of containers is a matter ancillary to basic ocean transportation which cannot reasonably be affected by the nature of the cargo being transported. In such circumstances, the carrier has been said to have an absolute duty to treat shippers equally, making it unnecessary to demonstrate the presence of a competitive relationship between affected shippers. *New York Foreign Freight Forwarders & Brokers Ass'n v. Federal Maritime Commission*, 337 F.2d 289 (2d Cir. 1964); *Free Time Practices—Port of San Diego*, 9 F.M.C. 525, 547 (1966); *Valley Evaporating Company v. Grace Line, Inc.*, 14 F.M.C. 16, 21 (1970). Proponents also argue that although an ocean carrier generally enjoys the right to control the use of its equipment, this right is at all times subject to the requirements of the Shipping Act and Respondents have failed to show that their discrimination against shippers who are consolidators or who use consolidators located within 50 miles of a port is reasonable from a *transportation* perspective.

Proponents also argue that the Container Rules require unreasonably different treatment with regard to the handling of substantially identical classes of cargo in violation of sections 17, second paragraph, and 18(a) because the Commission so held in *Sea-Land*, *supra*.

B. *Respondents.* Respondents treat the various antidiscrimination provisions of the Shipping Act as though they impose the same statutory duties (Reply Memorandum, note 57). Respondents argue that the discriminatory aspects of the Container Rules are just and reasonable because they implement a valid work preservation scheme and deprive no person of any benefit to which such person is entitled. Respondents claim that the Commission's sole responsibility is to determine whether the burdens which the Container Rules place upon the affected parties are fairly allocated. *VW*, *supra*, 390 U.S. at 292–295 (Harlan, J., concurring).

According to Respondents, however, fair allocation does not mean *equal* allocation, and the approach to unjust discrimination taken by the Commission in *Sea-land*, *supra*, is incorrect and inconsistent with *VW* because it merely examines the alleged harm to shippers in transportation terms and does not meaningfully consider the underlying labor concerns.[33]

Finally, Respondents contend that (1) only carrier-controlled containers are subject to the Rules; and (2) there is no evidence showing that the Container Rules produce unjust results.[34] Respondents claim that the Proponents have not proven that consolidators located within 50 miles of ports are similarly situated to any other class of shippers, or even that all such persons are shippers; Proponents have simply declared any difference in treatment is unlawful *per se*. Respondents also claim that relevant transportation factors are present which justify discrimination between full containerload and less-than-containerload traffic, including: the efficient and uninterrupted movement of containers over the piers; facilitation of trained dockside labor for handling less-than-containerload cargo; the relative efficiency and cost of full containerload shipments as compared to less-than-containerload shipments;[35] the relatively small volume of freight generated by consolidators; the NVO's lack of a beneficial interest in the goods shipped; and the interests of the shipping public as a whole.

V. Which of the Respondents Have Implemented, or Would Necessarily Implement, any or all of the Practices Covered by the Container Rules?

A. *Proponents.* Proponents submitted 20 affidavits describing some 19 ocean carriers which refused to carry loaded containers or cancelled containerized cargo bookings, refused to provide empty containers to prospective shippers, or required loaded containers to be repacked at the pier during January or February, 1981.[36]

B. *Respondents.* NYSA provided evidence indicating that its members and the ILA intended for the Container Rules to be implemented effective January 1, 1981, but decline to admit that its members actually performed any of the specific practices described in the Order of Investigation. Delta Steamship Company, Compagnie Maritime d'Affretement, Venezuelan Line and Hafskip Ltd., state that they did not implement the Container Rules, but furnish no coorborating evidence despite the fact that one or more of these ocean carriers appear to be NYSA members.

Respondents' evidence also indicates that the Container Rules are intended to apply only to containers owned or leased by the carrier; carriers possess the right to control the loading and unloading of their containers; consolidators provide only a small percentage of the total container traffic handled by Respondents; the Container Rules have a long, *bona fide* history as an ILA bargaining objective; and the ILA considers the Container Rules critical to its survival as an organized labor union.

DISCUSSION AND CONCLUSION

Four of the above-described issues can be decided on the present record. The fifth—whether individual Respondents have or would violate specific Shipping Act provisions—will be referred to an administrative law judge to develop additional evidence and more focused legal argument.

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[33] The *BVW* decision featured a finding that the separate "Mech Fund" agreement raised problems logically and factually distinct from the basic labor problems resolved by the collective bargaining agreement. 390 U.S. at 287. In the instant case, the collective bargaining objectives are allegedly inseparable from the Shipping Act conduct, and the Respondents therefore allege that the Commission cannot measure the fairness of the Container Rules without also assessing their validity as a work preservation measure—a task reserved for the NLRB.

[34] Proponents encourage the Commission to take a broad view of the circumstances which may justify the discriminatory aspects of the Container Rules, and note that the Supreme Court has stated that discrimination may be judged in light of:

* * * all circumstances and conditions which reasonable men would regard as affecting the welfare of the carrying companies and of the producers, shippers and consumers * * * *Texas & Pacific R. Co. v. Interstate Commerce Commission*, 162 U.S. 947 (1896).

[35] By accepting consolidated containers, ocean carriers allegedly permit transportation efficiencies to occur which benefit less-than-containerload shippers more than full-containerload shippers which makes it fitting for LTL shippers to pay the cost of using ILA Labor or obtaining their own containers. The Container Rules are also said to allow ocean carriers to accept shipments consolidated by non-ILA labor if the containers are owned or leased by the shipper.

[36] The carriers identified as implementing all or part of the Container Rules during 1981 are: Atlantic Container Lines; Barber Blue Sea Line; Dart Containerline Co, Inc.; Farrell Lines; Hapag-Lloyd, A.G.; Korea Shipping Corporation; Maersk Line; Moore-McCormack Line, Ltd.; Naviera Central, C.A.; Nedlloyd Lines; Polish Ocean Line; Prudential Lines, Inc.; Puerto Rico Maritime Shipping Authority; Royal Netherlands Steamship Co.; Sea-Land Service, Inc.; Trans Freight Line; United Arab Lines; United States Lines; and Zim Lines Company.

In order to expedite this proceeding and to focus more clearly on the discriminatory aspects of the Container Rules, the Commission has decided against pursuing civil penalty claims against any ocean carriers which may ultimately be found to have violated the Shipping Act during January or February, 1981. For this reason, the question of whether the respondent carriers violated section 18(b) by implementing specific Container Rule practices not published in their FMC tariffs will also be abandoned.[27]

The basic features of the Container Rules must be published in an ocean carrier's tariff. A tariff notifies the shipping public of the "privileges and facilities" offered by ocean carriers, the conditions applicable to the use of these privileges and facilities, and all rates and charges assessed.[28] A carrier-controlled container is a facility within the meaning of section 18(b), and the privilege of using such containers unquestonably "changes, affects or determines" the rates and charges paid by the shipper. Restrictions on the type of loaded containers which will be transported by the carrier or requirements that certain loaded containers be warehoused or repacked as a condition of transport represent a denial of privileges otherwise available and must also be fully disclosed in a tariff. To transport certain types of containers only on the condition that the shipper pay an additional amount (*i.e.*, the penalty assessed by the ILA) is to impose a "rate or charge" for transportation which may be lawfully collected only when published in the carrier's tariff.

There has been no suggestion that labor law considerations prohibit publication of these aspects of the container rules in ocean carrier tariffs. Indeed, it seemingly advances the Respondents' collective bargaining objectives to publicize the treatment to be afforded loaded containers and requests to use empty containers by providing shippers with the legal notice attributed to tariff publication and filing.

Although the Commission's tariff filing regulations (46 CFR Parts 531 and 536) do not contain provisions specifically prescribing the publication of tariff rules governing the availability of carrier-controlled containers,[29] the Commission has consistently held that section 18(b) imposes a duty to publish analogous information. *Japan/Korea Atlantic and Gulf Conference—Chassis Availability and Demurrage Charges*, 19 S.R.R. 1370 (1980); *F. Powers Co., Inc. v. Orient Overseas Container Lines*, 19 F.M.C. 219 (1976); *A. H. Bull S.S. Co.*, 7 F.M.C. 133 (1962); *Intercoastal Investigation*, 1 U.S.S.B.B. 400, 447 (1935). *See also Borden World Trade, Inc.—Declaratory Order*, 20 S.R.R. 395, 399 (1980) (wherein the Commission stressed the need for clear and complete tariff provisions applicable to shipper use of carrier-owned containers). Moreover, in previous Container Rules litigation, the Commission stated that Container Rules practices could not be performed "unless and until [the carrier's] are amended in the manner prescribed by section [18(b)]," *SACL, supra*, at 242. *Accord United States v. Sea-Land, supra*, where civil penalties were collected from a carrier which continued to implement the Container Rules after the Commission had suspended the tariff provisions governing such practices.[30]

Section 5 of the MLAA did not diminish the Commission's authority to regulate practices which must be described in ocean carrier tariffs. Although various phrases associated with section 5 are susceptible to more than one interpretation, the language of the entire statute and its legislative history taken as a whole firmly support the conclusion that the MLAA preserves the *status quo* concerning Shipping Act regulation of labor-related activities under Shipping Act sections other than section 15. A tariff practice "arising out of or otherwise related to a maritime labor agreement" therefore includes practices described by language taken verbtim from a labor agreement and practices mandated by the terms of the agreement. Any other interpretation would render the second sentence of MLAA section 5 meaningless.

As originally passed by the House of Representatives, H.R. 6613 (which ultimately became the MLAA) simply exempted all "collective bargaining agreements and agreements preparatory thereto" from all Shipping Act regulation. Senate Hearings, *supra*, at 5. It was only during Senate deliberations that a narrower exemption was considered necessay, and the Senate explained that its intention in adding section 5 to H.R. 6613 was to:

> * * * *retain the existing protections* of the Shipping Act for shippers, carriers and localities which may be adversely affected by shipping practices which may arise out of maritime labor agreements." (Emphasis supplied). Senate Report, *supra*, at 13.

The import of this language cannot be fully appreciated without reviewing the adverse reaction to the House version of the bill reflected in the Senate hearing. Shippers, port interests and the Commission opposed H.R. 6613's total exemption of actions taken pursuant to collective bargaining agreements. Senate Hearings, *supra*, at 11 (FMC Vice Chairman Moakley), at 59 (the Boston Shipping Association, Inc.), at 83 and 107 (the International Association of NVOCC's), and at 95–96 (Maryland Port Administration). The Senate Committee described its hearings as follows:

> The witnesses who appeared * * * were nearly unanimous in support of exempting collective bargaining agreements from * * * section 15 of the Shipping Act. The majority of those opposing H.R. 6613 as it passed the House, however, felt the bill went beyond what was necessary to assure free and unfettered collective bargaining, and that it stripped the FMC of jurisdiction to assure equal treatment of shippers, cargo and localities, and to prevent abuses made possible by one [sic] concerted activity of carriers and others. Senate Report, *supra*, at 10.

Vice Chairman Moakley's testimony explained that tariff practices stand on their own and must be defended outside the context of section 15, even if they involve the subject of collective bargaining agreements. Senate Hearings, *supra*, at 12 and 16.[31] The Committee

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[27] A random check of the Commission's tariff files indicates that appropriate tariff provisions were not filed, however.

[28] Section 18(b)(1) provides, in pertinent part, that:

> [E]very common carrier by water in foreign commerce and every conference of such carriers shall file with the Commission and keep open to public inspection tariffs showing all the rates and charges of such carrier or conference of carriers for transportation to and from United States ports and foreign ports between all points on its own route and on any through route which has been established. Such tariffs shall plainly show the places between which freight will be carried, and shall contain the classification of freight in force, and shall also state separately such terminal or other charge, privilege, or facility under the control of the carrier or conference of carriers which is granted or allowed, and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates, or charges, and shall include specimens of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

[29] *But see* 46 CFR 531.3(a), 531.5(b)(8)(i), 536.5(b)(8)(xv), 536.9, 536.5(d)(2) and 536.5(c)(5).

[30] *In United States v. Sea-Land, supra*, the carrier's tariff did not provide for the refusal of containers to consolidators and the court held that such a refusal, even though done in reliance on the carrier's labor agreement, was an unlawful failure to observe the provisions of its FMC tariff.

[31] The vice chairman noted that the language of the House Bill was unclear as to whether the agreement alone was to be exempt or whether conduct arising out of the agreement was also to be exempt. He then stated:

> The Commission did not exercise jurisdiction over the [collective bargaining] agreement between management and labor in [the *Sea-Land*] case, but jurisdiction over tariff rules of individual carriers. As the Administrative Law Judge said in his initial decision, "A tariff provision is not an agreement; rather it is a unilateral statement of the author of the tariff * * *." If the Committee does intend to

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was also advised that the Container Rules were the subject of *both* collective bargaining agreements and FMC tariffs when the Commission decided the *Sea-Land* case in 1978. Senate Hearings, *supra*, at 15 and 16. The bill finally enacted was basically the "second alternative" offered to the Senate Committee by Vice Chairman Moakley. This approach was designed to preserve Shipping Act regulations over conduct prescribed by collective bargaining agreements to the extent it was subject to the tariff filing requirements of section 18(b), thereby avoiding a situation where "two carriers [would be] treated differently under the law simply by virtue of their collective bargaining obligations." Senate Report, *supra*, at 17–18. It was also designed to preserve whatever authority the Commission previously possessed to regulate the Container Rules. Too many witnesses expressed concern over the possible loss of Shipping Act jurisdiction over these specific practices, *e.g.*, Senate Hearings, *supra*, at 42, 83–85 and 90–91, for the Senate Committee to foreclose all Commission regulatory authority over them without plainly stating it had reached such a conclusion.

As discussed above, the MLAA creates no statutory limitation on the FMC's jurisdiction over the tariff practices of ocean carriers. The further argument remains, however, that the Container Rules fall within the "nonstatutory labor exemption" from the Shipping Act recognized in *VW* and *BSA*, both *supra*. This possibility was addressed and rejected in the Commission's 1978 *Sea-Land* decision, *supra*, and the instant record provides no basis for reaching a different result.

The Container Rules impose conditions on persons outside the bargaining unit, namely the shippers and consolidators which use the carriers' services, and therefore do not meet the third of the Commission's *BSA* guidelines for exemption from Shipping Act regulation. Although it can be argued that the Respondents' collective bargaining agreement standing alone does not impose terms on outside parties, the Respondents necessarily accomplish such a result when they insist upon adherence to practices which must be published in carrier tariffs. Tariffs establish the exclusive basis upon which the publishing carriers may deal with shippers and therefore provide the vehicle by which the collective bargaining agreement imposes the terms and conditions of the Container Rules upon persons not party to the agreement. The Supreme Court has held that the failure to meet the third *BSA* guideline is sufficient to defeat a claim to a "nonstatutory labor exemption." *PMA*, *supra*, at 61–62.

Commission jurisdiction over the Container Rules is supported by more than their nonconformance with the third *BSA* guideline, however. The Shipping Act's purposes differ from those of the antitrust laws and the *BSA* criteria are not identical to the "nonstatutory" exemption from the antitrust laws articulated in *United Mine Workers v. Pennington*, 381 U.S. 657 (1965) and *Amalgamated Meat Cutters v. Jewel Tea Co.*, 381 U.S. 676 (1965). In *BSA*, the Commission announced that it would apply an analytic approach for evaluating practices arising out of collective bargaining agreements which reflects the weighing of shipping and labor interests prescribed by *VW*.[32] Although one aspect of this broadly conceived analysis is the application of four specific guidelines derived from the antitrust law exemption, a transportation practice arising out of a collective bargaining can meet the four specific guidelines and still be subject to Shipping Act regulation under the "final analysis" portion of the *BSA* test. 16 F.M.C. at 12–13.

The Container Rules have a direct and practical impact upon both labor and shipping interests.[33] Nonetheless, a particular method of resolving labor/management conflict as an unjust ocean carrier practice would not undermine the basic collective bargaining process created by the National Labor Relations Act, whereas the absence of Shipping Act regulation would eliminate the fundamental premise of the Shipping Act and othe common carrier statutes—that similarly situated shippers be treated equally.[34] Moreover, the courts have recognized that common carrier obligations take precedence over carriers' implementation of analogous "hot cargo" practices created by collective bargaining agreements. *Burlington Truck*, *supra*;[35] *Carpenters'*

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exempt all activities in implementation of collective bargaining activities from Shipping Act scrutiny, that intent must be made clear in the bill. Senate Hearings, *supra*, at 16.

[32] The Commission stated:

In the final analysis, the nature of the activity must be scrutinized to determine whether it is the type of activity which attempts to affect competition under the * * * Shipping Act. The impact upon business which this activity has must then be examined to determine the extent of its possible effect upon competition, and whether any such effect is a direct and probable result of the activity or only remote. Ultimately, the relief requested or the sanction imposed by law must then be weighed against its effect upon the collective bargaining agreement. 16 F.M.C. at 13.

[33] The Container Rules seemingly concern a mandatory subject of collective bargaining and the Commission must treat them as lawful under the labor laws pending the NLRB's evaluation of their status under 29 U.S.C. 158(e). The Affidavit of James J. Dickman describes the history of the Container Rules and establishes that the ILA agreed to handle containers loaded by non-ILA labor in return for major income and other compensation concessions (*e.g.*, the GAI or guaranteed annual income plan) and the right to stuff and strip certain consolidated containerload shipments. *See Sea-Land*, *supra*, 16 S.R.R. at 329–332, 346, for an exposition of these uncontested facts. Respondents further claim the Container Rules are critical to the ILA's survival. No evidence was presented to substantiate or disprove this relatively extreme assertion. Although the ILA has experienced a major membership reduction during the past twenty years, an inability to implement the Container Rules is unlikely to shift all ILA cargo handling functions to other labor organizations.

[34] It is the integrity of the collective bargaining *process* and not the value of each bargained for benefit which must be balanced against the Shipping Act's guarantees of fair, essentially equal treatment. The effect of regulating ocean carrier practices under Shipping Act sections 14, 16, 17 and 18 is significantly different from the effect of subjecting collective bargaining agreements to the advance filing and approval requirements of section 15. Even if remedying a discriminatory tariff practice presented a plain choice between the protection of a particular union and protection of a particular class of ocean shippers, the more specific legislative purpose of the Shipping Act requires that the Commission choose the latter—provided the final action taken is no broader than necessary to remedy the unjust discrimination in question.

[35] In *Burlington Truck* the Supreme Court held that the IC abused its discretion in awarding new route certifications when the record did not show that additional carriers were necessary to provide adequate service in the market. The case was remanded to the ICC to take *direct action* against the boycotting carriers, thereby affirming the presence of Interstate Commerce Act jurisdiction over the bargained for conduct which created the controversy. The presently relevant portion of the opinion reads as follows:

The union was free to make [appeals directly to the trunk-line carriers to refuse to serve local carriers], absent inducement of employees, and, as far as the labor laws and the collective agreement were concerned, the employer was free to reject or accede to such requests. But it was precisely at this point that the *Sand Door* case *[Carpenters Union v. Labor Board, supra,]* recognized the power of the Commission to enter cease-and-desist orders against the carriers violating the transportation law and their tariffs. Thus, * * * there was no reason to have assumed that the ordinary processes of the law were incapable of remedying the situation. 371 U.S. at 170.

The *Sand Door* (or *Carpenter's Union*) case cited above noted the ICC's 1957 decision in *Galveston Truck Line Corp. v. Ada Motor Lines, Inc.*, *supra*, with approval and described it as a self-restrained action which did not invalidate hot cargo clauses *per se*, but only enforced Interstate Commerce Act requirements on certain carriers after concluding that a "hot cargo" provision *was not a defense to the charge that the carriers had violated specific statutory duties*. 357 U.S. at 109. Accordingly, the teaching of *Burlington Truck* is this: transportation considerations may not "unduly trench upon" the labor laws, but the labor law interest in the implementation of a collective bargaining agreement is not sufficiently acute to preclude administration of the otherwise applicable antidiscrimination provisions of the Interstate Commerce Act.

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Union v. Labor Board, 357 U.S. 93, 108–111 (1958); *Merchandise Warehouse Co. v. A.B.C. Freight For. Corp.*, 165 F. Supp. 67, 75–76 (S.D. Ind. 1958); *Montgomery Ward & Co. v. Northern Pacific Term. Co.*, 128 F. Supp. 475, 516–519 (D. Ore. 1953). *Cf. Railway Employees v. Florida E. C. Ry. Co.*, 384 U.S. 238, 244–245 (1966) (interpreting the Railway Labor Act in a manner consistent with the defendant's common carrier responsibilities); *Quaker City Motor P. Co. v. Interstate Motor Fr. Sys.*, 148 F. Supp. 226 (E.D. Pa. 1957) (enjoining a motor carrier from refusing to deliver cargo when its employees unilaterally chose to honor the picket line of another union). Application of these cases does not depend on the legality of the collective bargaining contract under the labor laws and the Commission makes no assumptions regarding the Container Rules' status as a legitimate work preservation measure. Shipping Act jurisdiction exists because the Container Rules present distinct Shipping Act questions with important Shipping Act Consequences.

The national policy favoring facilitation of privately negotiated settlements to labor/management disputes does not authorize otherwise unlawful conduct simply because it is incorporated into a collective bargaining agreement,[36] and the Norris-LaGuardia Act's limitations on injunctive relief in cases "involving labor disputes" do not apply where the requested relief represents a *bona fide* effort to enforce another federal statute.[37] The Commission may therefore investigate the Container Rules despite the fact that an adverse Shipping Act decision could ultimately prevent implementation of collective bargaining provisions which may be lawful under the labor laws.

* * * * *

The present record indicates that some of the Respondents have implemented the Container Rules so as to create the type of discrimination prohibited in *Sea-Land, supra*. There are, however, several matters which should be further developed before the Commission finally decides which Shipping Act sections have been violated by which of the remaining Respondents. This proceeding will therefore be referred to an Administrative Law Judge for expeditious resolution of the following questions:

1. Whether, and, if so, exactly how, the present Container Rules differ from the 1974 Rules at issue in *Sea-Land, supra*. Copies of the 1974 and December 6, 1980 versions should be made part of the record and the December 6, 1980 amendments plainly identified. Specific attention should be given to:

(a) the phrase "containers owned, leased or used by the carriers * * *" which appears in Container Rule 1(a)(1). A finding should be made as to whether the word "used" includes shipper owned or leased containers, and, if it does not, what its intended meaning is;

(b) the phrase "containers * * * from a single shipper * * * into which the cargo has been loaded (consolidated) by other than its own employees * * *" which appears in Container Rule 1(a)(2). A finding should be made as to whether full containers loaded *by the employees* of a nonvessel operating common carrier, or other person dealing with the ocean carrier as the shipper of said containers, are included in the Container Rules; and

(c) whether the Container Rules require that the $1,000 per container liquidated damages provided by Rule 7(c) be passed on to the shipper and, if not, whether such a result is likely or possible under the Container Rules; [38]

2. The membership of NYSA during January and February, 1981;

3. The ports at which outstanding injunctions or other circumstances unrelated to the free choice of the ILA precluded carriers from implementing the Container Rules during January and February, 1981;

4. A detailed description of the actions, if any, taken to implement the

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Intervenor Pacific Maritime Association cites the *Burlington Truck* decisions for the opposing proposition that "work preservation rules * * * are exempt from * * * regulation under transportation statutes." (PMA Brief at 18) and attempts to demonstrate that the opinion's component parts somehow exceed the whole. PMA's meticulous disassembly of *Burlington Truck* fails to uncover support for the broad exemption the Respondents seek, however. Only the dissenting Justice (Black) believed the ICC lacked regulatory authority over conduct arising out of collective bargaining agreements. His position cannot be attributed to the four concurring Justices (Goldberg, Warren, Douglas and Brennen) simply because they stated that the ICC on remand should order the carriers:

* * * to provide service in a manner and to the extent compatible with their labor agreements and with both the carriers' and the union's rights and duties under the federal labor laws. 371 U.S. at 177.

When read together, the Opinion of the Court and the concurring opinions indicate that the ICC was expected to prevent further implementation of the "hot cargo" clause in the carriers' collective bargaining agreement in a manner which would not unduly conflict with the National Labor Relations Act. The four concurring Justices differ from the Opinion of the Court only in their use of the qualifying phrase "appropriately limited cease-and-desist order"—a reference to the specific facts of the case which apparently permitted mutual accommodation of both collective bargaining agreement and Interstate Commerce Act obligations. Moreover, the concurring Justices voiced no disagreement with footnote 20 of the Opinion of the Court which states that the grant of permanent operating authority to additional carriers might be a justifiable ICC remedy in a different factual situation. 371. U.S. at 171, note 20.

[36] Agreements lawful under the labor laws may be unlawful under other statutes, and are not exempt from these other statutes merely because of their validity under the labor laws. *See United Mine Workers v. Pennington*, 381 U.S. 657, 664–666 (1965); *Amalgamated Meat Cutters v. Jewel Tea Co.*, 381 U.S. 676, 684–687 (1965) (opinion of Justice White); *VW, supra*, at 312 (dissent of Justice Douglas). When the Supreme Court has considered the lawfulness of work preservation or work extension agreements under the labor laws, its holdings were confined to the validity of such agreements on labor grounds alone. *E.g.*, in *National Woodwork Mfrs. Ass'n v. NLRB*, 386 U.S. 612 (1967), a collective bargaining agreement between a carpenters' union and a general contractors' association providing that union members would not handle premachined doors was found to be an unfair labor practice and the Court further stated:

We likewise do not have before us in these cases, and express no view upon, the antitrust limitations, if any, upon union-employer work-preservation or work-extension agreements. 386 U.S. at 631, note 19.

In *Connell Construction Co. v. Plumbers and Steamfitters*, 421 U.S. 616 (1975) the Supreme Court held that a non-collective bargaining agreement *unlawful* under the Labor Relations Act was *also* subject to federal antitrust liability and stated:

There is no legislative history * * * suggesting that labor-law remedies for section 8(e) violations were intended to be exclusive, or that Congress thought allowing antitrust remedies in cases like the present one would be inconsistent with the remedial scheme of the NLRA. 421 U.S. at 634.

See also United Construction Workers v. Laburnum Corp., 347 U.S. 656, 665 (1954); *Southern S.S. Co. v. Labor Board*, 316 U.S. 31, 47 (1942); *Montgomery Ward & Co., supra*, at 498–499.

[37] The Norris-LaGuardia cases cited by Respondents are distinguishable. *Railroad Telegraphers v. Chicago & N.W. R. Co.*, 362 U. S. 330 (1960), did not involve any unlawful union conduct, and the footnote quoted out of context by NYSA is basically irrelevant to the Court's decision not to invoke the Norris-LaGuardia Act. *Brotherhood of Railroad Trainmen v. Chicago River & I. R. Co.*, 353 U.S. 30 (1957), upheld an injunction issued against unlawful union activity, although the law violated was a labor statute. *Milk Wagon Drivers v. Lake Valley Farm Products, Inc.*, 311 U.S. 91 (1940), involving attempts to halt alleged Sherman Act violations, must be compared with *Allen Bradley Co. v. Electrical Workers*, 325 U.S. 797 (1945), wherein injunctive relief was invoked to halt fully adjudicated Sherman Act violations arising from a labor dispute.

In *Brotherhood of R. Trainmen v. Atlantic Coast Line R. Co.*, 362 F. 2d 649 (5th Cir. 1966), the court stated:

* * * it should be emphasized we deal only with the enjoinability of appellants' activity and not with its legality for any other purpose.

Congress did not * * * make the conduct listed lawful for all purposes. The most logical inference from this fact is that * * * Congress intended only to remedy abuses of judicial equity power relating to injunctions, allowing the law relating to the "legality" of the described activity for other purposes to develop in the court. 362 F. 2d at 653 and note 3.

The decisions dealing with refusals to enjoin motor carriers for alleged violations of their common carrier responsibilities, *East Texas Motor Freight Lines, Inc. v. Teamsters Local 568* and *Lee Way Motor Freight, Inc. v. Keystone Freight Lines, Inc.*, both *supra*, were private party complaints, alleging violations of the Interstate Commerce Act. They involved neither the ICC itself nor an attempt to enforce an order of that agency. *Texas and New Orleans R. Co. v. Brotherhood of R. Trainmen, supra*, denied an injuction to a railroad attempting to implement a permissive authorization granted by the ICC. These cases present no obstacle to the enforcement of an ICC cease and desist order. *See Burlington Truck, supra*.

[38] *See, e.g.*, the March 18, 1981 Affidavit of Joseph M. Henderson, which states that Boston Consolidation Services, Inc., was told by respondent Korea Shipping Corporation that Boston Consolidation would be responsible for any ILA penalties on shipments booked on KSC vessels at New York.

Container Rules during January and February, 1981, by a representative sample of the remaining respondents to be selected by Hearing Counsel. This sample shall consist of 36 different carriers, no more than 20 of which shall be NYSA members, and shall examine the activities of at least three such carriers at each of 12 representative U.S. Atlantic and Gulf ports where implementation of the Container Rules was not barred by court order or other circumstances. The relevant conduct to be described includes any notices or other information communicated to shippers, orally or in writing, indicating that the Container Rules would be applied, as well as actual refusals to supply containers, load cargo, or deliver cargo except upon compliance with conditions prescribed by the Container Rules. Each imposition of Container Rules conditions by each of the selected Respondents should be documented, as well as any attempts to impose responsibility for ILA fines on shippers.

5. A finding as to whether any of the seven enumerated aspects of the Container Rules (*see* note 2, above)—as they were implemented or necessarily would be implemented in the absence of labor law restraints—are unfair, unduly prejudicial or unjustly discriminatory between shippers within the meaning of Shipping Act sections 14 Fourth, 16 First and 17, first paragraph;

6. A finding as to whether any of the seven enumerated aspects of the Container Rules—as they were implemented or necessarily would be implemented in the absence of labor law restraints—are unjust or unreasonable within the meaning of section 17, second paragraph (foreign commerce) and section 18(a) (domestic offshore commerce);

7. A conclusion as to whether unjust discrimination against shippers is prohibited in domestic offshore commerce by virtue of Shipping Act section 14 Fourth, section 16 First, section 18(a), or any combination of the above, or any other provisions of the Shipping Act, 1916;

8. A conclusion as to whether each of the remaining Respondents would violate any of the above-referenced Shipping Act sections if the Container Rules were implemented in their present form and a recommendation as to whether any such Repondent should be ordered to cease and desist from taking such action in the future.

In resolving these remaining issues, Proponents and *any* of the Respondents may introduce such additional evidence as the Presiding Officer deems relevant to whether the Container Rules, as presently formulated, create discriminations or commercial burdens so unreasonable as to violate the above-referenced Shipping Act sections.

Because the Commission has today ruled that the Continer Rules are not exempt from Shipping Act regulation, despite their inclusion in ILA collective bargaining agreements, no further evidence regarding labor conditions shall be accepted by the Presiding Officer. If the Respondents have a defense to the Shipping Act violations alleged in the Order of Investigation, it must be a defense relating to transportation conditions, not national labor relations policy.

Therefore, it is ordered, That Gulf Atlantic Transportation; MTO Liner Services; West India Shipping Company, Inc.; American President Lines; Showa Line Ltd.; Korea Maritime Transport Co., Ltd.; Uruguayan Line; Seaspeed Services; Tropical Shipping transportation Co., Ltd.; Jinyang Shipping Co., Ltd; R.T. Djakarta Lloyd; American Industrial Carriers; D.B. Turkish Cargo Lines; CAST Shipping, Ltd.; Black Star Line; Caribe Cargo Express; and Trans World Systems are dismissed from this proceeding; and

It is further ordered, That this proceeding is assigned for hearing and decision to the Commission's Office of Administrative Law Judges, with a public hearing to be held at a date and place hereafter determined by the Presiding Administrative Law Judge. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions or other documents or that the nature of the matters in issue is such that oral hearing and cross-examination are necessary to develop an adequate record; and

It is further ordered, That, pursuant to sections 21 and 27 of the Shipping Act, 1916 (46 U.S.C. 820 and 826), the Respondents shall file with the Presiding Officer within ten business days from the service date of this Order:

1. A verified list of all ocean carriers which were members of the New York Shipping Association during January and February, 1981;

2. A complete and verified copy of the 1974–1977 "Management-ILA Rules on Containers," a complete and verified copy of the December 6, 1980 version of these Rules which identifies the December 6, 1980 changes, if any, and an analysis of each such change describing its intended effect;

3. A verified list of any ports at which injunctions or other factors beyond the ILA's control prevented implementation of the Container Rules during January or February, 1981, and an explanation of what the factor was in each instance. Copies of these submissions shall be simultaneously furnished to all other parties of record; [39] and

It is further ordered, That this order be published in the **Federal Register** and a copy served upon all parties of record; and

It is further ordered, That all future notices, orders, or decisions issued in this proceeding, including notice of the time and place of hearing or prehearing conference, be mailed directly to all parties of record.

By the Commission.*

Francis C. Hurney,

Secretary.

Docket No. 81–11, "50 Mile Container Rules"—Implementation by Ocean Common Carriers Serving U.S. Atlantic and Gulf Coast Ports—Possible Violations of the Shipping Act, 1916

Commissioner Richard J. Daschbach, dissenting

The Commission's instant Order is a sincere effort to make good law but, by ignoring the intent of the Maritime Labor Agreements Act of 1980 (MLAA), as well as the practical and economic consequences of the investigation it proposes, it continues a wasteful and unnecessarily burdensome proceeding.

The Commission has already spent nearly a year investigating the 50-mile container rules, and it has compiled a record sufficient to make two important findings.

First, the 50-mile rules are a practice subject to the tariff filing requirements of section 18(a) of the Shipping Act, 1916.

Second, a plain reading of the MLAA and its legislative history shows that it was not intended to alter the Commission's authority to enforce Shipping Act violations.

However, the instant Order buries these conclusions amidst 40 pages of legal justification for preserving Shipping Act jurisdiction where it has not been seriously challenged, and it continues an investigation which, after the two findings described above have been made, is no longer necessary or defensible.

Any further conclusions which the Commission can reach regarding alleged violations by specific parties and their disposition is inherently remedial and can be more efficiently adjudicated in the currently stayed complaint proceeding (Docket No. 81–5, *International Association of NVOCC's et al. v. Atlantic Container Line et al.*).

In view of the broad jurisdictional issues already resolved and the specific factual matters still requiring adjudication, the complaint proceeding is far more practical, economical, and consistent with the regulatory reform principles of the MLAA

[39] It is not required that each of the 122 Respondents file the same material. It would be sufficient for the New York Shipping Association members and the ILA to respond on behalf of all.

* Commissioner Thomas F. Moakley concurs in the result and will issue a separate opinion. Commissioner Richard J. Daschbach dissents and issues a separate opinion.

than a costly and protracted Commission investigation and hearing.

Docket No. 81-5 addresses the same legal issues as Docket No. 81-11 and is the only vehicle for the parties alleging harm from imposition of the 50-mile rules to seek financial redress of their alleged injuries. The complaint proceeding also reflects the purposes of the MLAA, which specifically *removed* the Commission from active regulation of maritime labor activities while preserving its authority to adjudicate the complaint of any party affected by specific violations of the Shipping Act.

Finally, the complaint proceeding places the financial as well as legal burden of going forward on the aggrieved parties, where it belongs. In view of the Commission's limited budget and personnel resources, cost is a valid issue to be considered in weighing the propriety of initiating or extending any investigation. It is a particularly relevant concern with respect to the instant Order, in which the Commission is embarking on an investigation of sweeping magnitude despite the availability of a more economically feasible alternative.

In addition to its cost, the Commission investigation envisioned by the instant Order has as many drawbacks as the complaint proceeding has advantages.

The Order is skewed in two mutually exclusive directions. On the one hand, it is a scholarly legal treatise on the respective philosophies underlying Shipping Act regulation and national labor law. On the other hand, it tries to re-focus an extant investigation in order to obtain more specific factual information. It simply cannot do both. The more scholarly the treatise, the less suitable a vehicle it becomes for the factual investigation which is allegedly needed here. The treatment of legal issues may be exemplary, but it does not help the Commission determine what Carrier X did to Shipper Y.

The instant Order presents an elaborate defense of Commission jurisdiction where none is needed, thus inviting controversy which might not otherwise arise. The MLAA clearly delineated the Commission's authority regarding maritime labor issues, and a simple re-affirmation of the principles of that statute would be sufficient. In belaboring the issue through 40 pages, the Order may create needless doubts about the Commission's statutory jurisdiction and complicate the premise on which that authority is based. This is the same error which the Commission committed in its overly aggressive assertion of jurisdiction in *Federal Maritime Commission v. Pacific Maritime Association (PMA)*, 425 U.S. 40 (1978), creating regulatory overkill which required statutory modification. The Commission's Order here threatens to rekindle the controversy which the MLAA resolved.

Finally, the cumbersome investigation proposed by the instant Order shows that the Commission continues to swim against the tide of current thinking on the proper role of the Federal government in enforcing the law. An investigation of the scope and magnitude envisioned by the Order here is over-reaching and interventionist regulation at its worst. It thrusts the heavy hand of Federal bureaucracy into a matter which could be more expeditiously and economically resolved through a private complaint proceeding. In so doing, the Commission imposes a major burden upon U.S. industry and labor as well as an unnecessary drain on its own financial and manpower resources.

[FR Doc. 82-3722 Filed 2-10-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources Administration

Advanced Financial Distress Review Panel Establishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Health Resources Administration anounces the establishment by the Secretary, HHS, of the Advanced Financial Distress Review Panel on January 22, 1982, pursuant to section 788B of the Omnibus Budget Reconciliation Act of 1981.

Designation: Advanced Financial Distress Review Panel

Purpose: The Panel will review and evaluate plans to achieve financial solvency submitted by applications for Advanced Financial Distres and will advise the Secretary on the likelihood of success of these plans. In carrying out this function, panel members will visit applicant institution to obtain information.

Authority for this Panel will expire no later than forty-five days after the Panel's recommendations on all plans submitted by schools have been transmitted to the Secretary.

Dated: February 3, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, Health Resources Administration.

[FR Doc. 82-3643 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-15-M

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Nurse Training

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephne (202) 245-6791. Copies may be obtained from Dr. Mary S. Hill, Executive Secretary, National Advisory Council on Nurse Training, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6681.

Dated: February 3, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, Health Resources Administration.

[FR Doc. 82-3644 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Animal Resources Subcommittee of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, from 1 p.m. on March 11, 1982 to recess and from 8 a.m. to adjournment on March 12, 1982, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland, 20205.

The meeting will be open to the public on March 12 from approximately 1 p.m. to approximately 3 p.m., during which time there will be a brief staff presentation on the current status of the Animal Resources Program, and the Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 11 from 1 p.m. to recess and on March 12 from approximately 8 a.m. to 1 p.m., for the review, discussion and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Office, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes

of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: February 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–3612 Filed 2–10–82; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors, Division of Cancer Cause and Prevention; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Cause and Prevention, National Cancer Institute, February 25–26, 1982, Building 31C, Conference Room 4, National Institutes of Health, 9000 Rockville, Pike, Bethesda, Maryland 20205. This meeting will be open to the public on February 26, 1982, from 9:00 a.m. to adjournment to discuss aspects of the research and resources activities of the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 25, 1982, from 9 a.m. to adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary, Board of Scientific Counselors, Division of Cancer Cause and Prevention, National Cancer Institute, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6927) will furnish substantive program information.

Dated: February 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc.82–3614 Filed 2–10–82; 8:45 am]

BILLING CODE 4140–01–M

Cancer Control Grant Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, March 8–9, 1982, Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on March 8 from 8:30 a.m. to 9 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 8, from 9 a.m. to adjournment and on March 9, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert F. Browning, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 806, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7413) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.399, project grants and contracts in cancer control, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in sections 8(b) (4) and (5) of the Circular)

Dated: February 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–3613 Filed 2–10–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Cancer Education Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, February 17–18, 1982, Building 31C, Conference Room 7, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on February 17, from 8:30 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 17 from 9:30 a.m. to adjournment, and on February 18, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Margaret H. Edwards, Executive Secretary, Clinical Cancer Education Committee, National Cancer Institute, Blair Building, Room 722, National Institutes of Health, Bethesda, Maryland 20205 (301/427–8855) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: February 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-3610 Filed 2-10-82; 8:45 am]

BILLING CODE 4140-01-M

Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Cancer Review Subcommittee); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Large Bowel and Pancreatic Cancer Review Committee, (Large Bowel Cancer Review Subcommittee), National Cancer Institute, March 8, 1982, Mariott Hotel Greenspoint, Salon E, 255 East Northbelt Drive, Houston, Texas. This meeting will be open to the public on March 8 from 8:30 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 8, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Vincent J. Cairoli, Executive Secretary, Large Bowel Cancer Review Subcommittee, National Cancer Institute, Blair Building, Room 7A05, National Institutes of Health, Bethesda, Maryland 20205 (301/427-8800) will furnish substantive program information.

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, project grants in cancer cause and prevention; detection and diagnosis; and cancer treatment research, National Institutes of Health)

Dated: February 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-3615 Filed 2-10-82; 8:45 am]

BILLING CODE 4140-01-M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, March 29, 1982, Harvard School of Public Health, Amphitheater, G-1, Kresge Bldg., 677 Huntington Avenue, Boston Massachusetts 02115. The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include discussions to obtain information on grants supported by the National Cancer Institute from scientists of the universities in the Boston area. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A35, National Institutes of Health, Bethesda, Maryland 20205 (301/496-1148) will furnish substantive program information.

Dated: February 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-3611 Filed 2-10-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Assessment of Medical Technology; External Insulin Infusion Pump

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of external insulin infusion pump for treatment of diabetes mellitus. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: February 1, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3607 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology; Topical Oxygen Therapy

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of topical oxygen therapy for treatment of decubitus ulcers. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed

clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: January 28, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3658 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology; Implantable Chemotherapy Infusion Pump

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of the implantable chemotherapy infusion pump (via the hepatic artery) for treatment of cancer. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: January 28, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3659 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology; Implanted and External Heparin Infusion Pumps

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of implanted and external heparin infusion pumps for treatment of thromboembolic diseases. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technolgy. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, / Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: January 28, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3660 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology; Pancreas Transplantation

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of pancreas transplantation for treatment of diabetes mellitus. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: January 28, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3661 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Assessment of Medical Technology; Melodic Intonation Therapy

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of melodic intonation therapy for treatment of aphasic patients. The PHS assessment consists of a synthesis of information obtained from appropriate

organizations in the private sector and from PHS agencies and other in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: January 28, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc.82-3662 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Health Services Developmental Grants Review Subcommittee and Health Care Technology Study Section; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1982:

Name: Health Services Developmental Grants Review Subcommittee.
Date and Time: March 1–2, 1982, 9:00 a.m.
Place: Gramercy Inn, Scott Room South, 1616 Rhode Island Avenue, NW, Washington, D.C. 20036.
Open March 1, 9:00 a.m.–9:30 a.m.
Closed for remainder of meeting.

Purpose. The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open session of the meeting on March 1, 1982, will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–6916.

* * * * *

Name: Health Care Technology Study Section.
Date and Time: March 15–16, 1982, 8:30 a.m.
Place: Gramercy Inn, North Scott Room, 1616 Rhode Island Avenue, NW, Washington, D.C. 20036.
Open March 15, 8:30 a.m.–10:00 a.m.
Closed for remainder of meeting.

Purpose. The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda. The open session of the meeting on March 15 will include a presentation by the Acting Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–6196.

Agenda items are subject to change as priorities dictate.

Dated: February 4, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3691 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

Office of Health Research, Statistics, and Technology; Assessment of Medical Technology; Plasma Perfusion of a Charcoal Filter

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of plasma perfusion of a charcoal filter for the treatment of pruritis of cholestasic liver disease. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than May 12, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Pierre F. Renault, M.D., Associate Director for Medical and Scientific Evaluation at the above address or by telephone (301) 443–4990.

Dated: January 6, 1982.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3692 Filed 2-10-82; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Seminole Nation Oklahoma; Plan for the Use and Distribution of the Seminole Nation of Oklahoma Judgment Funds in Docket 247 Before the United States Court of Claims

January 29, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated in satisfaction of the award granted to the Seminole Nation of Oklahoma in United States Court of Claims Docket 247 on February 18, 1981. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated July 21, 1981, and was received (as recorded in the Congressional Record) by the Senate on July 27, 1981, and by the House of Representatives on July 30, 1981. The plan became effective on November 7, 1981, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on February 18, 1981, in satisfaction of the award granted to the Seminole Nation of Oklahoma in Docket 247 before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be utilized as provided herein.

The entirety of such funds shall be invested by the Secretary of the Interior and the principal and interest and investment income accrued shall be available for expenditure by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary, for tribal operations. No portion of such funds shall be distributed in the form of per capita payments.

The tribal Judgment Fund Committee, consisting of fourteen (14) tribal members, representative of each of the bands of the Seminole Nation, is authorized to make recommendations, on at least an annual budgetary basis, to the tribal governing body on the utilization of the funds.

Any such funds used for social or economic development projects shall not be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State or local programs."

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 82–3638 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–02–M

Winnebago Tribe, Winnebago, Nebraska; Receipt of Petition for Reassumption of Jurisdiction

January 27, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior or reassumption of jurisdiction over Indian child custody proceedings.

This is notice that a petition has been received by the Secretary from the Winnebago Tribe, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Winnebago Agency Office, Bureau of Indian Affairs, Winnebago, Nebraska 68071.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–3639 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[Serial No. A 17000–P]

Classification of Public Lands for State Indemnity Selection; Arizona

In FR Doc. 82–1429, appearing on pages 3036 and 3037 of the issue for January 21, 1982, the following change should be made for Application A 17000–P:

T. 19 N., R. 20 W., should be T. 29 N., R. 20 W.

Dated: February 5, 1982.

William K. Barker,

Acting State Director.

[FR Doc. 82–3640 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–84–M

[Designation Order NM–030–8201]

Off-Road Vehicle Designations; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Off-Road Vehicle (ORV) Designation.

SUMMARY: Notice is hereby given relating to the use of ORV vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR Part 8340. The following described lands under the administration of the Bureau of Land Management are designated as open.

The area designated is known as Airport ORV Management Area. This area is located in the Las Cruces/Lordsburg Resource Area of the Bureau of Land Management, Las Cruces District Office and consists of approximately 2,160 acres within Dona Ana County, New Mexico. More specifically it is located off U.S. Highway 70, just east of the Las Cruces/Crawford Airport. Access is provided by the airport frontage road.

This designation is the result of land-use decisions developed with public involvement and input in the Southern Rio Grande Management Framework Plan.

A map of the subject area and review of the environmental assessment which describes the impacts of this designation is available at the Las Cruces District Office, 1705 North Valley Drive, P.O. Box 1420, Las Cruces, New Mexico 88004.

This designation becomes effective on February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Dan Rathbun, District Manager, at the above Las Cruces, New Mexico address or call (505) 524–8551.

Charles W. Luscher,

State Director.

[FR Doc. 82–3647 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–84–M

Oregon; Andrews Grazing Management Plan; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Oregon State Office, will be preparing an Environmental Impact Statement (EIS) on the grazing management program on approximately 1.6 million acres of public land in the Andrews EIS Area of the Burns District in south-central Oregon. Decisionmaking will take place over a several-month period following completion of the final statement.

Public scoping meetings will be held as follows:

March 8, 1982, 7:30 p.m., Denio Community Hall, Denio, Nevada

March 9, 1982, 7:30 p.m., Circuit Court Room, Harney County Court House, Burns, Oregon

March 11, 1982, 7:30 p.m., Basement Conference Room, Oregon State Office, 729 N.E. Oregon Street, Portland, Oregon

At these meetings public comments will be sought to help develop the preferred land use alternative for the area and various alternatives that could realistically be addressed in the EIS. Public participants will also be asked to identify the significant issues to be discussed in detail in the EIS. Possible methods of obtaining public comment on the draft EIS after it is published will be discussed.

The proposed grazing management program will be based on coordinated land use allocations for all resources developed through the Bureau's land use planning system. The objectives of the program are to enhance the vegetative resource, provide quality habitat for wildlife and wild horses, provide a continous supply of livestock forage, reduce soil erosion and sedimentation damage, improve water quality, improve the recreation and visual resources, and protect archeological and historical sites.

The EIS will discuss alternatives to the proposed grazing management program. A no action alternative will be included in the EIS. Other alternatives being considered for discussion include no livestock grazing and at least one higher and one lower level of livestock grazing than that in the proposal.

The EIS will identify the impacts that can be expected from implementation of either the proposed grazing management program or any of the alternatives discussed. The statement will be an analytical tool used in making final decisions for managing livestock grazing in the Andrews EIS area.

Additional information may be obtained from:

Josh Warburton, District Manager, Bureau of Land Management, 74 S. Alvord St., Burns, Oregon 97720, Telephone (503) 573–2071

Gerry Fullerton, Statement Leader, Bureau of Land Management (922), P.O. Box 2965, Portland, Oregon 97208, Telephone (503) 231–6955.

Dated: February 4, 1982.

Philip C. Hamilton,

Chief, Division of Planning and Environmental Coordination, Oregon State Office.

[FR Doc. 82–3649 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–84–M

Arizona; Phoenix District, Kingman Resource Area Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on March 17, 1982.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

1. Review of the Hualapai/Aquarius Rangeland Program Summary.
2. Review of the Rangeland Monitoring Plan.
3. Status of Allotment Management Plans.
4. Range Improvements.
5. Review of the Kingman Resource Area Fire Suppression plan.
6. Report on vandalism of range improvements.
7. Arrangements for future meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 5, 1982.

William K. Barker,

District Manager.

[FR Doc. 82–3651 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–84–M

[M 20688]

Termination of Bureau Motion Classification; Montana

February 3, 1982.

1. Pursuant to Secretarial Order dated November 22, 1974, the following described lands were classified for retention in public ownership for management under principles of multiple use. As disposal is a discretionary action pursuant to Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743), this classification is hereby terminated.

Principal Meridian

T. 28 N., R. 31 E.,
Sec. 10, S½;
Sec. 15, All;
Sec. 23, N½.
T. 28 N., R. 32 E.,
Sec. 6, SE¼NE¼.

The land described contains 1,320 acres in Phillips County.

2. At 8 a.m. on March 16, 1982, the lands described will be relieved of the segregative effect of the above mentioned classification, subject to any valid rights, the provisions of existing withdrawals and the requirements of applicable law.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, P.O. Box 20157, Billings, Montana 59107.

Kannon Richard,

Acting State Director.

[FR Doc. 82–3648 Filed 2–10–82; 8:45 am]

BILLING CODE 4310–84–M

California; Bakersfield District; Off-Road Vehicle Designations

SUMMARY: Previously undesignated public land in Fresno and San Benito Counties, located in the Hollister Resource Area of central California, are designated as open, limited and closed to off-road vehicle use.

DATE: Effective January 31, 1982.

ADDRESS: Any inquiries should be addressed to Garold W. Lamb, Acting District Manager, Bakersfield District, 800 Truxton Avenue, Room 302, Bakersfield, California, 93301, (805) 861–4191

FOR FURTHER INFORMATION CONTACT: 0David E. Howell, Hollister Resource Area Manager, P.O. Box 365, Hollister, California, 95023, (408) 637–6183.

SUPPLEMENTARY INFORMATION: These designations are made in accordance with the authority and requirments of Executive Orders 11644 and 11989 and regulations contained in 43 CFR part 8340.

The affected public lands include 207,250 acres in the Hollister Resource Area located in Fresno and San Benito Counties. These designations are based on land use decisions made in the 1978 Management Framework Plan (MFP) for the Fresno/San Benito Planning Unit. In addition to the public participation and review involved in the formulation of this plan, public participation was solicited through mailings and public meetings held during the summer of 1981, specifically on the Off-Road Vehicle (ORV) Designations. Environmental Assessments have been prepared. These documents are available for public review in the Hollister Resource Area Office of the Bakersfield District.

Designations

A. Vehicle Travel Limited to Existing Vehicle Routes.

This designation was chosen to give maximum resource protection on approximately 164,250 acres while allowing most existing uses to continue.

B. Vehicle Travel Limited to Designated Vehicle Routes.

This designation was chosen for approximately 16,000 acres of the Clear Creek Recreation Area. Areas on the north and south sections of the Recreation Area are designated limited to reduce conflict with grazing lessees, to protect wildlife habitat, and to prevent soil loss. Corridors at Clear Creek, Sawmill Creek and San Carlos Creek are designated limited to protect endangered plant habitat, to reduce stream siltation and to protect wildlife habitat.

C. Closed.

Approximately 2000 acres are closed to vehicle use including current restrictions in the San Benito Mountain Natural Area, archaeological sites,endangered plant habitat, and mined areas.

D. Open.

This designation was chosen for approximately 25,00 acres within the Clear Creek Recreation Area.

Garold W. Lamb,

Acting District Manager.

[FR Doc. 82-3695 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Green River/Hams Fork Coal Region; Call for Expression of Leasing Interest

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for expression of leasing interest within the White River Resource Area, Craig District, Colorado.

SUMMARY: This call for expressions of coal leasing interest, in the White River Resource Area (Green River/Hams Fork Coal Region), is made to obtain specific information on the areas of interest for Federal coal leasing. Information received from these expressions will be merged with data developed by the Department of Interior and will serve as the basis for delineating potential lease tracts. This call for expressions includes expressions from small businesses and public bodies to be used to help identify tracts for the special set aside programs.

DATE: Responses to this notice will be recieved until March 15, 1982.

ADDRESS: Expressions of coal leasing interest should be sent to State Director (932), Bureau of Land Management, 1037 20th Street, Denver Colorado 80202, *and* District Conservation Manager for Resource Evaluation, U.S. Geological Survey, Conservation Division, P.O. Box 580, Grand Junction, Colorado 81502, *and* District Manager, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81626.

FOR FURTHER INFORMATION CONTACT: David Bray, Coal Coordinator, Craig District, BLM, P.O. Box 248, Craig, Colorado 81626; telephone (303) 824–8261.

Curt Smith, Area Manager, White River Resource Area, BLM, P.O. Box 928, Meeker, Colorado 81641; telephone (303) 878–3601.

Ken Smith, Coal Program Specialist, Colorado State Office, BLM, 1037 20th Street, Denver, Colorado 80202; telephone (303) 837–3008.

SUPPLEMENTARY INFORMATION: The official call for expressions of leasing interet in Federal coal is now in effect for the second round of coal leasing activity in the Green River/Hams Fork Coal Region. This call for expressions was described as Phase II in the Federal Register Notice of December 10, 1981, 46 FR 60509. The second round of possible coal leasing is scheduled to begin in March 1984. This specific call for expressions of leasing interest is limited to the areas within the White River Resource Area which have been determined suitable for further consideration for coal development. Any individual, business entity, governmental entity or public body interested in submitting an expression in this area should do so on or before March 15, 1982.

Maps which clearly indicate the areas open for expression of interest and acceptable for further consideration for coal leasing are being printed. The maps may be obtained by contacting any of the above listed names.

This call for expressions of interest is the first step in the activity planning under the Federal coal management program. It is being made before any tract boundaries are delineated within the White River Resource Area. The results of this call will provide significant information that will assist in determining need, and to facilitate lease tract delineations and economic evaluations. Expressions received will be used as a basis for the type, quality, quantity and location of coal which should be considered for leasing.

Expressions of interest from small businesses and public bodies are invited in accordance with the provisions of 43 CFR 3420.1–4. A reasonable number of lease tracts will be reserved and offered through competitive lease sales as special leasing opportunities for those qualifying under the definitions of small businesses and public bodies.

An expression of interest is not an application. The size, location and number of proposed tracts, as indicated by expressions of interest, may be modified or changed if there is sufficient reason to do so and the coal included in the modified or relocated tracts is of approximately equal quality and tonnage as that shown in the expression of interest. Examples of the types of concerns that may make such action necessary include: the competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities.

Expressions of leasing interest should include the following data where applicable:

1. *Quantity needs* (total tonnage, average tons-per-year, and year during which production should commence) for both coal producers and users.

2. *Quality needs* (types and grades of coal) for both producers and users.

3. *Location*

a. Tracts desired by mining companies (narrative description with delineation on a surface minerals management quad map, available for purchase from the BLM State Office).

b. Public and private industry user facilities in region.

c. If no location is indicated, but other specified data are provided, the expression will be considered. In such cases, the joint BLM/GS delineation team will locate the tract.

4. *Type of Mine*

a. Surface or underground.

b. Technique of mining (i.e., longwall, room and pillar, strip mining, etc.).

5. *Proposed uses of Coal*

a. By mining companies.

b. By public and private industries.

6. *Where Coal is Consumed (include extra-regional markets)*

7. *Transportation Needs (i.e., railroads, pipelines, etc.)*

a. Existing facilities.

b. Proposed facilities and development timing.

8. *Available Sources of Coal*

a. Presently operative.

b. Contingency or other sources.

9. *Information Relating to Mineral Ownership*

a. Information on surface owner consents previously granted, e.g., a description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee coal owners or for associated non-Federal coal.

10. *Special Qualifications* for public bodies requesting special leasing opportunities. These specific requirements are listed in 43 CFR 3472.2–5.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

Management Framework Planning information for White River Resource Area is available through the Craig District Office at the above address.

Cecil Roberts,

Acting State Director, Colorado.

[FR Doc. 82-3735 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-84-M

[N-34147]

Nevada; Realty Action—Non-Competitive Sale Public Lands in Lincoln County, Nevada

February 4, 1982.

The following described land has been examined and identified for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Mount Diablo Meridian

T. 6 N., R. 66 E.,
Sec. 22, W½NW¼SW¼NE¼,
SW¼SW¼NW¼NE¼.

The above-described land, comprising 7.5 acres, is being offered by direct sale to Fred Jenkins at fair market value.

The lands are being offered as a direct, non-competitive sale to Mr. Jenkins, the owner of the adjoining tract and improvements on the sale tract. Mr. Jenkins constructed a cuber on the sale tract under the mistaken belief that the tract was part of his privately owned land. Disposal by direct sale to Mr. Jenkins will legalize his occupancy of the land, protect his equity investment in the improvements on the land, and resolve a complicated trespass situation.

The lands have not been used and are not required for any federal purpose. Disposal would best serve the public interest. The sale is consistent with the Bureau's planning system. The land will not be offered for sale for at least 60 days after the date of this notice (until April 12, 1982).

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. An easement for a county road.

2. Those rights for powerline purposes which have been granted to Lincoln County Power District No. 1, its successors or assigns, by Permit No. Nev–060394, under the Act of December 21, 1928, 45 Stat. 1057, 43 U.S.C. 617d.

3. Those rights for communication line purposes which have been granted to Lincoln County Telephone System, it successors or assigns, by Permit No. N–4158, under the Act of March 4, 1911, 36 Stat. 1253, 43 U.S.C. 961.

4. Those rights granted by oil and gas lease, N–30930, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570. The patent will be issued subject to the rights of the prior permittee or lessee to use so much of the surface of said land as it required for oil and gas exploration and development operations, without compensation to the patentee for damages resulting from proper oil and gas operations, for the duration of oil and gas lease, N–30930, and any authorized extension of that lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

Detailed information concerning the sale is available for review at the Nevada State Office, 300 Booth Street, Reno, Nevada.

On or before March 29, 1982, interested parties may submit comments to the State Director, (N–943), P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-3699 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 20183]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment; Correction

In FR Doc. 81–36004 appearing on page 61514, in the issue of Thursday, December 17, 1981, insert the following words in the third line after "Pages 55666–7,": " * * * as amended in the **Federal Register** of May 14, 1981, FR Doc. 81–14455, page 26702, * * * ". Also change the acreage for the proposed withdrawal to read 5.8 acres.

Dated: February 4, 1982.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 82-3699 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-84-M

[W–71787]

Conveyance; Opening of Lands Acquired in Exchange Action; Park County, Wyoming

Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

1. The surface estate of the following described land in Park County, Wyoming, was conveyed to Jerry W. and Mary Elaine Housel:

Sixth Principal Meridian

T. 49 N., R. 100 W.,
Sec. 8, S½SE¼;
Sec. 10, S½SW¼, SW¼SE¼.
Containing 200.00 acres.

2. Jerry W. and Mary Elaine Housel conveyed the surface estate to the United States for the following described lands:

Sixth Principal Meridian

T. 49 N., R. 97 W.,
Sec. 4, N½SW¼, NW¼SE¼, SE¼SE¼;
Sec. 9, NE¼NE¼.
Containing 200.00 acres.

3. On March 15, 1982, at 10:00 a.m. the lands conveyed to the United States shall be open to the operation of the public lands laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received on or before publication shall be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing. The mineral estate in the lands conveyed to the United States has always belonged to the United States and has always and continues to be open to the operations of the mining and mineral leasing laws.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

February 1, 1982.

[FR Doc. 82-3694 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Buffalo Resource Area; Intent To Prepare a Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of a Resource Management Plan and environmental impact statement for the Buffalo Resource Area, Casper District, Wyoming.

SUMMARY: The Casper District is initiating development of a Resource Management Plan (RMP), an integral component of which is an environmental impact statement (EIS). In addition, the public is invited to identify issues to be addressed in the RMP or to comment on issues identified by BLM.

FOR FURTHER INFORMATION CONTACT: For additional information, to be placed on the Buffalo mailing list, or to add to or comment on the issues to be addressed in the RMP contact: Forest Littrell, Area Manager, Buffalo Resource Area, Bureau of Land Management, P.O. Box 670, Buffalo, Wyoming 82834, (307) 684–5586.

LOCATION OF DOCUMENTS: Throughout the development of the RMP, documentation records and completed documents pertaining to the RMP will be available for public review at the Buffalo Resource Area, 300 Spruce Street, Buffalo, Wyoming.

SUPPLEMENTARY INFORMATION: The Casper District is initiating development of a Resource Management Plan (RMP) to guide future management actions on the public lands within the Buffalo Resource Area which includes Johnson, Campbell, and Sheridan counties. Within these three counties, BLM manages 11.3 percent of the surface, approximately .8 million acres, and about 65.6 percent of the mineral estate, approximately 4.8 million acres.

The RMP will be a 10-year comprehensive land use plan. The objective of the RMP is to improve resource management decisions on public lands through a planning process which incorporates public participation, maximizes use of the best available data, identifies significant issues to be addressed and analyzes alternatives for multiple use management. Resource management plans are authorized under the Federal Land Management Policy Act of 1976. Standards, guidelines, and procedures for RMP preparation are contained in 43 CFR Part 1600.

The steps in the RMP process include identification of issues, development of planning criteria to address the issues, collection of inventory data and information, analyses of the management situation, formulation of alternatives, estimation of effects of alternatives, selection of perferred alternatives, selection of the resource management plan, and monitoring and evaluation of the plan. Completion of the RMP is scheduled for June 1983.

The identification of issues focuses the scope and direction of the RMP at the outset of the planning process. BLM has identified two issues: rangeland management and wilderness. Wilderness study areas, previously identified under BLM inventory processes are: Fortification Greek, containing 12,419 acres in Johnson and Campbell Counties, Gardner Mountain, containing 6,423 acres, and North Fork, 10,089 acres, in Johnson County. The public, including other federal agencies and state and local governments, is invited to suggest additional issues to be addressed in the RMP and comment on issues identified by BLM. Comments and suggested issues should be sent to the address indicated above and should be received by BLM on or before March 13, 1982.

Alternatives developed in the RMP process will range from those favoring resource protection to those favoring resource production and will include the no action alterative, which is a continuation of present management. An integral component of the RMP process is an environmental impact statement (EIS).

Public participation will be an essential element of the RMP. Opportunities for public input will be offered throughout the process. In addition to the opportunity to suggest or comment on issues, there will be a 45-day comment period and a public hearing on the draft EIS. Additional public meetings or hearings will be considered when requested and when accompanied by appropriate rationale. Notice of public participation opportunities will be announced through local news media and mailings to interested members of the public.

An interdisciplinary team will be formed to develop the RMP. Disciplines to be represented include: geology, range, realty, forestry, archaeology, sociology, economics, hydrology, wildlife, recreation, soils, and air quality.

Dated: February 4, 1982.

Paul W. Arrasmith,

District Manager.

[FR Doc. 82–3086 Filed 2–10–82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0605, Block 86, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 3, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–3040 Filed 2–10–82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 1986 and 2165, Blocks 36 and 35, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the

OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext, 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executive of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 2, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–3841 Filed 2–10–82; 8:45 am]
BILLING CODE 4310–31–M

National Park Service

Colorado River Management Plan, Grand Canyon National Park

Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a plan for recreation use of the Colorado River in Grand Canyon National Park. Copies of the Plan and record of decision are available at the following locations:

Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023

Regional Director, Western Region Office/ National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102

National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240

Record of Decision, Colorado River Management Plan, Grand Canyon National Park

I. The Decision

After eight years of research, planning, and public involvement, the National Park Service (NPS) has adopted a final plan for management of whitewater boating on the Colorado River within Grand Canyon National Park. The major features of the plan are:

A. Two components—(1) the river management plan which presents the general concepts guiding river management for a five to ten year period and (2) the annual operating requirements which are subject to annual revision and contain the detailed information on procedures for complying with the plan.

B. A vigorous monitoring program will be implemented to measure the plan's success in meeting the management objectives and recommending any plan modification,

C. Provision for both motor and oar use, with a three-month oar-only use season from September 15 to December 15, and,

D. Increase in annual user days of approximately 30 percent and 600 percent for commercial and noncommercial operators respectively over 1980 levels.

II. Background

In the early 1970's, the NPS recorded a tremendouus increase in recreational use on the Colorado River within the park. In 1972, over 16,000 people went down the river, an increase of almost 3,000 percent in 7 years. Visitor boating use along the Colorado River for 1972 alone exceeded the 100-year period from 1870 through 1969. This sudden rise in use noticeably impacted the vulnerable inner canyon ecosystem. Trash, charcoal, and human waste were accumulating, multiple trails were developing to points of interest, and the numerous historic and prehistoric sites near the river were being damaged. Due to the increase in use and resultant resource impact, in 1973 the NPS placed an annual use limit of 96,600 user days for recreational river runners and began comprehensive research programs to assist in the formulation of management decisions.

Based upon results from the research program, in 1976 the NPS began development of the Colorado River Management Plan. In March 1976, the scoping process was initiated when 365 participants attended six public meetings which were held throughout the west. Important issues were identified and work on a draft environmental impact statement (EIS) was begun. In December 1977, the NPS issued the draft EIS for public comment. About 2,750 responses to the draft EIS were received either in writing or at one of the 7 public meetings which were held. In August 1979, the NPS released the final EIS and a plan which was based on the final EIS was released in December 1979.

A central feature of the 1979 plan was the phasing-out of motorized craft over a five year period. However, adverse Congressional reaction to this plan was reflected in 1980 when the Hatch Amendment which prohibited a reduction in commercial motorized craft launches below 1978 use levels, was passed as a provision in the 1981 Department of the Interior Appropriation Bill. Based on passage of this amendment, the NPS responded with a decision to modify the 1979 Colorado River Management Plan to allow for a diversity of river running experiences in Grand Canyon National Park.

In June 1981, the NPS issued a revised draft Colorado River Management Plan which responded to the concerns raised by Congress. The 1981 draft plan, embodied most of the content of the 1979 plan. However, unlike the 1979 plan, the 1981 draft plan contained four alternatives which provided for motorized use periods of various lengths. The public comment period for this plan extended from June to August, during which time several hundred public comments were received. The final plan is identical to the draft plan released in June 1981, except that the issue of motorized- and non-motorized use periods has been resolved.

III. Alternatives

There were actually two separate sets of alternatives considered. The final EIS considered seven alternatives, and the 1981 draft plan considered an additional four alternatives.

A. Alternatives considered in the EIS.

Alternative A1. this alternative provided for a maximum of 185,175 commercial user days and 61,695 noncommercial user days. The summer season would have extended from April 1 to September 30. This alternative also provided for a five-year phase out of all motorized craft from the river. This was the preferred alternative in the final EIS and the alternative selected for incorporation in the 1979 plan.

Alternative A2. The no action alternative would have maintained the status quo. This alternative provided for 89,000 commercial and 7,600 noncommercial user days. Winter use was prohibited and motor use was to be phased out as in Alternative A1.

Alternative A3. This alternative provided for an increase in the visitor use level to the physical carrying capacity of the resource (based on the number of overnight camping sites). This alternative provided for 323,232 user days during a six-month summer use season. Winter use was to be

prohibited. Motor use was to be phased out as in Alternative A1.

Alternative A4. This alternative provided for a 50 percent reduction in annual user days. Only 55,000 user days were to be permitted annually. Due to the decrease in impacts associated with decreased visitor use, this alternative is the environmentally preferable alternative.

Alternative A5. This alternative provided for no motorized use from January 1 to June 30. Use levels were to be maintained as in Alternative A2 above.

Alternative A6. This alternative provided for the elimination of motorized use in the lower gorge from Diamond Creek to Grand Wash Cliffs. This alternative eliminated upriver motorized travel from the lower 50 miles of the canyon. Use level remained the same as in Alternative A2.

Alternative A7. This alternative identified several options for allocating use: individual applications, equal allocation commercial operators, and special allocations for educational/organized groups. These options could be overlain on any use level.

B. Alternatives considered in the 1981 draft plan.

All alternatives in this plan provided for visitors to choose between motorized- and oar-powered craft. Since these alternatives were only minor variations of the alternatives presented in the final EIS, they were considered to be entirely within the scope of that document and no additional NEPA document was prepared.

Alternative B1. Under this alternative, motor and oar use were to be permitted all year. A total of 115,500 user days and 54,450 user days was to be permitted annually for commercial and noncommercial users respectively. About 20,000 of these user days were to be available for winter use. The summer season would extend from May 1 to September 30.

Alternative B2. Under this alternative motorized use was to be prohibited during the entire winter season from October 16 through April 15. Use levels were to be the same as Alternative B1.

Alternative B3. This alternative provided for oar only use during three months of the winter season, from October 1 to January 1. Use levels were to be the same as Alternative B1.

Alternative B4. Under this alternative, three two-week oar-only periods were scheduled during the April 16 to October 15 summer season. Use levels were to be the same as Alternative B1.

IV. Monitoring Program

One of the most important elements of this plan is the monitoring program. This comprehensive program is the primary method for measuring the effectiveness of the plan in meeting its stated objectives. This program is designed to identify degradation of either the resource or the quality of the visitor exprerience below existing acceptable levels. The majority of the impacts occur at attraction sites such as sidestreams, cultural sites, and campsites. Accordingly, the monitoring program will focus on these areas. The following specific analysis are called for in this program.

A. Impacts on vegetation will be measured by aerial photography recording and establishment of vegetation transects.

B. Annual wildlife surveys will be taken.

C. Water Quality in the Colorado River and sidestreams will be monitored.

D. Cultural sites will be monitored by periodical photography from fixed points.

E. The quality of the visitor experience will be recorded by encouraging continued public involvement, personal contact, and evaluating letters.

The above strategy ensures that all practicable means to minimize environmental harm have been taken.

V. Rational for the Decision

The Colorado River Management Plan provides a final resolution of issues at three different levels. First, and perhaps most importantly, several long-standing issues which have evoked significant public controversy have been resolved. Foremost among these issues is the allocation between motorized and nonmotorized craft; other significant issues include the establishment of annual use levels, and the allocation user days among concessioners, and between commercial and noncommercial users. Second, the plan formally adopts certain environmental protection measures. These measures are largely a direct application of research findings, and have produced limited public controversy. Third, the plan provides standardization of certain management practices: launch and take out procedures, management of noncommercial and commercial operators, boating safety, information and education, etc. These management practices as adopted are relatively unchanged from existing conditions. As with the issues in the second category, there was little opportunity for meaningful alternatives to be developed around these management issues. Since those issues in the first category are the most controversial and complex, they will be the focus of this section.

Motors vs. Oars. This issue was initially raised during wilderness planning for the park. There was public concern that the Wilderness Act precludes all motorized use in designated wilderness areas. However, Section 4(b)(1) of the Act states "the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue * * *". This provision clearly applies to motor use on the Colorado River. Additionally, studies conducted by the NPS to date reveal there is no measurable difference between resource damage resulting from motor- or oar-powered trips. Since there are no overriding policy or resource considerations, the issue of motor vs. oar use is a philosophical one. The NPS is committed to providing public freedom of choice and therefore recognizes both motor and oar trips as viable. However, in order to accommodate persons who desire an oar trip without any interaction with motorized craft, a three-month oar-only use period was established. This period extends from October to December and includes a portion of the year with favorable weather conditions

Annual Use Levels. Based on research following enactment of the 1973 use ceilings, the NPS concluded that the 1973 use level was not having any significant long term impact on the river environment. Accordingly, a decision was made to raise that use level. The draft EIS rigorously analyzed various use levels from 55,000 to 323,000 annual user days. The final plan provides for a 75 percent increase in annual use over the 1973 level. Since this use level has not been tested, the NPS cannot say definitely what visitor-related resource impacts will result. The active monitoring program will be used to quantify any impacts and provide for any needed modification is user levels.

Commercial vs. Noncommercial Use Level. When the ceiling was placed on annual use in 1973, the ratio of commercial to noncommercial user days was about 12:1. One of the goals of the planning process was to provide for a more reasonable allocation of commercial and noncommercial use. Accordingly, the final plan provides for a commercial to noncommercial ratio of about 2:1. The NPS feels that this ratio will more equitably accommodate the demand of river runners for noncommercial trips.

Dated: January 28, 1982.

Howard H. Chapman,

Regional Director, Western Region, National Park Service.

[FR Doc. 82-3960 Filed 2-10-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82-601 appearing at page 1178 in the issue for Monday, January 11, 1982, please make the following correction:

On page 1180, in the third column, in the paragraph for MC 158139, filed for Lynco Movers, Inc., in the seventh line, the word "*furnished*" should be "furniture".

BILLING CODE 1505-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FD 29800. By decision of 1-27-82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1151, Review Board Number 3 approved the transfer to AMERICAN INTERNATIONAL FREIGHT FORWARDING, INC. of Permit No. FF-471 issued to ASTRO INTERNATIONAL FREIGHT FORWARDERS, INC. authorizing the transportation of (a) *used household goods and unaccompanied baggage,* and (b) *used automobiles,* between points in the United States (including Hawaii but excluding Alaska), restricted in (b) above to the transportation of export-import traffic. Representative: Martin R. Martino, 333 So. Glebe Road, Arlington, VA.

Note.—By effective Notice served September 2, 1981, in MC-FC-35484 transferee was authorized to lease for a 1-year period transferor's permit No. FF-471.

MC-FC-79327. By decision of 1/28/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SOUTHERN REALTY EQUITIES, INC., d.b.a. SOUTH/U.S.A. of License No. MC-130570 (Sub-No. 1) issued to SOUTH/U.S.A., INC. authorizing broker operations, at Atlanta, GA, for *passengers and their baggage,* in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in the United States (including Alaska and Hawaii), and extending to points in AL, AR, FL, GA, KY, LA, MO, MS, NC, SC, TN, TX and VA. Representative: Kenneth C. Vincent, 300 Interstate North, Atlanta, GA 30339.

Note.—Transferee is a non-carrier.

MC-FC 79557. By decision of 1-27-82 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JEFFREY B. WILGA d.b.a. WILGA'S EXPRESS, of Easthampton, MA, of Certificate of Registration No. MC-99932 (Sub-No. 1) issued January 21, 1964, to Roger E. Wilga d.b.a. Wilga's Express, of Easthampton, MA evidencing a right to engage in transportation in interstate commerce corresponding in scope to Regular Route Common Carrier Certificate No. 427 dated March 9, 1959 issued by the Massachusetts Department of Public Utilities. Representative: Roger E. Wilga, 161 Northampton St., Easthampton, MA 10127.

MC-FC-79577. By decision of 2/3/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number approved the transfer to IDEAL DISPOSAL, INC. of Certificate of Registration No. MC-120044 (Sub-No. 1) issued 7/29/77 to G T S TRANSPORT CO., INC. authorizing the transportation of *general commodities* anywhere with the Commonwealth of Massachusetts over irregular routes. Representative: John F. O'Donnell, Esq., Attorney, 60 Adams St., Milton, MA 02187.

MC-FC-79580. By decision of 1/27/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GENE E. CARTER, d.b.a. GENE E. CARTER TRUCKING of Norton, KS of Certificate No. MC-152643 (Sub-No. 1), issued to JACK L. COLLINS, d.b.a. JACK COLLINS TRUCKING of Hoxie, KS, authorizing transportation of *metal products,* between points in TX and OK, on the one hand, and, on the other, points in Graham, Ellis, Rooks, Sheridan, Norton, Thomas, Decatur, and Rawlins Counties, KS, and Red Willow, Hitchcock, Frontier, Dundy, and Hayes Counties, NE. Representative: Sandra Uhrich, Box 223, Norton, KS 67654.

Note.—TA lease is not sought. Transferee is not a carrier.

MC-FC-79581. By decision of 1-28-82 Review Board 3 approved the transfer to ZIMMER TRUCKING SERVICE, INC., of Brea, CA, of Certificate No. MC-151057 Subs 1 and 2 issued to FASHIONABLE FURNITURE MFG. CO., INC., of Costa Mesa, CA, authorizing (1) new furniture and new furniture parts, between points in CA, on the one hand, and, on the other, points in OR, WA, ID, MT, WY, SD, CO, UT, NV, AZ, NM, TX, and OK; and (2) machinery, between points in Orange County, CA, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, MT, WY, UT, AZ, CO, NM, SD, NE, KS, OK, TX and IN. Representative: Ronald J. Zimmer, 312 Oak Place, Brea, CA 92621. TA lease is not sought. Transferee is not a carrier.

MC-FC-79588. By decision of 1/28/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the

transfer to L. S. DAY MOVING AND STORAGE, INC. of Certificate No. MC–2736 issued to GARLEN TURNER, d.b.a. TURNER MOVERS authorizing: *household goods,* as defined by the Commission, between Dayton, OH, and points within 25 miles thereof, on the one hand, and, on the other, points in CT, IL, IN, KY, MA, MI, MN, MO, NY, OH, PA, TN, WV, and WI. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier.

MC–FC–79596. By decision of 2/1/82, Review Board Number 3 approved the transfer to J & T, INC., of Belchertown, MA, of Permit No. MC–146858 (Sub-No. 4)F issued to AMHERST ENTERPRISES, INC., of North Amherst, MA, authorizing: *beer,* from Newark, NJ, and Philadelphia, to points in ME, NH, VT, MA, CT, and RI, under contract(s) with Lion Distributors, Inc., of Worcester, MA. Representative: Patrick A. Doyle, 40 Sky Ridge Lane, Springfield, MA 01128.

Note.—TA lease is not sought. Transferee is not a carrier.

MC–FC–79599. By decision of 1/28/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to ARIZONA SOUTHERN CHARTER COACHES, LTD., d.b.a. ARIZONA SOUTHERN CHARTER COACHES of Phoenix, AZ, of Certificate No. MC–152600 (Sub-No. 1F) issued to ROMUALD CHMURA of Phoenix, AZ, authorizing transportation of *passengers and their baggage,* in round-trip, charter and special operations, beginning and ending at points in Arizona and extending to points in the United States (including AK but excluding HI). Representative: Richard J. Herbert, 934 West McDowell Rd., Phoenix, AZ 85007.

Notes.—(1) Transferee is a non-carrier. (2) An application for temporary authority has been filed.

MC–FC–79600. By decision of 1–28–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to MORRIS MILLER TRUCKING, INC. of Certificate No. MC–135220 and (Sub-Nos. 1 and 4) issued to BETTY A. MILLER/MORRIS MILLER, EXECUTRIX, of Cassadaga, NY, authorizing the transportation of (1) *malt beverages,* (a) from points in MI to points in NY, and (2) from Toledo, OH, to Buffalo, NY, (2) *returned shipments* of malt beverages and *empty malt beverage containers,* from points in NY to points in MI, (3) *printed matter* and (4) *newspaper supplements* otherwise exempt from economic regulation pursuant to section 203(b)(7) of the Interstate Commerce Act when transported in the same vehicle at the same time with printed matter, from the plant site of the Greater Buffalo Press, Inc. at Buffalo and Dunkirk, NY, to points in MN and NE, and (5) returned shipments of the commodities described in (3) and (4), from points in MN and NE to Buffalo and Dunkirk, NY. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202.

Note.—Transferee is a non-carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3828 Filed 2–10–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find preliminarly, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an aplicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–25

Decided: February 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 33513 (Sub-4), filed January 28, 1982. Applicant: PADULA BROS., INC., 2400 69th St., North Bergen, NJ 07047. Representative: Lionel E. Weeks (same address as applicant), 201–868–7406. Transporting *furniture and fixtures,* between points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, WV, and DC.

MC 85742 (Sub-2), filed January 27, 1982. Applicant: BRADY BROS., INC., 99 Albion Way, West Somerville, MA 02144. Representative: Robert G. Parks, 20 Walnut St. Suite 101, Wellesley Hills, MA 02181, 617–235–5571. Transporting *general commodities* (except household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with The Clorox Company, of Oakland, CA, and its divisions and wholly-owned subsidiaries. Conditions: (1) To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period

expiring 5 years from its date of issuance, and (2) Issuance of this permit is subject to prior or coincidental cancellation of applicant's written request of Certificate of Registration, MC–85742, Sub 1, issued March 11, 1965.

MC 109693 (Sub-19), filed December 7, 1981. Applicant: H. R. HILL, Box 875/2007 West Shawnee, Muskogee, OK 74401. Representative: Max G. Morgan, P.O. Box 2650, Edmond, OK 73083, 405–348–7700. Transporting *Mercer Commodities*, between points in OK and TX, on the one hand, and, on the other, Memphis, TN, and points in WY, CO, TX, and VA.

MC 138772 (Sub-12), filed January 22, 1982. Applicant: ALL WAYS FREIGHT LINES, INC., P.O. Box 2428, Kansas City, KS 66110. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, 913–234–0565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Nemaha and Brown Counties, KS, on the one hand, and, on the other, points in NE, IA, MN, IL, MO, AR, OK, TX, CO, and KS.

Note.—The above authority may be tacked or joined at points in Brown and Nemaha Counties, KS, with applicant's regular route authority in MC–138772 Subs 1, 3, 5, and 9.

MC 142803 (Sub-66), filed January 25, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same as applicant), (413) 732–6283. Transporting *equipment, furniture and fixtures, raised access computer floors*, between points in the U.S., under continuing contract(s) with Data Supplies, of Norcross, GA.

MC 145583 (Sub-7), filed January 25, 1982. Applicant: XPRESS TRUCK LINES, INC., 2500 E. Butler St., Philadelphia, PA 19137. Representative: Anthony A. Cerone (same address as applicant), 215–535–5353. Transporting *alcohol and alcoholic beverages*, between points in ME, TN, FL, GA, KY, OH, IN, IL, WV, NC, SC, and MI.

Note.—Applicant intends to tack this authority with the authority held in MC–145583, Sub 6X.

MC 147242 (Sub-13F), filed January 21, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10102, (212) 757–8025. Transporting *exhibit booths and stalls, advertising materials, and miscellaneous products of manufacturers* for display, between points in the U.S., under continuing contract(s) with Target Communications, Inc., of Boston, MA.

MC 147242 (Sub-14), filed January 22, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106, (212) 757–8025. Transporting *foam rubber and related products*, between points in the U.S., under continuing contract(s) with General Foam Corp., of Paramus, NJ.

MC 147402 (Sub-11), filed January 25, 1982. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: Archie B. Culbreth, Suite 202–2200 Century Parkway, Atlanta, GA 30345, 404–321–1765. Transporting *carbonated beverages*, between points in Mecklenburg County, NC, on the one hand, and, on the other, points in GA, FL, KY, MD, NC, OH, SC, TN, and VA.

MC 148643 (Sub-2), filed January 22, 1982. Applicant: MONTY R. COBLE, d.b.a. ARK CITY WAREHOUSE CO., 1201 South First St., Arkansas City, KS 67005. Representative: Monty R. Coble (same address as applicant), (316) 442–3020. Transporting *malt beverages*, between points in the U.S., under a continuing contract(s) with 101 Beverage, Inc., of Ponca City, OK.

MC 148643 (Sub-3), filed January 25, 1982. Applicant: MONTY R. COBLE, d.b.a. ARK CITY WAREHOUSE CO., 1201 South First St., Arkansas City, KS 67005. Representative: Monty R. Coble (same address as applicant), (316) 442–3020. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 151183, (Sub-22), filed January 22, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant), (201) 499–3869. Transporting *(1) dairy products, and (2) such commodities* as are dealt in and distributed by supermarkets, between points in the U.S., under continuing contract(s) with Tuscan Dairies, Inc./Tuscan Foods, Inc., of Union, NJ.

MC 153263, filed January 20, 1982. Applicant: ANGELYNES, INC., P.O. Box 563, Loveland, CO 80539. Representative: Robert D. Brown, 401 E. 50th St., Loveland, CO 80537, (303) 669–1360. Transporting *mobile homes, sectional homes, modular homes and relocatable office buildings*, between points in AZ, CO, ID, KS, MT, ND, NE, NV, OK, SD, TX, UT and WY.

MC 15393, (Sub-1), filed January 28, 1982. Applicant: TKN, INC. 1242 Shawmut Ave., New Bedford, MA 02741. Representative: Michael F. Morrone, 1150 17th St. NW., Suite 1000, Washington, D.C. 20036, 202–457–1124. Transporting *textile products, granite and granite products, armored electrical cable, conduit, wire, range hoods, kitchen and bathroom fans, heaters, powered attic ventilators, central vacuum systems, door chimes, trash compactors, and commercial building materials*, between points in the U.S., under continuing contract(s) with Nortek, Inc., of Cranston, RI, and its subsidiaries.

MC 159032, (Sub-1), filed January 25, 1982. Applicant: JAY CARLLEY, INC., 3615 N. Emporia St., P.O. Box 4033, Witchita, KS 67219. Representative: James M. Burtch, 100 E. Broad St. Suite 1800, Columbus, OH 43215, 614–228–1541. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 160122, filed January 18, 1982. Applicant: RAMEX TRANSPORTATION, INC., 242 North Walnut, P.O. Box 569, Youngstown, OH 44501. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K St., NW., Washington, D.C. 20005, (202) 783–7800. Transporting *passengers and their baggage, in the same vehicle with passengers*, in special and charter operations, between points in Cuyahoga, Carroll, Mahoning, Stark, Columbiana, Trumbull, Summit, Portage, and Jefferson Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 160233, filed January 25, 1982. Applicant: TWINING TOURS, 1081 Arlington, Ann Arbor, MI 48104. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. As a *broker*, at Ann Arbor, MI, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S.

MC 160283, filed January 27, 1982. Applicant: MIDLAND MOVING & STORAGE, INC., 3120 N. Saginaw Rd., Midland, MI 48640. Representative: James R. Davis, 10th Floor, Michigan National Tower, Lansing, MI 48933, 517–372–0235. Transporting *used household goods*, between points in MI, MN, WI, MO, IL, IN, OH, KS, OK, TX, AR, KY, IA, TN, VA, NC, LA, AL, GA, SC, FL, and MS.

Volume No. OP4–87

Decided: February 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF 557 (Sub-1), filed January 27, 1982. Applicant: MOVER'S INTERNATIONAL, INC., 18800 Highway 99, Lynnwood, WA 98036. Representative: Robert H. Johnson, P.O. Box 1294, Lynnwood, WA 98036, (206) 775–3888. To engage in operations as a freight forwarder, in connection with the transportation of *household goods, used automobiles* and *unaccompanied baggage*, between points in the U.S.

FF 587, filed January 27, 1982. Applicant: CARGO FREIGHT FORWARDING INC., 168–01 Rockaway Blvd., Jamaica, NY 11434. Representative: Grace Onaga, 375 Park Ave., New York, NY 10152, (212) 759–5400. To engage in operations as a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, and household goods), between points in the U.S.

MC 53237 (Sub-2), filed January 27, 1982. Applicant: ST. LOUIS TRANSPORTATION CO., 3548 Valleywood, St., Louis, MO 63114. Representative: C. C. Miller, 3548 Valleywood, St. Louis, MO 63114, (314) 428–8391. Transporting *building materials, metal products, and pipe*, between points in and east of KS, NE, ND, OK, SD, and TX.

MC 127487 (Sub-12), filed January 28, 1982. Applicant: HOLT CARGO SYSTEMS, INC., 701 N. Broadway, Gloucester City, NJ 08030. Representative: Thomas J. Holt (same address as applicant), (609) 456–6400. Transporting *general commodities* (except classes A and B explosives), between points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC.

MC 130607 (Sub-1), filed January 28, 1982. Applicant: COLONIAL PATHWAYS, INC., 125 Schoolhouse Lane, Kennett Square, PA 19348. Representative: Joseph Reisinger, 1106 First Eastern Bank Bldg., Wilkes-Barre, PA 18701, (717) 823–3377. To operate as a *broker*, at Kennett Square, PA, in arranging for the transportation of *passengers and their baggage* in round trip, special and charter operations, beginning and ending at points in DE, and extending to points in the U.S. (except AK and HI).

MC 143127 (Sub-83), filed January 28, 1982. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Catherine Jablonski, 6070 Collett Rd., Victor, NY 14564, (716) 924–9951. Transporting *plastic products*, between points in the U.S., under continuing contract(s) with Mobil Chemical Company, of Macedon, NY.

MC 146087 (Sub-3), filed December 30, 1981, previously noticed in the Federal Register issue of January 14, 1982, and republished this issue. Applicant: CALIFORNIA WASHINGTON EXPRESS, 3554 McReynolds Ave., Modesto, CA 95355. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055, (206) 235–1111. Transporting (1) *plastic and plastic products*, (2) *Doors and door sections*, (3) *canned goods*, (4) *Dairy equipment*, (5) *tires*, (6) *potting soil, wood chips, fertilizers*, and (7) *such commodities* as are dealt in or used by grocery and department store chains, between points in the U.S., under continuing contract(s) with Jupiter Engineering, Inc., of Menlo Park, CA, Overhead Door Corp., of California, of Rancho Cordova, CA, Tri Valley Growers, of San Francisco, CA, Airle Manufacturing Co., Inc., of Modesto, CA, Prowler Hub Services, of Riverbank, CA, Black Magic Products, of Sacramento, CA, The Price Co., of San Diego, CA, and Overhead Door Co. of Seattle, Inc., of Seattle, WA.

Note.—The purpose of this republication is to correctly state applicant's contracting shippers.

MC 149057 (Sub-5), filed January 26, 1982. Applicant: C & M TRUCKING, INC., 3500 N. Monroe, Monroe, MI 48161. Representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. Transporting *metal products*, between points in and east of ND, SD, NE, KS, OK, and TX.

MC 157707, filed January 26, 1982. Applicant: C & B FURNITURE TRANSPORT CO., INC., 20422 87th Ave. S., Kent, WA 98031. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235–1111. Transporting *new or used furniture* and *acessories, office machines, furniture* and *fixtures*, between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

MC 160257, filed January 25, 1982. Applicant: MINIE MINI TRUCKING CORP., 145–39 232 St., Springfield Gardens, NY 11413. Representative: Kenneth M. Piken, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *chemicals* and *related products*, between points in the U.S., under continuing contract(s) with Smith Chemical and Color Company, Inc., of Jamaica, NY.

MC 160287, filed January 28, 1982. Applicant: C & J TRAVEL & LEASING, INC., 248 Ritter Rd. South, Sewickley, PA 15143. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. To operate as a *broker*, at Sewickley, PA in arranging for the transportation of *passengers*, between points in the U.S.

MC 160297, filed January 26, 1982. Applicant: LAKES AREA TRANSPORT, INC., 79 N.W. 4th St., Forest Lakes, MN 55025. Representative: Timothy H. Butler, 4200 IDS Center, 80 S. 8th St., Minneapolis, MN 55402, (612) 371–3211. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with the Foley Company, of Minneapolis, MN, W. T. Carlson Manufacturing Company, Inc., and Wyard Industries, Inc., both of Forest Lake, MN, Abrasive Systems, Inc. of Columbus Heights, MN, and Plastic Products Company, Inc., of Lindstrom, MN.

Volume No. OP5–27

Decided: February 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF 588, filed January 28, 1982. Applicant: G. I. FORWARDING, INC., 14727 Alondra Blvd., La Mirada, CA 90638. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067, 213–879–5955. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and motor vehicles), between points in HI, on the one hand, and, on the other, points in the U.S.

MC 5449(Sub-2), filed January 26, 1982. Applicant: LARMORE INCORPORATED, 1 Bellecore, P.O. Box 3043, Wilmington, DE 19804. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036, 202–785–0024. Transporting *household goods* as defined by the Commission, between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, ME, MN, MO, MS, NC, NH, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, and WV; and between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, ME, MN, MO, MS, NC, NH, NJ, NM, NY, OH, OK, PA, RI, WC, TN, TX, VA, VT, WI, and WV on the one hand, and, on the other, points in the U.S.

MC 9269(Sub-23), filed January 25, 1982. Applicant: BEST WAY MOTOR FREIGHT, INC., 6440 S. 143rd St., Seattle, WA 98168. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *general commodities* (except classes A and B

exposives), between points in WA, OR, CA, NV, AZ, ID, MT, UT, WY, and CO.

MC 48958(Sub-227), filed January 25, 1982. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, amarillo, TX 78169, 806–374–1641. Transporting *general commodities* (except classes A and B exposives, household goods as defined by the Commission, and comodities in bulk), between points in the U.S. under continuing contract(s) with NCH Corporation of Irving, TX.

MC 56738 (Sub-6), filed January 25, 1982. Applicant: MONK'S EXPRESS, INC., Phelps St., Port Dickinson, Binghamton, N.Y. 13901. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, 315–472–8845. Transporting *general commodities* (except classes A and B exposives, household goods as defined by the Commission, and commodities in bulk), between points in Broome, Cayuga, Chemung, Chenango, Cortland, Delaware, Madison, Oneida, Onondaga, Oswego, Schuyler, Seneca, Tioga, Tompkins, and Wayne Counties, NY.

Note.—Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at the applicant's written request, of all existing certificates of Registration.

MC 133219(Sub-32), filed January 25, 1982. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *general commodities* (except classes A and B exposives, and household goods as defined by the Commission), between the Facilities of Cargill, Inc. and its subsidiaries at points in U.S., (except AK and HI), on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 144969 (Sub-44), filed January 15, 1982. Applicant: WHEATON CARTAGE CO., Industrial Park Rd., Pennsville, NJ 08070. Representative: Laurence J. Distefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332, 609–825–1400 Ext 2414. Transporting (1) *chemicals and related products,* (2) *printed matter,* between points in Vigo and Clay Counties, IN on the one hand, and, on the other, points in the U.S.

MC 147309 (Sub-2), filed January 26, 1982. Applicant: UNITED SALES & LEASING COMPANY, INC. d.b.a. PATH TRUCK LINES, 3649 East Lake Road, Dunkirk, NY 14048. Representative: Ronald W. Malin, Bankers Trust Bldg-4th floor, Jamestown, NY 14701, (716) 664–5210. Transporting *metal products* and *metal scrap,* between points in the U.S., under continuing contract(s) with Alumax Extrusions, Inc., of Dunkirk, NY.

MC 148406 (Sub-2), filed January 21, 1982. Applicant: SPEED MOTOR EXPRESS OF WESTERN NEW YORK, INC., 11 Botsford Place, Buffalo, NY 14216. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Erie, Niagara, Genesee, Orleans, Monroe, Chautauqua, and Cattaraugus Counties, NY and Erie, Warren and McKean Counties, PA.

MC 152458 (Sub-4), filed January 18, 1982. Applicant: KNOWLES TRUCKING CO., INC., P.O. BOX 309, Tyrone, GA 30290. Representative: Virgil H. Smith, 74 Highway N. Box 245, Tyrone, GA 30290, (404) 969–1980. Transporting *clothing,* between points in the U.S.

MC 155349 (Sub-1), filed January 25, 1982. Applicant: AMERICAN TRANSPORTATION SERVICES, INC., 370 East Main Street, Branford, CT 06405. Representative: James A Travis (same address as applicant), (203) 481–4686. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S.

MC 156998, filed January 25, 1982. Applicant: DEWITT SPARKS d.b.a. SPARKS TRUCKING, 811 Creekway Dr., Lenoir, NC 28645. Representative: Dewitt Sparks (same address as applicant), 704–754–2332. Transporting *hazardous waste,* between points in Mitchell and Caldwell Counties, NC, and points in SC, TN, GA, VA, and FL.

MC 159428, filed January 27, 1982. Applicant: LOREN J. VERBURG and DAVID E. FOWLER d.b.a. EXCELLENT TRUCKING CO., P.O. Box 41, Zeeland, MI 49464. Representative: Suzette M. Harden, 3120 Madison SE, Grand Rapids, MI 49508, 616–452–9786. Transporting (1) *petroleum products,* (2) *lumber and wood products,* (3) *furniture and fixtures,* (4) *pulp, paper and related products,* (5) *printed matter,* (6) *metal products,* (8) *machinery,* (7) *transportation equipment,* (8) *waste or scrap materials not identified by industries producing,* (9) *hazardous materials,* between points in the U.S. under continuing contract(s) with Ex-Cello-O Corporation, of Troy, MI.

MC 159969, filed January 11, 1982. Applicant: ARNIE BREY d.b.a. BREY TRUCKING COMPANY, 131 Moore Lane, Billings, MT 59101. Representative: Charles A. Murray, Jr., 2822 Third Avenue North, Billings, MT 59101, (406) 252–4165. Transporting *motorcycles, snowmobiles, power generators, outboard motors, roto tillers, snow blowers, lawn mowers,* and *water pumps,* between points in King County, WA, on the one hand, and, on the other, points in MT and WY.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3630 Filed 2-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 230]

Motor Carriers: Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 5, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings:

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

. By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 1335 (Sub-7)X, filed February 1, 1982. Applicant: MOTEK TRANSPORT, INC., 345 Main Street, Suite 104, P.O. Box 123, Harleyville, PA 19538. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. Lead and Sub 1F: (1) Broaden (a) frozen fruits and fruit, vegetables and fresh fruits, fresh

vegetables, and fresh berries when moving in the same vehicle with frozen fruits and frozen vegetables, frozen vegetables and fresh fruits, fresh vegetables and fresh berries when moving in the same vehicle with frozen vegetables, frozen berries, coffee beans and tea and fresh fruits, fresh vegetables and fresh berries when moving in the same vehicle with frozen berries, coffee beans and tea, cocoa beans and fresh fruits, vegetables and fresh berries, when moving in the same vehicle with cocoa beans, bananas and fresh fruits, fresh vegetables, and fresh berries, when moving in the same vehicle with bananas, and frozen foods, (lead) and sugar (Sub 1) to "food and related products"; (b) empty frozen food containers to "containers"; and (c) general commodities (with the usual exceptions) to "general commodities (except classes A and B explosives)", lead; (2) eliminate the restrictions against the transportation of packing-house products as described in paragraphs A, B and C of the Appendix in Ex Parte No. MC–38, *Modification of Motar Contract Carriers of Packing-House Products*, 46 M.C.C. 23, and against the transportation of fresh foods, fresh vegetables and the commodities described in Paragraphs A, B and C in the Appendix to the report in Modifications of Permits Packing-House Products, 48 M.C.C 628, in foreign commerce between the United States and Canada to or from ports of entry on the United States-Canada Boundary line at Buffalo, Niagara Falls and Alexandria Bay, NY (imposed in MC–F–13820), lead; (3) remove except in bulk restriction, Sub 1; (4) change one-way irregular routes to radial authority, lead and Sub 1; (5) change cities to county-wide authority: Union, Middlesex, Sommerset, Essex, Morris, Hudson and Bergen Counties, NJ for Newark, NJ, Monroe County, NY for Rochester, NY, Monroe and Orleans Counties, NY for points in Monroe and Orleans Counties, NY within 50 miles of Rochester, NY, Talbot County, MD for Trappe, MD, Chautauqua, Cattaraugus, Allegany, Steuben, Schuyler, Cayuga, Onondaga, Oswego, Wayne, Seneca, Yates, Ontario, Monroe, Livingston, Wyoming, Erie, Genesee, Orleans and Niagara Counties, NY, for Brockport, NY and points within 75 miles thereof, and Bucks, Lehigh and Northampton Counties, PA, for Allentown and Bethlehem, PA, lead (irregular routes); and (5) change specific ports of entry in NY to all ports of entry in NY, lead (irregular routes).

MC 41931 (Sub-54)X, filed January 29, 1982. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814. Sub 50F: (1) broaden foodstuffs to "food and related products"; (2) remove commodities in bulk restriction and the facilities limitations; (3) broaden cities to counties: Imlay City, MI, (Lapeer County), Memphis, MI (McComb and St. Clair Counties), Bridgeport, MI (Saginaw County), Greenville, MS, (Washington County, MS and Chicot County, AR), and Millsboro, DE (Sussex County); and (4) change one-way to radial authority.

MC 87952 (Sub-7)X, filed February 1, 1982. Applicant: THORNE TRUCK LINES, INC., P.O. Box 699, Milan, TN 38358. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Sub-No. 6: broaden (1) general commodities except classes A and B explosives and household goods to "general commodities (except classes A and B explosives)"; (2) to all intermediate points in para. (A) 1a, 2, 3a, 4a, 5 and 6a.

MC 99427, (Sub-54)X, filed January 22, 1982. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, Des Moines, IA 50309. Representative: Earl Check, P.O. Box 855, Des Moines, IA 50304. Subs 2, 3, 4, 6, 7, 8, 11, 13, 14, 15, 17, 18, 19, 23, 24, 29, 31, 36, 39 and 41 and E–1 and E–2 letter notices. Broaden: Subs 2, 3, E–1 and E–2 letter notices, to "chemicals and related products and petroleum and petroleum products" from liquid chemicals, mud, chemicals, lost circulation materials, hydraulic fracturing fluid, water and petrochemicals; Subs 6, 19, 23, 24, 29, 31, 36, 41, to "chemicals and related products" from sulphuric acid, liquid sulphur dioxide, fertilizer, ammonium nitrate, fire retardant, soil sealers, hydrofluoric acid, graphite, aqueous ammonical copper solution and gold bearing aqueous desactivated cyanide solution; Sub 7, to "petroleum and petroleum products" from petroleum products; Subs 4, 14, 15, 17, 18, 39, to "food and related products" from sugar, molasses, dried beet pulp/with molasses, liquid sugar, corn syrup, blends of liquid sugar and corn syrup, dry corn products, cottonseed oil, flour; Sub 16, to "clay, concrete, glass or stone products" from lime; remove restrictions; in all subs, in bulk/tank vehicles; Subs 2 and 13, prior rail movement; Sub 11, against transportation of helium originating in Apache County, AZ and against transportation of liquid fertilizer; Sub 14, against transportation of liquid sugar, corn syrup, and blends of liquid sugar and corn syrup, from the plantsite of Holly Sugar Corporation, near Hereford, TX to points in Arizona, Arkansas, Colorado, Louisiana, Kansas, Missouri, New Mexico, Oklahoma, and Texas; Sub 18, "(except asphalt, residual fuel oil and liquefied petroleum gases)"; to radial authority in all Subs; broaden: Sub 4, Chandler and Phoenix facilities to Maricopa County, AZ; Sub 6, Monument facility to Lea County, NM; Sub 7, Ciniza facility to McKinley County, NM; Sub 8, Phoenix to Maricopa County, AZ and Las Vegas to Clark County, NV; Sub 13, Kingman to Mohave County, AZ and facility in Clark County to Clark County, NV; Sub 15, Denver to Denver County, CO and Gallup to McKinley County, NM; Sub 17 and 18, Albuquerque to Bernalillo County, NM; also in Sub 18, Farmington to San Juan County, NM and Cortex to Montezuma County, CO; Sub 19, Ajo, Douglas, Morenci and Hayden to Pima, Cochise, Greenlee, Pinal and Gila Counties, AZ; Sub 23, Tolleson to Maricopa County, AZ; Sub 24, Phoenix to Maricopa County, AZ; Sub 29, San Manuel to Pinal County, AZ; Henderson to Clark County, NV; Phoenix to Maricopa County, AZ and Kokoma to Howard County, IN; Sub 31, Buckeye to Maricopa County, AZ; Sub 36, Tucson to Pima County, AZ; Sub 39, Casa Grande to Pinal County, AZ and Jouston to Harris, Walker, Montgomery, Brazoria, Fort Bend, Liberty and Chambers Counties, TX; and Sub 41, Hayden to Pinal and Gila Counties, AZ.

MC 107107 (Sub-497)X, filed October 9, 1981, previously noticed in the Federal Register of November 2, 1981, and republished as corrected this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, P.O. Box 425, Opa Locka, FL 33054. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Broaden: Lead and Sub-484, general commodities (with exceptions) to "general commodities (except classes A and B explosives and household goods)"; Sub-406, Palatka to Putnam County, FL; and in Subs 447, 482 and 487, remove originating at/destined to facilities/shippers' association. The purpose of this republication is to correct inadvertent omissions in November 2, 1981, publication.

MC 109595 (Sub-27)X, filed January 29, 1982. Applicant: REX TRANSPORTATION CO., Suite 207 Glausen Bldg. 1520 N. Woodward Ave., Bloomfield Hills, MI 48013. Representative: Wilmer B. Elmer, 615 E. Eight St., Traverse City, MI 49684. Subs 1, 2, 6, 8, 9, 11, 13, 15, 21 and 26, broaden (1) to "petroleum, natural gas and their products" from petroleum products, Sub

1; "chemicals and related products" from alcohol, Sub 2; "clay, concrete, glass or stone products" from cement, Subs 6, 8, 9, 11, 13, 21, and 26; and from white cement, Sub 15, (2) remove in bulk, and in tank vehicle restrictions in various subs, (3) remove restriction to traffic having prior movement by rail from named points, Subs 6, 8, 9, and 13, (4) to allow service at all ports of entry in MI and remove restriction to traffic originating at or destined to Ontario, Canada, Sub 21, (5) Toledo, OH to Lucas County, Sub 1; Indianapolis, IN and points within 15 miles thereof to Marion, Hendricks, Hancock, Morgan, Johnson, Shelby, Boone and Hamilton Counties, Sub 6; Avon, IN to Hendricks County, Subs 8, 9, 13, and Essexville, MI to Bay County, Sub 11; and (6) to radial authority.

MC 117370 (Sub-48)X, filed January 29, 1982. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086 Madison, WI 53705–0086. Sub No. 47 Permit: (1) broaden to "food and related products and materials, equipment and supplies used in the manufacture and distribution of food and related products" from (a) malt beverages and empty malt beverage containers in Parts (1) and (2); (b) canned goods in Part (3); apples in Part (4); creamery and cheese factory supplies in Part (8); butter in Part (11); cheese and creamery and cheese factory supplies in Part (12); cheese and materials, and supplies used or useful in the manufacture and distribution of cheese in Parts (15) and (16); to "food and related products; farm products; and farm supplies" from grain, feed, salt, seed, and agricultural commodities in Part (5) to "feed and feed ingredients and materials, equipment and supplies used in the manufacture and distribution of feed and feed ingredients" from (a) dried whey mixed with animal fat in Part (9); (b) lactose in Part (10); (c) whey, whey by-products, lactose, feeds and feed ingredients, and materials, supplies and equipment used or useful in the manufacture and distribution of such commodities in Parts (13) and (14); (2) between all points in the U.S. under continuing contract(s) with named shippers.

MC 118143 (Sub-2)X, filed January 18, 1982. Applicant: EARLE E. HARRIS BANANA TRANSPORT, INC., P.O. Box 262, McKees Rocks, PA 15136. Representative: Stephen J. Habash, 100 East Broad Street, Columbus, OH 43215. Sub 1, broaden bananas and agriculture commodities exempt from economic regulation, when transported in mixed loads with bananas, to "food and related products and agricultural commodities" and wool waste (carded, spun, woven, or knitted) to "waste or scrap materials"; Wilmington to New Castle County, DE; Weehawken to Hudson County, NJ; remove immediate prior water movement restriction; and broaden to radial authority.

MC 119422 (Sub-74)X, filed April 27, 1981 previously noticed in the **Federal Register** of June 24, 1981, republished as follows: Applicant: EE-JAY MOTOR TRANSPORTS, INC., P.O. Box 1037, East St. Louis, IL 62204. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. Applicant previously broadened its lead and 27 certificates pursuant to 49 CFR 1137. It initially requested that Wood River, IL in Sub-No. 72 be broadened to Madison and St. Claire Counties, IL and St. Louis and St. Charles Counties, MO. St. Claire and St. Charles Counties were inadvertently omitted from the final publication notice. Notice is hereby given that applicant proposes to broaden Wood River, IL to Madison and St. Claire Counties, IL and St. Louis and St. Charles Counties, MO.

MC 125470 (Sub-59)X, filed January 1, 1982. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Lead and Subs 2, 7, 12, 13, 14, 15, 16, 18, 19, 22, 27, 28, 30, 32, 33, 35, 37, 39, 42, 44, 45, 49, 50, and 57, (1) broaden (a) salt and pepper, in mixed shipments with salt, salt and salt products and additives and supplements used with salt and salt products to "ores and minerals and food and related products", in Subs 7, 13, 15 and 45, (b) livestock, grain, and hay to "farm products", livestock, feed, seed, building materials, farm machinery, and implements, binder twine, petroleum, oil and grease, fencing materials, coal, feed, molasses, salt, and hardware to "such commodities as are dealt in by farm and home supply business houses", livestock, agricultural products, feed and, household goods to "household goods, and such commodities as are used or dealt in by manufacturers and distributors of agricultural products", general commodities (with exceptions) to "general commodities (except Classes A and B explosives)", in Sub 2, (c) mineral mixtures in packages, limestone, limestone products, dicalcium phosphate, and gypsum to "ores and minerals, chemicals and related products and clay, concrete, glass or stone products", Subs 7, 19, 33, and 39, (d) flour, beverages in bulk, in tank vehicles, carbonated beverages and related materials, equipment and supplies to "food and related products", Subs 27, 12(1), 18 and 28, (e) salt and salt products, and materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, in mixed loads with salt and salt products, to "such commodities as are used or dealt in by water treatment, food processing, grocery and institutional supply business houses" in Sub 14(1), 16 and 30, (f) fiberglass and vinyl base protective coatings to "such commodities as are used or dealt in by manufacturers and distributors of fiberglass and vinyl products", Sub 22, (g) iron and steel articles, and fabricated steel articles, and related equipment, materials and supplies to "metal products", Subs 32, 35, 44 and 50, (h) agricultural pesticides to "chemicals and related products", Sub 37, (i) irrigation systems, parts for irrigation systems and related equipment, materials and supplies to "such commodities as are used or dealt in by manufacturers and distributors of irrigation systems", Subs 42 and 49; (2) remove facilities restrictions, and change to county-wide authority: (a) Hutchinson, KS (Reno County), lead (b) Osmond, NE (Pierce County), Sioux City, IA (Woodbury County), Osmond and points within 20 miles thereof (Antelope, Pierce, Wayne, Cedar and Knox Counties, NE), Foster, NE (Pierce County), Foster and points within 25 miles thereof (Wayne, Pierce, Madison, Antelope, Knox and Cedar Counties, NE), Royal and points within 30 miles of Royal (Antelope, Holt, Pierce and Knox Counties, NE), Osmond and points within 15 miles of Osmond (Antelope, Pierce, Wayne, Cedar and Knox Counties, NE), and Creighton and points within 30 miles of Creighton (Knox, Antelope, Cedar, Holt, and Pierce Counties, NE), Sub 2, (c) Hutchinson (Reno County, KS), Lyons (Rice County, KS), Sub 7, (d) Humboldt (Richardson County, NE), Cozad and Beatrice (Dawson and Gage Counties, NE), Sub 12, (e) Hutchinson (Reno County, KS), Woodstock (Shelby County, TN) Sub 13, (f) Lake Point (Tooele County, UT), Williston (Williams County, ND), Sub 14, (g) Little Mountain (Weber County, UT), Sub 15, (h) Saltair and Solar (Salt Lake County, UT), Sub 16, (i) Ottumwa (Wapello County, IA), Sub 18, (j) Weeping Water (Cass County, NE), Subs 19 and 33; (k) Boone (Boone County, IA), Norfolk (Madison County, NE), Sioux Falls (Minnehaha County, SD), Sub 22, (l) Lyons (Rice County, KS), Subs 27, 30 and 45, (m) Norfolk (Madison County, NE), Oskaloosa (Mahaska County, IA), Sub 28; (n) Norfolk (Madison County, NE), Subs 32, 35, 44 and 50, (o)

Columbus, Lindsay and Newman Grove (Platte and Madison Counties, NE), Sub 42; (3) (a) one-way to two-way, Sub 2, regular route, and (b) all irregular routes to radial authority; (4) remove restrictions such as in bulk, size and weight, and Mercer and earth drilling commodities, wherever they appear.

MC 126844 (Sub-99)X, filed January 18, 1982. Applicant: R.D.S. TRUCKING CO., INC., 1713 N. Main Road, Vineland, NJ 18360. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Subs 2, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 18, 19, 21, 22, 25, 27, 28, 31, 34, 36, 38, 40, 41, 43, 44, 45, 49, 50, 51, 53, 54, 57, 60, 61, 62, 64, 66, 67, 70, 72, 73, 74, 75, 76, 77, 85, 87, 88, 89, 90, 94 and 95, broaden (1) to (a) "food and related products" from food and food products, canned or frozen products, olive oil, foodstuffs, meats and meat byproducts, malt beverages, flour and frosting mixes, bread crumbs, coffee, tea and extract, dry pet food, and animal feed and ingredients, in all subs except Subs 9, 13, 28, 64, 66, 70, 75, 76, 90, and 94: (b) "farm products" from agricultural commodities, "chemicals and related products" from fertilizer materials, and "baskets" from empty baskets, in Sub 6; (c) "general commodities (except classes A and B explosives)" from general commodities (with exceptions), in Subs 6 and 70; (d) "chemicals and related products, and cleaning equipment and supplies" from cleaning compounds, bleach, mops, brooms and mop parts, in Sub 90; (e) "pulp, paper, and related products" from paper, paper products, woodpulp, in Subs 9, 28, 64, and 94; (f) "printed matter" from printed letters, in Sub 13; (g) "rubber and plastic products, and clay, concrete, glass or stone products" from plastic and glass containers, in Sub 66; (h) "clay, concrete, glass or stone products" from refractory products, in Sub 76; (i) "machinery" from physical fitness apparatus, in Sub 75; and (j) remove mixed load restriction in Sub 2; (2) remove facilities restrictions and change to (a) Cumberland County, NJ in Subs 2, 27, 31, 44 and 77 from Vineland, NJ, and in Sub 6 from East Vineland, NJ; (b) Atlantic County, NJ in Sub 6 from Landisville and Minotola, NJ—in Sub 12 from Hammonton, NJ—in Sub 13 from Pleasantville, NJ— in Sub 44 from Atlantic City, NJ—and in Sub 64 from Landisville, NJ; (c) Middlesex and Elizabeth Counties, NJ in Sub 6 from Cataret and Elizabethport, NJ; (e) Lake County, IL in Sub 8 from Deerfield, IL; (f) Warren County, IL in Sub 10 from Monmouth, IL; (g) Coles County, IL in Sub 14 from Mattoon, IL; (h) Grand Traverse County, MI in Sub 15 from Traverse City, MI; (i) Chickasaw County, IA in Sub 16 from New Hampton, IA; (j) St. Martin and New Iberia Counties, LA in Sub 18 from Cade and Lozes, LA; (k) West Feliciana County, LA in Subs 19 and 95 from St. Francisville, LA; (l) Washtenaw County, MI in Sub 21 from Chelsea, MI; (m) Potter County, TX in Sub 22 from Amarillo, TX; (n) Jackson County, OH in Sub 25 from Wellston, OH; (o) McMinn County, TN in Sub 28 from Calhoun, TN; (p) Jefferson County, AL in Sub 31 from Birmingham, AL; (q) Sampson County, NC in Subs 34 and 95 from Turkey, NC; (r) Champaign County, IL in Sub 38 from Champaign, IL; (s) Du Page County, IL in Sub 40 from Bensenville, IL; (t) Polk, Mills and Marshall Counties, IA in Sub 41 from Des Moines, Glenwood and Marshalltown, IA; (u) Hall County, NE in Subs 41 and 51 from Grand Island, NE; (v) Franklin County, AL from Red Bay, AL, and Lee County, MS in Sub 42 from Tupelo, MS; (w) Saline, Macon, Carroll and Randolph Counties, MO in Sub 43 from Marshall, Macon, Carrollton and Moberly, MO; (x) Mercer County, NJ in Sub 44 from Teneton, NJ; (y) Houston County, GA in Sub 44 from Pabst, GA—in Sub 72 from Perry, GA; (z) Camden County, NJ in Sub 44 from, Camden, NJ—in Sub 75 from Pennsauken, NJ; (aa) Scott County, MS in Sub 49 from Forest, MS; (bb) Fulton County, OH in Sub 50 from Archbold, OH; (cc) Scotts Bluff, Dodge and Colfax Counties, NE, Mower County, MN and Wapello County, IA in Sub 53 from Scottsbluff, Fremont, and Schuyler, NE, Austin, MN and Ottumwa, IA; (dd) Onondaga County, NY in Sub 57 from Syracuse, NY; (ee) Henry County, OH in Sub 60 from Napolean, OH; (ff) Cuyahoga County, OH in Sub 61 from Cleveland and Solon, OH; (gg) Franklin County, OH in Sub 62 from Columbus, OH; (hh) Rock County, WI and Beadle and Minnehaha Counties, SD in Sub 73 from Beloit, WI and Huron and Sioux Falls, SD; (ii) Warren and Union Counties, NJ and Lancaster County, PA in Sub 74 from Hackettstown and Elizabeth, NJ and Elizabethtown, PA; (jj) Rockingham County, NJ and Burlington County, NJ in Sub 75 from Seabrook, NJ and Edgewater Park, NJ; (kk) Cecil County, MD and Cape May County, NJ in Sub 76 from Leslie, MD and Cape May, NJ; (ll) Passaci County, NJ in Sub 85 from Clifton, NJ; (mm) Ogle, Kankakee and Kane Counties, IL in Sub 87 from Rochelle, Bradley and St. Charles, IL; (nn) Vermilion and Peoria Counties, IL and New Avoyelles County, LA in Sub 95 from Hoopeston and Princeville, IL and Belledeau, LA; (3) remove facilities restrictions and expand to city-wide authority in Subs 6, 13, 16, 27, 64, 70, 76, 89, 90, 41, 88, 45, 54, and 87; (4) to radial authority, all subs; (5) remove commodities in bulk and originating at and/or destined to restrictions, wherever they appear.

MC 142386 (Sub-2)X, filed February 1, 1982. Applicant: HEDLEY BENNETT TRUCKING LIMITED, 1681 Pension Lane, London, Ontario, CN N6A 4C3. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005. Sub-No. 1 permit, broaden from wet brewers' grain to "food and related products;" to between port of entry on the U.S.-Canada international boundary line, on the one hand, and, on the other, points in the United States, restricted to traffic moving in foreign commerce; and remove restriction limiting service to that originating at specific plantsites in Canada.

MC 144201 (Sub-8)X, filed January 29, 1982. Applicant: V.M.P. ENTERPRISES, INC., 10542 West Donges Court, Milwaukee, WI 53224. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Subs 2F and 4F: (1) Remove in initial movements, in driveaway service restriction, Subs 2F and 4F; (2) change cities to counties: Loudonville and Delaware, OH, (Ashland and Delaware Counties), Sub 2F and Roswell, NM (Chaves County), Sub 4F; (3) change one-way to radial authority, Subs 2F and 4F; (4) remove the facilities limitation, Sub 2F; and (5) remove except OH, Sub 2F.

MC 144330 (Sub-96)X, filed January 20, 1982. Applicant: UTAH CARRIERS, INC., 3220 N Hwy 89, Layton, UT 84041. Representative: John T. Caine, 2568 Washington Blvd., Ogden, UT 84401. Lead and Subs 36, 37, 41, 43, 44, 45, 46, 47, 51, 57, 60, 61, 70, 81, 82, 83, 86, 87, 88, 92, and 93; broaden (1) from (a) plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner and accessories used in the installation of such products to "rubber and plastic products", lead and Sub 46, (b) lumber, treated wood products, doors, millwork, particleboard, composition lumber, rough lumber, and wooden pallets to "lumber and wood products", lead and Subs 36, 41, 57, 61, 70, 82, 88, and 47, (c) component parts, roofing, roofing products and materials, equipment, . . ., asphalt, and asbestos roofing, siding, fiberglass insulation, building blocks, wood finishing and preserving compounds, wallboard, gypsum products, plywood, particleboard, fiberboard, etc. to "building materials" lead and Subs 43, 45, 81, 86, 87 and 93, (d) conduit and conduit fittings, and iron

and steel articles to "metal products", lead and Subs 51, 60 and 92, (e) petroleum and petroleum products to "petroleum, natural gas and their products", lead, (f) clay pipe and accessories to "clay, concrete, glass, or stone products", lead, (g) betonite clay and lignite coal to "ores and minerals", Sub 37, (h) cereal binders, ceiling compounds, industrial flour and starches, and grain to "food and related products", Sub 44, (i) plastic-pipe, pipe fittings, building materials and supplies to "rubber and plastic products and building materials", Sub 83, (2) remove facilities restrictions, and change to county-wide authority (a) lead, Ponca City, OK (Kay County), McPherson, KS (McPherson County), Waco, TX (McLennan County), Social Circle, GA (Walton County), Halstead, KS (Harvey County), Huttig, AR (Union County), Winnfield, LA (Winn County), Gilmer, TX (Upshur County), Eldon, MO (Miller County), Broken Bow, OK (Mc Curtain County), Florence, CO (Fremont County); (b) Sub 36, St. Joseph, MO (Buchanan County), (c) Sub 44, McPherson, KS (McPherson County), (d) Sub 46, Rolla, MO (Phelps County), (e) Sub 47, Fayetteville and Van Buren, AR (Washington and Crawford Counties), Morris, OK (Okmulgee County), (f) Chickasaw, AL (Mobile County), (g) Sub 81, Diboll and Pineland, TX (Angelina and Sabine, Counties); (h) Sub 82, Sacramento, CA (Sacramento County), Yuba City, CA (Sutter County), (i) Sub 83, Shingle Springs, CA (El Dorado County), (j) Monroe, MI (Monroe County); (3) to radial authority lead and all subs; (4) remove: (a) Mercer exception, (b) restriction against service to Kansas City, MO and KS, St. Louis, MO-East St. Louis, IL, and Springfield, MO, in part (33) of lead, and (c) originating at and destined to restrictions, and commodities in bulk restrictions, wherever they appear.

MC 145059 (Sub-10)X, filed January 29, 1982. Applicant: SPINELLI BROS. TRUCKING, INC., 55 South Wade Boulevard, Millville, NJ 08332. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Subs 2F, 3F and 5F, (1) broaden Subs 2F and 5F frozen foodstuffs to "food and related products" and (b) Sub 3F drugs, toilet preparations, health care products, magnesium hydroxide, and alumina calcined to "chemicals and related products, and health care products;" (2) Subs 2F and 5F broaden Vineland, NJ to Cumberland County, NJ; (3) Sub 3F Lakewood, NJ, to Ocean County, NJ, Lewes, DE to Sussex County, DE, Reno, NV, to Washoe County, NV, and San Leandro, CA, to Alameda County, CA; (4) Subs 2F and 5F delete facilities restriction; (5) Sub 3F delete "in bulk" and "vehicles equipped with mechanical refrigeration" restriction, (6) Subs 2F, 3F and 5F to delete restriction at named origin and destination points, and (7) Subs 2F, 3F and 5F to radial service.

MC 146751 (Sub-14)X, filed January 21, 1982. Applicant: J. C. LAWRENCE TRUCKING, INC., P.O. Box 5331, Lake Station, IN 46405. Representative: Fred H. Daly, 2550 M Street, N.W., Washington, DC 20037. Sub-No. 5F: broaden: (1) Pipe, fitting, valves, valve boxes, hydrants, water boxes, and castings to "rubber and plastic products, instrument and photographic goods, clay, concrete, glass or stone products, metal products, and machinery"; (2) to radial authority.

MC 152724 (Sub-4)X, filed January 28, 1982. Applicant: MID-ATLANTIC FREIGHT CARRIERS, INC., 869 N. Liberty St., Harrisonburg, VA 22801. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. Sub 3 permit, broaden plastic articles and materials and supplies (except commodities in bulk), to "rubber and plastic products" and to between points in U.S., under continuing contract(s) with named shipper.

[FR Doc. 82-3629 Filed 2-10-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29812]

Rail Carriers; Illinois Central Gulf Railroad Co.-Exemption-Trackage Rights-Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements for prior approval under 49 U.S.C. 11343 the trackage rights agreement granting Illinois Central Gulf Railroad Company (ICG) the right to operate over 23.6 miles of rail line owned by Southern Railway Company (Southern) from Corinth, MS to Middleton, TN.

DATES: Exemption effective on March 12, 1982. Petitions to stay the effective date must be filed by March 22, 1982, and the petitions for reconsideration of this action must be filed by April 1, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, DC 20423;
and
(2) Petitioner's representative: Howard D. Koontz, Senior General Solicitor, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601.

Pleadings should refer to Finance Docket No. 29812.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly (202) 275-7564.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in F.D. 29812. Copies of the full decision are available from: Office of Secretary, Interstate Commerce Commission, Room 2227, Washington, DC 20423; or by calling toll-free (800) 424-5403.

Dated: February 5, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-3627 Filed 2-10-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree In an Action To Require Compliance With Provisions of Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 31, 1981, a proposed consent decree in *United States of America* v. *Martin Marietta Corporation,* Civil Action No. G-81-932-CA7, was lodged with the United States District Court for the Western District of Michigan. The proposed decree requires Martin Marietta Corporation to comply with Michigan regulations restricting the visible emissions and the emission of particulate pollutants at Martin Marietta's facility in Manistee, Michigan. The proposed decree also requires that Martin Marietta pay a civil penalty of $100,000 for its violations of the Clean Air Act at the facility.

The proposed decree may be examined at (1) the Office of the United States Attorney, Western District of Michigan, 554 Federal Building, 110 Michigan Avenue, NW., Grand Rapids, Michigan 49503(2), (2) the Office of the Environmental Protection Agency, Enforcement Division, 230 S. Dearborn Street, Chicago, Illinois 60604 (3) and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section,

Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General of the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530, and should refer to *United States of America* v. *Martin Marietta Corporation*, DOJ Reference #90–5–2–1–464.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82–3648 Filed 2–10–82; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82–5]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP–4, Washington, D.C. 20546, telephone (202) 755–3954. Patent application 241,155: Heat Sealable, Flame and Abrasion Resistant Coated Fabric; filed March 6, 1981:

Patent application 270,763: Laser Resonator; filed June 8, 1981.

Patent application 272,838: Method of Producting Custom Integrated Logic Circuits; filed June 12, 1981.

Patent application 280,152: Drop Foot Corrective Device; filed June 30, 1981.

Patent application 284,313: Method and Apparatus for Producing Concentric Hollow Spheres; filed July 17, 1981.

Patent application 285,194: Autocatalytic Coal Liquefaction Process; filed July 20, 1981.

Patent application 293,417: Reusable Captive Blind Fastener; filed August 14, 1981.

Patent application 293,418: A Silicon-Slurry/Aluminide Coating; filed August 14, 1981.

Patent application 293,419: Direct Current Ballast for Metal Halide Lamp; filed August 14, 1981.

Patent application 297,486: Powder Fed Sheared Dispersal Particle Generator; filed August 28, 1981.

Patent application 301,078: Leading Edge Flap System for Aircraft Control Augmentation; filed September 10, 1981.

Patent application 308,008: Spatial Energy Distribution; filed October 2, 1981.

Patent application 308,201: Elastomer Toughened Polyimide Adhesives; filed October 2, 1981.

Patent application 309,291: Variable Response Load Limiting Device; filed October 6, 1981.

Patent application 309,292: Tubing and Cable Cutting Tool; filed October 6, 1981.

Patent application 315,582: Heat Reflecting Field Stop; filed October 30, 1981.

Patent application 315,588: Slotted Variable Camber Flap; filed October 30, 1981.

Patent application 322,313: Precision Reciprocating Filament Chopper; filed November 17, 1981.

Patent application 325,063: Electrodes for Solid State Devices; filed November 25, 1981.

Patent application 325,885: Instrumentation for Sensing Moisture Content of Material Using a Transient Thermal Use; filed November 30, 1981.

Patent application 325,886: Triac Failure Detector; filed November 30, 1981.

Patent application 325,931: Fully Plasma-Sprayed Complaint Backed Ceramic Turbine Seal; filed November 30, 1981.

Patent application 325,932: Pulsed Thyristor Trigger Control Circuit; filed November 30, 1981.

Patent application 325,933: Conrolled In-Situ Etch-Back; filed November 30, 1981.

Patent application 327,659: Microwave Field Effect Transistor; filed December 4, 1981.

Patent application 328,760: Covering Solid, Film Cooled Surfaces With a Duplex Thermal Barrier Coating; filed December 8, 1981.

Patent application 330,613: Adapter for Mounting a Microphone Flush with the External Surface of the Skin of a Pressurized Aircraft; filed December 14, 1981.

Patent application 335,036: Method for Treating Wastewater Microorganisms and Vascular Aquatic Plants; filed December 28, 1981.

Dated: February 5, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82–3630 Filed 2–10–82; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Commission on Social Security Reform. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: February 27, 1982: 10 a.m. to 3 p.m.

ADDRESS: The Sheraton-Carlton Hotel, 16th and K Streets, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place, N.W., Washington, D.C. 20503.

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335 dated December 16,1981 to provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Discussion of the scope of and approach to the work of the Commission.

Discussion of the staffing plans for the Commission.

Presentation of historical developments of the Social Security Program.

Such new business as the chairman or the membership may put before the Commission.

Records are kept of all Commission proceedings, and are available for public inspection at the office of The Executive Director, National Commission on Social Security Reform,

736 Jackson Place, N.W., Washington, D.C. 20503.

Robert J. Myers,

Executive Director.

[FR Doc. 82-3736 Filed 2-10-82; 8:45 am]

BILLING CODE 3115-01-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Operations and Relocation Procedures; Financial Assistance

AGENCY: Navajo and Hopi Indian Relocation Commission (Commission).

ACTION: Announcement of Discretionary Funds Program and Request for proposals.

SUMMARY: The Navajo and Hopi Indian Relocation Commission is requesting proposals from those interested parties that might qualify for funding under the Discretionary Fund, §§ 700.457(a) and 700.459(a). The purpose of the Discretionary Fund is to provide financial assistance to activities which will facilitate and expedite the relocation and resettlement of individuals under Pub. L. 93-531 and ease the hardship incurred by these individuals.

The Commission has determined that the most significant problems facing the Commission are the acquisition of suitable land for the benefit of relocatees and the employment needs of relocatees. The Commission has also determined that not less than 70 percent of the Fiscal Year 1982 Discretionary Fund may be used for Category I (25 CFR 700.459) type projects and up to 30 percent of the Fiscal Year 1982 Discretionary Fund may be used for Category II (25 CFR 700.457) type projects. Those eligible to apply for financial assistance under this subpart include states, local governments, the Navajo and Hopi Tribes, tribal chapters, profit and non-profit organizations, and individuals.

The Commission has $500,000 available for obligation during Fiscal Year 1982. In order to be considered for funding in Fiscal Year 1982, applications should be submitted to the Commission by March 31, 1982. Applicants must submit a separate application for each project. Such applications must be on Commission forms.

EFFECTIVE DATE: February 11, 1982.

FOR FURTHER INFORMATION CONTACT: Anna L. Hernandez, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002, Telephone No.: (602) 779-3311, Extension 1591, FTS: 261-1591.

SUPPLEMENTARY INFORMATION: List of Priorities.

Category I Funds (25 CFR 700.459) Up to 100 Percent Funding

Those research and development projects which will materially assist the Navajo Tribe and relocatees in the evaluation, selection, acquisition, and planning of land sites identified by the Commission as suitable for relocation purposes and uses which include the following:

1. Residential/Community Development.
2. Agricultural/Grazing Uses.
3. Commercial/Industrial Development.
4. Labor Market Analysis and Job Development Counseling.

Those projects concerning Residential/Community Development, Agricultural/Grazing Uses, or Commercial/Industrial Development which specifically address the following will be given first consideration:

Water Resources Exploration
Soil Analysis
Accessibility Studies (transportation/communication)
Agricultural Development Potential
Commercial Development Potential
Industrial Development Potential

Category II Funds (25 CFR 700.457) Up to 30 Percent Funding

Those research and development projects which will materially assist the tribes, host communities, towns, cities, and other entities, in the identification and accommodation of needs to assist families subject to relocation which include the following:

1. Job Development and Counseling Services.
2. Post-Move Counseling and Referral Services.

(25 U.S.C. 640d-25)

Hawley Atkinson,

Chairman.

[FR Doc. 82-3719 Filed 2-10-82; 8:45 am]

BILLING CODE 6820-BB-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Council on the Arts; Design Arts Panel (Design Demonstration); Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Demonstration) to the National Council on the Arts to be held March 3-4, 1982, from 8:30 a.m.-6:00 p.m. in Room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-3701 Filed 2-10-82; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Forums & Publications), Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Forums & Publications) to the National Council on the Arts will be held on March 8-9, 1982, from 9:00 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 3, 1982.

[FR Doc. 82-3606 Filed 2-10-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Facility Operating License No. DPR-31 and Amendment No. 70 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments change the moderator temperature coefficient for power operation less than 70 percent.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 10, 1982, as supplemented on January 20 and 28, 1982, (2) Amendment Nos. 76 and 70 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of February, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-3710 Filed 2-10-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 8, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirments under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available).

The office of the agency issuing this form;

The title of the form; The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal Budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF DEFENSE

Agency Clearance Office—John V. Wenderoth—703–697–1195

New

• Departmental and Others
Monthly Report of Existence
AFAFC 0–126 0–127
Monthly
Individuals or households
Military retirees living overseas declared mentally incomp.
Department of Defense-Military: 30,000 responses; 1,500 hours; $90,629 Federal cost; 2 forms; $20,250 public cost; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

To receive an annuity, the recipient must submit a report of existence monthly if residing overseas if the check is mailed to an individual holding the recipient's power of attorney or to a guardian, trustee, or conservator if the recipient has been declared mentally incompetent. The reports are routinely used to release the next month's payment.

• Department of the Air Force
Advance Payment Transactions and Status
Semiannually
Businesses or other institutions
Colleges and universities
SIC: 822
Department of Defense-Military: 24 responses; 384 hours; $1,680 Federal cost; 1 form; $6,720 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The Assistant Secretary of the Air Force for Financial Management requires that all advance payments to universities be monitored to ensure that cash management arrangements by the universities are satisfactory. Of particular concern is the amount of idle cash on hand and the length of time it remains idle. Originally, levied by letter, the reporting requirement is now imposed as part of the contracts between the universities and the Air Force.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Departmental Management
A Study of the Financing of Graduate Medical Education
OS–1–82
Nonrecurring
Businesses or other institutions
Nurses, physicians, physician extenders
SIC: 801
Public assistance and other income supplements: 2,800 responses; 1,780 hours; $820,955 Federal cost; 6 forms; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

This project will collect primary data on financial status and production of teaching hospitals and physicians. It will be used to develop legislative proposals (competition) regulatory reform and grant policies. The data collected will be a pretest of an activity analysis log for physicians, nurses and hospital personnel.

• Health Care Financing Administration
Medicaid Management Information System
HCFA–R–4
On occasion, other—SEE SF83
State or local governments
State agencies administering the medicaid program
SIC: 919
Health: 40 responses; 1,057,800 hours; $22,800,000 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The medicaid management information system (MMIS) is a state-operated, federally-mandated, computer system used for medicaid claims processing and program management. These data elements represent the federally imposed recordkeeping requirements of the MMIS.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Research and Special Programs Administration
Verification of Acetylene Container Pressure
Other—see SF83
Businesses or other institutions
Manufacturers of acetylene
SIC: 281
Other transportation: 12,500 responses; 312 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To verify that the pressure in acetylene cylinders filled on a particular day do not exceed the pressure specified in the regulations.

• Research and Special Programs Administration
Request for Competent Authority in Accordance With IAEA Regulations
Nonrecurring
Businesses or other institutions
Shippers of radioactive materials
SIC: 369; 381, 344, 361
Other transportation: 150 responses; 150 hours; $3,800 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by the department and shippers to ascertain that ram shipments designated as being prepared in accordance with the IAEA regulations have been so prepared.

• Research and Special Programs Administration
Applicable Competent Authority Certificate
Nonrecurring
Businesses or other institutions
Shippers of radioactive materials
SIC: 369, 281, 344, 361
Other transportation: 150 responses; 75 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Used by the department and shippers to ascertain that those countries which have adopted the International Atomic Energy Agency regulations will accept RAM shipments being exported from this country.

• Research and Special Programs Administration
Record Retention Requirement for Special Form Material
On occasion
Businesses or other institutions
Shippers of radioactive materials
SIC: 369, 281, 344, 361
Other transportation: 1,000 responses; 500 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To ascertain that the material was or was not a special form material for investigations involving shipments.

• Research and Special Programs Administration
Shippers With Foreign Competent Authority
Nonrecurring
Businesses or other institutions
Shippers of radioactive materials
SIC: 369, 281, 344, 361
Other transportation: 75 responses; 75 hours; $1,875 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To ascertain that shippers with foreign competent authorities do, in reality, have them and are following their requirements when shipping RAM into the United States.

• Research and Special Programs Administration
Special Form Material Certificate
On occasion
Businesses or other institutions
Shippers of radioactive materials

SIC: 369, 281, 344, 361
Other transportation: 100 responses; 50 hours; $1,250 Federal cost; 1 form; not applicable under 3504 (h)
Donald Arbuckle, 202–395–7340

Used by the department and shippers to verify that materials being shipped as special form materials are such and are being properly shipped so that they will be accepted into countries which have adopted the IAEA regulations.

• Research and Special Programs Administration
Anhydrous Ammonia Records
Other—see SF83
Businesses or other institutions
Producers/shippers of anhydrous ammonia
SIC: 281
Other transportation: 2,800 responses; 1,400 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

To ascertain that anhydrous ammonia being shipped in MC 330 and MC 331 cargo tanks constructed of QT steel has a minimum water content of 0.2% to prevent stress corrosion of the cargo tanks.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

Reinstatements

• Reporting & Recordkeeping of Ambient Air Quality Data, Precision and Accuracy Data & Related Data (940)
No. of forms
940
Quarterly/annually/other—see SF83
State or local governments/businesses or other institutions
State air poll. ctrl. agencies & mum. ag. serv. 500,000 pop.
SIC: 951
Pollution control and abatement: 4,043 responses; 31,115 hours; $2,050,000 Federal cost; 8 forms; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This ICR includes recordkeeping and reporting of ambient and precision and accuracy data to EPA key uses include judging attainment of ambient standard, assessing effectiveness of State control and QA programs, evaluating revisions of State implementation plans, developing natl. control policies and trends assessments, new source reviews and model development.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513.

New

• Equal Employment Opportunity Program—5 Point Model
Program and Guidelines
FCC 396–A
On occasion
Businesses or other institutions
Licensees of AM, FM & comcl. & non-comcl. broadcst. stas.
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 1,432 responses; 1,432 hours; $22,497 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814.

This program provides comprehensive and clearly-defined practices to assist the non-exempt broadcast applicant in developing an effective EEO program and may be used by the licensee for self-evaluation. It also assures the Commission that equal employment opportunity is being provided by the licensee.

Extensions (Burden Change)

• Equal Employment Opportunity Program—10 Point Model
Program and Guidelines
FCC 396
Other—See SF83
Businesses or other institutions
Licensees of AM, FM & TV comcl. & non-comcl. broadcst. stas.
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 3,619 responses; 12,666 hours; $170,563 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814.

This program provides comprehensive and clearly-defined practices to assist the non-exempt broadcast applicant in developing an effective EEO program and may be used by the licensee for self-evaluation. It also assures the Commission that equal employment opportunity is being provided by the licensee.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—William Jones—202–452–2983.

New

• Survey of Transaction Activity in Money Market Mutual Fund Accounts
FR 3020
Nonrecurring
Businesses or other institutions
Money market mutual funds
SIC: 672
General government: 60 responses; 960 hours; $16,200 Federal cost; 1 form; $14,400 public cost; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880.

Information provided by survey will help staff to ascertain the extent to which money market funds shares are used for transaction purposes. Survey data will be used to assess the degree to which funds have shifted from M1 accounts to MMF accounts and will help explain some of the recent movements in the monetary aggregates.

• Monthly Survey on the Amount Outstanding in IRA/Keogh Plan Accounts
FR 2970
Monthly
Businesses or other institutions
Depository institutions
SIC: 602, 603, 612, 614
General government: 85,200 responses; 21,300 hours; $125,000 Federal cost; 1 form; $319,500 public cost; not applicable under 3504 (h)
Richard S. Stavneak, 202–395–6880.

These data are used to monitor the growth of deposits held in IRA and Keogh plan accounts for use in interpreting the monetary aggregates.

Revisions

• Report of Condition and Income
FFIEC 010, 011, 011J, 012, 013, 013J, 013S, 014, 015
Quarterly/semiannually/annually
Businesses or other institutions
State chartered member commercial banks
SIC: 602
Small businesses or organizations
General government: 6,625 responses; 115,221 hours; $292,453 Federal cost; 9 forms; $2,304,420 public cost; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880.

These reports provide for all State member banks a quarterly summary statement and detail schedules of assets, liabilities, and capital accounts in the form of a condition report, and summary statement and detail schedules of operating income and expenses, sources and disposition of income and changes in equity capital in the form of a income statement.

Extensions (Burden Change)

• Ongoing Intermittent Surveys of Households
FR 3016
On occasion
Individuals or households
Occasional samples of 700 households nationwide

General government: 8,400 responses; 467 hours; $107,580 Federal cost; 1 form; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

This information is needed by Federal Reserve Board and Federal Open Market Committee to enhance interpretation of nonetary aggregates and effects of monetary policy. The Board also requires this information to fulfill its statutory responsibilities to administer consumer credit regulations.

- Ownership of Demand Deposit Accounts of Individuals, Partnerships and Corporations

FR 2591
Quarterly
Businesses or other institutions
Sample of commercial banks
SIC: 602
Small businesses or organizations
General government: 784 responses; 964 hours; $9,133 Federal cost; 1 form; $14,460 public cost; not applicable under 3504(h)
Richard S. Stavneak, 202–395–6880

This report, which collects information on demand deposits in five ownership categories, is used by the Federeal Reserve to explain the implications of short-run variations in the money supply. Specifically, these data aid in determining whether shifts in the money supply are due to changes in sector distribution or to behavioral changes within a given sector.

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—202–357–7811

New

- Adoption of Innovation by Local Governments (Program Planning and Evaluation)

Nonrecurring
State or local governments
Local govts. in 50,000–500,000 pop. range (1970 Census)
SIC: 911
General science and basic research: 381 responses; 79 hours; $3,400 Federal cost; 1 form; not applicable under 3504(h)
Anita T. Ducca, 202–395–7340

Survey is part of project for evaluation of NSF-funded urban technology system. Two objectives of system were accelerating and increasing the amount of innovation in local governments of 50,000 to 500,000 population range. Survey will provide information increasing the amount of innovation in local governments of 50,000 to 500,000 population range. Survey will provide information necessary for determining whether those objectives were achieved.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Extensions (No Change)

- Certificate of Responsibility of Minor Applicant

G–468
On occasion
Individiuals or households
Minor applicant for benefits under RRA
General retirement and disability insurance: 800 responses; 133 hours; $27,300 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Under section 12 of the Railroad Retirement Act, a minor, age 16 to 18 years entitled to benefits under the act, may have benefits paid directly, in lieu of payment on his or her behalf, to a legal guardian or representative payee. The certificate will obtain, from the minor, information on schooling, work and use to be made of the benefits. The information will be used to determine if the benefits should be paid directly to the minor.

Arnold Strasser,

Acting Chief, Reports Management.

[FR Doc. 82–3742 Filed 2–10–82; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12211]

Municipal Fund for Temporary Investment, Inc.; Filing of an Application for an Order, Pursuant to Section 6(c) of the Act, Amending a Previous Order Which Exempted Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

Notice is hereby given that Municipal Fund for Temporary Investment, Inc. ("Applicant"), Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, (812–4970) registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on September 15, 1981, and amendments thereto on November 3, 1981, and January 22, 1982, requesting an order of the Commission, pursuant to section 6(c) of the Act, amending a prior order dated December 19, 1980 (Investment Company Act Release No. 11500), which exempted applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. The prior order was granted subject to certain conditions including a prohibition against the purchase by Applicant of any instrument with a remaining maturity of greater than one year and a requirement that Applicant maintain a dollar-weighted average portfolio maturity of 120 days or less. The requested amended order would permit Applicant to purchase variable rate demand notes as described below and to consider the maturity of such notes as the longer of the notice period required before Applicant would be entitled to prepayment on the note or the period remaining until the note's next interest rate adjustment. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant was organized by Shearson/American Express, Inc. ("Shearson"), its administrator and distributor, to be a companion to two money market funds also sponsored by Shearson in order to provide institutional investors with the alternative of earning tax-exempt income on the investment of short-term cash reserves. Applicant states that its investment objective is to provide as high a level of current interest income exempt from federal income taxes as is consistent with relative stability of principal and that it invests in short-term obligations issued by or on behalf of states, territories and possessions of the United States and the District of Columbia or their political subdivisions, agencies, instrumentalities or authorities. Accordingly, Applicant states that it may not purchase "money-market" or other taxable obligations, but that during defensive periods or when suitable tax-exempt obligations are unavailable, it may hold uninvested cash reserves. Applicant further states that it does not seek profits through short-term trading but intends to hold its portfolio securities to maturity.

As permitted by the prior exemptive order, Applicant states that it seeks to maintain a $1.00 constant net asset value per share and a relatively stable daily dividend by keeping its dollar-weighted average portfolio maturity under 120 days, excluding from dividends unrealized gains and losses and gains and losses realized on the disposition of portfolio securities prior to maturity, and computing net asset value per share according to the amortized cost method of portfolio valuation.

Applicant states that a proliferation of tax-exempt mutual funds has significantly increased the demand for short-term tax-exempt instruments and, as a result, available yields on such instruments have declined. At the same time, according to Applicant, certain issuers of tax-exempt instruments have sought to lengthen their terms in order, among other things, to decrease the transaction costs associated with repeated shortterm issues. According to the application, in order to induce longer term borrowing relationships, issuers have begun offering higher yields on variable rate notes containing a demand feature allowing either party to terminate the obligation within relatively short notice periods. The Applicant believes that the acquisition of such variable rate demand notes would provide shareholders with a higher tax-exempt return without subjecting them to increased investment risk.

Applicant proposes to acquire, normally in negotiated transactions with the issuers, tax-exempt variable rate demand notes having the following features: (1) Each note would have an interest rate determined by a prescribed formula and adjusted at periodic intervals not to exceed one year; (2) Applicant could at any time demand prepayment of the unpaid principal balance plus accrued interest thereon and would be entitled to prepayment within a prescribed notice period not to exceed seven calendar days; (3) issuers could, at their discretion, prepay the outstanding principal plus accrued interest thereon upon notice to Applicant within a period comparable to the notice period required for Applicant to demand prepayment; (4) absent an earlier exercise by Applicant or an issuer of their respective prepayment privileges, the principal and interest under each note would be payable on a date exceeding one year from the date of purchase by Applicant; (5) each note purchased by Applicant would be determined under procedures prescribed by Applicant's board of trustees to present minimal credit risks and would be rated by a major rating service within its two highest rating categories or, if not rated, would be determined by the board of trustees to be comparable to tax-exempt securities which are of "high quality" (i.e., within the two highest ratings assigned by any major rating service). Applicant states that the issuer's obligation to pay principal on its notes would be supported by an irrevocable, unconditional bank letter of credit where necessary to ensure that the notes were of "high quality" (i.e., in all cases where the board of trustees could not determine that a note is of "high quality" without a letter of credit). If a letter of credit is a feature of a note when it is purchased by Applicant, the note would always be supported by such letter of credit unless the rating of the note rose to within the two highest grades without the letter of credit.

Applicant represents that its adviser intends to evaluate not less frequently than monthly the credit of the issuers of notes and the backing banks in accordance with existing procedures used to evaluate the quality of other portfolio securities. Applicant further represents that, as required by the prior order, it will dispose of any note (by exercising the demand privilege where beneficial) where, due to an adverse change in the issuer's credit, Applicant's board of trustees or any rating service concluded that the note was no longer of "high quality."

Applicant states that it would normally have an unconditional right to sell the notes at any time. However, according to the application, any note that would not be freely assignable would be required to be backed by an irrevocable, unconditional bank letter of credit. According to Applicant, banks issuing such letters of credit would, in the adviser's opinion, present minimal risk of default and would be major United States commercial banks having outstanding certificates of deposit suitable for portfolios of "high quality" short-term "money market" instruments.

Under the prior order, Applicant may compute its net asset value per share according to the amortized cost method subject to certain conditions, inluding, *inter alia*, a requirement that Applicant neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.

Applicant proposes to acquire variable rate demand notes as described above and to consider the maturity of such notes, for purposes of computing its dollar-weighted average portfolio maturity, as the longer of the notice period required before Applicant is entitled to prepayment under the note, or the period remaining until the note's next interest rate adjustment. Applicant submits that its proposed acquisition of variable rate demand notes and the method for determining their maturity for purposes of computing dollar-weighted average portfolio maturity are consistent with the intent of the conditions set forth in the prior order.

According to the application, there are two general reasons for restricting the maturities of Applicant's portfolio securities. First, lengthening the period to maturity of a fixed rate debt security valued according to the amortized cost method generally increases the risk that unrealized gains or losses will cause the security's amortized cost value to deviate materially from its current market value. Applicant refers to this risk, (because it primarily results from fluctuations in prevailing interest rates) as "market risk." Applicant states that the prior order limits the allowable average period to maturity of the portfolio in order to reduce its market risk. The second reason for limiting maturity, according to the application, is that the "credit risk" represented by an instrument is generally perceived to increase as the instrument's maturity is lengthened. Applicant states that its credit risk is controlled under the prior order by the requirement that its portfolio be limited to securities of "high quality" which mature in one year or less.

According to the application, Applicant believes that neither its proposed purchase of variable rate demand notes nor its proposed method of computing its dollar-weighted average portfolio maturity would violate the intent of the conditions under the prior order. Applicant states that because a note's interest rate adjustment provision reflects the prevailing rate from time to time on comparable tax-exempt securities, unrealized gains and losses with respect to any note would be eliminated as of each interest rate adjustment date. Absent unusual circumstances, Applicant states that the rate adjustment provision would permit the notes to be sold at par on each interest rate adjustment date. If the interest rate, as adjusted, did not sufficiently eliminate material unrealized appreciation or depreciation on the adjustment date (due to unforeseen circumstances other than a decline in the rating of the notes to below "high quality"), Applicant would undertake to demand prepayment of the note in full. Applicant also states that it would sell the notes or exercise its demand privilege (whichever were more beneficial) if, due to an adverse change in the issuer's credit, the notes were no longer of "high quality." Applicant believes that the maturity of a note for purposes of determining its market risk is appropriately measured by the period remaining to the next interest rate adjustment and that the maturity of a note for purposes of determining its credit risk is appropriately measured by the notice period required before

Applicant is entitled to prepayment in full. Applicant states that for purposes of measuring either of these risks, the maturity of a note would never exceed one year.

Applicant further states that where the period until the next interest rate adjustment is different from the notice period required for payment, it would utilize the longer of the two periods for purposes of computing weighted average maturity. According to Applicant, this approach would be the most conservative under the circumstances.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the Rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order pursuant to section 6(c) of the Act amending the prior order to the extent necessary to permit it to (1) acquire variable rate demand notes and value them by use of the amortized cost valuation method and (2) compute its dollar-weighted average portfolio maturity as proposed.

Applicant asserts that the requested relief is appropriate and in the public interest. According to Applicant, the ability to purchase notes is appropriate because it does not increase the credit or market risks to which Applicant and its shareholders will be exposed and is in the public interest because it would permit Applicant to purchase portfolio securities with possible higher yields than would be available for fixed rate securities of comparable quality.

Notice is further given that any interested person may, not later than March 1, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application acompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 4, 1982.

[FR Doc. 82-3710 Filed 2-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18470; File No. SR-SCCP 82-1]

Self-Regulatory Organizations; Stock Clearing Corp. of Philadephia; Relating to Fines for Late Money Settlement

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 29, 1982 Stock Clearing Corporation of Philadelphia filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadephia (SCCP) proposes to set a procedure for levying fines against participants which fail to make timely money settlement. This procedure is pursuant to SCCP Rule 10 (Money Settlement), which states:

> Between 2:00 P.M. and 2:45 P.M. each day, payment shall be the due Stock clearing Corporation or the delivering clearing member for the difference between the amounts due on the securities received from and delivered to each clearing member.
>
> At its discretion, however, Stock Clearing Corporation may make interim payments to delivering members or may demand interim payments from receiving members.

And SCCP Rule 24 (Fines), which states:

> Fines may be imposed in such amount as Stock Clearing Corporation may deem proper for violation of the foregoing regulations by clearing members or their employees; also for errors or delays in making out and presenting the proper forms to Stock Clearing Corporation.

The SCCP Board of Directors has authorized the following policy regarding fines for failure to make timely money settlement:

1. A written warning will be issued for the first settelment violation.
2. An interest charge will accompany the warning notice if settlement is not paid on settlement date plus one in Federal Funds.
3. A second offense (in a twelve month period) will result in a $250.00 fine in addition to an interest charge, if applicable.
4. A third offense (in a twelve month period) will result in a $500.00 fine plus an interest charge, if applicable.
5. If a participant has more than three settlement violations in a twelve month period, the member will be referred to the SCCP Board of Directors for appropriate action.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to protect SCCP and its members from the increased risk and interest costs which result when one or more members fail to make timely money settlement. It is inequitable for the actions of a few members to jeopardize the welfare of the corporation and its members who do make timely money settlement. Therefore, a procedure for levying fines against delinquent members has been set by the SCCP Board of Directors pursuant to Rule 24 relating to fines.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the Act) in that it

promotes the prompt and accurate clearance and settlement of securities transactions for which SCCP is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not perceive any impact on competition, negative or positive, resulting from the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments on the proposed rule change have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before March 4, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 4, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3717 Filed 2-10-82; 8:45 am]

BILLING CODE 8010-01-M

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

AGENCY: Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors may consider a resolution to close a portion of the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

Meeting Open to the Public—8:30 a.m.

1. Approval of Minutes of Prior Meeting.
2. Management Report.
3. Compensation Policy, Salaries, Employee Relocation Policy.
4. Directors' and Officers' Insurance.
5. Ratification of Actions re Department of Energy Projects.
6. Standards of Conduct Policy.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

Time and Date: 8:30 a.m., February 16–17, 1982

Place: Mayflower Hotel, Washington, D.C.

Person to Contact for More Information: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202) 653–4230.

United States Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board.

February 5, 1982.

[FR Doc. 82-3610 Filed 2-10-82; 8:45 am]

BILLING CODE 6456-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airports District Office at Valley Stream, New York; Relocation and Merger

Notice is hereby given that on or about March 1, 1982, the Valley Stream, New York, Airports District Office will be relocated and merged with the Regional Office Airports Division. The Regional Office will administer the Airports Program for the States of New York and New Jersey. Communication to the Airports Division should be addressed as follows: Airports Division, Department of Transportation, Federal Aviation Administration, Eastern Regional Office, J.F.K. International Airport, Jamaica, New York 11430.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354)

Issued in New York, New York on February 2, 1982.

Timothy L. Hartnett,

[FR Doc. 82-3784 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE–82–3]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 22, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on Fegruary 8, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of Relief Sought
22587	Air Transport Assoc.	14 CFR § 121.311(f)	To permit certain of petitioner's member airlines to operate their aircraft after the March 6, 1982, compliance date for the requirement that each flight attendent have a seat in the passenger compartment for takeoff and landing with a combined safety belt and shoulder harness.

[FR Doc. 82-3753 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

Advisory Committee; Establishment and Invitation To Participate: National Airspace Review (NAR)

Announcement: Notice is given of the establishment of the National Airspace Review (NAR) Advisory Committee. This Advisory Committee stems from informal meetings held by the Federal Aviation Administration (FAA) in May of 1981 on a proposed review of airspace and procedural aspects of the National Airspace System. The Administrator of the Federal Aviation Administration is the sponsor of the Committee. The membership will include experts from the Government, the aviation industry, and those representing the viewpoints of other elements of the aviation community. Non-Federal members of the Committee do not become Government employees. They serve without compensation and at their own expense. The Committee will make recommendations to the FAA on airspace and procedural areas identified in the NAR Plan to make the system more effective and efficient for all airspace users.

Public Interest: The Secretary of Transportation has determined that the formation and use of the Committee is necessary in the public interest in connection with duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public except as provided for in Section 10(d) of the Advisory Committee Act.

Issued in Washington, D.C. on February 4, 1982.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 82-3437 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

Sensenich Fixed-Pitch Wood Model W76KY-( ) Propeller Certification and Availability of Documents

The formal certification process for the Sensenich Model W76KY-( ) Propeller initiated in May 1981 was completed January 11, 1982.

The Acting Director of the FAA Central Region has reviewed a document entitled "Decision Basis for the Type Certification of the Sensenich Fixed-Pitch Wood Model W76KY-( ) Propeller." Based on this summary of the certification process, the Acting Director has approved issuance of Type Certificate P62GL dated January 11, 1982.

A copy of the "Decision Basis for the Type Certification of the Sensenich Fixed-Pitch Wood Model W76KY-( ) Propeller" is on file in the FAA Rules Dockets. The "Decision Basis" includes a copy of Type Certificate P62GL. The report is available for examination and copying at the FAA Rules Docket, Room 916, 800 Independence Avenue, SW, Washington, DC. Copies of the report may be obtained from the Director, FAA Central Region, 601 E. 12th St., Kansas City, MO 64106.

Issued in Kansas City, MO, on January 29, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-3430 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration Aircraft Certification Organization and Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public briefing and availability of FAA orders.

SUMMARY: The purposes of this notice are to announce:

(1) Public availability of FAA Order 8000.51, Aircraft Certification Directorates, dated February 1, 1982, which establishes a new aircraft certification organization within the FAA;

(2) Public availability of a draft FAA Order 8100.5, Aircraft Certification Procedures Handbook, dated February 1, 1982, which introduces certain changes in the FAA's internal procedures for aircraft certification;

(3) A public briefing to describe the new aircraft certification organization and to answer questions will be held on Friday, March 12, 1982, beginning at 9:30 a.m. in the auditorium, 3rd Floor, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. 20591.

Background: By issuance of Order 8000.51, the FAA has effective February 1, 1982, completed implementation of an organizational change for the accomplishment of its aircraft certification programs, including type, production, original airworthiness, and related activities. The new organization consolidates program direction and management in four regionally located Aircraft Certification Directorates, each having special delegations of authority for a particular class of product.

The FAA has also prepared a draft Aircraft Certification Procedures Handbook to provide procedures and policy guidance for the operation of Aircraft Certification Directorates and to establish working relationships within and between Directorates, and between Directorates and Washington offices and services. The draft order will be used by the FAA as interim operating procedures until the handbook is issued in final form. Interested persons are invited to participate in the finalization

of these procedures by submitting such written comments as they may desire.

DATE: Comments on draft Order 8100.5 must be received on or before May 13, 1982.

ADDRESS: Send all comments on the draft to Federal Aviation Administration, Office of Airworthiness, Attention: Mr. Robert Berman (AWS–140), 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Berman, Propulsion Branch (AWS–140), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426–8200.

Availability of Documents: A copy of Order 8000.51 and draft Order 8100.5 may be obtained by contacting the person identified under "For Further Information Contact."

M. C. Beard,

Director of Airworthiness.

February 5, 1982.

[FR Doc. 82–3825 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 142—Air Traffic Control Radar Beacon System/Mode S Airborne Equipment; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S Airborne Equipment to be held on March 2–3, 1982 in Conference Rooms 9A–B–C, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Tenth Meeting Held on September 22–23, 1981; (3) Review Fifth Draft of Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode S Airborne Equipment; (4) Identification of Unresolved Issues; (5) Assignment of Tasks to Complete Committee Actions; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 1, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82–3826 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Pittsfield, Massachusetts

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Pittsfield, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Environmental Specialist, Federal Highway Administration, 31 St. James Avenue, Room 211, Boston, Massachusetts 02116, Telephone: (617) 223–2875.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Massachusetts Department of Public Works, will prepare an environmental impact statement (EIS) on a proposal to improve a 1.5-mile section of U.S. Route 7 in Pittsfield, Massachusetts. The proposed improvement would involve the reconstruction of the existing U.S. Route 7 along the eastern shore of Pontoosuc Lake. The reconstructed roadway will provide a 12-foot travel lane and an 8-foot shoulder in each direction. Also included in this proposal is the replacement of the Hancock Road Bridge over the West Branch of the Housatonic River, improvements to the Hancock Road intersection with U.S. Route 7, and improvements to drainage. These improvements are considered necessary in order to alleviate hazardous conditions that presently exist along U.S. Route 7 caused by a lack of shoulders, hazardous curves, poor sight lines and the poor condition, alignment, and width of the bridge.

Alternatives under consideration include: (1) Taking no action; (2) reconstructing Route 7 in place, with minimum realignment; and (3) reconstructing Route 7 with 1500 feet to be constructed on a new alignment.

All appropriate Federal, State, and local agencies, as well as private organizations and citizens who express interest in this proposal, will be kept informed of the progress of the EIS throughout the preparation process.

The Draft EIS will be available for public and agency review and comment. In addition, a public hearing will be held. A formal scoping meeting will be held on February 25, 1982 at 2 p.m. at the Pittsfield City Hall, Pittsfield, Massachusetts.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identifed, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: February 4, 1982.

P. Robinson,

Transportation Planner, Boston, Massachusetts.

[FR Doc. 82–3842 Filed 2–10–82; 8:45 am]

BILLING CODE 4910–22–M

Federal Highway Administration

Environmental Impact Statement; Valencia County, New Mexico

Correction

In FR Doc. 82–2158 appearing on page 4169 in the issue for Thursday, January 28, 1982, please make the following corrections:

(1) In the first column, in the first paragraph under "Supplementary Information" in the 18th and 20th lines, the word "to" should have been "two" in each sentence.

(2) In the same paragraph, beginning in the 25th line and running through the 4th line from the top of the second column, there is a description of building alternatives. This description contains serious typographical errors. For the convenience of the user, the end of this paragraph is republished below. The corrected material begins by replacing the last two words of line 25 and continues through the end of the paragraph as follows:

* * * The build alternatives west of the river include widening the existing 2-lane section to 4 lanes within the existing right-of-way and widening to 4 lanes with a continuous left turn lane. The build alternatives east of the river include widening to 4-lane along the existing alignment and widening to 4

lanes partially along the existing alignment then realigning N.M. 49 to a new intersection with N.M. 47 approximately ½ mile south of the existing intersection. The existing bridge across the Rio Grande will accommodate 4 lanes meeting present standard and will not be modified.

BILLING CODE 1505-01-M

Federal Railroad Administration

[FRA Docket No. AM-80-1]

National Railroad Passenger Corp. and Grand Trunk Western Railroad Co.; Hearing

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of hearing cancellation.

SUMMARY: This notice announces the cancellation of a hearing scheduled to consider the National Railroad Passenger corporation's (Amtrak) appliction filed pursuant to 45 U.S.C. 562(f) for an order requiring Grand Trunk Western Railroad Company to accelerate the speed at which it operates Amtrak's passenger trains between Battle Creek and Port Huron, Michigan. The hearing was scheduled for February 3–5, 1982 and was announced in a **Federal Register** notice dated December 3, 1981, 46 FR 58772. The hearing has been cancelled in response to Amtrak's request that the proceeding be dismissed.

FOR FURTHER INFORMATION CONTACT: Mr. William R. Fashouer, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–7710.

John H. Broadley,

Chief Counsel.

[FR Doc. 82-3431 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-06-M

Record of Decision: Replacement of Shaw's Cove Bridge and Approaches, New London, Connecticut

Pursuant to the Regulations of the Council on Environmental Quality (40 CFR, Part 1505) and the Implementing Procedures of the Federal Railroad Administration (45 FR 40854).

Decision

The Federal Railroad Administration (FRA), an operating agency within the U.S. Department of Transportation, has elected to replace the existing movable-span railroad bridge across the mouth of Shaw's Cove in New London, Connecticut with a new swing-span bridge on a new alignment. In addition, the project includes the closing of Hamilton Street and the in-filling of the undergrade bridge resulting in the railroad being on an embankment.

Project Description

As part of the Northeast Corridor Improvement Project (NECIP), authorized by Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et. seq.), the existing movable-span railroad bridge across the mouth of Shaw's Cove will be replaced by a new swing-span bridge on a new alignment 106 feet east of the present structure, with two 70-foot-wide navigational channels, a vertical clearance of 6.8 feet above mean high water (mhw) in the closed position, and unlimited vertical clearance in the open position. The southerly approach will be on an embankment to the water's edge; however, due to unsuitable soil conditions in the river bottom, there will be six ballasted-deck approach spans and one open-deck approach span between the embankment and the movable, open-deck, through-truss swing span. The northerly approach will be on rock embankment with one open-deck approach span. Prior to the replacement of the fill for the embankment, the primarily organic material on the river bottom will be dredged, as will the north channel to obtain the required depth of 15 feet below mean low water.

The design and future construction of the north approach embankment has been combined with an earlier plan by the Corps of Engineers to construct a hurricane protection barrier around Shaw's Cove and extending north approximately 200 yards adjacent to and west of the existing tracks. This combined embankment, with the railroad located on the riverward face of the embankment, was developed in order to reduce construction costs and avoid the creation of an unusable piece of land between the previously planned barrier location and the realigned railroad tracks.

The new horizontal alignment will diverge approximately 1,480 feet south of the existing bridge and will rejoin the existing alignment 1,180 feet north of the bridge, immediately south of the Coast Guard pier. The vertical profile of the new alignment is identical to the existing profile at the southerly project limit; however, the elevations of the existing and new alignments on the north do not match until immediately south of State Street. This new vertical profile, created by increasing the vertical clearance under the closed, movable span by 4 feet, results in a 4-foot difference in elevation at the Coast Guard pier, necessitating the construction of a retaining wall. In addition, the difference in elevations will require that both mainline tracks be closed while the profile is raised. In order to maintain railroad service during the construction period, two temporary tracks will be constructed west of the existing tracks, beginning immediately south of State Street and converging again with the existing track alignment at Sparyard Street.

Three public grade coossings (Sparyard Street, Coast Guard and Sailloft) and three private grade crossings between Shaw's Cove and New London's Union Station will be closed as a result of this project. These crossings will be eliminated because the track realignment requires purchasing the properties which these crossings serve. However, the project includes a reconfigured grade crossing, known as the Bank Street Connector, located between the Coast Guard pier and Sparyard Street in order to maintaim access to the Coast Guard pier. The roadway will pass southeasterly from Bank Street onto and along the top of the hurricane protection barrier, cross the railroad tracks and continue north to the Coast Guard pier as a 24-foot-wide road parallel to the tracks.

The Hamilton Street undergrade bridge, located approximately 1,000 feet south of the movable bridge, is in poor condition and would require extensive repairs to accommodate the new track alignment. Due to the low traffic volumes under this bridge and in an effort to minimize construction costs, this underpass will be closed and an embankment will be created by filling in the area beneath the bridge. Traffic will be rerouted to another local street 800 feet south of Hamilton Street.

The estimated cost of this project ranges between $15 and $20 million. The improvement will be funded by the FRA; however, cost-sharing arrangements have been negotiated with the Corps of Engineers for that portion of the embankment which will be shared with the hurricane protection barrier.

Description of Alternatives

The following alternatives were considered by the FRA in reaching its decisions:

1. No expenditure of federal funds (no-build alternative).

2. Rehabilitation of the existing structure.

3. Construction of a new bridge with:

A. Alternative alignments:

(1) Westerly shift of 48 feet

(2) Existing alignment

(3) Easterly shift at 106 feet

(4) Easterly shift of 350 feet
B. Alternative bridge types:
(1) Rolling-lift bascule span
(2) Verticle-lift-span
(3) Swing span

Basis for Decision

The purpose of this improvement is to provide a structurally sound and operationally reliable movable railroad bridge and approaches that will be a long-term benefit to both rail and marine traffic. Replacement of the existing bridge, which was constructed in 1918, on piers that remained from a previous bridge constructed in 1891, is required due to the advanced deterioration of the superstructure and substructure. The superstructure's loss of structural integrity is characterized by loss of section in the top and bottom flanges and the web of the floor system as well as that of the truss lacing, bottom plates and many rivets. The piers comprising the substructure all have loose and/or displaced stones with open joints and vertical cracks in the mortar. The center pier has been tied with metal straps to restrain the stones. Additional evidence of pier settlement is manifested by the bouncing of the bridge when a train passes. Therefore, replacement of the bridge is absolutely essential whereas no action or rehabilitation are not feasible or prudent.

Selection of final alignment was based upon numerous factors relative to the other three possible alignments. Alignment 1 (a westerly shift of 48 feet) would require the acquisition of 2.5 acres of property resulting in at least partial removal of five buildings and seriously impact the land use and development north of Shaw's Cove. This alignment would also necessitate a westerly shift of the Corp's hurricane protection barrier resulting in the taking of another 0.5 acres of land and removal of another building. For these reasons and the fact that this alignment was not compatible with the development plans of the City of New London, Alignment 1 was deemed impractical.

Alignment 4 (an easterly shift of 350 feet) would not adversely affect the city's redevelopment plans; however, it would pass through the presently operating Coast Guard pier north of Shaw's Cove. As this alignment extended the greatest distance from existing land forms, it would require the most extensive embankment work of the alignments studied and would have the greatest impact upon the natural environment of the area. Although Alignment 4 could improve the track alignment to the greatest extent, precipitating a greater potential train speed through this area, it was not selected because: (1) It would necessitate the relocation of the Coast Guard pier; (2) it would have the greatest impact upon the natural environment; and (3) increased speeds through the area are not required in this area because all trains stop at New London's Union Station.

Although Alignment 2 (the existing alignment) would have the least impact upon the natural environment and local land use and development, it would require the construction of a vertical-lift bridge in order to avoid any discontinuance of rail traffic during construction, which is an NECIP criterion. Construction of either the bascule or swing-span bridges would stop rail traffic for approximately eight months because new foundations cannot be constructed with the present bridge in the closed position. A vertical lift bridge would also limit the maximum clearance to 55 feet above mean high water in the open position, thereby restricting the size of boats that might enter Shaw's Cove. Because the City of New London objected to the massiveness of the structure with its esthetic impact upon the area and the objection by mariners and a marina operator to a restrictive vertical clearance, Alignment 2 and the vertical lift bridge were rejected.

Both bascule and swing-span bridges were considered on the chosen alignment. The bascule bridge is less expensive to construct; however, it requires a greater maintenance effort to ensure its operational reliability and structural integrity. Amtrak, for whom this project is being implemented, has stated that it would prefer a bridge type that did not require significant maintenance, i.e., a swing-span bridge. In addition, local officials and citizens have expressed their desire for a bridge similar to the existing structure. Therefore, the swing-span structure on Alignment 3 was selected.

Measures to Minimize Harm

As stated in the Final Environmental Impact Statement for this project, the present Shaw's Cove bridge was determined eligible for inclusion in the *National Register of Historic Places* in November 1977. Pursuant to the procedures of the Advisory Council on Historic Preservation (ACHP), the criteria of effect were applied to the selected alternative and it was determined that replacement of the Shaw's Cove bridge will have an adverse effect on the structure. Through consultation with the State Historic Preservation Officer (SHPO) and the ACHP to develop a mitigation plan, it was determined that the present structure will be permanently recorded in accordance with the Department of the Interior standards prior to its demolition. As-built plans, professional photographic documentation and a detailed historic monograph will be compiled. In addition, as the Downtown New London Historic District in which the project area is located contains undisturbed archeological resources that reflect the maritime history of New London, a combined program of archival documentation and archeological excavation will be implemented in close coordination with the SHPO. All archeological materials, including artifacts, field notes, maps, drawings and photographic records will be curated in a repository approved by the SHPO. A final report of the archeological data recovery will be forwarded to the ACHP and SHPO. Subsequently, a description of archeological remains retained *in situ* will be forwarded to the Keeper of the National Register of Historic Places for incorporation into the National Register nomination.

Appropriate erosion and sedimentation control measures will be implemented during the course of this project. After the removal of the rail and ballast on the present embankment, topsoil will be applied, seeded and mulched in order to establish permanent vegetation. If necessary, additional measures involving wetting or chemical applications will be utilized to minimize fugitive dust as well as increased turbidity in the water.

In order to minimize the impact of the 14-day closure to navigation required to float in the new movable span and make it operational, this closure will be scheduled outside the usual recreational boating season (April through November), and to accommodate fuel shipments by barge to a local business enterprise. This arrangement has been coordinated with the Coast Guard and interested local parties.

The closing of the Hamilton Street Underpass will necessitate the rerouting of traffic via Howard and Walbach Streets. In order to facilitate the flow of traffic, especially during the morning and evening rush hours, a traffic light will be installed at that intersection.

Conclusion

Based upon this evaluation of project criteria, interrelationships and impacts,

as well as local land use and development planning, it is the Federal Railroad Administration's determination that a new swing-span, movable railroad bridge on alignment 3 will be constructed and that all practicable measures to minimize harm have been incorporated.

Dated: February 2, 1982.

Louis S. Thompson,

Associate Administrator for Intercity Programs.

[FR Doc. 82-3678 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-06-M

Maritime Administration

[Docket No. S-709]

American Shipping, Inc.; Application for Permission Under Section 805(a) and 506 of the Merchant Marine Act 1936, as Amended (Act)

Notice is hereby given that by application of February 5, 1982, American Shipping, Inc. (American) applied for written permission under section 805(a) and 506 of the Act for its 91,849 DWT tanker, SS *Beaver State,* to operate in the domestic Alaskan oil trade for two months. Initial loading of the *Beaver State* would occur between February 18–25, 1982. Two Valdez to Panama trips or four Valdez to U.S. West Coast trips would be made, or a combination of these.

The *Beaver State* presently is under time charter to Texaco, Inc. but would be subchartered to SPC Shipping, Inc., a subsidiary of Sohio, for the voyages described. Sohio states that damage to the dock at the transshipment facility in Panama is causing delays in unloading vessels. This, in turn, delays vessels returning to Valdez. Sohio is concerned about its oil inventory in Valdez because of these delays. Sohio anticipates inventory problems occuring in February and plans to meet the situation with the use of the *Beaver State.* Sohio has canvassed all available tonnage and asserts that no other suitable vessel would be available to load February 18–25.

The *Beaver State* was built with construction-differential subsidy and is operating under a long-term operating-differential subsidy contract. Written permission pursuant to section 805(a) of the Act is required for the proposed Alaskan service notwithstanding the fact that the vessel would not be eligible for operating-differential subsidy for the period. Payback of construction-differential subsidy will be required pursuant to section 506 of the Act.

It will also be necessary to extend the section 805(a) written permission granted to American to its related companies which are holders of long-term operating-differential subsidy contracts. These companies are: Aeron Marine Shipping Company, Aquarius Marine Company, Aries Marine Shipping Company, Atlas Marine Company, Pacific Shipping, Inc., and Worth Oil Transport Company.

Although publication of a Notice with respect to American's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on American's application.

Any person, firm or corporation having any interest in the application for sections 805(a) and 506 permission and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on February 17, 1982. If such comments deal with section 805(a) issues, they should be accompanied by a petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest and the alleged facts relied on for relief.

If no petitions for leave to intervene on section 805(a) issues are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercostal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program Nos. 11.504 Operating-Differential Subsidies (ODS) and 11.500 Construction-Differential Subsidies (CDS))

By Order of the Maritime Administrator.

Dated: February 5, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82-3621 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-81-M

Maritime Administration

Vessel Conversion Compliance With the Port and Tanker Safety Act of 1978; Applications for Construction-Differential Subsidy (CDS); Determination That Supplemental Environmental Impact Statement Not Required

A Tanker Construction Program was started by the Maritime Administration (MARAD) in 1970 to provide Construction-Differential Subsidy (CDS) for the construction of oil-carrying vessels. An Environmental Impact Statement (EIS) for the Program was published on May 30, 1973, discussing each class of oil-carrying vessel on which construction had started or which was likely to be constructed with the aid of CDS during the Tanker Construction Program. Vessel classes included in the EIS ranged from approximately 35,000 DWT to 400,000 DWT. Pollution abatement specifications developed by MARAD were also discussed.

The Maritime Subsidy Board/ Maritime Administration adopted the EIS in Docket No. A-75, issued on August 30, 1973, and determined that the Tanker Construction Program would continue. Strict compliance with the pollution abatement provisions of the MARAD Standard Specifications for Merchant Ship Construction, as revised, were required on all tankers built with CDS.

The Maritime Subsidy Board has recently received several applications for Construction-Differential Subsidy to aid in the conversion of three LNG tankers, MA Hulls 296, 297 and 298 to Bulk/Oil vessels.

These vessels are:

Phoenix Bulkship I, Inc., USA—one tanker *El Paso Savannah*
Phoenix Bulkship II, Inc., USA—one tanker *El Paso Cove Point*
Phoenix Bulkship III, Inc., USA—one tanker *El Paso Columbia*

These vessels are currently designed as 125,000 cu.m LNG tankers and have been designated as MARAD Design LG9-S-107a. The three vessels were constructed at Avondale Shipyards, Inc., USA.

The conversion will enable these vessels to carry crude oil as described in Section II of the EIS as an example of an "Intermediate Tanker". The environmental impact of such ships is covered throughout the EIS in various sections.

Since the environmental impact of offering CDS assistance of these vessels has already been discussed fully in the EIS, and Docket A-75 provides for the

use of CDS funds for tankers designed and equipped to prevent pollution, the Board has decided that neither a new EIS nor a Supplement to the EIS is required with respect to these applications. The conversions are to be in compliance with the applicable Federal and international requirements concerning maritime safety and pollution prevention, including the Port and Tanker Safety Act (PTSA) and the regulations of the U.S. Coast Guard.

The basis for the Board's determination is available for public inspection in the Office of the Secretary, Room 7300, Maritime Administration, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(Catalog of Federal Domestic Assistance Program 11.500)

Dated: February 8, 1982.

By Order of the Maritime Subsidy Board/ Maritime Administration.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82-3716 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1981 Rev., Supp. No. 15]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $305,000 has been established for the company.

Name of Company:
ANVIL INSURANCE COMPANY
Business Address:
1108 W. 17th Street
Santa Ana, California 92706
State of Incorporation:
California

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal Bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33964 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 4, 1982.

W. E. Douglas,

Commissioner.

[FR Doc. 82-3712 Filed 2-10-82; 8:45 am]

BILLING CODE 4810-35-M

National Highway Traffic Safety Administration

Denial of Petition for Defect Hearing; Muldoon

This notice sets forth the reasons for the denial of a petition by Mrs. Katherine Muldoon of Teaneck, N.J., to have a hearing to determine whether a manufacturer had reasonably met its obligation to notify purchasers of the existence of a safety-related defect (15 U.S.C. 1416).

On November 12, 1981, Mrs. Muldoon wrote NHTSA alleging the existence of excessive gas vapors and hydrocarbon levels occurring in her 1980 SAAB 900 Turbo. The car had been included in NHTSA campaign 80V-123 for correction of a fuel pump mounting defect. This modification occurred in June 1981. At Mrs. Muldoon's request, the vehicle was tested in September and October 1981 by the New Jersey Department of Environmental Protection which confirmed leakage of gasoline vapors. The State agency also noted hydrocarbon emissions during deceleration. On October 13, 1981, after the New Jersey tests, SAAB replaced the complete fuel system on the car but a month later, at the time of her petition, the smell of gasoline vapors and hydrocarbons persisted.

In response to NHTSA's investigation, SAAB—Scania of Orange, Conn., reported on December 21, 1981 that the recall work had been properly performed and that the odor could not be attributed to the fuel pump mounting. After the recall, SAAB reported that its "field service personnel have inspected her SAAB on at least four separate occasions and at two of these times our District Service/Parts Manager drove the vehicle for several days." Those inspections revealed no evidence of fuel leakage "either in connection with the fuel pump mounting or any other part of the fuel system." Nor were any fumes or odors noted. The company also commented that it had "even gone so far as to exchange components that did not necessarily need replacement * * *." Mrs. Muldoon and her husband are both owners of 1980 SAAB 900 Turbos and members of the Greater New York SAAB Club.

The primary purpose of the SAAB recall in question was to eliminate a potential fire hazard. The values recorded by the State of New Jersey in its testing (before replacement of the fuel system) were well below the threshold values necessary for combustion. Thus it appears that SAAB had met its responsibility to correct the safety-related defect in Mrs. Muldoon's car, and on January 13, 1982, her petition was denied.

With respect to the persistent problem of odors, NHTSA notes that there are no established standards for allowable concentrations of gasoline vapors or carbon monoxide concentration in the passenger compartments of automobiles. Such data as are available from the Environmental Protection Agency and the American Conference of Governmental Industrial Hygienists indicate that the levels detected by the State of New Jersey are below the limits of threat to health and safety.

(Sec. 156, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 4, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82-3340 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Renewal of Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, RSPA, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are

not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denotes renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes on or before February 26, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2567-X	Denison, Inc., Fredonia, KS	2567
2709-X	U.S. Department of Defense, Washington, DC.[1]	2709
2792-X	U.S. Department of Energy, Washington, DC.	2792
3549-X	U.S. Department of Energy, Washington, DC.	3549
3737-X	U.S. Department of Defense, Washington, DC.	3737
3992-X	Linde Chemical & Plastics, Inc., Edison, NJ.	3992
3992-X	Union Carbide Corporation, New York, NY.	3992
4453-X	Atlas Powder Company, Dallas, TX	4453
4453-X	Austin Powder Company, Cleveland, OH.	4453
4453-X	Monsanto Company, St. Louis, MO	4453
4460-X	Ethyl Corporation, Baton Rouge, LA	4460
4554-X	B.F. Goodrich Chemical Company, Cleveland, OH.	4554
4661-X	Foote Mineral Company, Exton, PA	4661
5112-X	U.S. Department of Defense, Washington, DC.	5112
5112-X	Austin Powder Company, Cleveland, OH.	5112
5200-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	5200
5243-X	Austin Powder Company, Cleveland, OH.	5243
5456-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	5456
5567-X	U.S. Department of Energy, Washington, DC.[2]	5567
5861-X	HTL Industries, Incorporated, Duarte, CA.	5861
5951-X	Ashland Chemical Company, Dublin, OH.	5951
5951-X	Amerl Gas, Inc., Carbon Dioxide Division, Dallas, TX.	5951
6016-X	Harvey Company, Greensburg, PA	6016
6039-X	Rohm & Haas Company, Philadelphia, PA.	6039
6113-X	Philadelphia Gas Works, Philadelphia, PA.	6113
6113-X	Valley Gas Company, Cumberland, RI	6113
6205-X	Northern Petrochemical Company, Morris, IL.	6205
6333-X	Allied Corporation, Morristown, NJ	6333
6464-X	Philadelphia Gas Works, Philadelphia, PA.	6464
6464-X	Fall River Gas Company, Fall River, MA.	6464
6530-X	Liquid Carbonic Corporation, Chicago, IL.	6530
6602-X	Dow Chemical Company, Midland, MI.[3]	6602
6726-X	Bom Free Plastics, Inc., Gardena, CA	6726
6735-X	Great Lakes Chemical Corporation, El Dorado, AR.	6735
6806-X	Dow Chemical Company, Midland, MI	6806
6825-X	Richmond Equipment Company, Livermore, CA.	6825
6898-X	Ashland Oil, Inc., Dublin, OH	6898
6898-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	6898
6908-X	U.S. Department of Defense, Washington, DC.	6908
6919-X	Northern Petrochemical Company, Morris, IL.	6919
6985-X	U.S. Department of Energy, Washington, DC.	6985
7052-X	Power Conversion, Inc., Mount Vernon, NY.	7052
7060-X	Suburban Airservice, Incorporated, Laurel, MD.	7060
7066-X	Air Charter Services, Inc., Mansfield, MA.	7066
7072-X	Container Corporation of America, Wilmington, DE.	7072
7227-X	Richmond Lox Equipment Company, Livermore, CA.	7227
7409-X	Puerto Rico Maritime Shipping Authority, Elizabeth, NJ.	7409
7438-X	Ethyl Corporation, Baton Rouge, LA	7438
7578-X	U.S. Department of Defense, Washington, DC.	7578
7598-X	Pratt & Whitney Aircraft Group, East Hartford, CT.	7598
7616-X	The Kansas City Southern Railway Company, Kansas City, MO.	7616
7770-X	Fauvet-Girel, Paris, France	7770
7835-X	Airco Industrial Gases, Murray Hill, NJ	7835
7835-X	Liquid Carbonic Corporation, Chicago, IL.	7835
7835-X	Union Cabide Corporation, Danbury, NJ.	7835
7883-X	Ethyl Corporation, Baton Rouge, LA	7883
7883-X	RMI Company, Ashtabula, OH	7883
7895-X	Dow Corning Corporation, Midland, MI	7895
7915-X	Olin Corporation, East Alton, IL	7915
7915-X	U.S. Department of Defense, Washington, DC.	7915
7929-X	C-I-L, Inc., Willowdale, Ont., Canada.[4]	7929
7945-X	HTL Industries, Incorporated, Duarte, CA.[5]	7945
7946-X	Westinghouse Electric Corporation, Horseheads, NY.	7946
7954-X	Air Products and Chemicals, Incorporated, Allentown, PA.[6]	7954
7997-X	Dow Chemical Company, Midland, MI	7997
8156-X	Liquid Carbonic Corporation, Chicago, IL.	8156
8180-X	Dow Corning Corporation, Midland, MI	8180
8264-X	Hercules, Incorporated, Wilmington, DE.	8264
8265-X	Hercules, Incorporated, Wilmington, DE.	8265
8268-X	Alaska Explosives Limited, Anchorage, AK.	8268
8269-X	Olin Corporation, East Alton, IL	8269
8308-X	New England Nuclear Corporation, Boston, MA.	8308
8308-X	MHC Messengers, Inc., Avenel, NJ	8308
8308-X	Associated Couriers, INC., Maryland Heights, MO.	8308
8324-X	Rexnord, Incorporated, Milwaukee, WI	8324
8328-X	U.S. Coast Guard Research & Development Center, Washington, DC.	8328
8352-X	Degussa Corporation, Teterboro, NJ	8352
8353-X	Thiokol Corporation, Huntsville, AL	8353
8365-X	Hercules, Incorporated, Wilmington, DE.	8365
8460-X	Gillette Company, Boston, MA.[7]	8460
8525-X	ASC Containerlines, N.V., Antwerp, Belgium.[8]	8525
8602-X	Minnesota Valley Engineering, New Prague, MN.[9]	8602
8636-X	Ethyl Corporation, Baton Rouge, LA.[10]	8636
8646-X	Marshall Hyde Incorporated Port Huron, MI.[11]	8646
8660-X	Hach Company, Ames, IA.[12]	8660
8752-X	Thiokol Corporation, Elkton, MD	8752
8760-X	Barton Solvents, Incorporated, Des Moines, IA.[13]	8760
8775-X	Osmose Wood Preserving Company, Buffalo, NY.[14]	8775

[1] To authorize a new container and pallet; to expand paragraph 3 to allow additional commodities identified in writing to Office of Hazardous Materials Regulation and to provide relief from § 177.835(k).

[2] To authorize triaminotrinitrobenzene, class A explosives and other Class A explosives identified in writing, to provide for modification of shipping container and to modify drawing references.

[3] To authorize installation of a corrosometer in the vapor port within the dome of the tank cars authorized in the exemption.

[4] To renew and to authorize new material of construction for bags under exemption.

[5] To renew and to modify provisions for flattening and burst tests.

[6] To renew and to modify provision of paragraph 7.b. pertaining to safety relief device on cylinders.

[7] To authorize passenger and cargo-only aircraft, with special provision for passenger aircraft to allow only one device per crew member or passenger aboard the aircraft and to ad § 173.22a.

[8] To expand the water mode port area to New Orleans, Louisiana and Charleston, South Carolina.

[9] To authorize an additional portable tank design identical to that presently authorized except for capacity.

[10] To deviate from marking DOT-E 8636 on drums shipped under the terms of the exemption.

[11] To authorize cargo vessel as an additional mode of transportation.

[12] To add rail as an additional mode of transportation.

[13] To authorize petroleum naphtha, classed as a flammable liquid as an additional commodity.

[14] To renew exemption issued on an emergency basis to authorize import shipment of arsenic trioxide in metal drums exceeding authorized capacity and gross weight limitation.

Application No.	Applicant	Partial to exemption
4453-P	Mesabi Powder Company, Hibbing, MN	4453
5206-P	Mesabi Powder Company, Hibbing, MN	5206
6296-P	Farmland Industries, Inc., St. Joseph, MO.	6296
6530-P	Tri-State Supply Company, Bismarck, ND.	6530
6971-P	PolyScience Corporation, Niles, IL	6971
7060-P	Southland Air Corporation, Pasadena, CA.	7060
7774-P	CRC Wireline, Inc., Grand Prairie, TX	7774
8077-P	Dow Corning Corporation, Midland, MI	8077
8692-P	Dow Chemical U.S.A., Midland, MI	8692

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 3, 1982.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-3429 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, RSPA DOT

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1 - Motor vehicle, 2 - Rail freight, 3 - Cargo vessel, 4 - Cargo-only aircraft, 5 - Passenger-carrying aircraft.

DATE: Comment period closes on or before March 15, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8778-N	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 173.316	To manufacture, mark and sell cargo tanks for shipment of liquefied hydrogen, classed as a flammable gas. (mode 1)
8779-N	Acme Resin Corporation, Forest Park, IL	49 CFR 173.346	To authorize shipment of phenol, classed as a poison B, in DOT Specification 57 portable tanks. (mode 1)
8780-N	Container Corporation of America, Wilmington, DE	49 CFR 178.19, Part 173, Subpart F	To manufacture, mark and sell non-DOT specification 20-gallon tight head polyethylene container similar to DOT Specification 34 except for wall thickness for shipment of those commodities presently authorized in DOT Specification 34. (modes 1, 2, 3)
8781-N	Mauser-Werke, G.m.b.H. (Mauser Packaging Ltd.), New York, NY.	49 CFR 178.116-6(a)	To manufacture, mark and sell non-DOT Specification metal drums similar to DOT Specification 17E, except for an increase in body thickness to 1 mm and a decrease in head thickness to 1 mm, for shipment of those commodities authorized in DOT 17E drums having 18 gauge heads and 20 gauge bodies. (modes 1, 2, 3)
8782-N	Sherwin Williams Company, Cleveland, OH	49 CFR 173.119(a)(23)	To authorize shipment of various flammable liquids in 1-gallon DOT Specification 2E polyethylene bottles, not to exceed four bottles overpacked in non-DOT specification corrugated carton. (modes 1, 2)
8783-N	Bignier Schmid Laurent, Ivry Sur Seine, France.	49 CFR 173.315	To authorize shipment of various flammable compressed gases in non-DOT specification IMCO Type V portable tanks. (modes 1, 2, 3)
8784-N	Boeing Aircraft Company, Seattle, WA	49 CFR 173.346, 173.352	To authorize shipment of various waste, poison B liquids, n.o.s. and cyanide solutions, n.o.s. in DOT Specification 57 steel portable tanks. (mode 1)
8785-N	Coker Aviation, Inc., D.B.A. Coker Airfreight, Inc., Grand Prairie, TX.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (mode 4)
8786-N	Gas Spring Corporation, Colmar, PA	49 CFR 173.302, 175.3	To manufacture, mark and sell non-DOT specification cylinders with a capacity of up to 15 cubic inches, charged with nitrogen. (modes 1, 2, 3, 4)
8787-N	Motorola Semiconductor Sector, Phoenix, AZ	49 CFR 173.119, 173.245, 173.249, 173.263, 173.264(a), 173.267, 173.268, 173.272, 173.299, 173.800, 178.24(a).	To authorize shipment of various ORM-B, oxidizers, flammable and corrosive liquids in not over 1-gallon capacity DOT Specification 2E polyethylene bottles, overpacked, not to exceed 4 bottles in a DOT Specification 12B fiberboard box contained within a wire basket. (mode 1)
8788-N	Frontier Industries, Santa Maria, CA	49 CFR 173.119, 178.340-7	To manufacture, mark and sell non-DOT Specification cargo tanks similar to DOT Specification MC-312 except for circumferential reinforcement with ring stiffeners, for shipment of crude oil, petroleum, classed as a flammable liquid. (mode 1)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e))

Issued in Washington, DC, on February 3, 1982.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-3430 Filed 2-10-82; 8:45 am]

BILLING CODE 4910-60-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Commodity Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Commodity Policy Advisory Committee (the Advisory Committee) to be held March 10, 1982, from 2 p.m. to 5 p.m. in the Offices of the U.S. Trade Representative, will involve a review and discussion of the current issues involving the trade and commodity policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act), information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives, information the disclosure of which would be likely to significantly frustrate implementation of proposed government action, and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code.

Therefore, the meeting of the Commodity Policy Advisory Committee will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-3687 Filed 2-10-82; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 29
Thursday, February 11, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 5398.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: February 9, 1982, 12:30-4 p.m.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

CHANGE IN THE MEETING: Item III of the agenda of the meeting has been changed to:

III. Statement of the Commission on Enforcement of Equal Educational Opportunity.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera and Barbara Brooks, Press and Communications Division (202) 254-6697.

[S-211-82 Filed 2-9-82; 3:55 pm]

BILLING CODE 6335-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 19, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-206-82 Filed 2-9-82; 11:20 am]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, February 16, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Bank of Oakland, a proposed new bank, to be located at 360 14th Street, Oakland, California.
Coast Commercial Bank, a proposed new bank, to be located at 701 Front Street, Santa Cruz, California.
Valley Commercial Bank, a proposed new bank, to be located at 1031 E. Waterloo Road, Stockton, California.

Application for consent to merge and establish two branches:

Citizens Bank and Trust Company of Maryland, Riverdale, Maryland, for consent to merge, under its charter and title, with The Bank of Brandywine, Brandywine, Maryland, and to establish the two offices of The Bank of Brandywine as branches of the resultant bank.

Request for an extension of time to establish a remote service facility:

Athens Bank and Trust, Athens, Georgia, for an extension of time in which to establish its remote service facility to be located at 190 Huntington Road, Athens, Georgia.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,087-L—International City Bank and Trust Company, New Orleans, Louisiana
Case No. 45,091-L—The Drovers' National Bank of Chicago, Chicago, Illinois
Case No. 45,100-L—International City Bank and Trust Company, New Orleans, Louisiana
Memorandum and Resolution re: Astro Bank, Houston, Texas
Memorandum re: Contingency Fee Arrangement with Local Counsel.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 9, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-207-82 Filed 2-9-82; 11:15 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 8, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of The Hibernia Bank, San Francisco, California, for consent to convert the remote service facility located in the A.S.U.C. Store Complex, Student Union Building, Bancroft Way and Telegraph Avenue, Berkeley, California, to a limited service branch.
Requests, pursuant to a Merger Assistance Agreement with the Corporation, for

consent to employ two officers and for consent to elect four trustees:
Buffalo Savings Bank
Buffalo, New York

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-205-82 Filed 2-9-82; 11:14 am]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, February 16, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish two branches:

Syracuse Savings Bank, Syracuse, New York, for consent to merge, under its charter and title, with Dime Federal Savings and Loan Association, Cortland, New York, and to establish the two offices of Dime Federal Saving and Loan Association as branches of the resultant bank.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 9, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-206-82 Filed 2-9-82; 11:15 am]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (E)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 8, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of an application of Peoples State Bank, a proposed new bank, to be located at 1700 South Lynn Riggs, Claremore, Oklahoma, for Federal deposit insurance.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

By the same majority vote, the Board also voted to withdraw from the agenda for consideration in open session and to add to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: First National Bank of Carrington, Carrington, North Dakota

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be considered in a closed meeting by authority of subsections (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)); and that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: February 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-204-82 Filed 2-9-82; 11:13 am]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:55 p.m. on Saturday, February 6, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and

the assumption of the liability to pay deposits made in The First National Bank and Trust Company of Tuscola, Tuscola, Illinois, which was closed on February 6, 1982 by the Acting Comptroller of the Currency; (2) accept the bid for the transaction submitted by First National Bank of Douglas County, Tuscola, Illinois, a newly-organized national bank, subject to approval of the appropriate court; and (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Paul M. Homan, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-203-82 Filed 2-9-82; 11:12 am]

BILLING CODE 6714-01-M

8

FEDERAL ENERGY REGULATORY COMMISSION

February 9, 1982.

TIME AND DATE: 9:30 a.m., February 12, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Consumer Energy Council of America, et al.* v. *FERC*, D.C. Cir. No 80-2184, *et al.*

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[S-210-82 Filed 2-9-82; 2:50 pm]

BILLING CODE 6717-02-M

9

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 5571, February 5, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. February 11, 1982.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CAP-26. P-3498-001, Chester Water Authority

Kenneth F. Plumb,

Secretary.

[S-213-82 Filed 2-9-82; 3:58 pm]

BILLING CODE 6717-01-M

10

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m. February 17, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly report of actions taken pursuant to delegated authority.
2. Sea-Land Service, Inc. 13 percent general rate increase applying between U.S. Atlantic and Gulf ports and ports in Puerto Rico and the Virgin Islands and between San Juan, Puerto Rico, and Canadian ports via Elizabeth, New Jersey.
3. Trailer Marine Transport Corporation 16 percent rate increase applying between San Juan, Puerto Rico, and ports in the Virgin Islands.
4. Docket No. 82-2: Agreement No. 10416—Trailer Marine Transport Corporation and Puerto Rico Maritime Shipping Authority—Referral by Presiding Judge of motion to discontinue.

Portion closed to the public

1. Petition of Government of the Virgin Islands and Puerto Rico Manufacturers Association for limited disclosure of data filed by Puerto Rico Maritime Shipping Authority.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-212-82 Filed 2-9-82; 3:55 pm]

BILLING CODE 6730-01-M

11

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 4, 1982.

TIME AND DATE: 2:30 p.m., Wednesday, February 3, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items on the agenda for February 3, 1982, the Commission also considered the following:

4. Eastover Mining Company, Docket No. VA 80-84.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the item listed was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-209-82 Filed 2-9-82; 2:49 pm]

BILLING CODE 6820-12-M

12

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Tuesday, February 16, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: February 8, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-202-82 Filed 2-8-82; 5:04 pm]

BILLING CODE 6210-01-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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6417 **Financial Assistance for El Salvador** Presidential determination.

6419 **Military Assistance for El Salvador** Presidential determination.

6440 **Income and Employment Taxes** Treasury/IRS proposes regulations on withholding from amounts paid under accident or health plans.

6598 **Grant Programs—Education** ED proposes to amend administrative rules for consolidated grant programs. (Part VI of this issue)

6584 **Education of Disadvantaged** ED proposes to provide financial assistance to local agencies for special education projects for educationally deprived children. (Part V of this issue)

6556 **Medicine** HHS proposes to change End-Stage Renal Disease Program reimbursement system. (Part IV of this issue)

6433 **Food Stamps** USDA/FNS proposes to remove specific dollar amounts from some regulations and to revise demonstration project procedures.

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

6530, 6534 **Occupational Safety and Health** Labor/OSHA issues interpretative rule and proposed rule on use of personal sampling devices during inspection. (2 documents) (Part II of this issue)

6436 **Housing—Consumer Safety** CPSC postpones decision on proposed ban of urea-formaldehyde foam insulation and denies request for extended comment period.

6426 **Employee Benefit Plans** PBGC adopts interest rates and factors used to value benefits provided under terminating non-multiemployer pension plans.

6453 **Government Procurement** OMB/FPPO requests comments about draft Federal Acquisition Regulations on Service Contract Act of 1965, professional employee compensation, contract debts, assignment of claims, and warranties.

6423 **Loan Programs—Agriculture** USDA/FmHA temporarily suspends mailing of Form FmHA 451–35, "Past Due Notice."

6446 **Telecommunications—Domestic Satellites** FCC seeks comments on domestic fixed-satellite transponder sales.

6457 **Antidumping** Commerce/ITA initiates investigation on certain steel pipes and tubes from Japan.

6459 Commerce/ITA issues final determination of sales at less than fair value on sorbital from France.

6458 **Countervailing Duty** Commerce/ITA initiates investigation on certain steel wire nails from the Republic of Korea.

6536 **Minimum Wages** Labor/ESA/W&H publishes minimum wages for Federal and federally assisted construction. (Part III of this issue)

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6515 **Sunshine Act Meetings**

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6536 **Part III, Labor/ESA/W&H**
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Presidential Documents

Title 3—

The President

Presidential Determination No. 82–4 of January 28, 1982

Determination to Authorize Continued Assistance for El Salvador

Memorandum for the Secretary of State

Pursuant to Sections 728(b), (d) and (e) of the International Security and Development Cooperation Act of 1981, I hereby:

(1) determine that the Government of El Salvador is making a concerted and significant effort to comply with internationally recognized human rights;

(2) determine that the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens;

(3) determine that the Government of El Salvador is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) determine that the Government of El Salvador is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict;

(5) determine that the Government of El Salvador has made good faith efforts to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and bring to trial those responsible;

(6) authorize the obligation of funds in fiscal years 1982 and 1983 for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961, the issuance of letters of offer and the extension of credits and guarantees for El Salvador under the Arms Export Control Act, and the assignment of members of the Armed Forces to El Salvador to carry out functions under either of these Acts.

This determination together with the justification therefor shall be reported to the Congress immediately.

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, January 28, 1982.

[FR Doc. 82–4029
Filed 2–10–82; 4:38 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 82–5 of February 2, 1982

Determination to Authorize the Furnishing of Immediate Military Assistance to El Salvador

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 506(a) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby determine that:

1) an unforeseen emergency exists which requires immediate military assistance to El Salvador; and

2) the aforementioned emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except section 506(a) of the Act.

Therefore, I hereby authorize the furnishing of up to $55,000,000 in defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, to El Salvador under the provisions of chapters 2 and 5 of part II of the Act.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, February 2, 1982.

cc: The Secretary of Defense

[FR Doc. 82-4030
Filed 2-10-82; 4:39 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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Friday, February 12, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 979

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the Citrus Administrative Committee functioning under Marketing Order 905 and the South Texas Melon Committee functioning under Marketing Order 979. Funds to administer these programs are derived from assessments on citrus and melon handlers regulated under the orders.

EFFECTIVE DATES: August 1, 1981–July 31, 1982, for Marketing Order 905 and October 1, 1981–September 30, 1982, for Marketing Order 979.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by the committees established under the respective marketing orders, and upon other information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable oranges, grapefruit, tangerines, tangelos, and melons handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions, and the effective time.

Therefore, §§ 905.219 (M. O. 905) and 979.203 (M. O. 979) are removed and new §§ 905.220 (M. O. 905) and 979.204 (M. O. 979) are added. (The following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations).

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

§ 905.220 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Citrus Administrative Committee during fiscal period August 1, 1981, through July 31, 1982, will amount to $236,150.

(b) The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at $0.00325 per carton (⅘ bushel) of fruit.

PART 979—MELONS GROWN IN SOUTH TEXAS

§ 979.204 Expenses and assessment rate.

(a) Expenses of $77,170 by the South Texas Melon Committee are authorized, and an assessment rate of $0.0075 per carton of melons is established for the fiscal period ending September 30, 1982.

(b) In accordance with the provisions of § 979.42, late payment charges of one and one-half percent per month shall be charged on the unpaid balance for each past due account. An account is past-due 30 days after the billing date. Unexpended funds may be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 9, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–3957 Filed 2–11–82; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Reg. 345, Amdt. 1; Lemon Reg. 346]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 14–20, 1982, and increases the quantity of lemons that may be shipped during the period February 7–13, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective February 14, 1982, and the amendment is effective for the period February 7–13, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby

found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on February 9, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is very active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), becuse of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.646 is added as follows:

§ 910.646 Lemon Regulation 346.

The quantity of lemons grown in California and Arizona which may be handled during the period February 14, 1982, through February 20, 1982, is established at 225,000 cartons.

2. Section 910.645 Lemon Regulation 345 (47 FR 5404) is revised to read as follows:

§ 910.645 Lemon Regulation 345.

The quantity of lemons grown in California and Arizona which may be handled during the period February 7, 1982, through February 13, 1982, is established at 225,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 11, 1982.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–4094 Filed 2–11–82; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 928

[Hawaiian Papaya Reg. 12]

Papayas Grown in Hawaii; Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation sets minimum and maximum size requirements for fresh papayas grown in Hawaii shipped to points outside the State. Such action is designed to promote orderly marketing of suitable sizes of such fresh papayas in the interest of producers and consumers.

DATES: Interim rule effective February 15, 1982, through April 30, 1982; comments received by March 15, 1982, will be considered prior to issuance of a final rule to be effective May 1, 1982, through December 31, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Papaya Administrative Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The interim rule, which contains a size regulation to be effective for the period February 15–April 30, 1982, proposes that these size requirements be extended by a final rule for the period May 1–December 31, 1982. Interested persons are invited to comment with regard to the interim rule and the proposed final rule during the 30 days provided.

The regulation is designed to maintain orderly marketing conditions and protect grower returns by requiring that papayas grown in Hawaii shipped to export markets (points outside of the State of Hawaii) weigh at least 14 ounces but not more than 25 ounces. Papayas smaller than 14 ounces or larger than 25 ounces do not sell well in retail markets, and papayas larger than 25 ounces do not pack well in the standard 10-pound shipping container, and they bruise easier than smaller fruit. As a consequence, such fruit tends to be in poorer condition and of a lower quality by the time of sale than fruit in the 14–25 ounce weight range. While most of the papaya crop is expected to meet this size requirement, fruit smaller or larger than that specified could be sold within Hawaii in both the fresh market and the processed products market. Shipment of fresh papayas smaller or larger than that specified to markets outside Hawaii could tend to disrupt orderly marketing and depress prices of all fresh papayas sold in such markets. The presence of poor quality fruit in the market undermines consumer confidence in the quality of all such fruit sold, and discourages repeat purchases. The following size regulation is necessary to assure shipment of fruit of an acceptable quality and to promote orderly marketing.

Hawaiian papaya production is estimated at a record large 85,000,000 pounds for the 1982 season, of which an estimated 75,000,000 pounds will be shipped fresh and the remainder processed. Fresh shipments to the U.S. mainland and Japan, the primary market for Hawaiian papayas, are expected to total 60,000,000 pounds, while 15,000,000 pounds are expected to be sold fresh in Hawaii. In comparison, 1981 season Hawaiian papaya production amounted to an estimated 64,500,000 pounds, with 60,000,000 pounds shipped fresh of which 47,000,000 pounds were sold in the U.S. mainland and Japan and 13,000,000 pounds in Hawaii.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open

meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

PART 928—PAPAYAS GROWN IN HAWAII

Therefore, a new § 928.312 is added to read as follows: [1]

§ 928.312 Hawaiian Papaya Regulation 12.

During the period February 15, 1982, through April 30, 1982, no handler shall ship any papayas to any point outside the State of Hawaii unless such papayas individually weigh not less than 14 ounces or not more than 25 ounces.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: February 10, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–4011 Filed 2–11–82; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1951

Servicing of Delinquent Section 502 Rural Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Rule-related notice.

SUMMARY: Effective after close of business February 19, 1982, the Farmers Home Administration (FmHA) Finance Office will temporarily suspend mailing Form FmHA 451–35, "Past Due Notice," to Section 502 Rural Housing borrowers.[2] Section 502 Rural Housing borrowers whose payments are not received when due will be advised of their account status in accordance with Section 1951.312 of Subpart G of part 1951, Chapter XVIII, Title 7, Code of Federal Regulations. This suspension will remain in effect until January 31, 1983, unless terminated earlier. Catalog of Federal Domestic Assistance Program Number 10.410—Low to Moderate Income housing loans (Rural Housing Loans—Section 502—Insured). This instruction does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

EFFECTIVE DATE: Effective after close of business February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Wesley Harris, Director, Servicing and Property Management Division, Single Family Housing—(202) 382–1452.

Dated: February 8, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82–3980 Filed 2–11–82; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3081]

Renuzit Home Products Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

Correction

In FR Doc. 82–3318 appearing on page 5885 in the issue for Tuesday, February 9, 1982, third column, second line under DATE, "January 20, 1981.[1]" Should read "January 20, 1982.[1]".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76 (Texas–7 Addition); Order No. 210]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Lower Wilcox Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 5, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include an additional area of the Lower Wilcox Field in Texas as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued November 6, 1981 (46 FR 56429, November 10, 1981) [1] based on a recommendation by the Railroad Commission of Texas (Texas) that this additional area of the Lower Wilcox Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the additional area of the Lower Wilcox Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below, effective February 5, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d)(18) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

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[1] Section 928.312 expires April 30, 1982, and will not be published in the annual Code of Federal Regulations.

[2] **Editorial Note.**—Form FmHA 431–35 is referenced in 7 CFR 1951.311(a).

[1] Comments were invited and one favorable comment was received. No party requested a public hearing and no hearing was held.

(d) *Designated tight formations.* * * *

(18) *Lower Wilcox Formation in Texas.* RM79-76 (Texas—7)

(i) *Three County Area.*—(A) *Delineation of formation.* The Lower Wilcox Formation is found in the southern portion of Austin County, the northern portion of Wharton County, and the eastern portion of Colorado County, Texas.

(B) *Depth.* The top of the Lower Wilcox Formation is located at an approximate depth of 11,700 feet and the base is located at an approximate depth of 12,700 feet, giving a thickness of 1,000 feet.

(ii) *Bonus, S. (Wilcox 13,900') Field.*—(A) *Delineation of formation.* The Lower Wilcox Formation is found in the Bonus, S. (Wilcox 13,900') Field, Wharton County, Texas, approximately 10 miles south of the town of Eagle Lake. The formation is described by a 2.5 mile radius around the Laurel Fuel Company Winterman No. 3 well, and covers approximately 19.6 square miles.

(B) *Depth.* The top of the Lower Wilcox Formation is at an approximate depth of 13,900 feet and is between 60 and 70 feet thick.

* * * * *

[FR Doc. 82-3071 Filed 2-11-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76 (Texas—1 Addition); Order No. 209]

High-Cost Gas Produced from Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Cotton Valley Sandstone Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: February 5, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Cotton Valley Sandstone in the Paige, N. E. Field area in Texas as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued August 25, 1981 (46 FR 43847, September 1, 1981)[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that the Cotton Valley Sandstone in the Paige, N. E. Field area be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Cotton Valley Sandstone meet the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations,* is amended as set forth below, effective February 5, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d)(1) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(1) *The Cotton Valley Group in Texas.* RM79-76 (Texas—1).

(i) *The Cotton Valley Group consisting of the Cotton Valley Sandstone, the Bossier Shale and the Cotton Valley Lime Formations.*—(A) *Delineation of formation.* The northern boundary of the Cotton Valley Group is the Texas-Oklahoma border extending through Fannin, Lamar, and Red River Counties; the eastern boundary is formed by the Texas-Arkansas border and the Texas-Lousiana border; the southern boundary is along the Angelina-Caldwell flexture, running through Sabine, San Augustine, Angelina and Trinity Counties; the western boundary is set by the Mexia-Talco fault zone through Limestone, Navarro and Kaufman Counties.

(b) *Depth.* The Cotton Valley Sandstone is encountered at an average depth of approximately 7,000 feet to the north, 8,000 feet to the east, between 10,000 and 11,000 feet to the south, and 5,000 feet to the west; the Bossier Shale is encountered at 7,700 feet to the north, 10,720 feet to the east, 12,600 feet to the south, and 5,340 feet to the west: the Cotton Valley Lime is encountered at 8,000 feet to the north, 11,400 feet to the east, 13,200 feet to the south, and 5,500 feet to the west.

(ii) *The Cotton Valley Sandstone in the Paige, N. E. Field area.*—(A) *Delineation of formation.* The Cotton Valley Sandstone in the Paige, N. E. Field area is found in the eastern portion of Bastrop County, Texas, in Railroad Commission District No. 1. The boundaries of the Cotton Valley Sandstone are approximately 2.5 miles around the Hou-Tex Oil and Gas No. 1 O. R. Mitchell Well. This well is in the Paige, N. E. Field, located two miles from Paige, Texas, in the Wm. Boatwright Survey, A-82.

(B) *Depth.* The top and base of the Cotton Valley Sandstone in the Paige, N. E. Field area are found at the approximate subsea depths of −11,520 feet and −12,780 feet, respectively. The maximum thickness of the formation is approximately 1,790 feet.

* * * * *

[FR Doc. 82-3072 Filed 2-11-82; 8:46 am]
BILLING CODE 6717-01-M

[1] Comments were invited and none were received. No party requested a hearing and no hearing was held.

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18 CFR Part 271

[Docket No. RM79-76 (Texas—11 Addition); Order No. 208]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost natural gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Wilcox Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 5, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include an additional area of the Wilcox Formation in Texas as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued November 13, 1981 (46 FR 56822, November 19, 1981) [1] based on a recommendation by the Railroad Commission of Texas (Texas) that the Wilcox Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the additional area of the Wilcox Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below, February 5, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d)(58) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(58) *Wilcox Formation in Texas.* RM79–76 (Texas—11).

(i) *Aviators, N. (12,000) Field.*—(A) *Delineation of formation.* The Wilcox Formation found in the area of the Aviators, N. (12,000) Field, Webb County, Texas, is within a 2.5 mile radius around the Pennzoil Producing Company No. 53–1 B.M.T.-Alice B. Hall well and covers approximately 19.6 square miles.

(B) *Depth.* The top of the Wilcox Formation, Aviators, N. (12,000) Field is at approximately −11,085 feet subsea and is 114 feet thick.

(ii) *Roma, W. (Wilcox 10,100) Field.*—(A) *Delineation of formation.* The Wilcox Formation found in the area of the Roma, W. (Wilcox 10,100) Field, Starr County, Texas, is within a 2.5 mile radius around the Border Exploration Company No. 1 H. P. Guerra Jr., *et al.* well and is adjacent to the Rio Grande River.

(B) *Depth.* The top of the Wilcox Formation, Roma, W. (Wilcox 10,100) Field is at approxiamtely 9,750 feet and extends to 10,750 feet, resulting in a total thickness of 1,000 feet.

* * * * *

[FR Doc. 82-3973 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Comments were invited and one favorable comment was received. No party requested a public hearing and no hearing was held.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 136 and 137

[Docket No. 79N–0327]

Iron Fortification of Enriched Bread and Flour; Standards of Identity; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with all provisions of the amended standards of identity for enriched bread, rolls, buns; enriched flour; and enriched self-rising flour, published in the **Federal Register** of August 28, 1981 (46 FR 43413).

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun on October 27, 1981.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: A final rule amending the standards of identity for enriched bread, rolls, and buns (21 CFR 136.115); enriched flour (21 CFR 137.165); and enriched self-rising flour (21 CFR 137.185) by removing minimum and maximum requirements for iron enrichment and establishing single-level requirements of 12.5 milligrams per pound, for enriched bread, rolls, and buns; and 20 milligrams per pound for enriched flour and enriched self-rising flour, was published in the **Federal Register** of August 28, 1981 (46 FR 43413). The single-level requirements would promote greater uniformity and would allow enriched bread to be made from enriched flour without further adjustment. The final rule also provided for reasonable overages within the limits of good manufacturing practice. Any person who would be adversely affected by the regulation could have filed on or before September 28, 1981, written objections and requested a hearing. One letter was received objecting to portions of the final rule, but the objector did not request a hearing.

The objection stated that FDA erred in its contention in the preamble to the final regulation that the iron bioavailability issue is not within the scope of the final rule for enriched flour and enriched bread and argued that the agency has the authority and responsibility to promulgate a bioavailability requirement.

FDA agrees that it does have the authority to regulate the bioavailability of iron added to enriched bread and to enriched flour. However, as stated in the objection, current knowledge is insufficient to determine how to regulate the bioavailability of iron in bread. The agency is awaiting data from studies planned and sponsored by the World Health Organization and the Agency for

International Development and directed by the International Nutritional Anemia Consultative Group. These studies will test the bioavailability of various iron compounds and will shed light on which assays are best suited for testing iron bioavailability. As is stated in the August 28, 1981 final rule, a separate proposal on the bioavailability of iron may be published at a later date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), notice is given that the effective date for compliance with 21 CFR 136.115, 21 CFR 137.165, and 21 CFR 137.185 as amended in the **Federal Register** of August 28, 1981 (46 FR 43413) is July 1, 1983. Voluntary compliance may have begun October 27, 1981.

Dated: February 5, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-3664 Filed 2-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 145

[Docket No. 79N-0231]

Canned Fruits, Canned Berries; Amendment of Standard of Identity; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 81-282 relating to canned fruits, canned berries; amendment of standard of identity, appearing at page 2339 in the issue of Friday, January 9, 1981, corrects the "maximum less than" entry for raspberries in the table.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: On page 2340, § 145.120 *Canned berries* in the table in paragraph (a)(3)(ii)(*d*) an entry for "Raspberries" appears incorrectly. Under the heading "Maximum less than" change "16" to "15".

Dated: February 4, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-3663 Filed 2-11-82; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning March 1, 1982. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after March 1, 1982, and enables the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation (the "PBGC") issued a final regulation (46 FR 9402 *et seq.*) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). That regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B to the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before February 1, 1982. (29 CFR Part 2619 (1981), 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084).

On January 15, 1982, the PBGC last published rates for plans that terminate on or after February 1, 1982 (47 FR 2313, corrected January 28, 1982, 47 FR 4062). At this time, changes in the financial and annuity markets have necessitated an increase in the rates used by the PBGC to value benefits. Accordingly, this amendment changes the rates in Appendix B to add a set of interest rates and factors for plans that terminate on or after March 1, 1982. These rates and factors will remain in effect until such time as PBGC publishes another amendment which changes the rates.

As a rule, the rates will be in effect for at least one month. If the rates are to be changed, PBGC will publish an amendment in the **Federal Register**, normally by the 15th of the month prior to the month for which the new rates will be effective. If no change is to be made, no amendment will be published, and the current rates will remain in effect until further notice.

Because the Multiemployer Pension Plan Amendments Act of 1980 established a new insurance program for multiemployer plans, we note that the rates and factors contained in Appendix B to Part 2619 are applicable to non-multiemployer plans only.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and

issue new interest rates and factors promptly, so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after March 1, 1982, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation or competition.

PART 2619—VALUATION OF PLAN BENEFITS IN NON-MULTIEMPLOYER PLANS

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 is as follows:

Authority.—Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029, (1974) as amended by secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 32 of Appendix B is revised and Rate Set 33 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G," for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
32	Feb. 1, 1982	Mar. 1, 1982	10.75	1.1000	1.0675	1.0400	7	8
33	Mar. 1, 1982		11.00	1.1025	1.0900	1.0400	7	8

Robert E. Nagle,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-3821 Filed 2-11-82; 8:45 am]
BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL-2041-4]

Approval and Promulgation of State Implementation Plans; Utah

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action approves a revision to the Utah State Implementation Plan (SIP) submitted by the Governor on August 17, 1981, which includes a State program for prevention of significant deterioration (PSD). In conjunction with approval of this plan EPA removes the federal PSD program as it applies to lands under State jurisdiction. EPA proposed approval on November 17, 1981 (46 FR 56462), and requested public comments. No adverse comments were received and no new issues were raised. These changes were submitted under requirements of Part C of the Clean Air Act.

DATE: This action is effective February 12, 1982.

ADDRESSES: Copies of the revision are available for public inspection beween 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On August 17, 1981, the Governor of Utah submitted a revision to its State Implementation Plan (SIP) which included revisions to Regulation 3.6 for the prevention of significant deterioration (PSD) of air quality. EPA reviewed their revision, found no major deficiencies, and, on November 17, 1981, (46 FR 56462) proposed approval.

In that proposal EPA described the requirements of Part C of the Clean Air Act, explained how the State of Utah complied with those requirements and requested public comments. While no adverse comments were received, EPA did receive a request for an additional 30 day comment period. However, that request was denied for the following reasons:

(1) The State had provided several opportunities for input during their rulemaking proceedings;

(2) The State provisions are practically identical to EPA's regulations and require very little time for review.

(3) The State and EPA are operating duplicative programs until EPA's approval is finalized.

As explained in the proposed approval, there is one major difference between the State and Federal programs. That difference is that the State's regulation does not necessarily apply on Indian Reservations. Therefore, EPA approves the State regulation and removes the federal regulation except as it applies on Indian Reservations.

EPA finds good cause exists for making the action taken in this notice immediately effective for the following reasons:

(1) The implementation plan revision is already in effect under state law or regulation and EPA approval poses no additional regulatory burden; and

(2) EPA and the State are operating identical programs and this approval removes duplicative requirements.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Utah was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart TT—Utah

1. In § 52.2320, paragraph (c)(10) is added as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(10) Provisions to meet the requirements of Part C of the Clean Air Act, as amended in 1977, were submitted on August 17, 1981.

2. Section 52.2346 is revised to read as follows:

§ 52.2346 Significant deterioration of air quality.

(a) The Utah plan, as submitted, is approved as meeting the requirements of Part C, Title I, of the Clean Air Act, except that it does not apply to sources proposing to construct on Indian Reservations.

(b) *Regulation for Prevention of Significant Deterioration of Air Quality.* The provisions of § 52.21 (b) through (v) are hereby incorporated by reference and made a part of the Utah State Implementation Plan and are applicable to proposed major stationary sources or major modifications to be located on Indian Reservations.

[FR Doc. 82-3755 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 81

[A-5-FRL-2043-6]

Designation of Areas for Air Quality Purposes, Michigan; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking, correction.

SUMMARY: EPA is correcting an error in the Michigan's Saginaw County Redesignation final rule, dated September 21, 1981 (46 FR 46574).

On January 7, 1982, the State of Michigan notified EPA that one error existed in the table describing the attainment status designation. This action corrects that error.

EFFECTIVE DATE: This correction notice becomes effective March 15, 1982.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Pursuant to section 107(d) of the Clean Air Act, the State of Michigan on March 19, 1981 requested EPA to make a change in the attainment status of Saginaw County for carbon monoxide. EPA's notice of final rulemaking on this request was published on September 21, 1981 (46 FR 46574). On January 7, 1982 the State of Michigan notified EPA that one error was contained in the tables describing the attainment status designation. EPA reexamined this designation and is making the following corrections as requested by the State.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

§ 81.323 [Corrected]

Due to a typographical error in the table for § 81.323, on page 46575, of the issue of September 21, 1981, the phrase "southern half" was inadvertently left out of the description of the nonattainment area.

On page 46575, in the table for "Michigan—CO" under § 81.323, the third sentence under the entry for Saginaw County is corrected to read:

* * * The NAA is bounded on the north by the northern boundary of the southern half of the SW and SE quarters of Section 7 and the northern boundary of the southern half of the SW and SE quarters of Section 8 from N. 6th to Findley Road.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only corrects errors in codification. It will impose no new requirements.

This regulation is exempted from review by the Office of Management and Budget (OMB) under Section 3 of Executive Order 12291.

(Sec. 107, Clean Air Act, as amended)

Dated: January 29, 1982.

David Kee,

Acting Regional Administrator.

[FR Doc. 82-3884 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1780

[Circular No. 2496]

Advisory Committee; Cooperative Relations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends existing regulations pertaining to membership on citizen advisory bodies to change certain fixed terms to staggered terms, thereby providing greater continuity in operation and greater economy in maintenance. Authority for these adjustments is contained in the Federal Advisory Committee Act (5 U.S.C. Appendix 1) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

EFFECTIVE DATE: March 15, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (150) Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Teddy W. Roe, (202) 343-2054.

SUPPLEMENTARY INFORMATION: This final rulemaking is concerned with establishing a staggered-term basis for membership on the National Public Lands Advisory Council and the Bureau's many district advisory councils. Its purpose is to provide greater continuity on these important citizen advisory bodies and to promote efficiency in their maintenance by spreading out the work associated with the appointing process.

Previously, the 17 members of the national council served two-year terms which expired on December 31, 1981. Under this rulemaking, the council's membership is expanded to 21, with

seven members each appointed in 1982 to terms of either one, two or three years. All appointments thereafter will be for three-year terms.

With one exception, membership on the district advisory councils will be held to 10; of these 10, three members will be appointed in 1982 for one-year terms, three for two-year terms and four for three-year terms, with subsequent appointments for three-year terms. The exception: The California Desert District Advisory Council will comprise 15 members, with five members each appointed initially to either one-, two- or three-year terms, and all members appointed thereafter to three-year terms.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96-354).

The principal author of this final rulemaking is Teddy W. Roe of the Office of Congressional Affairs, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Under the authority of the Federal Advisory Committee Act (5 U.S.C. Appendix 1) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Subpart 1784, Part 1780, Group 1700, Subchapter A, Chapter II, Subtitle B of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 23, 1981.

PART 1780—COOPERATIVE RELATIONS

§ 1784.3 [Amended]

1. Section 1784.3 is amended by:

(A) Revising paragraph (a) to read:

(a) Elections to grazing advisory boards shall be for 2-year terms unless a shorter period is specified in the charter. Individuals may be re-elected to additional 2-year terms without limit.

* * * * *

(B) Redesignating paragraphs (b), (c) and (d) as paragraphs (e), (f) and (g).

(C) Adding new paragraphs (b), (c) and (d) to read:

* * * * *

(b) Appointment to district advisory councils shall be on a staggered-term basis. In 1982, for councils comprising 10 members, 3 members shall be appointed to terms expiring December 31, 1982, 3 members shall be appointed to terms expiring December 31, 1983, and 4 members shall be appointed to terms expiring December 31, 1984. For the California Desert District Advisory Council, which comprises 15 members, five members shall be appointed to each of the terms ending December 31, 1982, December 31, 1983, and December 31, 1984. All subsequent appointments, to all councils, shall be made for 3-year terms. Vacancies occurring by reason of removal, resignation, death or loss of elected office shall be filled for the balance of the vacating member's term using the same method by which the original appointment was made. At the discretion of the Secretary, members may be reappointed to additional terms, not to exceed a total of 6 years.

(c) Appointment to the National Public Lands Advisory Council shall be on a staggered-term basis. Initial appointments in 1982 shall be made in the following fashion: 7 members shall be appointed for terms expiring December 31, 1982; 7 members shall be appointed for terms expiring December 31, 1983; and 7 members shall be appointed for terms expiring December 31, 1984. Subsequent appointments shall be made for 3-year terms. At least one member shall be an elected official of general purpose government. Vacancies occurring by reason of removal, resignation or death shall be filled for the balance of the vacating member's term using the same methods by which the original appointment was made. At the discretion of the Secretary, members may be reappointed to additional terms. The Council shall elect its own officers.

(d) Elections or appointments to all other advisory bodies shall be for two-year terms unless a shorter period is specified in the charter, the election procedures, or the appointing document. Terms of service normally coincide with duration of the committee charter. Members may be appointed to additional terms at the discretion of the authorizing appointing official."; and

* * * * *

§ 1784.6-1 [Amended]

2. Section 1784.6-1(a) is revised to read:

* * * * *

(a) From nominations by individuals, national organizations and associations concerned with problems related to planning for and management of lands under the jurisdiction of the Bureau of Land Management, the Director will submit to the Secretary a list of citizens recommended for membership on the National Public Lands Advisory Council. From this list or other sources, the Secretary shall appoint to the Council 21 persons who are qualified through education, training or experience to give informed and objective advice concerning land use and resource policy, planning, and management for the public lands.

* * * * *

[FR Doc. 82-3798 Filed 2-11-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6148

[A-12828]

Arizona; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes four Executive Orders which withdrew lands for the Hassayampa Reclamation Project. The affected lands consist of 12,537.23 acres for which the State of Arizona has filed an application under the State Indemnity Lieu Program. Consequently, the entire tract will remain closed to operation of the public land laws, including the mining laws. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The four Executive Orders dated July 25, 1941, March 27, 1943, April 7, 1944, and July 3, 1946, which withdrew lands for the Hassayampa Project, are hereby revoked insofar as they affect the following described lands:

Gila and Salt River Meridian

T. 4 N., R. 3 W.,
Sec. 6, lots 1 to 5, inclusive, SE¼NE¼, E½SE¼;
Sec. 8, S½NE¼.
T. 5 N., R. 3 W.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½W½, E½;
Sec. 8, W½;
Sec. 17, N½, W½SE¼;
Sec. 18, lots 1 to 4, inclusive, E½W½, NE¼, NE¼NE¼SE¼;

Sec. 19, SE¼.
T. 4 N., R. 4 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1, 2, S½NE¼, SE¼.
T. 5 N., R. 4 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 23, all;
Sec. 24, all;
Sec. 26, W½E½, W½;
Sec. 35, all.
T. 6 N., R. 4 W.,
Sec. 12, W½SE¼;
Sec. 23, SE¼NW¼, E½SW¼;
Sec. 25, W½;
Sec. 26, E½W½;
Sec. 35, all.
T. 8 N., R. 4 W.,
Sec. 13, SE¼NE¼NE¼, S½NE¼, W½W½NW¼NE¼, E½E½NW¼, E½W½E½NW¼, E½SW¼, E½W½SW¼, W½SW¼SW¼, SE¼;
Sec. 14, S½SE¼SW¼, SE¼SW¼SW¼, SE¼SE¼, E½SW¼SE¼, SW¼SW¼SE¼.

The areas described aggregate 12,537.23 acres in Maricopa and Yavapai Counties.

2. All of the above described lands in paragraph 1 have been classified for State selection purposes and will not be open to other appropriations under the public land laws, including the mining laws.

3. The lands have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the public lands should be addressed to the Arizona State Director, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-3797 Filed 2-11-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6248]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, correction.

SUMMARY: This document makes corrections to a final rule on a list of communities eligible for the sale of insurance under the National Flood Insurance program, published on Jan. 22, 1982, 47 FR 3119. This corrects entries for the counties of Lincoln and Stanly in North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Appearing in the Federal Register, Vol. 47 No. 15, Docket No. FEMA 6229, at page 3119 in the issue of Friday, January 22, 1982, please make the following corrections on page 3120:

The County of Lincoln, North Carolina shows that the community was reinstated into the National Flood Insurance Program December 31, 1981 in error. The correct reinstatement date for the County is January 4, 1982.

The entry for Stanly County, North Carolina shows "do" in the location column. It should be corrected to read "Unincorporated Areas".

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3701 Filed 2-11-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA–6122]

National Flood Insurance Program; Final Flood Elevation Determination

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Deletion of final rule for the city of Rosenberg, Fort Bend County, Texas.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final base flood elevation (BFE) determination for the City of Rosenberg, Fort Bend County, Texas. This notice will serve to delete that publication. Following an engineering analysis and review, it has been determined that the BFE's for Dry Creek are approximately 0.5 feet lower than previously shown.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: A recent reanalysis of Espey Huston and Associates has resulted in BFE's that are approximately 0.5 feet lower on Dry Creek. The Federal Emergency Management Agency has determined, therefore, that the notice of final flood elevation determination for the City of Rosenberg, Texas, published at 46 FR 58333 on December 1, 1981, should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3788 Filed 2-11-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Amdt. 41]

Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rule 67 of the Commission's Rules of Practice and Procedure is amended to provide that protests to domestic rate filings shall segregate information obtained from the carrier in confidence in a separate document, clearly marked as containing confidential information. The amendment will assure that such information will retain its confidentiality.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5727.

SUPPLEMENTARY INFORMATION: Rule 67 of the Commission's Rules of Practice and Procedure (46 CFR 502.67) prescribes the manner in which protests to domestic rate filings are to be made. The rule also provides a procedure by which protestants may obtain underlying work papers from the carrier under an oath to maintain their confidentiality.

In order to assure the continuing confidentiality of the materials, the

Commission is amending Rule 67 to provide that any confidential information used in support of a protest will be contained in a separate document which will be clearly marked "Contains Confidential Information." Failure to observe this procedure will subject the protest to rejection.

PART 502—RULES OF PRACTICE AND PROCEDURE

Therefore, pursuant to 5 U.S.C. 553 and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), Part 502 of Title 46, Code of Federal Regulations is amended as follows:

Section 502.67(a)(3) is amended by addition of the following sentence after the certification:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

(a) * * *

(3) * * * Where a protest contains information obtained in confidence, it will be set out in a separate document, clearly marked on the cover page "Contains Confidential Information." Failure to observe this procedure will subject the protest to rejection.

Notice of proposed rulemaking and comment is not necessary because this rule is exempt from the notice requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 553) because it relates solely to agency procedure.

By the Commission February 3, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-3820 Filed 2-11-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-582; RM-3864]

FM Broadcast Station in Winamac, Indiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 261A to Winamac, Indiana, in response to a petition filed by Thomas Jurek. The assignment could provide Winamac with a first local aural broadcast service.

EFFECTIVE DATE: March 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 4, 1982.

By the Acting Chief, Policy and Rules Division.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Winamac, Indiana): BC Docket No. 81-582, RM-3864.

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 46 FR 44011, published September 2, 1981, in response to a petition filed by Thomas Jurek ("petitioner"), proposing the assignment of FM Channel 261A to Winamac, Indiana, as that community's first FM assignment. Supporting comments were filed by petitioner in which he reaffirmed his intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Winamac (population 2,370),[1] the seat of Pulaski County (population 13,258), is located approximately 80 kilometers (50 miles) southeast of Gary, Indiana. Channel 261A could be assigned to Winamac consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

3. In support of his proposal, petitioner submitted information with respect to Winamac which is persuasive as to its need for a first FM channel assignment.

4. In our *Notice*, we pointed out that the proposed assignment of Channel 261A to Winamac would provide a first FM service to an area encompassing 961 square kilometers (371 square miles), and a second FM service to an area of 645 square kilometers (249 square miles).

5. In view of the above findings, we believe that the public interest would be served by the assignment of Channel 261A to Winamac, Indiana. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

6. The Canadian Government has given it concurrence in the assignment of Channel 261A to Winamac, Indiana.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective March 19, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended as follows:

City	Channel No.
Winamac, Indiana	261A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-3787 Filed 2-11-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are derived from 1980 U.S. Census, Advance Reports.

47 CFR Part 73

[BC Docket No. 81-594; RM-3896]

FM Broadcast Station in Bozeman, Montana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 236 to Bozeman, Montana, as its second commercial FM channel in response to a request from The Mayfish Corporation.

EFFECTIVE DATE: March 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Ross, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 5, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Bozeman, Montana); BC Docket No. 81-594, RM-3896.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 44478, published September 2, 1981, in response to a petition filed by The Mayfish Corporation ("petitioner"), proposing the assignment of FM Channel 236 to Bozeman, Montana, as the community's second FM assignment. Supporting comments were filed by petitioner in which it affirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Bozeman (population 21,645), the seat of Gallatin County (population 42,865),[1] is located in the mountains of

[1] Population figures are taken from the 1980 U.S. Census.

southwestern Montana. Bozeman is served by Station KBZN(FM) (Channel 229), noncommercial educational Station KGLT(FM) (Channel 220) and AM Stations KBMN, KBOZ, and KXXL.

3. In support of its proposal, petitioner submitted information with respect to Bozeman which is persuasive as to its need for a second FM channel assignment. Petitioner has also shown that the preclusive impact is insignificant since alternative channels are available in the precluded areas.

4. We believe that the public interest would be served by the assignment of Channel 236 to Bozeman, Montana. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a second local FM broadcast service.

5. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. Accordingly, it is ordered, That effective March 22, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.	
	Present	Proposed
Bozeman, Montana	229	229, 236

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commissions's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-3799 Filed 2-11-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 80-605]

Private Land Mobile Radio Services; Amendment To Permit the Use of Certain kHz Offset Assignments In a Certain MHz Band In the Private Land Mobile Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In the Report and Order, PR Docket No. 80-605, FCC 81-347, adopted July 30, 1981, released August 14, 1981, the Commission amended Subpart D of Part 90 of the rules and regulations to permit the use of 12.5 kHz offset assignments in the 450-470 MHz band in the Private and Mobile Radio Services. The need for coordination when the new offset frequencies adjacent to frequencies in the Special Emergency Radio Service are selected was omitted by oversight. This erratum corrects the omission.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Emmett Haines Pritchard, Private Radio Bureau, Washington, D.C. (202) 632-6497.

Released: January 7, 1982.

In the matter of Amendment of Subpart D of Part 90 of the Commission's rules and regulations to permit the use of 12.5 kHz Offset Assignments in the 450-470 MHz band in the Private Land Mobile Radio Services; PR Docket No. 80-605; (September 16, 1981; 46 FR 45953); erratum.

1. In the Report and Order, PR Docket No. 80-605, FCC 81-347, adopted July 30, 1981, released August 14, 1981, the Commission amended Subpart D of Part 90 of the rules and regulations to permit the use of 12.5 kHz offset assignments in the 450-470 MHz band in the Private Land Mobile Radio Services. A frequency coordination requirement was imposed on all of the affected radio services. Among others, the Special Emergency Radio Service was thereby affected. In the Appendix of the Report and Order, § 90.175 *(Frequency coordination requirements)* should have reflected the need for coordination when the new offset frequencies adjacent to frequencies in the Special Emergency Radio Service are selected. However, through oversight this was not done.

2. This fact has been brought to our attention, and we are hereby correcting it. Section 90.175(e)(2) therefore now reads:

§ 90.175 Frequency coordination requirements.

* * * * *

(e) * * *

(2) Applications in the Special Emergency Radio Service, except as required by § 90.53(b)(8) and § 90.267."

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-3799 Filed 2-11-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 30
Friday, February 12, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Open Season and Other Administrative Actions; Public Hearing

Note.—This document originally appeared in the **Federal Register** for Thursday, Feb. 11, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Office of Personnel Management.

AGENCY: Office of Personnel Management.

ACTION: Notice of public hearing.

SUMMARY: The Office of Personnel Management will hold public hearings on its proposals to hold a health benefits open season in May 1982 and to obtain views on proposed administrative changes in the Federal Employees Health Benefits (FEHB) Program.

DATES: The public hearings will be held at the U.S. Office of Personnel Management beginning at 1 p.m. on February 22 and at 10 a.m. on February 23, 1982, in the Auditorium, Ground Floor, 1900 E Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kevin Burns, Assistant Director for Insurance Programs, Compensation Group, OPM, Room 809, 1717 H St. NW., Washington, D.C. 20415; telephone (202) 632–4670.

SUPPLEMENTARY INFORMATION: On November 12, 1981, interim regulations were published in the **Federal Register** (46 FR 55679), effective November 12, 1981. These interim regulations authorized changes in the regularly scheduled open season by announcement of the Director of OPM through an FPM Bulletin. Also, the open season scheduled for 1981 was postponed to a time to be announced later or to the applicable period during 1982, whichever was earlier.

Subsequent to the publication of OPM's interim regulations, the United States District Court for the District of Columbia ordered the United States Government to hold an open season for a minimum of two weeks beginning on December 7, 1981.

Accordingly, a notice was published in the **Federal Register** (46 FR 59227) on December 4, 1981, announcing a general open season to be held December 7, 1981, through December 31, 1981.

On December 4, 1981, the United States Court of Appeals for the District of Columbia Circuit stayed the prior order of the United States District Court and further directed the United States Government to hold only a limited open season for persons not then enrolled under the FEHB Program. A notice was published in the **Federal Register** (46 FR 61066) on December 15, 1981, announcing this modification.

OPM now proposes to conduct a general open season from May 3, 1982, to and including May 28, 1982, with enrollment changes becoming effective for employees on the first day of the first pay period in July, 1982, and for annuitants on July 1, 1982.

In view of these circumstances, and to assure that all interested parties have an opportunity to present their views, the Director of OPM has decided to hold two days of public hearings on the following proposals:

1. The proposal to conduct a general open season from May 3, 1982, to and including May 28, 1982, with enrollment changes becoming effective for employees on the first day of the first pay period in July, 1982, and for annuitants on July 1, 1982. Among the issues to be addressed are:

(a) What effects, if any, will this proposal have upon the stability of the FEHB Program, particularly with respect to the phenomena of adverse selection and demographic imbalance?

(b) Should the regularly scheduled open season which normally occur in November–December 1982 also be held if open season is held in May 1982?

(c) Will there be sufficient claims experience to establish rates and benefits for an open season in November–December 1982 following a May 1982 open season?

(d) With what frequency and at what times should future open seasons be held?

2. A proposal to institute a number of other changes to improve the overall administration of the FEHB Program. Among these are:

(a) To discontinue the practice of requiring carriers to offer selected benefits not required of all carriers.

(b) To levy a transfer fee on enrollees who change plans during an open season.

(c) To permit carriers to exclude certain pre-existing health conditions for enrollees who change plans.

(d) To require all plans in the program to accept annuitants.

(e) To impose certain utilization controls such as requiring second surgical opinions and pre-admission diagnostic testing.

(f) To focus more audit effort on claims paid by plans rather than on administrative expenses.

The public will be given an opportunity to make oral presentations. In the discretion of the presiding official, speakers will be limited to a maximum of 7 minutes for their presentations. All requests to make oral presentations for the record should be received no later than February 18, 1982.

OPM will also accept written comments and other appropriate data from any interested party, in advance of the hearings. Written comments and data submitted to OPM should be received no later than February 22, 1982.

Requests to make oral presentations and submission of written comments should be addressed to Kevin Burns, at the office location and telephone number cited above.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-3804 Filed 2-10-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 273 and 282

[Amdt. No. 208]

Food Stamp Program: Removal of Certain References and Demonstration Project Pre-Operational Procedures From the Code of Federal Regulations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would amend Food Stamp Program regulations by removing all references to the actual dollar amounts of the maximum (1) net income eligibility limits, (2) thrifty food plan (TFP) amounts, (3) standard deduction amounts, (4) child care deduction amounts, and (5) excess shelter deduction amounts from the Code of Federal Regulations (CFR). The action also proposes to amend the CFR by revising the requirements regarding rulemaking procedures for demonstration projects. Such regulations would avoid the needless codification in the Code of Federal Regulations of the cost adjustments regarding the five items mentioned above, and would provide the States with more time to implement those adjustments. The proposal also develops a more efficient notice and comment rulemaking procedure regarding demonstration projects.

DATES: Comments must be received on or before April 13, 1982.

ADDRESS: Comments should be submitted to Alberta Frost, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. All written comments will be open for public inspection at the office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Chief, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302: 703–756–3429.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under Executive Order 2291 and secretary's Memorandum No. 1512–1. This action modifies the rulemaking procedures for demonstration projects and deletes the need to use final rulemaking procedures for announcing annual changes in certain eligibility, benefit and deduction information. The information currently required by the provisions being deregulated will be released to the public by other, more timely, means available to the agency, in lieu of formal rulemaking procedures. There is no cost involved in this action, thus, the rule would not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical region. Additionally, this action would not have significant adverse effects on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore the rule has been classified as "not major."

This final action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that this action has no economic impact on small entities because the action simply results in deregulation of certain information, without jeopardizing the public interest and would allow more timely release of the program information covered in this action to the public through other than formal regulatory procedures.

Eligibility, Benefits and Deductions

All regulations issued by Federal agencies are officially entered into the Code of Federal Regulations (CFR). Thereafter, any change in regulations must be made through formal regulatory procedures by amending the appropriate CFR sections involved. Final rules to implement uniform eligibility standards were issued on October 17, 1978 (43 FR 47846). Included in that publication were charts and narrative language which specifically referenced the actual dollar amounts, for all areas operating a Food Stamp Program, of (1) the net monthly income eligibility limits, (2) the maximum Thrifty Food Plan (TFP) amounts on which the value of the coupon allotment for each household is based, and (3) the maximum amount of the three deductions—standard, child care, and excess shelter—to be applied in determining a household's net monthly income. Because these amounts were codified (entered into the CFR), any cost-of-living adjustments in the income limits, deductions, and TFP amounts mandated by the Food Stamp Act must be made by amending the CFR through the formal regulatory process.

State welfare agencies have continually commented that they are not given sufficient time to implement changes in the standards because of the timing of the publication of the changes in the **Federal Register**. However, the short timeframes given to State agencies result in large part from the necessity of having to go through the formal rulemaking process. For example, the Office of Management and Budget usually releases updates to the poverty guidelines to the Department by mid-February. A formal regulatory document to amend the CFR is usually prepared, cleared, and published in the **Federal Register** by mid-May under formal rulemaking procedures, leaving State agencies only about 45 days to implement the changes. A similar timeframe problem exists for adjusting the TFP amounts and amounts of the various deductions.

The Department is proposing to remove all references to the dollar amounts of the net income eligibility standards, TFP, and deductions from the CFR in order to provide the Department the opportunity to release information regarding any changes in the dollar amounts on a more timely basis to the public and the State agencies. Since the actual amounts of these eligibility, benefit, and deduction standards are mandated by the Food Stamp Act, as amended, there is no administrative discretion involved in the annual adjustments of the amounts. Therefore, these standards cannot be altered through public comment or other formal regulatory procedures and the Department sees no need to continue to include the amounts in the CFR requiring the time-consuming effort of formal rulemaking procedures to amend the CFR. It is anticipated that this action will allow the Department to provide State agencies about 60 days to implement future changes. The Department will continue to keep the public informed of any changes in the net income eligibility standards. TFP amounts, and amounts of deductions by publishing General Notices in the **Federal Register**. The Department will also continue the current policy of announcing changes in these eligibility, benefit, and deduction standards through information releases to the media.

Demonstration Projects

In accordance with Section 17 of the Food Stamp Act (the Act), the Secretary has the authority to conduct demonstration, research, and evaluation projects designed to test program changes that might increase the efficiency of the program and delivery of benefits to eligible households. The law further provides the Secretary the authority to waive all or part of the requirements of the Act and regulations to the degree necessary to conduct such projects except as otherwise specified in Section 17(b)(1) of the Act.

Current regulations contain a provision (7 CFR 282.5) which provides that prior to the initiation of a

demonstration project, FNS shall publish proposed and final regulations if the intended project will likely have significant impact on the public.

However, such procedures, on average, can take as long as 4 to 6 months to complete, and to date, have resulted in an insignificant amount of public input or response. As a result of this provision, delays in beginning projects have occurred since many projects could not begin until the time-consuming effort of developing, preparing, clearing, and publishing proposed and final rules had been completed. After careful analysis of the effects of this rule on project implementation and operation during the first two years of demonstration project authority, it has been determined that the pre-operations requirement for proposed rulemaking contained in 7 CFR 282.5 is unnecessary and burdensome to demonstration project participants and FNS, and does not enable the Department to carry out the purposes of the statutory authority in an efficient manner.

In view of this, the Department is proposing to alter the current requirement (7 CFR 282.5) for proposing regulations for demonstration projects. In lieu of proposing rules for each project, the Department will rely, instead, on the periodic **Federal Register** publication of priority areas being considered for demonstration activity. At that time, the Department will request and consider public comment on the proposed priority areas. In effect, the Department will periodically solicit public comments for a number of potential projects and use those comments in developing the individual projects. Thus, the comments will influence development of the projects and provide guidance to the agency in establishing waivers for conducting each demonstration project. Notice of the individual projects and the waivers involved will be published in the **Federal Register.**

The use of this modified procedure for demonstration initiation is cost saving and more efficient, but still provides the public with an opportunity to comment on the development of demonstration projects. This action will also serve to bring this agency's demonstration project procedures more in line with those of other similar agencies.

If, as a result of a demonstration project, a program change is necessary, such nationwide program change would be initiated through the appropriate rulemaking procedures.

Accordingly, 7 CFR Parts 273 and 282 are proposed to be amended as follows:

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. In § 273.9:

a. Paragraph (a)(4) is revised;

b. Paragraphs (d)(1), (d)(4), and (d)(5) are revised; and

c. Appendices, A, B, C, and D are removed.

The revisions read as follows:

§ 273.9 Income and deductions.

(a) *Income eligibility standards.* * * *

(4) The annual monthly gross and net income eligibility standards for all areas will be prescribed in General Notices published in the **Federal Register.**

* * * * *

(d) *Income deductions.* * * *

(1) *Standard deduction.* The per household per month standard deduction amounts applicable for use in the 48 contiguous States and the District of Columbia, and the amount applicable for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands are adjusted annually and will be prescribed in General Notices published in the **Federal Register.**

* * * * *

(4) *Dependent care.* Payments for the actual costs for the care of a child or other dependents when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment. The deduction amounts applicable for use in the 48 contiguous States and the District of Columbia, and the amounts applicable for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands are adjusted annually and will be prescribed in General Notices published in the **Federal Register.**

(5) *Shelter costs.* Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this section have been allowed. The shelter deduction alone, or in combination with the dependent care deduction explained in paragraph (d)(4) of this section shall not exceed the maximum limit established for the dependent care deduction, unless the household contains a member who is age 60 or over, or who receives supplemental security income benefits (including emergency benefits based on presumptive eligibility) under the title XVI, or disability payments under Title II of the Social Security Act. The shelter deduction amount applicable for use in the 48 contiguous States and the District of Columbia, and the amounts applicable for use in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands are adjusted annually and will be prescribed in General Notices published in the **Federal Register.** These households shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable deductions.

* * * * *

2. In § 273.10, the parenthetical phrase "(see appendix to § 273.9)", appearing in the first sentence of paragraph (e)(1)(i)(E) is removed; the last sentence of paragraph (e)(4)(i) is revised; and appendix A is removed.

The revision reads as follows:

§ 273.10 Determining household eligibility and benefit level.

* * * * *

(e) *Calculating net income and benefit levels.* * * *

(4) *Thrifty Food Plan.* (i) * * * The Thrifty food plan amounts in each are adjusted annually and will be prescribed in General Notices published in the **Federal Register.**

* * * * *

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

3. Section 282.2 is revised in its entirety to read as follows:

§ 282.2 Project initiation.

The Secretary shall, from time to time, publish a list of priority areas being considered for demonstration, research, and evaluation efforts, and invite and consider public comment on such lists. In determining such priority areas, the Secretary shall consider suggestions submitted by State and local agencies and other interested parties. The Secretary shall, as appropriate, seek grant proposals, through publication of a notice of intent in the **Federal Register,** or contract proposals, in accordance with the procedures prescribed in the Federal procurement regulations. (41 CFR, Ch. I.)

4. Section 282.5 is revised in its entirety to read as follows:

§ 282.5 Rulemaking procedures for demonstration projects.

At least 30 days prior to the initation of a demonstration project, FNS shall publish a General Notice in the **Federal Register** if the proposal will likely have significant impact on the public. The notice shall set forth the specific operational procedures for the demonstration project and the provisions of the Act and regulations

which shall be waived. If significant comments are received in response to the Notice, the Department will take such action as may be appropriate prior to implementing the project. In addition, for demonstrations with reporting and recordkeeping requirements which exceed the requirements set forth in OMB Circular A–102, the Department will obtain the necessary approval from OMB prior to project implementation.

This regulation does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance, Program No. 10.551, Food Stamps)

Dated: February 4, 1982.

David Alspach,

Acting Administrator.

[FR Doc. 82–3460 Filed 2–11–82; 8:45 am]

BILLING CODE 3410–30–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1306

Ban of Urea-Formaldehyde Foam Insulation; Extension of Time, and Denial of Requests for Additional Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time and denial of requests for additional comment period.

SUMMARY: The Commission extends the time for promulgating a final ban of urea-formaldehyde (U.F.) foam insulation, or for withdrawing its proposed ban, to March 19, 1982. The ban, and an alternative requirement that would require that information be given to consumers, were proposed to address the risk of illness which could be caused by formaldehyde gas emitted from the U.F. foam insulation. In the near future, the Commission will consider whether to ban the product, to require that consumers be informed of some of the risks associated with the product, or to take other action addressing this risk. This extension is to allow adequate time for Commission consideration of materials submitted by its staff and interested members of the public and, if a ban is issued, for publication of the ban in the Federal Register with a promulgation date of ten days after publication of the ban.

The Commission has also denied requests it received for an additional comment period for the purpose of receiving comments on the Commission staff's analysis of the issues and comments in this proceeding.

DATES: The time during which the Commission must either issue a final ban of U.F. foam insulation or withdraw the proposed ban is extended for good cause to March 19, 1982.

FOR FURTHER INFORMATION CONTACT: Harleigh Ewell, Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6980.

SUPPLEMENTARY INFORMATION: On February 5, 1981, the Commission proposed a ban of urea-formaldehyde (U.F.) foam insulation (46 FR 11188). The ban was proposed on the basis of the Commission's preliminary finding that the product posed an unreasonable risk of injury from irritation and cancer because of the release of formaldehyde gas from the product after it is installed. A detailed discussion of the Commission's reasons for proposing the ban was contained in the proposal notice.

The Commission also has proposed to require manufacturers of U.F. foam insulation to provide prospective purchasers with a written notification concerning the acute health effects of the formaldehyde gas that can be released from this product (45 FR 39434; June 10, 1980).

On November 18, 1981, the Commission published a request for public comment on additional data that it had received concerning these proposals (46 FR 56762). Comment on these additional data were received until December 21, 1981. In all, the Commission received comments from 66 commenters on its proposed information disclosure requirement, 276 commenters on its proposed ban, and 71 commenters on its request for comments on the additional data it had received.

On January 29, 1982, the Commission staff transmitted to the Commission a voluminous briefing package discussing the issues raised by the proposed ban and information disclosure requirement. Several parties have submitted initial comments on the Commission staff's briefing package, and some of these parties have asked that an additional comment period be established for the purpose of allowing comment on the staff's analysis of the issues and comments.

On February 3 and 4, 1982, the Commission's staff orally briefed the Commission in a public meeting. At the end of this briefing, the Commission decided it needed at least until February 22, 1982 to consider the large amount of technical data and comments that have been received on these proposals. When it meets to formally consider these issues, the Commission could decide to issue a ban, to withdraw the proposed ban and issue an information disclosure requirement, to take other actions, or to take no action at this time.

Also, the Commission decided not to establish an additional comment period for the submission of additional comments on the proposed ban. However, as has been its practice in the past, the Commission will consider late-filed comments to the extent practicable. In considering this question, the Commission determined that at this point in time it is not feasible to consider comments that exceed three 8½ x 14 pages in length or that are filed after February 16, 1982. Furthermore, information that previously has not been available to the Commission will not be considered unless it is accompanied by an explanation of why it could not have been submitted by December 18, 1981, and unless it has a significant impact on the information that was previously available to the Commission.

In the proposed ban of U.F. foam insulation, the Commission proposed that the actual date of promulgation of any such ban would be ten days after the ban was published in the **Federal Register**. Therefore, if a ban is approved by the Commission on February 22, 1982, before the ban is actually promulgated, a **Federal Register** notice will have to be published and the promulgation date would be delayed for an additional ten days, as provided in the proposal. For these reasons, which the Commission determines to be good cause, the Commission extends the date established under 15 U.S.C. 2058(a)(1), by which it must either issue a final ban of U.F. foam insulation or withdraw the proposed ban, until March 19, 1982. For good cause, this date may be further extended.

Dated: February 9, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82–4072 Filed 2–11–82; 10:59 am]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76 (Texas–19)]

High-Cost Gas Produced from Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Georgetown Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 11, 1982.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 24, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 9, 1982.

I. Background

On December 28, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Georgetown Formation in Brazos, Washington, and Burleson Counties, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Georgetown Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Georgetown Formation, encountered in portions of Brazos, Washington and Burleson Counties, Texas, be designated as a tight formation. The recommended area is located in east central Texas in Railroad Commission District 3, and lies between Bryan, Texas on the north, Brenham on the south, a point 13 miles west of Somerville on the west, and the Navasota River on the northeast.

The Georgetown Formation, present throughout the North Texas-Tyler Basin and extending as far east as the Louisiana border and as far north as the Arkansas-Oklahoma borders, underlies the Del Rio Formation and overlies the Kainer Formation.

The Georgetown Formation is commonly divided into seven members: the Kiamichi, Duck Creek, Fort Worth, Denton, Weno, Paw Paw, and Main Street. Consisting of dense muddy limestones and calcareous shales, the Georgetown Formation is of the latest Comanchean (Albian) Age, and is encountered at depths ranging from approximately −9,500 feet subsea in the north, to −15,000 feet subsea in the south.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of the Georgetown Formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Georgetown Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 11, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Texas–19), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 24, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (89) to read as follows:

§ 271.703 Tight formations.

* * * * * * *

(d) *Designated tight formations.*

* * * * *

(68) through (88) [Reserved]

(89) *Georgetown Formation in Texas.* RM79-76 (Texas-19]

(i) *Delineation of formation.* The Georgetown Formation is located in east central Texas, on the western rim of the North Texas-Tyler Basin, Railroad Commission District 3, in portions of Brazos, Washington and Burleson Counties, Texas.

(ii) *Depths.* The Georgetown Formation is encountered at depths ranging from approximately −9,500 feet subsea in the north, to −15,000 feet subsea in the south.

[FR Doc. 82-3068 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76 (West Virginia-1 Addition)]

High-Cost Gas Produced From Tight Formations; West Virginia

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of West Virginia Office of Oil and Gas that the Princeton-Ravencliff, Injun, Weir, and Berea Formations be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on March 11, 1982.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 24, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: February 9, 1982.

I. Background

On December 21, 1981, the State of West Virginia Office of Oil and Gas (West Virginia) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that additional areas found in the Princeton-Ravencliff Formations, Injun Formation, Weir Formation and Berea Formation, located in Mercer, McDowell and Wyoming Counties, West Virginia, be designated as tight formations in the Commission's regulations. On June 23, 1981, the Commission issued Order No. 102 in Docket No. RM79-76 (West Virginia 1) in which the Commission designated parts of the Ravencliff, Berea, Injun Squaw and Weir Formations as tight formations under § 271.703. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determined whether West Virginia's recommendation that the Princeton-Ravencliff, Injun, Weir and Berea Formations be added to the previously designated tight formations should be adopted. West Virginia's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formations lie within portions of Mercer, McDowell and Wyoming Counties, West Virginia. (A more detailed description of the recommended area is contained in the recommendation on file with the Commission.) All of the formations are Mississippian Age deltaic sandstone deposits.

The Princeton-Ravencliff Formations lie below the Pottsville Salt Sands and above the Maxton Formation. The Princeton Formation has been grouped with the Ravencliff Formation because of similar lithology and depositional environment in Mercer, McDowell and Wyoming Counties. The top of the Princeton Formation occurs from 10 feet to 100 feet above the Ravencliff Formation and in some places the two formations grade into each other and cannot be distinguished. Production from the Princeton-Ravencliff Formations is predominantly from the Ravencliff Formation because the Princeton Formation is lenticular and sometimes shaley. The Ravencliff Formation ranges in thickness from thin stringers in the western portion of the three county area to a maximum thickness of 145 feet in the central and southeastern portions of the area.

The Injun Formation lies below the Big Lime-Keener Formations, separated by a 2 foot to 30 foot shale break and lies above the Squaw Formation. It is a poorly developed sandstone and ranges in thickness from a maximum of about 10 feet in northwest Wyoming County to thin stringers in the south and east parts of the three county area.

The Weir Formation lies below the Squaw Formation and about 200 feet above the Berea Formation. It ranges in thickness from thin stringers in the eastern an western portions of the three county area to 60 feet thick in the central portion of the area.

The Berea Formation lies approximately 200 feet below the Weir Formation and is the basal sandstone of the Mississippian System. It reaches a maximum thickness of 45 feet in the central portions of McDowell and Wyoming Counties and thins to shaley sandstone stringers in the eastern portion of the area.

III. Discussion of Recommendation

West Virginia claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by West Virginia on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay sections of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

West Virginia further asserts that existing State and Federal regulations assure that development of the Princeton-Ravencliff, Injun, Weir and Berea Formations will not adversely affect any fresh water aquifers that are, or are expected to be, used as a domestic or agricultural water supply. Protection of fresh water aquifers will be assured by enforcing compliance with Section 15, Part 1, Section V of the West Virginia Administrative Regulations and Chapter 22-4-8a of the Code of West Virginia.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by

Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by West Virginia that the Princeton-Ravencliff, Injun, Weir and Berea Formations, as described and delineated in West Virginia's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 11, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (West Virginia-1 Addition) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 24, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event West Virginia's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d)(41)–(44) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(41) *Ravencliff and Princeton-Ravencliff Formations in West Virginia.* RM79–76 (West Virginia–1)

(i) *Ravencliff Formation.*—(A) *Delineation of formation.* The Ravencliff Formation underlies portions of Fayette and Raleigh Counties, West Virginia.

(B) *Depth.* The Ravencliff Formation lies below the Princeton Sandstone and above the Maxton Sandstone. Within the recommended area the Ravencliff Formation ranges in thickness from thin stringers in the eastern portion of the two counties to a maximum thickness of 140 feet in the central portion of the area.

(ii) *Princeton-Ravencliff Formations.*—(A) *Delineation of formation.* The Princeton-Ravencliff Formations underlie portions of Mercer, McDowell and Wyoming Counties, West Virginia.

(B) *Depth.* The Princeton-Ravencliff Formations lie below the Pottsville Salt Sands and above the Maxton Formation. The top of the Princeton Formation occurs from 10 feet to 100 feet above the Ravencliff Formation and in some places the two formations grade into each other and cannot be distinguished. The Ravencliff Formation ranges in thickness from thin stringers in the western portion of the three county area to a maximum thickness of 145 feet in the central and southeastern portions of the area.

(42) *Injun-Squaw and Injun Formations in West Virginia.* RM79–76 (West Virginia–1)

(i) *Injun-Squaw Formations.*—(A) *Delineation of formation.* The Injun-Squaw Formations underlie portions of Fayette and Raleigh Counties, West Virginia.

(B) *Depth.* The Injun-Squaw Formations lie below the Big Lime-Keener Formations and above the Weir Formation. The Injun-Squaw Formations range in thickness from a maximum of 20 feet in northwestern Fayette County to thin stringers to the south and east.

(ii) *Injun Formation.*—(A) *Delineation of formation.* The Injun Formation is found in Mercer, McDowell and Wyoming Counties, West Virginia.

(B) *Depth.* The Injun Formation lies below the Big Lime-Keener Formations and above the Squaw Formation. It ranges from a maximum thickness of about 10 feet in northwest Wyoming County to thin stringers in the southern and eastern parts of the three county area.

(43) *Weir Formation in West Virginia.* RM79–76 (West Virginia–1)

(i) *Delineation of formation.* The Weir Formation underlies portions of Fayette, McDowell, Mercer, Raleigh and Wyoming Counties, West Virginia.

(ii) *Depth.* The Weir Formation lies below the Squaw Formation and approximately 200 feet above the Berea Formation. The Weir Formation ranges in thickness from thin stringers in the southeastern and southwestern portions of the area to from 50 feet to 100 feet in the northern, central and south central portions of the five county area.

(44) *Berea Formation in West Virginia.* RM79–76 (West Virginia–1)

(i) *Delineation of formation.* The Berea Formation underlies portions of Fayette, McDowell, Mercer, Raleigh and Wyoming Counties, West Virginia.

(ii) *Depth.* The Berea Formation lies approximately 200 feet below the Weir Formation and is the basal sandstone of the Mississippian System. The Berea Formation ranges in thickness from 45 feet to 55 feet in the western portion of the area and thins to shaley sandstone stringers in the southeastern portion of the five county area.

* * * * *

[FR Doc. 82-3970 Filed 2-11-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Parts 271, 273, and 274

[Docket No. RM82–8]

High-Cost Natural Gas Produced From Intermediate Deep Drilling; Public Hearing

February 5, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of public hearing.

SUMMARY: On December 30, 1981, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (47 FR 638, January 6, 1982) proposing to identify as a category of high cost natural gas under the Natural Gas Policy Act, gas produced from intermediate deep drilling. The proposal would provide an incentive price ceiling to encourage such production. Pursuant to requests from interested persons, a public hearing will be held.

DATES: The public hearing will be held on Tuesday, March 2, 1982 at 10:00 a.m. Requests to participate and the amount of time requested should be directed to the Secretary no later than February 24, 1982.

ADDRESS: The hearing will be held at: Hearing Room A, Federal Energy Regulatory Commission, 825 North Captiol Street, NE., Washington, D.C. 20426.

Requests to participate and questions regarding participation should be directed to: The Office of the Secretary, Federal Energy Regulatory Commission.

825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael A. Stosser, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: On December 30, 1981, pursuant to section 107 of the Natural Gas Policy Act of 1978 (NGPA), (15 U.S.C. 3317), the Commission issued a Notice of Proposed Rulemaking (47 FR 638, January 6, 1982) for an informal rulemaking procedure in Docket No. Rm82–8.

The Notice proposes to identify as a category of high-cost natural gas, gas produced from depths between 10,000 and 15,000 feet. The Commission proposes to provide an incentive price ceiling of 150 percent of the NGPA section 103 price in order to encourage production from those depths. The Commission has received requests for a public hearing wherein interested persons would have the opportunity to make oral presentations of their views on the proposed rule. Pursuant to these requests, the Commission is scheduling a public hearing.

The hearing will be held on Tuesday, March 2, 1982, at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, Hearing Room A.

The hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit question to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM–82–8, in the Commission's Office of Public Information, and may be ordered from that office.

Requests to participate in the hearing should be submitted by February 24, 1982, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Requests should indicate the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at Hearing Room A on the morning the hearing is convened.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3990 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[LR–74–77]

Withholding From Amounts Paid Under Accident or Health Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to withholding from amounts paid under accident or health plans. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Reduction and Simplification Act of 1977. The amendments to the regulations would provide guidance to employers who pay amounts under accident or health plans and employees who receive amounts under accident or health plans.

DATES: Written comments and requests for a public hearing must be delivered April 12, 1982. The regulations are proposed to be effective with respect to amounts paid under accident or health plans in taxable years beginning on or after January 1, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–74–77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–556–3828).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Employment Tax Regulations (26 CFR Part 31) under sections 3401, 3402, 6001, and 6041 of the Internal Revenue Code of 1954. The proposed amendments to the regulations are necessary because of certain changes made to section 105(d) of the Code by section 505 of the Tax Reform Act of 1976 (Pub. L. 94–455; 90 Stat. 1520, 1566) and by section 301 of the Tax Reduction and Simplification Act of 1977 (Pub. L. 95–30; 91 Stat. 126, 151). These statutory changes are effective with respect to amounts paid under accident or health plans in taxable years beginning on or after January 1, 1977. These regulations are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code (68A Stat. 917; 26 U.S.C. 7805).

General Rule

The proposed amendments to the regulations would require an employer to withhold income taxes from amounts paid to an employee by the employer under an accident or health plan in taxable years beginning on or after January 1, 1977. Special rules exempt from this requirement certain payments made under sections 105(d), 3401(a), 3402(e), 3402(n), and 3402(o) of the Internal Revenue Code. The proposed amendments also would require returns of information on disability payments under section 105(d) of the Code.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Barry L. Wold of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

the regulations, on matters of both substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 31 are as follows:

Income Tax Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. A new subparagraph (4) is added to § 1.6041–1 (d) and is inserted after subparagraph (3) of that section. The new material reads as follows:

§ 1.6041–1 Return of information as to payments of $600 or more.

* * * * *

(d) *Payments specifically included.* * * *

(4) Amounts paid as disability payments under section 105(d) are required to be reported in returns of information under this section.

* * * * *

Employment Tax Regulations

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Par. 2. Section 31.3401(a)–1(b)(8) is amended by revising subdivision (i) thereof and by removing from the first sentence of the flush material following subdivision (ii)(*b*)(*1*)(*ii*): "after August 1, 1977, the thirtieth day after the publication of this regulation in the **Federal Register** as a Treasury decision (and, at the option of the employer, such payments reasonably expected to be made prior thereto)". The revised provision reads as follows:

§ 31.3401(a)–1 Wages.

* * * * *

(b) *Certain specific items.* * * *

(8) *Amounts paid under accident or health plans*—(i) *Amounts paid in taxable years beginning on or after January 1, 1977*—(*a*) *In general.* Withholding is required on all payments of amounts includible in gross income under section 105(a) and § 1.105–1 (relating to amounts attributable to employer contributions), made in taxable years beginning on or after January 1, 1977, to an employee under an accident or health plan for a period of absence from work on account of personal injuries or sickness. Payments on which withholding is required by this subdivision are wages as defined in section 3401(a), and the employer shall deduct and withhold in accordance with the requirements of chapter 24 of subtitle C of the Code. Third party payments of sick pay, as defined in section 3402(o) and the regulations thereunder, are not wages for purposes of this section.

(*b*) *Payments made by an agent of the employer.* Payments are considered made by the employer if a third party makes the payments as an agent of the employer. The determining factor as to whether a third party is an agent of the employer is whether the third party bears any insurance risk. If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party is an agent of the employer even if the third party is responsible for making determinations of the eligibility of individual employees of the employer for sick pay payments. If the third party is paid an insurance premium and not reimbursed on a cost plus fee basis, the third party is not an agent of the employer, but the third party is a payor of third party sick pay for purposes of voluntary withholding from sick pay under sections 3402(o) and 6051(f) and the regulations thereunder.

(*c*) *Exceptions to withholding. (1)* Withholding is not required on payments that are specifically excepted under the numbered paragraphs of section 3401 (a) (relating to the definition of wages), under section 3402(e) (relating to included and excluded wages), or under section 3402(n) (relating to employees incurring no income tax liability).

(*2*) Withholding is not required on disability payments to the extent that the payments are excludable from gross income under section 105(d). In determining the excludable portion of the disability payments, the employer may assume that payments that the employer makes to the employee are the employee's sole source of income. This exception applies only if the employee furnishes the employer with adequate verification of disability. A certificate from a qualified physician attesting that the employee is permanently and totally disabled (within the meaning of section 105(d) shall be deemed to constitute adequate verification. This exception does not affect the requirement that a statement (which includes any amount paid under section 105(d)) be furnished under either section 6041 (relating to information at source) or section 6051 (relating to receipts for employees) and the regulations thereunder.

* * * * *

Par. 3. Section 31.3402(a)–1(d) is revised to read as follows:

§ 31.3402(a)–1 Requirement of withholding.

* * * * *

(d) For provisions relating to the circumstances under which tax is required to be deducted and withheld from certain amounts received under accident and health plans, see paragraph (b)(8) of § 31.3401(a)–1.

* * * * *

§ 31.3402(b)–1 [Amended]

Par. 4. Section 31.3402(b)–1(a)(3) (relating to percentage method of withholding) is amended by removing the words "wage continuation plans" and inserting in their place the words "accident and health plans".

§ 31.3402(c)–1 [Amended]

Par. 5. Section 31.3402(c)–1(a)(2) (relating to wage bracket withholding) is amended by removing the words "wage continuation plans" and inserting in their place the words "accident and health plans".

§ 31.6001–5 [Amended]

Par. 6. Section 31.6001–5(a) (relating to additional records in connection with collection of income tax at source on wages) is amended by removing subparagraph (11) therefrom and by removing from subparagraph (12) the words "a wage continuation plan (as defined in paragraph (a)(2)(i) of § 1.105–4 and 1.105–5 of this chapter (Income Tax Regulations))—" and inserting in their place the words "accident or health plan (as defined in section 105 and the regulations thereunder)—".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–3756 Filed 2–10–82; 8:50 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2049–4]

Approval and Promulgation of Implementation Plans, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: On January 13, 1982, the Environmental Protection Agency proposed to approve the State of Ohio's Sulfur Dioxide (SO_2) State Implementation Plan (SIP) for Lucas County (47 FR 1398). A 30-day comment period was provided which was scheduled to end on February 12, 1982. In response to the Northwest Ohio Lung Association's request, the public

comment period is being extended 14 days to February 26, 1982.

DATE: Comments must be received on or before Friday, February 26, 1982. If possible, please send an original and four copies.

ADDRESSES: Comments should be submitted to: Gary Gulezian, Chief, Regulatory Analysis Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at, (312) 886-6088.

Dated: February 11, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-3904 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 65

[A-10-FRL 2048-4]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued By Puget Sound Air Pollution Control Agency To Fletcher Oil Co., Tacoma, Washington

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Puget Sound Air Pollution Control Agency (PSAPCA) and submitted by the Department of Ecology, to Fletcher Oil Company, Tacoma, Washington (the Company). The order requires the Company to bring air emissions from its gasoline terminal and tank farm in Tacoma, Washington into compliance with certain regulations contained in the federally-approved Washington State Implementation Plan (SIP) by January 1, 1983. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before March 15, 1982.

ADDRESSES: Comments should be submitted to Director, Air and Waste Division, EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Betty Swan, Environmental Protection Agency, 1200 Sixth Avenue M/S 524, Seattle, Washington 98101, Phone (206) 442-1387.

SUPPLEMENTARY INFORMATION: Fletcher Oil Company operates a gasoline loading terminal and storage tank farm at Tacoma, Washington. The order under consideration addresses failure to meet compliance schedule increments of progress for installation of floating roofs on gasoline storage tanks and a vapor recovery system on the gasoline loading rack at the Facility, which is subject to sections 2.04, 2.05, 2.13, 3.05 and 3.10 of Puget Sound Air Pollution Control Agency Regulation II and WAC 173-490-040 and 173-490-201.

The regulations limit the emissions of volatile organic compounds (VOC), and are part of the federally-approved Washington State Implementation Plan. The order requires final compliance with the regulations by January 1, 1983 through closure or reconstruction to meet the requirements of the appropriate regulations. Because this order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA proposes to approve the order because it satisfies the appropriate requirements of this subsection.

[Resolution No. 499]

Resolution of the Board of Directors of the Puget Sound Air Pollution Control Agency issuing a delayed compliance order to F.O. Fletcher, Incorporated d.b.a. Fletcher Oil Company.

Whereas, the Congress of the United States amended Section 113(d) of the Federal Clean Air Act 42 U.S.C. 7401, etc., to procure the attainment of emission standards by noncomplying sources in the United States and one procedure outlined is for the local air pollution control agencies to prepare a "Delayed Compliance Order" which would be reviewed and approved by the Department of Ecology and the Environmental Protection Agency; and

Whereas, F.O. Fletcher, Incorporated, d.b.a. Fletcher Oil Company (hereinafter referred to as Fletcher), operates a gasoline loading terminal and tank farm located at 709 and 721 Alexander Avenue, Tacoma, Washington, that is presently not in compliance with the requirements of Puget Sound Air Pollution Control Agency Regulation II and WAC 173-490; and

Whereas, a threshold determination of environmental impact has been determined and a Declaration of Nonsignificance has been issued dated August 3, 1981; and

Whereas, this Order is being issued pursuant to Section 113(d) of the Federal Clean Air Act and is not to be construed in any way as a waiver from any previous enforcement actions by any governmental agency; and

Whereas, this Order, pursuant to the Federal Clean Air Act and State law, contains a schedule for compliance, interim requirements and reporting requirements, and supercedes the compliance schedules contained in Sections 2.13 and 3.10 of Agency Regulation II; and

Whereas, Puget Sound Air Pollution Control Agency has issued public notice of this Order and of a public hearing before the Board of Directors of the Agency to consider the Order, pursuant to Section 113(d) of the Federal Clean Air Act and the requirements of the Washington State Implementation Plan (WSIP); and

Whereas, the Board after consideration of the staff recommendation and the recognition of the interest of Fletcher and the general public, and finding that during the period of the Order with the conditions set forth herein, the emissions would not endanger either the public health or safety, makes the following:

Findings

On June 18, 1981, the U.S. Environmental Protection Agency issued a Notice of Violation pursuant to Section 113(a)(1) of the Federal Clean Air Act, to Fletcher upon finding that their gasoline loading terminal and gasoline storage tanks located at 709 and 721 Alexander Avenue, Tacoma, Washington, are in violation of Sections 2.04, 2.05, 2.13, 3.05 and 3.10 of Puget Sound Air Pollution Controls Agency Regulation II and WAC 173-490-040 and 173-490-201, a part of the applicable WSIP, as defined in Section 110(d) of the Federal Clean Air Act.

Be it resolved by the Board of Directors of the Puget Sound Air Pollution Control Agency that, based upon the above findings, the board issues the following:

Order

It is hereby determined that this schedule for compliance is as expeditious as practicable and that the terms of this Order are in compliance with section 113(d) of the Federal Clean Air Act and are in furtherance of the public health, safety and welfare of the inhabitants of the Puget Sound area. Therefore, it is hereby Ordered:

A. That Fletcher will comply with the Puget Sound Air Pollution Control Agency Regulation II, sections 2.04, 2.05 and 3.02 in accordance with the following schedule:

1. Notify the Control Officer on or before July 1, 1982, whether the present gasoline terminal will be closed or reconstructed to meet the requirements of Agency Regulation II.

2. If the gasoline terminal will be reconstructed:

a. Submit Notices of Construction for the gasoline loading rack, vapor recovery system and gasoline storage tanks on or before July 1, 1982; and

b. Let the contracts for the reconstruction on or before October 1, 1982; and

c. Commence construction and achieve final compliance by cessation of storage and distribution of gasoline on or before January 1, 1983.

3. If the gasoline terminal is to be closed, submit a phaseout schedule to the Control Officer for his approval on or before July 1, 1982. The phaseout schedule shall contain specific actions and dates necessary to the orderly termination of the terminal's gasoline handling and shall include reports submitted to the Control Officer on September 1, 1982, and November 1, 1982, outlining the progress in phasing out the terminal. As provided in WAC 173-490-025, Fletcher shall cease the storage and distribution of gasoline from their Tacoma terminal on or before January 1, 1983.

B. That Fletcher will at all times operate its facility in such a manner as to minimize emissions of all pollutants subject to regulation by this Agency.

C. Not later than five days after any date for achievement of any increment of progress or final compliance, Fletcher shall notify the Agency in writing of its compliance or noncompliance (stating reasons for noncompliance) with such requirement. If delay is anticipated in meeting any requirement, Fletcher shall immediately notify the Agency in writing of the anticipated delay and reason therefore. Notification to the Agency on any anticipated delay does not prevent the Agency from taking enforcement action.

D. Failure to comply with any condition and/or complete any specific action by its related date without prior written approval of the Agency, shall subject Fletcher to appropriate penalties and/or legal remedies as provided in RCW 70.94. Each day of noncompliance shall constitute a separate violation.

E. That Fletcher is not relieved by this Order from compliance with any requirements imposed by the WSIP and/or the courts pursuant to RCW 70.94.710 and RCW 70.94.715 during any period of imminent or substantial endangerment to the health of persons.

F. Nothing in this Order shall be construed to relieve Fletcher from their responsibility to pay any noncompliance penalty which may be assessed under section 120 of the Clean Air Act (42 U.S.C. 7420). Nor does this Order waive the right of Fletcher to challenge the assessment of section 120 noncompliance penalties, or to assert entitlement to any exemption found in section 120 to which they may be entitled. Fletcher acknowledges that they have been notified that they may be subject to section 120 penalties.

G. Nothing in this Order is to be construed, in any way, as to prevent enforcement and/or abatement action for any violation of any applicable law, rule or regulation of any other governmental agency.

H. The provisions of this Order shall apply and be binding upon the parties to this action; their officers, directors, employees, and successors. Fletcher shall give notice of this Delayed Compliance Order to any successors in interest prior to the transfer of ownership, and shall simultaneously verify to the Puget Sound Air Pollution Control Agency and the U.S. Environmental Protection Agency, Region X Enforcement Division, that such notice has been given.

Passed and approved at a regular meeting of the Board of Directors of the Puget Sound Air Pollution Control Agency held this 24th day of September 1981.

Puget Sound Air Pollution Control Agency

Gene Lobe,

Chairman.

Attest:

Arthur R. Dammkoehler,

Air Pollution Control Officer.

Approved as to Form:

Keith D. McGoffin,

Agency Counsel.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Washington SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: February 1, 1982.

John Spencer,

Regional Administrator, Region 10.

[FR Doc. 82-3603 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[WMP-6-FRL 2048-3]

Arkansas Application for Interim Authorization, Phase II, Components A and B, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Arkansas application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for March 29, 1982, at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by March 15, 1982. EPA will determine by March 18, 1982, whether there is significant interest to hold the public hearing. All written comments on the Arkansas Interim Authorization application must be received by the close of business on March 15, 1982.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Arkansas' application for Interim Authorization on March 29, 1982, at 7:00 p.m. in the Auditorium of the game and Fish Commission Building, No. 2 Natural Resources Drive, Little Rock, Arkansas.

Written comments on the application and written or telephoned communications of interest in EPA's holding a public hearing on the Arkansas application must be sent to: U.S. Environmental Protection Agency, Region 6, Air and Waste Management Division, Attention; Thomas D. Clark, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2645.

If you wish to find out whether or not EPA will hold a public hearing on the Arkansas application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after March 18, 1982, the EPA contact person listed below or telephone Dr. Sandra Perry, Arkansas Department of Pollution Control and Ecology at (501) 562-7444.

Copies of the Arkansas Phase II Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767-7341.

EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, (501) 562-7444.

Copies are available under the Federal Freedom of Information Act at a cost of $55.00, by writing the Freedom of Information Act Officer, EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Thomas D. Clark, Hazardous Materials Branch, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2645.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous wastes. Included in these regulations, which became effective 6 months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

The State of Arkansas received Interim Authorization for Phase I on November 19, 1980.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. EPA's decision to make the second phase of Interim Authorization available in components was based on the desire to proceed with authorizing State programs as expeditiously as possible and because some of the Subparts of the Federal regulations containing standards for hazardous waste treatment, storage and disposal facilities (40 CFR Part 264) are to be promulgated at different times, rather than in one single promulgation as previously anticipated.

As noted in the May 19, 1980, **Federal Register,** copies of state submittals for Interim Authorization are to be available for public inspection and comment. The purpose of this notice is to announce the availability of the Arkansas submittal for Phase II Interim Authorization, Component A (Permit Program for Containers, Tanks, Surface Impoundments and Waste Piles) and Component B (Permit Program for Incinerators); to invite public comment; and, that if significant public interest is expressed in holding a hearing, to give notice of a public hearing to be held on Arkansas application. A listing and a description of requirements for Interim Authorization are stated in 40 CFR Part 123, Subpart F.

Authority:

This notice is issued under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq. and implementing regulations in 40 CFR Part 123 Subpart F.

Dated: February 4, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-3801 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[RMB-4-FRL 2048-1]

Florida's Application for Interim Authorization, Phase I Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: Regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980, (45 FR 33063). The hazardous waste management program regulations include provision for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization. This document announces the availability for public review of the Florida application for Phase I Interim Authorization, invites public comment, and gives notice of a public hearing to be held on the application.

DATE: Comments on Florida Interim Authorization application must be received by the close of business on March 23, 1982.

PUBLIC HEARING: EPA will conduct a public hearing on the Florida Interim Authorization application at 7:00 p.m. on Tuesday, March 16, 1982. The State of Florida will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of the Florida Interim Authorization application are available at the following addresses for inspection and copying by the public:

Solid Waste Section, Florida Department of Environmental Regulation, Twin Towers Office Building, Room 421, 2600 Blair Stone Road, Tallahassee, Florida 32301, (904) 488–0300

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, NE, Atlanta, Georgia 30365, Telephone: 404/881–4216

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; Telephone: 404/881–3016.

The public hearing will be held at: Holiday Inn, Flamenco Room, 1302 Apalachee Parkway, Tallahassee, Florida 32301, (904) 877–3141.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

Phase I regulations establish, among other things: the initial identification and listing of hazardous waste; the standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479).

As noted in the May 19, 1980, **Federal Register** copies of complete State submittals for Phase I Interim Authorization will be made available for public inspection and comment. In addition, a public hearing will be held on the submittal.

Dated: February 1, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-3804 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[WSB-5-FRL 2048-2]

Illinois Department of Mines and Minerals Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Illinois Department of Mines and Minerals requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application from the Illinois Department of Mines and Minerals to regulate oil and natural gas related injection wells in Illinois.

DATES: Requests for a public hearing and to present oral testimony should be filed by March 1, 1982; the public hearing will be held on March 16, 1982, beginning at 9:00 a.m. The public comment period closes March 16, 1982. Comments must be received by that date. Should EPA not receive sufficient public comments or requests to present oral testimony by March 1, 1982, the Agency reserves the right to cancel the public hearing and will publish such notice of cancellation in the **Federal Register.**

ADDRESSES: Comments, requests for public hearing, or requests to testify should be mailed to James Mayka, Ground Water Protection Section (5WWS), Environmental Protection Agency, Region 5, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the application and pertinent material are available for inspection and copying between 10:00 a.m. and 5:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region 5, Library, 14th Floor, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2022

Illinois Department of Mines and Minerals, Oil and Gas Division, Wm. G. Stratton Office Building, 400 S. Spring Street, Springfield, Illinois 62706, (217) 782–7756

The hearing will be held in the Everett M. Dirksen Building, 219 S. Dearborn Street, Room 204A, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: James Mayka, Ground Water Protection Section (5WWS), Environmental Protection Agency, Region 5, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886–6194.

SUPPLEMENTARY INFORMATION: This application from the Illinois Department of Mines and Minerals is for the regulation of all oil and natural gas related injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority and a memorandum of agreement between the Illinois Department of Mines and Minerals and the Region 5, Office of the Environmental Protection Agency.

Dated: February 4, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-3802 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6197]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Corrections

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 57704 on November 25, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Scriba, Oswego County, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Scriba, Oswego County, New York, previously published at 46 FR 57704 on November 25, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The following descriptions have been amended to read as follows. The remainder of the Notice of Proposed Base Flood Elevation remains unchanged.

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Cliff Road Creek	Upstream of Cliff Road	*270
	Upstream of East Lake Road	*277
	Approximately 1,900' downstream from Conrail Bridge.	*289
	Approximately 1,300' downstream from Conrail Bridge.	*297
	Downstream of Conrail Bridge.	*306
Harbor Brook	City Line Road (extended)	318

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3789 Filed 2-11-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6197]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 57703 on November 25, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Granby, Oswego County, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Granby, Oswego County, New York, previously published at 46 FR 57703 on November 25, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

On page 57703, the notice of Proposed Base Flood Elevation Determinations entry for the town of Granby, New York is corrected to include the following:

Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)
* * * Lake Ontario	Entire shoreline	*373

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3790 Filed 2-11-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 82-45; FCC 82-55]

Domestic Fixed-Satellite Transponder Sales

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking seeks public comment on the issue of whether domestic satellite licensees should be permitted to sell transponders on a non-common carrier basis. It also provides domestic satellites licensees who wish to sell transponders an opportunity to seek modification of their outstanding authorizations. This action is necessary because the Commission has authorized the satellites, on which the licensees now wish to sell transponders, for the provision of common carrier service. This informal rulemaking proceeding is intended to provide the Commission with sufficient information to determine whether the sale of transponders on a non-common carrier basis is consistent with the Communications Act of 1934, and whether these transactions serve the public interest, convenience and necessity. After receipt of public comment the Commission will adopt a Policy Statement articulating under what circumstances, if any, the sale of transponders on a non-common carrier basis will be permitted. The Commission will also then act on any modification applications which have been submitted consistent with policies adopted in the rulemaking proceeding.

DATES: Comments are due March 15, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Pamela Wisne, Tariff Division, Common Carrier Bureau, (202) 632-6917 or Robert Mazer, Domestic Facilities Division, Common Carrier Bureau, (202) 632-5930.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 8, 1982.

In the matter of Domestic Fixed-Satellite Transponder Sales; CC Docket No. 82-45.

1. This order addresses the issues of whether the sale of domestic satellite transponders is a non-common carrier activity, and if so, whether enlargement of certain domestic satellite authorizations to encompass that activity is in the public interest.[1]

Background

2. In December 1980, the Commission authorized construction and launch of a new generation of domestic fixed-satellites.[2] In reaching its decisions, the Commission was persuaded that sufficient demand existed to warrant the authorization of a threefold increase in transponder supply. Two of the existing operators, Western Union Telegraph Co. (Western Union) and RCA American Communications, Inc. (RCA Americom or RCA) received approval to expand their systems to four in-orbit satellites.[3] New systems will be launched by GTE Satellite Corporation (GSAT),[4] Hughes

[1] The conveyance of transponders to other communication common carriers is not at issue here since these kids of transactions have been approved in the past and are reviewable under Section 214. Moreover, such capacity continues to be available on a commos carrier basis. *Western Union Telegraph Company*, 86 FCC 2d 196 (1981). *See also, Bell Telephone Co. of Pennsylvania v. FCC*, 503 F.2d 1250 (3rd Cir.), *cert. denied*, 422 U.S. 1026 (1974).

[2] See *Orbit Deployment Plan*, 84 FCC 2d 584 (1981) and the authorizations referred to therein.

[3] Both of these carriers have pending requests for a fifth orbital location. RCA Americom recently filed for a sixth orbital location.

[4] GSAT is now a joint user with AT&T of the COMSTAR system. GSAT will continue to

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Communications, Inc. (Hughes), Southern Pacific Communications Company (Southern Pacific) and Space Communications Company (Spacecom).[5] Including Satellite Business System's and AT&T's, the space segments of eight different satellite systems will be operative by 1985. Each of these parties indicated that its satellite capacity would be offered to the public on a common carrier basis.

3. Beginning in January 1981, we received notification from Hughes, Western Union and RCA American that they intended to "sell" all or part of their transponders on a non-common carrier basis.[6] These sales contemplate a contractual agreement between a satellite operator and a customer seeking to use a transponder for its own communication needs. In general, the sale agreement conveys to the buyer a specific transponder on a particular satellite for the useful life of the transponder. In May 1981, we requested initial comment on these proposals.[7] In June 1981, the Common Carrier Bureau advised Hughes, Western Union and RCA that the Commission intended to examine the propriety of sales activities and that all transponder sales would be at the risk of the licensee and subject to Commission action.

4. Western Union aparently began to contact its existing customers and otherwise let it be known that transponders were available for sale. Western Union offers either protected or unprotected transponders under three different payment plans.[8] If a protected transponder is purchased, the buyer is assigned or allocated a backup transponder in the event of premature (less than nine years) primary failure.

5. Western Union does not dispute that it is a common carrier fully subject to the requirements of Title II of the Act. It does claim that the private sale of transponders by common carriers serves the needs of both the user and the carrier. Users, it asserts, obtain a known and certain price for transmission capacity, tax advantages and the ability to plan for their communication needs on a long term basis. For the carrier whose business entails large financial risks, Western Union argues that sales provide a method of sharing the risk and raising needed capital financing. It also believes that sales will encourage carriers to develop their satellite systems more rapidly.

6. Hughes, who has never provided common carrier services, argues that its transponder sales are distinguishable from those of other carriers because they do not constitute the provision of a common carrier communications service. Hughes hopes to establishd a "shopping center" concept on its GALAXY I satellite focusing on the aggregation of attractive video programmers. It will sell 18 of the transponders to selected programmers exclusively for the purpose of providing video programming primarily to cable television systems. Hughes states these customers will be carefully chosen to ensure an attractive, marketable mix of programming to encourage cable systems to orient their satellite receiving equipment toward GALAXY I. Hughes insists that its marketing concept is contingent on its ability to choose its customers on a selective basis and offer transponders on different terms and prices. Without this ability Hughes claims it will be unable to establish GALAXY I as a viable cable satellite. Because it does not intend to offer transponders to the public at large or even to the cable programmers indiscriminately, Hughes argues that it cannot be treated as a common carrier. Moreover, it claims that it will not provide traditional common carrier services such as ground equipment or restoral service other than transponder replacement called for by its contractual warranty obligations. Hughes characterizes itself as a mere equipment vendor who will not under any circumstances be offering communications services to the public for hire. It believes that its absence of an existing customer base, and the fact that there will be a number of operating competitors when it enters the market, provide a sufficient basis for not treating it in the same fashion as current or new carriers with a pre-existing market position.

7. Parties favoring sales generally concurred with the arguments proffered by Western Union and Hughes.[9] They agree that private sales meet a real market demand for certainty of price and access which currently is not available through common carrier tariffed offerings because of the carrier's ability to change the terms of the tariff unilaterally. They further argue sales will result in more efficient facility utilization, will stimulate new entry, will provide additional options to users and will increase the number of competitors and variety of offerings. With few exceptions, however, most of the commenters disputed Hughes' contention that it could be treated differently from the other domsat operators. They claim that the same type of equipment is being offered and that all the licensees should be treated the same with respect to sales.

8. Parties opposed to transponder sales contend that no basis in law or policy exists upon which the Commission can justify them.[10] They

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participate in AT&T's follow-on TELSTAR system to provide MTS and WATS services. In addition, it will operate a separate two in-orbit system ("GSTAR") in the 12/14 GHz bands to provide what generally has been considered "specialized communications service."

[5] Spacecom, the licensee of the Advanced WESTAR system, is a partnership consisting of Western Union Space Communications Corporation (50%), Fairchild Space Communications, Inc. (25%) and ConTel Space Corporation (25%). Spacecom will lease 50% of the Advanced WESTAR system to Western Union and 50% to American Satellite Company. Those entities received Section 214 authorizations to provide common carrier services on the Advanced WESTAR system.

[6] Hughes has submitted its standard contract from which negotiable items such as the number of transponders and price were missing. Its request for confidential treatment was recently granted. FCC 81-596, rel. Dec. 28, 1981. Press articles, however, indicate that the Hughes' transponders are selling between $8-14 million each, depending on the number purchased. American Broadcasting Companies, Time, Inc., Times Mirror Corp., Turner Broadcasting Corp., Viacom International Inc. and Westinghouse Broadcasting Company reportedly have bought varying numbers of Hughes' transponders on the first in-orbit satellite—GALAXY I. *Business Week*, "How Cable-TV Success Hinges on Satellites", Sept. 14, 1981 at 89; and *Broadcasting*, "ABC Makes It a Full House on Galaxy I", Nov. 30, 1981, at 34. Western Union has submitted copies of executed agreements with its customers Citicorp, Dow Jones & Co., Edquatorial Communications, Inc., Telemine, Inc., Westinghouse Broadcasting Company and V.C.I. Satellite Company. Western Union's request for confidential treatment of these documents was also granted by the Commission and thus this order does not describe specific terms of those agruments. FCC 81-596, rel. Dec. 28, 1981. RCA American has not submitted any specific plans or contracts for the sale of transponders. Informal reports indicate that it has sold five transponders on SATCOM IV.

[7] Public Notice dated May 6, 1981, Common Carrier Services Information, Report No. I-946. The comments received in response to our Notice will be piced in this Docket. In the same Public Notice, we requested comment on RCA's Petition concerning the requirement that RCA tariff its transponder allocation procedures. See *RCA American Communications, Inc.*, 74 FCC 2d 531 (1979). That Petition is considered in a separate order also adopted today, FCC 82-56.

[8] Like typical financing arrangements, the more money paid up front the less the nominal purchase price. Much of the information concerning WESTAR sales appears in exhibits attached to the Robert Wold complaint. See *Robert Wold Company, Inc. v. Western Union Telegraph Company*, File No. E-81-14. Specific information concerning the Western Union transactions is not presently a matter of public record.

[9] These parties include: Citicorp, Dow Jones & Company, Equatorial Communications Services, Inc., GTE Satellite Corporation and RCA American. An informal letter was submitted by Home Box Office in support of Hughes' non-common carrier argument and of sales in general.

[10] These parties include: American Satellite Company, Eastern Microwave, Inc., Hughes Television Network, Rainbow Communications, Inc., Rainbow Programming Services Company, Robert Wold Company, Inc., Satellite Syndicated Systems, Warner Amex Satellite Entertainment

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argue that the offering of a transponder for sale is an offering of a radio facility for the purpose of communicating intelligence of the user's own design and choosing, and hence must be treated as the offering of a communications service for hire. They claim sales are analytically indistinguishable from a long term common carrier lease offering, which is differentiated only by price and the method of payment. They characterize transponder sales as premature implementation of the proposals contained in the *Competitive Carrier Rulemaking* since that Docket has not yet been resolved by the Commission.[11] Therefore, until the Commission relaxes the requirements under Title II of the Act, they assert that any offering of transponder capacity must be made pursuant to tariff. Finally, some insist that at a minimum prior Commission approval is required under Sections 214(a) and 310(d) of the Act, 47 U.S.C. 214(a) and 310(d), before satellite transponders can be sold on an untariffed basis.

9. On policy grounds, the sales opponents assert that satellite carriers continue to possess market power under the criteria set forth in the *Competitive Carrier Rulemaking*. Because domsats control access to the valuable and limited orbital spectrum, they contend the Commission should impose all the obligations inherent in Title II. They assert that private untariffed sales only permit the carriers to extract scarcity rents during a period of market instability, which invariably will lead to a concentration of transponder facilities among large entities who have the ability to pay.

Discussion

10. The foundation of our domestic satellite policies was established in the Docket No. 16495 proceedings.[12] In *Domsat I*, the Commission concluded that it had the statutory authority to "authorize any non-Federal government entity, including the Communications Satellite Corp., other common carriers, and non-carriers who construct and operate (either individually or jointly) communications satellite facilities for domestic use." *Id.* at 86. Rather than prescribe particular arrangements, we invited applications from "all legally, technically and financially qualified entities." *Id.* at 93. We chose this approach so that we would have the benefit of a concrete proposal before us to determine whether the public interest would be served by authorization of that particular system. To facilitate the application process, the Commission set forth specific showings to be made by proponents of the various systems. *Id.* at 98–102.

11. In *Domsat II*, the Commission affirmed its "multiple entry" policy. The Commission warned, however, that multiple entry was not "open in the sense that it is without any restrictions or limitations." *Id.* at 850. We recognized our statutory obligation to "make the requisite finding that a grant of a particular proposal will serve the public interest, convenience and necessity," including a "sufficient showing of potential public benefit to justify the assignment of orbital locations and frequencies." *Id.* at 850–51.

12. We have in the past found the public interest would be served by authorization of a non-common carrier satellite system.[13] In reaching those conclusions, however, we had the opportunity to review concrete proposals and to impose certain conditions. We have not had that opportunity with respect to the transponder sales proposals.

13. Without exception, each of the licensees who now wishes to sell rather than tariff transponders represented prior to the grant of their licenses, that its satellites would be offered on a common carrier basis. Orbital spectrum was assigned to these licensees on the premise that the facilities would be available to the public at large.[14] Common carrier section 214 authorizations were in fact made implicit in the Title III radio station authorization.[15]

14. Although the practice in this area has been to provide space segment capacity to customers on a common carrier basis, since the early days of domestic satellites we have encouraged flexible approaches and we have never retreated from our promise to consider applications for non-common carrier systems. Had we been made aware that some applicants contemplated non-common carrier operations, the present controversy could have been addressed and resolved at the time of initial licensing. The fact that such proposals were not considered at the initial licensing stage, however, does not preclude their consideration now. Therefore, in satisfaction of the processing procedures established in Docket No. 16495, we are establishing the instant rulemaking docket to allow interested domestic satellite licensees to request license modifications to provide non-common carrier service if they so desire. We think this is appropriate so that we may have the opportunity to review "concrete proposals" and the public has a meaningful opportunity for comment.

15. We think this conclusion is particularly compelling when the changes in the domsat industry are considered. Or policy determinations permitting private domsat operation were made at a time when the financial viability of and demand for domestic satellite services were virtually unknown. The domestic satellite market of course has evolved considerably since those initial policy decisions were made. This market is much less speculative than it once was and it is growing rapidly. It recently has been plagued, however, by difficult supply/demand tensions. Prior to 1978, there was an abundance of immediately available satellite capacity. Demand then began to grow and previously unused satellites started to fill up. The initial facility investment decisions, which were made at a time when demand was uncertain at best, were inadequate to meet the unpredicted growth in demand. Thus, in the past few years the Commission has been beseiged by customer complaints, tariff disputes and other litigation concerning access to particular satellites.[16] Such difficulties in fact contributed to our classification of domestic satellite

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Company and Western Communications Research Institute, Inc.

[11] See *Further Notice in CC Docket No. 79–252*, 84 FCC 2d 445 (1981). While the question of transponder sales also has been raised in comments filed in that Docket, the proponents of sales contend that private sales are permissible without resolution of that proceeding.

[12] *Domestic Communications Satellite Facilities*, 22 FCC 2d 86 (1970); 35 FCC 2d 844, *recon. in part*, 38 FCC 2d 665 (1972) (Domsat I, II and III).

[13] *See e.g., Western Union Telegraph Company*, 86 FCC 2d 196 (1981) (Advanced WESTAR); *Hughes Services Inc.*, FCC 79–809, released Dec. 4, 1979 (LEASAT); *GTE Satellite Corp.*, 43 FCC 2d 1141 (1973) (NSS private system); *COMSTAT General Corp.*, 42 FCC 2d 854 (1973) (COMSTAR). Only the NSS proposal approached the type of private activity at issue here and, even in that context, the Commission considered and required cetain access provisions. 43 FCC 2d at 1155–1160.

[14] See *Orbit Deployment Plan, supra* note 2, at 600–606.

[15] *Id.* at 612–613. Licensees are required to operate in accordance with the understanding, parameters, terms and conditions of their license, but we have ample authority to expand or modify those licenses upon a proper showing. See 47 U.S.C. 151, 154(i), 154(j), 214(a), 301, 303(f), 303(r), 308, 309, 312(a)(2), 316, and 403.

[16] *See e.g., RCA American Communications, Inc.*, 86 FCC 2d 165 (1981); *Spanish International Network, Inc. et al.* v. *RCA American Communications, Inc.*, 78 FCC 2d 1451 (1980); *Cable News Network* v. *RCA American Communications, Inc.*, 78 FCC 2d 1200 (1980). These decisions, along with *RCA American Communications, Inc.* (Lottery Decision), 79 FCC 2d 531 (1980) and *Southern Satellite Systems, Inc.*, 78 FCC 2d 1125 (1980), have been consolidated on appeal in *Spanish International Network Inc. et al.* v. *Federal Communications Commission*, Nos. 80–1911 *et al.* (D.C. Cir. filed Aug. 5, 1980).

carriers as "dominant" in the *Competitive Carrier Rulemaking.*[17] The changed circumstances make it even more important to ascertain that each satellite authorization fully benefits the public interest.

16. We do not wish our action today to be misconstrued as disfavoring non-common carrier satellite applications. To the contrary, at this point we see no reason to retreat from our existing policies which contemplate that non-common carrier systems may be authorized, as long as efficient use of the orbital spectrum is made by the satellites. The licensees have presented persuasive arguments that transponders sales may be an effective remedy to ensure that future supply/demand imbalances do not occur. They contend that sales would stimulate greater efficiency and transponder capacity by providing the operator with financing, risk sharing, needed customer commitments and an ability to plan for long term launch schedules. Sales appear to provide benefits to customers as well, including the increased certainty of price and access. We do not feel, however, that there is an adequate record to assess these arguments fully. This rulemaking is designed to compile that record.[18]

17. In addition, we do not believe the present record provides an adequate basis for us to conclude that transponder sales are not a common carrier activity. Many of the parties have argued that transponder sales are merely a means for domsat licensees to evade their common carrier obligations. They content that no principled differentiation can be drawn between a sale by private contract and a long term lease pursuant to tariff because the identical transfer occurs. They claim that in both situations the "purchaser" or "tariff lessee" acquires the right to use a certain transponder for a specified period of time.

18. Admittedly, the line between private and common carriage is often difficult to delineate. In the *NARUC* decision, the Court reasoned that common carriage could be defined by a "holding out" standard.[19] When applying its test, the Court inquired "whether there will be any legal compulsion thus to serve indifferently and if not, second, whether there are reasons implicity in the nature of [the offeror's] operations to expect an indifferent holding out to the eligible user public." *Id.* at 642. Therefore, we are particularly interested in making sure that an adequate record is compiled on both of these issues.[20]

19. In sum, it is evident that transponder sales present significant policy and legal issues. Rather than consider these issues in an *ad hoc* fashion we seek public comment on relevant issues in this preceeding.[21] After consideration of timely filed comments we intend to adopt a Policy Statement which will articulate under what conditions, if any, transponder sales will be permitted, and whether the particular licensees seeking approval may engage in those activities. In order to frame the issues more precisely for commenting parties, Appendix A contains a list of questions we believe would be relevant to any license modification. We therefore request interested parties to respond directly to those questions. Of course other issues can be raised to the extent deemed relevant by the commenters.

20. We already have on file substantial information about the industry structure such as numbers of transponders now in service and expected to be placed in service. We do not, however, have enough information to analyze allegations that control of transponders is being concentrated in the hands of a few large users. To ensure that we have enough information to judge this matter we are requiring all domestic satellite licensees to give us lists naming the persons controlling and/or using their transponders, the amount of actual utilization of each transponder and the type of communications (i.e., video programming, voice etc.) provided on those transponders.

21. Interested licensees must file their modification applications within thirty days of release of this Notice or from the date it is published in the **Federal Register**, whichever is later.[22] Initial comments on this Notice of Proposed Rulemaking will be due on the same date. Upon receipt of any modification applications, the Common Carrier Bureau will issue a public notice indicating their acceptance for filing.[23] Comments on the modification applications and responsive pleadings to the initial comments filed with respect to the Notice of Proposed Rulemaking will be due 30 days after issuance of the public notice specified above. The pleading schedule for filing oppositions and replies to any petitions or comments which may be filed with respect to the modification applications will be governed by § 1.45 of the rules. 47 CFR 1.45. Because of the need for an expeditious ruling on this matter, we do not anticipate granting any extensions of time for the commenting periods described above.

22. Our initial analysis pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, is attached as Appendix B. We do not believe that the actions proposed in this proceeding will have a significant economic impact on a substantial number of small businesses if ultimately adopted. Because, however, the impact may vary depending on the extent to which transponders are sold, interested parties may wish to comment on this matter.

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[17] *First Report and Order*, 85 FCC 2d 1 (1980). The validity of this conclusion has been questioned in the *Further Notice*, 84 FCC 2d 445 (1981) and in the petitions for reconsideration of the *First Report and Order*. In addition, we note that the total number of transponders will increase dramatically in the near future as recently authorized satellites are launched.

[18] We contemplate concluding this rulemaking by early summer. While licensees may not provide "services" inconsistent with their common carrier obligations until we have acted, they are not precluded from continuing to negotiate contracts and accept progress payments at their own risk pending our further action.

[19] *NARUC* v. *FCC*, 525 F. 2d 630 (D.C. Cir.), *cert. denied*, 425 U.S. 992 (1976).

[20] It has been suggested that transponder sales might be likened to the kind of equipment sales that are prevalent in the private radio service. *See, e.g., Second Report and Order in Docket 19262*, 46 FCC 2d 752 (1974), *recon.* 51 FCC 2d 945 (1975), *aff'd sub nom. NARUC* v. *FCC, supra; Tentative Decision in Docket 18921*, 46 FR 32039 (published June 19, 1981). Hughes, for example, has asserted that it will be merely an equipment supplies making satellite technology more readily available to the user public. We specifically seek comments on the validity of this analogy.

[21] We have broad authority to decide such issues in a rulemaking context. *See e.g., FCC* v. *National Citizens Committee for Broadcasting*, 436 U.S. 775 (1978); *FPC* v. *Texaco, Inc.*, 377 U.S. 33 (1964); *U.S.* v. *Storer Broadcasting Company*, 351 U.S. 192 (1956); *Washington Utilities & Transportation Commission* v. *FCC*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 432 U.S. 636 (1975); *WBEN, Inc.* v. *U.S.*, 396 F. 2d 601 (2nd Cir.), *cert. denied*, 393 U.S. 914 (1968).

[22] Hughes requested its "Additional Comments" also be treated as a request for modification of license. These comments are deficient for two reasons. First, they were not signed by the applicant as required by our domsat licensing procedures. Second, they did not contain the kind of specificity we have indicated above will be necessary. Nor has Hughes submitted its contracts as a matter of public record. Thus, if Hughes intends to operate its system on a non-common carrier basis, we would expect it to follow the procedures outlined above.

[23] Consistent with the approach of this rulemaking proceeding and the questions raised in Appendix A, applications to be "acceptable for filing" should include the following information: (1) Specific and detailed information concerning marketing plans so that the *NARUC* test can be applied; (2) the satellites on which the licensee intends to sell transponders; (3) the number of transponders the licensee intends to sell on a satellite-by-satellite basis; (4) the number of transponders the licensee intends to lease pursuant to tariff on a satellite-by-satellite basis; (5) the number of transponders, and the name of the purchasing customer, for which sale contracts have been executed; (6) the arrangements to be used to separate common carrier and non-common carrier transponders if both are contemplated on the same satellite or within the same system; and, (7) copies of standard contracts that have been or will be used.

23. This Notice of Proposed Rulemaking is issued pursuant to authority contained in Sections 4(i), 4(j), 303 and 403 of the Communications Act of 1934, as amended. 47 U.S.C. 154(i), 154(j), 303 and 403. In accordance with § 1.1419 of the Commission's rules and regulations, 47 CFR 1.1419, an original and five copies of all comments, replies, briefs and other documents filed in this proceeding should be furnished to the Commission. Copies of all filings will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

24. For the purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion into the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed comments in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion into the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by Docket Number the proceeding to which it relates. *See generally*, § 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

25. Accordingly, it is ordered That currently authorized domestic satellite licensees shall submit the information specified in paragraphs 19–20 above and in Appendix A, to the extent applicable.

26. It is further ordered That interested domestic satellite licensees shall submit applications to modify their authorizations by the date specified in paragraph 21 above.

27. It is further ordered That the Commission's Secretary shall mail a copy of this Notice of Proposed Rulemaking to American Telephone and Telegraph Company, COMSAT General Corp., GTE Satellite Corp., Hughes Communications, Inc., RCA American Communications, Inc., Satellite Business Systems, Southern Pacific Communications Company, Space Communications Company and Western Union Telegraph Company.

28. It is further ordered That the Commission's Secretary shall mail a copy of this Notice of Proposed Rulemaking to Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

I. What are the present and future public interest ramifications of allowing domestic satellite licensees to engage in noncommon carrier activities such as "sales"?

II. Does the "sale" of a transponder as contemplated by the licensee constitute the provision of a common carrier communications service, and if so, can domsat licensees conduct such sales consistent with their Title II obligations? In this regard, we will need information from the licensees as to their marketing practices and copies of their standard contracts.

III. What are the legal and policy considerations attendant to allowing a domestic licensee to provide private and common carrier activities on the same satellite or within the same system?

IV. Does the "sale" of a transponder effect a transfer of control within the meaning of section 310(d) of the Act?

V. Does the "sale" of a transponder effect a discontinuance of service within the meaning of Section 214(a) of the Act?

VI. Is there any legal or policy basis for distinguishing between the activities of Hughes vis-a-vis the other domsat carriers?

VII. Can transponder sales be treated as equipment supply like that which is common in the private radio services; if so, should the suppliers and/or the users be licensed by the Commission?

VIII. If sales are allowed, should privately operated satellites be subordinate to common carrier satellites with respect to our orbital assignment policies?

IX. If sales are allowed, should the Commission consider allocating certain spectrum for private operations and other spectrum for common carrier operations?

Appendix B

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, the Commission issues the following initial regulatory flexibility analysis.

Why Action is Contemplated: We are issuing this Notice of Proposed Rulemaking to receive public comment on a new method of marketing domestic satellite transponders. This action should result in providing the Commission with the necessary input from interested parties to reach a reasoned decision on this matter. We currently perceive many public interest benefits arising from transponder sales by providing additional competitive alternatives to domestic satellite communication users.

Objectives and Legal Basis: Our objectives are to compile an adequate record for our determination with respect to transponder sales and to provide an efficient procedure for interested licensees to submit modification applications.

Our legal basis for this action can be found in sections 1, 4(i), 4(j), 214(a), 301, 303(f), 303(r), 312(a)(2), 316 and 403 of the Communications Act of 1934 as amended, 47 U.S.C. 151, 154(i), 154(j), 214(a), 301, 303(f), 303(r), 312(r), 312(a)(2), 316 and 403.

Small Entities Affected by the Rule: This action could have the effect of reducing the supply of transponders domestic satellite licensees have available for direct marketing to smaller users for their satellite communication needs. This does not mean, however, that smaller users will be precluded altogether since resale carriers and others may make capacity available to smaller users. Furthermore, not all domsat licensees intend to sell transponders on a noncommon carrier basis. Although it is not possible to determine the precise effect the proposed action may have on transponder availability, we tentatively believe that in the long run that all satellite users, both large and small, will have access to greater facilities if the transponder sale proposals are implemented.

Reporting, Record-Keeping and Compliance Requirements: This action may create new reporting or record-keeping requirements for existing or new domestic satellite licensees concerning transponder utilization who are not small entities. It is not expected that any additional obligations will be created for satellite users.

Specific Alternatives That Could Accomplish the Same Objectives: The Commission could require the continued operation of domestic satellite systems on a common carrier basis. This alternative, however, may not accomplish the Commission's ultimate objective to ensure that adequate satellite facilities are available on reasonable demand.

Concurring Statement of Commissioner Joseph R. Fogarty

In Re: Domestic Fixed-Satellite Transponder Sales—Notice of Proposed Rulemaking.

I concur in the Commission's decision to institute a generic, as opposed to an *ad hoc*, proceeding to review proposals by certain domestic satellite service providers (Domsats) to "sell" transponders on a non-common-carrier basis and to determine appropriate rules and policies with respect thereto.[1] Because the legal and policy issues raised by these proposals are so critical and far-reaching, I believe a posture of strict neutrality, if not healthy skepticism, is appropriate at this early juncture. Since the notice and its appendices are fully adequate in delineating the crucial legal issues and pivotal policy considerations, I here emphasize only those concerns which warrant particular comment by participating parties and close scrutiny by the Commission.

First, it bears special notice that each of the Domsat licensees now proposing transponder sales originally represented to the Commission (and thereby to the public) that its system would be offered on a common carrier basis, and that consequently, common carrier authorizations under section 214 of the Communications Act accompanied the Commission's Title III radio station authorizations. While this prior regulatory classification does not bar proposals to convert to "private system" or " private carriage" status, reliance by the public and this Commission on earlier common carrier service representations strongly suggests that close attention to the public interest implications of these proposals is warranted.

Second, while this Notice quite properly seeks comment on the applicability of the *NARUC* decision[2] and its test of common verus private carriage—to the issue of the appropriate regulatory treatment of Domsat transponder sales, this inquiry should not beg or avoid the more basic question of whether common carrier status and regulation should be imposed on all or part of the domestic satellite market as a matter of sound telecommunications policy. I believe this larger issue must be resolved according to the Commission's fundamental statutory mandate. As stated by section 1 of our Communications Act, this Commission was created—

For the purpose of *regulating* interstate and foreign commerce in communication by wire and radio *so as to make available*, so far as possible, *to all* the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio *communication service with adequate facilities at reasonable charges* * * *

(Emphasis added) This congressional statement of paramount purpose instructs and guides this Commission in allocating radio spectrum pursuant to Title III of the Act, and in determining what classes of licensee are to be entitled to its use, and for what purposes, and under what terms and conditions. These agency functions and responsibilities must be discharged according to statutory standards of "public convenience, interest, or necessity" [3] or "public convenience and necessity;" [4] they cannot be abdicated to "marketplace forces." [5]

While our original Domsat policies of "open entry"[6] contemplated a wide variety of satellite system applications and appear to allow for consideration of "private" or "non-common carrier" systems incorporating the transponder sale proposals here at issue,[7] the Commission must be mindful nonetheless of its obligation to reassess its policies according to any changed circumstances so as to insure continuing consistency with the statutorily mandated public interest.[8] The original "open entry" Domsat policies were predicated on the Commission's assessment that "such * * * factors as the extent of demand for domestic satellite services, the particular services that can be provided most effectively and efficiently via this medium, and the costs involved" were then "unknown."[9] A "critical consideration" appeared to be "what persons, with what plans, are presently willing to come forward to pioneer the development of domestic communications satellite services according to the dictates of their business judgment, tehnical ingenuity, and any pertinent public interest requirements laid down by the Commission."[10] Given these uncertainties, the Commission opted for a regulatory structure of maximum flexibility as most consistent with the "basic touchstone for decision," "our mandate set forth in section 1 of the Communications Act * * *"[11]."In short," the Commission concluded, "we believe that we can best render the public interest judgments as to what system or systems to be authorized in the context of specific proposals."[12]

The specific transponder sale proposals now before the Commission are advanced in a Domsat environment quite different from that contemplated by its original decision over a decade ago. Demand for Domsat facilities and services—an "unknown factor" in 1970—now exceeds available supply. The financial viability of Domsat systems—another previously unknown factor—has been proven in spectacular fashion.[13] The supply of Domsat orbital slots available for new competitive entry is dwindling rapidly, and the prospect for increased supply is at this time problematic at best. The Commission's *First Report and Order* in the Competitive Carrier Rulemaking [14] has classified Domsat common carriers as "dominant," and therefore subject to full Title II regulation, based on findings that these Domsat carriers "possess market power" and are capable of gaining supracompetitive or excessive profits.[15] Other government commentators have submitted that Domsats are a "bottleneck facility" not presently subject to effective competition.[16]

These "changed circumstances" suggest that the Commission must take a hard look at Domsat transponder sale proposals from the standpoint of its Section 1 mandate "to make available * * * communication service with

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[1] Thus far, two existing Domsat operators (Western Union Telegraph Co. and RCA American Communications, Inc.) and one new Domsat licensee (Hughes Communications, Inc.) have proposed such transponder sales. Since other Domsat operators may be reasonably expected to follow suit, it is entirely wise and appropriate for the Commission to evaluate such proposals via rulemaking rather than by way of *ad hoc* application review and determination. Since the public has not yet been afforded a meaningful opportunity to comment on these proposals, this rulemaking vehicle also may have been mandatory.

[2] NARUC v. FCC, 525 F.2d 630 (D.C.Cir. 1976), *cert denied*, 423 U.S. 902 (1976).

[3] *See, e.g.*, section 303 (a) and (b) Commission "shall" "Classify radio stations" and "Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class" "as public convenience, interest, or necessity requires."); section 307(a) (Commission shall grant station licenses "if public convenience, interest, or necessity will be served thereby."); and section 309 (Commission shall grant radio license applications according to whether "the public interest, convenience, and necessity" will be served thereby.)

[4] *See, e.g.*, section 214 (Commission shall authorize common carrier facilities as "the present or future public convenience and necessity require.").

[5] *Cf.* FCC v. RCA Communications, Inc., 346 U.S. 86 (1953); Hawaiian Telephone Co. v. FCC, 498 F.2d 771 (1974); *See also* FPC v. Texaco, 417 U.S. 380 (1974).

[6] Domestic Communications Satellite Facilities, 22 FCC 2d 86 (1970), 35 FCC 2d 844 (1972), *recon. in part*, 38 FCC 2d 665 (1972) (Domsat I, II, and III).

[7] *See* Domsat I, 22 FCC 2d 86, 93–94 (1970).

[8] *See* Geller v. FCC, 610 F.2d 973, 980 and n.58 (D.C. Cir. 1979). The Commission's Dorsat II Second Report and Order implicity recognized this continuing obligation by stating that it was "necessary to retain flexibility to alter our initial determinations in the light of evolving circumstances." 35 FCC 2d 844, 850 (1972).

[9] Domsat I, 22 FCC 2d at 89.

[10] *Id.*

[11] *Id.* at 94.

[12] *Id.* The Commission further stated that "Parties are thus expressly advised that while the Commission will welcome submission of applications and give them all the most serious consideration, the extension of this opportunity to file, and the expenditure involved in preparing an application, *do not in any way indicate that the application will be granted in whole or in part.*" *Id.* (Emphasis supplied).

[13] The recent RCA transponder "auction" at Sotheby's produced "winning bids" in the total aggregate amount of $90.1 million compared with an aggregate total of $50 million in monthly charges which would accrue to RCA over the fixed term at its current tariff schedule rates—an auction "mark-up" of 80 percent.

[14] Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor (CC Docket No. 79–252), 85 FCC 2d 1 (1980).

[15] *Id.* at 27.

[16] *See, e.g.*, Telecomminucations in Transition: The Status of Competition in the Telecommunications Industry, Report of the Majority Staff of the Subcommittee on Telecommunications, Consumer Protection, and Finance of the House Committee on Energy and Commerce, Committee Print 97–V, 97th Cong., 1st Sess. 134 (November 3, 1981). *See also* Competitive Carrier Rulemaking—Further Notice of Proposed Rulemaking, Separate Statements of Commissioner Joseph R. Fogarty, Concurring in Part; Dissenting in Part, 84 FCC 2d 537, 540–41 (1981).

adequate facilities at reasonable charges * * *" Review of the current Domsat environment may dictate the conclusion that Title II common carrier regulation is required to protect and promote the public interest in fair access, just and reasonable charges, and nondiscriminatory terms and conditions of service.[17] It bears emphasizing that it is the interest of the public—the users and ultimate consumers of Domsat facilities and services—that is paramount here as in all matters within this Commission's jurisdiction. While the private financial and competitive interests of particular parties may be well served by the proposed transponder sales, such considerations are not the touchstone of the Communications Act. As previously noted, each of the Domsat licensees now wishing to sell rather than tariff its transponders originally represented that its facilities and services would be provided on a common carrier basis. Orbital slots and scarce radio spectrum were accordingly assigned these licensees on the basis that their facilities and services would be offered to the public at large. Given the acute supply and demand imbalance in the current Domsat "marketplace" and the apparent lack of cost comparable facility and service substitutes, I believe a strong public interest rationale is required in order to alter these representations and expectations.

The Domsat licensees proposing transponder sales contend that such sales will help avoid future supply/demand imbalances by stimulating greater efficiency and capacity through more certain financing, risk sharing, customer commitments, and long-range launch planning. However, in my judgment, the actual—as opposed to generalized—relevance and applicability of these arguments to present and future Domsat operations and requirements have yet to be demonstrated with adequate specificity. The Commission must also balance with these arguments considerations of fair opportunity for access to the services provided by these scarce governmentally-licensed facilities, as well as the effects of such sales on competition between both suppliers and users of Domsat services. The proper resolution of these competing policy considerations is at this juncture far less than self-evident.

With further regard to the competitive effects of the proposed transponder sales, this rulemaking proceeding also provides the appropriate forum for full ventilation and review of allegations that scarce transponders are being concentrated under the control of a few large users to the potential detriment of full and fair competition in the point-to-multipoint services market. These allegations warrant the Commission's close scrutiny for they implicate high First Amendment values, as well as goals of economic allocation efficiency. As the Supreme Court has recognized:

> (T)he people as a whole retain their interest in free speech by radio and their collective right to have the medium function consistently with the ends and purposes of the First Amendment * * * It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to contenance monopolization of that market, whether it be by the Government itself or a private licensee. [18]

Similarly, this Commission has stated that "it has long been a basic tenet of national communications policy that 'the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.' *Associated Press* v. *United States*, 326 U.S. 1, 20; *Red Lion Broadcasting Co., Inc.* v. *Federal Commnications Commission* 395 U.S. 367 * * *"[19] In my judgment, the Commission must pay equal, if not greater, attention to these First Amendment concerns in reviewing the transponder sales proposed by its Domsat licensees.

Separate Statement of Commissioner Mimi Weyforth Dawson re: Private Sales of Transponders by Domestic Satellite Licensees

The Commission's action today takes an important step in establishing a sound legal framework for a finding that private sales of transponders are in the public interest. As a matter of public policy, I believe regulation of domestic satellite carriers cannot serve the best interests of the general public. The events of the past two years have shown me that the first-come first/served standard of common carrier regulation is particularly ill-suited to allocating scarce resources that cannot be made readily available to all "upon reasonable request." There simply is no mechanism under a strict application of common carrier law to ensure that such scarce resources are utilized in a manner that is most beneficial to society.

Additionally, given the many links in the chain of production between the underlying domsat carrier and the ultimate consumer, rate regulation of the underlying carrier poses very little, if any, gain for the ultimate consumer in the form of lower prices. Therefore, we are left with the perverse result that the entities that are among the first in line for a transponder reap the economic rewards of innovative satellite service rather than the carriers that have borne the risks associated with satellite development.

Adding to these discomforting events is the uncertainty that the government has inadvertently brought to the marketplace under the intention of regulating in the public interest. Television program distributors and carriers have entered into private contracts with no guarantee of FCC sanction. The uncertainty is particularly disturbing in the case of RCAA because of the soon to be operational status of SATCOM IV.

Notwithstanding these problems, however, I believe our decision today puts us on the right track to resolving the controversy concerning all private sales arrangements. The establishment of a complete record will enable us to reach a decision that truly serves the needs of consumers while at the same time withstanding judicial scrutiny. However, it is absolutely imperative, in my mind, for the Commission to reach a final decision on this matter as soon as possible.

[FR Doc. 82-3757 Filed 2-11-82; 8:45 am]
BILLING CODE 6712-01-M

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[17] I discuss what I believe are the critical policy and legal considerations involved in a proper application of Title II tariff regulation to Domsat common carriers in a separate Concurring Statement in RCA Americom Communications, Inc. Revisions to Tariff F.C.C. Nos. 1 and 2, — FCC 2d —, FCC 82-54 (Adopted: January 28, 1982) dealing with the RCAA satellite transponder "auction tariff." That discussion is relevant to the issues under consideration in this proceeding, particularly the question of the Commission's authority and discretion to "deregulate" the Domsat field. For the sake of brevity, I do not repeat those views here.

[18] Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390 (1969) (Citations omitted).

[19] CATV Rules-First Report and Order in Docket No. 18397, 20 FCC 2d 201, 205 (1969).

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47 CFR Part 73

[BC Docket No. 82-59; RM-3966]

FM Broadcast Station in Huntsville, Arkansas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 240A to Huntsville, Arkansas, in response to a petition filed by Souwecco Communications Corporation. The assignment could provide Huntsville with a first local FM Service.

DATES: Comments must be filed on or before March 22, 1982, and reply comments must be filed on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.
Released: February 5, 1982.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Huntsville, Arkansas); BC Docket No. 82-59 RM-3966.

1. Souwecco Communications Corporation ("petitioner"), has filed a petition for rule making [1] seeking assignment of FM Channel 240A to Huntsville, Arkansas, as that community's first FM assignment. The assignment can be made with a site restriction, as noted *infra*, and petitioner states that it will apply for the channel, if assigned. No oppositions to the proposal were received.

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[1] Public Notice of the petition was given September 9, 1981, Report No. 1308.

2. Huntsville (population 1,394),[2] the seat of Madison County (population 11,373), is located approximately 200 kilometers (125 miles) northwest of Little Rock. It presently has no local aural service.

3. Petitioner states that Huntsville has its own government unit, banks, schools, a health-care facility, community center, a volunteer fire department, and a police department. Further, it states that Huntsville is located at the intersection of three state highways, and it has one weekly newspaper available to its residents. The community's economic base is derived principally from agriculture, although industrial employment and tourism also contribute to its economy, according to petitioner.

4. In order to accommodate this proposal, the transmitter site must be located approximately 9.0 kilometers (5.5 miles) south of Huntsville to avoid short-spacing to Station KKBL in Monett, Missouri.

5. In view of the fact that the proposed FM channel could provide a first local aural broadcast service to Huntsville, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Huntsville, Arkansas		240A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. *See*, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

[2] Population figures are obtained from the 1980 U.S. Census, Advance Reports.

9. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-3798 Filed 2-11-82; 8:45 am]
BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Parts 22, 32 and 46

Service Contract Act; Professional Employee Compensation, Contract Debts, Assignment of Claims, and Warranties

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR).[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before April 2, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following parts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

[1]The draft FAR is filed as part of the original document.

Part 22—Application of Labor Laws to Government Acquisitions

Subpart 22.10—Service Contract Act of 1965

This subpart prescribes policies and procedures implementing the Services Contract Act of 1965 (41 U.S.C. 351–358), the applicable provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219), and related Secretary of Labor regulations (29 CFR Part 4). This subpart may be affected by changes now under consideration by the Department of Labor. Any revision to the FAR necessitated by these changes will be made when the changes are published in final form by the Department of Labor.

Subpart 22.11—Professional Employee Compensation

This subpart provides policies and procedures for use in negotiated service contracts exceeding $250,000 that involve meaningful numbers of professional employees.

Part 32—Contract Financing

Subpart 32.6—Contract Debts

This subpart prescribes policies and procedures for the Government's actions in ascertaining and collecting contract debts, charging interest on debts, deferring collections, and compromising and terminating certain debts.

Subpart 32.8—Assignment of Claims

This subpart covers assignment of claims under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15). Assignment of claims means the transfer or making over by the contractor to a bank, trust company, or other financing institution, as security for a loan to the contractor, of its right to be paid by the Government for contract performance.

Part 46—Quality Assurance

Subpart 46.7—Warranties

This subpart provides policies and procedures for the inclusion of warranty clauses in Government contracts. Example clauses are provided in a new subpart of Part 52 which has been established specifically for example, as opposed to prescribed, clauses.

Dated: February 8, 1982.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 82-3869 Filed 2-11-82; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

Shrimp Fishery of the Gulf of Mexico; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Availability of plan amendment; correction.

SUMMARY: This document corrects an error contained in an announcement for the availability of the plan amendment for the Shrimp Fishery of the Gulf of Mexico which was published January 28, 1982 (47 FR 4104).

FOR FURTHER INFORMATION CONTACT: Mr. Harold B. Allen, 813–893–3141.

Dated: February 5, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Accordingly, NOAA corrects the spelling of "Tortugas" in the sixth line of the third column on p. 4104 of the **Federal Register** published on January 28, 1982.

[FR Doc. 82-3894 Filed 2-9-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 30
Friday, February 12, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Policy Revision; Winter Sports Administration

The Forest Service is revising its policy regarding administration of winter-sports special uses in the National Forest System. The changes are intended to clarify the Forest Service role; provide for the issuing of special use permits for Nordic ski touring centers and guides; establish permittees as responsible for user safety, including avalanche control, for those activities conducted under the terms of the special use permit; and adopt the American National Standard B77.1—Safety Requirements for Aerial Passenger Tramways—as the official safety standard for aerial passenger tramways constructed and operated on or over National Forest system land.

A draft of the policy, which will be issued as part of the Forest Service Manual, is available for public review. Comments will be accepted until May 1, 1982. Interested persons may obtain a copy of the draft policy from John Shilling, Recreation Management, Forest Service, USDA, P.O. Box 2417, Room 4241–S, Washington, DC 20013, 202–447–2311.

Dated: February 5, 1982.

Douglas Leisz,

Associate Chief.

[FR Doc. 82–3792 Filed 2–11–82; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Delaware County Roadsides, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Guidelines (40 CFR 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Delaware County Roadsides RC&D project, Delaware County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the action will not cause significant impacts to the human environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project objective is to stabilize the eroding areas along the county roadsides, thus reducing the amount of sedimentation in our streams which in turn pollutes our lakes.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–05 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 1, 1982.

Billy R. Littlefield,

Assistant State Conservationist (Programs).

[FR Doc. 82–3468 Filed 2–11–82; 8:45 am]

BILLING CODE 3410–16–M

Haskins Road RC&D Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Haskins Road RC&D Measure, Broome County, New York.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Haskins Road Critical Area Treatment RC&D Measure Plan; Finding of No Significant Impact

The measure concerns "critical area treatment," a plan for erosion control. The planned works of improvement include streambank stabilization with rock riprap, seeding and installing subsurface drains (600 ft).

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd. An environmental impact appraisal has been prepared and sent to various federal, state, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: February 1, 1982.

Paul A. Dodd,

State Conservationist, Soil Conservation Service, Syracuse, New York.

[FR Doc. 82-3467 Filed 2-11-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Airline Scheduling Committee Agreements

[Docket 20051]

In a letter dated January 22, 1982 counsel for the Airline Scheduling Committees sought a meeting with the Board's staff to discuss the progress that has been made by the committees towards the development of a mechanism to deal with the problem of committee deadlocks. Such a meeting has been scheduled for February 17, 1982, at 10:00 a.m., in Room 1012, at the Board's offices, 1825 Connecticut Avenue, NW., Washington, D.C.

Interested parties who wish to attend the meeting should so advise the undersigned in writing by February 12, 1982.

Dated in Washington, D.C. on the 5th day of February 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-3855 Filed 2-11-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations; Week Ended February 5, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
1-1-82	39016	Aerolineas El Salvador, S. A., c/o David L. Vaughan, Kelley Drye & Warren, 1333 New Hampshire Ave., N. W., Washington, D. C. 20036. Amendment to the Application of Aerolineas El Salvador, S. A. for passenger authority between Miami and El Salvador. Answers may be filed by March 1, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-3854 Filed 2-11-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40402; Order 82-2-5]

Trans World Airlines, Inc. Against the Government of the Italian Republic, the Directorate General of Civil Aviation of the Italian Ministry of Transport and Linee Aeree Italiane, S.P.A.; Order

On January 20, 1982, Trans World Airlines, Inc. (TWA) filed a complaint against the Italian Government, the Directorate General of Civil Aviation of the Italian Ministry of Transport, and Linee Aeree Italiane, S.P.A. (Alitalia), the Italian flag carrier. TWA challenges as anti-competitive two Italian Government practices. First, it claims that the Italian Government prevents it from using its own personnel for check-in at Rome's Fiumicino Airport. Instead, along with other non-Italian carriers, it must use the services of Aeroporti di Roma, a Government-owned, monopoly concessionaire. TWA contends that Aeroporti di Roma provides unhelpful, inefficient, and confusing service, causing TWA a loss passenger good will, and thereby leaving it at a competitive disadvantage.

Second, TWA claims that the Italian Government prevents it from instituting its "Airport Express" automated check-in at Fiumicino Airport. TWA says that Airport Express is an interrelated system that cannot be isolated from other activity on TWA's system. Thus, the carrier's inability to automate at Rome denies the convenience of automation to hundreds of thousands of passengers boarding TWA flights at Rome, Athens, Cairo, and Tel Aviv.

Since Alitalia can fully control its check-in services and can use its own automated check-in facilities both at Fiumicino and in the United States, TWA claims that the Italian Government's policies are discriminatory, anticompetitive, and a denial of the fair and equal opportunity to compete guaranteed by Article 9 of the U.S.-Italy Air Transport Services Agreement. TWA states that the Italian Government's policies warrant remedial action under section 402 of the Act, as well as under section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974 (IATFCPA), as amended by section 23 of the International Air Transportation Competition Act of 1979 (IATCA). The carrier says that even though relief for its complaint must ultimately come from the Italian Government, sanctions against Alitalia would not be inappropriate because Alitalia is the substantial beneficiary of the Italian Government's discriminatory practices. As possible remedial action, TWA suggests the suspension of future Alitalia tariff filings or the imposition of temporary operating restrictions on Alitalia's section 402 permit.

The International Air Transportation Competition Act of 1979 substantially expanded our ability to deal with allegations of unfairly restrictive and discriminatory practices by foreign governments and foreign air carriers. We now possess power to respond quickly to such practices through amendments to section 402 of the Federal Aviation Act and section 2 of the IATFCPA which permit us to deny, alter, amend, modify, suspend, cancel, limit or condition any foreign air carrier permits or tariff if we find such action to be in the public interest. These statutory provisions also authorize the Board to act without any hearing or to dispense with oral evidentiary hearings and base its decision on written evidence and arguments submitted by interested parties in appropriate circumstances. Furthermore, to ensure that complaints filed under the new legislation receive prompt attention, section 2 of the IATFCPA provides that the Board shall approve, deny, dismiss or set a complaint for hearing, or institute other proceedings proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action in increments of 30 days up to 180 days, if we conclude that it is likely that the complaint can be satisfactorily resolved through negotiations.

With these considerations in mind, we have decided to invite all interested persons to answer the complaint of TWA in this docket. Answers shall include all data, evidence, and argument upon which persons rely to support their position, and shall cover all substantive and procedural issues they wish the Board to consider. We will also provide an opportunity to reply to the answers.

Answers shall be filed no later than 15 days from the service date of this order,

and replies no later than 7 days from the answer date.[1]

After receipt and consideration of these pleadings and any evidence submitted, we will issue a further order in this proceeding. As indicated above, we may either provide for further procedures, defer action for 30 days, or grant, dismiss, or deny the complaint in whole or in part.

Accordingly,

1. We invite any interested person to file and serve upon persons named in paragraph 3, below, no later than February 18, 1982, answers to the complaint of the TWA in Docket 40402. If comments are filed, replies may be filed and must be served as above, not later than February 25, 1982;

2. If timely and properly supported requests are filed, we will give consideration to the matters and issues raised by the requests before we take further action, provided that we may order further procedures within the statutorily determined time period; and

3. We shall serve this order upon Trans World Airlines, Inc., Linee Aeree Italiane, S.p.A., the Ambassador of Italy in Washington, D.C., and the Departments of State and Transportation.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-3853 Filed 2-11-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 12 noon, on February 27, 1982, at the Western Regional Office, 3660 Wilshire Boulevard, Room 810, Los Angeles, California 90010. The purpose of this meeting is to discuss the Los Angeles City reapportionment project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, 260 Eucalyptus Hill Drive, Santa Barbara, California 93103, (805) 969-1563 or the Western Regional Office, 3660 Wilshire Boulevard, Room 810, Los Angeles, California 90010, (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 9, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3738 Filed 2-11-82; 8:45 am]

BILLING CODE 6335-01-M

[1] We delegate to the Director, Bureau of International Aviation, the authority to dispose of all procedural questions arising in this proceeding, except for requests for oral evidentiary hearings, until further Board order.

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Steel Pipes and Tubes From Japan; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether certain steel pipes and tubes from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation preceeds normally, the ITC will make its preliminary determination on or before March 8, 1982 and we will make ours on or before June 29, 1982.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377-1769.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation is certain steel pipes and tubes, which are defined for purposes of this proceeding as: seamless alloy pressure pipes and tubes, currently classifiable under item number 610.5209, Tariff Schedules of the United States Annotated (TSUSA); seamless heat-resisting pipes and tubes, currently classifiable under item numbers 610.5209, 610.5229 and 610.5234, TSUSA; and seamless stainless pipes and tubes, currently classifiable under item numbers 610.5205, 610.5229 and 610.5230, TSUSA. This investigation does not, however, include pipes and tubes which conform to American Petroleum Institute (API) standards and are used as oil and gas well casing and tubing, oil and gas field drill pipe, and oil and gas line pipe. The pipes and tubes under investigation are primarily used in the chemical, petrochemical and oil refining industries and by electric utilities for conveying gases or liquids at high pressure and/or at high temperatures in heat exchangers, boilers and other industrial equipment.

Initiation of Investigation

On January 20, 1982 we received a petition from counsel for the Babcock & Wilcox Company, on behalf of the U.S. industry producing the pipes and tubes described above. Under section 732(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1673a) (the Act), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the Babcock & Wilcox Company on certain steel pipes and tubes from Japan, and we have found that it meet the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether certain steel pipes and tubes from Japan are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by June 29, 1982.

The Petition

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry. The allegation is supported by comparisons of U.S. prices (developed from actual bids) on sales of the merchandise in the U.S. with Japanese home market prices (obtained from price quotes of Japanese trading firms) on sales made in Japan.

The petition also alleges that sales in the home market of seamless stainless tubes have been made at less than the cost of production. This allegation is supported by comparisons of the estimated cost of production with the

home market prices mentioned above. The cost of production is obtained by application of published Japanese raw material prices, estimated Japanese labor costs and Babcock and Wilcox manufacturing experiences. We have determined that the information reasonably supports this allegation. Therefore, as provided in section 773(b) of the Act, we will investigate whether sales of seamless stainless tubes in the home market have been made at less than the cost of producing that product.

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 8, 1982 whether there is a reasonable indication that imports of certain steel pipes and tubes from Japan are materially injuring, or are likely to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 8, 1982.

[FR Doc. 82-3666 Filed 2-11-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Wire Nails From the Republic of Korea; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the Republic of Korea (Korea) of certain steel wire nails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of certain steel wire nails are materially injuring, or threatening to materially injure, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 5, 1982, and if that determination is affirmative, we will make ours on or before April 14, 1982.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Petition

On January 19, 1982, we received a petition from counsel for Armco Inc., and Tree Island Steel, Inc., and from counsel for Atlantic Steel Co., Florida Wire and Nails, New York Wire Mills and Virginia Wire and Fabric, on behalf of the U.S. industry producing certain steel wire nails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Korea of certain steel wire nails (nails) receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, (19 U.S.C. 1677(5)) (the "Act") and that imports of nails are materially injuring, or threatening to materially injure, a U.S. industry. Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on certain steel wire nails, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters of Korean nails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by April 14, 1982.

Scope of the Investigation

The merchandise covered by this investigation are nails of one piece construction, which are made of round steel wire and which are either less than 1 inch in length and less than 0.065 inch in diameter, or 1 inch or more in length and 0.065 inch or more in diameter. Such nails are currently classified under items 646.25 and 646.26 of the Tariff Schedules of the United States, respectively.

Allegations of Subsidies

The petitioners allege that Korean producers, manufacturers, or exporters of nails receive the following benefits from the Korean government that constitute subsidies: preferential financing, artificially high tariff rebates, preferential rates for utilities and services, tax incentives and preferential rates for wire rod. The petition also alleges that the Korean government provides special subsidies to qualifying enterprises located within the Masan Free Trade Zone. These alleged subsidies include: additional preferential loans and loan guarantees, tax exemptions, and discounted utility rates.

Notification to ITC

In accordance with section 702(d) of the Act, we will notify the ITC of this action and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under any administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 5, 1982 whether there is a reasonable indication that imports of certain steel wire nails from Korea are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate without further notice; otherwise, it will proceed to conclusion.

Dated: February 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-3668 Filed 2-11-82; 8:45 am]

BILLING CODE 3510-25-M

Sorbitol From France; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Final Determination of Sales at Less Than Fair Value.

SUMMARY: We have made a final determination that liquid sorbitol and crystalline sorbitol from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (the "Act"). The weighted-average margins for liquid and crystalline sorbitol are 5.5 percent and 2.9 percent of the f.o.b. value, respectively. We will notify the United States International Trade Commission ("ITC") of this determination. The ITC will make a final determination as to whether imports of sorbitol from France are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–1273).

SUPPLEMENTARY INFORMATION:

Case History

On June 15, 1981, we received a petition from counsel for Pfizer, Inc., of New York, New York. The petition alleged that Societe Roquette Freres of Lille, France was selling sorbitol in the United States at less than fair value and that the sales were causing material injury to an industry in the United States within the meaning of section 731 of the Act.

After reviewing the petition, we determined that there were sufficient grounds to initiate an antidumping investigation. Therefore, we notified the United States International Trade Commission ("ITC") of our decision and on July 10, 1981, we announced the initiation of an antidumping investigation in the **Federal Register** (46 FR 35716).

On July 23, 1981, the ITC preliminarily found that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry. It published its determination in the **Federal Register** on August 5, 1981 (46 FR 39914).

In November 30, 1981, we published a notice of preliminary determination of sales at less than fair value in the **Federal Register** (46 FR 58134) which stated that the Department of Commerce preliminarily had determined that sorbitol from France was being, or was likely to be, sold in the U.S. at less than fair value. The U.S. Customs Service was directed to suspend liquidation on all entries or warehouse withdrawals of this merchandise, and to require a cash deposit, bond or other security equal to the estimated dumping margin of 3.9 percent of the f.o.b. value.

On December 17, 1981, we received a submission from counsel for Pfizer alleging that certain grades of liquid sorbitol from France are being sold in the home market at less than the cost of production. After reviewing the submission, we dismissed the allegation on the grounds that the submission failed to provide sufficient source documentation and justification for the cost of production factors incorporated in the submitted analysis and because of technical deficiencies. In a subsequent submission, counsel for Pfizer reiterated their allegation of sales below cost of production. However, this submission also failed to contain the required information or to correct the technical deficiencies. Without proper source documentation and justification as to how the alleged cost of production figures are derived and correction of technical deficiencies, we do not have reasonable grounds to suspect there are sales below cost of production in the home market.

On December 18, 1981, we held a public hearing at the Department of Commerce to give interested parties an opportunity to comment. We have considered all issues presented to us during the course of this investigation.

We received a letter from the European Community ("EC") on January 22, 1982, asking us to reconsider our preliminary finding concerning the "import levy" and "export restitution payments." We have fully considered the arguments presented by the EC in reaching our final determination.

On February 4, 1982, we received a letter from counsel for the respondent requesting an extension of time in this investigation in order that we might consider a letter from the French government expressing its similar concern regarding the "import levy" issue. Further, respondent indicated that it needed additional time to prepare its arguments for the final injury determination by the ITC.

On February 5, 1982, we received an unofficial translation of the French government's letter. We have considered all comments received regarding the "import levy" and the "export restitution payments," and we have determined that no additional time is required to resolve the issues present in this investigation.

The statement made in the preliminary determination that the final determination is due February 5, 1982 should have read February 8, 1982

Scope of the Investigation

The merchandise covered by this investigation is sorbitol, a polyol which is produced by the catalytic hydrogenation of sugars (glucose). Sorbitol is currently classified under item 493.6820 of the Tariff Schedules of the United States Annotated. Sorbitol is commercially available in two forms: (1) Crystalline sorbitol, used in the production of sugarless gum, candy, groceries and pharmaceuticals; and (2) liquid sorbitol, used in cosmetics and toiletries (such as toothpaste). Roquette Freres further identifies each form of sorbitol by specific grades. The amount of pure sorbitol determines the grades. During the period of investigation, Roquette Freres sold to U.S. customers six grades of liquid sorbitol and two grades of crystalline sorbitol. This investigation covers sales made between January 1, 1981 and June 30, 1981 by Societe Roquette Freres of Lille, France, the only known French producer and exporter of the subject merchandise to the U.S.

Methodology of Fair Value comparisons

In order to determine whether or not this product is being sold at less than fair value, we compared U.S. price with its foreign market value. We made a grade to grade comparison to the extent possible. Such a comparison was possible on both grades of crystalline sorbitol and on one of the six grades of liquid sorbitol. For the remaining five liquid grades, we compared each sale in the U.S. with a weighted-average foreign market value of all liquid grades sold in France other than that grade which was compared on a grade to grade basis.

U.S. Price

Roquette Freres sold sorbitol to unrelated U.S. importers through an exclusive U.S. sales agent. Since the price to the unrelated customer was agreed to before the sorbitol was imported into the United States, we used purchase price as defined in section 772(b) of the Act.

We calculated purchase price by using the duty-paid, delivered price to the unrelated U.S. purchaser and deducting, where appropriate, transportation costs, insurance, U.S. Customs duty, customs brokerage fees, sales commissions and traffic manager fees. Roquette Freres claimed that an

adjustment to purchase price for an "import levy refund" should be made under section 772(d)(1)(B) of the Act.

Roquette Freres made a claim for this adjustment on the basis that an "import levy refund" includes an "export restitution payment" made to exporters of products that contain corn. There is an import tax levied by member countries of the European Communities ("EC") on imports of corn. However, EC "export restitution payments" are paid on all exports of sorbitol outside the EC, regardless of whether the corn used to produce that sorbitol was domestic (from within the EC) or imported. The "import levy" and the "export restitution payments" are not directly linked to, or dependent upon, one another within the context of EC regulations. The exporters may receive these payments regardless or whether or not they imported corn and paid the "import levy". It is irrelevant in this particular case that Roquette Freres could show it had paid an "import levy" on imported corn and received "export restitution payments" on the corn content of sorbitol, since Roquette Freres would have received the "export restitution payments" regardless of whether or not they had actually paid an "import levy". We determine that the "export restitution payment" (Roquette Freres refers to it as an "import levy refund") is not a rebate of an import levy imposed by the EC on corn which has been rebated by reason of the exportation of sorbitol to the United States. Therefore, in this case we have not allowed the payment as an adjustment to the U.S. price.

Foreign Market Value

To determine foreign market value we used home market price as defined in section 773(a)(1)(A) of the Act, because there were sufficient sales in the home market. We calculated home market price on the basis of the delivered prices to unrelated home market customers. Where appropriate, we deducted shipping charges, special packaging costs, annual quantity rebates, indirect sales expenses and differences in interest expenses resulting from the extension of credit.

Roquette Freres claimed that an interest expense adjustment was appropriate because of the longer period for which credit was extended on sales in the home market compared to U.S. sales. We verified the actual interest expense from the extension of credit incurred on both home market sales and U.S. sales. We verified that the period during which credit was actually extended was longer in the home market than in the U.S., and we allowed the actual difference as an adjustment to the foreign market value.

In calculating foreign market value, we made currency conversions from French francs to U.S. dollars in accordance with 19 CFR 353.56(a)(1) using certified exchange rates on a daily or quarterly basis, depending upon the degree of fluctuation in the exchange rates.

Specific Issues of the Investigation

A number of issues were raised during the course of our investigation which relate to both the U.S. purchase price and the foreign market value. These issues are discussed below:

Petitioner contended that the costs and expenses of maintaining Roquette Corporation, in New York, including any profits absorbed by Roquette Corporation on the sale of sorbitol by Roquette Freres should be deducted from the purchase price. We have not allowed any of the costs and expenses of maintaining Roquette Corporation in New York as an adjustment to U.S. price, because Roquette Corporation did not participate directly in the sales of sorbitol in the U.S. All of the costs associated with the U.S. sales and distribution were assumed by Permal Distribution Services or Gallard-Schlesinger, who were paid fees for the services they performed. These fees were allowed as adjustments to the U.S. price of sorbitol.

Petitioner claims that we did not state any justification for allowing quantity rebate adjustments to the home market sales price. We verified that there were annual quantity rebates made in the home market during the period of investigation. The rebates were based on the customer purchasing a certain quantity of sorbitol during a calendar year. These rebates were made in the form of credits which would be applied on purchases made during the following year. We allowed the quantity rebate as a circumstance of sale adjustment to foreign market value in accordance with § 353.15 of the Commerce Department's Regulations.

Petitioner has made an allegation that Roquette Freres is selling certain grades of liquid sorbitol in the home market at prices below their cost of production. We have dismissed the allegation on the grounds that petitioner's submissions failed to provide proper source documentation and justification for the cost of production factors incorporated in the analysis and for technical deficiencies. Even if we had found the allegation to contain reasonable grounds on which to base a cost of production investigation, we would have been unable to complete a cost of production investigation within the statutory time that remained in this case. However, if an antidumping order is issued for sorbitol from France, and the petitioner provides a timely, sufficient allegation of sales below cost with the required source documentation and justification and correct technical specifications, the sales below cost of production allegation could be examined in the context of a section 751 review.

The respondent claims that liquid and crystalline sorbitol should be considered as two products for purposes of this investigation. Respondent maintains that the two products are not interchangeable; they have separate uses, physical characteristics, manufacturing processes, and commercial value. For these reasons we have separated the two products and calculated weighted-average margins of sales at less than fair value for each product.

Respondent has made a claim that the payment terms offered to customers in the United States should be compared to payment terms offered to French customers, rather than the actual payment experience of the two, to determine the proper adjustment for credit cost differences. Roquette Freres claims that the payment terms offered to French customers exceed those offered to U.S. customers. We allowed as an adjustment to foreign market value the actual difference in payment experienced in the two markets and not the offered terms of payment. We found that the actual average difference in the extension of credit between sales in the home market and sales in the U.S. market was less than that claimed.

Verification

In accordance with section 776(a) of the Act, we have verified the information we used in making this final determination. We were granted access to the books and records of Roquette Freres in Lille, France and of Roquette Corporation in New York. Roquette Corporation is the wholly-owned U.S. subsidiary of Roquette Freres. We used standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and randomly selected documents containing relevant information.

Negative Determination of Critical Circumstances

On July 10, 1981, in a **Federal Register** notice of initiation, we denied petitioner's allegation that critical circumstances existed with respect to imports of sorbitol from France. In that

notice we stated that petitioner had failed to provide us with sufficient information which established a prior history of dumping, or that the importer knew or should have known that the exporter was selling the subject merchandise at less than fair value. Accordingly, we did not find it necessary to address the issue of massive imports over a relatively short period of time.

On July 31, 1981, petitioner filed an amendment to its petition, which again sought to "establish the existence of critical circumstances within the meaning of section 733(e) of the Act * * * based on information not available at the time the original petition was submitted". In our preliminary determination of November 30, 1981, we again determined that based on the facts presented, that there was not a reasonable basis to conclude that critical circumstances existed with respect to imports of sorbitol from France. No additional information regarding the issue of critical circumstances has been presented since the time of the preliminary determination.

Results of Fair Value Comparisons

We made fair value comparisons on approximately 97 percent of the sales of sorbitol from France to the United States during the period of investigation. For liquid sorbitol, the comparisons resulted in margins ranging from 0 percent to 29 percent, with a weighted average margin of 5.5 percent. For crystalline sorbitol, the comparisons resulted in margins ranging from 0 percent to 9.8 percent, with a weighted-average margin of 2.9 percent.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act (93 Stat. 169, 19 U.S.C. 1673d), we have reached a final determination that sorbitol from France is being, or is likely to be, sold at less than fair value within the meaning of section 731 of the Act. The Department of Commerce has provided an opportunity for interested parties to present written and oral views pursuant to section 774 of the Act, and all expressed views have been considered in making this determination.

We will notify the ITC of this determination, and it will make a final determination as to whether imports of sorbitol are materially injuring, or threatening to materially injure, a U.S. industry. That determination will be due on or before March 29, 1982. If the ITC's final determination is negative, this investigation will be terminated. However, if the ITC makes a final affirmative determination in this case, we will issue an antidumping order on sorbitol from France.

In accordance with section 735(c)(1)(A) of the Act, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will also allow the ITC access to all privileged and confidential information in our files, provided that it confirms that it will not disclose such information either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue the suspension of liquidation of all unliquidated entries of this merchandise entered or withdrawn from warehouse for U.S. consumption. We are also directing the U.S. Customs Service to require a cash deposit, bond, or other security in the amount of 5.5 percent of the f.o.b. value for liquid sorbitol and 2.9 percent of the f.o.b. value for crystalline sorbitol. Until further notice, this suspension of liquidation will remain in effect.

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and § 353.44, Commerce Regulations (19 CFR 353.44).

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

February 8, 1982.

[FR Doc. 82-3887 Filed 2-11-82; 8:45 am]

BILLING CODE 3510-25-M

National Telecommunications and Information Administration

Senior Executive Service Performance Appraisal System

Susan G. Stuebing, Deputy Assistant Secretary, has been designated as Chairperson of the National Telecommunications and Information Administration Performance Review Board. This is in accordance with the Senior Executive Service Performance Appraisal System.

Jo Ann Sondey-Hersh,

Executive Secretary, National Telecommunications and Information Administration, Performance Appraisal System.

[FR Doc. 82-3894 Filed 2-11-82; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Possible Deepening of the Entrance Channel at the Mouth of the Columbia River, Oregon and Washington

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a DEIS.

The Portland District, Corps of Engineers is currently studying the feasibility of deepening the entrance channel at the mouth of the Columbia River. The existing entrance channel is 2,640 feet wide, 48 feet deep and 5 miles long.

The following alternative plans are being considered:

1. Increase the depth of the existing channel.

2. Narrow the channel to a 2,000-foot width and increase the depth.

3. Increase the depth of the northern 2,000-foot width and maintain the remaining 640 feet of channel width at the existing 48-foot depth.

4. Improve forecasting of bar conditions.

5. No action.

In regard to the increased depth associated with alternative plans 1, 2, and 3, various depths in the mid-50's range are being studied.

The scoping process will formally commence in February 1982, with the publication of a public notice containing a draft outline of alternative plans and potential effects which will be discussed in the DEIS. Federal, State, and local agencies, Indian tribes, interested organizations, and individuals will be requested to comment on the draft outline and to identify significant issues relating to the preferred plan. Scoping meetings will be held if necessary for public participation in the preparation of the EIS. The DEIS is scheduled for agency and public review and comment in September 1982. The final EIS is tentatively scheduled for publication in the spring of 1983.

ADDRESS: If you have any further questions, please contact Nandranie Tuck, (503) 221-6438 (FTS 423-6438), U.S. Army Corps of Engineers, Natural

Resources Section, P.O. Box 2946, Portland, Oregon 97208.

John O. Roach II,

Army Liaison Officer With the Federal Register.

[FR Doc. 82-3876 Filed 2-11-82; 8:45 am]

BILLING CODE 3710-AR-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: March 9, 1982.

Time: 0830-1700 hours (Closed).

Place: The Pentagon, Room 1A1071, Washington, D.C.

Proposed Agenda: The Army Science Board Ad Hoc Subgroup on Air Defense will meet to present and receive classified briefings and to hold classified discussions of progress to date on this study effort which will contribute to the final report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82-3793 Filed 2-11-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Date of Meeting: March 12, 1982.

Time: 0830-1700 hours (Closed)

Place: The Pentagon, Room 2E687A, Washington, D.C.

Proposed Agenda: The Army Science Board Ad Hoc Subgroup conducting a study on Ballistic Missile Defense will meet to receive classified briefings, present progress briefings, and hold discussions. The Terms of Reference address the following issues: (1) What elements and sub-elements of the BMD Program should receive increased emphasis, be reduced in scope, or be eliminated altogether? (2) At what level should the technology base efforts be maintained? (3) What are the items, sub-systems, or systems that could and should be given high visibility demonstrations prior to the 1983 decision date; particularly, early in that time period? (4) What research efforts should be consolidated and focused toward a pricipal goal?

This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Maria P. Galvan,

Acting Administrative Officer.

[FR Doc. 82-3795 Filed 2-11-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Privacy Act of 1974; Deletions of Systems

AGENCY: Office of the Secretary, DOD.

ACTION: Deletions of systems notices.

SUMMARY: The Office of the Secretary of Defense proposes to delete the notices for systems of records: DCOMP MS01, "Training Records"; DCOMP MS02, "Personnes Leave Schedule"; DCOMP MS03, "Personnel Records"; DCOMP MS05, "Request for Overtime Authorization"; DCOMP MS06, "Civilian Pay Time and Attendence Report"; and DCOMP MSO7, "Classified Container Custodian Data, SD 411." It has been determined that data contained in these systems is sufficiently covered by the OPM/GOVT-1 system notice and ODS/WHS personnel related system notices.

DATES: These delections shall be effective March 15, 1982.

ADDRESS: Send any comments to the System Managers identified in the system notices (44 FR 74088) December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the **Federal Register.**

FR Doc. 82-674 (47 FR 2544) January 18, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 8, 1982.

Deletions

DCOMP MS01

SYSTEM NAME:

Training Records.

DCOMP MS02

SYSTEM NAME:

Personnel Leave Schedule.

DCOMP MS03

SYSTEM NAME:

Personnel Records.

DCOMP MS05

SYSTEM NAME:

Request for Overtime Authorization.

DCOMP MS06

SYSTEM NAME:

Civilian Pay Time and Attendance Report.

DCOMP MS07

SYSTEM NAME:

Classified Container Custodian Data, SD 411.

Reason: Data contained in these systems is sufficiently covered by OPM/GOVT-1 system notice and OSD/WHS personnel related system notices.

[FR Doc. 82-3758 Filed 2-11-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Energy Services, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Energy Services, Inc. and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: March 15, 1982.

ADDRESS: Send comments to: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, (816) 374–2092.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On September 21, 1981, the ERA executed a proposed Consent Order with Energy Services, Inc. of Tulsa, Oklahoma. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Energy Services, Inc., with its home office located in Tulsa, Oklahoma, is a firm engaged in the sale of domestic crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order (June 1, 1979 through January 28, 1981). To resolve certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Energy Services' transactions involving crude oil sales during the period June 1, 1979 through January 28, 1981, the ERA and Energy Services entered into a Consent Order the significant terms of which are as follows:

A. The ERA alleges that, during the period covered by this Consent Order, Energy Services sold crude oil in excess of the maximum allowable ceiling prices in violation of 10 CFR 212.74 and 212.79.

B. Specifically, the ERA alleges that during the period June 1, 1979 through January 28, 1981, Energy Services sold crude oil produced from various properties which it operates as newly discovered crude oil when such crude oil was not so qualified under the provisions of 10 CFR 212.79.

C. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds

Under this Consent Order Energy Services, Inc. will pay the sum of $750,000, which includes interest, to the DOE within thirty (30) days after the effective date of this Consent Order. The ERA will determine the ultimate disposition of these funds. Upon full satisfaction of the terms and conditions of this Consent Order by Energy Services, the DOE releases Energy Services from any civil claims that the DOE may have arising out of the specified transactions during the settlement period.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Energy Services, Inc. Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time March 15, 1982. Any information or data considered confidential by the person submitting it must be identified in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 5th day of February 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-3739 Filed 2-11-82; 8:45 am]

BILLING CODE 6450-01-M

Robinson Energy Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Robinson Energy Corporation and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: March 15, 1982.

ADDRESS: Send comments to: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466, (816) 374–2092

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On December 11, 1981, the ERA executed a proposed Consent Order with Robinson Energy Corporation of Okemas, Michigan. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Robinson Energy Corporation, with its home office located in Okemos, Michigan, is a firm engaged in the production and sale of domestic crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order (June 1, 1979 through January 28, 1981). To resolve certain potential civil liability arising out of the mandatory Petroleum Price and Allocation Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Robinson's transactions involving crude oil sales during the period June 1, 1979 through January 28, 1981, the ERA and Robinson entered into a Consent Order, the significant terms of which are as follows:

A. Robinson produces and sells domestic crude petroleum. Robinson is a "producer" as that term was defined in the Mandatory petroleum Price Regulatons at 10 CFR 212.31, and was subject to the price regulations presently codified at 10 CFR Part 212, Subpart D.

B. Robinson operates the Hayden property, which was certified as a newly discovered crude oil producing property. As there was crude oil production from this property in calendar year 1978, the crude oil produced should have been certified as upper tier crude oil. The ERA believes that during the period covered by this Consent Order crude oil produced from the subject well was sold at prices in excess of the applicable ceiling prices, in violation of 10 CFR 212.74.

C. Robinson has discussed settlement with ERA officials. The ERA and

Robinson disagree in several respects concerning the proper application of the relevant federal statutes and regulations to Robinson's pricing of crude petroleum during the audit period. Both Robinson and the ERA believe that their respective positions concerning the alleged civil liability would be sustained if litigated. However, Robinson desires to settle all civil disputes with the ERA concerning the specified transactions which occurred during the period covered by this Consent Order, rather than incur the expense and inconvenience of litigation. Similarly, the ERA believes it is in the best interests of the general public and the U.S. Government to conclude the compliance proceding now by means of this Consent Order.

D. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds

Under this Consent Order, Robinson will pay the sum of $601,000 which includes interest, to the DOE within twenty-four (24) months of the effective date of this Consent Order. The ERA will determine the ultimate disposition of these funds. Upon full satisfaction of the terms and conditions of this Consent Order by Robinson, the DOE releases Robinson from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Robinson Energy Corporation Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time March 15, 1982. Any information or data considered confidential by the person submitting it must be identified in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 5th day of February, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-3740 Filed 2-11-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5772-001]

City of Augusta, Georgia; Application for Preliminary Permit

February 8, 1982

Take notice that City of Augusta, Georgia (Applicant) filed on January 18, 1982 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5772–001 to be known as the Augusta Canal Project located on Savannah River and the Augusta Canal in Columbia and Richmond Counties, Georgia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James B. Messerly, Commissioner of Public Works, City of Augusta, 701 Municipal Building, Augusta, Georgia 30902.

Project Description—The proposed project would consist of: 1) an existing 1,666-foot long and 11.5-foot high diversion dam; 2) an existing four mile section of the Augusta Canal; 3) a proposed powerhouse with an installed generating capacity of 9,280 kW; 4) a proposed 3,600-foot long transmission line; and 5) appurtenant facilities. The Applicant estimates the average annual energy output to be 75,792 MWh.

Purpose Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and if the findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself [see 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 16, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filled in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 8-3824 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-273-000]

Cliffs Electric Service Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 2, 1982, Cliffs Electric Service Company (CESCO) filed a letter agreement providing for the sale of short term power to Upper Peninsula Power Company for the period January 1 through March 31, 1982. The rate is 0.77/kw and 110% of out-of-pocket costs.

CESCO requests waiver of the Commission's notice requirements to allow for an effective date of January 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3805 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-275-000]

Commonwealth Edison Co.; Proposed Tariff Change

February 9, 1982.

The filing Company submits the following:

Take notice that Commonwealth Edison Company, (Commonwealth) on February 2, 1982, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revise the Electric Service Contract between Commonwealth and the City of Naperville, Illinois, to provide for a temporary point of electric supply to the City of Naperville by Commonwealth.

Commonwealth requests an effective date of October 30, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing has been served upon the City of Naperville, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3806 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-265-000]

Connecticut Light & Power Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Northfield Mountain Purchase Agreement between CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO) (the NU Companies) and the Braintree Electric Light Department (the Department) dated as of November 1, 1981.

CL&P states that the Purchase Agreement provides for a sale to the Department of a specified percentage of capacity and related pondage from the NU Companies' Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service during the period November 1, 1981 through April 30, 1982.

CL&P states that late receipt of the Department's request for service together with delays experienced in arriving at the final contractual language prevented the development and execution of the Purchase Agreement until a date which prevented the filing of this rate schedule in a timely manner.

CL&P requests that the Commission waive its notice requirements and permit the rate schedule to become effective on November 1, 1981.

CL&P states that the capacity charge rate for the Project is a rate determined on a cost-of-service basis for the entire Project. The monthly transmission charge is equal to one-twelfth of the average annual cost of transmission service on the NU Companies' transmission system determined in accordance with Schedule B to the Purchase Agreement, multiplied by the number of kilowatts of winter capability which the Department is entitled to receive during each month. The station service charge is equal to the average cost of oil-fired generation on the system of the NU Companies for the prior month, multiplied by the Department's share of the Project's station service energy requirements.

CL&P states that the services to be provided under the Purchase Agreement are not similar to services provided by the NU Companies relating to a sale of capacity from the Project pursuant to any other rate schedule. CL&P further states that the associated transmission service is calculated on a rate similar to a rate determined pursuant to a Transmission Service Agreement between the NU Companies and the Connecticut Municipal Electric Energy Cooperative (Rate Schedule FERC Nos. CL&P 217, HELCO 229, and WMECO 180).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3826 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5800-000]

Crown Zellerbach Corp.; Application for Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

February 9, 1982.

Take notice that Crown Zellerbach Corporation filed with the Federal Energy Regulatory Commission on December 21, 1981, an application for exemption for its Carthage Mill Project No. 5800 from all or part of Part I of the Federal Power Act pursuant to 18 CFR Part 4 subpart K (1980) implementing in

part section 408 of the Energy Security Act of 1980.[1] The proposed project would be located on the Black River in Jefferson County, New York. Correspondence with the Applicant should be directed to: Mr. Peter R. Kohn, Crown Zellerbach Corporation, One Bush Street, Suite 1606, San Francisco, California 94104.

Project Description—The run-of-the-river project would consist of: (1) An existing concrete, buttress-type dam, 1,260 feet long and varying in height from 1.5 to 18 feet; (2) an impoundment with a surface area of 13 acres and a net storage of 53 acre-feet at elevation 702 feet m.s.l.; (3) refurbished head gates; (4) a new 54- by 78-foot powerhouse containing two new 2.25–MW units to operate under a head of 20.7 feet; (5) a new tailrace and tailrace gates; (6) short, indoor transmission facilities; and (7) appurtenant facilities.

The average annual generation of 25 GWh would be used by the Applicant's existing mill facilities.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 1, 1982, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than July 29, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3827 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends *inter alia*, Sections 405 and 406 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705 and 2706).

[Docket No. ER82-264-000]

Dayton Power & Light Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, The Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement For Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the City of Celina, Ohio.

The proposed Service Agreement permits the City of Celina to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The previous service agreement between DP&L and the City of Celina, under which the City of Celina received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

DP&L requests the Commission waive its notice and filing requirements and permit the proposed Service Agreement to become effective March 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3807 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-353-000, ER81-354-000, ER81-380-000, ER81-381-000 and ER81-586-000]

Dayton Power & Light Co.; Refund

February 9, 1982

The filing Company submits the following:

Take notice that on February 2, 1982, Dayton Power and Light Company filed a refund report pursuant to the Commission's letter order issued January 18, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before February 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3808 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-267-000]

Eastern Edison Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, Eastern Edison Company (Eastern) tendered for filed an amendment dated October 31, 1981 to its subtransmission agreement with The Narragensett Electric Company for subtransmission of 23 kV of electric power to Tiverton, Rhode Island. The amendment substitutes New England Power Company for Narragensett as the contracting party under the subtransmission agreement.

Eastern requests waiver of the Commission's notice requirements to allow an effective date of November 1, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3809 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-268-000]

El Paso Electric Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, El Paso Electric Company (El Paso) tendered for filing an initial rate schedule pursuant to an "Agreement for the Purchase and Sale of Electric Energy Between El Paso Electric Company and Texas-New Mexico Power Company" dated December 8, 1981 (Agreement). El Paso states that this Agreement provides for the firm sale of electric power by El Paso to Texas-New Mexico Power Company (TNP) beginning January 1, 1982, and shall continue until July 1, 2010. El Paso states this Agreement supersedes an earlier agreement filed between the parties in Docket No. ER82-152-000.

El Paso requests that the Agreement become effective as of the effective date of the superseded agreement.

According to El Paso copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and TNP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3810 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-35-000]

El Paso Electric Co.; Application

February 8, 1982.

Take notice that on February 2, 1982, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204 of the Federal Power Act to issue $1,500,000 shares of Common Stock, no par value (New Common Stock), pursuant to a Divided Reinvestment and Stock Purchase Plan.

Any person desiring to be heard or to make any protest with referance to the said application should on or before February 22, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Copies of this filing are on file at the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3839 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-272-000]

Florida Power & Light Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FP&L) on February 2, 1982, tendered for filing documents entitled "Exhibit I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedule A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service of Contracts for Interchange Service)." This filing is proposed to amend FERC Electric Tariff Original Volume II (Sheets Nos. 1-19).

FP&L states that under the Exhibit I FP&L will transmit power and energy for Sebring Utilities Commission (Sebring) as is required by Sebring in the implementation of its interchange agreement with Fort Pierce Utilities Authority.

FP&L requests that waiver of the Commission's notice requirements, and there requests that the Exhibit be made effective immediately.

Copies of the filing were served on Sebring Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3811 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5823-000]

Grisdale Hill Co.; Application for Preliminary Permit

February 9, 1982.

Take notice that Grisdale Hill Company (Applicant) filed on December 28, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5823 to be known as the Boulder Creek Hydroelectric Water power Project located on Boulder Creek within Willamette National Forest in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Marilyn Tebor Shaw, Esquire, Suite 1100, 1333 New Hampshire Ave., NW., Washington, D.C. 20036.

Project Description—The proposed project would consist of: (1) a 10-foot high, 40-foot long diversion dam; (2) a 4-foot diameter, 6,200-foot long conduit; (3) a 3-foot diameter, 2,200-foot long penstock; (4) a powerhouse to contain a signle generating unit with a rated capacity of 4,900 kw, operating under a head of 1,040 feet; (5) a tailrace discharging into Boulder Creek; (6) a switchyard; and (7) a 12.5-kV transmission line connecting the powerhouse with an existing line. The estimated average annual energy production is 23.6 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 24 months, during which it would conduct engineering, environmental and economic feasibility studies and prepare an application for an FERC license. No new roads will be needed to carry out these studies. The estimated cost for conducting these studies and preparing an application for an FERC license is $125,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 21, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 21, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 21, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION" "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3828 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5719-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 8, 1982.

Take notice that Hydro Management, Inc. (Applicant) filed on December 4, 1981 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5719 to be known as the Bond Creek Water Power Project located on Bond Creek, near Polson, within the lands of the Flathead National Forest in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Edelman III, President, Hydro Management Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The project would consist of: (1) A 3-foot high, 18-foot long diversion structure; (2) a 10,000-foot long, 16-inch diameter penstock; (3) a powerhouse with an installed capacity of 367 kW; and (4) a 4,000-foot long, 7.2-kV transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 2.211 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $4,000.

Competing Applications—This application was filed as a competing application to Homestake Consulting and Investments, Inc.'s application for Project No. 5095 filed on July 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR

4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3629 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5720-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 8, 1982

Take notice that Hydro Management, Inc. (Applicant) filed on December 4, 1981 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5720 to be know as the Hall Creek Water Power Project located on Hall Creek, near Polson, within the lands of the Flathead National Forest in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Edelman III, President, Hydro Management, Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The project would consist of: (1) A 3-foot high, 18-foot long diversion structure; (2) a 7,900-foot long, 14-inch diameter penstock; (30 a powerhouse with an installed capacity of 564 kW; and (4) a 700-foot long, 7.2-kV transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 3.411 million kWh.

Purpose Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which this time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $6,000.

Competing Applications—This application was filed as a competing application to Homestake Consulting and Investments, Inc.'s application for Project No 5098 filed on July 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3630 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5718-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 8, 1982.

Take notice that Hydro Management, Inc. (Applicant) filed on December 4, 1981 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5718 to be known as the Sixmile Creek Water Power Project located on Sixmile Creek, near Polson, within the lands of the Flathead National Forest in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Edelman III, President, Hydro Management Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The project would consist of: (1) A 3-foot high, 19-foot long diversion structure; (2) a 7,500-foot long, 10-inch diameter penstock; (3) a powerhouse with an installed capacity of 200 kW; and (4) a 1,000-foot long, 7.2-kV transmission line from the powerhouse to an existing Pacific Power

and Light Company transmission line. The Applicant estimates that the average annual energy production would be 1.2 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $2,000.

Competing Applications—This application was filed as a competing application to Homestake Consulting and Investments, Inc.'s application for Project No. 5105 filed on July 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3831 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-270-000]

Idaho Power Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, the Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during December, 1981, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3812 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER76-716]

Indiana & Michigan Electric Co.; Refund

February 9, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Indiana & Michigan Electric Company filed a refund report pursuant to the Commission's letter order issued on January 19, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before February 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

R Doc. 82-3813 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-276-000]

Kentucky Utilities Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on February 2, 1982, Kentucky Utilities Company (KU) tendered for filing the Sixth Supplemental Agreement dated March 1, 1982, to the Interconnection Agreement between KU and Louisville Gas & Electric Company (LG&E) dated July 22, 1966. The Commission has previously designated this agreement as KU Rate Schedule FERC No. 80 and LG&E Rate Schedule FERC No. 20.

Copies of this filing have been sent to LG&E and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3860 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5826-000]

Edward S. Kunkel; Application for Preliminary Permit

February 8, 1982.

Take notice that Edward S. Kunkel (Applicant) filed on December 28, 1981 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5826 to be known as the South Village Mills Project located on the French River in the town of Webster, Worcester County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Edward S. Kunkel, c/o Elegant Yarn, Inc., 661 South Main Street, Webster, Massachusetts 01570.

Project Description—The proposed project would consist of: (1) An existing 160-foot long, 16-foot high concrete gravity dam with a 105.5-foot long arched concrete gravity spillway; (2) a 190-foot long, 20-foot wide forebay canal with a 100-foot long overflow spillway at the east dam abutment; (3) a 4 acre reservior with a usable storage capacity of 12 acre-feet at elevatioin 435.6 feet m.s.l.; (4) a 600-foot long, 20-foot wide partially filled-in approach channel to be re-excavated; (5) a new powerhouse containing turbine-generators with a total rated capacity of 285 kW; (6) a new 20-foot wide, 400-foot long tailrace channel; and (7) appurtenant facilities. The proposed project would generate up to 1,380,000 kWh annually. The existing project facilities are owned by the Applicant.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a permit term of 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

Competing Applicatioins—Anyone desiring to file a competing application must submit to the Commission, on or before May 18, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in respnse to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3832 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5763-000]

Long Lake Energy Corp.; Application for Preliminary Permit

February 9, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5763 to be known as the North Branch Project located on the Black River in the City of Watertown, Jefferson County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. William Carter, 330 Madison Avenue—7th Floor, New York, New York 10017.

Project Description—The proposed project would utilize Niagara Mohawk Power Corporation's existing Black River Project—Sewalls Development Reservoir and North Branch Dam (FERC License No. 2569) and would consist of: (1) A new trash rack with stop logs constructed at the same location as the existing intake; (2) a new powerhouse containing a generating unit having a rated capacity of 5,600–kW at a head of 26 feet and a flow of 3,000 cfs; (3) a new 15-foot deep, 40-foot wide and 1,400-foot long excavated tailrace; (4) a new 800-foot long, 23-kV transmission line; and (5) appurtenant facilities. Applicant would also study two alternate development schemes in order to optimally develop the site. Applicant estimates that the average annual energy output would be 16.9 million kWh. Project energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 22, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29,1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 22, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 21, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–3633 Filed 2–11–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–269–000]

Montana Power Co.; Cancellation

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, Montana Power Company (Montana) tendered for filing a Notice of Cancellation of Rate Schedule No. 116 and all its supplements, an agreement for the sale of firm energy between Montana and Southern California Edison Company (Edison). Montana states that these agreements have expired as of their own terms and have not been renewed.

Montana proposes an effective date of April 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. ProteSts will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–3614 Filed 2–11–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–268–000]

Montana Power Co.; Cancellation

February 9, 1982.

The filing Company submits the following:

Take notice that on February 1, 1982, the Montana Power Company (Montana) tendered for filing a Notice of Cancellation of Rate Schedule No. 75 and all its supplements, an agreement for the sale of firm energy between Montana and Southern California Edison Company (Edison). Montana states that these agreements have expired as of their own terms and have not been renewed.

Montana requests an effective date of April 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–3615 Filed 2–11–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5803–000]

New York State Energy Research and Development Authority: Application for Preliminary Permit

February 9, 1982.

Take notice that New York State Energy Research and Development Authority (Applicant) filed on December 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5803 to be known as the Minetto Dam/Oswego Canal Lock No. 5 Project located on the Oswego River and Canal in Oswego County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. Todd Miles, Assistant Counsel, New York State Energy Research and Development Authority, Two Rockefeller Plaza, Albany, New York 12223.

Project Description—The proposed run-of-the-river project would consist of: (1) The existing Minetto Dam, owned by the New York State Department of Transportation, a curved concrete

gravity structure 500 feet long and 22.5 feet high; (2) Lock No. 5; (3) an existing reservoir with a surface area of 642 acres at surface elevation 307 feet m.s.l.; and new project works at the east (right) abutment of the dam to include (4) an intake structure; (5) a headrace (6) a powerhouse with an installed capacity of 2,500 kW; (7) a tailrace; and (8) other appurtenances. The Niagara Mohawk Power Corportion currently operates for the State of New York a hydroelectric project on the west bank of the river, and the Applicant proposes to develop the presently undeveloped energy potential of the site. Applicant estimates annual generation for Project No. 5803 would average about 5,740,000 kWh. Project energy would be marketed to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $72,000.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 4682 filed on May 18, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing or notice of intention to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 31, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3834 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5804-000]

New York State Energy Research and Development Authority; Application for Preliminary Permit

February 9, 1982.

Take notice that New York State Energy Research and Development Authority (Applicant) filed on December 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5803 to be known as the High Dam/Oswego Canal Lock No. 6 Project located on the Oswego River and Canal in Oswego County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. Todd Miles, Assistant Counsel, New York State Energy Research and Development Authority, Two Rockefeller Plaza, Albany, New York 12223.

Project Description—The proposed project would consist of existing works including: (1) High Dam, owned by the New York State Department of Transportation, a concrete gravity structure 500 feet long and 32 feet high; (2) Lock No. 6; (3) a reservoir with a surface elevation of 289 feet m.s.l.; and new project works to include (4) an intake structure at the eastern end of the dam; (5) a powerhouse below dam with an installed capacity of 4,400 kW; (6) a tailrace; (7) electrical facilities; and (8) other appurtenances. The Niagara Mohawk Power Corporation currently operates for the State of New York a hydroelectric project on the west bank of the river, and the Applicant proposes to develop the presently undeveloped energy potential of the site. Applicant estimates annual gneration would be 10,840,000 kWh. Project energy would be marketed to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $72,000.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 4688 filed on May 18, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption appliction, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit

comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Proceduer, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 31, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3836 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5798-000]

New York State Energy Research and Development Authority; Application for Preliminary Permit

February 9, 1982.

Take notice that New York State Energy Research and Development Authority (Applicant) filed on December 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5798 to be known as the Oswego Canal Lock No. 7 Project located on the Oswego River and Canal in Oswego County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. Todd Miles, Assistant Counsel, New York State Energy Research and Development Authority, Two Rockefeller Plaza, Albany, New York 12223.

Project Description—The proposed project would consist of: existing project works including: (1) Curved Dam, owned by the New York State Department of Transportation, a curved masonry structure 483 feet long and 17 feet high with a 250-foot long side channel spillway; (2) Lock No. 7; (3) a reservoir with a surface area of 47 acres and 650 acre-feet of storage at surface elevation of 269.6 m.s.l.; and new project works to include (4) an intake structure and penstocks; (5) a powerhouse with an installed capacity of 1,850 kW; (6) a tailrace; (7) a switchyard; (8) a transmission line; and (9) other appurtenances. Applicant estimates average annual energy production would be 4,360,000 kWh. Project energy would be marketed to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $72,000.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 4685 filed on May 18, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before March 31, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3836 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2975-001]

Oakdale and South San Joaquin Irrigation Districts; Application for License (Over 5 MW)

February 8, 1982.

Take notice that Oakdale and South San Joaquin Irrigation Districts (Applicant) filed on December 29, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Sand Bar Project No. 2975. The project would be located on Middle Fork Stanislaus River in Tuolumne County, California, near the town of Strawberry, and would partly occupy lands of the United States within the Stanislaus National Forest. Correspondence with the Applicant should be directed to: Mr. J.W. Southern, Executive Secretary and General Manager, Tri-Dam Project, Star Route, Box 1303, Sonora, California 95370.

Project Description—The proposed project would develop the hydroelectric potential between the Applicant's

existing Beardsley Afterbay of Project No. 2005 and the Pacific Gas and Electric Company's existing Sand Bar Flat Diversion Reservoir of Project No. 2130. The proposed project would consist of: (1) An intake structure within the Beardsley Afterbay near the north abutment of its dam; (2) a 12-foot diameter, 18,250-foot long unlined tunnel; (3) a surge shaft; (4) and 8-foot diameter, 400-foot long penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 15,600 kW; (6) a 300-foot long tailrace channel; and (7) appurtenant facilities.

Purpose of Project—Project energy would be sold to a local utility.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 19, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accorddance with the requirements of the Rules of Practice and Procedure, 18 CFR 18. of 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATIOIN", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3841 Filed 2-11-82; 8:45 am]

BILLING CODE 6217-01-M

[Project No. 5732-000]

Oglethorpe Power Corp.; Application for Preliminary Permit

February 9, 1982.

Take notice that Oglethorpe Power Corporation (Applicant) filed on December 7, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5732 to be known as the Fenley Ryther Dam located on the Tobesofkee Creek in Ribb County, Georgia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Larry H. James, Section Manager, Energy Development, Oglethorpe Power Corporation, Post Office Box 105033, Atlanta, Georgia 30348.

Project Description—The proposed project would consist of: (1) An existing earth-filled embankment structure 54 feet high and 900 feet long; (2) an existing reservoir with a surface area of approximately 1,900 acres, an estimated normal storage capacity of 25,000 acre-feet, and an elevation of 360 feet m.s.l.; (3) a proposed powerhouse to include generating facilities capable of obtaining an installed capacity of 1.6 MW; (4) proposed transmission lines to connect the generators to the existing distribution system; and (5) appurtenant facilities. The proposed project is not located on Federal lands. The Applicant estimates that the average annual energy output would be 3.5 GWh.

Purpose of Project—The Applicant is a generation and transmission cooperative of member rural electric cooperatives in Georgia and proposes to distribute power in the Lamar EMC service area.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 20, 1982, the competing application itself [see 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 21, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriated].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing,

Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3837 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-271-000]

Pacific Gas & Electric Co.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 2, 1982, Pacific Gas and Electric Company (PG&E) tendered for filing a notice of change in rates and charges under electric resale rate schedule FPC No. 53 under its FPC Electric Tariffs, Original from jurisdictional sales and service in two phases by a total of $9,727,000 based on the 12 month estimated test period ending December 31, 1982.

PG&E propose an effective date for the Phase I portion of the increase, which will amount to $4,707,000 of April 2, 1982, and an effective date for the Phase II portion of the increase, which will amount to an additional $5,020,000 of April 5, 1982.

Copies of the filing were served upon the City and County of San Francisco, and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3838 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-679-003]

Pacific Gas & Electric Co.; Filing

February 8, 1982.

The filing Company submits the following:

Take notice that on January 28, 1982, Pacific Gas and Electric Company (PGandE) tendered for filing proposed amendments to Volume Nos. 2 through 7 of rate schedules originally filed with the Commission on August 12, 1981. The effect of the proposed amendments is to reduce from $19.8 million to a level of $9.6 million the March 12, 1982 Phase II increase authorized by the Commission in its October 23, 1981 order. The proposed amendments reflect a reduced revenue requirement.

PGandE requests waiver of the 60 days notice requirement as may be necessary.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3842 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5868-000]

Partnership of Cohen, Romano and Rice; Application for Preliminary Permit

February 9, 1982.

Take notice that the Partnership of Cohen, Romano and Rice (Applicant) filed on January 11, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C 791(a)–825(r)] for Project No. 5868 to be known as the Old Forge Project located on the Middle Branch of the Moose River in Herkimer County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Philip Movish, Daverman & Associates, P.C., 500 South Salina Street, Syracuse, New York 13202.

Project Description—The proposed run-of-the-river project would consist of: (1) The Applicant's existing concrete gravity dam, 62 feet long and nine feet high; (2) a secondary log-crib spillway, 80 feet long and about 8 feet high; (3) a small reservoir, known as Thenadara Pond, covering 53 acres at an elevation of 1,690 m.s.l.; (4) a new concrete intake structure with appropriate gates and trashracks; (5) a new 50-foot long penstock; (6) a new 20- by 20-foot powerhouse with one 160-kW tubular turbine/generator unit operating under a head of 6 feet; (7) a new 30-foot long tailrace; and (8) a new 0.5-mile long, 23-kV transmission line.

The average annual energy production of 805,000 kWh would be sold to the Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 21, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 22, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application.

(A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3886 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. HB24-63-3]

Public Service Co. of Colorado; Order Providing for Hearing

Issued: February 10, 1982.

On December 11, 1979, notice was issued of a proposed determination of headwater benefits payments made pursuant to section 10(f) of the Federal Power Act (Act), 16 U.S.C. 803(f), owed by the Public Service Company of Colorado (Public Service) for the benefits its Shoshone Hydroelectric Plant receives from the Federal Green Mountain Reservoir in the upper Colorado River Basin.[1] The staff prepared a report for the period of November 16, 1942, through December 31, 1970. The report has been circulated for comment. In addition, two conferences were held with Public Service and interested groups.[2] Based on the report and subsequent comments, the proposed payments were determined to be $433,465 for the benefits and $50,311 for the costs of the investigation.

In response to the notice, Public Service filed comments objecting to the assessment of headwater benefits. Additionally, the Colorado River Water Conservation District (CRWCD) has been granted intervention in this proceeding. CRWCD's petition to intervene was generally in support of the views expressed by Public Service.

Public Service raises five issues that it believes prevents the Commission from assessing headwater benefits in this situation. These issues are: (1) The effect of the pre-1920 construction of the Shoshone Plant; (2) the interpretation of Senate Document No. 80, 75th Cong., 1st Sess. (1937); (3) the interpretation of the stipulation and decree in *U.S.* v. *Northern Colorado Water Conservancy District, et al.*, Civil Nos. 5016 and 5017, unreported (1955) ("Blue River Decree"); (4) the applicability of Colorado water law; and (5) the alleged violation of the Fifth Amendment of the Constitution in assessing headwater benefits payments. In this order we will dispose of these issues.

In the alternative, Public Service requests that an evidentiary hearing be held, particularly on the methodology Staff used in making its headwater benefits assessment. By this order we grant the request for hearing.

Pre-1920 Construction

The Shoshone Plant was constructed around 1909 on the Colorado River in Garfield County, Colorado.[3] Public Service argues that, because this pre-1920 construction exempts it from the Commission's licensing jurisdiction, it also exempts Public Service from assessments pursuant to Section 10(f) of the Act. The law is however settled that headwater benefits assessments are not affected by the date of project construction. Section 10(f) provides for the assessment of headwater benefits for all non-federal hydroelectric plants, whether or not under license or permit, that benefit from federal construction. The date of the hydroelectric plant's construction or of the federal construction is not determinative of the ability to assess headwater benefits. *E.g., South Carolina Electric and Gas Co.* v. *FPC*, 338 F.2d 898 (4th Cir. 1964).

Senate Document No. 80 and the Blue River Decree

Public Service states that Senate Document No. 80 and the Blue River Decree, which govern the operation and maintenance of Green Mountain Reservoir, set forth the rights and obligations of the parties, including Public Service and the United States. Based on these documents,[4] Public Service argues that the United States has bargained away any Section 10(f) assessment.

Senate Document No. 80 is a report prepared by the Bureau of Reclamation setting forth the plan of development of the Colorado-Big Thompson Project, including the operation of and release of water from the Green Mountain Reservoir. The report states that Green Mountain has a usable storage capacity of 152,000 acre-feet, of which 52,000 acre-feet are available for replacement water [5] and 100,000 acre-feet are to be used for power purposes.[6]

The Blue River Decree settled who holds what water rights and determined their priority dates. The Decree repeats the above-described terms of Senate Document No. 80.

The Commission is not assessing any headwater benefits charges for the 52,000 acre-feet allocated as replacement water. The Senate Document No. 80 provides that the water from the 100,000 acre-feet designated for power purposes shall be available free of charge to existing and

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[1] Green Mountain Reservoir was constructed in 1942 on the Blue River 15 miles above its confluence with the Colorado River in Summit County, Colorado. It is operated by the United States Department of the Interior, Bureau of Reclamation. The purpose of the reservoir is to replace water, required by prior rights along the Colorado River, that is diverted to the eastern slope of Colorado by the Colorado-Big Thompson Project.

[2] Based on the comments, staff revised the figures in the draft report to take into account the effect of net evaporation in Green Mountain Reservoir and intervening irrigation diversions to certain holders of junior water rights.

[3] Public Service does not hold a license for the continued operation and maintenance of the Shoshone Plant. Public Service claims to possess a valid, pre-1920 federal right-of-way for its occupancy of lands of the United States.

[4] Public Service's citation to *United States* v. *Northern Colorado Water Conservancy District*, 608 F.2d 422 (10th Cir. 1979), which involves an issue unrelated to the matter before us, adds nothing to Public Service's basic arguments. The decision merely repeats the description of the project and the documents which govern it.

[5] The actual constructed capacity of Green Mountain is 154,845 acre-feet, with 54,845 acre-feet to be allocated as replacement for the water diverted to the eastern slope by the Colorado-Big Thompson Project. *U.S.* v. *Northern Colorado Water Conservancy District, supra*, 608 F. 2d 422, 425.

[6] These are power facilities associated with the Green Mountain Reservoir.

future irrigation and domestic appropriators of water, and to supply losses chargeable in delivery of the 52,000 acre-feet. The water not required for the above purposes is available for disposal.

1. CRWCD states that a determination of headwater benefits could involve interpreting the Senate Document and the Blue River Decree. CRWCD argues that the U.S. District Court in Colorado has exclusive jurisdiction to effectuate the objectives of the Blue River Decree and therefore that the Commission is without jurisdiction to interpret the documents.

CRWCD misinterprets the nature of a headwater benefits assessment. The assessment determines what power benefits have been received by downstream hydroelectric projects from upstream federal construction. It in no way affects water rights. The Commission's exclusive jurisdiction to determine headwater benefits does not therefore conflict with the district court's jurisdiction for the purpose of effectuating the objectives of the Decree.

2. Public Service argurs that the United States bargained away headwater benefits payments in the Blue River Decree and related litigation. However, there was no explicit waiver of headwater benefits payments in any of the documents governing the construction and operation of Green Mountain, nor is there any compelling argument that a waiver of headwater benefits payments should be inferred from these documents.[7]

Section 10(f) of the Federal Power Act provides that beneficiaries shall pay that portion of the annual cost for interest, maintenance and depreciation of federal projects that the Commission determines to be equitable. In 1935, section 10(f) of the Federal Power Act was amended to give the Commission exclusive authority to collect from non-licensees charges for all headwater benefits received from upstream federal developments. Consequently, there can be no binding contract regarding headwater benefits between Public Service and the Secretary of Interior without Commission approval. The headwater benefits study for the Upper Colorado River is based on the benefits received at the Shoshone Plant from the upstream federal construction. The charges are calculated in the terms of an equitable portion of certain annual costs of the headwater improvements; however, headwater benefits assessments continue to be made for a project even after it has been fully depreciated, because these assessments include a portion of the annual maintenance costs.

The Blue River Decree and the Senate Document state that the cost of construction, operation, and maintenance of the Green Mountain Reservoir will be paid from power and water use contract revenues.[8] This or similar language is contained in the authorizations for other reclamation projects for which the Commission assesses headwater benefits.[9] The cost allocations for power have been made for Green Mountain Reservoir. In accordance with reclamation laws, payments for headwater benefits from reclamation projects in this river basin are to be deposited in the Reclamation Fund, where they would be used to reduce the power rates for the Pick-Sloan Missouri River Basin Projects.

In light of the above discussion, we find that the Blue River Decree, Senate Document, and subsequent litigation do not bar the assessment of headwater benefits received at the Shoshone Plant from the Green Mountain Reservoir.

Colorado Water Law

Public Service argues that Colorado water law does not give the United States any right to assess charges against downstream appropriators, because the upstream appropriator (here, the United States) has no proprietary interest in any returned water.[10] Public Service also argues that the United States has no water rights by virtue of storage at Green Mountain.

A headwater benefits assessment is not made on the basis of any proprietary interest in the water, but rather for benefits received from the controlled releases from the federal reservoir.[11] The issue is therefore not water rights, but whether Green Mountain through regulated or controlled flow releases provides benefits in the form of energy gains at the Shoshone Plant that Shoshone would not have had if Green Mountain were not in existence. Consequently, Colorado water law does not prevent the assessment of headwater benefits for the Shoshone Plant.

Fifth Amendment of the Constitution

Public Service argues that the assessment of headwater benefits violates the Fifth Amendment of the Constitution. The constitutionality of the Federal Power Act was long ago confirmed. *U.S.* v. *Appalachian Power Co.*, 311 U.S. 377 (1940). More specifically, the courts have upheld the Commission's authority to assess headwater benefits. *E.g., South Carolina Electric and Gas Co.* v. *FPC, supra; Virginia Electric and Power Co,* v. *FPC,* 351 F.2d 408 (4th Cir. 1965). Public Service's constitutional argument is therefore without merit.

Interest

The assessment of moneys to be paid by Public Service is exclusive of any interest payment. The authority to impose interest on funds to be collected under the Federal Power Act is firmly established. *Montana Power Co.* v. *FPC,* 459 F.2d 863 (D.C. Cir. 1972); *Columbia River Basin, Headwater Benefits Investigation,* 33 FPC 1290 (1965). We believe that interest should be assessed from the date that Public Service was notified of the proposed determination; that is, December 11, 1979.[12] We believe that a reasonable interest rate would be the rate calculated on refunds of that portion of suspended electric rates

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[7] The Supreme Court has stated in similar situations that a legislative grant must be strictly construed in favor of the United States. *Broad River Power Co.* v. *South Carolina,* 281 U.S. 537, 543 (1930). In addition, any doubt or ambiguity must be resolved in favor of the government. *Southern Pacific Co.* v. *U.S.* , 307 U.S. 393, 401 (1939).

[8] The documents state that the 52,000 acre-feet of replacement storage will be paid for by the water users in northeastern Colorado (recipients of the transmountain diversion of the Colorado-Big Thompson Project). The 100,000 acre-feet of power storage will be paid for out of power revenues. In addition, the report states that the cost of construction, operation, and maintenance shall be paid from revenues collected from the project as may be provided in contracts between the Secretary of the Interior and the beneficiaries of the project in eastern Colorado or any other contracting party.

[9] The reclamation laws provide for repayment of reimbursable costs of reclamation projects. These laws provide that net revenues from the sale of power shall be used to pay the construction costs allocated to power. 43 U.S.C. 392a. The Secretary of the Interior is instructed to sell power developed at reclamation projects at a rate sufficient to cover an appropriate share of annual operation and maintenance costs. 43 U.S.C. 485h(c). Also costs attributable to irrigation operations are paid by the irrigators. 43 U.S.C. 461.

[10] Returned water is defined as water that is placed, or seeps back, into a river after appropriation and use. The principle has been established in Colorado that return waters from a diversion under an appropriative right are a part of the stream flow from the time that the water escapes from the premises or works of the appropriator, provided the water would ultimately return to the stream system from which originally diverted if it was not artifically intercepted. II W.A. Hutchins, Water Rights Laws in the Nineteen Western States, at page 581 (1974).

[11] Generally, regulated flow releases provide a more dependable stream flow by storing water during peak run-off periods to be released during drier months.

[12] If Public Service pays the assessment within 60 days of the date of this order, no interest will be assessed. Failure to pay will invoke the assessment of interest, but not the penalty provisions of the regulations since Public Service has previously requested a hearing. Section 11.31 of the Commission's Regulations, 18 CFR 11.31 (1981).

which are ultimately determined not to be justified.[13] See 18 CFR 35.19a (1981).

Further Proceedings

In light of the factual disputes, particularly concerning staff's methodology and the factors that Public Service claims should have been considered, we find that this matter would be best resolved in an evidentiary hearing. The hearing should focus on the factual bases for and methodology employed in staff's proposed assessment, as contained in its investigation report and the revision thereto. The hearing should also address the proper method for calculating the headwater benefits that Public Service has received since December 31, 1970 and will receive in the future.

The Commission orders:

(A) Pursuant to the provisions of the Federal Power Act, particularly 10(f), 10(g), 308, and 309, and the Commission's Rules of Practice and Procedure, a hearing shall be held to determine the liability of the Public Service Company of Colorado for headwater benefits received by its Shoshone Plant from the federal Green Mountain Reservoir.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall preside at the hearing in this proceeding. The Presiding Judge shall convene a prehearing conference in this proceeding at 10:00 a.m. on March 23, 1982 at the Commission's Offices, 825 North Capitol Street, NE, Washington, D.C.

(C) All legal arguments raised in this proceeding by Public Service Company of Colorado and the Colorado River Water Conservation District in support of their argument that the United States is precluded from assessing headwater benefits payments for benefits received from the Green Mountain Reservoir are rejected.

(D) Public Service Company of Colorado shall pay to the United States, within 60 days of this order, the sum of $483,776 for headwater benefits received by its Shoshone Plant and for the cost of the investigation. Failure to pay the sum within 60 days will result in the imposition of interest effective December 11, 1979.

(E) The Secretary shall cause prompt publication of this order in the **Federal Register.**

[13] The appropriate forum for any issue which may be raised with respect to the applicable interest rate is the hearing ordered herein.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3843 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-274-000]

Public Service Co. of Indiana, Inc.; Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on February 2, 1982, Public Service Company of Indiana, Inc. (PSCI) tendered for filing a notice of termination to terminate Service Schedule G—Firm Power, Exhibit I, as amended, to the Interconnection Agreement dated March 9, 1971, on January 31, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3817 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL78-21]

Seminole Electric Cooperative, Inc. v. Florida Power Corp.; Order Granting Motion To Withdraw Complaint, Terminating Proceeding and Granting Interventions

Issued: February 11, 1982.

On January 5, 1982, Seminole Electric Cooperative, Inc., (Seminole) filed with the Commission a motion to withdraw its May 8, 1978, complaint that initiated this proceeding. The complaint concerned an alleged "daisy chain" of corporations which sold and resold fuel oil in order to inflate the price of oil ultimately sold to Florida Power Corporation (FPC). The complaint alleged that FPC thereby paid excessive prices and other fees for fuel oil and passed these charges on to its customers through its fuel clause. Seminole asked the Commission to require the refund of any unlawful amounts collected by FPC.

Seminole's motion to withdraw states that litigation in the United States District Court in Tampa, Florida, has resulted in a tentative settlement which would resolve the matters which are the subject of the complaint.[1] Under an order of the District Court dated November 20, 1981,[2] a fund will be established and paid to FPC's customers. As part of the settlement, FPC agrees that its contribution to the fund [3] will not be passed on to its customers and that it will not seek to recover these amounts from its customers in any future rate proceeding. The settlement also requires that before funds are distributed to FPC's customers, certain conditions must be satisfied including, among others, the withdrawal of the complaint before this Commission.[4]

On June 23, 1978, fourteen municipal customers [5] of FPC filed a petition to intervene and joined in Seminole's original complaint. On January 7, 1982, twelve of these customers responded [6] in support of Seminole's motion to withdraw the complaint.

Under § 1.11(d) of our rules of practice and procedure we find that good cause exists for granting Seminole's motion to withdraw its complaint. Withdrawal of the complaint is a condition to implementing the settlement before the District Court, and no party in this docket objects to Seminole's motion. The granting of this motion, however, shall not bar Seminole or the intervenor municipal customers of FPC from reinstating the original complaint in this docket in the event that the settlement agreement in the District Court litigation is not implemented or that the disbursement of settlement funds does not take place.

The Commission orders:

(A) The Florida municipal customers of FPC are hereby permitted to intervene

[1] The proceedings in this docket have been held in abeyance at the request of the parties in light of the District Court litigation.

[2] *In re Fuel Oil Cases*, Nos. 77-742-Civ-T-GC, 78-467-Civ-T-GC, and 78-169-Civ-T-GC, (M.D. Fla.).

[3] The remainder of the fund comes from the "daisy chain" corporations.

[4] Seminole's motion to withdraw its complaint is subject to the condition that it be allowed to reinstate its complaint in the event that these conditions are not satisfied and disbursement of the settlement fund does not take place.

[5] The Cities of Alachua, Bartow, Bushnell, Chattahoochee, Ft. Meade, Kissimmee, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, and Williston, and the Sebring Utilities Commission, all in Florida.

[6] Lake Helen and the Sebring Utilities Commission did not respond.

in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered by the Commission in this proceeding.

(B) Seminole's motion to withdraw of January 5, 1982, is hereby granted, and this proceeding is terminated. In the event, however, that the settlement agreement in the District Court litigation is not implemented, or if the disbursement of settlement funds does not take place, Seminole or the municipal intervenors may reinstate the original complaint filed in this docket.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3844 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER76-205]

Southern California Edison Co.; Refund

February 9, 1982.

The filing Company submits the following:

Take notice that on February 3, 1982, Southern California Edison Company filed a refund report in accordance with the Commission's order of January 13, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3818 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-8-000]

Southern Union Gathering Co.; Application for Adjustment

Issued: February 8, 1982.

On January 28, 1982, Southern Union Gathering Company (Southern Union) filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. III 1979). Southern Union seeks relief from § 270.202 of the Commission's regulations (the reseller rule) and § 271.1104 of the Commission's regulations implementing the NGPA section 110 gathering allowances, as those rules apply to its sales to new customers. Southern Union also requests interim relief, pending final review of the instant application, identical to the permanent relief sought.

Southern Union contends that the purpose of this application for adjustment is to "broaden the scope" of the interim relief granted by the Presiding Officer on November 18, 1981 in Docket No. SA81-16-000. That relief is limited to sales which Southern Union was making to El Paso Natural Gas Company (El Paso) and Gas Company of New Mexico (GCNM) when Congress passed the NGPA. Both sales are first sales under the NGPA. Southern Union's instant application requests that the interim relief applied to these two existing first sales also be applied to any future first sales to new customers without further Commission approval. Moreover, Southern Union requests the authority to add to these future first sales any gathering charge authorized by the Commission for its sales to El Paso and GCNM. The gathering allowances authorized by the interim relief order in Docket No. SA81-16-000, for example 21.4715 cents in December 1981, are being collected subject to refund.

Southern Union further claims that it suffers special hardship, inequity, and unfair distribution of burdens because it cannot collect a gathering charge above the one cent per Mcf allowed by the regulations. Southern Union argues that denial of relief will inequitably prevent it from making firm commitments on price and delivery of gas with new customers and will result in special hardship due to an out-of-pocket loss for the twelve months ending November 30, 1981. Finally, Southern Union submits that the requested adjustment relief would eliminate the unfair distribution of burdens caused by the litigation expense of repeated requests for relief each time it wishes to make a sale to a new customer.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure, 18 CFR 1.41 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41(e). All petitions to intervene must be filed on or before March 1, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3819 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-14-000]

Tenneco Oil Co.; Petition to Reopen Well Category Determinations

Issued: February 9, 1982.

In the matter of State of Colorado, Section 102 NGPA Determination; Tenneco Oil Company; Federal No. 16–2, Federal No. 16–4; FERC Nos. JD79–4358, JD79–4360.

On January 18, 1982, Tenneco Oil Company (Tenneco), Box 2511, Houston, Texas 77001 filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen well category determinations for the Federal No. 16–2 and Federal No. 16–4 Wells, Garfield County, Colorado pursuant to the Commission's authority under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. III. 1979).

Tenneco states that the subject wells were spudded in 1978 by Palmer Oil and Gas Company (Palmer) and received final well category determinations under section 102(c)(i)(B)(ii), (new natural gas produced from, "any completion location, of any new well, which is located at a depth at least 1,000 feet below the deepest completion location of each marker well within 2.5 miles of such new well"). In 1979, Tenneco succeeded to Palmer's interest in the wells. In 1980, Tenneco discovered during a routine mapping of the wells that the "true vertical depth" of the subject wells was measured from the *surface;* Tennecó also discovered a marker well (Belco No. 1–17) which was less than one thousand feet deeper than the completion locations in the subject wells when measured from *seq level.*

Concerned with an interpretation of "depth", Tenneco received final well category determinations under section 103(c) for the subject wells; at that time, Tenneco states it reduced its collection for gas from the subject wells to the section 103 maximum lawful price. Tenneco requests the Commission reopen the final well category determinations for Federal No. 16–2 and Federal No. 16–4 in order to resolve this question of measurement.

With respect to the question of refunds arising out of Tenneco's petition

to reopen well category determinations, notice is hereby given that the question of whether refunds, plus interest computed under 18 CFR 154.102(d) will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, on or before March 15, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 or 1.10 of the Commission's rules of practice and procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3848 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2809-003]

Swift River Co. and Gardiner Hydro Co.; Application for Transfer of Minor License

February 8, 1982.

Public notice is hereby given that an application was filed on January 22, 1982, under the Federal Power Act, 16 U.S.C. 791(a)-825(r), by Swift River Company (Licensee) and Gardiner Hydro Company (Transferee) for transfer of the minor license for the American Tissue Project No. 2809. The project is located on the Cobbosseecontee Stream in the town of Gardiner, Kennebec County, Maine. Correspondence should be directed to: Angus S. King, Smith, Lloyd and King, 11 Bank Street, Brunswick, Maine 04011.

The American Tissue Project would consist of an existing dam, a new penstock and a new powerhouse containing a turbine-generator unit with a total rated capacity of 900 kW. No new facilities have been constructed as yet.

Transferee has proposed to operate the project, when constructed, in accordance with the license.

Gardiner Hydro Company is a private limited partnership organized under the laws of Massachusetts and authorized to do business in the State of Maine.

Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 22, 1982. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3849 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL78-29 and EL79-29]

Village of Penn Yan, New York and Municipal Electric Utilities Association; Order on Remand

Issued: February 10, 1982.

Background

Before us for disposition are two matters. The first involves a remand by the United States Court of Appeals for the Second Circuit involving Docket No. EL78-29. *New York State Electric and Gas Corporation* v. *Federal Energy Regulatory Commission*, 638 F.2d 388 (2nd Cir. 1980), *cert. den.*,—— U.S.—— (1981). The controversy in that docket arises out of a 1961 contract between the New York State Electric and Gas Corporation (NYSEG) and the Power Authority of the State of New York (PASNY), designated Niagara Contract NS-11 (NS-11), and out of a 1962 agreement between NYSEG and the Village of Penn Yan (Penn Yan) (1962 agreement). These agreements provide for the wheeling of power by NYSEG from PASNY to Penn Yan. By order dated March 28, 1979, the Commission held that certain provisions in these contracts and in any other contracts in which NYSEG had agreed to provide similar transmission services to other customers which limited the use of the power wheeled by NYSEG for retail service to an area within the municipal's borders were not just and reasonable. In *New York State Electric and Gas Corporation, supra*, while affirming the Commission's determination that it had jurisdiction over these contracts, the court held that the Commission exceeded its authority by modifying these contracts because the result of this modification was to expand the utility's wheeling obligation without the hearing and findings required by sections 211 and 212 of the Federal Power Act.[1] The court remanded these proceedings to the Commission.

The second matter before us is Docket No. EL79-29 which involves an agreement between NYSEG and PASNY providing for transmission of St. Lawrence Project power by NYSEG to certain PASNY preference customers (designated as S-7. By order dated January 23, 1980, the Commission held that certain restrictive provisions in the S-7 contract or in any transmission contract which NYSEG had entered with certain PASNY customers which were similar to those contained in NS-11 were unenforceable. Because of the holding in *New York State Electric and Gas Corporation, supra,* the Commission filed a motion in the Court of Appeals before which this order was pending,[2] seeking a remand of the case. The court granted the motion.

Discussion

Under section 211 of the Federal Power Act, an electric utility may apply to the Commission for an order requiring any other electric utility to provide transmission services to the applicant. Without such an application, the Commission has no authority to issue an order pursuant to section 211.

Neither Penn Yan nor the Municipal Electric Utilities Association (MEUA), the sponser of a petition for declaratory order in Docket No. EL79-29, has filed such an application. Both Penn Yan and MEUA must file such an application if they wish to proceed under section 211 of the Federal Power Act. If such applications are filed, the parties also should specify their standing to seek the requested relief under section 211 and the basis on which they claim that they are entitled to transmission services.[3] If the Commission does not receive such applications within sixty days of the

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[1] Sections 211 and 212 were added to the Federal Power Act by sections 203 and 204 of the Public Utility Regulatory Policies Act of 1978. 17 U.S.C. 824, Pub. L. No. 95-617 (1978).

[2] *New York State Electric and Gas Corp.* v. *FERC*, 2nd Cir. No. 80-4078.

[3] In this regard, we note that in its petition to intervene in Docket No. EL79-29, NYSEG alleged that MEUA does not sell any electric energy. Section 211 applies to electric utilities, which are defined as "* * * any person or state agency which sells electric energy * * *." Section 3(22) of the Federal Power Act.

date of issuance of this order, we shall terminate these proceedings.

The court in *New York Gas and Electric Corporation, supra,* vacated those portions of the orders in Docket No. EL78–29 which modified the contracts. Consistent with that holding, we shall at this time vacate Ordering Paragraph (A), the second sentence of Ordering Paragraph (C), and the second sentence of Ordering Paragraph (D) of the order issued by the Commission in Docket No. EL79–29 on January 23, 1980.

Consolidation of these two proceedings might be appropriate in the event that both Penn Yan and MEUA file applications pursuant to section 211. The parties may comment on the appropriateness of consolidation under these circumstances.

The Commission orders:

(A) Within sixty (60) days of the date of this order, Penn Yan and/or MEUA, if they wish to proceed under section 211 of the Federal Power Act, shall file applications as required by that section. If they file such applications, they shall specify their standing to seek the requested relief under section 211 and the basis of any claim they make to transmission services. In addition, the parties may comment on the appropriateness of consolidating Docket Nos. EL78–29 and EL79–29. If the Commission does not receive such application within sixty (60) days of the date of this order, these dockets shall be deemed to have terminated without prejudice.

(B) Ordering Paragraph (A), the second sentence of Ordering Paragraph (C), and the second sentence of Ordering Paragraph (D) of the order issued in Docket No. EL79–29 on January 23, 1980, are hereby vacated.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–3845 Filed 2–11–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER81–388–000]

Virginia Electric & Power Co.; Order Granting Motion To Collect Proposed Settlement Rates on an Interim Basis Pending Commission Action on Settlement

Issued: February 11, 1982.

On January 5, 1982, Virginia Electric and Power Company (VEPCO) filed a motion requesting authorization to collect proposed settlement rates on an interim basis for its wholesale cooperative customers in North Carolina in lieu of the revised rates it filed in compliance with the Commission order issued May 28, 1981.[1] Subsequently, on December 31, 1981, VEPCO filed an executed Settlement Agreement in this proceeding. In the present motion, VEPCO states that by collecting the proposed settlement rates on an interim basis it will avoid additional refunds and the customers will have the benefit of the lower rates. All of the wholesale customers were offered the opportunity to participate in this arrangement. However, only the North Carolina cooperatives have requested this procedure and join in VEPCO's motion.

In addition, VEPCO states that in the event the Settlement Agreement is rejected or unacceptably modified or conditioned by the Commission, it proposes (1) reinstatement of the revised rates, subject to refund, to become effective as of the date of the order rejecting or unacceptably modifying or conditioning the Settlement Agreement; (2) addition of a surcharge, subject to refund, to the revised rates over a six month period to enable it to recover the difference between revenues collected under the interim settlement rates and the revenues that would have been collected under the revised rates during the period when the interim rates were collected, and (3) that interest on surcharge amounts be determined at the rates provided for in § 35.19(a) of the Commission's regulations.[2]

Discussion

Upon review, the Commission finds good cause to grant VEPCO's motion to collect the proposed settlement rates on an interim basis with respect to the North Carolina cooperatives. Accordingly, the Commission will permit VEPCO to collect the settlement rates from the North Carolina customers, subject to refund, to become effective on September 1, 1981. If the Commission should disapprove the proposed settlement, VEPCO may collect the revised rates, subject to refund, from the date of the final order making that disposition and as ordered below.

The Commission orders:

(A) The motion filed on January 5, 1981, by VEPCO is granted.

(B) Good cause having been shown, VEPCO is authorized to collect the proposed settlement rates from the North Carolina cooperatives to become effective, subject to refund, on September 1, 1981.

(C) If the Commission ultimately rejects the settlement, VEPCO will be permitted to collect the higher filed revised rates with a surcharge to recover the difference between the settlement rate and the filed rate, from the date the Commission order rejecting the settlement becomes final, subject to refund, for six months from the North Carolina customers pending the determination of just and reasonable rates. Interest on the surcharge amounts will be determined at the rates provided for in § 35.19(a) of the Commission's regulations.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Virginia Electric and Power Company

Docket No. ER81–388–000

Item: Interim Rates Applicable to North Carolina Rural Electric Cooperatives for Service RC (Resale)

Filed: January 5, 1982

RATE SCHEDULE DESIGNATIONS

Current customer	Rate schedule	Supplement Nos.	Supersedes supplement Nos.
Albemarle Electric Membership Corporation	88	38	36
Cape Hatteras EMC	89	24	22
Edgecombe-Martin County EMC	90	41	39
Halifax EMC	91	33	31
Roanoke EMC	92	45	43
Tideland EMC	93	30	28

[FR Doc. 82–3846 Filed 2–11–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–67–001]

Wisconsin Public Service Corp.; Compliance Filing

February 9, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Wisconsin Public Service Corporation filed revised W–1 and W–2 rates in compliance with the Commission's order of December 31, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street,

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[1] VEPCO originally submitted a proposed rate increase on March 31, 1981. By order issued May 28, 1981, the Commission, *inter alia,* accepted for filing and suspended the rate to become effective, subject to refund on September 1, 1981. On June 29, 1981, VEPCO submitted revised rates in compliance with the May 28, 1981 order. The compliance rates became effective on September 1, 1981.

[2] VEPCO intends that this procedure be the same as utilized in *Alabama Power Company,* Docket No. ER81–65–000, issued July 15, 1981.

NE., Washington, D.C. 20426, on or before February 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3847 Filed 2-11-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2048-7]

Availability of Environmental Impact Statements Filed February 1 Through 5, 1982 Pursuant to 40 CFR Part 1506.9

Responsible Agency: Office of Federal Activities, Ms. Kathi Wilson (202) 245-3006.

Corps of Engineers

EIS No. 820052, Draft, COE; CT; North Haven Mall Development, Permit, North Haven County (Due: 3/29/82)

EIS No. 820047, Draft, COE; SEV; MN WI Duluth-Superior Harbor and Channel Modification (Due: 3/29/82)

EIS No. 820056, Final, COE; SEV; CT NY Western Long Island Sound (WLIS) III Disposal Site, Designation (Due: 3/15/82)

Department of Commerce

EIS No. 820057, Final, NOA; SEV; CA OR WA Groundfish Fishery Management Plan, Pacific Ocean (Due: 3/15/82)

Department of Interior

EIS No. 820054, Draft, OSM; WY; North Antelope Mining and Reclamation Plan, Approval, Campbell County (Due: 4/7/82)

EIS No. 820053, Draft, BLM; ID; Ellis-Pahsimeroi Grazing Management Plan, Lemhi and Custer Counties (Due: 3/29/82)

Department of Transportation

EIS No. 820059, Draft, FAA; OR; Clackamas County-Mulino Reliever Airport, Clackamas County (Due: 4/5/82)

EIS No. 820049, Final, FAA; CA; Palmdale International Airport, Palmdale, Los Angeles County (Due: 3/15/82)

EIS No. 820060, Draft, FHW; CA; 98th Avenue Widening, CA-17 to I-580, Alameda County (Due: 4/7/82)

EIS No. 820048, Draft, CGD; NY; South Bronx-Oak Point Link Railroad Improvement, Permit, Bronx County (Due: 3/29/82)

Environmental Protection Agency

EIS No. 820046, Final, EPA; ID; City of Coeur D'Alene WWT Facilities, Grant, Kootenai County (Due: 3/15/82)

EIS No. 820050, Final, EPA; FL; Big Bend Generating Station, No. 4, NPDES Permit, Hillsborough County (Due: 3/15/82)

Department of Housing and Urban Development

EIS No. 820058, Draft, HUD; UT; Eagle Springs Development, Mortgage Insurance, Rich County (Due: 3/29/82)

Department of Defense, Air Force

EIS No. 820061, DSuppl, UAF; CA; Vandenberg AFB Space Shuttle Program, Santa Barbara County (Due: 3/29/82)

Department of Agriculture

EIS No. 820051, Draft, REA; IL; Pike County Generating Facility and Transmission Lines, Pike County (Due: 3/29/82)

Federal Energy Regulatory Commission

EIS No. 820055, FSuppl, FRC; NY; Staten Island LNG Project, Certificate, Staten Island County (Due: 3/15/82)

Dated: February 9, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-4041 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-29-M

[EN-FRL-2017-2]

Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981: Sharon Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Findings Preliminary to Lodging of Amended Consent Decree.

SUMMARY: The Administrator indicates her preliminary intention to exercise her discretion and agree to an extension of certain compliance dates for the Sharon Steel Corporation under the Steel Industry Compliance Extension Act of 1981 (the "SICEA") which amended Section 113 of the Clean Air Act.

DATE: Effective February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Alushin (EN-329), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-4148.

SUPPLEMENTARY INFORMATION: On October 2, 1981, Sharon Steel Corporation (hereinafter "Sharon") filed an application with the Environmental Protection Agency ("the Agency") seeking certain compliance date extensions for steelmaking facilities under the provisions of Section 113(e) of the amended Clean Air Act (Pub. L. 97-23, 42 U.S.C. 7413(e)). This notice represents the Agency's formal determination that the applicant qualifies for an extension of certain compliance dates in its existing consent decree. (Civil Actions Nos. 79-1201-J and 80-869-J, United States of America v. Sharon Steel Corporation, Western District of Pennsylvania, entered August 26, 1981; hereinafter, "existing consent decree".) The Agency is not required by the SICEA to solicit public comment on these Findings. The Agency will, nonetheless, receive public comments on these Findings, and take such comments into account when preparing the amended consent decree to implement the appropriate extensions under the SICEA. Persons wishing to comment hereon should do so without delay because negotiation of the terms of the amended decree will begin immediately. There will be additional opportunity for public comment, however. Pursuant to 28 CFR 50.7, the Department of Justice will publish notice in the **Federal Register** of the proposed amended decree, and solicit public comment before finally submitting the proposed amended decree to the court.

Findings

On the basis of information submitted by the applicant and other information available to me, I make the following findings:

(1) I find that the following compliance obligations necessary to achieve compliance with the applicable provisions of the Pennsylvania State Implementation Plan may be extended as indicated:

[In millions of dollars]

Project description	Required expenditure	Final compliance date
(a) Emission control for blast furnace casthouses shared by both Farrell Works blast furnaces.	$6.0	Dec. 31, 1985.
(b) Emission control (furnace enclosure project) for BOF Vessel No. 3.	2.0	No later than Dec. 31, 1985.

I find that it is possible for Sharon to complete the installation of the control equipment at the BOF shop sooner than the end of 1985, and direct that in negotiating the consent decree the actual final compliance date for the BOF be established at the earliest reasonable date consistent with the requirement of the Section 113(e)(2) phased program of spending.

(2)(a) I find that the compliance obligation extensions in paragraph (1) above are necessary to allow Sharon to make the capital investments in its iron and steel-making operations described below.

(b) I find that the qualifying modernization investments described below will improve the efficiency and productivity of Sharon's iron and steel-producing operations.

(c) I find that the investments described below are proposed to be

made in communities (Warren, Ohio, and Farrell, Pennsylvania) which already contain iron and steel-producing facilities.

Qualifying Modernization Investments

Project

(i) Construction of modern Steel Strapping Line at Sharon's Brainard Strapping Division in Warren, Ohio.

(ii) Specialized cylindrical casting of electric furnace ingots at Farrell, Pennsylvania Works.

(3) I find that in order to achieve compliance with the Pennsylvania State Implementation Plan (as amended on May 20, 1980, 45 FR 33607; hereinafter "SIP") at all sources in its iron and steel-producing operation, Sharon will be required to make at least the following capital expenditures:

[In millions of dollars]

Source and project	Required expenditure
(i) Blast furnace casthouse emissions: Canopy hood system (or alternate equivalent system) to capture and clean casthouse emissions	$6.0
(ii) BOF Vessel No. 3: Four-sided evacuated enclosure to capture and clean furnace emissions	2.0

(4) I find that the requirement for a "phased program of compliance" (as defined in Section 113(e)(2) of the Act) requires Sharon to make pollution control capital expenditures for the projects set forth in finding (3) above on the following schedule, commencing with the entry of the amended decree:

Cumulative amount required to be expended	Date by which expenditure required
$4.0	By Dec. 31, 1983.
6.0	By Dec. 31,, 1984
8.0	By Dec. 31, 1985.

(5) I find that an integration of the "qualifying modernization investment" and the "phased program of compliance" schedule, when allowing for the required investments under Section 113(e)(1)(B) of the Act, results in the following required schedule of capital expenditures:

Cumulative amount required to be expended	Date by which expenditure required
At least $6 million for qualifying modernization investment to improve efficiency and productivity.	By July 17, 1983.
At least $4 million for pollution control.	By Dec. 31, 1983.
At least $6 million for pollution control.	By Dec. 31, 1984.
At least $8 million for pollution control.	By Dec. 31, 1985.

(6) I find that Sharon will have sufficient funds to comply with the capital expenditure requirements set forth in Finding (5) above.

(7) I find that Sharon has violated the following provisions of the existing consent decree, but that such violations are *de minimis* in nature, within the meaning of Section 113(e)(1)(E) of the Act:

(a) *Existing Consent Decree Provision III.B1.e.: Purchase Orders for Furnace Enclosure at BOF Vessel No. 3.* The existing consent decree, at paragraph III.B.1.e., required Sharon to have issued purchase orders, by August 1, 1981, for equipment necessary to complete construction and to put into operation a furnace enclosure at BOF Vessel No. 3. Sharon actually issued the required purchase orders on August 28, 1981, some twenty-Seven (27) days after the required date, and, on that date, issued a letter to EPA advising the Agency as to the reasons for the delay in issuing the required purchase orders. Subsequently, Sharon suspended its efforts to meet this schedule in anticipation of the filing by Sharon of its pending application under the SICEA. Because the delay has not been so great as to preclude compliance with the final compliance date in the existing decree, this violation is considered *de minimis.*

(b) *Existing Consent Decree Provisions V.B.1.c. and V.B.2.: Purchase Orders for Blast Furnace Casthouse "Partial Building Evacuation System".* The existing consent decree, at paragraphs V.B.1.c. and V.B. 2., required Sharon to have issued purchase orders, by July 1, 1981, for a "partial building evacuation system" to control blast furnace casthouse emissions, and to have commenced construction on said system by July 1, 1981. Sharon failed to issue the required purchase orders and commence construction by July 1, 1981, although it did issue a "letter of intent" on June 30, 1981, to place the required purchase orders. Sharon deferred vendor action on the letter of intent, and deferred construction, in anticipation of receiving a compliance extension under the SICEA. If the company undertakes special efforts to comply such as payment of premium rates for expedited delivery of equipment, this delay has not been so great as to preclude compliance with the final compliance date in the existing decree. Accordingly this violation is considered *de minimis.*

(8) I find that the extensions of compliance contemplated herein will not result in degradation of air quality during the term of the extension. This finding is predicated, *inter alia,* on Sharon's assurance that adequate operation and maintenance procedures will be maintained.

Based on the above findings, I have decided to exercise my statutory discretion and, on a preliminary basis, to consent to the extension of certain deadlines of compliance, as enumerated in finding (1) above, contingent upon the successful negotiation and agreement between Sharon and the United States of a Federal judicial decree containing all provisions required by Section 113(e) of the Act. This exercise of my discretion is entirely contingent upon such successful negotiation and agreement, and if the parties are unable to reach a complete and total agreement in the form of an amended consent decree, then I shall not consent to such an extension. I hereby give my preliminary consent to entry of an appropriate amended consent decree which requires capital expenditures to be made on a the schedule reflected in my Finding number (5) above. The negotiation of such a decree is underway and a decree may be presented to me for my review within a few weeks. Persons desiring to make public comment on these Preliminary Findings should do so without delay. Comments should be sent to:

Michael Alushin, Office of Enforcement Counsel (EN–329), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Telephone: 202–382–4146.

Notice is hereby given that in the event of successful negotiation and agreement between Sharon and the United States of such Federal judicial decree, such consent decree will be lodged and opportunity for public comment provided, under the provision of 28 CFR 50.7, by publication in the **Federal Register** by the Department of Justice, without any further notice (by **Federal Register** publication or otherwise) by EPA.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3862 Filed 2-11-82; 8:45 am]

BILLING CODE 6560-33-M

[EN–FRL–2017–3]

Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981: Shenango Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Findings Preliminary to Lodging of Amended Consent Decree.

SUMMARY: The Administrator indicates her preliminary intention to exercise her discretion and agree to an extension of a

certain compliance date for Shenango Incorporated under the Steel Industry Compliance Extension Act of 1981 (The "SICEA") which amended Section 113 of the Clean Air Act.

DATES: Effective February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Alushin (EN–329), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 (202) 382–4148.

SUPPLEMENARY INFORMATION: On October 9, 1981, Shenango Incorporated (hereinafter "Shenango") filed an application with the Environmental Protection Agency seeking a certain compliance date extension for its ironmaking facility at Neville Island, Pennsylvania under the provisions of Section 113(e) of the Clean Air Act (Pub. L. 97–23, 42 U.S.C. § 7413(e)), known as the Steel Industry Compliance Extension Act of 1981 (hereinafter "the Act"). This Notice of Preliminary Findings represents the Agency's formal determination that the applicant qualifies for an extension of a compliance date in its existing consent decree [Civil Action No. 80–1172; United States of America and County of Allegheny v. Shenango Incorporated, Western District of Pennsylvania, entered October 16, 1980; hereinafter "existing consent decree"). Although the Act does not require the Agency to promulgate proposed findings and solicit public comments prior to the promulgation of these Preliminary Findings, the Agency will consider any public comments received on these Findings when preparing the amended consent decree. Persons wishing to comment should do so without delay because negotiation of the terms of the amended decree will begin immediately. There will be additional opportunity for public comment, however. Pursuant to 28 CFR 50.7 the Department of Justice will publish notice in the **Federal Register** of the proposed amended decree and invite public comment before submitting the amended decree to the court for entry.

Findings

On the basis of information submitted by the applicant and other information available to me I make the following findings:

(1) I find that the following compliance obligation may be extended:

[In millions of dollars]

Project description	Capital cost
Gas cleaning device on combustion stack serving coke battery No. 4	$2.0

(2) (a) I find that the above extension is necessary to allow the company to make the capital investment in its iron- and steel-producing operations described below.

(b) I find that the investment described below will improve the efficiency and productivity of the company's iron- and steel-producing operation at the Sharpsville foundry.

(c) I find that the investment described below is to be made in a community which already contains iron- and steel-producing facilities.

[In millions of dollars]

Qualifying capital investment	Capital cost
Construct a miscellaneous casting department utilizing the air-setting process at the Sharpsville foundry.	At least $3.36.

(3) I find that the capital investment described below is not within the scope of the company's iron- and steel-producing operations.

[In millions of dollars]

Nonqualifying capital investment	Capital cost
Coke oven by-product storage and loading facility at Neville Island	$2.57

(4) I find that in order to achieve compliance with the Allegheny County portion of the Pennsylvania State Implementation Plan (as amended Oct. 21, 1981, 46 FR 51607; hereinafter "SIP") at all sources in its iron- and steel-producing operations Shenango will be required to make at least the following capital expenditure:

[In millions of dollars]

Pollution control expenditure	Capital cost
Gas cleaning device on combustion stack serving Coke Battery No. 4.	Approximately $2.0.

(5) I find that a "phased program of compliance" as defined in Section 113(e)(2) of the Act would require Shenango to make capital expenditures for pollution control in accordance with the following schedule:

[Cumulative total in millions of dollars]

$1.0	By Dec. 31, 1983.
2.0	By July 1, 1985.

This phased program of spending does not comport exactly with the statutory definition found in section 113(e)(2). However, because the extension will be granted for only one project, this schedule does represent a phased program of spending, "to the extent possible." Section 113(e)(2). The policy behind the phased program requirement of the statute is furthered by my requirement that the project be completed by July 1, 1985.

(6) I find that an integration of the "qualifying modernization investment" and the "phased program of compliance" schedule, when allowing for the required investments under Section 113(e)(1)(B) of the Act, results in the following required schedule of capital expenditures:

At least $2 million for improving efficiency and productivity.	By July 17, 1983.
At least a cumulative total of $1 million for pollution control.	By Dec. 31, 1983.
At least a cumulative total of $2 million for pollution control.	By July 1, 1985.

(7) I find that Shenango will have sufficient funds to comply with the capital expenditure requirements set forth in Finding (6) above.

(8) I find that the company has violated the following provisions of the existing consent decree but that such violations either have been corrected or are *de minimis*.

(a) *Consent Decree Provision 5(b)(3): Door and Jamb Replacement on Coke Battery No. 4.* Shenango failed to commence installation of all new doors and jambs on coke battery No. 4 by September 30, 1981 as required by provision 5(b)(3) of the consent decree. However, Allegheny County and EPA data have shown the source to already be in compliance with the final relevant door leakage standard so that replacement is not currently necessary to achieve compliance with the final standards in the decree. Accordingly, this violation is considered *de minimis*.

(b) *Consent Decree Provision 5(e)(6)(C): Pushing Visible Emissions from Coke Batteries Nos. 3 and 4.* Shenango has failed to comply with the visible emission standard applicable to its pushing operations at Coke Batteries Nos. 3 and 4. Shenango utilizes a Chemico Car to capture emissions from its pushing operation on Coke Batteries Nos. 3 and 4. The existing consent decree requires Shenango to employ the best operation and maintenance practices on its pushing emission control device and to make all reasonable modifications and additions to the device to maximize its availability. To date Shenango has employed

satisfactory operation and maintenance practices to maximize the availability of the Chemico Car. The present visible emissions result from minor leaks from a control system that is operating efficiently and not from periods of uncontrolled emissions. I therefore consider these present violations to be *de minimis.*

(c) *Consent Decree Provision 5(f)(3): Installation of Gas Cleaning Device on Combustion Stack Serving Coke Battery No. 4.* Shenango failed to place purchase orders for a gas cleaning device for coke battery No. 4 combustion stack by November 1, 1980 and failed to commence construction by September 1, 1981. However, the company did place purchase orders on June 1, 1981. If the company undertakes special efforts to comply such as payment of premium rates for expedited delivery of equipment, these delays are not so great as to preclude compliance with the final compliance date in the existing consent decree. Accordingly, this violation is considered *de minimis.*

(d) *Consent Decree Provision 6(e): Installation of Emission Control Equipment on Blast Furnace "B" Casthouse.* Shenango failed to issue purchase orders for the installation of emission control equipment on Blast Furnace "B" casthouse by June 1, 1981. However, an alternative emission reduction plan which will eliminate the need to control Blast Furnace "B" casthouse emissions, prepared by Shanango, was formally submitted to EPA on May 18, 1981 by the Pennsylvania Department of Environmental Resources as a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan ("SIP"). I have recently approved this revision to the Pennsylvania SIP. Accordingly, this violation is considered *de minimis.*

(9) I find that the extension of the compliance date contemplated herein will not result in degradation of air quality during the term of the extension. This finding is predicated on the company's assurance that adequate operation and maintenance procedures will be followed.

Based on these findings, I have decided to exercise my statutory discretion to consent preliminarily to the extension of a certain deadline of compliance contingent upon the successful negotiation and agreement between the company and the United States of a Federal judicial decree containing the provisions outlined in Section 113(e)(1)(C) of the Act. This exercise of my discretion is entirely contingent upon such successful negotiation and should the parties be unable to frame a complete and total agreement then no such extension shall be granted.

In particular, I hereby give my preliminary consent to the entry of a proper decree which requires capital expenditures to be made in accordance with the schedule contained in Finding (5) above. The negotiation of such a decree is underway and a decree may be presented to me for review within a few weeks. Persons desiring to make public comment on these Preliminary Findings should do so without delay. Comments should be sent to:

Michael Alushin, Office of Enforcement Counsel (EN–329), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 382–4148.

Notice is hereby given that in the event of successful negotiations and agreement between the company and the United States of such amended Federal judicial decree, such consent decree will be lodged and public comment opportunity provided under the provisions of 28 CFR 50.7 by **Federal Register** publication by the Department of Justice without any further **Federal Register** notice on behalf of the Environmental Protection Agency.

Dated: February 6, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–3881 Filed 2–11–82; 8:45 am]

BILLING CODE 6560–23–M

FEDERAL COMMUNICATIONS COMMISSION

Public Broadcasting Commission Schedules Meeting for March 1, 1982

February 9, 1982.

The Temporary Commission on Alternative Financing for Public Telecommunications has scheduled its next meeting for March 1, 1982.

The meeting will be at 2 p.m. in Room 856 of the Federal Communications Commission building at 1919 M Street, NW, in Washington, D.C.

For further information contact Judy Herman or John Kamp, Broadcast Bureau, (202) 632–6302.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–3770 Filed 2–11–82; 8:45 am]

BILLING CODE 6712–01–M

[PR Docket No. 82–53]

Max E. Sudds Designating Application for Hearing on Stated Issues

Designation Order

Adopted: February 1, 1982.

Issued: February 3, 1982.

In the matter of application of Max E. Sudds, 408 E. 58th Street, Los Angeles, California 90011, for renewal of amateur radio station license WA6QAG and technician class operator license.

1. The Commission has information that you apparently violated the Amateur Rules specified below. We sent you a notice of violation about this matter on June 5, 1981.

2. The Commission is required by Section 309(e) of the Communications Act of 1934, as amended, to designate an application for hearing if it cannot determine that the grant of the application would serve the public interest, convenience and necessity. Therefore, your captioned application is designated for hearing. If you wish to present evidence at an evidentiary hearing before an Administrative Law Judge, you must file within 20 days of this Order a notice stating your intention to appear. If you fail to file a Notice of Appearance, your application will be dismissed with prejudice. If you do file a Notice, the time, place and Presiding Judge for hearing will set by a later Order. Forms and envelopes are enclosed for your reply.[1]

3. This action is taken under Section 309(e) of the Act, pursuant to delegated authority and your case will be decided upon the following issues:

(a) To determine whether there were transmissions on April 26, 1981 in wilful violation of 18 U.S.C. 1464 (obscene, indecent or profane language) and/or Sections 97.84 (failure to identify), 97.119 (obscene, indecent or profane words, language or meaning), 97.123 (unidentified communications) and/or 97.125 (interference) of the Commission's Rules.

(b) To determine whether Max E. Sudds is qualified to be an Amateur licensee.

(c) To determine whether Sudds' pending application should be granted.

4. Any questions about this should be directed to the Compliance Division of the Private Radio Bureau at (202) 632–7197. This Order is being sent by Certified Mail—Return Receipt Requested and by Regular Mail.

[1] Use the enclosed pre-addressed envelopes to return your reply to the Compliance Division and to send a copy of that reply to the Chief Administrative Law Judge.

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Chief, Compliance Division.

[FR Doc. 82-3765 Filed 2-11-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 82-34, 82-35; File Nos. 22362-CD-P-78, 22127-CD-P-78]

Tele-Com, Inc. of Indiana and Digital Paging Systems of Indiana, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Order Designating Applications for Hearing

Adopted: January 19, 1982.

Released: February 1, 1982.

In Re Applications of Tele-Com, Inc. of Indiana, For authority to construct a new two-way facility to operate on frequency 454.250 MHz in the Domestic Public Land Mobile Radio Service at Indianapolis, Indiana, CC Docket No. 82-34, File No. 22362-CD-P-78; Digital Paging Systems of Indiana, Inc., For authority to construct a new two-way facility to operate on frequency 454.250 MHz in the Domestic Public Land Mobile Radio Service at Indianapolis, Indiana, CC Docket No. 82-35, File No. 22127-CD-P-78.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Tele-Com, Inc. of Indiana and Digital Paging Systems of Indiana, Inc. These applications are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be legally, technically and otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Tele-Com, Inc. of Indiana, File No. 22362-CD-P-78 and Digital Paging Systems of Indiana, Inc., File No. 22127-CD-P-78, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis; the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within 39 dBu contours,[1] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[2] and to determine and compare the need for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-3766 Filed 2-11-82; 8:45 am]

BILLING CODE 6712-01-M

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[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from Section 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6406, equation 8.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450-470 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with te goal of reaching joint technical exhibits.)

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-651-DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA-651-DR), dated January 7, 1982, and related determinations.

DATED: February 4, 1982.

FOR FURTHER INFORMATION CONTACT:
Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: The Notice of a major disaster for the State of California dated January 7, 1982, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 7, 1982:

Solano County for Public Assistance in addition to Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-3741 Filed 2-11-82; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and §225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and

requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 6, 1982.

A. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis Minnesota 55480:

First Bank System, Inc., Minneapolis Minnesota (leasing activities, Montana, Wyoming, and western North Dakota): To engage through its subsidiary, FBS Financial, Inc., in leasing personal property in accordance with the Board's Regulation Y; and acting as an agent, broker or advisor in the leasing of real or personal property. These activities would be conducted from an office in Billings, Montana, serving Montana, Wyoming, and western North Dakota.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Devonshire Investment Company, Bethany, Oklahoma (insurance activities; Oklahoma): To engage, through its subsidiary, Devinco Credit Insurance Agency, Inc., in selling reducing term, joint and single, credit life insurance in connection with installment loans, level term credit life insurance in connection with demand and single payment credit, and credit related accident and health insurance, directly related to extensions of credit by it and its subsidiary, the First National Bank of Bethany, from offices in Bethany, Oklahoma, serving Western Oklahoma and Eastern Canadian Counties, Oklahoma, including the Cities of Bethany, Warr Acres, Yukon, the Village, Nichols Hills, and part of Oklahoma City.

C. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3751 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

Brady National Holding Company, Inc.; Formation of Bank Holding Company

Brady National Holding Company, Inc., Brady, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Brady National Bank, Brady, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3745 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

CB&T Banchares, Inc.; Acquisition of Bank

CB&T Banchares, Inc., Cleveland, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Park National Bank, Porter, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disupute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3746 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

Capitol Commerce Corp.; Formation of Bank Holding Company

Capitol Commerce Corporation, Sacramento, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Capitol Bank of Commerce, Sacramento, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3747 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

Central of Illinois, Inc.; Formation of Bank Holding Company

Central of Illinois, Inc., Sterling, Illinois, has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 100 percent of the voting shares of the Central National Bank of Sterling, Sterling, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3748 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

Fort Wayne National Corp.; Formation of Bank Holding Company

Fort Wayne National Corporation, Fort Wayne, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Fort Wayne National Bank, Fort Wayne, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3749 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

Guaranty Commerce Corp.; Formation of Bank Holding Company

Guaranty Commerce Corporation, Alexandria, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Guaranty Bank & Trust Company of Alexandria, Alexandria, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 6, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3750 Filed 2-11-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-82-3]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Maine Public Utilities Commission involving electric rates, Docket Nos. 81-206 and 81-132.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Maine Public Utilities Commission involving the application of the Central Maine Power Company for an increase in its electric rates in Docket Nos. 81-206 and 81-132.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: February 3, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82-3773 Filed 2-11-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Mental Health Council; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the month of March 1982.

National Advisory Mental Health Council; March 1-3, March 1; 9:30 a.m.; open, Conference Room 6, Building 31C, National Institutes of Health, Bethesda, Maryland 20205
March 2-3; 9:00 a.m.; Closed, Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

CONTACT: Ms. Helen W. Garrett, Committee Management Officer, Parklawn Building, Room 9-95, 5600 Fishers Lane, Rockville, Marlyand 20857, (301) 443-4333.

PURPOSE: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

AGENDA: On March 1, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public for the open session will be limited to space available. Otherwise, the Council will conduct a final review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. A summary of the meeting and roster of Council members may be obtained from Ms. Helen Garrett, Committee Management Officer, NIMH, Room 9-95, Parklawn Building, 5600

Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: February 9, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-3857 Filed 2-11-82; 8:45 am]

BILLING CODE 4160-20-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Indiana State Plan Amendment Requiring Continuous Deeming of Income in Certain Cases Involving Institutionalized Individuals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 7, 1982 in Chicago, Illinois to reconsider our decision to disapprove an Indiana State plan amendment requiring continuous deeming of income between an institutionalized individual and his or her spouse for the purpose of determining financial eligibility for Medicaid.

CLOSING DATE: Requests to participate in the hearing as a party must be received by March 15, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley Krostar, Hearing Officer, Bureau of Program Policy, 1–G–5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 594–8511.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny an Indiana State plan amendment.

Section 1116(a) of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before March 15, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

This issue in this matter relates to the treatment of an individual's income in determining eligibility for, and the extent of medical assistance, provided to that individual's spouse under Medicaid. The proposed Indiana State plan amendment PCO–11–79–9 would have required that income between spouses be deemed continously for an indefinite period of time. It therefore violated our current regulation, which requires that a 209(b) State such as Indiana may be no more restrictive than the Supplemental Security Income (SSI) program when deeming income between spouses. (See 1902(a)(17)(B) of the Social Security Act and 42 CFR 435.734.)

The notice to Indiana announcing an administrative hearing to reconsider our denial of two State plan amendments reads as follows:

February 9, 1982.

Mr. Donald L. Blinzinger,

Administrator, Indiana Department of Public Welfare State Office Building, Room 701, 100 North Senate Avenue, Indianapolis, Indiana 46204

Dear Mr. Blinzinger: This is to advise you that your Petition for Reconsideration of the decision to disapprove Indiana State Plan Amendment PCO–11–79–9 was received on Janaury 8, 1982. The provision of the plan amendment upon which my disapproval determination was based, provides for deeming of income between an institutionalized individual and his or her immediate family.

I am scheduling a hearing on your request to be held on April 7, 1982, at 10:00 a.m. in the 8th floor conference room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar to serve as the presiding official. Please let him know if these arrangements present any problems. He can be reached on 301–594–8511.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: February 9, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-4031 Filed 2-11-82; 8:45 am]

BILLING CODE 4120-03-M

Medicaid Program; Hearing; Reconsideration of Disapproval of Iowa State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA) HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on March 23, 1982 in Kansas City, Missouri to reconsider our decision to disapprove Iowa State plan amendment MS–80–14.

CLOSING DATE: Request to participate in the hearing as a party must be received by March 15, 1982.

FOR FURTHER INFORMATION CONTACT: Albert Miller, Hearing Officer, Bureau of Program Policy, 1–G–5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 597–2595.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny an Iowa State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before March 15, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the imposition of a copayment on drugs furnished to the categorically needy, and on services furnished to the categorically needy by dentists, optometrists, opticians, audiologists, and orthopedic shoe dealers for hearing aids and medical equipment. According to the proposal, when these same services are provided to residents of skilled nursing facilities, intermediate care facilities, and residential care facilities, no copayment would be

imposed. The exclusion of institutionalized persons from the copayment requirement would violate the requirement that services for the categorically needy be equal in amount, duration, and scope for all member of the coverage group; that is, it would not comply with the statutory requirement to provide equal services to all the categorically needy. (See 1902(a)(10) of the Social Security Act and 42 CFR 440.240(b).)

The notice to Iowa announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

February 9, 1982.

Michael V. Reagan, Ph. D.,
Commissioner, Department of Social Services, Hoover Building, Des Moines, Iowa 50319

Dear Dr. Reagan: This is to advise you that your letter of January 5, 1982 requesting a reconsideration of the decision to disapprove Iowa State plan amendment 80–14 was received on January 11, 1982. You have requested a reconsideration of whether this amendment, which imposes a copayment requirement on all categorically needy; except those who are institutionalized, conforms to the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on March 23, 1982 at 10:00 a.m. in Room 281, Federal Office Building, 601 East 12th Street, Kansas City, Missouri. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 597–2896.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: February 9, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-4028 Filed 2-11-82; 8:45 am]

BILLING CODE 4120-03-M

Medicaid Program; Hearing; Reconsideration of Disapproval of a Massachusetts State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on March 30, 1982 in Boston, Massachusetts to reconsider our decision to disapprove a Massachusetts State plan amendment requiring a transfer of asset restriction on the aged, blind or disabled medically needy population in determining eligibility for Medicaid.

CLOSING DATE: Requests to participate in the hearing as a party must be received by March 15, 1982.

FOR FURTHER INFORMATION, CONTACT: Stanley Krostar, Hearing Officer, Bureau of Program Policy, 1–G–5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 594–8511.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny a Massachusetts State plan amendment 80–25.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we should also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before March 15, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to State policy concerning transfer of property restrictions in determining Medicaid eligibility for the aged and disabled medically needy population. The State plan amendment had a proposed effective date of October 1, 1980. Prior to March 1, 1981, States were prohibited from imposing transfer of asset restrictions under the Supplemental Security Income (SSI) Program and, by derivation, under Medicaid in those States, such as Massachusetts, which base Medicaid eligibility on SSI criteria. Although Section 5 of Pub. L. 96–611 enacted December 28, 1980, amended the SSI and Medicaid programs (effective July 1, 1981) by allowing and imposing certain transfer of asset restrictions, the amendment is not approvable because it is more restrictive than the procedures specified for SSI in Section 1613(c) of the Act. In addition, the proposed amendment violates the Federal statutory requirement that all members of a particular medically needy group be treated comparably for purposes of determining Medicaid eligibility, by proposing to exempt the institutionalized mentally retarded from the transfer of assets prohibition.

The notice to Massachusetts announcing an administrative hearing to reconsider our denial of a State plan amendment reads as follows:

February 9, 1982.

Mr. Jeffrey S. Ogilvie,
Special Assistant Attorney General, Room 611, 600 Washington Street, Boston, Massachusetts 02111.

Dear Mr. Ogilvie: This is to advise you that your request for reconsideration of the decision to disapprove Massachusetts State plan amendment 80–25 was received on January 11, 1982. You have requested a reconsideration of the issue of whether the proposed revision to State policy concerning the imposition of a transfer of property restriction on the aged and disabled medically needy population with an effective date of October 1, 1980, conforms to the requirements for approval under the Social Security Act and pertinent regulations.

I am scheduling a hearing to be held on March 30, 1982 at 10:00 a.m. in Room 1211, JFK Federal Building, Boston, Massachusetts. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar to serve as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 594–8511.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: February 9, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-4027 Filed 2-11-82; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Reports for the following Office of the Assistant Secretary for Health Federal Advisory Committees have been filed with the Library of Congress:

Health Services Research and Developmental Grants Review Committee
Health Care Technology Study Section

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department of Library, North Building, Room 1436, 300 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. Hoke S. Glover, National Center for Health Services Research, 3700 East-West Highway, Room 7-50A, Hyattsville, Maryland 20782, Telephone (301) 436-6920.

Dated: February 8, 1982.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-3656 Filed 2-11-82; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Big Dry Vegetation Allocation Draft Impact Statement; Availability and Notice of Hearings

February 3, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Big Dry Vegetation Allocation Draft Environmental Impact Statement availability and notice of public hearings.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement (DEIS) for northeastern Montana. The DEIS details four alternative vegetation allocations on nearly 1.17 million acres of public land within BLM's Miles City District.

DATES: Comments will be accepted until April 5, 1982. Hearings will be held: March 1, 8:00 p.m. at the Rosebud County Library in Forsyth, Montana; March 2, 8:00 p.m. at the Prairie County Grazing District Office in Terry, Montana; March 3, 8:00 p.m. at the Fallon County Library in Baker, Montana.

ADDRESS: Comments and requests for further information should be addressed to: Ray Brubaker, District Manager, Bureau of Land Management, Miles City District, P.O. Box 940, West of Miles City, Miles City, Montana 59301.

SUPPLEMENTAL INFORMATION: The Draft EIS describes and analyzes environmenal consequences for four alternative courses of action. The four alternatives are: (A) Continued Development for Optimum Range Utilization (BLM's Preferred Alternative); (B) Enhanced Watershed Value and Wildlife Habitat; (C) No Grazing; and (D) No Action. Comments upon the Draft EIS analysis will be considered and used to prepare a final EIS. The final EIS will be used to develop a Rangeland Management Program for the area included in the EIS.

A limited number of copies of the Draft are available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, Interior Building, 18th & C Streets NW., Washington, D.C. 20240
Bureau of Land Management, Miles City District, P.O. Box 940, West of Miles City, Miles City, Montana 59301
Bureau of Land Management, Montana State Office, P.O. Box 30157, 222 North 32nd Street, Billings, Montana 59107

Dated: February 3, 1982.

Michael J. Penfold,

State Director.

[FR Doc. 82-3737 Filed 2-11-82; 8:45 am]
BILLING CODE 4310-84-M

[N-27083]

Nevada; Order Providing for Opening of Public Lands

In an exchange of lands made under the provisions of section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T.16N., R. 19 E.,
Sec. 19, Lot 1 of the NW¼, Lot 1 of the SW¼, E½;
Sec. 20, All.

The area described contains 1120 acres in Washoe County.

Upon acceptance of title to such lands, they became part of the Toiyabe National Forest and are subject to all the laws, rules, and regulations applicable thereto. The minerals were not reconveyed to the United States.

At 10 a.m., on March 15, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Toiyabe National Forest, 111 No. Virginia Street, Room 601, Reno, NV 89501.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-3697 Filed 2-11-82; 8:45 am]
BILLING CODE 4310-84-M

[W-73959]

Realty Action Sale of Public Lands in Big Horn County, Wyoming

February 2, 1982.

The following described lands have been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value.

Sixth Principal Meridian, Wyoming

T. 52 N., R. 93 W.,
Sec. 17, Lots 15, 16, 17, 18, 19, 21, 22, 23 and N½NE¼SW¼.
Containing 47.97 acres.

The land is to be sold noncompetitively to the town of Greybull. The purpose of this sale is to facilitate community expansion. The terms and conditions applicable to the sale are:

1. A reservation to the United States of the right to construct ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945;

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

3. The patent shall be subject to valid existing rights of record at the time of conveyance.

Detailed information concerning the sale is available for review at the Bureau of Land Management, Worland District Office, P.O. Box 119, Worland Wyoming 82401.

On or before March 19, 1982, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-3772 Filed 2-11-82; 8:45 am]
BILLING CODE 4310-84-M

[N-26229]

Nevada; Realty Action Sale of Public Lands in Eureka County, Nevada

Correction

In FR Doc. 82-1432 appearing on page 3037 in the issue of Thursday, January 21, 1982, make the following correction:

On page 3037, third column, in the description of lands, in the entry for Parcel No. 16, the entry now reading "NE¼SE¼SE¼" should have read "NW¼SE¼SE¼".

BILLING CODE 1505-01-M

Bureau of Reclamation

Acquisition of Less Than Fee Interests in State of Colorado Lands Needed for Recreation/Fish and Wildlife Enhancement; Closed Basin Division, San Luis Valley Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to acquire less than fee interests in Closed Basin Division project lands needed for recreation/fish and wildlife enhancement.

SUMMARY: The Closed Basin Division, San Luis Valley Project, was authorized by Pub. L. 92-514 on October 20, 1972. Located in Alamosa and Saguache Counties, Colorado, the Closed Basin Division is a multiple-purpose water resource project designed to salvage shallow ground water now being lost to evapotranspiration in the Closed Basin of the San Luis Valley and deliver it to the Rio Grande. Project features will include 95 to 165 production wells; laterals (about 100 miles); electric transmission facilities; a conveyance channel (about 42 miles); and miscellaneous strtuctures.

Section 106 of Pub. L. 92-514 recognizes recreation and fish and wildlife enhancement as Closed Basin project purposes, and authorizes land acquisition and facility development for these purposes in accordance with the Federal Water Project Recreation Act (Pub. L. 89-72). The Bureau of Reclamation is acquiring less than fee interests in State lands needed for recreation and fish and wildlife enhancement. Although Pub. L. 89-72 authorizes the acquisition of less than fee title to project lands that are to be developed for recreation or fish and wildlife enhancement, such acquisition is contrary to customary Bureau of Reclamation policy.

When developing water resource projects, the Bureau of Reclamation has followed a general policy of acquiring fee title to lands determined to be of substantial value for public outdoor recreation or for enhancement of fish and wildlife resources. With regard to acquisition of lands for reservoir projects, that policy is codified in *43 CFR Part 8.*

Section 105 of Pub. L. 92-514 requires the State of Colorado to convey to the United States easements and rights-of-way over lands owned by the State that are needed for wells, channels, laterals, and wildlife refuge areas, as identified in the Closed Basin project plan. Section 105 also provides that acquisition of privately owned land should, "* * * where possible and consistent with the development of the project, be restricted to easements and rights-of-way * * *."

The State of Colorado intends to enter into an agreement with the Bureau of Reclamation, pursuant to the provisions of Pub. L. 89-72, for the development and management of Closed Basin recreation and fish and wildlife enhancement facilities. Since most of the other project facilities will be developed on lands to which the Bureau of Reclamation has acquired easements or rights-of-way, it is appropriate that less than fee interests in State lands needed for recreation or fish and wildlife enhancement also be acquired. Acquiring easements and rights-of-way in lieu of fee title for these lands is consistent with project authorization, may facilitate project management, and will protect adequately the Federal investment in the facilities.

FOR FURTHER INFORMATION CONTACT: Dr. Kathy Brocato, Staff Assistant, Operations and Maintenance Policy Staff, Bureau of Reclamation, Washington, DC, (202) 343-5204 or FTS 343-5204.

Dated: February 5, 1982.

Robert N. Broadbent,

Commissioner, Bureau of Reclamation.

[FR Doc. 82-3774 Filed 2-11-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation: Alabama Bedding Mfg. Co., Inc., P.O. Box 10062, 200 Third Ave., North, Birmingham, Alabama 35202.

2. Wholly-owned Subsidiaries and State of incorporation:

(i) Associated Trucking Company, Inc., an Alabama corporation.

(ii) Spring Air Bedding, Inc., a Georgia corporation.

1. Parent corporation and address of principal office: The Continental Group, Inc. (formely Continental Can Co., Inc.), One Harbor Plaza, Stamford, Connecticut 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(a) Continental Forest Industries, Inc. (Delaware).

(b) Continental Hopewell Woodlands, Inc. (Delaware).

(c) Continental Augusta Woodlands, Inc. (Delaware).

(d) Continental Savannah Woodlands, Inc. (Delaware).

(e) Continental Hodge Woodlands, Inc. (Delaware).

(f) Continental Hopewell, Inc. (Delaware).

(g) Continental Bleached Products, Inc. (Delaware).

(h) Continental Port Wentworth, Inc. (Delaware).

(i) Continental Hodge, Inc. (Delaware).

(j) Continental Corrugated, Inc. (Delaware).

(k) Continental Fibre Drum, Inc. (Delaware).

(l) Continental Folding Carton, Inc. (Delaware).

(m) Continental Consumer Products, Inc. (Delaware).

(n) Continental Solid Wood Products, Inc. (Delaware).

(o) Continental Land Resources, Inc. (Delaware).

(p) Conolease Incorporated (Delaware).

(q) Great Plains Bag Corporation (Delaware).

(r) ConoKraft International, Inc. (Delaware).

(s) Central Louisiana & Gulf Railroad (Delaware).

(t) Steelpak, Inc. (Virginia).

(u) North Louisiana & Gulf Railroad (Louisiana).

(v) All Points Distribution Centers, Inc. (Delaware).

1. Parent corporation and address of principal office: Mid-South Trucking Company, a Tennessee corporation, 1145 Channel Avenue, Memphis, TN 38113.

2. Wholly-owned subsidiary which will participate in the operations, and the address of its respective principal office: Mid-South Terminals Corporation, a Tennessee corporation,

1145 Channel Avenue, Memphis, TN 38113.

1. Parent corporation and address of principal office: St. Louis Terminals Corporation, a Missouri corporation, 1 N. Market Street, St. Louis, MO 63102.

2. Wholly-owned subsidiary which will participate in the operations, and the address of its respective principal office: Granite City Terminals Corporation, a Missouri corporation, Tri-City Regional Port District, Granite City, IL 62040.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3784 Filed 2-11-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

February 9, 1982.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of the notice.

No. 43958, Southwestern Freight Bureau, Agent, reduced rates on synthetic rubber and rubber compounds, from Cheek and Silsbee, TX, to Hopedale, MA, in Supplement 104 to Tariff ICC SWFB 4973-A, effective March 7, 1982. Grounds for relief—destination rate relationship.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3773 Filed 2-11-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) were find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-22

Decided: February 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 149111 (Sub-3), filed February 1, 1982. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 1200 Lebanon Road, West Mifflin, PA 15122. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222, (412) 471-3300. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160250, filed January 25, 1982. Applicant: BROWN DISTRIBUTION CENTER, INC., 3205 Ashley Phosphate Road, North Charleston, SC 29405. Representative: John G. Brown (same address as applicant), (803) 577-3630. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 160310, filed January 29, 1982. Applicant : L. D. LOUGHNEY & SONS, P.O. Box 6, Roberts, MT 59070. Representative: L. D. Loughney (same address as applicant), (406) 445-2207. (1) Transporting *general commodities* (except classes A and B explosives), between points in Carbon County, MT, on the one hand, and, on the other, points in the U.S., and (2) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Note.—The purpose of part (1) of this application is to substitute motor carrier for abandoned rail carrier service.

MC 160330, filed February 1, 1982. Applicant: DELTON F. MUNSON, d.b.a. MUNSON TRUCKING, 3663 Howell Rd., Webberville, MI 48892. Representative: Greg Geers, Michigan Agricultural Commodities, 3350 N. Grand River Avenue, Lansing, MI 48906, (517) 321-7610. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP3-022

Decided: February 4, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

MC 144964 (Sub-13), filed February 1, 1982. Applicant: LINEHAUL EXPRESS, INC., P.O. Box 1205, Pompano Beach, FL 33061. Representative: Lawrence Goral

(same address as applicant), (305) 785–5112. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160225, filed January 22, 1982. Applicant: KERMIT AUSTAD AND MARK AUSTAD, d.b.a. AUSTAD TRUCKING, 980 Carver Beach Rd., Chanhassen, MN 55317. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160244 (Sub-1), filed January 25, 1982. Applicant: RICHARD L. STOUT, d.b.a. S & H TRANSPORT, 4195 S. 500 W. No. 33, Murray, UT 84107. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160285, filed January 28, 1982. Applicant: KENNETH W. MELCHER, 13115 N.E. Broadway, Portland, OR 97230. Representative: Kenneth W. Melcher (same address as applicant), (503) 256–5639. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP3–025

Decided: February 8, 1982.

By the Commissions Review Board Number 2, Members Carleton, Fisher and Williams.

MC 156525 (Sub-2), filed February 2, 1982. Applicant: D & M TRANSPORTATION, INC., 857 Matzinger Rd., Toledo, OH 43612. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, DC 20036, (202) 785–0024. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160325, filed January 29, 1982. Applicant: CHRISTENSEN FARMS, Box 26, Athol, SD 57425. Representative: Garfield E. Christensen (same address as applicant) (605) 472–0357. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160334, filed February 1, 1982. Applicant: H.J.M. DELIVERY, INC., P.O. Box 08983, Detroit, MI 42084, Representative: Robert E. McFarland, 2855 Coolidge Rd., Ste. 201A, Troy, MI 48084, (313) 649–6650. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160354, filed February 1, 1982. Applicant: NICKOLAS P. PLATT, d.b.a. NORTHWEST BUILDING SUPPLY, 3107 N.E. Brazee, Portland, OR 97212. Representative: Nickolas P. Platt, 10706 N.E. 212th, Vancouver, WA 98662, (206) 892–9127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160375, filed February 1, 1982. Applicant: LAWRENCE R. GOULAH, d.b.a. RICH GOULAH TRUCKING, 41 Jeffrey Dr., Grand Island, NY 14072. Representative: Michael A. Wargula, 128 Sherburn Dr., Hamburg, NY 14075, (716) 845–6066. Transporting *food and other edible products and byproducts intended for human consumption* (except alcholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–40

Decided: January 29, 1982.

By the Commission, Review Board Number 2. Members Carleton, Fisher, and Williams.

MC 42487 (Sub-1057), filed January 25, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 63837 (Sub-10), filed January 25, 1982. Applicant: DIGGINS & ROSE, INC., 3 Sagamore Park Rd., Hudson, NH 03051. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

MC 138157 (Sub-283), filed January 27, 1982. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, (same address as applicant), (615) 756–7511. . Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in U.S., (except AK and HI).

MC 146447 (Sub-22), filed January 27, 1982. Applicant: TANBAC, INC., 2941 S.W. 1st. Terrace, Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd. St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in U.S., under continuing contract(s) with W. M. Industries, Inc., of Atlanta, GA.

MC 149507 (Sub-1), filed January 27, 1982. Applicant: STEVE'S GAS SUPPLY, INC., 46 River Rd., Essex Junction, VT 05452. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *petroleum, natural gas and their products,* between points in MA, NH, NJ, NY, PA, RI, and VT.

MC 155537, filed January 27, 1982. Applicant: MORAVY TRUCKING COMPANY, 1934 Commercial Dr., Mt. Pleasent, MI 48858. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933, (517) 482–2400. Transporting *(1) machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products, and (2) earth drilling machinery and equipment and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal,*

operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production storage and transmission of commodities resulting from drilling operations at well or hole site, (d) the injection or removal of commodities into or from holes or wells, and (e) the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including stringing and picking up thereof, between points in MI, on the one hand, and, on the other, points in the U.S.

MC 158567, filed January 27, 1982. Applicant: SCHUMAN CARTAGE CO., 826 N. Harvard, Arlington Heights, IL 60004. Representative: Donald P. Schuman (same address as applicant) (312) 259–1693. Transporting *such commodities* as are dealt in or sold by building material and home furnishing suppliers, between points in the U.S., under continuing contract(s) with Plywood Minnesota, Inc., of Chicago, IL.

Volume No. OP4–41

Decided: January 29, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

MC 160277, filed January 27, 1982. Applicant: ROBERT J. SCHOTT, d.b.a. AIRSCHOTT, P.O. Box 17373, Dulles Int'l Airport, Washington, DC 20041. Representative: E. M. Seligmann (same address as applicant) (703) 471–7444. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–43

Decided: February 4, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

MC 21357 (Sub-1), filed February 1, 1982. Applicant: LEONARD BROS. MOVING & STORAGE CO., NORTH, 1782 E. Maple Rd., Troy, MI 48084. Representative: Martin J. Leavitt, 22375 Haggerty Rd., Northville, MI 48167 (313) 349–3980. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Volume No. OP5–28

Decided: February 2, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC 142059 (Sub-185), filed January 25, 1982. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Dr., Channahon, IL 60410. Representative: Jack Riley (same address as applicant) (815) 729–3808.

Transporting *general commodities,* between Villa Park, CA, Graymont and Flanagan, IL, Ashley, Benton, Eddy, Foraker, Hamilton, Helmer, Millersburg, New Paris, Paoli, South Milford, Stony Creek, Topeka and Wolcottville, IN, Clarinda and Hepburn, IA, Clay, Corydon, Crayne, Deanefield, Edgoten, Fredonia, Henshaw, Marion, Mexico, Morganfield, Philpot, Sturgis, Sullivan, Uniontown, Waverly, Wheatcroft, and Whitesville, KY, Hayfield and Sargeant, MN, Abbeville, Arm, College Hill, Columbia, Goss, Hathorn, Holly Springs, Michigan City, Oakvale, Oxford, Sherwood, Silver Creek, Taylor, Waterford, Water Valley, and Woodland, MS, Maitland and Mound City, MO, Irvington, NE, Caroleen and Henrietta, NC, Edon, OH, Archbold, Dickson, Jermyn, Jessup, Laflin, Mayfield, Moosic, Olyphant, Parker Ford, Plymouth, Royersford, and Yatesville, PA, Davis, Irene, Tea and Viborg, SD, Ashland City, Bemis, Bolivar, Chapmansboro, Grand Junction, Hickory Valley, Jordonia, Kenwood Malesus, Masonville, Medon, Middleburg, Ralston, Terrell and Toone, TN, Herbert and Hidalgo, TX, and Tooele, UT, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment of rail carrier service.

Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at all of the involved points.

Volume No. OP5–29

Decided: February 4, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC 160298, filed January 28, 1982. Applicant: AMTRUCK FACTORS, 3900 Airport Way South, Seattle, WA 98108. Representative: Charles Gerard (same address as applicant) 206–622–3800. As a *broker of general commodities,* (except household goods), between points in the U.S.

MC 159568 (Sub-1), filed January 28, 1982. Applicant: DC&L TRANSPORT, INC., 16521 Van Dam Road, South Holland, IL 60473. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263–2306. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160269, filed January 27, 1982. Applicant: EUGENE W. TRIPP, Rt. 1, Box 753, Naches, WA 98937. Representative: Eugene W. Tripp (same address as applicant) (509) 966–2497. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers,* and *other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3778 Filed 2–11–82; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Volume No. OP2–27]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating right authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the **Federal Register.**

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 64373 (Sub-19) (Republication), September filed 14, 1981, published in the **Federal Register** of September 30, 1981, and republished this issue: Applicant: CLARKSON BROS. MACHINERY HAULERS, INC., P.O. Box 788, Cowpens, SC 29330. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH. A decision of the Commission, *Review Board 2,* decided January 13, 1982, and served February 2, 1982 finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier,* by motor vehicle, transporting *machinery, construction and industrial equipment, steel articles, lumber and wood products, and those commodities which because of their size or weight require the use of special handling or equipment,* between Houston, TX,

Atlanta, GA, points in Virginia and North Carolina, and those points in Jefferson County, AL, Spartanburg and Greenville, SC, Davidson and Hamilton County, TN, New Orleans Parish, LA, Whiteside County, IL, Porter County, IN, Butler County, OH, and Erie County, NY, on the one hand, and, on the other, points in the United States; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

MC 148553 (Sub-3) (Republication), filed July 9, 1981, published in the **Federal Register** of July 22, 1981, and republished this issue: Applicant: B.J. EXPRESS, INC., 4928 Assisi Lane, Cincinnati, OH 45238. Representative: Bobby Ray Johnson (same address as applicant). A decision of the Commission, *Division 1*, decided January 11, 1982, and served January 29, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting (1) *transportation equipment*, between points in Ohio, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming; (2) *Mercer commodities*, between points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and Ramsey County, MN; and (3) *pulp, paper and related products, and rubber and plastic products*, between points in Hamilton County, OH, Somerset County, NJ, and Placer County, CA; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

[FR Doc. 82-3783 Filed 2-11-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 82-719 appearing at page 1343 in the issue of Tuesday, January 12, 1982, please make the following correction:

On page 1348, in the third column, in the paragraph MC 159784, filed for Rochester Armored Car Co., beginning in the 15th line and running through the end of the paragraph, please correct paragraphs (2) and (3) as follows:

* * * (2) between points in Douglas County, NE, on the one hand, and, on the other, points in IA; and (3) between points in Hennepin County, MN, on the one hand, and, on the other, points in ND, SD, and IA.

BILLING CODE 1505-01-M

[Docket No. AB-1 (Sub-No. 135)]

Rail Carriers; Chicago and North Western Transportation Co.; Abandonment in Sioux County, IA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its rail line between milepost 216.8 near Alton to railroad milepost 220.0 near Orange City, a distance of 3.2 miles in Sioux County, IA, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3782 Filed 2-11-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-26 (Sub-No. 25)]

Rail Carriers; Georgia Northern Railway Co.; Abandonment; In Worth and Turner Counties, GA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Georgia Northern to abandon its rail line between Bridgeboro (milepost GS-75.0) and Ashburn (milepost GS-45.60) in Worth and Turner Counties, GA, a total distance of 29.4 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding

financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3780 Filed 2–11–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-No. 83) B]

Rail Carriers; Illinois Central Gulf Railroad Co.; Abandonment; Between Horse Branch and Fordsville, KY; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a partial certificate authorizing the Illinois Central Gulf Railroad Company to abandon its rail line between milepost 7.62 near Davidson to milepost 15.6 near Fordsville in Ohio County, a total distance of 7.98 miles, subject to certain conditions. Since no investigation was instituted on this part of the line, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authoring abandonment shall become effective 30 days from the service date of the certificate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3781 Filed 2–11–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 89)]

Rail Carriers; Union Pacific Railroad Co., Exemption for Contract Tariff ICC–UP–C–0013

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on February 1, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC–UP–C–0013 to become effective on one day's notice. The tariff was filed to become effective on February 28, 1982. The tariff provides for the movement of assembled motor vehicles shipped by Chrysler Motor Company.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Early implementation of the contract will enable Chrysler, an ailing manufacturer, to benefit from the terms of the contract as soon as possible. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 5, 1982.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–3778 Filed 2–11–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–10 (Sub-No. 25)]

Rail Carriers; Wabash Railroad Co. and Norfolk and Western Railway Co.; Abandonment—Between Moulton and Ottumwa in Appanoose, Davis and Wapello Counties, IA; Findings

The Commission has issued a certificate authorizing Wabash Railroad Company and Norfolk and Western Railway Company to abandon its 35.74-mile rail line between Moulton near milepost 243.07 and Ottumwa near milepost 278.81 in Appanoose, Davis and Wapello Counties, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, not later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3779 Filed 2-11-82; 8:45 am]

BILLING CODE 7035-01-M

[F.D. No. 29720 (Sub-No. 1) and related dockets]

Guilford Transportation Industries, Inc.; Control; Boston and Maine Corporation

AGENCY: Interstate Commerce Commission (ICC), Office of Transportation Analysis, Section of Energy and Environment.

ACTION: Notice of availability of environmental assessment prepared for above-entitled proceeding.

SUMMARY: Guilford Transportation Industries, Inc. (GTI) has filed an application with the ICC seeking authority to control the Boston and Maine Corporation (B&M). In a related proceeding B&M has filed with the Commission an amended plan of reorganization which is premised on Commission approval of the just-noted GTI application. Several carriers have filed inconsistent applications in connection with the applicants' consolidation proposals.

The ICC's Section of Energy and Environment has prepared an environmental assessment which seeks to identify the environmental impacts which would flow from Commission approval of the primary and inconsistent applications. Copies of this environmental assessment have been served on all parties of record.

COPIES: Any other interested member of the public may obtain a copy of the assessment by contacting Mr. Reno Pretti, Section of Energy and Environment, Room 5377, Interstate Commerce Commission, Washington, D.C. 20423, Tel. (202) 275-7917.

COMMENTS: Anyone who wishes to file written comments on the data or conclusions contained in the environmental assessment may do so by forwarding same to Reno Pretti at the above address by March 12, 1982.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3777 Filed 2-11-82; 8:45 am]

BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Westin Hotel, North Michigan Avenue at Delaware, Chicago, Illinois on March 22 and 23, 1982, beginning at 9:00 a.m. each day.

The purpose of the meeting is to prepare recommended questions for the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B). A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: February 9, 1982.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 82-3771 Filed 2-11-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Endo Laboratories, Inc.; Manufacturer of Controlled Substances; Registration

By Notice dated December 9, 1981, and published in the **Federal Register** on December 16, 1981 (46 FR 61354), Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II.
Hydrocodone (9193)	II.
Oxymorphone (9652)	II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Acting Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: February 4, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-3764 Filed 2-11-82; 8:45 am]

BILLING CODE 4410-09-M

Upjohn Co.; Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 20, 1981, Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2, 5-Dimethoxyamphetamine (7396)	I.
Methamphetamine (1105)	II.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or request for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

February 4, 1982.

[FR Doc. 82-3763 Filed 2-11-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Pennsylvania

This notice announces the beginning of a new Extended Benefit Period in the State of Pennsylvania, effective on January 24, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Pennsylvania unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Pennsylvania has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 9, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 24, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Pennsylvania or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Pennsylvania Department of Labor and Industry in their locality.

Signed at Washington, D.C., on February 5, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-3884 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Rhode Island

This notice announces the beginning of a new Extended Benefit Period in the State of Rhode Island, effective on January 24, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Rhode Island unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Rhode Island has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 9, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 24, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Rhode Island or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Rhode Island Department of Employment Security in their locality.

Signed at Washington, D.C., on February 5, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-3886 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Tennessee

This notice announces the beginning of a new Extended Benefit Period in the State of Tennessee, effective on January 24, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Tennessee unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State unemployment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation saw equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Tennessee has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 9, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 24, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Tennessee or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Tennessee Department of Employment Security in their locality.

Signed at Washington, D.C., on February 5, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-3885 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Indiana

This notice announces the beginning of a new Extended Benefit Period in the State of Indiana, effective on January 31, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Indiana unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Indiana has determined that the rate of insured unemployed in the State, for the period consisting of the week ending on January 16, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 31, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the

individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Indiana or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Indiana Employment Security Board in their locality.

Signed at Washington, D.C., on February 5, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-3887 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits New Extended Benefit Period in the State of North Carolina

This notice announces the beginning of a new Extended Benefit Period in the State of North Carolina, effective on January 31, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the North Carolina unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of North Carolina has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 16, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on January 31, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of North Carolina or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the North Carolina Employment Security Commission in their locality.

Signed at Washington, D.C., on February 5, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-3888 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,777]

Richard Callahan, Inc., New York, New York; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 24, 1980 in response to a worker petition received on November 19, 1980 which was filed on behalf of workers and former workers producing apparel at Richard Callahan, Incorporated, New York, New York.

The subject firm has gone out of business. The Department of Labor has not been able to contact officials of the firm or to gain access to the location of any records, ledgers and or documents relating to Richard Callahan, Incorporated. Therefore, the investigation has been terminated.

Signed at Washington, D.C., this 8th day of February, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-3889 filed 2-11-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-192-C]

Alabama By-Products Corp.; Petition for Modification of Application of Mandatory Safety Standard

Alabama By-Products Corporation, P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 75.326 (air courses and belt haulage entries) to its Segco No. 1 Mine located in Walker County, Alabama. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return air courses be separated from belt haulage entries.

2. Sections are advanced by driving six or seven entries abreast. Two entries constitute intake air courses and two entries constitute return air courses. Two or three entries constitute neutral air courses which are separated from intake and return air courses by permanent stoppings. One of the neutral air courses will double as a belt and track entry.

3. The mine liberates approximately 900,000 cublic feet of methane per 24 hour period. None of the working sections require more than the minimum volume requirements of air set forth in the regulations. The blowing system of ventilation is applied on all sections of the mine.

4. There are currently five air shafts at the mine; three are intake and two are return air shafts. In addition to the air shafts, the mine has one slope entry.

5. Low seam heights and spauling roof conditions, coupled with lengthy air courses pose considerable restrictions to

normal air flow. The belt haulage entry is brushed to an average height of approximately eight feet thus alleviating much of the restriction to air flow encountered in adjacent entries. Air traveling the intake air courses, therefore, has a normal tendency to pull to the belt neutral entry. The belt entry is traveled and inspected by mine personnel on a frequent basis.

6. As an alternative method, petitioner proposes to use the belt entries as intake air entries which will provide control, direction and velocity of air on the belt entries. This will also eliminate any possible dead air areas and prevent possible air reversals due to changes in ventilating pressure. In addition, using the belt entries as intake entries will provide some increase in air volume in the last open crosscut, and provide extra flexibility to quickly direct more air to dilute any methane concentrations that may occur at the working faces.

7. Petitioner will continuously maintain the average concentration of respirable dust in belt entries used as intake air courses within the requirements set forth in the regulations.

8. Petitioner states that the alternative outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 3, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3003 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-63-M]

American Borate Co.; Petition for Modification of Application of Mandatory Safety Standard

American Borate Company, P.O. Box 409, Death Valley, California 92328, has filed a petition to modify the application 30 CFR 57.11-41 (fixed ladders) to its Billie Mine located in Inyo County, California. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fixed ladders with an inclination of more than 70 degrees from the horizontal be offset with substantial landings at least every 30 feet or have landing gates at least every 30 feet.

2. Petitioner states that installation of ladders with landings would restrict air flow by 46 percent of the design volume. The volume is required to effectively remove the development heat load. Any reduction of airflow reduces heat removal, thereby increasing worker discomfort by increasing design temperature.

3. As an alternative method which will provide the same degree of safety for the miners affected as that afforded by the standard, petitioner proposes to install, as emergency escapeway ladders, a straight run of ladders with backhoops.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 4, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and variances.

[FR Doc. 82-3002 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-273-C]

Amherst Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amherst Coal Company, Lundale, West Virginia 25631, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Paragon Mine located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals be examined on a weekly basis.

2. Two sets of seals, Road 600 and Road 592 seals, cannot be properly examined because numerous roof falls have occurred in all travelways to these seals, preventing safe access.

3. Petitoner states that application of the standard would result in a diminution of safety for the miners affected because the miners would be required to travel through areas where the mine roof is unsupported or inadequatley supported. Rehabilitation of these travelways would expose miners to adverse and hazardous roof conditions.

4. As an alternative method, petitioner proposes to establish and maintain three specified air measuring checkpoints. The air used to ventilate these seals will ventilate no active workings but will be vented directly into the return. The return air ventilating these seals will be maintained at less than 2% methane.

5. Further, petitioner states that the quantity of air at these checkpoints will be maintained at 7500 cubic feet per minute or greater. Daily examinations will be made including tests for methane, oxygen deficiency and air volume. Test results will be recorded in a book designated for that purpose and will be kept on the surface.

6. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 4, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3008 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-240-C]

Cedar Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Cedar Coal Company, Post Office Box 548, Cabin Creek, West Virginia 25035, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Big John No. 2 Mine located in Boone County, West Virginia. The

petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. The mine is currently used to transport coal via belt line from a current operation on the south side to a preparation plant on the north side. There are no mining operations in the mine and no future plans to conduct mining in this mine.

3. Because of the length of time these sections (1st West Mains, 1st East Mains and 2nd East Mains) have been standing and the immediate roof composition of 0 to 8 feet of shale, the potential of a roof fall constitutes a diminution of safety for the miners affected. Rehabilitation of these sections would expose miners to these hazardous conditions.

4. As an alternative method, petitioner proposes to establish and maintain specified observation points for weekly examinations of these aircourses.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 4, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3906 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-274-C]

Kanawha Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Kanawha Coal Company, P.O. Box 38, Ashford, West Virginia 25009 has filed a petition to modify the application of 30 CFR 49.6 (equipment and maintenance requirements; mine rescue teams) to its Madison No. 1, No. 2 and No. 1-A Mines, all located in Boone County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each mine rescue station be equipped with twelve self-contained oxygen breathing apparatus.

2. As an alternative method, petitioner proposes to be allowed to provide only seven self-contained oxygen breathing apparatus at its mine rescue station.

3. In support of this proposed alternative method, petitioner states that the affected mines are located 52.5 miles (one hour, twenty minutes travel time) from Beckley Coal Mining Company, where their mine rescue team is equipped with nine self-contained oxygen breathing apparatus. West Virginia code requires that the first rescue team cannot enter the mine until the back-up team is stationed at the mine portal. The mine rescue station will be large enough to facilitate at least two fully equipped mine rescue teams.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 3, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3909 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-191-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 69 West Washington Street, Chicago, Illinois 60602, has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mines Nos. 21, 24, 25, 26 and 27 all located in Franklin County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure screw caps in place on plugs of mobile battery equipment.

2. Petitioner states that there is an element of danger in having plugs locked together in the event of a short circuit occurring in the equipment's electrical components.

3. As an alternative method, petitioner proposes that a threaded coupler assembly with a snap ring device be used, in lieu of a padlock. This modified locking device will serve the same purpose as a padlock; the threaded ring on the coupler cannot work itself loose.

4. Petitioner states that the proposed alternative method will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Patricia S. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

February 5, 1982.

[FR Doc. 82-3900 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-152-C]

R.C. & R. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

R.C. & R. Coal Company, Box 85, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 7 Vein Slope located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 4, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3903 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-239-C]

Ranger Fuel Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ranger Fuel Corporation, P.O. Box 986, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.1101-10 (water sprinkler systems; fire warning devices at belt drives) to its Beckley No. 2 Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each water sprinkler system be equipped with a device designed to stop the belt drive in the event of a rise in temperature and each such warning device be capable of giving both an audible and visual warning when a fire occurs.

2. Petitioner states that the following conditions required by the affirmative decision on a previously filed petition for modification of 30 CFR 75.328 provide an acceptable alternative method of compliance to the standard for which this modification is sought. Specifically, the conditions were that:

a. The petitioner will install an automatic fire detection system on the underground belt conveyors which would give early warning automatically when a fire occurs in the belt entry and provide both audible and visual signals that permit rapid location of the fire;

b. The system be calibrated to activate the warning signals should carbon monoxide (CO) concentration reach 10 ppm above ambient;

c. The system provide an effective warning signal at a staffed location on the surface, and, upon a warning, all persons be withdrawn from the area of the mine endangered;

d. The location of the sensors for the system be appoved by the District Manager;

e. In the event of a power interruption or other malfunctions, the belt conveyors could continue, provided a qualified person is stationed at each malfunctioning sensor to continuously monitor for CO; and

f. Each monitor and sensor be visually examined at least every 24 hours and the units be checked weekly and monthly.

3. Petitioner states that the conditions outlined above provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 4, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3904 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-253-C]

Walden Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Walden Coal Company, P.O. Box 229, Boulder, Colorado 80306, has filed a petition to modify the application of 30 CFR 77.1701 (emergency communications; requirements) to its Bourg Mine located in Jackson County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that phone service or radio communications be established at the mine.

2. Petitioner has had a signed contract with Mountain Bell since March 30, 1981, to install telephone service to the mine. Mountain Bell has stated that as a result of their procedures and requirements, the phone service will not be installed until Spring, 1982.

3. Petitioner has studied the feasibility of using radio communications to contact emergency facilities or facilities capable of contacting emergency personnel. Due to the geographical location of the mine facility in a depression, radio contact to a facility capable of monitoring a receiving radio is not feasible.

4. As an alternative method, petitioner proposes to be allowed (and has obtained permission) to use the telephone at the CONOCO building located one mile from the mine. The road between the two sites is in good condition and is well maintained. Travel time is less than two minutes between sites. All mine personnel are fully instructed in the telephone's location.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 3, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3906 filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-267-C]

Alabama By-Products Corp.; Petition for Modification of Application of Mandatory Safety Standard

Alabama By-Products Corporation, P.O. Box 10246, Birmingham, Alabama 35202, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Segco No. 1 Mine located in Walker County, Alabama. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a cab or canopy be installed on the mine's S&S 320 Battery Tractor.

2. The coal seam is approximately 51 inches in height.

3. Petitioner states that the installation of a cab or canopy on the battery tractor would result in a diminution of safety for the miners affected because:

a. The canopy would hamper the equipment operator's visibility which could lead to collisions between equipment, brattice cloths, timbers, etc. Impaired visibility will also lead to more frequent cases of damaged trailing cables and water hoses;

b. The equipment operator will be forced to operate the machine in an uncomfortable and awkward position, which causes operator fatigue and increases the chances for an accident. In addition, the canopy forces operators to lean out of the compartment to improve visibility, exposing their body parts to potential injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 1982. Copies of the petition are available for inspection at that address.

Dated: February 3, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-3907 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

AD Hoc Sector Committee on Aircraft of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Ad Hoc Aircraft Committee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: February 23, 1982, 2:00 p.m., S4215 C, Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy in the aircraft industry of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy. Due to scheduling conflicts of many participants, insufficient time was available to give 15 days advance notice to the meeting.

For further information contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, phone: (202) 523-6565.

Signed at Washington, D.C. this 5th day of February 1982.

Robert W. Searby,

Deputy Under Secretary International Affairs.

[FR Doc. 82-3889 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-28-M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Steering Subcommittee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: March 2, 1982, 9:30 a.m., M3437 A&B, Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, D.C. this 8th day of February 1982.

Robert W. Searby

Deputy Under Secretary, International Affairs.

[FR Doc. 82-3890 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-28-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under Section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on March 3-5, 1982 in Room S4215, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include a review of OSHA activities, a review of activities of the National Institute for Occupational Safety and Health, a subgroup discussion of the Access to Medical Records Standard for the Construction Industry, a subgroup discussion of targeting inspections, a discussion of a proposed revision to Subpart K—Electrical Standards for Construction, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submission received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman

depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3635, Washington, D.C. 20210, Telephone: 202–523–8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., the 8th day of February 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-3891 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Request for Nomination of Members

The Assistant Secretary of Labor for Occupational Safety and Health requests nominations for the National Advisory Committee on Occupational Safety and Health. The Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the Administration of the Act.

Nominations will be accepted in the following categories: Public Representative, Empoloyee Representative, Employer Representative and Safety Representative. The term of office is two years. Nominees must have specific experience and be actively engaged in work related to occupational safety and health. The category of membership for which the candidate is qualified should be specified in the nomination letter which should come from an organization representative of that particular category. A resume of the nominee's background, experience and qualifications and a current address and telephone number should be included with the letter. In addition, the nomination letter shall state that the nominee is aware of the nomination, is willing to serve as a committee member, and has no conflict of interest that would preclude committee membership. No member of the committee (other than representative of employers and employees) shall have an economic interest in any proposed rule.

Nomination should be submitted to Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N–3635, U.S. Department of Labor, Washington, D.C. 20210, no later than May 7, 1982.

Signed at Washington, D.C. this 3rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-3892 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-26-M

Advisory Committee on Construction Safety and Health; Request for Nomination of Members

The Assistant Secretary of Labor for Occupational Safety and Health requests nominations for the Advisory Committee on Construction Safety and Health. The function of the Committee is to advise the Assistant Secretary on occupational safety and health in construction. Nominations will be accepted in all categories which include: five Employee Representatives, five Employer Representatives, two State Representatives, two Public Representatives, and a Federal Representative. The term of office is two years.

Nominees must have specific experience and be actively engaged in work related to occupational safety or health in the construction industry. No member of the Committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule. The category of membership for which the candidate is qualified should be specified in the nomination letter which should come from an organization representative of that particular category. A resume of the nominee's background, experience and qualifications with current address and telephone number should be included with the letter. In addition, the nomination letter shall state that the nominee is aware of the nomination, is willing to serve as a Committee member, and appears to have no conflict of interest that would preclude Committee membership.

Nominations should be submitted to Ken Hunt, OSHA Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, Washington, D.C. 20210, no later than May 7.

Signed at Washington, D.C., this 3rd day of February, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-3889 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-6]

NASA Advisory Council, Space Systems Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Systems.

DATE AND TIME: March 2, 1982, 8:30 a.m. to 5 p.m.; March 3, 1982, 8:30 a.m. to 4:30 p.m.

ADDRESS: Goddard Space Flight Center, Building 26, Room 200, Greenbelt, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Stan R. Sadin, National Aeronautics and Space Administration, Code RS–5, Washington, DC 20546 (202/755–2406).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Systems was established to assess the programs and provide recommendations to the system technology efforts of the National Aeronautics and Space Administration. The Subcommittee, chaired by Mr. Lawrence Jenkins, is comprised of seven members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

March 2, 1982

8:30 a.m.—Introductory Remarks
9 a.m—Space Technology Program Development
10 a.m.—NASA Space Technology Model
11 a.m.—Government/Industry Interdependency
1:30 p.m.—Budget, Plans, Priorities and Issues
5 p.m.—Adjourn

March 3, 1982

8:30 a.m.—Technology for Space Station
1.30 p.m.—Aerospace Research
2:30 p.m.—Science and Applications Technology
3:30 p.m.—Transportation Technology

4:30 p.m.—Adjourn

Philip E. Culbertson,

Associate Deputy Administrator.

February 5, 1982.

[FR Doc. 82-3743 Filed 2-11-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice 82-7]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Power and Electric Propulsion.

DATE AND TIME: March 2, 1982, 9 a.m. to 4:30 p.m.; March 3, 1982, 9 a.m. to 4:30 p.m.; March 4, 1982, 9 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave. SW, Room 625T, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome P. Mullin, National Aeronautics and Space Administration, Code RTS-6, Washington, DC 20546 (202/755-3278).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Power and Electric Propulsion was established to review technology needs for space power and electric propulsion and to evaluate the adequacy of current Office of Aeronautics and Space Technology and other research and technolgy efforts to meet those needs. The Subcommittee, chaired by Mr. Harrison J. Killian, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

AGENDA:

March 2, 1982

9 a.m.—Introductory Remarks.
9:15 a.m.—Program Status and Research Content.
10 a.m.—Electric Propulsion.
1 p.m.—Power System Management and Distribution.
4:30 p.m.—Adjourn.

March 3, 1982

9 a.m.—Space Photovoltaics.
11 a.m.—Lithium Battery Research.
1 p.m.—Thermoelectric Research.
1:45 p.m.—Physics and Chemistry Experiments.
2:30 p.m.—Aircraft Power Research Needs.
3:30 p.m.—Discussion.
4:30 p.m.—Adjourn.

March 4, 1982

9 a.m.—Space Operation Center.
10 a.m.—Space Station Technology Needs.
11 a.m.—Discussion.
1 p.m.—Discussion, Recommendations and Report.
4 p.m.—Adjourn.

February 5, 1982.

Philip E. Culbertson,

Associate Deputy Administrator.

[FR Doc. 82-3744 Filed 2-11-82; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Safety Philosophy, Technology, and Criteria; Meeting

The ACRS Subcommittee on Safety Philosophy, Technology and Criteria will hold a meeting on February 26, 1982, in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the Power Authority of the State of New York's proposal for the Indian Point 3 Systems Interaction Study and the NRC systems interaction program.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Friday, February 26, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber (telephone 202/634-3267) or the Staff Engineer, Mr. Michael Griesmeyer between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 8, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-3883 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications (TSs) for operation of Arkansas Nuclear One, Unit 1 (ANO-1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment modifies the ANO-1 TSs to add operating requirements, limiting conditions for operation, and surveillance requirements for the Reactor Building Cooling Units and to add chlorination requirements for the service water system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice

of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated January 30, 1981, as supplemented by letter dated September 22, 1981, (2) Amendment No. 62 to License No. DPR–51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md, this 2nd day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-3677 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR–35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts.

The amendment grants interim conditional relief from the requirements of the Technical Specifications (3.7.B.1.a, 3.7.B.1.c, 3.7.B.2.a, and 3.7.B.2.c) regarding the operability requirements for the Standby Gas Treatment System and the Control Room High Efficiency Air Filtration System during certain testing required to be conducted prior to startup for Cycle 6 operation.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 21, 1982, (2) Amendment No. 52 to License No. DPR–35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md. this 5th day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-3678 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR–35 issued to the Boston Edison Company, which revises the Technical Specifications for operation of the Pilgrim Nuclear Power Station located in Plymouth County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to reflect modifications associated with the Mark I Containment Long Term Program, specifically regarding shortening of the ventheader downcomers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the application for amendment dated January 15, 1982, (2) Amendment No. 53 to License No. DPR–35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at athe Plymouth Public Library, North Street, Plymouth, Massachusetts 02360. A copy of items (2) and (3) may be obtained upon requested addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch NO.2, Division of Licensing.

[FR Doc. 82-3679 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR–6, issued to the Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment replaces Figure 4–1 with Table 4–1 concerning pressure-temperature limits, as proposed September 18, 1981, until the plant is shutdown for refueling. This amendment was issued on an expedited basis to permit the plant to go back to power

after the scram which occurred on January 7, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 8, 1982 (and a supporting application dated September 18, 1981), (2) Amendment No. 50 to Licene No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 4th day of February, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-3880 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-322-CPA and 50-322-OL]

Long Island Lighting Co, (Shoreham, Unit 1); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), Docket Nos. 50-322-CPA and 50-322-OL, is hereby reconstituted by appointing the following Administrative Judge to the Board: Mr. Lawrence Brenner. Mr. Louis J. Carter was Chairman of this Board, but, because of a schedule conflict is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

Mr. Lawrence Brenner, Chairman
Mr. Frederick J. Shon
Dr. James H. Carpenter

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Mr. Lawrence Brenner, Atomic Safety and Licensing, Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Md., this 8th day of February 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-3882 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. DPR-76, issued to Pacific Gas and Electric Company, for Diablo Canyon Nuclear Power Plant, Unit No. 1 (the facility), located in San Luis Obispo County, California. The amendment is effective as of its date of issuance.

The amendment extends the implementation dates for certain items related to NUREG-0737 and Physical Security Plan of License No. DPR-76.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 29, 1981, (2) Amendment No. 1 to License No. DPR-76, (3) The Commission's related Safety Evaluation and (4) the Commission's staff letter dated December 31, 1981, from D. G. Eisenhut, NRC, to M. H. Furbush, Pacific Gas and Electric Company. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the California Polytechnic State University, Library, Documents and Maps Department, San Luis Obispo, California 93407. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 5th day of February, 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-3881 Filed 2-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-537]

Department of Energy; et al.; Opportunity for Oral Presentation

In the matter of Department of Energy Project Management Corporation, and Tennessee Valley Authority (Clinch River Breeder Reactor Plant); Notice of opportunity for oral presentation; Exemption request under 10 CFR 50.12.

Pursuant to the Commission's Memorandum and Order of December 24, 1981 in this proceeding, the Commission is providing the parties and commentors with an opportunity to address the Commission regarding the exemption request by DOE. Oral presentations to the Commission will be scheduled for February 18, 1982 beginning at 10 a.m. in the Commission's conference room at 1717 H Street, NW., Washington, D.C.[1] Because of the large number of comments received from persons other than government agencies or parties to the separate construction permit proceeding for this facility, the Commission will provide blocks of time during which commentors who do not represent those parties or government agencies can briefly present their views. The Commission will allocate time in accordance with the number of commentors who wish to make presentations, but in no case will a

[1] This date replaces the originally proposed date of February 15, 1982, which is a Federal holiday.

commentor be allowed more than 2 minutes to make a statement.

All commentors wishing to make a statement must contact Mr. Sheldon Trubatch, Office of the General Counsel, no later than 6:00 p.m. February 12, 1982 at (202) 634–3224. The order and schedule for presentations will be as follows:

1. Applicants—30 minutes (with as much of this time reserved for rebuttal as desired);
2. Governor of Tennessee—5 minutes (if requested);
3. Local Government Officials—5 minutes total to be divided among themselves;
4. Other commentors in favor of the exemption—2 minutes each;
5. Council on Environmental Quality—5 minutes (if requested);
6. Intervenors NRDC and Sierra Club—30 minutes;
7. Attorney General of Tennessee—5 minutes (if requested);
8. Other commentors opposed to the exemption—2 minutes each;
9. Applicant's rebuttal, if any.

It is so ordered.

Dated at Washington, D.C. this 10th day of February, 1982.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-3667 Filed 211-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Revision of OMB Circular No. A-76

AGENCY: Office of Federal Procurement Policy (OFPP).

ACTION: Request for suggested changes to OMB Circular No. A–76 and the Cost Comparison Handbook.

SUMMARY: On October 28, 1981, in testimony before the Joint Economic Committee, David Stockman announced OMB would begin a major revision of OMB Circular No. A–76 and the Cost Comparison Handbook.

A task group has convened for the period February 1 through 26, 1982 under the leadership of OFPP to develop a proposed revision to the Circular and the Handbook, which will be published in the **Federal Register** by April 1, 1982 for a 60-day public comment period.

In a project as important as the revision of OMB Circular No. A–76 and the Cost Comparison Handbook we seek the suggestions and advice of interested parties whenever possible. We would therefore welcome suggestions for revising the Circular and simplifying and streamlining the Cost Comparison Handbook. Suggestions should be submitted in writing no later than February 22, 1982, so that the task group will have the opportunity to evaluate your suggestions early in the revision process.

ADDRESS: Send written suggestions to Ms. Darleen Druyun, Deputy Associate Administrator for Systems and Technology, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW., Room 9013, Washington, D.C. 20503.

Donald E. Sowle,

Administrator.

[FR Doc. 82-3670 Filed 2-11-82; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 5, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Acme Electric Corporation, Common Stock, $1 Par Value (File No. 7–6135)
Ala Moana Hawaii Properties, Depositary Units (File No. 7–6136)
Alexander & Alexander Services Incorporated, Common Stock, $1 Par Value (File No. 7–6137)
Atlantic Metropolitan Corporation, Common Stock, $.10 Par Value (File No. 7–6138)
Green Mountain Power Company, Common Stock, $3.33⅓ Par Value (File No. 7–6139)
Gulfstream Banks Incorporated, Common Stock, $1 Par Value (File No. 7–6140)
Marcade Group Incorporated, Common Stock, $.10 Par Value (File No. 7–6141)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 1, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-3651 Filed 2-11-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11484]

Union Pacific Corp.; Application and Opportunity for Hearing

February 8, 1982.

Notice is hereby given that Union Pacific Corporation ("Union" or the "Company") has filed an application under Clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Citibank, N.A. ("Citibank") under indentures of Union dated as of April 1, 1969, and "September 1, 1980, (the "April 1 Indenture" and September 1 Indenture", respectively), which were heretofore qualified under the Act, and the trusteeship of Citibank under an indenture among Union Pacific Finance, N. V. ("Finance"), Union as Guarantor and Citibank, Trustee, dated as of December 1, 1981, (the "December 1 Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as Trustee under any such indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1) there may be excluded from the operation of this provision another indenture under which other securities are outstanding, if the issuer shall have sustained the

burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under such qualified indenture and any other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

Union alleges that: (1) The Company has outstanding on the date hereof $8,166,600 aggregate principal amount of its 4¾% Convertible Debentures due April 1, 1999 (the "Convertible Debentures") and $250,000,000 aggregate principal amount of its 11⅞% Sinking Fund Debentures due 2010 (the "Debentures") issued under the April 1 Indenture and September 1 Indenture, respectively, in each case executed by the Company and Citibank, as Trustee. The Convertible Debentures were registered under the Securities Act of 1933, as amended (File No. 2–31741) and the April 1 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. not available). The Debentures were registered under the Securities Act of 1933, as amended (File No. 2–68787) and the September 1 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22–10650). Citibank is currently acting as trustee under the April 1 and September 1 Indentures.

(2) Pursuant to the December 1 Indenture, there were issued Kuwaiti Dinars 7,000,000 amount of the 11¾% Guaranteed Bonds due 1988 of Finance, which are guaranteed by the Company (the "Guaranteed Bonds"). Inasmuch as the Guaranteed Bonds are being offered and sold outside the United States, its territories and possessions to persons who are not nationals or residents thereof, the Guaranteed Bonds have not been registered under the Securities Act of 1933 and the Indenture was not qualified under the Trust Indenture Act of 1939. Citibank is currently acting as trustee under the December 1, Indenture.

(3) Section 608 of the September 1 Indenture provides in part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this section, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest, or resign in the manner and with the effect hereinafter specified in this Article.

(b) In the event that the Trustee shall fail to comply with the provisions of Subsection (a) of this Section, the Trustee shall, within 10 days after the expiration of such 90-day period, transmit by mail to all Holders, as their names and addresses appear in the Debenture Register, notice of such failure.

(c) For the purposes of this Section, the Trustee shall be deemed to have a conflicting interest if

(1) The Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, provided that there shall be excluded from the operation of this paragraph (a) the Indenture, dated as of April 1, 1969, between Union Pacific Corporation and Citibank, N.A., Trustee, relating to the Company's 4¾% Convertible Debentures Due 1999, and (b) any indenture or indentures under which securities, or certificates of interest or participation in other securities, of the Company are outstanding, if

(i) This Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act, unless the Commission shall have found and declared by order pursuant to Section 305(b) or Section 307(c) of the Trust Indenture Act that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and other indenture or indentures, or

(ii) The Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures;

The April 1 Indenture contains identical provisions to the above, except for section references and the like and the reference to the April 1 Indenture.

(4) Execution of the December 1 Indenture involves Citibank in a conflict of interest within the meaning of section 608 of the September 1 Indenture and the corresponding section 6.08 of the April 1 Indenture sinnce the December 1 Indenture has not been qualified under the Trust Indenture Act of 1939 and is not the subject of any other proceeding of the Commission.

(5) The April 1, September 1 and December 1 Indentures are wholly unsecured. The guaranty of the Company under the December 1 Indenture ranks equally with the Company's other unsecured and unsubordinated indebtedness including the Convertible Debentures and the Debentures issued under the April 1 Indenture and September 1 Indenture, respectively. The only material differences between the April 1 and September 1 Indentures and the December 1 Indenture, and between the rights of the holders of the Convertible Debentures and the Debentures and the holders of the Guaranteed Bonds, relate to the fact that the Company is the Guarantor under the December 1 Indenture, but will be the primary obligor under the April 1 and September 1 Indentures, and also relate to aggregate principal amounts, dates of issue, denominations, events of default, maturity and interest payment dates, interest rates, places and currency of payment of interest and principal, form or lack of registration, redemption or prepayment procedures, Trustee's reports, restrictions on transferability, conversion, provisions for conflicting interest of the Trustee, special provisions relating to the non-United States offering of the Guaranteed Bonds and other provisions of a similar nature. Any such differences and any other difference in the provisions of the April 1 and September 1 Indentures and the December 1 Indenture are unlikely to cause any conflict of interest between the respective trusteeships of Citibank under said Indentures.

(6) The Company is not in default under the April 1, September 1, or December 1 Indenture;

(7) Such differences as exist between the April 1 and September 1 Indentures and the December 1 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the April 1 or September 1 Indenture or the December 1 Indenture.

Union has waived notice of hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission, Washington, D.C. 20549.

Notice is hereby given that any interested person may not later than March 3, 1982, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the

Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

[FR Doc. 82-3852 Filed 2-11-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0206]

Caddo Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the Regulation governing small business investment companies (13 CFR 107.701 (1981)) for transfer of ownership and control of Caddo Capital Corporation, 3010 Knight Street, Suite 240, Shreveport, Louisiana 71105, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of ownership and control of Caddo Capital Corporation, which was licensed May 1, 1979, is subject to the prior written approval SBA.

Caddo Capital Corporation is owned by the H&T Company, a partnership owned as follows:

Partner and Percent Owned

Harvey D. McLean, Jr., 90
Thomas L. Young, Jr., 10

Pursuant to an agreement between Mr. Harvey D. McLean, Jr. and Messrs. Thomas L. Young, Jr., Winston N. McVey and Richard G. McVey, H&T Company's ownership would be as follows:

Partner and Percent Owned

Thomas L. Young, Jr., 3010 Knight Street, Shreveport, Louisiana 71105, 50
Winston N. McVey, 3010 Knight Street, Shreveport, Louisiana 71105, 25
Richard G. McVey, 3010 Knight Street, Shreveport, Louisiana 71105, 25

On July 1, 1981, Messrs. Winston McVey and Richard McVey were elected to the board of directors of the Licensee whose officers and directors, subsequent to the consummation of the transfer of control, will be as follows:

Thomas L. Young, Jr., President and Director
Winston N. McVey, Secretary and Director
Roberta Young, Assistant Secretary and Director

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is given that any person may, on or before March 1, 1982, submit written comments on the proposed transfer of ownership and control to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Shreveport, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-3875 Filed 2-11-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice No. 82-2]

Transfer of Services from Washington National Airport; Delay of Meeting

AGENCY: Department of Transportation.

ACTION: Notice of delay of meeting.

SUMMARY: A meeting of air carriers and other interested parties to discuss the transfer of services out of Washington National Airport originally scheduled for February 10, 1982,[1] at the Departmental Headquarters in Washington, D.C., will be delayed approximately two weeks. The original schedule did not leave enough time for the participants to adequately prepare for the general negotiating session. The time and place of the rescheduled meeting will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Gregory Wolfe, Department of Transportation, C-10, 400 Seventh Street, S.W., Washington, D.C. 20990. Telephone: (202) 426-4710.

[1] See 47 FR 1230, Jan. 11, 1982.

Issued in Washington, D.C. On February 11, 1982.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 82-4120 Filed 2-11-82; 1:20 pm]

BILLING CODE 4910-62-M

VETERANS ADMINISTRATION

Privacy Act of 1974; System of Records

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published a notice of its inventory of personal records on September 27, 1977 (42 FR 49726).

Notice is hereby given that the Veterans Administration is adding a new system of records entitled Office of Inspector General Management Information System (71VA53). This system is authorized under title 38, U.S.C., Section 210 and Pub. L. 95-452, sections 4, 5, and 6.

The purpose of this new system of records is to make the Office of Inspector General more efficient in allocating assignments among employees, responding to critical and/or sensitive issues brought to our attention and managing our overall function. In addition, the system will track audit and investigation cases and provide statistics for semiannual reports to Congress and to the Administrator. No information on Office of Inspector General personnel will be disclosed outside the agency.

A "Report of New System" and an advance copy of the revised system notice were sent on November 16, 1981 to the Speaker of the House, the President of the Senate, and the Office of Management and Budget (OMB), as required by the provision of 5 U.S.C. 552a(o) of the Privacy Act and guidelines issued by the Office of Management and Budget (40 FR 45877), October 3, 1975.

The OMB requires that a new system report be distributed no later than 60 days before issuance of any data collection forms or instructions. The Director of OMB has been requested to waive this requirement.

This system of records is effective the date of approval by the Administrator of Veterans Affairs.

Approved: February 5, 1982.
Robert P. Nimmo,
Administrator.

71VA53

SYSTEM NAME:

Office of Inspector General Management Information System, 71VA53.

SYSTEM LOCATION:

Office of Inspector General (53D), Management Information Staff, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, and the Computer Sciences Corporation Infonet Timesharing System, Beltsville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following category of individuals will be covered by the system: All personnel assigned to Office of Inspector General including auditors, investigators and administrative support staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) may include: (1) individual's name; (2) social security number; (3) date of birth; (4) service computation date; (5) career status; (6) assigned station; (7) job series; (8) education; (9) grade; (10) evaluation due date; (11) assignments; (12) travel; (13) experience; (14) training; and (15) audit and investigation case tracking data (e.g., case number, budgeted and actual staff days, target and completion dates, findings and results).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C., Section 210 and Pub. L. 95–452, sections 4, 5, and 6.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEMS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records are stored on magnetic disk, with backup active records and inactive records maintained on magnetic tape. Records are also stored on computer printouts.

RETRIEVABILITY:

Records are retrieved by social security number or name.

SAFEGUARDS:

Records will be maintained in a private library accessible only to authorized users. Access to records will be limited to VA employees on a "need-to-know" basis by control of passwords and authorized user identification codes. Computer system documentation will be maintained in a secure environment in the Office of Inspector General, Va Central Office. Physical access to printouts and data terminals will be limited to authorized personnel in both Office of Inspector General, VA Central Office and field offices.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management Information Staff (53D), Office of Inspector General, VA Central Office, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

Individuals seeking information concerning the existence of records or the contents of records on him or her must furnish a written request or apply in person to the Assistant Inspector General for Policy, Planning and Resources, VA Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420.

RECORD ACCESS PROCEDURES:

(See notification procedure).

CONTESTING RECORD PROCEDURES:

(See notification procedure).

RECORD SOURCE CATEGORIES:

Official personnel folder; other personnel documents; activity supervisors; individual applications and forms; audit, investigation, and report standard forms.

[FR Doc. 82–3850 Filed 2–11–82; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 30
Friday, February 12, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday February 17, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel

* * * * *

DATE AND TIME: Thursday February 18, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1981–53: William G. Frazier, Bill Frazier for Congress
Draft AO 1981–60: Robert Bearce
Appropriations and budget:
January 1982 Budget Execution Report
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Majorie W. Emmons
Secretary of the Commission.

[S–217–82 Filed 2–10–82; 4:02 pm]
BILLING CODE 6715–01–M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, February 17, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Consumer Affairs Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs regarding delayed availability of funds deposited in consumer checking accounts.

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: February 10, 1982.
William W. Wiles,
Secretary of the Board.

[S–214–82 Filed 2–10–82; 10:15 am]
BILLING CODE 6210–01–M

3

NATIONAL SCIENCE BOARD

(National Science Foundation)

DATE AND TIME: February 18, 1982:

1:00 p.m. Open Session
3:45 p.m. Closed Session

February 19, 1982:

8:30 a.m. Open Session
9:30 a.m. Closed Session

PLACE: National Science Foundation, 1800 G Street, NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS: *Thursday, February 18, 1 p.m.:*

1. Minutes—Open Session—232nd Meeting.
2. Chairman's Items.
3. Director's Report.
a. Report on Grant and Contract Activity—1/22–2/17/82.
b. Organizational and Staff Changes.
c. Congressional and Legislative Matters.
d. NSF Budget for Fiscal Year 1983.
e. Other Items.
4. Long-Range Planning.

Friday, February 19, 8:30 a.m. (conclusion of open session):

5. Grant, Contracts, and Programs.
6. Reports on Meetings of Board Committee.
7. Other Business.
8. Next Meeting—National Science Board—March 18–19, 1982.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: *Thursday, February 18, 3:45 p.m.:*

A. Minutes—Closed Session—232nd Meeting.
B. NSF Budget Requests for Fiscal Year 1984 and Subsequent Years (continued on Friday).

Friday, February 19, 9:30 a.m.

C. NSB and NSF Staff Nominees.
B. NSF Budget Requests for Fiscal Year 1984 and Subsequent Years (continued from Thursday).
D. NSB Annual Reports.

CONTACT PERSON FOR MORE INFORMATION: Miss Margaret L. Windus, Acting Executive Officer, NSB, 202/357–9582.

[S–216–82 Filed 2–10–82; 2:03 pm]
BILLING CODE 7555–01–M

4

PAROLE COMMISSION

[OP0401]

TIME AND DATE: 1:30 p.m.–4:30 p.m., Wednesday, February 10, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Open Business Meeting.

CHANGES IN THE MEETING: On February 9, 1982, the Commission determined that the time for the above meeting be changed to 9:00 a.m. to 10:30 a.m. and from 12:30 p.m. to 2:00 p.m. on Wednesday, February 10, 1982. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Ms. Billie Richards, Chairman's Office, (301) 492–5990.

[S–215–82 Filed 2–10–82; 11:27 am]
BILLING CODE 4410–01–M

5

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1283]

TIME AND DATE: 10:15 a.m. (e.s.t.), Wednesday, February 17, 1982.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

B—Purchase Awards

1. Negotiation No. 33–186573—Replacement turbine buckets for Paradise Fossil Plant.

2. Revision to Contract No. 81K30–176666 with C. F. Braun and Company, Alhambra, California, for architect-engineer services for design of a 10,000-tons-per-day coal gasification plant—Modification of scope of work.

C—Power Items

*1. Trust agreement with Silver King Mines, Inc., relating to TVA's Morton Ranch properties, located in Powder River Basin, Wyoming; resolution authorizing execution or amendment of trust agreements relating to other TVA uranium properties.

2. Deed and bill of sale to Hickman-Fulton Counties Rural Electric Cooperative Corporation covering conveyance of Hickman Substation and section of TVA's Union City-Hickman 69-kV Transmission Line.

3. Deed and bill of sale to City of Bristol, Tennessee, covering conveyance of section of TVA's South Holston-Ruthton-East Bristol 69-kV Transmission Line.

4. Lease and amendatory agreement with Gibson County Electric Membership Corporation, covering arrangements for lease of TVA's Kenton 69-kV Substation to permit higher voltage service.

D—Personnel Items

1. Supplement to personal services contract with Consultants & Designers Inc., New York, New York, for engineering support services, requested by the Office of Engineering Design and Construction.

E—Real Property Transactions

1. Grant of permanent easement for pumping station site to Persia Utility District, affecting .005-acre of Cherokee Reservoir land—Tract No. XTCK–59PS.

2. Grant of permanent easement for road rights of way to the State of Alabama, affecting approximately 1.8 acres of Muscle Shoals Reservation land—Tract No. XT2NPT–12H.

3. Amendment to resolution relating to grant of term easement for construction of the Western Area Radiological Laboratory affecting Muscle Shoals Reseration land.

4. Filing of condemnation suits.

F—Unclassified

*1. Cooperative agreement between TVA and Battelle Pacific Northwest Laboratories, Richland, Washington, covering arrangements for participation by TVA in a research program being funded by NRC related to acoustic emission monitoring on TVA's Watts Bar Nuclear unit 1 reactor.

2. Agreement between TVA and James Farm Center, Inc., for participation in industry demonstration program, providing for introduction activities related to TVA sulfur-coated urea or other new fertilizer materials.

3. Sale of surplus unused steel shapes which remain from the construction of Sequoyah Nuclear Plant.

4. Sale of surplus Transportation Services Branch equipment at various locations.

5. Negotiation with Nuclear Mutual Limited for purchase of nuclear property damage insurance for Browns Ferry and Sequoyah Nuclear plants.

CONTACT PERSON FOR MORE INFORMATION:

Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: February 10, 1982.

[S–216–82 Filed 2–10–82; 4:02 pm]

BILLING CODE 8120–01–M

*Item approved by individual Board members. This would give formal ratification to the Board's action.

federal register

Friday
February 12, 1982

Part II

Department of Labor

Occupational Safety and Health Administration

Use of Personal Sampling Devices During Inspection

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1903

Use of Personal Sampling Devices During Inspection

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Issuance of interpretative and procedural rule.

SUMMARY: This interpretation of 29 CFR 1903.7(b) clarifies the existing regulation concerning sampling of employee exposures during inspection and investigation of workplaces subject to the Occupational Safety and Health Act of 1970. Specifically, the interpretation makes clear that the term "employ other reasonable investigative techniques" includes the attachment of personal sampling devices to employees in order to monitor their exposures. In addition, in today's **Federal Register**, OSHA is proposing and inviting public comment on an amendment to § 1903.7(b) which would adopt this interpretation as a legislative rule. *See* Notice of Proposed Rulemaking, Docket No. W–300, which appears in Part II of today's **Federal Register**.

DATES: This interpretation is effective February 12, 1982.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3637, Washington, D.C. 20210, (202–523–8151).

SUPPLEMENTARY INFORMATION:

I. Introduction

The Occupational Safety and Health Administration ("OSHA" or "the agency") has been utilizing personal sampling devices as an aid in workplace inspections throughout its enforcement history. The most common personal sampling devices presently in use are the noise dosimeter and air sampling pump. The dosimeter is designed to measure sound levels in the workplace to determine compliance with the criteria established in the Secretary's occupational noise exposure standard at 29 CFR 1910.95. The device is approximately the size of a pack of cigarettes and weighs approximately 9 ounces. It has a small wire extending from the main unit to the microphone which is about the size of a quarter. The main unit may be attached to the employee's belt or pocket, and the microphone to the shirt lapel. The connecting wire may be attached tightly to the employee by running it across and/or pinning, taping or clipping it to his clothing.

A personal air sampling device is a small—about the size of two packs of cigarettes—battery operated pump which monitors the exposure to air contaminants of the individual wearing it. As with the dosimeter, the main part of the unit, which is a vacuum pump, is attached to the belt and connected by a flexible hose running along the subject's clothing to a silver-dollar-size cassette, impinger or charcoal tube, depending on the substance to be monitored. The pump most commonly used by OSHA weighs approximately 31 ounces.

As discussed below in detail, questions have recently been raised regarding the authority of the Secretary of Labor (Secretary) to use these devices. Accordingly, this interpretation is published to make clear that the authority conferred by the regulation at 29 CFR 1903.7(b) includes the attachment of personal sampling devices to employees in order to monitor their exposures. Of course, as with all regulations that confer authority, implicit in the regulation is the employer's obligation, consistent with his rights under *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307 (1978), to permit and to take no action to impede the Compliance Officer's exercise of the granted authority.

II. Background

A. *Promulgation of 29 CFR 1903.7.* The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.* (the Act) was enacted "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." In order to carry out these purposes, section 8(a) of the Act, 29 U.S.C. 657(a), specifically authorizes the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge:

> (1) To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and
>
> (2) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein, and to question privately any such employer, owner, operator, agent or employee.

The Act was passed on December 29, 1970 and became effective on April 28, 1971. One week later, the Secretary proposed, pursuant to his rulemaking authority under section 8(g)(2) of the Act, 29 U.S.C. 657(g)(2), to add a new Part 1903 to Title 29 of the Code of Federal Regulations whose purpose was "to provide procedures and policies for the inspection, investigation * * * provisions of the Act." 36 FR 8376 *et seq.* Included among these "procedures and policies" was a provision (proposed § 1903.5(b)) authorizing Compliance Officers "to take photographs and samples, [and] employ other reasonable investigative techniques * * *" during an inspection. 36 FR 8376.

After the close of the comment period, the "Conduct of Inspections" provision (renumbered § 1903.7) was adopted with some changes and made effective immediately upon its publication in the **Federal Register** on September 4, 1971. 36 FR 17850, 17851. Specifically, § 1903.7 provided in pertinent part:

> *§ 1903.7 Conduct of Inspections.*
> * * * * * *
>
> (b) Compliance Safety and Health Officers shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See § 1903.9 on trade secrets.)
>
> (c) In taking photographs and samples, Compliance Safety and Health Officers shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. Compliance Safety and Health Officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.
>
> (d) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.
> * * * * * *

Thus, the promulgated regulation specifically authorized OSHA compliance officers "to take environmental samples" and to employ "reasonable investigative techniques" during the conduct of inspections.

B. *The Secretary's interpretation of 29 CFR 1903.7(b).* Shortly after Part 1903 was adopted, the Secretary issued his first OSHA Compliance Operations Manual (COM), a manual of guidelines to assure effective and uniform implementation of the Act. Chapter XIII of the COM, entitled "Industrial Hygiene and Occupational Health," contained instructions regarding sampling methods

to be used to determine employee exposure to hazardous airborne contaminants. That section provided that air samples must relate directly to the exposure of one employee or more if the samples are to be of use in the compliance program, and that the most satisfactory method of meeting this requirement is to use of a personal sampler with the sampling head as close as is conveniently possible to the employee's head. COM at XIII–12. The section also provided that area samples are useful as an index of general contamination but cautioned that they usually are only remotely related to the actual exposure of the employee. *Id.*

On July 1, 1974, OSHA replaced the COM with the Field Operations Manual (FOM). Department of Labor, OSHA Field Operations Manual (July 1974). Section N of Chapter XIII of the FOM was identical to its predecessor section in the COM and, despite other changes to the FOM, has been essentially retained in every subsequent version of the manual, including the current version.

On August 15, 1976, the Secretary's first Industrial Hygiene Field Operations Manual (IHFOM) became effective. In addition to detailing various standard methods which utilize personal sampling equipment, that manual provided that before citations for violating air quality standards (29 CFR 1910.1000 and 1010.1001) and the noise standard (29 CFR 1910.95) issue, "[a]n exposure to an employee must occur. This requires the use of personal sampling techniques." IHFOM at IX–1. The version of the IHFOM effective June 4, 1979 also specified that personal sampling is the standard method for measuring air contaminants, IHFOM at X–1, and that breathing zone samples are required to determine compliance with air quality standards. *Ibid.* at II–1. The current version provides that compliance with air quality standards shall be determined by measuring exposures within the breathing zone and states that "OSHA defines the breathing zone to be a sphere approximately 2 feet in diameter surrounding the head." IHFOM at II–I.

Thus, there can be no doubt that since the adoption of 29 CFR 1903.7, which authorized the taking of environmental samples and the use of reasonable investigative techniques, the agency has consistently and unambiguously interpreted that provision to allow and in fact encourage the use of personal sampling devices during OSHA inspections.

C. *The Secretary's policy and practice in monitoring employee exposures.* Consistent with the above interpretation are the Secretary's policy and practice in monitoring employee exposures. In the preamble to his standard regulating exposure to coke oven emissions (29 CFR 1910.1029), the Secretary stated generally that "[i]t is OSHA policy to monitor exposures by taking personal samples whenever possible. Area samples are generally not as direct a measure of employee exposure as are personal breathing zone samples." 41 FR 46758 (October 22, 1976). Several health standards require employers to measure employee exposure by taking personal samples. *See* 29 CFR 1910.1029(e)(1)(iii) (coke oven emissions); 29 CFR 1910.1025(d)(1)(iii) (lead); 29 CFR 1910.1018(e)(1)(iii) (arsenic). The asbestos standard requires samples to be collected from within the breathing zone of employees. 29 CFR 1910.1001(f)(2)(i). Other standards state that breathing zone samples should be taken. *See* 29 CFR 1910.1045 Appendix B (IV)(A)(1) (acrylonitrile); 29 CFR 1910.1044 Appendix B (IV)(A)(1) (1,2-dibromo-3-chloropropane). These **Federal Register** statements and standards demonstrate that the Secretary has always considered the use of personal sampling devices to be authorized and appropriate. In addition, the Secretary's longstanding practice of using personal sampling devices and the acknowledgement of that practice in various administrative and court decisions, confirms his interpretation that using those devices is included within the authorization of § 1903.7 to employ "reasonable investigative techniques."

D. *Judicial decisions concerning § 1903.7 and the Secretary's authority to use personal sampling devices.* 1. *The Plum Creek decisions.* The first case to address issues concerning the Secretary's authority to require the use of personal sampling devices during OSHA inspections was *Plum Creek Lumber Co.* v. *Hutton*, 452 F. Supp. 575 (D. Mont. 1978), *aff'd*, 608 F. 2d 1283 (9th Cir. 1979). In that case, OSHA attempted on January 17, 1978, to conduct an inspection of Plum Creek's fiber board plant, sawmill and plywood plant in Columbia Falls, Montana. The agency informed the company that employees would be requested to wear personal sampling devices during the inspection. When the company responded that its employees would be forbidden to wear the testing devices, OSHA left the workplace and obtained an inspection warrant from a United States Magistrate. A second inspection was attempted on February 6, 1978, but the company refused to comply with the warrant. OSHA then obtained a second warrant which specifically authorized "air sampling and noise level testing in a reasonable manner and to a reasonable extent."

On February 13, 1978, following a series of court proceedings, OSHA began the inspection of Plum Creek's facilities. At that time, the agency observed a February 10, 1978 notice to employees which stated that the wearing of noise and air sampling devices was against company policy. When OSHA requested twenty-two employees to wear the devices, sixteen refused. Of the six who agreed, three changed work shifts and only three actually wore the samplers. As a result, the inspection produced inconclusive results. OSHA then asked the district court to enjoin Plum Creek from impeding the inspection through its policy prohibiting employee cooperation in sampling.

As a result, a hearing was held on the two separate questions involved: (1) The Secretary's authority to conduct sampling by attaching personal sampling devices to workers and (2) the district court's authority to order the rescission of the company's policy prohibiting employee cooperation with such sampling. The district court upheld the Secretary's authority to conduct personal sampling if the employees agreed to cooperate, 452 F. Supp. at 576, and the United States Court of Appeals for the Ninth Circuit, on appeal, affirmed the district court's order and judgment, 608 F. 2d at 1290. The district court also held that it had no power to order rescission of the company policy, 452 F. Supp. at 577; the Ninth Circuit specifically addressed this issue on appeal and agreed with the lower court, 608 F. 2d at 1289–90. Thus, the *Plum Creek* courts held that, although a court could not order rescission of a company policy prohibiting employees from wearing personal sampling devices absent a regulation or law specifying their use, the Secretary is authorized to conduct such personal sampling and that the use of those devices is a "reasonable" investigative technique.

2. *Subsequent court decisions.* One court of appeals has refused to follow the Ninth Circuit's holding in *Plum Creek* that the court is without authority to order an employer to permit its employees to wear personal sampling devices contrary to the employer's written policy. *In re Establishment Inspection of Keokuk Steel Castings, Division of Kast Metals*, 638 F. 2d 42, 46 (8th Cir. 1981), *aff'g* 493 F. Supp. 842 (S.D. Iowa 1980). Several district courts also have declined to follow the Ninth Circuit's decision and have concluded that personal sampling is a reasonable

technique which the Secretary can employ. *E.g., In re Establishment Inspection of Cleveland Electric Illumination Co.*, No. M80–2118 (N.D. Ohio), *appeal docketed*, No. 81–3159 (6th Cir. March 20, 1981); *Marshall* v. *Rochester Shoe Tree Co., Inc.*, Mis. No. 306 (N.D. N.Y. 1981); *Marshall* v. *Miller Tube Corp.*, 1978 CCH OSHD ¶ 23,212 at 28,059 (E.D. N.Y. 1978).

However, on August 3, 1981, a divided panel of the United States Court of Appeals for the Seventh Circuit reached a different result. *In re Establishment Inspection of Metro-East Mfg. Co.* and *In re Establishment Inspection of Century Casting Corp.*, 655 F. 2d 805 (7th Cir. 1981). The Court agreed that the use of personal sampling devices is reasonable but concluded that 29 CFR 1903.7 did not give employers "fair warning" of what is required or prohibited because it failed to specify the use of personal samplers as a "reasonable investigative technique." 655 F. 2d at 810–12. The Court therefore affirmed two district court orders limiting the terms of inspection warrants so as to preclude the use of personal sampling devices on employees, even if the employees agreed to wear the devices. The Court suggested that the Secretary amend the regulation to clarify its meaning and give employers fair warning of the type of investigation deemed reasonable. *See id.* at 812.

III. Reasons for Issuance of an Interpretative Rule

As discussed above, the Secretary has always interpreted § 1903.7 to permit attachment of personal sampling devices to employees as an aid in workplace inspections. Indeed, the Secretary's practice has been to use such devices whenever possible. However, since a question has been raised about the meaning of the term used in the regulation and to remove any doubt on this matter, this interpretation is being published to make clear that the term "employ other reasonable investigative techniques" includes attachment of personal samplers to employees to monitor their exposures.

Since this rule is an interpretative rule and a rule of agency procedure and practice, general notice of proposed rulemaking, public participation therein and delay in effective date are not required by 5 U.S.C. 553. Specifically, the rule interprets the term "employ other reasonable investigative techniques" as it is used in 29 CFR 1903.7(b) in order to clarify a provision believed by the Seventh Circuit Court of Appeals to be ambiguous. The rule also makes explicit a longstanding and consistently applied agency practice and procedure which is used in the course of an inspection or investigation. Thus, this interpretation does not effect a change in the substantive rights of any person.

In addition, general rulemaking procedures are unnecessary since this rule does not have a substantial impact on the persons regulated under the Act. For example, since the Secretary has always used personal samplers as an aid in OSHA inspections, there can be no justifiable reliance on a contrary prior practice. Furthermore, there is no prior interpretation of § 1903.7(b) which would preclude the use of personal samplers, and the Seventh Circuit did not adopt a contrary interpretation. Additionally, this rule does not alter the criteria used in making the ultimate decision in OSHA enforcement actions, *i.e.*, whether a company has violated the Act. Accordingly, notice and public procedure are unnecessary in this instance. For the same reasons, under the "good cause" exceptions to the general rulemaking requirements, 5 U.S.C. 553 (b) and (d), the agency is not required in this instance to provide notice of rulemaking, public participation therein and delay in effective date.

Moreover, notice and comment rulemaking in this instance would create a delay that would be contrary to the public interest. The use of personal sampling devices is necessary to the conduct of effective and efficient OSHA health inspections. The decision in *Metro-East, supra*, renders the agency unable to conduct any non-consensual personal sampling in the Seventh Circuit; under *Plum Creek, supra*, the agency's ability to conduct personal sampling in the Ninth Circuit has been severely restricted. Thus, in these circuits, and perhaps elsewhere, the effective conduct of virtually all OSHA health inspections has been impeded. The consequent health detriment to employees that results from OSHA's inability to effectively monitor their exposure to noise and air contaminants justifies the immediate effective date of this rule.

IV. Regulatory Impact Analysis

In accordance with Executive Order 12291 (46 FR 13193, February 17, 1981), OSHA has carefully assessed the potential impact of the interpretation of 29 CFR 1903.7(b). Based on the guidelines of the Executive Order, OSHA has concluded that the interpretation is not a "major" action which would necessitate further economic impact evaluation and the preparation of a regulatory impact analysis. This conclusion is predicated on several factors. First, as noted above, it has always been the Secretary's practice to use personal sampling devices on employees whenever possible. The Secretary's experience indicates that these devices are compact, take minimal time to attach to the employee, and neither hinder nor obstruct the employee's performance of his job. Thus, there are no substantive adverse labor productivity effects. Second, since OSHA is required to provide the personal samplers for use by its compliance officers, employers are not required to pay for these devices. Third, the Secretary is unaware of any injuries or accidents caused by the use of personal samplers. Therefore, these factors strongly indicate that this amendment would not increase costs to employers and would have little effect on the economy.

Finally, OSHA finds that the provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, which require an assessment of the impact of certain regulatory actions upon small entities, are inapplicable to this interpretative and procedural rule.

V. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, D.C. 20210. This interpretation is issued pursuant to section 8(g)(2) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(g)(2) and Secretary of Labor's Order No. 8–76 (41 FR 25059) in implementation of the general inspection and investigation authority conferred by section 8(a) of the Act, 29 U.S.C. 657(a).

PART 1903—INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

In accordance with above, 29 CFR 1903.7 is hereby amended by adding the following interpretative note at the end of § 1903.7(b):

§ 1903.7 Conduct of inspections.

* * * * *

(b) * * *

Interpretative Note: As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to measure their exposures.

* * * * *

(29 U.S.C. 657(a), 657(g); 5 U.S.C. 553)

Signed at Washington, D.C., this 4th day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-3485 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1903

[Docket No. W-300]

Use of Personal Sampling Devices During Inspection

AGENCY: Occupational Safety and Health Administration (OSHA); Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: In today's **Federal Register**, OSHA revises 29 CFR 1903.7(b) by adding an interpretative note to make clear that the term "employ other reasonable investigative techniques" as used in the regulation includes but is not limited to the attachment of personal sampling devices to employees in order to monitor their exposures. In this document, OSHA proposes to amend § 1903.7 by issuing a legislative rule to expressly authorize its compliance officers to use personal sampling devices and to attach such devices to employees during the conduct of workplace inspections. The proposed rule would remove any questions concerning the agency's authority to use personal sampling devices as an aid in its workplace inspections.

DATES: Comments on the issues raised by the use of personal sampling devices must be postmarked by April 13, 1982.

ADDRESS: Comments are to be sent to: Docket Officer, Docket No. W-300, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-6212, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3637, Washington, D.C. 20210 (202-523-8151).

SUPPLEMENTARY INFORMATION: The discussion in the interpretative and procedural rule of Part II of today's **Federal Register** sets forth the history of 29 CFR 1903.7(b) and the reasons for the issuance of the interpretative and procedural rule which appears therein. In this document, the agency announces its intention to amend the regulation to expressly authorize compliance officers to monitor employees' exposures by attaching personal sampling devices to their persons during OSHA inspections. The public is invited to submit comments on the issues involved in the use of such devices, and particularly on the issue of whether the placement of the device on an employee may under certain circumstances constitute an inherent hazard which subjects the employee to potential accident and injury. With respect to the safety issue, all courts that have considered the issue have concluded that the attachment of a personal sampler to an employee is a reasonable investigative technique that presents minimal risk, if any. Indeed, the Secretary is unaware of any accident or injury caused by the use of such devices during the more than ten-year enforcement history of the Act, encompassing widespread use of personal samplers by many employers as well as by the Secretary. Moreover, the use of personal sampling devices is considered by the Secretary to be at least as safe as other sampling techniques of equivalent efficiency.

Interested persons are invited to submit written data, views and arguments with respect to this proposal and all issues involved therein. These comments must be postmarked on or before April 13, 1982, and submitted in quadruplicate to: Docket Officer, Docket No. W-300, Room S-6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made part of the record of this proceeding and will be considered in formulating the final rule.

Regulatory Impact Analysis

The economic analysis under Executive Order 12291, which appears in connection with the interpretative and procedural rule in Part II of today's **Federal Register** is equally applicable to this proposal and is incorporated herein. Additionally, in accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-353, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA has carefully assessed the impact of the amendment upon small entities. Initially, the agency notes that to the extent that any costs occur, they would directly relate to the number of workers sampled. As proportionately more workers would be sampled in larger establishments, the costs per unit of output of the amendment are expected to be the same for both smaller and larger establishments. Moreover, no additional costs result from the amendment since it has always been and continues to be OSHA practice to use personal sampling devices whenever possible and whenever there is no judicial ruling to the contrary. Accordingly, OSHA hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities.

The Regulatory Impact Assessment has identified several benefits which are realized as a result of the promulgation of the amendment. As has been noted in connection with the interpretative and procedural rule, the use of personal sampling devices attached to employees not only increases the effectiveness of OSHA inspections but also minimizes potential reduction in employee productivity. The use of personal sampling devices attached to employees is therefore the most cost effective means of promoting occupational safety and health.

Authority: This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, D.C. 20210.

PART 1903—INSPECTIONS, CITATIONS, AND PROPOSED PENALTIES

Accordingly, pursuant to section 8(a) and 8(g)(2) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(a) and 657(g)(2), and the Secretary of Labor's Order 8-76, 41 FR 25059, it is proposed to amend part 1903 of Title 29 of the Code of Federal Regulations as set forth below.

It is proposed to revise 29 CFR 1903.7(b) to read as follows:

§ 1903.7 Conduct of inspections.

* * * * *

(b) Compliance Safety and Health Officers shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See § 1903.9 on trade secrets.) As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, budges and other similar devices to employees in order to monitor their exposures.

* * * * *

(29 U.S.C. 657(a), 657(g); 5 U.S.C. 553)

Signed at Washington, D.C. this 4th day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-3486 Filed 2-11-82; 8:45 am]

BILLING CODE 4510-26-M

federal register

Friday
February 12, 1982

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR81–4041	June 19, 1981.
AR81–4042	June 19, 1981.
AR81–4043	June 19, 1981.
AR81–4040	June 19, 1981.
Colorado:	
CO81–5146	Sept. 4, 1981.
CO81–5147	Sept. 4, 1981.
CO81–5148	Sept. 4, 1981.
CO81–5149	Sept. 4, 1981.
Illinois: IL82–2001	Jan. 15, 1982.
Iowa:	
IA81–4089	Nov. 13, 1981.
IA81–4093	Nov. 27, 1981.
IA81–4094	Nov. 27, 1981.
IA81–4096	Nov. 27, 1981.
New Jersey: NJ81–3063	Dec. 28, 1981.
Oklahoma:	
OK81–4054	July 10, 1981.
OK81–4056	July 17, 1981.
OK81–4066	Aug. 21, 1981.
OK81–4069	Sept. 4, 1981.
OK81–4070	Sept. 4, 1981.
OK81–4072	Sept. 4, 1981.
OK81–4071	Sept. 4, 1981.
Pennsylvania:	
PA80–3059	Oct. 3, 1981.
PA81–3043	July 17, 1981.
PA81–3041	July 6, 1981.
PA81–3044	Aug. 7, 1981.
PA81–3047	July 17, 1981.
PA81–3049	July 17, 1981.
Texas:	
TX81–4006	Jan. 6, 1981.
TX81–4036	June 5, 1981.
TX81–4074	Oct. 2, 1981.
TX81–4075	Oct. 2, 1981.
TX81–4076	Oct. 2, 1981.
TX81–4078	Oct. 2, 1981.
TX82–4001	Jan. 29, 1982.
TX82–4002	Jan. 15, 1982.
Wyoming: WY81–5108	April 3, 1981.
Indiana: IN80–2059	Aug. 1, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas: AR81–4039 (AR82–4006)	June 19, 1981.
Colorado: CO81–5145 (CO82–5103)	Sept. 4, 1981.

Signed at Washington, D.C. this 5th day of February 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AR81-4041-Mod. #7 (46FR32179-June 19, 1981 Garland, Hot Springs and Clark Counties, Arkansas					
DECISION #AR81-4042-Mod. #6 46FR32178-June 19, 1981 Pulaski County, Arkansas					
DECISION #AR81-4043-Mod. #6 46FR32175-June 19, 1981 Jefferson County, Arkansas					
CHANGE:					
ASBESTOS WORKERS	$14.50	1.00	1.00		.05
BOILERMAKERS	14.80	1.275	1.00		.04
DECISION #AR81-4040-Mod. #7 46FR32179-June 19, 1981 Union & Ouachita Counties, Arkansas					
CHANGE:					
ASBESTOS WORKERS	14.50	1.00	1.00		.05
BOILERMAKERS	14.80	1.275	1.00		.04
PLUMBERS-PIPEFITTERS	14.25	.65	.85		.10

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CO81-5146 - Mod. #5 (46 FR 44607-September 4, 1981) El Paso County, Colorado					
Omit:					
Laborers:					
Group 1: Watchmen tending heaters and pumps					
Power Equipment Operators:					
(Other than for work in Tunnels, Shafts and Raises):					
Group 1: Rodman, Chainman					
Group 3: Instrument Man					
Truck Drivers:					
Group 2: Greasemen, Servicemen, Ambulance Drivers					
DECISION NO. CO81-5147 - Mod. #5 (46 FR 44611-September 4, 1981) Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin Counties, Colorado					
Omit:					
Laborers:					
Group 1: Watchmen tending heaters and pumps					
Power Equipment Operators:					
(Other than for work in Tunnels, Shafts and Raises):					
Group 1: Rodman, Chainman					
Group 3: Instrument Man					
Truck Drivers:					
Group 2: Servicemen; Ambulance Drivers					

Modification Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CO81-5148 - Mod. #5 (46 FR 44616-September 4, 1981) Las Animas, Otero, and Pueblo Counties, Colorado					
Omit: Laborers: Group 1: Watchmen tending heaters and pumps Power Equipment Operators: (Other than for work in Tunnels, Shafts, and Raises): Group 1: Rodman, Chainman Group 3: Instrument Man Truck Drivers: Group 2: Greasemen, Servicemen, Ambulance Drivers					
DECISION NO. CO81-5149 - Mod. #2 (46 FR 44620-September 4, 1981) Statewide, Colorado					
Omit: Laborers: Group 1: Flagman, Tool Room Man and Checkers Power Equipment Operators: (Other than for work in Tunnels, Shafts and Raises): Group 1: Rodman, Chainman Group 3: Instrument Man Truck Drivers: Group 2: Washers; Greasemen; Servicemen, Ambulance Drivers					

Modification Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL82-2001 - Mod. #1 (47 FR 2459 - January 15, 1982) Alexander, Champaign, Christian, Clark, Clay, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Hardin, Iroquois, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Moultrie, Perry, Piatt, Pope, Pulaski, Richland, Saline, Shelby, Union, Vermilion, Wabash, Wayne, White, & Williamson Counties, Illinois					
CHANGE: Carpenters; Lathers; Millwrights; Pileudrivermen; & Soft Floor Layers: Areas 8 & 9: Carpenters; Piledriverman; & Soft Floor Layers	13.04	.75	.70		.05
Areas 5, 8 & 9: Millwrights	15.85	.75	.70		.05
ADD: Description of Work: Building Construction (Does not include single family homes & apartments up to and including 4 stories)					

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DECISION NO. IA81-4089 - MOD. #3 (46 FR 56122 - November 13, 1981) Clinton County, Iowa	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Ironworkers	$16.40	.95	1.125		.30
Laborers:					
Group 1	11.63	.50	.80		.05
Group 2	11.88	.50	.80		.05
Group 3	11.93	.50	.80		.05
DECISION NO. IA81-4093 - MOD. #2 (46 FR 58018 - November 27, 1981) Linn County, Iowa					
CHANGE: Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Laborers:					
Group 1	11.67	.50	.80		.05
Group 2	11.92	.50	.80		.05
DECISION NO. IA81-4094 - MOD. #4 (46 FR 58019 - November 27, 1981) Polk County, Iowa					
CHANGE: Building, Water Treatmnt Plants & Sewage Disposal Plants Construction:					
Laborers:					
Group 1	11.645	.50	.87		.05
Group 2	11.745	.50	.87		.05
Group 3	11.77	.50	.87		.05
Group 4	11.795	.50	.87		.05
Group 5	11.845	.50	.87		.05
Group 6	11.945	.50	.87		.05

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DECISION NO. IA81-4098 - MOD. #2 (46 FR 58021 - November 27, 1981) Scott County, Iowa	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers	$16.40	.95	1.125		.30
DECISION NO. NJ81-3063 - MOD. #2 (46 FR 62746 - December 28, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY					
CHANGE:					
CARPENTERS, MILLWRIGHTS AND INSULATORS:					
ZONE 1	14.75	8%	7%		5/10%
ZONE 2					
Carpenters and Insulators	14.75	8%	7%		5/10%
Millwrights	15.00	8%	7%		5/10%
ZONE 3					
Carpenters and Insulators	14.75	8%	7%		5/10%
Millwrights	15.00	8%	7%		5/10%
ELECTRICIANS AND CABLE SPLICERS:					
ZONE 2	16.66	7%	3%+1.00		.15
ZONE 3	16.28	7%	3%+.85		.03
ELEVATOR CONSTRUCTORS:					
Probationary Helper	7.36				

DECISION NO. NJ81-3063 - MOD. #2 CONT.

ADD:

UNDER ELECTRICIANS AND CABLE SPLICERS:

AREA COVERED BY ELECTRICIANS & CABLE SPLICERS

Zone 1 - Monmouth & Ocean Counties

ZONE 2 - Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasternly direction to the Burlington - Mt. Holly Road, south - southeast along this road to and including the town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon, and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties

ZONE 3 - Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mouth Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Townships in Burington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the county south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington, Mouht Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad, along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Mantua, Harrison, South Harrison, Woolwich and Logan Twps. and Pitman Brough) and Salem (from Lower Penns Neck, Upper Penns Neck, Oldmans Twps. and that portion of Mannington and Pilesgrove Twps. north of a line following State Hwy. #45 northeast from Penswick Creek to the Borough of Woodstown, around and including Woodtown to U.S. Hwy #40 and east on #40 to Upper Pittsgrove Twp. line) Counties

ZONE 4 - Atlantic (that portion south and west of a line following the White Horse Pile (U.S. Hwy #30) in a southeasternly direction from Camden County to the Mays Landing - DaCosta Road, continuing south along that road to the Great Egg Harbor River near Weymouth along that river to the Harding Hwy. to the Mays Landing - Tuckahoe Road, south on that road to the north limits of County), Cumberland, Gloucester (remainder of county) & Salem (remainder of county) Counties

ZONE 5 - Atlantic (remainder of county), Burlington (remainder of county) and Cape May Counties

DECISION #OKB1-4054-Mod. #7 46FR35888-July 10, 1981 Muskogee, Adair, Cherokee and Okmulgee Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS-ZONE I					
Electricians	$13.75	.60	3%		1%
Cable splicers	14.15	.60	3%		1%
ELECTRICIANS-ZONE II					
Electricians	14.15	.60	3%		1%
Cable splicers	14.55	.60	3%		1%
DECISION #OKB1-4055-Mod. #8 46FR37209-July 17, 1981 Tulsa, Delaware, Creek, Craig, Ottawa, Mayes and Roger Counties, Oklahoma					
CHANGE:					
CARPENTERS-AREA I					
Carpenters	12.78	.65	.90		.07
Millwrights-Piledrivermen	13.08	.65	.90		.07
PLUMBERS	15.12	.80	.85		.08
PIPEFITTERS	15.12	.80	.85		.08
DECISION #OKB1-4056-Mod. #7 46FR42610-August 21, 1981 Garfield County, Oklahoma					
CHANGE:					
CARPENTERS:					
Carpenters	11.00	.65	.75		.09
Millwrights-Piledrivermen	13.05	.65	.75		.09

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #OK81-4069-Mod. #6 46FR44464-September 4, 1981 Wagoner County, Oklahoma					
CHANGE:					
ELECTRICIANS-ZONE I					
Electricians	$13.75	.60	3%		1%
Cable splicers	14.15	.60	3%		1%
ELECTRICIANS-ZONE II					
Electricians	14.15	.60	3%		1%
Cable splicers	14.55	.60	3%		1%
DECISION #OK81-4070-Mod. #7 46FR44651-September 4, 1981 Comanche County, Oklahoma					
CHANGE:					
ELECTRICIANS	13.55	.60	3%+.25		1/4%
DECISION #OK81-4072-Mod. #6 46FR44644-September 4, 1981 Latimer, Leflore, Haskell, Sequoyah & Pushmataha Counties, Oklahoma					
CHANGE:					
ELECTRICIANS-AREA II					
Electricians	13.75	.60	3%		1%
Cable splicers	14.15	.60	3%		1%
ELECTRICIANS-AREA III					
Electricians	14.15	.60	3%		1%
Cable splicers	14.55	.60	3%		1%
DECISION #OK81-4071-Mod. #6 46FR45535-September 4,1981 McIntosh County, Oklahoma					
CHANGE:					
ELECTRICIANS-ZONE I					
Electricians	13.75	.60	3%		1%
Cable splicers	14.15	.60	3%		1%
ELECTRICIANS-ZONE II					
Electricians	14.15	.60	3%		1%
Cable splicers	14.55	.60	3%		1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3059 MOD. NO. 7 (45 FR 65895 - October 3, 1980) Erie County, Pennsylvania					
CHANGE:					
Electricians	$15.05	1.20	3%+1.75	1.00	1/2 of 1%
Glaziers	13.84	.60	.80		.02
Painters:					
Brush	11.90	.60	.50		.02
Structural Steel	12.40	.60	.50		.02
Spray	12.65	.60	.50		.02
DECISION NO. PA81-3043 MOD. NO. 6 (46 FR 37212 - July 17, 1981) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington, Westmoreland Counties, Pennsylvania					
CHANGE:					
LANDSCAPING:					
Landscape Laborer	$8.79	12%	10%		
Landscape Tractor Operator	9.21	12%	10%		

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DECISION NO. PA81-3041 MOD. NO. 5 (46 FR 34934 - July 6, 1981)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington, Westmoreland Counties, Pa.					
CHANGE:					
LINE CONSTRUCTION:					
ZONE 1					
Lineman	$16.93	.60	3%		3/8%
Winch Truck Op.	11.85	.60	3%		3/8%
Truck Driver	11.00	.60	3%		3/8%
Groundman	10.15	.60	3%		3/8%
OMIT:					
LANDSCAPING LABORERS BELOW:					
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job					
ZONE 1	7.79	12%	10%		
ZONE 2	7.70	12%	10%		
Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work					
ZONE 1	8.21	12%	10%		
ZONE 2	8.12	12%	10%		

AREA COVERED BY LANDSCAPE LABORERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Venango, Washington, Westmoreland

ZONE 2 - Bedford, Blair, Cambria, Cameron, Centre, Clearfield, Clinton, ELk, Erie, Forest, Franklin, Fulton, Huntingdon, McKean, Mifflin, Potter, Somerset, Warren

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DECISION NO. PA81-3041 MOD. NO. 5 CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
LANDSCAPING:					
ZONE 1					
CLASS 1					
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	$8.79	12%	10%		
CLASS 2					
Landscape tractor operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway work	9.21	12%	10%		
ZONE 2					
Class 1					
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	11.00	9%	8%		

AREA COVERED BY LANDSCAPE LABORERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Fayettes, Greene, Indiana, Jefferson, Lawrence, Mercer, Venango, Washington, Westmoreland, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Erie, Franklin, Fulton, Huntingdon, Mifflin, Somerset

ZONE 2 - Cameron, Elk, Forest, McKean, Potter, Warren

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DECISION NO. PA81-3044 MOD. NO. 9 (46 FR 40477 - August 7, 1981) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT: LANDSCAPING SCHEDULE BELOW:					
ZONE 1					
CLASS I	7.79	12%	10%		
CLASS II	8.21	12%	10%		
ZONE 2					
CLASS I	7.70	12%	10%		
CLASS II	8.12	12%	10%		
ZONE 3					
CLASS I	11.00	9%	8%		

LANDSCAPE LABORERS DEFINITION AND AREA COVERED

ZONE 1 - Clarion, Crawford, Jefferson & Venango Counties
CLASS I - Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job
CLASS II - Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work
ZONE 2 - Cambria, Clearfield and Bedford Counties
CLASS I - Landscape Laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job
CLASS II - Landscape Laborer Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work
ZONE 3 - Cameron County
Class I - Landscape Laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job

DECISION NO. PA81-3044 MOD. NO. 9	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: LANDSCAPING:					
ZONE 1					
CLASS 1	$8.79	12%	10%		
CLASS II	9.21	12%	10%		
ZONE 2					
CLASS 1	11.00	9%	8%		

LANDSCAPE LABORERS DEFINITION AND AREA COVERED

ZONE 1 -
CLASS I - Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job
CLASS II - Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work
ZONE 2 -
Class I - Landscape Laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job

AREA COVERED BY LANDSCAPE LABORERS

ZONE 1 - Bedford, Cambria, Clarion, Clearfield, Crawford, Jefferson, Venango
ZONE 2 - Cameron County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3047 - MOD. NO. 2 (46 FR 37225 - July 17, 1981) Lawrence & Mercer Counties, Pennsylvania					
CHANGE: LANDSCAPING: Landscape laborer to include general landscaping work and driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	$8.79	12%	10%		
Landscape Tractor Operator to operate small industrial rubber tire tractor equipped with front end loader and backhoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway construction work	9.21	12%	10%		
DECISION NO. PA81-3049 MOD. NO. 3 (46 FR 27221 - July 17, 1981) Elk, Forest, McKean & Warren Counties, Pennsylvania					
CHANGE: Carpenters & Soft Floor Layers Elk, Forest, all of McKean County except Kane and Bradford	$12.65	6½%	8%	10%	
Electricians: Forest & Warren Counties	15.05	1.20	3%+1.75	1.00	½ of 1%
Elk & McKean Cos.	11.25	.60	3%+.40		1%
Glaziers: Forest & Warren Counties	13.84	.60	.80		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4008 - MOD. #5 (46 FR 1550 - January 6, 1981) Smith County, Texas					
CHANGE: Carpenters	$11.48				
DECISION NO. TX81-4030 - MOD. #4 (46 FR 30286 - June 5,1981) Lubbock County, Texas					
CHANGE: Carpenters	12.15	.53	.80		.01
DECISION NO. TX81-4074 - MOD. #6 (46 FR 48861 - October 2, 1981) Travis County, Texas					
CHANGE: Soft floor layers	14.40	.77	.65		.14
DECISION NO. TX81-4075 - MOD. #5 (46 FR 48863 - October 2, 1981) Galveston & Harris Cos., Texas					
CHANGE: Soft floor layers	14.40	.77	.65		.14
DECISION NO. TX81-4076 - MOD. #5 (46 FR 48857 - October 2, 1981) Brazos County, Texas					
CHANGE: Soft floor layers	14.40	.77	.65		.14

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4078 - MOD. #3 (46 FR 48865 - October 2, 1981) Bexar County, Texas					
CHANGE:					
Power equipment operators:					
Group 1	$12.52	.75	1.25		
Group 2	11.15	.75	1.25		
Group 3	9.40	.75	1.25		
Group 4	9.02	.75	1.25		
DECISION NO. TX82-4001 - MOD. #1 (47 FR 4463 - January 29, 1982) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE:					
Cement masons	13.40				
DECISION NO. TX82-4002 - MOD. #1 (47 FR 2472 - January 15, 1982) Wichita County, Texas					
CHANGE:					
Plasterers	13.25				.01
DECISION NO. WY81-5108 - Mod. #9 (46 FR 20477 - April 3, 1981) Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming					
Omit:					
Laborers:					
Building Construction:					
Group 1: Toolroom Man; Watchman and Flagman					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IN80-2059 - Mod. #2 (45 FR 51401 - August 1, 1980) Brown, Clark, Crawford, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Lawrence Ohio, Orange, Randolph, Ripley, Rush, Scott, Switzerland, Union, Washington, & Wayne Counties, Indiana					
CHANGE:					
Carpenters, Soft floor layers, Millwrights, & Piledrivermen:					
Clarke, Floyd, Harrison, & Washington Counties:					
Carpenters & Soft floor layers	$13.35	.80	.80		.05
Millwrights	14.55	.80	1.40		.05
Piledrivermen	13.60	.80	.80		.05
Cement masons & Plasterers:					
Clark, Floyd, & Harrison Counties:					
Cement masons	12.64	1.00	1.00		.08
Plasterers	14.85				.02
Electricians:					
Clark, Floyd, Harrison, Jackson, Jefferson, Scott, & Washington Counties	16.14	1.00	3% + 1.61		½ of 1%
Ironworkers:					
Clark, Crawford, Floyd, Harrison, Jackson (Remainder of County), Jefferson (W 2/3), Jennings (S 2/3), Lawrence (E 2/3), Orange, Scott, Switzerland (SW Tip), & Washington Counties	13.45	1.00	2.85		.10
Painters:					
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Counties:					
Within a 35 mi. radius of Jefferson County, Kentucky Court House:					
Brush, Drywall tapers & finishers, paperhangers, & rollers	11.07	.55	.60		.03
Special	11.42	.55	.60		.03
Spray	11.52	.55	.60		.03

DECISION #IN80-2059 - Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			
Painters (Cont'd)		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Beyond a 35 mi. radius of Jefferson County, Kentucky Courthouse:					
Brush, drywall tapers & finishers, paperhangers, & rollers	$11.42	.55	.60		.03
Special	11.77	.55	.60		.03
Spray	11.87	.55	.60		.03
Plumbers & Steamfitters: Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Switzerland Counties	15.95	.50	1.10	o	.05
Sheet metal workers: Clark, Floyd, & Harrison Counties	15.60	1.65	1.66		.16
LABORERS - Remaining Counties:					
Group 1	10.15	1.00	.75		.09
Group 2	10.35	1.00	.75		.09
Group 3	10.45	1.00	.75		.09
Group 4	11.15	1.00	.75		.09
POWER EQUIPMENT OPERATORS - (See Page 3 of this Mod.)					
TRUCK DRIVERS - All Counties Except Crawford Counties:					
Group 1	10.90	36.50*	30.00*	*	
Group 2	10.95	36.50*	30.00*	*	
Group 3	11.00	36.50*	30.00*	*	
Group 4	11.05	36.50*	30.00*	*	
Group 5	11.10	36.50*	30.00*	*	
Group 6	11.15	36.50*	30.00*	*	
Group 7	11.25	36.50*	30.00*	*	
Group 8	11.30	36.50*	30.00*	*	
Group 9	11.35	36.50*	30.00*	*	
Group 10	11.40	36.50*	30.00*	*	
Group 11	11.55	36.50*	30.00*	*	

*Footnotes for truck drivers can be found in Mod. #1 of the decision as published in Federal Register on on October 3, 1980, page #65854.

DECISION #IN80-2059 - Mod. #2 (Cont'd)

ADD:	Basic Hourly Rates	Fringe Benefits Payments			
POWER EQUIPMENT OPERATORS		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$14.27	.65	1.20		.08
Class B	11.53	.65	1.20		.08
Class C	10.76	.65	1.20		.08

Clark, Crawford, Dearborn, Decatur, Floyd, Franklin, Harrison, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Switzerland, & Washington Counties:

CLASSIFICATION DEFINITIONS

Class A - Auto Patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu.ft. or over). concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction) all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, Kecal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader; tunnel mining machines including moles, shields or similar types of tunnel mining equipment

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu, ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor board, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and endloader, elevator (regardless of ownership when used for hoisting any building material) hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: Sebastian, Crawford

DECISION NO.: AR82-4006 Page 2

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: Sebastian, Crawford & Washington

DECISION NO.: AR82-4006 DATE: Date of Publication

SUPERSEDES DECISION #AR81-4039 dated June 19, 1981 in 46FR32177

DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEBASTIAN & CRAWFORD COS.					
ASBESTOS WORKERS	$14.50	1.00	1.00		.05
BOILERMAKERS	14.80	1.275	1.00		.04
BRICKLAYERS-STONEMASONS	12.10	.85	.55		.14
CARPENTERS:					
Carpenters	9.54	.50	.60		.04
Millwrights-Piledrivermen	10.29	.50	.60		.04
CEMENT MASONS	12.00	.35			.03
ELECTRICIANS:					
Electricians	14.33	.60	3%+5.5%		1/4%
Cable splicers	14.58	.60	3%+5.5%		1/4%
ELEVATOR CONSTRUCTORS	12.04	1.345	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	70%JR	1.345	.95	a+b	.035
ELEVATOR CONSTRUCTORS Probationary helpers	50%JR				
IRONWORKERS	13.35	.75	1.15		.12
LINE CONSTRUCTION:					
Lineman; operator	11.92	.60	3%+5.5%		1/4%
Cable splicers	12.07	.60	3%+5.5%		1/4%
Powderman	90%JR	.60	3%+5.5%		1/4%
Truck driver	75%JR	.60	3%+5.5%		1/4%
Groundman	65%JR	.60	3%+5.5%		1/4%
PAINTERS:					
Roller work, sheetwork, finishing by machinery	8.25				
Brush	8.00				
Spray painting	9.00				
Swing stage work	8.25				
Sandblasting-steam cleaning	9.00				
PLASTERERS	12.00		.35		.04
PLUMBERS-STEAMFITTERS	13.66	.55	.65		.04
ROOFERS	11.81		.30		
SHEET METAL WORKERS	11.57	.55	3%+.72		.04
SPRINKLER FITTERS	13.40	.95	1.40		.08

FOOTNOTES:
a - 1st 6 mos. none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rates
b - Paid Holidays - A through G

PAID HOLIDAYS:
A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day.

SEBASTIAN AND CRAWFORD COUNTIES - ONLY

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	$12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor & handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine & pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

DECISION NO.: AR82-4006 Page 3

SEBASTIAN AND CRAWFORD COUNTIES - ONLY

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group I	$7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II
Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, Cement mixer, wet or dry finishers, creosote wood handlers, chuck tenders

GROUP III
Steel form setters, curb and gutters, grout and cement muckers

GROUP IV
Swinging scaffold, Barco, 90 lb. pavement breaker, and burners

GROUP V
Nozzleman, gunite, grout and sand blaster; concrete pump (nozzle placer)

GROUP VI
Powderman and blasters

Group VII
Wagon drill

WELDERS -- receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after aware only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

DECISION NO.: AR82-4006 Page 4

WASHINGTON COUNTY, ARKANSAS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$ 9.00				
Carpenters	7.92				
Cement masons	7.67				
Electricians	9.51				
Glaziers	7.60				
Ironworkers	6.87				
LABORERS:					
Common	5.23				
Mason tenders	5.67				
Plasterers tender	7.45				
Painters	8.00				
Plasterers	11.22				
Plumbers-Pipefitters	11.46	.55	.55		.04
Roofers	7.50				
Sheet metal workers	7.51				
Tile setters	7.90				
Truck drivers	6.05	5%	7%		
POWER EQUIPMENT OPERATORS:					
Asphalt finishing	6.15	5%	7%		
Asphalt pavers	6.05	5%	7%		
Asphalt rakers	5.40	5%	7%		
Asphalt Dist. operators	5.82	4%	7%		
Bulldozers	5.95	5%	7%	4%	
Backhoe	5.47				
Cranes	6.87				
Rollers	5.40	5%	7%		
Motor patrol operator	6.50				
Foundation drill operator	7.29				
Scrapers	5.75	4%	7%	4%	

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Adams, Arapahoe, Boulder,

DECISION NO. CO82-5103 Page 2

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld

DECISION NUMBER: CO82-5103 DATE: Date of Publication

Supersedes Decision No. CO81-5145 dated September 4, 1981, in 46 FR 44602

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.35	.75	$1.40		
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS; Stonemasons:					
Eagle County	14.49	.85	1.10		.06
Boulder and Grand Counties	14.35	.85	1.10		.05
Elbert, Lake and Park Counties	14.05	.85	.95		.06
Larimer County	12.20	.85	1.10		.05
Remaining Counties	13.79	.85	1.10		.06
CARPENTERS:*					
Area 1:					
Zone 1	13.105	1.10	1.00	1.00	.10
Zone 2	14.74	1.10	1.00	1.00	.10
Zone 3	16.38	1.10	1.00	1.00	.10
Area 2:					
Zone 1	13.105	1.10	1.00	1.00	.10
Zone 2	14.74	1.10	1.00	1.00	.10
Zone 3	16.38	1.10	1.00	1.00	.10
Area 3	13.105	1.10	1.00	1.00	.10
Area 4:					
Zone 1	11.22	1.10	1.00	1.00	.10
Zone 2	11.72	1.10	1.00	1.00	.10
Zone 3	11.97	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.04	.60	1.15		.13
Working with composition materials and color	12.54	.60	1.15		.13
Working on scaffold, swing stage, or temporary platform over 25'	12.29	.60	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Elbert and Park Counties:					
Electricians	13.75	.72	3%+.85		.015
Remaining Counties:					
Electricians	16.85	.85	3%+1.25		3/10%
Cable Splicers	17.10	.85	3%+1.25		3/10%

*See AREA and ZONE Descriptions Page 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$14.88	$1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	14.35	1.19	1.35		.17
LATHERS	13.44				.01
MARBLE SETTERS:					
Elbert, Lake, and Park Counties	13.31	.85	.70		
Remaining Counties	15.53	1.30	1.45		.04
MILLWRIGHTS	14.66	1.10	1.00		.29
PAINTERS:					
*Park County (southern half)					
Brush, Roller, Taper, hand texture	11.54	.95	.70		.04
Steel and Paperhanger	12.04	.95	.70		.04
Spray	12.29	.95	.70		.04
Remaining Counties including northern half of Park County:*					
Brush and Roller; Hardwood Finisher	15.01	.95	1.15		.08
Drywall Finisher (hand)	15.26	.95	1.15		.08
Drywall Finisher (tool); Spray; Swing Stage and Chair; Sandblast (exterior); Paperhanger	15.61	.95	1.15		.08
Sandblast (interior); Steeplejack	16.93	.95	1.15		.08
PLASTERERS	13.44				.01
PLUMBERS; Steamfitters:					
Southern portions of Douglas, Elbert, and Park Counties*	12.90	.85	1.15	1.60	.10
Boulder County	15.15	1.00	1.50	1.00	.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: Steamfitters: (Cont'd):					
Remaining Counties (including northern portions of Douglas, Elbert, and Park Counties)	$15.32	$1.00	$1.50	$1.00	.08
ROOFERS:					
Eagle County and southern portions of Lake, Jefferson, Park, Douglas, and Elbert Counties**	12.30	.84	.40		
Remaining Counties including northern portions of Lake, Park, Jefferson, Douglas, and Elbert Counties	13.32	.85	.50		.08
SHEET METAL WORKERS	15.96	3%+.90	1.76		.17
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	.13
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	15.53	1.30	1.45		.04
TILE LAYERS:					
Elbert, Lake, and Park Counties	13.31	.85	.70		
Remaining Counties	15.53	1.20	1.30		.04
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	

*Park County dividing Line: Line from the S.W. corner of Jefferson County to the S.E. corner of Lake County

** Area south of Lake County to a point 2 miles north of the City of Leadville to a point 1/2 mile north of the City of Limon at the west border of Lincoln County

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for over 5 years service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA and ZONE DESCRIPTIONS

CARPENTERS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Grand, Gilpin, and Jefferson Counties; Park County (northern area):

(a) Denver Metropolitan Area including Louisville, Golden, Boulder, and Longmont basing points:

Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over

Area 2: Morgan and Weld Counties:

(b) Denver Northeastern Area of Colorado including Greeley, Loveland, and Fort Morgan basing points:

Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over

Area 3: Larimer County (N.E. portion within Loveland basing point, Zone 1)

Area 4: Larimer (Remainder of County); Eagle, Lake, and Park Counties (south 40 miles); Summit County:

Zone 1: 0 to 40 miles from Post Office in Leadville or Fort Collins
Zone 2: 40 to 75 miles from Post Office in Leadville or Fort Collins
Zone 3: All work outside of the 75 mile radius from Post Office in Leadville or Fort Collins

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.40	$9.90	.84	.70	.50	.05
Group 2	9.68	10.18	.84	.70	.50	.05
Group 3	10.20	10.70	.84	.70	.50	.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Building Construction Laborer

Group 2: Laborers - underpinning and shoring eight (8) feet or more below working surface power tool operators of all mechanical, air, gas, and electrical tools, including self-propelled buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of tilt-up panels. Burners on demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 3: Pipelayers on Building Construction; Jackhammer Operator for underpinning and shoring over twelve (12) feet below working surface, Bellers and Stemmers on caisson work; Tenders, Mason and Plaster

POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$11.60	$11.80	$1.03	$1.20	.60	.12
Group 2	11.95	12.70	1.03	1.20	.60	.12
Group 3	12.30	13.05	1.03	1.20	.60	.12
Group 4	12.45	13.20	1.03	1.20	.60	.12
Group 5	12.60	13.35	1.03	1.20	.60	.12
Group 6	12.75	13.50	1.03	1.20	.60	.12
(For work in Tunnels, Shafts, and Raises):						
Group 1	11.75	12.50	1.03	1.20	.60	.12
Group 2	12.10	12.85	1.03	1.20	.60	.12
Group 3	12.20	12.95	1.03	1.20	.60	.12
Group 4	12.45	13.20	1.03	1.20	.60	.12
Group 5	12.60	13.35	1.03	1.20	.60	.12
Group 6	13.00	13.75	1.03	1.20	.60	.12
Group 7	12.75	13.50	1.03	1.20	.60	.12

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, Truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front Ent Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

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TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

ZONE DESCRIPTIONS

LABORERS

CITIES within ZONES 1 and 2:

Boulder	Denver	Dillon
Eagle	Golden	Fort Collins
Fort Morgan	Leadville	Granby
Greeley	Littleton	Vail

ZONE 1 - That area encompassed by 0 to 30 driving miles from the Main Post Office
ZONE 2 - That area encompassed by 30 or more driving miles from the Main Post Office

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:

Boulder	Denver	Douglas
Clear Creek	Gilpin	Jefferson
Larimer	Morgan	Weld

B. Counties entirely within Zone 2:

Grand	Lake	Park	Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert Counties lying west of the Township line between R59W and R60W of the 8th Guide Meridian West; and all of Eagle County lying West of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59 and R60W of the 8th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West

[FR Doc. 82-3580 Filed 2-11-82; 8:45 am]
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federal register

Friday
February 12, 1982

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; End-Stage Renal Disease Program; Prospective Reimbursement for Dialysis Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Programs; End-Stage Renal Disease Program; Prospective Reimbursement for Dialysis Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would change the reimbursement system by which Medicare pays for outpatient dialysis and related physician and laboratory services. These changes would establish a prospective method of payment for maintenance dialysis, whether furnished at home or in a hospital-based or independent dialysis facility, and would revise other aspects of the reimbursement system to encourage home dialysis and provide incentives for economy and efficiency in furnishing these services.

The amendments would implement section 2145 of the Omnibus Budget Reconcilation Act of 1981. We expect that these proposed changes will improve our administration of the end-stage renal disease program and enable us to control the rapidly growing costs of furnishing dialysis.

DATE: In order to assure consideration, written comments should be received on or before April 13, 1982.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 768, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP–126–P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Bernadette Schumaker, (301) 597–1048.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Organization and Content of Proposed Rules

This NPRM has several major parts. The first section covers necessary program and legislative background of the ESRD program. The second section explains the regulatory changes we propose to make in order to establish the proposed prospective system. The third and fourth sections described the proposed methodologies we would use to implement the regulations, and show what payment rates would result from those methodologies. The fifth section deals with additional issues related to implementing the proposed changes in the reimbursement system. The sixth section briefly addresses procedural aspects of the rulemaking process, such as clearance of reporting requirements and responding to public comments. This is followed by the text of the regulations we are proposing to change. The document concludes with two appendixes. Because these changes would constitute a major rule under Executive Order 12291, with significant economic effects, particularly on small dialysis facilties, the first appendix analyzes in detail the expected impact of the proposed prospective system. It also explains the alternative policies we considered but do not propose to adopt. The second appendix explains and lists the area wage indices that we propose to use to adjust payment rates geographically.

B. Legislative Background

The end-stage renal disease (ESRD) program of Medicare was established by Section 2991 of the Social Security Amendments of 1972 (Pub. L. 92–603). That law extended Medicare coverage to individuals who have permanent kidney failure, require either dialysis or transplantation, and meet certain other eligibility requirements. In general, in order to be eligible for ESRD program benefits, a person must be undergoing a regular course of renal dialysis or have had a kidney transplant, and must be either: (1) Fully or currently insured under social security at the onset of the disease; (2) a monthly social security beneficiary; or (3) the spouse or dependent child of an eligible person.

Since Medicare coverage began for these services, a number of studies and public hearings have been conducted to assess the operation and effectiveness of the ESRD program. The results indicate that the program has been generally successful in protecting renal disease patients against the catastrophic costs of needed care. However, there have been a number of serious problems which threaten to undermine the stability and effectiveness of the ESRD program. The major problem is the high and steadily rising cost of the program and the burden it can place on the Medicare trust funds unless steps are taken to make it more cost-effective.

On July 1, 1973, the ESRD program began operation with about 11,000 beneficiaries. In calendar year 1974, the program paid out benefit payments of about $229 million for dialysis, transplant, and other services provided to program beneficiaries. By calendar year 1979, there were about 42,500 patients on dialysis. They received a total of over 6 million treatments and benefit payments reached almost $985 million. Our most recent budget estimates for FY 1981 show that the ESRD program now accounts for about 3.8 percent of total Medicare benefit payments. The proportion of ESRD benefit payments under Part B supplementary medical insurance, which pays for outpatient maintenance dialysis and other services, is even higher—about 9.1 percent.

The End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95–292) were enacted in large part to alleviate the problem of rapidly increasing expenditures. The amendments added section 1881(b)(2)(B) to title XVIII of the Social Security Act, directing us to publish regulations establishing methods and procedures to determine the costs incurred by renal dialysis facilities in furnishing ESRD services, and to establish a prospective reimbursement method for those services. The amendments provided that the prospective reimbursement method should be established on a cost-related or other equitable and economically efficient basis, with incentives for encouraging more efficient and cost-effective delivery of these dialysis services.

On September 26, 1980, we published a notice of proposed rulemaking (NPRM) setting forth proposed requirements that, if published in final, would implement section 1881(b)(2)(B) and establish a prospective payment system for outpatient ESRD services (45 FR 64008). The NPRM discussed and solicited comments on a proposed dual rate methodology for determining separate payment rates for hospital-based and independent dialysis facilities.

Further legislative changes concerning the ESRD payment system were made by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, enacted August 13, 1981). Section 2145 of Pub. L. 97–35 amended section 1881 of the Social Security Act, requiring us to

develop a prospective reimbursement system for outpatient maintenance dialysis that promotes home dialysis. This reimbursement system must either reimburse home dialysis and in-facility dialysis under composite rates or use some other method that, after detailed analysis, is determined to be more efficient and promote home dialysis more effectively. Section 2145 also revised the provisions regarding reimbursement for physicians' services to promote efficient delivery of dialysis services and to provide incentive for the increased use of home dialysis.

C. The Current ESRD Reimbursement System

1. *Dialysis in a Facility.* In accordance with requirements of the Social Security Act, we currently distinguish two groups of dialysis facilities, hospital-based and independent, for purposes of payment for outpatient maintenance dialysis treatment. We pay a hospital-based dialysis facility 80 percent of its reasonable costs as determined under the usual Medicare cost reimbursement rules (42 CFR Part 405, Subpart D), up to a national payment limit (screen) of $138 average cost per treatment. We pay an independent dialysis facility 80 percent of the reasonable charge per treatment as determined under the Medicare reimbursement principles on reasonable charges at 42 CFR Part 405, Subpart E, up to the same payment screen of $138. (Under generally applicable Medicare rules, the remaining 20 percent of charges not paid by Medicare is the beneficiary's liability. See applicable rules at 42 CFR 405.240.) For both hospital-based and independent facilities, the $138 screen excludes the cost of physicians' direct patient care services. If a facility includes routine physician services in its costs for dialysis treatments, we allow an additional $12 per treatment, raising the screen to $150.

For all dialysis facilities, we allow an additional $20 per treatment for sessions during which the patient receives training in self-care dialysis.

Under §§ 405.402(g) and 405.541(e) of the regulations cited above, both hospital-based and independent facilities may request an exception to the reimbursement limits, submitting documentation that they have costs higher than the national payment screen, thus creating a hardship. We grant such requests if they are justified by the circumstances of the particular facility, such as treatment of an unusual or more seriously ill patient population, or high costs due to location.

2. *Home Dialysis.* Presently, there are many variations in how home dialysis is reimbursed, because the components of home dialysis services, which are lumped together for purposes of paying for in-facility services, may be paid for separately. The main components of home dialysis are supplies, support services, and equipment. These services are defined in our regualtions at 42 CFR 405.231(p).

The main ways that we pay for these components of home dialysis services are as follows:

(a) Either a hospital-based or an independent facility may furnish both equipment and supplies and be reimbursed 80 percent of its costs, except as noted in paragraph (d).

(b) If a facility has an optional Target Rate Reimbursement Agreement with HCFA under § 405.691, then it must furnish all equipment, supplies and support services to all of its home patients. It then receives a comprehensive target rate payment per treatment, under § 405.440. The Medicare program pays 80 percent of this target rate. This target rate may also include an amount that accounts for the cost of equipment furnished to its patients under paragraph (d).

(c) Patients or suppliers may bill the program directly for home dialysis equipment and supplies. Some States have programs that act as suppliers of home dialysis equipment and supplies. These costs are reimbursed at 80 percent, except as noted in paragraph (d).

(d) Home dialysis equipment (and related installation and maintenance) may be reimbursed at 100 percent of its cost if a facility or State program has an agreement to this effect with HCFA under § 405.680.

3. *Physician Reimbursement.* We currently have two different methods of paying for physicians' services related to outpatient maintenance dialysis. Under the rist method (called the initial method, and governed by the rules at 42 CFR 405.542(a)), we reimburse physicians through an addition of $12 to the per treatment payment to the facility. This payment covers physicians' routine direct patient care services, as specified in 42 CFR 405.542(a). Other patient care services are paid on a fee-for-service basis.

The initial payment method applies only to services furnished in a facility. If physicians in a facility choose to be paid this way, then when these physicians treat home dialysis patients they must bill separately for home dialysis services on a fee-for-service basis, and can be paid only for the specific "hands-on" services they furnish. Since physicians see home patients less often than those they treat in a facility, they receive relatively little reimbursement under this method for treating home patients.

When facilities do not use the initial method, the physician's patient care services are billed separately on a monthly capitation basis. This is called the "alternate reimbursement method", or ARM, and is governed by Medicare rules at 42 CFR 405.542(b). The ARM covers all physician services except non-renal services, decloting of shunts, and inpatient dialysis services. We base a physician's monthly payment under the ARM on the local prevailing charge for an internist's brief follow-up routine office visit. The monthly capitation payment for services furnished to a patient in a facility is computed by multiplying the appropriate prevailing charge by 20. For patients dialyzing at home, we multiply the charge by 14. Currently, the average in-facility payment is $220 per month, and the average home payment is $154 per month. As of December 31, 1980, physicians reimbursed under this method furnished three-fourths of all ESRD treatments.

4. *Reporting and RecordKeeping Requirements.* We currently treat hospital-based renal dialysis facility costs on the same basis as services provided by other hospital departments. Each hospital must keep records adequate for cost finding in accordance with 42 CFR 405.453, and must provide us financial data and reports under 42 CFR 405.406. Each hospital completes an annual cost report (Form HCFA 2552), which includes a supplemental work sheet (E3) for breaking out the costs of ESRD services and supplies.

Independent facilities do not file annual cost reports, but under § 405.541(f), "Required cost data", they are required to keep records of and report adequate cost data.

Both hospital-based and independent facilities have been submitting the Renal Dialysis Facility Cost and Statistical Questionnaire (Form HCFA 9734), on which all facilities report relevant statistical information on their ESRD programs. For independent facilities, the cost information reported on this form has met their obligation under § 405.541(f), and has been our only source of cost information. Hospitals, however, have also reported their cost information on the HCFA 2552.

D. The 1980 NPRM

Instead of paying each facility on the basis of its own costs or charges as currently practiced, the NPRM published September 26, 1980 set forth a system by which we would establish prospective

rates for outpatient maintenance dialysis treatments furnished in a facility. Unlike the present system, any facility that was able to reduce its costs below the prospective rate would still be paid at that rate, and would be permitted to retain the difference between its average per treatment cost and its per treatment payment rate. At that time, we did not propose to make any changes in the ways we pay for home dialysis or physicians' services.

In all, we received 103 comments on the 1980 NPRM. We analyzed these in detail, and the comments have had significant impact on the form of these new proposed rules. However, since there have been intervening statutory changes and we are not publishing final rules based on the earlier NPRM, we do not believe it would be useful to summarize those comments and respond to them. However, whenever appropriate in view of the changes in law and our new proposed rules and rate-setting methods, we have considered these comments in developing this new proposal.

II. Proposed Regulatory Provisions

A. General Nature

The text of the proposed regulations published with this preamble includes general provisions on the payment methods for both facilities and physicians, but does not include the full details of the rate-setting methodologies we propose to use to implement these regulations. These methodologies are subject to continual review, and are based on data that change over time. Therefore, the proposed regulations set forth only general principles and authorities governing our payment methods. They also include provisions on exceptions to the dialysis treatment payment rates; facility recordkeeping and reporting requirements, appeals, and notification and revision of payment methodologies and rates, and other changes to current regulations necessary to support the prospective system.

The proposed specific methodology for determining payments is described in section III of this preamble. In the future, we would publish proposed and final changes in the methodology in **Federal Register** notices, as explained in section II.G. below.

B. Payment for Dialysis Treatments

Since the proposed regulations themselves would set forth only principles and authorities, they are relatively simple. The regulations would state that HCFA has the authority to establish rate-setting methodologies and set rates in accordance with section 1881 of the Act and would specify how the amount of program payments and beneficiary liability will be determined based on a prospective payment rate. This provision would require all dialysis facilities to accept these prospective payment rates as payment in full; beneficiaries will continue to be liable for Part B deductible obligations plus a coinsurance amount of 20 percent of the rate for each treatment. After the deductible obligation is incurred, the ESRD program would be responsible for 80 percent of all payments due to the facility for covered services furnished.

C. Exceptions

We are proposing clarifications of both the procedural requirements and the criteria for resolving exception requests. These procedures and criteria are designed to discontinue the practices followed in the past with respect to granting exceptions. Instead, we expect that under the proposal few facilities would be able to qualify for exceptions to their payment rates.

First, we would not exempt facilities altogether from the prospective payment system, although we would grant exceptions to their specific payment rates. A facility that requests and meets our criteria for justifying an exception would be paid at a higher per treatment rate, which we would set at the time the exception was approved. This payment rate would apply to all treatments furnished by that facility during the period for which it was approved. There would be no cost settlement at the end of the period.

If a facility had costs per treatment greater than its payment rate, and met any of the criteria for an exception, the facility could request an exception—

(1) Within 180 days after notification of its payment rate (generally the intermediary will send a notice annually); or

(2) Within 180 days after an extraordinary cost-increasing event.

If we approved the exception and set an increased rate, that rate would apply either during the period beginning on the date HCFA accepts the facility's request, or from the date of an extraordinary cost increasing event until the effective date of the next rate notification.

We have revised the exception criteria previously proposed in the 1980 NPRM by: Dropping the low utilization category; revising and clarifying the criteria for "atypicality", isolated essential facilities (sole community providers), and extraordinary circumstances; and adding a criterion related to educational costs. We believe the first of these was unnecessary because it is not compatible with the pressures for efficiency and competition created by a propspective system. Those facilities affected would for the most part be able to qualify as isolated essential facilities. We propose to consider exceptions for a facility that is able to provide convincing objective evidence that it has excessive costs attributable to one of the following conditions.

Atypical patient mix—When compared to average facilities, a facility might have a mix of patients requiring intensive services, or special procedures or supplies, in order to receive adequate outpatient renal care. An example would be a pediatric dialysis unit with a high staff to patient ratio. Any facility claiming to meet this criterion must demonstrate that its excess costs are not out of line with the standards of other facilities with a similar patient mix.

Extraordinary circumstances—A facility may incur excess costs beyond its control due to a fire, earthquake, flood, or other natural disasters which could establish grounds for an exception. However, we would not recognize such costs in cases when a facility chose not to maintain adequate insurance protection against such losses (through the purchase of insurance, the maintenance of a self-insurance program or other equivalent alternative) or chose not to utilize its self-insurance program.

Isolated essential facilities—We have clarified the criterion from the 1980 NPRM, which referred to these as "sole community providers". (The change of terminology will avoid confusion with a different exception criterion applicable under the hospital cost limits.) A facility could justify an exception under this criterion if:

- It is the only supplier of dialysis services in its geographical area;
- Its patients cannot obtain dialysis services elsewhere without substantial additional hardship; and
- Its costs in excess of its payment rate are justifiable.

In assessing these factors, we would consider local population density, typical local commuting distances for medical services, dialysis facility usage by area residents other than the applicant's patients, and volume of treatments.

Education costs—A facility may qualify for an exception if its excess costs are attributable to an approved medical or paramedical education program (as specified in 42 CFR 405.421) that directly involves outpatient dialysis services. We expect that the amount of any increases granted to facilities under

this criterion would be minimal. Any increase would be allowed only for the incremental amount of the facility's costs that are directly attributable to its educational program (i.e., nursing school and intern-resident services cost centers) as specified in 42 CFR 405.421, and only for the amount that could be properly allocated to the outpatient dialysis department. The amount of the increase that we would allow under this criterion would be limited to what is reasonable when compared to the costs of other similar facilities that have educational programs.

D. Appeals

Any facility whose exception request for payment above the prospective rate is denied in total, or is not met to the facility's satisfaction, could request a review under 42 CFR Part 405, Subpart R, which sets forth procedures for review by the intermediary, the Provider Reimbursement Review Board (PRRB) and the Administrator.

This appeal right stems from the statutory provision (section 1881(b)(2)(D)) that a renal dialysis facility should be treated as a provider for purposes of section 1878. Section 1878 provides for review before the PRRB and subsequent judical review of final determinations made by intermediaries of the total amount of program reimbursement due providers, which are reimbursed on a prospective reasonable cost basis.

Under the review provided by section 1878, providers may challenge both HCFA's regulations as applied by the intermediaries, and may challenge the regulations themselves through a procedure by which these challenges are referred from the PRRB to the district courts. This proposal would make certain changes to these review procedures to accommodate a prospective payment system. Renal dialysis facilities whose allowable cost per treatment exceeded the payment rate would first be required to apply for an exception to that rate. If the request is denied in whole or in part, the facility could then appeal that determination to the PRRB. At that point, a facility could challenge any basis on which the determination was made, including challenging the methodology itself. Challenges to the methodology that were not in the board's jurisdiction could then be brought in district court.

In addition, we would provide by regulation that an ESRD facility would have the right to appeal to the PRRB adjustments to its cost report. (See section II. E., below, for an explanation of the proposed cost reporting requirements under prospective reimbursement.) This appeal must be made within 30 days of the date the facility is notified of the adjustments, because we must have timely results of the cost reports in order to update our data base.

A facility would be permitted to appeal either exception determinations or cost report adjustments to the PRRB only if the total amount in controversy were 10,000 or more, as required under 42 CFR Part 405, Subpart R. If the dispute were related to an exception request, this amount would be computed by multiplying the disputed amount per treatment by the projected number of treatments for the year in question. For this purpose, we would limit the disputed amount per treatment to the payment rate the facility requests minus the rate we agree to pay as the result of its request.

E. Recordkeeping and Reporting

The purpose of these requirements would be to clarify requirements for recordkeeping and reporting systems for ESRD facilities that will provide a sound basis for monitoring and evaluating the program generally and determining appropriate Medicare payment rates under prospective reimbursement. The proposed regulations include those cost reimbursement principles in Part 405, Subpart D that are applicable in reporting ESRD costs. Because Subpart D is primarily used for determining reimbursement for Medicare providers of services on a retrospective basis, the 1980 NPRM was subject to misinterpretation. We propose to clarify the definitions of costs that are allowable in furnishing dialysis services and how these costs are to be reported by ESRD facilities. We have reorganized the proposed rule to make it clear that all dialysis facilities must keep records on and report all of their costs (with specified exceptions) in accordance with the existing cost principle regulations.

Although following the Medicare principles of cost reimbursement generally, for reporting ESRD costs, we propose to exclude certain principles that are not applicable to the incentive reimbursement system we are proposing. These are:

1. Section 405.429, "Return on equity capital of proprietary providers." The purpose of § 405.429 is to permit payment of an amount above costs to proprietary providers. Since the purpose of the prospective reimbursement rate would be to give facilities an incentive to reduce costs to realize a profit from the rate, § 405.429 would be inappropriate.

2. Sections 405.430, 405.436, 405.454, 405.455, 405.460, and 405.461. These sections are entitled respectively "Inpatient routine nursing salary cost differential", "Reimbursement of organ procurement agencies (OPA) and histocompatibility laboratories", "Payments to providers," "Amount of payments where customary charges for services furnished are less than reasonable costs," "Limitations on coverage of costs; charges to beneficiaries where cost limits are applied to services." These all deal with procedural requirements or provider reimbursement principles not applicable to maintenance dialysis services.

3. The 1980 NPRM indicated that 42 CFR 405.451, "Cost related to patient care," would be excluded in determining the costs for furnishing ESRD services. This section refers to cost reimbursement and, in general, does not apply to the prospective rate system. However, it contains principles on determining what costs are allowable under Medicare that are applicable to the prospective system. We have clarified the distinction by listing these principles as applicable for reporting purposes, but not in the context of retrospective cost reimbursement.

4. Sections 405.465 through 405.480. These sections address the allocation of costs of reimbursement for hospital-based physicians' services between Parts A and B of Medicare. Since we pay for physicians' services for outpatient dialysis solely through Part B, the reimbursement principles involved in these sections do not apply to reimbursement for outpatient dialysis services.

As explained above, we included § 405.451 in the proposed list of excluded sections from the Subpart D reimbursement principles. However, we still wish to disallow those costs that "are found to be substantially out of line with other institutions in the same area that are similar in size, scope of services, utilization, and other relevant factors". This provision is one of the principles of § 405.451, that we propose to restate in the proposed new § 405.440, to apply to ESRD costs, although we are excluding § 405.451 in general. In this way, we will prelude payments to a particular facility that are higher, without justification, than payments to comparable facilities in the same area.

In addition, the proposed regulations would clarify the existing requirement that a facility report costs for home dialysis, as well as for outpatient dialysis and self-care dialysis training. Since the statute now requires prospective reimbursement reflecting

the costs of providing home dialysis, we need to establish accurate and comparable data for home dialysis. The proposed regulations provide that reporting requirements under section 1881(b)(2)(B)(i) would also apply to the costs of services, supplies, and equipment needed for treatment in the home.

F. Physician Reimbursement

The current regulations have resulted in an economic incentive for physicians to treat dialysis patients in the facility, rather than at home. In consideration of the new statutory goal to stimulate home dialysis, we do not believe it is sufficient to place our emphasis solely on facilities to generate the desirable shift to more home dialysis; it is likely that an equal or greater incentive belongs with the physician as the primary decision-maker on how treatment is to be furnished. For this reason, we believe it is essential to equalize physician reimbursement for in-facility and home dialysis patients in order to eliminate the present economic disincentive for moving patients to the home setting. The statute provides ample discretion for the Secretary to prescribe the scope of services and the rate to be included under a physician reimbursement method.

Therefore, in order to promote the increased use of home dialysis through physician reimbursement, we are proposing to eliminate the initial method and to establish equal physician capitation monthly payments for home dialysis and in-facility dialysis. This would create a total Federal neutrality as to where patients are placed and the specific mode of treatment prescribed. In this way we would not give physicians a financial incentive for treating their patients in the facility rather than at home by paying them more for in-facility treatment, as we now do.

The proposed regulations on physician reimbursement, like the proposals on payments to facilities for treatments, would be relatively simple, since they would set forth only the general principles and authorities under which we would establish a rate-setting methodology and set rates. The proposed rules for the revised capitation method are very similar to the current regulations on the ARM, published at 42 CFR 405.541(b). However, we are also proposing to revise the methodology and to pay a different, lower, rate than which we now pay under the ARM. This is discussed in Section V, below.

G. Notification and Revision of Rate-Setting Methodologies and Payment Rates

The regulations governing reimbursement for both dialysis treatment and physician services would not incorporate the actual rate-setting methodologies, but would provide that if we plan in the future to change these methodologies, we would publish in the **Federal Register** for public comment a notice setting forth the proposed changes. However, we would not necessarily publish a proposed notice if we were going to change only the payment rates by applying the established methodology to more recent data.

We cannot be sure of the frequency at which we will update payment rates based on new cost data. We would generally review the available cost data with a view towards an annual update, but an actual annual change will not necessarily be justified. We propose to have the intermediaries notify each facility of its payment rate annually, whether or not we compute the rates on an updated data base.

H. Target Rate Reimbursement for Home Dialysis

The current optional target rate payment method was established by the End-Stage Renal Disease (ESRD) Program Amendments of 1978 (Pub. L. 95–292), which added section 1881(b)(6) to the Social Security Act. This section requires HCFA to establish target reimbursement rates for home dialysis for patients under the direct supervision of a hospital-based or independent renal dialysis facility. The rates must be established for each calendar year, and must be adjusted for regional variations. This is only an optional reimbursement method for facilities that make an agreement with HCFA to furnish all home dialysis supplies, equipment, and support services (including the services of qualified home dialysis aides) that are medically necessary for patients to dialyze at home. If facilities do not choose this option, they are paid according to the usual Medicare reimbursement principles. Regulations governing these optional agreements between HCFA and facilities are found at 42 CFR 405.691. Regulations governing the target rate reimbursement method and applications are at 42 CFR 405.440.

Pub. L. 95–292 limited the maximum target rate to no more than 70 percent of the national average payment for in-facility maintenance dialysis services furnished by approved hospital-based and independent facilities during the preceding fiscal year, as adjusted for regional variations and before application of the deductible and coinsurance requirements. The rates must be used without recomputation throughout the calendar year for which they are established. Accordingly, there can be no administrative appeal if actual costs for covered services exceed the target reimbursement rate payments (see regulations at 42 CFR 405.440).

Pub. L. 97–35 raised the limit on the maximum target rate to 75 percent of the average in-facility payment but also explicitly permitted the target rate to be replaced by a prospective system established under section 2145. The system that would be established by these proposed regulations would create a much greater incentive for facilities to encourage patients to dialyze at home. Since home dialysis will also be covered under these prospective rates, continuing the target rate sytstem would perpetuate unneeded regulations and administrative complexities. It would also provide an unwanted alternative to reimbursing home dialysis that would compete against the more effective proposed composite rate. Therefore, we propose to discontinue the target rate payment method effective on the date that final regulations following this proposed rulemaking are implemented. This NPRM constitutes public notice that we will terminate all existing target rate agreements as of that date.

I. One Hundred Percent Cost Reimbursement for Home Dialysis Equipment, Installation, Maintenance, and Repair

The 1978 ESRD Admendments provided that, under certain circumstances, the Secretary may reimburse the full cost of home dialysis equipment, installation, maintenance, and repair. This payment must go to a certified ESRD facility or qualified State ESRD program which has an agreement with HCFA for this purpose. In the absence of such an agreement, the program pays rental charges or periodic lease-purchase charges (on a reasonable charge basis to suppliers and independent facilities and on a reasonable cost basis to hospital-based facilities) at the rate of 80 percent.

This program was intended to encourage home dialysis by relieving the coinsurance burden on the beneficiaries, and also to avoid high equipment rental payments, which have sometimes exceeded the purchase price.

To date, 116 facilities have agreements to furnish home equipment at 100 percent reimbursement, but only 73 have purchased machines. Approximately 750 machines (serving

about 10 percent of the home dialysis population) have been furnished. These include machines that were already in patients' homes and converted to 100 percent reimbursement.

If this option were retained, the composite rate would have to be adjusted to account for the fact that equipment and related services costs will already have been reimbursed by the program. However, removal of this option would simplify administration of the program and reinforce the composite rate by eliminating one of the various ways to reimburse these components of home dialysis.

We propose to discontinue this option when the prospective system begins operation. Therefore, equipment furnished on or after the effective date of the prospective system would no longer be reimbursable at 100 percent. We believe that the prospective rates will establish sufficient incentive for home dialysis and that the 100 percent reimbursement option creates added program expenses that are no longer warranted. Eliminating this option will make the prospective system both simpler and more comprehensive and will reduce the recordkeeping burden for the facilities.

However, we recognize that there are about 750 machines that will have been purchased under these agreements. Any equipment purchased before the effective date of the prospective system would still be handled under the pertinent regulations and the terms of the established agreements. In these cases, we will work our a way to prorate the equipment costs under the 100 percent option in order to adjust the prospective payment rates accurately for treatments furnished to the affected beneficiaries.

J. Standards for Identifying Hospital-Based Facilities

Because the rates set under our porposed methodology would pay more for treatments furnished by hospital-based (provider-based) facilities, we must ensure that there are clear and unambiguous standards for determining which facilities would be eligible for these higher rates. We propose to determine an ESRD facility to be hospital-based if it is an integral and subordinate part of a hospital and is operated with other departments of the hospital under common licensure, governance and professional supervision, with all services of the hospital and facility fully integrated. Specifically, the facility would be hospital-based if the following conditions are met:

1. The facility and hospital are subject to the bylaws and operating decisions of a common governing board. All authority in management flows from this governing board, which has final administrative responsibility, approves all personnel actions, appoints medical staff, and carries out similar management functions.

2. The ESRD facility's director or administrator is under the supervision of the hospital's chief executive officer and reports through him to the governing board.

3. The facility personnel policies and practices conform to those of the hospital.

4. The administrative functions of the facility (that is, records, billing, laundry, housekeeping, and purchasing) are integrated with those of the hospital.

5. The facility and hospital are financially integrated, as evidenced by the cost report, which must reflect allocation of hospital overhead to the facility through the required step-down methodology. (See § 2326 of the Provider Reimbursement Manual, HCFA–Pub. 15–1).

The existence of an agreement between a facility and a hospital with respect to the referral of patients, a shared service arrangement between a facility and a hospital (a common arrangement recognized by both Medicare and Medicaid), or the physical location of a dialysis unit on the premises of a hospital, does not mean that a facility is hospital-based and would not be considered in determining the status of the facility.

III. Rate Setting for Dialysis Treatment

A. General Overview

We propose to establish a prospective rate-setting methodology for dialysis services that establishes composite rates for home and in-facility treatments based on a methodology that distinguishes between hospital-based and independent facilities. Each facility will receive a certain payment rate per treatment that will be adjusted to account for geographic differences in the costs of labor. The average adjusted payment per treatment for independent facilities would be $128. The average adjusted payment per treatment for hospital-based facilities would be $132. A facility would receive this amount per treatment regardless of whether the treatment was furnished in the facility or in the patient's home. There would be no year-end adjustments to ensure that the facility received no more or less than its allowable reasonable costs. If a facility's costs per treatment were less than its payment rate, it would be allowed to retain the difference; if its costs were greater, it would not be able to recover them, unless it had requested and received a higher payment rate under the exception process.

B. Using Cost Per Treatment as the Basis for Our Rate

We think that the provisions of the statute contemplate reimbursement based on the allowable costs of an efficiently and economically operated facility. We also think that a payment per treatment session is the most obvious unit of reimbursement. However, it is important to recognize that, while dialysis treatments are generally comparable from patient to patient and from setting to setting, we do not have a uniformly accepted, definitive model for a dialysis session. There are no uniform standards for the numbers and qualifications of personnel, or for staff-to-patient ratios, and the dialysis service seems to vary in intensity of care depending on the patient's health status.

The cost of furnishing dialysis also varies widely. Some facilities reuse dialyzers, make greater use of paramedical or nonprofessional personnel, or have lower staff-to-patient ratios. We do not know at this point what the optimum combinations are and how the cost of dialysis correlates to these variables. For example, we do not know whether as many patients of high-cost facilities actually require as high a level of care as indicated by the costs. Nor do we know the extent to which patients participate actively in their own care in order to reduce labor costs.

In the absence of a definitive standard for an efficiently and economically operated facility (which could presumably be costed out), we have turned to an approach that compares to the costs of furnishing services incurred by a range of facilities and sets the reimbursement level at what appears to be an adequate level to reimburse an efficiently and economically operated facility. This leads us to focus on the median of the facility costs, as reflected by the per treatment costs of a sample of facilities. We look to the median, rather than the average, because of the skewed distribution that exists in ESRD facility costs. For example, in our sample of independent facilities, the cost per treatment ranged from $85 to $214. The consensus of statistical expertise advises us that, in cases in which there is a skewed distribution, the median is a better measure of central tendency than the mean, since the atypically high or low cost facilities do not tend to distort the measure when a median is used.

The next issue is whether to weight cost per treatment of each facility in the sample by the number of treatments furnished by the facility. We are proposing not to do so, in order that each facility's experience will be considered equally in constructing the rates regardless of the number of treatments it furnishes. This will more fully reflect the mix of facilities furnishing dialysis services. This causes a moderate elevation of the level of the median cost per treatment above what it would be if we weighted facility costs by volume of treatments.

C. Costs To Be Included in Setting the Rate

We propose to determine reasonable costs of the sampled facilities in accordance with the principles of provider reimbursement as described in 42 CFR Part 405, Subpart D, except for the following sections. These are specifically listed in the proposed rule as not applicable for reporting ESRD facility costs for reasons explained in section II.E. of this preamble:

- 42 CFR 405.429 Return on equity capital of proprietary providers;
- 42 CFR 405.430 Inpatent routine nursing cost differential;
- 42 CFR 405.436 Reimbursement of Organ Procurement Agencies (OPA) and histocompatibility laboratories; and
- 42 CFR 405.454 Payment to providers, through
- 42 CFR 405.460 Effect of principles.

In our audits, we have also excluded costs as unreasonable if they did not meet the criteria set forth in § 405.451, which concerns costs related to patient care. However, when the prospective system is established, we will not apply this section to ESRD facilities, because it is stated in terms referring to retrospective reimbursement and cost settlement that are inappropriate for the prospective system, although we would restate certain principles from this section in the prospective reimbursement regulations.

We would include the cost of furnishing routine ESRD laboratory services in the cost per treatment calculations. (Under our regulations at § 405.231(o), these services are defined as integral to institutional dialysis services.) Under the proposed prospective reimbursement system, facilities will be required to furnish routine laboratory tests as an integral part of the dialysis treatment, either directly or under an arrangement as defined in our regulations at § 405.2102(b). In either case, we will include an amount in the prospective rate for these costs. Thus, if a dialysis facility has its routine testing done under arrangement with an independent laboratory, it would have to pay the laboratory itself, out of its prospective rate. Independent labs will not be permitted to bill the program directly for routine tests. There will be no change in billing and reimbursing nonroutine laboratory tests. These tests would still be billed and paid for separately, by either the facility or the independent lab.

For reasons given below, we would exclude the following items from allowable costs for determining cost per treatment:

(1) Costs of physicians' direct patient care services,

(2) All bad debts, and

(3) Any return on equity capital.

We would exclude the first item because these costs will be paid for under other arrangements and, therefore, will not be part of the facility's basic prospective reimbursement dialysis treatment. We would exclude bad debts because they would be paid as a separate adjustment at the end of the year. We would exclude any return on equity capital because we believe the prospective system provides sufficient opportunity for return for facilities that operate efficiently and economically.

D. Introduction

In developing these proposals, we have been mindful not only of the need to provide fair and equitable reimbursement with an incentive for efficient operation, but also of the concerns expressed by the HHS Inspector General about our current method of reimbursement. Based on the audit activities of his staff, the Inspector General has expressed concern that the cost data available to us may be overstated in some cases and that our present level of reimbursement may be higher than would be justified by more reliable cost information. Because we were not confident that the cost data otherwise available to us were consistently reliable, we conducted audits and cost reviews of selected ESRD facilities.

Costs of In-Facility Treatment

In March, 1980 we selected a stratified sample of 110 facilities from the total universe of 825 non-Federal ESRD facilities furnishing in-facility outpatient maintenance dialysis services at that time. (This number is significantly smaller than the total number of ESRD centers and facilities because it excludes Veterans Administration and Public Health Service hospitals, and all hospitals with no dialysis outpatients.) Our initial sample included 70 of the 537 hospital-based facilities in the universe, and 40 of the 288 independent facilities.

Since, at that time, we were planning to implement a four-celled rate (setting separate rates for urban hospital-based, urban independent, rural hospital-based, and rural independent facilities), we divided the universe of ESRD facilities into four groups corresponding to the four cells as described, and then stratified these groups by total reported costs. The source of the total reported costs was the Renal Disease Facility Cost and Statistical Questionnaire (Form HCFA–9734) filed by all ESRD facilities annually and accumulated in the ESRD cost analysis system maintained by HCFA. From this array, we selected facilities from each stratum (e.g., urban independent facilities with reported annual costs of $500,000 or less) according to a statistical optimum allocation technique.

After we selected the sample, personnel from selected Medicare intermediaries, supervised by HCFA central office representatives, audited the costs reported by each selected facility on its Form HCFA–9734. For each independent facility, the auditors reconciled the reported costs directly to the facility's financial records, using either its general ledger or an audited financial statement. For each hospital-based facility, the auditors performed a desk review and reconciled the HCFA 9734 to the hospital's previously submitted and reviewed cost report (HCFA 2562). The auditors determined reasonable costs by the Medicare principles of provider reimbursement set forth in 42 CFR Part 405, Subpart D.

Our final audit results include cost data on 67 hospital-based facilties and 38 independent dialysis facilities. We excluded three hospital-based facilities because we found that they did not, in fact, furnish enough outpatient treatments to be included in our sample. We excluded two independent facilities because the information they gave us was not sufficient to determine their actual allowable costs.

The audits resulted in adjustments to independent facilities that reduced the total reported costs for all facilities by about 15.0 percent of the total costs reported on the HCFA 9734. Of this, only about 2 percent was eliminated because of reconciliation of reported costs to the general ledger or audited financial statement. The remaining adjustments, nearly 98 percent, were made to exclude costs that are not allowable under Medicare. The median cost of the independent facilities was approximately $108 after adjustments. The facilities' costs ranged from a low of

$80 per treatment to a high of $214 per treatment.

The net effect of the adjustments to the reported costs of the hospital-based facilities was a reduction of about 3 percent. These adjustments were primarily due to eliminating inpatient hospital costs from the outpatient renal department. The median cost of the hospital-based facilities was approximately $135, with a range of $86 to $277.

The most significant adjustment to the audited costs of the independent facilities concerned compensation of administrators and medical directors, which accounted for 23 percent of the total adjustment. We applied a limit of $32,000 per year to these positions, which is the limit applied to administrators of 50 to 99 bed hospitals in HHS Region I, the region with the highest compensation allowances. (Chapter 9 of the Medicare Provider Reimbursement Manual explains our procedures for determining limits for reasonable compensation.) The most significant adjustment to the hospitals' costs was for the costs of supplies, which accounted for 25 percent of the total adjustments.

After the audits were completed, we performed the following steps on the data for each sampled facility.

1. We organized the data by the sample strata, described above. This included, for each facility, an amount representing the total outpatient costs, adjusted by exclusions, reconciliations, and reallocations.

2. From each facility's adjusted total outpatient costs, we substracted:

(a) All costs for physicians' direct patient care (supervisory) services, if physicians are reimbursed under the initial method; and

(b) Any excessive compensation paid to an administrator or medical director.

3. For the 15 percent of the sampled independent facilities that did not have laboratory costs to report, we added an adjustment amount to represent the cost of routine ESRD laboratory tests.

4. For each facility, we divided the resulting net total cost by the corresponding number of outpatient maintenance dialysis treatments. This gave us a net total cost per treatment (CPT) for each facility.

5. We divided each facility's net total cost into labor and nonlabor components and determined the ratio of labor cost to total costs.

6. We multiplied the CPT for each facility by the labor cost ratio for that facility. This gave us the labor cost per treatment.

7. We subtracted the labor CPT from the net total CPT to determine the nonlabor CPT. (Nonlabor costs included supplies, medications, machine costs, such as depreciation, rental, and maintenance, and the nonlabor portions of routine laboratory services, general overhead, and other indirect costs.)

8. To adjust for geographic wage differences, we divided each facility's labor CPT by the appropriate area wage index.

The data from and reports on these audits are available for public review at the Department's office in Washington listed under "Address" above.

Costs of Home Dialysis

Our data on the cost of home dialysis were more limited than our data on in-facility dialysis. Therefore, when Pub. L. 97–35 was enacted, our first priority was to obtain accurate data on the cost of home dialysis. We selected 23 dialysis facilities and two State kidney programs around the country that had home programs.

The HHS audit agency visited each of these facilities and reviewed its costs. Because of limited time, the audit agency did not attempt to make adjustments as to the reasonableness of these costs, but simply accepted the costs as reported. Although the facilities represented less than 5 percent of the total number of ESRD facilities with home programs, it included 10 of the 13 largest home programs and represented almost 30 percent of all home patients. The facilities were located in 15 States and in all 10 HHS regions.

The objectives of these cost reviews were first, to determine the average cost per treatment of home dialysis by mode of treatment (that is, hemodialysis, continuous ambulatory peritoneal dialysis (CAPD), on intermittent peritoneal dialysis (IPD), and, second, to break down these costs per treatment into labor and nonlabor cost components. Due to severe time constraints, it was impossible to actually determine if all costs were reasonable and allowable under Medicare principles of reimbursement, or to establish rigorous comparable cost centers in any detail. However, we believe our cost review results reasonably represent the median costs of furnishing home dialysis.

Results by mode of treament	HEMO[1]	CAPD[2]	IPD[3]
Number of home programs	25	17	13
Number of facilities providing the full range of services	10	8	3
Median cost per treatment	$97	$114	$111
Highest cost facility	$156	$202	$163
Lowest cost facility	$63	$54	$74

[1] HEMO is hemodialysis.
[2] CAPD is continuous ambulatory peritoneal dialysis.
[3] IPD is intermittment peritoneal dialysis.

Because relatively few facilities were surveyed, we weighted these costs per treatment in proportion to the estimated percentage of patients treated under each mode. Computed in this manner the weighted cost per treatment for home dialysis is about $97, of which around $12 per treatment is labor cost, and $85 per treatment nonlabor costs.

E. Rates for Independent and Hospital-Based Facilities

Section 2145 of Pub. L. 97–35 requires us to establish prospective rates of payment for dialysis services. One method of rate determination permitted by the statute would establish a single composite weighted rate for services furnished in hospital-based facilities and for services furnished at the patient's home by such facilities based on the mix of patients who receive dialysis services at the facility and at home and the relative costs of providing services in each setting. A similar single composite weighted rate would be established for home and in-facility services provided by independent facilities. In lieu of this methodology, the statute permits the Secretary to adopt other methods of rate setting, which differentiate between hospital-based facilities and independent facilities, and which the Secretary determines, after detailed analysis, will more effectively encourage the more efficient delivery of dialysis services and will provide greater incentives for increased use of home dialysis than through the single composite weighted formulas.

These new provisions on the methods of establishing prospective rates supplement the basic standard in section 1881(b)(2)(B) of the Act, which requires that payments be determined on a "cost-related basis or other economic and equitable basis * * *." Accordingly, a fundamental standard is that the rates must be economic and equitable, as well as promote the increased use of home dialysis.

Reading the statute as a whole, we conclude that Congress intended for us to set rates that are economic and that at the time differentiate between hospital-based facilities and independent facilities based on justifiable differences in costs incurred by each type of facility. Therefore, our basic approach is to identify the legitimate costs of what appear to be economically and efficiently operated dialysis facilities and then, in setting the rates, to make adjustments to reflect costs or savings attributable to operation as a hospital-based facility or as an independent facility. Our audit of ESRD in-facility costs showed that costs

being incurred by hospital-based facilities were generally higher than costs being incurred by independent facilities. Dividing all costs into three components—labor, overhead, and supplies—median costs per treatment for hospital-based facilities exceeded median costs for independent facilities by the following amounts:

a. Labor	$20.00
b. Overhead[1]	7.50
c. Supplies	4.00

[1] Portions of reported overhead are also included in the labor cost. Therefore, the sum of a, b, and c is greater than the difference between hospital and independent costs.

As noted above, the first step in setting the rate is to identify the legitimate costs of economically and efficiently operated facilities. One possibility would be to identify particular facilities that we determined, upon inspection, to be economically and efficiently operated. This option is highly subjective and imposes great administrative burdens and therefore has not been used. Another possibility is to select a group of facilities based on their relative cost experiences. For example, we could take, as representing efficient and economic operation, the costs incurred by low-cost independent facilities.

In order to reach a rate that is economic and equitable, as required by the statute, we propose to ascertain an efficient level of costs by considering the actual costs of all the facilities subject to our audits, both hospital-based and independent facilities. Beginning with that data base, we propose to consider the median costs of those combined facilities to approximate, as the first step in our analysis, the economic costs of providing dialysis services.

The next step in our analysis is to identify legitimate cost differences attributable to operation as hospital-based or independent facilities. As noted above, median hospital costs identified in our audit exceeded median independent costs in every category. Some of these excess costs have been implicitly recognized through inclusion of hospital-based facilities in our sample of audited facilities. The issue is whether we should more fully recognize any additional excess costs incurred by hospital-based facilities.

There is no justification for hospital-based facilities as a class to pay more for supplies than independent facilities, since the supplies are identical. While the independent facilities may make greater use of volume purchasing, there is no reason to conclude that hospitals that fail to do so to a similar extent are operating efficiently.

Some hospital units claim that one reason they have higher labor costs than independent facilities is that they treat more patients with multiple conditions or other complications (including the elderly and pediatric patients) that require more highly trained staff and more staff per patient. The data presently available to use through our medical information system do not support this claim. We have examined age, sex, race and utilization rate (discharges and days of care) differences between hospital-based and freestanding facilities. The differences were small and did not approach statistical significance. We conclude, therefore, that with respect to these measures of patient need, there is no great difference between hospital based and independent facilities. For the initial set of rates we propose to allow no specific differential for labor cost, and would require any hospital that can demonstrate a more complex case-mix requiring higher labor costs than are incurred by a typcial facility (for example, pediatric, nonstable patients, etc.) and seeks an exception to the rates to support both the basis for the exception and the precise amount of any related labor differential.

Additionally, some hospitals claim that the Medicare cost-finding and reporting procedures require the allocation of excess overhead cost to their outpatient renal dialysis units. We believe this claim to be valid, and propose to allow the hospitals the additional overhead. This differential is $2.10 per treatment between the median costs of hospitals alone and the median of the combined sample of hospitals and independent facilities.

F. Composite Rates for Home and In-Facility Dialysis

Section 2145 of Pub. L. 97–35 gives preference to a rate-setting method that combines two components—the cost of in-facility dialysis and the cost of home dialysis—to yield a composite rate that would be paid to a facility for all its dialysis treatments, whether furnished in the facility or at home. The composite rate would promote home dialysis by reimbursing the less expensive home dialysis at the same rate as the more expensive in-facility dialysis. The resulting greater profit margin for home dialysis would create incentives for the facilities to furnish home dialysis and to encourage patients to switch from in-facility to home dialysis. At the same time, the composite rate would pay marginally less than the full cost for in-facility dialysis because of the home component in the formula. Of course, it is the composite nature of the rate, rather than the precise dollar level of the rate, which creates the incentive for facilities to encourage the less costly treatment modes.

In computing a composite rate, we would weight the per treatment costs of home and in-facility dialysis by some factor representing the proportion of patients dialyzing at each location. We have applied the percentage of home dialysis patients served by hospitals to calculate the hospital composite rate, and the percentage of home dialysis patients served by independent facilties to calculate the independent facility composite rate.

G. Adjusting Rates for Geographic Wage Differences

The Conference Committee Report on Pub. L. 97–35 (H.R. Rep. No. 97–208, 949) indicates that the rates should reflect local wage differences. Based on the data collection activities of the Bureau of Labor Statistics (BLS), we believe that we can adjust payments by an area wage index figure that expresses the relation of local wage levels to the national average. We originally developed these area wage indexes for use in determining cost limits for hospitals, in order to account for geographic differences in the levels of labor-related costs.

We considered developing a wage index based on salary data from Medicare ESRD cost questionnaires. These data are not highly reliable because they do not represent audited costs and they are not sufficiently accurate and detailed to develop an index. A wage index specifically related to ESRD facility experience may eventually become possible through our continued evalution of ESRD cost data or development of additional sources of wage and salary information. Until that time, these area wage indexes are based on most appropriate data available, which we believe are the BLS data used for the Medicare hospital cost limits.

In an appendix to these proposed regulations, we explain how these area wage indexes are calculated, and reprint the indexes used to adjust our audit data and compute the impacts of our proposals. As explained there, the indexes for this proposed rule do not reflect the most recent available BLS data or changes in the Standard Metropolitan Statistical Areas (SMSAs) which have occurred as a result of the 1980 census. When we publish final regulations, we will print area wage indexes based on the most recent available data.

Under the proposed prospective reimbursement system, we will be using

the area wage indexes in two ways, each of which is related and complements the other. First, when we calculate the basic rate component representing labor costs, we *divide* the labor portion of costs for each sampled facility by the appropriate area wage index. This makes the costs more comparable between facilities, because differences due to local wage levels are minimized. Second, when we calculate a payment rate per treatment for a particular facility, we *multiply* the basic rate component for labor costs by the appropriate area wage index. This reintroduces a consideration of local wage levels, ensuring that a facility in an area of high labor costs will not be paid an inappropriately uniform rate.

H. Adjustments in Setting the Rate

Once we determine the costs per treatment for dialysis conducted by efficiently and economically operated facilties, as approximated through the analysis discussed above, an adjustment may be appropriate. The analysis above has proceeded from the assumption that the median costs incurred by all the audited ESRD facilties is a good approximation of the legitimate costs of economic operation. There may be reason to use a percentage below or above the median however, to account, for example, for possible deficiencies in the audit data or to accommodate other pertinent considerations.

We propose not to make any adjustment in the case of the independent facilities but rather to use the medium cost levels as determined above. A payment level less than the median might be justified because the median selected, which includes both hospital-based and independent facilities, is significantly higher than the median for independent facilities alone. (The median cost for all facilities combined was about $128, compared to $108 for the independents alone.) Nevertheless, for the initial rates, we believe that it is appropriate to base the rate on median costs to account for any deficiencies in the data used.

We propose to set the rate for hospital-based facilities at 105 percent of the median costs. This adjustment to the initial rates is intended to accommodate the possibility that the methodology used has failed to recognize fully the legitimate costs of hospitals, either because of shortcomings in, or the age of, the data and the fact that the compositing structure forces the hospital rates below the median costs of all facilities. It is appropriate to use an adjustment for hospital-based facilties and not for independent facilities because hospital costs revealed by our audits tended to be relatively high, whereas median costs of the independent facilities were well below the payment rate proposed to be established. Therefore, any deficiencies in the data would impact the hospital-based facilities more than the independent facilities. In addition, the use of composite rates has a greater immediate effect on the hospital-based facilities, because the percentage of home dialysis patients is greater for hospitals than for independents. (This adjustment is in addition to recognition of $2.10 per treatment for legitimate excess overhead cost, as discussed above.)

We considered whether an adjustment should be made specifically to account for any inflation in costs that may have occurred since our audits were conducted of reports for fiscal years ending in 1977, 1978 and 1979. We concluded that no specific adjustment is appropriate. In general, the evidence indicates that the provision of dialysis services has been characterized by increased efficiencies. The payment screen has been $138 since 1974. Despite the general inflation since then, a large number of dialysis facilities have been opened during the period. There were 606 facilities when the program began (July 1, 1973), as compared to 1120 facilities as of October 1, 1981. This industry growth has continued since these audits (909 facilities in 1978 vs. 1120 at present), from which we can infer that efficiently operated facilities are not incurring suddenly rising costs. Moreover, the new prospective rate structure offers substantial opportunity for additional profit, through transfer of patients to less costly home dialysis and through implementation of cost saving efficiencies that, for the first time for hospital-based facilities, will not result in reduction of revenue. The prospective system is intended to emphasize future incentives rather than past or present costs. Accordingly, the proposed methodology does not include a specific inflation factor. The use of 105 percent of the median to set the payment rate for hospitals and the use of the median of all facilities (including the higher cost hospitals) to set the payment rate for the independent facilities represents our best judgement as to the need for adjustments to Medicare costs, taking into account all the variables discussed above.

I. Summary of Proposed Methodology and Rates

Applying the principles described above to the data from our facility audits and home dialysis cost studies, we derived the basic components from which national payment rates would be derived.

Median costs per treatment	Median costs per treatment		Total
	Adjusted labor cost	Nonlabor cost	
All facilities	$54.06	$71.47	$125.53
Independents	40.79	66.87	107.66
Hospital-based	61.17	73.94	135.11
Home dialysis cost (all)	11.79	85.09	96.79
Overhead cost differential of hospitals over all facilities		2.10	

Location of patients	In percent	
	Home	In-facility
Independents	10.5	89.5
Hospital-based	23.5	76.5
Total	17.0	83.0

We have computed the following prospective base rate components, based on the above data components. We propose to use these rate components to compute the composite reimbursement rates per treatment for in-facility and home dialysis. The basic prospective rate for each facility would apply directly to all hemodialysis treatments. We discuss below how these rates would also be applied to peritoneal dialysis treatments.

	Components		Total base rate
	Labor	Nonlabor	
Independent facilities	$49.81	$72.90	$122.51
Hospital-based	46.31	80.09	426.40

Since the actual payment for each facility will be calculated by adjusting the labor component by an area wage index, the actual average payment will be about $5 higher than the base rate, because most ESRD facilities are located in areas that have a wage index value greater than 1. The area wage index also introduces a substantial variation among the actual rates paid, as explained below.

Deriving the Independent Facility Rate

1. We compute the nonlabor composite cost component by multiplying the median of the nonlabor cost per treatment for all facilities by the national percentage of independent facility patients dialyzing on an outpatient basis in the facility, and adding the result to the product of the median nonlabor cost of home dialysis and the national percentage of independent facility patients dialyzing at home.

($71.47 × .895) + ($85.09 × .105) = $72.90

2. We compute the labor composite cost component by multiplying the median of the labor costs for all facilities by the national percentage of independent facility patients dialyzing on an outpatient basis, and adding the result to the product of the median adjusted labor cost of home dialysis and the national percentage of independent facility patients dialyzing at home.

($54.06 × .895) + ($11.70 × .105) = $49.61

3. Using these components, the payment rate for an individual independent facility would be calculated by multiplying the labor composite cost component by the appropriate area wage index and adding the result to the nonlabor composite cost component. The average payment per treatment would be around $128, ranging from a low of around $109 to a high around $143.

Deriving the Hospital-Based Facility Rate

1. We compute the nonlabor composite cost component in several steps. First, we add the hospital overhead cost differential to the median nonlabor cost per treatment for all facilities. We then multiply this by 1.05 (105 percent) and by the national percentage of hospital-based facility patients who dialyze in the facility. We add the result to the product of the median nonlabor cost per treatment of home dialysis multiplied by 1.05 and by the national percentage of hospital-based facility patients who dialyze at home.

((71.47 + 2.10) × 1.05 × .765) + ($85.09 × 1.05 × .235) = $80.09

2. We compute the labor composite cost component by multiplying the median of the labor cost per treatment for all facilities by 1.05 and by the national percentage of hospital-based facility patients who dialyze in the facility, and adding the result to the product of the median labor cost per treatment of home dialysis multiplied by 1.05 and by the national percentage of hospital-based facility patients who dialyze at home.

(54.06 × 1.05 × .765) + (11.70 × 1.05 × .235) = $46.31

3. Using these components, the payment rate for an individual hospital-based facility would be calculated by multiplying the labor composite cost component by the appropriate area wage index and adding the result to the nonlabor composite cost component. The average payment per treatment would be around $132, ranging from a low of around $114 to a high around $146.

IV. Rate-Setting for Physician Monthly Capitation Payments

A. Background

As explained in section I.C.3., there are now two methods of reimbursement for physicians: one known as the initial method, and the other known as the alternative reimbursement method (ARM).

The initial method reimburses for routine physician patient care services furnished during an in-facility dialysis episode through the facility dialysis reimbursement rate. For home dailysis, initial method physicians must bill fee-for-service and can only be paid for the actual "hands-on" services they furnish. Physicians do not see home patients often, so there is less economic incentive to have a patient dialyze at home than in a facility.

Under the ARM, payment for physicians' direct patient care is made to or on behalf of the beneficiary directly—not through the facility. The ARM payment is a fixed comprehensive amount each month for almost all of the physician's renal-related patient care services. Under the ARM, the program has more control over physician reimbursement because only a single comprehensive payment is paid each month. There is a separate lower ARM payment if the patient is dialyzing at home, reflecting the lesser physician involvement for home dialysis patients. As of the end of 1980, three-fourth of all dialysis treatments were furnished by physicians reimbursed under the ARM.

The 1981 Omnibus Budget Reconciliation Act retained the explicit statutory authority in section 1881(b)(3) of the Act to reimburse physician services under alternative methods. It also required the Secretary to encourage the efficient delivery of dialysis services and home dialysis through physician reimbursement just as is required through facility reimbursement. Since, under the initial method, physicians do not see home patients often there is less economic incentive for them to refer their patients for home dialysis. The initial method is therefore not well suited for promoting home dialysis and we are accordingly proposing to discontinue this option in order to fulfill the objectives of the 1981 amendments.

We propose to pay for all physician reimbursement for direct patient care services related to routine maintenance dialysis treatments on the basis of monthly capitation payments, similar to the current ARM. This will also impose less administrative burden (simpler paperwork and fewer bills) and better program management. However, we believe that we must modify the rate-setting basis in order to equalize payments for services related to home and in-facility dialysis, and to reflect current practice more accurately.

B. Current Rate-Setting Under the Alternative Reimbursement Method

Fees for services under Medicare Part B for a physician's service are based on reasonable charges, whch may not exceed the lowest of (1) the physician's actual charge for the service, (2) his or her customary charge for that service, or (3) the prevailing charges of physicians for similar services in the locality. The prevailing charge for a service, before adjustment for an economic index, is calculated at the 75th percentile of physicians customary charges. Section 1842(b)(3) of the Social Security Act and HCFA regulations at 42 CFR 405.504 further require that the prevailing charge for a service in a locality not exceed the level in effect for that service in the locality on June 30, 1973, except to the extent justified on the basis of appropriate indicators of economic change. The economic index adjustment is published in the **Federal Register** each year (most recently on June 30, 1981, at 46 FR 33651).

The National Medicare Directory of Prevailing Charges lists local charges (for about 260 geographical areas) for the most frequently performed medical procedures. These are assigned procedure codes based on the California Relative Value Studies (CRVS), which refer to exemplary descriptions of typical services. (This public document, available without charge to any beneficiary or organization expressing a need for the information, is currently being reprinted and will be distributed later this Spring.)

We currently set the ARM monthly allowance based on prevailing charges for a medical specialist's brief follow-up office visit to an established patient (CRVS Code 90040). For a particular locality, we would multiply the prevailing charge for this service by 20 for in-facility dialysis, and by 14 for home dialysis. (We also set a maximum monthly allowance of $280 and $182 respectively.) The home to in-facility payment differential is based on expert medical advice that a physician can handle more patients at home, on the average, than in a facility, in a 10:7 ratio. Under our regulations at 42 CFR 405.542(b), these monthly payments are not automatically updated by the economic index used to adjust prevailing charges for fee-for-service physician payments under Part B. Instead, we monitor the program and update the payments as necessary in

light of ESRD program objectives and experience to reflect changes in their charging practices and modes of furnishing services, and to assure fairness.

Currently, these payments range from $100 to $260 for in-facility dialysis and from $126 to $182 for home dialysis.

C. Proposed Rate-Setting Methodology for Physician Capitation Payments

We propose to establish equal monthly capitation payment for both home and in-facility dialysis, using a composite weighting formula to account for the proportion of patients currently dialyzing at home. We propose also to revise the basis for relating the capitation payment to prevailing charges for certain medical procedures using the most recent available prevailing charges.

Typically, dialysis patients dialyze between 2 and 3 times per week. Some patients dialyze routinely at a frequency of twice per week, while some patients occasionally miss a dialysis session. At the same time, the physician monthly payment represents payment for some services that may be furnished at a time other than during a dialysis. As a balance between these two considerations we propose to base the monthly payment on 149 dialysis sessions per patient per year, or 12.4 dialysis sessions per patient per month.

We propose to use this figure of 12.4 sessions as a base multiplier. This multiplier would be applied to the local prevailing charge for a medical specialist's brief follow-up office visit for an established patient (CRVS Code 90040). (Note that we are assuming that a physician will see the patient during every dialysis session, and that every patient dialyzes 149 times per year.) We would then add to the resulting figure an amount representing a routine monthly examination, based on the prevailing charge for an intermediate follow-up office visit (CRVS Code 90060).

We would weight this sum for the national averages of patients dialyzing in-facility (83 percent) and at home (17 percent). We would weight for the in-facility proportion by multiplying the sum based on the medical procedure model by .83, and would weight for the home proportion by multiplying the base sum by .17. We then multiplied that result by .7, which represents the 10:7 facility/home physician treatment capability ratio used under the current ARM.

We expect this to yield an average monthly capitation payment of $164.08. We computed this by using the median prevailing charges for CRVS Codes 90040 ($13.96) and 90060 ($20.87) in place of local charges, as follows:

($13.96 × 12.4) + $20.87 = $193.97 (base sum)
$193.97 × .83 = $161.00 (portion weighted for in-facility treatments)
($193.97 × .17) × .7 = $23.08 (portion weighted for home treatments)
$161.00 + $23.08 = $184.08

Once a physician's rate is set by this methodology, it will be held constant and will not be automatically updated by the carrier's prevailing charge data. The rate would only change when, after review of the rates, we determine that the data justifies an update. We will regularly review physician reimbursement at the same times that we review the level of the prospective payment rates for facility dialysis services.

V. Additional Issues

A. Prospective Rates for Self-Care Dialysis Training

Self-care dialysis training services are services that train ESRD patients to perform dialysis in the facility or in the home with little or no professional assistance, and train other individuals to assist patients in performing dialysis. Under Medicare, self-care dialysis training sessions have always been reimbursed based on a screen that is $20 more than the screen amount applicable to outpatient maintenance dialysis, except when an exception has been approved. In the absence of reliable cost data to the contrary, we propose to reimburse self-dialysis and home dialysis training sessions by an amount $20 more than the prospective rate for outpatient maintenance dialysis sessions. Facilities that have justifiable costs greater than this will continue to be able to apply for an exception. We will review whether this figure should be adjusted and welcome additional data on this point.

B. Prospective Reimbursement Rates for Peritoneal Dialysis and New Dialysis Techniques

Under Medicare, peritoneal dialysis has always been subject to the same reimbursement rules as hemodialysis sessions in the facility. As a result of medical consultations, we established an equivalence between peritoneal dialysis and hemodialysis. Peritoneal dialysis is usually done in sessions of 10–12 hours duration, three times per week. The dialysate, tubing, machines and level of skilled labor required for hemodialysis and peritoneal dialysis are similar, and, in the absence of cost data to the contrary, we set the reimbursement for intermittent peritoneal dialysis sessions at the same level as for hemodialysis.

Later case experience showed that sometimes peritoneal dialysis was furnished in a single extended session of 30 hours or more in a week, in place of three separate sessions. Because the labor, overhead and supplies were more related to the total time in dialysis than the number of separate sessions, we reimbursed the extended session the same as three normal dialysis sessions in a week. Further case experience indicated the need for another intermediate reimbursement level to correspond to changing medical patterns. As a result, we provided that peritoneal dialysis session of 20 hours duration furnishing twice per week be reimbursed at a rate equivalent to one and one-half times the payment for a hemodialysis session. We invite comments on the use of these equivalencies and suggestions on other means of determining reimbursement for peritoneal dialysis that would more accurately reflect the costs of services.

We must also set equivalencies for applying the propective payment rates to continuous ambulatory peritoneal dialysis (CAPD) and other new techniques of dialysis. As discussed in Section III. D., we included the costs of these treatment modes in our calculation of the weighted costs per treatment of home dialysis. CAPD is furnished on a continous basis, not in discrete sessions and therefore we cannot pay on a per session basis. We propose to pay for CAPD on a weekly basis setting the weekly payment rate for CAPD at three times the per treatment incentive payment rate (corresponding to the usual hemodialysis schedule of three sessions per week) for the ESRD facility through which monitoring and support services are furnished. We proposed to pay for continuous cycling peritoneal dialysis (CCPD) and other techniques on the same basis.

Additional Incentives for Expanded Use of Continuous Ambulatory Peritoneal Dialysis and Other Forms of Home Dialysis

The development of continuous ambulatory peritoneal dialysis, "CAPD," in 1979 has helped reverse the decline in the use of home dialysis. When the ESRD program began in 1973, about one third of all dialysis patients were treatment at home. Patients treated at home declined to all time low of 12 percent in 1978. Since CAPD became generally available in 1979, patients treated at home have increased to 17 percent of the total. Since home dialysis is a less expensive alternative to

dialysis conducted in facilities, its growth will help control the escalating cost of the ESRD program.

CAPD is the preferred treatment for may patients because it causes relatively little disruption in the patient's life. The treatment does not tie patients to machines, so they are free for work and other activities. Also, many patients feel better because of the continuous, rather than intermittent, treatment. Since this form of treatment does not require extensive changes in the patient's home or the use of assistants, it is suitable for many patients who would not elect other forms of home dialysis.

Because of the potential benefits to many patients and to the Medicare program, we would like to provide facilities and physicians with incentives to serve patients who are appropriate candidates for CAPD. The composite rate that we are proposing for paying facilties and physicians would provide more incentive for CAPD and other forms of home dialysis than the current system. We welcome comments on other changes that would encourage expanded use of CAPD and other forms of home dialysis.

C. Bad Debts

Under retrospective cost reimbursement, we currently allow providers, including hospitals with dialysis facilities, to make a specific write-off of Medicare bad debts, for which we make a special payment at the end of the provider's accounting period. Medicare bad debts, which are defined and governed by regulations at 42 CFR 405.420, are those deductible and coinsurance amounts for which beneficiaries are liable and which, when uncollectable, result in providers being reimbursed less than costs. Since, under Part A of the Medicare program, costs of covered services furnished beneficiaries are not to be borne by individuals not covered by Medicare, the program will pay that part of uncollectable deductible and coinsurance amounts that brings the total of a provider's reimbursement up to the costs of these services. Conversely, since the statute requires that the program pay only for the costs of services related to care of beneficiaries, reimbursement for bad debts is limited in that we will not pay any amounts that would result in total reimbursement exceeding a provider's Medicare reasonable costs. In addition, to claim Medicare bad debts as allowable costs, a provider must have attempted to collect the amounts in accordance with program requirements.

Currently, independent facilities are expected to absorb bad debts within the level of their charges. However, under the proposed prospective reimbursement system it will be necessary to treat bad debts the same for both hospital-based and independent facilities. We considered, and discussed in the 1980 NPRM, the possibility of including an amount for bad debts in the rate, but have decided against it. Instead, we plan to pay all dialysis facilities 100 percent of allowable Medicare bad debts, up to their reasonable costs, in a separate payment at the end of each facility's cost accounting period.

D. Patient Billing

In many cases, home dialysis equipment may be rented or may be purchased under a lease-purchase arrangement. (Where a facility or State program has an agreement with HHS to be reimbursed 100 percent of its costs for home dialysis equipment and related maintenance, the equipment must be purchased; it may not be rented.)

Most home dialysis patients bill Medicare directly for their supplies or equipment. About 10 percent of home patients receive equipment and related services under a 100 percent reimbursement agreement. These direct billing practices would continue to be permitted under the proposed regulations, although they detract from fulfilling the statutory objectives of encouraging home dialysis. The theoretical incentive which the composite rate gives facilities to move patients from in-facility dialysis to home dialysis works only if the facility retains responsibility for the home patient's dialysis.

The composite rate would be more effective if all billing for all of the components of the home dialysis service were to flow through the facility. Moreover, all reimbursement would go through a common point and would be more easily monitored and controlled. In addition, the facility could take advantage of bulk purchase discounts not available to individual patients. While the Ways and Means Committee Report accompanying the 1981 statutory changes indicates that the facility should be responsible for all items and services, (H.R. Rep. No. 97–143, Part 1, 72–76) section 1881(b)(1) of the Social Security Act (which was not amended by the Pub. L. 97–35) still permits home dialysis patients to bill for supplies and equipment. Accordingly, the proposed regulations would not limit a patient's right to bill directly.

E. Home Dialysis Aides

Home hemodialysis and intermittent peritoneal dialysis (IPD) patients require the assistance of an aide to dialyze at home. CAPD (continuous ambulatory peritoneal dialysis) patients do not. Presently many home patients are hemodialysis patients. Most of these are assisted by family members who are not paid. Sometimes a home patient has no family and must have a paid aide. Paid aides are expensive although "facilities would not be precluded from providing paid assistants to patients who require such services, under the composite single rate approach, a separate allowance for such costs in the home component of the composite rate would not be authorized." (H.R. Rep. No. 97–143, page 76).

Paid aides are covered by the program under the optional target rate provision, but this reimbursement rate is subject to a maximum payment of 75 percent of the national average payment for in-facility dialysis. Therefore, in order to preserve the savings for home dialysis compared to in-facility dialysis, we are proposing that the cost of paid home aides should not be included in setting any home dialysis payment rates.

We expect that if the composite rate is set appropriately, there will be a sufficient profit margin for facilities to furnish paid aides where they are warranted.

F. Effective Date

We propose to pay all facilities under this prospective reimbursement system for ESRD services, furnished on or after the effective date of the final regulation, independent of when their accounting periods begin. Further, we intend to make the final regulations effective on the date of publication, in recognition of the statutory effective date of October 1, 1981.

VI. Miscellaneous

A. Clearance of Reporting Requirements

Section 405.441 of these regulations contains reporting and recordkeeping requirements subject to the Paperwork Reduction Act (Pub. L. 96–51) that have not been approved by the Office of Management and Budget (OMB). Although we believe that this section merely clarifies requirements that are already in effect, § 405.441 would not be effective until OMB approval is obtained, even if final regulations were published. Until that time, we will continue to require records and reports under the authority of existing regulations. When OMB approves these requirements, we will publish a notice in the **Federal Register** indicating their effective date.

B. Other Changes

The following proposed regulations text includes sections not discussed in this preamble. We are only proposing to make conforming revisions to these sections, not substantive changes.

In addition to the changes proposed here, we are considering making a general reorganization of most regulations related to ESRD in the final rule. For example, we may remove all ESRD rules from Subparts D and E, and place them instead in Subpart U, which currently includes regulations on ESRD networks and certification standards. If we did this, we might also subdivide Subpart U with center headings such as those we have used in 42 CFR Part 405, Subpart T. We believe this centralization of ESRD regulations would be helpful to those who must use them, and would appreciate comments on how best to do this, and on which regulations should be so centralized.

C. Response to Comments

Because of the large numbers of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

List of Subjects in 42 CFR Part 405[1]

Administrative practice and procedure
Certification of compliance
Clinics
Contracts (Agreements)
End-Stage Renal Disease (ESRD)
Health care
Health facilities
Health maintenance organizations (HMO)
Health professions
Health suppliers
Home health agencies
Hospitals
Inpatients
Kidney diseases
Laboratories
Medicare
Nursing homes
Onsite surveys
Outpatient providers
Reporting requirements
Rural areas
X-rays

42 CFR Chapter IV is amended as set forth below:

[1] Health Care Financing Administration is providing this list in compliance with 1 CFR 18.20. That regulation requires agencies to include a list of index terms for each CFR part affected in Rules and Proposed Rules documents published in the **Federal Register** beginning April 1, 1982.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405 is amended as set forth below:

1. The table of contents for Part 405 is amended by revising the title of Subpart D; revising §§ 405.438, 405.440, 405.541, 405.690 and 405.691; and adding new §§ 405.439 and 405.441; to read as follows:

* * * * *

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services by Hospital-Based Physicians

Sec.

* * * * *

405.438 Reasonable costs of home dialysis equipment furnished between October 1, 1978, and [the effective date of these regulations].
405.439 Payments for covered outpatient maintenance dialysis treatments and self-care dialysis training.
405.440 Target rate reimbusement for home dialysis services furnished between April 1, 1979 and [the effective date of these regulations].
405.441 Recordkeeping and cost reporting requirements for dialysis and self-care dialysis training.

* * * * *

405.541 Criteria for determination of reasonable charges for items and services furnished by nonprovider renal dialysis facilities before [the effective date of these regulations].

* * * * *

Subpart F—Notice, Election and Agreements

* * * * *

405.690 Agreements with renal dialysis facilities for reimbursement without regard to deductibles and coinsurance of home dialysis equipment furnished before [the effective date of these regulations].
405.691 Agreements with approved providers or renal dialysis facilities for reimbursement on a target rate basis for home dialysis supplies, equipment, and support services furnished before [the effective date of these regulations].

2. The authority citation for Subpart D is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871 and 1881 of the Social Security Act; 42 U.S.C. 1392, 1395f, 1395, 1395x(v), 1395hh and 1395rr.

3. The authority citation for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1842(b), 1871 and 1881 of the Social Security Act; 42 U.S.C. 1392, 1395f, 1395, 1395u(b), 1395hh and 1395rr.

4. Section 405.231 is amended by reprinting paragraphs (p)(1) through (p)(3) and removing paragraph (p)(4), to read as follows: The introductory text is shown for the convenience of the reader.

§ 405.231 Medical and other health services; included items and services.

Subject to the conditions, limitations, and exclusions set forth in § 405.232, the term "medical and other health services" means the following items or services:

* * * * *

(p) Effective October 1, 1978, home dialysis services, supplies, and equipment, as follows:

(1) *Dialysis equipment,* purchase or rental, installation, and maintenance of all equipment necessary for home dialysis, and the reconditioning of this equipment. Dialysis equipment includes (but is not limited to) artificial kidney and automated peritoneal dialysis machines, and support equipment such as blood pumps, bubble detectors, and other alarm systems.

(2) *Items and supplies required for dialysis,* including (but not limited to) dialyzers, syringes and needles, forceps, scissors, scales, sphygmomanometer with cuff and stethoscope, alcohol wipes, sterile drapes, and rubber gloves.

(3) *Home dialysis support services furnished by an ESRD facility,* including periodic monitoring of the patient's home adaptation (in accordance with a plan as required by § 405.250(c)), emergency visits by qualified provider or facility personnel, routine dialysis monitoring tests specified in § 405.2163(b), routine diagnostic tests, routine diagnostic laboratory tests, personnel costs associated with the installation and maintenance of dialysis equipment, testing and appropriate treatment of water, and ordering of supplies on an ongoing basis.

5. In § 405.240, the undesignated introductory paragraph is reprinted, and paragraphs (g) and (h) are revised, as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243–405.246, be made as follows:

* * * * *

(g) One hundred percent of the reasonable cost for purchase, installation, maintenance, and reconditioning for subsequent ue of home dialysis equipment furnished before [the effective date of these

regulations] by ESRD facilities that have an agreement with HCFA under § 405.690; and

(h) Eighty percent of the per treatment prospective reimbursement rate established under § 405.439 for outpatient maintenance dialysis and self-dialysis training furnished by renal dialysis facilities certified in accordance with Subpart U of this part.

6. Section 405.250 is amended by revising the undesignated introductory matter and paragraph (c) to read as follows:

§ 405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility; home health services.

Payment for medical and other health services (see §§ 405.230(a)(3), 405.231, and 405.232), and for home health services (see §§ 405.230(a)(4), 405.233 through 405.236), furnished by a participating provider of services, or renal dialysis facility is made to such provider or facility only if:

* * * * *

(c) In the case of home dialysis support services (see § 405.231(p)(3)), the services are furnished in accordance with a written plan prepared and periodically reviewed by a team that includes the patient's physician and other professionals familiar with the patient's condition (see § 405.2137(b)(2)).

7. The title of Subpart D is revised to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services by Hospital-Based Physicians

* * * * *

8. Section 405.402 is amended by revising paragraph (g) to read as follows:

§ 405.402 Cost reimbursement; general.

* * * * *

(g) The Health Care Financing Administration is authorized to issue temporary instructions modifying the provisions of this subpart to the extent it finds appropriate for cost reporting periods ending after June 30, 1973, in order to implement sections 201 (Coverage for Disability Beneficiaries Under Medicare) and 299I (Chronic Renal Disease Considered to Constitute Disability) of Pub. L. 92-603. In so doing, rules may be developed for establishing limits on costs and services above which reimbursement shall be made only upon appropriate justification. Rules implementing these provisions of Pub. L. 92-603 apply for renal dialysis items and services furnished before [the effective date of these regulations]. Items and services furnished after that date are reimbursed and reported under §§ 405.439 and 405.441 respectively. For special rules concerning health maintenance organizations (HMO's) and providers of services and other health care facilities that are owned or operated by an HMO, or related to an HMO by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

9. Section 405.438 is amended by revising the title and paragraphs (a) and (c)(5) to read as follows:

§ 405.438 Reasonable costs of home dialysis equipment furnished beween October 1, 1978, and [the effective date of these regulations].

(a) *Principle.* Effective for equipment furnished between October 1, 1978 and [the effective date of these regulations], approved providers of services and renal dialysis facilities that have an agreement with HCFA under § 405.690 of this part will be reimbursed under Part B of Medicare for the full reasonable cost [without regard to the deductible and co-insurance] of the purchase, installation, maintenance, and reconditioning for subsequent use of artificial kidney and automated peritoneal dialysis machines, including supportive equipment (see § 405.231(p)), which are used exclusively by beneficiaries dialyzing at home. [See § 405.439 for rules applicable for this period.]

* * * * *

(c) *Computation of allowable cost.*

* * * * *

(5) No allowance for depreciation may be taken on equipment purchased under this section (see § 405.415 for rules specifying allowable depreciation costs).

* * * * *

10a. A new § 405.439 is added to read as follows:

§ 405.439 Payments for covered outpatient maintenance dialysis treatments and self-care dialysis training.

(a) *Basis and purpose.* This section implements sections 1881(b)(2) and (b)(7) of the Social Security Act by:

(1) Setting forth the principles and authorities under which HCFA is authorized to establish a prospective reimbursement system for outpatient end-stage renal disease (ESRD) services, including all modes of in-facility and home dialysis, furnished in or under the supervision of a renal dialysis facility certified under Subpart U of this part (referred to as "facility" in this section);

(2) Providing for procedures and criteria under which a facility may receive an exception to the prospective payment rates established under this section; and

(3) Establishing procedures and criteria for a facility to appeal its reimbursement under the prospective reimbursement system.

(b) *Principles of prospective reimbursement.* (1) Under prospective reimbursement, payments for outpatient maintenance dialysis and self-care dialysis training treatments are based on rates set prospectively by HCFA.

(2) All certified ESRD facilities must accept the prospective payment rates established by HCFA as payment in full for covered outpatient maintenance dialysis and self-care dialysis training services.

(3) HCFA will publish the methodology used to establish rates and certain changes in payment rates in the Federal Register, as provided in paragraph (i)(3) and (4) of this section.

(c) *Prospective rates for provider-based and independent renal dialysis facilities.* (1) In accordance with section 1881(b)(7) of the Act, HCFA will establish prospective rates by a methodology that:

(i) Differentiates between provider-based facilities and independent renal dialysis facilities;

(ii) Effectively encourages efficient delivery of dialysis services; and

(iii) Provides incentives for increasing the use of home dialysis.

(2) For purposes of rate-setting and reimbursement under this section, HCFA will consider any facility that does not meet all of the criteria of a provider-based facility to be an independent facility. A determination under this paragraph will be considered an initial determination under § 405.1502.

(3) For purposes of rate-setting and reimbursement under this section, HCFA will determine that a facility is provider-based if—

(i) The facility and provider are subject to the bylaws and operating decisions of a common governing board. All authority in management flows from this governing board, which has final administrative responsibility, approves all personnel actions, appoints medical staff, and carries out similar management functions.

(ii) The facility's director or administrator is under the supervision of the provider's chief executive officer and reports through him or her to the governing board.

(iii) The facility personnel policies and practices conform to those of the provider.

(iv) The administrative functions of the facility (that is, records, billing, laundry, housekeeping, and purchasing)

are integrated with those of the provider.

(v) The facility and provider are financially integrated, as evidenced by the cost report, which must reflect allocation of overhead to the facility through the required step-down methodology.

(4) In determining whether a facility is provider-based, HCFA will not consider:

(i) An agreement between a facility and a provider concerning patient referral;

(ii) A shared service arrangement between a facility and a provider; or

(iii) The physical location of a facility on the premises of a provider.

(d) *Amount of payments.* (1) If the beneficiary has incurred the full deductible applicable under Part B of Medicare before the treatment, the intermediary will pay the facility 80 percent of its prospective payment rate.

(2) If the beneficiary has not incurred the full deductible applicable under Part B of Medicare before the treatment, the intermediary will subtract the amount applicable to the deductible from the facility's prospective rate, and will pay the facility 80 percent of the remainder, if any.

(e) *Bad debts.* (1) HCFA will reimburse each facility its allowable Medicare bad debts, up to the facility's costs as determined under Medicare principles, in a single lump sum at the end of the facility's cost reporting period.

(2) A facility must attempt to collect deductible and coinsurance amounts owed by beneficiaries before requesting reimbursement from HCFA for uncollectible amounts. Regulations at § 405.420 specify the efforts facilities must make.

(3) A facility must request reimbursement for uncollectible deductible and coinsurance amounts owed by beneficiaries by submitting an itemized list of all specific non-collections related to covered services.

(f) *Procedures for requesting exceptions to payment rates.* (1) All payments for outpatient maintenance dialysis and self-care training treatments furnished at or through facilities will be made on the basis of prospective payment rates, without exemption.

(2) If a facility has an allowable cost per treatment higher than its prospective rate set under this section, the facility may request HCFA to approve an exception to that rate and set a higher prospective payment rate.

(3) This higher payment rate will be subject to the rules governing the amount of payment in paragraph (d) of this section.

(4) A facility must request an exception to its payment rate within 180 days after:

(i) It is notified of its prospective payment rate; or

(ii) An extraordinary event with substantial cost effects, as described in paragraph (g)(4) of this section.

(5) The facility is responsible for demonstrating to HCFA's satisfaction that the requirements of this section, including the criteria in paragraph (g) of this section, are met in full. That is, the burden of proof is on the facility to show that the criteria are met, and that the excessive costs are justifiable under the reasonable cost principles set forth in this subpart. The burden of proof is not on HCFA to show that the criteria are not met, and that the facility's costs are not allowable.

(6) When requesting an exception to its payment rate, a facility must submit to HCFA its most recently completed cost report as required under § 405.441, and whatever statistics, data, and budgetary projections are determined by HCFA to be needed to determine if the exception is approvable. HCFA may audit any cost report or other information submitted. The materials submitted to HCFA must:

(i) Separately identify elements of cost contributing to costs per treatment in excess of the facility's payment rate;

(ii) Show that all of the facility's costs, including those costs that are not directly attributable to the exception criteria, are allowable and reasonable under the reasonable cost principles set forth in this subpart.

(iii) Show that the elements of excessive cost are specifically attributable to a condition specified by the criteria set forth in paragraph (g) of this section; and

(iv) Specify the amount of additional reimbursement per treatment the facility believes is required in order to recover its justifiable excess costs.

(7) HCFA will accept an exception request on the date that HCFA concludes that it has received all materials necessary to determine if the exception is approvable.

(8) In determining the facility's payment rate under the exception process, HCFA will exclude all costs that are not allowable under the reasonable cost principles set forth in this subpart.

(9) Except for exceptions approved under paragraph (g)(4) of this section, a prospective exception payment rate approved by HCFA will apply for the period from the date the exception request was accepted until the end of the 12-month period during which the announced rate was to apply.

(10) A prospective exception payment rate approved by HCFA under paragraph (g)(4) of this section will apply from the date of the extraordinary event until the end of the 12-month period during which the announced rate was to apply, unless HCFA determines that another date is more appropriate. If HCFA does not extend the exception period, and the facility believes that it continues to require an exception to its rate, the facility must reapply in accordance with paragraph (f) of this section.

(g) *Criteria for approval of exception requests.* HCFA may approve exceptions to a renal dialysis facility's prospective payment rate if the facility demonstrates with convincing objective evidence that its total costs per treatment are allowable under § 405.441, and that its costs in excess of its payment rate are directly attributable to any of the following criteria—

(1) *Atypical patient mix*—The facility's patients require intensive services, special procedures, or supplies that differ markedly from those required for the patients of most other facilities and this difference accounts for the excess costs asserted to be reasonable. The facility is able to demonstrate clearly that the nature of its patients differs substantially from that of most other facilities. The facility is able to demonstrate clearly that its excess costs are prudent and reasonable when compared to those of facilities with a similar patient mix.

(2) *Isolated essential facility*—The facility is the only supplier of dialysis in its geographical area, its patients cannot obtain dialysis services elsewhere without substantial additional hardship, and its excess costs are justifiable. HCFA will consider local population density, typical local commuting distances for medical services, volume of treatments, and dialysis facility usage by area residents other than the appplying facility's patients, in determining whether an exception requested on this basis is approvable.

(3) *Education costs*—The facility has excess costs attributable to an approved medical or paramedical education program (as specified in § 405.421) that directly involves outpatient dialysis services. Any increase in the facility's rate is allowed only for the incremental amount of the facility's excess costs that are directly attributable to its approved educational program (i.e., nursing school and intern-resident services cost centers) as specified in 42 CFR 405.421 and only for the amount that is properly allocated to the outpatient dialysis department. The amount of the increase

in the facility's rate is limited to what is reasonable when compared to the costs of other similar facilities that have educational programs.

(4) *Extraordinary circumstances*—The facility incurs excess costs beyond its control due to a fire, earthquake, flood, or other natural disasters. HCFA will not recognize such costs in cases when a facility chose not to maintain adequate insurance protection against such losses (through the purchase of insurance, the maintanence of a self-insurance program, or other equivalent alternative) or chose not to file a claim for losses covered by insurance, or not to utilize its self-insurance program.

(h) *Appeals.*—(1) *Exception requests.* (i) If the facility disagrees with the amount it receives per treatment after requesting higher payment in accordance with paragraph (f) of this section, the facility may request a review from the intermediary or the Provider Reimbursement Review Board (PRRB) in accordance with Subpart R of this part.

(ii) The facility must request a review within 180 days of the date of the decision on the facility's request for a higher per treatment rate under paragraph (f) of this section.

(iii) In this case, the facility may appeal either the decision as to whether or not it meets one of the criteria for an exception request, or the amount of the rate that HCFA sets.

(2) *Cost report adjustments.* If any facility disagrees with adjustments on its cost report, it may request a review of these adjustments by the PRRB. It must request this review within 30 days of the date the facility is notified of the adjustments.

(3) *Determining amount in controversy.* For purposes of determining PRRB jurisdiction under Subpart R—

(i) The amount in controversy per treatment will be determined by subtracting the amount of program payment from the amount the facility requested under paragraph (f); and

(ii) The total amount in controversy will be calculated by multiplying the amount per treatment by the projected estimated number of treatments for the exception request period (as specified in paragraphs (f) (7) and (8) of this section).

(i) *Notification of changes in rate-setting methodologies and payment rates.*

(1) HCFA or the facility's intermediary will notify each facility annually of its payment rate.

(2) The notice will include changes in facility payment rates resulting from revisions of geographic labor cost adjustment factors.

(3) Changes in payment rates resulting from incorporation of updated cost data without revision of the rate-setting methodology will be published in a general notice in the Federal Register.

(4) If HCFA proposes to revise the methodology by which prospective payment rates are set, HCFA will publish a notice in the Federal Register for public comments, explaining the proposed basis for setting rates, the rates that would result, and the proposed date of implementation. After reviewing public comments, HCFA will publish a notice in the Federal Register establishing prospective payment rates authorized under this section.

11. Section 405.440 is amended by revising the title and paragraphs (a) and (g)(1) to read as follows:

§ 405.440 Target rate reimbursement for home dialysis services furnished between April 1, 1979 and [the effective date of these regulations].

(a) *Purpose.* This section is effective for items and services furnished between April 1, 1979 and [the effective date of these regulations]. [After that period, payment is made under § 405.439.] This section implements section 1881(b) (4) and (6) of the Social Security Act by specifying:

(1) The conditions under which approved renal dialysis facilities and providers may receive payment for home dialysis services (as specified in § 405.231(p)) Under an optional target reimbursement rate per treatment; and

(2) How the target rate will be determined and applied.

* * * * *

(g) *Limitations on rate.* (1) For services furnished before January 1, 1982, the target reimbursement rate shall not exceed 70 percent of the national average payment before application of the coinsurance requirement, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year. For services furnished on or after January 1, 1982, the rate shall not exceed 75 percent of the national average payment.

* * * * *

12. A new § 405.441 is added to read as follows:

§ 405.441 Recordkeeping and cost reporting requirements for dialysis and self-care dialysis training.

(a) *Purpose and scope.* This section implements section 1881(b)(2)(B)(ii) of the Act by specifying recordkeeping and cost reporting requirements for renal dialysis facilities certified under Subpart U of this part. The records and reports will enable HCFA to determine the costs incurred in furnishing outpatient maintenance dialysis and self-care dialysis training. The requirements apply to all outpatient end-stage renal disease items and services furnished by renal dialysis facilities, including outpatient dialysis, self-care dialysis training, and home dialysis services, supplies, and equipment.

(b) *Recordkeeping and reporting requirements.* (1) Each facility must keep adequate records and submit the appropriate HCFA-approved cost report in accordance with §§ 405.406 and 405.453, which provide rules on financial data and reports, and adequate cost data and cost finding, respectively.

(2) The cost reimbursement principles set forth in this subpart, (beginning with § 405.415, Depreciation, and excluding the principles listed in paragraph (b)(4) of this section) apply in the determination and reporting of the allowable cost incurred in furnishing outpatient dialysis treatments or self-care dialysis training to patients dialyzing in the facility, or incurred by the facility in furnishing home dialysis services, supplies, and equipment.

(3) Allowable cost is the reasonable cost related to dialysis treatments. Reasonable cost includes all necessary and proper expenses incurred by the facility in furnishing the dialysis treatments, such as administrative costs, maintenance costs, and premium payments for employees health and pension plans. It includes both direct and indirect costs and normal standby costs. Reasonable cost does not include costs that:

(i) Are not related to patient care for home or in-facility maintenance dialysis and self-care dialysis training;

(ii) Are for services or items specifically not reimbursable under the program;

(iii) Flow from the provision of luxury items or services (items or services substantially in excess of or more expensive than those generally considered necessary for the provision of needed health services); or

(iv) Are found to be substantially out of line with other institutions in the same area that are similar in size, scope or services, utilization, and other relevant factors.

(4) The following principles of this subpart do not apply in determining adjustments to allowable costs as reported by renal dialysis facilities:

(i) Section 405.429, Return on equity capital of proprietary providers;

(ii) Section 405.430, Inpatient routine nursing salary cost differential;

(iii) Section 405.436, Reimbursement of organ procurement agencies (OPA) and histocompatibility laboratories; and

(iv) Section 405.451, Cost related to patient care (except for the principles stated in paragraph (b)(3) of this section).

13. Section 405.502 is amended by revising paragraph (e) to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(e) *Determination of reasonable charges under the End-Stage Renal Disease (ESRD) Program.* (1) With respect to reimbursement for covered items and services in connection with renal dialysis and kidney transplantation, the normal medical market in which customary and prevailing charges can be determined will not be available; most such services will be reimbursed by the health insurance program. (2) Therefore, with respect to nonprovider facilities, reasonable charges for these items and services furnished before [the effective date of these regulations] shall be defined in terms related to charges or costs prior to July 1, 1973, and to the cost and allowances that are reasonable when the treatments are provided in an effective and economical manner. (3) With respect to physicians' services to patients on renal dialysis or in connection with kidney transplantation, reasonable charges shall be defined in terms related to charges made for other services taking into account comparable physicians' time and skill requirements. (For provisions applicable to providers of services for items and services furnished before [the effective date of these regulations], see, generally, Subpart D of this part.) The provisions contained in §§ 405.439, 405.441, and 405.541 through 405.544 describe in detail the criteria for determining the appropriate prospective payment rates and reasonable charges for items and services in connection with transplantation or dialysis, and the limits which are established on charges and services above which reimbursement is made only upon additional justification. For special rules concerning the reimbursement of ESRD services furnished by risk-basis health maintenance organizations (HMO's) or by facilities owned or operated by or related to such HMO's by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

14. Section 405.541 is amended by revising the title, removing the undesignated introductory material and revising paragraphs (a), (e) and (f) to read as follows:

§ 405.541 Criteria for determination of reasonable charges for items and services furnished by nonprovider renal dialysis facilities before [the effective date of these regulations].

(a) *Determination of a facility's customary charge.* In the case of a renal dialysis facility, the following replaces the criteria in § 405.503. Items and services furnished after June 30, 1973 and before [the effective date of these regulations] will be reimbursed under this section. The customary charge of a facility for a dialysis treatment and training is derived from the weighted average of reimbursements from all parties made to the facility for such treatments furnished during the 12-month period preceding July 1, 1973. If a customary charge cannot be derived on this basis because the facility was not in operation during the 12-month period preceding July 1, 1973, the facility's proposed schedule of charges and those of other comparable facilities in its area, will be considered in determining the reimbursable amount. Whichever method is used, the amount payable is subject to the limitation described in paragraphs (b) and (c) of this section.

* * * * *

(e) *Adjustment of reimbursable amount in case of unusual hardship.* Before [the effective date of these regulations], a facility which can demonstrate unusual hardship because of the amount of payment made under the ESRD program may submit documentation of its costs and request a determination with respect to an equity adjustment in the payment. For rules governing exceptions to payment rates effective after [the effective date of these regulations], see § 405.439(f).

(f) *Required cost data.* (1) Nonprovider renal diaylsis facilities are required to furnish adequate cost information, in accordance with section 1833(e) of the Act (42 U.S.C. 13951(e)). This information will be used for the following purposes:

(i) Determination of rates of reimbursement for maintenance renal dialysis treatments, self dialysis training and other reasonable and medically necessary services rendered in connection with these treatments.

(ii) Justification of requests made for adjustments in reimbursement rates under paragraph (e) of this section.

(iii) Accumulation of data for overall program evaluation.

(2) The cost information required under paragraph (f)(1) of this section shall be furnished by the nonprovider facilities in accordance with the cost reporting, recordkeeping, and audit requirements set forth in § 405.406.

(3) This requirement applies to all cost reporting periods ending before [the effective date of § 405.441]. For cost reporting rules that apply to reporting periods ending on or after that date, see § 405.441.

15. Section 405.542 is amended by revising the uncoded introductory material and redesignating it as paragraph (a); redesignating and reprinting the following paragraphs in sequence; revising the title of paragraph (b); and revising paragraphs (c) and (d). As revised § 405.542 reads as follows:

§ 405.542 Criteria for determination of reasonable charges for physicians' services rendered to renal dialysis patients.

(a) *Principle.* Physicians' services rendered to renal dialysis patients are reimbursable, if determined to be reasonable and medically necessary and if otherwise covered by the medically necessary and if otherwise covered by the Medicare program. Services furnished by physicians who did not elect to receive the comprehensive monthly payment for services furnished before [the effective date of these regulations] were reimbursable under the "Initial Physician Reimbursement Method" that is described in paragraph (b) of this section. (The instructions in this section apply to physician services except as provided, under paragraph (c)(1) of this section, to patients on maintenance dialysis regardless of the patient's mode of or setting for dialysis.)

(b) *Initial physician reimbursement methods, effective for services furnished before (the effective date of these regulations).* Under this method, supervisory services, as defined in paragraph (a)(1) of this section, provided by physicians to maintenance dialysis patients dialyzing or training for self dialysis in facilities are reimbursable to the facility by the intermediary as a facility service part of the dialysis session if the physician has actually furnished the service. Physicians' administrative services are considered to be facility costs (see paragraph (b)(2) of this section) included in the rates of payment for dialysis treatments and are reimbursable to the facility. Nonroutine services rendered to patients during and related to the dialysis procedure (see paragraph (b)(3)(i) of this section) and services which must be rendered at a time other than during the dialysis procedure (see paragraph (b)(3)(ii) of this section) are reimbursable to the physician (or to the beneficiary) by the carrier in accordance with the reasonable charge criteria set forth in

§ 405.502 (a) through (d). Physicians' services rendered to hospital inpatients who were not admitted solely to receive maintenance dialysis and to patients who are self-dialyzing at home are also reimbursable under these reasonable charge criteria.

(1) *Supervisory services defined.* Supervisory services for patients who are receiving maintenance dialysis or self dialysis training in a facility are those physicians' services which are related to the care of the patient and the need for medical management over the period of time the patient is on maintenance or training dialysis. They are non-episodic services which are furnished during the dialysis session; they reflect the facility's responsibility to provide services under the general supervision of a physician. They include all patient care services not specifically defined as nonroutine in paragraph (b)(3)(i) of this section. Supervisory services include, at least all of the following when medically appropriate:

(i) Being available to patients and to staff for consultation on the care of the patients;

(ii) Overseeing the performance of dialysis on individual patients, including but not limited to review of laboratory tests and adjustments of dialysis procedures;

(iii) Monitoring the patient's medical status and vital signs, including needed adjustments in medications;

(iv) Determining the need for supplies and medications and authorizing them;

(v) Reviewing dietary issues and modifying dietary control as needed;

(vi) Evaluating the appropriateness of the patient's proposed treatment modality;

(vii) Reviewing psychosocial issues;

(viii) Making pre- and post-dialysis examinations where medically appropriate; and

(ix) Repeated insertions of a catheter for patients on maintenance peritoneal dialysis who are not provided an indwelling catheter.

(2) *Administrative services defined.* The administrative services that are rendered by physicians and that are directly related to the support of the facility are a part of the facility's cost or charge for dialysis. These services are differentiated from supervisory services and other physicians' services related to patient care because they are not related directly to the patient's care, but are of benefit to all of the patients as a whole as well as to the facility. Examples of such services include staff training, participating in the management of the facility, advising on procurement of facility supplies, supervising staff for other than direct patient care services, and staff conferences.

(3) *Services not included in supervisory or administrative services.* Physician services not considered as supervisory services (or administrative services) are:

(i) Services rendered during dialysis which are nonroutine i.e., declotting of shunts, needle insertions into fistulae, supervision of blood transfusions, care during immediately life-threatening complications related to the dialysis procedure, and care of nonrenal conditions; and (ii) services which must be rendered at a time other than during the dialysis procedure, e.g., monthly and semi-annual examinations to review health status and treatment.

(c) *Physician monthly capitation payment method.* All physician services (including at least supervisory services as defined in paragraph (b)(1) of this section when medically appropriate), other than those specified in paragraph (c)(1) of this section, rendered to each maintenance dialysis patient (regardless of the patient's mode of or setting for dialysis) will be reimbursed by the carrier on a monthly capitation basis. Payment of the monthly amount, subject to the deductible and coinsurance, for all such services provided for that month is made by the carrier either to the physician, if the physician accepts assignment, or to the patient, if the physician does not accept assignment. This reimbursement method recognizes the need of patients on maintenance renal dialysis for continuing medical management over relatively long periods of time, and is responsive to physicians' charging patterns in their localities. The physician must provide to a patient at least the supervisory services listed in paragraph (b)(1) of this section in a month to qualify for this reimbursement in that month.

(1) *Services not included in monthly payment.* Physician services not covered by the monthly payment which may be reimbursed in accordance with the usual reasonable charge criteria are limited to:

(i) Declotting of shunts.

(ii) Covered physicians' services furnished by another physician during periods when the patient or his attending physician is not available for outpatient services as set out in paragraph (c)(3) of this section.

(iii) Needed physican services which are rendered either by the physician providing renal care or by another physician and which are beyond those related to the treatment of the patient's renal condition and which are not incidental to services during a dialysis session or office visit necessitated by the renal conditions. The physician should provide documentation that the illness is not related to the renal condition and that added visits are required. The carrier's medical staff, acting also on the basis of medical consultation obtained by the carrrier as may be appropriate, determines whether additional reimbursement is warranted for treatment of the unrelated illness.

(iv) Covered physician services furnished to hospital inpatients by a physician who elects not to continue the capitation payment method through the period of the inpatient stay.

(2) *Reduction of monthly payment.* The monthly payment amount is reduced in proportion to the number of days the patient is: hospitalized and the physician elects to bill separately for service rendered during hospitalization; or not attended by the physician or his substitute for any reason, including when the physician is not available to provide patient care or when the patient is not available to receive such care. In prorating the monthly payment to account for a hospital stay, the carrier will calculate the number of days used to reduce the monthly payment from the date of the patient's last outpatient dialysis session before hospitalization to the date of the first outpatient dialysis session after hospitalization.

(3) *Determination of monthly payment amount.* The factors used in determining the monthly payment amounts will be related to program experience and to the charging practices of comparable physicians for comparable services. The factors will be reevaluated periodically on the basis of program experience and may be adjusted as necessary to reflect changes in these charging practices and modes of furnishing services and to assure fairness.

(d) *Physician reimbursement for self-dialysis training.* Reimbursement for physicians' services rendered to dialysis patients undergoing self-dialysis training will be limited to a flat amount, to be determined from program experience—and reviewed periodically—for each patient under the physician's supervision during the training course, subject to the deductible and coinsurance provisions. Payment will be made upon completion of the training course, and will be in addition to any amounts payable under either of the reimbursement methods, described in paragraphs (b) and (c) of this section, for physicians' services rendered to a renal dialysis patient. Where the training course is not completed, e.g., the patient can no longer be trained, payment will be proportionate to the time spent in training. All those physicians' services determined to be required to create the

capacity for self-dialysis are covered by this payment.

16. Section 405.544 is revised to read as follows:

§ 405.544 Payment for durable medical equipment and supplies for home dialysis.

(a) *Durable medical equipment furnished by providers of services and nonprovider renal dialysis facilities before [the effective date of these regulations].* Providers of services that furnish durable medical equipment are reimbursed on a reasonable cost basis in accordance with Subpart D of this part for equipment furnished before [the effective date of these regulations]. Renal dialysis facilities having agreements with HCFA for purchase, installation, maintenance, and reconditioning of home dialysis equipment are also reimbursed on a reasonable cost basis in accordance with § 405.438 for equipment furnished before [the effective date of these regulations].

(b) When other suppliers furnish durable medical equipment and supplies necessary for home dialysis, and the beneficiary bills the program for the equipment and supplies, payment shall be made on a reasonable charge basis in accordance with § 405.502(a) through (d). However, if the suppliers, the beneficiary, or his or her assignee and the facility which furnishes support services to the beneficiary agree to have the supplies routed through that facility, reimbursement will be made to the facility under the prospective payment method established by § 405.439.

17. Subpart F is amended as follows.

Subpart F—Notice, Election and Agreements

The authority citation for Subpart F reads as follows:

Authority: Secs. 1102, 1816, 1842, 1861(u), 1954, 1886, 1871, 49 Stat. 647 as amended, 79 Stat. 297–298, 79 Stat. 309–312, 79 Stat. 322; 79 Stat. 326, 79 Stat. 327–329, 79 Stat. 331; 80 Stat. 849; 81 Stat. 852; 81 Stat. 868; 81 Stat. 942; 42 U.S.C. 1302, 1395 et seq. unless otherwise noted.

a. Section 405.600 is amended by revising the title and the undesignated introductory paragraph as follows:

§ 405.600 Agreements with renal dialysis facilities for reimbursement without regard to deductibles and coinsurance for home dialysis equipment furnished before [the effective date of these regulations].

As provided by section 1881(e) of the Act and § 405.438 of this part, HCFA may make agreements with approved ESRD providers and facilities to reimburse them for the reasonable cost of furnishing home dialysis equipment and supplies specified in § 405.231(p)(1), without regard to deductible and coinsurance provisions of this part. These agreements are effective only for equipment furnished before [the effective date of these regulations].

* * * * *

(b) Section 405.601 is amended by revising the title and paragraph (a), and removing paragraphs (c) through (e), as follows:

§ 405.601 Agreements with approved providers of renal dialysis facilities for reimbursement on a target reimbursement rate basis for home dialysis supplies, equipment, and support services furnished before [the effective date of these regulations].

(a) *General requirement.* As provided by section 1881(b) (4) and (5) of the Act and § 405.440 of this part, HCFA may execute agreements for reimbursement on a target reimbursement rate basis with approved providers or ESRD facilities which demonstrate their ability to furnish efficiently the full scope of services, including, where necessary, the services of trained home dialysis aides as specified in § 405.231(p)(4). The agreement shall be effective with respect to services rendered on or after the date it is accepted by HCFA, and before [the effective date of these regulations]. (See § 405.440 for conditions for target rate reimbursement, and § 405.439 for payment for renal disease services after that date.)

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: December 22, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 23, 1981.

Richard S. Schweiker,

Secretary.

Appendix I—Regulatory Impact and Flexibility Analysis

A. Introduction

Executive Order 12291. E.O. 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" would:

- Have an annual effect on the national economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

We estimate that several alternatives of the prospective reimbursement system could reduce Federal Government expenditures by 100 million dollars or more in the first 12 months of implementation. Further, nearly all alternatives would result in significantly reduced gross revenues for the ESRD dialysis service industry. We believe that the incentives established by this proposal will strongly benefit competition, productivity and innovation.

Regulatory Flexibility Act of 1980. The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. If a proposed rule wold have a significant impact on a substantial number of small entities, we must publish an initial analysis describing that impact. This analysis must indicate the purpose and reason for the proposal, the number of small businesses to which it would apply, anticipated reporting and recordkeeping requirements, possible overlap and conflict with other federal rules, and a description of possible alternative means of accomplishing the stated objectives which would minimize the impact on small business.

The average reported annual costs of the independent facilities in our audit sample was $1.3 million. The average reported costs for sampled hospitals was $.76 million. None had over 100 employees. Since most dialysis facilities, both independent and hospital-based, are small, and since this proposal will impact significantly these facilities, an initial regulatory flexibility analysis must be performed.

Paperwork Reduction Act. The Paperwork Reduction Act (Pub. L. 96–511) requires that all reporting and recordkeeping requirements contained in both new and existing regulations minimize the burden on persons who will provide information. Since this NPRM also includes reporting or recordkeeping requirements, the following analysis deals with these matters in conjunction with the other impacts expected of the proposed reimbursement system.

B. Nature of the Program

The Social Security Amendments of 1972 (Pub. L. 92–603) provided Medicare coverage for end stage renal disease (ESRD) patients who meet certain entitlement requirements. Benefits

include kidney transplants and other necessary hospitalization and maintenance dialysis treatments performed in a dialysis facility or in the patient's home.

A number of studies and public hearings indicate that the program has been generally successful in protecting renal disease patients against the catastrophic costs of needed care. However, the major problem of the ESRD program is its escalating costs, caused in large part by: (1) the high rates Medicare pays for dialysis in facilities; (2) the lack of incentives to encourage Medicare patients to opt for less expensive methods of treatment such as kidney transplants and home dialysis; (3) significant growth in the ESRD population, and (4) the repetitive nature of the treatment for a chronic condition.

ESRD program payments from the Supplementary Medical Insurance Trust Fund have climbed steadily to more than 9 percent of total Medicare Part B benefit payments in 1979. Thus a relatively large portion of Medicare Part B benefits goes to only about 50,000 ESRD beneficiaries, while the remainder is distributed among more than 23 million mostly aged beneficiaries.

Characteristics of the ESRD Industry. This industry was virtually created by the 1972 legislation. Before 1972 there were only around 200 ESRD facilities throughout the country providing outpatient maintenance dialysis services. Today there are approximately 1100. These facilities are largerly dependent on Federal government payments for their existence. Over 90 percent of all dialysis patients are Medicare beneficiaries. The Medicare program pays 80 percent of the cost or charge of outpatient dialysis for these patients. Additional Federal money is infused into the ESRD industry through the State Medicaid programs. Most of the State Medicaid programs pay the remaining 20 percent of the cost or charge for those patients that meet their eligibility requirements.

Within this framework, however, two different approaches to service delivery have developed—hospital-based units and independent facilities. While their respective shares of the market are almost equal, there are distinct differences between the two types of suppliers.

For example, hospital-based units are smaller on the average than independent facilities. Preliminary 1980 data indicate the average number of stations is 7.5 per hospital facility and 13.2 for independents. Similarly, the average output, in terms of treatments per unit, for hospitals was slightly over half of the average output per independent facility. Thus, while the total output is similar, the individual units used to produce services consist of many small producers in the case of hospitals, and fewer but larger independent producers: They also differ in the proportion of their home dialysis patients, with 23.5 percent of hospital-based and 10.5 percent of independent patients dialyzing at home.

Another important distinction lies in the geographic distribution of facilities. Independents tend to locate in certain geographic areas, whereas the hospital sector is more evenly dispersed.The 1980 data show that over 50 percent of all independents are located in seven States (California, Florida, Georgia, New York, Pennsylvania, Texas and Illinois). Eleven States, mostly with less urbanized areas, have no independent facilities.

Because of the uneven distribution of independents, any prospective reimbursement system will have varying impacts depending on location. The most obvious example would be a State, such as South Dakota, which has no independent facilities and a low area wage index. If there were no exception process, this combination of factors could result in dire consequences for beneficiaries if the proposed rate was insufficient to permit hospitals to continue furnishing dialysis services.

There are also significant geographic differences in furnishing home dialysis. Certain States have a much greater percentage of their patients dialyzing at home, compared to other States. In addition, some States, such as New York and Maryland, have established programs that furnish all necessary supplies and equipment for home patients.

We would like to analyze quantitatively the relative geographic effect of the prospective reimbursement system, but, as noted elsewhere, we do not have enough cost data on independent facilities, and we have no useful information on the effect of paying hospitals less than the current screen of $138 per treatment. We welcome any data or comments on this subject that will enable us to give more detailed consideration of these effects before we publish a final rule.

Contrast between hospitals and independents is also apparent in the recent growth in the number of independent producers entering the market, where the hospital sector has shown little change:

	1978	1979	1980	September 1981
Hospital facilities	838	845	849	854
Independents	279	330	405	468

The financial structure of the competing suppliers is also dissimilar. Over three-fourths of all independents are private, for-profit entities, while only 5 percent of hospital units fall into this category.

Finally, over half of the independent facilities are members of chain organizations. The largest chain organization owns or operates approximately one-third of the total independent facilities and provides over 1,000,000 outpatient dialysis treatments per year. There are very few hospitals that are members of chain organizations.

Who is affected by these proposed changes? Although we do not have adequate data to quantify all the costs and benefits of the changes we propose to make, we can identify the most affected groups. Many of these groups would experience both some benefit and some cost as a result of the proposals.

We expect that the major groups benefited would be:

- The more efficient hospitals and outpatient care facilities that provide dialysis services;
- Manufacturers of dialysis equipment;
- Dialysis patients and their families;
- Home dialysis aides;
- Medicare beneficiaries; and
- The taxpayer.

The primary benefit sought, that is, savings over the projected future cost of the current reimbursement system, would accrue directly to the Federal government and indirectly to all Medicare beneficiaries, since this would restrain the growth of the cost of the ESRD program and protect the supplemental medical insurance trust fund by restraining the accelerating outflow of funds. (If we could save an average of about $12.92 per treatment in FY 1983, this amount would exceed $121 million.)

Dialysis patients would benefit in several ways. First, their coinsurance obligation, that is, the requirement under the Social Security Act that they be liable for 20 percent of the charges for covered services furnished to them, would be reduced or retained at the present level, rather than increasing, if their payment rates are lessened or maintained. Second, there are many positive effects of dialysis in the home. These include increased personal responsibility for and control of treatments; scheduling of dialysis

treatments at the patient's convenience; eased access to care; reduced traveling; reduced need to use the lesser-preferred treatments such as extended peritoneal dialysis; and intangible benefits, such as the comfort and security that patients experience in dialyzing at home.

We also expect that some patients currently in home dialysis would benefit from being relieved of ordering supplies themselves, since prospective payments may afford facilities an opportunity to increase their revenues by performing this function.

In addition, the encouragement of home dialysis would enable more new ESRD patients to take advantage of early entitlement provisions. These provide that patients who begin a course of training for home dialysis may be excepted from the required three-month waiting period for Medicare entitlement if certain conditions are met.

These benefits to dialysis patients would often also benefit their families, especially in reducing expenses and travel.

The dialysis facilities themselves would benefit in several ways, although these benefits would not accrue to all facilities or be evenly distributed. Prospective reimbursement will clearly provide an opportunity for efficient and economical facilities to maximize their net proceeds. Facilities that currently have active home dialysis programs would have a competitive advantage, while those that do not have a substantial home program would benefit less.

Dialysis machine manufacturers would experience an expanded market, since only one patient uses a machine placed in a home, but machines in facilities may be used to dialyze several individuals during a week.

We expect the following groups would experience some costs as a result of proposed changes:

- Less efficient hospitals and outpatient care facilities that provide dialysis services;
- Some physicians treating dialysis patients; and
- Some current users of home dialysis and their families.

The less efficient dialysis facilities would experience the major adverse effect, in that inefficient and high-cost facilities that do not qualify for an exception to their payment rates may have costs greater than their revenues in the initial implementation period. Further, if we are successful in reducing the average payment per treatment under the prospective reimbursement system, the projected aggregate revenues of dialysis facilities would be reduced by an amount equal to our projected budget savings. However, the resulting pressure to reduce costs below payment rates, as well as the opportunity to retain the amount of payment in excess of costs, is central to the prospective system that we propose to implement.

Our proposed changes in physician reimbursement would have mixed results, with some physicians benefited but most adversely affected, although not very substantially. The proposed changes would reduce payment options available to physicians treating dialysis patients by eliminating the current "initial method" reimbursement. We would pay for all physicians' routine dialysis services on a monthly capitation basis, combining home and in-facility services under a single payment rate. In some cases, this may result in a reduction of revenue, although doctors who treat relatively high proportions of home patients may benefit from these changes.

Although we expect that patients would, for the most part, benefit from our proposed changes, some effects, although modest, could be considered costs to them. For example, some of the costs of utilities (power and water) would be shifted from facilities to those patients who shifted from in-facility to home dialysis. Assisting in home dialysis would be a burden for some family members. On the other hand, this would be offset by reductions in travel and parking expenses, and increases of convenience, comfort, and security as mentioned above. In addition, since a composite rate would probably be higher than the current home dialysis charges of some facilities, some of those patients already dialyzing at home would experience an increase over present coinsurance obligations, although all other patients would benefit from a overall decrease in the charges for these services. Since the coinsurance obligations of many patients are covered under State Medicaid programs (which would experience net savings due to the decreased obligations of other patients) we do not expect this effect to be substantial, particularly since home dialysis patients would not be required to receive equipment and supplies through a facility.

Tightening the rate of payment and increasing the incentives for efficiency would result in pressures on the ESRD manufacturers and suppliers as facilities economize and seek to lower their costs.

Overall Effects

We expect the prospective reimbursement system to accomplish two major objectives which, though not without effects that may seem adverse to some parties, will be of sufficient benefit to offset greatly any costs that result. These objectives are (1) to encourage home dialysis to the greatest extent feasible for the ESRD patient population, and (2) to encourage economy and efficiency in furnishing dialysis services, thereby significantly decreasing the average cost per treatment, and accruing substantial budget savings over what we project would be incurred by continuation of the current payment system. The objectives are closely related, since we expect increasing home dialysis to contribute to cost reduction because it is a less expensive way to deliver treatment.

Currently, only 17 percent of all ESRD treatments are performed in a patient's home. Although we have made no specific projection of the dynamic responses the ESRD industry would make to our proposed prospective composite rates, many experts believe that under such an incentive system this population could approach 30 to 40 percent within 5 to 7 years. We doubt that more than that is feasible or desirable on a national basis, since many individuals are too sick or do not have the help and resources necessary to dialyze at home. This increase in home dialysis will result in generally improved quality of life for home patients and their families, and the accompanying autonomy they achieve may improve many patients' degrees of rehabilitation.

These changes in the reimbursement system will also accrue to the Federal government substantial savings over projected budget expenditures under the current payment methods. This benefit is, in a sense, offset by the fact that these savings represent a reduction of expected aggregate revenues for dialysis facilities. However, we believe that many of these facilities are over-reimbursed by present methods, and that our current expenditure level is not completely justified by the services furnished and the benefits experienced. Therefore, we expect the changes we are proposing will yield significantly greater net benefits than the current system. Since we do not expect any reduction in quality of care, the improved cost-effectiveness of the dialysis delivery system would justify these changes.

C. Analysis of Alternatives

The following section sets forth our analysis of the comparative reimbursement and program savings impacts of certain alternative methodologies we considered. The costs

and savings figures in the following analyses are based on the following assumptions:

- For purposes of this analysis, we have assumed the prospective reimbursement system will be implemented beginning May 1, 1982. (The actual date may be earlier or later.)
- For Fiscal Year 1982, we project that ESRD beneficiaries will receive 7.33 million treatments in facilities, and 1.49 treatments at home.
- In FY 1982, hospital-based facilities will furnish treatments to 23,000 in-facility patients and 7000 home patients, and independent facilities will furnish treatments to 26,000 in-facility patients and 3000 home patients.
- If no prospective reimbursement system were established, the costs of the current payment method would increase by both the growth in treatments and, in the case of hospitals reimbursed on a cost basis, by a 5 percent annual inflation factor.
- In all alternative methods (except the continuation of the current system as it affects independent facilities) we would pay all facilities their allowable Medicare bad debts, up to their unrecovered Medicare cost.
- The costs and savings for each alternate are projected on the basis of the average, weighted-per-treatment payment for our audit sample of 67 hospital-based and 38 independent facilities. This weighting adjusts the results both for the effects of the area wage index and the number of treatments furnished in each facility of the sample.
- For all alternatives, we project that administrative costs, including audits, exceptions approval, and cost report review, will be about $300,000 per year. The savings have not been adjusted to show this, since it would not affect the comparability of the projections.
- If no prospective reimbursement system were implemented, continuation of the present payment system would result in $1,056.0 million in incurred program costs for dialysis services in FY 1982.

In making these assumptions, we did not allow for hypothetical dynamic changes that may occur in the ESRD marketplace in response to implementation of the proposed prospective reimbursement system, because we did not have an adequate basis on which to project dynamic responses. Therefore, we did not assume any growth of independent facilities beyond that which we can project from historical data. Neither do our projected savings include adjustments to account for any expected acceleration of the trend for more patients to dialyze at home. Other dynamic responses which may reasonably be expected to occur, but which are not included in our projections, would be reductions in the unit cost of furnishing dialysis, and expansion of, or market entry of new, efficient types of dialysis facilities. Therefore, to the degree the following estimates are based on conservative assumptions, we expect our savings figures are underestimated.

Alternative Rate-Setting Options

Section 2145 of Pub. L. 97–35 states that the Secretary may implement an alternative to the composite rate methodology if detailed analysis shows it is more effective in encouraging the efficient delivery of dialysis services and promoting home dialysis. The main alternative to a composite rate available for consideration would be to set a separate rate for home dialysis. (We had previously considered several other options, combining rates for hospitals and independents, but this is not permitted under section 2145. Although this legal constraint does not preclude us from analyzing other alternatives, since Executive Order 12291 permits it, we did not present such analysis because the other alternatives would not have a range of effects substantially outside those of the options examined below.)

Option A: Three separate rates for home dialysis, and for independent and hospital-based in-facility dialysis. The alternative to the composite rate would essentially entail three rates: one for hospital-based in-facility dialysis, another for independent in-facility dialysis, and a third for home dialysis. The base cost components for in-facility dialysis would be set at the median of the labor and nonlabor costs we obtained from our audit data and would be set independently of the home rate. This would result in average payment rates of $141 per treatment for hospitals and $112 for independents. The home rate would be set at the maximum home dialysis target rate, as established by the 1981 Reconciliation Act at 75 percent of the national average payment for in-facility dialysis. Since 1979, the target rate has been set by law at the maximum of 70 percent of the national average payment for in-facility dialysis. This five percent increase in the home dialysis rate amounts to an average increase of $9 per treatment ($116–107). This method would reimburse 42 percent of both groups below their current costs per treatment.

The average payment rates per treatment resulting from this method would be as follows:

	Average	High	Low
Hospital-based in-facility	$141	$161	$116
Independent in-facility	112	125	96
Home dialysis	116	130	104

This would have no significant impact on the copayment obligations of beneficiaries currently dialyzing at home, but would, on the average, reduce the obligations of hospital-based dialysis patients by $804 per year, and of independent patients by $745 per year. The aggregate effect would result in significant overall reductions in these obligations, which would benefit State Medicaid programs and private insurers as well as the beneficiaries and their families. The following table shows the effects this option would have on coninsurance obligations for a full year, based on the number of patients we project will be treated in FY 1982.

	Number of patients	Average reduction per patient	Total reduction (millions)
Hospital-based	23,128	$804	$18.6
Independent	26,669	745	19.4
Home	10,087	0	0
Total	59,283	845	38.0

As noted above, we expect that continuation of the present payment system through Fiscal Year 1982 would result in incurred program costs of $1,056 million for the year. We estimate that if we were to implement this option on May 1, 1982, we could reduce incurred costs for the remainder of the fiscal year by $49.4 million.

Further, the Federal government would realize extensive reductions in incurred costs over subsequent years, as follows:

PROJECTED COSTS

[Dollars in millions]

Fiscal year	Present system	Option A[1]	Projected savings
1983	$1,148.6	$960.6	$187.8
1984	1,238.7	1,016.5	219.9
1985	1,326.8	1,061.3	265.5
1986	1,438.5	1,099.6	338.9

[1] These projections do not assume dynamic responses to the incentive proposals. See the above discussions concerning our assumptions.

This option would realize larger savings than the methodology we are proposing. This would result primarily from setting the independent in-facility rates on the basis of independent cost only. Since the majority of in-facility treatments are furnished in independent facilities, this produces significantly greater savings, but at the expense of

many of the most efficient and economical facilities. Further savings would be incurred under this option as a result of the statutory cap on the target payment rate for home dialysis.

In addition to the savings that would be realized, the main advantage of this option is that the home rate would follow the present law for target rate reimbursement. However, it may be argued against this method that—

1. The present target rate system (set at 70 percent of the average in-facility dialysis payment) has little voluntary participation (12 out of 1100 facilities have agreements) and we do not know whether a 5 percent rate increase would change this.

2. Both the logic of the composite rate and our cost data suggest this alternative cannot satisfy the two statutory tests that the alternative both be more efficient and promote home dialysis more effectively. If home and in-facility dialysis were reimbursed at separate rates, and home dialysis were reimbursed at less than what the composite rate would have been, this alternative would not appear to promote home dialysis more effectively than the composite rate. On the other hand, if the home rate were set higher than the composite rate, then we would be paying out more than under the composite rate and the alternative would not be as efficient as the composite rate.

3. Under section 1881(b)(6), of the target payment rate for home dialysis is limited to a maximum of 75 percent of the per treatment cost of in-facility dialysis. This would reduce flexibility and may result in a gradual lowering of the home rate if the in-facility rate drops.

4. A major disadvantage of this option is that it would so greatly and rapidly reduce reimbursement to independent facilties that it would very likely have a substantial impact on the availability of services. As a result, we would have to grant a considerable number of exceptions.

Option B: Composite rates for home and in-facility dialysis based on median costs of all facilities. This option, and others that may be similar to it in effect, is clearly preferred in the statute and we are proposing to implement it. As discussed above, under this method we would pay each dialysis facility a certain rate per treatment for all dialysis session furnished, whether in the facility or at home. The independent rates would be based on the median costs per treatment for all audited facilities, adjusted for the proportion of independent patients dialyzing at home and for geographic differences on labor costs. The hospital rates would be similarly adjusted by area wage indexes and the proportion of hospital patients dialyzing at home and would, in addition, incorporate two other adjustments representing the differences between hospital costs and data and those of the independent facilities, as explained in section III.H. of this preamble.

The average payment rates per treatment under this option would be as follows:

	Average	High	Low
Hospital-based composite	$132	$146	$114
Independent composite	128	143	109

These rates would result in reimbursing 46 percent of all hospital-based facilities and 28 percent of all independent facilities at a rate per treatment below their current costs for in-facility dialysis.

This would affect beneficiary copayment obligations in two ways. First, based on the overall decrease in the average payment and the predominance of in-facility dialysis, most beneficiaries, especially those dialyzing in a facility, would experience signficant reductions in their coinsurance obligations. However because of the change from separate home and in-facility rates to composite rates, many beneficiaries already dialyzing at home would experience an increase if their treatments were reimbursed under the composite rate, since the composite rates would be significantly higher than current payment levels for home dialysis. (A beneficiary would retain the right to bill independently for supplies and equipment, in which case support services furnished by a facility would be reimbursed on a fee-for-service basis.) The amount of increase per patient would vary according to whether the related facility were independent or hospital-based. The annual effect on beneficiary coinsurance obligations would be as follows:

Location	Type of facility	
	Hospital-based	Independent
Home	+[1] $745	+[1] $447
In-facility	−1,043	−268

[1] This does not take into account the beneficiary's option to bill independently.

Despite the coinsurance increase for home dialysis, the aggregate savings for all patients would still be great, as shown in the following chart, based on numbers of patients for FY 1982, yielding an average savings per beneficiary about $416 per year.

	Number of patients	Average change per patient	Total coinsurance change[1] (millions)
Hospital-based	23,128	−$1043	−$24.1
Independent	26,850	−266	−7.0
Home-hospital	7,005	+745	+5.2
Home ind	3,002	+447	+1.3
Total	58,215	−416	−24.6

[1] Net reduction.

If we were to implement this proposed system on May 1, 1982, we project that it would reduce incurred costs for the remainder of Fiscal Year 1982 approximately $33.9 million below the projected costs of continuing the current system.

In subsequent fiscal years, we estimate savings to the Federal government over current methods would be as follows:

PROJECT COSTS

[Dollars in millions]

Fiscal year	Present system	Option B	Projected savings
1983	$1,148.6	$1,027.6	$121.0
1984	1,238.7	1,074.9	163.8
1985	1,326.8	1,121.6	205.2
1986	1,428.5	1,164.2	264.3

The most significant proportion (over 80 percent) of these savings reflect a very stringent application of the exception process. The exception process will be tightened compared to historic treatment of exceptions for hospital-based facilities. Projected savings are calculated based on rates remaining at the same level; however, the rates will be reevaluated periodically.

Like Option A, this option has a considerable amount of savings (although not as much as Option A). Unlike Option A, however, it does not create those legal problems discussed above. Another advantage of this option is that it phases in the prospective reimbursement system less abruptly than Option A, especially for independent facilities. This option is more likely to accelerate the growth in the number of independents than Option A. Finally, this option would encourage use of home dialysis more than Option A, since the composite rate paid for both home and in-facility dialysis is higher than the home (that is, target) rate under Option A.

Option C: An alternative method of treating cost data for deriving composite rates. We did consider a different methodology for setting composite rates.

Under this option, rates for independent facilities would be based on a percentage of the median cost of the audited independent facility data and the same percentage of the median audited cost of providing home dialysis. These two cost factors would be split into labor/nonlabor portions and weighted by the percentage of patients in each setting. Rates for hospital-based facilities would be based on the same data *plus* a difference in hospital overhead costs of $7.50.

This option could have dollar impacts similar to those of Option B, above, and would have many of that option's advantages. However, we did not adopt this methodology because, by failing to include the hospital cost experience, it may less appropriately reflect the cost experience of the entire ESRD program than the option we have selected.

D. Impact of Proposed Changes in Physician Reimbursement

To the extent our data allows, we have projected the probable impacts of our proposal to pay for physicians' renal services only on a monthly capitation basis (discontinuing the current initial method that pays on a per treatment basis). Due to problems in identifying and enumerating the affected physicians and their characteristics, our projections are limited to the aggregate impacts. At present, we are not able to assess the effects our proposal would have on individuals or particular groups of physicians. We welcome any comments or information that would contribute to our consideration of these effects when we issue a final rule.

The following section sets forth our analysis of the reimbursement and program savings impacts of our proposed rate-setting methodology as compared to continuation of the current payment methods. The costs and savings figures are based on assumptions listed in section VI.E., above, and the following additional assumptions:

- For purposes of this analysis, we have assumed that the proposed capitation system will be implemented beginning May 1, 1982.
- In fiscal year 1982, payments to physicians who are under the initial method of reimbursement will average $210 per month for in-facility patients and $25 per month for home patients.
- In FY 1982, the average monthly payments to physicians under the current alternative reimbursement method will be $220 for in-facility treatment and $154 for home treatment.
- In FY 1982, 28.5 percent of all in-facility treatments and 27 percent of all home treatments will be reimbursed under the initial method; 73.5 percent of all in-facility treatments and 73 percent of all home treatments will be reimbursed under the alternative method.
- If the present system (initial and alternative methods) of reimbursement were continued throughout FY 1982, the cost of the current payment methods would be $114.2 million.
- For the purpose of the savings estimates, we are holding the capitation payment levels constant. We would review the payment levels regularly with our review of the prospective payment rates for facility services.

Projected Impact on Aggregate Payments

As discussed above, under our proposed capitation payment system, we would pay each physician a constant monthly amount for each patient he or she treated, regardless of whether the patient dialyzed in-facility or at home. This payment would vary according to local prevailing charges from a low of $149 per month to a high of $219 per month, avereging $184 per month.

When compared to current payment levels, it is clear that this payment level will result in a significant reduction in the amounts paid for physician services related to in-facility treatment. However, it will also result in an even larger *increase* in the amounts paid for services to home patients. As a result, the effect on an individual physician would be dependent on the proportion of patients dialyzing at home. Physicians with no home patients could experience a significant reduction in gross revenues related to dialysis services, while others, with larger home practices, could be significantly benefited.

We estimate that if we were to implement our proposal on May 1, 1982, we could reduce incurred costs (projected at $114.2 million for the whole fiscal year under the current system) by $3.5 million for the remainder of Fiscal Year 1982. Further, we project subsequent fiscal year impacts as follows:

PROJECTED COSTS

[Dollars in millions]

Fiscal year	Present systems	Proposed system	Projected savings
1983	$129.8	$111.2	$18.1
1984	131.8	117.0	14.8
1985	140.9	122.2	18.7
1986	149.5	126.9	22.6

Note that these figures represent only a portion of the total revenues of the affected physicians. In addition to these capitation payments, they will continue to bill fee-for-service for nonroutine services to their dialysis patients. Most of these physicians have other sources of income, such as patients other than their chronic dialysis patients, although proportions would vary widely. Further, many of these physicians receive payment for administrative services from the dialysis facilities with which they are affiliated.

Comparative Administrative Costs

The proposed system would be much simpler to administer than the current one. By eliminating the initial method, we end the complexity of having parallel systems. We would reduce the number of bills to be processed, by shifting a number of physicians from a per treatment to a per month payment basis. In addition, all bills would be processed through the carriers, simplifying the identification of duplicate payments, which will yield further savings.

Other Effects

The current payment methods have produced significant incentives for physicians to treat dialysis patients in the facility.

By ending the disincentive to treat dialysis patients in their homes, we expect that each physician may be able to treat a greater number of patients. Although under current regulations (set forth at 42 CFR 405.2162(b)) a physician is not required to be present for every session, even in a facility, expert advice has informed us that a physician can care for 10 home patients using the same time and personal resources it would take to care for 7 in-facility patients. By shifting as many patients to home care as feasible (considering available assistance and support, quality of care, and standards of medical practice), the current physician population could reasonably care for a patient population increased by 5 to 10 percent.

E. Burden and Cost of the Proposed Recordkeeping and Reporting Requirements

The recordkeeping and reporting requirements of this proposed rule would apply to all ESRD services furnished by the facility. These include outpatient dialysis, self-care dialysis training, and home dialysis services, supplies, and equipment. We believe that these proposed rules merely clarify existing requirements. New cost reporting forms, developed under our current regulations, have been made available for comment and submitted to the Office of Management and Budget for approval. The cost report form for independent renal dialysis facilities

(HCFA 265) will be effective for cost reporting periods ending on or after September 30, 1981. The new hospital cost report form (HCFA 2552) will be effective for cost reporting periods beginning on or after December 5, 1980.

As discussed above, these requirements will make no significant additional demands on hospital-based facilities, as they are nearly identical to current practices. Hospitals must keep records and report costs on both their annual cost report (HCFA 2552) and the Renal Dialysis Facility Cost and Statistical Questionnaire (HCFA 9734). The changes resulting from this rule will consolidate these requirements and clarify the application of the principles of Subpart D. This will benefit hospital-based facilities without adding recordkeeping costs or reporting burden.

Similarly, these requirements will place little additional recordkeeping burden on independent dialysis facilities. Under § 405.541(f), and the requirements imposed through the HCFA 9734, each facility must already keep the records that are needed to comply with these requirements. The new report form for independent facilities will require them to show clearly how costs are allocated, and will standardize treatment of costs better than is now the case, but the bottom-line figures reported will be essentially the same in nature as those reported now. The independent facilities may have to show the derivation of these figures in greater detail than previously, but the reports will be based on the same kinds of records that are already being kept. We think that the potential slight increase in reporting burden, (on a once-a-year basis for about 450 independent facilities) will be more than compensated for by the improvements in comparability of data.

Appendix II—Area Wage Indexes

A. Calculation of the Indexes

We have calculated a wage index for each of about 320 areas. These areas are divided into three categories: New England County Metropolitan Areas (NECMAs), Standard Metropolitan Statistical Areas (SMSAs) and rural areas. (For each State, there is one rural area, comprising all counties in that State that are not included in a NECMA or SMSA.) These are standard geographical classifications used for many types of reports and analyses.

The area wage index is essentially very simple. First, we calculated the national average wage level for all hospital workers, combining data from all geographic areas. Second, we calculated a separate local average wage level for each SMSA, NECMA, and rural area. We then divided each local average by the national average. This computation resulted in a set of index values that show the relation of wages in each area to wages nationally.

In developing the wage index, we have used approximate, rather than actual, index values for 26 areas. (These approximate values are identified by asterisks in Table I.) We made this change because the BLS has informed us that its confidentiality requirements prohibit it from disclosing actual data for areas that include fewer than 3 hospitals. To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. These approximate values are either equal to, or greater than, the wage index values that would be calculated based on the actual data. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the incentive payment rates significantly, and will assure that no facility's payment is reduced because actual data for its area are unavailable.

B. Revision of the Indexes

Due to the 1980 census, there have been recent changes and additions to the SMSAs and NECMAs. There changes are not reflected in the indexes printed here, because they were not incorporated in the indexes we used to adjust our cost data and make our projections. However, when we publish these proposals as a final rule, we plan to use the most recent indexes available.

We expect, though, on the basis of experience, that we will occasionally need to revise a particular index to reflect improved data on correction of reporting problems. When this occurs, we will notify the intermediaries and facilities affected, but we will not publish a notice in the Federal Register.

TABLE I—WAGE INDEX FOR URBAN AREAS

Urban area (SMSA or NECMA)	Wage index
Abilene, TX	.8628
Akron, OH	1.0593
Albany, GA	.8710
Albany-Schenectady-Troy, NY	.9767
Albuquerque, NM	1.0178
Alexandria, LA	.9105
Allentown-Bethlehem-Easton, PA-NJ	1.0748
Altoona, PA	1.0282
Amarillo, TX	.9089
Anaheim-Santa Ana-Garden Grove, CA	1.2330
Anchorage, AK	1.5739
Anderson, IN	.9978
Ann Arbor, MI	1.2381
Anniston, AL	.8541
Appleton-Oshkosh, WI	1.0295
Asheville, NC	.9642
Atlanta, GA	.9317
Atlantic City, NJ	1.0346
Augusta, GA-SC	.9389
Austin, TX	1.0325
Bakersfield, CA	1.1413
Baltimore, MD	1.1695
Baton Rouge, LA	.8962
Battle Creek, MI	1.0402
Bay City, MI	1.1428
Beaumont-Port Arthur-Orange, TX	.8674
Billings, MT	1.0656
Biloxi-Gulfport, MS	.8280
Binghamton, NY-PA	.9934
Birmingham, AL	.9821
Bismarck, ND	.8184
Bloomington, IN	1.0041
Bloomington-Normal, IL	.8627
Boise City, ID	1.0000
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1404
Bradenton, FL	1.0770
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1844
Brownsville-Harlingen-San Benito, TX	.9469
Bryan-College Station, TX	.8518
Buffalo, NY	1.0093
Burlington, NC	.9050
Canton, OH	.9606
Cedar Rapids, IA	1.0336
Champaign-Rubena-Rantoul, IL	1.1386
Charleston-North Charleston, SC	.9915
Charleston, WV	1.0808
Charlotte-Gastonia, NC	.9615
Chattanooga, IN-GA	1.0390
Chicago, IL	1.1079
Cincinnati, OH-KY-IN	1.0996
Clarksville-Hopkinsville, TN-KY	.8539
Cleveland, OH	1.2159
Colorado Springs, CO	.9908
Columbia, MO	1.1910
Columbia, SC	.9808
Columbus, GA-AL	.9173
Columbus, OH	1.1373
Corpus Christi, TX	.9495
Dallas-Fort Worth, TX	.9582
Davenport-Rock Island-Moline, IA-IL	.9375
Dayton, OH	1.1251
Daytona Beach, FL	.9582
Decatur, IL	.9249
Denver-Boulder, CO	1.1145
Des Moines, IA	1.0328
Detroit, MI	1.2467
Dubuque, IA	.9586
Duluth-Superior, MN-WI	.9348
Eau Claire, WI	.9872
El Paso, TX	.8952
Elkhart, IN	1.0106
Elmira, NY	.9804
Enid, OK	.8367
Erie, PA	.9815
Eugene-Springfield, OR	.9801
Evansville, IN-KY	1.0323
Fargo-Moorhead, ND-MN	.9513
Fayetteville, NC	.8495
Fayetteville-Springdale, AR	.8132
Flint, MI	1.2121
Florence, AL	.8192
Fort Collins, CO	.8495
Fort Lauderdale-Hollywood, FL	1.0684
Fort Myers, FL	.9550
Fort Smith, AR-OK	.9048
Fort Wayne, IN	.9030
Fresno, CA	1.1455
Gadsden, AL	.9421
Gainesville, FL	.9171
Galveston-Texas City, TX	1.0786
Gary-Hammond-East Chicago, IN	1.1861
Grand Forks, ND-MN	.8827
Grand Rapids, MI	.9623
Great Falls, MT	1.0317
Greeley, CO	1.0488
Green Bay, WI	.9904
Greensboro-Winston-Salem-High Point, NC	.9368
Greenville-Spartanburg, SC	.9529
Hamilton-Middleton, OH	1.0800

TABLE I—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (SMSA or NECMA)	Wage index
Harrisburg, PA	1.0712
Hartford-New Britain-Bristol, CT	1.1730
Honolulu, HI	1.1841
Houston, TX	1.0810
Huntington-Ashland, WV–KY–OH	.8427
Huntsville, AL	.8735
Indianapolis, IN	1.0884
Iowa City, IA	1.0062
Jackson, MI	[1] 1.0173
Jackson, MS	.8846
Jacksonville, FL	.9488
Janesville-Beloit, WI	.8724
Jersey City, NJ	1.1369
Johnson City-Kingsport-Bristol, TN–VA	.8925
Johnstown, PA	1.0621
Kalamazoo-Portage, MI	1.1893
Kankakee, IL	1.0243
Kansas City, MO–KS	.9558
Kenosha, WI	[1] 1.0960
Killeen-Temple, TX	.9018
Knoxville, TN	.9253
Kokomo, IN	.9994
La Crosse, WI	[1] .9139
Lafayette, LA	.8767
Lafayette-West Lafayette, IN	.9296
Lake Charles, LA	.8853
Lakeland-Winter Haven, FL	.9014
Lancaster, PA	1.0854
Lansing-East Lansing, MI	1.0993
Laredo, TX	[1] .8738
Las Cruces, NM	[1] .8266
Las Vegas, NV	1.2085
Lawrence, KS	[1] .9036
Lawton, OK	[1] .8618
Lewiston-Auburn, ME	[1] .9049
Lexington-Fayette, KY	.9166
Lima, OH	1.0099
Lincoln, NE	.9415
Little Rock-North Little Rock, AR	1.0378
Long Branch-Asbury Park, NJ	1.0826
Longview, TX	.8266
Lorain-Elyria, OH	1.0378
Los Angeles-Long Beach, CA	1.3117
Louisville, KY–IN	1.0083
Lubbock, TX	.9194
Lynchburg, VA	.9026
Macon, GA	.9799
Madison, WI	1.0430
Manchester-Nashua, NH	.9510
Mansfield, OH	.9051
McAllen-Pharr-Edinburg, TX	.8303
Melbourne-Titusville-Cocoa, FL	.8532
Memphis, TN–AR–MS	1.0546
Miami, FL	1.1237
Midland, TX	1.3296
Milwaukee, WI	1.0250
Minneapolis-St. Paul, MN–WI	.9899
Mobile, AL	.9575
Modesto, CA	1.0423
Monroe, LA	.9611
Montgomery, AL	.9788
Muncie, IN	[1] 1.0025
Muskegon-Norton Shores-Muskegon Heights, MI	.9521
Nashville-Davidson, TN	1.0359
Nassau-Suffolk, NY	1.2970
New Bedford-Fall River, MA	.9851
New Brunswick-Perth Amboy-Sayreville, NJ	1.0565
New Haven-Waterbury-Meriden, CT	1.1176
New London-Norwich, CT	1.1087
New Orleans, LA	.9807
New York, NY–NJ	1.4192
Newark, NJ	1.2303
Newport News-Hampton, VA	.9058
Norfolk-Virginia Beach-Portsmouth, VA–NC	.9856
Northeast Pennsylvania	1.0777
Odessa, TX	[1] .9656
Oklahoma City, OK	.9408
Omaha, NE–IA	.9523
Orlando, FL	.9241
Owensboro, KY	[1] .8518
Oxnard-Simi Valley-Ventura, CA	1.4021
Panama City, FL	1.0884
Parkersburg-Marietta, WV–OH	1.0638
Pascagoula-Moss Point, MS	[1] 1.1730
Paterson-Clifton-Passaic, NJ	1.1145
Pensacola, FL	.8980
Peoria, IL	1.0347
Petersburg-Colonial Heights-Hopewell, VA	.9644
Philadelphia, PA–NJ	1.2009
Phoenix, AZ	1.1287
Pine Bluff, AR	[1] .7711
Pittsburgh, PA	1.1465
Pittsfield, MA	1.0448
Portland, ME	.9862
Portland, OR–WA	1.1212
Poughkeepsie, NY	1.0960
Providence-Warwick-Pawtucket, RI	1.0468
Provo-Orem, UT	.9614
Pueblo, CO	1.1155
Racine, WI	.9396
Raleigh-Durham, NC	1.0344
Rapid City, SD	[1] .8829
Reading, PA	1.0272
Reno, NV	[1] 1.2638
Richland-Kennewick, WA	.9921
Richmond, VA	.9488
Riverside-San Bernadino-Ontario, CA	1.1927
Roanoke, VA	.9777
Rochester, MN	.9380
Rochester, NY	1.0633
Rockford, IL	.9860
Sacramento, CA	1.1588
Saginaw, MI	1.1470
St. Cloud, MN	.8826
St. Joseph, MO	.9914
St. Louis, MO–IL	1.0146
Salem, OR	1.1270
Salinas-Seaside-Monterey, CA	1.2038
Salt Lake City-Ogden, UT	.8695
San Angelo, TX	.8506
San Antonio, TX	.9670
San Diego, CA	1.1301
San Francisco-Oakland, CA	1.3375
San Jose, CA	1.3276
Santa Barbara-Santa Maria-Lompoc, CA	1.0739
Santa Cruz, CA	1.0994
Santa Rosa, CA	1.4274
Sarasota, FL	.8698
Savannah, GA	.9573
Seattle-Everett, WA	1.0677
Sherman-Denison, TX	.8416
Shreveport, LA	.9449
Sioux City, IA–NE	.9483
Sioux Falls, SD	.8893
South Bend, IN	.9303
Spokane, WA	1.1105
Springfield, IL	1.0040
Springfield, MO	.9064
Springfield, OH	.9987
Springfield-Chicopee-Holyoke, MA	1.0058
Steubenville-Weirton, OH–WV	.9662
Stockton, CA	1.2296
Syracuse, NY	1.3432
Tacoma, WA	1.0692
Tallahassee, FL	[1] .9370
Tampa-St. Petersburg, FL	1.0066
Terre Haute, IN	.8790
Texarkana-TX-Texarkana, AR	1.1114
Toledo, OH–MI	1.1345
Topeka, KS	1.0781
Trenton, NJ	1.1986
Tucson, AZ	1.0146
Tulsa, OK	.9789
Tuscaloosa, AL	1.0313
Tyler, TX	.9541
Utica-Rome, NY	1.0316
Vallejo-Fairfield-Napa, CA	1.6130
Vineland-Millville-Bridgeton, NJ	1.0254
Waco, TX	.8738
Washington, DC–MD–VA	1.1651
Waterloo-Cedar Falls, IA	.8778
West Plam Beach-Boca Raton, FL	.9705
Wheeling, WV–OH	1.0008
Wichita, KS	1.0421
Wichita Falls, TX	.8422
Williamsport, PA	.8814
Wilmington, DE–NJ–MD	1.1553
Wilmington, NC	.9087
Worcester-Fitchburg-Leominster, MA	1.0567
Yakima, WA	.9884
York, PA	1.0050
Youngstown-Warren, OH	1.1278

[1] Approximate value for area.

TABLE II—WAGE INDEX FOR RURAL AREAS

State (all non-SMSA and non-NECMA counties)	Wage index
Alabama	.8139
Alaska	1.4135
Arizona	.9336
Arkansas	.7881
California	1.1265
Colorado	.8157
Connecticut	1.0482
Delaware	.9375
Florida	.8996
Georgia	.8586
Hawaii	1.2124
Idaho	.8773
Illinois	.8329
Indiana	.8859
Iowa	.8366
Kansas	.8142
Kentucky	.8354
Louisiana	.8362
Maine	.9007
Maryland	1.0006
Massachusetts	1.0536
Michigan	1.0276
Minnesota	.8106
Mississippi	.7940
Missouri	.8007
Montana	.8675
Nebraska	.7377
Nevada	.9791
New Hampshire	.9953
New Jersey	.9817
New Mexico	.9139
New York	.9370
North Carolina	.8999
North Dakota	.8207
Ohio	.9152
Oklahoma	.8267
Oregon	.9684
Pennsylvania	1.0306
South Carolina	.8329
South Dakota	.7250
Tennessee	.7965
Texas	.8147
Utah	.7711
Vermont	.9067
Virginia	.8884
Washington	.9496
West Virginia	.9174
Wisconsin	.8326
Wyoming	.8435

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Part V

Department of Education

Financial Assistance to Local Educational Agencies to Meet Special Educational Needs of Disadvantaged Children

DEPARTMENT OF EDUCATION

34 CFR Parts 74, 76, 78, 200 and 201

Chapter 1 of the Education Consolidation and Improvement Act of 1981—Financial Assistance to Local Educational Agencies to Meet Special Educational Needs of Disadvantaged Children

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under Chapter 1 of the Education Consolidation and Improvement Act of 1981, the Department provides financial assistance to State and local educational agencies to meet the special educational needs of educationally deprived children on the basis of entitlements calculated under Title I of the Elementary and Secondary Education Act of 1965. The Secretary proposes regulations implementing that portion of Chapter 1 that provides financial assistance to local educational agencies to meet the special educational needs of educationally deprived children in attendance areas with high concentrations of children from low-income families. The Secretary intends to issue separate regulations governing the Chapter 1 programs operated by State agencies.

The Secretary also proposes to amend the regulations in 34 CFR Parts 74 and 76 (the Education Department General Administrative Regulations (EDGAR)) to indicate that these regulations do not apply to Chapter 1 programs; to amend 34 CFR Part 78 (the regulations for the Education Appeal Board); and to repeal 34 CFR Part 201 (which contained regulations for Title I that will be replaced by the proposed regulations for 34 CFR Part 200).

DATES: Comments on this notice of proposed rulemaking must be submitted April 13, 1982.

ADDRESSES: Written comments should be submitted to Dr. John F. Staehle, Compensatory Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3642, ROB–3), Washington, D.C. 20202.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3642, ROB–3, 7th and D Streets, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John F. Staehle, Compensatory Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3642, ROB–3), Washington, D.C. 20202. Telephone (202) 245–2722.

SUPPLEMENTARY INFORMATION:

A. Overview of Chapter 1

Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1) was enacted as part of Subtitle D of Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Chapter 1 supersedes Title I of the Elementary and Secondary Education Act of 1965, as amended (Title I). The purpose of Chapter 1 is to continue to provide financial assistance to State and local educational agencies to meet the special educational needs of educationally deprived children, on the basis of entitlements calculated under Title I, but to do so in a manner which will eliminate burdensome, unnecessary, and unproductive paperwork and free the schools of unnecessary Federal supervision, direction, and control.

The programs authorized by Chapter 1 provide financial assistance to—

- Local educational agencies (LEAs) for projects designed to meet the special educational needs of educationally deprived children and children in local institutions for neglected or delinquent children;
- State agencies for projects designed to meet the special educational needs of handicapped children;
- State agencies for projects designed to meet the special educational needs of children in institutions for neglected or delinquent children, or in adult correctional institutions;
- State educational agencies (SEAs) for projects designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishermen; and
- The Secretary of the Interior to meet the special educational needs of Indian children.

The proposed regulations in this notice apply only to that portion of Chapter 1 that provides financial assistance to LEAs. The Secretary intends to issue separate regulations to govern the other Chapter 1 programs.

B. Overview of these proposed regulations

These proposed regulations relate to—

- Applying for Chapter 1 Funds for Grants to Local Educational Agencies (Subpart A).
- Allocation of Chapter 1 Funds for Grants to Local Educational Agencies (Subpart B).
- Project Requirements (Subpart C).
- Fiscal Requirements (Subpart D).
- Participation in Chapter 1 Programs of Educationally Deprived Children in Private Schools (Subpart E).
- Due Process Procedures (Subpart F).

C. Summary of regulatory provisions

1. Applying for Chapter 1 Funds for Grants to Local Educational Agencies

Subpart A contains definitions of several key terms and explains the procedures for applying for Chapter 1 funds. As indicated in § 200.10, a State that wishes to receive Chapter 1 funds for LEA projects designed to meet the special educational needs of educationally deprived children must have on file with the Secretary assurances that meet the requirements in section 435 of the General Education Provisions Act (GEPA) pertaining to fiscal control and fund accounting procedures. Sections 200.12–200.13 describe the procedures for submission of an LEA's project application for approval by an SEA. Section 200.14 provides that an SEA shall approve an LEA's application if that application meets the requirements in section 556 of Chapter 1.

2. Allocation of Chapter 1 Funds for Grants to Local Educational Agencies

Subpart B describes the method of allocating Chapter 1 funds to LEAs for basic grants, special incentive grants, and concentration grants. It is unlikely that poverty data from the 1980 census will be available before the end of next summer. It is the Department's current intention to use 1970 census data in determining county aggregate allocations of Chapter 1 funds for the 1982–83 school year. Sections 200.45–200.46 specify procedures for the reallocation, under certain circumstances, of Chapter 1 funds by SEAs and the Secretary.

3. Project Requirements

Although the Chapter 1 statute retains most of the basic project design characteristics found in Title I, it reflects the congressional intent to simplify the requirements. Subpart C contains the requirements that apply to the design and operation of local Chapter 1 projects. These requirements relate to—

- Selection of attendance areas (§ 200.50).
- Annual needs assessment (§ 200.51).
- Sufficient size, scope, and quality of project (§ 200.52).
- Consultation with parents and teachers (§ 200.53).
- Evaluation (§ 200.54).
- Allowable costs (§ 200.55).
- Recordkeeping requirements (§ 200.56).

• Access to records and audits (§ 200.57).

• Compromise of audit claims (§ 200.58).

• State rulemaking (§ 200.59).

It should be emphasized that the provisions in Subpart C reflect the new flexibility provided by Chapter 1. For example, although an LEA must still conduct an annual assessment of educational needs, under § 200.51(b) that needs assessment must only permit, but need not require, the selection of those educationally deprived children in the greatest need of special assistance. Under § 200.53, and LEA is required to consult with parents and teachers of children being served, but is no longer required to have parent advisory councils. Although § 200.54 requires an LEA to evaluate its Chapter 1 project, it is not required to use any particular evaluation models.

4. Fiscal Requirements

Subpart D sets forth the fiscal requirements that apply to LEAs that receive Chapter 1 funds. The provisions in this subpart relate to—

• Maintenance of effort (§§ 200.60–200.61).

• Supplement, not supplant (§ 200.62).

• Comparability of services (§ 200.63).

Chapter 1 retains the underlying principles of equity that were reflected in the fiscal requirements of Title I. However, Chapter 1 has significantly streamlined and modified those requirements so as to reduce the burden on LEAs and provide greater flexibility in determining compliance. The proposed regulations reflect these changes.

Under § 200.60, SEAs determine an LEA's compliance with the maintenance of effort requirement. Section 200.60(a) allows a ten percent leeway in meeting the maintenance of effort requirement by requiring that the LEA's fiscal effort for the preceding fiscal year be not less than 90 percent of that effort for the second preceding year. In addition, § 200.61 permits an SEA, rather than the Secretary, to waive the maintenance of effort requirement for one fiscal year if the SEA determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster of a precipitous and unforeseen decline in the financial resources of the LEA. The Conference Report indicates that Congress considers declining resources as a result of severe economic conditions, natural disaster, or similar circumstances as grounds for a waiver. However, the Report also indicates that tax initiatives or referenda are not to be considered grounds for a waiver. 127 Cong. Rec. H 5645 (daily ed. July 29, 1981).

Section 200.62 provides that an LEA may use Chapter 1 funds only to supplement, and to the extent practical, increase the level of funds that would, in the absence of Chapter 1 funds, be made available from non-federal sources for the education of pupils participating in Chapter 1 projects, and in no case may Chapter 1 funds be used to supplant non-federal funds. However, as indicated in § 200.62(b), in determining compliance with this supplement, not supplant requirement, an LEA may now exclude State and local funds expended for special programs designed to meet the educational needs of educationally deprived children, if those programs are consistent with the purposes of Chapter 1. Section 200.62(c) specifically provides that an LEA shall not be required to provide Chapter 1 services outside the regular classroom or school program in order to demonstrate compliance with the supplement, not supplant requirement.

Section 200.63 provides that State and locally funded services in project areas must be at least comparable to services in non-project areas. If all attendance areas are selected as project areas, State and locally funded services must be substantially comparable in each project area. However, as indicated in § 200.63(e), an LEA is deemed to have met the comparability requirement if it has filed with the SEA a written assurance that it has established: (1) A districtwide salary schedule; (2) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and (3) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. Section 200.63(d) permits an LEA, in determining compliance with the comparability requirement, to exclude State and local funds expended for special programs designed to meet the educational needs of educationally deprived children, if those programs are consistent with the purposes of Chapter 1. In addition, § 200.63(c) provides that unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year are not included as a factor in determining compliance with the comparability requirement.

5. Participation in Chapter 1 Programs of Educationally Deprived Children in Private Schools

Chapter 1 makes extensive provision for the participation of educationally deprived children in private schools. Subpart D clarifies the following areas regarding the participation of these children: responsibility of LEAs to provide Chapter 1 services; factors used determining equitable participation; use of public school employees on other than public school premises; and public supervision and control of funds and equipment.

6. Due Process Procedures

Subpart E contains specific procedures to afford due process protections to SEAs and LEAs concerning—

• By-pass determinations under section 557(b) of Chapter 1.

• Final audit determinations.

• Determinations to withhold funds.

The by-pass procedures in §§ 200.80–200.85 specify procedures for an affecated SEA or LEA to challenge a determination by the Secretary to implement a by-pass.

Sections 200.90–200.103 provide SEAs with procedures for challenging adverse final audit determinations and decisions to withhold funds. Under the proposed regulations, these proceedings will be conducted before the Education Appeal Board. However, proceedings regarding final audit determinations will be conducted in accordance with the practice and procedure of the Education Appeal Board whereas proceedings regarding the withholding of funds will be conducted in accordance with the provisions of the Administrative Procedure Act.

D. Additional Guidance

Consistent with the Administration's efforts to reduce regulatory burden while increasing State and local flexibility, these proposed regulations address a limited number of issues. As a result, these proposed regulations do not prescribe specific methods for implementing each of the changes that Chapter 1 makes in previous Title I requirements (e.g., changes in requirements concerning comparability of services, selection of project areas, needs assessment, and parental involvement). To the extent feasible, the Secretary will give deference to an SEA's interpretation of a Chapter 1 requirement if that interpretation is not inconsistent with the Chapter 1 statute, legislative history, and regulations.

Although the Secretary chooses not to impose any additional regulatory requirements concerning Chapter 1 program design, he is aware that many State and local officials have requested guidance regarding implementation of Chapter 1 programs. As a result, the Secretary will provide further non-regulatory guidance designed to assist

State and local officials in implementing Chapter 1. This guidance will be binding on the Department but not on SEAs or LEAs. It will clearly indicate that State and local officials are free to develop—indeed, are encouraged to develop—alternative approaches to the examples discussed.

E. Application of Other Statutes and Regulations

1. Recipients of funds under Chapter 1 are recipients of Federal financial assistance and therefore must comply with Federal civil rights laws generally applicable to recipients of Federal financial assistance. Consequently, those statutes, as well as the regulations that implement them, apply to Chapter 1 programs. The applicable civil rights regulations are found in 34 CFR Parts 100, 104, and 106 and 45 CFR Part 90.

2. Section 412(b) of GEPA (the "Tydings Amendment") which allows SEAs and LEAs to "carry over" Chapter 1 funds—that is, to use them either in the fiscal year for which the funds were appropriated or in the succeeding fiscal year—applies to Chapter 1.

As described in section 596 of the Education Consolidation and Improvement Act of 1981, sections 434, 435, and 436 of GEPA relating to State monitoring and State and local general applications do not apply to Chapter 1 programs except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds). The provision in section 434 of GEPA which applies to Chapter 1 is in paragraph (a)(2) pertaining to the Secretary's discretionary authority to request a plan on audits. The Secretary has decided that it would be unduly burdensome to require such a plan.

Section 435 of GEPA applies to Chapter 1 only with respect to paragraphs (b)(2) and (b)(5), which pertain to two assurances concerning fiscal control and fund accounting procedures. Section 436 of GEPA applies to Chapter 1 with regard to similar assurances in paragraphs (b)(2) and (b)(3).

Except for the sections indicated above, the provisions in GEPA have been determined not to apply to programs under Chapter 1.

3. Sections 1741 (distribution of block grant funds), 1742 (reports on the proposed use of funds and public hearings), 1743 (transition provisions), and 1745 (State audit requirements) of the Omnibus Budget Reconciliation Act of 1981 do not apply to Chapter 1. However, section 1744 regarding access to records by the Comptroller General does apply, and its provisions have been incorporated in § 200.57 of this part.

4. This notice of proposed rulemaking proposes that EDGAR does not apply to programs under Chapter 1. In particular, the provisions in 34 CFR Part 76, which deals with State-administered programs, and 34 CFR Part 74, which incorporates OMB Circulars A–21, A–87, A–102, and A–110, do not apply. Instead, States may apply equivalent procedures of their own for financial management and control of their programs. However, States continuing to use the provisions in 34 CFR Part 74 will be considered to be in compliance with the accountability provisions of Chapter 1. This document proposes an amendment to EDGAR to implement this policy. In addition, as indicated in § 200.3(e) of these proposed regulations, the definitions in 34 CFR Part 77 (definitions in EDGAR that apply generally to education programs) do not apply to Chapter 1 programs.

5. With the exception of Attachment P, OMB Circular A–102 and its attachments do not apply to programs under Chapter 1. As indicated in § 200.57(b) of these proposed regulations, State and local agencies that receive Chapter 1 funds must comply with the audit requirements in Attachment P.

Executive Order 12291

This notice of proposed rulemaking has been reviewed by the Department in accordance with Executive Order 12291 and is classified as non-major because it does not meet the criteria for major regulations established in the Order.

The purpose of Executive Order 12291 of February 17, 1981 is to relieve regulatory burdens. The Order requires the Department, when promulgating new regulations, to—

(a) Base administrative decisions on adequate information concerning the need for, and consequences of, proposed government action;

(b) Ensure that a regulation's benefits to society outweigh its costs to society;

(c) Choose regulatory objectives that maximize the net benefits to society; and

(d) Choose the regulatory approach involving the lowest net cost to society.

The Secretary has incorporated these requirements as part of the Department's procedures for issuing regulations. To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall purpose of reducing regulatory burden, public comment is especially invited on whether there may be further opportunities to reduce any regulatory burden found in these proposed Chapter 1 regulations.

Invitation to Comment

Public comments are invited on this notice of proposed rulemaking. Written comments and recommendations may be sent to the contact person listed at the beginning of this preamble. All comments received on or before (the 60th day after publication of this notice) will be considered in developing the final Chapter 1 regulations. In particular, the Secretary invites comment on the appropriateness of continuing to use the historical definition of educationally deprived children set forth in § 200.3 of the proposed regulations.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3642, ROB–3, 7th and D Streets, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of the proposed regulations.

Dated: February 8, 1982.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84–010, Educationally Deprived Children—Local Educational Agencies and No. 84–012, Educationally Deprived Children—State Administration)

The Secretary proposes to revise Part 200 of Title 34 of the Code of Federal Regulations to read as follows:

PART 200—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

Subpart A—Applying for Chapter 1 Funds for Grants to Local Educational Agencies

General

Sec.
200.1 Purpose.
200.2 Applicability of regulationsin this part.
200.3 Defnitions.
200.4 Acronyms that are frequently used.
200.5 Amount of funds available for Chapter 1 grants.
200.6–200 [Reserved]

Application Procedure

200.10 State assurances.
200.11 Payments for State administration.

Sec.
200.12 LEAs that may receive Chapter 1 funds.
200.13 Submission of LEA project applications to the SEA.
200.14 SEA approval of applications.
200.15–200.19 [Reserved]

Subpart B—Allocation of Chapter 1 Funds for Grants to Local Educational Agencies

Basic Grants

200.20 Eligibility of LEAs for basic grants.
200.21 Determination by the Secretary of basic grants.
200.22 Allocation of county aggregate amounts by SEAs.
200.23 Exceptions to county aggregate amounts.
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Special Incentive Grants

200.30 Eligibility for special incentive grants.
200.31 Amount of special incentive grants.
200.32 Method of making special incentive grants.
200.33 Use of special incentive grant funds.
200.34–200.39 [Reserved]

Concentration Grants

200.40 States entitled to receive concentration grant funds.
200.41 Determinations of State and county concentration grants.
200.42 Determinations of LEA allocations.
200.43 Method of awarding concentration grant funds.
200.44 Use of concentration grant funds.

Reallocation

200.45 Reallocation of Chapter 1 funds by SEAs.
200.46 Reallocation of Chapter 1 funds by the Secretary.
200.47–200.49 [Reserved]

Subpart C—Project Requirements

200.50 Selection of attendance areas.
200.51 Annual needs assessment.
200.52 Sufficient size, scope, and quality of project.
200.53 Consultation with parents and teachers.
200.54 Evaluation.
200.55 Allowable costs.
200.56 Recordkeeping requirements.
200.57 Access to records and audits.
200.58 Compromise of audit claims.
200.59 State rulemaking.

Subpart D—Fiscal requirements

200.60 Maintenance of effort.
200.61 Waiver of the maintenance of effort requirement.
200.62 Supplement, not supplant.
200.63 Comparability of services.
200.64–200.69 [Reserved]

Subpart E—Participation in Chapter 1 Programs of Educationally Deprived Children in Private Schools

200.70 Responsibility of LEAs.
200.71 Factors used in determining equitable participation.
200.72 Funds not to benefit a private school.
200.73 Use of public school employees.
200.74 Equipment and supplies.
Sec.
200.75 Construction.
200.76–200.79 [Reserved]

Subpart F—Due Process Procedures

Procedures for By-Pass

200.80 By-pass—General.
200.81 Notice by Secretary.
200.82 By-pass procedures.
200.83 Appointment and functions of a hearing officer.
200.84 Hearing procedures.
200.85 Post hearing procedures.
200.86–200.89 [Reserved]

Other Due Process Procedures

200.90 General.
200.91 Jurisdiction.
200.92 Definitions.
200.93 Eligibility for review.
200.94 Written notice.
200.95 Filing an application for review of a final audit determination or a withholding hearing.
200.96 Review of the written notice.
200.97 Acceptance of the application.
200.98 Rejection of the application.
200.99 Intervention.
200.100 Practice and procedure.
200.101 The Panel's decision.
200.102 Opportunity to comment on the Panel's decision.
200.103 The Secretary's decision.

Authority: Secs. 552–558, 591–596 of Pub. L. No. 97–35, 95 Stat. 464–469, 480–482 (20 U.S.C. 3801–3807, 3871–3876), unless otherwise noted.

Subpart A—Applying for Chapter 1 Funds for Grants to Local Educational Agencies

General

§ 200.1 Purpose.

Under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1), the Secretary provides financial assistance to local educational agencies (LEAs) for projects designed to meet the special educational needs of—

(a) Educationally deprived children selected in accordance with section 556 of Chapter 1; and

(b) Children in local institutions for neglected or delinquent children.

(Sec. 552, 20 U.S.C. 3801; sec. 555, 20 U.S.C. 3804; sec. 556, 20 U.S.C. 3805)

§ 200.2 Applicability of regulations in this part.

(a) The regulations in this part apply to projects for which the Secretary provides financial assistance to LEAs under Chapter 1.

(b) The regulations do not apply to Chapter 1 projects operated by State agencies for handicapped children, neglected or delinquent children, or migratory children or migratory agricultural workers of migratory fishermen.

(Sec. 552–558, 20 U.S.C. 3801–3807)

§ 200.3 Definitions.

(a) The definitions in section 595 of the Education Consolidation and Improvement Act of 1981 apply to the programs covered by this part.

(b) In addition to the definitions referred to in paragraph (a), the following definitions apply to this part:

"Attendance area" means, in relation to a particular public school, the geographical area in which the children who are normally served by that school reside. However, if a child's school attendance area cannot be determined on a geographical basis, the child is considered to be in the school attendance area of the school to which the child is assigned or would be assigned if the child were not attending a private school or another public school on a voluntary basis.

"Chapter 1" means Chapter 1 of the Education Consolidation and Improvement Act of 1981.

"Children" means persons—

(1) Not above age 21 who are entitled to a free public education not above grade 12; or

(2) Who are of preschool age.

"Educationally deprived children" means children whose educational attainment is below the level that is appropriate for children of their age.

"Fiscal year" means the Federal fiscal year—a period beginning on October 1 and ending the following September 30—or another twelve-month period normally used by the State educational agency for recordkeeping.

"Institution for delinquent children" means, as determined by the SEA, a public or private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervison.

"Institution for neglected children" means, as determined by the SEA, a public or private residential facility—other than a foster home—that is operated for the care of children who have been committed to the institution—or voluntarily placed in the institution under applicable State law—because of the abandonment by, neglect by, or death of parents.

"Preschool children" means children who are—

(1) Below the age and grade level at which the LEA provides free public education; and

(2) Of the age or grade level at which they can benefit from an organized instructional program provided in a school or instructional setting.

"Project area" means an attendance area in which a high concentration of children from low-income families reside, and that is selected by an LEA

under section 556(b) of Chapter 1, without regard to the locality of the project itself, as an area from which children are to be selected to participate in a Chapter 1 project.

"Public," as applied to an agency, organization, or institution, means under the administrative supervision or control of a government other than the Federal Government.

"Title I" means Title I of the Elementary and Secondary Education Act of 1965, as amended.

(c) Additional definitions pertaining to the due process procedures in §§ 200.90–200.103 are contained in § 200.92.

(d) Any term used in the provisions of Title I referenced in section 554 of Chapter 1 and not defined in section 595 of Chapter 1 has the same meaning as that term was given in Title I.

(e) The definitions in 34 CFR Part 77 (definitions in EDGAR that apply generally to education programs) do not apply to programs covered by this part.

(Sec. 552–558; 20 U.S.C. 3801–3807; sec. 595, 20 U.S.C. 3875)

§ 200.4 Acronyms that are frequently used.

The following acronyms are used frequently in this part:

"LEA" stands for local educational agency.

"SEA" stands for State educational agency.

(Sec. 552–558, 20 U.S.C. 3801–3807; sec. 595, 20 U.S.C. 3875)

§ 200.5 Amount of funds available for Chapter 1 grants.

(a) *Grants to SEAs.* The Secretary annually notifies an SEA of the amount of funds the SEA is eligible to receive for the next fiscal year for—

(1) Allocation to LEAs under paragraph (b) of this section; and

(2) State administration of Chapter 1 programs.

(b) *Grants to LEAs.* The SEA, on the basis of county allocation provided by the Secretary or, if necessary, on the basis of other data, shall annually—

(1) Determine, in accordance with §§ 200.21, 200.23, 200.31, and 200.42, the amount of Chapter 1 funds that each LEA is eligible to receive under this part for the next fiscal year; and

(2) Notify each LEA of the amount determined under paragraph (b)(1) of this section.

(Sec. 554, 20 U.S.C. 3803)

§§ 200.6–200.9 [Reserved]

Application Procedure

§ 200.10 State assurances.

A State that wishes to receive Chapter 1 funds for LEA projects designed to meet the special educational needs of educationally deprived children shall have on file with the Secretary assurances that—

(a) Have been properly submitted to the Secretary by the SEA of that State; and

(b) Meet the requirements in section 435 of the General Education Provisions Act (GEPA) as they relate to fiscal control and fund accounting procedures.

(Sec. 596, 20 U.S.C. 3876)

§ 200.11 Payments for State administration.

The Secretary pays each State an amount to be spent by it for the proper and efficient performance of its duties under Chapter 1, provided that the amount paid by the Secretary for any fiscal year does not exceed the limits imposed by sections 554(b) and 554(d) of Chapter 1.

(Sec. 554(b), 20 U.S.C. 3803(b); sec. 554(d), 20 U.S.C. 3803(d))

§ 200.12 LEAs that may receive Chapter 1 funds.

An LEA that is eligible to receive funds for a fiscal year may receive those funds through a grant from the SEA, if the LEA has on file with the SEA a Chapter 1 project application that—

(a) Describes the projects to be conducted with the Chapter 1 funds; and

(b) Has been approved by the SEA.

(Sec. 556, 20 U.S.C. 3805)

§ 200.13 Submission of LEA project applications to the SEA.

(a) *Frequency of submission.* An LEA shall submit to the SEA an application for a Chapter 1 project to be conducted during a period of not more than three fiscal years, including the first fiscal year for which a grant is made under that application.

(b) *Contents of the application.* The LEA's Chapter 1 project application must include—

(1) A description of the Chapter 1 Project to be conducted; and

(2) The assurances required under section 556(b) of Chapter 1.

(c) *Annual updating of information in Chapter 1 application.* An LEA shall annually update its Chapter 1 project application by submitting to its SEA—

(1) Data showing that the LEA has maintained its fiscal effort as required by section 558(a) of Chapter 1; and

(2) A budget for the expenditure of Chapter 1 funds.

(Sec. 556, 20 U.S.C. 3805)

§ 200.14 SEA approval of applications.

(a) *Standards for approval.* An SEA shall approve an application of an LEA for Chapter 1 funds, if that application meets the requirements in section 556 of Chapter 1.

(b) *Effect of SEA approval.* SEA approval of an application under paragraph (a) of this section does not relieve the LEA of its responsibility to comply with all applicable requirements.

(Sec. 556, 20 U.S.C. 3805)

§§ 200.15–200.19 [Reserved]

Subpart B—Allocation of Chapter 1 Funds for Grants to Local Educational Agencies

Basic Grants

§ 200.20 Eligibility of LEAs for basic grants.

(a) Each LEA in a State—other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—is eligible for a basic Chapter 1 grant for a fiscal year if—

(1) The Secretary determines, on the basis of satisfactory available data, that there are at least 10 children counted under section 111(c) of Title I (Children to be counted) in the school district of the LEA; or

(2) The Secretary does not have available satisfactory data on a school district basis, but the school district served by the LEA is located, in whole or in part, in a county in which the Secretary determines there are at least 10 children counted under section 111(c) of Title I.

(b) The Secretary allocates funds appropriated for basic Chapter 1 grants among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands on the basis of their respective needs for Chapter 1 funds, and to the Secretary of the Interior for programs for Indian children.

(Sec. 554, 20 U.S.C. 3803)

§ 200.21 Determination by the Secretary of basic grants.

(a) If satisfactory census data are available from the Department of Commerce, the Secretary determines the amount of the basic Chapter 1 grant that each LEA in a State—other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—is eligible to receive for a fiscal year under the method in sections 111(a)(2)(A) (relating to amounts when data are available) and 111(c) of Title I.

(b)(1) If satisfactory census data are not available from the Department of Commerce for LEAs, the Secretary determines the county aggregate amount of basic Chapter 1 grant funds that all

LEAs in a county are eligible to receive under the method in sections 111(a)(2)(B) (relating to amounts when data are not available) and 111(c) of Title I.

(2) The county aggregate amount referred to in paragraph (b)(1) of this section includes an amount based on the number of children aged 5 through 17 who—under the criteria in section 111(c)(2)(B) of Title I (relating to determining numbers of children)—are living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, but who are not counted under Subpart 3 of Part B of Title I (Programs for neglected or delinquent children operated by State agencies) for purposes of a grant to a State agency.

(c) If the amount appropriated for basic grants for any fiscal year exceeds the amount appropriated for basic grants in fiscal year 1979, the Secretary—under section 111(a)(3)(D) of Title I (relating to allocating amounts over the amounts available for fiscal year 1979)—allocates one half of the excess amount to SEAs on the basis of data from the 1975 survey of income and education conducted by the Bureau of the Census.

(d) If the funds appropriated by Congress for any fiscal year are not sufficient to pay the full amount that all LEAs are eligible to receive under basic Chapter 1 grants, the Secretary ratably reduces, using the procedures in section 193 of Title I (Adjustments where necessitated by appropriations), the amount available to each LEA or county.

(Sec. 554, 20 U.S.C. 3803)

§ 200.22 Allocation of county aggregate amounts by SEAs.

Except as provided in § 200.23, an SEA shall allocate the county aggregate amounts, determined by the Secretary under § 200.21, by using the following procedures:

(a) *Allocations based on children in local institutions for neglected or delinquent children.* (1) Except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section, the SEA shall first allocate to a particular LEA that portion, if any, of the county aggregate amount that is based—

(i) On the number of children, aged 5 through 17, in the LEA's district who resided in a local institution for neglected or delinquent children—and were not counted under Subpart 3 of Part B of Title I (Programs for neglected or delinquent children operated by State agencies)—for at least 30 consecutive days, at least one of which was in the month of October of the preceding fiscal year; or

(ii) If the data referred to in paragraph (a)(1)(i) of this section are not available before January of the calendar year in which the Secretary's determination under § 200.21 is made, on the most recent reliable data available at the time of the determination.

(2) If the SEA determines that the LEA is unable or unwilling to provide for the special educational needs of the children referred to in paragraph (a)(1) of this section, the SEA shall—

(i) Reduce the LEA's allocation by the amount that is based on children in local institutions for neglected or delinquent children; and

(ii) Assign that portion of the LEA's grant to—

(A) The SEA if the SEA assumes educational responsibility for those children; or

(B) Another State or local public agency if that agency agrees to assume educational responsibility for those children.

(3) If no public agency is willing to assume educational responsibility for the children referred to in paragraph (a)(1) of this section, the SEA may not reallocate that portion of the LEA's grant that is based on children in local institutions for neglected or delinquent children to any other agency.

(4) If a local institution for neglected or delinquent children closes and the children are transferred to an institution in the school district of another LEA, the SEA shall adjust the allocations of the two LEAs to reflect that transfer.

(b) *Allocations based on the distribution of children from low-income families.*—(1) *General rule.* After following the procedures in paragraph (a) of this section, the SEA shall allocate the remaining county aggregate amount to LEAs in the county on the basis of the best available data on the number of children from low-income families in the school districts of those LEAs.

(2) *Special circumstances.* The SEA shall adjust the allocations that it makes under paragraph (b)(1) of this section to reflect the following special circumstances:

(i) *LEAs in more than one county.* If a school district of an LEA overlaps a county boundary, the SEA shall make, on a proportionate basis, a separate allocation to that LEA from the county aggregate amount for each county in which that district is located provided the aggregate number of children in the LEA is 10 or more.

(ii) *LEAs serving children from another LEA.* If an LEA serves a substantial number of children from the school district of another LEA or serves different children within the same geographical area as another LEA, the SEA may adjust the allocations of those LEAs, among them, in a manner that it determines will best carry out the purposes of Chapter 1.

(iii) *Changes in LEAs.* If an LEA's school district is merged or consolidated, or a portion of the district is transferred to another LEA, the SEA may—

(A) Adjust the allocations of those LEAs to reflect the number of children from low-income families for whom each remaining LEA is providing a free public education; or

(B) Permit an LEA that submitted a previously approved project application to carry out the approved project, by itself or in cooperation with another LEA, during the remainder of the fiscal year.

(3) *Minimum allocation.* The SEA is not required to allocate to an LEA a basic grant of Chapter 1 funds generated by fewer than 10 children.

(Sec. 554, 20 U.S.C. 3803)

§ 200.23 Exceptions to county aggregate amounts.

In any State in which a large number of LEAs overlap county boundaries, the SEA may make allocations of basic grants and special incentive grants directly to LEAs without regard to counties, if such allocations were made during fiscal year 1982, except that—

(a) Precisely the same factors are to be used to determine the amount as were used to compute the county aggregate amount under § 200.21(b); and

(b) An LEA dissatisfied with the determination is to be afforded an opportunity for a hearing on the matter by the SEA.

(Sec. 558(e), 20 U.S.C. 3807(e))

§§ 200.24–200.29 [Reserved]

Special Incentive Grants

§ 200.30 Eligibility for special incentive grants.

(a) An LEA that is eligible to receive a basic Chapter 1 grant for any fiscal year shall be entitled to an additional grant under section 116 of Title I (relating to special incentive grants) if the LEA is located in a State that has in effect for that fiscal year a State program—

(1) That meets the requirements in section 131(c) of Title I (which describes certain State and local compensatory education programs that are similar to Title I) and section 116(a)(2)(B) of Title I (relating to the percentage of State funds expended in low-income areas).

(b)(1) An SEA that desires to have its LEAs be eligible to receive an additional

grant shall develop a system for determining the eligibility data required by section 116(b)(4) of Title I and the amount of State funds expended under the State program referred to in paragraph (a) of this section.

(2) Upon request, the SEA shall submit to the Secretary information on the system developed in paragraph (b)(1) of this section.

(Sec. 554, 20 U.S.C. 3803)

§ 200.31 Amount of special incentive grants.

The amount of special incentive grants to which the LEAs in a State are entitled for any fiscal year is determined under the procedures in section 116(b) and (c) of Title I.

(Sec. 554, 20 U.S.C. 3803)

§ 200.32 Method of making special incentive grants.

The Secretary includes that amount of special incentive grant funds that a State is entitled to receive during a particular fiscal year in the amount of Chapter 1 funds paid to that State for that fiscal year.

(Sec. 554, 20 U.S.C. 3803)

§ 200.33 Use of special incentive grant funds.

An LEA that receives special incentive grant funds shall use those funds to carry out activities described in the approved project application for Chapter 1 funds that the LEA submits to the SEA under § 200.13.

(Sec. 554, 20 U.S.C. 3803)

§§ 200.34–200.39 [Reserved]

Concentration Grants

§ 200.40 States entitled to receive concentration grant funds.

A State—other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—that is eligible for a grant under Chapter 1 for any fiscal year is entitled to concentration grant funds from the amount of concentration grant funds available for that fiscal year.

(Sec. 554, 20 U.S.C. 3803)

§ 200.41 Determinations of State and county concentration grants.

(a) The Secretary determines the amount of concentration grant funds that each eligible county and State by using the procedures in section 117 of Title I (relating to the amount of the concentration grant).

(b) Each State that is entitled to concentration grant funds receives at least one-quarter of one percent of the total concentration grant funds available for the fiscal year.

(1) A county that meets the statutory eligibility criteria and is located in a State that receives the minimum allocation of concentration grant funds is allocated the same proportion of the total concentration grant allocation as an eligible county that is located in a State that receives more than the minimum allocation. After each county has been allocated its proportionate share, the Secretary allocates to the SEA any concentration grant funds that remain unallocated.

(2) If no county in a State that receives the minimum allocation of concentration grant funds meets the statutory eligibility criteria, the Secretary allocates the total amount of the minimum allocation of concentration grant funds to the SEA.

(3) The SEAs that receive the minimum allocation of concentration grant funds may distribute the amount that has been allocated to the SEA under (b) (1) and (2) of this section—

(i) Among only those counties that receive basic grants and have high concentrations of children from low-income families. The SEA shall use the best available data on the current distribution of children from low-income families for selecting these counties; or

(ii) Among all counties in the State that receive basic grant funds based on the total number of children counted in each county for purposes of the basic grant statutory formula under the criteria in section 111(c) of Title I.

(Sec. 554, 20 U.S.C. 3803)

§ 200.42 Determinations of LEA allocations.

(a) The SEA shall distribute concentration grant funds among the LEAs in each county that receives those funds in accordance with § 200.41, on the basis of the current distribution within each of those counties of children aged 5 through 17. In making this distribution, the SEA shall use either of the following procedures, as applicable:

(1) Each LEA in which 20 percent or more of the children are counted as being from low-income families under the Chapter 1 basic grant formula receives a portion of the county's concentration grant allocation based on the number of children counted under the basic grant formula.

(2) Each LEA in which less than 20 percent of the children are counted as being from low-income families under the basic grant formula receives a portion of the county's concentration grant allocation based on (i) the number of children counted under the Chapter 1 basic grant formula multiplied by (ii) a fraction in which the numerator is the percentage of children in the LEA that are counted under the basic grant formula and the denominator is 20.

(Sec. 554, 20 U.S.C. 3803)

§ 200.43 Method of awarding concentration grant funds.

The Secretary includes the amount of concentration grant funds that a State is entitled to receive during a particular fiscal year in the amount of Chapter 1 funds paid to that State for that fiscal year.

(Sec. 554, 20 U.S.C. 3803)

§ 200.44 Use of concentration grant funds.

An LEA that receives concentration grant funds shall use those funds to carry out activities that are described in an approved project application for Chapter 1 funds that the LEA submits to the SEA under § 200.13.

(Sec. 554, 20 U.S.C. 3803)

Reallocation

§ 200.45 Reallocation of Chapter 1 funds by SEAs.

(a) During each fiscal year, an SEA shall—

(1) Determine which, if any, LEAs have received allocations of Chapter 1 funds that exceed the amount required to—

(i) Operate their Chapter 1 projects effectively during the current fiscal year; and

(ii) Provide a prudent and justifiable reserve of Chapter 1 funds for operating their Chapter 1 projects effectively during the next fiscal year; and

(2) Notify each LEA identified under paragraph (a)(1) of this section of—

(i) The amount of that LEA's Chapter 1 funds that the SEA is considering reallocating to other LEAs under paragraph (b) of this section; and

(ii) The opportunity for that LEA to amend its Chapter 1 application to include approvable proposals for use of the excess funds.

(b)(1) If the LEA fails to properly amend its Chapter 1 application in response to the opportunity provided under paragraph (a) of this section, the SEA shall reallocate the excess Chapter 1 funds to LEAs that have the greatest need for such funds for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the allocation provisions in Section 111(a) of Title I as a result of factors like population shifts and changing economic circumstances.

(2) The SEA shall notify the Secretary of those reallocations.

(Sec. 554, 20 U.S.C. 3803)

§ 200.48 Reallocation of Chapter 1 funds by the Secretary.

If excess amounts of Chapter 1 funds remain after an SEA has completed the process in § 200.45, the Secretary distributes those excess funds among other States on the basis of need.

(Sec. 554, 20 U.S.C. 3803)

§ 200.47–200.49 [Reserved]

Subpart C—Project Requirements

§ 200.50 Selection of attendance areas.

An LEA that receives Chapter 1 funds shall operate Chapter 1 projects that are—

(a) Conducted in attendance areas of the LEA having the highest concentrations of low-income children;

(b) Located in all attendance areas of the LEA if the LEA has a uniformly high concentration of low-income children; or

(c) Designed to utilize part of the Chapter 1 funds for services that promise to provide significant help for all low-income children served by the LEA.

(Sec. 556(b)(1), 20 U.S.C. 3805(b)(1))

§ 200.51 Annual needs assessment.

An LEA that receives Chapter 1 funds shall base its Chapter 1 project on an annual assessment of educational needs that—

(a) Identifies educationally deprived children in all eligible attendance areas, including educationally deprived children in private schools;

(b) Permits, but does not require, the selection of those educationally deprived children in the greatest need of special assistance; and

(c) Determines the educational needs of the children selected to participate with sufficient specificity to ensure concentration on those needs.

(Sec. 556(b)(2); 20 U.S.C. 3805(b)(2))

§ 200.52 Sufficient size, scope, and quality of project.

An LEA that receives Chapter 1 funds shall use those funds for a project that is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served.

(Sec. 556(b)(3), 20 U.S.C. 3805(b)(3))

§ 200.53 Consultation with parents and teachers.

(a) An LEA that receives Chapter 1 funds shall design and implement its Chapter 1 project in consultation with parents and teachers of the children being served, including parents and teachers of children in private schools.

(b) To meet the consultation requirement in paragraph (a) of this section, an LEA may, but is not required to, establish and use parent advisory councils.

(Sec. 556(b)(3), 20 U.S.C. 3805(b)(3); 127 Cong. Rec. H5645 (daily ed. July 29, 1981))

§ 200.54 Evaluation.

An LEA that received Chapter 1 funds shall, at least once every three years, conduct an evaluation of its Chapter 1 project that includes—

(a) Objective measurements of educational achievement in basic skills; and

(b) A determination of whether improved performance is sustained over a period of more than one year.

(Sec. 556(b)(4); 20 U.S.C. 3805(b)(4))

§ 200.55 Allowable costs.

(a) An LEA may use Chapter 1 funds only to meet the costs of project activities that—

(1) Are designed to meet the special educational needs of educationally deprived children identified under section 556(b)(2) of Chapter 1;

(2) Are included in an application approved by an SEA under § 200.14; and

(3) Comply with all applicable Chapter 1 requirements, including the assurances required under section 556(b) of Chapter 1.

(b) The project activities referred to in paragraph (a) of this section may include the activities in section 555(c) of Chapter 1.

(Sec. 555(c), 20 U.S.C. 3804(c))

§ 200.56 Recordkeeping requirements.

(a) An SEA or LEA that receives Chapter 1 funds shall use fiscal control and fund accounting procedures that will ensure proper disbursement of and accounting for Chapter 1 funds.

(b) The SEA or LEA shall keep—

(1) Records of the amount and disposition of all Chapter 1 funds, including records that show the share of the cost provided from non-Chapter 1 sources;

(2) Other records that are needed to facilitate an effective audit of the Chapter 1 project and that show compliance with Chapter 1 requirements; and

(3) Evaluation data collected under § 200.54.

(c) All records required under this section must be retained—

(1) For three years after the close of the fiscal year in which the funds were spent;

(2) Until all pending audits concerning the Chapter 1 project have been completed; and

(3) Until all findings and recommendations arising out of any audits concerning the Chapter 1 project have been finally resolved.

(Sec. 555(d); 20 U.S.C. 3804(d); sec. 558(b); 20 U.S.C. 3806(b); sec. 591(a), 20 U.S.C. 3871(a); sec. 596(a), 20 U.S.C. 3876(a))

§ 200.57 Access to records and audits.

(a) For the purpose of evaluating and reviewing the use of Chapter 1 funds, the Inspector General of the Department and the Comptroller General are authorized to conduct audits and shall have access to any books, accounts, records, correspondence, or other documents that—

(1) Are related to programs assisted with Chapter 1 funds; and

(2) Are in the possession, custody, or control of SEAs or LEAs.

(b) Any State or local government that receives Chapter 1 funds shall comply with the audit requirements in Attachment P to OMB Circular A–102.

(Sec. 1744, 31 U.S.C. 1243 note; secs. 3, 4, and 6 of the Inspector General Act of 1978, Pub. L. No. 95–452 (5 U.S.C. App.); sec. 202 of the Intergovernmental Cooperation Act of 1968; Pub. L. No. 90–577 (42 U.S.C. 4212))

§ 200.58 Compromise of audit claims.

In deciding whether to compromise audit claims, or in recommending possible compromises to the Department of Justice, the Secretary may take into account—

(a) The cost of collecting the claim;

(b) The probability of the claim being upheld;

(c) The nature of the violation involved;

(d) Whether the practices of the SEA or LEA that resulted in the audit finding have been corrected;

(e) Whether the SEA or LEA is in all other respects in compliance with Chapter 1; and

(f) The extent to which the SEA or LEA agrees to use non-Federal funds to supplement Chapter 1 programs.

Sec. 555(d), 20 U.S.C 3804(d))

§ 200.59 State rulemaking.

In accordance with State law, the State or an appropriate entity thereof, may adopt rules, regulations, procedures, guidelines, and criteria regarding the use of Chapter 1 funds, provided that those rules, regulations, procedures, guidelines, and criteria do not conflict with the provisions of—

(a) Chapter 1;

(b) The regulations in this part; or

(c) Other applicable Federal statutes and regulations.

(Sec. 556, 20 U.S.C. 3805; sec. 591, 20 U.S.C. 3871)

Subpart D—Fiscal Requirements

§ 200.60 Maintenance of effort.

(a) *Basic standard.* Except as provided in § 200.61, an SEA shall pay an LEA its allocation of funds under Chapter 1 if the SEA finds that either the combined fiscal effort per student or the aggregate expenditures of State and local funds with respect to the provision of free public education in the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or the aggregate expenditures for the second preceding fiscal year.

(1) *Meaning of "preceding fiscal year."* For purposes of determining maintenance of effort, "preceding fiscal year" means the Federal fiscal year or the 12-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year for which funds are available.

Example: For funds first made available on July 1, 1982, if a State is using the Federal fiscal year, the "preceding fiscal year" is Federal Fiscal Year 1981 (which began on October 1, 1980). If a State is using a fiscal year that begins in July 1, 1982, the "preceding fiscal year" is the 12-month fiscal period ending on June 30, 1981.

(b) *Failure to maintain effort.* (1) If an LEA fails to maintain effort and a waiver under § 200.61 is not appropriate, the SEA shall reduce the LEA's allocation of funds under Chapter 1 in the exact proportion to which the LEA fails to meet 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA) for the second preceding fiscal year.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the LEA failed to maintain effort, the SEA may consider the LEA's fiscal effort for the second preceding fiscal year to be 90 percent of the combined fiscal effort per student or aggregate expenditures for the third preceding fiscal year.

Example: An LEA fails to maintain effort because its fiscal effort in the preceding fiscal year (1981) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1980); then, in the following fiscal year, the LEA's fiscal effort in the second preceding year (1981) would be considered to be 90 percent of its fiscal effort in the third preceding fiscal year (1980).

(Sec. 558(a), 20 U.S.C. 3807(a))

§ 200.61 Waiver of maintenance of effort requirement.

(a)(1) An SEA may waive, for one fiscal year only, the maintenance of effort requirement in § 200.60 if the SEA determines that a waiver would be equitable due to exceptional or uncontrollable circumstances. These circumstances include—

(i) A natural disaster;

(ii) A precipitous and unforeseen decline in the financial resources of the LEA; or

(iii) Other exceptional or uncontrollable circumstances.

(2) An SEA may not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances.

(b)(1) If the SEA grants a waiver under paragraph (a) of this section, the SEA shall allocate to the affected LEA its full entitlement of Chapter 1 funds.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year for which the waiver was granted, the SEA may consider the LEA's fiscal effort for the second preceding fiscal year to be 90 percent of the combined fiscal effort per student or aggregate expenditures for the third preceding fiscal year.

Example: An LEA secures a waiver because its fiscal effort in the preceding fiscal year (1981) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1980) due to exceptional or uncontrollable circumstances; then, in the following fiscal year, the LEA's fiscal effort in the second preceding fiscal year (1981) would be considered to be 90 percent of its fiscal effort in the third preceding fiscal year (1980).

(Sec. 558(a)(3), 20 U.S.C. 3807(a)(3); 127 Cong. Rec. H5645 (daily ed. July 29, 1981))

§ 200.62 Supplement, not supplant.

(a) Except as provided in paragraph (b) of this section, an LEA may use Chapter 1 funds only to supplement and, to the extent practical, increase the level of non-federal funds that would, in the absence of Chapter 1 funds, be made available for the education of pupils participating in Chapter 1 projects, and in no case may Chapter 1 funds be used to supplant those non-federal funds.

(b) An LEA may exclude, for the purpose of determining compliance with the supplement, not supplant requirement in paragraph (a) of this section, State and local funds spent in carrying out special programs to meet the educational needs of educationally deprived children, if those programs are consistent with the purposes of Chapter 1.

(c) In order to demonstrate compliance with the supplement, not supplant requirement in paragraph (a) of this section, an LEA shall not be required to provide Chapter 1 services outside the regular classroom or school program.

(Sec. 558(b); 20 U.S.C. 3807(b); sec. 559(d), 20 U.S.C. 3807(d))

§ 200.63 Comparability of services.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, an LEA may receive Chapter 1 funds only if it uses State and local funds to provide services in project areas that, taken as a whole, are at least comparable to services being provided in school attendance areas that are not receiving Chapter 1 funds.

(b) Except as provided in paragraphs (c) and (d) of this section, if an LEA selects all its school attendance areas as project areas, the LEA may receive Chapter 1 funds only if it uses State and local funds to provide services that, taken as a whole, are substantially comparable in each project area.

(c) Unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year shall not be included as a factor in determining compliance with the comparability of services requirements in paragraphs (a) and (b) of this section.

(d) An LEA may exclude, for the purpose of determining compliance with the comparability requirements in paragraphs (a) and (b) of this section, State and local funds spent in carrying out special programs to meet the educational needs of educationally deprived children, if these programs are consistent with the purposes of Chapter 1.

(e) An LEA shall be deemed to have met the comparability requirements in paragraphs (a) and (b) of this section if it has filed with the SEA a written assurance that it has established—

(1) A districtwide salary schedule;

(2) A policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(3) A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(Sec. 558 (c) and (d); 20 U.S.C. 3807 (c) and (d))

§ 200.64–200.69 [Reserved]

Subpart E—Participation in Chapter 1 Programs of Educationally Deprived Children in Private Schools

§ 200.70 Responsibility of LEAs.

(a) An LEA shall provide educationally deprived children residing in a project area of the LEA who are enrolled in private elementary and secondary schools with special educational services and arrangements as will assure participation on an equitable basis of those children in

accordance with the requirements in §§ 200.70–200.76 and section 557(a) of Chapter 1.

(b) The LEA shall provide the opportunity to participate in a manner that is consistent with the number and special educational needs of the educationally deprived children in private schools.

(c) The LEA shall exercise administrative direction and control over Chapter 1 funds and property that benefit educationally deprived children in private schools.

(d) Provision of services to children enrolled in private schools must be provided by employees of a public agency or through a contractor which is independent of the private school and of any religious organization.

(e) In its application for Chapter 1 funds, the LEA shall make provision for services to educationally deprived children attending private elementary and secondary schools.

(Sec. 555, 20 U.S.C. 3804; sec. 556(b)(5), 20 U.S.C. 3805(b)(5); sec. 557(a), 20 U.S.C. 3806(a); sec. 596(a), 20 U.S.C. 3876(a))

§ 200.71 Factors used in determining equitable participation.

(a) *Equal expenditures.* Expenditures for educational services and arrangements for educationally deprived children in private schools must be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the LEA.

(b) *Services on an equitable basis.* The Chapter 1 services that an LEA provides for educationally deprived children in private schools must be equitable (in relation to the services provided to public school children) and must be of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the private school children to be served.

(Sec. 557(a), 20 U.S.C. 3806(a); sec. 556(b)(3), 20 U.S.C. 3805(b)(3))

§ 200.72 Funds not to benefit a private school.

(a) An LEA shall use Chapter 1 funds to provide services that supplement the level of services that would, in the absence of Chapter 1 services, be available to children in a private school.

(b) An LEA shall use Chapter 1 funds to meet the special educational needs of children in private schools, but not for—

(1) The needs of a private school; or

(2) The general needs of the children in a private school.

(Sec. 557(a), 20 U.S.C. 3806(a))

§ 200.73 Use of public school employees.

An LEA may use Chapter 1 funds to make public employees available in other than public facilities—

(a) To the extent necessary to provide equitable Chapter 1 services designed for children in a private school; and

(b) If those services are not normally provided by the private school.

(Sec. 557(a), 20 U.S.C. 3806(a))

§ 200.74 Equipment and supplies.

(a) To meet the requirements of section 557(a) of Chapter 1, a public agency must keep title to and exercise continuing administrative control of all equipment and supplies that the LEA acquires with Chapter 1 funds.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall insure that the equipment or supplies placed in a private school—

(1) Are used for Chapter 1 purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment or supplies from a private school if—

(1) The equipment or supplies are no longer needed for Chapter 1 purposes; or

(2) Removal is necessary to avoid use of the equipment or supplies for other than Chapter 1 purposes.

(e) For the purpose of this section, the term "public agency" includes the LEA.

(Sec. 557(a), 20 U.S.C. 3806(a); sec. 596(a), 20 U.S.C. 3876(a))

§ 200.75 Construction.

No Chapter 1 funds may be used for the construction of private school facilities.

(Sec. 557(a), 20 U.S.C. 3806(a))

§ 200.76–200.79 [Reserved]

Subpart F—Due Process Procedures

Procedures for By-Pass

§ 200.80 By-pass—General.

(a) The Secretary implements a by-pass if an LEA— (1) Is prohibited by law from providing Chapter 1 services for private school children on an equitable basis; or

(2) Has substantially failed to provide services for private school children on an equitable basis.

(b) If the Secretary implements a by-pass, the Secretary waives the LEA's responsibility for providing Chapter 1 services for private school children and arranges to provide the required services. Normally, the Secretary hires a contractor to provide the Chapter 1 services for private school children under a by-pass. The Secretary deducts the cost of these services, including any administrative costs, from the appropriate allocations of Chapter 1 funds provided to the LEA and SEA.

(Sec. 557(b), 20 U.S.C. 3806(b))

§ 200.81 Notice by Secretary.

(a) Before taking any final action to implement a by-pass, the Secretary provides the affected LEA and SEA with written notice. (b) In the written notice, the Secretary—

(1) States the reasons for the proposed by-pass in sufficient detail to allow the LEA and SEA to respond;

(2) Cites the requirement that is the basis for the alleged failure to comply; and

(3) Advises the LEA and SEA that they have at least 45 days to submit written objections to the proposed by-pass and may request in writing the opportunity for a hearing to show cause why the by-pass should not be implemented.

(c) The Secretary sends the notice to the LEA and the SEA by certified mail with return receipt requested.

(Sec. 557(b)(4)(A), 20 U.S.C. 3806(b)(4)(A))

§ 200.82 By-pass procedures.

Sections 200.83–200.85 contain the procedures that the Secretary uses in conducting a show cause hearing. These procedures may be modified by the hearing officer if all parties agree it is appropriate to modify them for a particular case.

(Sec. 557(b)(4)(A), 20 U.S.C. 3806(b)(4)(A))

§ 200.83 Appointment and functions of a hearing officer.

(a) If an LEA or SEA requests a show cause hearing, the Secretary appoints a hearing officer and notifies appropriate representatives of the affected private school children that they may participate in the hearing.

(b) The hearing officer has no authority to require or conduct discovery, or to rule on the validity of any statute or regulation.

(c) The hearing officer notifies the LEA, SEA, and representatives of the private school children of the time and place of the hearing.

(Sec. 557(b)(4)(A), 20 U.S.C. 3806(b)(4)(A))

§ 200.84 Hearing procedures.

(a) At the hearing, a transcript is taken. The LEA, SEA, and representatives of the private school children each may be represented by

legal counsel, and each may submit oral or written evidence and arguments at the hearing.

(b) Within ten days after the hearing, the hearing officer indicates that a decision will be issued on the basis of the existing record, or requests further information from the LEA, SEA, representatives of the private school children, or Department of Education officials.

(Sec. 557(b)(4)(A), 20 U.S.C. 3606(b)(4)(A))

§ 200.85 Post hearing procedures.

(a) Within 120 days after the hearing record is closed, the hearing officer issues a written decision on whether the proposed by-pass should be implemented. The hearing officer sends copies of the decision to the LEA, SEA, representatives of the private school children, and the Secretary.

(b) The LEA, SEA, and representatives of the private school children each may submit written comments on the decision to the Secretary within thirty days from the receipt of the hearing officer's decision.

(c) The Secretary may adopt, reverse, or modify the hearing officer's decision.

(Sec. 557(b)(4)(A), 20 U.S.C. 3606(b)(4)(A))

§§ 200.86–200.89 [Reserved]

Other Due Process Procedures

§ 200.90 General.

Sections 200.91–200.103 contain rules for the conduct of—

(a) Proceedings for the review of final audit determinations arising under Chapter 1; and

(b) Withholding hearings arising under Chapter 1.

(Sec. 564(a)(6), 20 U.S.C. 2814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 200.91 Jurisdiction.

The Secretary designates the Education Appeal Board to hear proceedings for the review of final audit determinations and withholding hearings under Chapter 1.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872; 34 CFR Part 78)

§ 200.92 Definitions.

For the purposes of §§ 200.90–200.103, the following definitions apply:

"Appellant" means an SEA that requests—

(a) A review of a final audit determination; or

(b) A withholding hearing.

"Authorized Department official" means—

(a) The Secretary; or

(b) A person employed by the Department who has been designated to act under the Secretary's authority.

"Board" means the Education appeal Board of the Department.

"Board Chairperson" means the Board member designated by the Secretary to serve as administrative officer of the Board.

"Final audit determination" means a written notice issued by an authorized Department official disallowing expenditures made by a recipient under Chapter 1.

"Hearing" means any review proceeding conducted by the Board.

"Panel" means an Education Appeal Board Panel consisting of at least three members of the Board designated by the Board Chairperson to sit in any case.

"Panel Chairperson" means the person designated by the Board Chairperson to serve as the presiding officer of a Panel.

"Party" means—

(a) The recipient requesting or appearing at a hearing under these regulations;

(b) The authorized Department official who issued the final audit determination being appealed or the notice of an intent to withhold funds; or

(c) Any person, group, or agency that files an acceptable application to intervene.

"Recipient" means the named party or entity that initially received Federal funds under Chapter 1.

"Withholding" means stopping payment of Federal funds under Chapter 1 to a recipient and stopping the recipient's authority to charge costs under Chapter 1 for the period of time the recipient is in violation of a requirement.

(Sec. 555(d), 20 U.S.C. 3804(d); 20 U.S.C. 1234(a))

§ 200.93 Eligibility for review.

Review under these regulations is available to a recipient that receives a written notice from an authorized Department official of—

(a) A final audit determination; or

(b) An intent to withhold funds.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.94 Written notice.

(a) *Written notice of a final audit determination.* (1) An authorized Department official issues a written notice of a final audit determination to a recipient in connection with Chapter 1.

(2) In the written notice, the authorized Department official—

(i) Lists the disallowed expenditures made by the recipient;

(ii) Indicates the reasons for the final audit determination in sufficient detail to allow the recipient to respond;

(iii) Cites the requirements that are the basis for the alleged failure to comply; and

(iv) Advises the recipient that it must repay the disallowed expenditures to the Department or, within 30 calendar days of its receipt of the written notice, request a review by the Board of the final audit determination.

(3) The authorized Department offical sends the written notice to the recipient by certified mail with return receipt requested.

(b) *Written notice of an intent to withhold.* (1) An authorized Department offical issues a written notice to a recipient under Chapter 1 of an intent to withhold funds.

(2) In the written notice, the authorized Department official—

(i) Indicates the reasons why the recipient failed to comply substantially with a requirement that applies to the funds;

(ii) Cites the requirement that is the basis for the alleged failure to comply; and

(iii) Advises the recipient that it may request a hearing before the Board.

(3) The authorized Department official sends the written notice to the recipient by certified mail with return receipt requested.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.95 Filing an application for review of a final audit determination or a withholding hearing.

(a) An appellant seeking review of a final audit determination or a withholding hearing shall file a written application with the Board Chairperson no later than 30 calendar days after the date it receives written notice.

(b) In the application, the appellant shall attach a copy of the written notice and shall, to the satisfaction of the Board Chairperson—

(1) Identify the issues and facts in dispute; and

(2) State the appellant's position, together with the pertinent facts and reasons supporting that position.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.96 Review of the written notice.

(a) The Board Chairperson reviews the written notice of the final audit determination or the intent to withhold funds after an application is received under § 200.95 to insure that the written notice meets the applicable requirements in § 200.94.

(b) If the Board Chairperson decides that the written notice does not meet the

applicable requirements in § 200.94, the Board Chairperson—

(1) Returns the determination to the official who issued it so that the determination may be properly modified; and

(2) Notifies the recipient of that decision.

(c) If the official makes the appropriate modifications and the recipient wishes to pursue its appeal to the Board, the recipient shall amend its application within 30 calendar days of the date it receives the modification.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.97 Acceptance of the application

If the appellant files an application that meets the requirements of § 200.95, the Board Chairperson—

(a) Issues, within 45 days of receiving the application, a notice of the acceptance of the application to the appellant and the authorized Department official who issued the written notice;

(b) Refers the appeal to a Panel;

(c) Arranges for the scheduling of initial proceedings; and

(d) Forwards to the Panel and parties an initial hearing record that includes—

(1) The written notice;

(2) The appellant's application; and

(3) Other relevant documents, such as audit reports.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.98 Rejection of the application.

(a) If the Board Chairperson determines that an application does not satisfy the requirements of § 200.95, the Board Chairperson, within 45 days of receiving the application, returns the application to the appellant, together with the reasons for the rejection, by certified mail with return receipt requested.

(b) The appellant has 20 calendar days after the date it receives the notice of rejection to file an acceptable application.

(c) If an application is rejected twice, the Department may take appropriate administrative action to—

(1) Collect the expenditures disallowed in the final audit determination; or

(2) Withhold funds.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.99 Intervention.

(a) A person, group, or agency with an interest in and having relevant information about a case before the Board may file with the Board Chairperson an application to intervene.

(b) The application to intervene shall contain—

(1) A statement of the applicant's interest; and

(2) A summary of the relevant information.

(c)(1) If the application is filed before a case is assigned to a Panel, the Board Chairperson decides whether approval of the application to intervene will aid the Panel in its disposition of the case.

(2) If the application is filed after the Board Chairperson has assigned the case to a Panel, the Panel decides whether approval of the application to intervene will aid the Panel in its disposition of the case.

(d) The Board Chairperson notifies the applicant seeking to intervene and the other parties of the approval or disapproval of the application to intervene.

(e) If an application to intervene is approved, the intervenor becomes a party to the proceedings.

(f) If an application to intervene is disapproved, the applicant may submit to the Board Chairperson an amended application to intervene.

(Sec. 555(d), 20 U.S.C.3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.100 Practice and procedure.

(a) Practice and procedure before the Board in a proceeding for review of a final audit determination are governed by the rules in Subpart E of 34 CFR Part 78.

(b) Practice and procedure before the Board in a withholding hearing are governed by the procedures in the Administrative Procedure Act, 5 U.S.C. 554.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.101 The Panel's decision.

(a) The Panel issues a decision, based on the record as a whole, in an appeal from a final audit determination, or an intent to withhold funds, within 180 days after receiving the parties' final submissions, unless the Board Chairperson, for good cause shown, grants the Panel an extension of this deadline.

(b) The Board Chairperson submits the Panel's decision to the Secretary and sends a copy to each party by certified mail with return receipt requested.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.102 Opportunity to comment on the Panel's decision.

(a) Initial comments and recommendations. Each party has the opportunity to file comments and recommendations on the Panel's decision with the Board Chairperson within 30 calendar days of the date the party receives the Panel's decision.

(b) *Responsive comments and recommendations.* The Board Chairperson sends a copy of a party's initial comments and recommendations to each of the other parties by certified mail with return receipt requested. Each party may file responsive comments and recommendations with the Board Chairperson within 15 days of the date the party receives the initial comments and recommendations.

(c) The Board Chairperson forwards the parties' initial and responsive comments on the Panel's decision to the Secretary.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

§ 200.103 The Secretary's decision.

(a) The Panel's decision becomes the final decision of the Secretary 90 calendar days after the date the recipient receives the Panel's decision unless the Secretary, for good cause shown, modifies or sets aside the Panel's decision.

(b) If the Secretary modifies or sets aside the Panel's decision within the 90 days, the Secretary issues a decision that—

(1) Includes a statement of the reasons for this action; and

(2) Becomes the Secretary's final decision 60 calendar days after it is issued.

(c) The Board Chairperson sends a copy of the Secretary's final decision and statement of reasons, or a notice that the Panel's decision has become the Secretary's final decision, to the Panel and to each party.

(d) The final decision of the Secretary is the final decision of the Department.

(Sec. 555(d), 20 U.S.C. 3804(d); sec. 592, 20 U.S.C. 3872)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations as follows:

PART 74—ADMINISTRATION OF GRANTS

1. In 34 CFR 74.4 (administration of grants), by revising paragraph (a) to read as follows:

§ 74.4 Applicability of this part.

(a) *General.* Except where inconsistent with Federal statutes, regulations, or other terms of a grant, this part applies to all ED grants. However, this part does not apply to the programs authorized under the Education Consolidation and Improvement Act of 1981. Further,

unless expressly made applicable by ED, this part does not apply when the grantee is a Federal agency, foreign government or organization, international organization such as the United Nations, for profit organization, or individual.

* * * * *

PART 76—STATE-ADMINISTERED PROGRAMS

2. In 34 CFR 76.1 (general education regulations for State-administered programs in EDGAR), by adding a new paragraph (c) to read as follows:

§ 76.1 Programs to which Part 76 applies.

* * * * *

(c) The regulations in Part 76 do not apply to the programs authorized under the Education Consolidation and Improvement Act of 1981.

* * * * *

PART 78—EDUCATION APPEAL BOARD

3. In 34 CFR 78.42 (Education Appeal Board regulations), by revising paragraph (b) and adding new paragraphs (c), (d) and (e) to read as follows:

§ 78.42 Applicability of other laws and regulations.

* * * * *

(b) Other provisions of the Administrative Procedure Act and the Federal Rules of Civil Procedure do not apply to proceedings before the Board, except as provided in paragraph (c).

(c) In conducting hearings concerning expenditures under the Education Consolidation and Improvement Act of 1981, the Board applies the regulations in—

(d) 34 CFR 200.90–200.103 for expenditures under Chapter 1; and

(e) 34 CFR 298.41–298.54 for expenditures under Chapter 2.

(20 U.S.C. 1234(e))

The Secretary proposes to repeal Part 201 of Title 34 of the Code of Federal Regulations (financial assistance to local educational agencies for children with special educational needs).

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Part VI

Department of Education

Proposed Regulations to Allow State and Local Agencies Maximum Flexibility to Administer Funds and Design Programs

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Eduction

34 CFR Parts 74, 76, 78, and 298

Chapter 2 of the Education Consolidation and Improvement Act of 1981

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations for activities authorized under Subchapters A, B, and C of Chapter 2 of the Education Consolidation and Improvement Act of 1981 (ECIA). These regulations allow State and local educational agencies maximum flexibility to administer funds and design programs under these subchapters of Chapter 2.

The Secretary also proposes to amend the regulations in 34 CFR Parts 74 and 76 (Education Department General Administrative Regulations) to indicate that those regulations do not apply to programs authorized under Chapter 2; and to amend 34 CFR Part 78 (the regulations for the Education Appeal Board.)

DATE: Comments on this notice or proposed rulemaking must be submitted on or before April 13, 1982.

ADDRESS: Written comments should be submitted to Mrs. Shirley A. Jackson, Acting Director, Educational Support Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2070, Washington, D.C. 20202.

All comments submitted in response to this notice of proposed rulemaking will be available for public inspection, during and after the comment period, in Room 2161, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday of each week except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Allen King, Acting Deputy Director, Educational Support Services, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., Room 2079, Washington, D.C. 20202. Telephone: (202) 245–8407.

SUPPLEMENTARY INFORMATION:

a. Purpose of Chapter 2 consolidation

Chapter 2 of the ECIA ("Chapter 2") was enacted as part of Subtitle D of Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Chapter 2 consolidates 28 education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States. As stated in Section 561(a) of the ECIA, the programs consolidated are:

(1) Titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;
(2) The Alcohol and Drug Abuse Education Act;
(3) Part A and section 532 of title V of the Higher Education Act of 1965;
(4) The Follow Through Act (on a phase basis);
(5) The precollege science teacher training program administered by the Secretary of Education under section 3(a)(1) of the National Science Foundation Act of 1950; and
(6) The Career Education Incentive Act.

Section 561(b) of Chapter 2 declares the legislative purpose of Chapter 2 to be the transfer of authority and responsibility to State and local educational agencies. It states:

> The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

The Secretary proposes regulations in this document that are designed to implement these purposes.

b. Authority to issue Chapter 2 regulations

Chapter 2 does not require the Secretary to publish regulations to implement any of its provisions. In fact, Section 591(a) of the ECIA substantially limits the authority of the Secretary to issue regulations under Chapter 2. The Secretary is authorized to issue regulations only if they:

(1) Relate to the discharge of duties specifically assigned to the Secretary;
(2) Relate to proper fiscal accounting and payment methods; or
(3) Are deemed necessary "to reasonably insure that there is compliance with the specific requirements and assurances" in Chapter 2.

In accordance with these provisions, the Secretary concludes that regulations for the Chapter 2 program are needed only to cover the following subjects:

- How a State or local educational agency obtains funds under Chapter 2 (Subpart A);
- Fiscal requirements that a State or local educational agency must meet (Subpart B);
- How children enrolled in private schools participate in Chapter 2 programs (Subpart C); and
- Due process procedures (Subpart D).

The following paragraphs provide a summary description of the Chapter 2 statute and proposed regulations.

c. Summary of program: distribution of funds to SEAs and LEAs.

Before a State may receive chapter 2 funds, the State must meet two requirements. First, it must establish a State Advisory Committee that meets the requirements for representation in section 564(a)(2) of Chapter 2. Section 564(a)(2) describes the composition and functions of the committee. The proposed regulations add no requirements to this statutory process. However, they do describe circumstances under which a State may use an existing organization to serve as the advisory committee.

The Secretary encourages Governors to appoint their State Advisory Committees as early as possible. Any pre-grant costs incurred for expenses of State Advisory Committees prior to July 1, 1982 may be paid from available resources and those accounts reimbursed after July 1 from a State's Chapter 2 funds. Also, those costs may be paid from funds appropriated in Fiscal Year 1981 to implement Title V–B of the Elementary and Secondary Education Act of 1965.

Second, the State must submit an application to the Secretary. The application must designate the State educational agency (SEA) as the State agency responsible for the administration and supervision of programs assisted under Chapter 2, set forth the planned allocation of funds in accordance with Section 564(a)(3), and meet other minimum statutory requirement contained in Section 564(a)(4)–(7). The Secretary requires no particular form of application.

After the Secretary checks to insure that the application meets the statutory requirements, the Secretary provides a grant award to the State for an amount computed on the basis of the school-age population in the State compared to the school-age populations of all States in accordance with Section 563 of Chapter 2.

Under Section 565, the State must distribute at least 80 percent of the funds it receives to the local educational agencies (LEAs) in the State in proportion to the relative enrollments in public and private schools in those agencies, "adjusted, in accordance with criteria approved by the Secretary, to

provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child * * *". The statute gives examples of these children but the examples are not exclusive. The Secretary proposes no regulations or standards for evaluating State criteria under Section 565. In carrying out this function, the Secretary will approve criteria that are reasonably calculated to produce an equitable distribution of funds. The Secretary encourages States to submit their criteria for approval prior to submission of their applications.

To receive its allocation from the SEA, an LEA must have on file with the SEA an application which "sets forth the planned allocation of funds * * *" in accordance with Section 566(a)(1) and meets other minimum statutory requirements stated in section 566. An SEA or LEA may use Chapter 2 funds for the purposes described in Subchapters A through C of Chapter 2. These three Subchapters are titled—

Subchapter A—Basic Skills Development;

Subchapter B—Educational Improvement and Support Services; and

Subchapter C—Special Projects.

Chapter 2 contains no set-asides or other requirements that an SEA or LEA allocate a particular portion of its funds to any of the purposes stated in Subchapters A through C. An SEA or LEA is free to distribute its funds among the range of purposes stated in these subchapters as it sees fit.

In general, the SEA is responsible for the administration and supervision of programs assisted with Chapter 2 funds. However, under section 566(c), each LEA has "complete discretion, subject only to the provisions of (Chapter 2), in determining how funds the agency receives * * * shall be divided among the purposes of (Chapter 2) in accordance with the application submitted under (Section 566(a))."

d. Fiscal requirements.

Section 585 of Chapter 2 contains provisions regarding maintenance of effort and use of Federal funds to supplement and not supplant State and local funds. Under section 585(a)(1), the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year must not be less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year. Section 585(a)(2) calls for proportional reduction of a State's Chapter 2 allocation if a State fails to meet this requirement. Section 585(a)(3) allows the Secretary to waive the requirement, for one year, if the waiver is equitable due to exceptional or uncontrollable circumstances. The Conference Report, however, indicates that the Secretary may not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances. 127 Cong. Rec. H5645 (daily ed. 1981). Section 585(b) states the supplement, not supplant principle that applies to Chapter 2.

Because representatives of SEAs and LEAs, in meetings with staff members of the Department, have been particularly concerned regarding the need for guidance on these provisions and because section 585(c) of Chapter 2 specifically invites the issuance of regulations, the Secretary proposes to provide minimal regulations on a number of key points on these subjects. These regulations are designed to afford greater flexibility and maximum discretion to SEAs and LEAs in meeting the fiscal requirements described above. The pertinent proposed regulations are contained in Subpart B.

e. Participation of children enrolled in private schools.

Chapter 2 makes extensive provision for the equitable participation of children enrolled in private schools. Sections 586 (d) and (e) provide that the Secretary may arrange for services to private school children if an SEA or LEA is prohibited by law or "substantially failed or is unwilling" to provide equitable services for them.

Because Chapter 2 assigns to the Secretary a special duty regarding the equitable provision of Chapter 2 services to children enrolled in private schools, the Secretary proposes to give guidance in these regulations regarding a limited number of questions which have been frequently raised and which knowledgeable persons, including representatives of private school children, believe require clarification. This clarification is needed to insure full compliance with the specific provisions which Congress has enacted to protect the rights of private school children to share in Chapter 2 services.

Section 586 of Chapter 2 closely parallels the comparable statutory provisions for serving children enrolled in private schools in Title IV of the Elementary and Secondary Education Act. Accordingly, the Secretary has drawn on long-accepted principles in the regulations applicable to Title IV in responding to questions regarding the participation of private school children under Chapter 2. At the same time, in the interest of simplification and flexibility for SEAs and LEAs, the Secretary has simplified the regulations.

Among the matters clarified in the proposed Subpart C of these regulations are: responsibility of SEAs and LEAs to provide services; consultation with private school officials; determination of needs, number of children, and types of services; factors used in determining equitable participation; use of public school employees on other than public school premises; and public supervision and control of funds and equipment.

f. Due process procedures.

As indicated above, the Secretary proposes specific rules to afford due process protections to State and local educational agencies in the event that disputes arise in the following areas:

- By-pass determinations under section 586(d)–(h).
- Final audit determinations.
- Determinations to withhold funds under section 592.

By-pass procedures proposed in the regulations are designed to provide a brief procedural guide to enable an affected SEA or LEA to challenge a by-pass determination by the Secretary.

Procedures regarding audit disputes are modeled on current regulations providing SEAs with highly developed appeal rights in cases of adverse audit determinations. However, the proposed regulations under Chapter 2 shorten and simplify these procedures and specifically tailor them for the Chapter 2 program.

The proposed regulations provide for withholding proceedings under section 592 before the Education Appeal Board but require, in keeping with the mandate of section 592, that these proceedings be conducted in accordance with the provisions of the Administrative Procedure Act.

g. Additional guidance.

The Secretary has recognized a need and a responsibility to provide further non-regulatory guidance with respect to various questions that have been frequently raised by representatives of SEAs and LEAs. The Department of Education has conducted public meetings to respond to a number of these questions and to explain the provisions of Chapter 2.

The Secretary is also preparing, and plans to distribute widely, a document designed to provide further non-regulatory guidance with respect to the provisions in Chapter 2. It is expected that this material will provide information to enable SEAs and LEAs to carry out their increased responsibilities

under Chapter 2 and will further advise these agencies of alternative approaches to meet the requirements of the statue. Commenters are invited to suggest matters that they believe should be covered in this document.

The guidance in the document will not be binding on SEAs and LEAs and will not foreclose alternative approaches that may be more in keeping with local needs and circumstances and that also meet the statutory requirements. It will clearly indicate that State and local officials are free to develop—indeed are encouraged to develop—alternative approaches to the examples discussed.

h. Application of other statutes and regulations.

(1) As the Secretary interprets other applicable statutes, recipients of grant funds under Chapter 2 are recipients of Federal financial assistance under the civil rights laws. Therefore, those statutes, as well as regulations implementing those statutes, apply to Chapter 2 programs. The civil rights regulations are found in 34 CFR Parts 100, 104, and 106 and 45 CFR Part 90.

(2) As provided in section 596 of the ECIA, section 412(b) (the "Tydings Amendment") of the General Education Provisions Act (GEPA) which allows SEAs and LEAs to "carry over" Chapter 2 funds—that is, to use them either in the fiscal year for which the funds were appropriated or in the succeeding fiscal year—applies to Chapter 2.

As described in section 596 of the ECIA, Sections 434, 435, and 436 of GEPA relating to State monitoring and State and local general applications do not apply to Chapter 2 programs except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds). The provision in section 434 of GEPA which applies to Chapter 2 is in paragraph (a)(2) pertaining to the Secretary's discretionary authority to request a plan on audits. The Secretary has decided that it would be unduly burdensome to require such a plan.

Section 435 of GEPA applies to Chapter 2 only with respect to paragraphs (b)(2) and (b)(5), which pertain to two assurances concerning fiscal control and fund accounting procedures that are required to be filed in a "single State application." Section 436 of GEPA applies to Chapter 2 with regard to similar assurances in paragraphs (b)(2) and (b)(3) filed in "single local applications." If SEAs and LEAs have filed these applications, the assurances do not have to be filed again.

Except for the sections indicated above, the provisions in GEPA have been determined not to apply to programs under Chapter 2.

(3) Sections 1741 (relating to the distribution of block grant funds), 1742 (relating to reports on the proposed use of funds and public hearings), and 1743 (relating to transition provisions) of the Omnibus Budget Reconciliation Act of 1981 do not apply to Chapter 2. Sections 1744 (relating to access to records by the Comptroller General) and 1745 (relating to State auditing requirements) do apply, and their provisions have been incorporated in §§ 298.16 and 298.17 of this part.

(4) This notice of proposed rulemaking proposes that the Education Department General Administrative Regulations (EDGAR) do not apply to programs under Chapter 2. In particular, the provisions in 34 CFR Part 76, which deal with State-administered programs, and 34 CFR Part 74, which incorporates OMB Circulars A–21, A–87, A–102, and A–110, do not apply. Instead, States may apply equivalent procedures of their own for financial management and control of their programs. However, States continuing to use the provisions in 34 CFR Part 74 will be considered to be in compliance with the accountability provisions of Chapter 2. This document proposes an amendment to EDGAR to implement this policy. In addition, as indicated in § 298.2(c) of these proposed regulations, the definitions in 34 CFR Part 77 (definitions in EDGAR that apply generally to education programs) do not apply to Chapter 2 programs.

i. Use of "carryover funds" from programs being consolidated.

The Secretary interprets section 514(b)(2)(B) of the Omnibus Education Reconciliation Act of 1981 to permit SEAs and LEAs that have unobligated funds on July 1, 1982 that were appropriated in an appropriation act for Fiscal Year 1981 and were intended for their use under the antecedent programs to retain these funds for expenditure and use. These funds are available for obligation until September 30, 1983 under section 412(b) of GEPA. Although section 514 requires SEAs and LEAs to expend and use their unobligated funds in accordance with the purposes of Chapter 2, the Secretary does not interpret this section to require these agencies to allocate their unobligated funds according to the formula in section 565(a) of Chapter 2. As a result, SEAs that have unobligated funds intended for their use under the antecedent programs, such as "State strengthening" funds under Title V of the Elementary and Secondary Education Act of 1965, may expend and use those funds in accordance with the purposes of Chapter 2 without distributing at least 80 percent of them to LEAs. Likewise, LEAs do not need to return their unobligated funds to the SEA for distribution under the Chapter 2 formula.

Under the Secretary's interpretation, unobligated funds are to be expended and used by those agencies for whose use under the antecedent programs the funds were intended. Thus, any categorical funds intended for LEAs in the 1981 appropriation but not awarded by SEAs as of July 1, 1982 shall be awarded to LEAs. These funds may be allocated in accordance with the distribution formula for the LEA portion of Chapter 2 funds or to those LEAs that would have received them under the antecedent programs.

Because section 514(b)(2)(B) only pertains to SEAs and LEAs, any institutions of higher education or other recipients of subgrants or contracts under the antecedent programs are not affected by section 514. Therefore, such subgrantees or contractors shall continue to operate their grants or contracts according to the terms and conditions under which they were received.

Executive Order 12291

This notice of proposed rulemaking has been reviewed by the Department in accordance with Executive Order 12291 and is classified as non-major because it does not meet the criteria for major regulations established in the Order.

The purpose of Executive Order 12291 of February 17, 1981 is to relieve regulatory burdens. The Order requires the Department, when promulgating new regulations, to:

(a) Base administrative decisions on adequate information concerning the need for, and consequences of, proposed government action;

(b) Ensure that a regulation's benefits to society outweigh its costs to society;

(c) Choose regulatory objectives that maximize the net benefits to society; and

(d) Choose the regulatory approach involving the lowest net cost to society.

The Secretary has incorporated these requirements as part of the Department's procedures for promulgating regulations. To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirements of reducing regulatory burden, public comment is especially invited on whether there may be further opportunities to reduce any regulatory burden found in this notice of proposed rulemaking.

Invitation to Comment

Public comments are invited on this notice of proposed rulemaking. Written comments and recommendations may be sent to the contact person listed at the beginning of this preamble. All comments received on or before April 13, 1982 will be considered in revising the final regulations.

All comments submitted in response to this notice of proposed rulemaking will be available for public inspection, during and after the comment period, in Room 2181, 400 Maryland Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. States and State educational agencies receiving Chapter 2 funds are not "small entities" as defined by the Regulatory Flexibility Act.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of the proposed regulations.

(Catalog of Federal Domestic Assistance; not applicable)

Dated: February 8, 1982.

T. H. Bell,

Secretary of Education.

The Secretary proposes to add Part 298 to Title 34 of the Code of Federal Regulations as follows:

PART 298—CHAPTER 2 OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Subpart A—How a State or Local Educational Agency Obtains Funds Under Chapter 2

Sec.

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298.4 State applications.
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Subpart C—How Children Enrolled in Private Schools Participate in Chapter 2 Programs

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298.50 Intervention.
298.51 Practice and procedure.
298.52 The Panel's decision.
298.53 Opportunity to comment on the Panel's decision.
298.54 The Secretary's decision.

Authority: Sec. 561–596 of Pub. L. No. 97–35, 95 Stat. 469–482 (20 U.S.C. 3811–3876), unless otherwise noted.

Subpart A—How a State or Local Educational Agency Obtains Funds Under Chapter 2

§ 298.1 Purpose.

The regulations in this part implement the consolidation of Federal program activities for elementary and secondary education at the State and local level contained in Subchapters A, B, and C of Chapter 2 of the Education Consolidation and Improvement Act of 1981 (Chapter 2).

(Sec. 561, 20 U.S.C. 3811)

§ 298.2 Definitions.

(a) The following definitions contained in Section 595 of Chapter 3 of the Education Consolidation and Improvement Act of 1981 apply to the regulations in this part:

State
Secretary
State educational agency
Local educational agency
Parent
Free public education
Elementary school
Secondary schol
Construction
Equipment
School facilities

(b) Additional definitions pertaining to the due process procedures in §§ 298.41–298.54 are found in § 298.43 of these regulations.

(c) The definitions in 34 CFR Part 77 (definitions in EDGAR that apply generally to education programs) do not apply to the regulations in this part.

(Sec. 595, 20 U.S.C. 3875)

§ 298.3 General responsibilities of State and local educational agencies.

(a) Except as provided in paragraph (b) of this section, a State educational agency (SEA)—

(1) Has the basic responsibility for the administration of funds made available under Chapter 2; and

(2) Is the State agency responsible for the administration and supervision of programs assisted with Chapter 2 funds.

(b) Section 566(c) of Chapter 2 provides that each local educational agency (LEA) has complete discretion, subject only to the provisions of Chapter 2, in determining how funds the agency receives under section 565(a) of Chapter 2 are divided among the purposes of Chapter 2 in accordance with the LEA's Chapter 2 application.

(Sec. 561(b), 20 U.S.C. 3811(b); sec. 564, 20 U.S.C. 3814; sec. 566(c), 20 U.S.C. 3816(c))

§ 298.4 State applications.

(a) Any State that desires to receive a grant under Chapter 2 shall file an application with the Secretary that meets the requirements in Section 564 of Chapter 2.

(b) The application may be submitted in any form that the State determines is appropriate.

(Sec. 564, 20 U.S.C. 3814)

§ 298.5 Allotments to States of Chapter 2 funds.

From the funds appropriated under Chapter 2 for any fiscal year, the Secretary:

(a) Reserves an amount that does not exceed one percent of the Chapter 2 appropriation for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. If no more reliable data are available, the Secretary determines respective needs according to the relative enrollments in public and private schools within each territory;

(b) Reserves an additional amount that does not exceed six percent of the Chapter 2 appropriation to carry out the purposes of Subchapter D of Chapter 2 (Secretary's Discretionary program); and

(c) Allots to each State an amount that bears the same ratio to the amount remaining after the funds in paragraphs (a) and (b) of this section are reserved as the school-age population of the State bears to the school-age population of all States, except that no State receives less than 0.5 percent of the remaining funds.

(Sec. 563, 20 U.S.C. 3813)

§ 298.6 State advisory committee.

(a) Any State that desires to receive funds under this program shall establish an advisory committee that meets the requirements in section 564(a)(2) of Chapter 2.

(b) The Secretary interprets section 564(a)(2) of Chapter 2 to permit any existing organization, including a State board of education, to be the advisory committee for the purpose of paragraph (a) of this section if the organization:

(1) Is not the SEA under State law;

(2) Is appointed by the Governor to be the advisory committee; and

(3) Meets the representation requirements of section 564(a)(2) of Chapter 2.

(c) The State advisory committee advises the SEA on—

(1) The allocation among authorized functions of funds reserved for State use under section 565(a) of Chapter 2;

(2) The formula for the allocation of funds to LEAs; and

(3) The planning, development, support, implementation, and evaluation of State programs assisted under Chapter 2.

(Sec. 564, 20 U.S.C. 3814)

§ 298.7 LEA applications.

An LEA may receive its allocation of funds under Chapter 2 for any year for which it has on file with the SEA an application that meets the requirements in Section 566 of Chapter 2.

(Sec. 566, 20 U.S.C. 3816)

§ 298.8 Allocation of Chapter 2 funds to LEAs.

(a) An SEA shall distribute to each LEA that has submitted an application as required in § 298.7 the amount of its allocation as determined under paragraph (b) of this section.

(b) From the funds made available each year under Chapter 2, an SEA shall distribute not less than 80 percent to LEAs within the State according to the relative enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to LEAs that have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) Children from low-income families;

(2) Children living in economically depressed urban and rural areas; and

(3) Children living in sparsely populated areas.

(c) In accordance with Section 565 of Chapter 2 and paragraph (b) of this section, an SEA must adjust its formula to provide higher allocations to LEAs with the greatest numbers or percentages of high cost children. The Secretary interprets Section 565 of Chapter 2 to require a State to provide an allocation to an LEA otherwise eligible even though it has no high cost children.

(d) The Secretary approves the SEA's criteria for adjusting allocations to LEAs if the criteria are consistent with Section 565 of Chapter 2 and reasonably calculated to produce an equitable distribution of funds.

(Sec. 565, 20 U.S.C. 3815)

§ 298.9 Reallocation.

(a) An SEA may reallocate to other LEAs Chapter 2 funds—

(1) From an LEA that has chosen not to participate or does not choose to expend the full amount made available to it; or

(2) That are recovered by the State based on a determination by the State that the LEA has failed to spend Chapter 2 funds in accordance with Federal law.

(b) A reallocation of funds under this section—

(1) May be made only during the fiscal year for which the funds were appropriated or during the succeeding fiscal year;

(2) Must be distributed consistent with the purposes of Chapter 2; and

(3) Must be spent consistent with the requirements in Chapter 2 and the regulations in this part.

(Sec. 565, 20 U.S.C. 3815)

§ 298.10 Use of Chapter 2 funds.

SEAs and LEAs may use Chapter 2 funds for any activities that are consistent with the purposes of Chapter 2, including—

(a) Basic skills development under Subchapter A;

(b) Educational improvement and support services under Subchapter B; and

(c) Special projects under Subchapter C.

(Sec. 571–582, 20 U.S.C. 3821–3842)

Subpart B—Fiscal Requirements That a State or Local Educational Agency Must Meet

§ 298.11 Maintenance of effort.

(a) *Basic standard.* Except as provided in § 298.12, the Secretary pays a State its full allocation of funds under Chapter 2 if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

(1) *Meaning of "preceding fiscal year."* For purposes of determining maintenance of effort, the "preceding fiscal year" is the Federal fiscal year or the twelve-month fiscal period most commonly used in a State for offical reporting purposes prior to the beginning of the Federal fiscal year for which funds are available.

Example.—For funds first made available on July 1, 1982, if a State is using the Federal fiscal year, the "preceding fiscal year" is Fiscal Year 1981.

(2)(i) *Expenditures to be considered.* The expenditures the Secretary considers in determining a State's compliance with the maintenance of effort requirement in this paragraph are State and local expenditures for free public education. These include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities.

(ii) *Expenditures not to be considered.* The Secretary does not consider the following expenditures in determining a State's compliance with the maintenance of effort requirement in this paragraph:

(A) Any expenditures for community services, capital outlay, or debt services.

(B) Any expenditures of Federal funds.

(b) *Failure to maintain effort.* (1) If a State fails to maintain effort and a waiver under § 298.12 is not appropriate, the Secretary reduces the State's allocation of funds under Chapter 2 in the exact proportion to which the State fails to meet 90 percent of the State's combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the State failed to maintain effort, the Secretary considers the fiscal effort for the second preceding fiscal year to be 90 percent of the combined fiscal effort per student or aggregate expenditures for the third preceding fiscal year.

Example.—A State fails to maintain effort because its fiscal effort in the preceding fiscal year (1981) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1980); then, in the following fiscal year, the State's fiscal effort in the second preceding year (1981) would be considered to be 90 percent of its fiscal effort in the third preceding fiscal year (1980).

(Sec. 585(a), 20 U.S.C. 3861(a))

§ 298.12 Waiver of the maintenance of effort requirement.

(a) *Waiver request.* A State that has not maintained its fiscal effort as required in § 298.11(a) may ask the Secretary to grant a waiver of that requirement by submitting a waiver request that includes—

(1) a statement of the combined fiscal effort per student and the aggregate expenditures for the two fiscal years being compared; and

(2) A description of the circumstances that the State considers to be exceptional or uncontrollable.

(b) *Secretary's criteria.* (1) The Secretary may grant a waiver, for one year only, of the maintenance of effort requirement in § 298.11(a) if the Secretary determines that the waiver is equitable due to exceptional or uncontrollable circumstances. Exceptional or uncontrollable circumstances include—

(i) A natural disaster;

(ii) A precipitous and unforeseen decline in the financial resources of the State; or

(iii) Other exceptional or uncontrollable circumstances.

(2) The Secretary does not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances.

(c) *Effect of a waiver.* (1) If the Secretary grants a waiver under paragraph (b) of this section, the Secretary allocates to the affected State its full entitlement of Chapter 2 funds.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year for which the waiver was granted, the Secretary considers the fiscal effort for the second preceding fiscal year to be 90 percent of the combined fiscal effort per student or aggregate expenditures for the third preceding fiscal year.

Example.—A State secures a waiver because its fiscal effort in the preceding fiscal year (1981) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1980) due to exceptional or uncontrollable circumstances; then, in the following fiscal year, the State's fiscal effort in the second preceding fiscal year (1981) would be considered to be 90 percent of its fiscal effort in the third preceding fiscal year (1980).

(Sec. 585(a)(3), 20 U.S.C. 3861(a)(3))

§ 298.13 Supplement, not supplant.

An SEA or LEA that receives Chapter 2 funds:

(a) May use and allocate those funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under Chapter 2, be made available from non-Federal sources; and

(b) May not use Chapter 2 funds to supplant funds from non-Federal sources.

(Sec. 585(b), 20 U.S.C. 3861(b))

§ 298.14 Availability of funds.

(a) An SEA or LEA may obligate funds during the fiscal year for which the funds were appropriated and during the succeeding fiscal year.

(b) The time at which funds are considered to be obligated is determined according to standards commonly used in the State in which the SEA or LEA is located.

(Sec. 598, 20 U.S.C. 3876; Sec. 412(b) of GEPA, 20 U.S.C. 1225(b))

§ 298.15 Recordkeeping requirements.

(a) Section 564(a)(6) of Chapter 2 requires each State to keep records and provide information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary under Chapter 2.

(b) Under Section 566(a)(3) of Chapter 2, each LEA, in its aplication, must agree to keep records and provide information to the SEA as may reasonably be required for fiscal audit and program evaluation, consistent with the responsibilities of the SEA under Chapter 2.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); Sec. 566(a)(3), 20 U.S.C. 3816(a)(3))

§ 298.16 Access to records and audits.

For the purpose of evaluating and reviewing the use of Chapter 2 funds, the Inspector General of the Department and the Comptroller General are authorized to conduct audits and shall have access to any books, accounts, records, correspondence, or other documents that—

(a) Are related to programs assisted with Chapter 2 funds; and

(b) Are in the possession, custody, or control of SEAs, LEAs, or any grantees of SEAs or LEAs.

(Sec. 1744, 31 U.S.C. 1243 note; secs. 3, 4, and 6 of the Inspector General Act of 1978, Pub. L. No. 95-452 (5 U.S.C. App.); sec. 202 of the Intergovernmental Cooperation Act of 1968, Pub. L. No. 90-577 (42 U.S.C. 4212))

§ 298.17 State audits.

(a) *Basic requirement.* (1) In accordance with Section 1745 of the Omnibus Budget Reconciliation Act of 1981, each State shall conduct financial and compliance audits of Chapter 2 funds.

(2) A State may choose to follow the principles and procedures of OMB Circular A–102 to meet the audit requirements in this paragraph. If the State does so, it will be deemed to be in compliance with this paragraph.

(b) *Frequency of audit.* A State shall conduct the audits required by paragraph (a) of this section every two years. The first two-year period begins on July 1, 1982.

(c) *Audit standards.* Insofar as is practicable, a State shall conduct the audits required by paragraph (a) of this section in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions.

(d) *Audit remedy.* An LEA or any other subgrantee shall repay to the State the amount of Chapter 2 funds determined by the State not to have been spent in accordance with Federal law. Except to the extent that the State reallocates the funds recovered as authorized by § 298.9—or, in the case of funds reserved for State use, reobligates the funds through direct expenditures or an award to another recipient during the fiscal year for which the funds were appropriated or during the succeeding fiscal year—the State shall repay this amount to the United States.

(Sec. 1745, 31 U.S.C. 1243 note)

§ 298.18 Compromise of audit claims.

In deciding whether to compromise audit claims, or in recommending possible compromises to the

Departments of Justice, the Secretary may take into account—

(a) The cost of collecting the claim;

(b) The probability of the claim being upheld;

(c) The nature of the violation involved;

(d) Whether the practices of the SEA or LEA that resulted in the audit finding have been corrected;

(e) Whether the SEA or LEA is in all other respects in compliance with Chapter 2; and

(f) The extent to which the SEA or LEA agrees to use non-Federal funds to supplement Chapter 2 programs.

(Sec. 564(a)(6), 20 U.S.C. 3614(a)(6); Federal Claims Collection Act, 31 U.S.C. 951 *et seq.*; 4 CFR Part 103)

§§ 298.19–298.20 [Reserved]

Subpart C—How Children Enrolled in Private Schools Participate in Chapter 2 Programs

§ 298.21 Responsibility of SEAs and LEAs.

(a)(1) An LEA shall provide children enrolled in private schools in that LEA with such services, materials, and equipment or other benefits as will assure equitable (as compared to children enrolled in public schools) participation of such private school children in the purposes and benefits of Chapter 2 in accordance with the requirements in §§ 298.22–298.29 and Section 586 of Chapter 2.

(2) The LEA shall provide the opportunity to participate in a manner that is consistent with the number and needs of private school children in the school district of the LEA.

(3) The LEA shall exercise administrative direction and control over Chapter 2 funds and property that benefit children enrolled in private schools.

(4) Provision of services to children enrolled in private schools must be provided by employees of a public agency or through a contractor which is independent of the private school and of any religious organization.

(b)(1) An SEA shall ensure that each LEA complies with the requirements in §§ 298.22–298.29.

(2) If an SEA or a subgrantee or a contractor of an SEA or LEA conducts instructional programs or personnel training programs, it shall comply with these requirements as if it were an LEA.

(c) Under Sections 564(a)(3) and 566(a)(1) of Chapter 2, an application by an SEA or LEA must contain the planned allocation of funds required to implement Section 586.

(d) In accordance with Section 586(a)(1) of Chapter 2, the regulations in this subpart only apply to children enrolled in nonprofit private schools.

(Sec. 586, 20 U.S.C. 3862)

§ 298.22 Consultation with private school officials.

(a) An LEA receiving Chapter 2 funds shall consult with appropriate private school officials regarding the development and implementation of the Chapter 2 program before the LEA makes any decision that affects the opportunities of private school children to participate in the program.

(Sec. 586(a), 20 U.S.C. 3862(a))

§ 298.23 Needs, number of children, and types of services.

An LEA shall determine the following matters on a basis comparable to that used by the LEA in providing for participation of public school children:

(a) The needs of children enrolled in private schools.

(b) The number of those children who will participate in a Chapter 2 program.

(c) The Chapter 2 services that the LEA will provide to those children.

(Sec. 586, 20 U.S.C. 3862)

§ 298.24 Factors used in determining equitable participation.

(a) *Equal expenditures.* Expenditures for Chapter 2 programs for children enrolled in private schools must be equal (consistent with the number of children to be served) to expenditures for Chapter 2 programs for children enrolled in the public schools of an LEA, taking into account the needs of the individual children and other factors that relate to such expenditures.

(b) *Other factors.* (1) *Services on an equitable basis.* An LEA shall provide for the participation in the Chapter 2 program of children enrolled in private schools on an equitable basis. In determining whether an LEA is providing for participation on an equitable basis, the services provided to private school children and the services provided to public school children are considered.

(2) *Same services.* If an LEA uses Chapter 2 funds to concentrate programs for public school children in a particular group, attendance area, or grade or age level, the LEA shall insure equitable opportunities for participation by children enrolled in private schools who—

(i) Have the same needs as the public school children to be served; and

(ii) Are in that group, attendance area, or grade or age level.

(3) *Different services.* If the needs of children enrolled in private schools are different from the needs of children enrolled in public schools, an LEA shall provide Chapter 2 services for the private school children that address their needs on an equitable basis.

(Sec. 586, 20 U.S.C. 3862)

§ 298.25 Funds not to benefit a private school.

(a) An LEA may only use Chapter 2 funds to provide services that supplement the level of services that would, in the absence of Chapter 2 services, be available to children enrolled in a private school.

(b) An LEA shall use Chapter 2 funds to meet the needs of children enrolled in private schools, but not for the purpose of aiding the private school.

(Sec. 586, 20 U.S.C. 3862)

§ 298.26 Use of public school employees.

An LEA may use program funds to make public employees available in other than public facilities—

(a) To the extent necessary to provide equitable Chapter 2 services designed for children enrolled in a private school; and

(b) If those services are not normally provided by the private school.

(Sec. 586, 20 U.S.C. 3862)

§ 298.27 Equipment and supplies.

(a) To meet the requirements of Section 586(c) of Chapter 2, a public agency must keep title to and exercise continuing administrative control of all equipment and supplies that the LEA acquires with Chapter 2 funds.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall insure that the equipment or supplies placed in a private school—

(1) Are used for Chapter 2 purposes;

(2) Are used for secular, neutral, and nonideological purposes; and

(3) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment or supplies from a private school if—

(1) The equipment or supplies are no longer needed for Chapter 2 purposes; or

(2) Removal is necessary to avoid use of the equipment or supplies for other than Chapter 2 purposes.

(e) For the purpose of this section, the term "public agency" includes the LEA.

(Sec. 586, 20 U.S.C. 3862)

§ 298.28 Construction.

No Chapter 2 funds may be used for the construction of private school facilities.

(Sec. 586, 20 U.S.C. 3862)

§ 298.29–298.30 [Reserved]

Subpart D—Due Process Procedures

Procedures for By-Pass

§ 298.31 By-pass—General.

(a) The Secretary implements a by-pass if an SEA or LEA—

(1) Is prohibited by law from providing Chapter 2 services for private school children on an equitable basis; or

(2) Has substantially failed, or is unwilling, to provide services for private school children on an equitable basis.

(b) If the Secretary implements a by-pass, the Secretary waives an SEA's or LEA's responsibility for providing Chapter 2 services for private school children and arranges to provide the required services. Normally, the Secretary hires a contractor to provide the Chapter 2 services for private school children under a by-pass. The Secretary deducts the cost of these services, including any administrative costs, from the appropriate allotment of Chapter 2 funds provided to the State.

(Sec. 586(d), (e), and (g), 20 U.S.C. 3862(d), (e), and (g))

§ 298.32 Notice by Secretary.

(a) Before taking any final action to implement a by-pass, the Secretary provides the affected SEA and LEA with written notice,

(b) In the written notice, the Secretary—

(1) States the reasons for the proposed by-pass in sufficient detail to allow the SEA and LEA to respond;

(2) Cites the requirement that is the basis for the alleged failure to comply; and

(3) Advises the SEA and LEA that they have at least 45 days to submit written objections to the proposed by-pass and to request in writing the opportunity for a hearing to show cause why the by-pass should not be implemented.

(c) The Secretary sends the notice to the SEA and LEA by certified mail with return receipt requested.

(Sec. 586(h), 20 U.S.C. 3862(h))

§ 298.33 By-pass procedures.

Sections 298.34–298.36 contain the procedures which the Secretary uses in conducting a show cause hearing. These procedures may be modified by the hearing officer if all parties agree it is appropriate to modify them for a particular case.

(Sec. 586(h), 20 U.S.C. 3862(h))

§ 298.34 Appointment and functions of a hearing officer.

(a) If an SEA or LEA requests a show cause hearing, the Secretary appoints a hearing officer and notifies appropriate representatives of the affected private school children that they may participate in the hearing.

(b) The hearing officer has no authority to require or conduct discovery, or to rule on the validity of any statute or regulation.

(c) The hearing officer notifies the SEA, LEA, and representatives of the private school children of the time and place of the hearing.

(Sec. 586(h), 20 U.S.C. 3862(h))

§ 298.35 Hearing procedures.

(a) At the hearing, a transcript is taken. The SEA, LEA, and representatives of the private school children each may be represented by legal counsel, and each may submit oral or written evidence and arguments at the hearing.

(b) Within ten days after the hearing, the hearing officer indicates that a decision will be issued on the basis of the existing record, or requests further information from the SEA, LEA, representatives of the private school children, or Department officials.

(Sec. 586(h), 20 U.S.C. 3862(h))

§ 298.36 Post hearing procedures.

(a) Within 120 days after the hearing record is closed, the hearing officer issues a written decision on whether the proposed by-pass should be implemented. The hearing officer sends copies of the decision to the SEA, LEA, representatives of the private school children, and the Secretary.

(b) The SEA, LEA, and representatives of the private school children each may submit written comments on the decision to the Secretary within thirty days from receipt of the hearing officer's decision.

(c) The Secretary may adopt, reverse, or modify the hearing officer's decision.

(Sec. 586(h), 20 U.S.C. 3862(h))

§§ 298.37—298.40 [Reserved]

Other Due Process Procedures

§ 298.41 General.

Sections 298.41–298.54 contain rules for the conduct of:

(a) Proceedings for the review of final audit determinations arising under Chapter 2; and

(b) Withholding hearings arising under Chapter 2.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); Sec. 592, 20 U.S.C. 3872)

§ 298.42 Jurisdiction.

The Secretary designates the Education Appeal Board to hear proceedings for the review of final audit determinations and withholding hearings under Chapter 2.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); 34 CFR Part 78)

§ 298.43 Definitions.

For the purposes of §§ 298.41–298.54, the following definitions apply:

"Appellant" means an SEA that requests—

(a) A review of the final audit determination; or

(b) A withholding hearing.

"Authorized Department official" means—

(a) The Secretary; or

(b) A person employed by the Department who has been designated to act under the Secretary's authority.

"Board" means the Education Appeal Board of the Department.

"Board Chairperson" means the Board member designated by the Secretary to serve as administrative officer of the Board.

"Final audit determination" means a written notice issued by an authorized Department official disallowing expenditures made by a recipient under Chapter 2.

"Hearing" means any review proceeding conducted by the Board.

"Panel" means an Education Appeal Board Panel, consisting of at least three members of the Board designated by the Board Chairperson to sit in any case.

"Panel Chairperson" means the person designated by the Board Chairperson to serve as the presiding officer of a Panel.

"Party" means—

(a) The recipient requesting or appearing at a hearing under these regulations;

(b) The authorized Department official who issued the final audit determination being appealed or the notice of an intent to withhold funds; or

(c) Any person, group, or agency that files an acceptable application to intervene.

"Recipient" means the named party or entity that initially received Federal funds under Chapter 2.

"Withholding" means stopping payment of Federal funds under Chapter 2 to a recipient and stopping the recipient's authority to charge costs under Chapter 2.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); 20 U.S.C. 1234(a))

§ 298.44 Eligibility for review.

(a) Review under these regulations is available to a recipient that receives a written notice from an authorized Department official of:

(1) A final audit determination; or

(2) An intent to withhold funds.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.45 Written notice.

(a) *Written notice of a final audit determination.* (1) An authorized Department official issues a written notice of a final audit determination to a recipient in connection with Chapter 2.

(2) In the written notice, the authorized Department official;

(i) Lists the disallowed expenditures made by the recipient;

(ii) Indicates the reasons for the final audit determination in sufficient detail to allow the recipient to respond;

(iii) Cites the requirements that are the basis for the alleged failure to comply; and

(iv) Advises the recipient that it must repay the disallowed expenditures to the Department or, within 30 calendar days of its receipt of the written notice, request a review by the Board of the final audit determination.

(3) The authorized Department official sends the written notice to the recipient by certified mail with return receipt requested.

(b) *Written notice of an intent to withhold.* (1) An authorized Department official issues a written notice to a recipient under Chapter 2 of an intent to withhold funds.

(2) In the written notice, the authorized Department official:

(i) Indicates the reasons why the recipient failed to comply substantially with a requirement that applies to the funds;

(ii) Cites the requirement that is the basis for the alleged failure to comply; and

(iii) Advises the recipient that it may request a hearing before the Board.

(3) The authorized Department official sends the written notice to the recipient by certified mail with return receipt requested.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3972)

§ 298.46 Filing an application for review of a final audit determination or a withholding hearing.

(a) An appellant seeking review of a final audit determination or a withholding hearing shall file a written application with the Board Chairperson no later than 30 calendar days after the date it receives written notice.

(b) In the application, the appellant shall attach a copy of the written notice and shall, to the satisfaction of the Board Chairperson;

(1) Identify the issues and facts in dispute; and

(2) State the appellant's position, together with the pertinent facts and reasons supporting that position.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.47 Review of the written notice.

(a) The Board Chairperson reviews the written notice of the final audit determination or the intent to withhold funds after an application is received under § 298.46 to insure that the written notice meets the applicable requirements in §298.45.

(b) If the Board Chairperson decides that the written notice does not meet the applicable requirements in § 298.45, the Board Chairperson returns the determination to the official who issued it so that the determination may be properly modified.

(c) If the official makes the appropriate modifications and the recipient wishes to pursue its appeal to the Board, the recipient shall amend its application within 30 calendar days of the date it receives the modification.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.48 Acceptance of the application.

If the appellant files an application that meets the requirements of § 298.46, the Board Chairperson:

(a) Issues, within 45 days of receiving the application, a notice of the acceptance of the application to the appellant and the authorized Department official who issued the written notice;

(b) Refers the appeal to a Panel;

(c) Arranges for the scheduling of initial proceedings; and

(d) Forwards to the Panel and parties an initial hearing record that includes:

(1) The written notice;

(2) The appellant's application; and

(3) Other relevant documents, such as audit reports.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.49 Rejection of the application.

(a) If the Board Chairperson determines that an application does not satisfy the requirements of § 298.46, the Board Chairperson, within 45 days of receiving the application, returns the application to the appellant, together with the reasons for the rejection, by certified mail with return receipt requested.

(b) The appellant has 20 calendar days after the date it receives the notice of rejection to file an acceptable application.

(c) If an application is rejected twice, the Department may take appropriate administrative action to:

(1) Collect the expenditure disallowed in the final audit determination; or

(2) Withold funds.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.50 Intervention.

(a) A person, groups, or agency with an interest in and having relevant information about a case before the Board may file with the Board Chairperson an application to intervene.

(b) The application to intervene shall contain:

(1) A statement of the applicant's interest; and

(2) A summary of the relevant information.

(c)(1) If the application is filed before a case is assigned to a Panel, The board Chairperson decides whether approval of the application to intervene will aid the Panel in its disposition of the case.

(2) If the application is filed after the Board Chairperson has assigned the case to a Panel, the Panel decides whether approval of the application to intervene will aid the Panel in its disposition of the case.

(d) The Board Chairperson notifies the applicant seeking to intervene and the other parties of the approval or disapproval of the application to intervene.

(e) If an application to intervene is approved, the intervenor becomes a party to the proceedings.

(f) If an application to intervene is disapproved, the applicant may submit to the Board Chairperson an amended application to intervene.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.51 Practice and procedure.

(a) Practice and procedure before the Board in a proceeding for review of a final audit determination are governed by the rules in Subpart E of 34 CFR Part 78.

(b) Practice and procedure before the Board in a withholding hearing are governed by the procedures in the Administrative Procedure Act, 5 U.S.C. 554.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.52 The Panel's decision.

(a) The Panel issues a decision, based on the record as a whole, in an appeal

from a final audit determination, or from a notice of an intent to withhold funds, within 180 days after receipt of the parties' final submissions, unless the Board Chairperson, for good cause shown, determines that issuance of the decision within such time in inappropriate.

(b) The Board Chairperson submits the Panel's decision to the Secretary and sends a copy to each party by certified mail with return receipt requested.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.53 Opportunity to comment on the Panel's decision.

(a) *Initial comments and recommendations.* Each party has the opportunity to file comments and recommendations on the Panel's decision with the Board Chairperson within 30 calendar days of the date the party receives the Panel's decision.

(b) *Responsive comments and recommendations.* The Board Chairperson sends a copy of a party's initial comments and recommendations to each of the other parties by certified mail with return receipt requested. Each party may file responsive comments and recommendations with the Board Chairperson within 15 days of the date the party receives the initial comments and recommendations.

(c) The Board Chairperson forwards the parties' initial and responsive comments on the Panel's decision to the Secretary.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

§ 298.54 The Secretary's decision.

(a) The Panel's decision becomes the final decision of the Secretary 90 calendar days after the date the recipient receives the Panel's decision unless the Secretary, based on the record, modifies or sets aside the Panel's decision.

(b) If the Secretary modifies or sets aside the Panel's decision within the 90 days, the Secretary issues a decision that—

(1) Includes a statement of the reasons for this action; and

(2) Becomes the Secretary's final decision 60 calendar days after it is issued.

(c) In proceedings involving an appeal from a final audit determination or an intent to withhold funds, to the extent feasible, but consistent with the Secretary's obligation to enforce compliance with Chapter 2, the Secretary defers to a State's interpretation of the statutory requirements under Chapter 2.

(d) The Board Chairperson sends a copy of the Secretary's final decision and statement of reasons, or a notice that the Panel's decision has become the Secretary's final decision, to the Panel and to each party.

(e) The final decision of the Secretary is the final decision of the Department.

(Sec. 564(a)(6), 20 U.S.C. 3814(a)(6); sec. 592, 20 U.S.C. 3872)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations as follows:

PART 74—ADMINISTRATION OF GRANTS

1. In 34 CFR 74.4 (administration of grants in EDGAR), by revising paragraph (a) to read as follows:

§ 74.4 Applicability of this part.

(a) *General.* Except where inconsistent with Federal statutes, regulations, or other terms of a grant, this part applies to all ED grants. However, this part does not apply to the program authorized under Chapter 2 of the Education Consolidation and Improvement Act of 1981. Further, unless expressly made applicable by ED, this part does not apply when the grantee is a Federal agency, foreign government or organization, international organization such as the United Nations, for profit organization, or individual.

* * * * *

PART 76—STATE ADMINISTERED PROGRAMS

2. In 34 CFR 76.1 (general education regulations for State-administered programs), by adding a new paragraph (c) to read as follows:

§ 76.1 Programs to which Part 76 applies.

* * * * *

(c) The regulations in Part 76 do not apply to the program authorized under Chapter 2 of the Education Consolidation and Improvement Act of 1981.

PART 78—EDUCATION APPEAL BOARD

3. In 34 CFR 78.42 (Education Appeal Board regulations), by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 78.42 Applicability of other laws and regulations.

* * * * *

(b) Other provisions of the Administrative Procedure Act and the Federal Rules of Civil Procedure do not apply to proceedings before the Board, except as provided in paragraph (c) of this section.

(c) In conducting hearings concerning expenditures under Chapter 2 of the Education Consolidation and Improvement Act of 1981, the Board applies the regulations in 34 CFR 298.41–298.54.

(20 U.S.C. 1234(e))

[FR Doc. 82-3800 Filed 2-9-82; 3:38 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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Highlights

6720 **Grant Programs—Social Programs** HHS seeks applications for transfer policy analysis grants.

6711 **Grant Programs—Labor** Federal Mediation and Conciliation Service requests applications for FY '82 Labor-Management Cooperation Program.

6685 **Grant Programs—Education** ED issues list of applications for review accepted for hearing by Education Appeal Board.

6776 **Energy** DOE/CREO proposes to establish procedures for making and administering loans for development of wind energy systems and small hydroelectric power projects. (Part III of this issue)

6620 **Oil and Gas Leases** Interior/GS removes requirement to segregate portion of Outer Continental Shelf oil and gas lease that is not included in unit agreement.

6657-6679 **Nuclear Safety** NRC seeks comments on petitions for amendments to rules on physical protection of plants and materials. (3 documents)

6610 **Nuclear Material** NRC exempts export of IAEA safeguards samples from licensing requirements.

6790 **Food Assistance Programs** USDA/FNS issues rule on Summer Food Service Program.

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Highlights

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-009]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds the State of New York to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that New York has laws or regulations in effect to require the additional quarantine, treatment and testing of such mares to further ensure their freedom from CEM as required by the regulations.

DATES: Effective February 5, 1982. Comments must be received on or before April 19, 1982.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment relieves restrictions presently imposed on mares over 731 days of age being imported into the United States, and should be made effective immediately in order to permit affected persons to move these mares into the United States without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will lift restrictions that were imposed in the fall of 1977 on the importation of certain horses from France, Ireland, and the United Kingdom, as well as restrictions added later on Australia, Belgium, Italy, the Federal Republic of Germany, Japan, Austria, and Denmark. It is anticipated that no more than 40 importers will consign approximately 50-60 mares over 731 days of age from CEM affected countries annually to the State of New York. This compares with 14,666 horses of all classes imported into the United States during Fiscal Year 1980.

To the best of our knowledge, through the years the number of small entities involved in the importation of mares from the countries involved has been extremely limited because of factors such as the number of animals sold; stallion fees ranging from $5,000 to $50,000; stallions syndicated up to $32,000,000 and the international operations involved. The average cost to import a horse from overseas is from $5,000 to $7,000, including preembarkation testing and treatment, the cost of transportation and post entry quarantine.

Background

On Friday, October 16, 1981, there was published in the **Federal Register** (46 FR 50930-50937) amendments to 9 CFR Part 92 which, among other things, authorized the importation of mares over 731 days of age into the United States from countries affected with CEM when specific requirements to prevent their introducing CEM into the United States are met. Further, these amendments require that such imported mares be consigned to States which have been approved by the Deputy Administrator, Veterinary Services, as having met the minimum standards believed necessary to ensure that such mares being imported into the United States are free of the contagion of CEM. These minimum standards are set forth in § 92.4(a)(9) of the regulations. The Deputy Administrator, Veterinary Services, has determined that the State of New York has met the minimum standards believed necessary to ensure that mares over 731 days of age being imported into the United States from

countries affected with CEM are free of the contagion of CEM. Therefore, § 92.4(a)(8)(ii) is amended to add the State of New York to the list of States approved to receive mares over 731 days of age from CEM affected countries.

Alternatives

The alternatives considered in making this decision were (1) not to list New York as a State approved to receive mares over 731 days of age from CEM affected countries, and (2) to make the change set forth in this document.

Alternative No. 1 would prohibit the consignment of mares over 731 days of age from CEM affected countries to the State of New York. This alternative was not adopted because the Deputy Administrator, Veterinary Services, has determined that New York has met the minimum standards necessary to ensure that such mares are free of the contagion of CEM. The continued prohibition on consignment to the State of New York would, therefore, constitute an unnecessary restriction on the importation of such mares.

Alternative No. 2 would allow for the consignment of mares over 731 days of age from CEM affected countries to the State of New York. This alternative was adopted because the Deputy Administrator, Veterinary Services, has determined that the State of New York has met the minimum standards necessary to ensure that such mares are free of the contagion of CEM.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended by revising § 92.4(a)(8)(ii) as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes.

(a) * * *

(8) * * *

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v):

The State of Kentucky
The State of New York
The State of Virginia

* * * * *

(Sec. 2, 32 Stat. 792, as amended, sec. 306, 46 Stat. 689, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; (19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477); 38 FR 19141)

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 5th day of February 1982.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-3829 Filed 2-12-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Export of Safeguards Samples Pursuant to the US/IAEA Safeguards Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to exempt the export of IAEA safeguards samples from the requirements for a license. This amendment will permit the United States to implement that portion of the US/IAEA Safeguards Agreement which involves the export of IAEA safeguards samples of special nuclear material from facilities designated by the IAEA for the application of safeguards. The amendment will permit the export of these samples without an export license, by NRC licensees, Agreement State licensees, and the U.S. Department of Energy.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Joanna M. Becker, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-7630; or
David A. Myers, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-8155

SUPPLEMENTARY INFORMATION: The US/IAEA Agreement for the Application of Safeguards in the United States (the Agreement) provides for the application of IAEA safeguards to selected U.S. nuclear facilities. On July 29, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 50705) a final rule adding a new part 75, and amending Parts 40, 50, 70 and 150 of the Commission's regulations. Part 75 and the conforming amendments establish the primary means by which the Agreement will be implemented with respect to NRC and Agreement State licensees.

The purpose of the following amendment to Part 110 is to facilitate certain safeguards activities, required by the Agreement, which will involve the export of IAEA safeguards samples of special nuclear material from those facilities designated by the IAEA for the application of safeguards.

An integral part of the safeguards approach at bulk handling facilities under IAEA safeguards is the destructive analysis of representative samples, drawn from the facility's inventory. This analysis is necessary to verify the element and isotopic content of a representative portion of the facility's inventory in order to establish confidence in the facility's reported inventory. This material sampling and analysis is not normally included in the IAEA safeguards approach for most types of reactors.

The total annual quantity of safeguards samples is anticipated to be 100 grams or less of contained fissile material (Pu, U-233 and U-235) per facility.

While it would be administratively possible for each NRC and Agreement State licensee selected by the IAEA for the application of safeguards and for the Department of Energy (DOE), to apply for a specific license to export IAEA safeguards samples, exempting these exports from the requirements for a license will avoid: (1) An administrative burden on licenses or DOE who otherwise would have to file applications for specific licenses; (2) possible delays which might result from NRC processing of specific license applications; and (3) the problems which would arise if the operator of a safeguarded facility did not apply promptly for a specific license. Exempting these exports from the requirements for a license is consistent with the provisions in section 122 of the Atomic Energy Act, as amended, that the Commission "give maximum effect to the policies contained in any international arrangement" and with NRC's policy to minimize the burden on licensees of implementing the Agreement.

Pursuant to sections 57d. and 54c. of the Atomic Energy Act of 1954, as amended, the Commission has concluded that exemption from the requirements for a license for the export

of IAEA safeguards samples is not inimical to the common defense and security, and does not constitute an unreasonable risk to the public health and safety. Furthermore, the amendment is consistent with other provisions of the Atomic Energy Act, as amended by the Nuclear Nonproliferation Act of 1978, with the Treaty on the Nonproliferation of Nuclear Weapons, and with the obligations of the United States under the US/IAEA Safeguards Agreement.

The Commission has not prepared an environmental impact statement or a negative declaration since the amendment is non-substantive and insignificant from the standpoint of environmental impact.

The final rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications, or any other type of information collection subject to the Paperwork Reduction Act of 1980.

Since the amendment will not result in any increased requirements or expense to the public, the Commission has not prepared a separate value-impact analysis. Based on preliminary estimates, the amendment should reduce the number of specific export licenses required for implementation of the US/IAEA Safeguards Agreement by approximately 3 licenses per bulk handling facility per year.

Licensees should note that nothing in the amendment is intended to relieve any person from complying with other U.S. government agencies' regulations applicable to exports under their authority, any pertinent requirement in Parts 71 and 73 of Title 10 of the Code of Federal Regulations, or any Commission order pursuant to section 201(a) of the Energy Reorganization Act of 1974, as amended, pertaining to shipment of plutonium by air.

Because this amendment involves the foreign affairs functions of the United States, notice of proposed rulemaking and public procedure thereon are not required by sSection 553 of Title 5 of the United States Code. Since the amendment grants an exemption from regulations currently in effect, it will become effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to 10 CFR Part 110 is published as a document subject to codification.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 is revised to read as follows:

Authority: 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161 b. and i., 181, 182, 183, 187, 189, Pub. L. 83–703, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956; Pub. L. 88–489, 78 Stat. 603–605; Pub. L. 91–560, 84 Stat. 1472; 70 Stat. 1066–1071, Pub. L. 85–256, 71 Stat. 579; Pub. L. 87–615, 76 Stat. 409; Pub. L. 93–377, 88 Stat. 473–475, Pub. L. 95–242, 92 Stat. 125, 126, 131–139, 141 (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201 (b) and (i), 2231–2233, 2237, 2239); Sec. 201, 202, Pub. L. 93–438, 88 Stat. 1242, Pub. L. 94–79, 89 Stat. 413, 414 (42 U.S.C. 5841, 5842).

Sec. 110.13 also issued under sec. 122, Pub. L. 83–703, 68 Stat. 939 (42 U.S.C. 2152).

Sec. 110.51 also issued under sec. 184, Pub. L. 83–703, 63 Stat. 954; Pub. L. 88–489, 78 Stat. 607 (42 U.S.C. 2234).

Sec. 110.52 also issued under sec. 186; Pub. L. 83–703, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, Pub. L. 83–703, 68 Stat. 958, Pub. L. 90–190, 81 Stat. 576; Pub. L. 91–161, 83 Stat. 445 (42 U.S.C. 2273); §§ 110.50 and 110.120–110.126 also issued under sec. 161i., Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2201(i)).

Sec. 110.53 also issued under Sec. 161o., Pub. L. 83–703, 68 Stat. 950, Pub. L. 85–507, 72 Stat. 337 (42 U.S.C. 2201(o)).

Sec. 110.80–110.113 also issued under 5 U.S.C. 552, 554.

Sec. 110.130–110.135 also issued under 5 U.S.C. 553.

2. A new § 110.13 is added to read as follows:

§ 110.13 Export of IAEA safeguards samples.

Any person is exempt from the requirements for a license to export special nuclear material set forth in sections 53 and 54d. of the Atomic Energy Act and from the regulations in this part to the extent that the person exports special nuclear material in IAEA safeguards samples, if the samples are exported in accordance with § 75.42(e)(1) of this chapter, or a comparable Department of Energy order, and are in quantities not exceeding a combined total of 100 grams of contained plutonium, U–233 and U–235 per facility per year. This exemption does not relieve any person from complying with Parts 71 or 73 of this chapter or any Commission order pursuant to section 201(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(a)).

Dated at Washington, D.C. this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–4056 Filed 2–12–82; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 22]

Changes to Delegations of Authority To Conduct Program Activities in the Field; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule regarding changes to delegations of authority to conduct program activities in the field, which was published in the **Federal Register** on Janaury 15, 1982 (47 FR 2305).

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416, (202) 653–8538.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–980 appearing at page 2306 in the issue for Friday, January 15, 1982, Part II, Section A, paragraph 1.a.(2), line (k) now reading "Supervisory Loan Specialist, D/O 300,000 * * *" should read "Supervisory Loan Specialist, Disaster Office 300,000 * * *" Appearing at page 2307, Part II, Section A, paragraph 9.b., line (15) now reading "Supervisory Loan Specialist, D/O * * *" should read "Supervisory Loan Spec., Disaster Off. * * *"

Dated: February 8, 1982.

Ronald Allen,

Federal Register Liaison Officer.

[FR Doc. 82–3972 Filed 2–11–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–CE–2–AD; Amendment 39–4318]

Airworthiness Directives; Cessna Model P210N Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises existing Emergency Airworthiness Directive (AD) 81–23–03 applicable to Cessna Model P210N airplanes and codifies the revised AD into the **Federal Register**. It permits extension of the 25-hour inspection interval specified in this AD to 50 hours when performed in accordance with the instructions in Cessna Service Information Letter (SIL) SE82–3. Initial and repetitive inspection of the engine exhaust system is necessary to detect and preclude engine exhaust system failure which may cause engine and airframe damage. These actions will increase reliability of the engine exhaust system and assure acceptable engine and airplane performance, thereby precluding a safety hazard.

EFFECTIVE DATE: February 18, 1982 to all persons except those to whom it has already been made effective by letter dated October 31, 1981, as corrected by letter dated November 5, 1981.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Cessna Single-engine Customer Care Service Information Letters SE79–52, Revision 1, dated November 5, 1979, SE81–21, dated May 18, 1981, and SE82–3, dated January 25, 1982, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. Copies of the Service Information Letters are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, ACE–214, Wichita Aircraft Certification Office, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7010.

SUPPLEMENTARY INFORMATION: The FAA has received an increasing number of reports of failure of the engine exhaust system. Seven reports indicated exhaust failure had damaged and/or burned the cowl. One report indicated the cowl had burned through, allowing outside ram air to mix with exhaust gases and impinge on electrical wiring. This airplane experienced an emergency landing after losing engine and electrical power caused by exhaust gases heating and shorting engine ignition wiring and airframe electrical wiring. An additional report indicated the pilot was feeling sick after prolonged flight in an airplane with a cracked exhaust system component. Accordingly, the FAA determined that compliance with special inspection instructions was necessary in the interest of safety and an Emergency AD 81–23–03 was mailed to all Cessna P210N owners of record on October 31, 1981. A corrected version of this AD was mailed to these owners on November 5, 1981. It was applicable to all serial numbers of Cessna Model P210N airplanes and required initial and repetitive 25-hour inspections of the engine exhaust system of all these airplanes.

Additional information received since issuance of the emergency AD warrants a relieving amendment.

AD 81–23–03 is now being amended to limit effectivity to those airplanes with original design exhaust systems and to extend repetitive inspections of these airplanes to 50-hour intervals when conducted in accordance with Cessna SIL SE82–3.

Since the unsafe condition described herein may still exist on other Cessna model airplanes described herein, the AD incorporating the above relieving revisions is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the emergency letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the exemption provisions of Section 8(a)(1) of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553(b) was considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the **Federal Register**.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising Airworthiness Directive (AD) 81–23–03 to read as follows:

Cessna: Applies to Model P210N airplanes, Serial Numbers P21000001 through P21000860 certificated in any category with 25 or more total hours time-in-service.

Compliance: Required as indicated unless already accomplished.

To ensure the integrity of the engine exhaust system, accomplish the following:

(A) Prior to further flight on all airplanes with 25 hours or more time-in-service unless previously accomplished in accordance with AD 81–23–03:

1. Remove the engine cowl side and front panels and visually inspect the entire engine exhaust system for cracks. The cabin heat shroud does not have to be removed for this inspection.

2. Replace any cracked exhaust system components with serviceable parts.

Note.—Particular attention should be given to the exhaust system components attached to and between the two forwardmost (Nr. 5 and Nr. 6) cylinders.

(B) Within the next 10 hours time-in-service after the effective date of this AD and at each 50 hours time-in-service thereafter except as required by paragraph (B)3:

1. Remove the engine cowl side and front panels as well as the cabin heater muff.

2. Visually inspect the entire engine exhaust system for cracks and bulges in the exhaust stacks, manifold, turbocharger and wastegate assemblies in accordance with Cessna SIL SE82–3.

3. Replace any cracked or bulged exhaust system components with serviceable parts in accordance with Cessna SIL SE82–3. If the exhaust system components have been removed and replaced with serviceable parts, or repaired by welding, reinspect within 25 hours time-in-service and replace or repair cracked or bulged components in accordance with Cessna SIL SE82–3. If no defects are found, the 50-hour inspection interval may be reinstated.

(C) The inspection required by paragraph (A)1 of this AD may be accomplished by the holder of at least a private pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by that person (provided the airplane is not used in air carrier service). Make the prescribed entry in the aircraft maintenance record appropriate to this inspection.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Wichita Aircraft Certification Office (formerly Aircraft Certification Program), Federal Aviation Administration , Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 269–7000.

Cessna Single-engine Customer Care Service Information Letters SE79–52, Revision 1, dated November 5, 1979, SE81–21, dated May 18, 1981, and SE82–3, dated January 25, 1982, pertain in part to the subject matter of this AD.

This amendment becomes effective on February 18, 1982, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated October 31, 1981, as corrected by letter dated November 5, 1981.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation under the President's memorandum of January 29,

1981, and an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if prepared and when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Mo., on February 4, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-3912 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-2]

Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment extends VOR Federal Airway V-287 from Fort Jones, CA, to Medford, OR. A recent flight inspection indicated the minimum en route altitude (MEA) in that area must be raised to 15,000 feet MSL due to poor signal reception. This action corrects that problem by adding an additional navigational aid.

DATES: Effective date—May 13, 1982. Comments must be received on or before March 18, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82-AWA-2, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Requests for Comments on the Rule

Although this action is in the form of a final rule, which involves the extension of V-287 to Fort Jones, CA, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to:

Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82-AWA-2, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to extend VOR Federal Airway V-287 from Medford, OR, to Fort Jones, CA, via an east dogleg utilizing radials of the revoked VOR Federal Airway V-23E. This action assures a lower MEA in that area for pilots not equipped with oxygen equipment. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 409). Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to maintain the current route alignment of V-23E that was revoked in Airspace Docket No. 81-ANW-8 in order to accommodate pilots and aid flight planning. Therefore, I find that notice or public procedure under 5 U.S.C. 533(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days after its publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

V-287 [Amended]

By removing the words "From Medford, OR," and substituting the words "From Fort Jones, CA, via INT Fort Jones 041° and Medford, OR, 157° radials; Medford;"

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 8, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-3910 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWP-26]

Establishment of Transition Area, Half Moon Bay, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700 foot transition area for Half Moon Bay Airport, Half Moon Bay, California, in order to provide controlled airspace for aircraft executing an instrument approach procedure to the Half Moon Bay Airport.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

On December 17, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area for Half Moon Bay, California (46 FR 61487). Establishment of this transition area will provide controlled airspace for protection of instrument operations of Half Moon Bay Airport.

Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1981 (46 FR 540).

The Rule

This amendment of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes a transition area at Half Moon Bay, California. This transition area provides protection for instrument operations at Half Moon Bay Airport, increases air traffic safety and improves flow control procedures.

Adoption of the Admendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901, February 18, 1982, by adding the following:

§ 71.181 Half Moon Bay, California.

That airspace extending upward from 700 feet above the surface, bounded on the north by latitude 37°35'00" N, on the east by longitude 122°25'00" W, on the south by latitude 37°24'00" N, and on the west by longitude 122°35'00" W.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, Calif., on February 4, 1982.

H. C. McClure,
Director, Western Pacific Region.

[FR Doc. 82-3811 Filed 2-12-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

Commodity Control List; Recording and/or Reproducing Equipment Revision of Note in CCL Entry No. 1572A

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: In the **Federal Register** of May 12, 1981 (46 FR 26281), entry No. 1572A of the Commodity Control List (CCL) which controls certain recording and/or reproducing equipment was revised. This revision included the addition of four exceptions describing commodities *not* controlled by entry No. 1572A. A Note describing a technology restriction applying to Exceptions 2 through 4 was also added, but its placement in the CCL could be confusing. This rule revises that Note to entry No. 1572A by placing it at the left margin of the entry and by adding language to emphasize that the Note applies to Exceptions 2 through 4 which appear below it.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 et seq.) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981, "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Accordingly, the Commodity Control List, Supplement No. 1 to § 399.1 of the Export Administration Regulations (15 CFR Parts 368–399), is amended as follows:

§ 399.1 Supplement No. 1 [Amended]

* * * * *

Entry No. 1572A is amended by moving the Note between Exception 1 and Exception 2 to the left margin of the entry, and revising the Note to read as follows:

1572A Recording and/or reproducing equipment, * * *

* * * * *

Exception 1 * * *

Note.—No technical data relating to the commodities described in Exceptions 2 through 4 below may be exported under General License *GTDR* until a written assurance against reexport of the data has been obtained by the exporter in accordance with § 379.4(f)(3).

* * * * *

(Secs. 5, 13 and 15, Pub. L. 96–72, 93 Stat 503, 50 U.S.C. app. 2401 et seq; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: January 8, 1982.

Vincent F. DeCain,
Acting Director, Office of Export Administration.

[FR Doc. 82-3805 Filed 2-12-82; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 82-33]

Customhouse Brokers

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to give district directors of Customs sole discretion to exempt a customhouse broker from maintaining the prescribed format for Customs transactions set forth in the regulations. By not requiring district directors to obtain concurrence from Customs Regional Directors of Regulatory Audit, substantial man-hours and travel funds will be saved.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Balaney, Regulatory Audit Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Part 111, Customs Regulations, (19 CFR Part 111), among other things, sets forth the provisions relating to the duties and responsibilities of customhouse brokers. Section 111.22(a), Customs Regulations, requires each broker to keep current, a record of all Customs transactions in the format set forth in § 111.22(d), Customs Regulations, unless an exemption has been granted pursuant to § 111.22(b), Customs Regulations. Section 111.22(b) provides that if the information required in § 111.22(a) is disclosed in other books and records regularly kept and maintained by a broker, and if such information is in a systematic, convenient, and readily available form so that Customs regulatory auditors can make an effective and complete inspection thereof, the district director, with the concurrence of the Regional Director, Regulatory Audit, may, in writing, exempt the broker from the requirements of § 111.22(a). A written request, addressed to the district director for this exemption shall include:

1. A statement of facts as to the records kept; and

2. An agreement that, if the exemption is granted, no change in the system of books and records or the manner of keeping and maintaining them will be made without the prior written approval of the district director and concurrence in the change by the Regional Director, Regulatory Audit.

Customs has found that concurrence of the Regional Director, Regulatory Audit, in the approval of requests from brokers for an exemption from maintaining their Customs transactions in the prescribed format as set forth in § 111.22(d), and subsequent changes in their accounting systems results in the expenditure of substantial man-hours and travel funds. Accordingly, § 111.22(b) is being amended to give the district directors the sole responsibility for approving or disapproving requests for exemptions. The amendment will permit the Regional Regulatory Audit staff to perform subsequent audits of brokers in accordance with their approved audit plans and if records are found to be inadequate this finding would be reported to the district director for appropriate action.

Inapplicability of Public Notice Requirements

Because this amendment relates solely to an internal Customs procedure, and it is not of particular interest to the general public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by Pub. L. 96-354, the "Regulatory Flexibility Act." That act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

PART 111—CUSTOMHOUSE BROKERS

Section 11.22(b), Customs Regulations (19 CFR 111.22(b)), is revised to read as follows:

§ 111.22 Additional record of transactions.

* * * * *

(b) *Exemption.* If the information required in paragraph (a) is disclosed in other books and records regularly kept and maintained by a broker and if such information is in a systematic, convenient, and readily available form, the district director may in writing exempt the broker from the requirements of paragraph (a) of this section. A written request for exemption shall be addressed to the district director and shall include:

(1) A statement of facts as to the records kept; and

(2) An agreement that, if the exemption is granted, no change in the system of books and records or the manner of keeping and maintaining them will be made without prior written approval of the district director.

* * * * *

(R. S. 251, as amended, sections 624, 641, 46 Stat. 759, as amended, section 501, 65 Stat. 290 (19 U.S.C. 66, 1624, 1641, 31 U.S.C. 483(a))

William T. Archey,

Commissioner of Customs.

January 28, 1982.

Approved: John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-4000 Filed 2-12-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 75N-0020]

21 CFR Part 436

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs; Penicillin; Updating and Technical Revisions; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to tests and methods of assay of antibiotic and antibiotic-containing drugs; penicillin, appearing on page 59852 in the issue for November 22, 1977.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-33332 appearing at page 59852 in the issue for Tuesday, November 22, 1977, the following corrections are made: In paragraph (b) of § 436.33 *Safety test* (21 CFR 436.33) in the last column in the table for the entry for the antibiotic drug

"Cloxacillin benzathine," the word "Do" is changed to read "Intraperitoneal" and in the entry for the antibiotic drug "Cloxacillin sodium monohydrate," the word "Do" is changed to read "Intravenous."

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 82-3914 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dexamethasone Sodium Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by John D. Copanos, Inc., providing for safe and effective use of a dexamethasone sodium phosphate injection in dogs and horses for its glucocorticoid and anti-inflammatory effect.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: John D. Copanos, Inc., 6110 Robinwood Rd., Baltimore, MD 21225, filed an NADA (124-510) providing for intravenous use of a dexamethasone sodium phosphate injection in dogs and horses. The product contains 4 milligrams of dexamethasone sodium phosphate per milliliter and is administered for its adrenal glucocorticoid and anti-inflammatory effect.

The product is similar to Schering's Azium (dexamethasone sterile injection), a National Academy of Sciences/National Research Council (NAS/NRC) reviewed product, which was found effective as an anti-inflammatory agent in dogs, cats, horses, and cattle. Subsequently, Anthony Products' Dex-A-Vet Injection (dexamethasone sodium phosphate sterile injection) was approved as provided under 21 CFR 320.25(e) for the same conditions of use based on a bioavailability study. Both products are codified in 21 CFR 522.540. Copanos' product is approved based on its being identical to Anthony Products' approved product which has been found similar to the NAS/NRC reviewed product. The requirement for evidence of in vivo bioavailability has been waived under 21 CFR 320.22(b)(1). NADA 124-510 is approved and the regulation is amended appropriately.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.540 by revising paragraph (e)(2) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *

(e) * * *

(2) *Sponsors.* See Nos. 015579 and 010271 in § 510.600(c) of this chapter.

* * * * *

Effective date. This regulation is effective February 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 4, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-3750 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Praziquantel Injectable Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for safe and effective subcutaneous or intramuscular use of praziquantel injectable solution for removal of certain cestodes from cats.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201, filed a supplemental NADA (111-607) providing for safe and effective use of praziquantel injectable solution (Droncit Injectable Cestocide) for removal of certain feline cestodes. Bayvet submitted results of several controlled critical preclinical studies demonstrating effectiveness of the drug in treating naturally and experimentally induced *D. caninum* and *T. taeniaeformis* infections in cats, and results of field studies using bunamidine hydrochloride as a positive control drug. Several controlled safety evaluations and clinical trials demonstrated safe use of the drug.

Based on the data and information submitted, the supplemental NADA is approved and the regulations are amended to reflect the approval. The firm currently holds approval for use of the drug for treating dogs as reflected in 21 CFR 522.1870.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human

environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*a*), (*e*)(1) and (*2*), and (iii)) which may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1870 by redesignating existing paragraph (c)(1), (2), and (3) as (c)(1)(i), (ii), and (iii), and by adding new (c)(1) heading and new (c)(2), to read as follows:

§ 522.1870 Praziquantel injectable solution.

* * * * *

(c) * * * (1) *Dogs.* * * *

(2) *Cats.*—(i) *Amount.* For cats under 5 pounds, 0.2 milliliter (11.4 milligrams); 5 to 10 pounds, 0.4 milliliter (22.7 milligrams); 11 pounds and over, 0.6 milliliter (34.1 milligrams) maximum.

(ii) *Indications for use.* For removal of feline cestodes *Dipylidium caninum* and *Taenia taeniaeformis.*

(iii) *Limitations.* For subcutaneous or intramuscular injection only. Not intended for use in kittens less than 6 weeks of age. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This amendment is effective February 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 4, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-3701 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Mibolerone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by The Upjohn Co. providing for safe and effective use of mibolerone in a canned dog food for the prevention of estrus (heat) in female dogs not intended primarily for breeding purposes.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: The Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001, filed an NADA (107–347) which provides for safe and effective use of mibolerone in a canned dog food for the prevention of estrus (heat) in adult female dogs not intended primarily for breeding purposes.

Approval of this NADA relies on safety and efficacy data in Upjohn's NADA 102–709, and clinical and nonclinical studies supporting use of the new formulation. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended by adding new § 558.348, to read as follows:

§ 558.348 Mibolerone.

(a) *Approvals.* To No. 000000 in § 510.600(c) of this chapter for a canned dog food, each 6½ ounce can containing 30 or 60 micrograms of mibolerone.

(b) *Conditions of use*—(1) *Amount.* 30 micrograms for animals weighing up to 25 pounds; 60 micrograms for animals weighing 26 to 50 pounds; 120 micrograms for animals weighing 51 to 100 pounds; 180 micrograms for animals weighing over 100 pounds, or German Shepherds or German Shepherd mix weighing 30 to 80 pounds.

(2) *Indications for use.* For the prevention of estrus (heat) in adult female dogs not intended primarily for breeding purposes.

(3) *Limitations.* Administer daily at least 30 days before expected initiation of heat and continue as long as desired, but for not more than 12 months. Mibolerone should not be used in bitches before first estrous period or in purebred Bedlington terriers. It is not intended for animals being used primarily for breeding purposes. Use orally in adult female dogs only. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective February 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 4, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-3700 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 601

[Docket No. 78N–0400]

Protection of Human Subjects; Informed Consent; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an omission that occurred inadvertently in the conforming amendments to the regulation on protection of human subjects; informed consent, which was published in the Federal Register of January 27, 1981 (46 FR 8942).

EFFECTIVE DATE: July 27, 1981.

FOR FURTHER INFORMATION CONTACT: Al Rothschild, Bureau of Biologics

(HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1981 (46 FR 8942), FDA published the regulation on protection of human subjects; informed consent and standards for institutional review boards for clinical investigations. In the conforming amendments to that regulation, a sentence was inadvertently omitted from § 601.2(a) (21 CFR 601.2(a)). This document corrects that omission.

PART 601—LABELING

§ 601.2 [Amended]

In FR Doc. 81–2687 appearing at page 8942 in the **Federal Register** of January 27, 1981, the following correction is made in the third column on page 8955: In § 601.2 *Applications for establishment and product licenses; procedures for filing,* in paragraph (a) the following sentence is added before the last sentence in the paragraph: "The applicant shall also include an environment impact analysis report analyzing the environmental impact of the manufacturing process and the ultimate use or consumption of the biological product pursuant to § 25.1 of this chapter."

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–3913 Filed 2–12–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 740

Relocation Assistance; Revised Interest Payments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: Federal Highway Administration (FHWA), is issuing this amendment in order to change the discount rate used in computing an interest differential payment for homeowners displaced by Federal or federally assisted highway projects. This amendment eliminates the requirement that the discount rate must be the prevailing rate paid on passbook savings accounts.

EFFECTIVE DATE: March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald Starkweather, Relocation Assistance Division, Office of Right-of-Way (202–426–0117); or Reid Alsop, Office of the Chief Counsel (202–426–0800), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours Monday–Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: Section 203(a)(1)(B) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*) provides that the replacement housing payment to displaced homeowners, provided by section 203, shall include "The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of * * * comparable dwelling." The amount of such payment is to equal the total increase in cost for a mortgage of the same amount and term as was on the acquired dwelling, "reduced to discounted present value." Section 203 (a)(1)(B) provides that "the discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located."

In implementing this provision FHWA provided in 23 CFR 740.74(c)(4) that the discount rate "shall be the prevailing rate of the interest paid on *passbook* savings account deposits by commercial banks in the general area in which the replacement dwelling is located." (Emphasis supplied.)

At the time the regulation was issued, interest rates for home mortgages were substantially lower, and the passbook savings rate was a reasonable rate to utilize. With the general escalation of interest rates and with the advent of the savings certificate and other types of savings deposits, and their increased popularity, it is considered necessary to eliminate the requirement that computation of the interest differential payment be based upon the interest rate paid on passbook savings. The current regulation, which limits the discount rate to that paid on passbook savings account deposits, has resulted in inordinately excessive interest differential payments in many cases.

The use of the passbook savings account rate of interest in computing the differential payment results in a final computed amount which is larger than if higher alternative rates (such as those paid by commercial banks on other types of savings deposits) could be used. Consequently, in certain instances displaced homeowners are currently provided differential payments which result in a windfall profit to such persons. In extreme cases use of the passbook rate can result in the computation of interest differential payments that exceed the unpaid balance of the displaced homeowner's mortgage. FHWA takes the position that, today, prudent and possibly conservative investors will select certificates of deposit, all-savers certificates or other higher rate deposit arrangements in lieu of passbook savings accounts, due to the much higher interest earned. Since passbook savings accounts no longer appear to attract the average saver, the 5½ percent discount rate embodied in the current regulation should be replaced by a higher rate which conforms to the present day financial market.

Accordingly, FHWA is amending 23 CFR 740.74(c)(4) to eliminate any reference to passbook savings accounts. Similar changes are being made in Appendix A to Part 740 which contains a "Format for Computation of Interest Payments." As amended, the regulation will be identical to the language in the statute.

This change gives the displacing agency the flexibility to utilize a discount rate based upon the interest rate paid on savings accounts other than passbook savings accounts, such as the rate paid on certificates of deposit by commercial banks. It is estimated that this change will reduce the average annual interest differential payments by approximately 40 percent.

Displaced homeowners will still be fully compensated for their increased interest costs, as required by the Uniform Relocation Act. This change merely eliminates unjustifiable windfalls that are possible under the current regulation because of the escalation of interest rates that have occurred since the regulation was promulgated.

Disposition of Comments

A notice of proposed rulemaking was published for comment in the **Federal Register** on September 14, 1981, (46 FR 45627). Twenty comments were received. These include seventeen from State highway agencies, one from a Federal agency, one from a city agency, and one from a consultant.

Comments generally expressed support for the proposed change in the regulation, or agreed that the regulation should be changed. Several of the comments recommended that the new mortgage should be reduced by the amount necessary to maintain the same monthly payment and term as the old mortgage, utilizing the new higher

mortgage interest rate. This method seems equitable, however, the Uniform Act is specific regarding the method of computation, and would need to be amended in order to adopt the mortgage pay down method suggested.

Several comments requested further guidance as to the rate of interest that should be used in lieu of that paid on passbook savings accounts. Several comments also opposed using interest rates paid on certificates of deposit or on other deposit arrangements where the funds cannot be withdrawn for a substantial period of time without incurring an interest penalty. One comment suggested that this amendment was not sufficient to authorize the use of rates paid on certificates of deposit in computing interest differential payments.

It is not the intent of FHWA to dictate the rate that should be used. The purpose of this amendment is to remove an impediment that was resulting in excessively high payments and to allow displacing agencies the flexibility to use more realistic rates.

We realize that there is considerable variation among commercial bank savings deposit rates, both within each bank, and between banks. In selecting the rate to use in computing an interest differential payment the displacing agency should insure to the best of its ability that the payment will be sufficient to fully compensate the displaced homeowner for the increased cost of his mortgage, as required by the Uniform Act. The needs of the displaced homeowner also should be considered in making this selection.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. This change will merely eliminate instances of overpayment to displaced homeowners who have qualified for the interest differential payment. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald Starkweather of the program office at the address specified above.

(Catalog of Federal Domestic Assistance Program Number 20.205, 20.206, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)
(23 U.S.C. 315; 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48)

Accordingly, 23 CFR 740.74(c)(4) and Appendix A of Part 740 are amended to read as set forth below.

Issued on: February 8, 1982.

R. A. Barnhart,
Federal Highway Administrator.

PART 740—RELOCATION ASSISTANCE

1. Paragraph (c)(4) of § 740.74 is revised to read as follows:

§ 740.74 Replacement housing payments for 180-day owner who purchases.

* * * * *

(c) * * *

(4) *Discount rate.* The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

* * * * *

2. Appendix A to Part 740 is revised to read as follows:

Appendix A.—Format for Computation of Interest Payments Required Information

1. Outstanding balance of mortgage on acquired dwelling————$
2. Outstanding balance of mortgage on replacement dwelling————$
3. Lesser of Line 1 or Line 2————$
4. Number of months remaining until last payment is due for mortgage on acquired dwelling————
5. Number of months remaining until last payment is due for mortgage on replacement dwelling————
6. Lesser of Line 4 or 5————
7. Annual interest rate of mortgage on acquired dwelling————
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) (percent)————
9. Prevailing interest rate paid on savings deposits by commercial banks (percent)————
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense.————$

Developing of Monthly Payment Figures

A. Monthly payment required to amortize a loan of $———(Line 3) in———months (Line 6) at an annual interest rate of———% (Line 7)————$

B. Monthly payment required to amortize a loan of———$ (Line 3) in———months (Line 6) at an annual interest rate of———% (Line 8)————$

C. Monthly payment required to amortize a loan of $———(Line 3) in———months (Line 6) at an annual interest rate of———% (Line 9)————$

Calculation of Interest Payment

Step 1—Subtract A from B:

Monthly payment based on rate for replacement dwelling (B)————$
Monthly payment based on rate for acquired dwelling (A)————$
Result (difference)————$
Step 2—Divide result (difference) of Step 1 by C (carry to 6 Decimal places)————$
Result (difference) from Step 1————$
Monthly payment based on savings rate (C)————$
Result (quotient)————
Step 3—Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of
Step 2:
Outstanding Balance (from Line 3)————$
Result (quotient) of Step 2×————
Result (product)————$
Step 4—Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling:
Result (product of Step 3, first mortgage————$
Result (product) of Step 3, second mortgage [1]————$
Sum or difference, as applicable [1]————$
Add debt service costs on loan on replacement dwelling (Line 10)————$
Amount of interest payment————$

[FR Doc. 82-3874 Filed 2-12-82; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R–82–957]

Multifamily Housing Mortgage Insurance Eligibility of Mortgages on Existing Projects

Correction

FR Doc. 82–2455 which appeared at page 4507 in the issue of Monday, February 1, 1982, was corrected at page 5886 in the issue of Tuesday, February 9, 1982. The correction which appeared on page 5886 of the issue of Tuesday, February 9, 1982, should have read as follows:

On page 4508, middle of second column, in the amendatory language for a "§ 207.32a Eligibility of mortgages on existing projects." fourth line, "(1)(1)"

[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through Step 3. A consolidated Step 4 is then completed.

should read "(e)(1)", and in the fifth line, "(1)(2)" should read, "(e)(2)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking amends the regulations to remove the provisions that require segregation of the portion of an Outer Continental Shelf (OCS) oil and gas lease that is not included in a unit agreement. This rulemaking is necessary to implement the opinion of the Solicitor of the Department of the Interior (DOI) that the Secretary does not have the authority to require segregation of the unitized portion of a lease from the portion of the lease that is not unitized. The amendment allows the extension of the term of an entire lease when such extension is justified by development or production activities on any part of the lease, or on any part of a unit which includes part of the lease.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke (703) 860–7395, (FTS) 928–7395.

SUPPLEMENTARY INFORMATION:

Background

The rules on unitization in 30 CFR 250.50, implementing the OCS Lands Act Amendments of 1978, were published on May 2, 1980, and control leases issued after that date. These rules provided for the mandatory segregation of unitized portions of OCS leases from other portions of such leases. Segregation refers to the practice of separating that portion of a lease which is in a unit from that portion of the lease not in a unit, essentially forming two leases. After review of the OCS Lands Act, 43 U.S.C. 1331 et seq., the Solicitor of DOI issued Solicitor's Opinion M–36927, concluding that the Secretary does not have the legal authority to require segregation of unitized portions of leases from the remainder of the lease.

Comments

On August 20, 1981, the Department published a rule proposing to remove requirements for mandatory segregation of unitized portions of leases from the remainder of the lease. Sixteen comments and recommendations were received in response to the Notice of Proposed Rulemaking. Comments were received from oil and gas companies, public interest groups, and a Government Agency.

Difference Between Proposed Rule and Final Rule

A difference between the proposed rule and the final rule is the inclusion of the phrase "or portions of leases" and "in whole or in part" in the final rule to clarify that portions of leases, as well as whole leases, may be included in units.

Discussion of Comments

All of the commenters supported the proposed amendment. The commenters agreed with the legal analysis that mandatory segregation was outside the Secretary's authority and tended to undermine the intent of unitization, i.e. to promote the prompt and efficient exploration and development of OCS leases.

The majority of the commenters supported the change because it eliminated the situation which could occur under the current rules of having to conduct operations prematurely on a segregated portion of a lease in order to preserve a potentially productive area, even though operations were underway that would otherwise exend the lease. The commenters felt a lessee should have the discretion to develop a lease scientifically and systematically without being forced into premature, unnecessary, and potentially wasteful operations on a lease which is being successfuly developed or produced.

Several commenters requested a clarification in the regulations that operations on either the unitized or nonunitized portion of a lease would be sufficient to sustain the entire lease. These commenters felt that the proposed rule might be understood to deal only with the case in which operations on the unitized portion sustained the nonunitized portion of the lease. We agree that operations on a nonunitized portion of a lease sustains the entire lease, both unitized and nonunitized portions. We do not feel, however, that it is necessary to recite such a provision in this amendment dealing with units since the general rule in 30 CFR 250.35 specifically provides for the extension of the term of a lease as long as drilling or well-reworking operations are being conducted on a leased area and since the lease terms provide for an extension of the lease during production. It is not necessary to restate these provisions in the absence of segregation.

In the Notice of Proposed Rulemaking published on August 20, 1981, we proposed the deletion of the phrase "* * * or segregated portions of leases * * *" in the first sentence of § 250.50(b) and the first sentence of § 250.50(e).

A number of commenters requested that the words "* * * portions of leases * * *" be retained in this regulation in order to clarify that portions of a lease as well as an entire lease could be included in a unit. This has always been the Department's interpretation of the rules concerning unitization, and the final rules will retain this phraseology in order to avoid any ambiguity.

In response to the Department's solicitation for comments on all provisions of 30 CFR 250.50, comments were received on a number of other provisions principally relating to the timing of preproduction-unit adjustment and the sequence of events following expiration of a unit or elimination of a lease from a unit through adjustment. The Department appreciates these comments and will consider them as petitions for review of a rule under 43 CFR 14.8.

Authors: Platte Clark, Jane Roberts, and David Schuenke, Minerals Management Service, Department of the Interior, (703) 860–7395.

Regulatory Analysis and Small Entity Flexibility Analysis

The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291. In addition, the Department has determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act.

Dated: December 31, 1981.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons set out in the preamble, 30 CFR Part 250 is amended as set out below:

1. Section 250.50 is amended by revising the first sentence of paragraphs

(b) and (e), and by revising paragraphs (g), (h) and (i) to read as follows:

§ 250.50 Authority and requirements for unitization.

* * * * *

(b) A unit area shall include the minimum number of leases or portions of leases required to permit one or more, or a portion of one or more, mineral reservoirs or potential hydrocarbon accumulations to be served by an optimal number of artificial islands, installations, or other devices necessary for the efficient exploration for or development and production of oil and gas or other minerals.* * *

* * * * *

(e) Drilling, production, and well-reworking operations performed in accordance with a unit agreement shall be deemed to be performed for the benefit of all leases that are subject in whole or in part to the unit agreement.* * *

* * * * *

(g) If a lease is subject in whole or in part to unitization, the entire lease shall continue in force for the term provided in the lease and as long thereafter as any portion of the lease remains part of the unit area, and as long as there are operations within the unit area which serve to continue the lease in effect.

(h) Upon the expiration or termination of a unit agreement or when there is an adjustment of a unit area that results in the elimination of a lease or a portion of a lease from the unit agreement, each lease that was but is no longer subject in whole or in part to the unit agreement shall expire unless: (1) Its initial term has not expired, (2) drilling, production, or well-reworking operations are underway on the lease or portion of a lease, or (3) a suspension of production or operations has been ordered or approved for the lease or portion of a lease pursuant to 30 CFR 250.12.

(i) When a lease that is subject in whole or in part to a unit agreement is beyond the initial fixed term of the lease and unitized substances are not being produced, the lease shall expire unless: (1) The unit operator conducts a continuous drilling or well-reworking program designed to develop or restore the production of unitized substances, or (2) a suspension of operations has been ordered or approved in accordance with 30 CFR 250.12.

2. Section 250.50 is amended by removing paragraph (j).

(43 U.S.C. 1334)

[FR Doc. 82-3979 Filed 2-12-82; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1883-7]

Approval and Promulgation of Implementation Plans; Indiana State

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) announces today final rulemaking on revisions to the Indiana State Implementation Plan (SIP). The revisions pertain to the Indiana new source review (NSR) plan. The revisions were submitted to EPA by the State to satisfy the requirements of Part D of the Clean Air Act (Act). EPA published a notice of proposed rulemaking on these revisions on March 27, 1980 (45 FR 20432). The notice of proposed rulemaking described the nature of the SIP revisions, EPA's proposed action, and requested comments from the State and public. Today EPA is taking final action on these revisions to the Indiana SIP approving Indiana's NSR plan.

EFFECTIVE DATE: This final rulemaking becomes effective on February 16, 1982.

ADDRESSES: A copy of the SIP revision, public comments on the notice of proposed rulemaking and EPA's evaluation and response to comments are available for inspection at the following address: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the SIP revision are available at the following addresses:

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Robert Miller at the Region V address given above or telephone: (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 46003), pursuant to the requirements of section 107 of the Clean Air Act, as amended in 1977, EPA designated certain areas in each Region V state as nonattainment with respect to National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3), and nitrogen dioxide (NO_2).

Part D of the Act, added by the 1977 amendments, requires each state to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS by December 31, 1982, or, under certain circumstances, by no later than December 31, 1987 for ozone and/or carbon monoxide. The criteria for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published July 2, 1979 (44 FR 35853), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

Indiana revised regulation APC-19 (State adopted on June 19, 1979) was submitted by the State on June 26, 1979. The regulation establishes statewide operating and construction permit requirements; registration requirements for specified facilities and emission control devices; new source review requirements for the prevention of significant deterioration (PSD) of air quality in attainment areas; requirements for offsetting of emissions in nonattainment areas; and requirements for source compliance by use of a "bubble" approach. Additionally, it establishes a State permit fee system for construction and operating permits.

In response to the decision of the U.S. Court of Appeals for the D.C. Circuit in Alabama Power Company v. Costle, EPA on August 7, 1980 amended its regulations for the prevention of significant deterioration of air quality. Pursuant to this action, Indiana is in the process of revising section 7 of APC-19 which deals with its prevention of significant deterioration program. Therefore, EPA is not rulemaking today on section 7 of APC-19.

In a March 27, 1980 notice of proposed rulemaking (NPR) (45 FR 20432), EPA reviewed APC-19; noted some general deficiencies in the submittal; and proposed to conditionally approve APC-19 if the State committed to correct the specified deficiencies on a schedule to be negotiated between the State and the EPA.

The State of Indiana submitted its response to the NPR on June 25, 1980. The response was directed at the conditions for approval. The State committed itself to revise APC-19 to remove EPA's objections and to submit the revised regulation to EPA by February 1, 1981. Subsequent to this commitment, EPA's August 7, 1980

rulemaking required additional changes to Indiana's regulations. On May 19, 1981 the State committed itself to submit its revised NSR regulation to EPA by November 1, 1981. The State submitted this revised regulation to EPA on October 21, 1981 meeting its commitment. Therefore, EPA is approving APC–19.

In addition to the State's responses, EPA received several other public comments on APC–19 in response to its March 27, 1981 NPR. The following identifies each relevant issue with EPA's proposed action, any public comments received, and EPA's final action.

Issue: Section 4(b)(2) of APC–19 contains a typographical error. It requires alternative analyses (section 172(b)(11)(A)) for the construction of hydrocarbon and carbon monoxide sources in nonattainment areas where an extension for attaining the NAAQS beyond 1987 has been requested. The correct date is 1982. EPA proposed to conditionally approve section 4(b)(2) if the State committed to correct this typographical error.

Response: The State committed to correct the typographical error by November 1, 1981.

Action: Indiana deleted the typographical error from its NSR program, effective October 23, 1981. Therefore, EPA is totally approving Indiana's alternative analysis program.

Issue: EPA requested that the State submit a determination from the Indiana Attorney General whether emission limitations contained in permits issued pursuant to regulation APC–19 have the force and effect of regulations in Indiana. EPA proposed that it must have such an assurance in order to approve APC–19 section 4(g), Permit Emission Limitations.

Response: The State submitted a copy of an Administrative Advisory letter from a Deputy Attorney General, dated December 31, 1979. The letter stated that "permits issued by the Indiana APCB have the force and effect of a rule or regulation under Indiana law." One commenter found that the Indiana Air Pollution Control Act and the Environmental Management Act provide that permits are enforceable.

Action: EPA is satisfied that the State can enforce most permit conditions. However, approval of APC–19 does not mean that EPA has approved in advance whatever emission limitation (or other permit condition) the State may adopt under APC–19, section 4(g). To become provisions of the applicable implementation plan, operating permit conditions, including emission limitations which are different from those specified in APC–13 and APC–23, need to be submitted to EPA as SIP revisions together with all necessary documentation as set forth in 40 CFR 51.6 and 51.13. APC–19 requires all operating permits to be submitted to EPA for its approval. EPA will take action on all such permits which contain requirements differing from those contained in the SIP.

Issue: Section 4(h) required a permit to be automatically issued if the State did not take final action on the permit within a specified time limit. EPA proposed to conditionally approve the regulation if the State committed to delete the "permit by default" provision.

Responses: The State agreed to delete the permit by default regulation from its new source review regulation. Several other commentors, however, felt that a time limit for administrative review is required to avoid excessive delay, and for due process under both the Indiana Constitution and the Constitution of the United States.

Action: The Agency feels that approval by default would not have ensured attainment and maintenance of the NAAQS, a fundamental requirement of the Clean Air Act, as amended.

Indiana deleted the permit by default provision from its NSR program effective October 23, 1981. Therefore, EPA is totally approving section 4(h) of APC–19.

Conclusion

EPA has reviewed the response from the State of Indiana and comments from the public on the proposed conditional approval of Indiana regulation APC–19. EPA has determined that the conditions for proposed approval specified in the March 27, 1980 NPR have been met and that none of the issues raised by commentors provide sufficient justification for EPA to change its proposed action. EPA therefore approves Indiana regulation APC–19, except for the sections which deals with PSD regulations. EPA will take action on the PSD sections at a future date.

Section 9 of Indiana Regulation APC–19, Compliance Using the Bubble Approach, is approved today by EPA because it requires that all individual bubbles approved by the State be submitted to EPA as SIP revisions. EPA is developing a "state generic bubble program" policy under which bubbles can be approved by the state without further SIP revision. Currently, states may use a generic bubble program for VOC emissions and, in limiting instances, for SO_2 and TSP emissions. EPA is considering the approval of additional circumstances under which a state generic bubble program is sufficient to satisfy the requirements of the Clean Air Act without the need for individual SIP revisions. Indiana may choose to exercise the option of adopting a generic bubble program at some later date.

EPA is making today's rulemaking effective immediately, because it imposes no new requirements on any source above those already required by the State and because it removes the construction restrictions of § 110(a)(2)(I) from certain areas.

Under Executive Order 12291, EPA must judge whether a regulatory is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because it merely approves actions already taken by the State and imposes no new requirements on any source beyond those already imposed by the State. This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Note.—Incorporation by reference of the Indiana State Implementation Plan was approved by the Director of the Federal Register on July 1, 1981.

Dated: February 6, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMUGLATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P—Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph (24) as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(24) On June 26, 1979, the Governor submitted a revised new source review regulation, APC–19. Additional information and commitments were submitted on June 25, 1980 and May 19, 1981. EPA is not taking action on Section 7 of APC–19, Prevention of Significant deterioration.

2. Section 52.773 is amended by adding paragraph (c) as follows:

§ 52.773 Approval Status.

* * * * *

(c) The Administrator finds that Indiana's new source review strategy satisfies all requirements of Part D, Title 1 of the Clean Air Act as amended in 1977.

* * * * *

[FR Doc. 82-3866 Filed 2-12-82; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-6-FRL 2029-6]

Approval and Promulgation of Revisions to Louisiana State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On December 9, 1977, the Governor of Louisiana, after adequate notice and public hearing, submitted revisions to the Louisiana State Implementation Plan (SIP) for the control of air pollution. The submission included revisions to the Louisiana Air Control Regulations 18 through 30. On March 2, 1979 (44 FR 11798) EPA proposed approval of Regulations 18 through 30 except for Sections: 18.2, 18.4, 18.6.3, 19, 22, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, 26.3.2, and 29. This notice approves the SIP revision to Louisiana Regulations 18 through 30, not including the above listed exceptions, and amends the Code of Federal Regulations (CFR) at § 52.970.

DATE: This rulemaking is effective March 18, 1982.

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, Jr., Implementation Plan Section, Air and Hazardous Materials Division, EPA, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742, FTS 729-2742.

SUPPLEMENTARY INFORMATION:

I. Background

On December 9, 1977, the Governor of Louisiana submitted to EPA revisions to the Louisiana SIP for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), which included revisions to the Louisiana Air Control Regulations 18 through 30. The revisions submitted included: (1) Minor and/or administrative changes requested by EPA and agreed to by the State, (2) regulations for the handling of facility malfunctions and upsets, (3) new regulations for controlling total suspended particulate (TSP) emissions, and (4) new regulations for controlling volatile organic compound emissions. The proposed rulemaking on the submitted revisions was published in the **Federal Register** on March 2, 1979 (44 FR 11798), and included a brief description of each revision. No public comments have been received on EPA's proposed actions.

II. Approval of SIP Revision

The regulations being approved today include:

(1) Regulation 18.0—Control of Air Pollution from Smoke—establishes emission standards for smoke emissions.

(2) Regulation 20.0—Refuse Incinerators—prohibits air pollution from the operation of refuse incinerators.

(3) Regulation 21.0—Emission of Particulate Matter from fuel burning equipment—limits the emissions of particulate matter from installations producing steam, hot water, hot air, or other indirect heating systems.

(4) Regulation 23.0—Control of Emissions from the Chemical Woodpulping Industry—limits the emissions of particulate matter and sulfur oxides from pulp manufacturing plants.

(5) Regulation 24.0—Emission Standards for Sulfur Oxides—limits the emissions of sulfur oxides from stationary sources.

(6) Regulation 25.0—Control of Carbon Monoxide Emissions (New Sources)—limits the emissions of carbon monoxide from stationary sources.

(7) Regulation 26.0—Emission Standards for the Nitric Acid Industry—limits the emissions of nitrogen oxides from nitric acid plants.

(8) Regulation 27.0—Prevention of Air Pollution Emergency Episodes—prohibits emissions that would contribute to the buildup of excess concentrations of air pollution.

(9) Regulation 28.0—Emission Standards for Particulate Matter and/or Suspended Particulate Matter, Horizontal Stud Soderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants—limits emissions from aluminum plants.

(10) Regulation 30.0—Severability—indicates that each regulation is applicable as written, and the possible invalidation of one regulation does not affect another applicable regulation.

Certain sections of the Regulations 18-30 are not being acted on today because either the State has revised and resubmitted certain sections which EPA will act on in future rulemakings, or EPA has taken final action on certain regulations in previous rulemakings. The excepted sections are: 18.2, 18.4, 18.6.3, 19, 22, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, 26.3.2, and 29. A brief description of the status of EPA's action on the excepted sections follows:

(1) Regulations 18.2, 18.4, 18.6.3, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, and 26.3.2 concerning the control of malfunctions and upsets and the control of sulfur oxides emissions were revised and resubmitted to EPA by Louisiana in letters dated April 30, 1979 and October 23, 1980. EPA's actions on these revisions will be published in the **Federal Register** in the near future.

(2) Regulation 19 concerning Emission Standards for Particulate Matter, was approved by EPA on March 12, 1979 (44 FR 13479).

(3) Regulation 22 concerning the Control of Emissions of Volatile Organic Compounds, was approved by EPA on February 14, 1980 (45 FR 9903).

(4) Regulation 29 concerning the control of Fluoride Emissions from Phosphate Fertilizer Plants will be acted on by EPA under 40 CFR Part 62 in the **Federal Register** in the near future.

EPA's Action

EPA approves the revisions to Louisiana Regulations 18-30 as submitted on December 9, 1977 except for the sections: 18.2, 18.4, 18.6.3, 19, 22, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, 26.3.2, and 29. As explained earlier in this notice, the exempted sections either have been approved by EPA in other notices already published, or EPA's actions will be published in the **Federal Register** in the near future.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 19, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it merely approves revisions to existing State regulations.

This rule was submitted to the Office of Management and Budget for review under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that this notice will not have a significant economic impact on a substantial number of small entities since it imposes no new regulatory

requirements. This action only approves revisions to existing State regulations.

Notice.—Incorporation by reference of the SIP for the State of Louisiana was approved by the Director of the Office of the Federal Register on July 1, 1981.

(Section 110(a) of the Clean Air Act, as amended 42 U.S.C. 7410(a))

Dated: February 1, 1982.

Ann M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 52.970, paragraph (c) is amended by adding a new paragraph (14) as follows:

§ 52.970 Identification of Plan.

* * * * *

(c) * * *

(14) Revisions to the Air Control Regulations 18.1, 18.3, 18.5, 18.6–18.6.2, 18.7, 20.1–20.8, 21.1–21.6.4, 23.0–23.4.2, 24.1–24.5, 24.6.2, 24.7–24.7.3, 24.8, 25.0–25.6.2, 26.0–26.2, 26.4–26.8.2, 27.0–27.5.4, 28.0–28.6.2 and 30.0, as adopted by the Louisiana Air Control Commission on November 30, 1977, were submitted by the Governor on December 9, 1977.

[FR Doc. 82-4066 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4, 5-FRL-2049-1]

Interstate Pollution Abatement; Final Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Determination under Section 126 of the Clean Air Act (Interstate Pollution Abatement).

SUMMARY: Section 126 of the Clean Air Act establishes a procedure for any state or political subdivision to petition the EPA to determine whether a major pollution source in another state is causing or will cause an interstate air pollution problem. Such a petition was filed on May 14, 1979 by Jefferson County, Kentucky with respect to sulfur dioxide (SO_2) emissions from the Public Service of Indiana (PSI) Gallagher power station in Floyd County, Indiana. A notice was published March 17, 1980 (45 FR 17048) and a public hearing was held April 17, 1980 to determine the interstate impact of the PSI Gallagher station. On July 30, 1981 (46 FR 38997), the Administrator proposed her determination that emissions from the Gallagher plant do not cause impermissible interstate pollution in Jefferson County, Kentucky. EPA has carefully reviewed the comments received in response to its proposal, and today the Administrator is denying Jefferson County's petition.

DATE: The Administrator's determination is effective February 16, 1982.

ADDRESSES: Technical and background documents and all public comments received are available for public inspection at the following addresses:

Docket No. 5A–80–9, Central Docket Section, West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, File B 115

Air Pollution Control District of Jefferson County, 914 E. Broadway, Louisville, Kentucky 40204

Division of Air Pollution Control, Kentucky Department of Natural Resources and Environmental Protection, W. Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601

Air Pollution Control Division, Indiana State Board of Health, 1330 W. Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT:

Barry Gilbert, Air Programs Branch, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30305, (404) 881–3268

Robert Miller, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION:

State Implementation Plan Background

On May 14, 1973, EPA approved Indiana's SO_2 State Implementation Plan (SIP) for Floyd County (38 FR 12696). A regulation in this SIP set an SO_2 emission limitation for PSI's Gallagher Station of 1.2 pounds of SO_2 per million British Thermal Units (lbs/MBTU) of actual heat input. Final compliance with the rule was required by April 1, 1975. In 1974 Indiana adopted new SO_2 regulations that exempted Gallagher from the 1.2 lbs/MBTU emission limit, but required the facility to install an ambient monitoring system and to maintain an emergency two week supply of fuel adequate to meet a 1.2 lbs/MBTU SO_2 emission limitation. The fuel was to be used upon Indiana's order during periods of adverse meteorological conditions. Technical support information submitted by Indiana demonstrated that exempting Gallagher from control would not interfere with attainment and maintenance of the SO_2 air quality standards either in Indiana or in Kentucky. In addition, an air quality modeling study established that Gallagher's contribution to high SO_2 levels in Kentucky was minimal. On August 24, 1976, EPA approved the regulations (41 FR 35676).

Indiana submitted a revised statewide SO_2 attainment strategy and revised SO_2 regulations to EPA on June 26, 1979.

The regulations established an SO_2 emission limit of 6.0 lbs/MBTU heat input for fossil fuel fired power plants throughout most of the state, including the Gallagher plant in Floyd County. For the Gallagher plant, the 6.0 lbs/MBTU limit approximately represents the status quo (uncontrolled) emission level. EPA proposed to approve the attainment strategy and regulations on March 27, 1980 (45 FR 20432).

The Kentucky SIP approved by EPA in 1972 required the three major power plants in Jefferson County, Kentucky, to limit their SO_2 emissions to 1.2 lbs/MBTU. These limitations are still in effect in Kentucky. However, several units at these plants are not yet required to be in compliance with the 1.2 lb limit. The three Louisville Gas and Electric (LG&E) power plants are on phased compliance schedules that require the units at each plant to come into compliance over a period of years with the last units not complying until 1985.

Section 126 Petition

Section 126(b) of the Clean Air Act authorizes any state or political subdivision to petition the Administrator of EPA for a finding that any major source emits or will emit an air pollutant in violation of section 110(a)(2)(E)(i) of the Clean Air Act. Section 110(a)(2)(E)(i) prohibits any stationary source from emitting any air pollutant in amounts which will prevent another state from attaining and maintaining any primary or secondary national ambient air quality standard (NAAQS). It also prohibits a source from interfering with measures required to be included in the SIP to prevent significant deterioration of air quality or to protect visibility. After a public hearing, the Administrator either makes a finding that section 110(a)(2)(E)(i) is being violated or denies the petition.

On May 14, 1979, the Air Pollution Control District (APCD) of Jefferson County, Kentucky, filed a section 126 petition. In that petition, the APCD requested EPA to make a finding that SO_2 emissions from the Gallagher plant in Floyd County, Indiana, were preventing attainment and maintenance of the SO_2 standards in Jefferson County, Kentucky. The APCD also asked EPA to make a finding that, once Jefferson County becomes an attainment area for SO_2, Gallagher's emissions will interfere with Prevention of Significant Deterioration (PSD) measures required to be included in the SIP.

EPA's Response to Jefferson County's Petition

In order to study the issues raised by Jefferson County, EPA funded a computer dispersion modeling study to assess the impact of SO_2 emissions from selected facilities in the Louisville Interstate Air Quality Control Region (AQCR). On March 17, 1980 (45 FR 17049), EPA announced the availability of the modeling study, notified the public that it would hold a hearing on Jefferson County's petition, and requested comments on criteria by which the petition should be decided. EPA held the hearing on April 17, 1980 in Louisville, Kentucky. The EPA hearing panel included David G. Hawkins, then Assistant Administrator for Air, Noise and Radiation; Lydia Wegman, Attorney, Office of General Counsel; Susan Weinstein, then Attorney, EPA Region V Office of Regional Counsel; Bill Phillips, Attorney, EPA Region IV Office of Regional Counsel; David Kee, Director, EPA Region V Air Management Division; and Thomas Devine, Director, EPA Region IV Air and Waste Management Division.

On May 2, 1980 (45 FR 29313), EPA extended the public comment period until May 19, 1980. On August 20, 1980 (45 FR 55482) the public comment period was reopened until September 3, 1980, so that the affected parties could review and comment on the transcript of the hearing. Information submitted by PSI and Jefferson County established the need for a revision to EPA's diffusion modeling study. Revised modeling was conducted and on March 9, 1981 (45 FR 15743) the modeling was made available for public review and comment. The modeling used in this section 126 determination is the revised modeling.

On April 8, 1981, the public comment period closed. The hearing panel evaluated all of the data submitted by Jefferson County and the commentors, the transcript of the public hearing, and EPA's modeling data. Based on this evaluation, the panel recommended that the Administrator deny Jefferson County's petition. On July 30, 1981 (46 FR 38937) EPA notified the public of the panel's recommendation and proposed to deny Jefferson County's petition. The agency also announced a set of informational criteria intended to guide states and political subdivisions in filing Section 126 petitions. Those suggested criteria were:

(1) A demonstration establishing the existence and geographic boundaries of the nonattainment or PSD area which is the subject of the petition;

(2) A demonstration that achievement of ambient air quality standards or of measures necessary to prevent significant deterioration or to protect visibility, is prevented by the named out-of-state sources; and

(3) An indication that sources within the petitioning state(s) which impact on PSD and nonattainment areas have been adequately controlled.

EPA is today taking final action to deny the petition and is responding to public comments on both the determination and the general criteria for Section 126 petitions.

EPA's Modeling Analysis

EPA's determination is based upon dispersion modeling data which was set forth in detail in the proposed rule. 46 FR 38937. Relying upon data on Gallagher's maximum emissions during 1976, the agency calculated the air quality impacts of the Gallagher plant in Jefferson County. The modeling results were as follows:

(1) No violations of the annual SO_2 standard occur in Jefferson County;

(2) The Gallagher plant's maximum contribution to predicted violations of the 24-hour SO_2 standard is small (3%);

(3) The Gallagher plant's maximum contribution to predicted violations of the 3-hour SO_2 standard is also very small (less than 1%);

(4) No violations of any SO_2 standard are predicted in Jefferson County after Kentucky sources come into compliance with applicable emission limits.

Since Gallagher's contributions to violations in Jefferson County are so small, the agency has concluded that emissions from the Gallagher plant are not preventing attainment and maintenance of the SO_2 standards in Kentucky. Furthermore, since there are no PSD requirements presently applicable to Jefferson County, Gallagher's emissions cannot interfere with PSD measures required to be in the Kentucky SIP. The visibility provisions are not applicable in Jefferson County. In sum, Gallagher does not cause interstate pollution in Jefferson County in violation of section 110(a)(2)(E)(i), and the agency therefore denies the County's petition.

Response to Comments

EPA has received comments at various stages of this proceeding. On July 30, 1981, when it published its proposed determination (46 FR 38937) EPA announced that an analysis of the record, including public comments, had been prepared and was available for review. Responses to comments up to the date of that proposal are contained in that analysis (Doc. #5A–80–9) and remain available for review at the addresses listed at the front of this notice. EPA has now received comments on the proposed determination from several states, the Province of Ontario, Jefferson County, PSI and other utilities. The following is a response to the significant comments received since July 30, 1981.

1. The Administrator's Criteria

Numerous comments were submitted concerning the three criteria published in the proposed determination. First, it should be generally noted that the criteria are only intended to guide petitioners in providing information that is useful in a review of a Section 126 petition. They are by no means exhaustive, nor do they represent requirements or prerequisites for an affirmative determination under section 126. Depending on the individual facts surrounding each petition, the Administrator anticipates that each of these criteria, and perhaps additional information, will have varying significance in each determination.

Given the wide variation among interstate pollution problems and the complexity of these problems, the Administrator considers it inappropriate at this time to issue regulations which would constitute a rigid formula for section 126 determinations. However, the agency intends to publish a further explanation and refinement of these informational guidelines in the near future.

Comment. Numerous commentors said that the criteria should have been the subject of formal or informal rulemaking procedures pursuant to the Administrative Procedure Act (APA).

Response. As stated above, the criteria are only intended to provide general guidance to future petitioners under Section 126 regarding information that the Administrator expects to find relevant to a determination. The issuance of informal criteria or guidelines such as these which are not binding on EPA or on the public are not subject to rulemaking requirements. See

e.g., "Pacific Gas & Electric Co. v. EPA", 506 F.2d 33 (D.C. Cir. 1974).

Comment. Several commentors said that the criteria were too restrictive because they placed too great a burden on a petitioning state. In particular, several commentors felt that the second criterion implied that a petitioning state must show that the emissions from the out-of-state source are the *sole* cause of the violation. Commentors concluded that under this criterion a demonstration that emissions from the out-of-state source contribute to a violation is inadequate to prevail in a Section 126 proceeding. On the other hand, another commentor supported a stringent literal interpretation of Section 126, and argued that a source should be found to "prevent attainment" only if violations would not occur "but for" the contribution of the out-of-state source.

Response. The Clean Air Act itself provides no guidance on the levels of pollution which constitute prevention of attainment and maintenance of the NAAQS. However, the legislative history of Section 126 suggests that a strict literal interpretation of the term "prevent" is not intended. Because a state is usually able to set tighter emission limits on its own sources to offset the effects of interstate pollution, a literal interpretation of the term "prevent" would rarely allow relief under Section 126. This interpretation would fail to address interstate inequities that Congress intended Section 126 to rectify. See S. Rep. No. 95-127 at 41-42 and H.R. Rep. No. 95-294, 95th Cong., 1st Sess., May 12, 1977, 330.

In this proceeding, however, the definition of the term "prevent" is not critical to the determination. The Administrator has found that the SO_2 violations predicted to occur in Kentucky are primarily caused by Kentucky sources. A three per cent contribution to violations by an out-of-state source, as is the case here, is not sufficiently significant to support an affirmative finding under any reasonable interpretation of the statutory language.

Comment. One commentor stated that the three criteria are statutory prerequisites for an affirmative finding under Section 126.

Response. As discussed above the three criteria are not statutory prerequisites, but are only intended to provide guidance for the submittal of relevant information.

Comment. Several commentors complained that the third criterion requiring a demonstration that in-state sources have been "adequately controlled" is ambiguous.

Response. Since the criteria are intended to be general information guidelines applicable to all Section 126 petitions, it is not possible or desirable to establish precise requirements. Criterion 3 is simply intended to elicit information that will make possible a comparison of emission limits applicable in a petitioning state and in another state. The "adequacy" of in-state controls is a relative matter and may vary depending on a number of circumstances, possibly including social and economic factors. Furthermore, in this proceeding the adequacy of the current emission limits for Kentucky sources is not at issue since EPA has determined that Gallagher does not significantly affect Kentucky's air quality.

Comment. Several commentors stated that EPA's criteria have improperly shifted the burden of proof from EPA to petitioning states in making a section 126 determination. These commentors argued that section 126(b) requires no information beyond an allegation of interstate pollution, and that it is the responsibility of EPA to gather adequate information to make the proper determination. Another commentor disagreed and claimed that the burden of proof should be on the petitioner to support an affirmative finding.

Response. The Clean Air Act does not explicitly allocate the burden of proof to any party in a Section 126 proceeding. However, the statutory requirement for a public hearing prior to an agency determination appears to contemplate that petitioners will present oral and written evidence to EPA concerning section 126 petitions. In publishing a set of informational criteria EPA has not required anything further from petitioners but has simply offered guidance on the types of information the agency considers most relevant.

Furthermore, section 307(d) requires EPA to follow informal rulemaking procedures in reaching a final determination under section 126. Case law on informal rulemaking under the APA also suggests that the proponent of a rule, or the party with access to necessary information, normally carries the burden of proof or the burden of coming forward with information. *See* K. Davis, *Administrative Law Treatise* § 6.15 (2d Ed. 1978), and cases cited therein. At least in the initial stages of a Section 126 proceeding, it is the petitioner who is the proponent of agency action, and who has access to information forming the basis of its petition. Hence it is reasonable for the Administrator to request information from petitioners. However, EPA also recognizes its duty under section 307(d) to compile factual data in support of its ultimate determination, and it has done so in this proceeding.

In any case, since the criteria do not enumerate prerequisites to an affirmative finding on interstate pollution, they do not impose any burden of proof on petitioners. Publication of the criteria was a reasonable exercise of the administrator's broad discretion to interpret and implement the Act.

Comment. One commentor stated that announcing the criteria at the time of the proposed determination, after having held the hearing, violated due process. The commentor stated that EPA should have used as criteria the issues outlined prior to the hearing.

Response. EPA's introduction of the criteria in the Notice of Proposed Rulemaking did not violate due process. First, the Administrator specifically found that the issues included in the criteria had already been addressed at the hearing in this proceeding. 46 FR at 38939. Second, the parties were given an adequate opportunity to comment on the criteria, and this satisfied the procedural requirements of informal rulemaking under the Clean Air Act and the APA. See, e.g., "Ethyl Corp. v. EPA," 541 F.2d 1, 49-50 (D.C. Cir. 1976). Finally, the Supreme Court has held that a statutory requirement for a "hearing" may be satisfied by an opportunity to submit written comments. "U.S. v. Florida East Coast Railway Co.," 410 U.S. 224 (1973). Therefore even if Section 126 were interpreted as requiring a hearing on every aspect of a Section 126 proceeding, EPA has satisfied this requirement by accepting written comments on the criteria. In light of these facts, and since the commentor did not cite any specific prejudice arising from publication of the criteria after the hearing, EPA believes that it has met the requirements of due process and the Clean Air Act.

2. Statutory Issues

Comment. Several commentors argued that the Administrator need not find that the NAAQS have been violated to make an affirmative Section 126 determination. They claimed that the proper test was stated in the March 17, 1980 **Federal Register** Notice (45 FR 38937), *i.e.*, whether the emissions from another state have a "substantial adverse impact" on a petitioning state's efforts to develop a SIP or create a margin for growth.

Response. The commentor's point is moot since under either test Gallagher's air quality impact in Jefferson County is

too insignificant to constitute a violation of Section 126.

Comment. One commentor objected to EPA's proposed finding that emissions from Gallagher do not interfere with PSD provisions and urged the Administrator to make a finding on the plant's potential impact on future PSD requirements in Jefferson County.

Response. Jefferson County is a nonattainment area for SO_2, and the PSD regulations are not applicable. Consequently the Gallagher plant cannot interfere at this time with PSD requirements in Jefferson County. Section 126 only prohibits interference with PSD measures required by the Clean Air Act, and therefore EPA need not review possible future impacts on regulations not yet in place. "See State of Connecticut v. EPA," 656 F.2d 902 (2d Cir. 1981). Furthermore, Gallagher's emissions will not consume any future PSD increment since its emissions at the time the baseline date is set will be included in the baseline air quality in Jefferson County.

Comment. One commentor asserted that Section 126 only allows EPA to consider actual emissions in determining the air quality impacts of the Gallagher plant.

Response. Nothing in Section 126 precludes consideration of allowable emissions since its prohibition extends to emissions which may occur in the future. This clearly includes emissions allowable under a SIP. As reflected in the record the Gallagher and Kentucky plants were modeled at both actual and allowable emission levels. Since Gallagher's actual emissions and its allowable emissions under state regulations are roughly equivalent, this distinction made no difference in calculating Gallagher's air quality impact.

3. EPA's Modeling Analysis

Comment. Another commentor stated that the modeling should have been based on actual operating conditions rather than maximum operating conditions.

Response. In calculating the potential air quality impacts of a source it is necessary to consider maximum operating capacity unless there is an enforceable restriction on operating load. Since there is nothing to prevent Gallagher from operating at 100 percent capacity, Gallagher was modeled at maximum loading to determine its maximum potential impacts. Furthermore, the commentor's point is not relevant in this proceeding since modeling Gallagher at actual operating capacity would not change the determination that its emissions do not violate Section 126.

Comment. One commentor expressed concern that EPA revised both the PSI Gallagher stack base elevation (from 410 to 460 feet) and the 24-hour SO_2 background concentration (from 37 to 17 $\mu g/m^3$) in its final modeling. The commentor argues that U.S. Geological Survey topographical maps indicate that the 410 foot (± 5 feet) elevation is correct and that there was no justification for these changes in the record.

Response. In the original modeling, EPA did use a stack base elevation of 410 feet. PSI surveyed the area, however, and provided certification that the correct elevation was 460 feet, which EPA used in the final modeling. The survey of the area is considered as accurate as a reading taken from a topographical map. Furthermore, subsequent modeling performed by EPA indicates that the effect of the increased stack base elevation on predicted concentrations in Kentucky is not significant. A modeling run based upon a 410 foot stack base elevation would result in a predicted violation of 443 $\mu g/m^3$ of which Gallagher's contribution would be 15 $\mu g/m^3$ or 3%, as opposed to EPA's predicted violation of 441 $\mu g/m^3$ using a 460 foot stack base elevation, of which Gallagher's contribution is 13 $\mu g/m^3$ (also 3%).

The State of Indiana revised the 24-hour background estimate from 37 $\mu g/m^3$ to 17 $\mu g/m^3$. EPA accepted this revision as a reasonable estimate of background concentration because it is consistent with regional backgrounds recommended in EPA's monitoring guidelines. Furthermore, EPA's modeling analyses show that use of the higher 37 $\mu g/m^3$ background level does not result in additional predicted violations of the SO_2 standard and would not affect the relative significance of Gallagher's contributions to predicted violations.

Comment. One commentor rejected EPA's conclusion that because other industrial sources in Jefferson County have short stacks, their emissions have little impact at the location of predicted maximum concentrations from the Gallagher plant. The commentor claimed that its new modeling shows that industrial source emissions significantly change both the location and magnitude of predicted maximum SO_2 concentrations in Jefferson County.

Response. Though the commentor submitted the results of new modeling runs, it failed to submit the computer runs necessary to determine the validity of the modeling. However, EPA reviewed the modeling results and still considers it unlikely that industrial sources in conjunction with Gallagher's emissions are sufficient to cause violations of the NAAQS. First, significant source interaction is not expected since Gallagher's maximum impacts are predicted to occur several kilometers away from the area of highest impact from the industrial sources. The industrial sources' short stacks minimize their area of impact, and lessen the likelihood of interaction. Second, the maximum concentration caused by Gallagher in the vicinity of these sources is sufficiently low (407 $\mu g/m^3$ on a three hour basis) that contributions from other sources are unlikely to result in a total ambient concentration exceeding the secondary standard of 1300 $\mu g/m^3$.

Comment. One commentor performed new modeling with a revised emissions inventory, a different meteorological data base (including 1978), and additional receptors in order to investigate the effects of EPA's use of only one critical year of meteorological data, of allegedly excessive exit gas velocities, of a higher stack base elevation, and of a two kilometer receptor grid resolution in certain areas. The commentor contends that its modeling predicts multiple violations of the three-hour SO_2 standard in Kentucky caused solely by emissions from Gallagher.

Response. (a) EPA utilized five years of meteorological data (1973–77) and selected the year representing worst case conditions. Data from 1978 were not available at the time.

(b) The gas exit velocity utilized by the commentor was approximately one-half the value relied upon by EPA. As stated in the record, EPA determined the gas exit velocity for the Gallagher plant in a stack test performed in 1975. The record supports the conclusion that the design and operation of the Gallagher stack has not changed. Furthermore, the volume flow rate (a function of stack gas velocity and stack diameter) used by EPA for Gallagher is comparable to the rates observed at similar units.

(c) EPA did duplicate the commentor's modeling using the receptor grid provided, Louisville meteorological data from 1978, and a 410 foot stack base elevation. The results still demonstrated attainment of the SO_2 NAAQS though predicted concentrations were higher, and did not significantly alter Gallagher's predicted air quality impact in Jefferson County. Comment: One commentor stated that EPA's conclusion that a source emitting 3,200,000 tons per year (TPY) SO_2 has only a modest impact on sites in nearby Jefferson County is difficult to accept.

Response.. The Gallagher plant actually emits about 60,000 TPY SO_2 and has allowable emissions under state regulations of 150,000 TPY. EPA modeling indicates that Gallagher's emissions, actual or allowable, do not cause or significantly contribute to SO_2 NAAQS violations in Kentucky.

Comment. One commentor questioned why there is such a disparity in the results of modeling analyses conducted by Jefferson County and by EPA. The commentor claims that Jefferson County analyses showed that the Gallagher station would cause monitored concentrations in Kentucky to attain a level of 1434 ug/m^3, while the EPA analysis predicted concentrations below 1300 ug/m^3.

Response. The 1434 ug/m^3 3-hour level was calculated by EPA, not Jefferson County, to occur in Indiana, not in Kentucky. The highest levels calculated in Kentucky were well below 1300 ug/m^3.

Comment. One commentor objected to EPA's proposed approval of Indiana's 6.0 lbs/MMBTU emission limit for sources in Floyd County, including Gallagher (March 27, 1980, 45 FR 20432). Additionally, the commentor urged that EPA redesignate Floyd County nonattainment for SO_2.

Response. The commentor's objection to EPA's proposed approval of the 6.0 lb limit for Gallagher will be addressed in the context of the separate rulemaking on Floyd County. Any plan EPA approves for Floyd County must provide for attainment of the NAAQS. In any case, EPA's proposed action on Floyd County and its alleged duty to redesignate Floyd County to nonattainment are irrelevant to the validity of EPA's determination in this proceeding.

Final Determination

EPA has reviewed the record, including the new comments received, and finds that the Gallagher plant does not cause or substantially contribute to a violation of the SO_2 NAAQS in Kentucky either with or without further controls on the Kentucky sources. Additionally, EPA finds that the Gallagher plant does not interfere with measures necessary for the prevention of significant deterioration or the protection of visibility in Kentucky. Therefore Jefferson County's petition is denied.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the attached determination will not have a significant economic impact on a substantial number of small entities. Today's action will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no new requirements.

This action has been sent to OMB for review as required by Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

(Sec. 126 of the Clean Air Act, as amended (42 U.S.C. 7426))

Dated: February 5, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4005 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-4-FRL-2030-4]

Designation of Areas for Air Quality Planning Purposes; Alabama and Kentucky: Redesignation of Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: On November 20, 1981 (46 FR 57046), EPA announced that it was granting requests made by Alabama and Kentucky for the redesignation of certain counties from unclassifiable to attainment for ozone. These actions were taken on the basis of measured air quality data, and without prior proposal. EPA subsequently received a request for an opportunity to submit adverse comments on the actions. Accordingly, the Agency is withdrawing them. Elsewhere in today's **Federal Register**, EPA is proposing the redesignations and providing an opportunity to comment on the proposal.

EFFECTIVE DATE: These actions are effective on February 16, 1982.

ADDRESSES: Copies of the materials submitted by Alabama and Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: On July 30, 1981, the Alabama Air Pollution Control Commission submitted one full season of ozone monitoring data collected at Murphy Hill, Alabama, and requested that it be used to redesignate Jackson and DeKalb Counties attainment for this pollutant. On April 28, 1981, the Kentucky Department for Natural Resources and Environmental Protection made a similar submittal and request with respect to eight counties in that State (Allen, Butler, Edmonson, Grayson, Hart, Logan, Simpson, and Warren). On November 20, 1981 (46 FR 57046), EPA, without prior proposal of its action, changed the attainment status designation of these ten counties from unclassifiable to attainment.

In the final rule making the redesignations, EPA advised the public that the effective date of the actions was deferred for 60 days (until January 19, 1982) to provide an opportunity to submit comments on them. EPA announced that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing the actions and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received notice that someone wishes to submit adverse comments on these redesignations. Accordingly, the Agency is today withdrawing them.

Elsewhere in today's **Federal Register**, EPA is proposing the redesignations requested by Alabama and Kentucky and soliciting comment on the proposal.

EPA is withdrawing these actions without providing prior notice and opportunity for comment. The Agency finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable in this case because EPA needs to withdraw its redesignations as quickly as possible in order to consider the comments which the public wishes to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. For the same reasons, EPA finds that it has good cause under 5

U.S.C. 553(d) to make this withdrawal immediately effective.

It should be noted that since the redesignations announced on November 20, 1981, did not alter the ozone attainment status tables of 40 CFR Part 81, today's withdrawal of the redesignations has no effect on 40 CFR Part 81 either. Since section 107(d)(1) of the Clean Air Act does not provide for EPA to make a formal distinction between unclassified and attainment in the case of an area's attainment status for ozone, these counties will continue to be included in the "Rest of State" as shown in the ozone tables of 40 CFR 81.301 and 81.318 as unclassified or better than the National Ambient Air Quality Standards (NAAQS) for ozone. The redesignation for sulfur dioxide for Webster County, Kentucky, announced in the same November 20, 1981 document is not affected by today's action.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 19, 1982.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities. This action only changes the attainment status of a limited number of areas from attainment for ozone to unclassifiable, and imposes no new requirements directly.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 107, Clean Air Act (42 U.S.C. 7407))

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3588 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 86

[AH-FRL 2021-2]

Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 through 1984 Model Year Light-Duty Diesel Vehicles; Summary of Decision and Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes NO_x emission standards for 1981, 1982, 1983, and 1984 model year light-duty vehicles belonging to 18 diesel engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(B). I have determined that these engine families qualify under the statutory criteria for waiver of the NO_x standard in model years 1981, 1982, 1983 and 1984 as listed below. This action has the effect of setting interim NO_x standards at the level necessary to permit the manufacturers to use these 18 diesel engine families in the model years for which I have granted waivers.

EFFECTIVE DATE: March 18, 1982 except that this action shall be effective immediately for Vehicle Technology, Inc.

ADDRESS: Information relevant to this rule, including the document embodying my decision on the waiver applications in question, is contained in Public Docket EN-81-7 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, SW., Washington, D.C. 20460, and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2 EPA may charge a reasonable fee for copying services. Interested parties may also obtain the decision document by contacting the Manufacturers Operations Division as indicated below.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-2521.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7521(b)(1)(B), requires that regulations applicable to NO_x emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which provide that such emissions from vehicles or engines shall not exceed 1.0 gram per vehicle mile (g/mi).

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any class or category of light-duty diesel vehicles or engines for which the administrator can make the required statutory findings. I must promulgate interim NO_x standards applicable to the subject light-duty diesel engine families for those model years for which I have granted waivers. Applications for these waivers were submitted by BMW of North America, Inc. (BMW); Chrysler Corporation (Chrysler); Ford Motor Company (Ford); Automobiles Peugeot (Peugeot); Vehicle Technology, Inc. (Vehicle Technology); Volkswagen of America (VW); and Volvo of America (Volvo). The statutory criteria, my determinations with respect to the vehicle models covered by the waiver applications, and my decision to grant the waiver applications appear in a consolidated decision document, which is incorporated by reference in this summary, and which may be obtained as noted above. In that decision, I have granted waivers covering the following 18 engine families for the model years noted:

WAIVERS GRANTED

Manufacturer	Model year	Engine family	Interim standard (g/mi)
BMW	1984	2.4 liter (L) turbocharged (TC).	1.5
Chrysler	1984	1.9L naturally aspirated (NA).	1.5
Ford	1984	2.4L-TC	1.5
Peugeot	1983, 1984	XD2S/XD3S-TC [1]	1.5
	1983, 1984	2.3L-NA-XD2C	1.2
	1983, 1984	1.9L-NA-XUD9	1.5
Vehicle technology	1981, 1982, 1983	4-88 HTA	1.5
	1981, 1982, 1983	4-92 HTA	1.5
	1981, 1982, 1983	5-92 HTA	1.5
	1981, 1982, 1983	6-92 HTA	1.5
VW	1983, 1984	1.6L-TC-2250 pound inertia weight (IW).	1.3
	1983, 1984	1.6L-NA-2250 IW	1.3
	1983, 1984	1.6L-TC 2500 and 2750 IW [2].	1.4
	1983, 1984	1.6L-NA-2500 and 2750 IW [2].	1.4
	1983, 1984	2.0L-TC	1.6
	1983, 1984	2.0L-NA	1.8
Volvo	1982, 1984	2.4L-NA	1.5
	1983, 1984	2.4L-TC	1.8

[1] Peugeot's turbocharged engine family was previously designated as 2.9L-TC-XD2S.

[2] EPA previously designated VW's 2500 and 2750 IW class engine families (both turbocharged and naturally aspirated) as four separate engine families. VW requests that they now be classified as only two engine families.

For reasons specified in the decision document, I decided to grant waivers for the 18 engine families listed because I concluded, based on the information contained in the record, that waivers are necessary to permit the use of these diesel engines. Specifically, I have determined that the diesel engine families which have already received NO_x waivers for previous model years need waivers to avoid a significant risk that they will not be able to meet applicable emission standards during the remaining waiver period using technology expected to be available without encountering engine performance problems. I have also concluded that there is a substantial risk that the new engine families will not be able to meet emission standards during the waiver period without encountering

engine performance problems or that without a waiver they may exhibit increased levels of particulate emissions.

Granting waivers for these engine families will not endanger public health, because there will not a significant increase in ambient NO_x levels; moreover, denying these waivers could result in the production of diesel vehicles emitting more particulate matter, where evidence of health risks is, as yet, inconclusive. Finally, the manufacturers have demonstrated that these engine families meet the fuel economy and long-term air quality benefit criteria for receiving waivers.

Having decided to grant waiver applications for these 18 diesel engine families, I am simultaneously promulgating regulations adopting emission standards not permitting NO_x emissions of these engine families to exceed the stated levels in model years 1981, 1982, 1983 or 1984, as noted in the chart above.[3] The public has received an opportunity to comment on the waiver applications at issue, and I have considered these comments in making the decision which requires the promulgation of this rule. For this reason, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is unnecessary.

I find that good cause exists to make this rule effective immediately for Vehicle Technology. This will avoid the possibility of forcing Vehicle Technology to delay its introduction of 1981 and 1982 model year vehicles into commerce because it must wait to receive certificates of conformity for its four diesel engine families until this rule becomes effective. A delay could result in irreparable financial harm to this manufacturer. Moreover, these waivers relieve otherwise applicable restrictions. Otherwise, this rule will become effective March 18, 1982, for all of the other manufacturers receiving waivers by this decision.

The Office of Management and Budget has exempted this rule from the requirement of section 3 of the Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory flexibility analysis. The interim NO_x standards established by this rulemaking apply to seven automobile manufacturers, none of which are small entities. Therefore, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator.

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

For the reasons set forth above, Part 86, Subpart A, is amended as follows:

1. Section 86.081–8(a)(1)(iii) is revised to read as follows, effective March 18, 1982, except that the listing for Vehicle Technology, Inc. is added effective February 16, 1982.

§ 86.081–8 Emissions standards for 1981 model year light-duty vehicles.

(a)(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Standard (g/mi)
General Motors Corp	5.7 liter (L)	1.5
	1.8L	1.5
Daimler-Benz AG	2.4L	1.5
	3.0L naturally aspirated (NA).	1.5
	3.0L turbocharged (TC)	1.5
AB Volvo	2.4L-NA	1.5
Peugeot	2.3L-TC-XD2S	1.5
Volkswagen AG	1.6L-NA-2250 pounds inertia weight (L.W.).	1.3
	1.6L-NA-2500 LW.	1.4
	2.0L-NA-3000 LW.	1.5
Nissan Motor Company	2.8L	1.5
Isuzu Motors, Ltd	1.8L	1.5
Vehicle Technology, Inc.	4–86 HTA	1.5
	4–82 HTA	1.5
	5–82 HTA	1.5
	6–82 HTA	1.5

2. Section 86.082–8(a)(1)(iii) is revised to read as follows, effective March 18, 1982, except that the listing for Vehicle Technology, Inc. is added effective February 16, 1982.

§ 86.082–8 Emissions standards for 1982 and later model year light-duty vehicles.

(a)(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1982 and later model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model years	Standard (g/mi)
General Motors Corp.	1.8 liter (L)	1982, 1983, 1984	1.5
	4.3L	1982, 1983, 1984	1.5
	5.7L	1982, 1983, 1984	1.5
	EF–C	1983, 1984	1.5
Daimler-Benz AG.	2.0L	1984	1.5
	2.4L-naturally aspirated (NA).	1982, 1983, 1984	1.25
	3.0L–NA	1982	1.5
	3.0L-turbocharged (TC).	1982, 1983, 1984	1.5
AB Volvo	2.4L–NA	1982, 1983, 1984	1.5
	2.4L–TC	1983, 1984	1.5
Peugeot	2.3L–TC–XD2S	1982	1.5
	XD2S/XD3S–TC	1983, 1984	1.5
	2.3L–NA–XD2C	1982, 1983, 1984	1.2
	1.9L–NA–XUD9	1983, 1984	1.5
Volkswagen AG.	1.6L–NA–2250 pound inertia weight class (L.W.).	1982, 1983, 1984	1.3
	1.6L–TC–2250 LW.	1982, 1983, 1984	1.3
	1.6L–NA–2500 and 2750 IW.	1982, 1983, 1984	1.4
	1.6L–TC–2500 and 2750 IW.	1982, 1983, 1984	1.4
	2.0L–NA	1982, 1983, 1984	1.5
	2.0L–TC	1982, 1983, 1984	1.5
Nissan Motor Company.	2.8L	1982, 1983, 1984	1.5
Isuzu Motors Ltd.	1.8L	1982, 1983, 1984	1.5
Renault	2.0L	1982, 1983, 1984	1.5
BL Cars, Ltd	2.4L–TC	1983, 1984	1.5
	3.6L–TC	1983, 1984	1.5
Chrysler Corp	1.9L–NA	1984	1.5
Ford Motors Company.	2.4L–TC	1984	1.5
BMW	2.4L–TC	1984	1.5
Vehicle Technology, Inc.	4–86 HTA	1982, 1983	1.5
	4–82 HTA	1982, 1983	1.5
	5–82 HTA	1982, 1983	1.5
	6–82 HTA	1982, 1983	1.5

(Secs. 202, 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7601(a) (Supp. I 1977))

Applications for Waiver of the 1981–1984 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Tenth Consolidated Decision of the Administrator

I. Introduction

This is the tenth decision EPA has issued under section 202(b)(6)(B) of the Clean Air Act, as amended (Act),[1]

[3] A September 25, 1981, Federal Register notice (46 FR 47222) incorrectly stated that Daimler-Benz A.G. had been granted waivers to a 1.5 g/mi NO_x standard in model years 1983 and 1984 for its 2.4L-turbocharged diesel engine family. The waiver has only been granted for its 2.4L naturally aspirated diesel engine family. This notice deletes reference to the turbocharged engine family.

[1] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977).

regarding applications from automobile manufacturers for waiver of the 1.0 gram per mile (g/mi) oxides of nitrogen (NO_x) emission standard in effect for 1981 and subsequent model year light-duty diesel vehicles and engines.[2]

As the introductions to previous NO_x waiver decisions explain, section 202(b)(1)(B) of the Act establishes the standards applicable to NO_x emissions from light-duty vehicles and engines manufactured during and after model year 1977.[3] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 g/mi for model years 1977 through 1980, and may not exceed 1.0 g/mi for 1981 and later model years. Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 g/mi NO_x standard to a level not to exceed 1.5 g/mi for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that the waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which it has requested a waiver. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health;

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act (EPCA); and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver.[4]

On April 7, 1981, EPA published a notice in the **Federal Register** that provided interested light-duty diesel manufacturers with procedures for filing applications for waiver of the statutory NO_x emission standard for model years 1981 to 1984.[5]

In September 1981, EPA issued a waiver decision concerning applications from six manufacturers that were submitted in response to the April 7 notice.[6] This decision concerns additional waiver applications, most of which were submitted in response to that notice but too late to be considered in the September decision. The manufacturers considered in today's decision include BMW of North America, Inc. (BMW);[7] Chrysler Corporation (Chrysler);[8] Ford Motor Company (Ford); Automobile Peugeot (Peugeot); Vehicle Technology, Inc.; Volkswagen of America (VW); and Volvo of America, Inc. (Volvo).[9]

The public has had the opportunity to comment on these waiver requests.[10] I have made my decision on the basis of all relevant information available to me, including oral testimony, manufacturers' submissions, and the records from previous diesel NO_x waiver decisions. The materials submitted by the applicants, as well as other information otherwise included in the docket, may be found in EPA Public Docket EN–81–7. The records for the previous NO_x waiver decisions and for the particulate rulemaking proceedings are incorporated by reference in the record for this decision.[11]

II. Summary of Decision

I have decided to grant NO_x waivers for the following engine families for the model years specified:

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[2] The preceding decisions or summaries of decisions were published as follows: 45 FR 5480 (January 23, 1980); 45 FR 34718 (May 22, 1980); 45 (FR 65490) (October 2, 1980); 46 FR 1599 (January 6, 1981); 46 FR 1608 (January 6, 1981); 46 FR 16325 (March 12, 1981); 46 FR 37247 (July 20, 1981); 46 FR 37508 (July 21, 1981); 46 FR 47222 (September 25, 1981).

[3] 42 U.S.C. 7521(b)(1)(B) (Supp. I 1977). *See* the first diesel NO_x waiver decision for a discussion of the statutory history leading up to this provision. 45 FR 5480, n. 1 (January 23, 1980).

[4] For a discussion of the Congressional purpose behind this provision, *see* the discussion accompanying notes 2 and 3 of the first decision at 45 FR 5480 (January 23, 1980). EPA published guidelines for the submission of applications under this waiver provision at 43 FR 30341 (July 14, 1978) (hereinafter "Guidelines").

[5] 46 FR 20705.

[6] 46 FR 47222 (September 25, 1981).

[7] BMW applied for a waiver in time to be considered in the earlier consolidated waiver decision (issued pursuant to the April 7, 1981, notice), but requested that its application be considered in this decision in order to give BMW more time to develop and submit emission test data. Letter from Karl-Heinz Ziwica, BMW, to D. Schloss, EPA, dated July 8, 1981.

[8] Chrysler submitted its application on September 22, 1981, and requested that its application be considered with this round of applications because Chrysler's request covers an engine family purchased from Peugeot whose engine family is being considered in this decision *See* Chrysler App.

[9] This decision uses the following abbreviated citations:

BMW App.—Application of BMW of North America, Inc. for Waiver of the 1984 Model Year NO_x Standard, dated April 15, 1981.

BMW Supp.—Letter from Karl-Heinz Ziwica, BMW, to Director, Manufacturers Operations Division, EPA dated May 4, 1981 (with attachments).

BMW Supp. II—Letter from Karl-Heinz Ziwica, BMW, to D. Schloss, EPA, dated July 8, 1981.

BMW Supp. III—Letter from Karl-Heinz Ziwica, BMW, to Michael Chernekoff, EPA dated September 15, 1981 (with attachments).

Chrysler App.—Letter from C. M. Kennedy, Chrysler, to Charles N. Freed, EPA, dated September 22, 1981.

Chrysler Supp.—Letter from C. M. Kennedy, Chrysler, to Michael Chernekoff, EPA, dated September 28, 1981.

Ford App.—Application of Ford Motor Company for Waiver of the 1984 Model Year NO_x Standard, dated May 26, 1981.

Ford Supp.—Letter from K. M. Brown, Ford, to Deborah Schloss, EPA, dated July 21, 1981.

Ford Comments—Letter from K. M. Brown, Ford, to Charles N. Freed, EPA, dated August 11, 1981.

Ford Supp. II—Letter from M. J. Schwarz, Ford, to Jerry Schwartz, EPA, dated October 5, 1981.

Peugeot XD2S/XD3S App.—Automobiles Peugeot Application for Waiver of the 1983–1984 NO_x Emission Standard, dated May 14, 1981.

Peugeot XUD9 App.—Automobiles Peugeot Application for Waiver of the 1983–1984 NO_x Emission Standard, dated July 13, 1981.

Peugeot XD2C App.—Automobiles Peugeot Application for Waiver of the 1983–1984 NO_x Emission Standard, dated July 10, 1981.

Vehicle Technology App.—Application of Vehicle Technology, Inc. for Waiver of the 1981, 1982 and 1983 NO_x Standard, dated July 27, 1981.

VW App.—Volkswagen of America Application for Waiver of the 1983 and 1984 NO_x Emission Standards for Light-Duty Diesel Engines, dated July 10, 1981.

VW Supp.—Letter from Wolfgang Groth, VW, to Charles Freed, EPA, dated August 28, 1981 (with attachments).

Volvo App.—AB Volvo Application for Waiver of NO_x Emission Standards for Light-Duty Diesel Engines for 1983 to 1984, dated April 27, 1981.

Volvo Supp.—Letter from William Shapiro, Volvo to Mike Chernekoff, EPA, dated August 14, 1981 (with attachments).

Volvo Supp. II—Memorandum from William Shapiro, Volvo, to Mike Chernekoff, EPA, dated August 24, 1981.

[10] EPA held a public hearing on July 23, 1981. *See* 46 FR 35126 (July 7, 1981). Only one witness, Mr. Clarence Ditlow III, representing the Center for Auto Safety, testified. *See* "Transcript of Proceedings" dated July 23, 1981 (hereinafter "Transcript"); Letter from Clarence M. Ditlow III, Center for Auto Safety, to Deborah Schloss, EPA, dated July 30, 1981 (with attachments) (hereinafter "CAS Supplement"). Ford submitted comments responding to the Center's testimony at the public hearing. *See* Ford comments. Comments were also submitted to the record by Mr. Ernest A. Beutler. *See* Letter from Ernest A. Beutler, to Director, Manufacturers Operations Division, dated July 17, 1981. EPA held a second public hearing on October 21, 1981, to hear testimony regarding Chrysler's request. *See* 46 FR 49611 (October 7, 1981). No testimony was offered at this latter hearing.

[11] The records for these decisions are contained in Public Dockets EN–79–3, EN–80–3, EN–80–6, EN–80–15, EN–80–21, EN–81–4 and OMSAPC–79–3 and can be found in EPA's Central Docket Section, Gallery I, 401 M St., SW, Washington, D.C. 20460. Copies of materials in these dockets may be obtained by writing to this address at Mail Code (A–130).

WAIVER APPLICATIONS GRANTED

[Table I]

Manufacturer	Model years	Engine family	Interim standard (g/mi)
BMW	1984	2.4 liter (L) turbocharged (TC)	1.5
Chrysler	1984	1.9L	1.5
Ford	1984	2.4L-TC	1.5
Peugeot	1983, 1984	XD2S/XD3S-TC	1.5
	1983, 1984	2.3L-naturally aspirated (NA)-XD2C	1.2
	1983, 1984	1.9L-NA-XUD9	1.5
Vehicle Technology	1981, 1982, 1983	4-88 HTA	1.5
	1981, 1982, 1983	4-92 HTA	1.5
	1981, 1982, 1983	5-92 HTA	1.5
	1981, 1982, 1983	6-92 HTA	1.5
VW	1983, 1984	1.6L-TC-2250 pounds inertia weight (IW)	1.5
	1983, 1984	1.6L-NA-2250 IW	1.5
	1983, 1984	1.6L-TC-2500 and 2750 IW	1.4
	1983, 1984	1.6L-NA-2500 and 2750 IW	1.4
	1983, 1984	2.0L-TC	1.5
	1983, 1984	2.0L-NA	1.5
Volvo	1983, 1984	2.4L-TC	1.5
	1983, 1984	2.4L-NA	1.5

As discussed more fully below, I have concluded that the applications covering these engine families meet each of the statutory criteria for receiving a waiver for the model years noted. I am prescribing an interim NO_x standard of up to 1.5 g/mi for each engine family granted a waiver as shown in the table above.[12]

III. Discussion

A. *Assessing the Need for Waivers.* Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue I must address under this criterion is whether the applicant has shown that, unless I grant the waiver, the engine family which the waiver request covers will not reasonably be able to meet applicable emission standards, even with the addition of any device, equipment or aspect of diesel engine technology presently available or expected to become available during the period covered by the waiver request.[13]

1. *Applicants' Positions Summarized.* To support the contention that effective control technology is not available, each waiver applicant has provided information concerning the measures it has been exploring in its efforts to meet the 1.0 g/mi NO_x standard along with other applicable emission standards.[14] Manufacturers plan to utilize two basic strategies in their efforts to meet the 1.0 g/mi NO_x standard. One is to decrease the level of NO_x formation during combustion through engine modifications.[15] The second major strategy is the use of some form of exhaust gas recirculation (EGR).[16]

a. *BMW.* BMW seeks a waiver for a 2.4L turbocharged diesel engine family that it plans to introduce in the 1984 model year.[17] BMW maintains that, without a NO_x waiver, it cannot meet the 0.6 g/mi particulate standard.[18] It also states that the high rate of EGR needed to meet a 1.0 g/mi NO_x standard will adversely affect other emissions, fuel economy, and driveability.[19]

In order to meet the 1.0 g/mi NO_x standard in conjunction with the particulate standard, BMW states that it is attempting to optimize the engine and EGR system, and to develop a particulate trap system.[20] BMW states, however, that its trap system is in a very early stage of development and it cannot predict when particulate traps will be ready for use on its vehicles.[21]

b. *Chrysler.* Chrysler applied for a waiver for model year 1984 for a 1.9L engine that it is purchasing from Peugeot.[22] Chrysler states that this engine family will be introduced beginning in model year 1984 as an optional power plant in certain Chrysler vehicles.[23] Chrysler states further that, under the terms of its contract with Peugeot, Peugeot is totally responsible for design of the 1.9L engine and emission control system. Additionally, Peugeot informed Chrysler that technology necessary to meet a 1.0 g/mi NO_x standard for this engine family is not expected to be available until at least model year 1985.[24] Chrysler has indicated that it presently does not have the capability to produce a diesel engine family for the same proposed use and that it also presently does not have the capability to make modifications to Peugeot's engine family such that this engine family could meet a 1.0 g/mi NO_x standard by model year 1984.[25] Chrysler therefore states that it must rely on Peugeot's emissions testing and has incorporated by reference Peugeot's application for its 1.9L-NA engine family.[26]

c. *Ford.* Ford applied for a waiver for model year 1984 for a 2.4L turbocharged engine family that it plans to purchase from BMW. Ford states that, under its arrangement with BMW, it will purchase a complete engine package; the arrangement stipulates that the engines must conform to all EPA requirements.[27] The engine family will be included in a 4,000 pound maximum inertia weight vehicle class.[28] Ford states that it must rely on emission testing performed by

[12] Certain engine families produced by VW and Peugeot have received waivers to interim standards less than 1.5 g/mi. *See* Table I, *supra*, and note 82, *infra*.

[13] *See* Guidelines, at 30342. See also the additional information requested in EPA's April 7, 1981 Federal Register notice, 46 FR 47222. The applicable statutory standards are 0.41 g/mi hydrocarbon (HC), 3.4 g/mi carbon monoxide (CO), and 1.0 g/mi NO_x. Beginning with the 1982 model year, the light-duty diesel vehicle particulate standard of 0.6 g/mi took effect. That standard becomes 0.2 g/mi as of the 1985 model year. *See*, Standard for Emission of Particulate, Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks, 45 FR 14496 (March 5, 1980) (hereinafter "Particulate Rulemaking").

[14] In addition to the 1.0 g/mi NO_x standard, light-duty diesel manufacturers are concerned specifically about meeting the 0.6 g/mi particulate standard that became effective beginning in the 1982 model year.

[15] The term "engine modifications" is used in this decision to denote various changes in engine design that affect NO_x emissions. These "engine modifications" include changes in combustion chamber design, changes in the fuel injection system and various changes and adjustments to other engine parameters intended to improve combustion.

[16] For a description of the basic theory behind diesel EGR, *see* 45 FR at 5482, n. 15 (January 23, 1980).

[17] BMW submitted data for this engine family corresponding to two inertia weight classes—3,375 pounds and 4,000 pounds. BMW's application states that the inertia weight class is 3,500 pounds for BMW vehicles, and 4,000 pounds for "other applications." BMW App. at 1. BMW and Ford have entered into an agreement whereby BMW will supply Ford with its 1984 model year 2.4L turbocharged engine family for use in 4,000 pound inertia weight Ford vehicles. *See* notes 27 to 30, and accompanying text, *infra*.

[18] BMW App. p. 2.

[19] *Id.* at pp. 2, 120; BMW Supp; BMW Supp. III.

[20] BMW App. p. 122.

[21] *Id.* BMW states that two problems it must overcome in its trap development are excessive exhaust back pressure, which adversely affects driveability, and lack of trap durability during burn-off of accumulated particulate matter. *Id.* at p. 130.

[22] Chrysler App. The engine Chrysler is purchasing is Peugeot's 1.9L-NA engine which is also the subject of this waiver request. *See* text accompaning notes 31–35, *infra*.

[23] *Id.* These vehicles will be Chrysler "K-cars," which will be within the same 2500–2750 pound inertia weight class as the vehicles in which Peugeot plans to use its own 1.9L engines. *See* Chrysler Supp.

[24] *Id. See also* Peugeot XUD9 App.

[25] Chrysler Supp.

[26] Chrysler App.

[27] Ford Supp.

[28] Ford App., Attachment.

BMW and refers EPA to BMW's applications for this data.[29] Ford has further indicated that it presently does not have the capability to produce a diesel engine for this vehicle and also that it does not have the capability to make engine modifications such that this engine family could meet a 1.0 g/mi NO_x standard during the requested wavier period.[30]

d. *Peugeot.* Peugeot seeks a waiver to 1.2 g/mi for its 2.3L naturally aspirated ("XD2C") engine family, and to 1.5 g/mi for its XD2S/XD3S turbocharged and its 1.9L naturally aspirated ("XUD9") engine families for model years 1983 and 1984.[31] Peugeot asserts that technology is not presently available to enable these engine families to meet a 1.0 g/mi standard, along with emission standards for other pollutants, in its production vehicles.[32]

Peugeot has concluded that, in order successfully to meet all emission standards for model years 1983 and 1984 with acceptable vehicle driveability and emission durability, it will need more sophisticated EGR technology, since its current system has reached "optimal limit."[33] Peugeot indicated that it has been working on several new EGR systems, but asserts that no advanced system will be available for use on production vehicles during the requested waiver period,[34] and states that it will use this time to attempt to resolve the various problems it has experienced to date in meeting emission standards.[35]

e. *Vehicle Technology.* Vehicle Technology[36] has requested NO_x waivers to 1.5 g/mi in the 1981, 1982, and 1983 model years for its 4–88 HTA, 4–92 HTA, 5–92 HTA and 6–92 HTA turbocharged diesel engine families.[37] Vehicle Technology states that it purchases its diesel engines and is completely dependent on the diesel engine manufacturers to provide technology to enable the engine to meet emission standards.[38] Vehicle Technology states that compliance with the 1981 statutory standards is not possible using the unmodified engines provided by the manufacturers.[39] Further, Vehicle Technology concludes that no technology is currently available for purchase and integration into its vehicles to enable them to meet applicable emission standards in model years 1981–1983.[40]

Vehicle Technology identified the following optional strategies for meeting all applicable emission standards in model years 1984 and 1985: (1) Adjustment of injection timing to control NO_x without the use of EGR, and the use of a catalyst to reduce HC emissions, and (2) use of EGR and injection timing modulation.[41] Some sort of after-treatment will be required under either strategy in order to meet the 0.2 g/mi particulate standard applicable in model year 1985.[42] Vehicle Technology indicated that it has recently contacted several emission controls manufacturers to arrange further testing and to obtain equipment needed to enable it to comply with applicable emission standards at the end of the waiver period.[43]

f. *VW.* VW seeks waivers for six engine families for model years 1983 and 1984 to interim NO_x standards ranging from 1.3 to 1.5 g/mi. After reassessing its original schedule for meeting a 1.0 g/mi NO_x standard, VW indicated that it cannot meet its schedule and it will now require waivers for these engine families.[44]

VW's approach to NO_x control with its smaller 1.6L engines is combustion chamber modifications and changes to the fuel injection system.[45] VW decided on this approach because it concluded that the addition of EGR to small diesel engines results in unacceptable driveability due to loss of power as well as emission and part durability problems.[46] VW states that it has not yet been able to lower NO_x emissions to 1.0 g/mi using only engine modifications on its smaller diesels,[47] and asserts that it needs additional time to further refine the smaller diesel engines.[48]

On its 2.0L engines, VW states that it will most likely require EGR to meet a 1.0 g/mi NO_x standard.[49] VW notes that particulate and HC emissions tend to rise with the application of EGR, but states that it is evaluating two new EGR systems to overcome these problems.[50] However, VW maintains that neither system is ready for production because of problems with part and emission durability.[51] Thus, VW concludes that it needs waivers, as requested, to give it sufficient lead time to overcome these difficulties.[52]

g. *Volvo.* Volvo requests waivers of the 1.0 g/mi NO_x standard in model years 1983 and 1984 to interim standards of 1.5 g/mi NO_x for two diesel engine families—a 2.4L-naturally aspirated and a 2.4L-turbocharged—that it is purchasing from Volkswagen.[53] Volvo states that its diesel engine program is relatively new and therefore it must purchase its engines from Volkswagen.[54] As a result, it has not yet succeeded in developing the expertise to enable its vehicles to meet a 1.0 g/mi NO_x standard.[55] Thus, Volvo requests these waivers to enable it to market its diesel vehicles and to afford it additional lead time, and development and manufacturing experience, to develop technology to meet all applicable

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[29] Ford App. p. 1. *See* note 17, *supra.*

[30] Ford Supp. II.

[31] EPA previously granted Peugeot NO_x waivers for model years 1981 and 1982 for the XD2S (45 FR 34718 (May 22, 1980)) and for the XD2C (46 FR 37506 (July 21, 1981)). The XUD9 is a new engine family that Peugeot plans to introduce in model year 1983.

[32] Peugeot XD2C App. 8; Peugeot XD2S/XD3S App. 8; Peugeot XUD9 App. 11. Peugeot is presently using a "step-by-step" EGR emission control system on its XD2C engine family, and an "electropneumatic" EGR system on its XD2S/XD3S engine family. Peugeot XD2C App. pp. 2, 3; Peugeot XD2S/XD3S App. pp. 2, 3. Peugeot states that no technical problems are encountered with these systems, but they are insufficient to permit these two engine families to meet the 1.0 g/mi NO_x standard and 0.6 g/mi particulate standard in production. Peugeot XD2C App. 56, 58; Peugeot XD2S/XD3S App. 2. Peugeot also plans to use the electropneumatic EGR system in its XUD9 engine family but states that this equipment is not sufficient to meet the 1.0 g/mi NO_x standard. Peugeot XUD9 App. 2.

[33] Peugeot XD2C App. pp. 2, 3; XD2S/XD3S App. pp. 2, 3.

[34] Peugeot XD2C App. pp. 3, 19, 20, 56; XD2S/XD25 App. pp. 3, 31, 38, 39. XUD9 App. pp. 5, 24, 26.

[35] Peugeot XD2C App. p. 14; XD2S/XD3S App. p. 14.

[36] Vehicle Technology is a small company that refits U.S.-built passenger cars with diesel engines that it purchases from outside suppliers. These vehicles are sold primarily as taxicabs in the New York City area. Vehicle Technology App. pp. 3, 4.

[37] Vehicle Technology plans to obtain these four engine families from Stabilimenti Meccanici V. M. S. P. A., of Italy. The 4–88 HTA, designation describes a four-cylinder, 88mm bore size engine family. The remaining three engine family designations (4–92 HTA, 5–92 HTA and 6–92 HTA) describe, respectively a four-cylinder, five-cylinder and six-cylinder engine family each with 92mm bore. Aside from the number of cylinders and bore size, these four engine families are of identical design. Vehicle Technology App. p. 4.

[38] Vehicle Technology App. p. 3, 11. Vehicle Technology asserts that it is without the technical and financial capacity to make modifications to the engine families such that these engine families could meet 1.0 g/mi NO_x standard during the requested waiver period.

[39] *Id.* p. 7.

[40] *Id.* pp. 7, 8.

[41] *Id.* pp. 22–23.

[42] *Id.* p. 23.

[43] *Id.* pp. 3, 23.

[44] VW App. p. 1.

[45] VW App. pp. 9, 10.

[46] *Id. See also* VW Application for Waiver of the 1981 and 1982 NO_x Emission Standard, dated February 1980, at p. 45.

[47] *Id.*

[48] *Id.* at p. 10.

[49] *Id.* at p. 9.

[50] *Id.* at p. 10.

[51] *Id.*

[52] *Id.* at pp. 2, 10.

[53] Volvo received a waiver of the 1.0 g/mi NO_x standard for the 2.4L-naturally aspirated engine family to a 1.5 g/mi NO_x standard in model years 1981 and 1982. 45 FR 5480 (January 23, 1980). Volvo intends to introduce the turbocharged version in the United States in model year 1983. Volvo App. p. 12.

[54] Volvo App. p. 6.

[55] *Id.*

emission standards by the 1985 model year.[54]

Specifically, Volvo asserts that at the current stage of development for both the naturally aspirated and turbocharged 2.4L engine families, high rates of EGR are needed to reduce NO_x emissions to the 1.0 g/mi level.[57] Volvo states that at these high rates of EGR, it has observed heavy soot deposits in both naturally aspirated and turbocharged engines, even at low mileage.[58] While the naturally aspirated engine family has achieved emissions just under 1.0 g/mi NO_x in low mileage testing,[59] Volvo asserts that there is a high risk of inability to comply with the 1.0 g/mi NO_x standard because of engine durability problems, inexperience with the EGR system, and the potential for production variability of emission control capabilities in production.[60] Volvo states that it has no system capable of achieving the 1.0 g/mi NO_x standard in production.[61]

In order to overcome these problems, Volvo is investigating the use of fully flexible (electronic) EGR and fuel injection systems.[62] However, Volvo states that the necessary components will not be available from suppliers during the waiver period.[63]

2. *Methodology.* In making these waiver determinations, I have made an assessment of available NO_x control technology and technology likely to become available during the waiver period to determine their effect on engine durability and exhaust emissions. I have made my assessment based on a review of the information contained in the public record, including testimony given at EPA's two public hearings on these requests.[64]

As indicated in the **Federal Register** notice in which EPA announced consolidated proceedings for consideration of NO_x waiver applications, I have also evaluated the economic and technological risks faced by applicants in attempting to resolve difficulties in achieving NO_x emission control during the waiver period, and benefits they could realize if waivers were granted for the maximum waiver period (through model year 1984) instead of for a lesser period.[65]

3. *Engine Families for Which Waivers are Necessary.* I have determined that all the applicants have shown that waivers are necessary to permit the use of diesel engine technology for the engine families in question.

For the nine new engine families (out of the total of 18 families currently under consideration), I have determined that waivers through model year 1984 are necessary because of risks involved if the applicants are required to meet a 1.0 g/mi NO_x standard using new technology with which they may have little or no experience in production. Waivers through model year 1984 [66] where requested will permit the manufacturers to concentrate their resources and development efforts on meeting a single set of standards in model year 1985.

The remaining nine engine families have already received NO_x waivers for earlier model years and the applicants have demonstrated a significant continuing risk that they will be unable to meet the 1.0 g/mi NO_x standard and the 0.6 g/mi particulate standard using presently available technology, or technology likely to be available during the waiver period. As discussed above, the applicants have raised concerns over NO_x and particulate emission control capabilities, durability, and other problems that may seriously impede their ability to market these diesel vehicles under an unwaived NO_x standard. Waivers through model year 1984 could provide the necessary lead time to permit the development of more advanced NO_x control technologies capable of meeting applicable emission standards.

I have concluded therefore, that waivers are necessary for BMW, Chrysler, Ford, Volvo, Peugeot, and Vehicle Technology to market their new diesel vehicle models in the model years for which they have requested waivers. Specifically, BMW has demonstrated that there exist significant risks of being unable to meet other regulated emission standards in use, most notably the particulate emissions standard, without a waiver in model year 1984.[67]

Similarly, because Ford will be utilizing BMW's 2.4L–TC diesel engine in 4,000 pound IW class vehicles in model year 1984,[68] my determinations regarding BMW's demonstrations also apply to Ford. Ford does not have the capability to produce its own diesel engine for this vehicle, nor does it have the capability to make engine modifications so as to enable this engine family to meet a 1.0 g/mi NO_x standard during the waiver period requested.[69]

Volvo has demonstrated that its relatively new diesel engine program is experiencing significant difficulties adopting EGR technology sophisticated enough for its 2.4L–TC diesel engine

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[54] *Id.* at pp. 6, 9.

[57] *Id.* at p. 12.

[58] *Id.* at pp. 12, 13.

[59] *Id.* at p. 12.

[60] *Id.* at p. 14. *See also* Volvo Supp. Volvo hopes to be in a position to market on a limited basis the naturally aspirated version with EGR in California in the 1983 model year as a test market for these vehicles—with, according to Volvo, an attributable cost premium and fuel economy penalty.

[61] *Id.*

[62] *Id.* at p. 13.

[63] *Id.* at pp. 13, 15.

[64] *See* note 10, *supra.*

[65] 46 FR 20705, 20706 (April 7, 1981).

[66] Vehicle Technology has requested waivers only through model year 1983. Hence, I am granting it waivers only through model year 1983.

[67] BMW has stated that an advanced EGR system suitable to meet emission standards in model years 1984 and 1985 is well into the development stage, but that development of a particulate matter-trap system needed to bring down particulate emissions is still in very early stages. BMW App. p. 122. Data submitted by BMW indicate significant increases in hydrocarbon (HC), carbon monoxide (CO) and particulate emissions as well as reduced driveability at the high EGR rates necessary to meet a 1.0 g/mi NO_x standard. Some data indicate that at this high EGR rate, HC and particulate emissions exceed applicable standards.

Specifically, early tests of prototype vehicles in the 4000 IW class using EGR have shown that when calibrated to meet 1.0 g/mi, as opposed to 1.5 g/mi, these vehicles cannot meet the 0.6 g/mi particulate standard, and have demonstrable increases in CO and HC emissions (even above the applicable standard in some instances) as well as a significant decrease in fuel economy. BMW App. p. 139; BMW Supp. p. 5. Later tests of 4000 IW class vehicles using a modified EGR calibration indicate similar increases in emission levels of other pollutants, as well as fuel economy losses, though to a lesser extent than at the original calibration. Particulate emissions from two test cars corresponding to BMW's "city test" procedure averaged 0.50 g/mi and 0.521 g/mi respectively when calibrated to meet a 1.0 g/mi NO_x standard—about double the particulate emissions when compared to vehicles calibrated to meet a 1.5 g/mi NO_x standard. BMW Supp. III. Early test data corresponding to 3375 IW class vehicles using EGR have shown that when calibrated to meet 1.0 g/mi NO_x, as opposed to 1.5 g/mi NO_x, CO and HC emissions are increased (to levels just below the applicable standards in some instances), and show a decrease in fuel economy. BMW App. p. 139; BMW Supp. Particulate data was not available from BMW. Supp. III. However, BMW asserts that when the high EGR rate necessary to meet a 1.0 g/mi NO_x standard is used, particulate emissions are nearly double (though in some tests just below the 0.6 g/mi standard) those observed when an EGR rate necessary to meet a 1.0 g/mi NO_x standard is used. BMW App. p. 2; BMW Supp.; BMW Supp. III. BMW further asserts that the data corresponding to the 4000 IW class vehicles is more representative of its actual planned production as production volume of this type will be approximately ten times greater than that of the 3375 IW class. BMW Supp. III. Finally BMW asserts that driveability of its vehicles is reduced at the higher EGR rates. BMW App. p. 2. The record does not provide any indication of how BMW might solve its problems before model year 1985. Thus, given the increases in particulate and other emissions and reduced vehicle driveability if the waiver is denied, as well as the possibility that BMW might not meet other emission standards if the waiver is denied, the risks of an erroneous or inaccurate decision denying the waiver outweigh the potential environmental harm of granting the waiver. *C.f. International Harvester* v. *Ruckelshaus,* 478 F. 2d 615 (D.C. Cir. 1973).

[68] Ford App.

[69] Ford Supp. II. *See also* text accompanying note 30, *supra.*

family to meet a 1.0 g/mi NO_x standard in model years 1983 and 1984.[70]

Peugeot has also demonstrated that its new diesel engine family—the XUD9 diesel engine family—will not be able to meet a 1.0 g/mi NO_x standard in model years 1983 and 1984 using the EGR system that it will have available for those model years.[71] Similarly, because Chrysler will be utilizing this Peugeot engine family in vehicles within the same weight class, my determinations with regard to this Peugeot engine family also apply to Chrysler.[72] Chrysler does not have the capability to produce a diesel engine for the same proposed use, nor does it have the capability to make modifications to Peugeot's engine so as to enable it to meet 1.0 g/mi NO_x standard.[73]

Vehicle Technology provided information that it risks failure to meet all applicable emission standards in model years 1981 through 1983 with its four diesel engine families—the 4–88 HTA, 4–92 HTA, 5–92 HTA and 6–92 HTA engine families.[74]

For the nine engine families that have previously been granted waivers in earlier model years, Peugeot, VW and Volvo have demonstrated that technology is still not available to meet the 1.0 g/mi NO_x emission standard and that such technology is not likely to be developed and applied during the period for which waivers have been requested.

Information submitted by Peugeot shows that the EGR systems used in its XD2S/XD3S–TC and XD2C–NA engine families are not sufficiently developed to achieve a 1.0 g/mi NO_x standard without unsatisfactory effects on other vehicle performance parameters.[75]

VW has demonstrated that its engine families remain unable to meet the 1.0 g/mi NO_x standard in model years 1983 and 1984 despite its earlier projections.[76]

Volvo has demonstrated that its 2.4L–NA diesel engine family will suffer unacceptable engine durability problems when its EGR rate is calibrated to meet a 1.0 g/mi NO_x standard.[77]

Peugeot, Volvo and VW have all indicated that more advanced technology will be required in order for diesel engine families to meet a 1.0 g/mi NO_x standard, and all have stated that the waivers would give them the extra lead time to prepare this technology for production.[78]

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[70] As noted earlier, Volvo purchases diesel engines from Volkswagen. *See* text accompanying note *53, supra*. Early emissions data from the turbocharged engines indicate that with its present EGR system, Volvo cannot meet a 1.0 g/mi NO_x standard without substantial HC deterioration to levels above the applicable standards, as well as significant fuel economy deterioration, relative to its engines' capabilities without EGR. Volvo App., Enclosure 2. According to Volvo, durability testing on its turbocharged engine had to be discontinued after approximately 27,500 miles due to major engine failure. Volvo Supp. At that mileage, Volvo indicated that there existed significant soot deposits in the EGR system, air-intake system and in the engine oil. Volvo App. p. 13. Volvo believes that, theoretically, it can achieve its emission targets by employing a fully flexible (electronic) EGR system combined with fuel injection, but that such technology is not available from its suppliers for use in its 1983 and 1984 model year vehicles. Volvo App. p. 13.

[71] Peugeot's XUD9 engine family will employ the electropneumatic-type EGR system installed on Peugeots's XD2S turbocharged engine family for which EPA previously granted waivers for model years 1981 and 1982, and for which I am today granting waivers for model years 1983 and 1984. Peugeot stated that at the high EGR rates necessary to bring NO_x emissions down to a 1.0 g/mi NO_x standard, engine wear, soot deposits in the intake system and oil contamination result. Lowering the EGR rate to what Peugeot has determined to be its optimal level eliminates many of these durability problems. However, data indicate that this system could not meet a 1.0 g/mi NO_x standard at this lower rate. Peugeot XUD9 App. pp. 19, 26, 27, 32, 33, 91–112. More advanced EGR systems which Peugeot could install on this engine family are in the development stage and will not be available for model years 1983 and 1984. Peugeot XUD9 App. pp. 11, 12, 19, 51.

[72] Chrysler App.; Chrysler Supp. *See also* note 23, *supra*.

[73] Chrysler Supp. *See also* text accompanying note 25, *supra*.

[74] Vehicle Technology purchases its diesel engines and installs them without modification due to its limited financial and production capacity. Vehicle Technology App. pp. 3, 11. *See also* note 38, *supra*.

Data and other information submitted by Vehicle Technology indicate that these engine families, as available from the manufacturer (without EGR), cannot meet all applicable emission standards for the requested waiver period, and that neither technology nor hardware is currently available for purchase and integration by Vehicle Technology to enable its engine families to meet those standards. Vehicle Technology App. pp. 7, 11–12, 17. Vehicle Technology indicated further that it is pursuing plans to purchase emission control components, which could include the use of EGR, for use on its engine families in later model years. Vehicle Technology App. p.3.

[75] Peugeot has asserted that further improvement to its electropneumatic-type EGR system (which is installed in its turbocharged diesel engines that received waivers to 1.5 g/mi NO_x for model years 1981 and 1982) is impossible, as it has reached its optimal limits. Peugeot XD2S/XD3S App. pp. 2–3. *See also* note 71, *supra*. Peugeot further asserts that vehicles whose EGR systems were modified for the purpose of attempting to meet the 1.0 g/mi NO_x standard experienced unacceptable drivability (jolts, lack of acceleration, abundant blue smoke at low load). Peugeot XD2C/XD3C App. p. 3.

Peugeot had been experimenting with a hydropneumatic EGR system for use in 1983–1984 model year turbocharged diesels, but this system has been rejected due to inability to solve major problems such as high potential for fuel leaks and consequent burning, high smoke level and poor driveability. Peugeot XD2S/XD3S App. pp. 31, 38. Development of more advanced electronic EGR system, to be used in conjunction with injection timing, is underway for Peugeot's turbocharged diesels but will not result in technology sufficiently developed for use during the waiver period. Peugeot XD2S/XD3S App. pp. 4, 31.

EPA recently granted Peugeot's application for a waiver for its XD2C engine family for the 1982 model year on grounds that this engine family could not simultaneously meet the 1.0 g/mi NO_x standard and the 0.6 g/mi particulate matter standard. Additionally, Peugeot has indicated that further improvement to its step-by-step-type EGR system (which is used on the XD2C engine family) is impossible as it, too, has reached its optimal limit. Peugeot XD2C App. pp. 2–3. As was the case with the 1982 model year XD2C engine family, durability emission data associated with this engine family for model years 1983 and 1984 indicate that it cannot meet the 1.0 g/mi NO_x standard while also meeting the 0.6 g/mi particulate standard. HC emission and fuel economy deterioration are also associated with calibrating this engine family to meet a 1.0 g/mi NO_x standard. Peugeot XD2C App. pp. 25, 133–185. Experimentation and development of more advanced electronic EGR technology—the same systems Peugeot has proposed for use in the turbocharged diesels—cannot be translated into application on this engine family during the requested waiver period. Peugeot XD2C App. pp. 4, 19, 20, 58.

[76] Data and other information submitted by VW indicate that the 2250 pound inertia weight (IW) 1.6L diesels—both naturally aspirated and turbocharged—cannot meet 1.0 g/mi NO_x without the introduction of EGR. However, with the application of EGR, NO_x emissions are reduced to levels marginally below 1.0 g/mi, but with a corresponding substantial increase in HC emissions and significant driveability as well as emission and part durability problems. VW App. pp. 4–5, 10, 21. VW has, therefore, made combustion chamber modifications which have only slightly improved HC and NO_x performance, rather than introduce EGR with its attendant problems. VW App. pp. 4, 21.

Data corresponding to the higher inertia weight 1.6L engine families—both naturally aspirated and turbocharged versions—indicate deteriorations similar to that occurring in the lighter inertia weight vehicles, but show higher emission rates. NO_x emissions are greater than 1.0 g/mi even with EGR. VW App. pp. 5, 6, 9, 10, 21, 22.

Data corresponding to VW's 2.0L naturally aspirated and turbocharged engine families indicate that, for the most part, they cannot meet 1.0 g/mi NO_x even with EGR. When EGR is introduced, VW has indicated that emission and part durability problems exist particularly with the EGR valve pin. VW App. pp. 6–7, 9–13, 21–34.

[77] Low mileage emission data submitted by Volvo indicate that NO_x emissions can be reduced to a level marginally below the 1.0 g/mi NO_x standard using a proportionally-controlled EGR system, though CO emissions and fuel economy suffered (when compared to no EGR). Volvo App. Enclosure 2:1. However, durability testing data of the naturally-aspirated vehicles indicate a 60 percent increase in particulate matter emissions as well as major engine durability problems, e.g., heavy soot deposits in the air intake system after only 3750 miles; unacceptable wearing of the piston rings and bearings; unacceptable lubricating oil consumption; blow-by; and smoke, when compared with no EGR. Higher HC and CO emissions were also indicated. Volvo App. pp. 12–13, Enclosure III; Volvo Supp.; Volvo Supp. II. Volvo stated that it hopes to be able to market on a limited basis its naturally aspirated diesel engine family in California in model year 1983 using a proportionally controlled EGR system calibrated to meet a 1.0 g/mi NO_x standard in hopes to gain testing experience. Volvo App. p. 14.

[78] As stated in note 75, *supra*, Peugeot has attempted, unsuccessfully, to employ a hydropneumatic-type EGR system to replace its step-by-step-type and electropneumatic-type EGR systems. It is now attempting to develop a more advanced electronic EGR system, with other features incorporated, for use on all of its diesel engine families, but does not anticipate its use in production during the requested waiver period.

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I therefore conclude that waivers are necessary in model years 1983 and 1984 to permit development of such advanced systems.[79]

For those engine families for which manufacturers have requested interim standards of 1.5 g/mi NO_x, the data submitted by the manufacturers do not necessarily show that without a waiver up to 1.5 g/mi NO_x these engine families will not be able to meet applicable NO_x emission standards of between 1.0 and 1.5 g/mi NO_x in production. Nevertheless, a significant risk does exist that, were I to set interim standards for these engine families more stringent than 1.5 g/mi NO_x the manufacturers would be likely to add EGR or to increase the EGR rate in an effort to reduce NO_x, thus potentially increasing particulate emissions.[80] As discussed in Section III.B. of this decision, I have concluded that any risks associated with slightly increased NO_x emissions are, on balance, outweighed by potential benefits in reduced particulate emissions. As a result, I am setting interim NO_x standards of 1.5 g/mi NO_x for those engine families for which this interim standard was requested to minimize the likelihood that manufacturers will increase EGR rates to meet the interim NO_x standard.[81]

For the Peugeot and VW engine families for which interim standards less stringent than 1.5 g/mi NO_x were requested,[82] data submitted by those manufacturers indicate that those engine families will be able to meet the requested interim NO_x standard and the 0.6 g/mi particulate standard. Therefore, I am setting interim standards for those engine families at the requested levels.[83]

B. *Endangerment to Public Health.* In order to grant a waiver request, Section 202(b)(6)(B)(i) requires me to determine that a waiver of the statutory standard of 1.0 g/mi NO_x would not endanger public health. Congress intended my assessment of this criterion to include consideration of the potential health effects of unregulated pollutants from diesel engines as well as the health effects associated with increased NO_x emissions.[84]

1. *Oxides of Nitrogen (NO_x).* In EPA's earlier waiver decisions, the Administrator concluded that the potential effects of granting NO_x waivers on ambient NO_x levels would not be significant.[85] Granting waivers for the engine families listed above does not alter this conclusion. The potential effects on NO_x levels resulting from granting these additional waivers, even when combined with the effects of the waivers EPA granted earlier, will not be significant.[86]

2. *Particulates.* One concern in these proceedings relating to emissions from diesel engines is about potential increased emissions of diesel particulates, especially given the inconclusiveness of data thus far on health risks of exposure to organic components of the diesel particulates.[87] These concerns warrant action, where appropriate, that would minimize particulate emissions from light-duty diesels.

It is also undisputed that the projected increase in diesel light-duty vehicle production will increase ambient total suspended particulates and consequently human exposure to respirable particulates.[88] This fact underscores my concern for action minimizing particulate emissions from light-duty diesels.

The first two consolidated decisions noted that, to the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would gasoline-powered vehicles. However, my assessment of the risk posed by these emissions must be made in light of the potential risk posed by the particulate emission levels that might result from waiver denials.[89] If I deny a waiver, an applicant may attempt to manufacture its diesels and successfully certify them in compliance with the 1.0 g/mi NO_x standard. As part of an all-out effort to market vehicles complying with a 1.0 g/mi NO_x standard, a manufacturer might decide to incorporate technology that places upward pressure on particulate emissions.[90] This is the type of health risk EPA sought to avoid in other NO_x waiver decisions.[91]

Several manufacturers submitted data indicating that using technology necessary to achieve a 1.0 g/mi NO_x

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Volvo indicates that it will use the waiver period to concentrate on development of a fully flexible (electronic) EGR system, combined with a fuel injection system, which it anticipates will allow both of its naturally aspirated and turbocharged diesel engine families to meet all applicable emission standards in model year 1985. Volvo states that this technology is not available from its suppliers for introduction in model year 1983 and 1984 diesel engine families. Volvo App. p. 13.

VW states that with regard to its small diesel engine families optimizing the combustion chamber and pump timing, rather than introducing EGR, is necessary in order for these engine families to achieve compliance with all emission standards satisfactorily. VW hopes to solve its problems with regard to these engines by model year 1985. VW App. p. 9. With regard to its larger diesel engines and larger displacement diesel vehicles, VW states that a more advanced EGR system is necessary in order to meet a 1.0 g/mi standard. VW App. pp. 9–10. VW is developing two new separate EGR systems for use on its diesel engines—a mechanical, unthrottled EGR system and an electronic EGR system. Neither system will be available for use on its vehicles during the waiver period. VW App. pp. 9–10, 13–14. At the July 23, 1981, hearing, the Center for Auto Safety stated its belief that technology currently exists for diesels to meet a 1.0 g/mi NO_x standard in model years 1983 and 1984, especially in view of California certification data which indicate that Checker certified a GM-built diesel engine in model year 1981 at 0.7 g/mi NO_x. Transcript p. 4; CAS Supplement. However, in that model year neither California nor EPA had an applicable particulate emission standard. Checker had the opportunity to employ a high EGR rate to meet this NO_x level without having to be concerned with particulate emission levels. *See also* note 96, *infra.* Moreover, the record contains no information indicating that any successful technology available to Checker also is available to these applicants.

[79] The need for additional lead time is compounded for all these engine families by the fact that a more stringent particulate standard goes into effect in model year 1985.

[80] *See* discussion at section III.B.2 of this decision, *infra*, for examples of the effect of EGR systems on particulates. *See also* discussion in the text following note 83, *infra.*

[81] *See* section III.B.2, *infra.*

[82] These include:

—Peugeot XD2C–NA (1.2 g/mi)

—VW 1.6L–NA–2250 IW (1.3 g/mi), 1.6L–TC–2250 IW (1.3 g/mi), 1.6L–NA–2500 and 2750 IW (1.4 g/mi), 1.6L–TC–2500 and 2750 IW (1.4 g/mi)

[83] Because Peugeot and VW indicated that they did not require waivers to the maximum level permitted, it appears unlikely that either will decide it needs to incorporate technological improvements, such as increases in EGR rates above that already planned which may pose other health risks, to assure that their engine families will comply with interim NO_x levels.

[84] *See*, e.g., H.R. Rep. No. 294, 95th Cong., 1st Sess. 19, 237, 250–51 (1977); S. Rep. No. 127, 95th Cong., 1st Sess. 70 (1977).

[85] *See*, e.g., 45 FR 5480, 5488–89 (January 23, 1980); 45 FR 34718, 34722 (May 22, 1980).

[86] In the first NO_x waiver decision at 45 FR 5488, EPA estimated that even in the "worst-case," that is, four-year waivers, high market penetration of diesels, and high deterioration rates of emission control equipment, there would not be a significant effect on ambient NO_x levels. One commenter, the Center for Auto Safety, stated that EPA has not considered the effect of increased NO_x on oxidant formation and acid rain. Because available information shows these waivers will have no significant impact on ambient NO_x levels, it is unlikely that there will be a significant impact on oxidant formation and acid rain formation. *See also* Appendix B to EPA's first NO_x waiver decision cited above.

[87] 45 FR 5480, 5489 (January 23, 1980); 45 FR 34718, 34722 (May 22, 1980). Although there is no current definitive epidemiologic evidence establishing cancer risk from exposure to diesel particulates, the uncertainty surrounding the potential health risk posed by diesel particulates warrants a cautious approach. 45 FR 5480, 5490 (January 23, 1980).

[88] Diesel-powered vehicles emit particulates at a far greater rate than catalyst equipped gasoline-powered vehicles. 45 FR 5480, 5489–5490 (January 23, 1980); 45 FR 34718, 34722 (May 22, 1980).

[89] 45 FR 5480, 5490 (January 23, 1980); 45 FR 3718, 34722 (May 22, 1980).

[90] Although a particulate emission standard of 0.6 g/mi is in effect for the 1982 model year, it is a technology-based standard.

[91] *See, e.g.*, 45 FR 5480, 5490, 5492 (January 23, 1980) for a fuller discussion of this point. This approach was upheld in *NRDC* v. *EPA*, 65 F. 2d 310 (D.C. cir. 1981).

standard would result in higher particulate emissions.[92]

Vehicle Technology, Peugeot and Chrysler indicated that without waivers they believe they would not be able to market their diesel engine families which are the subject of this proceeding.[93] However, these three manufacturers have submitted economic and other information indicating the strong incentives that exist for them to attempt to certify and market these engine families even without waivers.[94] To accomplish this, there is a significant risk that they would take action to market diesels that result in increased particulate emissions.[95]

By granting waivers and establishing an interim NO_x standard that the manufacturers of the engine families discussed in section III(A)(3) of this decision will be able to meet without using EGR or increasing EGR rates, I can avoid the risk that they will produce these engine families under a 1.0 g/mi NO_x standard with higher particulate emissions. Because the apparent benefit of maintaining low particulate emissions outweigh the apparent risks of increased NO_x emissions, I conclude that granting these waivers, thereby precluding any need for the use of EGR or further increased EGR that may put upward pressure on particulate emissions, is more protective of the public health than denying these waivers.[96]

C. *Fuel Economy.* Fuel economy considerations are contained in the second and third criteria of section 202(b)(6)(B) of the Act.[97] Each of the manufacturers receiving waivers has submitted data demonstrating that the vehicles in question will meet the applicable fuel economy standards in the short-term, and have the potential to meet the applicable standard at the expiration of the waiver period.[98]

D. *Long-Term Air Quality Benefit.* In order to grant a waiver, I must find that the diesel engine technology has the potential for long-term air quality benefit.[99] An applicant meets the long-term air quality benefit criterion of the Act if the engine families covered by its waiver request have the potential to comply with applicable emission standards at the expiration of the waiver period.[100] Each manufacturer for which I am granting waivers submitted information indicating that it is developing advanced NO_x and particulate control systems that have the potential to meet applicable emission standards in model year 1985, when the waivers expire.[101] Thus, I conclude that

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[92] BMW App. pp. 2, 139.

VW still cannot achieve a 1.0 g/mi NO_x standard for its 2250 pound IW 1.6L diesel engine families using combustion chamber modification techniques alone and VW has rejected the idea of using EGR on these engine families and heavier inertia weight 1.6L engine families because of durability and driveability problems. VW believes it will need to use EGR to meet a 1.0 g/mi NO_x standard with its 2.0L engine families. VW App. p. 9. VW's use of its presently available EGR system would cause particulate emissions to increase significantly and its electronic EGR will not be available during the waiver period. VW App. p. 10. *See also* discussion of this issue at 45 FR 34718, 34723 (May 22, 1980); 46 FR 16325, 16328 (March 12, 1981).

Volvo states that a high rate of EGR would be required to bring NO_x emissions to levels approaching the 1.0 g/mi standard. Volvo App. p. 12. Volvo also states that at that rate of EGR, particulate emissions would increase approximately 50 percent, from a range of 0.25–0.35 g/mi to a range of 0.4–0.5 g/mi. Volvo App. p. 16. Moreover, at these levels Volvo experiences unacceptable engine durability problems. *See* notes 70 and 77, *supra.*

[93] Vehicle Technology App. pp. 7, 8. Peugeot XD2S/XD3S App. p. 4; Peugeot XD2C App. p. 4; Peugeot XUD9 App. p. 6; Chrysler App.

[94] Vehicle Technology, which produces only diesel vehicles, states that it would not be able to sustain itself without the ability to market the diesel vehicles in question during the waiver period, and that it would be forced out of business. Vehicle Technology App. pp. 18, 19.

Peugeot states that 90 percent of its U.S. sales are diesel vehicles, and that if it could not market its diesel vehicles, Peugeot of America would be forced out of business. Peugeot XD2S/XD3S App. 5; Peugeot XD2C App. p. 5; Peugeot XUD9 App. p. 6.

[95] Chrysler Supp.; Chrysler's application, which incorporates Peugeot's XUD9 application by reference, states that the introduction of this engine family "represents a critical part of our marketing plan." Chrysler App.

Peugeot has submitted data showing that the EGR rate it would most likely use to try to meet a 1.0 g/mi NO_x standard would result in higher particulate emissions than the EGR rate it will use to meet interim standards For example, with the 2.3L naturally aspirated XD2C engine family, Peugeot has already shown that it could comply with the 1.0 g/mi NO_x standard using its step-by-step EGR system, but only by using an increased EGR rate with a resulting increase in particulate emissions to a level exceeding the 0.6 g/mi standard. Peugeot XD2C App. p. 25. By granting a waiver and establishing a 1.2 g/mi interim standard, I can avoid the risk that Peugeot will produce this engine family calibrated to a 1.0 g/mi NO_x standard with higher particulate emissions. Similarly, for the XD2S/XD3S, Peugeot submitted preliminary data showing increased particulate emissions with its not fully developed electronically controlled EGR system (calibrated to meet a 1.0 g/mi NO_x standard) over its presently available electropneumatic-type system (calibrated to meet a 1.5 g/mi NO_x standard). Peugeot XD2S/XD3S App. pp. 25, 32. Finally, for the XUD9, Peugeot submitted information indicating that particulate emissions would range from 0.114 to 0.2 g/mi with a low EGR rate system targeted to meet a 1.5 g/mi NO_x standard, and from 0.22 to 0.51 g/mi particulate with a system targeted to meet a 1.0 g/mi NO_x standard. However, at the high EGR rate vehicles, NO_x emissions range between 0.78 and 1.11 g/mi, and vehicles experience significant durability problems. Peugeot XUD9 App. pp. 27, 32, 33.

[96] EPA used the same reasoning in earlier NO_x waiver decisions. *See,* for example, 45 FR 5480, 5490–5492 (January 23, 1980) and 45 FR 34718, 34723. (May 22, 1980). *See also* note 91, *supra.*

The Center for Auto Safety testified at the July 23, 1981 hearing that California has concluded that there is no NO_x-particulate emission control trade-off at the 1.0 g/mi NO_x/0.6 g/mi particulate emission range, and submitted California statements to this effect. It further testified that it would be arbitrary and capricious for EPA to grant NO_x waivers where NO_x control results in particulate emissions below the 0.6 g/mi particulate standard. While EPA has never expressly made a finding of the existence of a NO_x-particulate trade-off for all diesel designs at all levels of emissions, available data for these engine families tend to indicate an increase in particulates as NO_x emissions approach 1.0 g/mi through increased EGR use. Additionally, the California Air Resources Board (CARB) staff, in a recent staff report addressing proposed revisions of California's NO_x standards, now acknowledges manufacturers' contentions of the existence of a NO_x-particulate trade-off. *See* CARB staff report for "Public Hearing to Consider Amendments to Title 13, Section 1960.1 and 1960.15, California Administrative Code, and Related Test Procedures, Regarding Oxides of Nitrogen Exhaust Emission Standards for 1983 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," dated October 5, 1981. *See* note 91, *supra.*

[97] Clean Air Act, as amended, section 202(b)(6) (ii) and (iii), 42 U.S.C. 7521(b)(6)(B) (ii) and (iii) (Supp. I 1977). For a discussion of the methods by which EPA makes the statutory determinations that these criteria require, *see* section III(C) of the first decision at 45 FR 5493–5494 (January 23, 1980).

[98] BMW Supp.; BMW Supp. II.; BMW Supp. III.; BMW App. p. 139. Ford App. p. 3.

Peugeot XD2C App. p. 207; Peugeot XD2S/XD3S App. pp. 136, 138; Peugeot XUD9 App. pp. 135, 147.

Chrysler App.

Vehicle Technology App. pp. 8, 9, 21, 22. Vehicle Technology has the potential to meet fuel economy requirements in model year 1984 after the expiration of its waiver. It plans to reduce the weight and horsepower of its larger vehicles, and projects that it will meet EPCA requirements.

VW App. pp. 22–24. *See also* discussion of fuel economy waiver criterion at 45 FR 34718, 34723 n. 90, 69.

Volvo App. pp. 8, 9.

[99] 42 U.S.C. 7521(b)(6)(B)(iii) (Supp. I 1977).

[100] *See,* 45 FR 5480 at 5493 (January 23, 1980), 45 FR 34718 at 34723 (May 22, 1980).

[101] BMW is developing improved EGR systems and a particulate trap system that has the potential to meet applicable standards in model year 1985. BMW App. pp. 122, 129, 130. *See also,* note 67, *supra.*

The above analysis also applies to Ford's application.

In its three applications, Peugeot details steps that it plans to take to meet emission standards in model year 1985. Peugeot XD2C App. pp. 6, 12, 19–22, 58, 59, 60, 210; Peugeot XD2S/XD3S App. pp. 6, 12, 17, 31, 38, 139; Peugeot XUD9 App. pp. 7, 14, 19, 24, 26, 51–52, 138. Peugeot has expressed doubts about its ability to meet a 1.0 g/mi NO_x and a 0.2 particulate standard in model year 1985. However, EPA has identified strategies that potentially will enable engine families like Peugeot's to meet a particulate standard of 0.2 g/mi in the 1985 model year. *See* Particulate Rulemaking at 14497–14500.

The above analysis regarding Peugeot's XUD9 engine family also applies to Chrysler's application.

Vehicle Technology states that its engine families have the potential to meet applicable emission standards in model year 1984, after its requested waiver expires.

Vehicle Technology App. pp. 9, 10. Vehicle Technology also hopes to meet the 0.2 g/mi particulate standard in the 1985 model year and is negotiating with several suppliers of emission control equipment to accomplish that end. Vehicle Technology App. p. 23.

VW plans to meet applicable emission standards in model year 1985 with its smaller diesel engines (1.6L) through engine modifications and possibly

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these models have the potential for long-term air quality benefit.

E. *Final Decision and Amended Rule.* Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 g/mi NO_x and to prescribe interim standards which provide the NO_x emissions may not exceed 1.5 g/mi for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983, and/or 1984 which meet the statutory waiver criteria.

Based on the above discussion, I hereby grant the requested waivers of the 1.0 g/mi NO_x standard for the engine families listed in section II of this decision. I am simultaneously promulgating interim standards of between 1.2 g/mi and 1.5 g/mi for those engine families and model years, as noted.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3965 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 256

[SW-4-FRL 2018-6]

Approval of North Carolina Solid Waste Management Plan

AGENCY: Region IV, Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of North Carolina has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the North Carolina Solid Waste Management Plan. Approval of the North Carolina plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the North Carolina Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979 (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), approval of Iowa Solid Waste Management Plan.

On February 6, 1981, the North Carolina Department of Human Resources, Division of Health Services, submitted the final, officially adopted Solid Waste Management Plan for the State of North Carolina. Among EPA concerns regarding the North Carolina plan was coverage of certain wastes. Certain sludges, agricultural wastes, and mining wastes subject to RCRA Subtitle D criteria will be regulated by the State in a manner equivalent to that criteria by whichever authority is appropriate to the task. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

Another consideration concerned use of the State's permitting system to prohibit establishment of new open dumps. The State assured EPA that permit conditions set for new facilities would prevent the establishment of new open dumps. The State has also confirmed to EPA that use of compliance schedules for solid waste facilities would be limited only to those facilities unable to comply with other public or private alternatives for solid waste management.

The State also assured EPA that other methods of disposal of waste are not permitted with the exception of land application, which must comply with State permits and standards.

DHS confirmed that variances from State regulations will not be allowed where a conflict with the requirements of RCRA may result.

There are no restrictions on State or local authority to enter into long term contracts. Restrictions on contracting by local governments apply to franchises for solid waste disposal rather than resource recovery activities.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the North Carolina Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under Section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of North Carolina for approval. I find that the North Carolina plan meets the minimum requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the North Carolina Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Kentucky Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's

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electronically controlled EGR (depending on the weight class). VW App., 10. For its larger 2.0L engines, VW expects to meet 1985 model year standards with electronically controlled EGR. VW App. pp. 3, 11, 13. *See also* note 76, *supra*.

Volvo plans to meet the 1985 model year standards using electronically controlled EGR and injection timing, possibly with the addition of a particulate trap. Volvo App. pp. 13, 15, 16.

action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of North Carolina's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of North Carolina's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–4047 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 256

[SW–4–FRL 2018–3]

Approval of the Alabama Solid Waste Management Plan

AGENCY: Region IV, Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Alabama has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Alabama Solid Waste Management Plan. Approval of the Alabama plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Alabama Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT:

James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, phone: 404/881–3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On April 20, 1981, the Alabama Department of Public Services, Division of Solid Waste Management, submitted the final, officially adopted Solid Waste Management Plan for the State of Alabama. Among EPA concerns regarding the Alabama plan was coverage of coal mining wastes, livestock and poultry wastes, septic tank pumpings and wastes from industrial operations.

The State has assured EPA that each of these wastes will be regulated in a manner equivalent to the Federal criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

The State assured EPA that industrial wastes controlled by other agencies would be adequately controlled through agreements with these agencies.

Another concern was the State's ability to prohibit the establishment of new open dumps. The State satisfies this condition by requiring Letters of Approval for all industrial disposal of solid wastes. Conditions will be set which are equivalent to EPA criteria.

The State also assured EPA that compliance schedules would be issued only when facilities have demonstrated alternative methods of solid waste disposal cannot be utilized.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Alabama Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Alabama for approval. I find that the Alabama plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Alabama Solid Waste Management Plan.

IV. Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Alabama Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Alabama's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Alabama's solid waste management plan will not have a significant

economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4048 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-4-FRL-2018-1]

Approval of the Mississippi Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Mississippi has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Mississippi Solid Waste Management Plan. Approval of the Mississippi Plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Mississippi Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On February 23, 1981, the Mississippi Department of Public Services, Division of Solid Waste Management, submitted the final, officially adopted Solid Waste Management Plan for the State of Mississippi. Among EPA concerns regarding the Mississippi plan was coverage of oil field waste products. These wastes are regulated in the State by the Mississippi Oil and Gas Board. EPA has determined that oil field waste products subject to RCRA Subtitle D criteria are regulated in a manner equivalent to the Federal criteria. Air pollution control residuals and sewage sludges are regulated appropriately by the State's permitting procedures.

The State assured EPA that new on-site solid waste disposal facilities must obtain a permit in accordance with State solid waste requirements, thus preventing establishment of new open dumps.

Mississippi committed to EPA that variance procedures would not be used to allow establishment of new open dumps. In addition, the State is authorized to set permit conditions equivalent to 40 C.F.R. Part 257 criteria until new regulations are adopted. Further, compliance schedules will be limited to facilities demonstrating an inability to use other public or private alternatives.

The Division will review State and local authorities to enter into long-term contracts and will eliminate any prohibitions.

The State confirmed that the Plan was adopted in accordance with State administrative procedures.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Mississippi Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under Section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Mississippi for approval. I find that the Mississippi plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Mississippi Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Mississippi Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Mississippi's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Mississippi's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4050 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-4-FRL-2018-2]

Approval of the Kentucky Solid Waste Management Plan

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the Commonwealth of Kentucky has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Kentucky Solid Waste Management Plan. Approval of the Kentucky plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Kentucky Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On January 29, 1981, the Kentucky Department for Natural Resources and Environmental Protection submitted the final, officially adopted, Solid Waste Management Plan for the Commonwealth of Kentucky. Among EPA concerns regarding the Kentucky plan was coverage of coal mining wastes. Mining wastes are regulated in the State by the Bureau of Surface Mining Reclamation and Enforcement. EPA has determined that mining wastes subject to RCRA subtitle D criteria will be regulated by the State in a manner equivalent to the Federal criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

Another consideration concerned use of the State's permitting system to prohibit establishment of new open dumps. The State assured EPA that permit conditions set for new facilities would prevent the establishment of new open dumps. The State has also confirmed to EPA that use of compliance schedules for solid waste facilities would be limited only to those facilities unable to comply with other public or private alternative for solid waste management.

The final concern of EPA involve the prohibition on long-term contracts for resource recovery. The State has assured EPA that they will submit to their legislature a change in their solid waste law which will explicitly provide that no State or local government within the State shall be prohibited under State or local law from entering into such contracts.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Kentucky Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the Commonwealth of Kentucky for approval. I find that the Kentucky plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Kentucky Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Kentucky Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

John A. Little,

Acting Regional Administrator.

Subject: Approval of Kentucky's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act.

I certify under 5 U.S.C. 605(b) that the approval of Kentucky's solid waste management plan will not have a significant economic impact on a subtantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4089 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-4-FRL 2018-4]

Approval of the Florida Solid Waste Management Plan

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Florida has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Florida Solid Waste Management Plan. Approval of the Florida plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Florida Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On February 25, 1981, the Florida Department of Environmental Regulation, submitted the final, officially adopted, Solid Waste Management Plan for the State of Florida. Among EPA concerns regarding the Florida plan was coverage of drilling fluid wastes. Drilling fluid wastes are regulated in the State by the Florida Oil and Gas Board. EPA has determined that State disposal standards for drilling fluid wastes will require that they be regulated by the State in a manner equivalent to that of the Federal criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

The State has assured EPA that open dumps for sludge disposal will be prohibited through present sanitary landfill criteria and individual permit conditions.

For new facilities required to obtain solid waste disposal permits, the Florida Department of Environmental Regulation is authorized to set permit conditions that are equivalent to 40 CFR part 257 criteria.

Another EPA concern was Florida's exemption from regulatory permitting for new industrial facilities. This exemption relieves the operator of a new industrial facility only from administrative procedures. Florida has the authority in their regulations to strictly prohibit the disposal of solid waste unless in an environmentally sound manner and all new industries within the State are subject to these regulations. The State has assured EPA that the same level of environmental protection will be achieved for these unpermitted facilities as would be achieved if the facilities were permitted.

The State assured EPA that compliance schedules would be used only when facilities demonstrated that no other disposal alternatives were available.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Florida Solid Waste Management Plan was noticed for review and comment. Comments on the Florida plan were received for 30 days. The only comment received by EPA is responded to in the following discussion.

Comment—The commenter felt that the Florida plan failed to identify potential conflicts between material recycling and energy recovery projects. Particularly, they felt the plan did not regard the needs of the material recycling industry in certain counties.

Response—A public hearing was held on January 27, 1981, on the plan by the State agency. Comments received at the hearing paralleled the concerns of this commenter. After review of the summary of the hearing, EPA concluded that the State of Florida does not promote one type of resource recovery over another. The State also asserted that they would not interfere with decisions which are made at the regional or local level. EPA believes the Plan supports the State's role in resource conservation and recovery and fulfills this requirement of RCRA.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Florida for approval. I find that the Florida plan meets the requirements of RCRA for approval. Under authority of section 4007 of RCRA I approve the Florida Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Florida Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Florida's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Florida's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4046 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-4 FRL 2018-5]

Approval of the Tennessee Solid Waste Management Plan

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Tennessee has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval for the Tennessee Solid Waste Management Plan. Approval of the Tennessee plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Tennessee Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45086) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On April 16, 1981, the Tennessee Department of Public Health submitted the final, officially adopted Solid Waste Management Plan for the State of Tennessee. Among EPA concerns regarding the Tennessee plan were coverage of coal mining wastes and septic tank pumpings.

The State of Tennessee has assured EPA that these wastes are regulated in a manner equivalent to 40 CFR Part 257 criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

The State assured EPA that they possess the authority to set permit conditions to require compliance with standards equivalent to the Federal criteria.

The Department has also reviewed their authority to enter into long-term contracts for resource recovery facilities and found no prohibitions or restrictions.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Tennessee Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Tennessee for approval. I find that the Tennessee plan meets the requirements of RCRA for approval. Under authority of section 4007 of RCRA I approve the Tennessee Solid Waste Management Plan.

IV. Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Tennessee Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Tennessee's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Tennessee's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorusch,

Administrator.

[FR Doc. 82-4045 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5B-1, 5B-2

[APD 2800.4, CHGE 10]

Reports of Identical Bids; Listing of Subcontractors

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration procurement regulations, Chapter 5B, are amended by adding a new subpart, Reports of Identical Bids, which requires that a copy of Department of Justice Form DJ-1500, Identical Bid Report for Procurement, be forwarded to the Office of Inspector General. In addition, the clause, Listing

of Subcontractors, is relocated, redesignated, and revised. This clause requires bidders to name the subcontractors with whom the bidder proposes to subcontract with for performance. The effect of this change is to improve the procurement system.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8947).

1. The Contents for Part 5B–1 is amended by adding Subpart 5B–1.16 to read as follows:

PART 5B–1—GENERAL

Sec.

Subpart 5B–1.16—Reports of Identical Bids

5B–1.1603 Reporting requirements.
5B–1.1603–3 Submission of reports.

Subpart 5B–1.16—Reports of Identical Bids

2. Subpart 5B–1.16 is added to read as follows:

§ 5B–1.1603 Reporting requirements.

§ 5B–1.1603–3 Submission of reports.

Identical bid reports shall be prepared by contracting officers on U.S. Department of Justice Form DJ–1500, Identical Bid Report for Procurement, in accordance with § 1–1.1603. The report shall be reviewed by the Director of the procuring activity and shall be transmitted as follows:

(a) Two copies as required by FPR 1–1.1603–3(b) shall be sent to the Attorney General, Ref. AT–IBR, Washington, DC 20530 (No transmittal letter is required), and

(b) One copy to the appropriate GSA Special Agent in Charge, Field Investigations Office, Office of Investigations, Office of Inspector General.

3. The Contents for Part 5B–2 is amended by redesignating § 5B–2.202–70 to read "§ 5B–2.202–51", as follows:

PART 5B–2—PROCUREMENT BY FORMAL ADVERTISING

Sec.

Subpart 5B–2.2—Solicitation of Bids

5B–2.202–51 Listing of subcontractors.

Subpart 5B–2.2—Solicitation of Bids

4. Section 5B–2.202–70 is redesignated as § 5B–2.202–51 and revised to read as follows:

§ 5B–2.202–51 Listing of subcontractors.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, invitations for bids for new construction and repair and alteration contracts shall require the bidder to name the subcontractors with whom the bidder proposes to subcontract for performance of onsite work of the categories set forth in the supplement to bid form, List of Subcontractors (see § 5B–2.202–51(h)), or to enter the bidder's own name to indicate work that will not be subcontracted. For each project, the contracting officer shall determine the categories of the specified work for which the names are to be submitted, based on the following criteria:

(1) The listing shall include all heating, ventilating, and air-conditioning (HVAC), electrical; and vertical transportation categories without regard to estimated value.

(2) In addition, the listing shall include all categories of work in the project specifications which, individually, are determined by the contracting officer to compose at least 6 percent of the estimated contract price. Categories estimated to cost less than 6 percent shall not be included. For the purpose of determining which categories constitute 6 percent or more of the total contract price, computations for each category shall include all estimated costs of the work in the category (including materials, equipment, and offsite labor as well as onsite labor) plus a prorated share of applicable markups such as those for overhead, profit, and bond premiums.

(3) To identify the work encompassed in a category and thereby enable the bidders to ascertain all of the work for which they are obliged to name proposed subcontractors (or themselves), the supplement to bid form, List of Subcontractors, (see § 5B–2.202–51(h)), included in the invitation for bids shall be prepared as follows:

(i) For HVAC, enter on the form: "All HVAC work in Div. 15, Mechanical", and provide several spaces for the bidder to enter more than one name and address as appropriate.

(ii) Identify all other applicable categories on the supplement to bid form, List of Subcontractors, by section number and title as used in the specifications.

(b) Invitations for bids on separate contracts for phased construction where individual categories of work are bid separately need not include a subcontractor listing requirement unless two or more categories of work (as defined in paragraph (a) of this section) are combined in one bid package and the contracting officer, or the contracting officer's designee, determines the contract offers subcontracting opportunities as indicated by trade practice.

(c) The requirement to name subcontractors shall not be included in invitations for bids on contracts for new construction or repair and alteration which are not estimated to exceed $1 million. It may be omitted from invitations for bids on specific contracts estimated to exceed this amount, if the contracting officer determines that the listing requirement is not feasible. In such case, he should submit his findings for Central Office approval prior to issuance of the solicitation.

(d) Where bids on alternates are required, the estimated cost of the maximum amount of work which might be included in an award of the contract shall serve as the basis for determining whether both the requirements for listing of subcontractors shall be included in the invitation and the categories of work to be included on the list.

(e) The list of categories of work (as discussed in § 5B–2.202–51(a)) for which subcontractors are required to be named shall be set forth in the supplement to the bid form, List of Subcontractors. This supplement shall be prepared as provided in paragraph (a) of this section.

(f) The following clause shall be included in the Special Conditions:

List of Subcontractors

(a) For each category on the List of Subcontractors, which is included as part of the bid, the bidder shall enter either (1) the name and address of the individual or firm with whom the bidder proposes to subcontract for performance of the category, or (2) the bidder's own name to indicate that the category will not be performed by subcontract.

(b) If the bidder intends to subcontract with more than one subcontractor for a category, or to perform a portion of a category with the bidder's own forces and subcontract with one or more subcontractors for the balance of the category, the bidder shall list all individuals or firms (including the bidder) and state the portion (by percentage or narrative description) of the category to be performed by each.

(c) If any alternate bids are required which would change the bidder's selection of subcontractors for designated categories, the bidder shall list (1) the name and address of the individual or firm with whom the bidder proposes to subcontract (or the bidder's own name) for performance of the category if awarded the contract on the base bid only and (2) the individual or firm with whom the bidder proposes to subcontract (or the bidder's own name) if the award includes one or more of the related alternatives. The bidder shall clearly show, after each listing, the basis for which each named individual or

firm shall be considered to be the listed subcontractor for the category.

(d) The list may be submitted with the bid or separately by telegraph or mail. If mailed separately, the envelope must be sealed, identified as to content, and addressed in the same manner as prescribed for submission of bids. Failure to submit the list by the time set for bid opening shall cause the bid to be considered nonresponsive except under the conditions set out in the Late Bids and Modifications or Withdrawals clause of Standard Form 22, Instructions to Bidders (Construction Contract).

(e) Except as otherwise provided herein, the successful bidder (contractor) shall not have the onsite work of any listed category or portion of category performed by any individual or firm other than those named in the bid for performance thereof.

(1) The contractor shall perform all onsite work of each category for which the contractor entered the contractor's own name, with personnel carried on the contractor's own payroll (other than operators of leased equipment).

(2) The contractor shall require any firm listed for the entire heating, ventilating, and air-conditioning (HVAC) to be experienced in and normally perform either heating or air-conditioning. The listed subcontractor shall perform with the subcontractor's own forces at least 30 percent of the onsite labor for the entire HVAC category. If two or more firms are listed, at least one shall meet the experience requirements above and perform a minimum of 30 percent of the onsite labor of the work for the entire category.

(3) For all other categories, the contractor shall require each subcontractor named in the bid for an entire category or portion thereof to perform with personnel carried on the subcontractor's own payroll (other than operators of leased equipment) not less than 70 percent [1] of the onsite work of that category or portion of category.

(f) In the event a subcontractor fails or refuses to perform with the subcontractor's own forces, the minimum amount of onsite work as specified above, the Government shall have the right to require the contractor (1) to terminate the subcontract (2) to secure approval for a substitution under the terms and conditions set forth in paragraphs (j) and (l) of this clause.

(g) For the purpose of this requirement, the following definitions apply:

(1) The term "subcontractor" shall mean an individual or firm with whom the bidder proposes to enter into a subcontract for the performance of work on the site, including construction, fabrication, or installation of materials and/or equipment pursuant to the project specifications applicable to any category included on the List of Subcontractors. It excludes any manufacturer, fabricator, or supplier whose onsite work would be limited to incidental activities such as testing or adjusting equipment or material installed by others.

[1] If the contracting officer determines that the 70 percent performance requirement, as stated above, is not feasible for a specific contract, the contracting officer may specify a lesser percentage and submit his findings for Central Office approval prior to issuance of the solicitation.

(2) The term "subcontract" includes, in addition to a two-signature document, all transactions resulting from acceptance of offers by awards or notices of awards, agreements and job orders, letter agreements, and letters of intent and orders such as purchase orders, under which the subcontract becomes effective by written acceptance or performance. It also includes modifications thereto.

(3) The term "onsite work" is the cost of labor and supervision and excludes the cost of materials and/or equipment.

(h) Nothing contained in this clause shall be construed as changing the percentage requirement in the General Conditions for the contractor to perform with the contractor's own forces.

(i) The contractor shall be responsible for all aspects of performance by subcontractors.

(j) No substitutions for the individuals or firms named will be permitted except in unusual situations and then only upon the submission in writing to the contracting officer of a complete justification therefor and receipt of the contracting officer's written approval. The contractor shall not be entitled to any increase in the contract price if substitution is authorized. However, the contract price shall be reduced if the contractor's cost of performing the work is decreased as a result of approval of a subcontractor substitution. In the event the contracting officer finds that substitution is not justified, the contractor's failure or refusal to proceed with the work by or through the named subcontractor shall be grounds for termination of the contract under the provisions of Clause 5 of the General Provisions.

(k) Notwithstanding any of the provisions of this clause, the contracting officer shall have authority to disapprove or reject the employment of any subcontractor he has determined nonresponsible or who does not meet the requirements of an applicable Specialist or Competency of bidder clause.

(l) The contracting officer shall have the right to require any information and supporting evidence he may deem relevant and necessary in connection with the approval or disapproval of a request for substitution and to determine the extent of reduction (if any) in the contract price in the event substitution is approved, including, but not limited to, certified copies of the original worksheets used in the preparation of the bid on the prime contract, certified copies of the offers submitted to the successful bidder by the named subcontractor and the proposed substitute, and affidavits as to the circumstances relating to the request for substitution or the estimated cost of performance by any subcontractor named or proposed as a substitute. The contractor's failure or refusal to proceed with the work by or through a named subcontractor after failing or refusing for an unreasonable period of time to furnish information and supporting evidence as required by the contracting officer in connection with a request for approval for a substitution shall be grounds for termination under the provisions of Clause 5 of the General Provisions.

(m) Nothing contained in this clause shall in itself be construed to create any contract or property rights in the successful bidder or any subcontractor. The imposition of any requirements under subparagraph (k) of this clause or the contracting officer's refusal to approve a substitution pursuant to the provisions of subparagraphs (j) and (l) of this clause shall not give rise to any cause of action against the Government by the successful bidder or by any subcontractor engaged or proposed to be engaged by the successful bidder.

(n) If the bidder fails to comply with the requirements of subparagraph (a), (b), or (c) of this clause, the bid will be rejected as nonresponsive to the invitation.

(o) In order to implement effectively the objectives of the foregoing provisions and to assure the timely receipt of accurate bids, the bidder is requested to urge all subcontractors intending to submit a proposal for work involved in the project to submit to all bidders to whom they intend to bid, a written proposal (or written abstract) with or without price, outlining in detail the specific sections of the specifications to be included in their work, as well as any exceptions or exclusions therefrom. It is suggested that such written proposal be submitted to the bidder at least 48 hours in advance of the bid opening.

(g) Contracting officers shall treat separate submissions of lists of subcontractors in the same manner as submissions of bids with respect to timeliness of receipt, modification, or withdrawal, and may consider lists of subcontractors, modifications, or withdrawals thereof, received after bid opening time only under the conditions specified in instruction No. 7 of Standard Form 22, Instruction to Bidders. See also § 1-2.201(a)(31).

(h) The supplement to the bid form required by paragraph (e) of this section shall conform to the following format (to be prepared by typewriter and not printed as a GSA Form):

Supplement to Bid Form

List of Subcontractors

Project No. ——

Listed below are the names and business addresses as required by the "Listing of Subcontractors" paragraph of the Special Conditions:

Category—section number/title	Subcontractor—names and business addresses	Portion of category (as applicable)

Note.—The listing of an individual or firm (whether a subcontractor or the bidder) who does not meet the requirements of the Specialist or Competency of Bidder clauses in the specifications, wherever applicable, may be grounds for rejection of the bid.

Name of Bidder: ——————

By: ——————

Date: ——————

5. Section 5B–2.202–71(a) is revised as follows:

§ 5B–2.202–71 Circumstances permitting substitution for subcontractor named in bid.

(a) The contracting officer may permit substitution of a subcontractor for one named in a bid pursuant to the Listing of Subcontractors provision included in an invitation for bids, in unusual situations, upon submission by the contractor or bidder of a complete justification therefor. (See § 5B–2.202–51(f).) The term "unusual situations" includes (but is not limited to) a subcontractor's:

(1) Death or physical disability, if the named subcontractor is an individual;

(2) Dissolution, if a corporation or partnership;

(3) Bankruptcy;

(4) Inability to furnish a reasonable performance and payment bond;

(5) Inability to obtain, or loss of, a license necessary for the performance of the particular category of work;

(6) Failure or inability to comply with a requirement of law applicable to contractors, subcontractors, or construction, alteration, or repair projects;

(7) Failure or refusal to execute the subcontract in accordance with the terms of an offer submitted to the contractor or bidder prior to the latter's submission of his bid, but only where the contracting officer can ascertain with reasonable certainty the terms of such offer. In the absence of any other factors, such a failure or refusal will be considered an unusual situation only if the bidder obtained, prior to bidding, an enforceable commitment from the subcontractor involved;

(8) Failure to meet any criteria of responsibility set out in Subpart 1–1.12, but only when the contracting officer, in the exercise of sound discretion, finds that substitution for this cause would be in the best interests of the Government (i.e., that it would not be prejudicial to the rights of other bidders and that the contractor or bidder has not attempted to circumvent the restraint on bid shopping by listing a nonresponsible subcontractor in order to gain an opportunity to bid shop prior to making the requested substitution); or

(9) Failure to meet the qualification requirements of an applicable Specialist or Competency of Bidder clause, but only when the contracting officer, in the exercise of sound discretion, after discussion with the contractor or bidder and, if appropriate, the named subcontractor, finds that substitution for this cause would be in the best interests of the Government as specified in § 5B–2.202–71(a)(8), above.

* * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: January 29, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82–4004 Filed 2–12–82; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR PUBLIC LAND ORDER 6131

[WASH–05324]

Washington; Revocation and Partial Revocation of Executive Orders

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order and partially revokes another Executive order comprising a total of 22.39 acres of land withdrawn for lighthouse purposes. The lands are excess property and have been reported to the General Services Administration for disposition. Accordingly, they will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of December 14, 1886, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 31 N., R. 6 W.,
Sec. 33, out lots 1, 2, and 3.

The area described contains 15.05 acres in Clallam County.

2. The Executive Order of February 10, 1908, which withdrew the following described land for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked:

Willamette Meridian

T. 31 N., R. 6 W.,
Sec. 33, unnumbered lot reserved for lighthouse purposes within the Port Angeles Townsite.

The area described contains 7.34 acres in Clallam County.

3. The lands described in paragraphs 1 and 2 have been reported to the General Services Administration for disposition as excess property and will not be restored to operation of the public land laws, including the United States mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior

February 5, 1981.

[FR Doc. 82–4008 Filed 2–12–82; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6250]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street, Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain

management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania: Adams	Bonneauville, Borough of	422294A	Aug. 5, 1975, emergency, Aug. 3, 1981, regular, Aug. 3, 1981, suspended, Jan. 4, 1982, reinstated.	Dec. 27, 1974.
Maryland: Anne Arundel	Annapolis, City of	240008B	Dec. 7, 1973, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Jan. 12, 1982, reinstated.	June 28, 1974 and Dec. 19, 1975.
Somerset	Unincorporated Areas	240061A	May 8, 1981, emergency, June 15, 1981, regular, June 15, 1981, suspended, Jan. 12, 1982, reinstated.	Apr. 25, 1975.
North Carolina: Lincoln	do	370146B	Jan. 27, 1976, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Jan. 4, 1982, reinstated.	Dec. 27, 1974 and May 26, 1978.
Maryland: Anne Arundel	Annapolis, City of	240008B	Dec. 7, 1973, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Jan. 12, 1982, regular.	June 28, 1974 and Dec. 19, 1975.
Somerset	Unincorporated Areas	240061A	May 8, 1981, emergency, June 15, 1981, regular, June 15, 1981, suspended, Jan. 12, 1982, reinstated.	Apr. 25, 1975.
Connecticut: Tolland	Stafford, Town of	090152A	Jan. 12, 1982, emergency	July 25, 1980.
Tennessee: Marshall	Lewisburg, City of	470121	do	Mar. 1, 1974, Aug. 6, 1976 and Aug. 1, 1980.
Texas: Van Zandt	Fruitvale, City of	481041	do	July 16, 1976.
Brown	Early, City of	480088	do	May 17, 1974 and Jan. 30, 1976.
Burnet	Unincorporated Areas	481209	Jan. 12, 1982, emergency	Nov. 22, 1977.
Clay	do	480742	Jan. 13, 1982, emergency	
Pennsylvania: Snyder	Chapman, Township of	422034A	Jan. 13, 1975, emergency, Jan. 6, 1982, regular, Jan. 6, 1982, suspended, Jan. 15, 1982, reinstated.	Mar. 28, 1975.
California: Trinity	Unincorporated Areas	060401A	Jan. 15, 1982, emergency	Dec. 20, 1974 and Dec. 13, 1977.
Texas: Henderson	Brownsboro, City of	480325	do	Dec. 10, 1976.
New York: Allegany	Friendship, Town of	361100	Jan. 22, 1982, emergency	Jan. 3, 1975.
Wisconsin: Waushara	Wild Rose, Village of	550507A	do	June 4, 1976 and May 31, 1974.
South Dakota: Pennington	Unincorporated Areas	460054B	May 28, 1974, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Jan. 25, 1982, reinstated.	Dec. 27, 1974 and Mar. 7, 1978.
Pennsylvania: McKean	Bradford, Township of	422245B	July 2, 1975, emergency, Sept. 16, 1981, regular, Sept. 16, 1981, suspended, Jan. 27, 1982, reinstated.	May 10, 1974 and Oct. 15, 1976.
Alaska:	Hoonah, City of	020049B	June 14, 1976, emergency, Apr. 4, 1979, regular, Apr. 16, 1979, suspended, Jan. 28, 1982, reinstated.	June 7, 1974 and Jan. 14, 1977.
Missouri: Cole	Unincorporated Areas	290107B	Jan. 21, 1982, emergency, Jan. 21, 1982, regular.	Dec. 16, 1980 and Dec. 15, 1981.
Tennessee: Shelby	Germantown, City of	470353B	Oct. 1, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended, Jan. 29, 1982, reinstated.	Sept. 15, 1978.
Texas: Palo Pinto	Graford, City of	480964	Jan. 27, 1982, emergency	July 11, 1975.
Alabama: Tuscaloosa	Northport, City of	010202C	Jan. 6, 1982, suspension withdrawn	July 9, 1976, Sept. 5, 1979 and Mar. 27, 1981.
Arizona: Apache	Eager, Town of	040103A	Jan. 6, 1982, suspension withdrawn	Aug. 8, 1975.
California: Sacramento	Folsom, City of	060263B	do	Dec. 3, 1976
Kern	Ridgecrest, City of	060061B	do	Sept. 6, 1974 and Feb. 4, 1977.
Colorado: Montrose	Naturita, Town of	080126B	do	May 17, 1974 and Jan. 9, 1976.
Connecticut: Windham	Chaplin, Town of	090179A	do	Dec. 13, 1974.
Hartford	East Granby, Town of	090025B	do	May 31, 1974 and Aug. 13, 1976.
Illinois: Dupage	Carol Stream, Village of	170202C	do	Apr. 12, 1974, Aug. 27, 1976 and June 15, 1978.
Kansas: Butler	Unincorporated Areas	200037	do	Feb. 21, 1978 and Mar. 2, 1981.
Maine: Cumberland	Gray, Town of	230048A	do	Feb. 18, 1977.
Massachusetts: Middlesex	Marlborough, City of	250203B	do	July 26, 1974 and Nov. 15, 1977.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota:				
Dodge	Hayfield, City of	270552B	do.	Aug. 2, 1974 and July 11, 1976.
Houston	Unincorporated areas	270190B	do.	Jan. 6, 1978.
Dodge	Kasson, City of	270581A	do.	Dec. 27, 1974.
New Jersey:				
Camden	Camden, City of	340128B	do.	Oct. 22, 1976 and Dec. 1, 1981.
Middlesex	East Brunswick, Township of	340269B	do.	Jan. 23, 1974 and Apr. 15, 1977.
Atlantic	Folsom, Borough of	340568A	do.	Jan. 31, 1975.
New York:				
Monroe	Clarkson, Town of	360413B	do.	June 14, 1974 and July 9, 1976.
Rockland	Haverstraw, Town of	360681C	do.	Dec. 13, 1974 and Nov. 2, 1979.
Do.	Hillburn, Village of	360683B	do.	Mar. 15, 1974 and Aug. 6, 1976.
Onondaga	Lysander, Town of	360583B	do.	Dec. 13, 1974 and July 2, 1976.
Orange	Monroe, Village of	360622B	do.	Aug. 2, 1974 and Dec. 24, 1976.
Niagara	North Tonawanda, City of	360508B	do.	Apr. 12, 1974 and May 7, 1976.
Do.	Pendleton, Town of	360509B	do.	May 13, 1974 and Apr. 16, 1976.
St. Lawrence	Potsdam, Village of	360709B	do.	Mar. 8, 1974 and July 30, 1976.
Rockland	Sloatsburg, Village of	360690C	do.	Mar. 22, 1974 and May 26, 1979.
Ohio: Knox	Centerburg, Village of	390307B	do.	May 17, 1974 and Apr. 16, 1976.
Oregon:				
Washington	Cornelius, City of	410261A	do.	Nov. 5, 1976.
Clackamas	Wilsonville, City of	410025B	do.	Mar. 29, 1974 and Aug. 6, 1976.
Pennsylvania:				
Lancaster	Columbia, Borough of	420543B	do.	June 15, 1973 and Apr. 30, 1976.
York	Hanover, Borough of	422212B	do.	May 20, 1977.
Fayette	Redstone, Township of	421635A	do.	Jan. 17, 1975.
Rhode Island: Providence	Woonsocket, City of	445411B	do.	Jan. 16, 1976 and Oct. 13, 1981.
South Carolina: Dorchester	Unincorporated Areas	450088B	do.	Dec. 23, 1977.
Vermont: Chittenden	Milton, Town of	500038B	do.	July 26, 1974 and Apr. 15, 1977.
Wisconsin: Washington	Kewaskum, Village of	550474C	do.	Dec. 28, 1973, Apr. 23, 1976 and Mar. 11, 1977.
Alabama:				
Lauderdale	Florence, City of	010140C	Jan. 20, 1982, suspension withdrawn.	May 17, 1974, Mar. 26, 1976 and May 2, 1977.
Montgomery	Montgomery, City of	010174D	do.	June 28, 1974, Jan. 9, 1976, Mar. 9, 1979 and May 10, 1977.
Arkansas: Pulaski	Alexander, City of	050377A	do.	Apr. 18, 1975.
California: Imperial	Holtville, City of	060070B	do.	Apr. 5, 1974 and Dec. 5, 1975.
Florida: Hendry	Labelle, City of	120109B	do.	Jan. 16, 1976 and Feb. 13, 1976.
Idaho:				
Nez Perce	Culdesac, City of	160102B	do.	Oct. 18, 1974 and Dec. 12, 1975.
Do.	Lewiston, City of	160104B	do.	Aug. 16, 1974 and May 28, 1976.
Do.	Peck, City of	160105B	do.	Aug. 16, 1974 and Jan. 16, 1976.
Illinois: Rock Island	Andalusia, Village of	170583B	do.	Mar. 15, 1974 and June 18, 1976.
New Jersey:				
Monmouth	Millstone, Township of	340314B	do.	Mar. 29, 1974 and May 14, 1976.
Gloucester	Monroe, Township of	340268B	do.	Sept. 20, 1974 and June 25, 1976.
Bergen	Northvale, Borough of	340056B	do.	Aug. 31, 1973 and July 30, 1976.
Camden	Winslow, Township of	340148B	do.	July 26, 1974 and July 30, 1976.
Burlington	Woodland, Township of	340551A	do.	Apr. 25, 1975.
New York:				
Erie	Hamburg, Village of	360243B	do.	Oct. 29, 1976 and Feb. 17, 1977.
Livingston	Leicester, Town of	361285B	do.	Oct. 18, 1974 and Aug. 20, 1976.
Oswego	West Monroe, Town of	360664B	do.	Sept. 20, 1974 and Aug. 6, 1976.
Livingston	York, Town of	361289A	do.	Nov. 29, 1974.
North Carolina: Nash	Unincorporated Areas	370276B	do.	June 1, 1978.
Oklahoma:				
Oklahoma	Nichols Hills, City of	400423A	do.	Dec. 20, 1974.
Leflore	Poteau, City of	400093A	do.	Nov. 1, 1974.
Pennsylvania:				
Montgomery	Upper Hanover, Township of	421917A	do.	Nov. 22, 1974.
Fayette	Washington, Township of	421641A	do.	Dec. 20, 1974.
Texas: Bee	Beeville, City of	480027B	do.	May 10, 1974 and Jan. 23, 1976.
Vermont: Franklin	Fairfax, Town of	500052B	do.	May 17, 1974 and Oct. 22, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3788 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6249]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The Communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from

the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohue Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Pennsylvania:				
Allegheny	Franklin Park, borough of	420037	750110, emergency, 820101, regular	760730
Bradford	Troy, borough of	420178	750711, emergency, 820101, regular	740510
Alabama:				
Shelby	Helena, town of	010294	781221, emergency, 820106, regular	750110
Russell	Hurtsboro, town of	010165	760120, emergency, 820106, regular	750716
Montgomery	Montgomery county [2]	010276	751022, emergency, 820106, regular	750117
Etowah	Rainbow City, city of	010351	750915, emergency, 820106, regular	770216
Macon	Tuskegee, city of	010150	750808, emergency, 820106, regular	740816
Arizona: Apache	Eager, town of	040103	760413, emergency, 820106, regular	750606
California:				
Sacramento	Folsom, city of	060253	770310, emergency, 820106, regular	781203
Los Angeles	Lancaster, city of	060672	800215, emergency, 820106, regular	780911
....do	Palmdale, city of	060144	751003, emergency, 820106, regular	741016
Kern	Ridgecrest, city of	060081	750908, emergency, 820106, regular	740906
Colorado: Montrose	Naturita, town of	080126	750618, emergency, 820106, regular	740517
Connecticut:				
Windham	Chaplin, town of	090179	751218, emergency, 820106, regular	741213
Hartford	East Granby, town of	090025	740409, emergency, 820106, regular	740531
Illinois:				
Boone	Belvidere, city of	170008	740626, emergency, 820106, regular	740315
Du Page	Carol Stream, village of	170202	730904, emergency, 820106, regular	740412
Rock Island	Rapids City, village of	170593	750401, emergency, 820106, regular	740322
Massachusetts: Middlesex	Marlborough, city of	250293	750725, emergency, 820106, regular	740726
Maine: Cumberland	Gray, town of	230048	750717, emergency, 820106, regular	770218
Minnesota:				
Dodge	Hayfield, city of	270550	740219, emergency, 820106, regular	740802
Houston	Houston county [2]	270180	740430, emergency, 820106, regular	780106
Dodge	Kasson, city of	270581	740520, emergency, 820106, regular	741227
North Caroline: New Hanover	Kure Beach, town of	370170	740912, emergency, 820106, regular	740215
New Jersey:				
Middlesex	East Brunswick, township	340260	720915, emergency, 820106, regular	740123
Atlantic	Folsom, borough of	340568	750221, emergency, 820106, regular	750131
....do	Hammonton, town of	340010	750707, emergency, 820106, regular	740531
New York:				
Monroe	Clarkson, town of	360413	740807, emergency, 820106, regular	740614
Rockland	Haverstraw, town of	360681	741213, emergency, 820106, regular	740329
....do	Hillburn, village of	360683	750618, emergency, 820106, regular	740315
Onondaga	Lysander, town of	360583	741015, emergency, 820106, regular	741213
Orange	Monroe, village of	360622	750310, emergency, 820106, regular	740802
Niagara	North Tonawanda, city of	360508	750514, emergency, 820106, regular	740412
....do	Pendleton town of	360509	740412, emergency, 820106, regular	740531
St. Lawrence	Potsdam, village of	360709	740520, emergency, 820106, regular	740906
Rockland	Sloatsburg, village of	360690	750707, emergency, 820106, regular	740322
Ohio: Knox	Centerburg, village of	390307	750527, emergency, 820106, regular	740517
Oklahoma: Carter	Ardmore, city of	400031	750305, emergency, 820106, regular	740329
Oregon:				
Washington	Cornelius, city of	410261	780419, emergency, 820106, regular	781105
....do	Durham, city of	410263	791107, emergency, 820106, regular	791112
....do	Sherwood, town of	410273	810204, emergency, 820106, regular	780813
Clackamas	Wilsonville, city of	410025	750430, emergency, 820106, regular	740329
Pennsylvania				
Lancaster	Columbia, borough of	420543	730309, emergency, 820106, regular	750615
York	Hanover, borough of	422212	740702, emergency, 820106, regular	770520
Snyder	Middlecreek, township of	422037	741021, emergency, 820106, regular	750110
Fayette	Redstone, township of	421635	750516, emergency, 820106, regular	750117

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
South Carolina: Dorchester	Dorchester county [2]	450066	800411, emergency, 820106, regular	771223
Texas: Fort Bend	Missouri City, city of	480304	730829, emergency, 820106, regular	750117
Vermont: Chittenden	Milton, town of	500036	741111, emergency, 820106, regular	770415
Wisconsin: Washington	Kewaskum, village of	550474	750707, emergency, 820106, regular	731228
Alabama: Montgomery	Montgomery, city of	010174	740212, emergency, 820120, regular	740628
Arkansas:				
Pulaski	Alexander, town of	050377	800926, emergency, 820120, regular	750418
Washington	Fayetteville, city of	050216	740726, emergency, 820120, regular	731228
Randolph	Pocahontas, city of	050183	740925, emergency, 820120, regular	731116
California:				
San Luis Obispo	Atascadero, city of	060709	810514, emergency, 820120, regular	800915
Imperial	Calexico, city of	060207	750730, emergency, 820120, regular	740201
Kern	California City, city of	060440	760906, emergency, 820120, regular	770415
Imperial	Holtville, city of	060070	750710, emergency, 820120, regular	740405
Sonoma	Sonoma County [2]	060375	710827, emergency, 820120, regular	0
Siskiyou	Weed, city of	060549	810910, emergency, 820120, regular	810120
Florida: Hendry	La Belle, city of	120109	740730, emergency, 820120, regular	740116
Idaho:				
Nez Perce	Culdesac, city of	160102	741114, emergency, 820120, regular	741018
....do	Lewiston, city of	160104	740726, emergency, 820120, regular	740816
....do	Peck, city of	160105	750611, emergency, 820120, regular	740816
Illinois: Rock Island	Andalusia, village of	170583	750218, emergency, 820120, regular	740315
Massachusetts:				
Plymouth	Hanson, town of	250267	750403, emergency, 820120, regular	741108
Worcester	Oxford, town of	250370	750724, emergency, 820120, regular	740628
New Jersey:				
Hunterdon	Delaware, township of	340506	741021, emergency, 820120, regular	761029
Monmouth	Millstone, township of	340314	750723, emergency, 820120, regular	740329
Gloucester	Monroe, township of	340206	740812, emergency, 820120, regular	740920
Bergen	Northvale, borough of	340056	740115, emergency, 820120, regular	730831
Camden	Winslow, township of	340148	750731, emergency, 820120, regular	740726
Burlington	Woodland, township of	340551	760219, emergency, 820120, regular	750425
New Mexico: Roosevelt	Portales, city of	350054	741029, emergency, 820120, regular	740329
New York:				
Erie	Hamburg, village of	360243	770217, emergency, 820120, regular	761029
Livingston	Leicester, town of	361285	780324, emergency, 820120, regular	741018
Oswego	West Monroe, town of	360664	751003, emergency, 820120, regular	740920
Livingston	York, town of	361289	750707, emergency, 820120, regular	741129
Oklahoma:				
Oklahoma	Nichols Hills, city of	400423	741219, emergency, 820120, regular	741220
LeFlore	Poteau, city of	400080	751124, emergency, 820120, regular	741101
Sequoyah	Roland, town of	400196	751117, emergency, 820120, regular	760706
Pennsylvania:				
Westmoreland	Avonmore, borough of	420872	750729, emergency, 820120, regular	740201
Lebanon	Heidelberg, township of	420959	730827, emergency, 820120, regular	740628
Snyder	Jackson, township of	422036	750407, emergency, 820120, regular	741122
Westmoreland	Loyalhanna, township of	422190	751202, emergency, 820120, regular	740913
Montgomery	Trappe, borough of	421907	750120, emergency, 820120, regular	741115
....do	Upper Hanover, township of	421917	750213, emergency, 820120, regular	741122
Fayette	Washington, township of	421641	750221, emergency, 820120, regular	741220
Lackawanna	West Abington, township of	421780	790904, emergency, 820120, regular	741220
Texas: Bee	Beeville, city of	480027	740114, emergency, 820120, regular	740510
Vermont: Franklin	Fairfax, town of	500052	750707, emergency, 820120, regular	740517
Missouri: Cole	Cole County	290107	820121, emergency, 820121, regular	801216
Total—92				

[1] Key for reading 4th column (effective date): First two digits designate the year; middle two digits designate the month; and the last two digits designate the day.
[2] Disaster community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3787 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6252]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an

appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a signficiant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama: Jefferson	Unincorporated areas	010217B	May 1, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 7, 1978	Feb. 17, 1982.
Connecticut: Litchfield	Harwinton, town of	090147B	July 23, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and Oct. 22, 1976.	Do.
Idaho:					
Kootenai	Post Falls, city of	160063B	June 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 9, 1974 and May 21, 1976.	Do.
Boundary	Priest River, city of	160026B	May 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and Dec. 5, 1975.	Do.
Louisiana:					
Tangipahoa Parish	Hammond, city of	220208B	Apr. 14, 1975, emergency; Dec. 15, 1981, regular; Feb. 17, 1982, suspended.	Dec. 15, 1981	Do.
Livingston	Walker, town of	220121A	June 26, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Oct. 1, 1976	Do.
Maryland: Washington	Hancock, town of	240109B	Sept. 15, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Aug. 9, 1974 and Dec. 19, 1975.	Do.
Michigan: Wayne	Allen Park, city of	260217B	Mar. 23, 1973, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 3, 1974 and Jan. 10, 1975.	Do.
Minnesota: Hennepin	Brooklyn Center, city of	270151B	July 29, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Nov. 9, 1973 and July 9, 1976.	Do.
New Jersey:					
Burlington	Bordentown, city of	340087B	May 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974 and May 28, 1976.	Do.
Burlington	Burlington, township of	340090B	July 29, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 26, 1974 and Jan. 14, 1977.	Do.
Bergen	Teneafly, borough of	340076C	Apr. 21, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 16, 1974 and Oct. 24, 1975.	Do.
New York:					
Oswego	New Haven, town of	360655B	Dec. 23, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 19, 1974 and April 23, 1976.	Do.
Tioga	Nichols, town of	360837B	Aug. 6, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and Oct. 3, 1975.	Do.
Oswego	Phoenix, village of	360658B	Mar. 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Mar. 22, 1974	Do.
Onondaga	Skaneateles, village of	360593B	Aug. 7, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 31, 1974 and June 18, 1976.	Do.
Broome	Windsor, village of	360900D	June 19, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 19, 1975 and Oct. 24, 1975.	Do.
North Carolina:					
Cumberland	Unincorporated areas	370076B	Nov. 3, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 13, 1974 and July 28, 1978.	Do.
Lenoir & Pitt	Grifton, town of	370192B	Apr. 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 17, 1973 and Jan. 23, 1976.	Do.
Wayne & Duplin	Mt. Olive, town of	370189	July 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 10, 1975 and June 17, 1977.	Do.
Wayne	Seven Springs, town of	370392A	Sept. 4, 1979, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 15, 1977	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Oklahoma: Tulsa	Jenks, city of	400209B	Nov. 1, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 9, 1974 and May 21, 1976.	Do.
Oregon: Washington	Tualatin, city of	410277C	July 3, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 20, 1977 and May 2, 1978.	Do.
Pennsylvania:					
Fayette	Brownsville, township of	421621A	July 9, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974	Do.
Montgomery	Bryn Athyn, borough of	421899A	Mar. 10, 1976, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974	Do.
Chester	East Coventry, township of	421478B	Dec. 3, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Oct. 18, 1974 and Mar. 19, 1976.	Do.
Lycoming	Hepburn, township of	420643B	June 19, 1973, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 10, 1974 and Sept. 24, 1976.	Do.
Adams	Latimore, township of	421162B	Apr. 26, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974 and June 1, 1979.	Do.
[illegible]	Lower Burrell, city of	420841D	Sept. 9, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 18, 1976 and June 28, 1974.	Do.
Do	Murrysville, municipality of	421207A	May 23, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Nov. 5, 1976	Do.
Erie	Waterford, township of	422419A	Mar. 22, 1976, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 24, 1975	Do.
Washington: Thurston	Olympia, city of	530191B	Oct. 3, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and May 7, 1976.	Do.
[illegible]					
Brown	Howard, village of	550033D	Mar. 8, 1976, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 28, 1973 and May 14, 1976.	Do.
Kenosha	Unincorporated areas	550523A	Dec. 12, 1973, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Apr. 16, 1976	Do.
Ozaukee	Port Washington, city of	550316B	June 30, 1975, emergency; Oct. 15, 1981, regular; Feb. 17, 1982, suspended.	June 11, 1976 and Oct. 15, 1981.	Do.
Vermont: Washington	Montpelier, city of	505518	Oct. 20, 1972, emergency; June 22, 1973, regular; Feb. 17, 1982, suspended.	July 1, 1974	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-4007 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Pinellas Park (City), Pinellas County FEMA—5985	Boca Ciega Bay	[illegible] at Canal Street and Tulane Avenue	*11
			Intersection of 113th Place and 64th Street	*11
		Tampa Bay	Area along 28th Street North within the corporate limits.	*10
		Ditch 1	Area east of 58th Street North, north of 94th Terrace North and north and west of Ditch 1 drainage line.	*11
		Ditch 1A	Area north of Ditch 1A, and bounded on the west by 52nd Street North, and on the east by Dieston Boulevard.	*14
		Ditch 2	Intersection of 74th Avenue North, Park Boulevard and 43rd Street.	*16
		Ditch 2A	Area north of 66th Avenue North, and bounded on the west by Dieston Boulevard and on the east by U.S. Highway 19.	*13
		Ditch 4	Intersection of 66th Avenue North and 62nd Street North.	*15
		Ditch 5	Intersection of 62nd Way North and 78th Avenue North.	*15

Maps available for inspection at City Hall, 5141 78th Avenue, Pinellas Park, Florida.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-4017 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-573; RM-3841]

FM Broadcast Station in Sidney, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes a Class C FM channel for a Class A channel at Sidney, Nebraska, and modifies the license of the Class A station, KSID–FM, to specify the Class C channel, at the request of the licensee, KSID Radio, Inc. The Class C assignment will provide a first nighttime aural service to certain persons.

DATE: Effective March 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sidney, Nebraska), BC Docket No. 81–573, RM–3841.

Report and Order—Proceeding Terminated

Adopted: January 28, 1982.

Released: February 5, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 43211, published August 27, 1981, proposing the substitution of Class C FM Channel 254 for Channel 237A at Sidney, Nebraska, in response to a petition filed by KSID Radio, Inc. ("petitioner"). The Notice also proposed modification of the license for Channel 237A to specify operation on Channel 254. Petitioner submitted comments, restating its interest in the Class C channel. No oppositions to the proposal were received.

2. Sidney (population 6,010),[1] seat of Cheyenne County (population 10,057), is located approximately 584 kilometers (365 miles) west of Omaha, Nebraska. It is served locally by fulltime AM Station KSID and FM Station KSID–FM (Channel 237), both licensed to the petitioner.

3. In its comments, petitioner incorporated by reference the information contained in the Notice which demonstrated the need for a Class C assignment. As indicated in the Notice, the Class C assignment would provide a first nighttime aural service to 2,339 persons living in an area of 416 square miles, and a second nighttime aural service to 2,647 persons living in an area of 738 square miles.

4. The Notice requested the petitioner to submit a preclusion study for Channel 254 and a list of alternate channels available to the communities precluded by the proposed assignment. The information submitted shows that eleven communities with a population greater than 1,000, having no FM assignment, will be affected by the proposal.[2] Petitioner states that at least two alternate channels are available to each of the precluded communities.

5. After careful consideration of the proposal, we believe that the public interest would be served by the substitution of channels, inasmuch as it would provide substantial first and second service to the surrounding area and population. Since alternate channels are available to the precluded communities, we consider the preclusion impact insignificant. We have also authorized, in paragraph 7, a modification of the petitioner's license for Station KSID–FM to specify

[1] Population figures are taken from the 1980 U.S. Census.

[2] The communities include: Oakley and Sharon, Kansas; Edgemont, Martin and Pine Ridge, South Dakota; and Bayard, Chappell, Crawford, Gering, Oshkosh, and Rushville, Nebraska.

operation on Channel 254, since there has been no other expression of interest in the Class C channel. See Cheyenne, Wyoming, 62 FCC 2d 63 (1976).

6. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective March 22, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to the community of Sidney, Nebraska, as follows:

City	Channel No.
Sidney, Nebraska	254

7. It is further ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by KSID Radio, Inc. for Station KSID–FM, Sidney, Nebraska, is modified, effective March 22, 1982, to specify operation on Channel 254 instead of Channel 237A. Station KSID–FM may continue to operate on Channel 237A for one year from the effective date of this action or until it is ready to operate on Channel 254, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 254, the licensee of Station KSID–FM shall file with the Commission a minor change application for a CP (Form 301).

(b) Within 10 days after commencing operation on Channel 254, the licensee of Station KSID–FM shall submit a license application (Form 302) for the new channel.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter site or to avoid the necessity of filing an environmental impact statement where required.

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–3978 Filed 2–12–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 394

[BMCS Docket No. MC–36, Amdt. No. 81–1]

Accident Register; Elimination of Requirement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to eliminate the requirement for motor carriers to maintain an accident register. The accident register requirement duplicates other recordkeeping requirements. This action will reduce the paperwork burden on all motor carriers subject to the FMCSR.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mr. Gerald M. Tierney, Office of Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 394.13 of the FMCSR (49 CFR 394.13) requires every motor carrier operating in interstate or foreign commerce to maintain an accident register for at least 3 years after the date of the accident at its principal place of business. The accident register was established to provide information to assist Federal safety investigators in determining if a carrier is in compliance with the accident reporting requirements of the FMCSR and to detect possible unsafe operations. It is also a tool for motor carriers to use to promote increased accident awareness.

Every motor carrier operating in interstate or foreign commerce is required to retain a copy of each required accident report in addition to recording the information on the accident register. We have reviewed these rules and consider the requirement to record information on an accident register to be duplicative of the rule requiring the accident report itself.

Although § 394.13, requiring the maintenance of accident registers, is being rescinded, portions of paragraphs (b) and (c) will be retained and transferred to § 394.9 as paragraph (d). These remaining requirements pertain to copies of accident reports being retained at the motor carrier's principal place of business.

This amendment is being issued as a final rule without notice and opportunity for public comment because it would be contrary to the public interest to continue this unnecessary and duplicative recordkeeping requirement any longer, including the period required to conduct notice and comment rulemaking, particularly when we do not foresee that any useful comments would be submitted.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

In a continuing effort to reduce the paperwork burden imposed upon motor carriers, the FHWA is relieving all motor carriers of the requirement to maintain an accident register. This action will delete a recordkeeping requirement which is considered duplicative of other requirements. A cost savings will accrue to motor carriers covered by this requirement. This savings will be approximately 9,000 burden hours while no adverse impact on safety will result from this action.

This action will not have a significant economic effect because a savings of 9,000 burden hours is considered to be relatively minimal vis-a-vis the motor carrier industry as a whole or motor carriers individually. Accordingly, a full regulatory evaluation is not required.

Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 394 of Title 49, Code of Federal Regulations, is amended as follows:

PART 394—NOTIFICATION AND REPORTING OF ACCIDENTS

1. The heading for Part 394 is revised to read "Notification and Reporting of Accidents."

2. A new paragraph (d) is added to § 394.9 to read as follows:

§ 394.9 Reporting of accidents.

* * * * *

(d) Accident reports as required by paragraph (a) of this section must be retained on file at the motor carrier's principal place of business for at least 3 years after the date of the accident. However, upon written request to, and with the approval of, the Associate Regional Administrator for Motor Carrier Safety of the Federal Highway Administration region in which the

motor carrier has its principal place of business, the motor carrier may maintain the copies at a regional or terminal office. The addresses and jurisdiction of the Federal Highway Administration regions are specified in § 390.40 of this subchapter.

§ 394.13 [Removed and Reserved]

3. Remove "§ 394.13 *Accident register.*" from the table of sections and remove and reserve the corresponding section from the text of Part 394.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.80)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: February 9, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-3822 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska; Closure of Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest levels of Tanner crab for two areas of the South Peninsula District in Registration Area J, commonly referred to as the "Belkofski" and "Pavlof" sections, will be achieved on February 10, 1982, and February 15, 1982, respectively; and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the fishery conservation zone portions of the "Belkofski Section" and the "Pavlof Section" in the South Peninsula District in Registration Area J to fishing for Tanner crab by vessels of the United States on February 10, 1982, and February 15, 1982, respectively, thereby adjusting the previous closing date of May 15, 1982, in order to prevent overfishing of Tanner crab stocks in the South Peninsula District.

DATES: This closure is effective from 12:00 noon, Alaska Standard Time (AST) February 10, 1982, for the "Belkofski Section," and from 12:00 noon, AST, February 15, 1982, for the "Pavlof Section," until 11:59 p.m., Alaska Daylight Time (ADT), May 15, 1982. Public comments on this notice of closure are invited until February 25, 1982, for the "Belkofski Section," and March 2, 1982, for the "Pavlof Section."

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), governing this fishery in the FCZ under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure or partial closure of a particular district when the desired harvest level in that district is reached. One of these districts is the South Peninsula District for which an optimum yield (OY) for all Tanner crab of 6.0 million pounds has been approved by the Secretary of Commerce and is pending publication of a final rule in the **Federal Register**. The State of Alaska's 1981 Tanner crab index survey, however, indicates that the acceptable harvest in the South Peninsula District during the 1981-82 season should be only 4.5 million pounds. Since the season opened on December 15, 1982, 3.4 million pounds have been harvested.

Two major fishing areas, commonly referred to as the "Belkofski Section" and the "Pavlof Section", encompass the major Tanner crab production grounds of the South Peninsula District.

Catches per unit of effort (CPUE) in the "Belkofski" and the "Pavlof" sections have declined from 32 to 12 crabs per pot and 36 to 23 crabs per pot, respectively. The declining CPUE substantiates the results of the index survey and indicates that the OY for the entire South Peninsula District cannot be achieved by allowing further fishing in these two sections without harming the resources.

As of February 4, 1982, the catch and the desired harvest levels in the "Belkofski" Section are 2 million pounds and 2.5 million pounds, respectively. The desired harvest level will be reached on February 10, 1982.

As of February 4, 1982, the catch and the desired harvest levels in the "Pavlof" Section are 1.3 million pounds and 1.6 million pounds, respectively.

The desired harvest level will be reached on February 15, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined:

1. That the actual condition of Tanner crab stocks in the South Peninsula District is substantially different from the condition that was previously anticipated; and

2. That this difference reasonably supports the need to protect those Tanner crab stocks by closing the FCZ portions of the "Belkofski" and "Pavlof" sections to further fishing for Tanner crab during the current fishing year after 12:00 noon, AST, on February 10, 1982, and 12:00 noon, AST, on February 15, 1982, respectively.

For these reasons, the FCZ portions of the "Belkofski" and "Pavlof" sections in the South Peninsula District of Registration Area J, as defined below, are closed to all fishing for Tanner crab from 12:00 noon, AST, February 10, 1982; for the "Belkofski" section, and from 12:00 noon, AST, February 15, 1982, for the "Pavlof" section until 11:59 p.m., ADT, May 15, 1982, for both sections, at which time the closure of this district prescribed in 50 CFR § 671.26(f)(2)(ii) shall begin. These sections are defined as follows:

(A) "Belkofski Section": *Means* all waters of the South Peninsula District west of the longtitude of Belkofski Point (55°04'48" N. latitude, 162°02'54" W. longitude).

(B) "Pavlof Section": *Means* all waters of the South Peninsula District bounded on the west by the longitude of Belkofski Point (55°04'48" N. latitude, 162°02'54" W. longitude) and bounded on the east by a line extending from Renshaw Point (55°36'30" N. latitude, 160°21'12" W. longitude) to West Head on Unga Island (55°22'48" N. latitude, 160°31' W. longitude) and extending south along the longitude of Acheredin Point on Unga Island (55°07'09" N. latitude, 160°49'18" W. longitude).

This notice is effective on February 10, 1982 and after February 16, 1982 for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours

(8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Regional Office, Federal Building, Room 463, 709 West Ninth Street, Juneau, Alaska 99802. The necessity of this closure will be reconsidered in light of the comments received and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

Certain Tanner crab stocks in the South Peninsula District will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay between its publication and its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 et seq.)

Dated: February 10, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4052 Filed 2-10-82; 5:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 31
Tuesday, February 16, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[Docket No. PRM-73-8]

Elimination of Required Search of Hand-Carried Packages of Personnel at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Wisconsin Electric Power Company, et al.

SUMMARY: The Nuclear Regulatory Commission is publishing for comment a petition for rulemaking dated December 2, 1981 filed on behalf of the Wisconsin Electric Power Company, et al. The petition requests changes in 10 CFR Part 73, "Physical Protection of Plants and Material," which would eliminate "* * * the requirement for searches of hand-carried personal effects of screened employees entering a protected area" of a nuclear power plant. The petitioners contend that the "* * * requirement is unnecessary as demonstrated by the absence of such searches in comparable Federal programs. The requirement is also an ineffective means of preventing insiders from sabotaging the plant." The petition includes proposed amendatory text which would achieve this requested change.

DATES: Comments must be received on or before April 19, 1982. Comments received after April 19, 1982, will be considered if practical to do so but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street, NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m. A copy of the petition and the memorandum in support of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Comments on the petition may be inspected and copied at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-7086. Toll-free: (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking filed on behalf of the Wisconsin Electric Power Company, the Public Service Electric and Gas Company, the Commonwealth Edison Company, the Yankee Atomic Electric Company, the Northern States Power Company, and the Sacramento Municipal Utility District which would amend 10 CFR Part 73, "Physical Protection of Plants and Material," specifically § 73.55(d)(2), to eliminate "* * * the requirement for searches of hand-carried personal effects of screened employees entering a protected area" of a nuclear power plant.

In the memorandum in support of the petition, the petitioners review the access control requirements, other than the search of hand-carried personal effects of employees, which are set forth in § 73.55(d). The petitioners list 21 requirements, other than the search requirement, which the petitioners contend "* * * provided more than adequate control over employee access to the protected areas of * * *" nuclear power plants. The petitioners also state that most nuclear power plant licensees have implemented personnel screening programs involving a background investigation and psychological screening of employees. The petitioners also suggest that "* * * if an intelligent insider wants to attempt to sabotage a nuclear power reactor, he needs nothing from outside the plant. There are already items within the plant which would serve the same function as anything an insider could bring in. Therefore, searches of hand-carried packages for items which could be used for sabotage generally are ineffective means of providing security." The petitioners suggest that § 73.55(d) be modified "* * * to permit physical searches on suspicion and to inform all employees prior to entering a protected area that they may be search * * * (thereby giving) further assurance to the security program."

The petitioners also note that the anti-hijacking precautions in effect for all commercial airlines would appear to call for measures at least as strict as those for nuclear power plants. Yet, the petitioners state, government regulations in this area do not require searches of hand-carried personal effects of cleared or otherwise authorized employees.

Finally, petitioners contend that the search requirement creates low morale among utility employees and causes "significant delays * * * in processing large numbers of people, particularly during outages when the number of workers coming onto the site increase dramatically. This added time may result in additional costs to the utility in terms of reduced productivity or requests for additional compensation. Larger guard forces may also be required in an attempt to reduce the delay."

The petitioners included a proposed amendment to § 73.55 by adding the text included in the enclosed arrows as provided below:

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Paragraph (d)(2) of § 73.55 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(d) * * *

(2) At the point of personnel and vehicle access into a protected area, all hand-carried packages shall be searched for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage, ►except those hand-carried personal effects carried by employees of the licensee who have been screened under an employee screening program consistent with American National Standard ANSI N18.17, "Industrial Security for Nuclear Power Plants," and who, at the access point are positively identified by personal recognition or show an appropriate badge containing

sufficient information to positively indicate the identity of the bearer. When the licensee has cause to suspect that such an employee is attempting to introduce firearms, explosives or incendiary devices, or other items which could be used for radiological sabotage into a protected area, the licensee shall conduct a search of the hand-carried packages of that employee. The licensees shall post signs at all points of personnel and vehicle access into a protected area informing regular employees that their hand-carried packages may be subject to search prior to entering the area.◄

* * * * *

Dated at Washington, D.C., this 9th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-4000 Filed 2-12-82; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

[Docket No. PRM-73-7]

Elimination of Required Log Out of Personnel From Vital Areas of Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Wisconsin Electric Power Company, et al.

SUMMARY: The Nuclear Regulatory Commission is publishing for comment a petition for rulemaking dated December 2, 1981 filed on behalf of the Wisconsin Electric Power Company, et al. The petition requests changes in 10 CFR Part 73, "Physical Protection of Plants and Materials," which would eliminate "* * * the log out requirement at nuclear power reactors for individuals given access to normally unoccupied vital areas." The petitioners contend that the "* * * requirement not only is unnecessary from a safety standpoint, but may be detrimental to safe plant shutdown and effective plant response to other emergencies. Moreover, other more sensitive facilities have no similar requirement." The petition includes proposed amendatory text which would achieve this requested change.

DATES: Comments must be received on or before April 19, 1982. Comments received after April 19, 1982, will be considered if practical to do so but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street, NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m. A copy of the petition and the memorandum in support of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Comments on the petition may be inspected and copied at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-7086. Toll-free: (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking filed on behalf of the Wisconsin Electric Power Company, the Public Service Electric and Gas Company, the Commonwealth Edison Company, the Yankee Atomic Electric Company, the Northern States Power Company, and the Sacramento Municipal Utility District which requests elimination of "* * * the log out requirement at nuclear power reactors for individuals given access to normally unoccupied vital areas."

The petitioners, in an accompanying memorandum in support of the petition, state that "* * * the logging out of individuals from vital areas at nuclear power plants is unnecessary in view of the other protective measures required, the absence of such a requirement for other more sensitive types of facilities, and the potential disruption of safe plant shutdown and prompt response to other emergencies."

In support of this statement, the petitioners review the requirements for nuclear power plant physical security plans set forth at §§ 73.55(d) and 73.70 and list 30 requirements, other than the log out requirement, which the petitioner contends "* * * provide more than adequate control over access to protected areas of the plant." The petitioners also note that most nuclear power plant licensees have implemented personnel screening programs involving a background investigation and psychological screening of employees. Thus, "* * * a log out requirement for regular plant personnel who have been screened, badged, searched and logged into vital areas is totally unnecessary for plant safety."

Also in support of the petition, the petitioners review other Federal agencies which have responsibilities over facilities they say are more sensitive than commercial nuclear power reactors and which do not have log out requirements for the vital areas of these facilities. These facilities include "nuclear weapons storage areas, military nuclear research facilities and many military bases * * *", which do have access control requirements but which do not include a log out requirement. The petition concludes that "if logging out is deemed unnecessary for three types of facilities, then logging out surely is unnecessary at less sensitive nuclear power reactors."

Thirdly, in support of the petition, the petitioners contend "* * * the log out requirement may be detrimental to safe plant shutdown and effective plant response to emergencies." The petitioners state that:

There are a number of log out systems presently in use at vital areas of nuclear power reactors; some, for example, require an employee to insert a computer card into a card reader on the inside of the door to the area before exiting; other systems have only a button on the inside of the area to release the door, but require an employee to insert the card into a reader on the outside of the door before leaving the area. Under either system, if an employee fails to log out of an area, he or she will be restricted from gaining access to other vital equipment or areas until security personnel have manually instructed the computer.

A number of practical problems are caused by this logging out requirement. During an emergency or when bringing the plant to safe shutdown, plant personnel may easily forget to log out of a vital area, thereby delaying their entry into other vital areas and seriously hampering effective plant responses. During heavy traffic periods when the computer is busy, the logging out process may be greatly slowed, causing frustration and preventing employees from moving quickly from one vital area to another.

Under certain log out systems, when an individual forgets to log out of one vital area and tries to enter a second vital area, an alarm is sounded and a CAS (Central Alarm Station) or SAS (Secondary Alarm Station) operator must respond. The operators are thus diverted to handling unimportant matters when they should be performing surveillance.

The log out requirement causes an additional problem in essentially doubling the use of the plant computer. During heavy traffic periods, the computers are so greatly burdened that their speed is reduced, causing inconvenience and frustration and increasing the likelihood of computer failure. Moreover, the increased wear and tear on the computer's hardware increases the incidence of component failure and required maintenance.

It has been suggested that log out information is helpful in the event of a material theft or tampering with equipment in a vital area. In such cases, it is argued, logging out identifies the exact time during which all individuals were present in a vital area and facilitates any subsequent investigation. The petitioners point out, however, that because it is often difficult to isolate the exact time when such an event may have taken place, it is necessary to investigate all persons who logged into a vital area during a period of several hours, or a day. Thus, the critical information is not when a person logged out of a vital area, but when the person logged into the area. While it is true that log out information may be somewhat useful, it will never obviate the need for a complete check of all personnel who logged into an area. More importantly, any marginal benefit from log out information is far outweighed by the danger of delay to plant emergency response time which may be caused by logging out.

The petitioners included a proposed amendment to § 73.70(d) by adding the text in the enclosed arrows as provided below.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Paragraph (d) of § 73.70 is revised to read as follows:

73.70 Records.

* * * * *

(d) A log indicating name, badge number, time of entry, reason for entry, and time of exit of all individuals granted access to a normally unoccupied vital area, ► except that a log kept by each licensee subject to the provisions of § 73.55 need not indicate the time of exit of the above-mentioned individuals. ◄

* * * * *

Dated at Washington, D.C., this 10th day of February 1982.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 82-4091 Filed 2-12-82; 8:45 am]
BILLING CODE 7590-01-M

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10 CFR Part 73

[Docket No. PRM-73-6]

Modification of Qualifications for Security Personnel of Nuclear Power Plants and Other Special Nuclear Material Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Wisconsin Electric Power Company, et al.

SUMMARY: The Nuclear Regulatory Commission is publishing for comment a petition for rulemaking dated December 2, 1981 filed on behalf of the Wisconsin Electric Power Company, *et al.* The petition requests changes in 10 CFR Part 73, specifically Appendix B entitled "General Criteria for Security Personnel," which would eliminate the requirement that armed security personnel at nuclear power plants or other facilities licensed to handle special nuclear material (1) carry an extra pair of eyeglasses and (2) Under an annual medical examination within the preceding thirty days of an annual physical fitness test. The petitioners contend that these requirements are "excessive and unreasonable" when compared to similar requirements for security personnel in other government agencies or in operations with security requirements commensurate with those of nuclear power plants. The petition includes proposed amendatory text which would achieve these modified requirements.

DATES: Comments must be received on or before April 19, 1982. Comments received after April 19, 1982, will be considered if practical to do so but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street, N.W., Washington, D.C. between 8:15 a.m. and 5:00 p.m. A copy of the petition and the memorandum is support of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Comments on the petition may be inspected and copie at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Telephone: (301) 492-7086. Toll-free: (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking filed on behalf of the Wisconsin Electric Power Company, the Public Service Electric and Gas Company, the Commonweatlh Edison Company, the Yankee Atomic Electric Company, the Northern States Power Company, and the Sacramento Municipal Utility District which requests changes in the qualifications for security personnel included in 10 CFR Part 73, Appendix B, entitled "General Criteria for Security Personnel."

Specifically, the changes requested would eliminate (1) the requirement that armed security personnel at nuclear power plants or other facilities licensed to handle special nuclear material carry an extra pair of eyeglasses and (2) the requirement that these security personnel undergo an annual medical examination within the preceding thirty days of an annual physical fitness test.

The petitioners, in an accompanying memorandum in support of the petition, state that "* * * the requirement for security personnel to carry an extra pair of corrective lenses is an unnecessary nuisance to those personnel. It also makes them subject to harassing inspections to check for their second set of eyeglasses or contact lenses." The petitioners also state that other Federal and state agencies, including "* * * the military services, the FBI, the Immigration Service, Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, the GSA, the District of Columbia Police Department or the Maryland State Police (do not) require security personnel to carry an extra pair of corrective lenses if their uncorrected eyesight falls below a certain level. This NRC requirement thus appears overly stringent. Moreover, the requirement is often difficult to satisfy because carrying an extra pair of glasses often leads to breakage or loss. Consequently, compliance can become an ineffective yet costly exercise."

Regarding the requirement that security personnel undergo an annual medical examination within thirty days

of an annual physical fitness test, the petitioners "* * * suggest that the two types of test need not be tied to the same schedule, and that the frequency of medical examinations should vary with age." The petitioners do "* * * recognize the importance of regular physical fitness testing and medical examinations for security personnel * * * " and state that, under the revised language proposed in the petition, "existing requirements for additional medical examinations following serious illness, injury, disease or operation would not be affected." The petitioners review the physical fitness and medical examination requirements of the various branches of the military service, the FBI, and similar enforcement-related organziations with "* * * responsibilities of equal or greater sensitivity than those of security officers at nuclear power plants * * * (and conclude) that the present NRC requirements are excessively strict. In view of the requirements in the military and at other federal and state agencies, the petitioners recommend elimination of the Commission's present requirement tying medical examinations to physical fitness testing schedules and modification of the Commission's overly rigid medical examination schedule for young employees while maintaining all other requirements in the existing qualification program."

The petitioners included proposed amendments to the text of portions of Appendix B to Part 73, which are included below. The text in the bracketed portion would be removed and the text enclosed in arrows would be added.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. In the criteria heading of Appendix B to Part 73, sections I.B.1.b.(1)(a), I.C., and I.E. are revised to read as follows:

Appendix B—Criteria for Security Personnel

* * * * *

Criteria

I. *Employment suitability and qualification.*

* * * * *

B. *Physical and mental qualifications*—1. *Physical qualifications.*

* * * * *

b. * * *

(1) *Vision.* (a) For each individual, distant visual acuity in each eye * * * or contact lenses. [If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses.] Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye. Field vision must be at least 70° horizontal meridian in each eye. The ability to distinguish red, green, and yellow colors is required. Loss of vision in one eye is disqualifying, unless controlled by acceptable medical or surgical means, provided such medications as may be used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated above are met. On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.

* * * * *

C. *Physical fitness qualifications*—[Subject to a medical examination conducted within the preceding 30 days * * * as disclosed by the medical examination,] Guards, armed response personnel and armed escorts, shall demonstrate physical fitness for assigned job duties by performing a practical physical exercise program within a specific time period. The exercise program performance objectives shall be described in the licensee training and qualification plan, and shall consider such job related functions as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. The physical fitness qualifications of each guard, armed response person, and armed escort shall be documented and attested by a licensee security supervisor.

* * * * *

E. *Physical requalification*—At least every 12 months, [central alarm station operators shall be required to meet the physical requirements of B.1.b. of this section and] guards, armed response personnel and armed escorts, shall be required to meet the physical requirements of paragraphs [B.1.b. (1) and (2), and] C of this section. ►At least every 36 months until the age of thirty-nine, and every 12 months after the age of thirty-nine, guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of paragraphs B.1.b. (1) and (2) of this section, and central alarm station operators shall be required to meet the physical requirements of B.1.b. of this section.◄

* * * * *

Dated at Washington, DC, this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-4062 Filed 2-12-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD05-81-16R]

Northwest Harbor, Baltimore, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: Upon petition of Andrews, Miller, and Associates, Inc. for the Gaylord Brooks Investment Company, the Coast Guard is proposing to amend the anchorage regulations by amending the northwest boundary of the small boat anchorage ground located generally east of Fells Point and the Northwest Harbor Turning Basin. The basis for this boundary revision is to allow the construction of a 225-slip marina at Fells Point. (See Department of the Army, Baltimore District, Corps of Engineers, Public Notice NABOP-FW-81-0222-2 for details of this project.) The action will shift the northwest boundary of the small boat anchorage 50 yards to the southeast. This proposal will enhance navigation safety by separating navigating vessels from those at anchor within the anchorage ground.

DATE: Comments must be received by April 2, 1982.

ADDRESSES: Comments should be addressed to Commander (mps), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705. Comments will be available for inspection at the office of the Commander, Fifth Coast Guard District (mps), Room 412, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

FOR FURTHER INFORMATION CONTACT: Captain E. E. Moran, Chief, Port Safety Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6389.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD05-81-16R) and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed envelope is enclosed.

The proposed amendment may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are Lieutenant Junior Grade M. S. Kushla, Project Manager, Port Safety Branch, Fifth Coast Guard District, and Lieutenant D. M. Wrye of the office of the District Legal Officer, Fifth Coast Guard District.

Discussion of the Proposed Regulation

The anchorage ground which is proposed to be amended lies in the Northwest Harbor of Baltimore Harbor, Baltimore, Maryland to the east of Fells Point. This anchorage ground has been designated for use by small craft (100 feet in length or less) only. Adoption of this proposal would result in (1) reduction of the overall size of the anchorage ground; (2) allowing the construction of the proposed marina at Fells Point; and (3) elimination of user conflict between anchored vessels and vessels maneuvering to moor at the proposed marina.

An environmental assessment is currently being undertaken. An initial determination, however, is that this minor boundary revision would result in no impact on the quality of the human environment. The economic impact of this proposed rule on small businesses, non-profit organizations, and government entities is considered to be minimal because, if adopted, the proposed rule will result in only a small boundary revision to the small craft anchorage ground that will eliminate user conflicts within its boundaries. Thus, the change to this anchorage ground does not appear to be a matter on which there would be substantial public interest or controversy, nor does it appear to involve impacts on competition, business, State or local governments, or the regulations of other programs or agencies.

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this proposed regulation is considered to be non-significant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, if promulgated, will not have a significant economic impact upon a substantial number of small entities.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, it is proposed that Part 110 of Title 33, Code of Federal Regulations, be amended by revising § 110.158(a)(9) to read as follows:

§ 110.158 Baltimore Harbor, MD.

* * * * *

(a) The anchorage grounds. * * *

(9) Small vessel anchorage—In the Northwest Harbor, north of the Turning Basin, beginning at latitude 39°16'49.5" N., longitude 76°35'06" W.; thence southeast to latitude 39°16'43" N., longitude 76°34'53.5" W.; thence southwest to latitude 39°16'36.5" N.; longitude 76°34'59" W.; thence northwest to latitude 39°16'43" N., longitude 76°35'11" W.; thence northeast to the point of beginning. This anchorage shall be used only by vessels 100 feet in length or less.

* * * * *

(Sec. 7, 38 Stat. 1053 (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940; (49 U.S.C. 1655(g)(1), 49 CFR 146(c) and 1.45(b))

Dated: January 20, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-4055 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL-2030-5]

Designation of Areas for Air Quality Planning Purposes; Alabama and Kentucky: Redesignation of Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to grant requests made by Alabama and Kentucky that the ozone attainment status of certain counties be changed from unclassifiable to attainment. The public is invited to submit comments on this proposal.

The States of Alabama and Kentucky submitted ozone air quality data for specific counties and a request that these counties be redesignated from unclassified to attainment. After reviewing the data submitted, EPA is today proposing to grant the request of Alabama and Kentucky and change the ozone designation from unclassified to attainment.

DATE: To be considered, comments must be received on or before March 18, 1982.

ADDRESSES: Copies of the materials submitted by Alabama and Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: On July 30, 1981, the Alabama Air Pollution Control Commission submitted one full season of ozone monitoring data collected at Murphy Hill, Alabama, and requested that it be used to redesignate Jackson and DeKalb Counties attainment for this pollutant. On April 28, 1981, the Kentucky Department for Natural Resources and Environmental Protection made a similar submittal and request with respect to eight counties in that State (Allen, Butler, Edmonson, Grayson, Hart, Logan, Simpson, and Warren). On November 20, 1981 (46 FR 57046), EPA, without prior proposal of its action, changed the attainment status designation of these ten counties from unclassifiable to attainment.

In the final rule making the redesignations, EPA advised the public that the effective date of the actions was deferred for 60 days (until January 19, 1982) to provide an opportunity to submit comments on them. EPA announced that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing the actions and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received notice that someone wishes to submit adverse comments on these redesignations. Accordingly, EPA is taking final action elsewhere in today's **Federal Register** to withdraw the November 20, 1981, redesignations, and is in this notice proposing them for public comment. A more detailed description of the States' submittals and EPA's findings can be found in the November 20, 1981, rulemaking notice

(46 FR 57046). The public is invited to submit written comments on this proposal; EPA will consider all comments received within 30 days of this date before taking final action on the redesignation requests made by Alabama and Kentucky.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the present rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements; it only changes the attainment status designation of certain area from unclassifiable to attainment.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Sec. 107, Clean Air Act (42 U.S.C. 7407))

Dated: February 4, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3586 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 120

[WH-FRL 1972-1]

Withdrawal of Ohio Water Quality Standards Promulgation

AGENCY: Environmental Protection Agency.

ACTION: Proposed withdrawal of rule.

SUMMARY: The Environmental Protection Agency (EPA) today gives notice that it proposes to withdraw its Ohio Water Quality Standards, 40 CFR § 120.45(a)–(g), which, for purposes of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, replaced certain of Ohio's water quality standards (45 FR 79053, November 28, 1980).

DATES: All written comments received on or before April 2, 1982, will be considered in the preparation of the final rulemaking. Comments should be submitted to the person listed immediately below.

FOR FURTHER INFORMATION CONTACT: David K. Sabock, Environmental Protection Agency, Criteria and Standards Division, Criteria Branch (WH-585), Room M-2818, 401 M Street, SW., Washington, D.C. 20460, (202)245-3042.

SUPPLEMENTARY INFORMATION: On February 14, 1978, the Ohio Environmental Protection Agency adopted revisions to the State water quality standards and submitted them to the Regional Administrator, Region V, of the EPA for review. On May 17, 1978, the Regional Administrator notified the Governor that the adopted standards did not meet the requirements of the Clean Water Act, and specified changes deemed necessary. On August 9, 1978, after the State submitted clarifications of certain of the provisions, the Regional Administrator approved certain portions of the standards but determined that other major portions of the standards remained inconsistent with the Act. On July 6, 1979 (44 FR 39486), EPA proposed water quality standards for the State to replace those provisions which had not been approved, and on November 28, 1980 (45 FR 79053), promulgated final water quality standards for Ohio.

In the November 28, 1980 promulgation for Ohio waters, EPA stated, as a partial basis for its action, that the State had not submitted sufficient evidence to justify its downgrading of stream use designations, as is required by § 35.1550(c)(3). At that time, EPA was not aware that its underlying regulation governing State downgrades of water quality standards, 40 CFR 35.1550(c)(3), had not been subjected to public notice and comment at the time of its promulgation in November 1975. Consequently, in the course of the Ohio rulemaking, EPA did not respond to those comments which dealt with the validity of the downgrade criteria set forth in 40 CFR 35.1550(c)(3). EPA has concluded that in view of the above facts, the basis for EPA's denial of the Ohio downgradings has not been adequately subjected to public notice and comment.

In addition, a number of basic program policies supporting the national water quality standards program are being reviewed and revised. Therefore, EPA has concluded that it is appropriate to withdraw all portions of the standards promulgated on November 28, 1980. If the Agency, after receiving and considering public comments, does withdraw these standards, the water quality standards adopted by the State of Ohio on February 14, 1978 will be effective for all purposes under the Clean Water Act.

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This proposed withdrawal is not "major" because it would not impose any regulation which might have an economic impact on industry, States or municipalities.

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: February 6, 1982.

Anne M. Gorsuch,

Administrator.

PART 120—WATER QUALITY STANDARDS

Section 120.45 paragraphs (a)–(g) of Part 120 of Title 40 of the Code of Federal Regulations are hereby proposed to be withdrawn.

[FR Doc. 82-4004 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-29-M

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40 CFR Part 123

[WL-3-FRL-2050-2]

West Virginia's Application To Administer National Pollutant Discharge Elimination System (NPDES) Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: The State of West Virginia has submitted a request to the Environmental Protection Agency for approval to administer the National Pollutant Discharge Elimination System (NPDES) program for regulating discharges of pollutants into waters within the State. According to the State's proposal, the NPDES program would be administered by the State of West Virginia Department of Natural Resources, Water Resources Division (WRD) under the direction of David W. Robinson. This notice provides for a public hearing and a comment period on West Virginia's request. Under EPA regulations the Administrator shall approve or disapprove a State NPDES program after taking into consideration all comments received.

DATES: Comments must be received on or before April 2, 1982. A public hearing has been scheduled for March 18, 1982, at 10:00 a.m. at the West Virginia Water Resources Division Conference Room, 1201 Greenbrier St., Charleston, West Virginia 25305.

ADDRESSES: Comments should be addressed to: Charles W. Sapp, Chief, Water Permits Branch (3WM50), U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Hass, Chief, West Virginia Section (3WM53), U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, PA 19106 215/597-9232, or Robert Collings, Esq., Chief, Water & RCRA Enforcement Section, (3RC12), U.S. EPA Region III,

6th & Walnut Streets, Philadelphia, PA 19106, 215/597–8914.

SUPPLEMENTARY INFORMATION: Section 402 of the Federal Clean Water Act created the NPDES under which the Administrator of the United States Environmental Protection Agency (EPA) may issue permits for the discharge of pollutants into waters of the United States under conditions required by that Act.

West Virginia's program submission contains a letter from the Governor requesting NPDES program approval, a complete program description (including funding, personnel requirements and organization, and enforcement procedures), an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) executed by the Regional Administrator, Region III, EPA and the Chief, West Virginia Water Resources Division. Upon approval by the Administrator of EPA of West Virginia's NPDES program, the MOA, which establishes procedures for administration and enforcement of the State's program, will become effective. The Administrator is required to approve each such submitted program within 90 days of submittal unless it does not meet the requirements of section 402(b) of the Act and EPA regulations, which include, among other things, authority to issue permits which comply with the federal Act, authority to impose civil and criminal penalties for permit violations, and authority to insure that the public is given notice and opportunity for a hearing on each proposed NPDES permit issuance.

At the close of the public comment period (including the public hearing) and within the ninety (90) day statutory review period, the Administrator of EPA will decide to approve or disapprove West Virginia's NPDES program. In accordance with EPA regulations, EPA and WRD have agreed to extend the review period, if necessary, until proposed amendments to State regulations are adopted and effective. These proposed regulations comprise Appendix A to the MOA.

The decision to approve or disapprove West Virginia's NPDES program will be based on the requirements of Section 402 of the CWA and 40 CFR Part 123. If the West Virginia NPDES program is approved, the Administrator will so notify the State. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will suspend issuance of NPDES permits in West Virginia. The State's program will implement federal law and operate in lieu of the EPA administered program. However, EPA will retain the right to object to NPDES permits proposed to be issued by an approved State. If the Administrator disapproves West Virginia's NPDES program, the Administrator will notify the State of the reasons for disapproval and of any revisions or modification to the State program which are necessary to obtain approval.

The West Virginia submittal may be reviewed from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, by the public at the West Virginia Water Resources Division Office at 1201 Greenbrier Street, Charleston, West Virginia 25306, and at the EPA office in Philadelphia, Pennsylvania at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at a cost of 20¢/page or $125 for the entire submission) by appearing in person at either of those offices, or by writing to EPA and the West Virginia Water Resources Division at the same addresses.

A public hearing to consider the State of West Virginia's request to administer the NPDES permit program has been scheduled for March 18, 1982 at 10:00 a.m. at the West Virginia Water Resources Division conference room, 1201 Greenbrier Street, Charleston, West Virginia 25305.

The Hearing Panel will include representatives of EPA, Region III, EPA Headquarters and the West Virginia Water Resources Division.

The following are policies and procedures which shall be observed at the public hearing:

(1) The Presiding Officer shall conduct the hearing in a manner that permits open and full discussion of any issues involved;

(2) Any person may submit written statements or documents for the record;

(3) The Presiding Officer may, in his discretion, exclude oral testimony if such testimony is overly repetitious of previous testimony or is not relevant to the decision to approve or require revision of the submitted State program;

(4) Members of the Hearing Panel may ask questions of witnesses and respond to questions and statements of witnesses;

(5) The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record submitted to the Administrator; and

(6) The hearing record shall be left open until April 2, 1982, as described below, to permit any person to submit additional written statement or to present views or evidence tending to rebut testimony presented at the public hearing; immediately following the public comment period the Regional Administrator shall forward a copy of the complete hearing record to the Administrator.

Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for the use of the hearing panel and other interested persons. Statements should summarize any extensive written materials.

All comments or objections received by EPA Region III by April 2, 1982 or presented at the public hearing will be considered by EPA before taking final action on the West Virginia Request for State Program Approval.

Please bring the foregoing to the attention of persons whom you know will be interested in this matter. All written comments and questions on the hearing or the NPDES program should be addressed to Robert L. Collings, Esq., Chief, Water & RCRA Enforcement Section (3RC12) U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the West Virginia NPDES permit program, merely transfers responsibilities for administration of permitted facilities from the Federal to State government. No new substantive requirements are established by this action. Therefore, since this notice does not have a significant impact on a substantial number of small entities, it does not trigger the requirements of a Regulatory Flexibility Analysis.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Albert Montagne,

Acting Regional Administrator, Region III.

[FR Doc. 82–4006 Filed 2–12–82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6247]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
The proposed based (100-year) flood elevations for selected locations are:				
California	Dinuba (City), Tulare County	Shallow Flooding	Intersection of Tulare Street and K Street	#1
			Intersection of P Street and Tular Street	#2
Maps available for inspection at Department of Public Works, 405 East El Monte, Dinuba, California.				
Send comments to the Honorable Jack Conway, 405 East El Monte, Dinuba, California 93618.				
Colorado	Canon City (City), Fremont County	Arkansas River	Intersection of Riverside Avenue and Plum Street	*5,340
		Northeast Canon Drainage—East Branch.	Intersection of East Circle Drive and West Circle Drive	*5,335
		Northeast Canon Drainage—West Branch.	Intersection of Allison Avenue and Fifteenth Street	*5,340
		Southeast Canon Drainage	Intersection of Ninth Street and Griffin Avenue	*5,330
		Sand Creek	Intersection of U.S. Highway 50 and Canal Street	*5,370
		Forked Gulch	150 feet upstream from center of Pennsylvania Avenue.	*5,375
		West Forked Gulch	150 feet upstream from northernmost corporate limits	*5,330
Maps available for inspection at City Enginder's Office, 612 Royal Gorge Boulevard, Canon City, Colorado.				
Send comments to the Honorable George Turner, Box 711, Canon City, Colorado 81212.				
Connecticut	New Fairfield, Town, Fairfield County	Ball Pond Brook	Confluence with Lake Candlewood	*441
			Upstream of Musket Ridge Road	*482
			Upstream of Saw Mill Road	*519
			Upstream of State Route 39	*579
			Upstream of Overbrook Drive	*609
			Upstream of Ball Pond Road	*644
			Upstream of Meadowbrook Road	*684
Maps available for inspection at the First Selectmen's Office, Town of New Fairfield, Town Hall, New Fairfield, Connecticut.				
Send comments to the Honorable John Fairchild, First Selectman of the Town of New Fairfield, Town Hall, New Fairfield, Connecticut 06810				
Florida	Lantana (Town), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 520 feet east of the intersection of State Highway AIA and East Ocean Avenue.	*10
		Atlantic Ocean—Lake Worth	Eastern end of Naomi Circle	*9
			Intersection of Prospect Road and Lakeside Place	*8

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Intersection of South Atlantic Drive West and South Atlantic Drive East.	*8
			Intersection of Atlantic Drive West and Barefoot Lane	*7
Maps available for inspection at Town Hall, Greynolds Circle, Lantana, Florida.				
Send comments to the Honorable L. Irving Ashauer, P.O. Box 3043, Lantana, Florida 33462.				
Florida	Pahokee (Town), Palm Beach County	Lake Okeechobee	Approximately 900 feet west of the intersection of 14th Terrace and State Highway 715.	*20
			Approximately 700 feet north of the intersection of Pahokee Road and Barfield Higway.	*20
Maps available for inspection at Building Department, 171 N. Lake Ave., Pahokee, Florida.				
Send comments to the Honorable Duncan Padgett, P.O. Drawer X, Pahokee, Florida 33476.				
Florida	Palm Beach County (Unincorporated Areas)	Atlantic Ocean—Open Coast	Approximately 550 feet east of the intersection of Del Harbour Drive and Ocean Boulevard.	*10
		Atlantic ocean—Intracoastal Waterway.	Intersection of Harbor Road and Harbor Road South	*7
			Eastern end of Palm Court	*8
			Southern end of Waterway Road	*8
		Atlantic Ocean—Lake Worth and Little Lake Worth.	Intersection of Captains Landing and Captain's Key Drive.	*7
			Northern end of Lake Shore Place	*8
			Intersection of Lost Tree Way and Church Lane	*7
		Atlantic Ocean—Loxahatchee River (including North, Northwest, and Southwest Forks).	Intersection of North Drive and Riverside Boulevard	*8
			Southern end of Holly Lane	*7
			Intersection of Woodridge Terrace and Center Street	*8
		Lake Okeechobee	Approximately 2,000 feet west of intersection of Hooker Highway and Herbert Hoover Dike.	*30
Maps available for inspection at Planning, Building & Zoning Department, 810 Datura Street, West Palm Beach, Florida.				
Send comments to the Honorable Frank Foster, P.O. Box 1989, West Palm Beach, Florida 33402				
Idaho	Idaho Falls (City), Bonneville County	Snake River	Crest of Lower Power Dam	*4,877
Maps available for inspection at Mayor's Office, 308 C Street, Idaho Falls, Idaho.				
Send comments to the Honorable Thomas Campbell, P.O. Box 220, Idaho Falls, Idaho 83402.				
Illinois	(V) Elwood, Will County	Jackson Creek	Just upstream of Brandon Road	*580
			About 1,200 feet downstream of Manhattan Road	*589
Maps available for inspection at the Village Hall, Mississippi Avenue, Elwood, Illinois.				
Send comments to Honorable Dale Archer, Village President, Village of Elwood, Village Hall, Box 435, Mississippi Avenue, Elwood, Illinois 60421.				
Illinois	(Uninc.) Lake County	Des Plaines River	At southern county boundary	*642
			Just upstream of Buckley Road	*658
			At state boundary	*674
		Des Plaines River Tributary (at Russell).	At confluence with Des Plaines River	*673
			Just upstream of Kilbourne Road	*678
			Just upstream of State Highway 173	*682
			Just upstream of Stiehr Road	*703
			Just downstream of Wadworth Road	*708
			Just upstream of Wadworth Road	*713
		East Fork Des Plaines River Tributary (at Russell).	At confluence with Des Plaines River Tributary (at Russell).	*685
			Just downstream of State Highway 173	*701
			Just downstream of 21st Street	*709
			Just upstream of 21st Street	*713
			Just downstream of Waverly Street	*722
			Just upstream of Waverly Street	*727
		Skokie River	About 3,800 feet downstream of Elgin, Joliet and Eastern Railway.	*679
			Just upstream of Buckley Road	*684
		Middle Fork North Branch Chicago River.	About 1,400 feet upstream of Buckley Road	*687
			About 1,300 feet downstream of Half Day Road	*655
			About 1,200 feet upstream of Half Day Road	*659
			About 2.7 miles downstream of State Highway 176	*668
			Just downstream of Elgin, Joliet and Eastern railway	*674
		West Fork North Branch Chicago River.	About 200 feet downstream of Buckley Road	*680
			About 1,200 feet downstream of Montgomery Drive	*685
			About 200 feet downstream of Half Day Road	*667
			Just upstream of Half Day Road	*670
		Hastings Creek	Just upstream of Unnamed Road (about 2,050 feet downstream of U.S. Highway 45).	*744
			About 1,000 feet downstream of State Highway 132	*756
			Just upstream of State Highway 132	*775
			About 1.9 miles upstream of State Highway 132	*782
		Mill Creek	Just upstream of U.S. Highway 41	*656
			Just downstream of spillway downstream of Stearns School Road.	*711
			Just upstream of spillway downstream of Stearns School Road.	*719
			Just downstream of spillway downstream of Grandwood Drive.	*750
			Just upstream of U.S. Highway 45	*763
			About 4,000 feet downstream of Center Street	*773
			About 2.5 miles upstream of Center Street	*787
		North Mill Creek	About 0.5 mile downstream of Millburn Road	*684

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Kelley Road	*724
			About 800 feet upstream of Kelley Road (upstream of dam).	*741
			At state boundary	*758
		Fox River	At confluence of Flint Creek	*737
			At state boundary	*743
		Buffalo Creek	Just upstream of Arlington Heights Road	*691
			Just upstream of Quentin Road	*784
			At downstream corporate limits of the Village of Lake Zurich.	*816
		Tributary to Buffalo Creek	About 550 feet downstream of Quentin Road	*772
			About 675 feet upstream of Quentin Road	*779
		Mutton Creek	About 1,050 feet downstream of Gravel Pit Road	*754
			Just downstream of Gravel Pit Road	*755
			Just downstream of Darrel Road	*759
		Indian Creek	Just downstream of footbridge (about 1,650 feet upstream of mouth at Des Plaines River).	*[illegible]
			About 200 feet upstream of confluence of Seavey Drainage Ditch.	*648
			About 500 feet downstream of confluence of West Branch Indian Creek.	*730
			About 100 feet downstream of spillway for Countryside Lake.	*776
			Just upstream of spillway for Countryside Lake	*786
			Just downstream of Chevy Chase Road	*790
			Just upstream of Chevy Chase Road	*795
			Just downsteam of Gilmer Road	*808
			Just upstream of Gilmer Road	*819
			Just downstream of Schwerman Road	*838
		West Branch Indian Creek	About 3,325 feet downstream of Gilmer Road	*734
			Just downstream of spillway	*775
			Just upstream of spillway	*789
			Just downstream of Elgin, Joliet and Eastern railway	*796
		South Branch Indian Creek	At mouth at Indian Creek	*588
			Just downstream of State Highway 22	*691
			Just upstream of State Highway 83	*696
			About 1.1 miles upstream of Old McHenry Road	*748
			Just upstream of State Highway 22	*758
		Aptakisic Creek	Mouth at Des Plaines River	*643
			About 1.0 mile upstream of Pekara Road	*646
			Just downstream of Welland Road	*671
			Just upstream of Busch Road (Village of Buffalo Grove corporate limit).	*678
			About 450 feet upstream of confluence of tributary to Aptakisic Creek.	*678
		Tributary to Aptakisic Creek	About 1,500 feet upstream of Aptakisic Road	*661
		Irondale Creek	Mouth at Meadow Haven Creek	*663
			Just downstream of Guerin Road	*663
		Meadow Haven Creek	Mouth at Tributary No. 1	*658
			Just downstream of Guerin Road	*679
			Just downstream of O'plaine Road	*688
		Flint Creek	About 2,400 feet upstream of confluence with Fox River.	*737
			Just upstream of footbridge (about 3,000 feet upstream of mouth at Fox River).	*741
			Just downstream of U.S. Highway 14	*765
		Eagle Creek	About 0.9 mile downstream of Cedar Lake Road	*772
			About 1,225 feet upstream of Cedar Lake Road	*784
		Bull Creek	About 1,300 feet upstream of mouth at Des Plaines River.	*659
			About 0.5 mile upstream of confluence of Bull Creek Tributary.	*685
			Just upstream of Midlothian Road	*780
			About 0.8 mile upstream of Midlothian Road	*796
		Bull Creek Tributary	About 250 feet upstream of mouth at Bull Creek	*679
			About 150 feet upstream of Countryside Drive	*719
			About 1,800 feet upstream of State Highway 137	*747
		North Branch Bull Creek Tributary	Mouth at Bull Creek Tributary	*723
			About 1,200 feet upstream of Bull Creek Drive	*733
		West Branch Bull Creek Tributary	Mouth at Bull Creek Tributary	*727
			Just upstream of Bull Creek Drive	*745
		Greenleaf Creek	About 100 feet upstream of Washington Street	*689
			About 1,450 feet upstream of Washington Street	*691
			About 200 feet upstream of Greenleaf Street	*700
		Nippersink Creek	About 3,500 feet downstream of western county boundary.	*742
			At western county boundary	*744
		Sequoit Creek	About 300 feet downstream of Tiffany Road	*751
			About 1,000 feet upstream of Soo Line Railroad	*755
			About 100 feet downstream of State Highway 173	*756
		Squaw Creek	Just upstream of State Highway 59	*742
			About 1.2 miles upstream of State Highway 134	*746
			Just upstream of Nippersink Road	*758
			Just upstream of Fairfield Road	*766
			About 1.5 miles upstream of Town Line Road	*784
		Willow Road Creek	About 1,500 feet upstream of confluence with Bangs Lake Drain.	*766

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 3,800 feet upstream of confluence with Bangs Lake Drain.	*774
		Garland Road	Within unincorporated Area	*778
		Suburban Country Club Tributary	At mouth at Des Plaines River	*685
			Just upstream of Chicago and North Wester railroad	*671
			Just downstream of Beach Road	*701
		South Fork Suburban Country Club Tributary.	At confluence with Suburban Country Club Tributary	*678
			Just upstream of Wall Avenue	*689
		Tower Lake Creek	Within unincorporated area	*737
		Tributary No.1	About 1,800 feet upstream of Buckley Road	*656
			About 3,000 feet upstream of Guerin Road	*676
		Kimball Avenue Tributary	Within unincorporated area	*776
		Farrington Ditch	Just upstream of Checker Road	*675
			About 2,650 feet upstream of Checker Road	*681
		Seavey Drainage Ditch	Just downstream of U.S. Highway 45	*676
			Just upstream of Lake Charles spillway	*698
			About 2,500 feet upstream of Butterfield Road	*712
		Diamond Lake Drain	Just upstream of State Highway 83	*712
			About 1,200 feet upstream of Elgin, Joliet and Eastern railway.	*726
		Deer Lake Drain	At state boundary	*760
			Just upstream of Deer Lake Dam	*769
			Just upstream of Dam No. 2	*772
		Forest Lake Drain	About 1,200 feet upstream of mouth at Indian Creek	*727
			Just upstream of Gilmer Road	*737
			About 2,400 feet upstream of Gilmer Road	*742
		North Shore Drain	Within unincorporated area	*765
		Round Lake Drain	At mouth at Long Lake	*743
			Just upstream of confluence of Round Lake Drain Tributary.	*749
		Round Lake Drain Tributary	About 1,080 feet upstream of mouth at Round Lake Drain.	*751
		Bangs Lake Drain	Just downstream of County Highway 44	*744
			Just downstream of Mac Street	*752
			Just upstream of Mac Street	*757
			About 100 feet upstream of Brown Street	*771
			At confluence of Garland Road Tributary	*776
		Silver Lake	At mouth at Sequoit Creek	*768
			About 2,300 feet upstream of mouth at Sequoit Creek	*767
		Kellogg Ravine	About 3,000 feet downstream of abandoned railroad	*644
			About 300 feet upstream of Kenosha Road	*681
		Slocum Lake Drain	Within community	*737
		North Shore Ditch	Just upstream of Blanchard Road	*651
			About 2,400 feet upstream of Blanchard Road	*654
		Bull Creek (near Waukegan)	Just upstream of Chicago and North Western railroad	*607
			Just upstream of Sheridan Road	*614
			Just downstream of Talmadge Avenue	*625
			Just upstream of Talmadge Avenue	*627
			Just downstream of Beach Road	*632
			Just upstream of Beach Road	*636
			About 1,600 feet upstream of Dewoody Avenue	*670
		North Arm Flint Creek	Within unincorporated area	*756
		Lake Michigan	Shoreline	*581
		Round Lake	Shoreline	*765
		Diamond Lake	Shoreline	*742
		Sun Lake	Shoreline	*779
		Cedar Lake	Shoreline	*791
		Deep Lake	Shoreline	*780
		Cross Lake	Shoreline	*813
		Channel Lake	Shoreline	*742
		Lake Catherine	Shoreline	*742
		Lake Marie	Shoreline	*742
		Grass Lake	Shoreline	*742
		Bluff Lake	Shoreline	*742
		Petite Lake	Shoreline	*742
		Antioch Lake	Shoreline	*757
		Slocum Lake	Shoreline	*738
		Fox Lake	Shoreline	*742
		Nippersink Lake	Shoreline	*742
		Duck Lake	Shoreline	*742
		Pistakee Lake	Shoreline	*741
		Brandenburg Lake	Shoreline	*741
		Redhead Lake	Shoreline	*741
		Shallow Flooding from Northwest Retention Basin.	About 1,000 feet south of intersection of Lake Shore Drive and Druce Lake Road.	*783

Maps available for inspection at the Lake County Department of Planning, Zoning and Environmental Quality, County Building, Room A303, 18 N. County Street, Waukegan, Illinois.

Send comments to Honorable Glenn Miller, Chairman of the Lake County Board, Lake County, County Building, 18 North County Street, Waukegan, Illinois 60085.

Illinois	(V) Manhattan, Will County	Manhattan Creek	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*686
			Just downstream of Eastern Avenue	*690

Maps available for inspection at the Village Hall, 245 State Street, Manhattan, Illinois.

Send comments to Honorable John E. Fitzgerald, Village President, Village of Manhattan, Village Hall, 245 State Street, Manhattan, Illinois 60442.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) McHenry Shores, McHenry County	Fox River	Within corporate limits	*740
Maps available for inspection at the McHenry Shores Village Hall, 3215 West Beach Drive, McHenry, Illinois.				
Send comments to Honorable Richard Panerall, Village President, Village of McHenry Shores, McHenry Shores Village Hall, 3215 West Beach Drive, McHenry, Illinois 60050.				
Illinois	(V) Romeoville Will County	Des Plaines River	About 1,800 feet downstream of Romeo Road	*585
			About 1.2 miles upstream of Romeo Road	*588
Maps available for inspection at the Village Hall, 13 Montrose Drive, Romeoville, Illinois.				
Send comments to Honorable Howard Trippett, Village President, Village of Romeoville, Village Hall, 13 Montrose Drive, Romeoville, Illinois 60441.				
Indiana	(T) Griffith, Lake County	Little Calumet River	Within corporate limits	*596
		Cady Marsh Ditch	Just upstream of Cline Avenue	*614
			Just downstream of Colfax Street	*615
		Seberger Ditch	Within corporate limits	*629
		Turkey Creek	Within corporate limits	*631
Maps available for inspection at the Town Hall, 111 North Broad Street, Griffith, Indiana.				
Send comments to Honorable Carl Konotasek, Town Board President, Town of Griffith, Town Hall, 111 North Broad Street, Griffith, Indiana 46319.				
Indiana	(Unine.) Hancock County	Little Sugar Creek	About 2,500 feet downstream of County Road 600 South	*800
			Just upstream of County Road 600 South	*807
			Just upstream of U.S. Route 52	*822
			Just downstream of County Road 200 South	*847
		Sugar Creek	Just upstream of County Road 600	*794
			About 200 feet upstream of County Road 300 South	*812
			Just upstream of U.S. Route 40	*827
			Just upstream of State Route 13	*856
			Just downstream of State Route 234	*871
		Six Mile Creek	Mouth at Big Blue River	*844
			About 400 feet upstream of County Road 800 east	*846
			Just downstream of County Road 1,000 west (upstream crossing).	*880
		Buck Creek	Just upstream of County Line Road	*826
			Just downstream of Conrail	*827
			Just upstream of Conrail	*834
			Just upstream of State Route 234	*858
		Big Blue River	About 1.1 miles downstream of County Road 575 East	*831
			Just downstream of County Road 1,000 West	*851
		Brier Creek	Just upstream of County Line Road	*827
			About 2,300 feet upstream of County Road 700 West	*846
		Doe Creek	Just upstream of County Line Road	*806
			Just upstream of County Road 700 West	*834
			About 2,250 feet upstream of County Road 200 South	*844
Maps available for inspection at the Hancock County Courthouse, Surveyor's Office, Greenfield, Indiana.				
Send comments to Honorable Nobel Snodgrass, Chairman of the Hancock County Commissioners, Hancock County, Hancock County Courthouse, Surveyor's Office, Greenfield, Indiana [illegible]				
Indiana	(T) Highland, Lake County	Little Calumet River	Just upstream of Cline Avenue	*595
			At upstream corporate limits	*599
		Cady Marsh Ditch	At confluence of Spring Street Ditch	*607
			Just downstream of Cline Avenue	*614
		Hart Ditch	At mouth at Little Calumet River	*599
			At confluence of Cady Marsh Ditch	*607
		Spring Street Ditch	About 200 feet upstream of mouth at Cady Marsh Ditch	*612
			Just downstream of Hart Road	*614
			Just downstream of Main Street	*622
Maps available for inspection at the Town Hall, 3333 Ridge Road, Highland, Indiana.				
Send comments to Honorable John Oakley, Town Board President, Town of Highland,Town Hall, 3333 Ridge Road, Highland, Indiana 46322.				
Indiana	(T) Rome City, Noble County	Branch Creek	At western extraterritorial limits	*893
			At confluence of Little Lake	*895
		Little Lake	Shoreline	*895
		Sylvan Lake	Shoreline	*916
Maps available for inspection at the Town Hall, 123 Kerr Avenue, Rome City, Indiana.				
Send comments to Honorable Howard C. Cantwell, Town Board President, Town of Rome City, Town Hall, P.O. Box 338, 123 Kerr Avenue, Rome City, Indiana 46784.				
Indiana	(C) Rushville Rush County	Flatrock River	At downstream corporate limits	*950
			Just upstream of Main Street	*955
			Just upstream of Chessie System	*957
			About 0.39 mile upstream of Chessie System	*958
		Hodges Branch	Just upstream of 9th Street	*967
			Just downstream of Main Street	*972
Maps available for inspection at the City Building, Rushville, Indiana.				
Send comments to Honorable Raymond M. Gibson, Mayor, City of Rushville, City Building, Rushville, Indiana 46173.				
Indiana	(Unine.) Shelby County	Little Sugar Creek	Mouth at Sugar Creek	*783
			Just downstream of County Road 1209 North	*805
			About 4,300 feet upstream of County Road 300 West	*81,3
		Snail Creek	Mouth at Sugar Creek	*738
			Just upstream of County Road 400 North	*763
			Just upstream of County Road 400 West	*784
			About 3,600 feet upstream of confluence of Sexton Ditch.	*790
		Snodgrass Ditch	Mouth at Snail Creek	*790

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1,500 feet up stream of confluence of Duckworth Ditch	*799
		Dry Fork	Mouth at Snail Creek	*743
			Just downstream of Conrail	*775
			Just upstream of Conrail	*781
			Just downstream of Frontage Road	*789
			About 0.19 mile upstream of County Road 800 North	*791
		Sugar Creek	About 1.9 miles downstream of Mill Dam	*734
			Just upstream of Interstate 74	*770
			Just downstream of County Road 1200 North	*784
		Brandywine Creek	About 0.3 mile downstream of County Road 900 North	*761
			Just upstream of Interstate 74	*775
			Just upstream of County Road 750 North	*803
			About 0.4 mile upstream of Chessie System	*831
		Big Blue River	About 1.0 mile upstream of State Route 44	*729
			About 1.0 mile upstream of Morristown Road	*778
			About 0.7 mile downstream of Freeport Dam	*814
			About 530 feet upstream of county boundary	*632
		Little Blue River	About 1.4 miles downstream of Interstate 74	*765
			Just downstream of Interstate 74	*775

Maps available for inspection at the Planning Commission Office, Shelby County Courthouse, Shelbyville, Indiana.

Send comments to Honorable Marvin Larrison, Chairman of the County Commission, Shelby County, Shelby County Courthouse, Shelbyville, Indiana 46176.

Iowa	(C) Neola, Pottawattami County	Mosquito Creek	Just upstream of confluence with Neola Creek	*1,090
			About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*1,095
		Neola Creek	About 1,300 feet upstream of Front Street	*1,097
			About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*1,092
			About 1,400 feet upstream of Pearl Street	*1,100

Maps available for inspection at the City Hall, Neola, Iowa.

Send comments to Honorable John Schnitker, Mayor, City of Neola, P.O. Box 236, Neola, Iowa 51559.

Maryland	Highland Beach, town, Anne Arundel County	Chesapeake Bay	Entire shoreline within community	*10

Maps available for inspection by contacting Mayor Johnson at (202) 783-3666.

Send comments to Honorable Nan Johnson, Mayor of Highland Beach, P.O. Box 3161, Annapolis, Maryland 21403.

Maryland	Millington, town, Kent and Queen Annes County	Chester River	Downstream Corporate Limits	*13
			Upstream Corporate Limits	*14

Maps available for inspection at the Town Hall, Millington, Maryland.

Send comments to Honorable T. Edward Robinson, Mayor of Millington, P.O. Box 222, Millington, Maryland 21651.

Massachusetts	Northbridge, town, Worcester County	Blackstone River	Downstream corporate limits	*241
			Upstream of Church Street	*255
			Upstream corporate limits	*276
		Mumford River	Downstream corporate limits	*259
			Upstream of footbridge	*273
			Downstream of dam	*312
		Whitins Pond	Entire shoreline within community	*313

Map available for inspection at the Town Clerks' Office, Memorial Town Hall, Whitinsville, Massachusetts.

Send comments to the Honorable J. Alfred Benoit, Chairman of the Town of Northbridge Board of Selectmen, Northbridge Memorial Town Hall, Whitinsville, Massachusetts 01588.

Michigan	(Twp.) Albion, Calhoun County	South branch, Kalamazoo River	About 2.1 miles downstream of D Drive South	*948
			Just downstream of H Drive South	*955
			Just downstream of L Drive South	*962
		East branch, Kalamazoo River	About 3,800 feet downstream of 29½ Mile Road	*943
			About 3,900 feet upstream of 29½ Mile Road	*948
		Unnamed creek	About 2,500 feet downstream of 29½ Mile Road	*948
			Just upstream of 29½ Mile Road	*954
			About 2,650 feet upstream of 29½ Mile Road	*958

Maps available for inspection at the Town Hall, Albion, Michigan.

Send comments to Honorable Thomas Frank, Supervisor, Township of Albion, 24531 B Drive, South, Albion, Michigan 49224.

Michigan	(Twp.) Ash, Monroe County	Swan Creek	At Labo Road	*590
			Just upstream of Telegraph Road	*596
			At Carleton-Rockwood Road	*602
			Just upstream of Interstate 275	*606
			Just downstream of Grafton Road	*606
		North branch, Swan Creek	Mouth at Swan Creek	*605
			Just downstream of Interstate 275	*607
			At Will Carleton Drive	*612

Maps available for inspection at the Town Hall, 1677 Ready Road, Carleton, Michigan.

Send comments to Honorable Wayne Smith, Supervisor, Township of Ash, Town Hall, 1677 Ready Road, Carleton, Michigan 48117.

Michigan	(Twp.) Berlin, Monroe County	Huron River	Mouth at Lake Erie	*576
			About 3.5 miles downstream of Telegraph Road	*587
			Just upstream of T elegraph Road	*596
		Lake Erie	Shoreline	*576
		Swan Creek	Mouth at Lake Erie	*576
			Just downstream of Drew Road	*584
			Just upstream of Brandon Road	*586
			About 400 feet upstream of Interstate 75 southbound	*586

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mouillee Creek	Mouth at Lake Erie	*578
			Just upstream of Hagerman Road	*579
		Laudenschlager drain	About 3,300 feet downstream of Hagerman Road	*578
			Just downstream of Detroit and Toledo Shoreline Railroad	*583
			Just upstream of Conrail	*586
			About 700 feet upstream of Ready Road	*588
Maps available for inspection at the Town Hall, 5651 Trombley Road, Newport, Michigan.				
Send comments to Honorable Darryl E. Smith, Supervisor, Township of Berlin, Town Hall, 5651 Trombley Road, Newport, Michigan 48166.				
Michigan	(C) Eaton Rapids, Eaton County	Grand River	About 1.0 mile downstream of confluence of Grand River bypass.	*866
			Just downstream of State Street Dam	*870
			About 1,300 feet upstream of State Street Dam	*873
			At downstream southern corporate limit	*875
		Grand River bypass	Just upstream of Knight Street	*870
			Just upstream of Main Street	*872
		Spring Brook	About 1,500 feet upstream of footbridge	*871
			About 2,600 feet upstream of footbridge	*872
		Shallow flooding (overflow from Grand River and Grand River bypass)	Intersection of Main Street and Hamlin Street	#2
Maps available for inspection at the City Hall, 206 South Main Street, Eaton Rapids, Michigan.				
Send comments to Honorable Victor Huddleston, Mayor, City of Eaton Rapids, City Hall, 206 South Main Street, Eaton Rapids, Michigan 48827.				
Michigan	(Twp.) Kochville, Saginaw County	Kochville drain	About 2.5 miles above mouth of Saginaw River	*585
			At confluence of north branch, Kochville drain	*587
		South branch, Kochville drain	Just upstream of Michigan Road	*588
			Just downstream of State Highway 84	*589
		North branch, Kochville drain	Just upstream of Davis Road	*589
			Just downstream of State Highway 84	*586
Maps available for inspection at Mr. Trautner's Home, 4510 Pierce Road, Saginaw, Michigan.				
Send comments to Honorable Albert Trautner, Supervisor, Township of Kochville, 6150 Bay Road, Saginaw, Michigan 48604.				
Michigan	(C) Mason, Ingham County	Sycamore Creek	About 1,200 feet downstream of Howell Road	*874
			Just upstream of Cemetery Drive	*879
			Just upstream of Maple Street	*888
			Just downstream of Kipp Road	*894
		Rayner Creek	At confluence with Sycamore Creek	*876
			Just upstream of Rogers Street	*880
			Just upstream of Columbia/Matthews Street	*884
			About 1,300 feet upstream of Matthews Street	*884
		Willow Creek	At confluence with Sycamore Creek	*891
			About 3,000 feet upstream of U.S. Highway 127	*893
Maps available for inspection at the City Hall, 201 West Ash Street, Mason, Michigan.				
Send comments to Honorable Dewayne Evans, Mayor, City of Mason, City Hall, 201 West Ash Street, Mason, Michigan 48854.				
Michigan	(Twp.) Pennfield, Calhoun County	Battle Creek River	About 850 feet upstream of Verona Dam	*836
			Just upstream of McAllister Road	*833
Maps available for inspection at the Town Hall, 20260 Capital Avenue, N.E., Battle Creek, Michigan.				
Send comments to Honorable Russell E. Coutler, Supervisor, Township of Pennfield, Town Hall, 20260 Capital Avenue, N.E., Battle Creek, Michigan 49107.				
Michigan	(Twp.) Summit, Jackson County	McCain drain	About 1,800 feet downstream of State Highway 60	*958
			About 2,300 feet upstream of Spring Arbor Road	*963
		Grand River	About 2,100 feet upstream of Losey Avenue	*935
			About 4,600 feet downstream fo Stonewall Road	*945
			Just downstream of Stonewall Road	*945
			About 4,600 feet upstream of Glenshire Drive	*946
		Peterson Lake Drain	Mouth at Grand River	*947
			Just upstream of Badgley Road	*960
			About 2,395 feet upstream of Horton Road	*962
			Just upstream of abandoned railroad bridge	*968
			About 1,600 feet upstream of Voorman Road	*970
		Finton Lake	Shoreline	*960
		Vandercook Lake	Shoreline	*949
		Brown Lake	Shoreline	*948
Maps available for inspection at the Town Hall, 2121 Ferguson Road, Jackson, Michigan.				
Send comments to Honorable Herman Gumper, Supervisor, Township of Summit, Town Hall, 2121 Ferguson Road, Jackson, Michigan 49203.				
Minnesota	(C) Little Canada, Ramsey County	Gervais Lake	Shoreline	*882
		Round Lake	Shoreline	*905
		Savage Lake	Shoreline	*887
		Twin Lake	Shoreline	*872
Maps available for inspection at the City Hall, 515 Little Canada Road, Little Canada, Minnesota.				
Send comments to Honorable Raymond Hanson, Mayor, City of Little Canada, City Hall, 515 Little Canada, Minnesota 55117.				
Missouri	(C) Marthasville; Warren County	Tuque Creek tributary	Just downstream of the Missouri, Kansas, Texas Railroad.	*495
			About 1,050 feet upstream of No. 4 Street	*496
Maps available for inspection at the City Hall, P.O. Box 21, Marthasville, Missouri.				
Send comments to Honorable Franklin Rombech, Mayor, City of Marthasville, City Hall, P.O. Box 21, Marthasville, Missouri 63357				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) Washington, Franklin County	Busch Creek	At confluence with Dubois Creek	*485
			Just upstream of abandoned bridge	*492
			Just downstream of Madison Avenue	*496
			Just upstream of Madison Avenue	*503
			Just downstream of Locust Street	*510
			About 120 feet upstream of Jefferson Street	*515
			Just downstream of private road	*523
			Just upstream of private road	*531
			About 300 feet downstream of State Highway 100	*535
			Just upstream of State Highway 100	*547
		Southwest branch, Busch Creek	Mouth at Busch Creek	*486
			Just upstream of State Highway 100	*498
			About 1.56 miles upstream of State Highway 100	*507
		South branch, Busch Creek	Mouth at Busch Creek	*486
			At upstream corporate limits	*489
		St. Johns Creek	At Missouri Pacific Railroad	*494
			At upstream corporate limits	*494
		Missouri River	At downstream corporate limits	*486
			About 1.5 miles upstream of confluence of Saint Johns Creek.	*494
		Dubois Creek	At downstream corporate limits	*486
			At confluence of Busch Creek	*486

Maps available for inspection at the City Hall, 4th and Jefferson Streets, Washington, Missouri.

Send comments to Honorable James Renick, Mayor, City of Washington, 4th and Jefferson Streets, Washington, Missouri 63090.

Nebraska	(C) Ashland, Saunders County	Salt Creek	Just upstream of U.S. Highway 6	*1,063
			About 200 feet upstream of the Burlington Northern Railroad (upstream of 13th Street).	*1,063
			At County Road 110	*1,065
		Wahoo Creek	At mouth	*1,068
			About 400 feet upstream of the Burlington Northern Railroad near the northwest extraterritorial limit.	*1,078
		Clear Creek	Within extraterritorial limit	*1,071
		Silver Creek	Within extraterritorial limit	*1,071

Maps available for inspection at the City Hall, 1748 Silver Street, Ashland, Nebraska.

Send comments to Honorable Max O. Barnes, Mayor, City of Ashland, City Hall, 1748 Silver Street, Ashland, Nebraska 68003.

Nebraska	(V) DeWitt, Saline County	Big Blue River	About 5,000 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,286
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*1,292
		Turkey Creek	About 15,700 feet upstream of Fillmore Avenue	*1,286
			About 4,200 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,288
			About 3,500 feet upstream of Burlington Northern Railroad.	*1,299
		Big Blue River overflow	At Chicago, Rock Island and Pacific Railroad	*1,290
			At Burlington Northern Railroad	*1,292

Maps available for inspection at the City Hall, 406 East Fillmore, DeWitt, Nebraska.

Send comments to Honorable Allison D. Peterson, Chairperson of the Board of Trustees, Village of DeWitt, City Hall, 406 East Fillmore, DeWitt, Nebraska 68341.

Nebraska	(C) Wilber, Saline County	Big Blue River	About 3.3 miles downstream of State Highway 41	*1,310
			About 3.1 miles upstream of State Highway 41	*1,322
		Middle unnamed tributary of Big Blue River.	At mouth at Big Blue River	*1,312
			Just upstream of OK Street	*1,320
			About 0.75 mile upstream of Franklin Street	*1,366
		North unnamed tributary of Big Blue River.	At mouth at Big Blue River	*1,321
			Just upstream of State Highway 103	*1,325
			About 1.5 miles upstream of mouth (just upstream of county road).	*1,365

Maps available for inspection at the City Hall, 101 West Third Street, Wilber, Nebraska.

Send comments to Honorable Harold Schwabauer, Mayor, City of Wilber, City Hall, 101 West Third Street, Wilber, Nebraska 68465.

Nebraska	(V) Yutan, Saunders County	Clear Creek	About 400 feet downstream of county road (at southern extraterritorial limit).	*1,141
			Just downstream of State Highway 92	*1,146
			Just upstream of State Highway 792	*1,152
			Just upstream of Union Pacific Railroad	*1,163
			Just downstream of county road (at western extraterritorial limit).	*1,180
		Upper Clear Creek	At mouth	*1,148
			Just upstream of Burlington Northern Railroad	*1,148
			JUst downstream of county road (at northern extraterritorial limit).	*1,173

Maps available for inspection at the City Hall, Yutan, Nebraska.

Send comments to Honorable Steve Hayes, Mayor, Village of Yutan, City Hall, Yutan, Nebraska 68073.

New Jersey	Mantua, Township, Gloucester County	Mantua Creek	Downstream Corporate Limits	*8
			Upstream Corporate Limits	*11

Maps available for inspection at the Municipal Building, Main Street, Mantua, New Jersey.

Send comments to Honorable Roy J. Hodgens, Mayor of Mantua, Municipal Building, Main Street, Mantua, New Jersey 08051.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Bellport, Village, Suffolk County	Great South Bay	Mott Drive extended to Brookside Avenue extended	*5
			Brookside Avenue extended to southwest corporate limits	*6

Maps available for inspection at the Village Office, 144 South Country Road, Bellport, New York.

Send comments to Honorable Robert Wallen, Mayor of Bellport, P.O. Box 3, Bellport, New York 11713.

New York	Canajoharie, Town, Montgomery County	Mohawk River	At downstream Corporate Limits	*298
			At upstream Corporate Limits	*304
			Ponding area near upstream Corporate Limits between New York State Thruway and Conrail.	*304

Maps available for inspection at the Town Office, Church Street, Canajoharie, New York.

Send comments to Honorable Charles Convoy, Supervisor of the Town of Canajoharie, Town Office, Church Street, Canajoharie, New York 13317.

New York	Canajoharie, Village, Montgomery County	Mohawk River	Downstream Corporate Limits	*300
			Upstream Corporate Limits	*302

Maps available for inspection at the Municipal Building, Erie Boulevard, Canajoharie, New York.

Send comments to Honorable Mary Plank, Mayor of the Village of Canajoharie, Municipal Building, Erie Boulevard, Canajoharie, New York 13317.

New York	Constantia, Town, Oswego County	Oneida Lake	Entire shoreline	*373
		Panther Lake	Entire shoreline	*501
		Frederick Creek	Confluence with Scriba Creek	*373
			Upstream of Tannery Road Dam	*415
			Upstream of Knapp Road	*435
			Approximately 3,400' upstream of Kibble Lake Road	*477
		Scriba Lake	Confluence with Oneida Lake	*373
			Upstream of County Road No. 23 (downstream crossing)	*501
			Upstream of Parker Road	*448
			Upstream of Holley Hole Road	*505
			Upstream Corporate Limits	*548
		Dakins Creek	Confluence with Oneida Lake	*373
			Approximatley 300' upstream of Johnson	*414

Maps available for inspection at the Town Hall, Frederick Street, Constantia, New York.

Send comments to Honorable Francis Cooper, Supervisor of Constantia, Box 187, Constantia, New York 13044.

New York	Fonda, Village, Montgomery County	Mohawk River	Downstream Corporate Limits (extended)	*286
			Upstream State Route 30A	*298
			Upstream Corporate Limits (extended)	*301
		Cayadutta Creek	Confluence with Mohawk River	*291
			Upstream Corporate Limits	*299

Maps available for inspection at the Village Office, Main Street, Fonda, New York.

Send comments to Honorable Stephen D. Compani, Mayor of Fonda, Village Office, Main Street, Fonda, New York 12068.

New York	Fort Plain, Village, Montgomery County	Mohawk River	Downstream Corporate Limits	*304
			Upstream Corporate Limits	*307
		Otsquago Creek	Confluence with Mohawk River	*305
			Upstream of South Street bridge	*322
			Upstream Corporate Limits	*352

Maps available for inspection at the Village Hall, 168 Canal Street, Fort Plain, New York.

Send comments to Honorable Richard Jacksland, Mayor of Fort Plain, Village Hall, 168 Canal Street, Fort Plain, New York 13339.

New York	Fultonville, Village, Montgomery County	Mohawk River	Downstream Corporate Limits (extended)	*287
			Upstream Corporate Limits (extended)	*291

Maps available for inspection at the Village Hall, Fultonville, New York.

Send comments to Honorable E. S. Yates, Mayor of Fultonville, Village Office, Fultonville, New York 12072

New York	Hewlett Bay Park, Village, Nassau County	Macy Channel	Entire shoreline	*8

Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.

Send comments to Honorable Ellyn Brownether, Mayor of Hewlett Bay Park, Village Hall, 30 Piermont Avenue, Hewlett, New York 11557

New York	Hewlett Neck, Village, Nassau County	Broosevere Bay	Entire shoreline within community including the shoreline of Georges Creek within the community.	*8

Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.

Send comments to Honorable Sheldon Shane, Mayor of Hewlett Neck, Village Hall, 30 Piermont Avenue, Hewlett, New York 11557.

New York	Nelliston, Village, Montgomery County	Mohawk River	Downstream Corporate Limits (extended)	*303
			Upstream Corporate Limits (extended)	*307

Maps available for inspection at the Village Hall, River Street, Nelliston, New York.

Send comments to Honorable Harvey W. Grampe, Mayor of Nelliston, River Street, Nelliston, New York 13410.

New York	Patchoque, Village, Suffolk County	Great South Bay	Entire shoreline within community	*8
			West Main Street to Crescent Street extended along southwestern corporate limits	*5
			Crescent Street extended to Strand Drive extended along southwestern corporate limits.	*6

Maps available for inspection at the Municipal Building, 14 Baker Street, Patchoque, New York.

Send comments to Honorable Norman F. Lechtrecker, Mayor of Patchoque, Municipal Building, 14 Baker street, Patchoque, New York 11772.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Rockville Centre, Village, Nassau County	Mill River	entire shoreline within community	*7
Maps available for inspection at the Village Hall, One College Place, Rockville Centre, New York.				
Send comments to Honorable Leonard Sandel, Mayor of Rockville Centre, P.O. Box 950, Rockville Centre, New York 11571.				
New York	Valley Stream, Village, Nassau County	Valley Stream	Downstream Corporate Limits	*11
			Valley Stream Boulevard (upstream side)	*16
			Footbridge and Weir (upstream side)	*19
			Hendrickson Avenue (upstream side)	*21
		Mill Creek	Downstream Corporate Limits	*11
			Rockaway Avenue (upstream side)	*12
			Argyle Street (upstream side)	*24
			Franklin Avenue (upstream side)	*30
Maps available for inspection at the Village Hall, 123 South Central Avenue, Valley Stream, New York.				
Send comments to Honorable Francis Furey, Mayor of Valley Stream, Village Hall, 123 South Central Avenue, Valley Stream, New York 11580.				
New York	Woodburgh, Village, Nassau County	Broadwave Bay	Entire coastline within community	*8
		Woodmere Channel	Entire shoreline within community	*8
Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.				
Send comments to Honorable Jesse Halperin, Mayor of Woodsburgh, Village Hall, 30 Piermont Avenue, Hewlett, New York 11557.				
Ohio	(V) Empire, Jefferson County	Ohio River	Just downstream of confluence of Jeremy Run	*670
			At upstream corporate limits	*670
Maps available for inspection at the Mayor's Office, Town Hall, Empire, Ohio.				
Send comments to Honorable Wendell B. Reese, Mayor, Village of Empire, Town Hall, Empire, Ohio 43926.				
Ohio	(C) North Canton, Stark County	West Branch Nimishillen Creek	About 1,900 feet downstream of South Main Street	*1,066
			Just upstream of South Main Street	*1,074
			Just upstream of Dam	*1,085
			About 1,400 feet upstream of East Maple Street	*1,090
		Chatham Ditch	About 1,150 feet downstream of Marquardt Avenue	*1,090
			Just upstream of Marquardt Avenue	*1,100
			About 900 feet upstream of Marquardt Avenue	*1,101
		McDowell Ditch	About 2,050 feet downstream of Everhard Avenue	*1,058
			About 150 feet upstream of Everhard Avenue	*1,058
		Zimber Ditch	About 2,700 feet downstream of Glenwood Street Southwest	*1,062
			About 2,400 feet upstream of Glenwood Street Southwest.	*1,064
Maps available for inspection at the Engineer's Office, City Hall, 145 North Main Street, North Canton, Ohio.				
Send comments to Honorable Dennis Grady, Mayor, City of North Canton, City Hall 145 North Main Street, North Canton, Ohio 44720.				
Ohio	(V) Stratton, Jefferson County	Ohio River	At downstream corporate limit	*579
			At upstream corporate limit	*580
Maps available for inspection at the Mayor's Office, Town Hall, Third Street, Stratton, Ohio.				
Send comments to Honorable Frederick Abella, Mayor, Village of Stratton, Town Hall, P.O. Box 171, Third Street, Stratton, Ohio 43961.				
Ohio	(V) Tiltonsville, Jefferson County	Ohio River	At downstream corporate limits	*569
			At upstream corporate limits	*569
Maps available for inspection at the Mayor's Office, Town Hall, Grandview and Market Streets, Tiltonsville, Ohio.				
Send comments to Honorable Grant N. Helms, Mayor, Village of Tiltonsville, Town Hall, Grandview and Market Streets, Tiltonsville, Ohio 43963.				
Ohio	(V) Yorkville, Belmont and Jefferson Counties	Ohio River	Just downstream of confluence of Patton Run	*662
			About 0.8 mile upstream of Pike Island Lock and Dam	*663
		Deep Run	At mouth	*662
			Just downstream of State Route 7	*662
Maps available for inspection at the President's Office, Town Hall, 324 Market Street, Yorkville, Ohio.				
Send comments to Honorable Phil A. Piciaccha, Jr., President of the Village Council, Village of Yorkville, Town Hall, 324 Market Street, Yorkville, Ohio 43971.				
Commonwealth of Puerto Rico.	Rio Grande, Anasco River Basin	Rio Grande de Anasco	10 meters downstream of intersection of river and Puerto Rico Highway 2.	*5.1
			30 meters upstream of intersection of river and Puerto Rico Highway 406.	*16.0
		Atlantic Ocean	At mouth of Rio Grande de Anasco	*1.6
Maps available for inspection at the Puerto Rico Planning Board, P.O. Box 41119, Minillas Station, Santurce, Puerto Rico.				
Send comments to Honorable Carlos Romero Barcelo, LaFortaleza, San Juan, Puerto Rico 00902.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Utah	Utah County (Unincorporated Areas)	Utah Lake	Intersection of 7300 North and 8000 West	*4,495
			Approximately 1,000 feet west of the intersection of Geneva Road and 5200 North.	*4,495
			Intersection of 4800 West and 5400 South	*4,495
			Intersection of Interstate Highway 15 and 2400 South	*4,495
		Dry Creek	Eastern side of 8000 West over the channel	*4,622
			State Highway 80 over the channel	*4,770
		American Fork River	4800 West over the channel	*4,901
		Hobble Creek	Upstream side of Mapleton Drive over the channel	*4,816
		Jordan River	Approximately 1,000 feet east of the intersection of Cedar Fort Road and 10400 West.	*4,494
		Provo River	Downstream side of State Highway 78 over the channel.	*4,692

Maps available for inspection at Office of the County Engineer, County Building, 115 S. University Ave., Room 112, Provo, Utah.

Send comments to the Honorable Kenneth J. Pinegar, County Building, 115 S. University Avenue, Room 309, Provo, Utah 84601.

Virginia	Tangier, Town, Accomack County	Chesapeake Bay	Entire shoreline within community	*6
		Tangier North Channel	Entire shoreline within community	*6
		Tangier Sound	Entire shoreline within community	*6

Maps available for inspection at the Municipal Building, Tangier, Virginia.

Send comments to the Honorable Robert Thorne, Mayor of Tangier, Municipal Building, Tangier, Virginia 23440.

Washington	Cosmopolis (City)	Grays Harbor	Intersection of Broadway Street (U.S. 101) and J Street.	*10
	Grays Harbor County	Mill Creek	30 feet upstream of C Street	*21

Maps available for inspection at City Hall, 100 E. 1st., Cosmopolis, Washington.

Send comments to the Honorable Jerry Raines, P.O. Box G, Cosmopolis, Washington 98537.

Washington	Waitsburg (City), Walla Walla County	Touchet River	Intersection of First Street and Jay Street	*1,247
			Intersection of Woods Street and U.S. Highway 12	*1,274
		Coppel Creek	Intersection of Arnold Street and Seventh Street	*1,243
			Intersection of Main Street and Sixth Street	#1

Maps available for inspection at City Hall, Waitsburg, Washington.

Send comments to the Honorable Virgil Carpenter, P.O. Box 35, Waitsburg, Washington 99361.

Wisconsin	(C) Chilton, Calumet County	South Branch Manitowoc River	About 0.32 mile downstream of East Main Street	*842
			Just downstream of Dam (about 0.02 mile downstream of State Street).	*885
			Just upstream of State Street	*887
			About 1.11 miles upstream of State Street	*893

Maps available for inspection at the Office of the City Clerk, City Hall, 42 School Street, Chilton, Wisconsin.

Send comments to the Honorable Alpheus W. Larson, Mayor, City of Chilton, City Hall, 42 School Street, Chilton, Wisconsin 53014.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3785 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket PS-66; Notice 2]

Transportation of Natural and Other Gas by Pipeline Transportation of Hazardous Liquids by Pipeline; Placing Longitudinal Weld Seams in Upper Half of Pipe

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Withdrawal of Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: An ANPRM sought information concerning the need for a new safety standard that would require placement of the longitudinal weld seams in the upper half of newly constructed pipelines as a means to reduce the number of accidents caused by internal corrosion.

The comments to the ANPRM, recommendations by members of advisory committees for gas and liquid pipelines, and a review of accident reports submitted to MTB indicate that the location of the weld seam is not expected to be a factor in corrosion caused accidents that might occur on newly constructed pipelines. Consequently, the ANPRM is withdrawn.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION: The MTB issued an ANPRM (45 FR 20142, March 27, 1980) seeking information concerning a recommendation (72-P-9) by the National Transportation Safety Board (NTSB) to locate the longitudinal weld seam in the upper half of the pipe during pipeline construction to avoid the potential for internal corrosion occurring at the weld seam or heat affected zone. According to the NTSB, internal corrosion on the bottom of the pipe will weaken an insufficiently bonded longitudinal seam when it also is located on the bottom of the pipe and the pipe will fail at such locations. This condition prevails in pipelines transporting gas or hazardous liquids according to NTSB

The ANPRM sought information necessary to define the safety problem addressed by the recommendation, to evaluate the effectiveness of the recommendation, and to weigh the technical and economic practicability of the recommendation. In addition to publishing the ANPRM, the MTB brought the recommendation before the Technical Pipeline Safety Standards Committee (TPSSC) for gas pipelines on December 9, 1980, and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) on December 17, 1981, in order to gain the views of committee members as well as views of the public.

Other than the NTSB, the 40 commenters responding to the ANPRM did not support adoption of a new safety standard to place the longitudinal seam in the uper half of the pipe for gas transmission or distribution pipelines or for hazardous liquid pipelines. These commenters argued that industry experience indicates that failures are seldom if at all caused by internal corrosion in the longitudinal seam or heat affected zone. While not agreeing with NTSB that corrosion in the longitudinal weld seam or heat affected zone is a potential problem, these commenters argued that current welding technology together with precise quality control of the weld and improved control of pipe metal chemistry prevents the occurrence of weld seams which are insufficiently bonded.

During the TPSSC meeting on December 9, 1980, the NTSB reiterated its position in favor of adopting the rule. The committee members, however, expressed the view that (1) the weld seam or heat affected zone is not more subject to internal corrosion than the body of the pipe, and (2) experience of the committee members with liquid and gas pipelines does not indicate that internal corrosion in the weld seam or heat affected zone is a serious safety problem. The TPSSC suggested that accident reports submitted to MTB be examined to determine whether a serious safety problem is indicated by the data.

The MTB accident records were surveyed to determine the incidence of accidents that might be attributable to internal corrosion in the longitudinal weld seam or heat affected zone. None of the 3,144 liquid pipeline accidents reported to date involved internal corrosion in the longitudinal seam other than the Phillips Pipe Line Company December 9, 1970, accident noted in the ANPRM.

Only six accidents reporting internal corrosion in the longitudinal seam were found in the 12,782 gas transmission and distribution pipeline accidents to date. All six of these accidents were on the same transmission pipeline within a few miles of each other which indicates a local problem rather than a problem throughout the industry. Further, four of these six accidents occurred during hydrostatic test and thus were not failures in the ordinary sense. Additionally, the accident data did not include the location of the longitudinal seam and, therefore, placement of the longitudinal seam cannot be correlated with those remaining two failures which might indicate the existence of a safety problem.

The majority of the members of the THLPSSC, after reviewing the ANPRM, the comments submitted in response to the ANPRM, and the MTB accident records, favored withdrawing the ANPRM for lack of information indicating the existence of a serious safety problem.

In view of the negative comments in response to the ANPRM, the lack of support for the proposal by the TPSSC and the THLPSSC, and the lack of statistical data in the accident reports indicating the existence of a serious safety problem, the MTB does not believe that the placement of the longitudinal weld seam poses a serious safety problem. While the Phillips accident and the six accidents in gas pipelines involved corrosion in the weld seam, the MTB believes that (1) these were isolated cases and do not represent a general, widespread condition, and (2) the type of weld defect that might have caused these failures is unlikely to recur on newly constructed pipelines due to the application of modern manufacturing techniques. Therefore, the MTB hereby withdraws the ANPRM concerning placement of the longitudinal weld seam in the upper half of pipe, as published at 45 FR 20142, March 27, 1980.

(49 U.S.C. 1672; U.S.C. 2001; 49 CFR 1.53(a), Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on February 8, 1982.

Melvin A. Judah

Acting Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 82-3871 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Review of the Status; U.S. Breeding Population of the Wood Stork

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service is reviewing the status of the U.S. breeding population of the wood stork (*Mycteria americana*) to

determine if this population of this species should be proposed as an endangered or threatened species. This review is being undertaken because of indications that the U.S. breeding population of wood storks has been decreasing and adverse modification of their habitat is occurring. The U.S. wood storks nest primarily in Florida, but post-breeding dispersal carries them throughout much of the Southeast. The Service welcomes additional data on the status of this bird and its habitat. The Service is also requesting information on environmental and economic impacts and effects on small entities that would result from proposing the wood stork as an endangered or threatened species and information on possible alternatives.

DATE: Information regarding the status of the U.S. wood stork population should be submitted on or before April 19, 1982.

ADDRESS: Comments and data should be sent to the Area Manager, U.S. Fish and Wildlife Service, Department of Interior, 15 North Laura Street, Jacksonville, Florida 32202. Comments and materials relative to this notice are available for public inspection during normal business hours at the Service's Area Office at the above address.

FOR FURTHER INFORMATION CONTACT:
Mr. Donald Hankla, Area Manager, Jacksonville Area Office, (904/791–2267 or FTS 946–2267).

SUPPLEMENTARY INFORMATION:

Background

The Service is publishing a notice of review in order to solicit biological information on the U.S. breeding population of the wood stork (*Mycteria americana*). The Service is also seeking to gather the following information from Federal agencies, State and local governments, the scientific community, and the public: Federal funding, grants, and permits; other economic; or other relevant information for the areas that may be affected by the listing or designation of critical habitat for this species. This notice however, does not bring the wood stork under the protection of the Endangered Species Act nor does it commit the Service to subsequently proposing it for listing.

Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.11 state that a species may be endangred or threatened because of any of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;

2. Overutilization for commercial, sporting, scientific, or educational purposes;

3. Disease or predation;

4. The inadequacy of existing regulatory mechanisms; or

5. Other natural or man-made factors affecting its continued existence.

Species Biology and Evidence of Decline

Wood storks, the only true storks native to the United States, are large, long-legged wading birds which frequent freshwater and brackish wetlands and nest in cypress or mangrove swamps. They feed in freshwater marshes and similar habitats. Areas where fish become concentrated due to falling water levels are particularly attractive because they use specialized technique known as grope-feeding. The birds probe in muddy water 6–10 inches deep with bills partly open, feeling for fish.

Formerly, wood storks nested in the coastal southeastern States from South Carolina to Texas. Today nesting in the U.S. is confined to Florida and southeastern Georgia. The present U.S. breeding population is now disjunct from the population which nests from Mexico through Central and South America to northern Argentina. The Mexican and Central American breeders disperse into the southern U.S. after breeding. Hence, a dividing line most probably the Alabama-Mississippi State line, will be used to distinguish U.S. storks from the others.

The U.S. wood stork population has declined significantly. In the early 1930's there were probably 75,000 storks breeding in Florida but by 1979 there were only 10,000. The most consistent nesting failures have occurred since 1960, with the overall number of breeding storks in the U.S. declining 41 percent from 19609 to 1975.

Two of the major factors involved in this decline are (1) the reduction in the number of available nesting sites and (2) loss of an adequate food base during the nesting season. Both factors are due primarily to drainage and altered hydroperiods from manipulation of wetlands, particularly in south Florida.

The U.S. wood stork population uses certain well-established rookery and feeding areas; the major ones are listed below. There are other rookery areas, but they are not as large or as consistently used. Similarly, only the major feeding habitats in south and central Florida are included. The approximate location of each rookery is shown by a corresponding letter in the map.

ROOKERY AREAS

County and name	Location
Florida	
A. Alachua, River Styx	T11S, R21E: Moses E. Levy land grant lot 11, 12.
B. Brevard, Moore Creek	T22S, R36E Sec. 15.
C. Collier, Corkscrew	T47S, R27E Sec. 9, 10, 15, 16, 21, 22.
D. Dade, Cuthbert	T60S, R35E, Sec. 13.
E. Dade, Madeira	T60S, R37E, Sec. 75.
F. Duval, Dee Dot Ranch.	T3S, R36E, Sec. 24, 25N.
G. Hardee, El Clair Ranch.	T34S, R27E, Sec. 21SW.
H. Hernando, Croom	T22S, R21E Sec. 28.
I. Hillsborough, Pleasant Grove.	T30S, R22E, Sec. 5, 6.
J. Indian River, Pelican Island.	T31S, R39E, Sec. 9.
K. Lake, Lake Yale	T18S, R26E, Sec. 15.
L. Leon, Chaires	T1S, R2E, Sec. 4.
M. Martin, Barley Barber	T39S, R37E, Sec. 35.
N. Monroe, East River	T59S, R34E, Sec. 25.
O. Monroe, Lane River	T59S, R34E, Sec. 14.
P. Pasco, Little Gator Creek.	T25S, R22E, Sec. 24N, 13S.
Q. Polk, Brewster	T31S, R23E, Sec. 28SE.
R. Polk, Mulberry	T30S, R24E, Sec. 6.
S. Polk, Reedy Creek	T28S, R2SE, Sec. 1.
T. St. Lucie, Cypress Creek.	T37S, R37E, Sec. 2, 3.
Georgia	
U. Camden, Dover Bluff	6 mi. SSW Brunswick, Latitude 31°02', Longitude 81°31'.
V. Glynn, Brunswick	8 mi. SSW Darien, Latitude 31°17', Longitude 81°29'.
W. Jenkins, Big Duke Swamp.	3 mi. NNW Millen, Latitude 32°52', Longitude 82°02'.

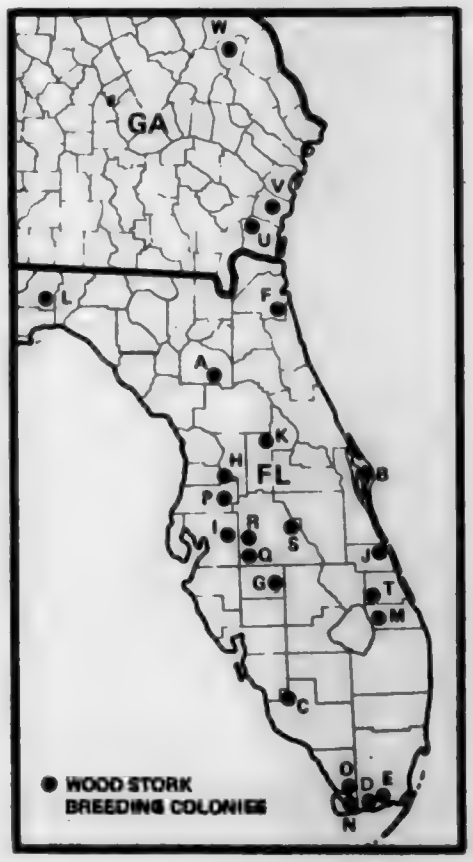

FEEDING AREAS

State, county	Name
Florida, Brevard and Indian River,	St. Johns River marshes.
Florida, Collier	Cypress strands and sloughs.
Florida, Dade and Monroe	Everglades National Park.
Florida, Glades	Lake Okeechobee west shore marshes.

Public Comments Solicited

With this notice of status review, the Service is requesting anyone who may have information on this species to contact the Area Manager at the above address. The Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to this species;

2. The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

3. Additional information concerning the range and distribution of this species;

4. Current or planned activities that might be detrimental or beneficial to the species in the above mentioned areas;

5. The probable impacts on such activities if the area is designated as Critical Habitat;

6. The forseeable economic and other impact of listing this species on Federally funded or authorized projects;

7. Information on environmental and economic impacts and effects on small entities (including small businesses, small organizations, and small governmental jurisdictions) that would result from the listing; and

8. Information on possible alternatives to the listing.

This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal regulations, and the Regulatory Flexibility Act, and in preparing any required analyses of effect. The Service will analyze all data that it now has, as well as any data that it obtained as a result of this review, and will take appropriate action concerning the species.

Selected References

Kahl, M.P., Jr. 1964. Food ecology of the wood stork (*Mycteria americana*) in Florida. Ecol. Monogr. 34:97–117.

Kale, H.W., II, ed. 1978. Rare and endangered biota of Florida: Birds, Vol. 2. Florida Game and Fresh Water Fish Commission, Gainesville. 121 pp.

Ogden, J.C., J.A. Kushlan, and J.T. Tilmant. 1978. The food habits and nesting success of wood storks in Everglades National Park in 1974. Nat. Park Serv. Natural Resources Rep. No. 16, 25 pp.

Ogden, J.C., and S.A. Nesbitt. 1979. Recent wood stork population trends in the United States. Wilson Bull. 91:512–523.

Ogden, J.C., and B.W. Patty. In press. The recent status of the wood stork in Florida and Georgia. Proc. Symp. Non-game and Endangered Wildlife. August 13–14, 1981; Athens, Georgia.

Palmer, R.S. 1962. Handbook of North America birds, Vol. 1. Yale Univ. Press, New Haven, Connecticut. 566 pp.

This Notice of Status Review was prepared by Gail S. Baker, U.S. Fish and Wildlife Service, Jacksonville Area Office, 15 North Laura Street, Jacksonville, Florida 32202 (904–791–2267 or FTS 946–2267).

Dated: February 5, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–3873 Filed 2–12–82; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 47, No. 31
Tuesday, February 16, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

East Kentucky Power Cooperative, Winchester, Ky.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to the proposed financing assistance to East Kentucky Power Cooperative (EKPC) of Winchester, Kentucky, for the following:

—Construction of 32 km (20.5 mi) of 138 kV transmission line from Leon to Elliotville;

—Construction of 37 km (23 mi) of 138 kV transmission line from Avon to Holloway with upgrading of the Fayette #1, Davis, Nicholasville and Holloway Substations from 69/15 kV to 138/15 kV and construction of a 138 kV switching station at Holloway Junction;

—Construction of 27.5 km (17.1 mi) of 161 kV transmission line from Tyner to Manchester; and

—Reconductoring of 19.5 km (12.2 mi) of 69 kV transmission line from Nelson to Elizabethtown; construction of 3.5 km (2.2 mi) of 138 kV double circuit line from the Nelson County Substation to the 69 kV transmission line that traverses between Elizabethtown and Bardstown; construction of a 138/69 kV substation in Nelson County and construction of 5.6 km (3.5 mi) of 138 kV transmission line from the substation proposed in Nelson County to an existing substation at Woosley.

The projects will be located in Carter, Clay, Elliott, Fayette, Hardin, Jackson, Jessamine, Larue and Nelson Counties, Kentucky.

REA reviewed the BER's submitted by EKPC and determined that they represent an accurate evaluation of the environmental impacts of the projects. Based upon the BER's, maps and related pertinent data submitted by EKPC, REA prepared four Environmental Assessments (EA's) concerning the proposed facilities and their impacts. It is REA's view that the proposed financing assistance will not be a major Federal action that will significantly affect the quality of the human environment.

REA has determined that the proposed projects will have no effect on wetlands and threatened or endangered species and no significant adverse effect on prime farmland, floodplains or known cultural resources. Existing lines which will be rebuilt or reconductored cross approximately 58 ha (133 a) of floodplain; existing stations have taken approximately 1 ha (2 a) of important farmland out of production. New lines will cross approximately 196 ha (490 a) of important farmland and 100 ha (240 a) of floodplains; one new station will take approximately 1 ha (2 a) of important farmland out of production. Also, both Nelson County and Holloway Junction Stations will be surveyed for cultural resources and cleared by REA and the State Historic Preservation Officer prior to any site clearing. Overall, the construction and operation of the proposed facilities will have no unacceptable impacts to the environment.

A number of alternatives were considered by EKPC including no action, conservation and various transmission line routes and substation sites. REA finds that the proposed alternatives are acceptable for each project as they meet the needs of members' consumers with a minimum of adverse impacts.

REA's Finding of No Significant Impact and EA's along with EKPC's BER's and related materials may be reviewed in or requested from the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–1400, or may be reviewed in the office of EKPC (Mr. Donald R. Norris, Manager), P.O. Box 707, Winchester, Kentucky 40391, telephone: (606) 744–4812.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 8th day of February 1982.

Jack Van Mark,
Acting Administrator.

[FR Doc. 82-3880 Filed 2-12-82; 8:45 am]
BILLING CODE 3410-15-M

French Broad Electric Membership Cooperative, Marshall, N.C.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact in connection with possible financing assistance by REA for French Broad Electric Membership Cooperative (French Broad) of Marshall, North Carolina, in renovating the Capitola Dam in Madison County, North Carolina.

The existing dam and powerhouse will be renovated and connected electrically to the existing Marshall Substation by an existing 2-mile long, three phase distribution line. Renovation of Capitola will include regrouting the existing dam and adding a splash block and new sluice gates, demolition of the existing powerhouse and intake structure, construction of a new powerhouse with two (2) 1.5 MW turbine units and renovation of the intake canal. French Broad has prepared a Borrower's Environmental Report concerning the proposed project. An Environmental Assessment was prepared by REA.

Threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains, and other potential impacts of the project are adequately considered in French Broad's Borrower's Environmental Report and REA's Environmental Assessment.

Various alternatives to the proposed hydroelectric facility were reviewed by French Broad and REA. The alternatives include no action, alternate generation from coal, oil and gas, solar, wind, biomass, nuclear participation and energy conservation.

It is REA's independent evaluation that the proposed project is an environmentally acceptable alternative to provide power to the existing and projected loads of French Broad.

Copies of REA's Finding of No Significant Impact and supporting documents may be reviewed at, or obtained from, the office of the Director,

Energy Management and Utilization Division, Room 3862, South Agricultural Building, Rural Electrification Administration, Washington, D.C. 20250, and at the office of French Broad Electric Membership Cooperative, Marshall, North Carolina 28753.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 5th day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3859 Filed 2-12-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Indian Creek-Van Buren Watershed, Iowa and Missouri; Availability of Record of Decision

AGENCY: Soil Conservation Service, Agriculture (USDA).

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT: William J. Brune, State Conservationist, Soil Conservation Service, 210 Walnut Street, Room 693, Federal Building, Des Moines, Iowa 50309, telephone 515–284–4260.

NOTICE: William J. Brune, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Iowa, is hereby providing notification that a record of decision to proceed with the installation of the Indian Creek-Van Buren Watershed project is available. Single copies of this record of decision may be obtained from William J. Brune at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: January 25, 1982.

William J. Brune,

State Conservationist.

[FR Doc. 82-3868 Filed 2-12-82; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Cancelled Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee of the Commission originally scheduled for February 25, 1982, at Montgomery, Alabama, (FR Doc. 82–1228, on page 2788) has been cancelled.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3862 Filed 2-12-82; 8:45 am]

BILLING CODE 6335-01-M

Georgia Advisory Committee; Changed Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission orginally scheduled for February 25, 1982, at Atlanta, Georgia, (FR. Doc. 82–1229, on page 2788) has been changed.

The meeting now will be held on March 12, 1982, beginning at 2:00 p.m., and will end at 6:00 p.m., at the Peachtree Plaza Hotel, Peachtree at International Boulevard, in the Tower Meeting Room, Number 10, Atlanta, Georgia, 30343. The purpose of this meeting is to have a discussion on the followup plan to the factfinding meeting on bigotry and violence and to review the draft of the State Advisory Committee voting rights study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Clayton Sinclair, 5095 Dublin Drive, N.W., Atlanta, Georgia, 30300, (404) 349–3861 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 362, Atlanta, Georgia, 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3866 Filed 2-12-82; 8:45 am]

BILLING CODE 6335-01-M

Mississippi Advisory Committee; Changed Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee of the Commission originally scheduled for February 25, 1982, at Jackson, Mississippi, (FR Doc. 82–1232, on page 2788) has been changed.

The meeting now will be held on March 4, 1982, beginning at 3:30 p.m., and will end at 7:30 p.m., at the Holiday Inn, Downtown, 200 East Amite, in the Willow Room, Jackson, Mississippi, 39205. The purpose of this meeting is to review the draft report of the State Advisory Committee voting rights study and to discuss program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mary Ramberg, 1514 Gay Street, Jackson, Mississippi, 39211, (601) 355–1175 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 362, Atlanta, Georgia, 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3861 Filed 2-12-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington D.C. 20230, on or before March 28, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribed the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00049. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Admin. Bldg., 506 South Wright Street, Urbana, IL 61801. Article:

Excimer Multi-gas laser, Model EMG–102. Manufacturer: Lambda Physics GMBH & Co., West Germany. Intended use of article: The article is intended to be used to provide a source of coherent radiation in the ultraviolet with high peak powers and repetition rates and will be used to conduct experiments concerning the growth of semiconductor thin films. The article will produce the desired atomic species by the multi-photon photolysis of various gases (e.g. SiH4, GeH4) which leads to film deposition from the vapor phase. The article will also be used to teach the basic principles and techniques of laser applications to thin film growth and processing. Application received by Commissioner of Customs: November 18, 1981.

Docket No. 82–00059. Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, Long Island, NY 11973. Article: Hydrogen Thyratrons (53 each). Manufacturer: English Electric Valve Ltd., United Kingdom. Intended use of article: The article is intended to be used to accelerate polarized protons for HEP experiments and a great potential for discovering new phenomena exists in this new energy range. In order to maintain polarization during the accelerating cycle in the article, intrinsic resonances which tend to depolarize the accelerated beam must be crossed within a few μsec. The electrical circuitry which energizes the pulsed quadrupoles used for efficient crossing of these resonances, requires this type of fast switching thyratrons. Application received by Commissioner of Customs: November 20, 1981.

Docket No. 82–00062. Applicant: University of Florida, Division of Comparative Pathology, College of Veterinary Medicine, Box J–145, JHMHC, Gainesville, FL 32610. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used primarily to identify the molecular details of complement (Blood) proteins and their interactions with cellular membranes. Investigations will be conducted to establish a relationship between the biomedical function of complement proteins and their molecular structure. Once such structure-function relationships are understood it may become possible to intervene with the pathological consequences of complement diseases. In addition, the article will be used to train advanced graduate students and postdoctural fellows in high resolution electron microscopy and structure analysis of proteins. Application received by Commissioner of Customs: December 11, 1981.

Docket No. 82–00076. Applicant: The University of New Mexico, Purchasing Department, 609 Buena Vista NE, Albuquerque, NM 87131. Article: Electron Microscope, Model H–600–2 and Accessories. Manufacturer: Hitachi, Ltd, Japan. Intended use of article: The article is intended to be used for investigations of membranes, cell organelles, nuclei, probe-mediated identification of receptor sites; and eventually analytical examination of energy dispersion of cells and tissues in normal and pathological states. The objective of these investigations include an increased understanding of the generation of new information about biological ultrastructure in health and disease. Application received by Commissioner of Customs: January 6, 1982.

Docket No. 82–00077. Applicant: Maritime Institute of Technology and Graduate Studies, IOMM7P Mates Program, 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090. Article: Shiphandling Simulator for Shiphandling and Navigation Training. Manufacturer: Vereinigte Flugtechnische Wereke, West Germany. Intended use of article: The article is intended to be used for educational purposes in a shiphandling course. The overall objective of the course is to improve the ability of the merchant officer, with emphasis on masters and chief mates, to plan and execute safe, proper and adequate operations in scenarios which place own ship in variety of potential realistic situations, as well as a thorough understanding of the internal and external force causes and effects on ship and to provide a basis for a standard bridge team organization which could apply to all types of vessels, under various operation conditions. Application received by commissioner of customs: January 5, 1982.

Docket No. 82–00078. Applicant: Washington State University, College of Veterinary Medicine, Department of Veterinary and Comparative Anatomy, Pharmocology and Physiology, Wegner Hall, Pullman, WA 99164. Article: Electron Microscope, Model H–600–3 with Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of biological samples which include animal tissues, viruses, in vitro cellular preparations, and macromolecular complexes (e.g., collagen, DNA, glycosaminoglycans, etc.). Experiments will involve morphological and/or quantitative evaluation of macromolecules (biological), cellular organelles, cells, and tissues. Graduate students enrolled in special-study courses to investigate research problems in the above mentioned areas will be the only educationally-affiliated instruction on this article. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00079. Applicant: St. Vincent Medical Center, 2131 West Third Street, P.O. Box 57992, Foy Street Station, Los Angeles, CA 90057. Article: Stereotactic Head Set. Manufacturer: F.L. Fischer GMBL & Co., West Germany. Intended use of article: The article is intended to be used in investigations made and directed toward further development and refinement of CT based stereotactic techniques in brain tumors diagnosis and treatment. The investigations will be clinically oriented with the objectives of potential benefits to the patients themselves as well as to future patients. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00080. Applicant: Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron, VRB2113A30 SNO552D8. Manufacturer: Varian Canada, Inc., Canada. Intended use of article: The article is intended to be used as phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00081. Applicant: University of Kentucky Medical Center, Department of Pathology, Lexington, Kentucky 40536. Article: Electron Microscope, Model JEM 100 and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use article: The article is intended to be used for the training of new technicians in basic and advanced techniques in electron microscopy. As part of their formal training in surgical pathology, residents in the Department shall be required to spend a one month rotation in the electron microscope laboratory to become familiar with the basic techniques of specimen preparation and obtain hands on experience in the operation of the article. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00083. Applicant: Western Pennsylvania Hospital, 4800

Friendship Avenue, Pittsburgh, PA 15224. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in resolving diagnostic problems in Anatomical Pathology. The major areas of application are in the diagnosis of renal diseases, in the examination of neoplasms and in search of viruses in tissues and exudates. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00090. Applicant: National Cancer Institute, Drug Design and Chemistry Section, LMCB, DTP, DCT, NCI, NIH, Bethesda, MD 20205. Article: Mass Spectrometer, Model MM7070E. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of article: The article is intended to be used to characterize the chemistry, mechanism of action, *in vivo* disposition and *in vitro* and *in vivo* metabolism of existing, new and potential anticancer drugs as well as to investigate chemical and biochemical phenomena related to cancer chemotherapy.

The materials to be analyzed will range from relatively simple organic materials with a molecular weight of a few hundred daltons used as intermediates in the synthesis of more complex molecules to biopolymers isolated from biological sources and possessing molecular weights of several thousand daltons. Derivatives of the following classes of compounds will be of interest: amino acids, fatty acids and esters, classical and non-classical alkylating agents, 1,4-benzoquinones, macrocyclic antibiotics, nucleosides, nucleotides, glycosides, organo platinum complexes and oligopeptides. Also of interest are the species that are produced when certain of the above compounds undergo chemcial degradation, transformation and derivatization or metabolic conversion in vitro and in vivo. The samples to be studied will include solids, liquids and gases. Application received by commissioner of customs: January 11, 1982.

Docket No. 82–00091. Applicant: University of Illinois Chicago Circle, Department of Chemistry, Box 4348, Chicago, Ill. 60680. Article: Nanosecond Flourometer System. Manufacturer: Photochemical Research Assoc., Inc., Canada. Intended use of article: The article is intended to be used in vitro studies of the binding of the carcinogenic hydrocarbon metabolites to nucleotides and polynucleotides. The binding properties of the hydrocarbon metabolites will be studied by examining flourescence lifetime quantum yields and flourescence quenching. These are directly related to the hydrocarbon environment. Application received by commissioner of customs: January 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director,

Statutory Import Programs Staff.

[FR Doc. 82-4061 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-25-M

International Affiliates Co., Inc., et al.; Order Amending Temporary Denial of Export Privileges

In the matter of: Albert A. Goldberg, President, International Affiliates Co., Inc. and National-Tronics Company, 134 West 32nd Street, New York, New York 10001; International Affiliates Co., Inc., 134 West 32nd Street, New York, New York 10001; National-Tronics Company, 134 West 32nd Street, New York, New York 10001; Sarfraz A. Mir, Managing Director, S.J. Enterprises, 15—Block 14 Super Market, F–6, Islamabad, Pakistan and 37–B School Road, 58–3, Islamabad, Pakistan; S.J. Enterprises, 15—Block 14 Super Market F–6, Islamabad, Pakistan and P.O. Box 1361, Islamabad, Pakistan.

By Order of November 19, 1981, 46 FR 57716 (November 25, 1981), the above-named respondents were temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data.

Paragraph III of that Order, consistent with Section 387.12(c) of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1981)), provides:

> Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successor and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or services related thereto. Business organizations now known to be owned by or affiliated with the respondents specifically include:
>
> Gorez Corporation Inc., 134 West 32nd Street, New York, New York 10001 ITL Corporation Inc., 134 West 32nd Street, New York, New York 10001
> Inter-Tronics Co., Inc., 134 West 32nd Street, New York, New York 10001
> S.J. Enterprises, 10 Wahbat Road, Lahore, Pakistan
> S.J. Enterprises, 13–A, Mohammad Ali Housing Society, Miran Mohammad Shad Road, Corachi, Pakistan

The Department of Commerce has now stated that respondent S.J. Enterprises has a related business organization, K.S. and Associates, 37–B School Road, F/8–1, Islamabad, Pakistan, and that this related business organization is managed by respondent Sarfraz A. Mir, Managing Director of S.J. Enterprises. The Department has stated that therefore K.S. and Associates comes within the definition of a related business organization as set forth in Paragraph III of the November 19, 1981 Order. Consequently, the Department has requested that K.S. and Associates be added to the business organizations related to the respondents listed in Paragraph III of the Order.

Based upon the showing made by the Department, I find that, to prevent evasion of the November 19, 1981 Order, an amendment of the Order, adding K.S. and Associates to the business organizations listed in Paragraph III, is required.

Accordingly, it is hereby

Ordered

The November 19, 1981 Order shall be amended by adding, to the business organizations listed in Paragraph III, the following business organization: K.S. and Associates, 37–B School Road, F/8–1, Islamabad, Pakistan.

K.S. and Associates may move at any time to vacate or modify this Order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 3886D, 14th and Constitution Avenue, NW, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

This Order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named respondents have been completed.

Dated: February 3, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-4062 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-25-M

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Administrative Review of Antidumping Finding.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding

SUMMARY: On September 30, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covered six of the seven known exporters for various time periods through August 31, 1980.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We have calculated new margins for three exporters in response to comments received. We are delaying publication of the final results for one company while we seek clarification of certain submitted data.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923/2657).

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1977, the Treasury Department published in the **Federal Register** an antidumping finding with respect to parts for self-propelled bituminous paving equipment from Canada (T.D. 77–222, 42 FR 44811). On September 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 47806). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of replacement parts for self-propelled bituminous paving equipment.

The completed review covers five of the six known Canadian firms which exported paving parts to the United States for various periods through August 31, 1980. For the sixth firm we have not yet completed our review; we will publish the final results for this firm later. For a seventh firm, a new shipper, we have determined a cash deposit based on its shipments in the period February 1, 1981, through May 31, 1981. The firms and review periods are listed below.

Analysis of Comments Received

We have received comments from one exporter, S. F. Tubing, Ltd., clarifying that its shipments of parts during the review period were entirely to original equipment manufacturers. Because such parts are outside the scope of the finding, we have determined that there are no duties due on these shipments, and have lowered the margin for S. F. Tubing to zero. For the two non-responsive manufacturers, Anvil Manufacturing Co. and Parker Hannifin, we have set the margin at the rate calculated during the original fair value investigation rather than at the highest current rate, used in the preliminary results.

Due to extensive comments by a domestic firm questioning the adequacy of Babcock Allatt's submissions, we have decided to delay publication of the final results for Allatt pending verification and an opportunity to comment.

Final Results of the Review

As a result of adjustments made based on comments received, we determine that the following weighted average margins exist:

Exporter	Period	Margin (Percent)
Anvil Manufacturing Co.	7/1/78–8/31/80	20.12
Barber-Greene Canada Ltd	4/1/77–8/81/80	[1] 0.0
General Construction Equipment Manufacturing Ltd	4/1/77–8/31/80	[1] 0.0
Parker Hannifin	7/1/78–8/31/79; 9/1/79–8/31/80	[1] 0.0 20.12
S. F. Tubing Ltd	7/1/78–8/31/80	[1] 0.0

[1] No shipments of replacement parts during the review period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties, if applicable, on all entries with purchase dates during the periods involved. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after February 16, 1982. The deposit rate for the new exporter, National Paver Parts, shall be 1.05%, based on our preliminary analysis of shipments made between February 1, 1981, and May 31, 1981. The Department shall complete analysis of these shipments in the next administrative review. For any shipment from a new exporter other than National Paver Parts not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period. These requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82–3958 Filed 2–12–82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Notice of Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216):

1. Applicant:
   a. Name: Mr. Richard L. Merrick (P299).
   b. Address: School of Oceanography, Oregon State University, Corvallis, Oregon 97331.
2. Type of permit: Scientific Research.
3. Name and number of animals: Stellar Sea Lion (Eumetopias jubatus), 924.
4. Type of take:
   Potential harassment, 860.
   Marking by dye, 64.
5. Location of activity: Rogue Reef, Oregon.
6. Period of activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before March 18, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following office:
Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
and
Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115.

Dated: February 10, 1982.

R. B. Brumsted,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-4053 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing a New Export Visa Requirement and Exempt Certification for Certain Cotton, Wool and Man-Made Fiber Apparel Products Produced or Manufactured in Singapore

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing a new visa requirement and exempt certification for certain cotton, wool and man-made fiber apparel products, produced or manufactured in Singapore, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore.

SUMMARY: The Governments of the United States and the Republic of Singapore have exchanged letters dated August 19, 1981 establishing a new export visa requirement and exempt certification for cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in Singapore. The new arrangement supersedes the existing visa requirement which became effective on November 5, 1980 (45 FR 71409).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409)).

EFFECTIVE DATE: April 1, 1982 for cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, exported on and after that date. Merchandise exported before April 1, 1982, shall not be denied entry if accompanied by the previously authorized export visa stamp, provided all other requirements associated with the use of that stamp have been met.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On and after April 1, 1982, cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659 which are subject to the terms of the bilateral agreement shall be visaed with a circular stamp in order to be entered or withdrawn from warehouse for consumption in the United States. Shipments which are exempt from the quantitative limits of the bilateral agreement shall be certified for exemption prior to exportation by the Government of the Republic of Singapore. The basis for exemption shall be stated on the certification by use of a description, such as, "less than US $250," "handloomed fabric," or "handmade cottage industry products". Invoices for certified exempt items shall not include any products that are not agreed to be exempt. Shipments of textile products that are certified for exemption do not require an export visa.

Merchandise imported for the personal use of the importer, and not for resale, does not require a visa or exempt certification for entry, regardless of value.

Shipments shall be visaed or certified by the placing of original stamped markings (the visa or certification) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa and certification shall include the number, date and signature of the authorized issuing official. The visa also states the correct categories and quantities in the shipment in the applicable category units; however, if the quantity shown on the export visa is more than the actual quantity of the shipment, entry shall be permitted despite the inaccuracy.

Facsimiles of the visa and exempt certification stamps are published as enclosures to the letter to the Commissioner of Customs which follows this notice.

The Government of the Republic of Singapore has authorized the following officials to issue visas and exempt certifications:

Indira Devi
Lim Khay Hai
Tay Guek Khiam
See Swee Kim
Kan Kan Koon
Ngan Ai Lan
Irene Mok
Mohamed Saimi Bin Talib
Chong Yean Wah
Mok Moh Wan

Interested persons are advised to take all necessary steps to insure that apparel products, produced or manufactured in Singapore which are to be entered into the United States for consumption, or withdrawn from warehouse for consumption on and after April 1, 1982, will meet the stated visa and certification requirements.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 10, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter cancels and supersedes the directive of October 24, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements which established an export visa requirement for cotton, wool and man-made fiber apparel products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 1, 1982 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in Singapore, and exported on and after April 1, 1982, for which the Government of the Republic of Singapore has not issued an appropriate export visa or certification for exemption. Cotton, wool and man-made fiber apparel products which have been exported before April 1, 1982, which are visaed in accordance with previously established procedures shall not be denied entry.

Cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, exported on and after April 1, 1982, other than the exceptions specified in the following paragraph, shall be visaed with a circular stamp in order to be entered into the

United States for consumption, or withdrawn from warehouse for consumption.

Certain cotton, wool an man-made fiber apparel products exported and and after April 1, 1982, which are exempt from the levels of restraint of the bilateral agreement, shall be certified by the Government of the Republic of Singapore prior to exportation using a square-shaped stamp. The basis for exemption shall be stated on the certification by use of a description, such as "less than US $250," "handloomed fabric," or "handmade cottage industry product."

Merchandise shall be visaed or certified by the placing of original stamped markings (the visa or certification) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa and certification shall include the number date and signature of the issuing official. The visa shall also state the correct categories and quantities in the shipment in the applicable category units, except that, if the quantity indicated on the export visa is more than that of the shipment, entry shall be permited. The categories and quantities shall be those determined by the U.S. Customs Service. Facsimiles of the visa and certification stamps are enclosed.

Merchandise imported for the personal use of the importer, and not for resale, does not require a visa or certification for entry, regardless of value.

Merchandise covered by an invoice which has an exempt certification but contains both exempt and non-exempt textile products shall not be permitted entry. Merchandise which is certified exempt does not require an export visa.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of textile products, produced or manufactured in Singapore and exported to the United States, notwithstanding the designated merchandise does not fulfill the aforementioned visa and certification requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53508), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool and man-made fiber apparel products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

EXPORT CERTIFICATE

Certificate No .....

This authorised consignment is exempted from quantitative level of the USA/Singapore Agreement on the basis of:

☐ Value less than US$250,
☐ handloomed fabric, handmade cottage industry product etc

for Controller of Imports & Exports Republic of Singapore

Dated .....

[FR Doc. 82-4054 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To File a Draft Environmental Impact Statement on the Potential Consolidation of Navy Administrative Office Space in the Washington, D.C. Area

Notice is hereby given of intent to file a Draft Environmental Impact Statement (DEIS) on the potential consolidation of Navy administrative offices now located in leased buildings in the Washington, D.C. area. Potentially affected by this consolidation are approximately 18,000 Navy military and civilian employees now working at thirteen locations in the District of Columbia, Maryland, and Virginia, with the greatest number in the Virginia suburbs of Washington.

Four locations are under study as potential sites for the consolidated offices: (1) the Washington Navy Yard/ Southeast Federal Center tract in southeast Washington, D.C.; (2) the Naval Surface Weapons Center at White Oak, Maryland; (3) the Pentagon site in Arlington, Virginia; and (4) the Crystal City complex of buildings, also in Arlington, Virginia.

To effect scoping for the DEIS, three hearings will be held, one for interested Government agencies and two for the general public. The first hearing, for interested Government agencies, will be held at 10:00 a.m. on February 12, 1982, in the National Capital Planning Commission Boardroom, tenth floor, 1325 G Street Northwest, Washington, D.C. The second hearing, for the general public, will be held at 7:00 p.m. on February 16, 1982, at the Aurora Hills Recreation Center, 735 South Hayes Street (South Hayes at 18th Street, near Crystal City), Arlington, Virginia. A third hearing, for the general public, will be held at 7 p.m. on March 2, 1982 at the Aurora Hills Recreation Center, 735 South Hages Street South Hages at 18th Street, near Cystal City, Arlington, Virginia.

At each of the three hearings, a short presentation describing the potential consolidation will be given, to be followed by an opportunity for agency or public comment. Comments presented at these hearings should address the scope of the DEIS, identifying environmental issues or problems which should be considered in its preparation. When the DEIS is filed, an additional public hearing or hearings, will be held at a location, date, and time to be determined.

Members of the general public wishing to speak at the February 16, 1982, a March 2, 1982, hearing may register by contracting: EDAW, Inc. (Attenation: Tony Duncanson), 601 Prince Street, Alexandria, Virginia 22314, Telephone (703) 836-1414.

Speakers may also register on the evening of hearings by completing a

registration card at the door. Oral statements at the hearings will be limited to five minutes. Lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required, but are encouraged to ensure accuracy. Written comments will be accepted at the hearings or at the above address during normal business hours before or after the hearings, until March 12, 1982.

Dated: February 11, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-4134 Filed 2-12-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Application for Review Accepted for Hearing

AGENCY: Department of Education.

ACTION: Notice of Applications for Review Accepted for Hearing by Education Appeal Board.

SUMMARY: This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between August 1, 1981, and December 15, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 2141, FOB-6), Washington, D.C. 20202. Telephone: (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 454 of the General Education Provisions Act (20 U.S.C. 1234 et seq.), the Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board.

The Secretary has designated the Board as having jurisdiction over appeal proceedings related to final audit determinations, the withholding or termination of funds, and cease and desist actions for most programs administered by the Department of Education (ED). The Secretary also has designated the Board as having jurisdiction to conduct hearings concerning most ED administered programs that involve a determination that a grant is void, the disapproval of a request for permission to incur an expenditure during the term of a grant, or determinations regarding cost allocation plans or special rates negotiated with specified grantees. Final regulations governing Board jurisdiction and procedures were published in the **Final Register** on May 18, 1981 (46 FR 27304).

This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between August 1, 1981, and December 15, 1981. The notice also explains how interested third parties may intervene in proceedings before the Board.

A number of the appeals involve audits of programs conducted under Title I of the Elementary and Secondary Education Act (Title I):

Appeal of the Commonwealth of Virginia, Docket No. 14-(79)-81

The State appealed a final audit determination by the Assistant Secretary for Elementary and Secondary Education that the State used Title I funds and similar Federal funds granted under Pub. L. 81-874, Impact Aid, for general education activities rather than for activities designed to meet the special educational needs of educationally deprived children as required by law. The final audit determination was based on an audit by the Department of Education's Office of the Inspector General Audit Agency (OIGAA) of projects conducted at five local educational agencies (LEAs) during fiscal years (FYs) 1977-79.

The Assistant Secretary sustained the OIGAA finding that personnel costs for a preschool program at the Richmond City LEA were improperly paid with $635,793 in Title I and Impact Aid funds during FYs 1977-79 because the program was not designed or implemented to serve educationally deprived children. The auditors found that the LEA admitted children to the preschool program on a space-available basis and made no attempt to select children on the basis of educational need as required by Federal regulations.

The Assistant Secretary also upheld the OIGAA finding that the Richmond City LEA used Federal funds totaling $188,182 for other activities not designed or implemented to meet identified needs of educationally deprived children. Finally, the Assistant Secretary disallowed $234,477 of Title I funds expended by the Portsmouth LEA for the salaries of home service workers who the auditors found provided general supportive attendance services to the LEA during school years 1976-77 through 1978-79.

In its appeal, the State disputes all of the Assistant Secretary's findings. The Department of Education seeks a total refund of $1,058,452 from the State. This amount may be reduced by application of the statute of limitations.

Appeal of the State of West Virginia, Docket No. 15-(80)-81

The State appealed a final audit determination of the Assistant Secretary for Elementary and Secondary Education, which was based on an audit of the State's administration of Title I conducted by the Department of Education's Office of the Inspector General Audit Agency. The Assistant Secretary found that four Title I schools at the Wyoming County School District (LEA) did not receive services provided with State and local funds comparable to services provided non-Title I schools during the 1977-78 and 1978-79 school years. This constituted a failure to comply with Title I comparability requirements. The Assistant Secretary also determined that the LEA improperly used Title I funds to meet the general needs of schools during fiscal years 1976-79 by expending the funds for general purpose textbooks, general program personnel, and general program travel. The Department of Education seeks a total refund of $109,201 from the State.

Appeal of the State of Maryland, Docket No. 16-(81)-81

The State appealed a final audit determination made by the Assistant Secretary for Elementary and Secondary Education concerning Title I funds spent during fiscal years (FYs) 1975-78 at the Baltimore City School System (the LEA). The final audit determination was based on an audit conducted by the Department of Education's Office of the Inspector General Audit Agency (OIGAA).

The Assistant Secretary found that the LEA had spent Title I funds for salaries of librarians and library aides who provided services to entire student bodies, thus violating the Title I prohibition against general aid. The Assistant Secretary also determined that the funding of health services provided by the LEA in FY 1978 with Title I monies violated the law's "supplement, not supplant" requirement because Title I children in the aggregate, did not receive as high a level of State and locally funded nursing services as non-Title I children. He disallowed the use of Title I funds to pay a number of education specialists in FY 1978 who

were found to have performed general services aimed at entire classes, grades, and schools. The Assistant Secretary further determined that the LEA improperly used Title I funds at eighty-three schools not selected as Title I project schools during FYs 1976–78. He also disallowed salary charges for office personnel paid solely from Title I funds because the employees did not work exclusively for Title I or other Federal programs. Finally, the Assistant Secretary disallowed Title I costs which the LEA could not show were used for its summer and regular Early Childhood and Exceptional Children programs.

The Assistant Secretary directed the State to assist in LEA in revising its fiscal reports of FY's 1976–78 in order to reconcile the LEA's reports with the City's fiscal records. He requested that the State submit the revised report to the Department of Education and make proper adjustments for any differences revealed by the reconciliation, and that the State refund $3,370,355 to the Department.

The State disputes all of these findings in its appeal. The amount in dispute may be reduced by application of the statute of limitations.

Appeal of the State of Oregon, Docket No. 22–(87)–81

The State appealed a final audit determination issued by the Assistant Secretary for Elementary and Secondary Education concerning the State Department of Education's administration of the Migrant Student Record Transfer System (MSRTS) authorized by Title I. The final audit determination was based on an audit conducted by the Department of Education's Office of the Inspector General Audit Agency (OIGAA). The purpose of the audit was to determine whether the MSRTS reflected the accurate number of eligible migratory children residing in the State and whether it was provided accurate input from the local educational agencies (LEAs).

The Assistant Secretary sustained part of the OIGAA's findings and recommendations and found that a number of students were ineligible to receive migrant program education services. The Department seeks a refund of $20,526 from the State. This amount is a projection based on the number of students found ineligible by the Assistant Secretary.

Appeal of the State of Maryland, Docket No. 24–(89)–81

The State appealed a final audit determination issued by the Assistant Secretary for Elementary and Secondary Education concerning the State educational agency's (SEA's) administration of comparability requirements under Title I for the Baltimore City School District (LEA) for the period July 1, 1973, through June 30, 1978. The Assistant Secretary sustained the findings and recommendations of an audit report issued by the Department of Education's Office of Inspector General Audit Agency (OIGAA). OIGAA found that the SEA approved all Title I applications submitted by the LEA without sufficient evidence that Title I project area schools were receiving State and local resources comparable to those received by other schools in the LEA. OIGAA also found that many of the LEA's Title I schools were not comparable at any time during a given school year and that the LEA was, therefore, ineligible to participate in the Title I program.

The Assistant Secretary determined that the State should refund a total of $7,504,978 to the Department of Education. This amount represents expenditures in Title I schools found to be noncomparable during school years 1976–77 and 1977–78. A refund of Title I expenditures made at noncomparable schools during earlier years was not sought because such a claim is barred by the applicable statute of limitations. The claimed refund may be further reduced by application of this statute.

Appeal of the Commonwealth of Virginia, Docket No. 28–(93)–81

The State appealed a final audit determination issued by the Assistant Secretary for Elementary and Secondary Education which was based on an audit of the State educational agency's (SEA's) administration of comparability data under Title I. The audit was performed for the Department of Education by the Health and Human Services Audit Agency (HHSAA). HHSAA reviewed the period July 1, 1977, through June 30, 1979.

HHSAA found that the SEA funded the Title I program at the Richmond City local educational agency (LEA) without confirming that the LEA was providing State and locally supported services in all Title I project area schools that were comparable to services provided in non-Title I schools. Although the comparability reports submitted to the SEA by the LEA indicated that the LEA was providing comparable services in all Title I schools, the auditors found errors in those reports. According to recomputations made by HHSAA, ten schools were noncomparable in fiscal year (FY) 1978 and twelve schools were noncomparable during all or part of FY 1979. Because of the failure to meet comparability requirements, HHSAA recommended that the State be required to refund all Title I funds, and similar Federal funds provided under Pub. L. 81–874 section 5(e) (Impact Aid), which were expended at the schools during the periods of noncomparability. The Assistant Secretary sustained the findings and recommendations of HHSAA and seeks a refund of $1,800,898 from the State.

A number of the appeals concern the Vocational Education Act of 1963, as amended:

Appeal of the State of Michigan, Docket No. 11–(76)–81

The State appealed a cost determination made by the Assistant Secretary for Vocational and Adult Education. The cost determination was to clarify certain information provided to the State in an earlier final audit determination issued by the Assistant Secretary. The earlier final audit determination stated that the State had failed to meet its obligation to match Federal funds granted for its vocational education programs with non-Federal funds. The matching deficits were $46,299 for fiscal year (FY) 1973, $2,076 for FY 1976, and $467 for FY 1977. The Assistant Secretary requested in his final audit determination that the State refund $2,543 to the Department of Education, representing the deficits for FYs 1976 and 1977. The Assistant Secretary stated that recovery of the FY 1973 deficit might be barred by the five year statute of limitations contained in section 542(g) of the General Education Provisions Act, 20 U.S.C. 1234a(g). In his subsequent cost determination, the Assistant Secretary reinstated the audit disallowance of $46,299 for FY 1973, explaining that the applicability of the statute of limitations to this claim was an issue to be raised by the State on appeal

The State in its request for review asserts that it paid the original $2,543 claim to the Department of Education, effectively closing the audit. The State also disputes the finding that it failed to meet matching requirements for all the years in question. The Department of Education seeks a refund totaling $48,842.

Appeal of the State of Minnesota, Docket No. 13–(78)–81

The State appealed a final audit determination issued by the Assistant Secretary for Vocational and Adult Education. The determination was based on an audit of grants awarded the State under the Vocational Education Act conducted by the Department of

Health and Human Services Audit Agency (HHSAA).

The Assistant Secretary found that the State, in fiscal year (FY) 1978, paid work-study students in excess of the maximum permitted by the State Plan. He found also that, in FYs 1976–78, the State violated grant requirements by using vocation education funds for follow-up activities aimed at all high school students.

The State disputes these findings. The Department of Education requested a refund of $158,608. This claim may be reduced by application of the statute of limitations.

Appeal of the State of Rhode Island, Docket No. 17–(62)–81

The State requested review of a final audit determination of the Assistant Secretary for Vocational and Adult Education which was based on a Federal audit of grants awarded the State under the Vocational Education Act during fiscal years (FYs) 1976–78. The Assistant Secretary found that $161,780 of grant funds were not expended or obligated by the State's local educational agencies (LEAs) within the required two year period. The Assistant Secretary also directed the State to resubmit its 1978 fiscal report based on actual LEA project information.

The State appealed these determinations. The Department of Education seeks a refund of $161,780.

Appeal of the State of Louisiana, Docket No. 18–(83)–81

The State appealed a final audit determination of the Acting Assistant Secretary for Vocational and Adult Education. The final determination was based on a Federal audit of federally funded vocational education programs conducted during fiscal years 1977–79. Under the Vocational Education Act, certain grant funds were to be set aside for the vocational education of handicapped persons. the Assistant Secretary disallowed certain charges to the handicapped set-aside funds at five local educational agencies (LEAs). He found that the LEAs had used these funds to supplement their regular vocational education programs rather than to provide specific programs, services, and activies, to handicapped students.

The State disputes the determination. The Department of Education seeks a refund of $142,779.

Appeal of Minnesota State Advisory Council for Vocational Education, Docket No. 21–(86)–81

The Minnesota State Advisory Council for Vocational Education (SACVE) appealed a final audit determination issued by the Assistant Secretary for Vocational and Adult Education. The final determination was based on an audit of funds received by SACVE under the Vocational Education Act of 1963, as amended, during the period July 1, 1975, through June 30, 1979. The audit was performed by the Department of Health, Education, and Welfare Audit Agency (HEWAA).

HEWAA found that SACVE did not follow proper Federal bidding procedures in the negotiation of staff service agreements and so paid excessive amounts for clerical services. HEWAA also found the SACVE improperly claimed costs for entertainment which were unallowable under Federal and State regulation, and certain travel costs that were undocumented or unallowable under State policy.

The Assistant Secretary sustained the auditors' findings and seeks a refund of $27,807 from SACVE. This amount could be reduced by application of the statute of limitations.

The remaining appeals concern other Federal education grants administered by the U.S. Department of Education:

Appeal of Institutional Development and Economic Affairs Services, Inc. (IDEAS), Docket No. 12–(77)–81

IDEAS, a private, nonprofit educational agency in Nederland, Colorado, is the recipient of an Ethnic Heritage Studies Program (EHSP) grant for fiscal year 1982. The grant is to be used for a project entitled "The New Americans", a multi-cultural program for Indochinese immigrants. IDEAS requested review of a cost determination made by Department of Education (ED) officials in the EHSP Office and the Office of Procurement and Assistance Management. This cost determination limited IDEAS' indirect cost rate to 8 percent to the total direct costs of the project because the ED officials viewed the approved project as a "training project". Educational training projects conducted by nonprofit institutions are subject to an 8 percent ceiling on indirect costs rates by a provision in Education Department General Administrative Regulations (EDGAR).

In its appeal, IDEAS disputes that its project is essentially training and asserts that an indirect cost rate it had previously negotiated with another Federal cognizant agency should be recognized by ED officials.

Appeal of Allen University, Docket No. 19–(84)–81

Allen University, Columbia, South Carolina, appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM). The final audit determination was based on a Federal audit of programs conducted by the University under Title III of the Higher Education Act from 1976 through 1979. OPAM found that the University did not comply with the Federal cost principles which governed the grants, and so disallowed expenditures that were unrelated to the Title III program, charges for an improperly administered faculty improvement program, undocumented charges, and charges for which there were no accounting records.

The Department seeks a refund of $675,998. The University disputes its liability for this amount.

Appeal of the University of Texas at Arlington, Docket No. 20–(85)–81

The University of Texas at Arlington appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM) which was based on a Federal audit of three grants awarded under the Higher Education Act during 1977–1979. The grants were awarded to the University to establish and operate a Chicano Resource Center and an Education Opportunity Center. The basic purpose of the centers was to provide educational opportunities and training for public service careers. OPAM upheld the auditors' finding that the University made material revisions in the approved grants budgets without receiving prior approval by the Federal grants officer as required by applicable Federal grant regulations. Because of the improper budget revisions, OPAM disallowed certain salary and fringe benefit charges to the three grants. The Department of Education seeks a refund of $15,153, and the University disputes its liability for this amount.

Appeal of the State of Alaska, Docket No. 23–(88)–81

The State appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management which was based on a Department of Health, Education and Welfare Audit Agency audit of the State's administration of Federal

programs at its rural education attendance areas during the period July 1, 1976, through December 31, 1976. The final audit determination disallowed $14,453 in unallowable payroll and procurement costs and $614,476 undocumented costs for salaries and wages. The Department of Education seeks a total refund of $628,929. The State disputes all but $14,453 of this amount.

Appeal of Allen University, Docket No. 27-(82)-81

Allen University, Columbia, South Carolina, appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM). The final determination was based on a Department of Health and Human Services Audit Agency (HHSAA) review of the University's financial condition and financial management practices. HHSAA reported that the University was in an untenable financial position as of June 30, 1979. The auditors found that the University improperly transferred Federal funds received from the Departmental Federal Assistance Financing System (DFAFS) from restrictive grant accounts to its general operating fund. OPAM's final audit determination held that $365,555 of the funds transferred during the period audited were from grant accounts under the cognizance of OPAM. OPAM also found that $92,231 of funds received from DFAFS under Title III of the Higher Education Act of 1965, as amended (Title III), during the period July 1, 1976, through June 30, 1977, were improperly transferred to the University's general operating fund.

OPAM directed the University to reinstate the $92,231 disallowed under Title III to its Federal cash account as an adjustment to expenditures and to submit a refund of the remaining $365,555 to the Department of Education. A total of $457,786 in Federal grant expenditures were disallowed. The University appealed the entire disallowance.

Appeal of Los Angeles Community College District, Docket No. 26-(81)-81

The Los Angeles Community College District (the District), a political subdivision of the State of California, appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM). The final determination was based on a Health, Education and Welfare Audit Agency (HEWAA) review of costs charged to grants under Title VII of the Elementary and Secondary Education Act of 1965, as amended, during fiscal years (FYs) 1976 and 1970. According to the HEWAA audit report, the Title VII grants were made to East Los Angeles College (the College) which was a member of the District, to fund a bilingual crosscultural training program. The audit report notes that the College notified the Office of Education (OE), after the award of the FY 1976 grant, that the East Los Angeles College Foundation (the Foundation) was the fiscal agent for the Title VII project. OE substituted the Foundation as grantee in a modified grant notification document and later awarded a continuation Title VII grant to the Foundation for FY 1977. The audit report explains that the Foundation was a separate nonprofit organization, formed by the President of the College who intended it to be auxiliary to the College. However, it did not meet State law requirements for an auxiliary organization. Therefore the auditors found the FY 1976 Title VII funds were transferred to, and the projects performed by, an organization that was ineligible for funding under Title VII regulations.

OPAM determined that the College retained ultimate responsibility for the expenditure of the Title VII funds under these grants. The final audit determination disallowed $82,101 of FY 1976 costs and $28,651 in FY 1977 costs related to salaries, fringe benefits, travel, and supplies. OPAM also seeks a refund of an unexpended fund balance of $8,030 for FY 1976. The Department of Education seeks a total refund of $118,782 from the District for the misexpenditures of its member College. The District disputes its liability.

Appeal of Alcona Community Schools, Docket No. 25-(90)-81

Alcona Community Schools (Alcona), Lincoln, Michigan, appealed a cost determination issued by the U.S. Department of Education's (ED's) Office of Procurement and Assistance Management (OPAM). OPAM's determination followed an earlier decision by ED not to award a continuation grant for a local Follow Through project to Alcona for the grant year ending June 30, 1981, because of severe budget cutbacks in the Follow Through program. ED had informed Alcona that grant funds would be awarded to facilitate an orderly closeout of the local Follow Through project. The closeout grant was to be for a two month period, was to equal one-twelfth of Alcona's 1981 grant, and was to be awarded following Alcona's submission of a budget of necessary closeout activities. The supplemental budget submitted by Alcona was comprised of a request for $8,287 for unemployment compensation costs for staff affected by the termination of the Follow Through project. The supplemental award of $8,287 was granted.

In the cost determination at issue, OPAM withdrew the supplemental award because it found that direct charges for unemployment compensation payments to individuals are not an allowable cost item under Federal regulations governing the Follow Through program. This decision constituted a termination of the supplemental grant award.

Intervention

Section 78.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency, may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the above appeals.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in, and information relevant to, the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

These applications to intervene, or questions, should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW. (Room 2141, FOB-6), Washington, D.C. 20202, telephone: (202) 245-7835.

(Catalog of Federal Domestic Assistance No. not applicable)
(20 U.S.C. 1234)

Dated: February 5, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-3999 Filed 2-12-82; 8:45 am]
BILLING CODE 4000-01-M

Education Appeal Board; Appeals

AGENCY: Department of Education.

ACTION: Notice of Appeals Before the Education Appeal Board.

SUMMARY: This notice lists three appeals now before the Education Appeal Board that were previously appealed to, and pending before, the Department of Health, Education, and Welfare (HEW) Grant Appeals Board, or its successor, the Department of Health and Human Services (HHS) Grant Appeals Board.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 454 of the General Education Provisions Act (20 U.S.C. 1234 et seq.), the Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. Final regulations governing Board jurisdiction and procedures were published in the **Federal Register** on May 18, 1981 (46 FR 27304).

This notice lists three of the appeals now before the Education Appeal Board that were previously appealed to, and pending before, the HEW Grant Appeals Board, or its successor, the HHS Grant Appeals Board. The Education Appeal Board was designated by the Secretary of Education as having jurisdiction over these appeals by regulations published in the **Federal Register** on January 5, 1981 (46 FR 881). The three appeals are:

1. Appeal of Robeson County Board of Education, Docket No. 79–61;
2. Appeal of National Urban League, Inc., Docket No. 79–90;
3. Appeal of Illinois Teachers' Retirement System and Illinois State Board of Education, Docket No. 80–97.

Intervention.

Section 78.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the above appeals.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

These applications or questions should be addressed to Dr. David S. Pollen, Chairman, Educational Appeal Board, 400 Maryland Avenue, SW., (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(Catalog of Federal Domestic Assistance Number not applicable)

(20 U.S.C. 1234)

Dated: February 5, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3980 Filed 2–12–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and Republic of Korea

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–KO–12, to the Korea Advanced Energy Research Institute, 43 grams of natural uranium as oxide, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3984 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–JA–305, 3.2 grams of natural uranium for use as standard reference material by the Okayama Prefectural Research Center of Environmental and Public Health, Okayama, Japan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3986 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the shipment of 4 kilograms of irradiated highly enriched uranium fuel from the ITAL research reactor, in the Netherlands to the Department of Energy Savannah River facility for reprocessing and storage.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security. This arrangement for returning U.S. origin highly enriched uranium (HEU) to the U.S. is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3985 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between The United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves supply of the following nuclear materials: Contract Number S–EU–715, to the Central Bureau for Nuclear Measurements, Geel Belgium, 20 grams of uranium enriched to 75.36% in U–235, 30 grams of uranium enriched to 97.66% in U–235, and 32.5 grams of plutonium in the form of plutonium metal and plutonium sulfate. These materials are to be redistributed to various laboratories within the European Community for use as standard reference material. Nuclear Regulatory Commission export license XSNM1737 has been issued for the export of this material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.
For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-3661 Filed 2-12-82; 8:45 am]
BILLING CODE 6450-01-M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangements Between United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval for the following sales:

Contract Number S–EU–717, to the Commissariat A L'Energie Atomique, France, of 0.005 grams of uranium-233 for use as standard reference material.

Contract Number S–EU–718, to the Transurane-Institut Euratom, Federal Republic of Germany, 0.005 grams of plutonium-244 for use as standard reference material.

Contract Number S–JA–307, to the Nuclear Material Control Center, Tokyo, Japan, 1 gram of depleted uranium, 1 gram of uranium enriched to 3 percent in U-235, 1 gram of uranium enriched to 5.01 percent in U–235, and 6 grams of plutonium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.
For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International, Nuclear and Non-Proliferation Policy.

[FR Doc. 82-3662 Filed 2-12-82; 8:45 am]
BILLING CODE 6450-01-M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 20 kilograms of uranium, containing 3.95 kilograms of U–235 (19.75% enrichment) to CERCA, France, for the production of fuel for the Reduced Enrichment Research and Test Reactor (RERTR) Program, for use in the SILOE and BR–2 test reactors, under Contract Number DE–SC05–80 LEU 0504.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.
For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-3663 Filed 2-12-82; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GT82-21-000]

Cimarron Transmission Co.; Filing of Original Tariff Sheets

February 9, 1982.

Take notice that Cimarron Transmission Company, on February 2, 1982, tendered for filing its FERC Gas Tariff Original Volume No. 1. The filing does not constitute a change in either rates or services.

Cimarron states that in reviewing its records, it determined that its FERC Gass Tariff Original Volume No. 1 may not be set forth in the format prescribed by the Commission's regulations regarding the form and composition of tariffs on file with the Commission. Cimarron further states that this tariff filing is solely for the purpose of placing an already accepted tariff into a format consistent with the Commission's regulations. Cimarron proposes that the effective date of Original Volume No. 1 be February 2, 1982, the date of the filing of this tariff.

Copies of this filing were served upon Natural Gas Pipeline Company of America, Chevron Chemical Company and United Gas Pipe Line Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3950 Filed 2-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP81-82-003]

Columbia Gulf Transmission Co.; Proposed Change in FERC Gas Tariff

February 9, 1982.

Take notice that on January 29, 1982, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing Revised Sheet No. 1253 to its FERC Gas Tariff, Original Volume No. 2, proposed to be effective January 1, 1982.

Columbia Gulf states that Revised Sheet No. 1253 was filed to incorporate its latest rates on file with the Commission at Docket No. RP81-82.

A copy of this filing was sent to Amoco Production Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3948 Filed 2-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-281-000]

Connecticut Light and Power Co.; Filing

February 10, 1982.

Take notice that on February 3, 1982, The Connecticut Light and Power Company ("CL&P") filed a proposed amendment to the Northeast Utilities Generation And Transmission Agreement between The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company (collectively referred to as the "Northeast Utilities Companies"). The Northeast Utilities Generation And Transmission Agreement is also known as the "Memorandum Of Understanding—Pooling Of Generation And Transmission" and has the following rate schedule designations: CL&P Rate Schedule FPC No. 40, The Hartford Electric Light Company Rate Schedule FPC No. 35, Western Massachusetts Electric Company Rate Schedule FPC No. 52, Holyoke Water Power Company Rate Schedule FPC No. 22, and Holyoke Power and Electric Company Rate Schedule FPC No. 13.

The amendment provides for limited changes which would increase the rate of return on common equity to 16.00%, replace certain references to the NEPEX Agreement with references to the superseding NEPOOL Agreement, conform the treatment of accumulated deferred income taxes related to post-1981 facility additions to the Economic Recovery Tax Act of 1981, provide for ratable flowthrough of investment tax credits related to post-1981 facility additions and to reflect deferred income taxes accumulated after January 1, 1982, with respect to estimated costs of nuclear plant decommissioning and eliminate a factor applied to the discount and premium components in computing costs of long-term indebtedness.

CL&P states that the amendment does not change the "zero-sum" allocation of costs and benefits among the Northeast Utilities Companies provided by the Northeast Generation And Transmission Agreement.

CL&P and the other Northeast Utilities Companies propose to make the amendment effective on April 5, 1982. Alternatively, CL&P and the other Northeast Utilities Companies have requested a waiver of the Commission's notice requirements to permit the rate schedule change to become effective following a final Commission order in the event that the Commission suspends the change and orders a hearing.

Certificates of Concurrence were filed by The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company.

Any person desiring to be heard or to make any protest with reference to the proposed changes to the Agreement should on or before March 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3941 Filed 2-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-1-23-000 (PGA82-1, DCA82-1, IPR82-1)]

Eastern Shore Natural Gas Co.; Tariff Filing

February 9, 1982.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on February 3, 1982, tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective March 1, 1982

Twentieth Revised Sheet No. 5
Twentieth Revised Sheet No. 6
Fifth Revised Sheet No. 7
Twentieth Revised Sheet No. 10
Twentieth Revised Sheet No. 11
Twentieth Revised Sheet No. 12

Eastern Shore states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment, to reflect a Demand Charge Adjustment, to reflect a Deferred Gas Cost Adjustment, to report the Projected Incremental Pricing Surcharges, and to reflect a Transportation Surcharge Adjustment. This filing is being made in accordance with sections 20, 21 and 23 of Eastern Shore's FERC Gas Tariff and provisions of the Stipulation and Agreement approved by letter order issued March 27, 1981, in Docket No. RP80-84. The Purchased Gas Cost Adjustment reflects rates payable to Eastern Shore's supplier during the period March 1, 1982 through August 31, 1982.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3661 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-41-000]

El Paso Natural Gas Co.; Petition for Waiver of Regulations Under the Natural Gas Act and Relief From Currently Effective Tariff Provisions

February 9, 1982.

Take notice that on February 3, 1982, El Paso Natural Gas Company ("El Paso") filed pursuant to § 1.7 of the Commission's Rules of Practice and Procedure for waiver of § 154.38(d)(4)(iv)(d) of the Commission's regulations Under the Natural Gas Act and for relief from § 19.7, Surcharge Adjustment, of El Paso's FERC Gas Tariff, Original Volume No. 1.

El Paso states that on July 16, 1980 the Commission issued Order No. 93 that, among other matters, promulgated final rules effective as of December 1, 1978 for Part 270, Subpart B, § 270.204 of the Commission's Regulations Under the Natural Gas Policy Act of 1978 ("NGPA"). Said § 270.204 prescribed a standard for determining the Btu content of natural gas. Order No. 93 noted that the prescribed Btu standard must be adjusted to an "as delivered" basis to properly value natural gas subject to a first sale under the NGPA. By Order No. 93-A issued April 24, 1981, the Commission denied rehearing and clarified Order No. 93.

On August 20, 1981, the Commission issued an order granting partial stay of Order Nos. 93 and 93-A, insofar as the "as delivered" Btu rule applied to the December 1, 1978 through April 23, 1981 period. Subsequently, by order issued December 24, 1981 the Commission vacated this partial stay and amended Section 270.204 of its Regulations to prescribe that the "as delivered" Btu rule is effective as of December 1, 1978. El Paso states that it must now make retroactive adjustments aggregating some $65 million to revise its purchased gas payments made to independent producers for the period retroactive to December 1, 1978 such that the NGPA maximum lawful prices for these purchases reflect payments on an "as delivered" basis as required by Order Nos. 93 and 93-A.

El Paso states that the instant petition is seeking waiver and relief to the extent necessary to permit a one-time special surcharge effective for the period April 1, 1982 through March 31, 1983 to recover approximately $65 million estimated in retroactive adjustments to be paid by El Paso to independent producers during the same twelve month period. El Paso further states that such relief will permit it to recover these costs reasonably concurrent with their determination and payment, rather than deferring such recovery for several months through the procedures of its PGA provisions. El Paso notes that, due to their magnitude, the retroactive payments will have a serious timing impact on its cash flow, absent the requested relief.

El Paso has noted that its requested relief is similar to that permitted by the Commission in Opinion No. 770-A issued at Docket No. RM79-7 that permitted a special surcharge to recover certain increased Opinion No. 770 costs and, as well, the relief permitted in Order No. 18 issued at Docket No. RM79-7 that, among other matters, established a special surcharge to recover increased costs attributable to the NGPA that occurred prior to pipeline companies first regularly scheduled 1979 PGA filing.

El Paso states it would (i) record the actual monthly accruals and recoveries attributable to retroactive adjustments to independent producers under a special Account 191 sub-account, (ii) calculate interest on the Account 191 sub-account balance monthly as required by §§ 154.38(d)(4) (c) and (d) and 154.67(d)(2)(iii) of the Regulations and (iii) file a report with the Commission on or about June 1, 1983 reflecting all information concerning the amounts actually collected by and operation of the proposed surcharge and accruals with any over or under collections to be recorded in its Account 191 balance as of June 30, 1983.

El Paso also states that copies of the instant filing have been served upon all of El Paso's interstate transmission system customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3642 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-157-000]

El Paso Natural Gas Co.; Application

February 11, 1982.

Take notice that on January 15, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-157-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas on an exchange basis to Union Texas Petroleum Corporation (Union Texas) and the construction and operation of certain minor facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that on November 9, 1981, Applicant entered into an emergency fuel gas agreement with Union Texas pursuant to which Applicant would deliver to Union Texas at a proposed point of delivery in Upton County, Texas, such quantity of natural gas as Union Texas may need from time to time not to exceed 2,000 Mcf of gas per day for use as fuel in its Benedum plant facilities and/or associated appurtenances. It is further submitted that under such agreement Union Texas would concurrently deliver to Applicant at Applicant's existing purchase meter station at the outlet of Union Texas' Benedum plant a quantity of surplus gas equivalent on a thermal basis to the total quantities of natural gas delivered by Applicant to Union Texas.

Applicant asserts that such exchange is necessary in order that Union Texas may have a constant and reliable supply of pipeline quality natural gas available for use in the operation of its Benedum plant and, further, in order to ensure the continuity of the surplus gas supply sold by Union Texas to Applicant.

In order to effectuate the above-proposed transportation of natural gas, Applicant proposes to construct and operate a 2⅜-inch O.D. tap and valve assembly with appurtenances including a 2⅜-inch O.D. standard orifice type meter run to be located at a point on Applicant's existing 20-inch O.D. Sutton County Line, Upton County, Texas.

Applicant estimates the total cost of the proposed facilities to be $7,464 which cost would be reimbursed by Union Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3943 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-36-000]

Gulf States Utilities Co.; Application

February 10, 1982.

Take notice that on February 3, 1982, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, for the issuance of not more than $100,000,000 Principal Amount of First Mortgage Bonds via negotiated placement.

Any person desiring to be heard or to make any protest with reference to the said application should on or before March 2, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3944 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-37-000]

Gulf States Utilities Co.; Application

February 10, 1982.

Take notice that on February 3, 1982, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authorization to negotiate privately with respect to the issuance of not more than $75,000,000 of Notes to guaranty a like amount debentures to be issued by Gulf States Overseas Finance N.V. in the Euro-Capital Market.

Any person desiring to be heard or to make any protest with reference to the said application should on or before March 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3945 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-278-000]

Montana Power Co.; Agreement for Storage of Energy

February 10, 1982.

Take notice that The Montana Power Company ("Montana") on February 3, 1982, tendered for filing in accordance with Section 34 of the Commission's regulations a letter agreement between the City of Tacoma ("Tacoma") and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoirs with right of first refusal for Montana to acquire this energy if Tacoma elects not to have the storage energy returned.

Montana indicates that the proposed letter agreement would not increase its revenues. Montana states that the right of first refusal to purchase energy not returned at the indicated rates under the letter agreement was negotiated.

The effective date of January 21, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3946 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-280-000]

Montana Power Co.; Filing

February 10, 1982.

Take notice that The Montana Power Company ("Montana") on February 3, 1982, tendered for filing in accordance with section 35 of the Commission's regulations, a Letter Agreement with San Diego Gas & Electric Company ("San Diego"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and San Diego.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $283,748.40, based upon energy delivered from September 21, 1981 through October 31, 1981. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of September 21, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3947 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-7-000]

Pogo Producing Co.; Application for Staff Adjustment

Issued: February 9, 1982.

On January 21, 1982, Pogo Producing Company (Pogo), P.O. Box 2504, Houston, Texas 77001 filed an application for a staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412(c) (Supp. III 1979), and § 1.41 of the Federal Energy Regulatory Commission (Commission) rules of practice and procedure.

Pogo claims special hardship, inequity or unfair distribution of burdens and irreparable injury if unable to retain interim collections made pursuant to NGPA section 102 for gas produced from Well C-8 of East Cameron Block 334 from June 24, 1981 to September 18, 1981. While separate interim collection filings has not been made for the gas produced from East Cameron Block 334 by either the operator, Pennzoil Company or by Pogo, Pogo states it believed that it was not necessary to file separately since a filing had been made on February 20, 1981 for gas produced from East Cameron Block 335 which included a platform used for producing gas from Well C-8. Pogo now requests that the Commission either confirm its authority to make interim collection for the period mentioned or that the Commission grant equitable adjustment relief from §§ 273.202 and 273.203.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979). Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 3, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3948 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-277-000]

Southern Indiana Gas & Electric Co. and Public Service Co. of Indiana, Inc.; Filing

February 10, 1982.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on February 3, 1982, tendered for filing a new Interconnection Agreement, as amended, between Hoosier Energy Division of Indiana Statewide Rural Electric Cooperative, Inc., now Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), Southern Indiana Gas and Electric Company (Southern Company), and Public Service Company of Indiana, Inc. (Service Company).

PSCI states that the new agreement provides for service schedules between the parties so that transactions can occur due to the commercial operations of Hoosier's Merom Plant. The new service schedules are as follows:

(a) Unit Power: Demand charges will be computed using the annual fixed costs of the designated unit(s) divided by the rated net capability of the unit. Energy charges will be determined using 1.1 times the average production cost of the total net kilowatt hours generated by the unit during the period plus transmission charges, if applicable.

(b) Back Up Power: Demand charges will be calculated using the 13 month average of the party's production and transmission plant investment by the party's appropriate levelized fixed charge rate divided by the 12 month average system peak hour plus firm obligations. Energy will be billed at 1.10 percent of suppliers out of pocket cost.

(c) Bulk Power Transmission Use: Hoosier will compensate Service Company for the utilization of Service Company's bulk transmission system. Such use rate will be calculated each calendar year using the 13 month average of Service Company's investment in bulk transmission plant times the appropriate annual levelized fixed charge rate divided by the total Service Company's system input.

(d) Deficiency Power: Demand charges will be calculated each calendar year using the 13 month average of the party's production and transmission plant investment by the party's appropriate levelized fixed charge rate divided by the 12 month average system peak hour plus firm objectives. Energy will be at 1.25 percent of suppliers out of pocket cost.

PSCI requests an effective date of February 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Hoosier, Southern Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3952 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5775-000]

White Chuck Water Co.; Application for Preliminary Permit

February 11, 1982.

Take notice that The White Chuck Water Company (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5775 to be known as the Pugh Creek Hydroelectric Project located on Pugh Creek near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest, in Snohomish County, Washington. The application is on file with the Commission and is available for public

inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, The White Chuck Water Company, 6233 39th Avenue, NE, Seattle, Washington 98115.

Project Description. The proposed project would consist of: (1) A 5-foot high, 40-foot long diversion structure; (2) a 48-inch diameter low pressure pipeline; (3) a steel surge tank; (4) a 1,300-foot long, 36-inch diameter penstock; (5) a powerhouse with total installed capacity of 3.0 MW; and (6) a 14-mile long transmission line from the powerhouse to an existing power line. The Applicant estimates that the average annual energy production would be 12.2 million kWh.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction.

The applicant seeks issuance of a permit for period of 24 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications. This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5290 filed on August 27, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commissions regualtions, no competing application for preliminay permit, or notices of intent to file an application for preliminary permit, or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3954 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5859-000]

Woods Creek, Inc.; Application for Preliminary Permit

February 11, 1982.

Take notice that Woods Creek, Incorporated (Applicant) filed on January 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5859 to be known as the May Creek Project located on May Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Neil H. MacDonald, Project Manager, Woods Creek, Incorporated, 14 South Idaho Street, Seattle, Washington 98134.

Project Description. The proposed project would consist of: (1) Two 6-foot high diversion weirs near the outlet of Lake Isable; (2) two pipelines 24 and 36 inches in diameter, 800 and 7500 feet long respectively; (3) a powerhouse containing two generating units with a total capacity of 8600 kW and an estimated average annual energy output of 35 million kWh; and (4) a two-mile long transmission line. The proposed project will be located partially on lands under the management of the U.S. Forest Service.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24-month preliminary permit during which time technical, economic and financial feasibility studies will be undertaken to support an application for license or exemption. The cost of the above activities is estimated to be $170,000.

Competing Applications. This application was filed as a competing application to Ken Coke's application for Project No. 5825 filed on December 28, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit, or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory

Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3085 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5870-000]

Howard W. Bair; Application for Preliminary Permit

February 12, 1982.

Take notice that Howard W. Bair (Applicant) filed on December 23, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5870 to be known as the South Yuba Canal Project located on the South Yuba Canal in Nevada County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Howard W. Bair, 9900 Quail Hill Drive, Newcastle, California 95658.

Project Description—The proposed project would consist of: (1) a 40-foot extension of the existing 10-inch diameter iron pipe which diverts water from the existing South Yuba Canal owned by the Pacific Gas and Electric Company; (2) a powerhouse containing one generating unit rated at 70 kW; and (3) a 2,500-foot long transmission line. The average annual energy generation is estimated to be 445,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, environmental, economic, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be performed under the preliminary permit is estimated to be $15,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 23, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3086 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5825-000]

Ken Coke; Application for Preliminary Permit

February 11, 1982.

Take notice that Ken Coke (Applicant) filed on December 28, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5825 to be known as the May Creek Project located on May Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ken Coke, 6051—137th Avenue, N.E., #346, Redmond, Washington, 98052.

Project Description—The proposed project would consist of: (1) An intake structure at elevation 1856 feet; (2) a 36-inch diameter, 1400-foot long penstock; (3) a powerhouse at elevation 1350 feet containing a single generating unit with a rated capacity of 800 kW; and (4) a 1-mile long transmission line. Applicant estimates that the average annual energy production would be 5,000 Mwh. This project would be located partially on lands within the Snoqualmie National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested issuance of an 18-month preliminary permit during which time detailed studies to determine the economic, technical and environmental aspects of the project will be undertaken to support an application for exemption or minor license. The estimated cost of the studies for the project is between $55,000–$70,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 22, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file

an application for license or exemption must be submitted to the Commission on or before April 22, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an appplication for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 22, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3629 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5841-000]

The County of Sierra; Application for Preliminary Permit

February 12, 1982.

Take notice that The County of Sierra (Applicant) filed on December 31, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5841 to be known as the North Yuba River Hydroelectric Project located on North Yuba River, near Downieville, within the lands of the Sierra National Forest, in Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Tim H. Beals, Planning Director, The County of Sierra, P.O. Box 530, Downieville, California 95936.

Project Description—The proposed project would consist of: (1) A 5-foot high, 30-foot long diversion structure; (2) a 7,600-foot long, 72-inch diameter low pressure conduit; (3) a 800-foot long, 60-inch diameter penstock; (4) a powerhouse containing two generating units with total installed capacity of 7.6 MW; and (5) a 300-foot long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company powerline. The Applicant estimates that the average annual energy production would be 40 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $80,000 to $140,000.

Competing Applications—This application was filed as a competing application to Mac Hydro-Power Company's application for Project No. 5020 filed on June 26, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3627 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5754]

Falling Waters Development, Inc. IV; Application for Preliminary Permit

February 10, 1982.

Take notice that Falling Waters Development, Inc. IV (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5754 to be known as the Falling Waters Development, Inc. IV project located on Boulder Creek, near Coffee Creek, within the lands of the Shasta-Trinity National Forest in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. E. H. Ochinero, Falling Waters Development, Inc. IV, 2811 Bechelli Lane, Redding, California 96002.

Project Description—The Proposed project would consist of: (1) A 5-foot high, 30-foot long concrete diversion structure; (2) a 4,500-foot long, 24-inch diameter conduit; (3) a 1,400-foot long, 18-inch diameter penstock; (4) a powerhouse with an installed capacity of 850 kW; and (5) a 1.5-mile long, 12-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy production would be 7.4 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 19, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission or or before April 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 17, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3880 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5733-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 10, 1982.

Take notice that Hydro Management, Inc. (Applicant) filed on December 7, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5733 to be known as the Groom Creek Water Power Project located on Groom Creek, near Polson, within the lands of the Flathead National Forest in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Edelman III, President, Hydro Management, Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The project would consist of: (1) A 3-foot high, 20-foot long diversion structure; (2) a 7,600-foot long, 14-inch diameter penstock; (3) a powerhouse with an installed capacity of 376 kW; and (4) a 300-foot long, 7.2-kV transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 2.274 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time, it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $4,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 19, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must file in

accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 17, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3981 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No., 5847-000]

Jackson Hydro Associates; Application for Preliminary Permit

February 11, 1982.

Take notice that Jackson Hydro Associates (Applicant) filed on January 4, 1982 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5847 to be known as the Jackson Hydropower Project located on the Jackson River near Covington, in Alleghany County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, Jackson Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 175-foot long and 3-foot high concrete dam; (2) a small reservoir; (3) a proposed powerhouse located at the left abutment of the dam; (4) proposed transmission lines; (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 350 KW, and the annual energy output to be 1.3 GWh. Energy produced at the proposed project would be sold to the Virginia Electric Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to preparde a project report including preliminary designs, results of hydrological, environmental and economic feasibility studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Forest Service and other Federal, State and local agencies, preparing a license application conducting final field surveys and preparing designs is estimated by the Applicant to be $36,000.

Competing Applicataions—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 21, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 22, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests, or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB AT THE ABOVE ADDRESS. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3982 Filed 2-13-82; 8:45]

BILLING CODE 6717-01-M

[Project No. 5714-000]

Lake Hemet Municipal Water District; Application for Exemption of Small Hydroelectric Facility

February 11, 1982.

Take notice that on December 3, 1981, Lake Hemet Municipal Water District (Applicant) filed an application, under section 30 of the Federal Power Act (Act) (16 U.S.C. § 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Oakcliff Power Station Small Conduit Hydroelectric Project (FERC Project No. 5714) would be located on the existing water supply conduit at the junction of the San Jacinto River's North and South Forks, near Hemet, Riverside County, California. Correspondence with the Applicant should be directed to: Mr. Leonard C. Hale, Lake Hemet Municipal Water District, 40988 Florida Avenue, Hemet, California 92343.

Purpose of Project—The power generated by the proposed project would be sold to the Southern California Edison Company.

Project Description—The proposed project would consist of: (1) The existing Lake Hemet Municipal Water District 21-inch diameter concrete conduit which receives water from natural springs and San Jacinto River; (2) a control valve in the conduit to divert flow; (3) a powerhouse containing one generating unit with an installed capacity of 100 kW; and (4) a 0.25-mile long power transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 0.36 million kWh.

Agency Comments—The U.S. Fish and Wildlife Service and the California State Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. If no comments are filed within this time period, an agency will be presumed to have determined that no terms or conditions to the exemption are necessary. Other Federal, State, and local agencies that receive this notice through direct mailing from Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. Comments are due within 45 days from the date of issuance of this notice. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3933 Filed 2-12-82; 8:45am]

BILLING CODE 6717-01-M

[Project No. 5875-000]

Thomas M. McMaster; Application for Preliminary Permit

February 11, 1982.

Take notice that Thomas M. McMaster (Applicant) filed on January 15, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5875 to be known as the Falls Creek Project located on Falls Creek, near Glacier, within the lands of the Mt. Baker National Forest, In Whatcom County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas M. McMaster, P.O. Box 1252, Mt. Vernon, Washington 98273.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete diversion structure; (2) a 3,000-foot long, 18-inch diameter steel penstock; (3) a powerhouse with an installed capacity of 400 kW; and (4) a 3-mile long, 57-kV transmission line from the powerhouse to an existing Puget Sound Power & Light Company's power line. The Applicant estimates that the average annual energy production would be 2.2 million kWh.

Propose Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct technical, environmental and economic studies; and prepare a FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $75,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 22, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR $4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 22, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 21, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3934 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5849-000]

Millboro Hydro Associates; Application for Preliminary Permit

February 12, 1982.

Take notice that Millboro Hydro Associates (Applicant) filed on January 4, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5849 to be known as the Millboro Hydropower Project located on the Cowpasture River near Millboro Springs, in Bath County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 200-foot long and 7-foot high stone dam with an ogee spillway; (2) a small reservoir; (3) a proposed powerhouse located at the left abutment of the dam; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 250 kW, and the annual energy output to be 1.0 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to BARC.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activitites along with obtaining agreements with other Federal, State and local agencies is estimated to be $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 23, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3935 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 184-002]

Pacific Gas and Electric Co. Application for Approval of Revised Exhibit R

February 12, 1982.

Take notice that an application was filed on January 4, 1982, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r) by the Pacific Gas and Electric Company (PG & E), Licensee for the El Dorado Project No. 184, for approval of a revised Exhibit R. The project is located on the South Fork of the American River in the counties of El Dorado, Alpine, and Amador, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106.

The PG & E proposes: (1) To provide a graded parking area and garbage cans for the Ferguson Point Parking Area; (2) to provide an access road, parking area, garbage cans, sanitation facilities, and picnic tables for the Sandy Cove Day Use Area; (3) to provide a parking area and garbage cans for the Sandy Cove Parking Area; (4) to provide sanitation and garbage disposal facilities for the

Caples Lake Dam Angler Access/Trailhead; (5) to provide a parking area and garbage cans for the Caples Lake Resort Angler Access; and (6) to provide signs.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3926 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5856-000]

Public Utility District No. 1 of Jefferson County, Washington; Application for Preliminary Permit

February 12, 1982.

Take notice that Public Utility District No. 1 of Jefferson County, Washington (Applicant) filed on January 6, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5856 to be known as the Owl Creek Hydroelectric Project located on Owl Creek, near Forks, in Jefferson County, Washington. The application is on file with the Commission and is available for public inspection Correspondence with the Applicant should be directed to: Mr. J. R. Kint, Manager, Public Utility District No. 1 of Jefferson County, Jefferson County Courthouse, Port Townsend, Washington 98368.

Project Description—The proposed project would consist of: (1) A 6-foot high concrete diversion structure; (2) a 8,000-foot long pipeline; (3) a 1,000-foot long, 36-inch diameter steel penstock; (4) a powerhouse containing two generating units with total installed capacity of 1,800 kW; and (5) a 12-mile long, 25-kV transmission line from the powerhouse to an existing Clallum County PUD transmission line. The Applicant estimates that the average annual energy production would be 10.3 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $100,000.

Competing Applications—This application was filed as a competing application to Twin River Resources' application for Project No. 5137 filed on July 27, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protest, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests of other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3928 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5757-000]

Public Utility District No. 1 of Snohomish County; Application for Preliminary Permit

February 11, 1982.

Take notice that Public Utility District No. 1 of Snohomish County (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 5757 to be known as the Silver Creek Hydroelectric Waterpower Project located on Silver Creek, near Index, within the lands of the Snoqualmie National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William G. Hulbert, Jr., Manager, Public Utility District #1 of Snohomish

County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) A 0-foot high diversion structure; (2) a 6,000-foot long pipeline; (3) a 800-foot long, 66-inch diameter steel penstock; (4) a powerhouse with total installed capacity of 3.7 MW and (5) a 8-mile long, 12-kV transmission line from the powerhouse to an existing tranmsission line. The Applicant estimates that the average annual energy production would be 13.1 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking there studies would be $200,000.

Competing Applications—This application was filed as a competing application to Western Power, Inc.'s application for Project No. 5341 filed on September 8, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must als be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3887 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5742-000]

Sierra PowrQuip Associates, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 12, 1982.

Take notice that on December 10, 1981, Sierra PowrQuip Associates, Inc. (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5742) would be located on Squaw Valley Creek, near McCloud, Siskiyou County, California. Correspondence with the Applicant should be directed to: Mr. C. Dale Spaulding, Sierra PowrQuip Associates, Inc., P.O. Box 628, McCloud, California 96057.

Project Description—The project would consist of: (1) Restoration of an existing diversion structure to a proposed 8-foot high and 40-foot long concrete diversion structure; (2) a 1000-foot long, 40-inch diameter penstock; (3) a reservoir with 0.05-acres surface area and negligible active storage; (4) a powerhouse with total installed capacity of 260 kW; and (5) a 25-foot long, 7.8-kV transmission line from powerhouse to an existing Pacific Power and Light Company line. The Applicant estimates that the average annual energy production would be 0.813 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the California State Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 2, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to

intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3698 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5773-000]

The White Chuck Water Co.; Application for Preliminary Permit

February 12, 1982.

Take notice that the White Chuck Water Company (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5773 to be known as the White Chuck River #1 Hydroelectric Project located on White Chuck River, near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest, in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, The White Chuck Water Company, 6233 39th Avenue NE., Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) A 9-foot high, 180-foot long diversion structure at White Chuck River; (2) a 1.8-mile long, 72-inch diameter low pressure pipeline; (3) a 700-foot long, 60-inch penstock; (4) a powerhouse with total installed capacity of 6.0 MW to 6.6 MW; and (5) a 16-mile long transmission line from the powerhouse to an existing transmission line. An alternate scheme may include 5-foot high, 40-foot long diversion structure at Camp Creek to divert waters and combine with flows diverted from the White Chuck River. The Applicant estimates that the average annual energy production would be 29 million kWh without the Camp Creek alternative and 33 million kWh with the Camp Creek alternative.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a permit for a period of 24 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications.—This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5289 filed on August 27, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license for filing in response to this notice. Any application for license or exemption from licensing or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3699 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5774-000]

The White Chuck Water Co.; Application for Preliminary Permit

February 11, 1982.

Take notice that The White Chuck Water Company (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791 (a)–825(r)) for Project No. 5774 to be known as the White Chuck River #2 Hydroelectric Project located on White Chuck River, near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest, in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, The White Chuck Water Company, 6233 39th Avenue NE Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) A 9-foot high, 200-foot long diversion structure; (2) a 2.3-mile long, 84-inch diameter pipeline; (3) a steel surge tank; (4) a 700-foot long, 72-inch diameter penstock; (5)

a powerhouse with total installed capacity of 6.8 MW; and (6) a 14-mile long transmission line from the powerhouse to an existing power line. The Applicant estimates that the average annual energy production would be 33 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a permit for a period of 24 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications—This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5291 filed on August 27, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3940 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rate adjustment—Pick-Sloan Missouri Basin Program.

SUMMARY: Power rates for the Pick-Sloan Missouri Basin Program (P–SMBP) were established initially in the report "Proposed Interim Rate Schedules for Missouri River Basin Project" dated March 1950. Studies have been made periodically since 1950 to test the adequacy of power rates to generate sufficient revenue to repay project investments as required. Appropriate rate adjustments have been implemented as a result of these studies.

The most recent study has been conducted on the basis of financial information available through fiscal year 1980. The power repayment study for fiscal year 1980 shows that the existing firm power rate is inadequate to pay the costs allocated and assigned to the power function within allowable time periods. This assessment is based upon consideration of projected operation and maintenance costs, additional power system investment, the scheduled irrigation investments and their attendant depletions, other depletions, and required repayments all compared against the projected revenues which will be produced by firm power, replacement, seasonal peaking, maintenance and other power sales, and other revenues. Projected revenues are not adequate to cover projected costs, and adjustments of the firm power rates is necessary. An overall composite yield of 6.10 mills/kWh is required for the Pick-Sloan Missouri Basin Program resulting in an additional yield of 0.65 mills/kWh over the rate required at the time the present rates were developed. As a means of obtaining the composite P–SMBP required yield, the following firm power rates are proposed for the Eastern and Western Divisions:

Class of power	Present rate	Proposed rate
Eastern Division		
Firm Power (kW)	$1.20/kW-month	$1.25/kW-month.
Firm Energy (kWh) up through 60 pct monthly load factor	3.17 mills/kWh	3.62 mills/kWh.
Above 60 pct monthly load factor	5.18 mills/kWh	7.00 mills/kWh.
Peaking Power (kW)	$7.20/kW-season	$8.10/kW-season.
Peaking Energy (kWh)	3.33 mills/kWh	3.62 mills/kWh.
Seasonal Firm	Same as firm power rate	
Maintenance Energy	10.0 mills/kWh	12.0 mills/kWh.
Western Division		
Firm Power (kW)	$1.34/kW	$1.43/kW.
Firm Energy (kWh)	4.0 mills/kWh	4.3 mills/kWh.
Peaking Power (kW)	$1.34/kW [1]	$1.43/kW [1].
Transmission Charge	1.0 mill/kWh	1.1 mills kWh or $9.60/kW year.

[1] The rate is per kW of the effective contract rate of delivery (CROD) or the maximum amount scheduled for the billing period, whichever is greater.

A brochure will be distributed to all P–SMBP customers and other interested parties; and public information and comment forums will be held in accorance with the current procedures for public participation in general rate adjustments. The brochure will explain the need for the rate increases. After public discussions and review of public comments, Western Area Power Administration (Western) will finalize the proposed rates.

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** (February 16, 1982) and will end not less than 90 days thereafter (May 17, 1982). The proposed rates are expected to go into

effect on an interim basis during the July or August billing period of 1982.

Public information forums at which Western will explain the need for an increase, review alternatives, and answer questions will be held at the following places and times:

March 1, 1982–11 a.m.—The Holiday Inn, Northglenn, Colorado
March 2, 1982–9 a.m.—The Airport Holiday Inn, Sioux Falls, South Dakota
March 3, 1982–9 a.m.—The Holiday Inn, Fargo, North Dakota
March 4, 1982–9 a.m.—The Sheraton Hotel, Billings, Montana

Public comment forums at which the public may comment on the proposed rate increase will be conducted at the following places and times:

April 5, 1982—1 p.m.—The Holiday Inn, Northglenn, Colorado
April 6, 1982—9 a.m.—The Airport Holiday Inn, Sioux Falls, South Dakota
April 7, 1982—9 a.m.—The Holiday Inn, Fargo, North Dakota
April 8, 1982—9 a.m.—The Sheraton Hotel, Billings, Montana

Persons planning to speak at the comment forums should send their names and affiliation to the address noted below by March 19, 1982, so that a speaker list may be developed. Other persons will be allowed to comment at the comment forums. Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101.

Written comments may be submitted to the above address throughout the consultation and comment period.

SUPPLEMENTARY INFORMATION: Power rates for the P–SMBP are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the acts specifically applicable to the project or system involved.

The Secretary of Energy delegated to the Assistant Secretary for Resource Applications, by Delegation Order No. 0104–33 (43 FR 60636, December 28, 1978), the authority to develop, acting by and through the Administrator of Western and to confirm, approve, and place in effect on an interim basis, power and transmission rates for Western. The delegation order also gave the Federal Energy Regulatory Commission the authority to make a final decision either confirming and approving, disapproving, or remanding such rates. On March 19, 1981, Delegation Order No. 0204–33 was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Applications" (46 FR 254426, May 7, 1981).

Procedures for public participation in rate adjustments for power marketed by Western are found at 10 CFR part 903.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the P–SMBP relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P–SMBP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and Department of Energy (DOE) regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694–20701), Western conducts an environmental evaluation of proposed rate adjustments.

Section D of the above guidelines states that for rate adjustments for power marketing administrations, the level of documentation under NEPA depends on the magnitude of the rate increase as it relates to the rate of inflation since the last rate adjustment. If, as in the case of this proposed increase, it does not exceed the rate of inflation since the last rate adjustment, no further NEPA documentation is required. In such cases a memorandum is prepared explaining the basis for that determination and an administrative determination is made that no further documentation under NEPA is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 4 CFR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Issued at Golden, Colorado, February 5, 1982.

Robert L. McPhail,
Administrator.

[FR Doc. 82-3907 Filed 2-12-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL-2042-7; OPTS-59075C]

Polymer of Aromatic and Aliphatic Diacids and Aliphatic Diol; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–81–54) under section 5 of the Toxic Substances Control Act (TSCA) on December 29, 1981. Notice of receipt of the application was published in the **Federal Register** of January 13, 1982 (47 FR 1416). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Ehrensberger, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–210, 401 M St., SW., Washington, D.C. 20460, (202–382–3745).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing

purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk to injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 29, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–81–54. The manufacturer, Ashland Chemical Company of Columbus, Ohio, has claimed the specific chemical identity, and the specific use of the new substance as confidential business information. The generic name provided for the new substance is polymer of aromatic and aliphatic diacids and aliphatic diol. Its use will be to form a cured, cross-linked, protective and decorative coating for commercial articles. A maximum of 30,000 pounds will be manufactured for text marketing purposes, during a period not to exced 180 days. The substance will be manufactured in a closed system; operators will be exposed to the substance only during sampling for control purposes and drumming of the mixture. An unknown number of workers will be exposed to the mixture during application until it is cured to form a protective coating. No consumer exposure is expected because the PMN substance will be cross-linked to a solid material. A notice published in the **Federal Register** of January 13, 1982 (47 FR 1416) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–81–54, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. No significant health concerns were identified for the TME substance. The substance has a high molecular weight and is not soluble in water. No significant environmental concerns were identified and environmental release will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 30,000 pounds described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 180 days commencing on the date of signature of this notice by the Administrator.

6. The exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3988 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-31-M

[TSH-FRL-2042-6; OPTS-59075B]

Polymers of Diphenylmethane Diisocyanate and Hydroxy Alkyl Ethers; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received applications for test marketing exemptions (TM–81–52 and TM–81–53) under section 5 of the Toxic Substances Control Act (TSCA) on December 29, 1981. Notice of receipt of the applications was published in the **Federal Register** of January 13, 1982 (47 FR 1416). EPA has granted the exemptions.

EFFECTIVE DATE: These exemptions are effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defined the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk or injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 29, 1981, EPA received two applications from Mobay Chemical Corporation for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to import two new chemical substances for test marketing purposes. The applications were assigned test marketing exemption numbers TM–81–52 and TM–81–53. The importer claimed the specific identities of the new substances as confidential business information. The generic name of both the new substances is polymer of diphenylmethane diisocyanate and hydroxy alkyl ethers and they will be used as a component and a coating of a synthetic running surface. For TM–82–52 a maximum of 10,000 kilograms (kg) will be imported for test market purposes and for TM–81–53, a maximum of 25,000 kg, during a test marketing period not to exceed 6 months. The laying of one track of which TM–81–53 is a component

will involve a crew of 10 workers, who have a potential exposure for 10 hours/day for up to 10 days. The coating (TM-81-52) of the track will involve a crew of 10 workers, who will have a potential exposure for 10 hours/day for up to 2 days. A notice published in the **Federal Register** of January 13, 1982 (47 FR 1416) announced receipt of these applications and requested comment on the appropriateness of granting the exemptions. The Agency did not receive any comments concerning the applications.

EPA has established that the test marketing of the substances described in TM-81-52 and TM-81-53 under the conditions set out in the applications, will not present any unreasonable risk of injury to health or the environment for the reasons explained below.

No significant health concerns exist for the test market substances *per se* because of their high molecular weight. However, health concerns exist for any unreacted diisocyanate monomers contained in the test market substances, including skin and eye irritation and dermal sensitization. In addition, methylene dianiline (MDA), a potential carcinogen may be formed if the diisocyanate is degraded in water. Workers are potentialy exposed only when laying and coating the running track. These health concerns are mitigated by proper handling of the test market substances at this time. Workers must take protective measures as specified in the test market applications. These include wearing gloves, goggles, and protective clothing. If the track is laid under certain conditions of stagnant air or temperatures over 40°C, the unreacted diisocyanate monomers could volatilize, and fresh air respirators must be worn. If the TME substances are sprayed, respirators must also be used. All unreacted isocyanates and/or MDA will be reacted in the curing process. Once cured the components become part of the article and are not available for exposure or release. No significant environmental concerns for the test market substances were identified. Release to the air will be very low. No other intentional release is foreseen.

These test marketing exemptions are granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption applications and, in particular, those enumerated below.

1. These exemptions are granted solely to this importer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customer specified in the applications, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substances during the test marketing period must state that the use of the substances is restricted to that described to EPA in the test marketing exemption applications.

4. The production volume of the new substances may not exceed the quantity of 10,000 kg (TM-81-52) and 25,000 kg (TM-81-53) described in the test marketing exemption applications.

5. The test marketing activity approved in this notice is limited to a 6-month period commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the applications and the exposure levels and duration of exposure should not exceed those specified. Workers must wear protective equipment specified in the applications.

The Agency reserves the right to rescind its decision to grant these exemptions should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of these substances under the conditions specified in the applications will not present an unreasonable risk of injury to human health or the environment.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3989 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-31-M

[TSH-FRL 2042-8; OPTS-59076A]

Polysulfide Polymer With Formal And Alcohol Moiety; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-55) under section 5 of the Toxic Substances Control Act (TSCA) on December 30, 1981. Notice of receipt of the application was published in the **Federal Register** of January 13, 1982 (47 FR 1415). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, DC 20460, (202-382-3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances complied by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any aplicable requirements of section 5(b). Section 5(d)(1) defines that contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(H)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 30, 1981, EPA received an application from Thiokol Corporation for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-55. The manufacturer claimed the specific chemical identity of the new substance as confidential business information. The generic name of the new substance is polysulfide polymer with formal and alcohol moiety and it will be used as synthetic rubber in printing rollers and paint spray hose liners. A maximum of 5,000 kilograms (kg) will be manufactured for test market purposes, during a test marketing period not to exceed 3 months. During manufacture, six workers may be exposed for 8 hours/day for 7 days. A notice published in the **Federal Register** of January 13, 1982 (47 FR 1415) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did

not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–81–55, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. No significant health concerns were identified for the TME substance. The substance has a high molecular weight and is not soluble in water. The final use of the substance will involve a restricted and minimal exposure to consumers as part of an article. No significant environmental concerns were identified and environmental release of the substance will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemptin application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers specified in the application, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 5,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a 3-month period commencing the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: Feburary 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–3987 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–31–M

[WEN–FRL–2052–6]

Approval of Virginia's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of Virginia's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) program with respect to Federal facilities.

SUMMARY: On February 9, 1982, the Environmental Protection Agency (EPA) approved the State of Virginia's request to include regulation of Federal facilities under its State water pollution permit program responsibility. Previously the State had been approved to participate in the NPDES program.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate federally owned or operated facilities under their water pollution control programs. Prior to the amendments, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA in approving State programs under section 402(b), reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved states. Today's Federal Register notice is to announce the approval of the State of Virginia's request to assume NPDES authority over Federal facilities. EPA received only one comment during the public comment period which requested a copy of the proposed Memorandum of Understanding (MOU) between EPA and Virginia, a part of the State's submission to EPA.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the Virginia NPDES permit program to administer Federal facilities merely transfers responsibility for administration of these facilities from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: February 9, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82–3986 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–33–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–150]

Broward Federal Savings and Loan Association of Sunrise, Fla.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on December 18, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81–808 approved the application of Broward Federal Savings and Loan Association of Sunrise, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4039 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–149]

Cleveland Savings and Loan Association, Shelby, N.C.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on

December 9, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81–755 approved the application of Cleveland Savings and Loan Association, Shelby, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4040 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-151]

First Federal Savings and Loan Association of Catawba County, Conover, N.C.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 6, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–1 approved the application of First Federal Savings and Loan Association of Catawba County, Conover, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, DC. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4036 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-153]

First Federal Savings and Loan Association of Claremore, Claremore, Okla.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 28, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–51 approved the application of First Federal Savings and Loan Association, of Claremore, Claremore, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4038 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-154]

First Federal Savings and Loan Association of LaFollette, LaFollette, Tenn.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 28, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–55 approved the application of First Federal Savings and Loan Association of LaFollette, LaFollette, Tennessee, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, 2500 DuBois Tower, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4035 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-156]

Home Federal Savings and Loan Association of Deming, Deming, N.C.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on February 2, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–69 approved the application of Home Federal Savings and Loan Association, of Deming, Deming, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4033 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-155]

Homestead Savings and Loan Association, Woodward, Okla.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 28, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–56 approved the application of Homestead Savings and Loan Association, Woodward, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4034 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-152]

Santa Clara Savings and Loan Association, Santa Clara, Calif.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 22, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–41. approved the application of Santa Clara Savings and Loan Association, Santa

Clara, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4637 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Application solicitation.

SUMMARY: A total of six comments were received by FMCS in response to the request for public comment published in the December 11, 1981 issue of the **Federal Register.** Of the negative comments received, most criticized the use of Federal funds to support in-plant labor-management committees as well as the fact that grant funds were restricted to plants at which a collective bargaining agreement was in place. The criticism of in-plant funding support is academic for Fiscal Year 1982, however, as the reduction in available funding to $500,000 will limit competitive funding consideration to only areawide committees. The following application solicitation/program announcement contains the basic guidelines for funding the Fiscal Year 1982 cycle of the Labor-Management Cooperation Program.

DATE: Applications must be postmarked no later than April 30, 1982.

ADDRESS: Send an original application plus three copies to: Peter L. Regner, Director, Labor-Management Grant Programs, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653-5320.

SUPPLEMENTARY INFORMATION:

A. Introduction

The following is the final announcement for the Fiscal Year 1982 cycle of the Labor-Management Cooperation Program. These guidelines represent the second year of efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor Management Cooperation Act of 1978 which was aproved in October 1978.

The Act generally authorized FMCS to:

> [P]rovide assistance in the establishment and operation of plant, area, and industrywide labor and management committees which—
>
> [A] have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and
>
> (B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Act also prohibited FMCS from awarding any grants or contracts under the following three circumstances:

(1) No assistance can be given for plant labor-management committees unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement;

(2) No assistance can be given for an area or industrywide labor-management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such a committee. However, employers whose employees are not represented by a labor organization may participate on such area or industrywide committees; and

(3) No assistance can be given to any committee which FMCS finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157) or the interference with collective bargaining in any plant or industry.

With respect to item (2) above, applicants for area or industrywide grants should offer committee memberships to every labor organization having a collective bargaining contract with any employer participating on the committee. Any labor organization so desiring may voluntarily elect not to participate on the Committee. Documentation of all this (i.e., the listing of each participating employer and corresponding labor organizations and written declinations by those labor organizations not electing to participate on the committee) should be included as part of the application.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, areawide, or industrywide labor-management committee. Directions for obtaining an application kit may be found in Section F.

B. Program Description

Objectives

The Labor Management Cooperation Act of 1978 identified the following seven general areas for which financial assistance would be appropriate:

(1) To improve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor-management committees.

The primary objective of this program is to provide financial assistance for the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria and conform to the restrictions mentioned in Section A (Introduction). As discussed in the legislation, these committees may be found at either the plant, area, or industry levels. A plant committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multi-county, or statewide

jurisdictions. An industry committee generally consists of a collection of productive enterprises and related labor unions producing a common product or service either on a local, state, regional, or nationwide level. In FY82, competition will be limited to area committees only.

In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

Required Program Elements

1. *Problem Statement.*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the area and workforce that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and discuss the full range of impacts these problems could have or are having on the area. An industrial or economic profile of the area and workforce might prove useful in explaining the problems. This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected.*—By using specific goals and objectives, the applicant must discuss in detail WHAT the labor-management committee will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one overall goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have on the area. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach.*—This section of the application specifies HOW the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all proposed members of the labor-management committee. Be sure to identify the chairperson(s) and the role he/she will play. The application should also offer a rationale for the selection of the committee members (e.g.m members represent 70% of the area workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 6 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestones.*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for WHEN they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation.*—Applicants are allowed the option of contracting for external evaluations or conducting their own evaluation. Applicants may expend up to $7,000 for an outside evaluation. In either case, an evaluation plan must be discussed in this section.

The evaluation plan should discuss what basic questions or issues the proposed evaluator would examine and what baseline data the committee staff would already have/or will gather for the evaluator. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment.*—Applications must include letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and are willing to personally attend scheduled committee meetings.

7. *Other Requirements.*—Applicants are also responsible for the following:

(a) The submission of data indicating how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels and breakout of annual operating costs;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address;

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts;

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For plant committees, the degree of innovation will receive special consideration;

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application;

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates;

(6) The feasibility and thoroughness of planning on how to best evaluate the project's impacts, including major evaluation topics and necessary data elements; and

(7) The cost effectiveness and fiscal soundness of the application's budget request as well as the application's fiscal feasibility vs. its goals and approach.

(8) The cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978.

B. Eligibility

Eligible grantees include State and local units of government, private non-profit labor-management committees, and certain third party private non-profit entities.

Third party private non-profit entities who can document that a major purpose or function of their organization has been the improvement of labor relations are also eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under

Part B must be followed. Applications from third-party entities must document strong support and participation from all labor and management parties with whom the applicant will be working.

In the event two or more applications are received which compete under the same category from the same jurisdiction (e.g., two areawide applications from the same county), only the higher scoring application will be awarded (if both are ranked acceptable for funding and funds are available).

C. Allocations

For Fiscal Year 1982, FMCS apparently will operate under a Continuing Resolution which allocates $500,000 for the Labor-Management Cooperation Program. The funding will be distributed as follows: $350,000 will be allocated for an areawide committee application competition; up to $100,000 will be set aside for an acceptable application for a construction industry committee in the New York Metropolitan area (as prescribed in the Senate appropriations language), and $50,000 will be reserved for the administration of a national labor-management conference in cooperation with the National Association of Area Labor-Management Committees.

D. Dollar Range and Length of Grants and Continuation Policy

Awards to continue or expand existing labor-management committees (i.e., in existence at least 6 months prior to the submission deadline) shall be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months. The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 6 months prior to the submission deadline), shall be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows:

Area—up to $75,000 per annum or $100,000 per 18-month period.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

E. Match Requirements and Cost Allowability

In Fiscal Year 1982, applicants for labor-management committees must provide at least 10 percent of the total allowable project costs. This 10 percent match must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector sources, but may generally not include other Federal funds. No matching funds are required for the national labor-management conference grant.

It shall also be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/state government funds previously made available for these purposes. Also, under no circumstances will management staff or employees participating on a labor-management committee be paid or otherwise compensated out of grant funds for time spent at committee meetings or training sessions.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FMCS Financial and Administrative Grants Manual which will be included in the application kit.

F. Application Submission and Review Process

Applicants for area committees wishing to submit a draft or pre-application for informal review and comment by the grants program staff may submit pre-applications anytime up to February 28, 1982. FMCS staff will provide brief and general comments as to possible application deficiencies. The pages or pre- and final applications should be numbered.

Final applications must be postmarked no later than April 30, 1982. No applications or supplementary materials can be accepted after the deadline. An original application plus three copies should be addressed to the Federal Mediation and Conciliation Service, Division of Labor-Management Grant Programs, 2100 K Street, N.W., Washington, D.C. 20427.

After the deadline has passed, all eligible applications will be reviewed and scored by an FMCS Grant Review Board. The Assistant Director of the Office of Policy and Resource Management, Labor-Management Grant Programs, will finalize the scoring and recommend which applications will be placed in which one of the following three categories: (a) Unacceptable for funding, (b) potentially acceptable for funding but funds are unavailable, and (c) recommended for funding. The final decision on funding and responsibility for award will rest with the Director of the Office of Policy and Resource Management.

All Fiscal Year 1982 grant awards are expected to be made within 90 days of the application submission deadline. Applications submitted after the deadline dates or that fail to adhere to eligibility or other major requirements will be administratively rejected prior to the convening of the Grant Review Board.

G. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained by contacting Peter L. Regner, Federal Mediation and Conciliation Service, Division of Labor-Management Grant Programs, 2100 K Street, N.W., Washington, D.C. 20427, or calling 202/653-5320.

Kenneth E. Moffett,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 82-3877 Filed 2-12-82; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue

concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than March 10, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (consumer commercial and mortgage lending, servicing activities, credit life, accident and health insurance brokerage activities, and retail sale of travelers checks; Florida): To make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; to sell travelers checks at retail; to act as insurance agent or broker for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted by a subsidiary, Chase Manhattan Financial Services, Inc., from an office in Orlando, Florida, serving the State of Florida.

2. *Citicorp,* New York, New York (financing activities, Texas): To engage, through its subsidiary, Citicorp Acceptance Company, Inc. (Delaware), in the extension of loans to individuals and businesses to finance the purchase of mobile homes, modular units, or related manufactured housing together with the real property upon which such units will be situated. These activities will be conducted from an office in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than March 1, 1982.

B. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

First Ohio Bancshares Inc., Toledo, Ohio (underwriting credit related life, accident, and health insurance; Ohio): To engage through a wholly-owned subsidiary, First Ohio Life Insurance Company, Phoenix, Arizona, in underwriting as reinsurer credit life, accident, and health insurance sold in connection with extensions of credit by its lending subsidiary, First National Bank of Toledo, Toledo, Ohio. These activities will be conducted at 1421 E. Thomas Road, Phoenix, Arizona, and will serve Lucas, Wood, Fulton, and Henry counties in Ohio.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities; Northern Virginia): To engage, through its subsidary, Dominion Bankshares Services, Inc., in the activity of acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance, credit disability insurance, and nonconvertible time life insurance, related to or arising out of loans made or credit transactions involving Dominion Mortgage Corporation, a subsidiary of Applicant. These activities would be conducted from an office in Fredericksburg, Virginia, serving the City of Fredericksburg and Caroline, Culpeper, King George, Spotsylvania, and Stafford Counties, Virginia.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (financing, leasing, and servicing activities; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): To engage through its subsidiary, Security Pacific Leasing Corporation, in financing, leasing and servicing activities with respect to personal property and equipment and real property. These activities would be conducted from an office of Security Pacific Leasing Corporation in Boston, Massachusetts, serving the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

E. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3022 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

Country Bancshares, Inc.; Formation of Bank Holding Company

Country Bancshares, Inc., Hull, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Hull, Hull, Illinois. The factors that are considered in acting on the application are set forth in section (3)(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3015 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

DCB Corp.; Formation of Bank Holding Company

DCB Corporation, Jasper, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Dubois County Bank, Jasper, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(2)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 3, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3910 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

FNB Bancorp, Inc. Formation of Bank Holding Company

FNB Bancorp, Inc., Glasgow, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The New Farmers National Bank of Glasgow, Glasgow, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3917 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

First Harvey Banc Corp.; Formation of Bank Holding Company

First Harvey Banc Corporation, River Forest, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank In Harvey, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 8, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically and questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3918 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

Groos Bancshares, Inc.; Formation of Bank Holding Company

Groos Bancshares, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the Groos National Bank of San Antonio, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3919 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

James Madison, Ltd.; Proposed Acquisition of A. E. Landvoigt, Inc.

James Madison, Limited, Washington, D.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through its wholly-owned subsidiary, A.E.L., Inc., voting shares of A. E. Landvoigt, Inc., Fairfax, Virginia.

Applicant states that the proposed subsidiary would engage in the activities of originating and servicing residential loans secured by real estate. These activities would be performed from offices of Applicant's subsidiary in Fairfax, Virginia, Suitland, Maryland; and Charlottesville, Virginia, and the geographic areas to be served are those areas within a fifty mile radius of one of the above offices. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than March 8, 1982.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3920 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

Western National Bancorp; Formation of Bank Holding Company

Western National Bancorp, Santa Ana, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Western National Bank, Santa Ana, California. The factors that are

considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3921 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Safety Recommendations for the Fabricated Structural Metal Industry; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Safety Recommendations for the Fabricated Structural Metal Industry

Date: March 3, 1982
Time: 9:00 a.m. to 4:00 p.m.
Place: Dynamac Building, 6th Floor Conference Room, 11140 Rockville Pike, Rockville, Maryland
Purpose: To discuss recommendations being developed to reduce worker exposure to safety hazards, as well as general industrial hazards associated with the fabrication of structural metal products.
Additional information may be obtained from: Ms. Rebecca S. Simons, Division of Safety Research, National Institute for Occupational Safety and Health, Centers for Disease Control, 944 Chestnut Ridge Road, Morgantown, WV 26505 (304) 599-7574 or FTS 923-7574.

Dated: February 5, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-4001 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. March 25 and 26, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, March 25, 9 a.m.; to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, March 26, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; Dr. George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before March 12, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On March 25 the committee will discuss premarket approval applications (PMA's) and statistical/epidemiological, questions pertaining to intraocular lenses (IOL's), and may discuss PMA's for other ophthalmic products. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On March 26 the committee may discuss PMA's or general issues (including guideline and matrix revisions) relating to contact lens products.

Closed committee deliberations. On March 25 and 26 the committee will conduct reviews of PMA's for intraocular lenses (IOL's) applications. These portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committes shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets

Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation and certain FDA proceedings including advisory committe meetings. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings. *Pacific Legal Foundation* v. *Goyan*, No. 80-1854 (4th Cir. November 27, 1981). Accordingly, reimbursement will not be available for participation in the proceedings described in this notice.

Dated: February 8, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-3934 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Kansas City District Office, Chaired by James A. Adamson, District Director.

DATE: Thursday, February 25, 1982, 10 a.m. to 12 m.

ADDRESS: Downtown Omaha Center for Seniors, Paxton Manor, 14th and Farnam Sts., Omaha, NE 68102.

FOR FURTHER INFORMATION CONTACT: Tywanna G. Paul, Consumer Affairs Officer, Food and Drug Administration, 1619 Howard St., Omaha, NE 68102, 402-221-4675.

St. Louis Station, Chaired by Ronald M. Johnson, Station Chief.

DATE: Sunday, February 28, 1982, 2 p.m. to 4 p.m.

ADDRESS: Southeastern Community College, Northwest Campus, Rm. 121, Administration Bldg., Highway 406, Gear Ave., West Burlington, IA 52655.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, St. Louis Station, Food and Drug Administration, 808 N. Collins St., St. Louis, MO 63102, 314-425-5021.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-3925 Filed 2-10-82; 12:43 pm]

BILLING CODE 4160-01-M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held at 2:30 p.m., Friday, February 26, 1982.

ADDRESS: The meeting will be held at the Howard University College of Medicine, Rm. 3019, 520 W St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Audrey L. Wood, Office of Health Affairs (HFY-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drug meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care. The agenda items for discussion at the meeting include updates of key agency issues; a presentation by the American Medical Association of their patient information system; and the role of health organizations in sodium education by the American Heart Association and the American College of Cardiology.

Dated: February 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-3923 Filed 2-10-82; 12:43 pm]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notification of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records: Evaluation of the HMO Capitation Demonstrations, HHS/HCFA/ORD No. 09–70–0027. The purpose of this system of records is to provide data necessary to evaluate HCFA's Medicare Capitation Demonstration projects. The system will furnish information necessary to study the marketing effectiveness of health maintenance organizations enrolling Medicare beneficiaries under the demonstration project, the potential selection bias in Medicare HMO enrollment that may be associated with an enrollee's health status, and the extent of out-of-plan utilization and out-of-pocket expenses incurred by Medicare beneficiaries who are "locked-in" to receiving their health care from a single provider, i.e., one of the participating HMOs A more detailed explanation of both the evaluation and the records system is included under the section entitled "Supplementary Information". HCFA invites public comments with respect to routine uses of the system by March 18, 1982.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on February 9, 1982. The new system of records including routine uses will become effective April 12, 1982, unless HCFA receives comments which would result in a contrary determination.

ADDRESS: The public should address comments to Shirley Mulhall, Privacy Officer, Office of Management and Budget, Health Care Financing Administration, G–C–3, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Alan S. Friedlob, Evaluative Studies Staff, Office of Research and Demonstrations, Health Care Financing Administration, Room 1–E–6 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 301–597–2364.

SUPPLEMENTARY INFORMATION: HCFA proposed to initiate a new system of records collecting data under the authority of section 402 of the 1967 Amendments to the Social Security Act, Pub. L. 90–248 as amended by section 222(b) of the 1972 Amendments to the Social Security Act, Pub. L. 92–603. This system of records will include data collected through sample surveys associated with the evaluation of the following HMO Medicare demonstration projects: Fallon Community Health Plan, Worcester, Massachusetts; Health Central, Lansing, Michigan; HMO Minnesota, Eagan, Minnesota; Kaiser-Portland, Portland, Oregon; Greater Marshfield Community Health Plan, Marshfield, Wisconsin; MedCenter Health Plan, St. Louis Park, Minnesota; Nicollet-Eitel Health Plan, Bloomington, Minnesota; SHARE Health Plan Bloomington, Minnesota. This information will be collected by Research Triangle Institute, Research Triangle Park, North Carolina, sub-contractor, Jurgovan and Blair, Inc., Rockville, Maryland and Santa Rosa, California, prime contractor. This data will also be analyzed by a second evaluation sub-contractor, SysteMetrics, Inc., Bethesda, Maryland and Santa Barbara, California.

Specifically, the new system of records is associated with the following survey activities:

- Personal interview with HMO Medicare enrollees and Medicare beneficiaries who choose not to enroll in the Medicare HMO demonstration projects.

In-person interviews will be conducted with approximately 3,000 Medicare beneficiaries residing in three of the service areas of the HMO demonstration projects listed above. For purposes of this survey, the four HMOs located in the Minneapolis-St. Paul, Minnesota SMSA have the same service area and are considered a single survey site. This survey has two objectives: To determine the marketing effectiveness of these HMOs in enrolling Medicare beneficiaries and to determine the degree to which the health status of the enrolled population varies from that of a randomly chosen group of non-enrolled Medicare beneficiaries. Extensive data will be gathered from enrollees and non-enrollees on demographic characteristics which may discriminate these two groups, attitudes toward joining and disenrolling from HMOs, the influence of supplemental Medicare coverage on HMO enrollment choice, and health status inventory. This survey will also be used to gather data to compare the total cost of health care services used by non-enrolled and enrolled Medicare beneficiaries, including the extent of out-of-pocket costs and identfication of health services utilization beyond usual Medicare coverage.

- Diary Surveys and Telephone Interviews of HMO Medicare enrollees and Medicare beneficiaries who choose not to enroll in the Medicare HMO demonstration projects.

At the of the personal interview, respondents will be asked to complete a health services utilization and cost diary retrospectively for the period from the beginning of the personal interview data collection period up to the date of their interview. The respondent will then be requested to maintain the diary for a six-month period. Telephone interviewers will conduct two telephone interviews with respondents to collect diary data. The first telephone interview will occur after the first three months of the diary-keeping period, the second after the second three months of diary-keeping. This utilization data may be supplemented by patient identifiable data obtained from HMO and Medicare records.

Dated: February 9, 1982.

Carolyne K. Davis,

Administrator Health Care Financing Administration.

HHS/HCFA/ORD, 09–70–0027

SYSTEM NAME:

Evaluation of the HMO Capitation Demonstrations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Research Triangle Institute, P.O. Box 12194, Research Triangle Park, North Carolina 27709.

Jurgovan and Blair, Inc., 51 Monroe Street, Rockville, Maryland 20850.

SysteMetrics, Inc., 4520 East-West Highway, Bethesda, Maryland 20014.

Health Care Financing Administration, ORD, Room 1E6 Oak Meadows Building, Baltimore, Maryland 21207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries residing in the following Counties and States: Worcester, Massachusetts; Ingham, Eaton, and Clinton, Michigan; Taylor, Clark, Wood, Marathon, Wisconsin; Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, Minnesota; Multnomah, Clackamas, Oregon; Clark, Washington.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic characteristics, attitudes toward joining and disenrolling from HMOs, the influence of supplemental

Medicare coverage on HMO enrollment, health status (as measured by administration of a health status inventory), and health care utilization, reimbursements and costs incurred by Medicare beneficiaries enrolled and not enrolled in HMO Medicare demonstration projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 402 of the Social Security Amendments of 1967, Pub. L. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Pub. L. 92–603, 42 U.S.C. 1395b–1.

PURPOSE:

To provide data necessary to evaluate HCFA's Medicare Capitation Demonstration projects, including information to study the marketing effectiveness of health maintenance organization's enrolling Medicare beneficiaries under the demonstration projects, the potential selection bias in Medicare HMO enrollment that may be associated with an enrollee's health status, and the extent of in and out-of-plan utilization and out-of-pocket expenses incurred by Medicare beneficiaries who are "locked-in" to receiving their health care from a single provider (i.e., HMO).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure of identifiable information may be made to: Jurgovan and Blair, Inc., 51 Monroe Street, Rockville, Maryland 20850 and its sub-contractors, Research Triangle Institute, P.O. Box 12194, Research Triangle Park, North Carolina 27709, and SysteMetrics, Inc., 4520 East-West Highway, Bethesda, Maryland to provide overall direction for the evaluation, to collect and analyze survey information, and to link survey data with secondary data bases for analytical purposes, respectively.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

RTI and SysteMetrics will store records in hard copy and magnetic tape form.

RETRIEVABILITY:

Information stored on tape will be retrieved by beneficiary name or other unique identifier assigned by Research Triangle Institute.

SAFEGUARDS:

All records will be retained in secure storage areas accessible only to authorized employees of Research Triangle Institute, Jurgovan and Blair, Inc., and SysteMetrics. All employees of these organizations having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. After the hardcopy and tapes are validated and analyzed by the evaluation contractor and its subcontractors, they will be returned to HCFA.

For computerized records, ADP systems security procedures will be instituted with reference to guidelines contained in the DHHS ADP Systems Manual, Part 6, "ADP Systems Security," (e.g., use of password).

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic data tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1987. Hardcopy will be destroyed at this time.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, Room 4228, HHS Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

Any Medicare beneficiary who participates in this evaluation may request his or her data record in writing. This request should be addressed to the system manager indicated above, specifying name and Medicare number. These notification procedures are in accordance with Department Regulations (45 CFR Part 5b).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requester should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR Part 5b).

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address specified above, and reasonably identify the record and specify the information to be contested and reason for contesting why it is inaccurate or incomplete. These procedures are in accordance with Department Regulations (45 CFR Part 5b).

RECORD SOURCE CATEGORIES:

Personal interviews and telephone interviews with Medicare beneficiaries completed by Research Triangle Institute or its authorized designee(s), i.e., survey research firms with which it subcontracts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-4060 Filed 2-12-82; 8:45 am]
BILLING CODE 4120-03-M

Health Services Administration

National Advisory Council on Migrant Health; Filing of Annual Report

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Migrant Health

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, S.E., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Mr. Mario Manecci, Executive Secretary, National Advisory Council on Migrant Health, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Dated: February 2, 1982.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 82-4000 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-16-M

National Advisory Council on Migrant Health; Notice of Rechartering

Pursuant to the Federal Advisory Committee Act, Public Law 92-463 (5 U.S.C. Appendix I), the Health Services Administration announces the rechartering by the Secretary, HHS, on December 21, 1981, of the following Advisory Council:

Council and Termination Date

National Advisory Council on Migrant Health, Continuing

Authority for this Council is continuing and a Charter will be filed no later than October 31, 1983, in accordance with section 14(b)(2) of Public Law 92-463.

Dated: February 2, 1982.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 82-3999 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-16-M

Office of the Secretary

Transfer Policy Studies; Grant Applications

Pursuant to Section 232 of the Community Services Act of 1974 and Title 45, Part 63 of the Code of Federal Regulations, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications for grants for policy analysis in the area of transfer policy. The grants will be directed at providing information and policy analysis, principally in one or more of six high priority areas, which are described in more detail in the next section.

A. Type of Application Requested

1. *High Priority Areas.* This announcement seeks applications for a grant or grants to develop and conduct a program of research and analysis on policy issues, principally in one or more of the areas described below. Except as described in (e) below, no survey work is to be supported by these grants. Applications will not be accepted from local service delivery organizations. The high priority areas for which applications are most desired are:

(a) *Assessment of the effects of transfer programs.* The Department of Health and Human Services administers several large means-tested income transfer programs, including Aid to Families with Dependent Children (AFDC), Supplemental Security Income, Medicaid, and the Low Income Energy Assistance Program. An assessment of future participation in and the likely costs of Federal involvement in these programs is needed to better understand the policy context of proposed changes in them. In particular, given the current initiative of reallocation of roles for some of these programs and Food Stamps between Federal, State and local governments, what further policy steps will lead to a system more closely aligned with citizens' needs? While the focus of the studies should be on the programs cited above, they should not be viewed in isolation from other government transfer programs (such as Unemployment Insurance, the Earned Income Tax Credit, and housing assistance). Some of the question that a grant application might address include:

i. Given past developments in a program's "life cycle" and how other programs have developed, how would the program be likely to change in the near future?

ii. What distortions of program intent or unintended impacts have the programs created?

iii. As the New Federalism is implemented, what steps are necessary to minimize disruption costs and inefficiencies, and to assure the maximum gain from the change?

(b) *Assessment of the net effects of government programs on youth.* The Assistant Secretary is interested in assessment of the effects of *all* government programs on individuals 16-24 years of age. This assessment would consider not only current government programs aimed directly at youth (e.g., the Job Corps, and Career Education) but also the effects of programs not aimed at youth, but which may put them at a disadvantage (e.g., the Minimum Wage, Davis-Bacon Act, Occupational Safety and Health Act), and the results of experimental and demonstration youth programs of the immediate past few years. Among other issues, the analysis should consider the area of school-to-work transition, addressing such questions as the following:

i. How is the transition from school-to-work affected by the availability and cost of post-secondary school education, including junior colleges, vocational schools, and four-year colleges?

ii. How can the amount of school-to-work assistance provided by the private sector be increased, e.g., through training and apprenticeship programs, cooperative education programs, and assistance to vocational education by updating curriculum and capital equipment and by hiring graduates?

The analysis should also address the relative effectiveness of targeting employment programs toward youth at an early age, 16 or 17, as compared with responding to their problems at age 18 or 19, after they may have experienced significant unemployment.

(c) *Assessment of the effects of transfer programs on family structure, and of family structure on behavior.* This two-stage analysis addresses first the question of the effects of transfer programs on family structure; i.e., on the probabilities of marriage and divorce, of remarriage, and of having children, on the number and timing of children, and of combining more than one adult generaton in a single household; and second the effects of family structure on behavior. For example, some experimental data from past studies indicate that some income transfer programs affect the probability of marital splits, and that children in single-parent families work less and are in school less than those in two-parent families. Questions to be addressed might include the following:

i. How do means-tested income transfer programs (including Aid to Families with Dependent Children, Food Stamps, Supplemental Security Income, etc. but *excluding* Old Age, Survivors, Disability, and Hospital Insurance) affect marital structure? How do they affect the probability of more than one adult generation living in the same household?

ii. How do means-tested income transfer programs affect the probability of having children within and outside of marriage? How do they affect the number and timing of children within a family?

iii. How does the absence of one parent from the household affect the subsequent educational and labor force behavior of children in the household? The labor force behavior of other adults in the household? Is the behavior affected by the age of the children at the point at which that parent leaves the household? Does remarriage change the predicted effects?

iv. Does the presence of more than one generation of adults in the same household affect the labor force behavior of adults? The education and labor force behavior of children?

(d) *Characteristics of the labor demand for low-skill workers.* This area emphasizes the characteristics of the labor markets faced by low-skill workers. It includes the problems of the poor in searching and competing for jobs, and the job design, hiring, promotion, and training policies of private-sector business firms, especially

those who do or potentially can offer low-skill entrance jobs. The match-up of data on workers and their employers is of particular importance, as most studies of the labor force problems of low-skill workers have ignored the characteristics of the jobs these workers hold and of the employers who hire the workers. The reduction of dependence on public transfer programs may depend more on the characteristics of the jobs which low-skill workers obtain than on whether or not they get employment. Some of the questions which might be explored in this area include:

i. What are the characteristics of jobs which lead to stable employment and upgrading of skills and income for low-skill workers? What selection criteria do employers use to fill those jobs?

ii. Are there ways in which jobs which currently employ low-skill workers, but do not lead to stable employment and upgrading of skills and income, can be redesigned to provide that stability and upward mobility. Are there ways workers can be offered short-term training to improve their probability of being selected for stable jobs?

iii. Does a period of receipt of transfer income reduce the probability that a worker will find and keep a stable job? Do repeated spells of receipt of transfer income affect that probability?

(e) *Motivation and economic mobility of the poor.* In this area, the Assistant Secretary is interested in investigations into the motivational factors affecting the economic mobility of poor people. Motivational factors should be conceived broadly to include psychological and cultural influences which aid or impede an individual's ability and desire to obtain upward mobility. Factors affecting the motivations of children and teenagers are of special importance, including those which affect decisions about education, training, labor force participation and employment, marriage, contraception and having children, and on application for and continuation in public assistance programs. The areas in which decisions are actually family decisions rather than individual ones is also an area of interest, as is the group dynamics involved in making the decision.

Investigations will normally, of course, include a review of existing work, and may utilize a wide variety of qualitative and quantitative techniques for gathering information, including such techniques as case studies, in-depth interviews, participant-observers, journals and logs, and small-scale surveys. Established measurement and scaling techniques may be used, or new ones devised; however, the focus of the investigation should be the factors related to decisions on economic mobility rather than the construction of tools and measurement techniques.

2. *Content and organization of the application.* The application must begin with a cover sheet followed by the required application forms and a short overview and summary of the application. The cover sheet should clearly specify which of the policy areas described above the application addresses, and each application should be limited to a single policy area. Applicants may, however, apply in more than one area, using separate applications. Each application should carefully describe the issues to be examined, hypotheses to be tested, methodology proposed for testing the hypotheses, data sources to be used, and anticipated products of the research, as well as relating the expected products to policy issues. Resumes of staff should be included, as should a full budget for the proposed grant. To the extent that directly relevant research experience is not reflected in the resumes, such experience should be described in the application.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the *Code of Federal Regulations* on October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), which was published in the *Code of Federal Regulations* on June 9, 1981.

3. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouse under the procedures in OMB Circular A–95.

C. Effective Date and Duration

1. The grant award or awards pursuant to this announcement will be made in May and/or June, 1982. Applications can be for periods of up to one year (fifteen months for applications in area e), but the grants are designed to encourage short-term policy analysis which has immediate relevance to current policy questions; hence the evaluation of the applications will consider the time within which analyses can be concluded and useful products completed.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. The closing dates for applications are specified in sections F and G below.

D. Statement of Funds Availability

1. The Assistant Secretary has available about $400,000 for the Fiscal Year ending September 30, 1982 for the award of grants pursuant to this announcement. No award will be made that is larger than $200,000, and it is highly likely that most or all awards will be smaller than this amount. Grants may be made in only one of the priority areas, or in more; but it is unlikely that the funds available will permit grants in all of them.

2. Grants are limited to a period of one year (fifteen months for applications in area e).

3. The amount of funds available for grants in future years has not been established. Legislative support for the funding of these grants in future years cannot be guaranteed.

E. Applications Processing

1. Applications will be initially screened for relevance to current policy issues; in particular, those of the Department of Health and Human Services. If judged irrelevant, the application will not be considered further. If judged irrelevant, the application will then be reviewed by a government review panel, possibly augmented by outside experts. Ten (10) copies of each application are required.

2. Applications will be judged as to eligibility, quality, and relevance to high priority policy issues, according to the criteria set forth below in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with communication with the reviewers. In no case should an application be longer than 35 double-spaced pages, exclusive of forms, resumes and the proposed budget; it should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parentheses.

a. The potential usefulness of the objectives and anticipated results of the proposed project for informing the development of policy relating to the areas discussed in Section A above. (25 points.)

b. The potential usefulness of the proposed project for the advancement of scientific knowledge. (10 points.)

c. The clarity of statement of objectives, methods, and anticipated results. (5 points.)

d. The appropriateness and soundness of methodology, including research design, statistical techniques, modeling strategies, choice of data, and other procedures. (25 points.)

e. The reasonableness of estimated cost in relation to anticipated results. (5 points.)

f. The qualifications and experience of personnel. (30 points.)

6. Nothing in this application should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than March 30, 1982, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service. Applicants who submit by mail, and have not received notification of receipt of their application by April 8, 1982, should contact the Grants Officer at the address listed below immediately, and make arrangements for express delivery of a second set of copies of their application, if necessary. In no case will applications that have been mailed be accepted if they are received after close-of-business April 12, 1982.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between the hours of 9:00 a.m. and 4:30 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close of business on April 1, 1982.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as are deemed necessary or desirable for the enhancement of policy analysis for the needs of the Assistant Secretary; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201. Questions concerning the preceding information should be submitted to the Grants Officer at the same address.

Dated: February 6, 1982.

Robert J. Rubin,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 82-3974 Filed 2-12-82; 8:45 am]

BILLING CODE 4150-04-M

Social Security Administration

Delegation of Authority for Work Incentive; Demonstration Programs

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) amended title IV, Part C of the Social Security Act, as amended, by adding section 445, which establishes an alternative to current work-related programs. Under the provisions of section 445, any State may elect, as an alternative to existing programs, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of the Act. States that participate must submit an application and implementing plan that is consistent with the basic program objective of assisting applicants for and recipients of Aid to Families with Dependent Children to qualify for and obtain productive employment. The experimental program is scheduled for a three-year period.

Within the Department of Health and Human Services, the Social Security Administration has primary responsibility for assuring full and timely implementation of section 445. In order to meet this responsibility, the Secretary of Health and Human Services has delegated to the Commissioner of Social Security the following authorities:

1. Authority to approve or disapprove applications and plans submitted by States for participation in work incentive demonstration programs under section 445.

2. Authority to review expenditures and make grant awards to the States for work incentive demonstration programs.

3. Authority to perform administrative functions relating to the implementation of work incentive demonstration programs, including authority to compile and publish statistical data and to monitor, evaluate and report on program performance.

The Commissioner of Social Security may redelegate these authorities to the Deputy Commissioner, Programs, who may redelegate to the Associate Commissioner for Family Assistance.

The Secretary retained the authority to issue regulations pertaining to the work incentive demonstration programs under section 445. The Secretary also affirmed and ratified actions taken by the Commissioner or his subordinates which, in effect, involved the exercise of the authorities delegated herein to the Commissioner prior to the effective day of the delegation.

The delegation became effective on January 29, 1982.

Dated: February 7, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-3979 Filed 2-12-82; 8:45 am]

BILLING CODE 4190-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Office of Interstate Land Sales Registration

[Docket No. N-82-1110]

Administrative Proceedings of Opportunity for Hearing; Statement of Record

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of proceedings and opportunity for hearing.

SUMMARY: The Office of Interstate Land Sales Registration gives public notice of its attempt to serve upon certain persons (defined by statute (15 U.S.C. 1701) as individuals, unincorporated organizations, partnerships, associations, corporations, trusts, or estates) at their last known addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by certified mail

and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in order to effect constructive notice upon the persons listed in the attached Appendix.

DATE: Requests for hearings should be filed on or before March 3, 1982.

ADDRESS: Requests shall be filed with the Docket Clerk for Administrative Proceedings, Room 10278, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Christopher Peterson, Director, Land Sales Enforcement Division, Department of HUD, Room 4116, Washington, D.C. 20410. Telephone: (202) 755–5989. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Notice of Proceedings and Opportunity for Hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1720.220). The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

Notice of Proceedings and Opportunity for Hearing

I

Docket No. ————————

In the matter of: (subdivision) ————————

(developer) ————————

Representative Respondent OILSR No. ————

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of ———— and has its principal office in ————.

B. The mailing address of Respondent's last known principal office or place of business is ————.

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in ————County, ————, which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on ———— and is still effective.

D. ————

is Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the Appendix are listed alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above is set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the Appendix in the appropriate blanks of paragraph I. In this form it is constructively noticed that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Office of Interstate Land Sales Registration (OILSR) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material fact, or omit to state material facts required to be stated therein or necessary to make statements therein not misleading, to wit:

The developer has failed to file amendments to comply with revised regulations of the Office of Interstate Land Sales Registration or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1710.400(a) (3) and (4) (1979 Edition), as amended by 45 FR 40500 (June 13, 1980) (to be codified in 24 CFR 1730.100(b) (3) (4), and (5)).

III

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the Respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 24 CFR 1720.240 and 1720.245 within 15 days after service of this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceeding shall be filed with the Docket Clerk for Administrative Proceedings, Room 10278, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the type of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered, That upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth in Part III hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceeding shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1506.

Issued at Washington, D.C., February 8, 1982.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

NOTICES

In the matter of (subdivision) developer, representative and title; respondent	OILSR No. and land sales enforcement division docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
(1)	(2)	(3)	(4)	(5)
Alabama: Wilmer Estates, Acre Lots, Inc., Fred P. Edwards, Authorized Agent.	0-03089-01-21 81-29-IS	Alabama; Mobile, AL	203 Alverson Rd., Mobile, AL 36608	Mobile Co., AL, July 2, 1973.
Arizona: Hualapai Highlands, Rancho Escalante Cattle Co. Inc., Danny O'Keefe, President.	0-04329-02-805 81-30-IS	Arizona; Scottsdale, AZ	4450 North Saddleback Trail, Scottsdale, AZ 85251.	Mohave Co., AZ, Jan. 18, 1978.
Colorado:				
Crested Butte South, Crested Butte Land Co., Peter D. Van Soest, President.	0-01506-06-104 81-33-IS	Colorado; Wheatridge, CO	4275 Harlan, Wheatridge, CO 80033	Gunnison Co., CO, Jan. 31, 1973.
El Pinal Units 1-4, El Pinal Subdivision Co., Allan Boyar, President.	0-02421-05-254 81-34-IS	Colorado; Evergreen, CO	Route 3, Box 118, Evergreen, CO 80439	Jefferson Co., CO, Aug. 12, 1972.
Highland Meadows Units 1 and 2, HM Development Corp., Henry Mercuso, President-Director.	0-01430-06-99 81-35-IS	Colorado; Colorado Springs, CO	295 Raven Hills Rd., Colorado Springs, CO 80919.	Teller Co., CO, Apr. 12, 1972.

NOTICES—Continued

In the matter of (subdivision) developer, representative and title; respondent	OILSR No. and land sales enforcement division docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
(1)	(2)	(3)	(4)	(5)
Sierra Verde Estates, Perry Lancaster, Sole Proprietor	0-01505-05-144 81-36-IS	Colorado; Durango, CO	Lemon Dam, Durango, CO 81301	LaPlata Co., CO, Jan. 20, 1972.
Delaware: Shady Dell Park Section 4, Parcel A, CFL Enterprises, Inc., Charles M. Kaufman, Senior Executive Officer.	0-03523-07-16 81-37-IS	Delaware; Georgetown, DE	101 S. Bedford St., Georgetown, DE 19947.	Sussex Co., DE, July 29, 1974.
Florida:				
Canaveral Properties, Canaveral Properties Inc., Frederick T. Hyman, President-Director.	0-00138-09-39, (A) and (XA) 81-38-IS	Florida; Hialeah, FL	975 W. 49th St., Hialeah, FL 33012	Brevard Co., FL, Aug. 11, 1976.
Crescent Estates, Flordardo Investment Corp., S. I. Sticker, President.	0-00533-09-142 81-40-IS	Florida; North Miami, FL	12550 Biscayne Blvd., North Miami, FL 33181.	Dade Co., FL, Aug. 5, 1971.
Gerber Groves, Section 2, United American Development, Ltd., Edward H. Gerber, President.	0-01157-09-306 81-41-IS	Florida; Ft. Lauderdale, FL	One Financial Plaza St., Ft. Lauderdale, FL 33394.	Hendry Co., FL, Aug. 27, 1970.
Indian Lake Estates, Lakeside Properties Inc., Stanley P. Whitcomb, Jr., President-Director.	0-01274-08-347 81-43-IS	Pennsylvania; King of Prussia, PA.	215 W. Dekalb Pike, King of Prussia, PA 19406.	Polk Co., FL, June 20, 1979.
Inverness Village, Continental Land Corp., Sharn G. Sani, President.	0-01084-09-281 81-44-IS	Florida; Coral Gables, FL	2222 Ponce de Leon Blvd., Coral Gables, FL 33134.	Citrus Co., FL, Apr. 23, 1970.
Mt. Plymouth Fairway Estates, Southern Acre Investment, Inc., Robert Kaufman, Authorized Agent.	0-03743-09-842 81-46-IS	Florida; North Miami, FL	1500 N.E. 131 St., North Miami, FL 33161.	Lake Co., FL, Dec. 19, 1974.
New Eden on the Lakes, HPJ Inc., Harry Tzeses, President.	0-04347-09-1102 81-47-IS	Florida; Kissimmee, FL	520 W. Emmett St., Kissimmee, FL 32741.	Osceola Co., FL, Oct. 14, 1975.
Presidential Estates, Perini Land and Development Co., Arthur R. Weaver, Vice-President.	0-04345-09-1101, (A) and (B) 81-62-IS	Florida; West Palm Beach, FL	714 Chillingworth Dr., West Palm Beach, FL 33409.	Palm Beach Co., FL, Feb. 21, 1978.
Rotonda Springs, Cape Cave Corp., Robert E. Dady, Authorized Agent.	0-02680-09-801 81-63-IS	Florida; Miami, FL	444 Brickell Ave., Miami, FL 33131	Charlotte Co., FL, Feb. 12, 1981.
Sunrise West, J.C. Investments Inc., James L. Carlo, President.	0-02524-09-752 81-64-IS	Florida; Tampa, FL	2942 W. Columbus Dr., Suite 104, Tampa, FL 33607.	Polk Co., FL, Nov. 16, 1978.
Suwannee River Country, Suwannee River Ltd., Nate J. Dabbi, General Partner.	0-04289-09-1000 81-65-IS	Florida; Tampa, FL	2909 Bay to Bay Blvd., Suite 103A, Tampa, FL 33609.	Lafayette Co., FL, Sept. 8, 1975.
Suwannee River Highlands, Suwannee River Highlands, Inc., Richard Grumark, President.	0-02710-09-609 81-66-IS	Florida; Golden Beach, FL	156 Golden Beach Dr., Golden Beach, FL 33160.	Levy Co., FL, Mar. 15, 1973.
Georgia: Treasure Lake of Georgia, Great Northern Development, Frank R. Carcaise, President.	0-01317-10-9, (A-B) 81-67-IS	Pennsylvania; Pittsburgh, PA	15 Duff Rd., Pittsburgh, PA 15235	Carroll Co., GA, Mar. 10, 1972.
Idaho: Ramshorn Estates, Ramshorn Ranch Estates, Inc., Don French, President.	0-01142-12-6 81-68-IS	Idaho; Ellis, ID	Star Route, Ellis, ID 83235	Lemhi Co., ID, Sept. 17, 1970.
Maine:				
Belgrade Lakes Colony, Belgrade Lakes Colony, Inc., Stephen Hershoff, President.	0-00914-23-8 81-69-IS	Massachusetts; Chestnut Hill, MA.	1238 Bayleston St., Chestnut Hill, MA 02167.	Kennebec Co., ME, Nov. 3, 1970.
Lake Arrowhead Estates, Lake Arrowhead Estates, Inc., Bernard J. Mayer, Jr., President.	0-00186-23-7 81-70-IS	Massachusetts; Fitchburg, MA	470 Main Street, Fitchburg, MA 01420	York Co., ME, Dec. 3, 1974.
Setters Landing, Northeast General Corp., Robert A. Barnhard, President.	0-01167-23-14 81-71-IS	New York; New York, NY	15 Columbus Circle, New York, NY 10023.	Hancock Co., ME, Aug. 17, 1970.
Michigan: L'Arbre Croche, L'Arbre Croche Development Co., William A. Petzold, President.	0-02352-26-36 81-73-IS	Michigan; Detroit, MI	14827 E. Jefferson, Detroit, MI 48215	Emmet Co., MI, Aug. 11, 1972.
Missouri:				
Key Largo Nos. 1 and 2, Key Largo No. 1, First Addition and Robyn Point, El Terra Development Co., Boris Zebelman, President.	0-01103-29-26 81-74-IS	Missouri; Ladue, MO	9642 Clayton Rd., Ladue, MO 63124	Camden Co., MO, Oct. 14, 1979.
Taluk, First and Second Addition, Bagnell Investment Co., Boris Zebelman, President.	0-01202-29-36, (A) 81-75-IS	Missouri; Ladue, MO	9642 Clayton Road, Ladue, MO 63124	Benton Co., MO, Aug. 6, 1973.
Nevada: Silver Springs, Lake Lahonton Properties, Bradley A. Erickson and John F. Parran, General Partners.	0-02670-35-50 81-76-IS	Hawaii; Honolulu, HI	1481 South King St., Honolulu, HI 89814	Lyon Co., NV, Jan. 9, 1973.
Tennessee: Dale Hollow Shores, Dale Hollow Shores Corp., Salvatore J. Farina, President.	0-02966-48-76, (A) 81-83-IS	Tennessee; Celina, TN	P.O. Box 130, Celina, TN 38551	Clay Co., TN, Jan. 23, 1974.
Texas:				
Roman Hills Sections 1-3, Texas Gulf Industries, Inc., Robert D. Darnell, President.	0-02734-48-239 81-86-IS	Texas; Houston, TX	2225 North Loop W., Suite 600, Houston, TX 77008.	Montgomery Co., TX, Jan. 10, 1974.
South Fort Worth County Estates, Landbankers of America, Howard Dwight, President.	0-02611-49-214 81-87-IS	Texas; Dallas, TX	1145 Empire Central Pl., Dallas, TX 75247.	Johnson Co., TX, Nov. 13, 1972.
Tall Timbers, Lucky Five Corp., Jim Moxon, Secretary	0-02013-49-90 81-88-IS	Texas; Beaumont, TX	5975 Townhouse Lane, Beaumont, TX 77706.	Newton Co., TX, Jan. 20, 1972.
Windswept Downs Sections 1-5, Windswept Downs, Inc., Lamar Golding, President.	0-02925-49-215 81-89-IS	Texas; Houston, TX	6565 DeMoss, Suite 229, Houston, TX 77036.	Walker Co., TX, Mar. 8, 1973.
Washington: Mill Creek #1, United Development Corp., Kotaro Furusawa, President.	0-04057-55-117 81-95-IS	Washington; Seattle, WA	218 Third Ave. South, Seattle, WA 98104	Snohomish Co., WA, Aug. 7, 1975.
Bahamas: Norman's South Cay Units 1-3, San Andros Ltd., Roberta Moseman, Vice-President.	0-04515-80-109 81-96-IS	Florida; Ft. Lauderdale, FL	3000 N.E. 30th Place, Fort Lauderdale, FL 33306.	Exuma Cays, Bahamas, Dec. 27, 1976.
New Hebrides: Sutua Plantation, Sutua Plantation, Ltd., Monis Moche, Managing Director.	0-01625-80-21 81-99-IS	New Hebrides; Vila, New Hebrides.	Bougainville House, Vila, New Hebrides	Island of Emae, Aug. 20, 1971.

[FR Doc. 82-3666 Filed 2-12-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Utah: Notice of Invitation To Participate in Coal Exploration Program—Hunt Energy Corporation, U–50171

Hunt Energy Corporation, a wholly-owned subsidiary of Hunt Industries, is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Wasatch Plateau east of Millburn, Utah. The lands are located in San Pepe County, Utah, and are described as follows:

T. 13 S., R. 6 E., SLM, Utah
Sec. 20, E½SW¼;
Sec. 21, lot 2;
Sec. 28, SE¼NW¼;
Sec. 33, SW¼NE¼.
Containing 199.84 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Denise Gregory, Hunt Energy Corporation, 2500 First National Bank Building, Dallas, Texas 75202. Such written notice must be received on or before March 18, 1982.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Hunt Energy Corporation is available for public review during normal business hours, in the following office, under Serial Number U–50171: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Robert E. Anderson,
Chief, Division of Operations.
February 1, 1982.
[FR Doc. 82–3881 Filed 2–12–82; 8:45 am]
BILLING CODE 4310–84–M

Bureau of Reclamation

Interim Water Service Contracts; Notice of Intent To Negotiate Interim Water Service Contracts

The Regional Director of the Lower Missouri Region, Bureau of Reclamation, Department of the Interior, may enter into interim water service contracts for irrigation and municipal and industrial (M&I) water when such water is available and surplus to project needs. Contracts of this type can be entered into upon short notice to meet emergency or temporary demands. However, such contracts may not exceed 1 year in duration and are limited to not more than 10,000 acre-feet per irrigation contract or 500 acre-feet per M&I contract. All interim contracts will specify quantities, rates, and other terms and conditions in compliance with Reclamation law and Bureau of Reclamation policy.

The Regional Director of the Lower Missouri Region, Denver, Colorado, has authority to execute interim water service contracts in southeastern Wyoming, Colorado, Nebraska, and northern Kansas. For the water year 1982, it appears that water, surplus to project needs, will be available for sale from Glendo, Bonny, and Glen Elder Reservoirs of the Pick-Sloan Missouri Basin Program; Pathfinder Reservoir of the North Platte Project; Ruedi Reservoir of the Fryingpan-Arkansas Project; and Green Mountain Reservoir of the Colorado-Big Thompson Project. Other Bureau projects in the region with regulated reservoir storage may have minor quantities of surplus water available to meet temporary demands. All releases will be subject to State laws for beneficial use and prior appropriation rights.

Parties interested in receiving information about the Bureau's interim water marketing program or obtaining a temporary supply of water from a Bureau project should contact:

Project Manager, Casper, Wyoming (307) 265–5550—Glendo Reservoir and Pathfinder Reservoir, Wyoming.
Project Manager, Grand Island, Nebraska (308) 382–3660—Glen Elder Reservoir, Kansas; Bonny Reservoir, Colorado.
Project Manager, Pueblo, Colorado (303) 544–5277—Ruedi Reservoir, Colorado.
Project Manager, Loveland, Colorado (303) 667–4410—Green Mountain Reservoir, Colorado.

Unless significant public interest in the proposed interim water marketing program is demonstrated in response to this notice and local news releases or announcements, the availability of proposed draft contracts will be limited to those parties who have expressed an interest therein. Written comments from the public on the forms of the proposed contracts should be submitted not later than 30 days after the completed contract drafts are made available.

Dated: February 9, 1982.
Eugene Hinds,
Assistant Commissioner of Reclamation.
[FR Doc. 82–3886 Filed 2–12–82; 8:45 am]
BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significanlty affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full

effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326

Volume No. OP1–21

Decided: February 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 13070 (Sub-3), filed January 28, 1982. Applicant: GERALD LIPPOLD & RODNEY ARNETT, d.b.a. LIPPOLD & ARNETT, 1302 South Broad St., Carlinville, IL 62626. Representative: Rodney Arnett (same address as applicant), (217) 854–2508. Transporting *commodities in bulk*, between points in IL, on the one hand, and, on the other, points in MO.

MC 81831 (Sub-6), filed January 26, 1982. Applicant: TACY'S EXPRESS, INC., P.O. Drawer 191, 550 South Street, Rensselaer, NY 12144. Representative: Martin Werner, 888 7th Ave., New York, NY 10106, (212) 697–6969. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NY, on the one hand, and, on the other, points in CT, MA, RI, VT, NH, ME, NY, NJ, PA, DE, MD, VA, WV and DC. Condition: Issuance of a certificate in this proceeding shall cancel Certificates of Registration in Nos. MC–81831 Sub 3, issued February 11, 1964, and MC–81831 Sub 4, issued October 9, 1979.

Note.—The purpose of this application is to convert certificates of registration in Nos. MC–81831 Subs 3 and 4, to a certificate of public convenience and necessity, and to extend applicant's authority.

MC 99701 (Sub-2), filed January 25, 1982. Applicant: COFSKY'S EXPRESS, INC., 63 Austin St., Norwood, MA 02062. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *pulp, paper and related products*, between points in CT, ME, MA, NH, NY, RI, and VT, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in No. MC–99701 (Sub-No. 1).

MC 113651 (Sub-352), filed January 27, 1982. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 1, Omaha, NE 68154. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ohio Valley Shippers Association, Inc., at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121511 (Sub-1), filed January 25, 1982. Applicant: R. C. SMITH PLUMBING COMPANY, INC., d.b.a. SMITH AND COMPANY, Conroe, TX. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting *Mercer commodities, pipe, and contractor's equipment*, between points in TX, on the one hand, and, on the other, points in TX, AR, LA, MS, NM, and OK. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in No. MC–121511.

MC 126091 (Sub-21), filed January 28, 1982. Applicant: FRALEY & SCHILLING, INC., General Delivery, Rushville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Traffic Executive Service Company, Inc., of Broomall, PA.

MC 127820 (Sub-23), filed January 29, 1982. Applicant: TRANS–SERVICE, INC., 1943 S. Lawn Extension, Coshocton, OH 43812. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 128761 (Sub-9), filed January 25, 1982. Applicant: RICHARD M. GODFREY, 8530 Kingscove Drive, Salt Lake City, UT 84121. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *merchandise displays*, between points in the U.S.

MC 136911 (Sub-8), filed January 29, 1982. Applicant: PACKAGE EXPRESS, INC., 657 Meadow Street, Chicopee, MA 01013. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in CT, MA, NJ, NY, RI and VT.

MC 138540 (Sub-5), filed February 1, 1982. Applicant: BUTLER REFRIGERATED DELIVERY, INC., R.D. #1, Harmony, PA 16037. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery and food business houses, and *meat byproducts and articles distributed by meat-packing houses*, between points in Allegheny and Butler Counties, PA, on the one hand, and, on the other, points in OH, PA, WV, NY, MD and MI.

MC 141021 (Sub-3), filed January 27, 1982. Applicant: PETROLEUM TRANSPORT CO., INC., P.O. Drawer 1559, Kenner, LA 70063. Representative: Harold R. Ainsworth, 2307 American Bank Bldg. New Orleans, LA 70130, (504) 522–7284. Transporting *gasoline and diesel fuel*, between points in LA and MS.

MC 141940 (Sub-6), filed January 29, 1982. Applicant: R. B. BATOR TRUCKING, INC., Lime St., Adams, MA 01220. Representative: Gerald A. Denmark, 120 South St., Pittsfield, MA 01201, (413) 499–4501. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between Adams, MA, and points in CT, DE, ME, MD, NH, NJ, NY, PA, RI, VT, and DC.

MC 142011 (Sub-3), filed January 28, 1982. Applicant: LEISURE TIME TOURS, INC., P.O. Box 587, Mahwah, NJ 07430. Representative: Larsh B. Mehinney, 555 Madison Ave., New York, NY 10022, (212) 838–0600. As a *broker* at Mahwah, NJ, Atlantic City, NJ, Philadelphia, PA, and New York, NY, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between points in the U.S.

MC 142831 (Sub-22), filed January 26, 1982. Applicant: HAMRIC TRANSPORTATION, INC., P.O. Box 1124, Grand Prairie, TX 75051. Representative: Thomas L. Cook, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237, (214) 338–4108. Transporting

(1) *iron and steel articles,* between Midlothian, TX on the one hand, and, on the other, points in the U.S., and (2) *metal products,* between LaPlace, LA, on the one hand, and, on the other, points in the U.S.

MC 145371 (Sub-11), filed January 28, 1982. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200–A, 205 West Touhy Ave., Park Ridge, IL 60068, (312) 698–2235. Transporting *such commodities* as are dealt in or dealt in or used by wholesale and retail grocery stores, between points in Rock Island County, IL and LaPorte County, IN, on the one hand, and, on the other, points in the U.S.

MC 147570 (Sub-8), filed January 29, 1982. Applicant: KABAT EXPRESS INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254, (216) 948–2531. Transporting *pulp, paper and related products and printed matter,* between points in the U.S., under continuing contract(s) with Duplex Products, Inc., of Sycamore, IL.

MC 147590 (Sub-1), filed January 25, 1982. Applicant: GOLD STREAK FREIGHT LINES, INC., 1855 E. 3rd Ave., Anchorage, AK 99501. Representative: Dalton B. Coor (same address as applicant), (907) 276–3531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AK.

MC 147850 (Sub-3), filed February 1, 1982. Applicant: BURGESS TRUCKING COMPANY, INC., P.O. Box 96, Sedley, VA 23878. Representative: Gilbert W. Francis, P.O. Box 266, Boykins, VA 23827, (804) 654–6333. Transporting *textile mill products,* between Philadelphia, PA, and points in Southampton County, VA, on the one hand, and, on the other, points in the U.S.

MC 147910 (Sub-2), filed January 10, 1982. Applicant: SHAIN TRUCKING, INC., 8130 Upriver Road, Corpus Christi, TX 78410. Representative: John W. Carlisle, PO Box 967, Missouri City, TX 77459. Transporting (A) *Mercer commodities,* (1) between points in AR, CA, LA, MS, NM, OK, and TX, and (2) between points in AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S.; (B) *machinery* and (C) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injunction or removal of commodities into and from holes and/or wells, (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S.; (d) *iron and steel articles,* between points in TX, MO, NM, OK, and LA; (E) *metal buildings and parts and equipment for metal buildings,* between Houston, TX, on the one hand, and, on the other, points in the U.S.; and (F) *grout and cement,* between Houston, TX, on the one hand, and, on the other, points in LA, OK, MS, and NM.

MC 148151 (Sub-4), filed January 18, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Road, Houston, TX 77075. Representative: John W. Carlisle, PO Box 967, Missouri City, Tx 77459, (713) 437–1768. Transporting (A) *Mercer commodities,* (1) between points in AR, CA, LA, MS, NM, OK, and TX, and (2) between points in AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (B) *machinery* and (C) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injunction or removal of commdities into and from holes and/or wells, (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S.; (D) *iron and steel ariticles,* between points in TX, MO, NM, OK, and LA; (E) *metal buildings and parts and equipment for metal buildings,* between Houston, TX, on the one hann, and, on the other, points in the U.S.; and (F) *grout and cement,* between Houston, TX, on the one hand, and, on the other, points in LA, OK, MS, and NM.

MC 148540 (Sub-1), filed January 29, 1982. Applicant: DIXIE GAS, INC., P.O. Box 40, Marks, MS 38646. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *anhydrous ammonia,* between points in Phillips County, AR, on the one hand, and, on the other, points in AL, KY, LA, MS, MO, and TN.

MC 14830 (Sub-5), filed January 27, 1982. Applicant: THE CANDY EXPRESS, 1600 East Gregory, North Little Rock, AR 72114. Representative: Harry E. McDermott, Jr., 212 Center St., Suite 700, Little Rock, AR 72201, (501) 374–3773. Transporting *general commodities* (except classes A and B explosives), between points in Pulaski County, AR, and points in OK.

MC 148780 (Sub-5), filed January 28, 1982. Applicant: ENGINEERED TRANSPORT SERVICES, INC., 3001 Ponce de Leon Blvd., Suite 201, Coral Gables, FL 33134. Representative: Charles R. Stiller (same address as applicant), (305) 441–7125. Transporting *flavoring syrups, beverages, beverage preparations, and flavoring compounds,* between points in the U.S., under continuing contract(s) with Coca-Cola USA, a division of The Coca-Cola Company, of Atlanta, GA.

MC 149290 (Sub-1), filed January 26, 1982. Applicant: GARY G. BUNDAY d.b.a. GARY BUNDAY TRUCKING, 35660 Frontage Road, Bozeman, MT 59715. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *food and related products,* between points in the U.S.

MC 150301 (Sub-17), filed January 28, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with B & B Beer Distributing Company, of Grand Rapids, MI, and Haworth, Inc., of Holland, MI.

MC 151721 (Sub-3), filed January 25, 1982. Applicant: LAUFENBERG FEED & AGRI-SERVICE, INC., Route 1, P.O. Box 90A, Highland, WI 53543. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *lumber and lumber products,* between points in AZ, CO, and UT, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 151890 (Sub-1), filed January 25, 1982. Applicant: D&T EXPRESS, INC., 4230 Elvis Presley Blvd., Suite 400B, Memphis, TN 38116. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 347–8862. Transporting *general commodities* (except classes A

and B explosives), between Nashville and Memphis, TN, on the one hand, and, on the other, those points in the U.S. in and west of TX, OK, NE, ND and SD.

MC 152971, filed January 25, 1982. Applicant: DEEP SOUTH FREIGHT LINES, LTD., 6308 Boutall Street, Metairie, LA 70003. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting (1) *food and related products,* between points in LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WI and WV, and (2) *household appliances,* between points in LA and TN.

MC 156061 (Sub-3), filed December 29, 1981, previously noticed in the **Federal Register** issue of January 18, 1982. Applicant: LAND & SEA, INC., Route 6, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *chemicals and related products,* between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY.

Note.—This republication clarifies the territorial description.

MC 157691 (Sub-2), filed January 22, 1982. Applicant: BLUE VELVET TRANSPORT, INC., 50 West Broad Street, Columbus, OH 43215. Representative: James W. Muldoon (same address as applicant), (614) 464–4103. Transporting *such commodities* as are dealt in by manufacturers and distributors of food and food products, between points in the U.S.

MC 157691 (Sub-3), filed January 29, 1982. Applicant: BLUE VELVET TRANSPORT, INC., 50 W. Broad, Columbus, OH 43215. Representative: James W. Muldoon (same address as applicant), (614) 464–4103. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of toilet articles and toilet preparations, between points in Summit County, OH, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA, (2) *such commodities* as are dealt in or used by manufacturers and distributors of machinery, between Worchester, MA, and points in Auglaize, Montgomery, Miami, and Stark Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *such commodities* as are dealt in or used by manufacturers and distributors of household appliances, between Atlanta, GA, Denver, CO, Dallas, TX, Chicago, IL, San Francisco and Los Angeles, CA, Kansas City, MO, Minneapolis, MN, and points in Stark County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (4) *such commodities* as are dealt in or used by manufacturers and distributors of containers and packaging products, between points in the U.S. (except AK and HI), and (5) *general commodities* (except classes A and B explosives and household goods), between points in Cook, Lake, and Du Page Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158300, filed January 28, 1982. Applicant: GERALD COSSETT d.b.a. GERALD COSSETT TRUCKING, 2205 5th Ave. North, Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056, (701) 223–5300. Transporting (1) *general commodities,* between points in Cass County, ND, on the one hand, and, on the other, points in the U.S., (2) *foodstuffs,* between the facilities of Chef-Reddy Foods, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S., (3) *lumber,* between points in WI, MN, IA, SD, ND, MI and WI, and (4) *railroad ties,* between points in the U.S.

MC 158651 (Sub-1), filed January 26, 1982. Applicant: GRAEBEL VAN LINES, INC., 620 South 8th Ave., Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* as defined by the Commission, between points in the U.S.

MC 158931, filed January 29, 1982. Applicant: CELEBRITY LIMOUSINE, INC., 1228 Spruce Street, Philadelphia, PA 19107. Representative: Barbara S. Chesarek, 2600 The Fidelity Bldg., Philadelphia, PA 19109, (215) 875–7000. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 6 passengers in any one vehicle, not including the driver, between points in PA, on the one hand, and, on the other, points in Atlantic and Cape May Counties, NJ.

MC 158941, filed January 25, 1982. Applicant: PIONEER TRUCKING COMPANY, INC., U.S. Hwys 64 & 70 East, P.O. Box 1961, Hickory, NC 28601. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, KY, IL, IN, MA, MD, MI, NC, NJ, NY, OH, PA, RI, SC, TN, VA, and WV, (2) *textile mill products,* (a) between points in NC, NJ, NY, PA, RI, SC, and TN, on the one hand, and, on the other, points in CA, CT, ME, MN, MO, TX, UT, and VT, and (b) between points in NC, on the one hand, and, on the other, points in MS, (3) *chemicals and related products,* (a) between points in Mecklenburg County, NC, on the one hand, and, on the other, points in CA, IA, LA, OK, TX, and WA, and (b) between points in Catawba County, NC, on the one hand, and, on the other, points in MO, and (4) *metal products,* between points in Burke County, NC, on the one hand, and, on the other, points in TX.

MC 159411, filed January 25, 1982. Applicant: JERRY GRASSO & SON, INC., P.O. Box 254-Western Ave., Marlboro, NY 12542. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *fruit juices,* between points in the U.S. (except AK and HI).

MC 159951, filed January 21, 1982. Applicant: MICHAEL TADIN d.b.a. MARINA CARTAGE CO., 4334 S. Western, Chicago, IL 60609. Representative: Irwin D. Rozner, 134 N. LaSalle St., Chicago, IL 60602, (312) 782–6937. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, MI, OH, IA, IN, WI, MN and MO.

MC 160091, filed January 25, 1982. Applicant: BLUE AND WHITE TRANSPORT, INC., 914 Royal Blvd., Boise, ID 83706. Representative: Kevin M. Clark, 1003 N. 8th St., Suite 200, Boise, ID 83702, (208) 344–7714. Transporting *petroleum,* between points in ID, OR, WA, and MT.

MC 160220, filed January 21, 1982. Applicant: FLOYD HEUERMAN d.b.a. FLOYD HEUERMAN TRUCKING, R.R. #3, Box 272A, Effingham, IL 62401. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *building materials, lumber and wood products, and clay, concrete, glass or stone products,* between points in the U.S., under continuing contract(s) with Effingham Builders Supply Co., of Effingham, IL, and (2) *farm products, farm machinery, and fertilizers,* between points in the U.S., under continuing contract(s) with Effingham Equity, of Effingham, IL.

MC 160251, filed January 25, 1982. Applicant: SPEASE INC, 6623 Kansas Ave., Kansas City, KS 66111. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, (314) 636–2321. Transporting *chemicals and related products,* between points in Pettis County, MO, and Kings County, NY, on the one hand, and, on the other, points in the U.S.

MC 160280, filed January 27, 1982. Applicant: FDD, INC., 2020 Bruck Street, Columbus, OH 43207. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with The Distribution Division of Franklin Chemical Industries, Inc., of Columbus, OH.

MC 160281, filed January 27, 1982. Applicant: KAREN BUS CO., INC., 132 Lake Avenue, Boonton, NJ 07005. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904, (201) 572–5551. Transporting *passengers and their baggage*, in the same vehicle with passengers in charter operations, beginning and ending at points in Kings, NY and points in Orange and Rockland Counties, NY, Bergen, Hudson, Morris and Passaic Counties, NJ, and extending to points in CT, DE, FL, GA, KY, ME, MA, MD, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV and DC.

MC 160300, filed January 28, 1982. Applicant: TRANSPORT ALIVE CORPORATION, 333 Eagle Drive, Bedford, TX 76021. Representative: Bobby H. Hataway (same address as applicant), (817) 498–0173. Transporting *foodstuffs*, between Fresno and Gustine, CA, Jacksonville, IL, Sherman, TX, Humbolt, TN, and Monroe, Waupaca, and Mayville, WI, on the one hand, and, on the other, points in the U.S.

MC 160320, filed January 29, 1982. Applicant: BRADBERRY TRUCKING, 26026 Kuykendahl, Tomball, TX 77375. Representative: S. E. Bradberry (same address as applicant), (713) 351–1714. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Jet-Lube, Inc., of Houston, TX.

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Decided: February 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2202 (Sub-678), filed January 28, 1982. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Montgomery Ward & Co., of Chicago, IL.

MC 16903 (Sub-93), filed January 25, 1982. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *railroad trackage, railroad track and cross ties*, between points in the U.S.

MC 24583 (Sub-49), filed January 27, 1982. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, Suite 411, 211 W. 2nd, Little Rock, AR 72201, (501) 375–3022. Transporting *chemicals, plastics, plastic products, and metal products*, between points in the U.S., (except AK and HI), under continuing contract(s) with The Dow Chemical Company, of Strongsville, OH.

MC 69492 (Sub-80), Filed January 19, 1982. Applicant: HENRY EDWARDS TRUCKING CO., INC., P.O. Box 97, Clinton, KY 42031. Representative: Roland M. Lowell, Fifth Floor, 501 Union Street, Nashville, TN 37219, (615) 255–0540. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Mississippi County, MO, on the one hand, and, on the other, those points in U.S. in and east of ND, SD, NE, CO, and NM, (2) *rubber and plastic products*, between the facilities of the General Tire and Rubber Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 81592 (Sub-9), Filed January 18, 1982. Applicant: WISCONSIN NORTHERN TRANSPORTATION COMPANY, INC., Vernon Street, Washington Heights, Eau Claire, WI 54701. Representative: Frederick A. Zank, 1209 Nixon, Eau Claire, WI 54701, (715) 835–6329. Over regular routes, transporting *passengers and their baggage, and express*, in the same vehicle with passengers, and express, between Eau Claire, WI, and La Crosse, WI, over Interstate Hwy 94, to Osseo, WI, and then over WI Hwy 53 to La Crosse, and return over the same route, serving all intermediate points. Note: Applicant intends to tack this authority with existing regular-route operations between Duluth, MN, and Eau Claire, WI.

MC 95813 (Sub-23), Filed January 26, 1982. Applicant: SHUMAKER TRUCKING COMPANY, 601 U.S. Route 15 North, Dillsburgh, PA 17019. Representative: David Shumaker (same as applicant), (717) 432–9617. Transporting *lumber and wood products, building and construction materials, and machinery*, (a) between ports of entry on the international boundary line between U.S., and Canada, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, PA, RI, SC, TN, VT, VA, WV, WI, and DC, and (b) between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, NC, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

MC 124802 (Sub-21), filed January 18, 1982. Applicant: ACE MOTOR FREIGHT, INC., R.D. #2, Summerville, PA 15864. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *clay, concrete, glass or stone products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 127042 (Sub-310), filed January 18, 1982. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same address as applicant), (712–255–8986). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Wilson Trailer Company, of Sioux City, IA.

MC 133552 (Sub-1), filed January 18, 1982. Applicant: KOEHLER TRANSFER, INCORPORATED, Old Rt. 66, Box 96, Dwight, IL 60420. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5408. Transporting *foodstuffs*, between points in the U.S., under continuing contract(s) with Chi Chi Foods Limited, of Bensonville, IL.

MC 138393 (Sub-3), filed January 18, 1982. Applicant: CUSTOM SAND & GRAVEL HAULING, INC., 3102 Glenwood, Rapid City, SD 57701. Representative: James W. Olson, 2525 West Main, Suite 206, Rapid City, SD 57701, (605) 342–7000. Transporting *clay, concrete, glass or stone products* between points in SD, NE, and WY.

MC 140249 (Sub-17), filed January 18, 1982. Applicant: APPLE HOUSE, INC., 3726 Birney Avenue, Scranton, PA 18505. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, FL, NJ, NY, and PA, on the one hand, and, on the other, points in the U.S.

MC 141632 (Sub-3), filed January 18, 1982. Applicant: ALCO BUS CORPORATION, 715 South Pearl Street, Janesville, WI 53545. Representative:

Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting (1) *passengers and their baggage*, in the same vehicle with passengers, and (2) *newspapers and parcels* weighing no more than 150 pounds each, when moving in the same vehicle with passengers and their baggage, between Beloit, WI and South Beloit, IL, over Interstate Hwy 90, serving all intermediate points.

Note.—Applicant intends to tack this authority at Beloit, WI, with its existing route extending between Madison, WI, Janesville, WI, and O'Hare International Airport at or near Chicago, IL.

MC 141932 (Sub-52), filed January 18, 1982. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant), (617) 871–2550. Transporting *alcoholic beverages*, between points in ME, on the one hand, and, on the other, points in the U.S.

MC 142352 (Sub-11), filed January 25, 1982. Applicant: HAUSMAN TRUCKING, INC., 4839 Edgebrook Road, P.O. Box 50, Waterloo, IA 50701. Representative: Daniel O. Hands, Suite 200–A, 205 West Touhy Ave., Park Ridge, IL 60068, (312) 696–2235. Transporting *food and related products* between the facilities of The Rath Packing Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 142593 (Sub-3), filed January 25, 1982. Applicant: WARNER BROS., INC., Rte. 116, P.O. Box 395, Sunderland, MA 01375. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103 (413) 732–1136. Transporting *such commodities* as are dealt in by a manufacturer or distributor of coal, coke and related products, between points in the U.S., under continuing contract(s) with George E. Warren Corporation, of Boston, MA.

MC 142603 (Sub-65), filed January 25, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same address as applicant), (413) 732–6283. Transporting *paper and paper products, school supplies*, between points in the U.S., under continuing contract(s) with Clinton Paper Co., Inc., of Castanea, PA.

MC 146402 (Sub-42), filed January 27, 1982. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 988, 200 Conalco Drive, Jackson, TN 38301. Representative: Charles W. Teske, (same as applicant), (901)423–2466. Transporting *paper and plastic products, and such commodities* as are used in the manufacture and distribution of paper and plastic products, between points in Shelby County, IL and Cook County, IL, on the one hand, and, on the other, points in the U.S.

MC 148203 (Sub-6), filed January 18, 1982. Applicant: COPPER CITY TRANSPORT, INC., Old Route 5 S, RD #2, Frankfort, NY 13340. Representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, NY 13501, (315) 797–1970. Transporting *such commodities* as are dealt in or used by manufacturers of dry expanded animal food in bags, between points in the U.S., under continuing contract(s) with Chenango Valley Pet Foods, Inc., of Sherburne, NY.

MC 154283 (Sub-1), filed January 28, 1982. Applicant: ELGIN MILK SERVICE, INC., Route 1, Elgin, MN 55932. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612)333–1341. Transporting *food and related products*, between points in Manitowoc County, WI and Wabasha County, MN, on the one hand, and, on the other, points in IA, IL, IN, KS, MI, MO, MN, NE, ND, SD and WI.

MC 159353, filed January 25, 1982. Applicant: LARRY W. MURPHY, d.b.a. MURPHY'S CONTRACT CARRIER, P.O. Box 9621, Chattanooga, TN 37412. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615)756–3620. Transporting *such commodities* as are dealt in and sold by retail stores, between points in the U.S., under continuing contract(s) with K-Mark Corp., of Troy, MI.

MC 160102, filed January 15, 1982. Applicant: CARL BUDDING TRANSPORTATION COMPANY, 11914 South Peoria Street, Chicago, IL 60643. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Carl Budding & Company and its subsidiaries, of Chicago, IL, (2) Old Wisconsin Sausage Co., Inc., of Sheboy San, WI, and (3) Smokie Product, Inc., of Jackson, WI.

MC 160152, filed January 18, 1982. Applicant: BOON AND BOON, INC., 118 S. Second Street, Milwaukee, WI 53204. Representative: Ronald E. Laitsch, 108 S. Second Street, Watertown, WI 53094, (414) 261–9725. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S.

MC 160172, filed January 18, 1982. Applicant: CARMAC TRANSPORT, INC., 275 Walker Avenue, Clarendon Hills, IL 60514. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521, (321) 629–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, and Lake, LaPorte and Porter Counties, IN; St. Charles, St. Louis, Counties and St. Louis, MO, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, KY, MI, MO, MN, ND, NE, OH, SD and WI.

MC 160242, filed January 25, 1982. Applicant: GEORGE E. NOAH, d.b.a. NOAH ENTERPRISES, 3210 No. 97th St., Omaha, NE 68134. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Dugdale of Nebraska, Inc., of Norfolk, NE.

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Decided: February 4, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1335 (Sub-6), filed January 25, 1982. Applicant: MOTEK TRANSPORT, INC., P.O. Box 123, Harleysville, PA 19438. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting *such commodities* as are dealt in or used by food business houses, between points in Erie and Niagara Counties, NY, on the one hand, and, on the other, points in MD and PA.

MC 61294 (Sub-4), filed January 29, 1982. Applicant: PEOPLE'S FUEL AND TRUCKING, INC., 73 City Hall Ave., Gardner, MA 01440. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *petroleum and petroleum products*, between points in Bristol, Essex, Hampden, Middlesex, Norfolk, Suffolk, and Worcester Counties, MA, on the one hand, and, on the other, points in NH.

MC 88285 (Sub-6), filed January 27, 1982. Applicant: BRUCE & SON VAN & STORAGE CO., P.O. Drawer 7280, 6035 Canyon Expressway, Amarillo, TX 79109. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, (a) between points in AZ, AR, CA, CO, IA, IL, KS, KY, LA, MS, MO, MT, NE, NV, NM, OK, TN, TX, UT, and WY, and

(b) between points in AZ, AR, CA, CO, IA, IL, KS, KY, LA, MS, MO, MT, NE, NV, NM, OK, TN, TX, UT, and WY, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY, and DC.

MC 116014 (Sub-93), filed January 25, 1982. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Representative: Harry Ross, 58 S. Main St., Winchester, KY 40391, (606) 744–3503. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NJ, NH, MA, and CT, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, MD, MI, MS, MO, NC, OH, OK, PA, SC, TN, VA, WV, WI, and NY.

MC 121625 (Sub-3), filed January 25, 1982. Applicant: ARK CITY EXPRESS, INC., 1201 South First St., Arkansas City, KS 67005. Representative: Monty R. Coble (same address as applicant), (316) 442–3073. Transporting *bicycles*, between points in Kay County, OK and Cowley County, KS, on the one hand, and, on the other, points in the U.S.

MC 144844 (Sub-16), filed January 25, 1982. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603, (312) 263–2306. Transporting (1) *metal products*, (2) *building materials*, (3) *lumber ar wood products*, (4) *machinery*, (5) *transportation equipment*, and (6) *Mercer commodities*, between points in the U.S.

MC 146065 (Sub-6), filed January 25, 1982. Applicant: DAY TRANSFER, INC., 1187 Kentucky Ave., P.O. Box 1426, Indianapolis, IN 46206. Representative: John H. Day, 3909 S. Lynhurst Dr., Indianapolis, IN 46241, (314) 856–3333. Transporting *such commodities* as are dealt in or used by grocery stores, drug stores, and warehouses, between points in IN, OH, KY, TN, GA, IL, NY, NJ, FL, PA, and MA.

MC 146724 (Sub-10), filed January 25, 1982. Applicant: DEAN RAPPLEYE, INC., P.O. Box 204, 7444 S. 2200 West, West Jordan, UT 84084. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and related products*, between the ports of entry on the international boundary line between the United States and Canada, at points in ID, MN, MT, ND, and WA, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR, and LA.

MC 146814 (Sub-15), filed January 25, 1982. Applicant: VAN WYK, INC., C St., Sheldon, IA 51201. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and related products*, between the facilities of John Morrell & Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 147055 (Sub-5), filed January 29, 1982. Applicant: CURTIS DENNIS EQUIPMENT, INC., d.b.a. C. D. E. EXPRESS, P.O. Box 2057, Heath, OH 43055. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives), between points in Licking County, OH, on the one hand, and, on the other, points in the U.S.

MC 147494 (Sub-8), filed January 25, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *machinery*, and *metal products*, between points in AL, AR, KS, LA, MI, MS, MO, OR, PA, TN, TX, and WV, on the one hand, and, on the other, points in the U.S.

MC 150724 (Sub-8), filed January 27, 1982. Applicant: DONALD SANTISI TRUCKING CO., a corporation, 340 Victoria Rd., P.O. Box 4145, Youngstown, OH 44515. Representative: Andrew J. Burkholder, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except commodities in bulk and hosehold goods), between points in Cuyahoga, Lorain, Lake, Ashtabula, Geauga, Portage, Summit, Medina, Wayne, Stark, Mahoning, Trumbull, Columbiana, Carroll, Harrison, Jefferson, and Belmont Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 151384 (Sub-5), filed January 25, 1982. Applicant: G & J TRUCKING INC., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601, (501) 741–3501. Transporting (1) *fuel pumps*, between points in Sequoyah County, OK, on the one hand, and, on the other, points in the U.S., and (2) *food and related products*, between points in OK, AR, and TX, on the one hand, and, on the other, points in the U.S.

MC 152744 (Sub-2), filed January 28, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *such commodities* as are dealt in or used by breweries, between points in the U.S., under continuing contract(s) with The Stroh Brewery Company, of Detroit, MI.

MC 152775 (Sub-1), filed January 27, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *metal products*, between points in St. John the Baptist Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN, and TX.

MC 152775 (Sub-2), filed January 28, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

MC 157235 (Sub-1), filed January 28, 1982. Applicant: INDIANA TRUCK LINES, INC., P.O. Box 8056, Ft. Wayne, IN 46898. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *pumps and related parts*, between points in the U.S., under continuing contract(s) with Tokeheim Corporation, of Ft. Wayne, IN.

MC 160254, filed January 25, 1982. Applicant: ALERT COACH LINES, INC., 24 Railroad Ave., East Northport, NY 11731. Representative: John V. N. Klein, 1505 Kellum Place, Mineola, NY 11501, (516) 741–6565. Transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Nassau and Suffolk Counties, NY, and extending to points in the U.S. (including AK, but excluding HI).

MC 160255, filed January 25, 1982. Applicant: ARTESIAN TRANSPORTATION, INC., 201 E. Fifth St., Mansfield, OH 44901. Representative: R. G. Wallace, (same address as applicant), (419) 522–4211. Transporting *plastic granules and pellets* (except in bulk), between points in the U.S., under continuing contract(s) with Advanced Plastics, of Crestline, OH.

MC 160255 (Sub-1), filed January 25, 1982. Applicant: ARTESIAN TRANSPORTATION, INC. 201 E. Fifth St., Mansfield, OH 44901. Representative: R. G. Wallace, (same address as applicant), (419) 522–4211. Transporting *bowling balls*, between

points in the U.S., under continuing contract(s) with American Machine & Foundry, of Shelby, OH.

MC 160274, filed January 27, 1982. Applicant: JEFFRIES TRUCKING CO., INC., 748 W. Old 422, Butler, PA 16001. Representative: James Jeffries, (same address as applicant), (412) 283–4715. Transporting *general commodities* (except classes A and B explosives), between points in OH and PA, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WV, WA, WI, and WY.

MC 160284, filed January 24, 1982. Applicant: T.S.W., INC., 412 North Capitol Avenue, Indianapolis, IN 46204. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 630–1301. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with The Kroger Company of Cincinnati, OH.

MC 160294, filed January 28, 1982. Applicant: HAYES, INC., P.O. Box 159, Betsy Layne, KY 41605. Representative: Herbert D. Liebman, P.O. Box 478, 403 W. Main St., Frankfort, KY 40602, (502) 875–3493. Transporting *mining and road building equipment* and *machinery,* between points in Floyd, Pike, Johnson, Letcher, Martin, Knott, Perry, Breathitt, Leslie, Laurel, Rowan, Magoffin, Morgan, Powell, Lawrence, Clark, Wolfe and Fayette Counties, KY, on the one hand, and, on the other, points in KY, OH, VA, WV, TN, NC, AR, IN, IL, TX, and MI.

MC 160295, filed January 28, 1982. Applicant: CHARLES A. MORRISON, 10819 S. U.S. Hwy 24, Leadville, CO 80461. Representative: (same as applicant) (303) 486–1759. Transporting (1) *Mercer commodities,* (2) *such commodities* as are dealt in or used by the oil and gas industries (except Mercer commodities), and (3) *lumber and wood products, metal products,* and *machinery,* between points in CO, UT, NV, AZ, NM, OK, TX, WY, MT, and ID.

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Decided: February 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 123265 (Sub-8), filed January 29, 1982. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: George P. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Beadex Manufacturing Co., of Renton, WA.

MC 134405 (Sub-106), filed January 29, 1982. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118, (405) 848–7946. Transporting *commodities in bulk,* between points in AR, CO, IL, IN, KS, LA, MS, MO, MT, NM, OK, TX, UT, WI, and WY.

MC 152775 (Sub-4), filed February 1, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Natchez Steel Corp., of Natchez, MS, Universal Steel Co., of Vicksburg, MS, Sabel Steel Service, Inc., of Montgomery, AL, NOLA Steel, Inc., of New Orleans, LA, Jeffreys Steel Co., Inc., of Mobile, AL, and Intercontinental Metals Corp., of New Orleans, LA.

MC 155775 (Sub-2), filed January 29, 1982. Applicant: NORTHWESTERN MICHIGAN TRUCKING, INC., 9196 11 Mile Rd., Bear Lake, MI 49614. Representative: William B. Elmer, 615 E. Eighth St., Traverse City, MI 49684, (616) 941–5313. Transporting *Food and related products,* between points in MI, PA, OK, OH, and those in Campbell County, TN, Berkeley County, WV, and DeKalb County, GA, on the one hand, and, on the other, points in the U.S.

MC 159195, filed January 29, 1982. Applicant: CHARLES DAMPMAN, INC, P.O. Box 217, Douglassville, PA 19518. Representative: L. Stanley Mauger, 240 King St., Pottstown, PA 19464, (215) 323–4100. Transporting (1) *lumber and forest products,* between points in the U.S. (except AK and HI), under continuing contracts with Charles H. Weaber & Sons, Inc, of Lebanon, PA, Kulp & Staudt, Inc., of Pennsburg, PA, Lumber Sales & Service, of Ambler, PA, and Taiga Wood Products, Arbre Forest Products Division, in Milton, Ontario, Canada, and (2) *building materials,* between points in the U.S., under continuing contract(s) with Kulp & Staudt, Inc., of Pennsburg, PA.

MC 159675, filed January 29, 1982. Applicant: PAUL M. LUKE, d.b.a. L & B TRUCKING COMPANY, P.O. Box 225, Centerville, LA 70522. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *paper and paper products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa, LA.

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Decided: February 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 116725 (Sub-30), filed January 29, 1982. Applicant: INDIAN VALLEY ENTERPRISES, INC,. 855 Maple Avenue, Harleysville, PA 19438. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011. Transporting (1) *food and related products,* and (2) *pulp, paper and related products,* between Philadelphia, PA, and points in Bucks County, PA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR and TX.

MC 123054 (Sub-34), filed January 29, 1982. Applicant: R & H CORPORATION, 295 Grand Ave., Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *such commodities* as are dealt in or used by manufacturers of paper and paper products and specialty chemicals, between the facilities of or used by Westvaco Corporation and its subsidiaries and affiliates at those points in the U.S. in and east of MN, IA, MO, AR, and LA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 126545 (Sub-14), filed February 2, 1982. Applicant: GLENERY, INC., 173 Hickory St., Kearny, NJ 07032. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with J. A. Tucker Co., of Westville, NJ.

MC 140334 (Sub-12), filed January 29, 1982. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *general commodities*(except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in GA, NC, SC and VA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 147644 (Sub-11), filed February 1, 1982. Applicant: J. MC. TRANSPORT, INC., 1719 Potters Ln., Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, 444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, (301) 840–8585. Transporting *printed matter,*

between Los Angeles and San Francisco, CA, Philadelphia, PA and points in Jefferson and Fayette Counties, KY, Marion County, IN, Dallas and Houston Counties, TX on the one hand, and, on the other, points in the U.S.

MC 147844 (Sub-3), filed February 1, 1982. Applicant: RALPH L. BURRESS, P.O. Box 294, Dale, IN 47523. Representative: Lorna J. Granger, Marine Plaza, Suite 1330, 111 East Wisconsin Ave., Milwaukee, WI 53202, (414) 272–8550. Transporting *cabinets,* between points in the U.S., under contract(s) with Style-Line Mfg., Company, Inc., of West Allis, WI.

MC 152514 (Sub-1), filed February 1, 1982. Applicant: MOTOR ACTIVITIES, LTD., 860 Skokie Hwy., Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting (A) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the US. west of ND, SD, NE, KS, OK, and TX, restricted in (A) above to the transportation of traffic having a prior or subsequent movement by rail; and (B) *such commodities* as are dealt in or used by grocery and drug stores, and industrial distributors (except commodities in bulk), between points in WI and IL, on the one hand, and, on the other, points in the U.S.

MC 152544 (Sub-12), filed February 1, 1982. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 623–2300. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, FL, GA, and SC, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 152864 (Sub-4), filed February 1, 1982. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Adamsville, TN 38103, (901) 538–4114. Transporting *plastics and plastic products,* between points in the U.S.

MC 152775 (Sub-3), filed January 29, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *metal products,* between New Orleans, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN and TX.

MC 154765 (Sub-3), filed February 2, 1982. Applicant: NORTHSTAR TRANSPORTATION, INC., 10951 Lakeview Ave., Lenexa, KS 66219. Representative: Stanley O. Wilson (same address as applicant), (913) 888–9800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI.)

MC 156695, filed February 1, 1982. Applicant: FURMAN & DAWES, INC., Rt. 3, Box 15–S, Stillwater, OK 74074. Representative: Danny L. Furman (same address as applicant), (405) 372–8249. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Bretney Corp. of Kansas City, MO, Cosmetic Specialty Labs of Lawton, OK and Sasco Cosmetics of Dallas, TX.

MC 160355, filed February 1, 1982. Applicant: BROADBENT MERCANTILE, INC., 3540 Pine Ave., Long Beach, CA 90807. Representative: Vidma C. Willson (same address as applicant) (213) 424–2281. Transporting (1) *rubber and rubber products,* (2) *machinery,* (3) *building materials and supplies* and (4) *metal and metal products,* between points in CA, OR, TX and WA.

MC 160344, filed February 1, 1982. Applicant: RENTRITE HAULAGE CORP., 5 Dakota Dr., Lake Success, NY 10042. Representative: Carl L. Haderer, 18 Summit Ave., Montvale, NJ 07645, (201) 578–4530. Transporting *bakery products,* between points in the U.S., under continuing contract(s) with Entenmann's, Inc. of Bay Shore, NY.

MC 160365, filed February 1, 1982. Applicant: SAUGUS TRAVEL, INC., 314 Central St., Saugus, MA 01906. Representative: Daniel Pranka (same address as applicant) (617) 233–8192. As a *broker,* at Saugus, MA, in arranging for the transportation of *passengers and their baggage,* by motor vehicle, beginning at points in MA, and extending to points in the U.S.

MC 160374, filed February 2, 1982. Applicant: LEVESQUE'S AUTO SERVICE, INC., 771 Rodman St., Fall River, MA 02721. Representative: Brian T. Levesque, 72 Hezekiah St., Somerset, MA 02725, (617) 674–2942. Transporting *transportation equipment* in towaway service, between points in NY, NJ, and PA, on the one hand, and, on the other, points in MA, CT, RI, ME, NH, and VT.

MC 147165, filed December 4, 1981, previously noticed in the Federal Register issue of December 18, 1981. Applicant: STEVE FARRAR, P.O. Box 31, Waynesboro, MS 39367. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting (1) *oil field equipment and supplies,* and (2) *pipe,* between points in AL, AR, FL, LA, and MS.

Note.—This republication corrects the commodity description.

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Decided: February 5, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 2228 (Sub-118), filed January 29, 1982. Applicant: RED ARROW FREIGHT LINES, INC., 3901 Sequin Road, P.O. Box 1697, San Antonio, TX 78297. Representative: Arnold L. Burke, 180 North LaSalle Street, Suite 3520, Chicago, IL 60601, (312) 332–5106. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) Between Houston, TX and Huntsville, TX, over US Hwy. 75; (2) Between San Antonio, TX and Victoria, TX, over US Hwy. 87; (3) Between San Antonio, TX and Kenedy, TX, over US Hwy. 181; (4) Between Smithville, TX and Austin, TX, over US Hwy. 71; * (5) deleted intentionally; (6) Between Madisonville, TX and Houston, TX, over US Hwy. 75; (7) Between Fairfield, TX and Dallas, TX, from Fairfield, TX over US Hwy. 84 to Mexia, TX, then over TX Hwy. 14 to Richland, TX, then over US Hwy. 75 to Dallas, TX; (8) Between Waco, TX and Temple, TX, over US Hwy. 81; (9) Between Cameron, TX and Rogers, TX, over US Hwy. 190; (10) Between Waxahachie, TX and Dallas, TX, over US Hwy. 77; (11) Between Dallas, TX and Fort Worth, TX, over US Hwy. 80; (12) Between Dallas, TX and Fort Worth, TX, from Dallas, TX over TX Hwy. 114 to Grapevine, TX, then over TX Hwy. 121 to Fort Worth, TX, restricted against serving intermediate points; (13) Between Brownsville, TX and Beeville, TX, from Brownsville, TX over US Hwy. 83 to Pharr, TX, then over US Hwy. 281 to Alice, TX, then over TX Hwy. 44 to Corpus Christi, TX, then over US Hwy. 181 to Beeville, TX; (14) Between Brownsville, TX and Mission, TX; over US Hwy. 83; (15) Between Pharr, TX and Edinburg, TX, over US Hwy. 281; (16) Between Brownsville, TX and Houston, TX, from Brownsville, TX over US Hwy. 83 to Pharr, TX, then over US Hwy. 281 to Alice, TX, then over TX Hwy. 359 to Skidmore, TX, then over US Hwy. 181 to Beeville, TX, then over US Hwy. 59 to Houston, TX, restricted against serving intermediate points between Alice, TX and Skidmore, TX; (17) Between Houston, TX and LaGrange, TX, from Houston, TX over

US Hwy. 290 to its intersection with TX Hwy. 237, then over TX Hwy. 237 to its intersection with TX Hwy. 159, then over TX Hwy. 159 to LaGrange, TX, restricted to serving only the intermediate points of Park, TX, Rutersville, TX, Oldenburg, TX, Round Top, TX, and the off-route point of Fayetteville, TX; (18) Between Houston, TX and Victoria, TX, over US Hwy. 59; (19) Between Beeville, TX and Houston, TX, over US Hwy. 59, restricted against transporting shipments (A) originating at Victoria, TX, and destined to Houston, TX and intermediate points between Victoria, TX and Houston, TX, and (B) originating at Houston, TX and destined to Victoria, TX and intermediate points between Houston, TX and Victoria, TX; (20) Between San Antonia, TX and Luling, TX, from San Antonio, TX over US Hwy. 81 to San Marcos, TX, then over TX Hwy. 80 to Martindale, TX, then over US Hwy. 142 to Lockhart, TX, then over US Hwy. 183 to Luling, TX; (21) Between San Antonio, TX and Yoakum, TX, from San Antonio, TX over US Hwy. 81 to San Marcos, TX, then over TX Hwy. 80 to Luling, TX, then over US Hwy. 183 to Hochheim, TX, then over TX Hwy. 111 to Yoakum, TX; (22) Between Forth Worth, TX and Burleson, TX, over US Hwy. 81; (23) Between Hillsboro, TX and Mexia, TX, over TX Hwy. 171, restricted against transporting shipments (A) orginating at Dallas, TX and Fort Worth, TX and destined to Malone, TX, Hubbard, TX, Coolidge, TX, Tehuacana, TX and Mexia, TX, and (B) originating at Mexia, TX, Tehuacana, TX, Coolidge, TX, Hubbard, TX, Malone, TX and Hillsboro, TX and destined to Dallas, TX and Forth Worth, TX; (24) Between San Antonio, TX and Houston, TX, from San Antonio, TX over US Hwy. 90 to Seguin, TX, then over US Hwy. Alt. 90 to Gonzales, TX, then over TX Hwy. 97 to Waelder, TX, then over US Hwy. 90 to Columbus, TX, then over TX FM Hwy. 102 to Eagle Lake, TX, then over US Alt. 90 to Houston, TX, restricted against serving intermediate point;

(25) Between Seguin, TX and Waelder, TX, over US Hwy. 90, restricted against serving intermediate points; (26) Between Houston, TX and Rosenberg, TX, over US Hwy. Alt. 90; (27) Between Columbus TX, and San Antonio, TX,, from Columbus TX over US Hwy. 90 to Waelder, TX, then over TX Hwy. 97 to Gonzales, TX, then over US Hwy. Alt. 90 to Seguin, TX, then over Texas FM Hwy. 78 to San Antonio, TX; (28) Between Houston, TX and Madisonville, TX, over US Hwy. 75, restricted against serving intermediate points; (29) Between Coolidge, TX and Waco, TX, from Coolidge, TX over FM Hwy. 73 to Prairie Hill, TX, then over US Hwy. 84 to Waco, TX; (30) Between Wortham, TX and Kosse, TX, over TX Hwy. 14; (31) Between Autsin, TX and Schulenburg, TX, from Austin, TX over TX Hwy. 71 to LaGrange, TX, then over US Hwy. 77 to Schulenburg, TX restricted against transporting shipments (A) originating at Houston, TX and destined to LaGrange, TX, (B) originating at LaGrange, TX and destined to Houston, TX, (C) originating at Austin, TX and intermediate points between Austin, TX and Smithville, TX and destined to Bastrop, TX and Smithville, TX, and (D) originating at Bastrop, TX and Smithville, TX and destined to Austin, TX and intermediate points between Austin, TX and Smithville, TX; (32) Between Robstown, TX and Falfurrias, TX, from Robstown, TX over US Hwy. 77 to Riviera, TX, then over TX Hwy. 285 to Falfurrias, TX; (33) Between Falfurrias, TX and Ben Bolt, TX over US Hwy. 281; (34) Between Victoria, TX and Sinton, TX, over US Hwy. 77; (35) Between Kosse, TX and Bremond, TX, over TX Hwy. 14; (36) Between Gregory, TX and Rosenburg, TX from Gregory, TX over TX Hwy. 35 to West Columbia TX, then over TX Hwy. 36 to Rosenburg, TX, restricted aganist serving the intermediate points between Gregory, TX and Austwell, TX, but restricted against transporting shipments originating at Houston, TX and destined to Bay City, TX and West Columbia, TX; (37) Between Port Lavaca, TX and Victoria, TX, over US Hwy. 87; (38) Between the intersection of TX Hwy. 35 and TX Hwy. 172 and LaWard, TX, over TX Hwy. 172; (39) Between San Manuel, TX and Harlingen, TX, from San Manuel, TX over TX Hwy. 186 to Raymondville, TX, then over US Hwy. 77 to Harlingen, TX, restricted against serving the intermediate points of Raymondville, TX, Lyford, TX, Sebastian, TX and Combes, TX; (40) (A) Between Bremond, TX and LaGrange, TX, from Bremond, TX over TX Hwy. 6 to Hearne, TX, then over US Hwy. 79 to Rockdale, TX, then over US Hwy. 77 to LaGrange, TX, restricted against serving intermediate points, (B) Between Schulenburg, TX and Cuero, TX, from Schulenburg, TX over US Hwy. 77 to Hallettsville, TX, then over US Hwy. Alt. 77 to Cuero, TX, (C) Between Luling, TX and Cuero, TX over US Hwy. 183, restricted in (A), (B) and (C) against transporting shipments including interchange shipments between Dallas, TX, Forth Worth, TX, and Waco, TX, on the one hand, and, on the other, Austin, TX, Bastrop, TX, Houston, TX, San Antonio, TX, Seguin, TX and Smithville, TX; (41) Between Temple, TX and Rogers, TX, over US Hwy. 190; (42) Between Kingsville, TX and the intersection of TX Hwy 141 and US Hwy. 281, over TX Hwy. 141; (43) Between Ennis, TX and Waxahachie, TX over U.S. Hwy. 287; (44) Between Corsicana, TX and Hillsboro, TX over TX Hwy. 22; (45) Between Corpus Christi, TX and Flour Bluff, TX, (A) over Ocean Drive and (B) from Corpus Christi, TX, over South Staples Street to its intersection with Alameda Drive then over Alameda Drive to its intersection with Ocean Drive, then over Ocean Drive to Flour Bluff, TX; (46) Between Houston, TX and LaGrange, TX, from Houston, TX over US Hwy. 90 to Columbus, TX, then over TX Hwy. 71 to LaGrange, TX; (47) Between Austin, TX and Luling, TX, over US Hwy. 183; (48) Between Lockhart, TX and Bastrop, TX, from Lockhart, TX over TX FM Hwy. 20 to its intersection with TX Hwy. 71, then over TX Hwy 71 to Bstrop; (49) Between Fort Worth, TX, and the plantsite of the Consolidated Aircraft Corporation near Lake Worth, TX over US Highways, TX Highways, County Roads and City Streets; (50) Between Cuero, TX and the Brayton Flying Field, Inc. and/or Municipal Airport, over Cheapside Road; (51) Between San Antonio, TX and (A) Kelly Field, Duncan Field, and Camp Normoyle, over Frio City Road, (B) Brooks Field and San Antonio State Hospital over US Hwy. 181, (C) Randolph Field Over Texas FM Hwy. 78, (D) Texas Company Refinery over US Hwy. 81 and (E) United Gas Line Company over US Hwy. 87; (52) Between Austin, TX and CCC Camp MA–3–T, from Austin over US Hwy. 183 to Marshall Ford Dam Road, then over unnumbered county road to CCC Camp MA–3–T;

(53) Between Victoria, TX and Telferner Flying Field, over US Hwy. 59; (54) Between Oblate, TX and (A) Edinburg, TX over TX Hwy. 107, (B) Mission, TX over TX Hwy. 107 and (C) McAllen, TX over TX Hwy. 107 to its intersection with TX Hwy. 336, then over TX Hwy. 336 to McAllen, TX, also serving the off-route points of Monte Cristo, TX and Tri-Cities Airbase; (55) Between Harlingen, TX and US Air Corps Gunnery School, over Rio Hondo Road; (56) Between Houston, TX over US Highways, TX Highways, county roads and city streets, and (A) Deepwater, TX (B) Houston Ship Building Corporation at Irish Bend Island, (C) Shell Refinery, (D) Sinclair Refinery, (E) Pasadena, TX (F) Champion Paper & Fibert Company, (G) Houston Lighting & Power Company Deepwater Plant, (H) Crown Central Petroleum Company, (I) Phillips Petroleum Company, (J) Houston Pipe Line Company, (K) Horton & Horton

Docks and Ship Yards, (L) Sherfield Steel Plant, (M) Ordnance Depot, (N) US Steel and its subsidiaries, (O) Tennessee Coal and Iron Corporation, (P) American Steel and Wire Company, (Q) Morgan Line Docks, (R) Gulf Portland Cement Company, (S) National Tube and Pipe Yard, (T) Gulf Compress, (U) Mayo's Shell Yard, (V) John Young's Shell Yard, (W) Galena Park, TX, (X) American Liberty Pipe Line Company, (Y) Gulf Company Galena Refinery, (Z) General American Tank Storage & Terminal Company, (AA) Texas Company Refinery, (BB) Texas Pipe Line Company, (CC) Galena Signal Oil Company, (DD) Houston Oil Company Galena Refinery, (EE) Maritime Oil Company, (FF) American Petroleum Company, (GG) Haden Lime Plant, (HH) Union Bridge and Construction Company, (II) Channelview, TX, (JJ) The Industry Oil County Specialties Company, (KK) Lincoln Tank Company, (LL) Lowry Oil Tools Company, (MM) York Oil Field Supply Company, (NN) McCullough Tool Company, (OO) Hydril Tool Company, (PP) Mayes Brothers, (QQ) Old Southern Motors Plant (Southern Aircraft Corporations), (RR) Southern Acid & Sulphur Company, (SS) Hake Tool Company, (TT) General Metals Corporation, (UU) Pittsburg Plate Glass Company, (VV) Industrial Engineering Company, (WW) Municipal Airport, (XX) Emsco Derrick and Equipment Company, (YY) Houston Textile Mills, (ZZ) Mission Manufacturing Company, (AAA) McMurray Refinery, (BBB) Williams Brothers, (CCC) Spencer Hardware Company, (DDD) Watson Brothers Variety Store and (EEE) Texas Cresote Company; (57) Between Ganado TX and LaWard, TX, over Texas Hwy. 172; (58) Between LaWard, TX and Lolita, TX, over Texas FM Hwy. 616; (59) Between Waco, TX over US Highways, TX Highways, county roads and city streets and (a) the new Airport, (B) Owens-Illinois Glass Plant, (C) Veteran's Hospital, (D) Beverly Hills, TX, (E) Borden Plant, (F) Municipal Airport, and (G) Bosqueville, TX; (60) Between San Antonio, TX, over US Highways, TX Highways, county roads and city streets, and (A) William K. Holt Machinery Company, (B) Camp Bullis, TX, (C) Camp Stanley, TX, (D) Leon Springs, TX, (E) United Gas Pipe Line Company and (F) San Antonio Municipal Airport; (61) Between Austin, TX and the plantsite of the Magnesium Plant, from Austin, TX over US Hwy. 183 to unnumbered county road, then over unnumbered county road to the plantsite Magnesium Plant; (62) Between Bastrop, TX and Camp Swift, TX, over TX Hwy. 95; (63) Between Fort Worth, TX and the plantsite of Globe Aircraft Corporation, over US Hwy. 81; (64) Between Waco, TX and the plantsite of Bluebonnet Ordnance Plant, from Waco, TX over US Hwy. 84 to McGregor, TX, then over Texas Hwy. 317 to the plantsite of the Bluebonnet Ordnance Plant; (65) Between Kingsville, TX and Naval Air Station P–4, over unnumbered county road; (66) Between Temple, TX and Temple Municipal Airport, over Texas Hwy. 36; (67) Between Alice, TX and Alice Municipal Airport, over US Hwy. 59; (68) Between Beeville, TX and Beeville Municipal Airport, over Texas Hwy. 202; (69) Between San Marcos, TX and San Marcos Flying Field, over US Hwy. 81; (70) Between Cuero, TX and Goliad, TX, over US Hwy. 183; (71) Between Corpus Christi, TX and all industrial sites and plants located within a ten-mile radius of the corporate limits of Corpus Christi, TX; (72) Between Harlingen, TX and San Benito, TX, over US Hwys. 77 and 83; (73) Between Waco, TX LaGrange, TX, over US Hwy. 77, restricted against transporting shipments (A) between Waco, TX, on the one hand, and, on the other, Rockdale, TX and intermediate points between Waco, TX and Rockdale, TX and (B) between intermediate points located between Waco, TX and Rockdale, TX; (74) Between Hillsboro, TX and Waco, TX, over US Hwy 81, restricted against serving intermediate points; (75) Between Austin, TX and Temple, TX, over US Hwy. 81, restricted against serving intermediate points; (76) Between Austin, TX and San Marcos, TX, over US Hwy. 81, restricted against serving intermediate points; (77) Between Waco, TX and Hillsboro, TX, over US Hwy. 77, restricted against serving intermediate points; (78) Between Hillsboro, TX and Waxahachie, TX, over US Hwy. 77, restricted against serving intermediate points; (79) Between Hillsboro, TX and Burleson, TX, over US Hwy. 81, restricted against serving intermediate points; (80) Between Brenham, TX and Cameron, TX, over TX Hy, 36, serving Brenham as a point of joinder only and restricted against serving intermediate points; (81) Between Temple, TX and Fort Hood, TX, over US Hwy. 190, restricted against serving intermediate points; (82) Between Madisonville, TX and Richland, TX, over US Hwy. 75; (83) Between Dew, TX and Teague, TX, over TX Hwy. 179; (84) Between Victoria, TX and E. I. DuPont Plant, over TX FM Hwy, 404 and unnumbered County roads; (85) Between Waco, TX and Belton, TX, from Waco, TX over US Hwy. 84 to McGregor, TX, then over TX Hwy. 317 to Belton, TX, restricted against serving intermediate points; (86) Between Temple, TX and the intersection of TX Hwy. 36 and TX Hwy. 317, over TX Hwy. 36, serving the intersection of TX Hwy 36 and TX Hwy. 317 as a point of joinder only and restricted against serving intermedate points; (87) Between Goliad, TX and Refugio, TX, over US Hwy. 183, restricted against serving intermediate points; (88) Between Victoria, TX and Helen Gohlke Field, from Victoria, TX over TX FM 295 to Fordtran, TX, then over unnumbered county road to Helen Gohike Field; (89) Between Port Isabel, TX and the intersection of TX Hwy. 100 and U.S. Hwy. 77, over TX Hwy. 100; (90) Between Harlingen, TX and Edinburg, TX, from Harlingen, TX over US Hwy. 77 to Primera Road, then over Primera Road to Primera, TX, then over Wilson Road to its intersection with TX Hwy. 107, then over TX Hwy. 107 to Edinburg, TX; (91) Between Rockdale, TX and Sandow, TX, (A) from Rockdale over US Hwy. 77 and unnumbered county road to Sandow, TX and (B) from Rockdale, TX over US Hwy. 79 and unnumbered county road to Sandow, TX, restricted in (A) and (B) to serving only the intermediate plantsites of (1) Aluminum Company of America, (2) McAlester Fuel Company, (3) Lignite Mines and (4) Texas Power and Light Company; (92) Between Fort Worth, TX and Waxahachie, TX, over US Hwy. 287, restricted against serving intermediate points; (93) Between Long Mott, TX and E. I. DuPont Plant, from Long Mott, TX over Texas Hwy. 185 to its intersection with TX FM Hwy. 404 to E. I. DuPont Plant, restricted to serving only the intermediate plantsites of Carbide and Carbon Chemicals Corporation and United Carbon and Carbide; (94) Between Calallen, TX and Central Power & Light Company Lon Hill Plant, over Texas Hwy. 9, restricted against serving intermediate points; (95) Between Brownsville, TX and Port Isabel, TX, over TX Hwy. 48; (96) Between Port Lavaca, TX and Port O'Connor, TX, from Port Lavaca, TX over TX Hwy. 238 to its intersection with TX Hwy. 185, then over TX Hwy. 185 to Port O'Connor, TX; (97) Between Long Mott, TX and Port O'Connor, TX, over TX Hwy. 185; (98) Between the intersection of TX FM Hwy. 1289 and TX Hwy. 238 and Port O'Connor, TX, from the intersection of TX FM Hwy. 1289 and TX Hwy. 238 over TX FM Hwy. 1289 to its intersection with TX Hwy. 185, then over TX Hwy. 185 to Port O'Connor, TX; (99) Between Beeville, TX and Kenedy, TX; over US Hwy. 181,

restricted against serving intermediate points; (100) Between Corpus Christi, TX and Tivoli, TX, over TX Hwy. 35; (101) Between San Marcos, TX and Karnes City, TX, over TX Hwy. 123, restricted to serving only the intermediate points of Seguin, TX and Stockdale, TX; (102) Between Hallettsville, TX and Victoria, TX, over US Hwy. 77, restricted against serving intermediate points; (103) Between Austin, TX and the plantsites of Adams Extract Company and Carnation Company, over US Hwy. 81; (104) Between Dallas, TX and Fort Worth, TX, over (A) TX Hwy. 183 and (B) TX Hwy. 356; (105) Between Houston, TX and Lynchburg, TX, from Houston, TX over TX Hwy. 235 to its intersection of TX Hwy. 134, then over TX Hwy. 134 to Lynchburg, TX, restricted to serving only the intermediate plantsites of Celanese Corporation of America and W. M Kellogg Company; (106) Between Harlingen, TX and the intersection of US Hwy. 77 and TX FM Hwy. 510, from Harlingen, TX over TX FM Hwy. 106 to Rio Hondo, TX, then over TX FM Hwy. 803 to its intersection with TX FM Hwy. 510, then over TX FM Hwy. 510 to its intersection with US Hwy. 77, restricted to serving only the intermediate point of the Naval Auxilary Landing Field; (107) Between Goliad, TX and Kenedy, TX, over TX Hwy. 239, restricted against serving intermediate points; (108) Between San Antonio, TX and Medina Air Force Base, over TX Loop Hwy. 13; (109) Between San Antonio, TX and Alice, TX, over US Hwy. 281, restricted against serving intermediate points; (110) Between San Antonio, TX and Corpus Christi, TX, from San Antonio, TX over US Hwy. 281 to its intersection with TX Hwy. 9, then over TX Hwy. 9 to Corpus Christi, TX, restricted against serving intermediate points; (111) Between Dallas, TX and Fort Worth, TX, over Interstate Hwy. 30; (112) Between Conroe, TX and Youens, TX, from Conroe, TX over TX Hwy. 105 to its intersection with TX FM Hwy. 1485, then over TX FM Hwy. 1485 to Youens, TX, also serving the off-route plantsites of Gulf Oil Corporation and Columbian Carbon Company; (113) Between El Campo, TX and the intersection of TX Hwy. 71 and TX Hwy. 35, over TX Hwy. 71; (114) Between Columbus, TX and El Campo, TX, over TX Hwy. 71, restricted against serving intermediate points; (115) Between Midfield, TX and Edna, TX, over TX Hwy. 111, restricted against serving intermediate points; (116) Between Kingsville, TX and the King Ranch Gas Plant of the Humble Oil & Refinery Company, over TX Hwy. 141; (117) Between the intersection of TX FM Hwy. 791 and US Hwy. 181 and the plantsite of Susquehanna Western, from the intersection of TX FM Hwy. 791 and US Hwy. 181, over TX FM Hwy. 791 to its intersection with unnumbered county road, then over unnumbered county road to the plantsite of Susquehanna Western, restricted against serving intermediate points; (118) Between New Braunfels, TX and Seguin, TX, over TX Hwy. 46, restricted against serving intermediate points; (119) Between Bay City, TX and the plantsite of Celanese Company over Heubner Road, restricted against serving intermediate points; (120) Between Houston, TX and the National Aeronautics and Space Administration Manned Spacecraft Center, from Houston, TX over US Hwy. 75 to its intersection with TX NASA Hwy. 1, then over TX NASA Hwy. 1 to the National Aeronautics and Space Administration Manned Spacecraft Center, restricted against serving intermediate points; (121) Between Houston, TX and West Columbia, TX, from Houston, TX over TX Hwy. 288 to Angleton, TX, then over TX Hwy. 35 to West Columbia, TX, serving West Columbia, TX as a point of joinder only and restricted against serving intermediate points; (122) Between Corsicana, TX and the intersection of TX Hwy. 31 and US Hwy. 84, over TX Hwy. 31, restricted to serving only the intermediate point of Hubbard, TX; (123) Between Brenham, TX and Bay City, TX, from Brenham, TX over TX Hwy. 36 to Wallis, TX, then over TX Hwy. 60 to Bay City, TX, serving Brenham, TX as a point of joinder only and restricted against serving intermediate points; (124) Between Austin, TX and Palestine, TX, from Austin, TX over US Hwy. 81 to Round Rock, TX, then over US Hwy. 79 to Palestine, TX, restricted against serving intermediate points; (125) Between Huntsville, TX and (A) Shiro, TX, over TX Hwy. 30, (B) Oakhurst, TX over US Hwy. 190, and (C) Corsicana, TX, from Huntsville, TX over TX Hwy. 19 to Palestine, TX, then over US Hwy. 287 to Corsicana, TX; (126) Between Trinity, TX and Groveton, TX, over TX Hwy. 94; (127) Between Crockett, TX and Midway, TX, over TX Hwy. 21; (128) Between Midway, TX and Madisonville, TX, over TX Hwy. 21, restricted against serving intermediate points; (129) Between Palestine, TX and Waco, TX, from Palestine, TX over US Hwy. 84 to Mexia, TX, then over TX Hwy. 171 to Coolidge TX, then over TX FM Hwy. 73 to Prairie Hill, TX, then over US Hwy 84 to Waco, TX; (130) Between Lovelady, TX and Eastham Farm of the Texas Prison System, from Lovelady, TX over TX FM, Hwy. 230 to Weldon, TX, then over unnumbered county road to Eastham Farm of the Texas Prison System; (131) Between Trinity, TX and Weldon, TX, over TX FM Hwy. 1893; (132) Between Fairfield, TX and Big Brown Steam Electric Station, from Fairfield, TX over (A) US Hwy. 84 and (B) TX FM Hwy. 488 to their intersections with TX FM Hwy. 1124, then over TX FM Hwy. 1124 to its intersection with County Road 25, then over County Road 25 to its intersection with County Road 30, then over County Road 30 to Big Brown Steam Electric Station; (133) Between Dallas, TX and Longview, TX, over Interstate Hwy. 20, restricted against serving the intermediate point of Terrell, TX and the intermediate points between Dallas, TX and Terrell, TX, transporting shipments between Dallas, TX and Terrell, TX; (134) Between Tyler, TX and (A) the intersection of US Hwy. 69 and Interstate Hwy. 20, over US Hwy 69 and (B) the intersection of US Hwy. 271 and Interstate Hwy. 20, over US Hwy. 271; (135) Between Kilgore, TX and (A) the intersection of TX Hwy. 135, and Interstate Hwy. 20 over TX Hwy. 135 (B) the intersection of TX Hwy. 42, and Interstate Hwy. 20, over TX Hwy. 42 and (C) the intersection of US Hwy. 259 and Interstate Hwy. 20, over US Hwy. 259; (136) Between Tyler, TX and Corsicana, TX, over TX Hwy. 31, restricted against serving intermediate points; (137) Between Athens, TX and Palestine, TX, over TX Hwy. 19, serving Athens as a point of joinder only and restricted against serving intermediate points; (138) Between Tyler, TX and Palestine, TX, over TX Hwy. 155, restricted against serving intermediate points; (139) (A) Between San Antonio, TX and Fort Worth, TX, from San Antonio, TX over Interstate Hwy. 35 to its intersection with Interstate Hwy. 35W, then over Interstate Hwy. 35W to Fort Worth, TX, (B) Between San Antonio, TX and Dallas, TX, from San Antonio, TX over Interstate Hwy. 35 to its intersection with Interstate Hwy. 35E, then over Interstate Hwy. 35E to Dallas, TX, (C) Between Dallas, TX and Houston, TX, over Interstate Hwy. 45, (D) Between San Antonio, TX and Houston, TX, over Interstate Hwy. 10, and (E) Between San Antonio, TX and Corpus Christi, TX, over Interstate Hwy. 37, restricted in (A) through (E) to serving intermediate points to which service is presently authorized; (140) Between Olmito, TX and the intersection of TX FM Hwy. 511 and TX Hwy. 48, over TX FM Hwy. 511; (141) Between Seguin, TX and the plantsite of Motorola, Inc., over TX Hwy. 123, restricted against serving intermediate points; (142) Between

Palestine, TX and the plantsite of Aluminum Company of America, over US Hwy. 79, restricted against serving intermediate points; (143) Between Houston, TX and the plantsite of Western Electric Corporation, from Houston, TX over Interstate 10 to its intersection with Mason Road, then over Mason Road to the plantsite of Western Electric Corporation; (144) Between Bay City, TX and the South Texas Nuclear Power Plant (A) from Bay City, TX over TX Hwy. 60 to Wadsworth, TX, then over TX FM Hwy. 521 to the South Texas Nuclear Power Plant, restricted to serving only the intermediate points located on TX FM Hwy. 521, and (B) from Bay City, TX over TX Hwy. 60 to its intersection with TX FM Hwy. 2668, then over TX FM Hwy. 2668 to its intersection with TX FM Hwy. 521, then over TX FM Hwy. 521 to the South Texas Nuclear Power Plant; (145) Between the South Texas Nuclear Power Plant and the intersection of TX FM Hwy. 521 and TX Hwy. 35, over TX FM Hwy. 521; (146) Between Fort Worth, TX and Abilene, TX (A) from Fort Worth, TX over Interstate Hwy. 30 to its intersection with Interstate Hwy. 20, then over Interstate Hwy. 20 to Abiline TX, and (B) over Interstate Hwy. 20, restricted in (A) and (B) against serving intermediate points; (147) Between the Limestone Electric Generating Station and (A) Mexia, TX, over TX FM Hwy. 39, (B) Centerville, TX, from the Limestone Electric Generating Station over TX FM Hwy. 39 to Robbins, TX, then over TX Hwy. 7 to Centerville, TX, (C) Groesbeck, TX from the Limestone Electric Generating Station over TX FM Hwy. 39 to Personville, TX, then over TX Hwy. 164 to Groesbeck, TX, (D) Teague, TX, over TX FM Hwy. 80, and (E) Buffalo, TX, from Limestone Electric Generating Station over TX FM Hwy. 80 to Donnie, TX, then over TX Hwy. 164 to Buffalo, TX, restricted in (A) through (E) against serving intermediate points. Condition: Issuance of a certificate in this proceeding is subject to prior to coincidental cancellation, at applicant's written request, of its Certificates of Registration in MC 2226 Sub Nos. 94, 100, 102, 106, 107, 109, 111, 112, 116, and 117.

Note.—The purpose of this application is to convert applicant's presently held Certificates of Registration to Certificates of Public Convenience and Necessity. Applicanat intends to continue tacking the involved authority with other authority it presently holds.

MC 111930 (Sub-32), filed January 29, 1982. Applicant: MURROW'S TRANSFER, INC., P.O. Box 4094, High Point, NC 27263. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St., NW, Washington, DC 20001, (202) 628–9243. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, IL, IN, KY, MD, MI, NC, OH, SC, TN, VA, WV, WI, and DC.

MC 123476 (Sub-77), filed February 1, 1982. Applicant: CURTIS TRANSPORT, INC., P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transporting *rubber and plastic products*, between points in St. Louis County, MO, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 123916 (Sub-21), filed February 1, 1982. Applicant: GROVE CITY BUS LINES, INC., P.O. Box 31, Grove City, PA 16127. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, beginning and ending at points in FL, and extending to points in the U.S., including AK, but excluding HI.

MC 136636 (Sub-9), filed January 28, 1982. Applicant: AMERICAN CONTINENTAL TRANSPORT, INC., Route 1, Chebanse, IL 60922. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *metal products, machinery, and lumber and wood products*, between points in DeKalb and Woodford Counties, IL, Walworth County, WI, and Poweshiek County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138736 (Sub-17), filed January 29, 1982. Applicant: FBM TRUCKING, INC., P.O. Box 513, Hwy. 54 E, Fayetteville, GA 30214. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of juvenile products, between Los Angeles, CA, on the one hand, on the other, points in the U.S. (except AK and HI).

MC 156536 (Sub-1), filed January 28, 1982. Applicant: RISER TRANSPORTATION, INC., Rt. 4, Box 2, Keithville, LA 71047. Representative: Raymond R. Riser (same address as applicant), (318) 925–9079. Transporting *liquefied petroleum products*, between points in the U.S., under continuing contract(s) with Trio Energy Company, of Shreveport, LA.

MC 160116, filed January 29, 1982. Applicant: CT TRANSPORTATION, INC., a division of CARBO THERM, LTD., 3955 High St., Denver, CO 80205. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203, (303) 839–0057. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Rustco Products Co., of Denver, CO; (2) *machinery*, between points in the U.S., under continuing contract(s) with Murray Equipment Company, of Denver, CO; and (3) *carbon dioxide*, between points in the U.S., under continuing contract(s) with Carbo Therm, Ltd., of Denver, CO.

Volume No. OP4–42

Decided: February 4, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146927 (Sub-27), filed January 29, 1982. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *paper and paper products*, between points in the U.S.

MC 155667, filed February 1, 1982. Applicant: STEWART CARTAGE CO., 61 S. Mitchell Court, Addison, IL 60101. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60018, (312) 298–1094. Transporting *printed matter*, between points in the U.S., under continuing contract(s) with R. R. Donnelley & Sons Company, Chicago, IL.

MC 159217, filed February 1, 1982. Applicant: DOCKSIDE LINEMEN, INC., P.O. Box 4250, New Orleans, LA 70178. Representative: Jo E. Konneker, P.O. Box 1955, Kenner, LA 70063, (504) 469–9483. Transporting *machinery* and *such commodities* as are used on ships, between New Orleans, LA, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, TN, and TX.

MC 160247, filed January 25, 1982. Applicant: L.A. TRUCKING AND MOVING SERVICES CO., 2181 E. 25th St., Vernon, CA 90058. Representative: Rudy Cortez (same address as applicant), (213) 582–1757. Transporting *furniture and upholstery*, between points in the U.S., under continuing contract(s) with Sheffield Chair Co., of Vernon, CA.

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Decided: February 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 61396 (Sub-398), filed January 29, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box

82028, Lincoln, NE 68501, (402) 475–6761. Transporting *liquid argon, liquid oxygen, liquid nitrogen,* and *compressed gases,* between points in the U.S.

MC 93586 (Sub-4), filed February 1, 1982. Applicant: LOREN O. THOMAS d.b.a. LOREN THOMAS & SONS, Route 3, New Richmond, WI 54017. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *dry bulk fertilizer,* between Minneapolis, MN, and points in Dakota and Winona Counties, MN, on the one hand, and, on the other, points in St. Croix County, WI.

MC 143776 (Sub-42), filed February 1, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting *plastic film and sheeting,* between points in the U.S., under continuing contract(s) with Borden Chemical Company, Division of Borden, Incorporated, of N. Andover, MA.

MC 151736 (Sub-2), filed October 13, 1981, previously noticed in the **Federal Register** issue of October 30, 1981, and republished this issue. Applicant: MANCHESTER MOVERS, INC., 85 Colonial Rd., Manchester, CT 06040. Representative: Frank N. Serignese (same address as applicant), (203) 646–3333. Transporting *household goods,* between points in CT, KY, MI, IL, IN, TN, AL, and OH.

Note.—The purpose of this republication is to include the state of KY previously omitted in the Federal Register.

MC 154986 (Sub-1), filed February 1, 1982. Applicant: DIRECT LINES, INC., 302 Hawthorne Dr., Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5466. Transporting *printed matter,* between points in Effingham, Jefferson, Randolph and Marion Countries, IL, on the one hand, and, on the other, points in the U.S.

MC 158896, filed February 1, 1982. Applicant: TENNESSEE TRUCK SERVICE, INC., P.O. Box 181067, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103 (901) 526–4114. Transporting *insulation and wire products,* between points in Cuyahoga County, OH, and Shelby County, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, TN, TX, and WV.

MC 159946 (Sub-1), filed February 1, 1982. Applicant: DARWIN D. COOK AND JACK KIDD, JR. d.b.a. KIDD COOK CARRIERS, 1814 E. Mead, Union Gap, WA 98903. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210 (503) 226–3755. Transporting *food and related products,* between points in Whatcom and Skagit Counties, WA, on the one hand, and, on the other, points in CA.

MC 160286, filed February 1, 1982. Applicant: GRAY WAYNE RUSHING, d.b.a. CHUCKWAGON TRUCKING CO., P.O. Box 542, Cold Springs, TX 77331. Representative: Claude W. Ferebee, 3910 F.M. 1960 W., Suite 106 Houston, TX 77068 (713) 537–6156. Transporting *construction equipment, materials and supplies,* between the facilities used by UMC, Inc., at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 160336, filed January 29, 1982. Applicant: ROY H. WINSLOW, 828 So. 500 East #5, Salt Lake City, UT 84102. Representative: Roy H. Winslow (same address as appliant) (801) 521–0558. Transporting *machinery, between points in the U.S., under continuing contract(s) with Wheeler Machinery Co., of Salt Lake City, UT, ICM Equipment Sales & Rental, of Salt Lake City, UT, Lakeshore Inc., of Murray, UT, Santa Fe Equipment Co., of N. Salt Lake, UT, and Gilbert Western Corp., of Salt Lake City, UT.*

MC 160346, filed February 1, 1982. Applicant: HAMMOCK MOVING & STORAGE CO., 5 Mall Terrance, Oglethorpe Commercial Park, Savannah, GA 31406. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229 (804) 282–3809. Transporting *household goods, furniture and fixtures,* between points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-3983 Filed 2-12-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 231]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 9, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.
Agatha L. Mergenovich,
Secretary.

MC 8575 (Sub-9)X, filed February 1, 1982. Applicant: FERGUSON VAN LINES, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Sub-7 certificate, broaden household goods to "household goods, and furniture and fixtures."

MC 7971 (Sub-1)X, filed January 25, 1982. Applicant: AMERICAN SECURITY VAN LINES, INC., 1824 Briarwood Industrial Ct., N.E., Atlanta, GA 30329. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. Lead and Subs 8 and 9G certificates: broaden to (A)(1) "household goods and furniture and fixtures, and materials, equipment and supplies used in the manufacture, sale and distribution of furniture and fixtures," from household goods, all Subs; and (2) "food and related products, printed matter, furniture and fuxtures, and miscellaneous products of manufacturing" from bakery goods, advertising matter, and display racks, lead; (B) county-wide authority: (1)(a) Atlanta, GA, and points within 135 miles thereof (points in GA in and north of Richmond, Burke, Jefferson, Johnson, Laurens, Dodge, Wilcox, Crisp, Lee, Terrell, Randolph and Quitman Counties; points in AL in and east of Barbour, Bullock, Montgomery, Elmore, Coosa, Shelby, Jefferson, Blount, Marshall and Jackson Counties; points in TN in and south of Lincoln, Moore, Coffee, Warren, White, Cumberland, Morgan, Anderson, Knox, Sevier, and

Cocke Counties; and points in SC in and west of Greenville, Laurens, Saluda, Edgefield and Aiken Counties, lead; and (b) Jersey City, Newark, Paterson and Perth Amboy, NJ, and Mt. Vernon, NY (Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union Counties, NJ, and Bronx, New York and Westchester Counties, NY), lead; and (2) Fort Smith, AR (Crawford and Sebastian Counties, AR, and Le Flore and Sequoyah Counties, OK, Sub 8; and (C) radial authority between New York, NY, and counties in NJ and NY, lead.

MC 110581 (Sub-10)X, filed January 27, 1982. Applicant: G & H MOTOR FREIGHT LINES, INC., 118 S.E. Jackson Street, Greenfield, IA 50849. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. Lead and Subs 4 and 7: (1) broaden general commodities (with exceptions) to "general commodities (except classes A and B explosives)", lead and Subs 4 and 7, and new furniture, batteries, lubricating oils and greases, in containers, and packinghouse products to "furniture and fixtures, electrical machinery or equipment or supplies, petroleum or coal products, and food and related products," Sub 4; (2) change one-way regular route authority to two-way authority, Sub 4, and allow service at all intermediate points, lead and Subs 4 and 7; (3) change off-route points (regular routes) to counties: Orient and Bridgewater, IA (Adair County) and Massena, IA (Cass County), lead; and Cumberland, Griswold, and Massena, IA (Cass County) and Bridgewater, IA (Adair County), Sub 4; and (4) broaden Greenfield, IA and points within 25 miles of Greenfield (irregular route) to Adair, Madison, Dallas, Guthrie, Audubon, Cass, Adams, and Union Counties, IA, Sub 4.

MC 35320 (Sub-664)X, filed February 1, 1982. Applicant T.I.M.E.-DC, Inc., 2598 74th Street, P.O. Box 2550 Lubbock, TX 79408. Representative: John T. Coon (same address as applicant). Sub 135: (1) broaden general commodities (with exception) to "general commodities (except Classes A and B explosives)"; and (2) allow service at all intermediate points (except alternate routes); and (3) eliminate the territorial restriction requiring that traffic moving from, to or through Cincinnati, OH.

MC 114949 (Sub-6)X, filed January 26, 1982. Applicant: T & E TRUCKING, INC., P.O. Box 342, Clarksville, VA 23927. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048-0840. Sub 5 permit, broaden: (1) from lumber and pallets to "lumber and wood products, pulp paper and related products, rubber and plastic products, metal products and machinery" and from lumber to "lumber and wood products", (2) remove exception of plywood, and (3) to "between points in the United States" with unnamed shippers in the first part and named shippers in parts 2 & 3.

MC 120981 (Sub-39)X, filed January 29, 1982. Applicant: BESTWAY EXPRESS, INC., 520 Lester Ave., Nashville, TN 37210. Representative: George M. Catlett, Suite 700-702, McClure Bldg., Frankfort, KY 40610. Subs 2, 5, 10, 12, 16, 20, 22, 23, 27F, 29F, 30F, 31F, and 32F certificates: (A) broaden to all intermediate points on its regular routes, Subs 2, 5, 10, 12, 16, 22 (part 1), 23, 27F (part 1), 29F (part 1), and 32F (part 1); (B) remove (1) restriction prohibiting or limiting service to the transportation of traffic (a) between from or to named points, Subs 2, 5, and 22 (part 1); (b) originating at, destined to, or interchanged at named points, Subs 2, 12, 22 (part 2), and 23; (2 plantsite restriction, Subs 20 and 30F; and (3) joinder restriction, Subs 2 and 29F; and (C) broaden off-route point to county-wide authority; Madison County, MS (facilities-Canton), Sub 31F.

MC 143502 (Sub-2)X, filed January 26, 1982. Applicant: G & M AUTO COMPANY, INC., 7224 Euclid Ave., Cleveland, OH 44103. Representative: Andrew J. Burkholder, 275 East State St., Columbus, OH 53215. Lead and Sub 1, remove restrictions requiring use of wrecker equipment only and broaden from wrecked, disabled and repossessed motor vehicles except trailers designed to be drawn by passenger automobiles and replacement vehicles for wrecked or disabled motor vehicles for wrecked or disabled motor vehicles (except trailers designed to be drawn by passenger automobiles) "transportation equipment."

MC 146561 (Sub-4)X, filed February 3, 1982. Applicant: L.M.T., INC. 15005 Faulkner Road, Santa Paula, CA 93060. Representative: William J. Monheim, P.O. Box 1756. Whittier, CA 90609. Sub 3F certificate, broaden to "(1) food and related products, (2) materials, equipment and supplies used in the manufacture and distribution of such commodities," from foodstuffs, and materials, equipment and supplies.

MC 147201 (Sub-3)X, filed January 28, 1982. Applicant: MARLOR ENTERPRISES, LTD., 17-1583 Pemberton St., N. Vancouver, BC, Canada V7P2S4. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. No. MC-147201 (Sub-2F) certificate and No. MC-145099 (Sub-3F) permit: broaden to (1)(a) "ores and minerals" from chicoite, Sub 2F, and (b) "petroleum, natural gas, and their products" from pipe coating, Sub 3F; (2) county-wide authority: Kern County, CA (facilities-Taft and McKittrick), Sub 2F; and, (3) between points in the U.S., under continuing contract(s) with a named shipper, Sub 3F.

MC 150294 (Sub-5)X, filed February 1, 1982. Applicant: CORBIN TRUCKING CO., INC., R. R. No 2, Manhattan, IL 60442. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Subs 1 and 2. Sub 1, broaden equipment, materials and supplies used in the construction, relocation, maintenance or repair of pipe lines, pipe line facilities or refineries, to "such commodities as are used in the construction, relocation, maintenance or repair of pipe lines, pipe line facilities or refineries"; and Joliet facility to Will County, IL; Sub 2, broaden steel and metal products to "metal products", and Bensenville and Schaumburg facilities to Cook and Du Page Counties, IL.

MC 151316 (Sub-4)X, filed February 3, 1982. Applicant: AERO DISTRIBUTING CO., INC., 60 NW 37th St., Miami, FL 33127. Representative: Mark S. Gray, 235 Peachtree St. NE, Atlanta, GA 30303. MC 142668 Sub-Nos. 7F, 13F, 18F, 20F, 21F permits: broaden beetwen points in the U.S. (except AK & HI) under continuing contract(s) with named shippers in all Subs.

MC 153034 (Sub-2)X, filed February 1, 1982. Applicant: L.C.W. TRANSPORTATION SERVICE, INC., 119 E. Chavez, Edinburg, TX 78539. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Sub 1 permit, broaden: (1) paper and paper products, and corrugated paper sheets, to "pulp, paper and related products", and materials, equipment and supplies used in the manufacture thereof"; (2) to between points in the U.S. under continuing contract(s) with named shippers.

[FR Doc. 82-3982 Filed 2-13-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions,

the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 26, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C, 20213.

Signed at Washington, D.C., this 8th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Fisher Controls International, Inc., Corsopolis Plant (USWA).	Corsopolis, Pa	1/25/82	1/22/82	TA-W-13,197	Valves—butterfly, industrial.
G & M Fashions (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,198	Raincoats—ladies.
Jones & Laughlin Steel Corp. (USWA)	Louisville, Ohio	1/19/82	1/11/82	TA-W-13,199	Sheet and coils, steel—stainless.
National Garment Co. (company)	Hammonton, N.J	1/28/82	1/22/82	TA-W-13,200	Blazers and suits—ladies.
Phelps Dodge Corp. (USWA)	Morenci, Ariz	2/3/82	1/28/82	TA-W-13,201	Copper—mine, concentrate and smelter.
Roanoke Dress Corp. (workers)	Roanoke, Va	1/29/82	1/22/82	TA-W-13,202	Dresses, skirts, stretched pants—ladies.
U.S. Steel Corp., Edgar Thomson-Irvin Works (USWA).	No. Braddock and Dravesburg, Pa. Plants.	1/12/82	1/8/82	TA-W-13,203	Sheet, strip steel, rolled cold rolled, sheet and strip hot rolled products, tin, mill, steel—electrical, silicon, steel—finished—semi.
Wheeling Machine Products Co. (USWA)	Wheeling W. Va	1/27/82	1/21/82	TA-W-13,204	Couplings—pipe, fittings—pipe.
Bayly Manufacturing Company (ACTWU)	Yakima, Wash	1/25/82	1/14/82	TA-W-13,205	Jeans and light corduroys—men's.
Bomar Crystal Co. (company)	Middlesex, N.J	1/26/82	1/20/82	TA-W-13,206	Quartz crystals.
Brooks Shoe Manufacturing Co., Inc., (workers)	Hanover, Pa	2/4/82	2/1/82	TA-W-13,207	Sells and distributes athletic shoes made in Puerto Rico.
Doreen Fashions (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,208	Raincoats—ladies.
Fashion Specialties (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,209	Sportswear—ladies.
J.V. Components, Inc. (workers)	Conway, N.H	1/29/82	1/24/82	TA-W-13,210	Molds soles—shoes, molded, injection.
Kaiser Aluminum & Chemical Corp. (USWA)	Ravenswood, W. Va	1/29/82	1/15/82	TA-W-13,211	Aluminum, primary sheets, plate, foil stock aluminum, fabricate.
Lisa Dress Co., Inc. (ILGWU)	East Orange, N.J	1/28/82	1/25/82	TA-W-13,212	Dresses—ladies.
Phillips ECG, Inc. (USWA)	Seneca Falls, N.Y	1/20/82	1/13/82	TA-W-13,213	Tubes—picture color for TV and other products.
Reynolds Aluminum Building Products (USWA)	Stratford, Conn	1/11/82	1/7/82	TA-W-13,214	Shingles—roofing, asphalt.
Tivonna Fashions, Inc. (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,215	Raincoats—ladies.
Paula Lawrence, Ltd. (workers)	New York, N.Y	1/20/82	1/15/82	TA-W-13,216	Coats and jackets, down, poly filled—coats wool.
Phoenix Sportswear, Inc. (ILGWU)	New York, N.Y	1/5/82	12/30/81	TA-W-13,217	Dresses—ladies.
Washington Steel Corp. (USWA)	Washington, Pa	1/20/82	1/8/82	TA-W-13,218	Coils, sheets, plates, slab, strip—steel, stainless finishes.
Washington Steel Corp. (USWA)	Houston, Pa	1/20/82	1/8/82	TA-W-13,219	Coils, sheets, plates, slab, strip—steel, stainless.

[FR Doc. 82-3885 Filed 2-12-82; 8:45 am]

BILLING CODE 4510-30-M

National Advisory Committee on Oceans and Atmosphere

Meeting

February 10, 1982.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, March 1 and 2, 1982. The meetings will be held in Rooms 418 and B-100, Page Building 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, March 1, 1982

9:00 a.m.-9:15 a.m.—Plenary
9:00 a.m.-9:15 a.m.—Announcements
9:15 a.m.-12:00 Noon—Panel Meeting

- Waste Management, Chairman: John Knauss (Room 418), Topic: Worksession-Position for Testimony

12:00 Noon-1:00 p.m.—Lunch
1:00 p.m.-4:30 p.m.—Panel Meetings
1:00 p.m.-3:00 p.m.

- Weather Services, Chairman: Warren M. Washington, (Room B-100), Topic: Work session-Draft Report

- U.S. Coast Guard, Chairman: Michael R. Naess, (Room 418), Topic: Legislative Origin of Missions and Budget History

4:30 p.m.—Recess

Tuesday, March 2, 1982

8:30 a.m.–11:00 a.m.—Panel Meeting
- Environment and Regulations, Co-Chairman: Sylvia A. Earle, Michael R. Naess, (Room 418), Topic: Clean Water Act—Section 404, Speakers: TBA

11:00 a.m.–12:00 Noon—Plenary
- Reorganization of the National Oceanic and Atmospheric Administration, John V. Byrne, Administrator

12:00 Noon–1:00 p.m.—Lunch

1:00 p.m.–3:00 p.m.—Plenary
- Review of Action Items
- Panel Progress Reports
- Other Business

3:00 p.m.—Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

February 10, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-4043 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: March 11–12, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Higher Education/Regional and National Program for projects beginning after July 1, 1982.

2. Date: March 18–19, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Program Development Projects, Division of Special Programs, for projects beginning after August 1, 1982.

3. Date: March 4–5, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Materials: Tools Panel on History, American Studies, Religion, Philosophy, and Social Sciences, Division of Research Programs, for projects beginning after July 1, 1982.

4. Date: March 4–5, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1st Floor Conference Room
Program: This meeting will review applications submitted for the Libraries Humanities Project Program, Division of Public Program, for projects beginning After July 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-4042 Filed 2-12-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold a meeting on March 3, 1982 in Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 3, 1982—8:45 a.m. until 1:30 p.m.

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.28, Revision 3, "Quality Assurance Program Requirements (Design and Construction)" (post comment).

(2) Proposed Amendment to 10 CFR 50.49 regarding Accreditation of Qualification Testing Organizations (pre comment).

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guide 1.28, Revision 3, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to ensure that adquate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Sam Duraiswamy, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, DC 20555 or telecopy them to the Designated Federal Employee (202/634–3319) as far in advance of the meeting as practicable. Such comments shall be

based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Sam Duraiswamy, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., Eastern Time.

Dated: February 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–4070 Filed 2–12–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee On Reactor Safeguards, Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on Wednesday, March 3, 1982 in Room 762 at 1717 H Street, NW, Washington, D.C. This Subcommittee will meet with the Staff of the NRC's Office for Analysis and Evaluation of Operational Data and possibly other interested parties to continue discussions on the proposed Licensee Event Report (LER) Rule outlined in SECY–82–3, "Proposed Addition of 10 CFR 50.73 Establishing the Licensee Event Report (LER) System.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 3, 1982—2 p.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5 p.m., EST.

Dated February 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–4069 Filed 2–12–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 10, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available)
The office of the agency issuing this form
The title of the form
The agency form number, if applicable
How often the form must be filled out
Who will be required or asked to report
The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected
Whether small businesses or organizations are affected
A description of the Federal budget functional category that covers the information collection
An estimate of the number of responses
An estimate of the total number of hours needed to fill out the form
An estimate of the cost to the Federal Government
An estimate of the cost to the public
The number of forms in the request for approval
An indication of whether section 3504(h) of Pub. L. 96–511 applies
The name and telephone number of the person or office responsible for OMB review and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
1982 Economic Censuses Classification Report
NC–9921
Nonrecurring
Businesses or other institutions
Single establishment companies in all Economic Areas
SIC: Multiple
Small businesses or organizations
Other advancement and regulations of commerce: 50,000 responses; 12,500 hours; $0 Federal cost; 1 form; not applicable under 3504(e)
Statistical Policy Branch, 202–395–7313

To provide a standard basis for assigning standard industrial classification codes of establishments engaged in all areas of economic activity.

Reinstatments

• Economic and Statistical Analsis
Form BE–15 Annual Survey of Foreign Direct Investment in the U.S.—1981
BE–15 Annually
Businesses of other institutions
Foreign owned U.S. business enterprises
SIC: Multiple
Small businesses or organizations
Other advancement and regulations of commerce: 2,500 responses; 7,500 hours; $200,000 Federal cost; 1 form; $150,000 public cost not applicable under 3504 (e)
Statistical Policy Branch, 202–395–7313

Secures financial and operating data on U.S. Companies owned by foreign persons consisting of information on balance sheets, income statements. Employment, trade, and by state, acres of land and mineral rights and property, plant, and equipment owned. Authorized by the international Investment Survey Act of 1976 (Pub. L. 94–472). Required for the preparation of the international investment accounts of the United States.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

• Departmental and Others
Study of Parental Influence on Enlistment
Nonrecurring
Individuals or households
Parents of youth ages 16 to 21
Department of Defense-Military: 4,150 responses; 2,562 hours; $240,000 Federal cost 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Determine the role parents play as influencers in the youth enlistment decision process. Previous research documents the importance of influences, but not information about attitudes and perceptions of influences as they affect enlistment decision is currently available results will be used by service/DOD staffs to develop advertising programs to reinforce or improve the perceptions of influences.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

Reinstatments

• Human Development Services
Annual State Win Plan (State Win Training Plan, Signature Sheet, and work sheets)
ETA 8480, 8479, 8484, 8482, 8485
Annually
State or local governments
State win programs (ES & welfare agencies)
SIC: 832
Training and employment: 27 responses; 6,201 hours; $50,260 Federal cost; 4 forms; $6,201 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

The State win plan is the basic planning and management tool utilized by the national and regional offices to ensure compliance with legislation, regulations, and national office goals. It is also the vehicle for providing initial and final allocation levels to State agencies.

DEPARTMENT OF TRANSPORTATION

Agency clearance Officer—John Windsor—202–426.1887)

New

• Coast Guard
Merchant Marine Personnel Physical Examination
CG–719k
On occasion
Individuals or households
U.S. Merchant Mariners
Water transportation: 23,000 responses; 23,000 hours; $2,500,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Needed to report the physical qualifications of all rated (qualified) crew members aboard U.S. merchant vessels as well as to ensure shipboard health standards as food handlers must be free of communicable disease. 46 USC 672(A), (E), (F), and (G).

• Coast Guard
"Applicant", Department of Justice Fingerprint Application,
FD–258
On occasion
Individuals or households
U.S. Merchant Seamen
Water transportation: 25,000 responses; 2,500 hours; $100,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Fingerprints required to insure applicant has not been convicted of a narcotics drug law violation within preceeding 10 years. Information received (rap sheet) triggered by fingerprint application will confirm or deny these facts. Used also for alien background inquirys. 46 USC 239(B), 643(A), (B), (E) and (1), 672 (B).

• Federal Highway Administration
Internal Audit Responsibilities for State Highway
Agnecies
Annually, on occasion
State or local governments
State highway agencies
SIC: 962
Ground Transportation: 312 responses; 123 hours; $120,441 Federal cost; 1 form; $1,230 public cost; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Copies of audit reports are needed by FHWA to support or deny the recipients' reimbursement claims. The single audit plan supplements and audit certifications are needed to evidence compliance with the government-wide audit requirements.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Regulatory impact analysis survey (816)
Generic clearance
0816
nonrecurring
businesses or other institutions
Hazardous waste generators and TSD facilities.
SIC: multiple
Small businesses or organizations
pollution control and abatement; 3,233 responses; 26,388 hours; $7,925,400 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The EPA in compliance with Executive Order 12291 is preparing regulatory impact analyses of RCRA hazardous waste management regulations. As part of this effort, EPA will collect information in the spring of 1982 from hazardous waste generators and treatment, storage, and disposal facilities (TSDS).

Reinstatements

• Mobile Source Emission Factor Survey
On occasion
Individuals or households
Factor survey
Pollution Control and abatement: 5,000 responses; 2,500 hours; $0 Federal cost 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This is an annual survey of emissions preformance of in-use vehicles. data are used for the development of mobile source emission factor, which are critical for local air quality planning and program management activities.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Ms. Melita Yeahwood—202–632–0064

Extensions (Burden change)
• Application for Political Risk Investment Insurance
(OPIC form No. 52)
No. 52
Other-see SF83
Businesses or other institutions
U.S. investors applying for OPIC ins. Coverage and fin. asst.
SIC: multiple
Small businesses or organizations
Foreign economic and financial assistance: 275 responses; 46 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

To comply with sec. 231(m) of the foreign Assistance Act of 1961, as amended, OPIC must refuse to insure or finance investment subject to performance requirements which reduce U.S. trade benefits. This additional question in the insurance application is intended to identify projects subject to performance requirements so that OPIC may then administer a trade effects tests.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–0204

Reinstatements

• Application for Motor Carrier Certificate of Registration
OP–OR–100
On occasion
Businesses or other institutions
Privately owned motor carriers of property
SIC: 421
Ground transportation: 50 responses; 100 hours; $209,650 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This is an application containing all the information necessary for the commission to determine whether a motor carrier presently engaged in interstate operations, can also engage in operations in Interstate and Foreign Commerce within limits which don't exceed their interstate authority. The ICC must grant authority before interstate operations can begin.

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—202–357–7811

New

• Survey of Scientific and Engineering Personnel Employed
At universities and Colleges, January 1983 and January 1984
NSF form 724
Annually
Businesses or other institutions
Univ. and colleges and their assoc. Fed. funded research./dev/ ctrs
SIC: 822
General science and basic research: 2,200 responses; 21,034 hours; $103,000 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

This unique data system which is unavailable from any other source provides the basis for National planning and policy formulation regarding academic science and technology. These data are used by the Congress, other Federal agencies, industry, professional societies and foundations, States, universities, the press, international groups, and NSF.

Reinstatements

• Survey of Scientific and Engineering Expenditures at Universities and Colleges, fy 1982 and fy 1983
NSF form 411
Annually
Businesses or other institutions
Univ. and coll. and their assoc. Fed. funded resrch. dev. ctrs.
SIC: 822
General Science and basic research: 570 responses; 15,054 hours; $78,400 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This unique data system which is unavailable from any other source provides the basis for national planning and policy formulation regarding academic science and technology. These data are used by Congress, other Federal agencies, industry, professional societies and foundations, States, universities, the press, international groups, and NSF.

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301–492–8585

New

• Supression Pool Temperature Limits for BWR Containments
Nureg's 0661, 0487, and 0783
Nonrecurring
Businesses or other institutions
NRC licensees
SIC: 483
Energy information, policy, and regulation: 40 responses; 28,000 hours; $40,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The issue of pool dynamic loads has been identified as a safety issue needing further review.

Revisions

• NUREG 0737, Clarification of the TMI Action Plan
Requirements and Related Orders
Nonrecurring
Individuals or households
NRC licensees
Energy information, policy, and regulation: 1 response; 910,850 hours; $8,000,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Nureg–0737 provides requirements imposed on licensees as a result of TMI accident and requires licensees to report on progress to date. Also requires licensees to implement some short-term recommendations based on the experience from the accident at TMI and the official studies and investigations.

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—Ms. Elizabeth Zaic—202–653–7738

Extensions (burden change)

• 8(A) Business Plans
(4) SBA–1010–R, SBA–1010–S, SBA–1010–T,U
Nonrecurring
Businesses or other institutions
Small business owned by Soc. & Econ. disadvantaged indivdls.
SIC: multiple
Small businesses or organizations

Other advancement and regulation of commerce: 1,980 responses; 15,840 hours; $4,000 Federal cost; 4 forms; $618,486 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Final SBA rules (published November 23, 1981) implementing P.L. 96–481 require the establishment of fixed periods of participation for firms entering SBA's 8(A) program. The extension of form usage will permit SBA to collect new information required to establish fixed periods.

Extensions (no change)

• 8(A) Business Plans
On occasion
Businesses or other institutions
Small business owned by Soc. & Econ. disadvantaged indivls.
SIC: multiple
Small businesses or organizations
Other advancement and regulation of commerce: 3,000 responses; 60,000 hours; $1,800,000 Federal cost; 4 forms; $768,384 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Public Law 96–481 requires the negotiation of fixed periods of participation for all firms participating in SBA's 8(a) program. The proposed forms collect new information required to negotiate such terms.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82-4000 Filed 2-12-82; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12215; (812–4930)]

Barclays Bank of Canada; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From all Provisions of The Act

February 8, 1982.

Notice is hereby given that Barclays Bank of Canada ("Applicant") c/o H. Rodgin Cohen, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004, filed an application on July 27, 1981, and an amendment thereto on December 30, 1981, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is the successor of Barclays Canada Limited ("BCL"), a finance company chartered under the laws of Canada. BCL was incorporated as a Canadian federal company in 1928. BCL was converted to a bank under the name Barclays Bank of Canada on July 30, 1981, following the amendment of the Canadian Bank Act permitting foreign banks to establish subsidiary banks in Canada. Applicant is a wholly-owned subsidiary of Barclays Bank International Limited ("BBI"), a bank organized under the laws of the United Kingdom.

Applicant represents that its predecessor, BCL, served as BBI's principal financial operation in Canada prior to the conversion to bank status and although BCL was not licensed as a bank it functioned similarly to a bank in many respects. Applicant states that BCL's principal business was providing credit and other financial services to Canadian enterprises. The credit activities consisted of short and medium term leasing, discounting of trade bills, letters of credit, and foreign exchange trading.

Applicant states that BCL had total assets as of May 31, 1981, the date of the latest financial statements, of $891 million and equity capital of $50 million (using an exchange rate of Canadian $1.00=United States $0.83). Applicant states that the bulk of BCL's assets, 91%, consisted of loans, and its principal funding was derived through the issuance of short term notes. Applicant contemplates that BBI will continue to exercise the substantial supervision over its activities and procedures that applied to BCL. Applicant states that as a bank it has significantly broadened its business to a full service wholesale bank, with the principal change being the acceptance of deposits. These deposits are expected to be principally wholesale deposits taken from the Canadian money market. In addition, Applicant states that it will issue banker's acceptances.

Applicant states that as a bank it is subject to the extensive regulatory structure of Canadian law, which is a matter of Canadian federal jurisdiction and that each new chartered bank is incorporated under the Banks and Banking Law Revision Act, 1980 ("Bank Act"), an act of the Canadian Parliament. Applicant further states that, under the Bank Act, Canadian banks are subject to administration and supervision by the Inspector General of Banks. The application indicates that principal regulation relates to business and powers, types of loans, shareholders and directors, capital stock and debentures, liquidity, reserve requirements, auditing and financial disclosure requirements, with regular inspection by the Inspector General.

Applicant proposes to issue and sell in the United States unsecured prime quality commercial paper notes, in bearer form and denominated in United States dollars, payment of which will be unconditionally guaranteed by BBI. Under the proposal, no note will be issued in a denomination smaller than $100,000. The notes will be issued and sold by Applicant to commercial paper dealers in Canada and the United States who will reoffer the notes as principal to investors in the United States and Canada. Applicant states that it does not currently intend to sell the notes in the United States in excess of an aggregate of $500 million outstanding at any one time.

Applicant undertakes to ensure that the notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold by a dealer to institutional investors and other entities and individuals who normally purchase commercial paper in large amounts. Also, Applicant undertakes to ensure that the dealer will provide each offeree of the notes prior to purchase with a memorandum which briefly describes the business of Applicant and BBI, including their most recent publicly available fiscal year end balance sheets and income statements, which shall have been audited in such manner as is customarily done for Applicant and BBI by their Canadian and English auditors, respectively. The memorandum will described differences which are material to investors, if any, between the accounting principles applied by Applicant and BBI in the preparation of that financial statements and "generally accepted accounting principles" as employed by finance companies and banks, respectively, in the United States. The memorandum will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States and will be updated promptly to reflect material changes in the financial condition of Applicant or BBI.

Applicant represents that the terms of these notes, including their negotiability, maturity and minimum denomination, the amount outstanding at any given time and their manner of offering to investors will qualify them for the exemption from registration under the Securities Act of 1933, as amended, provided by Section 3(a)(3) of that Act. Applicant states that the notes will be prime quality, negotiable commercial paper of a type eligible for discount by

Federal Reserve Banks and will arise out of, or the proceeds of which will be used for, current transactions and that they will contain no provision for payment on demand, extension, renewal or automatic rollover either at the option of Applicant or the holder. Accordingly, Applicant states that it will not be required to register the notes under the Securities Act of 1933.

Applicant undertakes that it will not issue and sell the notes until it has received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, the notes would be entitled to a Section 3(c)(3) exemption. Applicant does not request Commission review or approval of United States counsel's opinion letter regarding the availability of an exemption under Section 3(a)(3) of the Securities Act of 1933. Applicant represents that it is not subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and will not become subject to such requirements in connection with issuance and sale of the notes.

Applicant represents that the presently proposed issue of notes and all future issues of securities in the United States shall have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization. Applicant undertakes to certify to its United States counsel that such a rating has been obtained prior to the issuance of notes.

Applicant represents that: as direct liabilities of Applicant, the notes will rank prior to its equity securities and *pari passu* among themselves and equally with all other unsecured indebtedness, including liabilities to depositors, except amounts due from Applicant to the government of Canada or to any province thereof, which would rank above the notes, and subordinated debt of Applicant, which would rank below the notes; and the guarantees by BBI of the notes will rank prior to equity securities of BBI and *pari passu* among themselves and equally with all other unsecured indebtedness of BBI, including liabilities to depositors, except subordinated debt of BBI, which would rank below the guarantees.

Applicant undertakes to appoint a bank in the United States as its authorized agent to issue the notes from time to time. Applicant further undertakes that it and BBI will each appoint that bank or some other United States entity to accept any process which may be served in any action based on any note or guarantee thereof and instituted in any State or Federal court by a holder of its notes. Applicant undertakes that it and BBI will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Appointments of authorized agents to accept service of process and consents to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid. Applicant and BBI will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the notes or otherwise. The authorized agent will not be trustee for the noteholders and will not have any responsibilities or duties to act on their behalf as would a trustee.

Applicant also undertakes to submit financial statements and a balance sheet reflecting its first year of operation as a chartered bank as soon as practicable after that information is available.

Applicant consents to any order granting its application being expressly conditioned on its compliance with the foregoing undertakings and the undertakings decribed below.

Applicant may, from time to time, offer other debt securities unconditionally guaranteed by BBI (but not shares of Applicant's capital stock) for sale in the United States. Applicant undertakes that any future offering of debt securities in the United States will be done on the basis of disclosure documents at least as comprehensive in the description of their business and their financial condition and BBI's business and financial condition as is customary for bank holding companies offering similar debt securities in the United States, and undertakes to ensure that each offeree of such securities will be provided with such disclosure documents. Applicant further undertakes that any future offering will be made with due regard to the provisions of Rule 146 and the doctrine of "integration" referred to in Securities Act Release Nos. 4434, 4552 and 4708 and various "no-action" letters made public by the Commission.

Applicant also undertakes, in connection with any future offering in the United States of its debt securities, to appoint, and to cause BBI to appoint, an agent to accept any process which may be served in any action based on any such security or guarantee by BBI thereof instituted in any State or Federal court by the holder of any such security. Applicant further undertakes that it will expressly, and will cause BBI expressly to, accept the jurisdiction of any State or Federal Court in the City and State of New York in respect of any such action to the same extent as with the proposed offering.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant states that, among other things, compliance by it with a number of substantive provisions of the Act would, as a practical matter, conflict with its operation as a bank and lending institution and that Applicant would thus be effectively precluded from selling securities in the United States if it were required to register as an investment company and comply with such provisions of the Act. Applicant asserts that to exclude foreign banks from selling securities in the United States would be both inherently inequitable and in direct conflict with the objective of the International Banking Act of 1978. Applicant states that that statute was intended to place United States and foreign banks on a basis of competitive equality in their transactions in the United States.

Applicant asserts that granting an exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act,

an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4013 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12213; (812-4976)]

Centennial Government Trust; Filing of Application Pursuant to Section 6(c) of the Act for an Order Exempting Applicant From Rules 2a-4 and 22c-1 Under the Act

Notice is hereby given that Centennial Government Trust ("Applicant"), 3600 South Yosemite Street, Denver, Colorado 80237, a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application for and order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of sales and redemptions of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on September 9, 1981, as a "money market" fund which seeks to provide current income that is consistent with low capital risk and the maintenance of liquidity. Applicant states that it is designed as an investment vehicle for investors with temporary cash balances in securities accounts at certain brokerage firms, and that shares of Applicant are offered exclusively to participants in automatic purchase and redemption programs established by these firms. Applicant represents that its portfolio may, as a matter of fundamental investment policy, be invested in obligations issued by the United States Government or its agencies or instrumentalities maturing in twelve months or less from the date of purchase (whether or not subject to repurchase agreements). Applicant asserts that securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities include direct obligations of the U.S. Treasury and securities issued or guaranteed by the Federal Housing Administration, Farmers' Home Administration, Export-Import Bank of the United States, Small Business Administration, Government National Mortgage Association, General Services Administration, Central Bank for Cooperatives, Federal Home Loan Banks, Federal Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, Federal Housing Administration, Maritime Administration, The Tennessee Valley Authority, District of Columbia Armory Board, Federal National Mortgage Association, and the International Bank for Reconstruction and Development. Applicant asserts that some obligations of U.S. Government agencies and instrumentalities are supported by the full faith and credit of the U.S. Treasury; others, by the right of the issuer to borrow from the Treasury; still others are supported by only the credit of the instrumentality. Applicant maintains that the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, respectively, insure the deposits of Federally insured banks and savings and loan associations up to $100,000. Applicant states that current federal regulations also permit Federally insured banks and savings and loan associations to issue negotiable certificates of deposits ("CDs") in amounts of $100,000 or more without regard to the interest rate ceilings on other deposits. Applicant states that to remain fully insured, investments in CDs at present must be limited to $100,000 per bank or savings and loan association. Applicant submits that fully insured CDs may offer higher rates of return than securities issued directly by the U.S. Government or its agencies, but their small size and recent inception may impede the development of an active market for them. Applicant represents that its purchases of CDs will be limited to the insured amount of principal ($100,000) in each case; and that if the principal amount and accrued interest together exceed $100,000, then the excess accrued interest will not be insured. Applicant maintains that except to the extent that its trustees determine that a readily available market exists for CDs, Applicant will limit its purchases of those instruments in the aggregate to 10% or less of its net assets. Applicant states that it may also purchase obligations of the types listed above where they mature in more than twelve months, if they are purchased subject to repurchase agreements calling for delivery in twelve months or less.

Applicant represents that it is expected that its shareholders will use it shares for investment of temporary cash balances. Applicant states that the maintenance of a constant net asset value per share is expected to be a crucial factor in the purchase and holding of Applicant's shares. Applicant asserts that by meeting the conditions set forth in the application and by valuing its shares to the nearest one cent on a share value of one dollar, it can maintain a constant value for its shareholders along with full liquidity and a satisfactory yield. In addition, Applicant states that its adherence to the conditions set forth in the application will substantially reduce the likelihood of significant variation from a constant share price and the likelihood of any dilution of the assets and returns of incoming or outgoing shareholders.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security or transaction, or any class or class of persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where

necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. In Investment Company Release No. 9786 (May 31, 1977) the Commission issued an interpretation of Rule 2a–4 expressing its views that it is inconsistent with the provisions of Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a–4.

Applicant states that shareholders who purchase its shares with the expectation of receiving maximum current income consistent with stability of principal would be unfairly treated should there be a deviation below $1.00 per share, because redeeming shareholders could lose not only all or part of the dividend income which they have earned but even part of their principal particularly if a redemption takes place relatively soon after a purchase. Applicant represents that, to the extent necessary, its Trustees will consider the advisability of temporarily suspending the payment of dividends, or making capital gains distributions (if and to the extent that capital gains have not reflected in prior dividends) to maintain a $1.00 price per share, if the net asset value per share declines to a value below $0.997 or rises to a value above $1.003, respectively. Applicant also represents that in order to attempt to assure the stability of its net asset value per share it will (so long as it utilizes the method contemplated by the requested order in computing its net asset value per share rather than the method contemplated by IC–9786) adhere to the following conditions:

1. Applicant's Trustees, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security unless it matures in one year or less, or is subject to a repurchase agreement, the delivery under which does not exceed one year, or has been called for redemption within one year; nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its portfolio investment, including repurchase agreements and securities called for redemption, to those instruments which are denominated in U.S. dollars and which the Trustees of Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its Trustees.

Notice is further given that any interested person may, not late than March 1, 1982, at 5:30 p.m., submit to the Commission in writing, a request for hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4012 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22385; (70–6695)]

Connecticut Light & Power Co. et al.; Proposal to Create Construction Trust To Assist in the Financing of Nuclear Unit

February 9, 1982.

Connecticut Light & Power Company ("CL&P), Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, all public utility subsidiaries of Northeast Utilities ("Northeast"), a registered holding company, have filed an application-declaration pursuant to Sections 6(a), 7, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act").

CL&P, HELCO, and WMECO (collectively, "Companies") are the owners as tenants-in-common of the nuclear electric generating units known as Millstone Unit Nos. 1 and 2 located at the Millstone Nuclear Power Station ("Millstone") in Waterford, Connecticut. CL&P, HELCO, and WMECO own 53%, 28% and 19% interests, respectively. Millstone Unit No. 1, with a capacity of approximately 660,000 kilowatts, was placed in operation in late 1970, and Millstone Unit No. 2, with a capacity of approximately 870,000 kilowatts, was placed in operation in late 1975.

Millstone 3 ("Unit No. 3"), the third unit at Millstone is presently under construction. The Companies collectively own 65% (CL&P 34.45%, HELCO 18.20% and WMECO 12.35%) of Unit No. 3. Unit No. 3 will have a capacity of approximately 1,150,000 kw and is scheduled for completion in May, 1986. As of September 30, 1981, engineering on the project was approximately 70% complete and construction was approximately 40% complete.

CL&P, HELCO, and WMECO in January, 1981 made offers to sell a minimum of 100 MW of their 748 MW interest in Millstone 3 to other New England and New York utilities. Expressions of interest in the purchase of 59.6 MW of the offering were received. Contracts for the sale of 49.6

MW have been signed. Although interest in the remaining 10.0 MW interest continues, contracts for its sale have not yet been executed. Of the 49.6 MW for which contracts have been signed, the Companies expect that WMECO will sell approximately 37.2 MW for approximately $43.7 million and HELCO will sell the approximately 12.4 NW remaining for approximately $14.6 million. The proposed sales, if consummated, are expected to be completed within twelve months.

The estimated total construction cost of Unit No. 3 is approximately $2.6 billion (including allowance for funds used during construction ("AFUDC"), but excluding nuclear fuel), of which approximately $1.1 billion (including AFUDC, but excluding nuclear fuel) had been spent through December 31, 1981. The estimated construction expenditures through 1986 for the Companies' share in Millstone 3 (including AFUDC, but excluding nuclear fuel, and adjusted to reflect consummation of the proposed sale of approximately 59.6 MW of the Company's interests in Millstone 3) are $1.6 billion.

In addition to financing their respective construction programs and nuclear fuel expenditures through 1987 aggregating $1,196 billion, $629 million, $286 million, respectively, for CL&P, HELCO and WMECO, the Companies will expend $208 million, $72 million and $60 million, respectively, in 1982 through 1987 to meet long-term debt maturities (other than the Millstone construction trust financing) and long-term debt and preferred stock sinking fund requirements. Construction program expenditures, nuclear fuel expenditures, long-term debt maturities and long-term debt and preferred sinking fund requirements for each of HELCO, WMECO and CL&P will exceed projected internally generated funds by $598 million, $289 million, and $138 million respectively, during the year 1982 through 1986.

The Companies intend to continue to finance their construction programs and other capital requirements through conventional means, including first mortgage bonds, common equity, preferred stock, leasing equipment and short-term and intermediate term borrowings. However, because of the substantial construction costs to be incurred during the completion of Millstone 3, the Companies deem it advisable to obtain advance construction financing commitments for a significant portion of Unit No. 3 costs. Such advance commitments would reduce the extent to which the Companies' construction program is vulnerable to changes in financial markets and to the Companies' financial condition. To secure such advance commitments, the Companies propose to enter into arrangements with the Bank of New York, as trustee ("Trustee") of the Millstone Construction Trust ("Millstone Trust"). The Millstone Trust will be a special purpose trust organized under New York state laws, limited in scope to financing a portion of the Companies' share of construction costs for Unit No. 3. The Millstone Trust will be created pursuant to a proposed Trust Agreement ("Trust Agreement") between a bank to be selected by the Companies, as Trustor ("Trustor"), the Trustee and the Companies as beneficiaries. Pursuant to proposed Construction Loan Agreements ("Construction Loan Agreements") between each of the Companies and the Trustee, each Company will agree to grant the Trustee a lien on such Company's undivided interest in Unit No. 3, second only to the lien of such Company's presently outstanding first mortgage bond indenture, securing such Company's obligations under its respective Construction Loan Agreement. The lien on the Companies' undivided interests in Unit No. 3 will be evidenced by a second mortgage to the Millstone Trust. The Trustee under the Construction Loan Agreements will in turn agree, to the extent of the Millstone Trust's commitment, initially $400 million, to reimburse the Companies for a portion of their share of the construction expenditures for Unit No. 3.

The Millstone Trust's commitments under the Construction Loan Agreements will be the sum of the commitments, initially $400 million, of the banks ("Banks") which are parties to the Credit Agreement and the Revolving Credit Agreement ("Bank Credit Agreements"). The amounts available to CL&P, HELCO and WMECO, on an individual basis, under the Construction Loan Agreements will be 100%, 80% and 30%, respectively, of the Millstone Trust's commitments then in effect, provided that the Companies, on an aggregate basis, may not have loans outstanding at any time in excess of the total commitments then in effect.

The Construction Loan Agreements will require the Companies to make quarterly payments of accrued interest, in arrears, computed so as to pay the Trustee its full cost of financing pursuant to the Bank Credit Agreements. Loans outstanding under each Company's Construction Loan Agreement will bear interest at a daily rate, computed on a daily basis, equal to such Company's pro-rata share of all interest expense, fees, and amortization of debt discount of the Trustee, with respect to all commercial paper issued and all other indebtedness or liability incurred or owed by the Trustee pursuant to the Bank Credit Agreements.

Beginning on the last business day of the sixth calendar month after the Commencement Date (the earlier of (a) the last day of the first calendar quarter during which Millstone 3 commences commercial operation, or (b) December 31, 1987), the Millstone Trust's commitments pursuant to the Construction Loan Agreements will be reduced semi-annually over a four-Year period, as the commitments under the Credit Agreement and the Revolving Credit Agreement are reduced. Each reduction of the Millstone Trust's commitments will be accompanied by a mandatory prepayment by each Company of amounts outstanding under its Construction Loan Agreement to the extent that such amounts then outstanding exceed the Company's share of the Millstone Trust's commitments as so reduced. Final maturity of loans under the Construction Loan Agreement will occur four years after the Commencement Date. The Millstone Trust's commitments, unless terminated earlier upon an event of default or upon exercise of option of the Companies, will extend for four years after the Commencement Date. The Companies will have the right to permanently reduce in part or terminate in whole the Millstone Trust's commitments.

Pursuant to a proposed Credit Agreement ("Credit Agreement") among the Trustee and Bankers Trust Company, Barclays Bank International Limited and Manufacturers Hanover Trust Company ("LOC Banks"), and Bankers Trust Company, as agent ("Agent") for the LOC Banks, the Trustee will finance part of its construction loans to the Companies through the sale of up to $200 million of commercial paper notes ("CP Notes"), which notes will be backed by a standby letter of credit issued by one of the LOC Banks. The Credit Agreement will also provide a revolving line of credit of an equal amount to provide a liquidity borrowing option and to fund unpaid letter of credit drawings. The revolving line of credit provided in the Credit Agreement will merely be a support to the letter of credit facility and will not be an alternative to the revolving line of credit provided under the Revolving Credit Agreement. The Companies will select the form of financing to be used by the Trustee to fund any borrowing under the Construction Loan Agreements.

Six months after the Commencement Date, the LOC Banks' commitment will be reduced to $195 million, and at the end of each of the next five succeeding six-month periods, by an additional $30 million, and at a date forty-two months after the Commencement Date, by an additional $25 million, until final maturity occurs forty-eight months after the Commencement Date. If upon any of the aforementioned reduction dates the then outstanding commercial paper and loans under the Credit Agreement are less than the commitment in effect immediately prior to the scheduled reduction, the LOC Banks' commitment will be reduced to an amount that bears the same ratio to the commercial paper and loans then outstanding as the amount to which the commitment would otherwise be reduced bears to the LOC Banks' commitment in effect immediately prior to reduction. The LOC Banks' commitment will also be subject to termination in whole or in part by the Trustee. However, no reduction or termination of the LOC Banks' commitment will be permitted unless the commitment under the Revolving Credit Agreement is reduced by an equal amount. Upon any reduction in the LOC Banks' commitment the Millstone Trust will be required to prepay any outstanding commercial paper or loans in excess of the commitment so reduced.

Interest on loans under the Credit Agreement shall be payable quarterly and in arrears. For the first sixty days in each calendar year in which loans under the Credit Agreement are outstanding, such loans will bear interest at the following rate per annum (a) prior to January 1, 1988, at the Base Rate; (b) on and after January 1, 1988 and prior to January 1, 1989, at 103% of the Base Rate; (c) on and after January 1, 1989 and prior to January 1, 1991, at 105% of the Base Rate; and (d) on and after January 1, 1991 to and including the date of maturity of such loans, at 106% of the Base Rate. For the sixty-first calendar day and each calendar day thereafter in each calendar year in which such loans are outstanding, the unpaid principal amount of such loans will bear interest at 110% of the Base Rate. The Base Rate will be the greater of (i) the Prime Lending Rate at such time and (ii) the Adjusted Certificate of Deposit Rate (as defined in the credit Agreement) at such time plus ½ of 1%. Assuming full utilization of the $200 million commitment, a dealer discount of 15.7%, and a current prime rate of 16.5%, the effective cost (including all fees and expenses) for a CP Note is 16.5% per annum and 16.0% per annum for borrowings from LOC Banks.

Under the Revolving Credit Agreement the Trustee and a group of participating banks ("Revolving Credit Banks"), including Bankers Trust in its capacity as a lender and as agent ("Agent") for the Revolving Credit Banks, the Revolving Credit Banks will be obligated to make loans in the initial aggregate amount of $200 million to the Trustee on a revolving basis, not in excess of amounts needed on a current basis to provide funds to the Companies under the Construction Loan Agreements. The commitments of the Revolving Credit Banks will be reduced over a four-year period in the same manner as commitments of the LOC Banks are reduced under the Credit Agreement. Outstanding loans under the Revolving Credit Agreement will be required to be partially prepaid on specified dates in the same manner as the required partial prepayment of the CP Notes and loans under the Credit Agreement. The Revolving Credit Banks' commitment under the Revolving Credit Agreement will be terminable in whole or in part by the Trustee. However, no such termination will be allowed unless commitments under the Credit Agreement in an equal amount are also terminated. The Trustee will be required to pay the Agent for the Revolving Credit Banks, quarterly in arrears, interest on the unpaid principal amount of any "Revolving Domestic Note", as defined in the Revolving Credit Agreement, at the following rates per annum: (a) until December 31, 1987, at the Base Rate; (b) on and after January 1, 1988 and prior to January 1, 1989, at 103% of the Base Rate; (c) on and after January 1, 1989; and prior to January 1, 1991, at 105% of the Base Rate; and (d) on and after January 1, 1991 to and including the date of maturity of the Revolving Domestic Note, at 106% of the Base Rate; and (e) after maturity, whether by acceleration or otherwise, until paid, at 110% of the Base Rate. Beginning with January 1, 1988, the Trustee will have the alternative of borrowing under a Eurodollar option under the Revolving Credit Agreement. The Trustee will be required to pay interest, quarterly and in arrears, on the unpaid principal amount of any "Revolving Eurodollar Note", as defined in the Revolving Credit Agreement, at the following rates per annum: (a) from January 1, 1988 to December 31, 1990, at ¾ of 1% of the relevant Quoted Rate as defined in the Revolving Credit Agreement; (b) on and after January 1, 1991 to and including the date of the maturity of such Revolving Eurodollar Note, at 1% in excess of the relevant Quoted Rate; and (c) after maturity, at the higher of, 1% in excess of the rate normally in effect or 2% in excess of the Quoted Rate for periods on one day, one month or three months, as the Agent may select. Assuming a current prime rate of 16.5%, the effective cost (including all fees and expensed) of Domestic Note borrowing is 16.6% per annum; and, assuming a 30 day Quoted Rate of 15⅝%, the effective cost (including all fees and expenses) of Eurodollar Note borrowing is 16.5% per annum

In order to secure the Trustee's obligations to the LOC and Revolving Credit Banks ("Banks") and to the holders of the CP Notes, the Trustee will assign to the Agent, as assignee for the ratable benefit of the Banks and the holders of the CP Notes, as collateral security, all of its rights (but not its obligations) under the Construction Loan Agreements and all monies due under the terms and conditions of those agreements and under the Second Mortgage (including the liens created thereby) on the Companies' undivided interests in Millstone 3. Each Company will also be permitted to secure with its undivided interest in Millstone 3 additional indebtedness for money borrowed on a pari passu basis with the obligations represented by its Construction Loan Agreement, provided that the total principal amount of indebtedness (including that represented by its Construction Loan Agreement) secured by such second lien does not exceed two-thirds of such Company's net investment in Millstone 3 (including AFUDC) and that the proceeds of such additional indebtedness are used only to pay or refund construction costs relating to Millstone 3. The assignment of the contract rights and the second lien will be accomplished pursuant to a proposed Security Agreement and Assignment of Contracts ("Security Agreement") between the Trustee and the Agent.

The Millstone Trust under the Bank Credit Agreements will be able to incur other indebtedness other than indebtedness pursuant to such agreements provided that: (i) the amount of such additional indebtedness does not exceed $150 million; (ii) the proceeds of such additional financing are used only to pay or refund construction costs relating to Millstone 3 incurred subsequent to June 30, 1981 or to pay or refund costs and expenses related to the Bank Credit Agreements or the

agreement for additional financing; and (iii) such additional indebtedness shall not require any repayment prior to the initial reduction of commitments under the Bank Credit Agreements and shall be amortized over no less than eight semi-annual installments.

As additional security for the Trustee's obligations to the Banks and the holders of the CP Notes, the Trustee will be required, under the Security Agreement, to establish and maintain with the Agent an Operating Account (the "operating Account") which at all times will be subject to the sole control of the Agent, acting as agent for itself, the Banks and the holders of the CP Notes. The Trustee will be required to deposit in the Operating Account (a) all proceeds of the sale of any CP Notes, to the extent not required to pay matured and concurrently maturing CP Notes, (b) all monies required to be withdrawn from the Commercial Paper Account established under the Credit Agreement and to be transferred to the Operating Account, (c) the proceeds of the loans made by the Banks to the Trustee, and (d) the proceeds of assigned collateral. It is not intended that funds will accumulate in the Operating Account. Acting pursuant to instructions from the Companies, the trustee will issue CP Notes or request loans form the Banks only at such time and in such amounts as will be required to make payments when due to the Trustee, the Banks, the holders of the CP Notes or the Companies. Thus, ordinarily, proceeds from the sale of CP Notes or loans will not remain in the Operating Account but will be paid out immediately.

The application-declaration and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 15, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will recieve a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4015 Filed 2-12-82; 9:45 am]
BILLING CODE 8010-01-M

[Release No. 12221; (812-5067)]

Financial Daily Income Shares, Inc.; Filing of Application for an Order of the Commission Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

February 9, 1982.

Notice is hereby given that Financial Daily Income Shares, Inc. ("Applicant"), 7503 Marin Drive, Englewood, Colorado 80111, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 30, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its assets pursuant to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is incorporated under the laws of the State of Colorado and that its shares are sold to investors on a continuous basis at their current net asset value per share by Financial Programs, Inc. ("FPI"), which acts as exclusive selling agent and general distributor of such shares. Applicant further states that FPI serves as its investment adviser and that FPI is a wholly-owned subsidiary of The Gates Rubber Company.

Applicant states that it is a "money market" fund which seeks as its investment objective to obtain as high a level of current income as is consistent with liquidity and safety of capital. Consistent with that objective, Applicant states that it may invest in obligations of the U.S. Government and its agencies, bankers acceptances, certificates of deposit, commercial paper and corporate debt obligations, in each case maturing not more than two years from the date of purchase. Applicant states that it may also invest in repurchase agreements involving obligations which are eligible for investment under the foregoing classes. Applicant further represents that it holds no security maturing in more than one year.

Applicant represents that it presently determines the value of its assets and thus its net asset value per share by reference to market factors, but that securities with remaining maturities of 60 days or less are generally valued at their amortized cost values, absent unusual circumstances. Applicant further states that under its present valuation practices, its net asset value per share may fluctuate as a result of unrealized appreciation and depreciation in the value of its portfolio securities, and thus, unlike many other money market funds, it has been unable to offer its shareholders and new investors the opportunity to purchase or to redeem shares at a stable price of $1.00 per share. Therefore, it is stated, Applicant's Board of Directors has reviewed Applicant's current valuation and pricing practices, as well as those of money market funds which utilize the amortized cost valuation method pursuant to exemptive orders issued by the Commission, and concluded that Applicant could better serve the needs of its shareholders and prospective investors by enabling itself to sell and redeem its shares at a constant net asset value of $1.00 per share through the use of the amortized cost method of valuation. It is stated further that through such valuation method, Applicant believes it would be able tc offer two features which appear to be favored by investors in money market funds: (1) stability of principal (i.e., a stable net asset value per share); and (2) a steady flow of investment income. Applicant asserts that stability of principal and a steady flow of investment income can best be attained through the use of amortized cost valuation subject to the conditions specified hereinafter. It is also asserted that with respect to securities maturing in 120 days or less there is normally a negligible discrepancy between market values and amortized cost values of such securities. Accordingly, Applicant represents that its Board of Directors has determined in good faith that, in view of Applicant's investment objectives and the conditions pursuant to which amortized cost valuation would be used, such valuation method would be appropriate and preferable to Applicant's current practices and would reflect the fair value of its portfolio securities absent unusual circumstances.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with

respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

In view of the foregoing, Applicant requests an exemption pursuant to Section 6(c) of the Act from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the calculation of its net asset value per share and the valuation of its assets pursuant to the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions, from any provision or provisions of the Act or of the rules and regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant agrees that the following conditions may be imposed by the Commission in connection with its granting of the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $100 amortized cost price per share exceeds 1/2 of 1%, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes that the extent of any deviation from Applicants $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of Applicant's portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted aoverage portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Director's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action as taken, will describe the nature and circumstances of such action.

Applicant submits that under its proposed use of the amortized cost

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio securities, or (2) values obtained from yield data relating to classes of securities published by reputable sources.

[2] Applicant states that in fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. In addition, Applicant states that for purposes of calculating its dollar-weighted average portfolio maturity, "variable rate" securities with actual maturities of not more than 180 days and subject to interest rate adjustments not less frequently than monthly will be treated as if maturing upon the date of the next scheduled interest rate adjustment.

method of valuation subject to the conditions set forth above, the issuance of an order exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 9, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service affidavit or, in the case of an attorney-at-law, (by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4014 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12214; (812–507)]

Hutton AMA Cash Fund, Inc.; Filing of Application for an Order of the Commission Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

February 8, 1982.

Notice is hereby given that Hutton AMA Cash Fund, Inc. ("Applicant"), One Battery Park Plaza, New York N.Y. 10004, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 7, 1982, and an amendment thereto on January 21, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant is a corporation organized under the laws of the State of Massachusetts. Applicant's stated investment objective is to seek the maximum level of current income consistent with the maintenance of liquidity. Applicant states that it will seek to achieve its investment objective by investing in a portfolio of short-term money market instruments with a weighted average maturity of not more than 120 days. According to the application, Applicant's portfolio will consist of short-term obligations of the United States Government, its agencies or instrumentalities, certificates of deposit, Eurodollar fixed time deposits and bankers' acceptances of United States banks and savings and loan associations, foreign branches of United States banks and United States branches of foreign banks with over $2 billion in assets, commercial paper and high quality bonds with maturities not exceeding one year. Applicant states that it may also enter into repurchase and loan agreements, with a term of not more than one year, relating to such securities and similar securities whose maturities may be in excess of one year.

Applicant represents that its investments will be limited to those money market instruments that are of high quality as determined by Moody's Investors Service, Inc. and Standard and Poor's Corporation or, in the case of any instrument that is not rated, are of comparable quality as determined by Applicant's board of directors. Applicant states that all of its portfolio securities will mature or will have been called for redemption within one year or less.

According to the application, Applicant's shares will be offered exclusively in connection with the Hutton Asset Managment Account program. E. F. Hutton & Company, Inc., is Applicant's investment adviser and distributor.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors of the registered investment company. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant contends that its shareholders are not concerned with the differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost. On the other hand, Applicant believes that potential investors are vitally concerned that (1) the net asset value of their shares remain stable and (2) the daily net income declared on their investments be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis. Applicant states

that it believes that by maintaining a portfolio of high quality money market instruments of short maturities it will be possible to provide the required stability to its investors.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that, with the advice of and based upon the experience of its investment adviser, Applicant has determined that maintaining an average portfolio of 120 days or less will accomplish the aims of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the short-term money market.

Additionally, Applicant represents that prior to instituting the amortized cost method of valuation, Applicant's board of directors will determine, in good faith that in light of the characteristics described in the application, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities. Accordingly, Applciant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share for the purpose of effecting sales, repurchases and redemptions of its shares, using the amortized cost method. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize its net asset value per share, computed for the purpose of distribution, repurchase and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations for Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia,* (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation for Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) If the board of directors believes the extent of any deviation for Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the Applicant's average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, Applicant agrees that, if the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 1, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the

request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4020 Filed 2–12–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12216; (812–5061)]

Home Life Money Management Fund, Inc.; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

February 8, 1982.

Notice is hereby given that Home Life Money Management Fund, Inc. ("Applicant"), 253 Broadway, New York, NY 10007, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application, pursuant to Section 6(c) of the Act, on December 24, 1981, and an amendment thereto on January 25, 1982, for an order of the Commission granting an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets on the basis of amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that it is a "money market fund" organized as a Maryland corporation; that its investment adviser will be Home Life Insurance Company; and that The Bank of New York will determine Applicant's net asset value per share and daily net income for dividend purposes.

According to the application, Applicant's investment objective is to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity. Applicant states that it will seek to achieve this objective by investing in the following kinds of money market instruments: securities issued or guaranteed as to principal or interest by the United States Government or its agencies or instrumentalities; United States dollar denominated certificates of deposit, time deposits and bankers' acceptances of United States banks, foreign branches of such banks, and United States branches or agencies of foreign banks; commercial paper which at the time of purchase is rated A–1 by Standard & Poor's Corporation ("S&P") or Prime–1 by Moody's Investors Service, Inc. ("Moody's"), or, if not rated, then issued by companies with outstanding debt issues rated AA or better by S&P or Aa or better by Moody's; corporate debt obligations which at the time of investment are rated AA or higher by S&P or Aa or higher by Moody's; and repurchase agreements with respect to any of the foregoing obligations.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of the rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Prior to the filing of the application, the Commission expressed its view that, among other things: (i) Rule 2a–4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (ii) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a money market fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that the exemption it requests will be consistent with these standards.

Applicant asserts that money market funds typically attract investors who seek stability of principal, as reflected in a constant net asset value per share, and a flow of investment income which reflects current money market rates and that the amortized cost method of valuation will facilitate Applicant's maintenance of a constant net asset value per share and permit it to provide investment income through daily dividends which will reflect Applicant's net income as earned. Applicant states that by maintaining a portfolio of high quality money market instruments with a dollar-weighted average portfolio maturity of 120 days or less, Applicant will avoid the possibility of significant volatility in the value of its portfolio securities and will be able to offer investors the stability they desire. According to Applicant, any discrepancy between the market value and the value on an amortized cost basis of a portfolio of securities with a dollar-weighted average maturity of 120 days or less should be negligible.

Applicant represents that its directors have determined in good faith that, in light of Applicant's characteristics, absent unusual circumstances, the amortized cost method of valuation is appropriate and preferable to the use of a market based valuation method and will reflect the fair value of Applicant's portfolio securities. Applicant states that it has only two directors at the present time but that when the full board is elected the application will be submitted for ratification.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which

the board of directors determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value of $1.00 per share; provided, however, that Applicant will neither (a) purchase an instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

3. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

4. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; redemption of shares without the payment of any monetary consideration; or utilizing a net asset value per share as determined by using available market quotations.

5. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 3 above, an Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in accordance with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 4(c) was taken during the preceding fiscal quarter and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4022 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among others (i) quotations or estimates of market value reflecting current market conditions, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[Release No. 18474; (SR-MSRB-81-18)]

Municipal Securities Rulemaking Board; Order Approving Amended Proposed Rule Change

February 8, 1982.

The Municipal Securities Rulemaking Board (the "MSRB") Suite 507, 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on November 4, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend MSRB rule G-12 dealing with uniform practice. The MSRB submitted an amendment to the proposed rule change on December 17, 1981. Rule G-12 currently provides, among other things, for procedures and standards to be used in the comparison, clearance, and settlement of inter-dealer transactions in municipal securities, including the requirements for "good delivery." The proposed rule change provides that, in addition to the current "good delivery" requirements, securities delivered must be identical to those described in the inter-dealer confirmation with respect to specific descriptive details. Such details, for example, would include the issuer's name and the interest rate and maturity on the bond. The original proposal would have required securities to be identical as to their "in whole" call provisions. The amendment to the proposed rule change deletes the "in whole" requirement and requires that all

securities delivered must be identical as to any applicable call provisions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18250, November 10, 1981) and by publication in the **Federal Register** (46 FR 56528, November 17, 1981). Notice of the amended proposed rule change together with its terms of substance was also given by issuance of a Commission Release (Securities Exchange Act Release No. 18370, December 23, 1981) and by publication in the **Federal Register** (46 FR 63438, December 31, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4019 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18475; (SR-NASD-81-23)]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

February 8, 1982.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, submitted on December 18, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend the Resolution of the Board of Governors following Section 4 of Part I of its Code of Arbitration by increasing the honorarium paid to arbitrators for each hearing session in which they participate from $50 to $100. The NASD believes that the present honorariunm, approved in 1977, should be increased in order to attract and retain qualified persons for arbitration panels.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18377, December 29, 1981) and by publication in the **Federal Register** (47 FR 717, January 6, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4016 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12218; (812-5012)]

New England Mutual Life Insurance Co. et al.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants to the Extent Requested from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(a)(3), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 Thereunder and Pursuant to Section 11 of the Act Approving Certain Offers of Exchange

Notice of hereby given that New England Mutual Life Insurance Company ("New England Life"), a mutual life insurance company organized under the laws of Massachusetts, New England Life Retirement Investment Account (the "Account"), a separate account of New England Life registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and NEL Equity Services Corporation ("NELESCO"), the principal underwriter of the Account, (collectively referred to herein as "Applicants") filed an application on November 12, 1981, and filed an amendment thereto on February 1, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from certain provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(a)(3), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder, and pursuant to Section 11 of the Act approving certain offers of exchange. New England Life is the depositor and sponsor of the Account. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

New England Life established the Account for the purpose of funding individual variable annuity contracts (the "Contracts") to be issued by New England Life and the Account. Applicants intend to offer the Contracts for sale to investors who qualify for tax-benefitted treatment under certain sections of the Internal Revenue Code of 1954, such as Sections 401(a), 408(a), 408(k) and 414(d). Purchase payments, net of applicable premium taxes, will be invested in five sub-accounts of the Account. The contractowner will allocate all or a portion of each purchase payment among one or more of the sub-accounts.

Each sub-account will be invested solely in shares of certain registered open-end investment companies ("Eligible Funds") organized by New England Life.

Applicants state that the Contracts will be offered without deducting any sales charge from purchase payments at the time of purchase. However, the Contracts provide for surrender charges in the form of contingent deferred sales charges which are intended to assist New England Life in covering its expenses related to the sale of the Contracts. The contingent deferred sales charge will be imposed if all or part of a Contract value is withdrawn. The charge will be equal to the lesser of (a) 5% of the purchase payments made within 6 years prior to the date of the withdrawal, or (b) 5% of the Contract value being withdrawn. No charge will be imposed for payments made upon death or under life income annuity options. In no event will the charge exceed 5% of the total purchase payments made under the Contract. Up to 10% of the total purchase payments made under the Contract may be withdrawn in any one Contract year without charge. However, if an additional withdrawl increases the total amount withdrawn during the Contract year to more than 10% of such purchase payments, the contingent deferred sales charge will be applied to all withdrawals made during such Contract year. Other charges under the Contracts include a $30 annual administrative charge which New England Life will deduct from the value of each Contract prior to the maturity date for administrative costs. The Charge will be made on each Contract anniversary prior to the maturity date of the Contract and on a pro rata basis if the Contract is surrendered or matures on a date other

than the Contract anniversary date. In addition, New England Life will deduct daily from each sub-account an expense risk charge and a mortality risk premium equal on an annualized basis to .40% and .85%, respectively, of the daily net asset value of each sub-account. New England Life guarantees that the $30 annual administrative charge will not increase over the life of the Contract, regardless of actual expenses, and the expense risk charge compensates New England Life for assuming this risk. The mortality risk premium is to compensate New England Life for actuarial risks it assumes in guaranteeing (a) that annuity payments will not be affected by the mortality experience (death rate) of persons receiving such payments or of the general population and (b) a minimum death refund equal to at least the sum of all purchase payments made, adjusted for withdrawals, if the designated annuitant dies before maturity.

Relief for Contingent Deferred Sales Charge

Section 27(d) of the Act, in substance, requires that the holder of a periodic payment plan certificate be able to surrender his certificate within a specified time and receive the value of his account and the return of sales charges in excess of a certain percentage. Section 2(a)(32) of the Act, in substance, defines a redeemable security as a security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Applicants request an exemption from Sections 27(d) and 2(a)(32), to the extent deemed necessary, to permit the offer and sale of Contracts providing for the deduction of the contingent deferred sales charge.

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants request an exemption from Section 2(a)(35) to the extent necessary to permit the offer and sale of the Contracts with the deduction of the contingent deferred sales charge in the manner described in the application.

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. Applicants request an exemption from Section 22(c) and Rule 22c-1, to the extent necessary, to permit the offer and sale of the Contracts with the contingent deferred sales charge.

Section 27(a)(3) of the Act makes it unlawful for any investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate if the amount of the sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment. Under the Contracts, a contractowner would be able to withdraw up to 10% of the Contract's purchase payments in any one Contract year without imposition of the contigent deferred sales charge. However, such withdrawals could be followed by subsequent withdrawals in the same Contract year which taken together with the first withdrawal would aggregate more than 10% of Contract purchase payments, or by a withdrawal of more than 10% of the Contract purchase payments in any later Contract year. These subsequent withdrawals could result in the deduction of sales charges and might raise a question as to the applicability of Section 27(a)(3). Applicants submit that the contingent deferred sales charges imposed under the Contracts are not subject to the provisions of Section 27(a)(3) in that they are not imposed with respect to any purchase payments, but rather only with respect to certain withdrawals. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 27(a)(3), Applicants have requested an exemption from that provision to the extent necessary to permit the offer and sale of Contracts providing for the deduction of the contingent deferred sales charge.

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants request an exemption from Section 27(c)(1) to the extent necessary in order to permit the offer and sale of the Contracts with a contingent deferred sales charge.

Section 28(a)(2)(C) of the Act provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants request an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, to allow expenses incurred in the distribution of the Contracts to be recovered from the contingent deferred sales charge.

Relief for Performance of Custodial Functions

Section 27(c)(2) of the Act provides, in substance, that the issuer of a periodic payment plan certificate and a depositor or underwriter for such an issuer are prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than the sales load, on the certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Applicants request that the Commission enter an order of exemption from the provisions of Sections 26(a) and 27(c)(2) in order that New England Life may hold in open account without physical certificates the shares issued by the Eligible Funds upon the investment in said Eligible Funds of purchase payments to the Account. Also, exemptive relief is sought to the extent necessary to permit assets of the Account to be held in custody for safekeeping by New England Life and so that the assets of the Account need not be held in trust.

Relief for Payment of Contract Fees and Charges

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor of or underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than amounts deducted for sales load, are deposited with a qualified bank as trustee or custodian. Section 26(a)(2)(D) provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses

(A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust. As pertinent here, Section 26(a)(2)(C), provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services normally performed by the custodian. Applicants request an order exempting them from the provisions of Sections 26(a) and 27(c)(2) to the extent necessary to permit the deduction by New England Life and the payment to New England Life of (1) the annual charge of $30 and administrative expenses, (2) the proposed fee for providing the mortality and expense risk guarantees and (3) applicable premium taxes.

Applicants consent that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) that the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the Account shall not be determined to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and the Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Approval Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provide that, irrespective of the basis of exchange, the provisions of (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

At any time during the accumulation or annuity phases under the Contract the contractowner or payee may request that all or part of his interest in a sub-account be transferred for an interest in another sub-account of the Account. Any transfers will be made at the relative net asset values per share of the particular Eligible Funds next determined after the request is received. A fee would be imposed only if New England Life concluded that such a fee was appropriate in view of a high volume of transfers and resultant high level of expenses. The fee would under no circumstances exceed $5 per transfer and would be disclosed in the then-current prospectus of the Account. Applicants submit that the proposed transfers of Contract value from one subaccount of the Account to another are not prohibited by Section 11 since no variable annuity contract is actually exchanged. However, in order to avoid any question in this regard, Applicants have requested an order pursuant to Section 11 approving the transfer provisions described above.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 3, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following March 3, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4025 Filed 2-12-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22373A; (70-6631, 70-6689)]

Ohio Power Co.; Supplemental Notice Correcting Error in File Number

February 8, 1982.

In the matter of Ohio Power Co., 301 Cleveland Avenue, S.W., Canton, Ohio 44701.

In the notice issued January 28, 1982 (HCAR No. 22373) in this proceeding, the captioned file number (70–6631) was incorrect and should have read (70–6689).

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4024 Filed 2-12-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12217; (812–5056)]

Wayne Hummer Money Fund Trust; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

February 8, 1982.

Notice is hereby given that Wayne Hummer Money Fund Trust ("Applicant"), 175 West Jackson Boulevard, Chicago, Illinois 60604, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management

investment company, filed an application on December 22, 1981, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund the investment objective of which is to provide maximum current income to the extent that such objective is consistent with the preservation of capital and the maintenance of liquidity. Applicant proposed to invest exclusively in the following money market instruments maturing in twelve months or less from the time of purchase: (a) Obligations of, or guaranteed by, the United States. Government, its agencies or instrumentalities; (b) bank or savings and loan association certificates of deposit or bankers' acceptances limited to domestic banks or savings and loan associations having assets in excess of one billion dollars and which are members of the Federal Deposit Insurance Corporation in the case of banks, or the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations; (c) commercial paper obligations rated A–1 by Standard & Poor's Corporation ("S & P") or Prime-1 by Moody's Investors Service, Inc. ("Moody's") or issued by companies with an unsecured debt issue outstanding currently rated Aa by Moody's or AA by S & P or higher; and (d) repurchase agreements with respect to money market instruments which are suitable for investment under the categories set forth above.

Applicant further states that it issues shares in two portfolios (the "Portfolios") which are differentiated on the basis of the types of money market instruments in which each may invest: (i) a Government Portfolio which may be invested exclusively in those money market instruments described in subparagraph (a) above as well as repurchase agreements with respect thereto and (ii) a Money Market Portfolio which may be invested as described in subparagraph (a) through (d) above.

As here pertinent, Section 2(a)(41) of the Act defines "value" to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here pertinent, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its Portfolios by means of the amortized cost method of valuation.

In support of the relief requested, Applicant states its belief that investors are attracted to investments which provide stability of principal and a steady flow of investment income. Applicant further believes that investors prefer that the daily dividends declared by the Applicant reflect income as earned and that the sale and redemption prices not change. By utilizing money market instruments of short maturities combined with a stable net asset value, preferably $1.00 per share, Applicant asserts that it would be possible to provide these features to a variety of investors. Applicant further believes that, given the nature of its policies, there will normally be a relatively negligible discrepancy between the amortized cost value of such securities and the value determined by a market valuation method.

On the basis of the foregoing, Applicant believes that the valuation of its Portfolios' securities on the amortized cost basis will benefit its shareholders by enabling the Applicant to maintain more effectively a stable price per share while providing its shareholders with a flow of investment income less subject to fluctuation than under procedures whereby dividends would be adjusted by unrealized gains and losses on its Portfolios' securities as well as realized gains and losses. The Applicant's board of trustees has determined in good faith that in light of the characteristics of the Applicant as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing its Portfolios' securities is appropriate and preferable for the Applicant and will reflect the fair value of such securities.

Section 6(c) of the Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and has agreed that the following conditions may be imposed in any order by the Commission granting the exemptive relief requested:

1. In supervising the Applicant's operations and delegating special responsibilities involving Portfolio management to the Applicant's investment adviser, the board of trustees of the Applicant undertakes—as a particular responsibility within the overall duty of care owed to the Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Applicant's investment objectives, to stabilize the Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

2. To be included within the procedures to be adopted by the board of trustees of the Applicant are the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations if available or, if not available, fair value as determined by the board of trustees from the Applicant's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, the board of trustees of the Applicant will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results. Such action may include, without limitation: the sale of Portfolio securities prior to maturity to realize capital gains or losses or to shorten the Applicant's average portfolio maturity; withholding dividends or payment of distributions; or utilizing a net asset value per share as determined by using available market quotations or estimates of market value reflecting current market conditions selected by the boared of trustees as appropriate indicators of value.

3. Applicant will maintain for each Portfolio a dollar-weighted average Portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (i) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (ii) maintain a dollar-weighted average Portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the considerations and actions taken by the board of trustees in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meetings of the board of trustees. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were required to be maintained pursuant to rules adopted under Section 31(b) of the Act.

5. Applicant will limit its Portfolio investments, including repurchase agreements, if any, to those United States dollar denominated instruments which the board of trustees of the Applicant determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as detemined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition (2)(c) was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4023 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, the Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of trustees in the exercise of its discretion to be appropriate indicators of value. The quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual Portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a Portfolio instrument results in a dollar-weighted average Portfolio maturity in excess of 120 days, the Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average Portfolio maturity to 120 days or less as soon as reasonably practicable.

DEPARTMENT OF STATE

[Public Notice CM–8/493]

Presidential Commission on Broadcasting to Cuba; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 Section 5(c), notice is hereby given that the Presidential Commission on Broadcasting to Cuba will meet in open and closed sessions on Tuesday, March 2, 1982. The open session of the meeting will convene on March 2 at 2:30 p.m. in the East Auditorium of the U.S. Department of State, Washington, D.C.

The open session of the Commission meeting will allow public discussion of programming, technical, and other aspects of radio broadcasting to Cuba. The general public attending the open session may participate in the discussion or submit statements subject to instructions of the Chairman.

The purpose of the closed meeting is to discuss aspects of radio broadcasting to Cuba that should not be prematurely disclosed to the public. Documents classified under the provisions of Executive Order 12065 will also be discussed. Accordingly, it has been determined that it is in the public interest to close this meeting pursuant to 5 U.S.C. 552 b(1) and 5 U.S.C. b(c)(9).

Because entry to the State Department is controlled, members of the public who wish to attend the open session shall contact Mr. Peter P. Lord in advance in order to provide their names and affiliation and to facilitate their attendance. His telephone number is (202) 632–7440 or 632–7432. Attendees

should use the Entrance located on 21st Street NW., just off Virginia Avenue.

Ambassador George W. Landau,

Executive Director, Presidential Commission on Broadcasting to Cuba.

[FR Doc. 82-4196 Filed 2-12-82; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. 81-94T]

Delaware River Port Authority Bridge Tolls; Order of the Administrator

The Delaware River Port Authority (DRPA) raised the tolls on the Ben Franklin, Walt Whitman, Betsy Ross, and Commodore Barry bridges effective September 1, 1981. The stated purpose for the toll increase was to fund certain maintenance, operating, and capital construction and improvement projects, and to maintain and increase reserves. The list of budgeted and approved projects, as well as planned future projects, are set forth in the Replies to Complaints, p. 2. The increase for passenger cars was from 60 cents per crossing to 75 cents per crossing. Proportional increases were imposed on other classes of users except that carpool rates were increased from $4 for a book of 40 tickets to $20 for a book of 40 tickets. A table of old and new tolls is attached (Exhibit A).

Following complaints received by the Administrator concerning the proposed September 1, 1981, toll increase, the Administrator, by Order dated August 4, 1981, established an Investigation Team pursuant to the Federal Highway Administration's (FHWA) Bridge Toll Procedural Rules (49 CFR Part 310). The Team submitted its final report on October 26, 1981, and recommended that a formal administrative hearing be held to determine one material factual issue—whether the carpool rate is reasonable.

The complainants are the Automobile Club of Southern New Jersey, Keystone Automobile Club, Paul Miller, John H. Kundts, Howard B. Norton, Jr., George Moonsammy, Greater Philadelphia Bicycle Coalition, Pennsylvania Task Force on Ridesharing, Douglas G. Gehring, William J. Doughtery, Michael Kaplan, Jeffrey P. Eves, and Metro Cab, Inc. The complaint of the National Association of Van Pool Operators, filed late, is included.

The matter is now before the Administrator to determine whether, from the record compiled by the Investigation Team, a formal hearing is required or, if not, whether the tolls imposed by the DRPA are reasonable and just.

The DRPA is an agency created by the Interstate Compact entered into by the States of New Jersey and Pennsylvania. It owns and operates the four bridges, a rail mass transit facility (PATCO), and a World Trade Division for the promotion of trade of the Philadelphia Port.

Acting pursuant to the bridge toll procedural rules, the Federal Highway Administrator sent copies of the original complaints to the DRPA. The investigation team issued a press release and contacted all known complainants to gather information concerning the toll increase. A meeting was also held with the representatives of the DRPA in order to collect data relevant to making a recommendation concerning the disposition of the investigation. The DRPA provided the investigation team with answers to the complaints, background information concerning the rationale for the toll increase, detailed financial statements, and answers to the informal inquiries of the investigation team. All of this data was considered by the investigation team in preparing their report. Further, in the submission of the final report by the Investigation Team on October 26, 1981, the parties were allowed 14 days to submit comments.

Purpose of Investigation Team

The toll bridge investigation is conducted in order to evaluate complaints filed concerning the toll increases. It is designed to discover and evaluate information justifying the toll increase and any information the complainants might have contradicting the position taken by the bridge toll owner. The ultimate purpose of the investigation is to provide a report to the Administrator which includes recommendations on whether or not the Administrator should take further action. 49 CFR 310.5. In this case, the report recommended that a formal hearing should be held.

Consideration of Necessity for a Hearing

Although the General Bridge Act of 1946 "authorizes" a hearing, nothing in the Act mandates a hearing on the question of tolls. "Port Authority Trans-Hudson v. Baum Bus Co.," 156 N.J. Super 578, 384 A. 2d 209 (1978). Nor do the Bridge Toll Procedural Rules, which state that "In proceedings under this part the Administrator determines (a) whether there are *sufficient grounds* to initiate formal adjudication concerning the reasonableness and justness of a toll schedule * * *" (emphasis supplied).

The requirement for an adjudicatory hearing does not apply in all situations in which there are issues in dispute. If only legal issues are identified as being in dispute, for example, no adjudicatory proceeding is necessary. "Costle v. Pacific Legal Foundation," 100 S. Ct. 1095 (1980); "U.S. v. Storer Broadcasting Co.," 351 U.S. 192 (1956).

The test for determining whether to call a matter for adjudication is whether there are any material factual issues in dispute. "Costle v. Pacific Legal Foundation," id., "Citizens for Allegan County, Inc. v. FPC," 414 F. 2d 1125 (D.C. Cir. 1969); "U.S. v. Consolidated Mines & Smelting Co.," 455 F. 2d 432 (9th Cir. 1971). In making this determination, the issues raised by the parties must be analyzed. A material factual issue is one that will, or could, affect the final determination. If the factual issues in dispute are not such that they would have an impact on the Administrator's final decision, no formal hearing need be held. "Costle v. Pacific Legal Foundation," id; "U.S. v. Storer Broadcasting Co.," id.

Issues Raised by Complainants

Most of the complainants challenging the toll increase are concerned about the increase in carpool tolls. These complainants questioned the tolls because the increase is believed to be disproportionate to the toll increase for other categories of users and because the increase might have an adverse environmental and fuel conservation impact. Other complainants questioned whether the construction projects identified by the DRPA as justifying the need for the toll increase were necessary. One of the complainants stated that the DRPA had sufficient reserves to support the identified projects without resort to the toll increase. Other questions raised by the complainants concerned the reasonableness of a continued subsidization of the PATCO high speed line and the lack of tolls for bicycle users on the bridges.

It should be noted that even though the majority of the complainants failed to satisfy the procedural requirements set forth in 49 CFR 310.3 all complaints were reviewed and taken into consideration. Other than the general complaints listed above, no one complained that the toll increase was not needed by DRPA or that the rate of return was not reasonable.

Are Issues Factual, Material, and Disputed?

In order to determine which, if any, material factual issues are in dispute, it was decided to review the complaints and prayers for relief submitted by all

complainants, as well as the responses of DRPA, the investigation report, and other documents of record. Where it is determined that an issue is not material, factual, and in dispute, then there is no necessity for a hearing to resolve that issue. Where an issue is not pertinent to the ultimate decision by the Administrator as to whether a rate of toll is reasonable and just, then that complaint will be dismissed. The following issues have been identified in the complaints and will be addressed below:

1. *Inadequate public notice of public hearings by DRPA; hearings were not convenient; written comments couldn't be entered into the record after the hearings.* Public notice of the toll increase, elimination of the reduced toll program, requests for written comments, as well as a schedule of hearing dates (Exhibit B) [1] was published in three newspapers of general circulation, the Inquirer, Philadelphia Bulletin, and Courier Post on June 15 and 23, 1981. Public hearings were held in Voohees Township, N.J., on June 29 and in Philadelphia, Pa., on June 30. Supplemental Reply to Complaints, ¶5.

The DRPA was *not required* by law nor regulation to hold *any* public hearings. Subsequent to the scheduled public hearings, at the DRPA meeting on July 15, 1981, in the Administration Building, Camden, N.J., the Commissioners allowed three speakers to address the issue of the proposed elimination of carpool rates, in part because the elimination of that rate was not highlighted in news articles, thus limiting participation by carpoolers at the original hearings. See Replies to Complaints, p. 10. Therefore, the complaints of no prior or inadequate public notice are not material factual issues in dispute. The convenience of the hearings is a non-issue, as is the complaint that written comments were not allowed after the hearing since such comments were taken into consideration in the DRPA review of the elimination of carpool rates. No additional factual information would be adduced at a formal hearing.

Even though not required, public hearings were held. A review of the record indicates that the notice to the public was adequate. The complaint of Michael Kaplan is dismissed. That part of the Metro Cab, Inc., complaint dealing with no prior notice is also dismissed.

2. *Betsy Ross bridge should not have been built and increased tolls burden working-class people.* Neither of these complaints is a material factual issue. The bridge has been completed and is in use; increased tolls burden all users. The complaint of William Doughtery is dismissed.

3. *Tolls should be instituted for bicyclists.* This is not a material factual issue, rather it is a policy issue. There is no dispute as to the fact that there is no toll charged bicyclists to cross the bridges. I construe the General Bridge Act of 1946 to mean that the Administrator need not decide the narrow issue of whether the toll rate structure should be applied to certain classes of users and not to others. Where there is no toll, there is nothing for the Administrator to decide re "reasonable and just tolls." Although structured as a request for the institution of tolls, the primary concern of the bicyclists is better service, including 24-hour access across the bridges. That is an issue that must be decided by DRPA and not the Administrator. Even if the Administrator had the authority and required the institution of tolls for bicyclists, he could not require the DRPA to guarantee access and other amenities. The complaint of the Greater Philadelphia Bicycle Coalition is therefore dismissed.

4. *Objections to the continued subsidization of PATCO.* There have been complaints regarding the subsidization of PATCO every time there is a toll rate increase. The current objections run the gamut from the subsidy being unfair to car drivers to its being morally improper. There is no question that PATCO is being subsidized by bridge users, but that subsidy is authorized by the amended DRPA compact between New Jersey and Pennsylvania and has been consented to by Congress. The Congressional consent to the amendment of the DRPA compact authorizes the use of revenues for nonbridge purposes:

"Section 3 * * * (the) commission is hereby authorized to fix, charge, and collect tolls or other charges for the use of any bridge or tunnel * * * and to combine any one or more of such bridges or tunnels, with any railroad, rapid transit system, or other properties or facilities for transportation terminals or port improvement purposes * * *, and combine the tolls or revenue therefrom * * *." 66 Stat. 748, 747; H.R. Rep. No. 2293, 82nd Cong. 2d Sess. 2–10 (1952).

It was obviously a policy decision by New Jersey and Pennsylvania, through its elected representatives, to subsidize non-bridge facilities.

Article I of the amended compact states in pertinent part:

"* * * The Delaware River Port Authority * * * shall be deemed to be exercising an essential governmental function in effecting such purposes to wit: * * *

(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system * * * Such system may be established by utilizing existing rapid transit systems, * * * and by the construction or provision of new facilities where deemed necessary * * *" 70 Stat. 216, 217 (1964)

Thus, DRPA is authorized to support the operation of PATCO from bridge toll revenues, as well as to construct extensions to the PATCO line. Therefore, any decision on the reasonableness of any toll increase must take into consideration the use of toll revenues to support such other facilities. The DRPA has also indicated that revenue bonds are not a feasible alternative source of funds without a larger toll increase. Replies to Complaints, p. 22. This has not been disputed and there is no evidence in the record that it is not true.

Further, it is impossible for any State to make timely, reasoned decisions by submitting all proposals to a referendum. That is why the authority to make necessary decisions was delegated to the DRPA through the eight Commissioners appointed by each jurisdiction. Nothing has been submitted by complainants to indicate that DRPA acted unreasonably or arbitrarily in authorizing the PATCO extension. The Commission's determination appears to be the result of a reasoned decision-making process. See Replies to Complaints, pp. 2–3; "Greater Boston Television Corp. v. Federal Communications Commission," 444 F. 2d 841, 850 (D.C. Cir. 1970), cert. den., 403 U.S. 923 (1971).

For the above reasons, that part of the complaints of the Keystone Automobile Club, Paul Miller, and the Automobile Club of Southern New Jersey with respect to the continued subsidization of PATCO are dismissed.

One complaint stated that not allowing passenger vehicles for hire to participate in a toll discount program created a burden on interstate commerce.

It also stated that the DRPA, by discriminating in their toll rates while operating PATCO, created an unfair competitive practice. Both of these complaints are spurious in the instant case where, as indicated above, Congress has consented to the operation and subsidization of PATCO by DRPA. I fail to see the burden on interstate commerce where the toll imposed on a particular class is no more than the base fare prescribed for all users, i.e., $.75 per crossing. That part of the complaint of Metro Cab, Inc., that alleges the elimination of toll discounts for

[1] Exhibit B is filed with the original.

passenger vehicles for hire is a burden on interstate commerce and is an unfair competitive practice does not present factual issues in dispute. They are legal issues which are not relevant to whether the toll structure is reasonable and just, which will be discussed below; they are therefore dismissed.

5. *Objections to subsidization of the World Trade Division.* Article I of the amended Compact (78 Stat. 216) states in pertinent part some of the purposes of the DRPA are:

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto * * *

(d) Cooperation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

(h) To study and make recommendations to the proper authorities for the improvement of * * * facilities necessary for the promotion of commerce on the Delaware River.

(k) The performance of such other functions which may be of mutual benefit to * * * Pennsylvania and * * * New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels."

Section 2 of the amended Compact (78 Stat. at 221) continues the provisions of Pub. L. 573 and 574 which authorize the diversion of bridge revenues for use in construction or operation of other nonhighway facilities within the jurisdiction of the port authority. 66 Stat. 746, 747, supra.

Just as the amended Compact authorized the subsidization of PATCO, it also authorized the use of bridge funds for the promotion of commerce, which is being done through the World Trade Division. This is not a novel issue; it has been discussed in great detail in prior cases and need not be addressed again. That part of the complaint of the Automobile Club of Southern New Jersey stating that the World Trade budget is an improper charge for the bridge user is dismissed.

6. *Bridge and highway construction and improvement projects are not necessary.* Again the amended Compact sets forth the parameters within which the DRPA is authorized to work.

Article I states in pertinent part that the purpose of DRPA is:

"(a) The operation and maintenance of the bridge * * *, including its approaches, and the making of additions and improvements thereto.

(f) The construction, acquisition, operation and maintenance of other bridges * * *, including approaches, and the making of additions and improvements thereto." 78 Stat. 216.

Article IV states in pertinent part:

"For the effectuation of its authorized purposes, the commission is hereby granted the following powers:

(1) To determine that exact location, system and character of, and all matters in connection with, any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, generate, or control."

As indicated in other proceedings, the Administrator will not get involved in the internal workings of the DRPA and second guess them on the validity of any of their construction projects, especially where there is no indication that the DRPA acted unreasonably or arbitrarily. Therefore, that part of the complaints of Paul Miller, Keystone Automobile Club and the Automobile Club of Southern New Jersey with respect to certain capital construction and improvement projects not being necessary are dismissed.

7. *Reserves or financing other than bridge tolls should be used for capital construction or improvements.* It has been alleged that the DRPA has sufficient funds in its reserves to complete the projects identified as the basis for the toll increase. The Administrator recognized in the last toll proceeding that the maintenance of a health reserve for unpredictable, reasonable, long-term capital maintenance expenses appears to be necessary in the case of the DRPA.

In his Order of March 20, 1979, at p. 10 (Docket No. 78–15T), the Administrator stated that "as a matter of policy, DRPA's Board of Commissioners believes that the reserves should not be allowed to drop below $10 million, which is considered a minimum safe level to provide for major contingencies, and, in particular, for major repairs and modernization of Authority-owned facilities * * *. Because of the age of the two older bridges, unforeseeable major repairs and replacements * * * are anticipated to occur in the future." Then, as now, it was contended that the reserves should be exhausted before tolls are raised. Now, as then, the Administrator cannot agree. Using the Staff Investigation Report in the prior case (78–15T), the Administrator was able to extrapolate the end-of-year reserves for 1974–1977. (Attachment 6, Figures 3 and 4). The results show that the reserves as of December 31 were approximately $23.4 million in 1974, $23.1 million in 1975, $22.1 million in 1976, and $20 million in 1977. Pages 6 and 7 of the Replies to Complaints in the current case indicate that the reserves were $25.1 million in 1979 and $27.5 million in 1980. Without the toll increase, it is estimated that the reserves would drop to $13.7 million by the end of 1982. Obviously, the reserves could be used for capital construction and improvements, but it is undisputed that the reserves would be depleted in 1983 without the toll increase. Replies to Complaints, p. 6.

The DRPA indicated in its Replies to Complaints (p. 21–22) that the anticipated reserves at pre-September 1, 1981, toll levels would not accommodate the "Bridge Project" capital requirements of the Authority; that Revenue Bonds are not a feasible alternative source of funds without a larger toll increase; and that funds committed to "Highway Projects" are not available from New Jersey or Pennsylvania and there doesn't appear to be reason to believe such funds would be available. These assertions appear to be valid, taking into consideration the background of this and prior cases, as well as the documentation in the record.

As the Administrator stated in the prior case, the maintenance of a healthy reserve for a financial operation of this size appears to be a necessity to take care of unforeseen contingencies. Therefore, at this time, the Administrator again finds reasonable the DRPA's policy of maintaining a reserve sufficient to take care of any possible large expenditures. Considering the rate of inflation and the comparison with the end of the year reserves since 1974, the current and projected reserves with the toll increase do not appear to be unreasonable. Therefore, that part of the Complaints of the Automobile Club of Southern New Jersey and of Paul Miller with respect to the use of reserves or financing other than bridge tolls for capital construction or improvements are dismissed.

8. *Carpool rates should not be eliminated.* This is not a material factual issue. The DRPA originally proposed to completely eliminate carpool rates. After reviewing the objections by the public, the proposal was reexamined and the DRPA decided to continue a discounted rate for carpools. The complaint of John Kundts and that part of the complaint of the Keystone Automobile Club objecting to the elimination of carpool rates are dismissed.

9. *Increase in carpool rates will impact the environment and energy conservation; increase the cost of commuting; and discourage carpooling.* Many of the complaints were about the impact of the increase in carpool rates. The basic thrust of the assertions by the complainants was that the increase in the carpool rate will discourage ridesharing, causing individuals to shift to solitary driving and thereby increasing the cost of commuting and causing a detrimental impact on the environment and energy conservation. The Environmental Analysis, which was attached to the Investigation Report as Exhibit A, indicates that the toll increases will not have a significant impact on the environment. In fact, the rate of increase in traffic would be lessened, thus causing a positive impact on air quality and energy resources when compared to projections without the toll increase. Environmental Analysis, p. 2–4.

The assertion that the increase in the carpool rate will discourage ridesharing, thus causing multiple negative impacts, is based on the assumption that the negative economic impact on carpool participants would be so significant that many carpools would be disbanded.

On January 1, 1974, the carpool rate was instituted, based on the impending energy crisis. The toll was $0.25 per crossing. Decision and Order of December 21, 1973, p. 2. The new carpool rate was ineffectual in the reduction of traffic, inasmuch as only 1.18 percent of the crossings by passenger vehicles and light trucks were by carpools. See Opinion and Order of May 19, 1975, p. 16. The Administrator then substantially reduced the carpool rate to $0.10 per crossing, effective August 1, 1975, because he thought that rate should have the effect of attracting some one-passenger car commuters to a carpool. Id. p. 17.

Unfortunately, the substantial reduction did not have the desired effect, since carpools represent only about 1 percent of the total traffic. Replies to Complaints, p. 19. Utilizing the figures supplied in the Mahony letter of September 10, which indicated that total carpool traffic was approximately 846 thousand out of 67 million crossings in 980 (Environmental Analysis, p. 2), it appears that carpool traffic represented about 1.26 percent of total traffic in 1981. Based on prior experience with the carpool rate, it is quite speculative to assume that the increase in the rate would discourage carpooling. The Environment Evaluation stated on p. 6 that even with the substantial increase in the carpool rate, "there remains an incentive to carpool, and no significant switch from carpools to single occupant vehicles is anticipated."

Even assuming that the carpool rate did discourage ridesharing, the impact would be insignificant with respect to the environment and energy conservation. For the above reasons, the complaints of Jeffrey Eves, George Moonsammy and that part of the complaints of Douglas Gehring, Paul Miller, and the Pennsylvania Task Force on Ridesharing with respect to energy conservation, the environment, and discouragement of ridesharing are dismissed.

There is no dispute that the cost of commuting will increase along with the carpool rates. This will be further addressed below.

No Formal Hearings Necessary

The above review of the issues identified in the complaints indicates that many of the issues are collateral to and/or beyond the scope of the Administrator's authority in this proceeding. As a result, those few facts in dispute are not material to the ultimate decision of whether the tolls are reasonable and just. Those facts which are material have not been disputed, and will be discussed later.

The Investigation Team believed that the reasonableness of the carpool rate is a material factual issue which justifies the Administrator calling this matter for a hearing before an administrative law judge. Investigation Report, pp. 8–9. As stated above, where there are material factual issues in dispute, there are sufficient grounds to initiate formal adjudication; but the question as to whether the toll rates are reasonable and just is the ultimate decision of the Administrator, based on the material facts. The factual issues with respect to the increase in carpool rates were discussed above and, except for the increase in commuting costs, are not material to the ultimate decision.

For the reasons stated herein, the Administrator finds that there are no material factual issues outstanding which would necessitate a full administrative hearing.

The Requirement of Reasonable and Just Tolls

The tolls on the bridges owned by the DRPA are regulated under the General Bridge Act of 1946, 33 U.S.C. 526. That section says that the tolls must be reasonable and just and gives the Secretary of Transportation (delegated to the FHWA, 49 CFR 1.48i), the authority to prescribe reasonable rates. 66 Stat. 746, 747. The toll regulation of the General Bridge Act of 1946 restricting tolls to an amount necessary to cover maintenance and operation and to recover original costs does not apply to the DRPA bridges. 66 Stat. 746. Congress specifically waived the application of this section, 33 U.S.C. 529, to the DRPA bridges in order to allow the Authority to support its mass transit facility (PATCO) and the World Trade Division from the toll revenues. 66 Stat. 746, 747.

The past investigations and decisions concerning increases in tolls on bridges owned by the DRPA establish the tests to be applied in determining whether the toll increase is just and reasonable. The Administrator's initial decision concerning the 1978 toll increase on DRPA bridges identified three major factors to be considered in toll rate determinations: The financial need of the bridge owner, fairness to the bridge user, and the public interest. Administrator's Order of March 20, 1979, Docket 78–15T.

In reaching his decision the Administrator must properly balance and evaluate interests of the DRPA, the toll paying public, and the furtherance of nationally stated public objectives. In doing so, he must make a reasoned analysis of these issues in formulating a decision on what is just and reasonable.

1. *Financial need of the bridge owner.* With regard to the financial interest of the bridge owner, the Administrator has recognized that a reasonable and just toll is one that would provide the DRPA sufficient revenue to support its total activities including (1) operation of the bridges, (2) the PATCO rapid transit system, and (3) the World Trade Division, as well as sufficient revenue to meet the debt service requirements of the DRPA. It is significant that there was no complaint that the toll increase was unreasonable and unjust because revenues exceeded such an amount.

The DRPA had provided the Investigation Team with financial data concerning costs of projected projects, operation and maintenance expenses, accounting principles, debt service requirements, equity balance statements, balance sheets, audits, and traffic data. Prior to the completion of a financial analysis of the toll increase, the Team stated that preliminary indications were "that the DRPA's financial figures are correct and its rationale for the toll increase is justified". Investigation Report, p. 9. The supplementary financial report was subsequently completed and sent to all parties. A review of the financial report in conjunction with the other financial data does nothing to dispel the preliminary indications of the Team. The

Administrator, when looking at the budget and expenses of DRPA, will not substitute his judgment for that of the Commission in the operation of the DRPA. For that reason, those schedules attached to the supplementary financial report which exclude certain capital project and/or World Trade operations were not considered in this determination. Those issues have been thoroughly discussed. (Supra, pp. 8–10). The remaining schedules, Nos. 1 and 5, were then compared with the schedules provided by DRPA. Replies to Complaints, pp. 6, 7.

While is it obvious that a lower base toll of $0.70 and a carpool rate of $5.00 would provide a sufficient return to support total DRPA activities in the short term, the estimated reserves (equity) would drop precipitously in 1983 to $8.2 million. This would be below the $20 million which was considered the *minimum* safe level three years ago. The DRPA stated the following in its notice of hearing: "* * * It is critical that reserves be maintained and increased * * *." Replies to Compliants, pp. 1–2. This has not been disputed. Assuming even a 10 percent rate of inflation in the past three years and no great increase in future budgeted expenses, it would be reasonable to increase the *minimum* safe level to $33.3 million. This issue was not addressed by the parties since only the Automobile Club of Southern New Jersey implied that capital projects could be financed out of annual operating and reserves fund surpluses when it discussed the elimination of certain capital projects. This issue really boils down to what is an *adequate*, as opposed to a *minimum*, reserve. As indicated earlier on pp. 10–11, the projected reserves with the toll increase, considering all factors, are not unreasonable.

Although there were no complaints with regard to the bond and debt service ratio, this is another factor which has been considered when determining whether the tolls were reasonable and just in past toll rate cases. The total bond and debt service ratios in Schedules 1 and 5 of the supplementary financial report and the ratios derived from the Replies to Complaints (pp. 6, 7) are set forth in Exhibit C under the estimated reserves. There is a correlation between the reserves and the ratios.

In order to maintain adequate reserves, there must be an increase in the net income before "other payments." These "other payments" include the PATCO operating loss, budgeted capital, and special capital. See the financial reports, Schedules 1 and 5, and Replies to Complaints, pp. 6, 7. Since the bond and debt service totals remain relatively constant, where there is an increase in net income, there is a corresponding increase in the bond and debt service ratio.

While there are bond indenture covenants which require the DRPA maintain a revenue bond service coverage ratio of 1.2, that ratio has no relation to the "other payments", which will be increasing each year. If the net income exceeds the total of "other payments", the surplus is added to the reserves. Where there is a deficit, the reserves are reduced by that amount.

Although the estimated total bond and debt service ratios may appear high in some instances, that ratio is a result of the increase in net income which is required to maintain adequate reserves.

Fairness to the bridge user. There was only one complaint about the overall toll increase, and it only indicated that the increase was unwarranted, especially for commuters. The majority of the complaints from the toll paying public were related to the increase in the carpool rate. There was one compliant about passenger vehicles for hire not being able to participate in any special or reduced rate program, which was formerly available to them.

Absent a showing of an oppressive economic effect on a great number of toll payers, factual evidence of economic hardship would not be relevant to a decision. The determination of use charges requires the exercise of judgment and discretion, and is an activity that fairly may be described as legislative. There is nothing in the record to support any complainant's contention that DRPA acted unreasonably or arbitrarily in establishing the tolls.

In this case, tolls are imposed upon a class or group, e.g., all carpools using the bridge. DRPA's action in establishing the charges was not targeted or directed at any specific individual.

Insofar as carpools are concerned, many of the factual issues have already been discussed, but the material fact is that there was a 400 percent increase in the carpool toll rate, from $4.00 to $20.00 for a book of 40 tickets. There is no dispute as to that fact. The issue is whether the increase results in an unreasonably and/or unjust toll.

The Environmental Evaluation states that "[d]ue to the size of the toll rate increase, the economic impact to the individual would be minimal." It also goes into considerable detail on the impact on the various classes of users. Investigation Report, Attachment A, pp. 5–7. The computations appear to be valid and are undisputed. While that evaluation took into consideration a standard size car, a distance of 9 miles per commute, the cost of operation at 24.6 cents per mile, and an average of 45.3 crossings, I also looked at the increase in cost based solely on the toll alone. Using 45.3 crossings per month, the rates per crossing are 47 cents for commuter automobile and 50 cents for carpools. That comes to about 544 crossings per year or 272 round trips. Assuming a 5-day work week, with 10 days vacation and 10 holidays per year, it is reasonable to state that the average commuter works 240 days per year. This averages out to 20 days per month, which would require 40 crossings. Using 40 crossings per month (480 crossings per year), the nominal rate per crossing for commuter automobiles and for carpools is the same—50 cents. The following table illustrates the differences in the toll rates and costs:

NOMINAL RATES AND COSTS

	Pre-Sept. 1, 1981	Sept. 1, 1981	Increase
Auto	$0.50	$0.65	$0.15
Commuter	.40	.50	.10
(year)	192.00	240.00	48.00
Carpool	.10	.50	.40
(year)	48.00	240.00	192.00
Carpool/3	.03⅓	.16⅔	.13⅓
(year)	16.00	80.00	64.00

Based on the above table, it can be observed that the cost of tolls at the commuter rate has increased $48.00 per year. The cost of tolls in a three person carpool has increased $64.00 per person per year, but the overall cost of only $80.00 per person is still one-third of the $240.00 that the single occupant commuter vehicle must pay for tolls during the year. For a larger carpool, the cost per person is even less.

The raise in carpool rates, although it does involve a greater percentage increase, leaves the carpoolers with a continued discount. The economic loss to the individual is limited when approximate out-of-pocket costs for tolls go from $1.30 to $6.67 per month, an increase of $5.34.

I find that neither the commuter rate nor the carpool rate is unreasonable, taking into consideration all relevant factors. Also, there should be no question regarding the application of carpool rates to vanpools. Although the reduction of the carpool rate would not make a substantial difference in the DRPA's income (Supplemental Investigation Report), it would continue

an inequitable rate which has had minimal impact on the number of carpools.

Part of the complaint of Metro Cab, Inc., which was predicated on the fact that it had advertised in the yellow pages that it pays all bridge tolls, has already been discussed. The remaining issue is whether it was reasonable for the DRPA to discontinue a discounted toll for passenger vehicles for hire.

The Administrator has taken notice of the Camden (Cherry Hill, Pennsauken and vicinity) yellow pages and reviewed advertising under the following categories: "Chauffeur Service", "Limousine Service", and "Taxicabs".

In the October 1980 edition, after a review of pp. 209, 516–517 and 898–900, only one advertisement mentioned tolls. On p. 899, the Century Cab Company stated "WE PAY THE BRIDGE TOLLS".

In the October 1981 edition, Metro Cab Company did not mention tolls (p. 209), nor did the advertisements for Rapid Rover (pp. 526, 527 and 913). On p. 912, Metro Cab Company advertised its Casino Connection and stated "WE PAY THE BRIDGE TOLL.". In addition, there was the following statement: "'MEDICAB' DISCOUNT PROGRAM FOR SENIOR CITIZENS". Also on p. 912 was a large advertisement by the Century Cab Company which made no mention of bridge tolls. Obviously, lower rates can be used by a business to induce more customers to use that service.

It should be noted that at the top of p. 1 of the yellow pages, there was the following notation: "(Listings Corrected to August 14, 1981)". While Century Cab Company made the decision to remove the statement regarding their payment of bridge tolls, Metro, for whatever reason, did not. The DRPA rationale for discontinuing the discounted rate for passenger vehicles for hire appears reasonable. Supplemental Reply to Complaints. I see no reason to reverse that decision.

3. *Public interest.* This factor is related to the furtherance of nationally stated public objectives. The Investigation Team indicated that relevant public interests include the public policy favoring the conservation of fuel and the interest of the toll-paying public in just and reasonable tolls. Investigation Report, p. 6. The effect of the carpool rate on fuel conservation has already been discussed, as has the financial needs of the DRPA.

Conclusion

In deciding whether tolls are reasonable and just the Administrator must make careful and subtle judgments in reconciling the relevant contradictory interests. In a prior case involving DRPA tolls, the court said in *DRPA* v. *Tiemann*, 403 F. Supp. 1117 (1975), at 1127, n. 22:

> Furthermore, the agency's determination must be considered in terms of the result reached, rather than the particular path chosen. *Hope Natural Gas, supra; Wisconson* v. *FPC, supra.* As the Supreme Court observed in *Hope Natural Gas:*
>
> It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end.

For the reasons stated herein, the Administrator finds that the toll schedule adopted by the DRPA and effective as of September 1, 1981, is reasonable and just. Therefore, all the complaints filed herein are dismissed, including that of Metro Cab, Inc., the Automobile Club of Southern New Jersey, the Pennsylvania Task Force on Ridesharing, Howard Norton, Jr., Paul Miller, Douglas Gehring, and the National Association of Van Pool Operators.

In accordance with the Toll Bridge Procedural Rules, 49 CFR 310.16, it is the intention of the Administrator to limit the effect of his final Order to a period of 2 years and 6 months, measured from September 1, 1981, the date the new toll rates went into effect.

The Administrator's authority under 49 CFR 310.16 to freeze toll rates for a set period when there has been no formal hearing was fully discussed in the prior case (Docket No. 78–15T). Order of the Administrator dated December 31, 1979. In that case, the Administrator considered a fully developed record and held that, based on the record, the toll rates are reasonable. He then held that his March 20 and May 8 Orders to that effect are a "final decision" within § 310.16. Id. p. 4. The current case is similar and the same rationale applies.

The decision to limit the effect of this Order to 2 years and 6 months is based on the fact that the projected estimated reserves will drop during 1984 to a level below the amount which could reasonably be considered a minimum safe level.

Within 20 days after the date of this Order, any party may petition the Administrator for reconsideration of this Order, and after due consideration of such petitions, the Administrator will take appropriate action.

Issued this 18th day of January 1982.

R. A. Barnhart,

Federal Highway Administrator.

EXHIBIT A—DELAWARE RIVER PORT AUTHORITY SCHEDULE OF TOLLS

	Rate before Sept. 1, 1981	Rate on and after Sept. 1, 1981
Passenger automobiles and trucks to and including 7,000 pounds gross weight	$0.60	$0.75
Passenger automobiles and trucks to and including 7,000 pounds gross weight with one axle trailer	.90	1.25
Each additional trailer axle	.30	.50
Motorcycle	.40	.50
Buses:		
2-axle	.80	1.00
3-axle	1.20	1.50
Trucks—2 or more axles, 7,001 pounds or more gross weight, per axle	.85	1.00
Commutation rate for passenger automobiles and 2-axle trucks up to and including 7,000 pounds gross weight—decal valid for 30 days after date of purchase	6.00	10.00
Plus cash toll per crossing	.25	.25
Car Pool commutation rate for registered passenger automobiles only, occupied by three (3) or more persons (including driver)—accepted at all times—transferrable book of 40 tickets, valid until the end of the calendar month following the month in which purchased	4.00	20.00
Senior citizen rate for qualifying elderly person operating or passenger in passenger automobile or 2-axle truck up to and including 7,000 pounds gross weight. Book of 20 tickets, valid indefinitely. (No more than two (2) coupon books may be purchased at one time.)	NA	8.00
Special permits (non-commercial motor vehicle 60,001 pounds gross weight and upward, commercial vehicles operating under official permit):		
Permit fee	10.00	12.50
First 40,000 lbs	1.50	1.90
Each additional 2,000 lbs or fraction thereof	.25	.30
Bus and Truck Scrip (25 crossings):		
	.80	.90
	1.20	1.35
	1.70	1.89
	2.55	2.70
	3.40	3.60
	4.25	4.50

EXHIBIT C.—ESTIMATED RESERVES; TOTAL BOND DEBT SERVICE RATIO[1]

[In thousands of dollars]

Base/assumed rates	1980	1981	1982	1983	1984	1985
80¢/84	27,481 (1.35)	23,066 (1.30)	13,677 (1.19)	(7,586) (1.06)	(30,715) (0.90)	(56,396) (0.69)
75¢/[illegible]	27,481 (1.35)	25,[illegible] (1.40)	[illegible] (1.61)	[illegible] (1.53)	[illegible] (1.41)	[illegible] (1.05)
70¢/85	27,481 (1.35)	25,081 (1.37)	23,087 (1.44)	2,228 (1.32)	(5,157) (1.21)	(37,643) (0.89)
75¢/85	27,481 (1.35)	25,[illegible] (1.40)	27,825 (1.51)	16,845 (1.50)	5,214 (1.29)	(32,580) (1.04)

[1] Ratio is under the reserve amount for each year.

[FR Doc. 82-3066 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-59-M

National Highway Traffic Safety Administration

[Docket No. IP81-15; Notice 2]

Jeep Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Jeep Corporation of Southfield, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.101–80, Motor Vehicle Safety Standard 101–80, *Controls and Displays*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Paragraph S5.2.1 and Table 1 of Standard No. 101–80 require that certain hand-operated controls on any motor vehicle manufactured on or after September 1, 1980, be identified with the appropriate International Standards Organization (ISO) symbol. At its option, the manufacturer may also provide identifying words. Use of an identifying word was mandatory before September 1, 1980 and no symbols were required.

Jeep estimated that it has produced approximately 38,000 vehicles since September 1, 1980, in which the hazard warning control knob is identified only by the word "HAZARD", compliant with Standard No. 101, but noncompliant with Standard No. 101–80. Jeep argued that the use of the previously acceptable wording creates no safety hazard as it is readily understandable by the public.

No comments were received on the petition.

The true issue in this noncompliance is whether failure to employ the symbol is inconsequential as it relates to motor vehicle safety, rather than whether continued use of the wording creates a safety hazard. In this instance, where the control continues to be identified by words, the failure to provide the mandatory symbol may be deemed an inconsequential noncompliance. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 89-562, 80 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and CFR 501.8)

Issued on February 5, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-3067 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82-32]

Petroleum Volumetric Conversion Tables

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document advises that Customs will use newly developed standard volume correction factors for measurement corrections for all importations of petroleum and petroleum products. These tables have been developed to replace the petroleum measurement tables which currently are being used by Customs.

DATE: Customs will begin using the new tables on March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Alice M. Rigdon, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

To ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products, by T.D. 80–142, published in the Federal Register on May 30, 1980 (45 FR 36378), various parts of the Customs Regulations relating to imported petroleum and petroleum products were amended.

Pursuant to § 151.41, Customs Regulations (19 CFR 151.41), on the entry summary for petroleum or petroleum products imported into the United States in bulk, the importer must show the API gravity at 60 degrees Fahrenheit, in accordance with the current edition of the ASTM–IP Petroleum Measurement Tables (American Edition), published by the American Society for Testing and Materials (ASTM).

Customs uses these tables, which are accepted by the petroleum industry as the standard for oil custody transfers, for measuring the volume and quantity of imported petroleum and petroleum products. They were developed in the later 1940's and are based upon crude and fraction data which as published in 1916. It now has been demonstrated that the present tables are not applicable to many crude oils of current economic importance.

In view of the need for more accurate measurement tables which are better suited to the present level of technology, the American Petroleum Institute (API) has developed, and the API and ASTM have released new standard volume correction factors (API Standard 2540, ASTM Standard D1250, Institute of Petroleum (IP) Standard 200; API and ASTM First Edition (1980)).

These volume correction factor tables and related tables are used worldwide in custody transfer and accounting operations to adjust bulk volumes of crude oil and products measured at temperatures other than base temperature (60 degrees F or 15 degrees C) to the base temperature. These tables have been accepted for use by API, ASTM, IP (United Kingdom) and the International Organization for Standardization (ISO), and they supersede all previous editions of ANSI/ASTM D1250, IP 200, and API 2540.

Because these correction factors provide the most up-to-date means for computing measurement corrections and because they are presently the industry standard, Customs has determined that, effective March 18, 1982, all such computations shall be made in accordance with these revised tables.

These tables are available from ASTM. They are not available from Customs.

Drafting Information

The principal authors of this document were Lawrence P. Dunham and Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: February 9, 1982

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 82-3068 Filed 2-12-82; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 31
Tuesday, February 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Equal Employment Opportunity Commission	1
Federal Home Loan Bank Board	2
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Postal Service	4
Securities And Exchange Commission	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Wednesday, February 17, 1982.

PLACE: Commission Conference Room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 81-11-FOIA-320, concerning a request for all documents and technical studies discussing impact of EEOC's proposed rules under the Equal Pay Act on private pension plans.
2. Freedom of Information Act Appeal No. 81-12-FOIA-67-PA, concerning a request for documents in a Title VII investigative case file.
3. Freedom of Information Act Appeal No. 81-12-FOIA-033-NO, concerning a request for confidential witness statements.
4. Freedom of Information Act Appeal No. 81-12-FOIA-335, concerning a request for an internal memorandum concerning the Proposed Guidelines on Employment Discrimination and Reproductive Hazards.
5. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission for several years has provided recorded announcements *a full week in advance* on future Commission sessions. Please telephone (202) 634-6748 for information on the time, place and subject matter of such meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6742.

This Notice Issued February 10, 1982.

[S 222-82 Filed 2-11-82; 1:43 pm]

BILLING CODE 6570-06-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, February 18, 1982.

PLACE: 1700 G Street, NW., board room, six floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Delegation of Authority to Negotiate Consent Orders
Merger; Increase in Accounts of an Insurable Type—First Savings and Loan Association, Bowie, Texas *into* Continental Savings Association, Freeport, Texas
Branch Office Application—Home Federal Savings and Loan Association, Atlanta, Georgia
Application for General Trust Powers—The Heart Federal Savings and Loan Association, Auburn, California
Merger; Increase of Accounts of an Insurable Type—Brazos Savings and Loan Association of Texas, Bryan, Texas *into* Waco Savings and Loan Association, Waco, Texas
Transfer and Repurchase of Government Securities
Subordinated Debentures
Delegation of Authority Regarding Merger Approvals

[No. 8, February 11, 1982.]

[S-221-82 Filed 2-11-82; 10:21 am]

BILLING CODE 6720-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, February 23, 1982.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Auto visors (Docket No. 785).
5. Investigation 701-TA-145 (Preliminary) (Steel Wire Nails from Korea)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523-0161.

[S-223-82 Filed 2-11-82; 1:47 pm]

BILLING CODE 7020-02-M

4

POSTAL SERVICE

(Board of Governors)

Vote To Close Meeting

On February 8, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting of March 1, 1982. Each of the members voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Assistant Postmaster General Cummings.

The meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(1) of title 5 and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the initiation of a

particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significntly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portions of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i), and (j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S219-82 Filed 2-10-82; 4:37 pm]

BILLING CODE 7710-12-M

5

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 5399, February 4, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, February 1, 1982.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Wednesday, February 9, 1982, following the 10 a.m. open meeting:

Regulatory matters bearing enforcement implications.
Freedom of Information Act appeal.
Settlement of administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272-2091.

February 9, 1982.

[S-220-82 Filed 2-11-82; 9:46 am]

BILLING CODE 8010-01-M

federal register

Tuesday
February 16, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Request for Information on Species To Be Added to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

DEPARTMENT OF THE INTERIOR

50 CFR Part 23

Request for Information on Species To Be Added to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty regulating international shipments of certain animal and plant species, which are listed in appendices to CITES. The United States, as a Party to CITES, may propose amendments to Appendix I or II for consideration by the other Parties.

The purpose of this notice is to invite information from the public about unlisted species that the Service might consider for inclusion in Appendix I or II. This is in addition to an earlier request for information concerning the status of North American species that are already listed in the appendices.

DATE: The Service will consider all information received by May 31, 1982, in identifying species that should be proposed for listing in the appendices.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday though Friday, in room 536, 1717 H Street, N.W., Washinton, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The Service is beginning some of its preparations for the Fourth Regular Meeting of the Conference of the Parties to CITES, which is now planned to be held around April 1983 at Gaborone, Botswana. As part of its preparation, the Service is seeking information on wildlife and plant species to be considered for inclusion in Appendix I or II of CITES. A previous notice (46 FR 33534; June 30, 1981) invited information from the public concerning the status of species presently listed in Appendix I or II that are native to North America.

Procedures

Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also includes species that must be subject to regulation in order that trade in other listed species may be brought under effective control. Such listings frequently are adopted because of the difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. (The Parties also agreed that any proposal to transfer a population of an Appendix I species to Appendix II to enable trade in ranched specimens should be submitted at least 330 days before the meeting). The Secretariat must then consult the other Parties and interested intergovernmental bodies, and communicate their responses to all Parties not later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

The service is examining the status of species that may be candidates for listing as part of its responsibility to carry out the functions of the Scientific Authority of the United States for purposes of CITES. The scope of this examination is worldwide. The U.S., as a Party, may propose amendments to Appendix I or II concerning species of animals and plants occurring in any naition or in international waters. The purpose of this notice is to request information that might lead the Service to develop proposed amendments or to recommend that other Parties develop proposed amendments for consideration at the Fourth meeting of the Parties.

Copies of the criteria adopted by the Parties for adding, transferring, or deleting species, the information requirements for proposals, and the present appendices may be obtained from the Service's Office of the Scientific Authority (address given above).

Potential Candidates

Information now available indicates that it might be appropriate to propose adding the following species of North American plants to Appendix I or II, particularly those which have been previously identified as candidate species for listing under the Endangered Species Act in the Service's Notice of Review (45 FR: 82480–82569, December 15, 1980) and for which there is evidence of actual or potential international trade. This list is preliminary and is subject to further review and revision. Comments on the appropriateness of each listing are being sought from all interested parties, particularly from the professional botanical and horticultural communities.

Family Berberidaceae (Barberry family)
- *Mahonia (=Berberis) nervosa* var. *mendocinensis* (Hardy Creek barberry) App. I.
- *M. nevinii* (Nevin's barberry)—App. I.
- *M. pinnata* ssp. *insularis* (Island barberry)—App. I.
- *M. sonnei* (Truckee barberry)—App. I.

Family Crassulaceae (Orpine family)
- *Dudleya*—all species (approx. 40, native to U.S. and Mexico) to App. II except the following:
- *D. bettinae* (San Luis Obispo serpentine dudleya)—App. I.
- *D. blochmaniae* ssp. *insularis* (Santa Rosa Island dudleya)—App. I.
- *D. brevifolia* (Short-leaved dudleya)—App. I.
- *D. candelabrum* (Candleholder liveforever)—App. I.
- *D. cymosa* ssp. *marcescens* (Santa Monica Mts. dudleya)—App. I.
- *D. densiflora* (San Gabriel Mts. dudleya)—App. I.
- *D. multicaulis* (Many-stemmed dudleya)—App. I.
- *D. nesiotica* (Santa Cruz Island liveforever)—App. I.
- *D. parva* (Serpentine of Conejo dudleya)—App. I.
- *D. saxosa* ssp. *saxosa* (Panamint liveforever))—App. I.
- *D. traskiae* (Santa Barbara Island dudleya)—App. I.
- *D. variegata* (Variegated dudleya)—App. I.
- *D. virens* (Bright-green liveforever)—App. I.
- *D. viscida* (Sticky dudleya)—App. I.
- *Echeveria* (Liveforever, hen-and-chickens, flor de pietra, mec, orejo de burro, concha, etc.). All North American species (approx. 150), mostly Mexican, to App. II.
- *Graptopetalum bartramii* (n.c.n.)–App. I
- *Sedum albomarginatum* (Feather River stonecrop)—App. I.
- *S. laxum* ssp. *eastwoodiae* (Red Mtn. stonecrop)—App. I.
- *S. laxum* ssp. *flavidum* (Pale yellow stonecrop)—App. I.
- *S. moranii* Moran's stonecrop)—App. I.
- *S. oblanceolatum* (stonecrop)—App. I.
- *S. obtusatum* ssp. *paradisum* (Canyon Creek stonecrop)—App. I.
- *S. pinetorum* (Pine City stonecrop)—App. I.
- *S. pusillum* (Puck's stonecrop)—App. I.
- *S. robertsianum* (Stonecrop)—App. I.
- *S. rosea* var. *roanensis* Roan Mtn. roseroot)—App. I.

Family Diapensiaceae (Diapensia family)

Shortia galacifolia (Oconee-bells)—App. I.
Family Droseaceae (Sundew family)
Dionaea muscipula (Venus flytrap)—App. II.
Family Ericaceae (Health family)
Rhododendron chapmanii (Chapman's rhododendron)—App. I.
R. prunifolium (Plumleaf azalea)—App. I.
Family Fouquieriaceae (Candlewood family)
Fouquieria (=Idria) columnaris (Boojum tree)—App. II.
F. fasciculata (Abrol de Barril)—App. II.
F. purpusii (n.c.n.)—App. I.
Family gentianaceae (Gentian family)
Gentiana bisetaea (Gentian)—App. I.
Family Liliaceae (Lily family)
A. gave arizonica (New River agave)—App. I.
A. chisosensis (Chisos agave)—App. I.
A. eggersiana (n.c.n.)—App. I.
A. parviflora (Santa Cruz striped agave)—App. I.
A. schottii var. *treleasei* (Trelease's agave)—App. I.
A. toumeyana var. *bella* (Toumey's agave)—App. I.
A. utahensis var.*eborispina* (Ivory-spined Utah agave)—App. I.
A. utahensis var. *nevadensis* (Clark Mt. agave)—App. I.
A. victoria-reginae (Queen Victoria agave)—App. I.
Calochortus clavatus var. *avius* (Pleasant Valley mariposa lily)—App. I.
C. clavatus ssp. *recurvifolius* (Arroyo de la Cruz mariposa lily)—App. I.
C. coeruleus var. *westonii (Shirley Meadows mariposa lily)—App. I.*
C. dunni (Dunn's mariposa lily)—App. I.
C. excavatus (Inyo mariposa lily)—App. I.
C. greenei (Greene's mariposa lily)—App. I.
C. howellii Howell's mariposa lily)—App. I.
C. longebaratus (Sego lily, Long-bearded star-tulip)—App. I.
C. obispoensis (San Luis Obispo mariposa lily)—App. I.
C. persistens (Siskiyou mariposa)—App. I.
C. striatus (Alkali mariposa lily)—App. I.
C. tiburonensis (Tiburon mariposa lily)—App. I.
Fritillaria brandegei (Greenhorn fritillary)—App. I.
F. eastwoodiae (Butte fritillary)—App. I.
F. falcata (Talus fritillary)—App. I.
F. gentneri (Gentner mission-bells)—App. I.
F. liliacea (Fragrant fritillary)—App. I.
F. pluriflora (Adobe-lily)—App. I.
F. roderickii (Roderick's fritillary)—App. I.
F. striata (Striped adobe-lily)—App. I.
F. viridea (San Benito fritillary)—App. I.
Lilium fairchildii (Farichild's lily)—App. I.
L. grayi (Gray's lily)—App. I.
L. iridollae (Panhandle lily)—App. I.
L. occidentale (Western lily)—App. I.
L. parryi (Perry's lemon lily)—App. I.
L. pitkinense (Pitkin Marsh lily)—App. I.
L. vollmeri (Vollmer's lily)—App. I.
L. washingtonianum var. *minus (Shasta lily)—App. I.*
L. wigginsii (Wiggins' lily)—App. I.
Nolina interrata (Dehesa beargrass)—App. I.
Yucca arizonica (Arizona yucca, Datil)—App. I.
Y. endlichiana (Pitilla)—App. I.
Y. madrensis (Soco)—App. I.
Family Polemoniaceae (Phlox family)
Phlox bifida spp. *stellaria* (Cleft phlox)—App. I.
P. caryophylla Phlox)—App. I.
P. cluteana (Navajo Mtn. phlox)—App. I.
P. dolicantha (Bear Valley phlox)—App. I.
P. hirsuta (Yreka phlox)—App. I.
P. idahonis (Clearwater phlox)—App. I.
P. longipilosa (Long-haired phlox)—App. I.
P. nivalis ssp. *texensis (Trailing phlox)—App. I.*
P. peckii (Peck's phlox)—App. I.
P. pulchra (phlox)—App. I.
Family Portulacaceae (Purslane family)
Lewisia cantelowii (Cantelow's lewisia)—App. I.
L. congdonii (Congdon's lewisia)—App. I.
L. cotyledon (Lewisia)—App. I.
L. maguirei (Maguire's lewisia)—App. I.
L. megarhiza (Lewisia)—App. I.
L. oppositifolia (Opposite-leaved lewisia)—App. I.
L. pygmaea ssp. *longipetala (Long-petaled lewisia)—App. I.*
L. serrata (Saw-toothed lewisia)—App. I.
L. stebbinsii (Stebbins' lewisia)—App. I.
Family Ranunculaceae (Crowfoot or Buttercup family)
Hydrastis canadensis (Goldenseal)—App. II.
Trollius laxus ssp. *laxus* (Eastern spreading globeflower)—App. I.
Family Saxifragaceae (Saxifrage family)
Carpenteria californica (Carpenteria, tree-anemone)—App. I.
Family Scrophulariaceae (Figwort family)—All to Appendix I:
Penstemon alamosensis
P. barrettiae
P. bicolor
P. californicus
P. glaucinus
P. haydenii
P. lemhiensis
P. peckii
P. tidestromii

Information also indicates that it might be appropriate to propose removal of the following plants from Appendix II:

Family Palmae
Chrysalidocarpus lutescens (Yellow palm).
Family Solanaceae
Solanum "sylvestre" (Invalid name).

Schedule

The schedule that the Service plans to follow in developing proposals (apart from the review of North American species presently listed in Appendix I or II) is as follows:

July 1982—Publication of notice announcing species selected as candidates for U.S. proposals.
October 1982—Publication of notice announcing decisions on U.S. proposals that will be submitted for consideration by the Parties at their fourth meeting.
November 1982—Submission of U.S. proposals to the CITES Secretariat.
April 1983—Negotiation of proposals at the Fourth Meeting of the Parties.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: Febraury 8, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-4020 Filed 2-12-82; 8:45 am]
BILLING CODE 4310-55-M

federal register

Tuesday
February 16, 1982

Part III

Department of Energy

Office of Conservation and Renewable Energy

Loans for Wind Energy Systems and Small Hydroelectric Power Projects

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 794

[Docket Number CAS-RM-81-406]

Loans for Wind Energy Systems and Small Hydroelectric Power Projects

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy proposes to issue rules establishing procedures for making and administering direct loans for the development of wind energy systems and of small hydroelectric power projects. These procedures are being proposed only in order to comply with the statutory directives described more fully below. The Department has recommended that the Congress appropriate no funds for either of these loan programs.

DATES: Comments must be received on or before 4:30 p.m. April 19, 1982. Requests to speak must be received on or before February 26, 1982. The date of the public hearing is March 9, 1982.

ADDRESSES: Send comments and requests to speak to Department of Energy, Hearings and Dockets, Mail Stop 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: CAS-RM-81-406. The public hearing will be held at the Forrestal Building, Room GE-085, 1000 Independence Avenue, SW., Washington, D.C., at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT:

(As to Wind Energy Systems) Peter Goldman, Wind Energy Technology Division, Office of Conservation and Renewable Energy, 1000 Independence Avenue, SW., Room 5F-081, Washington, D.C. 20585, (202) 252-1995

(As to Small Hydroelectic Power Projects) John Flynn, Geothermal and Hydropower Technologies Division, Office of Conservation and Renewable Energy, 1000 Independence Avenue, SW., Room 5F-035, Washington, D.C. 20585, (202) 252-4198

(As to Legal Matters) Carol A. Cowgill, Office of General Counsel, 1000 Independence Avenue, SW., Room 6B-158, Washington, D.C. 20585, (202) 252-9513, or Diane Stubbs, Office of General Counsel, 1000 Independence Avenue, SW., Room 6F-067, Washington, D.C. 20585, (202) 252-2440

SUPPLEMENTARY INFORMATION:

I. Background.
II. Review Under Executive Order 12291 and OMB Circular A-116.
III. Review Under the Regulatory Flexibility Act.
IIV. Review Under the National Environmental Policy Act.
V. Proposed Rules.
VI. Comment and Public Hearing Procedures.

I. Background

Solely in order to comply with statutory mandates established by the Congress, the Office of Department of Energy (DOE) today proposes program rules for soliciting and processing applications for direct loans to support the development of wind energy systems and small hydroelectric power projects. These rules are required to be established by section 6 of Wind Energy Systems Act of 1980, Pub. L. 96-345 (Wind Act), and Title IV of the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (PURPA).

DOE wishes to make clear that it does not believe the Federal government should make direct loans to promote purchase and installation of commercial wind energy systems and development of small hydroelectric power projects. Market conditions and tax credits will provide the needed incentive for private capital investments in such projects, and, as a result, direct Federal loans would be an unnecessary and wasteful expenditure of taxpayer dollars. Accordingly, DOE intends to seek appropriate legislation to ensure that Federal money not be spent on these two proposed loan programs. Pending enactment of this legislation, DOE will comply with its obligations under the Wind Act and PURPA, and continue development of the required rules.

Although the Wind Act authorizes but does not mandate the direct loan program, section 6(f)(1) requires the Secretary to establish, within six months from the date of enactment, procedures to allow public or private entities to apply for and receive direct loans for up to 75% of the total purchase and installation costs of wind energy systems. Loans must be made to a minimum of four projects providing in the aggregate not more than 320 megawatts. In addition, no loan may exceed 50% of the amount appropriated under the Wind Act for the fiscal year.

Section 401 of PURPA directs the Secretary to establish a program to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power. Section 403 authorizes the Secretary to make loans to defray up to 75 percent of project costs.

II. Review Under Executive Order 12291

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that the rule is not a "major rule" because even if implemented, it would not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

III. Review Under the Regulatory Flexibility Act

Because no funds have been appropriated for these loan programs and because the Department does not intend to seek appropriations for these programs, DOE certifies, pursuant to section 605 of the Regulatory Flexibility Act, Pub. L. 96-354, that this rule will not have a significant economic impact on a substantial number of small entities. The rule, as proposed, does not impose any reporting, recordkeeping or other compliance requirements; it sets forth procedures which, if implemented, would provide small entities the opportunity to compete for financial assistance in the form of loans. Consequently, any economic impact of implementing this rule would be beneficial for small entities eligible for the loans.

IV. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these regulations does not require preparation of an environmental assessment or of an environmental impact statement under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.* (1970)), the Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and the DOE guidelines (45 FR 20694, March 28, 1980). The regulations are procedural in nature and their issuance will not result in a predictable significant environmental impact.

A programmatic environmental assessment is being prepared in conjunction with the Comprehensive Program Management Plan which is required by the Wind Act. If loans are

ever awarded under Subpart B, DOE would complete any appropriate NEPA site specific documentation that may be required. Section 794.4(b) (18) of the proposed rule would require that each loan applicant submit an environmental report which includes any information that may be required under NEPA.

V. Proposed Rules

A. Subpart A—General Provisions

Proposed § 794.1 provides that the purpose of Part 794 is to establish policies, requirements, and procedures for the receipt, evaluation, and approval of loans for the development of wind energy systems and of small hydroelectric power projects. The scope of Subpart A is limited to the general requirements and procedures applicable to loans for both types of energy projects.

Proposed § 794.2 contains definitions of several terms used throughout Subpart A.

Subsection (a) of proposed § 794.3 provides that loan applications under each program shall be solicited and evaluated competitively. Subsection (b) describes the information that DOE would be required to include in a Solicitation Announcement, a summary of which would have to be published in the **Federal Register** and in the Commerce Business Daily.

Proposed § 794.4 sets forth the general requirements applicable to loan applications. Subsection (a) states that an applicant is expected to submit information similar to that which is required by a private lender. Subsection (b) contains a list of the basic information each applicant would be required to provide in the application. This required information includes a description of how the applicant intends to finance the development and operation of the project, the applicant's management capabilities, and the feasibility of the proposed project. In addition to specifying the amount of the loan being sought, the applicant would be required to propose the repayment schedule, collateral or security, and other terms and conditions of the loan. Subsection (c) would authorize DOE to consider a late loan application only if it is received before the Application Approving Official selects applications under the competition cycle *and* the late application was went by registered or certified mail no later than the fifth calendar day prior to the submission deadline. The applicant would be required, under subsection (e), to notify DOE in writing of any new circumstances which make any information originally submitted in the application inaccurate or incomplete. Subsection (f) provides that information submitted in loan applications may be withheld from public disclosure in accordance with the Department's regulations implementing the Freedom of Information Act.

The procedures DOE will follow in evaluating loan applications are set forth in proposed § 794.5. An Application Evaluation Panel designated by the Application Approving Official would give applications a preliminary review followed by a comparative review of the financial, technological, and management aspects of the proposed project. The Panel would be required to submit a written report to the Application Approving Official on its evaluation together with its final selection recommendations.

Proposed § 794.6 provides that the Application Approving Official shall select applications for loan agreements based on the report of the Panel, the policy considerations in proposed § 794.7, the applicable subpart of Part 794, and any other information determined to be relevant. Whenever necessary, the Application Approving Official may determine that competitive negotiations are necessary with all or a subset of applicants. The report of the Panel would have to be revised to reflect the outcome of such negotiations.

Proposed § 794.7 sets forth the policy considerations the Application Approving Official would be required to use when making selections from among similarly ranked applications. In addition to financial risk factors, these considerations include the extent of other Federal financial assistance and the competitive impact of the proposed project. The public is invited to suggest other policy considerations that should be taken into account when selecting applicants for loans under this part.

Before making a loan, DOE would be required to make the findings and determinations set forth in proposed § 794.8. Most of these determinations concern factors affecting the risk DOE would be assuming by making a loan to a particular project. For example, DOE would have to determine that the applicant is capable of constructing and competently operating the proposed project. DOE would appreciate suggestions for other findings that should be made in order to assure that loan applicant selection decisions are prudent from the standpoint of financial risk.

In the event a borrower fails to meet the terms and conditions established as loan closing prerequisites, the Application Approving Official would be authorized under proposed § 794.9(a) to re-open negotiations, to modify or terminate the loan agreement, or take other appropriate action. Whenever there has been compliance with the prerequisite terms and conditions, the date, time, and place for closing would be fixed by mutual agreement.

Proposed § 794.10 provides that because applications will be evaluated on a competitive basis, unsolicited applications would not be considered for a loan under this Part. Such applications would be returned to the applicant.

Proposed § 794.11 provides that, upon written request, DOE may provide unsuccessful applicants an opportunity to discuss why their applications were disapproved.

Proposed § 794.12 makes clear that the only representations that would be binding on the Department are those that are reduced to writing and signed by the Contracting Officer.

The standard terms and conditions proposed to be included in all loan agreements issued under Part 794 are contained in § 794.13. Four standards for patents, technology, inventions, and other proprietary rights are contained in subsection (a). The remaining proposed standard terms and conditions include requirements that the project be built and operated at a site approved by DOE; the rights to creditors to any assets securing the DOE loan be subordinated to the rights of DOE; the borrower submit annual audited financial statements to DOE; the borrower may prepay the loan at any time without prepayment penalties; and profits above a predetermined level would have to be made available for future requirements of the project or for prepayment of the loan.

Borrowers would be required, under proposed § 794.14, to allow DOE employees and authorized representatives to have access to the project site at reasonable times and under reasonable circumstances. In addition, auditors selected by DOE or the Comptroller General of the United States would have the right to examine the borrower's relevant documents and records.

Proposed § 794.15 describes the demand, payment and collateral liquidation procedures DOE may follow if a borrower defaults. One option available to DOE under subsections (a) and (b) would be to accelerate the indebtedness and demand full payment, within 30 days, of the principal and interest under the loan. Subsection (d) provides that the loan agreement shall specify the rights DOE shall have to liquidate the assets securing the loan

and other actions that may be taken in the event of default.

Proposed § 794.16 advises loan applicants that they must comply with the Department's rules on Nondiscrimination in Federally Assisted Programs, 10 CFR Part 1040 (45 FR 40514, June 13, 1980).

The Secretary would be authorized under proposed § 794.17 to permit individual deviations from the requirements of Part 794, provided such deviations were not inconsistent with Federal statute.

Proposed § 794.18 advises applicants and borrowers that nothing in Part 794 shall be construed to modify other Federal, State, regional, or local requirements for permits, licenses, or other authorizations to construct and operate the project.

General procedures for determining project costs are set forth in proposed § 794.19. Under subsection (c), DOE would be authorized to exclude or reduce any cost which, on the basis of an audit, is determined to be unnecessary or excessive.

Proposed § 794.20 sets forth the procedures and requirements for amending a loan agreement to increase the amount of a loan in the event of a cost overrun. Under proposed § 794.20(e) a loan may be increased if DOE finds that continuation of the project is worthwhile and in the public interest or that the cost of increasing the loan is less than that which would result from default.

Procedures for resolving disputes about loan agreements are set foth at proposed § 794.21. Upon the written request of a borrower, the Contracting Officer shall decide a dispute in writing. The Contracting Officer's written decision may be appealed to the Financial Assistance Appeals Board in accordance with the procedures at 10 CFR Part 1024. The Board's review jurisdiction would be limited, under subsection (e), to any final decision the Contracting Officer is authorized to make. The Board would have no jurisdiction to review DOE denials of requests for deviations or modifications under § 794.17, or any DOE action taken under 10 CFR Part 1040. The Board would be bound by all applicable laws and regulations and by the terms and conditions of the applicable loan agreement.

B. Subpart B—Wind Energy Systems

The purpose and scope of Subpart B are described in proposed § 794.100.

Proposed § 794.101 defines several terms used throughout Subpart B. The terms "conventional energy system" and "public and private entity" are taken from section 3 of the Wind Act. The definition of the latter term has been modified to make clear that Federal entities are not included. The definition of "State" is taken from section 13(b) of the Wind Act.

The term "peak generating capacity", a concept used in the Wind Act to distinguish large and small wind energy systems, is defined to mean "the maximum power output a wind energy system is designed to produce."

In this proposed rule, small and large wind energy systems would be defined to mean systems consisting of, respectively, one or more small wind machines or at least one large wind machine. The proposed definition of "wind machine" is the same definition used in section 3 of the Wind Act for the term "wind energy system". A "large wind machine" would be defined as one designed to produce a peak generating capacity of more than 100 kilowatts; a small wind machine would be one designed to produce a peak generating capacity of 100 kilowatts or less. The "wind machine" terminology has been introduced in order to make it clear that wind energy systems may consist of multiple wind machines.

Subsection (a) of proposed § 794.102 provides that a loan for a maximum of 75 percent of the total allowable purchase and installation costs of a wind energy system may be made if (1) the loan is consistent with the requirement in section 6 of the Wind Act that DOE make a minimum of four loans for projects involving a total combined capacity of not more than 320 megawatts; and (2) the amount of the loan does not exceed 50 percent of the total fiscal year appropriation for the DOE wind energy program.

Subsection (b) of this proposed section would prohibit DOE from issuing any solicitation or entering into a loan agreement after a finding by the Secretary that wind energy systems are economically competitive with conventional energy sources or after September 30, 1988, whichever occurs first. This program termination provision is required by section 6(i) of the Wind Act.

Proposed § 794.103 sets forth the eligibility requirements for loans under subpart B. Any public or private entity as defined in section 3 of the Wind Act would be eligible for assistance. An eligible project is one involving the purchase and installation of a wind energy system in a State. In addition, a small wind energy system would have to provide an aggregate peak generating capacity of at least one megawatt. A large wind energy system would have to include a minimum of five large wind machines which in the aggregate would not exceed a peak generating capacity of 80 megawatts. Finally, any wind energy system supported by a DOE grant or cooperative agreement under 10 CFR Part 417 would be ineligible for a loan.

Proposed § 794.104 described the information that would be required in an application for a loan to purchase and install a wind energy system. In addition to the project description required under § 794.4 of Subpart A of the proposed rules, the application would have to include a feasibility study as provided in § 417.23(a) of Part 417, Wind Energy Technology Application Program, proposed in 46 FR 35468 (July 8, 1981). The text of proposed § 417.23(a) follows:

"(a) A project description which includes a feasibility study containing the following elements—

(1) A wind resource assessment based on reliable wind speed data collected and recorded, at the proposed site, by an acceptable method and a minimum period of time which are specified in the program solicitation;

(2) An economic analysis determining the estimated cost of wind-generated energy (cents per kilowatt hour) as a function of—

(i) The available wind resources;

(ii) The anticipated performance of the large wind energy system;

(iii) The estimated cost of site acquisition and preparation, wind energy system purchase and installation, interconnection and transmission, and operation and maintenance; and

(iv) The estimated revenues or value to be derived from wind-generated energy;

(3) A marketing plan which identifies prospective purchasers and estimates the volume of sales of wind-generated energy;

(4) An engineering analysis identifying—

(i) The optimum location;

(ii) Configuration;

(iii) Expected system performance; and

(iv) Plans for site preparation, transportation of system components to the site, installation, power system interconnection and operation;

(5) A power system integration plan describing—

(i) Components and subsystems; and

(ii) The schedule and procedures to be undertaken to comply with requirements of relevant regulatory and financial institutions;

(6) A site development plan describing the schedule and procedures for acquiring—

(i) Licenses;

(ii) Permits; and

(iii) Any necessary property interests including land, structures, rights-of-way, access roads, and air rights;

(7) An environmental analysis evaluating all potential adverse environmental effects of installation and operation and determining alternative cost-effective and environmentally mitigating procedures;

(8) A health and safety analysis identifying occupational and public health and safety issues associated with installation and

operation and determining alternative cost-effective mitigating procedures; and

(9) A financing plan identifying—

(i) Sources and amounts of financing for construction and operation;

(ii) A cash flow statement for the first five-years of system operation;

(iii) Assumptions regarding interest rates, tax liabilities, and debt amortization."

In addition to the technical and management information described in subsections (d)–(f) of proposed § 794.104, subsection (g) would require that the application contain a title report or other documentary evidence that the applicant will have access to and be authorized to use the proposed site for at least 30 years following the end of the project period. The latter requirement is being proposed to assure that a loan is not made to someone who, after the wind energy system is installed, would not be able to operate and maintain it because of a legal deficiency preventing adequate access to and use of the site.

DOE considered but decided against proposing a requirement for applicants to set forth the terms of any warranties from proposed manufacturers and installers. It is DOE's view that an applicant's potential economic stake in the wind energy system, even with a DOE loan, would be sufficiently great to assure that the best possible warranty terms are negotiated.

The Department also considered but decided against proposing a requirement that the applicant demonstrate that the proposed large wind energy system would comply with any voluntary performance standards. At present, there are no such standards because the technology for most wind energy systems is in an early stage of development and is changing rapidly.

Proposed § 794.105(a) provides that allowable purchase and installation costs include expenses incurred for site preparation, and for purchase, delivery, storage, assembly, installation, and start-up testing of all essential system components, and for the monitoring and reporting required under § 794.107.

Subsection (b) of this proposed section makes transmission system costs allowable up to an amount not exceeding 10 percent of total allowable project costs. This percentage may be increased to a maximum of 25 percent if the applicant demonstrates that the existing transmission system is inadequate. These limitations on allowable transmission system costs were recommended in the Conference Report for the Act. H.R. Rep. No. 96–1217, 96th Cong., 2nd Sess. 12 (1980), *reprinted in 1980 U.S. Code Cong. & Admin. News 5117.*

Proposed § 794.106(a) provides that the criteria DOE would be required to use in evaluating loan applications are the same as those used to evaluate applications for financial assistance for the purchase and installation of large wind energy systems. Those evaluation criteria are:

(1) Wind resources at the proposed site;

(2) The extent of cost-sharing proposed by the applicant;

(3) Demonstrated level of performance and reliability of the proposed large wind energy system;

(4) Technical and economic feasibility;

(5) Institutional and environmental acceptability;

(6) Commercial readiness of the proposed energy system;

(7) Ability of the applicant to manage the project, to finance its share of the purchase and installation costs, and to pay for the operation and maintenance of the completed system;

(8) Suitability of the proposed site; and

(9) The relative contribution the proposed large wind system would make to the reduction of unit costs of production and the objectives set forth in Section 2(b) of the Wind Act.

As indicated in proposed § 794.106(a), the evaluation criteria are published at 10 CFR § 417.25(a) (46 FR 35468, July 8, 1981).

Subsection (b) of proposed § 794.106 provides that loan applications proposing wind energy systems with an aggregate peak generating capacity under 30 megawatts would be competitively evaluated against each other. Applications proposing over 30 megawatts or more will similarly be evaluated against each other. DOE is proposing to provide for evaluation of these two groups of applications separately because systems under 30 megawatts can be qualifying small power production facilities which are exempt from regulation under PURPA. As a result, applications involving such systems would be significantly different from all others.

Proposed § 794.107 would require that the borrower comply with the monitoring and reporting requirements prescribed at 10 CFR 417.26 (46 FR 35468, July 8, 1981). The text of proposed § 417.26 follows:

"(a) For five years after the commencement of normal operation, the assistance recipient shall monitor and report to DOE the following data:

(1) Site meteorological data;

(2) Systems performance and energy produced;

(3) Actual operating and energy produced;

(4) Types and quantities of fuel from conventional energy source displaced by the wind-generated energy.

(5) Such other items of data as described in the assistance agreement.

(b) The information required to be reported under this section shall be submitted on a form or consistent with instructions provided by DOE. The reporting frequency established by DOE in the assistance agreement shall not be less frequently than annually nor more frequently than quarterly.

(c) DOE reserves the right to modify the reporting requirements of this section on a case-by-case basis to reflect variations in the nature, size, scope, instrumentation, and management of the assisted project.

(d) The recipient shall make the project site available to authorized DOE employees or agents for the performance, at DOE expense, of on-site sampling, testing, and monitoring."

Section 6(h) of the Wind Act provides the statutory authority for these monitoring and reporting requirements.

In proposing to make borrowers subject to the monitoring and reporting requirements under 10 CFR § 417.26, DOE considered the potential burden on small entities, and on the basis of available information, concluded that the burden would not be excessive largely because the costs of data collection would be allowable under the loan agreement. The public is invited to suggest additional data that should be included in these required reports or to point out burdens of data collection which have been overlooked.

Proposed § 794.108 would require that the borrower comply with the visitation requirement set forth in 10 CFR 417.27 (46 FR 35468, July 8, 1981). The text of proposed § 417.26 follows:

"The financial assistance agreement shall specify the procedures the recipient will establish for providing opportunities for members of the public to view and inspect the system under reasonable conditions."

Section 6(h) of the Wind Act requires that assisted wind energy projects be made available for viewing and inspection by the public.

C. Subpart C—Small Hydroelectric Power Projects

Proposed § 794.200 sets forth the purpose and scope of Subpart C.

Proposed § 794.201 defines certain terms used in the subpart. These terms and definitions are taken from Section 408 of PURPA.

Proposed § 794.202 sets forth the prescribed statutory limitation on loan amount and duration. Loans for small hydroelectric power projects may be for a maximum of 75 percent of project costs for a term not to exceed 30 years.

Those eligible to receive loans under this subpart are identified in proposed

§ 794.203. This proposed section is consistent with the eligibility requirements of section 403 of PURPA.

Proposed § 794.204 specifies those special items of information which must be included in an application for a loan for a small hydroelectric power project. The applicant would be required to submit technical information which includes a detailed description of the project site and of the planned project development and output. As noted in the Preamble discussion of Subpart A, the applicant is also required to provide other general items of information when applying for a loan under either Subpart B or C of this Part.

Proposed § 794.205 defines project costs as they are defined in section 408 of PURPA. This general definition of project costs, in DOE's opinion, would provide the applicant needed flexibility in the use of loan funds to develop, construct and finance a specific project.

Proposed § 794.206(a) identifies those applicants who will be given preference in the selection of applicants for loans. PURPA requires the Secretary to give preference to applicants who do not have available alternative financing necessary to carry out the project and whose projects will provide useful information on the feasibility of the generation of electricity by the project and of the use of energy produced by the project.

Proposed § 794.206(b) sets forth certain findings which must be made prior to issuing a loan under Subpart C. These findings are required by section 403 of PURPA.

Proposed § 794.007 requires the borrower to keep records concerning the project and to permit representatives of DOE reasonable access to such records.

VI. Comment and Public Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed rules set forth in this notice. Written comments should be submitted by 4:30 p.m. April 19, 1982 to the appropriate address indicated in the "Addresses" section above and should be identified on the outside envelope and on the document with the designation "Wind Energy System Loan" or "Small Hydroelectric Power Project Loan." Fifteen copies should be submitted.

If any information is considered proprietary or confidential, it should be so identified and submitted in writting, one copy only.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections above.

DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make a written request for an opportunity to make an oral presentation by February 26, 1982. Such a request should describe the interest concerned and, if appropriate, state why the individual is a proper representative of a group or class of persons that has such an interest, give a concise summary of the proposed oral presentation, and a telephone number where this representative may be contacted during the day.

DOE will notify each person selected to appear at the hearing on or before March 2, 1982. Persons selected should bring 15 copies of their hearing statements to the hearing location.

2. *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initital oral statements, each person who has made an oral statement will, if time permits, be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 1E–190, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., February 3, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

It is proposed to add to Part 794 to Title 10 as follows:

PART 794—LOANS FOR DEVELOPMENT OF WIND ENERGY SYSTEMS AND SMALL HYDROELECTRIC POWER PROJECTS

Subpart A—General Provisions

Sec.

794.1 Purpose and scope.
794.2 Definitions.
794.3 Solicitation of applications.
794.4 Applications.
794.5 Evaluation of applications.
794.6 Selection of applications.
794.7 Policy considerations.
794.8 Required findings and determinations.
794.9 Pre-closing requirements.
794.10 Unsolicited applications.
794.11 Discussion with unsuccessful applicants.
794.12 Non-written representations.
794.13 Loan agreement terms and conditions.
794.14 Access to records and project site.
794.15 Default, demand, payment and collateral liquidation.
794.16 Nondiscrimination in Federally assisted programs.
794.17 Deviations.
794.18 Compliance with other statutes.
794.19 Project costs.
794.20 Cost overuns.
794.21 Dispute resolution procedures.

Subpart B—Wind Energy Systems

794.100 Proposed Scope.
794.101 Definitions.
794.102 Funding limitations.
794.103 Eligibility requirements.
794.104 Application requirements.
794.105 Allowable project costs.
794.106 Evaluation criteria.
794.107 Monitoring and reporting requirements.
794.108 Visitation.

Subpart C—Small Hydroelectric Power Projects

794.200 Purpose and Scope.
794.201 Definitions.
794.202 Funding limitations.
794.203 Eligibility requirements.
794.204 Application requirements.
794.205 Allowable Project costs.
794.206 Findings and determinations.
794.207 Project monitoring and audit.

Authority: Wind Energy Systems Act of 1980, Pub L. 96–345, 94 Stat. 1139 (42 U.S.C. 9201); Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 (16 U.S.C. 2601); Energy Security Act, Pub. L. 96–294, 94

Stat. 611 (42 U.S.C. 6701); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101).

Subpart A—General Provisions

§ 794.1 Purpose and Scope.

The purpose of this Part is to establish policies, requirements, and procedures for the receipt, evaluation, and approval of loan applications and for the administration of loans for the development of small hydroelectric power projects and wind energy systems. This subpart sets forth general requirements and procedures applicable to loans for both types of energy projects (wind or hydroelectric power).

§ 792.2 Definitions.

For the purposes of this Part:

"Applicant" means any person who submits an application for a loan under this Part.

"Application Approving Official" means the Secretary or person designated by the Secretary who is authorized to approve an application for a loan under this Part.

"Application Evaluation Panel" means a panel of Federal employees appointed by an Application Approving Official to evaluate loan applications and make approval or disapproval recommendations regarding such applications.

"Borrower" means any person who enters into a loan agreement under this Part.

"Closing" means the delivery by a borrower and acceptance by DOE of the executed debt instruments and any required security instruments, together with all necessary supporting documentation; and the disbursement by DOE of all or a portion of the loan proceeds.

"Competition cycle" means the period of time announced in the **Federal Register** during which applications will be received for evaluation.

"Contracting Officer" means the Department of Energy official warranted and authorized to contractually obligate the Department of Energy and execute written agreements that are binding on the Department.

"Cost overrun" means any cost that exceeds the estimated total cost of the project as established by the Application Approving Official.

"Default" means the failure by the borrower to make payment of principal or interest in accordance with the terms and conditions of a loan issued under this Part, or the failure of the borrower to meet any other term or condition of the loan agreement.

"Loan agreement" means a written agreement and all collateral documents related to such agreement between the Department of Energy as lender and a borrower which sets forth the terms and conditions under which the Department will provide funds to a borrower.

"Secretary" means the Secretary of Energy or the Secretary's designee.

§ 794.3 Solicitation of applications.

(a) *Competition.* Loan applications shall be solicited and evaluated on a competitive basis. Separate Solicitation Announcements shall be used to request loan applications for Subpart B projects and Subpart C projects.

(b) *Solicitation announcement.* From time to time, as funds are available, DOE may issue a Solicitation Announcement requesting loan applications for Subpart B or Subpart C projects which shall as a minimum, be noticed and summarized in the **Federal Register** and the Commerce Business Daily. A Solicitation Announcement shall include the following information:

(1) The place and time for application submission;

(2) The information requirements for applications;

(3) A technical definition or identification of the projects eligible under the Solicitation Announcement;

(4) Identification of the issuing office;

(5) Identification of statutory authority and relevant regulations;

(6) Any special requirements not contained in the regulations;

(7) Identification of the time period during which written questions regarding the preparation of applications may be delivered;

(8) Application receipt deadline and location to which applications must be delivered;

(9) Date of presubmission conference, if any, open to all interested parties.

§ 794.4 Applications.

(a) An applicant is expected to provide information in the application which is similar to that required by a private financial institution which might consider a similar project for debt financing. The application must contain the most current data available, and be adequate for proper evaluation of the project.

(b) The Solicitation Announcement shall set forth the application information requirements which may include, but not be limited to, the following:

(1) A full description of the scope, nature, extent, and location of the proposed project;

(2) The extent to which the applicant expects to apply for, or has already applied for, or is receiving any other Federal or other government financial assistance for the project;

(3) A copy of a detailed feasibility study relating to the facility that contains evidence of the facility's technical and economic feasibility and environmental acceptability;

(4) A description of prior construction, operating and other relevant experience of the applicant with the technology to be utilized in the project;

(5) Projections and analysis demonstrating the likelihood that the amount of the loan requested, together with equity and any other financing, will be sufficient to complete the facility and its startup period, and provide sufficient working capital;

(6) Detailed schedules for the project including major activity and cost milestones;

(7) Copies of proposed or actual project-related contracts together with a description of the contractor's experience and financial strength;

(8) An analysis of the market for the energy to be produced including relevant economics justifying the analysis and proposed marketing contracts or letters of intent, if any;

(9) A description of the applicant management concept and plan of operation to be employed in carrying out the project;

(10) Information covering the management experience of each officer or key person in the applicant's organization who will be associated with the facility and a description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and key employees that are, or will be, directly associated with the facility;

(11) A description of the general management experience of the applicant in organizing and undertaking projects of this nature;

(12) A description of the proposed source(s) of funds for repayment of the loan;

(13) Pro forma cash flow statements for a least the first five years of project operation including income statements and balance sheets. All such statements shall include assumptions made in their preparation;

(14) Proposed risk allocation among project participants and financial statements supporting the project participants' ability to contribute the necessary equity to the project;

(15) Financial statements for the past three (3) years of the applicant and parties relevant to the applicant's financial backing, together with a description of the business and financial interests of principal organizations such

as parent and/or subsidiary corporations or partners of the applicant;

(16) Certification of the financial statement by a certified public accountant or equivalent certification acceptable to the Secretary;

(17) A copy of the applicant's deed or lease agreement to the property on which the facility is to be constructed or installed, supported by title opinion or other acceptable evidence of the applicant's rights to the property. In the event that the applicant does not have title to or a leasehold interest in the property, a detailed discussion of the applicant's efforts to obtain rights to the property including discussion of the current status of such efforts, a detailed discussion or outline of the necessary steps to obtain such rights, and a schedule for completion of all such steps;

(18) An environmental report containing a detailed analysis of the potential environmental, health, safety and socio-economic (EHSS) impacts of the project and any necessary or proposed mitigation measures and other relevant data that may be available to the applicant to enable the Department to assess the probable EHSS impacts, and to provide the Department with any information that may be required under the National Environmental Policy Act;

(19) A list of all permit applications filed or to be filed, and permit approvals issued or to be issued by Federal, state, and local government agencies for all required permits and authorizations to undertake the project. If these approvals have not been obtained, or applications not filed, the estimated date of such filings and approvals should be provided. Explain any past, present or anticipated problems in obtaining any approvals;

(20) A description of the applicant's organization and, where applicable, a copy of the partnership agreement or corporate charter, articles of incorporation, bylaws, and appropriate authorizing resolutions or their equivalent;

(21) The amount of the loan requested, proposed repayment schedule, servicing procedures, security or collateral, and other terms and conditions of the loan;

(22) A copy of any existing or proposed lending commitment or agreement for any loan;

(23) A listing of assets associated with the project and any other asset which will serve as collateral for the loan, including appropriate data as to the value and useful life of any physical assets and a description of any other associated security and its value.

(c) *Receipt and handing of applications.*

(1) Applications for loans shall be filed at the address specified in the Solicitation Announcement.

(2) An application received at the location of filing after 4:30 p.m. on the last day of the competition cycle will not be considered unless—

(i) It is received before the selection of application by the Application Approving Official under that competition cycle; and

(ii) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of the application.

(d) An applicant shall not be permitted to modify applications after the close of the competition cycle, except as provided in paragraph (e) of this section, in § 794.5(d) or in § 794.6(b).

(e) When information submitted by the applicant under this rule or in response to a request for additional information made by the Secretary is significantly changed as a result of new circumstances which make the originally submitted information inaccurate or incomplete, the applicant shall promptly notify DOE in writing.

(f) Information submitted by loan applicants shall be subject to disclosure and withholding in accordance with DOE's rules implementing the Freedom of Information Act (5 U.S.C. 552) at Part 1004 of this Title.

§ 794.5 Evaluation of applications.

(a) The Application Evaluation Panel or other appropriate DOE officials designated by the Application Approving Official shall determine the eligibility of applicants and projects, and shall evaluate and rank applications in accordance with the applicable program requirements.

(b) The Panel shall conduct a preliminary review and screening of all applications to determine which applications should be considered in comparative evaluations. The Panel shall review the applications to determine whether each application:

(1) Complies with statutory requirements for project eligibility;

(2) Complies with the eligibility requirements of this Part and any set forth in the Solicitation Announcement; and

(3) Is signed by an authorized official of the applicant organization.

Any application which does not comply with the requirements of this paragraph shall be returned to the applicant.

(c) Those applications meeting the requirements of paragraph (b) of this section shall be comparatively evaluated and ranked by the Panel. The Panel shall consider the following evaluation criteria in comparatively ranking applications:

(1) Ability of the applicant to comply with the requirements of the Solicitation Announcement and this Part;

(2) Technical project feasibility and likelihood of success;

(3) Market potential and economic feasibility;

(4) Financial—

(i) Credibility of cost estimates;

(ii) Adequacy of capitalization, cash flow, working capital, and other measures of financial capability;

(iii) Financial condition of applicant and other principals to the project;

(5) Financing structure—

(i) Financial commitment of applicant and other principals to the project;

(ii) Debt financing plan;

(iii) Other factors which are relevant to a full description of the financing structure of the proposed project;

(6) The degree of risk to DOE during both the interim and permanent financing stages of the project, including the length of time over which the proposed borrower will repay the loan (with regard to the anticipated cash flow and useful life of the project);

(7) Management plan—

(i) Corporate and personnel experience;

(ii) Management organization and interrelationship; and

(iii) Key personnel and associated responsibilities;

(8) Environmental, health, safety and socioeconomic impacts of the proposed project; and

(9) Such additional evaluation criteria as may be set forth in the Solicitation Announcement.

(d) The Panel may, in the course of evaluating the application, request additional information of the applicant that may be necessary to complete its evaluation.

(e) The Panel shall submit a written report to the Application Approving Official on its evaluation of the applications together with its findings and recommendations concerning final selections.

§ 794.6 Selection of applications.

(a) The Application Approving Official may, in his or her discretion, select any number of the competing applications, subject only to the requirement that appropriations be available for the total amount of the loans selected for approval.

(b) If, prior to making a decision, the Application Approving Official determines that additional project information is required, a written

request for the information shall be sent to the applicant.

(c) The Application Approving Official shall consider the report of the Panel, such other information as the Application Approving Official determines to be relevant and the policy considerations specified in § 794.7 and applicable subparts of this Part in selecting applications for loan agreements.

(d) When the Application Approving Official determines that competitive negotiations are appropriate, DOE shall negotiate with all or a subset of competing applicants for the purpose of clearly defining the comparative merits of the competing applications prior to final selection. The Panel report to the Application Approving Official, shall be revised to reflect the results of such negotiations.

(e) Upon the completion of the procedures contained in this section, the Application Approving Official may authorize the Contracting Officer to issue a loan agreement for the project proposed by a selected applicant. The loan agreement shall identify the terms and conditions of the loan, including those which must be satisfied prior to closing, and any additional requirements to be placed upon the applicant as a condition of the loan.

§ 794.7 Policy considerations.

The following policy considerations and other policy considerations set forth in relevant subparts of this Part may be utilized by the Application Approving Official in the selection of applications from among those applications recommended by the Application Evaluation Panel:

(a) The degree to which the borrower is investing equity funds into the project which were not provided through the issuance of debt, and the extent to which responsible financial parties affiliated with or constituting the legal entity of the borrower are liable for repayment of the debt;

(b) The length of time over which the proposed borrower will repay the debt, with regard to the anticipated cash flow of the project and the degree of risk to the Government;

(c) Competition factors associated with the concentration and control of energy production that may result from the issuance of a loan in connection with a particular energy project; and

(d) The extent of other Federal financial assistance the project is receiving or is eligible to receive.

§ 794.8 Required findings and determinations.

A loan may be made only after DOE makes the following findings and determinations:

(a) The amount of the loan, when combined with other funds available to the applicant, shall be sufficient to carry out the project, including adequate contingency funds and working capital;

(b) There is a reasonable assurance of repayment of principal and interest of the loan by the borrower;

(c) The project assets or other acceptable forms of collateral or surety, as determined by the Secretary to be necessary, are pledged by the borrower as security for the repayment of the loan and a valid first and superior lien or other acceptable lien position will exist on such assets, collateral, or surety for the benefit of DOE;

(d) The terms, conditions, maturity, security, and repayment provisions with respect to the loan are reasonable and sufficient to protect the interest of the United States;

(e) The disbursement schedule for advancing loan proceeds to the borrower is satisfactory;

(f) The applicant is capable of constructing and competently operating the project for which the loan is made; and

(g) The findings and determinations required under Subparts B or C of this rule, as appropriate, have been made.

§ 794.9 Pre-closing requirements.

(a) If, within a reasonable period of time, the Contracting Officer determines that the borrower has failed to meet the terms and conditions established as prerequisites to loan closing the Contracting Officer shall so advise the Application Approving Official in writing. A copy of such determination shall be sent to the borrower. The Application Approving Official shall determine whether to continue negotiations, authorize modification or termination of the loan agreement, or take other appropriate action.

(b) If the Contracting Officer determines that the borrower has met the terms and conditions established as prerequisites to closing of the loan, the Application Approving Official shall authorize the loan closing. The date, time and place for closing shall be fixed by mutual agreement. Nothing in the section shall restrict the authority of the Contracting Officer from requiring additional documentation from the borrower.

§ 794.10 Unsolicited applications.

Because DOE will evaluate applications on a competitive basis, unsolicited applications for loans under this part will not be considered and will be returned to the applicants.

§ 794.11 Discussion with unsuccessful applicants.

Upon written request by an applicant whose application did not result in a loan, representatives of the Application Approving Official may explain to an unsuccessful applicant why the application was disapproved.

§ 794.12 Non-written representations.

No representation shall be binding on the Department unless it is reduced to writing and signed by a Contracting Officer. No instrument or modification thereof shall be considered approved by the Department unless it is signed by a Contracting Officer.

§ 794.13 Loan agreement terms and conditions.

A loan agreement issued by DOE under this Part shall contain or meet the following requirements and conditions;

(a) The following requirements concerning patents, technology, inventions, and other proprietary rights:

(1) A requirement that any inventions conceived or first actually reduced to practice in the course of or under the project, any patents or patent applications thereon, except for those in which title vests in the United States Government, as well as all technology and other proprietary rights developed under the project shall be the property of the borrower (or its participants or its contractors) and shall be collateral for the loan. The provisions of this paragraph shall apply to and be binding on the borrower's contractors and participants, and the borrower shall obtain the written agreement of such parties to these provisions.

(2) A requirement that the borrower agree to grant nonexclusive licenses in all patents, technology and other proprietary rights owned or controlled by the borrower which are necessary for completion and operation of the project or which have been utilized in the project: (i) In the event of default, royalty free to the entities selected to complete and operate the project only for the purpose of completing and operating the project; and (ii) regardless of whether there is a default, on equitable terms, including due consideration to the amount of the United States Government default payment, to the United States Government and its designees for the purpose of constructing and operating similar projects. The provisions of this paragraph shall apply to and be binding on the borrower's participants, and the

borrower shall obtain the written agreement of such parties to these provisions.

(3) A requirement that the borrower agree to secure a license in any patents, technology or other proprietary rights of third parties which are bought or licensed for the project on behalf of the project, and inuring to the benefit of successor owners and/or operators of the project under terms and conditions no less favorable than applicable to the project.

(4) A requirement that the term "participants" shall mean the owners of the borrower, the members of a consortium or other legal entity comprising the borrower, and others with a financial or equity interest in the borrower. The term "contractor" shall mean the party being awarded a contract, regardless of tier.

(b) A requirement that no change of project ownership or financial arrangement occur without the prior written consent of DOE;

(c) A requirement that the project be built and operated at a site approved by DOE;

(d) A requirement that the borrower not obtain credit from any creditor without the written consent of the Contracting Officer, unless such creditor agrees to subordinate, in a manner acceptable to the Contracting Officer, its rights to receive payment in the event that such creditor would, without such subordination, receive by contract or otherwise a lien on the assets securing the loan issued by DOE;

(e) A requirement that the loan agreement contain provisions that comply with § 794.15 regarding default and demand.

(f) A requirement that the borrower keep and make available adequate records and documents concerning the construction and operation of the project in order that DOE may determine the technical and financial conditions of the project and its compliance with the requirements of the loan agreement;

(g) A requirement for the borrower to prepare and deliver to DOE annual audited financial statements prepared according to generally accepted accounting principles;

(h) A requirement that duly authorized representatives of the Secretary shall have access to the project site at reasonable times during construction and operation of the project;

(i) A requirement that the borrower agree to protect and preserve at all times the project assets and other collateral serving as security for the loan;

(j) A requirement that performance of contractors engaged in the construction of the project for which the loan is made be fully bonded or that other acceptable arrangements are made that assure adequate performance by contractors;

(k) A requirement that the borrower execute all documents necessary to perfect and maintain liens on collateral pledged as security for the loan;

(l) A requirement that the project operate in full compliance with all applicable laws and regulations;

(m) A requirement that the invalidity of any clause, part, or provision of the loan agreement shall not affect the validity of the remaining portions of the loan agreement;

(n) A requirement that the loan agreement shall provide an option on the part of the borrower to prepay the loan at any time without prepayment penalties;

(o) A requirement that the borrower shall furnish DOE, in writing, the name(s) of the individual(s) authorized to act on behalf of the borrower and shall notify DOE, in writing, of any change in its representatives;

(p) A requirement that the borrower keep the assets of the project insured in an acceptable amount from risk of loss, and acceptable provisions for control over any insurance proceeds paid in the event of such a loss to assure that such proceeds are appropriately utilized for the repair, reconstruction or replacement of the project assets or to repay the principal and interest on the loan;

(q) A requirement that the borrower shall be in default if the borrower at any time prior to the completion of the project abandons or ceases work on the project for more than 30 days;

(r) A requirement that the borrower shall not permit any judgment, lien, or other encumbrance to be placed against any asset of the project, excluding those liens obtained pursuant to the loan agreement or with the prior written consent of DOE;

(s) When appropriate, a requirement for control over project revenue which ensures that profits above a predetermined level are made available to the project for the future requirements of the project or for prepayment of the loan; and

(t) Such other terms and conditions as determined by DOE to be reasonable and necessary for the protection of the interests of the United States.

§ 794.14 Access to records and project site.

Employees and authorized representatives of DOE shall have access at reasonable times and under reasonable circumstances to the project site. Auditors selected by DOE or the Comptroller General of the United States shall have access to, and the right to examine, all relevant documents and records of the borrower. The borrower shall assure availability of information to permit DOE to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, the requirements of this Part and other matters pertinent to the loan.

§ 794.15 Default, demand, payment and collateral liquidation.

(a) In the event that the borrower defaults in the making of required payments of principal or interest on the loan, and such default is not cured within the grace period provided in the loan agreement, or in the event that the borrower fails to comply with any term or condition of the loan agreement, or other contractual obligation relating to the transaction, the borrower shall be in default and DOE shall have the right to accelerate the indebtedness and demand full payment of all amounts outstanding, both principal and interest, under the loan.

(b) The borrower shall have a period of not more than 30 days from the date of demand to make payment in full. Unless the Secretary issues a written waiver of default, the Secretary's failure to make demand at any time shall not constitute a waiver of any rights or remedies available to the Secretary.

(c) Should the borrower fail to pay after demand, as provided in paragraph (b) of this section, the Secretary shall undertake collection in accordance with the terms of the loan agreement and applicable law.

(d) The loan agreement shall specify the rights of DOE with respect to the liquidation of assets securing the loan and other actions that may be taken by DOE in the event of default.

§ 794.16 Nondiscrimination in Federally assisted programs.

Applicants who apply for loans under this Part shall be required to comply with the Department's rules on Nondiscrimination in Federally Assisted Programs, 10 CFR Part 1040 (45 FR 40514 (June 13, 1980)).

§ 794.17 Deviations.

To the extent that such requirements are not specified by statute, the Secretary may authorize a deviation for an individual applicant or borrower from the requirements of this Part upon a finding that such deviation is essential to program objectives and is in the best interests of the United States.

§ 794.18 Compliance with other statutes.

Nothing in this Part shall be construed to modify requirements imposed on the borrower by Federal, State, regional and local government agencies in connection with permits, licenses, or other authorizations required to construct and operate the project.

§ 794.19 Project costs.

(a) Project costs shall be recorded in accordance with generally accepted accounting principles which are consistently applied.

(b) Those reasonable and customary costs that have been incurred, are expected to be incurred, and which are directly related to the project shall be used to estimate total project costs.

(c) DOE may audit any or all cost elements included in the estimated project costs, and reserves the right to exclude or reduce the amount of any cost which is determined to be unnecessary or excessive. The borrower will make available records and other data necessary to permit DOE to carry out such an audit. In carrying out this responsibility, DOE may utilize employees of other Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

§ 794.20 Cost Overruns.

(a) A cost overrun is any cost which exceeds the estimated total cost of the project established by DOE prior to or at the time of execution of a loan agreement.

(b) When an overrun is anticipated, DOE must be notified promptly and provided with the reasons for the overrun.

(c) At the discretion of DOE and subject to the availability of loan funds, a loan agreement may be amended to increase the amount of the loan in the event that either the estimated cost to complete the project or the actual project cost incurred exceeds the originally estimated project cost.

(d) The borrower must submit all of the following information before DOE may determine whether to increase the loan to cover cost overruns:

(1) A revised expected completion date, if applicable, and a revised cost estimate for the project;

(2) A plan indicating how the borrower's share of the cost overrun will be funded;

(3) A description of the additional collateral, if any, to be pledged for the increased loan; and

(4) Updated information on the project economics indicating that a reasonable assurance of repayment of the loan (including the requested increase) still exists.

(e) Subject to the requirements of paragraph (d) of this section, DOE may agree to increase the loan for the project if DOE finds that:

(1) The continuation of the project is worthwhile to meet the program's objectives and is in the public interest; or

(2) The probable net costs to the Government in increasing the loan will be less than that which would result from a default.

(f) In no event may the loan be increased to an amount that exceeds the maximum amount or percentage share of costs set forth in the applicable subpart of this Part.

§ 794.21 Dispute resolution procedures.

(a) At the written request of a borrower, the Contracting Officer shall decide any dispute authorized for review under paragraph (d) of this section, and any dispute concerning a loan agreement with the borrower under this Part. The decision of the Contracting Officer may be appealed to the Financial Assistance Appeals Board (the Board) in accordance with Part 1024 of this Title. The Contracting Officer's authority under this subsection shall not extend to any DOE action taken under Part 1040 of this Title.

(b) Within 30 days after receiving a dispute resolution request under paragraph (a) of this section, the Contracting Officer shall mail (by certified mail) to the requesting party a brief written decision containing the following information:

(1) A summary of the requesting party's complaint;

(2) The Department's response or demand; and

(3) The factual, legal, and policy reasons for the Department's final decision.

(c) Each written decision issued by the Contracting Officer under paragraph (b) of this section shall include the following paragraph or similar language approved by the Officer of General Counsel:

> This is the final decision of the Contracting Officer. This shall be the final decision of the Department of Energy unless, within 60 days from the date you receive this letter, you deliver or mail (by certified mail) a written notice of appeal to the Financial Assistance Appeals Board at the address indicated below. Copies of your notice must be mailed (by first class mail) to the Director, Procurement and Assistance Management Directorate, and to the Office of General Counsel, GC–44, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. Your notice of appeal should refer to this decision, note that you intend an appeal and briefly state why you think this decision is wrong. You will be notified of further proceedings related to your appeal. A copy of DOE Procedures for Financial Assistance Appeals is enclosed for your reference.

(d) Except as otherwise provided in paragraph (a) of this section, the Contracting Officer may decide any post-loan agreement disputes including, but not limited to, the following:

(1) A determination that the borrower has failed to satisfy the terms and conditions of the loan agreement prerequisite to loan closing;

(2) A determination that the borrower is in default;

(3) Collateral liquidation;

(4) Determination and collection of deficiencies; and

(5) A determination that the borrower has failed to comply with any requirement of this Part or with the terms and conditions of the loan.

(e) Review on appeal. The Board may review any final decision the Contracting Officer is authorized to make under this section, except that the Board shall have no jurisdiction to review DOE denials of requests for deviations or modifications under § 794.17 of this Part. In reviewing such decisions, the Board shall be bound by all applicable laws and regulations, including the requirements of this Part, and by the terms and conditions of any applicable loan agreement.

Subpart B—Wind Energy Systems

§ 794.100 Purpose and scope.

This subpart sets forth the special procedures and requirements for awarding and administering direct loans for the purchase and installation of wind energy systems. This subpart also prescribes requirements for recording and reporting operation and maintenance data.

§ 794.101 Definitions.

For purposes of this subpart—

"Act" means the Wind Energy Systems Act of 1980, Pub. L. 96–345.

"Conventional energy source" means energy produced from oil, gas, coal, or nuclear fuels.

"Feasibility study" means a study to determine the technical and economic feasibility and institutional and environmental acceptability of undertaking a project to purchase and install a wind energy system at a specific site.

"Large wind energy system" means a system consisting of at least one large wind machine.

"Large wind machine" means a wind machine which is designed to produce a

peak generating capacity of more than 100 kilowatts.

"Normal operation" means the unattended operation of the wind energy system after installation and debugging and putting energy from the system on line.

"Operating and maintenance costs" means those costs incurred after commencement of normal operation asssociated with operating and with maintaining a wind energy system so that it continues to perform satisfactorily over its design lifetime.

"Peak generating capacity" means the maximum power output a wind system is capable of producing in normal operation.

"Public and private entity" means any individual, corporation, partnership, firm, association, agricultural cooperative, public or investor owned utility, public or private institution or group, and state or local government agency, or any other non-Federal domestic entity.

"Small wind energy system" means a system consisting of one or more small wind machines.

"Small wind machine" means a wind machine which is designed to produce a peak generating capacity of 100 kilwatts or less.

"State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States, including the Trust Territory of the Pacific Islands.

"Wind machine" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power and which comprises all necessary components including energy storage, power conditions, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for residential, agricultural, commercial, industrial, utility or governmental use.

§ 794.102 Funding limitations.

(a) Except as otherwise provided by statute enacted subsequent to the effective date of this subpart, a loan for a maximum of 75 percent of the total allowable purchase and installation costs of a wind energy system may be made, provided—

(1) The loan is consistent with the requirement in section 6 of the Act that DOE make a minimum of four loans for projects involving a total combined capacity of not more than 320 megawatts; and

(2) The amount of the loan does not exceed 50 percent of the total fiscal year appropriation for the DOE wind energy program.

(b) DOE shall not issue a solicitation for or enter into any loan agreement under this subpart after September 30, 1988 or after the Secretary determines that wind energy systems have become economically competitive with conventional energy sources, whichever occurs first.

§ 794.103 Eligibility requirements.

Any public or private entity is eligible to receive a loan under this subpart for the purchase and installation of a wind energy system in a State, provided—

(a) The proposed small wind energy system would provide an aggregate peak generating capacity of at least one megawatt; or

(b) The proposed large wind energy system includes a minimum of five large wind machines and would not exceed an aggregate peak generating capacity of 80 megawatts; and

(c) The purchase and installation of the proposed wind energy system are not supported by a grant or cooperative agreement under Part 417 of this Title.

§ 794.104 Application requirements.

An application for a loan under this subpart shall contain—

(a) A project description as prescribed in § 794.4 of subpart A of this Part;

(b) A feasibility study as described in § 417.23(a) of Part 417 of this Title;

(c) The number and type of proposed wind machines, including existing and proposed meterological equipment;

(d) The names, addresses, and qualifications and experience of the manufacturers, designers, and installers of the principal components of the proposed wind energy system, including meterological equipment;

(e) The number, length, voltage, interconnection, age, condition and location of any transmission lines to be constructed or modified as part of the project, including any new facilities required to put energy from the wind system on line;

(f) Topographical maps, diagrams, site plan, and photographs showing the location of the proposed project;

(g) A title report or other documentary evidence that that applicant will have access to and be authorized to use the proposed site for at least 30 years following the end of the project period.

§ 794.105 Allowable project costs.

(a) Allowable project costs under this subpart shall include all reasonable and necessary expenses of purchasing and installing a wind energy system. Such costs shall include expenses incurred for site preparation and for purchase, delivery, storage, assembly, installation, and start-up testing of all essential system components, and for the monitoring and reporting required under § 794.104 of this subpart.

(b) Allowable transmission system costs may not exceed 10 percent of total allowable wind energy systems costs. If the applicant demonstrates that the existing transmission system is inadequate to transport electricity from a wind energy system to an electric power grid, the costs of such transmission system may be allowed up to a maximum of 25 percent of total allowable system costs.

§ 794.106 Evaluation criteria.

(a) Applications for loans for large and small wind energy systems under this subpart shall be evaluated on the basis of the criteria set forth in § 794.5 of Subpart A of this Part and § 417.25(a) of Part 417 of this Title.

(b) Loan applications for projects proposing wind energy systems with an aggregate peak generating capacity of not more than 30 megawatts shall be evaluated competitively against each other. Applications proposing projects designed to generate 30 megawatts or more of power shall be competitively evaluated against each other.

§ 794.107 Monitoring and reporting requirements.

The borrower shall comply with the monitoring and reporting requirements set forth in § 417.26 of Part 417 of this title.

§ 794.108 Visitation.

The borrower shall comply with the visitation requirements set forth in § 417.27 of Part 417 of this title.

Subpart C—Small Hydroelectric Power Projects

§ 794.200 Purpose and scope.

This subpart sets forth the special procedures and requirements for awarding and administering loans for the construction of small hydroelectric power projects at existing dams.

§ 794.201 Definitions.

For purposes of this subpart—

"Electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904).

"Existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in

connection with the installation of any small hydroelectric power project.

"Industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954.

"Municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

"Nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

"Person" means an individual, corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

"Small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 30,000 kilowatts of installed capacity.

"State" means a State, the District of Columbia, and Puerto Rico.

§ 794.202 Funding limitations.

(a) Loans made pursuant to this subpart shall be for a maximum of 75% of the project costs of small hydroelectric power projects.

(b) Each such loan shall be for such term as the Secretary deems appropriate, but not in excess of 30 years.

§ 794.203 Eligibility requirements.

Any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person is eligible to receive a loan under this subpart.

§ 794.204 Application requirements.

In addition to the application requirements set forth in § 794.4 of Subpart A of this Part, an application for a loan under this subpart shall contain—

(a) A description of the proposed dam and penstock condition or natural water feature, and a description of the condition of any in-place equipment, including fish ladders;

(b) Evidence of the date of construction of the dam; its electric power output when last used, and its type of construction;

(c) A description of recreational or other uses placed on water to be used by the project;

(d) A complete description of the applicant's renovation plan and schedule, and a description of the type and rating of any turbine-generator to be placed in the project;

(e) A description of the dam's head, water flow, and expected kwh production (including assumptions used in its computation), and a description of existing transmission lines and distance to the proposed buyer of the project's electric output; and

(f) An estimate of the cost of constructing any fish ladders.

§ 794.205 Allowable project costs.

Allowable project costs under this subpart shall include the cost of acquisition or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project.

§ 794.206 Findings and determinations.

(a) In selecting applicants for loans under this subpart, preference shall be given to applicants who do not have available alternative financing in an amount which is deemed appropriate by DOE to complete the project and whose project will provide useful information as to the technical and economic feasibility of the generation of electricity by the project and the use of energy produced by the project.

(b) In addition to the requirements set forth in § 794.8 of Subpart A of this Part, a loan may be made under this subpart only after DOE finds—

(1) That the project will be constructed in connection with an existing dam or that it will utilize a natural water feature;

(2) That all licenses and other required Federal, State, regional and local government agency approvals necessary for development of the project have been issued. However, the Secretary may enter into a commitment to issue a loan to an applicant who has not met this requirement. The commitment period shall not exceed 3 years unless the Secretary in consultation with the Federal Energy Regulatory Commission, extends the commitment period for good cause shown by the applicant. Despite the existence of any such commitment, no loan shall be approved by the Secretary before the applicant has fully complied with the requirement of this paragraph;

(3) That the project will have no significant adverse environmental effects, including adverse effects on fish and wildlife, on recreational or any other use of the water to be used by the project, or on stream flow; and

(4) That the estimated total cost of the project includes the cost of constructing fish ladders when required by a government agency.

§ 794.207 Project monitoring and audit.

The borrower shall keep such records concerning the project as are required by generally accepted accounting principles, and such other records as DOE deems necessary. Representatives of DOE may have access, for the purpose of audit and examination, to any pertinent records or other documents of the borrower during the regular business days, and may require that copies of such documents be provided to DOE by the borrower.

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Part IV

Department of Agriculture

Food and Nutrition Service

Summer Food Service Program; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule limits sponsor and geographic area eligibility for participation in the Summer Food Service Program (SFSP); prohibits sites serving milk under the Special Milk Program from participation in the SFSP; changes the requirements for the conduct of audits in the Program; and makes several minor changes in requirements to increase State agency administrative flexibility. The changes in sponsor eligibility are mandated by Congress in the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. The other changes result from the Department's experience in administering the Program including recommendations made by task forces convened by the Food and Nutrition Service.

EFFECTIVE DATE: January 1, 1982. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the recordkeeping or reporting provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained. A document itemizing those sections will be published in the **Federal Register** within 10 days.

ADDRESSES: The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from either Mr. Jordan Benderly or Ms. Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 416, 3101 Park Center Drive, Alexandria, Virginia 22303, or by telephone at (703) 756–3888.

Copies of all written comments on the proposed rule are available for review during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. The rule has also been reviewed with regard to the requirements of Pub. L. 96–354. Pursuant to that review, Gene P. Dickey, Acting Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

Background

The SFSP is authorized by Section 13 of the National School Lunch Act. Comprehensive regulations for the SFSP were last published on January 21, 1981 (46 FR 6266). That final rule implemented changes made in the SFSP by Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, and Pub. L. 96–528, an appropriations act for Fiscal Year 1981. Public Law 96–499 limited daily meal services at sites other than camps and sites primarily serving migrant children. Pub. L. 96–528 prohibited FNS from administering the SFSP in those States which administered the SFSP in Fiscal Year 1980.

On August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 was enacted as Pub. L. 97–35, making several changes in the SFSP to reduce expenditures and to improve Program management. A proposed rule implementing these and other changes was published on December 11, 1981, at 46 FR 60592–60614.

A shortened comment period of twenty days was allowed in order to aid the publication of final regulations in a timely manner. However, in response to a number of requests by the public, an extension of the comment period, to January 11, 1982, was made. A notice of this extension was published in the **Federal Register** on December 22, 1981. Thus, the public has been afforded a 31-day period to submit comments on the rulemaking. Section 13(g) of the National School Lunch Act (42 U.S.C. 1761) requires final regulations be published by January 1 of each fiscal year. Therefore, the effective date of these regulations is January 1, 1982.

The proposed rulemaking incorporated changes based on Pub. L. 97–35 and on Program experience, including suggestions for regulatory reform made by several task forces convened by the Department. The preamble to the proposed rule encouraged interested parties to submit comments regarding the rulemaking and reminded the public that comments submitted on nondiscretionary changes based on Public Law 97–35 could not substantively affect the final rulemaking.

A total of 238 comments were received from sponsors, State agencies, Food and Nutrition Service (FNS) Regional Offices, advocacy groups, local government entities, members of Congress, private citizens, and others. All comments were studied, and were summarized and catalogued according to the regulatory section to which they referred so that the comments could be systematically considered during the development of the final rule.

Comments on regulatory issues are presented by issue in the preamble. In most instances, comments which recommended changes contrary to the Program's authorizing statute or which were not accompanied with some justification or rationale are not addressed in this preamble. This preamble sets forth the basis and purpose behind significant deviations from the December 11, 1981, proposed regulations. Interested parties can assume that the reasons discussed in the preamble to the proposed rule are still valid for those provisions which are not revised in the final rule. A thorough understanding of the final rule may require reference to the preamble of the proposed rule.

In addition, a variety of comments were received on a number of provisions which remained unchanged in the proposed rule from prior regulations. The Department did not solicit comment on all areas of the regulation since the public has had ample opportunity to make comment on the various provisions in the past. Comments dealing with approved levels of meal service, meal patterns, procurement and other provisions which have remained unchanged have not influenced the development of this final rule and therefore, are not discussed in this preamble.

The Department also received a small number of technical and editorial comments from the public. Although it is not possible to list each one of the comments of this nature, some of these recommendations have been incorporated in the final rule. Technical and editorial changes which have a substantive affect on the regulation, however, are discussed in this preamble.

Statutory Changes

1. *Area Eligibility.* The proposed rule revised the definition of areas where

poor economic conditions exist to indicate that in such areas at least 50 percent of the children meet the Secretary's guidelines for free or reduced-price school meals. The 50 percent criterion applies to all sites other than camps.

The Department received 29 comments concerning this provision. Although 22 commenters disapproved of this Program modification, the Department does not have any discretion regarding the implementation of this provision. This change has been mandated by Section 809 of Pub. L. 97–35.

However, the Department has also received comments which indicate some confusion about the requirements for documenting that a site is eligible based on the geographic area criteria. There are two methods allowed in § 225.2 (areas in which poor economic conditions exist) by which a sponsor may document that a non-camp site meets the eligibility criteria for participation in the Program. First, a sponsor may document that 50 percent of the children in the area from which the site draws its attendance are eligible for free or reduced-price school meals based on information available from (1) departments of education, welfare, zoning commissions, census tracts, etc.; (2) the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites; or (3) other appropriate sources.

The second method available to a sponsor is the collection of family size and income information from children enrolled in the Program at the site. This information must document that, at a minimum, 50 percent of the children enrolled at the site are eligible for free or reduced-price school meals. This information must be collected in cases where children are enrolled to participate in the Program at specific sites.

In order to further clarify this requirement, the language in § 225.8(a)(1)(vii) has been slightly revised to now read "(vii) the percentage of children *in the area* to be served by the site who meet the eligibility requirements for free or reduced-price school meals."

Both the proposed rule and this final rule retain the provision that allows a sponsor which proposes to serve a site which it served in the previous year to use documentation from the previous year to support the eligibility of a site. For sites of this type, applicant sponsors are only required to obtain new documentation every other year. A number of the commenters indicated some concern regarding the use of information gathered in the prior year in view of the change in eligibility from 33⅓ percent to 50 percent. This provision has been retained in order to eliminate the burden of gathering new information in cases where sponsors have submitted information in the previous year which documented that 50 percent or more of the children in the area served by the site are eligible for free or reduced-price school meals. However, the retention of this provision in no way eliminates the requirement that all sites meet the new eligibility criteria for participation. In cases where existing documentation indicates that the current criteria is not met, or there is some question as to the accuracy of the material submitted in the prior year (e.g., the number of children in the area eligible for free and reduced-price school meals has changed since the prior year), revised documentation must be resubmitted. (§ 225.8(a)(2)(ii))

2. *Sponsor Eligibility.* (a) The Department received 130 comments on the change in types of sponsors eligible to participate in the Program. The proposed rule specified that service institutions eligible to sponsor the Program include: (a) Public or nonprofit private school food authorities; (b) public or nonprofit private residential summer camps; and (c) units of local, municipal, or county government. One hundred and twenty-three (123) comments opposing the change were received. A majority of the comments reflected concern about the elimination of private, nonprofit sponsors, other than school food authorities and camps, from participation in the Program. The Department wishes to remind the commenters that it has no discretion with regard to the ineligibility of private nonprofit entities to sponsor the Program. This change in the Program is the result of legislative revisions mandated by Section 809 of Pub. L. 97–35.

(b) In accordance with Pub. L. 97–35, the proposed regulation specified that government entities eligible to sponsor the Program include units of local, municipal, and county governments. However, 52 comments were received opposing the lack of reference to "State" government entities as eligible to sponsor the SFSP.

Commenters indicated a number of reasons why they believed that units of State government should be included in the final rulemaking as eligible Program sponsors. First, commenters stated that the addition would be consistent with the intent of Congress to allow government entities to take more responsibility for the administration of the Program in their communities. Second, in a number of cases, a State government entity may have sole jurisdiction over a particular population group served by the SFSP. In this case, then, a unit of State government is essentially operating as a "local" governmental unit. Third, a majority of the comments received indicated that numerous State universities and colleges nationwide have successfully sponsored organized summer programs which have participated in the SFSP throughout its history. Commenters felt that Congress did not intend to eliminate these previously eligible government sponsors from the Program, but rather, the clear intent of the legislation was to tighten Program management through restricting the participation of private, nonprofit sponsors, such as service clubs and other organizations. Comments received from members of Congress also support this rationale for permitting State government entities to act as sponsors in the SFSP.

The Department has considered the comments submitted in support of this change and has decided to include a reference to State government entities in both the definition of "sponsor" and the definition of "units of local, municipal, or county government" included in § 225.2. In order to conform with this change, other editorial revisions have also been made in the final regulation when appropriate.

Three commenters requested clarification regarding the eligibility of Indian tribal groups as sponsors in the SFSP. The Department feels that these organizations may be considered eligible to sponsor the Program if they meet the standards set forth in the definition of "units of local, municipal, county or State government". This means that Indian organizations recognized by the State consitution, or State laws which delineate authority for government responsibility in the State, may be considered eligible to sponsor the Program as units of government. The Department wishes to point out, however, that the determination of eligibility for these types of organizations must be made on a State-by-State basis, and is in no way intended to permit private, nonprofit entities, other than schools or residential camps, to qualify as sponsors in the Program. Whenever the State agency has reason to question that an applicant is a government entity, the State agency may wish to seek the counsel of their State attorney general, or refer to the State constitution or applicable State laws. The Department wishes to emphasize that it is the applicant's

responsibility to demonstrate its eligibility, and the State may require the applicant to submit legal evidence that it is a unit of government.

(c) Section 809(2) of Pub. L. 97–35 stipulates an additional requirement for units of government acting as sponsors in the Program. Specifically, the statute mandates that these sponsors "shall be eligible for reimbursement for meals served in programs . . . only if such programs are operated directly by such governments".

The Department proposed the establishment of three criteria for the eligibility of government sponsors in the Program. As outlined in § 225.18(b)(9) and the preamble to the proposed rule, applicant government sponsors would be required to document the following in order to be approved for participation in the SFSP:

(a) That the sponsor would manage site staff, including such areas as hiring (employees or volunteers), conditions of employment and termination;

(b) That proposed sites were properties or facilities under the year-round control of the applicant; and

(c) That there was an on-going, year-round relationship between the applicant and the site which indicated direct control by the applicant.

The Department solicited public comment on this issue, particularly with regard to the requirements for establishing that government sponsors directly operate their programs. Of the 151 comments received by the Department concerning this issue, 140 of them indicated opposition to the restrictive nature of the Department's interpretation of the legislative provision.

Commenters have indicated that requiring government sponsors to demonstrate and document compliance with all three criteria will cause a hardship, not only with regard to children who may no longer be served through the Program, but to government entities which have participated in the past and wish to participate this year. Many commenters have noted that longstanding intergovernmental relationships in sponsor-site situations (i.e., city agencies sponsoring programs located at facilities run by other city, county, or State entities) would no longer be possible, and thus will eliminate the ability of these entities to participate in the SFSP. Regional Offices have indicated that, in a number of States, numerous school districts sponsored by government entities will no longer be able to participate as sites in the Program. A number of the commenters pointed out that requiring government sponsors to meet these three criteria would also have a detrimental effect on Program participation in rural areas. Commenters felt that the provision was in conflict with the Administration's stated efforts to deregulate and to provide discretion at State and local levels.

The Department is revising the final rule to respond to the above concerns. This final regulation allows government sponsors to operate Program sites as long as the sponsor accepts final financial and administrative responsibility for the SFSP. While documentation is not required, each government sponsor must certify that it will directly operate the Program at each site under its sponsorship. The final rule revises § 225.18(b)(9) to specify that direct operation means that the applicant will be responsible for: (i) Managing site staff, including such areas as hiring, conditions of employment and termination; and (ii) the management of Program operations at sites during the period of Program participation. The requirement that government sponsors manage site staff does not prohibit the staffing of sites by either paid employees or volunteers; however, site staffs must be finally accountable to the sponsor.

The proposed provision requiring that government sponsors certify, on the sponsor Program application, that they will directly operate the Program at their sites has also been retained in the final rule (§ 225.6(a)(8)).

In addition, it should be noted that current regulations require that no applicant sponsor shall be eligible to participate in the Program unless it demonstrates financial and administrative capability for Program operations, and accepts final financial and administrative responsibility for total Program operations at all sites (§ 225.18(b)(1)). Sponsors are required to submit sponsor applications and applications for each site, train all site and administrative personnel in Program requirements, provide technical assistance to sites, visit and monitor all sites, maintain records which justify all costs and meals claimed for reimbursement, maintain a financial management system, serve meals which meet Program requirements and retain responsibility for numerous other Program requirements described in § 225.18 and § 225.19 of the regulations. The Department feels that these regulatory provisions, currently in place, coupled with the new requirements discussed above, provide sufficient assurance that government entities are responsible for the operation of the Program at sites under their sponsorship, without imposing any additional economic or administrative burden on these entities.

3. *Special Milk Program.* As discussed in the preamble to the proposed rule, section 807 of Pub. L. 97–35 prohibits the simultaneous participation of sites in the SFSP and the Special Milk Program. Although four comments were received in opposition to this prohibition, the Department has no discretion regarding this change since it is based on a legislative change mandated by Congress. Two of the commenters requested clarification regarding the provision as it relates to the consecutive participation of a single site in both programs. The Department wishes to reiterate that this restriction does not prohibit an organization which sponsors the SFSP at one site from entering into a separate agreement with a State agency to operate a Special Milk Program at some other facility. Neither does this provision restrict the ability of a site to be eligible to participate in one program for one part of the operating period of the site and sign an agreement to operate the other program during a different period of operation. For example, if a camp wishes to participate in the SFSP only during the months of June through July, and the Special Milk Program only during the month of August, it may do so, provided that the program agreement periods are mutually exclusive.

Changes Recommended by Task Forces

Appeal Procedure Notification. The proposed rule deleted the provision requiring that State agencies notify sponsors or food service management companies of the procedures for requesting a review whenever the State agency takes an action which may be appealed. As discussed in the preamble to the proposed rule, States would be required to send written notification of their appeal procedures and a list of appealable actions to each potential sponsor upon application, and to each food service management company upon its application for registration. The intent of this provision was to simplify the notification requirements and reduce State agency workload. Twenty-five comments were received on this change (§ 225.15(c)).

Several commenters have pointed out that, although numerous references are made in § 225.15 to the notice of action sent by State agencies to appropriate parties, the actual provision which required State agencies to inform the affected parties of the State's action was omitted in the proposed rule. This provision was inadvertently deleted from the proposed rule and has been

reinserted in this final rule. Section 225.15(b)(1) now requires that sponsors or food service management companies be advised in writing of the grounds upon which the State agency based its adverse action. The provision also requires that the notice of action be sent by certified mail, return receipt requested, and include a statement indicating that the affected party has the right to appeal the State's action.

The Department believes that the reinsertion of the language of § 225.15(b)(1) will sufficiently address the concerns of the commenters about this issue. The Department believes that simplifying the appeals procedure notification requirements for State agencies will not abridge the appeal rights available to participants in the event that a sponsor or food service management company wishes to appeal the action of a State agency.

Other Task Force recommendations included in the proposed rule regarding Management and Administration Plans, Management Evaluations, the termination of sponsors for serious deficiencies, and meals prepared by schools have been adopted in this final rule.

Other Program Changes

1. *National Deadline Date.* The proposed rule established a national deadline date by which written Program applications must be submitted by applicant sponsors to the administering agency. The proposed rule established a deadline date of June 15. Administering agencies were allowed to establish an earlier deadline at their discretion. Twenty-eight (28) comments were received with regard to this provision, 17 in favor and 10 opposed. One commenter felt that clarification needed to be made regarding the deletion of the provision, included in prior year's regulations, that allowed State agencies to approve applications submitted after the deadline date in cases where failure to do so would deny the Program to an area where poor economic conditions exist.

The Department wishes to clarify that the June 15 deadline is the final date by which written applications may be submitted by prospective sponsors. It is felt that the establishment of a final deadline date will aid both State agencies and sponsors in the efficient and effective administraton of the Program. This provision is included in § 225.7(b).

(2) *Civil Rights Requirements.* Sections 225.3(c) and 225.9(h) have been slightly revised in the final rule to include references to the nondiscrimination requirements of Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. These changes have been made to ensure that the Department is meeting all legislative requirements regarding Civil Rights in the SFSP. The addition of these references also revises the Civil Rights nondiscrimination statement by including sex and handicap. Conforming changes have been made in various sections of this final rule to assure that no person shall, on the grounds of race, color, national origin, sex or handicap, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the Program. However, reference has not been included in § 225.9(h) to collect data based on sex and handicap since the Department has not yet placed this reporting requirement on State agencies. The Department will provide additional guidance on these requirements to administering agencies in the near future.

3. *Audits.* In the past, Program regulations have specified that sponsors expecting to receive $75,000 or more in Program payments were required to have an audit conducted each year. States were required to provide every other year for audits of all other sponsors. All audits were to specifically examine the sponsor's SFSP. States were allowed to waive audits of: (a) Sponsors earning less than $10,000 in Program payments; (b) sponsors receiving other Federal funds and subject to an organization-wide audit in accordance with OMB Circular A–102; and (c) sponsors which the State agency determines do not need an audit.

Comments from the Office of Inspector General (OIG) have led to revision of the SFSP audit requirements. This final regulation, therefore, specifies that audits of funds received under the Program should be conducted in accordance with 7 CFR Part 3015, the Departments' Uniform Federal Assistance Regulations and OMB Circulars A–102 and A–110, as applicable. Corresponding editorial changes have been made throughout this final rule in order to be consistent with this change in the audit requirements. The Department wishes to point out that the approval of State Management and Administration Plans will not be delayed due to changes necessary in Plan provisions drafted in compliance with § 225.12 of the proposed rule. However, compliance with the new audit requirements will be necessary.

Accordingly, 7 CFR Part 225 is revised and reissued as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—Assistance to States

225.4 Payments to State agencies and use of Program funds.
225.5 Commodity assistance.

Subpart C—State Agency Provisions

225.6 Program management and administration plan.
225.7 State agency responsibilities.
225.8 Program applications.
225.9 Program monitoring and assistance.
225.10 Records and reports.
225.11 Program payments.
225.12 Audit and management evaluation.
225.13 Corrective action procedures.
225.14 Claims against sponsors.
225.15 Appeal procedures.
225.16 Procedures for food service management companies.
225.17 Procurement standards.

Subpart D—Provisions for Sponsors

225.18 Requirements for sponsor participation.
225.19 Operational responsibilities of sponsors.
225.20 Meal service requirements.
225.21 Free meal policy.

Subpart E—Miscellaneous Provisions

225.22 Other provisions.
225.23 Program information.

Authority: Secs. 803, 807, 809, 816 and 817, Pub. L. 97–35, secs. 203 and 206, Pub. L. 96–499, secs. 5, 7, 10, Pub. L. 95–627, 95 Stat. 3603 (42 U.S.C. 1771); sec. 2, Pub. L. 95–166, 91 Stat. 1325 (42 U.S.C. 1761); sec. 7, Pub. L. 91–248, 84 Stat. 211 (42 U.S.C. 1859a).

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program to assist States through grants-in-aid to conduct nonprofit food service programs for children during the summer months and at other approved times. The primary purpose of the Program is to provide food service to children from needy areas during periods when area schools are closed for vacation.

§ 225.2 Definitions.

"Act" means the National School Lunch Act, as amended.

"Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the Program, and excluding interest costs and operating costs.

"Advance payments" means financial assistance made available to a sponsor for its operating costs and/or administrative costs prior to the end of the month in which such costs will be incurred.

"Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendance in which at least 50 percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined (i) by information provided from departments of welfare, education, zoning commissions, census tracts, and organizations determined by the State agency to be migrant organizations, (ii) by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites, or (iii) from other appropriate sources, or (2) an enrollment program in which at least 50 percent of the children at the site are eligible for free or reduced price school meals as determined by statements of eligibility based on the sizes and incomes of the families of the children enrolled.

"Camps" means residential summer camps and nonresidential day camps which offer a regularly scheduled food service as part of an organized program for enrolled children. Non residential camp sites shall offer a continuous schedule of organized cultural or recreational programs for enrolled children between meal services.

"Children" means (1) persons 18 years of age and under, and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public or nonprofit private school program established for the mentally or physically handicapped.

"Costs of obtaining food" means costs related to obtaining food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

"Continuous school calendar" means a situation in which all or part of the student body of a school are (1) on a vacation for periods of 15 continuous school days or more during the period October through April and (2) in attendance at regularly scheduled classes during most of the period May through September.

"Department" means the U.S. Department of Agriculture.

"Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FNS" means the Food and Nutrition Service of the Department.

"FNSRO" means the appropriate FNS Regional Office.

"Food service management company" means any commercial enterprise or nonprofit organization which contracts with a sponsor to manage any aspect of the food service program. Food service management companies may be (1) public agencies or entities; (2) private, nonprofit organizations; or (3) private, for-profit companies.

"Income accruing to the program" means all funds used by a sponsor in its food service program, including but not limited to all monies, other than program payments, received from Federal, State and local governments, from food sales to adults, and from any other source, including cash donations or grants. Income accruing to the Program will be deducted from combined operating and administrative costs.

"Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

"Milk" means whole milk, lowfat milk, skim milk, and buttermilk. All milk must be fluid and pasteurized and must meet State and local standards for the appropriate type of milk. Milk served may be flavored or unflavored. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain Vitamins A and D at the levels specified by the Food and Drug Administration and at levels consistent with State and local standards for such milk.

"Needy children" means children from families whose incomes are equal to or below the Secretary's Guidelines for Determining Eligibility for Reduced Price School Meals.

"OIG" means the Office of the Inspector General of the Department.

"Operating costs" means the cost of operating a food service under the Program, (1) including (i) cost of obtaining food, (ii) labor directly involved in the preparation and service of food, (iii) cost of nonfood supplies, (iv) rental and use allowances for equipment and space, and (v) costs for transporting children in rural areas to feeding sites in rural areas, but (2) excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings, (iii) interest costs, (iv) the value of in-kind donations, and (v) administrative costs.

"Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

"Program" means the Summer Food Service Program for Children authorized by Section 13 of the Act.

"Program funds" means Federal financial assistance made available to State agencies for the purpose of making Program payments.

"Program payments" means financial assistance in the form of start-up payments, advance payments or reimbursement paid to sponsors for operating and administrative costs.

"Rural" means (1) any area in a county which is not a part of a Standard Metropolitan Statistical Area or (2) any "pocket" within a Standard Metropolitan Statistical Area which, at the option of the State agency and with FNSRO concurrence, is determined to be geographically isolated from urban areas.

"School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch program in those schools.

"Secretary" means the Secretary of Agriculture.

"Self-preparation" means the sponsor prepares the meals which will be served at its site(s), and does not contract with a food service management company for the preparation of all or a portion of the meals.

"Session" means a specified period of time during which an enrolled group of children attend camp.

"Site" means a physical location at which a sponsor provides a food service for children and at which children consume meals in a supervised setting.

"Special account" means an account between a sponsor and a food service management company with a State or Federally insured bank in which checks from the State agency for operating costs are deposited by the sponsor and released only in accordance with the terms of the special account agreement.

"Sponsor" means a public or private nonprofit school food authority; public or private nonprofit residential summer camp; or unit of local, municipal, county or State government, which develops a special summer or other school vacation program providing food service similar to that available to children during the

school year under the National School Lunch and School Breakfast Programs and which is approved to participate in the Program. (Sponsors are referred to in the Act as "service institutions").

"Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a summer food service, and to establish effective management procedures for such a service. These payments shall be deducted from subsequent administrative costs payments.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"State agency" means the State educational agency or an alternate State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and which has been approved by the Department to administer the Program within the State, or in States where FNS administers the Program, FNSRO.

"Unit of local, municipal, county or State government" means an entity which is so recognized by the State constitution or State laws, such as the State administrative procedures act, tax laws, or other applicable State laws which delineate authority for government responsibility in the State.

§ 225.3 Administration.

(a) FNS shall act on behalf of the Department in the administration of the Program.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that if FNSRO has continuously administered the Program in any State since October 1, 1980, FNS shall continue to administer the Program in that State, unless a State educational agency is not permitted by law to disburse funds to any of the nonpublic schools in the State, in which case the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency. A State in which FNS administers the Program may upon request to FNS, assume administration of the Program. Each State agency shall notify the Department by November 1 of the fiscal year involved as to whether or not it intends to administer the Program.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with FNS for the administration of the Program in the State in accordance with the provisions of this part. The agreement shall cover the operation of the Program during the period specified therein and may be extended by written consent of both parties. The agreement shall contain an assurance that the State agency will comply with the Department's nondiscrimination regulations (7 CFR Part 15), issued under Title VI of the Civil Rights Act of 1964, and any Instructions issued by FNS pursuant to those regulations, Title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973.

(d) In States in which FNSRO administers the Program, it shall have all of the responsibilities of a State agency and shall earn State administrative and Program funds as set forth in this part.

Subpart B—Assistance to States

§ 225.4 Payments to State agencies and use of Program funds.

(a) *Letter of Credit for Program payments.* (1) Not later than April 15 of each fiscal year, FNS shall make available to each participating State in a Letter of Credit an amount equal to 65 percent of the preceding fiscal year's Program payments for operating costs plus 65 percent of the preceding fiscal year's Program payments for administrative costs in the State. This amount may be adjusted to reflect changes in reimbursement rates made pursuant to § 225.11(c)(11). However, the State shall not withdraw funds from this Letter of Credit until its Program management and administration plan is approved by FNS. (2) Not later than May 15, FNS shall make available, if necessary, additional funds in a Letter of Credit to ensure that at least 65 percent of the Program operating and administrative funds estimated to be needed for the summer in the State's approved management and administration plan has been provided to each State. (3) Not later than July 1, FNS shall make available, if necessary, in a Letter of Credit an amount sufficient to ensure that at least 65 percent of the Program operating and administrative funds determined during the evaluation required in § 225.12(c) to be needed for the summer has been provided to the State. Funds made available in these Letters of Credit shall be used by the State agency to make program payments to sponsors. FNS may make appropriate changes in the amounts included in these Letters of Credit based on any information available upon which determinations of actual Program size may be made.

(b) *Continuous school calendar.* The Letter of Credit shall include sufficient funds to enable the State agency to make advance payments to sponsor serving areas in which schools operate under a continuous school calendar. These funds shall be made available no later than the first day of the month prior to the month during which the food service will be conducted.

(c) *Remaining funds.* FNS shall make available any remaining Program funds due within 45 days of the receipt of valid Claims for Reimbursement from sponsors by the State agency. However, no payment shall be made for claims submitted for any fiscal year if they are submitted after December 31 of the following fiscal year, except as allowed under § 225.11(c)(6).

(d) *Return of funds.* Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 calendar days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(e) *State administrative funds.* For each fiscal year, FNS shall pay to each State agency for administrative expenses incurred in the Program an amount equal to (1) 20 percent of the first $50,000 in Program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $100,000 in Program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next $250,000 in Program funds properly payable to the State in the preceding fiscal year; and (4) 2½ percent of any remaining Program funds properly payable to the State in the preceding fiscal year: Provided, however, That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any other information available to FNS.

(f) *Use of State administrative funds.* State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative

expenses as are set forth in their approved Program management and administration plan.

(g) *State administrative funds Letter of Credit.* (1) At the beginning of each fiscal year, FNS shall make available to each participating State agency by Letter of Credit an initial allocation of State administrative funds for use in that fiscal year. This allocation shall not exceed one-third of the administrative funds provided to the State in the preceding fiscal year. For State agencies which did not receive any Program funds during the preceding fiscal year, the amount to be made available shall be determined by FNS.

(2) Additional State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed 80 percent of the State administrative funds determined by the formula set forth in paragraph (e) of this section and based on the estimates set forth in the approved Program management and administration plan.

(3) The remaining State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the funding assessment described in § 225.12(c) (but not later than September 1) and shall be in an amount equal to that determined to be needed during the funding evaluation, less the amounts paid under paragraphs (g) (1) and (2) of this section.

(h) *Funding assurance.* At the time FNS approves the State's management and administration plan, the State shall be assured of receiving State administrative funding equal to the lesser of the following amounts: 80 percent of the amount obtained by applying the formula set forth in paragraph (e) of this section to the total amount of Program payments made within the State during the prior fiscal year, or, 80 percent of the amount obtained by applying the formula to the amount of Program funds estimated to be needed in the management and administration plan. The State agency shall be assured that it will receive no less than this level unless FNS determines that the State agency has failed or is failing to meet its responsibilities under this part.

(i) *Limitation.* In no event may the total payment for State administrative costs in any fiscal year exceed the total amount of expenditures incurred by the State agency in administering the Program.

(j) *Adjustment of Letter of Credit.* Prior to May 15 of each fiscal year, FNS shall make any adjustments necessary in each State's Letter of Credit to reflect actual expenditures in the preceding fiscal year's Program.

(k) *Health inspection funds.* Each fiscal year, FNS shall make available by Letter of Credit to each State agency an amount equal to one percent of Program funds expended in the preceding fiscal year in the State. Following approval of the State's management and administration plan, FNS shall make available in a Letter of Credit any additional funds necessary to ensure that 1 percent of Program funds estimated to be needed for Program payments in the State's management and administration plan is available to the State. These funds shall be used solely to enable State or Local health departments or other governmental agencies charged with health inspection functions to carry out health inspections and meal quality tests, provided that if these agencies cannot perform such inspections or tests, the State agency may use the funds to contract with an independent agency to conduct the inspection or meal quality tests. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.12(c), if such an adjustment is warranted. Funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

§ 225.5 Commodity assistance.

(a) Sponsors eligible to receive commodities under the Program include only those which prepare the meals to be served at their sites and those which have entered into an agreement with a school or school district for the preparation of meals. The State agency shall make available to these sponsors information on available commodities.

(b) Not later than June 1 of each year State agencies shall prepare a list of the names of sponsors which are eligible to receive commodities. The list shall indicate the average daily number of eligible meals to be served by each of these sponsors. If the State agency does not handle the distribution of commodities donated by the Department, this list shall be forwarded to the agency of the State responsible for the distribution of commodities. The State agency shall be responsible for promptly revising the information included on the list to reflect additions or terminations of sponsors and for adjusting the average daily participation data as it determines necessary.

Subpart C—State Agency Provisions

§ 225.6 Program management and administration plan.

(a) Not later than February 15 of each year, except that for fiscal year 1982 no later than March 15, each State Agency shall submit to FNSRO a Program management and administration plan for that fiscal year.

(b) Each plan shall be acted on or approved by March 15, or if it is submitted late, within 30 calendar days of receipt of the plan. If the plan initially submitted is not approved, the State agency and FNS shall work together to ensure that changes to the plan, in the form of amendments, are submitted so that the plan can be approved within 60 calendar days following the initial submission of the plan. Upon approval of the plan, the State agency shall be notified of the level of State administrative funding which it is assured of receiving under § 225.4(h).

(c) Prior to submission, the State shall ensure that interested parties have an opportunity to make comments and recommendations and that timely comments and recommendations have been given full consideration in the development of the Plan.

(d) The Plan shall have the original signature of the Chief Official (Commissioner or Superintendent) of the State agency.

(e) The State agency shall give the Governor, or his delegated agent, the opportunity to comment on the management and administration plan. A period of 45 calendar days from the date of receipt of the Plan shall be afforded to make such comments.

(f) Approval of the Plan by FNS shall be a prerequisite to the withdrawal of Program funds by the State from the Letter of Credit and to the donation by the Department of any commodities for use in the State's Program.

(g) The Plan shall include, at a minimum, the following information:

(1) The State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary for the use of these funds;

(2) The State's plans for use of Program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the Program;

(3) The State's best estimate of the number and character of service institutions and sites to be approved,

and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used;

(4) The State's plans and schedule for providing technical assistance and training to eligible service institutions;

(5) The State's schedule for application by service institutions;

(6) The actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities;

(7) The State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(8) The State's plan and schedule for registering food service management companies;

(9) The State's plan for timely and effective action against Program violators;

(10) The State's plan for determining the amounts of Program payments to service institutions and for disbursing such payments;

(11) The State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and

(12) The State's procedure for granting a hearing and prompt determination to any service institutions wishing to appeal a State ruling, as specified in § 225.15.

§ 225.7 State agency responsibilities.

(a) The State agency shall provide sufficient qualified consultative, technical, and managerial personnel to administer the Program, monitor performance, and measure progress in achieving Program goals. The State agency shall assign Program responsibilities to personnel to ensure that all applicable requirements under this part are met.

(b) Each State agency shall inform all of the previous year's sponsors which meet current eligibility requirements and all potential sponsors of the deadline date for submitting a written application for participation in the Program. The State agency shall require that all applicant sponsors submit written applications for Program participation to the State agency by June 15. However, the State agency may establish an earlier deadline date for Program application submission.

(c) Within 30 days of receiving a complete and correct application, the State agency shall notify the applicant of its approval or disapproval. If an incomplete application is received, the State agency shall so notify the applicant within 15 days and shall provide technical assistance for the purpose of completing the application. Any disapproved applicant shall be notified of its right to appeal under § 225.15.

(d) The State agency shall determine the eligibility of applicant sponsors (and their sites) applying for participation in the Program in accordance with the applicant sponsor and site eligibility criteria outlined in § 225.18.

(e) The State agency shall review each applicant's administrative budget as a part of the application approval process, in order to assess the applicant's ability to operate in compliance with these regulations within its projected reimbursement. In approving the applicant's administrative budget, the State agency shall take into consideration the number of sites and children to be served, as well as any other relevant factors. A sponsor's administrative budget shall be subject to review for adjustments by the State agency if the sponsor's level of site participation or the number of meals served to children changes significantly.

(f) State agencies may approve the application of an otherwise eligible applicant which does not provide a year-round service to the community which it proposes to serve under the Program only if it meets one or more of the following criteria: (1) It is a residential camp, or (2) it proposes to provide a food service for the children of migrant workers, or (3) a failure to do so would deny the Program to an area in which poor economic conditions exist, or (4) a significant number of needy children will not otherwise have reasonable access to the Program.

(g) Applicants which qualify as camps shall be approved for reimbursement only for meals served free to enrolled children who meet the eligibility requirements for free and reduced price school meals.

(h) The State agency shall use the following order of priority in approving applicants to operate sites which propose to serve the same area or the same enrolled children:

(1) Applicants which are public or nonprofit private school food authorities and other applicants which have demonstrated successful Program performance in a prior year;

(2) Applicants which propose to prepare meals at their own facilities or which operate only one site;

(3) Applicants which propose to utilize local school food service facilities for the preparation of meals;

(4) Other applicants which have demonstrated ability for successful Program operations; and

(5) Applicants which plan to integrate the Program with Federal, State, or local employment or training programs.

(i) When evaluating a proposed food service site, the State agency shall ensure that:

(1) If not a camp, the proposed site serves an area in which poor economic conditions exist, as defined by § 225.2;

(2) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal; and

(3) The site is approved to serve no more than the number of children for which its facilities are adequate.

(j) When approving an application, the State agency shall establish for each meal service an approved level for the maximum number of meals which may be served under the Program for each site which will serve meals prepared by a food service management company. These approved levels shall be established in accordance with the following provisions:

(1) The initial maximum approved level shall be based upon the historical record of attendance at the site if such a record has been established in prior years and the State agency determines that it is accurate. The State agency shall develop a procedure for establishing initial maximum approved levels for sites when no accurate record from prior years is available.

(2) The maximum approved level shall be adjusted, if warranted, based upon information collected during site reviews. If attendance at the site on the day of the review is significantly below the site's approved level, the State agency should consider making a downward adjustment in the approved level with the objective of providing only one meal per child.

(3) The sponsor may seek an upward adjustment in the approved level for its sites by requesting a site review or by providing the State agency with evidence that attendance exceeds the sites' approved levels.

(4) Whenever the State agency establishes or adjusts approved levels of meal service for a site, it shall document the action in its files, and it shall provide the sponsor with immediate written confirmation of the approved level.

(5) Upon approval of its application or any adjustment of maximum approved

levels, the sponsor shall inform the food service management company with which the sponsor contracts of the approved level for each meal service at each site for which the food service management company will provide meals. This notification of any adjustments in approved levels shall take place within the time frames set forth in the contract for adjusting meal orders. Whenever the sponsor notifies the food service management company of the approved levels or any adjustments to these levels for any of its sites, the sponsor shall clearly inform the food service management company that an approved level of meal service represents the maximum number of meals which may be served at a site and is not a standing level for meal orders at that site. The sponsor shall adjust meal orders with the objective of serving only one meal per child, as required under § 225.19(d), when the number of children attending is below the site's approved level.

(k) Each State agency shall inform potential sponsors of the procedure for applying for advance operating and administrative costs payments as provided for in § 225.11(b), and where applicable, each State agency shall inform sponsors of the procedure for applying for start-up payments provided for in § 225.11(a).

(l) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size.

(m) The State agency shall not approve the application of any applicant sponsor identifiable through its organization or principals as a sponsor which has been determined to be seriously deficient in its Program operations. The official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Serious deficiencies which are grounds for nonapproval are described in § 225.13(c).

(n) Pending the outcome of a review of a denial the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (h) of this section, without regard to the application under review.

(o) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for Program participation or knowingly withholds information which may lead to the disapproval of its application. Complete information regarding such disapproval of an applicant shall be submitted by the State agency through FNSRO to OIG.

§ 225.8 Program applications.

(a) The applicant shall submit a written application to the State agency for participation in the Program as a sponsor. The State agency may use the application form developed by FNS or it may develop an application form for use in the Program. Application shall be made on a timely basis in accordance with the deadline date established under § 225.7(b). At a minimum, the application shall include the items listed below:

(1) A site information sheet, as developed by the State agency, for each site where a food service operation is proposed. The site information sheet shall demonstrate or describe the following:

(i) An organized and supervised system for serving meals to attending children;

(ii) The estimated number and types of meals to be served and the times of service;

(iii) Arrangements, within standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and arrangements for storing and refrigerating any leftover meals until the next day;

(iv) Arrangements for food service during periods of inclement weather;

(v) Access to a means of communication for making necessary adjustments in the number of meals delivered in accordance with the number of children attending daily at each site;

(vi) The geographic area to be served by the site;

(vii) The percentage of children in the area to be served by the site who meet the eligibility requirements for free or reduced price school meals; and

(viii) Whether the site is rural, as defined in § 225.2, or non-rural, and whether the site's food service will be self-prepared or vended.

(2) Along with its site information sheet for a site that is not a camp, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist.

(i) For those sites at which applicants will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from an organization determined by the State agency to be a migrant organization, which supports eligibility for those children as a group, and

(ii) When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. For such sites applicants shall only be required to obtain new documentation every other year.

(3) Prior to filing their Claims for Reimbursement for each session or at such time as specified by the State agency, camps shall submit to the State agency family size and income information which documents the number of children enrolled in each session who meet the eligibility requirements for free or reduced price school meals.

(4) Information in sufficient detail to enable the State agency to determine whether the applicant meets the criteria for participation in the Program as set forth in § 225.18, and the extent of Program payments needed, including a request for advance payments and start-up payments, if applicable, an administrative and operating budget, and a staffing and monitoring plan.

(5) A complete administrative budget for State agency review and approval. The budget shall contain the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to assess the sponsor's ability to operate under the Program within its estimated reimbursement. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(6) A plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.16.

(7) A free meal policy statement, as required in § 225.21.

(8) For each applicant which seeks approval under § 225.18(a)(3) (as a unit of local, municipal, county or State government), certification that it will directly operate the Program in accordance with § 225.18(b)(9).

(b) Sponsors approved for participation in the Program shall enter into written agreements with the State agency. The agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in

§ 225.20 during period designated as the meal service period by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are served meals under the Program;

(4) Issue a policy statement in accordance with § 225.21;

(5) Meet the training requirement for its administrative and site personnel, as required under § 225.19(i).

(6) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period, except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who are eligible for free or reduced price school meals. The agreement shall specify the approved levels of meal service for the sponsor's sites for which approved levels have been established as required under § 225.7(j); no permanent changes may be made in the serving time of any meal unless the changes are approved by the State agency.

(7) Submit claims for reimbursement in accordance with procedures established by the State agency, and those States in § 225.11;

(8) In the storage, preparation and service of food, maintain proper sanitation and health standards in conformance will all applicable State and local laws and regulations;

(9) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(10) Have access to facilities necessary for storing, preparing, and serving food;

(11) Maintain a financial management system as prescribed by the State agency;

(12) Maintain on file documentation of site visits and reviews in accordance with § 225.19 (g) and (h);

(13) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. These records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, unless audit or investigation findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;

(14) Maintain children on site while meals are consumed; and

(15) Retain final financial and administrative responsibility for its program.

(c) Each State agency shall require applicant sponsors submitting Program application site information sheets, Program agreements or a request for advance payments, and sponsors submitting claims for reimbursement, to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and Federal statutes.

(d) Within two weeks of receiving notification of their approval, but in any case prior to commencement of operation under the Program, sponsors shall submit to the State agency a copy of their letter advising the appropriate health department of their intention to provide a food service during a specific period at specific sites.

(e) In addition, the State agency may require any sponsor which contracts with a food service management company to enter into an agreement with the State agency to provide that the sponsor shall establish a special account with a State agency or Federally insured bank for operating costs payable to the sponsor by the State. The special account agreement shall specify that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain such other terms, agreed to by both the sponsor and the food service management company, which are consistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank for the account described in this section shall be considered an allowable sponsor administrative cost.

§ 225.9 Program monitoring and assistance.

(a) *Program availability.* By February 1 of each fiscal year, each State agency shall announce the purpose, eligibility criteria, and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a listing of potential sponors which have not previously participated in the Program and shall contact them. State agencies shall identify rural areas, Indian tribal territories, and areas with a concentration of migrant farmworkers which qualify for the Program and shall actively seek eligible applicant sponsors to serve such areas. States shall identify priority outreach areas in accordance with FNS guidance and target outreach efforts in these areas. The State agency shall encourage potential sponsors to use their own facilities or the facilities of public or nonprofit private schools for the preparation, delivery, and service of meals under the Program.

(b) *Training.* Each State agency shall plan for and carry out Program training for sponsors, food service management company representatives, auditors, and health inspectors which will participate in the Program in that State. Prior to Program operations, each State agency shall ensure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. This training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training. State agencies are encouraged to utilize sponsors which have previously participated in the Program in such training, and in the training of site personnel regarding their responsibilities. Training should be made available at convenient locations. Prior to the beginning of Program operations, each State agency shall make available training in all necessary areas of Program administration for representatives from each food service management company and each health department which will participate in the Program in the current year.

(c) *Program materials.* Each State agency shall develop and make available all necessary Program materials in sufficient time to enable applicant sponsors to prepare adequately for their participation in the Program.

(d) *Food specifications and meal quality standards.* With the assistance of the Department, each State agency shall develop and make available to all sponsors minimum food specifications and model meal quality standards which shall become part of the contracts between sponsors and food service management companies.

(e) *Program monitoring and assistance.* The State agency shall conduct Program monitoring and provide Program assistance according to the following provisions:

(1) *Pre-approval visits.* The State agency shall conduct pre-approval visits of sponsors and sites, as specified

below, to assess the applicant sponsor's or site's potential for successful Program operations and verify information provided in the application. The State agency shall visit prior to approval:

(i) All applicant sponsors which did not participate in the Program in the prior year;

(ii) All applicant sponsors which, as a result of operational problems noted in the prior year, the State agency has determined need a pre-approval visit;

(iii) All proposed nonschool sites with an expected average daily attendance of 300 children or more which did not participate in the Program in the prior year.

(2) *Sponsor and site reviews.* The State agency shall review sponsors and sites to ensure compliance with Program regulations, the Department's nondiscrimination regulations (7 CFR Part 15) and any other applicable instructions issued by the Department. In determining which sponsors or sites to review under this paragraph, the State agency shall, at a minimum, consider whether the sponsor participated or whether the site was used or reviewed in prior years, the performance of the sponsor or site in prior years, the performance of other sites operated by the same sponsor in prior years and the current year, and the performance of the applicable sponsor in prior years and the current year. Reviews shall be conducted as follows:

(i) For the following types of sponsors, State agencies shall conduct both a review of sponsor operations and review an average of 15 percent of their sites during the first four weeks of the sponsor's operations:

(A) Sponsors which have 10 or more sites and which did not operate the Program in the prior year, and

(B) Other sponsors of 10 or more sites which are determined by the State agency to need early reviews.

(ii) The State agency shall review the following types of sponsors and sites not reviewed under subparagraph (2)(i) of this paragraph at least once during the period of Program operations:

(A) All remaining sponsors of 10 or more sites and an average of at least 15 percent of their sites, and

(B) 70 percent of all sponsors of fewer than 10 sites and an average of 10 percent of their sites.

(3) *Follow-up reviews.* The State agency shall conduct follow-up reviews of sponsors and sites as necessary.

(4) *Monitoring system.* Each State agency shall develop and implement a monitoring system to ensure that sponsors, including site personnel, and the appropriate food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and which could result in a Program disallowance.

(5) *Records.* Documentation of Program assistance and results of such assistance shall be maintained on file by the State agency.

(6) *Food preparation facility visits.* As a part of the review of any sponsor which contracts with a food service management company for the preparation of meals, the State agency shall inspect the facilities of the food service management company. Each State agency shall establish an order of priority for visiting facilities at which food is prepared to be served in the Program. The State agency shall respond promptly to complaints concerning facilities with potential problems. Funds provided for in § 225.4(k) may be used for this purpose.

(7) *Forms for reviews by sponsors.* Each State agency shall develop and provide monitor review forms to all approved sponsors. These forms shall be completed by sponsor monitors. The monitor review form shall include, but not be limited to, time of reviewer's arrival and departure, site supervisor's signature, certification statement to be signed by monitor, the number of meals prepared or delivered, the number of meals served to children, the deficiencies noted, and corrective actions taken by sponsor and date of such actions.

(8) *Statistical monitoring.* State agencies may use statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraph (e)(2) of this section to accomplish the monitoring and technical assistance aspects of the Program. State agencies which use statistical monitoring procedures may use the findings in evaluating claims for reimbursement. Statistical monitoring may be used for some or all of a State's sponsors. Use of statistical monitoring does not eliminate the requirements for reviewing sonsors as specified in paragraph (e)(2) of this section.

(9) *Corrective actions.* Corrective actions which the State agency may take when Program violations are observed during the conduct of a review are discussed in § 225.13. The State agency shall conduct follow-up reviews as appropriate when corrective actions are required.

(f) *Food quality and preparation facility inspections.* The State agency shall make a positive effort to ensure that inspections of food preparation facilities and food service sites, including meal quality tests, are conducted. The procedures for carrying out the inspections and tests shall be consistent with procedures used by local health authorities. For inspections of facilities of food service management companies not conducted by State agency personnel, copies of the results of the inspections shall be provided to the State agency. The company and the sponsor shall also immediately receive a copy of the results of these inspections when corrective action is required.

(g) *Financial management.* Each State agency shall establish a financial management system, in accordance with Office of Management and Budget Circulars A–102 and A–87 and FNS guidance, to identify allowable Program costs and establish standards for sponsor recordkeeping and reporting. The State agency shall provide guidance on these financial management standards to each sponsor.

(h) *Nondiscrimination.* (1) Each State agency shall comply with the requirements of Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements for racial and ethnic participation data collection, public notification of the nondiscrimination policy, and reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color, national origin, sex or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program. (2) Complaints of discrimination filed by applicants or participants shall be referred to FNS or the Secretary of Agriculture, Washington, D.C. 20250. A State agency which has an established grievance or complaint handling procedure may resolve sex and handicap discrimination complaints before referring a report to FNS.

§ 225.10 Records and reports.

(a) Each State agency shall maintain complete and accurate current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, claims against sponsors and efforts to recover overpayments, and expenditures for administrative and operating costs. These records shall be retained for a period of three years after the date of the submission of the final Program Operations and Financial Status Report (SF–269), except that, if audit findings

have not been resolved, the affected records shall be retained beyond the three year period until such time as any issues raised by the audit findings have been resolved. The State agency shall also retain a complete record of each review or appeal conducted, as required under § 225.15, for a period of three years following the date of the final determination on the review or appeal. Records may be kept in their original form or on microfilm.

(b) By December 15 of each year the State agency shall provide FNS with information on the scope of Program operations within the State.

(c) Each State agency shall report information to FNS on the use of funds and on Program operations on a form provided by, and as instructed by, FNS.

(d) Not later than March 1 of each fiscal year, the State agency shall submit to FNS a final Operations and Financial Status Report for the prior fiscal year, on a form (SF–269) provided by FNS. Any requested increase in reimbursement levels for a fiscal year resulting from corrective action taken after submission of the final Program Operations and Financial Status Reports shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such an increase it will make payment, subject to the availability of funds. Any reduction in reimbursement for that fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 2555.14(d), except that amounts recovered may not be used to make Program payments.

(e) By October 15, each State agency shall submit to FNS, on a form provided by FNS, information concerning in each food service management company which applied to the State agency for registration for that calendar year's Program. FNS shall allow any food service management company to review the information concerning that company which was submitted to FNS in accordance with this paragraph.

§ 225.11 Program payments.

(a) *Start-up payments.* At their discretion, State agencies may make start-up payments to sponsors which have executed Program agreements. Start-up payments shall not be made more than two months before the sponsor is scheduled to begin food service operations and shall not exceed 20 percent of the sponsor's approved administrative budget. The amount of the start-up payment shall be deducted from the first advance payment for administrative costs or, if the sponsor does not receive advance payments, from the first administrative reimbursement.

(b) *Advance payments.* At the sponsor's request, State agencies shall make advance payments to assist sponsors in meeting operating costs and administrative expenses. For sponsors operating under a continuous school calendar, all advance payments shall be forwarded on the first day of each month of operation. Advance payments shall be made by the dates specified in subparagraphs (b) (1) and (2) of this section for all other sponsors whose requests are received at least 30 days prior to those dates. Requests received less than 30 days prior to those dates shall be acted upon within 30 days of receipt. When making advance payments, State agencies shall observe the following criteria:

(1) *Operating costs.* (i) State agencies shall make advance payments for operating costs by June 1, July 15, and August 15. To be eligile for the second advance payment, the sponsor must have conducted training sessions for its own personnel and site personnel covering Program duties and responsibilities. A sponsor shall not receive advance operating cost payments for any month in which it will participate in the Program for less than ten days.

(ii) To determine the amount of the advance payment to any sponsor, the State agency shall employ whichever of the following methods will result in the larger payment: (A) The total operating costs paid to the sponsor for the same calendar month in the preceding year, or (B) for sponsors contracting with a food service management company, 50 percent of the amount determined by the State agency to be needed that month for meals, and, for sponsors preparing their own meals, 65 percent of the amount determined by the State agency to be needed that month for meals.

(2) *Administrative costs.* (i) State agencies shall make advance payments for administrative costs by June 1 and July 15. To be eligible for the second advance payment, the sponsor must certify that it is operating the number of sites for which the administrative budget was approved and that its projected administrative costs do not differ significantly from the approved budget. A sponsor shall not receive advance administrative costs payments for any month in which it will operate under the Program for less than 10 days. However, if a sponsor operates for less than 10 days in June but for at least 10 days in August, the second advance administrative costs payment shall be made by August 15.

(ii) Each payment shall equal one-third of the total amount which the State agency determines the sponsor will need to administer its program. For sponsors which will operate for ten or more days only in one month and, therefore, will qualify for only one advance administrative costs payment, the payment shall be no less than one-half, and no more than two-thirds, of the total amount which the State agency determines the sponsor will need to administer its program.

(3) *Advance payment estimates.* When determining the amount of advance payments payable to the sponsor, the State agency shall make the best possible estimate based on the sponsor's request and any other available data. Under no circumstances may the amount of the advance payment for operating or administrative costs exceed the amount estimated by the State agency to be needed by the sponsor to meet operating or administrative costs, respectively.

(4) *Limit.* The sum of the advance operating and administrative costs payments to a sponsor for any one month shall not exceed $40,000 unless the State agency determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and managerial capability to justify a larger payment.

(5) *Deductions from advance payments.* The State agency shall deduct from either advance operating payments or advance administrative payments the amount of any previous payment which is under dispute or which is part of a demand for recovery under § 225.14.

(6) *Withholding of advance payments.* If the State agency has reason to believe that a sponsor will not be able to submit a valid claim for reimbursement covering the month for which advance payments have already been made, the subsequent month's advance payment shall be withheld until a valid claim is received.

(7) *Repayment of excess advance payments.* Upon demand of the State agency, sponsors shall repay any advance Program payments in excess of the amount cited on a valid claim for reimbursement.

(c) *Reimbursements.* Sponsors shall not be eligible for reimbursements for operating and administrative costs unless they have executed an agreement with the State agency. All.

reimbursements shall be in accordance with the terms of this agreement. Reimbursements shall not be paid for meals served at a site before the sponsor has received written notification that the site has been approved for participation in the Program. Income accruing to a sponsor's program shall be deducted from combined operating and administrative costs. The State agency may make full or partial reimbursement upon receipt of a claim for reimbursement, but shall first make any necessary adjustments in the amount to be paid. The following requirements shall be observed in submitting and paying claims:

(1) No reimbursement may be issued until the sponsor certifies that it operated all sites for which it is approved and that there has been no significant change in its projected administrative costs since its proceding claim or, for a sponsor receiving an advance payment for only one month, that there has been no significant change in its projected administrative costs since its initial advance administrative costs payment.

(2) Claims for reimbursement shall be submitted by the 10th day of the month following the month for which the claim is made. The State agency may require that claims be submitted more frequently than once each month.

(3) Sponsors which operate less than 10 days in the final month of operations shall submit a combined claim for the final month and the month immediately preceding within 10 days of the last day of operation.

(4) The State agency shall forward reimbursements within 45 days of receiving valid claims. If a claim is incomplete or invalid, the State agency shall return the claim to the sponsor within 30 days with an explanation of the reason for disapproval. If the sponsor submits a revised claim, final action shall be completed within 45 days of receipt.

(5) The State agency is not required to act upon any claim for reimbursement which is not received within 30 days of the sponsor's last day of food service operations, unless the State agency determines that the late submission is due to circumstances beyond the sponsor's control, in which case payment shall be made if the claim is valid.

(6) Claims for reimbursement for any fiscal year shall not be considered if they are submitted later than the following December 31, with the exception of claims submitted on or before December 31 and subsequently amended as a result of audits or investigations.

(7) Claims for reimbursement shall include data sufficient to justify the amount claimed and to enable the State agency to provide the information required in Program reports. Sponsors shall also certify that records supporting the claim are available. The cost of meals served to adults performing necessary food service labor and the cost of meals disallowed by the State agency may be included in the claim. The State agency may choose to allow sponsors to include the cost of meals disallowed as meals served to the children, in accordance with § 225.13(e)(1) and (2) in its report of operating costs on its claim for reimbursement. In no case shall the cost of meals in excess of a site's approved level of meal service established under § 225.7(j) be considered allowable.

(8) The State agency shall promptly take corrective action with respect to any claim for reimbursement for which such action is determined necessary based upon the results of Program reviews or any other information available. The corrective action must be completed in time to be reflected in the final Program Operations and Financial Status report for each fiscal year if reimbursement for the claim is to be made available for that fiscal year through the Letter of Credit system described under § 225.4(j).

(9) Payments to a sponsor for operating costs shall equal the lesser of the following totals:

(i) The actual operating costs incurred by the sponsor, or

(ii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by 85.75 cents for each lunch or supper, 47.75 cents for each breakfast and 22.50 cents for each supplement. These are base rates of reimbursement, not current rates, and must be adjusted in accordance with paragraph(c)(11) of this section.

(10) Payments to a sponsor for administrative cost shall equal the lowest of the following totals:

(i) The amount estimated in the sponsor's approved administrative budget (taking into account any amendments);

(ii) The actual administrative costs incurred by the sponsor; or

(iii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by 6.75 cents for each lunch or supper, 3.50 cents for each breakfast and 1.75 cents for supplements, except that sponsors shall be eligible to receive an additional 1.50 cents for each lunch or supper, 1.00 cents for each breakfast, and .50 cents for each supplement served to participating children at rural or self-preparation sites. All rates in this paragraph are base rates of reimbursement, not current rates, and must be adjusted in accordance with paragraph (c)(11) of this section.

(11) Each January 1, FNS shall publish a notice in the **Federal Register** announcing any adjustment to the reimbursement rates described in paragraphs (c)(9)(ii) and (10)(iii) of this section. Adjustments shall be based upon changes in the series for food away from home of the Consumer Price Index for all Urban Consumers since the establishment of the rates.

(12) Sponsors of camps shall be reimbursed only for meals served to children in camps whose eligibility for free or reduced-price meals is documented. Any nonresidential camp reduced to fewer than four meal types per day under the terms of § 225.13(d) shall receive reimbursement only for those meals served to children eligible for free or reduced-price school meals.

(13) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts in connection with Program operations, evidence found in audits, reviews, or investigations shall be a basis for nonpayment of the applicable sponsor's claims for reimbursement.

(d) The sponsor may claim reimbursement for any meals which are examined for meal quality by the State agency, auditors, or local health authorities and found to meet the meal pattern requirements.

(e) The sponsor shall not claim reimbursement for meals served at any sites in excess of the site's approved level of meal service, if one has been established under § 225.7(j). In reviewing a sponsor's claim, the State agency may limit payments to the sponsor according to the approved level for meal service which may be claimed for reimbursement at the sponsor's sites, as provided for in § 225.7(j).

§ 225.12 Audit and management evaluation.

(a) *Audits.* Audits of sponsors shall be conducted in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015), and Office of Management and Budget Circulars A–102 and A–110, as applicable. State agencies shall provide OIG with full opportunity to audit the State agency and sponsors. Each State agency shall make available its records, including records of the receipt and

expenditure of funds, upon a reasonable request from OIG. While OIG shall rely to the fullest extent feasible upon State-sponsored audits of sponsors, it shall, when considered necessary, (1) make audits on a State-wide basis, (2) perform on-site test audits, and (3) review audit reports and related working papers of audits performed by or for State agencies.

(b) State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits to sponsors) of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds, upon a reasonable request by FNS.

(c) In addition to any management evaluation, FNSRO shall collect data on the need for Program and State administrative funding within any State agency if the funding needs estimated in a State's management and administration plan are no longer accurate. Based on this data, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency under § 225.4(g) to reflect changes in the size of the State's Program as compared to that estimated in its management and administration plan. The data shall be based on approved Program participation levels and collected during the period of Program operations, but no later than August 20. Immediately following this data collection, payment of State administrative funds shall be made to the State agency. The payment may reflect adjustments in the level of State administrative funding, based on the information collected. FNS shall not decrease the amount of a State's administrative funds unless the State failed to make reasonable efforts to administer the Program as proposed in its management and administration plan or the State incurred unnecessary expenses.

(d) The State agency shall fully respond to any recommendations made by FNSRO pursuant to the management evaluation.

(e) FNSRO may require the State agency to submit on 20 days notice a corrective action plan regarding serious problems observed during any phase of the management evaluation.

(f) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, when there are unpaid claims for the same fiscal year from which the overpayment can be deducted or when there is substantial evidence of violation of criminal law or civil fraud statutes.

§ 225.13 Corrective action procedures.

(a) *Purpose.* The provisions in this section shall be used by the State agency to improve Program performance.

(b) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. The State agency shall maintain on file all evidence relating to such investigations and actions. The State agency shall inform the appropriate FNSRO of any suspected fraud or criminal abuse in the Program which would result in a loss or misuse of Federal funds. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(c) *Denial of applications and termination of sponsors.* Except as specified below, the State agency shall not enter into an agreement with any applicant sponsor identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program and was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any sponsor which it determines to be seriously deficient. However, the State agency shall afford a sponsor reasonable opportunity to correct problems before terminating the sponsor for being seriously deficient. The State agency may approve the application of a sponsor which has been disapproved or terminated in prior years in accordance with this paragraph if the sponsor demonstrates to the satisfaction of the State agency that the sponsor has taken appropriate corrective actions to prevent recurrence of the deficiencies. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving meals in accordance with this part, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sites which include, but are not limited to, the following:

(i) Noncompliance with the between meal time requirements;

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to any child;

(v) The claiming of Program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(d) *Meal service restriction.* The State agency shall restrict to one meal service per day (1) any food service site which is determined to be in violation of the time restrictions for meal service included in § 225.20(a) when corrective action is not taken within a reasonable time as determined by the State agency, and (2) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the time restrictions included in § 225.20(a). If this action results in children not receiving any meals under the Program, the State agency shall make reasonable effort to locate another source of meal service for the children.

(e) *Meal Disallowances.* (1) Meal disallowances for improper planning. If the State agency determines that a sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service at a site, the State agency shall disallow as meals served to children the number of meals prepared or ordered in excess of the number of children served.

(2) Meal disallowances for violations of meal service requirements. If the State agency observes meal service violations during the conduct of a site review, the State agency shall disallow as meals served to children all of the meals observed to be in violation.

(3) The State agency shall also disallow any meals which are in excess of a site's approved level established under § 225.7(j).

(4) Whenever the State agency observes violations during the course of a site review, it shall require the sponsor to take corrective action. If the State agency finds a high level of meal service violations, the State agency shall require a specific immediate corrective action plan to be followed by the sponsor and shall either conduct a follow-up visit or in some other manner verify that the specified corrective action has been taken. Paragraph (f) of this section indicates actions the State agency shall undertake if corrective action has not been taken.

(f) *Termination of sites.* (1) The State agency shall terminate the participation of a sponsor's site if the sponsor fails to take action to correct the Program violations noted in a State agency review report within the timeframes established by the State agency and specified in the review report.

(2) The State agency shall immediately terminate the participation of a sponsor's site if during a review it determines that the health or safety of the participating children is imminently threatened.

(3) Within 48 hours of terminating a site, the State agency shall, if applicable, notify the food service management company providing meals to the site of the termination.

§ 225.14 Claims against sponsors.

(a) The State agency shall disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable under this part, except as provided for in § 225.12(f). However, the State agency shall notify the sponsor of the reasons for the disallowance or demand for repayment.

(b) Minimum State agency collection procedures for unearned payments shall include: (1) Written demand to the sponsor for the return of improper payments; (2) If after 30 calendar days the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a second written demand for the return of improper payments, sent by certified mail, return receipt requested; (3) If after 60 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a third written demand for the return of improper payments, sent by certified mail, return receipt requested; and (4) If after 90 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the sponsor to appropriate State or Federal authorities for pursuit of legal remedies.

(c) If FNS does not concur with the State agency's action in paying a sponsor, in failing to collect an overpayment, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action taken. The State agency shall be liable to FNS for failure to collect an overpayment unless FNS determine that the State agency has conformed with this part in issuing the payment and has exerted reasonable efforts in accordance with paragraph (b) of this section to recover the improper payment.

(d) The amounts recovered by the State agency from sponsors may be utilized (1) to make Program payments to sponsors for the period for which the funds were initially available, and (2) to repay the State for any of its own funds used to make payments on claims for reimbursement. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

§ 225.15 Appeal procedures.

(a) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a claim against a sponsor for remittance of a payment, the termination of the sponsor or a site, a denial of a sponsor's application for a site, a denial of a food service management company's application for registration, or revocation of that registration.

(b) At a minimum, the procedures for those reviews shall provide that:

(1) The sponsor or food service management company be advised in writing of the grounds upon which the State agency based the action. The notice of action which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the sponsor or food service management company has the right to appeal the action of the State;

(2) The sponsor or food service management company be advised in writing that the request for review must be made within a specified time and must meet the requirement of paragraph (b)(4) of this section. The State agency shall establish this period of time at not less than one week nor more than two weeks from the date of receipt of the notice of action;

(3) The appellant be afforded the opportunity to review any information upon which the action was based;

(4) The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the request for review, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency;

(5) A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. The appellant may retain legal counsel, or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official;

(6) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

(7) The hearing shall be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraph (b)(5) of this section;

(8) The review official shall be independent of the original decision-making process;

(9) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;

(10) Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official must make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;

(11) The State agency's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued operation under the Program shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action; and

(12) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(c) The State agency shall send written notification of the complete appeal procedures and of the actions which are appealable, as specified in § 225.15(a):

(1) To each potential sponsor upon application, and

(2) To each food service management company upon application for registration under § 225.16(c).

(d) A record regarding each review shall be kept by the State agency, as required under § 225.10(a). The record shall document the State agency's compliance with these regulations and shall include the basis for the decision.

§ 225.16 Procedures for food service management companies.

(a) Any sponsor may contract with a food service management company for the preparation of unitized meals with or without milk or juice. In all cases, the sponsor shall adhere to the procurement standards indicated in §225.17. All meals prepared by a food service management company shall be unitized, with or without milk or juice, unless the sponsor submits to the State agency a request for exceptions to the unitizing requirement for certain components of a meal. These requests shall be submitted to the State agency in writing prior to advertising for bids. The State agency shall notify the sponsor in writing of its determination in a timely manner.

(b) Any sponsor which contracts with a food service management company shall be responsible for ensuring that the food service operation is in conformity with its agreement with the State agency and all the applicable provisions of this part. No sponsor may contract out for the management responsibilities of the Program such as monitoring, enforcing corrective action, or preparing Program applications.

(c) A sponsor may contract only with a food service management company which is registered with the State in which the sponsor will operate the Program, except that a school or school food authority acting as a food service management company and a food service management company which has an exclusive contract with a school or school food authority for year-round service (and no contracts with other sponsors) shall not be required to register with the State. The procedures for registration of all other food service management companies are as follows:

(1) By February 1, each State agency shall notify each food service management company which participated in the Program in either of the prior two years in the State that it must register with the State agency. This notification shall include, at a minimum: (i) A statement that registration with the State agency is a prerequisite to participation in the Program during the fiscal year; (ii) a list of the items which must be submitted in the application for registration as set forth in subparagraph (c)(2) of this section; (iii) a complete description of the criteria developed by the State agency for determining registrant eligibility; and (iv) any other information necessary to apply for registration. In addition, each State agency shall by the same date issue a public announcement of the registration requirement, including all the information necessary to apply for registration.

(2) With the exceptions described in the first sentence of this paragraph, each food service management company shall register with the State by March 15 of each fiscal year. At a minimum, registration shall require: (i) Submission of name and mailing address and any other names under which such food service management company presently or in the past two years has marketed its services; (ii) a certification that the food service management company meets applicable State and local health, safety, and sanitation standards; (iii) disclosure of present company owners, directors, and officers, and their relationship in the past two years to any sponsor or food service management company which participated in the Program; (iv) records of contract terminations, disallowances, and health, safety, and sanitation code violations related to prior Program participation during the past two years; (v) records of any other contract terminations and health, safety, and sanitation code violations during the past two years; (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the local officials responsible for the operation of the facilities; (vii) the number of meals which can be prepared in each preparation facility in a twenty-four hour period for use in the Program; (viii) a certification that the food service management company will operate in accordance with current Program regulations; (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites, or for meals which are delivered to approved sites outside of the agreed upon delivery time, or meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company; and (x) submission of a Certified Public Accountant's audit report if an audit was performed during the prior year and, (xi) a statement as to whether the organization is a minority business enterprise. A minority business enterprise is a business,

(A) In which the management and daily operations of the business are controlled by a member or members of a minority group; and

(B) At least 51 percent of which is owned by a member or members of a minority group; (*1*) if the business is a corporation, at least 51 percent of all classes of voting stock of the corporation must be owned by members of a minority group; (*2*) if the business is a partnership, at least 51 percent of the partnership must be owned by a member or members of a minority group. Minority groups are Blacks, Hispanics, American Indians, Alaskan Native, Orientals and Aleuts.

(3) A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year, if the State agency determines and documents that the lack of registration could result in a significant number of needy children not having reasonable access to the Program.

(4) Prior to registration, the State agency shall provide for inspections of all food service management companies' food preparation facilities listed on the applications for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall ensure that the falility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of meals for use in the Program. The State agency may waive this inspection requirement if a facility was registered last summer

and operated in accordance with Program requirements.

(5) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it is identifiable through its organization or principals as a food service management company which participated in the Program during any previous year and was seriously deficient in its Program operation. Serious deficiencies which are grounds for non-registration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements or Program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which do not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with a prior Program operation.

(6) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(7) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within 30 calendar days after receipt of the complete application. The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(8) Each State agency shall submit information to FNS regarding registration of food service management companies, as required under § 225.10(e).

(d) In the absence of any applicable State or local laws governing bid procedures and with the exceptions identified in this paragraph, each sponsor which contracts with a food service management company shall comply with the competitive bid procedures described in this paragraph. Sponsors which are schools or school food authorities which have an exclusive contract with food service management companies for year-round service and sponsors whose total contracts with food service management companies will not exceed $10,000, shall not be required to comply with these procedures. These exceptions do not relieve the sponsor of the responsibility to ensure that normally accepted bidding procedures are followed in contracting with any food service management company. Each sponsor whose proposed contract is subject to competitive bidding procedures shall ensure, at a minimum, that:

(1) All proposed contracts shall be publicly announced at least once, not less than 14 calendar days prior to the opening of bids, and the announcement shall include the time and place of the bid opening;

(2) The bids shall be publicly opened; and

(3) The State agency is notified at least 14 calendar days prior to the opening of the bids, of the time and place of the bid opening.

(4) When advertising for bids, the sponsor shall adhere to the following requirements, at a minimum:

(i) The invitation to bid shall not specify a minimum price;

(ii) The invitation to bid shall contain a cycle menu approved by the State agency upon which the bid shall be based;

(iii) The invitation to bid shall contain food specifications and meal quality standards approved by the State agency upon which the bid shall be based;

(iv) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(v) Neither the invitation to bid nor the contract shall provide for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(vi) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service.

(5) A copy of the food service management company registration determination issued by the State agency shall be submitted by the food service management company with each bid;

(6) Sponsors shall submit to the State agency copies of all bids received and their reason for selecting the food service management company chosen;

(7) All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval of such bids within 5 working days of receipt.

(e) Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. (Sponsors which are public institutions and sponsors exempt from the competitive bid procedures described in paragraph (d) of this section may use their existing or usual form of contract, if such form of contract has been submitted to and approved by the State agency.) The standard contract developed by the State agency shall expressly and without exception provide that:

(1) The sponsor shall provide to the food service management company a list of State agency approved food service sites, along with the approved level for the number of meals which may be claimed for reimbursement for each site (established under § 225.7(j)), and shall notify the food service management company of all sites which have been approved, cancelled, or terminated subsequent to the submission of the initial approved site list and of any changes in the approved level of meal service for a site. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(2) The food service management company shall maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the Program, and it shall ensure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being served. These levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other food service establishments in the locality. Results of the inspections

shall be submitted to the sponsor and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency and upon which the bid was based;

(5) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, the Department, and the U.S. General Accounting Office at any reasonable time and place for a period of 3 years from the date of receipt of final payment under the contract;

(6) The sponsor and the food service management company shall operate in accordance with current Program regulations;

(7) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this part. However, neither the Department nor the State agency assumes any liability for payment of differences between the number of meals delivered by the food service management company and the number of meals served by the sponsor that are eligible for reimbursement;

(8) Meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meals ordered shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(10) All meals served under the Program shall meet the requirements of § 225.20;

(11) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs the sponsor incurs by obtaining meals from another source; and

(12) If the State agency requires the sponsor to establish a special account for the deposit of operating costs payments made by the State agency to the sponsor in accordance with the conditions given in § 225.8(e), the contract shall so specify.

(f) A food service management company entering into a contract with a sponsor under the Program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal.

(g) Each State agency shall have a representative present at all procurement bid openings of sponsors which expect to receive more than $100,000 in Program payments.

(h) The State agency may require any sponsor which contracts with a food service management company to establish a special account in a State or Federally insured bank for the deposit of Program payments for operating costs. The special account shall be such that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company, and shall be in accordance with the other specifications included in § 225.8(e).

(i) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of Program operations.

(j) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(k) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract as determined by the State agency. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of the contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the bond within ten days of the awarding of the contract.

(l) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

(m) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.22(b). If a food service management company fails to take the actions recommended to correct violations noted by the State agency or health inspectors in the conducting of a review or inspection, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company after a date specified in the notification.

§ 225.17 Procurement standards.

(a) State agencies and sponsors which are Federally recognized Indian tribal governments or entities of local governments (such as some school districts, elementary and secondary schools, and public park authorities) shall comply with the standards prescribed in Attachment O of Office of Management and Budget Circular A–102 in the procurement of food, supplies, goods, and other services with Program payments.

(b) All sponsors other than those identified in paragraph (a) of this section shall comply with the standards prescribed in Attachment O of Office of Management and Budget Circular A–110 in the procurement of food, supplies, goods, and other services with Program payments.

(c) The State agency shall make available to sponsors information on Office of Management and Budget Circulars A–102 and A–110, as appropriate.

(d) Sponsors may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds conform with provisions of this section, as well as with procurement requirements which may be established by the State agency, with the approval of FNS, to prevent fraud, waste, and Program abuse.

(e) The State agency shall ensure that all sponsors are aware of the following practices specified in OMB Circular A–102, with respect to minority business enterprises:

(1) Including qualified minority business enterprises on solicitation lists,

(2) Soliciting minority business enterprises whenever they are potential sources,

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by minority business enterprises,

(4) Establishing delivery schedules which will assist minority business enterprises to meet deadlines, and

(5) Using the services and assistance of the Small Business Administration, and the Office of Minority Business Enterprise of the Department of Commerce as required.

§ 225.18 Requirements for sponsor participation.

(a) *Sponsor eligibility.* Applicants eligible to sponsor the Program include:

(1) Public or nonprofit private school food authorities;

(2) Public or nonprofit private residential summer camps; and

(3) Units of local, municipal, county, or State governments.

(b) *Requirements.* No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service.

(2) Has not been seriously deficient in operating the Program in the prior three years.

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualifies as a camp.

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site including adequate personnel to conduct the visits and reviews required in § 225.19 (g) and (h).

(5) Provides an ongoing year-round service to the community which it proposes to serve under the Program, except as provided for in § 225.7(f);

(6) Certifies that all sites have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(7) If not a camp, provides documentation that its food service will serve children from an area in which poor economic conditions exist, as defined in § 225.2. If a camp, certifies that it will collect family size and income information to support its claim for reimbursement;

(8) If a summer school is open to serve children in addition to those enrolled in the accredited school program or is a school serving children outside of the summer school hours; and

(9) Each applicant described under § 225.18(a)(3) shall only be approved to provide the Program at sites which it certifies will be directly operated by the applicant. Such direct operation means that the applicant will be responsible for: (i) Managing site staff, including such areas as hiring, conditions of employment, and termination and (ii) the management of the Program operations at sites during the period of Program participation.

(c) *Applications.* Applicants shall make written application to the State agency for participation in the Program as sponsors. Such application shall be made on a timely basis in accordance with the requirements of § 225.8.

(d) *Agreements.* Each sponsor shall enter into a written agreement with the State agency upon approval of its application, as required in § 225.8(b).

(e) *Meal services.* The meals which may be served under the Program are breakfast, lunch, supper, and supplemental food. No sponsor shall be approved to provide more than two services of supplemental food per day. A sponsor shall only be reimbursed for meals served in accordance with paragraphs (f) and (g) of this section.

(f) *Camps.* Sponsors of camps shall only be reimbursed for meals served in camps to children from families which qualify for free and reduced price meals under the guidelines established for the National School Lunch Program (7 CFR Part 210). The sponsor shall maintain a copy of the family size and income documentation of each child receiving meals under the Program. Meal service at camps shall be subject to the following provisions:

(1) A camp may serve up to four meals each day.

(2) Residential camps are not subject to the time restrictions for meal service given in § 225.20(a)(1).

(3) A camp shall be approved to serve these meals only if it has the administrative capability and, where applicable, adequate food preparation and holding facilities, and if the service period of the different meals does not coincide or overlap.

(g) *Sites other than camps and those serving migrant children.* Food service sites other than camps shall serve children in areas where poor economic conditions exist, as defined in § 225.2. A sponsor which operates in accordance with this part shall receive reimbursement for all meals served to children at these sites in accordance with this part. Food service sites other than camps and those which primarily serve migrant children may serve either (1) one meal each day, a breakfast, a lunch, or a supplement, or (2) two meals each day, if one is a lunch and the other is a breakfast or a supplement.

(h) *Sites which serve children of migrant families.* Food service sites which primarily serve children from migrant families may be approved to serve up to four meals each day. These sites shall serve children in areas where poor economic conditions exist as defined in § 225.2. A sponsor which operates in accordance with this part shall receive reimbusement for all meals served to children at these sites. A site which primarily serves children from migrant families shall only be approved to serve more than one meal each day if it has the administrative capability and, where applicable, adequate food preparation and holding facilities, and if the service period of the different meals does not coincide or overlap.

(i) No site shall be eligible to participate in both this Program and the Special Milk Program (7 CFR Part 215).

§ 225.19 Operational responsibilities of sponsors.

(a) Sponsors shall operate the food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or issued by the State agency which are not inconsistent with the provisions of this part.

(b) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities, or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(c) Upon approval of its application or any adjustment in the approved levels of meal service for its sites, established under § 225.7(j), the sponsor shall inform the food service management company with which the sponsor contracts of the approved level for each meal service at each site for which the food service management company will provide meals.

(d) Sponsors shall plan for and prepare or order meals on the basis of participation trends with the objective of providing only one meal per child at each meal service. The sponsor shall make the adjustments necessary to achieve this objective using the results from its monitoring of sites. For sites for which approved levels of meal service have been established in accordance with § 225.7(j), this means that the sponsor shall adjust the number of meals ordered or prepared with the objective of providing only one meal per child whenever the number of children attending the site is below the approved level. In no case shall the sponsor order or prepare meals for any site in excess of the site's approved level. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals within the approved level for the site that are prepared or ordered may be served to children and claimed for reimbursement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. Second

meals shall be served only after all participating children at the site's meal service have been served a meal. In no case shall the sponsor order or prepare meals for any site in excess of its approved level, established in accordance with § 225.7(j).

(e) Sponsors shall submit claims for reimbursement only for meals served to children in accordance with this part. Claims shall be submitted by the 10th day of the month following the month for which the claim is made. However, the State agency may require that claims be submitted more frequently.

(f) Sponsors shall maintain accurate records which justify all costs and meals claimed. The sponsor's records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and the State agency for a period of three years following the date of submission of the final claim for reimbursement for the fiscal year.

(g) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

(h) Sponsors shall review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. Sponsors shall complete a monitoring form developed by the State agency during the conduct of these reviews.

(i) Each sponsor shall hold training sessions for its administrative and site personnel with regard to Program duties and allow no site to operate until personnel have attended at least one of these training sessions. Training of site personnel, at a minimum, shall include: the purpose of the Program, site eligibility, recordkeeping, site operations, meal pattern requirements, and duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors, and sponsors shall provide training throughout the summer to ensure that administrative personnel are thoroughly knowledgeable in all required areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities. Each site shall have present at each meal service at least one person who has received this training.

(j) Sponsors shall not claim reimbursement under Parts 210, 215, 220, or 226 of this chapter, or any other Federally-funded program for meals served under the Program.

§ 225.20 Meal service requirements.

(a) *Time restrictions for meal service.* (1) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this subparagraph shall not apply to residential camps.

(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

(3) Meals served outside of the period of approved meal service shall not be eligible for Program payments.

(4) Any permanent or planned changes in meal service periods must be approved by the State agency.

(5) Meals for each meal service which are not prepared at the food service site shall be delivered within one hour of the beginning of the appropriate meal service unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State of local health regulations.

(6) The sponsor shall serve only the type(s) of meals for which it is approved under its agreement with the State agency.

(b) *Meal patterns.* The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Sponsors shall ensure that meals served meet all of the requirements. Except as otherwise provided in this section, the following tables present the minimum requirements for meals served to children in the Program.

Breakfast [1]

(1) The minimum amount of food components to be served as breakfast are as follows:

Food components	Minimum amount
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	½ cup.[1]
Bread and Bread Alternates [2]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.[3]	1 serving.
or	
Cold dry cereal [4]	¾ cup or 1 oz.
or	
Cooked cereal or cereal grains	½ cup.
or	
Cooked pasta or noodle products or an equivalent quantity of any combination of bread/bread alternate	½ cup.
Milk [5]	
Milk, fluid	1 cup (½ pint, 8 fl. oz).
Meat and Meat Alternates (Optional)	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate	2 tbsp.

[1] For the purposes of the requirement outlined in this subsection, a cup means a standard measuring cup.
[2] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.
[3] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[4] Either volume (cup) or weight (oz.), whichever is less.
[5] Milk shall be served as a beverage or on cereal, or used in part for each purpose.

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section.

Lunch or Supper [1]

(2) The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	2 oz.
or	
Cheese	2 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.[2]
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate	4 tbsp.
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)[3]	¾ cup total.
Bread and Bread Alternates [4]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving.[5]
or	
Cooked pasta or noodle products.	½ cup.

Food components	Minimum amount
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	½ cup.
Milk	
Milk, fluid, served as a beverage...	1 cup (½ pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Serve 2 or more kinds of vegetable(s) and/or fruit(s) or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[3] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.

Supplemental Food:

(3) The minimum amounts of food components to be served as supplemental food are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish.....	1 oz.
or	
Cheese.....	1 oz.
or	
Eggs.....	1 large egg.
or	
Cooked dry beans or peas.....	1/2 cup.[1]
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	2 tbsp.
Vegetables and Fruits	
Vegetable(s) and/or fruit(s).....	3/4 cup.
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	3/4 cup (6 fl. oz.)
Bread and Bread Alternates [2]	
Bread.....	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc [3].	1 serving.
or	
Cold dry cereal [4].....	3/4 cup or 1 oz.
or	
Cooked cereal.....	1/2 cup.
or	
Cooked pasta or noodle products.	1/2 cup.
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/2 cup.
Milk [4]	
Milk, fluid.....	1 cup (1/2 pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[3] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[4] Either volume (cup) or weight (oz.), whichever is less.
[5] Milk should be served as a beverage or on cereal, or used in part for each purpose.

(c) *Meat or meat alternate.* Meat or meat alternates served under the Program are subject to the following requirements and recommendations.

(1) The required quantity of meat or meat alternate shall be the quantity of the edible portion as served. These foods must be served in a main dish, or in a main dish and one other menu item.

(2) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but they may not be used to meet both component requirements in a meal.

(3) Textured vegetable protein products, cheese alternate products, and enriched macaroni with fortified protein may be used to meet part, but not all, of the meat/meat alternate requirement. The Department will provide guidance to State agencies on the part of the meat/meat alternate requirement which these foods may be used to meet. If enriched macaroni with fortified protein is served as a meat alternate, it shall not be counted toward the bread requirement.

(4) If the sponsor believes that the recommended portion size of any meat or meat alternate is too large to be appealing to children, the sponsor may reduce the portion size of that meat or meat alternate and supplement it with another meat or meat alternate to meet the full requirement.

(d) *Varying amounts.* The State agency may authorize the sponsor to serve food in smaller quantities than are indicated in paragraph (b) of this section to children under six years of age if the State agency determines that the sponsor has the capability to ensure that variations in portion size are in accordance with the age levels of the children served. In such cases, the sponsor shall follow the age-appropriate meal pattern requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(e) *Infant meal patterns.* Sponsors approved to serve children under one year of age shall be required to comply with the applicable meal requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(f) *Additional foods.* To improve the nutrition of participating children, additional foods may be served with each meal.

(g) *Temporary unavailability of milk.* If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(h) *Continuing unavailability of milk.* The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the components of the meal set forth in the tables included in this section. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(i) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the following variations from the meal requirements are authorized: a serving of a starchy vegetable, such as ufi, tanniers, yams, plantains, or sweet potatoes may be substituted for the bread requirements.

(j) *Individual substitutions.* Substitutions may be made by sponsors in food listed in paragraph (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statement shall be kept on file by the sponsor.

(k) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(l) *Donated commodities.* Institutions shall efficiently use in the Program any foods donated by the Department and accepted by the institution.

(m) *Plentiful foods.* Institutions shall, insofar as practicable, purchase and efficiently use in the Program foods designated as plentiful by the Department.

(n) *Sanitation.* Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure

that adequate facilities are available to store food or hold meals.

(o) *Additional provision.* The State agency may allow sponsors which serve meals prepared in schools participating in the National School Lunch or School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those programs [7 CFR Part 210 and 7 CFR Part 220, respectively) for the meal pattern requirements contained in this section.

§ 225.21 Free meal policy.

(a) As part of the application, applicants shall submit a statement of their policy for serving free meals at all sites under their jurisdiction. No application may be approved unless its accompanying policy statement is approved. The policy statement shall consist of an assurance to the State agency that all children are served the same meals at no separate charge and that there is no discrimination in the course of the food service.

(b) In addition, the policy statement for camps that charge separately for meals and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall include the following:

(1) A statement that the eligibility standards conform to the Secretary's family size and income standards for free and reduced-price school meals;

(2) A description of the method for accepting applications;

(3) A description of the method used by camps for collecting payments from children who pay the full price of the meal while protecting the anonymity of children receiving a free meal.

(4) An assurance that the camp will establish a hearing procedure for families wishing to appeal a denial of an application for free meals which provides for the following:

(i) That a simple, publicly announced method will be used for a family to make an oral or written request for a hearing;

(ii) That the family will have the opportunity to be assisted or represented by an attorney or other person;

(iii) That the family will have an opportunity to examine the documents and records supporting the decision being appealed both before and during the hearing;

(iv) That the hearing will be reasonably prompt and convenient for the family;

(v) That adequate notice will be given to the family of the time and place of the hearing;

(vi) That the family will have an opportunity to present oral or documentary evidence and arguments supporting its position;

(vii) That the family will have an opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(viii) That the hearing shall be conducted and the decision made by a hearing official who did not participate in the action being appealed;

(ix) That the decision shall be based on the oral and documentary evidence presented at the hearing and made a part of the record;

(x) That the family and any designated representative shall be notified in writing of the decision;

(xi) That a written record shall be prepared for each hearing which includes the action being appealed, any documentary evidence and a summary of oral testimony presented at the hearing, the decision and the reasons for the decision, and a copy of the notice sent to the family; and

(xii) That the written record shall be maintained for a period of three years following the conclusion of the hearing, during which it shall be available for examination by the family or its representatives at any reasonable time and place.

(5) An assurance that, if a family requests a hearing, the child shall continue to receive free meals until a decision is rendered;

(6) An assurance that there will be no overt identification of free meal recipients and no discrimination against any child on the basis of race, color, national origin, sex or handicap.

(c) Each sponsor shall annually announce in the media serving the area from which it draws its attendance, the availability of free meals. Camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall annually announce to all participants the availability of free meals for eligible children. All media releases issued by camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall include the Secretary's family-size and income standards for free and reduced-price meals and shall state that meals are available without regard to race, color, national origin, sex or handicap.

(d) For the purpose of determining eligibility for free meals, camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall distribute applications for meals to parents or guardians of children enrolled in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size and income levels for reduced-price eligibility with an explanation that households with incomes less than or equal to these values would be eligible for free meals. Such forms and descriptive material may not contain the income standards for free meals. The application shall include the social security numbers of all adult members of the household.

Subpart E—Miscellaneous Provisions

§ 225.22 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of the Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A–102 (42 FR 45828, September 12, 1977), whichever is applicable.

(b) *Termination for cause.* (1) FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date and shall allow the State 30 calendar days to respond. In instances where the State does respond, FNS shall inform the State of its final determination no later than 30 calendar days after the State responds. (2) A State agency shall terminate a sponsor's participation in the Program by written notice whenever it is determined by the State agency that the sponsor has failed to comply with the conditions of the Program. (3) When participation in the Program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may agree to terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the

effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in the manner provided for in this paragraph.

(d) *Maintenance of effort.* Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

(e) *Program benefits.* The value of benefits and assistance available under the Program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(f) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part, provided that such additional requirements shall not deny the Program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the Program. Prior to imposing any additional requirements, the State agency must receive approval from FNSRO.

(g) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this part, whether received directly or indirectly from the Department or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $100,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) *Claims adjustment authority.* The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.

§ 225.23 Program information.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, NJ 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, GA 30367.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, IL 60605.

(e) In the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, TX 75202.

(f) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430, Denver, CO 80211.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, CA 94108.

(Catalog of Federal Domestic Assistance Programs No. 10.559, Summer Food Service Program for Children)

(The Summer Food Service Program for Children is subject to Part III of Attachment A of OMB Circular No. A–95 (revised). Part III requires that Governors or their designated Plan review agency be given the opportunity to review the State plans required by Program regulations)

Note.—The reporting and recordkeeping requirements contained in this rule are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

Dated: February 11, 1982.

Gene P. Dickey,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-4211 Filed 2-12-82; 10:33 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's list of Public Laws.

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Highlights

6813 **National Day of Prayer** Presidential proclamation.

6815 **National Patriotism Week, 1982** Presidential proclamation.

7170 **Antitrust** Justice/Antitrust files competitive impact statement on proposed modified final judgment in *U.S. v. Western Electric Company, Inc.*, and *American Telephone & Telegraph Company.* (Part VI of this issue)

6885 **Supplemental Security Income** HHS/SSA proposes to change treatment of unearned income in determining benefit amounts.

7186 **Noise Control** EPA defers effective dates of standards for medium and heavy trucks and truck-mounted solid waste compactors. (Part VII of this issue)

6918 **Grant Programs—Education** ED invites applications for projects under Women's Educational Equity Act Program.

6917 ED invites applications for new projects under Bilingual Education Act Training Project Program.

6893 **Housing** HUD/FHC proposes changes to methods of computing interest on defaulted property improvement loans.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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7194 **Environmental Protection** EPA proposes debarment and suspension procedures for misconduct or poor performance under assistance programs. (Part IX of this issue)

7023 **Nuclear Power** NRC requests comments on policy statement about safety goals for nuclear power plants.

7029 **Budget** OMB issues cumulative report on rescissions and deferrals.

6998 **Grant Programs—Community Services** HHS/CSO solicits applications for certain categories of FY 1981 CSA grantees in States which have not qualified for FY 1982 Community Services Block Grants.

6996 **Grant Programs—Aged** ADAMHA announces availability of grant to study effects of alcohol on elderly.

7200 **Prescription Drug Products** HHS/FDA proposes to revoke patient package insert requirements. (Part X of this issue)

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Presidential Documents

Title 3—

The President

Proclamation 4897 of February 12, 1982

National Day of Prayer

By the President of the United States of America

A Proclamation

National prayer is deeply rooted in our American heritage. From the earliest days of our Republic, Americans have asked God to hear their prayers in times of sorrow and crisis and in times of bounty.

The first National Day of Prayer was proclaimed in 1775 by the Second Continental Congress. As thousands gathered in prayer in places of worship and encampments throughout the new land, the dispersed colonists found a new spirit of unity and resolve in this remarkable expression of public faith. For the first time, Americans of every religious persuasion prayed as one, asking for divine guidance in their quest for liberty and justice. Ever since, Americans have shared a special sense of destiny as a nation dedicated under God to the cause of liberty for all men.

Through the storms of Revolution, Civil War, and the great World Wars, as well as during times of disillusionment and disarray, the nation has turned to God in prayer for deliverance. We thank Him for answering our call, for, surely, He has. As a nation, we have been richly blessed with His love and generosity.

Just 30 years ago, a Joint Resolution of the Congress requested the President to proclaim a day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation in places of worship, in groups, and as individuals. Eight Presidents since then have annually proclaimed a Day of Prayer to the nation, resuming the tradition started by the Continental Congress.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Thursday, May 6, 1982, National Day of Prayer. On that day, I ask Americans to join with me in giving thanks to Almighty God for the blessings He has bestowed on this land and the protection He affords us as a people. Let us as a nation join together before God, aware of the trials that lie ahead and of the need for divine guidance. With unshakable faith in God and the liberty which is our heritage, we as a free nation will continue to grow and prosper.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of February, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-4837
Filed 2-12-82; 4:46 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4898 of February 13, 1982

National Patriotism Week, 1982

By the President of the United States of America

A Proclamation

National Patriotism Week affords all Americans a special opportunity to consider the meaning of an honorable term which has sometimes been misunderstood and misused.

True patriotism is a love of country, but it must be an intelligent love and not blind devotion to one's nation without regard to its ideals. Abraham Lincoln recognized this when, speaking in tribute of Henry Clay, he said:

"He loved his country partly because it was his own country, but mostly because it was a free country; and he burned with a zeal for its advancement, prosperity and glory, because he saw in such, the advancement, prosperity and glory, of human liberty, human right, and human nature."

The patriotism of Clay, Lincoln, and generations of Americans was of this nature. They loved their country because it was theirs but even more because it was a land where liberty, justice, and opportunity flourished. They did not love it because of its government but because of its people; not because of the role its government played in world affairs but because of the inspiration the very idea of America gave to every person, great and small, who made this blessed land his home, and to every person in the less fortunate lands of the world who, amid oppression, tyranny, and injustice—as in Poland today—looked to America as the land of freedom.

Americans today should dedicate themselves again to that true patriotism. We should dedicate ourselves again to the enduring values of family, neighborhood, work, peace, and freedom which have characterized our country these past two centuries. Let us do this, and our patriotism will be strong and fulfilling.

The Congress, by joint resolution (S.J. Res. 34), designated the week commencing with the third Monday in February of 1982 as "National Patriotism Week" and requested the President to issue a proclamation calling upon the people of the United States to commemorate that week with appropriate celebrations and observances.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning February 15, 1982, as National Patriotism Week.

I invite all primary and secondary schools to conduct programs of study which are dedicated to those bedrock principles of national greatness devoted to rekindling the patriotic flame in all Americans.

I call upon all citizens of the United States of America to commemorate National Patriotism Week with appropriate celebrations and observances.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of February, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-4477
Filed 2-16-82; 11:08 am]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

Viruses, Serums, Toxins, and Analogous Products; Standard Requirement for Pasteurella Multocida Bacterin, Avian Isolate, Type 4

Correction

In FR Doc. 82–2702, at page 5194, in the issue of Thursday, February 4, 1982, make the following corrections:

1. On page 5194, the words "Bacterins" and "Isolates" in the heading are corrected by removing the "s" at the end of each word.

2. On page 5194, in the "SUMMARY", first paragraph, line 9, "isolate" should read "isolates" and in line 18, insert "the" after "for" and before "Type 4".

3. On page 5195, first column, second full paragraph, line 4, insert the "for" after the "standard" and before "Type 4".

4. On page 5195, the last column, the fourth full paragraph designated as paragraph (c)(6) of § 113.101, in the second to the last line, correct "in" to read "is".

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8883]

Kellogg Company et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order vacates in its entirety, the September 1, 1981 Initial Decision and dismisses with prejudice the Commission's April 26, 1972 Complaint, which charged three cereal manufacturers with engaging in practices having the effect of maintaining a highly concentrated noncompetitive market structure in the production and sale of ready-to-eat cereals.

DATES: Complaint issued April 26, 1972. Dismissal order issued Jan. 15, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS–3, Anthony Low Joseph, Washington, D.C., 20580 (202) 724–1334.

SUPPLEMENTARY INFORMATION: In the Matter of Kellogg Company, a corporation, General Mills, Inc., a corporation, and General Foods Corporation, a corporation.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45))

The Order Denying Appeal and Vacating Initial Decision, including Separate Statements of Commissioners Clanton and Bailey, and the Dissenting Statement of Commissioner Pertschuk, is as follows:

The Commission has determined not to hear further appeal of this matter. The Commission has also determined that the Initial Decision shall not become the final decision of the Commission. Thus,

It is ordered that, the Initial Decision in Docket No. 8883 be vacated in its entirety, and the Commission's complaint in this matter be, and it hereby is, dismissed with prejudice.

By direction of the Commission, Commissioner Pertschuk dissenting as to denial of the appeal.

Carol M. Thomas,
Secretary.

Separate Statement of Commissioner Clanton Concerning Kellogg Co., et al., Dkt. No. 8883

This case raises important issues concerning the application of section 5 of the FTC Act to oligopolistic conduct. Because of these issues and the present posture of this case—Administrative Law Judge Berman's decision in favor of respondents coupled with the Bureau Director's decision not to appeal—it seems highly desirable for the Commission to determine now whether a full briefing on the merits is warranted.

Of course, even in the absence of an appeal, the Commission has the right under § 3.53 of the rules of practice to undertake a thorough review of the record. However, I believe the circumstances of this case justify an exception to that practice. Given the theories of liability and proposed relief under consideration, it is entirely proper for us to see if there is a likely basis for issuing an order, even if the facts conform closely to what complaint counsel contend.

After having reviewed the parties' most recent submissions, in response to the Commission's order of December 16, 1981, as well as other parts of the record, I cannot find a basis for continuing the case. In its most succinct form, complaint counsel urge that liability be premised on the basis of two related but distinct theories. The first is a traditional conspiracy to monopolize based upon principles contained in Section 2 of the Sherman Act; the second is a shared monopoly theory under Section 5 of the FTC Act, a theory which does not depend upon a showing of collusion. Under either of these theories, complaint counsel argue that the only effective form of relief would be a divestiture order, including royalty-free licensing of respondents' cereal trademarks.

As to the first theory, I agree with ALJ Berman that a conspiracy to monopolize was not properly pled. As for the separate shared monopoly theory, I do not believe such a theory, however characterized, can serve as a predicate for the Commission to restructure an industry, at least in the absence of clear predatory behavior, which is not claimed here.

I do want to emphasize, however, that Section 5 may well provide the Commission with sufficient authority to attack non-collusive behavior that contributes to or enhances anticompetitive conduct, and which is without compelling business justification. In such circumstances, the principal remedial tool for dealing with this kind of behavior would be a conduct order.

Before elaborating further on these points, I would offer a comment about the characterizations, or mischaracterizations, that have been advanced in the past by critics of this case. An awful lot of rhetoric has been spilled on this subject, with some critics claiming that the case is just the first step in a broad-based attack on concentrated industries. Others have accused the agency of attacking competitive forms of behavior, such as product differentiation and brand proliferation; while still others have derided the "shared monopoly" concept, suggesting that this is evidence alone of the Commission's confused thinking since the description itself is a contradiction in terms.

Suffice it to say, I do not share all of the views of the critics of this case. In issuing the complaint, I think the Commission sought to address a legitimate concern, not about oligopolies *per se*, but rather about oligopolistic behavior that is uniquely anticompetitive. Respected antitrust commentators of different persuasions—such as Professor Posner and Professors Areeda and Turner—have advocated different

[1] Copies of the Complaint, Initial Decision, Order Denying Appeal and Vacating Initial Decision filed with the original documents.

approaches for dealing with collusive-type behavior among oligopolists.[1] Whether the theories of relief proposed by complaint counsel are proper is one thing, but it is clear to me that the Commission was not attempting through this case to challenge structure or bigness *per se*.

Conspiracy To Monopolize

As one of their principal prongs of liability, complaint counsel now contend that an implied conspiracy to monopolize can be inferred from respondents' course of dealing over the past 20 years. It is contended that respondents have consistently eschewed various forms of price competition and channelled their energies instead into promotional activities and brand diversification.[2] Whether this conduct gives rise to a conspiracy to monopolize can be addressed only if a conspiracy in fact was properly tried.

In finding that a conspiracy theory was not part of the case, ALJ Berman looked to the language of the complaint and statements made by complaint counsel during the prehearing conference stage of the proceedings. In particular, he found the complaint ambiguous, since it didn't mention specifically that either an agreement or conspiracy was at issue. Rather, the complaint charged, *inter alia*, that respondents "individually and collectively, have obtained, shared and exercised * * * monopoly power in, and have monopolized, the production and sale of RTE cereal * * *" (Complaint, ¶9E). More importantly, ALJ Berman noted that complaint counsel had emphatically denied on several occasions early in the proceedings that the complaint contained a conspiracy count. (I.D. at pp. 3–10) Thus, although the first ALJ (Judge Hinkes) subsequently allowed the case to be tried on a tacit conspiracy theory, ALJ Berman found that procedure deficient since the complaint was not amended by the Commission and respondents did not acquiesce to that procedure. (See rules of practice § 3.15.)

A review of the record indicates that, at best, the conspiracy pleading issue is murky. Obviously, we should not engage in excessive nitpicking of pleadings or overly technical interpretations, but the pleadings are not a model of clarity, especially in light of the shared monopoly theory being alleged. Words such as "combination" and "collectively" are used in the complaint, but those words are also consistent with a shared monopoly theory that requires no showing of collusion. Nevertheless, the pleadings might have been adequate to encompass a conspiracy to monopolize theory had it not been for complaint counsel's insistent denials that a conspiracy was at issue in the case.

During the prehearing conferences in 1972, ALJ Hinkes on more than one occasion sought further clarification of the pleadings from complaint counsel in view of their simultaneous denial of conspiracy and assertion that the case focused on joint, interdependent conduct. (Tr. 17, 25, 71, 104) After several tries, complaint counsel finally indicated that the case could encompass a tacit agreement (Tr. 106–08, 163–64), but only after having previously indicated that no traditional conspiracy was being alleged.[3]

Of course, as ALJ Berman noted, traditional conspiracies, under either Section 1 or Section 2 of the Sherman Act involve both express and tacit agreements. Thus, it seems hard to conclude that the case, as originally envisioned, encompassed a traditional Sherman Act-type conspiracy. Yet, that is precisely what complaint counsel now contend has been established in this case—a traditional Section 2, Sherman Act conspiracy to monopolize. (Complaint Counsel's Proposed Conclusions of Law, Vol. IV at 655–60, Sept. 30, 1980) Even giving the benefit of the doubt to complaint counsel, it is hard to understand why it was necessary to dance step around the conspiracy issue if the case clearly covered it. After all, the major case now relied upon by complaint counsel, *American Tobacco Co.* v. *United States*, 328 U.S. 781 (1946), which was decided twenty-five years before this case was brought, involved an implied conspiracy to monopolize. While there have not been many implied conspiracy cases brought under Section 2, there certainly have been numerous such cases under Section 1, and complaint counsel, in fact, cite to such precedent in support of their case.

Perhaps, in denying that a conspiracy was at issue in the case, complaint counsel may have been attempting to distinguish between Section 1-type conspiracies and Section 2 conspiracies. There is, however, no evidence of that and, in any event, such a distinction would appear to be unnecessary since the type of proof needed to establish a conspiracy would appear to be much the same regardless of which provision of the Sherman Act was being pleaded. *See* P. Areeda & D. Turner, *supra*, note 1, ¶ 830. Alternatively, complaint counsel may have felt that the kind of tacit conspiracy they had in mind would not rise to the Sherman Act level, but if that is the case then the issue is little different from the pure Section 5 shared monopoly theory discussed below. There can hardly be two kinds of conspiracies, one sufficient to establish Sherman Act liability and another sufficient for Section 5 purposes.

To be sure, there have been suggestions that the scope of the conspiracy theory under the Sherman Act could be broadened to give greater emphasis to the use of economic evidence in determining whether a tacit conspiracy exists. *See* R. Posner, *supra* note 1, at 71–77. Still, the issue is whether a conspiracy exists, not whether some other theory, by a different name, is viable.

Although ALJ Hinkes ultimately allowed the conspiracy charge to be tried, it is clear that the parties did not agree on this procedure and that no amendment to the complaint was sought from the Commission. Accordingly, I do not believe the Commission can hinge liability on a conspiracy theory.

Section 5 Shared Monopoly

Even if a conspiracy count is not present, that does not end the matter. Complaint counsel alternatively argue that even absent a conspiracy the conduct is sufficiently like one to justify a finding of liability under Section 5 of the FTC Act. It is quite clear, of course, that Section 5 can reach anticompetitive behavior that is not covered by the Clayton or Sherman Acts. And, I believe such authority extends to non-collusive, marketwide behavior that may not involve traditional forms of predation.[4] Presumably, this could include behavior that would not be illegal for a single firm to engage in but, due to the industrywide nature of the practice, could lead to significant anticompetitive effects.

Various commentators have also urged that the antitrust laws are flexible enough to deal with shared monopolies or oligopolistic behavior outside the context of a traditional conspiracy.[5] In highly concentrated industries competitors may learn to react to each others' moves in a fashion that is closely analogous to the workings of a cartel. Firms will recognize that it is not in their self-interest to chart an independent course because other competitors will be able to quickly detect and match their moves, thereby leading to lower profits for the industry as a whole. The degree to which this phenomena occurs, and its success, are obviously subjects of great debate and the identification of markets in which firms are operating in a closely interdependent fashion is admittedly complex.

Because of the difficulties in proving collusion, Professors Areeda and Turner have advocated a different approach to the problem of single firm monopolization and shared monopolies. In their recent treatise,

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[1] See P. Areeda & D. Turner, III *Antitrust Law*, Ch. 8E (1978); R. Posner, *Antitrust Law: An Economic Perspective*, 39–77 (1976).

[2] Complaint counsel's conspiracy case depends primarily upon a showing that respondents' roughly parallel behavior on several fronts—instituting price changes, stopping trade deals, eliminating in-pack premiums, refusing to sell to private labelers, fortification—over a 20-year period cannot be explained away as a coincidence of independent judgments. While it is unnecessary to delve into this issue at any great length, since the conspiracy theory, as discussed hereinafter, is not properly before us, I would observe that this kind of evidentiary approach to proving collusion is not unprecedented. Cases such as American Tobacco v. United States, 328 U.S. 781 (1946) and Wall Products Co. v. National Gypsum Co., 326 F. Supp. 295 (N.D. Cal. 1971), indicate quite clearly that conspiracy can be inferred from proof of parallel actions coupled with economic conditions that appear to negate an inference of innocent, independent business conduct. This point is not to suggest that the case before us unquestionably involves a conspiracy, for, among other things, the evidence of simultaneity of behavior, (e.g., price leadership) here is perhaps not as strong as it was in the aforementioned cases. What it does suggest is that a conspiracy theory is not important to deal with oligopolistic behavior that exhibits more than a casual trend toward interdependent conduct.

[3] Although the pleading issue was not before the court, it is interesting to note that the D.C. Circuit Court of Appeals, in a subpoena enforcement action brought four years after the case was filed, observed that a conspiracy was not alleged in the complaint. FTC v. Lowning, 530 F. 2d 202, 204, n. 3 (D.C. Cir. 1976).

[4] See, e.g., Boise Cascade Corp., et al., 91 FTC 1 (1978), *rev'd on other grounds*, Boise Cascade Corp. v. FTC, 637 F. 2d 573 (9th Cir. 1980).

[5] E.g., P. Areeda & D. Turner, *supra*, note 1; L. Sullivan, *Handbook of the Law of Antitrust*, section 125 (1977).

they suggest that evidence of persistent monopoly performance in a market, whether exhibited by a single firm or a small group of firms, should be sufficient to justify sweeping relief in the form of divestiture or other like remedies. Of course, they would require fairly strong evidence that the market is performing badly and that structural remedies would not lead to inefficiencies. They also believe that such actions should be limited to government initiatives and not allowed in private suits. In essence, their proposal does not depend on improper conduct for establishing liability and is akin to various no-fault monopoly proposals that have been advanced in the past.

But even Areeda and Turner recognize that the kinds of markets that might warrant intervention under such an approach are limited, even more so in the shared monopoly area than for single firm monopolies.[6]

Complaint counsel, of course, are not advocating a no-fault approach in this case. Instead, they have attempted to develop their case in a way that focuses on the extent to which respondents' interrelated behavior has exacerbated competitive problems in the RTE cereal industry. Their theory depends less on the unreasonableness of specific forms of behavior than it does on the totality of the conduct.

Nevertheless, even under complaint counsel's theory, one must recognize the implications of using such an approach to restructure an entire industry. As complaint counsel acknowledge, the kind of theory and relief they are seeking require extensive proof of industry structure, performance and conduct. While that kind of analysis is highly commendable, it provides a less than certain guide as to what kinds of conduct or market conditions would be subjected to antitrust attack. In addition, such an approach, of necessity, dramatically limits the number of instances where market intervention is warranted and, even then, it does not fully remove the risks associated with developing a structural remedy for an industry.

Thus, absent collusion or clear evidence of predatory behavior, I believe it would be unwise for the Commission to seek dissolution of an industry on the basis of the cumulative effects of multi-firm behavior. That does not mean, however, that such behavior would go unaddressed. Rather, it means that the kind of relief sought—namely, conduct remedies—would reflect two realities about the oligopolistic market context: (1) the lower probability that serious anticompetitive problems will exist for long, and (2) the potentially greater costs of attempting to restructure an industry. Because of the complexity involved, it may take many years to recover the costs of obtaining and implementing a successful dissolution order. Those costs may be worth incurring where we can be fairly confident that the market behavior under attack cannot be justified. The rigor of conspiracy analysis can help to provide that assurance, and strong evidence of predatory behavior may also provide the necessary predicate for divestiture.

But to pursue structural relief in less compelling circumstances carries with it too great a risk of wrong or imperfect judgments. The alternative, conduct relief, obviously has its limitations. Such a focus, however, enables more precise judgments to be made about the reasonableness of particular behavior without the risk of overkill.[7] To be sure, conduct relief may not be feasible in all oligopolistic market settings, but neither is divestiture. After all, antitrust deals primarily with probabilities. Where the probable benefits of improving competition are very high, as they are in breaking up a horizontal price-fixing conspiracy, there is little risk that the imposition of harsh sanctions will chill desirable competitive behavior. But, as the difficulty of distinguishing between harmful and beneficial conduct increases, so does the danger of imposing maximum remedies. Therefore, in my view, remedial restraint is called for, even in the kind of tightly concentrated market presented to us here, where profitability is good, market shares are stable and new entry has been minimal.

Although I am opposed to structural remedies, I reiterate my belief that the Commission can reach non-collusive, industrywide behavior under Section 5 of the FTC Act. An example of such an approach is the Commission's decision in *Boise Cascade*, 91 FTC 1 (1978), *rev'd, Boise Cascade Corp.* v. *FTC*, 637 F.2d 573 (9th Cir. 1980). There, the Commission found that the industrywide use of an artificial freight factor contributed to price stability and could not be justified by market exigencies. Although the Ninth Circuit Court of Appeals felt that the Commission did not make a satisfactory showing of anticompetitive effect, the appellate decision did not foreclose the possibility that the Commission could employ Section 5 to reach unjustified forms of non-collusive behavior which are practiced on a marketwide basis. It should also be emphasized that the Commission in *Boise Cascade* believed that it could fashion an effective conduct order that would not be highly regulatory in nature. If conduct relief can be easily evaded, or requires extensive government intrusion in ongoing market operations, there is little reason to press ahead. And, the absence of effective relief may suggest that there are offsetting competitive justifications for the practices under scrutiny.

As reflected in the *Boise Cascade* decision, the Commission may address multi-firm behavior that facilitates non-competitive conduct as well as more exclusionary forms of conduct. On the other hand, simply refusing to compete, by itself, probably would not be subject to attack—to do so would be analogous to going after a passive monopolist. However, passivity in an oligopolistic context is harder to maintain without resort to collusion or other practices that may contribute to a stable market.

In this instance, assuming complaint counsel's case were to be established, several practices might be singled out for possible action. For example, a central issue in the case is brand proliferation. Complaint counsel argue that respondents have engaged in excessive product differentiation as a less disruptive form of competition than price competition. It is claimed that by carving up the market into smaller and smaller product segments, respondents have made it extremely difficult for new firms to enter, since an entrant would have to offer several brands to achieve minimal scale economies. Moreover, a new firm could not expect established competitors to give much ground, as might be the case if limit pricing were being practiced, because of the difficulty of repositioning brands.

Without getting into an extended discussion of these allegations, there does seem to be considerable evidence that brand proliferation has made entry more difficult. But that is not the end of the analysis. Whatever the social value of these products, we are not dealing with the kind of product design or change that is introduced primarily as a blocking device to discipline competitors.[8] In other words, we are not talking about predatory conduct that serves little, if any, legitimate competitive ends. For the most part, the myriad cereal brands on the market are self-sustaining and they appear to generate significant consumer demand. Even if we would prefer to see fewer brands and more price competition, it would be extremely difficult to distinguish between legitimate and illegitimate brand proliferation. Certainly, it would be quite inadvisable and impractical to attempt to limit advertising expenditures and or brand offerings. Thus, an order provision directed to this practice does not seem very promising.

A second practice that might be susceptible to correction concerns respondents' shelf space recommendations to grocery retailers. These plans rely largely on past market shares as the benchmark for allocating space. Complaint counsel contend that these recommendations, which many retailers have adhered to in principle, tend to stabilize competition among existing competitors and make it more difficult for new entrants to get shelf space. Indeed, this is the only practice for which complaint counsel have sought conduct relief.

It could be argued that an order restricting or preventing respondents from making shelf space recommendations would help to inject more competitive pressures into an important area of non-price competition, without

[6] See P. Areeda & D. Turner, *supra*, note 1, ¶645.

[7] Apart from their suggested approach for dealing with persistent shared monopoly, Areeda and Turner also have expressed the view that the antitrust laws even more clearly can reach exclusionary behavior engaged in by shared monopolists. Such a theory would, they believe, amount to a logical extension of attempted monopolization, since the primary missing ingredient would be the absence of a dangerous probability of a single firm monopoly. P. Areeda & Turner, *supra*, note 1, ¶656–61. Whether the courts would be willing to extend Section 2 of the Sherman Act this far is not clear, but, in any event, such an approach would appear to be within the scope of §5 of the FTC Act.

[8] Allegations of this nature have been made in several recent cases involving the communications and computer industries. Northeastern Tel. Co. v. American Tel. & Tel. Co., 497 F. Supp. 290, 344 (D. Conn. 1980), rev'd 651 F.2d 76, 94–95 (2d Cir. 1981); Berkey Photo, Inc. v. Eastman Kodak, Co., 603 F.2d 263, 285 (2d Cir. 1979), *cert. denied*, 444 U.S. 1093 (1980); Cal. Computer Products v. IBM Corp., 613 F.2d 727, 744 (9th Cir. 1979); Transamerica Computer Co., Inc. v. IBM Corp., 481 F. Supp. 965, 1006–08 (N.D. Cal. 1979).

intruding unnecessarily into respondents' day-to-day business judgments. On the other hand, this type of activity is undoubtedly normal commercial behavior that is engaged in by many other food manufacturers, although it is not clear whether the nature and pattern of recommendations in the cereal industry are followed in other markets.

However, regardless of whether a workable remedy could be crafted on this subject, it is questionable whether the issue is all that important from a remedial standpoint. Dr. Schmalensee, one of complaint counsel's expert witnesses in the case, expressed the view in a separate article that shelf space plans were probably not powerful deterrent devices. Schmalensee, "Entry Deterrence in the Ready-to-Eat Breakfast Cereal Industry," 9 Bell J. Econ. 305, 307, n. 4 (1978).

A third area for possible relief involves the exchange of recent advertising expenditure data among respondents through the vehicle of a third party reporting service. It is not entirely clear whether this particular practice, specifically with respect to the accuracy and currency of the data exchanged, is unique to the cereal industry or occurs frequently in other industries. While this exchange makes it easier to monitor the actions of competitors it may be less sensitive than an exchange of price information, since the quantity of advertising expenditures does not necessarily reveal the effectiveness of those expenditures. Of course, the effectiveness of restricting this practice depends on how easily and quickly respondents could obtain similar data through other means. But, even if an order restriction would make that task substantially more difficult, it is not at all clear that it would inject a very significant destabilizing force into the market. To be sure, advertising is a major factor in respondents' non-price competition, but inducing more rivalry in this area is not necessarily calculated to produce similar spin-off effects in the pricing of RTE cereals.

Another candidate for reform is respondents' fairly consistent refusal to supply private brand cereals to retailers. While increased private brand competition could bring about more price competition, an order requiring respondents to supply such product is fraught with all kinds of problems, and could easily lead to a highly intrusive regulatory-type order.

Finally, with respect to other allegedly anticompetitive conduct, such as respondents' refusal to offer trade deals or other off-list discounts, it is quite clear that the Commission cannot mandate respondents to compete. Such behavior, if it does not involve collusion, represents the kind of passive noncompetitive behavior noted above for which there is probably no practical enforcement remedy.

Thus, a review of possible avenues for conduct relief suggests that, assuming a Section 5 case can be made out, the available remedial alternatives are either intrinsically undesirable or hold little promise for producing beneficial results. To some extent, this task is made more difficult by the fact that there is no record for determining which, if any, conduct restrictions would be useful, since the case from the outset focused almost exclusively on structural remedies. Nevertheless, despite this limitation, I am inclined to agree with complaint counsel that if any relief were suitable in this case, it should probably be structural in nature. However, for the reasons discussed previously, I am firmly opposed to seeking dissolution in a case of this kind without collusion, or possibly predation, as a legal predicate. While we might desire a better mix of price and non-price competition in the RTE cereal industry, the potential costs associated with a divestiture order, not to mention the difficulty in getting a court to approve such an exercise of our remedial discretion, lead me to reject this approach. I am also simply not persuaded that the class of cases reflected here is sufficiently large to warrant pursuing this kind of complicated, time-consuming remedial avenue. Even if this is the one case in a thousand that might justify such an approach, I do not feel that we ought to apply our Section 5 powers in this way, for what would be an essentially one-time, *ad hoc* law enforcement initiative.

Accordingly, it is my belief that the Commission should not pursue this case further.

January 15, 1982.

Dissenting Statement of Commissioner Pertschuk

The Commission today takes an unprecedented step in refusing to hear the appeal of this matter. This decision raises serious implications for the integrity and propriety of Commission adjudicatory procedures. The complaint in this matter was issued in 1972 and it has taken nine years to complete pretrial procedures and the trial itself. The case raises difficult and unanswered legal questions as well as vigorously disputed factual controversies. Legal conclusions about the allegations in the complaint would have important ramifications for the applicability of the antitrust laws to concentrated industries which do not operate competitively. Thus, the case is precisely the kind of matter that warrants full-scale review by a responsible Commission, charged by Congress with adjudicatory determinations. I cite no less an authority than the Commission itself: "In this as in any other case, " " " it is the agency's function, not the Examiner's, to make the findings of fact and select the ultimate decision, and where there is substantial evidence supporting each result it is the agency's choice that governs.' " [9]

Yet the Commission has precipitously determined that it will not grant full-scale review of this matter, apparently on the grounds that it would be a waste of resources. The resources at stake apparently are the costs of a round of briefs concerning the administrative law judge's opinion, an oral argument, and the preparation of an opinion—not trivial, I grant, but not significant compared to the length, complexity and importance of this matter.

It cannot be ignored that this case has been controversial and that Congress has expressed concern about it. The respondents have attempted to make much of the fact that the Commission, at one point, offered a contract to the original trial judge to continue the matter after his intended retirement. In my view, this step by the Commission raised no significant question of impropriety, and the respondent's zeal in pursuing it has essentially been an aggressive legal and political maneuver. Respondents have also engaged in intensive lobbying efforts in Congress to accomplish the premature demise of this case. I do not question their right to pursue either of these tactics. I do question, however, the propriety of Congressional intervention in any matter before it has run its course of proper adjudicatory procedures. I also question whether Congress has ever been furnished with a complete analysis of this difficult case and the legal arguments that have been raised in it.

I view the prior Congressional intervention in this matter, the vigorous efforts by respondents to heighten controversy about it, and the spurious characterizations of the Commission's effort to carry out its administrative responsibilities by offering a contract to the original trial judge as an unfortunate backdrop to this decision by the Commission to stop review of this matter in midstream.

This case was argued on the basis of two theories—(1) a conspiracy based on traditional Sherman Act Section 1 principles and (2) a theory of interdependent behavior in a highly structured industry with poor competitive performance and where industry members have engaged in exclusionary conduct, what has come to be known in somewhat misleading shorthand as a "shared monopoly." If the case had been appealed, I would, of course, have carefully considered the conspiracy argument, which if proved, would certainly violate long-held principles of the antitrust laws. Based upon my tentative review, I am inclined to believe a finding of a traditional conspiracy could not fairly serve as a basis of liability. [10] I emphasize this conclusion is only tentative, and I would have wished to have heard further arguments by the parties on this issue.

As to the shared monopoly theory as initially pled, it is important to note what the theory is and what it is not. It is not an allegation of an agreement, either an expressed or implied conspiracy. [11] Consequently, it does not fit the conventional analysis applied in Sherman Act § 1-type matters. Nor is it an allegation of practices by individual companies which, under the

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[9] Order Denying Motion for Dismissal of Complaint Counsel's Appeal and for Adoption of Initial Decision, Docket No. 8883 (Nov. 3, 1981), citing Greater Boston Television Corp. v. FCC, 444 F.2d 841, 853 (D.C. Cir. 1970).

[10] I base this conclusion on my interpretation of the complaint, which does not appear to allege a conspiracy, rather than the evidentiary record, which may well show a conspiracy existed.

[11] A charge of conspiracy to monopolize could, of course, be based upon tacit collusion where joint action stems from assent by action rather than words. *Interstate Circuit v. U.S.*, 306 U.S. 208 (1939). Consequently, it would not have been unreasonable to plead a conspiracy based on the facts alleged in the complaint, though, as stated earlier, I do not believe the Commission did so.

circumstances of the industry, facilitate uniform pricing or other anticompetitive behavior. Finally, it is not an allegation that each firm engaged in exclusionary practices which independently violate section 5 by unfairly raising barriers to new entry or driving out equally efficient competitors. Although there are aspects of these theories which were pled in the complaint, it is more appropriate to view the shared monopoly theory as standing apart from them and not requiring the same elements necessary to show a violation under these other theories. It is important to note, however, that these theories, which like the shared monopoly theory, are attempts to define illegal behavior in oligopolistic markets, are important to effective antitrust enforcement and are not undermined in any way by today's action by the Commission.

The shared monopoly theory, as reflected in the Commission's complaint in this matter, was predicated upon an allegation of high concentration, as evidenced by a three-firm concentration exceeding 80%; poor competitive performance, as measured, for example, by sustained high profits and the absence of price competition; and high barriers to entry caused by exclusionary conduct of industry members,[12] as evidenced, for example, by the absence of significant new entry since 1950. Thus, the theory of the case does not "condemn the (industry) structure itself" as the Bureau Director's statement of December 11 supposes.

Such a theory is supported by scholarly commentary, including that of Professors Areeda and Turner,[13] Professor Sullivan[14] and others. Thus, it is not the case that "the theory has * * * utterly failed to enter the mainstream of economic thought," as the respondents claim. Rather, this case represents a serious, carefully thought out attempt by a no-nonsense Republican-led Commission in 1972 to deal with the problem of a tight oligopoly and a poorly performing industry.

Today, the Commission turns its back on this attempt, not wishing to deal with the difficult but necessary task of spelling out whether and under what circumstances the antitrust laws reach this problem. Such a step by the Commission is a significant one, with major ramifications for government antitrust policy. We should make no mistake about it: the problem of high concentration—industries operated by a few giant companies with poor competitive performance, as indicated by the absence of meaningful price competition and the absence of significant entry of new competitors over a long period—is not going to disappear from our economy in the coming decades. Our economy is now made up of a number of highly concentrated industries without meaningful price competition and, if the merger laws are not to be enforced vigorously, this situation will become more frequent, not less.

I for one believe that section 5 of the Federal Trade Commission Act does reach a situation where an industry is highly concentrated; the performance of the industry as measured by profit levels, lack of price competition or other factors, is poor; effective barriers to entry are created by exclusionary conduct on the part of the firms; and a government-ordered remedy can be shown to be likely to improve competition. I also believe that it is possible for this Commission and for the courts to identify, after careful study, which industries are appropriate for restructuring in order to deal with this problem, and which industries are not.[15] But I also conclude that the prospect for some future Commission effectively to apply this theory is highly unlikely. It is not that there will not be farsighted and courageous Commissions in the future, nor certainly that there will be an absence of careful economic analysis capable of identifying industries which should be addressed; nor do I view this decision by the Commission today in any way as a legal precedent which deserves to be followed by a future Commission or by the courts. Rather, I view today's decision as confirmation of the political inability of a Commission to see such a case through to the end.

As our political system provides, the Commission reflects, to a large extent, the prevailing political attitudes and the economic philosophy of the current administration. And, quite properly, future Commissions will reflect the then-prevailing political philosophy. Unfortunately, an attempt by the inherently lengthy process of litigation to deal with the oligopolistic problem I have described requires a political consensus that an independent commission is legitimate and competent to carry out the task, and a political environment which gives it the room and time to carry it out. Today's decision seems to me to tell us that such a consensus is unlikely. Therefore, I believe strongly that Congress, not this one perhaps, but some future one, should brace itself for the task of spelling out in careful, responsible legislation what government's role is in dealing with the problem of oligopoly. And I emphasize again that it is a problem which is destined to become more, rather than less, significant for our society.

January 15, 1982.

Statement of Commissioner Patricia P. Bailey in Connection With Disposition of Kellogg, et. al.

This controversial case was formally launched on January 24, 1972, when Chairman Miles Kirkpatrick and Commissioners Rand Dixon and Mary Jones voted to issue the Commission's complaint.[16] Commissioners David Dennison and Everette MacIntyre opposed this action, and filed dissenting statements. Commissioner MacIntyre was prescient with regard to the ultimate procedural course of this matter, predicting "much litigation and little reform," and further suggesting that the resolution of certain "untried issues" could take "perhaps years." A Congressman from Michigan was prescient about the political course of this matter: the then-Representative from Battle Creek denounced the issuance of the complaint almost immediately.

The Commission's complaint (paragraph 9) charged three species of violations of the FTC Act: First, that the respondents had individually and collectively maintained a "highly concentrated, noncompetitive market structure." Second, that the respondents had individually and collectively shared and exercised monopoly power. Third, that the respondents "erected, maintained, and raised" barriers to entry of new competition through unfair methods of competition. The methods of competition in question representing the exercise of monopoly power, as detailed in paragraphs six and seven of the complaint, included: (1) brand proliferation through differentiating similar products and promoting trademarks through intensive advertising, (2) misleading advertising of the value of cereals in regard to childrens' health, weight control and athletic prowess, (3) control of shelf space, (4) acquisition of competitors, (5) mutual restraint in challenging price increases, (6) restricted use of trade deals or trade-directed promotions, and (7) limitations on the use of "consumer directed promotions, such as coupons, cents off deals, and premiums." According to paragraph 8, as a result of all this, high barriers to entry successfully forestalled new competition; the introduction of new products was curbed; cereal prices and profits were higher than they would be in a competitive market.

Much has been made, since the inception of this case, over the fact that it represents a test of the so-called "shared monopoly" theory. The complaint is subject to being so construed, depending on one's interpretation of paragraph 9(b).[17] It is certainly true that press reports and even academic journals have from the first characterized this case in terms of a shared monopoly theory.[18] The respondents in this matter have sought for

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[12] Exclusionary practices need not in themselves be independently unlawful or predatory to constitute acts of monopolization. *See, e.g.*, U.S. v. Griffith, 334 U.S. 100, 105 (1948); American Tobacco Co. v. U.S., 328 U.S. 781, 809, 814 (1946). Thus, each of the respondents need not have engaged in unfair predation under section 5 or an attempt to monopolize under section 2 of the Sherman Act in order to have been found to have engaged in monopolizing. We do not deal here with an allegation that there has been monopoly power shared by three firms without monopolizing conduct.

[13] *See* 3 P. Areeda and D. Turner, *Antitrust Law* 150–380 (1978).

[14] *See* L. Sullivan, *Antitrust* 361–366 (1977).

[15] In some situations, a conduct-oriented remedy alone may be adequate, e.g., by prohibiting certain exclusionary practices.

[16] This was pursuant to the Commission's old Part II ("opportunity for settlement") rules. The Part III adjudicative complaint issued in April 1972.

[17] I objected, joined by Commissioner Pertschuk, to the singular characterization of this case as a shared monopoly matter in connection with the issuance of the press release dated December 18, 1981, announcing our 3–1 vote to solicit staff views on the propriety of the appeal of this matter. We felt that the characterization of the case was one of the main issues before us; but, in any event, the press release was issued notwithstanding our expressed concerns.

[18] "The Cereal Case: Opening Shots in FTC War on 'structural' Shared-Monopoly or Attack on 'marketing' irregularities?" 5 Antitrust Law and Econ.Rev. 71 (1971); "Oligopolies, Cereals, and Section Five of the Federal Trade Commission Act," 61 Geo.L.J. 1145 (1973).

years irrevocably to pin this badge on complaint counsel, who, for their part, have raced across the legal plain seeking to avoid the shared monopoly stigma, trying first the conspiracy gambit, falling at last across the finish line with a paper that mentions only "tacit collusion", and not shared monopoly even once. The Director of the Bureau of Competition believes that only a shared monopoly theory was ever at issue in the case. The Administrative Law Judge details the history of the theory of the case, beginning with early pretrial statements by complaint counsel that conspiracy was specifically not a part of the complaint. Later, the original Law Judge assigned to this matter permitted complaint counsel—over strenuous objections by respondents—to put into the record evidence of tacit collusion.[19] Judge Berman, though believing collusion not to have been plead as a part of this case, nonetheless based his ruling on consideration of *both* collusion *and* shared monopoly theories.

Judge Berman has dismissed this case for failure of proof on either of those theories.

The Director of the Bureau of Competition withdrew the earlier notice of intent to appeal filed in this matter because he believes a shared monopoly theory "is not consistent with the public interest," is "an unwarranted expansion of the law," and has the prospect of punishing success among the competing cereal producers. Withdrawal of an appeal of a Federal Trade Commission complaint by those charged formally with its prosecution is virtually without precedent. The fact is that this is the Commission's—and not the staff's complaint. The Bureau's involvement in this matter is the nature of a stewardship, and the Bureau itself is but an administrative creation of the Commission to facilitate the accomplishment of tasks delegated to it by the Commission, including the litigation of Commission complaints.

Nonetheless, the issue has been joined, and I do not fault the Director of the Bureau for candidly stating his views of which theories, in his opinion, the Commission should and should not be litigating.

My concern, expressed in our Order of December 18, 1981, following the Commission's receipt of the Bureau Director's views of December 11, 1981, was only that our Order of December 3, 1981, directing the submission of the views of complaint counsel be complied with. That has now belatedly been accomplished. As already noted, the attorneys and economist who have handled this matter for the past decade do not describe the case in terms of shared monopoly but in terms of tacit collusion, violative of the standards set out in *American Tobacco Co.* v. *United States*, 328 U.S. 781 (1946). "In the most traditional antitrust sense, the three respondents have tacitly colluded and cooperated to maintain the exercise monopoly power—'power over price' and 'power to exclude' additional competitors." According to the staff, "The case does not challenge the industry's structure itself," (Staff at 11), but shows a pattern of sophisticated conduct that has raised barriers to entry for new competition, and facilitated higher than competitive price levels.

I am aware of that body of commentary that believes the *American Tobacco* case adds to the law of monopolization by extending the analysis into an oligopoly setting. Professor W. H. Nicholls, stated as long ago as 1949:

> The *Tobacco* case is clearly a legal milestone in the social control of oligopoly. By permitting the inference of illegal conspiracy from detailed similarity of behavior * * * the courts have at last brought oligopolistic industries within the reach of successful prosecution under the antitrust laws.[20]

He went on to say that the inference of conspiracy in the case was based on the assumption "that a few dominant firms will perhaps independently and purely as a matter of self interest, evolve non-aggressive patterns of behavior * * *" Professor A.D. Neale disagrees with this interpretation of the case. In response to Nicholls he stated:

> (H)e (Nicholls) is attributing to the court and the jury more economics than they would own: what the jury found and the Court confirmed was precisely that the conduct of the firms could not be accounted independent action. Rightly or wrongly, the Kentucky jury felt able to infer a true "meeting of the minds" from the evidence, and the case really adds nothing new to the law of conspiracy. This is confirmed by Mr. Justice Burton's summary of this aspect of the case: "The essential combination or conspiracy in violation of the Sherman Act may be found in a course of dealings or other circumstances as well as in any exchange of words * * * where the circumstances are such as to warrant a jury in finding that the conspirators had a unity of purpose or a common design and understanding, or a meeting of the minds in an unlawful agreement, the conclusion that a conspiracy is established is justified."[21]

Despite complaint counsel's use of the terminology "tacit collusion," I believe such an argument amounts to allegation of a conspiracy, even under complaint counsel's cited cases.

I am also constrained to agree with Judge Berman that a conspiracy charge was not a part of the Commission's complaint and that complaint counsel so stated in pretrial filings made on May 18 and 22 and June 19, 1972, and in pretrial statements made by complaint counsel Robert Liedquist on June 5 and 8 and August 10, 1972. The absence of a conspiracy charge was also asserted at least twice in Federal court proceedings.[22] The admission of evidence on conspiracy made by the original ALJ, Judge Hinkes, amounted to a transgression of Commission rule § 3.15(a)(1) which prescribes the correct procedures for amendments to complaints. Nor does rule § 3.15(a)(2), providing for the admission of evidence "reasonably within the scope of the original complaint or notice of hearing," provide solace, since that rule requires both sides to acquiesce, and respondents have fought the notion of a collusion theory from the inception of these proceedings.

Viewing this case as a shared monopoly matter does not trouble me. Professors Areeda and Turner have postulated that:

> If * * * Sherman Act section 2 permits a government action in equity against a substantial and persistent single firm monopoly that has not behaved improperly, it also permits a similar action against the substantial and persistent shared monopoly. As compared with single-firm monopoly, however, there are important additional difficulties in identifying cases suitable for intervention, identifying the proper defendants, formulating appropriate remedies, and supporting judicial innovation.[23]

The authors go on to state that evidence of shared monopoly power should be coupled with evidence of "exclusionary conduct having a significant causal relation to shared monopoly power." [24] For the purposes of my analysis, I am willing to assume that the exclusionary conduct alleged by complaint counsel has occurred, and that the respondents, three of which control 79% of cereal sales, share monopoly power in this $740 million market.[25]

The question then would be one of remedy. Indeed, the paramount difficulty with this case has always been the question of remedy. For whatever it is that Kellogg and the other respondents may have done, the proposed solution—to carve new cereal companies from the hides of existing ones and to force the licensing of successful trade names to the newly created competitors—is both draconian and manifestly uncertain to achieve the relief complaint counsel postulates that it will.

Areeda and Turner have stated:

> Quite apart from statutory limitations, even a czar would consider restructuring only where it is likely to improve net economic performance substantially; and we say "substantially" to take account of the costs of the process, including the risk of erroneous judgments.[26]

Thus, assuming that the appropriate substantial and noncompetitive market structure required for a shared monopoly is present, the key issue becomes whether relief is available significantly to improve economic performance without sacrificing such economically worthy goals as substantial economies of scale.[27]

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[19] Orders of Judge Hinkes dated February 24, 1974, March 12, 1975, and August 20, 1976.

[20] W. Nicholls, "The Tobacco Case of 1946," 39 American Economic Review, 298 (1949), cited in A.D. Neale, *The Antitrust Laws of the U.S.C.* 165 (2d Ed., 1970).

[21] Neale, Op. Cit. 166. Violations of the Sherman Act are also violations of Section 5 of the FTC Act, *FTC* v. *Raladam Co.* 283 U.S. 643 (1931).

[22] Contemporary reports of the Commission's action took special note of the absence of a conspiracy charge. Note, "Oligopolies, Cereals, and Section Five of the Federal Trade Commission Act," 61 Geo. L.J. 1143, 1149 (1976).

[23] III Areeda and Turner, Antitrust Law 360 (1978).

[24] *Id.*

[25] I recognize that the ALJ did not find this industry to be characterized by monopoly profits. I also recognize complaint counsel's strong assertion that the ALJ's methodology was faulty on this score.

[26] *Id.*, 372.

[27] For an interesting discussion of the primacy of economies of scale in oligopoly antitrust analysis,

Continued

The difficulties possibly attendant to divestiture relief make it less than clear that improved industry performance is the inevitable consequence. Respondents and intervenors (the grain millers union) view the industry restructuring proposal as "an unprecedented and unworkable experiment in industry reorganization" (Respondents at 5). Dismantling of existing cereal plants, including those that now make other non-cereal products as well, may cause substantial interruptions or reductions in production. Existing labor-management harmony may be disrupted. Trademark licensing may result in excess capacity and stifle product development, and disrupt economies of scale in production, distribution and sales. Of course, all of this may be the conjecture of self-serving private interests, but the complex dismantling of a long-existing industry is sufficiently clouded with doubts to give one pause. Indeed, even complaint counsel's own expert has stated that the remedy proposed may "for reasons unforeseen bring about the opposite result or may impose debilitating losses upon the big three."

Moreover, it is also a concern of mine that an administrative agency, operating under a tightly supervised legislative mandate, undertake industry restructuring under a theory that clearly represents an extension of Sherman Act analysis. While Areeda and Turner believe that a viable shared monopoly theory exists, and that it can—even now—be entrusted to the government antitrust authorities, they acknowledge the difficulties of such a case. Concentration ratios and market performance tests, determination of markets appropriate for attack, and whether there should be an assessment of substantial scale economies proved by an accused oligopolist, all present merely the threshold questions in approaching a shared monopoly prosecution.

Although not necessarily insuperable, these difficulties may suggest that the courts should refrain from taking so grave and novel a step without a new mandate from Congress. The issue is a serious one.[28]

I come ultimately to the view that industry restructuring, such as is proposed here, is essentially a legislative concern, and as an agency that fairly can be characterized as an arm of the Congress, we should not undertake to restructure an industry under Section 5 of the FTC Act without a clear supportive signal from the Congress. In this case, the signals are, for the present, quite to the contrary—as they were not so apparently in 1972 when this complaint issued. The Federal Trade Commission has from time to time commented favorably on various legislative proposals amounting to industrial restructuring.[29] None of these proposals has taken root as a preferred route for industrial market reorganization. I do believe that if the Congress were to endorse a shared monopoly approach to restructuring an oligopoly, this agency has the power to effect this sort of change under a viable and respectable theory.[30] But the use of the power of divestiture or divorcement under Section 5 of the FTC Act is the ultimate exercise in administrative authority. It should be used only to achieve a Congressionally endorsed result, or at least not to defy a clearly expressed congressional animus, as exists here. I note, too, that even candidates of both major political parties in the last national election denounced this case as ill-advised and contrary to the public interest.

Why all this concern has risen to the level that it has is difficult to explain, in light of the fact that the Commission is only mid-stream in this case, and both Commission and court review—not to mention potential congressional action—lie ahead to safeguard against any precipitous or unwarranted action in this matter. The issue here is larger than the *Kellogg* case, to be sure. Professor Joseph Brodley reflected in some depth on the practical, as well as the philosophical, problem of exercising prosecutorial discretion to its ultimate end in cases of this sort:

> In law, as in politics, public policy must often be the art of the possible. For this, as well as for other reasons, I put to one side the proposal that existing concentrated oligopoly firms be broken up * * * (A)ny large or even moderate scale attack on existing industrial concentration would run into congressional stormwaters of imposing magnitude.
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> In part, this may simply reflect an ambivalence of attitude in United States antitrust laws. The British writer, Neale, has noted the tendency of Americans "to take a romantic view of the achievements and efficiency of large industrial organizations even while they take a suspicious view of their power." (citation omitted) Such an attitude has made the remedy of divestiture rare even in Sherman Act cases.
>
> Perhaps, more basically, in a nation so thoroughly pragmatic as this one, there is an understandable reluctance to push an economic theory, however, well founded, to the extreme conclusion of causing drastic rearrangements of large sections of American industry * * *[31]

The paradox we are left with is that while there may be a legitimate concern about the anticompetitive effects of the exercise of oligopoly power, it is rarely true that these concerns will mandate an administrative agency decision to restructure an industry, short of a legislative warrant to that effect. Therefore, I will vote that this appeal be terminated, not for the reasons relied upon by the Administrative Law Judge, but because the promulgation of relief by this agency will not, in any eventuality, conceivably lead to a restructuring of the cereal firms.

As may be evident, I do not intend the Initial Decision in this matter to become the final decision of the Commission. The Commission's Rules provide that if an appeal of an Initial Decision is not forthcoming, the Initial Decision becomes the decision of the Commission.[32] Accordingly to complaint counsel, the Initial Decision is riddled throughout with major procedural errors, and does not fairly give weight to certain of the evidence. I do not know whether this is true or not, and since I could not resolve these conflicts except through the process of appeal, it is my intention that the Initial Decision have no precedential or even persuasive authority for any proposition whatsoever. Thus, I will vote to docket the Initial Decision for the sole purpose of vacating it in its entirety and substituting for it a simple order of dismissal.

A few final words:

The fortitude and determination of those attorneys and economists who were charged so long ago by the Commission to prosecute this matter is a source of pride and admiration. No more difficult matter ever was considered to this point by this institution. No matter has been subjected to more criticism. No more difficult duty has been undertaken without sufficient thanks or recompense. In the face of everything, the staff of this agency has done the job it was ordered to do, and acquitted itself ably and with honor. The fact that now the Commission abdicates its commitment to see this matter through is a responsibility that rests uniquely upon our shoulders and not upon theirs.

I very specifically disassociate myself from what the Chairman had to say about this matter in his statement of December 16, 1981. Neither do I join in Commissioner Clanton's statement of views on this matter nor in Commissioner Pertschuk's clarion, but quixotic, call to battle.[33] I speak, only for myself, and I willingly take public and lasting responsibility for what I do today.

January 15, 1982.

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see Sherman and Tollison, "Public Policy Toward Oligopoly: Dissolution and Scale Economies," 4 Antitrust Law and Econ. Rev. 77 (1971). The evidence in this record on economies of scale is in conflict. Complaint counsel believe that entry into this market by a single cereal brand line is impractical, and that industry participation at from 3.5% to 5% is necessary to achieve firm economies of scale. This dispute bears both on the issue of barriers to entry as well as the issue of relief. Only an appeal of this matter would allow the Commission to assess the conflicting evidence.

[28] If Areeda and Turner, 380. Professor Turner's own views seem to favor the legislative approach; see: Turner, "The Scope of Antitrust and Other Economic Regulatory Policies," 82 Har. L. Rev. 1209 (1969).

[29] See for example: Statement of Federal Trade Commission before the National Commission for the Review of Antitrust Laws and Procedures, urging legislation affecting antitrust action against some monopolies, February 22, 1978.

[30] For a complete summary of the FTC view on this point, see: Testimony of Commissioner Robert Pitofsky on the Heflin Amendment before the Senate Commerce Committee, November 30, 1979. "Certainly the Commission has been restrained and circumspect in the extreme in imposing structural relief. We have been able to find only six cases since 1963 where structural relief was sought."

[31] Brodley, "Oligopoly Power Under the Sherman and Clayton Acts—From Oligopoly Theory to Legal Policy," 19 Stan. L. Rev. 285, 344–45 (1967).

[32] Rule § 3.51(a).

[33] Commissioner Pertschuk's participation in this matter has been challenged; any legal ability to advance the appeal of this matter pursuant to Reorganization Plan No. 4 of 1961 would surely be challenged—adding only and inevitably to the record of delay of this case, diverting for additional years the Commission's ability to evaluate this case on the merits.

16 CFR Part 13

[Docket 8861]

Credit Card Service Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on January 19, 1973 (38 FR 5157; 82 F.T.C. 191) by updating the "IMPORTANT NOTICE" contained in Paragraph 5 of the order, to reflect revisions to Regulation Z, altering the conditions of cardholder liability.

DATES: Final order issued Jan. 19, 1973. Modifying order issued Dec. 14, 1981.

FOR FURTHER INFORMATION CONTACT: FTC/PC, William S. Sanger, Washington, D.C. 20580 (202) 254-6122.

SUPPLEMENTARY INFORMATION: In the Matter of Credit Card Service Corporation, a corporation, doing business as Credit Card Service Bureau, and John P. Ferry, individually and as an officer of said corporation. Codification, appearing at 38 FR 5157, remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45))

The Order Reopening the Proceeding and Modifying Cease and Desist Order, is as follows:

In the Matter of Credit Card Service Corporation, a corporation, doing business as Credit Card Service Bureau, and John P. Ferry, individually and as an officer of said corporation.

Order Reopening the Proceeding and Modifying Cease and Desist Order

On August 14, 1981, the respondents, whose principal service is notification to credit card issuers that a subscriber's credit cards have been lost or stolen, filed a request that the Commission reopen the proceeding in the above docketed matter for the purpose of: (1) eliminating paragraph 5 of the Order of January 19, 1973, which requires that the IMPORTANT NOTICE as set forth therein be incorporated verbatim in all written advertisements disseminated by the respondents; (2) substituting in its place only "a general disclosure that the cardholder's liability is limited to $50, but then only if the conditions imposed by Federal regulation are met by the card issuer"; and (3) deleting John P. Ferry as an individual respondent. Respondents also requested that the 30-day public comment period be waived.

By letter dated August 27, 1981, the Secretary informed the respondents that the Commission had denied their waiver request.

Paragraph 5 of the order reads as follows:

5. Failing to incorporate the following notice clearly and conspicuously in any written material offering the sale of respondents' credit card registration service to the public:

"Important Notice

Effective January 24, 1971, a Federal law provides that a cardholder has no liability for unauthorized use of his credit card unless all of the following four conditions are met. If the card issuing company (1) has notified you of your new limited liability, (2) has provided you with a pre-stamped envelope by which to notify them of a loss, (3) the card contains an approved method of identification, and (4) the use occurred before the card issuer is notified, then your liability is limited to $50 per card."

Respondents state that the IMPORTANT NOTICE is no longer "a correct statement of the requirements for card issuers to impose the $50 liability"; that the continued imposition of a single notice can be misleading and confusing to the consumer and often contrary to the actual practices of the credit card issuer; and that the Truth in Lending Simplification and Reform Act and the amended Regulation Z have modified some of the conditions under which a cardholder can be held liable for unauthorized use. As an example, they mention the fact that card issuers are no longer required to provide pre-stamped envelopes for notice of loss or theft, but only "adequate notice" of the "means by which the card issuers may be notified of loss or theft of the card." Respondents also state that, since Regulation Z imposes the disclosure requirements on the card issuers, they should not be required any longer to include the IMPORTANT NOTICE in their advertising, especially in view of the fact that the respondents place "virtually no emphasis on risk of loss" in their advertising and in view of the fact that there are many other companies in the credit card registration business which are not required to include such a verbatim statement in their advertising.

Respondents contend that since they market their "credit card registration service primarily through joint promotions with banks, department stores, automobile rental companies, airlines, and other credit card issuers", and "since these joint promotions are generally made under the name of the card issuer, all advertising materials must be tailored to the particular practices of that card issuer", and that since "some credit card issuers continue to provide pre-stamped envelopes, others permit telephone notification, while still others require notification of loss or theft in written form . . . [as] permitted by amended Regulation Z, it is extremely difficult to draft language which would be accurate under all circumstances." They further contend that "as more and more credit card issuers begin to determine their own specific means for notification, the adoption of a single notice becomes all but impossible."

Finally, respondents request that John P. Ferry be dropped as the named individual respondent because he "is no longer the only shareholder" and because the company has been in full compliance with the Order for eight years.

On September 14, 1981, respondents filed a memorandum in support of their request to reopen proceeding and modify the order. They state that Credit Card Service Corporation is no longer wholly-owned by Mr. Ferry; that more than one-third of its stock is held by an employee trust and an additional 12 percent by outside shareholders; that Mr. Ferry is no longer the person responsible for the formulation of its advertising practices; that for the past 5 years the corporate respondent has had a President who is the chief operating officer with responsibility for advertising; that Mr. Ferry has served as Chairman exercising only broad policymaking authority; and that Mr. Ferry "should no longer be individually subject to the terms of the Order" in view of the change of circumstances since 1973 when the Order was issued.

After the hearing in January 1972, the Administrative Law Judge found that Mr. Ferry . . . formulated, directed and controlled the acts and practices of the corporate respondent (82 FTC at 196); and that he knew of the existence and effective date of the Truth in Lending Act amendment which set the $50 limit on liability for unauthorized use of lost or stolen credit cards (82 FTC at 197) before he disseminated advertising with false, misleading and deceptive representations that cardholders would be liable for all goods and services obtained by unauthorized use of such cards and might suffer financial ruin (82 FTC at 196, 202). We adopted these findings and the United States Court of Appeals for the District of Columbia Circuit affirmed our decision in its entirety on March 29, 1974. See 495 F.2d 1004. The evidence received in this matter fully supported the findings and the Order.

It is well settled that a corporation is not the only vehicle through which individuals, who have been personally involved in unlawful practices, may in the future continue to engage in such practices. *Tractor Training Service* v. *F.T.C.*, 227 F.2d 420, 425 (9th Cir. 1955), *cert. denied*, 350 U.S. 1005 (1956); *Consumer Sales Corp.*, v. *F.T.C.*, 198 F.2d 404, 407–408 (2d Cir., 1952), *cert. denied*, 344 U.S. 912 (1953). Furthermore, it would seem incongruous to keep in force an order against the lifeless entity of a corporation, while exempting from its operation the living individual who was responsible for the illegal practices. See *Pati-Port, Inc.* v. *F.T.C.*, 313 F.2d 103, 105 (4th Cir., 1963).

Mr. Ferry owns more than 50% of the stock of Credit Card Service Corporation and is the Chairman of its Board of Directors. As such, he would be responsible for the acts and practices of the corporation. A claim of past and current compliance with the order raises only a collateral issue on the question of whether Mr. Ferry should no longer be named, and it is not determinative. The determining factor is the likelihood of resumption of the prohibited practices. We have not been convinced by respondents' arguments to the contrary.

Respondents have represented to us in their request to reopen that the absence of the Important Notice statement would not be misleading since they place "virtually no emphasis on risk of loss" in their advertising. This assertion, however, seems to be at variance with the respondents' advertising

disseminated during September and/or October 1980 to the holders of Master Charge credit cards, serviced by the Bank of Virginia. The four page letter contains the IMPORTANT NOTICE at the bottom of the first page. It is preceded by these statements:

What would you do tomorrow if you suddenly discovered that your purse or wallet—with all of your credit cards—was missing? * * * Would you know how to protect yourself in a hurry? * * * How quickly could you find the phone numbers of each credit card company and locate the right people to talk to? I ask "How quickly" because you certainly don't want to wait until some criminal starts making dishonest purchases on your cards.

And it is followed by these statements:

The whole purpose of the Credit Card Service Bureau * * * is to safeguard credit cardholders from this kind of financial worry and emotional hassle * * * Last year alone, nearly *fifteen and a half million* credit cards were reported lost or stolen—and one in sixteen of these missing cards was used to make *fraudulent purchases averaging $410 per card!*

Other statements as to liability are interspersed throughout the letter such as:

2. * * * and you will avoid even one cent of liability for fraudulent purchases that are charged subsequently to your account.

Respondents' statement that the adoption of a single notice becomes all but impossible as more and more credit card issuers "determine their own specific means for notification" of the loss of credit cards, is a misstatement of the applicable law as interpreted by the Board of Governors of the Federal Reserve System. The method of notification of a lost or stolen credit card is not left to the whims of each card issuer. Section 226.12(3) of Regulation Z, as amended, provides that "Notification may be given, at the option of the person giving it, in person, by telephone, or in writing." Finally, we are of the opinion that allowing the respondents to design their own disclosure statement would be to invite renewal of the practices which led to entry of the order in the first place. Therefore we conclude that the IMPORTANT NOTICE should be retained.

In view of the changes in the law and in Regulation Z, the remaining issue is whether the proceeding should be reopened for the limited purpose of updating the IMPORTANT NOTICE. Since the Truth in Lending Act no longer requires that a credit card issuer provide a pre-stamped envelope to its subscribers for use in reporting the loss of the credit card, we hold that it is in the public interest to reopen the proceeding and make the necessary changes in the IMPORTANT NOTICE to reflect the current law. Therefore:

It is ordered that the proceeding in Docket 8861 be, and is hereby reopened; and

It is further ordered that the IMPORTANT NOTICE of paragraph 5 of the order be rescinded and hereby replaced by the following:

"Important Notice

Federal law provides that a cardholder has no liability for unauthorized use of his or her credit card unless all of the following four conditions are met. If the card issuer (1) has notified you of your limited liability, (2) has provided you with adequate means to notify it of the credit card loss, (3) has provided a means of identifying the authorized user, and if (4) the unauthorized use occurred before the card issuer is notified, then your liability is limited to $50 per card."

It is further ordered that the foregoing modification shall be effective upon service of this order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-4018 Filed 2-16-82; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3079]

Worthington Ford of Alaska, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires four motor vehicle dealerships, located in various parts of the country, and their corporate officer, among other things, to make the text of written warranties readily available to prospective buyers, prior to sale; maintain up-to-date binders containing copies of written warranties in an easily accessible location; and conspicuously post signs advising consumers that all warranties are not the same and that written warranties are available for comparison upon request. The firms are barred from improperly disclaiming, modifying or limiting the duration of implied warranties; and required to notify previous purchasers of motor vehicles whose implied warranty rights were improperly waived that they may have additional warranty protection. Each dealership is required to appoint an individual who would be responsible for customer contacts resulting from the notice. Additionally, the order requires the dealerships to maintain specified records for a period of three years; instruct their employees as to the requirements of the Magnuson-Moss Warranty Act; and institute a program of continuing surveillance to ensure compliance with the terms of the order.

DATES: Complaint and order issued Dec. 30, 1981.[1]

FOR FURTHER INFORMATION CONTACT: Laurence O. Masson, Acting Director, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash., 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: On Wednesday, Oct. 7, 1981, there was published in the **Federal Register**, 46 FR 49590, a proposed consent agreement with analysis: In the Matter of Worthington Ford of Alaska, Inc., Worthington Chrysler-Plymouth, Inc., Worthington Ford, Inc., Cal Worthington Dodge, Inc., corporations, and Calvin Worthington, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–45 Maintain records; 13.533–50 Maintain means of communication; 13.533–55 Refunds, rebates and/or credits; 13.533–75 Warranties. Subpart—Failing To Comply With Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; 13.1048–35 Magnuson-Moss Warranty Act. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1647 Guarantees. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–55 Magnuson-Moss Warranty Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190 (15 U.S.C. 2310))

Carol M. Thomas,

Secretary.

[FR Doc. 82-4220 Filed 2-16-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM81-10]

Regulations Governing Applications for License for Minor Water Power Projects and Major Water Power Projects 5 Megawatts or Less; Correction

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: On November 6, 1981, the Federal Energy Regulatory Commission issued Order No. 185, "Regulations Governing Applications for License for Minor Water Power Projects and Major Water Power Projects 5 Megawatts or Less." (46 FR 55944, November 13, 1981). This document corrects a cross reference.

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357-8033.

SUPPLEMENTARY INFORMATION: In § 4.61(a)(1), as shown at 46 FR 55949, the reference to "paragraph (c)(2) of this section" is corrected to read "paragraph (d)(2) of this section."

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4069 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 35

[Docket No. RM79-84]

Revised Requirements for Filing Changes in Electric Rate Schedules and for the Preparation and Submission of Supporting Data; Correction

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: On June 27, 1980, the Federal Energy Regulatory Commission issued Order No. 91, Final Rule, implementing "Revised Requirements for Filing Changes in Electric Rate Schedules and for the Preparation and Submission of Supporting Data". (45 FR 46352, July 10, 1980).

This document corrects a typographical error.

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357-8033.

SUPPLEMENTARY INFORMATION: In § 35.13(h)(36)(iii), shown at 45 FR 46376,[1] the reference to "paragraph (d)(3)(iii) of this section" is corrected to read "paragraph (d)(5) of this section."

Kenneth F. Plumb,

Secretary

[FR Doc. 82-4078 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF EDUCATION

34 CFR Parts 624, 625, 626, and 627

Institutional Aid Programs; Correction

AGENCY: Department of Education.

ACTION: Final regulations; correction.

SUMMARY: This document corrects a citation of legal authority in the final regulations for the Institutional Aid Programs published in the Federal Register on Tuesday, January 5, 1982, 47 FR 540-557.

FOR FURTHER INFORMATION CONTACT: Dr. Claude Mayberry, Director, Institutional Aid Programs, Office of Postsecondary Education, U.S. Department of Education, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024, telephone: (202) 245-9691.

SUPPLEMENTARY INFORMATION: The following correction is made in the final regulations for the Institutional Aid Programs published in the Federal Register on Tuesday, January 5, 1982. On page 543, column three, the citation of legal authority "(20 U.S.C. 1066, 1069bm, and 1221e-3)" is corrected to read: (20 U.S.C. 1066, 1069b, and 1221e-3).

(Catalog of Federal Domestic Assistance Number 84.031, Institutional Aid Programs)

Dated: February 10, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4213 Filed 2-16-82; 8:45 am]

BILLING CODE 4000-01-M

POSTAL SERVICE

39 CFR Part 111

Second-Class Eligibility Information; Retention Period

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule changes postal regulations to provide that publishers' records necessary to confirm the eligibility of their publications to be mailed at second-class postage rates need not be kept beyond three years from the issue date of each issue of the publication. Previously, such records were required to be maintained indefinitely.

EFFECTIVE DATE: March 19, 1982.

FOR FURTHER INFORMATION CONTACT: Kevin J. Coleman, (202) 245-4353.

SUPPLEMENTARY INFORMATION: On September 9, 1981, the Postal Service published in the Federal Register (46 FR 44998) a notice and request for comments on a proposed change to § 447.2 of the Domestic Mail Manual, which would accomplish the change described in the Summary.

We received written comments from two organizations, and one oral comment from an organization requesting clarification of the proposal but voicing no objection to it. One of the written comments "endorsed" the proposal, saying it is a logical answer to a long existing paper problem that has plagued the commenter and other publishers for years.

The third commenter suggested that the Postal Service should consider making the retention period one year and requested clarification of the impact of the proposed rule on special programs such as the Alternate Postage Payment Plan and the existing agreements between the Postal Service and the Audit Bureau of Circulation.

A one year retention period could be so short that the annual verification could scarcely be made before the records would be destroyed. A three-year retention period provides not only ample time to complete each year's audit but also permits the auditors to compare the records for two previous years where that might seem desirable.

The Alternate Postage Payment Plan is the former name for Centralized Postage Payment Procedures, under which certain publications with multiple entry points and computerized records may pay postage at one entry point rather than a each point. The Audit Bureau of Circulation is the name of a particular independent audit bureau with which the Postal Service has an agreement to accept its audits as meeting the verification requirements. See § 447.5 of the Domestic Mail Manual for the regulations governing this verification procedure. Neither the Centralized Postage Payment

[1] Editorial Note: § 35.13(h)(36)(iii) appears on page 319 in the Code of Federal Regulations volume for 18 CFR Parts 1-149, revised as of April 1, 1981.

Procedures nor the agreements with the Audit Bureau would be changed by the record retention requirement we are adopting. The only effect this final rule would have on the above matters would be the general effect it would have on the record retention period.

Under proposed § 447.22 publishers would have to maintain records pertaining to each issue for three years "from the first mailing date of the publication". We are changing the quoted part to read "from the issue date of each issue of a publication". While every issue of a publication is required to have an issue date (DMM 462.1b), there is no requirement that every issue be mailed. Accordingly, it is more definite and will be easier to administer a retention period determined according to a required issue date rather than an optional mailing date.

After careful consideration of all the comments, the Postal Service hereby adopts, with the change noted above, plus a new paragraph heading, the following amendments to § 447.2 of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. See 39 CFR 111.1.

Part 447—Maintenance and Verification of Publisher Records

In § 447.2 add a new heading as .21 immediately before the present text and add new .22 to read as follows:

447.2 Information Requirements.

.21 Types of Records.

Records must be available from which the Postal Service can determine:

* * * * *

.22 Retention Requirement.

The publisher must maintain records pertaining to each issue of a publication for a period of three years from the issue date of each issue of the publication.

A transmittal letter making this change in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 3685(c))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-4217 Filed 2-16-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2043-5]

Approval and Promulgation of Implementation Plans; Connecticut Group II CTGs and Other Miscellaneous Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this Notice is to approve revisions to the State Implementation Plan (SIP) for the State of Connecticut which were submitted to EPA on December 15, 1980. This action is approving regulations to control volatile organic compounds for certain sources included in the Group II Control Technique Guidelines, the adoption of a lead standard and the revision of the ozone standard. EPA published a Notice of Proposed Rulemaking for these regulations on November 12, 1981 (46 FR 55716).

EFFECTIVE DATE: March 19, 1982.

ADDRESSES: Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 1903, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street., S.W., Washington, D.C.; Office of the Federal Register, 1100 L St., N.W., Room 8401, Washington, D.C.; and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., Hartford, CT.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, Air Branch, Room 1903, JFK Federal Bldg., Boston, MA 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On November 12, 1981 (46 FR 55716) EPA published a Notice of Proposed Rulemaking (NPR) for certain portions of Connecticut's December 15, 1980 submittal. Those revisions included several Group II Control Technique Guideline regulations for controlling volatile organic compounds, the adoption of a lead standard, and the revision of the state's ozone standard to make it consistent with the national standard. The revisions and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received.

Action

EPA is approving the following regulations as submitted on December 15, 1980:

1. 19-508-20(s), Surface Coating of Miscellaneous Metal Parts and Products
2. 19-508-20(t), Manufacture of Synthesized Pharmaceutical Products
3. 19-508-20(v), Graphic Arts—Rotogravure and Flexography
4. 19-508-20(w), Perchloroethylene Dry Cleaning Systems
5. 19-508-20(aa), Applicability
6. 19-508-20(bb), Compliance Methods
7. 19-508-20(dd), Seasonal Operation of Afterburners
8. 19-508-8, Compliance Schedules
9. 19-508-24(i)(l), Ambient Air Standards

Pursuant to the provisions of U.S.C. 605(b), I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities since it only approves state actions.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

Dated: February 9, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart H—Connecticut

Section 52.370, paragraph (c) is amended by adding subparagraph (20) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(20) Revisions to meet ozone attainment requirements of Part D (Group II CTG regulations), the adoption of a lead standard and the revision of the ozone standard, submitted on December 15, 1980, are approved as follows: Regulations 19–508–20 (s), (t), (v), (w), (aa), (bb), and (dd), Regulation 19–508–8 and Regulation 19–508–24(i)(l).

[FR Doc. 82-4119 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2043-7]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: The purpose of today's rulemaking is to announce final approval of a revision to the Michigan State Implementation Plan (SIP) for the Conoco Corporation in Berrien County. This revision approves Consent Order No. 17–1981 which establishes a compliance schedule for Conoco Company, Inc. to achieve the volatile organic compounds (VOC) limitations in R336.1609 by December 31, 1982.

DATE: This action will be effective April 19, 1982, unless notice is received on or before March 19, 1982 that someone wishes to submit critical or adverse comments.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written comments on these actions should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On October 22, 1981, the State of Michigan submitted as a SIP revision Consent Order No. 17–1981 between Conoco, Inc., and the Michigan Air Pollution Control Commission. Consent Order No. 17–1981 concerns the VOC emissions from the company's truck gasoline loading rack bulk terminal loading rack. The Consent Order contains a detailed compliance schedule with the following increments:

(1) Dates by which the company shall submit plans, specifications and applications for an installation permit;

(2) Dates for control device manufacturers' orders;

(3) Dates for notification of beginning on-site installation of control devices;

(4) Date for notification of equipment operation;

(5) Date for submission of detailed report of equipment testing; and

(6) Date by which proof of attainment of the required VOC emission limitations shall be submitted.

On May 6, 1980 (45 FR 29790), EPA conditionally approved R336.1603. The condition required the State to submit detailed compliance schedules for sources with compliance dates on or before December 31, 1982.

EPA has reviewed the compliance plan contained in Consent Order No. 17–1981 and finds it to be consistent with Michigan's Rules R336.1603 and R336.1609, and with 40 CFR 51.15 and 51.1(q). The final compliance date for Conoco, Inc. is December 31, 1982. This compliance plan is consistent with the attainment date of the ozone National Ambient Air Quality Standard. Therefore, EPA is approving Consent Order No. 17–1981 for Conoco, Inc.

EPA has determined that this action is a noncontroversial rulemaking, since the Consent Order simply affirms a State action establishing interim compliance dates to supplement a final compliance date already adopted by the State. This action will be effective April 19, 1982. However, if EPA is notified by March 19, 1982 that someone wishes to submit adverse or critical comments, this action will be withdrawn and a new rulemaking will propose this action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that approvals of SIPs under Section 110 or 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Today's action approves a State action for a site-specific source under Section 110 of the Act. It imposes no requirements beyond those which the State has already imposed.

This regulation was exempted from review by the Office of Management and Budget under Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by April 19, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceeding brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director of Federal Register on July 1, 1981.

(Sec. 110, Clean Air Act (42 U.S.C. Section 7410))

Dated: February 9, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(50) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(50) On October 22, 1981, the State of Michigan submitted as a SIP revision Consent Order No. 17–1981, between Conoco, Inc., and the Michigan Air Pollution Control Commission. The Consent Order establishes a compliance schedule for Conoco, Inc. to achieve the Volatile Organic Compounds (VOC) limitations in R336.1609 by December 31, 1982.

* * * * *

2. Section 52.1175 is amended in the table to paragraph (e) by adding a compliance schedule for Conoco, Inc. alphabetically by county to read as follows:

§ 52.1175 Compliance schedules.

* * * * *

(e) * * *

MICHIGAN

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
•	•	•	•	•
Coroco, Inc.	Berrien County	Berrien County R336.1503, R336.1509	Sept. 28, 1981	Dec. 31, 1982.

* * * * *

[FR Doc. 82-4116 Filed 2-16-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-7-FRL-2046-7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of submittal to satisfy conditions of plan approval.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1980 to include additional control of volatile organic compounds (VOC) in the St. Louis ozone nonattainment area. On April 3, 1981, EPA conditionally approved one of Missouri's regulations. On December 21, 1981, the state submitted a draft revision to the regulations for the purpose of fulfilling this condition.

The purpose of this notice is to advise the public that the state has drafted a revision to the regulation to satisfy the condition. EPA is reviewing the material submitted and intends to issue a notice of final rulemaking if the state submits a final regulation which is substantially the same as the draft revisions. Until final action is published in the Federal Register, the conditional approval of the SIP is being continued.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Room 2922, Washington, D.C. 20460
Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374-3791 (FTS) 758-3791.

SUPPLEMENTARY INFORMATION: On April 3, 1981, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Section 172(b) (2) and (3) of the Clean Air Act, as amended (46 FR 20172). Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable as part of a control strategy to attain a National Ambient Air Quality Standard (NAAQS). Section 172(b)(3) requires reasonable further progress toward attainment of the NAAQS (in this case, the ozone standard) including such reduction in emissions from existing sources in nonattainment areas as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT). Missouri Rule 10 CSR 10-5.340, Control of Emissions from Rotogravure and Flexographic Printing Facilities, applicable in the St. Louis area, contained minor deficiencies resulting in EPA's conditional approval on April 3, 1981. The condition required the state to amend the regulation to require compliance by 1982 for those sources relying on add-on control equipment and to specify an extended compliance schedule involving the use of low solvent inks. The state agreed to correct these deficiencies and the changes were to be submitted by January 1, 1982.

On December 1, 1981, the state published in the *Missouri Register* a proposed change to Rule 10 CSR 10-5.340 for the purpose of fulfilling this condition. This proposed revision was received by EPA on December 21, 1981. The Missouri Air Conservation Commission held a public hearing in record to this matter on January 20, 1982.

The public is advised that the state has submitted a draft revision to the regulation. EPA is reviewing the material to determine if it complies with the requirements of the Clean Air Act and the condition promulgated by EPA. EPA intends to issue a notice of final rulemaking if the state submits final revisions to the regulation which are substantially the same as the draft changes. EPA's conditional approval of the Missouri SIP is being continued until final action is published in the Federal Register.

Dated: January 29, 1982.
John J. Franke, Jr.,
Regional Administrator.
[FR Doc. 82-4118 Filed 2-16-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-1-FRL-2042-4]

Approval and Promulgation of Implementation Plans: Maine Revisions—Augusta TSP Attainment Plan and Visible Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

STATE: Maine.

SUMMARY: The purpose of this Notice is to approve three State Implementation Plan (SIP) revisions which will 1) fulfill a condition of approval of Maine's Total Suspended Particulate (TSP) attainment plan, 2) change the date by which Augusta must attain the secondary TSP standard, and 3) change Maine's visible emissions regulation. The first SIP revision completes the requirements of Part D of the Clean Air Act for a fully approvable plan to attain and maintain the secondary TSP National Ambient Air Quality Standard.

EFFECTIVE DATE: These approval actions will be effective on April 19, 1982 unless notice is received on or before March 19, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 1903, JFK Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460; the Office of the Federal Register, 1100 L St., NW., Room 8401, Washington, D.C.; and the Bureau of Air Quality Control, Ray Bldg., Hospital Street, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Linda Murphy, Air Branch, Room 1903, JFK Federal Bldg., Boston, MA 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: A Final Rulemaking Notice conditionally approving Maine's Part D State Implementation Plan (SIP) was published on February 19, 1980 (45 FR 10700). Among the conditions for final approval was the submission of additional information concerning the control of total suspended particulate (TSP) emissions in Augusta. On October

16, 1980 EPA published a Notice of Receipt in the **Federal Register** announcing the submittal, on July 31, 1980, of revisions to Maine's TSP attainment and maintenance plan.

The Maine submittal included the purchase of a street sweeper to limit re-entrained road dust. A final rulemaking approving that attainment strategy was published on January 5, 1981 (46 FR 898). The July submittal also included a discussion of Maine's reasonably available control technology (RACT) determination for stationary sources in Augusta, and supplementary information was submitted on March 17, 1981 concerning the RACT assessment. The March submittal included a copy of a revised air emissions license which requires improved combustion controls, thereby reducing emissions at the only stationary source in Augusta which had been determined to have a significant TSP impact.

The combination of these efforts is expected to result in the attainment of the secondary TSP standard in Augusta no later than December 31, 1982. Therefore, on December 18, 1980, the Maine DEP requested an extension for attainment of the secondary TSP NAAQS from December 31, 1980 to December 31, 1982.

EPA is approving these Maine revisions. These actions remove the remaining condition of the state's Part D SIP approval, and the Maine plan is fully approved. Since these SIP revisions affect only one source and will reduce TSP emissions, this part of the rulemaking is considered noncontroversial.

On August 7, 1980, the state submitted a SIP revision to Chapter 101, "Visible Emissions Regulation". This new provision specifies opacity limitations for fuel-burning equipment, solid waste fuel burning equipment, general process sources, and air contaminant sources. Certain exemptions are applicable to cold start-up, unavoidable shutdowns and malfunctions.

There are no EPA-specified opacity limits for existing sources (except those regulated under New Source Performance Standards). Although recent studies have developed mechanisms to relate opacity measures and particulate emissions at individual sources to date, no assessment of the overall air quality impact of this statewide revision or its exemptions is possible. However, the revision places the burden of proof with the facility to demonstrate that either emissions were held to a minimum during any exemption or that a malfunction was not reasonably preventable. Since opacity measures are used as an indicator of good operation and proper maintenance, EPA concurs with the state that the revision, which does not directly affect emissions, will not interfere with the attainment and maintenance of national ambient air quality standards. Consequently, EPA is approving this revision. Since this revision has already been adopted at the state level and will not interfere with air quality standards, this action is not considered controversial.

Based on past experience with similar SIP revisions in Region I, no adverse or critical comments are expected. Therefore, these SIP revisions are being published as final rulemakings without going through proposed rulemakings. EPA believes that publishing proposed rulemakings is unnecessary.

However, if notice is received on or before March 19, 1982, that someone wishes to submit adverse or critical comments on any of the actions, the questioned approval action or actions will be withdrawn by a notice which will be published in the **Federal Register** before the effective date. A separate notice will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that these actions will be effective April 19, 1982.

Pursuant to the provisions of U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rules constitute SIP approvals under Sections 110 and 172 within the terms of the January 27 certification. The actions only approve state actions and impose no new requirements.

Under Executive Order 12291 EPA must judge whether regulations are "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. These regulations are not Major because they only approve state actions. For the same reason, they are exempt from review by the Office of Management and Budget.

After evaluation of the state's submittal, the Administrator has determined that the Maine revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to the Maine State Implementation Plan.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions are available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's Notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Secs. 110(a), 172, and 301(a), Clean Air Act, is amended (42 U.S.C. 7410(a), 7502, and 7601(a))

Note.—Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1981.

Dated: February 9, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subchapter U—Maine

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 52.1020 [Amended]

1. Section 52.1020(c)(11) is amended by striking the phrase "on May 1, 1979, October 26, 1979, December 20, 1979, July 9, 1979 and July 31, 1980" and substituting in place thereof the phrase "on May 1, 1979; October 26, 1979; December 20, 1979; July 9, 1980; July 31, 1980; December 18, 1980; March 17, 1981.

Section 52.1020 is also amended by the addition of paragraph (c)(17) as follows:

* * * * *

(c) * * *

(17) Regulatory revisions to the plan containing changes to Chapter 101 "Visible Emissions Regulation" submitted August 7, 1980.

§ 52.1025 [Amended]

2. Paragraph (e) of § 52.1025, *Control Strategy: Particulate Matter,* is hereby removed in its entirety.

§ 52.1024 [Amended]

3. In § 52.1024, *Attainment Dates for National Standards,* the table entry "f" on the line "Augusta" in the column "TSP-secondary" is revised to read "c".

[FR Doc. 82-4216 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[AH-6-FRL-2017-6]

Montana; Phase I Interim Authorization for State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Final rule.

SUMMARY: The purpose of this Notice is to grant complete Phase I Interim Authorization to the State of Montana for its Hazardous Waste Management Program.

The State of Montana was granted Interim Authorization on February 26, 1981, for all of Phase I except the manifest system and the generator and transporter requirements. Effective October 1, 1981, Montana Senate Bill 212 provides the State with adequate enforcement capabilities to allow EPA to grant them full Phase I Interim Authorization. A revised Memorandum of Agreement has been prepared which provides for State implementation of all Phase I responsibilities. An additional Attorney's Statement, certifying that adequate penalties for generators are now provided by Montana statutes and regulations, has been prepared and submitted to EPA.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Jim Harris, U.S. EPA Region VIII Montana Office, 301 S. Park, Drawer 10096, Helena, Montana 59626 (406) 449-5414.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, Federal Register (45 FR 33066), EPA promulgated regulations pursuant to Subtitle C of RCRA, to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective on November 19, 1980, were provisions for a transitional stage during which States could be granted Interim Authorization provided that State programs were determined to be substantially equivalent to the Federal program. The Interim Authorization process will be implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

The State of Montana was granted Interim Authorization in the February 26, 1981 Federal Register (46 FR 14123) for all of Phase I except the manifest system and the generator and transporter requirements. The Federal Register notice stated that "when adequate penalties for generators are provided, the State of Montana will receive full Phase I Interim Authorization."

Montana State Senate Bill 212 became effective on October 1, 1981. SB212 contains provisions for civil penalties of up to $10,000 per day and criminal penalties of up to $20,000 per day of violations.

Persons who knowingly transport a hazardous waste to an unlicensed facility or who treat, store or dispose of wastes without a permit or who make misrepresentations on documents may be subject to a fine not to exceed $10,000 or imprisonment of up to six months or both.

Persons previously convicted of violating hazardous waste laws may be fined $20,000 per violation and may be imprisoned up to one year or both.

The penalty provisions provided for by SB212 are adequate to comply with the requirements of 40 CFR 123.128(f) for generators; the only previously lacking authority as noted in 45 FR 14123.

The February 26, 1981 Federal Register (45 FR 14123) also states that "Montana will not be required to resubmit its complete Phase I application, but must notify EPA when the authority becomes effective. A new Memorandum of Agreement will be executed and EPA will issue a Federal Register notice granting complete Phase I Authorization when the State authority becomes effective."

The State of Montana submitted to EPA Region VIII on September 17, 1981, notice of the October 1, 1981 effective date of SB212 and a signed copy of the revised Memorandum of Agreement was changed to allow the State to implement the manifest system and the generator and transporter requirements of Phase I.

EPA has reviewed the additional submittals for full Phase I Interim Authorization for the State of Montana. The Agency has determined that the generator, transporter and manifest portions which were heretofore subject to Federal regulations, are now substantially equivalent to the Phase I Federal program as defined in 40 CFR Part 123, Subpart F. In accordance with Section 3006(c) of RCRA, the State of Montana is hereby granted Interim Authorization to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this decision is that generators, transporters, and owners and operators of hazardous waste management facilities in Montana will be subject to the State of Montana generator, transporter, and manifest regulations in lieu of the analogous Federal regulations (40 CFR Parts 262-263 and others) and will not again be subject to Phase I of the Federal program unless:

(1) The State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations, or

(2) authorization is withdrawn for cause by EPA.

Compliance with Executive Order 12291

Executive Order (EO) 12291 (46 FR 13193, February 19, 1981) requires that EPA prepare a Regulatory Impact Analysis for each major rule. The Order defines a "major rule" as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions;

(3) Significant adverse impact on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA's decision to approve the generator, transporter, and manifest piece of the Phase I hazardous waste program in Montana is not a major regulation because its effect is to suspend the applicability of certain Federal regulations in the State of Montana. In the absence of this decision, persons handling hazardous waste in Montana would have to comply with Parts 262-263 of Title 40 of the Code of Federal Regulations in addition to all Montana hazardous waste management regulations. For this reason it is virtually inconceivable that this regulation would result in the significant impacts that characterize a "major regulation".

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Room 2711, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and are available for viewing from 9:00 a.m. to 4:00 p.m. Monday to Friday, excluding holidays.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

For the foregoing reasons, I have determined that Montana qualifies for full Phase I Interim Authorization.

Steven J. Durham,

Regional Administrator, Region VIII.

Subject: Montana Application for Complete Interim Authorization, Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 9, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-4111 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PH-FRL-2051-8; PP of 2322/R395]

Thiobencarb; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide thiobencarb and its chlorobenzyl and chlorophenyl moiety-containing metabolites in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for the combined residues of the herbicide was requested by Chevron Chemical Co., Ortho Div.

EFFECTIVE DATE: February 17, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of March 27, 1980 (45 FR 20156) that Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804, had submitted pesticide petition 0F2322 to the EPA. The petition proposed that 40 CFR Part 180 be amended by establishing tolerances for the combined residues of the herbicide thiobencarb [*S*-[(4-chlorophenyl) methyl]diethylcarbamothiate)] and its chlorobenzyl and chlorophenyl moiety-containing metabolites (4-chlorobenzyl methyl sulfone, 4-chlorobenzoic acid, and conjugates containing the 4-chlorobenzylthio moiety) in or on the raw agricultural commodities rice grain; eggs; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 part per million (ppm); rice straw at 1 ppm; and milk at 0.05 ppm. The proposed tolerances were clarified by expressing in terms of the combined residues of thiobencarb and its chlorobenzyl and chlorophenyl moiety-containing metabolites without specific reference to particular metabolites. No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered included: A rat oral lethal dose (LD_{50}) with an LD_{50} of 920 milligrams (mg) per kilogram (kg) of body weight (bw); a dominant lethal test (mouse) (negative); an Ames test (negative); a paired feeding study in rats; animal metabolism studies; an interim report of a rat teratology study with a no-observed-effect level (NOEL) of 25 mg/kg/day for fetotoxic effects; a mouse oncogenicity study negative for neoplastic effects at 1,600 ppm (highest dose tested) (classified as supplementary data); a 52-week interim report of an ongoing 2-year rat chronic feeding/oncogenicity study with a tentative NOEL of 20 ppm for systemic effects; and a delayed neurotoxicity study (chicken) with a NOEL of 1,600 mg/kg (highest level tested).

In addition to the above, extensive numbers of Industrial Biotest Laboratory (IBT) studies for thiobencarb including 90-day and 2-year rat and dog feeding studies, rat and rabbit teratology studies were submitted to the Agency. These studies are considered invalid for various reasons. The IBT portion of the data base is not, by itself, acceptable to support these tolerances. A thorough examination of raw data for each of these studies, however, did not reveal any apparent significant reported or unreported adverse chronic effects. There are no suggestions of significant adverse chronic effects from any of the data for thiobencarb reviewed to date. Additional data to be submitted by the petitioner include a final report including fetal skeletal examination of the rat teratology study discussed above; an additional teratology study in a second species; a replacement multi-generation rat reproduction study; a final report for the ongoing 2-year rat chronic feeding/oncogenicity study; a replacement nonrodent (dog) feeding study of at least 1 year duration; tissue inventory for the mouse oncogenicity study and additional data relevant to the paired feeding study in rats. There are no regulatory actions pending against the registration of this chemical. The metabolism of thiobencarb in plants and animals is adequately understood and an analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established in 40 CFR Part 180 as set forth below.

Any person adversely affected by this regulation may, on or before March 19, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on February 17, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: February 4, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by adding a new § 180.401 to read as follows:

§ 180.401 Thiobencarb; tolerances for residues.

Tolerances are established for the combined residues of the herbicide thiobencarb (*S*-[(4-chlorophenyl) methyl]diethylcarbamothioate) and its chlorobenzyl and chlorophenyl moiety-containing metabolites in or on the following raw agricultural commodities:

Commodities	Part per million
Cattle, fat	0.2
Cattle, mbyp	0.2
Cattle, meat	0.2
Eggs	0.2
Goats, fat	0.2
Goats, mbyp	0.2
Goats, meat	0.2
Hogs, fat	0.2
Hogs, mbyp	0.2
Hogs, meat	0.2
Horses, fat	0.2
Horses, mbyp	0.2
Horses, meat	0.2
Milk	0.05
Poultry, fat	0.2
Poultry, mbyp	0.2
Poultry, meat	0.2
Rice, grain	0.2
Rice, straw	1.0
Sheep, fat	0.2
Sheep, mbyp	0.2
Sheep, meat	0.2

[FR Doc. 82-4115 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 256

[SW-9-FRL-2020-6]

Approval of the Arizona Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 9.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Arizona has received Federal financial assistance for development of a State Solid Waste Management Plan. On August 25, 1981, the State of Arizona submitted to the U.S. Environmental Protection Agency (EPA) its adopted Solid Waste Management Plan. Today EPA is announcing its approval of the Arizona Solid Waste Management Plan. Approval of the Arizona plan indicates that the plan meets the requirements set forth in RCRA which provides for the identification of responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that EPA is approving the Arizona Solid Waste Management Plan. This approval should be of special interest because of two provisions of RCRA. First, RCRA requires that effective with the date of approval, plans prohibit the establishment of open dumps in the State. Second, only states with approved plans can establish compliance schedules, for purposes of RCRA, for entities engaged in open dumping. These compliance schedules lead to the upgrading of open dumps by September 13, 1984. Open dumping is prohibited by RCRA except where the practice is on a compliance schedule established under an EPA approved State plan.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Karen Schwinn, Hazardous Materials Branch, U.S. EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8178

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. Briefly, these requirements are:

1. The plan shall identify the responsibilities of State, local and regional authorities in the implementation of the State plan; the distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and the means for coordinating regional planning and implementation under the State plan;

2. The plan shall prohibit the establishment of new open dumps within the State and contain requirements that all solid waste shall be utilized for resource recovery or disposed of in sanitary landfills, as defined by Section 4004(a) of RCRA, or otherwise disposed of in an environmentally sound manner. The State prohibition must be effective as of the date on which EPA approves the plan;

3. The plan shall provide for the closing or upgrading of all existing open dumps within the State;

4. The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities; and

5. The plan must contain specific provisions for revision.

The guidelines also addressed Section 4005 of RCRA which requires a mechanism in the State plan for the establishment of compliance schedules for entities engaged in the prohibited act of open dumping. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Public Comments

On November 4, 1981, (46 FR 54772) a notice was published in the **Federal Register** inviting the public to submit written comments on the Arizona Solid Waste Management Plan by December 4, 1981. One comment was received during this period. The comment did not specifically pertain to the Arizona plan but was a general statement opposing any restriction on the use of single service products. The commentor asked that the statements of three public health associations be considered by EPA and the States in formulating any resource conservation policy. In response, with regard to resource conservation, the guidelines state that to comply with Sections 4003(2) and (6) of RCRA, "the State plan shall provide for a policy and strategy for encouragement of resource recovery and conservation activities." However, it is the prerogative of each State to decide precisely what that State's policy will be. Presently, nothing in the Arizona plan restricts the use of single service products as an option in food service.

Finding

Section 4007 of RCRA contains the statutory policy for approval of State plans. The authority to approve State

plans under Section 4007 of RCRA has been delegated to the Regional Administrator. EPA has reviewed the solid waste management plan submitted by the State of Arizona and has found that the Arizona plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA, EPA hereby approves the Arizona Solid Waste Management Plan. The plan prohibits the establishment of open dumps. The plan also provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date, entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. The RCRA prohibition of open dumping does not extend to open dumping under such compliance schedules.

Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Arizona Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with the earlier requirements issued by EPA ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices", 40 CFR Part 257). Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

(90 Stat. 2817, 42 USC 6947)

Dated: December 22, 1981.

Sonia F. Crow,

Regional Administrator.

Subject: Approval of the Arizona Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of the Arizona solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4100 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-9-FRL-2021-1]

Approval of the California Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 9.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of California has received Federal financial assistance for development of a State Solid Waste Management Plan. On November 6, 1981, the State of California submitted to the U.S. Environmental Protection Agency (EPA) its adopted Solid Waste Management Plan. Today, EPA is announcing its approval of the California Solid Waste Management Plan. Approval of the California plan indicates that the plan meets the requirements set forth in RCRA, which provides for the identification of responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that EPA is approving the California Solid Waste Management Plan. This approval should be of special interest because of two provisions of RCRA. First, RCRA requires that effective with the date of approval, plans prohibit the establishment of open dumps in the State. Second, only States with approved plans can establish compliance schedules, for purposes of RCRA, for entities engaged in open dumping. These compliance schedules lead to the upgrading of facilities classified as open dumps by September 13, 1984. Open dumping is prohibited by RCRA except where the practice is on a compliance schedule established under an EPA approved State plan.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Karen Schwinn, Hazardous Materials Branch, U.S. EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8178.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45006) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs [1], [2], [3], and [5] of Section 4003 of RCRA and which contain provisions for revisions. Briefly, these requirements are:

1. The plan shall identify the responsibilities of State, local and regional authorities in the implementation of the State plan; the distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and the means for coordinating regional planning and implementation under the State plan;

2. The plan shall prohibit the establishment of new open dumps within the State and contain requirements that all solid waste shall be utilized for resource recovery or disposed of in sanitary landfills, as defined by Section 4004(a) of RCRA, or otherwise disposed of in an environmentally sound manner. The State prohibition must be effective as of the date on which EPA approves the plan;

3. The plan shall provide for the closing or upgrading of all existing open dumps within the State;

4. The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities; and

5. The plan must contain specific provisions for revision.

The guidelines also addressed Section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Public Comments

On November 4, 1981, (46 FR 54772) a notice was published in the **Federal Register** inviting the public to submit written comments on the California Solid Waste Management Plan by December 4, 1981. One comment was received during this period. The comment did not specifically pertain to the California plan but was a general statement opposing any restriction on the use of single service products. The commentor asked that the statements of three public health associations be considered by EPA and the States in formulating any resource conservation policy. In response, with regard to resource conservation, the guidelines state that to comply with Sections 4003 (2) and (6) of RCRA, "the State plan shall provide for a policy and strategy for encouragement of resource recovery and conservation activities." However, it is the prerogative of each State to decide precisely what that State's policy will be. Presently, nothing in the California plan restricts the use of single service products as an option in food service.

Finding

Section 4007 of RCRA contains the statutory policy for approval of State plans. The authority to approve State plans under Section 4007 of RCRA has been delegated to the Regional Administrator. EPA has reviewed the Solid Waste Management Plan submitted by the State of California and has found that the California plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA, EPA hereby approves the California Solid Waste Management Plan. The plan prohibits the establishment of open dumps. The plan also provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date, entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. The RCRA prohibition of open dumping does not extend to open dumping under such compliance schedules.

Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the California Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with the earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices", 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

(90 Stat. 2817, 42 USC 6947)

Dated: December 22, 1981.

Sonia F. Crow,

Regional Administrator.

Subject: Approval of the California Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of the California Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4106 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 405, 406, 407, 422, 424, 426, 429, and 432

[WH-FRL 1985-2]

Best Conventional Pollutant Control Technology; Withdrawal of Provisions

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rules.

SUMMARY: On August 29, 1979, the Environmental Protection Agency (EPA) promulgated regulations establishing "best conventional pollutant control technology" (BCT) effluent limitations for 41 industrial subcategories. These regulations have been recently remanded to EPA to change the scope of the BCT methodology and to correct errors in some of the underlying calculations. Accordingly, EPA is withdrawing those regulations for which BCT limitations require higher levels of conventional pollutant control than "best practicable control technology currently available" (BPT) limitations. In addition, EPA is withdrawing the BCT limitations for the Timber category, for which the effective date was previously suspended.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Renee Rico, Office of Analyis and Evaluation, 401 M St., S.W., (WH-586), Washington, D.C. 20460; (202) 426-2617.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 1979, EPA promulgated "best conventional pollutant control technology" (BCT) effluent limitations guidelines for 41 industrial subcategories. 44 FR 50732.

EPA also published at that time its methodology for developing BCT effluent limitations. Under this methodology, a BCT limitation is considered to have satisfied the "cost reasonableness" assessment required by section 304(b)(4)(B) of the Clean Water Act (CWA) if the incremental costs to publicly owned treatment works ("POTWs") to remove conventional pollutants (BOD_5, TSS, fecal coliform, pH, and oil and grease) are greater than the incremental costs incurred by industrial dischargers to remove such pollutants. If no BCT limitation for an industrial category or subcategory satisfies the cost reasonableness test, control of conventional pollutants is effected by the applicable BPT regulations.

The POTW cost comparison figure was based on the incremental costs and increased levels of removal achieved

when a POTW was upgraded from "secondary treatment" to "advanced secondary treatment." EPA determined that this cost for removal was $1.15 per pound in 1976 dollars (the "BCT benchmark" or "POTW cost comparison figure").

Basis for Withdrawal

On July 28, 1981, the U.S. Court of Appeals for the Fourth Circuit remanded these regulations to the Agency. *American Paper Institute v. EPA*, No. 79–1511. The Court held that the CWA requires EPA to consider two "reasonableness" tests as part of the BCT methodology: An industry cost-effectiveness test and a publicly owned treatment works (POTW) cost comparision test. While the Court found that the POTW comparison test EPA used was authorized by the CWA, it remanded the regulations to EPA because of the Agency's failure to develop a separate industry cost-effectiveness test. Moreover, in response to EPA's recent discovery that the $1.15 POTW cost comparison figure was calculated incorrectly (because of errors in certain critical graphs used in its computation), the Court also remanded the regulations in order for EPA to correct the data errors.

As a result of the Court's remand in these two areas, it is not now possible to determine whether the effluent limitations guidelines promulgated in 1979 satisfy the statutory criteria. Therefore, EPA is withdrawing many of the 1979 guidelines until a proper BCT assessment can be performed. For the same reason, EPA is withdrawing the BCT limitations for the Timber category that were promulgated in January 1981. (The effective date of this regulation had already been suspended on April 7, 1981, 46 FR 19936.) However, since BPT represents the minimal level of control required by law for conventional pollutant limitations, those current BCT limitations which equal BPT will be unaffected by the changes that EPA will be making. Therefore, they will remain in effect since withdrawing them would create needless uncertainty for those industrial dischargers affected. In those industrial categories and subcategories where BCT limitations require a higher level of control than BPT, BCT rules are being withdrawn.

In keeping with this withdrawal, EPA's Office of Enforcement has already issued a memorandum requesting that EPA Regional authorities responsible for issuance of National Pollutant Discharge Elimination System ("NPDES") permits supend the issuance of permits containing conventional limitations based on BCT until the BCT issues are resolved. Where these limitations are based on water quality standards, these limitations will not be affected. In those cases where dischargers have already received an NPDES permit based on the withdrawn limitations, they may apply for a permit modification on the grounds that relevant portions of the regulations were remanded by the Court and withdrawn by EPA. While 40 CFR 122.15(a)(3)(ii) requires that such requests must be filed within 90 days of the Court's decision (July 28, 1981) whether or not EPA publishes a Federal Register notice withdrawing or suspending the regulations, permittees may request a modification for 90 days from publication of this withdrawal notice pursuant to 40 CFR 122.15(a)(3)(i).

Over the next months, EPA will be developing the cost-effectiveness test required by the Court, assessing the desirability of revising the underlying methodology for calculating the POTW cost comparison figure, correcting its calculations and examining new data which have been developed since 1979. These activities will also serve as the reassessment of BCT required by the March 25, 1981 directive of the Presidential Task Force on Regulatory Relief. Finally, EPA will be reviewing closely the technological basis for the 1979 guidelines to determine whether those BCT limitations are still sound. At the end of the review process, EPA will publish a Federal Register notice setting forth the Agency's plans for revising the withdrawn regulations.

Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis.

EPA's withdrawal of the BCT guidelines does not constitute a "major" regulation since it will not have a major financial or adverse impact on any entity. Therefore, EPA concludes a Regulatory Impact Analysis is not required.

This withdrawal was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Effective Date

The withdrawal of specific parts of 40 CFR Parts 400–460 as described below is effective immediately. Ordinarily, EPA would propose these withdrawals for public comment and allow 30 days before making a final rule effective. However, EPA believes that good cause exists to promulgate this withdrawal without public comments. As the rule is clearly defective, public comment is unnecessary. Further, EPA believes the resulting delay in taking corrective action would be contrary to the public interest. Finally, because the public is currently relying on defective regulations, EPA believes there is good cause to make the withdrawal effective immediately.

(Secs. 301 and 304, Clean Water Act, (Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by Clean Water Act of 1977, Pub. L. 95–2177))

Dated: February 9, 1982.

John W. Hernandez,

Acting Administrator.

For the reasons set out in the preamble, Parts 405, 406, 407, 422, 426, 428, and 432, Subchapter N of Title 40, Code of Federal Regulations, are amended as set forth below.

PART 405—EFFLUENT LIMITATIONS GUIDELINES FOR STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

§§ 405.17, 405.27, 405.37, 405.47, 405.57, 405.67, 405.77, 405.87, 405.97, 405.107, 405.127 [Removed and reserved]

1. 40 CFR, Subchapter N, Part 405 for the Dairy Products Processing Industry Point Source Category is amended by removing §§ 405.17 405.27, 405.37, 405.47, 405.57, 405.67, 405.77, 405.87, 405.97, 405.107, and 405.127, and reserving the section numbers for future use.

PART 406—GRAIN MILLS POINT SOURCE CATEGORY

§§ 406.27, 406.57, 406.87, 406.107 [Removed and reserved]

2. 40 CFR Subchapter N, Part 406 for the Grain Mills Point Source Category is amended by removing §§ 406.27, 406.57, 406.97, and 406.107, and reserving the section numbers for future use.

PART 407—CANNED AND PRESERVED FRUITS AND VEGETABLES PROCESSING POINT SOURCE CATEGORY

§§ 407.17, 407.27, 407.37, 407.57, [Removed and reserved]

3. 40 CFR Subchapter N Part 407 for the Canned and Preserved Fruits and

Vegetables Processing Point Source Category is amended by removing §§ 407.17(a), 407.27(a), 407.37, and 407.57, and reserving the section numbers for future use.

PART 422—PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

§ 422.67 [Removed and reserved]

4. 40 CFR Subchapter N Part 422 for the Phosphate Manufacturing Point Source Category is amended by removing § 422.67, and reserving the section numbers for future use.

PART 424—FERROALLOY MANUFACTURING POINT SOURCE CATEGORY

§§ 424.17, 424.27, 424.37 [Removed and reserved]

5. 40 CFR Subchapter N Part 424 for the Ferroalloy Manufacturing Point Source Category is amended by removing §§ 424.17, 424.27, and 424.37, and reserving the section numbers for future use.

PART 426—GLASS MANUFACTURING POINT SOURCE CATEGORY

§§ 426.17 and 426.47 [Removed and reserved]

6. 40 CFR Subchapter N Part 426 for the Glass Manufacturing Point Source Category is amended by removing §§ 426.17 and 426.47, and reserving the section numbers for future use.

PART 429—TIMBER PRODUCTS PROCESSING POINT SOURCE CATEGORY

§§ 429.62 and 429.152 [Removed and reserved]

7. 40 CFR Subchapter N Part 429 for the Timber Products Processing Point Source Category is amended by removing §§ 429.62 and 429.152 and reserving the section numbers for future use.

PART 432—MEAT PRODUCTS POINT SOURCE CATEGORY

§§ 432.57 and 432.107 [Removed and reserved]

8. 40 CFR Subchapter N Part 432 for the Meat Products Point Source Category is amended by removing §§ 432.57 and 432.107, and reserving the section numbers for future use.

[FR Doc. 82-4107 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-1 and 3-7

Small Business and Disadvantaged Business Concerns; Procurement

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is amending the Department's procurement regulations by adding a revised subpart on small and disadvantaged business concerns. This subpart implements and supplements the corresponding subpart in the Federal Procurement Regulations (41 CFR Chapter 1, Subpart 1-1.7).

EFFECTIVE DATE: This amendment is effective February 17, 1982.

FOR FURTHER INFORMATION CONTACT: E. S. Lanham, Division of Procurement Policy, OPAP-OPAL-OASMB-OS, Room 539-H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201 (202-245-8791).

SUPPLEMENTARY INFORMATION: As a result of the enactment of Public Law 95-507, which amended the Small Business Act and the Small Business Investment Act of 1958, the Office of Federal Procurement Policy (OFPP) issued policy letters prescribing the use of clauses and procedures designed to maximize subcontracting opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. The policy letters were subsequently implemented in the Federal Procurement Regulations (FPR) by FPR Temporary Regulation 50 and Supplements 1 and 2, followed by the Department's issuance of interim guidance based on the OFPP and FPR documents.

The purpose of this amendment is to codify that interim guidance and to update and elaborate upon the existing procedures in Subpart 3-1.7, Small Business Concerns. As a result of this amendment, the existing Subpart 3-1.7, Small Business Concerns, is being cancelled and the new Subpart 3-1.7, Small and Disadvantaged Business Concerns, is replacing it.

Subpart 3-1.7, Small and Disadvantaged Business Concerns, describes the role and responsibilities of the Office of Small and Disadvantaged Business Utilization and the small and disadvantaged business utilization specialist, the Small Business Administration and its Procurement Center Representative, and the contracting officer and the departmental procuring activity. It provides small business contracting procedures, disadvantaged business contracting procedures, and small and disadvantaged business subcontracting procedures. The subpart also contains guidance based on recent Small Business Administration directives.

It is the policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the amendment is administrative in nature, the public rulemaking process was deemed unnecessary in this instance. The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

The Department has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Therefore, Title 41 CFR Chapter 3 is amended as set forth below.

Dated: February 2, 1982.

Matthias Lasker,

Acting Deputy Assistant Secretary for Procurement, Assistance, and Logistics.

PART 3-1—GENERAL

1. Under Part 3-1, *General*, Subpart 3-1.7, is revised to read as set forth below. In addition, the table of contents for Part 3-1 is amended by revising the entries for Subpart 3-1.7 to read as follows:

Subpart 3-1.7—Small and Disadvantaged Business Concerns

Sec.
3-1.704 Agency program direction and operation.
3-1.704-1 Office of Small and Disadvantaged Business Utilization.
3-1.704-2 Small and disadvantaged business utilization specialist.
3-1.705 Cooperation with the Small Business Administration.
3-1.705-1 General.
3-1.706 Procurement set-asides for small business.
3-1.706-1 General.
3-1.706-2 Review of set-aside proposals.
3-1.706-3 Withdrawal or modification of set-asides.
3-1.706-50 Small business class set-aside for construction, repair, and alteration work.
3-1.706-51 Contract payments.
3-1.710 Subcontracting with small business and small disadvantaged business concerns.
3-1.710-1 General.
3-1.710-2 Small and small disadvantaged business subcontracting program.
3-1.710-3 Required clause and solicitation provisions.

Sec.
3–1.710–4 Responsibilities of the contracting officer.
3–1.710–5 Responsibilities of the SADBUS.
3–1.710–6 Responsibilities of the SBA's resident Procurement Center Representative.
3–1.710–7 Commercial products.
3–1.713 Contracts with the Small Business Administration.
3–1.713–1 Authority.
3–1.713–2 Policy.
3–1.713–50 Procurement of technical requirements.
3–1.750 Federal procurement conferences.

Subpart 3–1.7—Small and Disadvantaged Business Concerns

§ 3–1.704 Agency program direction and operation.

§ 3–1.704–1 Office of Small and Disadvantaged Business Utilization.

(a) The functional management responsibilities for the Department's small business, disadvantaged business, and labor surplus area programs are delegated to the Director of the Office of Small and Disadvantaged Business Utilization. In that capacity, the Director is responsible for:

(1) Recommending to the Under Secretary overall Department-wide operating concepts and policies relating to the Department's small business, disadvantaged business, and labor surplus area programs;

(2) Implementing policy decisions through the issuance of operating procedures (Operating Divisions (OPDIVs) may develop alternative procedures for achieving departmental policy, goals, and objectives. However, any change in procedures must be approved by the Under Secretary);

(3) Reviewing and evaluating the Department's policies, practices, and procedures pertaining to the disadvantaged business, small business, and labor surplus area programs, as well as recommending changes or corrective actions to the OPDIV heads or to the Under Secretary, as appropriate;

(4) Providing the Under Secretary with regular appraisals of performance and quality of effort, including timely notification of significant problems, events, and accomplishments, and the need for changes in Department-wide objectives and policies; and

(5) Providing technical assistance and support to the small and disadvantaged business utilization specialists.

(b) The Director of the Office of Small and Disadvantaged Business Utilization is authorized to:

(1) Establish standards, procedures and operating guidelines controlling the manner in which the small business, disadvantaged business, and labor surplus areas programs are conducted throughout the Department;

(2) Provide advice on proposed allocations of personnel, funds, and other resources in light of the total needs of the Department;

(3) Prescribe, after coordination with appropriate concerned personnel, reporting requirements necessary to preserve openness in reporting, identify emerging problems, monitor Department-wide activity, and provide a basis for appraisal and evaluation of performance. To the maximum extent, these reporting requirements will be satisfied through existing Department-wide reporting systems or by making modifications to them;

(4) Conduct surveys and reviews of operating practices in the OPDIVs and regional offices; and

(5) Communicate directly with the small and disadvantaged business utilization specialists to assist them in carrying out their individual and collective responsibilities.

§ 3–1.704–2 Small and disadvantaged business utilization specialist.

(a) The Head of each OPDIV shall appoint a qualified full time small and disadvantaged business utilization specialist (SADBUS) in the following activities: Office of Human Development Services (OHDS), Health Care Financing Administration (HCFA), Social Security Administration (SSA), Public Health Service (PHS), to include the Food and Drug Administration (FDA), Health Resources Administration (HRA), National Institutes of Health (NIH), Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), Centers for Disease Control (CDC), Health Services Administration (HSA), and Administrative Services Center (ASC). A SADBUS shall also be appointed for the Office of the Secretary (OS), Office of Facilities Engineering (OFE), and for each Regional Office. In the regions, a SADBUS shall also be appointed for each Regional Operations for Facilities Engineering and Construction. As deemed necessary, additional small and disadvantaged business utilization specialists may be appointed in larger procuring activities.

(b) When the volume of contracting does not warrant assignment of a full-time small and disadvantaged business utilization specialist, an individual shall be appointed as the specialist on a part-time basis. The responsibilities of this assignment shall take precedence over other responsibilities. The specialist shall be responsible directly to the appointing authority and shall be at an organizational level outside the direct procurement chain of command; i.e., should report directly to the principal official responsible for procurement, where appropriate.

(c) The Director of the Office of Small and Disadvantaged Business Utilization will exercise functional management authority over small and disadvantaged business utilization specialists regarding small business, disadvantaged business, and labor surplus area matters. Appointments of small and disadvantaged business utilization specialists shall only be made after consultation with the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU). A copy of each appointment and termination of appointment of specialists shall be forwarded to the Director, OSDBU.

(d) The small and disadvantaged business utilization specialist shall perform the following duties, as determined to be appropriate to the activity by the appointing official or by the Director of the Office of Small and Disadvantaged Business Utilization. The SADBUS shall:

(1) Maintain a program designed to locate capable small business, disadvantaged business, and labor surplus area business sources for current and future procurements, through SBA or by using other methods;

(2) Coordinate inquiries and requests for advice from small business, disadvantaged business, and labor surplus area business concerns on procurement matters;

(3) Prior to the issuance of solicitations (or contract modifications for additional supplies or services) in excess of $10,000, which have not been reviewed according to the procedures in § 3–1.706–2 and which have not been reserved or set-aside by the contracting officer, review the contracting officer's justification for such action;

(4) Assure that small business, disadvantaged business, and labor surplus area concerns are provided adequate specifications or drawings by initiating actions, in writing, with appropriate technical and contracting personnel to ensure that all necessary specifications or drawings for current and future acquisitions, as appropriate, are available;

(5) Review proposed requirements for possible breakout of items suitable for procurement from small business, disadvantaged business, and labor surplus area concerns;

(6) Assure that financial assistance, available under existing regulations, is offered, and that requests by small business concerns for proper assistance are not treated as a handicap in the award of contracts;

(7) Participate in determinations concerning responsibility of prospective contractors whenever small business concerns are involved;

(8) Participate in the evaluation of a prime contractor's small business, labor surplus area, and disadvantaged business subcontracting plans;

(9) Advise and assist contracting officers in discharging their responsibilities by:

(i) Monitoring and reviewing contractor performance to determine compliance with small and small disadvantaged business subcontracting plans, and

(ii) Developing and maintaining records and reports that reflect such compliance or noncompliance;

(10) Review and make appropriate recommendations to the contracting officer on proposals to furnish Government-owned facilities to contractors if this action may enhance the small business program;

(11) Assure that the participation of small businesses, disadvantaged businesses, and labor surplus area concerns is accurately reported;

(12) Make available to SBA copies of solicitations when so requested;

(13) When a bid or offer from a small business, disadvantaged business, or labor surplus area concern has been rejected for nonresponsiveness or nonresponsibility, upon request, aid, counsel and assist that firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards;

(14) Participate in government-industry conferences to assist small business, disadvantaged business, and labor surplus area concerns, including Business Opportunity/Federal Procurement Conferences, Minority Business Enterprises Procurement Seminars, and Business Opportunity Committee meetings;

(15) Advise potential sources how they can obtain information about formally advertised and negotiated procurements;

(16) Brief the head of the procuring activity at least once quarterly concerning the status of the activity's small business, disadvantaged business, and labor surplus area programs in relation to goals and objectives established;

(17) Participate in the development, implementation, and review of automated source systems to assure that the interest of small business, disadvantaged business and labor surplus area concerns are fully considered;

(18) Assure that the organization maintains a list of products and services which are categorized as repetitive small business set-asides;

(19) Provide small business, disadvantaged business, and labor surplus area concerns information regarding assistance available from Federal agencies such as the Small Business Administration, Minority Business Development Agency, Bureau of Indian Affairs, Economic Development Administration, National Science Foundation, Department of Labor, and others, including State agencies and trade associations;

(20) Be responsible for establishing an education and training program for personnel whose duties and functions affect the activity's small business, disadvantaged business and labor surplus areas programs; and

(21) Participate in interagency programs relating to small business, disadvantaged business, and labor surplus area matters as authorized by the Director of the Office of Small and Disadvantaged Business Utilization.

§ 3–1.705 Cooperation with the Small Business Administration.

§ 3–1.705–1 General.

All HHS procuring activities are responsible for consulting and cooperating with SBA in carrying out the purposes of the Small Business Act.

§ 3–1.706 Procurement set-asides for small business.

§ 3–1.706–1 General.

(a)–(b) [Reserved]

(c) *Implementation.* (1) An individual procurement or class of procurements shall be set-aside entirely for small business-labor surplus area concerns or small business concerns or labor surplus area concerns when the contracting officer is able to identify two or more qualified sources, and there is reasonable expectation that responses will be received from small business-labor surplus area concerns, or small business concerns, or labor surplus area concerns to ensure adequate competition. In the event a total set-aside is inappropriate, a partial set-aside shall be considered, in which case the same criteria for a total set-aside shall be applied by the contracting officer.

(2) Determinations for set-asides shall be made by the SADBUS and the contracting officer, using Form HHS–653, Small Business-Labor Surplus Set-Aside Review Form. The SADBUS, if necessary, will identify, using various sources, small and labor surplus area business concerns capable of performing contracts.

§ 3–1.706–2 Review of set-aside proposals.

The SADBUS shall review individual procurements to determine whether award can be made to the Small Business Administration pursuant to section 8(a) of the Small Business Act. When the requirement cannot be awarded to the Small Business Administration pursuant to section 8(a), the SADBUS shall determine whether the requirement can be set-aside under one of the set-aside priorities in § 1–1.706–1(a). The SADBUS' set-aside recommendations shall be entered on Form HHS–653, with the reasons for the type of set-aside recommended or the reasons for recommending against a set-aside. The form shall ultimately be placed in the contract file. Upon receipt of the SADBUS' recommendation, the contracting officer shall promptly approve or disapprove the recommendation and state in writing the reasons for disapproval. If the contracting officer disapproves the small and disadvantaged business utilization specialist's affirmative recommendation, the case shall be promptly referred to the SBA resident Procurement Center Representative (PCR) that is assigned to the activity (if one is assigned and available) for review. The PCR will either concur in the decision of the contracting officer or appeal the case to the head of the procuring activity or his/her designee in accordance with § 1–1.706–2(a)(1). No further appeal action will be taken by the small and disadvantaged business utilization specialist. However, if a PCR is not assigned or available, and the contracting officer notifies the SADBUS of his/her decision against the set-aside, the SADBUS may appeal, in writing, to the head of the procuring activity (HPA) or his/her designee for a final decision. A memorandum of the decision by the HPA shall be attached to the review form and placed in the contract file. After receipt of a final decision by the HPA, and if the decision approves the action of the contracting officer, the SADBUS shall forward, for information and management purposes, complete documentation of the case to the OSDBU Director. Documentation transmitted shall include, as a minimum, a copy of the appeal memorandum submitted to the HPA, a copy of the IFB or RFP, a list of sources solicited, a copy of the Form HHS–653 and attachments completed by the SADBUS and the contracting officer, a copy of the HPA's decision, and all other written material

considered by the HPA in arriving at the decision. The SADBUS' transmittal memorandum shall contain an affirmative statement that the attachments constitute the complete file reviewed and considered by the HPA in making the final decision.

§ 3–1.706–3 Withdrawal or modification of set-asides.

Concurrent with the notification to the SBA PCR or liaison, telephone notificaton regarding all set-aside withdrawals shall be furnished to the OSDBU Director by the SADBUS.

§ 3–1.706–50 Small business class set-aside for construction, repair, and alteration work.

A small business class set-aside is considered to have been made for each proposed procurement for construction, repair, and alteration work in an estimated amount ranging from $2,500 to $2 million. Accordingly, the contracting officer shall set aside for small business each proposed procurement. If, in his/her judgment, the particular procurement falling within the dollar limits specified above is unsuitable for a set-aside for exclusive small business participation, the procedure set forth in § 1–1.706–3 shall apply. Proposed procurements for construction, repair, and alteration work in an estimated amount of more than $2 million shall be processed on a case by case basis.

§ 3–1.706–51 Contract payments.

Contract payments to small business concerns must be made on a timely basis. Payment of an invoice or voucher must be made within 30 days after receipt of the invoice or voucher or from acceptance of the goods or services (see § 3–50.803(b)(3) of Procurement Manual Circular HEW(HHS)–78.1). Each invoice or voucher from a small business concern not sent directly to the servicing finance office, but received by the contracting activity, shall be stamped or otherwise identified for expedited payment before it is forwarded to the servicing finance office.

§ 3–1.710 Subcontracting with small business and small disadvantaged business concerns.

§ 3–1.710–1 General.

(a) It is the policy of this Department that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals have the maximum practical opportunity to participate as subcontractors in the performance of contracts awarded by the Department.

(b) The following definitions are applicable to this section:

(1) "Small business concern" is defined in § 1–1.701–1(a).

(2) "Small business concerns owned and controlled by socially and economically disadvantaged individuals" means a small business concern (i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and (ii) whose management and daily business operations are controlled by one or more of the referenced individuals.

Socially and economically disadvantaged individuals include members of the following groups: Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), and Asian-Pacific Americans (U.S. citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan). Other individuals may qualify as socially and economically disadvantaged under procedures separately established by the Small Business Administration. The Office of Minority Small Business and Capital Ownership Development in SBA has the final authority to determine the eligibility of a concern to be designated as a small disadvantaged business and will answer inquiries from prime contractors and others regarding eligibility.

(3) "Self certification" refers to the concept that contractors, acting in good faith, may rely on the written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

(4) "Subcontract", as used in this section, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

(5) "Commercial products" are defined as products in regular production which are sold in substantial quantities to the general public and/or industry at established market or catalog prices. A product which, in the opinion of the contracting officer, differs only insignificantly from the contractor's commercial product may be regarded as a "commercial product."

(c) The contracting officer must obtain a satisfactory subcontracting plan prior to the award of the contract. The dollar value of all option quantities or proposed incremental funding actions shall be included in determining whether the procurement meets the dollar threshold requiring a subcontracting plan. The subcontracting plan shall be based on the total value of the procurement which will include the value of all option quantities or funding actions. If the option is not exercised, the contractor should not be bound by that portion of the plan relating to the option items.

(d) In the case of letter contracts (see § 3–3.408) requiring a subcontracting plan, the contracting officer shall obtain a satisfactory plan no later than 90 days after award of the letter contract or before definitization, whichever comes first.

(e) During the source selection process for negotiated procurements, subcontracting plans may be requested from all firms determined to be in the competitive range for negotiation with the apparent successful offeror.

(f) The offeror's/bidder's subcontracting plan for small business concerns shall be judged independently of the subcontracting plan for small business concerns owned and controlled by socially and economically disadvantaged persons.

§ 3–1.710–2 Small and small disadvantaged business subcontracting program.

The small and small disadvantaged business subcontracting program requires Government prime contractors to assume an affirmative obligation with respect to subcontracting with small business and small disadvantaged business concerns. In contracts over $10,000, the contractor assumes the obligation of accomplishing the maximum amount of small and small disadvantaged business subcontracting which is consistent with the efficient performance of the contract. This is prescribed by the contract clause "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals." In contracts which may exceed $500,000 ($1 million for construction of a public facility), the contractor is required to submit a subcontracting plan, prior to award of the contract, indicating specific actions to be accomplished in awarding subcontracts to small and small

disadvantaged business concerns. These are described in the solicitation provisions in § 3–1.710–3(b) and (c).

§ 3–1.710–3 Required clauses and solicitation provisions.

(a) The clause "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in § 3–7.5030 shall be included in all contracts exceeding $10,000 except contracts for services which are personal in nature and contracts, including all related subcontracts, which are to be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b)(1) The following provision shall be included in all solicitations for negotiated contracts or amendments or modifications (including contracts and modifications awarded on a sole source basis) which offer subcontracting possibilities, are expected to exceed $500,000 ($1 million for the construction of any public facility), and are required to include the clause "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals." However, the following provision is not to be included in any solicitation for a requirement which has been set aside for small business concerns or which is to be procured under the section 8(a) program.

Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated)

(a) This provision does not apply to small business concerns.

(b) The term "subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

(c) The offeror acknowledges that it is aware of the subcontracting plan requirements in this provision; and if it is the apparent successful offeror, and if the contract offers subcontracting possibilities, agrees to negotiate a plan which includes:

(1) Percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. (For the purpose of the subcontracting plan, the Contractor may include all purchases which contribute to the performance of the contract, including a proportionate share of products, services, etc., whose costs are normally allocated as indirect or overhead costs.)

As part of its establishment of percentage goals the apparent successful offeror shall also include in its subcontracting plan:

(i) A statement of: (A) total dollars planned to be subcontracted; (B) total dollars planned to be subcontracted to small business; and (C) total dollars planned to be subcontracted to small disadvantaged business.

(ii) A description of the principal product and service areas to be subcontracted and an identification of those areas where it is planned to use (A) small business subcontractors, and (B) small disadvantaged business subcontractors.

(iii) A statement of the method used in developing proposed subcontracting goals for (A) small business, (B) small disadvantaged business concerns (e.g., did the offeror use for subcontract solicitation purposes company source lists, the small business and disadvantaged small business source identification system provided by the Small Business Administration's Procurement Automated Source System, the National Minority Purchasing Council Vendor Information Service, the Office of Minority Business Data Center in the Department of Commerce, and the facilities of local small business and minority associations?).

(iv) If the offeror includes indirect and overhead costs as an element in establishing the goals in the subcontracting plan, the method used in determining the proportionate share of indirect and overhead costs incurred with (A) small business, and (B) small disadvantaged business subcontractors shall be explained.

(2) The name of an individual within the employ of the offeror who will administer the subcontracting program of the offeror and a description of the duties of such individual;

(3) A description of the efforts the offeror will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

(4) Assurances that the offeror will include the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts which offer further subcontracting opportunities and to require all subcontractors (except small business concerns) which receive subcontracts in excess of $500,000, or in the case of a contract for the construction of any public facility, $1 million, to adopt and comply with a plan similar to the plan agreed to by the offeror. Such assurances shall describe the offeror's procedures for the review, approval, and monitoring for compliance with such plans;

(5) Assurances that the offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the offeror with subcontracting plans; and

(6) A recitation of the types of records the offeror will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns. The records shall include at least the following (these records may be maintained on a plant-wide or company-wide basis unless otherwise indicated):

(i) Small and disadvantaged business sources lists, guides and other data identifying small and small disadvantaged business vendors.

(ii) Organizations contacted for small and disadvantaged business sources.

(iii) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation (A) whether small business was solicited, and if not why not; (B) whether small disadvantaged business was solicited, and if not why not; and (C) reasons for the failure of solicited small business or small disadvantaged business to receive the subcontract award. This requirement does not apply to a plan submitted pursuant to paragraph (f) of this provision.

(iv) Records to support other outreach efforts:

- Contacts with minority and small business trade associations;
- Contacts with business development organizations;
- Attendance at small and minority business procurement conferences and trade fairs.

(v) Records to support internal activities to guide and encourage buyers:

- Workshops, seminars, training programs, etc.
- Monitoring activities to evaluate compliance.

(vi) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor. This requirement does not apply to a plan submitted pursuant to paragraph (f) of this provision.

(d) The offeror understands that:

(1) No contract will be awarded unless and until an acceptable plan is negotiated with the Contracting Officer which plan will be incorporated into the contract, as a material part thereof.

(2) An acceptable plan must, in the determination of the Contracting Officer, provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged persons to participate in the performance of the contract.

(3) If a subcontracting plan acceptable to the Contracting Officer is not negotiated within the time limits prescribed by the contracting activity and such failure arises out of causes within the control and with the fault or negligence of the offeror, the offeror shall be ineligible for an award. The Contracting Officer shall notify the Contractor in writing of the reasons for determining a subcontracting plan to be unacceptable. Such notice shall be given

early enough in the negotiation process to allow the Contractor to modify the plan within the time limits prescribed.

(4) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(5) It is the offeror's responsibility to develop a satisfactory subcontracting plan with respect to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the offeror's plan will be judged independent of the other.

(6) The offeror will submit, as required by the Contracting Officer, subcontracting reports in accordance with the instruction thereon, and as further directed by the Contracting Officer. Subcontractors will also submit these reports to the Government's Contracting Officer or as otherwise directed, with a copy to the prime Contractor's designated small and disadvantaged business liaison.

(e) The failure of any Contractor or subcontractor to comply in good faith with:

(1) The clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," or

(2) An approved plan required by this "Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated)" provision, will be a material breach of such contract or subcontract.

(f) If a commercial product (defined below) is offered, the required subcontracting plan may relate to the company's production generally (both for commercial and noncommercial products) rather than solely to the item being procured under the Government contract. In such cases, the Contractor shall be required to submit one company-wide annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year, or by another agency satisfactory to the Contracting Officer. The approved plan will remain in effect for the company's entire fiscal year for all of the company's or division's commercial products.

The term "commercial products" means products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices. A product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product may be regarded for the purpose of this clause as a commercial product.

(2) Whenever the preceding provision is included in a solicitation, a notification must also be included that advises prospective offerors that subcontracting plans may be requested from all concerns determined to be in the competitive range for negotiation with the apparent successful offeror.

(c) The following provision shall be included in all solicitations for formally advertised contracts or amendments or modifications which offer subcontracting possibilities, are expected to exceed $500,000 (1 million for the construction of any public facility), and are required to include the clause "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals." However, the following provision is not to be included in any solicitation for a requirement which has been set aside for small business concerns or which is to be procured under the section 8(a) program.

Small Business and Small Disadvantaged Business Subcontracting Plan (Advertised)

(a) This provision does not apply to small business concerns.

(b) The term "subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

(c) The bidder acknowledges that it is aware of the subcontracting plan requirement in this provision; and if selected for award, will submit within the time specified by the Contracting Officer a subcontracting plan that will afford the maximum practicable opportunity to participate in the performance of the contract to small and small disadvantaged concerns, and will include:

(1) Percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; [For the purposes of the subcontracting plan, the Contractor may include all purchases which contribute to the performance of the contract, including a proportionate share of products, services, etc., whose costs are normally allocated as indirect or overhead costs.]

As part of its establishment of percentage goals the apparent successful bidder shall also include in its subcontracting plan:

(i) A statement of: (A) total dollars planned to be subcontracted; (B) total dollars planned to be subcontracted to small business; and (C) total dollars planned to be subcontracted to small disadvantaged business.

(ii) A description of the principal product and service areas to be subcontracted and an identification of those areas where it is planned to use (A) small business subcontractors, and (B) small disadvantaged business subcontractors.

(2) The name of an individual within the employ of the bidder who will administer the bidder's subcontracting program and a description of the duties of such individual;

(3) A description of the efforts the bidder will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

(4) Assurances that the bidder will include the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts which offer further subcontracting opportunities and to require all subcontractors (except small business concerns) which receive subcontracts in excess of $500,000, or in the case of a contract for the construction of any public facility, $1 million, to adopt and comply with a plan similar to the plan agreed to by the bidder.

(5) Assurances that the bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder with subcontracting plan; and

(6) A recitation of the types of records the successful bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns. The record shall include at least the following (these records may be maintained on a plant-wide or company-wide basis unless otherwise indicated):

(i) Small and disadvantaged business source lists, guides and other data identifying small and small disadvantaged business vendors.

(ii) Organizations contacted for small and disadvantaged business sources.

(iii) On a contract-by-contract basis, records on all subcontract solicitations over $100,000 indicating on each solicitation (A) whether small business was solicited, and if not why not; (B) whether small disadvantaged business was solicited, and if not why not; and (C) reasons for the failure of solicited small business or small disadvantaged business to receive the subcontract award. This requirement does not apply to a plan submitted pursuant to paragraph (f.) of this provision.

(iv) Records to support other outreach efforts:

- Contacts with minority and small business trade associations.
- Contacts with business development organizations.
- Attendance at small and minority business procurement conferences and trade fairs.

(v) Records to support internal activities to guide and encourage buyers:

- Workshops, seminars, training programs.
- Monitoring activities to evaluate compliance.

(vi) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor. This requirement does not

apply to a plan submitted pursuant to paragraph (f.) of this provision.

(d) The bidder understands that:

(1) It agrees to carry out the Government's policy to provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of the contract, consistent with its efficient performance.

(2) If it does not submit a subcontracting plan within the time limits prescribed by the contracting agency, it will be ineligible to be awarded the contract.

(3) Prior compliance of the bidder with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the bidder for award of the contract.

(4) It is the bidder's responsibility to develop a subcontracting plan with respect to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the plan will be judged independently of the other.

(e) The failure of any Contractor or subcontractor to comply in good faith with:

(1) The clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," or

(2) The terms of any subcontracting plan required by this "Small Business and Small Disadvantaged Business Subcontracting Plan (Advertised)" provision, will be a material breach of the contract or subcontract.

(f) If a commercial product (defined below) is offered, the required subcontracting plan may relate to the company's or division's production generally (both for commercial and noncommercial products) rather than solely to the item being procured under the Government contract. In such cases, the Contractor shall be required to submit one company-wide, annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year, or by another agency satisfactory to the Contracting Officer. The approved plan will remain in effect for the company's entire fiscal year for all of the company's or division's commercial products.

The term "commercial products" means products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices. A product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product may be regarded for the purpose of this clause as a commercial product.

§ 3–1.710–4 Responsibilities of the contracting officer.

(a) The contracting officer shall afford SBA's resident Procurement Center Representative (PCR) an opportunity to review any solicitation expected to result in a contract exceeding $500,000 ($1 million for construction of a public facility) prior to release to the public. The PCR should be allowed a period of one to five work days for the review of the solicitation, depending upon the circumstances and complexity of the individual procurement.

(b) The contracting officer is responsible for becoming familiar with the solicitation provisions in § 3–1.710–3 (b) and (c) so that he/she develops a working knowledge of the requirements in the provisions and follows the procedures indicated in them. The following information in this section must be used in conjuction with that in the provisions.

(c) The following review guidance is provided to contracting officers to assist in making determinations as to the acceptability of a small business and small disadvantaged business subcontracting plan submitted by an apparent successful offeror. This guidance is not intended to be all inclusive. Other factors may warrant consideration depending upon the particular circumstances of the proposed procurement. In making determinations concerning the acceptability of proposed subcontracting plans, the contracting officer shall take the following actions:

(1) Obtain and review information from all appropriate sources, including the prospective contractor, contract officials, the small and disadvantaged business utilization specialist (SADBUS), and SBA's PCR, concerning the apparent successful offeror's historical performance and achievements in placing subcontracts for the same or similar products or services with small business and small disadvantaged business subcontractors. If this information is not available for a specific product or service, the offeror's past performance and achievements in the placement of total subcontract awards to small business and small disadvantaged business subcontractors shall be examined.

(2) To the extent available, the contracting officer shall request from the apparent successful offeror the names and locations of principal proposed small business and small disadvantaged business subcontractors, including the type of product or service and the dollar value to be awarded to each. This information will be used only to assist the contracting officer in making a determination as to the acceptability of the proposed percentage and dollar subcontracting goals. The offeror will not be contractually bound to award subcontracts to the designated subcontractors, nor will the names of the subcontractors be included in any subsequently approved plan.

(3) Evaluate the anticipated potential for subcontracting to small business and small disadvantaged business considering the "make-or-buy" policies or programs of the apparent successful offeror, the nature of the products or services to be subcontracted, and the known availability of small business and small disadvantaged business concerns in the geographical area where the work will be performed. The small and disadvantaged business utilization specialist and the Small Business Administration's PCR should be consulted to determine the availability of small and small disadvantaged business concerns.

(4) Obtain advice and recommendations of the small and disadvantaged business utilization specialist concerning the acceptability of the proposed plan.

(i) If the contracting officer determines that the subcontracting plan submitted reflects the best effort by the offeror to award subcontracts to small and small disadvantaged firms, but the small and disadvantaged business utilization specialist disagrees with the contracting officer's determination, a final determination shall be made by the principal official responsible for procurement. The SADBUS shall submit this final determination to the Director of the Office of Small and Disadvantaged Business Utilization with the appropriate supporting documentation.

(ii) If the contracting officer and the small and disadvantaged business utilization specialist determine that the subcontracting plan submitted pursuant to a formally advertised procurement does not reflect the best effort by the bidder to award subcontracts to small and small disadvantaged firms to the fullest extent consistent with the efficient performance of the contract, the contracting officer shall immediately notify the Director of the Office of Small and Disadvantaged Business Utilization, who shall in turn notify the Small Business Administration and request a review of the plan pursuant to section 8(d) (10) and (11) of the Small Business Act. The request for SBA review shall not delay award of the contract to the low bidder.

(5) The contracting officer may accept the terms of an overall or "master" company subcontracting plan if it is incorporated by reference into a specific subcontracting plan submitted by the apparent successful offeror for a specific contract, if:

(i) The master plan contains all the elements required by the statute;

(ii) Subcontracting goals for small and small disadvantaged firms are specifically set forth in each contract or modification over the statutory thresholds;

(iii) Any changes to the plan deemed necessary and required by the contracting officer in areas other than goals are specifically set forth in the contract or modification;

(iv) The contracting officer has copies of the entire plan; and

(v) The resident Procurement Center Representative of the Small Business Administration has had an opportunity to comment on the master plan.

(d) For negotiated procurements, the contracting officer is responsible for negotiating subcontracting goals at a level which represents a good faith, aggressive, and comprehensive effort of the apparent successful offeror to use to the maximum practicable extent small and small disadvantaged subcontractors after appropriate consideration of their price, technical capability, and other pertinent factors. No goals will be negotiated upwards if it is apparent that higher goals will result in significant increased costs to the Government or will seriously impede procurement objectives. An acceptable plan is one which satisfies the requirements stated in the provision entitled "Small Business and Small Disadvantaged Business Subcontracting Plan (Negotiated)" in § 3–1.710–3(b).

(1) In negotiating subcontracting plans, the contracting officer shall take into account a prime contractor's existing "make-or-buy" policy or program. A "make-or-buy" policy or program concerns the major subsystems, assemblies, and components which the contractor manufactures, develops, or assembles in its own facilities, and those which it obtains elsewhere by contract. Consideration of a contractor's "make-or-buy" policy or program is necessary to ensure that the programs are not in conflict, and the best interests of the Government are obtained. Furthermore, where the contract work involves products or services which are not generally available in the commercial marketplace or are particularly specialized and the contractor has current capacity to perform the work, the contracting officer may recognize the reduced likelihood of subcontracting opportunities.

(2) The contracting officer shall advise the apparent successful offeror of the availability of sources of information for potential small business and small disadvantaged business subcontractors when the proposed goals are questionable. The contracting officer should insist that one or more sources of information be used and potential small business and small disadvantaged business subcontracting sources be considered to ensure development of realistic and acceptable goals.

(3) If a subcontracting plan is not obtained, the contracting officer must document the contract file to substantiate the reasons why the plan was not obtained.

(4) In negotiated procurements, after a plan has been determined to be acceptable by the small and disadvantaged business utilization specialist, contracting officer, and if appropriate, the principal official responsible for procurement, and prior to award, the complete procurement package, including the subcontracting plan, shall be made available by the contracting officer of the PCR for review purposes. The PCR should be allowed a period of one to five working days to review the package, depending upon the circumstances and complexity of the individual procurement. The PCR may submit written recommendations, which shall be advisory in nature, to the contracting officer. The contracting officer shall provide the PCR a copy of the final negotiated subcontracting plan. In the case of a formally advertised procurement, the contracting officer shall furnish the PCR with a copy of the subcontracting plan upon execution of the contract.

(e) The contracting officer is responsible for monitoring, documenting, and evaluating the contractor's performance in achieving the objectives of the small business and small disadvantaged business subcontracting plans, and for advising the principal official responsible for procurement of the performance, as appropriate. The contracting officer shall pay particular attention to:

(1) The extent to which the contractor's goals for small busines and small disadvantaged business participation are being met;

(2) Whether the contractor's efforts to assure participation are in accordance with the efforts described in the subcontracting plan; and

(3) Whether the contractor is requiring its subcontractors to submit and carry out similiar subcontracting plans.

Standard Form 294, Subcontracting Report for Individual Contracts, is to be used to monitor the contractor's progress.

(f) The contracting officer shall promptly negotiate appropriate revisions to agreed subcontracting percentage and dollar goals if any subsequent modifications to the contract will have a major impact on the original planned volume or type of subcontracting effort. If agreement cannot be reached, the matter will be resolved under the disputes clause of the contract. However, it is not necessary for the contracting officer to obtain a new subcontracting plan if a modification over $500,000 ($1 million for construction) is made to a contract already containing a plan. The modification may incorporate the existing plan by reference. However, the modification must either contain separate goals for the new effort or revise the original goals.

(g) The failure of any contractor or subcontractor to comply in good faith with the clause "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" or the approved subcontracting plan will be considered a material breach of the contract or subcontract.

(1) If a breach has occurred in the prime contract, the contracting officer shall review the available facts to determine what remedy is in the best interest of the Government. Remedies may include termination of the contract pursuant to the termination for default clause, reduction in contract price, negotiation of a revised subcontracting plan to correct deficiencies, or other measures the contracting officer may deem appropriate.

(2) In determining the proper remedy, the contracting officer shall consider:

(i) The reasons attributed to the failure to comply in good faith,

(ii) The Government's need for the contract deliverables, and

(iii) The impact a proposed remedy may have on existing small and disadvantaged business subcontractors.

If the failure to comply in good faith cannot be settled by agreement, the contracting officer shall issue a decision pursuant to the disputes clause of the contract.

(3) If, upon contract completion, the contractor has not complied in good faith with the subcontracting plan, the contracting officer shall document the noncompliance in writing and include the reasons. A copy of this documentation shall be provided to the Director of the Office of Small and Disadvantaged Business Utilization.

§ 3–1.710–5 Responsibilities of the SADBUS.

In addition to other responsibilities indicated in the preceding section, the SADBUS is responsible for:

(a) Notifying the SBA regarding the award of contracts or modifications that contain subcontracting plans. The

notification shall contain the contractor's name and address, place of performance, dollar amount, performance period, description of contract item or items, and name and address of the contracting officer. A copy of the award document is sufficient for these purposes. The notification shall be sent to the Assistant Regional Administrator for Regional Programs in the SBA region where contract performance is to occur.

(b) Summarizing and reporting to the Director, Office of Small and Disadvantaged Business Utilization, on a quarterly basis, all prime contracts $500,000 and over ($1 million for construction) using the following reporting format:

(1) Name of the OPDIV and program office;

(2) Number and dollar amount of contracts requiring subcontracting plan;

(3) Number of contracts with subcontracting plans;

(4) Number of contracts without subcontracting plans;

(5) Small and disadvantaged business subcontracting goals; and

(6) Statements citing reasons why small and disadvantaged business subcontracting plans were not included in the contracts.

§ 3–1.710–6 Responsibilities of the SBA's resident Procurement Center Representative.

(a) The Small Business Administration's resident Procurement Center Representative (PCR) is authorized to:

(1) Assist procuring activities and contractors in complying with their responsibilities with regard to subcontracting plans;

(2) Review any solicitation for any contract which is to include the clause "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" to determine whether maximum practicable opportunity has been afforded small businesses and small disadvantaged businesses to participate as subcontractors in the performance of any contract resulting from any solicitation and to submit his/her findings, which shall be advisory in nature, to the principal official responsible for procurement; and

(3) Evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or, in the case of contractors having multiple contracts, on an aggregate basis.

(b) In carrying out these responsibilities, the PCR will:

(1) Review all requirement packages ($1 million for construction and $500,000 for other procurements, including modifications) prior to solicitation to insure that appropriate subcontracting provisions are included in the RFP or IFB;

(2) Review subcontracting plans submitted by apparent successful offerors to determine if small and small disadvantaged businesses are afforded the maximum practicable opportunity to participate as subcontractors;

(3) Recommend to the contracting officer needed changes to subcontracting plans found to be unacceptable; and

(4) Report the number of plans reviewed and the number found to be unacceptable to the small and disadvantaged business utilization specialist and the Director, Office of Small and Disadvantaged Business Utilization.

(c) Neither the PCR nor SBA is authorized to prescribe the extent to which any contractor or subcontractor shall subcontract, specify concerns to which subcontracts shall be awarded, or exercise any authority relative to the administration of individual prime contracts or subcontracts.

§ 3–1.710–7 Commercial products.

(a) If the prime contract is for a commercial product, the required subcontracting plan may relate to the company's production of the item generally (both for the Government contract and for regular commercial sale) rather than solely to the item being procured under the Government contract. In such cases, the contractor shall be required to submit one company-wide, annual plan to be reviewed for approval by the first agency with which it enters into a prime contract (which requires a subcontracting plan) during the fiscal year. The approved plan will remain in effect for the entire fiscal year and is applicable to all deliveries made under contracts entered into during the contractor's fiscal year, even though these deliveries are made in a succeeding fiscal year. The contractor shall submit a new plan to the first agency with which it enters into a contract (over the statutory threshold) during a succeeding fiscal year. The new plan shall apply to all deliveries made under contracts entered into during the succeeding fiscal year, no matter when the deliveries are made.

(b) Contracting officers receiving company-wide plans submitted under paragraph (f) of the solicitation provisions in § 3–1.710–3 (b) and (c) shall forward copies of the plans and approvals to the Small Business Administration, 1441 L Street, N.W., Washington, D.C., Attention: AAPA, and to the Director, Office of Small and Disadvantaged Business Utilization.

§ 3–1.713 Contracts with the Small Business Administration.

§ 3–1.713–1 Authority.

The signing of the contract document may be accepted as SBA's certification that SBA is competent to perform a specific HHS requirement.

§ 3–1.713–2 Policy.

Brochures of 8(a) firms which have been interviewed by the Office of Small and Disadvantaged Business Utilization are fowarded to each SADBUS. These brochures are to be reviewed by the SADBUS to match HHS requirements with the capabilities of these firms. The SADBUS will make the capabilities of these firms known to program personnel and will obtain other information, as needed, by contacting OSDBU or the Small Business Administration.

§ 3–1.713–50 Procurement of technical requirements.

(a) *Source selection.* (1) The section 8(a) program is a business development program, and the policy expressed in § 1–3.101(d) does not apply. Additionally, SBA has ultimate responsibility for nomination of an 8(a) subcontractor for a proposed 8(a) requirement and may elect to deviate from usual source nomination procedures.

(2) Except for cases where SBA selects a firm for an 8(a) award, or as provided in subparagraph (3) below, limited technical competition shall be conducted for requirements for consulting services, computer science and related services, research, development, test, evaluation, demonstration, and technical and professional services, where technical aspects, methodology, or approach are of primary importance rather than price. At the request of the program director, the procuring activity may, in consultation with the SBA, require that written technical proposals be submitted by the firms participating in the limited technical competition. (However, SBA encourages the submission of "open requirements" (requirements without source recommendations) for most professional services so that assistance may be afforded to firms having the greatest need that meet the requisite capabilities. In particular, SBA has requested that requirements for CPA audit services be submitted as "open requirements" or as

sole source offerings (see paragraph (3), below). Only in extenuating circumstances will SBA accept CPA audit service requirements when technical evaluation of more than one firm is requested. SBA has also determined that the selection procedures outlined in the "Brooks Bill" must be utilized in the award of A & E requirements under the 8(a) program. Therefore, whenever feasible, at least three 8(a) A & E firms shall be evaluated for each A & E procurement. The procuring activity shall conduct the technical evaluation and transmit the results of the evaluation to SBA in writing, along with any source recommendation. Further, to the extent feasible and practical, A & E procurements awarded under the 8(a) program shall be made to firms which have their home office located in the metropolitan area or state where the work is to be performed.)

(3) There may be circumstances where one 8(a) firm has exclusive or predominant capability among 8(a) firms by reason of experience, specialized facilities, or technical competence to perform the work within the time required. In these circumstances, after coordinating with the SADBUS, the initiating program office may recommend, for approval by the contracting officer, that only that 8(a) firm be considered for nomination to SBA. This recommendation shall be in writing, setting forth full and complete justification for the nomination. The justification shall be submitted to the appropriate contracting officer, through the SADBUS, for concurrence and shall be maintained as a permanent record in the contract file. In addition, a copy of the justification shall be included in the offering letter to SBA.

(4) Where limited technical competition is required or is determined to be appropriate, the sources (i.e., firms) which are to be included will be decided by the procuring activity in consultation with SBA. Consultation will be initiated by nomination of sources recommended by program officials and the SADBUS and, if SBA elects, by SBA.

(5) Each 8(a) firm or group of firms nominated for a specific 8(a) requirement shall have been approved by SBA for that particular requirement prior to any discussion with the firm(s) about the requirement.

(6) It is conceivable that limited technical competition will assist in the development of 8(a) firms. However, procuring activities should recognize that the policy expressed in § 1–3.101 does not apply to the process of identifying potential contractors to be nominated to SBA under the 8(a) program, and that to involve a large number of 8(a) firms in a limited technical competition may have an adverse impact on the limited financial resources of these firms. Usually, three to five firms should be nominated, depending on the nature of the intended contract and subject to SBA's approval.

(7) When a limited technical evaluation is conducted, a technical evaluation report shall be prepared and signed by the technical evaluators, furnished the contracting officer, and maintained as a permanent record in the contract file. The report shall reflect the ranking of the firms and shall identify each firm as acceptable or unacceptable. The report shall also include a narrative evaluation specifying the strengths and weaknesses of each firm, and any reservations or qualifications that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any firm shall be included.

(b) *Offering letter.* (1) When a decision has been made by the SADBUS, program director, and procuring activity to process a procurement through the Small Business Administration, under provisions of section 8(a) of the Small Business Act, the procuring activity shall promptly furnish the applicable SBA office a letter offering the procurement to the SBA, with an information copy to the SADBUS. The offering letter should transmit the complete procurement package. Additionally, the offering letter should include, but not necessarily be limited to, the following:

(i) A description of work to be performed or items to be delivered;

(ii) The names of the firms nominated for technical competition or the name of the firm nominated for award (For limited technical competition, indicate whether or not written technical proposals are desired. If only one firm is nominated, a written justification must be included to substantiate limiting the nomination to one source, as indicated in § 3–1.73–50(a)(3));

(iii) Procuring activity dollar estimate of the requirement;

(iv) Procurement history (e.g., first time offered, items or services not presently being provided by a small business firm, etc.);

(v) Period of performance;

(vi) Any special requirements, restrictions, or geographical limitations (e.g., turn-around time demands a firm within two hours travel time, etc.);

(vii) A statement to the effect that public solicitation for the procurement has not been issued;

(viii) A statement to the effect that the procurement cannot reasonably be expected to be won by an eligible 8(a) concern under normal competitive means;

(ix) Type of proposed contract (i.e., fixed-price, cost plus fixed-fee, requirements, etc.); and

(x) A list of contractors who have performed on the specific requirement during the previous 12 months.

(2) Within ten (10) working days after receipt of the offering letter, SBA is to acknowledge the offering letter and accept or reject the requirement. If SBA has not acknowledged the offering letter within this period, the procuring activity, after giving due regard to the urgency of the procurement, may withdraw the offer by giving written notice to SBA.

(3) When the firms to be included in the limited technical competition have been decided on by the procuring activity, in consultation with SBA, the contracting officer shall hold a technical competition among those firms. Cost factors shall not be included in the technical proposals nor brought out in any manner during technical discussions of the proposals.

(4) The contracting officer has a greater latitude in holding discussions with the firms solicited under an 8(a) procurement than under a non-8(a) procurement. The technical evaluation report required by § 3–1.713–50(a)(7) must be carefully reviewed to determine if any source declared to be unacceptable is capable of being made acceptable; i.e., would the submission of clarifying data or obtaining additional information make an otherwise unacceptable proposal acceptable? Negotiations will normally proceed similarly to the process described in § 1–4.1005–2. If it is determined that the highest rated firm cannot furnish the required goods or services, SBA will be notified, and, upon approval by SBA, negotiations will commence with the next highest rated firm. When extensive discussions with all sources fail to result in any acceptable proposals, the contracting officer will notify SBA. If within ten (10) working days, SBA has not notified the contracting officer of any additional sources or any methods of improving the existing source(s), the procuring activity will proceed with the procurement without further regard for the 8(a) procedures, unless additional time is requested by SBA and the additional time is granted by the procuring activity after giving due

regard to the urgency of the procurement.

(5)When requested by SBA, the procuring activity shall render all possible assistance to SBA with respect to SBA's negotiation of 8(a) subcontracts. However, SBA will usually delegate negotiation authority to the HHS procuring activity.

(6) Upon receipt of a delegation, the procuring activity will promptly negotiate with the selected 8(a) firm. After the conclusion of negotiations with the selected source, the procuring activity will prepare the contract between the procuring activity and SBA and the subcontract between SBA and the selected source. These documents will be prepared in accordance with § 1–1.713–3(d) and (e), respectively, and forwarded to SBA for signature. Procuring activities shall completely negotiate the 8(a) subcontract and prepare the definitive subcontract documents before submitting the prime contract to SBA for signature.

(7) The contracting officer is responsible for promptly notifying all offerors if an award is to be delayed beyond 30 days from the date of receipt of technical proposals. The contracting officer is also responsible for keeping the offerors informed of the situation if the delay persists or other problems arise which impede the award.

(c) *Debriefing.* Unsuccessful offerors shall be promptly notified of the contract award. A debriefing, when requested in writing, shall be provided by the cognizant contracting officer to an 8(a) firm that has been unsuccessful in an 8(a) limited technical competition.

(d) *Unacceptable offerors.* If it is determined during negotiations that the selected offeror is technically unacceptable, the procuring activity shall promptly notify the SBA. If it appears that an offeror would be unable to earn a profit if awarded the contract, both SBA and OSDBU shall be notified by the contracting officer.

(e) *Liaison with the Small Business Administration.* (1) Procuring activities will maintain a continuous liaison with the SBA to ensure that the overall goals of each activity are achieved. In the event there is a dispute between the procuring activity and an SBA representative regarding any aspects of 8(a) contracting, the procuring activity must promptly notify the OSDBU.

(2) The business development responsibility of SBA requires them to assist in and monitor the growth and development of all 8(a) firms. Therefore, it is incumbent upon HHS to assist SBA in this effort by utilizing the source selection process in a manner that would make use of the largest possible number of 8(a) firms.

(f) *Arriving at contract amount.* Contracts will be awarded at prices which are fair and reasonable.

(g) *Advance payments.* 8(a) firms requesting advance payments should be advised to submit the request to the SBA, in writing, in accordance with SBA operating procedures. SBA is responsible for reviewing and approving requests, and for making funds available, for advance payments under 8(a) contracts.

(h) *Contract modifications, inspections, etc.* The responsibility for subcontract administration and field inspection will, in most cases, be delegated by SBA to the procuring activity. The procuring activity shall keep SBA apprised of all contract modifications, progress payments, and any other pertinent data requested by SBA.

(i) *Subcontract administration.* Some firms may need additional management expertise for optimal performance and completion of a particular contract. Therefore, when subcontract administration is delegated to HHS by SBA, the procuring activity shall promptly apprise the SBA, the SADBUS, and OSDBU whenever the contractor is experiencing problems. SBA should provide necessary technical assistance so the contractor can successfully complete the contract.

(j) *Contract termination.* The OSDBU, SADBUS, and SBA are to be notified prior to initiating final action to terminate an 8(a) contract. (See paragraph (c) of special 8(a) contract conditions prescribed by § 1–1.713–3(d).)

§ 3–1.750 Federal procurement conferences.

The Department of Commerce is responsible for coordinating the participation of Federal civilian agencies in a continuing series of conferences which are sponsored by members of Congress. The objectives of these conferences are:

(a) Location of additional procurement sources to broaden the procurement base of Federal agencies;

(b) Stimulation of local, regional, and national economic growth, national security, and cost reduction;

(c) Location of underutilized production capacity;

(d) Prevention or elimination of pockets of underemployment; and

(e) Assistance of small and disadvantaged business concerns.

As notified by the OSDBU, procuring activities shall provide appropriate SADBUS or procurement personnel to participate in person-to-person counseling at these conferences. Ordinarily, participation by procuring activities will be restricted to conferences held within the geographical areas adjacent to their procurement offices.

The brochure, "How To Do Business With DHHS" (DHHS Publication No. (OS) 75–17) should be of great assistance in this counseling as it has been specifically prepared to assist individuals, firms, and institutions who may wish to do business with this Department. It contains a brief description of the mission and programs of HHS and its Operating Divisions and provides a listing of procuring offices and the types of services and commodities procured by each.

PART 3–7—CONTRACT CLAUSES

2. Under Subpart 3–7.50, *Special Contract Clauses*, of Part 3–7, *Contract Clauses*, § 3–7.5030, Utilization of small and disadvantaged businesses, is added. In addition, the table of contents for Part 3–7 is amended to add the following:

Subpart 3–7.50—Special Contract Clauses

* * * * *

Sec.

3–7.5030 Utilization of small and disadvantaged businesses.

Subpart 3–7.50—Special Contract Clauses

§ 3–7.5030 Utilization of small and disadvantaged businesses.

The following clause shall be included in all contracts exceeding $10,000 except contracts for services which are personal in nature and contracts, including all related subcontracts, which are to be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico:

Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Small Business Administration or the contracting agency which may be necessary to determine the

extent of the Contractor's compliance with this clause.

(c)(1) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

(i) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and native Hawaiians), Asian-Pacific Americans (U.S. Citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

[FR Doc. 82-3128 Filed 2-16-82; 8:45 am]

BILLING CODE 4150-04-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-735

[ADM 7900.9 CHGE 1]

Procedures Relating to Violations of Post Federal Employment Restrictions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing final regulations implementing procedures for the administrative enforcement of the restrictions on post employment activities by former GSA employees, as required by Title V of the Ethics in Government Act of 1978 and Title 18 of the U.S. Code, Section 207, as amended. The prescribed procedures provide for notice to the former employee of alleged violation of the law; an opportunity for the former employee to refute the allegations and request a hearing before an examiner; the right to request a final decision by the Administrator of General Services; and the imposition of administrative sanctions in appropriate cases.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Saul Katz, Director, Office of Ethics (AK), General Services Administration, 18th & F Streets, N.W., Washington, DC 20405.

SUPPLEMENTARY INFORMATION: Proposed regulations on this subject were published by the General Services Administration in the **Federal Register** on May 30, 1980 (45 FR 36440). Editorial revisions and other changes have been made in order to simplify and clarify the regulations. A provision has been added to provide for public inspection of a roster of all persons prohibited from appearances before, or communication with, GSA on a pending matter of business. Provisions have also been added covering service of notifications and the filing and service of other papers in connection with agency administrative proceedings.

PART 105-735—STANDARDS OF CONDUCT

1. The table of contents of Part 105-735 is amended to add the following new entries:

Subpart 105-735.6—Violation of Post Federal Employment Prohibitions

Sec.
105-735.601 General.
105-735.602 Notification and opportunity for hearing.
105-735.603 Hearings.
105-735.604 Action by the Administrator.
105-735.605 Period of prohibition and disciplinary action.
105-735.606 Records.

2. Part 105-735 is amended to add the following new subpart:

Subpart 105-735.6—Violation of Post Federal Employment Prohibitions

§ 105-735.601 General.

(a) The Director, GSA Office of Ethics, and the Inspector General of GSA shall be promptly notified of receipt of information indicating that a former GSA employee (including a special government employee as defined in section 202, of Title 18, United States Code), has violated any of the post federal employment prohibitions contained in sections 207 (a), (b), or (c) of Title 18, United States Code.

(b) If the Inspector General of GSA, after appropriate review, determines that there is reasonable cause to believe that the former employee has violated section 207 (a), (b), or (c) of Title 18, United States Code, or the regulations implementing the foregoing statutory provisions that have been published by the Office of Personnel Management in the **Federal Register**, he shall (1) provide the Director, Office of Government Ethics and the Criminal Division, U.S. Department of Justice, and the Director, GSA Office of Ethics with the available information concerning the alleged violation, as well as copies of the pertinent agency regulations and such comments as are deemed appropriate, and (2) recommend to the Administrator, General Services, what action be taken pursuant to Part 105-735.602(a) hereunder.

(c) Any investigation or other administrative action taken by GSA in the matter shall be coordinated with the U.S. Department of Justice to avoid prejudice to possible criminal proceedings.

§ 105-735.602 Notification and opportunity for hearing.

(a) If the Department of Justice acquiesces, the following action shall be promptly taken. The Director, Office of Ethics shall notify the former employee that:

(1) The Inspector General of the General Services Administration, has recommended that, based on information received, the Administrator of General Services (hereinafter the Administrator) make a finding pursuant to section 207(j) of Title 18, United States Code, that the former employee has violated certain specified post federal employment prohibitions in section 207 (a), (b), or (c), and that the Administrator, if he makes such a finding, institute such administrative sanctions as he deems appropriate against the former employee.

(2) The specific violations that are alleged against him or her in sufficient detail to permit the preparation of an adequate defense.

(3) The former employee has the right to:

(i) present information to the Administrator or his designee in opposition to the recommendation in person, in writing, and if desired, through a designated representative, or

(ii) request a hearing before GSA's Board of Appeals (conducted by an examiner in accordance with the Board's published rules) by addressing such request to: Board of Appeals, General Services Administration, Washington, DC 20405.

(4) The hearing rights are as set forth in § 105-735.603 below.

(5) If a hearing is held, no individual who has participated in the decision to initiate the proceedings may serve as an examiner at the hearing.

(6) The period of time to be afforded for decision as to presentation of information for consideration, or for requesting a hearing.

(b) A copy of these regulations will be provided with the foregoing notification.

(c) The period of time to be afforded for notifying GSA of a decision to present information for consideration or for requesting a hearing shall be limited to 20 days from receipt of the notification described in paragraph (a) of this section, unless the former employee requests and is granted additional time before the expiration of the 20-day period.

(d) Notification or a copy thereof shall be served upon the former employee by certified mail; return receipt requested; by delivering it to the former employee or his/her attorney or agent of record either in person; or by leaving it at the office or place of business of the former employee, attorney or agent; in any other manner which has been agreed to by the former employee.

(e) Any paper other than the notification may be served upon a former employee as provided in paragraph (d) of this section or by mailing the paper by first-class mail to the former employee at Office of Ethics, GSA, the last address known to the Director, or by mailing the paper by first-class mail to the former employee's attorney or agent of record. Such mailing shall constitute complete service.

(f) Whenever the filing of a paper is required or permitted in connection with a proceeding, and the place of filing is not specified by this subpart or by rule or order of the examiner, the paper shall be filed with the Director, Office of Ethics, General Service Administration, 18th & F Streets, N.W, Washington, D.C. 20405. All papers shall be filed in duplicate.

§ 105–735.603 Hearings.

(a) If a hearing is requested and granted in accordance with § 105–735.602(c) above, the hearing shall be conducted at a reasonable time, date, and place.

(b) In setting a hearing date, the examiner shall give due regard for the former employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

(c) A hearing shall include, at a minimum, the following rights:

(1) To represent oneself or to be represented by counsel,

(2) To introduce and examine witnesses and to submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument, and

(5) To a transcript or recording of the proceedings, if requested in advance and ordered by the examiner.

(d) In the hearing, the agency has the burden of proof and must establish substantial evidence of a violation.

(e) The examiner shall make a written determination and recommendation to the Administrator exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(f) Within 10 days of the date of receipt of the determination and recommendation the former employee may submit objections to the Administrator.

§ 105–735.604 Action by the Administrator.

(a) When the former employee has presented information, pursuant to § 105–735.602(a)(3)(i) above, or has sent his objections to the determination and recommendation of the examiner. The Administrator shall consider the information presented to him by the Inspector General of GSA and by or on behalf of the former employee, or (in the case of a hearing) the record or portions of the record of the proceedings as described in § 105–735.603(f) above, and together with the objectives, if any, and shall take such action thereon as he deems appropriate as set forth in paragraph (b) of this section after consultation with the Director, Office of Ethics.

(b) If the Administrator finds, after the requirements for notice and opportunity to present information or for a hearing and objections as set forth above have been satisfied, that the former employee has violated section 207(a), (b), or (c) of Title 18, United States Code, the Administrator may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to GSA on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 105–735.605 Period of prohibition and disciplinary action.

(a) Any period of prohibited appearance or communications ordered by the Administrator shall be for a reasonable and specified period of time, commensurate with the seriousness of the conduct on which the prohibition is based, and may not exceed five years.

(b) Appropriate disciplinary action may include a private letter of:

(1) Warning,

(2) Admonition, or

(3) Reprimand.

(c) If disciplinary action is taken, the former employee shall be promptly notified that such action is subject to review in an appropriate United States District Court.

§ 105–735.606 Records.

The roster of all persons prohibited from practice before the agency shall be available to public inspection at the Office of Ethics. Other records may be disclosed upon specific request, in accordance with appropriate disclosure regulations of the agency.

(Sec. 501(a), 92 Stat. 1867 (18 U.S.C. 207(j); 5 CFR 737.27))

Dated: February 3, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-4010 Filed 2-16-82; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6128

[U-0140545]

Utah; Powersite Restoration No. 683; Partial Revocation of Powersite Reserve No. 191

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order as to 1,063.32 acres of lands withdrawn for a powersite reserve. This action will restore the public lands involved to operation of the public land laws generally.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA–100–Utah, it is ordered as follows:

1. The Executive Order of July 26, 1911, which created Powersite Reserve

No. 191 is hereby revoked insofar as it affects the following described lands:

Salt Lake Meridian

Powersite Reserve No. 191

T. 29 S., R. 4 E.,
Sec. 13, NW¼SW¼;
Sec. 14, SW¼NE¼;
Sec. 24, S½NE¼, E½NW¼, N½SE¼.
T. 29 S., R. 5 E.,
Sec. 19, lot 1, S½NE¼, SE¼NW¼;
Sec. 20, N½S½;
Sec. 25, part of lots 3 and 4 (formerly S½N½).
T. 29 S., R. 7 E.,
Sec. 13, SW¼NW¼;
(That portion south of State of Utah Route 24 in the following subdivisions):
Sec. 13, W½SW¼, SE¼SW¼;
Sec. 14, S½;
Sec. 24, N½.

The area described aggregates 1,003.32 acres in Wayne County.

2. The State of Utah has waived its preference right for highway right-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m. on March 12, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, UT 84111.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4300 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6129

[U-14584]

Utah; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial order which withdrew lands for use by the Bureau of Reclamation in connection with Jensen Unit, Central Utah Project. This action will restore the lands to the operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, Utah State Office, 801-524-4245.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of June 11, 1943, which withdrew public lands for the (Boan Reservoir Site) Jensen Unit, Central Utah Project, from all forms of appropriation under the public land laws, including the mining laws, for use by the Bureau of Reclamation is hereby revoked as to the following described lands:

Salt Lake Meridian

T. 4 S., R. 22 E.,
Sec. 24, W½NW¼;
Sec. 25, lots 1 and 2, W½NW¼.

The area described contains 242.96 acres in Uintah County.

2. At 10 a.m. on March 12, 1982, the lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on March 12, 1982, the lands will be open to location under the United States mining laws. They have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4132 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6132

[U-44415]

Utah; Withdrawal for the Escalante Administrative Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 40 acres of public lands from mining for use as an interagency administrative site for a period of 20 years.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is hereby ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from location or entry under the mining laws 30, U.S.C. Ch. 2, as a Bureau of Land Management administrative site.

Salt Lake Meridian

T. 35 S., R. 3 E.,
Sec. 7, SE¼SW¼.

The area described contains 40 acres in Garfield County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4160 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6133

[U-11059]

Utah; Revocation of an Air Navigation Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Bureau of Land Management Order affecting 40

acres of public land withdrawn for use by the Federal Aviation Administration as an Air Navigation Facilities Site. This action will restore the land to operation of the mineral leasing laws only.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. A Bureau of Land Management Order of August 20, 1957, which withdrew the following described public lands for an Air Navigation Facilities Site is hereby revoked in its entirety:

Salt Lake Meridian

T. 13 S., R. 14 E.,
Sec. 33, SE¼SE¼.

The area described contains 40 acres in Carbon County.

2. The lands will be open to applications and offers under the mineral leasing laws at 8 a.m. on March 12, 1982.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–4187 Filed 2–16–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6134

[Nev–058294]

Nevada; Partial Revocation of Public Land Order No. 2855

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Forest Service withdrawal affecting 10 acres of public land withdrawn for use as an administrative site. This action will restore the land to operation of the public land laws, including the mining laws. The land will remain open to mineral leasing.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2855 of January 18, 1963, which withdrew the following described public land for use as a Forest Service administrative site, is hereby revoked as it pertains to:

Mount Diablo Meridian

T. 38 N., R. 36 E.,
Sec. 18, SW¼NE¼SE¼.

The area described contains 10 acres in Humboldt County.

2. At 8 a.m. on March 12, 1982, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 8 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 8 a.m. on March 12, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–4189 Filed 2–16–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6135

[Nev–047462]

Nevada; Revocation of Public Water Reserve No. 86

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order affecting 80 acres of public land withdrawn as a public water reserve. This action will restore the land to operation of the public land laws generally, including location of nonmetalliferous minerals under the mining laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order dated February 8, 1923, which withdrew the following described public land as a public water reserve, is hereby revoked:

Mount Diablo Meridian

Public Water Reserve No. 86

T. 40 N., R. 51 E.,
Sec. 32, E½SW¼.

The area described contains 80 acres in Elko County.

2. At 8 a.m. on March 12, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 8 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 8 a.m. on March 12, 1982, the land will be open to location for nonmetalliferous minerals under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–4197 Filed 2–16–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6136

[C–10989]

Colorado; Revocation of Secretarial Order of February 18, 1909

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew public lands for use by the Forest Service as an administrative site. The 40 acres of public land will be open to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of February 18, 1909, which withdrew public lands for use of the Forest Service as the Deer Creek Administrative Site, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 6 S., R. 73 W.,
Sec. 27, SE¼NE¼.

The land described contains 40 acres in Park County.

2. At 7:45 a.m. on March 12, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on March 12, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be directed to the Chief, Branch of Adjudication, Bureau of Land Management, 2000 Arapahoe, Denver, Colorado 80205.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4165 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6137

[CA 7504 WR]

California; Revocation of Executive Order No. 6721

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a withdrawal affecting 40 acres of land withdrawn in connection with Federal and State cooperative forest-protection work. This action will restore the land to the operation of the public land laws, including the location of nonmetalliferous minerals under the mining laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Celia Anderson, California State Office, 916-484-4451.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6721 of May 25, 1934 which withdrew the following described lands from settlement, location, sale or entry, for use as a lookout station in connection with Federal and State cooperative forest-protection work, is hereby revoked in its entirety:

San Bernardino Meridian

T. 9 S., R. 3 W.
Sec. 15, NW¼NW¼.

The area described contains 40 acres in San Diego County, California.

2. At 10:00 a.m. on March 12, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received therafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 12, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been open to applications and offers under the mineral leasing laws and to metalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4164 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6138

[M-41491]

Montana; Partial Revocation of Public Water Reserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order and Secretarial order which withdrew public lands for public water reserve purposes. This action will not restore the lands to operation of the public land laws generally, as the surface interest has passed into private ownership and the minerals are subject to valid existing rights and the requirements of applicable law.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406-657-6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 17, 1926 creating Public Water Reserve No. 107, as constructed by Secretarial Order of November 10, 1926, as Interpretation No. 75, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 1 S., R. 6 E.,
Sec. 21, lots 9 to 12, inclusive.

The area described aggregates 156.26 acres in Gallatin County.

2. This action will not restore the above described lands to operation of the mining laws unless and until appropriate rules and regulations are issued.

3. The lands will not be restored to operation of the public lands laws as the surface interests are in private ownership.

The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4163 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6139

[CA-3494]

California; Revocation of National Forest Administrative Site Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 176.33 acres of public land for use as a Forest Service Ranger Station. This action will restore the lands to the operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, 916–484–4411.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 1327 of April 3, 1911, which withdrew the following described public lands for use by the Department of Agriculture as a ranger station in connection with administration of the Lassen National Forest, is hereby revoked.

Mount Diablo Meridian

Apex Administrative Site

T. 35 N., R. 2 E.,
Sec. 7, SW¼SW¼;
Sec. 18, N½NW¼ and SE¼NW¼.

The area described aggregates 176.33 acres in Shasta County.

2. At 10 a.m. on March 12, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 12, 1982, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on March 12, 1982. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands shall be addressed to the Bureau of Land Management, U.S. Department of the Interior, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4162 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6140

[W-20042]

Wyoming; Powersite Restoration No. 688; Total and Partial Revocation of Powersite Reserve Nos. 4, 139, 169, 413 and 435

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order totally and partially revokes several Executive orders which withdrew 2,050.37 acres of land for powersite purposes. It also revokes the provisions of Section 24 of the Federal Power Act as to an additional 2,553.29 acres of lands in Powersite Reserve Nos. 139, 169 and 413. The public lands containing 1,337.12 acres will be opened to operation of the public land laws. The remaining 713.25 acres are either withdrawn or privately owned.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075, 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA–164–Wyoming, it is ordered as follows:

1. Executive Order of July 2, 1910, as modified by Executive Order of August 3, 1914, creating Powersite Reserve No. 4, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 15 N., R. 82 W.,
Sec. 26, S½NE¼, and NE¼NW¼.
T. 25 N., R. 84 W.,
Sec. 4, lots 4, 5, SW¼NW¼, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 9, N½NE¼, and SE¼NE¼.
T. 26 N., R. 84 W.,
Sec. 33, SW¼SE¼;
Sec. 34, SW¼NE¼, SW¼NW¼, and NW¼SE¼.

The area described contains 723.25 acres.

2. The Executive Order of December 28, 1910, creating Powersite Reserve No. 169, which withdrew the following described lands is hereby revoked:

T. 14 N., R. 84 W.,
Sec. 12, SW¼;
Sec. 13, W½;
Sec. 23, lot 1, SE¼NE¼, and E½SE¼;
Sec. 24, W½SW¼;
Sec. 25, W½W½;
Sec. 26, E½E½.

The area described aggregates 1,048.37 acres.

3. The Executive Order of April 21, 1914, creating Powersite Reserve No. 435, which withdrew the following described lands is hereby revoked:

T. 12 N., R. 80 W.,
Sec. 9, NE¼SW¼;
Sec. 15, W½SW¼, and SE¼SW¼;
Sec. 16, E½SE¼;
Sec. 22, lots 3, and 4.

The area described contains 278.75 acres.

4. The following described lands in Powersite Reserve Nos. 139, 169, and 413, which have been open to the applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, 69 Stat. 682; 30 U.S.C. 621, are hereby relieved of such restriction:

T. 27 N., R. 69 W.,
Sec. 19, lot 4, SE¼SW¼, and S½SE¼ (formerly S½S½);
Sec. 20, SE¼;
Sec. 21, NW¼SW¼, and NE¼SE¼;
Sec. 22, SW¼NE¼, SE¼NW¼, and N½SW¼;
Sec. 23, SW¼;
Sec. 24, N½SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, SW¼NW¼;
Sec. 28, NE¼, and S½NW¼;
Sec. 29, S½NE¼, and NE¼NW¼.
T. 27 N., R. 70 W.,
Sec. 14, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 15, S½N½, and N½S½;
Sec. 22, NE¼NE¼;
Sec. 23, NE¼, NE¼NW¼, and SW¼NW¼;
Sec. 24, SW¼NW¼, NE¼SW¼, N½SE¼ and SE¼SE¼.
T. 14 N., R. 84 W.,
Sec. 24, lots 8 thru 20, and SW¼NW¼.
T. 22 N., R. 86 W.,
Sec. 24, E½NE¼.

The above described area aggregates 2,553.29 acres.

The total area aggregates 4,603.66 acres of public, nonpublic and withdrawn lands in Carbon and Platte Counties.

5. At 10:00 a.m. on March 12, 1982, the following described public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Sixth Principal Meridian

T. 12 N., R. 80 W.,
Sec. 9, NE¼SW¼;
Sec. 15, W½SW¼, and SE¼SW¼;
Sec. 22, lots 3, and 4.
T. 14 N., R. 84 W.,
Sec. 12, N½NW¼SW¼, SW¼NW¼SW¼, and W½SW¼SW¼;
Sec. 13, NW¼, and W½SW¼;
Sec. 23, lot 1, SE¼NE¼, and E½SE¼;
Sec. 24, W½SW¼;
Sec. 25, W½W½;
Sec. 26, E½E½.
T. 25 N., R. 84 W.,
Sec. 4, NE¼SE¼, and S½SE¼;
Sec. 9, N½NE¼, and SE¼NE¼.
T. 26 N., R. 84 W.,
Sec. 33, SW¼SE¼.

The area described contains 1,337.12 acres in Carbon County.

6. The State of Wyoming has waived its right to select lands for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

7. The public lands in section 34, T. 26 N., R. 84 W., remain withdrawn for reclamation purposes by the Secretarial Order of October 12, 1929.

The public lands in this order have been, and will continue to be, open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to other existing withdrawals affecting the lands.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4161 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6141

[C-8840]

Colorado; Powersite Restoration No. 678; Partial and Total Revocation of Powersite Reserve Nos. 27, 50, 254, and 495; Release of Section 24 Restriction on Certain Patented Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially and totally revokes three Executive orders affecting 7,126.80 acres of public, nonpublic, and national forest lands. The public lands will be opened to operation of the public land laws generally. The national forest lands, not otherwise withdrawn, shall be opened to such forms of disposition as may by law be made of such lands. The private lands will be relieved of the restriction in the patents issued pursuant to Section 24 of the Federal Power Act.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-5551.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and the determination of the Federal Energy and Regulatory Commission in DA-493-Colorado, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve Nos. 27, 43, and 50; Executive Order of March 22, 1912, creating Powersite Reserve No. 254; and Executive Order of July 19, 1915, creating Powersite Reserve No. 495; are hereby revoked insofar as they affect the following described lands:

New Mexico Principal Meridian

Powersite Reserve No. 27

T. 49 N., R. 2 W.,
Sec. 24, SW¼NW¼.

Powersite Reserve No. 43

T. 47 N., R. 2 E.,
Sec. 5, lots 3, 5 to 11, inclusive, S½NW¼, SW¼;
Sec. 6, lots 2 to 12, inclusive, 14 to 16, inclusive;
Sec. 17, lots 1 to 3, inclusive, 6 to 11, inclusive, 14 to 16, inclusive;
Sec. 20, lots 1 to 3, inclusive, 6 to 11, inclusive, 14 to 16, inclusive;
Sec. 21, lots 12 and 13;
Sec. 28, lots 4 to 6, inclusive, 10 and 11, SE¼SW¼;
Sec. 29, lots 1 and 2, 7 to 9 inclusive.
T. 48 N., R. 2 E.,
Sec. 20, lot 8;
Sec. 21, SE¼NW¼, E½SW¼, E½W½SW¼;
Sec. 28, lots 4 and 9, NE¼NW¼, E½W½NW¼, N½SW¼;
Sec. 29, lots 1 to 4, inclusive, 6 to 8 inclusive, 10 to 13, inclusive, NE¼SW¼;
Sec. 32, lots 1 to 5, inclusive, SE¼NW¼, E½SW¼.

Powersite Reserve No. 50

T. 50 N., R. 1 E.,
Sec. 4, S½SW¼SE¼SW¼, N½SE¼SW¼, SE¼SE¼SW¼.
T. 49 N., R. 2 W.,
Sec. 13, W½E½, W½E½NE¼, NE¼NE¼NE¼.

Powersite Reserve No. 254

T. 46 N., R. 2 E.,
Sec. 4, SE¼NW¼, E½SW¼.
T. 47 N., R. 2 E.,
Sec. 29, lot 16;
Sec. 33, NW¼NE¼, S½NE¼, W½SW¼.
T. 48 N., R. 2 E.,
Sec. 4, W½SW¼;
Sec. 9, lot 1, SW¼NE¼, W½NW¼, NW¼SW¼, W½SE¼;
Sec. 20, lot 1, NE¼NE¼;
Sec. 21, NE¼NW¼.

Powersite Reserve No. 495

T. 49 N., R. 7 W.,
Sec. 11, E½SE¼;
Sec. 13, NW¼SW¼;
Sec. 14, NE¼SW¼;
Sec. 23, NW¼NE¼, SE¼NE¼;
Sec. 24, lots 3, 13, 14, 15, SW¼NW¼, N½SW¼;
Sec. 25, lots 1, 2, 8.

Containing in the aggregate approximately 5,643.85 acres.

The lands in Powersite Reserve No. 495 remain withdrawn by other withdrawal orders.

2. The lands described below are within the boundaries of the Gunnison National Forest and will be open to such forms of disposition as may by law be made of national forest lands, subject to any valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

Gunnison National Forest—New Mexico Principal Meridian

Powersite Reserve No. 27

T. 51 N., R. 1 E.,
Sec. 11, SW¼SE¼;
Sec. 12, lot 4;
Sec. 14, N½NE¼, SW¼NE¼, E½NW¼, SW¼;
Sec. 22, SE¼NE¼;
Sec. 23, NE¼NW¼, W½NW¼;
Sec. 27, SW¼NE¼, NW¼, N½SW¼;
Sec. 28, SE¼NE¼, N½SE¼.

Powersite Reserve No. 50

T. 51 N., R. 1 E.,
Sec. 14, SE¼NE¼;
Sec. 22, E½SW¼.

Containing in the aggregate approximately 1,119.85 acres.

3. The lands described in this paragraph have been patented subject to Section 24 of the Federal Power Act of June 10, 1920, 16 U.S.C. 818. Accordingly, these lands will be relieved of this restriction.

New Mexico Principal Meridian

Powersite Reserve No. 27

T. 51 N., R. 1 E.,
Sec. 11, SE¼SE¼;
Sec. 12, lot 3, S½SW¼;
Sec. 27, NW¼NE¼.

Powersite Reserve No. 50

T. 50 N., R. 1 E.,
Sec. 4, N½NW¼SE¼SW¼.

Powersite Reserve No. 254

T. 46 N., R. 2 E.,
Sec. 4, lot 3.

Containing in the aggregate approximately 363.10 acres.

The total areas described aggregate 7,126.80 areas of public, nonpublic and national forest lands in Gunnison, Montrose and Saguache Counties.

4. The State of Colorado has waived its right to select lands for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

5. At 7:45 a.m. on March 12, 1982, the public lands in paragraph one, excluding these described lands in Powersite Reserve No. 495, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications

received at or prior to 7:45 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. At 7:45 a.m. on March 12, 1982, the lands in paragraph two shall be subject to such forms of disposition as may by law be made of national forest lands, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

7. The patented lands described in paragraph three are hereby relieved of the restrictions of Section 24 of the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, 69 Stat. 682; 30 U.S.C. 621.

Inquiries concerning the public lands should be addressed to Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, 2000 Arapahoe, Denver, Colorado 80205.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4184 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6142

[C-11315]

Colorado; Reservoir Site Restoration No. 50; Partial Revocation of Reservoir Site Reserve Nos. 27, 30, 50 and 53

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the Secretarial Order of August 18, 1894, as it pertains to reservoir site reserves affecting approximately 2,089.90 acres. The 320 acres of public land will be restored to operation of the public land laws generally, including the mining laws. The 120 acres of national forest lands will be opened to such forms of disposition as may be made of such lands. A 40-acre tract of public land remains withdrawn. The remaining 1,609.90 acres are privately owned.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of August 18, 1894, as it pertains to Reservoir Site Reserve Nos. 27, 30, 50, and 53, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

Reservoir Site Reserve No. 27

T. 23 S., R. 68W.,
Sec. 1, SW¼SW¼
Sec. 2, lot 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼, S½SE¼;
Sec. 11, NW¼NE¼, N½NW¼.

Land described aggregates approximately 529.90 acres. All of the lands in this reserve have been patented.

Reservoir Site Reserve No. 30

T. 30 S., R. 69 W.,
Sec. 25, NW¼NE¼, NW¼, NW¼SW¼;
Sec. 26, SE¼NE¼, E½SE¼.

Land described aggregates 360 acres. All lands in this reserve have been patented.

Reservoir Site Reserve No. 50

T. 12 S., R. 79 W.,
Sec. 26, SW¼SW¼ (forest land)
Sec. 27, S½SE¼ (forest land)
Sec. 34, NE¼NE¼ (public land)
NW¼NE¼ (patented land)
Sec. 35, NW¼NW¼ (patented land).

Land described aggregates 240 acres. Of this, 80 acres in the reserve have been patented, 120 acres are national forest lands, and 40 acres are public land.

Reservoir Site Reserve No. 53

T. 21 S., R. 66 W.,
Sec. 19, SE¼SE¼ (public land)
Sec. 20, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼ (patented land)
W½SW¼ (public land)
Sec. 29, NW¼, W½SW¼ (patented land)
Sec. 30, N½NE¼ (patented land) S½NE¼, E½SE¼ (public land)
Sec. 31, NE¼NE¼ (public land).

Land described aggregates 960 acres. Of this, 640 acres in this reserve have been patented, and 320 acres are public lands.

2. At 7:45 a.m. on March 12, 1982, 320 acres of public land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on March 12, 1982, 320 acres of public land will be open to location under the United States mining laws. The lands have been open to applications and offers under the mineral leasing laws.

4. At 7:45 a.m. on March 12, 1982, 120 acres of national forest lands will be open to such forms of disposition as may by law be made of national forest lands.

5. The NE¼NE¼ sec. 34, T. 12 S., R. 79 W., remains withdrawn from all forms of appropriation under the public land laws, including the mining laws, for the Brown's Canyon Primitive Area (C-24224). It is also withdrawn by Powersite Reserve No. 92.

6. The remaining 1,609.90 acres are privately owned.

Inquiries concerning the lands should be addressed to the Chief, Branch of Adjudication, Bureau of Land Management, 2000 Arapahoe, Denver, Colorado 80205.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4185 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6143

[M 31160]

Montana; Revocation of Secretarial Order Dated June 16, 1906, Blossburg Administrative Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order dated June 16, 1906, which withdrew 80 acres as an administrative site for use by the Forest Service. This action will open the lands to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406-657-6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated June 16, 1906, which withdrew certain lands for administrative purposes, is hereby revoked so far as it affects the following described lands:

Principal Meridian

Helena National Forest

T. 11., R. 6 W.,
Sec. 34, E½SE¼.

The area described contains 80 acres in Lewis and Clark County.

2. At 8 a.m. on March 12, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4156 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6144

[CA-3441]

California; Revocation of National Forest Administrative Site Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 36.20 acres of public land for use as a Forest Service administrative site. This action will restore the land to the operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 13, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 7555 of February 17, 1937, which withdrew the following described public land as a Forest Service administrative site, is hereby revoked:

Soap Creek Administrative Site

Mount Diablo Meridian

T. 29 N., R. 2 E.,
Sec. 6, lot 18.

The area described contains 36.20 acres in Tehama County.

2. At 10 a.m. on March 13, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land will be open to location under the United States mining laws at 10 a.m. on March 13, 1982. It has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of land Management, U.S. Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR. Doc. 82-4157 Filed 2-16-82; 8:45 a.m.]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6145

[I-12782]

Idaho; Revocation of Marshall Lake Administrative Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUBJECT: The order revokes an Executive order, which withdrew 90 acres of land for the U.S. Forest Service, Marshall Lake Administrative Site. This action will open the lands to such forms of disposition as may by law be made of national forest lands, including nonmetalliferous mineral location. The lands have been and would continue to be open to metalliferous mineral location and mineral leasing.

EFFECTIVE DATE: March 13, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 4178 of March 19, 1925, is hereby revoked in its entirety:

Boise Meridian

Payette National Forest

T. 24 N., R. 4 E.,
Sec. 30, E½NE¼SW¼, NE¼SE¼SW¼, NW¼SE¼, N½SW¼SE¼.

The area described contains 90 acres in Idaho County.

2. At 7:45 a.m., on March 13, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4158 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6146

[OR-22450]

Oregon; Revocation of Coal Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order which withdrew 3,681.43 acres of land for classification and appraisement with respect to coal values. This action will restore 80 acres of land to operation of the public land laws generally, including non-metalliferous mineral location under the mining laws. The remaining 3,601.43 acres are privately owned.

EFFECTIVE DATE: March 13, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 9, 1910, which withdrew the following described lands for classification and appraisement with respect to coal values is hereby revoked:

Willamette Meridian

T. 26 S., R. 12 W.,
Sec. 10, W½NW¼.
T. 28 S., R. 13 W.,
Sec. 22, W½NW¼ and N½SW¼.
T. 29 S., R. 13 W.,
Sec. 3, lot 4, SW¼NW¼ and W½SW¼;
Sec. 4, lot 4, SW¼NW¼, NW¼SW¼, S½SW¼ and W½SE¼;
Sec. 9, SW¼NE¼, S½SW¼ and NW¼SE¼;
Sec. 15, NE¼NE¼, S½NE¼, NW¼ and N½SE¼;
Sec. 17, SW¼SW¼ and E½SE¼;
Sec. 20, N½NE¼, SE¼NE¼, NW¼NW¼, S½NW¼ and SW¼;
Sec. 21, NE¼, N½S½ and SE¼SE¼;
Sec. 22, NW¼NE¼, S½NE¼, W½ and N½SE¼;
Sec. 28, E½, E½W½ and W½SW¼;
Sec. 29, W½E½, NW¼, N½SW¼ and SE¼SW¼.

Reconveyed Coos Bay Wagon Road Land

T. 26 S., R. 12 W.,
Sec. 10, W½SW¼.

The areas described aggregate 3,681.43 acres in Coos County.

2. The lands described in paragraph 1, except as provided in paragraph 3, have been conveyed from United States ownership and are not open to operation of the public land laws, including the United States mining laws and mineral leasing laws, except that where coal has

been reserved to the United States, such lands have been and continue to be open to operation of the mineral leasing laws as to coal only.

3. At 10 a.m. on March 13, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the W½SW¼ of section 10, T. 26 S., R. 12 W., will be open to such forms of disposition as may by law be made of Reconveyed Coos Bay Wagon Road Land, including nonmetalliferous mineral location under the mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4100 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6147

[Nev-051749]

Revocation of Executive Order No. 4097

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a protective Executive order made for a hot springs area. The area described by the Executive order does not contain any hot springs. This action will restore 240 acres of land to national forest status and open them to such forms of disposition as may by law be made of national forest land.

EFFECTIVE DATE: March 13, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order 4097 of November 1, 1924, which withdrew the following described land for the protection of hot springs is hereby revoked in its entirety. There are no existing hot springs on the land.

Mount Diablo Meridian

T. 17 N., R. 46 E.,
Sec. 19, W½NE¼, SE¼.

The area described contains 240 acres in Lander County.

2. At 10 a.m. on March 13, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Dated: February 5, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4100 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order

[U-31099]

Utah; Revocation of Commissioner's Order Approved June 11, 1943; Revocation of Public Order Nos. 1868, 4036, and 4061

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes four Bureau of Reclamation withdrawals of public lands for the Dixie Reclamation Project. This action will restore the lands to operation of the Public land laws generally, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Commissioner's Order of June 11, 1943, Public Land Order No. 1868 of June 3, 1959, Public Land Order No. 4036 of June 6, 1966, and Public Land Order No. 4061 of July 18, 1966, which withdrew certain Public lands for use in connection with the Bureau of Reclamation's Dixie Project, is hereby revoked as to the following described lands:

Salt Lake Meridian

T. 41 S., R. 11 W.,
Sec. 30, Lots 2, 3, E½SW¼, SE¼;
Sec. 31, Lots 2, 3, 4, NE¼NE¼, E½SW¼, SE¼;
Sec. 33, Lots 1, 2, 3, 4, N½, N½S½.
T. 42 S., R. 11 W.,
Sec. 3, Lots 3, 4, 6, 7, 10, 11;
Sec. 4, Lots 2 to 15 inclusive;
Sec. 5, Lots 1 to 7 inclusive, SW¼NE¼, S½NW¼, SW¼, W½SE¼.
T. 41 S., R. 12 W.,
Sec. 13, Lots 1, 2, NE¼, NW¼NW¼, N½S½, SE¼SW¼;
Sec. 14, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 15, Lots 1, 2, 3, 4, N½, SE¼;
Sec. 19, Lot 4, E½NE¼, NW¼NE¼, NE¼NW¼, E½SE¼;
Sec. 20, N½, N½S½, SE¼SW¼;
Sec. 21, N½;
Sec. 22, NW¼NE¼, N½NW¼, SE¼NW¼;
Sec. 23, NW¼NE¼, N½NW¼,E½SE¼;
Sec. 24, Lots 1 to 6 inclusive, E½NW¼, SW¼;
Sec. 25, NW¼NE¼, N½NW¼, SW¼, S½SE¼;
Sec. 26, SW¼NW¼, S½;
Sec. 27, S½NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 28, N½NE¼, SW¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 29, S½N½, S½;
Sec. 30, Lots 1, 2, 3, 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 31, Lots 1, 2, 3, 4, E½, E½W½;
Sec. 33, N½;
Sec. 34, N½;
Sec. 35, N½.
T. 41 S., R.13 W.,
Sec. 25, Lots 5, 6, NW¼NE¼, SE¼;
Sec. 28, NW¼NW¼;
Sec. 29, E½, E½NW¼, SW¼NW¼, SW¼;
Sec. 30, Lots 1 to 6 inclusive, SW¼NE¼, N½SE¼, (less patented mining claims).
T. 42 S., R. 13 W.,
Sec. 8, NE¼SE¼;
Sec. 10, SE¼SE¼;
Sec. 11, Lot 3;
Sec. 15, Lots 2, 3, 4, SE¼NW¼, E½SW¼;
Sec. 17, SW¼SW¼;
Sec. 18, SE¼SE¼;
Sec. 19, lots 1 to 12 inclusive, E½;
Sec. 20, W½W½, SE¼SW¼;
Sec. 22, E½W½;
Sec. 27, W½W½;
Sec. 28, NW¼NW¼, S½SW¼, NW¼SE¼;
Sec. 29, S½NE¼, E½W½, SE¼;
Sec. 30, Lots 1 to 12 inclusive, W½E½;
Sec. 31, Lots 1 to 6 inclusive, NE¼;
Sec. 33, SW¼, S½SE¼, NE¼SE¼;
Sec. 34, W½W½.
T. 43 S., R. 13 W.,
Sec. 4, W½W½, E½NW¼, NW¼NE¼;
Sec. 5, All;
Sec. 6, E½E½;
Sec. 7, NE¼;
Sec. 8, NE¼NE¼, W½NE¼, NW¼.
T. 41 S., R. 14 W.,
Sec. 25, Lot 10, W½SE¼;
Sec. 34, Lots 3, 4, SW¼SE¼;
Sec. 35, Lots 5 to 11 inclusive, S½NE¼, NE¼SW¼, N½SE¼.
T. 42 S., R. 14 W.,
Sec. 8, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 9, SW¼NW¼, NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼;
Sec. 10, Lots 5, 6, 10, 11, NE¼SE¼;
Sec. 11, SW¼SE¼;
Sec. 13, SW¼;
Sec. 14, W½NE¼, E½NW¼, SW¼NW¼, S½;
Sec. 15, Lots 1, 3, 4, 5, SW¼NE¼, N½SW¼, S½S½;
Sec. 17, NE¼NE¼NE¼, W½NE¼NE¼, W½NE¼, NW¼;
Sec. 19, Lots 2, 3, 10, 17,19, S½SE¼;
Sec. 20, Lot 5, S½SW¼;
Sec. 21, SE¼;
Secs. 22 to 27, All;
Sec. 28, E½NE¼, SW¼NE¼, W½, SE¼;
Sec. 29, E½, E½NW¼, W½W½, NE¼SW¼;

Sec. 30, All;
Sec. 31, All;
Sec. 33, W½NE¼, W½.
T. 43 S., R. 14 W.,
Sec. 4, NW¼NW¼;
Sec. 5, E½, NW¼, N½SW¼, SE¼SW¼;
Sec. 6, Lots 1 to 4 inclusive, NE¼, E½W½, N½SE¼;
Sec. 7, Lots 1 to 4 inclusive, SW¼NE¼, E½W½, W½SE¼;
Sec. 8, E½;
Sec. 9, SW¼SW¼;
Sec. 17, E½E½;
Sec. 18, Lots 1 to 4 inclusive, W½E½, E½W½;
Sec. 19, Lots 1 to 4 inclusive, W½NE¼, E½NW¼;
Sec. 20, NW¼SW¼, S½S½;
Sec. 21, E½, E½W½, SW¼SW¼;
Sec. 22, S½;
Sec. 27, N½, N½S½;
Sec. 28, N½, N½S½;
Sec. 29, NE¼/;
Sec. 30, Lots 1 to 4 inclusive, E½W½;
Sec. 31, Lot 3, NE¼NW¼.
T. 42 S., R. 15 W.,
Sec. 23, Lot 1, NW¼NE¼;
Sec. 24, NE¼, E½W½, NW¼SE¼;
Sec. 25, S½NE¼, SE¼NW¼, SE¼.
T. 43 S., R. 15 W.,
Sec. 1, lots 1, 2, 4 to 7 inclusive, 10 to 14 inclusive;
Sec. 8, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 9, SW¼SW¼;
Sec. 12, E½;
Sec. 13, E½, E½W½, W½NW¼;
Sec. 21, N½;
Sec. 24, NE¼, W½NW¼;
Sec. 25, E½, E½W½, SW¼SW¼.
T. 41 S., R. 16 W.,
Sec. 31, SE¼NE¼;
Sec. 33, E½SE¼.
T. 42 S., R. 16 W.,
Sec. 4, lots 4, 7, 8, 9, SW¼NE¼, S½NW¼, N½SW¼ SE¼SW¼;
Sec. 5, SE¼NE¼;
Sec. 7, lots 13, 14;
Sec. 9, lot 6, E½NW¼, W½SE¼;
Sec. 15, W½E½, NW¼NW¼, SE¼NW¼, NE¼SW¼, N½SE¼SW¼, E½W½ SW¼SE¼SW¼, E½SW¼SE¼SW¼, SE¼SE¼SW¼;
Sec. 17, lot 1, NE¼NW¼, NW¼SE¼;
Sec. 18, lots 1 to 5 inclusive, S½NE¼;
Sec. 21, NW¼NE¼, SE¼NE¼, NE¼SE¼;
Sec. 35, SE¼NW¼.
T. 43 S., R. 16 W.,
Sec. 1, S½NW¼;
Sec. 13, SE¼NE¼, NE¼SE¼.
T. 40 S., R. 17 W.,
Sec. 29, S½NE¼, W½SE¼;
Sec. 33, lots 2, 3, 4.
T. 41 S., R. 17 W.,
Sec. 4, lots 4, 5, 12;
Sec. 5, lots 1 to 12 inclusive, NE¼SW¼, SE¼;
Sec. 8, E½, E½NW¼;
Sec. 17, N½, SW¼, NE¼SE¼, S½SE¼.
T. 42 S., R. 17 W.,
Sec. 1, lots 1, 7, SW¼NE¼, W½SE¼;
Sec. 12, N½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼.

The areas described aggregate approximately 39,916 acres in Washington County.

2. At 7:45 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on March 16, 1982, the public lands will be open to location under the United States mining laws. The lands have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4153 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6150

[I-10097]

Idaho; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Secretarial orders, a Bureau of Reclamation order concurred in by the Bureau of Land Management, and partially revokes another Secretarial order which withdrew U.S. Forest Service lands and public lands for the Challis Upper Star Valley and General Investigation Reclamation Projects. This action will open the 1,139.24 acres of Forest Service lands to such forms of disposition as may by law be made of national forest lands and the 902.90 acres of public lands will open to the operation of the public land laws, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Orders of November 4, 1943, November 5, 1943, March 27, 1941, and a Bureau of Reclamation Order of November 4, 1954, concurred in by the Bureau of Land Management on May 15, 1956, which withdrew lands for the Challis Upper Star Valley, and General Investigation Reclamation Projects are hereby revoked insofar as they affect the following described lands:

Boise Meridian

Public Lands

T. 14 N., R. 18 E.,
Sec. 1, N½SW¼, SE¼SW¼;
Sec. 2, lots 2, 3, 4, S½NE¼, SE¼NW¼, SW¼, NE¼SE¼;
Sec. 3, lots 1, 2, NE¼SE¼.
T. 15 N., R. 18 E.,
Sec. 35, S½SW¼.
T. 9 S., R. 46 E.,
Sec. 11, lot 2, SW¼NW¼;
Sec. 15, E½SE¼.

U.S. Forest Service Lands

Challis National Forest

T. 15 N., R. 18 E.,
Sec. 34, SE¼SE¼.

Payette National Forest

T. 17 N., R. 2 W.,
Sec. 29, SW¼;
Sec. 30, lots 3, 4, E½SW¼;
Sec. 31, All;
Sec. 32, NW¼.

The areas described contain a total of 2,042.14 acres in Custer, Washington, Adams, and Caribou Counties.

2. At 7:45 a.m. on February 8, 1982, the Forest Service lands shall be open to such forms of disposition as may by law be made of national forest lands.

3. At 7:45 a.m. on February 8, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on February 8, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 7:45 a.m. on February 8, 1982, the public lands will be open to location under the United States mining laws. They have been, and continue to be, open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Idaho State Office, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

Dated: February 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4151 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (final) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
Alaska	Wrangell (City), Wrangell-Petersburg Division (FEMA-6121).	Zimovia Straight	50 feet south of intersection of Case Avenue and Church Street.	**25
			Center of Zimovia Highway at intersection with Rainbow Falls Creek.	**21
			Center of Beach Road 75 feet northeast of intersection of Beach Road and Second Street.	**25
Maps available for inspection at City Hall, 305 Brueger Street, Wrangell, Alaska.				
California	Tehachapi (City), Kern County (FEMA-6143)	Antelope Creek	At the intersection of Antelope Creek and the downstream corporate limits.	*3,905
			35 feet upstream from the center of the State Highway 202 (West Tehachapi Boulevard) crossing of Antelope Creek.	*3,950
			50 feet west of the intersection of South Mill Street and West C Street.	*3,979
		Blackburn Creek	At the intersection of Blackburn Creek and the center of North Mill Street.	*3,946
			At the intersection of North Davis Street and East J Street.	*3,958
			At the intersection of Anita Drive and South Dennison Road.	*4,026
Maps available for inspection at City Clerk's Office, 129 East F Street, Tehachapi, California.				
Connecticut	Colchester, Borough, New London County (Docket No. FEMA-6147).	Judd Brook	Downstream Corporate Limits	*411
			State Route 16 (Upstream side)	*424
			Norwich Avenue (Downstream side)	*455
			Approximately 630' upstream of Norwich Avenue	*470
			At Upstream Corporate Limits	*482
Maps available for inspection at the home of the Borough Clerk, Deborah Golden, Boretz Road, Colchester, Connecticut.				
Connecticut	Colchester, Town, New London County (Docket No. FEMA-6147).	Meadow Brook	Confluence with Jeremy River	*244
			Downstream of Mill Hill Road	*280
			Approximately 3,800' upstream of Mill Hill Road	*276
			Approximately 4,630' upstream of Mill Hill Road	*296
			Approximately 540' downstream of Levy Road	*315
			Upstream of Levy Road	*326
		Jeremy River	Approximately 2,150' downstream of State Route 2	*236
			Upstream of State Route 2	*245
			Upstream of Hartford Road	*248
		Judd Brook	Approximately 3,155' downstream of Miller Road	*344
			Approximately 570' downstream of Miller Road	*368
			Upstream of Miller Road	*369

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
			Downstream of State Route 85	*354
			Downstream Corporate Limits of the Borough of Colchester, Connecticut.	*411
			At Upstream Corporate Limits of the Borough of Colchester, Connecticut.	*482
Maps available for inspection at the Office of the Town Clerk, Town Office Building, Colchester, Connecticut.				
Connecticut	Litchfield, Town, Litchfield County (Docket No. FEMA-6147).	Naugatuck River	Downstream Corporate Limits	*496
			Upstream State Route 118	*505
			Upstream Corporate Limits	*515
		East Branch Shepaug River	Upstream Coxes Dam	*918
			Upstream Private Road	*922
			Approximately 830' upstream of Dam	*951
			Upstream of Blue Swamp Road	*984
		Bantam River	Confluence with Bantam Lake	*904
			Upstream Private Drive	*934
			Approximately 1,000' upstream of U.S. Route 202	*952
		Bantam Lake	Entire shoreline within community	*934
Map available for inspection at the First Selectmen's Office and the Office of the Zoning Enforcement Office, Litchfield Town Hall, Litchfield, Connecticut.				
Connecticut	Redding, Town, Fairfield County (Docket No. FEMA-6129).	Norwalk River	Downstream Corporate Limits	*303
			Upstream of State Route 465	*313
			First upstream Corporate Limits	*334
			Second upstream Corporate Limits	*371
			Third upstream Corporate Limits	*379
		Saugatuck River	Upstream of Newton Turnpike	*286
			Upstream of Dam	*317
			Upstream of Station Road	*389
			Approximately 3,800' upstream of Simpaug Turnpike	*425
		Aspetuck River	Downstream Corporate Limits	*303
			Upstream of first crossing Valley Road	*333
			Upstream of Dam	*356
			Upstream of second crossing Valley Road	*406
			Upstream of third crossing Valley Road	*452
			Upstream Corporate Limits	*477
		Hawley Pond Brook	Confluence with Saugatuck River	*405
			Upstream of Howes Lane	*420
			Downstream of Hawley Pond Dam	*430
Maps available for inspection at the Town Clerk's Office, Town Hall, Redding, Connecticut.				
Connecticut	Willington, Town, Tolland County (Docket No. FEMA-6147).	Willimantic River	Downstream Corporate Limits	*330
			Directly upstream of Depot Road	*352
			Approximately 150' upstream of U.S. Route 44	*372
			At confluence of Roaring Brook	*401
			100' upstream of Central Vermont Railway (2nd most upstream crossing).	*427
			Approximately 640' upstream Central Vermont Railway (most upstream crossing).	*440
			Upstream Corporate Limits	*452
Maps available for inspection at the Willington Town Clerk's Office, Town Hall, West Willington, Connecticut.				
Illinois	(C) Crystal Lake, McHenry County (Docket No. FEMA-6144).	Crystal Creek	About 0.9 mile downstream of Dartmoor Drive	*851
			About 150 feet downstream of Dartmoor Drive	*871
			About 500 feet upstream of Dartmoor Drive	*874
			About 100 feet upstream of McHenry Avenue	*880
			About 100 feet upstream of St. Andrews Road	*886
			Just upstream of Country Club Road	*891
			Just downstream of Dole Avenue	*893
		Crystal Lake	Shoreline	*893
Maps available for inspection at the City Clerk's Office, 121 North Main Street, Crystal Lake, Illinois.				
Illinois	(V) Rochester, Sangamon County (Docket No. FEMA-6144).	South Fork Sangamon River	Approximately 1,800 feet upstream of State Route 29	*543
			At upstream corporate limits	*545
		Black Branch	At downstream corporate limits	*550
			Just upstream of Mill Street	*556
			Just upstream of the Chessie System Railroad	*560
			At upstream corporate limits	*560
Maps available for inspection at the Village Hall, 128 North John Street, Rochester, Illinois.				
Illinois	(V) Sleepy Hollow, Kane County (Docket No. FEMA-6121).	Sleepy Creek	About 700 feet downstream of Locust Drive	*733
			About 350 feet downstream of Bullfrog Lane	*738
			Just upstream of Bullfrog Lane	*742
			About 450 feet downstream of Hillcrest Drive	*744
			About 400 feet upstream of Hillcrest Drive	*764
			About 1,450 feet upstream of Hillcrest Drive	*764
			Just downstream of State Route 72	*769
		Jelkes Creek	About 200 feet downstream of south corporate limits	*740
			About 350 feet downstream of Thorobred Lane	*750
			About 300 feet upstream of Thorobred Lane	*756
			Just downstream of Sleepy Hollow Road	*759
Maps available for inspection at the Clerk's Office, Village Hall, One Thorobred Lane, Sleepy Hollow, Illinois.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W)
Massachusetts	Barre, Town, Worcester County (Docket No. FEMA-5035).	Ware River	Downstream Corporate Limits	*579
			Conrail Bridge	*580
			2,112' or 0.4 mile downstream from South Barre Road	*584
			South Barre Road	*591
			Downstream side of Barre Wool Combing Company Dam.	*595
		Prince River	Confluence with Ware River	*582
			6,864' or 1.3 miles upstream from confluence with Ware River.	*596
			South Barre Road bridge	*609
			1,584' or 0.3 mile upstream from South Barre Road bridge.	*620
			Upstream side of Summer Street bridge	*637
			Old Worcester Road bridge	*649
			Upstream side of Dam	*653
			Upstream Valley Road bridge	*668
			1,056' or 0.2 mile upstream from Valley Road bridge	*685
			Upstream State Route 62 bridge	*696
			1,478' or 0.28 mile upstream from State Route 62	*715
			School Street Bridge	*725
			Downstream side of Dam upstream of School Street	*744
			Upstream side of Dam upstream of School Street	*769
Maps available for inspection at the Planning Board Office, Town Hall, Barre, Massachusetts.				
Massachusetts	Belmont, Town, Middlesex County (Docket No. FEMA-6147).	Wellington Brook	Downstream Boston and Maine Railroad bridge	*8
			Upstream Private Drive	*21
			Downstream Common Street	*23
		Little River (Alewife Brook)	Upstream of Corporate Limits	*8
Maps available for inspection at the Office of the Belmont Town Engineer, Town Hall, Belmont Massachusetts.				
Massachusetts	Clinton, Town, Worcester County (Docket No. FEMA-6041).	Nashua River	Corporate Limits	*241
			Downstream Water Street	*256
			Upstream of Conrail (Upstream crossing)	*262
			Chestnut Street (Upstream side)	*284
		Counter-pane Brook	Confluence with Nashua River	*242
			Upstream of Plain Street	*259
			Dam (downstream side)	*286
			Approximately 1,700' upstream of Main Street	*328
Maps available for inspection at the Conservation Commission Office, Town Hall, 242 Church Street, Clinton, Massachusetts.				
Massachusetts	Dudley, Town, Worcester County (Docket No. FEMA-6012).	French River	Downstream of Perryville Road	*392
			Upstream of Perryville Dam	*402
			Upstream of Hill Street	*411
			Upstream of Chase Avenue	*417
			Upstream of Peter Street	*421
			Downstream of Dam (Approximately 1,400' upstream of Peter Street).	*426
			Upstream of Dam (Approximately 1,400' upstream of Peter Street).	*436
			Downstream of Dam (Approximately 650' downstream of North Main Street).	*438
			Upstream of Dam (Approximately 650' downstream of North Main Street).	*453
		Quinebaug River	Downstream Corporate Limits	*356
			Approximately 3,760' upstream of State Route 131	*362
			Peck Avenue (Extended)	*370
			Downstream of Providence and Worcester Company Railroad.	*375
			Upstream of Boise Cascade Company Dam	*386
		Tributary 1	New Pond	*537
			Downstream of Mason Road	*545
			Approximately 1,000' upstream of Mason road	*560
Maps available for inspection at the Selectman's Office, Dudley Town Hall, Dudley, Massachusetts.				
Massachusetts	Egremont, Town, Berkshire County (Docket No. FEMA-6052).	Green River	Approximately 1,000' downstream of downstream Corporate Limits.	*736
			Downstream Corporate Limits	*740
			Private Road (Upstream)	*770
			Boice Road (Upstream)	*779
			Rowe Road (Upstream)	*795
			Upstream Corporate Limits	*813
		Kilmer Brook	Corporate Limits	*696
			Second Footbridge (Upstream)	*705
			Dam (Upstream)	*734
			Mount Washington Road upstream crossing (Upstream).	*736
			Approximately 1,500' downstream of Jug End Road	*782
			Jug End Road	823
Maps available for inspection at the Egremont Town Hall, Route 71, Egremont, Massachusetts.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W)
Massachusetts	Lanesborough, Town, Berkshire County (Docket No. FEMA–6079).	Town Brook	Upstream of Bull Hill Road culvert	*1,104
			Putnam Road (Upstream)	*1,113
			Bridge Street (Upstream)	*1,121
			Private Road (downstream)	*1,148
			Bailey Road (downstream)	*1,170
			U.S. Route 7 (Downstream)	*1,176
			Approximately 1,600' upstream of U.S. Route 7	*1,190
		Secum Brook	Approximately 70' upstream of Narragansett Avenue culvert.	*1,102
			Balance Rock Road (Upstream)	*1,121
			Olsen Road (Upstream)	*1,140
			Approximately 375' upstream of Olsen Road	*1,141
		Daniels Brook	Corporate Limits	*1,140
			Approximately 200' downstream of Potter Mountain Road.	*1,180
			Approximately 1,360' upstream of Potter Mountain Road.	*1,214
		Pontoosuc Lake	Entire shoreline within the community	*1,101
Maps available for inspection at the Town Clerk's Office, Town Hall, 83 North Main Street, Lanesborough, Massachusetts.				
Massachusetts	Lunenburg, Town, Worcester County (Docket No. FEMA–6147).	Baker Brook	Downstream Corporate Limits	*353
			Fitchburg-Lunenburg Corporate Limits (Approximately 1,650' upstream of Younge Road).	*366
			Most upstream Fitchburg-Lunenburg Corporate Limits	*378
		Pearl Hill Brook	Downstream Corporate Limits	*383
			Upstream side of White Street	*437
			Upstream side of Northfield Road	*463
			Upstream Corporate Limits	*484
		Tributary to Pearl Hill Brook	Confluence with Pearl Hill Brook	*396
			Approximately 1,800' upstream from confluence with Pearl Hill Brook.	*420
			Approximately 2,350' downstream from West Street	*433
		Mulpus Brook	Downstream Corporate Limits	*256
			Approximately 300' upstream of Access Road	*323
		Catacoonamug Brook	Downstream Corporate Limits	*302
			Downstream Reservoir Road	*313
			Confluence of Tributary to Catacoonamug Brook	*317
		Tributary to Catacoonamug Brook	Confluence with Catacoonamug Brook	*317
			Upstream side of Page Street	*370
Maps available for inspection at the Planning Board Office, Town Hall, 17 Main Street, Lunenburg, Massachusetts.				
Massachusetts	Mattapoisett, Town, Plymouth County (Docket No. FEMA–5800).	Buzzards Bay	Shaws Cove	*13
			Nasketucket Bay to Aucoot Cove	*14
Certain areas of the community are subject to flood with velocity (wave action). See map for areas designated Zone V10.				
Maps available for inspection at the Office of the Town Clerk, 16 Main Street, Mattapoisett, Massachusetts.				
Massachusetts	Sterling, Town, Worcester County (Docket No. FEMA–6147).	Stillwater River	350' downstream of Muddy Pond Road Bridge	*405
			Upstream side of Crowley Road Bridge	*425
			Upstream side of State Route 62 Bridge	*433
			Upstream side of State Route 140 Bridge	*457
			1,600' upstream of Houghton Road Bridge	*495
		Connelly Brook	260' downstream of State Route 12 Bridge	*441
			150' upstream of Jewett Road Bridge	*457
			Upstream of State Route 62 culvert	*501
		Wekepeke Brook	70' downstream of Pratt Junction	*375
			Downstream side of Boston and Maine Railroad Culvert.	*391
		East Waushacum Pond	Entire shoreline	*440
Maps available for inspection at the Planning Board Office, Town Hall, Main Street, Sterling, Massachusetts.				
Massachusetts	Wilmington, Town, Middlesex County (Docket No. FEMA–5780).	Shaweheen River	Downstream Corporate Limits	*78
			Upstream Coporate Limits	*93
		Ipswich River	Downstream Corporate Limits	*76
			Upstream Church Street Culvert	*86
			Canal Street Culvert	*96
			Upstream Corporate Limits	*109
		Martins Brook	Downstream Corporate Limits	*76
			Downstream Salem Street	*76
			Upstream Salem Street	*82
			Andover Street	*84
		Maple Meadow Brook	Confluence with Ipswich River	*81
			Power Company Easement Road	*85
		Lubbers Brook	Confluence with Ipswich River	*77
			Upstream Middlesex Avenue Culvert	*82
			Downstream Main Street	*93
			Upstream Main Street	*96
			Upstream Boston and Maine Railroad (south of Main Street).	*100
Maps available for inspection at the Town Hall, Middlesex Avenue, Wilmington, Massachusetts.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
Massachusetts	Winchendon, Town, Worcester County (Docket No. FEMA–6012).	Millers River	Approximately 4,825' upstream of River Street	*886
			Approximately 2,360' downstream from Brown Street	*875
			Approximately 280' downstream from Brown Street	*895
			Approximately 370' upstream of Brown Street	*903
			Approximately 100' upstream of U.S. Route 202	*912
			Approximately 1,160' upstream of U.S. Route 202	*922
			Downstream of Tannery Dam	*934
			Upstream of Tannery Dam	*941
			Downstream of Mason and Parker Dam	*952
			Downstream of Winchendon Electric Light and Power Company (WELPCO) Dam.	*959
			Upstream of WELPCO Dam	*973
			Upstream of Pumping Station Access Road	*981
			Approximately 2,375' upstream of 3rd Boston and Maine Railroad crossing from upstream Corporate Limits.	*983
			Downstream crossing of Spring Street	*1,006
			Approximately 3,250' downstream of upstream crossing of Spring Street.	*1,015
			Upstream Corporate Limits	*1,026
		North Branch Millers River	Confluence with Millers River	*974
			Approximately 1,690' downstream of Maple Street	*995
			Upstream of Maple Street	*1,011
			Upstream of U.S. Route 202	*1,020
	Maps available for inspection at the Selectmen's Office, Winchendon Town Hall, Winchendon, Massachusetts.			
Michigan	(C), Albion, Calhoun County (Docket No. FEMA–6144).	Kalamazoo River	About 1.1 miles downstream of North Albion Street	*929
			At confluence of East Branch Kalamazoo River	*939
		South Branch Kalamazoo River	Just downstream of Victory Park Dam	*940
			Just upstream of Victory Park Dam	*946
			About 0.5 mile upstream of South Superior Street	*946
		East Branch Kalamazoo River	About 1900 feet upstream of South Hannah Street	*943
		Mill Race	At confluence with Kalamazoo River	*938
			Just upstream of Flood Gates	*943
		Unnamed Creek	At confluence with East Branch Kalamazoo River	*943
			Just upstream of Riverside Drive	*948
	Maps available for inspection at the City Hall, 112 West Case Street, Albion, Michigan.			
Michigan	(C), Ann Arbor, Washtenaw County (Docket No. FEMA–6181).	Huron River	About 100 feet upstream of U.S. Highway 23	*749
			Just upstream of Conrail bridge (about 3470 feet downstream of Fuller Road).	*755
			About 600 feet downstream of Fuller Road	*758
			Just downstream of Argo Dam	*774
			About 4900 feet upstream of State Highway 44	*779
		Allen Creek	At confluence with Huron River	*773
			Just downstream of Hoover Avenue	*826
		Traver Creek	At mouth	*783
			Just upstream of Broadway	*778
			Just upstream of Plymouth Road	*804
		Pittsfield-Ann Arbor Drain	About 100 feet upstream of Packard Road	*805
			Just upstream of Retention Pond No. 1 Outlet Works	*810
			Just upstream of Stone School Road	*818
	Maps available for inspection at the City Hall, 100 North 5th Avenue, Ann Arbor, Michigan			
Michigan	(Twp.), Kalamazoo, Kalamazoo County (Docket No. FEMA–6144).	Kalamazoo	About 0.8 mile downstream of Conrail	*756
			About 0.4 mile upstream of Mosel Avenue	*780
			About 700 feet downstream of King Highway	*784
			Just downstream of Sprinkle Road	*796
		Davis Creek	At confluence with Kalamazoo River	*785
			Just upstream of Olmsted Road	*777
	Maps available for inspection at the Township Hall, 1720 Riverview Drive, Kalamazoo, Michigan.			
Michigan	(V), Manchester, Washtenaw County (Docket No. FEMA–6144).	River Raisin	About 1,200 feet downstream of Manchester Ford Dam.	*881
			Just downstream of Manchester-Ford Dam	*883
			Just upstream of Manchester-Ford Dam	*890
			Just downstream of Manchester Mill Dam	*891
			Just upstream of Main Street	*894
			About 1.0 mile upstream of Main Street	*895
	Maps available for inspection at the Village Hall, 120 South Clinton, Manchester, Michigan.			
Minnesota	(C), Dakota, Winona County (Docket No. FEMA–6144).	Mississippi River	At downstream corporate limit	*647
			At upstream corporate limit	*648
		Middle Creek	Just upstream of Interstate 90 Exit Ramp	*689
			At upstream corporate limit	*689
		South Creek	Just upstream of Chicago, St. Paul and Pacific Railroad.	*654
			Just upstream of Interstate 90 Frontage Road	*661
			At upstream corporate limit	*669
	Maps available for inspection at Route 1, Box 4, Dakota, Minnesota.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
Minnesota	(C), Goodview, Winona County (Docket No. FEMA-6144).	Crooked Slough	Within the community, north of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*654
Maps available for inspection at the City Hall, 4140 5th Street, Goodview, Minnesota.				
Missouri	(C), Berger, Franklin County (Docket No. FEMA-6144)	Missouri River	Within corporate limits	*511
Maps available for inspection at the Mayor's Home, Berger, Missouri.				
Missouri	(C), Valley Park, St. Louis County (Docket No. FEMA-6144).	Meramec River	At downstream corporate limits	*426
			At upstream corporate limits	*433
		Fish Pot Creek	Within the corporate limits	*432
		Grand Glaize Creek	At mouth	*429
			Just upstream of Missouri Pacific Railroad	*431
			At upstream corporate limits	*436
Maps available for inspection at the City Hall, 320 Benton Street, Valley Park, Missouri.				
Nevada	Henderson (City), Clark County (FEMA-5966)	Alluvial Fan in eastern Henderson	6,500 feet east of the intersection of Newport Drive and Magic Way.	#1
			7,500 feet east of the intersection of Newport Drive and Magic Way.	#4
		Alluvial Fan in western Henderson	1,500 feet south of the centerline of Sunset Road at a point 6,000 feet west of the intersection of Sunset Road and Gibson Road.	#1
			6,100 feet south of the centerline of Sunset Road at a point 8,200 feet west of the intersection of Sunset Road and Gibson Road.	#6
Maps available for inspection at City Hall, 243 Water Street, Henderson, Nevada.				
New Hampshire	Berlin, City, Coos County (Docket No. FEMA-6147)	Androscoggin River	Downstream corporate limits	*904
			Upstream of Cross Hydro Dam	*925
			3,300' upstream of Cross Hydro Dam	*936
			3,940' upstream of Cross Hydro Dam	*975
			5,100' upstream of Cross Hydro Dam	*1,000
			Upstream of J. Brody Smith Dam	*1,010
			1,800' upstream of J. Brody Smith Dam	*1,030
			Downstream of Riverside Hydro Dam	*1,056
			Upstream of Riverside Hydro Dam	*1,079
			Upstream Sawmill Hydro Dam	*1,096
			Downstream of Twelfth Street	*1,100
			Upstream corporate limits	*1,110
		Dead River—Jericho Brook	At mouth of Pleasant Street Culvert	*992
			Upstream of Off York Street	*995
			1,450' upstream of Pleasant Street Culvert	*1,025
			3,660' upstream of Pleasant Street Culvert	*1,050
			Upstream of Marsh Road	*1,052
			Downstream of Canadian National Railroad	*1,059
			780' upstream of Canadian National Railroad	*1,067
Maps available for inspection at the Community Development Office, Berlin City Hall, Berlin, New Hampshire.				
New Jersey	Clifton (City), Passaic County (FEMA-6145)	Passaic River	At the intersection of State Highway 3 and Passaic River.	*14
			At the intersection of Garden State Parkway and Passaic River.	*33
		Third River	20 feet upstream from the center of the River Road crossing.	*17
			140 feet upstream from the center of the ramp to westbound U.S. Highway 46.	*270
		Weasel Brook	At the intersection of Davidson Street and Weasel Brook.	*31
			20 feet upstream from the center of the Grove Street crossing.	*173
		Branch, Weasel Brook	200 feet downstream from center of Conrail crossing of Branch, Weasel Brook.	*134
		Branch 3-5-2, Weasel Brook	At the intersection of Colfax Avenue and Branch 3-5-2, Weasel Brook.	*128
		Wabash Brook	At the intersection of Interstate Highway 46 and Wabash Brook.	*33
Maps available for inspection at City Clerk's Office, 900 Clifton, Clifton, New Jersey.				
New Jersey	Hamilton (Township), Mercer County (FEMA-6053)	Assunpink Creek	Enterprise Avenue 25 feet upstream from centerline	*47
			Quaker Bridge Road 50 feet upstream from centerline	*57
		Miry Run	Sweet Briar Road 50 feet upstream from centerline	*50
			Hughes Drive 50 feet upstream from centerline	*53
		Shady Brook	Lily Street 25 feet upstream from centerline	*52
			Arena Drive centerline	*58
		Delaware River	500 feet south of the intersection of Interstate Highway 295 and State Route 29.	*15
		Crosswicks Creek	U.S. Route 206 50 feet upstream from centerline	*14
			Groveville-Allentown Road 50 feet upstream from centerline.	*19

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
			Church Street 50 feet upstream from centerline	*26
			Entonville Road 50 feet upstream from centerline	*29
		Back Creek	South Broad Street 25 feet upstream from centerline	*28
			Yardville Road 50 feet upstream from centerline	*30
		Doctors Creek	Groveville-Yardville Road 50 feet upstream from centerline.	*16
			Tattletown Road 50 feet upstream from centerline	*44
		Pleasant Run	Entonville Road 15 feet upstream from centerline	*48
		Pond Run	Centerline of East State Street	*48
			50 feet upstream from centerline of Whitehorse-Hamilton Square Road.	*81
		North Branch Pond Run	Centerline of Brooks Lane	*85
			Centerline of Estates Boulevard	*87
Maps available for inspection at Engineer's Office, 2090 Greenwood Avenue, Hamilton, New Jersey.				
New Jersey	Little Ferry, Borough, Bergen County (Docket No. FEMA-6124).	Hackensack River	Entire shoreline	*9
		Losen Slote Creek	Entire shoreline	*9
Maps available for inspection at the Municipal Building, One Katherine Street, Little Ferry, New Jersey.				
New Jersey	Millville, City, Cumberland County (Docket No. FEMA-6147).	Maurice River	Downstream Corporate Limits	*9
			Union Lake Dam (Upstream side)	*30
			Upstream Corporate Limits	*31
		White Marsh Run	Confluence with Maurice River	*9
			Cedar Street (Upstream side)	*22
			Estell Avenue (Upstream side)	*36
			Reick Avenue (Downstream side)	*45
		Petticoat Stream	Confluence with Maurice River	*9
			Kates Boulevard (Upstream side)	*31
			East Pine Street (Upstream side)	*36
			Tenth Street (Downstream side)	*41
Maps available for inspection at the Office of the City Engineer, South High Street, Millville, New Jersey.				
New York	Barton, Town, Tioga County (Docket No. FEMA-6146)	Susquehanna River	Downstream Corporate Limits	*774
			Upstream Corporate Limits	*784
Maps available for inspection at the Barton Town Hall, 444 Park Avenue, Waverly, New York.				
North Caroline	City of Kinston, Lenoir County (FEMA-6143)	Neuse River	Just downstream of Southern Railway	*24
			Just downstream of U.S. Highway 70–258 bypass	*26
		Southwest Creek	Approximately 200 feet downstream of U.S. Highway 70.	*36
			Just upstream of N.C. Highway 58 (Trenton Highway)	*47
		Briary Run	Just upstream of N.C. Highway 58	*53
			Just downstream of Airport Road (SR 1576)	*59
			Just downstream of Rouse Road (SR 1572)	*67
		Taylors Branch	Just downstream of Rouse Road (SR 1572)	*70
		Jerico Run	Just downstream of Cunningham Road (SR 1745)	*49
		Jerico Run Tributary	Just upstream of Greenville Highway (NC 55)	*54
		Adkin Branch	Just downstream of N.C. Highway 11 (Greenville Highway).	*44
			Just downstream of Highland Avenue	*49
			Just upstream of U.S. Highway 58 (Queen Street)	*55
			Just downstream of Crawford Road	*75
		Neuse River Tributary	Just downstream of U.S. Highway 70	*40
Maps available for inspection at the Office of Planning and Research, City Hall, Kinston, North Caroline 28501.				
North Caroline	Town of Kure Beach, New Hanover County (FEMA-6152).	Atlantic Ocean	Approximately 175 feet East of intersection of 2nd Avenue and F Avenue.	*13
			Approximately 200 feet East of intersection of 2nd Avenue and I Avenue.	*13
Maps available for inspection at Town Hall, 115 North Third Street, Kure Beach, North Caroline 28449.				
Oklahoma	City of Stillwater, Payne County (FEMA-6048)	Stillwater Creek	Just upstream of South Main St. (U.S. Highway 177)	*961
			Just downstream of Western Road	*969
			Just downstream of State Highway 51	*977
		West Brush Creek	Approximately 1,400 feet upstream of State Highway 51.	*995
		Boomer Creek	Just upstream of East 12th Ave	*961
			Just downstream of South Perkins Road	*967
		East Boomer Creek	Just downstream of East 3rd Avenue	*973
			Just downstream of Atchison Topeka & Santa Fe Railroad.	*978
			Just downstream of North Husband St	*986
			Just upstream of Airport Road	*916
			Just downstream of East Richmond Rd.—State Highway 180.	*924
		West Boomer Creek	Just downstream of Virginia Avenue	*976
			Just downstream of Boomer Drive (U.S. Highway 177)	*980
			Just upstream of Washington Street	*904
		Duck Creek	Just upstream of West Admiral Rd	*984
		Cow Creek	Just upstream of State Highway 51	*977
		Stream B	Just downstream of South Sangre Rd	*979

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
		Stream C	Just downstream of Juniper Drive	*889
			Just downstream of West 26th Avenue	*872
Maps available for inspection at City Hall, 723 Saint Louis Street, Stillwater, Oklahoma 74074.				
Oregon	Junction City (City), Lane County (FEMA-6130)	Willamette River	Intersection of East 4th Avenue and Cedar Street	*327
			Intersection of East 14th Avenue and Elm Street	*328
Maps available for inspection at City Hall, 680 Greenwood Street, Junction City, Oregon.				
Oregon	Lafayette (City), Yamhill County (FEMA-6143)	Yamhill River	Approximately 800 feet southwest along Washington Street (extended) from its intersection with State Highway 99W.	*109
Maps available for inspection at City Hall, Lafayette, Oregon.				
Oregon	Multnomah County (Unincorporated Areas) (FEMA-6143).	Columbia River	Interstate Highway 5 over the channel	*28
			Confluence with Sandy River	*32
		Willamette River	Fielding Road	*38
		Multnomah Channel	Approximately 100 feet northeast along Johnson Mill Road from its intersection with Burlington Northern Railroad.	*27
		Multnomah Drainage District No. 1	Intersection of Marx Drive and Holman Street	*17
			Approximately 500 feet north of the intersection of 185th Drive and Union Pacific Railroad.	*17
		Fairview Creek	Intersection of Stark Street and 206th Avenue	*244
		Sandy River	Underpass where Columbia River Highway (I-84) crosses Crown Point Highway.	*32
			Downstream side of Viking Bridge over the channel	*50
		Unnamed Tributary to Rock Creek	Downstream side of Kaiser Road over the channel	*211
		Johnson Creek	Intersection of Harney Street and 82nd Avenue	*196
			Intersection of Mall Street and 141st Avenue	*210
			Intersection of Raymond Street and 122nd Avenue	*211
			Downstream side of 267th Avenue over the channel	*409
Maps available for inspection at Zoning & Planning Office, 2115 SE Morrison, Portland, Oregon.				
Oregon	Philomath (City), Benton County (FEMA-6143)	Marys River	300 feet south along centerline of 11th (E) Street from its intersection with Applegate (south) Street.	*295
		Newton Creek	100 feet downstream of intersection of Applegate Street and Newton Creek.	*282
Maps available for inspection at City Hall, Philomath, Oregon.				
Oregon	Millersburg (City), Benton County (Docket No. FEMA-6143).	Willamette River	At intersection of Murder Creek and the Burlington Northern Railroad.	*196
		Truax Creek	50 feet upstream from center of Salem Road	*205
Maps available for inspection at City Hall, 4310 N.E. Woods Road, Millersburg, Oregon.				
Tennessee	City of Nashville, and Davidson County (Metropolitan Government) (Docket No. FEMA-6130).	Cumberland River	Just upstream of confluence of Overall Creek	*406
			Just upstream of confluence of Richland Creek	*406
			Just downstream of Hydes Ferry Bridge	*412
			Just upstream of I-265	*414
			Just upstream of confluence of Mill Creek	*417
			Just upstream of Briley Parkway	*420
			Just upstream of Old Hickory Bridge	*427
			Just downstream of Old Hickory Dam	*430
			Just upstream of Old Hickory Dam	*450
		Harpeth River	Just upstream of McCrory Lane	*538
			Just upstream of Newsome Station Road	*544
			Just upstream of Interstate Highway 40	*549
			Just upstream of Harding Pike	*562
		South Harpeth River	Just downstream of Old State Highway 100	*555
			Just upstream of Highway 96	*567
		Buffalo Creek	Just upstream of Highway 70 South	*580
		Flat Creek	Just upstream of Todd Preis Drive	*564
			Just upstream of Bellevue Road	*580
			Just downstream of Baugh Road Culvert	*600
			Just downstream of Hicks Road	*619
			Just upstream of Iroquois Apt Culvert	*643
			Just downstream of U.S. Highway 70	*670
		Trace Creek	Just upstream of Highway 100	*564
		Overall Creek	Just upstream of River Road Pike	*407
			Just upstream of Old Charlotte Pike	*415
			Just downstream of U.S. Highway 70	*451
		Tributary to Overall Creek	Just upstream of River Road Pike Culvert	*418
			Just upstream of Sawyer Brown Road Culvert	*444
		Richland Creek	Just downstream of Urbandale Avenue	*417
			Just downstream of Charlotte Avenue	*427
			Just upstream of Louisville and Nashville Railroad	*453
		Sugartree Creek	Just upstream of Sugartree Bridge	*475
			Just upstream of Estes Road	*492
			Just downstream of Cross Creek Road	*526
			Just downstream of YMCA Santa Drive	*547
			Just upstream of Hobbs Road	*559
		Jocelyn Hollow Branch	Just downstream of Sedbers Drive	*506
			Just upstream of West Meade Drive	*630

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W)
		Vaughns Gap Branch	Just downstream of Harding Place	*580
			Just upstream of Percy Warner Boulevard	*525
			Just downstream of Saint Henry Drive	*538
			Just downstream of Park Lane	*567
		Whites Creek	Just upstream of Hydes Ferry Pike	*414
			Just upstream of Clarksville Pike	*418
			Just downstream of Tucker Road	*420
			Just downstream of Whites Creek Pike	*450
			Just upstream of Knight Road	*462
			Just upstream of Old Hickory Boulevard	*479
			Just upstream of Interstate Highway 24	*507
		Elston Creek	Just downstream of Hydes Ferry Pike	*415
			Just upstream of Sulphur Creek Road	*462
		Drake Branch	Just upstream of Kings Lane	*436
		Ewing Creek	Just upstream of White Creek Pike	*444
			Just upstream of Knight Road	*449
			Just upstream of Brick Church Pike	*460
			Just upstream of Larkspur Drive	*511
		North Fork Ewing Creek	Just upstream of Ramps to Interstate Highway 24	*490
			Just upstream of Brick Church Pike	*505
			Just downstream of Dickerson Road	*543
		Vhoina Creek	Just downstream of Brick Church Lane	*507
		Earthman Fork	Just downstream of Whites Creek Pike	*469
		Little Creek	Just upstream of Interstate Highway 24	*512
			Just upstream of Brick Church Pike	*536
		Pages Branch Creek	Just upstream of Interstate Highway 65 culvert	*417
			Just upstream of Trinity Lane Culvert	*436
			Just upstream of Grizzard Avenue	*448
		Browns Creek	Just upstream of Lafayette Street	*434
			Just upstream of Louisville and Nashville Railroad	*443
			Just upstream of Craighead Avenue	*466
		West Fork Browns Creek	Just downstream of Old Glendale Trolley Line	*497
			Just downstream of Lealand Lane	*524
			Just downstream of Glendale Road	*562
		Middle Fork Browns Creek	Just upstream of Park Terrace	*486
			Just upstream of Caldwell Lane	*509
		Mill Creek	Just downstream of Interstate Highway 40	*432
			Just upstream of Thompson Lane	*457
			Just upstream of Space Park South Drive	*471
			Just upstream of Franklin Limestone Road	*496
			Just upstream of Bell Road	*517
			Just upstream of Pettus Road	*525
			Just upstream of Nolensville Road	*550
		Sims Branch	Just upstream of Elm Hill Pike	*429
			Just downstream of McGavock Pike	*431
		Sevenmile Creek	Just upstream of Paragon Mills Road	*480
			Just upstream of Nolensville Pike	*504
			Just upstream of Ellington Agricultural Center Road	*530
		Sorghum Branch	Just upstream of Antioch Pike	*477
			Just upstream of Haywood Lane	*542
		Tributary 1 to Mill Creek	Just upstream of Franklin Limestone Road	*496
		Whitsemore Branch	Just downstream of Tusculum Road	*522
			Just upstream of Benzing Road	*551
			Just downstream of Bell Road	*553
			Just downstream of Old Hickory Boulevard	*573
			Just upstream of Cedarmont Drive	*581
		Collins Creek	Just upstream of Interstate Highway 24 (Entrance Ramp).	*524
		Windemere Branch	Just upstream of Driveway Bridge at station 0.70	*428
			Just upstream of Driveway Bridge at station 1.00	*443
		Gibson Creek	Just upstream of Gallatin Road	*445
			Just upstream of Norman Drive	*476
		Gibson Creek Tributary	Just upstream of Madison Boulevard	*423
			Just downstream of Maple Street	*456
		Stone River	Just downstream of Louisville and Nashville Railroad	*426
			Just upstream of McCrory Creek	*426
		Stoners Creek	Just downstream of Old Lebanon Dirt Road	*425
			Just upstream of Old Hickory Road	*434
			Just upstream of Tulip Grove Road	*444
			Just downstream of Chandler Road	*456
		Scotts Creek	Just upstream of confluence with Stoners Creek (flooding effected by backwater from Stoners Creek).	*443
		McCory Creek	Just upstream of Stewarts Ferry's Pike	*435
			Just upstream of Elm Hill Pike	*453
		Hurricane Creek	Just upstream of U.S. Highway 41 and 70 South	*544
		West Branch Hurricane Creek	Just upstream of Firestone Parkway	*561
			Just upstream of Hall Quaker Boulevard	*567
		East Fork Hamilton Creek	Just upstream of Mossdale Drive	*527
		Tributary No. 1 to East Fork Hamilton Creek.	Just upstream of Mossdale Drive	*524
			Just downstream of Anderson Road	*533
		Dry Creek	Just upstream of Interstate Highway 65	*466
			Just downstream of Dickerson Road	*485
		Manskar Creek	Just upstream of U.S. Highway 41	*461

Maps available for inspection at Public Works Department, Civil Engineering Division, 750 South Fifth Street, Nashville, Tennessee 37202.

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW)
Texas	City of Lampasas, Lampasas County (FEMA-6143)	Sulphur Creek	Just downstream of 4th Street	*1,013
			Just downstream of Key Avenue	*1,020
			Downstream of Naruna Road	*1,034
		Gooch Branch	Just upstream of U.S. Highway 190	*1,016
		Gibson Branch	Just downstream of 3rd Street	*1,011
			Just upstream of Avenue H	*1,020
		Burleson Creek	Just downstream of Campbell Road	*1,022
			Just downstream of Key Avenue	*1,037
		Cemetery Creek	Just upstream of Hackberry Street	*1,012
		Stream LM-1	Just downstream of Howe Street	*1,036
			Just downstream of Dam	*1,045
			Upstream of Dam	*1,077
Maps available for inspection at City Hall, 302 East Third Street, Lampasas, Texas 76550.				
Utah	Harrisville (City), Weber County (FEMA-6033)	Coldwater Gulch	Upstream edge of Union Pacific Railroad over channel	*4,267
			Upstream edge of U.S. Highway 30, 89, 91 over channel	*4,291
		Jumpoff Gulch	Approximately 200 feet southeast of intersection of U.S. Highway 30, 89, 91 and 675 N.	[illegible]
Maps available for inspection at City Recorder, City Hall, 1350 North Hwy. 89, Harrisville, Utah.				
West Virginia	Glasgow, Town, Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*611
			Upstream Corporate Limits	*611
Maps available for inspection at Town Hall, 129 Fourth Avenue, Glasgow, West Virginia.				
West Virginia	Saint Albans, City, Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*585
			Approximately 9,160' upstream of East Nitro-Saint Albans Street.	*589
			Upstream Corporate Limits	*589
		Coal River	Confluence with Kanawha River	*588
			Upstream Corporate Limits	*589
		Indian Creek	Confluence with Coal River	*588
			Upstream Corporate Limits	*588
Maps available for inspection at the Office of the Mayor, 1499 MacCorkle Avenue, Saint Albans, West Virginia.				
West Virginia	South Charleston, City Kanawha County (Docket No. FEMA-6147).	Kanawha River	Downstream Corporate Limits	*591
			Interstate 64 bridge (downstream)	*592
			"G" Street extended (downstream)	*593
			Upstream Corporate Limits	*594
		Davis Creek	Confluence with Kanawha River	*592
			Chessie System (downstream)	*593
			Upstream Corporate Limits	*594
Maps available for inspection at the City Engineer's Office, City Hall, 4th Avenue and D Street, South Charleston, West Virginia.				
Wisconsin	(V) Ettrick, Trempealeau County (Docket No. FEMA-5845).	North Fork Beaver Creek	About 1,500 feet downstream of State Street	*765
			About 100 feet downstream of First Street	*769
			About 370 feet upstream of First Street	*771
			About 3,000 feet upstream of First Street	*774
		South Fork Beaver Creek	About 1,000 feet downstream of South Main Street	*766
			Just upstream of South Main Street	*766
			About 2,300 feet upstream of South Main Street	*773
Maps available for inspection at the Village Office, 117 North Main Street, Ettrick, Wisconsin.				
Wisconsin	(V) Pewaukee, Waukesha County (Docket No. FEMA-6144).	Pewaukee River	About 2,000 feet downstream of East Wisconsin Avenue.	*846
			Just upstream of Clark Street	*852
		Pewaukee Lake	About 0.9 mile upstream of Sussex Street	*854
			Within community	*855
Maps available for inspection at the Office of the Village Administrator, Village Hall, 235 Hickory Street, Pewaukee, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII, Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-4018 Filed 2-16-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22, 94

[SS Docket No. 79-18; RM-2824; FCC 82-6]

Amendment of the Commission's Rules To Reallocate Forty Eight 25 kHz Channels in a Certain MHz Range for Multiple Address Radio Systems; and To Establish a New Standard for Frequency Tolerance on Specific MHz Multiple Address Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action reallocates forty-eight 25 kHz channels in the 900 MHz band to the Private Operational-Fixed (Microwave) and Public Mobile Radio Services, on a shared basis, for point-to-multi-point wide-area use. This allocation is needed by the various private and common carrier users who, with the exception of the Power Radio Service, up until now have not had spectrum available solely for multiple-address systems. Among its many intended uses are distribution automation, automatic meter reading, and wide-area paging. The Commission hopes that, by providing for shared use of the channels by the two service groups after the first five years, the needs of future users can be readily met and greater spectrum efficiency will be achieved on a regional basis. The new Rules provide specific regulations which will govern multiple-address radio systems.

EFFECTIVE DATE: March 5, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street NW, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Office of Science and Technology, Washington, D.C., (202) 653-8164—Room 7310.

SUPPLEMENTARY INFORMATION:

Second Report and Order

Adopted: January 13, 1982.

Released: January 27, 1982.

In the matter of amendment of Parts 2 of the Commission's rules governing Frequency Allocations, 22 of the Commission's rules governing the Public Mobile Radio Services, and 94 of the rules governing the Private Operational-Fixed (Microwave) Service to reallocate forty-eight 25 kHz channels in the 900 MHz range for multiple-address radio systems, and amendment of Parts 22 and 94 to establish a new standard for frequency tolerance on 900 MHz multiple-address channels, SS Docket 79-18, RM-2824.

Summary

1. In this Second Report and Order, we are designating forty-eight 25 kHz channels in the 900 MHz range for private and public multiple-address systems, including distribution automation. Although twelve of the channels are designated for common carrier use and the remaining thirty-six are designated for private use, the Commission is providing for future sharing on an as-needed basis.

Background

2. This rule making proceeding (SS Docket 79-18) was initiated in response to a petition submitted by the Utilities Telecommunications Council (UTC) requesting a spectrum allocation for energy distribution automation radio systems (RM-2824). A Notice of Proposed Rule Making, FCC 79-93, was adopted on February 14, 1979, and released on March 1, 1979 (44 FR 12221). A Further Notice of Proposed Rule Making was adopted on December 19, 1979, and released on January 10, 1980 (45 FR 2060). Both Notices proposed the allocation of channels for distribution automation in the Power Radio Service as well as for other Part 94 users for multiple-addressed radio operations as requested by UTC. A Report and Order was adopted on December 4, 1980, and released on January 14, 1981 (46 FR 9950), allocating channels for the exclusive use of the Power Radio Service for energy distribution automation. On December 18, 1980, the Commission adopted a Third Notice of Proposed Rule Making which was released on January 14, 1981 (46 FR 10768). The Third Notice addressed the needs of other Part 94 users as well as other non-Part 94 users whose needs were technically similar to those of distribution automation.

3. The Third Notice proposed to reallocate [1] the forty-eight channels as follows:

a. Twelve unpaired [2] channels (928.8625-928.9875 and 959.8625-959.9875 MHz) to the Domestic Public Land Mobile Radio Service for fixed common carrier use in wide-area paging operations (Part 22).

b. Fourteen paired channels (928.0125 and 952.0125-952.3375 MHz) and eight unpaired channels (956.2625-956.4375 MHz) to the Private Operational-Fixed (Microwave) Service for use by all persons eligible under Part 94 of the Rules. Power Radio Service users would be eligible for these channels only if all other Power Radio Service frequencies are utilized in the area.

It was proposed to make the twelve channels described in "a" above available to Part 94 users if the channels in "b" were exhausted in a given area. Likewise the thirty-six channels (14 pairs and 8 single channels) listed in "b" were to be available to Part 22 users if the latter exhausted the channels listed in "a" in a given area.

4. In that Third Notice, we proposed to permit the use of the eight unpaired 956 MHz frequencies by mobile stations, on a secondary basis, for single frequency one-way or two-way operations. We also proposed to tighten the allowable frequency tolerance for equipment in the 952-960 MHz band from ±.0005% to ±.00015%. In addition to outlining frequency coordination procedures and control station separation, we proposed power and antenna limitations and solicited public comments. Lastly, the Third Notice proposed a 25 kHz channel bandwidth conditioned upon receiving adequate justification for it in the comments.

Comments and Replies

5. Comments to the Third Notice were received from thirteen parties including radio common carriers, private users and manufacturers. Although all the comments voice general support for the Commission's proposed action, some included certain modifications to the proposed new rules and the manufacturers (Harris Corporation—Farinon Electric Operations (Harris), Motorola, Inc. (Motorola), and Cardion Electronics (Cardion)) concerned themselves primarily with the newly proposed technical standards. The RCC interests were represented by Mobile Communications Corporation of America (MCCA), Caprock Communications, Inc. (Caprock), Telocator Network of America (Telocator or TNA), Metro Fone Communications, Inc., *et al* (Metro, *et al*), and RadioCall Corporation (RadioCall). The private user comments include those of Standard Oil Company (Indiana), Utilities Telecommunications Council (UTC), Central Committee on Telecommunications of the American Petroleum Institute (Central Committee), Association of American Railroads (AAR), and Special Industrial Radio Service Association, Inc. (SIRSA). Reply comments were received from four parties: UTC, MCCA, Central Committee and TNA.

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[1] Under the present Rules, the band 928-929 MHz is allocated to the Operational Fixed Service, the band 929-947 MHz is "reserved" for Land Mobile and the band 952-960 MHz is allocated to the Private Operational-Fixed (Microwave) Service and the International Control Services.

[2] These 12 channels may be paired, if so desired, since there is a 31 megahertz separation between the lower six and the upper six.

Discussion

6. The spectrum sharing concept which we delineated in our Third Notice received mixed reviews from the private and the common carrier sectors. Both groups voiced fears that the other would "gobble up" its initial allotment and then be eligible to "invade" the other's channels. Many eligible parties suggested we include a moratorium (or "lag time") of three to five years during which no sharing would be authorized. The Commission had previously considered then rejected the need for such a moratorium. We did not believe that delaying sharing would achieve any appreciable benefits, and might prevent some users from sharing channels which they might need within the moratorium period. However, since all the parties involved appear to desire one, the Commission is modifying the proposed Rules to institute a five year moratorium on common carrier and private radio channel sharing. Moreover, we would encourage the users to advise the Commission should difficulties arise in the implementation of these systems. We would anticipate that such information would be provided not later than four (4) years from the release of this item in order to permit the Commission to take appropriate action to modify the sharing concept if it is deemed necessary.

7. Despite the Third Notice's specific solicitation of comments on maximum channel bandwidth, the Commission received disappointingly little concrete evidence in support of 25 kHz. However, the unanimous recommendation was not to implement less than 25 kHz channel bandwidth at this time. Indiana suggested that we designate a portion of the channels as 12.5 kHz wide. Telocator and Central Committee both indicated that narrower than 25 kHz bandwidth would be ahead of its time. Motorola gave its opinion that narrowing the bandwidth without implementing other modulation techniques would not accomplish much. Based on the record in this proceeding, the Commission must reluctantly conclude that 25 kHz channels are the best compromise between cost and performance at this time.

8. The issue of frequency stability, or frequency tolerance, generated considerable response from manufacturers and users alike, and reflected a wide range of viewpoints. Telocator, for example, thought ±.00015% was fine. Motorola, Harris and AAR were primarily concerned with the existing 952–960 MHz Operational-Fixed allocation and were seeking reassurances that the tighter tolerance, if adopted, would not apply to the Operational-Fixed users. Cardion flatly opposed the ±.00015% standard and documented its conclusion with a lengthy engineering analysis. Indiana believed that the remote stations should be allowed to use ±.0005%, but that the master stations could achieve ±.00015% frequency stability at a cost. The UTC on the other hand submitted that for any possible benefit to be realized, it may also be necessary to tighten the tolerance for remote units equally; however, it claims that no real benefits are to be realized and is opposed to the proposed tightening of tolerances. Central Committee preferred the urban/rural segregation concept, with liberal grandfathering clauses, but concluded like UTC that ±.0005% was the solution. Both UTC and Motorola pointed out that the Third Notice was vague insofar as which tolerance would apply to the unpaired channels at 956 MHz and to master stations operating in the 928–929 MHz band.

9. Our intent in the Third Notice was to impose the tighter tolerance on future Operational-Fixed users as well as new multiple-address users. However, the comments and our own further analysis have convinced us that increasing the frequency stability for the Operational-Fixed users is not warranted at this time. Our analysis indicates that this measure would result in a greater financial burden for new systems with little or no improvment in spectrum efficiency given the present modulation efficiencies and channel bandwidths. It is apparent from the comments that the frequency congestion in this band is not to the stage where the use of channel splitting or tighter frequency tolerance is justified. We are, therefore, persuaded to abandon our original idea of including the existing Operational-Fixed Services in this proceeding.

10. As noted in the Third Notice, the use of a tighter tolerance provides greater adjacent channel interference protection. This protection in turn provides greater spectrum efficiency by making more frequent geographical reuse of adjacent channels possible. Adjacent channel interference assumes even greater significance when the same spectrum is shared by two different radio services as we proposed in the Third Notice. There does appear, therefore, to be good reason for applying the tighter tolerance to all point-to-multi-point channels being allocated in this proceeding, including the RCC channels. However, as indicated in Appendix A to this item, when paired channels are used, the master station shall be on the higher frequency and the remote on the lower. Therefore, the likelihood of interference to stations operating on adjacent channels from the point-to-point return link is minimal. It was for this reason, and the fact that achieving the tighter tolerance for a very large number of remotes would have significant cost impact, that we did not propose the tighter tolerance for the 928–929 MHz channels. However, unpaired, the RCC may operate on any one of the twelve channels, but when using the upper six channels (952–960 MHz band) the tighter tolerance (±.00015%) will apply. Therefore, the possibility of interference being caused by a RCC is anticipated to be greatest in situations where one of the lower six channels (928–929 MHz band) is used unpaired in a point-to-multi-point configuration. For this very reason, it would be beneficial to apply the tighter tolerance to those RCC channels as well; however, we did not propose to do so in the Third Notice since this would have resulted in non-uniform equipment standards within the 928–929 MHz band. We still choose not to impose the tighter tolerance, but urge the RCC applicants to consider carefully what the likelihood of causing harmful interference will be and to use the tighter tolerance on the lower six channels as well, particularly when operating at elevated sites. In the Third Notice, we requested comments regarding the suitability of a 150 watt limit on the effective radiated power for RCC use. Central Committee in its comments suggested that for effective spectrum sharing to be possible, similar power limitations should be established for all users of the band. We agree, and are therefore imposing a limit of 50 watts effective radiated power on the lower six common carrier frequencies. This is the same limit imposed in the Report and Order for the Power Radio Service users and will help reduce the possibility of interference, ensure greater compatibility, and produce uniform standards among the RCC's and the Part 94 users. If future experience indicates these standards to be inadequate, we may find it necessary to revisit the matter of frequency tolerances, and to also consider the possibility of imposing polarization discrimination.

11. In discussing Private and RCC users, it is important to keep in mind that there are basic differences in their point-to-multi-point configurations. That is, the RCC will use the new 900 MHz channels to link its control point with multiple base stations, which will "talk to" their paging receivers on conventional paging channels. The Part 94 users, on the other hand, will

basically use existing allocations or other means of communications to go from a central office, such as a main dispatching center, to intermediary remoted master stations, which will in turn "talk to" their multiple points using 900 MHz channels. We cannot allow Part 94 users to employ multiple-address channels for both "levels" or "tiers" without inviting interference. A further distinction between Part 22 and Part 94 users is in the nomenclature used to describe the multiple-address stations. Throughout this proceeding, and in Part 94, the terms Master station and Remote station have been used to describe the multiple-address sites; Part 22 refers to these stations as control and base respectively, and that distinction can therefore be found in Appendix A to this Report and Order.

12. Several of the comments raised the question of which tolerance applies to stations operating on the unpaired 956 MHz frequencies. We have concluded, based largely on our own analysis, that all 952–960 MHz stations, other than Operational-Fixed users, must comply with the tighter tolerance standard, ±.00015%, be they masters or remotes. To allow the looser tolerance on these channels would significantly increase the potential for adjacent channel interference; furthermore, we do not believe that this rule will cause undue problems to any of the operations, and it will promote greater reuse of the spectrum.

13. Several other issues were raised concerning technical standards. The AAR expressed concern over the interference protection criteria. Specifically, AAR would like to see the old rules (§ 94.63 (c) and (d)) apply to the new users. The Commission thinks AAR's concern is unfounded. First of all, we have provided for enough frequency separation to take care of the interference problem with Operational-Fixed users. Secondly, we have written new interference criteria for the new users (§ 94.63(d) (4) and (5)). We do not believe that the application of the old safeguards would attain any benefits not already realized. Central Committee points out that if the private and the common carrier services are to share this spectrum, their transmitter power limitations should be identical. We agree, and to the extent feasible and practicable have modified the operating rules accordingly. (See Appendix A for specific rules.)

14. In its comments, MCCA expressed the view that omni-directional antennae should be allowed wherever necessary. We agree. Section 22.108 of the rules provides for the very situations MCCA describes. As Motorola points out, § 22.108 permits the use of omni-directional antennae at 2100 MHz for control of a wide-area paging network, contrary to what the Commission stated in paragraph 8 of our Third Notice.

15. Some of the comments addressed the issue of "Primary" versus "Secondary" allocations. For example, Central Committee sought to incorporate "Primary" language into § 22.501(g)(2) of the rules. On the other hand, SIRSA suggested that mobiles become "Primary" vis-a-vis RCC's whenever the latter were allowed access to "primarily Part 94 channels." We think that all the confusion over primary/secondary stems from our use of the word "primarily" in the proposed Part 94 Rule changes set forth in the Appendix to our Third Notice. We regret that the use of this word caused so much misunderstanding and concern. We were merely using it in the generally accepted sense to designate channels which were being originally proposed for allocation to one group of users, as opposed to the other group. The word "primarily" is being deleted from the rules adopted herein so that the Commission's meaning should no longer be misconstrued. We intend that after the moratorium period, shared use of these channels will be on a co-equal primary basis.

16. Indiana suggested that we change our Part 94 channeling plan to provide for fewer paired channels, and more unpaired ones. However, none of the other comments shared Indiana's suggestion. In fact, most of the comments supported the proposed plans for 14 channel pairs and eight single channels. Therefore, we are adopting the same plan we proposed in our Third Notice.

17. Insofar as the RCC allocation is concerned, we received comments representing different viewpoints as well as some interesting suggestions. Central Committee questions altogether the need for additional RCC spectrum, and suggests that the Commission channelize the 2 GHz RCC allocations instead.[3] Central Committee urged the Commission to at least restrict the new RCC channels, if allocated, to operations in which a minimum of six multi-points were involved. Both TNA and MCCA in their replies strongly opposed Central Committee's suggested definition. SIRSA, like Central Committee, suggested the Commission clearly define point-to-multi-point systems requirements in Part 22. We agree with Central Committee and SIRSA and are herein defining "multi-point" as four or more points. In its comments, MCCA objected to allowing the pairing of RCC channels as set forth in footnote 2 of the Third Notice and in footnote 4 to § 94.65(a)(1) of the Appendix. However, the Commission is responding to the stated paging needs as set forth by Telocator, and those needs purportedly sometimes include paired channels. Metro and RadioCall, in their comments, confirmed the staff's initial reservations that this new multiple-address RCC paging allocation would be perceived as merely one more conventional control and repeater allocation. Metro suggested we provide for shared conventional point-to-point operations along with the new wide-area multiple-address systems. However, if these 12 channels were going to be used for conventional point-to-point operations, we would deny the RCC request (as we started to do in our Further Notice) and close out that portion of this proceeding. The Commission was persuaded to include the RCC's in this reallocation proceeding only because Telocator stated that wide-area paging systems have need for a point-to-multi-point capability. In its comments, Telocator even suggested Part 22 language which would limit RCC's to multiple transmitter one-way signaling service on the new channels.

18. The UTC pointed out that we had made no provision in the Rules for Power Radio Service licensees who wished to perform non-distribution automation operations using multiple-address techniques. The absence of such a provision was an oversight on our part. In this Second Report and Order, we are correcting our error by deleting the "distribution automation" limitation from footnote 3 to § 94.65(a)(1).

19. Although we did not provide for "other Part 94" users and common carriers to share the forty channels (twenty frequency pairs) allocated to the Power Radio Service in this proceeding, the issue was raised in the comments. Central Committee cautioned us that at some point in time, when the other 48 channels are exhausted, such requests for waiver are unavoidable. Fearing just such a situation, UTC has asked the FCC to stipulate that any such "invasion" be Secondary, require a waiver, and show proof that all 48

[3] The frequency bands 2110–2130 and 2160–2180 MHz are allocated to the Domestic Public Fixed Service and may be used for control and repeater operations.

channels are fully occupied in the geographical area in question. The Commission is aware that such a situation might eventually arise; however, there is nothing to be done at the present time. If and when such circumstances arise, the Commission will act in accordance with the public interest, convenience and necessity. Since no one can accurately predict what will happen in the future, and since we wish to further our goal of "unregulation", we are not imposing restrictions which may be off the mark or not needed at all.

20. In our Third Notice, we changed our previous position with regard to mobile operations by proposing that the latter be allowed to operate single frequency one-way or two-way operations on a secondary basis. Central Committee has urged the Commission to modify its proposal even further to allow full duplex operation by mobiles. As stated in our Further Notice in this proceeding, the record in Docket 20005 convinced us that radio automatic meter reading systems alone could not justify this allocation. It was the inclusion of load management and other related utility functions which justified the spectrum reallocation proposal. We decided to make the mobiles secondary to the fixed users so that in the event that interference should develop, there would be no question but that the secondary mobile operator would have to accommodate the primary fixed user. We also chose to handle the licensing of the mobiles on a case-by-case basis so that we could avoid a situation wherein large numbers of mobiles would be moving around in an urban or suburban area. It was and is our understanding that use of these frequencies by mobile operations will be largely restricted to rural areas. We also limited the mobiles to using the eight unpaired channels for either one-way or two-way communications to further avoid the possibility of interference occurring between these fixed and mobile users. Central Committee's suggestion that the mobiles be allowed to operate full duplex is unacceptable since full duplex requires paired channels and the eight 956 MHz channels are unpairable. Therefore, we are adopting the rules proposed in our Third Notice insofar as the mobiles are concerned.

21. Accordingly, it is ordered, effective March 5, 1982, that Parts 2, 22 and 94 of the rules are amended as shown in Appendix A attached below. The authority for this action is found in Sections 4(i) and 303(r) of the Communication Act of 1934, as amended. It is further ordered that this docket proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parts 2, 22 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS GENERAL RULES AND REGULATIONS

§ 2.1 [Amended]

1. In § 2.1, the following definition is added in proper alphabetical order:

* * * * *

Multiple address system. A one or two-way radio system between a fixed or mobile station and multiple (four or more) fixed remote stations.

* * * * *

2. In § 2.106, the Table of Frequency Allocations is revised as follows:

§ 2.106 Table of frequency allocations.

Band (MHz)	Service	Class of station	Frequency	Nature of services of stations
7	8	9	10	11
•	•	•	•	•
928–929 (NG–120).....	Fixed	Operational fixed. Domestic fixed public.....	.....	
929–947.....	Land Mobile		.....	Reserved.
•	•	•	•	•
952–960 (NG–10), (NG–120).	Fixed. Mobile (multiple address systems).	International fixed public (Puerto Rico and Virgin Islands only). International control. Operational fixed. Domestic fixed public.	.....	
•	•	•	•	•

3. In the list of footnotes immediately following the table in § 2.106, footnote NG–120 is changed to read as follows:

• • • • • • •

NG–120 Frequencies in the 928–929 and 952–960 MHz bands may be assigned for multiple address systems.

• • • • • • •

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. In § 94.65, paragraph (a)(1) is revised as follows:

§ 94.65 Frequencies.

* * * * *

(a) 928–929 and 952–960 MHz.

(1) 25 kHz maximum bandwidth.[1] Persons licensed on these frequencies as of January 1, 1981, may continue to operate as licensed until January 1, 1991.

Remote transmit	Master transmit
Paired Frequencies (MHz)	
928.0125.....	[2] 952.0125[2]
928.0375.....	[2] 952.0375
928.0625.....	[2] 952.0625
928.0875.....	[2] 952.0875
928.1125.....	[2] 952.1125
928.1375.....	[2] 952.1375
928.1625.....	[2] 952.1625
928.1875.....	[2] 952.1875
928.2125.....	[2] 952.2125
928.2375.....	[2] 952.2375
928.2625.....	[2] 952.2625
928.2875.....	[2] 952.2875
928.3125.....	[2] 952.3125
928.3375.....	[2] 952.3375
928.3625.....	[2] 952.3625
928.3875.....	[2] 952.3875
928.4125.....	[2] 952.4125
928.4375.....	[2] 952.4375
928.4625.....	[2] 952.4625
928.4875.....	[2] 952.4875
928.5125.....	[2] 952.5125
928.5375.....	[2] 952.5375
928.5625.....	[2] 952.5625
928.5875.....	[2] 952.5875
928.6125.....	[2] 952.6125
928.6375.....	[2] 952.6375
928.6625.....	[2] 952.6625
928.6875.....	[2] 952.6875
928.7125.....	[2] 952.7125
928.7375.....	[2] 952.7375
928.7625.....	[2] 952.7625
928.7875.....	[2] 952.7875
928.8125.....	[2] 952.8125
928.8375.....	[2] 952.8375
Unpaired Frequencies (MHz)	
928.8625 [4].....	956.2625[2] [5] [2] 959.8625[4]
928.8875 [4].....	956.2875[2] [5] [4] 959.8875[4]
928.9125 [4].....	956.3125[2] [5] [2] 959.9125[4]
928.9375 [4].....	956.3375[2] [5] [4] 959.9375[4]
928.9625 [4].....	956.3625[2] [5] [2] 959.9625[4]
928.9875 [4].....	956.3875[2] [5] [2] 959.9875[4]
.....	956.4125[2] [5]
.....	956.4375[2] [5]

[1] When required, upon justification, two adjacent channels may be assigned to provide a 50 kHz bandwidth. However, the system will still be required to use equipment which meets the ±.00015 percent tolerance requirement (see § 94.67(a)).

[2] Available to all persons eligible under Part 94 for use in multiple address radio systems. Available to the Power Radio

Service only if the frequencies in footnote 3 are exhausted in a particular geographic area. Available for shared use by Part 22 Domestic Public Land Mobile Radio Service users after January 1, 1987, only if frequencies noted in footnote 4 are exhausted in a particular geographic area.

[3] Available only to persons eligible under § 90.63 for licensing in the Power Radio Service for use in multiple address electric, gas, water, or steam utility system operation.

[4] Available for Part 22 Domestic Public Land Mobile Radio Service users. Available for shared use by Part 94 users after January 1, 1987, only if the frequencies noted in footnote 2 are exhausted in a particular geographic area. These frequencies may be assigned for paired or unpaired multiple address system use in one-way or two-way systems. If paired, the lower frequency shall be for the remote unit use. Applications for these frequencies shall be subject to the conditions outlined in § 22.27 of this chapter.

[5] Available to all persons eligible under Part 94 for single frequency multiple address systems utilizing one-way or two-way fixed operations. Also available to all persons eligible under Part 94 for single frequency multiple address systems utilizing one-way or two-way mobile operations on a secondary basis.

2. In § 94.67, paragraph (a) is revised as follows:

§ 94.67 Frequency tolerance.

(a) * * *

Frequency band in MHz	Tolerance as percentage of assigned frequency
928–929	.0005
952–960	(5)

* * * * *

1 * * *
2 * * *
3 * * *
4 * * *

5 For point-to-point systems with channels greater than or equal to 50 kHz bandwidth, .0005; for multiple-address, point-to-multi-point systems, regardless of bandwidth, .00015.

3. In § 94.3, the definitions of *Master station* and *Remote station* are modified to read as follows:

§ 94.3 Definitions.

* * * * *

Master station. A station, operating on frequencies in the 952–960 MHz band, which controls, activates or interrogates remote stations, and/or receives from multiple remote stations.

* * * * *

Remote station. A station operating on frequencies in the 928–929 MHz band or 956.25–956.50 MHz which is either controlled, activated, or interrogated by, and may respond to a master station, or transmits one-way to a master station.

* * * * *

PART 22—PUBLIC MOBILE RADIO SERVICES

1. Section 22.101 is amended by modifying the table of frequency tolerances for the frequency range 512 to 1,000 MHz as follows:

§ 22.101 Frequency tolerance.

(a) * * *

Frequency range MHz	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less[1]
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.0005	.0005
512 to 952[2]	.0005	.0005	.0005
952 to 960	.00015	.0005	.0005
960 to 1,000	.0005	.0005	.0005
1,000 to 2,110			
2,110 to 2,220	.001		
2,220 to 12,200[3]	.005	.005	.005
12,200 to 40,000	.03	.03	.03

* * * * *

2. Section 22.501 is amended by revising paragraph (g) as follows:

§ 22.501 Frequencies.

* * * * *

(g)(1) The frequencies listed in this paragraph are available to one-way signaling stations utilized within a multiple address system which requires the use of at least four simultaneously operated base stations operated on the same frequency assignment. These frequencies will only be assigned when there are four or more remote sites listed on the application for license. The frequencies may be used in paired or unpaired configurations. When paired, the higher frequency will be used by the control and the lower by the base station.

890–960 MHz BAND [1]

Paired frequencies		Unpaired frequencies
928.8625	959.8625	
928.8875	959.8875	
928.9125	959.9125	
928.9375	959.9375	
928.9625	959.9625	
928.9875	959.9875	

[1] Except as indicated above, new control and repeater stations will not be authorized in the 890–940 MHz band. However, stations which were authorized to operate on such frequencies on April 16, 1958, may be granted renewed licenses subject to the following conditions:

Operations shall not be protected against any interference received from the emission of industrial, scientific and medical equipment operating on 915 MHz or from the emission of radiolocation stations in the 890–942 MHz band.

No harmful interference shall be caused to stations operating in the radiolocation service in the 890–942 MHz band.

(2) After January 1, 1987, upon an affirmative showing that the frequencies shown in § 21.501(g)(1) are not available, the following frequencies (in Private Operational-Fixed Microwave Service) may be authorized for assignment to paging operations functioning in conjunction with the Domestic Public Land Mobile Radio Service on a shared basis with fixed stations in the Private Operational-Fixed Microwave Service. Applications for these frequencies shall be subject to the requirements of § 94.63(a).

890–960 MHz BAND [1]

Paired frequencies		Unpaired frequencies
928.0125	952.0125	956.2625
928.0375	952.0375	956.2875
928.0625	952.0625	956.3125
928.0875	952.0875	956.3375
928.1125	952.1125	956.3625
928.1375	952.1375	956.3875
928.1625	952.1625	956.4125
928.1875	952.1875	956.4375
928.2125	952.2125	
928.2375	952.2375	
928.2625	952.2625	
928.2875	952.2875	
928.3125	952.3125	
928.3375	952.3375	

[1] Except as indicated above, new control and repeater stations will not be authorized in the 890–940 MHz band. However, stations which were authorized to operate on such frequencies on April 16, 1958 may be granted renewed licenses subject to the following conditions:

Operations shall not be protected against any interference received from the emission of industrial, scientific and medical equipment operating on 915 MHz or from the emission of radiolocation stations in the 890–942 MHz band.

No harmful interference shall be caused to stations operating in the radiolocation service in the 890–942 MHz band.

(3) The reassignment of frequencies operating in the 928.8625–928.9875 and 959.8625–959.9875 MHz bands shall be governed by the following criteria:

(i) The separation between co-channel control stations shall be 70 miles.

(ii) Exceptions to the geographic separation standard in paragraph (g)(3)(i) of this section will be approved only if an engineering analysis is submitted that shows conclusively that no interference will be caused to either system. In this case a developmental authorization will be issued for one year. If no interference is experienced during this period, the licensee may submit an application for a permanent authorization.

(4) Stations in multiple address systems on the 952–960 MHz channels will not be authorized to use an effective radiated power exceeding 150 watts. Stations in multiple address systems on the 928–929 MHz channels will not be authorized to use an effective radiated power exceeding 50 watts.

* * * * *

[FR Doc. 82-4230 Filed 2-16-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-476; RM-3601, RM-3801]

FM Broadcast Stations in Hudson and Adrian, Michigan, and Swanton, Ohio; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a Class A FM channel to Hudson, Michigan, in response to a petition filed by E. Eugene McCoy, Jr. The assigned

channel will provide Hudson with its first local aural broadcast service.

DATE: Effective March 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: January 28, 1982.

Released: February 5, 1982.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Hudson and Adrian, Michigan, and Swanton, Ohio); BC Docket No. 80–476, RM–3601, RM–3801.

1. The Commission has before it the *Further Notice of Proposed Rule Making and Order to Show Cause* ("*Further Notice*"), 46 FR 42701, published August 24, 1981, proposing the assignment of Channel 249A to Hudson, Michigan, or in the alternative the substitution of Channel 249A instead of Channel 237A at Adrian, Michigan, and the assignment of Channel 237A at Swanton, Ohio. Comments were filed by Southeastern Michigan Broadcasting, Inc., Robert B. Saxer, and E. Eugene McCoy, Jr., the original proponent in this proceeding.

2. If Channel 237A were to be assigned to Swanton, Ohio, a channel substitution at Adrian, Michigan, would be necessary. Since Station WQTE, licensed to Southeastern Michigan Broadcasting, Inc. ("Southeastern"), operates on Channel 237A at Adrian, it was ordered to show cause why its license should not be modified to specify operation on Channel 249A. Southeastern filed a written statement indicating that it has no objection to WQTE's license being modified if the proponent of the Swanton channel assignment is required to reimburse Southeastern for all reasonable expenses incurred in connection with modifying WQTE's facilities as well as posting a bond in a sufficient amount to cover those expenses.

3. Comments were filed by Robert B. Saxer, the proponent of a Swanton assignment, stating that his proposed programming, especially news programming, would focus on events of interest to Fulton County and Ohio residents. Mr. Saxer argues that Swanton should be favored over Hudson based on growth figures. Specifically, Swanton and Fulton County have gained in population by 17 and 14 percent, respectively, whereas Hudson shows a 3 percent decline in population. Saxer does acknowledge, however, that the township surrounding Hudson has shown growth, specifically from 1,373 to 1,550 persons and that the Lenawee County population increased by some 10 percent. The Swanton proponent further submits that most of the Lenawee County population is in Adrian and areas to the north and northeast of Adrian, mostly outside of the service area of the Hudson proposal and is already served by Stations WABJ(AM), WLEN and WQTE, Adrian. In addition, Saxer indicates that if he is successful in obtaining a construction permit for Channel 237A at Swanton, he will reimburse Station WQTE for reasonable expenses in modifying its facilities to operate on Channel 249A. Finally, in response to the Commission's concerns, expressed in the *Further Notice* regarding alleged interference problems, Saxer argues that there will be no interference with Station WCZY, Detroit, Michigan.

4. Eugene McCoy, Jr., the proponent of a Hudson assignment, indicates his continued interest in applying for a construction permit to build an FM facility on Channel 249A if it is allocated to Hudson. He also asserts that at least 80 percent of the population in Saxer's theoretical coverage of its proposed service area including Swanton already receives a minimum of one city-grade signal. McCoy disputes Saxer's allegation that the metropolitan areas surrounding Toledo, Ohio, are not having their community needs met. Further, if the needs of Toledo's surrounding areas are not being met, submits McCoy, this is a failure on the part of Toledo area facilities to meet their obligations as licensees. He further notes that unlike Swanton, Hudson does not receive a 70 dBu signal from any area facility. Further, in regard to the population argument, McCoy contends that most of the population to be served by the Swanton proposal is within the Toledo city limits, an area well served by Toledo FM stations. In conclusion, petitioner asserts that an allocation to Hudson, Michigan, would provide service to an area that is much more independent economically, socially and geographically than the metropolitan area surrouding Swanton, Ohio.

5. Because spacing restrictions preclude assigning Channel 249A to both Hudson and Adrian, the latter allowing a Channel 237A allocation to Swanton, an FM assignment cannot be made to both Hudson and Swanton. We note that it is the Commission's FM assignment policy to provide at least one local assignment to every community wherever possible,[1] and that both Hudson and Swanton appear to deserve a first FM facility. Since a choice must be made between these two communities, however, we turn to other criteria, *i.e.*, the relative sizes, locations, and how much FM service each community receives, to make the appropriate determination. Swanton, with a population of 3,424,[2] receives a 60 dBu signal or better from four FM stations in Toledo (WMHE, WKLR, WLQR and WIOT) and one in Holland, Ohio (WPOS–FM), for a total of five; whereas Hudson (population 2,545) receives a 60 dBu or better signal from only two FM stations (WIBM–FM, Jackson, Michigan, and WQTE, Adrian). We also note that three AM stations are located within twenty miles of Swanton, while only two AM stations are within that distance of Hudson. In regard to the population issue, Hudson and Swanton are fairly comparable in size, the difference being less than one thousand persons and furthermore, Lenawee County, in which Hudson lies, has 89,948 persons while Fulton County which contains Swanton only has 37,751 persons. The location of Hudson is more isolated from larger cities than is Swanton. Thus, in view of Hudson's location and the fact that it is presently served by less than half the number of FM facilities serving Swanton, we are adopting the first alternative assigning Channel 249A to Hudson, Michigan. As in *Marshall and Robinson, Illinois, and Loogootee, Indiana*, 46 FR 15707, published March 9, 1981, we are assigning the Class A channel to the smaller (Hudson) community because it receives less FM service. See also *Lagrange, Indiana, et al.*, (BC Docket No. 81–61) adopted January 6, 1982. Since Channel 237A will not be assigned to Swanton, Ohio, Southeastern Michigan Broadcasting, Inc., will not be asked to change channels in its operation of Station WQTE. Thus, we need not reach the issue of whether the proponent of the second alternative should post a bond for the expenses incurred since we have determined not to adopt that plan, nor do we reach the overlapping contour of the Adrian station and that of Station WCZY, Detroit.

6. Accordingly, it is ordered, That effective March 22, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to Hudson, Michigan, as follows:

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[1] *Further Notice of Proposed Rule Making*, 27 FR 7797–98, published August 7, 1962; *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

[2] Population figures are taken from the 1980 U.S. Census.

City	Channel No.
Hudson, Michigan	249A

7. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Freda Lippert Thyden, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4234 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-489; RM-3814]

TV Broadcast Station in Houston, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 61 to Houston, Texas, as that community's seventh commercial television assignment. An alternative proposal, to dereserve noncommercial television Channel *14 to make it available for commercial use, was denied. The availability of a useable UHF channel for commercial interests precludes the necessity of dereserving the noncommercial channel assignment. This proceeding was initiated at the request of The K-Ram Corporation.

DATE: Effective March 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Houston, Texas), BC Docket No. 81-489, RM-3814.

Report and Order—Proceeding Terminated

Adopted: January 28, 1982.

Released: February 9, 1982.

1. Before the Commission is a Notice of Proposed Rule Making, 46 FR 40710, published August 11, 1981, proposing two alternative television assignment plans for Houston, Texas. Option I proposes the dereservation of unoccupied noncommercial educational Channel *14 to make that channel available for commercial use, and the addition of Channel *61 as a substitute for Channel *14. Option II proposes retaining the reservation on Channel *14 and assigning Channel 61 to Houston for commercial use. These changes in the Table of Assignments were proposed in response to a request from The K-Ram Corporation ("K-Ram"), which supports the dereservation of Channel *14 in order to make that channel available for commercial use.

2. Comments in support of Option I were submitted by K-Ram, Pan American Broadcasting Co. ("Pan American"), and the Tatar group ("Tatar").[1] Additionally, many informal comments favoring Option I were submitted by individuals and groups in the Houston area.[2] Comments supporting Option II were received from City of Light, Incorporated ("City of Light"), Mission to America, Inc. ("Mission"), the National Association of Public Television Stations ("NAPTS"), Gaylord Broadcasting Company ("Gaylord"), and Pueblo Broadcasting Corporation ("Pueblo"),[3] Tipp Major, President of the Major Broadcasting Company, submitted comments opposing the assignment of Channel 61 to Houston on a commercial basis. Reply comments were filed by K-Ram and Gaylord.

3. Houston (population 1,594,086),[4] is located in Harris County (population 2,409,544) in southeastern Texas. It is currently served by five commercial television stations—KPRC-TV (Channel 2); KHOU-TV (Channel 11); KTRK-TV (Channel 13); KRIV-TV (Channel 26). Channels 20 and 39 are authorized for subscription television service to Stations KTXH and KHTV. One noncommercial educational station serves Houston (Station KUHT. Channel *8).

4. In the Notice of Proposed Rule Making, the Commission stated that it normally does not allow the dereservation of educational channels absent sufficient justification. However, noting the express interest of K-Ram for use of Channel *14 on a commercial basis, and the fact that Channel *14 had been assigned to Houston for almost 15 years without being utilized by a noncommercial educational entity, we stated that we would propose the dereservation. We also stated that it was our intent to determine whether any noncommercial, educational entity had any intention to file for the channel. As an acknowledgement that our proposal was contrary to well-established Commission policy, we also proposed Option II so that the commercial interests could be accommodated on Channel 61.

5. In support of Option I, K-Ram makes three major arguments. First, K-Ram asserts that there is a compelling need for a seventh commercial television assignment to Houston. Such an outlet is necessary, according to K-Ram, in order to serve the needs of Houston's growing minority population. K-Ram pledges that, if its petition is granted, it would apply for and operate a station whose programming would be geared toward minorities. Second, K-Ram argues that there is no discernible interest in activating Channel *14 in Houston as a noncommercial educational station. In support of this assertion, K-Ram submits letters from various educational entities throughout the Houston area who disavow any intention of applying for the channel. K-Ram also notes that the State of Texas has no plans for activating Channel *14 in Houston. Given this lack of interest from educational entities, K-Ram claims that there is no rational basis for denying its dereservation proposal. Finally, K-Ram contends that there is an adequate legal basis for dereserving Channel *14. K-Ram cites the Commission's initial pronouncement on television assignments which indicates that any assignment, whether an educational reservation or not, maybe modified if it appears in the public interest to do so.[5] Petitioner cites Seaford, Delaware, 43 RR 2d 1551 (1978), as precedent for dereserving an existing noncommercial assignment in order to promote the early and economical establishment of a new commercial television service. K-Ram also notes that in the Seaford case, the Commission substituted a higher UHF reserved channel for the channel which had been dereserved for commercial use. K-Ram opines that the Houston situation is "strikingly" similar to the Seaford case,

[1] The Tatar group is composed of Elayne Shochet Tatar, Davelyn Leister, Loretta Hawkins, and Mary Wofford.

[2] Several of these informal comments were sent directly to the Commission. Many more were appended to the comments of K-Ram.

[3] Houston Baptist University filed an informal comment opposing the dereservation of noncommercial Channel *14.

[4] Population data are taken from the 1980 U.S. Census Advance Reports.

[5] Sixth Report and Order, 41 F.C.C. 148, 161 (1952).

and urges the Commission to adopt a similar outcome.[6]

6. The Tatar group, which also supports Option I, suggests that although the existing Houston commercial television stations are earning substantial profits, it is far from certain that an additional station would be a viable enterprise. The group asserts that the station would have certain advantages if it were operating on Channel 14 instead of Channel 61. According to Tatar, these advantages include: the proximity of Channel 14 on the television dial to the other operating Houston stations ("it would be more facile to tune to Channel 14 than to Channel 61"); a station on Channel 14 would be able to compete for advertising revenues more effectively than a station on Channel 61; a station operating on Channel 14 can produce a signal which is superior to a signal on Channel 61; and, the more desirable signal on Channel 14 can be produced with equipment which costs less to purchase and operate than equipment for Channel 61. All of these factors, Tartar avers, would contribute to the economic viability of the new commercial operation.

7. The third proponent of Option I, Pan American Broadcasting, states its intent to apply for Channel *14 in Houston if it is dereserved. Pan American intends to serve the Hispanic population of the Houston area and contends that it can achieve this goal more effectively through use of Channel 14 as opposed to Channel 61. Pan American claims that Channel 14 has a technically superior signal than that of Channel 61 and that use of Channel 14 would result in an energy cost saving of at least twenty percent, Pan American also states that if Option II is selected by the Commission, it would nevertheless file an application for a license on Channel 61.

8. In support of Option II, both City of Light and Mission claim to be in the process of preparing applications for use of Channel *14 in Houston on a noncommercial educational basis. Further, City of Light challenges several of the arguments made in support of dereserving Channel *14. With respect to the tuning argument, City of Light states that it is absurd to suggest that Channel 14 is more within the range of Channels 20 through 39 (the currently operating channels in Houston) than is Channel 61. Regarding the claim that capital and operating costs would be lower for Channel 14, City of Light avers that those arguments in fact support the retention of the reservation on Channel *14 so that the channel can be used noncommercially by entities unable to recoup costs through the commerical system. City of Light thus suggests that the more expensive channel should be used by commercial entities "* * * which will be able to recoup all added costs from the lucrative market place." The fact that Channel 14 would provide better reception to fringe areas also supports its retention as a reserved channel, argues City of Light, because noncommerical stations must depend upon wide-area viewer support.

9. NAPTS states in its comments that no unusual circumstances exist in this case which justify the dereservation of Channel *14 in Houston. NAPTS makes the following arguments: dereserving Channel *14 is not essential to allow the initiation of new commercial service to Houston; there is firm precedent for not recognizing any significant difference between lower and higher UHF channels; and a petitioner's mere statement of preference for a lower UHF channel has never been enough to justify dereserving a reserved channel. NAPTS also points out that the Commission has consistently refused to take into account in channel assignment proceedings the program service which might be provided by the proponent of the assignment because there is no assurance that the proponent will ultimately be awarded authority to operate on the channel. Finally, NAPTS asserts that the length of time that Channel *14 has remained vacant is not a pertinent consideration since other channels are available for commercial use. NAPTS contends that the future growth of public television depends on the maintenance of reservations, and as demand for commercial television stations increases, the importance of reserving spectrum resources for public television becomes all the more important. Gaylord makes similar arguments against adoption of Option I and makes the further argument that the lack of an identifiable applicant for a reserved channel has never been considered by the Commission as grounds for its dereservation. Gaylord also attempts to distinguish the Commission's decision in Seaford, Delaware, supra, from the present situation. Gaylord states that the petitioner in Seaford had a complete television transmitter plant available for the reserved channel and that initiation of service on the reserved channel would provide a first commercial television service to the State of Delaware. Gaylord opines that the potential applicant might not have gone forward if it could not use its pre-existing equipment and that only a remote possibility existed that educational service would ever be commenced in such a small community. None of these exigent circumstances exist in Houston, according to Gaylord.

10. Pueblo, applicant for Channel 45 at Rosenburg, Texas, argues that Channel *14 should not be dereserved because such action would disrupt the overall scheme of television assignments in the greater Houston area. Pueblo opines that this scheme was in place when the Commission assigned Channel 45 to Rosenburg for commercial use, and nothing has occurred which should change the Commission's allocation plan. Pueblo states that it agrees with the overall objectives advanced by the petitioner, but since Channel 61 can be assigned to Houston to meet those objectives, it is unnecessary to dereserve Channel *14.

11. Tipp Major's comments addressed solely the issue of assigning Channel 61 to Houston on a commercial basis. However, the assertion he makes applies equally as well to a noncommercial educational assignment on Channel 61. Major complains that assigning Channel 61, because of minimum spacing requirements, would practically eliminate the opportunities for low power and translator television service in the Houston area on UHF Channels 55 through 69. Major contends that only Channels 55 and 67 could be used in Houston for low power operations if Channel 61 is assigned.

12. In its supplemental and reply comments, K-Ram, in addition to reiterating its previous arguments, counters many of the points made by the proponents of Option II. K-Ram asserts that the technical advantages inherent in operating on a lower UHF channel would be critical to the survival of a commercial station, but would not be as important to a noncommercial station which does not depend on coverage, ratings, and advertising to provide operating revenue. In response to the comments of Gaylord and Pueblo, K-Ram notes that both parties are potential competitors with a new commercial station and alleges that their comments implicitly recognize that a commercial television station on Channel 14 would be more competitive than a station on Channel 61. Finally, K-Ram attacks the verity of comments filed by Mission and City of Light by stating that neither entity is a *bona fide* educational institution. According to K-Ram's research, neither Mission nor City

[6] K-Ram submitted supplemental comments which dealt with the comments of those opposed to Option I. The arguments presented in the supplemental comments were essentially repeated in K-Ram's reply comments, and will be summarized in conjunction with K-Ram's replies.

of Light operates a fulltime school or has an ongoing educational program. K-Ram contends that neither entity would appear to qualify as a noncommercial educational applicant and for that reason, the expressions of interest of Mission to America and City of Light in Channel *14 are wholly invalid.

13. In its reply comments, Gaylord, noting K-Ram's contention that Channel 14 is more desirable than Channel 61 from a technical standpoint, states that K-Ram has never established the existence of these alleged advantages. Given this lack of substantiation and the Commission's repeated refusal to recognize any significant distinction between low and high UHF channels, Gaylord avers there is no legally sufficient basis to conclude that the propagation characteristics of Channel *14 would be significantly superior to those of Channel 61. Further, Gaylord submits that K-Ram has not documented the extent to which operating on a lower UHF channel would provide any substantial economic advantage. Finally, Gaylord opines that, given the explosive growth of Houston, it is not unlikely that a future noncommercial applicant for Channel *14 will develop.

14. In adopting the Notice of Proposed Rule Making in this proceeding, the Commission was interested in garnering as much information as possible regarding the potential public interest benefits of dereserving Channel *14 in Houston and thus making it available for commercial use. We specifically recognized that our proposal was contrary to established Commission policy, but we also were open to the notion that some special public interest justifications could be presented which would support an exception to our policy. After carefully reviewing all of the comments received, we find that no such compelling public interest justifications exist in this case, and we shall adopt Option II, which assigns unreserved Channel 61 to Houston. Channel *14 will remain reserved for noncommercial educational use.

15. In cases such as this one, where a petitioner seeks to dereserve an unused noncommercial channel, we have consistently denied such requests when it was apparent that an alternate channel existed which could be assigned to accommodate the commercial interest. Vancouver, Washington, 44 RR 2d. 1498 (1980). Typically, the commercial proponent was attempting to utilize a lower channel than what may have been available for commercial operations. As all parties to this proceeding recognize, however, the Commission, in such cases, does not acknowledge any significant difference between lower and higher UHF channels. Thus, a mere preference for a lower UHF channel has not been sufficient justification for dereserving a noncommercial assignment.[7]

16. In the cited case of Seaford, Delaware, 43 RR 2d 1551 (Broadcast Bur. 1978), we dereserved Channel *38 at Seaford and substituted Channel *64 for future noncommercial use. The facts in that case, however, were unique, and K-Ram's attempts to analogize the present situation with the Seaford case are unconvincing. The proponent in Seaford already possessed a complete set of equipment for Channel 38. Thus, dereserving the channel hastened the inauguration of Seaford's first local television service, providing for the State of Delaware's first commercial television station. Certainly no such similar situation exists in Houston, which already has six authorized commercial television stations and only one noncommercial educational station. Also in Seaford it was possible that forcing the commercial proponent to utilize Channel 64 would have significantly delayed the initiation of a new service. Again, such is not the case here, where one of the potential commercial applicants, Pan American Broadcasting Company, Inc. indicates that it will apply for Channel 61 in Houston, if assigned. Thus, given Pan American's stated interest in Channel 61, our actions in refusing to dereserve Channel *14 should not delay the institution of a new commercial service for the Houston area.

17. As Gaylord correctly points out in its comments, the lack of an identifiable applicant for a reserved channel has never been considered by the Commission as grounds for dereserving a noncommercial channel. We continue to believe that the ordered and efficient development of public broadcasting in the country demands that channels remain reserved for future noncommercial use. However, in the case presented here, we felt and continue to feel that the lack of any interest in the noncommercial channel would be a legitimate consideration in our deliberations. We note that the qualifications of the interested parties for noncommercial educational use of Channel *14 have been placed into question. However, the expression of interest as set forth in comments would have been sufficient to support a new assignment and therefore sufficient to justify retention of Channel *14.

18. The various proponents of the commercial use of Channel *14 in Houston have strongly suggested the need for an additional commercial channel in order to serve the needs and interests of Houston's varied minority populations. As several commenters pointed out, there is no guarantee that the minority applicant will be the ultimate licensee of the newly assigned channel. Thus, at the rule making stage, we may give no special consideration to the fact that one possible applicant for a channel may seek to serve minority needs. In any event, because we are assigning Channel 61 to Houston for commercial use, applicants proposing to serve the needs of specialized audiences will have the opportunity to do so on that channel.

19. Finally, with respect to the concerns voiced by Tipp Major, who argues against the assignment of Channel 61 on the grounds that it will obstruct the development of low power and translator stations in Houston, those uses are clearly secondary to the establishment of a full service broadcasting station. As Major himself points out, at least two channels still remain available for low power use in Houston without restriction, and many other channels may be available if certain separation requirements are met. Therefore, we will not deny the assignment of Channel 61 to Houston especially in the face of an existing interest in applying for the channel, on the basis of its preclusive effects on low power and translator development.

20. Each of the reasons offered for dereserving Channel *14—lower cost, easier tuning, early initiation of service—are also true for providing a noncommercial education service on Channel *14. The likelihood of initiating a noncommercial educational rather than a commercial service on Channel 61 is less given the difference in costs at a time when State and Federal funding for this purpose has been cut back (see Hays, Kansas, et al. (Notice), adopted January 27, 1982). Given the expressions of interest in using Channel *14 on a noncommercial educational basis the need for a second noncommercial educational television service is greater than that for a seventh commercial television station.[8] The dereservation of Channel *14 could have the effect of depriving Houston of the realistic opportunity of a second noncommercial educational service in view of the lack of a concomitant expression of interest

[7] On a finding that the public interest will benefit, however, we have granted petitions seeking to add reservations to lower UHF channels. See, *e.g.*, Alexandria, Louisiana, 44 FR 1738, published February 5, 1979; De Kalb, Illinois, 44 FR 7960, published February 8, 1979.

[8] Cf. Burlington, Vermont, 45 RR 2d 786 (1977).

for noncommercial educational use of Channel 61.

21. Accordingly, it is ordered, that the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended, effective March 22, 1982, as follows for the community listed:

City	Channel No.
Houston, Tex.	2–, *8–, 11+, 13–, *14, 20, 26, 39–, and 61.

22. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

23. It is further ordered, that this proceeding is terminated.

24. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4232 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte MC 43 (Sub-11)]

Lease and Interchange of Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts the rule revising its leasing regulations to require that the lease shall specify who is responsible for loading and unloading the property to be transported onto and from the motor vehicle and the compensation, if any, to be paid for this service. This action is taken to bring the leasing rules into conformance with recent statutory changes enacted in section 15 of the Motor Carrier Act of 1980.

EFFECTIVE DATE: March 19, 1982.

FOR FURTHER INFORMATION CONTACT: Dan Campbell, Phone: (202) 275–7612.

SUPPLEMENTARY INFORMATION: Section 15 of the Motor Carrier Act of 1980, enacted July 1, 1980, added a new subsection (b) to 49 U.S.C. 11107 which directs that the Commission, "shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle." In other words, the Commission must require by regulation that any arrangement between an authorized motor carrier and an owner-operator for leasing a motor vehicle specify in writing the loading and unloading responsibility.

On November 7, 1980, we initiated this proceeding by issuing a notice of proposed rulemaking (45 FR 73981, November 7, 1980) to implement this new statutory requirement. In that notice, we announced that we were considering the revision of the Commission's leasing regulations by adding a sentence at the end of CFR 1057.12(f) as follows:

> The lease shall clearly specify who is responsible for loading and unloading the property onto and from the motor vehicle and the compensation, if any, to be paid for this service.

The public was invited to comment on this proposal. Twenty-one statements were received.

Discussions and Conclusion

Section 15 of the Motor Carrier Act of 1980 makes it mandatory for the Commission to prescribe the rule in this proceeding. The Congress has determined that "(t)he Commission shall require, by regulation, that any arrangement * * * shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle." More explicit language would be difficult to imagine. In discussing this section of the law, the Committee on Public Works and Transportation observed, "Where an owner-operator is leased to a regulated carrier, the committee expects the lease to specify the responsibilities of the carrier and the owner-operator regarding loading and unloading, including compensation." House Report No. 96–1069, 96th Cong. 2d Sess. 31 (1980). As the report suggests, it is logical that the agreement as to loading and unloading responsibility be included as a part of the lease contract between the owner-operator and the authorized carrier.

Therefore, the direction given to this Commission in this matter is clear. The Commission is to require by regulation that owner-operators be protected in their lease agreements with authorized carriers by having the loading and unloading responsibility clearly set forth in writing.

In considering adoption of this rule, we are also mindful of the following direction in section 3(a) of the Motor Carrier Act of 1980 by Congress to the Commission to stay within the powers specifically vested in it by the revised law:

> * * * The Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress * * *

We believe that the rule proposed in this proceeding implements the intent of Congress and it is, therefore, adopted. Modifications to the rule and requests for exemption urged by some parties to the proceeding would thwart congressional intent and are rejected.

The parties have raised a number of issues which, though not critical to the disposition of this proceeding, require some comment from the Commission to clarify our position and to eliminate any confusion in fully implementing this rule. A recurrent theme from those opposed to this rule is that loading and unloading practices are already fully set forth in a carrier's tariff or are in many instances a part of the line-haul rate. Those opposed to the rule suggest that it may only confuse the issue and, even worse, may be a source of possible conflict with the tariff. The parties do not indicate how a tariff requirement in any way fulfills the statutory requirement that owner-operators be apprised in writing of loading and unloading responsibility. We fail to see how a tariff reference indicates an agreement or meeting of the minds between a carrier and an owner-operator on this subject.

We also reject the argument from those opposed to the rule that it would be impossible to specify, in detail, all circumstances of loading and unloading and the amounts to be paid. The carriers agree that these matters are fully anticipated in their tariffs. It is possible to include sufficient information in the lease to inform the owner-operator in detail of what he or she must do under various circumstances and the amount that will be paid for such services. We are not mandating how much of any tariff charge should be passed through to the owner-operator. Owner-operators

must know, however, what they are expected to do and what they will be paid. It is only natural that these obligations be set forth in the lease. This is nothing more than an addition to the truth in leasing rules prescribed in Ex Parte No. MC–43 (Sub-No. 7), 131 M.C.C. 141. The intent of the law is to inform owner-operators in writing as to loading and unloading responsibility.

For this same reason, we believe it necessary that the compensation, if any, to be paid the owner-operator for loading and unloading be included. Knowledge of the compensation to be paid for this service, if any, is a necessary part of the agreement. This requirement is similar to other parts of the leasing rules calling for clear statements as to the amount of charges, tolls, insurance premiums, etc.

The Commission will require that all motor common and contract carriers subject to the leasing rules abide by this rule. The law does not provide for any exceptions. Owner-operators under long-term leases to specialized carriers would only be helped by requiring that this loading and unloading responsibility be spelled out in the lease and that the compensation, if any, be stated. We believe that this would also help the carriers by removing any doubt between the parties as to what the lease contract provides. The lease, like any contract, should reflect the agreement of both parties, rather than a unilateral fiat from the carrier.

We give no credence to the suggestions of many that the lease agreement will somehow be used to change the tariff provision for loading and unloading. The motor carrier cannot, of course, indirectly change its holding out in its tariff by providing something different in its lease with the owner-operator. We also would not anticipate that carriers would use the new lease agreements to resolve pending differences with shippers and receivers as to loading and unloading responsibilities.

This action does not significantly affect the quality of human environment or the conservation of energy resources.

It is ordered: That Title 49 of the Code of Federal Regulations be revised as set forth in Appendix A.

This action is taken under authority contained in 49 U.S.C. 10321 and 11107 and 5 U.S.C. 553.

Decided: February 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Clapp and Gresham.

James H. Bayne,

Acting Secretary.

Appendix A

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Title 49 CFR 1057.12 is amended as follows:

In § 1057.12, paragraph (f) is revised to read as follows:

§ 1057.12 Written lease requirements.

* * * * *

(f) *Items specific in lease.*—The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portions of such items. The lease shall clearly specify who is responsible for loading and unloading the property onto and from the motor vehicle, and the compensation, if any, to be paid for this service.

* * * * *

[FR Doc. 82-4106 Filed 2-16-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1201, 1241 and 1248

[No. 37614]

Elimination of Accounting and Reporting Requirements of Class II Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This rule eliminates the Uniform System of Accounts (USOA) and all periodic reports of Class II railroad companies. In evaluating the use of the information maintained and filed by the carriers, the Commission has concluded that the accounting and reporting burden is no longer justified. This rule is consistent with the Commission's reporting policy aimed at requiring disclosure of only that data which is used internally on a regular basis to fulfill regulatory responsibilities (Policy Statement on Financial and Statistical Reporting, 44 FR 27537).

DATES: Effective for the reporting year ending December 31, 1981.

ADDRESSES: Copies of this rule may be obtained by writing to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423; or by calling toll-free, 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Wayne D. Howard (202) 275–7448.

SUPPLEMENTARY INFORMATION:

Background

By Notice of Proposed Rulemaking (NPR) served May 4, 1981, and published in the **Federal Register** May 5, 1981 (46 FR 25114), we announced our intention to eliminate all accounting and reporting requirements of Class II railroads. These carriers' operations account for only 2% of total railroad operating revenues. After studying the Commission's use of the information filed by Class II railroads, we concluded that the hours spent to comply with our accounting and reporting requirements were no longer justified.

The Commission also invited public comments on including Class II affiliated information in the parent carriers' R–1 annual reports.

All interested parties were originally given the opportunity to submit their views and comments by June 19, 1981. This date was subsequently extended to August 3, 1981 (46 FR 30839, June 11, 1981). We found no new evidence that supports continued promulgation of a Commission prescribed accounting system or the continuation of detailed reporting requirements for Class II railroads.

Review of Responses

Four respondents submitted comments on this proceeding. Their comments are summarized below.

Conrail, the Chicago and North Western Transportation Company (CNW), and the Association of American Railroads (AAR), representing its member roads, support the elimination of accounting and reporting requirements for Class II railroads. The AAR states that no adverse impact resulted when Class III carriers were relieved of their accounting and reporting requirements. Similarly, the AAR maintains that no significant impact should result from eliminating Class II accounting and reporting requirements since their revenues represent $556 million (1980) compared to $1 billion for Class III carriers (1979). Further, AAR contends that Class II reports are seldom used in railroad industry statistics or decision-making.

The AAR further recommends that in order to preserve the benefits anticipated from elimination of the accounting and reporting requirements for Class II railroads, the threshold for classification of Class I railroads should be adjusted upward for the 1981 reporting year and reviewed annually. The AAR believes this would preclude the possibility of Class II railroads

qualifying for Class I status because of inflation.

Both the AAR and CNW oppose mandatory consolidated reporting and suggest that present Commission approval of such reporting continue on a case-by-case basis. The AAR further believes the information lost by elimination of accounting and reporting requirements for Class II railroads is insignificant and additional requirements for affiliates should not become a burden on Class I parent companies.

Conrail believes that consolidated reporting may result in an increased reporting burden to Class II railroads, since they would have to conform their existing accounting requirements to those of their Class I parent.

R. L. Banks Associates disagree with this proposal. It maintains that the Commission should closely monitor Class II railroad activities because of potential abuse of large carriers using economic leverage to gain unfair advantage over smaller ones. Further, it contends that researchers and academicians should have ready access to this information to conduct studies relative to the transportation system.

Discussion and Conclusions

In a decision issued December 15, 1980, the Commission eliminated the accounting and reporting requirements for Class III railroads (46 FR 9114, January 28, 1981). We are now eliminating the accounting and reporting for Class II railroads. We shall continue to maintain a distinction between Class II and Class III railroads, however, because Section 10705a of the Staggers Rail Act sets forth specific rights of Class III carriers in relation to certain surcharge provisions. At present, these designations are:

Class I—Annual carrier operating revenues of $50 million or more.

Class II—Annual carrier operating revenues of less than $50 million but more than $10 million.

Class III—Annual carrier operating revenues of $10 million or less.

Our avowed intention is that accounting and reporting requirements shall be limited to meeting the Commission's current needs in performing regulatory functions including the compilation of essential transportation statistics and the execution of Federal laws. The Commisson reviewed the use of information filed by Class II railroad companies and found that it was not used on a regular basis for analysis or monitoring purposes. Therefore, the Commission concluded that the accounting and reporting burden is no longer justified.

Three respondents oppose the inclusion of affiliated Class II railroad companies in parent companies R–1 reports. Because of the complexity of the consolidation issue, we have decided to institute a separate proceeding to investigate appropriate criteria for filing consolidated data relative to rail carriers. In the interim, the Commission will continue to grant approval of consolidated reporting upon petition.

We emphasize that this rule does not eliminate the reporting of pertinent accounting information when requested and does not affect accounting and reporting requirements of other jurisdictions. Before eliminating current accounting capabilities, carriers should ensure that their internal accounting systems accommodate existing state and local regulatory requirements. Carriers should also consider potential Commission requests for information as well as the possibility of future consolidated reporting. Blind abandonment of the Class II Uniform System of Accounts without an appropriate substitute may ill serve the carrier as well as a particular regulatory body.

The AAR's comments concerning the threshold for classification of Class I railroads address a separate rulemaking proceeding (Docket No. 38559, Railroad Classification Index). The Commission is currently reviewing the responses and will issue a final rule after appropriate analysis.

Regulatory Flexibility Act: Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this final rule will not have a significant economic impact on a substantial number of small entities. This rule eliminates the accounting and reporting requirements for Class II railroads; consequently, there is no adverse impact on small businesses.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

This action is taken under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

We adopt the changes to 49 CFR Parts 1201, 1241 and 1248 set forth in Appendix A to this final rule.

Decided: February 8, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,

Acting Secretary.

Amend Title 49 CFR as follows:

PART 1201—RAILROAD COMPANIES

In Part 1201:

1. Revise paragraph (c) of General Instruction 1–1, Classification of Carriers, to read as follows:

1–1 Classification of Carriers.

* * * * *

(c) Class I carriers shall keep all of the accounts of this system which are applicable to their operations. Class II and Class III carriers are not required to maintain the accounts of this system.

* * * * *

2. Remove the accounting list entitled "Operating Expense Account's for Class II Railroad" which immediately precedes the Operating Expense Account Explanations.

3. Remove the Operating Expenses Accounts—Class II railroads Conversion Today (Sic) [Table].

4. Remove the *Condensed Classification of Operating Expenses for Small Carriers, Class II.*

PART 1241—ANNUAL, SPECIAL OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

§ 1241.12 [Removed]

5. Remove § 1241.12, *Annual reports of Class II railroad companies.*

§ 1241.13 [Redesignated as § 1241.12]

6. Redesignated § 1241.13, *Report of incentive per diem items—Railroads,* as § 1241.12.

PART 1248—FREIGHT COMMODITY STATISTICS

7. Revise § 1248.1 to read as follows:

§ 1248.1 Freight commodity statistics.

All Class I railroads, as described in § 1240.1 of this chapter, subject to Part I of the Interstate Commerce Act, shall compile and report freight commodity statistics on the basis of the commodity codes named in § 1248.101. Carriers shall report quarterly on the basis of the 3, 4 and 5-digit commodity codes named in that section. Such reports shall be made in conformity with the outline of terms set forth in §§ 1248.2 to 1248.5, inclusive, as supplemented by instructions included in the appropriate report form to be supplied to the reporting railroads.

§ 1248.2 [Amended]

8. Remove paragraph (b) of § 1248.2, *Items to be reported,* and reserve it for future use.

§ 1248.5 [Amended]

9. Remove paragraph (b) of § 1248.5, *Report forms and date of filing,* and reserve it for future use.

§ 1248.6 [Amended]

10. In § 1248.6, *Public inspection—Railroad reports,* remove the phrase "and Class II" from the first sentence.

[FR Doc. 82-4029 Filed 2-16-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1249

[Docket No. 38760]

Elimination of Form QFR-S

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is eliminating the requirement that all Class I and II contract motor carriers and Class II Instruction 28 A, B, and C motor carriers file Form QFR–S, the Selected Quarterly Data of Results of Operations. The Commission does not use the data contained in the report, and we do not believe that the use others make of the data justifies the continuation of this reporting burden on the carriers.

DATES: Effective for the reporting year beginning January 1, 1982.

ADDRESSES: Copies of this notice rule may be obtained by writing to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423; or by calling toll-free, 800–424–5403.

An original and 10 copies of any comments should also be sent to the above address on or before April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne Howard (202) 275–7448.

SUPPLEMENTARY INFORMATION: In Docket No. 37002 (served December 3, 1979; 44 FR 70478, December 7, 1979), the Commission revised quarterly report Form QFR and eliminated the filing requirement for certain carriers. Those carriers relieved from filing Form QFR were instead required to file Form QFR–S which requires respondents to submit data on operating revenue, net income, vehicle miles, tons of revenue freight, and total cash and liquid assets. The Commission presently requires all Class I and II contract carriers and Class II Instruction 28 A, B and C carriers to file Form QFR–S.

In the past, the Commission designed its reporting policy to provide for its own information needs and, at the same time, to accommodate the needs of other users whenever practical. Under its new policy adopted May 5, 1979 (Policy Statement on Financial and Statistical Reporting), the Commission only collects data which it uses internally on a regular basis to fulfill regulatory responsibilities. In first adopting Form QFR–S, we thought the Commission would use the data from Form QFR–S regularly because we expected substantial regulatory changes to the specialized carrier and contract carrier industry in the near future. However, the Commission has found little use for the form during the year and since the data captured on Form QFR–S is not used on a regular basis by the Commission, we will eliminate the form effective for the year beginning January 1, 1982.

By eliminating Form QFR–S we will reduce the expense of collecting and processing as well as help small businesses by relaxing reporting requirements. We will save the carriers approximately $187,000 and the government $24,000.

This rule is procedural in nature and the revision lessens the reporting requirements for about 1,900 motor carriers. Accordingly, the Commission believes that this revision does not require a rulemaking proceeding pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in keeping with our belief that this rule change can benefit from public scrutiny, we are requesting that the public study the rule and comment on or before April 5, 1982, concerning any changes which should be made as well as the purpose of the revision.

If the Commission concludes, after reviewing the comments, that it is necessary to change the rule or that the revision should not be adopted, appropriate action will be taken. Otherwise, the revision proposed in this decision will take effect for the year 1982.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this Final Rule will not have a significant economic impact on a substantial number of small entities. In this proceeding, we do not propose new reporting requirements; rather, we seek to eliminate the existing burden on many small carriers. Thus, we anticipate no adverse economic impact on small businesses, organizations or other entities.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

PART 1249—REPORTS OF MOTOR CARRIERS

Accordingly, § 1249.12, Part 1249 of Title 49 of the Code of Federal Regulations is revised to read as follows:

§ 1249.12 Quarterly financial reports.

All Class I common carriers and Class II "Instruction 27" carriers as defined in 49 CFR Part 1207, and Class I household goods carriers shall complete and file the Quarterly Results of Operations Form QFR. Two copies of the form should be filed with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the end of the reporting quarter.

(49 U.S.C. 11142 and 11145, and 5 U.S.C. 553)

Decided: February 8, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-4104 Filed 2-16-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 621

Seizure of Illegally Caught Fish

ACTION: Statement of policy.

SUMMARY: NOAA publishes a notice which revises its policy, announced in the **Federal Register** of February 15, 1980 (45 FR 10349), with respect to seizure and forfeiture of fish taken or retained in violation of the Magnuson Fishery Conservation and Management Act (the Act). The revised policy is to seize a vessel's entire catch where there have been previous violations of the Act, where the violations are especially serious, or where there are multiple violations.

DATE: Effective February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Assistant General Counsel for Enforcement and Litigation, Page Building I, Room 275, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235, Telephone: (202) 254–8350.

SUPPLEMENTARY INFORMATION: The February 15, 1980, notice states that it is NOAA policy to seize and seek forfeiture of all fish the agency believes were taken or retained in violation of the Act, and that where excess catch is

involved, an amount of fish commensurate with the excess will be seized. That notice also allows for seizing the entire catch where the amount of excess is substantial, or where other types of violations are involved. It does not, however, positively state that the entire catch will be seized in cases involving repeat or serious violations.

Effective enforcement of the Act, and protection of fishery resources, requires a more severe enforcement response to flagrant and repeated violations. Therefore, this notice makes clear that in cases involving excess catch it is NOAA policy to seize and seek forfeiture of a vessel's entire catch where a prior violation is involved, where the amount of excess is substantial, or where there are multiple violations. Seizure of the entire catch is also appropriate for violations other than excess catch violations, such as fishing in a closed area or with illegal mesh, or retaining undersized fish. In egregious cases, where lesser sanctions have not been or would not be successful deterrents, seizure and forfeiture of the vessel, in addition to its catch, may be appropriate.

Signed at Washington, D.C., this 11th day of February 1982.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 82-4202 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 32
Wednesday, February 17, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Wyoming-9)]

High-Cost Gas Produced From Tight Formations; Wyoming

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). this rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Wyoming that the Frontier Formation be designated as a tight formation under § 271.703(d).

DATE: comments on the proposed rule are due on March 15, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 26, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: February 11, 1982.

I. Background

On February 3, 1982, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Frontier Formation located in Sweetwater County, Wyoming, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Frontier Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands in Sweetwater County, Wyoming, and is located in the Essex Mountain area in north central Sweetwater County. The recommended area contains approximately 253,440 acres within all of Townships 23, 24, and 25 North, Ranges 101 and 102 West; Townships 24, 25, and 26 North, Range 103 West; and Townships 24 and 25 North, Range 104 West. The acreage included in the recommended area consists of both State and fee lands. The recommended formation ranges in thickness from 400 to 600 feet. The average depth to the top of the formation is 11,530 feet.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. 1, Order No. 1, Docket No. 113-81 convened by Wyoming on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, if not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Frontier Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Wyoming-9), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing adddress, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 835 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the

Commission no later than February 26, 1982.

(Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3342))

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (90) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(90) *Frontier Formation in Wyoming. RM79–76 (Wyoming-9).*—(i) *Delineation of formation.* The Frontier Formation is found in Sweetwater County, Wyoming, in Townships 23, 24, and 25 North, Ranges 101 and 102 West; Townships 24, 25, and 26 North, Range 103 West; and Townships 24 and 25 North, Range 104 West.

(ii) *Depth.* The Frontier Formation is defined as being between the base of the Baxter Formation and the top of the Mowry Formation. The average depth to the top of the Frontier Formation is 11,530 feet.

[FR Doc. 82-4208 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79–76 (Wyoming-10)]

High-Cost Gas Produced From Tight Formations; Wyoming

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Wyoming that the Frontier Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 15, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 26, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: February 11, 1982.

I. Background

On February 3, 1982, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Frontier Formation located in Sweetwater and Lincoln Counties, Wyoming, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Frontier Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located south of the La Barge platform area in southwest Wyoming. The area contains about 68,500 acres and is in Lincoln and Sweetwater Counties, Wyoming. It encompasses Township 24 North, Range 114 West, Sections 1 and 2; Township 25 North, Ranges 112 and 113 West; Township 26 North, Range 112 West, Sections 4, 9, 16, and 19 through 36; and Township 26 North, Range 113 West, Sections 25 through 36.

The vertical limits of the Frontier Formation are defined by the Baxter Shale Formation above and the Mowry Shale Formation below. The average depth to the top of the productive zone is 8,500. The average thickness of the Frontier Formation throughout the proposed area is between 200 and 250 feet.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. 1, Order No. 1, Docket No. 128–81 convened by Wyoming on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Frontier Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Wyoming-10), and should give reasons including supporting data for any recommendations. Comments should

include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Captiol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 26, 1982.

(Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3342))

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (91) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(91) *Frontier Formation in Wyoming. RM79–76 (Wyoming-10).*—(i) *Delineation of formation.* The Frontier Formation is found in Sweetwater and Lincoln Counties, Wyoming, and encompasses Township 24 North, Range 114 West, Sections 1 and 2; Township 25 North, Ranges 112 and 113 West; Township 26 North, Range 112 West, Sections 4, 9, 16, and 19 through 36; and Township 26 North, Range 113 West, Sections 25 through 36.

(ii) *Depth.* The Frontier Formation's vertical limits are defined by the Baxter Shale Formation above and the Mowry Shale Formation below. The gross thickness of the formation averages between 200 and 250 feet, and the average depth to the top of the Frontier Formation is 8,500 feet.

[FR Doc. 82-4220 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Income

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: Section 1612 of the Social Security Act defines income for Supplemental Security Income (SSI) purposes and lists the kinds of receipts that are not considered to be income under the SSI program. Unearned income is defined as all income other than earned income and includes (but is not limited to) "any payments received as an annuity, pension, retirement, or disability benefit * * *", as well as prizes, awards, certain life insurance payments, gifts and inheritances, alimony and support payments, rents, dividends, interest, and royalties. These proposed regulations provide that the gross amount of such unearned income in the form of other benefit payments is to be counted for SSI purposes even though only the net amount of the benefit is actually received (due to the fact that a portion is withheld in order to recover a prior overpayment debt).

The Social Security Administration proposes to revise the existing rules that count only net receipts. This change is proposed in recognition of the fact that legal obligations are being satisfied (other benefit overpayment debts are being reduced) and that SSI program benefits should not make up for an individual's reduction or satisfaction of legal obligations. Counting only net amounts may result in an increase in SSI benefits up to the amount withheld by the other benefit program to recover prior overpayments, the practical effect being that SSI benefits are used to satisfy other benefit overpayment debts.

DATE: Your comments will be considered if we receive them no later than March 19, 1982.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, 3–B–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7112.

SUPPLEMENTARY INFORMATION: We plan to revise our rules on the way we count income in the SSI program by providing that the gross amount of other benefit payments will be considered as unearned income even though the net amount actually received is less because a prior benefit overpayment is being recovered.

Section 1611 of the Social Security Act states that the amount of an individual's income is a condition of eligibility for SSI benefits. Section 1612 of the Act states that, with listed exceptions, income that is not earned is unearned and includes any payments such as annuities, pensions, retirement, or disability benefits. The statute does not cite reduction of other benefit payments to recover prior overpayments as one of the listed income exclusions.

In cases where benefit payments under other programs are reduced to recover overpayments, the Social Security Administration now counts actual in-hand receipts of such unearned income in determining eligibility for and the amount of an SSI benefit. This policy results in SSI benefits, in effect, being used to repay legal debts. Further, if the entire amount of the benefit is not counted, repayment of the legal obligation is, in effect, ignored, for SSI benefits are concomitantly increased by amounts up to the amount withheld by the other benefit program. We believe that a policy change to address this situation is consistent with the language and intent of the Social Security Act. Counting the gross amount parallels the typical situation where an individual receives his or her full benefit payment and voluntarily uses some or all of it to repay an outstanding debt.

We recognize that a problem can arise if, at the time of overpayment of the other program benefit, SSI benefits were also being received. The SSI benefits would have been reduced because of the other benefit payment, including the overpaid amount. Counting the gross amount of the other program benefit when the overpayment is being recovered could constitute double-counting of the same income for SSI purposes. We have not yet resolved how to treat the problem and invite comment on this issue. We expect after considering all comments to provide a

solution and include it in the final regulation that will implement these rules.

These regulations provide for revising § 416.1123(b) which explains how we count unearned income. In addition to setting out the new policy, we have also made minor editorial changes to the material presently in paragraph (b).

Regulatory Procedures

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations, if promulgated, will not have a significant impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting and recordkeeping requirement requiring OMB clearance. SSA has clearance for the form (SSA–8150, OMB No. 0960–0128) on which beneficiaries report changes in income.

(Catalog of Federal Domestic Assistance program No. 13.807, Supplementary Security Income Program)

Dated: January 21, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: February 8, 1982.

Richard S. Schweiker,

Secretary, Health and Human Services.

PART 426—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart K of Part 416 reads as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631, of the Social Security Act, as amended; sec. 211 of Pub. L. 93–66; 49 Stat 647, as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1475, 87 Stat. 154 (42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383).

2. In § 416.1123 paragraph (b) is revised to read as follows:

§ 416.1123 How we count unearned income.

* * * * *

(b) *Amount considered as income.* We may count more or less than the amount you actually receive to be your unearned income.

(1) We count more than you actually receive where another benefit payment (such as social security insurance benefit) (see § 416.1121) has been reduced to recover a previous overpayment of that benefit. You are repaying a legal obligation through the withholding of portions of your benefit amount, and the amount of the debt reduction is also considered unearned income.

Example: Joe, an SSI beneficiary, is also entitled to Social Security insurance benefits in the amount of $200 per month. However, because of a prior overpayment of his Social Security insurance benefits, $20 per month is being withheld to recover the overpayment. In figuring the amount of his SSI benefits, the full monthly Social Security insurance benefit of $200 is counted as unearned income.

(2) We count less than you actually receive if part of the payment is for an expense you had in getting the payment. For example, if you are paid for damages you receive in an accident, we subtract from the amount of the payment, your medical, legal, or other expenses connected with the accident. Also, if you receive a retroactive check from a benefit program other than SSI, legal fees connected with the claim are subtracted. We do not subtract from any taxable unearned income the part you have to use to pay personal income taxes. The payment of taxes is not an expense you have in getting income.

(3) In certain situations, we may consider someone else's income to be available to you, whether or not it actually is. (For the rules on this process, called deeming, see §§ 426.1160 through 416.1169.)

* * * * *

[FR Doc. 82–4292 Filed 2–16–82; 8:45 am]

BILLING CODE 4190–11–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 9H5208/P76]

Norflurazon; Proposed Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a food additive regulation be established for the herbicide norflurazon in or on dried hops. This proposal to establish the maximum permissible level for residues of norflurazon in or on dried hops was requested by Sandoz, Inc.

DATE: Written comments must be received on or before March 19, 1982.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 23, 1979 (44 FR 23932) that Sandoz Inc., 480 Camino del Rio South, San Diego, CA 92108, had filed a food additive petition (FAP 9H5208) with the EPA. This petition proposed a regulation be established permitting the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in or on dried hops with a tolerance limitation of 2.60 parts per million (ppm). Sandoz, Inc. subsequently amended the petition by increasing the tolerance level to 3.0 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The relevant data pertaining to this proposed regulation are included in the proposed establishment of tolerances (PP 9F2177/P211) for norflurazon on a variety of raw agricultural commodities which appears elsewhere in this issue of the **Federal Register**.

It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to FIFRA, as amended (86 Stat. 973; 7 U.S.C. 135(a) *et seq.*). Therefore it is proposed that 21 CFR part 193 be amended as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before March 19, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "(FAP 9H5208/P76)." All written comments filed in response to

this petition will be available in the office of Richard F. Mountfort at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that proposed regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Dated: February 4, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, it is proposed that 21 CFR Part 193 be amended by adding a new § 193.324 to read as follows:

§ 193.324 Norflurazon.

A regulation is established for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluroro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in dried hops at 3.0 parts per million when present therein as a result of its application to the growing crop.

[FR Doc. 82-4112 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

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21 CFR Part 561

[PH-FRL-2052-3; FAP 2H5332/P77]

Norflurazon; Proposed Feed Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a feed additive regulation be established for the combined residues of the herbicide norflurazon in or on the animal feed items citrus molasses and dried citrus pulp. This proposal to establish the maximum permissible level for the combined residues of norflurazon in or on these commodities was requested by Sandoz, Inc.

DATE: Written comments must be received on or before March 19, 1982.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (703–557–1830).

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking announces that Sandoz Inc., 480 Camino del Rio South, San Diego, CA 92108, has submitted a feed additive petition (FAP 2H5332) to the EPA proposing that a regulation be established permitting the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in or on citrus molasses at 1.0 part per million (ppm) and dried citrus pulp at 0.4 ppm.

The data submitted in the petition and other relevant material have been evaluated. The relevant data pertaining to this proposed regulation are included in the proposed tolerances (PP 9F2177/P213) for norflurazon and its desmethyl metabolite appearing elsewhere in this issue of the **Federal Register.**

It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to FIFRA, as amended (86 Stat. 973; 7 U.S.C. 135(a) *et. seq.*). Therefore, it is proposed that 21 CFR Part 561 be amended as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before March 19, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "(FAP 2H5332/P77)." All written comments filed in response to this petition will be available in the office of Richard F. Mountfort at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that proposed regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

Dated: February 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, it is proposed that 21 CFR Part 561 be amended by adding a new § 561.283 to read as follows:

§ 561.283 Norflurazon.

A regulation is established for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in citrus molasses at 1.0 part per million (ppm) and dried citrus pulp at 0.4 ppm when present therein as a result of the application of the pesticide to the growing crop.

[FR Doc. 82-4116 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances Excepted Stimulant and Depressant Compounds

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule lists the products which have been granted excepted status under the Controlled Substances Act since the last notice was published on March 31, 1977 (42 FR 17301). This listing will be used to update the Table of Excepted Prescription Drugs to Part 1308. Further, all excepted products which the manufacturers have discontinued marketing will be removed from this table.

DATE: Comments must be submitted on or before March 19, 1982.

ADDRESS: Comment and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 202(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)) authorizes the Attorney General to except preparations containing stimulant or depressant controlled substances from specific provisions of the Act if certain criteria are met. An exception may be granted if the stimulant or depressant controlled substance is combined with one or more active medicinal ingredients which have no stimulant or depressant effect, and whose presence vitiates the potential for abuse of the stimulant or depressant controlled substance.

21 CFR Part 1308, Table of Excepted Prescription Drugs, lists those products which have been granted excepted status as of March 31, 1977, as published at 42 FR 17300. Since that time a number of applications for exceptions have been received and reviewed by the Drug Enforcement Administration. This notice lists those products which have been granted excepted status since March 31, 1977, pursuant to 21 CFR 1308.31.

The Table of Excepted Prescription Drugs in 21 CFR Part 1308 has a column heading entitled *status* which refers to the marketing status of the product. A *DISC* under the status column means that the manufacturer has discontinued marketing the product while a blank space indicates that the product is marketed as of the date of publication of the table. To further update the Table of Excepted Prescription Drugs, all excepted products which are no longer marketed will be removed from the table and the *status* column will no longer be used. It should be noted that the exceptions for these products have not been revoked.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES [AMENDED]

Therefore, under the authority vested in the Attorney General by section 202(d) of the Act (21 U.S.C. 812(d)), and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby proposes to amend 21 CFR Part 1308, Table of Excepted Prescription Drugs* as follows by:

1. Removing from the table all products which are no longer marketed and listed as *DISC* under the *status* column, and

2. Adding in the appropriate place, the following list of products which have been granted exceptions since March 31, 1977:

* * * * *

*Editional note.—Table printed in a separate volume of the **Code of Federal Regulations** entitled *Part 1300 to End (Part 1308 Table.)*

TABLE OF EXCEPTED PRESCRIPTION DRUGS

Trade name or other designation	Form of product	Product composition	Manufacturer or supplier name	NDC code
ACETYLSAL 10 W PHENOBARBITAL	TB	PHENOBARBITAL, 15.0000MG ASPIRIN, 650.0000MG	PARK PHARMACAL INC	
ALISED REVISED	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.1300MG	ELDER P B COMPANY	00183-0125
ALLERGY FORMULA	TB	PHENOBARBITAL, 16.2000MG EPHEDRINE SULFATE, 24.3000MG BELLADONNA P.E., 5.0000MG CHLORPHENIRAMINE MALEATE, 4.0000MG	DELAVAU J W S INC	
AMOBELL IMPROVED	CA	AMOBARBITAL, 15.0000MG BELLADONNA EXTRACT, 10.0000MG	BOCK PHARMACAL CO	00563-0159
ANISOTROPINE METHYLBROMIDE W PB	TB	PHENOBARBITAL, 15.0000MG ANISOTROPINE METHYLBROMIDE, 50.0000MG	BOLAR PHARM CO	00725-0109
ANTI SPAS	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG	BORNEMAN & SONS	
ANTI-SPASMODIC	TB	PHENOBARBITAL, 16.2000MG HYOSCINE HBR, 0.0065MG ATROPINE SULFATE, 0.0194MG HYOSCYAMINE SULFATE, 0.1037MG	THREE P PRODUCTS	49195-0245
ANTI-SPASMODIC ELIXIR	EL	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR, 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	STAYNER CORPORATION	00123-0670
ANTISPASMODIC	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG	CHROMALLOY PHARM INC	00413-0103
ANTISPASMODIC	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG	GEN-KING PRODUCTS	03547-0777

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition	Manufacturer or supplier name	NDC code
ANTISPASMODIC	EL	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR, 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	THREE P PRODUCTS	48196-0301
ANTISPASMODIC COMPOUND WHITE	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.0194MG SCOPOLAMINE HBR, 0.0065MG	STAYNER CORPORATION	00123-0149
ANTISPASMODIC GREEN	TB	HYOSCYAMINE SULFATE, 0.1037MG PHENOBARBITAL, 16.2000MG	DRUMMER LABS	45124-0879
ANTISPASMODIC GRN-WHITE	CA	HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG SCOPOLAMINE HBR, 0.0065MG PHENOBARBITAL, 16.2000MG	DRUMMER LABS	45124-0802
ANTROCOL	CA	HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG SCOPOLAMINE HBR, 0.0065MG PHENOBARBITAL, 16.0000MG	POYTHRESS & CO INC	00095-0041
ANTROCOL	TB	ATROPINE SULFATE, 0.1950MG PHENOBARBITAL, 16.0000MG	POYTHRESS & CO INC	00095-0040
ANTROCOL ELIXIR	EL	ATROPINE SULFATE, 0.1950MG PHENOBARBITAL, 3.0000MG	POYTHRESS & CO INC	00095-0042
APC NO.4 W PHENOBARBITAL	TB	ATROPINE SULFATE, 0.0390MG PHENOBARBITAL, 16.2000MG	WOLINS PHARM CORP	00928-1026
APC WA PHENOBARBITAL WHITE	TB	ASPIRIN, 226.8000MG PHENACETIN, 162.0000MG CAFFEINE, 16.2000MG PHENOBARBITAL, 15.0000MG	RUGBY LABORATORIES	00536-3266
APC W PHENOBARBITAL YELLOW	TB	ASPIRIN, 210.0000MG PHENACETIN, 150.0000MG CAFFEINE, 30.0000MG PHENOBARBITAL, 15.0000MG	RUGBY LABORATORIES	00536-3275
ASMACOL	TB	ASPIRIN, 227.0000MG PHENACETIN, 162.0000MG CAFFEINE, 32.5000MG BUTABARBITAL, 15.0000MG AMINOPHYLLINE, 160.0000MG PHENYLPROPANOLAMINE HCL, 25.0000MG	VALE CHEMICAL	00377-0027
ASPIRIN W PHENOBARBITAL	TB	PHENOBARBITAL, 15.0000MG ASPIRIN, 325.0000MG	RUGBY LABORATORIES	00536-3326
ASPIRIN W PHENOBARBITAL	TB	PHENOBARBITAL, 16.2000MG ASPIRIN, 324.0000MG	WOLINS PHARM CORP	00928-1025
ATROPINE W PHENOBARBITAL	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.1296MG	DELAVAU J W S INC	
ATROSED	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.0195MG HYOSCINE HBR, 0.0065MG HYOSCYAMINE SULFATE, 0.1040MG	FREEPORT DRUG CO	00439-0852
AXOTAL	TB	BUTALBITAL, 50.0000MG ACETAMINOPHEN, 325.0000MG CAFFEINE, 40.0000MG	ADRIA LABORATORIES	00013-1211
AZLYTAL	TB	PHENOBARBITAL, 32.4000MG HYOSCYAMINE SULFATE, 0.2074MG ATROPINE SULFATE, 0.0388MG HYOSCINE HBR, 0.0130MG	U S ETHICALS INC	00313-0261
BARBELOID (REVISED)	TB	PHENOBARBITAL, 16.2000MG HYOSCINE HBR, 0.0065MG ATROPINE SULFATE, 0.0194MG HYOSCYAMINE SULFATE, 0.1037MG	VALE CHEMICAL CO	00377-0368
BARBELOID YELLOW	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG SCOPOLAMINE HBR, 0.0065MG	VALE CHEMICAL CO	00377-0458
BARBIDONNA	EL	PHENOBARBITAL, 16.0000MG/5ML HYOSCYAMINE SULFATE, 0.1286MG/5ML ATROPINE SULFATE, 0.0250MG/5ML SCOPOLAMINE HBR, 0.0074MG/5ML	WALLACE LABORATORIES	00037-0305
BARBIDONNA	TB	PHENOBARBITAL, 16.0000MG HYOSCYAMINE SULFATE, 0.1286MG ATROPINE SULFATE, 0.0250MG SCOPOLAMINE HBR, 0.0074MG	WALLACE LABORATORIES	00037-0301
BARBIDONNA NO. 2	TB	PHENOBARBITAL, 32.0000MG HYOSCYAMINE SULFATE, 0.1286MG ATROPINE SULFATE, 0.0250MG SCOPOLAMINE HBR, 0.0074MG	WALLACE LABORATORIES	00037-0311
BELLADONNA ALKALOIDS W PHENOBARBITAL	EL	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML SCOPOLAMINE HBR, 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	G AND W LABS	
BELLADONNA ALKALOIDS W PHENOBARBITAL	EL	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR, 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	KAISER FOUND. HOSP	00179-0045
BELLADONNA EXT. & PHENOBARBITAL	TB	PHENOBARBITAL, 16.2000MG BELLADONNA EXTRACT, 10.8000MG	DRUMMER LABS	45124-0845
BELLADONNA W PHENOBARBITAL	TB	PHENOBARBITAL, 15.0000MG BELLADONNA LEAF, 15.0000MG	RUGBY LABORATORIES	00536-3360
BELLADONNA WITH BUTABARBITAL	TB	BUTABARBITAL SODIUM, 15.0000MG BELLADONNA LEAF P.E., 15.0000MG	RUGBY LABORATORIES	00536-3409

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Trade name or other designation	Form of product	Product composition	Manufacturer or supplier name	NDC code
BELLADONNA WITH PHENOBARBITAL	TB	PHENOBARBITAL, 16.2000MG BELLADONNA P.E., 10.8000MG	DELAVAU J W S INC	10311-0033
BELLASTAL	LQ	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR, 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	U S ETHICALS INC	00313-0097
BENTOMINE W PHENOBARBITAL	CA	PHEMOBARBITAL, 16.0000MG DICYCLOMINE HCL, 10.0000MG	RUGBY LABORATORIES	00536-3368
BILCHOLANS	CA	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.2592MG OX BILE P.E., 24.3000MG DEHYDROCHOLIC ACID, 64.8000MG	QUAKER CITY PHARM CO	10885-4102
BLADDER MIXTURE PLUS PHENOBARBITAL	LQ	PHENOBARBITAL, 14.6120MG/5ML PATASSIUM CITRATE, 913.2400MG/5ML TINCTURE HYOSCYAMUS, 0.9130ML/5ML ALCOHOL, 1.1600ML/5ML	IOWA UNIVERSITY	11326-1624
BRONCHOLATE	CA	PHENOBARBITAL, 8.0000MG EPHEDRINE SULFATE, 25.0000MG THEOPHYLLINE ANHYDROUS, 125.0000MG GUAIFENESIN, 100.0000MG	BOCK PHARMACAL CO	00563-0277
BUDONNA ROSE	TB	BUTABARBITAL SODIUM, 15.0000MG HYOSCYAMINE SULFATE, 0.1380MG HYOSCINE HBR, 0.0270MG ATROPINE SULFATE, 0.0870MG	CALDWELL & BLOOR CO	00361-2332
BUREN (IMPROVED)	TB	BUTABARBITAL, 15.0000MG PHENAZOPYRIDINE HCL, 150.0000MG 1-HYOSCYAMINE SULFATE, 0.1250MG	ASCHER AND COMPANY	00225-0345
BUTAGESIC	TB	BUTABARBITAL SODIUM, 10.0000MG SALICYLAMIDE, 200.0000MG ACETAMINOPHEN, 200.0000MG	CHANDLER PHARMACAL	00434-0044
CALDONNA GREEN	TB	BUTABARBITAL SODIUM, 16.0000MG HYOSCYAMINE HBR, 0.1280MG HYOSCINE HBR, 0.0070MG ATROPINE SULFATE, 0.0240MG	CALDWELL & BLOOR CO	00361-2398
CANTIL W PHENOBARBITAL	TB	PHENOBARBITAL, 16.0000MG MEPENZOLATE BROMIDE, 25.0000MG	MERRELL-NATIONAL LAB	00068-0034
CHLORDIAZEPOXIDE W CLIDINIUM BROMIDE	CA	CHLORDIAZEPOXIDE HCL, 5.0000MG CLIDINIUM BROMIDE, 2.5000MG	CHELSEA LABORATORIES	46193-0948
CHOLOXITAL CHARTREUSE	TB	PHENOBARBITAL, 8.1000MG DEHYDROCHOLIC ACID, 16.2000MG OX BILE EXTRACT, 16.2000MG POLYSORBATE 80, 64.8000MG OLEIC ACID, 72.9000MG	CALDWELL & BLOOR CO	00361-2387
CLINDEX	CA	BELLADONNA P.E., 8.1000MG CHLORDIAZEPOXIDE HCL, 5.0000MG CLIDINIUM BROMIDE, 2.5000MG	RUGBY LABORATORIES	00536-3490
COASTALGESIC C.T. WHITE	TB	BUTABARBITAL SODIUM, 16.2000MG ACETAMINOPHEN, 324.0000MG CAFFEINE, 32.4000MG	BOWMAN PHARMACEUTIC	00252-3083
DAINITE	TB	PENTOBARBITAL SODIUM, 16.0000MG AMINOPHYLLINE, 200.0000MG EPHEDRINE HCL, 16.2000MG ALUMINUM HYDROXIDE GEL DRIED, 325.0000MG BENZOCAINE, 16.2000MG	WALLACE LABORATORIES	00037-1330
DAINITE-KI	TB	PHENOBARBITAL, 16.2000MG AMINOPHYLLINE, 200.000MG EPHEDRINE HCL, 16.2000MG POTASSIUM IODIDE, 325.0000MG ALUMINUM HYDROXIDE GEL DRIED, 160.0000MG BENZOCAINE, 160.0000MG	WALLACE LABORATORIES	00037-0340
DICYCLOMINE HCL W PB	TB	PHENOBARBITAL, 15.0000MG DICYCLOMINE HCL, 20.0000MG	CHELSEA LABORATORIES	46193-0826
DICYCLOMINE HCL W PB	CA	PHENOBARBITAL, 15.0000MG DICYCLOMINE, 10.0000MG	CHELSEA LABORATORIES	46193-0925
DICYCLOMINE HCL W PHENOBARBITAL	TB	PHENOBARBITAL, 20.0000MG DICYCLOMINE HCL, 15.0000MG	BOLAR PHARM CO	00725-1004
DICYCLOMINE HCL W PHENOBARBITAL	CA	PHENOBARBITAL, 15.0000MG DICYCLOMINE HCL, 10.0000MG	BOLAR PHARM CO	00725-0002
DICYCLOMINE HCL W PHENOBARBITAL	CA	PHENOBARBITAL, 15.0000MG DICYCLOMINE HCL, 10.0000MG	DRUMMER LABS	45124-0838
DICYCLOMINE HCL W PHENOBARBITAL	TB	PHENOBARBITAL, 15.0000MG DICYCLOMINE HCL, 20.0000MG	RUGBY LABORATORIES	00536-3378
DICYCLOMINE W PB	TB	PHENOBARBITAL, 15.0000MG DICYCLOMINE, 20.0000MG	THREE P PRODUCTS	46198-0219
DRUMMERGAL	TB	PHENOBARBITAL, 20.0000MG ERGOTAMINE TARTRATE, 0.3000MG HYOSCYAMINE (AS SULFATE), 0.1000MG	DRUMMER LABS	45124-0666
ERGO-PHEN	TB	PHENOBARBITAL, 20.0000MG ERGOTAMINE TARTRATE, 0.3000MG HYOSCYAMINE SULFATE, 0.1000MG	RUGBY LABORATORIES	
EZOL	CA	BUTALBITAL, 50.0000MG ACETAMINOPHEN, 381.0000MG CAFFEINE, 40.0000MG	STEWART-JACKSON	45985-0578
GLYOCPYRROLATE W PHENOBARBITAL	TB	PHENOBARBITAL, 16.2000MG GLYCOPYRROLATE, 2.0000MG	BOLAR PHARM CO	00725-0105
GLYCOPYRROLATE W PHENOBARBITAL	TB	PHENOBARBITAL, 16.2000MG GLYCOPYRROLATE, 1.0000MG	BOLAR PHARM CO	00725-0107
HEXABAMATE #1	TB	MEPROBAMATE, 200.0000MG TRIDIHEXETHYL CHLORIDE, 25.0000MG	RUGBY LABORATORIES	00536-3900
HEXABAMATE #2	TB	MEPROBAMATE, 400.0000MG TRIDIHEXETHYL, 25.0000MG	RUGBY LABORATORIES	00536-3901

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition	Manufacturer or supplier name	NDC code
HYOSITAL GREEN	EL	PHENOBARBITAL, 15.0000MG/4ML ATROPINE SULFATE, 0.0194MG/4ML HYOSCYAMINE SULFATE,0.1037/4ML HYOSCINE HBR, 0.0065MG/4ML	CALDWELL & BLOOR CO	00361-3043
HYOSITAL PINK	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.0194MG HYOSCYAMINE SULFATE, 0.1037MG HYOSCINE HBR, 0.0065MG	CALDWELL & BLOOR CO	00361-2427
HYOSITAL WHITE	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.0194MG HYOSCYAMINE SULFATE, 0.1037MG HYOSCINE HBR, 0.0065MG	CALDWELL & BLOOR CO	00361-2131
HYOSOPHEN	TB	PHENOBARBITAL, 16.0000MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG HYOSCYAMINE SULFATE, 0.1037MG	RUGBY LABORATORIES	[illegible]
HYOSOPHEN TABLETS	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG SCOPOLAMINE HBR, 0.0065MG	RUGBY LABORATORIES	00536-3820
HYTROPHEN	TB	PHENOBARBITAL, 16.2000MG BELLADONNA ALKALOIDS, 0.1046MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG	MACESLIN & COMPANY	00258-0026
ISUPREL COMPOUND	EL	PHENOBARBITAL, 6.000MG/15ML ISOPROTERENOL HCL, 2.5000MG/15ML EPHEDRINE SULFATE, 12.0000MG/15ML THEOPHYLLINE, 45.0000MG/15ML POTASSIUM IODIDE, 150.0000MG/15ML ALCOHOL, 1.8000ML/15ML	BREON LABS	00257-0674
KINESED	TB	PHENOBARBITAL, 16.0000MG HYOSCYAMINE SULFATE,0.1000MG ATROPINE SULFATE, 0.0200MG SCOPOLAMINE HBR, 0.0070MG	STUART PHARM (DEL)	00066-0220
LUFTODIL	TB	PHENOBARBITAL, 16.0000MG THEOPHYLLINE, 100.0000MG EPHEDRINE HCL, 24.0000MG GUAIFENESIN, 200.0000MG	WALLACE LABORATORIES	00037-0501
LUFYLLIN-EPG	TB	PHENOBARBITAL, 16.0000MG DYPHYLLINE, 100.0000MG GUAIFENESIN, 200.0000MG EPHEDRINE HCL, 16.0000MG	WALLACE LABORATORIES	00037-0561
LUFYLLIN-EPG	EL	PHENOBARBITAL, 16.0000MG/10ML DYPHYLLINE, 100.0000MG/10ML GUAIFENESIN, 200.0000MG/10ML EPHEDRINE HCL, 16.0000MG/10ML ALCOHOL, 0.5500ML/10ML	WALLACE LABORATORIES	00037-0565
MALATAL	TB	PHENOBARBITAL, 16.2000MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG HYOSCYAMINE SULFATE, 0.1037MG	MALLARD INC	00195-0748
MANNITOL HEXANITRATE & PHENOBARBITAL	TB	PHENOBARBITAL, 16.0000MG MANNITOL HEXANITRATE, 32.0000MG	DRUMMER LABS	45124-0849
MEDIGESIC PLUS	CA	BUTALBITAL, 50.0000MG ACETAMINOPHEN, 400.0000MG CAFFEINE, 30.0000MG	MEDICS PHARMACEUTICS	00184-0211
MEDIGESIC PLUS MODIFIED FORMULA	CA	BUTALBITAL, 50.0000MG ACETAMINOPHEN, 325.0000MG CAFFEINE, 40.0000MG	MEDICS PHARMACEUTICS	00184-0212
MISALOID GREEN	TB	PHENOBARBITAL SODIUM, 2.6000MG BUTABARBITAL SODIUM, 2.6000MG PHENOBARBITAL, 2.6000MG ACETAMINOPHEN, 324.0000MG	JENKINS LABS INC	00397-2440
MUDRANE	TB	SALICYAMIDE, 194.4000MG PHENOBARBITAL, 8.0000MG POTASSIUM IODIDE, 195.0000MG	POYTHRESS & CO INC	00095-0050
MUDRANE GG	TB	AMINOPHYLLINE, 130.0000MG EPHEDRINE HCL, 16.0000MG PHENOBARBITAL, 8.0000MG	POYTHRESS & CO INC	00095-0051
NEOQUESS REVISED	TB	AMINOPHYLLINE, 130.0000MG EPHEDRINE HCL, 16.0000MG GUAIFENESIN, 100.0000MG PHENOBARBITAL, 16.2000MG	O'NEAL JONES FELDMAN	00456-0315
OMNIBEL	LQ	HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG PHENOBARBITAL, 16.2000MG/5ML	DELTA DRUG (FLA)	00827-0060
OMNIBEL	TB	HYOSCINE HBR, 0.0065MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML PHENOBARBITAL, 16.2000MG	DELTA DRUG (FLA)	00827-0065
ORGAPHEN	EL	HYOSCYAMINE SULFATE, 0.1037MG HYOSCINE HBR, 0.0065MG ATROPINE SULFATE, 0.0194MG PHENOBARBITAL, 13.0000MG/5ML ORGANIDIN, 30.0000MG/5ML	WALLACE LABORATORIES	00037-5011
ORGAPHEN	TB	ALCOHOL, 0.3500ML/5ML PHENOBARBITAL, 13.0000MG ORGANIDIN, 30.0000MG	WALLACE LABORATORIES	00037-5022
P & H NO 1	TB	PHENOBARBITAL, 16.0000MG HYOSCYAMINE HBR, 0.1296MG	HALSOM DRUG COMPANY	00729-0560

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Trade name or other designation	Form of product	Product composition	Manufacturer or supplier name	NDC code
P & H No 2	TB	PENOBARBITAL, 32.0000MG HYOSCYAMINE HBR, 0.2592MG	HALSOM DRUG COMPANY	00729-0561
PACAPS	CA	BUTALBITAL, 30.0000MG CAFFEINE, 40.0000MG ASPIRIN, 200.0000MG ACETAMINOPHEN, 140.0000MG	LASALLE LABORATORIES	48534-0604
PB PHE-BELL	TB	PHENOBARBITAL, 16.20000MG BELLADONNA P.E., 10.8000MG	LANPAR COMPANY	
PHARMASED LIQUID	LQ	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR, 0.0065MG-5ML ALCOHOL, 1.1500ML/5ML	PHARMECON INC	00763-0502
PHENO-DONNA NO. 1	TB	PHENOBARBITAL, 15.0000MG BELLADONNA EXTRACT, 10.8000MG	ION LABORATORIES	11806-0332
PHENO-DONNA NO. 2	TB	PHENOBARBITAL SODIUM, 16.2000MG BELLADONNA EXTRACT, 10.0000MG	ION LABORATORIES	11806-0333
PHENOBARBITAL & ATROPINE PINK	TB	PHENOBARBITAL, 16.2000MG ATROPINE, 0.2160MG	CALDWELL & BLOOR CO	00361-2168
PHENOBARBITAL & HYOSCYAMINE SULFATE	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1296MG	MEDCO SUPPLY CO	00764-2057
PHRENILIN NEW FORMULATION	TB	BUTALBITAL, 50.0000MG ACETAMINOPHEN 325.0000MG	CARNRICK LABS	00086-0050
PROPANTHELINE BROMIDE W PB	TB	PHENOBARBITAL, 15.0000MG PROPANTHELINE BROMIDE, 15.0000MG	THREE P PRODUCTS	48196-0226
PULSAPHEN GRAY	TB	PHENOBARBITAL, 15.0000MG PASSIFLORA EXTRACT, 1.0000MG HYOSCYAMUS EXTRACT, 22.0000MG	WESLEY PHARMACAL CO	00917-0113
QUAKERDONAL	TB	PHENOBARBITAL 16.20000MG HYOSCYAMINE SULFATE, 0.1060MG HYOSCINE HBR, 0.0070MG HOMATROPINE METHYLBROMIDE, 0.5670MG	QUAKER CITY PHARM CO	10585-5252
RELAXADON	TB	PHENOBARBITAL, 16.20000MG BELLADONNA ALKALOIDS, 0.1296MG	GENEVA GENERICS	00781-1105
RESPIROL MODIFIED	TB	PHENOBARBITAL, 8.0000MG THEOPHYLLINE, 130.0000MG EPHEDRINE HCL, 24.0000MG	MALLARD INC	00156-0760
RU-LOR	TB	BUTALBITAL, 32.4000MG ASPIRIN, 550.8000MG SALICYLSALICYLIC ACID, 97.2000MG CAFFEINE, 43.2000MG	BOOTS PHARMACEUTICAL	00524-0049
SECOBARBITAL & P.E.T.N.	XC	SECOBARBITAL, 50.0000MG PENTAERYTHRITOL TETRANITRATE, 30.0000MG	BARROWS PHARMACAL	
SEDACORD	LQ	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	AREND MILLER PHARM	00567-1388
SEDACORD TD	CA	PHENOBARBITAL, 50.0000MG ATROPINE SULFATE, 0.0600MG HYOSCYAMINE SULFATE, 0.3000MG HYOSCINE HBR, 0.0200MG	AREND MILLER PHARM	00567-1384
SEDAPAP-10 WHITE	TB	BUTALBITAL, 50.0000MG ACETAMINOPHEN, 648.0000MG	MAYRAND PHARM INC	00259-1270
SEDS	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG SCOPOLAMINE HBR, 0.0065MG ATROPINE SULFATE, 0.0194MG	PASADENA RESEARCH	00418-4072
SPASAID	EL	PHENOBARBITAL, 16.2000MG/5ML HYOSCYAMINE SULFATE, 0.1037MG/5ML ATROPINE SULFATE, 0.0194MG/5ML HYOSCINE HBR, 0.0065MG/5ML ALCOHOL, 1.1500ML/5ML	CENTURY PHARM INC	00436-0504
SPASMATOL	TB	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG HYOSCINE HBR, 0.0065MG ATROPINE SULFATE, 0.0194MG	LASALLE LABORATORIES	48534-0100
SPECIAL FORMULA #7025	TB	PHENOBARBITAL, 16.2000MG THEOBROMINE, 324.0000MG	FERNDALE LABS	00496-0391
SPECIAL FORMULA #7022	TB	PHENOBARBITAL, 8.1000MG MAGNESIUM TRISILICATE,486.0000MG ATROPINE SULFATE, 0.2160MG	FERNDALE LABS	00496-0376
SPECIAL FORMULA 7012	TB	PHENOBARBITAL, 16.2000MG BELLADONNA EXTRACT, 16.2000MG PSEUDOEPHEDRINE HCL, 25.0000MG PHENYLPROPANOLAMINE HCL, 25.0000MG	FERNDALE LABS	00496-0370
STOMAL	CA	PHENOBARBITAL, 16.2000MG HYOSCYAMINE SULFATE, 0.1037MG ATROPINE SULFATE, 0.0194MG HYOSCINE HBR, 0.0065MG	FOY LABS INC	00494-0710
TEGA-BARB NO. 2	TB	PHENOBARBITAL, 16.2000MG ASPIRIN, 648.0000MG	ORTEGA PHARM CO	00191-0134
THEOCORD	TB	PHENOBARBITAL, 8.0000MG THEOPHYLLINE ANHYDROUS, 130.0000MG EPHEDRINE HCL, 24.0000MG	PROFESSIONAL SERVICE	49335-1203
THEODRINE ANTIASTHMATIC	TB	PHENOBARBITAL, 8.0000MG THEOPHYLLINE, 130.0000MG EPHEDRINE HCL, 24.0000MG	RUGBY LABORATORIES	00536-4644
THEOPHED PINK	TB	PHENOBARBITAL, 8.1000MG THEOPHYLLINE, 129.6000MG EPHEDRINE SULFATE, 24.3000MG	CALDWELL & BLOOR CO	00361-2369

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition	Manufacturer or supplier name	NDC code
THEOPHYLLINE EPHEDRINE HCL & PB	TB	PHENOBARBITAL, 8.1000MG EPHEDRINE HCL, 24.3000MG THEOPHYLLINE, 129.6000MG	CHROMALLOY PHARM INC	00413-0531
TRI-HEXABAMATE	TB	MEPROBAMATE, 200.0000MG TRIDIHEXETHYL Ch ORIDE, 25.0000MG	SCHEIN HENRY INC	00364-0459
TRI-HEXABAMATE	TB	MEPROBAMATE, 400.0000MG TRIDIHEXETHYL CHLORIDE, 25.0000MG	SCHEIN HENRY INC	00364-0460
WESCOPHEN-S PURPLE	TB	PHENOBARBITAL, 30.0000MG HYOSCYAMUS EXTRACT, 46.0000MG VALERIAN POWDER, 30.0000MG PASSIFLORA EXTRACT, 30.0000MG	WESLEY PHARMACAL CO	00917-0100

Interested persons are invited to submit comments or objections in writing with regard to this proposal. All correspondence regarding this matter should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

After consideration of any comments or objections to this proposal, the Acting Administrator shall issue his final order and publish it in the **Federal Register**.

These matters have been informally discussed with the Office of Management and Budget. It has been determined that they are minor internal management matters not requiring formal OMB review.

The Acting Administrator hereby certifies that these matters will have no significant negative impact upon small businesses or other entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The addition of preparations to the list of excepted prescription drugs has the effect of exempting them from certain sections of the Controlled Substances Act of 1970 and regulations.

Dated February 3, 1982.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 82-3762 Filed 2-16-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-82-962]

Method of Computing Interest on Defaulted Property Improvement Loans

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The Department is proposing changes to its regulations contained in Part 200 as they relate to the recovery of defaulted property improvement loans. This amendment would require interest on all claims held by the Federal Housing Commissioner be calculated by applying installment payments first to the interest and then to the principal (the "U.S. Rule"). Under present regulations, interest on defaulted property improvement loans is excluded from applicability of the "U.S. Rule."

DATE: Comments must be received on or before April 19, 1982.

ADDRESS: Interested persons may participate in this proposed rulemaking by submitting such written data, suggestions, or arguments as they may desire. Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the docket number indicated in the heading, and give reasons for any recommendations. Copies of all written comments received will be available for examination and copy by interested persons in the Office of the Rules Docket Clerk, at the address listed above.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9178, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone (202) 755-6680 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Regulations issued jointly by the General Accounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966, prescribe the so-called "U.S. Rule" for the calculation of interest on loans past due (4 CFR 102.11). The Department's regulations currently make these standards applicable to all administrative claim collection activity of the Federal Housing Commissioner except for defaulted property improvement loans under Title I of the National Housing Act which are assigned to the Commissioner.

Under the "U.S. Rule", installment payments are applied first to the accrued interest and then to principal. 24 CFR 200.905 provides a different method for calculating interest on defaulted Title I property improvement loans assigned to the Commissioner where collection is made under a payment plan providing for regular installment payments. The regulations require that "in such instances, amounts received shall be applied first to satisfy the principal of the debt. Subsequent payments shall be applied to the interest obligation, calculated on the basis of declining principal balances without charging interest on interest balances."

Property improvement loans were exempted from the "U.S. Rule" because of the manual accounting system in use and the volume of loans and payments. The Department expects, however, that in early 1982, its loan processing system will be automated. Implementation of this data processing system will eliminate the sole justification for the present exception from the preferred "U.S. Rule." Accordingly, the Department proposes to delete 24 CFR 200.905, and to amend § 200.900 to delete the exception from the general rule stated there.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule would not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal regulations issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance program numbers and titles are: 14.110, Mobile Home Loan Insurance—Financing Purchase of Mobile Homes as Principal Residences of Borrowers and 14.142, Property Improvement Insurance for Improving All Existing Structures and Building of New Non-Residential Structures.

This proposed rules was listed in the Department's Semi-annual Agenda of Regulations published on August 17, 1981 (46 FR 41708) as item H–43–81.

PART 200—INTRODUCTION

Accordingly, HUD proposes to amend 24 CFR Part 200, Subpart R, by revising § 200.900 and reserving § 200.95 as follows:

Subpart R—Claims Collection Standards

§ 200.900 General Collection Standards.

The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property are prescribed in the regulations issued jointly by the General Accounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966 (4 CFR Parts 101 et seq.). These standards are applicable to the administrative claim collection activities of the Commissioner. (Also see 24 CFR Part 17, Subpart B, for Department collection regulations.)

§ 200.905 [Reserved.]

(Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., January 18, 1982.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-4298 Filed 2-16-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[EE-178-78]

Employers' Qualified Educational Assistance Programs; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides a notice of a public hearing on proposed regulations relating to employers' qualified educational assistance programs.

DATES: The public hearing will be held on March 24, 1982, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by March 10, 1982.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE–178–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 127, 3121(a)(18), 3306(b)(13) and 3401(a)(19) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Monday, November 23, 1981 (46 FR 57325).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect of the public hearing. Persons who have submitted written comments within the time prescribed in the proposed regulations and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by March 10, 1982. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Jonathan P. Marget,

Assistant Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 82-4212 Filed 2-16-82; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PH-FRL-2051-7; PP 9F2177/P213]

Norflurazon; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for the combined residues of the herbicide norflurazon in or on certain raw agricultural commodities. This proposal to establish the maximum permissible level for residues of norflurazon in or on the raw agricultural commodities was requested by Sandoz, Inc.

DATE: Written comments must be received on or before March 19, 1982.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of April 23, 1979 (44 FR 23932) that Sandoz, Inc., 480 Camino del Rio South, San Diego, CA 92108, had submitted pesticide petition number 9F2177 to the EPA. The petition proposed that 40 CFR 180.356 be amended by establishing tolerance limitations for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in or on apples, almond meat, eggs, milk, pears, and meat (poultry) at 0.10 part per million (ppm); hops at 0.80 ppm, and almong hulls at 1.50 ppm. Sandoz, Inc. subsequently amended the petition to include meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep and fat and meat byproducts of poultry at 0.10 ppm and green hops at 1.0 ppm; to decrease the tolerance level for almond hulls to 1.0 ppm; and to delete eggs. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerances include: a rat acute oral LD_{50} study with an LD_{50} of 9,000±1,271 milligrams (mg)/kilogram (kg); a 90-day rat feeding study with a no-observed-effect level (NOEL) of 500 ppm; a 90-day dog feeding study with a NOEL of 500 ppm; a 6-month dog feeding study with a NOEL of 150 ppm; a rat teratology study negative at 400 mg/kg/day (highest dose); a three-generation rat reporduction study with a NOEL of 375 ppm; a one-generation mouse reproduction study with a NOEL of 340 ppm; an AMES test and a reverse mutagenesis test including metabolic activation both negative for mutagenic activity; a 2-year rat chronic feeding/oncogenicity study with a NOEL of 375 ppm for chronic feeding and negative for oncogenic potential at 1,025 ppm (highest dose level); and a 2-year mouse chronic feeding/oncogenicity study discussed below. Data considered desirable, but lacking, are a teratology study in a second species and multi-test mutagenicity studies.

Results of the 2-year mouse chronic feeding/oncogenicity study show a statistically significant increase in liver neoplasms in the male high dose group (1,360 ppm). The Agency has carefully evaluated the supporting data for these tolerances, and based on the following considerations, has determined that residues resulting from these tolerances will not result in a significant risk to humans.

Both rat and mouse chronic feeding/oncogenicity studies utilized *in utero* exposed or F1a generation animals. This is considered a very stringent test method for evaluating oncogencity. Statistically significant oncogenic results did not occur in the rat oncogenic study at any dose level tested with particular attention directed to evaluation of hepatocellular changes. There was no significant increase in carcinomas for any treatment group versus controls in the mouse test, or in the rat study.

The liver was demonstrated to be the target organ in both the rat and dog, as well as the mouse. The mouse, and particularly the male sex, is considered to be a very sensitive species to the development of proliferative and neoplastic liver lesions. However, statistically significant oncogenic effects did not occur in the mouse at comparable doses to those used in the rat study, but to a dose which was approximately four-fold greater (e.g. 50.75 mg/kg/day—rat; versus 204 mg/kg/day—mouse), than the highest dose tested in rats.

Statistically significant oncogenic effects occurred in high dose male mice surviving 18 months or longer, but particularly animals surviving to 24 months. These results may reflect geriatric effects rather than compound related responses at the high dose employed. The response was limited to effects on the liver, (e.g. hepatic proliferative changes).

The submitted mutagenicity studies showed no mutagenic activity.

The agency has further determined that many of the tolerances requested (e.g. almonds, apples, pears) will result in no detectable residues at the level of method sensitivity of the test.

Tolerances have previously been established for apricots, cherries, cottonseed, cranberries, filberts, peaches, plums (fresh prunes), nectarines, and walnuts at 0.1 ppm.

Based on a 6-month dog feeding study with a NOEL of 150 ppm and a safety factor of 1,000, the allowable daily intake (ADI) is 0.00375 mg/kg/day and the maximum permissible daily intake is 0.225 mg/day for a 60/kg human. Published tolerances utilize 1.01 percent of the ADI. The published tolerances and proposed additional tolerances utilize 38.58 percent of the ADI.

There are no regulatory actions pending against the chemical. The metabolism of norflurazon in plants and animals is adequately understood, and an analytical method (gas chromatography using an electron capture detector) is available for enforcement purposes. A related document (FAP 9H5206/P76) proposing a regulation for norflurazon and its desmethyl metabolite in dried hops appears elsewhere in this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before March 19, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "(PP 9F2177/P211)." All written comments filed in response to this petition will be available in the office of Richard F. Mountfort from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(3)))

Dated: February 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES, FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.356 be revised to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

Tolerances are established for combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone and its desmethyl metabolite 4-chloro-5-(amino)-2-alpha, alpha, alpha-trifluoro-*m*-toly)-3(2*H*)-pyridazinone in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds, hulls	1.0
Almonds, meat	0.1
Apricots	0.1
Apples	0.1
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Cherries	0.1
Cottonseed	0.1
Cranberries	0.1
Filberts	0.1
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mbyp	0.1
Hops, green	1.0
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Milk	0.1
Nectarines	0.1
Peaches	0.1
Pears	0.1
Plums (fresh prunes)	0.1
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, mbyp	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1
Walnuts	0.1

[FR Doc. 82-4114 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[PH-FRL-1952-1; PP OE2395/P215]

Sulfuric Acid; Proposed Exemption From Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for residues of the potato vine desiccant sulfuric acid in or on potatoes. This proposal, which eliminates the need to establish a maximum permissible level for residues of sulfuric acid in or on potatoes, was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 19, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number OE2395 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Minnesota and North Dakota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of an exemption from the requirement of a tolerance for sulfuric acid when used as a potato vine desiccant in potato production.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The use on potatoes is very similar to the established use on garlic and onions, which are also root crops.

Sulfuric acid is applied to potato vines as a desiccant to kill the vines and to permit the tubers to mature. The residue from the application of sulfuric acid will depend on the nature of the soil but mostly be sulfates. Since gypsum (calcium sulfate) can be a major soil constituent and since several sulfate salts (ammonium, calcium, potassium and sodium) are generally recognized as safe (GRAS), the potential increase in sulfate concentration is not of concern. No residues would be expected to occur in the tubers. However, even if residues were to occur, such residues would be generally recognized as safe (GRAS) under 21 CFR 184.1095. No problem of secondary sulfate residues in meat, milk, poultry or eggs is expected. Since no enforcement is anticipated, no analytical method is necessary. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the exemption from the requirement of a tolerance established by amending 40 CFR 180.1019 would protect the public health. It is proposed, therefore, that the exemption be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before March 19, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "(PP OE2395/P215)." All written comments filed in response to this petition will be available for public inspection in the office of Donald Stubbs at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: February 3, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FOR TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1019 be revised by including the raw agricultural commodity potatoes to read as follows:

§ 180.1019 Sulfuric acid; exemption from the requirement for a tolerance for residues.

Sulfuric acid is exempted from the requirement of a tolerance for residues when used in accordance with good agricultural practice as a herbicide in the production of garlic and onions and

as a potato vine desiccant in the production of potatoes.

[FR Doc. 82-4113 Filed 2-16-82; 8:45 am]
BILLING CODE 6560-32-M

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40 CFR Part 403

[WEN-FRL-2051-4]

National Pretreatment Program; Availability of Contractor's Report on Regulatory Impact Analysis

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of contractor's report.

SUMMARY: On December 22, 1981, the Environmental Protection Agency (EPA) announced the availability of a contractor's report that analyzed several options under consideration for possible reform of the National Pretreatment Program (46 FR 62098; Dec. 22, 1982). The report is entitled "Assessment of the Impacts of Industrial Discharges on Publicly Owned Treatment Works," and is accompanied by extensive appendices detailing many of the analyses performed. The report was prepared to support a Regulatory Impact Analysis of the pretreatment program that is currently being conducted pursuant to Executive Order 12291.

A limited number of copies of the report initially were available from EPA, but this supply has been exhausted. To satisfy the continuing public demand for copies of the report, EPA has entered the document into the National Technical Information Service (NTIS) system. This action ensures that sufficient copies of the report and accompanying appendices are available, and that all requests for it are quickly fulfilled.

Copies of the report can be purchased directly from NTIS. To order copies, please write to: Department of Commerce, National Technical Information Service, Springfield, Virginia 22161, Attn: Sales Desk, Order No.: PB 82-153958.

The cost of the report is $33.00. Payment may be made by check or money order payable to "NTIS". Be sure to include the NTIS Order No. and the title of the report in all ordering requests.

Dated February 8, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-4117 Filed 2-16-82; 8:45 am]
BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-62; RM-3959]

TV Broadcast Station in Natchez, Mississippi; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 48 to Natchez, Mississippi, in response to a petition filed by Harold Calisch. The assignment could provide Natchez with its first local commercial television service.

DATES: Comments must be filed on or before March 22, 1982, and reply comments must be filed on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 5, 1982.

By the Acting Chief, Policy and Rules Division.

1. A petition for rule making [1] was filed by Harold Calisch ("petitioner"), seeking the assignment of UHF television Channel 48 to Natchez, Mississippi, as that community's first commercial television assignment. The assignment can be made consistent with the minimum distance separation requirements of §73.610 of the Commission's Rules. Petitioner indicated his intent to apply for the channel, if assigned, and no oppositions to the proposal were received.

2. Natchez (population 22,015),[2] the seat of Adams County (population 38,035), is located on the Mississippi River, approximately 220 kilometers (135 miles) northwest of New Orleans. It presently has one television channel allocated to it (Channel *42, reserved for educational facilities, which is unoccupied and unapplied for).

3. Petitioner indicates that Natchez' location is ideally situated for business and industrial growth, with service by several U.S. highways, railroads, motor freight lines and the navigable Mississippi River. Further, according to petitioner, the economy of the area is derived from such major manufacturing entities as lumber, paper and wood pulp harvesting and processing, rubber products, and high-technology mechanical equipment. Additionally, the harvesting of wood, as well as the search for and production of oil and gas also contribute to its economic base. Petitioner notes that Natchez has one newspaper available to its residents, in addition to three commercial broadcast stations. We believe that petitioner has made a sufficient showing to demonstrate a need for the proposed assignment to Natchez, Mississippi.

4. In view of the foregoing and the fact that the proposed television assignment would provide a first local commercial television broadcast service to Natchez, Mississippi, the Commission believes it appropriate to propose amending the Television Table of Assignments, §73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Natchez, Miss	*42+	*42+, 48

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 22 1982, and reply comments on or before April 6, 1982.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. *See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

[1] Public Notice of the petition was given August 7, 1981, Report No. 1303.

[2] Population figures are obtained from the 1980 U.S. Census, Advance Reports.

message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-4233 Filed 2-16-82; 8:45 am]

BILLING Code 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-65; RM-4006]

FM Broadcast Station in Avon, Colo.; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 276A to Avon, Colorado, in response to a petition filed by Edward J. Patrick. The proposal could provide a first local aural service to the community.

DATES: Comments must be filed on or before March 22, 1982, and reply comments on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 9, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Avon, Colorado).

1. A petition for rule making was filed by Edward J. Patrick ("petitioner"), on October 27, 1981, proposing the assignment of FM Channel 276A on a hyphenated basis to the communities of Beaver Creek-Avon, Colorado, as a first assignment. Petitioner stated his intent to apply for the channel if assigned. The channel can be assigned consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. Avon (population 640) [1] and Beaver Creek (population not listed), are both located in Eagle County (population 13,171), approximately 16 kilometers (10 miles) west of Vail, Colorado. Neither has any local aural service.

3. According to petitioner, Beaver Creek is an unincorporated resort area adjacent to the Town of Avon. Its population is basically transitory, fluctuating as the tourist season changes. Avon has its own government unit, police department and retail outlets. Additionally, the Avon Post Office provides mail service to Beaver Creek. Petitioner indicates that both areas are within the boundaries of the Eagle-Vail Fire Protection District, while noting, too, that Avon has its own fire station. According to petitioner's community profile, the economic base of the area is largely dependent on the construction and operation of the Beaver Creek resort and its other tourist-related activities. However, petitioner adds that while Beaver Creek affords a strong economic base to Avon, it is dependent upon that community's municipal services, employees and housing. It is indicated that the population of the two areas is expected to increase as a result of the developing winter ski resort and a conference convention center for use in the off-season months. Petitioner advises that the area is served by two weekly county newspapers, as well as an FM station in Vail, which is the only operating one in Eagle County.

4. Petitioner asserts that there is a need in the community for a broadcast outlet which could provide coverage of local issues, needs and interests. Additionally, it is alleged that the proposed assignment could provide improved service to the communities of Edwards (population not listed) and Minturn (population 1,060), since Avon is the same distance from both locations. Petitioner notes that reception of AM signals in Avon is of an inferior

[1] Population figures are derived from the 1980 U.S. Census, Advance Reports.

quality, while the terrain of Beaver Creek excludes any such service. In further justification for a Class A assignment, petitioner states that because Eagle County is surrounded by mountains, high-powered FM signals tend to create shadows and multi-path signal problems.

5. Petitioner requested the proposed assignment herein to Beaver Creek-Avon on a hyphenated basis. However, hyphenation is an assignment tool generally reserved for communities which are considered interdependent due to their nearness and mutual economic, trade, cultural and social interests, etc. Based on the information before us, we cannot determine that Beaver Creek qualifies as a community for assignment purposes. Petitioner has not demonstrated that Beaver Creek is comprised of any of the components which are considered in determining community status such as churches, schools, a library, post office, shopping centers, banks, newspapers, social and/or civic organizations or other indicia. See *Naples, Florida,* 41 R.R. 2d 1549 at 1553 (1977), *Coker, Alabama,* 43 R.R. 2d 190 at 193 (1978), and *Ansley, Alabama,* BC Docket No. 81-154 (Mimeo 30462), adopted November 16, 1981. If petitioner can provide, in supporting comments, a sufficient showing to establish Beaver Creek as a community pursuant to the Commission's criteria, then an assignment could be made to it or to Avon.

6. We have, at this point, chosen Avon as the community for the proposed assignment of Channel 276A. However, the channel would be available for use at Beaver Creek under the provisions of § 73.203(b) of the Commission's Rules, the so-called "10 mile rule." If petitioner's intent is to have his proposed station identify with both places, then, pursuant to § 73.1201(b)(2) of the Commission's Rules, he could apply for authority to include Beaver Creek in the station's official identification. If petitioner insists on a hyphenated assignment, petitioner should submit additional information on the elements constituting community status for Beaver Creek and then how Avon is dependent on these community indicia for its needs.

7. In view of the foregoing, and in order to give further consideration to the request, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Avon, Colorado		276A

8. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

Martin Blumenthal,

Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-4231 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-61; RM-3980, RM-3987]

FM Broadcast Stations in Loudon and Madisonville, Tennessee; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 240A to either Loudon, Tennessee, in response to a petition filed by Benny Stafford, or to Madisonville, Tennessee, in response to a petition filed by Sloan Broadcasting Corporation. The proposals could provide either community with a first local FM service.

DATES: Comments must be filed on or before March 22, 1982, and reply comments on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 8, 1982.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Loudon and Madisonville, Tennessee), BC Docket No. 82-61, RM-3980, RM-3987.

1. Petitions for rulemaking[1] were filed by Benny Stafford ("petitioner") proposing the assignment of Channel 240A to Loudon, Tennessee (RM-3980), as that community's first local aural service, and by Sloan Broadcasting Corporation ("SBC"), proposing allocation of the same channel to Madisonville, Tennessee, as that community's first FM assignment. The petitions are mutually exclusive as the communities are approximately 19 kilometers (12 miles) apart (based on a restricted transmitter site at Madisonville), whereas the required separation for co-channel Class A assignments is 104 kilometers (65 miles). No other Class A "drop-in" channels are available for assignment to either community. Both proponents indicate they will apply for the channel, if assigned. No oppositions to either of the proposals were received.

2. Loudon (population 3,940),[2] the seat of Loudon County (population 28,553), is located approximately 48 kilometers (30 miles) southwest of Knoxville, Tennessee. It presently has no local aural service. Madisonville (population 2,884), the seat of Monroe County (population 28,700), is located approximately 64 kilometers (40 miles) southwest of Knoxville, Tennessee. It presently is served by daytime-only AM Station WZZI.

3. Loudon has its own government unit, municipal services, health-care facilities, financial institutions, schools, churches, civic organizations and recreational facilities. According to petitioner, Loudon's economic base is derived mainly from local industry, while the county-wide workforce is comprised of approximately 10,820 persons. Further, petitioner states that agriculture production also contributes to its economy. Petitioner further advises that Loudon is served by U.S. and Interstate highways, as well as a major bus line and railroad.

4. Like Loudon, Madisonville has its own government unit, schools, financial institutions, and numerous recreational facilities. SBC advises that Madisonville is located in a largely rural area and that agriculture is therefore an eminent contributor to its economy. Its major entities are furniture manufacturing, lumbering, quarry mining, and modular building construction firms. Further, petitioner states that Madisonville is served by several U.S. highways, railroads and truck lines. Other than its one daytime-only broadcast station, the community is served by one twice-weekly newspaper.

5. According to the Loudon petitioner, his proposal to assign Channel 240A to that community is made in reliance on the Commission's *Order* in Docket 21211 modifying the license of Station WDEH at Sweetwater, Tennessee, from Channel 237A to Channel 252A. The Loudon proposal could, therefore, be made consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules. If, however, the assignment is ultimately made to Madisonville, a site restriction of 9.1 kilometers (5.7 miles) northeast of the community must be imposed to avoid short-spacing to Station WDOD (Channel 243) in Chattanooga, Tennessee.

6. Since Loudon is the larger of the two communities and is without any local aural service, while Madisonville has local service, our initial determination would be to propose the channel to that community. However, as indicated previously, since there are no other Class A "drop-in" channels available to either community, we shall provide the Madisonville proponent an opportunity to further demonstrate in comments to its proposal, why Madisonville should receive the assignment.

7. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as set forth below:

City	Channel No.	
	Present	Proposed
Loudon, Tennessee		240A
or		
Madisonville, Tennessee		240A

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix [BC Docket No. 82-61, RMs-3980 and 3987]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended,

[1] Public Notice of these petitions was given October 22, 1981, Report No. 1314.

[2] Population figures herein were obtained from the 1980 U.S. Census, Advance Reports.

and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend, the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the commission's rules and regulations an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4237 filed 2-16-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-63; RM-3953, RM-3992]

FM Broadcast Stations in Fort Myers Villas and Sanibel, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 285A to either Fort Myers Villas, Florida, in response to a petition filed by Keith L. Reising or to Sanibel, Florida, in response to a counterproposal filed by Fred Arthur and John Smith. The proposals could provide either place with a first local aural service.

DATES: Comments must be filed on or before March 22, 1982, and reply comments on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 8, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Fort Myers Villas and Sanibel, Florida); BC Docket No. 82-63, RM-3953, RM-3992. Notice of Proposed Rule Making.

1. A petition for rule making [1] was filed by Keith L. Reising ("petitioner"), proposing the assignment of Channel 285A to Fort Myers Villas, as a first FM assignment. A counterproposal [2] was filed by Fred Arthur and John Smith ("Arthur and Smith"), proposing the same channel allocation to Sanibel, Florida, as that community's first FM allocation. The two petitions are mutually exclusive as the communities are approximately 19.2 kilometers (12 miles) apart, whereas the required separation for co-channel Class A assignments is 104 kilometers (65 miles). Both proponents indicate that they will apply for the channel, if assigned.

2. Fort Myers Villas (population not listed), in Lee County (population 205,266),[3] is located approximately 6.5 kilometers (4 miles) south of Fort Myers, Florida. It presently has no local aural service. Sanibel (population 3,362), also in Lee County, is located on the Island of Captiva, approximately 24 kilometers (15 miles) west of Fort Myers. It also has no local aural service.

3. Based on the information before us, we cannot determine that Fort Myers Villas qualifies as a community for assignment purposes. Petitioner has not provided adequate demographic or economic information, nor has it demonstrated that Fort Myers Villas is comprised of the components which are considered in determining community status, *i.e.*, schools, churches, library, banks, post office, shopping centers, newspapers, social and/or civic organizations, or other indicia. See *Naples, Florida*, 41 R.R. 2d 1549 at 1553 (1972), *Coker, Alabama*, 43 R.R. 2d 190 at 193 (1978), and *Ansley, Alabama*, BC Docket No. 81-154 (Mimeo No. 30462), adopted November 16, 1981. Therefore, petitioner is requested to submit additional information, based on the above factors, in an effort to establish Fort Myers Villas as a community, and in view of this requirement, the proposal herein is contingent upon an adequate showing to that effect.

4. Arthur and Smith state that Sanibel is a thriving community which has experienced significant growth in recent years. It adds that the community has its own government unit, municipal services, an elementary school, civic organizations, churches, a library, hostelries, a health-care facility, limited transportation facilities, and recreational outlets. Additionally, it has two weekly newspapers available to its residents. According to Arthur and Smith, Sanibel is isolated from the mainland and is accessible only via the Sanibel Causeway. Further, they indicate that even though the community is culturally and economically isolated from the balance of Lee County and Fort Myers, there is a heavy amount of vehicular traffic, numbering in excess of 100,000 vehicles using the Causeway during peak months. Additionally, they state that Sanibel's economic base is derived from tourism, which accounts for a residency rate of approximately 16,000 at the peak of the season, to approximately 8,000 persons at the low point of the season's activities, as a final note, they advise that the nearest broadcast stations to Sanibel are in Fort Myers, and as Sanibel is an isolated

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[1] Public Notice of the petition was given August 7, 1981, Report No. 1303.

[2] Public Notice of the counterproposal was given October 22, 1981, Report No. 1314.

[3] Unless otherwise indicated, population figures herein are obtained from the 1980 U.S. Census, Advance Reports.

coastal community subject to severe weather, it is of vital importance that its residents be apprised of predicted and rapidly changing atmospheric conditions.

5. If the assignment is ultimately made to Fort Myers Villas, a site restriction of approximately 3.2 miles south/southeast of the community will be required to avoid short-spacing to Station WRBQ in Tampa, Florida. The Sanibel proposal could be made consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules. Additionally, a preclusion study was submitted for the Sanibel proposal which indicates that only the co-channel would be affected. However, it is indicated that all precluded incorporated municipalities, which would be affected by the Sanibel proposal, currently have FM assignments.

6. As noted above, the counterproposal of Arthur and Smith is mutually exclusive with the Fort Myers proposal. A staff study indicates that the only other channel available to Sanibel or to Fort Myers Villas is Channel 292A. However, that channel was recently assigned to Cape Coral, Florida (BC Docket 81–565) released January 20, 1982, (Mimeo No. 30701). Since Fort Myers Villas and Cape Coral are approximately 7.2 miles apart, and Sanibel is located approximately 8.0 miles from Cape Coral, this assignment of Channel 292A to Cape Coral would make it available to either Fort Myers Villas or Sanibel pursuant to the provisions of § 73.203(b) of the Commission's rules, the "10-mile" rule.

7. In view of the competing petitions for assignments which could provide a first FM service to either location, comments are invited on the proposals to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Fort Myers Villas, Florida		285A
or		
Sanibel, Florida		285A

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *notice,* they will be considered as comments in the proceeding, and Public Notice to this efect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4230 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-60; RM-3979 and RM-4028]

FM Broadcast Station in Brooklyn and Grinnell, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to either Brooklyn or Grinnell, Iowa, in response to petitions filed by Mitchell Broadcasting Company and Pamela R. White, respectively. The proposals would provide a first FM commercial broadcast service to either community.

DATES: Comments must be filed on or before March 22, 1982, and reply comments on or before April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 5, 1982.

In the matter of amendment of § 73.202(b), Table of Assigments, FM Broadcast Stations. (Brooklyn and Grinnell, Iowa), BC Docket No. 82-60, RM-3979, RM-4028. Notice of proposed rulemaking.

1. The Commission herein considers two separate petitions for rulemaking. The first was filed by Mitchell Broadcasting Company ("Mitchell")[1] proposing the assignment of Channel 257A to Brooklyn, Iowa, as its first assignment. The second petition was filed by Pamela R. White ("White") which proposes the assignment of Channel 257A to Grinnell, Iowa.[2] Since the distance between Brooklyn and Grinnell is approximately 19 kilometers (12 miles) and the required separation for co-channel Class A assignments is 104 kilometers (65 miles), these proposals are considered mutually exclusive. No other channels are available for assignment to either community. Both petitioners stated their intent to apply for the channel if assigned.

2. Brooklyn (population 1,509),[3] in Poweshiek County (population 19,306) is located approximately 96 kilometers (60 miles) east of Des Moines, Iowa. It is without local broadcast service. Grinnell (population 8,868), in Poeshiek County, is located approximately 72 kilometers (45 miles) east of Des Moines. It is served by daytime-only AM Station KGRN and noncommercial FM Station KDIC (Channel 203).

3. Mitchell asserts that Brooklyn is an independent community governed by a major and municipal government. It has several community organizations, educational institutions and two weekly newspapers. Mitchell contends that in as much as Grinnell has two radio stations (both to be full-time soon), the public interest would be better served by utilizing Channel 257A at Brooklyn, which does not have local service. Finally, Mitchell claims that Brooklyn has clearly defined needs which could be served by a local broadcast station. In support of the proposed assignment to Grinnell, White states that Grinnell is an important manufacturing, retail and wholesale business center with a number of community facilities, which includes a hospital, library and charitable and social organizations.

4. Although Grinnell is the larger of the two communities, our priorities place greater weight on the provision of a first local service to as many communities as possible. Since there are no other channels available to either community, we shall provide each proponent an opportunity to further demonstrate, in comments to this proposal, why its community should receive the assignment. The assignment of Channel 257A to Grinnell would require a site restriction of approximately .9 miles east of the city.

5. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, §73.202(b) of the Commission's rules, with regard to the following city:

City	Channel No.	
	Present	Proposed
Brooklyn, Iowa	.....	257A
Grinnell, Iowa	.....	257A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, §73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the

[1] Mitchell Broadcasting is licensee of AM Station KGRN, Grinnell, Iowa.

[2] Public Notice of this petition was given October 22, 1981, Report No. 1314. No Public Notice was given for the Brooklyn petition in accordance with new procedures adopted November 12, 1981, in BC Docket No. 80-130 *(First Report and Order).*

[3] Population figures are taken from the 1980 U.S. Census.

consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-4236 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1051

[Ex Parte No. MC-147]

Information Required on Receipts and Bills—Responsibility for Loading and Unloading Motor Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: On October 23, 1980, the Commission issued for public comment (45 FR 72233, October 31, 1980) a proposal to require that common and contract motor carriers, subject to the jurisdiction of the Commission, specify on every receipt or bill of lading who is responsible for loading and unloading the property onto and from the motor vehicle and the compensation, if any, to be paid for this service. The Commission has completed its review of the submitted comments and concluded that the proposed rule will not provide significant public benefits. Accordingly, the proposed rule will be withdrawn and the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Dan Campbell, (202) 275-7612.

SUPPLEMENTARY INFORMATION: Comments on the proposed rule have been received and reviewed. The proposed rule would require a statement as to loading and unloading responsibility in bills of lading or freight bills of regulated motor carriers. The purpose of the rule was to make certain the agreement on loading and unloading. It appears, however, that the proposed rule, as a practical matter, is unworkable. Loading and unloading questions are, in most instances, already governed by a motor carrier's lawfully filed tariffs. In many instances, bills of lading are prepared by shippers for the use of carriers. The shippers have little knowledge of the tariffs or leases controlling this question. The cost of implementing the provision would vastly exceed any benefit to be derived from the rule.

This is not a significant action adversely affecting the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10321 and 5 U.S.C. 553)

Decided: February 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-4106 Filed 2-16-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 32
Wednesday, February 17, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic memorandum of Agreement Regarding Preservation Plan and Treatment of Historic Properties on Lands Administered by Naval Air Station, North Island, Calif.

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800) with the Department of the Navy (Naval Air Station, North Island), and the California State Historic Preservation Officer concerning activities on lands administered by Naval Air Station, North Island as part of the on-going mission at the station and the effects such activities may have on historic properties. The agreement establishes a system that will ensure adequate consideration is given to historic and cultural properties in planning and carrying out such activities, in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470).

COMMENTS DUE: March 19, 1982.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 44 Union Boulevard, Suite 616, Lakewood, Colorado 80228.

FOR FURTHER INFORMATION CONTACT:
Mr. Stanley Riggle, Archeologist, Western Division of Project Review, Advisory Council on Historic Preservation, 44 Union Boulevard, Suite 616, Lakewood, Colorado 80228, (303) 234–4946.

Dated: February 10, 1982.
Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 82–4080 Filed 2–16–82; 8:45 am]
BILLING CODE 4310–10–M

CIVIL AERONAUTICS BOARD

[Docket No. 40253; Order 82–2–49]

Application of Northeast Sunrise Airlines, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Determination of Northeast Sunrise Airlines, Inc., 82–2–49.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Northeast Sunrise Airlines, Inc.

DATE: Persons wishing to file petitions to intervene in the Northeast Sunrise Fitness Investigation shall file their petitions in Docket 40253 by March 22, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40253, Application of Northeast Sunrise Airlines, Inc. for a certificate of public convenience and necessity. In addition, copies of such filings should be served on: Northeast Sunrise Airlihes, Inc.; the Mayors of Albany, NY, Atlanta, GA, Boston, MA, Buffalo, NY, Chicago, IL, Dallas/Ft. Worth, TX, Detroit, MI, Houston, TX, Jacksonville, FL, Louisville, KY, Miami, FL, Minneapolis/St. Paul, MN, New York, NY, Newark, NJ, Orlando, FL, Philadelphia, PA, Wilmington, DE, Providence, RI, San Juan, PR, St. Croix, VI, and Washington, D.C.; the managers of these cities' airports; The State Departments of Transportation or Aeronautics Commissions of New York, Georgia, Massachusetts, Illinois, Texas, Michigan, Kentucky, Minnesota, New Jersey, Pennsylvania, Delaware, Rhode Island, Puerto Rico, the Virgin Islands and Washington, D.C.; and the Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT:
Lawrence R. Krevor, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–2–49 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–2–49 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 9, 1982.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 82–4145 Filed 2–16–82; 8:45 am]
BILLING CODE 6320–01–M

[Orders 82–2–19 and 82–1–48]

Commuter Fitness Determination; Nolan Enterprises, Inc., et al.

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419 (c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82–2–19	Nolan Enterprises, Inc., d.b.a. Piper Air Center.	Feb. 24, 1982
82–1–48	Lake Union Air Service, Inc.	Mar. 1, 1982

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82–2–19 and 82–2–48 with the Special Authorities Division, Room 915, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20426. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT:
J. Kevin Kennedy, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428 (202) 673–5918.

By the Civil Aeronautics Board: February 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4146 Filed 2-16-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40364; Order 82-2-62]

Order Concerning Mail Rates; Western Yukon Air

Order 82-2-62, February 11, 1982, Docket 40364, fixes temporary intra-Alaska service mail rates for Delta Development Corporation d/b/a Western Yukon Air at the rates established for Wien Air Alaska in Order 80-12-152.

Copies of the order are available from the Civil Aeronautics Board distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4144 Filed 2-16-82 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:30 p.m., on March 11, 1982, at the Maine Teachers Association Building, 35 Community Drive, Augusta, Maine, 04330. The purpose of this meeting is to review the public's response to the release of the report on the *Civil Rights Developments in Maine 1981;* testimony on domestic violence; brochure on Indian rights; and discuss program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Lois G. Reckitt, 38 Myrtle Avenue, South Portland, Maine, 04106, (207) 799-0744 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4305 Filed 2-16-82; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on March 3, 1982, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110. The Subcommittee on Affirmative Action in the Private Sector will discuss the progress made to date in that area.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Bradford E. Brown, 17 Roberta Jean Circle, Post Office Box 95, East Falmouth, Massachusetts, 02536, (617) 548-5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 11, 1982.

John I. Binkley

Advisory Committee Management Officer.

[FR Doc. 82-4206 Filed 2-16-82; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30 p.m., and will end at 9:30 p.m., on March 10, 1982, at the Federal Building, 275 Chestnut Street, Manchester, New Hampshire, 03110. The purpose of this meeting is to discuss program planning for fiscal year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Sylvia F. Chaplain, 7 Wendover Way, Bedford, New Hamsphire, 03102, (602) 625-5335 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (167) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 11, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4207 Filed 2-16-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Footwear From India; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On August 12, 1981, the Department of Commerce published in the **Federal Register** a notice of the preliminary results of its administrative review of the countervailing duty order with respect to certain footwear from India. The review covers the period January 1, 1980 through December 31, 1980. The notice stated that the Department had preliminarily determined that the *ad valorem* rates of net subsidy were 15.08 percent for leather footwear and 12.58 percent for leather uppers other than unlasted leather uppers. Interested parties were invited to comment. After analysis of all comments received, the Department determines that countervailing duties at the rates indicated shall be assessed on unliquidated entries of merchandise entered on or after January 1, 1980, and exported on or before December 31, 1980.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Compliance, Room 2096, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1774).

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1979 the Department of the Treasury published in the **Federal Register** (T.D. 79-275, 44 FR 61588) a countervailing duty order on certain footwear from India. On August 12, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 40781) a notice of the preliminary results of its administrative review of the countervailing duty order regarding this merchandise. The

Department has now completed that review.

Scope of the Review

The merchandise covered by this review is leather footwear (except sandals, slippers, huaraches and chappals) and leather uppers other than unlasted leather uppers. This merchandise is currently classifiable in the Tariff Schedules of the United States under item numbers 700.05 through 700.95 (except items 700.28, 700.51, 700.52, 700.54, 700.60 and 700.90). In our preliminary results we indicated that we had received a request from the Government of India to review our clarification of the definition of sandals published in the **Federal Register** on January 14, 1981 (46 FR 3254). The clarification defined sandals as "footwear generally consisting of a sole held to the foot by uppers, composed of thongs or straps, with heel height of not over one inch, or without heels."

The Indian government proposed an additional clarification which would remove the heel height limitation on sandals. The question of what leather footwear was excluded by Treasury from the order depended on the amount of rebate of indirect taxes a product received under the Cash Compensatory Support ("CCS") program. The final determination reiterated the preliminary determination that products receiving a 5 percent cash rebate upon export were not subject to countervailing duties. Treasury determined sandals (without further description) fell into this category.

During the comment period of this review we received additional comments from the Indian government and importers of this merchandise that proposed that sandals should be defined in terms of whether they have open fronts, sides or backs. Treasury received two communications from the Government of India in Novmeber and December 1979 after the imposition of the order which contained different definitions of the term sandals. The information in these comments has not been verified.

After a review of the record in the original investigation, and comments received during the present review, we have determined that leather footwear means full shoes with leather uppers. We have also determined that sandals are defined as footwear consisting of a sole held to the foot by uppers exclusively composed of thongs or straps without regard to heel height. There was nothing contained in the record of the investigation to justify the inclusion of the one inch heel height limitation.

Without verification of the class of merchandise that received a 5 percent CCS payment at the time of the investigation, we cannot determine whether footwear that is not leather footwear or sandals, as defined above, and not slippers, huaraches or chappals, is within or excluded from the scope of the order. Therefore, entries of the subject merchandise that are not leather footwear or sandals, as defined above, and not slippers, huaraches or chappals, remain suspended until the Department can resolve the issue.

The review covers the period January 1, 1980 through December 31, 1980 and is limited to the programs cited in T.D. 79-275. These programs are: (1) Short-term preferential financing, (2) a deduction from taxable income of up to 133 percent of overseas business expenses, and (3) cash rebates on export under the CCS program.

Analysis of Comments Received

The Government of India officially declined to respond to our questionnaire requesting information on the status of benefits bestowed on footwear under these three programs during the review period. Therefore, the Department is using the data developed by Treasury in its investigation of this merchandise as the best information available. The *ad valorem* benefits using this information are: 0.03 percent under the short-term preferential financing program; 0.05 percent under the overseas business expense deduction program; and 15 percent for leather footwear and 12.5 percent for leather uppers other than unlasted leather uppers under the CCS program.

(1) Comment: Information currently available to the Department demonstrates that an increase in countervailing duty based on the CCS payment would be inappropriate.

Determination: The original investigation record contains data regarding the indirect tax experience of several of the manufacturers of footwear in India; however, there is no indication in the record that any attempt was made by the Government of India to calculate the indirect tax incidence on the footwear industry in India, or that such tax incidence specifically was taken into account in determining CCS payments. Without such a demonstration we have no recourse but to find that the full amount of the CCS payment constitutes a subsidy under the Tariff Act of 1930 ("the Tariff Act"), as amended by the Trade Agreements Act of 1979 ("the TAA").

(2) Comment: The final review and assessment of countervailing duties should be suspended until the International Trade Commission ("the ITC") makes an injury determination in this case.

Determination: On September 25, 1981, the United States recognized India as a "country under the Agreement," as defined in section 701(b) of the Tariff Act, and as such, this order is subject to an injury determination by the ITC. On October 13, 1981, the ITC notified the Department of India's request for such a determination.

Section 104(b)(3) of the TAA provides that the Department shall suspend liquidation of entries of the affected merchandise made on or after the date of receipt of the ITC's notification. However, entries prior to that date must still be liquidated according to the results of a section 751 review without regard to the question of injury. The present review applies to 1980 entries. Thus, these entries must be liquidated without regard to the question of injury.

(3) Comment: Estimated duty deposits should not be increased during the pendency of the ITC determination because that decision is "likely" to be negative.

Determination: The Department is not authorized to judge the merits of an ITC injury investigation. We must follow the requirements of section 751 of the Tariff Act to conduct annual reviews and to establish estimated duty deposit rates based on those reviews.

(4) Comment: A retroactive increase of countervailing duties is improper because it violates the *Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade* ("the Subsidies Code").

Determination: The Indian government points to Article 5, paragraph 6 of the Subsidies Code which states, "(i)f the definitive contervailing duty is higher than the amount guaranteed by the cash deposit or bond, the difference shall not be collected."

Section 707(a)(1) of the Tariff Act reflects this provision of the Subsidies Code. Section 707(a)(1) applies to estimated deposits made under section 703(d)(2), that is, deposits required by the administering authority as the result of an affirmative preliminary determination. Article 5 of the Subsidies Code and section 707(a)(1) of the Tariff Act govern the application of *provisional* measures and are not applicable to this case which concerns estimated duties deposited under a countervailing duty order. Section 707(b)(1) of the Tariff Act, instead, applies to this situation. It requires that the difference between the deposit of

estimated duties and the duty determined under a countervailing duty order "* * * be collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order". Section 707(b)(1) is consistent with Article 4, paragraph 2 of the Subsidies Code which covers the imposition of definitive duties. This provision only states that definitive duties may not exceed the amount of the subsidy.

Section 707(b) states that the difference in duties shall be collected after the ITC ("Commission") makes an affirmative injury determination. Since there has not been an injury determination the Government of India maintains that this provision is not applicable. This position ignores section 103(b) of the TAA which amends section 303 of the Tariff Act and which provides that duties imposed under section 303 shall be done in accordance with Title VII of the TAA (countervailing duties) except that "* * * any reference to determinations by the Commission * * * shall be disregarded." Since this was a section 303 case for the period of the review and is governed by that provision, the determination by the Commission cited in 707(b) is not required and therefore irrelevant to this review.

(5) Comment: The General Agreement on Tariffs and Trade prohibits non-tariff barriers to trade under Article XI, and the threat of a retroactive increase in duty is a *de facto* non-tariff barrier.

Determination: As discussed above, the Department's action is consistent with United States law and the Subsidies Code. Accordingly, it constitutes a permissible action and is not a non-tariff barrier to trade.

(6) Comment: Section 1504 of Title 19 of the United States Code requires liquidation within one year after the date of entry; therefore, a retroactive increase in duty going back two years appears to contravene the law.

With certain exceptions, 19 U.S.C. 1504 requires liquidation within one year. Under paragraph 1504(b)(2), liquidation may be extended if "liquidation is suspended as required by statute."

Since the statutory scheme of section 751 of the Tariff Act requires the retroactive assessment of countervailing duties, suspension of liquidation of entries covered by the countervailing duty order is necessary to the implementation of section 751. When the review is completed, the suspended entries that were made during the review period are liquidated at the rate calculated during that review. Liquidation of all subsequent entries subject to the same order is suspended and estimated duties are deposited at the new rate pending the results of the next section 751 review. If the Department does not finish its review within 12 months beginning on the anniversary of the date of publication of the order, it is necessary for Customs to continue to suspend liquidation until the Department completes its review and informs Customs of the rate at which suspended entries are to be liquidated and deposits for future entries under the order are to be made.

Where a statute imposes a duty upon a governmental agency to carry out the express statutory purposes and objectives, the statute carries with it by necessary implication the authority to effect the legislative mandate and purpose. Accordingly, the authority to order suspension of liquidation is present by necessary implication in section 751 and suspension of liquidation beyond one year is permissible under 19 U.S.C. 1504(b)(2).

Final Results of Review

As a result of our review, we determine that the total net subsidy conferred by the programs cited above is 15.08 percent for leather footwear as defined and 12.58 percent for leather uppers other than unlasted leather uppers for the period of the review. Accordingly, the Department will instruct the Customs Service to assess countervailing duties in those amounts on the f.o.b. invoice price on the merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980, and exported on or before December 31, 1980. Entries of sandals as defined in this notice shall be liquidated without regard to countervailing duties.

As explained above these instructions do not apply to the subject merchandise that does not meet our definition of leather footwear or sandals and are not slippers, huaraches, or chappals. Entries of such merchandise shall remain suspended until further notice.

The assessment of countervailing duties by the Customs Service is subject to the provisions of section 778 of the Tariff Act which require interest on overpayments or underpayments of the amounts deposited as estimated countervailing duties. The rate at which such interest is payable is the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date of determination of these final results. That rate currently is 12 percent per annum. The interest shall be calculated from the date of payment of estimated duties through the date of liquidation.

As required by section 751(a)(1) of the Tariff Act, a cash deposit of estimated countervailing duties of 15.08 percent of the f.o.b. invoice price for leather footwear and 12.58 percent of the f.o.b. invoice price for leather uppers other than unlasted leather uppers shall be required on shipments of this merchandise entered, or withdrawn from warehouse, on or after the date of publication of these final results. Leather footwear that is not specifically excluded shall be subject to the 15.08 percent deposit requirement.

The Department intends to complete the next administrative review by the end of October 1982. The amount of countervailing duties to be imposed on exports made during 1981 will be determined during that review. Consequently, the suspension of liquidation previously ordered will continue on all shipments exported on or after January 1, 1981.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 10, 1982.

[FR Doc. 82-4206 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

Chains and Parts Thereof, of Iron or Steel, From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain. The review covers the period January 1, 1980 through December 31, 1980. As a result of the review, the Department has preliminarily determined to assess countervailing duties equal to the calculated value of the net subsidy, 12.95 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Lorenza Olivas, Office of Compliance, Import Administration, International Trade Administration, U.S.

Department of Commerce, Washington, D.C. 20230 (202–377–1775).

SUPPLEMENTARY INFORMATION:

Background

On April 21, 1981, the Department of Commerce (the "Department") published in the **Federal Register** (46 FR 22776) the final results of the first administrative review of the countervailing duty order on chains and parts thereof, of iron or steel, from Spain (43 FR 3258, January 24, 1978). The Department announced in the notice of April 21, 1981, its intent to conduct the next administrative review prior to the next anniversary of the date of publication of the order. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has conducted that administrative review.

Scope of the Review

Imports covered by the review are chains and parts thereof, of iron or steel. They are currently classifiable under items 652.24, 652.27, 652.30, 652.33, and 652.35 of the Tariff Schedules of the United States.

The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed two programs: (1) The Desgravacion Fiscal a la Exportacion ("Desgravacion Fiscal"), which was the only program found contervailable in the final determination and (2) an operating capital loans program, which has been found countervailable in another investigation.

Analysis of the Programs:

(1) Desgravacion Fiscal a la Exportacion

Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at-the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy and services used in the final stage of production. The Spanish government studied the incidence of prior stage taxes on inputs in various sectors of the economy in order to determine more precisely the cumulative indirect tax incidence on the exported product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Because the incidence of such taxes varies from product to product, the Department must analyze the tax incidence of the product in question in order to determine whether the payment under the Desgravacion Fiscal exceeds the incidence of taxes which may be rebated under the Tariff Act.

The Government of Spain provided no response to our questionnaire of April 28, 1981 nor to our follow-up requests for information. Therefore, we are unable to determine the incidence of rebatable indirect taxes borne by this product. Absent this information, the Department considers the entire amount of the Desgravacion Fiscal to be an overrebate of indirect taxes with respect to this product, and, therefore, countervailable in full. The Desgravacion Fiscal rate of 12.50 percent, established in Law 6/1976, still applies to exports of this merchandise to the United States. Therefore, we determine preliminarily that the net subsidy conferred under this program is 12.50 percent of the f.o.b. invoice price. The Department emphasizes that this preliminary determination is due solely to the lack of information on this product, and does not contradict determinations by the Departments of Treasury and Commerce that the Desgravacion Fiscal is intended and does operate to rebate indirect taxes.

(2) Operating Capital Loans

The Spanish government requires banks to set aside funds to provide operating capital loans. These loans are made for a period of less than one year at an 8 percent interest rate which is 1.5 percent below the commercially available rate of 9.5 percent in 1980. The maximum loan prinicpal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card.

In the absence of information on utilization of the operating capital loans program, we assumed a maximum eligibility of 30 percent. For 1980, we preliminarily determine the subsidy attributable to this program to be 0.45 percent of the f.o.b. invoice price of the merchandise.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the net subsidies conferred by the two programs cited above during the period of review for chains and parts thereof, of iron or steel, are 12.50 percent and 0.45 percent *ad valorem*, respectively. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 12.95 percent of the f.o.b. invoice price on shipments exported during the period January 1, 1980 through December 31, 1980.

Further, we intend to instruct the Customs Service to collect a cash deposit of estimated duties of 12.95 percent of the f.o.b. invoice price on all shipments of chains and parts thereof, of iron or steel, from Spain entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated countervailing duties at the 12.50 percent rate specified in the notice of April 21, 1981, shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended.

Interested parties may submit written comments on these preliminary results on or before March 19, 1982, and may request disclosure and/or a hearing on or before March 4, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 10, 1982.

[FR Doc. 82–4309 Filed 2–16–82; 8:45 am]

BILLING CODE 3510–25–M

Compressors and Parts Thereof From Italy; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Revocation of Countervailing Duty Order.

SUMMARY: The Department of Commerce is revoking the countervailing duty order on compressors and parts thereof from Italy because of the termination of an injury investigation by the International Trade Commission. All entries of this merchandise made on or after April 3, 1980, shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1167).

SUPPLEMENTARY INFORMATION: On May 3, 1972, a final countervailing duty determination on compressors and parts thereof from Italy, T.D. 72–122, was published in the **Federal Register** (37 FR 8948).

On April 3, 1980, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that an injury determination for this order had been requested under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980 on all shipments of compressors and parts thereof from Italy entered, or withdrawn from warehouse, for consumption on or after that date.

On August 7, 1981, the Department published the final results of its administrative review of this order as required by section 751 of the Tariff Act of 1930 (46 FR 40243). The Department determined that a net subsidy on compressors and parts thereof from Italy, ranging from 15 to 80 lire per kilogram of this merchandise, was being conferred during the period of review and reported that rate to the ITC.

On January 20, 1982, the ITC published its termination of the countervailing duty investigation under section 104(b) of the TAA due to the original petitioner's withdrawal of its petition. The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports from Italy of compressors and parts thereof covered by the countervailing duty order if the order were revoked (47 FR 2949). As a result, the Department is revoking the countervailing duty order concerning compressors and parts thereof from Italy (T.D. 72–122) with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise made on or after April 3, 1980 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries. Entries, or withdrawals from warehouse, for consumption made prior to April 3, 1980, are subject to countervailing duties as set forth in the final results of the administrative review.

This revocation is in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 10, 1982.

[FR Doc. 82–4210 Filed 2–16–82; 8:45 am]

BILLING CODE 3510-25-M

Kraft Condenser Paper From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On June 25, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on kraft condenser paper from France. The review covered the only known exporter of this merchandise to the United States, Papeteries Bollore, SA, for two consecutive time periods from February 21, 1979 through August 31, 1980.

Interested parties were given an opportunity to submit oral or written comments and a public hearing was held on September 15, 1981. The petitioners and the respondent provided oral and written comments which the Department reviewed. As a result of our analysis of these comments and arithmetical corrections made subsequent to publication of the preliminary results, the Department is deferring appraisement on shipments of one type of kraft condenser paper during the first period and for all other types the weighted-average margin is 32.8%. For the second time period there were no shipments and there are no known unliquidated entries.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C 20230 (202–377–2209/5289).

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1979, a dumping finding with respect to kraft condenser paper from France was published in the **Federal Register** as Treasury Decision 79–247 (44 FR 54696). On June 25, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 32927–28) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80% or more by wieght chemical sulphate or soda wood pulp based on total fiber content. Kraft condenser paper is currently classifiable under items 252.4000, 252.4200, and 256.3080 of the Tariff Schedules of the United States Annotated (TSUSA). Papeteries Bollore, S. A. ("Bollore") is the only known exporter to the United States of French kraft condenser paper. This review covers two consecutive time periods from February 20, 1979, the date of suspension of liquidation, through August 31, 1980. For the period January 1, 1980 through August 31, 1980, there were no known shipments to the United States.

Analysis of Comments Received

We received comments from the petitioners, Crocker Technical Papers, Inc. and the Schweitzer company, a division of Kimberly-Clark Corporation and the respondent, Papeteries Bollore.

(1) *Comment:* The petitioners contend that Bollore is not entitled to any adjustment for differences in the kraft condenser paper ("KCF") sold to the United States (1.07 density) and that sold in France (1.1 density) because the two types of paper have overlapping specifications and are used interchangeably by capacitor manufacturers. Moreover, they argue that the amount of the adjustment claimed by the respondent is illogical because it exceeds the amount that could have been claimed for differences between 1.07 paper and 1.2 paper which have no overlapping specifications. The respondent maintains that 1.07 and 1.1 papers are not interchangeable because the 1.07 paper cannot be sold in France.

Position: Cost of production data furnished by the respondent establish that the higher density 1.1 paper

requires more pulp and additional energy, labor, and replacement costs. further, higher density paper requires rewetting, calendaring (rolling), and slitting not needed in the manufacture of lower density paper. Finally, the lot sizes of the 1.1 paper are much smaller than those of the 1.2 paper, which in part accounts for the larger difference in cost of manufacture between 1.07 and 1.1 papers than the difference between 1.07 and 1.02 papers. For the reasons, the Department believes that the claimed adjustment for differences in the merchandise is justified.

(2) *Comment:* KCT made to 1.07 specification is exported by Bollore either in slit condition or in jumbo rolls which are slit prior to sale by Bollore's U.S. subsidiary after importation. The petitioners allege that the Department double counted the cost of slitting when analyzing the sales of the 1.07 jumbo rolls.

Position: When purchase price was the basis of comparison, the Department deducted an amount for the difference in merchandise between 1.07 paper sold to the U.S. and 1.1 paper sold in France. This difference included a difference in the cost of slitting. When exporter's sales price was the basis of comparison, in addition to this deduction for the difference in merchandise, the Department deducted an amount from foreign market value for the cost of slitting the 1.07 paper in France, since the merchandise was imported into the U.S. in jumbo rolls (not slit). No double counting was involved.

(3) *Comment:* The petitioners claim that the adjustments for differences in packing costs were overstated. While they agree that there would be a small packing difference when comparing slit paper sold in France with jumbo rolls sold to the U.S., based on their experience in the U.S. they argue that the claimed difference between the packing costs for slit paper sold in France and slit paper exported to the U.S. is grossly exaggerated.

Position: Bollore explained that the packing cartons for merchandise sold in France are much smaller than those used for merchandise exported to the U.S., and that in France the bundles of paper packed in these cartons have styrofoam end caps on both ends and are individually packed in plastic. Therefore, there is an increase both in the cost of material and the packing labor costs, the latter amounting to about twice the cost encountered when packing for the U.S. Further, these cost differences were verified by the Customs Service during the fair value investigation and no discrepancies were found.

Comment: Bollore exports to the U.S. a special type of KCT used for metallizing, dried KCT Voltam 1.17 air-dry density ("dried KCT"). Since identical paper is not sold in France adjustments were made for differences in the merchandise, mainly in processing. The petitioners alleged that these differences were understated.

Position: In reviewing the claim and substantiating data the Department has found sufficient reason to question the adjustment. The appraisement of sales of this merchandise is being deferred until we receive further information. In the preliminary notice we differentiated the dumping margin for this paper from that for the other types. For cash deposit purposes we will continue to differentiate betweent this dried KCT and all others. The cash deposit will be based on our preliminary analysis.

(5) *Comment:* The petitioners contend that the Department should refine the Department's definition of "dried KCT Voltam 1.17 air-dry density" proposed in the preliminary results of review. They suggest that the following criteria be inserted in the definition: (1) A standard of less than 1% moisture, (2) a standard of 9 microns in thickness, (3) a required density of 1.17 gm/cc air-dry and 1.1 gm/cc bone-dry, and (4) widths greater than 500 mm. The respondent disagrees with the request for a thickness standard of 9 microns since it has previously exported the dried KCT in a thickness of 10 microns and there is a possibility that, in the future, it may be ordered and imported in thickness of 8–10 microns. The respondent requests that the limitation be 8–10 microns in thickness.

Position: Since the distinguishing characteristic of this paper is its use, not the thickness, the Department believes the respondent's request is reasonable. Accordingly, the definition of dried KCT for metallizing will be:

KCT for metallizing, 1.17 air-dry density, 1% or less moisture content, 500 mm or more in width, 8–10 microns in thickness.

(6) *Comment:* At the request of the Department, Bollore presented its argument that foreign market value should be based on third-country sales to Mexico rather than home market sales. The respondent contends that the merchandise sold in the home market does not meet the definition of such or similar merchandise contained in the Antidumping Act of 1921 ("the 1921 Act"), since the paper sold in France is of a higher density and, as a real, practical, commercial matter, is not interchangeable with KCT of the density sold in the United States. Bollore asserts that the proper basis should be such merchandise sold to Mexico.

Position: The department maintains its position that the KCT sold in the home market meets the definition of "similar" as set forth in section 212(c) of the 1921 Act.

Final Results of the Review

As a result of our analysis of the petitioners' comments, the respondent's rebuttal to those comments, and arithmetical corrections, we determine that the following margins exists:

Product types	Time period	Margins (percent)
Dried KCT for metallizing, 1.17 air-dry density, 1% or less moisture content, 500 mm or more in width, 8–10 microns in thickness	2/20/79–12/31/79	***
	1/1/80–8/31/80	**3.46
		**3.46
All other	2/20/79–12/31/79	*
	1/1/80–8/31/80	32.8
		*32.8

*No shipments during this period.
**For estimated cash deposit only.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries of KCT, other than metallizing, made with purchase dates or export dates, as appropriate, during the periods involved. Individual differences between purchase price or exporter's sales price and foreign market value may vary from the percentages stated above. The Department will separately issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of 3.46% for dried KCT for metallizing, 1.17 air-dry density, 1% or less moisture content, 500 mm or more in width, 8–10 microns in thickness, and 32.8% for all other types, based upon the last known shipments, shall be required on all shipments of kraft condenser paper entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results (February 17, 1982). For any shipment from a new exporter not covered in this administrative review, unrelated to the covered firm, a cash deposit of 32.8% shall be required. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C.

1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

February 10, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-4142 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

Racing Plates (Aluminum Horseshoes) From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On December 23, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada. The review was limited to the two known exporters, Canadian Racing Plate Co. Limited and Equine Forgings Limited, and to the period February 1, 1980 through January 31, 1981. Interested parties were given an opportunity to submit written or oral comments on these preliminary results. We received no comments.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5345/5289).

SUPPLEMENTARY INFORMATION:

Background

On February 27, 1974, an antidumping finding with respect to racing plates (aluminum horseshoes) from Canada was published in the **Federal Register** (39 FR 54388). On December 23, 1981, the Department of Commerce ("The Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 62308-9). The Department has now completed that administrative review.

Scope of the Review

The imports covered by the review are racing plates (aluminum horseshoes) that are used on race horses, polo, jumping, hunting, and other performing horses, as differentiated from pleasure and work horses, are made of aluminum, may have cleats or caulks, and come in a variety of sizes. Racing plates (aluminum horseshoes) are currently classifiable under item 652.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of two Canadian exporters of racing plates (aluminum horseshoes) to the United States during the period of review. Those firms are Canadian Racing Plate Co. Limited and Equine Forgings Limited. The review covers the period February 1, 1980 through January 31, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

There were several small shipments from each firm during the review poeriod. In each case the entries were inadvertently liquidated by the Customs Service. Therefore, there are not known unliquidated entries.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated duties based upon the most recent margin calculated, that is, 31.94 percent of the entered value, shall be required on all shipments of racing plates (aluminum horseshoes) from Canada entered, or written from warehouse, for cosumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of February 1983.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

February 9, 1982.

Gary N. Horlick,

Deputy Assistant Secretary Import Administration.

[FR Doc. 82-4141 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

Railway Track Maintenance Equipment From Austria; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On November 30, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on railway track maintenance equipment from Austria. The review covered the only known exporter, Plasser & Theurer, GmbH, and was limited to two product lines, ballast regulators and tamping machines. The review covered the period January 1, 1980 through January 31, 1981.

Interested parties were given an opportunity to submit written or oral comments on these preliminary results. We received no comments.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or Sheila Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On February 17, 1978, a dumping finding with respect to railway track maintenance equipment from Austria was published in the **Federal Register** as Treasury Decision 78-61 (43 FR 6937). On November 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 58127-8). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of ballast regulators and tamping machines, two specific types of railway track maintenance equipment, from Austria. Any other types of machinery used in the maintenance of railway track are excluded from this finding. All railway track maintenance equipment is currently classifiable under item 690.2000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of one exporter of Austrian railway track maintenance equipment to the United States. That firm is Plasser & Theurer, GmbH. The review covered the period January 1, 1980 through January 31, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this period

and there are no known unliquidated entries.

Because there were no shipments during the period and the margins on the last shipments were *de minimis*, the Department shall waive requiring a cash deposit, as provided for by § 353.48(b) of the Commerce Regulations, on any shipment of Austrian railway track maintenance equipment entered, or withdrawn from warehouse, for consumption on or after February 17, 1982. This deposit waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of February 1983.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 10, 1982.

[FR Doc. 82-4143 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States established or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: March 2, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., NW., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202—377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: February 11, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-4140 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

Bicycle Tires and Tubes From Taiwan: Countervailing Duty Order

AGENCY: International Trade Administration.

ACTION: Countervailing Duty Order.

SUMMARY: This notice is to advise the public that we are issuing a countervailing duty order with respect to bicycle tires and tubes manufactured by one Taiwanese company, Cheng Shin. As previously ordered by the United States Court of International Trade (the Court) on June 19,1981, we reopened a previous countervailing duty investigation which resulted in a new final determination on October 28, 1981 (46 FR 53201), that Taiwan authorities had given benefits which constituted bounties or grants, on the manufacture, production, or exportation of bicycle tires and tubes, with respect to Cheng Shin. Since our reopened investigation was specifically directed to the investigative period of the earlier case, this countervailing duty order is a determination that during the year 1977 Cheng Shin received a bounty or grant in the net amount of .893 ad valorem. Benefits were also given to other Taiwanese companies during this same period, but those benefits were determined to be *de minimis* in amount, and thus did not constitute countervailable bounties or grants, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). Notice of this determination was published in the same Federal Register Notice of October 28, 1981.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Room 3077, Washington, D.C. 20230 (202–377–1784).

SUPPLEMENTARY INFORMATION: On January 8, 1979, a notice of "Final Countervailing Duty Determination" was published in the **Federal Register** (44 FR 1615). The notice stated that the Department of the Treasury ("Treasury") had determined that benefits had been paid by Taiwan authorities on the manufacture/exportation of bicycle tires and tubes, but that the benefits involved an aggregate amount considered to be *de minimis* in size, and that, therefore, no bounty or grant was being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation of bicycle tires and tubes from Taiwan. The notice indicated that Treasury determined that the "aggregate weighted-average benefit received by the industry during the period investigated was .28 percent *ad valorem* with no single firm receiving more than .44 percent". Treasury determined that those benefits were *de minimis*.

On March 8, 1979, counsel for the petitioner filed suit in the United States Customs Court to challenge the Secretary of the Treasury's final countervailing duty determination (*Calisle Tire and Rubber Co. v. United States*, No. 79–3–00423). On June 19, 1981, the Court held that the *de minimis* doctrine was applicable to cases arising under the countervailing duty statute and remanded the case to the Secretary of Commerce for "further inquiries as may be needed to determine the *ad valorem* benefit provided the Taiwanese bicycle tire and tube manufacturers by * * * Taiwan" with respect to portions of two programs—(1) preferential

income tax ceiling and (2) preferential export financing.

On October 28, 1981, a notice of "Reopened Investigation: Final Countervailing Duty Determination" was published in the **Federal Register** (46 FR 53201). The notice stated that, as ordered by the Court, a reopened investigation had resulted in a final determination that Taiwan authorities have given benefits on the manufacture, production, or exportation of bicycle tires and tubes, with respect to one manufacturer, Cheng Shin, which constituted bounties or grants. We also determined that the remaining companies were also given benefits but that those benefits were determined to be *de minimis* in amount, and thus did not constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). Accordingly, pending an affirmation of the results of the final countervailing duty determination by the Court, we instructed the U.S. Customs Service to suspend liquidation on entries of bicycle tires and tubes from Taiwan, manufactured by Cheng Shin, if entered or withdrawn from warehouse for consumption on or after October 28, 1981, and if exported after October 28, 1981. We also instructed the Customs Service to collect a deposit of estimated countervailing duty in the amount of .893 percent *ad valorem* with respect to those entries for which liquidation had been suspended. In its memorandum and order dated November 17, 1981, the Court affirmed this final countervailing duty determination and ordered the Department to issue a countervailing duty order with respect to bicycle tires and tubes manufactured by Cheng Shin.

For the purpose of this notice the term "bicycle tires and tubes" means pneumatic bicycle tires and tubes of rubber or plastics, whether such tires and tubes are sold together as units or separately. Bicycle tires and tubes currently are covered under items 772.48 and 772.57, respectively, of the Tariff Schedules of the United States (TSUS).

Determination and order

We have determined that during the year 1977 the rate of net subsidy to Cheng Shin was .893 percent *ad valorem*. As required by section 706 of the Tariff Act of 1930, as amended, the Customs Service shall collect a cash deposit of estimated countervailing duties of .893 percent *ad valorem* on entries of bicycle tires and tubes from Taiwan manufactured by Cheng Shin, if entered or withdrawn from warehouse for consumption on or after October 28, 1981, and if exported after October 28, 1981.

This deposit requirement will remain in effect until publication of the final results of the first administrative review under section 751 of the Act.

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671(e)) and § 355.36 of the Department of Commerce regulations (19 CFR 355.36).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-4226 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council Executive Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The President's Export Council was established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979 and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade including the controlling of exports for reasons of national security. At its opening meeting October 15, 1981, the Council voted to establish an Executive Committee with the authority to act on behalf of the entire Council.

TIME AND PLACE: March 2, 1982, 2–5 p.m. The meeting will take place in Room 4830 of the Main Commerce Building, 14th & Constitution Ave., N.W., Washington, D.C.

Agenda

General Session

An open session will be held from 2–4 p.m. for the Executive Committee to hear progress reports from subcommittee chairmen and vote on recommendations of the subcommittees concerning agricultural trade and export credit subsidies.

Executive Session

From 4:10–5:00 p.m. the Executive committee will hold a closed session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control programs, the GATT Ministerial agenda and other trade negotiation matters.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will ba available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 10, 1982, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: (202) 377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE GENERAL SESSION MINUTES CONTACT:

Mr. Jeffrey M. Jackson, President's Export Council Staff, Room 2128, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230. Telephone: (202) 377–1125.

Dated: February 10, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-4195 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program (NVLAP); Personnel Dosimetry Processing, Public Workshop

AGENCY: Assistant Secretary for Productivity, Technology, and Innovation, Commerce.

ACTION: Notice of public workshop to discuss specific benchmarks of technical adequacy in personnel dosimetry processing which will establish a basis for uniform assessment under NVLAP criteria in a laboratory accreditation program for personnel dosimetry processors developed by the Department of Commerce at the request of the Nuclear Regulatory Commission.

SUMMARY: The Department of Commerce (DOC) hereby announces

that it will hold an informal public workshop to provide interested parties an opportunity to participate in the development of technical requirements of a laboratory accreditation program for personnel dosimetry processors (Personnel Dosimetry LAP) as requested by the Nuclear Regulatory Commission (NRC) on December 23, 1980, under the Procedures of the National Voluntary Laboratory Accreditation Program (NVLAP), 15 CFR Part 7b, as amended (46 FR 37029 (July 17, 1981)). The workshop will afford participants who are technically conversant in applied radiation dosimetry and associated quality assurance measures as well as operation of current personnel dosimetry systems an opportunity to discuss benchmarks of technical adequacy in personnel dosimetry processing to establish a basis for the uniform assessment of processors under NVLAP criteria.

DATE: The workshop will start on Monday, April 12, 1982, at 9:00 a.m. and end April 13, 1982, at 5:00 p.m.

ADDRESS: The workshop will take place in the Administration Building, National Bureau of Standards, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Margaret Federline, NVLAP Project Leader, Technology Building, Room BO6, National Bureau of Standards, Washington, DC 20234, phone: 301–921–2227. Persons who wish to attend the workshop should inform Ms. Federline not later than March 21, 1982.

SUPPLEMENTARY INFORMATION: On January 29, 1981, the U.S. Department of Commerce (DOC) published in the **Federal Register** (47 FR 9689) a formal request for the U.S. Nuclear Regulatory Commission (NRC) to develop a laboratory accreditation program (LAP) for processors of personnel dosimeters that measure ionizing radiation received occupationally by workers. The NRC request references an Advance Notice of Rulemaking (45 FR 20493) which taken together with this request constitutes a determination of need required by NVLAP procedures 15 CFR 7b.4(b)(4). The statutory authority of the NRC to make such a determination of need is found in 10 CFR Part 20 and requires NRC licensees to have adequate precautionary procedures to protect the health and safety of workers and the public against radiation hazards arising from licensed activities.

Accreditation of personnel dosimetry processors in specific radiation categories will be based upon (1) annual proficiency testing according to Health Physics Society Standard "Criteria for Testing Personnel Dosimetry Performance," currently in draft status as Amercian National Standard N13.11, and (2) compliance with NVLAP accreditation criteria (15 CFR Part 7a.19) determined through review of written information supplied by each applicant and on-site assessment of performance in routine processing activities. Workshop participants who are technically conversant in applied radiation dosimetry including appropriate quality assurance measures and operation of current personnel dosimetry systems will have an opportunity to discuss specific benchmarks of technical adequacy in personnel dosimetry processing in the following areas covered generically by NVLAP criteria:

(1) Quality control system;
(2) Documentation of quality control system;
(3) Assurance of staff competence;
(4) Staff training;
(5) Equipment and facilities;
(6) Procedures and frequency of equipment caliberation, verification, and maintenance;
(7) Test plan describing processing protocol; and
(8) Procedures for manual or automated data handling and recordkeeping.

Information gathered during this public workshop will be used by NVLAP staff to define critical technical and quality assurance elements of personnel dosimetry processing to establish a uniform basis for the determination of each processor's compliance with the NVLAP criteria during on-site assessments.

The following procedures are established for the workshop:

1. *Purpose.* The purpose of the workshop is to provide all interested persons with an opportunity to participate in the development of the technical requirements of the Personnel Dosimetry LAP and to enable DOC to secure valuable expert advice to develop these requirements.

2. *Conduct of Workshop.* This workshop will be an informal non-adversary meeting. The president officer shall have the right to allocate the time available for discussion of each issue on the workshop agenda and to exercise such authority as may be necessary to insure the equitable and efficient conduct of the workshop and to maintain order.

3. *General Provisions.* This informal workshop will be open to the public. Summary minutes of the workshop will be prepared. A copy of those minutes will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW, Washington, D.C. 20230.

Dated: February 10, 1982.

Robert B. Ellert,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 82-4071 Filed 2-16-82; 8:45 am]

BILLING CODE 3510-13-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade: Proposed Amendments Relating to the Long-Term Treasury Note Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade ("CBOT" or "Exchange") has submitted a proposal to amend its Long-Term Treasury Note futures contract in order to exclude non-callable U.S. Treasury bonds from the standard grade of Treasury issues deliverable on the contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that provision is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before March 19, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the Chicago Board of Trade Rule 36.01.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. (202) 254–7303.

SUPPLEMENTARY INFORMATION: The Chicago Board of Trade is proposing to revise Rule 36.01 of its long-term Treasury note contract. The contract grade for delivery under this regulation is U.S. Treasury notes and non-callable U.S. Treasury bonds whch have an actual maturity of not less than six and one-half years and not more than ten years. The CBOT's proposed amendment excludes non-callable Treasury bonds from the deliverable grade in the long-term Treasury note futures contract. The Exchange indicates

that allowing delivery of non-callable bonds could sometime in the future distort the futures prices for the long-term Treasury note contract. Further, the Exchange states that non-callable bonds currently constitute only a small amount of the deliverable supply for the Treasury note contract.

In accordance with Section 5a(12) of the Commodity Exchange Act (the "Act"), 7 U.S.C. 7a(12) (Supp. III 1979), the Commission has determined that the proposal submitted by the CBOT concerning its long-term Treasury note futures contract is of major economic significance. Accordingly, the CBOT's proposed amendment to Rule 36.01 is printed below, using brackets to indicate deletions:

Standards. The contact grade for delivery on futures contracts made under these regulations shall be U.S. Treasury Notes (and non-callable U.S. Treasury Bonds) which have an actual maturity of not less than six and one-half years and not more than ten years. All notes (or bonds) delivered against a contract must be of the same issue. For settlement, the time to maturity of a given issue is calculated in complete *quarter year* increments (*i.e.*, 8 years, 10 months, 17 days is taken to be 8 years, 9 months) from the first day of the delivery month. The price at which a note (or bond) with this time to maturity and with the same coupon rate as this issue will yield 8 per cent, according to bond tables prepared by the Financial Publishing Co., of Boston, Mass., is multiplied by the settlement price to arrive at the amount at whch the short invoices the long.

Interest accrued on the notes shall be charged to the long by the short in accordance with Department of the Treasury Circular 300, Subpart P.

New issues of U.S. Treasury Notes (and Bonds) which satisfy the standards in this regulation shall be added to the deliverable grade as they are issued. The Board shall have the right to exclude any new issue from deliverable status or to further limit outstanding issues from deliverable status.

Other materials submitted by the CBOT in support of the proposed rule amendment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquartrs in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jame K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by March 19, 1982. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on February 10, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-4079 Filed 2-16-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95-202, section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on January 28, 1982, that the service of the members of the groups known as: AAF Operations Analysts; Aircraft Logistics Specialists Assigned to Vietnam During the War Years; Civil Air Patrol; Gura Air Depot Construction Engineers in World War II; United States Maritime Service Training Organization; Vietnam Civilian POWs/Internees; and World War II Aircraft Procurement Inspectors, not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

FOR FURTHER INFORMATION CONTACT: Technical Sergeant Stephen J. Koegle, USAF, telephone: 694-5380, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), The Pentagon, Washington, DC 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-4131 Filed 2-16-82; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Missouri River Levee System Unit L 325-319; Intent To Prepare Draft Environmental Impact Statement

AGENCY: Kansas City District, Army; Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The primary purpose of this study is to evaluate potential flood control alternatives that could provide flood protection to approximately 32,000 acres of rural land and its associated development located along the left bank of the Missouri River between river mile 314 and 326 (1960 river miles). The method of flood protection would involve construction of an earthen levee adjacent to the Missouri River and along three of its tributaries: Scone Branch, Willow Creek, and Crooked River.

2. Reasonable alternatives that will be studied include:

a. *No Federal Action.* This measure would result in a continuation of flooding as periodically occurs in the study area.

b. *A 3,000-foot Missouri River Flowway Alinement.* This alternative includes a left bank levee parallel to the Missouri River, and is positioned to allow 3,000 feet of unobstructed flowway considering both right and left bank floodplains. This alternative would include tie-back levees on the left bank of Scone Branch, along the left and right banks of Willow Creek, and the right bank of Crooked River. This alternative would provide protection from a flood which could statistically occur once every 9 years.

c. *A 5,000-foot Missouri River Flowway Alinement.* This alternative is essentially the same as stated in 2.b. except that the levee would be positioned to allow 5,000 feet of unobstructed flowway and would afford protection from a once in 20-year flood event.

d. *A 6,000-foot Missouri River Flowway Alinement.* This alternative is essentially the same as stated in 2.b. except that the set-back levee would be positioned to allow 6,000 feet of unobstructed flowway and would provide flood protection from a 100-year flood event.

e. *Non-Structural Alternative.* This alternative provides for flood proofing with small ring levees around farm buildings and similar developments. If ring levees are provided, protection would be for a flood event expected once every 9 years.

f. *Environmental Quality Alternative.* This alternative is similar to the set-back levee alternatives discussed in b. through d. above with the exception that the tie-back levees along the tributaries would be realined in order to avoid impacting riparian timber and to reduce the need for within-channel excavation.

3. Scoping Process:

a. *Public Involvement:* A meeting was held in Richmond, Missouri, in July 1979 to inform the interested local populace of the status of studies and determine their interests. No formal scoping meetings are scheduled; however, field investigations have been conducted with the U.S. Fish and Wildlife Service and the Missouri Department of Conservation.

b. Environmental consultation and review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), and other applicable laws, regulations, and guidelines.

c. The Kansas City District estimates that the DEIS for the Missouri River Levee Unit L 325–319 will be available for public review and comment in November 1982.

ADDRESS: Questions concerning the proposed study and the DEIS should be directed to Mr. Dick Taylor, Chief, Environmental Resources Section, Corps of Engineers, 700 Federal Building, Kansas City, Missouri 64106. Phone: (816) 374–3672 or FTS 758–3672.

Dated: February 5, 1982.

Paul D. Barber,

Chief, Engineering Division.

[FR Doc. 82–4125 Filed 2–16–82; 8:45 am]

BILLING CODE 3710-KH-M

DEPARTMENT OF EDUCATION

Bilingual Education Act; Application Notice for Training Projects Program

AGENCY: Department of Education.

ACTION: Application notice for new projects.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

This program issues awards to local educational agencies; State educational agencies; and institutions of higher education and nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to establish, operate, and improve bilingual education training programs for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training programs.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by April 9, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003J, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: On October 28, 1981, the Secretary of Education issued (at 46 FR 208) an application notice for transmittal of new applications for Fiscal Year 1982 funds under the Training Projects Program. However, in the section of the October 28 notice entitled *Allocation of funds,* the Secretary limited consideration for funding to those applications proposing any combination of activities described in 34 CFR 510.10(a), (b), and (c). The notice established a closing date of February 9, 1982, for transmittal of applications for the program announced at 46 FR 208.

This notice announces the availability of funds for the activities described in 34 CFR 510.10(d). However, this notice does not affect the competition announced in the October 28 notice. The closing date for receipt of new applications proposing any combination of activities described in 34 CFR 510.10(a), (b), and (c) remains February 9, 1982. Any application submitted under the October 28 notice competes only with other applications submitted under the October 28 notice and the February 9, 1982, deadline and does not compete with applications submitted under this notice. Any application submitted under this notice will compete only with applications similarly submitted. This funding procedure is consistent with provisions established in the Training Projects Program regulations (34 CFR 510.30) governing review of applications submitted under the various activities authorized under the Training Projects Program.

Regulations governing the Training Projects Program were published in the April 4, 1980 issue of the Federal Register (45 FR 23208). Amendments to the Training Projects regulations were published on September 2, 1981 at 46 FR 44141. Applicants should review the regulations, particularly the selection criteria in 34 CFR 510.33, before preparing their applications. An applicant should also refer to 34 CFR 500.41 for the rates for allowable costs for trainees participating in training activities.

The maximum project period which a local educational agency, applying as either a sole or joint applicant, may propose is three years. The maximum project period which an applicant other than a local educational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations, 34 CFR 75.139–75.141. The local educational agency must complete the certification form in the application package. This

requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(2) Joint applicants must complete a special certification form in the application package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

Available Funds: It is expected that approximately $300,000 will be available for new grants for the activities announced in this notice in Fiscal Year 1982.

It is estimated that these funds could support 5 projects.

The anticipated award for each project is between $50,000 and $150,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Allocation of Funds: The Secretary announces the availability of funds for new applications proposing the activities described in 34 CFR 510.10(d) that are designed exclusively for parents. Under 34 CFR 510.10(d) the following activities are authorized: Providing short-term or year-round institutes designed to improve the skills of parents and other participants in carrying out their responsibilities in programs of bilingual education. However, only those applications proposing activities that are designed exclusively for parents will be considered for funding under this announcement.

Application Forms: The red application package entitled *Application for Grants Under Bilingual Education Programs* must be used in developing applications under this notice. This application package has been mailed to individuals on the mailing list for the Bilingual Education Act programs.

A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202–5401, Attention: Ms. Costella Hayes.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510 (previously 45 CFR Parts 123 and 123e).

(2) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Charles Miller, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 447–9273.

(20 U.S.C. 3233)

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education Act—Training Projects Programs)

Dated: February 10, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4270 Filed 2-16-82; 8:45 am]

BILLING CODE 4000-01-M

Women's Educational Equity Act Program; Application Notice for New Projects and Noncompeting Continuations for Fiscal Year 1982

Applications are invited for new projects and for noncompeting continuation projects under the Women's Educational Equity Act Program.

Authority for this program is contained in Title IX, Part C, of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978. (20 U.S.C. 3341–3348).

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. These materials and programs are developed for replication throughout the United States.

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand delivered by April 23, 1982. Applications for non-competing continuation awards must be mailed or hand delivered by February 26, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.083A for general grants, and 84.083B for small grants, Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

An application for a new project that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

If an noncompeting continuation application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Program Information: Final regulations governing grants under the Women's Educational Equity Act (WEEA) Program were published in the **Federal Register** on April 3, 1980, 45 FR 22730. The regulations provide five priorities that are applicable to general grants in order to ensure that available funds are awarded to projects that are likely to achieve the purpose of the Act most effectively. These priorities are described in 34 CFR 745.23 through 745.27 (formerly 45 CFR 160f.23 through 160f.27) of the regulations.

Each year, the Secretary selects one or more of these priorities and determines whether the selected

priorities will also apply to small grants. The Secretary also allocates a percentage of available funds to each selected priority.

Available Funds and Programs Priorities: It is not known what level of appropriations, if any, will be available for the WEEA Program for Fiscal Year 1982. However, to ensure the proper administration of the program, applications must be solicited at this time. In Fiscal Year 1981, $8.125 million was available for this program. Approximately $1.5 million was used for 12 new general grants; $388,000 was used for 9 new small grants. Approximately $4.1 million was used for 34 noncompeting continuation grants and approximately $2.1 million was used to fund continuations of six contracts. The average general grants was $80,000; the average small grant was $24,000.

In Fiscal Year 1982, the priorities described below will apply to both general and small grants. Of the funds available for new general grants and small grants, the Secretary will make allocations according to the priorities and in the percentages set out below.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount awarded to any priority, unless that amount is otherwise specified by statute or regulations.

Section 745.23—Priority for model projects on Title IX Compliance: 30%. The Secretary will support the development of model programs and educational materials that enable local educational agencies, institutions of higher education, and other educational agencies and institutions to meet the requirements of Title IX of the Education Amendments of 1972.

Section 745.24—Priority for model projects on educational equity for racial and ethnic minority women and girls: 30%. The Secretary will support projects that focus on issues of double discrimination, bias, and stereotyping based on sex and race or ethnic origin, affecting women and girls of racial and ethnic minority groups.

Section 745.25—Priority for model projects on educational equity for disabled women and girls: 15%. The Secretary will support projects that address issues of double discrimination, bias, and stereotyping affecting disabled women and girls.

Section 745.26—Priority for model projects to influence leaders in educational policy and administration: 10%. The Secretary will support projects that are designed to encourage institutional change by assisting policy makers, administrators, and organizations to take positive steps to ensure Title IX compliance and educational equity for women and girls. These projects will focus on increasing the commitment of educational leaders and decision-makers to Title IX compliance and education equity for women.

Section 745.27—Priority for model projects to eliminate persistent barriers to educational equity for women: 15%. For the first time since fiscal year 1980, the Secretary will support projects that are designed to remove or reduce persistent barriers confronting women in achieving educational equity.

Project activities may focus on barriers that have received little attention in the past or on barriers that past efforts have been unsuccessful in removing or reducing.

Applicants are reminded that § 745.6 ("Equity for all women: Diverse approaches") of the regulations requires that any project which proposes to address the needs of all women must address the diverse needs of racial and ethnic minority women, disabled women, women of various socio-economic and geographical backgrounds, and women of various age groups.

An applicant must select and identify in its application the priority area in which the application will compete. Applications compete only against other applicants in that priority area.

An applicant that does not identify a priority area in its application will be ineligible for an award.

Applications for all grants will be evaluated competitively under the funding criteria in 34 CFR 745.29 through 745.35.

Application Forms: Application forms and program information packages are expected to be ready for mailing by February 22, 1982. They may be obtained by writing to the Women's Educational Equity Act Program, U.S. Department of Education, (Room 1100, Donohoe), 400 Maryland Avenue, S.W., Washington, D.C. 20202–4104.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing projects of general significance under the Women's Educational Equity Act, 34 CFR Part 745, (formerly 45 CFR Part 160f), published in the Federal Register on April 3, 1980.

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c).

Further Information: For further information contact Dr. Leslie R. Wolfe, Director, Women's Educational Equity Act Program, U.S. Department of Education, (Room 1100, Donohoe), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2181.

(20 U.S.C. 3341–3348)

(Catalog of Federal Domestic Assistance No. 84.083, Women's Educational Equity Act Program)

Dated: February 9, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–4271 Filed 2–16–82; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

National Advisory Committee on Accreditation and Institutional Eligibility Meeting.

AGENCY: Department of Education, Office of Postsecondary Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of its opporunity to attend and to participate.

DATES: March 23, 1982, 9:00 a.m. to 5:00 p.m. local time; March 24, 9:00 a.m. to 5:00 p.m. Requests for oral presentations before the Committee must be received on or before March 5. Written material may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

ADDRESS: Copley Hall, Georgetown University, 37th and O Street, NW., Washington, D.C. 20007.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by Section 1205 of the Higher Education Act, as amended by Public Law 96–374 (20

U.S.C. 1145). The Committee advises the Secretary of Educaiton regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations; State agencies recognized for the approval of public postsecondary vocational education; and State agencies recognized for the approval of nurse education. The Committee also advises the Secretary regarding policy affecting recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs.

The meeting on March 23, and 24 will be open to the public. This meeting will be held at the Copley Hall, Georgetown University, 37th and O Streets, NW., Washington, D.C. The Committee will review petitions and reports by accrediting and State approval agencies relative to initial or continued recognition by the U.S. Secretary of Education. The Committee will also hear presentations by representatives of the petitioning agencies and interested third parties. Agencies having petitions and reports pending before the Committee are:

American Association of Bible Colleges, Commission on Accrediting (renewal of recognition)
Association for Clinical Pastoral Education, Inc. (renewal of recognition)
American Osteopathic Association, (interim report)
Council for Non-Collegiate Continuing Education, Accrediting Commission (renewal of recognition)
National Architectural Accrediting Borad, Inc. (renewal of recognition)
National Association of Trade and Technical Schools, Accrediting Commission (interim report)
New England Association of Schools and Colleges (renewal of recognition)
New Jersey State Board Education (interim report)
Oklahoma State Board of Vocational and Technical Education (clarification of its scope of recognition)
Photographic Art and Science Foundation (initial recognition)

Requests for oral presentations before the Committee should be submitted in writing to Richard J. Rowe (address as above). Requests should include the names of all persons seeking an appearance, the organization or organizations they represent, and the purpose for which the presentation is requested. Requests must be received on or before March 8, 1982. Time constraints may limit oral presentations. However, written material will be considered by the Advisory Committee.

Signed at Washington, D.C. on February 10, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education, Department of Education.

[FR Doc. 82-4128 Filed 2-16-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-9989-000, et al.]

Sun Oil Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

February 9, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 26, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without futher notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
G-9989-000, D, Feb. 2,1982	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Transcontinental Gas Pipe Line Corporation, Kinder and Cowpen Creek Fields, Allen and Beauregard Parishes, Louisiana.	([1])	
G-11533-000, Jan. 6, 1982 [2]	Dorchester Gas Producing Company, 5735 Pineland Drive, P.O. Box 31049, Dallas, Texas 75231.	El Paso Natural Gas Company, Union Texas Petroleum's Benedum Plant, Upton County, Texas.	([2])	14.65
G-11943-000, D, Feb. 2, 1982	Mobil Producing Texas & New Mexico Inc., Suite 2700 Nine Greenway Plaza, Houston, Texas 77046.	Tennessee Gas Pipeline Company, Chesterville Field, Colorado County, Texas.	([4])	
G-11998-000, D, Feb. 2, 1982	....do	Texas Eastern Transmission Corporation, E. Provident City Field, Lavaca County, Texas.	([5])	
C66-727-000, E, Jan. 5, 1982 [6]	Belco Petroleum Corporation (Succ. in Interest to Tenneco Oil Company), 10000 Old Katy Rd., No. 100, Houston, Texas 77055.	Northwest Pipeline Company, Green River Bend, Sublette County, Wyoming.	([7])	15.025
C77-280-001, Feb. 1, 1982 [8]	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Michigan Wisconsin Pipeline Company, Ship Shoal Blocks 290, 291, Offshore Louisiana.	([8])	15.025
C77-328-001, D, Feb. 2, 1982	Mobil Producing Texas & New Mexico Inc., Suite 2700 Nine Greenway Plaza, Houston, Texas 77046.	Tennessee Gas Pipeline Company, Southwest Pheasant Field, Matagorda County, Texas.	([10])	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-607-002, D, Jan. 29, 1982	do	Michigan Wisconsin Pipe Line Company, High Island Blocks A-302, A-303, A-318 and A-319, Offshore Texas.	[11]	
CI78-864-001, D, Jan. 29, 1982	do	United Gas Pipe Line Company, High Island Blocks A-302, A-303, A-318, and A-319, Offshore Texas.	[11]	
CI82-70-001, Feb. 1, 1982	do	Southern Natural Gas Company and Florida Gas Transmission Company, Mustang Island Block 758 Field, Federal Offshore, Texas.	[12]	14.65
CI82-158-000, B, Jan. 18, 1982	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Conoco Inc., Emerald Unit, Anderson Ranch-Wolfcamp Field, Lea County, New Mexico.	[13]	
CI82-160-000, A, Jan. 21, 1982	Northern Michigan Exploration Company, One Jackson Square, Jackson, Michigan 49204.	Columbia Gas Transmission Corporation, West Cameron Block 624 "A" Platform, Offshore Louisiana.	[14]	15.025
CI82-161-000 (C963-1026), B, Jan. 25, 1982.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, North Cooper Field, Blaine County, Oklahoma.	[15]	
CI82-162-000, A, Jan. 1982	Texas Gulf Inc., 1100 Milam Building, Houston, Texas 77002.	Southern Natural Gas Company, Mustang Island Area, Block 755, Offshore Texas.	[16]	14.65
CI82-163-000, A, Jan. 27, 1982	Union Oil Company of California, P.O. Box 7600, Los Angeles, California 90051.	Texas Gas Transmission Corporation, Block A-316, High Island Area, Offshore Texas.	[17]	14.65
CI82-164-000 (C264-1310), B, Jan. 12, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Company, Lopeno Field, Zapata County, Texas.	[18]	
CI82-165-000, B, Dec. 28, 1981	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Cabot Corporation, Wickett "B" Lease, N. Ward (Estes) Field, S/2 S/2 Sec. 2, Blk. 16, University Lands, Ward County, Texas.	[19]	
CI82-166-000, B, Feb. 1, 1982	David C. Bintliff, Interests Oil & Gas Division, Suite 1309, Bank of the Southwest Building, Houston, Texas 77002.	United Gas Pipe Line Company, St. Martin Land Company oil and gas lease, 230 acres in Section 9, T8S, R7E; 120 acres in Section 10, T8S, R7E, St. Martin Parish, Louisiana.	[20]	
CI82-167-000 (G-12018), B, Jan. 25, 1982.	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Tennessee Gas Pipeline Company, East San Field, Starr County, Texas.	[21]	
CI82-168-000, A, Jan. 29, 1982	Amoco Production Company, P.O. Box 50879, New Orleans, Louisiana 70150.	Northern Natural Gas Company, Mississippi Canyon Block 194, Offshore Louisiana.	[22]	15.025
CI82-169-000, B, Feb. 1, 1982	Kansas Natural Gas, Inc. *et al.*, P.O. Box 818, Hays, Kansas 67601.	Northern Natural Gas Company, Finney County, Kansas.	[23]	
CI82-170-000 (CI67-67), Jan. 12, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Northern Natural Gas Company, Fort Supply Area, Ellis, Woodward and Dewey Counties, Oklahoma.	[24]	

[1] Sun released right to this lease because all economically recoverable reserves had been depleted.
[2] Applicant is filing to change delivery point from Dorchester's Big Lake Texon Gasoline Extraction Plant to Union Texas Petroleum's Benedum Plant, Upton County, Texas.
[3] Applicant is filing under Gas Purchase Agreement dated September 24, 1954, amended by Amendatory Agreement dated December 1, 1981.
[4] Last well was plugged and abandoned on February 22, 1974, and Lease No. T-25971 was surrendered in May 1974.
[5] The unit well was plugged and abandoned on August 27, 1975, and the lease surrendered in November 1975.
[6] Belco Petroleum Corporation purchased this interest effective April 1, 1977, at which time these lands were subject to Tenneco Oil Company rate schedule 219.
[7] Applicant is filing under Contract dated February, 1968.
[8] Applicant is filing to change delivery points.
[9] Applicant is filing under Gas Sales Contract dated February 7, 1977, amended by Amendatory Agreement dated August 24, 1977.
[10] Gas reserves depleted and lease cancelled.
[11] Lease was released in December, 1980. Lease was nonproducing.
[12] By assignment dated as of November 12, 1981, Southern Natural Gas Company assigned 50% of the gas to be purchased from Mobil Producing Texas & New Mexico under gas sales contract dated October 1, 1981, to Florida Gas Transmission Company.
[13] Gulf's interest in the lease covered by the basic contract has been terminated and the contract will expire on March 1, 1982 pursuant to Notice given by Gulf dated December 11, 1981.
[14] Applicant is filing under Gas Purchase Contract dated January 6, 1982.
[15] Contract expired by its own terms on August 1, 1981. Applicant no longer owns a working interest in the acreage committed under the contract.
[16] Applicant is filing under Gas Purchase Contract dated June 4, 1981.
[17] Applicant is filing under Gas Purchase Contract dated January 22, 1982.
[18] Depletion of reservoirs; no physically recoverable reserves remaining.
[19] Contract primary term expired on January 6, 1979. All acreage committed to contract was sold to Ibex Inc. effective June 1, 1972.
[20] Gas reserves are depleted, oil and gas lease expired on September 25, 1981 and Bintliff has plugged and abandoned the well.
[21] The last well was plugged and abandoned on September 28, 1977, and the lease was surrendered in December, 1977.
[22] Applicant is filing under Gas Purchase Contract dated January 19, 1982.
[23] Irrigation Pumping.
[24] Applicant's working interest in the one remaining lease pertains solely to nonproducing zones below 11,984 feet.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 82-3963 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5866-000]

Colorado River Water Conservation District; Application for Preliminary Permit

February 8, 1982.

Take notice that Colorado River Water Conservation District (Applicant) filed on January 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5866 to be known as the Una Project located on the Colorado River in the town of Parachute, Garfield and Mesa Counties, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Robert L. McCarty, McCarty, Noone and Williams, 490 L'Enfant Plaza, East, Suite 3306, Washington, D.C. 20024.

Project Description—The proposed project would consist of: (1) A new 145-foot high 1,775-foot long zoned earth dam; (2) a new 425-foot long, 145-foot high concrete spillway gate section; (3) a 3,825 acre reservoir with a total storage capacity of 175,000 acre-feet at elevation 5,065 feet m.s.l., (4) a new powerhouse located at the south abutment containing turbine-generators with a total rated capacity of 28.05 MW; (5) a four-mile long, 33-kV transmission line; and (6) appurtenant facilities. The project would generate up to 130,000,000 kWh annually. Energy produced at the project would be sold to Public Service Company of Colorado, Colorado-Ute Electric Association or the Western Area Power Administration.

The proposed project would be a multi-use reservoir for base-load electric generation and industrial, municipal and agricultural water supply.

Proposed Scope of Studies Under Permit—A preliminary permit if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plan, and a study of environmental impacts. Geotechnical investigations including borings and test pits would be accomplished in the vicinity of the proposed dam axis. Any disturbed areas would be restored. Based on results of these studies, Applicant would decide

whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The cost of the studies under the preliminary permit has been estimated by the Applicant to be $550,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 16, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 16, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 14, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all captial letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3625 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3932-002]

American Hydro Power Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 16, 1982.

Take notice that on January 18, 1982, American Hydro Power Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 3932 would be located on the Little River in Montgomery County, North Carolina. Correspondence with the Applicant should be directed to: Peter A. McGrath, American Hydro Power Company, Two Aldwyn Center, Villanova, Pennsylvania 19085.

Project Description—The proposed project would consist of: (1) An existing 353-foot long and 37-foot high cut-stone and concrete dam known as the Upstream Dam; (2) an existing 800-foot long headrace canal; (3) an existing 48.6-acre reservoir which contains an estimated gross storage of 495 acre-feet at normal stream levels; (4) a rebuilt powerhouse with a proposed installed generating capacity of 800 kW; and (5) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 2,042 MWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the North Carolina Wildlife Resources Commission are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 5, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc., are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but

only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4182 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5745-000]

City of Bryan, Ohio; Application for Preliminary Permit

February 17, 1982.

Take notice that the City of Bryan, Ohio (Applicant) filed on December 11, 1981, and application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5745 to be known as the Auglaize River Project located on the Auglaize River in Defiance County, Ohio. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John Marquis, Chairman, Bryan Municipal Light & Water Utilities, 841 East Edgerton Street, Bryan, Ohio 43506.

Project Description—The proposed project would consist of: (1) An existing concrete dam 40 feet high and 400 feet long; (2) an existing reservoir with a maximum storage capacity of 12,000 acre-feet and a normal surface elevation of 688 feet m.s.l.; (3) an existing powerhouse to include generating facilities capable of obtaining an installed capacity of 7.0 MW; (4) proposed transmission lines to connect the generators to the existing distribution system; and (5) appurtenant facilities. The proposed project is not located on Federal lands. The Applicant estimates that the average annual energy output would be 20.0 GWh.

Purpose of Project—The Applicant proposes to use the power generated in its own system to serve the customers of the City of Bryan.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such and application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intevene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be send to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4183 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-164-000]

Columbia Gas Transmission Corp.; Application

February 16, 1982.

Take notice that on January 19, 1982, Columbia Gas Transmission Corporation (Applicant) 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25312, filed in Docket No. CP82-164-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct 34 interconnecting tap facilities to provide additional points of delivery to the following of its existing wholesale customers:

(1) Columbia Gas of Kentucky, Inc.: 1 tap for residential service, 1 tap for commercial service, Estimated annual usage of 420 Mcf.

(2) Columbia Gas of Ohio, Inc.: 20 taps for residential service, 1 tap for

commercial service, 1 tap for industrial service, Estimated annual usage of 3,700 Mcf.

(3) Columbia Gas of Pennsylvania, Inc.: 1 tap for residential service, Estimated annual usage of 150 Mcf.

(4) Columbia Gas of West Virginia, Inc.: 7 taps for residential service, 1 tap for commercial service, Estimated annual usage of 1,066 Mcf.

(5) The Dayton Power and Light Company: 1 tap for combined residential and industrial service, Estimated annual usage of 3,230 Mcf.

It is stated that 29 of the interconnecting taps would provide residential service and that the remaining 5 interconnections would provide commercial service, industrial service, and combined commercial and residential service.

Applicant states that the average cost of an interconnecting tap facility is estimated to be $300 and that the total cost of the interconnections proposed herein is estimated to be $10,200 which would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4184 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5871-000]

Columbus Development Corp.; Application for Preliminary Permit

February 12, 1982.

Take notice that Columbus Development Corporation (Applicant) filed on January 13, 1982 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5871 to be known as the Stillwater River Power Project located on the Stillwater River near Columbus, in Stillwater County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Vernon W. Sanders, Columbus Development Corporation, Star Rt. 2, Box 26, Columbus, Montana 59019.

Project Description—The proposed project would consist of: (1) An existing 200-foot long and 15-foot high concrete dam; (2) a proposed 575-foot long penstock; (3) a proposed powerhouse approximately 30 feet wide and 60 feet long; (4) transmission line; and (5) appurtenant facilities. The Applicant estimates the capacity of the proposed project to be 4300 kW, and the annual energy output to be 38,000,000 kWh. Project energy would be sold to the Beartooth Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of hydrological, environmental and economic feasibility studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Forest Service and other Federal, State and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 23, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing,

Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4172 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5711-000]

Colville Confederated Tribes; Application for Preliminary Permit

February 16, 1982.

Take notice that Colville Confederated Tribes (Applicant) filed on December 3, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5711 to be known as the Nespelem River Project located on the Nespelem River, near Nespelem in Okanogan County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Gary Passmore, Colville Conferated Tribes, P.O. Box 150, Nespelem, Washington 99155.

Project Description—The proposed project would consist of: (1) The existing 7-foot high and 15-foot long concrete diversion structure; (2) an intake structure; (3) a one-mile long penstock; (4) a powerhouse containing one generating unit rated at 1,800 kW; and (5) a 2.5-mile long transmission line. The average annual energy generation is estimated to be 9 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be done under the preliminary permit is $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4155 Filed 2-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-174-000]

Continental Divide Pipeline Co.; Application

February 16, 1982.

Take notice that on January 25, 1982, Continental Divide Pipeline Company (Applicant), One Houston Center, Houston, Texas 77002, filed in Docket No. CP82-174-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compressor facilities and the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 162.2 miles of 30-inch pipeline and related facilities from the southern terminus of Northwest Pipeline Corporation's (Northwest) main transmission system in the vicinity of Ignacio, Colorado, to Transwestern Pipeline Company's (Transwestern) compressor station #5 in McKinley County, New Mexico, and a new compressor station, West Canyon compressor station, consisting of 3 gas turbine-driven compressors of up to 4,000 horsepower (ISO) each together with appurtenant facilities located near the northern terminus of the proposed line in the vicinity of Ignacio, Colorado.

It is stated that the proposed facilities have been designed for a capacity of 325,000 Mcf per day. The total estimated project cost of $125,625,000 would be financed initially through bank loans or short-term credit. Upon completion of construction, permanent financing would be arranged.

Applicant also proposes herein to transport up to 162,500 dekatherms (dt) equivalent of natural gas per day each for Transwestern and Texas Eastern Transmission Corporation (Texas Eastern) through the proposed facilities. The proposed facilities would implement the purchase of long-term gas supplies by Transwestern and Texas Eastern from Northwest and would provide a ready means of transporting any additional gas acquired from areas adjacent to Northwest's existing pipeline system.

Under Applicant's proposed Rate Schedule I, Applicant would charge a monthly facility charge for the proposed transportation service. Based on the estimated annual cost of service for the proposed facilities, it is estimated that the charge of each shipper would be $1,582,083.33. Applicant requests that the Commission in its order include an

express finding that the provisions of Applicant's tariff are just and reasonable under the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4186 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5510-000]

Grisdale Hill Co.; Application for Preliminary Permit

February 16, 1982.

Take notice that Grisdale Hill Company (Applicant) filed on October 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5510 to be known as the Skokomish South Fork River Hydropower Project located on South Fork of Skokomish River in Mason County, Washington. The project would be within Olympic National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Marilyn Tabor Shaw, Esquire, Suite 1100, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036.

Project Description—The proposed project would consist of: (1) A reinforced concrete and natural rock diversion structure with negligible storage; (2) a diversion canal; (3) a steel penstock 200 feet long; (4) a powerhouse containing a turbine generator with 4 MW capacity and 23 GWh annual energy production; (5) transmission lines; and (6) appurtenant facilities. Generated power would be sold to Bonneville Power Administration or a local utility.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which time engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of those activities is $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)].

The Commission will accept application for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4187 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4908-001]

Mary Jane Ruderman Hirschey; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 16, 1982.

Take notice that on December 16, 1981, Mary Jane Ruderman Hirschey (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 4908) would be located on the Black River in the Town of Wilna, Village of Carthage,

Jefferson County, New York. Correspondence with the Applicant should be directed to: Mr. Stephen F. Burke, 620 Washington Avenue, Rensselaer, New York 12144.

Project Description—The existing facilities consist of: (1) 14-foot high, 125-foot long masonry and concrete overflow-type Dam A having crest elevation 717.9 feet msl; (2) 6-foot high, 115-foot long concrete gravity overflow-type Dam B; (3) 6-foot high, 290-foot long concrete gravity overflow-type Dam C; (4) a reservoir having a surface area of 8.5 acres and a storage capacity of 60 acre-feet at normal pool elevation 717.97 feet msl; (5) a forebay having trash racks; (6) a 24-foot deep steel frame/concrete panel open flume having 8 steel head gates and containing 11 turbines connected to four shafts; (7) a tailrace; and (8) appurtenant facilities.

Applicant proposes to redevelop the existing facilities and would: (1) Construct a new 116-foot long intake rack; (2) enlarge the forebay; (3) construct new intake gates; (4) construct a new powerhouse containing a new generating unit having a rated capacity of 2,450-kW at a head of 14 feet and a flow of 2,330 c.f.s.; (5) rehabilitate the turbines and install 4 new generators having a total rated capacity of 1,200-kW at a head of 14 feet and a flow of 1,202 c.f.s.; (6) construct a 4.2/23-kV substation; (7) construct a 500-foot long 23-kV transmission line; and (8) contruct a new tailrace having tailwater elevation 703.0 feet msl. Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 16,900,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 5, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). a competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS,," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4101 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-147-000]

Natural Gas Pipeline Co. of America; Application

February 16, 1982.

Take notice that on January 11, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-147-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas from Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import from Canada on a firm basis up to 100,000 Mcf of natural gas per day as well as any excess gas that may be available from day to day on a best-efforts basis all in accordance with a precedent agreement and a *pro forma* gas purchase contract between Applicant and TransCanada Pipe Lines Limited (TransCanada) dated January 29, 1981. Applicant states that such gas would be purchased from TransCanada commencing November 1, 1984, and would be delivered to Great Lakes Gas Transmission Company (Great Lakes) for and on behalf of Applicant at an existing point of interconnection between the pipeline facilities of TransCanada and Great Lakes on the international border near Emerson, Manitoba. Applicant states that Great Lakes would then transport such gas to a point of interconnection with Michigan Wisconsin Pipe Line Company which in turn would transport the gas to a point of interconnection with Applicant's system.

It is stated that the price of the gas to be imported would be the Canadian export price as established by the National Energy Board of Canada. Applicant notes that the current price is $4.94 (U.S.) per million Btu. Applicant states that pursuant to the agreement sales and purchases would extend for a

period of 10 years from the date of initial deliveries in the total quantity of 365,000,000 Mcf.

Applicant states that it would be obligated each year to take or pay for 75 percent of the daily contract quantity of 100,000 Mcf per day less any volumes which it requests but which is not delivered by TransCanada. It is stated that Applicant would pay TransCanada the sum of the transportation daily demand rate, the transportation commodity rate and the Alberta border price for any take-or-pay volumes and that such charge would be limited to 105 percent of TransCanada's CD service rate in its Manatoba rate zone pursuant to TransCanada's Canadian tariff.

Applicant maintains that these additional long term Canadian supplies which it has agreed to buy from TransCanada represent an important part of the total supply which it plans to acquire to satisfy anticipated customer demands after 1984.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4173 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-86]

Natural Gas Pipeline Co. of America; Petition to Amend

February 16, 1982.

Take notice that on January 12, 1982,[1] Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicage, Illinois 60603, filed in Docket No. CP80-86 a petition to amend the order issued February 6, 1980, in the instant docket pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction and operation of an offshore gas supply facility in excess of the single project limitation of $3,500,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by order issued February 6, 1980, to construct and operate certain natural gas facilities with a single project limitation of $3,500,000.

It is stated that pursuant to advance payment agreements dated May 9, 1973, and December 19, 1973, with Aminoil Development, Inc. and Mesa Petroleum Company, respectively, a portion of the gas reserves to be produced from South Pass Area Block 78, offshore Louisiana, was committed to Petitioner. Petitioner further asserts that United Gas Pipe Line Company (United) and Southern Natural Gas Company (Southern) have also arranged to purchase gas reserves from this area. It is explained that to make these reserves available to their respective pipeline systems Petitioner, Southern and United agreed to enter into a construction, ownership; operating and maintenance agreement providing for the construction of approximately 2.3 miles of 16-inch pipeline and appurtenant facilities (South Pass 78 pipeline).

Petitioner submits that it is responsible for designing and supervising the construction of the South Pass 78 pipeline. It is stated that the problems encountered in attaching the pipeline riser, bad weather and repairs by the producer on its production platform delayed the project and caused the actual cost of the project to exceed the estimated cost of $3,300,000. Petitioner now requests amendment of the order of February 6, 1980, so as to authorize the construction and operation of the South Pass 78 pipeline at a cost of $5,185,252.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). all protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4169 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-156-000]

Natural Gas Pipeline Co. of America; Application

February 16, 1982.

Take notice that on January 15, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-156-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that pursuant to the terms of a gas transportation agreement dated May 18, 1981, it would transport up to 3,900 Mcf of natural gas per day which Southern has arranged to purchase from Sonat Exploration Company, Koch Industries, Inc. and General American Oil Company of Texas, in West Cameron Blocks 115 and 116, offshore Louisiana. It is asserted that Applicant would receive the subject gas at the existing sub-sea tap of U-T Offshore System (UTOS) in west Cameron Block 116, offshore Louisiana, and would redeliver equivalent volumes after reduction for gas attributable to processing to Southern at the existing interconnection between the offshore facilities of Michigan Wisconsin Pipe Line Company, (UTOS) and High Island Offshore System in West Cameron Block 167.

Applicant proposes to charge Southern a monthly demand charge based upon one-half of the then currently effective transportation rate being paid by Applicant to UTOS.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

[1] The application was initially tendered for filing on January 12, 1982; however, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 25, 1982; thus, filing was not completed until the latter date.

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4173 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-172-000]

Natural Gas Pipeline Co. of America and Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

February 16, 1982.

Take notice that on January 22, 1982, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-172-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and other appurtenant facilities in the Eugene Island area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to construct and operate 3.41 miles of 8⅝-inch pipeline and appurtenant facilities from a production platform in Eugene Island Block 345 to a sub-sea tap on an existing 16-inch pipeline in Eugene Island Block 367 jointly owned by Natural and Tennessee. The proposed facility is designed to enable Applicants to attach reserves in the Eugene Island Block 345 field. It is stated that 50 percent of the gas reserves have been committed to Natural pursuant to a gas purchase contract with Marathon Oil Company and 50 percent of the gas reserves have been committed to Tennessee pursuant to a gas purchase contract with Amerada Hess Corporation.

It is asserted that the proposed facilities would be constructed by Natural, operated by Tennessee and owned jointly by Natural and Tennessee with each having a 50 percent ownership percentage. Applicants estimate the cost of the proposed facilities to be $3,863,000 which would be financed initially through revolving credit arrangements, short-term loans and from funds on hand. Permanent financing would be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the porocedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4174 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5895-000]

Nevada Irrigation District; Application for Preliminary Permit

February 16, 1982.

Take notice that Nevada Irrigation District (NID/Applicant) filed on January 19, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5895 to be known as the Lower Scotts Flat Power Project located on Deer Creek at the Applicant's existing Lower Scotts Flat Dam in Nevada County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Fred Bandy, General Manager, Nevada Irrigation District, P.O. Box 1019, Grass Valley, California 95945.

Project Description—The proposed project consists of: (1) The NID's existing 325-foot long, 92-foot high concrete arch dam; (2) an existing reservoir with a usable storage capacity of 1,400 acre-feet at elevation 2,896.6 feet (m.s.l.); (3) a 2-foot diameter, 180-foot long penstock; (4) a powerhouse to contain a generating unit with a rated capacity of 200 kW, operating under a head of 91 feet; and (5) a 1.25-mile long, three-phase 12-kV transmission line to tie into an existing line. The average annual energy output is 840,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 24 months, during which it would conduct engineering, environmental and economic feasibility studies and prepare an application for an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is $40,000.

Competing Applications—This application was filed as a competing application to Charles J. Spinetta's application for Project No. 5228 filed on August 11, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In

accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4169 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP81-37-000]

Northwest Pipeline Corp.; Motion To Amend Order Granting Adjustment of Certain NGPA Section 108 Regulations

February 12, 1982.

On January 26, 1982, Northwest Pipeline Corporation (Northwest) filed with the Federal Energy Regulatory Commission (Commission) a motion to amend a Commission order issued November 6, 1981, which granted adjustment of certain regulations issued under section 108 of the Natural Gas Policy Act of 1978 (NGPA), pursuant to the Commission's authority in § 1.21 of the rules of practice and procedure.

Specifically, Northwest seeks to include 56 additional wells which it alleges are similarily situated to those 434 wells subject to the adjustment by the Commission order of November 6, 1981. Northwest states that these 56 wells are also connected to Northwest's gathering system in the San Juan Basin and were temporarily shut-in subsequent to the May 28, 1981 fire at Northwest's Ignacio gas processing plant. Northwest states that these 56 wells are presently qualified as stripper wells under section 108 of the NGPA or are the subject of pending applications for stripper well determination. Further, Northwest states that these wells were not included in its initial application and are connected to Northwest's system with production from the wells processed through the Ignacio plant and that the 56 wells were affected equally with those wells for which the regulations have already been waived by Commission order. Finally, Northwest states that the 56 wells are all wells in which El Paso Natural Gas Company (El Paso) has a leasehold or purchase interest and that Northwest's filing was made at the request of El Paso.

Any person desiring to be heard or to protest this petition should file, on or before March 19, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition in accordance with §§ 1.8 or 1.10 of the Commission's Rules of practice and procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4176 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5756-000]

Resource Investments; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 16, 1982.

Take notice that on December 14, 1981, Resource Investment (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5756) would be located on Rock Creek within the Sierra National Forest in Madera County, California near the town of Huntington Lake. Correspondence with the Applicant should be directed to: Mr. Fred G. Castagna, 1646 East Street, Redding, California 96001.

Project Description—The proposed project would consist of: (1) A 6-foot high diversion structure; (2) a 2,804-foot long, 36-inch diameter conduit; (3) a 2,689-foot long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 2,500 kW; and (5) a 5,100-foot long transmission line connecting the proposed powerhouse with the Southern California Edison Company's existing 12-kV transmission line north of the powerhouse.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an

agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 5, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4190 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-170-000]

Transcontinental Gas Pipe Line Corp.; Application

February 16, 1982.

Take notice that on January 21, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-170-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 25,875 dekatherms (dt) equivalent of natural gas per day which Con Ed has arranged to purchase from New York State Electric & Gas Corporation (NYSEG). It is asserted that NYSEG would deliver the gas to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) at an existing interconnection in Niagara County, New York, and Tennessee would make the gas available to Applicant at a point of interconnection at Riverdale, Bergen County, New Jersey. Applicant asserts that it would redeliver the gas to Con Ed at existing points of delivery between the two.

It is stated that the proposed service is for a term beginning on the date of initial deliveries and ending on October 31, 1982, or on the expiration of the "fuel shortage emergency period" as defined in § 284.201(e) of the Commission's regulations whichever occurs first. The transportation would be interruptible at Applicant's sole discretion and would be subordinate to existing transportation arrangements on Applicant's system and to Applicant's deliveries to Con Ed under Applicant's Rate Schedules CD, ACQ, LGA, GSS and WSS.

It is stated that Con Ed would initially pay Applicant 7.0 cents per dt equivalent delivered with 0.7 percent retention for compressor fuel and line loss make-up.

Con Ed has advised that it would burn the gas directly to generate electricity and/or steam and such gas would displace fuel oil which would otherwise be burned for such purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4177 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-173-000]

Texas Gas Transmission Corp.; Application

February 16, 1982.

Take notice that on January 22, 1981, Texas Gas Transmission Corporation

(Applicant), 3800 Federica Street, Owensboro, Kentucky 42301, filed in Docket No. CP82–173–000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 2-inch meter run at the Covington-Bruce sales meter station and for permission and approval to abandon the existing meter at such station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of a 2-inch meter run and related facilities at its Covington-Bruce sales meter station, Tipton County, Tennessee, in order to increase the capacity of the meter station from 360 Mcf per day to at least 2,500 Mcf per day. Applicant also proposes the abandonment and removal of the existing meter and all piping downstream of the side valve assembly.

It is stated that the cost to upgrade this meter station is estimated to be $25,800 which would be reimbursed by Covington. Title would remain with Applicant.

The upgrading of the Covington-Bruce sales meter station is necessitated, it is asserted, by the fact that a new industrial facility is currently under construction in Covington, Tennessee's south industrial park.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Engery Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–4192 Filed 2–16–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–177–000]

United Gas Pipe Line Co.; Application

February 16, 1982.

Take notice that on January 25, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82–177–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of a compressor unit and related facilities in the North Turtle Bayou Field, Terrebonne Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant purchases gas from Paragon Resources, Inc. (Paragon) from production wells located in the North Turtle Field. It is further stated that Paragon installed a 60 horsepower compressor and related equipment to handle the low wellhead pressure and to increase delivery pressure to a level adequate to meet Applicant's pipeline operating pressure.

Pursuant to an August 27, 1981, supplement to the original gas purchase contract, Applicant states that it would purchase, own and operate the subject field compressor. Applicant estimates the cost of the facilities to be $128,303 which cost would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–4193 Filed 2–16–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5863–000]

West Slope Power Co.; Application for Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

February 16, 1982.

Take notice that West Slope Power Company filed with the Federal Energy Regulatory Commission on January 8, 1982, an application for exemption for its Rock Creek Project No. 5863 from all or part of Part I of the Federal Power Act pursuant to 18 CFR Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980.[1] The proposed project would be located on Rock Creek within the Sierra National Forest in Madera County, California. Correspondence with the Applicant should be directed to: Mr. John S. Hansen, President, West Slope Power

[1] Pub. L. 96–294, 94 Stat. 611. Section 408 of the ESA amends *inter alia*, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705 and 2708).

Company, 59880 Cascadel Drive North, North Fork, California 93643.

Project Description—The proposed project would consist of: (1) a 5-foot high diversion structure; (2) a 24-inch diameter, 8,500-foot long penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 2,500 kW; and (4) a one-mile long, 12-kV transmission line connecting the project with an existing Southern California Edison Company's transmission line northwest of the powerhouse. The project would generate an estimated 7.8 million kWh of energy annually.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 5, 1982, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than August 2, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4194 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5864-000]

West Slope Power Co.; Application for Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

February 16, 1982.

Take notice that the West Slope Power Company filed with the Federal Energy Regulatory Commission on January 8, 1982, an application for exemption for its Jose Creek Project No. 5864 from all or part of Part I of the Federal Power Act pursuant to 18 CFR Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980.[1] The proposed project would be located on the Jose Creek in Fresno County, California. Correspondence with the Applicant should be directed to: John Hansen, West Slope Power Company, 59880 Cascadel Drive North, North Fork, California 93643.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete diversion weir; (2) an intake structure; (3) a 4,000-foot long, 30-inch diameter steel penstock; (4) a powerhouse containing one generating unit rated at 4,100 kW; and (5) a one-mile long transmission line. The average annual energy generation is estimated to be 10.8 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Widlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 5, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from

[1] Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends *inter alia*, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705 and 2708).

the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE "COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4196 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5837-000]

Weyerhaeuser Co.; Application for Preliminary Permit

February 16, 1982.

Take notice that Weyerhaeuser Company (Applicant) filed on December 30, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] Project No. 5837 to be known as the North Fork Snoqualmie Project located on North Fork Snoqualmie River, near North Bend in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Energy Management Group, Weyerhaeuser Company, Tacoma, Washington 98477.

Project Description—The proposed project would consist of: (1) a 20-foot high concrete diversion dam; (2) an 8,500-foot long, 10-foot diameter concrete pipeline; (3) three 800-foot long steel penstocks; (4) a powerhouse containing three generating units, each rated at 9.3 MW; and (5) a 4-mile long transmission line. The average annual energy generation is estimated to be 121.8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant proposes to conduct test borings at the site. All disturbed areas would be restored. The cost of the work is $500,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981)]; and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept application for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4196 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 11, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-AMERADA HESS CORPORATION			RECEIVED:	01/11/82	JA: OK				
8214907	12103	3501536588	108			JOSIE NOVOTNY #1	CEMENT WEST	11.9	NATURAL GAS PIPEL
-B R POLK INC			RECEIVED:	01/11/82	JA: OK				
8214908	12048	3508321621	103			DITTELMIER #1	SOUTH ORLANDO	0.0	EASON OIL CO
8214899	12047	3508321598	103			KINDSCHI #1	SOUTH ORLANDO	50.0	EASON OIL CO
-CROUCH PETROLEUM COMPANY			RECEIVED:	01/11/82	JA: OK				
8214908	12107	3502520463	103			GRABEAL #1	5 E GRIGGS	360.0	WESTERN GAS INTER
-CUMMINGS OIL CO			RECEIVED:	01/11/82	JA: OK				
8214891	11354	3507322552	103			GRIFFIN #1-11	SOONER TREND	9.8	CITIES SERVICE GA
-CURT BROWN DRILLING CO			RECEIVED:	01/11/82	JA: OK				
8214896	12032	3501720966	103			ZIMMERMAN #3	HALLETT	20.0	COLORADO GAS CONP
-FLINT & ASSOCIATES			RECEIVED:	01/11/82	JA: OK				
8214901	12049	3512321012	103			MOBIL #1	WEST ALLEN	3.7	SUN GAS CO
8214902	12050	3512321034	103			MOBIL #2	WEST ALLEN	3.7	SUN GAS CO
8214903	12052	3512321040	103			MOBIL #3	WEST ALLEN	3.7	SUN GAS CO
-GRACE PETROLEUM CORPORATION			RECEIVED:	01/11/82	JA: OK				
8214892	11844	3507920199	108			COLEMAN 1-5		21.0	ARKANSAS LOUISIAN
-HIGHLANDS GOODALL & GREER INC			RECEIVED:	01/11/82	JA: OK				
8214916	08719	3501721619	103			ROTHER #1-6	SW OKARCHE	0.0	PHILLIPS PETROLEU
-KENNEDY & MITCHELL INC			RECEIVED:	01/11/82	JA: OK				
8214894	12030	3505920987	103			MARKER #33-538	LAVERNE	150.0	COLORADO INTERSTA
8214895	12031	3505920987	103			MARKER #33-538	LAVERNE	150.0	COLORADO INTERSTA
-RICKS EXPLORATION CO			RECEIVED:	01/11/82	JA: OK				
8214904	12054	3507322497	103			HENNESSEY REALTY 36A	S E ALTONA	540.0	WARREN PETROLEUM
8214906	12057	3507322576	103			KUNNEMAN 35A	N E ALTONA	229.0	WARREN PETROLEUM
8214905	12055	3507322615	103			VOGHT 29A	WEST OKARCHE	16.0	PHILLIPS PETROLEU
-ROXANA PETROLEUM INC			RECEIVED:	01/11/82	JA: OK				
8214898	12046	3508321490	103			WADE #1	SOUTH ORLANDO	0.0	EASON OIL CO
-SHAMER OIL CO			RECEIVED:	01/11/82	JA: OK				
8214909	12108	3514321377	103			FARR LEASE WELL #1-A	MOUNDS DISTRICT	0.0	PHILLIPS PETROLEU
-SHAR-ALAN OIL CO			RECEIVED:	01/11/82	JA: OK				
8214897	12039	3509322013	103			GENE GARD #1	N E WAYNOKA	800.0	DELHI GAS PIPELIN
-TEROMA RESOURCES INC			RECEIVED:	01/11/82	JA: OK				
8214893	11953	3507323137	103			STALDER #1	SOONER TREND	70.0	PANHANDLE EASTERN
-W B WILSON			RECEIVED:	01/11/82	JA: OK				
8214910	12113	3507122198	103			STATE "13" #8	UNDESIGNATED	4.1	CHASE GATHERING S
8214911	12114	3507122260	103			STATE "36" #3	UNDESIGNATED	9.1	CHASE GATHERING S
8214912	12115	3507122261	103			STATE "36" #4	UNDESIGNATED	9.1	CHASE GATHERING S
8214913	12116	3507122259	103			STATE "36" #5	UNDESIGNATED	9.2	CHASE GATHERING S
8214914	12117	3507122285	103			STATE "36" #7	UNDESIGNATED	10.9	CHASE GATHERING S
8214915	12118	3507122286	103			STATE "36" #8	UNDESIGNATED	12.7	CHASE GATHERING S

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-A A LOLLAR				RECEIVED:	01/15/82	JA: PA			
8215188	6611	3706521837		108		MCCLURE #10	REED-DEEMER	18.0	CONSOLIDATED GAS
8215189	6613	3706521487		108		MCCLURE #3	REED-DEEMER	18.0	CONSOLIDATED GAS
8215182	6605	3706521488		108		MCCLURE #4	REED-DEEMER	18.0	CONSOLIDATED GAS
8215183	6606	3706521489		108		MCCLURE #5	REED-DEEMER	18.0	CONSOLIDATED GAS
8215184	6607	3706521490		108		MCCLURE #6	REED-DEEMER	18.0	CONSOLIDATED GAS
8215185	6608	3706521491		108		MCCLURE #7	REED-DEEMER	18.0	CONSOLIDATED GAS
8215186	6609	3706521492		108		MCCLURE #8	REED-DEEMER	18.0	CONSOLIDATED GAS
8215187	6610	3706521842		108		MCCLURE #9	REED-DEEMER	18.0	CONSOLIDATED GAS
-ADOBE OIL & GAS CORPORATION				RECEIVED:	01/15/82	JA: PA			
8215074	10018	3706326028		103		MALISSA MATHEWS #1	DAYTON	24.0	INDUSTRIAL ENERGY
-ANGERMAN ASSOCIATES INC				RECEIVED:	01/15/82	JA: PA			
8215141	9845	3706326025		103		VERNON E HILL #3-IND-26025	W PENNA-UPPER DEVONIA	45.0	PEOPLES NATURAL G
-ARROWHEAD GAS PRODUCERS INC				RECEIVED:	01/15/82	JA: PA			
8215142	9262	3712329108		107-TF		G BAUERLE #1	FREEHOLD	48.0	COLUMBIA GAS TRAN
-C & M CO				RECEIVED:	01/15/82	JA: PA			
8215082	7437	3706320139		108		D G WERTZ #B-1	YOUNG	2.0	PEOPLES NATURAL G
8215145	7435	3706322795		108		HERBERT L JEWART #2	WASHINGTON	0.0	T W PHILLIPS GAS
8215083	7659	3706324863		108		INDIANA COUNTRY CLUB #1	WHITE	7.8	COLUMBIA GAS TRAN
8215084	7660	3706324864		108		INDIANA COUNTRY CLUB #2	WHITE	7.8	COLUMBIA GAS TRAN
8215143	7233	3706323550		108		JAMES E MARSHALL #1	ARMSTRONG	3.7	T W PHILLIPS GAS
8215144	7234	3706323527		108		R & P COAL CO #1	ARMSTRONG	12.3	T W PHILLIPS GAS
8215077	7079	3706322765		108		RICHARD P RINKUS CONST CO #1	WHITE	9.1	PEOPLES NATURAL G
8215076	7078	3706322788		108		RICHARD RINKUS CONST CO #2	WHITE	9.1	PEOPLES NATURAL G
8215079	7085	3706322790		108		RICHARD RINKUS CONST CO #3	WHITE	13.9	PEOPLES NATURAL G
8215078	7084	3706322791		108		RICHARD RINKUS CONST CO #4	WHITE	13.9	PEOPLES NATURAL G
8215081	8898	3706323481		108		W A BCHBBTH #1-TR-1	WHITE	18.0	PEOPLES NATURAL G
8215080	7094	3706323487		108		W A SCHROTH #1-TR-2	WHITE	18.0	PEOPLES NATURAL G
-CABOT OIL & GAS CORP				RECEIVED:	01/15/82	JA: PA			
8215087	10058	3703920900		102-2		ALBERT MCNAMARA #3	EAST MEAD	50.0	TENNESSEE GAS PIP
8215096	10059	3703920900		107-TF		ALBERT MCNAMARA #3	EAST MEAD	50.0	TENNESSEE GAS PIP
8215093	10070	3703920756		102-2		ANDREW BACHLEDA #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8215102	10071	3703920756		107-TF		ANDREW BACHLEDA #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8215085	9596	3708520239		102-2		CRIST KURTZ #1	DEER CREEK	50.0	TENNESSEE GAS PIP
8215094	9597	3703920239		107-TF		CRIST KURTZ #1	DEER CREEK	50.0	TENNESSEE GAS PIP
8215088	10060	3703920876		102-2		DALE HAMILTON #2	EAST MEAD	50.0	TENNESSEE GAS PIP
8215097	10061	3703920876		107-TF		DALE HAMILTON #2	EAST MEAD	50.0	TENNESSEE GAS PIP
8215150	9977	3703921396		102-2		DAVID CLARK #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8215158	9978	3703921396		107-TF		DAVID CLARK #1	GREENWOOD	50.0	TENNESSEE GAS PIP
8215146	9963	3703920829		102-2		DAVID HOLLER #1	WAYNE	50.0	TENNESSEE GAS PIP
8215152	9962	3703920829		107-TF		DAVID HOLLER #1	WAYNE	50.0	TENNESSEE GAS PIP
8215160	9981	3703921371		107-TF		DELILAH BELL #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215098	10064	3703920830		102-2		ILA SMITH #1	RANDOLPH	50.0	TENNESSEE GAS PIP
8215099	10065	3703920820		107-TF		ILA SMITH #1	RANDOLPH	50.0	TENNESSEE GAS PIP
8215156	9974	3703921282		107-TF		JAMES BARR #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215149	9969	3703921316		102-2		JOHN L BURGER #1	UNION	50.0	TENNESSEE GAS PIP
8215155	9970	3703921316		107-TF		JOHN L BURGER #1	UNION	50.0	TENNESSEE GAS PIP
8215086	10056	3703920738		102-2		JOSEPH L MULLET #1	EAST MEAD	50.0	TENNESSEE GAS PIP
8215095	10057	3703920738		107-TF		JOSEPH L MULLET #1	EAST MEAD	50.0	TENNESSEE GAS PIP
8215092	10068	3703921314		102-2		KEBERT DEVELOPERS INC #A-2	GREENWOOD	50.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215101	10069	3703921314		107-TF		KEBERT DEVELOPERS INC #A-2	GREENWOOD	50.0	TENNESSEE GAS PIP
8215091	10066	3703921315		102-2		KEBERT DEVELOPERS INC #A-3	GREENWOOD	50.0	TENNESSEE GAS PIP
8215100	10067	3703921315		107-TF		KEBERT DEVELOPERS INC #A-3	GREENWOOD	50.0	TENNESSEE GAS PIP
8215089	10062	3703920728		102-2		NOAH WENGERD JR #1	RANDOLPH	50.0	TENNESSEE GAS PIP
8215098	10063	3703920728		107-TF		NOAH WENGERD JR #1	RANDOLPH	50.0	TENNESSEE GAS PIP
8215148	9966	3703921307		102-2		ROY DOUTHITT #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215154	9967	3703921307		107-TF		ROY DOUTHITT #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215157	9976	3703921271		107-TF		WAGNERCREST FARMS #2	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215151	9979	3703921262		102-2		WALTER BAILLY #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8215159	9980	3703921262		107-TF		WALTER BAILLY #1	FAIRFIELD	50.0	TENNESSEE GAS PIP
8215147	9965	3703920698		102-2		WILLIAM PRATHER #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215153	9964	3703920698		107-TF		WILLIAM PRATHER #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
-CARDINAL OIL CO				RECEIVED:	01/15/82	JA: PA			
8215165	8366	3703920857		107-TF		CHARLES GIEWONT #80-37 PA CRA-20857	CONNEAUT	0.0	COLUMBIA GAS TRAN
8215163	8364	3703970639		107-TF		KARL M MARTIN #80-3 PA CRA-20639	CONNEAUT	0.0	COLUMBIA GAS TRAN
8215161	8362	3703920611		107-TF		S DILLINGER #80-11 PA CRA-20631	CONNEAUT	0.0	COLUMBIA GAS TRAN
8215164	8365	3703970638		107-TF		W N WHEELER #80-16 PA CRA-20638	CONNEAUT	0.0	COLUMBIA GAS TRAN
8215162	8363	3703920363		107-TF		WILLIAM R LUTZ #80-9 PA CRA-20636	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/15/82	JA: PA			
8215167	9985	3703321117		102-2		BUTTERBAUGH BROS LND & TBR WN-1864	BURNSIDE	5.1	GENERAL SYSTEM PU
8215169	9983	3706326172		103		GERTURDE WILLIAMS WN-1841	MONTGOMERY	2.7	GENERAL SYSTEM PU
8215166	9984	3703321116		102-2		J L BROTHERS WN-1863	BURNSIDE	5.0	GENERAL SYSTEM PU
8215168	9982	3703321039		103		JOSEPH D TONKIN WN-1831	BURNSIDE	1.1	GENERAL SYSTEM PU
8215170	8458	3706521792		108		R GEORGE CHERIAN WN-1748	OLIVER	17.2	GENERAL SYSTEM PU
-DAVID GAON AND SPENCER STILLMAN				RECEIVED:	01/15/82	JA: PA			
8215173	9986	3708520205		107-TF		BIELOBOCKY #1		60.0	NATIONAL FUEL GAS
8215174	9987	3708520187		107-TF		ROSEN #1		20.0	NATIONAL FUEL GAS
8215175	9988	3708520204		107-TF		ROSEN #3		40.0	NATIONAL FUEL GAS
-DORAN & ASSOCIATES INC				RECEIVED:	01/15/82	JA: PA			
8215103	10013	3706326065		103		J EDDINGTON #1 KA-59	UPPER DEVONIAN SAND	30.0	COLUMBIA GAS TRAN
8215104	10015	3712921754		103		PAUL GRAFF #1 KZ-14	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
-DRUMMOND ENTERPRISES C/O J & J ENTE				RECEIVED:	01/15/82	JA: PA			
8215171	9939	3706326247		103		J R HILL & G D MACK #1	CANOE	0.0	T W PHILLIPS GAS
-FOX OIL & GAS INC				RECEIVED:	01/15/82	JA: PA			
8215172	9103	3706325062		102-4		WILLIAM LEWIS #2	MONTGOMERY	25.5	COLUMBIA GAS TRAN
-HAWLEY & BIRD				RECEIVED:	01/15/82	JA: PA			
8215181	9863	3706322363		103		R D BAUGHMAN SN 1683 #2-A	STANTON	18.3	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	01/15/82	JA: PA			
8215140	7425	3706320260		108		D G WERTZ #C-1 (195A)	YOUNG	2.7	PEOPLES NATURAL G
8215178	7429	3706322179		108		DAVID MILLER #1	E MAHONING	2.3	T W PHILLIPS GAS
8215179	7430	3706322180		108		DAVID MILLER #2	EAST MAHONING	2.3	T W PHILLIPS GAS
8215176	7409	3706321710		108		ENOS FISHER #1	SOUTH MAHONING	1.9	T W PHILLIPS GAS
8215180	7431	3706322172		108		ENOS FISHER #2	SOUTH MAHONING	1.9	T W PHILLIPS GAS
8215177	7410	3706321930		108		FLOYD BOARTS #1	S MAHONING	1.0	T W PHILLIPS GAS
8215196	7411	3706323292		108		NORMAN L WINEBARK #1	CANOE	11.7	T W PHILLIPS GAS
-J C ENTERPRISES				RECEIVED:	01/15/82	JA: PA			
8215105	10017	3706326456		102-2		IND-26436 WILLIAM HADDEN EST 160-3	CHERRY TREE	365.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	01/15/82	JA: PA			
8215107	10074	3706326367		103		HERMAN BERNARDO PS-355	CANOE	35.0	CONSOLIDATED GAS
8215106	10073	3703321114		103		JAMES HOYT PS-359	FERGUSON	77.0	CONSOLIDATED GAS
-LAWRENCE BLAIR				RECEIVED:	01/15/82	JA: PA			
8215075	10012	3700500000		108		JOSEPH BLAIR #1	SILVIS HOLLOW	147.2	APOLLO GAS CO
-MONROE RESOURCES LTD				RECEIVED:	01/15/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215194	9933	3712326967		107-TF		ABE BYLER #1	LOTTSVILLE	20.0	COLUMBIA GAS TRAN
8215192	9931	3712327577		107-TF		AMOS SHELTER #1	SUGAR GROVE	60.0	COLUMBIA GAS TRAN
8215195	9934	3712326966		107-TF		ANTHONY T LAMBERT #1	SUGAR GROVE	20.0	COLUMBIA GAS TRAN
8215191	9930	3712327183		107-TF		HARRY SARVIS #1	SUGAR GROVE	20.0	COLUMBIA GAS TRAN
8215190	9917	3712327867		107-TF		LEVI SHETLER #1	FREEHOLD	60.0	COLUMBIA GAS TRAN
8215193	9932	3712327898		107-TF		MAX WARNER #3	SUGAR GROVE	60.0	COLUMBIA GAS TRAN
-PENCO GAS INC				RECEIVED:	01/15/82	JA: PA			
8215198	9936	3708521183		108		HAZEL LAFFERTY #3 ARM 1183	W PA UPPER DEVONIAN S	6.5	APOLLO GAS CO
8215200	9938	3708521215		108		IRA L SMITH #3 ARM 1215	W PA UPPER DEVONIAN S	3.5	APOLLO GAS CO
8215197	9935	3708521133		108		J M ARTMAN #2 ARM 1133R	W PA UPPER DEVONIAN S	3.4	APOLLO GAS CO
8215199	9937	3708520685		108		REICHENBAUGH #2 ARM 685	W PA UPPER DEVONIAN S	4.2	APOLLO GAS CO
-PHILLIPS PRODUCTION CO				RECEIVED:	01/15/82	JA: PA			
8215204	9940	3703321157		103		CHARLES F HUDSON JR ET AL #1		30.0	
8215202	9912	3712921914		103		JOHN J HORNOCK ET UX #1		25.0	
8215203	9913	3712921922		103		L R KEITH AND SALLY A KEITH #1		45.0	
8215201	9854	3712921897		103		MARGARET B MILKS #1		25.0	
-TRI-COUNTY OIL & GAS INC				RECEIVED:	01/15/82	JA: PA			
8215205	9633	3705900000		108		FINNEGAN #1	RICHHILL TOWNSHIP	3.0	COLUMBIA GAS TRAN
8215206	9634	3705900000		108		GOODWIN #1	RICHHILL TOWNSHIP	3.0	COLUMBIA GAS TRAN
-VINEYARD OIL & GAS CO				RECEIVED:	01/15/82	JA: PA			
8215117	10053	3704921264		107-TF		AKINS #1 E#	NORTH EAST	12.0	NATIONAL FUEL GAS
8215118	10054	3704921294		107-TF		BARNES E-1039	LEBOEUF	50.0	NATIONAL FUEL GAS
8215116	10052	3704921089		107-TF		BARNHART #1 E-986	NORTH EAST	30.0	NATIONAL FUEL GAS
8215114	10050	3704921150		107-TF		BOYD #1 E-949	NORTH EAST	12.0	NATIONAL FUEL GAS
8215113	10049	3704921153		107-TF		MAGEE #1 E-982	LEBOEUF	150.0	COLUMBIA GAS TRAN
8215109	10045	3704921039		107-TF		MARSH #1 E-868	DRUMLIN	28.8	NATIONAL FUEL GAS
8215115	10051	3704921111		107-TF		MARTENS #3 E#-933	LEBOEF	30.0	NATIONAL FUEL GAS
8215112	10048	3704921042		107-TF		MERSKI #1 E-879	NORTH EAST	14.4	NATIONAL FUEL GAS
8215110	10046	3704921355		107-TF		NIEMEYER #1	VENANGO	14.3	NATIONAL FUEL GAS
8215111	10047	3704921265		107-TF		OBERLANDER #1 E#	BRUMLIN	24.0	NATIONAL FUEL GAS
8215119	10055	3704920963		107-TF		ROTTHOFF #1 E-841	NORTH EAST	0.0	NATIONAL FUEL GAS
8215108	10044	3704920962		107-TF		WHEELER #1 E-854	NORTH EAST	12.0	NATIONAL FUEL GAS
-WAINOCO OIL & GAS CO				RECEIVED:	01/15/82	JA: PA			
8215132	10001	3703920735		107-TF		ALBERT F SCOTT #1 (W-78)	ATHENS (ATHENS)	12.5	COLUMBIA GAS TRAN
8215137	10006	3703920822		107-TF		ANTHONY C & IRENE IZBICKI #1 (W-85)	ATHENS (BLOOMFIELD)	5.0	COLUMBIA GAS TRAN
8215124	9993	3703921099		107-TF		ANTONI W PELC #2 (W-93)	ATHENS (BLOOMFIELD)	60.0	COLUMBIA GAS TRAN
8215131	10000	3703920732		107-TF		ARCHIE LINGO #1 (W-75)	ATHENS (STEUBEN)	14.0	COLUMBIA GAS TRAN
8215135	10004	3703920743		107-TF		DAVID C SLUSSER #1 (W-81)	ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
8215208	10010	3703920729		107-TF		DENNIS A PHILLIPS #1 (W-73)	ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
8215123	9992	3703921109		107-TF		DONALD J PARKIN #1 (W-96)	ATHENS (BLOOMFIELD)	12.0	COLUMBIA GAS TRAN
8215136	10005	3703920887		107-TF		ELIZABETH WM & RICHARD ROEDER 1-W79	ATHENS (ROME)	50.0	COLUMBIA GAS TRAN
8215207	10009	3703921102		107-TF		FRANK KOZIK #1 (W-90)	ATHENS (BLOOMFIELD)	17.0	COLUMBIA GAS TRAN
8215138	10007	3703920978		107-TF		G B HEINZELMAN #1 (W-87)	ATHENS (BLOOMFIELD)	18.0	COLUMBIA GAS TRAN
8215139	10008	3703921097		107-TF		G B HEINZELMAN #2 (W-88)	ATHENS (BLOOMFIELD)	6.0	COLUMBIA GAS TRAN
8215126	9995	3703920731		107-TF		GEORGE BANCROFT #2 (W-74)	ATHENS (ATHENS)	10.0	COLUMBIA GAS TRAN
8215134	10003	3703920785		107-TF		GRACE CLARK SILL EST #1 (W-83)	ATHENS (ATHENS)	24.0	COLUMBIA GAS TRAN
8215127	9996	3703920734		107-TF		HERBERT J KIMMY #1 (W-77)	ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
8215120	9989	3703921137		107-TF		JAMES FIORETTI #1 (W-106)	ATHENS (BLOOMFIELD)	8.0	COLUMBIA GAS TRAN
8215209	10011	3703921138		107-TF		JAMES R & CONNIE MILLER #1 (W-107)	ATHENS (BLOOMFIELD)	13.0	COLUMBIA GAS TRAN
8215125	9994	3703921101		107-TF		MARION W ALSDORF #1 (W-91)	ATHENS (BLOOMFIELD)	30.0	COLUMBIA GAS TRAN
8215130	9999	3703920733		107-TF		MILDRED R MERRY #1 (W-76)	ATHENS (ATHENS)	18.0	COLUMBIA GAS TRAN
8215121	9990	3703921133		107-TF		RICHARD A TROJAK #1 (W-102)	ATHENS (BLOOMFIELD)	14.0	COLUMBIA GAS TRAN
8215133	10002	3703920786		107-TF		ROBERT L DALLAS #1 (W-80)	ATHENS (ROME)	80.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215128	9997	3703920716		107-TF		SCOTT J PRESTON #1 (W-71)	ATHENS (ATHENS)	5.0	COLUMBIA GAS TRAN
8215129	9998	3703920787		107-TF		SETH P BALLOG #1 (W-84)	ATHENS (BLOOMFIELD)	24.0	COLUMBIA GAS TRAN
8215122	9991	3703921132		107-TF		STEVE JANOSKI #1 (W-101)	ATHENS (BLOOMFIELD)	17.0	COLUMBIA GAS TRAN
-WOODSIDE PRODUCERS & INVESTORS				RECEIVED:	01/15/82	JA: PA			
8215212	9813	3700520343		108		H BEYSTONE #1	CHERRY RUN FIELD	2.7	APOLLO GAS CO
8215210	9811	3700500088		108		H BURKETT #1	GIRTY FIELD	1.7	APOLLO GAS CO
8215213	9814	3700520302		108		R ROWLEY #1	GIRTY FIELD	2.7	APOLLO GAS CO
8215211	9812	3700520345		108		S LEWIS #1	GIRTY FIELD	2.7	APOLLO GAS CO
TEXAS RAILROAD COMMISSION									
-AKERS AND FULTZ INC				RECEIVED:	01/13/82	JA: TX			
8215016	F-09-044741	4223732941		103		ROY CHERRYHOMES E-13 19093	MARINA MAG (CONGL)	8.9	CITIES SERVICE GA
8215011	F-09-044528	4223732818		103		ROY CHERRYHOMES F #2-C 74688	MARINA MAG CONGLOMERA	17.8	CITIES SERVICE GA
8215009	F-09-044523	4223732042		103		ROY CHERRYHOMES F #3 76366	MARINA MAG (CONGL)	9.0	CITIES SERVICE GA
8215010	F-09-044526	4223732482		103		TOM DAVIS #5 19291	MARINA MAG (CONGL)	117.8	CITIES SERVICE GA
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	01/13/82	JA: TX			
8214926	F-04-034073	4201455000		108		BARNES ROY "A" #2	ED VELA (6700')	18.0	TRUNKLINE GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	01/13/82	JA: TX			
8215049	F-8A-044825	4230530220		102-4		F R NOLTE #2	WILSON WEST (STRAWN)	38.0	
8215046	F-08-044817	4213533433		103		GOLDSMITH LANDRETH (DEEP) UNIT #216	GOLDSMITH (CLEARFORK)	18.6	PHILLIPS PETROLEU
8215047	F-08-044818	4213533476		103		GOLDSMITH LANDRETH (DEEP) UNIT #229	GOLDSMITH (CLEARFORK)	1.5	PHILLIPS PETROLEU
8215048	F-08-044819	4213533485		103		GOLDSMITH LANDRETH DEEP UNIT #211	GOLDSMITH (CLEARFORK)	2.2	PHILLIPS PETROLEU
-ANCIL T FULLER				RECEIVED:	01/13/82	JA: TX			
8214931	F-02-037319	4223931594		102-4	103	FULLER-KOOP FROST #1	KOOP BEND (6200)	0.0	
-ANDERSON PETROLEUM INC				RECEIVED:	01/15/82	JA: TX			
8214959	F-7C-040498	4243532447		103	107-TF	GUY WYATT ASKEW A 1-43	SAWYER (CANYON)	100.0	SUTTON COUNTY PIP
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/13/82	JA: TX			
8215012	F-7C-044650	4223510319		108		W M NOELKE EST #44	SIXTY SEVEN/CANYON	7.9	NORTHERN NATURAL
-ARK ENERGY INC				RECEIVED:	01/13/82	JA: TX			
8215043	F-03-044805	4233930416		102-4		GREGG SAUNDERS #1 (ID 83128)	INDIAN HILLS N (YEGUA	185.8	TRUNKLINE GAS CO
-BELCO PETROLEUM CORPORATION				RECEIVED:	01/13/82	JA: TX			
8214976	F-7C-043559	4210533240		103		UNIVERSITY 5-13	INGHAM QUEENS	0.0	EL PASO NATURAL G
-BLAIR ENERGY INC				RECEIVED:	01/13/82	JA: TX			
8214938	F-10-037786	4206530836		103		BURNETT #1	PANHANDLE-CARSON	0.0	PANHANDLE EASTERN
8214937	F-10-037785	4206508440		103		BURNETT #2	PANHANDLE - CARSON	0.0	PANHANDLE EASTERN
-BORDER EXPLORATION CO				RECEIVED:	01/13/82	JA: TX			
8214967	F-7B-042086	4214330727		103		W T FULFER G U #9-P	X-RAY (MARBLE FALLS)	40.0	VALERO TRANSMISSI
-CHEVRON U S A INC				RECEIVED:	01/13/82	JA: TX			
8215067	F-8A-044933	4241531965		103		SACROC UNIT 34-11	KELLY-SNYDER	122.0	EL PASO NATURAL G
8215069	F-08-044935	4249531329		103		SEALY & SMITH FOUNDATION & #3	ARENOSO (STRAWN DETRI	26.0	PHILLIPS PETROLEU
8215068	F-08-044934	4249531312		103		W E BAIRD #18-67C	KEYSTONE (CLEAR FORK)	93.0	TRANSWESTERN PIPE
-CITIES SERVICE COMPANY				RECEIVED:	01/13/82	JA: TX			
8215003	F-08-044180	4200332806		103		NORTH DOLLARHIDE UNIT #314	DOLLARHIDE (DEVONIAN)	149.0	UNION OIL CO OF C
-CLARION RESOURCES INC				RECEIVED:	01/13/82	JA: TX			
8214998	F-7B-044183	4214300880		102-4	103	HAGGARD 2	LIBERTY OAKS (BIG SAL	18.0	NORTHERN GAS PROD
-CLAYTON W WILLIAMS JR				RECEIVED:	01/13/82	JA: TX			
8214934	F-03-037625	4205100000		102-2		BRINKMAN-SCHULTZ UNIT -A- #1	GIDDINGS	0.0	VALERO TRANSMISSI
8214925	F-03-038282	4205100000		102-2		EMANUEL CHMELAR #1	GIDDINGS	0.0	VALERO TRANSMISSI
-COASTAL OIL & GAS CORP				RECEIVED:	01/13/82	JA: TX			
8215022	F-10-044756	4237530868		103		MASTERSON "B" 8362P	PANHANDLE (RED CAVE)	8.0	COLORADO INTERSTA
8215021	F-10-044755	4237530863		103		MASTERSON "B" 8369P	PANHANDLE (RED CAVE)	18.0	COLORADO INTERSTA
-CONOCO INC				RECEIVED:	01/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215050	F-04-044830	4242700000		108		FRIO E UNIT B #34	RINCON (E-1 AND 2)	3.0	TENNESSEE GAS PIP
8215027	F-04-044768	4213100000		108		ROBERT DRISCOLL #330	CONOCO-DRISCOLL (2ND	1.7	TRANSCONTINENTAL
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/13/82	JA: TX			
8214956	F-10-040048	4229531011		102-4	103	LATHAM #1	MAY (BASAL MORROW)	1450.0	DIAMOND SHAMROCK
8214986	F-7C-043916	4238331982		103		UNIVERSITY 2-31 #1	SPRAYBERRY (TREND ARE	0.0	PHILLIPS PETROLEU
8214985	F-7C-043915	4238331950		103		UNIVERSITY 58-14 #1	SPRAYBERRY (TREND ARE	0.0	PHILLIPS PETROLEU
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	01/13/82	JA: TX			
8215042	F-7B-044796	4242932772		103		TED BOTT #2	STEPHENS COUNTY REGUL	27.0	WARREN PETROLEUM
8215041	F-7B-044795	4242932774		103		TED BOTT #3	STEPHENS COUNTY REGUL	27.0	WARREN PETROLEUM
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/13/82	JA: TX			
8214932	F-10-037473	4248326031		108		BOREN #1	PANHANDLE - EAST	22.0	EL PASO NATURAL G
8214997	F-10-044099	4248333408		108		GOOCH #1-A	PANHANDLE EAST-BROWN	28.0	EL PASO NATURAL G
8214993	F-10-044089	4217934747		108		HUDGINS #3-C	PANHANDLE EAST	24.0	EL PASO NATURAL G
8214929	F-10-036586	4288726130		108		LAYCOCK #13	PANHANDLE EAST	19.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	01/13/82	JA: TX			
8215058	F-10-044880	4223300000		108		DIVINS #2RC	WEST PANHANDLE	13.1	PHILLIPS PETROLEU
-ESENJAY PETROLEUM CORP				RECEIVED:	01/13/82	JA: TX			
8214978	F-04-043698	4240931497		103		G M TAYLOR GAS UNIT #2	ST PAUL NW (5100)	198.0	TRANSCONTINENTAL
-EXXON CORPORATION				RECEIVED:	01/13/82	JA: TX			
8215006	F-08-044259	4208332881		103		FULLERTON CLEARFORK UNIT #2117	FULLERTON	15.0	PHILLIPS PETROLEU
*8215020	F-04-044753	4227331537		102-4		K R BORREGOS A-28-BT (09845)	STRATTON (G-00)	88.0	ARMCO STEEL CO
8214983	F-10-043889	4219530809		103		OIL DEVELOPMENT CO OF TX #6L	HANSFORD (MARMATON)	55.0	NORTHERN NATURAL
8214984	F-8A-043891	4216532145		103		ROBERTSON CLFK UNIT #4701	ROBERTSON N (CLFK 710	15.0	PHILLIPS PETROLEU
8215072	F-03-045437	4220131212		103		WEBSTER FIELD UNIT #0159	WEBSTER	36.0	HOUSTON PIPELINE
8215073	F-03-045438	4220131211		103		WEBSTER FIELD UNIT #2309	WEBSTER	41.1	HOUSTON PIPELINE
8215051	F-03-044847	4220131138		103		WEBSTER FIELD UNIT #2771	WEBSTER	36.5	HOUSTON PIPELINE
8215071	F-03-045436	4220131234		103		WEBSTER FIELD UNIT #2772	WEBSTER	222.7	HOUSTON PIPELINE
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	01/13/82	JA: TX			
8214968	F-06-042149	4242338470		103		KINSEY #3	CHAPEL HILL NE (TRAVI	0.0	ETEXAS PRODUCERS
-GETTY OIL COMPANY				RECEIVED:	01/13/82	JA: TX			
8214972	F-02-043482	4202500000		108		E G RUCKELROY GU #2 REC #66658	SOUTH TULETA (1175)	24.0	HOUSTON PIPELINE
-GULF OIL CORPORATION				RECEIVED:	01/13/82	JA: TX			
8215061	F-08-044917	4247510124		108		HUTCHINGS STOCK ASSN #1024	WARD-ESTES NORTH	2.0	CABOT CORP
8215054	F-08-044850	4247502169		108		HUTCHINGS STOCK ASSN #54	WARD-ESTES NORTH	1.0	CABOT CORP
8215053	F-08-044849	4247502176		108		HUTCHINGS STOCK ASSN #61	WARD-ESTES NORTH	1.0	CABOT CORP
8215052	F-08-044848	4247502198		108		HUTCHINGS STOCK ASSN #75	WARD-ESTES NORTH	1.0	CABOT CORP
8215060	F-08-044916	4247510750		108		HUTCHINGS STOCK ASSN #795	WARD-ESTES NORTH	1.0	CABOT CORP
8215040	F-10-044794	4223300000		108		QUINN #1	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215032	F-10-044786	4223300000		108		QUINN #10	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215031	F-10-044785	4223300000		108		QUINN #13	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215030	F-10-044782	4223300000		108		QUINN #14	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215029	F-10-044781	4223300000		108		QUINN #15	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215028	F-10-044780	4223300000		108		QUINN #16	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215039	F-10-044795	4223300000		108		QUINN #2	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215038	F-10-044792	4223300000		108		QUINN #3	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215037	F-10-044791	4223300000		108		QUINN #4	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215036	F-10-044790	4223300000		108		QUINN #5	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215035	F-10-044789	4223300000		108		QUINN #6	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215034	F-10-044788	4223300000		108		QUINN #8	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8215033	F-10-044787	4223300000		108		QUINN #9	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
-HNG OIL COMPANY				RECEIVED:	01/13/82	JA: TX			
8214982	F-04-043856	4250531100		107-TF		ADRIAN MARTINEZ #5	J C MARTIN (LOBO)	406.0	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	01/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214950	F-03-039197	4214900000		102-2	103	HATTIE KOENNING #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8214933	F-03-037575	4228700000		102-2	103	STORM #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-INDIAN WELLS OIL CO				RECEIVED:	01/13/82	JA: TX			
8215045	F-7C-044814	4223531799		103		PROBANDT 70-4	PROBANDT (CANYON)	91.5	CRA INC
8214981	F-7C-043845	4241331064		103	107-TF	UNIVERSITY 17A-2	UNIVERSITY 53 (CANYON	125.0	CRA INC
-J I GINNINGS				RECEIVED:	01/13/82	JA: TX			
8214970	F-09-042710	4207732162		103		NORTH DEER CREEK UNIT 1	PEDEN (CADDO)	22.0	SANFORD F FAGADAU
-J R PARTEN				RECEIVED:	01/13/82	JA: TX			
8214996	F-03-044097	4231330290		103		ANDREW ADAMS UNIT #1	FORT TRINIDAD E (EDWA	40.0	RAINBOW PIPE LINE
8214994	F-03-044095	4231330262		103		RICHARDSON-IVEY UNIT #1	FORT TRINIDAD E (EDWA	16.0	RAINBOW PIPE LINE
8214995	F-03-044096	4231330276		103		WILL IVEY UNIT #1	FORT TRINIDAD E (EDWA	16.0	RAINBOW PIPE LINE
-JACKSON EXPLORATION INC				RECEIVED:	01/13/82	JA: TX			
8214963	F-8A-041579	4211531568		103		HARRIS #1	TEX-HAMON (DEAN)	0.0	ADOBE OIL & GAS C
-JEM PETROLEUM CORP				RECEIVED:	01/13/82	JA: TX			
8215070	F-8A-044936	4203330684		103		MCKNIGHT #1	LUCY NE (STRAWN-B) FI	36.0	SUN OIL CO
-JOHN A NEWMAN				RECEIVED:	01/13/82	JA: TX			
8215082	F-7B-044122	4208300000		102-4		NEWMAN & SCOTT GEO ROE 3-A	MARY SUSAN JENNINGS F	175.0	LONE STAR GAS CO
-JOHN L COX				RECEIVED:	01/13/82	JA: TX			
8214945	F-7C-038017	4246131762		103		DOLLIE #3 (NA)	SPRABERRY (TREND AREA	10.0	PHILLIPS PETROLEU
8214927	F-08-034696	4231732330		103		GUY MABEE #2-X (RRC #22794)	LACAFF (DEAN)	10.0	ALPINE OIL CO
8214943	F-08-038007	4231732354		103		MABEE #5-X (#22223)	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8214944	F-08-038008	4231700000		103		MABEE #6-X (#22223)	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8214941	F-08-037995	4231732353		103		MABEE "C" #9-X (22578)	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8214942	F-08-037996	4231732352		103		MABEE "D" #1-X (#22676)	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8214940	F-7C-037986	4238300000		103		ROCKER B C #1-X (#04476)	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8214946	F-038180	4231732336		103		VIVIAN HOWARD #1-X #22022	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
-KERR-MCGEE CORPORATION				RECEIVED:	01/13/82	JA: TX			
8214990	F-10-044815	4229500000		108		BRILLHART 1-854	KIOWA CREEK	0.0	NORTHERN NATURAL
-L R YOUNG				RECEIVED:	01/13/82	JA: TX			
8214938	F-7B-036547	4204932611		102-4		W R CHAMBERS F #1 (17120)	CHAMBERS (ELLEN)	20.0	ODESSA NATURAL CO
-LEEDE OIL & GAS INC				RECEIVED:	01/13/82	JA: TX			
*8215005	F-7C-044217	4210532766		103		UNIVERSITY 50 #15	FARMER (SAN ANDRES)	10.0	J L DAVIS
-MARALO INC				RECEIVED:	01/13/82	JA: TX			
8214991	F-08-044056	4200332767		103		HUMBLE KING #2	DEEP ROCK (DEVONIAN)	1.0	PHILLIPS PETROLEU
-MCFARLANE OIL CO INC				RECEIVED:	01/13/82	JA: TX			
8214971	F-02-042728	4246900000		103		PICKERING & BUHLER #27	PLACEDO	0.0	TENNECO CHEMICAL
-MCMURREY GATHERING SYSTEM INC				RECEIVED:	01/13/82	JA: TX			
8214922	F-86-031741	4240130997		102-4	103	MICHAEL KANGERGA #18344	MINDEN EAST (TRAVIS P	54.0	FERGUSON CROSSING
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/13/82	JA: TX			
8214928	F-03-036135	4228700000		103		GERSCH UNIT B #1 06929	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
8214988	F-09-043927	4249732182		103		GRACE BOEDECKER #1	PARK SPRINGS (CONGL)	8.8	
8214966	F-7B-041918	4236732075		103		J BROUMLEY #2	BUCK RANCH (ATOKA)	137.7	SOUTHWESTERN GAS
8214980	F-09-043772	4223733610		102-4		J W LOVING EST #10	JERMYN WEST (MARBLE F	50.0	SOUTHWESTERN GAS
8214951	F-09-039322	4223733514		103		J W LOVING EST #3	BRYSON EAST	3.8	SOUTHWESTERN GAS
8214924	F-03-032785	4214900000		103		JOOST #1	GIDDINGS (AUSTIN CHAL	15.0	SOUTH CEN-TEX GAS
8214987	F-09-043928	4223733817		103		LINDSEY RANCH #8	JACK COUNTY REGULAR	3.2	
8215056	F-7B-044864	4236700000		108		MINNIE JONES #1 79624	LAKE MINERAL WELLS (4	11.0	NATURAL GAS PIPEL
8214992	F-09-044080	4223733419		102-4		OLIVER LOVING #2	JERMYN WEST (CADDO)	64.0	SOUTHWESTERN GAS
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	01/13/82	JA: TX			
8215017	F-02-044745	4250100000		108		GRUNEWALD BOWEN #1	KENEDY SW/WILCOX MIDD	21.3	VALERO TRANSMISSI
-MOLE OPERATING COMPANY INC				RECEIVED:	01/13/82	JA: TX			
8215088	F-7C-044450	4208188888		102-4		HENDRY #1	MARSHA KAY	292.0	LONE STAR GAS CO
-MR OIL CO				RECEIVED:	01/13/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8215026	F-08-044763	4247532376		103		HAWKINS #8
-MV STEWART/EAGLE PETROLEUM				RECEIVED:	01/13/82	JA: TX
8215066	F-02-044923	4246900000		102-4		SMITH NO 1
-NATIONWIDE OIL & GAS CORP				RECEIVED:	01/13/82	JA: TX
8214952	F-7B-039598	4213332655		102-4		WILLIAM W WAGLEY #1
-P C BURNS				RECEIVED:	01/13/82	JA: TX
8214999	F-09-044115	4207732366		103		SNIDER #1 21521
8215001	F-09-044119	4207731861		103		W E SANDERS #1 20628
8215008	F-09-044118	4207732150		103		W E SANDERS A #1 21385
-PARALLEL PETROLEUM CORP				RECEIVED:	01/13/82	JA: TX
8214939	F-7B-037938	4235300000		102-4	103	HENRY ARLEDGE #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/13/82	JA: TX
8215025	F-08-044760	4213502713		108		GOLDSMITH ANDECTOR #T 15
8215023	F-08-044758	4249500000		108		LAVENDER NO 2
8214919	F-10-025182	4223300000		108		RANCH D #1
8215024	F-08-044759	4208304685		108		UNIVERSITY ANDREWS #68
-PIONEER PRODUCTION CORPORATION				RECEIVED:	01/13/82	JA: TX
8215044	F-8A-044812	4211531439		103		MOZELLE C NORRIS #1-35
-POST PETROLEUM COMPANY INC				RECEIVED:	01/13/82	JA: TX
8214935	F-10-037638	4223331043		103		DEARMAN #1
-RED-LA OIL CO INC				RECEIVED:	01/13/82	JA: TX
8215014	F-7B-044720	4208331328		108		J E MCDANIEL JR #1 (14351)
-RIFE OIL PROPERTIES INC				RECEIVED:	01/13/82	JA: TX
8214921	F-7B-038137	4203100000		102-2		ROY PARK
-ROCKWOOD RESOURCES INC				RECEIVED:	01/13/82	JA: TX
8215007	F-03-044379	4248132181		102-4		MEEK #1
-ROYAL OIL & GAS CORPORATION				RECEIVED:	01/13/82	JA: TX
8214979	F-01-043723	4217730972		102-2	103	TILMON H GRAY #1
-SAGE ENERGY CO				RECEIVED:	01/13/82	JA: TX
8214974	F-03-043489	4205131223		102-0		BUTLER RANCH #1 RRC #14627
8214975	F-03-043490	4214931074		102-2		HAWK UNIT #1 RRC #14615
8214973	F-03-043488	4214931046		102-2		PLUM J UNIT A #1 RRC #14401
-SHELL OIL CO				RECEIVED:	01/13/82	JA: TX
8214954	F-04-039789	4250531295		102-4		LEROY TAYLOR #1
8214960	F-04-041234	4204730961		102-4		LISANDRO LONGORIA GAS UNIT #3
8214953	F-04-039645	4250531237		102-4		SARA G DE GARCIA
-SIMPSON-MANN OIL PRODUCERS				RECEIVED:	01/13/82	JA: TX
8215015	F-7C-044722	4210533589		103	107-TF	BATTS FRIEND #9-1-F
8215013	F-7C-044718	4210533543		103	107-TF	J M BAGGETT JR 11 #11-162
-SOUTHLAND ROYALTY CO				RECEIVED:	01/13/82	JA: TX
8214965	F-08-041776	4249500000		103		SUN JENKINS C #12
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	01/13/82	JA: TX
8214923	F-04-032674	4242700000		108		BENTSEN BROS -E- #6
8214917	F-04-013593	4242700000		108-ER		J W KINCAID #1
8215004	F-08-044186	4247531727		103		W D JOHNSON E #1
-TAYLOR OPERATING COMPANY				RECEIVED:	01/13/82	JA: TX
8215018	F-09-044751	4223700000		103		CARLOCK #1 (20658)
8215019	F-09-044752	4223700000		103		GUINN CAMPSEY "A" #1 (94489)
-TEX-O PETROLEUM CO				RECEIVED:	01/13/82	JA: TX
8214957	F-03-040271	4247730403		102-2		HOWARD C LEE #1
-TEXACO INC				RECEIVED:	01/13/82	JA: TX
8214962	F-08-041494	4218931486		103		CULBERSON Z FEE #2
8214936	F-08-037664	4232930939		102-4		MIDLAND AB FEE #2

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FIELD NAME	PROD	PURCHASER
PAYTON	46.0	
BURNING PRAIRIE (5000	0.0	TENNESSEE GAS PIP
WILDCAT FIELD	110.0	ODESSA NATURAL CO
CLAY COUNTY REGULAR	6.0	SANFORD P FAGADAU
TALLY (STRAWN)	10.0	SANFORD P FAGADAU
TALLEY (STRAWN) D E M	6.0	SANFORD P FAGADAU
YELLOW WOLF (ELLENBUR	0.0	
GOLDSMITH (CLEARFORK)	20.0	EL PASO NATURAL G
KEYSTONE (DEVONIAN)	19.0	SID RICHARDSON GA
WEST PANHANDLE	3.6	EL PASO NATURAL G
EMBAR (PERMIAN)	18.0	EL PASO NATURAL G
NICK (CANYON)	0.0	
SHIRLEY (TONKAWA)	0.0	
GLEN COVE S (PALO PIN	13.0	UNION TEXAS PETRO
SKAGGS (2700)	127.8	SOUTHWEST GAS PIP
LOUISE NORTH (FRIO 49	0.0	DELHI GAS PIPE LI
CHRISTIAN (6800)	100.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	192.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	9.1	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	102.0	PHILLIPS PETROLEU
EAST EL GRULLO (TAYLO	400.0	UNITED TEXAS TRAN
LOPEZ RANCH (VICKSBUR	500.0	CHANNEL INDUSTRIE
EAST EL GRULLO (FREDE	400.0	UNITED TEXAS TRAN
ADAMS-BAGGETT RANCH (	162.0	VALERO TRANSMISSI
ADAMS-BAGGETT RANCH (	141.0	VALERO TRANSMISSI
KEYSTONE	17.0	TRANSWESTERN PIPE
JUDD CITY (FRIO 6800)	2.0	
NORTH RINCON	14.0	
ESTES BLOCK 34 (PENN)	118.0	WESTERN COUNTIES
JACK COUNTY REGULAR	11.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	219.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	1260.0	CLAJON GAS CO
FORD WEST (4100)	292.0	EL PASO NATURAL G
BRADFORD RANCH (ATOKA	121.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8214961	F-08-041303	4232930977		102-4		MIDLAND AC FEE #1	BRADFORD RANCH (ATOKA	0.0	NATURAL GAS CO
-TEXAS OIL & GAS CORP				RECEIVED:	01/13/82	JA: TX			
8214947	F-82-038428	4228531518		102-4		HANCOCK B-1	PROVIDENT CITY (WILCO	0.8	DELHI GAS PIPELIN
8214969	F-05-042172	4228900000		102-4		HARRELL C #1	BEAR GRASS (TRAVIS PE	0.8	
8214964	F-02-041629	4239100000		102-4		HOLEMAN E-1	FAGAN (2800')	0.0	DELHI GAS PIPELIN
8214948	F-02-038668	4228531450		102-4		KOLONKO #1	KINKLER (WILCOX 8130'	0.0	DELHI GAS PIPELIN
8214949	F-02-038670	4223931407		102-4		SCHAEFER B-2	MCDANIEL (3850')	0.8	TEXAS EASTERN TRA
8214958	F-03-040422	4224531466		102-4		SMITH EE #1	HILDEBRANDT BAYOU SE	0.0	
8214955	F-02-039709	4228500000		102-4		STOWE #2	PROVIDENT CITY (FRIO	0.8	DELHI GAS PIPELIN
-UNION OIL COMPANY OF	CALIF			RECEIVED:	01/13/82	JA: TX			
8215055	F-05-044854	4246730485		103		SWVLU #6614	VAN SOUTHWEST (LEWISV	0.0	UNITED GAS PIPELI
-W E POPE & DON ROSS				RECEIVED:	01/13/82	JA: TX			
8214977	F-78-043588	4236300000		108		TUCKER #1 ID #69396	RECTOR (MARBLE FALLS)	15.5	CHRISTIE GAS TRAN
-W M LAUGHLIN				RECEIVED:	01/13/82	JA: TX			
8215063	F-04-044919	4213100000		108		BRIGIDA V DE MORENO #1	SOUTH INDEPENDENCE (F	23.3	VALLEY GAS TRANSM
8215059	F-04-044911	4213100000		108		DAMOS VERA #1	NORTH SANTA CRUZ	19.5	VALLEY GAS TRANSM
8215064	F-04-044920	4213100000		108		M V DE RIOS #1	SOUTH INDEPENDENCE (F	20.9	VALLEY GAS TRANSM
8215062	F-04-044918	4213100000		108		V S DE GONZALES #2	INDEPENDENCE SOUTH (F	20.8	VALLEY GAS TRANSM
8215065	F-04-044921	4213100000		108		V. V DE GONZALES #1	SOUTH INDEPENDENCE (F	21.9	VALLEY GAS TRANSM
-WARREN PETR CO A DIV	OF GULF OIL CO			RECEIVED:	01/13/82	JA: TX			
8214989	F-08-043958	4210332619		183		W N WADDELL 1213	SAND HILLS (MCKNIGHT)	6.6	EL PASO NATURAL G
-WILLIAM PERLMAN				RECEIVED:	01/13/82	JA: TX			
8214920	F-7C-027534	4243532378		103	107-TF	MAYER 5X 90816	SAWYER (CANYON)	8.0	VALERO GAS TRANSM
-WOOD MCSHANE & THAMS				RECEIVED:	01/13/82	JA: TX			
8215057	F-08-044877	4200332866		103		LONG #1 RRC #26935	MCFARLAND EAST (QUEEN	292.3	
-ZONERGY INC				RECEIVED:	01/13/82	JA: TX			
8214918	F-03-025002	4205100000		102-2		KNOX #1	GIDDINGS	426.5	CLAJON GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 3, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb

Secretary.

[FR Doc. 82–4178 Filed 2–16–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 11, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ILLINOIS DEPARTMENT OF MINES & MINERALS									
-ILLINI BASIN SERVICE CO INC				RECEIVED:	01/18/82	JA: IL			
8215537		1205100000		102-4		H LARIMORE #2	LOUDON	0.0	NATURAL GAS PIPEL
8215538		1205100000		102-4		H LARIMORE #3	LOUDEN	0.0	NATURAL GAS PIPEL
8215539		1205100000		102-4		H LARIMORE #4	LOUDEN	0.0	NATURAL GAS PIPEL
8215535		1204900000		102-4		JENNER # 1	LOUDEN	0.0	NATURAL GAS PIPEL
8215536		1204900000		102-4		JENNER #2	LOUDEN	0.0	NATURAL GAS PIPEL
8215540		1204900000		102-4		MAXFIELD #1	LOUDEN	0.0	NATURAL GAS PIPEL
8215541		1204900000		102-4		MAXFIELD #2	LOUDON	0.0	NATURAL GAS PIPEL
8215542		1204900000		102-4		MAXFIELD #3	LOUDON	0.0	NATURAL GAS PIPEL
8215543		1204900000		102-4		MAXFIELD #4	LOUDEN	0.0	NATURAL GAS PIPEL
8215544		1205100000		102-4		YANTIS #1	LOUDON	0.0	NATURAL GAS PIPEL
MONTANA BOARD OF OIL & GAS CONSERVATION									
-A P WAGGONER				RECEIVED:	01/15/82	JA: MT			
8215340	4-81-42	2504122120		102-2		WOEPPEL #15-7	UNDESIGNATED	33.0	NORTHERN NATURAL
-GRACE PETROLEUM CORPORATION				RECEIVED:	01/15/82	JA: MT			
8215339	4-81-44	2504121333		108-ER		DEWALD RICE 23-10		0.0	NORTHERN NATURAL
-J BURNS BROWN				RECEIVED:	01/15/82	JA: MT			
8215335	4-81-45	2504122116		108		FIRST TRUST 7-33-178	COAL COULEE	50.0	NORTHERN NATURAL
-SHELL OIL CO				RECEIVED:	01/15/82	JA: MT			
8215338	4-81-43	2508321420		102-2		BAKKEN 42-3	CRANE	6.0	MONTANA DAKOTA UT
8215337	4-81-41	2508321486		102-4		KAISER 32-27	MINDAK WEST	10.0	MONTANA DAKOTA UT
8215336	4-81-46	2510921032		103		PINE 33-23A	SOUTH PINE	18.5	MONTANA DAKOTA UT
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	01/15/82	JA: MT			
8215342	4-81-47	2508321489		102-2		DAVID ALBIN #3	MUSTANG	61.0	CRYSTAL OIL CO
8215341	4-81-47	2508321190		102-2		PANASUK #1	WILDCAT	117.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-SUPRON ENERGY CORPORATION				RECEIVED:	01/19/82	JA: NM			
8215488	NM103381-A	3004525058		103		SANCHEZ 3-E	BLANCO MESAVERDE	1372.0	EL PASO NATURAL G
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC				RECEIVED:	01/20/82	JA: NY			
8215564	2311	3102915431		103		A & S BLASZ #1 (1446)	BRANT	10.0	NATIONAL FUEL GAS
-ARLINGTON EXPLORATION CO				RECEIVED:	01/15/82	JA: NY			
8215239	1556	3105115280		102-2		PETER KENNEDY HOME UNIT #1	DANSVILLE PROSECT	27.4	
8215240	1554	3110115404		102-2		ROBERT M DANN #1	ERWIN PROSPECT	0.5	CORNING NATURAL G
8215241	1558	3110115268		102-2		VALLEY VISTA VIEW INC #1	RATHBONE PROSPECT	36.5	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ARROWHEAD GAS PRODUCERS INC				RECEIVED:	01/15/82	JA: NY			
8215247	1547	3101315827		102-2		G NELSON #1	ELLICOTT	60.0	COLUMBIA GAS TRAN
8215250	1587	3101315886		102-2		G SALISBURY #1	GERRY	60.0	COLUMBIA GAS TRAN
8215249	1588	3101315924		102-2		L GIRTS #1	ELLICOTT	60.0	COLUMBIA GAS TRAN
8215248	1548	3101315971		102-2		L JACOBSON #1	ELLICOTT	60.0	COLUMBIA GAS TRAN
8215246	1549	3101315885		102-2		R SWANSON #1	ELLICOTT	60.0	COLUMBIA GAS TRAN
-BENNETT PETROLEUM CORP				RECEIVED:	01/20/82	JA: NY			
8215552	2321	3105113950		108		CLARENCE H SLIKER #1 - 31-85113950	UNNAMED	7.0	COLUMBIA GAS TRAN
8215548	2317	3112114615		108		FRAN IRELAND #1	UNNAMED	6.0	COLUMBIA GAS TRAN
8215553	2322	3112114426		108		JAMES W WRIGHT #1	UNNAMED	9.0	COLUMBIA GAS TRAN
8215549	2318	3112114583		108		NORMAN HOPPER #1	UNNAMED	7.0	COLUMBIA GAS TRAN
8215547	2316	3105113841		108		RICHARD F PAGE #1 31-051-13841	UNNAMED	2.0	COLUMBIA GAS TRAN
8215551	2320	3112113949		108		ROBERT E SMITHGALL #1 31-121-13949	UNNAMED	3.0	COLUMBIA AS TRANS
8215550	2319	3105113848		108		SHELBY G SLIKER #1 - 31-051-13840	UNNAMED	11.0	COLUMBIA GAS TRAN
8215546	2315	3112114427		108		THOMAS FARLEY #1	UNNAMED	5.0	COLUMBIA GAS TRAN
8215545	2314	3112114178		108		WALTER CHAFFEE #1 31-121-14178	UNNAMED	14.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/15/82	JA: NY			
8215244	1754	3101316061		102-2		BERT TORREY UNIT #1	WILDCAT	6.0	COLUMBIA GAS TRAN
8215243	1746	3101316055		102-2		HALLER UNIT #3	WILDCAT	8.0	COLUMBIA GAS TRAN
8215245	1714	3101315359		102-2		ROBERT BARGAR #2	WILDCAT	25.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/20/82	JA: NY			
8215555	1482	3110110024		102-4		WILLIS J FULLER (UNIT) WN-1291	TOWN OF DANSVILLE	0.0	GENERAL SYSTEM PU
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	01/20/82	JA: NY			
8215557	2060	3101314398		108		KOPTA (BESCH) #3138	LAKE SHORE	15.0	NATIONAL FUEL GAS
8215556	2068	3101314329		108		THOMPSON #3108	LAKE SHORE	13.4	NATIONAL FUEL GAS
8215559	2066	3101314339		108		THOMPSON VI #3105	LAKE SHORE	9.2	NATIONAL FUEL GAS
8215558	2079	3101314342		108		WARNSHIUS III #3106	LAKE SHORE	13.2	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	01/20/82	JA: NY			
8215585	1725	3101315724		102-2		A FIRSTER #2	CLYMER	18.0	COLUMBIA GAS TRAN
8215581	1721	3101315858		102-2		A ROSATI #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8215583	1725	3101315542		102-2		D HARPER # 1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8215588	1730	3101316213		102-2		E OONK #1	CLYMER	18.0	NATIONAL FUEL GAS
8215586	1724	3101314776		102-2		H COLEMAN #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8215576	1828	3101315771		102-2		H WASSINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8215577	1833	3101315885		102-2		H WHITE #2	CLYMER	18.0	COLUMBIA GAS TRAN
8215575	1830	3101315807		102-2		H WHITE #4	CLYMER	18.0	COLUMBIA GAS TRAN
8215579	1755	3101315544		102-2		J HIGGINBOTHAM #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8215574	1829	3101315907		102-2		LEGTERS BROTHERS #7	CLYMER	18.0	COLUMBIA GAS TRAN
8215582	1722	3101315812		102-2		M CRANDALL #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8215587	1729	3101315721		102-2		NEW YORK STATE REF AREA 3/ #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8215584	1726	3101315811		102-2		W BAIN #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8215580	1832	3101315859		102-2		X WASSINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8215578	1831	3101315860		102-2		X WASSINK #3	CLYMER	18.0	COLUMBIA GAS TRAN
-LENAPE RESOURCES CORP				RECEIVED:	01/15/82	JA: NY			
*8215242	1132	3105114170		102-2		WADSWORTH #3	WILDCAT	18.0	ELIZABETHTOWN GAS
-MAYNARD OIL COMPANY				RECEIVED:	01/20/82	JA: NY			
8215560	2353	3102916452		103		SICURELLA #3	EVANS	18.3	NATIONAL FUEL SUP
-NORD/MONTARA PETROLEUM CO				RECEIVED:	01/15/82	JA: NY			
8215251	1603	3112115818		102-2		N REISDORF #1	JAVA MEDINA	15.0	COLUMBIA GAS TRAN
-OILMARK & CO INC				RECEIVED:	01/15/82	JA: NY			
8215252	866	3101314628		102-2		SMITH #1	PANAMA	25.0	COLUMBIA GAS TRAN
-P & S DRILLING INC				RECEIVED:	01/20/82	JA: NY			
8215562	2002	3102915249		108		MARR-SERENA #1	BUFFALO CREEK	6.9	NATIONAL FUEL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215563	2000	3102914434		108		REBILAS #1	BUFFALO CREEK	1.8	NATIONAL FUEL
8215565	2004	3102915045		108		STODDARD #1	BUFFALO CREEK	3.6	NATIONAL FUEL
-PENNZOIL COMPANY				RECEIVED:	01/20/82	JA: NY			
8215554	1477	3100915765		102-4		FLATSTONE FEE #1	FLATSTONE	0.0	
-TRAHAN PETROLEUM INC				RECEIVED:	01/15/82	JA: NY			
8215256	1678	3101315523		102-2		COWEN #3 31-013-15523	ELLINGTON	1.2	COLUMBIA GAS TRAN
8215262	1717	3101315520		102-2		E BLY #1 31-013-15520	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215258	1737	3101315521		102-2		E BLY #2 31-013-15521	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215255	1706	3101315997		102-2		J & J HORTON N Y #20 31-013-15997	ELLINGTON	36.0	COLUMBIA GAS TRAN
8215261	1682	3101315524		102-2		KEEM #1 31-013-15524	ELLINGTON	1.6	COLUMBIA GAS TRAN
8215260	1679	3101315519		102-2		LEO ACKLEY #1 31-013-15519	ELLINGTON	1.4	COLUMBIA GAS TRAN
8215263	1715	3101315580		102-2		LEO ACKLEY #2 31-013-15580	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215254	1571	3101312536		102-2		M & D LENT N Y 19 31-013-12536	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215264	1709	3101312539		102-2		M MAZIAR N Y #22 31-01312539	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215253	1572	3101312533		102-2		R H MILSPAW-NY 16 31-013-12533	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215259	1676	3101312546		102-2		WELLSVILLE TIMB NY #15 31-013-12546	ELLINGTON	1.0	COLUMBIA GAS TRAN
8215257	1735	3101316032		102-2		WULFFRAAT #1 31-013-16032	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC				RECEIVED:	01/20/82	JA: NY			
8215571	1570	3101312538		102-2		D E SCHIMEK-CHAUT #3 31-013-12538	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215567	1741	3101315578		102-2		F & J DELAHOY #1 31-013-15578	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215568	1739	3101315579		102-2		F & J DELAHOY #2 31-013-15579	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215570	1743	3101315582		102-2		FALCONE #6 31-013-15582	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215573	1693	3101315996		102-2		G & L DARLING #1 31-013-15996	ELLINGTON	36.0	COLUMBIA GAS TRAN
8215566	1573	3101312537		102-2		J & J HORTON - NY 21 31-013-12537	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8215572	1673	3101315525		102-2		MARVIN WELLMAN #1 31-013-15525	ELLINGTON	1.2	COLUMBIA GAS TRAN
8215569	1719	3101315272		102-2		ROGER NEIL-NY #7 31-013-15272	PANAMA	36.0	COLUMBIA GAS TRAN
8215561	1605	3101312524		108		W B WAITE - NY 11 31-013-12524	PANAMA	12.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-A & P DRILLING CO INC				RECEIVED:	01/19/82	JA: OK			
8215602	12273	3507322948		103		ESTELLE #2	SOONER TREND	0.0	CONOCO INC
-ADAMS PETROLEUM ENTERPRISES CORP				RECEIVED:	01/15/82	JA: OK			
8215270	12035	3506321123		103		BATTLESTAR #1	WEWOKA	20.0	ARKANSAS LOUISIAN
-AMOCO PRODUCTION CO				RECEIVED:	01/19/82	JA: OK			
8215627	12367	3504550089		108		MCCLURE UNIT C #1	MOCANE-LAVERNE	15.0	NORTHERN NATURAL
-AN-SON CORPORATION				RECEIVED:	01/13/82	JA: OK			
8215314	12182	3501121559		103		BOMHOFF #1	ELM CREEK	358.0	DELHI GAS PIPE LI
-AN-SON CORPORATION				RECEIVED:	01/15/82	JA: OK			
8215290	12294	3501521081		103		ALLEN #1	LAVERTY	0.0	DELHI GAS PIPE LI
-ANDOVER OIL COMPANY				RECEIVED:	01/12/82	JA: OK			
8215231	10125	3501721027		103		WEHMULLER #2-2		110.0	PHILLIPS PETROLEU
-ANDOVER OIL COMPANY				RECEIVED:	01/15/82	JA: OK			
8215277	12163	3507322986		103		GREVING #24-1		100.0	WARREN PETROLEUM
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/19/82	JA: OK			
8215597	12257	3504722176		103		DAVID HOTSON #32	GARBER	7.3	
-BELAMA OIL CO				RECEIVED:	01/15/82	JA: OK			
8215260	10304	3507322917		103		COLE #	SOONER TREND	0.0	PHILLIPS PETROLEU
-BERRY PETROLEUM CORP				RECEIVED:	01/12/82	JA: OK			
8215220	12104	3510320947		103		GROOM #1-17	N ORLANDO	18.0	AMINOIL USA INC
-BLAIK OIL COMPANY				RECEIVED:	01/15/82	JA: OK			
8215276	12162	3508321655		103		O'NEILL #2	SOONER TREND	18.0	EASON OIL CO
-BOBBY J DARNELL				RECEIVED:	01/12/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215222	12156	3508321713		103		STEWART #1	WILDCAT	14.4	EASON OIL CO
-BOSWELL ENERGY CORP				RECEIVED:	01/15/82	JA: OK			
8215286	09256	3510920422		102-4		CHISHOLM #2-9	E PRAIRIE BELL	0.0	PHILLIPS PETROLEU
8215287	09258	3510920422		102-4		CHISHOLM #2-9	E PRAIRIE BELL	0.0	PHILLIPS PETROLEU
-BROCK HYDROCARBONS INC				RECEIVED:	01/15/82	JA: OK			
8215299	12226	3504520903		103		CLEM #1-14	W VICI	0.0	PANHANDLE EASTERN
-BUNKER EXPLORATION CO				RECEIVED:	01/15/82	JA: OK			
8215294	10079	3510321142		103		BODE 1-5	BODE	0.0	AMINOIL USA INC
-C & S EXPLORATION INC				RECEIVED:	01/19/82	JA: OK			
8215598	12258	3506321104		103		C & S EXPL INC SNELL HEIRS #2-35	CARSON	15.0	TRANSOK PIPELINE
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/12/82	JA: OK			
8215232	10996	3500320848		103		HENRY WEBER #2	E CHANEY DELL	8.0	CHAMPLIN PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/15/82	JA: OK			
8215304	12302	3507300000		103		INEZ JONES "A" #2	DOVER-HENNESSEY	76.0	EXXON COMPANY USA
-CITATION ENERGY CORP				RECEIVED:	01/12/82	JA: OK			
8215237	12139	3504722365		103		HEDGES #1	NE ENID	1.0	CHAMPLIN PETROLEU
-CITATION ENERGY CORP				RECEIVED:	01/15/82	JA: OK			
8215301	12235	3504721903		103		DEWAIN #1	NE ENID	1.0	CHAMPLIN PETROLEU
8215273	12138	3504722174		103		SKODA #2	SOONER TREND	292.0	PANHANDLE EASTERN
8215302	12236	3504722030		103		VIRGIL #1	NE ENID	55.0	CHAMPLIN PETROLEU
-CLARK RESOURCES INC				RECEIVED:	01/12/82	JA: OK			
8215221	12155	3507323177		103		RESIS 27-1	SOONER TREND	80.0	CONOCO INC
-CLARK RESOURCES INC				RECEIVED:	01/19/82	JA: OK			
8215596	12254	3507323150		103		SEDLAK 12-1	SOONER TREND	80.0	EASON OIL CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/12/82	JA: OK			
8215224	12197	3501521001		103		DUNCAN A #1	EAST BINGER	0.0	TRANSOK PIPE LINE
-CUMMINGS OIL CO				RECEIVED:	01/19/82	JA: OK			
8215591	11681	3508321645		103		POLLARD #1-24	CRESCENT-LOVELL	0.0	
-DOWNEY OIL CO				RECEIVED:	01/12/82	JA: OK			
8215219	12182	3508321301		103		MITCHELL #1 083-61428	WEST WELLSTON	9.0	SUN OIL COMPANY
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	01/15/82	JA: OK			
8215298	12220	3505120760		103		RICHARDSON-CLAIBORNE #1A	CHICKASHA	150.0	ARKANSAS LOUISIAN
-ECC OIL CO				RECEIVED:	01/19/82	JA: OK			
8215593	12111	3514721732		108		HOLDEN #2 SE SE SF 30-25N-14E	OGLESBY GAS	12.0	OKAN GAS CO
-ENERGY RESERVES GROUP INC				RECEIVED:	01/19/82	JA: OK			
8215622	12279	3506120410		103		KEOTA TOWNSITE #1	KINTA	117.0	
-ENSERCH EXPLORATION INC				RECEIVED:	01/19/82	JA: OK			
8215607	12327	3512920038		108		J L ALLEN UNIT #1	CRAWFORD NW	2.0	DELHI GAS PIPELIN
8215608	12328	3512920026		108		M C WILSON UNIT #1	CRAWFORD N	3.0	DELHI GAS PIPELIN
8215590	11255	3515121122		103		ORLEY W BAY #1	S E WAYNOKA	264.0	
-ENTEX INC				RECEIVED:	01/19/82	JA: OK			
8215626	12341	3508321725		103		MARTIN A #4	WEST LAUNIE	17.0	EASON OIL CO
-ESTORIL PRODUCING CORP				RECEIVED:	01/15/82	JA: OK			
8215303	12291	3512521039		103		BARTON "A" #1	NE TECUMSEH	36.5	TRANSOK PIPELINE
-FLINT & ASSOCIATES				RECEIVED:	01/12/82	JA: OK			
8215218	12053	3512321080		103		MOBIL # 5	WEST ALLEN	36.5	SUN OIL CO
-FUTURE RESOURCES LTD				RECEIVED:	01/15/82	JA: OK			
8215275	12159	3507322887		103		BARNES #1	SOONER TREND	60.0	PHILLIPS PETROLEU
-GEODYNE RESOURCES INC				RECEIVED:	01/15/82	JA: OK			
8215308	12282	3504700000		103		HENDRIE #21-1	SOONER TREND	35.0	ARCO OIL & GAS CO
8215289	12284	3504700000		103		HENDRIE #21-2	SOONER TREND	35.0	ARCO OIL & GAS CO
8215288	12283	3504700000		103		HENDRIE #21-3	SOONER TREND	35.0	ARCO OIL & GAS CO
-GEORGE RODMAN INC				RECEIVED:	01/13/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME		FIELD NAME	PROD	PURCHASER
8215311	12205	3508720528		103		LEWIS #1		S STEALY POOL	0.0	WARREN PETROLEUM
-GETTY OIL COMPANY				RECEIVED:	01/15/82	JA: OK				
8215292	15347	3508920376		107-DP		PURYEAR #19-1		STATELINE	730.0	
-GREEN OPERATING CO				RECEIVED:	01/19/82	JA: OK				
8215638	12369	3508121283		103		CARR #14-1			182.0	SUN GAS CO
-GULF OIL CORPORATION				RECEIVED:	01/12/82	JA: OK				
8215228	12245	3501121570		103		STATE #1-36		SOUTH OMEGA	30.0	ONG-WESTERN INC
-HARPER OIL COMPANY				RECEIVED:	01/12/82	JA: OK				
8215227	12244	3507323036		103		JOE SEDLAK #2		SOONER TREND	65.0	MUSTANG FUEL CORP
-HARPER OIL COMPANY				RECEIVED:	01/15/82	JA: OK				
8215291	12342	3500320860		103		BLOYD #2		SOUTH ALINE	40.0	DELHI GAS PIPELIN
-HARPER OIL COMPANY				RECEIVED:	01/19/82	JA: OK				
8215617	12189	3508321708		103		PFLUM #1		N W MULHALL	25.0	EASON OIL CO
-HENRY H GUNSOLL ASSOCIATES				RECEIVED:	01/12/82	JA: OK				
8215238	12193	3507322325		103		LOGAN 1-4		SOONER TREND	36.5	PANHANDLE EASTERN
-HENRY H GUNSOLL ASSOCIATES				RECEIVED:	01/13/82	JA: OK				
8215312	12194	3509300000		103		PITMAN 1-23		SOONER TREND	186.2	PIONEER GAS PRODU
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	01/19/82	JA: OK				
8215611	88008	3507322391		103		SCHWARZ TRUST #1		N OKARCHE	0.0	PHILLIPS PETROLEU
-HILL RESOURCES INC				RECEIVED:	01/15/82	JA: OK				
8215281	12208	3508320825		103		POLLARD #1		S MARSHALL	36.5	EASON OIL CO
-HOME PETROLEUM CORPORATION				RECEIVED:	01/15/82	JA: OK				
8215288	12198	3508721934		103		WATKINS #18-2		ST GENEVIEVE	24.0	KANSAS-NEBRASKA N
-J L BUSBY ENERGY				RECEIVED:	01/15/82	JA: OK				
8215283	12267	3511122651		103		FLEETWOOD #2		NATURA	53.0	PHILLIPS PETROLEU
8215284	12268	3511122771		103		WARD #1		NATURA	365.0	PHILIPS PETROLEUM
8215282	12266	3511122949		103		WARD #2		NATURA	60.0	PHILLIPS PETROLEU
-J W JEAN JR				RECEIVED:	01/12/82	JA: OK				
8215236	12137	3506720400		103		ROBERTSON #4		NORTHWEST HEADTON	127.0	AMINOIL USA INC
-JET OIL COMPANY				RECEIVED:	01/12/82	JA: OK				
8215226	12242	3504722414		103		MILLER HEIRS #1		BROWN EAST PROSPECT	12.0	EASON OIL CO
-JET OIL COMPANY				RECEIVED:	01/15/82	JA: OK				
8215271	12086	3508321594		103		CRAVEN #1		MULHALL	9.0	EASON OIL CO
-JOSEPH THOMAS HUNTER				RECEIVED:	01/15/82	JA: OK				
8215274	12158	3514721953		103		E M BOAN #1		TURKEY MT SAND	0.0	DIAMOND S GAS SYS
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/19/82	JA: OK				
8215615	12172	3504721546		108		DAVE EDIGER #1		SRING VALLEY	19.2	GRACE PETROLEUM C
8215614	12170	3504721102		108		LAUPPE #1		N E BRECKINRIDGE	30.0	GRACE PETROLEUM C
8215616	12173	3504700000		108		MCPHERSON #1		SPRING VALLEY	14.1	GRACE PETROLEUM C
8215629	12371	3505920448		103		STATE #1-16		HARDIN	200.0	MICHIGAN WISCONSI
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	01/19/82	JA: OK				
8215631	15769	3513921522		103		THARP A1-X		HUGOTON	14.0	KANSAS-NEBRASKA N
-L & N EXPLORATION INC				RECEIVED:	01/19/82	JA: OK				
8215600	12261	3507322941		103		GARRETT #1-17		SOONER TREND	128.0	CITIES SERVICE GA
8215599	12260	3508321595		103		PROSSER #1-18		LOVELL	255.0	EASON OIL CO
-L O WARD				RECEIVED:	01/15/82	JA: OK				
8215278	12191	3504321127		103		HUFF #1		SE OAKWOOD	36.5	NORTERN NATURAL G
8215279	12192	3504722546		103		LAGAN #2		NE ENID	58.0	CHAMPLIN PETROLEU
-L O WARD				RECEIVED:	01/19/82	JA: OK				
8215624	12299	3521220683		103		ORBISON 1-14		CANADIAN	355.0	ARKLA OIL CO
8215609	12335	3512120777		103		WERNER-KNUCLICK 1-25		PATRICK	165.0	ARKLA OIL CO
-LOBAR OIL CO INC				RECEIVED:	01/19/82	JA: OK				
8215610	07446	3510930809		102-A		RICE #1		WEST PRAIRIE BELLE	180.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-LRF CORP				RECEIVED:	01/12/82	JA: OK
8215215	11934	3501121567		103		CRONKHITE #1
8215229	11932	3512120798		103		HALL #1
8215214	11933	3506321205		103		PERRY #1
-M K W INC				RECEIVED:	01/12/82	JA: OK
8215217	12014	3510320612		103		BIG MC #1
-MACK OIL CO				RECEIVED:	01/15/82	JA: OK
8215269	11328	3501700000		103		DEATHERAGE #2
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	01/13/82	JA: OK
8215313	12184	3508321583		103		BLEVINS #1
-MARLIN OIL CORPORATION				RECEIVED:	01/19/82	JA: OK
8215606	12309	3508700000		108		BOATES #1
-MAY PETROLEUM INC				RECEIVED:	01/19/82	JA: OK
8215595	12234	3510321197		103		VANN #1 (103-67174)
-MORGAN & STEINERT INC				RECEIVED:	01/19/82	JA: OK
*8215620	12249	3504722274		103		OHGEE #1
8215621	12250	3504722619		103		VOSKUHL #1
-MUSTANG PRODUCTION CO.				RECEIVED:	01/19/82	JA: OK
8215605	12281	3501121581		103		SCHENK #1-18
-OKLAHOMA PETROLEUM MANAGEMENT CORP				RECEIVED:	01/15/82	JA: OK
8215293	06932	3511921056		102-4	103	MORAN #1
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	01/12/82	JA: OK
8215225	12239	3508321736		103		PRISTERNIK #1-18
-PETROLEUM RESOURCES CO				RECEIVED:	01/15/82	JA: OK
8215296	11989	3500320753		103		PELTER #1
8215295	11987	3504721441		103		VALTR #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/13/82	JA: OK
8215310	12217	3513900000		108		HOGLE #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/15/82	JA: OK
8215265	09786	3513921441		103		ATKINS A #4
8215266	10249	3501721507		103		RICKETTS "A" #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/19/82	JA: OK
8215589	09809	3500700000		108		BAKER J #1
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	01/19/82	JA: OK
8215601	12271	3501721829		103		GRAHAM #1-32
-RED EAGLE OIL CO				RECEIVED:	01/19/82	JA: OK
8215604	12275	3508321454		103		MIKLES #1
8215603	12274	3508321453		103		WILLSON #1
-SABINE PRODUCTION COMPANY				RECEIVED:	01/19/82	JA: OK
8215613	09918	3504321048		102-4	103	HOWELL #2-29
-SAMSON RESOURCES COMPANY				RECEIVED:	01/19/82	JA: OK
8215630	12548	3512120823		102-4	103	MONROE UNIT #1
-SCHICK OIL & GAS INC				RECEIVED:	01/15/82	JA: OK
8215272	12123	3509321894		103		ALVEY 8-1
-SEIGEL PETROLEUM CO				RECEIVED:	01/13/82	JA: OK
8215309	12168	3511921551		103		TUCKER #1
-SNAR-ALAN OIL CO				RECEIVED:	01/15/82	JA: OK
8215306	12317	3509322958		103		JOHN SUIT #1
8215305	12314	3509321956		103		LEON KECK #A-1
-SNAR-ALAN OIL CO				RECEIVED:	01/19/82	JA: OK
*8215625	12312	3507322769		103		F R THARP #1
-SITCO INC				RECEIVED:	01/15/82	JA: OK
8215297	12165	3508321496		103		BRIDAL #1

FIELD NAME	PROD	PURCHASER
N WATONGA	365.0	ARKANSAS LOUISIAN
KINTA	132.0	ARKANSAS LOUISIAN
LAMAR	300.0	
UNDESIGNATED	24.0	ARCO OIL & GAS CO
	110.0	PHILLIPS PETROLEU
SOONER TREND	120.0	
ROCANE-LAVERNE	13.0	PANHANDLE EASTERN
PERRY BIG LIME	182.5	
SOONER TREND	120.0	UNION TEXAS
SONNER TREND	0.0	EXXON USA
GREENFIELD	250.0	OKLAHOMA GAS & EL
WEST PERKINS	37.5	SERVICE DRILLING
EAST MARSHALL	100.0	EASON OIL CO
S W CHEROKEE EXTENSIO	109.0	
SOONER TREND	18.0	ARCO OIL & GAS CO
GUYMON HUGOTON	0.0	PANHANDLE EASTERN
MISSISSIPPIAN (6920-7	0.0	
UNION CITY	0.0	TRANSOK PIPELINE
LAVERNE HOOVER	0.0	COLORADO INTERSTA
RICHLAND	102.0	PHILLIPS PETROLEU
SOONER TREND	55.0	CONOCO INC
SOONER TREND	55.0	CONOCO INC
	70.0	MICHIGAN WISCONSI
WILBURTON	565.0	ARKANSAS LOUISIAN
RINGWOOD	18.0	PIONEER GAS PRODU
E YALE	18.0	PHILLIPS PETROLEU
SOUTHEAST AMES	481.0	PHILLIPS PETROLEU
NORTHEAST FAIRVIEW	201.0	DELHI GAS PIPELIN
WEST CASHION	172.0	PHILLIPS PETROLEU
NORTH CRESCENT	46.0	EASON OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SOUTHLAND ROYALTY CO				RECEIVED:	01/12/82	JA: OK			
8215223	12179	3509322819		103		SOONER #1-36		237.0	PHILLIPS PETROLEU
8215230	09567	3513921293		102-4		WIGGAINS #I-36	NORTH HOOKER	125.0	NORTHERN NATURAL
8215235	12136	3501721898		103		WOLFENBARGER #1-27	YUKON	55.0	CONOCO INC
-ST JOE PETROLEUM (US)	CORP			RECEIVED:	01/15/82	JA: OK			
8215267	10220	3510300000		103		LAVINGTON #1		182.5	CITIES SERVICE GA
-SWALA OIL & GAS CORP				RECEIVED:	01/19/82	JA: OK			
8215625	12298	3510320774		103		CHAMBERS #1		42.0	ARCO OIL & GAS CO
-TEXACO INC				RECEIVED:	01/12/82	JA: OK			
8215233	12098	3504722597		103		JULIE MILACEK # 2	SOONER TREND	36.5	EXXON CORP
-UNION OIL COMPANY OF CALIF				RECEIVED:	01/15/82	JA: OK			
8215307	12344	3503723032		103		MANUEL UNIT #1	CUSHING	7.0	
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	01/12/82	JA: OK			
8215216	11967	3507323153		103		SOUTHWEST TITLE 1-23		289.9	PHILLIPS PETROLEU
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	01/19/82	JA: OK			
8215592	11969	3507323065		103		ANNUSHCAT 1-23		0.0	PHILLIPS PETROLEU
8215612	11968	3501721721		103		RALPH C 1-20		730.0	MUSTANG FUEL CORP
-VANDERBILT RESOURCES CORPORATION				RECEIVED:	01/19/82	JA: OK			
8215619	12241	3515321151		103		KELSO 2-26	N W QUINLAN	358.0	MICHIGAN WISCONSI
-VINCO PRODUCTION				RECEIVED:	01/15/82	JA: OK			
8215285	12272	3511100000		103		POLLARD #3	HENRYETTA DISTRICT	0.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED:	01/12/82	JA: OK			
8215234	12109	3507322882		103		MEYER #1	SOONER TREND	95.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED:	01/19/82	JA: OK			
8215618	12233	3507322669		103		ADELINE #1	SOONER TREND	211.0	CONOCO INC
-W P LERBLANCE JR				RECEIVED:	01/19/82	JA: OK			
8215594	12204	3512120787		103		W R LEE #2	FEATHERSTON	300.0	SOUTHEAST TRANS &
-WILLIAM H DAVIS				RECEIVED:	01/15/82	JA: OK			
8215300	12232	3505320740		103		HULLET #1	WAKITA TREND	183.0	CITIES SERVICE GA
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-C P & C ASSOCIATES				RECEIVED:	01/21/82	JA: PA			
8215632	10145	3704921386		102-2		THOMAS COFFIN #1	MILL VILLAGE	50.0	NATIONAL FUEL GAS
8215633	10144	3704921386		107-TF		THOMAS COFFIN #1	MILL VILLAGE	50.0	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP				RECEIVED:	01/21/82	JA: PA			
8215634	9971	3703921391		102-2		ROBERT FREYERMUTH #1-S	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8215635	9972	3703921391		107-TF		ROBERT FREYERMUTH #1-S	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/21/82	JA: PA			
8215636	10090	3703321139		102-2		A & O STEWART WN-1859	BURNSIDE	38.7	GENERAL SYSTEM PU
8215637	10091	3703321139		103		A & O STEWART WN-1859	BURNSIDE	38.7	GENERAL SYSTEM PU
8215639	8098	3706321929		108		L REITER #1 WN-1785	OLIVER TOWNSHIP	8.4	GENERAL SYSTEM PU
8215640	8099	3706325032		108		LINDSEY COAL CO WN-1782	NORTH MAHONING TOWNSH	15.0	GENERAL SYSTEM PU
8215638	18092	3782128148		103		ROY D LEAMER WN-1869	SUSQUEHANNA	29.3	GENERAL SYSTEM PU
-DOC-MCC SERVICE CO				RECEIVED:	01/21/82	JA: PA			
8215641	10075	3712921981		103		ALVIN B VANCE 451-2	E HUNTINGDON	30.0	TEXAS EASTERN TRA
-FLANIGAN BROTHERS				RECEIVED:	01/21/82	JA: PA			
8215642	9589	3703921183		103		JOSEPH SCHMIDT #5	CUSSEWAGO	15.0	NATIONAL FUEL GAS
-HANLEY & BIRD				RECEIVED:	01/21/82	JA: PA			
8215643	9861	3700522616		103		LEROY STEFFY #1 SH 1693	DAYTON	34.7	T W PHILLIPS GAS
-J & J ENTERPRISES INC				RECEIVED:	01/21/82	JA: PA			
8215644	9268	3706521614		108		JANE LYLE HELMHECKEL #1 (80A)	MCCALMONT	0.0	NATIONAL FUEL GAS
8215698	7414	3706323135		108		THERMAN BRICKELL #7	CANOE	8.4	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MERIDIAN EXPLORATION CORP				RECEIVED:	01/21/82	JA: PA			
8215648	10107	3704921472		102-2		B BATCHELOR #590-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8215645	10104	3704921458		102-2		CURTZE-SCARLETT #578-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8215647	10106	3704921473		102-2		M ARNEMAN #582-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8215649	10108	3704921484		102-2		P OSTERBURG 587-2	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8215646	10105	3704921250		102-2		T JANOSIK #557-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
-NEA CROSS CO				RECEIVED:	01/21/82	JA: PA			
8215673	10165	3704921311		102-2		DAVID C RUPP #1	UNNAMED	50.0	NATIONAL FUEL GAS
8215687	10164	3704921311		107-TF		DAVID G RUPP #1	UN-NAMED	50.0	NATIONAL FUEL GAS
8215677	10079	3704920989		107-TF		EDWARD J & ELIZABETH KOHMANSKI #1	MILL VILLAGE	25.0	NATIONAL FUEL GAS
8215671	10143	3704921566		102-2		F VETTER #1	UNNAMED	25.0	NATIONAL FUEL GAS
8215685	10142	3704921566		107-TF		FRITZ VETTER #1	UNNAMED	0.0	NATIONAL FUEL GAS
8215679	10081	3704920986		107-TF		GEORGE MCLAUGHLIN #2	MILL VILLAGE	0.0	NATIONAL FUEL GAS
8215683	10085	3704921013		107-TF		GEORGE MITCHELL #1	MILL VILLAGE	20.0	NATIONAL FUEL GAS
8215681	10083	3704921034		107-TF		MICHAEL MELNICK	MILL VILLAGE	25.0	NATIONAL FUEL GAS
8215682	10084	3704920987		107-TF		MICHAEL MELNICK #1	MILL VILLAGE	10.0	NATIONAL FUEL GAS
8215688	10082	3704921057		107-TF		PAUL SKELTON #1	MILL VILLAGE	10.0	NATIONAL FUEL GAS
8215678	10080	3704921035		107-TF		PHILIP PENNSY #1	MILL VILLAGE	15.0	NATIONAL FUEL GAS
8215676	10078	3704920988		107-TF		RAYMOND & BERTHA BOYD #1	MILL VILLAGE	10.0	NATIONAL FUEL GAS
8215674	10076	3704920990		107-TF		RICHARD KINGEN #1	MILL VILLAGE	25.0	NATIONAL FUEL GAS
8215684	10086	3704920992		107-TF		ROBERT LANGDON #1	MILL VILLAGE	15.0	NATIONAL FUEL GAS
8215672	10146	3704921304		102-2		T MCCORMICK #1	UNNAMED	24.0	NATIONAL FUEL GAS
8215686	10147	3704921304		107-TF		TIMOTHY MCCORMICK #1	UNNAMED	24.0	NATIONAL FUEL GAS
8215675	10077	3704920991		107-TF		WATERFORD COMMUNITY FAIR ASSN #1	MILL VILLAGE	15.0	NATIONAL FUEL GAS
-PEACOCK/DOVERSPIKE GAS VENTURE - 79				RECEIVED:	01/21/82	JA: PA			
8215689	10088	3702120100		103		NAGLE #1 CBA-20100	ELDER	0.0	COLUMBIA GAS TRAN
8215688	10087	3702120101		103		NAGLE #2 CBA-20101	ELDER	100.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	01/21/82	JA: PA			
8215690	7377	3706522056		108		GEORGE C HANLEY #1	YOUNG	15.0	CONSOLIDATED GAS
8215691	7381	3703328789		108		WILLIAM I HOCH #1	BELL	15.0	CONSOLIDATED GAS
-RENNIE KELLY ENTERPRISES				RECEIVED:	01/21/82	JA: PA			
8215693	8008	3706322289		108		BLAINE RICHARDSON #2	EAST MAHONING	0.0	T W PHILLIPS GAS
8215694	8009	3706323468		108		CHARLES S SEGER #1	CANOE	0.0	T W PHILLIPS GAS
8215697	8013	3706521188		108		ISABEL HAWK #2	BELL	17.0	T W PHILLIPS GAS
8215692	8007	3706521104		108		ISABEL R HAWK #1	BELL	11.0	T W PHILLIPS GAS
8215696	8012	3706521228		108		ISABEL R HAWK #3	BELL	11.0	T W PHILLIPS GAS
8215695	8010	3706323523		108		THOMAS J KETTER #1	CANOE	9.0	T W PHILLIPS GAS
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	01/21/82	JA: PA			
8215655	10121	3704921018		107-TF		BOJARSKI #1	MC KEAN	50.0	COLUMBIA GAS TRAN
8215660	10126	3704921117		107-TF		CURTIS	MC KEAN	30.0	COLUMBIA GAS TRAN
8215658	10124	3704921077	D	107-TF		DZESKEWICZ #1	MC KEAN	30.0	COLUMBIA GAS TRAN
8215657	10123	3704921096		107-TF		FLAK #1	MC KEAN	30.0	COLUMBIA GAS TRAN
8215668	10134	3704921235		107-TF		FROEHLICK	MC KEAN	27.0	COLUMBIA GAS TRAN
8215654	10128	3704921026		107-TF		FULLER #1	MCKEAN	50.0	COLUMBIA GAS TRAN
8215663	10129	3704921164		107-TF		HOUGHTON/BABO UNIT	MC KEAN	30.0	COLUMBIA GAS TRAN
8215652	10118	3704920841	D	107-TF		KOSIENSKI #1	MC KEAN	35.0	COLUMBIA GAS TRAN
8215662	10128	3704921095		107-TF		KOSIENSKI #2	MC KEAN	40.0	COLUMBIA GAS TRAN
8215664	10130	3704921187		107-TF		KOSIENSKI #3-A	MC KEAN	50.0	COLUMBIA GAS TRAN
8215670	10136	3704921239		107-TF		KOSIENSKI #4	MC KEAN	25.0	COLUMBIA GAS TRAN
8215665	10131	3704921155		107-TF		ORBANEK/REWERS UNIT	MC KEAN	30.0	COLUMBIA GAS TRAN
8215651	10117	3704920844		107-TF		PAVKOV #1	MC KEAN	0.0	COLUMBIA GAS TRAN
8215659	10125	3704921093		107-TF		PAVKOV #2	MC KEAN	35.0	COLUMBIA GAS TRAN
8215669	10135	3704921242		107-TF		PENNOCK #1	MC KEAN	20.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215667	10135	3704921237		107-TF		PRZYBYSZEWSKI #1	MC KEAN	45.0	COLUMBIA GAS TRAN
8215661	10127	3704921094		107-TF		ROMBA	MC KEAN	40.0	COLUMBIA GAS TRAN
8215650	10116	3704920840		107-TF		SEKULA #1	MC KEAN	35.0	COLUMBIA GAS TRAN
8215653	10119	3704920845	D	107-TF		TRACY #1	MC KEAN	35.0	COLUMBIA GAS TRAN
8215656	10122	3704921017		107-TF		TRACY #3	MC KEAN	20.0	COLUMBIA GAS TRAN
8215666	10132	3704921163		107-TF		WOZNIAK #1	MC KEAN	30.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	01/21/82	JA: PA			
8215700	10028	3704921176		107-TF		DORIS O WESTER #1 0646	WATERFORD TOWNSHIP	10.0	COLUMBIA GAS TRAN
8215699	10027	3704921175		107-TF		FERDINAND C BLILEY #1 0649	WATERFORD TOWNSHIP	30.0	COLUMBIA GAS TRAN
8215702	10030	3704920884		107-TF		MERLE WILLEY #1 0630	WATERFORD TOWNSHIP	20.0	COLUMBIA GAS TRAN
8215701	10029	3704920855		107-TF		THOMAS J POST #1 0645	WATERFORD TOWNSHIP	20.0	COLUMBIA GAS TRAN
8215703	10031	3704921177		107-TF		WM RODGER SCOTT #1 0615	WATERFORD TOWNSHIP	25.0	COLUMBIA GAS TRAN
UTAH DIVISION OF OIL,GAS, & MINING									
-AMOCO PRODUCTION CO				RECEIVED:	01/15/82	JA: UT			
8215543	K-121-9	4304330170		102-B		CHAMPLIN 372 AMOCO D #1	ANSCHUTZ RANCH-TWIN C	3000.0	COLORADO INTERSTA
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	10/19/82	JA: VA			
8215705		4502720414		107-DV		W MILLER RICHARDSON 20658	VIRGINIA FIELD AREA	32.3	COLUMBIA GAS TRAN
8215704		4502720410		103		W MILLER RICHARDSON 820040	VIRGINIA FIELD AREA	26.8	COLUMBIA GAS TRAN
8215706		4502720410		107-DV		W MILLER RICHARDSON 820040	VIRGINIA FIELD AREA	17.9	COLUMBIA GAS TRAN
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	01/20/82	JA: WV			
8215707		4708703426		107-DV		INEZ HOLSWADE #2	SPENCER DISTRICT	18.0	ROARING FORK GAS
8215736		4708703426		103		INEZ HOLSWADE #2	SPENCER DISTRICT	18.0	ROARING FORK GAS
8215710		4708703439		107-DV		INEZ HOLSWADE #3	SPENCER DISTRICT	18.0	ROARING FORK GAS
8215739		4708703439		103		INEZ HOLSWADE #3	SPENCER DISTRICT	18.0	ROARING FORK GAS
8215708		4708703427		107-DV		OLEN GANDEE #1	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
8215738		4708703427		103		OLEN GANDEE #1	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
8215709		4708703428		107-DV		OLEN GANDEE #2	SPENCER DISTRICT	36.0	COLUMBIA GAS TRAN
8215737		4708703428		103		OLEN GANDEE #2	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
-APPALACHIAN ENERGY INC				RECEIVED:	01/20/82	JA: WV			
8215717		4703322357		103		S HARDESTY AA1	CLAY	30.0	COLUMBIA GAS TRAN
-BARRON KIDD				RECEIVED:	01/13/82	JA: WV			
8215512		4710301288	D	103		BARRON KIDD SANTEE #5	SANTEE FIELD (BIG INJ	15.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/20/82	JA: WV			
*8215733		4708121472		103		COONTZ #2	VALLEY	84.0	A CONSOLIDATED GA
-BKK PROSPECTING LTD				RECEIVED:	01/20/82	JA: WV			
8215763		4707301169		107-DV		BILLINGHAM #2		131.4	COLUMBIA GAS TRAN
8215758		4707300117		107-DV		ELDER - BROWSE #1	ELDER-BROWSE	73.0	COLUMBIA GAS TRAN
8215762		4707301212		107-DV		WALLACE RICHARDSON #1	WALLACE RICHARDSON	219.0	COLUMBIA GAS TRAN
-BROCK EXPLORATION CORP				RECEIVED:	01/20/82	JA: WV			
8215713		4701900191		108		MIDVALE COLLIERY CO #1		21.0	CABOT CORP
8215714		4701900192		108		MIDVALE COLLIERY CO #2		0.0	CABOT CORP
8215715		4701900193		108		MIDVALE COLLIERY CO #3		21.0	CABOT CORP
8215716		4701900194		108		MIDVALE COLLIERY CO #4		21.0	CABOT CORP
-CABOT OIL & GAS CORP				RECEIVED:	01/20/82	JA: WV			
8215754		4708100557		103		BEAVER COAL CO A-58	SHADY SPRINGS	40.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215755		4708100563		103		BEAVER COAL CO A-70	TOWN	25.0	COLUMBIA GAS TRAN
8215741		4703903673		107-DV		KIRK & MILLER #1	WASHINGTON	23.0	TENNESSEE GAS PIP
8215756		4703903673		103		KIRK & MILLER #1	WASHINGTON	23.0	TENNESSEE GAS PIP
-CHASE PETROLEUM				RECEIVED:	01/13/82	JA: WV			
8215523		4708504938		107-DV		AMOS #1	UNION DISTRICT	39.0	COLUMBIA GAS TRAN
8215521		4708504937		107-DV		AMOS #2	UNION DISTRICT	29.4	COLUMBIA GAS TRAN
8215520		4708504938		107-DV		AMOS #3	UNION DISTRICT	50.4	COLUMBIA GAS TRAN
8215525		4708504568		107-DV		BITNER #1	UNION DISTRICT	828.0	COLUMBIA GAS TRAN
8215527		4701702795		107-DV		BURGESS #1	CENTRAL DISTRICT	112.5	COLUMBIA GAS TRAN
8215528		4701702797		107-DV		BURGESS #3	CENTRAL DISTRICT	198.0	COLUMBIA GAS TRAN
8215529		4701702798		107-DV		BURGESS #4	CENTRAL DISTRICT	121.5	COLUMBIA GAS TRAN
8215522		4708504932		107-DV		COX-RIDDLE #1	UNION DISTRICT	50.4	COLUMBIA GAS TRAN
8215533		4708504800		107-DV		GOODWIN #1	CLAY DISTRICT	79.2	COLUMBIA GAS TRAN
8215530		4708504403		107-DV		HUDKINS #1	UNION DISTRICT	121.5	COLUMBIA GAS TRAN
8215531		4708504431		107-DV		HUDKINS #2	UNION DISTRICT	169.2	COLUMBIA GAS TRAN
8215532		4708504432		107-DV		HUDKINS #3	UNION DISTRICT	109.8	COLUMBIA GAS TRAN
8215514		4701702478		107-DV		JONES #1	CENTRAL DISTRICT	48.6	COLUMBIA GAS TRAN
8215506		4701702341		107-DV		LEGGETT #1	CENTRAL DISTRICT	50.0	COLUMBIA GAS TRAN
8215526		4708504936		103		MICHELS #1	PENNSBORO-TOLLGATE	15.0	
8215515		4701702525		107-DV		PRINZ #1	CENTRAL DISTRICT	432.0	COLUMBIA GAS TRAN
8215518		4701702611		107-DV		R LEGGETT #1	CENTRAL DISTRICT	112.5	COLUMBIA GAS TRAN
8215534		4701702355		107-DV		STELLA COX MAY #3	CENTRAL DISTRICT	50.0	COLUMBIA GAS TRAN
8215516		4701702558		107-DV		T V SMITH #2	CENTRAL DISTRICT	360.0	COLUMBIA GAS TRAN
8215517		4701702559		107-DV		T V SMITH #4	CENTRAL DISTRICT	342.0	COLUMBIA GAS TRAN
8215524		4708504569		107-DV		WILSON #1	UNION DISTRICT	44.1	COLUMBIA GAS TRAN
-CHRISMAN DRILLING COMPANY				RECEIVED:	01/13/82	JA: WV			
8215510		4703322104		108		BOGGES-LUCAS #4	EAGLE	17.0	EQUITABLE GAS CO
8215509		4703322143		108		C D ROBINSON 4	EAGLE	21.0	EQUITABLE GAS CO
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/13/82	JA: WV			
8215508		4703301967		108		C W ROBINSON 12589	EAGLE DISTRICT	11.0	GENERAL SYSTEM PU
8215499		4701302537		108		DENVER BRANNON 11909	WASHINGTON DISTRICT	22.8	GENERAL SYSTEM PU
8215496		4703300997		108		MARY L NUTTER 12228	ELK DISTRICT	2.9	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/20/82	JA: WV			
8215730		4700100577		102-2		AGNES W HALLER 11453	COVE DISTRICT	6.2	GENERAL SYSTEM PU
8215759		4704700672		108		CONSOLIDATION COAL 12098	PINEVILLE FIELD AREA	19.0	GENERAL SYSTEM PU
8215732		4701701853		102-2		E W KREYENBUHL 12356	COVE DISTRICT	13.9	GENERAL SYSTEM PU
8215760		4700100729		108		JAMES M O'NEAL 11796	W VA OTHER A83772	18.0	GENERAL SYSTEM PU
8215747		4701900272		108		JEFFREY MANUFACTURING CO 11908	KANAWHA DISTRICT	18.8	GENERAL SYSTEM PU
8215742		4703302282		102-2		M R LODGE 12627	SIMPSON DISTRICT	39.0	GENERAL SYSTEM PU
8215743		4703302569		102-2		M R LODGE 12708	SIMPSON DISTRICT	1.2	GENERAL SYSTEM PU
8215745		4704102678		108		MINOR J HALL 12581	FREEMANS CREEK	9.0	GENERAL SYSTEM PU
8215746		4704700594		108		POCAHONTAS LAND CORP 11685	NORTH FORK DISTRICT	10.2	GENERAL SYSTEM PU
8215729		4704900675		102-2		WILLIS J DAUGHERTY 12660	UNION DISTRICT	10.5	GENERAL SYSTEM PU
-FOX DRILLING CO INC				RECEIVED:	01/13/82	JA: WV			
8215513		4708101154	D	107-DV		B ROBINSON #2 (47-001-1154)	BELINGTON	15.0	COLUMBIA GAS TRAN
-FRANKLIN ADKINS				RECEIVED:	01/13/82	JA: WV			
8215504		4709921685	D	107-DV		PENNINGTON #1	LINCOLN	7.2	COLUMBIA GAS TRAN
8215505		4709921619	D	107-DV		PERRY #1	LINCOLN	7.2	COLUMBIA GAS TRAN
8215501		4709921688	D	107-DV		PERRY #2	LINCOLN DISTRICT	6.0	COLUMBIA GAS TRAN
8215503		4709921608	D	107-DV		PORTER #1	LINCOLN DISTRICT	7.8	COLUMBIA GAS TRAN
-FRANKLIN ADKINS				RECEIVED:	01/20/82	JA: WV			
8215723		4709921596		107-DV		ATKINS #1	LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN
8215725		4709921602		107-DV		BROWN #1	LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215727		4709916730		107-DV		JERRELL #1	LINCOLN	7.2	COLUMBIA GAS TRAN
8215726		4709921617		107-DV		LOUVINS #1	LINCOLN	5.0	COLUMBIA GAS TRAN
8215722		4709921594		107-DV		MEADE #1	LINCOLN DISTRICT	6.3	COLUMBIA GAS TRAN
8215721		4709921592		107-DV		NAPIER #1	LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN
8215724		4709921597		107-DV		WILLIAMSON #1	LINCOLN DISTRICT	5.0	COLUMBIA GAS TRAN
-GAS SUPPLY CORP				RECEIVED:	01/20/82	JA: WV			
8215761		4709900219		108		S A BOOTH #1		3.1	INDUSTRIAL GAS CO
-J & J ENTERPRISES INC				RECEIVED:	01/20/82	JA: WV			
8215735		4700121591		103		B-333	VALLEY	0.0	CONSOLIDATED GAS
8215734		4700121593		103		B-335	VALLEY	0.0	CONSOLIDATED GAS
8215718		4703322351		103		B-350	SARDIS	0.0	CONSOLIDATED GAS
8215757		4703302352		103		B-351	SARDIS	20.0	CONSOLIDATED GAS
8215748		4700121542		103		J-491	UNION	20.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	01/13/82	JA: WV			
8215511		4704102933		108		ADDIE HARGERHUFF S-316	HACKER'S CREEK	16.0	CONSOLIDATED GAS
8215507		4703325750		103		ARTHUR HARDMAN S-348	COAL	0.7	CONSOLIDATED GAS
8215497		4703301243		108		LOUISA ROBINSON S-251	EAGLE	22.0	CONSOLIDATED GAS
8215498		4704102902		108		TOM BROWN S-305	HACKERS CREEK	15.0	CONSOLIDATED GAS
-JOHNSON PRODUCING CO				RECEIVED:	01/13/82	JA: WV			
8215502		4709721750	D	107-DV		A FALLON #1	UNION	25.4	CONSOLIDATED GAS
-KENNETH DAVIS				RECEIVED:	01/20/82	JA: WV			
8215728		4709921694		108		ALEXANDER PORTER #1	LINCOLN DISTRICT	15.0	COLUMBIA GAS TRAN
-NASHVILLE ASSOCIATES INC				RECEIVED:	01/20/82	JA: WV			
8215720		4702102351		108		DESPARD SHARON #2		3.0	CONSOLIDATED GAS
8215719		4702122350		108		DESPARD SWANSON #1		0.6	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	01/20/82	JA: WV			
8215753		4700100899		108		BLANCHE C CRIM #1	ELK CREEK	45.0	CONSOLIDATED GAS
-RUSSELL V JOHNSON JR				RECEIVED:	01/20/82	JA: WV			
8215712		4701702757		108		HINTERER #2	BRUSHY FORK	4.8	COLUMBIA GAS TRAN
8215711		4701702593		108		JOHN ERWIN #3	BRUSHY FORK-TOMS FORK	2.4	COLUMBIA GAS TRAN
-SANTA FE DRILLING CORP				RECEIVED:	01/13/82	JA: WV			
8215508		4708504963		103		MARY REED #1	UNION DISTRICT	0.0	CONSOLIDATED GAS
-STERLING DRILLING AND PROD CO INC				RECEIVED:	01/20/82	JA: WV			
8215731		4701501681		108		STAHLMAN #196 SDP #196	BUFFALO DISTRICT	18.0	EQUITABLE GAS CO
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	01/13/82	JA: WV			
8215519		4710900761		108		POCAHONTAS LAND CORP #B-16	BARKERS RIDGE	20.2	CONSOLIDATED GAS
-UNITED PETRO LTD				RECEIVED:	01/20/82	JA: WV			
8215750		4709701999		108		BESSIE HYRE #1	ABBOT FRENCH CREEK AN	12.0	COLUMBIA GAS TRAN
8215749		4709702088		108		BESSIE HYRE #2	ABBOT FRENCH CREEK AN	12.0	COLUMBIA GAS TRAN
8215752		4702103561		108		E T MARKS #1	GLENVILLE SOUTH GAS F	10.0	COLUMBIA GAS TRAN
8215751		4702103562		108		HARRY BRANNON #1	GLENVILLE SOUTH GAS F	10.0	COLUMBIA GAS TRAN
8215748		4709701998		108		ROBERT WILSON #1	ABBOT FRENCH CREEK AN	12.0	COLUMBIA GAS TRAN
8215744		4709702087		108		RUTH MICK #1	ABBOT FRENCH CREEK AN	12.0	COLUMBIA GAS TRAN
**********									
WYOMING OIL & GAS CONSERVATION COMMISSION									
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-AMOCO PRODUCTION CO				RECEIVED:	01/19/82	JA: WY			
8215410	NG 135-81	4903721343	D	107-RT		BITTER CREEK II #2A	BITTER CREEK	83.0	CITIES SERVICE GA
8215409	NG 133-81	4900720438		107-RT		CHAMPLIN 222 AMOCO C #1	ECHO SPRINGS	905.0	CITIES SERVICE GA
8215414	NG 157-81	4900720436		107-RT		CHAMPLIN 222 AMOCO D #1	ECHO SPRINGS	200.0	CITIES SERVICE GA
8215405	NG 128-81	4900720435		107-RT		CHAMPLIN 222 AMOCO E #1	ECHO SPRINGS	84.2	CITIES SERVICE GA
8215406	NG 129-81	4900720464		107-RT		CHAMPLIN 222 AMOCO F #1	ECHO SPRINGS	62.5	CITIES SERVICE GA
8215413	NG 142-81	4900720430		107-RT		CHAMPLIN 226 AMOCO D #1	WILD ROSE	148.0	CITIES SERVICE GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8215408	NG 132-81	4900720444		107-RT		CHAMPLIN 242 AMOCO I #1
8215412	NG 140-81	4903721396		107-RT		CHAMPLIN 242 AMOCO K #1
8215402	NG 124-81	4900720421	D	107-RT		CHAMPLIN 261 AMOCO C #1
8215404	NG 127-81	4900720415		107-RT		CHAMPLIN 261 AMOCO G #1
8215403	NG 126-81	4900720423		107-RT		CHAMPLIN 261 AMOCO H #1
8215411	NG 137-81	4903721196	D	107-RT		CHAMPLIN 263 AMOCO "B" #1
8215407	NG 131-81	4900720466		107-RT		CHAMPLIN 276 AMOCO E #1
8215418	NG 165-81	4900720388		107-RT		CHAMPLIN 336 AMOCO C #1
8215415	NG 159-81	4900720447		107-RT		CHAMPLIN 444 AMOCO C #1
8215416	NG 160-81	4900720498		107-RT		CHAMPLIN 444 AMOCO G #1
8215417	NG 161-81	4903721456		107-RT		CHAMPLIN 452 AMOCO E #1
-AMOCO PRODUCTION CO				RECEIVED:	01/20/82	JA: WY
8215421	NG 58-81	4902320292		107-RT		CHAMPLIN 149 AMOCO C #1
8215419	NG 56-81	4902320291		107-RT		CHAMPLIN 149 AMOCO D #1
8215420	NG 57-81	4902320290		103	107-RT	CHAMPLIN 149 AMOCO G #1
-TEXACO INC				RECEIVED:	01/20/82	JA: WY
8215422	NG 59-81	4903721471		107-TF		A M TRIPP (NCT-1) #1
** U.S. GEOLOGICAL SURVEY - DENVER,CO						
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/12/82	JA: CO 1
8215327	CD0486-81	0506706467		103		CARTER UTE #7A
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	01/13/82	JA: CO 1
8215330	CD0503-81	0510308554		103	107-TF	K-20-3-101-S
8215328	CD0494-81	0510308592		103		N-21-3-101-S
-TETON ENERGY CO INC				RECEIVED:	01/13/82	JA: CO 1
8215334	CD0475-81	0507708125		102-2		FEDERAL 1-34
-VENTURES IN PETROLEUM INC				RECEIVED:	01/12/82	JA: CO 1
8215319	CD0479-81	0506706510		103		VENTURE #1
8215321	CD0481-81	0506706509		103		VENTURE #2
8215320	CD0482-81	0506706508		103		VENTURE #3
-BELCO DEVELOPMENT CORP				RECEIVED:	01/12/82	JA: UT 1
8215316	UD0487-81	4304730784		102-4		DUCK CREEK 26-8GR
8215315	UD0488-81	4304730810		102-4		DUCK CREEK 32-17GR
-CIG EXPLORATION INC				RECEIVED:	01/12/82	JA: UT 1
8215323	UD0490-81	4304730955		107-TF		CIGE 76D-9-10-21P
-CIG EXPLORATION INC				RECEIVED:	01/13/82	JA: UT 1
8215333	UD0471-81	4304730910		107-TF		CIGE 37D-21-9-21
8215331	UD0491-81	4304730949		107-TF		CIGE 63D-29-9-22P
8215332	UD0493-81	4304730953		107-TF		CIGE 74D-6-10-22P
-COASTAL OIL & GAS CORP				RECEIVED:	01/12/82	JA: UT 1
8215324	UD0492-81	4304730868		107-TF		NATURAL BUTTES UNIT #23
-CONOCO INC				RECEIVED:	01/12/82	JA: UT 1
8215325	UD0283-81	4304730961		102-2		CONOCO WEEKS 6 #29
-GETTY OIL COMPANY				RECEIVED:	01/12/82	JA: UT 1
8215317	UD0088-81	4300730048		108		FEDERAL BEARD #1-3
-ODEGARD RESOURCES INC				RECEIVED:	01/13/82	JA: UT 1
8215329	UD0480-81	4301930790		103		ARCO FEDERAL #1
-PAGE PETROLEUM INC				RECEIVED:	01/12/82	JA: UT 1
8215318	UD0434-81	4301330487		103		UTE TRIBAL 1-9C6
-TEXAS OIL & GAS CORP				RECEIVED:	01/12/82	JA: UT 1
8215326	UCD574-80	4301930578		103		ARCO FEDERAL D #1
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM						
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	01/15/82	JA: NM 4

FIELD NAME	PROD	PURCHASER
ECHO SPRINGS	40.0	CITIES SERVICE GA
ECHO SPRINGS	110.0	CITIES SERVICE GA
STANDARD DRAW	235.0	CITIES SERVICE GA
STANDARD DRAW	56.0	CITIES SERVICE GA
STANDARD DRAW	141.0	CITIES SERVICE GA
SIBERIA RIDGE	140.0	CITIES SERVICE GA
ECHO SPRINGS	140.0	CITIES SERVICE GA
OVERLAND TRAIL	165.0	CITIES SERVICE GA
WILD ROSE	946.0	CITIES SERVICE GA
WILDROSE	168.0	CITIES SERVICE GA
SIBERIA RIDGE	111.0	CITIES SERVICE GA
BRUFF	800.0	CITIES SERVICE GA
BRUFF	250.0	CITIES SERVICE GA
BRUFF	255.0	CITIES SERVICE GA
BRUFF	548.0	MOUNTAIN FUEL SUP
BLANCO MESAVERDE	150.0	EL PASO NATURAL G
CATHEDRAL	14.0	MOUNTAIN FUEL SUP
CATHEDRAL	186.0	MOUNTAIN FUEL SUP
COON HOLLOW	175.0	NORTHWEST PIPELIN
IGNACIO BLANCO DAKOTA	200.0	NORTHWEST PIPELIN
IGNACIO BLANCO DAKOTA	300.0	NORTHWEST PIPELIN
IGNACIO BLANCO DAKOTA	50.0	NORTHWEST PIPELIN
DUCK CREEK	0.0	NORTHWEST PIPELIN
UNDESIGNATED	0.0	NORTHWEST PIPELIN
NATURAL BUTTES	465.0	COLORADO INTERSTA
NATURAL BUTTES	273.0	COLORADO INTERSTA
NATURAL BUTTES	465.0	COLORADO INTERSTA
NATURAL BUTTES	492.0	COLORADO INTERSTA
NATURAL BUTTES	383.0	COLORADO INTERSTA
OURAY	182.0	MOUNTAIN FUEL SUP
PETERS POINT FIELD	16.0	UINTA PIPELINE CO
EAST CANYON	98.0	MESA PIPELINE CO
ALTAMONT	150.0	KOCH HYDROCARBON
SAN ARROYO	270.0	MESA PIPELINE CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215381	NM-1691-81	3002527354		103		GLORIA FEDERAL #1	LANGLIE MATTIX	75.0	EL PASO NATURAL G
8215382	NM 1692-81	3002527357		103		JUSTIS B FEDERAL #3	LANGLIE MATTIX	75.0	EL PASO NATURAL G
-AMERADA HESS CORPORATION				RECEIVED:	01/19/82	JA: NM 4			
8215469	NM-1780-81	3003922735		103		JICARILLA APACHE "I" #9	BLANCO PICTURED CLIFF	108.0	EL PASO NATURAL G
8215459	NM1763-81	3003922737		103		JICARILLA APACHE "J" #3	BLANCO PICTURED CLIFF	18.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	01/15/82	JA: NM 4			
8215384	NM-1695-81	3003922525		103		JICACILLA CONTRACT 148 #25	OTERO CHACRA	406.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/08/82	JA: NM 4			
8215423	NM 8698-81	3004524425		103		SCHLOSSER NM FED #5E (DK)	BASIN DAKOTA (DK)	88.0	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/19/82	JA: NM 4			
8215466	NM-1775-81	3002502467		108		BALLARD "DE" FEDERAL #4	LYNCH (YATES)	5.4	PHILLIPS PETROLEU
-BEARTOOTH OIL & GAS CO				RECEIVED:	01/19/82	JA: NM 4			
8215453	NM-1755-81	3004524834		103		ELLEDGE FEDERAL 34 #11	AZTEC FRUITLAND-UNDES	18.0	GAS CO OF NEW MEX
8215472	NM-1786-81	3003922773		103		MINEL-FEDERAL #1-E	BLANCO-MESA VERDE	110.0	SOUTHWEST GAS COR
-BRADLEY H KEYES				RECEIVED:	01/19/82	JA: NM 4			
8215468	NM-1779-81	3004506408		108		YOCKEY #2	WEST KUTZ - PICTURED	4.0	EL PASO NATURAL G
-CONOCO INC				RECEIVED:	01/19/82	JA: NM 4			
8215456	NM-1759-81	3003922719		103		JICARILLA 30 #16	WEST LINDRITH	40.0	EL PASO NATURAL G
8215454	NM-1757-81	3002527155		103		VAUGHN A-14 #8	NMFU - JALMAT YATES G	131.0	EL PASO NATURAL G
8215455	NM-1758-81	3002525503		103		WARREN UNIT #61	NMFU - BLINEBRY	0.0	WARREN PETROLEUM
-CONSOLIDATED OIL & GAS INC				RECEIVED:	01/15/82	JA: NM 4			
8215397	NM-1712-81	3004500000		108		NANCE #1	BASIN-DAKOTA	20.0	SOUTHERN UNION GA
-CURTIS J LITTLE				RECEIVED:	01/15/82	JA: NM 4			
8215401	NM-1716-81	3003922788		103		BREVEY #2	BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
8215400	NM-1715-81	3003922789		103		SALAZAR #2	BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
8215399	NM-1714-81	3003922790		103		WARREN #2	BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED:	01/19/82	JA: NM 4			
8215467	NM-1778-81	3004525851		103		JULY JUBILEE #1	BASIN DAKOTA UND BALL	35.0	EL PASO NATURAL G
8215494	NM1866-81	3004522305		103		OKIE #4	POTWIN PICTURED CLIFF	7.5	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/15/82	JA: NM 4			
8215371	NM-1676-81	3004506543		108		FLORANCE D #3	BLANCO SOUTH PICTURED	21.0	EL PASO NATURAL G
8215370	NM-1672-81	3004506398		108		FLORANCE D #8	BLANCO - SOUTH PICTUR	21.0	EL PASO NATURAL G
8215368	NM-1668-81	3002500000		108		LANGLIE A FEDERAL #1	JALMAT YATES - SEVEN	16.0	EL PASO NATURAL G
8215369	NM-1669-81	3004520848		108		RIDDLE B #7	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
8215372	NM-1684-81	3003907368		108		SAN JUAN 28-5 UNIT #37	BLANCO - MESAVERDE	16.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/19/82	JA: NM 4			
8215435	NM-1734-81	3004520758		108		ATLANTIC C #9	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
8215436	NM-1737-81	3004507064		108		MARTIN #5	FULCHER KUTZ - PICTUR	23.0	EL PASO NATURAL G
8215476	NM-1812-81	3004521090		108		ROELOFS A #6	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8215425	NM0853-81-PB	3003920827		108-PB		SAN JUAN 27-4 UNIT #88	TAPACITO-PICTURED CLI	20.0	EL PASO NATURAL G
8215426	NM0181-81-PB	3003920672		108-PB		SAN JUAN 27-5 UNIT #158	TAPACITO-PICTURED CLI	19.0	EL PASO NATURAL G
8215424	NM0052-81-PB	3003920601		108-PB		SAN JUAN 28-6 UNIT #173	SOUTH BLANCO-PICTURED	20.0	EL PASO NATURAL G
8215485	NM1848-81-A	3003921920		103		SAN JUAN 29-7 UNIT #60A	BASIN DAKOTA	15.0	EL PASO NATURAL G
8215486	NM1848-81-B	3003921920		103		SAN JUAN 29-7 UNIT #60A	BLANCO MESAVERDE	350.0	EL PASO NATURAL G
8215483	NM-1846-81-A	3003922629		103		SAN JUAN 29-7 UNIT #86A	BASIN DAKOTA	150.0	EL PASO NATURAL G
8215484	NM-1846-81-B	3003922629		103		SAN JUAN 29-7 UNIT #86A	BLANCO MESAVERDE	190.0	EL PASO NATURAL G
8215495	NM1869-81	3004524876		103		SAN JUAN 32-9 UNIT #45A	BLANCO MESAVERDE	260.0	EL PASO NATURAL G
8215475	NM-1809-81	3004509480		108		SCHUMACHER #11	BASIN DAKOTA	23.0	EL PASO NATURAL G
8215434	NM-1733-81	3004505460		108		SHEETS C #2	BALLARD - PICTURED CL	20.0	EL PASO NATURAL G
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	01/19/82	JA: NM 4			
8215452	NM-1754-81	3002526867		107-DP		RENO COM #1	UNDESIGNATED	700.0	EL PASO NATURAL G
-GEORGE E COLEMAN				RECEIVED:	01/19/82	JA: NM 4			
8215443	NM-1745-81	3004523665		108		DRY CREEK #2	BISTI GALLUP	24.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-GETTY OIL COMPANY				RECEIVED:	01/19/82	JA: NM 4
8215473	NM-1788-81	3003905767		108		JICARILLA "B" #13
-GULF OIL CORPORATION				RECEIVED:	01/19/82	JA: NM 4
8215470	NM-1782-81	3004525090		103		DOUTHIT "C" FEDERAL #2E
8215471	NM-1783-81	3004525102		103		DOUTHIT "C" FEDERAL #3E
-HARVEY E YATES COMPANY				RECEIVED:	01/19/82	JA: NM 4
8215492	NM-1961-81	3002527477		102-4		YOUNG DEEP #6
8215493	NM-1862-81	3002527547		102-4		YOUNG DEEP #7
-JACK A COLE				RECEIVED:	01/15/82	JA: NM 4
8215390	NM-1702-81	3004320557		103		INDIAN BEND #1
8215391	NM-1703-81	3004320561		103		INDIAN BEND #2
8215392	NM 1704-81	3004320562		103		INDIAN BEND #3
8215389	NM-1701-81	3004320560		103		INDIAN BEND #4
8215393	NM 1705-81	3004320565		103		INDIAN BEND #5
8215388	NM-1700-81	3004320558		103		INDIAN BEND #6
8215390	NM-1713-81	3004320559		103		INDIAN BEND #7
8215394	NM 1706-81	3004320563		103		INDIAN BEND #8
8215387	NM-1699-81	3004320564		103		INDIAN BEND #9
-JEROME P MCHUGH				RECEIVED:	01/15/82	JA: NM 4
8215386	NM-1697-81	3003921755		108		JER #2
-LIVELY EXPLORATION COMPANY				RECEIVED:	01/19/82	JA: NM 4
8215448	NM 1750-81	3004525046		103		LIVELY #19-E
8215449	NM 1751-81	3003922678		103		LIVELY #21-E
-MARALO INC				RECEIVED:	01/15/82	JA: NM 4
8215395	NM-1709-81	3002500000		108		SHOLES B #2
-MERRION OIL & GAS CORP				RECEIVED:	01/19/82	JA: NM 4
8215460	NM1764-81	3004320521		103		BONANZA #6
8215474	NM1791-81	3004320575		103		BONANZA #7
8215465	NM1774-81	3004523593		108		CHACO LIMITED #2-J
8215457	NM-1760-81	3004523594		108		CHACO LTD #2
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	01/15/82	JA: NM 4
8215385	NM-1696-81	3001500000		108		FEDERAL 00 #2
-MESA PETROLEUM CO				RECEIVED:	01/15/82	JA: NM 4
8215373	NM-168581107	3000560959		102-2	107-TF	COTTONWOOD FEDERAL #1
8215375	NM-168781107	3000560899		102-2	107-TF	JESS FEDERAL #2
8215374	NM-168681107	3000560942		102-2	107-TF	JESS FEDERAL #3
-MESA PETROLEUM CO				RECEIVED:	01/19/82	JA: NM 4
8215445	NM1747-81107	3000561063		102-2	107-TF	CINDY FEDERAL #1
8215447	NM1749-81107	3000560980		102-2	107-TF	SALT FEDERAL #3
8215491	NM1868-81	3001523101		103		WILLIAMSON FEDERAL #2
-MTS LTD PARTNERSHIP				RECEIVED:	01/15/82	JA: NM 4
8215380	NM-169081107	3000560865		102-2	107-TF	MELENA FEDERAL #1
-MTS LTD PARTNERSHIP				RECEIVED:	01/19/82	JA: NM 4
8215430	NM1725-81107	3000561003		102-2	107-TF	DORIS FEDERAL #2
8215431	NM1726-81107	3000561004		102-2	107-TF	DORIS FEDERAL #3
8215432	NM1727-81107	3000561005		102-2	107-TF	DORIS FEDERAL #4
8215446	NM1748-81107	3000561091		102-2	107-TF	MACHO FEDERAL #7
8215444	NM-1746-81	3004524780		103		SOUTH BLANCO FEDERAL 23 #1
8215462	NM1770-81	3004525088		103		SOUTH BLANCO FEDERAL 26 #2
8215464	NM1772-81	3004525064		103		SOUTH BLANCO NAVAJO 25 #1
8215463	NM1771-81	3004525063		103		SOUTH BLANCO NAVAJO 25 #3
8215461	NM1769-81	3004525066		103		SOUTH BLANCO NAVAJO 26A #4
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/19/82	JA: NM 4

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FIELD NAME	PROD	PURCHASER
SOUTH BLANCO PICTURED	18.5	EL PASO NATURAL G
BASIN DAKOTA	0.0	GAS CO OF NEW MEX
BASIN DAKOTA	0.0	GAS CO OF NEW MEX
N YOUNG BONE SPRINGS	0.0	EL PASO NATURAL G
N YOUNG BONE SPRINGS	0.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	50.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	190.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	28.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	98.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	210.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	28.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	98.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	210.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	28.0	EL PASO NATURAL G
CHOZA MESA PICTURED C	4.0	EL PASO NATURAL G
BASIN DAKOTA	70.0	EL PASO NATURAL G
BASIN DAKOTA	280.0	EL PASO NATURAL G
JALMAT YATES	3.0	EL PASO NATURAL G
CHACON DAKOTA ASSOCIA	60.0	EL PASO NATURAL G
CHACON DAKOTA ASSOCIA	109.5	EL PASO NATURAL G
WAW FRUITLAND/PICTURE	30.0	EL PASO NATURAL G
WAW FRUITLAND/PICTURE	10.0	EL PASO NATURAL G
BURTON FLAT	13.0	LLANO INC
UNDESIGNATED ABO	750.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	224.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	167.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	290.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	60.0	TRANSWESTERN PIPE
DIAMOND MOUND ATOKA-M	300.0	INTERNORTH INC
UNDESIGNATED ABO	10.0	
UNDESIGNATED ABO	18.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	219.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	73.0	TRANSWESTERN PIPE
UNDESIGNATED ABO	30.0	
LYBROOK GALLUP EXT	42.0	GAS CO OF NEW MEX
LYBROOK GALLUP EXT	27.0	GAS CO OF NEW MEX
LYBROOK GALLUP EXT	37.0	GAS CO OF NEW MEX
LYBROOK GALLUP EXT	33.0	GAS CO OF NEW MEX
LYBROOK GALLUP EXT	37.0	GAS CO OF NEW MEX

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215440	NM-1742-81	3003921133		108		JICARILLA 93 #10	TAPACITO PICTURED CLI	24.0	NORTHWEST PIPELIN
8215442	NM-1743-81-B	3003922726		103		SAN JUAN 29-5 #47A MV	BLANCO MESAVERDE	88.0	NORTHWEST PIPELIN
8215441	NM 1743-81-A	3003922726		103		SAN JUAN 29-5 #47A PC	BLANCO PICTURED CLIFF	90.0	NORTHWEST PIPELIN
-READ & STEVENS INC				RECEIVED:	01/19/82	JA: NM 4			
8215451	NM-1753-81	3001510805		107-PE		HACKBERRY HILLS UNIT #4	HACKBERRY HILLS CANYO	41.0	GAS CO OF NEW MEX
-SHERMAN F WAGENSELLER				RECEIVED:	01/19/82	JA: NM 4			
8215458	NM-1761-81	3003908229		108		MOBIL APACHE #11	SOUTH BLANCO PC	20.0	EL PASO GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	01/15/82	JA: NM 4			
8215378	NM 1689-81-A	3004524740		103		HILLSTROM #3	UNDESIGNATED	363.0	SOUTHERN UNION GA
8215379	NM 1689-81-B	3004524740		103		HILLSTROM #3	BLANCO	59.0	SOUTHERN UNION GA
8215376	NM 1688-81-A	3004524623		103		HUBBARD #6	UNDESIGNATED	158.0	SOUTHERN UNION GA
8215377	NM 1688-81-B	3004524623		103		HUBBARD #6	BLANCO	42.0	SOUTHERN UNION GA
-SOUTHLAND ROYALTY CO				RECEIVED:	01/19/82	JA: NM 4			
8215450	NM 1752-81	3004523903		103		COOPER #4-E	BASIN	158.0	SOUTHERN UNION GA
8215482	NM1834-81	3004525026		103		CULPEPPER MARTIN #16-E	BASIN	300.0	SOUTHERN UNION GA
8215438	NM 1741-81-A	3004525014		103		HANKS #18-M	BASIN	280.0	SOUTHERN UNION GA
8215439	NM 1741-81-B	3004525014		103		HANKS #18-M	BLANCO	88.0	SOUTHERN UNION GA
8215489	NM1858-81-A	3004525030		103		HOLDER "A" #1-E	BASIN	370.0	SOUTHERN UNION GA
8215490	NM1858-81-B	3004525030		103		HOLDER "A" #1-E	FLORA VISTA	170.0	SOUTHERN UNION GA
-SUPRON ENERGY CORPORATION				RECEIVED:	01/19/82	JA: NM 4			
8215487	NM1851-81	3004525003		103		MCCORD 4-E	BASIN DAKOTA	525.0	SOUTHERN UNION GA
8215488	NM-1853-81	3004525055		103		NEWSOM B 12-E	BASIN DAKOTA	352.0	EL PASO NATURAL G
8215481	NM-1833-81-B	3004525058		103		SANCHEZ 3-E	BASIN DAKOTA	352.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	01/15/82	JA: NM 4			
8215383	NM-1694-81	3004524824		103		MANSFIELD COM #4	BASIN DAKOTA	500.0	NORTHWEST PIPELIN
-TENNECO OIL COMPANY				RECEIVED:	01/19/82	JA: NM 4			
8215479	NM1831-81	3003922581		103		JICARILLA "A" #2E	BASIN DAKOTA	506.0	GAS CO OF NEW MEX
8215477	NM-1827-81-A	3003922579		103		JICARILLA "B" #2E	UNDESIGNATED CHACRA	506.0	GAS CO OF NEW MEX
8215478	NM-1827-81-B	3003922579		103		JICARILLA "B" #2E	BASIN DAKOTA	506.0	GAS CO OF NEW MEX
-YATES PETROLEUM CORPORATION				RECEIVED:	01/19/82	JA: NM 4			
8215429	NM1724-81102	3000561008		102-2	107-TF	GEORGE "GJ" FEDERAL #1	WILDCAT	0.0	TRANSWESTERN PIPE
8215427	NM1722-81102	3000561023		102-2	107-TF	LEEMAN "OC" FEDERAL #1	WILDCAT	0.0	TRANSWESTERN PIPE
8215428	NM1723-81107	3000561047		102-2	107-TF	LILLIE "RB" FEDERAL #1	UND ABO	0.0	TRANSWESTERN PIPE
-HARPER OIL COMPANY				RECEIVED:	01/19/82	JA: OK 4			
8215437	OKA-1739-81	3501120816		103		CROOKED POLE #1	SE FAY	97.0	OKLAHOMA GAS & EL
-MAJESTIC ENERGY CORP				RECEIVED:	01/15/82	JA: OK 4			
8215396	OKA 1718-81	3511122557		103		TIGER #2		67.0	PHILLIPS PETROLEU
-MID-CONTINENT PETROLEUM MGMT INC				RECEIVED:	01/15/81	JA: OK 4			
8215366	OKA-1660-81	3501500000		107-PE		TSOTADDLE #1 015-01863-0	WILDCAT SECTION 6-5N-	31.0	PUBLIC SERVICE CO
-MID-CONTINENT PETROLEUM MGMT INC				RECEIVED:	01/15/82	JA: OK 4			
8215367	OKA-1661-81	3501500000		107-PE		PAIS BISZY #2 (FJK) 015-01862-0	WILDCAT SECTION 31-6N	48.0	PUBLIC SERVICE CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/19/82	JA: OK 4			
8215433	OKA-1728-81	3511730071		108		DEROIN #8	EAST WATCHORN	15.0	JAY PETROLEUM
-COASTAL OIL & GAS CORP				RECEIVED:	01/12/82	JA: UT 4			
8215322	UD8381-81	4304730479		107-TF		NATURAL BUTTES UNIT 59-24B	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
**********									
** U.S. GEOLOGICAL SURVEY - CASPER,WY									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	01/15/82	JA: WY 5			
8215345	W433-1	4903721116		103		LOST SOLDIER UNIT #106	LOST SOLDIER-TENSLEEP	4.0	NORTHERN GAS CO
8215346	W434-1	4903721446		103		LOST SOLDIER UNIT #128	LOST SOLDIER-TENSLEEP	2.4	NORTHERN GAS CO
8215347	W435-1	4903721670		103		LOST SOLDIER UNIT #138 (DARWIN)	LOST SOLDIER-DARWIN	3.0	NORTHERN GAS CO
8215348	W436-1	4903721670		103		LOST SOLDIER UNIT #138(MADISON)	LOST SOLDIER-MADISON	3.0	NORTHERN GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8215349	W437-1	4902320413		102-2		SHUTE CREEK #9 (FRONTIER)
8215350	W438-1T	4902320413		107-TF		SHUTE CREEK #9 (FRONTIER)
-BELCO PETROLEUM CORPORATION				RECEIVED:	01/15/82	JA: WY 5
8215365	W 457-1	4902320396		103		BNG 110-9
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	01/15/82	JA: WY 5
8215364	W 456-1	4901321196		107-DP		RESERVOIR CREEK #1-31
-ENERGETICS INC				RECEIVED:	01/15/82	JA: WY 5
8215355	W-767-0	4903620586		107-TF		FEDERAL 10-17
8215356	W-768-0	4903520549		107-TF		FEDERAL 10-20
8215363	W 454-1	4903520585		107-TF		FEDERAL 10-28
8215357	W-769-0	4903520546		107-TF		FEDERAL 10-32
8215354	W-603-0	4903515536		107-TF		FEDERAL 10-5
8215351	W-766-0	4903520597		107-TF		FEDERAL 10-8
8215358	W-770-0	4903720555		107-TF		FEDERAL 30-4
8215362	W 453-1	4903520584		107-TF		FEDERAL 40-20
8215352	W-1127-9	4903520589		107-TF		FEDERAL 40-29
8215353	W-1179-9	4903520502		107-TF		FEDERAL 40-32
8215359	W-771-0	4903520598		107-TF		FEDERAL 40-6
8215360	W-772-0	4903520587		107-TF		FEDERAL 40-7
8215361	W-294-1	4903721805		107-TF		FEDERAL 44-9
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	01/15/82	JA: WY 5
8215344	W417-1	4900921897		103		FEDERAL 2-25 W-31766

OTHER PURCHASERS VOLUME NO :593

8215282 NEW JERSEY NATURAL GAS
8215520 PANHANDLE EASTERN PIPELINE CO
8215625 CONOCO INC
8215733 BROOKLYN UNION GAS CO

BILLING CODE 6717-01-C

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FIELD NAME	PROD	PURCHASER
SHUTE CREEK-FRONTIER	529.0	
SHUTE CREEK-FRONTIER	529.0	
SOUTH HOGSBACK	0.0	NORTHWEST PIPELIN
WILDCAT	884.0	COLUMBIA GAS TRAN
BIRD CANYON	591.0	NORTHWEST PIPELIN
BIRD CANYON	1300.0	NORTHWEST PIPELIN
BIRD CANYON	170.0	NORTHWEST PIPELIN
BIRD CANYON	225.0	NORTHWEST PIPELIN
BIRD CANYON	198.0	NORTHWEST PIPELIN
BIRD CANYON	315.0	NORTHWEST PIPELIN
E BIRD CANYON	260.0	NORTHWEST PIPELIN
BIRD CANYON	160.0	NORTHWEST PIPELIN
BIRD CANYON	225.0	NORTHWEST PIPELIN
BIRD CANYON	188.0	NORTHWEST PIPELIN
BIRD CANYON	900.0	NORTHWEST PIPELIN
BIRD CANYON	500.0	NORTHWEST PIPELIN
MONUMENT BUTTE IV	175.0	COLORADO INTERSTA
SCOTT	38.9	PHILLIPS PETROLEU

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 3, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5-mile rule)
102–3: New well (1,000-ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4179 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 11, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALL STATES OIL & PRODUCING CO INC		RECEIVED: 01/21/82		JA: OH					
8215764		3418322159		107-TF		HERRMANN #1	GRANGE	7.0	COLUMBIA GAS TRAN
-ALSID OIL & GAS DEVELOPMENT CO		RECEIVED: 01/21/82		JA: OH					
8215766		3405922853		103	107-TF	BAKER #1	WESTLAND	15.0	
8215765		3405922783		103	107-TF	GRAY-SUSTERSIC #1	MONROE	15.0	
8215767		3405922861		103	107-TF	SUSTERSIC #1	MONROE	15.0	
-ALTHEIRS OIL INC		RECEIVED: 01/21/82		JA: OH					
8215768		3412725367		103		AICHELE #1	HARRISON	10.0	NATIONAL GAS & OI
-AMERICAN PETROEL INC		RECEIVED: 01/21/82		JA: OH					
8215779		3416726460		103		CLYDE SIMMERS #1	ADAMS	12.0	
8215774		3416726109		103		DALE LOTHES #3	ADAMS	6.0	
8215778		3416726207		103		DALE LOTHES #4	ADAMS	10.0	
8215773		3416726188		103		DREXEL PERRT 3	ADAMS	5.8	
8215770		3416725380		103		FARMERS LIVESTOCK AUCTION CO #5	WARREN	0.0	
8215769		3416725262		103		FRANCIS #2	WARREN	4.0	
8215777		3416726113		103		GEORGE FORSHEY #1	WATERTOWN	6.0	
8215771		3416726186		103		PAUL COOK #3	ADAMS	10.0	
8215775		3416726110		103		ROBERT LONG #3	ADAMS	8.0	
8215772		3416726107		103		ROBERT LONG #4	ADAMS	6.0	
8215776		3416726112		103		SIMS #3	WATERTOWN	0.4	
-AMERICAN WELL MANAGEMENT COMPANY		RECEIVED: 01/21/82		JA: OH					
8215780		3408924289		103		ROBERT BODLE #1	FALLSBURY	18.0	
-APPALACHIAN EXPLORATION INC		RECEIVED: 01/21/82		JA: OH					
8215783		3408520262		103	107-TF	PARKS UNIT #1	KIRTLAND	54.8	CONSOLIDATED ALUM
-APPALACHIAN PETROLEUM CORP		RECEIVED: 01/21/82		JA: OH					
8215784		3412122500		103		GOLDIE DOEBEREINER #5	JACKSON	3.5	COLUMBIA GAS TRAN
8215785		3412122680		107-DV		MARK SCHOTT #5	JACKSON	3.5	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC		RECEIVED: 01/21/82		JA: OH					
8215787		3415723627		103	107-TF	BECKER #1	ZOAR	14.0	
8215786		3410322691		103	107-TF	KEN CLEVELAND #1	MEDINA	10.0	
-B T SIMPSON JR		RECEIVED: 01/21/82		JA: OH					
8215941A		3407523085		103		KENNETH SMITH #2	NASHVILLE	0.0	COLUMBIS GAS TRAN
8215941B		3407523085	D	107-TF		KENNETH SMITH #2	NASHVILLE	0.0	COLUMBIS GAS TRAN
-BANDS COMPANY INC		RECEIVED: 01/21/82		JA: OH					
8215788		3407522756		107-TF		BUTLER #1	MECHANIC	4.0	COLUMBIA GAS TRAN
8215789		3407522757		107-TF		BUTLER #2	MECHANIC	5.0	COLUMBIA GAS TRAN
8215790		3407523327		107-TF		CASTLE NURSING HOMES #3	HARDY	3.0	COLUMBIA GAS TRAN
8215791		3401523397		103	107-TF	LAUBER #3	MILLERSBURG	3.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY		RECEIVED: 01/21/82		JA: OH					
8215792		3415321011		103	107-TF	SPRINGER UNIT #1	COPLEY	25.0	
-BELDEN & BLAKE & CO. 78		RECEIVED: 01/21/82		JA: OH					

JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME FIELD NAME PROD PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215797		3415123607		103	107-TF	#2-341120-L KNABILL #2 341120	NIMISHILLIN	36.5	EAST OHIO GAS CO
8215796		3415123385		103	107-TF	E & T GLICK #1 341019	TUSCARAWAS	36.5	EAST OHIO GAS CO
-BEREA OIL AND GAS CORPORATION				RECEIVED: 01/21/82 JA: OH					
8215798		3415521792		103	107-TF	BAKER #1	HARTFORD	0.0	COLUMBIA GAS TRAN
8215793		3405922905		103	107-TF	FERGUSON #1	WESTLAND	0.0	COLUMBIA GAS TRAN
8215808		3415521822		103	107-TF	M TAYLOR #2	BROOKFIELD	0.0	COLUMBIA GAS TRAN
8215794		3411925798		103	107-TF	L GOFF #3	UNION	0.0	COLUMBIA GAS TRAN
8215801		3415521824		103	107-TF	MOTT #1	HARTFORD	0.0	COLUMBIA GAS TRAN
8215799		3415521818		103	107-TF	TAYLOR #1	BROOKFIELD	0.0	COLUMBIA GAS TRAN
-BERMAN J SHAFER				RECEIVED: 01/21/82 JA: OH					
8215939		3410322752		103		RICKETTS-STOLL #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
-BERWELL ENERGY INC				RECEIVED: 01/21/82 JA: OH					
8215795		3408322960		103		WAYNE BEHNER #2	JEFFERSON	24.0	COLUMBIA GAS TRAN
-BOBBY ANDERSON				RECEIVED: 01/21/82 JA: OH					
8215782		3416726875		103		EWING #2	WARREN	11.0	RIVER GAS CO
8215781		3416726861		103		WARNER #1	WARREN	7.3	COLUMBIA GAS TRAN
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED: 01/21/82 JA: OH					
8215805		3400922179		103		JOHNSON #13	AMES	4.3	COLUMBIA GAS TRAN
8215803		3400922177		103		JOHNSON #14	AMES	3.5	COLUMBIS GAS TRAN
8215804		3400922178		103		JOHNSON #15	AMES	2.0	COLUMBIA GAS TRAN
-CHARLES O LIGHTHIZER				RECEIVED: 01/21/82 JA: OH					
8215853		3411924800		107-TF		HERSCHEL CLARK #1	PERRY	0.0	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED: 01/21/82 JA: OH					
8215807		3411923599		108		CLARENCE PERKINS #1		10.0	NATIONAL OIL & GA
8215806		3407924282		108		M DIXON #1		0.0	NATIONAL OIL & GA
-CYCLOPS CORP				RECEIVED: 01/21/82 JA: OH					
8215809		3403124421		103	107-TF	H GROOMS UNIT #1	BEDFORD	35.0	
8215808		3403123259		103	107-TF	R HENDERSON #1	TUSCARAWAS	40.0	
8215810		3403124423		103	107-TF	W WATERS #1	LAFAYETTE	35.0	
-DART OIL COMPANY				RECEIVED: 01/21/82 JA: OH					
8215813		3409921428		103	107-TF	GORIE ET AL #2	ALLIANCE	50.0	
8215812		3409921303		103	107-TF	GORIE UNIT #1	ALLIANCE	50.0	
8215811		3400721763		103	107-TF	SHEFFEL #1-A	WINDSOR	40.0	
-DERBY OIL & GAS CORP				RECEIVED: 01/21/82 JA: OH					
8215819		3407523505		103	107-TF	MELVIN WEAVER #2	HARDY	12.0	COLUMBIA GAS TRAN
8215817		3407523405		103	107-TF	WARREN E MCCULLOCH #1	HARDY	12.0	COLUMBIA GAS TRAN
8215816		3407523470		103	107-TF	WARREN MCCULLOCH #2	HARDY	12.0	COLUMBIA GAS TRAN
8215815		3407523469		103	107-TF	WARREN MCCULLOCH #3	HARDY	12.0	COLUMBIA GAS TRAN
8215814		3407523311		103	107-TF	WILLIAM MILLER #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8215818		3407523486		103	107-TF	WILLIAM MILLER #3	SALT CREEK	12.0	COLUMBIA GAS TRAN
-DIXIE ENERGY CO				RECEIVED: 01/21/82 JA: OH					
8215820		3407522870		107-TF		HARTMAN #1	MILLERBURG	0.0	COLUMBIA GAS OF O
8215823		3407522873		107-TF		HARTMAN #2	MILLERBURG	0.0	COLUMBIA GAS OF O
8215822		3407522872		107-TF		HARTMAN #3	MILLERBURG	0.0	COLUMBIA GAS OF O
8215821		3407522871		107-TF		HARTMAN #4	MILLERBURG	0.0	COLUMBIA GAS OF O
-DUSTY DRILLING COMPANY INC				RECEIVED: 01/21/82 JA: OH					
8215824		3411522278		103		R PATTERSON #2	DEERFIELD	0.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 01/21/82 JA: OH					
8215825		3403124631		103		ED-1A MCWEENY	WARSAW	18.0	
-ENERGY DEVELOPMENT CORP				RECEIVED: 01/21/82 JA: OH					
8215826		3400721806		103	107-TF	HILL UNIT #2	NEW LYME	16.0	AMERICAN ENERGY S
-ENTERPRISE ENERGY CORP				RECEIVED: 01/21/82 JA: OH					
8215829		3405923185		107-TF		MID-OHIO COAL #2	JACKSON	36.5	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215826		3405923024		103	107-TF	MID-OHIO COAL #6	RICHLAND	36.5	COLUMBIA GAS TRAN
8215827		3405922785		107-TF		MILEY #1	VALLEY	36.5	COLUMBIA GAS TRAN
8215830		3405923214		103	107-TF	SHOOTER #1	RICHLAND	36.5	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	01/21/82	JA: OH			
8215831		3415723613		103	107-TF	SCHREINER #1	SALEM	0.0	
8215832A		3415723628		103		THOMAS #3	SANDY	0.0	
8215832B		3415723628	D	107-TF		THOMAS #3	SANDY	0.0	
-GASEARCH INC				RECEIVED:	01/21/82	JA: OH			
8215833		3415522011		103	107-TF	WILLIAMS UNIT #3	VIENNA	20.0	
-GEO ENERGY INC				RECEIVED:	01/21/82	JA: OH			
8215834		3405922941		103	107-TF	SPECK S #6-2	ADAMS	15.0	COLUMBIA GAS TRAN
-GLACIER ENERGY CORP				RECEIVED:	01/21/82	JA: OH			
8215835		3410522265		103		EUNICE BRADFIELD #1	MEIGS	7.0	COLUMBIA GAS TRAN
8215836		3410522266		103		H D GOEGLEIN #1	POMEROY	10.0	COLUMBIA GAS TRAN
-HADDAD & BROOKS INC				RECEIVED:	01/21/82	JA: OH			
8215837		3416725617		103		CLYDE R GUTBERLET #1	LAWRENCE	30.0	
-HERALD OIL & GAS CO				RECEIVED:	01/21/82	JA: OH			
8215838		3410523185		103		REED JEFFERS #1	COLUMBIA	0.0	COLUMBIA GAS TRAN
-HILLTOP DEVELOPMENT CORP				RECEIVED:	01/21/82	JA: OH			
8215840		3411925938		103		IVAN VANALLEN #2	JACKSON	2.8	NATIONAL GAS & OI
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	01/21/82	JA: OH			
8215843		3411522501		107-TF		CARL CAMPBELL #2	DEERFIELD	10.0	COLUMBIA GAS TRAN
8215842		3411522333		103	107-TF	DARL ROBERTS #1	RINGGOLD	12.0	COLUMBIA GAS TRAN
8215841		3411122666		103		W CARPENTER #1A	SENECA	15.0	COLUMBIA GAS TRAN
-JAMES O BIEHL				RECEIVED:	01/21/82	JA: OH			
8215802		3416724386		103		GOODFELLOWS #2	FLEMING	4.8	RIVER GAS CO
-JERRY OIL CO				RECEIVED:	01/21/82	JA: OH			
8215844		3411925826		103		PRIEST #1	FRAZEYSBURG	10.0	NATIONAL GAS & OI
-K S T OIL & GAS CO INC				RECEIVED:	01/21/82	JA: OH			
8215846A		3415320747		103		POWELL-HELLER #2	HUDSON	0.0	LIBBY OWENS FORD
8215846B		3415320747	D	107-TF		POWELL-HELLER #2	HUDSON	0.0	LIBBY OWENS FORD
8215847		3415320965		103	107-TF	RAMSEY-MOOSE UNIT #1	BOSTON	0.0	LIBBY OWENS FORD
8215845		3415320727		103	107-TF	TAMSIN PARK #2	BOSTON	0.0	LIBBY OWENS FORD
-KENOIL				RECEIVED:	01/21/82	JA: OH			
8215848		3403124360		103		JOHNNY COOL #1	MONROE	5.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED:	01/21/82	JA: OH			
8215851		3415723609		103	107-TF	GLEN ZIMMERMAN #1	FRANKLIN	25.0	COLUMBIA GAS TRAN
8215850		3402920882		103	107-TF	JACK S GILHART #1	HANOVERTON	15.0	COLUMBIA GAS TRAN
-LBJ DRILLING DBA JEFF MORAN				RECEIVED:	01/21/82	JA: OH			
8215849		3408322900		103		ELI & AMANDA HOSTETLER #1	CLAY	18.0	
-LEADER EQUITIES INC				RECEIVED:	01/21/82	JA: OH			
8215852		3403124176		103	107-TF	MOORE #1	WASHINGTON	15.0	
-LOMAK PETROLEUM INC				RECEIVED:	01/21/82	JA: OH			
8215860		3413322678		107-TF		CHRISTIAN & MISSIONARY ALLIANCE #1	SHALERSVILLE	12.0	PARK OHIO INDUSTR
8215856		3413322641		107-TF		HILL UNIT #1	SHALERSVILLE	12.0	PARK OHIO INDUSTR
8215857		3413322642		107-TF		HOSKINS #1	SHALERSVILLE	24.0	PARK OHIO INDUSTR
8215859		3413322659		107-TF		HOSKINS #2	SHALERSVILLE	24.0	PARK OHIO INDUSTR
8215858		3413322643		107-TF		HOSKINS #3	SHALERSVILLE	24.0	PARK OHIO INDUSTR
8215855		3413322622		107-TF		LUCAS #1	SHALERSVILLE	15.0	PARK OHIO INDUSTR
8215854		3413322595		107-TF		MACLEARIE #1	SHALERSVILLE	12.0	PARK OHIO INDUSTR
-M B OPERATING CO INC				RECEIVED:	01/21/82	JA: OH			
8215864		3415723563		103	107-TF	ALLMON #1	WARREN	27.4	REPUBLIC STEEL CO
8215862		3415123316		103	107-TF	FISHER UNIT #1	PIKE	18.3	REPUBLIC STEEL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215861		3413322677		107-TF		CHRISTIAN & MISSIONARY ALLIANCE #2	SHALERSVILLE	12.0	PARK OHIO INDUSTR
8215865		3413322644		107-TF		HILL UNIT #2	SHALERSVILLE	12.0	PARK OHIO INDUSTR
8215863		3413322645		107-TF		HILL UNIT #3	SHALERSVILLE	12.0	PARK OHIO INDUSTR
-MAGNUM PETROLEUM INC				RECEIVED:	01/21/82	JA: OH			
8215866		3415723610		103	107-TF	ROBERT & MARY ANN MCCLAIN #1	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MARK WEST ENERGY INC				RECEIVED:	01/21/82	JA: OH			
8215867		3415723611		103	107-TF	MARK WEST #1	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MARKWOOD OIL CO				RECEIVED:	01/21/82	JA: OH			
8215868		3415723612		103	107-TF	MARKWOOD #1	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215869		3415723614		103	107-TF	MCCLAIN #1	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215870		3415723615		103	107-TF	MCCLAIN #2	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215871		3415723616		103	107-TF	MCCLAIN #3	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215872		3415723617		103	107-TF	MCCLAIN #4	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215873		3415723618		103	107-TF	MCCLAIN #5	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215874		3415723619		103	107-TF	MCCLAIN #6	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215875		3415723620		103	107-TF	MCCLAIN #7	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215876		3415723621		103	107-TF	MCCLAIN #8	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215877		3415723622		103	107-TF	MCCLAIN #9	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215878		3415723623		103	107-TF	MCCLAIN #10	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215879		3415723624		103	107-TF	MCCLAIN #11	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215880		3415723625		103	107-TF	MCCLAIN #12	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215881		3415723626		103	107-TF	MCCLAIN #13	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215882		3415723627		103	107-TF	MCCLAIN #14	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215883		3415723628		103	107-TF	MCCLAIN #15	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215884		3415723629		103	107-TF	MCCLAIN #16	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215885		3415723630		103	107-TF	MCCLAIN #17	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215886		3415723631		103	107-TF	MCCLAIN #18	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215887		3415723632		103	107-TF	MCCLAIN #19	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215888		3415723633		103	107-TF	MCCLAIN #20	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215889		3415723634		103	107-TF	MCCLAIN #21	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215890		3415723635		103	107-TF	MCCLAIN #22	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215891		3415723636		103	107-TF	MCCLAIN #23	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215892		3415723637		103	107-TF	MCCLAIN #24	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215893		3415723638		103	107-TF	MCCLAIN #25	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215894		3415723639		103	107-TF	MCCLAIN #26	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215895		3415723640		103	107-TF	MCCLAIN #27	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215896		3415723641		103	107-TF	MCCLAIN #28	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215897		3415723642		103	107-TF	MCCLAIN #29	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215898		3415723643		103	107-TF	MCCLAIN #30	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215899		3415723644		103	107-TF	MCCLAIN #31	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215900		3415723645		103	107-TF	MCCLAIN #32	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215901		3415723646		103	107-TF	MCCLAIN #33	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215902		3415723647		103	107-TF	MCCLAIN #34	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215903		3415723648		103	107-TF	MCCLAIN #35	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215904		3415723649		103	107-TF	MCCLAIN #36	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215905		3415723650		103	107-TF	MCCLAIN #37	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215906		3415723651		103	107-TF	MCCLAIN #38	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215907		3415723652		103	107-TF	MCCLAIN #39	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215908		3415723653		103	107-TF	MCCLAIN #40	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215909		3415723654		103	107-TF	MCCLAIN #41	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215910		3415723655		103	107-TF	MCCLAIN #42	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215911		3415723656		103	107-TF	MCCLAIN #43	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215912		3415723657		103	107-TF	MCCLAIN #44	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215913		3415723658		103	107-TF	MCCLAIN #45	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215914		3415723659		103	107-TF	MCCLAIN #46	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215915		3415723660		103	107-TF	MCCLAIN #47	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215916		3415723661		103	107-TF	MCCLAIN #48	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215917		3415723662		103	107-TF	MCCLAIN #49	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215918		3415723663		103	107-TF	MCCLAIN #50	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215919		3415723664		103	107-TF	MCCLAIN #51	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215920		3415723665		103	107-TF	MCCLAIN #52	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215921		3415723666		103	107-TF	MCCLAIN #53	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215922		3415723667		103	107-TF	MCCLAIN #54	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215923		3415723668		103	107-TF	MCCLAIN #55	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215924		3415723669		103	107-TF	MCCLAIN #56	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215925		3415723670		103	107-TF	MCCLAIN #57	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215926		3415723671		103	107-TF	MCCLAIN #58	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215927		3415723672		103	107-TF	MCCLAIN #59	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215928		3415723673		103	107-TF	MCCLAIN #60	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215929		3415723674		103	107-TF	MCCLAIN #61	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215930		3415723675		103	107-TF	MCCLAIN #62	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215931		3415723676		103	107-TF	MCCLAIN #63	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215932		3415723677		103	107-TF	MCCLAIN #64	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215933		3415723678		103	107-TF	MCCLAIN #65	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215934		3415723679		103	107-TF	MCCLAIN #66	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215935		3415723680		103	107-TF	MCCLAIN #67	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215936		3415723681		103	107-TF	MCCLAIN #68	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215937		3415723682		103	107-TF	MCCLAIN #69	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215938		3415723683		103	107-TF	MCCLAIN #70	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215939		3415723684		103	107-TF	MCCLAIN #71	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215940		3415723685		103	107-TF	MCCLAIN #72	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215941		3415723686		103	107-TF	MCCLAIN #73	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215942		3415723687		103	107-TF	MCCLAIN #74	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215943		3415723688		103	107-TF	MCCLAIN #75	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215944		3415723689		103	107-TF	MCCLAIN #76	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215945		3415723690		103	107-TF	MCCLAIN #77	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215946		3415723691		103	107-TF	MCCLAIN #78	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215947		3415723692		103	107-TF	MCCLAIN #79	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215948		3415723693		103	107-TF	MCCLAIN #80	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215949		3415723694		103	107-TF	MCCLAIN #81	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215950		3415723695		103	107-TF	MCCLAIN #82	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215951		3415723696		103	107-TF	MCCLAIN #83	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215952		3415723697		103	107-TF	MCCLAIN #84	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215953		3415723698		103	107-TF	MCCLAIN #85	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215954		3415723699		103	107-TF	MCCLAIN #86	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215955		3415723700		103	107-TF	MCCLAIN #87	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215956		3415723701		103	107-TF	MCCLAIN #88	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215957		3415723702		103	107-TF	MCCLAIN #89	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215958		3415723703		103	107-TF	MCCLAIN #90	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215959		3415723704		103	107-TF	MCCLAIN #91	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215960		3415723705		103	107-TF	MCCLAIN #92	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215961		3415723706		103	107-TF	MCCLAIN #93	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215962		3415723707		103	107-TF	MCCLAIN #94	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215963		3415723708		103	107-TF	MCCLAIN #95	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215964		3415723709		103	107-TF	MCCLAIN #96	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215965		3415723710		103	107-TF	MCCLAIN #97	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215966		3415723711		103	107-TF	MCCLAIN #98	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215967		3415723712		103	107-TF	MCCLAIN #99	FRANKLIN	25.0	COLUMBIA GAS TRAN
-MCCLAIN OIL CO				RECEIVED:	01/21/82	JA: OH			
8215968		3415723713		103	107-TF	MCCLAIN #100	FRANKLIN	25.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215863		3415123354		103	107-TF	KAMERER UNIT #1	LAKE	5.5	REPUBLIC STEEL CO
8215861		3415123315		103	107-TF	MORELLI UNIT #1	PERRY	73.0	REPUBLIC STEEL CO
-HITCO ENERGY INC				RECEIVED: 01/21/82 JA: OH					
8215865		3403124474		103		NOVITSKI #1	PERRY	10.0	COLUMBIA GAS TRAN
-HORGES INC				RECEIVED: 01/21/82 JA: OH					
8215866		3402920765		103	107-TF	WHITACRE-GREER #1	KNOX	20.0	COLUMBIA GAS TRAN
-NATIONAL PETROLEUM CORP				RECEIVED: 01/21/82 JA: OH					
8215870		3411122236		103		KAHRIG #1	MALAGA	15.0	TEXAS EASTERN TRA
8215871		3411122408		103		STIMPERT #2	SUMMIT	15.0	TEXAS EASTERN TRA
-NEW FRONTIER EXPLORATION INC				RECEIVED: 01/21/82 JA: OH					
8215879		3406720454		103	107-TF	A BOWER #1	MONROE	18.0	
8215880		3406720455		103	107-TF	A BOWER #2	MONROE	16.0	
8215887		3415123495		103	107-TF	ANDREW DEMING #1	WASHINGTON	24.0	BARTLO OIL & GAS
8215875		3401921418		103	107-TF	FRED WHITEMAN #2	CARROLL	18.0	
8215877		3405923166		103	107-TF	HAROLD LEPAGE #3	CENTER	20.0	
8215885		3415123525		103	107-TF	IVAN LAUTZENHEISER #1	NIMISHILLEN	0.0	
8215874		3403124569		103	107-TF	J SHAILES #2	VIRGINIA	18.0	
8215878		3406720451		103	107-TF	KENNETH MCGILL #1	MONROE	18.0	
8215873		3403124567		103	107-TF	MARGARET MARTIN #3	WASHINGTON	18.0	
8215888		3416922579		103	107-TF	MARK GOOD #1	BAUGHMAN	18.0	
8215876		3403124465		103	107-TF	MERRELL COX #1	VIRGINIA	17.0	
8215872		3403124464		103	107-TF	MERRELL COX #2	VIRGINIA	18.0	
8215881		3406720468		103	107-TF	ROBERT AMOS #1	NORTH	20.0	
8215883		3406720469		103	107-TF	ROBERT ZANTENE #1	MONROE	16.0	
8215884		3406720471		103	107-TF	ROBERT ZANTENE #2	MONROE	16.0	
8215882		3406720470		103	107-TF	ROBERT ZANTENE #3	MONROE	16.0	
8215886		3415123594		103	107-TF	RONALD KUHN #1	NIMISHILLEN	24.0	BARTLO OIL & GAS
-NUCORP ENERGY COMPANY				RECEIVED: 01/21/82 JA: OH					
8215889		3413321687		103	107-TF	PIXLEY #1	NELSON	9.1	EAST OHIO GAS CO
-OHIO OIL & GAS CO				RECEIVED: 01/21/82 JA: OH					
8215892		3415521932		107-TF		CONSUMER #3	HARTFORD	20.0	COLUMBIA GAS TRAN
8215893		3415521935		107-TF		DRAGOJEVIC #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8215890		3415521883		107-TF		GUTHRIE #2	JOHNSTON	20.0	COLUMBIA GAS TRAN
8215891		3415521914		107-TF		HARTLE #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8215894		3415521937		107-TF		IEROPOLI #1	FOWLER	20.0	COLUMBIA GAS TRAN
8215895		3415521952		107-TF		LETWEN #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
8215896		3415521970		107-TF		WILSON #1	FOWLER	20.0	COLUMBIA GAS TRAN
-OHIO PRODUCERS SERVICES INC				RECEIVED: 01/21/82 JA: OH					
8215897		3411925856		103		BOYD UNIT #1	HOPEWELL	5.0	NATIONAL GAS & OI
-ONEAL PETROLEUM INC				RECEIVED: 01/21/82 JA: OH					
8215899		3411522126		103	107-TF	BEST #4	PENN	30.0	COLUMBIA GAS TRAN
8215900		3411522369		103	107-TF	POTTS #1	PENNSVILLE	57.0	COLUMBIA GAS TRAN
8215898		3411521926		103	107-TF	R NICESWANGER #1	PENN	21.0	COLUMBIA GAS TRAN
-ORION ENERGY CORP				RECEIVED: 01/21/82 JA: OH					
8215901		3416922346		107-TF		BOUGHER #1	CHESTER	15.0	COLUMBIA GAS TRAN
8215902		3416922784		107-TF		HARLE #1	CHESTER	15.0	COLUMBIA GAS TRAN
-PENN-OHIO ENERGY CORP				RECEIVED: 01/21/82 JA: OH					
8215903		3407522828		107-TF		JOHN B & MATTIE YODER #1	BERLIN	25.0	COLUMBIA GAS TRAN
-PETRO EVALUATION SERVICES INC				RECEIVED: 01/21/82 JA: OH					
8215904		3416923414		103	107-TF	ATTERHOLT #1	PLAIN	20.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED: 01/21/82 JA: OH					
8215914A		3400723105		103		BLUM #2	RICHLAND	10.0	COLUMBIA GAS TRAN
82159148		3400723105	D	107-TF		BLUM #2	RICHLAND	10.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8215913		3400721647		103	107-TF	CURTIS #1	ROME	30.0	
8215907		3400721265		107-TF		MURPHY #1	ROME	15.0	
8215908		3400721269		103	107-TF	MURPHY #2	ROME	60.0	
8215906		3400721229		107-TF		PAVILONIS #1	COLEBROOK	90.0	
8215915A		3400723150		103		R HAWKINS #1	RICHLAND	10.8	COLUMBIA GAS TRAN
8215915B		3400723150	D	107-TF		R HAWKINS #1	RICHLAND	10.8	COLUMBIA GAS TRAN
8215912		3400721367		107-TF		RUNYAN #3	NEW LYME	15.0	
8215911		3400721295		107-TF		SANBORN #1	COLEBROOK	15.0	
8215909		3400721271		107-TF		STURM-FIELDS #1A	NEW LYME	10.0	
8215916A		3400723343		103		WATTS #3	RICHLAND	43.2	COLUMBIA GAS TRAN
8215916B		3400723343	D	107-TF		WATTS #3	RICHLAND	43.2	COLUMBIA GAS TRAN
8215905		3400721224		107-TF		WESOLOWSKI #2	NEW LYME	28.8	
8215910		3400721288		107-TF		WYNN #3	NEW LYME	15.0	
-PORTER BROTHERS		RECEIVED: 01/21/82 JA: OH							
8215917		3411925922		103		WEST PIKE DEVELOPERS INC #1	FALLS	15.0	COLUMBIA GAS TRAN
-RIMCO OPERATING INC		RECEIVED: 01/21/82 JA: OH							
8215918		3416922477		103	107-TF	B HARTMAN #4	CHESTER	12.0	COLUMBIA GAS TRAN
8215919		3416922838		103	107-TF	DILLION #1	WAYNE	12.0	COLUMBIA GAS TRAN
8215920		3416922869		103	107-TF	DILLION #2	WAYNE	12.0	COLUMBIA GAS TRAN
8215926		3416922947		103	107-TF	FLICKINGER #2	PLAIN	12.0	COLUMBIA GAS TRAN
8215927		3416922948		103	107-TF	GALLAPOO #2	WAYNE	12.0	COLUMBIA GAS TRAN
8215921		3416922926		103	107-TF	MOWRER #1	CHESTER	12.0	COLUMBIA GAS TRAN
8215928		3416922951		103	107-TF	MYKRANTZ #6	PLAIN	12.0	COLUMBIA GAS TRAN
8215925		3416922937		103	107-TF	R BECHTEL #2	CHESTER	12.0	COLUMBIA GAS TRAN
8215922		3416922927		103	107-TF	R MOWRER #2	CHESTER	12.0	COLUMBIA GAS TRAN
8215923		3416922930		103	107-TF	R MOWRER #5	CHESTER	12.0	COLUMBIA GAS TRAN
8215924		3416922931		103	107-TF	R MOWRER #6	CHESTER	12.0	COLUMBIA GAS TRAN
8215929		3416922953		103	107-TF	WEISER #4	CHESTER	12.0	COLUMBIA GAS TRAN
-RIVERLAND-MAST #1		RECEIVED: 01/21/82 JA: OH							
8215930		3407522300	D	107-TF		ANDY J MAST #1	HOLMESVILLE	54.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-I		RECEIVED: 01/21/82 JA: OH							
8215932		3410522136		103		HOYT #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8215931		3410522016		103		HOYT #2	BEDFORD	5.0	COLUMBIA GAS TRAN
8215933		3410522137		103		HOYT #3	BEDFORD	5.0	COLUMBIA GAS TRAN
-SCHRIMSHER OIL & GAS EXPLORATION		RECEIVED: 01/21/82 JA: OH							
8215934		3415320979		103	107-TF	HUDSON ESTATES #1	HUDSON	20.0	
8215935		3415320980		103	107-TF	HUDSON ESTATES #2	HUDSON	20.0	
-SCIENTIFIC EXPLORATION INC		RECEIVED: 01/21/82 JA: OH							
8215938		3407522861		107-TF		FIREBAUGH #1	PRAIRIE	14.5	COLUMBIA GAS TRAN
8215936		3407522760		107-TF		MATHIE #1	HARDY	21.5	COLUMBIA GAS TRAN
8215937		3407522761		107-TF		MATHIE #2	HARDY	20.0	COLUMBIA GAS TRAN
-SMELLY & SANDS OIL CO		RECEIVED: 01/21/82 JA: OH							
8215940		3400922324		103		JAMES & THELMA NELSON #3	BERN	12.0	
-SMITH SHAFER SMITH (A PARTNERSHIP)		RECEIVED: 01/21/82 JA: OH							
8215942		3416923104		103		MAYER #1	WAYNE	7.5	COLUMBIA GAS TRAN
-SUPERIOR PETROLEUM INC		RECEIVED: 01/21/82 JA: OH							
8215943		3413320889		103		PECK #3	SHALERSVILLE	0.0	EAST OHIO GAS CO
-THE MUTUAL OIL & GAS COMPANY		RECEIVED: 01/21/82 JA: OH							
8215867A		3403124516		103		HAMM #10	NEW CASTLE	5.0	COLUMBIA GAS TRAN
8215867B		3403124516	D	107-TF		HAMM #10	NEW CASTLE	5.0	COLUMBIA GAS TRAN
8215868A		3403124532		103		HAMM #9	NEW CASTLE	5.0	COLUMBIA GAS TRAN
8215868B		3403124532	D	107-TF		HAMM #9	NEW CASTLE	5.0	COLUMBIA GAS TRAN
8215869		3413322560		103	107-TF	KOSTALEK #2	NELSON	5.0	EAST OHIO GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TIME ENERGY INC				RECEIVED: 01/21/82		JA: OH			
8215945		3406322985		103		MILLER #6 LTD	CLAY	10.0	COLUMBIA GAS TRAN
-TORO OIL & GAS CO				RECEIVED: 01/21/82		JA: OH			
8215944		3409921356		107-TF		BAILEY LAND UNIT #1	LORDSTOWN	35.0	EAST OHIO GAS CO
-TOWNER PETROLEUM CO				RECEIVED: 01/21/82		JA: OH			
8215946		3405923081		107-TF		E TOTH #3	GUERNSEY	0.0	TENNESSEE GAS PIP
-VICTOR PETROLEUM CORP				RECEIVED: 01/21/82		JA: OH			
8215947		3407523423		103		HARMAN-COLE-KAESGEN #1	MILLBUCK	10.0	COLUMBUS GAS TRAN
-VIKING RESOURCES CORP				RECEIVED: 01/21/82		JA: OH			
8215950		3409921382		103	107-TF	C R MILLES #1	BERLIN	30.0	
8215951		3409921383		103	107-TF	C R MILLES #2	BERLIN	30.0	
8215952		3409921384		103	107-TF	C R MILLES #3	BERLIN	30.0	
8215953		3409921385		103	107-TF	C R MILLES #4	BERLIN	30.0	
8215948		3401320431	D	107-TF		DON HAGAN #1	WAYNE	30.0	
8215949		3409921367		103	107-TF	MEISER #2	BERLIN	30.0	
-WEB OIL INC				RECEIVED: 01/21/82		JA: OH			
8215954		3403124495		103	107-TF	WALTER & HAZEL SCHEIBE #1	CLARK	7.5	COLUMBIA GAS TRAN
-WILLIAM F HILL				RECEIVED: 01/21/82		JA: OH			
8215839		3407523498		103		CARL W SNODDY #1	GLENMONT	10.0	

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 3, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5-mile rule)
102–3: New well (1,000-ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–4180 Filed 2–16–82; 8:45 am]

BILLING CODE 6717–01–M

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-CONTINENTAL GAS TRANSMISSION			RECEIVED:	01/22/82	JA: CO				
8216121	81-113	0500107664	103			CHAMPLIN 2-31	HAWKEYE	420.0	PANHANDLE EASTERN
-COORS ENERGY CO			RECEIVED:	01/22/82	JA: CO				
8216122	81-57	0507708258	103			BEVANS 1-29	PLATEAU SECTION 29 T1	376.0	NORTHERN NATURAL
8216123	81-56	0507708298	103			SHEPARD 3-20	PLATEAU SEC 20 T10S R	349.3	NORTHERN NATURAL
8216124	81-58	0507708306	103			WILSON 2-29	PLATEAU SEC 29 T10S R	876.0	NORTHERN NATURAL
8216125	81-55	0507708326	103			WOOD 2-32	PLATEAU SEC 32 T10S R	302.2	NORTHERN NATURAL
-ENERGY MINERALS CORPORATION			RECEIVED:	01/22/82	JA: CO				
8216141	81-158	0512309757	108			ALLSTATE #1	WAITE LAKE	0.3	CENTENNIAL II
8216142	81-738	0512307730	108			DECHANT STATE #1	SPINDLE	16.5	PANHANDLE EASTERN
8216143	81-739	0512309129	108			DECHANT STATE #5	SPINDLE	6.4	PANHANDLE EASTERN
-GARY SANDLIN			RECEIVED:	01/22/82	JA: CO				
8216149	81-15	0508906259	103			STATE-COGBURN	GREENWOOD EXTENSION	0.0	COLORADO INTERSTA
-J-W OPERATING COMPANY			RECEIVED:	01/22/82	JA: CO				
8216144	81-367	0512506322	108			STATE OF COLORADO #12	ROCK CREEK	18.4	CITIES SERVICE GA
-KISSINGER PETROLEUM CORPORATION			RECEIVED:	01/22/82	JA: CO				
8216126	81-51	0501106108	103			PIERSON STATE #1-10	MCCLAVE	981.8	NUECES CO
-MACEY & MERSHON OIL INC			RECEIVED:	01/22/82	JA: CO				
8216128	81-61	0512309915	103			ANGELA #1	SPINDLE	22.0	PANHANDLE EASTERN
8216129	81-53	0500107623	103			MELISSA #1	WATTENBERG	105.0	PANHANDLE EASTERN
-MGF OIL CORP			RECEIVED:	01/22/82	JA: CO				
8216108	81-52	0512310034	102-2			PACKARD #43-22	NE RIVERSIDE II	54.7	CRYSTAL OIL CO
8216127	81-52(B)	0512310034	103			PACKARD #43-22	NE RIVERSIDE II	54.7	CRYSTAL OIL CO
-MIDLANDS GAS CORPORATION			RECEIVED:	01/22/82	JA: CO				
8216130	81-96	0512506432	103			ANDERSON 1-5	WHISPER	23.8	KANSAS-NEBRASKA N
8216131	81-97	0512506438	103			GODSEY 1-16	REPUBLICAN	36.0	KANSAS-NEBRASKA N
8216113	81-102	0512506433	102-2			MAURICE 1-12	WILDCAT	42.0	KANSAS-NEBRASKA N
8216114	81-101	0512506421	102-2			NEWBANKS 2-23	BUCKBOARD	59.0	KANSAS-NEBRASKA N
8216115	81-100	0512506439	102-2			STATE 1-36-247	SCHRAMM	26.0	KANSAS-NEBRASKA N
8216116	81-99	0512506429	102-2			STULP 1-11	SCHRAMM	40.0	KANSAS-NEBRASKA N
8216145	81-82	0512506401	108			VICTOR PARISET 1-11	WILDCAT	19.0	KANSAS-NEBRASKA N
8216132	81-98	0512506423	103			WAKEFIELD 1-13	REPUBLICAN	27.0	KANSAS-NEBRASKA N
-NORMAC OIL & GAS CO			RECEIVED:	01/22/82	JA: CO				
8216117	81-89	0512506532	102-2			KIRCHENSCHLAGER #1-24	WILDCAT	18.0	CITIES SERVICE GA
-MOUNTAIN PETROLEUM CORPORATION			RECEIVED:	01/22/82	JA: CO				
8216133	81-87	0512506493	103			B ALLEN 1-1	BEECHER ISLAND	36.0	KANSAS-NEBRASKA N
-MESA PETROLEUM CO			RECEIVED:	01/22/82	JA: CO				
8216109	81-120	0512506516	102-2			ECKLEY CONRAD 4-25	ECKLEY	73.0	CITIES SERVICE GA
8216110	81-122	0512506507	102-2			KITZMILLER #1-4	ECKLEY	109.0	CITIES SERVICE GA
8216112	81-121	0512506511	102-2			KITZMILLER #3-33	ECKLEY	55.0	CITIES SERVICE GA
8216111	81-75	0512506510	102-2			KITZMILLER 1-34	ECKLEY	12.0	CITIES SERVICE GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-NATOMAS NORTH AMERICA INC				RECEIVED:	01/22/82	JA: CO			
8216139	81-123	0506706338		107-TF		CASE #1-35	IGNACIO BLANCO	0.0	NORTHWEST PIPELIN
8216140	81-125	0506706357		107-TF		NELEIGH #1-7	IGNACIO BLANCO	0.0	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION CO				RECEIVED:	01/22/82	JA: CO			
8216118	80-469	0504506258		102-2		CLOUGH #119	RULISON WASATCH	100.0	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	01/22/82	JA: CO			
8216148	81-672	0504506258		108		CLOUGH #102	RULISON WASATCH	21.5	NORTHWEST PIPELIN
8216134	80-469-(B)	0504506258		103		CLOUGH 119	RULISON WASATCH	100.0	NORTHWEST PIPELIN
8216119	8179	0508106441		102-2		ELBERT AVENUE #1	GREAT DIVIDE LEWIS	255.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/22/82	JA: CO			
8216147	81-753	0506705524		108		BONDAD 33-9 #24	IGNACIO BLANCO MESAVE	0.0	EL PASO NATURAL G
8216146	81-754	0506705331		108		BONDAD 33-9 #9	IGNACIO BLANCO MESAVE	13.0	NORTHWEST PIPELIN
-P-T LTD 81				RECEIVED:	01/21/82	JA: CO			
8215995	11251	0504582184		103		FUXA 33-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-RINCON RESOURCES CORP				RECEIVED:	01/22/82	JA: CO			
8216135	81-59	0500906275		103		NEWLIN #1	GREENWOOD	365.0	COLORADO INTERSTA
-SOHIO PETROLEUM CO				RECEIVED:	01/22/82	JA: CO			
8216136	81-88	0503900000		103		WHITEHEAD 12-7	COMANCHE CREEK	13.2	SUN GAS CO
-VESSELS OIL & GAS CO				RECEIVED:	01/22/82	JA: CO			
8216137	81-84	0512310042		103		MARCUS #1	SPINDLE	0.0	VESSELS GAS PROCE
8216120	81-86	0500107866		102-2		THORNBURG #1-B	ZENITH	196.0	VESSELS GAS PROCE
-WALTER S FEES JR				RECEIVED:	01/22/82	JA: CO			
8216138	81-112	0510300510		107-TF		KIRBY-EIDSON #28-3	BLUE CLOUD	500.0	NORTHWEST PIPELIN
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-DELTA OIL CO INC				RECEIVED:	01/18/82	JA: MI			
8216096		2105500000	D	102-4		MANUEL J FRANCO UNIT #1-34	BLAIR 34-26N-11W POOL	480.0	CONSUMERS POWER C
MONTANA BOARD OF OIL & GAS CONSERVATION									
-SANTA FE ENERGY COMPANY				RECEIVED:	01/21/82	JA: MT			
8216102	4-81-52	2509121185		102-4		STATE #16 #5	RAYMOND	18.0	PHILLIPS PETROLEU
8216097	4-81-48	2509121124		102-4		STATE 16 #1	RAYMOND	9.2	PHILLIPS PETROLEU
8216100	4-81-49	2509121124		102-4		STATE 16 #1	RAYMOND	3.7	PHILLIPS PETROLEU
8216101	4-81-50	2509121135		102-4		STATE 16 #2	RAYMOND	1.0	PHILLIPS PETROLEU
8216104	4-81-51	2509121140		102-4		STATE 16 #3	RAYMOND	8.7	PHILLIPS PETROLEU
8216099	4-81-54	2509121229		102-4		STATE 16 #6	RAYMOND	1.0	PHILLIPS PETROLEU
8216103	4-81-53	2509121229		102-4		STATE 16 #6	RAYMOND	3.7	PHILLIPS PETROLEU
8216098	4-81-55	2509121268		102-4		STATE 16 #7	RAYMOND	0.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-CONOCO INC				RECEIVED:	01/25/82	JA: NM			
8216106		3002527034		103		STATE F-1 #10	ARROWHEAD E-M-E	20.0	WARREN PETROLEUM
-JULIAN ARD				RECEIVED:	01/25/82	JA: NM			
8216107		3002527505		103		HARTON STATE #2	SAWYER WEST	33.0	CITIES SERVICE CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/25/82	JA: NM			
8216105		3002524906		108		EAST VACUUM GB/SA UNIT 0524 #129	VACUUM GB/SA	2.7	EL PASO NATURAL G
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	01/22/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216005		3415723444		107-TF		LAHMERS #1	SALEM	15.0	
-ARAPAHO VENTURES OF NEW YORK INC				RECEIVED: 01/22/82 JA: OH					
8216006		3412122334		107-DV		RAYLE COAL #2	JACKSON	3.5	
-BECK OIL & GAS CO				RECEIVED: 01/22/82 JA: OH					
8216007		3413322510		103	107-TF	CAROLYN SUE BECK #1	RAVENNA	20.0	COLUMBIA GAS OF O
-BEREA OIL AND GAS CORPORATION				RECEIVED: 01/22/82 JA: OH					
8216010		3411925726		107-DV		J YAW #1	UNION	0.0	COLUMBIA GAS TRAN
-CENTRAL OIL FIELD SUPPLY CO				RECEIVED: 01/22/82 JA: OH					
8216012		3412725002		103		IMLER-LEWIS #1	SALT LICK	10.0	COLUMBIA GAS TRAN
8216011		3412724276		103		LEWIS-PEABODY #2	SALT LICK	4.0	COLUMBIA GAS TRAN
-CLARENCE SHERMAN				RECEIVED: 01/22/82 JA: OH					
8216089		3405923046		103	107-TF	MARGO TURNER #1	KIMBOLTON	15.0	EAST OHIO GAS CO
8216090		3405923082		103	107-TF	MARGO TURNER #2	KIMBOLTON	20.0	EAST OHIO GAS CO
-DOLPHA ANDERSON				RECEIVED: 01/22/82 JA: OH					
8216013		3416724522		107-DV		HALE #2	BARLOW	0.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED: 01/22/82 JA: OH					
8216014		3407522971		103	107-TF	JOHN HERSHBERGER #1	PRAIRIE	12.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED: 01/22/82 JA: OH					
8216018		3400721788		103	107-TF	ASHTABULA COUNTY AIRPORT AUTH #1	DENMARK	15.0	
8216017		3400721783		103	107-TF	ASHTABULA COUNTY AIRPORT AUTH #8	ASHTABULA	19.0	
8216015		3400721721		103	107-TF	BRINKER #3	ORWELL	20.0	
8216016		3400721765		103	107-TF	H M G ASSOCIATES #2	AUSTINBURG	18.0	
8216019		3416922805		103	107-TF	SCHEIBE #1	PLAN	20.0	COLUMBIA GAS TRAN
-FRONTIER PETROLEUM LTD				RECEIVED: 01/22/82 JA: OH					
8216020		3416725432		107-DV		EDDY #2	LUDLOW	15.0	COLUMBIA GAS TRAN
-GEO ENERGY INC				RECEIVED: 01/22/82 JA: OH					
8216021		3410322606		103		TOLSMA MELVIN #12-3-1	LIVERPOOL	3.0	COLUMBIA GAS TRAN
-GILBERT OIL CO				RECEIVED: 01/22/82 JA: OH					
8216024		3413322628		103	107-TF	BARNOSKY #1	SHALERSVILLE	9.0	AMERICAN ENERGY S
8216022		3413322253		103	107-TF	CONTE/VAVRA UNIT #1	SHALERSVILLE	9.0	AMERICAN ENERGY S
8216023		3413322559		103	107-TF	GOODELL #1	SHAKERSVILLE	9.0	AMERICAN ENERGY S
-I R D CORP				RECEIVED: 01/22/82 JA: OH					
8216028		3400721830		103	107-TF	FULLER #1	WILLIAMSFIELD	45.0	
-J D DRILLING CO				RECEIVED: 01/22/82 JA: OH					
8216038		3410522225		107-DV		CLARENCE & HELEN WICKLINE #1	LEBANON	10.0	COLUMBIA GAS TRAN
8216035		3410522185		107-DV		CUMMINS-PEARSON #1	LETART	10.0	COLUMBIA GAS TRAN
8216034		3410522081		107-DV		DOUGLAS WICKLINE #1	SUTTON	13.0	COLUMBIA GAS TRAN
8216033		3410522080		107-DV		EUGENE DAVIS #1	LETART	10.0	COLUMBIA GAS TRAN
8216030		3410521915		107-DV		GORDON WEST #1	SUTTON	13.0	COLUMBIA GAS TRAN
8216031		3410521917		107-DV		JERRY POWELL #1	SUTTON	10.0	COLUMBIA GAS TRAN
8216036		3410522107		107-DV		KENNETH & PATRICIA COZART #1	RAVENSWOOD	10.0	COLUMBIA GAS TRAN
8216029		3410521914		107-DV		OTIS KNOPP #1	SUTTON	10.0	COLUMBIA GAS TRAN
8216032		3410522076		107-DV		PHILLIP WOLFE & FRANK CLELAND #1	LETART	12.0	COLUMBIA GAS TRAN
8216037		3410522224		107-DV		RONALD WAGNER #2	LEBANON	10.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED: 01/22/82 JA: OH					
8216058		3407523045		107-TF		MONROE WEAVER #2	HARDY	10.0	
-L & M OPERATING INC				RECEIVED: 01/22/82 JA: OH					
8216056		3416725659		107-DV		ALBERT PEPPEL #1	LIBERTY	12.8	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED: 01/22/82 JA: OH					
8216055		3416725193		107-DV		ALLIE TEMPLETON #1-A	FEARING	12.8	COLUMBIA GAS TRAN
8216039		3412724666		107-TF		CLAYCRAFT #4	NEW STRAITSVILLE	12.0	COLUMBIA GAS TRAN
8216050		3416724820		107-DV		HARRY LAFABER #1	FEARING	12.8	COLUMBIA GAS TRAN
8216054		3416725020		107-DV		KENNETH OWEN #1	FEARING	12.8	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216043		3416724666		107-DV		KERMIT LANE #1	NEWPORT	12.8	COLUMBIA GAS TRAN
8216042		3416724645		107-DV		LLOYD LANKFORD #1	NEWPORT	12.8	COLUMBIA GAS TRAN
8216049		3416724818		107-DV		MARTHA BIEHL #2	LAWRENCE	12.8	COLUMBIA GAS TRAN
8216053		3416725014		107-DV		NOLAND/MCCAIN #1	FEARING	12.8	COLUMBIA GAS TRAN
8216052		3416725013		107-DV		NOLAND/MCCAIN #2	FEARING	12.8	COLUMBIA GAS TRAN
8216048		3416724817		107-DV		PAUL LANE #1	LAWRENCE	12.8	COLUMBIA GAS TRAN
8216051		3416724861		107-DV		PAUL LANE #2	LAWRENCE	12.8	COLUMBIA GAS TRAN
8216041		3416724378		107-DV		ROBERT BARTH #3	NEWPORT	12.8	COLUMBIA GAS TRAN
8216040		3416724375		107-DV		ROBERT BARTH #6	NEWPORT	12.8	COLUMBIA GAS TRAN
8216044		3416724669		107-DV		ROSA WEPPLER #1	MARIETTA	12.8	COLUMBIA GAS TRAN
8216046		3416724731		107-DV		ROSA WEPPLER #2	MARIETTA	12.8	COLUMBIA GAS TRAN
8216045		3416724729		107-DV		ROSA WEPPLER #3	MARIETTA	12.8	COLUMBIA GAS TRAN
8216047		3416724816		107-DV		WILBUR BOHLEN #1	LAWRENCE	12.8	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED:	01/22/82	JA: OH			
8216057		3407523069		103	107-TF	BRUCE SCHANTZ #2	KILLBUCK	10.8	COLUMBIA GAS TRAN
-MOHAWK OIL & GAS CORP				RECEIVED:	01/22/82	JA: OH			
8216059		3412122473		107-DV		RUTH WEBER #7	HARRIETSVILLE	0.0	COLUMBIA GAS OF O
-NEW FRONTIER EXPLORATION INC				RECEIVED:	01/22/82	JA: OH			
8216067		3406720478		103	107-TF	JAMES BERG #2	MONROE	16.0	
8216061		3401320359		107-DV		JOHN G BROWN #1	SOMERSET	12.0	COLUMBIA GAS TRAN
8216062		3401320360		107-DV		JOHN G BROWN #2	SOMERSET	28.0	COLUMBIA GAS TRAN
8216063		3401320361		107-DV		NORMAN STEPHENS #1	SOMERSET	12.0	COLUMBIA GAS TRAN
8216064		3401320362		107-DV		NORMAN STEPHENS #2	SOMERSET	12.0	COLUMBIA GAS TRAN
8216065		3401320363		107-DV		NORMAN STEPHENS #3	SOMERSET	12.0	COLUMBIA GAS TRAN
8216066		3401320364		107-DV		NORMAN STEPHENS #4	SOMERSET	12.0	COLUMBIA GAS TRAN
8216068		3415723646		103	107-TF	ROBERT CARLISLE #1	MILL	22.0	
8216069		3415723647		103	107-TF	ROBERT CARLISLE #2	MILL	22.0	
-PIONEER OIL COMPANY INC				RECEIVED:	01/22/82	JA: OH			
8216074		3412725136		103	107-TF	O SCHURR #1	HARRISON	10.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	01/22/82	JA: OH			
8216072		3400721385		107-TF		BENTLEY #1	ROME	10.0	
8216073		3400721748		103	107-TF	D SIRRINE #3	ROME	25.0	EAST OHIO GAS CO
8216071		3400721230		103	107-TF	H KAMPF #3	ROME	30.8	
8216070		3400721211		107-TF		HARTMAN #1	NEW LYME	40.0	
-REPUBLIC MINERAL CORP				RECEIVED:	01/22/82	JA: OH			
8216075		3416726291		107-DV		FARSON #2	SIMMONS	4.5	COLUMBIA GAS OF O
8216078		3416726471		107-DV		FARSON #3	SIMMONS	7.9	COLUMBIA GAS OF O
8216085		3416726784		107-DV		FARSON #4	SIMMONS	20.8	COLUMBIA GAS OF O
8216081		3416726631		107-DV		J PERRY SR #5	SIMMONS	10.1	COLUMBIA GAS OF O
8216077		3416726469		107-DV		MATTHEWS #3	SIMMONS	8.0	COLUMBIA GAS OF O
8216080		3416726599		107-DV		MAY 2-A	SIMMONS	6.5	COLUMBIA GAS OF O
8216079		3416726598		107-DV		MAY 3-A	SIMMONS	8.8	COLUMBIA GAS OF O
8216082		3416726745		107-DV		MAY 4-A	SIMMONS	6.1	COLUMBIA GAS OF O
8216083		3416726746		107-DV		MAY 5-A	SIMMONS	9.4	COLUMBIA GAS OF O
8216076		3416726468		107-DV		REED #3	SIMMONS	15.8	COLUMBIA GAS OF O
8216086		3416726769		107-DV		RICHARD STEVENS #3	SIMMONS	1.3	COLUMBIA GAS OF O
8216084		3416726770		107-DV		RICHARD STEVENS #4	SIMMONS	22.7	COLUMBIA GAS OF O
-RIVERLAND-MAST #2				RECEIVED:	01/22/82	JA: OH			
8216088		3407522665		107-TF		ANDY J MAST #2	HOLMESVILLE	0.0	COLUMBIA GAS TRAN
-RIVERLAND-MAST #3				RECEIVED:	01/22/82	JA: OH			
8216087		3407522664	D	107-TF		ANDY J MAST #3	HOLMESVILLE	54.0	COLUMBIA GAS TRAN
-SITES GAS CO				RECEIVED:	01/22/82	JA: OH			
8216091		3408720274		107-DV		JOHN CARL PRATT #1	FAYETTE	2.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUNSET PETROLEUM INC				RECEIVED: 01/22/82		JA: OH			
8216092		3410522035		107-DV		DELBERT HEASLEY #1	CHESTER	10.0	COLUMBIA GAS TRAN
8216093		3410522040		107-DV		GROVER SALSER #1	SUTTON	10.0	COLUMBIA GAS TRAN
-THE BENATTY CORPORATION				RECEIVED: 01/22/82		JA: OH			
8216088		3412122624		103	107-TF	K WILEY #1	BUFFALO	30.0	COLUMBIA GAS TRAN
8216089		3412122653		103	107-TF	K WILEY #2	BUFFALO	30.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 01/22/82		JA: OH			
8216068		3411122522		107-DV		R L ROSSI #1-M	SENECA	5.0	COLUMBIA GAS TRAN
-WILLIAM F HILL				RECEIVED: 01/22/82		JA: OH			
8216025		3416922740		103	107-TF	DAN R MOOREFIELD #1	FRANKLIN	8.0	
8216026		3416922741		103	107-TF	ELI J HOSTETLER #1	FRANKLIN	7.0	
8216027		3416922742		103	107-TF	RICHARD SCHALMO #1	FRANKLIN	6.0	
-WILLIAM W TIPKA				RECEIVED: 01/22/82		JA: OH			
8216094		3405922857		107-TF		ROMAN MILLER #1	WASHINGTON	0.0	EAST OHIO GAS CO
8216095		3405923057		103	107-TF	ROMAN MILLER #3	WASHINGTON	0.0	LIBBEY-OWENS-FORD
**********									
OKLAHOMA CORPORATION COMMISSION									
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-APOLLO PRODUCTION LTD				RECEIVED: 01/21/82		JA: OK			
8215966	12323	3507322717		103		DUFFY #14-8	NW OKARCHE	109.5	SID RICHARDSON CA
-ARCO OIL AND GAS COMPANY				RECEIVED: 01/21/82		JA: OK			
8215970	12326	3508500000		103		VANSANT UNIT #8-1	PIKE NORTH	73.0	AMINOIL USA INC
-BLUE QUAIL ENERGY INC				RECEIVED: 01/21/82		JA: OK			
8215976	12337	3501721643		103		SEMTNER #1	S-YUKON	125.0	MOBIL OIL CORP
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 01/21/82		JA: OK			
8215994	10714	3509321979		103		H J MOSHER #2	E CHANEY DELL	29.0	UNION TEXAS PETRO
-CHASE EXPLORATION CORP				RECEIVED: 01/21/82		JA: OK			
8215987	12380	3507121233		108		BORTH #2-7	UNNAMED	0.9	CITIES SERVICE GA
-CUMMINGS OIL CO				RECEIVED: 01/21/82		JA: OK			
8215997	11679	3507323808		103		MAX A #1-14	SOONER TREND	0.0	CITIES SERVICE GA
-ECG OIL CO				RECEIVED: 01/21/82		JA: OK			
8215958	11708	3514721583		108		LORIAUX #1 SW/4 SE/4 20-25N-14E	OGLESBY	22.6	OKAN GAS CO
8215959	11714	3514721584		108		LORIAUX #2 NW/4 NW/4 NE/4 29-25N-	OGLESBY	8.1	OKAN GAS CO
8215958	11709	3514721272		108		MERCHANT #1 NE/4 NW/4 20-25N-14E	OGLESBY	7.5	OKAN GAS CO
8215960	11937	3514721686		108		MOODY #2 CE/2 SE/4 NE/4 17-25N-14E	OGLESBY	72.7	OKAN GAS CO
8215955	11936	3514721039		108		PUGH #1 NE/4 SW/4 20-25N-14E	OGLESBY	18.9	OKAN GAS CO
8215956	11246	3514721074		108		REYNOLDS #3 NE/4 NE/4 20-25N-14E	OGLESBY	14.2	OKAN GAS CO
8215961	11938	3514721687		108		SNOW #2 CW/2 SW/4 SW/4 17-25N-14E	OGLESBY	17.9	OKAN GAS CO
8215962	12285	3514721702		108		SUMPTER #2 SW/4 NE/4 29-25N-14E	OGLESBY	12.2	OKAN GAS CO
8215957	11480	3514721704		108		SUMPTER #4 C/2 NW/4 SE/4 29-25N-14E	OGLESBY	9.1	OKAN GAS CO
-HALLIBURTON OIL PRODUCING COMPANY				RECEIVED: 01/21/82		JA: OK			
8215963	12190	3509322245		103		CHARLES BECKER #1	RINGWOOD	0.0	PHILLIPS PETROLEU
-J.L THOMAS ENGINEERING INC				RECEIVED: 01/21/82		JA: OK			
8215988	12219	3504722490		103		DYCHE #1	SOONER TREND	187.0	PANHANDLE EASTERN
-JEFFERSON-WILLIAMS ENERGY CORP				RECEIVED: 01/21/82		JA: OK			
8215988	12392	3508321469		103		CHARLES INSKEEP #I	FAIR OAK SOUTHWEST	18.0	CITIES SERVICE GA
-KENT PHILLIPS EXPLORATION LTD				RECEIVED: 01/21/82		JA: OK			
8215989	09868	3501721707		102-2		BLEVINS #1-33		585.0	CONOCO INC
-L D WARD				RECEIVED: 01/21/82		JA: OK			
8215972	12332	3512120576		103		CANADIAN UNIT #1	NE CANADIAN	338.0	ARKLA OIL CO
8215971	12301	3500320826		103		FORSYTHE #2	RINGWOOD	140.0	UNION TEXAS
8215974	12334	3512120707		103		MCNALLY #1	WILDCAT	380.0	ARKLA OIL CO
8215975	12336	3512120682		103		MORRIS 1-9	NE CANADIAN	99.0	ARKLA OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8215973	12333	3512120717		103		MURRIN #1
-L R FRENCH JR				RECEIVED:	01/21/82	JA: OK
8216001	12393	3509322277		103		MARTENS #2
-PETROLEUM INC				RECEIVED:	01/21/82	JA: OK
8215986	12368	3508720594		103		VIERSEN B #1
-PIONEER PRODUCTION CORPORATION				RECEIVED:	01/21/82	JA: OK
8215996	11636	3509322229		103		RUMSEY #2-5
-RAIZEN OIL CO				RECEIVED:	01/21/82	JA: OK
8215977	12366	3504921380		103		HUTCHINS #1
-RAMBLER OIL CO				RECEIVED:	01/21/82	JA: OK
8216002	12399	3509321995		103		HURT #2-8
-RICKS EXPLORATION CO				RECEIVED:	01/21/82	JA: OK
8215998	12247	3501721731		103		HOUSE #1-20
8215955	16121	3501521035		107-DP		KAREY #1
-SAMSON RESOURCES COMPANY				RECEIVED:	01/21/82	JA: OK
8216008	12360	3507920428		103		INDIAN NATIONS #1
-SHAR-ALAN OIL CO				RECEIVED:	01/21/82	JA: OK
8215964	12310	3501721850		103		A H AHLEFELD #1
8215983	12318	3509322098		103		EDNA LINDLEY #1
8215982	12315	3507322653		103		G L HUMPHREY #1
8215981	12313	3509321969		103		ROBERT HODGDEN #1
8215965	12311	3507322503		103		WALTER TRIPLETT #801
-SOUTHLAND ROYALTY CO				RECEIVED:	01/21/82	JA: OK
8215967	12355	3509322201		103		CALLIE WOODRING #1-29
8215968	12357	3507322940		103		RITA VOGT #1-10
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	01/21/82	JA: OK
8215992	10291	3504700000		108		S E FLYNN #44-1
8215993	10295	3504700000		108		S E FLYNN UNIT #46-2
-TEXAS OIL & GAS CORP				RECEIVED:	01/21/82	JA: OK
8215969	12325	3509322278		103		KARBER #1
-UNION OIL COMPANY OF CALIF				RECEIVED:	01/21/82	JA: OK
8215985	12359	3503722316		103		L MANUEL #47
-UNIVERSAL PETROLEUM CO INC				RECEIVED:	01/21/82	JA: OK
8215978	12394	3510120830		103		BAKER #1
-WAYMAN W BUCHANAN				RECEIVED:	01/21/82	JA: OK
8215984	12322	3504700008		103		GIGOUX #1
-WHITMAR EXPLORATION CO				RECEIVED:	01/21/82	JA: OK
8215991	12321	3504921425		103		MATTINGLY #1-12
-WOHNLICH OIL CO				RECEIVED:	01/21/82	JA: OK
8215979	12157	3509322133		103		NASH #15-1
**********						
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY						
**********						
-ASHLAND EXPLORATION INC				RECEIVED:	01/21/82	JA: VA
8216003		4502719940		108		W H MATNEY #3 - 020690
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
**********						
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	01/25/82	JA: WV
8216004		4702103745		103		107-DV KEITH #5 -DP

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FIELD NAME	PROD	PURCHASER
NW REAMS	150.0	ARKLA OIL CO
CHEYENNE VALLEY	150.0	DELHI GAS PIPELIN
N DIBBLE	35.0	SUN GAS CO
EAST CHESTER	0.0	DELHI GAS PIPELIN
SOUTH WHITEBEAD	73.0	WARREN PETROLEUM
SE ORION	0.0	DELHI GAS PIPELIN
WATONGA-CHICKASHA NEW POOL	367.0 390.0	MICHIGAN WISCONSI
KINTA	237.3	ARKANSAS LOUISIAN
N PIEDMONT	255.0	PHILLIPS PETROLEU
NW FAIRVIEW	139.0	PHILLIPS PETROLEU
WEST CASHION	22.0	
WEST CLEO SPRINGS	0.0	PIONEER GAS PRODU
WEST CASHION	18.0	CONOCO INC
SE CHESTER	55.0	PHILLIPS PETROLEU
S ROYAL	135.0	PHILLIPS PETROLEU
S E FLYNN	10.0 0.0	EXXON CORP EXXON CORP
NW OKEENE	197.0	
CUSHING	8.0	
HASKELL	230.7	PHILLIPS PETROLEU
NOT DESIGNATED	161.2	PANHANDLE EASTERN
EAST ANTIOCH	200.0	BUCKEYE NATURAL G
RINGWOOD	73.0	PIONEER GAS PRODU
VIRGINIA	14.0	CONSOLIDATED GAS
GLENVILLE NORTH	45.0	COLUMBIA GAS TRAN

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4181 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-C

[Project No. 5916-000]

City of Darrington, Washington; Application For Preliminary Permit

February 17, 1982.

Take notice that the City of Darrington, Washington (Applicant) filed on January 22, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r) for Project No. 5916 to be known as the Boulder River Hydroelectric Project located on the Boulder River near the town of Darrington in Snohomish County, Washington occupying lands of the United States within the Mt. Baker National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, City of Darrington, P.O. Box 422, Darrington, Washington 98241.

Project Description. The proposed project would consist of: (1) A 9-foot high diversion structure; (2) a 6-foot diameter, 4,000-foot long tunnel; (3) a 950-foot long pipeline; (4) a 5-foot diameter, 1,500-foot long penstock; (5) a powerhuse containing generating units with a total rated capacity of 8,500 kW; and (6) a 1.4-mile long transmission line connecting the powerhouse to an existing Snohomish County Public Utility District line along Darrington Road.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Forest Service and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $250,000.

Competing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4230 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5907-000]

City of Ocean Shores, Washington; Application for Preliminary Permit

February 16, 1982.

Take notice that City of Ocean Shores, Washington (Applicant) filed on January 22, 1982 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 5907 to be known as the Donkey Creek Project located on Donkey Creek, near Humptulips in Grays Harbor County, Washington. The project would affect U.S. lands within Olympic National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: N. W. McDeavitt, City Manager, City of Ocean Shores, P.O. Box 909, Ocean Shores, Washington 98569.

Project Description. The proposed project would consist of: (1) A 9-foot high concrete diversion dam; (2) a 1.3-mile long pipeline/canal; (3) a 1,000-foot long, 3.0-foot diameter steel penstock; (4) a powerhouse containing one generating unit rated at 1,000 kW; and (5) a 7-mile long transmission line. The average annual energy generation is estimated to be 3.5 million kWh.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant may conduct subsurface investigations. The cost of the work would be $90,000.

Competing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15), issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption

from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq., or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commision will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4340 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5898-000]

Consulting Associates, Inc.; Application For Preliminary Permit

February 16, 1982.

Take notice that Consulting Associates, Inc. (Applicant) filed on January 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5898 to be known as the Bliss Diversion Water Power Project located on North Side Canal, a diversion from Big Wood River, partially on Federal land managed by the Bureau of Land Management, in Gooding County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Helen Chenoweth, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description. The proposed project would consist of: (1) An existing 10-foot high, 150-foot long diversion structure and a proposed diversion structure across the existing North Side Canal; (2) a 1/4-mile long canal; (3) 4 or 6 penstocks approximately 200 feet long; (4) generating equipment with a total rated capacity of 550 kW and an annual energy production of 2,900,000 kWh; and (5) a 1/2-mile long transmission line. The proposed market for project-generated power is the Idaho Power Company.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant has requested issuance of a preliminary permit for a term of 30 months, during which engineering, economic and financial feasibility studies will be undertaken along with obtaining agreements with Federal, State and local agencies, and preparation of a license application for an exemption. The cost of the above activities is estimated to be $14,520.

Competing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hyropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4241 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5432-000]

Lawrence J. McMurtrey; Application For Preliminary Permit

February 17, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on September 29, 1981 and revised on November 30, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5432 to be known as the Silver Creek Waterpower Project located on Upper Silver Creek, near Skykomish, within the lands of the Mt. Baker-Snoqualmie National Forest, in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description. The proposed project would consist of: (1) A 3-foot wide, 3-foot deep concrete diversion ditch buried in the stream bed at seven diversion points; (2) a 20,000-foot long, 48-inch diameter pipeline; (3) a powerhouse with an installed capacity of 3.41 MW; and (4) a 10-mile long, 115-kV transmission line from the powerhouse to an existing Puget Power and Light Company power line. The Applicant estimates that the average annual energy production would be 14.9 million kWh.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 430 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 23, 1982.

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4243 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5827-000]

Long Lake Energy Corp.; Application for Preliminary Permit

February 17, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 28, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5827 to be known as the Indian Lake Project located on the Indian River in Hamilton County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Messrs. Paul J. Elston and Donald E. Hamer, Long Lake Energy Corporation, 330 Madison Avenue, 7th Floor, New York, New York 10017.

Project Description. The proposed run-of-the-river project would consist of existing facilities including: (1) Indian Lake Stone Dam, owned by the Indian River Company, an earthfill and masonry gravity structure, 550 feet long and 47 feet high; (2) a reservoir with a surface area of 4,446 acres and 67,000 acre-feet of storage at surface elevation 1,650 feet m.s.l.; and new project works to include (3) an intake structure and penstock; (4) a powerhouse with an installed capacity of 1,300 kW (estimated annual generation is 5,500,000 kWh); (5) a tailrace; and (6) other appurtenances. Project energy will be sold to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estiamtes that the cost of the studies under permit would be $25,000.

Competing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself

(see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4243 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-154-000]

Michigan Wisconsin Pipe Line Co.; Application

February 16, 1982.

Take notice that on January 13, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-154-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation of compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been purchasing gas supplies in the Laverne Area of Beaver, Harper, and Ellis Counties, Oklahoma, since 1958 and that deliveries have steadily and predictably declined to the point where certain transportation and gathering facilities are presently operationally underutilized. Applicant explains that its Laverne station in Harper County is presently comprised of one 9,000 horsepower class compressor, one 12,000 horsepower class compressor, and four 1,100 horsepower class compressors. These facilities, it is asserted, have an aggregate pumping capability of 230,000 Mcf of natural gas while actual requirements have fallen to a daily design level of approximately 130,000 Mcf. Accordingly, Applicant proposes to remove one of the 1,100 horsepower class units from Laverne and relocate the unit at Joliet, Illinois. It is stated that the relocated unit would be installed beside the existing 4,000 horsepower class compressor and would provide the necessary operational flexibility of pumping approximately 25,000 Mcf of gas per day.

The cost of relocating the 1,100 horsepower class unit is estimated at $484,080 to be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commisson's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4244 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-153-000]

Mountain Fuel Supply Co.; Application

February 16, 1982.

Take notice that on January 13, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah, 84139, filed in Docket No. CP82-153-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience ane necessity authorizing the transportation of natural gas for Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that under gas purchase or transportation agreements Northwest owns or otherwise controls certain natural gas reserves in the Uintah Basin Area or Uintah, Duchesne and Carbon Counties, Utah. Applicant further states that these natural gas reserves are more from Northwest's existing pipeline

system but proximate to the transmission facilties of Applicant in the Uintah Basin Area.

Therefore, it is stated that Applicant and Northwest entered into a transportation agreement dated December 15, 1980, as amended May 26 and July 2, 1981. Applicant explains that this agreement provides for receipt by Applicant of Northwest's natural gas at various delivery points in the Uintah Basin Area and for redelivery to Northwest at an existing redelivery point located in Sweetwater County, Wyoming.

Applicant proposed to: (1) Transport and exchange not more than 35,000 Mcf per day of natural gas that Northwest may control in the Uintah Basin Area; (2) receive such natural gas from Northwest at the Northwest delivery points in Unitah and Duchesne Counties, Utah; and (3) exchange such natural as with Northwest at the Northwest Crossover.

Applicant states it would collect an initial cost-of-service-based transportation charge of 17.44 cents per Mcf.

Applicant would perform the proposed transportation service using existing facilities.

Applicant proposes to file tariff revisions each year listing any delivery points added or deleted during the prior calendar year under the agreement with Northwest.

Any person desiring to be heard to to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if not petition to intervene is filed within the time required herein, if the Commission on its review of the matter finds that a grant of the certificate is required by the public conveniences and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4345 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-180-000]

Northern Border Pipeline Co.; Application

February 16, 1982.

Take notice that on January 26, 1982, Northern Border Pipeline Company (Applicant), 224 South 108th Avenue, Omaha, Nebraska 68154, filed in Docket No. CP82-180-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of the facilities necessary to establish an additional point of delivery to Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) in Lyon County, Minnesota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a tee, side valve and measurement station to provide an additional delivery point to Northern. The cost of such facilities is estimated to be $648,400 which cost would be reimbursed by Northern.

It is stated that the proposed new delivery point would allow Northern to provide more reliable service to its customers, maximize utilization of existing facilities and reduce operations and maintenance costs as well as fuel. Applicant asserts that the volumes of gas delivered at the proposed point would be transported and delivered to Northern pursuant to Applicant's Rate Schedule X-1 of Applicant's FERC Gas Tariff, Original Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4346 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-145-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

February 16, 1982.

Take notice that on January 7, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-145-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued sales of natural gas with realignments and deferrals in deliveries, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In accordance with Section 17 of Applicant's FERC Gas Tariff, Third Revised Volume No. 1, Applicant proposes to realign 16,982 Mcf of seasonal service volumes at the request of ten of its utility customers to meet

more effectively their heating requirements for the 1982–1983 heating season and thereafter. It is stated that these ten utility customers are Cedar Falls Municipal Gas Utility, Iowa Public Service Company, Iowa Southern Utilities Company, Minnesota Gas Company, Metropolitan Utilities District of Omaha, Sac City, Iowa, St. Croix Valley Natural Gas Company, West Bend Municipal Gas, Wisconsin Gas Company, and Wisconsin Power and Light Company.

Applicant also proposes to defer for one year 4,314 Mcf of seasonal service at the request of three of its utility customers. Applicant explains that such deferral is required due to timing constraints in constructing the necessary facilities to accommodate the total increased firm entitlement authorized to Michigan Power Company, Peninsular Gas Company and Western Gas Utilities Company, by order issued September 25, 1981, in Docket No. CP80–135.

It is asserted that the proposed adjustment and realignment of volumes would have no effect on the presently authorized level of seasonal service under Applicant's seasonal service rate schedule. Furthermore, Applicant avers that the proposed realignment and deferral of volumes in the instant application would help achieve maximum utilization of presently authorized service in meeting the requirements of Applicant's aforementioned utility customers. Applicant explains that for those utilities seeking additional firm entitlements the increased volumes would be used to serve additional high priority customers and reduce their dependence on expensive shaving gas during periods of peak demand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceedirig or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4347 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82–169–000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

February 16, 1982.

Take notice that on January 20, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82–169–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas for North Central Public Service Company (North Central), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to deliver during the summer season, March 27 through November 26, up to 1,000 Mcf of summer maximum daily volume to Iowa Power and Light Company (Iowa Power) at Des Moines, Iowa, which Iowa Power liquefied and stored for North Central. It is asserted that during the winter season, November 27 through March 26, Applicant transported by displacement volumes of vaporized liquefied natural gas (LNG) to North Central's Perry, Iowa, and Algona, Iowa, delivery points.

It is explained that Applicant has increased its peak day obligation to North Central and that with this increased seasonal service availability North Central no longer needs the LNG it was providing to its customers. North Central, it is stated, therefore, terminated its LNG storage agreement with Iowa Power and its transportation agreement with Applicant in letters dated December 7, 1981.

Hence, Applicant requests approval to abandon the transportation of natural gas to North Central as described above.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4348 Filed 2-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82–140–000]

Northwest Pipeline Corp.; Application

February 16, 1982.

Take notice that on December 30, 1981, Northwest Pipeline Corporation (Applicant), 315 East 200 South, Salt Lake City, Utah 84111, filed in Docket No. CP82–140–000 an application

pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Greeley Gas Company (Greeley), and for permission and approval to abandon a portion of the sales and deliveries of natural gas service presently provided to Peoples Natural Gas Company (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to sell and deliver a daily contract demand of 53,225 therms of ODL–1 firm service, 4,591 therms of SGS–1 firm service, and 25,000 therms of LS–1 firm service to Peoples.

It is stated that pursuant to an exchange agreement between Peoples and Greeley dated April 21, 1981, the distribution properties for service to Cortez, Dolores, Florence, Gunnison, Mancos, Penrose, and Portland, Colorado, are to be transferred from Peoples to Greeley and the distribution properties for service to Worthington, Windom, Lakefield, and Mountain Lake, Minnesota, are to be transferred from Greeley to Peoples.

Applicant proposes, pursuant to the exchange agreeement between Peoples and Greeley, to provide natural gas service to both parties as follows:

Rate schedule	Presently effective contract demand (Therms)	Peoples proposed contract demand (Therms)	Greeley proposed contract demand (Therms)
ODL–1	53,225	15,000	38,225
SGS–1	4,591		4,591
LS–1	25,000		25,000
Total	82,816	15,000	67,816

Applicant notes that the volumes of natural gas to be sold to Greeley would be taken from volumes of natural gas which it has heretofore been authorized to sell and deliver to Peoples and that no increase in the daily contract demand of natural gas which it is authorized to sell and deliver is proposed.

Applicant states that the grant of the authorization sought herein would enable it to provide natural gas service to Greeley thus insuring the continuation of natural gas service to the communities in question.

Any person deisiring to be heard or to make anny protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20428, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–4249 Filed 2–16–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5455–000]

Phi Sig Associates; Application for Preliminary Permit [1]

February 16, 1982

Take notice that Phi Sig Associates (Applicant) filed on October 6, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5455 to be known as the Grade Creek Hydropower Project located on Grade Creek in Skagit County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Marilyn Tabor Shaw, Suite 1100, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036.

Project Description. The proposed project would consist of: (1) A 40-foot long, 4-foot high diversion structure; (2) a 5,000-foot long, 32-inch diameter penstock; (3) a powerhouse with a total rated capacity of 1,900 kW; and (4) a 6-mile long transmission line from the powerhouse to an existing 230-kV transmission line. The Applicant estimates that the average annual energy production would be 10.25 million kWh.

Proposed Scope of Studies under Permit. A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $100,000.

Competing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the

[1] This Notice Supersedes the Notice issued on December 3, 1981.

requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4250 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5731-000]

Rocky Mountain Embryos; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 16, 1982.

Take notice that on December 8, 1981, Rocky Mountain Embryos (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended,* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5731) would be located on Coulee Creek in Twin Falls County, near Buhl, Idaho. Correspondence with the Applicant should be directed to: Consulting Associates, Inc., Vernon Ravanscroft, President, P.O. Box 893, Boise, Idaho 83701.

Project Description. The proposed would consist of: (1) Three-foot high headgates to divert water into an existing channel; (2) a 350-foot long, 24-inch diameter penstock; (3) an outdoor-type, turbine-generating unit with a rated capacity of 175 kW.

Purpose of Exemption. An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments. The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications. Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 5, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene. Any one may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 5, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4251 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-167-000]

United Gas Pipe Line Co.; Application

February 16, 1982.

Take notice that on Januaray 20, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-167-000 an application pursuant to Section 7(b) of the Natural Gas Act and § 157.7(e) of the regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon, during the 12-month period commencing with the date of the order, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's

ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the cuntomer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4252 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5885-000]

Western Power, Inc.; Application for Preliminary Permit

February 16, 1982.

Take notice that Western Power, Inc. (Applicant) filed on January 15, 1982 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5885 to be known as the Chowdere Ridge Project located on Glacier Creek, near Glacier in Whatcom County, Washington. The project would affect U.S. lands within Mount Baker National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Thomas McMaster, Western Power, Inc., 104 Unity Street, Bellingham, Washington 98225.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete diversion dam; (2) a 6,500-foot long, 54-inch diameter penstock; (3) a powerhouse with a total installed capacity of 4,800 kW; and (4) a 2.5-mile long transmission line. The average annual energy generation is estimated to be 19.97 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant proposes to perform test borings at the site and all disturbed land will be restored. The cost of the work would be $225,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see 18 CFR 4.30 et. seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTEREVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4233 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-119-000]

Algonquin Gas Transmission Co.; Application

February 16, 1982.

Take notice that on December 16, 1981, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-119-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Canadian gas sales and transportation services and the construction and operation of certain pipeline and appurtenant facilities required to render said services, all as more fully set forth in the application which is on file with the Commission to public inspection.

Applicant proposes to render from its pipeline system an incremental Canadian gas sales service, pursuant to proposed Rate Schedule C-1, involving the sale for resale of 101,961 million Btu equivalent of gas daily and 37,215,765 million Btu equivalent of gas annually. Applicant would purchase such gas from Pan-Alberta Gas Ltd. (Pan-Alberta) at a point on the international border near St. Stephen, New Brunswick, Canada, and Calais, Maine. Applicant states that it would import such gas from Canada and cause it to be transported through facilities proposed in Docket No. CP82-12-000 to be constructed by New England States Pipeline Company (NESP) from Calais, Maine, to a point of interconnection with the existing pipeline system of Applicant near Burrillville, Rhode Island.

Applicant further proposes to render a Canadian gas transportation service, pursuant to proposed Rate Schedule T-C, involving the transportation of Canadian natural gas through Applicant's pipeline system from Burrillville, Rhode Island, to points of interconnection established and to be established with the pipeline systems of Texas Eastern Gas Pipeline Company, a Division of Texas Eastern Transmission Corporation (Texas Eastern) and Transcontinental Gas Pipe Line Corporation (Transco). It is stated that the gas to be transported by Applicant would be purchased by Texas Eastern and Transco from Pan-Alberta and imported into the United States by Texas Eastern and Transco and will then be transported by NESP to Burrillville for further transportation by Applicant.

Applicant proposes to construct and operate pipeline loop, a compressor station, and measurement facilities necessary for rendering the proposed services. The proposed facilities would consist essentially of expansion of existing meter stations, construction of additional meter stations, and piping modification at existing compressor stations near Stoney Point, New York, and Burrillville, Rhode Island, and a pipeline loop on Applicant's "M" System. The estimated cost of the proposed facilities is $3,933,449. Such cost would be financed from cash on hand, retained earnings and if necessary bank loans or other suitable financing arrangements.

Applicant proposes to render an incremental Canadian gas sales service pursuant to its proposed Rate Schedule C-1 which provides for the following rate components:

(a) A charge to reimburse Applicant for the cost of Canadian gas purchased at the international border;

(b) A charge to reimburse Applicant for the transportation charge paid by Applicant to NESP for the transportation of the gas from the international border to its gas pipeline system at Burrillville and paid by Applicant to NESP for the transportation of the gas from the international border to its gas pipeline system at Burrillville; and

(c) A handling charge for the transportation of the gas through Applicant's pipeline system to the delivery points where the distributor customers would receive gas purchased under Rate Schedule C-1.

It is requested that the Commission grant Applicant special permission to permit the tracking provisions proposed for the cost of the purchased gas and for the rate adjustments provided with respect to the transportation charges paid by Applicant to NESP.

Applicant proposes to transport and redeliver Canadian gas received from NESP to points of interconnection established or to be established with the pipeline systems of Texas Eastern and Transco. It is stated that Texas Eastern and Transco would purchase 101,961 million Btu equivalent of gas per day which would be transported and delivered by NESP to Applicant's receipt point at Burrillville, Rhode Island, adjusted for fuel and unaccounted-for gas.

Transportation service for Texas Eastern and for Transco from Burrillville to the established or to be established pipeline interconnection points would be rendered pursuant to Applicant's proposed Rate Schedule T-C. The proposed service would be firm and the rate would consist of a monthly capacity charge for the firm service which contemplates reimbursement in kind of any fuel and unaccounted-for gas required by Applicant to render the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4255 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-287-000]

Central Hudson Gas and Electric Corp.; Filing

February 11, 1982.

The filing Company submits the following:

Take notice that Central Hudson Gas and Electric Corporation (Central Hudson), on February 4, 1982, tendered for filing as a supplement to its Rate Schedule F.P.C. No. 22 a letter of agreement and notification dated January 21, 1982 between Central Hudson and New York State Electric and Gas Corporation. Central Hudson states that this letter provides for an increase in the monthly facilities charge from $6,573.75 to $7,482.00 in accordance with Article IV.1. of its rate Schedule F.P.C. No. 22, an increase in the monthly transmission charge from $3,680.07 to $4,227.61 in accordance with Articles V. and VI. of its Rate Schedule F.P.C. No. 22 and an increase in the annual operation and maintenance charge from $2,334.97 to $2,568.47 in accordance with Article IV.2 of its Rate Schedule F.P.C. No. 22.

Central Hudson requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on the New York State Electric and Gas Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4254 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2814-001]

City of Paterson, New Jersey and Paterson Municipal Utilities Authority; Application for Transfer of License

February 16, 1982.

Public notice is hereby given that an application was filed on January 25, 1982, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by the City of Paterson, New Jersey (Licensee) and the Paterson Municipal Utilities Authority (Transferee) for transfer of the license for the Great Falls Project No. 2814. The project is located on the Passaic River in the City of Paterson, Passaic County, New Jersey. Correspondence should be directed to: John Topalian, Dept. of Community Development, 100 Hamilton Plaza, Paterson, New Jersey 07505.

The Great Falls Project would consist of an existing dam, penstocks and a powerhouse containing new turbine-generator units with a total rated capacity of 7.5 MW. No new facilities have been constructed as yet.

Transferee has proposed to construct and operate the project, when constructed, in accordance with the license.

Transferee is a public body organized under the laws of the State of New Jersey and authorized to finance and operate hydroelectric projects in the City of Paterson.

Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protests with the Commission in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 5, 1982. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4256 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-168-000]

Columbia Gulf Transmission Co.; Application

February 16, 1982.

Take notice that on January 20, 1982, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP82-168-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a gas transportation agreement dated October 9, 1981, to transport up to 30,000 Mcf of natural gas per day on a best-efforts basis for Transco. It is stated that Transco is purchasing natural gas produced from Eugene Island Block 243, offshore Louisiana, from Cities Service Company and gas produced from Eugene Island Blocks 242 and 243, offshore Louisiana, from ARCO Oil and Gas Company. Transco, it is asserted, would transport this gas from Eugene Island Block 243 "A" platform, offshore Louisiana, to an underwater sidetap in Eugene Island Block 224 on the 30-inch pipeline known as the Blue Water Header. Applicant asserts that it would transport such gas through its available capacity in the Blue Water Project with redelivery to Transco at either the existing interconnection of Applicant's and Transco's pipelines in Terrebonne Parish, Louisiana, or the existing interconnection of Applicant's and Transco's pipelines in Evangeline Parish, Louisiana. Deliveries during any one month would be to only one delivery point.

It is stated that Transco would pay Applicant a rate of 6.42 cents per Mcf of gas received for transportation to the Terrebonne delivery point and a rate of 16.03 cents per Mcf of gas received for transportation to the Evangeline delivery point. Such rates would be adjusted for gas retained for unaccounted-for volumes and fuel losses.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4275 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-262-000]

Columbus & Southern Ohio Electric Co.; Filing

February 11, 1982.

The filing Company submits the following:

Take notice that Columbus and Southern Ohio Electric Company (Company) on February 4, 1982, tendered for filing proposed changes in its FERC Electric Tariff Third Revised Volume No. 1, Original Sheet Nos. 1–4. The proposed changes would increase revenues from jurisdictional sales and service by $3,868,181.20 based on the twelve-month period ending December 31, 1982. The proposed changes primarily involve increased demand and energy charges. The Company has added a delayed payment charge. The form of the fuel adjustment clause contained in the proposed rate schedule has not been changed or altered from that which was in effect prior to the filing and conforms with present Commission regulations concerning the form of such clauses.

The Company states that the additional revenue is needed to help offset increases in the cost providing electric service as well as increases in the cost of facilities and capital required to provide such services.

The Company requests waiver of the Commission's notice requirement to allow for an effective date of March 1, 1982.

A copy of the filing has been served upon the Cities of Columbus, Jackson, Westerville, Village of Glouster, the Company's jurisdictional customers, and upon the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4276 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-263-000]

Commonwealth Edison Co.; Proposed Tariff Change

February 11, 1982.

The filing Company submits the following:

Take notice that on February 4, 1982, Commonwealth Edison Company (CE) tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revise the Electric Service Contract between CE and the City of Batavia, Illinois, to provide for a third point of electric supply to the City by CE.

CE requests an effective date of October 30, 1981, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing has been served upon the city of Batavia, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be received on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4277 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-162-000]

Consolidated Gas Supply Corp. and North Penn Gas Co.; Application

February 16, 1982.

Take notice that on January 18, 1982, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and North Penn Gas Company (North Penn), 76–80 Mill Street, Port Allegany, Pennsylvania 16743, filed in Docket No. CP82–162–000 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Consolidated's acquisition and recompletion of one well for storage observation purposes in Tioga Storage Pool, Tioga County, Pennsylvania, and for permission and approval to abandon the same well by North Penn, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by order issued July 29, 1974, in Docket No. CP74–268 Applicants are authorized to operate jointly the Tioga Storage Pool facilities. Applicants now propose to transfer the ownership of Well No. TW–805 from North Penn to Consolidated. Consolidated also proposes to recomplete such well as an observation well in connection with the operation of the Tioga Storage Pool, and North Penn proposes to abandon such well.

It is explained that Consolidated is principally responsible for the

operations in the East End Tioga Pool and North Penn operates in the West End Tioga Pool. Applicants submit that the subject well is located near the eastern boundary of the East End Tioga Pool and is therefore advantageously situated for use as an observation well by Consolidated.

It is stated that the estimated cost of the recompletion of the well is $200,000 which would be financed from funds to be obtained from Consolidated's parent, Consolidated Natural Gas Company, or from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4230 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-148-000]

Gasdel Pipeline System Inc.; Application

February 10, 1982.

Take notice that on January 11, 1982,[1] Gasdel Pipeline System Incorporated (Applicant), P.O. Box 570, 80 Park Plaza, Newark, New Jersey 07101, filed in Docket No. CP82-148-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of an interest in certain pipeline and related facilities and the transportation of natural gas for Public Service Electric and Gas Company (PSE&G), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to acquire an 8.34 percent interest in 0.82 mile of 12-inch pipeline and in 2.10 miles of 12-inch pipeline including appurtenant facilities which are owned by Transcontinental Gas Pipe Line Corporation (Transco) and connect production from platforms A and B in Vermilion Block 310 to Transco's 20-inch Southwest Louisiana lateral in Blocks 311 and 313, respectively, Vermilion Area, South Addition, offshore Louisiana. It is stated that the portion of Transco's facilities sought to be acquired by Applicant is based on the equivalent percentage of ownership by energy Development Corporation (EDC), Applicant's parent company, in Vermilion Block 310. Applicant estimates the cost of this acquisition to be approximately $381,000 which would be advanced by Applicant's parent, EDC, from short-term loans or funds on hand. It is anticipated that permanent long-term debt financing of approximately 75 percent of the cost of the facilities would be undertaken as part of Applicant's overall financing programs at later dates.

Applicant also proposes to acquire an 8.34 percent interest in 2.6 miles of 8-inch pipeline including appurtenant facilities which are also owned by Transco and which connect production from two platforms in Block 34, West Delta Area, offshore Louisiana, to Tennessee Gas Pipeline Company, a Division of Tenneco Inc.'s 20-inch pipeline in Block 35. It is asserted that the portion of Transco's facilities sought to be acquired by Applicant is based on the equivalent percentage of ownership of EDC in West Delta Block 34. Applicant estimates the cost of the proposed acquisition to be approximately $233,000 which would be financed initially by funds advanced by Applicant's parent, EDC, from short-term loans or funds on hand. It is anticipated that permanent long-term debt financing of approximately 75 percent of the cost of the facilities would be undertaken as part of Applicant's overall financing programs at later dates.

Furthermore, Applicant proposes to transport natural gas for PSE&G from Vermilion Block 310, West Delta Block 34, South Marsh Island Block 235, and East Cameron Block 336, all of which are owned by EDC. It is stated that PSE&G has a contractural right to purchase the gas attributed to EDC's working interest in the above-mentioned blocks.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] The application was initially tendered for filing on January 11, 1982; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 15, 1982; thus, filing was not completed until the latter date.

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4281 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-38-000]

Robert Hetzler; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 11, 1982.

On January 18, 1982, Robert Hetzler of Mandan, North Dakota filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a Jay Carter Enterprises, Inc. 20 kilowatt wind electric system to be located in Morton County, North Dakota. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility. Applicant states that this is the only unit installed at the site owned by Robert Hetzler.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4280 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5876-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 17, 1982.

Take notice that Hydro Management, Incorporated (Applicant) filed on January 15, 1982 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5876 to be known as the Young Creek Power Project located on Young Creek, within Kootenai National Forest in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: W. H. Edelman III, President, Route 1, Box 169, Ronan, Montana 59864.

Project Description—The proposed project would consist of: (1) 2 rock diversion structures 3 feet high, one each at elevation 4000 feet on North Fork and South Fork of Young Creek; (2) 16,000 feet of penstock, with an interconnection at elevation 3700 feet; (3) a powerhouse containing a turbine generator with 640 kW capacity and 3,877 MWh annual energy production; and (4) 8,300 feet of transmission line. The expected market for project-generated energy is the Lincoln Electric Coop, Incorporated or Bonneville Power Administration.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $84,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 23, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 23, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 23, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. [A copy of the application may be obtained by agencies directly from the Applicant.] If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4282 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-265-000]

Kansas City Power & Light Co.; Filing

February 11, 1982.

The filing Company submits the following:

Take notice that on February 4, 1982, Kansas City Power & Light Company (KCPL) tendered for filing Service Schedule F–MPA for Transmission and Subtransmission Service under the

Municipal Participation Agreement dated July 12, 1965, between KCPL and the City of Independence, Missouri (City), KCPL Rate Schedule FPC No. 56.

KCPL states that the purpose of this filing is to establish a rate for Transmission and Subtransmission Service applicable to power and energy received by KCPL from the City at Association Electric Cooperative's (AEC) Missouri City substation and transmitted to the City by KCPL through its existing 161/69 kv facilities.

KCPL requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-4268 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-286-000]

Louisville Gas & Electric Co.; Filing

February 11, 1982.

The filing Company submits the following:

Take notice that Louisville Gas and Electric Company (Louisville) on February 4, 1982, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Tennessee Valley Authority (TVA) designated Louisville Gas and Electric Company FPC Rate Schedule No. 28.

Louisville states that the purpose of this filing is to increase the demand charge for Short Term Power as set forth on Service Schedule C from 85¢ per kilowatt-week to $1.05 per kilowatt-week.

Louisville requests an effective date of March 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon TVA and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 (1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4267 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5842-000]

County of Sierra, California; Application for Preliminary Permit

February 17, 1982.

Take notice that the County of Sierra, California (Applicant) filed on December 31, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5842 to be known as the Pauley Creek—Lavezzola Creek Project located on Pauley and Lavezzola Creeks in Sierra County, California. The project would affect lands within Tahoe National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: County of Sierra, c/o Tim H. Beals, P.O. Box 530, Downieville, California 95936.

Project Description—The proposed project would consist of: (A) Site 1 consisting of: (1) A 5-foot high concrete diversion structure; (2) an 18,000-foot long conduit; (3) a 6,500-foot long penstock; and (4) a powerhouse containing two generating units each rated at 5.4 MW. The average annual generation would be 41.6 million kWh.

(B) Site 2 consisting of: (1) A 140-foot high dam, impounding a reservior with a capacity of 2,500 acre-feet; (2) a 6,600-foot long penstock; and (3) a powerhouse containing two generating units, each rated at 2.3 MW. The average annual generation would be 20 million kWh.

(C) Site 3 consisting of: (1) A 5-foot high concrete diversion structure; (2) a 5,280-foot long steel penstock; and (3) a powerhouse containing two generating units, each rated at 950 kW. The average annual generation would be 8.8 million kWh.

(D) Site 4 consisting of: (1) A 5-foot high concrete diversion structure; (2) a 13,500-foot long conduit; (3) a 1,500-foot long steel penstock; and (4) a powerhouse containing two generating units, each rated at 2.05 MW. The average annual generation would be 17.6 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct these studies. The cost of the work is estimated to be $140,000.

Competing Applications.—This application was filed as a competing application to Mac Hydro-Power Company, Inc.'s application for Project No. 5123 filed on July 22, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notice of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 2, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each respresentative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4280 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-143-000]

Transcontinental Gas Pipe Line Corp. and Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

February 16, 1982.

Take notice that on December 31, 1982, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251 and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-143-000 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in the offshore Texas area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicants have or would have the right to purchase all of the gas to be produced from Galveston Blocks 391, 392 and 393, offshore Texas. In order to attach these new sources of gas supply, Applicants propose to construct as co-owners 20.3 miles of 20-inch line from Kerr-McGee Corporation's (Kerr-McGee) G 393 "B" production platform to The Superior Oil Co.'s (Superior) Brazos Block A-1 production platform on Transco's Central Texas Gathering System, 6.0 miles of 16-inch line from Kerr-McGee's G 391 "B" production platform to the G 393 "B" production platform, 1.1 miles of 12-inch line from Kerr-McGee's G 393 "C" production platform to an under water tap value located at G 393 on the proposed 16-inch line. Applicants also propose to construct metering, regulating and other appurtenant facilities at the various production platforms located in Galveston Blocks 391, 392 and 393.

It is stated that Applicants would each own 50 percent of the proposed facilities. It is further stated that such facilities would be constructed and operated by Transco and would have a maximum capability of 172,800 Mcf per day.

Applicants estimate the proposed facilities would cost $29,539,250. Such costs, it is asserted, would be financed through revolving credit arrangements, short-term loans, or funds on hand, with permanent financing to be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4288 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-284-000]

Utah Power & Light Co.; Filing

February 11, 1982.

The filing Company submits the following:

Take notice that Utah Power & Light Company (Utah) on February 4, 1982, tendered for filing a proposed cancellation of a contract for Transformation and Delivery of Electricity between CP National Corporation and the City of St. George, Utah, dated July 20, 1979 (on file with the Federal Energy Regulatory Commission as CP National's Rate Schedule No. 7). As of September 30, 1981 Utah acquired the CP National System in Southern Utah, and consequently the transformation and wheeling services became obsolete.

Utah states that in a related filing, Utah submitted an Amendment to the existing Service Agreement between Utah and St. George dated December 1, 1978.

Utah also filed Utah Power & Light Company FERC Electric Tariff Original Volume No. 1: Thirty-third and Thirty-fourth Revised Sheets No. 1, entitled "Table of Contents;" Fifteenth Revised Sheet No. 15, a continuation of the "Index of Purchasers."

Utah requests an effective date of September 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4200 Filed 2-16-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-256; PH-FRL-2051-3]

Certain Companies; Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed petitions proposing food and feed additive regulations and establishing tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF-256]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following food and feed additive and pesticide petitions have been submitted to the agency requesting establishment of a food and feed additive regulations and tolerances for certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2597. Union Carbide Corp., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR 180.269 by establishing a tolerance for the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites 2-methyl 2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl)oxime in or on the raw agricultural commodity grapes at 0.3 part per million (ppm). The proposed analytical method for determining residues is by gas chromatography using a flame photometric detector. (PM-12, Jay Ellenberger, 703-557-2386)

FAP 2H5327. Union Carbide Corp. Proposes amending 21 CFR 193.15 by establishing a regulation permitting residues of insecticide/nematocide aldicarb in or on the commodity raisins at 0.75 ppm. (PM-12, Jay Ellenberger, 703-557-2386)

FAP 2H5327. Union Carbide Corp. Proposes amending 21 CFR 561.30 by establishing a regulation permitting residues of insecticide/nematocide aldicarb in or on the commodities dry grape pomace at 0.75 ppm and raisin waste at 0.3 ppm. (PM-12, Jay Ellenberger, 703-557-2386)

PP 2F2600. E M Industries, Inc., 5 Skyline Drive, Hawthorne, NY 10532. Proposes amending 40 CFR 180.382 by establishing a tolerance for the residues of the fungicide triforine (*N,N'*-[1,4-piperazinediylbis(2,2,2-trichloroethylidene)]bis-[formamide]) in or on the raw agricultural commodity apples at 0.01 ppm. The proposed analytical method for determining residues is gas chromatograhy with a flame ionization detector. (PM-21, Henry Jacoby, 703-557-1900

PP 2F2603. Merck and Company, Inc., PO Box 2000, Rahway, NJ 07065. Proposes amending 40 CFR 180.242 by establishing a tolerance for the residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) in or on the raw agricultural commodity wheat, grain at 1.0 ppm. The proposed analytical method for determining residues is spectrophotofluorometry. (PM-21, Henry Jacoby, 703-557-1900)

(Secs. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: February 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4099 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-31-M

[PF-258; PH-FRL-2051-1]

Dow Chemical Co.; Filing of Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that Dow Chemical Company has submitted pesticide and feed additive petitions to the EPA requesting establishment of a tolerance and a feed additive regulation for the combined residues of the insecticide chlorpyrifos.

ADDRESS: Written comments to: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number [PF-258] and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide and feed additive petitions have been submitted to the agency requesting establishment of a tolerance and a feed additive regulation in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 2H5331. Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes amending 21 CFR 561.98 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in the animal feed item dried apple pomace at 8.0 parts per million (ppm).

PP 2F2620. Dow Chemical Co. Proposes amending 40 CFR 180.342 by establishing a tolerance for the combined residues of chlorpyrifos in or on the raw agricultural commodity apples at 1.0 ppm. The proposed analytical method for determining residues is by gas chromatography using flame photometric detector.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: February 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4097 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

[PW-28; PH-FRL-2051-2]

Dow Chemical Co.; Withdrawal of Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Dow Chemical Co. has withdrawn a pesticide and food additive petitions for the combined residues of the insecticide tricyclohexylin hydroxide and its organotin metabolites in or on certain agricultural commodities.

ADDRESS: Written comments to: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 22, 1975 (40 FR 36798), EPA issued a notice which announced that Dow Chemical Co. P.O. Box 1706, Midland, MI 48640, had submitted the following petitions for the combined residues of the insecticide tricyclohexyltin hydroxide and its organotin metabolites (calculated as tricyclohexyltin hydroxide).

PP 5F1641. Proposed the establishment of tolerances in or on grapes at 6.0 ppm; in eggs, liver and kidney of poultry at 0.5 ppm; and in meat and meat byproducts (excluding liver and kidney of poultry) at 0.2 ppm.

FAP 5H5094. Proposed the establishment a food additive regulation in or on raisins a 12 ppm and dried grape pomace at 50.0 ppm.

Dow Chemical Co. has withdrawn these petitions without prejudice to further filing in accordance with the regulations.

(Secs. 408(d)(1), 68 Stat. 514, (21 U.S.C. 346a(e)) and 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348) of the Federal Food, Drug, and Cosmetic Act)

Dated: February 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4096 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

[A-2-FRL-2044-2]

Delegation of Authority to the State of Oklahoma for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA Region 6 has delegated the authority for technical and administrative review of the Prevention of Significant Deterioration (PSD) program to the Oklahoma State Department of Health, Air Quality Service (AQS). The Oklahoma AQS will receive, conduct technical review, and process the PSD applications; however, since the Oklahoma AQS did not request full delegation of authority, EPA Region 6 will continue to have responsibility to issue or deny the PSD permits.

EFFECTIVE DATE: July 25, 1981.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On December 18, 1980, the Oklahoma State Department of Health submitted to the EPA Region 6 office a request for EPA to delegate to them the responsibility for technical and administrative review authority of sources regulated under the EPA PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's procedures for PSD review are adequate and effective. Thus, on July 25, 1981, and pursuant to 40 CFR 52.21 (1980), the Regional Administrator delegated the authority for technical and administrative review portions of the Federal PSD program to the State of Oklahoma. The conditions of the delegation are delineated in the Regional Administrator's letter to the State dated July 16, 1981.

Under Executive Order 12291, EPA must also judge whether a publication is "major" and therefore subject to the requirements of a regulatory impact analysis. The delegation of authority is not "major". This action only provides for the implementation of an administrative change in PSD permit processing, and does not change any existing regulatory requirements.

Effective immediately, all applications and other information pursuant to 40 CFR 52.21 by sources locating in the State of Oklahoma should be submitted to the State agency at the following address: Oklahoma State Department of Health, Air Quality Service, P.O. Box 53551, Oklahoma City, Oklahoma 73152.

(Sec. 101 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601))

Dated: January 26, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-4098 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-29-M

[OPP-50565; PH-FRL-2051-6]

Issuance of Experimental use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-13. Extension. Abbott Laboratories, North Chicago, IL 60064. This experimental use permit allows the use of 18 pounds (9 pounds each) of the plant growth regulators gibberellins A_4A_7 and N^6-benzyladenine on apple trees to evaluate increased lateral bud break, shoot growth, and improved branch angles on bearing and non-bearing apple trees. A total of 300 acres are involved. The program is authorized only in the States of Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from February 1, 1982 to March 19, 1984. Permanent tolerances for residues of the active ingredients in or on apples have been established (40 CFR 180.224 and 180.376). (Robert Taylor, PM 25, Rm. 245, CM#2 (703-557-1800))

275-EUP-24. Extension. Abbott Laboratories, North Chicago, IL 60064. This experimental use permit allows the

use of 400 additional pounds (3,336 pounds originally authorized) of the herbicide *Cercospora rodmanii*, Conway on surface water to evaluate the control of *Eichhornia crassipes* (water hyacinth). A total of 40 surface acres, 20 acres treated both years of the program, are involved. The program is authorized only in the States of Florida, Louisiana, Mississippi, and Texas. The experimental use permit is effective from April 1, 1982 to March 31, 1984. The experimental use permit is issued with the limitation that the herbicide not be applied near a drinking or irrigation water source. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1800))

7969–EUP–14. Extension. BASF Wyandotte Corporation, 100 Cherry Hill Rd., Parsippany, NY 07054. This experimental use permit allows the use of 31,250 pounds of the herbicide 2-[1-(ethoxyimino)Butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on soybeans to evaluate the control of weeds. A total of 125,000 acres are involved. The program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from May 27, 1982 to May 27, 1983. Temporary tolerances for residues of the active ingredient in or on soybeans; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; milk and eggs have been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

1471–EUP–63. Extension. Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46206. This experimental use permit allows the use of 10,000 pounds of the herbicide ethalfluralin each year of the program on cucurbits, forage legumes, and seed and pod vegetables to evaluate control of annual grasses and broadleaf weeds. A total of 7,000 acres will be involved each year of the program. The program is authorized in the States of Alabama, California, Colorado, Delaware, Florida, Georgia, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, Nebraska, New Jersey, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Virginia, Washington, and Wyoming. The experimental use permit is effective from April 16, 1982 to April 16, 1984. Temporary tolerances for residues of the active ingredient in or on seed and pod vegetables, cucurbits, and forage legumes have been established. (Richard Mountfort, PM 23, Rm. 237, CM#2 (703–557–1830))

1471–EUP–65. Renewal. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 270 pounds of the herbicide fluridone on drainage ditches to evaluate the control of aquatic weeds. A total of 90 acres are involved. (Richard Mountfort, PM 23, Rm. 237, CM#2 (703–557–1830))

1471–EUP–66. Renewal. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 450 pounds of the herbicide fluridone on drainage ditches to evaluate the control of aquatic weeds. A total of 150 acres are involved. This program and the one above are authorized only in the State of Florida. The permits were perviously effective from July 12, 1979 to July 12, 1980. The permits are now effective from November 16, 1981 to November 13, 1982. Both permits are being issued with the limitation that the herbicide will not be applied to waters that will be used for drinking, domestic purposes, swimming, fishing, watering livestock, or irrigation of crops used for food or feed. The permits will use the same active ingredient but different formulations. (Richard Mountfort, PM 23, Rm. 237, CM#2 (703–557–1830))

10182–EUP–19. Extension. ICI Americas Inc., Wilmington, DE 19897. This experimental use permit allows the use of the remaining supply of 900 pounds of the insecticide cypermethrin [(±)alpha-cyano-(3-phenoxyphenyl)methyl(±)-*cis,trans*-3-(2,2-dicholorethenyl)-2,2-dimethylcyclopropanecarboxylate on cotton to evaluate the control of various insects. A total of 450 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. This experimental use permit is effective from December 8, 1981 to December 8, 1982. This permit is being issued with the limitation that all treated crops are destroyed or used for research purposes only. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

524–EUP–49. Extension. Monsanto Company, 1101 17th St., NW., Washington, DC 20036. This experimental use permit allows the use of the remaining supply of 52,740 pounds (60,000 pounds originally authorized) of the herbicide alachlor on corn, cottonseed, dry beans, lima beans, peanuts, peas, potatoes, and soybeans to evaluate the control of weeds. The program is authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from March 7, 1982 to March 7, 1984. Permanent tolerances for residues of the active ingredient in or on corn, cottonseed, dry beans, lima beans, peanuts, peas, potatoes, and soybeans have been established (40 CFR 180.249). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

2217–EUP–2. Issuance. PBI/Gordon Corporation, 1217 West 12th St., P.O. Box 4090, Kansas City, MO., 64101. This experimental use permit allows the use of the mixed amine salts of 2-methyl-4-chlorophenoxyacetic acid, 2-(2-methyl-4-chlorophenoxy) propionic acid, and dicamba on barley, corn, oats, rye, and wheat to evaluate the control of broadleaf weeds. A total of 416 acres are involved. The program is authorized only in the States of Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, and Wisconsin. The experimental use permit is effective from December 29, 1981 to December 29, 1982. This permit is being issued with the limitation that all treated crops are destroyed or used for research purposes only. (Richard M. Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830))

27586–EUP–23. Renewal. U.S. Department of Agriculture, 12th & Independence, SW., P.O. Box 2417, Washington, DC 20013. This experimental use permit allows the use of 80 pounds of the pheromone 3-methyl-2-cyclohexen-1-one on Douglas fir trees to evaluate the control of beetles. A total of 560 acres are involved. The program is authorized only in the States of Idaho, Montana, Oregon, and Washington. The permit was previously effective from August 21, 1980 to August 21, 1981. The permit is now effective from December 11, 1981 to December 11, 1982. This permit is being issued with the limitation that none of the material treated will enter the food chain.

(Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: February 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4101 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

[PP 5G1579/T345, PH-FRL-2052-8]

State of Florida; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for residues of the plant regulator 5-chloro-3-methyl-4-nitro-1*H*-pyrazole in or on the raw agricultural commodity oranges.

DATE: This temporary tolerance expires December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767c), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the Federal Register of March 3, 1981 (46 FR 14964), announcing the renewal of a temporary tolerance for residues of the plant regulator 5-chloro-3-methyl-4-nitro-1*H*-pyrazole in or on the raw agricultural commodity oranges at 0.1 part per million (ppm). This temporary tolerance has been extended in response to pesticide petition (PP 5G1579), submitted by State of Florida, Department of Citrus, P.O. Box 148, Lakeland, FL 33802.

This temporary tolerance is to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit (43068-EUP-1), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. State of Florida must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 15, 1982. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

OMP has exempted this notice from Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entites. A certification statement to this effect was published in the Federal Register of May 4, 1981, (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: February 4, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4102 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

[PW-39; PH-FRL-2051-5]

Union Carbide Corp.; Withdrawal of Feed Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Union Carbide Corp. has withdrawn a feed additive petition (FAP 9H5218) for residues of the insecticide aldicarb and its cholinesterase-inhibiting metabolites in or on the animal feed item citrus pulp.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of June 7, 1979 (44 FR 32737), that the Union Carbide Corp., PO Box 12014, Research Triangle Park, NC 27709, submitted a feed additive petition (FAP 9H5218) proposing the establishment of a regulation to permit residues of the insecticide aldicarb (2-methyl-2(methythio)propionaldehyde-*O*(methylcarbamoyl)oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)propionaldehyde *O*-(methylcarbomoyl)oxime in dried citrus pulp at 0.6 part per million.

Union Carbide Corp. has withdrawn this petition without prejudice to further filing in accodance with the regulations.

(Sec. 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348))

Dated: February 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4100 Filed 2-16-82; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

Cordless Phone Waiver; Extension of Time for Comments

On December 21, 1981 the Commission put on Public Notice (FCC mimeo 1247, December 21, 1981) [1] two requests for waiver of Section 15.7 to permit cordless phones to operate with more liberal technical standards. The

[1] This document was not published in the Federal Register.

public was invited to submit comments on these requests by February 8, 1982.

On February 4, 1982, a request for extension of time to file comments on this matter was received from the American Radio Relay League (ARRL) on behalf of amateur radio operators. ARRL requests that the time to file comments be extended to February 26, 1982. ARRL bases this request on the following.

ARRL points out that the frequencies involved in the request for waiver, 1.8–2.0 MHz band, include the amateur radio band at 1.8–2.0 MHz. Use of this band by cordless phones poses a potential interference threat to amateur radio operation. At least one such case has surfaced and ARRL needs additional time to investigate this case. In addition, ARRL has requested samples of cordless phones, to investigate the interference potential to amateur radio operation. These phones have not been received to date and additional time is needed to complete the investigation and to prepare meaningful comments.

Since the Commission is desirus of obtaining the fullest information before acting on the subject petitions, the ARRL request is granted and time for filing comments is extended to February 26, 1982.

Comments should be submitted not later than February 26, 1982 to the attention of Chief, RF Devices Branch, Office of Science and Technology, FCC, Washington, DC 20554. The petitions are available for inspection in Room 8302 of the FCC offices at 2025 M St., NW., Washington, DC 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-4301 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1334]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

February 10, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before March 4, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 73 to authorize the transmission teletext by TV stations. (BC Docket No. 81–741, RM's 3727 and 3876.)

Filed by: Eleanor S. Applewhaite & Michael Rose, Attorneys for CBS Inc., on 1–13–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-4304 Filed 2-16-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, NY.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3155–7.

Filing party: John C. Barnett, Deputy Chief, Leases & Operating Agreements Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T–3155–7, between The Port Authority of New York and New Jersey (Port) and Maersk Container Service Company, Inc. (Maersk), assignee of Moller Steamship Company, Inc. (Moller), modifies the parties' basic agreement providing for Moller's 25-year lease of a marine terminal at Port Newark, New Jersey. The purpose of Agreement No. T–3155–7 is to provide for additional premises under the lease and additional basic rental of $8,054.13 per month for said premises.

Agreement No. T–3158–2.

Filing party: John C. Barnett, Deputy Chief, Leases & Operating Agreements Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T–3158–2, between The Port Authority of New York and New Jersey (Port) and Ecuadorian Line, Inc. (ELI), modifies the parties' basic agreement providing for the eight-year lease to ELI of certain premises at Port Newark, New Jersey, to be used as a marine terminal facility. The purpose of the modification is to renew the lease for an additional term of eight years. The present lease expires March 1, 1983, and the extension would carry through to February 28, 1991. For the period commencing March 1, 1983 and continuing through February 29, 1984, ELI will pay to the Port a rental of $246,125. For each successive annual period thereafter for the balance of the lease term the rent shall be increased by one-third of the percentage increase as contained in the Consumer Price Index.

Agreement No. T–3490–1.

Filing party: H. H. Wittren, Associate Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–3490–1, between The Port of Seattle (Port) and Pacific Alaska Line, Inc. (PAL), modifies the parties' basic agreement providing for a five-year lease covering land, submerged land, pier and dock facilities at Terminal 105, Seattle, Washington. The purpose of the modification is to extend the term of the lease for an additional five years, commencing on April 1, 1982 and ending March 31, 1987. Simultaneously PAL's name will be changed to Hawaiian Marine Lines, Inc. Effective April 1, 1982, the monthly rental paid to the Port will be $32,746. Pending approval by the Federal Maritime Commission, PAL will be assessed rent pursuant to the Port tariffs, once the agreement is approved, rent will be paid pursuant to the lease.

Agreement No. T–3507–1.

Filing party: H. H. Wittren, Associate Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–3507–1, between The Port of Seattle (Port) in the capacity of grantor on behalf of the State of Washington and the Port in the

capacity of user and administrator of waterway and street end permits, modifies the basic agreement between the parties which provides for the use of certain water areas owned by the State of Washington. The purpose of the modification is to provide the Port with water access to its facilities at Pier 31.

Agreement No. T–3900–2.

Filing party: Edward D. Ransom, Esquire, Lillick, McHose & Charles, Attorneys at Law, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. T–3900–2, between Encinal Terminals (Encinal) and Eagle Services, Ltd. (Eagle), modifies the parties' basic agreement providing for Eagle's lease of a container facility at Alameda, California. The purpose of the modification is to: (1) Convert certain interim amendments into permanent amendments; (2) delete the category of secondary users; (3) limit persons eligible to become preferential users to two in number and limiting such eligibility to those who move containerized cargoes to and from the premises; (4) reduce the amount of the minimum rent; (5) change the understanding of the parties as to the future expansion of the size of the leased premises; (6) extend the term of the agreement to December 31, 1996, while giving Encinal the right to terminate the agreement early if stated revenue levels are not met, and (7) by adding a new section to the agreement providing Eagle shall share with Encinal its net operating revenues, if any, from the operations of preferential users if they are greater than a specified level. The amendment becomes effective the second month following Commission approval.

Agreement No. 50–39.

Filing party: Mr. Ralph M. Pais, Graham & James, One Maritime Plaza, Suite 300, San Francisco, California 94111.

Summary: Agreement No. 50–39 will modify the basic agreement of the Pacific/Australia-New Zealand Conference by authorizing the conference chairman or counsel to execute agreement modifications on behalf of the parties.

Agreement No. 10436.

Filing party: David F. Anderson, Esq., Associate General Counsel, Matson Navigation Company, Inc., P.O. Box 3933, San Francisco, California 94119.

Summary: Agreement No. 10436, between United States Lines, Inc. and Matson Navigation Company, Inc., covers and is restricted to the transportation of General Cargo in containers (not on chassis), under through bills of lading issued by United States Lines, Inc. in the following trades:

From Pacific Coast ports of the United States to Guam, with transshipment at Honolulu, Hawaii;

From Pacific Coast ports of the United States to Far East ports with transshipment at Honolulu, Hawaii;

From Honolulu, Hawaii, to ports on the Atlantic Coast of the United States, with transshipment at Oakland or Los Angeles, California, or other U.S. Pacific Coast port that may be mutually agreeable to the parties;

From Honolulu, Hawaii to European ports with transshipment at Oakland or Los Angeles, California, or other U.S. Pacific Coast port that may be mutually agreeable to the parties.

Matson concurs in and shall comply with all the terms, conditions, rates, rules, regulations and transshipment routes of the applicable tariffs identified in Appendix A. The through rate shall be apportioned in accordance with the schedule in Appendix B. The interchange of containers from United States Lines to Matson (without per diem) and liability in connection therewith will be governed by the terms and conditions of FMC Agreement No. DC–66, as amended.

Agreement No. 10437.

Filing party: Alan F. Wohlstetter, Esq., Denning & Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 10437 establishes a Joint Loading Agreement by and between Transconex, Inc. and Econocaribe Consolidators, Inc., both Non-Vessel Operating Common Carriers by Water, and covers the joint loading of cargo to be transported from ports in the State of Florida to ports in Aruba, Barbados, Curacao, Dominican Republic, Haiti, Jamaica, Panama, Surinam, Trinidad, and provides that the participating NVO carriers, when authorized by the other, may accept and receipt shipments in the name of an on behalf of each other for consolidation and forwarding with the shipments of the receiving NVO carrier to be shipped via Vessel Operating Common Carriers by Water.

By Order of the Federal Maritime Commission.

Dated: February 11, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-4136 Filed 2-16-82; 8:45 am]

BILLING CODE 6730-01-M

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No. 10376–2.

Filing Party: R. J. Finnan, Chief Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10376–2 extends the term of the present sailing and discussion agreement between China Ocean Shipping Co. and Lykes Bros. Steamship Co. through March 1, 1983.

By Order of the Federal Maritime Commission.

Dated: February 11, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-4138 Filed 2-16-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse and Mental Health Administration

Alcohol Research Center Grant; Effects of Alcohol on the Elderly

AGENCY: National Institute on Alcohol Abuse and Alcoholism, HHS.

ACTION: Availability of a special notification for an Alcohol Research Center Grant on the effects of alcohol on the elderly.

SUMMARY: The National Institute on Alcohol Abuse and Alcoholism (NIAAA) wishes to announce the availability of funds during FY 1982 to fund an Alcohol Research Center to conduct research on the effects of alcohol on the elderly and to solicit applications from eligible applicants requesting funds for this purpose.

DEADLINE DATE FOR RECEIPT OF APPLICATIONS: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Albert A. Pawlowski, Chief, National Research Centers Branch, National Institute on Alcohol Abuse and Alcoholism, Park Bldg., Room 1–47, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981, requires the Secretary to award a grant to a designated Center for research on the problems of alcohol among the elderly during FY 1982. Accordingly, the NIAAA is soliciting applications proposing a program of research on the specific problems of alcohol among the elderly. The research program of the Center should be interdisciplinary, conducted by scientists from the biomedical, behavioral and/or social science disciplines. The nature and mix of the research team will depend on the areas of strength of the applicant organization. The research program must include interrelated studies focusing on problems which have the potential for producing significant scientific information related to alcohol and elderly persons. Such research must be explicitly focused on the prevalence, diagnosis, etiology, prediction, clinical course, management, treatment, or prevention of alcoholism or other alcohol-related health problems, or the consequences of these health problems.

Research conducted within the Center must be clearly related to the problems of alcohol among the elderly. The Center is expected to be a source of excellence in research and to become a significant regional or national research resource. In addition, it is expected to afford opportunities for training of persons from various disciplines and professions for careers in alcoholism research.

Any domestic public or non-profit private institution may apply for this Center grant. The proposed Center, however, must be affiliated with an institution, such as a university, medical center, or research center, that has the resources to sustain a long-term, coordinated research program on the effects of alcohol on the elderly. The applicant organization must demonstrate the ability to attract high quality scientists from biomedical, behavioral, and social science disciplines who are willing to make a long-term commitment to alcoholism research. In addition, the applicant must assure that alcoholism related research and clinical training opportunities will be available.

Regulations governing this program are set forth at Title 42, Part 54a, Subpart E of the Code of Federal Regulations.

All applicants will compete on an equal basis for funds to support this new Center by submitting a completed application in accordance with the guidelines. Specific instructions on application requirements, submission procedures, review and award criteria, terms and conditions of the award, etc. are contained in the *Alcohol Research Centers Grants Program Announcement and Guidelines*, (August, 1981, which are available, along with the necessary application forms (PHS–398, Revised 10/79) and the Special Notification from the NIAAA. The application receipt date for FY 1982 funding is April 1, 1982 with final action by the National Advisory council on Alcohol Abuse and Alcoholism in September 1982. The grant award for this Center will be issued no later than September 30, 1982.

Applications recommended for approval by the NIAAA Advisory Council will be considered for funding on the basis of the overall merit of the proposal, as well as such considerations as program balance and relevance to the NIAAA research program, equitable geographic distribution and availability of funds. One award will be made for up to a five year project period with separate fiscal awards annually.

It is anticipated that one grant will be awarded during Fiscal Year 1982, which ends September 30, 1982. The total amount of the award for the first year, including direct and indirect costs, will not exceed $500,000, depending upon the availability of funds and, by law, cannot exceed $1.5 million per annum for future years. The actual level of support for future years is subject to the availability of appropriated funds.

William Mayer,

Administrator, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 82–4127 Filed 2–16–82; 8:45 am]

BILLING CODE 4160–20–M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of March 1982.

Mental Health Research Education Review Committee, March 3–5; 9:00 a.m., Gramercy Inn, Washington, D.C. 20036

Open—March 4, 9–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Emilie Embrey, Room 9–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the fields of biological sciences, the psychological sciences, and the applied behavioral sciences areas, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9–10:00 a.m., March 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Epidemiologic and Services Research Review Committee, March 8–11; 9:00 a.m., Washington Marriott Hotel, 1221 22nd Street, NW., Washington, D.C. 20037

Open—March 9, 9–10:00 a.m.

Closed—Otherwise.

Contact: Ms. Gloria Yockelson, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the National Institute of Mental Health for Federal assistance of activities in the fields of mental health epidemiology, mental health systems research, and mental health services development, evaluation methodology and knowledge transfer, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9–10:00 a.m., March 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to

the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Alcohol Psychosocial Research Review Committee, March 10–12; 9:00 a.m., Embassy Square, 2000 N Street, NW., Washington, D.C. 20036
Open—March 10, 9–11:00 a.m.
Closed—Otherwise
Contact: Jane Taylor, Ph.D., Alcohol Psychosocial Review, Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9–11:00 a.m., March 10, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Cognition, Emotion, and Personality Research Review Committee, March 12–13; 9:00 a.m., Monaco Room, Holiday Inn of Georgetown, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007
Open—March 12, 9–10:00 a.m.
Closed—Otherwise
Contact: Ms. Jean Pierce, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936
Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of personality, cognition, emotion and higher mental processes and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9–10:00 a.m., March 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Research Scientist Development Review Committee, March 13–15; 12:00 Noon, Shoreham Hotel, Club Room A, 2500 Calvert Street, NW., Washington, D.C. 20008
Open—March 13, 12:00 Noon–12:30 p.m.
Closed—Otherwise
Contact: Ms. Diana Souder, Room 9–97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4844
Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for the support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full time in research and related activities relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 12:00 Noon–12:30 p.m., March 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Board of Scientific Counselors, NIMH, March 25–26; 9:30 a.m., National Institutes of Health, Building 36, Conference Room 1B–07, Bethesda, Maryland 20205
Open—March 25, 9:30–9:45 a.m.
Closed—Otherwise
Contact: Dr. Frederick Goodwin, National Institutes of Health Building 36, Room 1A–05, Bethesda, Maryland 20205, (301) 496–3501,
Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.
Agenda: The Board will meet in Building 36, Conference Room 1B–07, Bethesda, Maryland, for approximately 15 minutes for a report by the Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the two-day session will be devoted to a review of the intramural research projects from the Laboratories of Neuropsychology and Psychology and Psychopathology and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration pursuant to the provisions of 5 U.S.C. 552b(c)(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2860. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 9–95, National Institute of Mental Health, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: February 9, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–4170 Filed 2–16–82; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Analysis of Data on Patients Using Continuous Subcutaneous Insulin Infusion Pumps; Open Meeting

On February 17, 1982, the Centers for Disease Control will convene an open meeting of a work group to analyze data on patients using Continuous Subcutaneous Insulin infusion pumps. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 10:30 a.m., in Room B19, Building 3, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

For further information, please contact: J. William Flynt, Jr., M.D., Chief, Diabetes Control Activity, Center for Prevention Services, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Phone: 404/452–4071.

Dated: February 12, 1982.

George Hardy,

Assistant Director/Washington.

[FR Doc. 82–4330 Filed 2–16–82; 8:45 am]

BILLING CODE 4110–85–M

Office of Community Services

Community Services Block Grants; Application Solicitations for Certain Categories of Grantees in States not Qualified

AGENCY: Office of Community Services, HHS.

SUBJECT: Implementation of amendments to the Older Americans Act which expand the definition of eligible entitites under section 673(1) of the Omnibus Budget Reconciliation Act.

ACTION: Notice of Application Solicitations for Certain Categories of fiscal year 1981 CSA grantees in States which have not qualified for a fiscal year 1982 Community Services Block Grant.

DATE: Applications should be submitted to the appropriate OCS Regional Office

at least 45 days in advance of the proposed effective date.

CFDA NO.: 13.865.

SUMMARY: The recently signed Amendments to the Older Americans Act (Pub. L. 97–115) contain amendments to the Community Services Block Grant provisions of the Omnibus Budget Reconciliation Act of 1981. As a result, the definition of "eligible entity" found in Section 673(1) of the Omnibus Budget Reconciliation Act has been expanded by adding the following new sentence: "The term 'eligible entity' includes any limited purpose agency designated under Title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under Title II of such Act, unless such designated agency lost its designation under title II of such Act as a result of a failure to comply with the provisions of such Act, and any grantee which received financial assistance under section 221 or section 222(a)(4) of the Economic Opportunity Act of 1964 in fiscal year 1981."

In addition, Section 682(b)(4) of the Act has been amended to include migrant and seasonal farmworker organizations in the transition provisions.

In order to implement these amendments, the Office of Community Services is soliciting applications from certain categories of grantees which operated programs funded by the Community Services Administration in fiscal year 1981 in States which have not qualified for a Community Services Block Grant. Appendix A to this notice contains a list of those States.

Since Congressional intent in funding organizations in fiscal year 1982 under the CSBG and its transition provisions appears to have been to provide bridge funding to those organizations which had been operating community-based projects within a State and had been dependent upon funding under the Economic Opportunity Act, OCS has included in its criteria for evaluating any application the determination that a grantee has established service capabilities, has provided services directly to the poor, and that its fiscal year 1981 grant did not indicate it was a one-time-only funding.

FOR FURTHER INFORMATION CONTACT:

The appropriate Regional Close Out Manager Appendix B or Ms. Jacqueline Lemire, Director, Grants Management Division, OCS, Washington, D.C. 20506, telephone (202) 653–5430.

Robert L. Trachtenberg,

Acting Director.

Notice of Funding Eligibility

A. Eligible Entities

OCS will consider applications for funding submitted by the following types of organizations:

1. *Limited Purpose Agencies that performed the functions of a CAA in fiscal year 1981:* OCS has identified the following grantees as eligible under this category. Any other grantee believing that it should be considered for funding in this category and which meets the evaluative criteria outlined in paragraph 4 of this Notice, should contact the appropriate OCS regional Close Out Manager. (See Appendix B.)

- Its Time, Inc., New York, New York,
- Sussex County Improvement Association, Waverly, Virginia
- Taos County Limited Purpose Agency, Taos, New Mexico
- Aspermont Small Business Development Center, Aspermont, Texas
- Greene County Community Development Advisory Commission, Standardsville, Virginia
- Trilby Manor Civics Club, Inc., Dade City, Florida
- Home Education Livelihood Programs, Inc., Albuquerque, New Mexico
- Inyo Mono Advocates for Community Action, Bishop, California

2. *Grantees which received financial assistance under Section221 of the EOA in Fiscal Year 1981:* OCS will consider applications for funding from any organization which received a grant in fiscal year 1981 under Section 221 (Program Accounts 01 and 05) of the Economic Opportunity Act (EOA) and which meets the evaluative criteria outlined in pargaraph 4 of the Summary section of this notice.

3. *Grantees which received financial assistance for Rural Housing Development and Rehabilitation projects:* In expanding the definition of "eligibilty entity" the amendments to the CSBG included those grantees who had received financial assistance under Section 222(a)(4) (Rural Housing Development and Rehabilitation) of the EOA in 1981. OCS has determined that no grantees were funded under this section in fiscal year 1981.

4. *Migrant and Seasonal Farmworker Organizations:* Historically, migrant and seasonal farmworker organizations frequently were funded through a system of conduits, that is, a grant was made to a lead organization which entered into delegate agency agreements with other organizations to carry out part of the work program. OCS under the transition provisions of the CSBG is charged with providing funding directly to migrant and seasonal farmworker organizations only in States which did not choose to operate programs under the CSBG in fiscal year 1982 and to distribute funds from a State's allotment for use within that State.

Therefore, where there is a conduit in a transition State which received fiscal year 1981 funding from CSA under Title IV (Program Account 18) and/or Section 222(a)(1) (Program Accounts 12, 13, 14, 15, 16, 17, 29, 39, 42, and 48), OCS will consider an application from such conduit when it proposes to expend the funds in the transition State or delegate part or all of its work program to delegate agencies located in transition States. If there is no conduit eligible to serve as the grantee for a migrant and seasonal farmworker organization which had previously received funds as a delegate agency, this delegate agency may apply directly for a grant if it meets the evaluative critieria outlined in paragaraph 4 of the Summary section of this notice.

OCS also will consider an application from any other migrant and seasonal farmworker organization which had received fiscal year 1981 funding directly from CSA under the above-mentioned Program Accounts.

B. Application Process

An organization which believes it is eligible to be funded under the transition provisions of the CSBG will submit a copy of the following:

1. SF–424, Federal Assistance
2. CSA From 419, Summary of Work Programs and Budget
3. CSA Form 325, Program Account Budget
4. Documentation supporting organization's claim of eligibility and previous level of funding, e.g. a copy of the organization's fiscal year 1981 CSA Form 314, a copy of the fiscal year 1981 delegate agency agreement with level of funding, a copy of the fiscal year 1981 work program, etc.
5. When delegating projects also provide information regarding the agency or agencies to be funded and the funding level(s).

(Note: The Office of Management and Budget approval for the forms and other information cited above has expired. HHS will submit a clearance request to OMB as required by the Paperwork Reduction Act of 1980.)

The work program should cover a twelve month operating period.

Due to the reduction in program funds, the funding level for fiscal year 1982 will be less than in fiscal year 1981. Funding levels will depend on the fiscal year 1982 appropriation levels for the Community Services Block Grant. However, the requested level of funding should be submitted based on the fiscal year 1981 level on which the organization's eligibility is based, that is:

For Limited Purpose Agencies who performed the functions of a CAA in fiscal year 1981 this would be the organization's fiscal year 1981 Level of Approved Program (LAP).

For grantees which received financial assistance under Section 221 of the EOA in FY 1981 this would be funds the organization received in FY 1981 under Program Accounts 01 and 05.

For migrant and seasonal farmworker organizations this would be funds received under Program Account 18 and/or Program Accounts 12, 13, 14, 15, 16, 17, 29, 39, 42, and 48.

C. Funding Process

Grantees will receive transition grants at the end of their current CSA-funded grant period. If the CSA grant terminated prior to receipt of this letter, an eligible organization will receive a transition grant at the earliest possible date.

Applications should be submitted to the appropriate OCS Regional Close Out Manager at least 45 days in advance of the proposed effective date of the grant. Application forms and the complete text of the legislation can be obtained from the Regional Close Out Manager.

APPENDIX A.—LIST OF STATES WHICH HAVE NOT QUALIFIED FOR THE CSBG AS OF JANUARY 1982

Region	State
II	New York.
III	Maryland.
	Virginia.
	West Virginia.
IV	Florida.
	Georgia.
VI	New Mexico.
	Texas.
VIII	Colorado.
IX	California.
X	Alaska.

Appendix B.—OCS Regional Close Out Managers

Region I.—Ernie Ladeira, OCS—Federal Building, Rm. 1313, Boston, Massachusetts 02203, (617) 223–4080
Region II.—Milt Pulakos, OCS—26 Federal Plaza, Rm. 3230, New York, New York 10007, (212) 264–8605
Region III.—Carolyn Kirk, OCS—P.O. Box 160, 9th and Market Street, Philadelphia, Pennsylvania 19105, (215) 597–1188
Region IV.—Charles Moore, OCS—101 Marietta Street, NW., 25th Floor, Atlanta, Georgia 30333, (404) 881–5371
Region V.—Otis Mitchell, OCS—300 So. Wacker Drive, 26th Floor, Chicago, Illinois 60606, (312) 353–4367
Region VI.—Roy Harlan, OCS—1114 Commerce Street, Rm. 522, Dallas, Texas 75202, (214) 767–6131
Region VII.—Leroy Vokins, OCS—601 East 12th Street, Rm. 207, Kansas City, Missouri 64106, (816) 374–3861
Region VIII.—Morris Lewis, OCS—Federal Office Bldg., Rm. 1185, Denver, Colorado 80294, (303) 837–3503
Region IX.—Calvin Williams, OCS—450 Golden Gate Avenue, Box 36008, San Francisco, California 94102, (415) 556–5400
Region X.—Charles Chong, OCS—1321 Second Avenue, Seattle, Washington 98101, (206) 442–0610

APPENDIX C.—PROGRAM ACCOUNT CODES

Program account No.	Subject	Description
	Section 221	
01	Local initiative CAA Administration.	
05	Local initiative program	
	Migrant and Seasonal Farmworker Organizations	
18	Migrant and seasonal farmworkers.	
12	Nutrition	Access.
13	Nutrition	Self-help
14	Nutrition	Food supply
15	Nutrition	Consumer education.
16	Nutrition	Crisis relief.
17	Nutrition	Special support.
29	Nutrition	Research.
39	Nutrition	Demonstrations.
42	Nutrition	TATA seminars.
48	Nutrition	Evaluation.
45	Nutrition	Evaluation.

[FR Doc. 82-4087 Filed 2-16-82; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1111]

President's Commission on Housing; Schedule of Meetings

The President's Commission on Housing announces a tentative schedule of meetings for the Commission through April 16, 1982 (Appendix A). The Full Commission Meeting, originally scheduled for February 16, has been cancelled. Due to the possibility of changes, those persons interested in attending the meetings should call the Commission offices to confirm the date, location and time of each meeting. All Commission and Committee meetings are open to the public.

Further information may be obtained by calling Jean M. Freeze, President's Commission on Housing, 730 Jackson Place, N.W., Washington, D.C. 20503 (202) 395–5832.

(Sec. 10(a)(2), Federal Advisory Committee Act, as amended (5 U.S.C. App. I))

Issued at Washington, D.C., February 11, 1982.

Samuel R. Pierce, Jr.,
Secretary, Department of Housing and Urban Development.

Appendix A.—The President's Commission on Housing

Tentative Schedule of Meetings Through April 16, 1982[1]

Date, Commission/Committee, Place and Time

Wednesday, February 24; Full Commission Meeting, NEOB, Room 2010, Washington, D.C.; 7:00 p.m.
Thursday, February 25; Full Commission Meeting, NEOB, Room 2010, Washington, D.C.; 9:00 a.m.
Friday, February 26; Full Commission Meeting, NEOB, Room 2010, Washington, D.C.; 9:00 a.m.[2]
Tuesday, March 23; Full Commission Meeting, NEOB, Room 2010, Washington, D.C.; 9:00 a.m.
Thursday, April 15; Full Commission Meeting, NEOB, Room 2010, Washington, D.C.; 9:00 a.m.
Friday, April 16; Full Commission Meeting, NEOB, Room 2010, Washington, D.C.; 9:00 a.m.

[FR Doc. 82-4188 Filed 2-16-82; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-1542]

Idaho; Partial Termination of Classification for Multiple-Use Management

February 8, 1982.

1. Pursuant to authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), I hereby terminate the Bureau of Land Management Multiple-Use Classification Order dated June 14, 1968, (Serial No. I–

[1] Meetings, dates, times, and locations are subject to change. Confirmation of the above information should be obtained prior to attendance at a meeting by calling the Commission offices at (202) 395–5832.
[2] This meeting will be held only if Commission business is not completed on February 24 and 25.

1542) published in the **Federal Register** June 28, 1968, (Vol. 33, No. 126, 33 FR 9513) insofar as it affects the lands described below:

Boise Meridian

All unappropriated public land within the following-described subdivisions:

T. 10 S., R. 30 E.,
Secs. 7, 17, 18, 19, 20 and 28 to 33 inclusive.
T. 11 S., R. 30 E.,
Secs. 4, 6, and 9.
T. 8 S., R. 31 E.,
Secs. 34, 35 and 36.
T. 9 S., R. 31 E.,
Secs. 1, 2, 3, 10, 11 to 14 inclusive, 23 to 26 inclusive, 35 and 36.
T. 10 S., R. 31 E.,
Secs. 1 and 12.
T. 12 S., R. 31 E.,
Secs. 13, 24 and 25.
T. 8 S., R. 32 E.,
Secs. 31 and 32, those portions outside the Ft. Hall Indian Reservation.
T. 9 S., R. 32 E.,
All public lands outside the Ft. Hall Reservation.
T. 10 S., R. 32 E.,
Secs. 1 to 17 inclusive, 18, 19 and 20 to 36 inclusive.
T. 11 S., R. 32 E.,
Secs. 1 to 30 inclusive and 32 to 36 inclusive.
T. 12 S., R. 32 E.,
Secs. 1 to 5 inclusive, 7 to 30 inclusive, and 32 to 36, inclusive.
T. 10 S., R. 33 E.,
Secs. 5 to 8 inclusive, 17, 18, 19, 20, 29, 30, 31 and 32.
T. 11 S., R. 33 E.,
Secs. 5 to 8 inclusive, 17 to 20 inclusive, 30 and 31.
T. 10 S., R. 34 E.,
Secs. 10 to 15 inclusive, 16, 21, 22 to 28 inclusive, 33 and 34.
T. 11 S., R. 34 E.,
Secs. 5, 16, 17, 20, 29 and 32.
T. 10 S., R. 35 E.,
Secs. 7 and 18.

The unappropriated public land area within the described subdivisions aggregates approximately 74,400 acres in Power County.

2. The segregative effect on the lands described in this order will terminate February 17, 1982 provided by the regulations in 43 CFR 2461.5(c)(2).

3. At 7:45 a.m. on March 16, 1982, the described lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 15, 1982, will be considered simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been and continues to be open to the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Clair M. Whitlock,

State Director.

[FR Doc. 82-4068 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-84-M

Coal Lease Offerings, Uinta—Southwestern Utah Federal Coal Production Region; Utah

January 20, 1982.

Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that certain coal resources in the tracts described below in Emery, County, Utah, will be offered for competitive lease by sealed bid of $1,170 or more per acre for Emery North Tract, $990 or more per acre for the Kingston Tract, $2,420 or more per acre for Emery Central Tract, and $430 or more for Emery South Tract followed by oral auction to the qualified bidder of the highest cash amount per acre in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437) as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). The sale will be held at 1:00 p.m., February 25, 1982, in Room 113 of the Salt Palace, 100 South West Temple, Salt Lake City, Utah. No bids received after 12:00 p.m., February 25, 1982, will be considered.

Coal Offered: Emery North Tract, U-50043.

Of the coal resource to be offered about 10,970,000 tons is recoverable by surface mining methods and about 10,782,000 tons by underground methods. The following lands offered are located approximately 1½ miles east of Emery, Utah:

T. 22 S., R. 6 E., SLM, Utah,
Sec. 1, lots 1, 2, S½NE¼, SE¼;
Sec. 10, SE¼SE¼;
Sec. 11, NE¼, SE¼NW¼, E½SE¼;
Sec. 12, NE¼, S½;
Sec. 13, E½, N½NW¼, SW¼NW¼, N½SE¼NW¼, S½NE¼SW¼, W½SW¼, SE¼SW¼;
Sec. 14, SW¼NW¼, NW¼SW¼, SE¼SW¼, S½SE¼;
Sec. 15, NE¼NE¼;
Sec. 23, NE¼NW¼.

Containing 2,001.00 acres—Emery County.

Coal in the tract is contained in the Ferron Sandstone Member of the Mancos Shale formation. Total recoverable reserves by surface mining methods are estimated to be 7,910,000 tons in the I-J Seam and 3,060,000 tons in the C-D Seam. Total recoverable reserves by underground mining methods are estimated to be 2,878,000 tons in the I-J Seam and 7,904,000 tons in the C-D Seam.

Coal in the surface minable portion in the I-J Seam averages 7.1 feet in thickness and coal in the underlying C-D Seam average 7.0 feet. Coal in the underground minable portion in the I-J Seam averages 13.0 feet in thickness and coal in the underlying C-D Seam averages 7.0 feet. The seams are separated by 135 to 173 feet.

Coal quality is expected to average for both seams on an as received basis, 10,056 Btu/lb. with 22.01 percent ash, and 0.96 percent sulfur. The coal ranks as high-volatile B bituminous.

Coal Offered: Kingston Tract, U-50044.

The coal resource to be offered is recoverable by underground methods in the following lands, located approximately 2 miles southeast of Emery, Utah:

T. 22 S., R. 6 E., SLM, Utah,
Sec. 22, SW¼NW¼, N¼SW¼, SE¼SW¼.

Containing 160.00 acres—Emery County.

Coal in the tract is contained in the Ferron Sandstone member of the Mancos Shale formation. Total recoverable reserves are estimated to be 2,268,000 tons of which 1,512,000 tons are in the I-J Seam and 756,000 tons are in the C-D Seam.

Coal in the I-J Seam averages 12.0 feet in thickness, actually the seam is thicker however recovery above a 12.0 height is considered, impractical, and coal in the underlying C-D Seam averages 6.0 feet. The seams are separated by about 140 feet.

Coal quality is expected to average for both seams, on an as received basis, 10,056 Btu/lb. with 22.01 percent ash and 0.96 percent sulphur. The coal ranks as high volatile B bituminous.

Coal Offered: Emergy Central Tract, U-50045.

The coal resource to be offered is recoverable by surface methods in the following lands, located approximately four miles southeast of Emery, Utah:

T. 22 S., R. 6 E., SLM, Utah,
Sec. 34, S½;
Sec. 35, all.
T. 23 S., R. 6 E., SLM, Utah,
Sec. 3, all;
Sec. 4, lot 1, SE¼NE¼, E½SE¼;
Sec. 10, all;
Sec. 11, W½E½, W½;
Sec. 15, NW¼NE¼, NE¼NW¼.

Containing 2,967.65 acres—Emery County.

Coal in the tract is contained in the Ferron Sandstone Member of the Mancos Shale. Total recoverable reserves are estimated to be 38,490,000 tons of which 37,800,000 tons are in the

C–D Seam and 690,000 tons in the I–J Seam.

Coal in the I–J Seam averages 5.6 feet in thickness and coal in the underlying C–D Seam averages 12.4 feet thick. The seams are separated by from 100 to 117 feet. Mineable portions of the I–J Seam have from 50 to 100 feet of overburden.

Coal quality is expected to average for both seams, on an as received basis, 11,000 Btu/lb. with 14.3 percent ash and 0.8 percent sulphur. The coal ranks as high volatile B bituminous.

Coal Offered: Emery South Tract, U–50045.

The coal resource to be offered is recoverable by underground methods in the following lands, located approximately 12 miles south of Emery, Utah:

T. 24 S., R. 6 E., SLM, Utah.
Sec. 4, lots 4–7, SW¼NE¼, S½NW¼, N½SW¼, NW¼SE¼,
Sec. 5, lots 1, 2, 7, 8, S½NE¼, N½SE¼.
Containing 748.49 acres—Emery County.

Coal in the tract is contained in the Ferron Sandstone Member of the Mancos Shale. Total recoverable reserves are estimated to be 5,360,000 tons of which 1,270,000 tons are in the I Seam and 4,090,000 tons are in the A Seam.

Coal in the I Seam averages 8.7 feet in thickness and coal in the underlying A Seam averages 10.5 feet. The seams are separated by from 180 to 240 feet.

Coal quality for both seams averages, on an as received basis, 12,322 Btu/lb., 7.5 percent ash and 0.82 percent sulfur. The coal ranks as high volatile B bituminous.

Rental and Royalty: Leases issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre and a royalty payable to the United States of 8.0 percent of the value of coal produced by underground methods and 12.5 percent of any coal produced by strip or auger mining methods. The value of coal shall be determined by accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions for each tract offered are included in the Detailed Statements of Lease Sale. Copies of the Statements and of the proposed coal leases are available at the Utah State Office. Case file documents are also available for public inspection.

Robert E. Anderson,

Division of Operations.

[FR Doc. 82–4128 Filed 2–16–82; 8:45 am]
BILLING CODE 4310–84–M

Montrose District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Montrose District Grazing Advisory Board will be held on March 17, 1982. The meeting will convene at 10:00 a.m. in the conference room of the Bureau of Land Management Office, 2465 South Townsend, Montrose, Colorado.

The agenda for the meeting will include: (1) Election of officers (2) briefing and discussion on implementation of the Gunnison Basin Rangeland program (3) the expenditures of advisory board funds for range improvements (4) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:00 and 4:30 on March 17, 1982, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81402, by March 12, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Marlyn V. Jones,

District Manager.

[FR Doc. 82–4130 Filed 2–16–82; 8:45 am]
BILLING CODE 4310–84–M

[Nev–049768, et al.]

Nevada; Classifications Vacated

February 8, 1982.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, small tract classifications Nev–049768, Nev–049787, Nev–049789, Nev–049819, Nev–049820, Nev–049822, Nev–049840, Nev–049905, Nev–049911 and Nev–065115 are hereby vacated in their entireties. The following townships are affected:

Mount Diablo Meridan, Nevada

T. 18 N., R. 19 E.
T. 20 N., R. 19 E.
T. 17 N., R. 20 E.
T. 18 N., R. 20 E.
T. 19 N., R. 20 E.
T. 18 N., R. 24 E.
T. 17 N., R. 35 E.

The land affected comprises approximately 1405.91 acres in Nevada (5 acres in Churchill County, 10 acres in Lyon County and 1,390.91 acres in Washoe County).

The Small Tract Act was repealed by section 702 of the Federal Land Policy and Management Act of 1976. Accordingly, the classifications are no longer applicable and are hereby terminated. The segregative effect of the classification orders are removed upon publication of this notice in the **Federal Register** (February 17, 1982).

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82–4124 Filed 2–16–82; 8:45 am]
BILLING CODE 4310–84–M

National Park Service

National Capital Parks-East, Availability of Environmental Assessment and Public Hearing

The National Park Service has prepared an Environmental Assessment for the Kenilworth Park and Aquatic Gardens Development Concept Plan. This assessment has been undertaken to direct future managment and use of the area.

The document includes a description of the environment, description of alternatives developed to answer the needs and objectives of the park, and an assessment of the impacts associated with each of the alternatives.

Two public hearings on this issue will be held. The first on March 4, at 7:30 p.m. in the Thomas Elementary School Auditorium, Anacostia Avenue and Grant Street, NE., and the second on March 6, at 10:30 a.m. in the Auditorium of the National Arboretum.

Written comments on this assessment are invited and will be accepted until April 5, 1982. Comments should be addresses to the Superintendent, National Capital Parks-East, 1900 Anacostia Drive, SE., P.O. Box 38104, Washington, D.C. 20020.

Copies of the assessment can be obtained by writing the Superintendent.

Dated: February 5, 1982.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 82–4150 Filed 2–16–82; 8:45 am]
BILLING CODE 4310–70–M

National Park System Advisory Board, History Areas Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the History Areas Committee of the National Park System Advisory Board will be held on Thursday, March 11, 1982, commencing

at 8 p.m. at Homestead Holiday Inn, U.S. #1, Homestead, Florida.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System and the administration of the Historic Sites Act of 1935. At this meeting the History Areas Committee of the National Park System Advisory Board will meet to consider potential National Historic Landmarks as follows:

1. Hughes Flying Boat "The Spruce Goose" Long Beach, California.
2. Scripps Institute (original building), La Jolla, California.
3. Taliesin West, Scottsdale, Arizona.
4. USS Nautilus, currently at Mare Island, California.
5. Central High School, Little Rock, Arkansas.
6. American Legation Building, Tangier, Morocco.
7. Pietro Botto House, Paterson, New Jersey.

The formal recommendations of the Committee will be made to the National Park System Advisory Board at its meeting on March 12 and 13, at the Homestead Holiday Inn, Homestead, Florida. No formal action of the Secretary of the Interior will be sought until after the Advisory Board has considered the recommendations of the Advisory Board and acted thereon.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Mr. Benjamin Levy, Acting Chief, History Division, National Park Service, Washington, D.C. at (202) 523–0089. Minutes of the meeting will be available for public inspection 4 to 6 weeks after the meeting in room 4141, 1100 L Street, NW., Washington, D.C.

Dated: February 10, 1982.

Jean C. Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 82-4146 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held at Everglades National Park, Homestead, Florida, March 10, 11, 12 and 13, 1982.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System.

The members of the Advisory Board are: Dr. Robin Winks (Chairman), New Haven, CT; Dr. Douglas Anderson, Providence, RI; Dr. Kathleen Abrams, Miami Shores, FL; Mr. D. Lindsay Pettus, Lancaster, SC; Dr. Asa C. Sims, Jr., New Orleans, LA; Dr. Edgar Wayburn, San Francisco, CA; Hon. Gordon Allott, Englewood, CO; Mr. Charles Cushman, Sonoma, CA; Mr. Fred E. Hummel, Sacramento, CA; Mr. Raymond J. Nesbit, Sacramento, CA; Hon. Keith Sebelius, Norton, KS; and Mr. Alan J. Underberg, Rochester, NY.

On March 10 and 11 the Advisory Board will be on field trips to Big Cypress National Preserve, Biscayne National Park, and Everglades National Park. On March 12 and 13, the Advisory Board will meet in general business sessions starting at 9:00 AM at the Homestead Holiday Inn, U.S. #1, Homestead, Florida, to consider administrative matters pertaining to the Board; receive and discuss several task force reports; consider and make recommendations on proposed national historic landmark designations; and review and discuss policy and management issues affecting the National Park System.

The meetings wil be open to the public. However, members of the public wishing to participate in the field trips must provide their own transportation. Space and facilities to accommodate members of the public at the business sessions of the meeting are limited and persons will be accommodated on a first-come-first-served basis. Any member of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact Shirley Luikens, Advisory Boards and Commissions, National Park Service, Washington, D.C 20240 (202–343–2012).

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3416, Interior Building, Washington, DC.

Dated: February 10, 1982.

Jean C. Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 82-4147 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 8, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 4, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

CALIFORNIA

Los Angeles County

Pasadena, *Reinway Court*, 360 Parke St.

ILLINOIS

Clark County

Marshall, *Manly-McCann House*, 402 S. 4th St.

Cook County

Chicago, *Griffiths, John W., Mansion*, 3806 S. Michigan Ave.

Jackson County

Murphysboro, *Hamilton, Robert W., House*, 203 S. 13th St.

Madison County

Alton, *Yakel House and Union Brewery*, 1421–1431 Pearl St.

Peoria County

Peoria, *Peoria Mineral Springs (Spring Hill)*, 701 W. 7th Ave.

Rock Island County

Rock Island, *Stauduhar House*, 1608 21st St.

Sangamon County

Springfield, *Hickox, Virgil, House*, 518 E. Capitol Ave.

Winnebago County

Rockford, *Jacoby, Lysander, House*, 2 Jacoby Pl.

INDIANA

Adams County

Decatur, *Bowers, John S., House*, 104 Marshall St.

Jasper County

Wheatfield vicinity, *Independence Methodist Church*, SE of Wheatfield

Miami County

Peru vicinity, Paw Paw Church, Cemetery, and Bridge, Paw Paw Pike

Wabash County

North Manchester, *North Manchester Planing and Band Saw Mill (J. A. Browne Company*

Mill) 705 W. Main St. (mill) 706, 708 W. Grant St. and 202 N. High St. (houses)

IOWA

Des Moines County

Burlington, *Jagger-Churchill House,* 201 Spring St.

Jones County

Wyoming, *Caulkins, Dr. Martin H., House and Office,* Washington and Main Sts.

Mahaska County

Oskaloosa vicinity, *Voorhees, John K., House,* NW of Oskaloosa on IA 163

Polk County

Des Moines, *Homestead Building,* 303 Locust St.

Scott County

Riverdale, *Brown, James, House,* 424 State St.

MINNESOTA

Fillmore County

Preston, *Fillmore County Jail and Carriage House,* Houston and Preston Sts.

MISSOURI

St. Louis (independent city)

Chemical Building, 721 Olive St.
Hargadine-McKittrick Dry Goods Building, 911 Washington Ave.
LIndell Real Estate Company Building, 1015 Washington Ave.

NEW HAMPSHIRE

Merrimack County

Concord, *Foster, Reuben, House and Cleaves, Perley, House,* 64 and 62 N St. St.

NEW YORK

Richmond County

Staten Island, *LaTourette House,* Richmond Hill Rd.

OKLAHOMA

Bryan County

Caddo, *Arnold and Attaway Building*

Cleveland County

Norman, *McFarlin Memorial Methodist Church,* 419 S. University Blvd.

Coal County

Lehigh vicinity, *Smallwood, Benjamin Franklin, House,* W of Lehigh

Garvin County

Stratford, *First National Bank,* 100 W. Main St.
Wynnewood, *Hargis-Mitchell-Cochran House,* 204 E. Robert S. Kerr

Jefferson County

Ringling vicinity, *San Bernardo (Taovayas Village)*

Kay County

Ponca City, *Attucks High School,* 1001 S. 12th St.
Ponca City, *Donahoe, Daniel J., House,* 302 S. 7th St.

Oklahoma County

Oklahoma City, *Heierding Building,* 35 Harrison Ave.
Oklahoma City, *Walcourt Building,* 1401 NE. Walnut Ave.

Osage County

Bartlesville vicinity, *Woolaroc Lodge,* SW of Bartlesville

OREGON

Jackson County

Medford, *Pacific Telephone and Telegraph Company Building,* 145 N. Bartlett St.

Linn County

Albany vicinity, *Hamilton, Joseph, Farm Group,* 30021 Tangent Dr.

SOUTH CAROLINA

Berkeley County

Huger vicinity, *Cainhoy Historic District,* SE of Huger

Greenwood County

Greenwood, *Vance-Maxwell House,* 158 E. Cambridge St.

Laurens County

Clinton, *Thornwell-Presbyterian College Historic District,* Presbyterian College campus

SOUTH DAKOTA

Brown County

Frederick vicinity, *Aurland United Norwegian Lutheran Church,* SE of Frederick

Clay County

Vermillion, *First Baptist Church of Vermillion,* 101 E. Main St.

Custer County

Custer, *First National Bank Building,* 6th and Mt. Rushmore Rd.

Marshall County

Veblen vicinity, *Palestine Evangelical Lutheran Church,* NE of Veblen

Stanley County

Fort Pierre, *Carr, Jefferson Davis, House,* 236 W. 2nd Ave.

Yankton County

Yankton, *Bruce-Donaldson House,* 313 Pine St.
Yankton, *Chicago, Milwaukee and St. Paul Depot,* 8th and Douglas Sts.
Yankton, *Ellerman, Arthur C., House,* 708 W. 5th St.
Yankton, *Yankton College Historic District,* 12th and Douglas Sts.

[FR Doc. 82-4140 Filed 2-16-82; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on March 8, 1982 from 10:30 AM to 4:00 PM in Room 600, 1750 Pennsylvania Avenue, N.W., Washington, D.C. The Commission will discuss the activities and programming policies of the Associate Directorate for Programs and the Associate Directorate for Broadcasting of the U.S. International Communication Agency. Please call Elizabeth Fahl, (202) 724-9244, if you are interested in attending the meeting.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 82-4139 Filed 2-16-82; 8:45 am]

BILLING CODE 8230-01-M

New Directions Advisory Committee; Meeting

The New Directions Advisory Committee will meet on Friday, February 6, 1982, beginning at 12:15 p.m. The meeting will be held in Room 600, 1750 Pennsylvania Avenue, NW., Washington, D.C. The first part of the meeting, from 12:15 p.m. to 1:15 p.m., will involve a general briefing for the Committee on Agency programs and policies. The second part of the meeting will be closed to the public because it will involve a discussion of sensitive foreign policy issues such as the appropriate United States response to Soviet disinformation activities. Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action (5 U.S.C. 552b(c)(9)(B)) because there will be a discussion of future Agency policy and programs.

Dated: February 12, 1982.

Gilbert A. Robinson,

Acting Director.

Determination To Close Part of the New Directions Advisory Committee Meeting of February 26, 1982

Based on the information provided to the International Communication Agency by the New Directions Advisory Committee, I hereby determine that part of the meeting scheduled by the Committee for February 26, 1982, may be closed to the public.

The second part of the meeting will involve a discussion of sensitive foreign policy issues such as the appropriate United States response to Soviet disinformation activities. Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action (5 U.S.C. 552b(c)(9)(B)) because there will be a

discussion of future Agency policy and programs.

Dated: February 12, 1982.

Gilbert A. Robinson,

Acting Director.

[FR Doc. 82-4940 Filed 2-16-82; 8:45 am]

BILLING CODE 6220-61-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide than an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-189

The following applications were filed in Region 1. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 160304 (Sub-1-1TA), filed January 29, 1982. Applicant: APPLIED TECHNOLOGY TRANSPORTATION, INC., 25 South Shore Drive, P.O. Box 548, Toms River, NJ 08753. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Hazardous materials, and waste or scrap materials not identified by industry producing,* between points in the U.S. Supporting shipper: Applied Technology, Inc., 25 South Shore Drive, Toms River, NJ 08753.

MC 111625 (Sub-1-7TA), filed January 28, 1982. Applicant: BERMAN'S MOTOR EXPRESS, INC., P.O. Box 1566, Binghamton, NY 13902. Representative: J. Edward Derrick (same as applicant). *Iron and Steel articles* from the facilities of Cives Steel Company at Conklin, NY to Calvert City, KY. Supporting shipper: Cives Steel Company, P.O. Box K, Conklin, NY 13748.

MC 115099 (Sub-1-1TA), filed January 28, 1982. Applicant: CAPE COD BUS LINES, INC., 11 Walker Street, Falmouth, MA 02540. Representative: Russell C. Palmer (same as applicant). *Passengers and their baggage in charter and special operations* between points in Dukes, Barnstable, Plymouth and Bristol Counties on the one hand, and, on the other, points in the U.S. (including AK but excluding HI). Supporting shipper(s): There are fourteen support statements attached to this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 146957 (Sub-1-1TA), filed February 1, 1982. Applicant: DACIANO A. SANTOS d.b.a. CONNECTICUT AIRPORT SERVICE, 17 Fairfield Avenue, Danbury, CT 06810. Representative: John E. Fay, Esq., 983 Maple Avenue, West Hartford, CT 06110. *Passengers and their baggage* between John F. Kennedy Airport, LaGuardia Airport, NY and Newark International Airport, NJ on the one hand, and, on the other, Fall River, New Bedford and Taunton, MA, Central Falls and Providence, RI. Supporting shipper(s): Segres Travel Agency, Inc., 652 Bedford Street, Fall River, MA; Mundial Travel Agency, Inc., 590 Warren Avenue, E. Providence, RI 02914; Piques Travel Agency, Ltd., 1480 Acushnet Avenue, New Bedford, MA; Eastside Travel Agency, Inc., 1143 Newport Avenue, Pawtucket, RI 02861.

MC 158936 (Sub-1-2TA), filed February 1, 1982. Applicant: DIESEL SERVICE, INC., d.b.a. D.S.I. TRANSPORTATION CO., 127 Bound Brook Court, Sewell, NJ 08080. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *Contract carrier:* irregular route: *Petroleum and its products,* (1) from Philadelphia and Marcus Hook, PA, to points in the State of DE, Chestertown, MD and points in NJ on and south of U.S. Hwy 80; (2) from Gloucester and Paulsboro, NJ to points in the State of DE, and points in Delaware, Montgomery, Chester, Bucks, Philadelphia, Lehigh, Northampton, Lebanon and Lancaster Counties, PA; and (3) from Claymont, DE to points in NJ on and south of U.S. Hwy 80 and points in Delaware, Montgomery, Chester, Bucks, Philadelphia, Lehigh, Northampton, Lebanon and Lancaster Counties, PA, under continuing contract(s) with Swann Oil, Inc., Bala Cynwyd, PA and Petroleum Heat & Power Co., Philadelphia, PA. Supporting shipper(s): Swann Oil, Inc., 130 Presidential Blvd., Bala Cynwyd, PA 19004; Petroleum Heat & Power Co., 3000 Peltz Street, Philadelphia, PA 19140.

MC 157611 (Sub-1-2-TA), filed January 28, 1982. Applicant: CHARLES A. GARLAND, 562 Main Street, Watertown, MA 02172. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Paintings, statues, cultural artifacts, antiques, tapestries, objects of art, and materials, supplies and equipment used in the display or distribution of the foregoing,* between Boston, MA and points in its Commercial Zone, on the one hand, and, on the other, New York, NY and points in its Commercial Zone. Supporting shippers: Institute of Contemporary Art, 955 Boylston Street, Boston, MA 02115; Sotheby Parke Bernet, 332 Clarendon Street, Boston, MA 02116; Hayden Gallery and M.I.T. Committee on the Visual Arts, 77 Massachusetts Avenue, Cambridge, MA 02139.

MC 148560 (Sub-1-6TA), filed February 1, 1982. Applicant: GOLD STARR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* irregular routes: *Food and related products,* from Vineland, NJ to points in ME, MA, NH, VT, RI, CT, NY, PA, MD, VA, OH, IN, IL, WI and MI, under continuing contracts(s) with Progresso Quality Foods, Vineland, NJ. Supporting shipper: Progresso Quality Foods, 500 Elmer Road, Vineland, NJ 08360.

MC 160343 (Sub-1-1-TA), filed February 1, 1982. Applicant: LIQUID LINES, INC., 565 Merrill Road, Pittsfield, MA 01201. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Petroleum and its products* between ports and points in NY and MA. Supporting shipper(s): Grande Oil & Gas Co., Inc., Simonds Road, Williamstown, MA 01267; Fuelon, Inc., 600 Main St., Williamstown, MA 01267;

Sibley Heating Service, Inc., 185 East St., So. Hadley, MA 01075; R. M. O'Connell, Inc., P.O. Box 1387, Pittsfield, MA 01201.

MC 160183 (Sub-1–2TA), filed January 28, 1982. Applicant: LONE STAR TRANSPORTATION, INC., 369 Passaic Avenue, Fairfield, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) New Furniture and (2) Materials, equipment, and supplies used in the manufacture of new furniture* between the facilities used by Art Steel, Inc., its subsidiaries, divisions, or vendors at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Art Steel, Inc., 170 W. 233rd St., Bronx, NY 10463.

MC 156428 (Sub-1–5TA), filed January 28, 1982. Applicant: JACK MULA AND FRANK GUMINA, JR. d.b.a. MARSAN WAREHOUSING & TRANSPORTATION, Merrich Road, South Brunswick, NJ 08831. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Plastic containers and (2) Materials, equipment, and supplies used in the manufacture of plastic containers,* between South Brunswick, NJ and New Castle, DE, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, MA, DE, and VA, under continuing contract(s) with Hoover Universal, Inc., Nicholasville, KY. Supporting shipper: Hoover Universal, Inc., Route 4, State Road 29, Nicholasville, KY 40356.

MC 160344 (Sub-1–1TA), filed February 1, 1982. Applicant: RENTRITE HAULAGE CORP., 5 Dakota Drive, Lake Success, NY 11042. Representative: Carl L. Haderer, 18 Summit Avenue, Montvale, NJ 07645. *Contract carrier:* irregular routes: *Bakery products and, in connection therewith, materials, equipment and supplies used in the production, sale, and distribution of such products* between points in the U.S. (excluding AK and HI) under continuing contract(s) with Entenmann's, Inc. of Bay Shore, NY. Supporting shipper: Entenmann's, Inc., 1724 5th Avenue, Bay Shore, NY 17706.

MC 160342 (Sub-1–1TA), filed February 1, 1982. Applicant: ALLAN B. ROBINS, d.b.a. ROBBBINS TRAILER SERVICE, Palmer Road, Monson, MA 01057. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Construction equipment, construction machinery and construction materials and supplies* between points in CT, MA, NY and VT, on the one hand, and, on the other points in the U.S. in and east of TX, OK, KS, NE, SD and ND. Supporting shipper(s): There are 9 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 153993 (Sub-1–3TA), filed January 29, 1982. Applicant: TKN, INC., 1242 Shawmut Avenue, New Bedford, MA 02741. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, D.C. 20036. *Contract carrier:* irregular routes: *Textile products, granite and granite products, armored electrical cable, flexible steel conduit, telephone wire, building wire, polyvinyl chloride coated flexible conduit, range hoods, kitchen and bathroom fans, heaters, powered attic ventilators, central vacuum systems, door chimes, and trash compactors,* (1) from New Bedford and Fall River, MA, Tifton, GA, Milwaukee, WI, Hamden, CT, and Barre, VT, to Grandview and St. Louis, MO, Dallas and Houston, TX, Baton Rouge, LA, Pittsburgh, Old Forge and Philadelphia, PA, Tampa and Ft. Lauderdale, FL, Elk Grove Village, IL, Minneapolis, MN, Atlanta and Norcross, GA, Cincinnati and Mansfield, OH, Chattanooga, TN, Richmond, VA, Denver, CO, Oklahoma City, OK, Spartenburg, SC, Chevy Chase, MD, Cerritos and San Francisco, CA, Scottsdale, AZ, Syracuse and New York, NY, Piscataway, NJ, Charlotte and Sanford, NC, Southington, CT, Kent, WA, and Milwaukee, WI; and (2) from Houston, TX, Minneapolis, MN, Atlanta, GA, Oklahoma City, OK, Spartenburg, SC, Old Forge, PA, Piscataway, NJ, Sanford, NC, New York, NY, Milwaukee, WI, and Wheeling, WV to New Bedford and Fall River, MA, Tifton, GA, Milwaukee, WI, Hamden, CT and Barre, VT, under continuing contract(s) with Nortek, Inc., Cranston, RI and its named subsidiaries. Supporting shipper: Nortek, Inc. 815 Reservoir Road, Cranston, RI 02910, and its Subsidiaries: American Flexible Conduit Co., P.O. Box A–2004, New Bedford, MA 02741; Broan Manufacturing Company, Inc., P.O. Box 140, 926 W. State Street, Hartford, WI 53027; Duro Finishing Corporation, 110 Chace Street, Fall River, MA 02724; Rock of Ages Corporation, P.O. Box 482, Barre, VT 05641; Whitney Blake, Inc., 1565 Dixwell Avenue, Hamden, CT 06514.

MC 154631 (Sub-1–14TA), filed February 1, 1982. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street, Woonsocket, RI 02895. Representative: Richard J. Wood, Jr., (same as applicant). *Contract carrier:* irregular routes: *(1) PVC Plastisol* from Warren, RI to points in the U.S. (except AK and HI), and *(2) Equipment, materials and supplies used in the manufacture, distribution and sale of PVC Plastisol* from the above-named destinations to the above-named origin under continuing contract(s) with Food Container Corporation of Warren, RI. Supporting shipper: Food Container Corporation, 79 Joyce Street, Warren, RI 02885.

MC 155869 (Sub-1–3TA), filed February 1, 1982. Applicant: UNITED STATES SERVICE CORPORATION, 170 Main Street, Holyoke, MA 01040. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Contract Carrier:* irregular routes: *General commodities, except Classes A and B explosives, household goods and commodities in bulk and hazardous waste,* between points in the U.S. under continuing contract(s) with Sheldon Forwarding Co., Inc. and United Freight Forwarders, Inc. of Holyoke, MA. Supporting shipper(s): Sheldon Forwarding Co., Inc., 170 Main Street, Holyoke, MA 01040; United Freight Forwarders, Inc., 170 Main Street, Holyoke, MA 01040.

MC 143427 (Sub-1–2TA), filed January 29, 1982. Applicant: WINSTON LIMOUSINE SERVICE, INC., 1650 Sycamore Street, Drawer 507, Bohemia, NY 11716. Representative: Sidney J. Leshin, Esq., 3 East 54th Street, New York, NY 10022. *Common carrier:* regular routes: *Passengers and their baggage, restricted to passengers having an immediately prior or subsequent movement by airplane:* Route I—Commencing at the Governor Morris Inn, Whippany Road, Morristown, NJ, on Whippany Road to Columbus Turnpike; left on Columbus Turnpike to J. F. Kennedy Parkway— right on J. F. Kennedy Parkway to Route 24; east on Route 24 to Newark Airport, exiting from Newark Airport on Interstate 495; east on 495 through the Borough of Manhattan, City of New York—through Queens Midtown Tunnel to Interstate 278; north on Interstate 278 to Astoria Boulevard; east on Astoria Boulevard to 94th Street; north on 94th Street to LaGuardia Airport. Return in opposite direction. Route II—Commencing at the Governor Morris Inn, Whippany Road, Morristown, NJ, on Whippany Road to Columbus Turnpike; left on Columbus Turnpike to J. F. Kennedy Parkway— right on J. F. Kennedy Parkway to Route 24; east on Route 24 to Newark Airport, exiting from Newark Airport on Interstate 95; south on Interstate 95 to Interstate 278; east on Interstate 278 across the Verazzano Bridge to Ft. Hamilton Parkway (Brooklyn, NY); east on Ft. Hamilton Parkway to Linden Boulevard; east on Linden Boulevard to

Conduit Boulevard; east on Conduit Boulevard to J. F. Kennedy International Airport (Queens, NY); exiting from J. F. Kennedy International Airport on Van Wyck Expressway to Interstate 495 to Ronkonkoma Avenue exit; south on Ronkonkoma Avenue to MacArthur Airport, Islip, NY. Return in opposite direction. Supporting shipper(s): There are 21 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106

MC 142723 (Sub-II–5TA), filed February 2, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 106 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: Foam furniture* between Columbus, OH, on the one hand, and, on the other, pts. in the U.S., under continuing contract(s) with Alternatives Division of Colamco, Inc. of Columbus, OH, for 270 days. Supporting shipper: Alternatives Division of Colamco, Inc., 1529 Alum Creek Dr., Columbus, OH 43219.

MC 158851 (Sub-II–4TA), filed February 1, 1982. Applicant: BULL'S EYE EXPRESS, RD 1, Box 68, Warren Center, PA 18851. Representative: John A. Sykas (same as applicant). *Malt beverages and materials and supplies used in the manufacture of malt beverages,* except in bulk, from Rochester, NY, Philadelphia PA, Baltimore, MD and Fort Wayne, IN to Manchester, NH for 270 days. Supporting shipper(s) Amoskeag Beverages, Inc., Brookside West, Hooksett, NH 03106

MC 153474 (Sub-II–2TA), filed February 2, 1982. Applicant: WAYNE THOMAS, d.b.a. C & W TRUCKING, Route 219, Box 59, Luthersburg, PA 15848. Representative: Dwight L. Koerber, Jr., 110 North Second St., P.O. Box 1320, Clearfield, PA 16830. *Traps and materials, equipment and supplies used in the production of traps,* between the facilities of Montgomery Traps, Inc., at or near Mahaffey, PA, on the one hand, and, on the other, points in the U.S. in and west of OH, KY, TN and AL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Montgomery Traps, Inc., R.D. 1, P.O. Box 121, Mahaffey, PA 15757.

MC 152309 (Sub-II–23TA), filed February 2, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant). *Contract: irregular: general commodities (except classes A & B explosives),* between pts. in the U.S., under continuing contract(s) with Consolidation Unlimited, Memphis, TN, for 270 days. Supporting shipper: Consolidations Unlimited, P.O. Box 18389, Memphis, TN 38118.

MC 160280 (Sub-II–1TA), filed February 2, 1982. Applicant: FDD, INC., 2020 Bruck St., Columbus, OH 43270. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, D.C. 20036. *Contract: irregular: general commodities (except classes A and B explosives, household goods, and commodities in bulk),* between points in CA, CO, GA, IL, NJ, NY, SC, TX, MA, and UT, under a continuing contract with The Distribution Division of Franklin Chemical Industries, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Distribution Division, of Franklin Chemical Industries, Inc., P.O. Box 07802, Columbus, OH 43207.

MC 160392 (Sub-II–1TA), filed February 3, 1982. Applicant: FACTORY DIRECT SERVICE, 7767 Kyles Station Rd., Middletown, OH 45042. Representative: Tom Taylor (same as applicant). *General Commodities,* between pts. in OH, KY and IN, for 270 days. Supporting shippers: There are five supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 145282 (Sub-II–8TA), filed February 3, 1982. Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043. *Building materials, machinery and related commodities, metal products and materials, supplies and equipment used in the manufacture or distribution of such commodities,* between pts. in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI for 270 days. Supporting shipper(s): There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 160061 (Sub-II–1TA), filed February 4, 1982. Applicant: GEAUGA TRANSFER SERVICE, INC., P.O. Box 125, Middlefield, OH 44062. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. *Contract: Irregular: Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc., Cleveland, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

MC 153981 (Sub-II–2TA), filed February 4, 1982. Applicant: LEEWAY FLEET LINES, INC., 1321 Arch Street, Suite 1010, Philadelphia, PA 19107. Representative: Curtis Lee (same as applicant). *Passengers and their baggage, in charter and special operations,* beginning and ending at pts. in PA and extending to pts. in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, RI, SC, TN, VA, VT, WV for 180 days. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 109448 (Sub-II–20TA), filed February 2, 1982. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1) *Such commodities as are dealt in or used by manufacturers and distributors of heating and air conditioning units* between points in Effingham County, IL; Frederick County, MD and Middlesex County, NJ, on the one hand, and, on the other, points in the U.S., (except AK and HI) and (2) *transportation equipment* between points in Erie County, NY, on the one hand, and, on the other, in the U.S. (except AK and HI) for 270 days. Supporting shipper: Fedders Corp., Woodbridge Ave., Edison, NJ 07717.

MC 160059 (Sub-II–1TA), filed February 3, 1982. Applicant: RAINBOW EXPRESS, INC., 4833 Middle Ridge Road, Perry, OH 44081. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. *Contract: Irregular: Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI for 270 days, under continuing contract(s) with By-Products Management of Ohio, Inc., Cleveland, OH. An underlying ETA seeks 120 days authority. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

MC 147549 (Sub-II–2TA), filed February 1, 1982. Applicant: ROADAIR LEASING, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391. *Soft drinks, concentrates, packaging materials, empty containers, and related materials, equipment and supplies,* between Sunman, IN, on the

one hand, and, on the other, points in OH, IN, KY, IL MI, PA, TN, VA, and WV, under continuing contract(s) with Pri-Pak, Inc., of Sunman, IN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pri-Pak, Inc., P.O. Box 450, Sunman, IN 47041.

MC 2202 (Sub-II–29TA), filed February 4, 1982. Applicant: ROADWAY EXPRESS, INC., Post Office Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, DC 20014. *Contract; irregular: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between points in the U.S. under continuing contract(s) with Montgomery Ward & Co., Chicago, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Montgomery Ward & Co., Montgomery Ward Plaza, Chicago, IL 60671.

MC 160291 (Sub-II–1TA), filed January 28, 1982. Applicant: TOTAL TRANSPORTATION TRUCKING, INC., P.O. Box 6931, Cleveland, OH 44101–1931. Representative: William J. Keely (same as applicant). *General commodities (except classes A & B explosives and household goods as defined by the Commission) having a prior or subsequent movement by rail,* Between points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NY, OH, PA, RI, TN, VA, WV, and DC. Supporting shippers Missouri Pacific Railroad Company, 210 No. 13th St., St. Louis, MO 63103; Giant Eagle Markets, Inc., 101 Kappa Drive, Pittsburgh, PA 15238; Tri-State Consolidators, Inc., 601 E. General Robinson St., Pittsburgh, PA 15212.

MC 158613 (Sub-II–6TA), filed February 2, 1982. Applicant: TRICOR BUSINESS GROUP, INC., 1242 Tatamy Road, Easton, PA 18042. Representative: Roger D. Hershman, 22 Olde Mill Run, Medford, NJ 08055. *Elliptic and semi elliptic tractor springs, and such commodities as are dealt in or used by manufacturers or distributors of automotive repair parts,* between Pennsauken NJ on the one hand, and on the other, points in the U.S. for 270 days. Supporting shipper(s): Impex Industries, Inc., 1025 Thomas Bush Hwy, Pennsauken, NJ 08110.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 160364 (Sub-3–1TA), filed February 3, 1982. Applicant: W. L. SAVAGE d.b.a. SAVAGE TOUR AND CHARTER, P.O. Box 3367, Clayton, GA 30525. Representative W. L. Savage (same address as applicant). *Passengers and their baggage in Charter Service* between Rabun County, GA, and Knox County, TN. Supporting shippers: There are 5 statements of support attached to the application which may be reviewed at Atlanta, GA. ICC Regional Office.

MC 150319 (Sub-3–2TA), filed February 3, 1982. Applicant: WILMINGTON EXPRESS, INC., Debtor In Possession, P.O. Box 540, Wilmington, NC 28402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Metal roof decking and iron and steel coil,* between the facilities of Roll Form Products, Inc. at Wilmington, NC, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IN, KY, MA, ME, MD, NJ, NY, OH, OK, PA, RI, SC, TN, VA, and WV. Supporting Shipper: Roll Form Products, Inc., P.O. Box 1431, Wilmington, NC 28406.

MC 146233 (Sub-3–4TA), filed February 4, 1982. Applicant: BOBBY REEVES CO., INC., P.O. Box 576, Calhoun, GA 30701. Representative: Mark S. Gray, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. *Contract,* irregular: *Iron and steel articles and materials, equipment and supplies used in the manufacture and distribution of iron and steel articles,* between points in the US, under a continuing contract(s) with National-Standard Company of Niles, MI. Supporting shipper: National-Standard Company, 601 North 8th St., Niles, MI 49120.

MC 135812 (Sub-3–2TA), filed February 4, 1982. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Road, Nashville, TN 37210. Representative: James Martin (same address as applicant). *Transportation Equipment* from Nashville, TN, Denton, TX and Newark, CA to Great Bend, KS, Wichita, KS, and Grand Island, NE. Supporting shipper: Doonan Truck and Equipment, Inc. Great Bend, KS 67530.

MC 143786 (Sub–3–4–TA), filed February 5, 1982. Applicant: HAL MAST TRUCKING COMPANY, INC., Route 1, Box 259, Sugar Grove, NC 28679. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* irregular: *meat and meat products,* between the facilities of Swift Independent Packing Company in the U.S. on the one hand, and, on the other, all points in the U.S. under continuing contract with Swift Independent Packing Company. Supporting shipper: Swift Independent Packing Company, 115 West Jackson Boulevard, Chicago, IL 60604.

MC 146180 (Sub-3–5TA), filed February 4, 1982. Applicant: QUALITY EXCHANGE, INC., Route 4, Box 459-A, Kings Mountain, NC 28086. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., NW, Washington, DC 20005. *Contract* carrier; irregular: *textile mill products,* between points in Dillon County, SC; Alamance and Guilford Counties, NC, on the one hand, and, on the other, points in Orange, Los Angeles and Ventura Counties, CA, under continuing contract(s) with Atlas Yarn Company, Inc., of Paterson, NJ. Supporting shipper(s): Atlas Yarn Company, Inc., P.O. Box A.E., Paterson, NJ 07509.

MC 151790 (Sub-3–2TA), filed February 3, 1982. Applicant: FLEXIBLE FLYER TRANSIT CO., INC., 2010 S. Beltline Blvd., Columbia, SC 29201. Representative: Timothy C. Ross (same address as aplicant). *Contract* Carrier: Irregular: *Rubber and plastic products* between points within U.S. from or to facilities utilized by Anchor Continental, Inc. Supporting Shipper: Anchor Continental., Inc., 2000 S. Beltline Blvd., Columbia, SC 29201.

MC 146496 (Sub-3–12TA), filed February 5, 1982. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: Thomas H. Davis, St. Joseph Motor Lines, 5724 New Peachtree Rd. Atlanta, GA 30341. *Contract carrier:* irregular routes; *general commodities, except household goods,* under continuing contracts with United Forwarding Inc., between points in the U.S. Supporting shipper: United Forwarding Inc., 7000 Building, Suite 145, 7000 West Center Road, Omaha, NE 68106.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–6TA), filed February 2, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with the Bendix Corporation. Supporting Shipper: Bendix Corporation, P.O. Box 5060, Southfield, MI 48037.

MC 106088 (Sub-4–2TA), filed February 2, 1982. Applicant: WM. O. HOPKINS INC., R.R. #1 Box 16A, Rensselaer, IN 47978. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Malt beverages and materials, equipment and supplies* used in the manufacture and distribution of malt beverages, between

points in IN and OH. Supporting shipper: Jasper County Distributors, Inc., 706 North Cullen Street, Rensselaer, IN 47978.

MC 116328 (Sub-4–2TA), filed February 1, 1982. Applicant: CROSS & MURRAY, INC., 710 Third Avenue North, Minneapolis, MN 55403. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Liquid sugar and corn syrup,* in bulk, from Cedar Rapids, IA to points in NE, SK and Sioux City, IA. Supporting shipper: Archer Daniels Midland Company, Box 1445, Cedar Rapids, IA 52406.

MC 126555 (Sub-4–31TA), filed January 29, 1982. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Stockton, Lewis & Beckwith, 770 Grant St., Suite 244, Denver, CO 80203. *Chemicals and Allied Products.* Between points in CO, MT, ND, NM, TX, UT and WY. Supporting Shipper: Dowell Division of Dow Chemical, 4700 S. Syracuse Parkway, Suite 950, Denver, CO 80237.

MC 139277 (Sub-4–2TA), filed February 2, 1982. Applicant: HALL TRUCKING, INC., 201 Livingston, Gridley, IL 61744. Representative: Patrick H. Smyth, 105 West Madison Street, Suite 1008, Chicago, IL 60602. *Contract* irregular: *Metal and metal products* between El Paso, IL, on the one hand, and, on the other, points in the United States (except AK and HI) under a continuing contract(s) with Metallic Braden Building Company. Supporting shipper: Metallic Braden Building Company, Highway 24 East, P.O. Box 8, El Paso, IL 61738.

MC 144621 (Sub-4–9TA), filed February 2, 1982. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, South Bend, IN 46624. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203. *Meat and meat products,* from the facilities of MBPXL Corp., at or near Rockport, MO and Witchita, KS, to points in KY, OH, VA, WV, MD, PA, DE, NJ, NY, CT, RI, MA, VT, NH, ME, WI, IL, MI and IN. Supporting shipper: MBPXL Corp., 2901 N. Mead Street, Wichita, KS 67201.

MC 144927 (Sub-4–14TA), filed January 28, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West Remington, Indiana 47977. Representative: Jack Luck (address same same as applicant). *CORNSTARCH* from the facilities of A. E. Staley (formerly Anheuser-Busch, Inc.) in Tippecanoe County, IN to all points and places in the states of AL, AR, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MS, NC, NE, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, WV, and DC. An underlying ETA seeks 120 days authority. A. E. Staley Mfg. Co., 2060 E. Eldorado St. P.O. Box 151, Decatur, IL 62525.

MC 157457 (Sub-4–11TA), filed February 2, 1982. Applicant: CONGOLEUM CARTAGE CORPORATION, 2323 17th Street, Elkhart, IN 46514. Representative: H. Barney Firestone, Sullivan & Associates, Ltd., 10 S. LaSalle, Suite 1600, Chicago, IL 60603. *Plastic articles and plastic parts* between South Bend and Goshen, IN on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Automatic Molded Plastics, Inc., 3603 Progress Drive, South Bend, IN 46628.

MC 158307 (Sub-4–2TA), filed February 1, 1982. Applicant: WAYNE BROWN TRANSPORT, INC., 1109 Barlow Street, W. Lafayette, IN 47906. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *(1) Gum turpentine, linseed oil, paint, materials, supplies and equipment used in the manufacture thereof,* (except commidities in bulk) between Chicago, IL, Charlottee, NC, Indianapolis, IN, Memphis, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, MO, OH, NC, SC, TN, and WI; and *(2) Bananas,* from Tampa, FL, Charleston, SC, Mobil, AL, Gulfport, LA, to points in IL, OH, WI, and IN; *(3) Citrus juices and dairy products,* from Lansing, MI, to points in IN, OH, MI, IL, and WI. 3 Supporting shippers.

MC 160083 (Sub-4–1TA), filed February 1, 1982. Applicant: WAC TRANSPORTATION, INC., 6900 Nelson Road, P.O. Box 1902, Fort Wayne, IN 46801. Representative: Richard A. Huser, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Footware,* from Fort Wayne to Huntington, IN. Restricted to traffic having a prior or subsequent movement by rail. An underlying ETA seeks 90 days authority. Supporting shipper: Norfolk & Western Railroad, 8 North Jefferson, Roanoke, VA 24042.

MC 160155 (Sub-4–2TA), filed February 2, 1982. Applicant: MCT, INC., 6640 West Touhy Avenue, Niles, IL 60648. Representative: Leonard R. Kofkin, 29 South La Salle Street, Chicago, IL 60603. *Contract* irregular. *General commidities,* (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk) between Chicago, IL, and points within its commercial zone on the one hand, and, on the other, Memphis, TN and points within its commercial zone, under continuing contract(s) with: Wells Lamont Corporation, Southeast Shippers Association, Al-Ways Air Freight, Inc., All-Pro Air Systems, Inc., and Reliable Electric. Supporting shippers: Wells Lamont Corporation, 6640 West Touhy Avenue, Niles, IL 60648; Al-Ways Air Freight, Inc., 830 Supreme Drive, Bensenville, IL 60106; Southeast Shippers Association, P.O. Box 9465, Memphis, TN 38101; All-Pro Air Systems, Inc., 2760 Higgins Road, Elk Grove, IL 60007; and Reliable Electric, 11333 Addison Street, Franklin Park, IL 60131.

MC 160194 (Sub-4–1TA), filed January 28, 1982. Applicant: HGT GALLANT TRUCKING, LTD. Box 840, Watson, Saskatchewan SOK 4V0. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402. Transporting potash between points on the U.S.-Canadian border on the one hand, and, on the other, points in the states of ND, SD, MN, and IA. Supporting shipper: Cargill, Inc., P.O. Box 5602, Minneapolis, Minnesota 55440.

MC 160301 (Sub-4–1TA), filed January 28, 1982. Applicant: TOPDRAW FREIGHT SYSTEM, INC., 3407 West Pershing Road, Chicago, IL 60632. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, D.C. 20036. General commodities (except classes A and B explosives, household goods, and commodities in bulk), between Boston and Springfield, MA, Baltimore, MD, Jersey City, NJ, New York, NY, Philadelphia, PA, and North Haven, CT, limited to traffic moving on freight forwarder bills of lading. An underlying ETA seeks 120 days authority. Supporting shipper: Clipper Exxpress Company, 3401 West Pershing Road, Chicago, IL 60632.

MC 160303 (Sub-4–1TA), filed January 29, 1982. Applicant: RAPID TRANSPORT, INC., P.O. Box 215, Glyndon, MN 56547. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. (1) *Carpet,* and (2) *materials, equipment and supplies used in the sale, distribution, and installation of carpet,* from points in GA, SC, and TN, to points in MN, ND, SD and WI. An underlying ETA seeks 120 days authority. There are ten supporting shippers.

MC 160340 (Sub-4–1TA), filed February 2, 1982. Applicant: PITTMAN TRANSPORT, INC., Rt. 2, Box 256, Durand, WI 54736. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract*

irregular: *Commodities dealt in, utilized and sold by distributors of petroleum and petroleum products* from (1) Minneapolis/St. Paul, MN, commercial zone to Durand, Menomonie, and Plum City, WI and (2) from Chippewa Falls and Codatt, WI to Hastings, MN. Restricted to traffic moving under continuing with Pittman Oil Co. Supporting shipper: Pittman Oil Co., 403 W. Madison, Durand, WI 54736.

MC 160396 (Sub-4–1TA), filed February 1, 1982. Applicant: DEPENDABLE SPECIALIZED CARTAGE, INC., 2159 West Hastings Street, Chicago, IL 60608. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Machinery* between points in Chicago, IL and its Commercial Zone, on the one hand, and, on the other, points in the United States. Supporting shippers: Phillips Mfg. Co., 7334 North Clark Street, Chicago, IL 60626 and Leyden Hydraulics, Inc., 1800 North River Road, Melrose Park, IL 60160.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 26825 (Sub-5–23TA), filed February 1, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Food and related products,* between Yankton, SD, on the one hand, and, on the other, pts in MN, MO, NE, TN, TX and WI. Supporting shippers: Dan Wallbaum Distributing, Inc., 805 Capital, Yankton, SD 57078 and John A. Conkling Distributing Company, Inc., East Highway 50, Yankton, SD 57078.

MC 48221 (Sub-5–7TA), filed February 1, 1982. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Commodities as are dealt in by manufacturers and distributors of malt beverages* from Longview, TX to pts in NE, SD, WY, and CO. Supporting shipper: Joseph Schlitz Brewing Co., 235 West Galena Street, Milwaukee, WI 53212.

MC 67234 (Sub-5–18TA), filed February 1, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular; *Household Goods* between points and places in the U.S. under continuing contract(s) with The Bendix Corporation and its subsidiaries. Supporting shipper: The Bendix Corporation, 20650 Civic Center Drive, Southfield, MI 48076.

MC 110567 (Sub-5–7TA), filed February 1, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, P.O. Box 855, Des Moines, IA 50304. Contract, irregular; *commodities distributed by retail stores,* from Polk County, IA, to pts in NE and SD. Supporting shipper: Sunshine Food Markets, 815 So. 6th Avenue, Sioux Falls, SD 57101.

MC 145240 (Sub-5–4TA), filed February 2, 1982. Applicant: L. D. BRINKMAN TRUCKING CORPORATION, 520 N. Wildwood, Irving, TX 75060. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245. Contract, irregular; *plastic products;* between Jackson, MS, and Dallas, TX, under continuing contracts with Piper Industries, Inc. Supporting shipper: Piper Industries, Inc., 4990 Poplar, Suite 218, Memphis, TN 38117.

MC 145384 (Sub-5–14TA), filed February 1, 1982. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Metal products* from Los Angeles, CA to Pts in AZ, IA, IL, IN, KY, MO, NM, OH, OK and TX. Supporting shipper: American Western Foundries, 300 East Canon Perdido St., Suite C, Santa Barbara, CA 93101.

MC 148152 (Sub-5–14TA), filed February 2, 1982. Applicant: K & H TRUCKING, INC., 3301 South Lamar Street, Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between Points in the U.S. Under continuous contracts with Southeast Container Company and its subsidiaries. Supporting shipper: Southeast Steel Container Company, P.O. Box 10648, Birmingham, AL 35202.

MC 150440 (Sub-5–6TA), filed February 1, 1982. Applicant: UNIVERSAL EXPRESS, LTD., 3820 University, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Contract irregular, *(A) (1) Tires, (2) petroleum oil and grease, except commodities in bulk, and (3) agricultural implements and parts,* (1) from Waco, TX, and Kansas City, MO, to St. Paul, MN; (2) from Wichita, KS, to pts in MN; and (3) from Perry, IA, to pts in MN, under continuing contract(s) with Minnesota Farm Bureau Business Corp.; *and (B) Tires,* from Waco, TX, and Kansas City, MO, to Des Moines, IA, under continuing contract(s) with Safemark Division, BIC, Inc. Supporting shippers: Safemark Division, BIC, Inc., Farm Bureau Building, 5400 University, West Des Moines, IA 50265; and Minnesota Farm Bureau Business Corp., 1976 Wooddale Drive, St. Paul, MN 55164.

MC 150812 (Sub-5–10TA), filed February 2, 1982. Applicant: FROST TRANSPORTATION, INC., 6701 Greenwood Road, Shreveport, LA 71103. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517. Contract, irregular: *petroleum products in containers* between Caddo Parish, LA on the one hand, and on the other, points in the U.S. (except AK and HI) under continuing contract with Westland Oil Company, Inc., Shreveport, LA, and Specialty Oil Company, Shreveport, LA.

MC 152959 (Sub-5–11TA), filed February 1, 1982. Applicant: MOBILE EXPRESS, INC., P.O. Box 6167, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract, irregular; *General Commodities (except classes A and B explosives or hazardous materials).* Between Bentonville, AR; Ft. Smith, AR; Searcy, AR; Nashville, TN; Palestine, TX on the one hand, and, on the other, points in the U.S. Restricted to shipments originating at or destined to the facilities of Wal-Mart Stores, Inc.

MC 154518 (Sub-5–2TA), filed February 1, 1982. Applicant: STEVE LUEHRS, d.b.a., TRIPLE J TRUCKING, Rural Route 2, Norfolk, NE 68701. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Contract; irregular. *Oil field machinery and equipment,* from Pierce County, NE to pts in AR, CO, KS, OK, TX and WY. Supporting shipper: Pierce Manufacturing Company, P.O. Box 375, Pierce, NE 68767.

MC 155123 (Sub-5–2TA), filed February 1, 1982. Applicant: HIGHTOWER TRUCKS, INC., Highway 61 West, Fort Madison, IA 52627. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *(1) Argicultural insecticides, fertilizers, and weed killing compounds, and (2) hand spreaders,* from Fort Madison, IA, to pts in IL, MN, MO, and WI. Supporting shipper: Chevron Chemical Company, P.O. Box 282, Fort Madison, IA 52627.

MC 155178 (Sub-5–3TA), filed February 1, 1982. Applicant: SPECIALIZED SERVICE EXPRESS, INC., P.O. Box 1903, Fort Smith, AR 72902. Representative: Troy R. Douglas, P.O. Box 1881, Fort Smith, AR 72902. *General Commodities (ex those of*

unsual value, classes A & B explosives, HHG, commodities in bulk and those requiring special equipment (1) between points in AR, OK, CO; (2) from points in AR, OK, CO, on the one hand, and on the other, points in the U.S. (ex AK & HI. Supporting shippers: Rheem Manufacturing Co., Fort Smith, AR, American Can Co., Fort Smith, AR, Coors Service Center Co., Sallisaw, OK.

MC 155205 (Sub-5–3TA), filed February 1, 1982. Applicant: T. L. VAN, INC., P.O. Box 1166, Center, TX 75935. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Fired clay shapes,* between points in Tyler, TX on the one hand and points in CA on the other hand. Supporting shipper: American Clay, division of Ferro Corp., 1812 East Duncan Street, Tyler, TX 75702.

MC 157713 (Sub-5–1TA), filed February 1, 1982. Applicant: JOHNNY GOODNOH TRUCKING COMPANY, INC., Route 2-Box 45, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72702. *Bagged Barite and Bentonite*—From Big Horn and Natrona Counties, WY—To Beckham, Carter, Canadian, Custer, Garfield and Garvin Counties, OK; and, Bee, Eastland, Ector, Grayson, Maverick, Midland, Reeves, Taylor and Washington Counties, TX. Supporting shipper: Western Barite Corporation, P.O. Box 892, Yukon, OK 73099.

MC 158191 (Sub-5–1TA), filed February 1, 1982. Applicant: OZARK TRUCK BROKERS, INC., P.O. Box 429, Springdale, AR 72764. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72702. *Food and Related Products*—Between points in the U.S., on the one hand, and, on the other, Sebastian County, AR. Supporting shipper: OK Foods, Inc., P.O. Box 266, Ft. Smith, AR 72940.

MC 160335 (Sub-5–1TA), filed February 1, 1982. Applicant: BERRY BROTHERS TRUCKING, 4411 Seay, Dallas, TX 75216. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Building or Construction Materials* between Briar, AR and points in TX. Restricted to shipments originating at or destined to the facilities of Diversco, Inc. of Dallas, TX. Supporting shipper: Diversco, Inc., 11240 Gemini Lane, Dalles, TX 75229.

MC 160341 (Sub-5–1TA), filed February 1, 1982. Applicant: MARLIN REESE, Route 3, Cabool, MO 65689. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804. Contract: irregular. *Lumber and wood products* between Douglas County, MO on the one hand and points in IL, IN and OK on the other hand. Supporting shipper: Marlin Reese Lumber, Inc., Route 1, Box 86, Vanzant, MO 65768.

MC 160350 (Sub-5–1TA), filed February 2, 1982. Applicant: AMERICAN DELIVERY SYSTEMS, INC., 1401 Fairfax Trafficway, Kansas City, KS 66115. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *General commodities (except classes A and B explosives, commodities in bulk, and household goods),* between Kansas City, KS-MO, on the one hand, and, on the other, points in IA, KS, MO, and NE. Supporting shipper: Midwest Shippers' Agents, Inc., 1705 2nd Ave., Room 407, Rock Island, IL 61201.

MC 67234 (Sub-5–19TA), filed February 5, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026; (314) 343–3900. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105; (314) 727–0777. *Household Goods* between points and places in the U.S. under continuing contract(s) with Texas Instruments Inc. Supporting shipper: Texas Instruments Incorporated, 34 Forest Street, Attleboro, MA 02703.

MC 117765 (Sub-5–27TA), filed February 4, 1982. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Barite,* From Saline County, AR to OK. Supporting shipper: The Milwhite Co., Inc., 4151 Southwest Fwy. Ste. 508, Houston, TX 77027.

MC 117765 (Sub-5–28TA), filed February 5, 1982. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Paper, Scrap,* From Douglas County, NE to OK. Supporting shipper: Omaha Paper Products, 7000 West Center, Suite 319, Omaha, NE 68106.

MC 124813 (Sub-5–32TA), filed February 4, 1982. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Fiberglass reinforced gypsum building shapes* from Omaha, NE in the U.S. (except AK and HI). Supporting shipper: Plasterglas, Inc., 4639 S. 136th Street, Omaha, NE 68137.

MC 163534 (Sub-5–2TA), filed February 4, 1982. Applicant: ROBERT V. MARKT d.b.a. ROBERT V. MARKT TRUCKING, 1707 Garfield Avenue, St. Joseph, MO 64503. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Meat, meat products and articles distributed by meat packinghouses* from Jacksonville, FL; Fort Dodge, Dennison, Lamars, and Mason City, IN; Garden City, Emporia, Topeka and Wichita, KS; Minneapolis, Laverrene, St. Paul and Buffalo Lake, MN; St. Joseph, MO; Dakota City, Crete, Omaha, Lincoln, Grand Island and West Point, NE; and Mitchell, SD to Pts in TX. Supporting shipper: Swanson Meat Company, 908 Middle Street, Houston, TX 77003.

MC 150836 (Sub-5–2TA), filed February 4, 1982. Applicant: JOHN A. FOWLER d.b.a. JOHN FOWLER TRUCKING, Route 4, #12 Robin Dale Lane, Burleson, TX 76–28. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. Contract; Irregular. *General commodities,* between all points in the U.S. for the account of Nutritional Foods, Inc., d.b.a. Landstrom Distributors. Supporting shipper: Nutritional Foods, Inc., d.b.a. Landstrom Distributors, 336 Oyster Point Blvd., So. San Francisco, CA 94060.

MC 158942 (Sub-5–2TA), filed February 3, 1982. Applicant: D & L TRUCKING CO., Inc., P.O. Box 1702, Alvin, TX 77511. Representative: Doyle G. Owens, 3965 Phelan Blvd., Suite 209, Beaumont, TX 77707. *Oil Field Machinery and Pipe,* between Houston, TX, Shenandoah, GA, Broussard, LA, Clinton, OK, Casper, WY, Corpus Christi, TX, Midland, TX, Alvin, TX and Cincinnati, OH. Supporting shipper: Oiltools Equipment Services, 9232 Baythorne Drive, Houston, TX 77041.

MC 155831 (Sub-5–1TA), filed February 5, 1982. Applicant: CAL-INLAND, INC., 135 South 13th Street, Tekameh, NE 68061. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. *Meat and packinghouse products,* from Chicago, IL, Buffalo Lake, MN, and points in their respective commercial zones and points in IA, KS, and NE to Portland, OR, Salt Lake City, UT, and points in their respective commercial zones and points in AZ, CA, NV and WA. Supporting shipper: Derf Cattle Company d/b/a California Provision, P.O. Box 58508, Vernon, CA 90058.

MC 160387 (Sub-5–1TA), filed February 3, 1982. Applicant: CSC TRANSPORTATION, INC., d.b.a. CENTRAL SALES CORP., 4001 NW 3rd Street, Oklahoma City, OK 73107. Representative: Michael H. Lennox, Box 75613, Oklahoma City, OK 73147. *Alcohol, Alcoholic Beverages, and related articles,* between the facilities of Central Liquor Company and/or its vendors on the one hand, and on the

other, points in CA, FL, IL, KS, KY, MA, MI, MN, NJ, NY, OH, OK, TN, LA, TX, WA, WI. Supporting shipper: Central Liquor Company, 4001 NW 3rd St., Oklahoma City, OK 73107.

MC 160397 (Sub-5–1TA), filed February 3, 1982. Applicant: C. R. COPE ENTERPRISES—LCM, Route 2, Box 120, Seminole, TX 79360. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. *Drilling Mud and Drilling Mud Additives* (1) from Culberson County, TX, to points in the U.S. in and West of LA, AR, MO, IA, and MN: and (2) from points in WY to points in CO, KS, NM, OK, AR, TX and LA. Supporting shipper: Dresser Industries, Inc., P.O. Box 6504, Houston, TX 77005.

MC 160399 (Sub-5–1TA), filed February 4, 1982. Applicant: FIFE, INC., Hilton Road, P.O. Box 329, Keokuk, IA 52632. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *(1) Iron and steel articles, and (2) crude silica sand,* (1) between Lee County, IA, on the one hand, and, on the other, pts in IL, IN, KS, MI, MN, MO, NE, OK, TX, and WI, and (2) from Utica, IL, to Lee County, IA. Supporting shipper: Foote Mineral Company, P.O. Box 527, Keokuk, IA 52632.

MC 160124 (Sub-5–1TA), filed February 2, 1982. Applicant: JOHN T. LANCASTER, INC., Ervin Route, Hugo, OK 74743. Representative: Mark K. Price, 612 E. Jackson, Hugo, OK 74743. *Sand, gravel, asphalt and similar road building materials thereof,* between all points in Choctaw, Pushmataha, Mc Curtain, Atoka, Bryan, Pittsburg, and LeFlore counties in OK and a 300 mile radius in TX from applicant's home domicile in Hugo, OK. Supporting shippers: Quality Rock, Inc., P.O. Box 1406, Idabel, OK 74745; Cummins Construction Co., P.O. Box 846, Hugo, OK 74743; W. H. Moser, 3355 E. Houston, Paris, TX 75460.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 160376 (Sub-6–1TA), filed January 29, 1982. Applicant: BRIDGER VALLEY TRANSPORTATION, INC., P.O.B. 230, Fort Bridger, WY 82933. Representative: Dale Owens (same as applicant). *Passengers and their baggage in the same motor vehicle,* in special and charter operations, beginning and/or ending in Unita and Lincoln counties, WY, to points and places in UT, ID, CO, NV and MT, for 180 days. Supporting shippers: There are 9 shippers. Their statements may be examined at the Regional Office listed.

MC 159142 (Sub-6–2TA), filed January 25, 1982. Applicant: C & C TRANSPORTATION, 6275 E. 39th Ave., Denver, CO 80207. Representative: William Avara (same as applicant). *(1) Malt beverages and related advertising materials (2) Empty used beverage containers and materials and supplies used in and dealt with by breweries,* (1) from Jefferson County, CO to points in AZ, CA, IA, ID, MT, and WA, and (2) from points in AZ, CA, IA, ID, MT, and WA to Jefferson County, CO, for 270 days. And underlying ETA seeks 120 day authority. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 42487 (Sub-6–68TA), filed January 26, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O.B. 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *General Commodities, (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S., under continuing contract(s) with K Mart Corporation of Troy, MI, for 270 days. Supporting shipper(s): K Mart Corporation, 3100 West Big Beaver Rd., Troy, MI 48084.

MC 160007 (Sub-6–2TA), filed January 25, 1982. Applicant: DeJONG TRANSPORT, 33851 Arcadian Wy, Rt. 3, Abbotsford, B.C., CN V2S 4N3. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy, Tacoma, WA 98421. *Malt Beverages,* between points of entry on the U.S.—Canadian International Boundary Line located in WA, on the one hand, and, on the other, points in CA., for 270 days. Supporting shippers: Bel-Air Imports, Inc., d/b/a/ Berman Imports, 1436 So. La Cienega Blvd., Los Angeles, CA 90035; John Lenore & Co., (P.O. Box 8007), San Diego, CA 92102; The Old Port Brewing Co., Ltd., 641 N. Nechako Rd., Prince George, B.C., Canada.

MC 160377 (Sub-6–1TA), filed January 29, 1982. Applicant: DIAZ TRANSPORT, INC., 14506 S.E. 275th Place, Kent, WA 98301. Representative: Russell A. Evans, 410 Maynard Bldg., 119 First Ave. S., Seattle, WA 98104. *General Commodities (except classes A and B explosives, household goods, and hazardous wastes),* between points in WA., CA., MA., and IL. for 270 days. Supporting shippers: There are five shippers. Their statement may be examined at the regional office listed.

MC 151990 (Sub-6–2TA), filed February 1, 1982. Applicant: HIGH COUNTRY EXPRESS, INC., 40 W. Alameda Ave., Denver, CO 80223. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *Packaged Sugar* (1) from the facilities of The Great Western Sugar Company, at or near Billings, MT and Lovell, WY, to the facilities of The Great Western Sugar Company at or near Longmont and Eaton, CO; (2) from Scottsbluff County, NE to the facilities of The Great Western Sugar company at or near Eaton, CO; and (3) from the facilities of The Great Western Sugar Company at or near Bayard, NE to Cheyenne, WY and points in its commercial zone and to the facilities of The Great Western Sugar Company at or near Eaton, Co. Supporting shipper: The Great Western Sugar Company, 16th and Wazee, Denver, CO 80217.

MC 145860 (Sub-6–2TA), filed January 26, 1982. Applicant: JAMES MILTON HOWLETT, d.b.a. HOWLETT'S TRUCKING COMPANY, 2621 Medina Dr., San Bruno, CA 94066. Representative: James Milton Howlett, (same as applicant). *Contract Carrier:* Irregular Routes: *Sugar Beet or Cane, Sugar Products,* and *Grain Flour, NOI* from Spokane, WA to points in CA for the account of SARONI, Total Food Ingredients for 270 days. Supporting shipper: SARONI, Total Food Ingredients, P.O. Box 96, Oakland, CA 94604.

MC 145860 (Sub-6–3TA), filed January 29, 1982. Applicant: JAMES MILTON HOWLETT, d.b.a. HOWLETT'S TRUCKING COMPANY, 2621 Medina Dr., San Bruno, CA 94066. Representative: James Milton Howett (same as applicant). *Contract Carrier,* Irregular routes: *paper and paper products, furniture, lighting fixtures, plastic articles expanded, equipment and supplies used in the manufacture and distribution of the above products* from Everett, Kent and Auburn, WA to points in CA, AZ, and NV for the account of Scott Paper Company for 270 days. Supporting shipper: Scott Paper Company, Corporate Transportation Div., Philadelphia, PA 19113.

MC 160386 (Sub-6–1TA), filed February 1, 1982. Applicant: J. M. LEMONS TRUCKING COMPANY, 328 South Thorp Road, Hobbs, NM. 88240. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Machinery, Metal and Steel Products,* between points in NM., TX., OK., and CO., for 270 days. Supporting shipper(s): Sullivan Crane & Rigging Co., Inc., P.O. Box 2177, Hobbs, NM. 88240; Allred Waterwell Services, Route 2, Springtown, TX. 76082

MC 160223 (Sub-6–1TA), filed February 1, 1982. Applicant: IVAN SLEIGHT, d.b.a., MAVERICK DISTRIBUTORS, W. 1615 Hayden Ave., Hayden Lake, ID 83835. Representative: J. Ray Cox, 516 Sherman Ave., Coeur d' Alene, ID 83814. *Contract Carrier,* Irregular routes: *Petroleum and Petroleum Products,* from Spokane, WA to the facilities of Thunderbird Lubrications, Inc. at or near Hayden Lake, Albeni Falls, Sandpoint and Pinehurst, ID, for the account of Thunderbird Lubrications, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Thunderbird Lubrications, Inc., E. 5315 Union, Spokane, WA 99210.

MC 160271 (Sub-6–1TA), filed January 26, 1982. Applicant: NESS & CO., 6645 N. Ensign, Portland, OR 97217. Representative: Steve Ness (same as applicant). *Food and related products* between points in OR, WA, and ID for 270 days. Supporting shippers: Olympic Foods, Inc., P.O.B. 3183, N 605 Fancher Rd., Spokane, WA 99202; Powers Candy & Nut Company, P.O.B. 2783, Spokane, WA 99220; Vern's Pies, Inc., W. 1730 Sharp Ave., Spokane, WA 99201.

MC 160089 (Sub-6–1TA), filed January 11, 1982. Applicant: R & W TRUCKING, INC., P.O.B. 124 Cowdrey, CO 80434. Representative: R. L. Fallon, 12927 N. 10th Longmont, CO. *Coal and coal products* from Jackson County, CO, to points in WY, NE, and CO. for 270 days. ETA filed seeking 120 days authority. Supporting shipper: Walden Coal Company, P.O.B. 37, Cowdrey, CO. 80434.

MC 141464 (Sub-6–1TA), filed February 1, 1982. Applicant: TOM SMITH TRUCKING COMPANY, 2277 N. Locust Street, Canby, OR 97013. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Food or Kindred Products,* between points in CA, OR, WA and AZ. Supporting shippers: West Coast Fruit & Produce, 295 37th Avenue, N.E., Salem, OR 97301; Sunkist, Orange Products Division, 616 E. Sunkist Street, Ontario, CA 91761; Mazza Cheese Sales, 5858 N.E. 87th Street, Portland, OR 97220; and Early Cal Foods, Inc., 315 E. Tulare Avenue, Visalia, CA 93277.

MC 108461 (Sub-6–5TA), filed February 1, 1982. Applicant: SUNDANCE FREIGHT LINES, INC., d.b.a. SUNDANCE TRANSPORTATION, 3737 W. Buckeye Rd., Phoenix, AZ 85009. Representative: William S. Richards, P.O.B. 2465, Salt Lake City, UT 84110. *Malt beverages,* from Seattle, WA and Portland, OR to Compton, CA, and from Portland, OR to Santa Fe Springs, CA. and the return of empty pallets to point of origin at Portland, OR and Seattle, WA., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Harbor Distribution Co., 19722 S. Alameda St., Compton, CA 90221; H & L Distributing Co., 14815 Radburn Ave., Santa Fe Springs, CA. 90670.

MC 147083 (Sub-6–3TA), filed January 26, 1982. Applicant: TANKS, INC., P.O. Drawer 1179, Gillette, WY 82716. Representative: Leon L. Brady (same as applicant). *Drilling mud compounds and completion materials in sack form.* Between points in Ketchum ID and Natrona County WY. for 270 days. ETA seeks 120 days authority. Supporting shipper: Milchem Inc., P.O.B. 693, Casper, WY 82602.

MC 128527 (Sub-6–14TA), filed January 27, 1982. Applicant: MAY TRUCKING COMPANY, P.O.B. 400, Payette, ID 83661. Representative: Timothy W. Wilson, P.O.B. 9039, Salem, OR 97305. *General Commodities,* except commodities in bulk, household goods, size and weight commodities, and classes A and B explosives, Between points in the US, Except AK and HI, for 270 days. Supporting shipper: There are 10 supporting shippers. Their statements may be examined at the Regional office listed. An underlying ETA seeks 120 days authority.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3984 Filed 2-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 232]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 10, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 10672 (Sub-53)X, filed January 28, 1982. Applicant: BE-MAC TRANSPORT COMPANY, INC., 7400 N. Broadway, St. Louis, MO 63147. Representative: Vernon L. Hable (same address as applicant). Lead and Subs-13, 16, 22, 24, 25, 27, 28, 29, 30, 35, 36, 37, 38, 39, 40, 43, 44, 48, 49, 50, and 51; (1) Broaden general commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods and commodities in bulk), in lead and all Subs; (2) authorize service at all intermediate points, regular route-lead and Subs 27, 28, 29, 50, and 51; (3) to county-wide authority: (a) Off routes, regular: lead, Ottawa County, OK (Picher), Cook, DuPage, Kane, Kendall, Lake, McHenry, and Will Counties, IL and Lake and Porter Counties, IN (Chicago, IL), LaSalle, Grundy, Kendall and Kane Counties, IL (Streator, Morris and Aurora), Madison County, IL (Roxana); Sub 13, Madison and St. Clair Counties, IL (IL points in the St. Louis commercial zone); Sub 38, McHenry County, IL (Woodstock and Union); Sub 44, McHenry County, IL (Woodstock), Kalamazoo County, MI (points within 2 miles of Kalamazoo), Ottawa County, MI (points within 2 miles of Grand Valley Station College); and (b) irregular route, Sub 48, Grady County, OK (Chickasha); (3) remove, lead: truckload restriction between Vinita and Elk City, OK; restriction against interstate traffic between Peoria, and Chicago, IL; and eliminate exempt authority to transport "fresh fruits and vegetables" from St. Louis County to Chicago, IL.

MC 28088 (Sub-62)X, filed October 15, 1981, published in **Federal Register** November 17, 1981, republished to notice the following omission: Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., P.O. Box 49, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th Street, N.W., Washington, DC 20004. Sub-No. 1: Expand Philadelphia,

PA, to Philadelphia, Bucks, Montgomery, Chester, and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ, and New Castle County, DE.

MC 31462 (Sub-31)X, filed February 1, 1982. Applicant: PARAMOUNT MOVERS, INC., 3164 Springfield, Lancaster, TX 75146. Representative: Robert J. Gallagher, 100 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. Sub 28: broaden household goods to "household goods and furniture and fixtures."

MC 51460 (Sub-1)X, filed September 8, 1981, previously noticed in the **Federal Register** of September 24, 1981, republished as follows. Applicant: ALFRED ROOT, JR., AND SHIRLEY ROOT PISANESCHI, A PARTNERSHIP, 351 Wyoming Ave., Wyoming, Luzerne County, PA 18644. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517. Applicant seeks to broaden the commodity description from household goods to "household goods and furniture and fixtures". This portion of the application previously was denied. However, Div 2's decision in No. MC–8575 (Sub-No. 8)X, Ferguson Van Lines—Administrative Appeal, served January 12, 1982, requires this Board to republish this application.

MC 111672 (Sub-16)X, filed January 21, 1982. Applicant: R & M TRUCK LINE, INC, P.O. Box 422, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Lead and Subs 5, 6, and 10; (1) broaden explosives, nitro-carbó-nitrate, ammonium nitrate prills, and manufactured prills to "chemicals and related products", lead and all subs; (2) change (a) lead, Barksdale to Bayfield County, WI; (b) lead and Sub 6, Seneca to LaSalle and Grundy Counties, IL; (c) Subs 5 and 10, Oskaloosa to Mahaska County, IA; (d) Sub 10, Hannibal and Union to Marion, Ralls and Franklin Counties, MO and Pike County, IL; and remove exception of points in part of St. Louis commercial zone within a described area of Missouri; (3) to radial authority, lead and all subs; (4) remove in bulk restrictions, subs 6 and 10.

MC 115826 (Sub-605)X, filed October 26, 1981, previously noticed in the **Federal Register** of November 25, 1981, and republished as follows. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80222. Representative: Jack B. Wolfe, 1600 Sherman, No. 665, Denver, CO 80205. As is pertinent here, applicant seeks to broaden its Sub-No. 602X certificate by broadening to countywide: Canadian, Cleveland, Grady, Lincoln, McClain, Oklahoma, and Pottawatomie Counties, OK (Oklahoma City): Alameda, Contra Costa, Marin, San Francisco, and San Mateo Counties, CA (San Francisco). The certificate in this proceeding failed to encompass this revision. The purpose of this republication is to reflect applicant's proposed territorial broadening.

MC 124170 (Sub-189)X, filed September 29, 1981, previously noticed in the **Federal Register** of October 16, 1981, republished as follows. Applicant: FROSTWAYS, INC., 3000 Chrysler Service, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. Applicant previously broadened its Sub-Nos. 77, 134F and 141F using the procedures set forth in 49 CFR Part 1137. Additionally it sought to broaden Philadelphia, PA to county-wide authority, but this portion of the application was denied. Applicant appealed and Division 1 found such proposed expansion to be appropriate, particularly in light of its previous decision in No. MC 87323 (Sub-No. 119)X, *Stewart Trucking Company—Administrative Appeal* (not printed) served 12–24–81. Division 1 ordered republication in applicant's appeal decided January 29, 1982. Notice is hereby given that applicant seeks to broaden Philadelphia, PA to "points in Bucks, Montgomery, Chester, and Delaware Counties, PA."

MC 127122 (Sub-6)X, filed February 4, 1982. Applicant: SIMPSONVILLE WRECKER SERVICE, INC., 4504 Bishop Lane, Louisville, KY 40218. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Lead and Subs 1, 2, 3, 4, broaden: from wrecked, disabled/repossessed motor vehicles, including trailers designed to be drawn by passenger automobiles, and replacement vehicles and parts therefor to "transportation equipment"; and remove use of wrecker equipment, only, restriction.

MC 127304 (Sub-21)X, filed January 21, 1982. Applicant: CLEAR WATER TRUCK COMPANY, INC., 9101 North West St., Valley Center, KS 67148. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Subs 6, 7, 8, and 16F: (A) Broaden to "food and related products" from (1) meats, meat products, and meat by-products, and articles distributed by meat packinghouses, Subs 6, 7, and 16F, (2) meats, packinghouse products, and commodities used by packinghouses, Sub 8; and (3) commodities used by meat packers in the conduct of their business when destined to and for use by meat packers, Sub 16F; (B) remove (1) "except acids, chemicals, and oils in bulk" restriction, Sub 7; and (2) "except hides and commodites in bulk" restriction, Sub 16 (part 1); and (C) broaden to "between points in the U.S. (except AK and HI)", under continuing contract(s) with a named shipper, all Subs.

MC 133689 (Sub-371)X, filed February 1, 1982. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Subs 186F and 335F certificates, (a) broaden the general commodities authority by removing the exception to "commodities of unusual value," and also the exception of "foodstuffs" in Sub 186; (b) change one-way to radial authority; (c) replace named facilities with countywide authority: Sub 186, Hartford County, CT (Berlin), and Hampden County, MA (Springfield); and Sub 335, St. Louis, MO and points in St. Louis County, MO (St. Louis); and (d) remove "originating at" and "destined to" restriction in Sub 186.

MC 135714 (Sub-9)X, filed January 22, 1982. Applicant: PAK MOVING, INC., P.O. Box 249, Suisun, CA 94585. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111. Sub 8F broaden: (1) From "general commodities with the usual exceptions to "general commodites (except Classes A and B explosives, household goods and commodities in bulk)", and (2) remove restriction to transportation of shipments moving on bills of lading of freight forwarders or on through joint carrier bills of lading and exception against ex-air traffic and (3) broaden a described San Francisco, CA territory to San Francisco, San Mateo, Santa Clara, Contra Costa, Alameda and Marin Counties and from points in CA along described Highways to San Francisco, San Mateo, Santa Clara, Contra Costa, Alameda, Marin, Solano, Napa, Sonoma, Lake, Siskyiyou, Mendocino, Sutter, Colusa, Yolo, Humboldt, Trinity, Glenn, Tehama, Shasta, Butte, Yuba and Del Norte Counties.

MC 144646 (Sub-2)X, filed January 25, 1982. Applicant: BUSBY FREIGHT LINES, INC., 1022 Coleman, Ypsilanti, MI 48197. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. Sub-No. 1, broaden (1) from automobile parts, part and materials used in the manufacture, production and assembly of automobiles and component parts to "transportation equipment, parts and materials used in the manufacture, production and assembly of transportation equipment

and component parts" (2) replace Lansing, MI facilities with Eaton, Ingham, and Clinton Counties, MI (3) replace Detroit Metropolitan Wayne County Airport with Wayne, Oakland and Macomb Counties, MI and the Willow Run Airport with Washtenaw County, MI; (4) remove the ex-air restriction and (5) remove the aggregate per shipment weight restriction.

[FR Doc. 82-4074 Filed 2-16-82; 8:45 am]
BILLING CODE 7035-01-M

Railroad Information System; Availability of Discussion Memorandum

AGENCY: Interstate Commerce Commission.

ACTION: Notice of availability of discussion memorandum.

SUMMARY: The Interstate Commerce Commission is reviewing its information requirements from railroads in light of recent fundamental changes in the nature and extent of our economic regulation of railroads. The purpose of this review is to identify rail accounting principles which the Commission will use to revise (if necessary) its accounting and reporting rules for class I line-haul railroads. The data reported by railroads will eventually be used for jurisdictional tests and rate reasonableness determinations. Therefore, the accounting principles must relate to the data needs for these two purposes.

To assist in the review, we have developed a Discussion Memorandum which addresses issues relating to various aspects of our railroad information system. The Discussion Memorandum describes several alternative conceptual approaches for obtaining financial and statistical information from railroads, and asks interested parties for their views on these options. The responses will better enable us to determine the need for specific changes to our railroad information system.

DATE: Written responses should be filed with the Commission by March 30, 1982.

ADDRESSES: An original and five copies, if possible, of any comments should be sent to: Ronald S. Young, Director, Bureau of Accounts, Room 6133, Interstate Commerce Commission, Washington, D.C. 20423.

Copies of the Discussion Memorandum may be obtained by writing to the above address or by calling toll-free on 800-424-5403.

FOR FURTHER INFORMATION CONTACT: Thomas Carter, (202) 275-7523.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-4077 Filed 2-16-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-24

Decided: February 5, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160371, filed February 2, 1982. Applicant: PATRICIA FISCHER, D.B.A. FISCHER COURIERS, 2009 Peoria Rd., Springfield, IL 62702. Representative: Michael W. O'Hara, 300 Reisch Bldg, Springfield, IL 62701, (217) 544-5466. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP4-38

Decided: February 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 148226 (Sub-2), filed February 1, 1982. Applicant: SUN CITY DELIVERY, INC., division of SUN CITY SERVICE CORPORATION, 9 Zane Grey, P.O. Box 9916, El Paso, TX 79989. Representative: Richard L. Walton, (same address as applicant), (915) 778-9900. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160326, filed January 29, 1982. Applicant: HENRY J. BUCHANAN, 1388 E. Hanley Ave., P.O. Box 813, Coeur d' Alene, ID. Representative: Henry J. Buchanan (same address as applicant), (208) 772-5452. Transporting *food and other edible products and byproducts*

intended for human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158286 (Sub-3), filed January 29, 1982. Applicant: M. T. TRUCK LINE, INC., 4947 W. 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities* (except classes A and B explosives), between Elsinore, Weisel, Arcilla, and Alberhill, CA, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at the specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

Note.—The purpose of this application is to substitute motor common carrier for abandoned rail service.

MC 160296, filed January 28, 1982. Applicant: KENNETH W. RUSSELL and KIM P. LAMOREAUX, d.b.a. K & K TRAFFIC SERVICE CO., P.O. Box 645, Salt Lake City, UT 84111. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160347 , filed February 1, 1982. Applicant: TRUCK LOAD SERVICE, INC., 1313 Hooksett Rd., Hooksett, NH 03106. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773–5651. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–46

Decided: February 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 145526 (Sub-3), filed February 2, 1982. Applicant: CTC TRANSPORTATION, INC., 514 N. Claiborne Ave., New Orleans, LA 70112. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160246, filed February 4, 1982. Applicant: NIMROD CORPORATION, 244 E. Ogden Ave., Suite 114, Hinsdale, IL 60521. Representative: Abraham A. Diamond, 29 S. LaSalle St., Chicago, IL 60603, (312) 236–0548. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160366, filed February 1, 1982. Applicant: KATHLEEN D. CASEY, d.b.a. CKC COURIER, 108 Kelseytown Rd., Clinton, CT 06413. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP4–49

Decided: February 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 133987 (Sub-3), filed February 3, 1982. Applicant: ALL-AMERICAN CAB CO., d.b.a. AMERICAN PARCEL EXPRESS, 6123 State St., Huntington Park, CA 90255. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001, (202) 628–9243. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160357, filed February 1, 1982. Applicant: CLAUDE C. CHRISTY, d.b.a. TRIPLE C TRUCKING, 2629 S.E. 166th, Portland, OR 97236. Representative: Claude C. Christy (same address as applicant), (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP5–32

Decided: February 9, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 142539, (Sub-11), filed January 29, 1982. Applicant: B. W. T. TRANSPORT, INC., 757 River Dr., Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201-572-5551. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 142539, (Sub-12), filed January 29, 1982. Applicant: B. W. T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201-572-5551. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160319, filed January 29, 1982. Applicant: LONNIE RAY BLAYLOCK and DELVIN D. McDONALD, d.b.a. B & M TRUCKING & HYDRO CRANE, 4100 East Dr., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805-872-1106. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–4078 Filed 2–16–82, 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the

human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume OP1–23

Decided: February 5, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 39491 (Sub-18) (partial republication), filed December 2, 1981, previously noticed in the **Federal Register** issue of January 8, 1982. Applicant: COLONIAL COACH CORP., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Samuel B. Zinder, 98 Cutter Mill Rd., Great Neck, NY 11021, (516) 482–0881. Over regular routes, transporting *passengers and their baggage,* in the same vehicle with passengers, (1) between Coatesville, PA and Atlantic City, NJ, from Coatesville over US Bus. Rte. 30 to juntion US Hwy 322 at or near Downington, PA, then over US Hwy 322 to junction PA Hwy 3 at or near West Chester, PA, then over PA Hwy 3 to junction PA Hwy 352 near Rocky Hill, PA, then over PA Hwy 352 to junction Interstate Hwy 95 at or near Chester, PA, then over Interstate Hwy 95 to US Hwy 322, then over US Hwy 322 to junction NJ Spur Hwy 536 near Williamstown, NJ, then over NJ Spur Hwy 536 to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, NJ, and return over the same route, and (4) between Coatesville, PA and junction NJ Hwy 42 and Atlantic City Expressway at or near Turnersville, NJ, from Coatesville, PA over Bus. Rte. 30, to junction US Hwy 30, then over US Hwy 30 to junction US Hwy 1 near Philadelphia, PA, then over US Hwy 1 to junction Interstate Hwy 76 at Philadelphia, PA, then over Interstate Hwy 76 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, and return over the same route, restricted against the pickup or discharge of passengers on Interstate Hwy 76 in Philadelphia, Philadelphia County, PA.

Note.—The purpose of this partial republication is to indicate the correct territorial descriptions for routes (1) and (4). The rest of the previous publication remains the same.

MC 67340 (Sub-16), filed January 26, 1982. Applicant: RESORT BUS LINES, INC., 1010 Nepperhan Ave., Yonkers, NY 10703. Representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021, (516) 482–0881. Over regular routes, transporting *passengers and their baggage,* in the same vehicle with passengers, between New York, NY, and Pittsfield, MA, from Port Authority Bus Terminals at New York, NY, over city streets and the Major Deegan Expressway to Central Ave., then over Central Ave. to NY State Thruway Entrance No. 5 (Midland Ave.), then over NY State Thruway to Exit No. 9 (NY Hwy 119), then over access roads to junction U.S. Hwy 9, then over U.S. Hwy 9 to Fishkill, NY, then over NY Hwy 82 to junction U.S. Hwy 44 at Millbrook, NY, then over U.S. Hwy 44 to junction NY Hwy 22 at Villerton, NY, then over NY Hwy 22 to junction NY Hwy 23 at Hillsdale, NY, then over NY Hwy 23 to the NY–MA State line, then over MA Hwy 23 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Pittsfield, MA, and return over the same route, serving all intermediate points.

MC 119631 (Sub-48), filed February 2, 1982. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexander, VA 22304, (703) 751–2441. Transporting *lumber and wood products,* between points in the U.S. (except AK and HI).

MC 120910 (Sub-57), filed February 2, 1982. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3660. Transporting (1) *metal products, (2) rubber and plastic products, (3) chemicals and related products, (4) machinery, (5) forest products, and (6) lumber and wood products,* between the facilities used by National Standard Company and its subsidiaries at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 127550 (Sub-10), filed February 1, 1982. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington St., Bartonville, IL 61607. Representative: Edward G. Bazelon, 29 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *alcoholic beverages,* between points in the U.S., under continuing contract(s) with Pekin Distributing Company, Inc., of Pekin, IL.

MC 143570 (Sub-23) (republication) filed December 11, 1981, previously noticed in the **Federal Register** issue of January 6, 1982. Applicant: D & G TRUCKING, INC., 4420 E. Overland Rd., Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336–5955. Transporting *construction materials,* and *materials, equipment and supplies* used in the installation of construction materials, between points in AZ, CA, CO, ID, NV, MT, OR, UT, WA and WY.

Note.—The purpose of this republication is to indicate the correct commodity description.

MC 144201 (Sub-9), filed February 1, 1982. Applicant: V.M.P. ENTERPRISES, INC., 10542 West Donges Court, Milwaukee, WI 53224. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *buses,* between points in Prowers County, CO, Pembina County, ND, and Rowan County, NC, on the one hand, and, on the other, points in the U.S.

MC 145860 (Sub-2), filed February 1, 1982. Applicant: JAMES MILTON HOWLETT, d.b.a. HOWLETT'S TRUCKING COMPANY, 2621 Medina Drive, San Bruno, CA 94066. Representative: James Milton Howlett (same address as applicant), (415) 871–8596. Transporting *paper and paper products, furniture and fixtures, and plastic articles,* between points in the U.S., under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 146890 (Sub-42), filed February 2, 1982. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, DC 20001, (202)

628–9243. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Hercules Incorporated, of Wilmington, DE.

MC 151930 (Sub-4), filed February 1, 1982. Applicant: NEWCOMER TRUCKING, INC., 1200 Island Ave., McKees Rocks, PA 15136. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except classes A and B explosives and household goods), between Pittsburgh, PA, on the one hand, and, on the other, points in Beaver, Butler, Lawrence, and Westmoreland Counties, PA.

MC 152411 (Sub-1) (republication), filed April 1, 1981, previously noticed in the **Federal Register** issue of April 23, 1981. Applicant: EMANON TRANSPORTATION SERVICES, INC., 141 Lincoln St., Exeter, PA 18643. Representative: Daniel W. Krane, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011, (717) 761–0520. Transporting *general commodities* (except classes A and B explosives), between points in Luzerne County, PA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to indicate Luzerne County, PA, as the correct base point in the territorial description.

MC 152891 (Sub-2), filed February 1, 1982. Applicant: WALES INDUSTRIES, INC., P.O. Box 1156, Lake Wales, FL 33880. Representative: John W. McWhirter, Jr., P.O. Box 1364, Tampa, FL 33601, (813) 224–0866. Transporting *foodstuffs*, between points in the U.S. (except AK and HI).

Volume No. OP4–45

Decided: February 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 145636 (Sub-24), filed February 2, 1982. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, Winona, MN 55987 (507) 454–3914. Transporting *general commodities* (except classes A and B explosives), between points in TX, on the one hand, and, on the other, points in the U.S.

MC 149548 (Sub-30), filed February 2, 1982. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *clay, concrete, glass or stone products*, between Minneapolis, MN, and points in IL, IN, OH, MI, and NJ, on the one hand, and, on the other, points in CO, IA, MN, NE, MT, ND, SD, and WY.

MC 160306, filed January 29, 1982. Applicant: VENUS TRAVEL, 448 Forbes Ave., New Haven, CT 06512. Representative: W. Dale Gerling, 75 Bradley Ave., East Haven, CT 06512, (203) 467–4416. To operate as a *broker*, at New Haven, CT, in arranging for the transportation of *passengers and their baggage*, between points in CT, on the one hand, and, on the other, points in the U.S.

MC 160356, filed February 1, 1982. Applicant: GEORGE DAVID PHILLIPS, 218 Hillcrest St., Siler City, N.C. 27344. Representative: Terrell C. Clark, P.O Box 25, Stanleytown, VA. 24168, (703) 629–2818. Transporting *floor or wall coverings, and adhesives*, between points in Lancaster County, PA, on the one hand, and, on the other, points in NC, SC, TN, and VA.

Volume No. OP4–47

Decided: February 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 34027 (Sub-25), filed January 28, 1982. Applicant: GREETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food* and *related products*, (1) between points in Marion and Polk Counties, IA, on the one hand, and, on the other, points in CA, OR, WA, MN, WI, IL, MO, KS, NE, SD, IA, OH, and TN, and (2) between points in Porter County, IN, Van Buren County, MI, Polk County, FL, and Chicago, IL, on the one hand, and, on the other, points in Marion County, IA.

MC 72547 (Sub-1), filed January 25, 1982. Applicant: C. KING MOTOR SERVICE, INC., 3601 S. Broadway at Miami, St. Louis, MO 63118. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *metal products*, between those points in the U.S. in and east of ND, SD, NE, CO, NM, and TX.

MC 148437 (Sub-6), filed January 29, 1982. Applicant: BORK TRANSPORT, INC., 600 S.E. 18th St., Des Moines, IA 50317. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *petroleum products*, between Dubuque, IA, on the one hand, and, on the other, points in IL, MN, and WI.

MC 159567, filed February 1, 1982. Applicant: BENNETT LOGGING CO., INC., Sr Box 111, Nettie, WV 26681. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting (1) *lumber and wood products*, (2) *building materials*, and (3) *machinery*, between points in WV, on the one hand, and, on the other, points in GA, KY, MD, NY, NC, OH, PA, SC, TN, and VA.

MC 160007 (Sub-1), filed January 25, 1982. Applicant: DEJONG TRANSPORT, 33651 Arcadian Way, Abbotsford, B.C., Canada V2S 4N3. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting *malt beverages*, between the ports of entry on the International Boundary line between the U.S. and Canada at points in WA, ID, and MT, on the one hand, and, on the other, points in Canada.

MC160307, filed January 29, 1982. Applicant: HENRY P. WILLIAMS AND ANNIE M. WILLIAMS, d.b.a. TRINITY CHARTER LINES, 525 W. 21st St., Los Angeles, CA 90044. Representative: Fred H. Mackensen, Suite 4150, 2029 Century Park East, Los Angeles, CA 90067 Transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in AZ, NV, and UT.

Volume No. OP4–48

Decided: February 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC69877 (Sub-3), filed February 1, 1982. Applicant: ROSEVILLE MOTOR EXPRESS, INC., 277 Cemetery Rd., Crooksville, OH 43731. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives), between Columbus, OH, and points in Tuscarawas, Coshocton, Muskingum, Guernsey, Morgan, Perry, Fairfield, and Hocking Counties, OH, on the one hand, and, on the other, points in the U.S.

MC108937 (Sub-72), filed February 1, 1982. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164, (612) 633-7911. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with the 3M Company, of St. Paul, MN.

MC142467 (Sub-2), filed February 2, 1982. Applicant: DIXIE FREIGHT LINE, INC., P.O. Box 532, Greenville, MS 38701. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville,

MS 38701, (601) 335-3576. Transporting *such commodites* as are dealt in or used by regional farm supply, manufacturing and marketing cooperatives, between those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC142827 (Sub-15), filed February 1, 1982. Applicant: DEMARLIE TRUCKING, INC., P.O. Box 338, Reynolds, IL 61279. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200-A, Park Ridge, IL 60068 (312) 698-2235. Transporting *clay, concrete, glass or stone products* between points in Thomas County, GA, and Tippah County, MS, on the one hand, and, on the other, points in IA, IL, IN, MO, and WI.

MC 143697 (Sub-2), filed February 2, 1982. Applicant: NORTH JERSEY TANK LINES, INC., P.O. Box 397, Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting *commodities in bulk* (except chemicals and petroleum products), between points New York, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and VA.

MC 147227 (Sub-12), filed February 3, 1982. Applicant: ATLANTIC MARKETING CARRIERS, INC., 4025 South Golden State Hwy, Suite 6, Fresno, CA 93725. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005, (202) 347-9332. Transportating *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, VT, MA, CT, and RI, on the one hand, and, on the other, points in the U.S.

MC 149497 (Sub-21), filed February 1, 1982. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), (715) 359-2907. Transportating *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Action Tungsram, Inc., of East Brunswick, NJ.

MC 160367, filed February 2, 1982. Applicant: SILVESTRI BROTHERS, INC., P.O. Box 1086, La Marada, CA 90637. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. Transportating *plastics and related products*, between points in the U.S., under continuing contract(s) with (1) LTD Packaging Corporation, of Santa Fe Springs, CA, and (2) Liqui-Box Corporation, of La Mirada, CA.

Volume No. OP5-30

Decided: February 5, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 84739 (Sub-31), filed January 22, 1982. Applicant: SEVERSON TRANSPORT, INC., 624 Albion Road, Edgerton, WI 53534. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, 313-963-3750. Transportating (1) *metal products* and (2) *such commodities* as are dealt in or used by a manufacturer of truck trailers, between points in KY, MI, OH, PA, and WV.

MC 110149 (Sub-13), filed January 20, 1982. Applicant: PAN AMERICAN VAN LINES, INC., 18420 So. Sante Fe Avenue, P.O. Box 923, Long Beach, CA 90801. Representative: W. C. Fogle (same address as applicant), (213) 537-2630. Transporting (1) *furniture and fixtures*, and (2) *rocket engines and rocket fuel*, between points in the U.S. (except AK, HI and VT).

MC 118978 (Sub-14), filed January 25, 1982. Applicant: MERCURY EXPRESS, LTD., 2100 United Blvd., Coquitlam, BC, Canada V3K 3V4. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, 206-624-7373. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), in foreign commerce only, between points in WA, OR, CA, NV, AZ, UT, ID, MT, WY, CO, NM, and TX, on the one hand, and, on the other, points on the international boundary line between the U.S. and Canada.

MC 128648 (Sub-33), filed January 27, 1982. Applicant: TRANS-UNITED, INC., P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603, (312) 263-2306. Transporting *metal products* between points in the U.S. (except AK and HI).

MC 133718 (Sub-5), filed January 22, 1982. Applicant: WILBURN H. RAMSEY, d.b.a. W. H. RAMSEY & SONS TRUCKING, 717 Berry Street, Roseville, CA 95678. Representative: W. H. Ramsey, P.O. Box 445, Lincoln, CA 95678, 916-786-7579. Transporting *such commodities* as are dealt in or used by a manufacturer of clay and earthenware tile, between points in the U.S., under continuing contract(s) with American Olean Tile Company, of Roseville, CA.

MC 140689 (Sub-25), filed January 28, 1982. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, One Public Square, Suite 1011, Cleveland, OH 44113, (216) 589-0448. Transporting *textile mill products* between points in the U.S., under continuing contract(s) with Carson-Pirie-Scott & Co., of Chicago, IL.

MC 149138 (Sub-5), filed January 19, 1982. Applicant: COLORADO, KANSAS, MISSOURI EXPRESS COMPANY, d.b.a. CKM EXPRESS CO. 4250, Oneida St., Suite 130, Denver, CO 80239. Representative: William J. Lippman, 50 South Steele St., Suite 588, Denver, CO 80209, (303) 322-0800. Transporting *such commodities* as are dealt in or used by breweries, between points in CO, on the one hand, and, on the other, points in AZ, CA, ID, IA, KS, LA, MS, NE, NM, OK, TN, TX, UT, WA, and WY.

MC 149429 (Sub-2), filed January 27, 1982. Applicant: H & M TRUCKING COMPANY, P.O. Box 176, Riegelwood, NC 28456. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703-522-0900. Transporting *such commodities* as are dealt in our used by manufacturers of (1) *forest products*, (2) *lumber and wood products*, (3) *paper and paper products*, between points in the U.S. under continuing contract(s) with Federal Paper Board Company of Riegelwood, NC.

MC 151228 (Sub-2), filed January 28, 1982. Applicant: P & M TRUCKING, INC., 740 Iowa St., Norman, OK 73069. Representative: Michael H. Lennox, 531 N. Portland, Oklahoma City, OK 73147, (405) 943-2722. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except AK and HI).

MC 155428, filed January 25, 1982. Applicant: K-C & COMPANY TRUCKING, P.O. Box 141, Lima, MT 59739. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336-5955. Transporting *Mercer commodities*, (a) between points in ID, MT, NV, UT, and WY, and (b) between points in ID, MT, NV, UT, and WY, on the one hand, and on the other, points in CO, ND, OR, SD, WA, and WY.

MC 159639 (Sub-1), filed January 28, 1982. Applicant: FLA-TEX, INC., 2705 North Cage, P.O. Box 631, Pharr, TX 78577. Representative: David Thompson (same address as applicant), 512-787-5951. Transporting (1) *plastic products*, between points in Clinton County, NY, on the one hand, and, on the other, points in the U.S. (2) *food and related products*, between points in Bergen County, NJ, on the one hand and, on the other, points in the U.S.

MC 159718, filed December 15, 1981, previously published in **Federal Register** (Republication) on January 13, 1982. Applicant: BULK TRANSPORT CO., OF ESSEXVILLE, INC., 1500 Pine St.,

Essexville, MI 48732.Representative: William B. Elmer, 615 E. Eighth St., Traverse City, MI 49684 (616) 941–5313. Transporting *ores and minerals*, between points in MI on the one hand, and, on the other, points in IL, IN, and OH, and ports of entry on the international boundary line between the United States and Canada.

Note.—Purpose of republication is to show correct territorial description, and delete "in foreign commerce only".

MC 160008, filed January 27, 1982. Applicant: U.S. COACHWORKS, INC., 6115 Denton Drive, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in TX, and extending to points in the U.S.

MC 160279, filed January 27, 1982. Applicant: MBPXL TRANSPORTATION, INC., P.O. Box 2519, Wichita, KS 67201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting (1) *food and related products*, between points in the U.S., under continuing contract(s) with MBPXL Corporation and House of Schwan, Inc., both of Wichita, KS, Fleming Companies, Inc., of Oklahoma City, OK, and Thomas Distributing Co., Inc., of Auburn, NE, and (2) *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Inland Container Corporation of Indianapolis, IN.

MC 160288, filed January 28, 1982. Applicant: ATRAVCO, INC., 1614 Pacific Ave., Atlantic City, NJ 08401. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107 (215) 564–3680. To operate as a *broker* at Atlantic City, NJ, arranging for the transportation of *passengers and their baggage*, in the same vehicle, in special or charter operations, between points in the U.S.

MC 160299, filed January 28, 1982. Applicant: ALCOVE BOAT CARRIERS, INC., 5 Strong Place, Cohoes, NY 12047. Representative: Robert P. Guay (same address as applicant) (518) 237–4836. Transporting *boats* and *boating accessories*, between points in VT, MA, CT, and RI.

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Decided: February 9, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 40606 (Sub-34), filed February 1, 1982. Applicant: S & W MOTOR LINES, INC., P.O. Box 18267, Greensboro, NC 27419. Representative: Kim G. Meyer, 235 Peachtree St., N.E., Suite 1200, Atlanta, GA 30303, 404–522–2322. Transporting (1) *containers, container closures and components, and packaging products*, between Atlanta, GA, points in Davidson County, NC, and Fulton County, GA, on the one hand, and, on the other, points in SC, GA, FL, NC, VA, AL, LA, and MS; and (2) *malt beverages*, between points in Houston County, GA, on the one hand, and, on the other, points in NC.

MC 79568 (Sub-2), filed February 1, 1982. Applicant: O'ROURKE STORAGE & TRANSFER COMPANY, INCORPORATED, 60 Campbell's Run Rd., Pittsburgh, PA 15205. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219–2383, (412) 471–1800. Transporting *household goods* as defined by the Commission, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 117119 (Sub-842), filed February 1, 1982. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant), 501–248–7281. Transporting *such commodities* as are dealt in our used by retail stores (except commodities in bulk), between points in GA, SC, NC, FL, IA, NE, and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 126899 (Sub-150), filed January 29, 1982. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd., Paducah, KY 42001. Representative: George M. Catlett, Suite 700–702, McLure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting (1) *wines and cordials* between Toledo, OH, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, and points in Dearborn County, IN, and (2) *malt beverages and liquors* between (a) Chicago, IL, on the one hand, and, on the other, points in AR, IA, MO, and WI, (b) between points in Seneca County, OH, on the one hand, and, on the other, points in IN, and WV, (c) between Cincinnati, OH, on the one hand, and, on the other, points in NC, SC, TN, and VA, and (d) between Atlanta, GA, on the one hand, and, on the other, points in AL and FL.

MC 133259 (Sub-9), filed February 1, 1982. Applicant: ALLIED FREIGHT SYSTEMS, INC., Griswold Industrial Park, Williston, VT 05495. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, 413–732–1136. Transporting *general commodities* (except classes A and B explosives), between points in MA, NH, NY, and VT.

MC 146288 (Sub-5), filed January 29, 1982. Applicant: HENRY . TRANSPORTATION, INC., 1328 North Rock Hill Rd., St. Louis, MO 63124. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. Transporting *floor covering products*, (1) between points in GA and TN on the one hand, and, on the other, points in MO, IL, IN, KY, IA, KS, and NE, and (2) between St. Louis, MO on the one hand, and, on the other, points in IL, IN, and KY.

MC 146728 (Sub-7), filed January 29, 1982. Applicant: GOLDEN BROS., INC., 234 East McClure St., Kewanee, IL 61443. Representative: Abraham A. Diamond, 29 S. LaSalle St., Chicago, IL 60603, (312) 236–0548. Transporting *metal products* between points in the U.S., under continuing contract(s) with Keystone Consolidated Industries, Inc., Keystone Group Division, of Peoria, IL.

MC 146898 (Sub-6), filed January 1, 1982. Applicant: MICKS SERVICE, INC., 2145 Camanche Ave., Clinton, IA 52732. Representative: Carl E. Munson, 400 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, 319–557–1320. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Clinton Corn Processing Co., of Chicago, IL.

MC 154928 (Sub-2), filed January 29, 1982. Applicant: KNUTE TRUCKING, INC., P.O. Box 198 (Hillcrest), Rochelle, IL 61068. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609 (213) 945–2745. Transporting *malt beverages* between points in the U.S., under continuing contract(s) with B.B. Distributors, Inc., of Sycamore, IL.

MC 155409 (Sub-1), filed February 1, 1982. Applicant: MICHALETZ TRUCKING, INC., 3302 Park Drive, Owatonna, MN 55060. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424. (612) 927–8855. Transporting *malt beverages* between points in Shelby County, TN, on the one hand, and, on the other, points in MN, ND, SD, and IA.

MC 157838, filed February 1, 1982. Applicant: CCW TRANSPORT, INC., P.O. Box 133, Pioneer, OH 43554. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, 614–889–2531. Transporting *metal products*, between points in the U.S.

MC 159639, filed January 29, 1982. Applicant: J & A TRANSPORT, LIMITED, 272 St. George St., Moncton, New Brunswick, Canada E1C 8P9.

Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773–5651. Transporting *peat products* between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in the U.S.

MC 158978, filed January 29, 1982. Applicant: CONTINENTAL VANGUARD, INC., 204 Harding Ave., Bellmawr, NJ 08031. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *hazardous, non-hazardous and toxic waste,* between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 158998, filed January 29, 1982. Applicant: GREENTREE TRANSPORTATION COMPANY, 6501 West 65th St., Chicago, IL 60638. Representative: Anthony E. Young, 29 So. LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with L.B. Foster Company of Des Plains, IL.

MC 159538, filed January 29, 1982. Applicant: NEWSOM TRUCKING AND CONSTRUCTION CO., INC., Route 1, Box 149, Livingston, LA 70754. Representative: Doyle G. Owens, 3965 Phelan Blvd., Suite 209, Beaumont, TX 77707, (713) 835–6313. Transporting (1) *steel articles,* under continuing contract(s) with Bayou Steel, Inc., of LaPlace, LA, and (2) *refractories, foundry and steel mill supplies, and mineral and chemical compounds,* under continuing contract(s) with Foseco, Inc., of Brookpark, OH, between points in the U.S.

MC 159879, filed January 29, 1982. Applicant: C T TRUCKING, INC., 414 South Rd., High Point, NC 27260. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602, 919–828–0731. Transporting *furniture and fixtures,* between points in NC and VA.

MC 159958, filed February 1, 1982. Applicant: D & M TRUCKING CORPORATION, Route No. 13, P.O. Box 455, Cookeville, TN 38501. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, 614–228–6575. Transporting *general commodities* (except classes A and B explosives), between points in OH, KY, IN, GA, and TN, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 160308, filed January 29, 1982. Applicant: ANDREWS AND ANDREWS TRUCKING COMPANY, 132 Aspen Avenue, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408 (806) 763–9555. Transporting *construction machinery and equipment* between points in Deaf Smith, Castro, Parmer, Randall, and Potter Counties, TX, on the one hand, and, on the other, points in the U.S.

MC 160348, filed February 1, 1982. Applicant: ORCHARD TRANSPORT LTD., 4820 48th Ave., Innisfail, Alberta, Canada TOM 1AO. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, 612–291–1215. Transporting *potash,* in foreign commerce only, between the ports of entry on the international boundary line between the United States and Canada in ND, on the one hand, and, on the other, points in MN, ND, SD, WI, IA, NE, and MT.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4076 Filed 2-16-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action Under the Clean Air Act To Require Compliance With Particulate Emission Regulations at Associated Electric Cooperative, Inc. in New Madrid, Mo.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 27, 1982, a proposed consent decree in *United States of America* v. *Associated Electric Cooperative, Inc.,* Civil No. 82–0060–CV–W–1 was lodged with the United States District Court for the Western District of Missouri.

The proposed consent decree requires Associated Electric Cooperative, Inc. to achieve compliance by June 30, 1982, and December 31, 1982, respectively, with Clean Air Act required particulate emissions regulations contained in the Missouri State implementation plan pertaining to two steam-electric generating units at its New Madrid, Missouri facility. Upon entry of the Consent Decree, Associated Electric Cooperative, Inc. agrees to withdraw its petition for review in the Eighth Circuit, *Associated Electric Cooperative, Inc.* v. *United States Environmental Protection Agency,* No. 80–2075.

The proposed consent decree may be examined at the Office of the United States Attorney, 519 U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri 64106; at the Region VII Office of the Environmental Protection Agency, 324 East Eleventh Street, Kansas City, Missouri 64106; and at the Office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1252, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States of America* v. *Associated Electric Cooperative, Inc.,* D.J. Ref. 90–5–2–3–1356.

Carol E. Dinkins,

Assistant Attorney General.

[FR Doc. 82-4123 Filed 2-16-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506.

1. Date: March 8–9, 1982.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Materials: Tools Panel for Literature, Lexicography, Linguistics, and Middle Eastern Studies, Division of Research Programs, for projects beginning after July 1, 1982.
2. Date: March 11–12, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Materials: Tools and Editions Panel on Music, Art and Architecture, Division of Research Programs, for projects beginning after July 1, 1982.
3. Date: March 18–19, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Materials: Editions Panel of American Works, Division of Research Programs, for projects beginning after July 1, 1982.

4. Date: March 25–26, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Materials: Editions Panel for Non-American Works, Division of Research Programs, for projects beginning after July 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commerical or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's delegation of authority to close advisory committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stepehn J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 82-4171 Filed 2-16-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 20, 1982 (47 FR 2963). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1982 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Zimmer Nuclear Power Station*, February 16, 1982, Cincinnati, OH. The Subcommittee will review the safety significance of quality assurance problems associated with plant construction which resulted in a $200,000 fine by NRC/Inspection and Enforcement (I&E). Notice of this meeting was published February 1.

**Byron Station Units 1 and 2*, February 26, 1982, Rockford, IL. The Subcommittee will review the application of the Commonwealth Edison Company for an operating license for Units 1 and 2. Notice of this meeting was published January 20.

**Clinton Power Station Units 1 and 2*, February 25 and 26, 1982, Decatur, IL. the Subcommittee will review the application of the Illinois Power Company for an operating license for Units 1 and 2. Notice of this meeting was published January 20.

**Safety Philosophy, Technology, and Criteria*, February 26, 1982, Washington, DC. The Subcommittee will review the Power Authority of the State of New York's proposal for the Indian Point 3 Systems Interaction Study and the NRC systems interaction program.

**Regulatory Activities*, March 3, 1982, Washington, DC. The Subcommittee will discuss Regulatory Guide 1.28, Revision 3, "Quality Assurance Program Requirements (Design and Construction)", and Proposed Amendment to 10 CFR 50.49 regarding Accreditation of Qualification Testing Organizations.

**Waterford Steam Electric Station*, March 3, 1982, Washington, DC. The Subcommittee will review the Waterford organization, staffing, and training. Notice of this meeting was published January 20.

**Reactor Operations*, March 3, 1982, Washington, DC. The Subcommittee will meet with the staff of the NRC's Office for Analysis and Evaluation of Operational Data to continue discussions on the proposed Licensee Event Report (LER) Rule outlined in SECY–82–3, "Proposed Addition of 10 CFR 50.73 Establishing the Licensee Event Report (LER) System."

**Decay Heat Removal Systems*, March 16, 1982, Washington, DC. The Subcommittee will review the status of Task Action Plan A–45, "Shutdown Decay Heat Removal Requirements" and the effectiveness of PWR Decay Heat Removal Systems with the emphasis on the CESSAR System 80 standard design. Notice of this meeting was published January 20.

**Human Factors*, March 17, 1982, Washington, DC. The Subcommittee will review the Safety Parameter System (SPDS) design concepts and the status of plant diagnostic systems. NUREG–0799, "Draft Criteria for Preparation of Emergency Operating Procedures" will be discussed. Additionally, the Subcommittee will discuss with representatives from industry ACRS concerns related to the management, organization, staffing, and technical resources of utilities that operate nuclear power plants. Other areas to be discussed include: the training of Shift Technical Advisors (STAs) in the areas of plant systems and transient/accident analysis, and Senior Reactor Operator (SRO) training programs and qualification.

**Reactor Operations and R. E. Ginna*, March 18 and 19, 1982, Rochester, NY. The Subcommittee will discuss the January 25, 1982 steam generator tube failure and site emergency incident and the Systematic Evaluation Program (SEP) as applied at Ginna.

**Reliability and Probabilistic Assessment*, March 19, 1982, Washington, DC. The Subcommittee will review the draft Commission Policy Statement on Safety Goals.

**Structural Engineering*, March 22, 1982, Albuquerque, NM. The Subcommittee will review Sandia's containment integrity program, including a visit to the Sandia structural laboratory.

Safeguards and Security, March 23, 1982, Albuquerque, NM. The

Subcommittee will discuss various design features that could be included in future nuclear power plant designs in order to make sabotage more difficult. Notice of this meeting was published January 20.

**Washington Public Power Supply System Unit 2,* March 23 and 24, 1982, Hanford, WA. The Subcommittee will review the application of Washington Public Power Supply System for an operating license.

**Advanced Reactors,* March 25, 26 and 27, 1982, Argonne, IL. The Subcommittee will continue discussion of a report on LMFBR safety philosophy.

**AC/DC Power Systems Reliability,* March 30, 1982, Washington, DC. The Subcommittee will review the status of the Task Action Plan A–44, "Station Blackout" and the implementation of the recommendations of NUREG–0666, "A Probabilistic Safety Analysis of DC Power Supply Requirements for Nuclear Power Plants."

**Clinch River Breeder Reactor,* March 30 and 31, 1982, Washington, DC. The Subcommittee will review the Clinch River Breeder Reactor General Design Criteria.

**Three Mile Island Unit 2 Action Plans,* March 31, 1982, Washington, DC. The Subcommittee will review the proposed modification to 10 CFR Part 50, "Licensing Requirements for Pending Operating License Applications" (rule contains basic requirement of NUREG–0737, "Clarification of TMI Action Plan Requirements").

**Electrical Systems and Emergency Core Cooling Systems,* March 31, 1982, Washington, DC. The Subcommittee will continue to review the NRC- and Industry-sponsored research on core water level indicator instruments and the implementation of core water level indicator installation requirements.

**Nuclear Safety Research Program,* March 31, 1982, Washington, DC. The Subcommittee will continue discussion of the NRC Long-Range Research Program Plan.

**Wolf Creek,* April 21 and 22, 1982, near Topeka, KS. The Subcommittee will review the application of the Kansas Gas and Electric Company, et al. for an operating license.

**Watts Bar,* May 4 and 5, 1982, Washington, DC. The Subcommittee will review the application of the Tennessee Valley Authority for an operating license.

**Reactor Radiological Effects,* Date to be determined, Washington, DC. The Subcommittee will review NUREG–0633, "Environmental Impact Statement on the Siting of Nuclear Power Plants."

**Metal Components,* Date to be determined, Washington, DC. The Subcommittee will continue the review of thermal shock to reactor vessels.

**Clinch River Breeder Reactor and Site Suitability,* Date to be determined, Washington, DC. The Subcommittee will begin site suitability review for the Clinch River Breeder Reactor.

**Transportation of Radioactive Materials,* Date to be determined, Washington, DC. The Subcommittee will continue the review of the adequacy of the NRC procedures for certifying packages for transporting radioactive materials.

ACRS Full Committee Meeting

March 4–6, 1982: Items are *tentatively* scheduled.

*A. *Clinton Power Station Units 1 and 2*—operating license.

*B. *Byron Station Units 1 and 2*—operating license.

*C. *Waterford Steam Electric Station Unit 3*—resolution of outstanding issues applicable to the operating license for this station.

*D. *NRC Regulatory Process*—briefing regarding NRC program to improve quality assurance at operating nuclear power plants.

*E. *Safety Related Activities*—reports of ACRS subcommittees, members and staff members regarding the status of assigned activities including proposed changes in NRC regulatory guides, systems interaction, and quality assurance deficiencies at nuclear power plants.

*F. *Future ACRS Activities*—items proposed for ACRS consideration will be discussed.

April 1–3, 1982: Agenda to be announced.

May 6–8, 1982: Agenda to be announced.

Dated: February 11, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-4136 Filed 2-16-82; 8:45 am]

BILLING CODE 7590-01-M

Proposed Policy Statement on Safety Goals for Nuclear Power Plants

In accordance with its previously announced Plan for Developing a Safety Goal (45 FR 71023, October 27, 1980), the Nuclear Regulatory Commission hereby publishes for public comment a proposed policy statement on safety goals for nuclear power plants. A report discussing the development of the proposed policy statement is being published separately as NUREG–0880, *Safety Goals for Nuclear Power Plants: A Discussion Paper.* A copy of NUREG–0880 is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of NUREG–0880 are available upon written request and at no cost to persons who wish to comment. Requests should be made to the NRC–GPO Sales Program, Attention: Sales Manager, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–9530). Copies may also be purchased from the NRC–GPO Program and the National Technical Information Service, Springfield, Virginia 22161. Comments on the statement and on NUREG–0880 will be considered by the Commission in connection with possible modification of the proposed policy statement before its enunciation in effective form.

Comments are solicited concerning the entire subject matter of this proposed policy statement and NUREG–0880 or any of their aspects. In addition, the Commission requests responses to certain additional, specific questions appearing in this notice.

Written comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, and should be received by May 18, 1982.

Commission plans for public meetings on the proposed policy statement will be announced later.

For further information: Contact Mr. Dennis Rathbun or Mr. George Sege, Office of Policy Evaluation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (202) 634–3276.

Dated at Washington, D.C., this 11th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Safety Goals for Nuclear Power Plants: A Proposed Policy Statement

I. Introduction

A. *Purpose and Scope.* In its response to the recommendations of the President's Commission on the Accident at Three Mile Island, the Nuclear Regulatory Commission (NRC) stated that it was "prepared to move forward with an explicit policy statement on safety philosophy and the role of safety-cost tradeoffs in the NRC safety decisions". This draft policy statement is a step in that direction. Current regulatory practices are believed to ensure that the basic statutory requirement, adequate protection of the public, is met. Nevertheless, current practices could be improved to provide a better means for testing the adequacy

of and need for current and proposed regulatory requirements. The Commission believes that such improvement could lead to more coherent and consistent regulation of nuclear power plants, a more predictable regulatory process, a public understanding of the regulatory criteria that the NRC applies, and public confidence in the safety of operating plants.

Ultimately, an explicit statement of NRC safety policy is needed. Such a statement would state the Commission's views on the acceptable level of risks to public health and safety and on the safety-cost tradeoffs in regulatory decisionmaking.

This proposed policy statement focuses on one matter of special public concern at the present time: nuclear power plant accidents which may release radioactive materials from the reactor to the environment. Except as noted in the following sentence, it is our intent that nuclear power plant accident risks from various initiating mechanisms be taken into account to the best of the capability of current evaluation techniques, even where uncertainties (as with earthquakes) may be substantial. The safety goal does not include risks from routine emissions, from the nuclear fuel cycle, from sabotage, or from diversion of nuclear material. The risks to the public resulting from routine emissions from operating nuclear power plants are addressed in current NRC practice as follows. Before a nuclear power plant is licensed to operate, NRC prepares an environmental impact assessment which includes an evaluation of the radiological impacts of routine operation of the plant on the population in the region around the plant site. The assessment is subjected to public comment and may be extensively probed in adjudicatory hearings. For all plants licensed to operate, NRC has found that there will be no measurable radiological impact on any member of the public from routine operation of the plant. (Reference: NRC staff calculations of radiological impact on humans contained in Final Environmental Statements for specific nuclear power plants, e.g., NUREG–0779 and NUREG–0812.) The objective of the present proposed policy statement is to develop goals for limiting to an acceptable level the additional potential radiological risk which might be imposed on the public as a result of accidents at nuclear power plants.

B. *Development of This Statement of Safety Policy.* In developing this draft policy statement, the Commission has solicited and benefited from the information and suggestions provided by workshop discussions. Two NRC-sponsored workshops have been held, the first in Palo Alto, California, on April 1–3, 1981 and the second in Harpers Ferry, West Virginia, on July 23–24. The first workshop addressed general issues involved in developing safety goals. The second workshop focused on a discussion paper which presented proposed safety goals. Both workshops featured discussions among knowledgeable persons drawn from industry, public interest groups, universities, and elsewhere, and representing a broad range of perspectives and disciplines.

Finally, the Commission received and considered a *Discussion Paper on Safety Goals for Nuclear Power Plants,* submitted in November 1981, by its Office of Policy Evaluation.

In arriving at a final decision on a statement of its nuclear power plant safety policy and goals, the Commission will take into consideration the comments and suggestions received from the public in response to this draft statement.

II. Qualitative Safety Goals

The Commission proposes to adopt qualitative safety goals supported by provisional numerical guidelines. The Commission proposes as its first qualitative safety goal that the risk of a nuclear power plant accident not be a significant contributor to a person's risk of accidental death or injury. The intent is to require a level of safety such that individuals living or working near nuclear power plants should be able to go about their daily lives without special concern by virtue of their proximity to such plants. Thus, the Commission's first proposed safety goal is:

- Individual members of the public should be provided a level of protection from the consequences of nuclear power plant accidents such that no individual bears a significant additional risk to life and health.

The Commission also proposes that a limit be placed on the societal risks posed by reactor accidents. This proposed goal has two elements. First, the risks of accidents should be such that, when added to the risk of normal operation, the total risk to the public from an operating nuclear power plant would be comparable to or less than the risk from other viable means of generating the same quantity of electrical energy. Second, the risks of accidents should be reduced to the extent that is reasonably achievable through the application of available technology. (This principle is already applied to the normal operation of nuclear power plants.) The use of a benefit-cost test on safety improvements to reduce societal risks is implicit in this goal. Thus, the Commission's second proposed safety goal is:

- Societal risks to life and health from nuclear power plant accidents should be as low as reasonably achievable and should be comparable to or less than the risks of generating electricity by viable competing technologies.

The comparative part of this goal is to be interpreted as requiring that the risks from accidents should be low enough that the total risks of nuclear power plants resulting from normal operation and accidents are comparable to or less than the total risks of the operation of competing electricity generating plants.

III. Provisional Numerical Guidelines

A. *General Considerations.* A key element in formulating a safety policy which establishes numerical guidelines is to understand both the strengths and limitations of the techniques by which one judges whether these guidelines have been met.

A major step forward in the development and refinement of accident risk quantification was taken in the Reactor Safety Study completed in 1974. The objective of the Study was "to try to reach some meaningful conclusions about the risk of nuclear accidents." The Study did not directly address the question of what level of risk from nuclear accidents was acceptable.

Since the completion of the Reactor Safety Study, further progress in developing probabilistic risk assessment and in accumulating relevant data has led to recognition that it is feasible to begin to use quantitative reactor safety guidelines for limited purposes. However, because of the sizable uncertainties still present in the methods and the gaps in the data base—essential elements needed to gauge whether the guidelines have been achieved—the quantitative guidelines should be viewed as aiming points or numerical benchmarks which are subject to revision as further improvements are made in probabilistic risk assessment. In particular, because of the present limitations in the state of the art of quantitatively estimating risks, the numerical guidelines are not substitutes for existing regulations.

B. *Numerical Guidelines.* We want to make clear at the beginning of this section that no death attributable to a nuclear power plant accident will ever be "acceptable" in the sense that the Commission would regard it as a routine or permissible event. We are discussing acceptable risks, not acceptable deaths.

In any fatal accident, a course of conduct posing an acceptable risk at one moment results in an unacceptable death moments later. This is true whether one speaks of driving, swimming, flying or generating electricity from coal. Each of these activities poses a calculable risk to society and to individuals. Some of those who accept the risk (or are part of a society that accepts the risk) do not survive it. We intend that no such accident(s) will occur, but the possibility cannot be entirely eliminated. Furthermore, this risk is less than the risk that society will accept from each of the other activities mentioned above during the same 30-year period, including generating the same amount of electricity from coal.

1. *Individual and Societal Mortality Risks.* The Commission proposes the following two provisional numerical guidelines:

- The risk to an individual or to the population in the vicinity of a nuclear power plant site of prompt fatalities that might result from reactor accidents should not exceed one-tenth of one percent (0.1%) of the sum of prompt fatality risks resulting from other accidents to which members of the U.S. population are generally exposed.
- The risk to an individual or to the population in the area near a nuclear power plant site of cancer fatalities that might result from reactor accidents should not exceed one-tenth of one percent (0.1%) of the sum of cancer fatality risks resulting from all other causes.

The Commission proposes this 0.1% ratio of the risks of nuclear power-plant accidents to the risks of accidents of non-nuclear-plant origin to reflect the first qualitative goal, which would provide that no individual bear a significant additional risk. In addition, the 0.1% figure is consistent with the provisions of the second qualitative safety goal, which seeks to keep risks as low as reasonably achievable. It is also consistent with the comparative provision of the second qualitative safety goal, since calculations suggest that the risk of accidents at a nuclear power plant that is consistent with the proposed numerical guidelines would compare favorably with risks of viable competing technologies. The 0.1 percent ratio to other accident risks is low enough to support an expectation that people living or working near nuclear power plants would have no special concern due to the plant's proximity.

The individual risk is taken as the estimated probability of fatality from a nuclear power-plant accident for an individual in the vicinity of the plant, including prompt deaths and delayed deaths. The individual risk limit is applied to the biologically average individual (in terms of age and other risk factors) who resides at a location within 1 mile from the plant site boundary.

In applying the numerical guideline for prompt fatalities as a population guideline, the Commission proposes to define the vicinity as the area within 1 mile of the nuclear power-plant site boundary since calculations of the consequences of major reactor accidents suggest that individuals in the population within a mile of the plant site boundary would be subject to the greatest risk of prompt death attributable to radiological causes. Beyond this distance, atmospheric dispersion and radioactive decay of the airborne radioactive materials sharply reduce the radiation exposure levels and the corresponding risk of prompt fatality.

In applying the numerical guideline for cancer fatalities, as a population guideline, the Commission proposes that the population considered subject to significant risk be taken as the population within 50 miles of the plant site.

A substantial fraction of exposures of the population to radiation would be concentrated within this distance. This guideline would ensure that the potential increase in delayed cancer fatalities from all reactor accidents at a typical site would be no more than a small fraction of the year-to-year normal variation in the expected cancer deaths from non-nuclear causes. Moreover, the limit protecting individuals provides even greater protection to the population as a whole. That is, if the guideline is met for individuals in the immediate vicinity of the plant site, the risk to persons much farther away would generally be much lower than the limit set by the guideline. Thus, compliance with the guideline applied to individuals close to the plant would generally mean that the aggregated societal risk for a 50-mile-radius area would be a number of times lower than it would be if compliance with just the guideline applied to the population as a whole were involved.

2. *Benefit-Cost Guideline.* The Commission proposes a benefit-cost guideline for use in decisions on safety improvements which would reduce individual and societal risks below the levels specified in the first and second numerical guidelines in accordance with the "as low as reasonably achievable" (ALARA) principle. It proposes that a guideline of $1,000 per man-rem averted be adopted for provisional use and subject to revision in the light of public comments.

- The benefit of an incremental reduction of risk below the numerical guidelines for societal mortality risks should be compared with the associated costs on the basis of $1,000 per man-rem averted.

This guideline is intended to encourage the efficient allocation of resources in safety-related activities by providing that the expected reduction in public risk that would be achieved should be commensurate with the costs of the proposed safety improvements. The benefit of an incremental reduction of risk below the numerical guidelines for societal mortality risks should be compared with the associated costs, including all reasonably quantifiable costs (e.g., design and construction of plant modifications, incremental cost of replacement power during mandated or extended outages, changes in operating procedures and manpower requirements).

Justification of proposed plant design changes or corrective actions would be related to the reduction in risk to society measured as a decrease in expected population exposure (expressed in man-rem) under accident conditions. To take into account the fact that a safety improvement would reduce the public risk during the entire remaining lifetime of a nuclear power plant, both the estimated cost of the improvement and the benefit (risk reduction) should be adjusted to reflect only the remaining years during which the plant is expected to operate (i.e., annualized).

The NRC staff has some experience in the use of benefit-cost analysis and criteria in evaluating improvements in the treatment of routine radioactive effluents from nuclear power plants. In 1975 the Commission discussed a benefit-cost value of $1,000/man-rem reduction in the evaluation of improvements proposed to reduce routine radiation exposures. However, the use of a benefit-cost guideline in evaluating means for reducing population risks from power reactor accidents would be new.

3. *Plant Performance Guideline.* An important objective of efforts to reduce the public risk associated with nuclear power plant operation is to minimize the chance of serious reactor core damage since a major release of radioactivity may result from accidents involving core damage. Because of the substantial uncertainties inherent in probabilistic risk assessments of potential reactor accidents, especially in evaluation of accident consequences, the Commission proposes a limitation on the probability of a core melt as a provisional guideline for NRC staff use in the course of reviewing and evaluating probabilistic

risk assessments of nuclear power plants. It is likely that this guideline will need to be revised as new knowledge and understanding of core performance under degraded cooling conditions are acquired. Thus, the Commission proposes the following guideline:

Large-Scale Core-Melt: The likelihood of a nuclear reactor accident that results in a larage-scale core melt should normally be less than one in 10,000 per year of reactor operation.

The Commission also recognizes the importance of mitigating the consequences of a core-melt accident, and continues to emphasize containment, remote siting, and emergency planning as integral parts of the defense-in-dept concept.

IV. Implementation

The application and prospective regulatory use of safety goals and associated numerical guidelines are important considerations in a Commission decision whether to adopt a particular proposed set of goals and guidelines. The Commission's intention is that the goals and guidelines would be used by the NRC staff in conjunction with probabilistic risk assessments and would not substitute for NRC's reactor regulations in 10 CFR Chapter 1. Rather individual licensing decisions would continue at present to be based principally on compliance with the Commission's regulations.

The proposed numerical benefit-cost guideline may be used during the trial period as one consideration in deciding whether corrective measures or safety improvements should be made in plants previously approved for construction or operation. Benefits should be measured in terms of estimated annual reduction in radiological risk due to reactor accidents. Costs of safety improvements should be annualized over remaining plant life.

In all applications of the goals and guidelines, the probabilistic risk assessments, if performed, should be documented, along with the associated assumptions and uncertainties, and considered as one factor among others in the regulatory decisionmaking process. The nature and extent of the consideration given to the numerical guidelines in individual regulatory decisions would depend on the issue itself, the quality of the data base, and the reach and limits of analyses involved in the pertinent probabilistic calculations. The proposed numerical guidelines should aid professional judgment, not replace judgment with mathematical formulas.

The Commission is requesting the staff to develop a specific action plan for implementation of the proposed qualitative safety goals and numerical guidelines. The plan should indicate for Commission review and approval how the NRC staff plans to use the goals and guidelines in conjunction with the probabilistic risk assessments. The plan, along with the public comments on this policy statement and the discussion paper (NUREG–0880), will be considered by the Commission in reaching a final decision on the adoption of a reactor safety policy statement and its associated goals and guidelines.

Additional Questions

A number of basic issues have been raised in connection with the development of the policy statement. The Commission requests comments on the issues posed by the following questions as well as on all other aspects on which commentors wish to offer views.

1. *Background:* The proposed benefits-cost guideline provided in futherance of the "as low as reasonably achievable" (ALARA) principle would set a numerical formula of $1000 per man-rem averted for consideration in tradeoffs of societal mortality risk reductions against the cost of achieving them. The discussion paper describes the basis of the trade-off calculations as follows: "The benefits of an incremental reduction of risk below the numerical guidelines for societal mortality risks should be calculated for the population reasonably expected to be within 50 miles of the nuclear power plant site. The associated costs should include all reasonably quantifiable costs (e.g., design and construction of plant modifications, incremental cost of replacement power during mandated or extended outages, changes in operating procedures and manpower requirements)."

Question: Should the benefit side of the tradeoffs, include, in addition to the mortality risk reduction benefits, the economic benefit of reducing the risk of economic loss due to plant damage and contamination outside the plant?

2. *Background:* The primary numerical guidelines address the permissible net residual health risks after application of all elements of a defense-in-depth safety philosophy. Safety against core melt and interity of containment are two of the chief elements of that defense in depth. A further guideline sets a proposed numerical limit on core-melt probability. However, for reasons stated in the paper (NUREG–0880), no numerical guidelines for containment failure risk is included. Instead, qualitative and the operation of the other numerical guidelines are relied on to guide regulation of containment effectiveness.

Question: Should there be added a numerical guideline on availability of containment function, given a large scale-core melt?

3. *Background:* The last paragraph of the proposed policy statement calls on the NRC staff to develop, for Commission review, an action plan for implementation of the goals and numerical guidelines. The policy statement as well as the discussion paper (NUREG–0880) provide guidance on the implementation approach to be employed, but only in rather general terms. Comments and suggestions are solicited for consideration in development of a detailed approach to implementing the safety policy. Responses to the following specific questions would be welcome:

Question: a. What further guidance, if any, should be given for decisions under uncertainty?

b. What further guidance, if any, should be given on resolution of possible conflicts among quantitative aspects of some issue?

c. What approach should be used with respect to accident initiator which are difficult to quantify, such as seismic events, sabotage, multiple human errors, and design errors?

d. Should there be definition of the numerical guidelines in terms of median, mean, 90 percent confidence, etc.? If so, what should be the terms?

e. Should the staff action plan include further specification of a process which will lend credibility to the use of quantitative guidelines and methodology? If so, what should be the principal bases and elements of such guidance?

f. On what basis should the numerical guidelines be applied to protection of individuals? Should they be applied to the individual at greatest risk, or should they be used in terms of an average risk limit over a region near the plant? Any comments or suggestions pertaining to the present discussion of this topic (or other specifics) would be welcome.

4. *Background:* The Advisory Committee on Reactor Safeguards has proposed, as part of a safety-goal approach "intended to serve as one focus for discussion," that greater weight should be given to a single very severe accident than to a number of smaller accidents with the same total consequences. (NUREG–0739). The ACRS proposal includes a specific quantitative formula for reflecting such "risk aversion." the risk aversion concept and the ACRS formula were discussed in the NRC-sponsored safety-goal workshops, with controversial results. As pointed out in the discussion paper (NUREG–0880), some elements of the defense-in-depth approach (containment, remote siting, emergency plans) aim at mitigation of severe accidents. However, the proposed guidelines include no specific risk-aversion formula.

Question: Should there be specific provision for "risk aversion"? If so, what quantitative or other specific provision should be made?

Separate Views of Commissioner Bradford

The draft safety goal contains an implicit maximum theoretical acceptable consequence from nuclear power plant accidents of some 13,000 deaths over the life of the 150 plants now in operation or

under licensing review.[1] Although the Commission staff does not dispute the validity of this calculation, the Commission declines to include it in the material put forth for comment.

While one must approach this calculation warily for several reasons, including the inadequacy of the data base, the difficulty of verification, and the omission of nonaccident related deaths and other health effects, the Commission's refusal to state it at all is a sad mistake. The fact is that society seems likely to accept a maximum theoretical risk of more deaths during the period in question from a number of other sources, including generating electricity from coal. However, the Commission's refusal to put forth any clear "bottom line" for comment, attaching whatever cautionary language it finds necessary,[2] undermines forthright discussion of the goal and recalls the past regulatory overprotectiveness of nuclear power that has helped to bring the technology into disrepute today.

Additional Views of Chairman Palladino, Commissioner Ahearne, and Commissioner Roberts

Commissioner Bradford states that our safety goal would set as the maximum theoretical acceptable consequence from nuclear power accidents some 13,000 deaths over the life of the 150 plants now in operation or under licensing review.

While numerical guideline limits may be summed over the lifetime of the present LWR industry, the result, without proper qualifications, is misleading.

The first qualification is that the proposed guidelines on risk should be viewed from the perspective that they are expressed as ratios to the risks of accidental and cancer death commonly experienced by the U.S. population. This ratio is 1:1000. Thus, the estimate of 13,000 fatalities from nuclear power plant accidents over the LWR industry lifetime should be viewed in relation to the 13 million fatalities in the same relevant population during the same approximate time period as a result of accidents and cancer (not stemming from nuclear power plant accidents).

The second qualification is that the proposed numerical guidelines are based on an accident radiological source term that may be overstated by an order of magnitude.

A third qualification relates to the stringency of the proposed core-melt guideline. The proposed core-melt guideline value together with a reasonably assumed containment reliability would have the effect of limiting to a small number the probability of a major release of radioactive materials from a large-scale core-melt accident during the present LWR industry's remaining lifetime in the United States. The core-melt probability guideline may be more stringent than the guidelines for individual and population risks.

Additional Views of Commissioner Ahearne

I disagree with Commissioner Bradford's "implicit maximum theoretical acceptable consequence" statement, for an additional reason. If accidents were to occur which did lead to loss of hundreds of lives, additional safety measures would undoubtedly be required. Thus I believe the number calculated by Commissioner Bradford would never be approached.

Separate Views of Commissioner Gilinsky

I will be interested in comments on the proposed NRC "safety goal". I do not, however, support this proposal.

The proposed guidelines are too remote from the nitty-gritty hardware decisions that have to be made every day by designers, builders, operators, and regulators to be of much use. It is difficult to see how the proposed safety goal would have helped the Commission to decide questions such as: How much environmental qualification of reactor safety equipment will be required? Or reactor fire protection? Or reactor security? It is, in fact, so hard to tell what the implications of the proposed safety goals are that one doesn't know whether to agree or disagree with them, quite apart from knowing whether they are workable or not.

Guidance of the sort we are talking about is, of course, necessarily general. The object is to state a "safety doctrine" which expresses the Commission's purposes and the general means by which they will be achieved. Such a statement could help bridge the gap between the law's broad but vague instructions—"adequate protection to the health and safety of the public" (Section 182a of the Atomic Energy Act (42 U.S.C. Sec. 2232))—and the specific day-to-day decisions faced by the Commission and its staff, so that every new decision does not require a return to the Act, the fundamentals of mathematics, and the laws of nature for a redetermination of how much protection is "adequate." Bridging the gap could help the Commission reach more consistent and coherent decisions, and to make them more quickly. However, the statement will not serve this purpose if it is too general or too abstract; and that is exactly the trouble with the safety goal proposed by the Commission. This probably results from the way in which the proposal was put together, starting with abstract propositions about safety goals and refining these notions in a series of seminars.

Starting with a grand overall safety goal has the appeal of logical neatness, but it is not the way to go about dealing with our needs: devising specific guidance for dealing with some very difficult practical questions. The effort to develop such guidance has to start with these practical questions. The most pressing one is how to handle "backfitting"; that is, to what extent shall new requirements be applied to plants that have already received authorization for construction or operation? As a practical matter, essentially all the decisions the Commission will face over the next decade will be of this type. I would especially welcome public comment on the relation of the Commission's proposal to this question.

In principle, the backfitting problem is addressed by that part of the safety goal which sets a value of "$1,000 per man-rem of public exposure avoided." In practice, there are so many calculational steps and questionable assumptions between the $1,000 and the man-rem of radiation exposure to the public in the vicinity of the reactor that the connection between the two is in most cases too loose to serve as a guide to decision. It is an illusion to think, as the Commission apparently does, that "probabilistic risk assessment" will alter that picture in the foreseeable future.

The only reliable guides to reactor safety remain time-tested engineering principles: redundant and diverse means of protection against core damage, sound containment, sufficient distance

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[1] The calculation is 4000 reactor years × 1.7 million people as the average population within 50 miles of a plant × (1.9×10^{-6}, which is 0.1% of the cancer risk from all sources.) Five hundred of the expected 4500 reactor years have, of course, already occurred.

[2] I should note in this context that most of the "qualifications" stated by other Commissioners to these views are not really qualifications. They stated in essence that the safety goal is not really the one set forth here for comment but is somthing lower, determined by one piece of the proposed goal or, in Commissioner Ahearne's case, by future experience unless the first accident should approach 13,000 fatalities. If this is the case—and I do not know that it is not—then the Commission has issued the wrong goal for comment.

[1] Memorandum in Connection with Stipulation and Modification of Final Judgment filed in the New Jersey District Court on January 8, 1982, a copy of which has been provided to the District of Columbia District Court.

from populated areas, effective emergency preparedness, and, of course, careful attention to quality assurance in construction and operation. To provide guidance to the NRC technical staff and the nuclear industry, and to inform the public, the Commission should distill its experience and state clearly and succinctly that each of these principles must be satisfied separately, and how this is to be done. Unfortunately, the Commission seems to be on an opposite course. It seems to be headed in the direction of allowing these guiding principles to be traded off one against the other without limit. (For example, the Commission has, in effect, dropped the siting rulemaking which would have required uniform minimum distances between nuclear power plants and surrounding populations.) The Commission appears to assume that probabilistic risk assessment will prove to be sufficiently workable and accurate to check whether these trade-offs will result in plants which meet the safety goals the Commission expects to adopt. This would amount to delegating the Commission's safety decisionmaking to complex computer programs that no one fully understands and which may or may not turn out to contain errors.

The use of systematic analytical techniques to review nuclear plants *does* deepen understanding of complex reactor systems and their interactions. Such analysis is also helpful in assessing the effect of backfits. The staff's work on assessing the reliability of auxiliary feedwater systems provides a good example of the usefulness of these techniques. But their limitations, especially where reliability data is lacking, should be kept in mind.

Finally, we should understand that the safety goals we are speaking of here are intended to help us decide on the minimum safety requirements which will be imposed. The goals naturally have to recognize that more safety, generally speaking, costs more money and that, at some point in the process of increasing safety, additional money is better spent elsewhere. Yet, despite these monetary limitations and the fact that only minimum hardware requirements are imposed, the electric utilities should, with sufficient care, be able to avoid large accidents altogether, and that should be the safety goal for each facility. Nuclear power plant staffs should be instructed to prevent severe reactor core damage and to prevent significant uncontrolled releases of radioactivity from containment under all circumstances.

I want to add that I agree with Commissioner Bradford that the Commission's statement should have included his observations on the number of deaths implied by the Commission's goals. The Commission's unwillingness to display these numbers, with which it does not disagree, is a small but revealing sign that it does not trust the public's good sense.

[FR Doc. 82-4121 Filed 2-16-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment adds 120 snubbers to Table 3.7-3 of the TSs and designates all snubbers in the reactor building as inaccessible during reactor operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1979, as revised December 28, 1981, (2) Amendment No. 50 to Licensee No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82-4068 Filed 2-16-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of January 12, 1982.

The amendment deletes condenser cooling water temperature limits from the Environmental Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the deletion of condenser cooling water temperature limits is a ministerial action required as a matter of law and that therefore no environmental impact statement or environmental impact appraisal and negative declaration need be prepared in connection with this action.

For further details with respect to this action, see (1) the application for amendment dated May 4, 1979, (2)

Amendment No. 63 to License No. DPR–40, and (3) the Commission's related letter dated February 3, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 3rd day of February, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82–4059 Filed 2–16–82; 8:45 am]

BILLING CODE 7590–01–M

Adisory Committee on Reactor Safeguards Subcommitte on Waterford Steam Electric Station Unit No. 3;

Meeting

The ACRS Subcommitte on Waterford Steam Electric Station Unit No. 3 will hold a meeting on March 3, 1982, Room 1167, 1717 H Street, NW., Washington, DC. The Subcommittee will continue its review of the organization, mangement capability, and staffing and any other issues related to the application of the Louisiana Power and Light Company for an operating license. Notice of this meeting was published January 20.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981, (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arragements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Wednesday, March 3, 1982—1:00 p.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Louisiana Power and Light Company, NRC Staff, their consultants, and other interested persons regarding this review.

Futher information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or the Staff Engineer, Mr. Stuart K. Beal (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. Theauthority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552(b)(c)(4).

Dated: February 10, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–4137 Filed 2–16–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1982.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of February 1, 1982 of three rescission proposals and 221 deferrals contained in the first seven messages of FY 1982. These messages were transmitted to the Congress on Ocober 1, 20, 23, and 29, and November 6, and 13, 1981, and January 22, 1982.

Rescissions (Table A and Attachment A)

One rescission proposal totaling $20.5 million is currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of February 1, 1982, while Attachment A shows the history and status of each rescission proposed during FY 1982.

Deferrals (Table B and Attachment B)

As of February 1, 1982, $2,165.2 million in 1982 budget authority was being deferred from obligation and another $1.5 million in 1982 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1982.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** of:

Friday, October 16, 1981 (Part VII, Vol. 46, No. 200)
Monday, October 26, 1981 (Part IV, Vol. 46, No. 206)
Friday, October 30, 1981 (Part XI, Vol. 46, No. 210)
Tuesday, November 3, 1981 (Part III, Vol. 46, No. 212)
Thursday, November 12, 1981 (Part V, Vol. 46, No. 218)
Thursday, November 19, 1981 (Part IV, Vol. 46, No. 223)
Wednesday, January 27, 1982 (Part IV, Vol. 47, No. 18)

David A. Stockman,

Director.

BILLING CODE 3110–01–M

TABLE A

STATUS OF 1982 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 108.7
Accepted by the Congress	-0-
Rejected by the Congress	-88.2
Pending before the Congress	$ 20.5

* *

TABLE B

STATUS OF 1982 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$ 4,709.4
Routine Executive releases (-$2,307.0 million) and adjustments ($33.8 million) through February 1, 1982.	-2,273.3
Overturned by the Congress	-249.5
Currently before the Congress	$ 2,186.7 a.

* Detail does not add to total due to rounding.

a. This amount includes $1.5 million in outlays for a Department of the Treasury deferral (D82-23).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 02/04/82 17:57

AS OF FEBRUARY 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF DEFENSE - MILITARY BA							
Procurement							
Aircraft procurement, Air Force BA	R82- 1	65,700		10 23 81		65,700	12 14 81
Missile procurement, Air Force BA	R82- 2	22,500		10 23 81		22,500	12 14 81
DEPARTMENT OF DEFENSE - MILITARY TOTAL BA		88,200				88,200	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund BA	R82- 3		20,500a	11 6 81			
OTHER INDEPENDENT AGENCIES TOTAL BA			20,500				
TOTAL BA		88,200	20,500			88,200	

a. This is a proposal to rescind FY 1983 funds.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
EXECUTIVE OFFICE OF THE PRESIDENT									
White House Office									
Salaries and Expenses	BA	D82- 27	366		10 20 81	-366			
Special Assistance to the President									
Salaries and Expenses	BA	D82- 28	28		10 20 81	-28			
Council of Economic Advisers									
Salaries and Expenses	BA	D82- 86	32		10 23 81	-32			
Council on Envir. Quality & Office of Envir. Qual.									
Salaries and Expenses	BA	D82- 29	9		10 20 81	-9			
Office of Policy Development									
Salaries and Expenses	BA	D82- 30	45		10 20 81	-45			
National Security Council									
Salaries and Expenses	BA	D82- 31	62		10 20 81	-62			
Office of Administration									
Salaries and expenses	BA	D82- 32	139		10 20 81	-139			
OMB, Office of Fed. Procurement Policy									
Salaries and expenses	BA	D82- 33	24		10 20 81	-24			
Office of Science and Technology Policy									
Salaries and expenses	BA	D82- 34	30		10 20 81	-30			
Office of the U.S. Trade Representative									
Salaries and expenses	BA	D82- 35	78		10 20 81	-78			
EXECUTIVE OFFICE OF THE PRESIDENT TOTAL	BA		813			-813			
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	BA	D82- 1	15,000		10 1 81				
	BA	D82- 1A		a	1 22 82				15,000
Disaster Relief									
Disaster relief	BA	D82-158	7,000		10 29 81	-7,000			
	BA	D82-159	138,000		10 29 81	-138,000			
International Security Assistance									
Economic support fund	BA	D82-219	1,756,980		1 22 82	-337,000			1,419,980
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		1,916,980			-482,000			1,434,980
DEPARTMENT OF AGRICULTURE									
Office of the Secretary									
Office of the Secretary	BA	D82-160	25		10 29 81	-25			
Agricultural Research Service									
Agricultural research service	BA	D82-161	1,813		10 29 81	-1,813			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
Cooperative State Research Service									
Cooperative state research service	BA	D82-162	2,780		10 29 81	-2,780			
Extension Service									
Extension service	BA	D82-163	1,990		10 29 81	-1,990			
National Agricultural Library									
National agricultural library	BA	D82-164	93		10 29 81	-93			
Statistical Reporting Service									
Statistical reporting service	BA	D82-165	198		10 29 81	-198			
Agricultural Cooperative Service									
Agricultural cooperative service	BA	D82-166	39		10 29 81	-39			
Office of Internat. Cooperation and Development									
Scientific activities overseas	BA	D82-167	700		10 28 81	-700			
Rural Electrification Administration									
Rural electr. and telephone revolving fund	BA	D82-168	49,368b		10 29 81	-49,368			
Foreign Assistance Programs									
Expenses, P.L. 480	BA	D82- 36	25,696		10 20 81	-25,696			
Agricultural Stabilization & Conservation Service									
Dairy and beekeeper indemnity programs	BA	D82- 88	28		10 23 81	-28			
Agricultural conservation	BA	D82- 87	8,600		10 23 81	-8,600			
Emergency conservation program	BA	D82-168	1,400		10 29 81	-1,400			
Farmers Home Administration									
Salaries and expenses	BA	D82-171	526		10 29 81	-526			
Rural housing for domestic farm labor	BA	D82-173	1,750		10 29 81	-1,750			
Mutual and self-help housing	BA	D82-174	490		10 29 81	-490			
Rural water and waste disposal	BA	D82-170	8,680		10 29 81	-8,680			
Rural community fire protection grants	BA	D82-172	490		10 29 81	-490			
Agricultural credit insurance fund	BA	D82-175	1,316		10 29 81	-1,316			
Rural development insurance fund	BA	D82-176	21,000		10 29 81	-21,000			
Soil Conservation Sevice									
Watershed and flood prevention operations	BA	D82- 89	8,926		10 23 81	-8,926			
Animal and Plant Health Inspection Service									
Animal and plant health inspection service	BA	D82- 90	4,125		10 23 81	-4,125			
Buildings and facilities	BA	D82-177	236		10 29 81	-236			
Agricultural Marketing Service									
Payments to States and possessions	BA	D82-178	210		10 29 81	-210			
Food and Nutrition Service									
Food program administration	BA	D82-209	487		11 6 81	-487			
Child nutrition programs	BA	D82-210	473		11 6 81	-473			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
Special supplemental food programs (WIC)	BA	D82-211	13,831		11 6 81	-13,831			
Forest Service									
State and private forestry	BA	D82- 92	776		10 23 81	-776			
	BA	D82-179	657		10 29 81	-657			
Agricultural research	BA	D82- 91	1,348		10 23 81	-1,348			
National forest system	BA	D82- 93	12,516		10 23 81	-12,516			
	BA	D82-180	1,059		10 29 81	-1,059			
Construction and land acquisition	BA	D82- 94	6,693		10 23 81	-6,693			
Timber salvage sales	BA	D82- 2	6,723		10 1 81				
	BA	D82- 2A		561	1 22 82				7,284
Rangeland improvements	BA	D82- 96	109		10 23 81	-109			
Acquisition of lands to complete land exchanges	BA	D82- 95	6		10 23 81	-6			
Expenses, brush disposal	BA	D82- 3	49,349		10 1 81				49,349
DEPARTMENT OF AGRICULTURE TOTAL	BA		234,518	561		-178,447			56,633
DEPARTMENT OF COMMERCE									
General Administration									
Participation in U.S. expositions	BA	D82- 4	507		10 1 81	-32			475
Economic and Statistical Analysis									
Salaries and expenses	BA	D82- 97	420		10 23 81	-420			
Economic Development Administration									
Economic development assistance programs	BA	D82- 98	38,855		10 23 81	-38,855			
Minority Business Development Agency									
Minority business development	BA	D82- 99	857		10 23 81	-857			
United States Travel Service									
Salaries and expenses	BA	D82-181	287		10 29 81	-287			
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D82-100	12,891		10 23 81	-12,891			
Construction	BA	D82- 5	2,000		10 1 81				
	BA	D82- 5A		a	1 22 82				2,000
National Telecom. and Information Admin.									
Salaries and expenses	BA	D82-101	277		10 23 81	-277			
DEPARTMENT OF COMMERCE TOTAL	BA		56,094			-53,619			2,475
DEPARTMENT OF DEFENSE-MILITARY									
Military Construction									
Military construction, all services	BA	D82- 6	38,837		10 1 81	-33,799	33,799		
	BA	D82- 6A		14,101	1 22 82				52,938
Family Housing, Defense									
Family housing, Defense	BA	D82- 7	1,992		10 1 81	-1,992			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
DEPARTMENT OF DEFENSE-MILITARY									
TOTAL BA			40,839	14,101		-35,791		33,799	52,938
DEPARTMENT OF DEFENSE-CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	BA	D82- 37	85		10 20 81	-85			
Corps of Engineers									
General investigations	BA	D82- 38	2,068		10 20 81	-2,068			
Construction, general	BA	D82- 39	14,284		10 20 81	-14,284			
General expenses	BA	D82- 40	370		10 20 81	-370			
Special recreation use fees	BA	D82- 41	59		10 20 81	-59			
Soldiers and Airmen s Home									
Operation and maintenance	BA	D82- 42	63		10 20 81	-63			
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D82- 8	897		10 1 81	-8		8	
	BA	D82- 8A		433	1 22 82				1,030
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			17,526	433		-16,937		8	1,030
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy R&D	BA	D82-105	14,769		10 23 81	-14,769			
Fossil energy construction	BA	D82- 9	135,000		10 1 81		-135,000		
Strategic Petroleum Reserve	BA	D82- 10	8,000		10 1 81				8,000
Gen. science & research-plant & capital	BA	D82-102	1,682		10 23 81	-1,682			
Energy supply R&D-operating expenses	BA	D82-103	48,093		10 23 81	-48,383			
Energy supply R&D-plant and capital equip.	BA	D82-104	11,949		10 23 81	-11,949			
Energy conservation	BA	D82-106	14,007		10 23 81	-14,007			
Energy information administration	BA	D82-107	2,042		10 23 81	-2,042			
Economic regulation	BA	D82-108	2,436		10 23 81	-2,436			
Federal Energy Regulatory Commission	BA	D82-109	490		10 23 81	-490			
Geothermal resources development fund	BA	D82-110	18		10 23 81	-18			
DEPARTMENT OF ENERGY TOTAL BA			239,786			-96,786	-135,000		8,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Services Administration									
Health Services	BA	D82- 11	1,508		10 1 81				1,908
Indian health services	BA	D82-212	10,950		11 6 81	-10,950			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 — AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
Centers for Disease Control									
Preventive Health Services									
	BA	D82-213	791		11 6 81	-791			
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital									
	BA	D82- 12	11,500		10 1 81				
	BA	D82- 12A		a	1 22 82				11,500
Office of Assistant Secretary for Health									
Health services management									
	BA	D82-214	1,142		11 6 81	-1,142			
Special foreign currency program									
	BA	D82- 13	7,000		10 1 81				
	BA	D82- 13A		a	1 22 82				7,000
Health Care Financing Administration									
Program management									
	BA	D82-215	420		11 6 81	-420			
Social Security Administration									
Refugee assistance									
	BA	D82- 43	10,000		10 20 81	-10,000			
Cuban and Haitian entrants, reception & process.									
	BA	D82- 44	4,900		10 20 81	-4,900			
	BA	D82- 44A		a	1 22 82				
Cuban and Haitian entrants, domestic asst.									
	BA	D82- 45	37,000		10 20 81				
	BA	D82- 45A		11,398	1 22 82	-48,398			
Human Development Services									
Work incentives									
	BA	D82-216	10,523		11 6 81	-10,523			
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA			95,734	11,398		-87,124			20,008
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Subsidized housing programs									
	BA	D82-182	79,218		10 29 81	-79,218			
Payments for operation of low income housing									
	BA	D82-183	102,452		10 29 81	-102,452			
Housing for the elderly or handicapped									
	BA	D82-111	14,294		10 23 81	-14,294			
Solar Energy and Energy Conserv. Bank									
Assist. for solar and conserv. improvements									
	BA	D82-184	3,500		10 29 81	-3,500			
Community Planning and Development									
Community development support assistance									
	BA	D82-112	61,589		10 23 81	-61,589			
Urban development action grants									
	BA	D82-113	8,412		10 23 81	-8,412			
Rehabilitation loan fund									
	BA	D82-185	26,959		10 29 81	-26,959			
Neighborhoods, Vol. Assoc. & Consumer Prot.									
Housing counseling assistance									
	BA	D82- 46	307		10 20 81	-307			
Policy Development and Research									
Research and technology									
	BA	D82- 47	420		10 20 81	-420			
Fair Housing and Equal Opportunity									
Fair housing assistance									
	BA	D82- 48	96		10 20 81	-96			
Management and Administration									
Salaries and expenses									
	BA	D82-186	3,590		10 29 81	-3,590			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
TOTAL BA		300,737			-300,737			
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Acquisition, construction and maintenance								
BA	D82- 49	121		10 20 81	-121			
Range improvements								
BA	D82-114	237		10 23 81	-237			
Bureau of Reclamation								
Loan program								
BA	D82-115	792		10 23 81	-792			
Construction program								
BA	D82-116	4,603		10 23 81	-4,603			
General investigations								
BA	D82-117	944		10 23 81	-944			
Operations and maintenance								
BA	D82-118	64		10 23 81	-64			
General administrative expenses								
BA	D82-119	353		10 23 81	-353			
Office of Water Research & Technology								
Salaries and expenses								
BA	D82-120	600		10 23 81	-600			
U.S. Fish and Wildlife Service								
Resource management								
BA	D82-121	5,815		10 23 81	-5,815			
Construction and anadromous fish								
BA	D82- 50	392		10 20 81	-392			
National Park Service								
Urban park and recreation grants								
BA	D82-125	1,400		10 23 81	-1,400			
Operation of the National Park Service								
BA	D82-122	5,216		10 23 81	-5,216			
John F. Kennedy Center for the Performing Arts								
BA	D82-124	40		10 23 81	-40			
Construction								
BA	D82-123	5,207		10 23 81	-5,207			
Land and water conservation fund								
BA	D82-126	16,256		10 23 81	-16,256			
BA	D82- 14	30,000		10 1 81				30,000
Historic preservation fund								
BA	D82-218	108		11 13 81	-108			
Geological Survey								
Surveys, investigations and research								
BA	D82- 51	9,019		10 20 81	-9,019			
Exploration of National Petroleum Res. in Alaska								
BA	D82- 52	80		10 20 81	-80			
Payments from proceeds, sale of water								
BA	D82- 15	45		10 1 81				45
Office of Surface Mining Reclam. and Enforcement								
Regulation and technology								
BA	D82- 53	1,245		10 20 81	-1,245			
Bureau of Mines								
Drainage of anthracite mines								
BA	D82- 16	981		10 1 81				981
Mines and minerals								
BA	D82- 54	2,600		10 20 81	-2,600			
Bureau of Indian Affairs								
Operation of Indian programs								
BA	D82-127	16,607		10 23 81	-16,607			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
Construction	BA	D82-128	148		10 23 81	-148			
Road construction	BA	D82-129	279		10 23 81	-279			
Office of Territorial Affairs									
Administration of territories	BA	D82- 55	2,439		10 20 81	-2,439			
Trust territory of the Pacific Islands	BA	D82- 56	2,068		10 20 81	-2,068			
Office of the Solicitor and Office of the Secy									
Departmental management	BA	D82-130	414		10 23 81	-414			
Youth conservation corps	BA	D82-131	2,494		10 23 81	-2,494			
DEPARTMENT OF THE INTERIOR TOTAL	BA		110,577			-79,541			31,036
DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses	BA	D82-187	250		10 29 81	-250			
	BA	D82-188	196		10 29 81	-196			
United States Parole Commission									
Salaries and expenses	BA	D82-189	60		10 29 81	-60			
Legal Activities									
Salaries and expenses, Antitrust Division	BA	D82-190	81		10 29 81	-81			
Salaries and expenses, Foreign Claims Settl.	BA	D82-191	12		10 29 81	-12			
Federal Prison System									
Buildings and facilities	BA	D82-192	1,922		10 29 81	-1,922			
	BA	D82- 17	2,700		10 1 81				2,700
Office of Justice Assist., Res., and Statistics									
Law enforcement assistance	BA	D82-193	10,729		10 29 81	-10,729			
DEPARTMENT OF JUSTICE TOTAL	BA		15,950			-13,250			2,700
DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance	BA	D82-194	407,670		10 29 81	-407,670			
	BA	D82- 18	49,881		10 1 81	-49,881			
Occupational Safety and Health Admin.									
Salaries and expenses	BA	D82-195	8,500		10 29 81	-8,500			
DEPARTMENT OF LABOR TOTAL	BA		466,051			-466,051			
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Emergencies in dipl. and consular service	BA	D82- 58	84		10 20 81	-84			
Acquis., oper. and main. of buildings abroad	BA	D82- 57	514		10 20 81	-514			
International Commissions									
Salaries and expenses	BA	D82- 59	80		10 20 81	-80			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-4-82
Construction									
	BA	D82- 60	20		10 20 81	-20			
American sections, internat. commissions									
	BA	D82- 61	25		10 20 81	-25			
Other									
Emergency refugee and migration assistance fund									
	BA	D82- 19	35,043		10 1 81				
	BA	D82- 19A		100	1 22 82				35,143
DEPARTMENT OF STATE									
TOTAL BA			35,768	100		-723			35,143
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D82- 20	3,446		10 1 81	-3,400			46
Facilities & equip. (Airport & airway trust fund)									
	BA	D82- 21	185,783		10 1 81				
	BA	D82- 21A		164,730	1 22 82				350,513
Federal Railroad Administration									
Grants to National Railroad Passenger Corp.									
	BA	D82-217	93,400		11 6 81	-12,740	-80,660		
Research and Special Programs Administration									
Research and special programs									
	BA	D82-220	1,050		1 22 82				1,050
DEPARTMENT OF TRANSPORTATION									
TOTAL BA			283,678	164,730		-16,140	-80,660		351,609
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
International affairs									
	BA	D82-196	109		10 29 81	-109			
Office of Revenue Sharing									
Salaries and expenses									
	BA	D82-197	26		10 29 81	-26			
State and local government fiscal assistance fund									
	BA	D82- 22	109,738		10 1 81	-4,122		16	105,632
	O	D82- 23	6,287		10 1 81	-4,812			1,475
Federal Law Enforcement Training Center									
Salaries and expenses									
	BA	D82-198	240		10 29 81	-240			
	BA	D82- 24	4,200		10 1 81				4,200
Bureau of Government Financial Operations									
New York City loan guarantee program									
	BA	D82-199	16		10 29 81	-16			
Chrysler Corporation loan guarantee program									
	BA	D82-200	23		10 29 81	-23			
Bureau of Alcohol, Tobacco and Firearms									
Salaries and expenses									
	BA	D82-201	1,039		10 29 81	-1,039			
Bureau of the Mint									
Expansion and improvements									
	BA	D82-132	706		10 23 81			-70	
Internal Revenue Service									
Payment where energy credit exceeds liab. for tax									
	BA	D82-202	8		10 29 81	-8			
DEPARTMENT OF THE TREASURY									
TOTAL BA			115,469			-5,583		-54	105,832
TOTAL O			6,287			-4,812			1,475

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	BA	D82-133	1,889		10 23 81	-1,889			
Abatement, control and compliance	BA	D82-134	8,062		10 23 81	-8,062			
Buildings and facilities	BA	D82-135	69		10 23 81	-69			
Hazardous substance response trust fund	BA	D82-136	3,360		10 23 81	-3,360			
ENVIRONMENTAL PROTECTION AGENCY TOTAL	BA		13,380			-13,380			
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Construction of facilities	BA	D82-137	2,800		10 23 81	-2,800			
NATIONAL AERONAUTICS & SPACE ADMINISTRATION TOTAL	BA		2,800			-2,800			
VETERANS ADMINISTRATION									
Medical and prosthetic research	BA	D82-138	2,583		10 23 81	-2,583			
Medical admin. and misc. operating expenses	BA	D82-139	921		10 23 81	-921			
Construction, major projects	BA	D82-140	91,300		10 23 81		-33,800		57,500
	BA	D82-141	7,877		10 23 81	-7,877			
Construction, minor projects	BA	D82-142	907		10 23 81	-907			
VETERANS ADMINISTRATION TOTAL	BA		103,588			-12,288	-33,800		57,500
OTHER INDEPENDENT AGENCIES									
ACTION									
Operating expenses, domestic programs	BA	D82- 62	2,896		10 20 81	-2,896			
Administrative Conference of the U. S.									
Salaries and expenses	BA	D82-143	16		10 23 81	-16			
Advisory Committee on Federal Pay									
Salaries and expenses	BA	D82-144	4		10 23 81	-4			
Arms Control and Disarmament Agency									
Arms control and disarmament agency	BA	D82- 63	282		10 20 81	-282			
Board for International Broadcasting									
Salaries and expenses	BA	D82- 64	252		10 20 81	-252			
Comm. for the Purchase From the Blind									
Salaries and expenses	BA	D82- 65	10		10 20 81	-10			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
Equal Employment Opportunity Commission									
Salaries and expenses	BA	D82-145	3,000		10 23 81	-3,000			
Federal Emergency Management Agency									
State and local assistance	BA	D82-205	1,814		10 29 81	-1,814			
National flood insurance fund	BA	D82-203	7,140		10 29 81	-7,140			
	BA	D82-204	358,860		10 29 81	-358,860			
General Services Administration									
Consumer information center	BA	D82- 68	26		10 20 81	-26			
Nat. Archives & Records Service-operating	BA	D82- 66	140		10 20 81	-140			
Federal Property Resources Service-operating	BA	D82- 67	748		10 20 81	-748			
Automated Data & Telecom. Service-operating	BA	D82-206	120		10 29 81	-120			
Advisory Commission on Intergovt. Relations									
Salaries and expenses	BA	D82- 69	10		10 20 81	-10			
Delaware River Basin Commission									
Salaries and expenses	BA	D82- 70	2		10 20 81	-2			
Contribution to the Del. River Basin Comm.	BA	D82- 71	4		10 20 81	-4			
Interstate Commission on the Potomac River Basin									
Contrib. to Interst. Comm. on Potomac Riv. Basin	BA	D82- 72	1		10 20 81	-1			
Susquehanna River Basin Commission									
Salaries and expenses	BA	D82- 73	1		10 20 81	-1			
Contrib. to the Susquehanna River Basin Comm.	BA	D82- 74	1		10 20 81	-1			
International Communication Agency									
Salaries & expenses	BA	D82- 75	4,680		10 20 81	-4,680			
Center for cul. and tech. exch. bet. east & west	BA	D82- 76	125		10 20 81	-125			
Interstate Commerce Commission									
Salaries and expenses	BA	D82-146	648		10 23 81	-648			
Japan-U.S. Friendship Commission									
Japan-U.S. Friendship Commission trust fund	BA	D82- 77	34		10 20 81	-34			
Marine Mammal Commission									
Salaries and expenses	BA	D82- 78	11		10 20 81	-11			
National Capital Planning Commission									
Salaries and expenses	BA	D82-207	15		10 29 81	-15			
National Foundation on the Arts & Humanities									
Nat. endowment for the arts: sal. & expenses	BA	D82-147	11,208		10 23 81	-11,208			
Nat. endowment for the human.: sal. and expenses	BA	D82-208	5,892		10 29 81	-5,892			
Nat. endowment for the human.: matching grants	BA	D82-148	2,628		10 23 81	-2,628			
National Mediation Board									
Salaries and expenses	BA	D82- 79	58		10 20 81	-58			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 02/04/82 12:00

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-82
National Science Foundation									
Research and related activities	BA	D82- 80	19,824		10 20 81	-19,824			
Scientific activities overseas	BA	D82- 81	59		10 20 81	-59			
Science and engineering educ. activities	BA	D82- 82	2,623		10 20 81	-2,623			
Neighborhood Reinvestment Corporation									
Payment to Neighborhood Reinvest. Corp.	BA	D82- 83	101		10 20 81	-101			
Pennsylvania Avenue Development Corporation									
Salaries and expenses	BA	D82-149	15		10 23 81	-15			
Public development	BA	D82-150	239		10 23 81	-239			
Land acquisition and development	BA	D82-151	42		10 23 81	-42			
	BA	D82- 25	30,896		10 1 81	-10,000			20,896
Selective Service System									
Salaries and expenses	BA	D82- 84	192		10 20 81	-192			
Small Business Administration									
Salaries and expenses	BA	D82-152	3,137		10 23 81	-3,137			
Surety bond guarantees revolving fund	BA	D82-154	373		10 23 81	-373			
Lease guarantees revolving fund	BA	D82-153	67		10 23 81	-67			
Smithsonian Institution									
Museum programs and related research	BA	D82-155	231		10 23 81	-231			
Restoration and renovation of buildings	BA	D82-156	145		10 23 81	-145			
Motor Carrier Ratemaking Study Commission									
Salaries and Expenses	BA	D82- 26	150		10 1 81				150
Pres. Com. for the Study of Ethical Probs. in Med.									
Salaries and expenses	BA	D82-221	262		1 22 82				262
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D82-157	2,321		10 23 81	-2,321			
Water Resources Council									
Water resources planning	BA	D82- 85	42		10 20 81	-42			
OTHER INDEPENDENT AGENCIES									
TOTAL	BA		461,529			-440,221			21,308
TOTAL	BA		4,511,807	181,323		-2,302,231	-249,480	33,783	2,185,192
TOTAL	O		6,287			-4,812			1,475

a. This report was transmitted solely to reflect technical adjustments to the previous report.

b. Off-budget.

c. This deferral was reported in error. Funds for this budget account were not withheld.

END OF REPORT

[FR Doc. 82-4329 Filed 2-16-82; 8:45 am]
BILLING CODE 3110-01-C

PRESIDENT'S TASK FORCE ON PRIVATE SECTOR INITIATIVES

Meeting

February 9, 1982.

The President's Task Force on Private Sector Initiatives will hold its second meeting on February 25, 1982, in the American Red Cross National Headquarters Building, 17th Street, NW., Washington, D.C. 20006.

The meeting will convene at 9:00 a.m. and adjourn at 12:30 p.m. This meeting is open to the public. However, due to fire regulations, the attendance will be limited. Those persons wishing to attend should call the President's Task Force on Private Sector Initiatives at (202) 395–7386 to make a reservation. Calls should be placed during business hours no sooner than February 22 and no later than February 23, 1982.

Michael P. Castine,

Deputy Director, Private Sector Initiatives.

[FR Doc. 82-4426 Filed 2-16-82; 10:06 am]

BILLING CODE 3510-SW-M

DEPARTMENT OF STATE

[CM-8/492]

Advisory Committee On International, Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on March 23, 1982, of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 10:00 a.m. to 12:00 noon. The meeting will be held in the Lecture Room of the National Academy of Seciences, 2101 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to receive a report from the U.S. delegation to the January 26–27 meeting of the Experts Group on the OECD Working Party on Information Policy (ICCP). It will also discuss preparations for the March 30–April 1 meeting of the ICCP Working Party.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

February 8, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82-4228 Filed 2-16-82; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/493]

Advisory Committee On International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on March 8, 1982, of the Working Group on Energy and Development of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 9:30 a.m. to 12:30 p.m. The meeting will be held in Room 1107 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to exchange views on useful topics for future work and frequency of meetings; the follow-up to the U.N. Conference on New and Renewable Energy and preparations for the June meeting of the U.N.'s Interim Committee for launching and Nairobi Program of Action; an overview of AID energy activities; Global Negotiations and energy; World Bank energy lending program; and international energy research, development and demonstration programs.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: February 8, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82-4229 Filed 2-16-82; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/491]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Standards of Training and Watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS), a part of the Shipping Coordinating Committee (SHC), will conduct an open meeting on March 3, 1982, at 10:00 a.m., in Room 4234 of the Nassif Building, Department of Transportation, 400 7th Street SW, Washington, D.C.

The purpose of the meeting will be to discuss the following agenda items of the Fifteenth Session of the IMCO Subcommittee on Standards of Training and Watchkeeping scheduled to commence on April 26, 1982:

1. Matters relating to the 1978 STCW Convention.
2. Training and certification of crews of fishing vessels.
3. Training and qualifications of personnel serving on mobile offshore units.
4. Training and qualifications of officers and ratings in the handling of hazardous or noxious dry chemicals in bulk.
5. Certificates of competency.
6. Revision of the document for guidance—1975.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain R. S. Sutherland, U.S. Coast Guard Headquarters (G–MVP/14), 2100 2nd Street SW, Washington, D.C. 20593. Telephone (202) 426–1500.

The Chairman will entertain comments from the public as time permits.

Dated: February 5, 1982.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-4227 Filed 2-16-82; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series—No. 5–82]

Treasury Notes; Series P–1984; Auction

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $5,250,000,000 of United States securities, designated

Treasury Notes of February 28, 1984, Series P–1984 (CUSIP No. 912827 MX 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated March 1, 1982, and will bear interest from that date, payable on a semiannual basis on August 31, 1982; February 28 and August 31, 1983; and February 29, 1984. They will mature February 29, 1984, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 17, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 16, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, March 1, 1982.

Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 25, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer indentification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secetary of the Treasury, be forfeited to the United States.

5.3. Registered surities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. Those certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

February 11, 1982.

Supplementary Statement

The announcement set forth above does not meet the the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 82-4300 Filed 2-12-82; 2:48 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 32
Wednesday, February 17, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Equal Employment Opportunity Commission	2
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National Railroad Passenger Corporation	6
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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, February 17, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

LETTERS TO BE CONSIDERED:

1. *NEISS Report to Senate Appropriation Committee*
   The Commission will consider a draft report to the Senate Appropriation Committee concerning the National Electronic Injury Surveillance System (NEISS).
2. *Acknowledgement of Voluntary Standards*
   The Commission will consider issues related to the Acknowledgement of Voluntary Standards
3. *Prednisone: Exemption Petition PP 81-1*
   The Commission will consider Petition PP 81-1 requesting to exempt Prednisone from the child resistant packaging requirements of the Poison Prevention Packaging Act.

Closed to the Public:

Enforcement Matter OS#1099
The staff will brief the Commission on issues related to an enforcement matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Ave., Bethesda, MD 20207; Telephone (301) 492-6800.

[S-234-82 Filed 2-11-82; 4:30 pm]
BILLING CODE 6355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-222-82.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Wednesday, February 17, 1982.

CHANGE IN THE MEETING: Freedom of Information Act Appeal No. 81-12-FOIA-033-NO was incorrectly stated and should read as Freedom of Information Act Appeal No. 81-12-FOIA-033-CT.

CONTACT PERSON FOR MORE INFORAMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-1356.

This Notice Issued February 12, 1982.

[S-225-82 Filed 2-12-82; 11:19 am]
BILLING CODE 6570-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 22, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

The Bank of Elizabethtown, Inc., a proposed new bank, to be located at 1100 North Dixie Avenue, Elizabethtown, Kentucky.

Security Bank, Monroe, Louisiana, a proposed new bank, to be located at 2400 Forsythe Avenue, Monroe, Louisiana.

Applications for consent to merge and establish branches:

State Bank and Trust Company, Unadilla, Georiga, for consent to merge, under its charter and title, with Bank of Pinehurst, Pinehurst, Georgia, and for consent to establish the sole office of Bank of Pinehurst as a branch of State Bank and Trust Company.

Valley State Bank, Eugene, Oregon, for consent to merge, under its charter and with the title "Centennial Bank," with Valley State Interim Bank, Eugene, Oregon, and Centennial Bank, Springfield, Oregon, and to establish the two offices of Centennial Bank as branches of the resultant bank.

American Bank and Trust Co. of Pa., Reading, Pennsylvania, for consent to merge, under its charter and title, with National Bank and Trust Company of Kennett Square, Kennett Square, Pennsylvania, and to establish the four offices of National Bank and Trust Company of Kennett Square as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,919-L (Amendment)—Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico

Case No. 45,104—SR—The Metro Bank of Huntington, Inc., Huntington, West Virginia

Memorandum re: Reporting requirements for actions approved by the Division of Liquidation under delegated authority.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services:

Investment Management Report, as of December 31, 1981.

Report of the Director, Division of Liquidation:

Memoranduam re: Reports Required Under Delegated Authority Status of Approved Committed Cases

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 12, 1982.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-228-82 Filed 2-12-82; 3:24 pm]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

NOTICE OF AGENCY MEETING.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 22, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Notice of acquisition of control:

Jeffrey City State Bank, Jeffrey City, Wyoming.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Memorandum re: Accounting treatment for purchased core deposit intangibles.

Discussion Agenda:

Application for consent to merge and establish two branches:

First-Citizens Bank and Trust Company of South Carolina, Columbia, South Carolina, for consent to merge, under its charter and title, with Bank of Chesterfield, Chesterfield, South Carolina, and to establish the two offices of Bank of Chesterfield as branches of the resultant bank.

Memorandum re: Deferral of losses on asset sales.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 12, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-230-82 Filed 2-12-82; 3:24 pm]
BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, February 22, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal by the Federal Reserve Bank of San Francisco regarding the furniture and equipment budget for its new building.
2. Proposed acquisition of computer equipment within the Federal Reserve System and associated projects.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: February 12, 1982.
James McAfee,
Assistant Secretary of the Board.
[S-229-82 Filed 2-12-82; 3:24 pm]
BILLING CODE 6210-01-M

6

NATIONAL RAILROAD PASSENGER CORPORATION

In Accordance with Rule 4(a) of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on February 24, 1982.

A. The meeting will be held on Wednesday, February 24, 1982, in the Executive Conference Room, 8th Floor, at the National Railroad Passenger Corporation, 400 N. Capitol Street, N.W., Washington, D.C., at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—February 24, 1982

(9:30 a.m.): *Closed Session*

1. Internal Personnel Matters.
2. Litigation Matters.

(10:30 a.m.): *Open Session*

3. *Approval of Minutes of Regular Meeting of January 27, 1982.*
4. *Northeast Corridor Improvement Project Briefing.*
5. *Amendments to Articles of Incorporation and Bylaws.*
6. *Commitment Approval Requests:*

82-29 Purchase of IBM 8100 Computer Systems.
82-30 IBM 8100 Two-year Lease Conversion.
77-266-S6 Completion of Lightweight Electric Locomotive Purchase.

7. Briefing on Legislative Status.
8. President's Report.
9. Date and Place of Next Meeting.
10. New Business.
11. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3754.

February 12, 1982.
Sandra Spence,
Corporate Secretary.
[S-227-82 Filed 2-12-82; 3:17 pm]
BILLING CODE 8000-00

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM 82–5]

TIME AND DATE: 9 a.m., Friday, February 26, 1982.

PLACE: NTSB Board, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first two items will be open to the public; the last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report:* Pacific Gas and Electric Company, Natural Gas Pipeline Puncture, San Francisco, California, August 25, 1981, and *Recommendations* to the Pacific Gas and Electric Company, the Public Utility Commission of California, the City of San Francisco Department of Public Works, the American Gas Association, the Associated General Contractors of America, the Turner Construction Company, and the National League of Cities, the American Public Works Association and the National Association of Counties.

2. *Special Investigation Report:* Accidents Involving Passenger Fatalities and Injuries Between Coupled Cars on Rail Rapid Transit Systems and *Recommendations* to the New York City Transit Authority; the Urban Mass Transportation Administration; the Greater Cleveland Regional Authority, the Chicago Transit Authority, the Metropolitan Atlanta Regional Transit Authority, the Port Authority Transit Corporation, Port Authority Trans-Hudson Corporation, and the Southeastern Pennsylvania Transportation Authority; and the Metropolitan Date County Transit Agency and the Mass Transit Administration of Maryland.

3. *Opion and Order:* Administrator v. Tracy, Dkt. 5194; disposition of respondent's appeal.

4. *Opinion and Order:* Administrator v. DiGiovanni, Dkt. SE–4841; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–382–6525.

February 12, 1982.

[S–226–82 Filed 2–12–82; 3:15 pm]

BILLING CODE 4910–58–M

federal register

Wednesday
February 17, 1982

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

Animal Welfare; List of Licensed Dealers

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Animal Welfare; List of Licensed Dealers

The following list is being published to give notice to the public of dealers currently licensed under the Animal Welfare Act (7 U.S.C. 2131 et seq.). Such notice does not come under E.O. 12291, since it is not a rule. Therefore, pursuant to the provisions of the Animal Welfare Act and the regulations thereunder (9 CFR Part 2), notice is hereby given that the dealers listed below are licensed under said Act (Section 3, 80 Stat 351, as amended (7 U.S.C. 2133)):

Done at Washington, D.C., this 29th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

ALABAMA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
64A2	BARKER, NM	BROKEN PINE RABBITRY	RT 1 BOX 39A	CHELSEA	35043
64A22	BRADFORD, N	BRADFORD KENNELS	RT 3 BOX 644	WARRIOR	35180
64A13	COOK, R & L	R & L KENNEL	PO BOX L	ALICEVILLE	35442
64B37	FOURNIER, SE	PET SAFARI	160 BROADWAY	HOMEWOOD	35209
64B24	FOWLER, T W		96545 MCDONALD RD	THEODORE	36582
64A29	GIBBS, R & J	LAZY G KENNELS	ROUTE 9 BOX 347	CULLMAN	35055
64B38	LEE, RE	LEE'S RABBITTRY	9113 GOVERNMENT BLVD.	THEODORE	36582
64A21	NELSON, YB		305 WHITING CT	DAPHNE	36526
64B39	NOCCALULA FALLS PARK		P.O. BOX 257	GADSDEN	35999
64A1	NORWOOD, H		2309 31ST STREET SW	BIRMINGHAM	35221
64B27	PORT OF PETS		606 BROOKWOOD VILLAGE	BIRMINGHAM	35209
64A18	SCOTT, D & A	OWL HOLLOW KENNELS	RT 7 BOX 609	FORT PAYNE	35967
64B12	SPILLER PET CENTER		36 MCFARLAND MALL	TUSCALOOSA	35405
64A16	TALLENT, F & M	TALLENT'S RABBIT FARM	RT 2 BOX 184	CENTRE	35960
64A7	WAGER, MW		1707 FAIRMONT ST	DOTHAN	36301

ARIZONA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
86A37	BLESSING, W E	LUCKY CUSS RANCH	1805 W. LIMEWOOD DRIVE	TUCSON	85704
86A11	COX, N&G	BORDERIN KENNELS	P.O. BOX 305	NACO	85620
86A20	ELLIOT, L & M		RT 1 BOX 231	CHANDLER	85224
86A28	FITZPATRICK, P	FITZ-BRIM BREEDING RANCH	5316 W TANGERINE RD	TUCSON	85704
86A14	HENRY, L	HENRY'S KENNELS	P.O. BOX 72	BUCKEYE	85326
86B19	HIGGINS, R	A BAR A DOGGIE DUDE RANCH	1301 W. HATCHER RD.	PHOENIX	85021
86A4	JETER, MM & WS	SOUTHWESTERN RESEARCH ANIMALS	4864 E GLENN ST	TUCSON	85712
86B20	LUDLOW, G	GREG LUDLOW & ASSOCIATES	P.O. BOX 900	GOODYEAR	85338
86A32	MERTES, R & J	A RABBITRY & SUPPLY	PO BOX 8469-CRB	TUCSON	85738
86A7	OLLSON, LM	OLLSON'S BIRD & ANIMAL FARM	RT 1 BOX 152	GLENDALE	85301
86B25	OLSON, G & J	OLSON'S RABBITRY	RT 1 BOX 494	FLAGSTAFF	86001
86B23	OLSON, K	BLUE RIBBON RANCH	632 N FORGEUS	TUCSON	85716
86A31	ROBERTSON, J		3547 W REDFIELD RD	PHOENIX	85023
86A30	SINGLETON, S & E	STATE SECURITY KENNELS	P.O. BOX 214	CHLORIDE	86431
86B1	SOUTHWESTERN SCIENTIFIC CO		4345 E. IRVINGTON RD	TUCSON	85714
86B8	WANFENDORF, W & K	PET'S PARADISE	4631 W TIERRA BUENA	GLENDALE	85306
86A36	WEESE, R & J & R	WEESE'S RABBITRY	6350 S. CAMINO VERDE	TUCSON	85706

ARKANSAS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
71B46	ANDERSON, MRS. P	'71 KENNELS'	RT 3 BOX 204B	ALMA	72821
71B35	BAKER, MR. & MRS. ANDREW	PEACEFUL VALLEY KENNELS	RT 1 BOX 388	BENTONVILLE	72712
71B40	BARBEE, BETTY		RT 1 BOX 157	DECATUR	72722
71A104	BARNES, MR. & MRS. G.L		RT. 5 BOX 370A	SILOAM SPRING	72761
71A102	BLAKEMAN, AC	TWIN OAKS KENNEL	STAR RT	VAN BUREN	72956
71A143	BOTTOMS, D	DIAN'S KENNELS	RT 2 BOX 16	LINCOLN	72744
71B32	BRITTON, J	FARAWAY FARMS	1120 WALNUT ST	HEBER SPRINGS	72543
71B34	BROWN, K	LAZY VK KENNELS	BOX 421	GENTRY	72734
71A92	BRUCE D & I		2319 CHURCH ST	BARLING	72923
71A134	BURNS, I		RT 3	VAN BUREN	72956
71A76	CAMPBELL, E		1600 N BRYANT L ST	FT SMITH	72901
71A115	CASTER, D & D		RT 3 BOX 354	ROGERS	72756
71EC	CHATTERTON, E	HILLSIDE KENNEL	DELMAR STAR ROUTE	HARRISON	72601
71A142	CHEATHAM, MRS. WAYNE	SADDLE MT. KENNELS	RT 1 BOX 135	LINCOLN	72744
71B12	CHERRY, M	CHERRY'S RABBITRY	STAR ROUTE 7	SEARCY	72143
71B6	CORBIT, MRS JM	CORBIT RABBITRY	ROUTE 2 BOX 272	SEARCY	72143
71A132	COWART, M & L & BEELER, JOE	SHAWNEE'S KENNELS	209 KIMBERLY LANE	ROGERS	72756
71A34	DAVIS, WJ & JP	JANBILS KENNELS		GARFIELD	72732
71A79	EHRHEART, A	ROMANEE KENNELS	R 1	MT VERNON	72111
71A117	ELERY, MRS G		RT 5 BOX 165A	SPRINGDALE	72764
71A144	EVERT, MR. & MRS. M	WEE ACRES KENNEL	RT 1 BOX 561	ROGERS	72756
71A108	FLYNT, TW		RT 6 BOX 446	FAYETTEVILLE	72701
71A82	FULTON, A	PINE TREE KENNEL	BOX 175	OMAHA	72662
71B30	GARNER, S & G	FOURCHE VALLEY KENNEL	STAR RT	HARVEY	72841
71A100	GLENN, M	GLENN'S KENNELS	RT 2	WESTFORK	72774
71A9	GORSLINE, CR		RT 2 BOX 68	GRAVETTE	72736
71A118	GRAHAM, V		RT. 1 BOX 75A	SILOAM SPRINGS	72761

ARKANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
71A113	GRIGSON, T	TOMMIE'S KENNELS	RT 2 BOX 96	LINCOLN	72744
71A51	GROGAN, D & D	WINN CREEK KENNELS	RT 2	PRAIRIE GROVE	72753
71A127	GUSTIN, A	KINGS RIVER KENNELS	RT 5	BERRYVILLE	72616
71B44	HAMILTON, L		1162 BALDWIN	FAYETTEVILLE	72701
71A125	HANEY, M	HANEY'S KENNELS	RT 2 BOX 123	ELKINS	72727
71B40	HANSEN, J	JUDITY HANSEN KENNELS	RT 2 BOX 968	GENTRY	72734
71A122	HARP, B	HARP'S KENNELS	RT 4 BOX 393B	FAYETTEVILLE	72701
71B31	HAYS, P	WAR EAGLE KENNELS	STAR ROUTE	VAN BUREN	72956
71AA	HOLCO, INC		P.O. BOX 186	FAYETTEVILLE	72701
71B42	HOLLEND, D		RT 2 BOX 100	LINCOLN	72744
71A128	HOLZKAMPER, S & F	ROCKY TOPS KENNELS	RT 2 BOX 255	GENTRY	72734
71A135	HUNT, T & J	ENGLISH BULLDOG	523 NORTH MILL STREET	SPRINGDALE	72764
71A129	IMMEL, G & L	IMMEL'S KENNELS	802 N 13TH	ROGERS	72756
71B41	JACOBS, A	MORNING STAR KENNELS	RT 2 BOX 270A	BENTONVILLE	72712
71A133	JOHNSON, MR. & MRS. WLM		5316 S 10TH	FORTH SMITH	72901
71A137	KENNEDY, D		RT 1 BOX 35	BEE BRANCH	72013
71A103	KORWES, W & R	FERNDALE FERRET FARM	23001 CHANDLER DR.	LITTLE ROCK	72210
71A19	KRATZ, D	B & D RABBITRY	RT 2 BOX 229	MALVERN	72104
71B39	LAMONT, E	LAMONT KENNELS	RT 2 BOX J 121	FORT SMITH	72916
71A139	LAWRENCE, D		RT 4 BOX 380	FAYETTEVILLE	72701
71A90	LIPE, D	CEDARS KENNELS	STAR RT BOX 161B	VAN BUREN	72956
71B45	LOPEZ, W		RT 2	GRAVETTE	72736
71A145	LOWE, M J	HOOT OWL KENNELS	RT 2	LINCOLN	72744
71A109	MARTIN, A	MAPLE HILL SHIH-TZU FARM	RT 1 BOX 39	SULPHUR SPRINGS	72768
71A55	MCARDELL, L	LANDELL KENNELS	BOX 99	CANE HILL	72717
71A100	MCCOWN, M	OZARK'S SHADOW	RT 2 BOX 268B	GENTRY	72734
71A107	MCMASTER, F		GENERAL DELIVERY	CEDARVILLE	72932
71A72	MCMASTERS, JD	MCMASTERS KENNELS	RT. 1 BOX 161	SULPHER SPRINGS	72768
71B1	MILLER, M	MA-HA KENNELS	BOX 111 RT N	YELLVILLE	72687
71A91	MOORE, C	RITZ COMMUNITY	J.C. ROUTE BOX 75	BOLES	72926
71A27	MOREFIELD, D	DAISY KENNELS	BOX 283	GENTRY	72734
71B24	NOLAN, G & A	WILDWOOD KENNEL	STAR ROUTE	VAN BUREN	72956
71PF	PEL-FREEZ RABBIT MEAT INC.		PO BOX 66	ROGERS	72756
71A97	REMINGTON, H	HUGH REMINGTON KENNELS	RT 2	PRAIRIE GROVE	72753
71BC	ROBISON, R	BRYANT COVE KENNEL	RT 1 BOX 47	CASA	72025
71A26	ROUSE, GE	ROUSE KENNEL	RT 1	FARMINGTON	72730
71A29	SAGARSEE, R		LOST BRIDGE RD. NO. 127	GARFIELD	72732
71A42	SANDERSON, G		RR 1	LONDON	72847
71B29	SHEPARD, M	ROSEWOOD KENNEL	RT. 1 BOX 367	ALMA	72921
71SS	SMALL STOCK INDUSTRIES, INC.		PO BOX 157	PEA RIDGE	72751
71A141	SMITS, RICHARD	DOE VALLEY FARM	RR 6 BOX 608	ROGERS	72756
71B33	STEPHENS, L		RT. 1 BOX 105	PEA RIDGE	72751
71A136	STEPHENS, T		RT 1 BOX 107	PEA RIDGE	72751
71A85	SUTTON, R&L	SHAN-RIC SHELTIES	RT 1 BOX 155	LOWELL	72745
71A140	TARVIN, A & J	TARVIN'S RABBITREE	RT 2 BOX 80	JACKSONVILLE	72076
71A88	TAYLOR, J & N		PO BOX 345	WALNUT RIDGE	72476
71A96	TEMPELMEYER, R & YANCEY, B	DRACHENFELS KENNELS	BOX 281 RT 1	PRAIRIE GROVE	72753
71A131	TIPTON, F	TIPTON KENNELS	RT 1 BOX 307	BLOOMBURG	75556
71A48	TISDALE, G		RT 2 BOX 290	GENTRY	72734
71A124	TOXICOLOGY SUPPORT INDUSTRIES		PO BOX 3397	LITTLE ROCK	72203
71A138	UTLEY, V	TRIPPLE 'V' RABBIT RANCH	RT 1 BOX 116B	HETH	72346
71B36	VAN WINKLE, J D	J. D. VAN WINKLE'S CAVIES	STAR RT. BOX 54	OIL THROUGH	72564
71A96	WEBB, J	WEBB'S KENNEL	P.O. BOX 65	HIWASSE	72739
71A119	WHITE, B		RT 2 BOX 252	SPRINGDALE	72764
71A121	WILLIAMSON, D		RT 1	OLA	72853
71A50	WINNINGHAM, RM		RT. 3 BOX 321	GENTRY	72736

CALIFORNIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
93B46	ABERNATHY, JD		175 EAST ST	NORCO	91760
93B85	ANDREWS, WT & E		1187 MERRILL RD	SAN JUAN BAUTISTA	95045
93A81	BARR, B & M		1515 ARDMORE AVE	MODESTO	95350
93B42	BENTLEY, E & E	VALLEY LABORATORY SUPPLY	4903 BAIN ST	MIRALOMA	91752
93B105	BERG, K & DAVIS, L	WILD AND WOOLY ENTERPRISES	1736 RANDAZZO NO. C	MODESTO	95340
93A99	BESSEY, R		26712 7TH	CORCORAN	93212
93B70	BISHOP, G & C	BISHOP'S PET CENTER	1777 WINCHESTER BLVD.	CAMPBELL	95008
93B84	BLISS, C	CAREY'S WILD ANIMALS	202 RIVER AVE	OAKDALE	95361
93A78	BORDEN, D & J		8906 W VELMA LN.	TRACY	95376
93A102	BOSWELL, P		BRYSON-STAR ROUTE	BRADLEY	93426
93A76	BRISTOW, T	CHER MAR KENNEL	4855 PIONEER AVE.	HUGHSON	95326
93B7	CAL-LUMINUM, INC.		11835 S MORNING AVE	DOWNEY	90241
93B26	CAMPBELL, AB	ASC RABBITRY	11203 ROSWELL AVE	POMONA	91766
93A66	CANINE COUNTRY CLUB, INC		42116 4TH STREET EAST	LANCASTER	93535
93B103	CHAMPAGNE, C & HOFFMAN, E	BONNY DOON LLAMAS	121 MCGIVERN PLACE	SANTA CRUZ	95060
93B61	CHRISTENSEN, E & G	CALIFORNIA BIOLOGICAL SUPPLY CO.	PO BOX 1736	VISTA	92083
93B104	CHRISTIE, D		7121 MISSION BLVD	RIVERSIDE	92509
93B95	CODY, R & C		3701 GARNSEY ST.	SANTA ANA	92707
93A61	COSTLEY, I		931 FRANZIA CT	MODESTO	95351
93A73	COVELLO, A	STEVINSON RABBITRY	23981 SECOND AVE	STEVINSON	95374
93B29	CURD, ME	CURD'S CAVIARY & ANIMAL SUPPLY.	787 S 4TH AVE	LA PUENTE	91746
93B74	DALRI, JR., CS	EXOTICS OF CALIFORNIA	4586 ROSS GATE WAY	PLEASANTON	94566
93A97	DAVIS, W E		14901 S HIGHLAND	SELMA	93662
93B5	DE BORONDY, I	CASA DE PETS	PO BOX 1663	STUDIO CITY	91604
93B6	DENIO'S ROSEVILLE FARMERS MKT.		PO BOX 999	ROSEVILLE	95678
93B86	DOYLE, M		13641 ERWIN ST	VAN NUYS	91401
93B54	DUNN, R	L.A. PETS	13419 MONTAGUE	ARLETA	91331

CALIFORNIA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
93B45	ENGLISH, V	LEOPARD CAT INFORMATION CENTER.	PO BOX 9632	HOLLYWOOD	90028
93A51	ERDTSIECK, AA	SAFE HAVEN RABBITRY	205 BAILEY AVE.	PETALUMA	94952
93A88	FORCE, J D		179 E. CORDOBA	SAN CLEMENTE	92672
93B96	FURZER, R	PETMART	1054 AVIATION BLVD	HERMOSA BEACH	90254
93B51	GIACINTO, J	EXOTIC ANIMALS	19400 SANTA RITA	TARZANA	91356
93B69	GILLETTE, W & N	PARADISE HAMSTERY	2912 PARADISE RD	MODESTO	95351
93I04	GOEBEL, AR	CAMEL FACTORY	1896 N MAIN	PORTERVILLE	93257
93B58	GOEBEL, EL		P.O. BOX 702	TEHACHAPI	93561
93B98	GOLD, R & N	THE BOSTON MONKEY SCHOOL	3521 55TH STREET	SACRAMENTO	95820
93B09	GRANDPRE, V M		P.O. BOX 1540	FONTANA	92335
93B88	GRAYSON, W & V		872 RESOTA ST	HAYWARD	94545
93B108	GYSIN, P & J		P.O. BOX 425	CEDARVILLE	96104
93A89	HATTENSCHWILLER, G	RANCHO GATO	29477 GOETZ RD	QUAIL VALLEY	92380
93A22	HENDRICKS, W & G	CREST CAVIARY	4133 OAK GROVE SCHOOL RD	RAYMOND	93653
93A3	HERBERT, V & M	HERBERT'S RABBITRY	PO BOX 364	PLYMOUTH	95669
93A60	JOLLY, RI		8341 DENNI ST.	CYRRESS	90630
93B20	JUNGLELAND PETS, INC. #1	JUNGLELAND PETS	8099 SAN JUAN AVE	CITRUS HEIGHTS	95610
93B3	JUSZYK, C&J		PO BOX 3262	THOUSAND OAKS	91359
93B90	K-9 DOGS OF SACRAMENTO, INC		1912 O STREET	SACRAMENTO	95814
93A98	KAUFFMAN, W	LORIE'S STABLES	STAR RT 2 BOX 318	LA HONDA	94020
93B105	KAYLOR, M & K	49ER FEED	PO BOX 24	COTATI	94928
93EK	KEARLEY, SO		P.O. BOX 3089	TURLOCK	95380
93A11	KELLEY, JO		699 F ST	GALT	95632
93A103	KING, B	ANIMALS WEST	P.O. BOX 782	SOQUEL	95073
93HK	KNUDSEN, HH	KNUDSEN'S	12488 S HARLAN RD	LATHROP	95330
93A57	KURZ, E		2970 WOOD VALLEY RD	SONOMA	95476
93B93	LANG, P	LANG-MILLER RANCH	1856 LAKE DRIVE	BEVERLY HILLS	90210
93A107	LOEWEN, A & M	FLYING COUGAR RANCH	8940 RECLAMATION RD.	UPPER LAKE	95485
93A9	LOMA LINDA UNIVERSITY		ANIMAL CARE FACILITY	LOMA LINDA	92354
93B45	MAGNOLIA BIRD FARM INC		8990 CERRITOS AVE.	ANAHEIM	92804
93B91	MAPLES, T		4095 FERNDALE AVE.	SAN BERNARDINO	92404
93A04	MARSH, C	CLOVERDALE FARM	PO BOX 912	HOLLISTER	95023
93A90	MAYNARD, J		STAR RT 1 BOX 84	ROSAMOND	93560
93A101	MCDONALD, W		9802 E SHAW AVE	CLOVIS	93612
93A83	MERWIN, JE	HILLS OF HOME RANCH	20837 DEERHORN VALLEY RD	JAMUL	92035
93A89	MEYERDICK, C F	CFM RABBITRY	1447 MIDWAY RD	VACAVILLE	95688
93A7	MILLER, DR	RANCHO DE CONEJO	1345 SUNSET DR	VISTA	92083
93B36	MISSION LABORATORY SUPPLY INC		2600 RIVER AVE	ROSEMEAD	91770
93B80	MOOTNICK, A	GIBBONS & GALLINACEOUS BIRD CNTR.	BOX 249	SAUGUS	91350
93A104	MURRAY, D	MURRAY & CO. RABBIT FARMS	CRESTON STAR RT	PASO ROBLES	93446
93B100	MUSTOE, KEN		RT. 4 5200 B AVE.	MODESTO	95351
93B44	NAT'L HERPETOLOGICAL SOC.		P.O. BOX 240 255 S. GLENDORA A.	GLENDORA	91740
93A31	NORTHRUP, I	KING & NORTHRUP KENNEL	3035 S. TRINITY	KERMAN	93630
93B97	ORTIZ, G. JR.		841 HAWTHORN STREET APT 1A	SOUTH PASADENA	91030
93A82	OSCISLAWSKI, L&M	L&M PETS & SUPPLIES	15917 SIERRA VISTA CT.	LA PUENTE	91744
93A92	PEIXOTO, J		16961 REDWOOD RD	CASTRO VALLEY	94546
93A87	PHILLIPS, J	PHILLIPS RABBITRY	333 TWIN LANES	SOQUEL	95073
93A100	POND, ELVA	CARBON COPY KENNELS	PO BOX 413	EL DORADO	95623
93A106	RED-BEAU FARMS		31161 SAN TIMOTEO CANYON RD.	REDLANDS	92373
93B94	REYNOLDS, B		21980 S ELM	LATON	93242
93B17	ROSKILLY, GB	GLENS PETS & PET SUPPLY	12187 LOPEZ CANYON RD	SAN FERNANDO	91342
93B102	ROUGHEN, T		9345 GRANT AVENUE	CARMICHAEL	95608
93A92	SAND, WC & RH		10442 MOUNTAIN LION LANE	GRASS VALLEY	95945
93A4	SIMONSEN LABORATORIES INC		1180C DAY RD	GILROY	95020
93A42	SIMUNEK, R&J		872 BUSCH DRIVE	VISTA	92083
93A26	SINNETT, AH	WAGGIN TAIL KENNEL	3324 BARNHART RD	DENAIR	95316
93B66	SPARROW, E & M	CROWN ANIMALS	250 SECOND AV	SAN LEANDRO	94577
93A74	STARR, P	ELKHORN RABBITRY	5265 STARR WAY	WATSONVILLE	95076
93A43	TAYLOR, S	RIVERHOLE LLAMASARY	5199 VOLKERTS RD	SEBASTOPOL	95472
93A96	TERRY, E & BOWERMAN, H	E & H RABBITRY	2185 150TH	SAN LEANDRO	94578
93B107	TRAVENOL LABORATORIES, INC	HYLAND RANCH	25549 ADAMS AVENUE	MURRIETA	92362
93I07	TRENT, G&H	TRENT'S CAVIARY	596 FAIRLAND AVE	MODESTO	95351
93SC	UNIV. OF SOUTHERN CALIFORNIA		UNIVERSITY PARK	LOS ANGELES	90007
93A25	USREY, A&D	PEACEFIELD FARMS	562 MIMOSA AVE.	VISTA	92083
93B18	VALLEY PET SUPPLY		1260 ZEPHYR AVE.	HAYWARD	94544
93B101	WALKER, F		P.O. BOX 9425	POPLAR	93257
93A105	WALSH, D		STAR ROUTE 1 BOX 600-40	TEHACHAPI	93561
93B14	WESTERN SCIENTIFIC SUPPLY,INC		PO BOX 661	WEST SACRAMENTO	95691
93A17	WESTERVELT, MR	NITABELL RABBITRY	29215 TAYLOR AVE.	HAYWARD	94544
93A77	WHITTEN, MC	PETS UNLIMITED	536 E TAYLOR RD	CERES	95307
93A105	WILLIAMS, K & M	K & M WILD CRITTER FARM	1961 GREEN SPRINGS RD.	FOLSOM	95630
93B82	WRIGHT, G & K	ANDIE'S CRITTERS & VARMINTS	5542 COFFEE RD.	MODESTO	95355
93A16	ZIGLAR, HG & EI	EZH CAVIARY	BOX 93	WILLIAMS	95987

COLORADO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
84A70	BENSELY, J & W		2608 TERRY LAKE RD.	FT. COLLINS	80524
84B44	CIOCCHETTI, A	DOGGIE VILLAGE KENNELS	11440 W 44TH AVE	WHEATRIDGE	80003
84A73	CRAIG, E		27125 RD. 32	STRATTON	80836
84A71	CRAIG, P	BOULDER ZOOLOGICAL PRESERVE.	7710 MALMONT DR.	BOULDER	80301
84B46	CRONCE, T & K	ANIMALS TWO BY TWO	740 TOEDTLI	BOLDER	80303
84B33	ELARS BIO-PHARMACEUTICS, INC		225 COMMERCE DR	FORT COLLINS	80524
84A49	ENOS, H&M	ENOS' ROCKY MOUNTAIN RABBITRY.	3704 RICHMOND DR	FORT COLLINS	80521
84B35	ESSARY, A & E	TAG-A-LONG DOG RANCH	RT 1 BOX 5-C	LA ANIMAS	81054

COLORADO—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
84A11	FREEMYER, ML	HIGH PLAINS KENNELS	RT 2 BOX B-15	HAXTUN	80731
84A72	HARRIS, L & M		184 32 ROAD	GRAND JUNCTION	81503
84A55	HILL, RA	SEDALIA HILLS RABBITRY	2998 W WOLFENBERGER RD	SEDALIA	80135
84B39	LEVIN, K & G	PAMPERED PETS	3061 SO SPRUCE WAY	DENVER	80231
84B42	LIMBERY, B G	DENVER FERRETS	10930 N. 85TH	LONGMONT	80501
84A57	MCGEE, J & M	MCGEE KENNELS	RT 1 BOX 21	HOLLY	81047
84A30	MILLIKEN, JT	RIPPLES DOG RANCH	RT 2 BOX 151	ROCKY FORD	81067
84B16	MURPHY, HJ		BOX 280 724 LOCUST	WINDSOR	80550
84A28	PATTERSON, JE	PATTERSON KENNELS	BOX 159	YUMA	80759
84A69	ROSS, B & W	VON ROSS DACHSHUND KENNEL	P.O. BOX 7	CROWLEY	81033
84B45	WANSTRATH, D	WILD ANIMALS UNLIMITED	1765 MAIN AVE	DURANGO	81301
84A6	WERNSMAN, G & B		RT 1 BOX 74C	HAXTUN	80731
84A50	WOLFF, M		RT 3	HAXTUN	80731
84A32	WOODS, E	ALLDOG KENNEL	BOX 112	EASTLAKE	80614
84A26	WOOLINGTON, E & BOSSEN, D	AICHER'S RABBITRY	BOX 5	HEREFORD	80732
84A66	ZAMORA, J	JULIE'S COCKER RANCH	ROAD 20796 HWY 50	ROCKY FORD	81067

CONNECTICUT

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
16B20	BERARDO, TR	TENDER LOVE & CARE PETS & PL	69 MERIDEN RD.	WATERBURY	06705
16B17	JOHNSON, D & STROUT, F	INTERNATIONAL PET & ZOO SUPPLY CO..	GATEWAY CENTER	WILTON	06897
16A13	MACY, N	CALICO DREAM RABBITRY	RFD 1 BOX 279	ASHFORD	06278
16B22	PARLEE, W & PATTERSON, T	EXOTIC FIN & FEATHER	525 BURNSIDE AVE	E HARTFORD	06108
16A12	RUSSO, A M	RUSSO'S RABBITRY	FOX ROAD RR 1	PUTNAM	06260
1682	TODD, EW	BIRCHWOOD KENNELS	551 SKOKORAT RD	BEACON FALLS	06403
16A11	VAILL, JEANNE	VAILL'S BUNNY FARM	RFD 1 RT 4	GOSHEN	06756

DELAWARE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
50B12	WISSEMAN, CE & SON	FLORA-DEL RANCH	PO BOX 81	GREENWOOD	19950

FLORIDA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58IT	ANIMAL LOVERS WEST		8454 S.W. 24TH ST	MIAMI	33155
58DT	BAETJER, B	CHRISTIAN'S COMPOUND	RT. 1 BOX 40	FELLSMERE	32948
58IA	BARLACES, L		1350 PALM DALE COURT	WEST PALM BEACH	33411
58BY	BARTECKI, M	THE PAMPERED PET	1104-C KEY PLAZA	KEY WEST	33040
58HY	BAUDY, R E	RARE FELINE BREEDING COMPOUND.	P.O. BOX 100	CENTER HILL	33514
58IN	BECHTOLD, L		19345 S DIXIE HIGHWAY	PERRINE	33157
58AO	BOMAR INDUSTRIES INC.		2751 SUNSET BLVD.	NAPLES	33942
58HZ	BRADFORD MARINE	BRADWOOD FARM	3051 STATE RD 84	FT. LAUDERDALE	33312
58GS	BRYANT, A & J	JODY'S RABBITRY	RT 2 BOX 333	WAUCHULA	33873
58GO	BRYANT, F	ARCADIA SMALL ANIMALS	RT 1 BOX 380	ARCADIA	33821
58GC	BUCK, WE		RR #1 BOX 242	FLORAL CITY	33636
58IS	BURNS, D & H	DELPHI PET CENTER, INC.	1282 N. MILITARY TRAIL	WEST PALM BEACH	33409
58AF	CAMPBELL, WH		1775 12TH ST. SE	LARGO	33541
58CI	CARRIER, W		5525 SW KANNER HWY	INDIANTOWN	33456
58AG	CHARLES P CHASE CO., INC.		8124 S.W. 91ST AVE	MIAMI	33173
58GE	COOPER, F	PAT'S K-9 KENNEL	120 DAIRY RD	AUBURNDALE	33823
58IJ	COOPER, V & S	PINE WHISPER RABBITRY AND SUPPLIES.	2530 SERVICE ROAD	OPALOCKA	33054
58BA	CUMMINGS, ML	CUMMINGS RABBITRY	18801 GERACI RD.	LUTZ	33549
58AA	DAWSON RESEARCH CORPORATION		P.O. BOX 30666	ORLANDO	32862
58IH	DIAZ, R	INTERAB	5480 S.W. 118TH AVE	MIAMI	33165
58HK	DINTER, D	PET POURRI	8369 SW 40TH ST	MIAMI	33155
58JA	DISKEN, R M	ANIMAL WORLD	8330 FLORILAND MALL	TAMPA	33612
58CN	DOBSON, L & N	DOBSON'S PETTING ZOO	205 BURBANK DR.	MILTON	32570
58FE	DOUGLAS, S & ENGLER, W	MARLOT BREEDING FARM	RT 5 BOX 130 A1	ORLANDO	32807
58BS	EXOTIC ANIMALS, INC		282 NW 2ND ST	DEERFIELD BEACH	33441
58DD	FL. MONKEY SANCTUARY, INC		PO BOX 1357	VENICE	33595
58AU	FLORIDA ALLIGATOR FARM		RT 1 BOX 236	CALLAHAN	32011
58AS	FLORIDA REPTILE LAND		RT 1 BOX 312	LAWTEY	32058
58HP	FRANK M THOMPSON, INC		15605 S.R. NO. 64	BRADENTON	33508
58ID	GABLER, J & L		P.O. BOX 1299	EUSTIS	32726
58GM	GEIGER, JW & CB		1110 GEIGER CEMETERY RD	ZEPHYRHILLS	33599
58FM	GILLER, L A		5365 SW 76TH AVE	DAVIE	33328
58IF	GILMAN, S.H, & C	GILMAN PAPER CO	111 WEST 50TH STREET	NEW YORK	10020
58CX	GLOBAL FISH IMPORTS		3550 NW 189TH ST	MIAMI	33056
58GW	GOLDSTINE, G & R	FISH NUT HUT	2475 LAUREL LANE	LAKE PARK	33410
58GM	GRAY, CB	PETLAND CLEARWATER	1854 A US 19N	CLEARWATER	33515
58FY	GREENBERG, L	PURR-FECT PETS OF S FLORIDA	4651 SW 163 AVE	FORT LAUDERDALE	33313
58GX	HALDI, B & GONZALEZ R	LAS PALMAS FARMS	26820 SW 187 AVE	HOMESTEAD	33031
58IX	HALLMAN, W L	DON'S PETLAND	RT 4 BOX 4316	ARCADIA	33821
58CZ	HATFIELD, KI&JC	EXOTIC FELINE FARM	1991 SW 136TH AVE	DAVIE	33325
58HV	HEROY, H S		160 LEMON LANE	CASSELBERRY	32707
58FA	HORTON, D		RT 1 BOX 184A3	BUNNELL	32010
58IS	HUDSON, K & KENNY, R	THE CRITTER SHOP	3407 HENDERSON BLVD.	TAMPA	33609
58DA	JOHNSTON, B		PO BOX 186	ELLENTON	33532
58BO	JULIAN, LL	STUART PET CTR	BOX 615	PALM CITY	33490
58AV	KELLEY, KD	KEL FARM	RT. 1 BOX 276	ALACHUA	32615
58AR	KINDT, CR	EXOTIC CATS AND CROSSBREEDS	19855 DUBOIS RD.	JUPITER	33458

FLORIDA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58BM	L.D. PUPPY SHOP, INC.		4302 SW 8TH ST	MIAMI	33134
58EU	LANGIERI, BM	RBC RANCH	9065 S TAMIAMI TRAIL	VENICE	33595
58IE	LASHLEY, V		517 POINSETTIA ROAD	AUBURNDALE	33823
58EQ	LAYMAN, L		190 SUNSET DR	CASSELBERRY	32707
58DZ	LIBBY, SR., R & I		9446.50	ORLANDO	32810
58HC	LIFE FELLOWSHIP CHURCH INC		RT 1 BOX 64-N	SEFFNER	33584
58GF	LIGHTSEY CATTLE CO		2230 SAM KEEN RD.	LAKE WALES	33853
58IK	MAEAYA, MARCELO & ZEIDA	LA CARIDAD BOTANICA	16317 NW 42 AVE	CAROL CITY	33055
58HO	MARMOSET BREEDING FARM, INC.		PO BOX 1104	RIVERVIEW	33569
58BI	MARSH, J	HAPPYLAND PET SHOP	RT. 1 BOX 28	FT PIERCE	33450
58FQ	MIAMI RARE BIRD FARM INC		189 CARIBBEAN RD	NAPLES	33940
58IM	MOORE, J & M	FINE FEATHERED FRIENDS	1100 NE 164TH STREET	NORTH MIAMI BEACH	33162
58BW	MOORE, R J	ROGER'S PET PARADISE	5211 S. QUINCY	TAMPA	33609
58HG	MORRIS, A & SMITH, S	S & M ENTERPRISES	5 N E. 27TH AVE	POMPANO BEACH	33062
58HU	NATIONAL WILDLIFE RESERVE TEAM		16600 SW 197 AVE.	MIAMI	33187
58GT	NEIDHOEFER, J	FINE FISH FARMS, INC.	3475 N.W. 187TH ST.	OPA LOCKA	33056
58BR	NELSON, R	EXOTIC BREEDERS	P.O. BOX 137	NOBLETON	33554
58GQ	NEWMAN, D		1107 HWY. 92W	SEFFNER	33584
58CE	NOELL, RM & AM	NOELL'S ARK CHIMPANZEE FARM.	PO BOX 396	TARPON SPRINGS	33589
58AD	PARROTT, J & T		3050 COUNTRY CLUB LANE	PEMBROKE PARK	33009
58AQ	PET FARM INC	BLUE RIBBON PET FARM	7000 NW 69 AVE	MIAMI	33166
58DH	PET HAVEN, INC.		3321 N FED HWY	POMPANO BEACH	33064
58AW	PET RANCH OF AMERICA		145 E. MERRITT AVE	MERRITT ISLAND	32952
58GU	POWELL, D	WAUCHULA HILLS RABBITRY	RT #1 BOX 225	WAUCHULA	33873
58JC	PRETTY PUPPY PET SHOP		2951 PALM BEACH BLVD.	FT. MYERS	33901
58IU	PRUTER, M & J	RIVER ROUD RABBITARY	RT 4 BOX 157	DADE CITY	33525
58HE	RATNER, S	ONE OF THE FAMILY INC	4551 PONCE DE LEON BLVD	CORAL GABLES	33146
58HH	RHODES, D	COURT HILL KENNELS	RT 2 BOX 357C	GAINESVILLE	32602
58GY	ROBERTS, J & T	THE RABBIT HUTCH	19001 SW 240 ST	HOMESTEAD	33031
58GA	RODRIGUEZ, D		12700 SW 194 AVE	MIAMI	33157
58HB	ROONEY, G	ANIMAL BAZAAR	1 BROADWAY	FT MYERS BEACH	33931
58FV	ROTH, R	ANIMALS OF DISTINCTION	RT 4 BOX 241	FT PIERCE	33450
58II	SHIVAK, P & B	ARMADILLO ACRES	11835 S.W. 190TH TERRACE	MIAMI	33127
58EE	SINGLETON & CO., INC.		PO BOX 248	RIVERVIEW	33569
58FF	SLOCUM, II, BR & L	QUALITY BIRD CO.	6950 NW 70TH ST	MIAMI	33166
58HN	SMITH, R & G		13100 SW 216TH ST	GOULDS	33170
58IO	SMITH, R & I	PUPS-N-STUFF	3260 BERMUDA RD	LAKE PARK	33410
58AJ	SOUTH AMERICAN PRIMATES, INC		PO BOX 970768	MIAMI	33197
58BB	SPINOSO, PJ		4215-83RD AVE N	ST. PETERSBURG	33714
58IW	STADING, W & N	A COUNTRYSIDE KENNEL	10550 SW SR 200	OCALA	32671
58IR	STEPHENSON, J	CLEARWATER ZOOLOGICAL EXCHANGE.	1250 S HIGHLAND AVE	CLEARWATER	33516
58FD	STEWART, B	RAINBOW KENNELS	RT 1 BOX 127A	DOVER	33527
58IP	STRODE, T	PUPS-N-STUFF	1529 OLD DIXIE HWY	JUPITER	33458
58AM	TAMPA LIVESTOCK DISTRIBUTORS, INC.	THE HARTZ MOUNTAIN CORP.	PO BOX 22007	TAMPA	33622
58IZ	THOSE AMAZING ANIMALS		9783 S.W. 72ND ST.	MIAMI	33173
58AZ	TROPICAL ANIMAL DISTRIBUTORS		158 N.W. 37TH STREET	MIAMI	33127
58HR	TROPIQUARIUM INC		14366 BISCAYNE BLVD	N MIAMI BEACH	33181
58HX	TROUTMAN, B & N		500 ST PETERSBURG DR W BOX 506.	OLDSMAR	33557
58JB	VEBERT, D & J	EXOTIC PETS UNLIMITED	3321 13TH ST.	ST. CLOUD	32769
58IQ	VERRY, J B		316 S. OAKWOOD AVE.	BRANDON	33511
58IV	WAHL, B A JR.		127 W. HIAWATHA ST.	TAMPA	33604
58IC	WALKER, D	PJ'S PET SHOP	P.O. BOX 999	FT. WALTON	32549
58EW	WARD, M	GARDENVILLE SMALL STOCK FARM.	11546 CORWIN ST.	GIBSONTON	33534
58HA	WARD, M		P.O. BOX 86	O'BRIEN	32071
58DI	WOLF, R	JOY'S PETLAND	4329 CLEVELAND AVE. EDISON MAL	FORT MYERS	33901
58HD	WOOD, R & P		6309 FIRESTONE RD	JACKSONVILLE	32210
58IY	WOODS, E L	HIDDEN ACRES RABBITRY	P.O. 163	ANTHONY	32617
58IG	WORLDWIDE PRIMATES, INC.		7780 NW 53 STREET	MIAMI	33166

GEORGIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
57A31	BARNES, MRS J		ROUTE 1 BOX 251	WARM SPRINGS	31830
57A40	BARRETT, J		BOX 34 F RT 1	WAVERLY HALL	31831
57A4	COOK, WL		5250 MACLAND RD	POWDER SPRINGS	30073
57A25	CRAWFORD, JW	BUSY BEE RABBITRY	RT 2 BOX 110A	CARLTON	30627
57B1	DAVIES, H		PO BOX 107	STOCKBRIDGE	30281
57A37	EARLES, M		RT 4	THOMASTON	30286
57A11	GILREATH, C & H	THE CIRCLE G RABBIT RANCH	RT. 1 BOX 486	MONROE	30655
57A35	HATCHETT, MRS K	BOW WOW KENNELS	RT 2 BOX 84	THOMASTON	30286
57A32	KELLER, MR & MRS E R		368 MIZE RD.	TOCOOA	30577
57A15	LAWTON, M		PO BOX 116	MOUNTAIN CITY	30562
57A12	MARTIN, EB		ROUTE 3 BOX 29	FLOWERY BRANCH	30542
57A39	MCCURLEY, C		OLD DAVIS MILL RD. RT. 2	DALLAS	30132
57A24	POSS, RC		410 E BROAD ST	SPARTA	31087
57A33	SMITH, M		114 SANDERS ST	THOMASTON	30286
57B10	SUNNEX INTERNATIONAL	R.C. RANCH RABBIT PROCESSING PLANT.	STAR ROUTE 45	HARLEM	30814
57A36	WAGONER, G		1701 WOODBERRY AVE	EAST POINT	30344
57A41	WEAVER, H	TALL TREE FARMS	ROUTE 3 BOX 357	JACKSON	30233

IDAHO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
82A3	ADAMS, C & E	ASK LAB ANIMALS	2215 N 8 ST	COEUR D'ALENE	83814
82A19	JOYCE, J & S	BRIARWOOD KENNELS	RT. 2 BOX 8983	BLANCHARD	83804
82B5	KORN, J & S	CHF A GROWING CONCERN	BOX 201	CAMBRIDGE	83610
82B1	LEWIS-CLARK ANIMAL SHELTER, INC		PO BOX 804	LEWISTON	83501
82A2	MEEKS, E&V		RT 2	POST FALLS	83854
82B12	MERICLE, J & P		R 1	KUNA	83634
82A5	NOBLE, C	NOBLE KENNELS	RT 4	RUPERT	83350
82B9	RAVENSCROFT, A & J	MALAD RIVER KENNEL	TUTTLE ROUTE	BLISS	83314
82B6	STAV, E	SAGEBRUSH KENNELS	RT 1 BOX 415	ARCO	83213
82B8	TROUTMAN, J	PJ'S KENNEL	6912 COLFAX	COEURD'ALENE	83814
82B7	W.E. ARRINGTON, INC	ARRINGTON'S ANIMAL PARK	BOX 861	IDAHO FALLS	83401
82A11	WYCKOFF, E	WYCKOFF KENNELS	7016 HILL RD	BOISE	83703

ILLINOIS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
33B97	ANIMAL WORLD INC		7525 N HARLEM AVE	NILES	60648
33A205	APPLEBY, A	AA CATTERY	BOX 99 404 W MYRTLE ST	ELIZABETH	61028
33B33	ARK PET CENTER		5753 N CLARK	CHICAGO	60660
33A259	BADER, J	HILLVIEW KENNEL		SCALES MOUND	61075
33A261	BAILEY, D & G & E		BOX 234	RUTLAND	61358
33A76	BARTLETT, JW		RR 1 BOX 54	SPRINGFIELD	62707
33B184	BATTLES, D & M	WHITE OAK KENNELS	RR 3	VANDALIA	62471
3385	BEAN, GE & HK	JERI-ELEN KENNELS	ROUTE 7	MT VERNON	62864
33A251	BETTINGER, K		RR 5 BOX 29	MAHOMET	61853
33B48	BOEBEL, FW	SLEEPY HOLLOW CATTERY & KENNELS	RT 2 BOX 73	MUNDELEIN	60060
33B103	BORDEN, INC./PET DIVISION		R.R. BOX 127	ELGIN	60120
33B176	BRACKETT, R L & D B		RFD NO. 2	WINCHESTER	62694
33B177	BRISCOE, D	BRISCOE KENNELS	RT 3	SULLIVAN	61951
33A239	BROOKS, K & C		RT 6 BOX 310	NEWTON	62448
33A168	BROWN, RM		R2 BOX 206	NORRIS CITY	62869
33A229	BUSHMAN, DH & B	DOG PATCH KENNELS	BX 121 RT 1	MILLEDGEVILLE	61051
33B180	CENTRAL SCIENTIFIC CO		11222 MELROSE AVE	FRANKLIN PARK	60131
33A178	COCHRAN, J	JOAN COCHRAN KENNELS	1018 E NORTH AVE	OLNEY	62450
33B184	COE-PALM BIO. SUPPLY		1130 MILWAUKEE AVE	CHICAGO	60622
33A255	COGGINS, E		RR 1	HOPEDALE	61747
33A245	COOPER, C & B	COOPER BROS. KENNEL	1403 INDIANA	WINDSOR	61957
33B157	CWAYGEL, JM	SAILRIN PET SHOP	104 HESSEL BLVD	CHAMPAIGN	61820
33B11A	DALE, DM	DALE'S KENNEL	R 1 BOX 159	MACEDONIA	62860
33A21	DANIELS, EJ	DANIELS KENNELS	RR 2	COLCHESTER	62326
33A242	DAVIS, D	BOOMER'S RABBITRY	5502 N ARROW DRIVE	PEORIA	61614
33A244	DAVIS, G		123 W JEFFERSON	MASON CITY	62664
33B149	DAY, A	DAY'S KENNEL	221 N 5TH ST	GREENVILLE	62246
33B71	DEBOLT, MD		BOX 9	STEWARDSON	62463
33B161	DOBILL, JM		RR #2	VALMEYER	62295
33A254	ELLISON, C & JITER, J	CHET & JIM'S RABBITRY	RT 4	SHELBYVILLE	62565
33A23	FEWELL, D&M	MERRY DAWN KENNEL	RR 2	MINONK	61760
33B170	FISHER SCIENTIFIC CO		711 FORBES AVE	PITTSBURGH	15219
33A224	FRITCHIE, D	FRITCHIES KENNEL	105 E MAIN	BIRDS	62415
33A184	GAJEWSKI, T		RR 1	WOODLAWN	62898
33A10	GENERAL FOODS CORP.	DAINES NUTRITION CENTER	ROUTE 3	ST ANNE	60964
33B162	GERHARDT, S	HAPPY HILL KENNEL	RR 1 BOX 18	NIOTA	62358
33A252	GOODMAN, C & M		258 BETTY-PARK CITY MOBLE HOMES	PARK CITY	60085
33B179	HADLEY, G	TROPICAL KINGDOM	236 DUNDEE AVE	ELGIN	60120
33B18	HALE, R		1340 WALNUT	CARTHAGE	62321
33B110	HANNA, E	TROPICAL TREASURES	3842 W. 147TH ST.	MIDLOTHIAN	60445
33B186	HARRIS, F R	DAISY MAE KENNELS	RR 2 BOX 55A	PAXTON	60957
33A253	HARTKE, M L		R 4 BOX 72	EFFINGHAM	62401
33A220	HARVEY, J	ECHO VALLEY DANES	R #4 BOX 255	MARSHALL	62441
33A257	HAUK, K & L		1020 W NORTHLAND	SHELBYVILLE	62565
33B175	HENDEE, C	HENDEE ZOOLOGICAL CO	1944 A LEHIGH	GLENVIEW	60025
33A74	HITCHCOCK, L & J	SUNDOWN KENNELS	RR 1	NAUVOO	62354
33B141	HOCHMUTH, W	SUBURBAN PET CITY	6343 W CERMAK	BERWYN	60402
33A123	HOLMES, H N	GUNSMOKE KENNELS	RR1	PAWNEE	62558
33A235	HUFFMAN, E & KUNKEL, B	ED AND BLAIRS CAVIARY	BOX 62	SORENTO	62086
33B174	HUSEMANN, D & C		BOX 49 RR 1	COATSBURG	62325
33B156	HUTCHINS, A		RT. 8 BOX 328	DECATUR	62522
33B188	ILLINOIS AGRICULTURAL SERVICE CO.		1701 TOWANDA P.O. BOX 2901	BLOOMINGTON	61701
33B46	ISAACR, B&A	ISAAC' RABBITRY	202 N WELCH ST	HILLSBORO	62049
33B21	ISAACS, TE	ISAACS LAB STOCK	608 N. JACKSON	LITCHFIELD	62056
33A19	JACKSON, L	JACKSON KENNEL	R 4	MACOMB	61455
33B176	JOHNSON, C & R	JOHNSON LABORATORIES, INC	19516 STEDHALL	HOMEWOOD	60430
33B159	JOHNSON, R	HARDROCK GAME FARM	RR 4 BOX 248 NIMTZ RD	ROCKFORD	61111
33A149	JOHNSTON, D	GREEN ACRE PETS	RR 4	CARLINVILLE	62626
33A161	JONES, DA	JONES KENNELS	RR 1	FOWLER	62338
33A249	JONES, P & J		BOX 13	PARKERSBURG	62452
33B122	JURY, K	GOODMAN KENNELS	620 S. BURCHARD	FREEPORT	61032
33A4	KAISER, M		RR 3 BOX 150	PANA	62557
33A262	KALISH, D		RR 2 BOX 9A	EDWARDSVILLE	62025
33A232	KEERAN, M & G	KEERAN'S KENNELS	R.R.	INDUSTRY	61440
33A206	KESLER, M	KELS-RU KENNELS	1007 E NORTH AVE	OLNEY	62450
33B77	KRAUSE, R & M	MOM'S ARK PET CENTERS	2430 EAST OAKTON ST	ELK GROVE	60007
33B165	LAPINE SCIENTIFIC CO		6001 S. KNOX AVE	CHICAGO	60629
33B139	LEMEN, Y	COUNTRY KENNELS	2420 WEST MACON	DECATUR	62525
33B185	LEVY, S	APET, INC	86 A LIVELY BLVD	ELK GROVE VILLAGE	60007
33A129	LEWIS, CE		1003 1ST AVE	MENDOTA	61342

ILLINOIS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
33B169	LEWIS, R		R.R. 2 CRAWFORD CO. DOG POUND.	ROBINSON	62454
33A236	LITTLE, GR	LITTLE ACRES KENNEL	RR 2	LA HARPE	61450
33B64	LOMAX, G			OPDYKE	62872
33A141	MARKS, DJ	DIANA MARKS SM. ANIMAL BREEDER.	3311 W. DICKENS	CHICAGO	60647
33B182	MCDOWELL, C		RT 1	WEST SALEM	62476
33A246	MCDUFFIE, CE	MCDUFFIE'S RABBITRY	RR 1	MAHOMET	61853
33A15	MCKAY, MM	COLONIAL KENNELS	R 1 BOX 34A	QUINCY	62301
33B42	MCKINZIE, R&E	MCKINZIE KENNELS	ROUTE 7 BOX 136	CENTRALIA	62801
33A171	MCMURTREY, G		RR 1	POCAHONTAS	62275
33A215	MILLER, P		23321 261 ST. N.	CORDOVA	61242
33A258	MORFORD, G & CARLSON, R		RT 2	SHELBYVILLE	62565
33A196	MOSSMAN, L		BOX 547	RIDGWAY	62979
33B55	MOTSINGER, R	MOTSINGER KENNELS	RR 2	ST JOSEPH	61873
33B119	MUNTZ, DK	DONS BAIT AND BUNNY FARM	RR 1 BOX 270	CARROLLTON	62016
33B171	MURFIN, C	KAROLYN'S KENNELS	RR 2	COLCHESTER	62326
33A167	MYERS, EA		RR 2 BOX 93	CARMI	62821
33A133	NEUMANN, B		R 2	GREENVILLE	62246
33A264	OBRIEN, P		15 BUNN COURT	SPRINGFIELD	62703
33B120	PAWLEY, R	ZOOLOGICAL CENTER, INTERNATIONAL	15W506 W 83RD.	HINSDALE	60521
33B11	PEPPER, MM	PEPPERIDGE ZOO FARM	RR 2	DANVILLE	61832
33B90	PHILLIPS, T	PHILLIPS SALE CO.	RR 1	GOOD HOPE	61438
33B187	PORTSCHER, R		RT 1	EDELSTEIN	61526
33A234	PRASUN, L	L & B RABBIT RANCH	RT 1 BOX 62	TAYLORVILLE	62568
33A250	PROCYK, WM	RARE GAME FARM	RT 1 PARKER RD.	MOKENA	60448
33A26	RAPP, C	RAPP'S SNOW WHITE ESKIMOS	RT 1	BLUFORD	62814
33B36	RESEARCH INDUSTRIES CORP		PO BOX 66	MONEE	60449
33A209	RICHARDS, JA		311 AVONDALE	CHAMPAIGN	61820
33A263	RICHTER, F		BOX 105	ROSAMOND	62083
33A248	RINSCH, B		RT 1	FLAT ROCK	62427
33A217	ROWE, RA & BD	ROWES RABBITRY	8380 N GUN CLUB RD RT 3	MORRIS	60450
33A86	RUNQUIST, C	RUNQUIST'S KENNELS	R 2 BOX 178A	MENDON	62351
33A132	RUSSELL, H	RUSSELLS' KENNEL	RR #1	BUNCOMBE	62912
33A7	SANCHEZ, B	BEN'S PUPPYLAND	113 BABCOCK ST	ELBURN	60119
33B163	SARGENT-WELCH SCIENTIFIC CO.		7300 N LINDER AVE	SKOKIE	60077
33B20	SCIENTIFIC SMALL ANIMAL LAB & FARM INC.		401 W GOLF RD	ARLINGTON HEIGHTS	60005
33B146	SELBY, W L	O'HARE TROPICAL IMPORTS, INC.	11211 FRANKLIN AVE.	FRANKLIN PARK	60131
33B159	SHORT, M	SHO-MAC KENNELS	PO BOX 712	MT VERNON	62864
33A211	SIKKEMA, L&D	PUPPY LOVE ACRES	RT 2	WALNUT	61378
33A221	SMITH, P	KAMP KREEK KENNEL	RR 4	MACOMB	61455
33A260	SOUTHWICK, C		RT 2	ROCHESTER	62563
33B163	SPRINGGATE, R A		909 S HOUSTON	TAYLORVILLE	62568
33B172	STANFIELD, J		RR #2	PARIS	61544
33A207	STEFFEN, D		RT 3	EFFINGHAM	62401
33A256	SYMMONDS, J & D	TWIN OAKS KENNEL	RR 1	WARSAW	62379
33B189	TELFORD, T S		ROUTE 2	SALEM	62881
33B83	THOMAS, L&R		RR 1	STRASBURG	62465
33A236	VOIGTLANDER, D		319 BRUCE AVE.	MILAN	61264
33B56	WARREN, LN		PO BOX 125	PANA	62557
33B8	WARSAW COONHUNTERS ASSOC.		305 CLARK	WARSAW	62379
33B157	WILSON PET SUPPLY INC.		639 NORTH THOMAS DR.	BENSENVILLE	60106
33A169	WOLFE, MB		RR 2	FLORA	62839

INDIANA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
32B40	BANE, G		BOX 254	MEDORA	47260
32A76	BENNETT, N J		886 N. ROAD 275 E	COLUMBUS	47201
32A50	BLEEMEL, HJ		5361 E STOP 11 RD.	INDIANAPOLIS	46227
32B21	BOTKIN, M		RR 1	SELMA	47383
32A88	BOWLES, J		RT 2 BOX 440	SCOTTSBURY	47170
32A73	BOWMAN, L	L B'S RABBITRY	PO BOX 142	BRAZIL	47834
32A29	BROOKING, M		RR 17	BEDFORD	47421
32A82	BUTTS, MRS C.		RT 4 BOX 97	RUSHVILLE	46173
32A30	CARVER, L	CARVERS' KENNELS	R.R. 12 BOX 141	BEDFORD	47421
32B35	CLARK, OE		22S-400 E	DANVILLE	46122
32A1	COVAL, D & M	PIN OAK FARM	RR 2 BOX 402	SHERIDAN	46069
32B37	COX, C		PO BOX 600	FARMERSBURG	47850
32A87	CRAMER, D	DAD'S RABBITRY	4055 CRAMER ROAD	MARTINSVILLE	46151
32B23	DEMAREE, JT	J.T. DEMAREE PET FARMS	RR 1 BOX 66	MADISON	47250
32B29	DENNISTON, K	LAWRENCE COUNTY KENNELS	RR 17 BOX 562	BEDFORD	47421
32A66	ELROD, RG	WHITE KNIGHT KENNEL	R 2 BOX 450	SALEM	47167
32A3	ENGLE LABORATORY ANIMALS, INC.		RR 1 BOX 23	FARMERSBURG	47850
32A12	ESSIG, MK		RR 2	NOBLESVILLE	46060
32B6	FIELDS, A	FIELDS KENNELS	RR 3 BOX 7	PORTLAND	47371
32A8	FISHER, B		RR 1	SHIRLEY	47384
32A52	FOX, MRS. ISAAC		RT 3 BOX 277	MORGANTOWN	46160
32A65	GLESSNER, R	GLESSNER RABBITRY	RR 2 BOX 19	MONTPELIER	47359
32A48	GOEBEL, V J		RR 1 BOX 109	HAUBSTADT	47639
32A58	GREENE, G		RR 1 BOX 86GA	SHELBURN	47879
32B27	GREINER, J&M		RT 2	CONNERSVILLE	47331
32A63	HARLAN INDUSTRIES, INC		PO BOX 29176	INDIANAPOLIS	46229
32B46	HARP, WM. E. & GARY E.	HARP'S EXOTIC FISH & PETS	1309 N. GREENRIVER RD.	EVANSVILLE	47715
32A45	HARTINGER, B		RR 3	MADISON	47250
32A79	HELMUTH, G	PUPPY-LOVE KENNEL	RR 2 CR58 30059	NAPPANEE	46550
32A85	HIRCHERT, W & M		RR 1 BOX 376A	WILKINSON	46186

INDIANA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
32B47	HOBBLE, W		2202 E ARROWHEAD DR	NEW ALBANY	47150
32A23	IRVING, CC	IRVING GAME FARM	RR 6	GREENFIELD	46140
32A74	KAUFFMAN, K & E	INDIAN CREEK RABBIT FARM	4801 N 250 WEST	WEST LAFAYETTE	47906
32A70	KOENIG, J		RR 1	CARLISLE	47838
32A6	KUIPER, G	KUIPERS RABBIT RANCH	5317 W 41ST ST	GARY	46408
32A83	LABORATORY SUPPLY CO., INC		3750 KENTUCKY AVE	INDIANAPOLIS	46241
32B24	LACKEY, JC		2735 BITTERSWEET BLVD	COLUMBUS	47201
32B45	LYNCH, J M & BOTTORFF, L	LBL KENNELS	RR 1	REELSVILLE	46171
32B42	MANOR, G	MANOR'S COUNTRY KENNEL	RR 2 BOX 141A	PORTLAND	47371
32A80	MARTIN, A		RR 4 BOX 96	RUSHVILLE	46173
32A67	MARTIN, J & L	LEJUPEKA KENNELS	RR 2 BOX 406C	PENDLETON	46064
32A68	MCCAMMON, L	HOMESTEAD KENNEL	RT 23 BOX 255	TERRE HAUTE	47802
32B17	MCVAY, J & BLEVINS, J	J & J ANIMAL LAND INC	BOX 78	LAKE CICOTT	46942
32B26	MODESITT, WR	NORTHSIDE KENNELS	RR 16 BOX 4	BRAZIL	47834
32A36	MORELAND, J		RR 24 BOX 288	TERRE HAUTE	47802
32A19	MORRIS, BF		1215 VIRGIL BLVD	PRINCETON	47670
32A2	MURPHY BREEDING LABS., INC		2245 N CENTER ROAD	PLAINFIELD	46168
32A62	NELSON, M & C	COUNTRYLANE KENNELS	RR 2 BOX 296	SALEM	47167
32B36	NOE, O		R #1	RISING SUN	47040
32A9	PARKE, RA	PARKEWOOD KENNELS	RR 10 BOX 98	GREENFIELD	46140
32A89	PERRY, T & D & BALES, S	B & P COTTONTAIL RABBIT RANCH	RR 1 BOX 9	KEYSTONE	46759
32B22	RIEDEL, L		RT 8 BOX 183	GREENSBURG	47240
32A57	ROSE, W	ROSE KENNEL	R #1	DILLSBORO	47018
32A84	RUBLE, C			NEW POINT	47263
32B26	SCHNEPP, RE	LAZY 'S' KENNEL	RR 5	DECATUR	46733
32B43	SCOTT, J	SCOTTS KENNELS	2900 WASHINGTON AVE	TERRE HAUTE	47803
32B33	SEARS, E	FROSTY ROSE KENNEL	P.O. BOX 222	COLITIC	47451
32A47	SEWARDS, B M	KY-LIN FARM	BOX 272 R 2	SPENCERVILLE	46788
32B11	SMITH, GT		R 1 BOX 136A	GALVESTON	46932
32A15	SMITH, MD		3750 W 97TH ST	CARMEL	46032
32B30	STEVENS, S		R 17 BOX 363	BEDFORD	47421
3289	STEWART, R	STEWART'S PET SHOP	1013 S WALNUT	BLOOMINGTON	47401
32A53	SUTHERLAND, HJ		143 HILLCREST DR	VINCENNES	47591
3296	THOMPSON, N & N	SPEEDWAY PET SHOP	3566 W 16TH ST	INDIANAPOLIS	46222
32A80	TREIBLE, J	TREIBLE KENNEL	RR 2 BOX 20	NORTH MANCHESTER	46962
32A86	ULREY, ROBERT		756 HWY 261	BOONVILLE	47601
32B48	VANVOLKENBURGH, F E		RT 8 BOX 183	GREENSBURG	47240
32A89	VERMILLION, M & E	VERMILLION VALLEY KENNELS	RR 4	ROCKVILLE	47872
32A58	WELLS, B & H	FLYING W KENNELS	R 2 BOX 346	LAWRENCEBURG	47025
32B41	WELLS, J		816 W WALLEN RD	FORT WAYNE	46825
32A72	WHITE, B		RT 1 NORTHVIEW ESTATES	SHIPSHEWANA	46565
32A42	WHITE, TW		RR 2 BOX 133	MITCHELL	47446
3291	WILSON, DW	WILSON SMALL ANIMAL FARM	PO BOX 65	VINCENNES	47591
3284	WINDSOR, AS	WINDSOR BIOLOGY GARDENS	4399 E MOORE'S CREEK RD	BLOOMINGTON	47401
32B12	WOOD, H B & M I		RR 4 BOX 450	ALEXANDRIA	46001
32A51	WOODINGS, M		RR 23 BOX 203	TERRE HAUTE	47802
32B49	ZARSE, C K		R1 BOX 34	WHITESTOWN	46075
32A27	ZENTZ, D	SILVER LAWN KENNELS	RR 2	NAPPANEE	46550
3292	ZOOK, HK	MAPLE HILL KENNEL	4010 RED BUD LANE	MORGANTOWN	46151

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LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
42UAC	A & M KENNELS	A & M KENNELS	BOX 217	VENTURA	50482
42HAR	ALLSTOT, K			TABOR	51653
42YAM	ALTENHOTEN, B	COUNTRY KENNELS	RT 3 BOX 347	CHARITON	50049
42FAW	ANDERSEN, ML			DELAWARE	52036
42RAP	ANDREASEN, J		RR 2 BOX 140	AUDUBON	50025
42VAU	ANKENY, B	BRENDA'S PET FARM	RR 2	BUFFALO CENTER	50424
42AAN	ARENDS, M		RR 1	DIKE	50624
42MAD	ARENDS, T		RR 2 BOX 188	SAC CITY	50583
42SAZ	ASK, D & M		RR 4 BOX 214	HARLAN	51537
42EU	AUERBACH, L&ER		RT 1	LEWIS	51544
42ZAE	BALDWIN, D L		RR 2 BOX 96	MERRILL	51038
42NAJ	BARNARD, D	HIDDEN ACRE KENNEL	RR 6 BOX 283	MUSCATINE	52761
42RAU	BAUDLER, J		R 2A BOX 155	FONTANELLE	50846
42JV	BECKER, W&C	BECKER KENNELS	RR 1	KNOXVILLE	50138
42PAO	BEDWELL, SL	BEDWELL'S BLINE KENNEL	RT 2	ST. CHARLES	50240
42MW	BENTON, DG & RE		RR 3 BOX 49	GUTHRIE CENTER	50115
42ZAA	BERG, J & R		RR 1	SHELBY	51570
42WAK	BERHOW, R & M	M & R KENNELS	RR 1 BOX 77	CYLINDER	50528
42WAN	BINGHAM, G		RT 1 BOX 11C	CHARITON	50049
42GAS	BLACKFORD, Z		RT 1	INDIANOLA	50125
42SQ	BLACKMAN, RT		310 FIRST ST	LEWIS	51544
42WAF	BLANK, M & G & MOURLAM, V	BLANK & MOURLAM PETS	RR 2	GOODELL	50439
42TO	BLANSHAN, CK	GREENBRIER KENNEL	RR 1 BOX 137	SCRANTON	51462
42RAY	BOHL, TJ	BOHL'S K-9 KENNELS	RR 2	LAKE MILLS	50450
42SAX	BOLL, R & AD		BOX 67	ARION	51520
42GT	BRAND, CD		RT 3	NEWTON	50208
42AH	BRANDHORST, MRS. H J & J L		4105 MCKELLER RD	WATERLOO	50702
42PB	BRANDT, FE & B	SNOPEKE KENNEL	BOX 637	WALNUT	51577
42KD	BRANT, L		RR 1	GUDDEN	51443
42KAW	BREUER, DM	BUBBA'S KENNEL	BOX 123	SPERRY	52650
42OV	BRITTEN, H		RT 1	CRESTON	50801
42TAN	BROOKHART, G	CRAWFORDSVILLE KENNELS	RT 1 BOX 9	CRAWFORDSVILLE	52621
42JAJ	BROWN, RP		RR 1	DOW CITY	51528
42ZAI	BRYANT, B		RT 1	SILVER CITY	51571
42KD	BURG, LJ	BURG KENNELS	BOX 69	BRIDGEWATER	50837

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LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
42MAY	BURK, EL		RR 1	HAMILTON	50116
42ZU	CARPENTER, DG		RR IOWA CENTER	MAXWELL	50161
42PAK	CHAPMAN, S & BLEIL, J		RR	KINGSLEY	51028
42FAH	CHATFIELD, RA		RURAL ROUTE 2 BOX 258	KEOKUK	52630
42YAP	CHICOINE, C & M	K-9 COUNTRY KENNEL	RR 1	OTTOSEN	50570
42IAP	CLARK, C	CLARK'S KENNEL	RR 1	PROMISE CITY	52583
42UAL	CLAUSEN, DA		RR 1	IDA GROVE	51445
42QN	COCKBURN, RW&D		RT 1	CORRECTIONVILLE	51016
42HH	CODDINGTON, A R	BALTON KENNEL	RR 1	HASTINGS	51540
42DAR	CONNER, W & H		R 5 BOX 204	MT PLEASANT	52641
42GA	CONRAD, EL&D			KEOTA	52248
42CH	COOPER, CS	COOPER KENNELS	PO BOX 117	MYSTIC	52574
42DAA	COOPER, WD		RR 5 BOX 517	NORWALK	50211
42XAU	COSE, K		RT 1	DENISON	51442
42SAR	CRAVEN, D		BOX 201	OGDEN	50212
42YAK	CURRIE, B & R	NORTHWIND KENNEL	RR 2 BOX 93	LAURENS	50554
42KAF	DAVIS, VM		909 E HOWARD ST	CRESTON	50801
42TAI	DE BRUIN, O		RT 5	ALBIA	52531
42BX	DE FOSSE, C		RR 2 BOX 190	MEDIAPOLIS	52637
42HAT	DEAN, AL		1610 LINCOLN	CEDAR FALLS	50613
42LB	DEBRUIN, R	OAKVIEW HUNTING CLUB & KENNEL	RT 2	PRAIRIE CITY	50228
42YAG	DEKAM, K & R	K & R KENNELS	RR 1	SANBORN	51248
42WAR	DENBURGER, S		RT 5	OSKALOOSA	52577
42VAT	DERRY, L & M		RR 1 BOX 140	BAGLEY	50026
42VAC	DEVORE, P		RR 1	PROMISE CITY	52583
42VAB	DEVORE, W		RT 1	PROMISE CITY	52583
42WAX	DOCTER, S	DOCTER KENNELS	410 2ND ST. SE	ORANGE CITY	51041
42NX	DOLIESLAGER, G		1360 N. MAIN	SIOUX CENTER	51250
42CAW	DONAHUE, K		224 OAK ST.	NORTH ENGLISH	52316
42UAA	DOWNING, D & C		509 WEST 7TH ST	ADAIR	50002
42WF	DRAPER, P		RT. 2	PRESCOTT	50859
42KA	DUDLEY, WL	DUD-LEE'S KENNELS	RT 2	CRESTON	50801
42DR	DUELING, R		RT 1 BOX 325	ALLERTON	50008
42PAL	DUGGER, B	DUGGER FUR FARM	RT 1	BARNES CITY	50027
42JAN	DUIT, AD		R 1 BOX 11	MONTICELLO	52310
42EO	ECK, DA	SUGAR CREEK KENNEL	RR 1	MONTROSE	52639
42JAK	ECKHOFF, B		RR 1	BIBLEY	51249
42LAI	ECKLOR, P	MISTY MEADOW KENNELS	R. R. 4	MARSHALLTOWN	50158
42GL	ELBERT, G		RR 1 BOX 32	RODMAN	50580
42HB	ELLIS, NJ		913 LAKE RD.	OTTUMWA	52501
42QH	ELLWANGER, R		BOX 14B R1	GRAND JUNCTION	50107
42HM	ELSNER, MRS. A		915 ONEIDA ST	STORM LAKE	50588
42ZO	EMMONS, M & SCHUENZ, S	BRIARCREEK KENNEL	RR 1 BOX 83	SOLON	52333
42PAW	FARNUM, NR		RT 1	CARLISLE	50047
42LAK	FERRISS, WJ	FERRISS WILD ANIMAL FARM	RT 1	TOLEDO	52342
42RS	FINCH, A&D		RR 1	KELLY	50134
42OAQ	FISHER, D	FISHER KENNELS	R 1 BOX 116	WEST POINT	52656
42XS	FITZPATRICK, K	HI VU KENNELS	RT 2	DENISON	51442
42WAB	FLAUGH, C & V		RR 1 BOX 44	NORWALK	50211
42QAD	FORTUNE, JL	FORTUNE KENNEL	RT. 3	CHARITON	50049
42QB	FOX, CC		R2 BOX 105	FOREST CITY	50436
42CM	FOX, J	FOX'S FORBOSH KENNELS	RT 3	CENTERVILLE	52544
42WAT	FREESE, K & W	FREESE DACHOUND KENNEL	RT 1	VAIL	51465
422C	FUHRMEISTER, L		RR 2	IOWA CITY	52240
42XX	GARDNER, MJ		R-2	DIAGONAL	50845
42AN	GARNER, D		RT. 5	OSCEOLA	50213
42YAS	GASTON, M	BUNNY HOP	BOX 32	BONNEVILLE	50036
42GAU	GATES, R & P		2119 BOYD ST	DES MOINES	50317
42FAG	GIGLER, S	BARS'S KENNELS	RR	TITONKA	50480
42SY	GILBERT, H			KEOSAUQUA	52565
42SAQ	GOKEN, CJ		RT. 1 BOX 78	DYSART	52224
42NAS	GOODWIN, BM		RT 2 BOX 130	GLIDDEN	51443
42NAH	GOODWIN,J		402 WOODMANESE ST	MACEDONIA	51549
42MJ	GOSCH, M & E	GOSCH'S K-99	RR 2	IDA GROVE	51445
42QAW	GRADY, R&D	DEE'S KENNEL	RR 1 BOX 73	OTHO	50569
42KAQ	GRAEVE, M	GRAEVE KENNEL	RR 1	EARLING	51530
42VAA	GRAU, C	MARDI-GRAU KENNEL	RR 2	NEWELL	50568
42FAM	GREMANN, RL			KELLERTON	50133
42UAQ	GROEN, C & V		RR 1	LITTLE ROCK	51243
42UAT	GROEN, L		RR 1 BOX 36	LITTLE ROCK	51243
42VE	GROTEWOLD, D		RR 2	LAKE MILLS	50450
42CAU	GRUENHAGEN, C		RT 2	WALCOTT	52773
42PH	GUDE, J	GUDE KENNELS	RR 2B	EXIRA	50076
42JG	HALL, H & H		104 N. 2ND AVE	VILLISCA	50864
42JB	HAMRICK, HM		RT 1	ACKWORTH	50001
42XAZ	HANNA, J & J		RR 2	LAKE MILLS	50450
42XO	HANNY, R		601 WALKER ST.	WOODBINE	51579
42RU	HANSEN, D&D	HANSEN KENNELS	RR 3	EXIRA	50076
42GAV	HARDISTY, D		RR 3	CORNING	50841
42QAL	HARRIS, H & S	WOODSIDE KENNELS	RR 2	WOODBINE	51579
42VAY	HARTE, LF & D	HARTELAND KENNELS	RR 1	REMSEN	51050
42QD	HAVICK, M		RT 1	SHELBY	51570
42CAV	HAYES, C & GRAHAM, C	WOLF POINT KENNEL	RR 1	ACKWORTH	50001
42PAM	HEADLEY, K&D	HAMILTON CO	RR 1	ELLSWORTH	50075
42UAH	HEIL, L		RT 1	MARSHALLTOWN	50158
42XAF	HENNINGSEN, K & D		RR 1 BOX 19	DELOIT	51441
42IAA	HENSLEY, D E		RT 2 BOX 94	MOUNT AYR	50854
42ET	HESS, J M		RT 1	WASHINGTON	52353
42TAR	HESS, K		307 S 7TH ST	DUNLAP	51529

IOWA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
42ZAJ	HICKS, S		RR 2 BOX 99	AUDUBON	50025
42CQ	HIXENBAUGH, B	LAKEVIEW KENNEL		PLANO	52581
42YAC	HOBBS, CHRIS		1310 OAK PARK RD	COUNCIL BLUFFS	51501
42UAF	HOLST, L	LAND D KENNEL	BOX 10	BOUTON	50039
42XD	HOLTORF, DR		RR BOX 49	CALLENDER	50523
42KZ	HOLTZ, MRS. CLARENCE	BOTNA VALLEY KENNELS	RR 2	AVOCA	51521
42WE	HOMANDBERG, A		RT 1	INWOOD	51240
42HAF	HOOVER, B		1408-13TH ST	MILFORD	51351
42WR	HOOVER, FR		BOX 154	OTHO	50569
42QS	HORMAN, C	HORMAN'S SUNNY DALE KENNELS	RT 3	PELLA	50219
42YAN	HOVEY, S & M	MAN-SAM'S KENNEL	RR 3	FOREST CITY	50436
42ZAH	HUEBNER, D & L	COTTTENWOOD KENNEL	RR 1	WESTPOINT	52656
42LAT	HUFFER, J		RT 1	ST. CHARLES	50240
42EAW	HUISMAN, D	HUISMAN AQUATIC'S	625 4TH AVE.	SHELDON	51201
42UAY	HUMMEL, D & V	VIDON KENNEL	RT 1 BOX 212	STANTON	51573
42XD	JACOBSON, A&J	WINNEBAGO CO	RR 1	LAKE MILLS	50450
42WAC	JACOBSON, R & P	HILLTOP KENNEL	RT. 3 BOX 215A	COUNCIL BLUFFS	51501
42BAX	JANSSEN, S		RR 2	LAKE CITY	51449
42WAI	JANSSEN, S & R	FOUR PAWS KENNEL	RR 1 BOX 45A	DOON	51235
42SR	JARVIS, JA		719 3RD AVE N	MT VERNON	52314
42XAH	JENSEN, M	J & M ENTERPRISES	RT 1 BOX 263J	HONEY CREEK	51542
42LAE	JOBE, JA	BY-JOBE KENNELS & STABLE	BOX 281	TABOR	51653
42DAO	JOHNSON, G	RED BRIDGE KENNEL	RR 1 BOX 49	SMITHLAND	51056
42EAU	JOHNSON, J&J	JO & JONS KENNEL	206 W DES MOINES ST	ELDON	52554
42AU	JOHNSON, KC		RR 2	ALBIA	52531
42WAQ	JONES, K & S	TUCKS KENNEL	RT 3	NEWTON	50208
42ZF	JONES, NJ		RT 1	ACKWORTH	50001
42CR	JUDGE, L	JUDGE'S KENNEL		MORAVIA	52571
42UQ	KAMERMAN, A			ORANGE CITY	51041
42OJ	KAUFFMAN, H	KAUFFMAN KENNELS		WAYLAND	52654
42JAQ	KAUFFMAN, J		R 1 BOX 220A	WAYLAND	52654
42YAA	KELLER, N A		RT 1 BOX 36	GRAND RIVER	50108
42BK	KELLY, R G	KELLEY'S KENNELS		KELLERTON	50133
42WAS	KENKEL, G & J	PAL J'S KENNEL	BOX 287	EARLING	51530
42NV	KENKEL, L & A		RR 2 BOX 73	HARLAN	51537
42YAR	KERN, MRS. JIM	FAIRGROUND KENNEL	729 S.E. 32ND	DESMOINES	50317
42QAB	KING, S		R 2	WEST POINT	52656
42SAV	KINNEY, G & M	HORSE SHOE KENNELS	RR 1	LEWIS	51544
42ZAF	KIRK, R	KIRK'S KENNEL	RT 1 BOX 128	DRAKESVILLE	52552
42OAC	KLABUNDE, M & K	CEDARWOOD KENNELS	RR 1	HONEY CREEK	51542
42LX	KLASS, BJ	HI-KLASS KENNELS	RR 4	FT DODGE	50501
42MAC	KLOBNAK, V		BOX 178	HAMILTON	50116
42RAO	KNUDSON, M		RR 4	RED OAK	51566
42YAW	KOOLKER, J		RR 1	BOYDEN	51234
42HAS	KOONTZ, OL & P	PAT-O-PAL KENNEL	RR 1 BOX 157C	PROLE	50229
42XAE	KORVER, MARTIN	KORVER CATTERY	RR 1	ALTON	51003
42AAS	KRABILL, A		RT 3	MT PLEASANT	52641
42OAX	KRAGELUND, M		RT 1	WIOTA	50274
42TAZ	KRAMER, J	KRAMER KENNELS	RT 5 BOX 147	OSAGE	50461
42OAK	KRAMER, V		BOX 82	FOSTORIA	51340
42LF	KRAUSE, R		BOX 119 RFD	FENTON	50539
42XAQ	KRUEGER, D	IOWA ECOLOGY FARMS	RR 2	WILTON	52778
42IR	KRUSE, GM		RR1 BOX 95	SALEM	52649
42UAX	LALONE, L & R		RR 1	ARTHUR	51431
42PS	LANG, JH & JL		502 N MARION AVE	WASHINGTON	52353
42QAM	LANG, R & C	LANG'S KENNEL	1816 E 12TH ST	DES MOINES	50316
42DL	LANGSTRAAT JR, H		RT 1	OTLEY	50214
42ZAD	LARRINGTON, C		RT 1 BOX 14	CHARITON	50049
42YAU	LATHROP, RONALD D		RR 1	PACKWOOD	52580
42EAO	LATTA, F		RT 1	MONTICELLO	52310
42JR	LAVERMAN, MRS W		RR 1	SULLY	50251
42IAR	LEAS, ND	LUTZHAUS KENNELS	5532 ASHWORTH RD	WEST DES MOINES	50265
42AW	LEE, E	LEES KENNEL	106 LEE ST	SEYMOUR	52590
42YAX	LEICHTY, A		R 2	WASHINGTON	52353
42FE	LEINEN, LJ	PARSOLISH KENNELS		HARPER	52231
42AAJ	LITTLE, LD		BOX 186	BARNES CITY	50027
42SS	LIVINGSTON, H&S	WINCREST KENNEL	ROUTE 3	INDIANOLA	50125
42XAO	LOMBARD, C		RFD BOX 2	LEHIGH	50557
42YAH	LOVELL, K		1462 EAST 23RD	DES MOINES	50317
42XAR	LOYNACHAN, K & J		RR 3 BOX 218A	CHARITON	50049
42GW	LOYNACHAN, T	LOYNACHAN KENNELS	RT 3 BOX 275	CHARITON	50049
42HAH	LUNDSTROM, D		BOX 311	SPIRIT LAKE	51360
42FZ	LYNCH, H		RR 1	W BRANCH	52358
42IAX	MADSEN, S		RR 1	AUDUBON	50025
42YAV	MANNING, C	BUNDLES OF LOVE		LARCHWOOD	51241
42YAY	MARNELL, R & C	MARNELL'S KENNEL	RR 2	PAULLINA	51046
42PJ	MARLIN, G	MARLIN WILD ANIMAL FARM	RT 1	CRESTON	50801
42CAR	MAUDLIN, P			REDDING	50860
42QV	MCCLAIN, A	MCCLAIN KENNELS	RR 1 BOX 7	HARRIS	51345
42SL	MCCOMBS, SD		RT 1	ACKWORTH	50001
42KAS	MCCREARY, JA		RR 1 BOX 45	MT AYR	50854
42XC	MCCULLOUGH, N		RT 2 BOX 71	MOULTON	52572
42EQ	MCDERMOTT, R		RT 2	ATLANTIC	50022
42LAS	MCDOUGALL, D		RR 1	MELVIN	51350
42IS	MCINTOSH, R&S	SANRON KENNELS		FARMINGTON	52626
42EAJ	MCKAMEY, N		RR 1 BOX 185	BETTENDORF	52722
42TA	MEADE, HG		RT 6 LINDER LN	IOWA CITY	52240
42NAC	MEANS, V		RT 4	CARBON	50839
42ZQ	MEEVES, RE		RR 2	IDA GROVE	51445

IOWA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
42JE	MEYER, A		70 ALLVIEW DRIVE SW	CEDAR RAPIDS	52404
42LAR	MEYER, K		RT 1	BRANDON	52210
42FAF	MICHAEL, FD		RT 2	ELKHART	50073
42MI	MILES, D & J		RR 2	IDA GROVE	51445
42XAT	MILLER, A C	PLEASANT VALLEY KENNEL	RT 4	HARLAN	51537
42GAN	MILLER, DW		ROUTE 1	KEOTA	52248
42VAG	MILLER, G		RR 2 BOX 325	KALONA	52247
42AAC	MILLER, JF & J		RR 1	DUNLAP	51529
42TAT	MOORE, JD		R 2 BOX 68B	WAPELLO	52653
42FAC	MOORE, M		BOX 226 RT 1	CENTERVILLE	52544
42XAB	MOORE, T & R		RT 3 BOX 47	CORNING	50841
42YAO	MORE, J		RT. 1 BOX 29	AURELIA	51005
42TAU	MORGAN, R & D		BOX 3 RR 1	OTO	51044
42ZAK	MORMON TRAIL COON HUNTERS INC.		RR 3 BOX 33	GREENFIELD	50849
42CV	MORRISON, L		RR 1	GRAND RIVER	50108
42BY	MORRISON, MC	MORRISON RABBITRY	RR 1	WEST LIBERTY	52776
42LC	MOULDS, SE	WESTROAD KENNEL	RR #1 BOX 31	LAKE CITY	51449
42WAM	MUFF, J K	MUFF'S KENNELS	RT. 1	DUNLAP	51529
42IX	NARIGON, AG	NARIGON RENE KENNEL'S OF PRESCOTT.	BOX 184	PRESCOTT	50859
42DG	NEALEY, CM		RR 2	DANVILLE	52623
42BZ	NEJDL, RN	LEDJEN HILLS KENNEL	PO BOX 1185	CEDAR RAPIDS	52406
42WAH	NEPERENY, M & M			STRATFORD	50249
42NS	NIKKEL, L		RR 1	SULLY	50251
42ZAB	NOETHE, J & P	OLEO ACRES	RR 1 BOX 184	ALTON	51003
42DAY	NORDBY, M&D	HIDDEN HOLLOW KENNEL	RT 1	KIMBALLTON	51543
42FO	NORMAN, RE&CM	[illegible] KENNELS	RT 2 BOX 223	AFTON	50830
42QAE	OLDENKAMP, K&M	OLDENKAMP KENNELS	RR 2	ORANGE CITY	51041
42YAD	OWENS, R & V	RIVERHILLS KENNELS	3001 MALLOY RD	SIOUX CITY	51103
42NW	PARDEKOOPER, B		BOX 101 207 WEST NORTH STREET.	LINDEN	50146
42CC	PATTEN, AB&E		RR 1	AUBURN	51433
42FAA	PATTEN, P		328 GENESEO ST.	STORM LAKE	50588
42ZAM	PAYNE, J P	BORDERLINE KENNELS	BOX 6	LINEVILLE	50147
42PF	PETERSON, BW		BOX 28A	GLIDDEN	51443
42WAY	PETERSON, C C	CAROLS KENNELS	RR 4 BOX 112	FOREST CITY	50436
42RW	PHILLIPS, MK	PHILLIPS KENNELS	R-2 BOX 191 TOWNSHIP RD	KEOKUK	52632
42TAK	PIERCE, R		RT 1	COLFAX	50054
42MH	PILLING, DG			MEDAPOLIS	52637
42JAG	PLUMB, D	PLUMB'S KENNEL	ROUTE 1	HARLAN	51537
42UAN	POL, M		RT 1	SULLY	50251
42NE	POLDBERG, D & M		RR 2 BOX 66	HARLAN	51537
42WQ	PORTER, A & E		BOX 582	DAYTON	50530
42SAY	PORTER, B			CUMBERLAND	50843
42KB	PORTER, FE		ROUTE 1	LACONA	50139
42UAU	POWERS KENNEL		BOX 18	TABOR	51653
42TAL	PROKOP, J & J		117 WASHINGTON ST	ROCKWELL CITY	50579
42NAI	PULVER, R		RT 1 BOX 23A	RUNNELS	50237
42XAA	PURCELL, C	DE FELIS CATTERY	101 FRANK ST.	COUNCIL BLUFFS	51501
42YAU	PURDUM, G&J		RR 1 BOX 147	NEWTON	50208
42UX	RANKIN, M		1454 E 21ST ST	DES MOINES	50317
42GAM	RED ROCK COON HUNTERS ASSN		RT 1	LACONA	50139
42LA	REIMER, H	REIMER KENNEL	ROUTE 1	AFTON	50830
42PZ	REMILLAND, MR. & MRS. D	REMILLAND KENNEL	RR 2	ALTA	51002
42PZ	REMILLARD, DS		RR #3	ALTA	51002
42LAV	REYNOLDS, R		RR 3	CARLISLE	50047
42AZ	RHOADS, L	RHOADS KENNEL		NUMA	52575
42DA	RICHARDSON, I	J&R KENNELS	RT 1	LINEVILLE	50147
42KAX	ROBERTSON, GL&KB	TURKEY CREEK KENNELS	RT 1	ELK HORN	51531
42DP	ROCKHOLD, M & V		RR 2 BOX 138	ALLERTON	50008
42YAF	RODGERS, J R	RISING R KENNEL	R 2	WINFIELD	52659
42IF	ROEGLIN, L	ROEGLIN KENNELS	RR 2	KEOKUK	52632
42MG	ROSENTHAL, C&J	CHARLEY HORSE ACRES	RR 1	STORM LAKE	50588
42UT	ROYCE, S		RR 1 BOX 122	GRAND JCT	50107
42VAM	ROYER, L		RR #3	GUTHRIE CENTER	50115
42DAI	ROZENDAAL, EA		RT 1	LYNNVILLE	50153
42GO	RUBY, LC		RR 3	NEW SHARON	50207
42QAH	RUDE, M & B & B	B&B BUNNY BARN	RR 1	ELLSWORTH	50075
42LAD	RUPP, DE		RT 2	CORNING	50841
42RAT	SANDERS, R&J		RT 1 BOX 538	COUNCIL BLUFFS	51501
42LM	SAVAGE, D	CEDAR CROFT KENNEL		SALEM	52649
42OO	SCANLAN, DP		930 N CENTER ST	LAKE CITY	51449
42IW	SCHENK, N & B	PUPPY VILLA	RR 1	SIOUX CENTER	51250
42AD	SCHERBRING, E B		RT 2 BOX 118	EARLVILLE	52041
42YAB	SCHMALE, HAZEL	NISHNA VALLEY KENNELS	PO BOX 268, 904 S. AVE	EMERSON	51533
42CAD	SCHMITH, D		1214 MAPLE	HULL	51239
42NF	SCHOLTE, A. M. CLARK	CLARK'S KENNEL	401 WATERS ST	ALDEN	50006
42BG	SCHRADER, MRS. P	SCHRADER KENNELS	RR #2	BATTLE CREEK	51006
42WAW	SCHROETER, N & L		RR 1	BRAYTON	50042
42XAJ	SCHULTE, C	PUPPYLAND	6890 NW 6 DRIVE	ANKENY	50021
42FAB	SEIVERT, E	SEIVERT KENNELS INC.	RR 2	SANBORN	51247
42EAZ	SHADA, G & M	SHANSI KENNEL	RR 1	CENTER POINT	52213
42YAI	SHAFFEN, B & WRIGHT, J	SHAI-WRITE KENNEL	RR 5	MARSHALLTOWN	50158
42TAW	SHANNON, BJ	OAK RIDGE KENNELS	R-2 BOX 159	SIGOURNEY	52591
42GD	SHARP, B	BOB SHARP KENNELS	RT 2	CHARITON	50049
42MP	SHARP, SL		RT 1	ANION	51520
42ND	SIEFKEN, E		RR 2	GILMORE CITY	50541
42VAV	SIEMER, J	LITTLE ACRE'S KENNEL	RR #1	DOW CITY	51428
42WAD	SIETSTRA, MRS W		RR 1	BOYDEN	51234
42YAJ	SIMONS, G R		4440 WEST BENNINGTON RD.	CEDAR FALLS	50613

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LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
42IM	SIMPSON, L	SIMPSON KENNEL	BOX 9441	SPIRIT LAKE	51360
42IAW	SMITH, DC & MM		2010 SE 61ST AVE	DES MOINES	50320
42EAM	SMITH, K&M			WASHTA	51061
42VAX	SMITH, R		RT 1	ALBIA	52531
42PAN	SONDAG, G		BOX 147	BRANDON	52210
42TI	SORENSEN, E K M		RT 2 BOX 58	COON RAPIDS	50058
42FAL	SPINA, BA	TU-SHOW PEKINGESE & SHIH TZU.	1822 HAMILTON STREET SW	CEDAR RAPIDS	52404
42HAU	SPITLER, D	SPITLER-DOG & HUNTING SUPPLY.	BOX 95	SUARSBURG	50004
42SAP	SPORRER, M		RT 4	DENISON	51442
42TAV	SPRENGER, R & K	BURGDORF KENNELS	RT 2	FREDERICKSBURG	50630
42SAP	STAUFFER, ML	MAJASTA KENNEL	RR 1 BOX 122	FONDA	50540
42NAL	STEFFENS, J		BOX 3 RR	MACEDONIA	51548
42DAP	STIMSON, F			BLANCHARD	51630
42CY	STRAIGHT, P			KELLERTON	50133
42KH	STRICKLAND, D		RT 1 BOX 174	ANITA	50020
42ER	STUEKERJUERGEN, JJ&JV	CORNER VIEW KENNELS	RR #1 BOX 155A	DONNELLSON	52625
42WAV	STUIT, A			HOSPERS	51238
42ZAC	SULLIVAN, B & M		RR 1	DUNLOP	51526
42ZK	SUNKEN, R	SUNKENS GREENBELT KENNELS	RR 2	IOWA FALLS	50126
42HQ	SWANTZ, G		RR 2	KALONA	52247
42QAA	TAYLOR, DJ		RR 2 BOX 104	NEOLA	51559
42QAF	TAYLOR, J	YEAGER CREEK YORKIES	5010 SW 9TH ST	DES MOINES	50315
42UZ	TE STROETE, G	ARLO FARMS		SIOUX CENTER	51250
42KG	TESTROET, P&L	COUNTRY KENNEL INC.	BOX 80	AUDUBON	50025
42XN	THACKER, J	BRAVO COUNTRY KENNELS	RR 1	DOUDS	52551
42TAA	THOMPSON, C	G.T. KENNELS	RR 1	SPENCER	51301
42YF	THOMPSON, C&E	CHARESTA'S KENNEL	RR #1	RANDOLPH	51649
42WAG	THOMPSON, J		RR 3	BOONE	50036
42TN	THOMSEN, R	THOMSEN KENNELS	RR 4	HARLAN	51537
42CD	TJADEN, G		R 1 BOX 67	FLOYD	50435
42XR	TRAVIS, BL			LEWIS	51544
42VAL	TYSSELING, M & C	TYSSELING KENNELS	RT 2	PELLA	50219
42GK	ULMER, M&S	GOLDEN KENNELS	BOX 66	ARION	51520
42XAW	UPAH, V	VINE RIDGE KENNELS	212 E VINE STREET	TOLEDO	52342
42VAI	VAN DER POL, H & B		RR 1	MONROE	50170
42EAV	VAN DORLAND, W		RT 1	EDDYVILLE	52553
42SAL	VAN DRUNEN, P		RT. 2	PELLA	50219
42LAF	VAN GORP, SR., L		RT 1	REASNOR	50232
42MAJ	VAN KOOTEN, G&H		RT 3	OSKALOOSA	52577
42SAF	VAN LANINGHAM, D		R 4 BOX 105E	FAIRFIELD	52556
42SAE	VAN LANINGHAM, S	DAVIS COUNTY KENNELS	R 4	BLOOMFIELD	52537
42KAT	VAN WYK, W&C		RT. 4	PELLA	50219
42PAU	VAN ZEE, R	VALLEY VIEW KENNELS	RT 2 BOX 18	ROCK VALLEY	51247
42QZ	VANCE, MA	SUMMITVILLE KENNELS	RR #2 BOX 163	KEOKUK	52632
42BV	VANDENBERG, G & M	VAN'S KENNELS	RT 5	ALBIA	52531
42LAQ	VANDEWATER, LJ		RR 2 BOX 169	GREENFIELD	50849
42YAT	VANENGEN, D AND EPPING, B	BEDVE KENNELS	BOX 82	SANBORN	51248
42JM	VANHOUWELINGEN, R		RR 3	PELLA	50219
42NAY	VAUGHN, AM	WILDWOOD KENNELS	RR 4 BOX 588	DAVENPORT	52804
42VM	VERHEY, B&J		RT 1	SULLY	50251
42NM	VOEGE, D & S		RR 2	MANILLA	51454
42XAV	VOS, M & L		R 3	PELLA	50219
42WG	VOS, R	JE-RO-NA-KENNEL	BOX 36 CLAREMORE MOBILE HM PK.	SIBLEY	51249
42JT	WALDRON, KM	BROOKVIEW KENNELS	RR 1 BOX 75	AYRSHIRE	50515
42EK	WEAR, E&J	HAPPY VALLEY SALES	1494 SPRUCE ST	IOWA CITY	52240
42UAZ	WEAVER, MI	THE DOG HOUSE	BOX 130	RIPPEY	50235
42LAU	WEBB, P			KELLERTON	50133
42ZAL	WEHMEYER, D & J		R 1 BOX 45	CONESVILLE	52729
42YA	WEHRSPAN, K	KAY'S KENNEL	515 NICKELLANE	EAGLE GROVE	50533
42RV	WELSCH, JM		RR 1 BOX 49	GREENFIELD	50849
42XAP	WHISTLER, MR & MRS LOYD	HOME AMERICA RABBIT ENTERPRISE	RR 1 BOX 112	LOWDEN	52255
42XAK	WHITHAM, M		ROUTE 1	WOODBURN	50275
42OAJ	WIESE, L&N	CLEMENTINE'S KENNEL	RFD 1	HOLSTEIN	51025
42YAZ	WILKINS, SID		RT 1	NORA SPRINGS	50458
42DB	WILLEY, EF	BLACK SHADOW KENNEL	800 E COLUMBUS	MT AYR	50854
42RF	WILLIAMS, L	LEN WILS KENNELS		LARCHWOOD	51241
42OAB	WOOD, LF		RR 2	CASTANA	51010
42HX	WOOD, MJ		RR 1	CINCINNATI	52549
42PO	WOOD, ML	YORKWOOD KENNELS	636 OAK ST	AINSWORTH	52201
42BAU	WOODS, RM		RT 1	CARLISE	50047
42KAY	WOODY, L & K		RT 1	REASNOR	50232
42YAL	WRIGHT, H & K	SUNSET KENNEL	P.O. BOX 3	DONNELLSON	52625
42FAY	YARRINGTON, B		RR 4	CORNING	50841
42VAZ	YARRINGTON, R & S	YARRINGTON'S KENNELS	BOX 133	BRIDGEWATER	50837
42PAH	YOUNG, JM	WINDY ACRES KENNELS	R 1 BOX 4C	SPERRY	52650
42UAV	YOUNG, MRS. K		RR 2	SEYMOUR	52590
42QAZ	ZENOR, L		RT 1	OGDEN	50212
42QAZ	ZOET, J & P		RR 2	HULL	51239
42UW	ZOMERMAAND, J	ROYAL DUTCH KENNELS	BOX 1	STRUBLE	51057
42XAX	ZOOK, M & R	ZOOK'S ANIMAL WORLD	RR 1	AINSWORTH	52201
42RAV	ZORTMAN, G	KNOB HILL KENNELS	RR 1 BOX 195	HORNICK	51026

KANSAS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AY33	ABEL, A & M		RR 1	HOLTON	66436
48AA107	ACKERMAN, G & B	FALL LEAF GOAT & FUR FARM	RT 1 BOX 53A	LINWOOD	66052

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AL15	ADKINS, N & L		RT 1	CLIFTON	66937
48AI35	AL & ESTATE OF JOHN M. LOEHR	LOEHR KENNELS	RFD 2 BOX 38	YATES CENTER	66783
48AJ37	ALBER, G		RT 1	STERLING	67579
48AR81	ALEXANDER, J & L		1013 LOCKSTONE CT BOX 1212	JUNCTION CITY	66441
48AP08	ALEXANDER, M		RR 1	GARFIELD	67529
48AA56	ALLEN, E	ALL-KEN KENNELS	RT 1	SOLDIER	66540
48AD55	ALLEN, HM	ALLEN KENNEL	RT. 1 BOX 116	ST. GEORGE	66535
48AB60	ALLEN, WJ & G	CASA DE PERO KENNEL	RT 2	CENTRALIA	66415
48AV41	AMOS, E & DEWEY, A		R 1	OSWEGO	67356
48AA152	ANTRIM, M J		BOX 454	FT. SCOTT	66701
48AS27	AREA, RM			HAVENSVILLE	66432
48AY40	ASHTON, L & R		BOX 64	POWHATTAN	66527
48AA131	ASPINWALL, P A	ASPINWALL'S DOG KENNEL	RR 2 BOX 202	VALLEYFALLS	66088
488B46	AURAND, M	AURAND'S KENNEL	RR 1 BOX 111A	BELLEVILLE	66935
48AA141	AUTRY, C & J	C & J KENNELS	RT. 1	VALLEY FALLS	66088
48AF11	AYERS, F & M		RT 2 BOX 61	WELLSVILLE	66092
48AK29	BAIRD, OR	BARD KENNELS	RT 2	DODGE CITY,	67801
48AS02	BAKER, AY		R.R. 1	IOLA	66749
48AW89	BAMBERGER, DA	PRAIRIE PEKES	RT 2 BOX 280	JETMORE	67854
48BA48	BANKS, CL	SELRAHC KENNELS		WHITING	66552
48AL03	BANTZ, RA		RT. 2	HOWARD	67349
48AW21	BARCLAY, R & K	BARCLAY'S KENNELS	102 SO. PLUMMER	CHANUTE	66720
48AT81	BARKER, F & N	BUSY B KENNEL	RT 1 BOX 42	LARNED	67550
48AA50	BARNES, C & C	DELTA KENNELS	RT 2	VALLEY FALLS	66088
48AM85	BARNES, L		RT 1	WETMORE	66550
48BA49	BARTA, RA		RR 2 BOX 185	INDEPENDENCE	67301
48AZ36	BARTLEY, S & J	J & S RABBITRY	RT. 2	WAMEGO	66547
48AH67	BAUGHN, O		RT 4 BOX 21	CHANUTE	66720
48AW65	BEAL, R & R & J	R&R KENNELS	RT 2	EFFINGHAM	66023
48AA145	BEAM, B		BOX 201	MULBERRY	66758
48AL82	BEAMAN, CL		RT 1	WHITING	66552
48AV76	BEAVER, N & DAY, SL	WOODWIND KENNELS	PO BOX 16	LAHARPE	66751
48AB95	BECK, G			CORNING	66417
48BA59	BECK, NE	SUNNYSIDE KENNELS	BOX 335	ATTICA	67009
48AY02	BECK, VE & L		RT 1	CORNING	66417
48AA147	BECKER, MRS. H	BECKERS RABBITRY	RT. 1	CENTRALIA	66415
48AE85	BECKMON, R & E		BOX 114	COLONY	66015
48AR20	BEHRENS, G SR		RT 3	MARYSVILLE	66508
48AM29	BELL, MS		RT 2 BOX 69A	LINCOLN	67455
48AB42	BENDER, N			WETMORE	66550
48AT69	BENEDICT, E		RT 3	ELKHART	67950
48AC95	BERG, GT		RR 1	BLAINE	66410
48AD21	BERG, H			WHEATON	66551
48AD48	BERG, L			ONAGA	66521
48AD27	BERG, M	MILTON BERG KENNELS		BLAINE	66410
48AD26	BERG, W			BLAINE	66410
48VA04	BERGES, D		BOX 81	ONAGA	66521
48AZ37	BERLIN, D	BERLIN KENNELS	RT 2	OSAWATOMIE	66064
48AZ39	BERNTSEN, B		RT 1	LAHARPE	66751
48MQ74	BICKEL, RR	BICKEL KENNELS	RT 1	DODGE CITY	67801
48AJ34	BILLINGS, GL		RT 2	DOWNS	67437
48AE27	BILLINGS, W&V	SABAKI SEVERA KENNEL	BOX 35	LANCASTER	66041
48AW50	BISHOP, D&I		RT 1 BOX 123	HAVENSVILLE	66432
48AC66	BLACK, M&H		RFD 1	FRANKFORT	66427
48BC10	BLACKBURN, M		RT 4	INDEPENDENCE	67301
48AA140	BLACKWOOD, C		RT 1	SOLDIER	66540
48AJ74	BLAIR, M&G	GAND M KENNELS	RT 1 BOX 235	PITTSBURG	66762
48AJ09	BLAND, R			LUCAS	67648
48AZ60	BLANTON, E & L		RT 1 BOX 78	TROY	66087
48AZ32	BLANTON, J OR C		RT 1	TROY	66087
48AZ75	BLANTON, L & M L		RT 1 BOX 71	TROY	66087
48AE48	BLANTON, LJ		RR 1	TROY	66087
48AE36	BLANTON, WM		RR 2	ROBINSON	66532
48AD16	BLENN, L		RT 1	WESTMORELAND	66549
488H	BLOOMER, JC			LEBANON	66952
48AH58	BLUMENSTEIN, ND	LAKEVIEW KENNELS	RT 2 BOX 24	COFFEYVILLE	67337
48AP31	BLUTHARDT, A		RT 1	ST GEORGE	66535
48AM24	BODEN, N			HAVENSVILLE	66432
48AA101	BOEHN, C & R		RT 1	ONEIDA	66522
48AM30	BOEKEN, T & F		RT. 1	LORRAINE	67459
48AV60	BOETTCHER, R & V	BLUESTEM KENNEL	RR 5 BOX 165H	EMPORIA	66801
48AE06	BOLAN, B		RT. 1	LYNDON	66451
48AW02	BOLAND, E	BOLAND KENNEL	RFD	ALTON	67623
48AV71	BOLDT, W	BOLDT KENNELS		CHASE	67524
48AF99	BOLEN, F			MOUND CITY	66056
48AA93	BOLING, D		RT 1	HOYT	66440
48AY29	BOLLIG, S		310 E 4TH	CHANUTE	66720
48AX56	BONE, P	PAUL'S KENNELS	R 4 BOX 21	OLIVET	66743
48AK88	BONTRAGER, D		RR 1	WHITING	66552
48AB39	BONTRAGER, P		RT 1	WETMORE	66550
48AT73	BOSS, J		1617 STEWART CT.	MANHATTAN	66502
48AY92	BOSSE, L		R 1	WHEATON	66551
48AM42	BOWEN, ML & CW		RR 1	SYLVIA	67581
48BB04	BOX, VI		423 E. MILL	COLUMBUS	66725
488A26	BOYD, RK	BOYDS KENNELS	RR 1 BOX 37	BEATTIE	66406
48AY39	BRACKEN, P & G		RT 1	FALL RIVER	67047
48AA106	BRADY, G	BRADY ACRES	907 EAST THIRD	CANEY	67333
48BC02	BRAYMEN, R A	VAIL KENNEL, INC.	2220 VAIL ST	TOPEKA	66608
488B60	BRAZZLE, B & W	MEADOW WINDS KENNELS	R.R. 1	WAMEGO	66547
48AA45	BREAKER, K	BREAK-A-DA KENNELS	R 1 BOX 46	DOUGLASS	67039

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AF67	BREES, DG		RT 1	EMMETT	66422
48BC	BRINK, C		RT 2 BOX 13	PAOLA	66071
48AH26	BRISKEY, G		5707 S SENECA	WICHITA	67217
48AW67	BROWN, H&P	YANKEE HILL KENNELS	6645 SE WOODRING RD	BERRYTON	66409
48AS79	BROWN, RE & BJ		RT. 4 BOX 56	CHANUTE	66720
48AA40	BRUNA, A	BRUNA'S DOG KENNEL		HANOVER	66945
48AX41	BRUNA, A & L		RR 1 BOX 183	WATERVILLE	66548
48AZ85	BRUNKOW, B	COTTONWOOD KENNEL		OMAGA	68521
48AD14	BRUNKOW, C&J		RT 2	WAMEGO	66547
48AM90	BRYANT, H&G	BRYANT'S KENNELS	RR 5 BOX 70	HUTCHISON	67501
48AR51	BUCKLEY, H		1947 S STREET	BELLEVILLE	66935
48AX06	BUCKNER, S		RT 1 BOX 129	COLUMBUS	66725
48AG66	BURCH, R		BOX 54	ROXBURY	67476
48AX88	BURD, E	WONDER KENNELS	RT 1	JENNINGS	67643
48AI75	BURDICK, R & W		109 E 20TH ST	PITTSBURG	66762
48AZ79	BURTON, J L		PO BOX 623	ABILENE	67410
48BA20	BURTON, WW	BURTON'S KENNELS	RT 2 WEST PARK ST	DODGE CITY	67801
48AF54	BUTERBAUGH, M			AURORA	67417
48AR21	BUTSCHLE, JR WA&FL	WILL-LOU KENNELS	RT 2 BOX 42	SALINA	67401
48AS63	BUZARD, R		RT. 1	WEIR	66781
48BA01	C & R KENNELS INC		BOX 126	BARNES	66933
48AL58	CALLAWAY, JR&F		312 CAMPBELL ST	IOLA	66749
48AI12	CAMARATTA, E		BOX 123	THAYER	66776
48AH27	CAMPBELL, IM	RENEGADE FRONTIER KENNELS	4409 W PAWNEE	WICHITA	67209
48AD01	CANFIELD, W	CANFIELD KENNELS	RT. 1 BOX 220	CLIFTON	66937
48AY64	CARGILE, J	J-BAR KENNEL	RT 4	INDEPENDENCE	67301
48AP44	CARLBURG, I		RT 2 BOX 25	FREDONIA	66736
48AZ95	CARLBURG, R		2802 S. SANTA FE	CHANUTE	66720
48AX52	CARLTON, W & J		RT. 1 BOX 8	JUNCTION CITY	66441
48AT21	CARTER, J	CARTER'S KENNELS	R 2	BELOIT	67420
48AX42	CENTRAL ANIMAL RESEACH FACILITY, INC..		PO BOX 3532	SHAWNEE	66203
48AA57	CHANNEL, AL	CHANN KENNELS		CENTRALIA	66415
48AV81	CHAPIN, M&P		RT 2	WASHINGTON	66968
48BB60	CHAPMAN, CM		3536 SEWARD AVE	TOPEKA	66616
48AH26	CHASE, VM		6398 S SENECA	WICHITA	67217
48AQ94	CHEGWIDDEN, D		R 2	RUSSELL	67665
48AA128	CHESTNUT, W & W	PAWS & CLAWS		GLADE	67639
48AA156	CLACK, A L		RT 1 BOX 162A	MANHATTAN	66502
48AI47	CLARK, E		P.O. BOX 736	MILDRED	66055
48AF27	CLARK, L		R 1 BOX 115	GLASCO	67445
48AT12	CLARK, MA		R.R. 2 BOX 7	TROY	66087
48AJ43	CLARK, RL & ML		418 N 3RD	STOCKTON	67669
48AZ25	CLAUSEN, C			PORTIS	67474
48AD47	CLAY, C & M		RR 1	ONAGA	66521
48BB37	CLAY, LS&FM		R 4	PARSONS	67357
48BB73	CLAYCAMP, E & E		RR 1	GOFF	66428
48AB49	CLAYCAMP, ER		RT 3 BOX 43A	SENECA	66538
48AY50	CLOTHIER, H & G	WALNUT CREEK KENNEL	RT 3 BOX 174	GREAT BEND	67530
48AA121	CLOTHIER, J & J		501 WESTRIDGE	HUTCHINSON	67501
48BB23	CLOUSTON, V	CLOUSTON KENNELS	RT 1	NESS CITY	67560
48AA105	COCHRAN, B		16511 W 87TH S.	CLEARWATER	67026
48AF07	COLE, B	COLES KENNEL		BEVERLY	67423
48AJ95	COLLE, C & D	CAMDEN KENNELS	RT 1 BOX 146	MEDICINE LODGE	67104
48AZ97	COLLINS, K		RR 1	HOLCOMB	67851
48AZ48	COLLINS, P & N		RT 1	PIQUA	66761
48AY66	COLSTON, G		BOX 147	HAMILTON	66853
48AW51	COMBS, M&C	COMBS KENNEL	R 1	CENTRALIA	66415
48AL76	CONARD, C	CONARD'S KENNELS		TIMKEN	67482
48AI11	COOK, M&P		RT 3 BOX 56	FORT SCOTT	66701
48AL05	COOPER, K		RR 2	CHAPMAN	67431
48BA54	COOPMAN, R	COOPY'S KENNELS	RR 3	WAVERLY	66871
48AZ50	CORNWELL, L & SCHOEN, R		RT 2 BOX 26	OSBORNE	67473
48AX48	COTTONGIM, D		R 2 BOX 10	CHERRYVALE	67335
48AC18	COTTRELL, A			CORNING	66417
48AW04	COUNTRYMAN, D&B	DA-BE-LI KENNELS	RT 1 BOX 75	ESBON	66941
48AA62	COVERDALE, GV		RR 2	SOLDIER	66540
48AJ51	CRAFT, CC		RT 1	EDSON	67733
48AY83	CRAIN, J	A-LE-JEANS KENNELS	RT 1 BOX 72A	CHETOPA	67336
48AC42	CROME, G			HERINGER	66430
48AA130	CROME, K			BREMEN	66412
48BA58	CRONE, A	ALBERTA CRONE KENNELS	RT 1	GREAT BEND	67530
48AC09	CROSS, R		RR 1 BOX 137	SENECA	66538
48AC45	CUDNEY, D	DAR-MAR, INC.	PO BOX 383	MARYSVILLE	66508
48AA126	CUDNEY, R		RT. 4 BOX 56	COLUMBUS	66725
48AJ20	CULBERTSON, J		RT. 4 BOX 169	FREDONIA	66736
48AE87	CUNNINGHAM, DL		RT 1	PRINCETON	66078
48AD92	DALINGHAUS, MF		RR 1	BAILEYVILLE	66404
48AA134	DANIELS, G & D		RT 1	SCRANTON	66773
48AA125	DANIELS, G & S		RT 2 BOX 123 A	COLUMBUS	66725
48AD96	DAVIDSON, A		RT 1	BURLINGAME	66413
48AZ61	DAVIDSON, E		2403 LINCOLN	HAYS	67601
48AQ76	DAVIS, D		BOX 244	LUCAS	67648
48AM12	DAVIS, JR&N		RT 3 BOX 450	INDEPENDENCE	67301
48AA132	DAY, D R		RR 2 BOX 48B	OSBORNE	67473
48AX94	DEAN, L & CROSSON, B & B	CROSSON KENNEL	RT 3	MINNEAPOLIS	67467
48AN50	DEBEY, L	MEL-LENA KENNEL	816 W. BEALE ST.	DOWNS	67437
48AZ77	DEETER, C & M		1430 NE 54TH	TOPEKA	66617
48BA40	DEINLEIN, K		RT 2 BOX 188E	NEODESHA	66757
48AP07	DELKER, ML		RR 2	JETMORE	67854

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LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AZ01	DENK, C		RT 1	AGENDA	66930
48AF52	DERUSSEAU, S	SONIDEE CATTERY	BOX 215	CLYDE	66938
48AB64	DETERS, GA		BOX 2	BAILEYVILLE	66404
48AW48	DETTKE, D&M		R 4	MARYSVILLE	66508
48AZ56	DEVADER, R & M		RT. 1	HOLTON	66436
48AE82	DICK, LR&CO		7401 PARKVIEW	KANSAS CITY	66109
48AN37	DICKSON, BD		RT 2 BOX 111	INDEPENDENCE	67301
48AA43	DITMARS, L	DITMARS' KENNELS	RT 2 BOX 168	WASHINGTON	66968
48AJ26	DOLEZAL, RM&R	R&R KENNELS	RT 1 BOX 76	KANOPOLIS	67454
48AW28	DONALS, B & P	DONALS' HILLTOP KENNELS	RT. 4 BOX 178	WINFIELD	67156
48AD99	DORR, D		RR 2	BURLINGAME	66413
48AR38	DORSEY, DL&W	DORSEYS PERSIANS	750 SOUTH SANTA FE	SALINA	67401
48AG44	DOTY, RL & S	ARDEE KENNELS	RT 2 BOX 250	SALINA	67401
48AA37	DOUPNIK, B	ELK CREEK KENNELS	BOX 73	AGENDA	66930
48AD85	DREYER, M		802 YUBA	BURLINGTON	66839
48AA41	DUENSING EI & V		BOX 116	BREMEN	66412
48BC16	DULING, MRS. O		RT 1	WALNUT	66780
48AD66	DUNCAN, DE	DUNCAN'S KENNELS	RT 2	WAMEGO	66547
48AX65	DUNHAM, T & M	SPORTSMAN KENNEL	RT. 2 BOX 128A	EUREKA	67045
48AY18	DUNIGAN, J		2540 SE 32ND ST.	TOPEKA	66605
48AE25	DUNN, NL		RT 2. BOX 276	EFFINGHAM	66023
48BA23	DYE, RW		RT 3 WILROADS GARDENS	DODGE CITY	67801
48AS55	EAKINS, AL		RT 1 BOX 73-A	CLYDE	66938
48BC06	EATON, L		RT 1 BOX 146	SCAMMON	66773
48AY15	ECKELS, WJ RE	B & R KENNEL	321 N 6TH	NESS CITY	67560
48AZ21	EDMONSON, D & R	DAYBREAK KENNEL	RT 2 BOX 40	LOUISBURG	66053
48AZ45	EDWARDS, L		RR 1	NETAWAKA	66516
48AX01	EGGERS, L	FAIRVIEW KENNELS	RT 1 BOX 91	BELLEVILLE	66935
48AM79	EIFERT, A	ANNAROSA KENNEL	RT.1	SEVERY	67137
48AI42	ELDER, G	JERRYS KENNELS	RT 1	HUMBOLDT	66748
48AW23	ELDER, J	L J KENNELS	RR	MORRIOWVILLE	66958
48AE99	ELSTROM, T & B	EL CLOUD KENNEL	RT 1	CONCORDIA	66901
48AZ05	EMERSON, M & L	INGLESTONE KENNEL	RT 2 BOX 87	BURRTON	67020
48AZ22	ENGELKE, C		RFD 2	KENSINGTON	66951
48AL17	ENGELKEN, L		RT 1	FRANKFORT	66427
48AY35	ENGLISH, C & J	ENGLISH'S KENNEL	PO BOX 104	NEAL	66863
48AC12	ENNEKING, L		512 S. 6TH	SENECA	66538
48AN49	ENNEKING, MJ	ENNEKING KENNEL		CENTRALIA	66415
48AY16	ENRIGHT, C & MRS. NEIL		RT 2 BOX 146	SOLOMON	67480
48AL92	EVARTS, VD	EVARTS KENNELS	318 MAIN	WALTON	67151
48AI60	FADELY, L		RT 1	SEDAN	67361
48AF08	FALDER, L A			BEVERLY	67423
48AD22	FALK, DI			WHEATON	66551
48AW05	FARLEY, J & J	JE-MI-JAC KENNELS	RT 1	TESCOTT	67484
48AM76	FARMER, J & M		RT 1 BOX 51B	ALTOONA	66710
48AX58	FARR, G		RT. 1	OBERLIN	67749
48BA80	FEE, B		423 N KANSAS	COLUMBUS	66725
48AC34	FELDHAUSEN, FL		RT. 1	BREMEN	66412
48AX71	FELDKAMP, K & M		RT 1	CENTRALIA	66415
48AX55	FEWINS, P & D		R 2	HUMBOLDT	66748
48AH96	FINLEY, V&L		BOX 165	WALNUT	66780
48AV40	FISCHER, A			WHEATON	66551
48AA142	FITZGERALD, C & B		RR 1	GLEN ELDEN	67446
48AV87	FUCKINGER, JA & DEAL, K		RR 1	HARVEYVILLE	66431
48AJ96	FORD, WA		323 S OAK	MEDICINE LODGE	67104
48AX04	FORESTER, G & M		R 4	FT. SCOTT	66701
48AAA148	FORT, L J		RT 5 BOX 303	PAOLA	66071
48AM02	FOWLER, D		P.O. BOX 1508	LIBERAL	67901
48AA116	FOWLER, I & R		705 WHITTIER	EMPORIA	66801
48AK26	FOWLER, P		758 S CAIN	LIBERAL	67901
48AH44	FRAME, P		618 BOX ELDER	MULVANE	67110
48AY03	FRASER, J & B		RT 5	CLAY CENTER	67432
48BA30	FRAUENFELDER, RG		RR 1	WAKEFIELD	67487
48AA113	FREDERKING, A & B	BON-A-KINGS KENNEL	RR 1	LUCAS	67648
48AJ18	FREEMAN, S		RT 1 BOX 1	FREDONIA	66736
48AW16	FREIDENBERGER, A&A	FREIDENBERGER KENNELS	BOX 52	BISON	67520
48AY86	FULLER, J & F	STARBOND ACRES	RT 2 BOX 161	SYLVAN GROVE	67481
48AA08	FUNKE JR, E		RR 2	WASHINGTON	66968
48AZ06	GEHLEN, A & C	ACE KENNELS	RT 1 BOX 148	MEDICINE LODGE	67104
48AM71	GEIER, C		RT 4	GIRARD	66743
48AX80	GIDEON, A & D	POTAGOLD CATTERY	RT 1	PAXICO	66526
48AW41	GIEFER, C&L		210 SOUTH 32ND ST	PARSONS	67357
48AJ77	GIEFER, M		RR 1	KINGMAN	67068
48AR87	GILBERT, M		RT 1 BOX 113	REXFORD	67753
48AY20	GILLIS, H & W		RR 2	MILTON	67456
48AH45	GLENN, VL	GLENNEDEN KENNELS	R 1	MAYFIELD	67103
48AY55	GOERTZEN, S	SUNNY ACRES	RT 1	BUHLER	67522
48AA112	GOERTZEN, V		RR 1	RR 1	67546
48AX06	GOLDEN, TL		RT 3 BOX 29AA	LAWRENCE	66044
48AZ91	GOODWIN, B	YUCCA KENNELS	303 HILLSIDE	GARDEN CITY	67846
48AM38	GOODWIN, M		BOX 113	SUMMERFIELD	66541
48AX60	GORDON, T & C	GORDON KENNEL	R 4 BOX 111	COFFEYVILLE	67337
48AK72	GOSNELL, J		508 LINCOLN	INDEPENDENCE	67301
48AA122	GRAHAM, R & T			QUINTER	67752
48AK84	GRANNEMANN, R		RT 2	WALNUT	66780
48AV21	GRANT, EL		402 NO LOGAN PO BOX 331	ATTICA	67009
48AZ50	GRAVES, B		RT 2 BOX 123F	TONGANOXIE	66086
48AJ44	GRECIAN, NV			PALCO	67657
48AJ92	GRIFFITH, JL	GRIFFITH'S KENNELS	RT 1 BOX 17	WAKEENEY	67672
48B861	GRIFFITHS, R & L	GRIFF'S KENNELS		CENTRALIA	66415

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AG30	GROSSNICKLE, R & L		RT 1	CORNING	66417
48AX19	GUHR, H&D	FOX WOOD KENNELS	RT 3 BOX 139	HILLSBORO	67063
48AW36	GULLEY, M&C	GULLEYS KENNEL	RTE 3 BOX 159A	LAWRENCE	66044
48AY51	GUNN, NJ		320 CRESTLINE DR	LAWRENCE	66044
48BB30	GUNNELLS, M	ROCKY TOP KENNELS	RT. 1 BOX 96	CARBONDALE	66414
48AJ78	GURTNER, H		RT 2	KINGMAN	67068
48AZ83	HAHN, D & R		RT 1	HOLTON	66436
48AH49	HALL, J&J		2107 IDA ST	WICHITA	67211
48AY72	HANEL, K		RR	COURTLAND	66939
48AW59	HANEY, E&V	HANEY LANE	BOX 1	CONWAY SPRINGS	67031
48AN68	HARDESTY, A		RT 2	GARNETT	66032
48AI10	HARMON, J		RT 1	ALTAMONT	67330
48AQ48	HARRIS, F M		BOX 165	CLIFTON	66937
48AY24	HARRIS, R	RITA'S KENNEL	RT. 1 BOX 92-1A	TONGANOXIE	66086
48AZ82	HARRIS, S		BOX 68	BURR OAK	66936
48AH31	HARRY, M		1140 DAYTON	WICHITA	67213
48AW17	HARTMAN, K&G	K&G KENNELS	RFD	SHIELDS	67874
48BB29	HARTMAN, KC & ML	HARTMAN KENNELS		SHIELDS	67874
48AY19	HATCH, EL		RT 4 BOX 215	LAWRENCE	66044
48AJ06	HATCH, MK	HATCHES KENNEL	206 N GROVE	YATES CENTER	66783
48AP67	HAUG, G	FALL VIEW KENNEL	BOX 41	COTTONWOOD FALLS	66845
48AG70	HAUG, L	HAUG KENNELS	210 NW 10TH	ABILENE	67410
48BC03	HAUGSNESS, N E	POODLE ETCETERA	901 HENRY ST	ATCHISON	66002
48AB31	HAVERKAMP, A		R 3 BOX 73	SENECA	66538
48AB77	HAVERKAMP, R		RT 2 BOX 337	CENTRALIA	66415
48BA42	HAY, F E			ONAGA	66521
48AX34	HEGER, RK	HEGER'S KENNEL	RT 1 BOX 81	HUGOTON	67951
48AB85	HEIMAN, T		RR 3 BOX 139	SENECA	66538
48AZ40	HELLER, J	WINDY RIDGE KENNEL	RFD 1	HUNTER	67452
48BA07	HELMBRECHT, D & M	DEN-MAR KENNELS	BOX 483 WEST 8TH ST.	BELOIT	67420
48AW68	HENDERSON, RJ & S		BOX 2	SOLOMON	67480
48AX59	HENNINGSEN, R	IONIA KENNELS		MANKATO	66956
48AQ29	HENRY, JA		505 S. 3RD ST.	SENECA	66538
48AV08	HERDER, G & R		RT 1	HUMBOLDT	66748
48AZ80	HERRMAN, G & B		RR 1	ST GEORGE	66535
48AV39	HERRMAN, H&W		309 WESTERN	ONAGA	66521
48AQ94	HINDE, CE	CALMAR KENNELS	BOX 94	CASSODAY	66842
48AS01	HINDERER, VM	HINDERER'S KENNELS	RT 1 BOX 144	WAKARUSA	66546
48AA96	HITTLE, B & A		RR 2 BOX 109	MAYETTA	66509
48AK16	HODGKINSON, R		RR 2	PRATT	67124
48AC77	HOLLIMAN, LL		RT. 1 BOX 49	WATERVILLE	66548
48AI63	HOLROYD, H		RT 1	SEDAN	67361
48AQ44	HOLTHAUS, A		RT 1	SENECA	66538
48AW18	HOLTHAUS, JL		RT. 3 BOX 167	SENECA	66538
48AG07	HOLTHAUS, JM		ROUTE 1	SENECA	66538
48AI04	HOOBLER, A & B		RT 2	OSWEGO	67356
48AA106	HOOPER, B		RT 5	HIAWATHA	66434
48AA133	HOTZ, L	SOUTHERN SLOPE KENNELS	RT 1 BOX 45	NEW CAMBRIA	67470
48AL46	HOWARD, E		RT 2	ONAGA	66521
48AT51	HOWARD, R&G	MISTY MORNING KENNELS	R1 BOX 81C	NEOSHO RAPIDS	66864
48AG48	HOWIE, JE&R	J&R PETS	RT 3	ABILENE	67410
48BB85	HUFF, A	H & H PET SHOP	515 MATTHEW	CONCORDIA	66901
48AD09	HUGUNIN, LL		RT 1 BOX 53	LEONARDVILLE	66449
48AK95	HULL, KW	HULL'S KENNELS	RT. 2 BOX 200	BELLEVILLE	66935
48AA63	HUND, MA		307 IOWA	HOLTON	66436
48AY09	HURT, R & M	RO MAR KENNELS	R 4, BOX 251	CHANUTE	66720
48AL21	HUSTON, JR	ESTES GATE KENNEL	RT 1	MILFORD	66514
48AZ31	HUTFLES, S & S	S & S KENNEL	PO BOX 131	MERIDEN	66512
48BC13	ILLINGWORTH, D E	ILLINGWORTH CATTERY	627 PARK PLACE	SALINA	67401
48AY58	IRVIN, ML		RR 1	HOYT	66440
48AW96	IRWIN, MD	HAVEN HILL KENNEL	R 1 BOX 98	TECUMSEH	66542
48AI64	JACKSON, D&J	JU-JA'S KENNELS	RT 1 BOX 18	SEDAN	67361
48AY98	JACKSON, L		RT 2	CLIFTON	66937
48AX93	JACKSON, RE		BOX 125	HARVEYVILLE	66431
48AA19	JANDERA, RF		RR 1 BOX 57	HANOVER	66945
48AZ51	JANTZ, G & S		10515 LORI LN	MULVANE	67110
48BC12	JBD ENTERPRISES		PO BOX 1014	MANHATTAN	66502
48AD91	JOHNSON, AE		RT 1 BOX 134	RANDOLPH	66554
48AJ23	JOHNSON, C & V	LAZY-J KENNELS		LEBANON	66936
48AR86	JOHNSON, N	TUJA CATTERY	RT 1	FORMOSO	66942
48AD66	JOHNSON, P	HILL TOP KENNELS	6333 NW TOPEKA	TOPEKA	66617
48AV50	JOHNSTON, M&T		R 2 BOX 31	COFFEYVILLE	67337
48AB29	JONES JR, HH		ROUTE 1	WETMORE	66550
48BA10	JONES, D	JONES KENNELS, INC.		NETAWAKA	66516
48AP97	JONES, E		BOX 234	MCCUNE	66753
48AM00	JONES, L		509 S EXCHANGE	ST JOHN	67576
48AY41	JONES, R		R 1	ELK CITY	67344
48AW67	JONES, W&M		RR 2	DOUGLASS	67039
48AD72	KAHRS, G		RT. 1 BOX 212	CLIFTON	66937
48AY65	KAMER, M & F		4440 N.E. CROCO RD	TOPEKA	66617
48AA103	KAPPLER, J	WEE ONES	RT. 2 HOLLYOOD ADDITION	DODGE CITY	67801
48AA120	KASSELMAN, W & L		RT 1 BOX 105	OLSBURG	66520
48AX30	KEEGAN, D & K	KALEIDOSCOPE KENNEL	RT. 1	BAILEYVILLE	66404
48AD91	KEISWETTER, H		RFD #2	NORTON	67654
48BA55	KELLER, K	KENNY'S KENNELS	R 2	ST JOHN	67576
48AZ10	KELLER, R	BLUE HILL KENNEL	RR 1	HUNTER	67452
48AA15	KELLEY, W		RT 2 BOX 55	CLIFTON	66937
48AV92	KELLY, GL & DA	COUNTRY KENNELS	RT 1	HOLTON	66436
48AT85	KERR, M		R1	SILVER LAKE	66539
48BB54	KIEFFER, J	WADOWDA KENNELS	BOX 102	GLEN ELDER	67446

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AX11	KILGORE, T		RT 1	MULLINVILLE	67109
48AT66	KILLOREN, E	KILLOREN KENNELS		POWHATTAN	66527
48AZ54	KINGERY, S & J & B	KINGERY KIDS KENNELS	RFD 1 BOX 10E	SYLVAN GROVE	67481
48BC08	KINGSBURY, J & G	JO-GLEN KENNELS	RR 2	SMITH CENTER	66967
48AZ52	KINGSBURY, M & L	L & M KENNEL	RR	SMITH CENTER	66967
48AX96	KINNAMON, D & D	KINNAMON'S KENNELS	RT 4 BOX 102	INDEPENDENCE	67301
48AK56	KINNEY, AR		BOX 5	PERRY	66073
48AG73	KISSINGER, MRS. DAIN		RR 1 BOX 275	MULVANE	67110
48AY94	KLASSEN, RE		RT 1	INMAN	67546
48BD55	KLINGENBERG, K&E	BETKEN KENNELS	ROUTE 4 BOX 215	LAWRENCE	66044
48AZ18	KLINKER, S & M	KLINKER RABBIT TREE	822 BERTRAND	MANHATTAN	66502
48AI88	KNAPP, HW & B	SHADY OAKS KENNEL	RT 3	CHANUTE	66720
48AI78	KNOPP, VJ & J		RT 1 BOX 190A	HAYS	67601
48BA84	KNOX, BD	ROBNOX KENNELS	PO BOX 147	VALLEY FALLS	66088
48AT04	KNOX, BL	KNOX'S COUNTRY KENNELS	R 1	AGENDA	66930
48AD28	KOCH, BJ			BLAINE	66410
48AC26	KOCH, I		RT 2	AXTELL	66403
48AG74	KOEHN, M&MJ	KOEHN KENNEL	RT 2 BOX 66	MOUNDRIDGE	67107
48AZ73	KOOPS, R & A		RR 2	CAWKER CITY	67430
48AZ75	KOPSA, C			CUBA	66940
48AT62	KORNFIELD, J	HIGHLANDER COLLIES	ELM ST	EVEREST	66424
48AZ89	KRAFT, J & K	PUPPY LOVE KENNELS	BOX 139	GRAINFIELD	67737
48AA144	KRAFT, P L		RT 1	JETMORE	67854
48AE39	KREBS, CE & SON		RT 1	POWHATTAN	66527
48AT52	KREHBIEL, D & D	KREHBIEL'S KENNELS	RT 2	KINGMAN	67068
48AK22	KRIER, UM&AL		BOX 323 1217 BIRCH	ASHLAND	67831
48AC27	KROGMAN, E	KROGMAN'S KENNELS		AXTELL	66403
48B832	KRUCKENBERG, SM		2851 OREGON LANE	MANHATTAN	66502
48AA124	KRUEGER, C		RT 1 BOX 12	EMPORIA	66801
48AG32	KUEHL, E&C	KUEHL & KUEHL		ONAGA	66521
48AD11	KUEHL, L			ONAGA	66521
48AW40	KUNZLER, J	K&M RABBITRY	RT 1 BOX 142	GARDNER	66030
48B843	LAMBERT, RE	LAMBRIAR KENNELS	GEN DEL	MAHASKA	66955
48AN85	LANOUE, J		RR 3	CONCORDIA	66901
48AZ43	LARRISON, E		426 E. 6TH	HOLTON	66436
48AA81	LARSEN, D & D	LARSEN KENNELS	RT 2	HOLTON	66436
48AI85	LAWRENCE, E	SILVER STAR KENNELS	RR #1 108-AA	SEDAN	67361
48AC00	LAWRENCE, J		RT.2 BOX 264	WINFIELD	67156
48AA150	LAWSON, C		RT 1	AGENDA	66930
48AG11	LEAMING, E			PLEASANTON	66075
48AM36	LEIDIG, W		RT 3	CLAY CENTER	67432
48AW45	LEIS, JA		RR 1	GARDEN PLAIN	67050
48AY07	LEWMAN, V & R	R-VEE KENNEL	RR 1	DELIA	66418
48AY23	LINDEN, B F	BUNNY'S COUNTRY KENNEL	RR 2 BOX 54	CUMMINGS	66016
48AC48	LINKUGEL, D		RT 2	MARYSVILLE	66508
48AS12	LINNEMAN, F	LOCK LIN HE KENNELS	119 N MONROE	SMITH CENTER	66967
48AV78	LITTLE, R	DUSTY ACRES KENNEL	R.R.1	CENTRALIA	66415
48AA71	LONG, E			CIRCLEVILLE	66416
48AT54	LONG, M&F		R 1	SEVERANCE	66081
48AA119	LONG, P & R	PINE VALLEY KENNELS	RT 1	PECK	67120
48AT05	LOOSE, FE		PO BOX 8	NASHVILLE	67112
48AZ29	LOTZ, O	DEE'S KENNEL	RT. 1 BOX 115	EDNA	67342
48AZ20	LOVELAND, H	RED HOUSE	R 1 BOX 138	RILEY	66531
48AQ76	LOWE, CR		RR #2 BOX 140	CHANUTE	66720
48AH85	LOWE, M	MEL'S KENNELS	RT 4 BOX 12	GIRARD	66743
48AZ02	LOWE, V & H		R 2 BOX 250	CHANUTE	66720
48AH81	LUCKE, E		RT 2	GIRARD	66743
48AY47	LUHMAN, GW & DM		RT 1	RICHMOND	66080
48BB14	LUMBERT'S KENNELS		RT 1 BOX 270	WINFIELD	67156
48AS28	LUSK, RL		RT 2	OLPE	66865
48AY36	LUTHER, F & E & A	LU'S KENNELS	R 2 BOX 167	CHANUTE	66720
48AX16	LUTHI, H&S		RR 2	MADISON	66860
48AB05	LYTLE, JJ&E		RT 2	HOLTON	66436
48AH78	MADL, C		RT 1	WALNUT	66780
48BB08	MAIKE ENTERPRISES INC	MAIKE HUNTING CLUB	RT 2 BOX 91	ALMA	66401
48AN63	MAIKE, A		R 1 BOX 108	ALMA	66401
48AJ52	MAKINGS, A	DA-AN KENNELS	RT 2 BOX 110A	GOODLAND	67735
48AZ38	MALOTTE, P & T		RFD 2 BOX 159	MARYSVILLE	66508
48AI20	MARCOTTE, V		RT 1	ALLEN	66833
48AZ33	MARING, E & J		RT 1	WAMEGO	66547
48AH11	MARLER, MRS. E	TURTLE CREEK KENNEL	RT 2	BURDEN	67019
48AD97	MARPLE, LB		BOX 207	WAKARUSA	66546
48AG23	MARTEN, RC		RT 2	ONAGA	66521
48AZ83	MARTIN, B		RT 1	BLUE RAPIDS	66411
48AZ93	MASON, D & J		509 E. 2ND	HOISINGTON	67544
48AZ27	MASSEY, T & WOLFE, L	M & W KENNELS	RR 1	CEDAR VALE	67024
48AF04	MAY, BL		RT 1	MANKATO	66956
48VA06	MAYFIELD, AR	DRAGONWEIR KENNELS	5835 S VANDALE	WICHITA	67217
48AC22	MC CALL, P		RT 1 BOX 59	CEDAR VALE	67024
48AI54	MC CARTER, H&G	COUNTRY HOME KENNEL	RT 3 BOX 55	GREAT BEND	67530
48AG52	MCADAM, E		RT 3	HOLTON	66436
48AA102	MCALEXANDER, B		PO BOX 273	ERIE	66733
48AD90	MCBURNEY, TM		8345 NW TOPEKA AVE	TOPEKA	66617
48AY53	MCCALL, JL & S		RR 1 BOX 89B	CEDAR VALE	67024
48AI53	MCCARTER, L & N		RT 2	WAMEGO	66547
48AX29	MCCLASKEY, M & D	MAC'S KENNELS	RR 3	GIRARD	66743
48AT62	MCCLINTOCK,TA		RR1	HOLTON	66436
48AM64	MCCLURE, T	SING SANDY RANCH	RT 1	KINGMAN	67068
48AA114	MCCLUSKEY, W & D	BILL & DEANNA CAVY'S	PO BOX 116	LANSING	66043
48BB96	MCCORKLE, C & D	COUNTRY ACRES KENNELS	2301 E WOODLAWN	DERBY	67037

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AT46	MCCORMICK, RD	MI-DE-PA KENNELS	R 2 BOX 91C	LOUISBURG	66053
48AI32	MCCORMICK, VT&CE	MCCORMICK KENNEL	R 1	YATES CENTER	66783
48AP56	MCDONALD, W		RT. 5	ABILENE	67410
48AC50	MCGEENEY, A & F		RT 2	SUMMERFIELD	66541
48AW53	MCGRATH, J&J			EMMETT	66422
48AZ86	MCINTEER, J		RT 1 BOX 68	RANDOLPH	66554
48AG13	MCKIBBEN, MJ		RT. 1 BOX 111	BLUE MOUND	66010
48AZ96	MCMAHAN, G		RT 1	CLAY CENTER	67432
48AD36	MCNALLY, DT			HAVENSVILLE	66432
48AX75	MCNICKLE, R & C	M KENNELS	RT 2	CHERRYVALE	67335
48AL81	MCPHAIL, E		BOX 725	ASHLAND	67831
48AX36	METTLEN, D & B		RT. 1	SYLVAN GROVE	67481
48AX81	MEYERS, M & R		BOX 67-2A	SUBLETTE	67877
48AV32	MILES, C&M		RT 2 BOX 299	BELLEVILLE	66935
48AY04	MILLER, C S	CAR-MIL KENNEL	RT 2	CONCORDIA	66901
48AX61	MILLER, V & N	CEDARCREST KENNEL	RT. 1	BLUE MOUND	66010
48AI83	MILLS, B&P	MILLS KENNELS	R 4 1700 WEST OAK	INDEPENDENCE	67301
48AB76	MILLS, EM			CENTRALIA	66415
48AZ41	MILLS, S	MILLS KENNEL	1320 ACACIA	GOODLAND	67735
48AC93	MOFFITT, RG & B		RT 2	WASHINGTON	66968
48AN62	MONTGOMERY, EM		RT. 3 BOX 342	OTTAWA	66067
48AN12	MOODY, GK		RT 1	HOLTON	66436
48AR54	MOORE, JE		409 W VERMONT	OSBORNE	67473
48AF56	MOORE, LK		BOX 214	HIGHLAND	66035
48BB77	MOORE, M F	D & M KENNELS	R 1	LINDNTOWN	66779
48AW71	MOOTS, B&S	LAZY M KENNEL	RT 5 BOX 141	HUTCHINSON	67501
48BA91	MORLAND, LJ		207 E SOUTHERN BLVD	GIRARD	66743
48AQ84	MORRIS KENNELS	MORRIS KENNELS	RT 1	HOLCOMB	67851
48AJ19	MORRIS, E		RT 4	FREDONIA	66736
48AV94	MORRISON, KJ		150 COTTONWOOD DR.	COLBY	67701
48AA104	MOSER, D		RT 2	WASHINGTON	66968
48AX67	MOSIER, S & D	MOSADOS DOGS	RT. 1 BOX 101	STERLING	67579
48AB58	MOSTELLER, O			BERN	66408
48AA135	MUELLER, T & C		590 AUSTIN	COLBY	67701
48BA81	MULLER, MRS. CARL	IZZY'S POODLE PARLOR & KENNEL	RT. 1 BOX 186	SOLOMON	67480
48AY79	MUNK, P	TERRY KENNELS	BOX 4	MENLO	67746
48AI95	MURDIE, LE	SIR LIL LIN KENNEL	BOX 153	GARFIELD	67529
48AW94	MURPHY, S		420 W. 12TH ST.	JUNCTION CITY	66441
48BB06	MYERS, J&G	MYERS KENNELS	R 1	ELSMORE	66732
48AA105	NABITY, A		RR 2 BOX 40	FORMOSO	66942
48BB76	NELSON, C & G	DREAM LAND KENNEL	RT 1 BOX 130	NEODESHA	66757
48AL71	NELSON, RA	NELSON KENNEL	834 CENTRAL	HUMBOLDT	66748
48AA109	NELSON, S			DELAVAN	66847
48AD02	NEWELL, L		RT 1	CLIFTON	66937
48AA85	NEWMAN, DH	LAKE VIEW KENNELS	ROUTE 1	HOLTON	66436
48AT86	NEWMAN, R		PO BOX 173	VALLEY FALLS	66088
48AI68	NIBLACK, T&E	NIKHAN HILLSIDE KENNELS	RT 2 BOX 17	SEDAN	67361
48AX49	NICHOLS, C	JACONIC, INC.	RT. 3	RUSSELL	67665
48AY89	NIEMEIER, R		RT 1 BOX 169	WATERVILLE	66489
48AY91	NOBLE, D		RT 2	WALNUT	66780
48AW24	NONDORF, J&M	SHADY LANE KENNELS	R 1	SCANDIA	66966
48AZ13	NORDQUIST, K & J	NORDQUIST'S KENNELS	RT 1 BOX 100	WATERVILLE	66548
48AV23	NORRIS, LK		RR 1 BOX 38	WINCHESTER	66097
48AZ57	NOTT, L		RR 1	SOLDIER	66540
48AN53	NOYES, C&L		BOX 147	JAMESTOWN	66948
48AY70	OBORNY P & K	WALNUT VALLEY KENNEL	RR 2	TIMKEN	67562
48AA111	OESTMAN, E & D		RT 4	COFFEYVILLE	67337
48AX79	OETINGER, R			GREEN	67447
48AX74	OGLE, D&P		RT 4 BOX 89	FREDONIA	66736
48AZ08	OLDRIDGE, E		RT. 5	HIAWATHA	66434
48AC28	OLSON, G&E		RT 1	AXTELL	66403
48AZ46	OSBURN, L		RT 1 BOX 97	PAOICO	66526
48AA94	OSHEA, N			MAYETTA	66509
48AX69	OSNER, M	OSNER KENNELS	RR 2	CUNNINGHAM	67035
48AB40	OSTERHAUS, MA		BOX 72	WETMORE	66550
48AK44	OSWALD, R		315 N SECOND	CONWAY SPRINGS	67031
48AR49	PALECEK, M	MARGE'S KENNEL	RT 1	MUNDEN	66959
48AS18	PALENSKE, R & T	COUNTRYSIDE KENNELS	RT 3	SCOTT CITY	67871
48AM56	PALMER, G		ROUTE 4	ABILENE	67410
48AT23	PALMER, K		RT. 1 BOX 6	COFFEYVILLE	67337
48AF32	PALMQUIST, L & L	PALMRIDGE FARM KENNEL	R R 2	CONCORDIA	66901
48AY12	PARRETT, R & M	PARRETTS KENNEL	R 1	CIRCLEVILLE	66416
48AV31	PATTERSON B & JESSEPH R	B & R KENNEL	BOX 267	CHASE	67524
48AQ15	PATTERSON, D & O		RT 2	ANTHONY	67003
48AZ42	PERKINS, S	CRITTER CLINIC	615 N 2ND	HILL CITY	67642
48AS88	PETERS, D & J	PETERS KENNEL	RT 1 BOX 30	OLSBURG	66520
48AI97	PETERSON, H		BOX 23	GARFIELD	67529
48AR31	PETERSON, L		RT 1 BOX 59	SYLVAN GROVE	67481
48AA44	PHILLIPS, C & E	HAPPY HOLLOW KENNEL	3355 N 115TH	KANSAS CITY	66109
48AY84	PILKINGTON, DP		RT 1	MOUND VALLEY	67354
48AY28	PITMAN, RL		303 POPLAR PO BOX 274	MINNEOLA	67865
48BA19	PITZER, WJ	PITZERS KENNELS	RT. 3 BOX 16413	LAWRENCE	66044
48AW10	PLATTNER, D		R 1	ONEIDA	66522
48AA69	POLLOCK, E			SOLDIER	66540
48AX98	POOL, SM		RT 2	GIRARD	66743
48BA15	PORTER, L & A		RT 1	GOFF	66428
48AZ28	PRALLE, J & C	SPRING CREEK KENNELS	RT 3 BOX 27	MARYSVILLE	66508
48AZ52	PRUETT, B J	B J KENNELS	RT 3 BOX 256	ARKANSAS CITY	67005
48AJ12	PTACEK, ER	CEDAR CREEK KENNEL	RT 3	RUSSELL	67665

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AM82	PUGH, M		RT 2 BOX 183	MAYETTA	66509
48BB68	QUIRK, W	QUIRKS KENNELS	RR 2	READING	66868
48BA78	RAMSEY, V M	SANDY RIDGE KENNEL	RT 5 BOX 152	HUTCHINSON	67501
48AZ80	RATHKE, MRS. LOUISE	RATHKE'S KENNEL	RT 1	MADISON	66860
48AV01	RAVEN, HM		RT 2 BOX 10	EDNA	67342
48AQ34	RAY, RL & A		RT 1	VALLEY FALLS	66088
48AE62	REED, LS		BOX 55 RT. 1	TONGANOXIE	66086
48AD62	RENFRO, DJ		1131 N KANSAS AVE	TOPEKA	66608
48AD63	RENFRO, GS	RENFRO'S KENNELS	1135 N KANSAS AVE	TOPEKA	66608
48AW58	RENN, JC&T		R 2 BOX 270-D	PITTSBURG	66762
48AT44	REYNOLDS, P		RURAL ROUTE	CUBA	66940
48AK25	REYNOLDS, V	VI'S POM HOUSE	BOX 86	LONGTON	67352
48AZ74	RHINE, D		RT 1	MAHASKA	66955
48AA154	RHODES, W O		RT 4 BOX 48	FT. SCOTT	66701
48AA22	RICARD, W			WASHINGTON	66968
48AB27	RICE, N		ROUTE 1 BOX 123	MERIDEN	66512
48AA146	RICH, MRS. J		4401 N. HALSTEAD	HUTCHINSON	67501
48AY43	RICHARDSON, WD		3119 N HALSTEAD	HUTCHINSON	67501
48AA151	RICHTER, M		BOX 156	HANOVER	66945
48AZ08	RICKARD, MRS. LOWELL		RT 1 BOX 33	PARADISE	67658
48BC19	ROBINSON, R M	VALLEY VEIEW KENNEL	P.O. DRAWER B	SEDAN	67361
48AA110	ROBINSON, V		RR 1	NESS CITY	67560
48AF66	RODGERS, JE	JER MAY KENNELS	RT 1	CONCORDIA	66901
48AZ88	ROGERS, P & E	ROGER'S KENNEL	RT 2	DODGE CITY	67801
48AD58	ROHSSE, E		RR 1	ST MARY'S	66536
48AD79	ROSE, L			WASHINGTON	66968
48BB38	ROSS, F		BOX 6	PAWNEE ROCK	67567
48BA16	ROTTINGHAUS, G		RR 3	SENECA	66538
48AC11	ROTTINGHAUS, GF		RR 1 BOX 26	BERN	66408
48AR04	ROUSE, G	CEE-MAR KENNEL	RT 4	BELOIT	67420
48AJ71	ROUTH, V		RT 1	SEDAN	67361
48AG19	ROWLAND, S & J		RT 1	MARYSVILLE	66508
48AS24	RUDOLPH, D	RUDOLPHS KENNELS	RT 1	LINCOLNVILLE	66858
48AA49	RUETTI, RL		306 E. 8TH ST.	FRANKFORT	66427
48AR10	RULE, A	RULES KENNELS	RR 2	NORTON	67654
48BB87	RULE, J & P		702 N YORK	OBERLIN	67749
48AY11	RULE, R & E		RT 3	NORTON	67654
48AF34	SALLMAN, E	SALLMAN KENNELS	BOX 64	AURORA	67417
48AT97	SALYER, SL	HAPPY HILL KENNELS	RFD 1 BOX 157F	LAWRENCE	66044
48AQ80	SAND, L	OLSO ACRES KENNEL	RR 3 BOX 63A	MCPHERSON	67460
48AE22	SANDERS, JE	POTTER VIEW KENNEL	R 3 BOX 79	ATCHISON	66002
48AG62	SATTERTHWAITE, P	SATTERTHWAITE KENNELS	RT 2	UDALL	67146
48AG56	SAUCIER, R		RT 3	ABILENE	67410
48AW99	SAUVAGE, H & M			HAVENSVILLE	66432
48AA60	SAVAGE, L		RR 2	SOLDIER	66540
48AA13	SAWIN, O		RT. 2	WASHINGTON	66968
48AA158	SCAMMEY, J OR R		RT 1	ELK CITY	67344
48AK03	SCHIFF, D & J			SHARON	67138
48AZ78	SCHISSLER, J		2 SO. PERSHING	LIBERAL	67901
48AU03	SCHMELZLE, GJ	RED VALLEY KENNEL	RR 1 BOX 36	CORNING	66417
48AY05	SCHMOT, RA		RT 2 BOX 47	NEWTON	67114
48AZ34	SCHRAG, D & C	ALASKAN KENNELS	RT 2 BOX 178	MOUNDRIDGE	67107
48AZ39	SCHRAG, M		RT. 4 BOX 38	GALVA	67443
48AZ47	SCHULTE, C	CINDY'S POODLES	RFD 1	TIPTON	67485
48AP94	SCHULTEJAMS, C & B		RT 2	GOFF	66428
48AZ67	SCHULTZ, R & N		RR 3 BOX 144	LUCAS	67648
48AR89	SCHWINN, M	B&S KENNELS	R 1 BOX 166C	ST GEORGE	66535
48AZ98	SCOFIELD, J		RT 2 BOX 212	COLUMBUS	66725
48BB90	SCOTT, HD		R 1 BOX 43	MANKATO	66956
48AF20	SCOTT, HD&JE	JAN'S KENNELS	RT 2 BOX 43	MANKATO	66956
48AT47	SEE, WL&T	WHEATLAND COLLIE FARM	RT 1	SCOTT CITY	67871
48AT33	SHEAHAN, E		RT. 1, 528 G. ST., WEST	KINGMAN	67068
48AW75	SHEETS, D & S	CHAR D KENNELS	RT 1 BOX 221	ASSARIA	67416
48AA48	SHELL, H		BOX 133 RR 2	VALLEY FALLS	66088
48AJ36	SHIELDS, F	PUPPY LOVE KENNEL		OLADE	67639
48BB62	SHROYER, D	NORTH GATE KENNELS	RR 2	MILTONVALE	67466
48AF90	SHUGHART, DL	DELTAIRE KENNELS	ROUTE 1 BOX 207	PERRY	66073
48AL31	SHUTE, E	JERI'S KENNELS	RT 1	RED CLOUD	68970
48AA100	SIEBS, R & B		RT 2	SENECA	66538
48AI44	SINCLAIR, F OR K		RT 2	IOLA	66749
48AY34	SINCLAIR, JR & ME	OWL CREEK KENNEL	R 1 BOX 170	HUMBOLDT	66748
48AL32	SIPES, M		RT 1	ST MARYS	66536
48AY96	SKELTON, L & J	SANTA RE KENNEL	RT 3	LARNED	67550
48AZ23	SLOAN, MR & MRS	KAPRICKORN KENNELS	RT 2 WEST PARK	DODGE CITY	67801
48AP37	SMART, LE	SMART'S HILLTOP KENNELS	RR 1 BOX 102	BURLINGTON	66839
48AE96	SMETHERS, GM & LW		RR 2	GARNETT	66032
48BA08	SMITH ENTERPRISES, INC		RT 1 BOX 80B8	GARDEN PLAIN	67050
48AF36	SMITH, DA		BOX 28	SCOTTSVILLE	67477
48BC17	SMITH, E		RT 2	ERIE	66733
48BA18	SMITH, H	YOCKEY CREEK KENNEL	RT 1 BOX 149	DELPHOS	67436
48AV75	SMITH, J&B	WINDY HOLLOW KENNELS	RFD 1 BOX 76	FAIRVIEW	66425
48AF37	SMITH, L	SMITH'S KENNELS	RT 3	CLYDE	66938
48AR05	SMITH, M		RR5 NO PRAIRIE	ST JOHN	67576
48AY75	SMITH, OW		501 BEECH	OTTAWA	66067
48AW95	SMITH, ZM		706 N SYCAMORE	IOLA	66749
48AA118	SNAVELY, S		404 UTAH STREET	HIAWATHA	66434
48AV17	SNODGRASS, V & G	HILLTOP KENNELS	923 KING	ATCHISON	66002
48AX24	SNYDER, M & E		RT. 4	BELOIT	67420
48AY14	SOMMER, M		217 OHIO	NEODESHA	66757
48BA05	SPARKS, B	SPARKS KENNELS INC	RT 4 BOX 1154	SALINA	67401

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48AQ81	SPEAR, A & D	LAZY S KENNEL	RT 1	CONCORDIA	66901
48AX91	SPEER, R & S		RT 2 BOX 77	ELK CITY	67344
48AE15	SPITTLES, LM	SPITTLES KENNELS	ROUTE 1	ALTA VISTA	66834
48AW62	SPRESSER, A&N	SPRESSER KENNELS	5TH & MINN. ST	SELDEN	67757
48AT31	STACKLEY, E & P	HOSTA'S KENNEL	R 4	EL DORADO	67042
48AB74	STALLBAUMER, J		R R 2 BOX 16	SENECA	66538
48AK85	STALLBAUMER, P		RT 1	CENTRALIA	66415
48AV90	STANGE, LH		R 1	ELSMORE	66732
48AZ84	STEINBERGER, A		RT 2	WAMEGO	66547
48AB89	STEINLAGE, F		RT 1	CORNING	66417
48AB50	STEINLAGE, M		1105 WALNUT ST	SENECA	66538
48AY17	STELLWAGEN, L & B		RT 1	SILVER LAKE	66539
48DA50	STEPHENS, H	STEPHENS KENNELS	RT 1 BOX 130A	INDEPENDENCE	67301
48AZ69	STEVENSON, D		RT 1	EDNA	67342
48AX15	STEVENSON, V & J		R 1	WHITE CITY	66872
48BA26	STONE, LK			LEONARDVILLE	66449
48AX47	STRAWN, P & J	STRAWN'S KENNELS	R 4	YATES CENTER	66783
48AH46	SUBERA, A H		RT. 1 BOX 58	CALDWELL	67022
48AY58	SUMNER, L & N		RR 1	HAVENSVILLE	66432
48AL44	SUTTON, C	SKYVIEW KENNEL	RT 1	MARYSVILLE	66508
48AW01	SWEARINGEN, D		R 8	INDEPENDENCE	67301
48AP28	SWEET, MY	SWEET'S CATTERY	RT 2 BOX 43	FORMOSO	66942
48BC09	SWIERCINSKY, J & L		RT 1	REPUBLIC	66964
48AA70	SWISHER, G		RR 1 BOX 85B	DELIA	66418
48AV45	SYNOGROUND, R & C	THE KENNEL	99 N 61ST ST	KANSAS CITY	66112
48AG60	TAYLOR, IL & EA		RT 1	SOLOMON	67480
48AA149	TEAGARDEN, F & S	LAKESIDE ACRES KENNELS	RT 3	KINGMAN	67068
48AL72	TEETZEN, WE		R 1 BOX 23	JUNCTION CITY	66441
48BB68	TERFLINGER, M&K		R 1 BOX 40	MOCUNE	66753
48AY21	TESELLE, JL	TESELLE'S KENNELS	BOX 191	DOWNS	67437
48AN06	TESSENDORF, L		RR 1 BOX 74	CIRCLEVILLE	66416
48AZ24	TESSENDORF, R		RT 1 BOX 177	PENRY	66073
48AZ68	TETER, R & D		RR 1	MAIZE	67101
48BA21	THERACON INC		PO BOX 1493	TOPEKA	66601
48AB57	THIEME, L			BERN	66408
48AB30	THIEME, M		RT. 1	WETMORE	66550
48AA51	THIRY, RM		RT 1 BOX 104	MCLOUTH	66054
48AW55	THOMPSON, OM & FA	HILLSIDE KENNEL	RT 2	CONCORDIA	66901
48BA14	TINKLIN, G	TINKLIN DOG KENNEL INC.	RT 2	GOFF	66428
48AJ54	TOMPKINS, A&V	TNT KENNELS	BOX 115	ATHOL	66412
48BC07	TOOTHMAN, MRS. LARRY	LARRY'S PERSIAN'S	405 PURDUE	SALINA	67401
48AJ74	TOWER, ME	T 3 KENNELS	RT 2 BOX 190	ANTHONY	67003
48BA13	TRAILANE KENNELS, INC.		RT 1	SOLDIER	66540
48AZ49	TRAUTLOFF, R	COUNTRY GIRL KENNEL	RT 4 BOX 143	ATCHISON	66002
48BC14	TRIPLETT, J & J	PARK HILL KENNEL	RTE. 2	BALDWIN	66006
48AX57	TROUTMAN, D & N	TROUTMAN'S KENNELS	BOX 14	ALTOONA	66710
48BB20	TUCKER, U	TUCKER ST BERNARD FARM	RT 1 BOX 5	WELDA	66091
48BC18	TURK, D J		RT 1	BARNES	66938
48AZ94	TURLEY, RUTH		RFD 1	SCOTT CITY	67871
48AZ71	TURNER, M & I	CEDARCREST FARMS	RFD 1 BOX 26	BURRTON	67020
48AA125	TURPIN, B & L		RT 2 BOX 325	TROY	66087
48AE12	ULLERY, L		RR 2	SCRANTON	66537
48AX12	UNRUH, CJ			ARLINGTON	67514
48AA157	UNRUH, N & A	PAW-PRINT KENNELS	BOX 2 RT 2	MONTEZUMA	67867
48AL06	USHER, CB		309 BRADLEY RR 2	SEDAN	67361
48BA99	UTTINGER, JR	DICK'S ANIMAL WORLD	15144 EAST KELLOGG	WICHITA	67230
48AE34	VAN EPPS, J		ROUTE 1	ROBINSON	66532
48AR55	VAN LOENEN, GO		BOX 153	BOGUE	67625
48AA143	VAUGHN, H & M		RT 1 BOX 125	LINWOOD	66052
48AZ44	VESTAL, K & S	VESTAL'S MINI RANCH	RR 3 BOX 25 701 SO. 5TH	LINCOLN	67456
48AS56	VINSONHALER, B		509 N A STREET	SMITH CENTER	66967
48AT41	VISONHALER, J		RT. 1 BOX H1	GAYLORD	67638
48AG61	VLK, W	VLK'S HAMSTERY	704 N. CEDAR RT. 3	MARION	66861
48AV28	WAGNER, D		305 UTAH ST	HIAWATHA	66434
48AJ84	WAITE, O		RT 2	KINGMAN	67068
48AF96	WALBRIDGE, R		ROUTE 2	MCLOUTH	66054
48AA139	WALKER, L & R A	SMOKY RIVER KENNEL	BOX 73	KANOPOLIS	67454
48AX35	WALTON, S		R 4 BOX 102A	FREDONIA	66736
48AV10	WARREN, L	W-6 KENNELS	RT 2	IOLA	66749
48AB56	WASSENBERG, A	BLACKTOP KENNELS	RT 1	BAILEYVILLE	66404
48AF40	WATERMAN, E&N		RR 1 BOX 135	GLASCO	67445
48AS90	WATKINS, G & A		RT 1	HOLTON	66436
48BC11	WEATHERHEAD, J		RT 2	CONCORDIA	66901
48AT85	WEBB, W L OR D A	WJ KENNELS	2421 NO 6TH	DODGE CITY	67801
48AV46	WEBER, W&J		R R 1	BELOIT	67420
48AS70	WEBSTER, M & W	WEBSTER'S KENNEL	R 2 BOX 102	CHANUTE	66720
48AY69	WEDEL, S	DOG PATCH KENNELS	RR 2 BOX 52	MCPHERSON	67460
48AA138	WEIDENHAFT, L R		BOX 254	GLEN ELDEN	67446
48BB59	WELLCOME RESEARCH LAB.		2000 SOUTH 11TH ST	KANSAS CITY	66103
48AX36	WELLS, H & S		FORT DODGE RD	DODGE CITY	67801
48AW92	WEST, RR	WEST KENNELS	RT 2	COLONY	66015
48AA127	WHEELER, M E	M.E.W. CATTERY	RR 2	JEWELL	66949
48AX23	WHITE, R & S		1101 SO. HIGHLAND	CHANUTE	66720
48AT26	WHITWAM, D		1526 E 22ND ST	TOPEKA	66605
48BC15	WIEGAND, D & V	DONGINS KENNELS	4209 SOUTH ELLIS	WICHITA	67216
48AW83	WIESNER, DJ		316 N. CEDAR	HOISINGTON	67544
48AC96	WIETHARN, C		RR 1	CLAY CENTER	67432
48AI73	WIGTON, B	WIGTON'S CHIHUAHUAS	RT 2 BOX 106	COLUMBUS	66725
48AZ62	WILLIAMS, C & T		413 KICKAPOO	HIAWATHA	66434
48AS25	WILLIAMS, E & I		315 W BUFFALO	GIRARD	66743

KANSAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48A005	WILLIAMS, L		ROUTE 4	HIAWATHA	66434
48A585	WILSON, F	LAZY ACRES KENNELS	BOX 109D RT 2	LOUISBURG	66053
48BC01	WILSON, G & D	ELMWOOD KENNELS	R 1 BOX 28	JEWELL	66949
48AW79	WILSON, L		RR 1	SCRANTON	66537
48BB95	WISE, JL	PATS POODLE PARLOR	1827 N MAIN	ST JOHN	67576
48AX76	WISE, Z Z	WINDY HILL KENNEL	RR 3 BOX 152A	LAWRENCE	66044
48AW06	WISEMILLER, W&R	RUMAX KENNELS	RT. 3 BOX 17	SABETHA	66534
48AD17	WITT, EJ		ROUTE 2	WAMEGO	66547
48AC88	WOERNER, R		RR 1 BOX 82	LINN	66953
48AG25	WOLF, P		BOX 46	MORGANVILLE	67468
48AY83	WOOD, DL	SHADY LANE KENNEL	2600 N. 131ST	KANSAS CITY	66109
48AV85	WOODS, D&E	D&L KENNELS	BOX 421	ELKHART	67950
48AW18	WORM, L		RURAL ROUTE	WEBBER	66970
48AJ99	WORTMAN, L		RT 1 BOX 111	MEDICINE LODGE	67104
48AJ91	WRAY, JA	WRAY'S KENNELS	RT 2	NORTON	67654
48AV01	WRIGHT, JG	WRIGHT-WAY KENNELS	RT 1 BOX 90	HOME	66438
48AA117	WRIGHT, L		R2 BOX 94	CHAPMAN	67431
48AC73	WULLSCHLEGER, P & M & J		RT. 1 BOX 95B	HOME	66438
48AZ52	WYLIE, R & M		706 OAK ST.	WAMEGO	66547
48AW36	YACKO, L		302 OAK ST BOX 98	CAWKER CITY	67430
48AM50	YARNELL, V		R 1 BOX 186	ERIE	66733
48AR45	YONNING, BJ		RT 2	WESTMORELAND	66549
48AX40	ZABEL, E & D	FLO - EZ FARMS	RFD 1	WHEATON	66551
48AZ35	ZERGER, M & K	KANDY KANE KENNELS	RR 2 BOX 147A	MOUNDRIDGE	67107

KENTUCKY

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
61UA	NORTHCUTT, ME	GOODWILL KENNELS	RT 5 BOX 109	CYNTHIANA	41031
61A9	PAWLAK, D	D-P RABBITRY	RT. 2 BOX 209	CLINTON	42031
61B8	REGENCY RESEARCH ENTERPRIZES		P.O. BOX 593	GEORGETOWN	40324
61B6	ROBINSON, R	W KY RABBIT AND WORM RANCH	ROUTE 2	WEST PADUCAH	42086
61BH	SMITH, L E	S & S RES ANIMALS, HILLTOP KENNELS	PO BOX 151	LAGRANGE	40031
61B7	TOWNSEND, S & R	SHARON'S HOUSE OF PETS	601 SO. 4TH	MURRAY	42071
61B2	WILLIAMS, J & A	WILLIAMS KY CAVIES	7811 DOBSON RD	PERN CREEK	40291
61A8	WOOD, JK		RT 1	BAGDAD	40003

LOUISIANA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
72B11	BAILEY, V	BAILEY'S KENNEL	RT 2 BOX 768	HAYNESVILLE	71038
7284	GULF SOUTH RESEARCH INSTITUTE		PO BOX 1177	NEW IBERIA	70560
72A4	HARTNESS, L		903 N CENTER ST	RUSTON	71270
72B12	LE BLANC, E J	MICKEY'S KENNEL	RT 1 BOX 703	DEVILLE	71328
7282	OZONE PET SUPPLY		PO BOX 786	LACOMBE	70445
72A17	PARKER, S	PARKER'S CAVIES	4435 ORCHID ST.	BATON ROUGE	70808
72A16	THORPE, S	CAJUN CAVIES	4254 HYACINTH AVE.	BATON ROUGE	70808
7285	WAUBUN LABORATORIES, INC.		DRAWER C	SCHRIEVER	70395

MAINE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
11A7	BOUCHER, AF	HIDE-A-WAY RABBITRY	RR 2 BOX 480A	SO WINDHAM	04062
11A43	BROWN, R & J	TWIN BROOKS RABBITRY	BOX 821	LEVANT	04456
11B16	DEMERITT, F		PO BOX 739	YORK BEACH	03910
11B17	DYNATECH DIAGNOSTICS, INC.		RR #1 MILAND FARM DR	SO WINDHAM	04062
11A39	GOLDMAN, M & E	LUCKY FOOT RABBITRY	RFD 1 BOX 217	BURNHAM	04922
11A40	LOTHRIDGE, K	RED PINE RABBITRY	RT 1A	GARDINER	04345
11B5	MAINS, E		RFD 1 LIME RD	GORHAM	04038
11AE7	MCLAREN, G&R	THUMPER FARM	RFD 1 BOX 115	HARRISON	04040
11A42	PGORS, S	DRIFTWOOD RABBITRY	WALTHAM ROAD	ELLSWORTH	04605
11B9	SHAWLEY, J & J	COTTONTAILS	130 FALVEY ST	BANGOR	04401
11B15	SKIBICKI, J		5 SAYWARD ST	KENNEBUNK	04043
11A1	THE JACKSON LABORATORY			BAR HARBOR	04609
11A36	VARGA, S	HARMONY HILL RABBITRY	RFD 1 BOX 141	CORNISH	04020
11B2	WAYCOTT, SR NE		BUXTON ROAD	SACO	04072

MARYLAND

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
51A1	BABINGTON, D J		ROUTE 3 BOX 529A	BOONSBORO	21713
51CM	CHAUVENET, DS		BOX 454	CHESTERTOWN	21620
51AD	COMMANDO FARMS		P.O. BOX 475	CLINTON	20735
51AA	ECKERT, WL		3444 HARNEY RD.	TANEYTOWN	21787
51AR	FRYE, WE	B & H RABBITRY	13700 TRAVILAH RD	ROCKVILLE	20850
51A4	GRIFFITH, K	GRIFFITHS KENNEL	RT 3 BOX 510	BOONSBORO	21713
51CS	HICKMAN, F		RT. 1 BOX 780	CHESTERTOWN	21620
51CD	J.E.M. RESEARCH, INC.		3930 KNOWLES AVE.	KENSINGTON	20715
51CK	LITTON BIONETICS INC		5516 NICHOLSON LANE	KENSINGTON	20795
51B1	SEEGARS, T		13500 CENTRAL AVE.	LARGO	20870
51A6	SHAW, R & R	SPRING VALLEY LAB., INC.	1500 FANNIE DORSEY RD.	SYKESVILLE	21784
51A5	THE JOHN HOPKINS UNIV.		CHARLES & 34 TH ST.	BALTIMORE	21218
51B0	TROPICAL FISH CITY INC		13312 LAUREL BOWIE RD	LAUREL	20811
51A5	ZOOLOGICAL CONSORTIUM, INC.	FAUNA LIMITED	13019 CATOCTIN FURNACE RD.	THURMONT	21788

MASSACHUSETTS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
14B66	ALEXION, A	BROADWAY PETS	34 MARKET STREET	LYNN	01901
14B63	ARMSTRONG, J	ARMSTRONGS ANIMALS	408 ESSEX ST	SALEM	01972
14B13	BACHAND, R	BIRDLAND AVIARY	22 LAURA KEENE RD	ACUSHNET	02743
14A74	BIO-RES INC/BIO-RES CONS INC		9 COMMERCIAL AVE	CAMBRIDGE	02141
14B45	BOSTON PET SUPPLY		200 FIRST STREET	CAMBRIDGE	02142
14A22	BOWS, RC	ARI/BREEDING LAB	364 CHATHAM W DR	BROCKTON	02401
14A86	BROWN, L	LITTLE CRITTERS	36 BATTEN ST	WEBSTER	01570
14A84	CAMBRIDGE DIAGNOSTIC, INC		359 ALLSTON STREET	CAMBRIDGE	02139
14A26	CHARLES RIVER BREEDING LABORATORIES, INC.		251 BALLARDVALE STREET	WILMINGTON	01887
14B25	CONNECTICUT VALLEY BIOLOGICAL SUPPLY COMPANY, INC.		VALLEY ROAD	SOUTHAMPTON	01073
14B51	DUSSEAULT, J & T	GARDNER'S TURKEY FARM	1765 BAY ST	TAUNTON	02780
14B30	ELM HILL BREEDING LAB		71 ELM ST	CHELMSFORD	01824
14B1	EXOTIC FISH & PET WORLD, INC		49 RUSSELL STREET	HADLEY	01035
14B3	FAY JR, AL		11 RAYMOND RD	BURLINGTON	01803
14B28	FERRIS, PG		483 N. MAIN ST.	MIDDLETON	01949
1AB4	FINCH, AC	PINELAND FARM KENNELS	93 LEONARD ST	RAYNHAM	02767
14A79	FITZGERALD, E		834 KING PHILIP ST	FALL RIVER	02724
14B22	GAULITZ, DE		154 PINE ST	FRANKLIN	02038
14A80	GRAPH-TECH, INC		ONE DIX ST	WORCESTER	01609
14B23	JENKS, FH		21 JAMES ST	FEEDING HILLS	01030
14B7	LANDRESS, M	MARGARET'S HOME FARM	RT 2A BOX 237	ATHOL	01331
14A82	LOMBERTO, D		395 LINCOLN STREET	FRANKLIN	02038
14B2	MASSON, PP	MASSON'S SMALL ANIMAL FARM	75 GOODHUE AVE	DRACUT	01826
14A85	MORIARTY, P	7 M RABBITRY	94 LAKESIDE DR	SHREWSBURY	01545
14B52	PLATT, AR	PINE ACRE RABBITRY	299 EAST MAIN ST	NORTON	02766
14A77	RODDY, J		30 VINAL ST	DRACUT	01826
14A76	RUSHFORTH, B & A	HARE HAVEN RABBITRY	711 PLYMOUTH ST	MIDDLEBORO	02346
14AB3	RYAN, K A	CIRCLE R. RABBIT RANCH	109 KESWICK RD	BROCKTON	02402
14B64	THORSEN BREEDING LABS	THORSEN BREEDING LABS	138 FISHER ST	WESTBOROUGH	01581
14B55	TUCKER, F & WOODFORD, E J	RESEARCH DONOR SERVICE	808 HANCOCK ST	ABINGTON	02351
14B58	TUFTS-NEW ENGLAND MED CTR INC		171 HARRISON AVE	BOSTON	02111
14A16	TUMBLEBROOK FARM, INC		RFD 1 BOX 9	WEST BROOKFIELD	01585
14A78	WHIGHAM, D & A		WAITE CORNER RD	NORTH BROOKFIELD	01535

MICHIGAN

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
34AD24	ALBER, H		RR 4 3655 W. ELLSWORTH RD	ANN ARBOR	48104
34BD13	ANN ARBOR BIOLOGICAL CENTER, INC		6780 JACKSON ROAD	ANN ARBOR	48103
34AD25	BAILEY, F		6385 ALASKA	ALTO	49302
34AD13	BEEKMAN, A		3865 N PILLON RD	MUSKEGON	49445
34BD29	BEHLEN, H	BEHLEN'S RABBITRY	3180 E HOUGHTON LAKE RD	LAKE CITY	49651
34BD37	BOLLON, V		2345 CLARK ROAD	LAPEER	48446
34BD34	BRIEL, J H	WONDERLAND PET CENTER	4140 S. DIVISION	WYOMING	49509
34AD48	COBB, H & L	COBBS COUNTRY KENNEL	BOX 103	DAFTER	49724
34BD26	COOPER, EJ		12565 BUDD RD	BURT	48417
34AD37	CUNNINGHAM, C	OAKRIDGE KENNELS	415 N. GROVER RD	MUSKEGON	49442
34AD29	DAY, LA	DAYS RABBIT FARM	7688 N SHERIDAN RD	EDMORE	48829
34BD24	DESHONE, J M	PARADISE COVE ANIMALS	PO BOX 565	PINCONNING	48650
34AD5	DETTMER, DJ	DETTMERS BUNNY PATCH	BOX 109 GARFIELD RD	CARSON CITY	48811
34BD32	DIXON, D	D.J. PETS	2300 FRED MOORE HWY	ST CLAIR	48079
34BD11	EWERT, M	EWERT ENTERPRISES	2059 S. 3RD ST	NILES	49120
34AB	HODGINS, F	HODGINS KENNEL	6300 LANGE RD	HOWELL	48843
34AD16	HUNT, DJ		6237 VINTON AVE	COMSTOCK PARK	49321
34BD4	INTERNATIONAL ANIMAL EXCHANGE, INC.		130 E. NINE MILE RD.	FERNDALE	48200
34BD19	INTERNATIONAL RESEARCH & DEVELOPMENT CORP.		500 N MAIN ST	MATTAWAN	49071
34BD30	KAMPFERT, WR	BILL'S MAGIC & EXOTIC ANIMALS	36443 UPLAND CT	WAYNE	48184
34JK	LABORATORY RESEARCH ENTERPRISES, INC.		6321 SOUTH 6TH STREET	KALAMAZOO	49009
34AD4	LANGSHAW, N & D	LANGSHAW FARMS	R1 BOX 256	AUGUSTA	49012
34AD46	LANNOO, B	LU-LIN'S TITI'S	7474 ARNOLD	MARINE CITY	48039
34BD33	LEMPICKI, L	HOUSE OF PETS NO. 2	29500 FORD ROAD	GARDEN CITY	48135
34BD36	MARTIN, R	PECULIAR PETS	5150 HIGHLAND RD	PONTIAC	48054
34AD22	MI DEPT OF PUBLIC HEALTH	BUR OF DIS CONTROL & LAB SER	3500 N LOGAN ST PO BOX 30035	LANSING	48909
34BD35	MISSLER, G	MISSLER AND SONS SPORTLAND	437 TECUMSEH ST	DUNDEE	48131
34EF	RADZILOWSKI, E	MEADOWBROOK FARMS & CO	10533 GRATIOT ROAD	RICHMOND	48062
34AD47	REED, C	PUPPY PRIDE KENNELS	P.O. BOX 671	SAULT STE. MARIE	49783
34AD39	ROOD, C & N	AUTUMN KENNELS	4726 WHEELER RD	STANDISH	48658
34AD45	RUSSELL, A & C		1889 VERMONTVILLE HWY	VERMONTVILLE	49096
34AD40	SCHNEIDER, L & B	HI-HOPES KENNELS	2224 S ENNIS RD	ITHACA	48847
34BD31	SCHREIB, V	SHAGGY ACRES	BOX 142	PERKINS	49872
34AD38	STURGILL, C		8140 DUNN RD	MUNITH	49259
34AD26	TAFT, MT	A & M KENNELS	RT. 1 BOX 467	ESCANABA	49829
34AD41	TERPENING, J		908 ELSWORTH RD	PETOSKEY	49770
34BD21	ULRICH, ME	CHERI-HILL KENNEL & SUPPLY	R.R. 2	STANWOOD	49346
34BD3	WALLACE, KD	OAKHILL RABBIT RANCH	1752 106TH AVE	OTSEGO	49078
34BD30	WILLIAMS, J		7575 EAST HERBISON	BATH	48808
34BD38	WOLVERTON, INC.	WOLVERTON, INC.	16020 LOWELL RD BOX 13098	LANSING	48901
34R5	WOUDENBERG, RJ&RL	R & R RESEARCH	10258 W KENDAVILLE RD	HOWARD CITY	49329

MINNESOTA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
41A195	ANDERSON, K		RR 1	MOTLEY	56466
41B74	ANDERSON, R & M	ROGER'S GAME FARM	RR 2 BOX 171	STARBUCK	56381
41A196	BARNES, J	HAPPY VALLEY PUPPY FARM	RR 1 BOX 45	LITTLEFORK	56653
41AF	BEISE, M	BEISE KENNELS	410 CREEK LANE	JORDAN	55352
41B100	BENIGNI, K	THE SKUNK WORKS AND MORE		COTTON	55724
41A124	BERGLAND, K		RR 1 BOX 21	ELLENDALE	56026
41A197	BIO-LAB CORPORATION		5226 CENTERVILLE RD.	ST. PAUL	55110
41B42	BLAINE MIDWAY ALL PETS INC.		10911 RADISSON RD. NE	BLAINE	55434
41A143	BLETH, JE & ZB	SNOWCREST KENNEL	RTE 9 BOX 124	BEMIDJI	56601
41A178	BOMBARD, S E	SANDEL CATTERY	RTE 1, BOX 207	PINE CITY	55063
41A141	BRANDT, V	PRETTY PINK CATTERY	RT 2 BOX 271	AUSTIN	55912
41A91	BRAUN, O		R 2 BOX 196	WORTHINGTON	56187
41B63	BROLIN, B & D	BROLIN PETS	1229 PORTLAND AVE.	ST. PAUL	55104
41B90	BROWN, J & M	MINNESOTA PINES KENNELS	RT 3 BOX 43	WORTHINGTON	56187
41B24	BRUST, PS	OAK CREST KENNELS	4770 S ROBERT ST.	INVER GROVE HGTS	55075
41A164	BUNN, R & J	RIVER VIEW KENNEL	BOX 134 ROUTE 4	MONTEVIDEO	56265
41B67	CAPRANOS, T	T&T HAMSTER HUT	1920 4TH AV NW	AUSTIN	55912
41B8	CITY OF ST. JAMES	CITY OF ST JAMES	1002 7TH AVE N	ST JAMES	56081
41B110	CLUTH, J & S	RABBITS, ETC.	RT 7	ST CLOUD	56301
41A176	CUPERUS, B & S	OAK RIDGE KENNEL	RR 3	JACKSON	56143
41A31	DAVIDSON, G N	DAVIDSON'S FUR FARM	RT 2 BOX 294	ANNANDALE	55302
41A156	DICKMAN, D & M	OAK GROVE KENNELS	R 1 BOX 79A	PIERZ	56364
41A174	DODDS, C & W	BOOGAROO RANCH	RT 3 BOX 111	CLEARBROOK	56634
41B54	DRAEGER, D & MORTENSON, F	DAD & MACK PETS	14915 CROSSTOWN BLVD	ANOKA	55303
41B58	EGGESTEIN, R	CC FARM & KENNEL	R 2	ANNANDALE	55302
41A194	ELIJAH, P & D		RT 1 BOX 24A	MONTROSE	55363
41B4	FERGUSON, R		RT 1	CLEARWATER	55320
41B115	FULLER, P	ROCKWOOD RANCH KENNEL	RT 1	BEBEKA	56477
41B76	GIESE, C	OAK RIDGE GAME FARM		DONNELLY	56235
41A187	GULDEN, M & S	THE DOG HOUSE	RT 1	KANDIYOHI	56251
41A167	HABBEN, A & M	AUSTIN OAN KENNEL	RT 4 BOX 70	AUSTIN	55912
41A114	HARRINGTON, D		R 2 BOX 127	CALEDONIA	55921
41B78	HAWLA, C & S	HAWLA'S ROYAL OAK KENNELS	RT. 1 BOX 219	ROYALTON	56373
41B107	HEGG, E & B	SLEEPY HOLLOW KENNELS	RT 1 BOX 56	LAPORTE	56461
41A182	HENDERSON, B	BELKAYS KENNELS	STAR RT 1 BOX 115	BEMIDJI	56601
41A29	HERNESS, G	SEWELL LAKE KENNEL	BOX 34	DALTON	56324
41AE	HIPPERT, D		RT. 1	KASSON	55944
41B104	HIPPERT, M		2526 S BRIDGE ST.	NEW ULM	56073
41B87	HOCHMAYR, F&I	DEER FOREST	BOX 46	NISSWA	56468
41B113	HOWARD, J	CALL OF THE WILD	3365 HWY 55	HAMEL	55340
41A125	HUNTER, R & W	HUNTER'S MAPLE LANE KENNEL	RT 1 BOX 148	WAVERLY	55390
41B108	HUTTON, G	PRAIRIE DOG SUPPLY CO.	1486 FLAG AVE SOUTH	ST LOUIS PARK	55426
41B41	INTERNATIONAL BIOLOGICS, INC.		531-9TH ST NW	NEW BRIGHTON	55112
41A179	JELLISON, D	JELLISON'S FUR RANCH	RT 1	CAMBRIDGE	55008
41A191	KAHNKE, L		RT 3	KENYON	55946
41A175	KIEL, R & S	PINE ACRES KENNEL	ROUTE 3 BOX 312	PINE CITY	55063
41A147	KLEMKE, N		NORTH OAK STREET	RACINE	55967
41B55	KRAFT, KG	KRAFT'S GAME FARM	RR 1 BOX 123	RACINE	55967
41A177	KUYAVA, G		560 W. WABASHA RD.	DULUTH	55803
41A38	LACY, RL	3-K GERBIL RANCH	2496 COHANSEY ST.	ST PAUL	55113
41A41	LAMBERTSON, V		BOX 173 RR 2	STEWART	55385
41A172	LARSEN, T & D	TRYOLIAN KENNELS	RT 1	CUSHING	56443
41A188	LATZIG MINK RANCH INC.		RT. 1 BOX 87	HOWARD LAKE	55340
41B95	LETOURNEAU, V H	BOOMERANG II RABBITRY	RR 3 BOX 112	HECTOR 55342	55342
41B85	LOSS, MT	TOTAL LOSS GAME FARM	RT 10 BOX 53	BRAINERD	56401
41A164	LOUCKS, R		R 7 BOX 370	MANKATO	56001
41B90	MALZAHN, JW	SUNNY ACRES RABBITRY	850 GREAT PLAINS BLVD	CHASKA	55318
41B118	MANGOLD, O C	RUSH CITY LIVESTOCK AUCTION	RR 2 BOX 55	BROOK PARK	55007
41A185	MARLETTE, M & C	TRIPLE-M-KENNELS	RR 2 BOX 70	HANLEY FALLS	56245
41A145	MATTER, A	MATTER'S KENNEL	RT 5 BOX 92	AUSTIN	55912
41A53	MATZ, H & FREDERICK, S	MATZ FUR FARM		WALTERS	56092
41B27	MCALLISTER, R&J		3669 140TH ST. N.W.	PRIOR LAKE	55372
41A111	MCCONKEY, GW	C & J KENNELS	RR 2	BREWSTER	56119
41B96	MELLEMA, N	DAISY HILL KENNELS	R4 BOX 38	WORTHINGTON	56187
41A186	MENNING, RONALD		RR 1 BOX 300C	EDGERTON	56128
41A121	MILLER, T & J AND CHAMPLIN, F	MILL-CHAMP KENNELS	RT 3 BOX 87A	AUSTIN	55912
41B73	MINNESOTA PET BREEDERS, INC	CRUME KENNELS	RT 2 BOX 102	GLYNDON	56547
41B16	MUNICIPAL & PRIVATE SERVICE INC		906 11TH AVENUE NORTH	MINNEAPOLIS	55411
41B52	NURMI, WW	THE PET MENAGERIE	RT. 1 BOX 147	TWO HARBORS	55616
41B19	PANKRATZ, HH		RR 1	MT LAKE	56159
41B105	PERRY, JT		5584 CENTRAL AVE	MINNEAPOLIS	55432
41A192	PRIEM, D & D	DOUBLE D KENNEL	RR 1 BOX 85	EAGLE LAKE	56024
41A180	PROMERSBERGER, J	VOYAGEUR QUARTER KENNELS	RT 1 BOX 34	LITTLEFORK	56653
41B114	PRYMUS, J & N	LIMESTONE KENNELS	RR 1 BOX 122	WARROE	56142
41A158	PUDENZ, JA	NORTHWIND KENNEL	RR 1	JEFFERS	56145
41B35	REEK, OG	REEK'S TROPICAL FISH & SUPPLY	550 NIAGARA LANE NO	MINNEAPOLIS	55441
41B109	REGENOLD, J	J.R. RABBITRY	1631 SPRUCE CT.	WHITE BEAR LAKE	55110
41B72	RENNER, WI		STAR RT BOX 118	DETROIT LAKES	56501
41A85	ROOK, W	BIG STONE KENNELS	RT 1	BEARDSLEY	56211
41A181	RUTLEDGE, R	CHU CHI KENNELS	ISLAND VIEW ROUTE	INTERNATIONAL FALLS	56649
41B103	SAWYER, S	WILDWOOD KENNEL	RT 2	BACKUS	56435
41B34	SCHEITLER, SM	RODENT RANCH	4614 ZANE AVE. N	CYRSTAL	55422
41A193	SCHLAPKOHL, M		RT 1 BOX 152-P	FULDA	56131
41A115	SCHOONOVER, DF	OAKLANE KENNELS	RR1 BOX 2	HOLLANDALE	56045
41B17	SCHROEDER, A		RT 1 BOX 154	KIESTER	56051
41A136	SCHULTZ, A & A		RR 3 BOX 104	WORTHINGTON	56187
41A173	SELTUN, G		RR1 BOX 82	WALTERS	56092
41B118	SMITH, W & L		RR 1 BOX 21	BINGHAM LAKE	56118
41B62	SPARK, W		RR 3	GLENWOOD	56334
41A156	STOKES, JP & LJ	SUNSHINE KENNEL	RT 4 BOX 78	BEMIDJI	56601

MINNESOTA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
41A30	STROM, H		ROUTE 1	RANDALL	56475
41B47	STROMBERG, L	STROMBERG PETS UNLIMITED	50 LAKES RT	PINE RIVER	56474
41B83	SWANSON, J, R & M	ROCKY TOP KENNELS	RR 2	WINDOM	56101
41A13	SWANSON, WE	OAK RIDGE KENNELS	1640 GAME FARM RD N	MOUND	55364
41B102	TAYLOR'S PETS II INC		R2 BOX 122	PERHAM	56573
41A17	TILBURY, J		R 1	GRASSTON	55030
41B49	TOENGES, CH		RR 1	ALDEN	56009
41B117	TOWNSEND, S J		RR 1 MAUD LAKE	DETROIT LAKES	56501
41B66	TRINCO, J E		7611 KNOX AVE. NO. 217	RICHFIELD	55423
41A68	TROM, BL	STOCKBURY KENNELS	1027 SEVENTH STREET NW	ROCHESTER	55901
41B101	TROUMBLY, R	NORTHLAND WILDLIFE	RT 1 BOX 211T	BOVEY	55709
41A188	VANDEER, E M		RT 1	ALDEN	56009
41B84	VIESSMAN, M	BOW WOW VILLAGE	R. R. 3	LUVERNE	56156
41A160	WALKER, VD		RT 1 BOX 121	WARBA	55793
41B80	WENSMANN, G&A	HIGHLAND HILLS KENNEL	RT 1	MELROSE	56352
41B75	WENZEL, W	A & W KENNELS	RT 1	ALPHA	56111
41A70	WRIGHT, NS		RR 1	GRAND MEADOW	55936
41A183	YATES, R & M		BOX 61	BADGER	56714
41A59	ZELINSKY, A & G	CEDAR RIDGE KENNEL	ROUTE 1 BOX 237	MANKATO	56001

MISSISSIPPI

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
64A76	BENTZ, EJ	PET POURRI KENNELS	RT 2 BOX 68	LONG BEACH	39560
64B1	BICKHAM, RD	YELLOW BIRD FARM	RT 2 BOX 166G	PURVIS	39475
64A77	BROWN, MRS. H		RT 1 BOX 84	WALNUT	38683
64A86	DOTSON, R		PO BOX 1267	CORINTH	38834
64A81	HASE, D A	GULF COAST BAIT & ECOLOGY FARMS	6201 BROWN ROAD	OCEAN SPRINGS	39564
64A79	HOLCOMB, D		BOX 157	DUCAN	38740
64A21	HORN, RW	HILLHAVEN KENNELS	PO BOX 444	RIDGELAND	39157
64A75	HUFFMAN, J	WHIPPOORILL FARM KENNELS	RT 2	GRAND JUNCTION	38039
64B6	KING, J A		RT 3 BOX 203	WATER VALLEY	38965
64A11	LAMPLEY, J		2729 AIRDALE DR	GREENVILLE	38701
64A82	LANCASTER, K		RT 5 BOX 286	CORINTH	38834
64A5	LEWIS, DE	TRIPLE-A KENNEL	RT 2 BOX 109	COLUMBIA	39429
64A78	LIKE, J	RIVERVIEW FARMS	RT 1 BOX 584	COLDWATER	38618
64JM	MARTIN, JG		125 MARTIN ST	RIPLEY	38663
64A85	MARTIN, W	MT. W. RABBITRY	RT 1 BOX 382	MANTACHIE	38855
64A80	MYERS, P		RF1 BOX 364 A	CEDAR BLUFF	39741
64A7	PARKER, TP		RT 1 BOX 169	LAWRENCE	39336
64A83	PARRISH, DEE		1900 DROKE RD	CORINTH	38834
64A84	PHILLIPS, R		RT 4 BOX 32	CORINTH	38834
64A4	REYER, H	DOGWOOD KENNELS	RT 2 BOX 305	COLUMBIA	39429
64A85	SCOTT, R		RT 6 BOX 406	CORINTH	38834
64A80	SCRUGGS, W A	SCRUGGS'S RABBITRY	RT. 6 BOX 1	BRANDON	39042
64Z7	SWEARINGIN, D	SWEARINGIN KENNELS	RT 2 BOX 231A	RUTH	39662
64A81	UNDERWOOD, H		RT 1 BOX 191	MANTACHIE	38855
64AX	VANLANDINGHAM, HL	V&B ANIMAL SHELTER	PO BOX 133	VARDAMAN	38878
6583	VIALL, CG	PET KINGDOM	BOX 32	DELHI	71233

MISSOURI

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43SAV	ACKMANN, A & M	NORM-AL ACRES KENNEL	RT 1 BOX 3A	ROSEBUD	63091
43DX	ALLEN, W		RR 2	LUCERNE	64655
43ZV	ANDERSON, HA		ROUTE 2 BOX 177	ELKLAND	65644
43QQ	ANESI, JL	JO'S KENNEL	RR 3	KIRKSVILLE	63501
43LAO	ANIMALS AND POULTRY, INC		PO BOX 423 RR 2	GRAY SUMMIT	63039
43GEE	APSHER, H	KANCHETT KENNEL	RT 1	IONIA	65335
43GGE	APSHER, HELEN	RANCHETTE KENNEL	RT. 1	IONIA	65335
43XAF	ARMSTRONG, C	ARMSTRONG KENNEL	R 4 BOX 179	ROCKPORT	64482
43TC	AYE, F		RT 1 BOX 69	WILLOW SPRINGS	65793
43DAE	BANKER, AM	BANKER KENNELS	RT 1	CLARK	65243
43KK	BANWART, MRS. LINDA		RT 1	LIBERAL	64762
43WV	BARNETT, RT		RT. 1	LOWRY CITY	64763
43EAE	BARNFIELD, W	BAR WAN KENNELS	BOX 158	CROCKER	65452
43LLE	BARTON, C & GRIDER, A	TIMBERLINE KENNELS	R 2 BOX 115B	VERSAILLES	65084
43IR	BASLER, R & R		RT 1 BOX 124	BONNE TERRE	63628
43IAS	BAUM, F		RT 2	AURORA	65605
43DAA	BEACH, M		RR 2	UNIONVILLE	63565
43EAF	BEARDEN M		R 3 BOX 187	SALISBURY	65281
43IAE	BECHTOLD, MR. & MRS.	BECHTOLD KENNEL	RT 1	KIDDER	64649
43HAF	BECKETT, ML & MW	SO BIG KENNEL	R 7 BOX 354	JOPLIN	64801
43PAU	BEHRENDS, R		R2 BOX 185-B	OZARK	65721
43EEX	BERGFIELD, V		BOX 113 RR 1	ANABEL	63431
43LAK	BERNARD, MR & MRS. L		RT 1	FAIR GROVE	65648
43TAF	BERWICK, P		HOBSON STAR RT 2 BOX 62	ROLLA	65401
43GGF	BEVERLIN, S & C	BEVERLIN STOCK FARM	RT 1 BOX Z31	SHELL KNOB	65747
43PV	BIAS, KF	A&T AUCTION	RT. 2	HOLTS SUMMIT	65043
43KKN	BILLINGS, J & S		RT 2 BOX 114	WILLARD	65781
43KL	BILLUPS, G		RFD 1	CANTRIL	52542
43WJ	BIXENMAN, ES		RR 2 BOX 76	BYNUMVILLE	65238
43PAV	BLACKETER, E		RT 4 BOX 199	BOLIVAR	65613
43HAK	BLAKELEY, BW		6701 NE 46TH ST	KANSAS CITY	64119
43RAD	BLANKENSHIP, L	BLANK'S KENNEL	RT 1	SMITHTON	65350
43MC	BORGHARDT, RD		ROUTE 1	IANTHA	64753
43DDY	BOSWELL, V & M	BOSWELL'S BUNNY FARM	RT 1 BOX 33	PACIFIC	63069

MISSOURI—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43XAK	BOWERS, W&M		RT 2	PRINCETON	64673
43FFJ	BOWMAN, R	BOWMAN'S RED PALACE KENNELS.		ROCKY COMFORT	64861
43RAF	BRADSHAW, ME		RT 1	BIRCHTREE	65438
43WAB	BRAUER, E&R	BRAUERVILLE KENNEL	RT 3	COLE CAMP	65325
43UAW	BRAWNER, L	BRAWNER KENNEL	RR 2	GREENTOP	63546
43BBR	BROOKS, C	BROOKS PUPPY EMPORIUM	RT. 1 BOX 348A	WEBB CITY	64870
43SAX	BROWN, CG & SK			DUNNEGAN	65640
43VAD	BROWN, E		RT 1 BOX 226	PLEASANT HILL	64080
43HHF	BROWN, G	REBEL RIDGE KENNEL	RR 1 BOX 86	DARLINGTON	64438
43TN	BRYANT, T			BARING	63531
43VAA	BUCKNER, M		RR 1 BOX 50	HUMPHREYS	64646
43MAH	BUEHLER, BJ		RR 2 BOX 20	AURORA	65605
43DWQ	BURD, L		RT 1	META	65058
43FE	BURKHARDT, F		R 4	MACON	63552
43YAE	BURKS, GA	A&B KENNEL	RT. 7 BOX 225-D	SPRINGFIELD	65802
43LLM	BURKS, L		RT 2 BOX 63	HUMANSVILLE	65674
43EEH	BURNS, B	MRS. B'S KENNEL	RT 1 BOX 60	ANABEL	63431
43GGC	BURROWS, JL		RT 1 BOX 351	PEARIDGE	72751
43FFW	BUSCHKOETTER, C		RR 1	HUNTSVILLE	65259
43NU	BUSHNELL, MRS. LLOYD JR.		R 2 BOX 186	QUEEN CITY	63561
43TAP	BYERS, S & J	SUE BEE'S DOG KENNEL	RT 1 BOX 265	TROY	63379
43IL	CAMDEN, RN		RR 1	GLENWOOD	63541
43KAO	CAMPBELL, E		RT 2 BOX 226	WILLARD	65781
43DDE	CAMPBELL, ME		124 E HELM ST	BROOKFIELD	64628
43KKQ	CANYON, M & A	CANYON KENNEL	R 1 BOX 473	GOODMAN	64843
43XAA	CARENDER, H&C	MART-N-DALE ACRES	RT 1	RUSSELLVILLE	65074
43KAZ	CARTER, M		RR 1	ELMER	63538
43GGG	CASSIDY, F	CASSIDY'S KENNELS		EXCELLO	65247
43FAY	CATES SR, ME		RT 10 BOX 823	SPRINGFIELD	65803
43DDG	CHAMBERS, J	ROCKING CHAIR RANCH	ROUTE 1	AMSTERDAM	64723
43JJK	CHANEY, Z		R 1	NOEL	64854
43DDH	CHAPMAN, B		RT 1 BOX 108	JANE	64846
43IIS	CHRISTENSEN, K		R.R.	CLEARMONT	64431
43TAL	CHRISTENSEN, W		RT 1	KEYTESVILLE	65261
43HD	CLAIR, JP		R 2 BOX 118	HURDLAND	63547
43RA	CLAPP, L		RT. 4	BUTLER	64730
43PW	CLARK, EJ		RT 2	MERCER	64661
43PAM	CLARK, H	CIRCLE C KENNELS	401 LINN	CHILLICOTHE	64601
43GAX	CLAXTON, R	V & R COUNTRY KENNELS	RT. 1 BOX 244A	SEYMOUR	65746
43EER	CLEM, C	CLEM'S K-9 KENNELS	RR 1 BOX 86	HUMPHREY	64646
43DDS	CLEVENGER, C & L	CLEVENGER COUNTRY KENNEL	RR 2	BRAYMER	64624
43EEQ	CLEVENGER, D		RT 1	BRAYMER	64624
43LAG	CLICKNER, C		RR 1	CARIO	65239
43EE	CLUBINE, BM		BOX 126	GREENTOP	63546
43IIT	CLUBINE, H L		P.O. BOX 94	LANCASTER	63548
43LLD	COLE, D	SCOTTDEL KENNEL	RT 3 BOX 279	LEBANON	65536
43IID	COLE, MRS CAROLYN	SHOW ME LAB. RABBITS	RR 5 BOX 218A	FULTON	65251
43DCE	COLVILLE, P & J		BOX 211	PINEVILLE	64856
43QAG	CONSTANT, R & J	CONSTANT KENNEL	RT 5	CHILLICOTHE	64601
43RZ	COOK, A		RR 6	KIRKSVILLE	63501
43JJU	COOK, E & J	DUTCH BARN CAVIARY	RT 1 BOX 125	TRUXTON	63381
43ZAR	COOKSEY, R&L		RT 5 BOX 61	TRENTON	64683
43JJY	CORDERMAN, D & M		RR 1	MADISON	65263
43GGH	COULTER, A & D	COULTER KENNEL	RT 1 SO 169 HWY	ST JOSEPH	64507
43QAX	COURTNEY, D	TLC KENNEL	RTE 2 BOX 175	TIPTON	65081
43DDX	CRAWFORD, H & D		RR 1 BOX 21	GIBBS	63540
43JJL	CROSS, I	OAK GROVE KENNEL	R 1	CALLAO	63534
43MAC	CULLER, R		ROUTE 2	SHELBYVILLE	63469
43DGI	CUMMINGS, V		RT 1 BOX 33	CARL JUNCTION	64834
43IIP	CURL, D		507 COUNTRY LANE	MT VERNON	65712
43VAU	DABROWSKI, E	CATADAMAR KENNEL	RT 2	GRANBY	64844
43JAP	DAGGS, BC		RFD 1 BOX 40	EWING	63440
43HHN	DANDRIDGE, M & L		RFD 1	FRANKFORD	63471
43KKS	DANIELS, J	J & L KENNEL	RT 2 BOX 231B	NEOSHO	64850
43KAY	DAVENPORT, L D		BOX 37	DIAMOND	64840
43IIJ	DAVIS, K & R		RT 1 BOX 209	WHEATLAND	65779
43ZT	DAVIS, LH		R 2 BOX 125	MILLER	65707
43HHU	DECKER, J & P		RT 3	APPLETON CITY	64724
43BBE	DECKER, R&P		RT 1	BONNE TERRE	63628
43DW	DEIERLING, IS		BOX 1B RT 1	QUEEN CITY	63561
43HHY	DELANEY, J		BOX 127	BARING	63531
43IIH	DELANEY, JUDY		RFD 2	HURDLAND	63547
43EEC	DOUGLAS, M & B		RT. 1 BOX 125	SELIGMAN	65745
43WAA	DOUGLAS, VB		RT 2	LINCOLN	65338
43SM	DOWELL, O		RT 2	BROOKFIELD	64628
43LAQ	DREBES, HL		RFD 3	PALMYRA	63461
43GGZ	DUFF, S		RR 2	CENTRALIA	65240
43FAH	DUNCAN, MG		RR 1 BOX 16	BOLCKOW	64427
43YAT	DYE, A		RFD 3	EDINA	63537
43DP	EASTER, RG	EASTER ANIMAL FARMS	PO BOX 297	LIBERAL	64762
43QAR	EDLEN, L		RFD 1	ALEXANDRIA	63430
43XAL	EDWARDS, L&EV		RT 1 BOX 96	AURORA	65605
43HHA	EHRART, P			CAULDFIELD	65626
43FFK	EICHOR, E & V		RFD 1	MAYWOOD	63454
43LAH	ELDRIDGE LAB. ANIMAL, INC.		7395 RIDGEFIELD RD.	BARNHART	63012
43DDB	ELLENWOOD, RO	ROCKY VALLEY KENNEL	STAR RT, BOX 11	PINEVILLE	64856
43DG	ELLIS, A		RT 1 BOX 130X	PINEVILLE	64856
43HHT	ELLIS, C	CAL-LU KENNEL	RT 2 BOX 414	AVA	65608
43GZ	ELLIS, J	J & J KENNEL	RT 1 BOX 81D	JOPLIN	64801

MISSOURI—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43IA	ENGLAND H	H & L KENNEL	ROUTE 2	CENTRALIA	65240
43HHG	ENGLAND, J		RR 2	CENTRALIA	65240
43KKR	ENLOW, R D	RON & BILL'S RABBITS	RT 2 BOX 169	TROY	63379
43UAC	ESSICK, B & D	BOONDOCKS PUPPY FARM	BOX 129	HIGHLANDVILLE	65669
43FQ	EURITT, O	OAK GROVE KENNEL	RT 1	KIRKSVILLE	63501
43DAB	EVERMAN, JR , FW		RR 1	GALLATIN	64640
43CCZ	EWART, EM & NM		RFD 3 BOX 143	KAHOKA	63445
43FFL	EWING, C & P		RT 2	NEVADA	64772
43VAJ	FAIRBANKS, L & B		RT 1	KING CITY	64463
4335	FARMLAND INDUSTRIES, INC.	RESEARCH & DEMONSTRATION FARM.	P.O. BOX 7305	KANSAS CITY	64116
43KU	FEHLING, RJ	R J'S KENNEL	RT 1	ARMSTRONG	65230
43CAS	FELIN, C	HILLCREST KENNEL	RR 2	ELKLAND	65644
43QB	FENIMORE, JM		RR 4	LA PLATA	63549
43UAU	FIELD, M		RR 2 BOX 70	MOUND CITY	64470
43GGT	FIGGE, A R		BOX 85, R 1	LANCASTER	63548
43IIQ	FLAXBEARD, V & DICKENS, W			ROCKY COMFORT	64861
43DJ	FORD, L		RT 1 BOX 82	GLENWOOD	63541
43MAZ	FORNER, M		1665 CATALINA	SPRINGFIELD	65804
43HS	FOSTER, DD	WHITE GATE KENNELS	RR 3	MACON	63552
43HZ	FOSTER, J	CEDAR HILL KENNEL	ROUTE 4	CENTRALIA	65240
43IIU	FREDERICK, B C	DOG PATCH KENNELS	BOX 175	GORIN	63543
43IIA	FREDERICK, R		RR 1	GORIN	63543
43QAI	FRIEL, JT	FRIEL'S KENNEL	BOX 151	NEVADA	64772
43TF	FRY,J		RT 1 BOX 28	ELDON	65026
43SAA	GERKE, T		RT 1	BUNCETON	65237
43VAW	GIBSON, S		RR 1 BOX 179	LAMONI	50140
43KKC	GIER, BOYD		RT 1	ELDON	65026
43LLI	GIPSON	H & G COUNTRY KENNEL	RR 1 BOX 71	CLINTON	64735
43LLF	GOEHL, N C		RFD 2 BOX T-92	LEWISTOWN	63452
43SQ	GOODWIN, T		PO BOX 15	KNOX CITY	63446
43KKO	GOUGH, M		RT 4 BOX 352-A	ELDORADO SPRINGS	64744
42YAE	GRAY, L & B	HICKORY RIDGE KENNELS	RR 1	SUMNER	50674
43WAJ	GREER, R&L		RT 2	KNOB NOSTER	65336
43KKJ	GREGORY, M		BOX 12	AMSTERDAM	64723
43LLH	GREGORY, M & G		RR 1	STANBERRY	64489
43WG	GRUENEFELD, W		RT 1 BOX 140	JONESBURG	63351
43GGD	GURLEY, B		RT 2	PURDY	65734
43JJO	HAGEL, MR & MRS WILLIAM	SIEGFRIED KENNELS	4210 NO. ELMWOOD STREET	KANSAS CITY	64117
43HHH	HALL, L	HALL'S KENNEL	RT 3 BOX 30	PURDIN	64674
43GGK	HALL, R & D		RR 1	HUNTSVILLE	65259
43IJAV	HALLEY, I		RR 2	UNIONVILLE	63565
43LK	HAMILTON, LB		RT 1 BOX 181	GOODMAN	64843
43JJP	HAMM, R A			RUTLEDGE	63563
43VAZ	HAMM, V&D	GIN-DALE KENNEL	RT. 2 BOX 171C	CALDWELL	77836
43HM	HAMMOND, DE	H & M KENNELS	PO BOX 64	RUTLEDGE	63563
43IIL	HARMON, AM	DUN-ROVIN KENNELS	RT 1	SYRACUSE	65354
43DDD	HARRELL, D & N		ROUTE 1	ROCKY COMFORT	64861
43IAC	HARRIS, DL	I-DEL KENNEL	RT 2 BOX 203	JAMESPORT	64648
43FAX	HARRIS, S		RT ONE	STARK CITY	64866
43UW	HARRISON, J		RT 2	MARCELINE	64658
43KKY	HARTUNG, P		RT 2 BOX 262A	MACON	63552
43EEU	HAYDOCK, J		RT 2 BOX 163-02	OZARK	65721
43NAJ	HELMS, L		RT 1	MOORESVILLE	64664
43VN	HENDERSON, R		RT 2	JAMESPORT	64648
43UAE	HENDERSON, S	GROOVY ACRES KENNEL	RT 1 BOX 130	EWING	63440
43FFX	HENRY, S		RT 1	COWGILL	64637
43JJX	HENSON, ALTA		STAR ROUTE	CASSVILLE	65625
43SAI	HERRING, J	JAMEY'S KENNEL	RR 2	STEWARTSVILLE	64490
43KJ	HETTINGER, EK		RFD 2	RUTLEDGE	63563
43RG	HETTINGER, R		RR 1	BRASHEAR	63533
43ZR	HILL, R		RT 1	AMORET	64772
43XM	HILLERMAN, J&W	HILLERMAN KENNELS	706 INDIANA	MONTROSE	64770
43IIV	HIRST, I & K		P.O BOX 95	NOEL	64854
43EAX	HOEFENER, D	SANDYS KENNEL		LATHAM	65052
43KP	HOFFER, MJ		RT 2	GREENFIELD	65661
43KKM	HOWARD, O	GRINDSTONE KENNEL	912 DAVIESS	GALLATIN	64640
43FFN	HOWERTON, J & HAIGH, B		RR 1	HURDLAND	63547
43CCY	HOYT, L		RFD 2	BROOKFIELD	64628
43FFG	HUFFMAN, D	HUFFMAN'S HILLTOP KENNEL	RR 3 BOX 249	WILLOW SPRINGS	65793
42WH	HUFFSTUTLER, RB	OZARK RESEARCH SUPPLIER	RR 3	VIENNA	65582
43HE	HUGHES, J&S	DO BO TRI KENNELS	RT 1	PURDY	65734
43YAN	HUGHS, LC		RT 5 BOX 124	TRENTON	64683
43XAT	HUGHS, LL		RR 1 BOX 5	BRIMSON	64626
43IY	HULEN, FW		RR 1	LANCASTER	63548
43GAD	HUNT, JS & GB	FIRETOWER KENNELS	RT 1 BOX 65	NOEL	64854
43IC	HUTCHENS, B	LITTLE PRAIRIE KENNEL	RT 1	STARK CITY	64866
43KKA	HUTCHENS, J		RT 1	STARKCITY	64866
43HHK	HUTCHERSON, N		RT 1 BOX 244	HALE	64643
43KKH	HUTCHISON, K & AMMONS, R		RT 1 BOX 226A	VERSAILLES	65084
43EAG	HYLE, D&P	HYLE KENNEL	RT 4	UNIONVILLE	63565
43EES	INOUYE, H	BELL ACRE KENNEL	RT ONE BOX 262	MILLER	65707
43YAD	JAMES, E		RT. 4	CHILLICOTHE	64601
43UP	JARMAN, M		RT 1	MONROE CITY	63456
43MN	JEFFRIES, E		RT 1	GREENTOP	63546
43CCL	JENNINGS, CE & E		RR 1	BEVIER	63532
43GGQ	JOHNS, T		RT. E. BOX 517	CAULFIELD	65626
43EEQ	JOHNSON FARMS INC		RT 1	BUCKLIN	64631
43HHX	JOHNSON, M	JOHNSONVILLE KENNEL	BOX 15	CLEARMONT	64431
43HAM	JOHNSON, MM		RT 1	MEADVILLE	64659

MISSOURI—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43BBZ	JOHNSON, W	WIL-A-WAN KENNEL	RT. 1 BOX 49-A	WEBB CITY	64870
43AG	JOHNSTON, I		RFD 2	RUTLEDGE	63563
43VU	JOHNSTON, N		RR1	POWERSVILLE	64672
43JJE	JONES, A E	J J'S KENNEL	RT 1 BOX 285A	OZARK	65721
43LL	JONES, DA		R.R. 2 BOX 158	PARIS	65275
43DC	JONES, ME		RFD 1	LANCASTER	63548
43WAX	JONES, W		BOX 268	ELDON	65026
43KKE	JOSSEURAND, K		ROUTE 2, BOX 152 A	JODLIN	64801
43XAB	JOYCE, SA		RR 2	GREEN RIDGE	65332
43JJV	KELLEY, A		RT 2	SEYMOUR	65746
43JU	KENNEDY, B & L		R 1 BOX 125	JERICO SPRINGS	64756
43HHI	KENSLOW, C & T	CAL-TAM KENNEL	RT 3 BOX 268	VERSAILLES	65084
43EEG	KERR, H & D		RT 1 BOX 285	OZARK	65721
43BBU	KERR, O		RT. 3	COLE CAMP	65325
43EEN	KERSHNER, R	KERSHNER KENNELS	RT. 1 BOX 181	AMSTERDAM	64723
43HHR	KIDD, J		R 5 BOX 27	TRENTON	64683
43HV	KIDDOO, MM		RFD 2 BOX 54	MEMPHIS	63555
43JJM	KIMMEL, D & K		RR 5	UNIONVILLE	63565
43BJ	KINZER, T		RT 2 BOX 131	SHELBINA	63468
43VAN	KLINETOBE, B	KENNEL OF LOVE	RT 1	WILLIAMSBURG	63388
43DDW	KNIGHT, R		RT 2 BOX 64A	MTN. VIEW	65548
43ZAI	KOCH, PJ		RT 5 BOX 199	TRENTON	64683
43JK	KRAMER, J	KRAMER KENNELS	R 1	APPLETON CITY	64724
43GGL	LACK, F & J	CRIPPLE CREEK RABBITRY	RT 1 BOX 21	AURORA	65605
43KKV	LACKLAND, C		R 1	ARMSTRONG	65230
43YY	LAFEVERS, MRS. GERALD		SS RT BOX 73	WEST PLAINS	65775
43DG	LAIRD, GL		RT 2	HURDLAND	63547
43FFB	LAMB, J		BOX 426	LANCASTER	63548
43BAG	LANGERUD, F		RT 2 BOX 95	PARIS	65275
43XAP	LANSAW, S		1201 ORR	JOPLIN	64801
43JJQ	LATHAM, WLM. & FRELIGH, E.M.	COUNTRY KENNELS	RT 2 BOX 231	NEOSHO	64850
43NI	LATIMER, NS	CEDARWOOD KENNELS	PO BOX 854	KIRKSVILLE	63501
43TAS	LAYTHAM,E		RT. 4 BOX 9	MOBERLY	65270
43RH	LEE-DON KENNEL INC	LEE-DON KENNELS INC	116 COUNTRY CLUB DR	TRENTON	64683
43WZ	LEFTRIDGE, L			CLARENCE	63437
43LLB	LEWIS, B J		BOX 11	LINONIA	63551
43DDJ	LEWIS, DM	LEWIS KENNEL		PINEVILLE	64856
43ZP	LEWIS, E	LEWIS KENNELS	RFD 2	HURDLAND	63547
43GGM	LEWIS, EE	LEWIS KENNEL	RT 4 BOX 154	SEDALIA	65301
43RB	LINDQUIST, GE	QUALITY RESEARCH DOGS	RT 1	HALLSVILLE	65255
43TAU	LINDSEY, Y		RFD 1	BETHEL	63434
43ZI	LINK, J		RT 2 BOX 135	BILLINGS	65610
43BAS	LINKEMANN, LF	LINKS KENNEL	RT 1	MEADVILLE	64659
43TAJ	LISLE, S		RT 1	TRENTON	64683
43BAZ	LIVEZEY, JA		RT 1 BOX 64	FAIRPLAY	65649
43DGN	LLOYD, J		RT 1 BOX 327A	SELIGMAN	65745
43JV	LONG, J		RT 4 BOX 354	EL DORADO SPRINGS	64744
43CI	LONG, M & L			ROCKY COMFORT	64861
43QD	LOVE, J		RFD 1	NEWARK	63458
43VZ	LOWE, ML		R 1 BOX 342	KIRKSVILLE	63501
43QAU	LOYD, E	RED BARN KENNEL	RT 1 BOX 43	LA RUSSELL	64848
43IIY	LUCKE, B & C	LUCKY CREEK KENNEL	BOX 268	DIAMOND	64840
43BAM	LUCKY LOCUST FARMS INC		12529 CONWAY RD	ST LOUIS	63141
43BBT	LUEDDERS, P		RT. 1	HALLSVILLE	65255
43LLC	LURPIN, J		RR 2	LA BELLE	63447
43DAZ	MABERRY, B		RT 1	DAWN	64638
43YC	MADISON, LF		RR 3 BOX 320	LAMAR	64759
43ZAH	MALEAR, R		RT 1 BOX 687	ELDON	65026
43JP	MANN, V		407 E 4TH ST	APPLETON CITY	64724
43QAR	MAPLES, J&N		RT. 5 BOX 125	TRENTON	64683
43JJR	MARCHETTI, J & L	MARCHETTI'S MISSOURI RIVER KENNELS	RR 1 BOX 125 E	LEXINGTON	64067
43KKW	MARRA, R J		RFD 3	EDINA	63537
43FFE	MARSHALL, Z		RT E BOX 574	CAULFIELD	65626
43SAZ	MARSHELL, JL	STAR J KENNELS	ROVER RT BOX 226	W PLAINS	65775
43FF	MARTENS, P		RT 1	BRASHEAR	63533
43JAE	MARTIN, B I & DOHN, D J		RT. 1 BOX 97 MARTIN RD	SMITHVILLE	64089
43KAV	MATTINGLY, DW		RT 1 BOX 220	ST MARYS	63673
43SA5	MAWBY, FR	SHO-ME KENNELS	RT. 2	GRAIN VALLEY	64029
43HAV	MCBRIDE, F		ROUTE 2	MADISON	65263
43DDA	MCCAMMON, C		RT 1 BOX 336	AMORET	64722
43FFO	MCCLEARY, JA		RT 4 BOX 294B	NEOSHO	64850
43FFY	MCCOY, C	OAK CREEK KENNEL	RT 1 BOX 185A	LAMON	50140
43TAE	MCCULLAH, JR		RT 2 BOX 329	ASH GROVE	65604
43EEJ	MCCULLICK, L		RT 2 BOX 98A	ELDORADO	64744
43IIZ	MCFARLAND, B & L		RT 1	NOVINGER	63559
43KKP	MCGEE, J	MIDWEST PETS	1527 GRAUD	KANSAS	64108
43CCC	MCHAFFIE, T & D	VALLEY VIEW KENNELS	STAR RT. BOX 81	BRUNER	65620
43HHC	MCMAUAMA, J & D	D & J KENNELS	RR 2	CENTRALIA	65240
43GAJ	MCNEELY, G		RT 1	JAMESON	64647
43HHM	MCVEIGN, G	LTD KENNELS	RR 3 BOX 178A	MEMPHIS	63555
43HHL	MCVEIGN, J	MCVEIGN BROTHERS	RR 3 BOX 178A	MEMPHIS	63555
43EEV	MESSINGER, G	BOONSLICK ENTERPRISES	610 SPRUCE	BOONVILLE	65233
43MAB	METSKER, P&D	PERDOT ACRES	RT 1 BOX 108	TROY	63379
43HHW	MEYER, J		RT 1	TAYLOR	
43SF	MIDDLETON, RE		RFD 2	LANCASTER	63548
43KY	MILLER, L		R 3	SHELBYVILLE	63469
43XAY	MILLER, WL	HICKORY HILL SHEPHERDS	RT 1 BOX 163	FRANKFORD	63441
43PAB	MILLION, WK & WOODARD, K	MILLWOOD KENNELS	RR1	HOLIDAY	65256
43QJ	MINOR, L		321 E ROGERS	MONROE CITY	63456

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LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43JJF	MITCHELL, D	DOGWOOD ACRES KENNEL	RT 1 BOX 223A	NOEL	64854
43LLJ	MITCHELL, D		RT B BOX 31	CAULFIELD	65626
43DDM	MITCHELL, R & M	ROCK HILL KENNELS	RT 2 BOX 363	FAIR GROVE	65648
43KZ	MORROW, M		RFD 1	KNOX CITY	63446
43FP	MOSS, P		RT 2 BOX 660	LAMAR	64759
43SX	MOUTRAY, E		3740 PETTIS RD	ST JOSEPH	64503
43TAC	MULVANIA, L&NR	SUNVALLEY FARM KENNEL	RT. 1 BOX 193	ROCKPORT	64482
43DDF	MUSGRAVE, AE		RT. 1 BOX 443	GOODMAN	64843
43BBB	NEED, T&M	NEED'S BLUE HAVEN KENNELS	RT 2	HIGGINSVILLE	64037
43SAP	NELSON, MA		RR 1	ATLANTA	63530
43LLL	NEUMANN, B & J		STAR RT. E BOX 536	CAUFIELD	65626
43KKQ	NEWBERRY, J & M		506 W BROADWAY	MADISON	65263
43QAJ	NEWMAN, RM & DJ	FOX RIVER KENNELS	RFD 3 PO BOX 26	KAHOKA	63445
43NK	NICHOLS, K		RR 1	STURGEON	65284
43KO	NORTON, J		RFD 1	KNOX CITY	63446
43KR	NORTON, V		RFD 1	KNOX CITY	63446
43EEP	NOVINGER, S	SANDRA'S KENNEL	RR 1 BOX 3	NOVINGER	63559
43RU	OAK HILL KENNELS		4242 SHAWNEE DR.	BROOKLINE	65619
43GAS	OBRIEN, C		BOX 151	LEWISTOWN	63452
43CCH	ODLAND, D		RT 5 BOX 186	NEOSHO	64850
43QAZ	ORR, A&K	KRAGELUND KENNEL	RT 1	KIDDER	64649
43WAS	OSBORN, DR	OSBORN 'S KENNEL	RT 3	CALIFORNIA	65018
43MF	OSHNER, S	OSHNER'S KENNEL	RFD 2	KNOX CITY	63446
43IIE	OWEN, B	BARB'S SWEET WATER	RT 4 BOX 382	NEOSHO	64850
43GGJ	PARDA, S		601 W BRANDWAY	MADISON	65263
43YAR	PARK, J		RT 3	OSCEOLA	64776
43TG	PARMLEY, W		RT. 1	GREEN CASTLE	63544
43PG	PARRISH, EE		R 1	NEWARK	63458
43LLG	PARSONS, L & D		RFD 1	SHELBYVILLE	63469
43RF	PASS PETS UNLIMITED		2305 MILLPARK DR.	MARYLAND HEIGHTS	63043
43NAP	PATRICK, MJ		RT 1 BOX 170	REED'S SPRING	65737
43BBS	PAWLAK, E & C	E & C RABBITRY	2909 OLD HUNNING RD.	HIGH RIDGE	63049
43DO	PAYNE, L & L		R 1 BOX 165-3	OZARK	65721
43BBO	PAYTON, J	PAYTON KENNELS	RR 3 BOX 227A	NOVINGER	63559
43JJA	PEARISH, L		RT. 1 BOX 330B	GOODMAN	64843
43ZL	PEART, J	PEART'S KENNEL	RT 1	SALISBURY	65281
43GK	PERLOW, P&E	THE LIL COUNTRY KENNEL	BOX 66	TROY	63379
43LD	PERRY, DD	D-D KENNELS	RFD 1	KNOX CITY	63446
43BBN	PERRY, J		RR 1	BRASHEAR	63533
43HHO	PIERCE, B & J	PIERCE'S SHADY ACRES	RR 2 BOX 152	MOBERLY	65270
43ZAZ	PIERCE, E&O		RR 2 BOX 152A	MOBERLY	65270
43CN	POOR, MRS J		RFD 1	NOVELTY	63460
43XAX	POOR, RL		RR 3	MACON	63552
43FH	PORE, J		RT 1	ROTHVILLE	64676
43SG	PORTER, J		RT 2	DAWN	64638
43PAK	PORTER, JH		RT 1	BUTLER	64730
43QAY	POWELL, CE		R 1 BOX 223	WEBB CITY	64870
43GGP	PRICE, D		507 W HAMPSHIRE	KING CITY	64463
43JO	PRICE, N		RR 1 BOX 82	MENDON	64660
43YAM	PRICE, P	HARMONY ACRES KENNEL	RR 1 BOX 30	RAVENWOOD	64479
43IIN	PUPPY PALACE ENTERPRISES, INC.	ARAPAHOE KENNELS	927 EAST TERRA LANE	O'FALLON	63366
43TAY	PURDUN, D & V		R 1 BOX 77	GRANT CITY	64456
43BBF	PURTELL, J&J	PURTELL'S DOUBLE J KENNEL	RT. 3 BOX 71	PRINCETON	64673
43UU	PUTTHOFF & SMITH, J	PUTTHOFF KENNELS	7TH & INDIANA	MONTROSE	64770
43KS	RANSDELL, M		RT 2	HOLLIDAY	65258
43KKX	REDFAIRN, R & R	TRIPLE R RABBIT RANCH	1295 HILLSBORO RD.	HIGH RIDGE	63049
43NA	REDMAN, JR., R		RT 2	KING CITY	64463
43OV	REED, MD		RT 1 BOX 579A	SPRINGFIELD	65803
43LP	REED, MJ	REEDGATE KENNEL	RT 2 BOX 179	LAMAR	64759
43EET	REYNOLD'S, T	REYNOLD'S KENNELS	R 1	LACLEDE	64651
43GGR	RHINE, R & P		RT. E. BOX 585	CAULFIELD	65626
43IKB	RHOADS, P		RR 1	QUEEN CITY	63561
43FFP	RICHARDSON, JB		RT 1	MONROE CITY	63456
43YAU	RIDER, W & L	PLEASANT INN KENNELS	BOX 156P	BRONAUGH	64728
43XAM	RILEY, G & C	HILLTOP KENNELS	ROUTE 1	ATLANTA	63530
43HHO	RILEY, L C	RILEY'S HILLTOP KENNELS	RT 1 BOX 177	LEBERAL	64762
43IS	ROBERSON, R		BOX 25 RFD 1	WILLIAMSTOWN	63473
43LLD	ROBERTS, J C	ROBERTS GROOMING	RT 3 BOX 220	ELDON	65026
43TE	ROBERTS, K		RR 3	RUTLEDGE	63563
43FFZ	ROBINSON, B		RT 3 BOX 271	LAMAR	64759
43KKT	ROGERS, P D		ROUTE 5 BOX 175	ELDON	65026
43RAG	ROGERS, W&S	O-WAH HU KENNEL	RT. 3 BOX 118 DDD	ROGERSVILLE	65742
43VAL	ROMINE, F	ROMINE FARMS	RT 2	CENTRALIA	65240
43JJN	RUDD, J	J & B KENNELS	RR 3	MEXICO	65265
43CCB	RUDHOFF, J & E	RUDHOFF'S KENNEL	RT. 1	NEW FRANKLIN	65274
43NAH	RUSH, R & GARDNER, L C	SHADY OAKS KENNEL		TUSCUMBIA	65082
43TAX	RYALS, GR		PO BOX 224	UNIONVILLE	63565
43KKD	RYBOLT, PAT		RT 1 BOX 233	HALLSVILLE	65255
43IB	SANDEFUR, L		RT 1	GREENTOP	63546
43ZC	SANDERS, J & P & D		RT 2	NIXA	65714
43KKL	SCHANY, J	METTOVILLE KENNEL	RR 1 BOX 45	FRANKFORD	63441
43JJS	SCHANY, JEANIE		R 2 BOX 280A	NEOSHA	64850
43KD	SCHMITTER, P&O		RR 3	LANCASTER	63548
43OR	SCHRAGE, MR		RFD 1	EDINA	63537
43ZAB	SCHROEDER, LE	HILLTOP RABBITRY	P.O. BOX 33	HOUSE SPRINGS	63051
43BW	SCOTT, LG	JONLEA KENNELS	RT 3 BOX 206	CALIFORNIA	65018
43OAG	SEAY, J&J		RR 5	KIRKSVILLE	63501
43HAI	SEDERBURG, MO		RT. 1	MT. STERLING	62573
43NAN	SELLENS, L		RT. 1 BOX 90	BETHEL	63434
43HHD	SEVIER, E		RT 3 BOX 55	PURDIN	64674

MISSOURI—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43HHP	SHAEFER, J	PET STOCK	3 DOE LANE	FESTUS	63028
43PL	SHARP, SW		400 N FULTON ST	EDINA	63537
43FU	SHATZER, BD		BOX 124	ANABEL	63431
43XY	SHAW, I			DOWNING	63536
43LI	SHEARER, I		RFD 1	KNOX CITY	63446
43DDC	SHOULTS, NL	POM-A-DOR POMERANIANS	1870.00	LANCASTER	63548
43JB	SHULTZ, EL		RFD 2 BOX 113	RUTLEDGE	63563
43YAC	SILLMAN, CR	CAR-DEL KENNELS	ROUTE 3 BOX 205	WILLOW SPRINGS	65793
43YAZ	SILVEY, A		BOX 396	LANCASTER	63548
43IIK	SILVEY, DAVID		RT 2 BOX 131	SENECA	64865
43DDI	SIMMONS, B & J	B & J KENNEL	RR 1 BOX 60	UNION STAR	64494
43IIM	SIMS, R & E		RR 2 BOX 85	LAMAR	64759
43IAI	SKIRVIN, M H		P.O. BOX 14A RT 2	ELSBERRY	63343
43FFD	SLONICKER, L		RT 1 BOX 124	REEDS	64859
43XR	SMITH, AV		RT 1	HIGBEE	65257
43WAL	SMITH, H	DU-JARO KENNELS	RT 1 BOX 205	CALIFORNIA	65018
43EED	SMITH, W & M		RR 2 BOX 233	MOBERLY	65270
43NAX	SPAIN,JE	LYNN-DEE-LOU KENNELS	RT 4 BOX 564	CARTHAGE	64836
43SI	SPARKMAN, J & T	FLYING ACRES KENNELS	RT 1 BOX 118	BROOKLINE	65619
43KKK	SPARKS, H & L AND FRIZZELL, M		BOX 7A	MEADVILLE	64659
43FFQ	SPEER, S		RT 1 BOX 68	WASHBURN	65772
43JJZ	SPERANDIO, P	BERRY HILL KENNEL	R 1 BOX 163 A	VERONA	65769
43ZAD	ST CLAIR, SR		RR 1	MOBERLY	65270
43GAY	ST. CLAIR, S		RFD 1 BOX 90	WYACONDA	63474
43VAV	STAHL, ML		RT 1	SYRACUSE	65354
43CCX	STILL, C	HI-VALLEY KENNEL	R 1 BOX 132	EXETER	65647
43DDU	STILL, V	STILLS ROLLING ACRES KENNEL	RT #1	EXETER	65647
43OAD	STOKES, EJ		RT. 1 BOX 133	VERSAILLES	65084
43HHV	STRAUSBAUGH, T & L		507 N. KAREN DR.	CARL JUCTION	64834
43YS	STRIBLING, D		ROUTE 6 BOX 94	KIRKSVILLE	63501
43EB	STRICKLER, E		RFD 1 BOX 137	KAHOKA	63445
43FFS	STUMPFF, BJ		RT 3	CASSVILLE	65625
43SMS	SUSCHNICK, S		RT 2 BOX 20	LIBERAL	64762
43FFR	SUTTON, JF	BIG CREEK KENNEL	RT 1 BOX 79	BUNKER	63629
43YAA	SWETMAN, CL	PINE-TREE KENNEL	RT 1 BOX 251	ROLLA	65401
43TAM	SYKES, G		RT. 1	DAWN	64638
43RY	TAYLOR, M		RT 4	LAPLATA	63549
43IIL	THOMAS, G & D		RT 1	NOEL	64854
43RAL	THOMAS, J	OZARK HONEY DEW KENNEL	RR 1 BOX 129	ELKLAND	65644
43PAA	THORESON, S	THORESON KENNEL	RT 4	EL DORADO SPRINGS	64744
43JJH	TOLLERTON-SMITH, A		RT. 1	LINNEUS	64653
43YT	TRACY, L	TRACY'S GUARDIAN KENNELS	RR 1-BOX 85	WINSTON	64689
43MAQ	TRIPLETT, E		RT 3 BOX 48	LANCASTER	63548
43JJB	TUCKER, L		RT 2 BOX 57	HUMANSVILLE	65674
43IIF	TWENTER, J A	RAINBOW KENNEL	304 WEST HARRIS STREET	PILOT GROVE	65276
43GS	VAN HOOZER, V		RR 1	OSBORN	64474
43UZ	VAUGHN, R & VINYARD, J	GOLDEN RULE KENNEL	RR 3 BOX 236	STOCKTON	65785
43UAL	VEATCH, PP		PO BOX 68	GLENWOOD	63541
43GGA	VETTER, E & N		RT 1 BOX 180	STARK CITY	64866
43HHI	WADLEY, M		RT 2 BOX 233	ANDERSON	64831
43HQ	WAIT, IM	WAIT'S KENNELS	BOX 802 N HWY 63	KIRKSVILLE	63501
43TH	WALLACE, G&R		R 1	NOVINGER	63559
43KKU	WALLENBURN , J	WALLENBURN RABBITRY	ROUTE 1 BOX 8	OTTERVILLE	65348
43MX	WAMSLEY, D		RFD 1	NEWARK	63458
43ULA	WATSON, P & W		RT 5 BOX 55AA	COLUMBIA	65202
43IU	WEAVER, E			CLARENCE	63437
43FFA	WEBB, J	SHADY OAK KENNEL	R1 BOX 375	JOPLIN	64801
43CCJ	WEBER, G	SUNDOWNER KENNEL	RT 2 BOX 215	GOODMAN	64843
43CCH	WEIMER, J&D		ROUTE 3 BOX 190	MACON	63552
43BP	WELLMAN, E	WELLMANS KENNEL	RT 1	KIRKSVILLE	63501
43HA	WELLS, M		RR 3	MACON	63534
43DDV	WEST, C & L	C & L TEDDY BEAR BARN	2275 ASHBY RD	OVERLAND	63114
43DDL	WESTMORELAND, SM		RR 1	KIRKSVILLE	63501
43BBL	WHEELER, R & M	WHEELER KENNEL	RT. 2	NORBORNE	64668
43GGK	WHITE, WJ		RT 5 BOX 23A	TRENTON	64683
43EEM	WHITLOW, J		RT 2 BOX 203-A	BILLINGS	65610
43YAB	WIENHAUS, LM		RT 4	SALISBURY	65281
43JJW	WIGGINS, M & M	M & M RABBITRY	RR 3	MACON	03552
43UL	WILLIAMS, CE		1802 E NORMAL	KIRKSVILLE	63501
43JJI	WILLIAMS, F E	SUNNY ACRES PONY FARM & KENNELS.	RR 2 BOX 176	KIRKSVILLE	63501
43GQO	WILLIAMS, M	WILLIAMS LITTLE ACRE KENNEL	RT 6 BOX 372	CARTHAGE	64836
43CCI	WILSON, C&D		RT 1 BOX 125A	AURORA	65605
43PM	WILSON, J		BOX 27	FRANKFORD	63441
43PAN	WILSON, VM		RR 1 BOX 180B	ELKLAND	65644
43YN	WINANS, OV&E		RT 1 BOX 90	CARTHAGE	64836
43FC	WISDOM, JW		RR 3	MACON	63552
43GAP	WOLFINGTON, H		RR 1 BOX 107	MULBERRY	65756
42ZAJ	WOOD, A			BETHEL	63434
43EEW	WOOD, J	PJ'S PET FARM	RR 2 BOX 87	LAPLATA	63549
43MB	WOOD, JC	WOOD KENNELS	RT 1	LA PLATA	63549
43TE	WOOD, M		RFD 1	BETHEL	63434
43BAC	WOOD, R		RR1	BRASHEAR	63533
43HHZ	WOODS, D & M S		RR 1	HUNTSVILLE	65259
43VAY	WOODY, O & A		RR 2	GALT	64641
43BBI	WORTHINGTON, BJ		RT. 1	ELDORADO SPRINGS	64744
43FFT	WORTHINGTON, W		R 2 BOX 27A	ELDORADO SPRINGS	64744
43YV	WRIGHT, CE	4 ACRE KENNELS	ROVER RT. BOX 266	WEST PLAINS	65775
43IKF	WRIGHT, MR. & MRS. H	WRIGHT'S KENNELS	PO BOX 24	TRIPLETT	65286
43UAO	YOUNG, EK		RR 3	NOVINGER	63559

MISSOURI—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
43WK	YOUNG, HO	SUNNY SLOPE FARM	RR 2	ROCHEPORT	65279
43NN	ZUSPANN, V		RFD 3 PO BOX 34	EDINA	63537

MONTANA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
81B2	CORBETT, P & C	SAFARI COUNTRY	RT 62 BOX 3205	LIVINGSTON	59047
81A12	FREMAN, N & M	LIT RABBITRY	RT 1 BOX 1836	WHITEHALL	59759
81A13	RIBI IMMUNOCHEM RESEARCH, INC.		PO BOX 1409/ANIMAL PROD. DEPT.	HAMILTON	59840
81A7	ROSECRANS, RC		PO BOX 950	HAMILTON	[illegible]

NEBRASKA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
47AB42	ANDERSON, GP & SR	HIGHLAND FARMS	RT 2	PLATTSMOUTH	68048
47AC77	ANDERSON, S & D	SUN SHINE KENNEL	BOX 143	CLEARWATER	68726
47AC06	ANGELL, D & D		1014 6TH ST	FAIRBURY	68352
47AD07	ARGO, J			OKETO	[illegible]
47AC60	ASH, L		802 WEST 27TH	SCOTTSBLUFF	69361
47AB32	BAILEY, LL	L&L KENNELS		EDGAR	68935
47AD10	BARGER, J		RR 1	CULBERTSON	69024
47A38	BEMIS, J			RISING CITY	68658
47AC97	BENNETT, C & S		RT 4	FAIRBURY	68352
47AD44	BENSON, D L	DAVIS CREEK KENNEL	ROUTE 1 BOX 144	SCOTIA	68875
47B29	BIOLOGICS CORP		2720 N. 84TH ST.	OMAHA	68134
47AC86	BLANK, H & K	BAR 20 KENNELS	RFD1	AINSWORTH	69210
47AB74	BLOBAUM, R & M		RT 4	FAIRBURY	68352
47AC04	BOHLING, A&W		RT.3	TECUMSEH	[illegible]
47AD46	BRANT, G		RR 2	IMPERIAL	69033
47AC35	BRAUCH, GN		RT 1	HEBRON	68370
47AB30	BREEDEN, JE	BREEDEN'S KENNELS	RR# 1	STEELE CITY,	68440
47AD22	BROOKS, D	DUN ROAMIN KENNELS	RT 2 BOX 101	BLUE HILL	68930
47A84	BROSCH, D & M J	BROSCH'S KENNELS	RR 3	PENDER	68047
47A82	BRUNING, S	BRUNING KENNELS	RT 2 BOX 14	SHICKLEY	68436
47AD21	BURKINSHAW, P	PLEASANTVIEW KENNEL	STAR ROUTE	NEWPORT	68759
47AC69	BUSCH, RL		RR 3	KEARNEY	68901
47AD12	BUSS, W & P		RT 1	ADAMS	68301
47AD27	CARLSON, D J	CARLSON'S CANINES	BOX 72	HAY SPRINGS	69347
47AB66	CHLOUPEK, R		RT 1 BOX 65	LITCHFIELD	68852
47A88	COOK, L		RT 1	SUTHERLAND	69165
47A99	COX, L & B	DIXY PALS KENNEL	RR 1	WAUNETA	69045
47AC92	CUDNEY, G & C	ROCK RIDGE KENNEL	RR3 BOX 51	FALLS CITY	68355
47A17	CUMRO, S	INDIAN CREEK KENNELS	BOX 13	ODELL	68415
47B20	CYRGUS, INC	NEBRASKA SCIENTIFIC CO.	3710 D ST	OMAHA	68107
47AB63	DARROW, CE		RT 4 BOX 17	FAIRBURY	68352
47A72	DAUBERT, E		6229 S 43RD	OMAHA	68107
47AC44	DEKE, B	TRIPLE D FARMS	RT. 1 BOX 17	OHIOWA	68416
47A33	DIETZ, B	HILLTOP KENNELS	RT 2 BOX 59	ORLEANS	68966
47AC70	DIETZ, J		RT 1 BOX 111	ORLEANS	68966
47A86	DIETZ, JR		ROUTE 1	STAMFORD	68977
47AD42	DOLAN, E & E	YORKSHIER MANOR	115 JEFFERSON ST.	FREMONT	68025
47AD08	DREESSEN, M	DREESSEN KENNELS		STAMFORD	68977
47A44	DUENSING, LJ		RR 1 BOX 46	BYRON	68325
47A41	DURST, GD & LJ		BOX 8	VIRGINIA	68458
47AC18	DVORAK, G&C	DVORAK'S KENNELS	RR 2	ATKINSON	68713
47AC00	ECKSTEIN, LJ		RR 1 BOX 67-A	LINWOOD	68036
47AD16	FARR, M	SOUTH STREET KENNELS	20 SOUTH STREET	MCCOOK	69001
47AD49	FELLERS, T & C	COUNTRY CLUB KENNEL	1112 COUNTRY CLUB DRIVE	MCCOOK	69001
47AC26	FERGUSON, L&P	IDLE ACRES KENNELS	RT 1	BRADY	69123
47AC76	FETT, D & I		RT 1 BOX 87	HEBRON	68370
47AD17	FILIPI, E		RR 2	CRETE	68333
47AB04	FLEISCHER, W R	B-MAR KENNELS	STAR ROUTE	GOTHENBURG	69138
47AD48	FOCKEN, D & B			NEWPORT	68759
47A81	FRITZ, MK			BARTLEY	69020
47AC11	FRITZ, O	RIVERVIEW KENNELS	ROUTE 1 BOX 229-A	HUMBOLDT	68376
47B39	FULLER, D & L		BOX 71	BRADY	[illegible]
47AC22	GITTINGER, W & K	DIS 'N DAT KENNELS	RT 3	AUBURN	68305
47AC88	GILL, K & J		RR 3	BLOOMFIELD	68718
47A71	GORACKE, R	GORACKE'S KENNELS	315 NORTH 4TH	TECUMSEH	68450
47AB46	GRUNTORAD, E		RT. 3 BOX 20	SEWARD	68434
47AD15	GRUNTORAD, R & L	VALLEY VIEW KENNELS	ROUTE 1 BOX 41	LEXINGTON	68850
47AD54	HAAKE, D OR K	HAAKE KENNELS	RT 3 BOX 14	FAIRBURY	68352
47AD45	HALL, F & C	ZOOLAND KENNEL	RT 2 BOX 113	OXFORD	68967
47AD50	HARDERS, R & N J	GOLDEN ROD KENNELS	RT 3 BOX 175	WOODRIVER	68883
47AB98	HARRINGTON, DD	HARRINGTON'S KENNELS	RT 2 BOX 121	NELSON	68961
47AC89	HASLEY, P	RED BARN KENNELS	RT 1 BOX 199	JANSEN	68377
47AD20	HAWKINS, D & B		RT 1	WYMORE	68466
47AC25	HAYNES, M L		RT 1	AUBURN	68305
47AC01	HERR, JA		RT 1, BOX 140	HUMBOLDT	68376
47AB83	HERR, RL	HERR'S KENNEL	RR 1 BOX 147	HUMBOLDT	68376
47B31	HEYNE, W	AMMPET KENNELS	GENERAL DELIVERY	WEST POINT	68788
47A80	HOFFMAN, J		ROUTE 3 BOX 182A	NORFOLK	68701
47AC90	HOHNSTEIN, R & P		421 WEST 6TH ST	IMPERIAL	69033
47B38	HONORE, J A	HONORE'S PUPPYLAND	RR 2	ST. PAUL	68873
47AB17	HOWE, MA		815 N 5 ST	BEATRICE	68310
47AD02	IMM, R & J	COTTONWOOD KENNELS	RT 1 BOX 71C	STAMFORD	68977
47AD43	JANOUSEK, D			CLARKSON	68629

NEBRASKA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
47AD35	JANZEN, K	JANZEN'S KENNELS	RT 1 BOX 182	DONIPHAN	68832
47AC98	JOHANSEN, R & G	JJ KENNEL'S	10402 NORTH 156TH ST	BENNINGTON	68007
47AC94	JOHNSON, D & W	CIRCLE J KENNEL	CIRCLE J KENNEL	BENEDICT	68316
47AB91	JOHNSTON, R&K	JOHNSTON KENNELS	R 1	CORTLAND	68331
47B33	JONES, J	TAMARISK KENNEL	403 LAKE	CHADRON	69337
47AD14	KAHLO, DIAN		RT 1	STANTON	68779
47AD26	KARDELL, M A		RT 2	LAUREL	68745
47AB26	KARMANN, MH		RT 1 BOX 64	CEDAR RAPIDS	68627
47AC54	KASSEBAUM, C & D	ANN-MARIE KENNELS	BOX 182	HEBRON	68370
47AB18	KENYON, M		1115 16TH STREET	MITCHELL	69357
47AC91	KESTER, H & S		RT 2 BOX 59	CAMBRIDGE	69022
47B35	KINSELLA, T		2521 HANSCOM BLVD.	OMAHA	68105
47AD30	KIRBY, R & B	KIRBY KENNELS	BOX 54	SARONVILLE	68975
47AC85	KLEIN, WH		BOX 381	LOUP CITY	68853
47AC74	KLEVELAND, J & C	KLEVELAND KENNELS	1743 NORTH 11TH STREET	NEBRASKA CITY	68410
47AD40	KOSS, M & S	TRIPLE K	RR 1	HUBBELL	68375
47AD04	KOTSCHWAR, A		ROUTE 1	FARNAM	68029
47AB96	KRENK, E	PAMPERED PETS	1404 S CENTER	BEATRICE	68310
47AC26	KUESTER, R & D	HUMBUG CREEK KENNEL	RR 1 BOX 83	PILGER	68768
47A79	KUHL, J&A			ORLEANS	68966
47A19	KUHLMANN, JM	COUNTRYSIDE KENNELS	RR 2 BOX 40	HUMBOLDT	68376
47AB50	KUMPOST, HE	KUMPOST KENNELS	403 S 7TH	PIERCE	68767
47AB82	LINDEKEN, T	LINDEKEN'S HILLSIDE KENNELS	RT 1 BOX 222	SCOTTSBLUFF	69361
47AC59	LOOMIS, P	FOXFIRE TOY POODLES	MARPLE RT BOX 66A	ALLIANCE	69301
47AB03	MADDUX, T			PALISADE	69040
47AD19	MAJORS, J F	RAINBOW KENNEL	RR 2	WAUNETA	69345
47A30	MCCORD, V	BLUE HILL KENNEL	BOX 110 RR 4	FAIRBURY	68352
47AA3	MCMILLAN, J&J	MCMILLAN KENNELS		ARTHUR	69121
47AC15	MCROBERTS, J	MCROBERTS GAME FARM		GURLEY	69141
47AB43	METZNER, M & V	SUNNY SLOPE KENNEL	RR 1	FALLS CITY	68355
47AC48	MEYER, D & J	PONDEROSA KENNELS	RT 2 BOX 54	SIDNEY	69162
47AD03	MINNIG, G	MINNIG KENNEL		CHESTER	68327
47AB14	MONNETTE, DM		RT 1 BOX 69	STELLA	68442
47AD18	MOORE, H		RT 1	BROWNVILLE	68321
47AC14	MORROW, C&M	MORROW KENNELS	RR 1 BOX 84	TEKAMAH	68061
47AC83	MOSER, B & J	BAR-JO PRARIE VIEW KENNEL	RT 2	ELGIN	68636
47AD25	MUCK, R & S		RT A BOX 50	GORDON	69343
47AD31	MUMFORD, C			CHAMPION	69023
47AB59	MURRAY, A	MURRAY'S CHARLIE BROWN KENNEL	BOX 56	POTTER	69156
47A34	NICHOLSON, MA	NICHOLSONS KENNEL		LEBANON	69036
47AD01	NOEL, P		R 1	BEAVER CITY	68926
47AC73	NOLZE, R & J & BLANK, M	CRIPPLE CREEK CRITTER CENNEL	RR 1	CLEARWATER	68726
47B27	NORDEN LABS. INC.		PO BOX 80600	LINCOLN	68501
47AC79	NORRIS, NF		RR 1 BOX 54A	YUTAN	68073
47AD47	OLSEN, J I	J. OLSEN'S KENNEL	ROUTE 3 BOX 110	MINDEN	68959
47B11	PACKER, MRS. W.		RT 2 BOX 246	WOODRIVER	68863
47AB55	PLATT, V & F	PLATT KENNEL		HAY SPRINGS	69347
47A49	PLEAS, MRS G		RT 1	OXFORD	68967
47AC55	POHLMAN, R		RT 2	STANTON	68779
47AC34	POMAJZL, R		429 N. FRANKLIN	WILBER	68465
47AD05	POST, TJ	SAM-BO KENNELS	BOX 197	NAPONEE	68960
47AC42	RATHJEN, R & D	TRIPLE R KENNEL	RT. 2 BOX 116	ULYSSES	68669
47A07	REARS, MRS D			STELLA	68442
47AC17	REZNICEK, B&W	BOSENDY ACRES KENNEL	RR 2	DODGE	68633
47B25	RHONE, D		RT 2 BOX 117A	COZAD	69130
47AC63	RIEKE, WW		BOX 81	CHESTER	68327
47AC09	RIESSLAND, D & C	LITTLE ACORN KENNELS	RR 1 BOX 111	LITCHFIELD	68852
47AC82	RIESSLAND, M & R		RR 1 BOX 110	LITCHFIELD	68852
47AC66	ROUSE, B & P	CROWN KENNELS	914 S 9TH	MCCOOK	69001
47AD06	ROWE, K & S		RT 1	DANBURY	69026
47AB96	SASCO INC		612 N 16TH ST	OMAHA	68102
47AC43	SAWYER, K	LAKAR'S KENNELS	P.O. BOX 323	ST. EDWARDS	68660
47AD33	SCARROW, L & S		R 2 BOX 122	OXFORD	68967
47A08	SEJKORA, H			BURCHARD	68323
47B32	SEKUTERA, C	DIAMOND KENNEL	RT 1 BOX 28	LITCHFIELD	68852
47B23	SHRADER, D	DUANE SHRADER & SONS	625 SOUTH 51ST STREET	LINCOLN	68510
47AC32	SHRIVER, T&E	OREGON TRAIL KENNELS	RT 1 BOX 40	HASTINGS	68901
4790	SINGLETON, BM	SINGLETON RANCH	RFD 1 BOX 70	DIX	69133
47A32	SINN, W	GREEN ACRE KENNEL	RT. 1 BOX 27	FAIRBURY	68352
47AC71	SMEAL, JW	SMEAL'S KENNEL	RR 2 BOX 13AD	DODGE	68633
47AD56	SOWARDS, JJ	J'S KENNEL	ROUTE 2 BOX 51	HEBRON	68370
47A12	STEVENSON, R	NEBRASKALAND KENNELS		RICHLAND	68657
47AC45	SULLIVAN, D & B	BARBENDALE KENNELS	RT 2	PALMER	68864
47AB92	SUTTON, B C	SANDHILLS PUPPY RANCH	SOUTH ROUTE	ASHBY	06933
47AD32	TEPLY, T			CHAMPION	69023
47AD13	TIEDJE, D	SUNNYBROOK FARMS	RT 1	BENNINGTON	68007
47B37	TILLER, W W	TILLER ENTERPRISES	1702 HILLCREST	BELLEVUE	68005
47AD54	TOPP, E & E		RT 2	TECUMSEH	68450
47AC47	TOPP, R&C		RT 2	TECUMSEH	68450
47AD05	TOWNS, M & STOKES, D	PUPPY LUV KENNEL	RT 2	SCHUYLER	68661
47AC66	URLING, KC	KATHIE'S KENNEL	ROUTE 1 BOX 54	WILSONVILLE	69046
47AB09	VLASIN, RJ&EB		RT 1	CRETE	68333
47AC78	WEGNER, I	WEGNER KENNEL		SCRIBNER	68057
47AD39	WEISHAHN, R & M	RIVERSIDE KENNELS	1500 SO 9TH	BEATRICE	68310
47AD23	WHITE, D & V	WHITE'S K-9 KENNELS	RR 1	HASTINGS	68901
47AD28	WILKINS, D		RT. 1 BOX 18	KENNARD	68034
47AB53	WILLMS, J & R	WILLMS KENNELS	2106 KEENE DR	COLUMBUS	68601
47AD11	WOLF, H	WOLF'S KENNELS	NORTH STAR RT	NEWPORT	68759
47AC72	WORTHINGTON, EK	PEKE PALACE	RT 2	HEBRON	68370

NEBRASKA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
47B12	WRIGHT, E			STAMFORD	69077
47A37	YAW, C			NEWPORT	68759
47A07	ZEIGLER, NM			NELSON	68961
47A89	ZIMMERMAN, M&L	ZIMMERMAN KENNELS	RFD 3	NEBRASKA CITY	68410

NEVADA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
88B1	NEVADA LLAMAS		PO BOX 1803	CARSON CITY	89701

NEW HAMPSHIRE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
12A41	BATEMAN, M		60 GARLAND RD.	RYE	03870
12A69	GUILLEMETTE, A & K		MEADOWLARK LANE PO BOX 72	ANDOVER	03216
12A61	KELLY, L		P.O. BOX 398 HUBBARD RD	GREENVILLE	03048
12A21	LEITH, M		RT 3 BOX 422	EPPING	03042
12A70	MARTIN, M		BOX 336	DANVILLE	03819
12A42	MASTINE, R	ROSIE'S PIGGIES & PETS	82 WARREN ST	LACONIA	03246
12B23	MONTI, L		RT 126	BARRINGTON	03825
12A67	SNELLING, G		RFD 2, BOX 141	CLAREMONT	03743
12B5	TRUSTEES OF DARTMOUTH COLLEGE		PO BOX 432	HANOVER	03755
12B22	WOOD, SD	NINE ACRES RABBITRY	RIVER RD	LYME	03768

NEW JERSEY

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
22B37	ALLISON, H		HEMLOCK RD RTE 46	DELAWARE	07833
22B40	AVIS, ALLEN		BOX 70 SWEDESBORO RD	MONROEVILLA	08343
22F	BARTON'S WEST END FARMS INC		RD 1 BOX 391	OXFORD	07863
22B33	BIO/DYNAMICS, INC.		METTLERS RD	EAST MILLSTONE	08873
22A16	BIOLOGICAL SYSTEMS INC		2367 LAKEWOOD RD	TOMS RIVER	08753
22B2	BRUNDA, P & M	MARLAND BREEDING FARM, INC	46 ALLEN DRIVE	WAYNE	07470
22B34	CAMDEN COUNTY COLLEGE			BLACKWOOD	08012
22A26	CAMM RESEARCH INSTITUTE, INC.		414 BLACK OAK RIDGE RD.	WAYNE	07470
22A25	CEDAR KNOLL FARMS	HOLTON INDUSTRIES, INC.	RT 513	FRENCHTOWN	08825
22B31	CHAMPLAIN BIO. SERV. INC.			GLEN GARDNER	08826
22B	CLAUSS, GJ	APPALACHIAN FARMS	RD 1 WARWICK TURNPIKE	WARWICK	10990
22A25	EDINGTON, R	CONVEREX	BOX 335 LAKE RD	NEWFIELD	08344
22B23	FEDECHKO, G	SOUTH JERSEY BIOLOGICAL FARM.	DOWNER RD BOX 315	WILLIAMSTOWN	08094
22S	FOOD & DRUG RESEARCH LABS., INC.		60 EVERGREEN PL	EAST ORANGE	07018
22B39	FORD, R		105 W MAIN STREET	MAPLE SHADE	08052
22A7	FUHR, B W	DAVIDSON'S MILL FARM	RD 1 BOX 184	JAMESBURG	08831
22A1	GUMPERZ, E	CHICK LINE INC.	854 EAST GARDEN RD	VINELAND	08360
22B16	HANNA, TR		RD #2	MECHANIC STATION	08853
22B26	LEIBOWITZ, A	BREEDER'S CHOICE KENNELS	1585 HIDER LANE	LAUREL SPRINGS	08021
22A29	LIBERTY LABORATORIES		P.O. BOX 1	LIBERTY CORNER	07938
22B25	MCGEE, M	BREEZY ACRE FARMS	PO BOX 83	CHATHAM	07928
22A31	MKS BIOSCIENCE, INC.	SOMERSET BREEDING LABS	428 CEDAR GROVE LANE	SOMERSET	08873
22B36	MOORE, J	ALLENDALE AVIARIES	53 COTTAGE PLACE	ALLENDALE	07401
22B35	MUNSTER, J	G.C.A. INC.	792 BURNT TAVERN RD	BRICKTOWN	08723
22B38	NABISCO, INC.		RIVER ROAD	EAST HANOVER	07936
22A22	ORTHO PHARMACEUTICAL CORP	ORTHO RESEARCH FARM		RARITAN	08869
22A30	PALAZZO, R & V		MT PLEASANT RD BOX 84	COLUMBIA	07832
22B4	PRIMELABS, INC.		MONMOUTH CT AIRPORT BOX 646	FARMINGDALE	07727
22B32	SCHERING CORP		PO BOX 32	LAFAYETTE	07848
22A21	SILVERMAN, IL	SILVER-MANOR PERSIANS	386 PLAINFIELD RD	EDISON	08817
22B19	THE REPTILE PLACE		301 ISLAND RD	MAHWAH	07430
22A3	TINBERGEN, K	SUNRISE LABORATORY ANIMALS	RIDGE RD RD 2	WHITEHOUSE STA	08889
22A8	TRIPLE R RABBITRY		PO BOX 301	MANASQUAN	08736
22A19	TURNER, V	ASTRO, INC.	230 E HIGH ST	GLASSBORO	08028
22B21	VRANA, R	VRANA RESEARCH ANIMALS	BOX 427A RD 1	MILLVILLE	08332
22A	WEST JERSEY BIOLOGICAL SUPPLY		BOX-6	WENONAH	08090
22B5	WHALEY, MT	SUMMIT VIEW FARM	RD 1 BOX 293	BELVIDERE	07823
221	WILLIAMS, JE	HILLDALE FARMS	BOX 950, RD NO. 1 DUTCH MILL R.	FRANKLINVILLE	08322
22A4	ZUCCA'S HAMSTERY, INC.		1541 S ALLEN AVE PO BOX 507	VINELAND	08360

NEW MEXICO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
8535B	BELL, G & J	GARY BELL'S RABBIT RANCH	STAR RT. BOX 36	CLOVIS	88101
8531B	CAPSHAW, MRS. O K	CAPSHAW ENTERPRISES	113 MESA VISTA	SANTA FE	87501
8530A	CORGAN, D & S	CORGAN'S RABBITRY	RT. 2 BOX 294	LAS CRUCES	88001
8534B	FERGUSON, O & J	MAGIC GARDENS OF TULAROSA	PO BOX 1227	TULAROSA	88352
8528B	KERNS, R	AIR-VIEW RABBITRY	BOX 11 NORTH RT	EDGEWOOD	87015
8532B	MC CALLISTER, H L	MAC'S MINI FARM	8705 CENTRAL AVE. NW	ALBUQUERQUE	87105
8527A	RABBIT RANCHES, INC.		PO BOX 305	ORGAN	88052
8521A	RUEBUSH, OL	KEEN RIDGE FARMS	BOX 286	EDGEWOOD	87015

NEW YORK

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
21EL	AGWAY INC	AGWAY TECHNICAL CENTER	PO BOX 4933	SYRACUSE	13221
21GY	ANCARE CORP		47 MANHASSET AVENUE	MANHASSET	11030
21JJ	AURORA SCIENTIFICS INC		P.O. BOX 239	EAST AURORA	14052
21AT	BEAN, AG		RD NO. 3 BOX 223	MORAVIA	13118
21GS	BECKEN, R & E	BECKENS RESEARCH ANIMAL FARM.	2585 UPPER MT RD	SANBORN	14132
21KJ	BODDIS, G	BODDIS FARMS	BOX 376A COUNTY RD 11	CRARYVILLE	12521
21CR	BOWLEY, C		6774 CICERO-BRIDGEPORT RD.	CLAY	13041
21FF	BRONSON, JL	BRONSON TROPICAL BIRDS	70 NAGLE AVE	NEW YORK	10040
21FE	BUCKBERG LAB ANIMALS INC		FREEHILL RD	TOMKINS COVE	10986
21CK	CATSKILL WILD ANIMAL SUPPLY, INC		RD 1 BOX 92	CATSKILL	12414
21AX	CORNELL UNIVERSITY	CORNELL DOG FARM	124 DAY HALL	ITHACA	14853
21CY	CRIDDLE, W	WINONA CRIDDLES CAVIARY	BOX 200 TUNNEL RD RD 1	PORT CRANE	13833
21QS	DALY, J C		SKY HIGH ROAD	TULLY	13159
21EX	DUMBLETON, D&F	WINDY NOB FARM	5164 LINDEN RD	E BETHANY	14054
21NY	ENGSTROM, R		1765 HOAGLAND RD	MT MORRIS	14510
21BF	FABRY, EG	FAB LABS	BOX 233	NEW CITY	10956
21MT	FARLEY, JW		20 CORONET COURT	SCHENECTADY	12309
21LN	FUGLE, N		7285 EAGLE RD	BUSS	14024
21GK	HARGROVE, B E	NEW YORK STATE RABBIT DEVELOPMENT.	BOX 33 WEST MAIN STREET	HARTWICK	13348
21CQ	HINDERER, RR	RICHARD'S COMMERCIAL RABBITRY.	RD 2	ASHVILLE	14710
21DA	HUDSON, S & Z	ZELSON KENNEL	RT 3	FORT PLAIN	13339
21FY	JC SCHULZ, INC		R.D. 1 BOX 139	CATSKILL	12414
21NR	JOHNSON, R & B	JOHNSON'S FOLLEY	2036 HADDEN RD	SAVANNAH	13146
21SS	KRUTULIS LABORATORIES INC		PO BOX 158	BRIDGEPORT	13030
21OL	LACROSSE, STEVEN	LACROSSE LABORATORY ANIMALS.	369 CONSAUL ROAD	SCHENECTADY	12304
21NF	MARKS, K & E	THE BUNNY PATCH	73 MOON RD	ARGYLE	12809
21AP	MARSHALL RESEARCH ANIMALS INC		RR 1 BOX 91	NORTH ROSE	14516
21MV	MERZACCO, M J	PET LOVERS PARADISE	2309 ELMWOOD AVE	KENMORE	14217
21JM	MILLSTONE FARMS CORP		RD 2	AMSTERDAM	12010
21DO	NEVE, S L		RD 1 BOX 191 DEAL ROAD	ROMULUS	14541
21NV	NIAGARA AQUARIUM CO, INC		1345 MILITARY RD	KENMORE	14217
21NW	NOLAN, R		53 LAMSON RD	TONAWANDA	14223
21GP	RIO, HR		RD 1	CENTRAL SQUARE	13036
21NR	ROSIER, G	LITTLE LOVE TOYS & THINGS	17029 GULF RD	HOLLEY	14470
21NN	SCHMIDT, LL	SCHMIDT'S RABBITRY	6390 GOODRICH RD	CLARENCE CT	14032
21MO	SCIENCE KIT INC		777 EAST PARK DR	TONAWANDA	14150
21CH	SMITH, D L	DONS RABBITRY	P O BOX 15	WATERLOO	13165
21MH	ST LAWRENCE VALLEY ETV COUNCIL INC.	WNPE-WNPI PUBLIC TELV.	PO BOX 114	WATERTOWN	13601
21AR	STUMBO, DL	STUMBO FARMS	O'NEIL RD	LIMA	14485
21DE	THE MARY IMOGENE BASSETT HOSPITAL			COOPERSTOWN	13326
21MQ	TRANS-AMERICAN PET DIST., INC		9811-4TH AVE	BROOKLYN	11209
21FK	VAN WARNER, R	RIVER VIEW KENNELS	RD 1 BOX 211	NEW BERLIN	13411
21BY	WARD'S NATURAL SCIENCE ESTABLISHMENT, INC..		PO BOX 1712	ROCHESTER	14603
21DP	WEBB, F		55 NEW HARTFORD ST	NEW YORK MILLS	13417
21CQ	WILKING, E		2-3167 4 ROD ROAD	EAST AVRORA	14052
21BT	ZEEHANDELAAR, F		6 SICKLES AVE	NEW ROCHELLE	10801

NORTH CAROLINA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
56A56	ALLSBROOK, AC	MAGADA PINES KENNEL	RT 1 BOX 275	SCOTLAND NECK	27874
55B13	AQUA-RAMA PET CENTER INC		4947 BRAGG BLVD	FAYETTEVILLE	28303
55B11	BERRY WATER GARDENS INC		PO BOX 607	KERNERSVILLE	27284
55B10	CAROLINA BIOLOGICAL SUPPLY CO		2700 YORK ROAD	BURLINGTON	27215
55B57	CAROLINA PUPPY OUTLET		1009 HOMELAND AVE	GREENSBORO	27405
55B38	CLEVELAND COUNTY HEALTH DEPT	CLEVELAND COUNTY AN. SHELTER.	315 GROVER STREET	SHELBY	28150
55A76	COLE, G & H	COLE BROTHERS KENNELS	RT 2 BOX 152	DENTON	27239
5588	COOKE, AB	BUFFALO RANCH TRADING POST	RT 7 BOX 203 HWY 49	CONCORD	28025
55B28	CORAL SEAS AQUARIUM & PET SHOP		3629 NORTH BLVD.	RALEIGH	27604
55A68	CRAWFORD, R	CRAWFORD'S RABBITRY	RT 5 BOX 78A	BURLINGTON	27215
55A81	DALY, A	DALY'S RABBITRY	RT 1 BOX 185 BB	FARMVILLE	27828
55A82	DAUGHTRIDGE, I		4615 REEDY CREEK RD	RALEIGH	27607
55A83	DRIVER, J & C	DRIVER'S RABBITRY	ROUTE 2 BOX 617	CLAYTON	27520
55A72	DYSART, C	DYSART'S WOLF SHEPHERD KENNEL	BOX 587	HENRIETTA	28076
55B15	FRANKLIN, L & J	FRANKLIN'S RABBITRY AND SUPPLY.	PO BOX 1007	WAKE FOREST	27587
55B41	GORDON, GR	SMALL STOCK FARM PET SHOP	RT 6 BOX 93	SHELBY	28150
55B33	GRAVITT, M	BAUX MT BEAGLE FARM	RT 2 BOX 187	GERMANTON	27019
55A78	HAYES, J	HAY-HO KENNEL	RT 4 BOX 315	WHITEVILLE	28472
55A61	LOVELACE, K		BOX 53	ELLENBORO	28040
55A17	MCLAURIN, A	MCLAURINS KENNEL	RT 1 BOX 150	WADE	28395
55A25	OWENS, R & WOOTEN, T	MOUNTAINEER KENNEL	RT 4 BOX 467 B	KINGS MTN	28086
55AE	PHILLIPS, B Z	PEARCROFT CATTERY	RT 1 BOX 456	BEAUFORT	28516
55B61	POWELL, J	NOVA SCIENTIFIC CORPORATION	3005 FORRESTDALE ROAD	BURLINGTON	27215
55B16	RILEY, GF	RILEYS BUNNY HAVEN	RT. 2 BOX 519	DURHAM	27705
55B53	RUCKART, J	PETS UNUSUAL	RT 4 BOX 481A	CONCORD	28025
55A50	SCRUGGS, C		RT 2 BOX 158	SHELBY	28150
55B62	SEALEY, T K	SEALEY'S WET'N'DRY PETS'N'GROOMING	417 GROVER ST	SHELBY	28150
55B63	SHEPHERD, C		ROUTE 1 BOX 390	CONCORD	28025

NORTH CAROLINA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
55AF	SOUTHEASTERN LABORATORY ANIMAL FARM INC.		5029 TRAIL RIDGE DR.	RALEIGH	27612
55B55	SUMMERLIN, S	ROCK REST RABBITRY	RT 1 BOX 246	MONROE	28110
55B58	TAYLOR, E & M	FISH & PETS	603 GREENVILLE HWY	HENDERSONVILLE	28739
55A73	THOMPSON, N J	IN-THE-VALLEY KENNELS	1420 NORTH FORD RD	BLACK MOUNTAIN	28711
55B60	VERHAEGHE, M		RT 2 BOX 164B	HORSE SHOE	28742
55B54	WINCHESTER, D & B	PINEVIEW KENNELS	RT 2 BOX 120	ELLENBORO	28040
55B37	WISE, A	TARHEEL CATTERY	RT #1 BOX 60E	BENSON	27504
55AC	WISE, J D	CAROLINA KENNELS	RT 2	DUNN	28334
55B45	WOOD, MR	BUSH HILL RABBITRY	306 ENGLEWOOD DR	ARCHDALE	27263

NORTH DAKOTA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
45B7	BEAVER, A & D	BEAVERS COUNTRYSIDE KENNELS	RR 1 BOX 73A	ROLETTE	58366
45B6	BRYANT, E		BOX 237	ST. JOHN	58369
45A27	DESLAURIERS, A & D	NORTHLANDER RANCH KENNELS	RT 1	SURREY	58785
45A26	FOSS, C		BOX 1-B	ST. JOHN	58369
45A24	GUST, R	SIRIUS KENNELS	RT 1 BOX 22	KRAMER	58748
45A32	HIATT, S	HIATT'S BORDER KENNELS	RR 3	BOTTINEAU	58318
45B5	JOHNSON, T & J	DAKOTA KENNELS	BOX 151	ROLETTE	58366
45A21	JOHNSON, T L		RR 1	WOLFORD	58385
45A31	JORGENSON, S & FERRELL, M	DAKOTA PRAIRIE KENNEL		LEEDS	58346
45A15	LANDSEM, H & L		RR 1	EDMORE	58330
45B3	MICHAUX, A		BOX 44	BOTTINEAU	58318
45A29	POLLERT, D	COUNTRY ROADS KENNEL		PINGREE	58476
45A16	SERR, T&S	PRARIE VIEW KENNELS		HAZELTON	58544
45A30	THOMAS, E & P	CENTRAL DAKOTA KENNELS	RR	BORDULAC	58417
45A8	WYCKOFF, G	C-BAR-H CATTERY	RT 1 BOX 210A	BOTTINEAU	58318

OHIO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
31A418	ALLOMONG, W	GOTA-FRISCO FARMS	RR 1 BOX 208	EDON	43518
31A83	BAILEY, ZE		2106 US 68 SOUTH	XENIA	45385
31A38	BAKER, F		8317 SR 28	LEESBURG	45135
31B1	BALL, A JR.	KISER LAKE KENNELS	BOX 541	ST. PARIS	43072
31A277	BROXTERMAN, JA		4214 ZAGAR DR	CINCINNATI	45245
31B260	BURRIER, D&L	LINDAUE KENNEL	R 1	NEW COMERSTOWN	43032
31B98	CARR, GC		4257 RUTHERFORD RD	POWELL	43065
31A373	CLOSE, O	H. HILL SCH. FOR C.DOG	541 ROAD 1041	NOVA	44859
31B424	CLOUGH, N		25649 WESTWOOD	WESTLAKE	44145
31B346	COLLIER, JE & BR	COLLIER'S RABBITRY	PO BOX 30	CASSTOWN	45312
31B377	COOK, L		424 N FOURTH	TIPP CITY	45371
31A299	COX, FB		6315 S.R. 28 RT 1	LEESBURG	45135
31A230	DAULTON, JE		4578 C.R. 51	GALION	44833
31B413	DILLEY, D	OHIO PET	2384 W. BROAD ST.	COLUMBUS	43212
31B326	DIPANE, P	FINS, FEATHERS & FURRY THINGS	3065 GRAHAM RD.	STOW	44224
31B96	DRUM, OL		6454 STATE RD NO. 46	CORTLAND	44410
31B186	DURIGG, W		83 SPRAGUE RD	BEREA	44017
31B242	ECHELBARGER, S	LITTLE ACRES KENNEL	1-18502-USA-20	WAUSEON	43567
31A411	FERRY, D & J AND RILEY, D	NORTHERN OHIO RABBITRY	192 MARCY DRIVE	SOUTH AMHERST	44001
31B170	FORTUNATO, DD		4015 MASSILLON RD	UNIONTOWN	44685
31B382	FOX, KW		30680 ILESBORO RD	LOGAN	43138
31B356	FREY SCIENTIFIC CO INC		905 HICKORY LANE	MANSFIELD	44905
31A303	FULLER, E&V	FULLERS KENNELS	RT 2 BOX 295	SHILOH	44878
31A140	GENTER, O V		2-3902-19	ARCHBOLD	43502
31A369	GILTZ, LA	WINDWARD WAY FARM	19009 GRILL RD.	DOYLESTOWN	44230
31A149	GOTTLIEB, H		264 BRANDTSON AVE	ELYRIA	44035
31A46	GRUBAUGH, R&I		10750 W VERSAILLES RD	COVINGTON	45318
31A323	GUTMAN, H&E	H. & E. RABBITRY	16146 ROCK CREEK RD	THOMPSON	44086
31A339	HABYAN, PJ	BROOKLINE KENNELS	752 HORNING RD	ATWATER	44201
31A419	HACKWORTH, R		ROUTE 2 BOX 285	SPENCERVILLE	45887
31B32	HEIGHTS PET WORLD INC.		4016 MAYFIELD RD	SOUTH EUCLID	44121
31B106	HERRICK, T & D	BEAUMANOR FARMS	9578 MULBERRY RD	CHESTERLAND	44026
31AA00	HINDMAN, T	HINDMAN'S KENNEL	BOX 703	GNADENHUTTEN	44629
31A150	HONOSHOFSKY, G		8904 W. RIDGE RD.	ELYRIA	44035
31B401	HONOSHOFSKY, M & D	MI-DEE ACRES	40330 WEBSTER ROAD	LAGRANGE	44050
31B181	HONOSHOFSKY, MJ	WEST RIDGE CAVY RANCH	8904 W RIDGE RD	ELYRIA	44035
31B371	HORNG, M	AMERICAN ASIAN IMPT-EXPT CO.	1317 EASTWOOD AVE	MAYFIELD HTS	44124
31A420	JENKINS, D & KEYSER, K	SIX WILLOWS FUR FARMS	1427 CROYDONRO	TROY	45373
31A401	JOHNSON, GEORGE		16730 TWP. ROAD 217	MT VICTORY	43340
31A412	JOHNSON, H L		P.O. BOX 284	SUGAR CREEK	44681
31A24	KING, B&C	KING'S WHEEL RABBITRY	8085 CAMP RD RT 5	MT VERNON	43050
31B426	KOLLMAN, R	CRITTERS & CLIPPINGS, INC.	12686 CHILLICOTHE ROAD	CHESTERLAND	44026
31B364	KRAHL, HL		2555 WADSWORTH RD	NORTON	44203
31B330	LAKE, A	TWO LAKES CRITTERS	4024 COLBY AVENUE	COLUMBUS	43227
31A399	LAWTON, J	LAWTON'S LOPITRY	3970 WARNER ST	MIDGADORE	44260
31A395	MCGINNIS, B		233E CHARLES	BUCYRUS	44820
31B396	MEDICAL COLLEGE OF OHIO	DIV. OF LAB ANIMAL MED	CS 10008	TOLEDO	43699
31B328	MILLIKEN, G & N	POCKET'S PET SHOP	1420 S. OHIO AVE	WELLSTON	45692
31A300	MODEN, R&M		1-9618-17-3	WAUSEON	43567
31B415	MOHR, M K	CARNEGIE VETERINARY HOSPITAL	8208 CARNEGIE AVE.	CLEVELAND	44103
31B323	NOTTKE, R	TROPICAL LOVERS AQUARIUM	11786 HARBOUR LITE DR	N ROYALTON	44133
31B325	NUGENT, J	MILFORD AQUARIUM	401 FRANKFORT DR.	FAYETTEVILLE	45118
31A409	PLESKA, J & R	LITTLE 'J' RABBITRY	139 UNION ST.	WELLINGTON	44090

OHIO—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
31A315	PLUMMER, HF	PLUMMERS RABBIT RANCH	RT 4 BOX 648	PEEBLES	45660
31A259	POHLMAN, JM		9530 STITT RD	WHITEHOUSE	43571
31B325	REBER, MK	THE PET EMPORIUM	4932 BRINTHAVEN	SYLVANIA	43560
31A378	REEDER, RD	TURTLE CREEK FARMS	4507 N REIMAR RD	MILLBURY	43447
31A151	RODY, H		BOX 282	SPENCER	44275
31A266	RUTHERFORD, LC	RUTHERFORD'S RABBITRY	816 OHIO AV	ELMORE	43416
31B226	SAINT LUKE'S HOSPITAL		11311 SHAKER BLVD	CLEVELAND	44104
31B376	SCHLABACH, D	J & J RESEARCH FARMS	1787 MORMAN RD	HAMILTON	45013
31A416	SCHULTZ, B		2974 KENNEDY ROAD	MEDINA	44236
31B142	SEES, RL	TANKS-A-LOT PET STORE	1479 ASTER AVE.	AKRON	44301
31A343	SMEBY, P & R	CRAWLYKINS KENNELS	36801 RIVIERA RIDGE RD PO BOX	WILLOUGHBY	44094
31B425	SMITH, J		886 E ARCHWOOD AVE	AKRON	44306
31B406	SNYDER, C J	CLAY KNOLL KENNEL	7495 ST. RT. 187	MECHANICSBURG	43044
31A269	STADTLANDER, G J		2951 FROST RD	MANTUA	44255
31A427	STEINER, D & M		STAR RT. BOX 44	MILLERSBURG	44654
3184	STERRETT, AW	LABORATORY ANIMALS	2224 SAVOY AVE	AKRON	44305
31A220	STINEHELFER, M	MIKE'S RABBITRY MIKE'S PET SHOP	426 UNION AVE	BUCYRUS	44820
31A120	STUTZMAN, LE		BOX 41	MT HOPE	44660
31A414	SWORD, P A	SWORD RABBITRY	617 WOODS HOLLOW RD	CHILLICOTHE	45601
31B287	TROUT, S	TROUT'S PETS	5119 RANSON RD	SANDUSKY	44870
31A385	TURPIN, MR. & MRS. ED		RR 2 BOX 243	NEW PARIS	45347
31B422	USSHER, J G		8886 MC CARTY RD	WOODSTOCK	43084
31A291	VILLALOVOS, J		1-5790-16	WAUSEON	43567
31A410	WALLACE, R		4170 DUCHESS ROAD SW	CANTON	44675
31B386	WALLS, V		6085 RADFORD RD	ATHENS	45701
31A370	WENGERD, EJ	MAR-KAY KENNELS	BOX 5	MT HOPE	44660
31852	WENTE, J	BERT'S PET CT.	3232 GALLIA ST	NEW BOSTON	45662
31B344	WICKHAM, M & D	PETS UNLIMITED	212 CENTER ST	ASHLAND	44805
31B180	WILLOUGHBY, R & J	WILLOUGHBY RABBITRY	3804 S.R. 72 N	SABINA	45169
31A347	WILSON, CJ	CHRIS'S RABBITRY	7521 STAFFORD RD.SW	GREENFIELD	45123
31B255	WITCHEY, SR., JE	ROLLING VALLEY ANIMAL FARM	6670 NEWTON FALLS RD	RAVENNA	44266
31B374	WRIGHT, R & M	RED'S PETS & SUPPLY HOUSE	141 OVERMONT SW	MASSILLON	44646
31A256	ZIMMERLY, L		2527 E. MESSNER RD	WOOSTER	44691

OKLAHOMA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
73BZ	ABBOTT, B		RT 3 BOX 444	STILLWELL	74960
73A5	ABLES, G & J	JODY'S POODLE PARLOR	BOX 504	LINDSAY	73052
73CE	ADCOCK, G & C	G & C KENNEL	RT 2 BOX 1194	LOCUST GROVE	74352
73AA348	ALEXANDER, W		GEN DEL	QUAPAW	74363
73AA317	ANDERSON, OJ		RT 2 BOX 94	HULBERT	74441
73CF	ARMSTRONG, J & F		RT 2 BOX 172	WELLSTON	74881
73AA251	BACK, J & K	K'S KENNEL	RR 1	ADAIR	74330
73AA298	BACK, V & R		RT 1	ADAIR	74330
73AA870	BAILEY, T & J	HIDDEN VALLEY KENNELS	RT 2 BOX 106F	HULBERT	74441
73AA357	BAIRD, B		RT 2 BOX 157	PERKINS	74059
73AA274	BAKER, H & T		RT 3	EUFAULA	74432
73BR	BARNETT, CE	PINETREE KENNELS	RT 5 PLEASANT VIEW	PONCA CITY	74601
73AA327	BAUER, F & M		RR 1 BOX 199	MIAMI	74354
73AA272	BENSON, EC	BAREFOOT ACRES KENNELS	RT 2 BOX 445	BRISTOW	74010
73AA207	BENSON, J		RT 1	RALSTON	74650
73AA144	BLACK SACK HILL KENNEL		ROUTE 2 BOX 306	PONCA CITY	74601
73CH	BLACKFORD, C		RT 2 BOX 448	SALINA	74365
73AA295	BRADY, S	BRADY KENNELS	STAR ROUTE	EVANSVILLE	72729
73AA162	BRANTLEY, J		RT 2 BOX 471	SALINA	74365
73AA128	BUCHANAN, J	J & J KENNELS	316 N MAIN	MEDFORD	73759
73AA344	BUIE, L & D		RT 2	EUFAULA	74432
73AA179	BULLOCK, N	BULLOCK'S HILLTOP KENNEL	RT 2 BOX 549	BRISTOW	74010
73AA145	BURGESS, W	WAYNE BURGESS KENNEL	RT 1 BOX 134	BOKCHITO	74726
73AA338	BURNETT, R		ROUTE 1 BOX 16	MEAD	73449
73AA117	BURRIS, ON		RT 1 BOX 317	CLAREMORE	74017
73AA244	BUTLER, G		RT 1 BOX 246	QUAPAW	74363
73AA463	CADE, E		159 WAX WOOD	SANANTONIO	78216
73AA352	CAGLE, B		BOX 107A	SPAVINAW	74366
73AA288	CALDWELL, E & L	CALDWELLS ROUND MTN. KENNEL	RT 2 BOX 1041	SAND SPRINGS	74063
73AA301	CALDWELL, HE & SA	WOODCREST KENNEL	RR 2 BOX 1040	SAND SPRINGS	74063
73AA185	CALLICOAT, K		RT 5	ATOKA	74525
73AA218	CALLISON, R		RT. 2 BOX 102	PRYOR	74361
73AA264	CAMPBELL, J O JR	CAMPBELL'S KENNELS	RT 2 BOX 52	SPIRO	74959
73AA353	CANTRELL, P		RT 1 BOX 488	DEPEW	74028
73AA361	CARPENTER, K	KEITH CARPENTER RABBITRY	RR 1	THOMAS	73669
73AA021	CARTER, MJ		RT 7 BOX 346	CLAREMORE	74017
73AA159	CHAPMAN, EK		RT 2 BOX 88	PONCA CITY	74601
73AA334	CLOUD, C		RT 1	BLUEJACKET	74333
73AA316	COOMBES, P	MI-PAW KENNEL	RT 3 BOX 196D	MIAMI	74354
73AA226	COULTER, F & M	COULTER'S KENNEL	RT 1 BOX 70D	DOUGAH	74953
73AA173	CURL, C&R	3-C KENNELS	R 1 BOX 220	VINITA	74301
73AA336	DANIEL, P	DANIEL'S CHOWS	336 N BELL PO BOX 252	VINITA	74301
73AA113	DAVIS, MRS. M L		2112 W MAPLE	COLLINSVILLE	74021
73AA208	DAVIS, S		RT 1 BOX 21	BEAVER	73932
73AA240	DEBUSE, W & S	MARSHIRE KENNELS	RT 2 BOX 682	TISHOMINGO	73460
73AY	DECHANT, A	DECHANT'S LUV-A PET	ROUTE 2 BOX 449	GROVE	74344
73AA74	DEFOOR, NP & GN		RT 4	ATOKA	74525
73AA118	DESAUTELL, MR	LADY'S CIRCLE D	STAR RT 2	PRYOR	74361
73AA319	DEXTER, MJ & ROUNTREE, H		320 IVANHOE	PERRY	73077
73AA359	DOUGLAS, W	WEE POODLE AROUND	RT 2 BOX 13 SUNNYSIDE ACRES	LAWTON	73501

OKLAHOMA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
73AA180	DRY, MRS C	DRY'S POODLE SHOP	221 LAKE MURRAY DRIVE	ARDMORE	73401
73AA221	DRYDEN B & RYAN B	SKYLINE ACRES KENNELS	12706 TEAKWOOD	EDMOND	73034
73AA193	DUBOIS, H		BOX 5	SALINA	74365
73AA160	DUBOIS, R		STAR RT 2	SPAVINAW	74366
73AA36	ELSBERRY, T	STONY ACRES KENNELS	RT 2 BOX 153A	CHOUTEAU	74337
73AA390	ERWIN, LH	STILLWATER ANIMAL CLINIC	PO BOX 1126	STILLWATER	74074
73AA239	FAIRBANKS, P & J		BOX 97	KANSAS	74347
73AA321	FERGUSON, G		RT 1 BOX 63	VINITA	74301
73AA57	FOBES, AA	FOBES KENNELS	RT 1 BOX 255	BRISTOW	74010
73AA232	FUSTON, C	CHARLES FUSTON KENNEL	RT. 1 BOX 89A	ANTLERS	74523
73AA12	GAHAGAN, KC		RT 3 BOX 53R	DUNCAN	73533
73AA323	GLENN, S		RT 1	JAY	74346
73AA290	GORDON, H & T	GORDON'S PUPPY KENNEL	710 E TAHLEQUAH	VINITA	74301
73AA295	GRAY, M		RT 1	MCALESTER	74501
73AA64	GRAYBILL, EJ		RT 1 BOX 21	CAMERON	74932
73AA115	GRIFFITH, JH	CIRCLE G KENNELS	RT. 3 BOX 576	PRYOR	74361
73AA03	GRIGSBY, ML	MARYS KENNELS	512 A ST SW	MIAMI	74354
73AA195	GUTHRIE, K	GUTHRIE'S KENNELS	P.O. BOX 445	PRYOR	74361
73AA210	HALL, DL & ME	TRA MAR	RT 3 BOX 369	COLLINSVILLE	74021
73AI	HARDING, J		RT 3 BOX 237N	SEMINOLE	74868
73AA197	HARPER, S		RT 1	INDIANOLA	74442
73AA41	HARRIS, L		911 S DEWEY	WAGONER	74467
73AA237	HAWTHORNE, E & M	HAWTHORNE'S CASTLE FARM KENNELS	RT 1 BOX 117	RED OAK	74563
73AA182	HEREFORD M & HEATHERLY F		RT 2	NOWATA	74048
73BX	HESS, S	HESS KENNELS	RT 1 BOX 1269	OWASSO	74055
73AA304	HICKS, J	PIT BULL KENNELS UKC	STAR ROUTE 1 BOX 4	EUCHA	74342
73AA360	HICKSON, P J		RT 2 BOX 258	SAND SPRINGS	74063
73AA320	HOFFNER, P	SHADY LANE KENNELS	RT 3 BOX 127	WOODWARD	73801
73AR	HOLMAN, B	ROCKY-COR KENNELS	RT 1	ROCKY	73661
73AA228	HOPKINS, CW		RT 1 BOX 704	COPAN	74022
73AU	HORROX, EC	COVENTRY FORGE KENNELS	RD 2	INOLA	74036
73AA76	HORTON, M		R1 BOX 64	BOKCHITO	74726
73AA102	HOWELL, L		RT. 2	CORDELL	73632
73AA225	HOWELL, TL		917 MAPLE	ALVA	73717
73AA131	HUNT, L		R 1 BOX 176	DEWEY	74029
73AA351	HUNTER, I H		PO BOX 291	MULDROW	74948
73AA277	INGE, CF	SUNSET HILL KENNEL	R 1 BOX 103	SPIRO	74959
73AA342	JENNINGS, D & J		R 1 BOX 270	VINITA	74301
73AA254	JENSON, N&C	JENSON'S KENNELS	356 E. ZULKEY	SALLISAW	74955
73AA305	JOHNSON, G		BOX 623	WESTVILLE	74965
73AA263	JOHNSON, L	WAG-UN TAILS KENNEL	508 SO. MISSOURI	WAYNOKA	73860
73AA72	JOHNSON, O		RT 2 BOX 94	OKMULGEE	74447
73BT	JSR INC	ANIMAL HOUSE LTD.	7124 SO MEMORIAL	TULSA	74133
73AA204	KASPAREK, GM	KASPAREK'S KENNELS	RR 1	BURLINGTON	73722
73BF	KEESEE, J	K' KENNEL	809 E IRIS	HOBART	73651
73AA47	KIDDY, LA		2116 SALLIE	MUSKOGEE	74401
73BN	KISSELBURG, R & E	KISSELBURGS KENNELS	STAR RT BOX 180	VIAN	74962
73AA341	KLEEMAN, H & J		RT 2 BOX 104	RT 2 BOX 104	74361
73AA261	KNOTT, J & G	LAZY K KENNEL	ROUTE 2, BOX 342	LOCUST GROVE	74352
73AA303	KOON, K & D		704 E. TAHLEQUAH	VINITA	74301
73AA293	KORTHALS, L		RT 2 BOX 240	CHOUTEAU	77684
73AA337	LANE, N		RT 2	ATOKA	74525
73AA315	LANGSTON, BJ	BABE'S KENNEL	RT 2 BOX 457	SALINA	74365
73AP	LANGSTON, S	LANGSTON'S PUPPY RANCH	STAR RT E PO BOX 339	LOCUST GROVE	74352
73AA76	LAWSON, OE	SONNY'S OODLES OF POODLES	214 WEST STONEWALL	MCALESTER	74501
73BI	LINK, H W	AQUARIUM INTERIORS	5619 N WESTERN	OKLAHOMA CITY	73118
73AA282	LOCKRIDGE, J & S		7306 S. 33 W. AVE	TULSA	74132
73AA349	MALONEY, D		RT 1 BOX 220	PRYOR	74361
73AA278	MANN, J & D		RT 1	BLUEJACKET	74333
73AA335	MAYES, J & B		RT 2	VINITA	74301
73AA70	MCANULTY, MRS. C J		BOX 267	LEHIGH	74556
73AA129	MCCOY, AL	ANNIE DOG PATCH	RT 1 BOX 179A	DRUMRIGHT	74030
73AA322	MCDONALD, WM & J		PO BOX 26	GORE	74435
73AA312	MCGUIRE, W & T		RT 3 BOX 467A	BRISTOW	74010
73BO	MERRITT, N		403 WEST BRULE	BUFFALO	73834
73AA276	METHVEN, J P		RT 2 BOX 1042	SAND SPRINGS	74063
73AA356	MEYERS, D & L	DEVON KENNELS	STAR RT. 1 BOX 142	PRYOR	74361
73AA242	MILLER, D		1207 WEST KIAMICHI	HUGO	74743
73BW	MILLS, K & S	KEWAYLYN KENNELS & KINDLING	RT 1 BOX 118	ADAIR	74330
73AA347	MITCHELSON, J & D	J.D.'S KENNEL	PO BOX 1901	PEGGS	74452
73AA218	MOODY, D	MOODY'S BERRYHILL KENNEL	ROUTE 1 BOX 330	DRUMRIGHT	74030
73AA97	MOORE, OJ	KE-BON KENNELS	P.O. BOX 517	HENRYETTA	74437
73AA241	MOORE, WO & P		1005 N. OKLAHOMA	GUYMON	73942
73AA340	MUSTAIN, K & C		STAR RT. 1 BOX 127B	PRYOR	74361
73AA06	NEIL, M		BOX 253	WELCH	74369
73AA174	NEILL, L&A	CLEAR CREEK KENNELS	RT 1 BOX 148	WELCH	74369
73AA75	NORTON, L&H	NORTON KENNELS	ROUTE 1	LANE	74555
73AA354	O'ROURKE, B		RT 1 BOX 214	BARNSDALL	74002
73AA266	OVERALL, G & H		137 RANCH DR RR 4	PONCA CITY	74601
73AA251	PARKER, R		RT 2	ATOKA	74525
73AA358	PHILLIPS, E		RT 2 BOX 3	JAY	74346
73BB	PIERCE, C&L	CARLOU KENNELS	RT 2 BOX 354	COLLINSVILLE	74021
73CB	PLAIN, V	RED CARPET KENNEL	R.R. E BOX 34A	BEAVER	73932
73AA147	READY, F		HOTEL FRANKLIN BOX 220	MANGUM	73554
73AQ	REESE, MA	REESE'S KENNEL	RT 1 BOX 30	WATTS	74964
73BU	REYNOLDS, M	WILLOW POOL KENNEL	GENERAL DELIVERY	HUGO	74743
73BG	RICHARDS, P		RT. 1 BOX 110	HUGO	74743
73AA203	RICHMOND, W&A		1520 NORTH 68TH EAST AVE	TULSA	74115
73AA150	RILEY, JW	MOMMA KAT CHOW KENNELS	RR1 BOX 125	WAKITA	73771

OKLAHOMA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
73AA346	ROBERTS, R & O		BOX 246	STILLWELL	74960
73AA211	ROBERTS, S&S	PEEK-A-BOO KENNELS	ROUTE 2 BOX 16	EUFAULA	74432
73AA302	ROBINSON, R & I		RT. 1 BOX 107J	SOUTH COFFEYVILLE	74072
73AA343	ROSS, T & W		PO BOX 165	SOUTH COFFEYVILLE	74072
73AA34	SARTIN, RD	TSARIN KENNEL	RT 1 BOX 73	SEDAN	67361
73AA296	SCHAEFER, J		RT 1 BOX 71	WELCH	74369
73AA194	SCHMIDT, F, P & S		RT. 2 BOX 1196	LOCUST GROVE	74352
73AA259	SCHROEDER, P		RT 1 BOX 256	PERKINS	74059
73AA271	SCHWEITZER, E		RR 5	VINITA	74301
73CC	SELF, J & L	JOE'S FISH & PETS PETSHOP	631 SOUTH 9TH	DURANT	74701
73AA266	SHEPHERD, B	STATE LINE KENNEL	RT 2 BOX 70	GAGE	73843
73AA329	SHUMATE, E	ROWDY-O-KENNEL	RT 1 BOX 403B	CLAREMORE	74017
73AA201	SIMPSON, M		STAR ROUTE SOUTH BOX 114D	LOCUST GROVE	74352
73AA331	SIMPSON, V L		RT 2 BOX 1054	LOCUTS GROVE	74352
73AA35	SLAPE, P		RT 1 BOX 6	BRAGGS	74423
73BQ	SMITH, L	SMITH'S KENNEL	ROUTE 1 BOX 54	WESTVILLE	74965
73AA345	SOLOMON, J		RT 1 BOX 334	CAMERON	74932
73AA306	SPEARS, K & R		RT 3 BOX 178	TAHLEQUAH	74474
73AA15	SPRINKLES, L		RT 2 BOX 351	BIXBY	74008
73AA316	STAMBAUGH, M		RT 3 BOX 165	WOODWARD	73801
73AA287	STAMPS, W & M	STAMPS DACHSHUND KENNEL	RT #1 BOX 88A	PRYOR	74361
73AA300	STILES, L & J	PRAIRIE BELL KENNELS	RT 1 BOX 109-C	SPIRO	74959
73AA381	THOMAS, B	BONNIE THOMAS KENNELS	ROUTE 4 BOX 47	OKEMAH	74859
73AA275	THOMAS, CJ		RT 2 BOX 117	SKIATOOK	74070
73AA148	THOMAS, HM	CALAMITY KENNELS	BOX 614	HOOKER	73945
73AA330	THOMAS, J B	THOMAS HILLTOP KENNELS	R2 BOX 106A	PRYOR	74361
73AA170	THOMASON, A&V	GREEN COUNTRY KENNELS	RT 1 BOX 206	SALLISAW	74955
73BL	THOMASON, L W	OAK RIDGE KENNELS	P.O. BOX 963	SALLISAW	74955
73AA257	THOMPSON, HA		RT 3 BOX 570	BROKEN ARROW	74012
73CI	THOMPSON, L D	THOMPSON SMALL ANIMALS	416 BETTY LN.	MIDWEST CITY	73110
73BE	TUCKER, MRS. L	TIDBITS OF THE TIBET KENNEL	RT 2 BOX 71	ELKHART	67950
73CD	U.S. AQUATICS		2550 W-1-40	OKLAHOMA CITY	73108
73AA310	VANDERPOOL, A & M	AL'S RABBIT HUT RABBITRY	3031 SW 14TH	OKLAHOMA CITY	73108
73AA354	WADLEY, M		RT 2	JAY	74346
73AA363	WAGNER, L J	VALLEY KENNELS	RT 2 BOX 719	CLAREMORE	74017
73BY	WALKER, E L		RT. 5 BOX 92C	SHAWNEE	74801
73AA209	WALKER, ED		304 S.E. 2ND	MARIETTA	73448
73AA307	WEATHERSPOON, A		BOX 397	COPAN	74022
73AA291	WEAVER, M		RT 2 BOX 110	PRYOR	74361
73AA89	WEBSTER, EM		BOX 564	BARNSDALL	74002
73AA16	WEEKS, FF		RT 1	WESTVILLE	74965
73AA187	WICKHAM, W		STAR RT. BOX 138	KANSAS	74347
73AA222	WILLIAMS, C	CLARA'S KENNELS	RR 1	FREEDOM	73842
73AA328	WILLYARD, B & V	POOR BOY KENNEL	RT 2 BOX 111H	PRYOR	74361
73AA326	WILSEY, C		ROUTE 1 BOX 42	STILLWELL	74960
73AA294	WISHARD, M		1100 INDUSTRIAL	SAND SPRINGS	74063
73AA333	WOMACK, B		RT 1	MORRISON	73061
73AA355	WOODARD, M		RT 1 BOX 490	DEPEW	74028
73AA313	WRIGHT, H & D		BOX 215	WYNONA	74084

OREGON

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
92A48	ADNEY, RR		PO BOX 340	HUBBARD	97032
92A114	ANDERSON, G		89469 FIR BUTTE RD	EUGENE	97402
92A26	APLET, F		39141 GOLDEN VALLEY DR	LEBANON	97355
92B21	BAILEY, JL & PK	BAILEY ENTERPRISES	4716 HWY. 238	JACKSONVILLE	97530
92A71	BARROWCLIFF, ER		RT. 1 BOX 528	HUBBARD	97032
92A147	BLOMQUIST, G		1227 RIFLE RANGE RD	ROSEBURG	97470
92B31	BOYD, RA & RC	BOYDS PET SHOP	5540 E BURNSIDE ST	PORTLAND	97215
92A124	BOYER, RN		6331 VENTURA LANE	CENTRAL POINT	97502
92A128	BROWNE, R	BEAU COEUR KENNEL	1695 QUEENS BR. RD	ROGUE RIVER	97537
92A140	BROWNING, J		PO BOX 197	CANYONVILLE	97417
92A166	BUCKHAULTS, M		1015 NE KLAMATH AVE	ROSEBURG	97470
92B79	BUCKLEY, R & P	PET AND POND	14405 SW PACIFIC HWY	TIGARD	97223
92B27	CAMPBELL, S	SCOTTY'S ROADSIDE ZOO	19700 SO. END RD	OREGON CITY	97045
92A174	CHILDERS, J & F		1766 BROWNSBORO-MERIDIAN RD.	EAGLE POINT	97524
92A52	CLARK, A&P	UMPQUA KENNELS	STAR RT BOX 120A	UMPQUA	97486
92A168	COLE, S K		2460 W IRWIN WAY	EUGENE	97402
92A5	CONNER, BA	MEE JAE KENNELS	2560 KINCAID RD	WILLIAMS	97544
92A26	CRAWFORD, PA		6800 RED PRARIE RD	SHERIDAN	97378
92A52	CRIST, LE		2150 16TH ST.	BAKER	97814
92A165	DANIELS, M & MAHONEY, S	SAMPICO KENNELS	333 WESTVIEW DRIVE	ROSEBURG	97470
92A155	DAVID, M	LONE PINE KENNELS	1417 NE RIFLE RANGE RD	ROSEBURG	97470
92A33	DURRELL, RM	CHERRY HILL KENNEL	2160 AIRPORT RD	PHILOMATH	97370
92B85	EMBURY, H		13345 N. APPLEGATE	GRANTS PASS	97526
92A144	FITHIAN, L E	FITHIANS FERRETS	89591 SUTTON LAKE RD.	FLORENCE	97439
92A146	FLEGAL, J		BOX 231	GRANDE RONDE AGENCY	97347
92B44	FULLERTON, H & D	OLD MAC DONALDS FARM	RT 1 BOX 296	SHERIDAN	97378
92A130	GARRETT, MRS. D		2116 HERBERT ST.	KLAMATH FALLS	97601
92A160	HANNEMAN, MIKI	SAUSAGE STABLES	456 E VILLAS RD	CENTRAL POINT	97502
92A7	HANSEN, C	HANSENS KENNEL	1070 LOCKWOOD RD.	ROSEBURG	97470
92A169	HANSON, MR. & MRS. DAVID L		65815 BEND - REDMOND HWY	BEND	97701
92B64	HART, M E	HYDRIAS DEN	2148 N. KILLINGSWORTH ST.	PORTLAND	97217
92A170	HARTLEY, R	RINGO ROCK RANCH	27642 S RINGO RD	MULINO	97042
92A133	HERTEL, V & C	VANHER RABBITRY	RT. 2 BOX 238-H	FOREST GROVE	97116
92B50	HICKEY, JW		36320 HWY 34	LEBANON	97355
92A35	HOWLETT, GJ	ROXIE-ROGUE KENNEL	3835 CRATER LAKE HWY	MEDFORD	97501

OREGON—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
92B75	HURD, B	BISON-TEN-YAL FARMS	485 W. 12TH	JUNCTION CITY	97448
92B72	JOHNSTON, BJ		312 N. 10TH AVE	CORNELIUS	97113
92A161	JOHNSTON, R & H	ROBLEN KENNELS	4925 TIOGA WAY	CENTRAL POINT	97502
92A50	KILMER, R&V	DOUBLE V KENNEL	4966 DELANEY RD SE	SALEM	97302
92A84	KIRKPATRICK, MC	LE-PEUPLE'S TOY POODLES	258 CRESTVIEW LOOP	GRANTS PASS	97526
92A121	KOLB, CH & M	FIR TREE RABBITRY	25126 SW GAGE RD	WILSONVILLE	97070
92A90	KRAMER, D	PUR-FECT CAT HAVEN	2312 S PACIFIC HWY	TALENT	97540
92A149	KRUSE, P		505 PECO RD	GRANTS PASS	97526
92B66	LACKEY, C	RON DEL KENNELS	5358 SO PACIFIC HWY	MEDFORD	97501
92A18	LAMBERT, M	MARY LAMBERT KENNEL	P.O. BOX 358	MERLIN	97532
92A171	LINDGREN, B	LINDGREN KENNEL	8466 ANTELOPE ROAD	EAGLE POINT	97524
92A154	LIVELY, S	NO-NAME KENNEL	SOUTH MYRTLE RT BOX 208	MYRTLE CREEK	97457
92B77	LIVINGSTON, B & V	BUDS BUNNY RANCH	3362 CORDON RD NE	SALEM	97303
92B81	LONG, L & H	LIL CRITTERS PET CENTER	312 E FIRST	NEWBERG	97132
92A57	MARTIN, FE		920 TOLMAN CREEK RD	ASHLAND	97520
92A167	MCCUBBINS, F	GLACIER SPRINGS FARM	43474 AMES CREEK DR	SWEET HOME	97386
92A131	MCDONALD, D	TRIPLE TALISMAN KENNEL	1001 BARLYNN	MEDFORD	97501
92A81	MESSINGER, FD	WEEPING BIRCH KENNEL	PO BOX 191	TALENT	97540
92B67	MILHOAN, ML	ROGUELAND KENNEL	1272 GIBBON RD	CENTRAL POINT	97502
92B28	MILLER, PA	ALOHA KENNEL & CATTERY	2525 NW CORNELIUS PASS RD	HILLSBORO	97123
92A163	MINEAR, D	TIBETIAN SHIH TZU	123 ROSEWOOD	GRANTS PASS	97526
92B47	MOL ENTERPRISES, INC		PO BOX 25346	PORTLAND	97225
92B53	MONARCH SEED & FEED CO	BIG Y GARDEN CENTER	1946 N. PACIFIC HWY	MEDFORD	97501
92A39	NELSON, DJ	EIREANN KENNEL	TOKETEE RT. BOX 67A	IDLEYLD PARK	97447
92A157	NICHOLS, C & W	OAK CREEK KENNELS	11232 N. UMPQUA HWY	ROSEBURG	97470
92A173	OXLEY, L T	THE RABBIT TREE	7819 SE WOOSTOCK BLVD	PORTLAND	97206
92B76	PAUL, C & B	NORTHWEST PET SUPPLY	PO 305	BORING	97009
92B13	PINNEY, R	PINNEYS KENNEL	6702 WESTSIDE ROAD	CAVE JUNCTION	97523
92A152	POTTER, S & B		38090 RICHARDSON GAP RD	SCIO	97374
92B24	RAMSEY, BI	RABBIT RESOURCES	5437 MAIN ST	SPRINGFIELD	97477
92A129	RANDLES, MRS. Z		116 S. HILLTOP RD	TALENT	97540
92A93	RINEAR, R&M		11500 REDWOOD HWY PO BOX 262	WILDERVILLE	97543
92A122	ROBERTS, S & PIAZZA, K	HIGH OAKS KENNEL	RT 3 BOX 3967 B	ROSEBURG	97470
92A143	SCHAECHER, C & G	GAY-LEN'S EROTIC FELINE FARM	10715 SE ORIENT DR	BORING	97009
92B11	SHERWOOD, CL	SHERWOOD KENNELS	6421 CAROLINA DRIVE	CENTRAL POINT	97502
92B78	SHIMANOFF, LT COL & A	ADELE'S ADORABLES	3490 SO RIVER RD	GRANTS PASS	97526
92A138	SILVA, M & F	SILVA'S HALF PINE RABBITRY	12411 S.E. STEELE ST	PORTLAND	97236
92A113	SMART, J&E	SMART'S KENNEL	PO BOX 91	KENO	97627
92A106	SMID, H & E		88472 DEMMING RD	ELMIRA	97437
92A62	SMITH, WD JR	SMITH KENNELS	38943 ALMEN DR	LEBANON	97355
92B68	SPIVEY, M A & E	MT RUEBEN KENNELS	BOX 112 MT. REUBEN RD	GLENDALE	97442
92A96	STEWART, JM	PEKING DRAGON RANCH	5715 BEAGLE RD	CENTRAL POINT	97502
92A36	STOUT, FM	SUNDRIFT RANCH	RT 1 BOX 172	ALSEA	97324
92A72	SULLIVAN, C&N	SULLYS BOARDING - GROOMING KENNELS	7901 WASHBURN WAY	KLAMATH FALLS	97601
92A129	THOMAS, PJ	NICKLE MT. KENNEL	PO BOX 422	RIDDLE	97469
92A85	WALKER, NL		404 SANDSTONE LN	COOS BAY	97420
92A120	WARD, MH		PO BOX 149	GOLD HILL	97525
92A154	WEBER, MR & MRS F	DEERGARDEN FARMS	RT. 2 BOX 1230	CORBETT	97019
92A162	WENCL, J & J	J WENCL AND ASSOCIATES	2035 AUBURN STREET	KLAMATH FALLS	97601
92A172	WHITAKER, R	GENRU KENNELS	1959 FRUITDALE DR	GRANTS PASS	97526
92B34	WHITESIDE, J & L	HAMSTER FACTORY	29233 S. EL RANCHO	MOLALLA	97038
92A2	WILLIAMS, J	LAUREL ACRES KENNEL	9680 BLACKWELL RD	CENTRAL POINT	97502
92A1	WILSON, RD	WILLOGLEN KENNEL	34060 ADLER LANE	CRESWELL	97426
92B83	WIRTH, M & R	JOHNSON CREEK RABBITRY	RT 4 BOX 1694	GRESHAM	97030
92A153	WIT, K		7065 RED PRAIRE RD	SHERIDAN RD	97379
92B86	WRIGHT FAMILY FARMS		3686 WINONA RD	GRANTS PASS	97526
92B82	WRIGHT, GEORGE & KERRI		RT 1 BOX 66	KINGS VALLEY	97370

PENNSYLVANIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
23DY	ACE ANIMALS INC		RD 1 P.O. BOX 122	BOYERTOWN	19512
23A37	ALLGYER, S&R		RD 1 BOX 329	GAP	17527
23AT	BENDER, S&A		STAR ROUTE	SPRINGS	15562
23CL	BIO-MEDICAL ASSOCIATES, INC		PO BOX 46	FREDERICKSBURG	17033
23GH	BLANTZ, G E	VALLEY VIEW KENNEL	RD 1 BOX 645-B	ANNVILLE	17003
23DL	BRENNEMAN, S		RD 1 BOX 304	SALISBURY	15558
23BL	BUCKSHIRE CORPORATION		2925 RIDGE RD	PERKASIE	18944
23A108	BURKHOLDER, PAUL M	TALL CEDARS KENNEL	RD 4 BOX 878	EPHRATA	17522
23GJ	CABLE, LARRY	LA-MAR KENNELS	RD 2 BOX 197	BROOKVILLE	15825
23EA	CANNON, GE	CANNON FARMS	PO BOX 3627	READING	19605
23GA	CLARK, B		BOX 284 RD #1	SCOTTDALE	15683
23GB	COCALICO WOODCHUCK FARMS		BOX 157A RD 1 WHITEHALL RD	REINHOLDS	17569
23A54	CUTRELL, O		R 1 BOX 254A	SCOTTDALE	15683
23A1	DEPTA, MA		RD 1 BOX 117	SCOTTSDALE	15683
23FF	DONEY, S&A	STEPHANIE'S RABBITRY	RD 1 BOX 83	SMITHTON	15479
23A103	DUHON, F		BOX 114	CHESNUT RIDGE	15422
23CH	DUTCHLAND LAB ANIMALS, INC		BOX 139-A SWAMPBRIDGE RD	DENVER	17517
23A35	EILER, HH		441 E NEW CASTLE ST	ZELIENOPLE	16063
23BJ	ESPOSITO, S	QUAKER FARM KENNELS	RD 1 BOX 137A	QUAKERTOWN	18951
23A87	FABER, U	FABER'S RABBITRY	RD 3	HONEY BROOK	19344
23EX	FEDERATED MEDICAL RESOURCES		RD 2 BOX 74	HONEY BROOK	19344
23EJ	FERGUSON, RW	FERGUSON'S RESEARCH SUPPLY	RD 4	DOYLESTOWN	18901
23GK	FISANICK, M	KUDDLY K-9 KENNEL'S	RD 1 BOX 52AA	PATTON	16668
23A76	FOEKS, AR & CR	LOWER BURRELL 15068	209 MILLERS LANE	LOWER BURRELL	15068
23FR	FRYE, H			HOLSBROOK	15341
23CO	GINGRICH, H	GINGRICH ANIMAL SUPPLY	RD 1 BOX 435	FREDERICKSBURG	17026

PENNSYLVANIA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
23GI	GOSSERY, H		1 RT 340	GAP	17527
23GE	HAIDUK, W & SCHOBER, F	EASTERN ANIMAL DISTRIBUTOR	54 WEST MAIN ST	MOUNTVILLE	17554
23BB	HAYCOCK KENNELS INC		APPLE RD. R. D. NO. 4	QUAKERTOWN	18951
23A77	HELF, N		PO BOX 729	QUAKERTOWN	18951
23A116	HEMINGER, B & WEIMER, S	H & W RABBITRY	RD 1	SOMERSET	15501
23GD	HERMAN, AM	GROFFDALE KENNEL	RD #3 BOX 714	NEW HOLLAND	17557
23A91	HILLEGAS, L S		BOX 131	KULPSVILLE	19443
23CJ	HILLTOP LAB ANIMALS INC		RD 1 PO BOX 195	SCOTTDALE	15683
23A25	HIX, EK		RD 1 BOX 143A	HAMBURG	19526
23BV	HOCKENBERRY, C	PERRY VALLEY KENNEL	RD 1	BLAIN	17006
23A113	HOFFER, WILMA		RD 2	LIGONIER	15658
23A101	HURST, A	SLEEPY HOLLOW KENNELS	BOX 436	EAST EARL	17519
23BM	HUTTON, RB		713 APPLE WAY RD.	ST THOMAS	17252
23A75	KEATON, SA		RD 1 BOX 178	MASONTOWN	15461
23A81	KING, WA		RD 1 BOX 343	WORTHINGTON	16262
23DB	KINSINGER, DS		RD 1 BOX 48	MEYERSDALE	15552
23A3	KINSINGER, HR		ROUTE 1 BOX 226-A	MEYERSDALE	15552
23AW	KINSINGER, I & A		R 1 BOX 235	MEYERSDALE	15552
23A79	KNEPPER, RS		605 W. LISBORN RD.	MECHANICSBURG	17055
23FW	KRESSLY, A P	TAMARACK FARMS	BOX 8	LYNNPORT	18061
23A94	LAPP, J K JR	LAPP'S QUALITY PUPPIES	NO. 1 BOX 428	NEW HOLLAND	17557
23A110	LAPP, S S		3194 S HARVEST DRIVE	RONKS	17572
23A111	LATTA, N & WITHERS, L	GREEN MEADOWS RABBITRY	5245 LOGANS FERRY	MURRYSVILLE	15668
23A53	LONG, G & E		RT 2 BOX 180A	ZIONSVILLE	18092
23BZ	LOWREY, J C	DALMATIAN RESEARCH FOUNDATION.	720 WOODBERRY RD	YORK	17403
23A90	LUDWICK, M & D	DEE-MAR RABBITRY & WORM FARM.	5991 DAVIDSBURG RD.	DOVER	17315
23GM	MARTIN'S AQUARIUM, INC		101 OLD YORK ROAD	JENKINTOWN	19046
23A34	MCCARTHY, JE & CD	MCCARTHY'S COMMERCIAL RABBITRY.	RD 3 BOX 448	CONNEAUT LAKE	16316
23A78	MEADOWCROFT, J		P O BOX 139	CLAYSVILLE	15323
23A112	MILLER, R		BOX 218 RD 1	SCOTTDALE	15683
23A49	MISTRETTA, S & E	TWIN MOUNTAIN RABBIT FARM	RR 1 BOX 102B	PALMERTON	18071
23A96	NOLT, M		RD 1	EAST EARL	17519
23A58	NOLT'S PONDS INC		3706-12 QUARRY RD	SILVER SPRING	17575
23EY	PEACHEY, EI		RD 2 BOX 291	HUNTINGDON	16652
23EG	PENNABECKER, W	PEN DUTCH LAB ANIMALS	536 S 4TH ST	DENVER	17517
23DG	PERFECTION BREEDERS, INC		PO BOX 75	DOUGLASSVILLE	19518
23FS	PRICE, DF	FISH DIMENSIONS	358C WHITESTOWN RD	BUTLER	16001
23A104	RANDOLPH, J		554 ROSS ST.	WAYNESBURG	15370
23AY	REICHERT, CF		ROUTE 2	BOYERTOWN	19512
23DO	RESEARCH ANIMALS INC		P.O. BOX 501	BRADDOCK	15104
23A41	RITENOUR, LV		457 REIDMORE RD	SO CONNELLSVILLE	15425
23CS	ROCKLAND, INC		P.O. BOX 316	GILBERTSVILLE	19525
23A114	ROOKEY, WLM. & ELIZABETH	STONE BRIDGE FARM		GILBERTSVILLE	19525
23A89	ROEDEL, C		BOX 136 STATE RD	COOPERSBURG	18036
23CC	ROTZ, BK		RD 2	SHIPPENSBURG	17257
23EU	RUPERT, B	TIMBERLEA KENNELS	RD 1 BOX 519	YORK HAVEN	17370
23A71	SACKS, L	SACK'S FARM	RD 3	EVANS CITY	16033
23FY	SADLER, S G JR.	PUPPY LOVE KENNELS	6084 NASSAU RD	PHILADELPHIA	19151
23ES	SCHILL, GV	THE HOP SHOP	3823 NEW TEXAS RD	PITTSBURGH	15239
23A93	SCHOBER, J	DUTCH HAMSTERS	419 NEVIN ST.	LANCASTER	17603
23A115	SGARLAT, J & E	S & S ASSOCIATES	P.O. BOX 141	HARVEY'S LAKE	18618
23GN	SHEAFFER, A L		RD 2 BOX 165	MCVEYTOWN	17051
23A97	SHIRK, J		RD 1	LEOLA	17540
23CU	SHOWVAKER, G & M	BUNNYVILLE FARM	RD 2 BOX 404	LITTLESTOWN	17340
23AF	SMITH, GJ & FERGUSON, R	BEDMINSTER RABBITRY	PO BOX 16	BEDMINSTER	18910
23FN	SMITHKLINE CORPORATION		1500 SPRING GARDEN ST	PHILADELPHIA	19101
23A105	STOLTZFUS, ABE P		RD 1 BOX 54	GAP	17527
23BH	THREE SPRINGS KENNEL CO INC		RD 1 KILGORE RD.	JACKSON CENTER	16133
23AR	TODD, H		RD 4 BOX 331	BELLE VERNON	15012
23A16	TRINKA, GL	SCIENTIFIC BREEDERS	229 GREEN ST	SELLERSVILLE	18960
23DI	UNRUH, RH	SKIPPACK FARMS		SKIPPACK	19474
23EZ	WALNEY, VW & F	VAL & FRAN'S BUNNY FARM	RD 1 BOX 233A	KENNERDELL	16374
23EL	WEAVER, CZ	SCHOENECK LABORATORIES	RD #2	EPHRATA	17522
23A107	WERNER, PAUL		RD 2 BOX 396	MT JOY	17552
23A99	WERTZ, J		BOX 29	STRASBURG	17579
23GL	WETHERELL, G	WETHERELL MEALWORMS	12 SHEFFIELD DR.	DILLSBURG	17019
23A68	WHALEN, T		BOX 415 RD 1	BARNESVILLE	18214
23AA	WHITE EAGLE LABS INC		2015 LOWER STATE RD	DOYLESTOWN	18901
23FO	WRIGHT, B&C	WRIGHT'S PLOTT KENNEL	RD 3 BOX 281	DOVER	17315
23A4	YODER, J		421 WOODLAWN AVE	MEYERSDALE	15552
23A106	YODER, K		RT 1 BOX 110	MEYERSDALE	15552
23A73	YODER, M&C		RD 1 BOX 104	GRANTSVILLE	21536
23BI	ZARTMAN, MU	ZARTMAN'S FARMS	355 TOLL GATE RD.	DOUGLASSVILLE	19518
23CE	ZARTMAN, MU	GILBERTSVILLE SALES STABLES	3 TOLL GATE RD	DOUGLASSVILLE	19518
23A98	ZIMMERMAN, A	ZIMMERMAN'S KENNEL	R 2	EAST EARL	17519
23A100	ZIMMERMAN, ALLEN		RD 1 BOX 219	EAST EARL	17519
23A109	ZIMMERMANN, DAVID M		RD 3 BOX 35	EPHRATA	17522
23A44	ZOOK, A		R 1 BOX 249	MEYERSDALE	15552
23AU	ZOOK, F		R 1 BOX 249	MEYERSDALE	15552

PUERTO RICO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
94B60	ALVARADO, A E	MUNDO PECES	CALLE LA TORRE BLQ-EE NO. 18	CAROLINA	00630
94B23	CASA AGRICOLA ARECIBO, INC		CERVANTES NO 50	ARECIBO	00612
94E28	DE VICTORIA, DL	TAINO PET SHOP	JUAN PENA REYES ST. 820 VILLA	RIO PIEDRAS	00924

PUERTO RICO—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
94B9	DOMINQUEZ, GR	ARECIBO PET SHOP	312 PEREZ FREYTES ST	ARECIBO	00612
94B70	FELECIANO, MIGUEL A	CASAA RICOLA AVICENTRO DEL CARIBE	P.O. BOX 644	AHASCO	00610
94A6	FLORES-DIAZ, I	GRANJA LOS NIETUS	BZ 286 BO JAGUAS	GURABU	00656
94B10	FOY, V & TORRES, M	SANTURCE PET & HOBBY SHOP	PONCE DE LEON 1501 STOP 22	SANTURCE	00906
94B34	FUSTER RIVERA, A	EXOTICO PET SHOP, INC.	PINERO AVE #286 HYDE PARK	RIO PIEDRAS	00618
94B44	GEIGEL, LE	ANIMAL WORLD	MAYAQUEZ ST NO 42	HATO REY	00917
94B47	GLOBAL PET SUPPLIES, INC.		P.O. BOX 29821 65TH INF. STA.	RIO PIEDRAS	00929
94B27	GONZALEZ, M		PO BOX 171	ST JUST	00750
94B39	GONZALEZ, MP	TROPI-FUANA PET CT	CALLE FERNANDO G. LEDESMA NO.8.	RIO PIEDRAS	00924
94A9	GRANJA SHANGRI-LA		BO JAGUAS LOMAS CARR 942 KM 3.	GURABO	00658
94B56	LA-JUNGLA AQUARIUM & PET SHOP	LA JUNGLA AQUARIUM/PET SHOP.	DOMENECH 284	HATO REY	00918
94B4	LUZON SERRE, MA	COUNTRY CLUB PET SHOP	GJ-3 COUNTRY CLUB AVE	CAROLINA	00630
94B57	MONLLOR & BOSCIO, INC.	CASA PURINA CAGUAS	PO BOX 63	CAGUAS	00625
94B8	MURPHY, A	SUPER BIRDS PETS	ST. 23 BL. N7, ALTURAS DE FLAM	BAYAMON	00619
94B66	NIEVES, NESTOR A		BARRIO SANTANA, BUZON 101-A	ARECIBO	00612
94B63	PADILLA, DOMINGO FEBLES	BONNEVILLE AQUARIUM	CALLE 39 VV 15 BONNEVILLE HEIG	CAGUAS	00625
94B20	PALACIOS, I & ALLONGO, M	ISLA VERDE PET SHOP	PO BOX 1951 HATO REY STA	HATO REY	00919
94B35	PEREIRA, P	PONCE PET CENTER	BARGAIN TWN BLDG L #4	PONCE	00731
94B69	PHOEBUS, E & VALERIOTE, M	PRIMATE RECLAMATIONS OF PUERTO RICO.	HWAY 305 KM2 PARGUERA	LAJAS	00667
94B38	PONCE, RA	ALERS AQUARIUM	DR. JIMENEZ99	MAYA GUEZ	00706
94A4	RAMOS-PEREZ, M		PARCELAS NAVAS CALLED NO. 87.	HATO ARRIBA ARECIBO	00612
94B24	RAMOS, DV		BUZON 730 SECTOR CRUZ ALEMAN.	TRUJILLO ALTO	00760
94A7	RENTAS, F P	ROBIN RABBIT FARM	PO BOX 5677	CAGUAS	00625
94B34	RIVERA, FJ	CAMPO ACUARIO	RR 3 BUZON 76	SAN SEBASTIAN	00755
94B62	RODRIGUEZ, R	RH PET SUPPLY	JARDINES VALENCIANO A-5	JUNCOS	00666
94B67	SAN JOSE SELF SERVICE INC.	CASA DEL AGRICULTOR	PARQUE EESQ VALLEJO 153	RIO PIEDRAS	00925
94A8	SANCHEZ-COLON, D		BO CALABAZAS BUZON 481-17	YABUCOA	00767
94B22	SANTIAGO, JA	CUTE GROOMING SALON & PET CENTER.	1712 PARINA ST	RIO PIEDRAS	00926
94B71	SANTIAGO, O	CASA PURINA & PET SHOP	P.O. BOX 716	GUAYAMA	00655
94A10	SENANO, JOSE		CALLE KENNEDY A-32	CAGUAS	00625
94B1	SUPER PET CENTER INC.		SAN PATRICIO SHOPPING	COVAR	00922
94B42	VELAZQUEZ, E	CARIBBEAN PETS	BH-24 114ST. JARDINES C. CLUB	CAROLINA	00630

RHODE ISLAND

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
1589	A & K ENTERPRISES INC.		RFD 1 SKUNK HILL RD	HOPE VALLEY	02832
1583	BURKE, JL	SHANGRI LA KENNELS	BOX 7103	JOHNSTON	02919
15B12	FONSECA, A		114 PHILLIPS ST	WOONSOCKET	02895
15B11	LACHAPELLE, K & MEVNIER, E	LACHAPELLE'S RABBITS	6 LEDGEMONT DRIVE	LINCOLN	02865
1585	RUMFORD AQUARIUM, INC		22 FIRST STREET	EAST PROVIDENCE	02914

SOUTH CAROLINA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
5682	ALEXANDER, WT	A&A PET & SUPPLY DISTRIBUTOR	1208 REYNOLD ST	GREENWOOD	29646
56A15	ASHLEY, L		602 GLENWOOD AVE	ANDERSON	29621
5686	CAROLINA TROP FSH & SUPP INC.		1326 MIDDLEPEN DR. S.E.	ORANGEBURG	29115
56B22	CARVER, G		RT 3 BOX 664	SPARTANBURG	29301
56A6	COOK, LJ & H	COOK'S RABBITRY	RT 2 BOX 235	BARNWELL	29812
5685	DANN, AL		1500 OLD TOWNE ROAD	CHARLESTON	29407
56B12	DEAN, FW	TRAVELERS REST PET & SUPPLIES.	33 HENDERSON DR	TRAVELERS REST	29690
56A3	HAYES, NW		ROUTE 1	PELION	29123
56A18	KREBS, J & A	ANIMAL FRIENDS	BOX 225	RION	29132
56A13	MCGEE, G	SUMMITT PET FARM	RT 3 BOX 413	LEESVILLE	29070
56B18	MEEKS, D	M & M PET FARM & ZOO	RT 1 BOX 354	WELFORD	29385
5685	MEEKS, DR	M & M ZOO	RT 1 BOX 351	WELLFORD	29385
56A17	MONTGOMERY, J L		RT 2 BOX 367	GROVER	28073
56B20	RIVERS, D	INTERNATIONAL REPTILE EXCHANGE.	PO BOX 67	CHESTERFIELD	29709
5683	TERRY, A	ALLEN TERRY'S WILDLIFE PETS	420 STEVENS ST.	SOUTH GREENWOOD	29646
56A7	VINCENT, FM	VINCENT'S RABBITRY	RT 1 BOX 460	BONNEAU	29431

SOUTH DAKOTA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
46A104	AHRENDT, B			MURDO	57559
46A61	ASSMUS, JR, R		BOX 44	STICKNEY	57375
46A99	AUCH, JEANNIE M	AAY JAY CATTERY	RR 2 BOX 150 A	MENNO	57045
46A54	BORNS, G		RR 1	DELL RAPIDS	57022
46A93	BRANDNER, J		613 E 2ND ST	REDFIELD	57469
46A102	BRONDSEMA, E & S		RR 1 BOX 125	PLATTE	57369
46A101	BUCKLEY, ALETA		RT 1 BOX 37	BUFFALO	57722
46A11	CARMODY, S		RR 5	MILLER	57362
46A72	CLEMENS, D & B		RR 1	WAGNER	57380
46A76	CREAMER, D		RR 1 BOX 40	CHAMBERLAIN	57325
46A93	DE LANGE, J	DELANGE'S KENNEL		CORSICA	57328
46A28	DECKERT, RJ			MARION	57043
46A52	DITHMER, LM	PASS CREEK KENNELS		WAKEFIELD	57577

SOUTH DAKOTA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
46A46	DOERING, R & S	PONDEROSA KENNELS	RR 3	MITCHELL	57301
46A79	DUBOIS, D & S	KOUNTRY KENNEL	FT 1 BOX 109	DIMOCK	57331
46A88	FELZ, H & B & I		BOX 95	BUFFALO GAP	57722
46A89	FINKBEINER, L		RT 2 BOX 94	ROSCOE	57471
46A35	FISCHER, MRS D	WAPPEN KENNEL		MT VERNON	57363
46A61	FROHREICH, W & B	FROHREICH KENNELS	RT. 2 BOX 369	YANKTON	57078
46A70	GRUENEWALD, D			NEW HOLLAND	57364
46A85	HECKENLAIBLE, G			FREEMAN	57029
46A80	HOFFMAN, K C	DOCATA KENNELS		HARRISBURG	57032
46A72	HOLLEMAN, L			HARRISON	57344
46A103	HOOVER, G & C	PINE-HO KENNEL	BOX 301	PARKER	57053
46A91	IRWIN, P			ARDMORE	57715
46A74	JOHNSON, J & S	SIOUXLAND SHELTIES	RR 1 BOX 43A	BALTIC	47003
46A67	JORGENSON, KL & G	GREENLEAF KENNEL	BOX 85	WAUBAY	57273
46A49	KAUL, K & M	KATHYS KLIP KORRAL	1125 KENNEL DR.	RAPID CITY	57701
46A57	KLEIN, R			STICKNEY	57375
46A78	KLEIN, W		RR 1	STICKNEY	57375
46A37	KOENIG, W	LAURA KOENIG PUG KENNEL	RR 2	CARTER	57526
46A84	KRANZ, D & S	DAKOTA KENNELS	RT 1 BOX 17C	VOLGA	57071
46A90	LUND, LILY		RR 1 BOX 34	CARTHAGE	47323
46A71	MUNNEKE, E & G			HARRISON	57344
46A77	MYER, S		121 N OHLMAN	MITCHELL	57301
46A65	OPITZ, H & S	LAKE AREA KENNEL	RT 1	EDEN	57232
46B13	OVERWEG, M			NEW HOLLAND	57364
46A87	PEACOCK, M	PEACOCK'S KENNELS	BOX 486	WILMOT	57279
46A18	PEKAREK, J M			HIGHMORE	57345
46A95	PETERSEN, M & S		RFD 1 BOX 36	HURLEY	57036
46A68	PFEIFLE, D & L	PFEIFLE'S KENNELS	BOX 139 R 1	EUREKA	57437
46A94	PUTZIER, H & S		6324 COUNTRY LANE	ABERDEEN	57401
46A86	REYNOLDS, C & B		RR 3 BOX 121	MONTROSE	57048
46A100	SANDER, M & B	SANDER MANOR KENNELS	ROUTE 1 BOX 109	ROSHOLT	57260
46A92	SCHNEIDERMAN, J			DAVIS	57021
46A42	SCHOENWALD, GM			SALEM	57058
46B17	SCHULTE, L	LNT CATTERY	RR 1 BOX 14	FREEMAN	57029
46A96	SOWARDS, K			HAYES	57537
46A21	SPAANS, D		RR 1 BOX 64	STICKNEY	57375
46A59	STELLMACHER, H	SHIRLEY'S WHEEL IN KENNELS	RR 2 BOX 69A	REDFIELD	57469
46B15	STUNES, L & B		913 N GAMBLE	MITCHEL	57301
46A58	SURRELL, A		RT 3, BOX 66	VIBORG	57070
46A81	SWENSON, J & V	HERITAGE KENNELS	RT. 1 BOX 139A	YANKTON	57078
46A44	THOMPSON, LG	THOMPSONS KENNELS	RR1	WINFRED	57076
46A20	TRAVENICEK, B	MEADOW BROOK KENNELS	RT 4 BOX 42	DALLAS	57529
46A96	TROUT, R T		402 S TYLER	PIERRE	58501
46A75	VANZEE, H & J		BOX 58	HARRISON	57344
46A25	WAGNER, RL	WAGNER'S KENNELS	ROUTE 5	WATERTOWN	57201
46A82	WILSON, M & L		RR 1 BOX 16A	COLUMBIA	57433

TENNESSEE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
63A16	BEECHAM LAB./DIV. OF BEECHAM, INC.,	BEECHAM LABORATORIES	501 FIFTH ST.	BRISTOL	37620
63B14	CAMPBELL, R	CUMBERLAND PET WHOLESALE	RT 1 PEYTONSVILLE ROAD	FRANKLIN	37064
63A9	CLEVENGER, LK	TVC PET SUPPLIES	3908 HARRIS RD.	KNOXVILLE	37914
63A13	DODSON, M		102 CASTLEWOOD DR.	FRANKLIN	37064
63B13	EADES, M & S	BIOLOGICS UNLIMITED	1715 TEMPLE AVE	NASHVILLE	37215
63A10	GRABEEL, T		233 N COLLIERVILLE-AR. RD	COLLIERVILLE	38017
63A6	GRAVES, C	CLAY GRAVES RABBITRY	RT. 3 BARKER RD.	CORRYTON	37721
63B4	HANCOCK, KG	BIG BELL RANCH-SPRING CREEK RANCH.	2555 POPLAR AVE.	MEMPHIS	38112
63B8	HARGROVE, WL	U.S. RESEARCH FARM	6704 TUDOR RD. APT. 1	WEST MONT	60559
63B15	HARRIS, V	ANIMAL HOUSE	3409 LOCKWOOD CR.	CHATTANOOGA	37415
63A14	HULL, CAROL	PRECIOUS PETS, ETC.	RT 1 BOX 414	DANDRIDGE	37725
63B2	JOHNSON, C		RT 10 BOX 275	SPARTA	38583
63BH	MCDANIEL, DJ	KEN-DORA KENNELS	RT. 2 BOX 431	BRIGHTON	38011
63A15	PASTEUR,F & J		617 BELTON DRIVE	NASHVILLE	37205
63B8	SHADOW, D		RT 1	WINCHESTER	37398
63A1	SHANKLIN, MRS. JH	HILLTOP RABBIT RANCH	MOORESVILLE PIKE RT 6 BOX 68B.	COLUMBIA	38401
63B1	SOUTHERN BIOLOGICAL SUPPLY CO		P O BOX 66	MCKENZIE	38201
63A12	WALLACE, R R	RANDY'S KENNEL		QUEBECK	38579

TEXAS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
74AA297	ACORN RESEARCH LAB.		3633 WESTLAKE	AUSTIN	78705
74AA454	AGAPE FORCE	GARDEN VALLEY RABBITRY	P.O. BOX 386	LINDALE	75771
74AA422	ALBRIGHT, E	FLAMES PAMPERED PETS	PO BOX 17636	EL PASO	79917
74AA224	ANDIS, B&V	HIP-O-RANCH KENNELS	RT 1	CLARENDON	79226
74AA480	ANSLEY, MRS. M.G.		RT 3 BOX 161	BUNA	77612
74AA430	ARASHIYAMA WEST INSTITUTE		PO BOX 856	DILLEY	78017
74AA601	ASHCRAFT, J & C	ASHCRAFT'S RABBIT RANCH	RT 1 BOX 82	BUFFALO	75831
74AA467	BAILEY, J & K & W & F	TRIPLE B RABBIT FARM	RT 1 BOX 123	RIO VISTA	76093
74AA56	BANDY LABORATORIES INC.		2114 S 1ST ST	TEMPLE	76501
74AA292	BANKS, J		P.O. BOX 202	EDDY	76524
74AA130	BARGER, ML		RT 1 BOX 171E	DENISON	75020
74AA491	BARNES, C	BARNES EXOTIC ANIMAL FARM	PO BOX 361	KIRBYVILLE	75956
74AA459	BARNES, R.W. & C.	D BAR C KENNEL	RT 2 BOX 155	ROYSE CITY	75089
74BU	BAYLOR COLLEGE OF MEDICINE		1200 MOURSUND AVENUE	HOUSTON	77030

TEXAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
74AA170	BAYNE, DW	BIG TREE ACRE ZOO FARM	1711 CONNORVALE RD	HOUSTON	77039
74AA417	BELCHER, W		BOX 586	BRACKETTVILLE	78832
74AA120	BELL, JL	HORN-S GAME RANCH	1800 CHRISTINE ST	PAMPA	79065
74AA407	BELLOWS, E		PO BOX 332	BOWIE	76230
74AA45	BLOM, A	AL BLOM RABBITRY	7903 STEBBINS DRIVE	SAN ANTONIO	78240
74AA438	BOYKIN, R	ALTA VISTA KENNEL	PO BOX 562	FALFURRIAS	78355
74AA155	BRACEY, PR		R3	MABANK	75147
74AA415	BROWN, M	CHEROKEE ANIMAL CLINIC	RT 5 BOX 349	JACKSONVILLE	75766
74AA416	BROWN, M		RT 5 BOX 350	JACKSONVILLE	75766
74AA412	BRUCE, C & D	BRUCE'S COUNTRY KENNEL	RT 1 BOX 11	MUNDAY	76371
74AA425	BRUCE, P & L	VARMITS 'N' THINGS	14121 BURTCLIFS	HOUSTON	77060
74AA106	BURKETT, J & GRIFFIN, A	EXPEDITION OUTRITTERS INT'L, INC.	RT 2 BOX 195-A	FREDERICKSBURG	78624
74AA266	BUSBY, D & L	HICKORY HILL LAB ANIMALS	RT. 1 BOX 195	FLINT	75762
74AA432	BUSSELL, J L	BUSSELL'S BUNNEY BARN	RT 2 BOX 84	GARLAND	75040
74AA468	BYRD, W		13809 NIGHTINGALE DR	HOUSTON	77006
74AA245	CAREY, J & K	CAREY'S RABBITRY	BOX 67	ROPESVILLE	79358
74AA250	CHANG, E		1713 1/2 BURN ST	HOUSTON	77019
74AA12	CITY OF LUBBOCK		PO BOX 2000	LUBBOCK	79457
74AA78	CLARK, C & BEARD, P	BRUSHY CREEK RABBITRY AND CAVIARY.	202 WILLIS AVENUE	YOAKUM	77995
74AA410	COOK, V.E.	COOK GAME RANCH	P.O. BOX 1060	MCALLEN	78501
74AA303	COREY, R & G	COREY'S CRITTER FARM	RT 2 BOX 669 A	CONROE	77302
74AA455	CRADDOCK, F B		P.O. BOX 236	VAN	75740
74AA256	CUNNINGHAM, D		STAR RT 1-A BOX 376	DRIPPING SPRINGS	78620
74LD	DAVIS, LT		2500 W MORTON ST	DENISON	75020
74AA441	DEATON, H	FIN FEATHER & FUR	PO BOX 1032	SILSBEE	77656
74AA426	DOZIER, OE JR	K & S RABBIT RANCH	12A SMITHVILLE	SUGARLAND	77478
74AA228	ELLIOTT, H	PINE FOREST KENNEL	4125 LAKEVIEW CUTOFF	VIDOR	77662
74AA457	FAGNANI, L	CIBOLO RABBITRY	P.O. BOX 56	CIBOLO	78108
74AA477	FIELDS, P	LA CANCEL RANCH	BOX 427	INGRAM	78025
74AA427	FILLIP, W JR	PETS, ETC.	2506 PALMER HWY	TEXAS CITY	77590
74AA462	FLOYD, P E		206 SHORE	PORTLAND	78374
74AA468	FOLSOM, R		RT. 1 BOX 56	LINDALE	75771
74AA458	FORD, VADA S	FORD'S POODLE KENNELS	ROUTE 2	ANNA	75003
74AA478	FOREST, S P	FOREST EXOTIC GAME	RT 3 BOX 695	BANDERA	78003
74AA440	GARZA, AL S	WESTSIDE FEED STORE	515 NORTH ZARZAMORA STREET	SAN ANTONIO	78207
74AA15	GENTRY'S INC.	GENTRY'S GDN CTR & PET SHOP	PO BOX 2629	LAREDO	78041
74AA242	GIGLIOTTI M & BERLIN G	EXOTIC WATERHOLE	30019 ROSEBUD	MAGNOLIA	77355
74AA249	GLASCO L & BROWN J	PINE BEE KENNELS	RT 1 BOX 207	HAWKINS	75765
74AA443	GRAHAM, C & L	WOLF CREEK RABBITRY	RT 2 BOX 326-B	PALESTINE	75801
74AA160	GREEN, RM		P.O. BOX 31	BANGS	76823
74AA110	H & L SALES COMPANY	PATIO RANCH	PO BOX 21100	SAN ANTONIO	78221
74AA404	HALL, S & TARLTON, P		RT 2 BOX 281	WALLER	77484
74AA37	HANDL, CJ	K-9 KENNEL & HORSE CARE CENTER.	RT 11 BOX 156A	LUBBOCK	79407
74AA471	HARRELSON, W		240 CROSBY RD.	VIDOR	77662
74AA308	HIPS, VM	EXOTIC BIRDS	16240 SAN PEDRO	SAN ANTONIO	78232
74AA217	HUDDLESTON, R&N		1034 19TH NW	PARIS	75460
74AA405	JONES, E	TRIPLE J RANCH	BOX 126	DOBBIN	77333
74AA453	JONES, PATSY W.	PJ'S RABBITRY	RT 1 BOX 195	BUFFALO	75831
74AA140	KEETON, OG	K&K KENNELS	RT 2 BOX 169	LUBBOCK	79415
74AA470	KING, C & B	SANDY OAK'S KENNEL	1002 COMMERCE	PLEASANTON	78064
74AA86	KIRBY, AH	KIRBY K-9 KENNEL	120 N ELM	PERRYTON	79070
74AA133	LAMKIN, M	LAMKIN WILDLIFE COMPANY	3522 N. BOLTON	AMARILLO	79107
74AA267	LARABELL, J	JDL RABBITRY	RT 5, BOX 1166	BURLESON	76028
74AA	LOCKE, OM		PO BOX 731	NEW BRAUNFELS	78130
74AA299	LODEN, W	LODEN'S KENNEL	BOX 25 PEARL STAR RT	GATESVILLE	76528
74AA474	MALONE, B	PETS INTERNATIONAL	646 SANTA FE	LEWISVILLE	75067
74JM	MARKHAM, R L	HIGH PLAINS LAB. ANIMALS	BOX 7	CANYON	79015
74AA400	MARSHALL, W & L	L & W BREEDING FARMS	PO BOX 462	ANGLETON	77515
74AA452	MCBRYDE, L		RT 1 BOX 238	WOODVILLE	75979
74AA40	MECOM, JW	MECOM RANCH WILDLIFE PRESERVE.	PO BOX 2566	HOUSTON	77001
74AA472	MEHAFFEY, J		3619 INVICTA	SAN ANTONIO	78218
74AA232	MITCHELL, L		RT 6 BOX 549A	TEXARKANA	75501
74AA239	MORGAN, E&R		PO BOX 63	CARROLLTON	75006
74AA139	NEWSON, HR	NEWSOM'S VARMINTS THINGS	13015 KALTENBRUN RD.	HOUSTON	77066
74AA94	NICHOLS, R	RAY NICHOLS RABBITRY	1380 W. WALTON RD.	LUMBERTON	77656
74AA141	PENN, P	PENN ACRES RANCH	RT 1 NO. 30 HILL COUNTRY RANCH.	WIMBERLY	78676
74AA262	PENNY, C		RT 1 BOX 58	GATESVILLE	76528
74AA145	PETSICK, J		RT 3 NORTH VICTOR	COMANCHE	76442
74AA465	PRIOUR, T	TOWN & COUNTRY ANIMAL HOSPITAL.	913 PRESCOTT	KERRVILLE	78028
74AA42	RANA LABORATORIES		P O BOX 3103	BROWNSVILLE	78520
74AA446	RAZ, M		DOSS RT BOX 406	HARPER	78631
74AA415	REEVES, H		6510 BROADWAY	AMARILLO	79106
74AA413	RICHARDSON, B	BONNIE RICHARDSON WILDLIFE	1018E CORRAN	KINGSVILLE	78363
74AA461	ROBBINS, M & WILLIAMS, K		206 SHORE DRIVE	PORTLAND	78374
74AA256	SALMON, B & M	COTTONWOOD KENNELS	BRICE ROUTE	CLARENDON	79226
74AA85	SCHREINER III, C	Y O RANCH	YO RANCH	MT HOME	78058
74AA81	SHANDE, KE	KANINE KOIFFURES	2017 N. MAYS	ROUND ROCK	78664
74AA439	SHATTO, DA	PETS UNLIMITED	1430 W MORTON ST	DENISON	75020
74AA274	SHERBURN, J & HAGAN, T	SOUTHWEST RESEARCH ANIMALS	P.O. BOX 10465	FT WORTH	76114
74AA29	SLOVAK, R	RICH GLO LAB ANIMALS	RT 2 BOX 180	EL CAMPO	77437
74AA422	SMITH, G H	HAWK'S HARE HAVEN	RT 1 BOX 10	MCCOY	78053
74AA105	SMITH, T	VERDE VALLEY RANCH	1ST NAT'L BANK BLDG. SUITE 329.	HOUSTON	77006
74AA254	SMOKE RISE FARM, INC.		2901 W. 6TH ST., SUITE E	FT WORTH	76107
74AA447	SOAPE, R & J	BUNNIES UNLIMITED	RT 5 BOX 224	PALESTINE	75801

TEXAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
74AA409	SORENSEN, A	SOMEDAY FARMS	ROUTE 2 BOX 107	ANNA	75003
74AA309	SORET, T	SORET ANIMAL AND BIRD FARM	780 RIO GRANDE	EAGLE PASS	78852
74AA473	SPRING, G	GAYLE'S 4-S KENNELS	RT. 10 BOX 448-A	ORANGE	77630
74AA424	STALLING, MRS. HENRY	STALLINGS KENNELS	RT 5 BOX 84	JACKSONVILLE	75766
74AA435	STARLING, CURTIS	STARLING FLYING SQUIRREL RANCH.	PO BOX 8	NECHES	75779
74AA185	STILLMEADOW, INC		9525 TOWN PARK DR.	HOUSTON	77036
74AA411	STINNETT, R	STINNETT MONKEY FARM	650 SPRINGDALE	VIDOR	77662
74AA162	STOWER, MG	BAMBOO PET SHOP	5555 W. LOVER'S LN.	DALLAS	75209
74AA61	SW FOUND. FOR RES. & EDUC.		P O BOX 28147	SAN ANTONIO	78284
74AA4	THUNDERBIRD KENNEL		7229 BARKER ROAD	EL PASO	79915
74AA3	TROOP, E	TROOPS PET SHOP	BOX 51	BRUNI	78344
74AA456	VELA, H		BOX 154	BRUNI	78344
74AA7	VIVO ANIMALES, INC		P O BOX 230	LORENA	76655
74AA464	WAITE, C A	C.A.M. RABBITRY	RT 1 BOX 282	CANTON	75103
74AA248	WALKER, G & SCHOO, J	G & J FARMS	ROUTE 2	JONESBORO	76538
74AA478	WALLACE, O M	O J W LAND COMPANY	RT 4 BOX 132	ATHENS	75751
74AA101	WATERS, D	WATERS RANCH	BOX 131	MOUNTAIN HOME	78058
74AA31	WEBB, KE	B&W TROPICAL FISH & SUPPLY CENTER.	3520 25TH ST	PORT ARTHUR	77640
74AA431	WEEKS, G		P.O. BOX 1163	PREMONT	78375
74AA444	WELLS, D	THE WELL'S RABBITRY	RT 1 BOX 256	NORTH ZULCH	77872
74AA293	WELSH, J	ARTAMINE KENNELS	P.O. BOX 35	WARREN	77562
74AA437	WENK, T		BOX 234	BASTROP	78602
74AA281	WEST, B G	B & G KENNEL	RT 4	HEREFORD	79045
74AA16	WHEELER, FWB	CAMP COOLEY RANCH	RT 3	FRANKLIN	77856
74AA288	WHITLOCK, AL	EXOTIC CAT HAVEN	1310 N TEXAS ST	ODESSA	79761
74AA291	WIDNER, P		RT 1 BOX 105R	PALMER	75152
74AA251	WILEY, CB	WILEY & SONS EXOTIC GAME RANCH.	RT. 1 BOX 86	WILLS POINT	75169
74AA414	ZWICKY, A	A-Z WILDLIFE RANCH	RT 2	VALLEY MILLS	76689

UTAH

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
87B1	ALLISON, CL & E	ALLISON KENNELS	3802 W 9000 SO	WEST JORDAN	84064
87B2	BROADBENT, L & N	SILVER FOX FAMILY FURS	1255 SOUTH 1500 EAST	MAPLETON	84663
87B4	BURRIS, P & RICHENS, J	THE TREE HOUSE	1764 WEST 1000 SOUTH	VERNAL	84078
87A8	HILL, GF	S KIMO KENNELS	235 EAST 13800 SO	DRAPER	84020
87B3	JONES, CLAYTON D		1065 WASHINGTON BLVD	OGDEN	84404
87A12	ROMNEY, C P		930 WIDB B.Y.U.	PROVO	84602
87A6	WHITE, GS	THE RABBIT TREE	PO BOX 452	PEOA	84051

VERMONT

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
13B31	BODENSTAB, O	WINDY LANE RABBITRY		PUTNEY	05346
13A64	CARBONNEAU, BJ		BOX 636	BARRE	05641
13B23	LAMOILLE LAND FL. & SALVAGE	LAMOILLE KENNELS	BOX 324 RT 2	MORRISVILLE	05661
13A49	LAMPHERE, L	PEACEFUL ACRES RABBITRY	RFD1	LOWELL	05847
13A15	MAYHEW, HR		98 PARK ST	RUTLAND	05701
13A58	MCELROY, B & D	BEV'S RABBIT RANCH	BOX 29,VALLEY RD.	LOWELL	05847
13A60	MOULTON, V		PO BOX 107 RT 17	NEWHAVEN	05472
13B27	NIGHTINGALE, W	PINE ACRES RABBITRY	LEE RD. BOX 186 RFD 2	WEST BRATTLEBORO	05301
13B9	PARADIS, R		BOX 100	ENOSBURG FALLS	05450
13B19	PLUMMER, JH & KM	PLUMMERS RABBITRY		GRAFTON	05146
13A65	REYNOLDS, M		RFD 2	MILTON	05468
13A22	SKINNER, M		BOX 503	ST ALBANS	05260
13A24	SUDOL, T & J		RD 2	ENOSBURG	05450
13A63	SWEET, E		RFD 2	ENDOSBURG	05450
13B22	TUZZO, R	THE RABBIT HUTCH	RFD 1	ST JOHNSBURY	05819
13B13	WESTON, FA	CIRCLE W RABBITRY	RFD 1 BOX 137	UNDERHILL	05489
13B29	WETHERBY, O	RAILSIDE RABBITRY	79 EASTERN AVE	RICHFORD	05476

VIRGINIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
52B15	CHANDLER, WR		RT 1 BOX 426 B	MECHANICSVILLE	23111
52AG	CORELL, JC	OLD DOMINION CAVY FARM	205 KINGSBURY DRIVE	WAYNESBORO	22980
52AAD	CRUTCHFIELD, LW	GREEN SHADOWS CATTERY	RD 1 BOX 176	PALMYRA	22963
52A17	DUNCAN, J F	DUNCROFT FARM	RT 1 BOX 7	LOVETTSVILLE	22080
52AA	EDWARDS, S		4401 GREENDELL ROAD	CHESAPEAKE	23321
52DJ	ENVIRONMENTAL CONSULTANTS INC.		1022 W. 24TH	NORFOLK	23516
52B16	FARMER ENTERPRISES LTD.	PARADISE FISH & PET SHOP	ROUTE 3	HILLSVILLE	24343
52DL	FLOW LABORATORIES INC		7655 OLD SPRINGHOUSE RD	MCLEAN	22102
52A20	GROVE, D	GROVE'S RABBITRY	RT 1 BOX 210	MIDLAND	22728
52AE	HALEY, J	HALEY FARM	RT 2 BOX 81	HURT	24563
52A21	HAYNES, C	HAYNES RABBITRY	STAR ROUTE 111	LOCUST GROVE	22508
52AD	HAZLETON RESEARCH ANIMALS INC.		9200 LEESBURG TURNPIKE	VIENNA	22180
52BA11	HUTCHISON, CW		3610 DENISON RD	RICHMOND	23231
52BA	LEACH, NE	LEACH KENNELS	RT 3 BOX 70	CHASE CITY	23924
52DN	MID-ATLANTIC PET DIST.,INC		PO BOX 1266 5418 PORT ROYAL RD.	SPRINGFIELD	22151
52A19	MOORE, J	MOORES RABBITRY	RT 1 BOX 41	MIDLAND	22728
52A22	PINNELL, A & HOLLIS, E	COW CREEK RABBIT FARM	P.O. BOX 299	GLOUCESTER	23061
52B14	RAY, JR		81 PROSPECT ST.	MIDLAND PARK	07432

VIRGINIA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
52BV	ROY, ML	ROY'S RABBITRY	RT. 2 BOX 109	WARRENTON	22186
52AW	SCHMIDT, E	SPRING VALLEY FARM		HOWARDSVILLE	24562
52B19	SMITH, J B	S & S RABBITRY	13600 N. ENON CH. RD.	CHESTER	23831
52AI	STINSON, E & D	STINSON'S RABBITRY	RT. 1 BOX 119	RHOADESVILE	22542
52A18	SWANE, D	EAST COAST RABBITRY	RD 1 BOX 119	RHOADESVILLE	22542
52B21	WET 'N' DRI PETS		1561 PARHAM RD.	RICHMOND	23229
52BA9	ZAZZARETTI, FB	BEECHWOOD RABBITRY	BOX 54	CLAREMONT	23899

WASHINGTON

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
91B19	ANDERSON, RJ	R&R RABBITRY	20003 24TH N.W.	STANWOOD	98292
91A33	ANDERST, J & L	WALDEN WEST	670 W HIGHWAY 20	COUPEVILLE	98239
91A35	ARCORI, M	TAMARA RABBITRY	15348 VAIL CUT OFF	RAINIER	98576
91B22	AVI-CULT CORPORATION		P.O. BOX 571	DUVALL	98019
91A24	CARLMAS, M & R	CARLMAS RABBITRY	27645 46TH SO	AUBURN	98002
91B16	CITY OF CLARKSTON	ANIMAL SHELTER	630-5TH ST	CLARKSTON	99403
91B5	CITY OF COLFAX		P.O. BOX 145	COLFAX	99111
91B1	COLLEGE BIOLOGICAL SUPPLY, INC		21707 BOTHELL WAY	BOTHELL	98011
91B6	COWAN, HD	SHOWLINE BEAGLES	18015 140TH AVENUE SE	RENTON	98056
91A18	DRY, RL & MF	EVERGREEN CAVIES	RT 3 BOX 74	COLBERT	99005
91B15	DRYKE, CH	SUNNYDELL KENNELS	160 DRYKE RD.	SEGUIM	98382
91B25	FORD, TIM	SOUTH WHIDBEY RABBITRY	2989 E QUIGLEY ROAD	LANGLEY	98260
91B24	HALLER, G		3505 E 120TH ST.	TACOMA	98446
91A36	HARRIS, A & R	CAVIA RESEARCH ENTERPRISES	1357 JOHN JACOBS RD.	PORT ANGELES	98362
91A31	HARRIS, H & M	HBARH LLAMAS	2701 176TH E	TACOMA	98445
91B26	HAUSER, E J		14622 NE 99TH	VANCOUVER	98682
91A22	HENDERSHOT, A & P	THE RABBIT HUTCH	15000 CASCADIAN WAY	LYNNWOOD	98036
91B27	LARSON, D & A		1333 HIGHLAND AVE.	CLARKSTOWN	99403
91B18	LOTZE, P & J	WINEBURG KENNELS	RT 2 BOX 304	COLVILLE	99114
91B3	MASON, GH	MASONS NORTHWEST RABBITRY	5112 21ST NE	PUYALLUP	98371
91A28	MCBAIN, E		28838 18TH AVE SO	FEDERAL WAY	98003
91B10	MOERY, WR	CASCADE KENNELS	6425 208TH AVE. N.E.	REDMOND	98052
91B26	PAULSON, B		RT 3 BOX 68A	MOSCOW	83843
91A30	ROWBOTHAM, M	WINDWARD FARM	RT 4 BOX 191	ELLENSBURG	98926
91A19	STARNS, T & S	COUGAR MT. BREEDING CMPD & SANC.	16635 LONGMIRE RD. SE	YELM	98597
91A34	THOMSEN, M & J	MORRISON RANCH	BOX 185	QUINCY	98848
91B11	TOWN OF COLTON		706 BROADWAY	COLTON	99113
91A14	VEITENHEIMER, C	CA-JI SHEPHERDS	RT 1 BOX 116	COLBERT	99005
91A5	WACENSKE, LR	PINEHILL KENNEL	ROUTE 1 BOX 145	CHATTAROY	99003
91A29	WEISETH, P R	CAVIA RESEARCH ENTERPRISES	923 SOUTH B STREET	PORT ANGELES	98362

WEST VIRGINIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
54A1	BERST, H J	TOWN HILL RABBITRY	BOX 12	THREE CHURCHES	25765
54A19	BOMGREN, R	SLEEPY HOLLOW RABBITRY	RT 1 BOX 238	TRIADELPHIA	26059
54B12	BURK, D	PETLAND	410 HUNTINGTON MALL	BARBOURSVILLE	25504
54B1	CUSTER, EJ	CUSTER'S KENNELS	1073 MCCOLLOCH ST	WHEELING	26003
5482	HILL, EF		5071 GUYAN RIVER ROAD	HUNTINGTON	25702

WISCONSIN

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
35A143	ANDERSON, G & L	BLUE RIVER KENNELS	RT 1 BOX 194	MUSCODA	53573
35B2	ANDERSON, W		ROUTE 2	RICHLAND	53581
35B41	BARTHMAN, V & K	HAY VALLEY GAME FARM	RT 1	CLEAR LAKE	54005
35A145	BLOWERS, P	WIND SONG KENNEL	RT 3 BOX 14	DANBURY	54830
35A84	BOEHM, RA	MOOSE LAKE WILDLIFE SANCTUARY.	RT 4 BOX 124	HAYWARD	54843
35A120	BOHL, C	LAZY-LANE KENNELS	PO BOX 268 RT 1	GRESHAM	54128
35A137	BUSSIAN, A		RT 2 BOX 91	CLINTONVILLE	54929
35B26	CZARNECKI, RA	SOUTH MILWAUKEE PET CENTER	907 MILWAUKEE AVE.	SOUTH MILWAUKEE	53172
35A135	DAHL, A	ANNE'S WESTIE KENNEL	R 2 BOX 88	CLEAR LAKE	54005
35A77	DAUL, DR		RT 1	LUXEMBURG	54217
35A139	EBERT, V		R 2 BOX 102	CLINTONVILLE	54929
35A112	ERTEL, G & D	ZAHY DEE ZHEE KENNEL	R1 BOX 146A	HILLPOINT	53937
35A126	FARKAS, AGNES	MOQUAH GOLDEN KENNELS	R 3	ASHLAND	54806
35A127	FERKEY, A		RT 2 W2261 10 MILE AVE	WISCONSIN RAPIDS	54494
35B17	FORSTHAUS KENNELS, INC		R 1 BOX 65	MILLADORE	54454
35B42	GRASKA BIOLOGICAL SUPPLIES, INC		5760 HWY 21	OMRO	54963
35B45	GUNDERSON, R & J	KANTON KENNEL	RT 1 BOX 93	MUSCODA	53573
35A111	HALL, L	WHISPERING PINES	RT 1 BOX 207B	DRESSER	54009
35A97	HALVERSON, RD		R 1 BOX 64	DODGEVILLE	53533
35A128	HATCH, C & J	TIE-TO RANCH	N64 W21040 MILL RD	MENOMONEE FALLS	53051
35B46	HOLUBIW, L		RT 1 BOX 152	BOULDER JUNCTION	54512
35A88	HYDE, D	HYDE RABBITRY	34076 HIDDEN VALLEY DR	DOUSMAN	53118
35B47	JACOBS, L	WINDE-HILL KENNEL		SHELL LAKE	54871
35A123	JOHNSON, M & HAVENS, W	LITTLE "H" RANCH	1315 VILAS AVE	MADISON	53715
35A92	KLUBERTANZ, E	KLUBERTANZ'S	1165 HWY 73	EDGERTON	53534
35A60	KNORR, DA	KANANGNARK KENNELS	PO BOX 102	SHEBOYGAN	53081
35A132	KOSTOHRYZ, J		RT 1 BOX 66	BLACK RIVER FALLS	54615
35A93	KREIF, C	RABBIT HILL	N 5588 HWY 84	FREDONIA	53021
35A114	KRETSCHMAN, TJ & HIMSEL, O	HOPPERS UNLIMITED	2019 SUGAR RIVER RD RT 9	VERONA	53593
35B29	LAVEAU, D & S		RT 1	SHELL LAKE	54871

WISCONSIN—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
35A130	LAVIGNE, D & J	KOUNTRY KENNELS	12411 52ND ST. S	WISCONSIN RAPIDS	54494
35B31	LEIBEL, D & G	BIRCHWOOD FARM	RT. 2 BOX 713	GRANTSBURG	54840
35A25	LESSER, C&S	LESSER'S RABBITRY	18403 WASHINGTON AVE. HY.20	UNION GROVE	53182
35A115	LOPER, R	MESA KENNELS	7197 LOPER RD. RT 2	SAUK CITY	53583
35A91	LOWE, W		RT 4 BOX 206	BEAVER DAM	53916
35A141	MAGNUSON, T & S	MASKED BANDIT FUR FARM	RT 2 BOX 207	FREDERIC	54837
35A113	MANECKE, R	RIVERVIEW KENNEL	R 1 BOX 342	RICE LAKE	54868
35B40	MEACHAM, P L	M & M ENTERPRISES	5522 SERENCE CT	GREENDALE	53129
35B35	MELTON, SM	SHARON'S PUPPYLAND	RT 1 BOX 187A	SPOONER	54801
35A75	MIKULA, I		RT 3	CHETEK	54728
35A108	MILLER, E	VALLEY FUR FARM	RT. 2 BOX 125	SPRING VALLEY	54767
35B48	MILLER, O. JEAN	HILLSIDE KENNEL	RT 3 BOX 201	GREENWOOD	54437
35B43	MOLDENHAUER, B & M	MELBAR KENNELS & CATTERY	RT 2	OSSEO	54758
35A119	MONTAG, E	BLUE SPRUCE KNNLS & GAME RAN.	RR 1	CHILE	54420
35A110	MYERS, B	B.R.A.T. KENNELS	RT 1 BOX 42	ARCADIA	54612
35B1	NASCO INTERNATIONAL, INC		901 JANESVILLE AVE	FORT ATKINSON	53538
35A22	O'BRIEN, M		2257 SYENE RD	MADISON	53711
35A105	OLSON, J	KUTE & KUDDLY KENNELS	PO BOX 484	PORTAGE	53901
35B37	PETZ, W & J	SUNNY VALLEY KENNEL	RT 1 BOX 110	SHELL LAKE	54871
35B8	PEUSCHEL, W		13101 N WAUWATOSA RD. 76 W.	MEQUON	53092
35A102	PRELIPP, AW		RFD 1	SEYMOUR	54165
35A121	RADDANT, L		RT 1 BOX 55	GRESHAM	54128
35A9	RIDGLAN FARMS, INC		301 WEST MAIN STREET	MT HOREB	53572
35A96	ROBERTSON, WH&L		RT. 2 BOX 116	OGEMA	54459
35A57	ROGGE, E	HAPPY ACRES KENNELS	R 2 BOX 418C	WISCONSIN DELLS	53965
35A62	RUEDINGER, J		ROUTE 1 BOX 70	ARPIN	54410
35B20	SCHOEBEL, LL	FUR & FEATHER GAME FARM	RT 2	NESHKORO	54960
35B33	SCHOEBEL, M		RT 1	NESHKORO	54960
35A3	SKAW, E		RT #1	NEW AUBURN	79504
35B34	SOLIS, E	EL RANCHITO KENNEL	RT 1 BOX 22	HILLPOINT	53937
35A142	STEBANE, E	WAYWARD HOME KENNEL	RT 4 BOX 229	SHAWANO	54166
35B9	STEBANE, ERVIN		WEST 2053 NORTH COUNTY LINE RD.	KAUKAUNA	54130
35A126	STRANGFELD, E & M	MOUND VIEW KENNEL	RR 4 BOX 243	NEILLSVILLE	54456
35A140	SWANSON, C	RIMROCK RANCH ARTIC FOXES	RT 1 BOX 323	REEDSBURG	53959
35A144	TRIBBY, N & K	TRIBBY'S INC.	ROUTE 2 RANGELINE RD.	MARION	54950
35B44	VAASSEN, T		RR 2 BOX 54	CASSVILLE	53806
35A116	WELLS, M		1016 16ST	MONROE	53566
35A100	WERY, F		RT 4	LUXEMBURG	54217
35A117	WIERSMA, GD		RT 1 BOX 171 A	RANDOLPH	53956
35A134	WILK, K & J		RT 1 BOX 9D	HOLCOMBE	54745
35A133	WINCENTSEN, L		RFD 2 BOX 38A	BIRNAMWOOD	54414

WYOMING

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
83A15	COX, W S	EAGLE ROCK RANCH	P.O. BOX 47	CHEYENNE	82001
83A14	HAMMRICH, S	DOG PATCH	1137 SAGE	EVANSTON	82930
83A1	SANDERS, N	SANDERS KENNELS	BOX 127	LAGRANGE	82221
83A7	SHERARD, AL		BEAR CREEK ROUTE	LA GRANGE	82221

[FR Doc. 3702 Filed 2-16-82; 8:45 am]

BILLING CODE 3410-34-F

federal register

Wednesday
February 17, 1982

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

Animal Welfare; List of Licensed Exhibitors

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Animal Welfare; List of Licensed Exhibitors

The following list is being published to give notice to the public of exhibitors currently licensed under the Animal Welfare Act (7 U.S.C. 2131 et seq.). Such notice does not come under E.O. 12291, since it is not a rule. Therefore, pursuant to the provisions of the Animal Welfare Act and the regulations thereunder (9 CFR Part 2), notice is hereby given that the exhibitors listed below are licensed under said Act (Section 3, 80 Stat 351, as amended (7 U.S.C. 2133)):

Done at Washington, D.C., this 29th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

ALABAMA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
64C1	CITY OF BIRMINGHAM	BIRMINGHAM ZOO	400 GRAYMONT AVE. WEST	BIRMINGHAM	35204
64C3	MONTGOMERY ZOO		329 VANDIVER ST.	MONTGOMERY	36110
64C6	UNIVERSITY OF NORTH ALABAMA			FLORENCE	35632

ALASKA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
96C2	EDEN, P	ALASKA WILD BERRY PRODUCTS	PO BOX 374	HOMER	99603
96C1	FULBUNCH INC.	THE MONKEY WHARF	529 C ST	ANCHORAGE	99501
96C5	LONGNECKER, HARVEY	ROCKING B ZOO	RT. 2 WEST	WASILLA	99687
96C4	STEWART, I & O.		1008 A ST.	ANCHORAGE	99501

ARIZONA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
86C1	ARIZONA ZOOLOGICAL SOCIETY	PHOENIX ZOO	PO BOX 5155	PHOENIX	85010
86C3	ARIZONA-SONORA DESERT MUSEUM		RT 9 BOX 900	TUCSON	85704
86C2	CITY OF TUCSON	REID PARK ZOO	900 SO RANDOLPH WAY	TUCSON	85716
86C8	EL ZARIBAH-AL JONDI		1502 W. WASHINGTON	PHOENIX	85007
86C16	HENRY, CARMELA & IVAN	HENRY'S CHIMPS/HENRY BROS. CIRCUS	1445 N SAN MARCOS DRIVE	APACHE JUNCTION	85220
86C11	MARTIN, D	BRADSHAW MOUNTAINS	8039 WEST NORTHERN AVE.	GLENDALE	85303
86C15	MUHLHAUSER, C		P.O. BOX 11	CAVE CREEK	85331
86C17	SWENSON, L	PAYSON EXOTIC STUDIO ANIMALS	ST RT BOX 75	PAYSON	85541
86C14	TORZEWSKI, W & S		2336 N 14TH ST	PHOENIX	85006
86C12	VAN SINDEREN, C	VANTEEN & CO. SHOWS	P.O. BOX 8755	CATALINA	85738
86C13	WALKER, PATRICIA		PO BOX 409	PEARCE	85625
86C18	WEAR, WILLIAM	WEAR'S ANIMAL FARM	ROUTE 4 BOX 1304	COTTONWOOD	86326
86C6	WHITMAN, P & D	GRAND CANYON DEER FARM	100 DEER FARM RD.	WILLIAMS	86046
86C4	WYCKOFF, C & P	TROPIC GARDEN ZOO	3111 NORTH 53RD PLACE	PHOENIX	85018

ARKANSAS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
71C13	ANIMAL BEHAVIOR ENTERPRISES, INC.		4800 ABERT PIKE	HOT SPRINGS	71913
71C6	BRIDGES, J & E	ARKANSAS ALLIGATOR FARM	647 WHITTINGTON AVE	HOT SPRINGS	71901
71C1	CITY OF LITTLE ROCK	ZOO OF ARKANSAS	#1 JONESBORO ST	LITTLE ROCK	72205
71C12	CROSSLAND ZOO		1202 ELM ST	CROSSETT	71635
71C11	ELNA M. SMITH FOUND.	CHRIST OF THE OZARKS	P.O. BOX 471	EUREKA SPRINGS	72632
71C14	GALLAGHER, VR		RT STAR BOX 163	WINTHROP	71868
71C7	I.Q. ZOO, INC		4800 ALBERT PIKE	HOT SPRINGS	71901
71C10	MAGIC ANIMALS INC	MAGIC SPRINGS THEME PARK	4800 ALBERT PIKE	HOT SPRINGS	71901
71C15	MOORE, MR. & MRS STACY		P.O. BOX 57	DOGPATCH	72648
71C5	OZARKS ENTERTAINMENT MANAGEMENT, INC.	DOGPATCH USA		DOGPATCH	72648
71C8	SPA ATTRACTIONS, INC	ANIMAL WONDERLAND	4800 ALBERT PIKE	HOT SPRINGS	71901
71C2	TATUM, E	HOLIDAY ISLAND EXOTIC ANIMAL PARK.	RT 3 BOX 202	HOLIDAY ISLAND	72632
71C4	WILMOTH, RL	WILD WILDERNESS	RT 3 BOX 309	GENTRY	72734

CALIFORNIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
93C9	ALLEN'S PET ZOO INC		PO BOX 91	PIXLEY	93256
93C172	AMERICAN WILDLIFE RESCUE SERVICE INC.		1296 CONFERENCE DRIVE	SCOTTS VALLEY	95066
93C81	ARLEN, D		20395 RIDER RD. 8	PERRIS	92370
93C150	ATKINSON, JM	OAK TREE VILLAGE	38480 OAK GLEN RD.	YUCAIPA	92399
93C10	BABY ZOO, INC	SAN JOSE BABY ZOO	1300 SENTER RD.	SAN JOSE	95112
93C116	BAUMAN, T		660 SAN FERNANDO RD	LOS ANGELES	90065
93C41	BERWICK, R		UNIVERSAL STUDIO TOURS	UNIVERSAL CITY	91608
93C89	BIG BEAR VALLEY PARK DIST	MOONRIDGE ZOO	PO BOX 2832	BIG BEAR LAKE	92315
93C34	BIG JOHN A. STRONG & SON CIRCUS, INC.		37093 OAK GLEN RD.	YUCAIPA	92399
93C106	BLAIR, R & P	THE BLAIR BUNCH, INC.	7561 WOODMAN PL	VAN NUYS	91405
93C222	BLOCH, R	CRITTERS OF THE CINEMA	16726 SATICOY ST. NO. 4	VAN NUYS	91406

CALIFORNIA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
93C190	BROLIN, J & J		895 BUENA VISTA AVE	MONTECITO	93108
93C204	BUCKLEY, CAROL		15974 MARICOPA HWY	OJAI	93023
93C188	BUTLER, S & G		PO BOX 112	LA HONDA	94020
93C206	CALIFORNIA ACADEMY OF SCIENCES	STEINHART AQUARIUM	GOLDEN GATE PARK	SAN FRANCISCO	94118
93C127	CAMPOLONGO, J	SEA-ARAMA MARINEWORLD	P.O. BOX 5293	GALVESTON	77551
93C192	CHARBONNEO, ROY	PINE SPRINGS RANCH	PO BOX 37	MOUNTAIN CENTER	92361
93C13	CHILD'S ESTATE FOUNDATION		500 NINOS DRIVE	SANTA BARBARA	93103
93C165	CHILDRESS, J & ECHART, DJ		17880 STRICKLAND	LAKE ELSINORE	92330
93C57	CIRCUS VARGAS CORP		5150 CANDLEWOOD SUITE 5	LAKEWOOD	90712
93C24	CITY OF ATASCADERO	CHARLES PADDOCK ZOO	P.O. BOX 747	ATASCADERO	93422
93C7	CITY OF EUREKA	SEQUOIA PARK ZOO	PO BOX 1018	EUREKA	95501
93C16	CITY OF FOLSOM	FOLSOM CITY ZOO	50 NATOMA STREET	FOLSOM	95630
93C64	CITY OF MERCED	APPLEGATE PARK ZOO	PO BOX 2068	MERCED	95340
93C124	CITY OF NATIONAL CITY		1243 NATIONAL CITY BLVD	NATIONAL CITY	92050
93C5	CITY OF OAKLAND	OAKLAND ZOO/KNOWLAND PARK	1520 LAKESIDE DR	OAKLAND	94612
93C27	CITY OF ROSEVILLE	ROSEVILLE CITY ZOO	316 VERNON ST	ROSEVILLE	95678
93C208	CITY OF SAN JOSE	SAN JOSE BABY ZOO AT HAPPY HOLLOW PARK	151 W MISSION STREET	SAN JOSE	95110
93C184	CITY OF WALNUT CREEK	ALEXANDER LINDSAY JR. MUSEUM	1901 FIRST AVE	WALNUT CREEK	94596
93C125	CITY OF WHITTIER	STORYBOOK ZOO	13230 E PENN ST	WHITTIER	90602
93C152	COLETTE, M	WILDLIFE WAYSTATION	14831 LITTLE TUJUNGA CANYON RD.	SAN FERNANDO	93142
93C220	CONNOLLY, W J & N K		50 MARIUTA AVE	SAN RAFAEL	94901
93C102	COUNTY OF ORANGE EMA/DEVEL	IRVINE REGIONAL PARK	10852 DOUGLASS RD	ANAHEIM	92806
93C107	COX, L	THE LION WILD ANIMAL RENTALS	C/O L. LIZER-3518 CAHUENGA WES.	HOLLYWOOD	90068
93C207	DENIZ, LEANDER		410 WEST SUNSET BLVD	HAYWARD	94541
93C58	DI SESSO, M	TRAINED WILD LIFE FILM LIBRARY	24233 OLD RD	NEWHALL	91321
93C213	DINNES, M R	DINNES MEMORIAL VETERINARY HOSPITAL	161 VENTURA BLVD., SUITE 635	ENCINO	91436
93C173	DOURIS, G		17880 STRICKLAND AVE	ELSINORE	92330
93C82	DOWNEY, M		P.O. BOX 221	ACTON	93510
93C160	DRAKE, D	DRAKES EXOTIC ANIMALS	PO BOX 485	TEHACHAPI	93561
93C116	DRAKE, E		P O BOX 485	TEHACHAPI	93561
93C44	EARNEST, K	CALIFORNIA ALLIGATOR FARM	7671 LA PALMA AVE BOX 236	BUENA PARK	90620
93C156	EAST BAY ZOOLOGICAL SOCIETY	OAKLAND BABY ZOO	PO BOX 5238	OAKLAND	94605
93C161	EGAN, LW & BL	SCHOOL JUNGLE SAFARI	PO BOX 502	LAHONDA	94020
93C134	EGEDI, KW		1526 GRAND AVE	FILLMORE	93015
93C216	EVANS, W D	BAHIA RESORT HOTEL	998 WEST MISSION BAY DR	SAN DIEGO	92109
93C194	EWING, R		20501 CALLON DR	TOPANGA	90290
93C196	FATINO, LAWRENCE		24881 CLINTON KEITH ROAD	WIDOMAR	92395
93C104	FAWCETT, B		18267 HAWTHORNE AVE	BLOOMINGTON	92316
93C100	FISHER, F		P.O. BOX 774	MERCEDES	78570
93C214	FISHER, JOSEPH JOHN		17445 E HIGHWAY 26	LINDEN	95236
93C145	FOERDER, LJ		9000 BEACHY AVE	ARLETA	91331
93C47	FRANK INN, INC		12265 BRANFORD ST.	SUN VALLEY	91352
93C142	GALLO GLASS CO	GALLO ZOOLOGICAL GARDEN	P.O. BOX 1230	MODESTO	95353
93C91	GATTI PRODUCTIONS, INC		PO BOX 611	ORANGE	92666
93C186	GAYLORD, JOHN	HOLY ORDER OF MARY	2625 LEEWARD	HAYWARD	94545
93C76	GENTLE JUNGLE, INC		3815 W. OLIVE AVE, SUITE 102	BURBANK	91505
93C211	HALE, M & V	HALE & SONS CONSTRUCTION	P.O. BOX A	TAFT	93268
93C157	HANFORD ELEM SCHOOL DIST	FORT ROOSEVELT	PO BOX G1067	HANFORD	93230
93C148	HANNA-BARBERA MARINELAND		P.O. BOX 937	RANCHO PALOS VERDES	90274
93C79	HORNOK, JR	AMERICAN ANIMAL ENTERPRISES	BOX 337	LITTLEROCK	93543
93C109	HORTON, R & D		302-17TH ST	SAN DIEGO	92101
93C96	HORTON, RB	HORTON'S WONDER BEARS	302 17TH STREET	SAN DIEGO	92101
93C217	JEANNIN, W L		P.O. BOX 356	HOMELAND	92348
93C1	JETT, A	JETT'S PETTING ZOO	11025 CYPRESS	FONTANA	92335
93C88	JOHNSON, G	JOHNSON BROS ELEPHANTS	14300 CHESTNUT NO. 117	WESTMINSTER	92683
93C78	JOHNSON, H		20725 NANDINA	PERRIS	92370
93C169	JOSEPHINE D. RANDALL JUNIOR MUSEUM		199 MUSEUM WAY	SAN FRANCISCO	94114
93C195	JUSTESEN, L		1606 GUNNERSON ST.	LAKE ELSINORE	92330
93C218	KALIN, M		509 JALAPA DRIVE	COVINA	91724
93C83	KAYE, PV	ENTERTAINMENT ENTERPRISES & KAYE CONT. CIR.	1680 N VINE ST, SUITE 519	HOLLYWOOD	90028
93C197	KHEEL, M	CNTR. FOR NON-BROADCAST TV. INC.	2827 1/2 NICOL AVE	OAKLAND	94602
93C20	KNOTT'S BERRY FARM		8039 BEACH BLVD	BUENA PARK	90620
93C80	KUTCHELL, J		20725 NANDINA	PERRIS	92370
93C201	LAMARR NAUD, J & M		12265 BRANDFORD STREET	SUN VALLEY	91352
93C154	LAUREN, M	ANIMALS BY MO	19820 SOLANA LANE	CANYON COUNTRY	91351
93C219	LAXAGUE, W & F		P.O. BOX 520	CEDARVILLE	96104
93C126	LILLE, G & C	LILL'S PERFORMING CHIMPS	2608 READ AVENUE	BELMONT	94002
93C14	LION COUNTRY SAFARI, INC		8800 IRVINE CENTER DR	LAGUNA HILLS	92653
93C146	LIVING DESERT RESERVE		PO BOX 1775	PALM DESERT	92261
93C86	LOS ANGELES COUNTY FAIR ASSOCIATION		BOX 2250	POMONA	91766
93C43	LOS ANGELES ZOO		5333 ZOO DR	LOS ANGELES	90027
93C212	LOVE, CHRISTOPHER T	THE PRESERVE	11955 WESTSIDE RD.	FORESTVILLE	95436
93C58	MADONNA, A	MADONNA INN	100 MADONNA RD	SAN LUIS OBISPO	93401
93C119	MARINE WORLD AFRICA USA	MARINE WORLD/AFRICA USA	MARINE WORLD PARKWAY	REDWOOD CITY	94065
93C21	MARINE WORLD AFRICA USA		MARINE WORLD PARKWAY	REDWOOD CITY	94065
93C163	MARRIOTT'S GREAT AMERICA		PO BOX 1776	SANTA CLARA	95052
93C97	MARSHALL, N	LION'S ETC	6867 SOLEDAD CANYON RD	ACTON	93510
93C51	MARTIN, S	STEVE MARTIN'S WORKING WILDLIFE	PO BOX 85	ACTON	93510
93C87	MCDERMOTT, CD	THE COLD NOSE FIVE DOG ACT	4515 HARRISON AVE	REDDING	96001
93C170	MENDES, T & D		31404 RD 132	VISALIA	93277

CALIFORNIA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
93C38	MEREDITH, G	ORPHANS OF THE WILD	STAR RT. BOX 98	ORO GRANDE	92368
93C191	MIKUS, D & GRABAR, C		2004 NINA COURT	HAYWARD	94541
93C93	MILHOUS BOYS RANCH		24077 STATE HWY 49	NEVADA CITY	95959
93C181	MILLER, K	ANIMAL ACTION	9125 CRANFORD AVE	ARLETA	91331
93C203	MITCHELL, KARL J.		12615 FOOTHILL BLVD	SYLMAR	91342
93C200	MOORE, MR. & MRS. BOB	BOB MOORE'S MONGREL REVIEW.	10025 HEMLOCK	FONTANA	92335
93C169	MOORPARK COLLEGE		7075 CAMPUS RD.	MOORPARK	93021
93C221	MOREHART LAND CO.		3393 PADARO LANE	CARPINTERIA	93013
93C175	NETTLEMAN, B & B		15495 BELNAP DR	SARATOGA	95070
93C178	OLDER, M		STAR RT BOX 98	ORO GRANDE	92368
93C216	OLSON, DOTTY	DOTTY'S GAME SAFARI	BOX 68	ETNA	96027
93C53	OXLEY, RL		7433 SOLEDAD CANYON RD	ACTON	93510
93C193	PASTERNAK, ALEX		18332 ARMINTA AVE	RESEDA	91335
93C74	PAT DERBY ENTERPRISES, INC.	HOWLING WOLF LODGE	P.O. BOX 269	LEGGETT	95455
93C179	PETTER, D & E		3601 ROSECRANS APT 1	HATWTHORNE	90250
93C167	QUATE, S		PO BOX 632	BELLA VISTA	96008
93C202	RAGEN, WAYNE		82-347 HWY. 111	INDIO	92201
93C176	RENZO, P		GEN. DELIVERY AL TAHOE STA	SO. LAKE TAHOE	95702
93C31	REYNOLDS, A		5423 E LAUREL	FRESNO	93727
93C105	RIGGINS, CAROL W.	RON OXLEY'S COMPOUND	16241 RAVENGLEN RD	CANYON COUNTRY	91351
93C115	RIVERS, B	ANIMAL SPECIALTY ACTS	10940 RIVERSIDE AVE	BLOOMINGTON	92316
93C4	ROEDING PARK ZOO		894 WEST BELMONT AVE	FRESNO	93728
93C6	SACRAMENTO CITY ZOO		3930 W LAND PARK DR	SACRAMENTO	95822
93C136	SACRAMENTO SCIENCE CENTER & JR. MUSEUM.		3615 AUBURN BLVD	SACRAMENTO	95821
93C3	SAN FRANCISCO ZOOLOGICAL GARDENS.		ZOO ROAD & SKYLINE BLVD	SAN FRANCISCO	94132
93C8	SAN JOAQUIN COUNTY PKS & REC.	MICKE GROVE ZOO	4520 W EIGHT MILE ROAD	STOCKTON	95209
93C101	SANTA ANA ZOO		1700 E FIRST ST	SANTA ANA	92705
93C198	SAVAGE, JP		16315 OAK CANYON DRIVE	MORGAN HILL	95037
93C52	SCHUMACHER, LM	SCHUMACHER ANIMALS RENTALS.	PO BOX 642	BALDWIN PARK	91706
93C89	SEA WORLD INC		1720 S SHORES DR	SAN DIEGO	92109
93C166	SHAMBAUGH, V		1280 EDGAR AVE	BEAUMONT	92223
93C55	SHAWVER, C	CARLISLE WILD ANIMAL FARM	1221 GRANT ST	SANTA MONICA	90405
93C11	SIX FLAGS MAGIC MOUNTAIN		P.O. BOX 5500	VALENCIA	91355
93C81	SKY FOREST PACE	SANTA'S VILLAGE	PO BOX 638	SKYFOREST	92385
93C45	SMIEYA-BLASZAK, A		426 WATER ST.	BARABOO	53913
93C33	SNYDER, F	YVETTE'S MINI CIRCUS	PO BOX 2058	CYN COUNTRY	91351
93C209	TAYLOR, PAMELA		RT 1 BOX 244	OAK RUN	96069
93C205	TELINJECT USA, INC.		16133 VENTURA BLVD SUITE 635	ENCINO	91436
93C22	TOTH, GN	COUGAR HILL RANCH	P.O. BOX 132	LITTLEROCK	93543
93C153	TRANTHAM, C	FOOTHILL GAME FARM	P.O. BOX 577	OREGON HOUSE	95962
93C215	TWOMEY, DAVE	HAPPYTIME CIRCUS	P.O. BOX 269	WINDSOR	95492
93C96	WALLER PARK		600 GOODWIN RD	SANTA MARIA	93454
93C159	WARDEN, LE & D		24047 ALICE STREET	HAYWARD	94541
93C158	WEBER, N	ROYAL LICHTENSTEIN CIRCUS	PO BOX 26308	SAN JOSE	95159
93C199	WEINHART, J		9478 BELLEGRAVE AVE	RIVERSIDE	92509
93C54	WELLS, HG	ANIMAL ACTORS OF HOLLYWOOD.	864 CARLISLE RD	THOUSAND OAKS	91360
93C177	WELLS, R & S		17211 ROBERTO ST	CASTRO VALLEY	94546
93C111	WHITE, D&J		8722 WINTER GDNS BLVD	LAKESIDE	92040
93C90	WHITFIELD, RW & RR	MARINE WORLD AFRICA, USA	MARINE WORLD PARKWAY	REDWOOD CITY	94065
93C183	WIENER, M		PO BOX 395	ACTON	93510
93C147	WILSON, JA		10437 ESCADERA DR.	LAKESIDE	92040
93C140	WOLF, R&C		13555 E. LAKE VIEW RD	LAKESIDE	92040
93C174	YANKEE-FLOTO CIRCUS CORP		37093 OAK GLEN RD	YUCAIPA	92399
93C123	ZANGER JR., HG, JA & EA	CASA DE FRUTA	6680 PACHECO PASS HWY	HOLLISTER	95023
93C162	ZOELLER, J		PO BOX 277	ALPINE	92001
93C40	ZOOLOGICAL SOCIETY OF SAN DIEGO.		PO BOX 551	SAN DIEGO	92112

COLORADO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
84C1	CHEYENNE MOUNTAIN ZOOLOGICAL PARK.		BOX 158	COLORADO SPRINGS	80906
84C8	CITY OF ENGLEWOOD	ENGLEWOOD CHILDRENS ZOO	3400 S. ELATI	ENGLEWOOD	80110
84C7	CITY OF PUEBLO ZOO		CITY PARK OFFICE	PUEBLO	81005
84C9	CLOVEN, G & R	THE STANLEIGH CO.	2959 W ROWLAND PLACE	LITTLETON	80120
84C2	DENVER ZOOL FDN	DENVER ZOOL. GARDENS	DENVER CITY PARK	DENVER	80205
84C3	FOSSCECO, A	GRANEROS CANYON GAS&CURIO SHOP.	PO BOX 29	COLORADO CITY	81019
84C11	GOLIKE, KEVIN	GOLIKE EXOTIC ANIMALS	PO BOX 54 A HIWAY 96	KIOWA	80117
84C12	NEVILLE, WILLIAM	PACHY ENTERPRISES, INC.	9506 VRAIN ST.	WESTMINSTER	80030
84C10	NOLAND, RICHARD	KANNAH CREEK WILDLIFE PARK	RT 1 KANNAH CREEK	WHITEWATER	81527
84C5	SANTA'S WORKSHOP COLO CORP			NORTH POLE	80809
84C14	TREGO, L O	TREGO'S BUFFALO RANCH	817 MAIN	WOODWARD	73801
84C4	WILKINSON, E	ERNEST'S TAXIDERMY & OUTDOOR TOURS.	3596 W.US HWY 160	MONTE VISTA	81144
84C13	YOST, S J	ROCKY MT. STUDIO ANIMALS	33601 STRANSKY RD.	EVERGREEN	80439

CONNECTICUT

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
16C7	CHILDREN'S MUSEUM OF HARTFORD		950 TROUT BROOK RD	W HARTFORD	06119
16C2	CITY OF BRIDGEPORT	BEARDSLEY ZOOLOGICAL GARDENS.	NOBLE AVE	BRIDGEPORT	06610
16C17	CITY OF NEW LONDON	H. F. MORAN NATURE CTR & ZOO	MUNICIPAL BLDG	NEW LONDON	06320
16C16	CITY OF NORWICH	MOHEGAN PARK ZOO	CITY HALL ANNEX	NORWICH	06360
16C6	COMMERFORD, R W & SONS		RT 4	GOSHEN	06756

CONNECTICUT—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
16C11	COPACO		335 COTTAGE GROVE RD	BLOOMFIELD	06002
16C21	DENISON PEQUOTSEPOS NAT CTR		PO BOX 122 PEQUOTSEPOS RD	MYSTIC	06355
16C4	EMERSON, JR., RL	EMERSONS CIRCUS & MENAGRIE EXHS.	2545 BERLIN TNPK	NEWINGTON	06111
16C12	GOODWIN, R		BOX 524	ENFIELD	06082
16C26	LUTZ JR MUSEUM		126 CEDAR ST	MANCHESTER	06040
16C19	NATURE CTR FOR ENVIR ACT INC		10 WOODSIDE LN PO BOX 165	WESTPORT	06880
16C22	NEW BRITAIN YOUTH MUSEUM		30 HIGH STREET	NEW BRITAIN	06051
16C25	SEA RESEARCH FOUNDATION, INC			MYSTIC	06355
16C18	STAMFORD MUSEUM & NATURE CTR		39 SCOFIELDTOWN RD	STAMFORD	06903
16C9	STEMPIEN, AC	WILLINGTON WILD ANIMAL FARM	OLD FARMS RD	WILLINGTON	06279
16C24	THAMES SCIENCE CENTER		GALLOWS LANE	NEW LONDON	06320
16C15	WEST ROCK NATURE CENTER		PO BOX 2989	NEW HAVEN	06515

DELAWARE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
50C9	NEW CASTLE CO. DEPT. OF PARKS & REC.	BRANDYWINE ZOO	801 MCKENNANS CHURCH RD	WILMINGTON	19808

FLORIDA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58EL70	ABC LEISURE ATTRACTIONS, INC		PO BOX 370	SILVER SPRINGS	32688
58EL132	ADAMS, JR., E	ERIK ADAMS CHIMPS	P.O. BOX 595	GIBSONTON	33534
58EL4	ADAMS, SR, E		PO BOX 595	GIBSONTON	33534
58EL142	ALBERT, MARIE		1991 S.W. 136TH AVE	DAVIE	33325
58EL122	ALLIGATORLAND SAFARI ZOO		P.O. BOX 819	OSTEEN	32741
58EL34	ANTALEK, M		10906 CHURCH ST. PO BOX1	GIBSONTON	33534
58EL162	ANTALEK, P		PO BOX 3185	DE LAND	32720
58EL145	ARIA, M&J	ARIA PERFORMING BEARS	8 ABIS PLACE	OAKHURST	07755
58EL160	BAHIA SHRINE TEMPLE	BAHIA SHRINE CAMEL HERDERS	60 WEST GORE AVE PO BOX 251	ORLANDO	32802
58EL181	BAIN, S	SUNSHINE RESEARCH LABS	6600 SW 18ST	MIRAMAR	33023
58EL164	BALDWIN, HR	CAPT. HARRY BALDWIN	PO BOX 27098	JACKSONVILLE	32205
58EL221	BELLMAS, N & L		7305 W. 2 CT	HIALEAH	33014
58EL92	BENGTSSON, K & LINARES, K		BOX 125 RT 3	SARASOTA	33580
58EL166	BERMAN, E	HELEN BERMAN UNLIMITED	6603 S.W. 112 PL	MIAMI	33173
58EL42	BERTEI, M		RR 2 BOX 297P	SARASOTA	33577
58EL207	BERWIN, BERNARD		PO BOX 1421	GIBSONTON	33534
58EL213	BEST, CHARLES		PO 1117	SANFORD	32771
58EL186	BILLIE, J		6350 NW 32 ST	HOLLYWOOD	33024
58EL24	BLANCHARD, C & P		86 ARAPAHO AVE	ST AUGUSTINE	32084
58EL85	BOARD OF COUNTY COMMISSIONERS	HARDEE COUNTY PIONEER PARK	412 WEST ORANGE STREET	WAUCHULA	33873
58EL190	BORGUS, L & R	DOLPHINS PLUS, INC	614 15TH PLACE	KENOSHA	53140
58EL17	BOWEN, JC	EVERGLADES GATORLAND	BOX 279	SOUTH BAY	33493
58EL210	BRAUN, ERIC		1757 MOVA ST	SARASOTA	33555
58EL75	BROOKS, HW	GATOR JUNGLE	P.O. BOX 209	CHRISTMAS	32709
58EL23	BROWN, H J	MUSEUM OF THE SEA & INDIAN	STAR ROUTE BOX 611	DESTIN	32541
58EL157	BUFFALO TRADING & WILD WEST ENTERPRISES	FERNWOOD GARDENS	7800 SW 117 AVE	MIAMI	33183
58EL225	CARTER, B & P		P.O. BOX 6652	HOLLYWOOD	33021
58EL36	CENTRAL FLORIDA ZOOL SOCIETY	CENTRAL FLORIDA ZOOL. PARK	PO BOX 2078	SANFORD	32771
58EL2	CITY OF JACKSONVILLE	JACKSONVILLE ZOOLOGICAL PARK	CITY HALL BAY ST.	JACKSONVILLE	32202
58EL89	CITY OF TAMPA	LOWRY PARK ZOO	NORTH BLVD & SLIGH AVE	TAMPA	33604
58EL174	CLEMONS, C	GATORAMA	P.O. BOX 128	PALMDALE	33944
58EL80	CLYDE BEATTY-COLE BROS. CIRCUS		PO BOX 1570	WINTER PARK	32790
58EL44	CRISTIANI ELEPHANTS, INC		RT. 1 BOX 29-A	MYAKKA CITY	33551
58EL95	CRISTIANI, L		1024 STOEBER AVE	SARASOTA	33580
58EL83	CRISTIANI, O		1747 RIVIERA CIRCLE	SARASOTA	33580
58EL131	DAM, C		P.O. BOX 547	GIBSONTON	33534
58EL204	DELISA, WILLIAM M		266 NE 141 STREET	N. MIAMI	33161
58EL228	DEMMEL, G W		1301 SW 11TH AVE.K	DEERFIELD BEACH	33441
58EL129	DISKEN, RM	KING KONG ZOO	RT 1 BOX 567Z20	MASARYKTOWN	33512
58EL206	DORF, L & H		700 N.W. 214 STREET #712	MIAMI	33169
58EL40	DUBSKY, H	GINA'S ROYAL PALACE LEOPARDS	3110 47TH ST	SARASOTA	33580
58EL39	DUBSKY, J	JANOS & COMPANY	4103 BRAZILNUT AV	SARASOTA	33580
58EL102	EDWARDS, TR		RT. 1 BOX 515	LAKE BUTLER	32054
58EL116	ENGESSER, D&R	ENGESSER'S EXOTIC FELINES	RR 2 BOX 514	CHIEFLAND	32626
58EL191	ENGESSER, G. G.	GEE GEE ENGESSER	BOX 1654	GIBSONTON	33534
58EL222	ERNST, DONNA HILLERY		ROYAL POINCIANA PLAZA SUITE #C	PALM BEACH	33480
58EL140	ESTEP, J	MONKEY JUNGLE	P.O. BOX 1552	GIBSONTON	33534
58EL231	FARACE, R	EVERGLADES SAFARI	12841 SW 42 ST.	MIAMI	33175
58EL211	FARFAN, MR.& MRS. ARMANDO		PO BOX 1528	VENICE	33595
58EL20	FEE, HW		BOX 493	GIBSONTON	33543
58EL216	FITT, GEORGE HENRY		3764 LAKE IDA RD	DELRAY BEACH	33445
58EL201	FLORIDA'S CYPRESS GARDENS	FLORIDA'S CYPRESS GARDENS	PO BOX 1	CYPRESS GARDENS	33880
58EL185	FORD, DOUGLAS		240 N. ELM ST.	ENGLEWOOD	33533
58EL37	FOSSETT, A & I		537 CONRAD AVE	SARASOTA	33577
58EL83	FRANCIS, FA		510 2ND AVE	MELBOURNE	32951
58EL25	GARVIN, C	FLORIDA REPTILE LAND	RT. 16 BOX 120	BOWLING GREEN	42101
58EL33	GATOR WORLD/FLAMINGO GAR INC		3762 FLAMINGO RD	DAVIE	33330
58EL14	GODWIN'S GATORLAND, INC		HWY 441 NORTH	KISSIMMEE	32741
58EL180	GOOD, L	SUGARLOAF LODGE	PO BOX 148	SUGAR LOAF SHORES	33044
58EL164	GULF EXHIBITION CORP	GULFARIUM		FORT WALTON BEACH	32548
58EL776	HAND, J & L & E	ADAMS BROS. CIRCUS ATTRACTIONS	P.O. BOX 17017	FT LAUDERDALE	33318

FLORIDA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58EL35	HANNEFORD CIRCUS, INC.		BOX 52J	OSPREY	33559
58EL126	HANNEFORD, G	HANNEFORD FAMILY CIRCUS	BOX 909	NOKOMIS	33555
58EL146	HARVELL, D & J	OCELOTS PLUS	RT. 1 BOX 727-L5	SUMMERFIELD	32691
58EL100	HERRIOTT, M	HERRIOTT'S PERFORMING ANIMALS.	RT 3 BOX 94	SARASOTA	33580
58EL214	HOLIDAY, R & J		7300 FOURTEENTH ST. SOUTH	ST. PETERSBURG	33705
58EL170	HOLLOWAY, D		6917 N. COOLIDGE	TAMPA	33614
58EL72	HOMOSASSA SPRINGS INC	NORIN CORP	P.O. BOX 8	HOMOSASSA SPRINGS	32647
58EL81	HOOVER, DC	DAVE HOOVER'S WILD ANIMALS	665 W 38TH ST	HIALEAH	33012
58EL143	HORWATH, J		P.O. BOX 1551	GIBSONTON	33534
58EL10	HOUSER, F	HOUSER'S GROVES & ZOO	9230 NEW HAVEN AVE	MELBOURNE	32901
58EL103	INSTITUTE OF DELPHINID RES.	FLIPPERS SEA SCHOOL	PO BOX DOLPHIN	MARATHON SHORES	33052
58EL51	JOHNSON, RA		P.O. BOX 936	GIBSONTON	33534
58EL74	JOYCE, E	WONDERFUL WORLD OF DOGS	BOX 302	GIBSONTON	33534
58EL79	JUNGLE LARRY'S SAFARI LAND, INC.	JUNGLE LARRY'S AFRICAN SAFARI.	P.O. BOX 7129	NAPLES	33940
58EL113	JUNGLE QUEENS INC.	JUNGLE QUEEN VILLAGE	800 E BROWARD BLVD #301	FT. LAUDERDALE	33301
58EL203	KAPLAN, S T		4705 WOODLOND BLVD.	TAMARAC	33319
58EL107	KRAUSE, J		PO BOX 2512	SARASOTA	33578
58EL46	KRISTENSEN, S & L		PO BOX 725	BRANDON	33511
58EL8	L.B.T. CORP.	HOXIE BROS. CIRCUS	9140 SW 59TH AVE.	MIAMI	33156
58EL153	LA TORRES, JM		P.O. BOX 1721	GIBSONTON	33534
58EL224	LACOUNT, DAN		19730 SW 12 ST.	PEMBROOK PINES	33029
58EL26	LAMBERT, R G	GATORLAND	P.O. BOX 516	ST. AUGUSTINE	32084
58EL125	LEE, B & B	THE B-LEES	1332 WESPORT LANE	SARASOTA	33582
58EL159	LENZ, R & S		4637 BONITA ROAD	VENICE	33595
58EL223	LOIS, E		540 N.W. 129 ST.	MIAMI	33168
58EL155	LOPEZ, J		1224 SPOTTS WOOD RD	RIVERVIEW	33569
58EL217	LORADITCH, G & C		PO BOX 1866	GIBSONTON	33534
58EL105	LOUIS J. SCARPUZZI ENT., INC.	WALTZING WATERS AQUARIUM	339 RIVERSIDE DR	FORT MYERS	33905
58EL150	MAGANA, AR	PANCHO MAGANA	4004 IOLA DR.	SARASOTA	33581
58EL147	MARINE EXHIBITION CORPORATION	MIAMI SEAQUARIUM	4400 RICKENBACKER CAUSEWAY	MIAMI	33149
58EL73	MARINELAND, INC.		RFD 1, BOX 122	ST. AUGUSTINE	32084
58EL176	MATHEWS, K		P.O. BOX 604	FT. MCCOY	32637
58EL187	MCCURDY, W	SARASOTA JUNGLE GARDENS, INC..	3701 BAYSHORE RD	SARASOTA	33580
58EL229	MCDONALD, J		1501 S.W. 34TH AVE.	FORT LAUDERDALE	33312
58EL205	MCMULLEN, JAMES P.		3014 44TH TERRACE SW	NAPLES	33999
58EL200	MCNULTY, SCOTT		RT. 1 BOX 367E	BELL	32619
58EL76	METRO-GOLDWYN-MAYER FILM CO	MGM'S BOUNTY EXHIBIT	10202 W. WASHINGTON BLVD.	CULVER CITY	90230
58EL6	METROZOO	CRANDON PARK ZOO	12400 SW 152 ST.	MIAMI	33177
58EL13	MONKEY JUNGLE, INC.		PO BOX 246	MIAMI	33170
58EL230	MOORE, M J	MOORE'S STONECRAB RESTURANT & MARINA.	6833 PINE ST. P.O. BOX 112	LONGBOAT KEY	33548
58EL161	MORGAN, MA		3209 HENRIETTA PL	SARASOTA	33580
58EL123	MORRIS, W G	NATIONAL AMUSEMENT	PO DRAWER 10	EDGEWATER	32032
58EL112	NIED, SR		4311 NE 6TH TERRACE	POMPANO BEACH	33064
58EL176	OCEAN REEF CLUB			KEY LARGO	33037
58EL32	OCEAN WORLD INC		1701 SE 17TH ST	FT. LAUDERDALE	33316
58EL198	OSCARIAN BROS. CIRCUS		4705 PALM RIVER RD	TAMPA	33619
58EL43	PARNELL, G		PO BOX 994	GIBSONTON	33534
58EL69	PIPER, BILL & LESTER	EVERGLADES WONDER GARDENS	P.O. BOX 262	BONITA SPRINGS	33923
58EL58	POTTER, D		PO BOX 1092	GIBSONTON	33534
58EL136	RICE, L		PO BOX 10171	SARASOTA	33582
58EL215	RIEGER, MAX		2750 N.W. SO. RIVER DRIVE	MIAMI	33125
58EL135	RIEGER, R & P & M		2750 NW SO RIVER DR.	MIAMI	33125
58EL179	RIGGS, C & L	AQUATIC MAMMAL ENTERPRISES	1025 GIBRALTAR RD	KEY LARGO	33037
58EL106	RINGLING BROS.-BARNUM & BAILEY		3201 NEW MEXICO AVE. NW	WASHINGTON DC	20016
58EL195	RIVERS, J		PO BOX 266	MCINTOSH	32664
58EL22	ROBINSON, RA&S		BOX 1176	GIBSONTON	33534
58EL114	ROSS ALLEN SOUTH INC.	FORT MYERS WILDLIFE GARDENS.	2805 N TAMIAMI TRAIL	N. FT. MYERS	33903
58EL3	SALISBURY, DL	ROYAL PANTHERS	1519 CAMBRIDGE DR	COCOA	32922
58EL108	SANTA FE COMM COLL TEACH ZOO		3000 NW 83RD ST	GAINESVILLE	32601
58EL1	SCHACHT, F & P		ROUTE 2 BOX 137-A	LINCOLN	35096
58EL189	SCHMITT, E		318 HOWELL PLACE	SARASOTA	33580
58EL41	SCHMITT, R		318 HOWELL PL	SARASOTA	33580
58EL48	SCHREIBER, B	CAPT SCHREIBER'S CHIMPANZEES.	RT. 3 BOX 48-X	ST AUGUSTINE	32084
58EL148	SCOTT, J & F		RT 2 BOX 3	OLD TOWN	32680
58EL77	SEA WORLD OF FLORIDA		7007 SEA WORLD DR	ORLANDO	32809
58EL12	SEBOLT, D	SNAKE-A-TORIUM	PO BOX 9253	PANAMA CITY BCH	32407
58EL127	SEIDEN, HM	VCM ENTERPRISES	8425 SW 108TH ST	MIAMI	33156
58EL128	SEIGLE, A		732 NW 29TH TERRACE	MIAMI	33127
58EL163	SELPH, CARL D.	GULF WORLD, INC.	15412 W HWY 98	PANAMA CITY BEACH	32407
58EL137	SINK, R		PO BOX 10171	SARASOTA	33578
58EL98	SIPEK, S		3384 C RD	LOXAHATCHEE	33470
58EL158	SKARBECKI, A		PO BOX 1680	VENICE	33595
58EL216	SMITH, HAROLD		502 MARINE DRIVE	FOX LAKE	60020
58EL178	SOUTH FLORIDA MUSEUM/BISHOP PLANETARIUM.		201 10TH ST W	BRADENTON	33505
58EL167	SPRINGMYER, L	GREEN THUMB NURSERY	8975 SO. DIXIE HWY.	MIAMI	33156
58EL96	SPYKE, HH	SPYKE'S GROVE	7250 GRIFFIN RD	DAVIE	33314
58EL87	ST AUGUSTINE ALLIG. FARM INC		P.O. DRAWER E A1A SOUTH	ST AUGUSTINE	32084
58EL97	STEBBING ROYAL EUR. CIRCUS INC		PO BOX 249	SARASOTA	33578
58EL84	STEELE, B	BOB STEELE ANIMAL PROMOTIONS.	P.O. BOX 1102	LEESBURG	32748
58EL209	STEIER, MR. & MRS. LLOYD		1771 PARK ROAD	PEMBROKE	33868
58EL38	STRAZAN, H & E	ERNA'S CHIMPANZEES	725 N CONRAD AVE.	SARASOTA	33577
58EL85	STUDIO ANIMAL RENTALS, INC.		5025 S. EASTERN AVE.	LAS VEGAS	89119
58EL219	SULLINS, PAMELA		RT 16 BOX 23	OCALA	32670

FLORIDA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58EL88	SUNKEN GARDENS, INC		1825 4TH ST NO	ST PETERSBURG	33704
58EL91	SZYMANSKI, K		2022 DODGE AVE	SARASOTA	33580
58EL109	TALLAHASSEE JR MUSEUM		3945 MUSEUM DR	TALLAHASSEE	32304
58EL182	THEATER OF THE SEA, INC		PO BOX 407	ISLAMORADA	33036
58EL50	THOMAS, HO		P.O. BOX 2406	SARASOTA	33578
58EL104	TIKI GARDENS INC		19601 GULF BLVD BOX 8	INDIAN SHORES	33535
58EL212	TIMMERMANS, MARIE		PO BOX 10201	SARASOTA	33578
58EL115	TOOLE, EH	THE KAROLY FAMILY	PO BOX 186	FORT WHITE	32038
58EL227	TURNER, E		9136-82ND ST. NORTH	LARGO	33543
58EL130	UPTON, SD		5826 BLOUNT AVE	SARASOTA	33581
58EL144	VAZQUEZ, R		6150 ISABEL AVE	GIBSONTON	33534
58EL58	VIELE, CE	VIELE GROVES	6990 GRIFFIN RD	FORT LAUDERDALE	33314
58EL76	WALT DISNEY WORLD CO		P.O. BOX 40, ATTN: LEGAL DEPT	LAKE BUENA VISTA	32830
58EL82	WATSON, W		16731 LAKESHORE DRIVE	TAMPA	33624
58EL173	WATT, B		626 NW 179 ST.	N MIAMI	33169
58EL15	WEED, F		RT 2 BOX 505	SMOKALEE	33934
58EL67	WEEKI WACHEE SPRINGS, INC	A B C LIESURE ATTRACTIONS	BOX 97 HWY. 19 SO.	BROOKSVILLE	33512
58EL56	WELDE, J		PO BOX 547	GIBSONTON	33534
58EL177	WHITE, E		6350 62ND ST N	PINELLAS	33565
58EL116	WILLIAMS, IW		PO BOX 2039	DELAND	32720
58EL19	WILLIAMS, R		RT 1 BOX 556C	MYAKKA CITY	33551
58EL93	WILNOW, E & A		961 OAK STREET	FT MYERS BEACH	33931
58EL5	WILSHIRE CORPORATION	LION COUNTRY SAFARI INC	PO BOX 16066	W PALM BEACH	33406
58EL194	WOODCOCK, WM		BOX 818	RUSKIN	33570
58EL21	WYNN, F & L		400 E ORANGE AVE	LONGWOOD	32750
58EL102	ZABRISKIE, C	SAFARI WORLD	RT 6 LISA LANE	OKEECHOBEE	33472
58EL198	ZAMPORLA, J		4949 N TUTTLE	SAROSOTA	33580
58EL130	ZOO. SOC. OF BROWARD CO., INC.	MARKHAM PARK ZOO	16001 W. STATE RD. 84	FORT LAUDERDALE	33326
58EL7	ZOOL SOC/PALM BEACHES, INC	DREHER PARK ZOOL GARDENS	1301 SUMMIT BLVD	W PALM BEACH	33405
58EL158	ZOPPE, AG		3125 PEARL AVE	TAMPA	33611

GEORGIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
57C7	BAUMANN, R&L	LIN-RICH ANIMAL CIR & PET'EM ZOO.	RT 1 BOX 74	ELLERSLIE	31807
57C20	BUCKNER, G		R 3 BOX 306	JACKSON	30233
57C1	CITY OF ALBANY	CHEHAW WILD ANIMAL PK	PO BOX 447	ALBANY	31701
57C4	CITY OF ATLANTA	ATLANTA ZOO. PARK	800 CHEROKEE AV. SE	ATLANTA	30315
57C11	EVANS, R	MONKEY PALACE	2222 PALMYRA RD	ALBANY	31702
57C23	GALLOWAY, POIN		1996 N COLUMBIA STREET	MILLEDGEVILLE	31061
57C24	GUTHRIE, FP	GUTHRIE SHOWS	2362 KINGSGATE COURT	DUNWOODY	30338
57C21	JOHNSON, R		RT 1 NELMS RD	FAYETTVILLE	30214
57C17	KETCHAM, L		ROUTE 3 BOX 847	WOODSTOCK	30188
57C25	KETCHAM, ROBERT	JACK WILLS TRAILER PARK	ROUTE 3 PO BOX 847	WOODSTOCK	30188
57C22	MCKINNON, M.R.	SARARI ZOO	4093 PEACH ORCHARD ROAD	HEPHZIBAH	30815
57C26	MCNAIR, H		RT 3	LOGANVILLE	30249
57C14	OATLAND ISLAND EDUCATION CT		208 BULL STREET	SAVANNAH	31401
57C13	RUMLEY, B	GEORGIA GAME PARK	P.O. BOX 85	RISING FAWN	30738
57C9	SHIRLEY, CJ		ROUTE 8 LEBANON-HICKORY FLAT R.	CANTON	30114
57C12	SIX FLAGS OVER GEORGIA		PO BOX 43187	ATLANTA	30336
57C5	STONE MOUNTAIN GAME RANCH INC		1 ROBT. E. LEE BLVD	STONE MOUNTAIN	30086
57C18	THOMAS, T		PO BOX 326	CARNESVILLE	30521
57C16	WALKER, W		310 CREST DRIVE	CALHOUN	30701

HAWAII

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
95C1	CITY OF HONOLULU	HONOLULU ZOO	151 KAPAHULU AVE	HONOLULU	96815
95C2	COUNTY OF HAWAII	PANAEWA RAINFOREST ZOO	25 AUPUNI ST	HILO	96720
95C7	COUNTY OF MAUI	MAUI ZOOL & BOT GARDENS		WAILUKU	96793
95C3	ISLAND HOLIDAYS, LTD	COCO PALMS RESORT HOTEL	PO BOX 631	LIHUE	96766
95C13	KAHALA HILTON		5000 KAHALA AVE	HONLULU	96816
95C9	KOOLAU PETS, INC		53-039 KAM HWY.	PUNALUU	96717
95C5	MEADOW GOLD DAIRIES-HAWAII	MEADOW GOLD DAIRIES	RR 1 BOX 224	HALEIWA	96712
95C8	MOLOKAI RANCH, LTD		PO BOX 8	KAUNAKAKAI	96748
95C6	PEARL CITY TAVERN		PO BOX 246	PEARL CITY	96782
95C10	PIPER PRODUCTIONS		335 ELELUPE RD	HONOLULU	96821
95C11	SEA LIFE PARK		WAKAPUU POINT	WAIMANALO	96795
95C12	WAIKIKI AQUARIUM		2777 KALAKAUA AVE	HONOLULU	96815

IDAHO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
82C6	BOISE CITY ZOO		1104 ROYAL BLVD	BOISE	83706
82C3	CITY OF POCATELLO	ROSS PARK ZOO	BOX 4169	POCATELLO	83201
82C10	KRAMER, C	STAMPEDE LAKE GAME FARM	STAR ROUTE	NAPLES	83847
82C5	TAUTPHAUS PARK ZOO		PO BOX 220	IDAHO FALLS	83401
82C11	TUCKITT, D & D	SAFARI GARDENS	BOX 136A	STAR	83669
82C9	Y-J FOODS INC		BOX 357	COEUR D'ALENE	83814

ILLINOIS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
33C58	ALBERTI, C		1959 WELWYN AVE	DES PLAINES	60016
33C13	ANIMAL KINGDOM, INC.	ANIMAL KINGDOM EXHIBITS	2980 N MILWAUKEE AVE	CHICAGO	60618
33C57	BRACKETT, DONNA	LITTLE PONDEROSA ZOO	RR 2	WINCHESTER	62694
33C20	BUIKEMA ACE HARDWARE	BUIKEMA ACE HARDWARE	1030 N. WASHINGTON ST.	NAPERVILLE	60540
33C4	CHICAGO PARK DISTRICT	LINCOLN ZOOL. PARK	2200 N CANNON DR	CHICAGO	60614
33C3	CHICAGO ZOOLOGICAL PARK		3300 S GOLF RD	BROOKFIELD	60513
33C27	CITY OF AURORA	PHILLIPS PARK ZOO	44 EAST DOWNER PLACE	AURORA	60504
33C6	CITY OF BLOOMINGTON	MILLER PARK ZOO	PO BOX 3157	BLOOMINGTON	61701
33C33	CITY OF ELGIN	LORDS PARK	150 DEXTER CT	ELGIN	60120
33C40	DECATUR PARK DISTRICT		PO BOX 1136	DECATUR	62525
33C43	DEPT OF VETERANS AFFAIRS	ILLINOIS VETS HOME	208 WEST COOK ST	SPRINGFIELD	62706
33C32	DUNDEE TOWNSHIP PARK DISTRICT	RANDALL OAKS PARK & ZOO	21 N WASHINGTON ST	CARPENTERSVILLE	60110
33C24	EDLUND, L & R	WHITE PINES DEER PARK	RT. 1 BOX 149	OREGON	61006
33C28	FOREST PARK FOUNDATION	WILDLIFE PRAIRIE PARK	5823 N. FOREST PARK DR.	PEORIA	61614
33C26	FOREST PRESERVE DIST/COOK CO		536 NO HARLEM AV	RIVER FOREST	60305
33C53	HAWTHORN CIRCUS CORP		RT 1 BOX 32H	GRAYSLAKE	60030
33C55	HOFFMANN, BILL	ANIMAL KINGDOM, INC.	P.O. BOX 56907	HARWOOD HEIGHTS	60656
33C56	JOHN G. SHEDD AQUARIUM		1200 SOUTH LAKESHORE DR.	CHICAGO	60605
33C21	KRAUSE, R & M	NOAH'S ARK PET CENTER	4N706 POWIS RD	WAYNE	60184
33C34	LAMBS, INC.		BOX 520	LIBERTYVILLE	60048
33C44	LASALLE COUNTY PARKS	ENVIRONMENTAL CENTER	RT 4	OTTAWA	61350
33C60	MARCAN, C & J	HAWTHORNE CIRCUS	PO BOX 461	RICHMOND	60071
33C39	MARTINEZ, CA		1648 CENTRAL	NORTHBROOK	60062
33C50	NAGHTIM, W		1648 CENTRAL AVE.	NORTHBROOK	60062
33C59	NIELSEN, VANDA	MARINA'S ROYAL AFGHANS	3101 RICE AVENUE	ROCKFORD	61103
33C29	NORTH POLE CORPORATION	SANTA'S VILLAGE	ROUTES 25 AND 72	EAST DUNDEE	60118
33C1	PEORIA PARK DISTRICT	GLEN OAK ZOO	2218 NO PROSPECT RD	PEORIA	61603
33C8	POZEN, G		439 BUCKEY DR	WHEELING	60090
33C42	ROCK ISLAND CO FOREST PRES	NIABI ZOOL. PRESERVE	1504 3RD AVE	ROCK ISLAND	61201
33C30	ROCKPORT PARK DISTRICT	CHILDREN'S FARM	1401 N SECOND ST	ROCKFORD	61107
33C9	SCIENTIF SM AN LAB & FM INC	HUME'S EXOTIC WILDLIFE RANCH	401 W GOLF RD	ARLINGTON HEIGHTS	60005
33C38	SHEPPARD, JA		RR 4 NORTH LAKE RD.	SPRINGFIELD	62707
33C35	SPRINGFIELD PARK DISTRICT	HENSON ROBINSON ZOO	PO BOX 5052	SPRINGFIELD	62705
33C41	TALBOTT, G		RR2	MANITO	61546
33C10	VOKOUN, WF	PINE HILL BIRD FARM & ZOO	2605 63RD ST	DOWNERS GROVE	60515
33C5	WATSON, L	PLAINSMEN ZOO	RT 4 BOX 151	ELGIN	60120
33C15	WHEATON PARK DIST	COSLEY CHILDREN'S ANIMAL FARM	666 SO MAIN ST	WHEATON	60187
33C2	WONDERFUL WORLD OF ANIMALS		RR 2 BOX 329	PEORIA	61614

INDIANA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
32C47	AMISHVILLE U.S.A.		RR 2 BOX 255	GENEVA	46740
32C8	BIGGS, M		BOX 18	RUSSELLVILLE	46175
32C42	BOOKER, C	STORYBOOK VILLAGE		DUGGER	47848
32C43	BOYD, RO	SILVERMOON ROLLER RINK	R. 2 BOX 96	WATERLOO	46793
32C40	CHILDREN'S MUSUEM, INC		3000 N. MERIDIAN	INDIANAPOLIS	46208
32C11	CITY OF EVANSVILLE	MESKER PARK ZOO	CIVIC CENTER COMPLEX	EVANSVILLE	47737
32C3	CITY OF RICHMOND	GLEN MILLER PARK	PARK & REC DEPT	RICHMOND	47374
32C51	D.J. COUNTRY -- BUCK LAKE		P.O. BOX 440	ANGOLA	46703
32C36	DEPT. OF NATURAL RESOURCES	POKAGON STATE PARK	616 STATE OFFICE BLDG	INDIANAPOLIS	46204
32C16	DRAKE, BW&J	HILL HAVEN GAME FARM & ZOO	RR 51 BOX 699	TERRE HAUTE	47805
32C52	FORBES, H. DENNIS		1928 N 3RD STREET	TERRE HAUTE	47804
32C5	FT WAYNE CHILDRENS ZOOL. GDNS		3411 SHERMAN ST	FORT WAYNE	46808
32C2	HARDING, WB & ME		382 W MAIN ST	PERU	46970
32C26	IND DEPT OF NATURAL RESOURCES	JASPER-PULASKI FISH & WILD AREA.	607 STATE OFFICE BLG	INDIANAPOLIS	46204
32C1	INDIANAPOLIS ZOOL. SOC., INC.		3120 E 30TH ST	INDIANAPOLIS	46218
32C29	KELLY, P B	KELLY WINTER CIRCUS	6125 SO. 31	PERU	46970
32C24	LAFAYETTE BOARD OF PARKS & REC	COLUMBIAN PARK ZOO	1915 SCOTT ST	LAFAYETTE	47904
32C19	LAKE COUNTY FAIRGROUNDS		889 S COURT ST	CROWN POINT	46307
32C10	MICHIGAN CITY PARKS & REC. DPET.	WASHINGTON PARK ZOO GDNS	LAKEFRONT DRIVE	MICHIGAN CITY	46360
32C6	N. AMERICAN WILDWIFE PARK FOUNDATION	WOLF PARK		BATTLE GROUND	47920
32C39	PARISH, B		RT 1	KINGMAN	47952
32C45	PICKETT, N		238 NORTH DEPOT ST	BRAZIL	47834
32C27	POTAWATOMI ZOO		301 SO. SAINT LOUIS BLVD.	SOUTH BEND	46617
32C53	RETTIG, MAX		1531 N GIRLS SCHOOL RD.	INDIANAPOLIS	46224
32C54	RICHARDSON, J E	PICKLEMEADOWS ZOO	RT. 4 94B	NASHVILLE	47448
32C28	SANTA CLAUS LAND INC		P.O. BOX 36	SANTA CLAUS	47579
32C37	SCHAFFER, M		4512 W 131ST ST	WESTFIELD	46074
32C12	SMITH, GT		RT. 1 BOX 138A	GALVESTON	46932
32C41	STRONG, DC	BEARCREEK FARMS	R 1	BRYANT	47326
32C44	TAYLOR, KJ	TAYLOR ENTERPRISES	RT 1 BOX 151	CARBON,	47837
32C20	WEBERDING, W		RT 3 BOX 117	BATESVILLE	47006
32C46	WILDLIFE EDUCATIONAL SERV.		5559 W. MARKET ST.	INDIANAPOLIS	46224
32C32	WOODARD, E & B	SPRUCE HILL FARMS	1125 SO. BUFFALO RD.	MARTINSVILLE	46151
32C23	ZOPPE, D F		RR 2 BOX 326	ROCHESTER	46975

IOWA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
4254L	DES MOINES CHILDREN'S ZOO		7401 SW 9TH ST	DES MOINES	50315
4265L	ELDORA CITY PARK		1702 15TH ST	ELDORA	50627
4270L	JENKINS, RON	DEERLAND	RR 8309	SPIRIT LAKE	51360
4264L	LYON COUNTRY CONSERVATION LEAGUE.		C/O ROCK RAPIDS STATE BANK	ROCK RAPIDS	51246

IOWA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
4262L	SEABOLD, J	SEABOLD ANIMAL FARM	VALLEY RD RT 1	KEOKUK	52632

KANSAS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
48CA08	BRIT SPAUGH ZOO		BOX 215	GREAT BEND	67530
48CA13	CAREY PARK ZOO-CITY OF HUTCHINSON.	CAREY PARK	P.O. BOX 444	HUTCHINSON	67501
48CA17	CITY OF CLAY CENTER	CLAY CENTER MUNICIPAL ZOO	PO BOX 117	CLAY CENTER	67432
48CA09	CITY OF INDEPENDENCE	RALPH MITCHELL ZOO	RT 4	INDEPENDENCE	67301
48CA12	CITY OF MANHATTAN	SUNSET ZOOLOGICAL PARK	11TH & POYNTZ PO BOX 748	MANHATTAN	66502
48CA16	CITY OF OVERLAND PARK		8500 SANTA FE DRIVE	OVERLAND PARK	66212
48CA10	DAVIS, K & B	HAPPY HOLLOW ZOO	101 HAPPY HOLLOW LANE	FORT SCOTT	66701
48CA14	EMPORIA PARK DEPT	EMPORIA ZOO	BOX 928	EMPORIA	66801
48CA07	FARMER, LR	PRAIRIE DOG TOWN	I-70 & HWY 83	OAKLEY	67748
48CA06	LEE RICHARDSON ZOO		P.O. BOX 499	GARDEN CITY	67846
48CA15	NOEL, F	NOEL'S SPECIALTY ACTS	RT 2 BOX 567	MULVANE	67110
48CA05	SEDGWICK COUNTY ZOOLOGICAL SOCIETY.		5555 ZOO BLVD	WICHITA	67212
48CA18	STIMAX, M & W	WONDERFUL WORLD OF WHAT'S HAPPENING NOW.	PO BOX 442 1602 SOUTH H ST	ARKANSAS CITY	67005
48CA03	TOPEKA ZOOLOGICAL PARK	GAGE PARK ZOO	635 GAGE BLVD	TOPEKA	66606

KENTUCKY

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
61C8	LOUISVILLE ZOOLOGICAL GARDENS		1100 TREVILIAN WAY	LOUISVILLE	40213

LOUISIANA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
72C1	ALEXANDRIA ZOOLOGICAL PARK		PO BOX 71	ALEXANDRIA	71301
72C4	AUDUBON PARK COMMISSION	AUDUBON PARK & ZOOL. GARDENS.	PO BOX 4327	NEW ORLEANS	70178
72C2	CITY OF MONROE	LOUISIANA PURCHASE GARDENS & ZOO.	PO BOX 123	MONROE	71201
72C10	GLEASON, MA	WILDLIFE WORLD	RT 3 BOX 802	PLAIN DEALING	71064
72C3	GREATER BATON ROUGE ZOO		PO BOX 60	BAKER	70118
72C6	HAYNES, S	FAN FAIR PARK	8475 FLORIDA BLVD.	BATON ROUGE	70806
72C12	TROIA, J		3401 W. LOYOLA	KENNER	70062
72C11	VICKNAIR, D	SNAKE FARM	P.O. BOX 96	LAPLACE	70068
72C7	WHITE, G	GULF COAST SERPENTARIUM	RT 1 BOX 455	SLIDELL	70458

MAINE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
11C14	ALLEN, ROBERT	ALLEN'S FARM AND GARDEN SHOP.	201 GRAY ROAD	CUMBERLAND	04021
11C1	FRASER, CH	LUDLOW BEAR FARM	RFD #1 BOX 168	HOULTON	04730
11C8	GALLOP, V	GALLOP'S ANIMAL RANCH	RFD 2	HOULTON	04730
11C13	GOLDBERG, AD	SIMPSONS ANIMAL PARK	OLD BATH RD	BRUNSWICK	04011
11C15	GOLZBEIN, NAT	YORK'S WILD KINGDOM, INC.	P.O. BOX 862	YORK BEACH	03910
11C16	MAINE DEPT. OF INLAND FISHERIES & WILDLIFE.		284 STATE ST.	AUGUSTA	04330
11C9	MCKENNA, E	RUMFORD ZOO	RT 2	RUMFORD POINT	04279
11C7	MERRILL, C&E	MERRILL WILDLIFE CT	RFD 2 BOX 678	LISBON FALLS	04252
11C11	PRIME, E & B	ROSELEDGE FARM	RFD 2 STURTEVANT HILL RD.	WINTHROP	04364
11C5	SEALAND OF CAPE COD INC.	ACUALAND WILDLIFE PARK	RT 6A	BREWSTER	02536
11C10	SIMPSON'S WILD ANIMAL PARK	SIMPSON'S WILD ANIMAL PARK	OLD BATH ROAD	BRUNSWICK	04011
11C6	SKIBICKI, J		5 SAYWARD ST	KENNEBUNK	04043

MARYLAND

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
51C2	BALTIMORE AQUARIUM, INC.		501 EAST PRATT ST., PIER THREE	BALTIMORE	21202
51C6	BALTIMORE ZOO		DRUID HILL PARK	BALTIMORE	21217
51C14	BOYER, NANCY		275 W PASADENA RD	MILLERSVILLE	21108
51EAF	DAVIS, G & J	TRIO-D-FARM SUPPLY	PO BOX 325 RB STATION	PASADENA	21122
51RE12	ENCHANTED FOREST		10040 BALTO NATL PIKE	ELLICOTT CITY	21043
51C15	INTERNATIONAL WILDLIFE PARKS INC.		13710 CENTRAL AVE.	LARGO	20870
51EAD	LEWIS, JL	BIG VALLEY RANCH	BOX 1156 LAKE SHORE	PO BOX 1156	21122
51C4	MARRONE, J & S		13500 CENTRAL AVE.	LARGO	20870
51RE5	SALISBURY ZOO		750 S. PARK DRIVE	SALISBURY	21801
51RE3	ZOOLOGICAL CONSORT OF MD. INC.	CATOCTIN MOUNTAIN ZOO	13019 CATOCTIN FURNACE RD.	THURMONT	21788

MASSACHUSETTS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
14C9	AQUARIUM OF CAPE COD, INC.	AQUA CIRCUS	RT 28	WEST YARMOUTH	02673
14C38	BASSETT WILD ANIMAL FARM		620 TURNMAN RD	BREWSTER	02631
14C7	BOSTON MUSEUM OF SCIENCE	LIVE ANIMAL CENTER	SCIENCE PARK	BOSTON	02114
14C41	BREWER, PETER	SOUTHWICK ANIMAL FARM	RFD	BLACKSTONE	01504

MASSACHUSETTS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
14C5	CAPON PARK ZOO		COUNTY ST	ATTLEBORO	02703
14C11	CHILDREN'S MUSEUM		300 CONGRESS ST.	BOSTON	02210
14C17	CITY OF NEW BEDFORD	BUTTONWOOD PARK ZOO	133 WILLIAM ST.	NEW BEDFORD	02740
14C21	CITY OF PITTSFIELD	DEPT OF PARKS & RECREATION	874 NORTH ST	PITTSFIELD	01201
14C42	CITY OF SPRINGFIELD/DEPT. OF PARKS & REC.	FOREST PARK ZOO	FOREST PARK	SPRINGFIELD	01108
14C16	CITY OF WORCESTER	GREEN HILL PARK	419 BELMONT ST.	WORCESTER	01604
14C43	COTA, DAVID	DAVE COTA FREAK ANIMALS	P.O. BOX 421	MANSFIELD	02048
14C10	EDAVILLE CORPORATION		BOX 7 RTE 58	SOUTH CARVER	02366
14C20	ESTES, KL	MOHAWK TEPEE GIFT SHOP	RT 2 MOHAWK TRAIL	SHELBURNE FALLS	01370
14C4	FOREST PARK ZOOL. SOCIETY	JAMES PHEADY CHILDREN'S ZOO	SOUTH GREETING RD	SPRINGFIELD	01109
14C15	FRANK NEWHALL LOOK MEM. PARK		300 N MAIN ST	FLORENCE	01060
14C38	GLEASON, J	PROVINCETOWN MARINE AQUARIUM.	BOX 324	PROVINCETOWN	02657
14C22	H. K. WEBSTER CO., INC.		32 WEST ST	LAWRENCE	01842
14C35	LEFRANCOIS, P & D	IT'S AN ANIMAL'S WORLD	10 WHITCOMB ST	WEBSTER	01570
14C39	LUPO, ANTHONY		44 ROSSMERE STREET	NEWTONVILLE	02160
14C27	MASSACHUSETTS AUDUBON SOCIETY.		SO. GREAT RD	LINCOLN	01773
14C1	METROPOLITAN DIST COMM	FRANKLIN PARK ZOO		DORCHESTER	02121
14C18	MT. WACHUSETT ANIMAL FOREST INC.		OLD PRINCETON RD BOX 51	HUBBARDSTON	01452
14C12	NEW ENGLAND AQUARIUM CORP.		CENTRAL WHARF	BOSTON	02110
14C24	NORTH ATTLEBORO PARK COMMISSION.	WORLD WAR 1 MEMORIAL PARK	43 SOUTH WASHINGTON ST.	NORTH ATTLESBORO	02760
14C40	PINE BANKS PARK		1087 MAIN STREET	MALDEN	02148
14C14	WALTHAM PK & REC DEPT		314 TOTTEN POND RD	WALTHAM	02154
14C32	WATSON, B	EAST COAST CAMEL CO	POND STREET	ESSEX	01929
14C3	WORCESTER SCIENCE CTR	WORCESTER NAT HIS SOC	222 HARRINGTON WAY	WORCESTER	01604

MICHIGAN

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
34CE8	CITY OF DETROIT		BOX 39	ROYAL OAK	48068
34CE10	CITY OF GRAND RAPIDS	JOHN BALL ZOOL. GARDENS	301 MARKET ST SW	GRAND RAPIDS	49503
34CE15	CITY OF LANSING	POTTER PARK ZOO	CITY HALL 4TH FLOOR	LANSING	48933
34CE17	CITY OF THREE RIVERS	SCIDMORE PARK	333 W MICHIGAN AVE	THREE RIVERS	49093
34CE9	DEER FOREST PARK INC		BOX 817	COLOMA	49038
34CE3	DEER PARK FUNLAND INC		4750 WHITEHALL RD	MUSKEGON	49445
34CE1	HEIDE, K	GAME HAVEN	13750 SHIRE RD	WOLVERINE	49799
34CE16	SONGER, R	JACKSON WILD ANIMAL KINGDON INC.	2401 HILTON	JACKSON	49201
34CE21	SOULES, GERARD		7456 NORTHWAY	UNION LAKE	48085
34CE18	SPIETH, LAVERN		RT 1	LITCHFIELD	49252

MINNESOTA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
41C47	ANIMAL ACRES ZOOLOGICAL WILDLIFE ASSOCIATION.		RR 3 BOX 203	WADENA	56482
41C41	BARSNESS, P & P		RT 1 BOX 217	BOVEY	55709
41C42	BICKFORD, LEROY			HACKENSACK	56452
41C32	BLUE MOUND INN		NORTH HWY 75	LUVERNE 56L	56156
41C43	BRAINERD BAXTER CORPORATION	PAUL BUNYAN AMUSEMENT CENTER.	PO BOX 563	BRAINERD	56401
41C17	CAMPBELL, D	MILLIKEN CREEK	RR 1 BOX 104	WEST CONCORD	55985
41C27	CITY OF LITTLE FALLS		100 NE SEVENTH AVE	LITTLE FALLS	56345
41C49	CITY OF REDWOOD FALLS	RAMSEY PARK	207 EAST FOURTH ST. BOX 10	REDWOOD FALLS	56283
41C40	CITY OF VIRGINIA		OLCOTT PARK	VIRGINIA	55792
41C34	CITY OF WADENA		BOX 30	WADENA	56482
41C10	COOK, V & M	COLD SPRINGS, INC.		ORR	55771
41C14	EGGLESTON, O&D		DEER VALLEY	WALKER	56484
41C31	GIGSTEAD, G S	NEEDLEWOODS WILDLIFE RANCH.	STAR ROUTE	DETROIT LAKES	56501
41C45	GOPHER CAMPFIRD WILDLIFE SANCTUARY.	GOPHER CAMPFIRE WILDLIFE SANCTUARY.	122 NORTH MAIN STREET	HUTCHINSON	55350
41C39	HIGH FALLS & TRADING POST, INC.			GRAND PORTAGE	55605
41C48	HIMES, D G	TRAPPER HIMES WILD ANIMAL FARM.		RAY	56669
41C44	KRACHEY, M & D	AQUA PARK AQUARIUM & DEER FARM.	1008 E 1ST STREET	PARK RAPIDS	56470
41C16	LABARGE, L&R	SMOKEY HOLLOW ANIMAL HAVEN.	RT 1 BOX 59	CHISHOLM	55719
41C25	LENZ, FC	DEER FOREST	PO BOX 134	NISSWA	56468
41C26	LENZ, W	WILLY LENZ CHIMPANZEE ACT	BOX 134	NISSWA	56468
41C35	LIESTMAN, D & D	THE FARM SUPPER CLUB INC	ROUTE 4 BOX 25A	PRINCETON	55371
41C9	MARKKANEN, R	10,000 SEA SHELLS	RT 1 BOX 282	EVELETH	55734
41C22	MCGREGOR DAIRY QUEEN, INC.		BOX 66	MCGREGOR	55760
41C36	MURRAY, JACK	FORT DETROIT	RT. 3	DETROIT LAKES	56501
41C37	NELSON, I		RT 1 BOX 17	ST. PETER	56082
41C46	RUX, GAIL	RUX GAME FARM	RT 5 BOX 67	THEIF RIVER FALLS	56701
41C24	SIMPSON, D & D	DEER TOWN	RT 2	PARK RAPIDS	56470
41C20	SMUDA, F & L		RT 3 BOX 244	LITTLE FALLS	56345
41C19	STATE OF MINNESOTA	MINN ZOOLOGICAL GARDEN	12101 JOHNNY CAKE RIDGE RD	APPLE VALLEY	55124
41C3	TANK, GA	DEERLAND ENT	RT 7 BOX 11	BRAINERD	56401
41C5	TRYON, R	HIGH TOWN DEER PARK	RT 3 BOX 436	BEMIDJI	56601
41C11	VALLEYFAIR INC.		1 VALLEYFAIR DRIVE	SHAKOPEE	55379
41C18	WALTERS, C	RIVERSIDE INN	PO BOX 96	SIDE LAKE	55781

MISSISSIPPI

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
65C6	BRELAND, MA	THE CABIN STORE	HWY 29-NORTH	WIGGINS	39577
65C2	CITY OF HATTIESBURG	KAMPER PARK & ZOO	107-17TH AVE	HATTIESBURG	39401
65JZ	CITY OF JACKSON	JACKSON ZOOLOGICAL PARK	2918 W CAPITOL ST	JACKSON	39209
65C1	CITY OF MERIDIAN/PARKS & RECREATION	MERIDIAN ZOO	PO BOX 4153 W. STATION	MERIDIAN	39301
65C5	MARINE ANIMAL PRODUCTIONS INC		150 DEBUYS RD	BILOXI	39531
65C8	NESHOBA COUNTY PARK & REC	PHILADELPHIA PARK & ZOO	RT 6 BOX 5	PHILADELPHIA	39350

MISSOURI

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
4380L	ACTION ADVERTISING CO.		2001 S WESTWOOD	POPLAR BLUFF	63901
4359L	ANHEUSER-BUSCH COMPANIES, INC.		1 BUSCH PLACE	ST. LOUIS	63118
4353L	CAMPBELL, D & S	ANIMAL WORLD		ELDON	65026
4381L	CARDEN-JOHNSON CIRCUS CORP		RT 2 BOX 253 BECKETT RD	SEAGOVILLE	75159
4376L	HALE, D	5-H RANCH ZOO	RT 2	CAPE GIRARDEAU	63701
4368L	JACKSON CO. PARK DEPT.		BOX 124 RT 1	BLUE SPRINGS	64015
4354L	JONES, J		RT. 1 BOX 270	STRAFFORD	65757
4362L	KANSAS CITY ZOOLOGICAL GARDENS		SWOPE PARK	KANSAS CITY	64132
4379L	KRUSE, M	HOMESTEAD FARM	RT. 2 BOX 306	BLUE SPRINGS	64015
4352L	MAY ALLEN'S ZOOLOG. GARDENS		P.O. BOX 51	ELDON	65026
4385L	MCLANAHAU, V	NOAH'S ARC ANIMAL LAUD	R 3	LEBANON	65536
4382L	SEIDON, A		RT. 1 BOX 248A	FORDLAND	65652
4386L	SILVER DOLLAR CITY	MARVEL CAVE PARK		BRANSON	65616
4350L	SIX FLAGS OVER MID-AMERICA INC		PO BOX 590	EUREKA	63025
4351L	SPRINGFIELD PARK BOARD	DICKERSON PARK ZOO	1923 NORTH WELLER	SPRINGFIELD	65803
4361L	ST. LOUIS ZOOLOGICAL PARK		FOREST PARK	ST. LOUIS	63110

MONTANA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
81C4	GREBE, LR		BOX 187	MELSTONE	59054
81C3	MAYES, LEROY M		FAIRMONT HOT SPRINGS	ANACONDA	59711
81C2	RED LODGE ZOO		BOX 820	RED LODGE	59068
81C1	THE TRAP INC		5850 HWY 2 EAST	COLUMBIA FALLS	59912

NEBRASKA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
47C02	AGER MEMORIAL ZOO		1300 S 27TH ST	LINCOLN	68502
47C1	ARNOTT R. FOLSOM ZOOL. SOC.	FOLSOM CHILDREN'S ZOO	2800 A ST	LINCOLN	68502
47C06	BROZOVSKY, L & A	A & B MONKEY HAVEN	309 BURLINGTON	YORK	68467
47C07	CITY OF BROKEN BOW		PO BOX 504	BROKEN BOW	68822
47C05	CITY OF NORTH PLATTE	CODY PARK ZOO	211 WEST 3RD ST	NORTH PLATTE	69101
47C08	CITY OF SCOTTSBLUFF		1818 AVENUE A	SCOTTSBLUFF	69361
47C09	FROHMAN, L & G	AALETA'S GROOMING SALON	2630 H STREET	LINCOLN	68510
47C03	HENRY DOORLY ZOO	RIVERVIEW PARK	10TH & DEERPARK BLVD.	OMAHA	68107

NEVADA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
88E7	AUBAIN, CHARLES		115 E WIGWAM	LAS VEGAS	89119
88E5	AUGSPURG, C		6772 EASTERN AVE	LAS VEGAS	89119
88E24	BECK, C		6085 ELKHORN RD	LAS VEGAS	89106
88E25	BEROSINI, B	BOBBY BEROSINI LTD	2716 E RENO AVE	LAS VEGAS	89120
88E12	DETROY, G	MARQUIS CHIMPANZEES	2971 SANTA MARGARITA	LAS VEGAS	89102
88E11	EVANS, K	CATS	5938 BARRY LANE	LAS VEGAS	89119
88E20	HANTIGOVA, O & D		2225 MONTESSOURI	LAS VEGAS	89107
88E27	HIBEL, A & D	ANIMAL ARK	9499 WIGWAM WAY	RENO	89506
88E23	HINMAN, A & J		STAR RT BOX 7562	PAHRUMP	89041
88E26	KERR, T & I	THE KERR CORP.	157 GREENBRIAR TOWNHOUSE RD.	LAS VEGAS	89121
88E29	LEE, BERRI		7825 WISHING WELL ROAD	LAS VEGAS	89119
88E13	LEVINSON, A&B	BONNIE SPRINGS RANCH		OLD NEVADA	89004
88E15	MEYER, L	PARADISE PET CLINIC	2115 MOHEGAN WAY	LAS VEGAS	89109
88E19	POST, H	STAGECOACH PRODUCTIONS, INC.	10690 CHESTNUT RD	RENO	89506
88E14	RUBY, J & M	RANCHO LOS LOBOS	PO BOX 95	MOAPA	89025
88E22	SCHEPOK, K	THE ANDEN'S POODLES	4026 SYRACUSE DR	LAS VEGAS	89121
88E5	SIEGFRIED & ROY, ENT. INC.		1639 NO VALLEY DR	LAS VEGAS	89109
88E4	SPARKS NUGGET, INC.		PO BOX 797	SPARKS	89431
88E32	SWINDLER, R I		3920 CLEARACRE LANE	RENO	89512
88E17	VARGAS, J & P		192 ERIE AVE	LAS VEGAS	89119
88E3	VINICKY-SMAHA, J		3131 S JONES BLVD	LAS VEGAS	89102
88E31	WOLFE, LEROY		7640 SO. SPENCER ST	LAS VEGAS	89119
88E21	WYNN, EE		PO BOX 1274	WWWEMUCCA	89445

NEW HAMPSHIRE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
12C1	BENSON WILD ANIMAL FARM, INC.		27 KIMBALL HILL RD	HUDSON	03051
12C6	BRADY, J	SIX GUN CITY	RT. 2 BOX 114	JEFFERSON	03583
12C3	CLARK'S TRADING POST		RTE. 3	LINCOLN	03251
12C15	DAMON, DR. DWIGHT	DWIGHT DAMON ASSOCIATES	LANE MANOR BOX 885	MERRIMACK	03054

NEW HAMPSHIRE—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
12C5	FOX, B	FRIENDLY FARM	BOX 76	DUBLIN	03444
12C16	HAGER, M R		57 MAPLE ST.	DOVER	03820
12C14	MOGYOROSI, FRANK		PO BOX 343	NASHUA	03061
12C11	MORRELL CORP.	STORYLAND	BOX 1776 RTE 16	GLEN	03860
12C2	NATURELAND, INC.	SIX GUN CITY	RT 3	LINCOLN	03251
12C7	SANTA'S VILLAGE INC.		PO BOX 8	JEFFERSON	03583
12C4	SQUAM LAKES SCIENCE CENTER		PO BOX 146	HOLDERNESS	03245
12C9	WEIRS SPORTS CENTER, INC	STORYBOOK FOREST	P.O. BOX 278	WEIRS BEACH	03246

NEW JERSEY

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
22C9	ANIMAL ACTORS INTERNATIONAL, INC..		RD 3 BOX 221	WASHINGTON	07882
22C44	ANIMAL SPECTACULAR		1648 NOTTINGHAM WAY	TRENTON	08619
22C22	BERGEN CO. PARK COMM.	VAN SAUN PARK ZOO	327 EAST RIDGEWOOD AVE.	PARAMUS	07652
22C14	BOB JONES PROMOTIONAL ATTRACTIONS, INC..		151 N ANNAPOLIS AVE	ATLANTIC CITY	08401
22C15	BRIDGETON CITY PARK	COHANZICK ZOO	CITY PARK	BRIDGETON	08302
22C37	BROWN, D B	ANIMAL ATTRACTIONS UNLIMITED	BOX 365 A-RD 4	PLEASANTVILLE	08232
22C35	BURGER, J & F		RD 1 BOX 431-A	BLACKWOOD	08012
22C36	CAPEMAY COUNTY PARK ZOO		RT 9	CAPE MAY COURT HOUSE	08210
22C25	CITY OF TRENTON	CADWALADER PARK	CITY HALL E STATE ST	TRENTON	08608
22C42	CLARK, T		BOX 59	ROSEMONT	08556
22C20	COLLINS, B		BOX 550 RT 23	OAK RIDGE	07438
22C47	D'ERCOLE, R & R		374 AIRMOUNT AVE	RAMSEY	07446
22C16	DAWN ANIMAL AGENCY, INC	MEADOW GATE FARM	CROSS RD	COLTS NECK	07722
22C40	DIETCH, R		41-23 GIEGER PLACE	FAIR LAWN	07410
22C11	ESSEX COUNTY PARK COMM	TURTLE BACK ZOO	115 CLIFTON AVENUE	NEWARK	07104
22C29	GIORDANO, S&R		RD 1 BOX 109-E	FRANKLIN	07416
22C12	GREAT ADVENTURE INC.		P.O. BOX 120	JACKSON	08527
22C46	JACKSON, PETER	PETER JACKSON PRODUCTIONS	2500 BOARDWALK BOX 1558	ATLANTIC CITY	08404
22C27	MARASEK, JB		P.O. BOX 1025	FREEHOLD	07728
22C23	MIDDLESEX CO. PKS./REC. DEPT.	THOMPSON PARK	PO BOX 661	NEW BRUNSWICK	08903
22C43	NAUD, JAN	STEEL PIER	75 HAVERFORD	MARGATE	08402
22C38	POPCORN PARK ZOO		PO BOX 43	FORKED RIVER	08731
22C4	ROSE, C & M	ROSE'S ANIMAL FARM	HOBSON AVENUE	TRENTON	08610
22C45	ROSNER,A & P	MONKEY ANTICS	25 BARKER LANE	WILLINGBORO	08046
22C30	SILS, JR		OLD YORK RD.	BORDENTOWN	08505
22C2	SPACE, F	SPACE WILD ANIMAL FARM INC	RFD 6 BOX 135 BEEMERVILLE RD	SUSSEX	07461
22C41	STELPSTRA, REV. WM	BETHEL RANCH	1005 UNION RD	WEST MILFORD	07480
22C17	TERRY, FT&EL	TERRY LOU ZOO	1451 RARITAN RD	SCOTCH PLAINS	07076
22C32	TOWN OF KEARNY	RIVERBANK PARK ZOO	BERGEN AVENUE	KEARNY	07032
22C7	WHITCRAFT, JR	MONKEY BUSINESS	MAIN ST BOX 3	JULIUSTOWN	08042
22C13	WINTERS, R		17 LINCOLN ST.	RAMSEY	07446
22C39	YOUNG, PM	MISTY HOLLOW FARM	RD 1 BOX 275	FLEMINGTON	08822

NEW MEXICO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
85C3	CITY OF ALAMOGORDO	ALAMEDA PARK ZOO	511 TENTH ST.	ALMOGORDO	88310
85C1	CITY OF ALBUQUERQUE	RIO GRANDE ZOOL PK	PO BOX 1293	ALBUQUERQUE	87102
85C4	LIVING DESERT STATE PARK		PO BOX 100	CARLSBAD	88220
85C7	LLAMA LLAND			WHITE'S CITY	88268
85C5	SPRING RIVER PARK & ZOO		CITY HALL	ROSWELL	88201
85C2	STARKEY, EB	FLYING W'S EXOTIC GAME FARM	3406 ENGLISH RD	FARMINGTON	87401

NEW YORK

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
21JT	ALL-TAME ANIMALS, INC.		69 OLD WELL RD.	PURCHASE	10577
21CF	ANIMAL LAND INC		RT. 9 RD 2	GLENS FALLS	12801
21ME	BOARD OF TRUSTEES	WILDCLIFF MUSEUM	WILDCLIFF RD	NEW ROCHELLE	10805
21KW	BURKE, S & J		RR 1 BOX 152	WINDHAM	12496
21CL	CATSKILL GAME FARM INC		R.D. 1 BOX 139	CATSKILL	12414
21KA	CHATEAU STABLES, INC.		606 W 48TH ST	NEW YORK	10036
21OC	CHOVANIC, D & D	INTERNATIONAL LION SHOW, INC	43-67 147TH ST	FLUSHING	11355
21JS	CITY OF KINGSTON	FORSYTH PARK ZOO	467 BROADWAY	KINGSTON	12401
21PW	CITY OF NEW YORK, DEPT. OF PARKS		830 FIFTH AV	NEW YORK	10021
21CW	CITY OF UTICA	UTICA ZOOLOGICAL SOCIETY	STEELE HILL RD	UTICA	13501
21FA	CITY OF WATERTOWN	THOMPSON PARK ZOO	245 WASHINGTON ST	WATERTOWN	13601
21NL	CROSS, L & R	FORT RICKEY GAME FARM	BOX 317 RD 5	ROME	13440
21FL	DARIEN LAKE FUN COUNTRY		9993 ALLEGHENY RD.	DARIEN CENTER	14040
21CJ	DOGGETT, D		P.O. BOX 147 MILL ST	STITTVILLE	13469
21NO	ECUYER, L	ZIPPY ENTERPRISES	439 GUY LOMBARDO AVE	FREEPORT	11520
21JC	FANTASY ISLAND, INC		2400 GRAND ISLAND BLVD	GRAND ISLAND	14072
21GN	FARR, H & D		BOX 57	LODI	14860
21DX	FRONTIER TOWN PROD., INC			NO HUDSON	12855
21HT	GILLETTE, AE	MAGIC FOREST	151 SAMPSON PARKWAY	PITTSFIELD	01201
21OP	GURNEY, S & D	GURNEY'S MAGIC CIRCUS LAND	RD 1 BOX 166A	NEWARK VALLEY	13811
21OD	HAUPT, RONALD	THE BARNYARD, INC	RD 2 BOX 482	NEWARK VALLEY	13811
21NA	LITTLE LION LAND, INC.		1134 UNION AVE	NEWBURGH	12550
21NZ	LOLLYPOP FARM OF ROCHESTER INC.		99 VICTOR RD.	FAIRPORT	14450
21GZ	LONG ISLAND GAME FARM INC.		CHAMPMAN BLVD	MANORVILLE	11949
21JA	MILLBROOK SCHOOL		MILLBROOK SCH RD	MILLBROOK	12545
21KS	MOREAU, PJ	JOY & THE MOREAU BOYS	1807 18TH ST	NIAGARA FALLS	14305

NEW YORK—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
21DY	MUSEUM OF THE HUDSON HIGHLANDS.		THE BOULEVARD	CORNWALL-ON-HUDSON	12520
21BW	NEW YORK ZOOLOGICAL SOC		185TH ST. & SOUTHERN BLVD.	BRONX	10460
21NX	NEWMAN, B	BETTE & HER HOLLYWOOD PALS	32-76 36TH ST.	ASTORIA	11106
21DM	ONONDAGA COUNTY DEPT OF PARKS & REC..	BURNET PARK ZOO	P.O. BOX 146	LIVERPOOL	13088
21KZ	OPPENHEIM ZOOLOGICAL SOC.		2697 NIAGARA FALLS BLVD	NIAGARA FALLS	14304
21DW	PALISADES INTERSTATE PARK COMMISSION.	BEAR MOUNTAIN TRAILSIDE MUSEUMS.		BEAR MOUNTAIN	10911
21KR	POPOLIZIO, GR		ROUTE 1 BOX 62	HOLMES	12531
21KY	RIX, A	RIX PERFORMING BEARS	R.D. 1 BOX 12	MIDDLETOWN	10940
21OG	ROBINSON, WLM		7470 GLASCO TURNPIKE	SAUGERTIES	12477
21EM	SANTA'S WORKSHOP,INC			NORTH POLE	12946
21NU	SEA RESEARCH FOUNDATION, INC.	AQUARIUM OF NIAGARA FALLS	701 WHIRLPOOL ST	NIAGRAA FALLS	14301
21DZ	SENECA PARK ZOO		2222 ST. PAUL ST.	ROCHESTER	14621
21EA	SOUTHERN TIER ZOOLOGICAL SOC.	ROSS PARK ZOO	185 PARK AVE.	BINGHAMTON	13903
21HY	STATEN ISLAND ZOOLOGICAL SOC.		614 BROADWAY	LONG ISLAND	10310
21DB	STERLING AK FUR/GAME FARM INC		17 SARANAC AV	LAKE PLACID	12946
21OR	TESSLER, R & B	THOUSAND ISLANDS CHILDRENS ZOO	RD 1 BOX 393	REDWOOD	13679
21DM	THOMPSON, C & P	GREENWOOD GAME FARM	RD 1 BOX 166	NEWARK VALLEY	13811
21NI	TOWN OF HARRISON/RECREATION DEPT..	WEST HARRISON MEMORIAL PARK.	1 HILLSIDE AVE	HARRISON	10528
21ML	VEIT, JM	CANDY CANE VILLAGE	1945 EDEN EVANS RD	EDEN	14057
21KT	VIDBEL, A & J		R.R. 1 BOX 251	WINDHAM	12496
21OF	WIDMARK, H & S	WIDMARK FARMS	RT 44-55	GARDINER	12525
21EP	WOOD, CHARLES	STORYTOWN FUN PARK	LAKE GEORGE RD.	GLENS FALLS	12801
21FJ	ZOOL. SOC. OF BUFFALO, INC.	BUFFALO ZOOL. GARDENS		BUFFALO	14214

NORTH CAROLINA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
55C34	BALL, J & M / BIRDTOWN TRADING POST.	BIRDTOWN TRADING POST	HIGHWAY 19	CHEROKEE	28719
55C33	BEAM, G	BWANA BOB'S	RT 7 BOX 977	LINCOLNTON	28092
55C25	BOWIE, F		862 SHAW MILL RD	FAYETTEVILLE	28301
55C18	CARRADO, JR, N	CARRADO ENTERPRISES	PO BOX 894	CARTHAGE	28327
55C9	CITY OF ASHEVILLE	NATURE CENTER	GASHES CREEK ROAD	ASHEVILLE	28805
55C28	CITY OF CHARLOTTE	HORNET'S NEST PARK	310 N KINGS DR	CHARLOTTE	28204
55C23	CITY OF GREENSBORO AND NATURAL SCIENCE.		4301 LAWNDALE DR.	GREENSBORO	27408
55C22	FEICK, GT		RT #2 BOX 152 A	SYLVA	28779
55C24	HAMPTON, H & R & J	HAMPTON ENTERPRISES	RT 1	MT ULLA	28125
55C17	JOHNSON, RE & HH	FRONTIER FORT, INC.	5625 CAROLINA BEACH RD	WILMINGTON	28403
55C10	JOHNSON, SR, CH	JOHNSON'S ZOO & ANIMAL FARM.	BUFFALO RD RT 3 BOX 464	SMITHFIELD	27577
55C15	LEE, M	RAINBOW TRAVELING SHOW	RT 2 SLEEPY CREEK	DUDLY	28333
55C3	MILLER, JP	SOCO GARDENS ZOO	RT 1 BOX 355	MAGGIE VALLEY	28751
55C32	MURCHISON, B & J		RT 1 BOX 72	STAR	27356
55C7	N. CAROLINA ZOOLOGICAL PARK		RT 4 BOX 73	ASHEBORO	27203
55C27	QUINLAN, R	QUINLAN MARINE ATTRACTIONS	RT 3 BOX 540	LINCOLNTON	28092
55C26	ROWAN COUNTY PARKS & REC	DAN NICHOLAS PARK NATURE CT.	RT 10 BOX 832	SALISBURY	28144
55C31	SCHEURER, WAYNE & SUZI	THE MENAGERIE	105 MEADOW ST	SPRINGLAKE	28390
55C20	THE MCADENVILLE FOUNDATION			MCADENVILLE	28101
55C5	TOMS, L	RUTHERFORD CO ZOO	RT 3 BOX 306	FOREST CITY	28043
55AG	TREGEMBO, GR&J	TOTE-EM-IN-ZOO	5845 CAROLINA BCH RD	WILMINGTON	28401
55C6	TRUESDELL, T	SAUNOOKE BEAR LAND	P.O. BOX 795	CHEROKEE	28719
55C8	TWEETSIE RAILROAD INC.	THE DEER FARM	P.O. BOX 388	BLOWING ROCK	28605
55C11	UNDERWOOD, W & B		RT 2	VASS	28394
55C12	WILSON, E & H	PLAYTIME ANIMAL CIRCUS	P O BOX 1167	CONCORD	28025

NORTH DAKOTA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
45C1	CHAHINKAPA ZOO ASSN	CHAHINKAPA ZOO	BOX 101	WAHPETON	58075
45C3	DAKOTA ZOOLOGICAL SOC.,INC.	DAKOTA ZOO	PO BOX 711	BISMARCK	58501
45C4	MINOT PARK DISTRICT	ROOSEVELT PARK ZOO	BOX 538	MINOT	58701
45C5	SPRING LAKE ZOO		P.O. BOX 1153	WILLISTON	58801

OHIO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
31CE	AKRON ZOOLOGICAL PARK	AKRON CHILDRENS ZOO	500 EDGEWOOD AVE.	AKRON	44307
31C407	AMUSEMENT CORPORATION OF AMERICA.		801 MICHAELS ROAD	FREMONT	43420
31C406	BUCKHOLZ, RICHARD	GOLD STAR PRODUCTIONS	7017 ENGLE ROAD	MIDDLEBURG HEIGHTS	44130
31C423	CEDAR POINT AMUSEMENT PARK, INC..	OCEANA	C.N. 5006	SANDUSKY	44870
31C386	CHANDLER, L A		123 ST. GEORGE ST.	ST. AUGUSTINE	32084
31C350	CLARE-MAR-LAKES		RD #1 NEW LONDON EASTERN RD.	NEW LONDON	44851
31C5	COLUMBUS ZOOLOGICAL GARDENS	COLUMBUS ZOO	9990 RIVERSIDE DR	POWELL	43065
31C360	CONLEY, CE	UNITED ZOOLOGICAL EXHIBIT	2635 NORTON RD	KENT	44240
31C239	CULLISON, K		1949 KIM DR	AKRON	44312
31C205	DIAMOND K DONKEY BALL CO		R 1	WAPAKONETA	45895
31C27	DIAMOND O RANCH, INC.	BUCKEYE CIRUS CORP.	1000 WARNER RD. SE	CANTON	44707
31C338	DORMAN, R	VANISHING SPECIES, LTD.	4401 MANCHESTER RD.	AKRON	44319

OHIO—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
31C361	DOWNIE, M	SPORTSMAN'S JUNCTION	26715 BROOKPARK EXTENSION	N. OLMSTED	44070
31C403	DURBIN, WALTER E		4318 PACKARD ROAD	TOLEDO	43612
31C332	EBENHACK, TE		28901 EBENHACK RD	CIRCLEVILLE	43113
31C311	EGGERS, DG	MOTHER NATURES MENAGERIE	695 WEBER AVENUE	AKRON	44303
31C380	FIKES, D	F & S ANIMAL FARM	468 W STEELES CORNERS RD	CUYAHOGA FALLS	44223
31C321	FOLLIN, WJ	A-1 DONKEY BALL CO	BOX 159	UNIOPOLIS	45888
31C421	FORSYTHE, DENNIS & DONNA		8159 MEVERS ROAD	MIDDLETOWN	45042
31C367	GOSHEN, T		3822 CANTERBURY RD	WESTLAKE	44145
31C357	HEIDELBERG, RF	BRUKNER NATURE CT	5995 HORSESHOE BEND RD	TROY	45373
31C184	HOSKINSON, SP	ANIMALS OF DISTINCTION	127 COULTER ST.	CRESTON	44217
31C389	HOWD, R	PETE AND POP	282 HIGHGROVE BLVD	AKRON	44312
31C194	LAGOON DEER PARK INC		1502 MARTIN'S PT RD	SANDUSKY	44870
31C331	LEDUC, P		PO BOX 69	ATLANTA	43104
31C394	LEIGHTON, H		FOXBORO RD	GATES MILLS	44040
31C428	MASSILLON TIGER BOOSTER CLUB		P.O. BOX 19	MASSILLON	44648
31C17	METROPARKS ZOOLOGICAL PARK	BROOKSIDE PARK	BOX 09040	CLEVELAND	44109
31C314	PICARD, J & B	PARKMAN ZOOLOGICAL GARDENS	16639 MAIN MARKET RD.	WEST FARMINGTON	44491
31C318	SAUDER MUSEUM FARM & CRAFT VILLAGE.		P.O. BOX 332	ARCHBOLD	43502
31C349	SEA WORLD OF OHIO		1100 SEA WORLD DRIVE	AURORA	44202
31C308	SEDIVY, R		15281 MAIN MARKET	BURTON	44021
31C417	SHIELDS, RANDY		602 EVERWOOD APT. A	COLUMBUS	43201
31C392	STRONG, T		4030 SNYDER-DOMER RD	SPRINGFIELD	45502
31C188	TAFT BROADCASTING CO.	KINGS ISLAND	1906 HIGHLAND AVE.	CINCINNATI	45219
31C168	THE HIRAM HOUSE		33775 HIRAM TRAIL	CHAGRIN FALLS	44022
31C7	TOLEDO ZOOLOGICAL SOCIETY		2700 BROADWAY	TOLEDO	43609
31C351	WOLFREY, A D JR.	ANIMAL CRACKER PARK	9627 VORIS RD.	LOGAN	43138
31C336	YOXALL, L	Y-BAR ENTERPRISES	12423 HONEYLOCUST LN.	GARETTSVILLE	44231
31C20	ZOO SOC OF CINCINNATI		3400 VINE ST	CINCINNATI	45220

OKLAHOMA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
73EZ11	ALBRO, A	BUFFALO RANCH		AFTON	74331
73EZ16	ANYNES, JOHN	ANIMAL ACTORS OF OKLAHOMA	RT. 1 BOX 267	CHOCTAW OK	73020
73EZ10	BARREDA, J		PO BOX 381	EDMOND	73034
73EZ4	CARSON & BARNES CIRCUS, INC.		PO BOX J	HUGO	74743
73EZ14	CITY OF ADA	WINTERSMITH PARK	13TH & TOWNSEND	ADA	74820
73EZ6	CITY OF ALVA ZOO		415 4TH ST	ALVA	73717
73EZ2	CITY OF OKLAHOMA CITY	OKLAHOMA CITY ZOO TRUST	2101 N.E. 50TH ST.	OKLAHOMA CITY	73111
73EZ3	CITY OF TULSA	TULSA ZOOLOGICAL PARK	5701 E 36TH ST	TULSA	74115
73EZ12	HAGEE, J	ARBUCKLE WILDERNESS	RT 2 BOX 84	EDMOND	73034
73EZ15	MADISON, E	TAMMY-LINN YOUTH FASHIONS	7800 NORTH MAY AVE	OKLAHOMA CITY	73116
73EZ13	THE FRANK PHILLIPS FOUNDATION, INC.	WOOLAROC WILDLIFE REFUGE	BOX 1647	BARTLESVILLE	74005

OREGON

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
92C5	CITY OF KLAMATH FALLS	MOORE PARK	P.O. BOX 237	KLAMATH FALLS	97601
92C26	CRAIG, HC		100 SW 195 NO. 191	BEAVERTON	97005
92C30	ENSOR, A & M & OBRIEN, J & V	SEASIDE ACQUARIUM	200 N PROMENADE	SEASIDE	97138
92C12	FIEBER, B	OREGON COAST SAFARI	BOX 355	SILETZ	97380
92C24	HURDY GURDY CIRCUS, INC.		1303 SW 16TH	PORTLAND	97201
92C9	INDIAN FOREST INC		88493 HWY 101	FLORENCE	97439
92C14	JACOBS, JR., T	CANDYLAND CIRCUS	RT 4, BOX 652	GRESHAM	97030
92C1	METROPOLITAN SERVICE DISTRICT	WASHINGTON PARK ZOO	4001 S.W. CANYON RD.	PORTLAND	97221
92C13	TENNEY, R	WEST COAST GAME PARK	RT 1, BOX 1330	BANDON	97411
92C28	TROUTMAN INVESTMENT CO	OPERATION SANTA CLAUS	BOX 5467	EUGENE	97405
92C25	W. DEER PK. & ARBORETUM LTD		RT 1 BOX 44	SHERIDAN	97378
92C10	WILDLIFE SAFARI		PO BOX 600	WINSTON	97496
92C29	WILDS, J & R	WILDS ANIMALS	P.O. BOX 553	MOSIER	97040
92C21	WOODLAND DEER PARK	WOODLAND DEER PARK	27855 REDWOOD HIGHWAY	CAVE JUNCTION	97523
92C31	WOODMARK, JOHN D.	DEPOE BAY AQUARIUM	PO BOX 69	DEPOE BAY	97341

PENNSYLVANIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
23E66	ACDMY OF NAT SCIENCES		19TH & THE PARKWAY	PHILADELPHIA	19103
23E24	ANIMAL KINGDOM TALENT SERVICE		RD 2 BOX 61	TIOGA	16946
23E100	BAKER, J T		RD. 1 FREDERICHSTOWN RD.	DARLINGTON	15115
23E44	BLUBAUGH, CR	TWIN KISS DRIVE-IN	7321 ANTHONY HWY.	WAYNESBORO	17268
23E36	BODINE, SR., GS	ANIMALAND	RD 5 BOX 225	WELLSBORO	16901
23E12	BOROUGH OF NORRISTOWN	ELMWOOD PK ZOO	235 EAST AIRY ST	NORRISTOWN	19401
23E19	BRUBAKER, RM		RT #5	810 PENRYN ROAD	17545
23E98	BRUBAKER, S & D		64 HIGHLAND DRIVE	LANCASTER	17602
23E83	BRUMBAUGH, S		RD 1 BOX 514	ROARING SPRING	16673
23E81	BUTTON, DE	BUTTONS PRE XMAS S CLAUSE SER.	RD 1 BOX 63	MILLERTON	16936
23E42	CANOUSE, R & V	MOON VALLEY PARK	RR2 BOX 71	MILFORD	18337
23E32	CITY OF SCRANTON	NAY AUG PARK ZOO	CITY HALL	SCRANTON	18510
23E2	CLYDE PEELING'S REPTILAND LTD		PO BOX 66	ALLENWOOD	17810
23E58	CORNWALL, R A		20 RIVERSIDE DR	WARREN	16365
23E71	COUNTY OF ALLEGHENY	SOUTH PARK GAME RESERVE	345 COUNTY OFF BLDG	PITTSBURGH	15219
23E92	DUTCH WONDERLAND		2249 LINCOLN HWY EAST	LANCASTER	17602
23E3	ERIE ZOOLOGICAL SOCIETY		653 SHUNPIKE RD	ERIE	16505

PENNSYLVANIA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
23E50	EXHIBITS INC.	DORNEY PARK ZOORAMA	DORNEY PARK ZOORAMA	ALLENTOWN	18104
23E46	FAIRYLAND FOREST		C/O ASSOCIATED GAMES	CONNEAUT LAKE PK	16316
23E25	FOREST ZOO INC.		BOX 79 RD #1	ASHVILLE	16613
23E57	FORKER, T.		BOX 125 STAR RT #3	TIONESTA	16353
23E56	FUNCK, RS.		RT. 2 BOX 309	ANNVILLE	17003
23E60	GREGG, PC & J.	KLONDIKE GIFT SHOP	KINZUA HTS.	BRADFORD	16701
23E26	HALL, V.	CLAWS & PAWS WILD ANIMAL FARM.	R D 1	LAKE ARIEL	18436
23E51	HAVERSACK, WC.			HYDE	16843
23E62	HECK, T.		460 KIDDER ST.	WILKES-BARRE	18702
23E59	HERCO, INC.	T/A ZOOAMERICA	300 PARK BOULEVARD	HERSHEY	17033
23E77	HILTS, LR.		RD 2 MISTLETOE FARMS	MIDDLEBURY CENTER	16935
23E38	HOCK, R.	PEACOCK CORNERS GAME FARM.	RD #4	BLOOMSBURG	17815
23E47	HOLLER, J.	DEER STOP	RD 1	EASTON	18042
23E1	HOLMBERG, WC.	FRONTIER ZOO	P.O. BOX C	LIGONIER	15658
23E94	INSULATION FOAM INC.	NOAH'S ARK CHILDREN'S ZOO	RD #1	CENTRAL CITY	15926
23E18	KIRACOFE, J & V.	BOILING SPRINGS ZOO PARK	RD 1	BOILING SPRINGS	17007
23E34	KISER, LL.	KISER WILDLIFE RANCH	RD 1 BOX 117	CAIRNBROOK	15924
23E69	KISTLER R.	75 DAIRY DINE	RD 1	E WATERFORD	17021
23E89	LIPKO, COL. J.	LIPKO'S CHIMPS	BOX 74	BARNESVILLE	18214
23E81	MCDANIEL, JH.	JIM MACK'S ICE CREAM	RD #24 BOX 84	YORK	17406
23E70	MEALY, R & L.	LAKE LUCY PARK	RD 1 BOX 121	TIONESTA	16353
23E13	MERCERSBURG SPORTSMEN'S ASSO. INC.		BOX 33	MERCERSBURG	17236
23E84	MOMYER, R.		206 S. WHITEHOUSE RD.	PHOENIXVILLE	19460
23E64	MONTGOMERY CO COMM.	UPPER SCHUYLKILL VALLEY FARM PK.	ONE MONTGOMERY PLAZA	NORRISTOWN	19404
23E67	MOUNT AIRY LODGE			MT POCONO	18344
23E17	PITTSBURG ZOO		RD. 1 BOX 125	PITTSBURGH	15219
23E23	POCONO SNAKE COUNTRY INC.		PO BOX 238	MARSHALLS CREEK	18335
23E87	POCONOS MAGIC VALLEY INC.		WINONA FALLS RD RT 209	BUSHKILL	18324
23E55	PYMATUNING DEER PK.		R.D.2	JAMESTOWN	16134
23E35	ROSAIRE, SR., D & FAMILY		P.O. BOX 3612	SARASOTA	33578
23E96	ROSH, B.		BOX 465 B	SAYRE	18840
23E95	RUTTER, BARBARA A.	WOLFDEN RETREAT	SQUAB HOLLOW ROAD RD. 1	KERSEY	15846
23E91	SHURTZ, R.		934 WYOMING ST.	ALLENTOWN	18103
23E97	SICO, MR. CARMIN R.		595 DORSEYVILLE RD.	PITTSBURGH	15238
23E11	SIMPSON, RR.		R 5 BOX 548	GETTYSBURG	17325
23E31	STORY BOOK FOREST, INC.		BOX F	LIGONIER	15658
23E88	THE AMISH FARM & HOUSE, INC.		2395 LINCOLN HWY. EAST	LANCASTER	17602
23E14	TOBIAS, DR & JR.	LAKE TOBIAS & ANIMAL HAVEN	RD #4	HALIFAX	17032
23E22	TREXLER LEHIGH CO GAME PRES.		RT 1	SCHNECKSVILLE	18078
23E30	UNION CO. SPORTSMENS CLUB INC.		RD 1	MILLMONT	17845
23E99	VERGJAR, J & P.	BLACK FOREST TRADING POST	RD 1 BOX 130G	ULYSSES	16948
23E21	WAMPLER, DD.	WAMPLERS WILD ANIMALS	RD 2 BOX 354	ANNVILLE	17003
23E6	WAYNESBORO FISH & GAME PROT ASSOC INC.		PO BOX 368 RT 5	WAYNESBORO	17268
23E40	YOUNG, L.	STORYLAND		SCHELLSBURG	15559
23E28	YOUNG, WC.		RD 1 BOX 81	NICHOLSON	18446
23E8	ZIMMERMAN, RJ.	GETTYSBURG GAME PK	RD 1	FAIRFIELD	17320
23E7	ZOOLOGICAL SOC OF PHILADELPHIA	PHILADELPHIA ZOOL. GARDENS	34TH ST & GIRARD AV	PHILADELPHIA	19104
23E90	ZUENDEL, RR & AL.	ZUENDEL'S GROCERY	STAR RT 1	TIONESTA	16353

PUERTO RICO

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
94EL8	AMADOR, FELIX JIMENEZ	EL ARCA DE NOE	BOX 94	QUEBRADILLAS	00742
94EL7	ANIMAL WORLD, INC.		CALLE MAYAGUEZ NO. 42	HATO REY	00619
94EL11	JARDIN ZOOLOGICO DE PUERTO RICO	JARDIN ZOOLOGICO DE P.R.	APARTADO 1085	MAYAGUEZ	00708
94EL12	LIONELLI, RAFEL DIAZ	ROYAL PALACE CIRCUS	13 ST. A55 SAUTA TERESITA	PONCE	00731
94EL15	MARQUEZ, L.		BOX 786	ARECIBO	00612
94EL13	SUAREZ, J.	LA CUEVA DEL INDIO	BUZON 360 ISLOTE	ARECIBO	00612

RHODE ISLAND

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
15C1	CITY OF PAWTUCKET/PARKS & REC. DEPT.	SLATER MEMORIAL PARK	271 ROOSEVELT AVE.	PAWTUCKET	02860
15C5	ENCHANTED FOREST OF RI.		RTE 3 P.O. BOX 524	HOPE VALLEY	02832
15C7	GRAY, A & GREENE, J.	GRAY AND GREENE ANIMAL SHOWS.	BOX 275 BROAD ST.	ASHAWAY	02804
15C2	RECORDS, LH.		173 BOSTON NECK RD.	NO. KINGSTOWN	02852
15C3	ROCKY POINT AMUSEMENTS, INC.		ROCKY POINT PARK	WARWICK	02889
15C4	ROGER WILLIAMS PARK ZOO		ELMWOOD AVE.	PROVIDENCE	02905

SOUTH CAROLINA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58C11	BRICKLE, W A.		P.O. BOX 26	COPE	29038
58C6	BROOKGREEN GARDENS			MURRELLS INLET	29576
58C10	CHARLESTOWNE LANDING ANIMAL FOREST.		1500 OLD TOWNE RD	CHARLESTON	29407
58C9	CITY OF GREENVILLE ZOO		CLEVELAND PARK	GREENVILLE	29601
58C2	COLLINS, BH.	CIRCLE C ANIMAL FARM & ZOO	ROUTE 1	CAMPOBELLO	29322
58C5	CROMER'S PEANUTS, INC.		PO BOX 169	COLUMBIA	29201
58C12	LEIGH, JOHN Z.	OLD MILL STREAM INN	RT 2 HIGHWAY 14	GREENVILLE	29607

SOUTH CAROLINA—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
56C3	MARVIN, F		PO BOX 82	HOLLYWOOD	29449
56C1	RIVERBANKS PARK COMMISSION	RIVERBANKS ZOO	500 WILDLIFE PARKWAY	COLUMBIA	29210
56C13	WACCAMAW POTTERY, INC.		HIGHWAY 501 WEST	MYRTLE BEACH	29577
56C6	WALL, J		116 CHESTER ST	SPARTANBURG	29301
56C14	WARNER, JEAN		C/O LOG CABIN FLEA MARKET 17 S.	SURFSIDE BEACH	29577

SOUTH DAKOTA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
46C6	ABERDEEN PARKS & REC. DEPT.	WYLIE PARK ZOO	MUNICIPAL BLDG	ABERDEEN	57401
46C5	BEAR COUNTRY USA		R 2 BOX 628	RAPID CITY	57701
46C1	CITY OF WATERTOWN	BRAMBLE PARK ZOO		WATERTOWN	57201
46C4	GREAT PLAINS ZOO/PARK & REC. DEPT..		600 EAST 7TH	SIOUX FALLS	57102
46C7	ROEBUCK, E I	ROEBUCK'S DEERLAND	RR 1	JAVA	57452
46C8	THOMAS, RALPH	MARINE LIFE	134 A KEYSTONE RT.	RAPID CITY	57701

TENNESSEE

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
63EL14	CITY OF CHATTANOOGA	WARNER PARK ZOO	1100 MCCALLIE AVE	CHATTANOOGA	37404
63EL1	CITY OF KNOXVILLE	KNOXVILLE ZOOLOGICAL PARK	P.O. BOX 1631	KNOXVILLE	37901
63EL9	CUMBERLAND MUS. & SCI. CENTER		800 RIDLEY AVE	NASHVILLE	37203
63EL10	DELOZIER, BILL	BEARLAND PARK	PARKWAY	PIGEON FORGE	37863
63EL20	KEAR, ESTEL	SMOKY MT. TRADING POST	GATLINBURG HWY.	SEVIERVILLE	37862
63EL5	LIBERTYLAND	ANIMAL PALS PETTING ZOO	940 EARLY MAXWELL BLVD.	MEMPHIS	38104
63EL4	MEMPHIS ZOO. & AQUARIUM		2000 GALLOWAY AVE.	MEMPHIS	38112
63EL7	MILLS, B	MILLS BROS. GIFT SHOP	RT 1	ROCKWOOD	37854
63EL3	OPRYLAND USA		2802 OPRYLAND DR.	NASHVILLE	37214
63EL18	PORPOISE ISLAND INC.		PO BOX 976	PIGEON FORGE	37863
63EL10	RUCKER, H	RUCKERS UNCAGED LEOPARD		WATERTOWN	37184
63EL11	SORELL, B	BUCK SORELL ENTERPR. ET AL	P.O. BOX 77	WHITE HOUSE	37188
63EL2	TYTLANDSVIK, L & PETERSON, L	TENNESSEE GAME FARM	RT. 2 BOX 192	JOELTON	37080

TEXAS

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
74ZA11	ABILENE ZOOLOGICAL SOCIETY		PO BOX 60	ABILENE	79604
74LE34	ALLEN, DIANNE WILSON	WILSON'S PETS	PO BOX 971	DONNA	78537
74ZA12	AMARILLO PARKS AND RECREATION DIVISION	AMARILLO STORY ZOO	PO BOX 1971	AMARILLO	79188
74LE35	ASTROWORLD		9001 KIRBY DRIVE	HOUSTON	77054
74LE36	BAYLOR UNIV. CHAMBER OF COMMERCE.		BOX 225 UNION BUILDING	WACO	76703
74LE48	BEGGS, R.K.	OCEAN ACTION	P.O. BOX 5201	OCEAN ACTION	77552
74LE40	BURNS, S & B	GIANT SNAKES & OTHER THINGS..	P.O. BOX 516	LEANDER	78641
74LE53	CALDWELL SCHOOLS INC.	CALDWELL ZOO	PO BOX 428	TYLER	75701
74LE11	CIRCUS ROYAL		PO BOX 274	LA GRANGE	78945
74LE25	CITY OF AUSTIN/PARKS & RECREATION DEPT..		401 DEEP EDDY AVE.	AUSTIN	78703
74LE55	CITY OF CHILDRESS		CITY HALL	CHILDRESS	79201
74LE51	CITY OF DALLAS	DALLAS ZOO	621 E CLARENDON DR	DALLAS	75203
74LE52	CITY OF EL PASO	EL PASO ZOOL. PARK	NO 2 CIVIC CENTER PLAZA	EL PASO	79905
74ZA7	CITY OF GAINESVILLE	FRANK BUCK MEMORIAL ZOO	PO BOX 336	GAINESVILLE	76240
74ZA5	CITY OF HOUSTON	HOUSTON ZOOL. GARDENS	PO BOX 1562	HOUSTON	77001
74LE54	CITY OF LUFKIN	ELLEN TROUT ZOO	PO BOX 190	LUFKIN	75901
74LE61	CITY OF SINTON		BOX 1395	SINTON	78387
74ZA6	CITY OF WACO	CENTRAL TEXAS ZOO	RT 10 BX 173 E	WACO	76706
74LE18	CLARK, M		RT 5 BOX 195	MCKINNEY	75069
74ZA30	CRAWFORD, RC	SLATON ZOO	107 N 9TH	SLATON	79364
74LE14	CRUZ-AYALA, JL	ALDINE ANIMAL CLINIC	4202 ANIGE ST	HOUSTON	77039
74LE9	FINLAY, GM		BOX 237	SAN MARCOS	78666
74LE46	FLORES, VICTOR CUPERTINO		RT 1 BOX 1126	VON ORMY	78073
74ZA4	FT WORTH ZOOL PK		2727 ZOOL PK DR	FORT WORTH	76110
74LE50	GLADYS PORTER ZOO		500 RINGGOLD ST	BROWNSVILLE	78520
74LE24	HALL, C		R 3 BOX 762	MESQUITE	75149
74LE26	HALL, JAMES C		R3 BOX 762	MESQUITE	75149
74LE3	HALL, JEANNINE		RT. 3 BOX 762	MESQUITE	75149
74LE22	HARMON, R		405 C PINE CREST	MARSHALL	75670
74LE37	HARTMAN, JOE		9530 MCCLUNG	DALLAS	75217
74ZA35	HIX, RW & MORRON, EM	THE BELL COUNTY ZOO	RT 4 BOX 4364T	BELTON	76513
74LE7	JOHANN, PH	DIXIANA CIRCUS	RT 1 BOX 805	KOUNTZE	77625
74LE23	KEITH, BD		22719 ALDINE WESTFIELD	HUSTON	77373
74LE32	LEASE, THOMAS R	COUGARS UNLIMITED	1524 INVERNESS RD.	MANSFIELD	76063
74LE27	LEMKE, J	JOE LEMKE'S CHIMPS	10300 HAWN FREEWAY	DALLAS	75217
74LE42	LOCKER, HARRY		PO BOX 264	SEAGOVILLE	75159
74LE56	LUCIA, T		RT 6 BOX 210	WEATHERFORD	76086
74LE62	MANTZEL, THOMAS	WATERFALL RANCH	2500 FORT WORTH NAT'L BANK BLD.	FORT WORTH	76102
74LE30	MARSHALL, H & J	GLEANNLOCH MANNOR	8310 GLEANNLOCH RD.	SPRING	77379
74LE45	MCKINLEY, L & V	PRECISION PLASTIC PALLETS, INC.	2407 KENWORTHY	MISSOURI CITY	77459
74LE5	MONKEY WORLD INC		4401 WILDWOOD RD	DALLAS	75209
74LE59	MOSTYN, B	WONDER WORLD/MOSTYN ENTERPRISES	P.O. BOX 1369	SAN MAROS	78666
74LE38	PARSONS, AC	TEXAS SAFARI	RT 2	CLIFTON	76634

TEXAS—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
74LE15	PINSON, D & J		RT 1 BOX 306	GAINESVILLE	76204
74LE4	RAY, G & BAKER, S	CHECKERS & PATCHES CIRCUS CLOWNS.	PO BOX 6166	ARLINGTON	76010
74LE57	RICHTMAN, D T		4712 VANCE RD.	FT. WORTH	76118
74LE41	ROBERTS, CLARENCE	SIX FLAGS OVER TEXAS	1102 WILDWOOD DR.	ARLINGTON	76010
74ZA1	SAN ANTONIO ZOOLOG SOC	SAN ANTONIO ZOO	3903 N ST MARY'S ST	SAN ANTONIO	78212
74LE60	SAPP		27150 OKENT	SAN ANTONIO	78256
74LE69	SEA ARAMA MARINEWORLD		PO BOX 3068	GALVESTON	77551
74LE029	SIX FLAGS OVER TEXAS, INC.	TEXAS FLAGS, LTD	P.O. BOX 191	ARLINGTON	76010
74LE49	SMITH, T	THURBA SMITH'S FINA	714 CHESTNUT	BASTROP	78202
74LE59	SOUTH TEXAS ZOOLOGICAL SOCIETY	TEXAS ZOO	110 MEMORIAL DR	VICTORIA	77901
74ZA9	SPRING LAKE PARK ZOO		PO BOX 1967	TEXARKANA	75501
74LE3	SPRINGDAY SIMIAN/AVIAN SNT INC	SPRINGDAY SIMIAN & AVIAN SANCTUARY INC.	4035 NEW BOSTON RD BOX 2930	TEXARKANA	75504
74LE16	STEELE, B		BOX 25	SEAGOVILLE	75159
74LE44	STEELE, BOB		PO BOX 264	SEAGOVILLE	75159
74LE31	STEEPLES, E		RT. 3 BOX 1140	PORT LAVACA	77979
74LE20	STOOGHILLS, T & E	STOOGHILLS RANCH	RT 2 HWY 34	QUINLAN	75474
74LE17	TATA, B		P.O. BOX 264	SEAGOVILLE	75157
74LE25	TERRANOVA, D K		250 W. JUNIPER DR.	GRAFTON	53024
74ZR1	TESKA, J & B	SNAKE FARM	RT 6 BOX 487	NEW BRAUNFELS	78130
74LE39	TOSTI, IRVING & PAULA	TOSTI'S LIVING MENAGERIE	PO BOX 1015	MERCEDES	78570
74LE58	TOWN OF PECOS CITY		BO BOX 928	PECOS	79772
74ZA33	WALKER, WE	ZOOLAND PETTING ZOO	PO BOX 3704	ODESSA	79760
74LE33	ZOPPE, R & P	ZOPPES ARABIAN RIDERS	2607 HWY 175	SEAGOVILLE	75159
74LE43	ZOPPE, Y		2607 HWY 175	SEAGOVILLE	75159

UTAH

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
87C7	CITY OF LOGAN	WILLOW PARK ZOO	61 WEST FIRST NORTH	LOGAN	84321
87C11	DAVISON, ROBERT W.	NATURE GUIDE FILMS	PO BOX 87	SPRINGDALE	84767
87C10	FOOD SERVICE MANAGEMENT, INC.	HARE HOLLOW RESTAURANT INC.	6121 HIGHLAND DR	SALT LAKE CITY	84121
87C4	GLEDHILL, J	BIG ROCK CANDY MT RESORT	BIG ROCK CANDY MTN RESORT	MARYSVALE	84750
87C2	LAGOON CORP	WILD KINGDOM TRAIN	PO BOX N	FARMINGTON	84025
87C5	SEUS, D & L	WASATCH WILDLIFE	RFD DANIELS	HEBER	84032
87C1	UTAH ZOOLOGICAL SOCIETY	HOGLE ZOOLOGICAL GARDEN	PO BOX 8475	SALT LAKE CITY	84108
87C9	UTAH ZOOLOGICAL SOCIETY	TRACY AVIARY	PO BOX 8475	SALT LAKE CITY	84108

VERMONT

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
13C3	SANTA'S LAND INC.		RT 5	PUTNEY	05346
13C2	TRUSTEES, VT VETS HOME		325 NORTH ST	BENNINGTON	05201

VIRGINIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
52C17	BRADSHAW, J		RT 1 BOX 117-F	NEW CANTON	23123
52E3	CITY OF HAMPTON	BLUEBIRD GAP FARM	DEPT. OF PARKS CITY HALL	HAMPTON	23669
52E6	CITY OF NEWPORT NEWS		2400 WASHINGTON AVE.	NEWPORT NEWS	23607
52CE	CITY OF NORFOLK	LAFAYETTE ZOOLOGICAL PARK	3500 GRANBY ST	NORFOLK	23508
52E1	CITY OF STAUNTON	STAUNTON CITY ZOO	P.O. BOX 58	STAUNTON	24401
52CD	KINGS DOMINION		RFD 196	DOSWELL	23047
52E12	MARTIN, JR		5725 COMMODORE DR.	NORFOLK	23503
52CF	MAYMONT FOUNDATION		1700 HAMPTON ST	RICHMOND	23220
52CA	MILL MOUNTAIN ZOO, INC	MILL MOUNTAIN PARK	PO BOX 13484	ROANOKE	24034
52CB	NATURAL BRIDGE ZOOL PARK		P.O. BOX 66	NATURAL BRIDGE	24578
52E4	PENINSULA NATURE & SCI. CTR		524 J CLYDE MORRIS BLVD	NEWPORT NEWS	23601
52C16	PET FARM INC.		1226 HUNTER MILL ROAD	VIENNA	22180
52CH	WALTERMYER, BP	ALL STAR RANCH	PO BOX 142	TROUTVILLE	24175
52CG	WILSON, B	WILSON'S PET FARM	RT 1 BOX 272-A	WINCHESTER	22601
52C18	WINDSOR, DENNIS		RT 1 BOX 202	MONROE	24574

WASHINGTON

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
91C18	AHERN, M & C	WESTPORT AQUARIUM	321 HARBOR STREET	WESTPORT	98595
91C20	ANDREWS, E	WOLF COUNTRY FOUNDATION	P.O. BOX 64	BUCKLEY	98321
91C11	B & I REALTY CO.		8212 SO TACOMA WAY	TACOMA	98499
91C9	BETTS, B	ENCHANTED VILLAGE	36201 KIT CORNER RD. S.	FEDERAL WAY	98003
91C10	DAILY, MM		N 7120 SMITH	SPOKANE	99207
91C15	HATCH, J		N 4325 HAVANA	SPOKANE	99207
91C13	HITE, O & D	HITE'S GAME FARM	BOX 415	KETTLE FALLS	99141
91C16	HUBBARD, R		16234 42ND AVE S	SEATTLE	98188
91C14	INLAND EMPIRE ZOOL SOC		PO BOX 14256	SPOKANE	99214
91C2	LOBO WOLF FOUNDATION	LOBO LAND USA	RT 2 BOX 378	SEQUIM	98382
91C3	METROPOLITAN PARK DIST. OF TACOMA.		10 IDAHO ST.	TACOMA	98409
91C19	MICHAEL, G		PO BOX 35	CASHMERE	98815
91C12	MORGAN, BRUCE		PO BOX 66261	SEATTLE	98166
91C7	NIEMELA, A		530 W. WASHINGTON SPACE 19	SEQUIM	98382
91C6	OLYMPIC GAME FARM		363 WORD RD.	SEQUIM	98382
91C8	PEDERSEN, D		PO BOX 40	GRAHAM	98338
91C17	RADONICH, BOB	JAVA JIVE	2102 SOUTH TACOMA WAY	TACOMA	98409

WASHINGTON—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
91C1	WOODLAND PARK ZOOL. GARDENS		5500 PHINNEY AVE N	SEATTLE	98103

WEST VIRGINIA

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
54C1	MCEUEE, W.J.		RT 1 BOX 152	DAVISVILLE	26142
54EAB	WHEELING PARK COMMISSION	OGLEBAY'S GOOD ZOO	OGLEBAY PARK	WHEELING	26003

WISCONSIN

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
35C51	ARCADIA SPORTSMAN CLUB			ARCADIA	54612
35C35	BAMBI-LAND INC.		RR 1 BOX 15	TREGO	54888
35C73	BAY BEACH WILDLIFE SANCTUARY		SANCTUARY RD.	GREEN BAY	54302
35C88	BEHN, W	BEHN GAME FARM	RT 1	ANIWA	54408
35C53	BROWN COUNTY PARK COMMISSION	BROWN COUNTY REFORESTATION CAMP.	RT 4	GREEN BAY	54304
35C24	CARLINO, JR, CJ	CARLINO'S 82	RT 2	OXFORD	53952
35C29	CARSON INTERNATIONAL INC.	HONEY BEAR FARM		POWERS LAKE	53159
35C8	CHEVRIER, JR., WJ	CHEVRIER'S BAIT SHOP	RT 5 BOX 78	CHIPPEWA FALLS	54729
35C46	CITY OF ASHLAND	PRENTICE PARK	ASHLAND PARK & REC. DEPT.	ASHLAND	54806
35C13	CITY OF BARABOO	OCHSNER PARK	903 PARK ST	BARABOO	53913
35C44	CITY OF BLACK RIVER FALLS		PO BOX 229	BLACK RIVER	54615
35C50	CITY OF BLAIR		122 S URBERG AVE	BLAIR	54616
35C15	CITY OF CHIPPEWA FALLS	IRVINE PARK ZOO	JEFFERSON AVE	CHIPPEWA FALLS	54729
35C27	CITY OF FON DU LAC	LAKESIDE PARK ZOO	76 E SECOND ST	FOND DU LAC	54935
35C43	CITY OF LACROSSE	MYRICK PARK		LACROSSE	54601
35C41	CITY OF MANITOWOC	LINCOLN PARK ZOO	736 REVERE DR.	MANITOWAC	54220
35C16	CITY OF MARSHFIELD	WILDWOOD PARK & ZOO	112 E 2ND ST	MARSHFIELD	54449
35C17	CITY OF OSHKOSH	MENOMINEE PARK ZOO	215 CHURCH AVE	OSHKOSH	54901
35C21	CITY OF RACINE	RACINE ZOOLOGICAL PARK	2131 N. MAIN STREET	RACINE	53401
35C39	CITY OF STANLEY		116 EAST THIRD AVE	STANLEY	54768
35C18	CITY OF WI RAPIDS MUN. ZOO		211-12TH AVE SOUTH	WISCONSIN RAPIDS	54494
35C93	CONNOR FOREST INDUSTRIES		CAMP 5 FARM	LAONA	54541
35C90	CORNFORD, MJ & AH		RT 1	RANDOLPH	53956
35C54	COTTON PATCH SUPPER CLUB		2003 LAKE DRIVE	SHAWANO	54166
35C72	DEER PARK ATHLETIC CLUB			DEER PARK	54007
35C79	EDGERTON CONSERVATION CLUB		BOX 3	EDGERTON	53534
35C2	FAWN-DOE-ROSA		BOX 328	ST. CROIX FALLS	54024
35C61	FOREST COUNTY DEER FARM		COURTHOUSE	CRANDON	54520
35C38	FOWLER, D & A			TOMAH	54660
35C42	FRANZEN, M & W	FRANZEN BROS. CIRCUS, INC.	RT. 1 BOX 173	AMHERST	54407
35C85	G & G ENTERPRISES	PUBLIC NATATORIUM	628 N. BROADWAY	MILWAUKEE	53202
35C94	GRIESER, S & T		970 SPRING RD.	MOSINEE	54455
35C32	HAZEN, V	TUNDRA SO. WILDLIFE PARK	RT. 3 BOX 520	POYNETTE	53955
35C84	HENRIKSEN, C & H	WILDERNESS WALK	RT 2	HAYWARD	54843
35C21	HENRY VILAS PARK ZOO		702 S. RANDALL AVE.	MADISON	53715
35C86	HISTORIC SITES FOUNDATION, INC.	CIRCUS WORLD MUSEUM	426 WATER ST.	MADISON	53913
35C23	ISENRING, L&D	BLACKHAWK RIDGE	BOX 92	SAUK CITY	53583
35C80	JANESVILLE CONSERVATION CLUB		BOX 129	JANESVILLE	53545
35C14	JO-DON FARMS INC.		5907 NICHOLSON RD	FRANKSVILLE	53126
35C26	JOHNSON, LO	A & W RESTAURANT	423 MERTON AVE	HARTLAND	53029
35C57	JUEDS, A		RT 1	MARION	54950
35C52	KRAMER, W		190 ORCHARD DRIVE	SISTER BAY	54234
35C36	KREMSREITER, N	WARBONNET ZOO & GIFT SHOP INC.	STAR RT BOX 69	HAZELHURST	54531
35C83	LANGE, E		1623 SAEMAN AVE	SHEBOYGAN	53081
35C58	LINK BROS. INC.		P.O. BOX 37	MINONG	54859
35C82	LUDWIG BROS., INC.		S107 W 16311 LOOMIS RD	HALES CORNERS	53130
35C40	MENOMONIE LIONS CLUB		BOX 44	MENOMONIE	54751
35C20	MILWAUKEE COUNTY ZOOLOGICAL GARDENS.		10001 WEST BLUEMOUND RD	MILWAUKEE	53226
35C63	NATTER, R		3401 MILTON AVE	JANESVILLE	53545
35C75	NELSON, J	RED ROSE BAR	RT 1	WABENO	54566
35C66	NORTHWEST INDIAN TRADING POST INC.	THE ENCHANTED FOREST/ PREHISTORIC LAND.	PO BOX 36 STAND ROCK ROAD	WISCONSIN DELLS	53965
35C87	P - M INC.	EAGLE PASS PARK	BOX 177	EAGEL RIVER	54521
35C22	P.A.W.S.		PO BOX 121	NEW BERLIN	53151
35C67	PECK'S WILDWOOD INC.		10094 HWY 70 WEST BOX 178	MINOCQUA	54945
35C55	PLISKA, L		7394 DEER RD.	CUSTER	54423
35C56	PORTAGE COUNTY PARKS		1516 CHURCH ST	STEVENS POINT	54481
35C59	RADIS, MRS. R A		RT 1	MARION	54950
35C67	RAUCHNOT, J	J R RANCH	RT. 2	HUDSON	54016
35C92	REVELLE, R & P	REVELLE'S LANDING	RFD 3 NELSON LAKE RD,	HAYWARD	53643
35C45	SETCHELL, V		RT 1	CHETEK	54728
35C49	SHAY, WL	LAUREL SUPPER CLUB	ROUTE 3 HWY 64	NEW RICHMOND	54017
35C89	SIMPSON, M & W	J R'S SPORTSMAN'S BAR & GAME FARM.	RT 4	WAUPACA	54981
35C64	SOMMERS, R P			RANDOM LAKE	53075
35C70	STREBLOW, R	CIRCLE R CAMPGROUND	5703 KNAPP ST RD	OSHKOSA	54901
35C11	THE RANCH, INC.	THE RANCH, INC.	PO BOX 502	MENOMONEE FALLS	53051
35C34	TIMBERWOLD PRESERVATION SOCIETY, INC.		6669 SOUTH 76TH ST	GREENDALE	53129
35C78	TOLLAKSEN, P	WISCONSIN DEER PARK	R 1 BOX 19	WISCONSIN DELLS	53965
35C68	VILLAGE OF SURING PARK			SURING	54174
35C91	WAWRZNIAK, R M	JUMP RIVER ROSE'S DEER FARM	ROUTE 2, BOX 341	LADYSMITH	54848
35C71	WEBER, E	WEBER'S WILDLIFE	BOX 37	SAYNER	54560
35C28	WEISER, A	WEISER'S BILL'S LANDING	RT 3	HAYWARD	54843

WISCONSIN—Continued

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
35C74	WELCH, FRANCIS	MUSEUM BAR	LUGER STAR ROUTE BOX 255	PHILLIPS	54555
35C30	WEST SALEM ROD & GUN CLUB	LA CROSSE CO. FARM		WEST SALEM	54669
35C86	WHITE BIRCH FISHERIES INC		BOX 287	BOULDER JUNCTION	54512
35C81	WHITNEY, H	BLACKHAWK CAMP GROUNDS	BOX 125	MILTON	53563
35C12	WILKINSON GIFT SHOP INC		BOX 71	WASCOTT	54880
35C77	WILLE, G	WILLE'S GAME FARM	RT 1	BRANDON	53919
35C47	WOODSIDE RANCH	WOODSIDE RANCH	RT 3	MAUSTON	53948

WYOMING

LICENSE NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
83C1	CITY OF CHEYENNE PARKS/REC DEPT	LIONS PARK NATIVE ANIMAL DISPLAY.	610 W 7TH ST	CHEYENNE	82001

[FR Doc. 3703 Filed 2-16-82; 8:45 am]

BILLING CODE 3410-34-F

federal register

Wednesday
February 17, 1982

Part IV

Department of Agriculture

Animal and Plant Health Inspection Service

Animal Welfare; List of Registered Exhibitors

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Animal Welfare; List of Registered Exhibitors

The following list is being published to give notice to the public of exhibitors currently registered under the Animal Welfare Act (7 U.S.C. 2131 et seq.). Such notice does not come under E.O. 12291, since it is not a rule. Therefore, pursuant to the provisions of the Animal Welfare Act and the regulations thereunder (9 CFR Part 2), notice is hereby given that the exhibitors listed below are registered under said Act (Section 6, 80 Stat 351, as amended (7 U.S.C. 2136))

Done at Washington, D.C., this 28th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

ALASKA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
991E	ALASKA CHILDREN'S ZOO		BOX 17308 STAR ROUTE	ANCHORAGE	99507
993E	ALASKA WILDLIFE PARK (ALASKALAND).		410 CUSHMAN ST.	FAIRBANKS	99701
992E	BROWN, JR., LT		3001 MOUNTAINVIEW DR.	ANCHORAGE	99503

CALIFORNIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
93C1014	COUNTY OF LOS ANGELES		DEPT. OF PARKS & RECREATIONS 1.	LOS ANGELES	90015

COLORADO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
841017	KROHN, JC	THE FORT	SR BOX 20AA	MORRISON	80465
841018	LA CHAUMIERE FRENCH RESTAURANT		PINEWOOD SPRINGS	LYONS	80540
841019	LA FRANCE RESTAURANT, INC.		BOX 2217	DILLON	80435
841012	NATIONAL PARK VILLAGE		4900 FALL RIVER RD.	ESTES PARK	80517

FLORIDA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
58ER90	CAMP KULAQUA		RT 2 BOX 244K	HIGH SPRINGS	32643
58ER70	PROFESSOR MILLER		485 NE 102ND ST	MIAMI SHORES	33138
58ER62	SEMINOLE IND. VILLAGE & CRAFTS ENT.		6073 STERLING RD	HOLLYWOOD	33024
58ER33	SWAMPARIUM		RT 5 BOX 38	CANTONMENT	32533

GEORGIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
57EX0013	CHATTAHOOCHEE NATURE CENTER		9135 WILLEO RD.	ROSWELL	30075
57EX0005	CITY OF ATHENS	MEMORIAL PARK	RECREATION & PARKS DEPT	ATHENS	30601
57EX0002	OKEFENOKEE ASSOCIATION, INC.	OKEFENOKEE SWAMP PARK		OKEFENOKEE	31501

ILLINOIS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
331037	CHAMPAIGN PARK DISTRICT	CHILDREN'S PRAIRIE FARM	706 KENWOOD RD	CHAMPAIGN	61820
331035	FOREST PRES. DIST/DUPAGE CTY	WILLOWBROOK WILDLIFE HAVEN	661 W ST CHARLES RD	LOMBARD	60148
331012	ILLINOIS DEPARTMENT OF CONSERVATION.		602 STATE OFFICE BUILDING	SPRINGFIELD	62706
331039	PILCHER PARK NATURE CENTER		3939 W JEFFERSON	JOLIET	60435
331034	SOCIAL DYNAMICS, INC.		2 S. 661 RT 83	GLEN ELLYN	60137
331036	SOUTHERN ILLINOIS UNIVERSITY		C/O CAMPUS MASCOT BOX 168	EDWARDSVILLE	62026
331010	STONE, LR		BOX 349 ROUTE 1	EAST MOLINE	61244

IOWA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
4258	BOARD OF PARK COMMISSIONERS	PEJERVORY PARK CHLDNS. ZOO	826 W CENTRAL PARK AVE	DAVENPORT	52803
4251	BUFFALO RANCH MUSEUM		310 LOVERS LANE	FAYETTE	52142
4256	CITY OF CEDAR RAPIDS	BEVER PARK MUNICIPAL ZOO	PARK DEPARTMENT CITY HALL	CEDAR RAPIDS	52401
4253	CITY OF FORT DODGE		PARK DEPT. 1422 OLERON PK AVE	FORT DODGE	50501
4252	CITY OF MASON CITY		PARK DEPT. 19 & DELAWARE AVE	MASON CITY	50401
4250	IOWA STATE CONSERVATION COMM		WILDLIFE EXHIBIT STATON	BOONE	50036

IOWA—Continued

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
4261	OSBORNE CONSERVATION CENTER			ELKADER	52043
4258	POLK COUNTY CONSERVATION BOARD.	JESTER PARK		GRANGER	50109
4269	RICHARD N. IHLE	EDUCATIONAL REPTILE TOUR, INC.	315 N.E. SHERMAN	ANKENY	50021

KANSAS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
481006	BEAR HOUSE TRUCK STOP, INC.			BUNKER HILL	67626
481007	BOARD OF PARK COMMISSIONERS	CENTRAL RIVERSIDE PARK	503 CITY BLDG ANNEX,104 S MAIN	WICHITA	67202
481009	CITY OF ST. MARYS			ST. MARYS	66536
481001	DODGE CITY WRIGHT PARK ZOO			DODGE CITY	67801
481005	MARKLEY, JE			SENECA	66538
481010	OLD ABILENE TOWN, INC.		BOX 436	ABILENE	67410

KENTUCKY

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
61Z4	ISSAC W. BERNHEIM FOUNDATION		BERNHEIM FORREST	CLERMONT	40110
61Z5	MAMMOTH ONYX CAVE		BOX 527	HORSE CAVE	42749
61Z3	OTTER CREEK PARK			VINEGROVE	40175

MAINE

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
11E2	MAINE DEPT. OF MARINE RESOURCES	MARINE RESOURCES LABORATORY.	STATE HOUSE	AUGUSTA	04333

MASSACHUSETTS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
14E25	DIVISION OF FISHERS & WILDLIFE		INFO. & EDUCATION SECTION	WESTBORO	01581
14E1	EASTOVER FARM		EAST STREET	LENOX	01240

MICHIGAN

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
34RE47	BELLE ISLE NATURE CTR.		BELLE ISLE PARK	DETROIT	48207
34RE72	BINDER PARK ZOOLOGICAL SOCIETY, INC.		7500 DIVISION DR	BATTLE CREEK	49017
34RE59	BITELY, G	BIRCH SHORES RESORT	R 1	MCMILLAN	49853
34RE28	CARL G. FENNER ARBORETUM		2020 E. MT. HOPE	LANSING	48910
34RE4	CEDERBERG, EH	DEER ACRES, INC.	2093 COGGINS RD	PINCONNING	48650
34RE7	CITY OF MT. PLEASANT	NELSON PARK ZOO	120 S. UNIVERSITY	MT. PLEASANT	48858
34RE16	CLINCH PARK ZOO		GRAND VIEW PKWY	TRAVERSE CITY	49684
34RE8	CLOUGH, L&J	EVERGREEN RESORT	R 2,M-65	HALE	48736
34RE85	COLE, R & B		11128 NORTH ELMS ROAD	CLIO	48420
34RE66	DRAYTON PLAINS NATURE CENTER, INC.		2125 DENBY DR	DRAYTON	48021
34RE88	EDWARDS, JOHNNIE		6867 GRATIOT	RICHMOND	48062
34RE36	ELM REST SERVICE		1507 S LAKE MITCHELL DR	ADILLAC	49601
34RE42	FINLEY, M	LONGHORN RANCH	7684-25 MILE ROAD	WASHINGTON	48094
34RE52	FLATH, J	DELLS SUPPER CLUB	C/O THE DELLS SUPPER CLUB	ESCANABA	49829
34RE82	FOX, F & RESTIQUE, R		5610 NO M-30	GLADWIN	48624
34RE89	GIBBS, LONNIE	GIBBS COUNTRY STORE	5469 S MOREY ROAD	MCBAIN	49657
34RE54	HAFEMAN, R		R 2 BOX 75	WALLACE	49893
34RE87	HARBOR SPRINGS POLIC DEPT.	HARBOR SPRINGS DEER PARK	170 ZOLL ST.	HARBOR SPRINGS	49740
34RE77	HARRINGTON, TN	DEER RANCH	238 N. STATE	ST. IGNACE	49781
34RE75	HERSON, K		RT 1 BOX 139	WALLACE	49893
34RE81	HILLIER,DW		11966 E. ARNOLD LAKE RD	GLADWIN	48624
34RE68	HINES, I		RT 2,1781 COLDWATER RD	MT. PLEASANT	48858
34RE45	HUMANE SOCEITY OF MACOMB CO.		11350-22 MILE RD	UTICA	48087
34RE51	IRON MOUNTAIN CITY PARK		A&B STS	IRON MOUNTAIN	49801
34RE48	JOHN HENES PARK		202 HENES PARK DR	MENOMINEE	49858
34RE9	JOHNSON, RM	JOHNNY'S FISH & GAME PARK	5511 E. 46 1/2 RD	CADILLAC	49601
34RE3	KALAMAZOO NATURE CENTER		7000 N. WESTNEDGE	KALAMAZOO	49007
34RE90	KING ANIMALAND PARK, INC.		62500 GRATIOT AVE	RICHMOND	48062
34RE31	MAY, H		394 CAMBRIA RD	HILLSDALE	49242
34RE16	MAYER, WG		7606 HIX RD	WESTLAND	48185
34RE64	MERCIER, FR	SANTA'S GIFT SHOP	BOX 75	MUNISING	49862
34RE24	MOTT FARM PROGRAM		6140 BRAY RD	FLINT	48505
34RE80	NEWLIN, G		PO BOX 1	WALLACE	49893
34RE6	OGEMAW GAME REFUGE	TEN LAKES SPORTSMEN CLUB	5628 W. ROSE CITY RD	WEST BRANCH	48661
34RE12	PEEBLES, G		18610 CARDONI	DETROIT	48203
34RE57	PICLNET, N	NORM'S BALD MOUNTAIN RIDING STABLE	3085 S. LAPEER RD	PONTIAC	48057
34RE62	PRESQUE ISLE PARK ZOO	PRESQUE ISLE PARK ZOO	300 BARAGA AVE	MARQUETTE	49855

MICHIGAN—Continued

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
34RE56	QUAS, G.	BAMBI PARK	PO BOX 215	IRON MOUNTIAN	49801
34RE15	SAGINAW CHILDREN'S ZOO		1694 S WASHINGTON	SAGINAW	48601
34RE67	SPICKERMAN, H		R 1	ROSE BUSH	48878
34RE34	STEPHENS, YR	YVONNE AND HER FRIENDS	BOX 37	WILLIAMSBURG	49690
34RE44	TESCH, H	LENAWEE INSTITUTE	3046 SUTTON RD	ADRION	49221
34RE65	WAFFLE, EJ		2416 ALDRICH RD	TEKONSHA	49092
34RE10	WALTZ, DB		1217 ST ANDREWS DR	MIDLAND	48640
34RE63	WEINKE, A & J	PAUL BUNYON LOOKOUT	6795 NO HURON RD	SPRUCE	48762
34RE26	WILDER, D	WHOOPEE BOWL	9580 DIXIE HWY.	CLARKTON	48016

MINNESOTA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
411001	ALEXANDRIA DEER PARK		RT 4	ALEXANDRIA	56308
411005	CITY OF MANKATO		202 E JACKSON	MANKATO	56001
411009	DULUTH ZOO		7210 FREMONT ST.	DULUTH	55807
411032	OLMSTED COUNTY PARK & REC. DIVN.	OXBOW PARK WILDLIFE EXHIBIT	1421-3RD AVE. S.E.	ROCHESTER	55901
411022	ST. PAUL'S COMO ZOO			ST. PAUL	55103

MISSOURI

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
4372	GOLD NUGGET JUNCTION			OSAGE BEACH	65065
4374	ST. LOUIS CO. PARKS DEPT.	LONE ELK PARK	7900 FORSYTH	ST. LOUIS	63105
4366	SZASZ, AB		RT 1	GERALD	63037

MONTANA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
811004	SVELSTAD, NELS			WISE RIVER	59762

NEBRASKA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
471003	RYAN, KP			BLAIR	68008

NEVADA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
88E30	PRATT, STEVEN RAY		115 E. WIGWAM	LAS VEGAS	89119
88E28	VERGIS, SHERRY		509 CARPENTER	LAS VEGAS	89107

NEW YORK

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
21E2	CITY OF ITHACA		108 E GREEN STREET	ITHACA	14850

NORTH CAROLINA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
551012	CHARLOTTE NATURE MUSEUM, INC.		1658 STERLING RD.	CHARLOTTE	28209
551016	ENVIRONMENTAL ED., REC., & RES. CTR..		RT. 1, BOX 401	HIGH POINT	27260
551004	GRANDFATHER MOUNTAIN, INC.			LINVILLE	28646
551018	NATIONAL REC. SERVICE	FRONTIERLAND	FRONTIERLAND	CHEROKEE	28719
551019	NATURE CNTR. OF FORSYTH CO., INC.		MUSEUM DRIVE	WINSTON-SALEM	27105
551003	NORTH CAROLINA MUSEUM OF LIFE & SCIENCE		PO BOX 8177	DURHAM	27704

OHIO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
31E14	BOB EVANS FARMS, INC.		BOX 154	RIO GRANDE	45674
31E197	CLEVELAND MUSEUM OF NATURAL HISTORY.		WADE OVAL, UNIVERSITY CIRCLE	CLEVELAND	44106
31E47	DAYTON MUSEUM OF NATURAL HIST.		2629 RIDGE AVE	DAYTON	45414
31E110	ELYRIA PARKS & RECREATION DEPT.		1101 PROSPECT ST.	ELYRIA	44035
31E146	FANTASY FARM		RT. 1	MIDDLETOWN	45042
31E293	HINEY, KM		1034 HOME AVE	AKRON	44310
31E117	KHOL, R	KHOL'S GAME FARM	30770 CANNON RD	SOLON	44139

OHIO—Continued

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
31E33	LAKE ERIE JUNIOR NATURE & SCIENCE CENTER.		28728 WOLF RD.	CLEVELAND	44140
31E249	NAFZIGER, DL		ROUTE 1, BOX 18	ARCHBOLD	43502
31E107	SIEDEL'S FUN FARM, INC.		21897 WESTWOOD DR.	STRONGSVILLE	44136
31E58	THE CLEVELAND AQUARIUM		601 E. 72ND ST.	CLEVELAND	44103
31E122	WORK, RM & IS	NELSON LEDGE PARK 44231	R 2, BOX 292	GARRETTSVILLE	44231

SOUTH CAROLINA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
561001	SMITH, WC	WILSON'S TRUCK STOP	ROUTE 1 HWY. 21	GREAT FALLS	29055

TEXAS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
74RE2	CITY OF ANDREWS		MUNICIPAL ADM. BLDG	ANDREWS	79714
74RE9	FT. WORTH MUSEUM OF SCIENCE & HISTORY.		1501 MONTGOMERY ST	FORT WORTH	76107
74RE18	INNER SPACE		HWY IH35-SOUTH	GEORGETOWN	78626
74RE17	UNIVERSITY OF HOUSTON		BOX 240 UNIV. CTR.	HOUSTON	77004

WASHINGTON

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
919E	ST. OF WA DEPT OF GAME	GAME FARM SYSTEM	600 N CAPITOL WAY	OLYMPIA	98504

WEST VIRGINIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
541001	MEADOWS, ER		RT. 4, BOX 107	GRAFTON	26354

WISCONSIN

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
351068	WISCONSIN DEPT. OF NATURAL RESOURCES.		BOX 450	MADISON	53701

WYOMING

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
831001	CITY OF CHEYENNE	LIONS PARK	CITY-COUNTY BLDG.	CHEYENNE	82001
831004	WIND RIVER RANCH			DUBOIS	82513

[FR Doc. 3704 Filed 2-16-82; 8:45 am]

BILLING CODE 3410-34-F

federal register

Wednesday
February 17, 1982

Part V

Department of Agriculture

Animal and Plant Health Inspection Service

Animal Welfare; List of Registered Carriers and Intermediate Handlers

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Animal Welfare; List of Registered Carriers and Intermediate Handlers

The following list is being published to give notice to the public of carriers and intermediate handlers currently registered under the Animal Welfare Act (7 U.S.C. 2131 et seq.). Such notice does not come under E.O. 12291, since it is not a rule. Therefore, pursuant to the provisions of the Animal Welfare Act and the regulations thereunder (9 CFR Part 2), notice is hereby given that the carriers and intermediate handlers listed below are registered under said Act (Section 6, 80 Stat 351, as amended (7 U.S.C. 2136)):

Done at Washington, D.C., this 28th day of January 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

ALABAMA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
ALH1	MACKALL, B & C	KOUNTRY K-9 KENNELS	RT 2 BOX 005	HOPE HULL	36043

ALASKA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
AKH1	TAILWAGGERS' LODGE		2905 TANGLEWOOD PLACE	ANCHORAGE	99503
AKT1	WIEN AIR ALASKA, INC.		4100 INTL. AIRPORT RD	ANCHORAGE	99502

ARIZONA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
AZH2	GARRETT, JACK	COLONIAL PET SALON	8005 E ROOSEVELT	SCOTTSDALE	85257
AZH5	HEILAND, GEORGE	CANINE COUNTRY CLUB	2332 E WASHINGTON	PHOENIX	85034
AZH3	HIGGINS, R	A-A DOGGIE DUDE RANCH	1381 W HATCHER ROAD	PHOENIX	85021
AZH1	KING, J & PERRY, J.	AIRPORT INN PET LODGE	6301 S MARK RD	TUCSON	85706
AZH4	KISS, J & G	SUN CITY BOARDING KENNELS	6744 W ASTOR RD	PEORIA	85345
AZH6	SYKES, M & J	BAR A KENNELS	9573 E. MILLMAR RD.	TUCZON	85730
AZH7	WESTHAFER, B & B	KENNEL COMFORT PET MOTEL	2509 WEST ZINNIA	TUCSON	85706
AZH8	ZEIGLER, VIRGIL	FLYING FUR PET TRAVEL	7100 WEST BOPP	TUCSON	85706

ARKANSAS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
ART1	SCHEDULED SKYWAYS, INC.		P.O. BOX 1344	FAYETTEVILLE	72701

CALIFORNIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
CAT7	AIR CALIFORNIA		3636 BIRCH ST	NEWPORT BEACH	92660
CAH15	BOWERS, JAMES	BEEFEATER KENNELS	10917 CHERRY AVE	FONTANA	92335
*CAT9	BURLINGON NORTHERN AIR FREIGHT INC.		PO BOX 7420	NEWPORT BEACH	92660
CAT3	CONTINENTAL AIR LINES, INC.		7300 WORLD WAY WEST	LOS ANGELES	90009
CAH4	EL SUPERBA KENNELS		5441 HACKBERRY LN	SACRAMENTO	95841
CAH7	FLYING FUR PET TRAVEL		13615 VICTORY BLVD	VAN NUYS	91401
CAH16	GRUPE, ZONA	GLENNROE KENNELS	334 GLENDURA CIRCLE	DANVILLE	94526
CAT5	HUGHES AIR CORP.		SAN FRANCISCO INTL. AIRPORT	SAN FRANCISCO	94128
CAH2	JET PETS, INC.		9014 PERSHING DR.	PLAYA DEL REY	90291
CAH20	JONES, JM	ANIMAL TRANSPORT	4124 VICTORIA AVE	LOS ANGELES	90006
CAH12	JONES, K	LIVING SPECIALTIES	450 APRIL WAY	CAMPBELL	95008
CAT1	KOREAN AIR LINES		1813 WILSHIRE BLVD.	LOS ANGELES	90057
CAH6	MCCALLUM, WM		1083 DELL AVE	CAMPBELL	95008
CAH14	MIRAMONTES, KATHY	BRAVURA KENNELS	RT 2 BOX 455	WOODLAND	95695
CAH8	MISHLER, GE	ALL PET TRANSPT. SERVICE	3382 UNIVERSITY AVE	SAN DIEGO	92104
CAH13	MITCHELL, JIMMY R.	RED STAR KENNEL	2880 PUTMAN ROAD	VACAVILLE	95688
CAT8	PETAXI, INC.		PO BOX 12337	SAN FRANCISCO	94112
CAH21	ROSSINIE, DORIS M.	WEST WIND KENNEL	2130 S CUCAMONGA AVE	ONTARIO	91761
CAH18	SCOTT, JANICE	GREENBACK PET RESORT	8311 GREENBACK LANE	FAIR OAKS	93628
CAH17	SEACREST KENNELS		P.O. BOX 1214	CARLSBAD	92008
CAH3	STEIN, C & A	FLYING FUR	8357 SUNVIEW DR.	EL CAJON	92022
CAT6	SWIFT AIRE LINES, INC.		P.O. BOX W	SAN LUIS OBISPO	93406
CAT4	THE FLYING TIGER LINE, INC.		7401 WORLD WAY WEST	LOS ANGELES	90009
CAH5	WECHSLER, N	PET EXPRESS INC.	P.O. BOX 40160	SAN FRANCISCO	94140
CAT2	WESTERN AIR LINES, INC.		6060 AVION DR.	LOS ANGELES	90045
CAH1	WHEELER'S AIRPORT AN. SHELTER		PO BOX 8245	SAN FRANCISCO	94128
CAH10	WOOD, JR	WOODBRAE KENNELS	16870 BURTON RD	LOS GATOS	95030
CAT10	WORLD AIRWAYS, INC.		OAKLAND INTERNATIONAL AIRPORT.	OAKLAND	94614
CAH9	WORLD WIDE PET SHIPPING		2927 CENTRAL AVE	SO. EL MONTE	91733
CAH11	YOUNG, R.	ROLAND'S DOG GROOMING	6129 MISSION STREET	DALY CITY	94014

COLORADO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
COT10	AIR LINK CORPORATION		2200 AIRWAY AVE.	FORT COLLINS	80524
COT7	AIR U.S.		PO BOX 39647 AMF STAPLETON INT.	DENVER	80239
COT2	ASPEN AIRWAYS, INC.		HANGAR 5 STAPLETON INTL. ARPT.	DENVER	80207
COH2	BOWMAN, B & C	ELMFIELD KENNELS	2658 W FLORIDA AVE	DENVER	80219
COH6	BRAVO'S PET PICKUP LTD		965 YALE ROAD	BOULDER	80303
COT4	COMBS FREIGHTAIR, INC.		3333 QUEBEC ST. SUITE 9200	DENVER	80207
COH8	CROSS TOWN DELIVERY SERVICE		806 WAGON WHEEL DRIVE	FORT COLLINS	80526
COT1	FRONTIER AIRLINES, INC.		8250 SMITH RD.	DENVER	80207
COT8	FT. COLLINS FLYING SERVICE		2200 AIRWAY AVE.	FT. COLLINS	80524
COH3	GARCIA, GH	NORTH METRO BOARDING KENNELS	666 LOWELL BLVD	DENVER	80204
COH7	KENNEL ESTATES, LTD.		12585 JORDAN RD.	FOUNTAIN	80817
COH5	PEGASUS PET SHIPPING SERVICES		3914 WINONA CT	DENVER	80212
COT5	PIONEER AIRWAYS INC.		3333 QUEBEC ST #4080	DENVER	80207
COT6	ROCKY MOUNTAIN AIRWAYS		HANGER 6 STAPLETON APRT.	DENVER	80207
COT9	SHAVANO AIR, INC.		PO BOX 128	PONCHA SPRINGS	81242
COT3	STAR AIRWAYS, INC.		3390 SYRACUSE ST.	DENVER	80207
COH1	TENAKER KENNEL, INC.		895 LAREDO	AURORA	80011
COH4	WOODMEN BOARDING KENNELS		6440 N OLD HIWAY 85-87	COLORADO SPRINGS	80919

CONNECTICUT

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
CTH2	BALL, R	DAY HILL KENNELS	20 DAY HILL RD.	WINDSOR	06095
CTT2	COSMOPOLITAN CANINE CARRIERS INC.		5 BROOK STREET	DARIEN	06820
CTH3	CURTIS, D	MEADOWROCK KENNEL	SOUTH ST	SUFFIELD	06078
CTT1	EMERY AIR FREIGHT CORP			WILTON	06897
CTH7	GAUVIN, EDWARD		7, 7TH ST.	PLAINFIELD	06374
CTH4	HOPMEADOW BOARDING KENNELS, INC.		237 HOPMEADOW ST	SIMSBURY	06069
CTH5	LEVINE, MARK	KEYSTONE KENNELS	RT 42	BETHANY	06525
CTT4	OCEAN AIRWAYS, INC.		121 WHITNEY AVENUE	NEW HAVEN	06510
CTT3	PILGRIM AIRLINES		PO BOX 1743	NEW LONDON	06340
CTH1	THE DOG CORPORATION	CANDLEWICK KENNNELS	2811 HEBREN AVE	GLASTONBURY	06033
CTH6	VALLEY BOARDING KENNELS		47 PATRIA ROAD	SOUTH WINDSOR	06074

DISTRICT OF COLUMBIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
DCT1	U.S. AIR		WASHINGTON NAT. AIRPORT	WASHINGTON	20001

FLORIDA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
FLT1	AIR ANIMAL, INC.		4805 WEST GRAY ST.	TAMPA	33609
FLT5	AIR FLORIDA, INC.		3600 NW 79TH AVE., SUITE 590	MIAMI	33166
FLT6	AIRLIFT INTER. INC.		PO BOX 522495	MIAMI	33152
FLH25	AMERICAN PET SERVICES CORP.		8607 SW 107TH AVE	MIAMI	33176
FLH12	ANIMAL LOVERS' PET CTR.		509 W. 49TH ST.	HIALEAH	33012
FLH5	B & B KENNELS INC.		15801 SW 152 AVE	MIAMI	33187
FLH21	BARON'S K-9 HOTEL, INC		2429 E TAMARIND AVE	W PALM BEACH	33458
FLH11	BISCAYNE PET HOUSE		10789 BISCAYNE BLVD	MIAMI	33165
FLH20	BOBBI'S WORLD, INC.		1040 NW 53RD ST	FORT LAUDY	33309
FLH10	CARNEL CORP.	TROPICAL PET SHOP	2220 CORAL WAY	MIAMI	33145
FLH4	COMFORT KENNELS		265 W 25 ST	HIALEAH	33010
FLT2	EASTERN AIR LINES, INC.		MIAMI INTL. AIRPORT	MIAMI	33148
FLH19	FIGG, F & R	DRIFTWOOD KENNELS	PO BOX 668	LAUREL	33545
FLH23	GROOM, HE	GEORGE'S KENNELS	5085 EDGEWOOD COURT	JACKSONVILLE	32205
FLH24	HOPPERSTART, D	CHAROBES KENNELS	RT 2 BOX 572	ARCHER	32618
FLT8	INTERNACIONAL DE AVIACION S.A.(INAIR).	INAIR	BLD 2143 MIAD, P.O. BOX 522911	MIAMI	33152
FLH7	LANDMARK KENNELS		8717 SW 134 ST	MIAMI	33176
FLH2	LOUIS WASSERMAN		4850 SW 70 TERR	DAVIE	33314
FLH17	MAKI INTERNATIONAL INC		PO BOX 13049	FORT LAUDERDALE	33316
FLH14	MATUS, C	FLYING FUR PET TRAVEL SERVICE	6742 COLLINS AVE	MIAMI BEACH	33141
FLH27	MEARS, ADRIENNE	SHADY GROVE KENNEL	290 W 28 STREET	HIALEAH	33010
FLH13	MENNYFIELD ACADEMY OF ANIMAL TECH.		5040 NE 13 AVE	FT LAUDERDALE	33334
FLH9	MIDWAY PET CTR		7771 W FLAGLER ST.	MIAMI	33144
FLT3	NATIONAL AIRLINES, INC.		PO BOX 592055, AMF	MIAMI	33159
FLH6	PET FAIR INC.		14405 NW 7TH AVE	MIAMI	33168
FLH1	PET TAXI SERVICE, INC.		1224 N.E. 144TH ST.	N MIAMI	33161
FLT7	RICH INTERNATIONAL AIRWAYS, INC.		PO BOX 522067	MIAMI	33152
FLH16	ROBBINS INC.		PO BOX 523025	MIAMI	33152
FLH22	SWASEY, DIANE	HUSH PUPPY KENNEL	RT 8 BOX 41	DAYTONA BEACH	32014
FLH15	TAMARAC TOWERS HOTEL FOR PETS.		3910 NW 49ST	TAMARAC	33309
FLH3	TOTH, LD	TOMAR KENNELS	4102 GERTRUDE ST.	ORLANDO	32809
FLH8	UTIL. SERV. CORP OF AM. INC		7855 SW 94 ST	MIAMI	33156
FLH18	WALKER, J & J	SUNSHINE KENNELS	RT 2 BOX 330K	SARASOTA	33582

GEORGIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
GAH7	AMBERY, P & DANIEL, M	AMBERY ANIMAL HOSPITAL	1409 HOWELL MILL ROAD	ATLANTA	30318
GAH2	ATLANTA BAGGAGE AND EXPRESS CO		1561 E VIRGINIA AVE SUITE 112A	ATLANTA	30337
GAH6	C & H COURIERS INC.		4419 COWAN BLVD.	TUCKER	30084
GAT1	DELTA AIR LINES, INC.		HARTSFIELD ATLANTA INTL. ARPT.	ATLANTA	30320
GAH4	GLASS, JOHN C	SILICA KENNELS	RT 6 BOX 129 US 19 SOUTH	ALBANY	31705
GAH5	MILLER, K & K	CLOUD 9 KENNELS	RT 1 WARD DR	ELLENWOOD	30049
GAH1	SONIC DELIVERY SYSTEMS INC		P.O. BOX 4422	ATLANTA	30302
GAH3	TRI-CITY ANIMAL HOSPITAL		2957 CENTRAL AVE BOX [illegible]	EAST POINT	30344

HAWAII

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
HIH2	A & P SHIPPING CORP.	FLYING FUR PET TRAVEL SERV	1050 KIKOWAENA PL	HONOLULU	96819
HIT4	AIR CARGO ENTER. INC		PO BOX 30248	HONOLULU	96820
HIT3	AIR HAWAII CORP		3049 UALENA ST	HONOLULU	96819
HIT2	ALOHA AIRLINES, INC.		PO BOX 30028	HONOLULU	96820
HIH5	ALOHA PET LODGE		767 ALAMOANA BLVD	HONOLULU	96813
HIT6	DHL AIR CARGO		P.O. BOX 30526	HONOLULU	96820
HIT1	HAWAIIAN AIRLINES, INC.		1164 BISHOP ST, SUITE 800	HONOLULU	96813
HIH3	HAWAIIAN HUMANE SOCIETY		2700 WAIALAE AVE.	HONOLULU	96826
HIT5	HORIZON CARGO TRANS. INC.		PO BOX 30065	HONOLULU	96820
HIH6	MOSS, RICHARD		PO BOX 22151	GMF - GUAM	96921
HIH4	ST DEPT/AG - ANIMAL QUAR. STATION		99-770 MOANALUA RD	AIEA	96701

IDAHO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
IDH3	ADA BOARDING KENNELS		8250 W VICTORY	BOISE	83709
IDH2	ALLISON, M	GEM CREST KENNELS	4145 GOLDENROD	MERIDIAN	83642
IDT4	BOISE AVIATION INC.	BOISE AIRPORT SERVICE	3200 AIRPORT WAY	BOISE	83705
IDH5	MCCUE, P & J	TETON KENNELS	RT 2, BOX 496	IDAHO FALLS	83401

ILLINOIS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
ILT2	ALLIED AIRFREIGHT CORP		999 E TOUHY AVE	DES PLAINES	60018
ILH5	AMERICAN INT'L PET SHIPPING	PINE TOWNE PET MOTEL	7233 MADISON STREET	FOREST PARK	60130
ILH9	AMERICAN PET MOTELS, INC.		ONE PET LANE	PRAIRIE VIEW	60069
ILH4	CALANCA, O		RR 1 BOX 175	GRAYSLAKE	60030
ILH2	FLYING FUR PET TRAVEL SERVICE		310 SOUTH MICHIGAN AVE.	CHICAGO	60604
ILH8	GILLISPIE, JIM	AIR/PET TRANSPORT	7560 CENTRAL AVE	RIVER FOREST	60305
ILH3	OWENS, MR & MRS R		RT 1 BOX 10A BROWN RD	BRIGHTON	62012
ILH6	ROSINSKI, THEODORE L	HOLLYWOOD KENNELS	23W755 WEST IRVING PARK ROAD	ROSELLE	60172
ILT1	UNITED AIR LINES, INC.		PO BOX 66100	CHICAGO	60666
ILH7	VALLEE, JG		210 VILLA ROAD	STREAMWOOD	60103

INDIANA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
INH1	HARLAN, C & S	WAYPORT KENNELS	7957 N. HWY 37	BLOOMINGTON	47401

KANSAS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
KST1	AIR MIDWEST, INC.		MID-CONTINENT AIRPT	WICHITA	67209
KST2	JOHNSON COUNTY EXECUTIVE AVIATION, INC.		ONE EXECUTIVE AERO PLAZA	OLATHE	66062
KSH1	MID-AMERICA EXPRESS, INC.		ONE EXECUTIVE AERO PLAZA	OLATHE	66062

KENTUCKY

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
KYH1	BROOKS, CAREN	BLUE GRASS KENNELS	5251 PARKERS MILLS ROAD	LEXINGTON	40511
KYH3	HAMLIN, C & K	KESHLYN KENNELS	3568 WALNUT HILL ROAD	LEXINGTON	40502
KYH2	SHRADER, KENNEL		2568 RICHMOND ROAD	LEXINGTON	40502

LOUISIANA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
LAH1	CLICK DELIVERY SERV. INC		3710 ROBERTSON ST BOX 683	METAIRIE	70004

MAINE

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MET1	BAR HARBOR AIRWAYS, INC	BAR HARBOR AIRLINES	RFD 1	ELLSWORTH	04605
MET3	COLES EXPRESS		444 PERRY RD	BANGOR	04401
MET4	DOWNEAST AIRLINES INC		PO BOX 966	ROCKLAND	04841
MET2	PORTLAND AIR FREIGHT	PORTLAND INTL JETPORT	1016 WESTBROOK ST	PORTLAND	04102

MARYLAND

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MDT2	CUMBERLAND AIRLINES		PO BOX 1611	CUMBERLAND	21502
MDT3	GIBSON AVIATION, INC.		7949 AIRPARK DR	GAITHERSBURG	20760
MDT4	PAUL HENRY AIR FREIGHT INC	AIRPORT INDUSTRIAL PARK	BOX 255	HAGERSTOWN	21740

MASSACHUSETTS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MAT1	AIR NEW ENGLAND, INC.		LOGAN INTL. AIRPORT	BOSTON	02128
MAH2	FRAHMANN, M & G		750 WAKEBY RD	MARSTON	02648
MAT2	PATRIOT TRUCKING INC		PO BOX 131	REVERE	02151
MAT3	PROVINCETOWN-BOSTON AIRLINE, INC.		PO BOX 639	PROVINCETOWN	02657
MAH1	WRIGHT, M P	CEDARSHAKE KENNEL	21 HARRINGTON RD	WESTMINSTER	01473

MICHIGAN

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MIT1	EAGLE AVIATION, INC.		BISHOP AIRPORT	FLINT	48507
MIH1	WELLS, D		38280 ECORSE RD	ROMULUS	48174

MINNESOTA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MNT4	AIR FREIGHT EXPRESS		7800 24TH AVENUE SOUTH	MINNEAPOLIS	55450
MNH1	AMERICAN BOARDING KENNEL		1102 E HWY 13	BURNSVILLE	55337
MNT1	NORTHWEST AIRLINES, INC.		ST. PAUL INTL. AIRPORT	ST. PAUL	55111
MNT3	REPUBLIC AIRLINES INC.		RT. 6 P.O. BOX 160F	MINNEAPOLIS	55450

MISSISSIPPI

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MST1	MILLER AIR TRANSPORTERS, INC.		PO BOX 22551	JACKSON	39205

MISSOURI

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
MOH3	ANDERSON, LARRY	B & L TRANSPORT	RT 1 BOX 223	TROY	63379
MOH2	BUTLER, D	PET EXPRESS	9540 NW PRAIRIE VIEW RD	KANSAS CITY	64153
MOH7	EBEST, J K	COUNTRY LANE KENNEL	4112 TOWERS RD	ST. CHARLES	63301
MOH4	GIBSON, J & W	IMPERIAL CROWN KENNELS AND PET CEMETERY INC.	115 N HIGHWAY 67	FLORISSANT	63031
MOH8	GOLDEN POST KENNELS, LT.D.		820 BROWN RD	HAZELWOOD	63042
MOH1	KENNELWOOD VILLAGE INC		755 NEW BALLAS RD SO	ST LOUIS	63141
MOH6	KUNZ, F & P	BLUFF-VIEW KENNELS	RT 4 BOX 56A	ST. CHARLES	63301
MOT2	LIMKEMANN, L & A	LINK'S KENNEL	RT 1	MEADVILLE	64659
MOT1	OZARK AIR LINES, INC.		PO BOX 10007	ST LOUIS	63145
MOH5	RYBOLT, PAT		RR 1 BOX 233	HALLSVILLE	65255

NEVADA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
NVH1	AMERICAN ANIMAL SERVICES, INC.	THE ANIMAL INN	3460 WEST OQUENDO ROAD	LAS VEGAS	89118

NEW JERSEY

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
NJH6	AIRLINE ANIMAL TRANSPORTATION		58 KINDERKAMACK RD	EMERSON	07630
NJH1	GRADLYN KENNELS INC	INT'L PET TRAVEL SERVICE	SYKESVILLE ROAD	WRIGHTSTOWN	08562
NJH7	HAY HILL KENNELS, INC.		905 N WASHINGTON AVE	GREEN BROOK	08812
NJH5	HOLLY CREEK KENNEL		R.D. 3 TAUNTON RD.	MARLTON	08053
NJH4	MANHARD, GM & RC	HILLSBOROUGH BOARDING KENNELS.	ROYCEFIELD RD PO BOX 902	SOMERVILLE	08876
NJH6	MULSBURY, F & H	CHERRY LANE KENNELS	RD 2 BOX 168	FREEHOLD	07728
NJH3	PURR N POOCH INC		STATE HIGHWAY 35	MANASQUAN	08736
NJH2	ROXDANE KENNELS INC		75 STIRLING RD	WARREN	07060
NJT1	WORLDWIDE PET TRAVEL SERVICE		7 LEE LANE	VINCENTOWN	08088

NEW MEXICO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
NMT4	ED'S FLYING SERVICE, INC.		P.O. BOX 986	ALAMOGORDO	88310
NMH5	FLEMING, DAVID	ALAMO KENNELS & PET SHOP	2506 N. WHITE SANDS	ALAMOGORDO	88310
NMH3	LUJAN, P & M	COUNTRY BOARDING KENNELS	RT 6 BOX 456	SANTA FE	87501
NMH1	PARCEL DELIVERY OF ALBUQUERQUE		AMF PO BOX 9121	ALBUQUERQUE	87119
NMH2	RAWHIDE EXOTICS		P.O. BOX 9112	ALBUQUERQUE	87119
NMT1	ROSS AVIATION INC		PO BOX 9124	ALBUQUERQUE	87119
NMH4	SUMMERS, T & V	FUR FIN & FEATHER PET CENTER.	5100 E MAIN	FARMINGTON	87401

NEW YORK

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
NYH13	ADD-EN-ON KENNELS, INC.		112 POND ROAD	HONEOYE	14472
NYT3	AIR CANADA		MONTREAL H3B3P7	MONTREAL H3BSP	
NYH6	ASPCA		441 EAST 92ND STREET	NEW YORK	10028
NYH1	DAL CORTIVO, R & S	CROSS CTRY PET TRANSPORTERS.	CROSS RD	LAGRANGEVILLE	12540
NYH9	EAGLE HILL DOG CENTER INC		PO BOX 307 GRAVES RD	WESTMORELAND	13490
NYT6	FISHERS ISLAND FERRY DISTRICT			FISHERS ISLAND	06390
NYH8	FLYING FUR PET TRAVEL SERVICE		133 SO. 41 AVE.	FLUSHING	11355
NYH11	HICKEY, R	WHITE SHADOW RANCH	680 ATLANTIC AVE	BALDWIN	11510
NYH7	INTRONE, S	EMERALD ACRES PET MOTEL	RD 5 BOX 281A MARIAVILLE RD	SCHENECTADY	12306
NYH10	NEZELEK, R & MALICK, D	MT ETTRICK PET RESORT	AIRPORT RD RT 5	BINGHAMTON	13905
NYT1	PAN AMERICAN WORLD AIRWAYS, INC.		200 PARK AVE	NEW YORK	10017
NYT7	PEDONE, DAVID L	PEDONE TRUCKING INC	4225 GENESEE STREET	CHEEKTOWAGA	14225
NYH5	PET ENTERPRISES TOTAL SERVICES	WILLOW KENNELS/ANIMAL TRAVEL AGEN.	1926 DEER PARK AVE	DEER PARK	11729
NYH4	POWERS, P		179-15 149TH AVE	JAMAICA	11434
NYT5	SEABOARD WORLD AIRLINES		BLDG 260 JFK INT'L ARPT	JAMAICA	11430
NYT8	TAUGHANNOCK AVIATION CORP.		465 MIDLINE RD.	FREEVILLE	13068
NYH12	TEDESCHI, C	TEDESCHI & SONS TRUCKING, INC.	59-50 56TH RAOD	MASPETH	11378
NYT4	TRANS WORLD AIRLINES, INC		605 THIRD AVE	NEW YORK	10016
NYH2	WORLD WIDE PET TRANSPORT		95-01 METROPOLITAN AVE	FOREST HILLS	11375

NORTH CAROLINA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
NCT3	AIR EXPRESS, INC.		REGIONAL AIRPORT BOX 5706	GREENSBORO	27410
NCH1	HORKY, A & E		2333 EATONTON ST	CHARLOTTE	28208
NCH2	KEYES, T. HALL	NANHALL TRAINING CENTER	2206 ASHEBORO STREET	GREENSBORO	27406
NCT2	LITTLE MOUNTAIN AIRPORT, INC.		RT 1 BOX 310	MAIDEN	28650
NCT1	PIEDMONT AVIATION, INC.		WINSTON-SALEM	WINSTON	27102
NCT4	PINEHURST AIRLINES, INC		PO BOX 849	PINEHURST	28374

NORTH DAKOTA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
NDT1	AIR FREIGHT EXPRESS		PO BOX 5021 SUS	FARGO	58102

OHIO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
OHH1	KARNIK KENNEL		5411 BLACK RD.	WATERVILLE	43566

OKLAHOMA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
OKT1	GT WESTERN AIRLINES, INC.	RICHARD LOYD JONES ARPT		TULSA	74107
OKH1	STROTHMANN, G & R	SUNDOWN KENNELS	RT 2 BOX 740	CLAREMORE	74017

OREGON

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
ORH7	ANDERSON, L & HALL, R	PENDLETON VETERINARY CLINIC	1901 SW COURT	PENDLETON	97801
ORH9	BENTON HUMANE SOCIETY		PO BOX 1336	CORVALLIS	97330
ORH1	BERLANT, D	TWIN WILLOWS KENNELS	320 NE GERTZ RD	PORTLAND	97211
ORH2	BOND, MRS M		29083 AIRPORT RD	EUGENE	97402
ORH4	BOWER, A	APPLEGATE COUNTRY BOARD. KENNELS.	150 DETRICK DR	GRANTS PRESS	97526
ORT3	EVERGREEN INTL AIRLINES INC		3185 CRESTVIEW DR	NEWBERG	97132
ORH6	GROUPE, J.R.	RIVERSIDE VETERINARY CLINIC	330 NE HWY 11	PENDLETON	97801
ORH5	HICKMAN, J	ARCHERS BOARDING KENNELS & BOTIQUE.	18750 SW PACIFIC HWY	SHERWOOD	97140
ORH8	LUDLOW, C & M L	LUCKY FOUR KENNEL	32234 COUNTRY RD.	TANGENT	97389

PENNSYLVANIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
PAT1	ALTAIR AIRLINES, INC.		SCOTT PLAZA 2	PHILADELPHIA	19113
PAH3	BUZY, J		BOGGS SCHOOL RD.	CORAOPLIS	15108
PAH2	CRESTWOOD DOG MOTEL		2717 WEST 26TH ST	ERIE	16506
PAH9	FRAME, W A	FRAME'S KENNELS	1119 HAVENFORD RD.	RIDLEY PARK	19026
PAH1	MCKENDRY, S		RD 2	CORAOPOLIS	15108
PAH8	PARKWAY WEST PET CARE CNTR.		RD 2 GRINGO CLINTON RD.	CORAOPOLIS	15108
PAH7	SHAMBAUGH, VIRGINIA	VON HELRICH KENNEL	1137 PINE ROAD	CARLISLE	17013
PAT3	SKYLINE MOTORS AIR CARGO, INC.		71 BRIDGE STREET	WEST BRIDGEWATER	16039
PAH6	STEWARD, M & WLM	STEWARD KENNELS	PYLE RD RR 2 BOX 309	CHADDS FORD	19317
PAT4	SUMMIT AIRLINES, INC.		SCOTT PLAZA 11	PHILADELPHIA	19113
PAH5	VIR-DEL KENNEL		36 RANDOLPH RD. RD 1	GREAT BEND	16021

PUERTO RICO

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
PRT3	CARIBBEAN AIR SERVICES		SAN JUAN INT'L AIRPORT	ISLA VERDE	00913
PRT2	FLAMENCO AIRWAYS, INC		PO BOX 214	CULEBRA	00645
PRT1	PRINAIR		INTERNATIONAL AIRPORT	ISLA VERDE	00913

SOUTH CAROLINA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
SCH4	AIR FREIGHT DELIVERY		PO BOX 558	WEST COLUMBIA	29169
SCT1	ATLANTIS AIRLINES, INC.		PO BOX 3022	MYRTLE BEACH	29577
SCH2	CHARLESTON CARTAGE CO INC		PO BOX 42	CAYCE	29033
SCH1	GIBSON KENNELS, INC.		5546 WARD AVE	CHARLESTON HEIGHTS	29405
SCH6	PET HAVEN INC		RT 4 BOX 129	HOPKINS	29061
SCH7	POWELL, L A	SUN-GLO KENNELS	1019 LST AVE. SO.	NORTH MYRTLE BEACH	29582
SCH3	ROCKYS KENNEL		PO BOX 191 PLATE SPRINGS RD	LEXINGTON	29072
SCH5	SHADY ACREAS PET RESORT		HARMON RD RT2 BOX 207J	HOPKINS	29061

TENNESSEE

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
TNT1	MID-TENN AVIATION CO		RT 3 BOX 840	DICKSON	37055

TEXAS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
TXH9	AAA KENNEL, INC.		3316 GLANDE RD	COLLEYVILLE	76034
TXH4	AIR CARGO EXPRESS		2227 E. UNION BOWER	IRVING	75062
TXH8	AIR/FRATE TRANSPORTATION		BOX 60523 AMF	HOUSTON	77205
TXT7	AMERICAN AIRLINES, INC.		PO BOX 61616	DALLAS/FT. WORTH AIRPORT.	75261
TXH12	ANIMAL CARE CENTER		6321 BISSONNET	HOUSTON	77074
TXH1	BOOKER, JR. SM	BOOKER'S KENNEL	101 E NOLAN TRAIL	HARKER HEIGHTS	76541
TXT1	BRANIFF AIRWAYS, INC.		PO BOX 35001	DALLAS	75235
TXH6	COUNTRY KENNEL		RT 2, BOX 178	FRISCO	75034
TXH2	FLYING FUR PET TRANSFER		4500 TRAVIS	HOUSTON	77002
TXH11	HRANITZKY, DENNIS		623 EAST DALLAS ROAD	GRAPEVINE	76051
TXH15	HUB CITY DELIVERY, INC.		P.O. BOX 2035	LUBBOCK	79408
TXH3	KENTREE BOARDING KENNELS		14934 VERA DR.	HUMBLE	77396
TXT5	LEASH AND COLLAR		6907 PASCO CT.	EL PASO	79907
TXH14	LONE STARR DELIVERY, INC.		P.O. BOX 6005	MIDLAND	79701
TXH5	MANNING MAX, INC.		400 CASCADE	IRVING	75061
TXT10	METRO AIRLINES		P.O. BOX 58606	HOUSTON	77058
TXT5	MORGAN EXPRESS, INC.		10130 MONROE DRIVE	DALLAS	75229
TXH10	PRAEGER, DS JR.		7817 SOUTH COOPER STREET	ARLINGTON	76017
TXT3	RIO AIRWAYS INC		PO BOX 636	KILLEEN	76541
TXT9	SMB STAGE LINES INC.		1060 EAST NORTHWEST HWY	GRAPEVINE	76051
TXH16	SUN CITY DELIVERY, INC.		P.O. BOX 9916	EL PASO	79990
TXT2	TEXAS INTL. AIRLINES, INC.		PO BOX 12788	HOUSTON	77017

UTAH

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
UTH3	FLYING FUR PET TRAVEL SERVICE		5346 KENWOOD DR	MURRAY	84107
UTH1	GREENWOOD KENNELS		180 SO. HWY. 89	SALT LAKE CITY	84054
UTT1	JOHNS-MANVILLE SALES CORP	KEY AIRLINES	PO BOX AMF 22065	SALT LAKE CITY	84122
UTH4	RICKFORD, RL	RICK & PAT'S PET CENTER & GROOMERY.	3968 SOUTH 2ND EAST	SALT LAKE CITY	84107
UTT2	TRANS WESTERN AIRLINES OF UTAH		PO BOX 3253	LOGAN	84321

VERMONT

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
VTT1	PRECISION VALLEY AVIATION		SPRINGFIELD AIRPORT	NORTH SPRINGFIELD	05150

VIRGINIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
VAT1	ANIMAL AIRLINE		PO BOX 99	LINDEN	22642
VAH2	COHEL, E.	JAMES RIVER KENNELS	RT 1 BOX 260	CARROLLTON	23314
VAT2	DIRECT COURIER INC		2780 S. JEFFERSON DAVIS HWY.	ARLINGTON	22202
VAH5	DULLES GATEWAY KENNELS, LTD		4500 UPPER CUB RUN DRIVE	CHANTILLY	22021
VAH1	K - KENNELS INT.		PO BOX 213	CHANTILLY	22021
VAH3	RAMSEY, MARY WELLS	WAYWARD BOARDING KENNELS	RT 1 BOX 383	RUSTBURG	24588
VAH4	STONEHEAD DOG RANCH		R.D.I. BOX 163A	ALDIE	22001

VIRGIN ISLANDS

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
VIT3	AERO VIRGIN ISLANDS		P.O. BOX 546	ST. THOMAS	00801
VIT5	ANTILLES AIR BOATS, INC.		VETERANS DR.	ST. THOMAS	00801
VIT1	EASTERN CARIBBEAN AIRWAYS		BOX 6961	CHRISTIANSTED, ST. CROIX	00820
VIT7	LIAT (1974), LIMITED		P.O. BOX 4680	ST. THOMAS	00801
VIT6	MARSHALL'S AIR, INC.		1 GASVERKS GADE BLDG. NO. 1	ST. THOMAS	00801
VIT9	TRANS COMMUTER AIRLINES		INTERNATIONAL AIRPORT	ISLA VERDE	00913
VIT10	V I A HELICOPTERS		P.O. BOX 9710	CHARLOTTE AMALIE	00801
VIT2	VIRGIN AIR, INC.		BOX 2788	ST. THOMAS	00801

WASHINGTON

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
WAH2	AIRBORNE FREIGHT CORP		PO BOX 662	SEATTLE	98111
WAT1	ALASKA AIRLINES		19300 PACIFIC HWY. SO	SEATTLE	98188
WAH3	ARNOLD, D.	WARNITCH KENNELS	13426 SE 208TH	KENT	98031
WAH4	ATWOOD, L	KELLY'S KENNELS	2040 S 142ND	SEATTLE	98168

WASHINGTON—Continued

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
WAH6	DEMARRC, V	HOLIDAY KENNELS	22211 RUSSELL RD	KENT	98031
WAH9	KRUGER ANIMAL HOSPITAL		12516 PACIFIC HWY SO	SEATTLE	98168
WAH3	MOCK, R	HAPSBURG KENNEL	14043 24TH AVE SO	SEATTLE	98168
WAH10	RUSSELL, P	TANNEHAUS KENNEL	2412 224TH EAST	SPANAWAY	98387
WAH7	ZAPPALA, C & C	SCHAFERHAUS & VIELEDANKE KENNELS	1043 SO 140TH	SEATTLE	98168

WEST VIRGINIA

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
WVT1	AEROMECH, INC		P.O. BOX 2560	CLARKSBURG	26301

WISCONSIN

REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
WIT1	AIR WISCONSIN		OUTAGAMIE CTY AIRPORT	APPLETON	54911
WIH1	ANIMAL MOTEL		6068 NORTH 115TH ST.	MILWAUKEE	53225
WIH2	GROSSKOFF, MRS KEN	GOLRUSK PET CARE CENTER	1991 ALLOUEZ AVE	GREEN BAY	54301

[FR Doc. 3705 Filed 2-16-82; 8:45 am]

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federal register

Wednesday
February 17, 1982

Part VI

Department of Justice

Antitrust Division

United States v. Western Electric Company, Inc., and American Telephone & Telegraph Company; Competitive Impact Statement in Connection With Proposed Modification of Final Judgment

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Western Electric Company, Inc., and American Telephone & Telegraph Company; Competitive Impact Statement in Connection With Proposed Modification of Final Judgment

Notice is hereby given that, pursuant to an order of the United States District Court for the District of Columbia dated January 21, 1982, in Civil Actions No. 74–1698 and 82–0192, as amended by an order of the same Court dated February 5, 1982, a Competitive Impact Statement, as set forth below, has been filed with the Court in connection with the proposed Modification of Final Judgment previously filed on January 8, 1982, and now pending before that Court.

The complaint in *United States* v. *Western Electric Co., Inc., et al.* (originally filed in 1949 in the District Court in New Jersey as Civil No. 17–49) alleged that the defendants had monopolized and restrained trade in production, manufacture, distribution, sale and installation of telephone equipment in violation of Sections 1, 2 and 3 of the Sherman Act. The complaint in *United States* v. *American Telephone & Telegraph co., et al.,* (Civil No. 74–1698) alleged that the defendants had monopolized telecommunications services and equipment in violation of Section 2 of the Sherman Act.

The January 1956, final judgment in *United States* v. *Western Electric Co., Inc., et al.,* generally prohibited AT&T from engaging in any business other than provision of common carrier communications services, prohibited Western Electric from manufacturing types of equipment other than those sold to AT&T for use in furnishing common carrier communications services, and required licensing of certain AT&T patents. The proposed modification would vacate the provisions of the 1956 judgment and substitute provisions requiring the divestiture by AT&T of the exchange telecommunications and exchange access functions of the 22 operating telephone companies now owned by AT&T. The proposed modification also includes injunctive provisions designed to ensure that the operating companies do not disadvantage any firm engaged in the provision of interexchange telecommunications services, information services, or telecommunications equipment.

In accordance with the Court's order of January 21, 1982, the Competitive Impact Statement recites:

"(1) The nature and purpose of the proceedings;

(2) A description of the practices or events giving rise to the alleged violation of the antitrust laws;

(3) An explanation of the proposal, including an explanation of any unusual circumstances giving rise to the proposal or any provisions contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief;

(4) The remedies available to potential private plaintiffs damaged by the alleged violation in the event that the Modification of Final Judgment and the Dismissal are entered in these proceedings;

(5) A description of the procedures available for modification of the proposal; and,

(6) A description and evaluation of alternatives to the proposal actually considered by the United States.

The proposed Modification of Final Judgement was previously published in the **Federal Register** on January 28, 1982 (Vol. 47, No. 19, Pp. 4166–70). For ease of reference, it is republished herein following the Competitive Impact Statement. Copies of both documents are available on request to the address given below or by calling (202) 724–8273. Copies are also available for inspection at the Clerks' Offices of the United States District Courts for the following Districts: Central District of California, Northern District of California, Southern District of California, District of Colorado, District of Columbia, Middle District of Florida, Southern District of Florida, Northern District of Georgia, Northern District of Illinois, Eastern District of Louisiana, District of Maryland, District of Massachusetts, Eastern District of Michigan, District of Minnesota, Eastern District of Missouri, District of New Jersey, Southern District of New York, Northern District of Ohio, Southern District of Ohio, Eastern District of Pennsylvania, Western District of Pennsylvania, Northern District of Texas, Southern District of Texas, Eastern District of Virginia, Western District of Washington, and the Eastern District of Wisconsin.

Comments to the Department of Justice and the Court concerning the proposed modifications are invited from members of the public on or before April 20, 1982. They should be directed to Gerald A. Connell, Chief, *United States* v. *AT&T* Trial Staff, Antittrust Division, Department of Justice, Washington, D.C. 20530.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *American Telephone & Telegraph Company; Western Electric Company, Inc.;* and *Bell Telephone Laboratories, Inc.,* Defendants.

Civil Action No. 74–1698.

United States of America, Plaintiff, v. *Western Electric Company, Inc.,* and *American Telephone & Telegraph Company,* Defendants.

Civil Action No. 82–0192.

Competitive Impact Statement

Introduction

On January 8, 1982, the United States and the American Telephone and Telegraph Company filed in the United States District Court for the District of New Jersey and agreed upon modification to the Final Judgement entered in *United States* v. *Western Electric Co., et al.,* (CA No. 17–49). The Proposed modification would vacate the 1956 Judgement in its entirety and substitute various structural and injuctive provisions. The parties also filed a motion to transfer that case to the United States District Court for the District of Columbia. Simultaneously, the parties filed in the District Court for the District of Columbia a Stipulation for Voluntary Dismissal of *United States* v. *American Telephone and Telegraph Company, et al.* (CA No. 74–1698).

Because the Modification of Final Judgment would require a basic restructuring of the telecommunications industry and therefore necessarily affect vital public concerns, the parties agreed that procedures identical to those called for by the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) *et seq.* ("Tunney Act"), should be followed in connection with the Modification's entry. The parties notified the Court to this effect by memorandum of January 8, 1982.[1] On January 14, 1982, the New Jersey District Court granted the parties' motion to transfer *United States* v. *Western Electric* to the United States District Court for the District of Columbia. By Order of January 21, 1982, this Court directed, *inter alia,* that the United States file with the Court and publish in the **Federal Register** a competitive impact statement setting forth:

(1) The nature and purpose of the proceeding;

(2) A description of the practices or events giving rise to the alleged violation of the antitrust laws;

(3) An explanation of the proposal, including an explanation of any unusual circumstances giving rise to the proposal or any provision contained therein, relief to be

[1] Memorandum in Connection with Stipulation and Modification of Final Judgment filed in the New Jersey District Court on January 8, 1982, a copy of which has been provided to the District of Columbia District Court.

obtained thereby, and the anticipated effects on competition of such relief;

(4) The remedies available to potential private plaintiffs damaged by the alleged violation in the event that the Modification of Final Judgment and the Dismissal are entered in these proceedings;

(5) A description of the procedures available for modification of the proposal; and

(6) A description and evaluation of alternatives to the proposal actually considered by the United States.

This Statement is submitted pursuant to that Order:

I. Nature and Purpose of Proceedings

Twice in a span of twenty-five years the United States has brought civil actions under the Sherman Act seeking structural reorganization of the American Telephone and Telegraph Company and its affiliates ("AT&F") and other injunctive relief.[2] Throughout the period addressed in the two cases, AT&T has encompassed, within a single firm, three vertically-connected enterprises: The manufacture of telecommunications equipment, the provision of intercity services, and an aggregation of local franchise monopolies serving over eighty percent of the telephones in the United States. The basic theory of both the *Western Electric* and *AT&T* cases was that, as a rate base/rate of return regulated monopolist, AT&T has had both the incentive and the ability, through cross-subsidization and discriminatory actions, to leverage the power it enjoys in its regulated monopoly markets to foreclose or impede the development of competition in related, potentially competitive markets.

The 1949 *Western Electric* case focused primarily on the effects AT&T's structure and consequent practices were alleged to have had on the development of competition in the telecommunications equipment industry, the area of AT&T's operations in which, in the technology of the time, competition was possible.[3] The United States accordingly sought a judgment that the defendants had violated Sections 1, 2 and 3 of the Sherman Act, and structural and injunctive relief, including the following:

(a) The divestiture by AT&T of its stock ownership in the Western Electric Company, and the dissolution of the Western Electric Company into three parts;

(b) The termination of various exclusive relationships between AT&T and Western Electric;

(c) A complete separation of the business of manufacturing telephone equipment for the Bell System from the business of offering telephone service;

(d) The divestiture by Western Electric of its fifty percent interest in Bell Telephone Laboratories;

(e) Compulsory licensing of all patents and patent rights owned or controlled by AT&T and its then-affiliated companies, to all applicants on a non-discriminatory and reasonable royalty basis.

On January 24, 1956, with the consent of the parties, the District Court for the District of New Jersey entered a decree providing some, but not all, of the relief sought by the United States. The 1956 Judgment sought to minimize the anti-competitive effects allegedly produced by AT&T's structure, not by means of structural changes, but, instead, principally by limiting the business activities in which AT&T could engage. The 1956 Judgment enjoined AT&T and its subsidiaries, other than Western Electric, from engaging in any business other than the furnishing of common carrier communications services, with certain enumerated exceptions. Western Electric was enjoined from manufacturing any type of equipment not sold or leased for use within the Bell System, subject to specific exceptions. In addition, the Final Judgment obligated AT&T to grant non-exclusive licenses under all existing and future AT&T patents to all applicants. With certain exceptions, AT&T was entitled to collect reasonable royalties from all such licenses. The Judgment also provided that applicants for the licenses required by the Judgment would be obliged to grant to the Bell System on request, at reasonable royalties, licenses under patent rights held by the applicant relating to equipment useful in furnishing common carrier communications services. The Final Judgment contained other provisions, including obligations to furnish specified technical information in connection with patent licenses, and a prohibition of acquisition by the defendants of any firm engaged in the manufacture, distribution, or sale of equipment useful in furnishing common carrier communications services without prior approval of the Court.

Developments subsequent to entry of the 1956 Judgment made it increasingly evident that the Judgment could not prevent actions that, in the view of the Department of Justice, unreasonably restrained competition in telecommunications equipment markets, including customer premises equipment. Nor, given its primary focus on telecommunications equipment, could the Judgment prevent the effects that AT&T's structure could have on the development of competition in the provision of intercity telecommunications services and information services—competition that technological advances and regulatory changes made increasingly possible. Based on its perceptions of such consequences of AT&T's structure, stemming, in particular, from the firm's continued control of the local franchise monopolies, the United States instituted an action on November 20, 1974, in the United States District Court for the District of Columbia, naming as defendants the American Telephone & Telegraph Company (AT&T), the Western Electric Company, Inc. (a wholly-owned subsidiary of AT&T), and Bell Telephone Laboratories, Inc. (owned jointly by AT&T and Western Electric). The 1974 complaint alleged that the defendants had engaged in a combination and conspiracy to monopolize, had attempted to monopolize, and had monopolized interstate trade and commerce in telecommunications services and telecommunications equipment in violation of Section 2 of the Sherman Act (15 U.S.C. 2) and sought divestiture from AT&T of the Bell operating companies and divestiture and dissolution of Western Electric. Prior to commencement of trial,[4] the United States refined its relief request, in light of regulatory actions permitting competition in basic long distance services that had occurred since the suit was filed, to seek divestiture of the Bell operating companies from AT&T in a manner that would separate the local exchange functions of the operating companies from AT&T's interexchange, manufacturing and other functions.[5]

While the 1974 case has been pending, issues closely related to those that the case concerned, including issues of equal access and procurement of telecommunications equipment, became the subjects of extensive debate in Congress and before the Federal Communications Commission ("FCC"). The debate has focused, in particular, on the possibility of regulatory mechanisms to govern and prevent abuse of the relationship between AT&T's local franchise monopolies and its activities in markets in which competition had, or was expected to, emerge, particularly the markets for customer premises equipment and for what have come to be termed "enhanced" or "information" services. Throughout these debates, a central question has been the continued utility of the 1956 Judgment's restrictions on AT&T's activities—restrictions that place an artificial and anti-competitive barrier to AT&T's participation in computer and other markets where technology has come to overlap that used to provide telecommunications services.

The FCC's response to these questions, in its *Computer II* rulemaking decision, in turn led to further litigation between AT&T and the Department of Justice concerning, *inter alia*, the proper interpretation of the 1956 Judgment. On March 4, 1981, AT&T and Western Electric Company filed in the United States District Court for the District of New Jersey a "Motion for Construction of Final Judgment of January 24, 1956." That motion requested a ruling from the District Court that the 1956 Final Judgment would not bar AT&T "from furnishing * * * 'customer premises equipment' and 'enhanced services' as those

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[2] United States v. Western Electric Company, Inc. and American Telephone & Telegraph Company, Civil Action No. 17-49 (D.N.J.) filed January 14, 1949 ("The Western Electric Case"); United States v. American Telephone and Telegraph Company, Western Electric Company, Inc., and Bell Telephone Laboratories, Inc. Civil Action No. 74-1698 (D.D.C.) filed November 20, 1974 ("The AT&T Case").

[3] Specifically, the United States alleged that the defendants, by a continuing agreement and concert of action, had monopolized, conspired to monopolize, and had combined and conspired to restrain trade and commerce in the production, manufacture, distribution, sale and installation of telephones, telephone apparatus, telephone equipment, telephone materials, and telephone supplies in violation of Sections 1, 2 and 3 of the Sherman Act (15 U.S.C. 1, 2 and 3).

[4] Opening statements by the parties were heard on January 15, 1981 and the first witness appeared on March 4, 1981. Defendants commenced their case-in-chief on August 3, 1981 and were scheduled to complete their presentation of evidence on January 20, 1982.

[5] In the event that the Court declined to order substantial divestiture of the Bell operating companies, the United States asked, in the alternative, that the Court order divestiture of Western Electric and allied portions of Bell Telephone Laboratories from AT&T.

terms are used by Federal Communications Commission" in its *Computer II* decision, which itself is now being reviewed by the United States Court of Appeals for the District of Columbia Circuit.[6] The United States opposed AT&T's motion. On September 4, 1981, the District Court entered an opinion construing the decree in accord with AT&T's motion and issued an order to that effect on September 22, 1981. The United States thereafter filed a notice of appeal of that order in the United States Court of Appeals for the Third Circuit. (*United States* v. *Western Electric Co., et al.*, No. 81–1960 and consolidated cases, and No. 81–2837 (3d Cir.).)[7]

The modification of the 1956 Judgment now proposed by both the United States and AT&T does not and cannot resolve the question whether, in fact, AT&T employed its monopoly position in the local exchange markets to foreclose or impede competitive development of adjacent markets. To the contrary, the modification contains an express provision that it does not constitute an admission of AT&T's liability. What the proposed modification does achieve, however, is far more important both to the future of the telecommunications industry and to the public interest generally. By separating ownership of the local exchange monopolies from ownership of the remainder of the enterprise, and by including further injunctive provisions to assure that the separation is fully effective, it removes the potential for monopoly abuse in the future, and thus allows the more rapid and certain development of competition in those telecommunications markets where competition, in the present state of technology, is possible. In doing so, it both removes further need for the inevitably artificial constraints the 1956 Judgment placed on AT&T's activities and makes unnecessary further litigation of the 1974 action. Moreover, it achieves these objectives in ways that minimize judicially-imposed regulatory constraints, avoid interference with the proper exercise of federal and state regulatory responsibilities, and assure the continuation of a viable, integrated national telecommunications system. In short, the proposed modification removes, clearly and efficiently, the structural problems that have given rise to the controversies between the United States and AT&T over the last three decades.

[6] Amendment of Section 64.702 of the Commission's Rules and Regulations, 77 F.C.C.2d 384, *on reconsideration* 84 F.C.C.2d 50 (1980), *on further reconsideration*, FCC No. 81–481 (released October 30, 1981), *review pending sub nom. Computer & Communications Industry Ass'n* v. *FCC, D.C. Cir., Nos. 80–1471 et al.* The United States is a statutory respondent in the D.C. Circuit proceeding. See 28 U.S.C. 2341 *et seq.*

[7] On January 8, 1982, in connection with the modification of the 1956 Judgment now before the Court, the United States and AT&T jointly moved to dismiss the appeals pending before the Third Circuit and to vacate, as moot, the District Court's September 22 order. The motion was granted by order dated February 2, 1982.

II. Practices and Events Giving Rise to Alleged Violations of the Sherman Act

A. The Western Electric Case

The complaint in *United States* v. *Western Electric Company, Inc., et al.*, alleged that the relationships among Western Electric, the local franchise monopolies and the Long Lines Division of AT&T, as well as the defendants' practices involving patents, resulted in an unlawful restraint of trade, attempted monopolization, and monopolization. The alleged consequences of this conduct included accrual to AT&T of monopoly profits, frustration of public regulation of subscriber rates, and inhibition of improvements in telephone service.

In particular, the United States contended that by refusing or restricting licenses under patents aggressively obtained and defended in all branches of the communications field, AT&T controlled the market for substantially all telephone equipment manufactured, sold and used in the United States, and at the same time insulated itself against competition from alternative telecommunications media (including telegraphy and two-way radio). The United States further contended that Western Electric's exclusive equipment supply function within the vertically-integrated AT&T structure eliminated competition in the manufacture and sale of telephone equipment.[8] This structural relationship was created, according to the United States, pursuant to a manufacturing contract entered into by AT&T and Western Electric in 1882, by which Western Electric obtained the exclusive right to manufacture all telephone equipment used by the Bell System, and obliged itself to sell only to AT&T and its licensees. Between 1901 and 1913, Western also entered into standard supply contracts with the AT&T operating companies (the local franchise monopolies) that made Western exclusively responsible for manufacturing, purchasing and supplying for the Bell System. As a result of these relationships, Western Electric became the Bell System's developer, storekeeper, installer, repairer, salvager, and junker. Finally, the United States contended that AT&T had engaged in monopoly practices by securing non-competitive prices for Western's sales of equipment to the local franchise monopolies and Long Lines.

B. The AT&T Case

At the time of the 1956 Judgment and thereafter, new technology was developing that introduced new competitive opportunities into telecommunications markets. As a result of research conducted in World War II and increased demand for telecommunications products and services after the war, various firms began to develop new means of providing telecommunications services and equipment. In the *AT&T Case*, the United States contended that, in response to these actual and potential new competitors in AT&T's traditional markets, AT&T took actions, based on its control over the local exchange monopolies, unreasonably impeding competition that technological developments increasingly made possible. These alleged actions, detailed at length in various pleadings the United States filed in the suit[9] and summarized here, occurred in three relevant markets—intercity telecommunications services, customer-provided terminal equipment, and telecommunications equipment.

1. *The Market for Intercity Telecommunications Services.* At the close of World War II, AT&T enjoyed a *de facto* monopoly in the provision of intercity telecommunications services in the United States.[10] Since that time the development of new low-cost technologies, particularly the emergence of microwave radio and satellites as viable long-haul transmission media, has meshed with the burgeoning growth of the intercity telecommunications market as a whole and the increasing demand for more specialized services to create significant competitive opportunities in this market. In a series of rulings beginning with the *Above 890* decision in 1960, the FCC and the courts have authorized new entrants to serve the market.[11] In consequence, all segments of the market now are characterized by some degree of competitive activity.

AT&T's intercity competitors must, however, reach their customers through facilities providing local exchange services. These regulated monopoly facilities, for eighty percent of the telephones in the country, are provided by wholly or partially owned subsidiaries of AT&T. AT&T's control over the local exchange monopolies thus has given it the power—and its concomitant control of Long Lines has given it an economic incentive—to impede competition in intercity exchange services. The United States alleged that AT&T, after having failed to persuade regulators and courts to prevent new entry, attempted to exercise this power. Specifically, the United States contended that, in response to competition for private

[8] AT&T and Western Electric were also alleged to have eliminated competition from foreign manufacturers through agreements appointing Western Electric as exclusive sales agent for such manufacturers in the United States.

[9] *See*, in particular, Plaintiff's Memorandum in Opposition to Defendants' Motion for Involuntary Dismissal Under Rule 41(b) filed August 18, 1981 in *United States* v. *AT&T, 3et al.* Civil Action No. 74–1698.

[10] AT&T and the Bell operating companies provided more than 90 percent of all intercity telecommunications services. Most of the remainder was provided by independent telephone companies in "partnership" with the Bell System. Western Union, which was providing intercity telegraph service, was the only other significant firm providing intercity telecommunications services at that time.

[11] Docket 11866, Allocation of the Frequencies in the Bands Above 890 Mc., 27 F.C.C. 359 (1959), 29 F.C.C.2d 190 (1960); Docket 16509, Microwave Communications, Inc., 18 F.C.C.2d 953 (1969), 21 F.C.C.2d 190 (1970); Docket 18920, Specialized Common Carriers, 29 F.C.C.2d 870 (1971), *aff'd sub-nom. Washington Utilities and Transportation Commission* v. *F.C.C.* 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975); Docket 16495, Establishment of Domestic Communications Satellite Facilities by Non-Governmental Entities, 35 F.C.C.2d 844 (1972); *MCI Telecommunications Corp.* v. *F.C.C., 561 F.2d 365 (D.C. Cir. 1977), cert. denied*, 434 U.S. 790 (1978) ("Execunet I"); MCI Telecommunications Corp. v. F.C.C., 580 F.2d 590 (D.C. Cir. 1978) ("Execunet II").

line service, AT&T unreasonably restricted the range of services its competitors could offer by (1) refusing to provide certain forms of interconnection; (2) adopting engineering and operational procedures that ensured that facilities provided to competitors were of a lower quality than those provided to AT&T's own intercity services; and (3) setting rates for those local facilities at levels that increased its competitors' costs of doing business, without demonstrating that such rate levels were appropriately based on the cost of interconnection. Although many of the specific disputes that emerged in the early 1970s regarding local access for private line services were eventually resolved through litigation and negotiated compromise, the United States contended that problems persisted with respect to basic long distance services (e.g. message toll service ("MTS") and WATS), and that AT&T has given competitive providers of such services access to the local exchange under technical and operational conditions substantially inferior to those given Long Lines, and at rates that have not passed regulatory scrutiny.

In addition, the United States alleged that, in a series of tariff filings that the Federal Communications Commission ultimately rejected, AT&T re-priced its intercity services in ways that further deterred new competitors. The ability to engage in such pricing stems, in the view of the United States, directly from AT&T's status as a rate of return regulated firm operating in both monopoly and competitive, or potentially competitive, markets. Because its total earnings may not exceed a specified rate of return, AT&T, when faced with competition for some but not all of its services, has an incentive to lower prices for its competitive services, while raising prices for its monopoly services. Thus, the United States contended, AT&T responded to competitive entry in intercity services by lowering its prices where it faced competition, without regard to the costs it incurred in providing those services, and with the effect of impeding new intercity competition.

2. *The Market for Customer Premises Terminal Equipment.* Before 1968, Western Electric, because of its role as exclusive supplier to the local Bell operating companies, was virtually the only manufacturer and provider of customer premises terminal equipment to Bell System subscribers. Historically, this supply relationship was reinforced by the "foreign attachment" tariffs developed and implemented by AT&T, which generally prohibited a Bell subscriber from attaching any terminal equipment device not supplied by a Bell operating company to the lines or equipment of the telephone company.

The FCC struck down the "foreign attachment" tariff on June 26, 1968 in its *Carterfone* decision. In addition to holding that it would be unlawful for the Bell System to prohibit the use of the Carterfone device in the future, the FCC concluded that the Bell System's foreign attachment tariff provisions had been unreasonable, discriminatory and unlawful in the past, and that accordingly these provisions should be stricken. *Use of the Carterfone Device,* 13 F.C.C. 2d 420, 423 (1968). In response to the *Carterfone* decision AT&T filed revised tariffs with the FCC, which required that the interconnection of any customer-provided terminal equipment that had a direct electrical connection to the telephone circuit be accomplished only through a "protective connecting arrangement" ("PCA") furnished, installed and maintained by the Bell Operating companies.

The United States alleged that this requirement, adopted by AT&T as a matter of corporate policy, erected an unreasonably restrictive barrier to use of competitive terminal equipment, and therefore unnecessarily impeded the entry of competition into this market. The United States contended that there were feasible alternative approaches to interconnection, of which AT&T was aware, that would have permitted interconnection under less onerous conditions while providing adequate protection to the public switched telephone network. Finally, the United States alleged that, although during the years following the FCC's *Carterfone* decision AT&T had ample notice and opportunity to modify its tariffs so as to liberalize interconnection, it chose instead to resist such liberalization as long as possible.[12]

3. *The Market for Telecommunications Equipment.* The United States alleged that AT&T's regulated monopoly functions have given it incentives to perfer—as a firm facing competition cannot—telecommunications equipment from its vertically integrated manufacturing operation, thus foreclosing competition in the telecommunications equipment market. The United States alleged, moreover, that AT&T administered Bell System procurement, in all stages of the procurement process, in ways that reinforced the effects of its operating companies' inherent bias in favor of Western Electric's products.

First, Western Electric and Bell Laboratories participate in and strongly influence decisions to develop and standardize products for use by the operating companies. As a result, Western Electric's products have, the United States contended, a significant, often insuperable, advantage over would-be competitors, in part because of Western Electric's access to the earliest possible information about the System's projected requirements. Second, the Bell System's centralization of its purchasing functions in Western Electric deprived the operating companies of the ability to perform procurement functions independently, and interposed Western Electric between the Bell operating companies and Western's potential competitors. Third, the United States contended that because AT&T has held dominant positions in service markets, it has served as a *de facto* standard-setter for the telecommunications network. In consequence, Western Electric generally enjoyed privileged access to information concerning technical compatibility requirements of the network. In some cases, AT&T and Western Electric withheld such technical information from non-Western Electric manufacturers, thus preventing them from competing for sales of equipment to the BOCs. Finally, the United States contended that when the inherent bias of the operating companies and Western Electric's privileged access to information failed to foreclose competition, AT&T directly used its position as parent corporation of the operating companies to prevent the purchase of products competitive with those of Western Electric.

[12] On November 7, 1975, the FCC issued its First Report and Order in Docket No. 19528, *Interstate and Foreign MTS and WATS,* 56 F.C.C. 2d 593 (1975), adopting a registration (i.e., certification) program for customer-provided and carrier-provided terminal equipment other than PBXs, key telephone systems, main stations and coin telephones. On March 16, 1978, the FCC issued its Second Report and Order in Docket No. 19528, reported at 58 F.C.C. 2d 736 (1976), extending its registration program to include main station telephones, PBXs, and key telephone systems.

III. Explanation of the Proposed Modification and Its Anticipated Effects on Competition

The proposed modification would vacate in its entirety the Final Judgment in *United States* v. *Western Electric Co., et al.,* and substitute provisions for structural, injunctive, and other equitable relief—most importantly, the divestiture of the exchange telecommunications and exchange access functions of the Bell operating companies ("BOCs") [13] from AT&T. As explained below, divestiture of the exchange telecommunications and exchange access functions of the BOCs will remove the BOCs' incentives to discriminate against competitors of AT&T in the provision of interexchange and information services and against competitors of Western Electric in the provision of telecommunications equipment. The injunctive provisions, both generally and by means of specific requirements, require the BOCs to deal with AT&T and its competitors in an evenhanded, non-discriminatory manner.

A. Structural Reorganization of AT&T

1. *Procedural Requirements.* Section 1 of the modification establishes the key structural requirement of the proposal modification: the implementation of a plan for the reorganization of AT&T that will end the common ownership and economic integration of the BOCs' exchange telecommunications and exchange access functions with the remainder of the functions

[13] The proposed modification defines "BOCs" to mean the corporations listed in Appendix A attached to the Modification of Final Judgment and any entity directly or indirectly controlled by a BOC or affiliated through substantial common ownership. For convenience, this Statement uses the term "divestiture of the BOCs" to indicate the functional divestiture of the exchange telecommunications and exchange access functions, *i.e.,* their separation from the remainder of AT&T's operations, whether the separation is accomplished through changes in the functions of the present BOCs (and subsequent distribution of their shares to AT&T shareholders) or through other appropriate means of reorganization. Accordingly, in discussing the post-divestiture period, the terms "BOCs" or "divested BOCs" mean those firms that engage in exchange telecommunications and exchange access functions and that are subject to the modification's continuing restrictions on such firms' operations. As explained further below, such firms may or may not correspond in number or name to the present BOCs.

of AT&T and its affiliates. Within 6 months of the effective date of the modification (*i.e.*, the date of entry), AT&T must submit to the Department of Justice for its approval a plan of reorganization that achieves the modification's objectives. Following approval, AT&T must implement the reorganization plan within 18 months of the effective date of the proposed modification.

The proposed modification sets forth in detail the principles that are to govern the division of functions and the consequent division of operations and assets that the modification's divestiture requirement contemplates and that the plan of reorganization, whatever its details, must in all events achieve. Based on the provisions of the modification and the explanation of those provisions detailed here, interested persons and ultimately the Court will be able effectively to assess the proposed reorganization's likely contributions to the development of competition in telecommunications markets and its likely effects on other public interest considerations. Of course, the Court would retain jurisdiction to assure that the plan of reorganization ultimately approved by the Department of Justice does not in any substantial way depart from the modification's principles—principles that the Court would have approved and hence mandated.

Although the principles governing the reorganization are clear, the modification necessarily allows AT&T a degree of flexibility in formulating the plan's precise details. Such details might raise questions, not so much as to whether the plan meets the decree's objectives, but instead as to whether, in some particulars, alternative provisions might be available that would more certainly serve the modification's purposes or that would modify the decree's potential effects on collateral interests. To assure that it is fully apprised of these possibilities, the Department of Justice intends, during the period prior to the submission of the plan, to work closely with interested parties, including the Department of Defense, the Federal Communications Commission, and state regulators, to draw upon their expertise and also to become thoroughly familiar with their concerns. To the extent that details of the plan become available to the Department prior to submission of the final plan, the Department intends to solicit advice as to those preliminary aspects of the plan that may be made public at that time. Finally, the Department intends that the plan will be made public upon its submission to the Department. Thereafter, the Department will consult with interested parties, again including Federal and state officials, prior to making a determination as to approval of the plan.[14]

In the event that the Department determines that the plan, or portions of it, do not fulfill the requirements of the modification, including the maintenance of viable local exchange enterprises capable of serving the telecommunications needs of the public and of national defense and emergency preparedness, the Department will suggest appropriate changes. If such changes are not forthcoming, the Department will disapprove the plan and seek to obtain an enforcement order from the Court, pursuant to Section VII of the proposed modification, requiring AT&T to adopt the necessary changes.

2. *Substantive Requirements.* Under Section I of the proposed modification, AT&T must transfer to the BOCs sufficient facilities, personnel, systems, and rights to technical information (as defined broadly in Section IV(L)) to permit the BOCs to perform exchange telecommunications and exchange access functions (including the exchange access requirements contained in Appendix B), and the procurement for and the engineering, marketing and management of those functions.[15] Elements of the to-be-divested assets may be transferred to a new entity to perform appropriately centralized administrative functions. (Paragraph I(B)). Such a centralized entity would be owned by the divested BOCs providing exchange telecommunications and exchange access. Rights to technical information are to be transferred to the BOCs without royalty or other financial obligations. In addition, the BOCs are to be granted such rights to the transferred technical information as may be necessary to permit the divested BOCs to perform transferred functions and to meet the obligations of non-discrimination imposed on them by Section II and Appendix B.

Paragraph I(A)(2) of the proposed modification requires the separation within the BOCs of all facilities, personnel, and books of account relating to exchage telecommunications or exchange access from those relating to other functions, including the provision of interexchange switching and transmission and the provision of customer premises equipment.[16]

Paragraph I(A)(2) further provides that there shall be no joint ownership of facilities, but permits appropriate provision for the sharing, through leasing or otherwise, of multifunction facilities so long as the separated portion of each BOC is assured control over the exchange telecommunications and exchange access functions. As long as this requirement of BOC control is met, and subject to other requirements of the modification, AT&T, in submitting its reorganization plan, has the discretion to determine whether it or the to-be-divested segment of a BOC will retain ownership of a given multifunction facility. Paragraph IV(F), however, states that trunks used to transmit AT&T's traffic between end offices and AT&T Class 4 switches are exchange access facilities to be owned by the separated portions of the BOCs.

Under Paragraph I(A)(3) of the proposed modification, the plan of reorganization must terminate the License Contracts between AT&T and the BOCs and other subsidiaries (defined by Paragraph IV(A) to mean Cincinnati Bell, Inc. and the Southern New England Telephone Co.), as well as the Standard Supply Contract between Western Electric and the divested BOCs and subsidiaries. These agreements are the key contractual relationships establishing the economic integration of the BOCs with AT&T. The Department of Justice expects that all other contracts that establish an ongoing economic integration between AT&T and the divested BOCs will be terminated, particularly in view of the requirement that all personnel and activities associated with the provision of central administrative and engineering services for the BOCs be transferred from AT&T and its affiliates to the divested BOCs or to a central administrative apparatus owned by them.

Finally, under Paragraph I(A)(4), the reorganization plan must provide for the transfer of ownership of the portions of the reorganized BOCs providing local exchange and exchange access services from AT&T by means of a spin-off of stock to the shareholders of AT&T, or by other disposition. Under this providion, AT&T may choose to transfer the to-be-divested portions of the BOCs to new corporate entities while retaining ownership of the existing BOC corporations. The portions of the BOCs that AT&T retains would thereafter perform only functions other than exchange telecommunications and exchange access. In these circumstances, under the "successors and assigns" clause of Section III of the proposed modification, the local exchange enterprises would become "BOCs" for the purposes of this Modification of final Judgment regardless of their corporate name. Conversely, the retained portions of the BOCs would no longer be considered "BOCs" but, after reorganization, would become simply affiliates of AT&T. In all events, however, the net result must be separate ownership of the divested BOCs—those entities providing exchange services and exchange access—and of the remainder of AT&T's present operations.

The proposed modification does not require or prohibit the consolidation of the separated portion of the BOCs into any particular number of entities. AT&T officials, however, have publicly stated that while the number of such entities is presently under review, the number will be greater than one. In addition, the Department of Justice will consider disapproving any reorganization plan under which particular divested BOCs were confined to a service area so limited as to bring into question their financial or technical

[14] If necessary, the Department intends to utilize the visitorial powers granted to it by Section VI, including the right to depose or interview officers and employees, to solicit the views of appropriate employees, including present or future executives of the BOCs or their successor organizations, to ascertain their views as to the adequacy of the proposed reorganization plan.

[15] Section II of the modification and Appendix B require the BOCs to provide access to intercity carriers and information service providers that is equal in type, quality and price to that provided AT&T. AT&T is, therefore, required to transfer to the BOCs sufficient facilities to permit the divested BOCs to provide interconnections equal in type and quality to those afforded AT&T at rates that reflect whatever economies are realized by aggregating AT&T's traffic above the end office.

[16] Where assets to be transferred are presently included within the regulated rate base of a BOC, all questions of valuation are reserved to the appropriate regulatory agencies. The reference to "books of account" is not intended to control the mechanism by which regulatory agencies establish the appropriate valuation of transferred property in establishing post-reorganization rate bases.

viability or their ability to meet national defense and emergency preparedness responsibilities, including the adoption of technical standards for local exchange services. Moreover, the Department will take into account, as appropriate, the potential impact of the proposed configuration of BOCs on the likelihood that the modification's non-discrimination requirements will, in fact, be achieved.

Paragraph I(B) provides that, notwithstanding the separation of ownership of divested BOCs from each other, the divested BOCs may support and share the costs of a centralized organization for the provision of engineering, administration and other services. Such a centralized organization may (but need not) be the organization established by the transfer of assets required by Paragraph I(A)(1). The purpose of such a centralized entity would be to eliminate the dependency of the divested BOCs on AT&T for administrative support and engineering services. Accordingly, such an entity would be separate from AT&T and AT&T could not participate in or contribute to its functioning. In addition, the entity could engage only in those activities that can "most efficiently be provided on a centralized basis." Because any such centralized entity would be a venture among independent corporations, antitrust limitations on joint activities would apply. Moreover, in reviewing the centralized entity's proposed functions, including, for example, any proposal for centralized purchasing, the Department will closely examine whether efficiency justifies centralization and whether centralization would interfere with achievement of the modification's non-discrimination and other requirements.

Paragraph I(B) of the modification requires the BOCs to provide, through a centralized organization (which may, but need not, be the centralized administrative entity), a single point of contact for the coordination of the BOCs to meet the requirements of national security and emergency preparedness. If appropriate governmental authorities or the communications industry establish a centralized coordinating body through which all carriers are to meet national security and emergency preparedness requirements, the BOCs' participation in such an organization could constitute compliance with this requirement.

Paragraph I(C) of the modification provides that, until September 1, 1987, AT&T, Western Electric and Bell Labs must provide all research, development, manufacturing and other support services to enable the divested BOCs to fulfill the requirements of the proposed modification—for example, assistance in reprogramming switches manufactured by Western Electric.[17] In addition, Paragraph I(C) forbids AT&T from taking any action that interferes with the requirements of non-discrimination that Section II places on the divested BOCs, requirements that include by incorporation the requirements of Appendix B. For example, refusal to permit the reprogramming of a switch owned by AT&T but jointly used by a BOC for the purpose of furnishing exchange access, or the refusal to permit the expansion of AT&T facilities used by a BOC for exchange access to meet the growing needs of interexchange carriers could constitute such prohibited interferences. In the same fashion, AT&T is prohibited from taking any action prior to divestiture that would interfere with the ability of the BOCs to meet their post-divestiture obligations.

Finally, under Paragraph I(D), AT&T may not reacquire the stock or assets of any diverted BOC. The United States, however, does not intend to object to sales to AT&T, subsequent to the effective date of the reorganization, of multifunction facilites owned by a BOC but also used by AT&T in instances in which the BOC wishes to abandon its use of the multifunction facility, so long as such transfer does not interfere with the purposes of the proposed modification.

B. Section II: Post-Divestiture Responsibilities of the BOCs

The reorganization of AT&T required by Section I is intended to eliminate the present incentives of the BOCs—the firms engaged in exchange telecommunications and exchange access services—to discriminate against AT&T's competitors in the markets for interexchange services, information services,[18] customer premises equipment, and the procurement of equipment used to provide local exchange services. It is further intended to ensure that the divested BOC's have sufficient facilities, personnel and other resources to place competitors of AT&T on an equal footing in terms of the quality and cost of their access to local exchanges.

The injunctive provisions contained in Section II of the proposed modification are intended to complement the incentive effects of these basic structural changes and to relieve, to the extent reasonably possible, the lingering effects that AT&T's pre-reorganizatin structure may have on the BOCs' future operations. The provisions of Section II require that each BOC provide to all interexchange carriers and information service providers, on an unbundled, tariffed basis, exchange access, information access, and exchange services for such access that is equal in type, quality, and price to that provided to AT&T and its affiliates. They also limit the functions of the divested BOCs[19] to preclude the possibility of a recurrence of the type of monopolozing conduct that the United States alleges to have resulted from AT&T's ownership of regulated local exchange carriers and its simultaneous participation in competitive, or potentially competitive, markets.

Paragraph II(A) sets out the requirement that each divested BOC provide to all interexchange carriers and information service providers, on an unbundled, tariffed basis, exchange access, information access,[20] and services for such access on an unbundled, tariffed basis that is equal in type, quality and price to that provided to AT&T and its affiliates. Appendix B, which, with its related definitions, is discussed in detail below, establishes a timetable for the phasing-in of equal exchange access and also imposes several requirements with respect to the tariffing of exchange access.

Paragraph II(B) prohibits each BOC from discriminating between AT&T and its affiliates and their products and services and other persons and their products and services with respect to a broad range of BOC activities. In particular, Paragraph II(B) forbids discrimination with respect to (1) the BOCs' procurement of products and services; (2) the establishment and dissemination of technical information and the establishment of standards used in procurement and in interconnection; (3) the interconnection and use of the BOCs' telecommunications services and facilities, including the charges therefor; and (4) the provision of new services used to provide exchange access and information access and in efforts to construct or modify facilities used to provide such services.

Paragraph II(C) provides that, six months following the reorganization specified in Section I, the BOCs are required to submit to the Department of Justice procedures for ensuring compliance with these non-discrimination requirements. The requirement that these procedures be submitted by the BOCs after divestiture is intended to help ensure that they will be developed independently of AT&T, with the BOCs own procurement objectives and needs exclusively in mind. Nevertheless, should the Department of Justice find that these procedures, which would, of necessity, be publicly available, do not ensure compliance with the non-discrimination obligations, the Department of Justice may file an enforcement action, pursuant to Section VII, to compel appropriate modifications in the procedures.

Taken together, the non-discrimination provisions are designed to ensure that the divested BOCs do not abuse their status as regulated franchised monopolies to disadvantage competitors of AT&T in the

[17] September 1, 1987, is one year following the date specified in Appendix B by which the divested BOCs are to provide equal exchange access to all customers served by electronic end offices.

[18] Information services is defined by Paragraph IV(J) to mean the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

[19] BOCs are defined by paragraph IV(C) to include entities affiliated through substantial common ownership. Thus, for example, the divested BOCs could not be acquired by corporations that engage in activities that the BOCs could not perform.

[20] "Information access" is defined by section IV to mean the provision of specialized exchange telecommunications services by a BOC in an exchange area in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services. Such specialized exchange telecommunications services include, where necessary, the provision of network control signalling, answer supervision, automatic calling number indentification, carrier access codes, testing and maintenance of facilities, and the provision of information necessary to bill customers.

provision of intercity services, information services, or in the provision of telecommunications equipment for purchase by a BOC or its customers. It is therefore the intent of the Department of Justice that this provision be construed broadly to encompass all potential areas of favoritism, subtle as well as overt, that may arise in relationships between the divested BOCs and AT&T and its competitors. Moreover, the proposed modification recognizes the changing nature of interexchange carrier and information provider requirements, and the likelihood that the divested BOCs' own services will be modified as traffic requirements and calling patterns evolve. The modification therefore draws particular attention to those standard setting and planning actions of the BOCs that may affect the future ability of firms to compete in telecommunications markets as well as their current ability to do so.

In addition to these requirements of non-discrimination, Paragraph II(D) places three limitations on the divested BOCs designed to prevent the reemergence of precisely those incentives to engage in anticompetitive conduct that existed prior to their divestiture from the competitive activities of AT&T. First, the BOCs are prohibited from providing interexchange telecommunication services or information services, as these terms are defined in Section IV. Second, a BOC may not manufacture or provide telecommunications products or customer premises equipment, including equipment presently under tariff, except for the provision of customer premises equipment [21] for emergency services.[22] Finally, except for exchange telecommunications and exchange access services, the divested BOCs may not provide any product or service apart from natural monopoly services actually regulated by tariff, *e.g.*, conduit space of pole attachments.

The definition of exchange telecommunications thus becomes key to an understanding of the role of the BOCs following divestiture. The modification's definitions, set out in Section IV, define "exchange telecommunications" derivatively from the definitions of "telecommunication service," "exchange area," and "interexchange telecommunications," with "exchange telecommunications" meaning all telecommunications services within an exchange area. Section IV defines "telecommunications services" to mean the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities, via electromagnetic means, without regard to the type of transmission facilities used. For purposes of the proposed modification, local exchange facilities would include inside wiring provided under tariff by the BOCs. Moreover, telecommunications services may not involve a change in the form or content of the information as sent or received. It may, however, include related functions, such as storage, essential to such transmission. For example, the offering to customers of a service that provided voice or data storage, as a part of the service offering, would be an information service, not a telecommunications service. On the other hand, where storage of information constitutes an inherent aspect of the technology used in transmission or switching, that feature alone would not be sufficient to classify a particular offering as a prohibited information service. Similarly, where a process, such as packet switching, changes the form of a message as part of the transmission process, without a change in the form of the message "as sent and received," only a transmission service would be involved. Thus, the proposed modification gives a divested BOC broad flexibility to provide the exchange telecommunications services of its choosing, subject to any applicable regulatory restraints.[23]

Although there is no express provision for BOCs to provide services that are "ancillary" or "incidental" to exchange services, the Department believes that the limitation of the BOCs to providing exchange telecommunications and exchange access services necessarily includes an expectation that the divested BOCs will engage in activities that are inherent in such functions. Thus, for example, Paragraph I(A)(1) refers to the retention in a divested BOC of the ability to engage in the procurement for, and engineering, marketing, and management of, retained functions.[24]

In defining "exchange area", Section IV sets out the standards by which, under the plan of reorganization, the geographic scope of the BOCs' services are to be established. In general, it is expected that such areas will be large enough to comprehend contiguous areas having common social and economic characteristics but not so large as to defeat the intent of the decree to separate the provision of intercity services from the provision of local exchange service. Court approval thus is required if exchange areas are to include more than one standard metropolitan statistical area or to cross a state line. The Justice Department will, however, give great weight to existing arrangements where the latter situations exist. Moreover, the Department will urge the Court to give great weight to views of appropriate regulatory bodies in any decision concerning the appropriate configuration of an exchange area. Nonetheless, as general proposition, no exchange area should be smaller than the geographic region now served by an existing AT&T Class 4 office, since, under the plan or reorganization, trunking facilities that carry traffic between local and offices and existing AT&T Class 4 offices become exchange access facilities.[25]

The limitations the proposed modification places on the divested BOCs are predicated on the existence of the BOCs' status as regulated monopoly carriers. Technological change presently underway, however, may cause the local distribution function of the divested BOCs to lose its monopoly character and, perhaps, eventually result in its deregulation. Under Section VII of the proposed modification, a divested BOC may petition the Court for such "further orders and directions as may be necessary * * * for

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[21] Under the proposed modification, the provision of pay telephone service would remain within the ambit of BOC functions. Such phones located in public areas clearly are not customer premises equipment. Pay telephones located on the premises of business enterprises, while technically located on a customer's premises, generally are used to provide telephone service for the public rather than for the customer who owns the premises, and, therefore, could be provided by a BOC as exchange telecommunications.

[22] The Department intends that this emergency exception be confined to disaster situations and the emergency restoration of interrupted services or repair of damaged equipment, in a time frame in which it is not practicably feasible to make arrangements with competitive providers of customer premises equipment. The exception would also include provision of customer premises equipment to the military or public safety agencies where the independent supply of customer premises equipment is not practical.

[23] This broad freedom, however, should not be taken as an indication of the position of the Department of Justice with respect to the appropriate role of the divested BOCs, as regulated monopoly carriers, in the provision of competitive telecommunications within an exchange area. The absence of such limitations merely reflects the nature of the proposed modification as a resolution of disputes between the United States and AT&T. The 1949 and 1974 litigation focused on the incentives and ability of AT&T to leverage its monopoly power in local telecommunications into competitive markets, and not on the propriety, *per se*, of AT&T's monopoly position in exchange telecommunications. Notwithstanding, therefore, the absence in the modification of limitations on the types of exchange telecommunications that may be offered by the BOC, the Department of Justice will continue to have the right to contend in appropriate regulatory or other forms that the BOCs' provision of certain forms of telecommunications services can, in some circumstances, be anti-competitive.

[24] With respect to directory services, the Department of Justice believes that the provision of a listing of the phone numbers and addresses of subscribers and the related directory assistance function are inherent parts of exchange telecommunications. Provision of advertising services, by means of the Yellow Pages and similar directories, is not, as such, inherent in exchange telecommunications. Thus, the functions to remain with AT&T after divestiture would include those assets and contracts relating to the solicitation of Yellow Pages advertising and for its printing and delivery. Each BOC, however, retains the rights inherent in its file of telephone subscribers including machine-readable listings and copyright interests in the printed alphabetical directory. Hence, by granting use-specific licenses for the listings, including use for the purpose of compiling and publishing Yellow Pages, each divested BOC effectively will have the ability to sell the Yellow Pages "franchise" to the highest bidder through whatever mechanism or pricing scheme the divested BOC or appropriate regulatory commission deems appropriate. The BOCs will also retain the ability to auction off the right to have a Yellow Pages directory published as a physical part of its white pages service. Consequently, each BOC would have the ability to retain all of the above-competitive profits that presently are derived from the Yellow Pages and, should regulators direct, apply this Yellow Pages income to reduce the cost of local telephone service.

[25] In some instances, local operating companies presently may be providing radiotelephone or paging services through transmission facilities that have the ability to serve an area larger than that comprehended by the exchange area boundary. In such instances, it is not the intention of the Department to require a divested BOC to discontinue such services, or modify such existing equipment, even though the signal transmitted may technically provide interexchange telecommunications if a mobile transmittor/receiver moves outside the exchange area.

the modification of any of the provisions" of the proposed decree. The Department of Justice intends to give careful attention to changing technical, competitive, and regulatory conditions as they may apply to the divested BOCs, to review carefully suggestions by a BOC that there is no longer a sound economic and antitrust basis for the complete retention of the restrictions imposed by Section II, and, if appropriate, to join in requests for modification. Whether or not the Department joins in any such proposal for modification, it remains within the power of the Court to remove any restrictions it determines are no longer necessary to effectuate the purposes of the proposed modification and that are contrary to the public interest.

C. Appendix B: BOC Equal Access Requirements

Appendix B of the proposed modification sets out in further detail the general requirement established by Section II that the BOCs provide exchange access to all interexchange carriers that is equal in quality and price to that provided AT&T. The provisions of Appendix B are based on three basic principles. First, as independent entities, the divested BOCs should have the ability to provide exchange access in the manner and with the facilities they deem most efficient. Second, notwithstanding the flexibility granted to each BOC with respect to the physical configuration of facilities used to provide exchange access, each BOC must meet specified performance and pricing criteria to ensure the availability of equal access.

Finally, because facilities to provide fully equal exchange access do not now exist, a transition period is necessary to phase in the proposed modification's equal access requirements.

Appendix B's Paragraph A provides that, beginning September 1, 1984, each divested BOC must provide to all interexchange carriers exchange access equal in type and quality to that provided AT&T.[26] Such access arrangements must be offered on an unbundled basis with separate, cost-justified charges for each element of access. Section IV defines "exchange access" to mean the provision of exchange services for the purpose of originating or terminating interexchange telecommunications. These services include any activity or function performed by a BOC in connection with the origination or termination of interexchange telecommunications, including, but not limited to, the provision of network control signalling, answer supervision, automatic calling number identification, access codes for the interexchange carriers, directory information services, testing and maintenance of facilities, and the provision to the interexchange carrier of information necessary to bill its customers.

The BOCs also must deliver interexchange traffic originating or terminating within an exchange area to a point or points within an exchange area designated by an interexchange carrier for the connection of its facilities with those of the DOC. This obligation includes the provision of all transmission facilities and any necessary routing facilities, including any necessary switching above end offices, to ensure the delivery to interexchange carriers of all the traffic destined to and from an exchange area. At the option of each interexchange carrier, a divested BOC is to deliver traffic with signal quality and other characteristics equal to that provided similar traffic of AT&T, including equal probability of blocking (the likelihood that calls to and from the interexchange carrier will not arrive because the connecting BOC facilities are busy), based on reasonable traffic estimates supplied by each interexchange carrier.

In order to prevent the divested BOCs from reintegrating into interexchange functions, the BOCs are not to perform the interexchange routing or sorting of traffic of any interexchange carrier. In addition, under Paragraph A(1), nothing in the proposed modification is to be construed to permit a BOC to refuse to provide exchange access that is superior or inferior in type or quality to that provided to AT&T at charges reflecting the reduced or increased cost of such access.

Paragraph B(3) requires that, from the date of divestiture until September 1, 1991, the transmission of interexchange traffic between end offices and the facilities of interexchange carriers within an exchange area or reasonable subzone be at charges that are equal for all interexchange carriers, per unit of traffic delivered or received. This requirement is limited to charges for the transmission of calls above end offices and does not apply to other services provided as part of exchange access. Thus, regardless of the physical facilities provided, the distribution of local traffic from end offices to each carrier will be on a "uniform delivered price" basis and, thus, with no cost disadvantage to non-AT&T interexchange carriers even if different transmission and switching facilities are used in serving them than are used in serving AT&T. In addition, if a BOC establishes subzones within a large exchange area, facilities of an interexchange carrier located within five miles of an AT&T Class 4 switch (i.e., toll switch) shall be considered to be in the same subzone as that AT&T facility with respect to traffic from end offices served by that facility. This provision is designed to ensure that subzone boundaries are not drawn in a manner that discriminates against competing interexchange carriers.

Under the phase-in timetable established by Appendix B, each BOC must, no later than September 1, 1985, offer equal access, as described above, through end offices serving at least one third of that BOC's total exchange access lines. With an exception discussed below, each BOC must afford equal exchange access through all of its end offices by September 1, 1986. In addition, Paragraph A(2)(i) requires that a BOC providing access to AT&T's long distance service through access codes that do not permit the designation of more than one carrier must make available access codes that contain no more than the minimum number of digits necessary, at the time access is sought, to permit multiple carrier designation for the number of additional carriers reasonably expected to require such designations in the immediate future. Thus, the proposed modification would not require an increase in the number of the digits needed to obtain long distance service from AT&T. Under Paragraph A(2)(ii), each BOC must offer a tariffed service to each subscriber permitting the subscriber to predesignate a particular interexchange carrier that will automatically receive the subscriber's interexchange calls without the use of access codes (other than those needed to designate any long distance call). Paragraph A(2)(iii) provides that when the national numbering area plan (area code) is revised to require the use of additional digits, each divested BOC must provide every interexchange carrier, including AT&T, access through a uniform number of digits to be dialed by a subscriber.

Paragraph A(3) allows a divested BOC to obtain a waiver from the above schedule and requirements with respect to end offices employing electromechanical switches that are not as technically flexible as the electronic stored-program switches now being installed, and with respect to any offices served by switches that characteristically serve fewer than 10,000 access lines. Such a waiver may be obtained if, upon complaint to the Court the BOC carries the burden of demonstrating that, for particular elements of access, such access is not physically feasible through such switching equipment except at a cost that clearly outweighs the potential benefits to telecommunications users. If such a showing cannot be made, equal access must be provided. Any such waiver granted, however, must be for both the minimum divergence and minimum time necessary to achieve this ability.

Paragraph B generally requires that the preceding access arrangements be contained in tariffs filed by the BOCs to become effective on the date of divestiture. Paragraph B(1) provides that these tariffs are to replace the division of revenues process that now governs AT&T's reimbursement of the BOCs for interexchange services, and that the tariffs may not discriminate against any carrier or other customer. Under Paragraph B(2), each tariff must be filed on unbundled basis specifying each type of service, element by element, and no tariff may require an interexchange carrier to pay for types of exchange access that it does not utilize. In stating that an interexchange carrier is not to pay for "types" of access that it does not use, Paragraph B(2) means that a BOC may not bundle various elements into a single take it or leave it package. Carriers must be given the option of choosing services on an element by element basis insofar as disaggregation of elements is technologically possible.

Paragraph B(2) also requires that the charges for each type of exchange access be cost justified on an element by element basis, and that any differences in charges to carriers be cost justified on the basis of differences in services provided.

[26] It is the intent of the Department of Justice that the term "type" refers to the physical nature of the service provided, *e.g.*, switched digital or non-switched analog transmission, and not to any economic or tariff label under which carriers may choose to offer such services.

Interexchange carriers are thus to be given the flexibility of requesting and paying for the precise type of exchange access that suits their needs. The requirement, however, governs only the BOC's own efforts in formulating rates in order to assure that those efforts do not discriminate among interexchange carriers. It does not prevent appropriate regulatory or legislative authorities from requiring that the exchange access charges or any other mechanism prescribed by regulatory authorities be utilized as vehicles for payments to the BOCs of costs allocated to exchange access by jurisdictional separations or, in the case of apportionment between services subject to regulation by an individual state, by state regulatory authorities. Paragraph B(2) provides only that, given the regulatory ground rules, the BOCs must differentiate among access charges levied for each element of service only through a cost-based tariff structure that is non-discriminatory in effect.

Paragraph B(4) requires that where a BOC offers exchange access as part of a joint or through service, it shall make exchange access available to all interexchange carriers on the same terms and conditions as provided as part of the joint or through service. Even in such instances, the only payment or consideration from an interexchange carrier to the divested BOC for the provision of exchange access service under such joint arrangements shall be through the exchange access tariffs. The purpose of this section is not to authorize divested BOCs to provide interexchange telecommunications. Rather, it recognizes that in some instances, particularly where a BOC provides billing services for interexchange carriers, regulatory statutes may imply that the BOCs are engaged in the provision of a joint or through service. Regardless of whether, under relevant regulatory provisions, a BOC is engaged in providing a joint or through service with an interexchange carrier, the decree prevents the reemergence of any division of revenues, procedures to supplant the exchange access tariff provisions.

Paragraph C(1) provides that where a BOC shares a multifunction facility with another carrier, the costs associated with such a facility must be carefully allocated so that no costs associated with the interexchange use of that multifunction facility are included in the costs underlying the determination of charges for either exchange telecommunications or exchange access. In addition, the proposed modification is not to be construed to require a BOC to provide joint ownership or use or its switches or to require a BOC to allow co-location in its buildings of the equipment of other carriers.

Paragraph C(2) makes it clear that a divested BOC is also permitted to provide billing services for such interexchange carriers as it chooses without having to provide billing services for all interexchange carriers. If, however, a divested BOC does provide billing services for interexchange carriers, the BOC may not discontinue local exchange service to any customer because of non-payment of interexchange charges unless it offers to provide billing services to all interexchange carriers. In addition, any billing services offered are to be included in tariffed access charges to the interexchange carriers obtaining such services.

Finally, due to the phased-in characteristic of the exchange access requirement, there are instances in which the proposed modification permits a BOC to fail to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of AT&T. Because it is potentially as discriminatory to provide unequal service at equal prices as it is to provide equal service at different prices, paragraph C(3) provides that nothing in the modification prohibits a divested BOC, pursuant to regulatory requirement or otherwise, from collecting reduced charges in instances in which it permissibly fails to offer equal access. Such reduced charges might reflect the reduced value of the less-than-equal access to the interexchange carrier and its customers compared to the exchange access provided to AT&T and might be at a charge below that which would be cost-justified.

D. Enforcement

Under Section V of the decree, AT&T is required to undertake several steps to ensure that, after entry, its employees become familiar with the terms of the proposed modification. Under Section VI, the Department of Justice is given extensive rights of investigation to ensure that AT&T and the divested BOCs comply with the provisions of the decree. Under Section VII, the Department of Justice is given the right to seek Court enforcement of the proposed modification and subsequently to seek punishment of any violation. After the effective date of divestiture, the divested BOCs become parties to the case and the decree, and they may independently seek enforcement orders from the Court in case of alleged violations by AT&T.

E. Competitive Impact of the Proposed Modification

Put in simplest terms, the functional divestiture contemplated by the proposed modification will remove from AT&T the power to employ local exchange services in ways that impede competition in interdependent markets, and will remove from the BOCs, which will retain such power, any incentive to exercise it. The United States believes, therefore, that the modification's divestiture requirement, and its complementary injunctive provisions, will substantially accelerate the development of competitive markets for interexchange services, customer premises equipment, and telecommunications equipment generally. At the same time, the fundamental restructuring that the modification requires removes the need for the restrictions imposed by the 1956 Judgment. As explained below, continuation of those restrictions would unnecessarily impede AT&T ability to participate in competitive markets on equal terms with other firm.

1. *Interexchange Services.* The functional divestiture required by the modification would remove AT&T's ability to control, through its ownership of the BOCs, the access of its competitors to local exchange services—access essential to participation in interexchange markets. It would remove, in addition the incentives of the BOCs to favor their former parent—AT&T—in the quality and cost of interconnection.

The requirements of nondiscrimination contained in Section II reinforce the long term incentive structure that divestiture would create by specifically requiring the BOCs to treat AT&T and its competitors on an equal basis. Appendix B's equal access requirements set out a specific timetable, to which the BOCs must adhere, for the provision of equal access. Under the proposed modification, AT&T is required, on a priority basis, to assist the BOCs in meeting this timetable.

The proposed modification will also eliminate incentives and abilities to engage in anticompetitive pricing strategies for interexchange services. As explained above, AT&T's present structure gives it the ability and incentive to subsidize lower prices in markets where it faces competition with revenues earned in regulated markets where it faces little or no competition. At present, there are two sources available for such cross-subsidization—local franchise monopolies and basic long distance services (MTS/WATS) where AT&T's alleged anticompetitive behavior, coupled with now removed regulatory restrictions on entry, have served to minimize competition.

Divestiture of the BOCs would, or course, altogether remove as one potential source of revenues for cross-subsidization, the local franchise monopolies of the BOCs. In combination with the injunctive provisions of the modification, divestiture would also remove remaining restrictions on the ability of interexchange carriers to compete effectively in the provision of ordinary long distance services and therefore also eliminate AT&T's ability to raise prices for these services to fund anticompetitive pricing strategies for other services. The proposed modification would thus, over time, eliminate the second source of potential cross-subsidization as well.

Moreover, because the removal of AT&T's incentives and ability to monopolize exchange services will accelerate the emergence of competition in interexchange services, the prospects for the deregulation of that market will be enhanced. With the dissipation of AT&T's market power in an increasing number of interexchange markets, the need for regulatory intervention will erode sharply in the coming years.

2. *Customer Premises Equipment.* AT&T's ownership, through the BOCs, of the regulated local exchange facilities has, in the view of the United States, given it both the ability and incentive to cross-subsidize the sale of terminal equipment from monopoly revenues. In addition, the BOCs' payments to AT&T under the license contracts for research and development have been a potential source of cross-subsidization for the research and development costs of customer premises equipment. Finally, to the extent that the local franchise monopoly portions of the BOCs constitute a captive market for Western Electric equipment sales, as alleged

by the United States, AT&T's ownership of the BOCs has created an opportunity to subsidize the price of Western Electric customer premises equipment with revenues derived from the sale of other equipment to the BOCs.

The proposed modification would remove each of these anticompetitive potentials. Because the divested BOCs would be precluded from providing customer premises equipment (except for emergency services), the modification would eliminate entirely the ability to cross-subsidize the sale of such equipment with revenues from the BOCs' monopoly exchange telecommunications services. By terminating the license contracts, the modification would also remove the potential that the research and development of customer premises and other equipment be funded from monopoly revenues. Such research and development would have to be funded through sales in competitive markets. Finally, divestiture of the BOCs will eliminate the local franchise monopolies as captive markets for the sale of Western Electric equipment, and substantially eliminate the potential for cross-subsidization between or among Western Electric product lines.[27]

The prohibition contained in paragraph II(D)(2) against the manufacture or provision of customer premises equipment (or other telecommunications products) by a divested BOC will prevent the reemergence of the same incentive and ability to leverage regulated monopoly power into the customer premises equipment market as exists in AT&T as presently structured. This prohibition should not affect the financial viability of the BOCs. Financial viability is assured by the ability to earn, under sound regulatory supervision, revenues covering current operating costs and the costs of capital invested in facilities employed to render local exchange and exchange access services. Moreover, so long as customer premises equipment markets remain competitive, a BOC's participation in such markets could generate merely a competitive rate of return. A BOC could earn excess profits in customer premises markets with which to subsidize provision of local services only if it were able to gain a monopoly position, presumably by means of its control over local exchange service. This, however, is exactly what the 1974 case was brought to prevent.

3. *Procurement of Equipment.* The divestiture of the BOCs from AT&T will eliminate the incentives of the BOCs to buy from Western Electric regardless of the price or quality of Western's equipment. It will also remove AT&T's ability, through its control of the BOCs, to influence the purchasing decisions of the BOCs unfairly in favor of Western Electric. The injunctive provisions of Paragraph II(B) will reinforce this incentive structure by requiring the BOCs to treat all equipment manufacturers in an evenhanded, non-discriminatory manner. Finally, elimination of the license contracts between the BOCs and AT&T will eliminate the mandatory payments under those contracts as a source of subsidy to AT&T's equipment activities.

Given the divestiture of the operating companies, however, further divestiture of Western Electric or Long Lines is unnecessary to protect competition in equipment markets. While AT&T may retain the technical ability to cause purchases by the expanded Long Lines from Western Electric without regard to price or quality, its incentive to do so will be greatly reduced immediately and ultimately eliminated by divestiture of the BOCs. As explained earlier, because divestiture of the BOCs will remove AT&T's ability to disadvantage its interexchange competitors in access to essential facilities, AT&T will become subject to competition in all of its services. Because excessive transfer prices must be reflected in the cost of AT&T's intercity services, AT&T will have, as it becomes increasingly subject to competition, an incentive to procure inputs as efficiently as possible.

4. *Competitive Effects of Vacating Provisions of the 1956 Judgment.* As discussed in Section I of this Statement, the principal provisions of the 1956 Judgment consists of restrictions on the kinds of business in which AT&T and Western Electric may engage and a requirement that the Bell System grant non-exclusive licenses under all existing and future Bell System patents to all applicants. The lifting of neither of these sets of provisions should have anticompetitive effects. To the contrary, in conjunction with the structural and injunctive provisions of the proposed modification, removal of the 1956 Judgment's restrictions should intensify competition substantially.

As the United States has stated in the past,[28] a fundamental premise of the line of business restrictions contained in the 1956 Judgment was that, absent structural change in the Bell System, the best alternative from a competition policy perspective was to confine AT&T's monopoly power to publicly regulated communications. Confining AT&T to its traditional arena was thought—absent structural change—the most effective way to contain AT&T's ability to exploit its monopoly power in unregulated markets.

The proposed modification's structural and injunctive provisions remove any further need for the 1956 Judgment's line of business restrictions. Divestiture of the local franchise monopolies from AT&T will remove the source of its monopoly power and its ability to leverage monopoly power into related markets. Absent control of these monopoly bottlenecks there is no competitive rationale for confining AT&T's field of activities. At the same time, the proposed modification's requirement that the divested local exchange monopolies be limited to the provision of exchange telecommunications and activities that are natural monopolies subject to actual tariff regulation will prevent the creation anew of incentives and abilities in the BOCs to use their monopoly power to undercut rivals in competitive markets. Moreover, the establishment of non-discrimination obligations will ensure that the BOCs do not provide unfair, short-run advantages to the products and services of their former parent. In particular, it should be noted that Paragraph II(A) establishes a specific requirement that the BOCs provide competitors of AT&T in the information services market "information access" (defined in paragraph IV(I)) that is equal in price and quality to that provided AT&T.[29]

There is every reason to believe that, divested of the BOCs, AT&T will be a procompetitive force in the markets that it enters. As a result of the modification, it is likely that AT&T will expand not only its product lines, but also the areas in which it sells telecommunications equipment. Thus, it is likely that AT&T will compete for sales of telecommunications equipment to independent telephone companies.[30]

Lifting the patent licensing requirements also will have no anticompetitive effects. The rationale for such a requirement is that a substantial portion of Bell System research and development has been funded from revenues derived from the provision of monopoly exchange telecommunications service. The proposed modification would terminate the license contracts under which these revenues flow to AT&T. AT&T, like other firms, will thus be forced to fund its research and development from the sale of products and services in competitive markets. AT&T will, therefore, have no inherent advantage over other firms in funding such research and development.

Licenses under current patents that have been funded by monopoly revenues, as well as existing cross-licensing arrangements, will be unaffected by the modification. Moreover, there appears to be no reason for AT&T to refuse to continue to grant licenses under existing patents. All of these factors contribute to assuring wide availability of AT&T's existing (and, to a significant extent, future) patented technology.

In addition, at the time of the 1956 Judgment, AT&T was one of very few firms engaged in the research and development of the technology of telecommunications. AT&T no longer enjoys the dominant role it once did in such research. Many large, innovative

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[27] It might be argued that the sale of equipment by Western Electric to an expanded AT&T Long Lines presents a similar opportunity for cross-subsidization. In order for that to occur, Western Electric would have to sell some of its equipment to AT&T at higher than competitive prices to subsidize the sale of other types of equipment in competitive markets. While this strategy would be successful if the affiliated purchasers are regulated monopolies, it is a much less attractive strategy when the affiliate (i.e., Long Lines) is subject to competition, since the inflated transfer prices must be reflected in the price of the ultimate product (intercity services). If AT&T engaged in this strategy it would simply attract entry by firms whose costs are not inflated by higher than competitive prices for their equipment.

[28] *See e.g.*, February 8, 1980 letter from Assistant Attorney General Litvack to the Honorable Harley O. Staggers, Chairman, Committee on Interstate and Foreign Commerce.

[29] Under a September 4, 1981, ruling by the United States District Court for the District of New Jersey (discussed above) AT&T could have entered the information services market through a separate subsidiary arrangement.

[30] It should be noted that the 1956 Final Judgment does not prohibit Western Electric sales to independent telephone companies. Indeed, the United States has the right under that Judgment to require such sales to independent telephone companies.

firms are engaged in the research and development of the basic electronics technology that underlies not only telecommunications but data processing and other related industries. In these circumstances, and absent control of local franchise monopolies, continuation of the patent licensing requirements would needlessly impose on AT&T burdens in the development of new technologies not shared by its competitors, diminishing its incentives for research investment and possibly delaying the introduction of new technologies.

F. Impact on Regulatory Agencies

The modification's divestiture provisions are intended to separate the BOCs' local exchange functions from their intrastate toll and customer premises equipment functions. The functions would thus be provided by separate companies. But this would in no way limit or expand the respective scope of present federal and state regulatory jurisdictions. The states would continue to regulate the provision of both intrastate toll service and local exchange service. The FCC would continue to regulate the provision of interstate service. Both the states and the FCC would continue to exercise their respective jurisdictions over customer premises equipment now in the BOCs' rate base. Indeed, by separating the ownership of the franchised local exchange carriers from that of the carriers providing interexchange service, by eliminating the license contracts and other financial payments to AT&T by the divested BOCs, and by establishing arms-length relationships with Western Electric for the purchase of equipment, the proposed modification should facilitate the exercise of regulatory responsibility and, in particular, should enhance the effectiveness of state regulators in supervising tariffs for local services.

Moreover, with the assistance of state and federal regulatory agencies, the Department of Justice intends that its review of AT&T's plan of reorganization will ensure that the divested portions of the BOCs are given all assets necessary to perform their designated telecommunications functions and have sufficient resources to remain financially and technically viable enterprises. The review will also examine the financial framework of the reorganization to ensure that none of the parties to the reorganization is unduly advantaged or disadvantaged by the proposed financial structure of the new companies. State and federal regulatory agencies will be responsible, as they are now, for determining the value of the assets subject to their respective jurisdictions and the appropriate rate of return on those assets. The modification permits the BOCs to use facilities jointly with AT&T, but not to own facilities jointly. Any contracts governing such joint use of facilities, of course, would be subject to § 211 of the Communications Act of 1934, which requires that such contracts be filed with the FCC. In addition, the structural separation of competitive and noncompetitive markets is consistent with recent regulatory decisions.[31]

The injunctive provisions of the proposed modification also are fully consistent with regulatory standards. Thus, the equal access provision of Section II and the access requirements imposed on the BOCs by Appendix B articulate in greater detail the non-discrimination provisions of the Federal Communications Act[32] and FCC policies regarding fair and equal access to essential local exchange facilities.[33] Similarly, Section II of the proposed modification requires the BOCs to file tariffs providing for equal access to local exchange facilities, and Appendix B sets out in detail the nature of the interconnection arrangements the BOCs must make available by tariff to all intercity carriers and providers of information services. Such tariffs, of course, remain subject to existing regulatory jurisdiction. Regulatory authority to investigate and declare unlawful such tariffs, as well as the authority to prescribe new tariffs, will remain unchanged. The modification also would not alter regulatory jurisdiction to supervise the interconnection practices of regulated carriers. Thus, the timetable established by the modification provides the mandatory, maximum period in which equal access must be effected, but would not prevent the FCC from imposing more stringent equal access requirements upon the BOCs, or accelerating the timetable for the provision of such access.

The modification provides that the access charges will replace the contractual division of revenues arrangement within the Bell System. The modification would thus dissolve the contractual means by which revenues are divided between the BOCs and AT&T. It would not, however, affect the jurisdictional separations rules under which the FCC allocates the costs of providing service between federal and state jurisdictions through the mechanism of joint federal-state boards established by the FCC pursuant to Section 410(c) of the Communications Act. The substitution of access charges for the division of revenues process need not, therefore, produce any change in the level of compensation for the use of local exchange facilities, since federal and state agencies will continue to set the level of contribution to local exchange costs paid by both intrastate and interstate interexchange carriers.

Next, under the proposed modification, the BOCs are required to provide access to interexchange carriers and providers of information service by means of facilities in territories denominated "exchange areas" to be established in accordance with certain criteria set forth in Paragraph IV(G) of the modification. In the event that such criteria conflict with regulatory objectives, application may be made to the Court for relief. In responding to such an application the United States would place great weight on legitimate regulatory interests in the definition of local exchange boundaries. It should also be noted that the modification would not affect the jurisdiction of the states to establish the prices for service within exchange areas, or to establish separate local calling areas within an exchange area.

Finally, should a regulatory agency issue an order that is in apparent conflict with the provisions of this proposed modification, AT&T or an affected BOC may petition the Court, under Section VII, for such modification or construction of the decree as may be appropriate.

IV. Remedies Available to Private Plaintiffs

The proposed modification, if entered, would in no way affect the rights of any present (or potential) private plaintiff who has or might have been damaged by the alleged violations to sue for monetary damages and any other legal or equitable relief to which they might otherwise be entitled. Because, however, Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a), allows a judgment to be invoked as *prima facie* evidence in private litigation only where the judgment operates as an estoppel between the parties, the proposed modification would not have such *prima facie* effect.[34]

V. Procedures Available for Modification of the Proposed Judgment

The proposed modification of Final Judgment is subject to a stipulation, by and between the United States and defendants, providing that the United States may withdraw its consent to the proposed modification at any time before it is entered by the Court. Under the proposed judgment, the Court would retain jurisdiction of this action in order, among other things, to permit any of the parties to apply for any necessary or appropriate modification of the judgment or construction of its provisions.

As provided by the Court's order of January 21, 1982 and February 5, 1982, any person believing that the proposed judgment should be modified may, during the sixty-day period ending April 20, 1982, provided for in the Court's order, submit written comments on the judgment to Gerald A. Connell, Chief, *U.S. v. AT&T* Trial Staff, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. The Department of Justice will file with the Court and publish in the **Federal Register** such comments and the Department's response to them. The Department will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed modification.

[31] MTS and WATS Market Structure (FCC Docket 78-72), 46 P&F Radio Reg. 67 (1980); Amendment of Section 64.702 of the Commission's Rules and Regulations (FCC Docket 20828), 77 F.C.C. 2d 384, *on reconsideration* 84 F.C.C. 2d (1980), *on further reconsideration* FCC No. 81-461 (released October 30, 1981), *review pending sub nom.* Computer and Communications Industry Ass'n. v. FCC, D.C. Cir. No's. 80-1471 *et al.*

[32] Section 202 of the Communications Act of 1934, *as amended*, 47 U.S.C. 202.

[33] Specialized Common Carriers, 29 F.C.C. 2d 870 (1971), *aff'd. sub nom.* Washington Utilities and Transp. Comm'n. v. FCC, 413 F.2d 1142 (9th Cir.), *cert. denied* 423 U.S. 836 (1975).

[34] Of course, the substantial record compiled in *United States v. AT&T* may provide assistance to private plaintiffs. Inquiries concerning the availability of trial record materials should be sent to the address included in Section V of the Statement.

VI. Alternatives Actually Considered by the United States

The parties have explored from time to time with varying degrees of specificity the possibility of resolving their differences arising from the 1956 Judgment and in *U.S. v. AT&T*. These discussions resulted, on two occasions, in the development of what could be deemed alternatives actually considered by the United States, the first only in tentative form and on the Department's side alone, the second in substantially complete detail.

Beginning in January 1981, prior to commencement of trial in the *AT&T Case*, the United States considered and discussed with counsel for AT&T the possibility of a decree that would divest a small number of BOCs and a portion of Western Electric from AT&T, require the remaining BOCs to establish separate businesses to provide exchange telecommunications and exchange access to AT&T and its intercity service competitors, and include several injunctive provisions. These various possibilities were never put in the form of a proposal either by AT&T or by the Department. Moreover, the Department itself ultimately rejected the general directions being discussed as altogether insufficient to meet the objectives of the litigation and as posing unacceptable costs to efficient functioning of telecommunications markets.

Shortly prior to the negotiations that gave rise to the proposed modification, the United States considered and discussed with AT&T a purely injunctive, non-structural resolution of the two controversies. The proposed resolution would have removed the line of business restrictions in the 1956 Judgment and substituted extremely detailed and complex requirements and restrictions on AT&T's activities. It would have required detailed and extensive monitoring and would have imposed substantial costs on AT&T and the United States. Most importantly, this "regulatory" alternative would have been far less certain than the proposed modification to achieve an environment in telecommunications services and equipment markets that would promote vigorous and effective competition.

The regulatory alternative was designed to inhibit the ability, but not the incentive, of AT&T to abuse the monopoly power it has enjoyed, by virtue of its structure, in telecommunications services and equipment markets. Toward that end, the alternative contained numerous provisions obligating AT&T and the BOCs to afford non-discriminatory treatment to AT&T's competitors in the provision of telecommunications equipment and services. Specifically, AT&T would have been required to provide non-discriminatory access for intercity carriers to the BOC's local distribution facilities and to establish and publish indices measuring the performance of the BOCs in granting equal access. The BOCs would have been required to establish an access office and to publish written procedures governing the operations of the access office. Additional provisions would have governed the relationship between BOC personnel and AT&T competitors, the transfer of information internally and with other persons, the establishment and dissemination of technical standards, the construction of new facilities, and the introduction of new services. Like the proposed modification, the alternative would have required the filing of access charge tariffs designed to achieve equal treatment of all carriers.

With respect to BOC procurement, the alternative would have contained provisions limiting Western Electric's sales to the Bell System to a specified percentage of its sales outside of the Bell System, and would have imposed an obligation that a certain percentage of Bell System purchases be made from non-Western Electric vendors. Special Masters would have been appointed to monitor these and other provisions.

Several provisions were designed to ensure that the BOCs treat competitors of Western Electric in a fair and non-discriminatory manner. For example, the BOCs would have been required to establish organizations with sufficient resources to make independent procurement decisions. The alternative would also have imposed various obligations on the BOCs regarding the transfer of procurement-related information internally and with other persons and would have required the establishment and retention of records relating to procurement decisions. Other provisions would have governed identification of procurement personnel and product evaluations, and established various procedures regarding major product development intended to create an equal opportunity for outside manufacturers to participate in the development of major Bell System products. Further provisions dealt with AT&T and BOC responsibilities regarding the dissemination of technical information.

The alternative also would have contained various restrictions on the use of payments made by the BOCs under the license contracts to AT&T. It would have limited use that could be made of information developed under the license contract without public disclosure. In addition, it would have required AT&T to establish a separate subsidiary for the provision of customer premises equipment and information services. The establishment of the separate subsidiary would have been subject to monitoring by Special Masters. The provision would have contained various restrictions on the relationships between AT&T and the separate subsidiary and various requirements dealing with the transfer of information and employees. Finally, to resolve disputes arising under the alternative, the United States had under consideration the establishment of detailed arbitration procedures.

The United States believes that the regulatory alternative did not approach even remotely the effectiveness of the proposed modification in achieving conditions that would assure full competition in the telecommunications industry. In addition to the relative inefficacy of injunctive remedies in achieving this goal, the kinds of detailed and complex provisions under discussion would have imposed substantial costs on AT&T in attempting to comply with them and on the Court and the Department of Justice in attempting to enforce them.

Dated: February 10, 1982.

William F. Baxter,
Assistant Attorney General.
Ronald G. Carr,
Deputy Assistant Attorney General.
Richard O. Levine,
Director, Office of Policy Planning.
Gerald A. Connell,
James P. Denvir,
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Michael D. McNeely,
Jeffrey Blumenfeld,
Alan L. Silverstein,
David C. Jordan,
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Attorneys, Antitrust Division, United States Department of Justice, Washington, D.C. 20530

U.S. District Court for the District of New Jersey

United States of America, Plaintiff v. *Western Electric Company, Incorporated*, and *American Telephone and Telegraph Company*, Defendants.

Civil Action No. 17–49.

Modification of Final Judgment

Plaintiff, United States of America, having filed its complaint herein on January 14, 1949; the defendants having appeared and filed their answer to such complaint denying the substantive allegations thereof; the parties, by their attorneys, having severally consented to a Final Judgment which was entered by the Court on January 24, 1956, and the parties having subsequently agreed that modification of such Final Judgment is required by the technological, economic and regulatory changes which have occurred since the entry of such Final Judgment;

Upon joint motion of the parties and after hearing by the Court, it is hereby

Ordered, adjudged, and decreed that the Final Judgment entered on January 24, 1956, is hereby vacated in its entirety and replaced by the following items and provisions:

I. AT&T Reorganization

A. Not later than six months after the effective date of this Modification of Final Judgment, Defendant AT&T shall submit to the Department of Justice for its approval, and thereafter implement, a plan of reorganization. Such plan shall provide for the completion, within 18 months after the effective date of this Modification of Final Judgment, of the following steps:

1. The transfer from AT&T and its affiliates to the BOCs, or to a new entity subsequently to be separated from AT&T and to be owned by the BOCs, of sufficient facilities, personnel, systems, and rights to technical information to permit the BOCs to perform, independently of AT&T, exchange telecommunications and exchange access functions, including the procurement for, and engineering, marketing and management of, those functions, and sufficient to enable the BOCs to meet the equal exchange access requirements of Appendix B;

2. The separation within the BOCs of all facilities, personnel and books of account between those relating to the exchange telecommunications or exchange access functions and those relating to other functions (including the provision of interexchange switching and transmission and the provision of customer premises equipment to the public); provided that there shall be no joint ownership of facilities, but appropriate provision may be made for sharing, through leasing or otherwise, of multifunction facilities so long as the separated portion of each BOC is ensured control over the exchange telecommunications and exchange access functions;

3. The termination of the License Contracts between AT&T and the BOCs and other subsidiaries and the Standard Supply Contract between Western Electric and the BOCs and other subsidiaries; and

4. The transfer of ownership of the separated portions of the BOCs providing local exchange and exchange access services from AT&T by means of a spin-off of stock of the separated BOCs to the shareholders of AT&T, or by other disposition; provided that nothing in this Modification of Final Judgment shall require or prohibit the consolidation of the ownership of the BOCs into any particular number of entities.

B. Notwithstanding separation of ownership, the BOCs may support and share the costs of a centralized organization for the provision of engineering, administrative and other services which can most efficiently be provided on a centralized basis. The BOCs shall provide, through a centralized organization, a single point of contact for coordination of BOCs to meet the requirements of national security and emergency preparedness.

C. Until September 1, 1987, AT&T, Western Electric, and the Bell Telephone Laboratories, shall, upon order of any BOC, provide on a priority basis all research, development, manufacturing, and other support services to enable the BOCs to fulfill the requirements of this Modification of Final Judgment. AT&T and its affiliates shall take no action that interferes with the BOCs' requirements of nondiscrimination established by section II.

D. After the reorganization specified in paragraph A(4), AT&T shall not acquire the stock or assets of any BOC.

II. BOC Requirements

A. Subject to Appendix B, each BOC shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price to that provided to AT&T and its affiliates.

B. No BOC shall discriminate between AT&T and its affiliates and their products and services and other persons and their products and services in the:

1. Procurement of products and services;

2. Establishment and dissemination of technical information and procurement and interconnection standards;

3. Interconnection and use of the BOC's telecommunfcations service and facilities or in the charges for each element of service; and

4. Provision of new services and the planning for and implementation of the construction or modification of facilities, used to provide exchange access and information access.

C. Within six months after the reorganization specified in I(A)4, each BOC shall submit to the Department of Justice procedures for ensuring compliance with the requirements of paragraph B.

D. After completion of the reorganization specified in Section I, no BOC shall, directly or through any affiliated enterprise:

1. Provide interexchange telecommunications services or information services;

2. Manufacture or provide telecommunications products or customer premises equipment (except for provision of customer premises equipment for emergency services); or

3. Provide any other product or service, except exchange telecommunications and exchange access service, that is not a natural monopoly service actually regulated by tariff.

III. Applicability and Effect

The provisions of this Modification of Final Judgment, applicable to each defendant and each BOC, shall be binding upon said defendants and BOCs, their affiliates, successors and assigns, officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with each defendant and BOC who receives actual notice of this Modificaiton of Final Judgment by personal service or otherwise. Each defendant and each person bound by the prior sentence shall cooperate in ensuring that the provisions of this Modificaiton of Final Judgment are carried out. Neither this Modification of Final Judgment nor any of its terms or provisions shall constitute any evidence against, an admission by, or an estoppel against any party or BOC. The effective date of this Modification of Final Judgment shall be the date upon which it is entered.

IV. Definitions

For the purposes of this Modification of Final Judgment:

A. "Affiliate" means any organization or entity, including defendant Western Electric Company, Incorporated, and Bell Telephone Laboratories, Incorporated, that is under direct or indirect common ownership with or control by AT&T or is owned or controlled by another affiliate. For the purposes of this paragraph, the terms "ownership" and "owned" mean a direct or indirect equity interest (or the equivalent thereof) of more than fifty (50) percent of an entity. "Subsidiary" means any organization or entity in which AT&T has stock ownership, whether or not controlled by AT&T.

B. "AT&T" shall mean defendant American Telephone and Telegraph Company and its affiliates.

C. "Bell Operating Companies" and "BOCs" mean the corporations listed in Appendix A attached to this Modification of Final Judgment and any entity directly or indirectly owned or controlled by a BOC or affiliated through substantial common ownership.

D. "Carrier" means any person deemed a carrier under the Communications Act of 1934 or amendments thereto, or, with respect to intrastate telecommunications, under the laws of any state.

E. "Customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, but does not include equipment used to multiplex, maintain, or terminate access lines.

F. "Exchange access" means the provision of exchange services for the purpose of originating or terminating interexchange telecommunications. Exchange access services include any activity or function performed by a BOC in connection with the origination or termination of interexchange telecommunications, including but not limited to, the provision of network control signaling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities and the provision of information necessary to bill customers. Such services shall be provided by facilities in an exchange area for the transmission, switching, or routing, within the exchange area, of interexchange traffic originating or terminating within the exchange area, and shall include switching traffic within the exchange area above the end office and delivery and receipt of such traffic at a point or points within an exchange area designated by an interexchange carrier for the connection of its facilities with those of the BOC. Such connections, at the option of the interexchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided similar traffic of AT&T, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carriers. Exchange services for exchange access shall not include the performance by any BOC of interexchange traffic routing for any interexchange carrier. In the reorganization specified in section I, trunks used to transmit AT&T's traffic between end offices and class 4 switches shall be exchange access facilities to be owned by the BOCs.

G. "Exchange area," or "exchange" means a geographic area established by a BOC in accordance with the following criteria:

1. Any such area shall encompass one or more contiguous local exchange areas serving common social, economic, and other purposes, even where such configuration transcends municipal or other local governmental boundaries;

2. Every point served by a BOC within a State shall be included within an exchange area;

3. No such area which includes part or all of one standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States) shall include a substantial part of any other standard metropolitan statistical area (or a consolidated statistical area, in the case of

densely populated States), unless the Court shall otherwise allow; and

4. Except with approval of the Court, no exchange area located in one State shall include any point located within another State.

H. "Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

I. "Information access" means the provision of specialized exchange telecommunications services by a BOC in an exchange area in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services. Such specialized exchange telecommunications services include, where necessary, the provision of network control signaling, answer supervsion, automatic calling number identification, carrier access codes, testing and maintenance of facilities, and the provision of information necessary to bill customers.

J. "Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

K. "Interexchange telecommunications" means telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area.

L. "Technical information" means intellectual property of all types, including, without limitation, patents, copyrights, and trade secrets, relating to planning documents, designs, specifications, standards, and practices and procedures, including employee training.

N. "Telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

O. "Telecommunications" means the transmissions, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of electromagnetic transmission, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

P. "Telecommunications service" means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.

Q. "Transmission facilities" means equipment (including without limitation wire, cable, microwave, satellite, and fibre-optics) that transmit information by electromagnetic means or which directly support such transmission, but does not include customer-premises equipment.

V. Compliance Provisions

The defendants, each BOC, and affiliated entities are ordered and directed to advise their officers and other management personnel with significant responsibility for matters addressed in this Modification of Final Judgment of their obligations hereunder. Each BOC shall undertake the following with respect to each such officer or management employee:

1. The distribution to them of a written directive setting forth their employer's policy regarding compliance with the Sherman Act and with this Modification of Final Judgment, with such directive to include:

(a) An admonition that non-compliance with such policy and this Modification of Final Judgment will result in appropriate disciplinary action determined by their employer and which may include dismissal; and

(b) Advice that the BOCs' legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems.

2. The imposition of a requirement that each of them sign and submit to their employer a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the 1982 *United States* v. *Western Electric,* Modification of Final Judgment and a written directive setting forth Company policy regarding compliance with the antitrust laws and with such Modification of Final Judgment, (2) represents that the undersigned has read such Modification of Final Judgment and directive and understands those provisions for which the undersigned has responsibility, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Modification of Final Judgment will result in appropriate disciplinary measures determined by the Company and which may include dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Modification of Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine.

VI. Visitorial Provisions

A. For the purpose of determining or securing compliance with this Modification of Final Judgment, and subject to any legally recognized privilege, from time to time:

1. Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant or after the reorganization specified in Section I, a BOC, made to its principal office, duly authorized representatives of the Department of Justice shall be permitted access during office hours of such defendants or BOCs to depose or interview officers, employees, or agents, and inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, BOC, or subsidiary companies, who may have counsel present, relating to any matters contained in this Modification of Final Judgment; and

2. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office or, after the reorganization specified in Section I, a BOC, such defendant, or BOC shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Modification of Final Judgment as may be requested.

B. No information or documents obtainted by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States or the Federal Communications Commission, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by a defendant to a plaintiff, such defendant or a BOC represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant or BOC marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days' notice shall be given by plaintiff to such defendant or BOC prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant BOC is not a party.

VII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Modification of Final Judgment, or, after the reorganization specified in Section I, a BOC to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Modification of Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

Entered this — day of ————, 1982.

————

United States District Judge.

Appendix A

Bell Telephone Company of Nevada
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
Michigan Bell Telephone Company
New England Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
Pacific Northwest Bell Telephone Company
South Central Bell Telephone Company
Southern Bell Telephone and Telegraph Company
Southwestern Bell Telephone Company
The Bell Telephone Company of Pennsylvania
The Chesapeake and Potomac Telephone Company

The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
The Diamond State Telephone Company
The Moutain States Telephone and Telegraph Company
The Ohio Bell Telephone Company
The Pacific Telephone and Telegraph Company
Wisconsin Telephone Company

Appendix B

Phased-in BOC Provision of Equal Exchange Access

A. 1. As part of its obligation to provide non-discriminatory access to interexchange carriers, no later than September 1, 1984, each BOC shall begin to offer to all interexchange carriers exchange access on an unbundled, tariffed basis, that is equal in type and quality to that provided for the interexchange telecommunications services of AT&T and its affiliates. No later than September 1, 1985, such equal access shall be offered through end offices of each BOC serving at least one-third of that BOC's exchange access lines and, upon bona fide request, every end office shall offer such access by September 1, 1986. Nothing in this Modification of Final Judgment shall be construed to permit a BOC to refuse to provide to any interexchange carrier or information service provider, upon bona fide request, exchange or information access superior or inferior in type or quality to that provided for AT&T's interexchange services or information services at charges reflecting the reduced or increased cost of such access.

2. (i) Notwithstanding paragraph (1), in those instances in which a BOC is providing exchange access for Message Telecommunications Service on the effective date of this modification of Final Judgment through access codes that do not permit the designation of more than one interexchange carrier, then, in accordance with the schedule set out in paragraph (1), exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide, multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

(ii) Each BOC shall, in accordance with the schedule set out in paragraph (1), offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carrier of the customer's designation.

(iii) At such time as the national numbering area (area code) plan is revised to require the use of additional digits, each BOC shall provide exchange access to every interexchange carrier, including AT&T, through a uniform number of digits.

3. Notwithstanding paragraphs (1) and (2), with respect to access provided through an end office employing switches technologically antecedent to electronic, stored program control switches or those offices served by switches that charateristically serve fewer than 10,000 access lines, a BOC may not be required to provide equal access through a switch if, upon complaint being made to the Court, the BOC carries the burden of showing that for particular categories of services such access is not physically feasible except at costs that clearly outweigh potential benefits to users of telecommunications services. Any such denial of access under the preceding sentence shall be for the minimum divergence in access necessary, and for the minimum time necessary, to achieve such feasibility.

B. 1. The BOCs are ordered and directed to file, to become effective on the effective date of the reorganization described in I(A)(4), tariffs for the provision of exchange access including the provision by each BOC of exchange access for AT&T's interexchange telecommunications. Such tariffs shall provide unbundled schedules of charges for exchange access and shall not discriminate against any carrier or other customer. Such tariffs shall replace the division of revenues process used to allocate revenues to a BOC for exchange access provided for the interexchange telecommunications of BOCs or AT&T.

2. Each tariff for exchange access shall be filed on an unbundled basis specifying each type of service, element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services provided.

3. Notwithstanding the requirements of paragraph 2, from the date of reorganization specified in section I until September 1, 1991, the charges for delivery or receipt of traffic of the same type between end offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered or received, for all interexchange carriers, provided, that the facilities of any interexchange carrier within five miles of an AT&T class 4 switch shall, with respect to end offices served by such class 4 switch, be considered to be in the same subzone as such class 4 switch.

4. Each BOC offering exchange access as part of a joint or through service shall offer to make exchange access available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of a joint or through service, and no payment or consideration of any kind shall be retained by the BOC for the provision of exchange access under such joint or through service other than through tariffs filed pursuant to this paragraph.

C. 1. Nothing in this Modification of Final Judgment shall be construed to require a BOC to allow joint ownership or use of its switches, or to require a BOC to allow co-location in its building of the equipment of other carriers. When a BOC uses facilities that (i) are employed to provide exchange telecommunications or exchange access or both, and (ii) are also used for the transmission or switching of interexchange telecommunications, then the costs of such latter use shall be allocated to the interexchange use and shall be excluded from the costs underlying the determination of charges for either of the former uses.

2. Nothing in this Modification of Final Judgment shall either require a BOC to bill customers for the interexchange services of any interexchange carrier or preclude a BOC from billing it customers for the interexhange services of any interexchange carrier it designates, provided that when a BOC does provide billing services to an interexchange carrier, the BOC may not discontinue local exchange service to any customer because of nonpayment of interexchange charges unless it offers to provide billing services to all interexchange carriers, and provided further that the BOC's cost of any such billing shall be included in its tariffed access charges to that interexchange carrier.

3. Whenever, as permitted by this Modification of Final Judgment, a BOC fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of AT&T, nothing in this Modification of Final Judgment shall prohibit the BOC from collecting reduced charges for such less-than-equal exchange access to reflect the lesser value of such exchange access to the interexchange carrier and its customers compared to the exchange access provided AT&T.

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Wednesday
February 17, 1982

Part VII

Environmental Protection Agency

Noise Emission Standards: Medium and Heavy Trucks; Truck-Mounted Solid Waste Compactors

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 205

[AH-FRL 1931-2]

Noise Emission Standards: Medium and Heavy Trucks—Truck-Mounted Solid Waste Compactors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Deferral of effective dates: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) hereby defers the effective date for the noise emission standard of 80 decibels (dB) for medium and heavy trucks from January 1, 1983 to January 1, 1986. This action is being taken after consideration of comments and new technical information that were received by the Agency in response to two **Federal Register** notices: One dated January 27, 1981 (46 FR 8497) which deferred the original effective date from January 1, 1982 to January 1, 1983 in response to requests for near-term economic relief from truck manufacturers and users; and the second notice of March 19, 1981 (46 FR 17558) which solicited public comment as to whether the Agency should consider withdrawal of the 80 dB standard.

The Noise Control Act of 1972 requires that the Administrator of EPA set limits on the noise emissions of new products distributed in commerce, that are requisite to protect public health and welfare, taking into account the use of the product (alone or in combination with other products), the degree of noise reduction achievable with best available technology, and the costs of compliance.

In consideration of the present economic state of the truck industry and the potential interrelationship of design changes that may be required to meet the 80 dB standard with technological innovations now being considered to reduce exhaust emissions and improve fuel economy, the Administrator has concluded that an additional three-year deferral of the 80 dB standard for medium and heavy trucks to 1986 is appropriate. Thus, the purpose of this deferral is twofold: First, to provide near-term economic relief to the truck industry by allowing them to temporarily divert those resources that would otherwise be used to comply with the 1983 80 dB standard to help meet their near-term economic recovery needs, and second, to permit manufacturers to align and economize the design requirements attendant to the 80 dB standard with improved fuel economy designs and Federal air emissions standards anticipated in the 1986 timeframe.

This action is expected to introduce only a small loss in near-term health and welfare benefits due to the delayed entry into the fleet of trucks quieted below the current Federal regulatory level of 83 dB. This deferral should have no adverse effects on the total benefits anticipated in the out-years.

Because the Federal noise emission standard for truck-mounted solid waste compactors is closely related to the noise level of medium and heavy truck chassis, the effective date for the 76 dB compactor standard is also being deferred by this notice, from July 1, 1983 to July 1, 1986.

EFFECTIVE DATES: All medium and heavy trucks manufactured after January 1, 1986 must not emit a noise level (A-weighted) in excess of 80 dB when measured as prescribed in 40 CFR Part 205, Subpart B, Noise Emission Standards for Medium and Heavy Trucks (41 FR 15538).

All truck-mounted solid waste compactors manufactured after July 1, 1986 must not emit a noise level (A-weighted) in excess of 76 dB when measured as prescribed in 40 CFR Part 205, Subpart F, Noise Emission Standards for Truck-Mounted Solid Waste Compactors (44 FR 56524).

These amendments take effect on or before March 19, 1982.

ADDRESSES: Copies of the public docket (ONAC Docket 81-02—Medium and Heavy Trucks); the Agency's analysis of the comments to the Docket; the Agency report entitled, "Updated Analysis of the Benefits and Costs of the 80 dB Noise Emission Regulation for Medium and Heavy Trucks;" related correspondence; and other documents supporting these amendments are available for public inspection between the hours of 8:00 a.m. and 4:00 p.m. at the Central Docket Section of the Environmental Protection Agency, West Tower, Gallery 1, 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Timothy M. Barry, Program Manager, Standards and Regulations Division, (ANR-490), U.S. Environmental Protection Agency, Washington, D.C. 20460; or phone (703) 557-2710.

SUPPLEMENTARY INFORMATION:

I. Background

EPA published noise emission regulations for newly manufactured medium and heavy trucks on April 13, 1976 (41 FR 15538). The regulations required that trucks having a gross vehicle weight rating (GVWR) greater than 10,000 pounds and manufactured after January 1, 1978 meet a not-to-exceed noise level of 83 dB when measured in accordance with the specified test procedure. Trucks manufactured after January 1, 1982 were required to meet a not-to-exceed noise level of 80 dB.

In response to petitions for reconsideration of the 80 dB standard which were submitted by International Harvester Company and Mack Trucks, Incorporated, the Agency on January 19, 1981 (published in the **Federal Register** on January 27, 1981 (46 FR 8497)) deferred the effective date of the 80 dB noise emission standard for medium and heavy trucks one year, from January 1, 1982 to January 1, 1983. The notice further stated that because the 76 dB noise emission standard for truck-mounted solid waste compactors is related to the availability of 80 dB truck chassis, the effective date of that standard was also being deferred one year, from July 1, 1982 to July 1, 1983.

The Agency believed that this action would provide adequate temporary economic relief to the truck manufacturing industry by freeing resources that would otherwise be expended in 1981 to bring their medium and heavy trucks into compliance with the 1982, 80 dB regulation.

The Agency anticipated that some parties affected by the 80 dB standard might consider the one-year deferral either too long or too short. To ensure maximum consideration of both industry and public concerns, the deferral notice also established a 90-day public comment period and specifically invited comment and new information on whether a further deferral of the 80 dB standard, beyond one year, might be warranted. On March 19, 1981 the Agency issued a second **Federal Register** notice (46 FR 17558) that requested public comment on whether or not the Agency should consider withdrawing the 80 dB standard for medium and heavy trucks. The public docket (ONAC Docket 81-02—Medium and Heavy Trucks) for both notices closed on April 24, 1981.

II. Discussion

Analysis of the comments and new technical and cost information received in response to the Agency's January 27, and March 19, 1981 **Federal Register** notices revealed no new substantive issues from those previously addressed in detail in the January 27, **Federal Register** notice (46 FR 8497) that effected the one-year deferral. The Agency's analysis and responses to these

comments is available for public inspection in the public docket of this rulemaking (see "Addresses").

In their comments submitted to EPA, the truck industry requested that the Agency rescind the 80 dB standard entirely or at least defer the standard until such time that the Agency has had an opportunity to fully re-evaluate its benefits and costs. The truck industry, however, supported retention of the current Federal 83 dB noise standard, citing its environmental benefits and the pre-emption it affords truck manufacturers over non-identical State and local rules.

On the other hand, comments received from six State and three local governments requested the Agency not to withdraw the 80 dB standard. One State cited the potential adverse economic effects on its noise barrier program should the 80 dB rule be rescinded. Two States recommended that, in the event EPA decides to withdraw the 80 dB standard, it should rescind the truck regulation in its entirety, thereby removing the present 83 dB standard, along with its pre-emption of State and local rules, leaving noise control of these products totally up to State and local governments.

Seven truck manufacturers submitted new cost and pricing data that reflect their current assessment of possible price increases to meet the 80 dB noise standard in 1983. In addition, EPA also compiled comprehensive quieting, operational and maintenance cost data that recently emerged from its on-going Quiet Truck Demonstration Program. Taking these new data into consideration, the Agency updated its economic assessment of the 80 dB truck standard. The revised quieting costs show that, on the average, the 80 dB standard can be expected to increase the price of a new truck by approximately $279, which represents an increase of about one percent in the average price of a new truck. Further, the 80 dB standard may also be expected to increase the average annual operating costs by about 0.07 percent or by about $42 per truck per year.

The revised cost and pricing information that the industry provided to the Agency revealed a reduction in estimated compliance costs compared to previous estimates. However, the Noise Control Act of 1972 requires the Administrator to take costs of compliance into consideration in setting feasible noise standards. Based on the most recent cost data, EPA has estimated that a near-term capital investment of approximately $40 million may be required of truck manufacturers to comply with the 80 dB standard. In light of the present economic state of the industry, this diversion of resources could impose an economic burden on the truck industry during a time when the industry is focusing its attention on recovery and endeavoring to effect an upturn in its markets.

Further, several manufacturers requested that any deferral of the effective date of the 80 dB standard take cognizance of the anticipated effective dates of future Federal air emissions standards for total suspended particulates and nitrous oxides. These manufacturers stated that coordination of the effective dates for the noise and anticipated future air standards would allow truck manufacturers to effect designs that would meet the needs of both standards at the same time, thus resulting in potentially significant reductions in design and engineering costs.

The Agency has given careful consideration to the concerns of State and local governments who believe that extended deferrals of the effective date or withdrawal of the 80 dB standard would deprive their citizens of the protection they had anticipated through their adoption of complementary regulations which contain the initial 1982, 80 dB Federal standard. Based on projected new truck sales and the low turnover rate for the Nation's truck fleet, the Agency believes that the incremental benefits expected to be provided by the 80 dB standard during its first three years, while not insignificant, are sufficiently small so that a short delay of these initial benefits would not deprive the public of anticipated long-term health and welfare benefits.

In reassessing the 80 dB standard, the Administrator has also given consideration to the fact that the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978, is currently undergoing revision by the Congress. Consequently, the future of the Federal noise regulatory program and the medium and heavy truck noise emission regulation, in particular, is uncertain.

III. Conclusion

The Administrator has concluded that the one-year deferral of the 80 dB medium and heavy truck noise emission standard that was issued on January 19, 1981 will not provide adequate time to the truck industry to effect a reasonable level of economic recovery, or to integrate, in a cost-effective manner, further noise reduction requirements with new air emission and fuel economy designs and engineering. Therefore, the Administrator is deferring, for an additional three years, the effective date of this standard, from January 1, 1983 to January 1, 1986.

Based on comments and information received by the Agency, and the length of this deferral, the Administrator believes it unnecessary to decide at this time whether the 80 dB noise emission standard should be withdrawn.

This action is expected to save truck manufacturers up to $10 million in interest charges or opportunity costs as a result of deferring inventory and capital equipment investments of approximately $40 million. This deferral should also result in an improved near-term cash flow position for manufacturers.

For truck users, EPA estimates a potential near-term savings of approximately $374 million since users will not incur the increased purchase price and operating costs associated with the 80 dB standard for an additional three years.

In summary, this additional three-year deferral is expected to produce several near-term effects: Ensure that the trucking industry and the public will not incur noise regulatory costs that may become unnecessary as a result of Congressional revisions to the Act; provide cash-flow relief and a significant cost savings to both truck manufacturers and purchasers as a result of deferred investments and avoided increased costs; provide the industry with time to align, and thus economize, the design requirements attendant to the 80 dB noise standard, Federal air emissions requirements anticipated in the 1986 timeframe, and customer demands for improved fuel economy; and introduce a small loss of anticipated near-term health and welfare benefits due to the delayed entry of vehicles quieted below the current 83 dB Federal standard, into the fleet.

Because the 76 dB noise emission standard for truck-mounted solid waste compactors is dependent, in large part, on the availability of truck chassis that meet the 80 dB standard, the Agency is also deferring, for an additional three years, the effective date of the compactor standard from July 1, 1983 to July 1, 1986.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This deferral of the effective date for the 80 dB standard is intended to provide regulatory relief. Consequently, it is not judged "major" because:

(1) The deferral will not have an annual adverse effect on the economy of $100 million or more;

(2) It will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) It will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291 and received its concurrence on September 14, 1981.

Under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. These amendments are intended to ease manufacturer compliance with the noise emission standards for the affected products and thus should reduce any adverse economic effects on these industries.

These amendments are issued under the authority of Section 6 of the Noise Control Act, 42 U.S.C. 4905.

Dated: February 6, 1982.

Anne M. Gorsuch,

Administrator.

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

For the reasons set forth in the Preamble, the noise emission standards for medium and heavy trucks and truck-mounted solid waste compactors are amended as follows:

§ 205.52 [Amended]

1. 40 CFR Part 205, Subpart B, is amended by removing the word "1983" and inserting in its place, the word "1986" in § 205.52(a).

§ 205.202 [Amended]

2. 40 CFR Part 205, Subpart F, is amended by removing the word "1983" and inserting in its place, the word "1986" in § 205.202(a).

(Sec. 6, Pub. L. 92-574, 86 Stat. 1237 (42 U.S.C. 4905))

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Part VIII

Department of the Interior

Fish and Wildlife Service

Proposals To Amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Proposals To Amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of potential United States proposals.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain wildlife and plant species which are listed in appendices to this treaty. The Conference of the Parties to CITES resolved, at a meeting in New Delhi, India, that the status of listed species should be periodically reviewed. The first such review is to be concluded in 1983 at the next meeting of the Parties.

The Service has reviewed the status of wildlife and plant species in Appendices I and II that are native to the United States. This notice announces preliminary results of the review for wildlife. Results for plants will be announced in a separate notice. The Service requests further information and comments from the public, which will be considered in determining whether the United States should submit these wildlife proposals for consideration by CITES Party nations at their next regular meeting.

DATE: The Service will consider all comments received by August 31, 1982, in determining whether it should submit proposals to the CITES Secretariat for circulation to the Parties.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:14 p.m., Monday through Friday, in room 536, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard M. Mitchell, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control. Such listings frequently are required because of difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs cooperation of other Parties in controlling trade.

At the Third Meeting of the Conference of the Parties to CITES, held on February 25 to March 6, 1981, at New Delhi, India, the Parties resolved to conduct a "Ten Year Review of the Appendices" (see 46 FR 33534, June 30, 1981). The resolution (Conf. 3.20) called for regional reviews of species in Appendices I and II. A central committee, composed primarily of representatives from various parties, is to meet between April and June 1982 to appraise and coordinate regional reviews.

The purpose of this notice is to announce preliminary results of the Service's review of listed wildlife species in North America. This review is being conducted in coordination with the Canadian Wildlife Service and the Direccion General de la Fauna Silvestre of Mexico. The Service will consider comments and information received in response to this notice and views of the central committee in determining if proposals described below should be submitted to the CITES Secretariat for consideration by Parties at their fourth meeting in 1983.

Comments Received

In response to the **Federal Register** notice of June 30, 1981, the Service received information about the status of several listed species from the Kentucky Department of Fish and Wildlife Resources and the Washington Department of Game.

The Minnesota Department of Natural Resources submitted information in support of a request to delete the wolf (*Canis lupus*) from Appendix II. The Service's preliminary proposal on this species is discussed below.

The Montana Department of Fish and Game recommended the deletion of bobcat *(lynx rufus)*, lynx (*Lynx canadensis,*), mountain lion (*Felis concolor*), bighorn sheep (*Ovis canadensis*), and six species of relatively common birds of prey.

The New Mexico Department of game and Fish recommended the deletion of numerous species because they were: Not subject to significant levels of trade, protected in the United States as Endangered or Threatened species, protected as a game species or furbearer, protected under the Migratory Bird Treaty Act, not practically distinguished from related unlisted entities, not endangered or threatened, or listed under too broad a grouping.

The Wisconsin Department of Natural Resources recommended delisting of all species now included under listings of entire orders or families, and replacing them with listings of individual species in need of protection. Wisconsin also asked that species included in its State endangered and threatened list be retained in the appendices. These include wolf (*C. lupus*), lynx (*L. canadensis*), bald eagle (*Haliaeetus leucocephalus*), osprey (*Pandion haliaetus*), barn owl (*Tyto alba*), Higgin's eye mussel (*Lampsilis higginsi*), Cooper's hawk (*Accipiter cooperi*), and red-shouldered hawk (*Buteo lineatus*).

The North American Falconers Association submitted information in support of a request to transfer the tundra peregrine falcon (*Falco peregrinus tundrius*) from Appendix I to Appendix II. The Association stated these reasons for its request: the bird is not facing immediate extinction, it has a strong and substantial population, Appendix I listing harms the intent of CITES, all captive peregrines in the U.S. are identified with leg bands, any resulting trade will be minor, and delisting under the Endangered Species Act (ESA) must occur to accurately reflect population status.

Mr. Alan Shoemaker of the Riverbanks Zoological Park, Columbia, South Carolina, made several suggestions regarding North American species. He suggested transferring those populations of the wolf (*C. lupus*) that are listed as Endangered under the ESA from Appendix II to Appendix I of CITES, transferring U.S. and perhaps also northern Mexico populations of ocelot (*Felis pardalis*) and margay (*F. wiedii*) From Appendix II to Appendix I, delisting the bighorn sheep (*Ovis canadensis*) and tule goose (*Anser albifrons gambellie*), and eliminating the broad inclusion of all hawks and owls under the listings of Falconiformes and Strigiformes in Appendix II.

Potential Proposals

Tentative proposals resulting from this review are briefly discussed below. Copies of draft proposals are available from the Service's Office of the Scientific Authority (see address above). Proposals concerning plants will be addressed in a separate **Federal Register** notice.

1. Bighorn sheep (*Ovis canadensis*)—The Service is considering a proposal to remove the bighorn sheep from Appendix II in Canada and the U.S. The animal is managed and protected as a big game species in Canada, Mexico, and the western U.S.

The small international trade in this species is restricted to hunters importing or exporting trophy specimens.

Mexico recommended Appendix II status for the Mexican population in 1978; the Service is seeking current views of Mexico on this species. The Service anticipates that Canada might submit a proposal for its removal from Appendix II. In 1979, Parties at the San Jose meeting agreed that these populations were included in Appendix II only to effectively control trade in the Mexican population.

2. Gray wolf (*Canis lupus*)—The Service is considering a proposal to remove populations of gray wolf in Canada and Alaska from Appendix II. Wolves are sought primarily for the commercial value of the pelt although some trapping and hunting occur for recreation or predator control. Pelts are utilized in trimming for jackets and coats and other articles for wearing apparel. About 90% of the pelts harvested in Alaska are utilized internally. Prices on the international market bring less than $200 and few pelts enter that market.

The gray wolf is listed under the ESA as Endangered in most of the contiguous 48 states, and as Threatened in Minnesota. In Alaska, it is regarded as a game animal and furbearer, and the take is strictly regulated.

Mexico stated in 1978 that its population belongs in Appendix I; the Service is seeking current views of Mexico on this species. The Service anticipates that Canada might submit a proposal to remove the wolf in Canada from Appendix II. Both Alaska and Canada control export by means of tagging and licensing requirements that aid enforcement officers to distinguish pelts from those originating elsewhere.

3. Grizzly bear *(Ursus arctos)*—The Service is considering a proposal to remove the grizzly bear from Appendix II in Canada and Alaska. Populations remain relatively secure in large areas of undisturbed natural habitat in Alaska and Canada.

Grizzly bears are harvested as big game trophies in Alaska and Canada. About 10% of the animals harvested in Alaska are taken by nonresident hunters and enter into international trade. Within the contiguous 48 states, the species is listed as Threatened under the ESA. Special rules allow hunting in accordance with State law in Montana.

Mandatory tagging by Canadian Provinces and the State of Alaska help prevent difficulties in controlling trade in other populations. The Parties agreed at their second meeting (San Jose, 1979) that Alaskan and Canadian populations were placed on the Appendix only to effectively control trade in other populations of the species, because of similarity in appearance.

Tagging and licensing requirements will remain in force even if Alaskan and Canadian populations are delisted. The Service anticipates that Canada might submit a proposal to remove its population from Appendix II.

4. Lynx *(Lynx canadensis)*—The Service is considering a proposal to remove this species from Appendix II. The Lynx is found throughout boreal forests of Alaska and Canada and in certain northern states bordering Canada. Population estimates are not available due to its cyclic abundance pattern. Each State in which lynx are harvested, has an extensive border with Canada and experiences an increase of animals during eruptions in the cycle of the Canadian population.

Currently, lynx are harvested in Alaska, Idaho, Minnesota, Montana, and Washington. Annual harvests of lynx over the past five years in the U.S. have averaged between 2,000–3,000 animals. Most lynx harvested in the contiguous States are taken incidental to bobcat trapping. The majority of pelts harvested are exported to Europe. In all States permitting harvest, tagging of pelts is required. Canada requires tagging of all pelts and exacts a royalty on all furs taken. The Service anticipates that Canada might submit a proposal to remove the lynx from Appendix II.

5. Pronghorn antelope *(Antilocapra americana)*—The Service is considering a proposal to list the pronghorn antelope by population instead of subspecies, placing Mexican populations in Appendix I. The four recognized subspecies of pronghorns are probably only geographic races which differ slightly from one another in color and form. Transplants of *A. americana americana* into ranges of other subspecies have further complicated this by mixing subspecies. Listing of populations rather than subspecies in the Appendices might simplify the matter and afford better protection to threatened Mexican populations.

The pronghorn is hunted for sport and there is no commercial trade in it. Peninsular *(A. a. peninsularis)* and Sonoran *(A. a. sonoriensis)* pronghorns are listed as Endangered under the ESA and are also included in Appendix I of CITES. In the United States, the species is effectively protected under State game laws throughout its range.

This proposal would retain the Mexican populations of *A. a. peninsularis* and *A. a. sonoriensis* in Appendix I and transfer the third, *A. a. mexicana,* from Appendix II to Appendix I. The present listing of three subspecies would be replaced with the listing in Appendix I of *A. americana* (populations of Mexico). The healthier status of U.S. populations, effectiveness of State game laws, and absence of recorded trade in the species, all support restriction of this listing to Mexican populations. The Service is seeking views of Mexico on this proposal.

6. River otter *(Lutra canadensis)*—The Service is considering a proposal to retain the river otter in Appendix II, under provisions of CITES Article II.2(b), solely to control trade in other species of otters. South American and Old World otters are heavily exploited for their skins to the extent that several species are endangered. Skins of otter species are difficult to distinguish from one another. Therefore, the Service might propose to retain the river otter in Appendix II because of similarity in appearance to other species.

Over the last five years, the U.S. annual harvest of otters has averaged 10,000–15,000 animals. Presently, 24 States report stable or increasing otter populations. In many States, otters are taken incidental to beaver trapping. Due to expanding beaver populations, much new otter habitat is being created. Although the majority of otter pelts are exported annually, the average price paid per pelt has remained nearly uniform (+$40). All pelts exported must be tagged according to State of origin. The Service anticipates that Canada might submit a similar proposal for its otter population.

7. Swift fox *(Vulpes velox)*—The Service is considering a proposal to list the entire species in Appendix II since subspecies are indistinguishable. The northern swift fox *(Vulpes velox hebes)* is listed as Endangered under the ESA and in Appendix I of CITES. It is thought to be extirpated in Canada. However, the southern swift fox (*V. v. velox)* is classified as a furbearer in the United

States and is taken for its pelt in certain western and southwestern states.

There is some international trade in swift fox pelts to Canada. It is possible that northern swift fox pelts could enter trade because they are indistinguishable from pelts of southern swift fox or kit fox (considered by taxonomists to be the same species or a closely related one, *V. macrotis.*).

Canada originally proposed the listing of *V. v. hebes* in Appendix I of CITES. The Service now proposes to list the entire species in Appendix II since subspecies cannot be distinguished.

8. Tule white-fronted goose *(Anser albifrons gambelli)*—The Service is considering a proposal to remove the tule goose from Appendix II of CITES. The subspecies was originally described from specimens from Texas, but is not uniformly recongized as a valid taxon. Presently, there are two known populations: one migrating into the Pacific States and the other through the Great Plains.

Because of relatively low numbers and as well as an unclear taxonomic status, little information exists on population trends. These geese are hunted along with the more common form of white-fronted geese, from which they are almost impossible to distinguish in flight. White-fronted geese are mainly sought after by sport hunters and none are recorded in international trade.

The tule goose is protected from trade under migratory bird treaties between the nations in which it occurs.

Mexico, in 1976, concurred with inclusion of the tule goose in Appendix II, but noted that because of the difficulty of obtaining subspecies identification from hunters, there was no information to substantiate it. Canada is on record as favoring its removal from Appendix II. The CITES Secretariat recommended this action in 1981 at New Delhi (Doc. 3.15).

9. Mona Island boa (*Epicrates monensis monensis*)—The Service is considering a proposal to transfer this subspecies from Appendix II to Appendix I. It is found only on Mona Island, Commonwealth of Puerto Rico. Currently, there are no recorded specimens in captivity; only two are known to have been collected in the past 20 years.

This snake is listed in Appendix II of CITES, and as Threatened under the ESA. Due to its rarity and because it is endemic to Mona Island, it could easily be overexploited and, therefore, apparently deserves protection under Appendix I.

10. Blue pike (*Stizostedion vitreum glaucum*)—The Service is considering a proposal to remove the blue pike from Appendix I. Blue pike were once abundant in Lake Erie, supporting a commercial fishery that collapsed in 1958. Habitat degradation and overfishing have probably extirpated this fish. Introgressive hybridization with walleye pike (*Stizostedion vitreum vitreum*) may have eliminated the remnant stock after commercial harvesting ceased. There has been no known harvest or international trade since 1960.

This species is listed as Endangered under the ESA and was included in Appendix I of CITES in 1975. In the unlikely event that any living specimens are discovered, they would be afforded ample legal protection under State and national laws. The validity of the subspecies as a taxon has been questioned for many years, in view of the variability among walleye populations and the occurrence of interbreeding. The Service anticipates that Canada might submit a similar proposal.

11. Longjaw cisco (*Coregonus alpenae*)—The Service is considering a proposal to remover the longjaw cisco from Appendix I. It was formerly abundant throughout the deeper areas of Lakes Michigan and Huron. The last reported occurrence of this species was in 1967. Overfishing and sea lamprey predation have been cited as reasons for its decline.

This fish is currently listed in Appendix I of CITES and as Endangered under the ESA. The Service anticipates that Canada might submit a proposal to remove this species from Appendix I.

Other Species

The Service has determined not to propose other changes in listings of North American species of Appendix I or II wildlife at this time. For many species, the best available information either indicates that no change is needed, or else it is inadequate to justify a change under criteria adopted by CITES Parties (the "Berne criteria").

In the case of the tundra peregrine falcon, the Service has determined not to develop a proposal for transfer from Appendix I to Appendix II. Reasons for this decision are: Listing the subspecies in appendix II could reduce the effectiveness of CITES in controlling trade in Appendix I peregrines, the transfer is not supported by other Parties in which this subspecies occurs, and the transfer would conflict with a resolution of the Parties (conf. 2.20) discouraging the listing of subspecies because of the difficulties it creates for practical implementation of CITES.

Beginning with the Plenipotentiary Conference in 1973, there have been listings ot taxa above the species level (e.g., genera, families, and orders) in the Appendices. A majority of Parties has shown a continuing interest in such listings, which are a convenient way of indicating that each species in-a particular taxon is individually listed. Certain Parties, including the U.S., are concerned about this practice because it often results in an obligation to regulate trade in species of native wildlife that already are subject to other forms of Federal, or State control. It has been difficult to reconcile CITES controls with previously existing controls, especially when they are separately administered by different levels of government.

The Service will consider this issue and other ones in the development of negotiating positions for the U.S. Delegation to the next meeting of the Parties. They will be addressed in future **Federal Register** notices.

Future Actions

The Service plans to publish a further **Federal Register** notice announcing its decisions on the species proposals discussed above, prior to submitting U.S. proposals to the CITES Secretariat for consideration at the Fourth Meeting of the Conference of the Parties. The date of that meeting has not been set, but it is expected to occur around April 1983. Notice of the Service's decisions is planned for publication in September 1982.

Persons having current information about species for which the Service prepared draft proposals are invited to contact the Service's Office of the Scientific Authority at the above address. The Service also requests information on environmental impacts of such proposed actions and their potential economic effects on State and local governments, persons, businesses, and organizations. This information will be useful in complying with requirements of the National Environmental Policy Act, the Regulatory Flexibility Act, and Executive Order 12291.

This notice was prepared by Drs. Richard M. Mitchell and Richard L. Jachowski, Office of the Scientific Authority.

Dated: February 8, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-4214 Filed 2-16-82; 8:45 am]

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federal register

Wednesday
February 17, 1982

Part IX

Environmental Protection Agency

Debarments and Suspensions Under EPA Assistance Programs

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 32

[OGC-FRL-2001-5]

Debarments and Suspensions Under EPA Assistance Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule sets forth procedures that enable EPA to deny any individual, organization or unit of government the opportunity to participate in EPA assistance agreements or subagreements, including contracts under grants, because of serious misconduct or poor performance on federally assisted projects.

This rule will provide EPA with a formal procedure for excluding persons with a demonstrated record of serious misconduct or poor performance from participating in any EPA-assisted activities and will further the Administration's effort to eliminate waste, fraud, and abuse in federally assisted programs.

DATE: Comments must be received on or before March 19, 1982.

ADDRESS: Send comments to—Gerald H. Yamada, Acting Associate General Counsel, Environmental Protection Agency, Office of the General Counsel (A–134), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sorett (202) 755–8108, Robert Meunier (202) 755–0860.

SUPPLEMENTARY INFORMATION: Under current procedures, EPA can only take preventative actions against assistance recipients or their contractors in cases of fraud or other corrupt practices associated with federally assisted activity. There are no existing regulations that authorize EPA to debar or suspend persons or organizations that have a demonstrated record of serious misconduct or poor performance from participation in EPA assistance programs. Further, repeated project-specific actions are required in order to protect the Government's interest.

In May 1981, an Agency Task Force was created to draft a debarment and suspension rule for EPA. After internal Headquarters and Regional review of the draft rule, the Task Force revised its draft to strengthen its requirements and accommodate comments received.

This rule has comprehensive coverage in that it applies to all recipients of EPA assistance as well as their contractors and subcontractors at any tier. It also includes affiliates of persons and proposes that serious problems with performance matters that contribute to fraud, waste, or abuse should be a basis for debarment or suspension. In addition, this rule provides for voluntary exclusions, settlements, and limited participation where appropriate.

In drafting this rule, the Task Force concentrated on developing a flexible procedure which assures all parties a fair opportunity to challenge a proposed decision to debar or suspend a particular person yet not be bound by formal rules of evidence or procedure. This should minimize the amount of time and cost that a person or organization subject to a debarment or suspension action must expend.

Under Executive Order 12291, EPA must judge whether a rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not have an annual effect on the economy of $100 million or more. This rule was submitted to the Office of Management and Budget for review, as required by Executive Order 12991. Any comments from OMB to EPA and any EPA response to those comments will be available for public inspection at the EPA Office of General Counsel, Room 1031, 401 M St., SW., Washington, D.C. 20460.

February 6, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

It is proposed that 40 CFR Part 32 be added as follows:

PART 32—DEBARMENTS AND SUSPENSIONS UNDER EPA ASSISTANCE PROGRAMS

Sec.

32.100 Authority.
32.101 Policy and scope.
32.102 Applicability.
32.103 Definitions.
32.200 Causes for debarment.
32.201 Initation of debarment.
32.202 Affiliates and imputed conduct.
32.203 Period of debarment.
32.204 Notice.
32.205 Hearing.
32.206 Determination.
32.207 Reinstatement.
32.208 Limited participation.
32.209 Voluntary exclusions and settlements.
32.300 Suspension.
32.301 Period and scope of suspension.
32.302 Notice and hearing.
32.400 Master list.
32.500 Implementation.

Authority: 7 U.S.C. 136 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 300f et seq., 4901 et seq., 6901 et seq., 7401 et seq., 9601 et seq.

§ 32.100 Authority.

Clean Air Act, 42 U.S.C. 7401 *et seq.*

Clean Water Act, 33 U.S.C. 1251 *et seq.*

Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*

Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*

Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 *et seq.*

Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

Noise control Act as amended by the Quiet Community Act, 42 U.S.C. 4901 *et seq.*

§ 32.101 Policy and scope.

It is EPA's policy to do business only with those participants which properly use Federal assistance. Thus, EPA shall deny participation in programs to those who have been debarred or suspended under this Part. This Part sets forth rules for debarment and suspension. These actions shall be used to protect the interests of the Government and are not intended to be sanctions, penalties, or forms of punishment. No action under this Part shall be taken unless there is a reasonable connection between performance under an EPA assistance program and the offense the person being debarred or suspended is alleged to have committed.

§ 32.102 Applicability.

This Part applies to all EPA assistance programs and subagreements under EPA assistance programs.

§ 32.103 Definitions.

(a) *Affiliate* means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised.

(b) *Assistance* means EPA's contribution to a project under a grant, loan, cooperative agreement, technical assistance award, substate agreement, or award under the Intergovernmental Personnel Act.

(c) *Director* means the Director, Grants Administration Division.

(d) *Debarment* means an action taken by the Director under § 32.200 to deny a person the opportunity to participate in EPA assistance or subagreements.

(e) *Person* means any individual, organization or unit of government that is or may become eligible to receive EPA assistance, or its employee. It also means any individual or organization that is or may become eligible to receive a subagreement.

(f) *Subagreement* means a written agreement between a recipient of EPA assistance and another party (other than

a public agency) and any tier of agreement thereunder for the furnishing of supplies, services, or equipment necessary to complete the project for which the assistance was awarded. These agreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

(g) *Suspension* means an action taken by the Director under § 32.300 to disqualify a person temporarily from receiving any EPA assistance or subagreement prior to award.

(h) *Substantial evidence* means such relevant evidence as a reasonable person might accept as sufficient to support a particular conclusion.

§ 32.200 Causes for debarment.

A person or its affiliate may be debarred for the following:

(a) Conviction of or a civil or nolo contendere judgment obtained for:

(1) Criminal commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;

(2) Commission of fraud, a criminal offense, or violation of law or regulation relating to personal or organizational conflict of interest as an incident to obtaining, attempting to obtain, or in the performance of, Federally or State assisted programs or public contracts; or

(3) Violation of Federal or State antitrust statutes arising out of submission of applications, bids, or proposals.

(b) A willful or serious failure to perform, or a recent history of substantial non-compliance with the terms of, one or more Federal assistance agreements, contracts, or subagreements.

(c) Violation of any contractual provision against receipt of contingent fees.

(d) Debarment by any Federal agency.

(e) Failure to pay debts to EPA that have been finally adjudicated and that are not subject to a good faith defense by the debtor.

(f) Doing business with a person listed on the Master List (*see* § 32.400) so as to cause that listed person to become a participant in EPA assistance programs where it is known or should have been known that the person was on the list.

(g) For any other causes of a serious and compelling nature indicating lack of business integrity or competency which may be determined by the Administrator or designee to justify debarment.

§ 32.201 Initiation of debarment.

Anyone may contact the Director concerning the existence of a cause for debarment. The Director may refer the matter to EPA's Inspector General for further investigation. If, after review or investigation, the Director reasonably believes that a cause for debarment exists, the Director may propose to debar.

§ 32.202 Affiliates and imputed conduct.

(a) The debarment order may include all known affiliates that knew or should have known of the improper conduct. A determination to include known affiliates in a particular debarment action shall be made on a case-by-case basis.

(b) Where the Director proposes to debar an affiliate, the affiliate shall have a right to:

(1) Receive notice of the proposed debarment; and

(2) Intervene in any hearing held on the proposed debarment or otherwise show that the affiliate had no actual or imputed knowledge of or involvement in the improper conduct.

(c) The affiliate must, in writing, advise the Director within 10 working days of receipt of notice of the proposed debarment of its intention to act under paragraph (b)(2) of this section. The failure to provide written notice within the 10-working-day period shall be a waiver of the right to act.

(d) The improper conduct of a person or its affiliate having a subagreement with an assistance recipient may be imputed to the assistance recipient for purposes of debarment where the impropriety occurred in connection with the person's duties for or on behalf of the recipient or with the knowledge, approval, or acquiescence of the recipient or its management.

§ 32.203 Period of debarment.

(a) Unless otherwise provided in this section, debarment shall be for a period of time commensurate with the seriousness of the cause for debarment, not to exceed three years from the date of debarment determination.

(b) Where debarment is based solely upon debarment by another Federal agency, the period of debarment shall run concurrently with the period established by that other debarring agency.

(c) Debarment may be for an indefinite period where a person who was previously debarred by any Federal agency is determined to have repeated the same offense.

§ 32.204 Notice.

(a) When the Director decides to propose debarment, the Director shall notify the person and affected affiliates, in writing, of the proposed debarment by certified mail, return receipt requested. Notice, if undeliverable, shall be considered to have been received by the addressee if properly sent to the last address known by EPA.

(b) The notice shall state:

(1) That debarment is being proposed;

(2) The specific acts or omissions which form the basis of the proposal;

(3) That the party being served will be accorded an opportunity for a hearing with right of counsel if the person so requests and the request is made in writing within 10 days after the date of receipt; and

(4) That failure to timely request a hearing will result in debarment as proposed.

(c) If the person is under suspension, the notice of debarment shall specify that unless the order of suspension is terminated, the suspension continues until the debarment proceedings are completed. If the suspension and debarment actions are taken simultaneously, the notice shall also include all of the information required by section 32.302 of this Part.

§ 32.205 Hearing.

(a) The Director shall act as a hearing officer or appoint a hearing officer or panel which shall conduct a hearing if the person or affiliate who is the subject of a proposed debarment action requests a hearing in accordance with § 32.204(b)(3) of this part.

(b) The hearing officer shall arrange for a prompt hearing and notify the parties, in writing, of the time and place of the hearing. The hearing shall be initiated no later than six months after the request is received unless that Inspector General determines that such action is likely to jeopardize an investigation.

(c) The hearing shall be conducted in an informal manner including the right to call, ask questions of, and confront witnesses without resorting to formal rules of evidence or procedure.

(d) A transcribed record of the hearing shall be made unless the person and EPA mutually agree to waive the requirement for a transcript. A copy of the transcript shall be made available at cost upon request.

(e) The existence of the cause(s) for debarment shall be proved by substantial evidence, except where the cause is established under § 32.200(a)(1) of this part by proof of judgment or conviction of the offenses.

§ 32.206 Determination.

(a) The hearing officer or panel shall make a written determination (order) on the evidence presented, including mitigating factors and the extent to

which the determination applies to any affiliates named in the action. The determination shall be transmitted to all respondents by pesonal service or certified mail, return receipt requested.

(b) Any person may seek reconsideration for alleged errors of fact or law. The request must specifically describe the basis for the request and must be filed with the hearing officer or panel within five days from the date of the person's receipt of the determination.

(c) The determination shall be final unless within 10 days of the date of receipt of the determination or its reconsideration any party to the hearing requests the Administrator to review the findings of the hearing officer.

(d) Notice of the Administrator's decision to review the hearing determination and the subsequent determination by the Administrator shall be given in writing to all respondents by personal service or certified mail, return receipt requested.

(e) Where a review is granted, the determination by the Administrator shall be final and shall be based solely on the record of the hearing. The final decision shall recite the grounds upon which the Administrator's determination is made.

(f) Neither the determination of the hearing officer nor the decision of the Administrator shall be the subject of a dispute under 40 CFR 30.1100 or a bid protest or dispute appeal under Parts 30, 33 or 35 of this chapter.

(g) Each determination shall become part of the record.

§ 32.207 Reinstatement.

(a) Any debarred person may request reinstatement by submitting a petition to the Director supported by documentary evidence stating that the causes for debarment no longer exist or have been substantially mitigated.

(b) The determination whether to reinstate will ordinarily be based on written statements with supporting documentation without a further hearing. However, the Director may require a hearing on the request for reinstatement.

(c) Unless prohibited by statute, the Director may at any time reinstate a debarred person or rescind the debarment upon a determination that the cause(s) upon which the debarment is based no longer exists. The determination shall be in writing and shall specify the factors on which it is based.

§ 32.208 Limited participation.

(a) In an emergency, the Director may allow a debarred person to participate in EPA programs on a limited basis during the debarment period. In such situations, the Director shall make a written determination that the public interest requires such participation. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

(b) Where a debarred person is the recipient of an assistance award, the award shall be evaluated on its own merits to see if it should be terminated under Part 30 of this chapter.

§ 32.209 Voluntary exclusions and settlements.

(a) When in the best interest of EPA, the Director may enter into an agreement with a person providing for that person's voluntary exclusion from EPA programs for a specified period of time.

(b) The Director may settle a debarment action in the best interest of EPA at any time prior to the debarment determination.

(c) Voluntary exclusions and settlements are not findings of debarment by EPA. However, violations of agreements for voluntary exclusions and settlements may result in debarment.

§ 32.300 Suspension.

(a) Whenever the Director believes that grounds for debarment exist, the Director may suspend a person from receiving any award in accordance with the procedures in § 32.302.

(b) The Director shall suspend only where compelling reasons exist to protect the interests of EPA which would be jeopardized by waiting for completion of a debarment hearing or action. The Director may also suspend a person or its affiliates if there is an outstanding indictment for a criminal offense and where there is a reasonable connection between the alleged offense and performance under an EPA assistance program.

§ 32.301 Period and scope of suspension.

(a) Unless otherwise agreed to by the parties, the period of suspension shall be:

(1) Until completion of an investigation and ensuing legal proceedings, including debarment, where suspension is based upon criminal indictment; or

(2) Six months unless a debarment proceeding is initiated within six months after issuance of a notice of suspension in which case suspension shall continue in effect pending completion of debarment proceedings.

(b) The Director shall determine whether to include or suspend affiliates on a case-by-case basis.

(c) For purpose of suspension, a person's conduct may be imputed to another person in accordance with § 32.202.

(d) Any person who knowingly participated in the conduct may also be suspended. The person is entitled to notice and opportunity for a hearing in accordance with § 32.302.

(e) The decision to suspend shall not be the subject of a dispute under 40 CFR 30.1100 or a bid protest or dispute appeal under Parts 30, 33, or 35 of this chapter.

§ 32.302 Notice and hearing.

(a) When a person is suspended, the Director shall issue a notice of the suspension to all affected persons by personal service or certified mail, return receipt requested. Notice, if undeliverable, shall be considered to have been received by the addressee if properly sent to the last address known by EPA.

(b) The notice of suspension shall state:

(1) The bases for suspension and identify the indictment or describe the specific nature of the irregularities, without disclosing the government's evidence;

(2) The period of the suspension;

(3) That bids, proposals, and applications for assistance will not be solicited or accepted from the person and, if received, will not be considered; and

(4) That the person given notice is entitled to a hearing on the suspension if the person requests a hearing within 10 working days of receipt of the notice.

(c) A hearing under the section shall be conducted, to the extent practicable, in accordance with the procedures in § 32.205.

(d) The hearing officer or panel shall make a written determination (order) on the evidence presented, including mitigating factors and the extent to which the determination applies to any affiliates named in the action.

§ 32.400 Master list.

(a) The Director shall maintain a Master List of debarments, suspensions, and voluntary exclusions under this Part.

(b) The Master List shall show as a minimum the following information:

(1) The names of those persons whom EPA has debarred or suspended under this Part;

(2) The basis of authority for such action;

(3) The reasons for debarment or suspension;

(4) The period of debarment or suspension, including the expiration date(s); and

(5) The name of the debarring or suspending agency, where EPA's debarment or suspension is based on debarment or suspension by another Federal agency.

(c) The Master List shall include a separate section listing persons voluntarily excluded from participation in EPA programs.

§ 32.500 Implementation.

(a) No award of assistance or subagreements shall be made to any person on the Master List.

(b) Doing business under an EPA assistance agreement with a person who is named on the Master List shall result in disallowance of costs under such agreement and may result in debarment under § 32.200.

[FR Doc. 82-4218 Filed 2-16-82; 8:45 am]

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federal register

Wednesday
February 17, 1982

Part X

Department of Health and Human Services

Food and Drug Administration

Prescription Drug Products; Proposal To Revoke Patient Package Inserts Requirements

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket Nos. 79N-0186 and 80N-0370]

Prescription Drug Products; Proposal to Revoke Patient Package Inserts Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposal to revoke final rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revoke its final rule establishing requirements and procedures for the preparation and distribution of patient package inserts (PPI's) for prescription drug products for human use. On the basis of its further review of its PPI program, FDA believes the goals of providing patients with information about prescription drugs can be reached more effectively and efficiently by cooperating with health professionals and others in both the public and private sector to expand upon current initiatives in patient education, rather than by pursuing a more limited mandatory program through Federal regulations.

DATE: Comments by April 19, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eileen Hodkinson, Bureau of Drugs (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4690.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 12, 1980 (45 FR 60754), FDA issued a regulation requiring patient package inserts for certain prescription drug products. This regulation was an effort to deal with the complex problem of providing patients using prescription drugs with useful information on drug use.

There appears now to be a general consensus among the health care professions, the related industries, and the govenment that patients should be provided with more information about prescription drugs. Nonetheless, there remains significant disagreement among the same parties as to the best approaches to providing such information.

The Food and Drug Administration's regulation would have required leaflets to be given to patients at the time prescription drugs were dispensed. These leaflets, commonly known as patient package inserts or "PPI's," were to be distributed under a system that borrowed heavily on the regulatory mechanisms by which the agency has routinely regulated the manufacture and sale of prescription drugs. Manufacturers would have been obligated to prepare the leaflets and to provide them to dispensers who were then obligated to provide them to patients with each new prescription dispensed.

While FDA originally, in proposing its program (44 FR 40016; July 6, 1979), planned to require the dispensing of leaflets for virtually all prescription drugs, the agency subsequently decided, because of continuing concerns about the cost and effectiveness of the program, to limit it to a 3-year pilot program involving 10 classes of drugs (approximately 150 to 200 drug products) (45 FR 60754; September 12, 1980). This "pilot" program was intended to provide more definite data about the costs and benefits of PPI's.

The pilot program was to be effective for three drugs (cimetidine, clofibrate, and propoxyphene) on May 25, 1981 (45 FR 78516; November 25, 1980); and for two other drugs (ampicillin and phenytoin) on July 1, 1981 (46 FR 160; January 2, 1981). Effective dates for the remaining five drugs were not established.

On February 17, 1981, shortly after assuming office, President Reagan issued Executive Order 12291 (46 FR 13193; February 19, 1981). Section 2 of that Order requires each agency to adhere to certain principles in promulgating new regulations and reviewing existing regulations. Because these factors generally echoed in large measure the concerns expressed about mandatory PPI's, the Department of Health and Human Services and FDA decided that a review of the PPI rule would be a proper response to the Executive Order.

In the Federal Register of April 28, 1981, the agency stayed the effective dates for the five drugs for which the rule was then scheduled to take effect (46 FR 23815, 23739). The stays were justified on the basis that there needed to be further review of the questions that had continued to be raised about the program. Numerous comments had been received expressing the view that mandatory PPI's were unnecessarily burdensome, costly, and not consistent with Executive Order 12291. The agency noted in the stay notices that additional review of the PPI program was consistent with the spirit of the Executive Order.

On September 30 and October 1, 1981, the agency held a public meeting in Washington, DC, on the PPI program. Individuals and organizations representing all sides of the debate surrounding PPI's presented testimony at the meeting, which was chaired by the Commissioner and Deputy Commissioner of FDA.

The Commissioner of Food and Drugs has reviewed the information that was presented at the public meeting, the information in the agency's administrative record of the patient package insert program, and the results of a 3-year study conducted under contract for the agency by the Rand Corp. on the effects of prototype PPI's. The review included an analysis of the suitability of the pilot program for producing reliable data on the effectiveness of PPI's; a consideration of alternative means of providing needed information to patients about drugs prescribed for their use; and an examination of the cost effectiveness of PPI's and other sources of drug information. On the basis of that review, FDA is proposing to revoke the regulation of September 12, 1980.

Rationale for Agency Decision

At the time it decided to implement the 10-drug pilot program, FDA recognized that additional studies would be needed to confirm the program's utility, to determine whether its costs would be reasonable in terms of the benefits the program might provide, and ultimately to determine whether such a program was the best way to convey information about prescription drug products to patients. For these reasons, the pilot program was to be evaluated before the agency would apply the requirements to additional drugs.

On the basis of its review, however, FDA no longer believes it can justify the 10-drug pilot program. The decision to propose its revocation is based both on new information and on a different view and evaluation of some of the same factors that were present in the decision to implement the program. The agency still believes strongly that informing patients more fully about prescription drugs will significantly improve the quality of their health care. It is no longer convinced, however, that a mandatory program that would provide patients with individualized, drug-specific leaflets at the time of dispensing is the most effective way of accomplishing this goal.

One of the program's shortcomings, the Commissioner believes, is that the pilot program would not likely have achieved its principal objective, that of making it possible to determine whether a mandatory, pharmacy-oriented, drug

leaflet program is the only practical way of accomplishing patient education on drugs. While the pilot program might have shown that the program is technically viable, i.e., that pharmacists are able to provide PPI's and that patients will read them, it would likely not show whether the program's ultimate goal—improving patient knowledge of prescription drugs in an effort to reduce the level of misuse of prescription drugs—could be achieved by other initiatives, including those sponsored by the private sector, or whether other methods might produce even better results.

Moreover, since the promulgation of the pilot program, new initiatives in patient information programs have been taken by the private sector. These initiatives appear to be accompanied by considerable enthusiasm in providing patients with meaningful drug information. The agency is concerned that, although the mandatory program would not preclude further private sector efforts, it might significantly discourage them. Therefore, consistent with government efforts at regulatory reform, the agency now believes that encouraging these efforts is preferable to the more rigid constraints of the mandatory government program.

Further, the agency believes that this variety of private sector initiatives, if effectively implemented, can provide consumers with more information than may have been possible under the agency's pilot program. Such initiatives would not be limited to only 10 drugs or drug classes and could be quickly applied to many prescription drugs. Moreover, FDA's cooperation with the private sector should encourage experimentation with diverse systems for delivering patient information, thereby promoting innovation in delivery systems and giving the agency the opportunity to assess the relative merits of alternative means of increasing patients' knowledge about drugs.

Other factors, as well, have played a significant role in this decision:

1. The mandatory pilot program is significantly deficient as a regulatory model. This is because it requires providing patient information at the time of dispensing, a time that is less optimal than the time of prescribing. Among private sector initiatives of which FDA is aware is a planned effort to supply physicians with drug information that can be given to and discussed with patients at the time of prescribing. At that point, the patient is better able to have questions resolved and to be informed of correct drug use and expected results. As many comments have pointed out, a patient who obtains a PPI at the time of dispensing has already purchased the drug, and will certainly find it more difficult to discuss the information with the prescribing physician.

2. FDA acknowledges that the cost of the program are of some concern, particularly when viewed in the context of other limitations in the program. Even accepting FDA's original estimate of $21 million, costs of this magnitude should produce a better information delivery scheme.

3. There was strong disagreement about the design and value of the program on the part of the key health professionals who would implement it, and from the drug industry as well. For example, pharmacists were intended to play the major role in actually dispensing PPI's to patients. Consequently, although the national organizations of pharmacists and pharmacy owners agreed with the goal of better patient education with respect to prescription drugs, pharmacists felt particularly singled out as having most of the program's burden placed on their shoulders.

The medical profession and the drug industry, although less burdened with obligations under the mandatory program, also did not support the program (with rare exceptions). Reasons for this lack of support included the views that patient information on prescription drugs is best provided by the physician, that the pilot program is too costly, that any PPI program should await well-documented evidence of a positive impact on health care, and that the other voluntary approaches to providing patients with information should be tried.

FDA agrees that the disproportionate impact of the PPI regulation on pharmacists should be taken into consideration in deciding whether the PPI program is the best public policy. While pharmacists bear only part of the health professions' responsibility for the education of consumers about prescription drugs, the current regulation does in fact place on them most of its practical and legal burdens.

In addition, the failure of the health professions and the drug industry to agree with the worth of the regulation is itself a legitimate consideration in deciding whether to go forward with the program when there are equally effective and possibly superior alternative means of achieving the goal of increased patient information. Success in a major new informational program for consumers is far more likely if accompanied by broad support of the health professions.

In sum, given the need for Federal regulations to be both necessary and cost-effective, a principle reflected most clearly in Executive Order 12291, it is fully appropriate that FDA propose the withdrawal of its mandatory pilot PPI regulation. It views the imposition of this regulation as unjustifiable, particularly given the increasingly visible efforts to implement various programs of patient information, efforts that should not now be preempted by a single, limited Federal program of less-than-proven utility.

Committee on Patient Education

Regardless whether FDA ultimately determines to revoke its PPI regulation, it intends nonetheless to continue to perform a significant role in providing proper drug information to consumers and patients. The agency intends to work closely with the private sector and with other public sector agencies to identify and implement methods of providing information about prescription drugs to consumers, to promote patient education, to monitor changes in patient awareness of drug information, and to develop and evaluate the effectiveness of information dissemination activities. To accomplish these goals, the Commissioner of Food and Drugs has established within FDA a Committee on Patient Education to coordinate the department's efforts to educate consumers about prescription drugs and to serve as a catalyst for private sector initiatives in this area. Both public and private sectors are being asked to suggest ideas about the best ways to provide information to consumers and to make a commitment to carry out those ideas.

Some of the functions of the agency to be guided by the Committee are to: (1) Evaluate existing patient information systems as well as new ones; (2) encourage the formation of, and serve as a liaison for, outside organizations that are or want to become active in patient information systems; (3) provide guidance and serve as a clearinghouse for firms that want to draft prescription drug information; (4) alert consumers and health professionals to the usefulness and availability of prescription drug information; (5) identify the need for patient information in the use of other products regulated by FDA, such as medical devices, x-ray machines, and biological products; and (6) report its activities to the Secretary of Health and Human Services on a regular basis.

PPI Requirements for Certain Drugs

This proposal to revoke FDA's patient package insert regulation would not affect the agency's authority to require individual patient package inserts through notice and comment rulemaking and would not revoke the existing requirements for PPI's to be distributed with oral contraceptives, certain intrauterine devices, estrogens, and progestational drug products.

Discretion To Establish PPI Requirements

Questions have been raised regarding FDA's legal authority to revoke this regulation in litigation filed by Public Citizen, a consumer group. *Public Citizen* v. *Schweiker*, No. 81–0820 (D.D.C., July 31, 1981) order holding matter in abeyance, No. 81–1896 (D.C. Cir., November 30, 1981). FDA believes it is fully authorized to revoke the program should it determine, on the basis of this rulemaking, to do so. The regulation requiring PPI's for prescription drugs is a discretionary one, issued under sections 502(a), 201(n), 505, and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(a), 321(n), 355, and 371(a)). The legal authority for the regulation is discussed at length at 45 FR 60758–60759 (September 12, 1980). This authority justified, but did not mandate, the agency's action, nor does any other statutory directive compel its action. In that the regulation is a discretionary one, it may be revoked under the same discretionary authority that permitted its issuance.

Continuation of Stays

This notice continues in effect stays of the guidelines and regulation issued on April 28, 1981 (45 FR 23739, 23815). The stays were issued to permit further examination of the costs and utility of the patient labeling program. That examination has now resulted in this proposal of revocation.

The Commissioner finds good cause to continue the stays in effect, without prior opportunity for comment, pending the conclusion of this rulemaking proceeding. Agency estimates of the costs of compliance were $21 million per year, and industry estimates have been much higher. Most costs, moreover, particularly for pharmacists, involved start-up costs, e.g., the purchasing of storage cabinets, racks, etc., to hold patient labeling leaflets or from which the leaflets might be dispensed. It would be patently impracticable, and not in the public interest, to implement these costly requirements for what may be only the period of the proposed rulemaking, as would be the case if the PPI regulation is ultimately revoked. As it is only this interim period of compliance on which comment on the stays would be concerned, FDA does not believe separate formal public process on the single issue of the interim stays to be necessary or in the public interest. Nonetheless, persons filing comments on the proposed revocation are welcome to comment on the propriety of the interim stays, and these comments will be considered in the agency's review.

Impact Analysis

FDA, in accordance with the Regulatory Flexibility Act (Pub. L. 96–354; 94 Stat. 1164–1170), and Executive Order 12291, has determined that because the patient package insert final regulation was never implemented, its revocation has no economic impact.

PART 203—[REMOVED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 506, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 356, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under 21 CFR 5.11 (see 46 FR 28052; May 11, 1981) it is proposed that Part 203 be removed.

Interested persons may, on or before April 19, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: February 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: February 12, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-4479 Filed 2-16-82; 12:29 pm]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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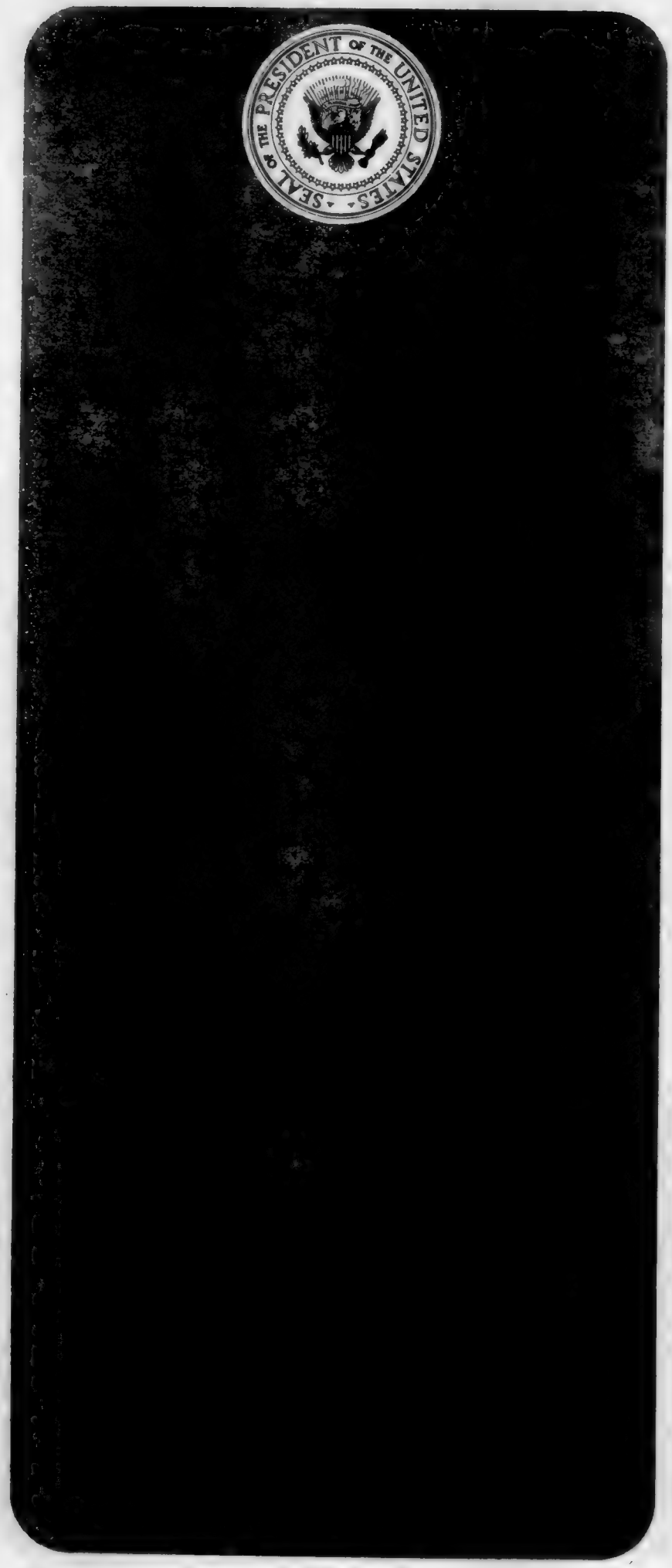

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federal register

Thursday
February 18, 1982

Highlights

7305 **Grant Programs—Education** ED extends closing date for transmittal of applications under the Fund for the Improvement of Postsecondary Education's FY 1982 Comprehensive Program.

7304 **Grant Programs—Education** ED invites individuals to apply to serve as field readers for the High School Equivalency Program and College Assistance Migrant Program. (2 documents)

7239 **Civil Defense** FEMA establishes peacetime screening of non-federal employees who are Ready Reservists.

7255 **Motor Vehicle Safety** DOT/NHTSA adopts amendments to school bus emergency exit standard.

7292 DOT/NHTSA terminates rulemaking proceeding to amend air brake systems safety standard for school buses.

7250 DOT/NHTSA revokes standard on speedometers and odometers.

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7291 DOT/NHTSA requests comments on head restraints evaluation report.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

7245 **Motor Vehicles** DOT/NHTSA establishes requirements for relief petitions submitted under the Automobile Fuel Efficiency Act of 1980 and amends regulations on light truck fuel economy standards.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 7]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum size requirement applicable to fresh shipments of Dancy variety tangerines from 2$^{9}/_{16}$ inches to 2$^{7}/_{16}$ inches in diameter. This action allows an increase in the supply of tangerines in recognition of demand conditions and the size composition of the available supply in the interest of growers and consumers.

EFFECTIVE DATE: February 15, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

This amendment would relax limitations on the handling of Dancy tangerines by permitting each handler during the period February 15 through August 22, 1982, to ship 246 size (2$^{9}/_{16}$ inches) Dancy tangerines. On and after August 23, 1982 the size would remain 210 (2$^{7}/_{16}$ inches).

The minimum grade requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirement applicable to Florida Dancy tangerines in recognition of the recent freeze in Florida. The freeze has resulted in some fruit loss and increased market demand for the remaining fruit supply. The committee further reports that the remaining fruit is small, "late bloom" fruit which will not attain larger size and there is a need to augment the total available supply by permitting shipment of smaller size fruit. Specification of this requirement assures that the available supply of marketable fruit reaches the consumer.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Dancy tangerines. Handlers have been apprised of such provisions and the effective date.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the provisions of § 905.306 (Orange, Grapefruit, Tangerine and Tangelo Regulation 6 (46 FR 60170; 60411; 61441; 47 FR 589; 5192; 5699; 6248)) are amended by amending table I paragraph (a) to read as follows:

§ 905.306 Orange, grapefruit, tangerine, and tangelo regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
* * * * *			
Tangerines:			
Dancy	2/15/82-8/22/82	U.S. No. 1	2$^{9}/_{16}$
	On and after 8/23/82	U.S. No. 1	2$^{7}/_{16}$
* * * * *			

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 12, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-4378 Filed 2-17-82; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1139

[Docket No. AO-374-A6]

Milk in the Lake Mead Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Lake Mead order provisions pertaining to butterfat differentials for adjusting prices to the actual butterfat content of the milk being priced and to the classification of milk used in the production of ice cream and other frozen desserts. The amendments are based on industry proposals considered at a public hearing held September 23-24, 1980. The changes, which have been approved by more than two-thirds of the producers in the market, are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued August 27, 1980; published September 3, 1980 (45 FR 58366).

Recommended Decision: Issued September 9, 1981; published September 15, 1981 (46 FR 45776).

Extension of time for filing exceptions to proposed rule: Issued October 2, 1981; published October 8, 1981 (46 FR 49908).

Final Decision: Issued January 19, 1982; published January 25, 1982 (47 FR 3361).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Lake Mead marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to Section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interest of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Lake Mead marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

§ 1139.12 [Amended]

1. In § 1139.12, paragraph (b)(5) is removed.

2. In § 1139.40, paragraphs (b)(3) and (c)(1) are revised to read as follows:

§ 1139.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese; and

(ii) Milkshakes and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes.

(c) * * *

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter, plastic cream, frozen cream, and anhydrous milkfat;

(iii) Any milk product in dry form;

(iv) Custards, puddings, and pancake mixes;

(v) Formulas especially prepared for infant feeding or dietary use that are packed in hermetically sealed glass or all-metal containers;

(vi) Evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any concentrated milk product in bulk, fluid form;

(vii) Any product containing 6 percent or more nonmilk fat (or oil) except those products specified in paragraph (b)(1) of this section; and

(viii) Any product that is not a fluid milk product and that is not specified in paragraphs (b) or (c)(1) (i) through (vii) of this section;

* * * * *

3. In § 1139.44, paragraph (a)(7)(vii) is revised to read as follows:

§ 1139.44 Classification of producer milk.

* * * * *

(a) * * *

(7) * * *

(vii) Receipts of milk from a dairy farmer pursuant to § 1139.12(b)(4);

* * * * *

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1139.55 [Removed]

5. Section 1139.55 is removed in its entirety.

6. In § 1139.60, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1139.60 Handler's value of milk for computing uniform price.

* * * * *

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1139.44 by the applicable class prices (adjusted pursuant to § 1139.52) and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1139.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current

month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44 (b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

* * * * *

7. Section 1139.61 is revised to read as follows:

§ 1139.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60 for all handlers who filed reports prescribed by § 1139.30 for the month and who made the payments pursuant to § 1139.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1139.75;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

8. Section 1139.62 is revised to read as follows:

§ 1139.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

9. Section 1139.74 is revised to read as follows:

§ 1139.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective date: April 1, 1982.

Signed at Washington, D.C., on February 10, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection.

[FR Doc. 82-4336 Filed 2-17-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Revocation of General License

AGENCY: Nuclear Regulatory Commission.

ACTION: Revocation of final rule.

SUMMARY: The Commission is revoking the general license issued November 10, 1981, to allow persons licensed by an Agreement State to process uranium ore to also possess uranium mill tailings.

DATES: The revocation is effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Fonner, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492–8692.

SUPPLEMENTAL INFORMATION: On November 10, 1981, the Commission issued a general license, effective November 8, 1981, to permit the possession of byproduct material in the form of uranium mill tailings (See 46 FR 55505). The license applies only to persons in Agreement States who hold current Agreement State specific licenses for source material (uranium) processing. The general license was necessary at that time to fill the gap between the accession of jurisdiction over such byproduct material to the Nuclear Regulatory Commission under terms of Section 204 of the Uranium Mill Tailings Radiation Control Act of 1978, as amended, and the time when Agreement States would execute amendments to their Agreements relinquishing such jurisdiction to them.

It was noted in the **Federal Register** notice promulgating the general license that the Congress had before it certain legislative proposals that could affect the need for the general license. Subsequent to the publication of the general license the Congress enacted, and the President signed, Public Law 97–88 (effective December 4, 1981), the "Energy and Water Development Appropriation Act, 1982." To the part of Title IV of that Act pertaining to Commission appropriations for fiscal year 1982 (October 1, 1981 to September 30, 1982) the Congress appended the following:

> * * * that no funds appropriated to the Nuclear Regulatory Commission in this Act may be used to implement or enforce any portion of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980, or to require any State to adopt such requirements in order for the State to continue to exercise authority under State law for uranium mill and mill tailings licensing, or *to exercise any regulatory authority for uranium mill and mill tailings licensing in any State that has acted to exercise such authority under State law:* * * *. (emphasis supplied)

Each of the four Agreement States with active uranium mills covered by the general license (Washington, Colorado, Texas, and New Mexico) has acted to exercise authority under State law over uranium mill tailings. The Congress, as indicated by the above language and the legislative history of this provision, has intended to delay the exercise of NRC jurisdiction in those States until October 1, 1982. Accordingly, the general license serves no purpose at the present time and should be revoked. However, should no further legislative action be taken by the Congress to amend the Uranium Mill Tailings Radiation Control Act of 1978 or otherwise to further extend the time for accession of jurisdiction to NRC, it may be necessary by October 1, 1982 to reinstate the general license or require specific Commission licenses for uranium mill tailings.

Because this notice serves to implement the intention of Congress the Commission for good cause finds that notice and public comment on the revocation of the general license are unnecessary and that it can be made effective immediately upon publication. 5 U.S.C. 553(d)(3).

Therefore, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of

Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 40, is published as a document subject to codification.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for 10 CFR Part 40 reads as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 83, 84, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846) unless otherwise noted. Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 40.3, 40.25(d)(1)–(3), 40.35(a)–(d), 40.41(b) and (c), 40.46, 40.51(a) and (c) and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)); and §§ 40.25(c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.41(f), 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended, (42 U.S.C. 2201(o)).

§ 40.27 [Removed]

2. Section 40.27 of 10 CFR Part 40 is revoked and removed.

Dated at Washington, D.C., this 12th day of February, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-4881 Filed 2-17-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 81-ASW-66, Amdt. No. 39-4314]

Costruzioni Aeronautiche Giovanni Agusta Model A109A Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires frequent checks and inspections for cracks and loose or missing rivets, and repair as necessary, of several areas of the tail boom on Agusta Model A109A helicopters. If cracks and defective riveting are undetected, structural failure of the tail boom or tail fin may occur with possible loss of helicopter control. Modifications are approved that will eliminate necessity for the inspections noted in the AD.

DATES: Effective February 19, 1982. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD which requires daily checks and 25-hour interval inspections and repair as necessary of the tail boom and fin assembly of Agusta A109A series helicopters. Only certain specified tail boom assemblies are affected by the AD. The tail boom and fin are one assembly.

Prior History

Technical Bulletin No. 109-23 was issued August 1980 to require frequent visual inspections, to repair as necessary, and to modify several areas of the tail boom and the vertical fin. The bulletin was issued because of several reports of cracks in the tail boom and fin occurring on Model A109A helicopters. Only certain serial numbered tail booms were affected by the bulletin.

Subsequently, Revision A to Technical Bulletin No. 109-23 was issued June 1981 to add an external doubler to the tail boom at the stabilizer support because of continuing reports of cracks in this area on previously modified tail booms. Technical Bulletin No. 109-31 was also issued in June 1981 to provide an alternate and equivalent repair to the repair contained in Revision A of Bulletin No. 109-23 for certain tail booms, and to require frequent visual inspections of the elevator support frames and to allow repair of additional tail booms not included in Bulletin No. 109-23.

Voluntary compliance with the bulletins has been satisfactory. The manufacturer has assisted operators to comply with the repairs noted in the bulletins. Nevertheless, it is necessary to issue an AD making compliance mandatory to maintain airworthiness of the Model A109A helicopters. After all repairs and modifications specified in these bulletins have been accomplished, further inspections are not required by the AD. A representative of the manufacturer has provided the agency with information that most of the tail boom assemblies have been modified as prescribed in the bulletins.

The representative further advised that exchange tail boom assemblies are available to facilitate compliance with the modification and repair aspect of the technical bulletins and the AD. Tail boom assemblies serial numbers 108EM and subsequent have been modified at the factory and are not affected by the AD.

Need for Amendment

Cracks have occurred in the upper fin left-hand forward stringer and the adjacent outer skin. Loosening of rivets and cracking of fin external doubler adhesive were also found. Cracks have been reported in the tail boom aft end bulkhead frame, in the bulkhead frames adjacent to the elevator support, in the upper fin aft longeron stringer, and in the tail boom skin in the area of a tail rotor drive shaft forward bearing hanger. Frequent checks and inspections at daily and 25-hour interval respectively, are necessary to detect cracks or loose rivets in the applicable areas. Repair of cracks or replacement of loose rivets, if found, is necessary to prevent possible structural failure of the tail boom assembly on Agusta Model A109A helicopter. Failure of the tail boom may result in loss of helicopter control.

Since a situation exists that requires immediate adoption of this regulation to enforce the frequent repetitive inspections of the applicable technical bulletins, it is found that notice and public procedure herein are unnecessary since persons are voluntarily complying with the bulletins, and good cause exists for making the amendment effective in less than 30 days.

No additional significant impact, economic or otherwise is anticipated with adoption of this amendment since the manufacturer has reported that operators have been complying with checks and inspections in the noted technical bulletins. These checks and inspections are estimated to cost $4,160

per year for the 10 Model A109A helicopters that have not been modified.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Costruzioni Aeronautiche Giovanni (Agusta): Applies to all Model A109A series helicopters equipped with tail boom assembly up to and including Serial Numbers 056 and Serial Numbers 030EM through 107EM, inclusive, certificated in all categories.

Compliance is required as indicated.

To detect possible cracks and prevent structural failure of the tail boom assembly and possible loss of control of the helicopter, accomplish the following:

(a) For tail boom assemblies serial numbers up to and including 056 and 030EM through 057EM, accomplish the following:

(1) Before the first flight of each day, unless the tail boom has been modified in accordance with Agusta Kit No. 109–0820–1 or –3, visually check the tail fin outer skin areas shown in Figures 1 and 2 of Agusta Technical Bulletin No. 109–23, Revision A dated June 17, 1981, (hereinafter referred to as Technical Bulletin 23A) for cracks, missing or loose rivets, and breaking of adhesive.

(2) Within 25 hours' time in service after the effective date of this AD, and thereafter at intervals not exceeding 25 hours' time in service from the last inspection unless the tail boom has been modified in accordance with Agusta Kit No. 109–0820–23–3, inspect the tail boom in accordance with "Accomplishment Instructions," Part II, of the Technical Bulletin 23A.

Note.—Tail booms incorporating modificaton Kit No. 109–0820–23–1 are still subject to this inspection.

(3) When cracks, missing or loose rivets, or breaking of adhesive are found during the checks or inspections required in subparagraphs (a)(1) or (a)(2), repair the tail boom assembly as necessary, in accordance with "Accomplishment Instructions," Part III, of the Technical Bulletin 23A before further flight, except the aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where the repair may be performed.

(b) For tail boom assemblies serial numbers 058EM through 107EM, accomplish the following:

(1) Within 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 25 hours' time in service from the last inspection, unless the tail boom has been modified in accordance with Agusta Kit No. 109–0950–54, inspect the tail boom elevator support frames in accordance with Part I, of Technical Bulletin No. 109–31 (hereinafter referred to as Technical Bulletin 31) for cracks in the support frames.

(2) When cracks in the frames are found, repair the tail boom assembly, as necessary, before further flight in accordance with Part II of Technical Bulletin 31, except the aircraft may be flown in accordance with FAR 21.198 and 21.199 to a base where the repair may be performed.

(c) Equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(d) Installation of Repair Modification Kit No. 109–0950–54, "Elevator Support Frames Structural Repair" contained in Technical Bulletin 31 is equivalent to the elevator support frame repair (Modification No. 109–0820–23–3) that is contained in Technical Bulletin 23A.

(e) The checks specified in subparagraph (a)(1) may be performed by the pilot.

Note.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see FAR 91.173.

This amendment becomes effective February 19, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979). A copy of the final regulatory evaluation or analysis, prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on February 3, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82–4221 Filed 2–17–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 81–NW–73–AD, Amdt. 39–4315]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD) which requires a change to the rigging of the slide inflation system firing mechanism on certain Boeing Model 747 series airplanes equipped with fairing mounted (offwing) escape slides. This AD is prompted by a report of an inservice failure of the slide to inflate when deployed with the flaps in the zero or five unit position. This action is necessary to ensure proper functioning of the escape slide in the event of an emergency evacuation.

DATES: Effective date March 21, 1982.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM–120S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring rerigging of the fairing mounted (offwing) escape slide firing mechanisms on certain Boeing Model 747 series airplanes which are equipped with these slides was published in the **Federal Register** on November 16, 1981, (46 FR 56206).

The proposal was prompted by the following history.

It had been reported that during a recent emergency evacuation involving a B–747, the number 3L offwing slide was deployed but did not inflate. Later investigation revealed that the offwing slide would deploy but not inflate with the trailing edge flaps in the full up position. Further tests at Boeing confirmed that the slide may not inflate due to interference between the offwing fairing door and the trailing edge wing panel and flaps when the flaps are in either the zero or five unit position. In 6 of 9 deployment attempts at zero flaps the slide failed to inflate. This is the result of the incorporation of Service Bulletin 747–57–2073 which changed the trailing edge flap rigging. Boeing has issued Alert Service Bulletin No. 747–25A2581 by which the inflation system firing cable may be rerigged to ensure the inflation of the slide. Failure of the slide to properly inflate could have an adverse effect on the emergency evacuation of the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires rerigging of the fairing mounted (offwing) escape slide firing

mechanism in accordance with Service Bulletin 747–25A2581 on certain Boeing Model 747 series airplanes which are equipped with these slides and have Service Bulletin 747–57–2073 or the production equivalent incorporated.

Interested persons have been afforded an opportunity to participate in the making of this amendment. In response, the Air Transport Association of America (ATA) commented on behalf of its member airlines. It was stated that all ATA member B747 operators would have Boeing Alert Service Bulletin No. 747–25A2581 accomplished within the proposed 1200 hour time limit. The manufacturer suggested that the AD's applicability statement be revised to exempt B747SP and freighter models since these airplanes are not equipped with the offwing slides. The FAA concurs. The rule as adopted applies only to those airplanes equipped with fairing mounted (offwing) escape slides. Also, the manufacturer notified the FAA of Service Bulletin 747–57–2086 which changed the trailing edge flap rigging on early B747–100 airplanes. This service bulletin has the same effect on the offwing slide operation as Service Bulletin No. 747–57–2073. The AD as adopted also applies to airplanes modified in accordance with Service Bulletin No. 747–57–2086. No other comments were received pertaining to this rule.

After careful review of available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line numbers 147, 149, 154 through 535 and those airplanes modified in accordance with Boeing Service Bulletin Nos. 747–57–2073 or 747–57–2086 or equivalent certificated in all categories which are equipped with fairing mounted (offwing) escape slides. Compliance is required within the next 1200 hours time-in-service after the effective date of this AD unless already accomplished.

To ensure the proper deployment and inflation of the fairing mounted (offwing) slides accomplish the following:

A. Rig the fairing mounted (offwing) escape slide inflation firing mechanism in accordance with Boeing Alert Service Bulletin No. 747–25A2581, dated September 25, 1981, or later FAA approved revisions.

B. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

C. Alternate means of compliance or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

Note.—Operators unable to determine the configuration of their airplanes (i.e. modification in accordance with Boeing Service Bulletin No. 747–57–2073 or 747–57–2086 or its equivalent) should determine the angle of rotation of the offwing slide fairing door from the closed position to the open position with the flaps in the zero or five unit position. If this angle is not approximately 180 degrees compliance with paragraph A of this AD is required.

The manufacturer's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 21, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 4, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4222 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-52-AD; Amdt 39-4316]

Airworthiness Directives: McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) that requires inspection and replacement, if necessary, of rudder pedal arms on McDonnell Douglas DC-8 series airplanes. This action is needed to detect fatigue cracking of the rudder pedal arms; the failure of which could compromise the flight crew's ability to maintain directional control of the airplane at a critical point during takeoff, landing, or approach.

DATE: Effective date March 21, 1982. Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESS: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1–750, (54–60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Michael O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive to require inspection of the rudder pedal arms at both the Captain's and First Officer's positions of all DC–8 series airplanes was published in the **Federal Register** on September 17, 1981, (46 FR 46139). This proposal was prompted by the events discussed below:

Three operators reported five failures of the Captain's left rudder pedal arm and one failure of the Captain's right rudder pedal arm on aircraft having logged between 18,397 and 47,850 flight hours. The failures were due to fatigue cracks in the magnesium casting which originated in the top attachment holes and in the inside diameter of the upper

boss, between the attachment holes and the exterior surface, in the region where the upper boss intersects with the tubular section of the arm.

If undetected, a failure of the rudder pedal arm could cause a momentary loss of rudder control, nose wheel steering or braking input at the Captain's or First Officer's position. Duplication of controls does not alleviate the potential hazard that could occur at a critical flight condition.

Inspection of the rudder pedal arms is necessary to prevent failure of the rudder pedal arms.

Interested persons have been afforded the opportunity to participate in the making of this amendment. Six comments were received in response to the Notice of Proposed Rulemaking. None of the parties who made comments objected to the intent of the proposed rule.

Four commenters presented a rationale for expressing the compliance times of the proposed rule in terms of aircraft landings or cycles rather than flight hours. The FAA concurs and the Final Rule reflects the change to landings in the compliance times. However, the necessity for calendar times as well remains because of the susceptability of the material to stress corrosion.

One commenter states that the necessity to reinstall the rudder pedal arm, as specified in Paragraph B, is not correct as there is no requirement to remove the parts. The FAA concurs, and the Final Rule reflects this change.

After careful review of available data, including the preceding comments, the FAA has determined that air safety and the public interest require that the rule be adopted with the changes noted above.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC–8 Series airplanes, certificated in all categories with rudder pedal arm P/N 3616012 installed with more than 13,500 hours time in service.

Note.—Time in service on the rudder pedal arm may be used if the operator has records to substantiate it.

Compliance required as prescribed herein. To detect fatigue cracking and possible structural failure of the rudder pedal arms, P/N 3616012, accomplish the following, unless already accomplished:

A. Within the next, 2,000 landings or six months after the effective date of this AD, whichever occurs first, perform ultrasonic and dye penetrant inspections on rudder pedal arm assemblies, P/N 3616012, as outlined in Service Sketch 3224 and Accomplishment Instructions of McDonnell Douglas DC–8 Service Bulletin 27–265 dated June 11, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. If no cracks are found, replace the rudder pedal arms with new P/N 3953505 aluminum rudder pedal arm assemblies or retain the 3616012 parts and repeat ultrasonic and dye penetrant inspections at intervals not to exceed 4,000 landings or one year, whichever occurs first. Replacement with aluminum rudder pedal arm assemblies constitutes terminating action for this AD.

C. If cracks are found, prior to further flight replace the rudder pedal arms with:

1. New P/N 3953505 aluminum rudder pedal arm assemblies and thereby terminate the repetitive inspection requirements of this AD, or

2. Replace with new P/N 3616012 magnesium rudder pedal arm assemblies and repeat inspections specified in paragraph B above.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

E. For the purposes of complying with this AD, subject to the acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's number of hours time in service by the operator's fleet average time from takeoff to landing.

F. Upon the request of an operator, an FAA maintenance inspector, subject to prior approval by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

G. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and placed in the docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 4, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4223 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-53-AD, Amdt. 39-4317]

Airworthiness Directives: McDonnell Douglas Model DC-9 and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) that requires inspection and replacement, if necessary, of rudder pedal arms on McDonnell Douglas DC–9 and C–9 series airplanes. This action is needed to detect fatigue cracking of the rudder pedal arms; the failure of which could compromise the flight crew's ability to maintain directional control of the airplane at a critical point during takeoff, landing, or approach.

DATE: Effective date March 21, 1982. Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1–750, (54–60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harry Irwin, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive to require inspection of the rudder pedal arms at both the Captain's and First Officer's positions of all DC-9 and C-9 series airplanes was published in the **Federal Register** on September 17, 1981, (46 FR 46140). This proposal was prompted by the events discussed below:

Five operators reported eleven failures of the Captain's left rudder pedal arm and one failure of the Captain's right rudder pedal arm on aircraft having logged between 14,995 and 34,056 flight hours. The failures were due to fatigue cracks in the magnesium casting which originated in the top attachment holes and in the inside diameter of the upper boss, between the attachment holes and the exterior surface, in the region where the upper boss intersects with the tubular section of the arm.

If undetected, a failure of the rudder pedal arm could cause a momentary loss of rudder control, nose wheel steering, or braking input at the Captain's or First Officer's position. Duplication of controls does not alleviate the potential hazard that could occur at a critical flight condition.

Inspection of the rudder pedal arms is necessary to prevent failure of the rudder pedal arms.

Interested persons have been afforded the opportunity to participate in the making of this amendment. Four comments were received in response to the Notice of Proposed Rulemaking. None of the parties who made comments objected to the intent of the proposed rule.

Four commenters presented a rationale for expressing the compliance times of the proposed rule in terms of aircraft landings or cycles rather than inflight hours. The FAA concurs, and the Final Rule reflects the change to landings in the compliance times. However, the necessity for calender times as well remains because of the susceptability of the material to stress corrosion.

After careful review of available data, including the preceding comments, the FAA has determined that air safety and the public interest require that the rule be adopted with the changes noted herein.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC-9 and C-9 series airplanes, certificated in all categories with rudder pedal arm P/N 3616012 installed with more than 13,500 hours time in service.

Note.—Time in service on the rudder pedal arm may be used, if the operator has records to substantiate it.

Compliance required as prescribed herein. To detect fatigue cracking and possible structural failure of the rudder pedal arms, P/N 3616012, accomplish the following, unless already accomplished:

A. Within the next 2,000 landings or six months after the effective date of this AD, whichever occurs first, perform ultrasonic and dye penetrant inspections on rudder pedal arm assemblies, P/N 3616012, as outlined in Service Sketch 3251 and Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 27-209 dated May 29, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. If no cracks are found, replace the rudder pedal arms with new P/N 3953505 aluminum rudder pedal arm assemblies or retain the 3616012 parts and repeat ultrasonic and dye penetrant inspections at intervals not to exceed 4,000 landings or one year, whichever occurs first. Replacement with aluminum rudder pedal arm assemblies constitutes terminating action for this AD.

C. If cracks are found, prior to further flight replace the rudder pedal arms with:

1. New P/N 3953505 aluminum rudder pedal arm assemblies and thereby terminate the repetitive inspection requirements of this AD, or

2. Replace with new P/N 3616012 magnesium rudder pedal arm assemblies, and repeat inspections specified in paragraph B above.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

E. For the purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's number of hours time in service by the operator's fleet average time from takeoff to landing.

F. Upon the request of an operator, an FAA Maintenance Inspector, subject to prior approval by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

G. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and placed in the docket. A copy of it may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**"

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on February 4, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4224 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 203

[Reg. ER-1283]

Removal of Certificate Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: By its terms, the CAB's certificate restriction removal program for domestic scheduled service ceased to be in effect on January 1, 1982. On

that date all one-stop operating restrictions on airline certificates were removed. After December 31, 1980, any route authority granted by the Board to an airline has included nonstop authority to all existing points on its route system. This final rule removes these regulations from the Code of Federal Regulations.

DATES: Effective: February 18, 1982. Adopted: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: Because the regulations in 14 CFR Part 203, which set up an airline certificate restriction removal program, expired by their own terms on January 1, 1982, and because public confusion could result if the part remains in the Code of Federal Regulations, the Civil Aeronautics Board is removing Part 203. For those reasons, the Board further finds that notice and public procedure are unnecessary and that there is good cause to make this rule effective upon publication in the Federal Register.

PART 203—REMOVAL OF CERTIFICATE RESTRICTIONS [Removed]

Accordingly, the Civil Aeronautics Board amends 14 CFR Chapter II as follows:

1. The authority for 14 CFR Part 203 is:

Authority: Secs. 102, 204, 401, Pub. L. 85–726, as amended, 72 Stat 740, 743, 754, 49 U.S.C. 1302, 1324, 1371.

2. Part 203, *Removal of Certificate Restrictions,* is removed.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4386 Filed 2-17-82; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 377

[Reg. SPR-184; Amdt. No. 1 to Part 377; Docket No. 39989]

Continuance of Expired Authorizations Pending Board Action on Renewal Requests

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rule that implements an Administrative Procedure Act provision for automatic extension of certain expiring licenses. The amendment provides consistent treatment of foreign air carrier permits and exemptions issued to foreign citizens, and clarifies the scope of the rule.

DATES: Adopted: January 29, 1982. Effective: March 20, 1982.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Gaynes, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428; 202–673–5035.

SUPPLEMENTARY INFORMATION: In order to prevent lapses of authority that could result from the time lags inherent in the administrative process, the Administrative Procedure Act provides for automatic extension of licenses in certain cases, as follows:

> When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. (5 U.S.C. 558(c))

The Board has issued rules in 14 CFR Part 377 to implement this statutory provision with respect to many, but not all, of the types of temporary authorizations that the Board grants. The rules establish requirements for "timely and sufficient" renewal applications (§ 377.10), including deadlines such as 30, 90, and 180 days before expiration. They also interpret "license with reference to an activity of a continuing nature" (§ 377.3).

In SPDR–83 (46 FR 46338; September 18, 1981), the Board proposed amendments of Part 377 to (1) harmonize the timeliness requirements for applications to renew foreign air carrier permits and non-U.S. citizen exemptions, and (2) clarify the interpretation in § 377.3. No comments were filed in response to the notice of proposed rulemaking, and the Board is now amending Part 377 as proposed. The changes are discussed below.

Timeliness

Under Board rules up to now, a holder of an expiring foreign air carrier permit under section 402 of the Federal Aviation Act could obtain automatic extension by filing a renewal application at any time up to the expiration date. In contrast with permit holders, however, the holder of an expiring exemption under section 416 of the Act was subject to Part 377 and needed to file at least 60 days earlier. The technical reason for the difference was that Part 377 by its terms did not apply to section 402 permits, and the Board had held that in the absence of an agency rule on the subject, any application filed before the expiration was timely. This result reflected the special circumstances often surrounding applications by foreign persons, which can make earlier filing difficult. For example, foreign carriers must in some cases obtain approval from their home countries before filing applications with the Board.

The Board sees no good reason to treat foreign exemption holders and foreign permit holders differently for the purposes of the Administrative Procedure Act's automatic extension provision. Under the amended rule, therefore, a renewal application of either type will be considered timely if filed at any time before the expiration date. The amendment does this by bringing section 402 permits expressly within the scope of Part 377 and specifying the liberal filing deadline in a revised § 377.10(c). An additional result of this approach is to subject applications for renewal of section 402 permits to the other provisions of Part 377. Most notable among these is the requirement in § 377.10(a) that the application indicate the applicant's intention to rely on 5 U.S.C. 558(c).

Interpretation of 5 U.S.C. 558(c)

Section 377.3 states that an authorization granted for a period of 180 days or less is *not* considered a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c). It similarly excludes authorizations, other than section 401 certificates, that by their terms are subject to termination at an uncertain date upon the happening of an event. The Board is making no change in these provisions.

Section 377.3 also refers to authorizations, other than section 401 certificates, that by their terms terminate alternatively upon the happening of an event or the arrival of a specified date. A typical example would be an exemption to serve a route that is granted for 1 year or until Board action on a permit application, whichever occurs first. This amendment clarifies the treatment of such authorizations, without substantively changing it, and sets it forth in a new § 377.4. The new section states that if the event occurs before the specified date, automatic extension rights will be unavailable. Section 377.4(b) provides that if the event does not occur before the date and the date is more than 180 days after the effective date of the authorization, automatic rights ordinarily will be available. The purpose of this provision is to make it clear that in such cases automatic extension rights will not be denied by virtue of the alternative

termination dates. The rule states only that automatic extension rights "ordinarily" will be available, because Part 377 does not guarantee that any given authorization is covered by 5 U.S.C. 558(c). The Board will decide whether it is so covered upon written request under the former § 377.4, with the request required to be filed at least 60 days before the deadline for renewal applications. This amendment renumbers that section as § 377.5 and revises it to encompass requests from not only the holder of the authorization or a competitively affected U.S. air carrier, but also from a competitively affected foreign air carrier.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The economic impact will not be significant because the rule simply relieves a minor procedural requirement.

The Final Rule

PART 377—CONTINUANCE OF EXPIRED AUTHORIZATIONS PENDING BOARD ACTION ON RENEWAL REQUESTS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 377, *Continuance of Expired Authorizations by Operation of Law Pending Final Determination of Applications for Renewal Thereof*, as follows:

1. The authority for Part 377 is:

Authority: Secs. 204, 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 788; (49 U.S.C. 1324, 1481; 5 U.S.C. 558, 559).

2. Part 377 is retitled and the Table of Contents is amended by retitling § 377.3, redesignating § 377.4 as § 377.5, and adding a new § 377.4, to read:

Sec.

* * * * *

377.3 Authorizations not covered by 5 U.S.C. 558(c).
377.4 Certain authorizations with alternative termination dates.
377.5 Procedure to obtain Board interpretation.

* * * * *

3. In § 377.1, the definition of "authorization" is revised by adding "402,", so that it reads:

§ 377.1 Definitions.

As used in this part:

"Authorization" means any agency certificate, approval, statutory exemption or other form of permission granted pursuant to sections 101(3), 401, 402, 408, 409, 412 and 416 of the Federal Aviation Act of 1958, as amended. Where any operating authorization creates more than one separate route, each of these shall be deemed a separate authorization for the purposes of this part.

* * * * *

4. Section 377.2 is revised to read:

§ 377.2 Applicability of part.

(a) This part implements the last sentence of 5 U.S.C. 558(c) with regard to temporary authorizations granted by the Board.

Note.—The last sentence of 5 U.S.C. 558(c) provides: "When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency."

(b) Nothing in this part prevents the Board from terminating at any time, in accordance with law, any authorization or any extension of an authorization.

(c) Nothing in this part constitutes a determination that any given authorization is a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c).

5. Section 377.3, *Authorizations not licenses with reference to an activity of a continuing nature*, is retitled and revised, to read:

§ 377.3 Authorizations not covered by 5 U.S.C. 558(c).

The Board hereby determines that the following authorizations are not licenses "with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c):

(a) Authorizations granted for a specified period of 180 days or less; and

(b) Authorizations, other than those granted under section 401 of the Act, that by their terms are subject to termination at an uncertain date upon the happening of an event, including fulfillment of a condition subsequent or occurrence of a contingency.

6. Section 377.4, *Procedure to obtain Board interpretation*, is revised and redesignated as § 377.5, and a new § 377.4 is added, to read:

§ 377.4 Certain authorizations with alternative termination dates.

Unless granted under section 401 of the Act, an authorization that by its terms is subject to termination alternatively, either at an uncertain date upon the happening of an event or upon the arrival of a specified date—

(a) Will not be considered a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c), if the event occurs before the specified date; and

(b) Ordinarily (subject to Board interpretation under § 377.5) will be considered such a license, if the event does not occur before the specified date and that date is more than 180 days after the effective date of the authorization.

§ 377.5 Procedure to obtain Board interpretation.

(a) The Board will determine upon written request by the holder of a temporary authorization or by any competitively affected air carrier or foreign air carrier, or upon its own initiative, whether the temporary authorization is a "license with reference to an activity of a continuing nature" within the meaning of 5 U.S.C. 558(c).

(b) A written request for such a Board determination shall be filed at least 60 days before the deadline set forth in § 377.10 for a timely renewal application.

(c) The filing of such a written request shall not affect the timeliness requirements for renewal applications that are set forth in § 377.10 or any other applicable Board rule or order.

7. In § 377.10, paragraph (c) is revised to read:

§ 377.10 Requirements for, and effect of, renewal applications.

* * * * *

(c) *Timeliness.* The application must be filed and served in compliance with applicable law and the Board's regulations at least 60 days before the expiration date of the outstanding temporary authorization, except that—

(1) For certificates issued under section 401 of the Act with a specified expiration date, the deadline is 180 days before the expiration date;

(2) For certificates issued under section 401 of the Act that terminate by their terms upon the happening of an event that could not be foreseen, the deadline is 30 days after the time that the carrier has notice that the event will occur or has occurred;

(3) For foreign air carrier permits issued under section 402 of the Act and exemptions issued under section 416 to non-U.S. citizens, the deadline is the expiration date itself;

(4) For renewal by substantially equivalent certificate authority of fixed term route authorizations granted by exemption and for interim extension of the exemption, pursuant to §§ 302.909 and 399.18 of this chapter, the deadline

is 90 days before the expiration date; and

(5) Nothing in this part supersedes a requirement for earlier filing contained in any law, Board rule or order, or temporary authorization.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4304 Filed 2-17-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Miscellaneous Amendments to the Foreign Trade Statistics Regulations

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations (FTSRs) primarily for the purpose of conforming them with existing practices by eliminating obsolete requirements and by updating references that have been changed.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, (301) 763-5342.

SUPPLEMENTARY INFORMATION: On October 2, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register** (45 FR 65250) to amend the FTSRs. The proposed changes would:

1. Eliminate from the FTSRs the "Specify by name" and "State species" requirements in connection with commodity descriptions on the Shipper's Export Declaration (SED) since these requirements are no longer contained in Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States.*

2. Eliminate the special requirements for reporting partial shipments.

3. Eliminate from the regulations special requirements which expired May 30, 1979, covering the exportation of used vehicles.

4. Update references to the Bureau of East-West Trade which has now been reorganized as the International Trade Administration.

5. Reflect in the FTSRs the wording of Public Law 96-275 concerning the exemption of SEDs from disclosure.

6. Eliminate from the FTSRs the listing of individual country groups to which certain exemptions do not apply and refer the user instead to the Export Administration Regulations of the Office of Export Administration.

7. Provide in the FTSRs an exemption from SED filing requirements for shipments by the National Oceanic and Atmospheric Administration (NOAA).

Interested persons were advised that December 1, 1980, was the correct closing period to submit comments regarding the proposal.

Discussion of Major Comments:

No comments were received.

Regulatory Impact Analysis and Information Collection

Under the criteria established in Executive Order 12291, this amendment is not a "major" rule and does not require a Regulatory Impact Analysis. Further, this rule change will not increase the reporting burden on the public nor impose an information collection requirement.

Amendments to the Regulations

The FTSRs (15 CFR Part 30) are therefore amended as set forth below.

PART 30—FOREIGN TRADE STATISTICS

§§ 30.7 [Amended]

1. Section 30.7 is hereby amended by removing § 30.7(l)(2) in its entirety and by redesignating §§ 30.7(l)(3) and 30.7(l)(4) to 30.7(l)(2) and 30.7(l)(3), respectively.

§ 30.7 [Amended]

2. In the first paragraph of § 30.7, the parenthetical statement "(See § 30.42 for additional information required for a limited time on Shipper's Export Declarations covering the exportation of used vehicles to foreign countries.)" is hereby removed.

§ 30.32 [Reserved]

3. Section 30.32 is hereby removed in its entirety and that section number reserved for future use.

§ 30.42 [Reserved]

4. Section 30.42 is hereby removed in its entirety and that section number reserved for future use.

§§ 30.2 and 30.39 [Amended]

5. Sections 30.2 (a) and (b), 30.39(b)(1), and 30.91(a) are hereby amended by substituting "International Trade Administration" for the words "Bureau of East-West Trade" wherever that name appears.

6. Section 30.91(e) is hereby amended by removing from the first sentence the words "the withholding" and substituting the words "applying the exemption from disclosure." This section is further amended by removing from the third sentence the words "withhold the information" and substituting the words "apply the exemption." Also, references to "he" and "his agent" are being changed to "he/she" and to "the agent of the exporter," respectively. As revised, § 30.91(e) reads as follows:

§ 30.91 Confidential information, Shipper's Export Declarations.

* * * * *

(e) *Determination by the Secretary of Commerce.* When the Secretary of Commerce determines that applying the exemption from disclosure of information provided by an individual Shipper's Export Declaration is contrary to the national interest, he/she may make such information available, taking such safeguards and precautions to limit dissemination as he/she deems appropriate under the circumstances. In recommendations regarding such actions, the Bureau of the Census will, in general, consider that it is not contrary to the national interest to withhold information on Shipper's Export Declarations from private individuals or businesses (except the exporter or the agent of the exporter) or from state or local government agencies or officials, regardless of the purposes for which the information may be requested. In recommendations regarding any other requests for access to official copies, a judgment in the light of circumstances will be made as to whether it is contrary to the national interest to apply the exemption, keeping in view that the maintenance of confidentiality has in itself an important element of national interest.

7. The opening phrase of § 30.39(b) is hereby amended by removing the words "in country groups S and Z, as defined in" and substituting the words "prohibited by" so that the amended § 30.39(b) reads as follows:

§ 30.39 Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.

* * * * *

(b) In addition to the procedures authorized in paragraph (a) of this section, the Bureau of the Census, with the concurrence of the Office of Export Administration, may, on an individual case basis, authorize exemption from the requirement of § 30.6 that an export declaration be filed for each shipment, the exemption to be conditioned upon the filing, after the close of each month,

of a single export declaration or other statistical report, in an approved format including punch cards, computer tapes, etc., covering shipments made during the month to all destinations except countries prohibited by the Export Administration Regulations of the Office of Export Administration (Parts 368–399 of this title),[7] as follows:

* * * * *

8. The opening phrase of § 30.55(h) is hereby amended by removing the words "included in country groups Q, S, W, Y, and Z, as defined in" and substituting the words "prohibited by" so that as revised § 30.55(h) reads as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(h) Shipments (except shipments requiring a validated export license) between the United States and Puerto Rico, to the Virgin Islands of the United States, and to all countries except countries prohibited by the Export Administration Regulations of the Office of Export Administration (15 CFR Parts 368–399),[8] where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is $500 or under: *Provided, however,* That this exemption shall be conditioned upon the filing of such reports as the Bureau of the Census shall periodically require to compile statistics on $500-and-under shipments.

9. Section 30.55 is hereby amended by adding a new paragraph designated § 30.55(m) to reflect an exemption from filing SEDs for shipments in connection with NOAA so that as amended paragraph reads as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(m) Shipments for use in connection with NOAA operations under the Office of Export Administration General License G–NOAA.

(Title 13, United States Code, section 302; and title 5, United States Code, section 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35–2A, August 4, 1975, 40 FR 42765)

Bruce Chapman,

Director, Bureau of the Census.

December 28, 1981.

I concur:

J. W. Walker, Jr.,

Assistant Secretary, Department of the Treasury.

[FR Doc. 82–4333 Filed 2–17–82; 8:45 am]

BILLING CODE 3810–07–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Removal of the Conditions of Approval of the Maryland Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 920 by removing the conditions of approval of the Maryland permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland has submitted provisions to the Office of Surface Mining (OSM) which satisfy all the conditions of the Secretary's approval of December 1, 1980 (45 FR 79430–79451).

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Christine M. Struminski, Assistant Regional Director, Division of State and Federal Programs, Office of Surface Mining—Region I, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 342–8125.

SUPPLEMENTARY INFORMATION:

Background on the Maryland program submission

On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of certain minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 1, 1980, **Federal Register** (45 FR 79430–79451). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Maryland program can be found in the December 1, 1980, **Federal Register.**

Background on the Secretary's Conditional Approval

The Secretary determined that the Maryland program met all criteria for approval with the exception of 34 minor deficiencies which were discussed in the Notice of Conditional Approval. In accepting the Secretary's conditional approval, Maryland agreed to correct deficiencies "a" through "k" by October 1, 1981, and deficiencies "l" through "hh" by April 1, 1981.

Submission of Revisions

On April 9, 1981, OSM received a letter from the Maryland Department of Natural Resources (DNR) transmitting a copy of the Notice of Final Action, published in the Maryland Register on April 3, 1981, promulgating regulations to satisfy conditions "l" through "hh" of the conditional Maryland program approval. These regulations were made available to the public for review and comment when a notice of receipt was published in the **Federal Register** on September 4, 1981 (46 FR 44475–44476). On June 3, 1981, OSM received a letter from the Maryland DNR transmitting statutory changes to the Maryland Strip Mining Law, signed by Governor Hughes on April 28, 1981, to be effective on July 1, 1981, to satisfy conditions "a" through "k" of the conditional Maryland program approval. Additionally, statutory conditions "a", "c", "e", and "f" required analogous regulation revisions to the Code of Maryland Regulations (COMAR). These regulations were forwarded to OSM from the Maryland DNR on October 23, 1981, when a copy of the Notice of Final Action published in the Maryland Register on October 16, 1981, was submitted to satisfy the above cited conditions. These statutory and associated regulation revisions were made available to the public for review and comment when a notice of receipt was published in the **Federal Register** on November 25, 1981 (46 FR 57697–57698).

Secretary's Findings

The Secretary finds the amendments submitted by Maryland on April 9, 1981, June 3, 1981, and October 23, 1981, correct the deficiencies in the Maryland program as follows:

1. Condition "a" required amendment to remove the authority to allow surface coal mining in the corridor of the Youghiogheny River, a National Wild and Scenic Study River, and to allow waivers to the distance prohibitions set forth in Section 522(e) of SMCRA as found in the Maryland Strip Mining Law, Section NR 7–505(b)(2) and COMAR 08.13.09.10B.

In response to this condition the State has prohibited surface coal mining within the corridor of the Youghiogheny River and has eliminated the waivers to the distance prohibitions in the Maryland Strip Mining Law, Section NR 7–505 and COMAR 08.13.09.105. The program is now consistent with Section 522 of SMCRA.

2. Condition "b" required amendment of the definitions of "lands affected", "open pit mining", and "strip mining" as found in the Maryland Strip Mining Law, Section NR 7–501(n) and COMAR 08.13.09.01B, to reflect the broader jurisdiction to regulate surface coal mining activities contained in Section 701(28) of SMCRA.

In response to this condition, the State has redefined each of these terms, consistent with Section 701(28) of SMCRA, in the Maryland Strip Mining Law, Section NR 7–501(k).

3. Condition "c" required an amendment to reference the right to appeal if the State fails to act within prescribed time limits, as provided in Section 514(f) of SMCRA and 30 CFR 787.12.

In response to this condition, the State has referenced the right to appeal, consistent with Section 514(f) of SMCRA, in the Maryland Surface Mining Law, Section NR 7–505(d)(6) and COMAR 08.13.09.06B and .06C.

4. Condition "d" required amendment to provide for criminal sanctions against a person who knowingly fails to make any statement, representation, or certification in any application or other document, as required by Section 518(g) of SMCRA.

In response to this condition, the State has added this provision in the Maryland Strip Mining Law, Section NR 7–516(b) and now is consistent with Section 518(g) of SMCRA.

5. Condition "e" required amendment of the Maryland Strip Mining Law, Section NR 7–507(c) and COMAR 08.13.09.40E(3), to provide a maximum 90-day period for abatement of a violation.

In response to this condition, the State has deleted the authority to extend the abatement period beyond 90 days from the Maryland Strip Mining Law, Section NR 7–507(c) and COMAR 08.13.09.40E and is now consistent with Section 521(a)(3) of SMCRA.

6. Condition "f" required an amendment to the Maryland Strip Mining Law, to allow any person having an interest which may be adversely affected to request an adjudicatory hearing, and amendment of COMAR to allow any person who is or may be adversely affected to intervene in an adjudicatory hearing.

In response to this condition, the State has amended the Maryland program to provide the right to request an adjudicatory hearing in the Maryland Strip Mining Law, Section NR 7–507(f) and COMAR 08.13.09.40K and is now consistent with Section 525(a)(1) of SMCRA.

7. Condition "g" required amendment of the program to remove the restriction of citizen suits to Maryland residents, as found in the Maryland Environmental Standing Act, Section NR 1–501.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7–523(A) to allow any person to commence a civil action to compel compliance and is now consistent with Section 520(a) of SMCRA.

8. Condition "h" required amendment of the Maryland Strip Mining Law to allow any person to intervene as a matter of right in an action initiated by the State or the Secretary of the Department of the Interior; and to allow the Secretary to intervene in a citizen suit as a matter of right.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7–523(B)(2) and is now consistent with Section 520(c)(2) of SMCRA.

9. Condition "i" required amendment of the Maryland Strip Mining Law to provide for the award of costs, including attorney fees, for plantiffs in citizen suits.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7–507(g) and is now consistent with Section 520(d) of SMCRA.

10. Condition "j" required amendment of the conflict of interest provisions in Maryland laws to define "financial interest" in accordance with Section 517(g) of SMCRA and consistent with 30 CFR 705.5.

In response to this condition, the State has amended the Maryland Strip Mining Law, Section NR 7–522(A) and is now consistent with Section 517(g) of SMCRA and 30 CFR 705.5.

11. Condition "k" required amendment to the Maryland Strip Mning Law, Section NR 7–505(c)(4) and COMAR 08.13.09.17 to delete the restriction on funding of the small operator assistance program as contengent on the availability of Federal funds.

In response to this condition, the State has deleted, in the Maryland Strip Mining Law, Section NR 7–505(c)(4), the reference to funding of the program as contingent on the availability of Federal funding, and is now consistent with Section 507(c) of SMCRA.

12. Condition "l" required amendment of the definition of "topsoil" as the A and B horizon material and other material that will support revegetation, as found in COMAR 08.13.09.01B(93) and 08.13.09.31A, to be consistent with the definition of "topsoil" in 30 CFR 701.5.

In response to this condition, the State has redefined "topsoil" to be consistent with 30 CFR 701.5, 816.22 and 817.22.

13. Condition "m" required amendment of the definition of "hydrologic balance" as found in COMAR 08.13.09.01B.

In response to this condition, the State has redefined "hydrologic balance", consistent with 30 CFR 701.5, as the relationship between the quality and quantity of water.

14. Condition "n" required an amendment to prohibit the diversion or discharge of water from an underground mine into underground mine workings as found in COMAR 08.13.09.23J.

In response to this condition, the State has amended the regulations to forbid the diversion of water from an underground mine into underground mine workings, which is consistent with 30 CFR 817.55.

15. Condition "o" required an amendment to COMAR 08.13.09.05A(13) to require operators to use "the best technology currently available" to maintain environmental integrity in coal recovery.

In response to this condition, the State has added the provision of using "the best technology currently available", which is consistent with 30 CFR 816.59 and 817.59.

16. Condition "p" required Maryland to amend COMAR 08.13.09.25C(4)(b)(ii) to restrict blasting to a four-hour aggregate.

In response to this condition, the State has changed the blasting aggregate to four hours, which is consistent with 30 CFR 816.64(b)(2)(ii).

17. Condition "q" required amendment of COMAR 08.13.09.26 to require the use of "best technology currently available" to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values.

In response to this condition, the State has amended the regulation to include the requirement to use the best technology currently available to minimize adverse impacts, which is consistent with 30 CFR 816.97(d).

18. Condition "r" required the amendment of COMAR 08.13.09.35D to add a provision requiring the operator to maintain necessary fences and proper management practices or revegetated areas.

In response to this condition, the State has amended the regulations to include this requirement and is now consistent with 30 CFR 816.116(c)(1).

19. Condition "s" required amendment of COMAR 08.13.09.35D(1)(d)(iii) to require that revegetation success on cropland be measured on the basis of

crop production; and an amendment to COMAR 08.13.09.35D(1) to redefine the term "productive capability."

In response to this condition, the State has amended the regulations to include the requirement that the success of cropland revegetation be determined on the basis of crop production, which is consistent with 30 CFR 816.116(b)(3)(iii). Additionally, the term "productive capability" has been changed so that the success of revegetation is to be determined by the productivity of the revegetated area, which is consistent with 30 CFR 816.116(b).

20. Condition "t" required amendment of COMAR 08.13.09.03G(1)(b) to extend jurisdiction of the State to regulate facilities connected by transportation mechanisms involving the use of public roads.

In response to this condition, the State has included the jurisdiction over these facilities which is consistent with Section 701(28) of SMCRA.

21. Condition "u" required an amendment to COMAR to include underground permit application requirements for coal development waste and mine development waste, as required by 30 CFR 783.25(i) and 784.11(b)(4).

In response to this condition, the State has amended the regulations in COMAR 08.13.09.020(4)(d) and COMAR 08.13.09.02M(10) to include the requirements for coal development waste which are now consistent with 30 CFR 783.25(i) and 784.11(b)(4).

22. Condition "v" required that COMAR 08.13.09.020, .03 and .13 be amended to include the requirements for monitoring subsidence to measure deformations near specified structures or features.

In response to this condition, the State has amended the regulations to include this requirement and is now consistent with 30 CFR 784.20 and 784.23(b)(12).

23. Condition "w" required an amendment to COMAR 08.13.09.33G to require that specific detail be included in an operator's plan for return of coal processing waste to abandoned underground workings.

In response to this condition, the State has amended COMAR to include these requirements and is now consistent with 30 CFR 784.25.

24. Condition "x" required an amendment to COMAR 08.13.09.03D to require that the postmining land use of prime farmland must be cropland.

In response to this condition, the State has amended COMAR and is now consistent with 30 CFR 785.17(d).

25. Condition "y" required an amendment to COMAR to remedy the omission from COMAR of a provision for assessment of each day of each continuing violation as a separate violation and amendment of the maximum penalty provisions found in COMAR 08.13.09.41C(1).

In response to this condition, the State has amended COMAR and is now consistent with section 518(a) of SMCRA.

26. Condition "z" required an amendment to COMAR to remedy the omission in COMAR 08.13.09.41E of a provision for an outside time limit for payment of a civil penalty.

In response to this condition, the State has amended COMAR and is now consistent with Section 518 of SMCRA and 30 CFR 845.18.

27. Condition "aa" required Maryland to provide for mandatory enforcement action if non-compliance continues beyond thirty days.

In response to this condition, the State has amended COMAR 08.13.09.41A(5) to provide for a mandatory penalty if non-compliance continues after the thirty day abatement period and is now consistent with Section 518(h) of SMCRA and 30 CFR 845.15.

28. Condition "bb" required amendment of COMAR to remedy the omission from COMAR 08.13.09.42A of minimum criteria which trigger the mandatory issuance of a show cause order and specific criteria for issuing a show cause order under certain circumstances.

In response to this condition, the State has amended COMAR to be consistent with 30 CFR 843.13(a)(2) and (3).

29. Condition "cc" required an amendment to COMAR 08.13.09.40F to establish that cease orders shall be issued on the basis of any one of four independent criteria.

In response to this condition, the State has amended COMAR to be consistent with Section 521(a)(2) of SMCRA and 30 CFR 843.11.

30. Condition "dd" required an amendment to COMAR 08.13.09.40G(3) to require a written response be given to a citizen requesting an inspection within ten days of the inspection or within fifteen days of the request if no inspection is conducted.

In response to this condition, the State has amended COMAR to be consistent with 30 CFR 842.12(d).

31. Condition "ee" required an amendment to COMAR to remedy the omission from COMAR of a provision that costs may only be assessed against a citizen participant in an administrative proceeding if that citizen initiated the proceeding in bad faith and that costs may be awarded to a citizen if he or she makes a substantial contribution to a full and fair determination of the issues.

In response to this condition, the State has amended the regulations in COMAR 08.13.09.43(O) to be consistent with 43 CFR Part 4, Subpart L and 30 CFR 840.15.

32. Condition "ff" required an amendment of COMAR to provide for discovery procedures for administrative hearings.

In response to this condition, the State has amended the program in COMAR 08.13.09.44 to be consistent with 43 CFR 4.1130 *et seq.* and 30 CFR 840.15.

33. Condition "gg" required an amendment to remedy the lack of provisions in COMAR for notification of the public and public participation in mine site hearings.

In response to this condition, the State has amended the program in COMAR 08.13.09.40H to be consistent with 30 CFR 843.15.

34. Condition "hh" required an amendment of COMAR to provide notification to the public of hearings on the suspension or revocation of permits.

In response to this condition, the State has amended the program in COMAR 08.13.09.42D to be consistent with 30 CFR 843.13(d).

Disposition of Public Comments

1. The Environmental Policy Institute commented that COMAR 08.13.09.41A(5) was too vague in providing mandatory enforcement action when non-compliance continues beyond the 30-day abatement period.

This regulation amended COMAR 08.13.09.41A(4) in which Maryland provides for a $750 per day civil penalty, up to 30 days beyond the date set as the abatement period. Condition "aa" simply required Maryland to set forth some form of mandatory enforcement action, which would be taken if non-compliance continued beyond the thirty day period. Maryland officials have indicated that such mandatory enforcement action would include actions exceeding the $750 per day civil penalty, such as permit suspension. This action is set forth in COMAR 08.13.09.42A(5).

The Secretary finds that Maryland has complied with Condition "aa" in providing for a mandatory enforcement action if non-compliance continues beyond 30 days.

2. The Environmental Policy Institute commented that COMAR 08.13.09.02I(13) deleted the requirement of the operator to submit a copy of a waiver from the owner of any occupied dwelling, within 300 feet of the proposed surface mining activities.

The Maryland resubmission added a new provision at COMAR 08.13.09.02I(13). With this addition, the

remainder of the Section was re-numbered. Thus, the waiver provision is now located at COMAR 08.13.09.02I(14).

Approval Without Condition

Accordingly, the Maryland program is hereby fully approved. 30 CFR 920.10 is amended to indicate approval of the April 9, 1981, June 3, 1981, and October 23, 1981, program amendments. 30 CFR 920.11 which established the conditions of approval is hereby removed.

The removal of the conditions of approval of the Maryland program is effective February 18, 1982.

Additional Determination

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. This document is not a major rule under E.O. 12291; therefore no Regulatory Impact Analysis is being prepared on this approval. Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On January 25, 1982, the Administrator of the Environmental Protection Agency transmitted her written concurrence on these aspects of the amendments approved in this document relating to air or water quality standards under the authority of the Clean Water Act, as amended (33 U.S.C. 1151 *et seq.*), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore this program amendment is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 920—MARYLAND

For the reasons stated in the preamble above, Part 920 of Title 30 is amended as follows:

1. 30 CFR 920.10 is revised to read:

§ 920.10 State program approval.

The Maryland State program submitted on March 3, 1980, as amended and clarified on June 16, 1980, and as further amended on April 9, 1980, June 3, 1981, and October 23, 1981, is approved effective February 18, 1982. Copies of the approved program, as amended, are available for review at:

(a) Maryland Department of Natural Resources, Energy Administration, Tawes State Office Building, Annapolis, Maryland 21401, Telephone (301) 269-2261.

(b) Maryland Department of Natural Resources, Energy Administration, Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone (301) 689-4136.

(c) Office of Surface Mining—Region I, 603 Morris Street, Charleston, West Virginia 25311, Telephone (304) 344-2331.

(d) Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, D.C., Telephone (202) 343-4728.

§ 920.11 [Removed]

2. Part 920 is amended by removing § 920.11.

[FR Doc. 82-4461 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05

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30 CFR Part 936

[SPA 15]

Permanent State Regulatory Program of Oklahoma

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is extending the deadlines for the State of Oklahoma to meet the conditions of its approved State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Since the Secretary's approval of the program on January 19, 1981 (46 FR 4902-4911), circumstances have changed in several respects. On September 25, 1981, the Oklahoma Department of Mines requested the Director, Office of Surface Mining (OSM), to extend the schedule for Oklahoma to meet the Secretary's conditions of its program approval (See Administrative Record No. OK-318). OSM proposed a rule on November 9, 1981 (46 FR 55275-55276), that would extend the deadlines to May 15, 1982. After considering all the information contained in the administrative record, including the public comments, the Secretary has decided to grant Oklahoma's request and hereby publishes amendments to the Federal rules contained in 30 CFR 936.11 to effect the extension.

EFFECTIVE DATE: February 18, 1982.

ADDRESS: Copies of Administrative Record documents are available for public inspection during normal business hours at: Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street NW., Washington, D.C., Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION:

Background Information

On January 19, 1981 (46 FR 4902), the Secretary of the Interior approved Oklahoma's permanent State program in accordance with the criteria established by Section 503 of SMCRA and the Federal rules contained in 30 CFR Part 732.

Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, and the State is actively proceeding with steps to correct the defeciencies according to a schedule set in the notice of conditional approval. In Oklahoma's case, the Secretary conditioned his approval in Oklahoma's agreement to correct four minor deficiencies. Two of the deficiencies were to have been corrected by July 1, 1981, and the remaining two by November 1, 1981.

On September 25, 1981, the Oklahoma Department of Mines requested OSM to extend the deadlines for the State to meet all four conditions (OK-318). OSM published a proposed rule on November 9, 1981, which would extend the deadlines until May 15, 1982 (46 FR 55275-55276), and requested public comment on the proposed extension.

Secretary's Findings

In the preamble to the proposed rule, the Secretary stated that the extension of the deadlines would not render the deficiencies major because most of them involve standards and requirements which will not become effective for some time. The Secretary explained that there has been a delay in the effective date of Oklahoma's permanent State regulatory program implementation due to the State Legislature's rescission of all the relevant program regulations.

That action has recently been the subject of a series of fact finding actions and the Director, OSM, expects to publish his findings on the status of the Oklahoma program in the near future. The action being taken today is

independent of the Director's investigation. The extension is being made because Oklahoma was unable to meet the deadlines due to the unique events which impacted on the overall implementation of the State's program. Today's decision is also being made in light of what the Secretary believes to be a good faith effort on the part of the State to take the necessary steps leading to the removal of the conditions. The Secretary also wishes to make clear that the conditions could be changed further if other concerns are identified during the review of the new permanent program rules Oklahoma is promulgating to replace the rules rescinded by the State Legislature.

Based on the information contained in the administrative record, including the public comments, the Secretary finds that the need for an extension of the deadlines to Oklahoma to meet the conditions of its program approval is justified.

Disposition of Comments

1. The Natural Resources Defense Council and the Environmental Policy Institute contended that in the Secretary's notice proposing the extension, the Secretary failed to offer any valid justification for the proposed extension of time. The commenters took issue with the Secretary's statements that (1) the extensions do not render the deficiencies major because most deficiencies involve standards and requirements which will not become effective for some time, (2) operators normally do not have to meet the permanent program performance standards for at least eight months after the effective date of program approval and (3) the time period to meet the conditions will be further delayed in Oklahoma because the State Legislature has rescinded all relevant program regulations. The commenters argued that there is no basis in law for the Secretary's suggestion that the time period for meeting permanent program standards has or can be further delayed because of the State Legislature's rescission of the Oklahoma rules. The commenters also stated that even though Oklahoma was temporarily enjoined from enforcing its approved program, that fact alone should not necessarily result in an extension of the time for compliance with the permanent program standards. The commenters pointed out that Section 502(d) of SMCRA requires all operators of surface coal mines who expect to operate mines eight months after program approval to submit applications which comport with permanent program standards regardless of litigation contesting the approval or implementation of the program, and that Section 506(a) of SMCRA states that these operators cannot continue to mine eight months after program approval unless they have submitted such applications. Thus, the commenters maintained, all operators currently active in Oklahoma should already have submitted permit applications that meet permanent program standards.

The commenters also argued that OSM or the Secretary should take immediate action to assume responsibility for implementing or enforcing Oklahoma's program, or to withdraw the Secretary's program approval.

The Secretary has carefully considered the several arguments presented by the commenters. Most of the commenter's points appear to express concerns more closely related to the overall status of the implementation of Oklahoma's program and the timing for operators to meet the permanent program performance standards. As indicated earlier in this notice, the Director, OSM, has been investigating this matter and expects to publish his findings soon. However, insofar as the commenters' points affect the extension of the deadlines for Oklahoma to meet the condition of its program approval, the Secretary believes that Oklahoma's request was justified due to the unusual and unanticipated series of events which affected the State's ability not only to meet the conditions of approval but to implement its program.

2. The Natural Resources Defense Council and Environmental Policy Institute indicated that three out of the four conditions directly affect the ability of citizens to participate effectively in Oklahoma's program and that, in their view, Oklahoma's continued failure to correct these defects can no longer be deemed a minor problem. The Secretary agrees with the commenters that Oklahoma should still be required to meet the conditions of its program.

The Secretary believes, however, that extending the deadline to meet the conditions by several months is not unreasonable in light of the events which have affected the overall status of Oklahoma's program. However, the Secretary will provide a copy of this comment to Oklahoma and suggest that the State consider rectifying these conditions in the process of developing its new permanent rules.

Other Information

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore this program extension is exempt from preparing a Regulatory Impact Analysis and regulatory review by OMB.

The Secretary has determined that, pursuant to subsection 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. The Secretary has also determined that these rules are not major rules under Executive Order 12291. The Secretary has determined that these rules will not have a significant economic effect on a substantial number of small entities as the rules are essentially a timing change with no direct or indirect impact on small entities.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

The following amendments are made to CFR Title 30, Chapter VII, Subchapter T:

PART 936—OKLAHOMA

§ 936.11 [Amended]

30 CFR 936.11 is hereby amended by substituting "May 15, 1982," for "July 1, 1981," and "November 1, 1981," each time the latter two dates appear.

(Sec. 503, P.L. 95–87, 91 Stat. 407 (30 U.S.C. 1253))

[FR Doc. 82-4308 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 950

[SPA-36]

Removal of Certain Conditions of Approval of the Wyoming Permanent Program and Consideration of Amendments Thereto

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 950 by (1) removing certain conditions of approval of the Wyoming permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and (2) approving certain amendments to the Wyoming program. Wyoming has submitted provisions to the Office of Surface Mining (OSM) which satisfy some of the conditions of the Secretary's approval of November 26, 1980 (45 FR 78637–78684).

EFFECTIVE DATE: The removal of these conditions and the approval of these program amendments are effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: William Schmidt, Assistant Director, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION:

Background on the Wyoming Program Submission

On August 15, 1979, OSM received a proposed regulatory program from the State of Wyoming. Following a review of that proposed program as outlined in 30 CFR 732, the Secretary determined that certain parts of the Wyoming program met the minimum requirements of SMCRA and the Federal permanent regulations and that others did not. Accordingly, the Secretary approved the Wyoming program in part on February 15, 1980. The State of Wyoming resubmitted its program for approval on May 30, 1980. Following a review of the resubmitted program, the Secretary approved the program subject to the correction of seven minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 26, 1980 **Federal Register** (45 FR 78637–78684).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637–78684).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Wyoming program contained seven minor deficiencies.

a. Wyoming had not implemented a definition of "complete application," pursuant to W.S. 35–11–406, as in 30 CFR 770.5.

b. Wyoming's definition of toxic materials in Rule I 2(96) did not require only a showing of "detrimental" effects as in 30 CFR 701.5.

c. The Wyoming program lacked requirements consistent with the attorneys' fees and intervention provisions in 43 CFR Part 4.

d. Wyoming's program guidelines were not enforceable as rules.

e. Wyoming did not require revegetation productivity measurements in the last two consecutive years of the responsibility period as in 30 CFR 816.116(b)(1)(ii).

f. Wyoming did not require that applicants for a permit demonstrate that all reclamation fees required by 30 CFR Chapter VII, Subchapter R, have been paid.

g. Wyoming had not demonstrated that its law and practice are in accordance with Section 528(c) of SMCRA with respect to its judicial grant of temporary relief.

In accepting the Secretary's conditional approval, Wyoming agreed to correct these deficiencies by March 26, 1981. On October 30, 1981, the Secretary extended the date by which Wyoming is required to satisfy conditions b. and c. to May 26, 1982 (46 FR 54070–54071).

Submission of Revisions and Program Amendments

On March 26, 1981, OSM received from the State of Wyoming revisions to the State regulations intended to satisfy conditions a, d, e and f.

On March 23, 1981, OSM received from the State of Wyoming an Attorney General's Opinion intended to satisfy condition g.

On February 27, 1981, OSM received from the State of Wyoming, pursuant to the 30 CFR 732.17 procedures, a proposed revision to the State program consisting of a change in Wyoming Statute 35–11–406, which is referred to as the "Operator's Window."

On April 8, 1981, OSM received from the State of Wyoming, pursuant to the 30 CFR 732.17 State program amendment procedures, revisions to the State regulations on special bituminous surface coal mines and the use of letters of credit on reclamation bonds.

OSM published a notice in the **Federal Register** on September 9, 1981, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficencies, and whether the Secretary should approve the additional amendments to the State program (46 FR 44995–44998). The public comment period ended October 9, 1981. A public hearing scheduled October 6, 1981, was not held because no one expressed a desire to present testimony.

Secretary's Findings

1. The Secretary finds the amendments submitted by Wyoming on March 26, 1981, correct the deficiencies in the Wyoming program as follows:

a. Wyoming regulation Chapter 1, Section 2(14) defines "complete application" for a permit as one which contains all information required by the Act and the Land Quality Division regulations, and thus corrects deficiency a.

b. The following Wyoming regulations require permit applications to comply with certain portions of the State's permit application guidelines, and thus correct deficiency d:

(i) Chapter II, Section 1.c. [maps].

(ii) Chapter II, Section 2.a.(1)(f)(ii)[topsoil],

(iii) Chapter II, Section 3.a.(6)(b)(iii) [overburden].

(iv) Chapter II, Section 3.a.(6)(d)(ii) [vegetation types],

(v) Chapter IV, Section 2.c.(2)(a) [topsoil], and

(vi) Chapter IV, Section 3.p.(1)(a) [roads and powerlines].

c. Wyoming regulation Chapter IV, Section 2.d.(6) requires that revegetation measurements be made during the last two years of the bond period, and thus corrects deficiency e.

d. The Wyoming permit application requires a sworn statement that the applicant has paid all reclamation fees, and corrects deficiency f.

2. The Secretary has reviewed the March 23, 1981, Attorney General Opinion intended to satisfy deficiency g, and finds that the opinion is not persuasive in two respects. First, the Secretary is not convinced that Wyoming law guarantees an opportunity to be heard on a request for temporary relief as in Section 526(c)(1) of SMCRA. Second, the Secretary is not persuaded that Wyoming law requires a showing that temporary relief "will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air or water resources" as in SMCRA Section 526(c)(3). Rather, State law requires a balancing of the effect of the State order at issue on the person seeking temporary relief and the effect on the public of granting such temporary relief. This balancing of interests is the standard test for granting temporary restraining orders in most States. In enacting SMCRA Section 526, however, the Secretary believes that Congress intended to require that the judiciary use a different standard for granting such relief in surface mining cases.

Because Wyoming submitted material to satisfy this condition which the State, in good faith, believed to be adequate to satisfy this deficiency, the Secretary has decided to extend the date by which Wyoming must submit new material to satisfy this condition. OSM has discussed this matter with the State, including the legislative session dates of the Wyoming legislature. In order to allow Wyoming adequate time to draft

and pass suitable legislation, the Secretary hereby extends the date by which Wyoming must satisfy condition g to May 20, 1983.

3. The Secretary finds the program amendments submitted by Wyoming on April 8, 1981, pursuant to the 30 CFR 732.1/State program amendment procedures, to be acceptable and hereby approves them. These amendments are as follows:

a. Wyoming regulation Chapter VIII, Section 3.b.(2) and (4) and Section 4, establishing special alternative standards for existing special bituminous surface coal mines.

b. Wyoming regulations Chapter XII, Section 7.b. and Chapter XXIV, allowing letters of credit to be used on reclamation bonds.

4. The Secretary has not completed his review of the February 27, 1981, proposed revision to the Wyoming program consisting of a change in the Wyoming Statute 35–11–406, referred to as the "Operator's Window," and will, therefore, announce his decision on this revision at a later date.

Public Comments

1. The Environmental Policy Institute (EPI) commented that the materials submitted by Wyoming are not consistent with SMCRA Section 526(c). For the reasons set forth in the section above, the Secretary agrees with this comment.

2. The Fish and Wildlife Service recommended that wildlife species diversity and productivity be included as a measure of acceptable post-mining revegetation, rather than simply plant cover and productivity and the ability of the land to support pre-mining grazing pressure. The commenter's recommendation addresses acceptable revegetation measures which is outside the scope of this decision. To satisfy its condition of approval, Wyoming needs only to require that revegetation be evaluated during the last two years of the bond period. The proposal Wyoming has submitted properly establishes the timing for evaluation of revegetation. Therefore, the commenter's recommendation cannot be adopted. Other provisions in the Wyoming program are consistent with 30 CFR 816.97(d)(9), which requires that where fish and wildlife habitat is to be a primary or secondary post-mining land use, the operator shall select plant species based on the following criteria: (1) Their proven nutritional value for fish and wildlife, (2) their uses as cover for fish and wildlife, and (3) their ability to support and enhance fish and wildlife habitat after release of bonds, and that plant groupings shall be distributed to maximize benefit to fish and wildlife.

Approval of Amendments To Satisfy Conditions and Additional Program Amendments

Accordingly, conditions a, d, e and f are hereby removed, and two program amendments to Wyoming's permanent program submitted pursuant to 30 CFR 732.17 are hereby approved. 30 CFR 950.11 is amended to indicate (1) approval of the March 26, 1981, program amendments, and (2) an extension of the time by which Wyoming must satisfy condition g. 30 CFR 950.10 incorporates approval of the corresponding March 26, 1981, and April 8, 1981, program amendments. The removal of these conditions of the approval of the Wyoming permanent program and the approval of the amendments to the program are effective February 18, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 all actions taken to approve or conditionally approve State regulatory programs, actions, or amendments. Therefore, these program and extension amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Note.—Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On August 4, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Wyoming permanent program. The amended regulatory provisions approved in this document are not aspects of the Wyoming permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1847 *et seq.*).

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Part 950 of Title 30 is amended as follows:

A. 30 CFR 950.10 is revised to read as follows:

§ 950.10 State program approval.

The Wyoming permanent program, as submitted on August 15, 1970, as amended October 23, 1979, May 30, 1980, August 5, 1980, and as further amended March 26, 1981, and April 8, 1981, is approved February 18, 1982. Copies of the approved program, as amended, are available at:

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002;
Office of Surface Mining, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240, Telephone: (202) 343–7896.

§ 950.11 [Amended].

B. Section 950.11 is amended by:

1. 30 CFR 950.11 is amended by removing paragraphs (a), (d), (e) and (f).

2. 30 CFR 950.11(g) is amended by removing the date March 26, 1981, and inserting in its place the date "May 20, 1983."

[FR Doc. 82–4341 Filed 2–17–82; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8–R; Amdt. No. 10]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This amends the CHAMPUS Regulation to implement Pub. L. 96–552. This public law allows CHAMPUS to extend benefits for outpatient surgery on the basis of inpatient cost-sharing rates for dependents of members of the uniformed services serving on active duty. This amendment changes the language in the Regulation to define ambulatory surgical centers as authorized CHAMPUS providers, provides for payment on the basis of reasonable costs and amends the cost-sharing provisions to apply the inpatient rate to certain ambulatory surgical services. The intended effect of the amendment is to encourage beneficiaries to obtain their surgical services in less expensive outpatient settings when medically appropriate to do so, by providing a more favorable cost-share formula.

DATE: This amendment is effective retroactively for covered surgical procedures performed on or after December 19, 1980.

FOR FURTHER INFORMATION CONTACT: Charles M. Gallegos, Chief, Policy Branch, OCHAMPUS, Aurora, Colorado 80045, telephone 303–361–8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 81-27319, appearing in the **Federal Register** on September 21, 1981 (46 FR 46570), the Office of the Secretary of Defense published an interim notice of policy regarding a change in the cost-sharing rules for certain surgical services performed in an outpatient setting. The change was brought about by Pub. L. 96-552, signed into effect on December 19, 1980, and applies to the dependents of members of the uniformed services on active duty.

Section 199.10(f)(2) of 32 CFR requires CHAMPUS beneficiaries to pay a share of the charges of medical services and supplies covered under the CHAMPUS. For beneficiaries who are dependents of members of the uniformed services on active duty, the cost-share for outpatient services and supplies is an annual $50 deductible plus 20% of the CHAMPUS allowable charge for each service or supply. When the beneficiary receives care as an inpatient, the cost-share is $25 or $6.30 for each day of inpatient care, whichever is greater. CHAMPUS considers a beneficiary to be an inpatient when he or she is admitted to an institution for bed occupancy with the expectation that he or she will remain at least 24 hours.

Since ambulatory surgery involves a stay of fewer than 24 hours, CHAMPUS has considered such surgery to be an outpatient service and has extended benefits on the basis of the outpatient cost-sharing rates. Although the total costs of surgery performed in ambulatory settings are generally lower than for surgery performed in hospitals, the higher outpatient cost-share has tended to discourage beneficiaries from choosing ambulatory surgery.

Pub. L. 96-552 was signed into effect on December 19, 1980, to remove the beneficiaries' financial disincentive toward ambulatory surgery and to permit the government to take advantage of the generally lower costs associated with surgery performed in outpatient settings.

With the exception of certain surgical procedures which traditionally have been performed in outpatient settings, CHAMPUS benefits for the dependents of active duty service members will be extended for surgery performed in the outpatient department of a hospital or in an authorized ambulatory surgical center, based on the inpatient cost-share rate of $25. The $25 cost-share includes both institutional and professional services and related presurgical services provided within 72 hours of surgery. The beneficiary is responsible for the $25 cost-share for each surgical procedure performed at least 24 hours apart.

To qualify as authorized providers under the CHAMPUS, free-standing ambulatory surgical centers must be accredited either by the Joint Commission on Accreditation of Hospitals (JCAH), the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC), or such other standards as authorized by the Director, OCHAMPUS. Ambulatory surgical centers will be paid on the basis of CHAMPUS determined or approved reasonable costs.

As authorized under title 5, United States Code Section 553 (b)(B), the final regulation is being published and no previous public comment has been requested. The benefit was expanded through Congressional legislation in December 1980, and we do not believe it is in the public interest to delay implementation through the publication of a proposed rule.

PART 199—IMPLEMENTATION OF THE CIVILIAN AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Accordingly, 32 CFR, Chapter I, Part 199 is amended reading as follows:

Section 199.10 is amended by inserting a new paragraph (f)(2)(iv).

§ 199.10 Basic program benefits.

* * * * *

(f) * * *

(2) * * *

(iv) *Ambulatory Surgery.* Notwithstanding the above provisions pertaining to outpatient cost-sharing, dependents of active duty members of the uniformed services (or their sponsors) are responsible for payment of $25 for surgical care that is authorized and received while in an outpatient status and that has been designated in guidelines issued by the Director, OCHAMPUS.

* * * * *

Section 199.12 is amended as follows:

a. By removing the existing paragraph (b)(4)(i) and substituting a new paragraph (b)(4)(i).

b. By revising paragraph (b)(4)(viii) as set forth below.

c. By adding a new paragraph (e)(2)(i).

The revised and added portion of § 199.12 read as follows:

§ 199.12. Authorized providers.

* * * * *

(b) * * *

(4) * * *

(i) *Hospitals, Acute Care: General and Special.* The term "hospital" means an institution which provides inpatient services, which may also provide outpatient services (including clinical and ambulatory surgical services), and which:

* * * * *

(viii) *Other Specialized Treatment Facilities (STF's).* (*a*) *General.* (*1*) Care provided by certain specialized treatment facilities (on either an inpatient or outpatient basis), other than those listed above, may be cost-shared by CHAMPUS under specified circumstances.

(*i*) The course of treatment is prescribed by a doctor of medicine or osteopathy.

(*ii*) The patient is under the supervision of a physician during the entire course of the inpatient admission or the outpatient treatment.

(*iii*) The type and level of care and services rendered by the institution are otherwise authorized by this Regulation.

(*iv*) The facility meets all licensing and/or other certification requirements which are extant in the jurisdiction in which the facility is geographically located.

(*v*) Is other than a nursing home, intermediate care facility, home for the aged, halfway house, or other institution of similar purpose.

(*vi*) Is accredited by the Joint Commission on Accreditation or other CHAMPUS-approved accreditation organization, if an appropriate accreditation program for the given type of facility is available. As future accreditation programs are developed to cover emerging specialized treatment programs, such accreditation will be a prerequisite to coverage by CHAMPUS for services provided by such facilities.

(*2*) In order to assure that CHAMPUS beneficiaries are provided quality care at a reasonable cost when treated by a specialized treatment facility, the Director, OCHAMPUS (or a designee), will retain the right to:

(*i*) Require prior approval of all admissions to specialized *inpatient* treatment facilities.

(*ii*) Set appropriate standards for specialized treatment facilities in addition to or in the absence of JCAH accreditation.

(*iii*) Monitor facility operations and treatment programs on a continuing basis and conduct on-site inspections on a scheduled and unscheduled basis.

(*iv*) Negotiate agreements of participation.

(*v*) Terminate approval of a case when it is ascertained that a departure from the facts upon which the admission was originally based has occurred.

(*vi*) Declare a specialized treatment facility not eligible for CHAMPUS payment if that facility has been found

to have engaged in fraudulent or deceptive practices.

(3) In general, the following disclaimers apply to treatment by specialized treatment facilities:

(i) Just because one period or episode of treatment by a facility has been covered by CHAMPUS shall not be construed to mean that subsequent episodes of care by the same or similar facility will be automatically covered.

(ii) The fact that one case has been authorized for treatment by a specific facility or similar type of facility shall not be construed to mean that similar cases or subsequent periods of treatment will be automatically extended CHAMPUS benefits.

(b) *Types of Providers.* The following is a list of facilities which have been specifically designated as STF's. The list is for example only and is not to be construed as being all inclusive.

(1) *Freestanding Ambulatory Surgical Centers.* (i) Care provided by free-standing ambulatory surgical centers may be cost-shared by CHAMPUS under the following circumstances:

(a) The treatment is prescribed and supervised by a physician.

(b) The type and level of care and services rendered by the center are otherwise authorized by this Regulation.

(c) The center meets all licensing and other certification requirements of the jurisdiction in which the facility is located.

(d) The center is accredited by the Joint Commission on Accreditation of Hospitals (JCAH), the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC) or such other standards as authorized by the Director, OCHAMPUS.

(2) *Program for the Handicapped Facilities.* (i) Other specialized treatment facilities (STF's) also include those facilities which seek approval to provide care authorized under the Program for the Handicapped. (Refer to 199.11 "Program for the Handicapped.")

* * * * *

(e) * * *

(2) * * *

(i) *Freestanding Ambulatory Surgical Centers.* Authorized care furnished by freestanding ambulatory surgical centers, shall be reimbursed on the basis of the CHAMPUS determined reasonable cost.

* * * * *

(10 U.S.C. 1086, 5 U.S.C. 301)

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-4299 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Pegasus, et al.

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy has determined that USS PEGASUS (PHM 1), USS TAURUS (PHM 3), and USS AQUILA (PHM 4) are vessels of the Navy, which, due to their special construction and purposes, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as hydrofoil vessels. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply of the different navigational light configurations of these vessels that are not in full compliance with the applicable requirements of the 72 COLREGS.

EFFECTIVE DATE: January 20, 1982.

Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, Alexandria, Virginia 22332, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS Pegasus (PHM 1), USS Taurus (PHM 3), and USS Aquila (PHM 4) are vessels of the Navy which, due to their special construction and purposes, cannot fully comply with the 72 COLREGS in the following particulars: rule 23(a)(i) requiring that a power-driven vessel underway shall exhibit a masthead light forward; Rule 30(b) requiring a vessel of less than 50 meters in length, when at anchor, to exhibit an all-round light where it can be seen; Annex I, section 3(b) requiring that on vessels of 20 meters or more in length the sidelights shall not be placed in front of the forward masthead lights; Annex I section 9(b) requiring that the all-round anchor light be so located where it can best be seen, but need not be placed at an impracticable height above the hull. Full compliance with the aforementioned 72 COLREGS provisions would interfere with certain special functions and features of these hydrofoil vessels as hereinafter described. Full compliance with Rule 23(a)(i) is not possible because hydrofoil vessels have limited space and on these vessels radar installations mounted just forward of the mainmast requiring unobstructed visibility precludes the placement of the masthead light further forward than its present position 3 meters aft of amidships on the mainmast. In addition, the added weight of a separate forward mast for the purposes of locating the masthead light forward of its present position would add additional topside weight to the vessels and, therefore, adversely affect the ability of these vessels to become foilborne while underway. Full compliance with rule 30(b) and annex I, section 9(b) is not possible because to display an all-round light anchor light where it can best be seen would require the addition of a structure stepped-out from the mainmast on which the light would be located. Such a stepped-out structure would also add significant topside weight to the vessel and, therefore, adversely affect the ability of the vessels to become foilborne while underway. Full compliance with Annex I, section 3(b) is not possible because these hydrofoil vessels must be refueled while underway and since the masthead light must be located on the mainmast, which is located 3 meters aft of amidships for reasons hereinbefore stated, locating the sidelights aft of the masthead light would severely interfere with the ability to refuel these vessels while underway. In addition, locating the sidelights aft of the masthead light would require the installation of a cantilevered structure extending outboard from the vessel and this additional structure would also add additional topside weight to the vessel and, therefore, adversely affect the ability of these vessels to become foil borne while underway. The Secretary of the Navy has certified that the aforementioned navigational lights are, therefore, located on these vessels in a

manner that provides the closest possible compliance with the applicable 72 COLREGS.

Moreover, it has been determined, in accordance with CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military function.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

1. Table Two of § 706.2 is amended by adding the following naval vessels to the list of vessels therein to indicate the certifications issued herewith by the Secretary of the Navy:

§ 706.2 [Amended]

Vessel	Number	Masthead lights, distance to stbd of keel in meters; rule 21(a)	Forward anchor light, distance below flight dk in meters; section 2(K), Annex I	Forward anchor light, number of; rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; rule 21(e), rule 30(a)(ii)	AFT anchor light, number of; rule 30(a)(ii)	Side lights, distance below flight dk in meters; section 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; section 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; section 3(b), Annex I
USS Pegasus	PHM 1							8.4	
USS Taurus	PHM 3							8.4	
USS Aquila	PHM 4							8.4	

2. Table Four of § 706.2 is amended by adding to the existing paragraph 6 the following vessels for which navigational light certifications are herewith issued by the Secretary of the Navy:

6. The masthead light required by Rule 23(a)(i) is not located in the forepart of the vessel on the following ships:

* * * * *

USS Taurus (PHM 3)—3.0 meters aft of amidships
USS Aquila (PHM 4)—3.0 meters aft of amidships

3. Table Four of § 706.2 is amended by adding the following note numbered 20 which reflects navigational light certifications herewith issued by the Secretary of the Navy:

* * * * *

20. On USS PEGASUS (PHM 1); USS TAURUS (PHM 3); and USS AQUILA (PHM 4), two lights are installed at the same level, one fore and one aft, high on the mast to provide the closest possible compliance to the all-round anchor light visibility required by Rule 30(b) and Annex I, section 9(b).

(Executive Order 11964, 33 U.S.C. 1605)

Dated: January 20, 1982.

John Lehman,

Secretary of the Navy.

[FR Doc. 82-4330 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-AE-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1608, 1662, and 1665

Selective Service Regulations; Revised Procedures To Implement the Freedom of Information Act and the Privacy Act of 1974

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: Procedures under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 US.C. 552a) are revised in the interest of clarity and efficiency.

EFFECTIVE DATE: The amendments will become effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435, Phone: (202) 724-0844.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations were published in the **Federal Register** for December 22, 1981 (46 FR 62093) for comment pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b) and 5 U.S.C. 552 and 552a). No comment was received. The proposal amendments to the regulations, without change, will be made final by this publication.

These Regulations implement 5 U.S.C. 552 and 552a.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612). I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

Thomas K. Turnage,

Director of Selective Service.

February 12, 1982.

The amendments are:

PART 1608 [Removed]

Part 1608—Public Information is removed.

Part 1662 and 1665 are added.

PART 1662—FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES

Sec.

1662.1 Applicability of this part.
1662.2 Procedure for requesting information.
1662.3 Identification of information requested.
1662.4 Consideration of requests for information.
1662.5 Inspection, copying, and obtaining copies.
1662.6 Fees.

Authority: 5 U.S.C. 552, as amended.

§ 1662.1 Applicability of this part.

The provisions of this part prescribe

the procedures for requests for information under 5 U.S.C. 552, as amended (Freedom of Information Act).

§ 1662.2 Procedure for requesting information.

Requests for information under the Freedom of Information Act (FOIA) shall be in writing and should be addressed to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435.

§ 1662.3 Identification of information requested.

Any person who requests information under FOIA shall provide a reasonably specific description of the information sought so that it may be located without undue search. If the description is not sufficient, the records manager will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

§ 1662.4 Consideration of requests for information.

(a) Upon receipt of any request for information or records, the records manager will determine within 10 days (excepting Saturdays, Sundays, and legal federal holidays) whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request will include the reasons therefor and a notice that an appeal may be lodged with the Director of Selective Service.

(b) Appeals shall be in writing and addressed to the Director of Selective Service at the address specified in § 1662.2 of this part. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be in writing and signed by the Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal federal holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will include the reasons therefor and also contain a notification of the provisions for judicial review.

§ 1662.5 Inspection, copying, and obtaining copies.

When a request for information has been approved in accord with § 1662.4, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the records manager at the address listed in § 1662.2. Such materials may be copied manually without charge, and reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available as specified in § 1662.6; however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner.

§ 1662.6 Fees.

(a) Search of records is made without charge.

(b) The charge for office copy reproduction is 25 cents per page. The charge for shelf stock is 10 cent per page.

(c) Copies will not be released to any requester until the required fee is paid in full by cash, check or money order. Checks and money orders should be made payable to the Selective Service System.

(d) Documents will be furnished without charge or at a reduced charge where it is determined that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

PART 1665—PRIVACY ACT PROCEDURES

Sec.

1665.1 Rules for determining if an individual is the subject of a record.
1665.2 Requests for access.
1665.3 Access to the accounting of disclosures from records.
1665.4 Requests to amend records.
1665.5 Request for review.
1665.6 Schedule of fees.
1665.7 Information available to the public or to former employers of registrants.

Authority: 5 U.S.C. 552a.

§ 1665.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Selective Service System (SSS) contains a record pertaining to them should address their inquiries to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435. The written inquiry should contain a specific reference to the system of records maintained by Selective Service listed in the SSS Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of SSS Systems of Records subject to the Privacy Act is in the **Federal Register** and copies of the notices will be available upon request to the records manager. A compilation of such notices will also be made and published by the Office of Federal Register, in accord with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should also contain sufficient information to identify the requester in order to allow SSS to determine if there is a record pertaining to that individual in a particular system of records. In instances when the information is insufficient to insure that disclosure will be to the individual to whom the information pertains, in view of the sensitivity of the information, SSS reserves the right to ask the requester for additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the records manager will inform the requester of the reason for the delay and the date by which a response may be anticipated.

§ 1665.2 Requests for access.

(a) Requirement for written requests. Individuals desiring to gain access to a record pertaining to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth in paragraph (b) below.

(b) *Procedures.*—(1) *Content of the request.* (i) The request for access to a record in a system of records shall be addressed to the records manager, at the address cited above, and shall name the system of records or contain a description of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of specifying solely the Privacy Act of 1974 and, if the request may be processed under both the Freedom of Information Act and the Privacy Act and the request specifies both or neither act, the procedures under the Privacy Act of 1974 will be employed. The individual will be advised that the procedures of the Privacy Act will be utilized, of the existence and the general effect of the Freedom of Information Act, and the difference between procedures under the two acts (e.g. fees, time limits, access). The request should contain necessary information to verify the identity of the requester (see § 1665.2(b)(2)(vi)). In addition, the requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment,

etc.) as well as any other identifying information contained in and required by SSS Notice of Systems of Records.

(ii) If the request for access follows a prior request under § 1665.1, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence, or a copy of the SSS response to that request is attached.

(iii) If the individual specifically desires a copy of the record, the request should so specify.

(2) *SSS action on request.* A request for access will ordinarily be answered within 10 days, except when the records manager determines that access cannot be afforded in that time, in which case the requester will be informed of the reason for the delay and an estimated date by which the request will be answered. Normally access will be granted within 30 days from the date the request was received by the Selective Service System. At a minimum, the answer to the request for access shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by SSS;

(ii) A statement as to whether access will be granted only by providing copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternative arrangements may be made with the official specified in § 1665.2(b)(1);

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the records manager has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see § 1665.6) (Fees are applicable only to requests for copies);

(v) The name, title, and telephone number of the SSS official having operational control over the record; and

(vi) The documentation required by SSS to verify the identity of the requester. At a minimum, SSS's verification standards include the following:

(A) *Current or former SSS employees.* Current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former SSS employee cannot be so identified by the official having operational control over the records, identification documentation will be required. Employee identification cards, annuitant identification, drivers licenses, or the "employee copy" of any official personnel document in the record are examples of acceptable identification validation.

(B) *Other than current or former SSS employees.* Individuals other than current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS must produce identification documentation of the type described herein, prior to being granted access. The extent of the identification documentation required will depend on the type of record to be accessed. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements are specified in the system notices published pursuant to 5 U.S.C. 552a(e)(4).

(C) *Access granted by mail.* For records to be accessed by mail, the records manager shall, to the extent possible, establish identity by a comparison of signatures in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to the requester of information required to be made available to the public by 5 U.S.C. 552. When in the opinion of the records manager the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) *Unavailability of identification documentation.* If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to a record about another person under false pretenses may result in a fine of up to $5,000. In addition, depending upon the sensitivity of the records sought to be accessed, the official having operational control over the records may require such further reasonable assurances as may be considered appropriate e.g., statements of other individuals who can attest to the identity of the requester. No verification of identity will be required of individuals seeking access to records which are otherwise available to any person under 5 U.S.C. 552, Freedom of Information Act.

(E) *Access by the parent of a minor, or legal guardian.* A parent of a minor, upon *presenting suitable personal identification,* may access on behalf of the minor *any record pertaining to the minor* maintained by SSS in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction. *Absent a court order or consent,* a parent or legal guardian has no absolute right to have access to a record about a child. Minors are not precluded from exercising on their own behalf rights given to them by the Privacy Act.

(F) *Granting access when accompanied by another individual.* When an individual requesting access to his or her record in a system of records maintained by SSS wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) *Denial of access for inadequate identification documentation.* If the official having operational control over the records in a system of records maintained by SSS determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the records manager prior to finally denying the individual access.

(H) *Review of decision to deny access.* Whenever the records manager determines, in accordance with the procedures herein, that access cannot be granted the response will also include a statement of the procedures to obtain a review of the decision to deny in accord with § 1665.5.

(vii) *Exceptions.* (A) Nothing in these regulations shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding. The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. This provision is not intended to preclude access by an individual to the records which are available to that individual under the other processes such as the Freedom of Information Act or the rules of civil procedure.

(B) Within any system of records pertaining to possible violations of the Military Selective Service Act, the identity of or any information pertaining to any individual who provides information relating to a suspected violator will not be revealed to the suspected violator. This exemption is made under the provision of 5 U.S.C. 552a(k)(2).

§ 1665.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosure are the same as those for granting accesses to the records (including verification of identity) outlined in § 1665.2.

§ 1665.4 Requests to amend records.

(a) *Requirement for written requests.* Individuals desiring to amend a record that pertains to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth herein. Records not subject to the Privacy Act of 1974 will not be amended in accord with these provisions. However, individuals who believe that such records are inaccurate may bring this to the attention of SSS.

(b) *Procedures.* (1)(i) The requests to amend a record in a system of records shall be addressed to the records manager. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individual's having gained access to the record in accordance with the provisions concerning access to records as set forth above, copies of previous correspondence between the requester and SSS will serve in lieu of a separate description of the record.

(ii) When the individual's identity has been previously verified pursuant to § 1665.2(b)(2)(vi), further verification of identity is not required as long as the communication does not suggest that a need for verification is present. If the individual's identity has not been previously verified, SSS may require identification validation as described in § 1665.2(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should contact the records manager at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth with such particularity as to permit SSS not only to understand the individual's basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by SSS of personal information merely to permit verification of records, the burden of persuading SSS to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness or incompleteness of the record.

(v) Incomplete or inaccurate requests will not be rejected categorically. The individual will be asked to clarify the request as needed.

(2) *SSS action on the request.* To the extent possible, a decision, upon a request to amend a record will be made within 10 days, (excluding Saturdays, Sundays, and legal Federal holidays). The response reflecting the decisions upon a request for amendment will include the following:

(i) The decision of the Selective Service System whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for determination for any portion of the request which is denied.

(iii) The name and address of the official with whom an appeal of the denial may be lodged.

(iv) The name and address of the official designated to assist, as necessary and upon request of, the individual making the request in preparation of the appeal.

(v) A description of the review of the appeal with SSS (see § 1665.5).

(vi) A description of any other procedures which may be required of the individual in order to process the appeal.

(3) If the nature of the request for the correction of the system of records precludes a decision within 10 days, the individual making the request will be informed within 10 days of the extended date for a decision. Such a decision will be issued as soon as it is reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal Federal holidays) unless unusual circumstances preclude completing action within that time. If the expected completion date for the decision indicated cannot be met, the individual will be advised of the delay of a revised date when the decision may be expected to be completed.

§ 1665.5 Request for review.

(a) Individuals wishing to request a review of the decision by SSS with regard to any initial request to access or amend a record in accord with the provisions of §§ 1665.2 and 1665.4, should submit the request for review in writing and, to the extent possible, include the information specified in § 1665.5(b). Individuals desiring assistance in the preparation of their request for review should contact the records manager at the address provided herein.

(b) The request for review should contain a brief description of the record involved or in lieu thereof, copies of the correspondence from SSS in which the request to access or to amend was denied and also the reasons why the requester believes that access should be granted or the disputed information amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §§ 1665.2 and 1665.4 set forth by SSS in its decision denying access or amendment. Appeals filed without a complete statement by the requester setting forth the reasons for review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be set forth in an understandable manner. In order to avoid the unnecessary retention of personal information, SSS reserves the right to dispose of the material concerning the request to access or amend a record if no request for review in accord with this section is received by SSS within 180 days of the mailing by SSS of its decision upon an initial request. A request for review received after the 180 day period may, at the discretion of the records manager, be treated as an initial request to access or amend a record.

(c) The request for review should be addressed to the Director of Selective Service.

(d) The Director of Selective Service will inform the requester in writing of the decision on the request for review within 20 days (excluding Saturdays, Sundays, and legal federal holidays) from the date of receipt by SSS of the individual's request for review unless the Director extends the 20 days period for good cause. The extension and the reasons therefor will be sent by SSS to the requester within the initial 20 day period. Such extensions should not be routine and should not normally exceed an additional thirty days. If the decision does not grant in full the request for amendment, the notice of the decision

will provide a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with SSS setting forth the individual's reasons for his disagreement with the decision and the procedures for filing such a statement of disagreement. The Director of Selective Service has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper, concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed is apparent, a copy of the concise statement furnished and a concise statement by SSS setting forth its reasons for not making the requested changes, if SSS chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs the agency of his disagreement with SSS's determination in accord with § 1665.5(a), (b) and (c). A copy of the individual's statement, and if it chooses, SSS's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accord with the individual's request, SSS will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552a(c). The notification of correction pertains to information actually disclosed.

§ 1665.6 Schedule of fees.

(a) *Prohibitions against charging fees.* Individuals will not be charged for:

(1) The search and review of the record.

(2) Any copies of the record produced as a necessary part of the process of making the record available for access, or

(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail.

(4) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he may designate, one copy of his Selective Service file free of charge.

(b) *Waiver.* The Director of Selective Service may at no charge, provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) *Fee schedule and method of payment.* Fees will be charged as provided below except as provided in paragraphs (a) and (b) of this section.

(1) *Duplication of records.* Records will be duplicated at a rate of $.25 per page.

(2) Fees should be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests, copies will not be provided for any subsequent request until the arrears have been paid in full.

(3) Remittance shall be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the records manager, Selective Service System, Washington, D.C. 20435.

(4) A receipt of fees paid will be given upon request.

§ 1665.7 Information available to the public or to former employers of registrants.

(a) Each area office maintains a classification record which contains the name, Selective Service number, and the current and past classifications for each person assigned to that board. Information in this record may be inspected at the area office at which it is maintained.

(b) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(c) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, Washington, D.C. 20435.

[FR Doc. 82-4360 Filed 2-17-82; 8:45 am]

BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2043-8]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: The purpose of today's rulemaking is to approve a revision to Michigan's State Implementation Plan (SIP) for the Detroit area, Wayne County. Four types of studies were conducted to identify the pollution sources causing the total suspended particulates (TSP) problem. This revision statisfies EPA's condition of approval for the State to submit several additional studies to assess the nature of the primary TSP nonattainment problem in the Detroit area.

EFFECTIVE DATE: This action will be effective on April 20, 1982. Unless notice is received on or before March 22, 1982 that someone wishes to submit critical or adverse comments.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; (312) 886-60337.

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 FR 29790), EPA announced final rulemaking to conditionally approve certain portions of the Michigan SIP for controlling TSP. On that same date, EPA also proposed rulemaking on Michigan's commitment to remedy the identified deficiencies in portions of the State's TSP SIP.

On September 4, 1980, (45 FR 58527), EPA announced final approval of Michigan's schedule committing itself to remedy those identified deficiencies.

Also, on September 4, 1980 (45 FR 58527), EPA announced final approval of Michigan's schedule committing itself to the completion of additional particulate studies in the Detroit area to determine the causes of the primary TSP nonattainment problem. The State agreed to submit a particulate size distribution report, refinement of the emission inventory, assessments of meteorological variables, and an analysis of a microscopy report. These studies were formally submitted by the State of Michigan to EPA on March 7, 1980 (*Down-River Dichotomus Impactor Special Study*) and on April 21, 1981 *Wayne County Primary TSP Standard Nonattainment Studies*).

The submittal of April 21, 1981 was based upon a site-by-site analysis of the emission inventory, meteorological characteristics and particulate microscopy results for each of the seven monitoring stations within Wayne County that reported violations of primary TSP standard in 1979.

EPA has determined that the Detroit TSP studies submitted by the State of Michigan are comprehensive and satisfy EPA's condition of approval. EPA, therefore, takes action today to approve these studies as part of the Michigan federally approved SIP. A complete review of these studies is contained in EPA's rationale document dated October 30, 1981.

EPA believes that this action is a noncontroversial rulemaking, since the revision satisfies Michigan's commitment to complete several studies. This action will be effective April 20, 1982. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a new rulemaking will propose this action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that approvals of SIPs under Section 110 or 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Today's action approves a States action for Michigan under Sections 110 and 172 of the Act. It imposes no requirements beyond those which the State has already imposed.

This regulation is exempt from the Office of Management and Budget under Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of February 18, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in a civil or criminal proceeding brought by EPA to enforce these requirements.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director of Federal Register on July 1, 1981.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: February 9, 1982.

Anne M. Gorsuch,

Administrator

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(49) as follows:

§ 52.1170 Identification of plan.

* * * * * *

(c) * * *

(49) On March 7, 1980 and April 21, 1981 the State of Michigan submitted particulate studies for the Detroit area. These studies satisfy EPA's conditional approval and the State's commitment.

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[FR Doc. 82-4585 Filed 2-17-82: 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-5-FRL-2041-6]

Designation of Areas for Air Quality Purposes; Michigan; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: At the request of the State of Michigan EPA changed the attainment designation for seven counties in Michigan in a notice of final rulemaking published on November 6, 1981 (46 FR 55108). In a letter dated December 2, 1981, the State notified EPA that several errors were contained in the tables describing the attainment status designations. This action corrects those errors.

EFFECTIVE DATE: This correction notice becomes effective March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6038.

SUPPLEMENTARY INFORMATION: Pursuant to section 107(d) of the Clean Air Act, the State of Michigan on October 27, 1980, requested EPA to make changes in the attainment status of (1) Berrien, Genesee, Lapeer, Monroe, Saginaw and Washtenaw Counties for total suspended particulates, and (2) Wayne County for carbon monoxide. EPA's notice of final rulemaking on this request was published on November 6, 1981 (46 FR 55108). In a December 2, 1981, letter, the State of Michigan notified EPA that several errors were contained in the tables describing the attainment status designations.

EPA reexamined these designations and is making the following corrections as requested by the State.

Total Suspended Particulates

AQCR 122

1. Bay County: R5E, T14N, Sections 14–16 and 21–23. Due to a typographical error this area was incorrectly designated as "cannot be classified". The correct designation is *"Does not meet secondary standards"*.

2. Genesee County: Portion "a". Due to a typographical error this area was incorrectly designated as "Does not meet secondary standards". The correct designation is *"Does not meet primary standards."*

AQCR 125

1. Calhoun County: RSW, T2S, Section 34. *RSW* should be changed to R4W. The attainment status designation is correct.

Carbon Monoxide

AQCR 123

1. Macomb, Oakland, Wayne Counties. Continuous portions of Macomb, Oakland and Wayne Counties are designated "Does not meet primary standards" for carbon monoxide (40 CFR part 81).

On October 27, 1980 the State of Michigan requested EPA to reduce the size of the area in Wayne County to include only the following area:

Starting at Base Line Road (extending east to Lake St. Clair), west to Inkster Road, south to Pennsylvania Road, extending east to the Detroit River.

On July 27, 1981 (46 FR 38389) EPA proposed to reduce the size of the CO nonattainment area to the area described above.

EPA approved the above designation in a November 6, 1981 notice of final rulemaking (46 FR 55108). In the table describing the attainment status of Macomb, Oakland and Wayne Counties EPA only listed the above nonattainment area of Wayne County and inadvertently omitted the contiguous portions of Macomb and Oakland Counties. Today, EPA is correcting this error. Therefore, the following area within Macomb, Oakland and Wayne Counties should be "Does not meet primary standards."

Area included within the following (counterclockwise): Lake St. Clair to 14 Mile Road to Kelly Road, N. to 15 Miles Road to Hayes Road, S. to 14 Mile Road to Clawson City boundary, following N. Clawson City boundary to N. Royal Oak City boundary to 13 Mile Road to Evergreen Road to southern Beverly Hills City boundary to southern Bingham Farms City boundary to southern Franklin City boundary to Inkster Road, south to Pennsylvania Road, extending east to the Detroit River.

This rule was exempted by the Office of Management and Budget from review under section 3 of Executive Order 12291.

(Sec. 107, Clean Air Act, as amended)

Dated: January 25, 1982.

David Kee,

Acting Regional Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.323 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is corrected as follows.

§ 81.323 [Corrected]

(1) In the table for "Michigan—TSP" the entries for Bay and Genesee Counties (Counties within AQCR 122) and Calhoun County (County within AQCR 125) should read as follows:

MICHIGAN—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • • • • •				
AQCR 122—Except subareas defined				X
1. Bay County: R5E, T14N, Sections 14-16 and 21-23.		X		
2. Genesee County:				
a. Starting on Industrial Avenue, north to Stewart Avenue, east to Hitchcock Street, south to Olive Avenue (extended), south to Robert T. Longway Boulevard, west and southwest to Industrial Avenue.	X			
b. Starting on Industrial Avenue, north to Pierson Road, east to Dort Highway, south to Hitchcock Street, south to Olive Avenue (extended), south to Robert. T. Longway Boulevard, west and southwest to Industrial Avenue.		X		
• • • • • •				
AQCR 125—Except subareas defined				X
1. Calhoun County: R4W, T2S, Section 34	X			
• • • • • •				

(2) In the table for "Michigan—CO" the entry for AQCR 123 should read as follows:

MICHIGAN—CO

Designated area	Does not meet primary standards	Cannot be classified or better than standards
• • • • • •		
AQCR 123—Except subareas defined		X
1. Macomb, Oakland, Wayne Counties, Area included within the following (counterclockwise): Lake St. Clair to 14 Mile Road to Kelly Road, N. to 15 Mile Road to Hayes Road, S. to 14 Mile Road to Clawson City boundary, following N. Clawson City boundary to N. Royal Oak City boundary to 13 Mile Road to Evergreen Road to southern Beverly Hills City boundary to southern Bingham Farms City boundary to southern Frankling City boundary to Inkster Road; south to Pennsylvania Road, extending east to the Detroit River.	X	
• • • • • •		

[FR Doc. 82-4310 Filed 2-17-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 100

Limitation on Federal Participation For Capital Expenditures; Policy Notice

AGENCY: Public Health Service, HHS.

ACTION: Interpretive Ruling.

SUMMARY: This Notice announces a change in an interpretive ruling under section 1122 of the Social Security Act which applies to the requirement under 42 CFR 100.106 that a State notify an applicant of certain actions within a specified period of time. This interpretive ruling is being revised to prevent the possibility that a finding of a Designated Planning Agency (DPA) or hearing officer be invalidated because of untimely delivery of decisions.

DATES: This new interpretive ruling is effective February 18, 1982 and will apply to each initial determination made by the Secretary under section 1122(d)(1) after that date.

FOR FURTHER INFORMATION CONTACT: James O'Donnell, Division of Regulatory Activities, Bureau of Health Planning, 3700 East-West Highway, Room 6–50, Hyattsville, Maryland 20782, Telephone Number (301) 436–6134.

SUPPLEMENTARY INFORMATION: Under section 1122 of the Social Security Act, the Secretary is authorized to enter into an agreement with a Governor of a State under which a health planning agency designated by the State (designated planning agency or DPA) reviews certain proposed capital expenditures by or on behalf of health care facilities. The purpose of this program is to assure that Federal funds under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act are not used to support unnecessary capital expenditures made by or on behalf of health care facilities. Under this agreement, a DPA will make a finding as to whether the proposal is consistent with the applicable plans, criteria, and standards and forward that finding to the Secretary. Under the section 1122 program regulations, the DPA and the State hearing officer, who upon appeal reviews a DPA's negative finding, are required to notify the applicant of certain actions within a specified period of time at three stages of the review process: (1) The DPA has 15 days from the date of receipt of an application to notify the applicant that additional information is required (42 CFR 100.106(a)(3)); (2) the DPA is required to provide written notification to the applicant within a specified period of time (varying from 60 to 90 days) as to whether the proposal is consistent with applicable plans, criteria, and standards (42 CFR 100.106(a)(4)); and (3) the hearing officer is required to notify the applicant of his decision within 45 days after the conclusion of the hearing (42 CFR 100.106(c)(3)).

The Secretary has previously interpreted those three notification provisions to require that the applicant receive actual notice of the action in question by the specified period. The Secretary is revising this interpretive ruling to provide that notice under these three provisions will be effective on the date the DPA or hearing officer mails to the applicant its finding on incompleteness or its finding as to conformity. The Secretary is revising this interpretive ruling to provide greater consistency with State certificate of need programs and to prevent the possibility that a finding of a DPA or hearing officer be invalidated because its mailed decision was not delivered within a reasonable period of time.

This revised interpretive rule will apply to each initial determination under section 1122 made after February 18, 1982. Under currently delegated authority, the Department's Regional Health Administrators make these initial determinations. In any reconsideration of a Regional Health Administrator's determination under section 1122, the interpretive rule in effect at the time the Regional Health Administrator's determination was made will apply.

Dated: February 9, 1982.

Robert Graham,

Acting Administrator.

[FR Doc. 82-4336 Filed 2-16-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6130

[OR-24318 (WASH)]

Washington; Revocation of Executive Order No. 9036

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew 41.60 acres of land as an Air Navigation Facility. This action will restore the land to such forms of disposition as may by law be made of national forest lands, including the mining and mineral leasing laws.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office; 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 9036 of January 22, 1942, which withdrew the following described lands for use by the Federal Aviation Administration as an air navigation facility is hereby revoked in its entirety:

Willamette Meridian

Wenatchee National Forest

T. 22 N., R. 11 E.,
Sec. 21, lot 3.

The area described contains 41.60 acres in Kittitas County.

2. At 10 a.m. on March 12, 1982, the land will be open to such forms of disposition as may by law be made of national forest lands, including location and entry under the United States mining laws and applications and offers under the mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 5, 1982.

[FR Doc. 82-4301 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6151

[CA (5704)]

California; Revocation of Lighthouse Withdrawals

AGENCY: Bureau of Land Management, Interior

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive orders which withdrew 54.25 acres of land and unsurveyed Lion Rock, located off the coast of California, for lighthouse purposes and will restore 43.52 acres and Lion Rock to the public land laws generally, including the mining and mineral leasing laws. The remaining 10.75 acres are privately owned and not subject to disposition under the public land laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204

of the Federal Land Policy and management Act of 1976, 90 Stat. 2751; 43 M.S.C. 1714, it is ordered as follows:

1. Executive Orders dated January 26, 1867, and November 3, 1905, withdrawing lands for lighthouse purposes, are hereby revoked.

San Bernardino Meridian

T. 10 N., R. 36 W.,
Sec. 34, lots 3, 4, and unsurveyed Lion Rock (located off shore).

The area aggregates 54.25 acres in Santa Barbara County.

2. Of the lands described in paragraph 1, lot 4 is privately owned and not subject to disposition under the public land laws.

3. At 10 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. The public lands will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws at 10 a.m. on March 16, 1982.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.
[FR Doc. 82–4368 Filed 2–17–82; 8:45 am]
BILLING CODE 4310–84–M

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43 CFR Public Land Order 6152

[LA–0164625]

California; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Departmental order which withdrew 555 acres of land for the Bureau of Reclamation's Colorado River Storage Project. Of this acreage, 11.25 acres are privately owned and not subject to disposition under the public land laws. The remaining 543.75 acres will be restored to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Order of October 16, 1931, which withdrew certain lands for reclamation purposes in connection with the Colorado River Storage Project, is hereby revoked insofar as it affects the following described lands:

San Bernardino Meridian

T. 9 N., R. 22 E.,
Sec. 13, lots 3, 4, 5, and 6, SW¼NW¼, N½SW¼,
Sec. 24, W½, N½SW¼NE¼, S½SE¼.
T. 9 N., R. 23 E.,
Sec. 30, N½N½SE¼NW¼.

The area described aggregates 555 acres in San Bernardino County.

2. Of the lands listed in paragraph 1, the following described public lands shall at 10 a.m. on March 16, 1982, be open to the operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

San Bernardino Meridian

T. 9 N., R. 22 E.,
Sec. 13, lots 3, 4, 5, SW¼NW¼, N½SW¼;
Sec. 24, W½, N½SW¼NE¼, S½SE¼.

The area described aggregates 543.25 acres in San Bernardino County.

3. Of the lands described in paragraph 1, N½N½SE¼NW¼ sec. 30, T. 9 N., R. 23 E., containing 10 acres is privately owned and not subject to disposition under the public land laws.

4. The surface estate of lot 6, sec. 13, T. 9 N., R. 22 E., containing 1.25 acres has been conveyed from United States ownership pursuant to the Small Tract Act of June 1, 1938 (43 U.S.C. 682a–682e); therefore, unless and until appropriate regulations are issued, the land will not be open to location under the United States mining laws (30 U.S.C. Ch. 2). This land and all of the public lands described in paragraph 2 have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.
[FR Doc. 82–4367 Filed 2–17–82; 8:45 am]
BILLING CODE 4310–84–M

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43 CFR Public Land Order 6153

[CA–7369 WR, CA–8191 WR]

California; Revocation of Stock Driveway Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Secretarial Orders affecting 433.05 acres of land. This action will restore 233.12 acres to operation of the public land laws. The lands have been open to the mining and mineral leasing laws. The remaining 199.93 acres are privately owned.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Morrison, California State Office, 916–484–4431.

SUPPLEMENTARY INFORMATION:

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of September 13, 1918, creating Stock Driveway Withdrawal No. 38, is hereby revoked as to the following described lands:

San Bernardino Meridian

T. 8 N., R. 19W.,
Sec. 16, N½SE¼.

Mount Diablo Meridian

T. 44 N., R. 6 E.,
Sec. 4, lots 3, 4, S½NW¼.

The area described aggregates 240.42 acres in Ventura and Modoc Counties.

2. The Secretarial Order of February 4, 1919, creating Stock Driveway Withdrawal No. 57, is hereby revoked as to the following described lands:

Mount Diablo Meridian

T. 29 N., R. 1 E.,
Sec. 24, lot 2, SW¼NE¼.
T. 27 N., R. 1 W.,
Sec. 6, lot 9.
T. 27 N., R. 2 W.,
Sec. 8, NE¼NE¼.
T. 28 N., R. 2 W.,
Sec. 30, lot 1.

The area described aggregates 192.63 acres in Tehama County.

3. Lot 2, section 24, T. 29 N., 1 E., and lots 3 and 4, S½NW¼, section 4, T. 4 N., R. 6 E., Mount Diablo Meridian, are no longer public lands and as such are not subject to disposition under the public land laws.

4. At 10:00 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 2800 Cottage Way, Room E2841, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4368 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6154

[WASH-05325]

Washington; Partial Revocation of Executive Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order in part as to 49.30 acres of land withdrawn for lighthouse purposes. The land will not be restored to operation of the public land laws, including the mining laws, because it remains withdrawn for the San Juan Islands National Wildlife Refuge.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6901.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 15, 1875, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked insofar as it affects the following described land:

Willamette Meridian

Flattop Island

T. 36 N., R. 3 W.,
Sec. 4, lot 1;
Sec. 5, lot 1.

The area described contains 49.30 acres in San Juan County.

2. The above described land is withdrawn and reserved for the San Juan Islands National Wildlife Refuge and remains segregated from operation of the public land laws generally, including the United States mining laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4369 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6155

[OR-20252, OR-20255, OR-20257]

Oregon; Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Secretarial orders which withdrew 32.81 acres of land for reclamation purposes. The lands are in private ownership.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of January 3, 1919, January 13, 1920, and February 10, 1922, which withdrew the following described lands for use by the Bureau of Reclamation for reclamation purposes in connection with the Klamath Project are hereby revoked:

Willamette Meridian

Klamath Project

T. 36 S., R. 7 E.,
Sec. 19, lots 4, 6, 8, 10, 12, 13, 20, 21, 24, 30, and 32;
Sec. 30, lot 3.
T. 37 S., R. 8 E.,
Sec. 24, lot 7.

The areas described aggregate 32.81 acres in Klamath County.

2. The lands described above have been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4370 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6156

[A-12981]

Arizona; Revocation of Executive Order of September 23, 1912; Mineral Land Withdrawal No. 1, Arizona No. 1

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew lands in aid of legislation affecting approximately 10,800 acres of which approximately 9,500 acres are privately owned. This action will restore approximately 1,300 acres to operation of the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of September 23, 1912, which withdrew the following described lands in aid of legislation, is hereby revoked in its entirety:

Gila and Salt River Meridian

T. 23 S., R. 24 E.,
Secs. 13 to 16, inclusive;
Secs. 21 to 28, inclusive;
Sec. 36.
T. 23 S., R. 25 E.,
Secs. 18 and 19;
Secs. 30 and 31.

The area described contains approximately 10,800 acres in Cochise County.

2. Of the lands described in paragraph 1, approximately 9,500 acres are privately owned and not subject to disposition under the public land, mineral, and mineral leasing laws.

3. At 10:00 a.m. on March 16, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10:00 a.m. on March 16, 1982, the public lands shall be open to nonmetalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws. The lands have been and will continue to be open to metalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

February 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4369 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6157

[W-23824]

Wyoming; Partial Revocation of Powersite Reserve Nos. 115, 647, and 650

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three Executive orders embracing approximately 2,680.38 acres situated along the Big Horn River and in the Big Horn Canyon National Recreation Area. The lands were withdrawn to protect the Yellowtail (Big Horn Canyon) reservoir site which was developed and is now protected by a Bureau of Reclamation withdrawal. Approximately 240 acres of public land will be restored to operation of the public land laws generally. The remaining lands remain withdrawn for the Big Horn Canyon Recreational Area.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-168, Wyoming, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 115 is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 55 N., R. 94 W.,
  Sec. 8, SE¼NE¼.
T. 57 N., R. 94 W.,
  Sec. 5, lot 5, SW¼NW¼, NW¼SW¼, and SE¼SW¼;
  Sec. 6, lot 5, S½NE¼, SE¼NW¼, and S½SE¼SW¼;
  Sec. 7, W½SE¼NE¼;
  Sec. 8, lots 1, 4, W½NE¼, E½NE¼NW¼, E½NW¼SE¼, NE¼SE¼, and E½SE¼SE¼.
T. 58 N., R. 94 W.,
  Sec. 19, lots 2, 3, 4, 6, 7, SW¼NE¼, E½SE¼NW¼, E½W½SE¼NW¼, E½NE¼SW¼, E½W½NE¼SW¼, SE¼SW¼, and W½SE¼;
  Sec. 30, W½E½, E½E½W½, and E½W½E½W½;
  Sec. 31, W½E½, E½E½NW¼, E½W½E½NW¼, and E½NE¼SW¼.

The area described contains 644.76 acres in Big Horn County.

2. The Executive Order of September 29, 1917, creating Powersite Reserve No. 647, is hereby revoked insofar as it affects the following described lands:

T. 56 N., R. 94 W.,
  Sec. 4, lot 2;
  Sec. 8, lots 3 and 4;
  Sec. 9, lots 2 and 5;
  Sec. 17, lots 2 and 5;
  Sec. 20, lot 2;
  Sec. 22, lots 2, 3, 4, and 6;
  Sec. 27, lot 1;
  Sec. 28, lot 1;
  Sec. 33, lot 5;
  Sec. 34, lot 3.
T. 57 N., R. 94 W.,
  Sec. 9, SW¼SW¼;
  Sec. 15, W½SW¼ and SE¼SW¼;
  Sec. 21, lot 1;
  Sec. 22, lots 1, 7, NW¼NE¼, and NE¼NW¼;
  Sec. 23, W½SW¼, and SE¼SW¼;
  Sec. 26, lots 1, 2, and E½NW¼;
  Sec. 27, lots 1, 3, 4, and 6.
T. 56 N., R. 95 W.,
  Sec. 3, lots 1 and 2;
  Sec. 6, lots 5, 6, and 8.

The area described aggregates 1,038.85 acres in Big Horn County.

3. The Executive Order of August 16, 1917, creating Powersite Reserve No. 650, is hereby revoked insofar as it affects the following described lands:

T. 57 N., R. 95 W., (Partially Surveyed),
  Sec. 1, The remaining lands in Section 1, excluding: Lots 1, 2, 3, 4, SE¼NE¼, NE¼NW¼, N½SE¼NW¼, and N½SE¼SE¼.
T. 58 N., R. 95 W.,
  Sec. 24, lot 1, and E½SE¼;
  Sec. 25, SE¼NE¼, NE¼SE¼, and S½SE¼.

The land described contains approximately 796.77 acres in Big Horn County

4. The State of Wyoming has waived its right to select lands for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

5. At 10 a.m. on March 16, 1982, the following described public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Sixth Principal Meridian

T. 55 N., R. 94 W.,
  Sec. 8, SE¼NE¼.
T. 57 N., R. 94 W.,
  Sec. 23, SE¼SW¼;
  Sec. 26, E½NW¼.
T. 56 N., R. 95 W.,
  Sec. 6, lots 5 and 6.

The area described contains 240.03 acres in Big Horn County.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4371 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6158

[M-40673]

Montana; Partial Revocation of Public Water Reserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order and a Secretarial order as to 120 acres withdrawn for a public water reserve. The 80 acres will be restored to operation of the general land laws, including nonmetalliferous mineral location under the mining laws. The remaining 40 acres are privately owned.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Secretarial Order of April 8, 1932, as Interpretation No. 160, is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 23 N., R. 17 E.,
Sec. 1, SE¼SW¼, and W½SE¼.

The area described contains 120 acres in Blaine County.

2. At 8 a.m. on March 16, 1982 the SE¼SW¼ and NW¼SE¼ will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in order of filing.

3. The lands described in paragraph one will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on March 16, 1982.

4. This action will not restore the SW¼SE¼ to operation of the public land laws as it is in private ownership.

The lands described in paragraph one have been and continue to be open to location for metalliferous minerals under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4372 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6159

[LAKEVIEW-013504]

Oregon; Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: The order revokes a Secretarial order which withdrew 1,882.57 acres of land as a stock driveway. This action restores the land to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 16, 1930, which withdrew the following described lands for a stock driveway is hereby revoked:

Willamette Meridian

Freemont National Forest

T. 31 S., R. 14 E.,
Sec. 35, W½E½.
T. 32 S., R. 14 E.,
Sec. 2, Lot 2, SW¼NE¼, and W½SE¼;
Sec. 11, W½E½;
Sec. 14, W½E½ and S½SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, E½E½, SE¼SW¼, and SW¼SE¼;
Sec. 27, E½W½;
Sec. 34, E½W½.
T. 33 S., R. 14 E.,
Sec. 3, Lot 3, SE¼NW¼, E½SW¼, and SW¼SW¼;
Sec. 4, SE¼SE¼;
Sec. 9, E½E½;
Sec. 16, E½E½.

The areas described aggregate 1,882.57 acres in Lake and Klamath Counties.

2. At 10 a.m., on March 16, 1982, the lands described above will be open to such forms of disposition as may by law be made of national forest lands. The lands have been and continue to be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4373 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6160

[OR-18994-A, OR-20221-B]

Oregon; Partial Revocation of Public Water Reserves No. 61 and No. 118

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Executive Orders in part as to 520.53 acres of land withdrawn as public water reserves. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503-231-6905.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders of February 25, 1919 and February 13, 1929, which withdrew certain lands for public water reserve purposes are hereby revoked insofar as they affect the following described lands:

Willamette Meridian

Public Water Reserve No. 118

T. 18 S., R. 37 E.,
Sec. 29, SE¼SW¼ and N½SE¼.

Public Water Reserve No. 61

T. 22 S., R. 40 E.,
Sec. 32, SE¼SE¼;
Sec. 33, NW¼SW¼.
T. 23, S., R. 40 E.,
Sec. 5, Lots 1 and 2.
T. 29 S., R. 41 E.,
Sec. 12, NW¼NE¼.
T. 35 S., R. 42 E.,
Sec. 19, Lots 10, 11, 12, 19, and 20.

The areas described aggregate 520.53 acres in Malheur County.

2. At 10 a.m., on March 16, 1982, the lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 .am., on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on March 16, 1982, the lands described above will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4345 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6161

[OR-22095 (WASH)]

Washington; Partial Revocation of Secretarial Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order in part as to 157.50 acres of land withdrawn for lighthouse purposes. The lands will not be restored to operation of the public land laws because they remain withdrawn for the Dungeness National Wildlife Refuge.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of October 1, 1851, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 31 N., R. 3 W.,
  Sec. 18, westerly 2,000 feet of lot 1.
T. 31 N., R. 4 W.,
  Sec. 13, lots 1, 2, 3, and 4;
  Sec. 14, lot 1;
  Sec. 24, lots 1 to 5, inclusive;
  Sec. 25, lot 5;
  Sec. 26, lot 9.

The areas described aggregate approximately 157.50 acres in Clallam County.

2. The above described lands are withdrawn for the Dungeness National Wildlife Refuge and remain segregated from operation of the public land laws generally, including the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 8, 1982.
[FR Doc. 82-4348 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6162

[R-2601]

California; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke Bureau of Reclamation Orders which withdrew public lands for the Colorado River Storage and Yuma Projects in California. This action will restore 442.10 acres of public land to the operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Orders of the Bureau of Reclamation dated January 31, 1903; April 2, 1909; April 9, 1909; April 5, 1910; October 19, 1920; and July 26, 1929, withdrawing public lands for the Colorado River Storage and Yuma Projects, are hereby revoked insofar as they affect the following described lands:

San Bernardino Meridian

T. 15 S., R. 12 E.,
  Sec. 21, N½NE¼, lots 2, 3, E½NW¼, NW¼SE¼, S½SE¼, SE¼SW¼;
  Sec. 29, lots 1, 2, 3, 4, and 5, SW¼NE¼, SE¼NW¼, N½SE¼;
  Sec. 32, lots 1, 2, 3, 4, 5, 6, and 7, E½NE¼, SW¼NW¼, SE¼SW¼, NE¼SE¼, S½SE¼, and that part of Tract 73 lying within sec. 32.
T. 16, S., R. 12 E.,
  Sec. 5, SW¼SW¼;
  Sec. 7, lot 1, NE¼NW¼;
  Sec. 18, lots 3 and 4, E½NW¼;
  Sec. 29, lots 3 and 4, S½NW¼, SW¼, S½SE¼;
  Sec. 34, W½NE¼, SE¼NE¼, E½NW¼, SE¼, NE¼SW¼.
T. 16½, S., R. 12 E.,
  Sec. 2, lot 1, 2, 3, Tract 108 (Formerly described as sec. 36, T. 16 S., R. 12 E.).
T. 14, S., R. 13 E.,
  Sec. 32, lot 1, SE¼SE¼;
  Sec. 33, S½SW¼ W½SE¼.
T. 17, S., R. 13 E.,
  Sec. 17, W½SW¼ SE¼SW¼;
  Sec. 20, lots 3, 4, 6, S½NE¼, N½NW¼, SE¼NW¼ NE¼SW¼.
T. 14, S., R. 15 E.,
  Sec. 24, lot 20;
  Sec. 25, lot 1.
T. 13, S., R. 16 E.,
  Sec. 16, E½;
  Sec. 21, W½NE¼;
  Sec. 27, SW¼.
T. 15, S., R. 16 E.,
  Sec. 36, N½, E½SW¼, SE¼.
T. 16, S., R. 16 E.,
  Sec. 13, lot 22;
  Sec. 23, That portion of Tract 64 located in Section 23;
  Sec. 24, That portion of Tract 64 located in Section 24;
  Sec. 25, That portion of Tract 64 located in Section 25;
  Sec. 26, That portion of Tract 64 located in Section 26;
T. 17, S., R. 16 E.,
  Sec. 3, That portion of Tract 68 located in Section 3;
  Sec. 4, That portion of Tract 68 located in Section 4;
  Sec. 9, That portion of Tract 68 located in Section 9;
  Sec. 10, lots 1, 10, 20, 21, W½NE¼, SW¼SE¼, portion of Tract 41 in sec. 10, portion of Tract 68 located in Section 10, NW¼SE¼;
  Sec. 11, lots 7, 10, 11, 13, 15, portion of Tract 41 located in Section 11, S½NE¼, N½SE¼;
  Sec. 14, That portion of Tract 41 in Section 14;
  Sec. 15, lots 2, 3, 4, 7, portion of Tract 41 in Section 15;
  Sec. 16, lot 3.

The area described aggregates 5,621.60 acres in Imperial County.

2. At 10 a.m. on March 16, 1982, the following described public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

San Bernardino Meridian

T. 15, S., R. 12 E.,
  Sec. 32, lot 7, SE¼SW¼.
T. 16, S., R. 12 E.,
  Sec. 29, S½SE¼.
T. 14, S., R. 13 E.,
  Sec. 32, lot 1, SE¼SE¼;
  Sec. 33, S½SW¼, W½SE¼.
T. 14, S., R. 15 E.,
  Sec. 24, lot 20;
  Sec. 25, lot 1.
T. 17, S., R. 16 E.,
  Sec. 10, NW¼SE¼.

The area described aggregates 442.10 acres.

3. The public lands in paragraph 2 will be open to location under the United States mining laws at 10 a.m. on March 16, 1982. All the lands in paragraph 2 and the W½SW¼, SE¼SW¼ sec. 17, and N½NW¼, SE¼NW¼ sec. 20, T. 17 S., R. 13 E., have been and continue to be open to applications and offers under the mineral leasing laws.

4. Of the lands described in paragraph 1, the following are privately owned and

not subject to disposition under the public land laws:

T. 15 S., R. 12 E.,
Sec. 21, N½NE¼, lots 2, 3, E½NW¼, NW¼SE¼, S½SE¼, SE¼SW¼;
Sec. 29, lots 1, 2, 3, 4, 5, SW¼NE¼, SE¼NW¼, N½SW¼;
Sec. 32, lots 1, 2, 3, 4, 5, and 6, E½NE¼, SW¼NW¼, NE¼SE¼, S½SE¼, and that part of Tract 73 lying within Sec. 32.
T. 16 S., R. 12 E.,
Sec. 5, SW¼SW¼;
Sec. 7, lot 1, NE¼NW¼;
Sec. 18, lots 3 and 4, E½NW¼;
Sec. 29, lots 3 and 4, S½NW¼, SW¼;
Sec. 34, W½NE¼, SE¼NE¼, E½NW¼, SE¼, NE¼SW¼.
T. 16¼ S., R. 12 E.,
Sec. 2, lots 1, 2, 3, Tract 108 (Formerly described as Sec. 36, T. 16 S., R. 12 E.)
T. 17 S., R. 13 E.,
Sec. 17, W½SW¼, SE¼SW¼;
Sec. 20, lots 3, 4, 6, S½NE¼, N½NW¼, SE¼NW¼, NE¼SW¼.
T. 13 S., R. 16 E.,
Sec. 16, E½;
Sec. 21, W½NE¼;
Sec. 27, SW¼.
T. 15 S., R. 16 E.,
Sec. 36, N½, E½SW¼, SE¼.
T. 16 S., R. 16 E.,
Sec. 13, lot 22;
Sec. 23, That portion of Tract 64 located in Section 23;
Sec. 24, That portion of Tract 64 located in Section 24;
Sec. 25, That portion of Tract 64 located in Section 25;
Sec. 26, That portion of Tract 64 located in Section 26.
T. 17 S., R. 16 E.,
Sec. 3, That portion of Tract 68 in Section 3;
Sec. 4, That portion of Tract 68 in Section 4;
Sec. 9, That portion of Tract 68 in Section 9;
Sec. 10, lots 1, 10, 20, 21, W½NE¼, SW¼SE¼, portion of Tract 41 in section 10, portion of Tract 68 in Section 10;
Sec. 11, lots 7, 10, 11, 13, 15, portion of Tract 41 in Section 11, S½NE¼, N½SE¼;
Sec. 14, That portion of Tract 41 in Section 14;
Sec. 15, lots 2, 3, 4, 7, portion of Tract 41 in Section 15;
Sec. 16, lot 3.

The area described aggregates 5,379.70 acres.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, U.S. Department of the Interior, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82–4344 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6163

[Nev–047458, Nev–047460, Nev–047461, Nev–047465, Nev–047469, Nev–047471, Nev–047473]

Nevada; Revocation of Public Water Reserves

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke seven Executive orders that withdrew 538.15 acres for use as public water reserves. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 5344 of May 8, 1930, Executive Order No. 5594 of April 6, 1931 and Executive Orders dated May 25, 1921, April 15, 1922, November 27, 1922, November 20, 1925 and October 28, 1929, which withdrew the following described lands for use as public water reserves are hereby revoked in their entirety:

Mount Diablo Meridian

T. 34 N., R. 22 E.,
Sec. 2, NW¼SE¼;
Sec. 11, NW¼NE¼.
T. 36 N., R. 23 E.,
Sec. 5, lot 2, SW¼NE¼.
T. 42 N., R. 25 E.,
Sec. 25, lots 1 to 5 inclusive.
T. 39 N., R. 26 E.,
Sec. 3, lot 16.
T. 24 N., R. 48 E.,
Sec. 3, SE¼SW¼.
T. 23½ N., R. 49 E.,
Sec. 1, SW¼NE¼, SE¼NW¼.
T. 47 N., R. 68 E.,
Sec. 8, N½NW¼, E½SE¼.

The area described contains 538.15 acres (160 in Elko County, 120 in Eureka County, 40 in Humboldt County, 218.15 in Washoe County).

2. At 10 a.m. on March 16, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 10 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on March 16, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and will continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82–4350 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6164

[C–22037]

Colorado; Powersite Restoration No. 757; Partial Revocation of Powersite Reserve Nos. 116, 244, and 253; Powersite Cancellation No. 346; Partial Cancellation of Powersite Classification No. 89

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three Executive orders and a Secretarial order which withdrew lands for powersite purposes. Approximately 3,006 acres will be opened to operation of the public land laws, and 1,391 acres of national forest lands will be opened to such forms of disposition as may be made of such lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission in DA–509 Colorado, it is ordered as follows:

1. Executive Order of July 2, 1910, withdrawing lands for Powersite Reserve No. 116 is hereby revoked insofar as it pertains to the following described national forest lands:

White River National Forest, Sixth Principal Meridian

Powersite Reserve No. 116

T. 5 S., R. 87 W.,
Sec. 16, lots 7 thru 12;
Sec. 20, lots 10 thru 18, N½NE¼, SE¼NW¼, NW¼SW¼, SW¼SE¼;
Sec. 21, lots 5 thru 9, 11, N½NE¼, NW¼NW¼;
Sec. 29, lots 1, 2, NE¼NW¼, S½NW¼;
Sec. 30, lots 10 thru 20, SE¼NE¼, SE¼SW¼, NW¼SE¼;
Sec. 31, lots 5, 6.

The lands described aggregate approximately 1,391 acres in Garfield County.

2. Executive Order of July 2, 1910, withdrawing lands for Powersite Reserve No. 116 is hereby revoked insofar as it pertains to the following described public lands:

Sixth Principal Meridian

Powersite Reserve No. 116

T. 5 S., R. 86 W.,
Sec. 1, lots 7, 8;
Sec. 2, lots 9 thru 13, NE¼SW¼, SW¼SW¼, N½SE¼;
Sec. 3, lots 11 thru 17, S½S½;
Sec. 4, lots 16 thru 27;
Sec. 5, lots 24 thru 26, 28, 29;
Sec. 6, lots 21 thru 23, 25, 27, 28.
T. 5 S., R. 87 W.,
Sec. 1, lots 14 thru 17, SW¼SW¼, NW¼SE¼;
Sec. 10, SE¼SE¼;
Sec. 11, lots 9 thru 16, N½SW¼, NW¼SE¼;
Sec. 12, lots 11 thru 17, 19 thru 22, NW¼NW¼;
Sec. 14, lots 3, 4, NE¼NW¼, SW¼NW¼;
Sec. 15, lots 9 thru 12, 14, NW¼NE¼, SW¼NW¼.

The lands described aggregate approximately 2,002 acres in Eagle County.

3. Executive Order of February 17, 1912, withdrawing lands for Powersite Reserve No. 224 is hereby revoked insofar as it pertains to the following described public lands:

Powersite Reserve No. 244

T. 5 S., R. 86 W.,
Sec. 5, lots 23, 27;
Sec. 6, lots 16, 20, 24, 26, SE¼NW¼;
Sec. 7, lots 5 thru 8, E½NW¼;
Sec. 8, lots 1 thru 3.

The lands described aggregate approximately 404 acres in Eagle County.

4. Executive Order of March 23, 1912, withdrawing lands for Powersite Reserve No. 253 is hereby revoked insofar as it pertains to the following described public lands:

Powersite Reserve No. 253

T. 5 S., R. 86 W.,
Sec. 1, lots 5, 6, S½N½;
Sec. 2, lots 5 thru 8;
Sec. 3, lots 5, 6, 9, 10;
Sec. 5, lots 21, 22;
Sec. 8, NE¼NE¼.

The lands described aggregate approximately 560 acres in Eagle County.

5. Secretary's Order of February 24, 1925, withdrawing lands for Powersite Classification No. 89 is hereby revoked insofar as it pertains to the following described public land:

Powersite Classification No. 89

T. 5 S., R. 86 W.,
Sec. 1, NW¼SW¼.

The land described contains 40 acres in Eagle County.

6. At 7:45 a.m. on March 16, 1982, the lands described in paragraph one shall be open to such forms of disposition as may by law be made of national forest lands.

7. At 7:45 a.m. on March 16, 1982, the public lands described in paragraphs two, and three, four and five shall be open to operation of the public land laws generally, subject to any valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. All of the lands described above remain open to mineral leasing and to location and entry under the United States mining laws.

Inquiries concerning these lands should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4347 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6165

[M 41833]

Montana; Partial Revocation of Public Land Order No. 642; Public Water Reserve No. 164

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Public Land Order No. 642, which withdrew lands for use as a public water reserve. This action will restore the lands to national forest status and open them to such forms of disposition as may by law be made of such lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 642, dated May 9, 1950, which withdrew lands within the Deer Lodge National Forest for a public water reserve is hereby revoked insofar as it affects the following described lands:

Public Water Reserve No. 164

Principal Meridian

T. 4 N., R. 8 W.,
Sec. 34, SW¼NE¼, SE¼NW¼, NE¼SW¼; and NW¼SE¼.

The area described contains 160 acres in Silver Bow County.

2. At 8 a.m. on March 16, 1982, the lands will be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4346 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6166

[OR-19025, OR-19029]

Oregon; Powersite Restoration No. 695; Partial Revocation of Powersite Reserves No. 26 and No. 63

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive Order in part as to 520.67 acres of land withdrawn for powersite reserves. This action will restore the lands to operation of the public land laws generally.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-545-Oregon, it is ordered as follows:

1. The Executive Order of July 2, 1910, which created Powersite Reserves No. 26 and No. 63, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Powersite Reserve No. 26

T. 12 S., R. 12 E.,
Sec. 29, NE¼SW¼.
T. 15 S., R. 12 E.,
Sec. 25, W½SW¼;
Sec. 26, E½NE¼;
Sec. 35, N½SE¼.

Powersite Reserve No. 63

T. 12 S., R. 12 E.,
Sec. 27, Lot 3;
Sec. 28, N½SE¼;
Sec. 33, E½NW¼ and NE¼SW¼.

The areas described aggregate 520.67 acres in Deschutes and Jefferson Counties.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m., on March 16, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4374 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6167

[C-16100]

Colorado; Modification and Partial Revocation of Public Land Order Nos. 725, 2302, and 3092 Affecting Lands in the Roosevelt, San Isabel, and Rio Grande National Forests

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies Public Land Order Nos. 725, 2302 and 3092 to eliminate a duplication of national forest withdrawals and partially revokes Public Land Order Nos. 725 and 2302 to restore about 150 acres to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 725 dated June 4, 1951, is revoked as to the following described lands:

Sixth Principal Meridian

Laramie River Road Camp—Roosevelt National Forest

T. 8 N., R. 75 W.,
Sec. 7, SW¼NE¼SW¼. 10 acres.

New Mexico Principal Meridian

Garfield Campground—San Isabel National Forest

T. 50 N., R. 6 E.,
Sec. 33, lot 7. 38.41 acres.

2. Public Land Order No. 3092 dated May 22, 1963, is revoked as to the following described land:

New Mexico Principal Meridian

Garfield Campground—San Isabel National Forest

T. 50 N., R. 6 E.,
Sec. 33, NW¼SE¼NE¼. 10 acres.

The 58.41 acres of land described in paragraphs one and two remain withdrawn by other national forest withdrawal orders.

3. Public Land Order No. 2302 dated March 14, 1961, is revoked as to the following described lands:

New Mexico Principal Meridian

North Crestone Campground—Rio Grande National Forest

T. 44 N., R. 12 E.,
Sec. 31, NE¼SE¼NE¼, S½SE¼NE¼, N½NE¼SE¼;
Sec. 32, SW¼NW¼, N½NW¼SW¼. 110 acres.

4. Public Land Order No. 725 dated June 4, 1951, is revoked as to the following described lands:

New Mexico Principal Meridian

Shavano Campground—San Isabel National Forest

T. 50 N., R. 6 E.,
Sec. 12, S½SW¼SW¼;
Sec. 13, N½NW¼NW¼. 40 acres.

5. At 7:45 a.m. on March 16, 1982, the lands described in paragraphs three and four shall be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4375 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6168

[C-21456]

Colorado; Partial Revocation of Reclamation Withdrawals, Fryingpan-Arkansas Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order and a Public Land Order which withdrew lands for reclamation purposes. The national forest lands will be opened to such forms of disposition as may be made of such lands. The public lands will be opened to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Secretary's Order dated May 24, 1946, withdrawing lands for the Gunnison-Arkansas Project (now Fryingpan-Arkansas Project) is hereby revoked as to the following described national forest lands:

San Isabel National Forest

Sixth Principal Meridian

T. 15 S., R. 79 W.,
Sec. 27, S½S½;
Sec. 28, S½NE¼SE¼, SW¼SE¼.

The land described contains 220 acres in Chaffee County.

2. Public Land Order No. 3500 dated December 2, 1946, is hereby revoked as to the following described lands:

Sixth Principal Meridian

T. 15 S., R. 78 W.,
Sec. 17, SW¼NW¼;
Sec. 18, NE¼SE¼.

New Mexico Principal Meridian

T. 51 N., R. 8 E.,
Sec. 22, W½NW¼, W½SE¼, E½SW¼, SW¼SW¼;
Sec. 27, W½NE¼, SE¼NW¼, W½SE¼, SE¼SE¼, SW¼;

Part of the land in section 27 described by metes and bounds is in patent No. 1097106.

The lands described aggregate approximately 600 acres in Chaffee County.

3. At 7:45 a.m. on March 16, 1982, the lands in paragraph one shall be open to such forms of disposition as may by law be made of national forest lands.

4. At 7:45 a.m. on March 16, 1982, the public lands in paragraph two shall be open to operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 7:45 a.m. on March 16, 1982, the lands will be open to location under the United States mining laws. All the lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be directed to Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4376 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6169

[M 40893]

Montana; Partial Revocation of Executive Order Dated March 3, 1915; Public Water Reserve No. 27

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order as to 320 acres withdrawn for public water reserve purposes. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: March 16, 1982

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive order dated March 3, 1915, is hereby partially revoked insofar as it affects the following described lands:

Public Water Reserve No. 27

Principal Meridian

T. 21 N., R. 36 E.,
Sec. 24, W½W½;
Sec. 25, W½W½.

The area described contains 320 acres in Garfield County.

2. At 8 a.m. on March 16, 1982, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The lands will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on March 16, 1982.

The lands have been and continue to be open to locations for metalliferous minerals under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 8, 1982.

[FR Doc. 82-4377 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 333

[Docket No. FEMA-PP-333-1]

Peacetime Screening of Non-Federal Employees Who Are Members of the Military Reserve

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule applies to key non-Federal employees who are Ready Reservists. It establishes screening procedures to provide the maximum military force in the event of mobilization and at the same time assures effective functioning of State and local governments and civil industries.

EFFECTIVE DATE: February 18, 1982.

ADDRESS: Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Messrs. Charles McIntosh (202-287-3963) or Robert Frandsen (202-287-3952), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: On February 23, 1981, the Federal Emergency Management Agency published a proposed rule entitled "Peacetime Screening of Non-Federal Employees Who Are Members of the Military Reserve" (44 CFR Part 333). The comment time has now passed. Seven comments were received; all requested information and clarification which was provided by telephone. Based on these discussions and other suggestions, we are publishing the proposed rule in final form.

It has been determined that this regulation is informative in nature, will have little, if any, impact on costs or competition, and thus is not a major rule. Also, as the regulation only specifies procedures for planning for a contingency, it has little if any economic impact. Thus, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. No regulatory impact analysis will be prepared. As this rule is procedural, it can and will become effective February 18, 1982.

On March 27, 1979, in a related rule affecting Federal departments and agencies the Federal Preparedness Agency, General Services Administration, published a Circular (FPC-9) entitled "Federal Employees who are Members of the Military Ready Reserve." Subsequently, the functions of the Federal Preparedness Agency were transferred to the Federal Emergency Management Agency by Executive Order 12148 (44 FR 43239, effective July 15, 1979). This rule involves the Secretary of Defense and the Secretary of Transportation under Executive Order 11190, as amended by Executive Order 11382. It relates to DOD Directive 1200.7, November 28, 1978, Screening the Ready Reserve (44 FR 11215, February 28, 1979). In connection with DOD Screening under 32 CFR Part 44, this Part 333 furnishes FEMA guidance to State and local governments, and private industry. Accordingly, Subchapter E of Chapter I of Title 44 of the Code of Federal Regulations is

amended by adding new Part 333, to read as follows:

PART 333.—PEACETIME SCREENING

Sec.
333.1 Purpose.
333.2 Scope and applicability.
333.3 Policy.
333.4 Procedures.
333.5 Responsibilities.

Authority: Section 103 of the National Security Act of 1947, as amended (50 U.S.C. 404), Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*), Executive Order 12148 of July 20, 1979 (44 FR 43239), Executive Order 11190, as amended by Executive Order 11382.

§ 333.1 Purpose.

To provide procedures for eliminating conflict between key civil employment and military assignment of Ready Reservists in the event of a mobilization of the Ready Reserve.

§ 333.2 Scope and applicability.

Employes are responsible for informing employers of their reserve status. If mobilization is directed, procedures in § 333.4(e) will terminate and all members of the Ready Reserve will be subject to mobilization.

Employers in State and local governments and private industry should identify and inform the Department of Defense of those reservists who continue to occupy key positions in their organizations after other remedies to staff these positions with non-reserve personnel are inappropriate.

§ 333.3 Policy.

(a) Ready Reservists will be called into active military service in a national emergency. No deferment from mobilization will be granted because of civil employment.

(b) The Federal Emergency Management Agency and the Department of Defense recognize that a potential for conflict between military and civil employment could exist for Ready Reservists. They have agreed to consider changing a reservist's assignment if they are essential civil employees. This change in status could only be made prior to a mobilization.

(c) It is in the interest of employers that key positions held by Ready Reservists be screened and appropriate steps be taken to correct military and civil assignments.

§ 333.4 Procedures.

Prior to a mobilization, State and local governments, and private industry may identify all key employees who are members of the Ready Reserve, assess impact on their organization of a call-up of Reservists, and use the following procedures as appropriate:

(a) Prepare other employees to assume the essential functions of Ready Reservists.

(b) Transfer the essential functions of Ready Reservists to other employees.

(c) Develop plans to fill positions vacated by Ready Reservists in a mobilization.

(d) Make other arrangements to have the essential functions of Ready Reservists performed.

(e) If these remedies are not appropriate, these organizations can use the criteria and procedures in Department of Defense Regulation 32 CFR Part 44 on a case-by-case basis to request that particular key employees be screened out of the Ready Reserve.

§ 333.5 Responsibilities.

Employers of Ready Reservists may notify the Armed Forces in order to determine if potential conflicts affecting their employees between military or civil duties warrant change in Ready Reserve status. The Department of Labor, through appropriate national and regional offices, will be available to advise State and local government and private industry in support of a mobilization and assist such entities in substantiating their claims for essential civil positions.

The Department of Defense may advise civilian employers of Ready Reservists of their employees' Ready Reserve status, including name, social security number, and other data necessary to identify Ready Reserve employees.

In all cases, 32 CFR Part 44 procedures shall pertain. If an organization's request for exemption from military duties is denied by DOD and should continued conflict between DOD and employers persist on essential civil employment, on the basis of criteria adopted jointly by the Departments of Commerce, Defense, and Labor and the Federal Emergency Management Agency, then FEMA shall adjudicate the differences.

Dated: February 10, 1982.

John R. Brinkerhoff,

Acting Associate Director, National Preparedness Programs Directorate, Federal Emergency Management Agency.

[FR Doc. 82-4302 Filed 2-17-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-567; RM-3619]

FM Broadcast Station in Brookville and Versailles, Ind.; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action denies the request of Twin Forks, Inc. to delete FM Channel 276A from Versailles, Indiana, and reassign it to Brookville, Indiana.

DATE: Effective April 9, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, 632-5414.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Brookville and Versailles, Indiana); BC Docket No. 80-567, RM-3619; Report and order (proceeding terminated).

Adopted: January 28, 1982.

Released: February 8, 1982.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 45 FR 64984, published October 1, 1980, proposing the deletion of Channel 276A from Versailles, Indiana, and reassignment of that channel to Brookville, Indiana, at the request of Twin Forks, Inc. ("petitioner"), and a Request For Supplemental Information by the Commission, 46 FR 39629, published on August 4, 1981.

2. Versailles (population 1,560),[1] seat of Ripley County (population 24,398), is located approximately 112 kilometers (70 miles) southeast of Indianapolis, Indiana. Versailles has no local aural broadcast service, although it has one FM assignment, Channel 276A. Brookville (population 2,879), seat of Franklin County (population 16,612), is located approximately 43 kilometers (27 miles) northeast of Versailles, Indiana. It has no local aural broadcast service or FM assignments.

3. Petitioner expressed an interest in applying for the channel, if assigned to Brookville. Assignment of the channel would require a site restriction of approximately 11.5 kilometers (7.2 miles) northwest of the city. See, para. 11, *infra.*

[1] Population figures are taken from the 1980 U.S. Census.

4. An opposition to the proposal was filed by WCNB, Inc. ("WCNB"), licensee of Stations WCNB(AM) and WCNB–FM, Connersville, Indiana. WCNB submitted an engineering report indicating that a city-grade signal cannot be placed over Brookville from the petitioner's proposed transmitter site as required by the Commission's Rules [2] due to the fact that Brookville is located in a valley to which FM line-of-sight is impossible.

5. In response, petitioner stated that the proposed transmitter location was the best possible site for serving Brookville and portions of the surrounding area; and that certain assumptions made by WCNB are without basis in fact.

6. Our analysis of the engineering data submitted by WCNB led us to doubt whether a 70 dBu signal could be placed over Brookville given the necessary site restrictions. Accordingly, we issued the above-referenced Request for Supplemental Information, calling upon petitioner to "submit further information regarding its ability to provide a 70 dBu signal over the community of Brookville and include in its showing specific technical data to support its conclusions." We also pointed out that, although the Commission does not generally consider technical issues in the rule making context, an exception is made if it can be shown that there are no possible sites which can be utilized to provide city-grade service to the principal community to be served. See, *e.g., Attica, New York,* 59 F.C.C. 2d 1137 (1975); and that, rather than denying petitioner's proposal at that time, the petitioner should be given an opportunity to address our concerns.

7. In its Reply to our Request for Supplemental Information, petitioner states that the site which it proposed initially is not the only site available within the "open area" fixed by separation requirements. Petitioner claims that there are locations in such area from which a 70 dBu signal could be placed over Brookville, and shows "a new example of transmitter site" in what appears on its topographic map to be the Metamora Quadrangle. From that site, petitioner has depicted a radial at 106° E running directly through the community of Brookville. Petitioner concludes that "a line of site signal is easily transmittable to the lowest mean ground level of the community of Brookville, from the sample site shown and/or other like it nearby;" and that "in fact, a site level 50' higher is readily available only 900' northeast of the sample site used for the Exhibit."

8. Petitioner disputes the site restriction of 11.5 kilometers (7.2 miles) which we indicated. Petitioner pleads that easing of mileage separations as proposed in BC Docket No. 80–90 would remove any line-of-sight problems with respect to assignment of Channel 276A to Brookville.

9. WCNB, in its Reply to petitioner's supplemental information, contends that, although petitioner was to provide specific technical data for its proposed station, it has, instead, supplied speculation as to what its antenna height might be, and where a site might be located. WCNB submitted an affidavit of its consulting engineer showing that petitioner's depiction of the 106° radial across Brookville indicates shadowing at the elevation in Brookville where most people live. The affidavit also notes substantial questions regarding shadows in the city limits on radials either side of the 106° radial. WCNB notes that the petitioner has not shown that there is a site available which would meet all present mileage separation requirements and provide a city grade signal over Brookville. WCNB also notes that if petitioner intends to seek the Brookville channel allocation under the proposed new mileage separations in BC Docket No. 80–90, it should file its proposal when and if the proposed rules are actually implemented; that the proposed new rules have no bearing on this case. In conclusion, WCNB states that petitioner's request should be denied and that Channel 276A should remain allocated to Versailles, Indiana.

10. Petitioner's proposal to delete FM Channel 276A from Versailles, Indiana, and assign it to Brookville, Indiana, will be denied. Petitioner's reply to our request for supplemental information fails to set forth specific technical data to establish that it could comply with the mileage separation requirements and provide a 70 dBu signal over all of Brookville as required by § 73.315(a) of our Rules.

11. Our further examination of the proposal shows that petitioner's assertion that the mileage restriction should be lessened was correct. A site restriction of 9.92 kilometers (6.2 miles) northwest would be required, based on a 64 kilometer (40 mile) separation requirement from FM Station WBLZ, Hamilton, Ohio (Channel 278).

12. Petitioner submitted no further technical data to show that it could provide a 70 dBu signal over Brookville from the site which it originally specified. With respect to petitioner's new "sample site," our examination shows that a 70 dBu signal would not cover the entire community of Brookville. It appears that the required signal would be provided to a small part of the community but would leave most of the community with a derogated signal. Shadowing would appear to occur 0.4 mile in length, within Brookville, while the distance across the entire city is approximately 0.7 mile, as pointed out by WCNB. Such derogated service would be disadvantageous to the community and a wasteful use of the channel. We believe that the public interest would be better served under the circumstances by retaining the channel in Versailles, Indiana.

13. Petitioner argues that the purpose of an FM rule making is to determine whether there is a need for, and interest in, a proposed facility and that the overriding consideration here is the petitioner's providing a first local broadcast service for Brookville. However, where it is concluded that there are no possible sites which can be utilized to provide city-grade service to the principal community to be served, a rule making would serve no useful purpose. Rather, the channel could be put to better use in providing a first local service at Versailles. See, para. 6, above.

14. Petitioner's reliance in any way upon proposed easing of separation requirements in BC Docket No. 80–90, is premature. A proposal relying upon any provisions therein could be filed if and when such rules are promulgated.

15. For the reasons set forth above, we find that the public interest would be served by denying the petition of Twin Forks, Inc. to delete Channel 276A from Versailles, Indiana, and reassign it to Brookville, Indiana.

16. Authority for the action herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0. 281 of the Commission's Rules.

17. Accordingly, it is ordered, that the above-captioned petition by Twin Forks, Inc., IS DENIED.

18. It is further ordered, that this proceeding is terminated.

19. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[2] Section 73.315(a) provides that a minimum field strength of 70 dBu must be provided over the entire principal community to be served.

Federal Communications Commission.
Martin Blumenthal,
Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4305 Filed 2-17-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 173

[Docket No. HM-166I; Amdt. Nos. 171-64, 173-53]

Transportation of Liquefied Petroleum Gas in Intrastate Commerce

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule authorizes the continued use in intrastate service of certain nonspecification cargo tanks for the carriage of liquefied petroleum gas (LPG) in States where this practice was permitted prior to the adoption of the Department's Hazardous Materials Regulations (HMR) by those States. This action is necessary because, in the past, individual States have permitted LPG to be transported in intrastate service in cargo tanks which were not built to the requirements of DOT Specification MC-330 or MC-331. When States adopted the HMR, these nonspecification cargo tanks were no longer authorized for the transportation of LPG. These amendments will allow the continued use of nonspecification cargo tanks for the transportation of LPG in intrastate commerce until they are taken out of service and replaced with new tanks that meet DOT requirements.

DATE: This amendment is effective April 19, 1982. However, compliance with the regulations as amended herein, is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street SW., Washington, D.C. 20590 (202-472-2726).

SUPPLEMENTARY INFORMATION: On May 18, 1981, the MTB published a notice of proposed rulemaking under Docket No. HM-166I; Notice No. 81-2 (46 FR 27146), which proposed an amendment to allow the continued use of certain nonspecification cargo tanks for the transportation of LPG in intrastate commerce.

Since passage of the Hazardous Materials Transportation Act (HMTA) of 1974 (49 USC 1801 et seq.) the MTB has encouraged the adoption of the Hazardous Materials Transportation Regulations (49 CFR Parts 170 to 179) by the States in order to promote uniformity in safety regulation throughout the nation. However, the adoption of the Department's Hazardous Materials Regulations has created a few problems for some cargo tank owners and operators in certain States. DOT regulations require cargo tanks for LPG to be constructed in compliance with either DOT Specification MC-330 or MC-331. However, a number of cargo tanks not subject to DOT regulations (nor ICC regulations prior to 1967) have been constructed and used in intrastate commerce for many years without incident. While they were manufactured in accordance with certain consensus standards and were otherwise qualified for use, they do not meet the standards now required by DOT regulations. The result of a State's adoption and enforcement of DOT regulations is to immediately require that all cargo tanks in that jurisdiction comply with DOT specifications without provision for an adequate transition period.

The MTB received six comments on Notice No. 81-2. Two commenters stated that they supported the proposed amendments. However, they thought that the DOT should broaden the proposal to include interstate use of the nonspecification tanks. The MTB does not concur in the use of cargo tanks having a design pressure of less than 250 psig in interstate commerce. Three reasons for this denial are (1) it goes far beyond on what was proposed in the Notice; (2) it would be unfair to all of the carriers and owners who have purchased DOT specification equipment, and (3) it would be setting a precedent for the use of nonspecification cargo tanks in interstate commerce which would denigrate the value and validity of a nationally uniform system establishing the level of safety required for cargo tanks used to transport flammable gases such as propane.

Two comments received supported the proposed amendments with certain exceptions. First, they recommended that proposed paragraph §173.315(k) be revised to include reference to the API-ASME Code. One commenter recommended that a new paragraph (i) be added to § 173.315(k) to read "Tanks designed and constructed in accordance with paragraphs U-68 or U-69 of the 1949 and earlier editions of the ASME Code and having a design pressure of 200 psi may be used provided that they comply with the other provisions of 173.315(k) of this subchapter. Such tanks may be rerated at a working pressure 25 percent in excess of the design pressure for which the tank was originally constructed, and if rerated shall be marked as follows: "Re-rated working pressure . . . psi." For purposes of setting safety relief valves and pressure control valves, and for establishing maximum and minimum design pressures, the rerated working pressure shall be considered as the equivalent of the design pressure as defined in these regulations." One commenter questioned use of the words "ASME certificate" in § 173.315(k)(3). One commenter later withdrew his recommendation regarding reference to the API-ASME Code. The MTB does not concur that specific reference to made to the joint API-ASME Code. Inasmuch as the DOT (ICC prior to 1967) specification cargo tanks have referenced only the ASME Code for design, construction, and inspection requirements, it is not considered appropriate to include a reference to the API-ASME Code. Tanks designed and constructed in accordance with the ASME Code which have a design pressure less than 250 psig must be re-rated to a working pressure of not less than 250 psig before entering service. The minimum design pressure which DOT is willing to accept for a cargo tank used to transport LPG is 250 psig.

One commenter stated that although the intention of the proposal is to "allow continued use of nonspecification cargo tanks for the transportation of LPG in intrastate commerce," proposed section 173.315(k)(6) goes far beyond the current situation. This commenter further stated that the Department has required, and enforced, the use of DOT specification cargo tanks by interstate carriers regardless of the inter/intra-state nature of the commerce. Since the proposal would permit a deterioration of the present safety situation, it is not believed to be in accordance with Congress' intent regarding "uniform national standards." Finally, this commenter recommended eliminating the words "including its operation by a motor carrier otherwise engaged in interstate commerce" from proposed § 173.315(k)(6) and provide the "grandfather" exception to only intrastate carriers. The MTB does not agree with this commenter because application of the "grandfather" exception only to intrastate carriers would not alleviate the problems faced by a carrier whose status has changed from intrastate carrier to interstate carrier.

The last comment received was from the Hazardous Substances Transportation Board (HSTB) of the

Pennsylvania Department of Transportation which concurred in part with the proposed amendments. However, they recommended that documentation be required to be carried on each vehicle to establish the fact that the cargo tank complies with the requirements of § 173.315(k). Reasons cited by the HSTB for such documentation were to facilitate the highway enforcement program of the various States and to prevent unnecessary disruption of service by enforcement officials. While MTB recognizes that a requirement for the documentation recommended by the HSTB would somewhat ease the enforcement burden on both State and Federal enforcement personnel, this benefit is out-weighed by the recordkeeping burden placed on the motor carrier to maintain a copy of these documents in each vehicle at all times. It is the policy of the Federal government to reduce, not add to the paperwork burdens to the regulated community. However, if the carrier elects to carry this documentation with the vehicle, it may facilitate inspection and prevent delays by enforcement officials.

Except for minor editorial changes in § 173.315(k)(1), (3), (k)(6), and a new (k)(7) no other changes have been made to Notice No. 81–2.

The MTB has determined that this regulation is consistent with Section 2 of Executive Order 12291, and is a non-major rule under the terms of that Order. Pursuant to the Regulatory Flexibility Act, this rule will not result in a significant economic impact on a substantial number of small entities because its effect is to eliminate a burdensome restriction on certain carriers of LPG.

In consideration of the foregoing, 49 CFR Parts 171 and 173 are amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7, paragraph (d)(6) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(6) NFPA Pamphlet No. 58 is titled, "Standard for the Storage and Handling of Liquefied Petroleum Gases," 1979 edition.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.315, Note 2 following the table and paragraph (k) are revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * * * *

Note 1. * * *

Note 2. See § 173.32 for authority to use other portable tanks and for manifolding cargo tanks, see § 173.301(d).

* * * * *

(k) A nonspecification cargo tank meeting, and marked in conformance with, the edition of the ASME Code in effect when it was fabricated, may be used for the transportation of liquefied petroleum gas if it—

(1) Has a minimum design pressure no lower than 250 psig;

(2) Has a capacity of 3,500 gallons or less;

(3) Was manufactured in conformance with the ASME Code prior to January 1, 1981, according to its ASME name plate and manufacturer's data report;

(4) Conforms to NFPA Pamphlet 58;

(5) Has been inspected and tested in accordance with § 173.33 as specified for Specification MC–330 or MC–331;

(6) Is operated exclusively in intrastate commerce (including its operation by a motor carrier otherwise engaged in interstate commerce) in a state where its operation was permitted by the laws of that State (not including the incorporation of this subchapter) prior to January 1, 1981;

(7) Was used to transport liquefied petroleum gas prior to January 1, 1981; and

(8) Is operated in conformance with all other requirements of this subchapter.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.) A regulatory evaluation and an environmental assessment are available for review in the docket. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4456 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 173

[Docket No. HM–166M; Amdt. No. 173–55]

Reinstatement of Department of Energy Approval Authority for Radioactive Materials Package Designs

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to reinstate authority to the Department of Energy (DOE) for the evaluation and approval of radioactive materials package designs. Prior authority was removed effective December 1, 1980. This action is necessary in order to avoid delays in the approval process which could severely limit the effectiveness of DOE nuclear programs.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Richard R. Rawl, Chief, Radioactive Materials Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202–426–2311).

SUPPLEMENTARY INFORMATION: On December 11, 1980, the MTB published Docket No. HM–56; Amdt. No. 106–3, 107–6, 171–58, 172–63, 173–142, 174–39, 175–18, 176–12, 177–51, 178.64 (45 FR 81570) which made numerous miscellaneous changes to 49 CFR. Item Number 39 of the referenced docket changed the designations "U.S. Atomic Energy Commission" and "USAEC" to read "U.S. Nuclear Regulatory Commission" and "USNRC" each time they appeared in the following sections and section headings: § 173.393a(a), (a)(1), (a)(2) (a)(3) and (a)(5), § 173.394(b)(3) and (c)(2), § 173.395(b)(2) and (c)(2), § 173.396(b)(4) and (c)(3). Prior to the above changes, the DOE and the NRC as successors to the Atomic Energy Commission had approval authority under the above referenced sections. Although the final rule was not intended to impose burdens upon any person, it did have an impact on the ongoing programs of DOE. The DOE has stated that their energy, space, medical, industrial and waste programs would

meet with lengthy delays if all package designs were required to pass through the approval process of the NRC and these delays could severely limit the effectiveness of the DOE nuclear program.

In view of the strict procedures the DOE requires to be followed to certify its own package designs for radioactive materials, the MTB agrees that DOE packaging requirements and evaluation techniques which demonstrate compliance with safety standards equivalent to those contained in 49 CFR Parts 100 to 177 and 10 CFR Part 71 are sufficient to protect the public health and safety.

Since this amendment is only reinstating an approval authority that was in 49 CFR prior to Docket HM-56 and does not impose additional requirements, public notice has not been provided and this amendment is effective without delay.

In consideration of the foregoing, Part 173 is amended to read as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

In § 173.7, paragraph (d) is added to read as follows:

§ 173.7 U.S. Government material.

* * * * *

(d) Notwithstanding the requirements of §§ 173.393a and 173.394 through 173.398 of this subchapter, packagings made by or under the direction of the U.S. Department of Energy may be used for the transportation of radioactive materials when evaluated, approved, and certified by the Department of Energy against packaging standards equivalent to those specified in 10 CFR Part 71. Packages shipped in accordance with this paragraph shall be marked and otherwise prepared for shipment in a manner equivalent to that required by this subchapter for packagings approved by the Nuclear Regulatory Commission.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1)

Note.—Because this amendment is only a reinstatement of a prior approval, the Materials Transportation Bureau has determined that the final rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the Docket. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4455 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Part 173

[Docket No. HM-166K, Amdt. No. 54]

Transportation of Anhydrous Ammonia in Intrastate Commerce

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Department's Hazardous Materials Regulations to allow the continued use in intrastate service of certain cargo tanks for the carriage of anhydrous ammonia in States where this practice was permitted until the Hazardous Materials Regulations were extended to cover both interstate and intrastate transportation of certain materials, including anhydrous ammonia, and prohibited such practice.

This is not a major rule. It is supported by the majority of the persons who submitted comments on the notice of proposed rulemaking. It is designed to rectify a situation which would cause hardship in the agricultural community and the industries which serve it.

EFFECTIVE DATE: This amendment is effective April 19, 1982. However, compliance with the regulations as amended herein is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street SW., Washington, D.C. 20590, telephone number (202) 426-2075.

SUPPLEMENTARY INFORMATION: On Thursday, September 24, 1981, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket No. HM-166K, Notice No. 81-7 [46 FR 47099], which proposed to amend the Hazardous Materials Regulations (HMR) to allow the continued use of certain specification and nonspecification cargo tanks in intrastate anhydrous ammonia service in States which historically have permitted, or never prohibited, the use of these cargo tanks for that service.

The Notice was based in part on a petition from the fertilizer industry to allow the continued use of these cargo tanks in order to avoid hardship both to farmers using anhydrous ammonia for fertilizer and the fertilizer industry. Comments on the Notice were solicited with a closing date of November 23, 1981.

A total of eleven comments were received, ten from private individuals or companies and one from the Pennsylvania Department of Transportation (Pennsylvania DOT). Based on the comments received, the proposals in the Notice, with one revision, are being incorporated as amendments to the HMR. The following is a summary of the comments received on the Notice.

Of the ten comments received from individuals or companies, nine requested that the amendments proposed in the Notice be adopted. None of these comments went into detail on the proposed amendments or recommended any changes to them. All of these comments stressed the hardship that would fall on the agricultural community and the fertilizer industry which services it if the amendments were not adopted. The tenth commenter protested the elimination of the use of State approved cargo tanks in the first place.

The Pennsylvania DOT concurred in part in the amendments proposed in the Notice. However, they recommend that documentation be required to be carried on each vehicle to establish the fact that the vehicle had complied with the requirements contained in the proposed amendment. Reasons cited by the Pennsylvania DOT for such documentation were to make enforcement of the HMR by State authorities easier and to prevent unnecessary disruption of service by enforcement officials. While MTB recognizes that a requirement for the documentation suggested by the Pennsylvania DOT would somewhat ease the enforcement burden of both State and Federal enforcement personnel, this benefit is out-weighed by the recordkeeping burden placed on the carrier to maintain a copy of these documents in each vehicle at all times. It is the policy of the Federal government to reduce, not add to the paperwork burden of the regulated community. However, if the carrier elects to carry this documentation with the vehicle, it may facilitate inspections and prevent delays by enforcement officials.

As stated in the summary of the Notice it was the intention of the proposal to authorize the use of specification and nonspecification cargo tanks with a design service pressure of 250 psig in the carriage of anhydrous ammonia in intrastate service. However, due to oversight, the proposed change

dealt only with nonspecification cargo tanks. Cargo tanks built to Specification MC–330 or MC–331 with a design service pressure of 250 psig were omitted from the proposed rule change. This omission has been corrected by including Specification MC–330 and MC–331 cargo tanks in Note 17.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

1. In § 173.315 a new note, Note 17, is added to the Table in § 173.315(a)(1) and the entry for "Anhydrous ammonia" is revised. The note is referenced in the first column and the last two columns of the Table (with headings of "Type" and "Minimum design pressure," respectively) for the first material entry: "Anhydrous ammonia."

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * * * *

(a) * * *

(1) * * *

TABLE

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
Anhydrous ammonia (see Notes 14 and 17 and paragraph (1) of this section).	56	82; see Note 5	DOT–51, MC–330, MC–331; see Notes 12 and 17	265; see Note 17.

* * * * * * * * * * * * * * *

Note 17.—A Specification MC-330 or MC-331 cargo tank or a nonspecification cargo tank meeting, and marked in conformance with, the edition of the ASME Code in effect when it was fabricated, may be used for the transportation of anhydrous ammonia if it—

(1) Has a minimum design pressure not lower than 250 psig;

(2) Was manufactured in conformance with the ASME Code prior to January 1, 1981, according to its ASME name plate and manufacturer's data report;

(3) Is painted white or aluminum;

(4) Complies with Note 12 of this paragraph;

(5) Has been inspected and tested in accordance with § 173.33 as specified for Specification MC-330 or MC-331;

(6) Was used to transport anhydrous ammonia prior to January 1, 1981;

(7) Is operated exclusively in intrastate commerce (including its operation by a motor carrier otherwise engaged in interstate commerce) in a state where its operation was permitted by the laws of that State (not including the incorporation of this subchapter) prior to January 1, 1981; and

(8) Is operated in conformance with all other requirements of this subchapter.

* * * * * * * * * * * * * * *

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, Appendix A to Part 1).)

Note.—The Materials Transportation Bureau has determined that this document is not a "major rule" under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the Docket. I certify that this Amendment will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 12, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-4457 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Parts 526 and 533

[Docket No. FE 82–01; Notice 1]

Petitions Under the Automobile Fuel Efficiency Act of 1980; Procedures Relating to Light Truck Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: This notice establishes requirements for the contents of petitions filed under the Automobile Fuel Efficiency Act of 1980 ("the 1980 Act"). The 1980 Act authorizes the granting of relief from certain requirements related to the automobile fuel economy standards established under Title V of the Motor Vehicle Information and Cost Savings Act ("the Cost Savings Act"). This notice is being issued to inform manufacturers about the types of information which must be submitted in support of the various types of relief petitions and plans. This notice also expands the flexibility of manufacturers in determining how to group their vehicles for the purposes of compliance with the MY 1982 light truck fuel economy standards. Finally, this notice seeks comments on these actions before permanent rules are adopted.

DATES: Effective date: February 18, 1982. Comments on this notice must be received by the agency not later than April 5, 1982.

ADDRESS: Comments should refer to the docket and notice numbers and be submitted (preferably in 10 copies) to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Richard Strombotne, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0846).

SUPPLEMENTARY INFORMATION: The Automobile Fuel Efficiency Act of 1980 (94 Stat. 1821) amended the fuel economy provisions of the Motor Vehicle Information and Cost Savings Act to assist the automobile manufacturers in complying with fuel economy standards and to promote employment in the U.S. automotive industry. To obtain this relief, the 1980 Act requires manufacturers first to file petitions or plans with the agency and make certain specified showings. This

notice establishes an interim final regulation concerning the specific information which manufacturers must submit in their petitions and plans.

This notice addresses four different types of relief authorized under the 1980 Act. The agency has previously issued a rule under the 1980 Act relating to the availability of monetary credits for exceeding the light truck average fuel economy standards. See 45 FR 83233, December 19, 1980, and section 6(b) of the 1980 Act.

The first set of requirements established in this notice applies to the exemption provided by section 4(a) of the 1980 Act from the domestic content requirement in section 503 of the Cost Savings Act. The requirement specifies that if at least 75 percent of the cost to the manufacturer of an automobile is attributable to value added in the United States or Canada, the automobile is considered domestically-manufactured. If the percentage is below that level, the automobile is considered to be foreign-manufactured. See section 503(b)(2)(E). Under that requirement, if a manufacturer produces cars both in this country and abroad for sale in this country and it raises the domestic content of the cars produced in this country above 75 percent, it must ensure that its domestically-produced cars and its foreign-produced cars separately meet the fuel economy standards. Thus, the manufacturer could not average high fuel economy imported cars with lower fuel economy domestically-manufactured cars as a strategy for complying with the fuel economy standards.

The domestic content provision was originally included in the Cost Savings Act to promote employment in the U.S. automobile industry by encouraging manufacturers to produce high fuel economy vehicles in this country, instead of relying on the importation of high fuel economy cars which they produce or purchase abroad. However, the requirement for separate compliance has had the opposite effect on U.S. employment in its application to foreign manufacturers. Foreign manufacturers which seek or might seek to produce high fuel economy cars in the U.S. are penalized under the original domestic content provision. If they produce their high fuel economy cars in this country and eventually exceed 75 percent domestic content, they would lower the average fuel economy of their remaining foreign-produced fleet. As a result, a manufacturer's foreign fleet might not comply with the fuel economy standards, although its combined foreign and domestic fleet would probably exceed the standard substantially.

To reduce this disincentive for foreign manufacturers to initiate production in this country and to achieve high levels of domestic content, Congress amended section 503(b) of the Cost Savings Act by adding a new subsection (3). Under that provision, a manufacturer which completes its first model year of domestic production of automobiles between 1975 and 1985 may petition the agency for exemption from the requirement for separate compliance so that it does not apply when the domestic content of the U.S. produced fleet exceeds 75 percent. Section 503(b)(3) requires that the agency grant such a petition unless it finds that doing so would "result in reduced employment in the United States related to motor vehicle manufacturing." Employment reductions could occur if, for example, granting the petition resulted in the petitioner's capturing increased sales from current U.S. manufacturers whose vehicles have a higher domestic content. The agency has already granted a petition under this provision to Volkswagen of America. (See 46 FR 54453; November 2, 1981.) It appears that in most instances, increasing U.S. content for one company should produce net increases in overall U.S. employment.

To determine whether to grant a petition filed under this provision, the agency needs information on the magnitude of these possible adverse employment effects, if any. The agency would also need to know the magnitude of the positive employment effects resulting from the decision to begin domestic production or increase domestic content. Therefore, the regulations or petitions and plans for relief set forth below specifies that a petitioning manufacturer submit information describing insofar as possible the vehicles it plans to sell in the United States during the exemption period, the projected sales of those vehicles, the domestic content of those vehicles and plans for obtaining components from domestic sources. Information is also required on the extent, if any, to which additional sales of the petitioner's vehicles are expected to be gained at the expense of current U.S. manufacturers, and the net employment impact of the shift in sales. The petitioner must also submit data on the yearly total employment related to its U.S. production operations to give an overview of the positive impact of granting the petition. Finally, information is required on the extent to which the petitioner's product plan and component sourcing decisions would be affected by the agency's granting or denial of the petition.

The second relief provision added by the 1980 Act is intended to encourage manufacturers to transfer production of a foreign-produced vehicle to this country. Section 503(b)(4) of the Cost Savings Act authorizes a temporary exemption from the domestic content requirement in section 503. Under that requirement, an automobile whose domestic content is less than 75 percent must be treated as a foreign-produced automobile. This poses a problem particularly if a manufacturer wishes to transfer production of a high fuel economy car and average it with its domestic fleet. The exemption is available to any manufacturer which plans to phase-in domestic production of a new vehicle by gradually increasing its domestic content to 75 percent. A manufacturer which satisfies the statutory requirements is permitted to include up to 150,000 automobiles in its domestic fleet if the automobiles have at least 50 percent domestic content initially and if the manufacturer submits and the agency approves a plan for achieving 75 percent domestic content by the fourth year of the exemption.

In considering whether to approve a plan under this provision, the agency must determine whether the plan is adequate. To verify achievement of the 50 and 75 percent domestic content levels, the regulation specifies that information must be provided on the total manufacturing costs of the vehicles whose production is to be transferred to this country. In addition, information is required on the changes in domestic content of the vehicles to be produced in this country during each of the four years covered by the plan, including information on the timing and nature of the change.

The third relief provision relates to compliance with fuel economy standards for 4-wheel drive light trucks. This provision, which was added by the 1980 Act to the Cost Savings Act as section 502(k), authorizes the agency to adjust the manner in which average fuel economy is calculated for a petitioner's 4-wheel drive light truck fleet or to provide other relief with respect to a fuel economy standard for 4-wheel light trucks. To obtain this relief, the petitioner must show that it would be unable to comply with such a standard "without causing severe economic impacts such as plant closings or reduction in employment in the United States related to motor vehicle manufacturing." (Section 502(k)).

To enable the agency to assess the impacts on a petitioning manufacturer of compliance with a fuel economy standard for 4-wheel drive light trucks, the regulation requires that information be submitted on the changes planned by the manufacturer to achieve compliance and the cost and fuel economy impacts of each of those changes. The manufacturer must also identify the particular compliance steps which the manufacturer believes would cause "severe economic impacts" and the nature of those impacts. This information will permit the agency to determine what level of rule economy the petitioner is capable of achieving without experiencing "severe economic impacts".

Information must also be submitted on monetary credits likely to be earned in the three model years preceding and the three model years following the model year for which relief is sought. This information will permit the agency to assess the effect of available credits on the need for relief. Credits are earned at the rate of five dollars per vehicle for each tenth of a mile per gallon by which a manufacturer's fleet exeeds a average fuel economy standard. Earned credits may be used to offset civil penalties (accrued at the same rate) for the manufacturer's falling below a standard in one or more of the three model years before or after the model year in which the credit was earned.

Finally, the petitioner must specify the precise type and extent of relief being sought.

The final relief provision is section 502(1) of the Cost Savings Act which was added by section 6(b) of the 1980 Act. Section 502(1) authorizes a manufacturer which expects to fail to meet a fuel economy standard in a particular model year to file a plan with NHTSA regarding the prospects for earning credits in the next three model years. The plan must set forth the individual actions comprising the plan and a schedule for accomplishing those actions. If NHTSA approves the plan, the credits are available immediately to offset the civil penalty for the model year in which the manufacturer failed to meet the standard. The benefit of having such a plan approved is that the manufacturer can avoid ever being deemed to have violated the fuel economy standard for that model year if it actually earns the projected credits. If such a manufacturer does not obtain the agency's approval for a plan under section 502(1), the manufacturer may have to pay the civil penalty and then seek a refund if credits are subsequently earned.

Section 502(1) directs the agency to approve any plan submitted by a manufacurer under that section unless the agency determines that "it is unlikely that the plan will result in the manufacturer earning sufficient credits" to offset the civil penalty. The agency might make such a finding if either the technological or other steps planned by the manufacturer will fail to produce the levels of average fuel economy necessary to earn the credits.

Therefore, the regulation specifies that the manufacturer must submit information demonstrating the feasibility of its plan. Among types of required information are descriptions of planned product actions which will affect fuel economy (e.g., the introduction of a new model), and the effect of that product action on the manufacturer's average fuel economy.

In addition to establishing a regulation regarding certain types of submissions under provisions added to the Cost Savings Act by the 1980 Act, this notice also adopts a simple change relating to how light trucks are grouped for purposes of compliance with the light truck fuel economy standards for model year 1982. The change would give manufacturers the same latitude in grouping their light trucks in that model year that they presently have for model years 1983–1985. On December 31, 1979, the NHTSA published a proposal to establish separate standards for 2-wheel drive and 4-wheel drive light trucks for model years 1982–1985. Due to a statutory deadline for issuing the model year 1982 standards, the agency published them on March 31, 1980. The standards were 16 miles per gallon for 4-wheel drive light trucks and 18 miles per gallon for 2-wheel drive light trucks. The NHTSA then sought further comment on the model year 1983–1985 standards and expressly focused public attention on the concept of a combined standard. When the agency published its decision on December 11, 1980, it provided manufacturers with an option of complying with separate standards or a single combined standard. The NHTSA did not, however, then go back and provide the same option for model year 1982.

Over the past year, the agency has been reviewing its existing procedures and regulations pursuant to E.O. 12291 to determine the need for any amendments to eliminate ineffective or unnecessarily burdensome or inflexible regulations. However, it was only in December that the agency received information indicating the value of increasing the flexibility of the manufacturers in grouping their light trucks for compliance purposes. In that month, the manufacturers submitted their semi-annual fuel economy reports required by 49 CFR 537. The agency's analysis of the information in those reports revealed for the first time the value of giving manufacturers the same flexibility in grouping their light trucks for model year 1982 as they already have for model years 1983–1985. By placing all of its light trucks in a single group, a manufacturer has greater freedom to choose how it allocates its efforts to improve fuel economy between technology changes and sales mix changes.

Accordingly, the agency has decided to provide manufacturers with the option of complying with a single, combined standard. In terms of required fuel savings, the separate standards of 16 and 18 miles per gallon are essentially the equivalent of a single standard of 17.5 miles per gallon for all light trucks together. The single standard has therefore been set at that level. The figure of 17.5 was calculated by harmonically weighting the separate standards based on the 75 percent/25 percent sales mix of 2-wheel drive light trucks and 4-wheel drive light trucks used in the 1983–85 proceeding. This notice adopts that combined standard of 17.5 miles per gallon. As noted above, this action makes no change in the level of fuel economy required of manufacturers, but does allow a manufacturer the choice of placing all of its 2-wheel drive and 4-wheel drive light trucks together in a single group or maintaining two separate groups for compliance purposes. It also provides an additional method of compliance, i.e., selling larger numbers of the higher fuel economy 2-wheel drive light trucks.

The actions taken by this notice are being issued as an interim final rule because they are essentially procedural and therefore notice and opportunity for comment is not required by the Administrative Procedures Act. Nevertheless, the agency is providing an opportunity to comment. Appropriate changes warranted by the comments will be incorporated in the permanent final rules.

The agency also notes and expressly finds there is good cause for proceeding directly to an interim final rule. As noted above, the need for this amendment was identified by the agency as a result of its evaluation of the recently submitted pre-model year fuel economy reports. Those reports were submitted to the agency last month. If manufacturers are to have a meaningful opportunity to take advantage of this change, it must be

adopted now. Typical production runs for 1982 light trucks of major domestic manufacturers end in June 1982. That is only about four months away. If the rule were not adopted and made effective until after a comment period and the issuance of another **Federal Register**, little or no time would remain for the manufacturers to take advantage of the additional flexibility being provided through the combined standard. Extensive comment has already been solicited and obtained on the concept of an optional combined standard for the immediately following model years. Applying the concept to model year 1982 does not appear to raise any issues not considered in that rulemaking. For these reasons and because this amendment relieves a restriction, the agency finds good cause also for making the amendment effective upon publication in the **Federal Register**.

The petitions and plans regulation also is being made effective immediately. The agency finds good cause for doing so since it will facilitate the submission of any requests for relief.

The agency has considered the impacts of this rule and determined that it is neither major within the meaning of E.O. 12291 nor significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency anticipates that any manufacturer wishing to petition or submit a plan will not have to make any special effort to obtain the necessary information. The manufacturer will likely have already obtained the information for its own purposes. Further, the agency expects few petitions and plans to be submitted. In the 15 months since the 1980 Act was adopted, there has been only one petition. The combined standard requires virtually the same level of average fuel economy as do the existing standards. NHTSA has, however, prepared a regulatory evaluation and placed it in the docket. Copies of the evaluation may be obtained by contacting the Docket Section at the address provided at the beginning of this notice.

The agency has also considered these actions under the Regulatory Flexibility Act. Since notice and comment is not required on them, a regulatory flexibility analysis is not required. Even if the Flexibility Act were applicable, the agency notes that it would certify that there are no significant impacts of the petitions and plans regulation on any small entities. Petitions and plans will be rarely submitted small organizations and governmental units. Further, few, if any, of the manufacturers that might submit a petition or plan qualify as small businesses. Similarly, even if the issuance of a combined standard were subject to the Flexibility Act, the agency would certify that an analysis is not required because few, if any, of the light truck manufacturers are small businesses.

Finally, the agency has reviewed these actions under the National Environmental Policy Act and determined that they will not have any significant impact on the human environment.

Interested persons are invited to submit comments on this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which that purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage.

In addition, the commenter, or in the case of a corporation, a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

For the reasons set forth in the preamble, Chapter V of Title 49, Code of Federal Regulations, is amended as set forth below.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002 and 2003); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

1. Part 526 is added to 49 CFR Chapter V to read as follows:

PART 526—PETITIONS AND PLANS FOR RELIEF UNDER THE AUTOMOBILE FUEL EFFICIENCY ACT OF 1980

Sec.

526.1 General provisions.
526.1 U.S. production by foreign manufacturer.
526.3 Transfer of vehicle from foreign to U.S. production.
526.4 Adjustment of fuel economy standards for 4-wheel drive light trucks.
526.5 Earning offsetting monetary credits in future model years.

Authority: Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002 and 2003); delegation of authority at 49 CFR 1.50.

§ 526.1 General provisions.

(a) Applicability. These regulations apply to petitions and plans submitted under the Automobile Fuel Efficiency Act of 1980, Pub. L. 96–425, as codified in Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001 *et seq.*

(b) Address. Each petition and plan submitted under the Automobile Fuel Efficiency Act of 1980 must be addressed to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington D.C. 20590.

(c) Authority and scope of relief. Each petition or plan must specify the specific

provision of the Act under which relief is being sought. The petition or plan must also specify the model years for which relief is being sought.

§ 526.2 U.S. production by foreign manufacturer.

Each petition filed under section 4(a) of the Act must contain the following information:

(a) For each model type (as defined by the Environmental Protection Agency in 40 CFR Part 600) planned by the petitioner to be sold in the United States (regardless of place of manufacture), and for each model year beginning with the year before the first one for which relief is sought by the petition through the last year covered by the petition, the following information based on the petitioner's current product plan and the assumption that the petition will be granted:

(1) A description of the model type, including car line designation, engine displacement and type, transmission type, and average fuel economy;

(2) U.S. sales projected for the model type;

(3) The average percentage of the cost to the manufacturer of the model type which is attributable to value added in the United States or Canada, determined in accordance with 40 CFR 600.511–80, and the total manufacturing cost per vehicle.

(4) In the case of model types not offered for sale in the United States before the first year for which relief is sought in the petition or other model types for which expansions in production capcity are planned during the years covered by the petition, information (including any marketing surveys) indicating from where the additional sales will be captured. If sales are projected to be captured from U.S. manufacturers, the petition must provide an estimate of the employment impact on those manufacturers of the lost sales and the gain in employment for the petitioner and its U.S. suppliers.

(b) The total number of persons employed in the United States by the petitioner, excluding non-motor vehicle industry related employees, for each model year covered by the petition and for the model year immediately prior to those years.

(c) A description of how the petitioner's responses to paragraphs (a) and (b) of this section would differ if the petition were denied.

§ 526.3 Transfer of vehicle from foreign to U.S. production.

Each plan submitted under section 4(b) of the Automotive Fuel Efficiency Act of 1980 must contain the following information:

(a) For each model year for which relief is sought in the plan and for each model type of automobile sought to be included by the submitter in its domestic fleet under the plan (i.e., those with 50 to 75 percent U.S. value added), provide the following information:

(1) A description of the model type, including engine type and displacement, transmission class, car line designation, and fuel economy;

(2) The projected U.S. sales of the model type;

(3) The average total manufacturing cost per vehicle for the model type;

(4) The percentage of the cost to the manufacturer attributable to value added in the United States or Canada for the model type:

(b) For each year covered by the plan, a list of individual product actions (e.g., change from imported engine to domestically manufactured engine) which will increase the domestic content of the affected vehicles. For each action, provide the model year in which the action will take effect, a description of the nature of the action, and the percentage change in domestic content resulting from the action.

§ 526.4 Adjustment of fuel economy standards for 4-wheel drive light trucks.

Each petition submitted under section 5 of the Automobile Fuel Efficiency Act of 1980 must contain the following information:

(a) For each configuration (as defined by the Environmental Protection Agency in 40 CFR Part 600) of 4-wheel drive light trucks to be manufactured by the petitioner and for each model year from the year in which the petition is filed to the year for which relief is sought:

(1) Model designation and type (e.g., K–15 pickup);

(2) Test weight;

(3) Gross vehicle weight rating;

(4) Engine displacement, cylinder configuration and engine type.

(5) Transmission type;

(6) Fuel economy;

(7) Projected sales;

(8) Rear axle ratio; and

(9) N/V ratio.

(b) A list and full description of each planned product action (e.g., new transmission, addition of improved tires) which will affect the average fuel economy of the petitioner's 4-wheel drive light trucks beginning with the current model year and ending with the model year for which relief is sought.

(c) An indication of which configurations specified under paragraph (a) of this section are affected by each product action specified under paragraph (b) of this section.

(d) The fuel economy effect of each product action specified under paragraph (b) of this section per affected vehicle.

(e) The petitioner's actual or projected average fuel economy for 4-wheel drive light trucks subject to fuel economy standards for the model year for which relief is sought, the three preceding model years and the three following model years. For model years 1979 and 1982–85, also provide actual or projected fuel economies for the combined fleet of 2-wheel drive and 4-wheel drive light trucks, and the number of vehicles in the combined fleet. For those same five model years, provide the number of vehicles in the combined fleet which are subject to a fuel economy standard for 4-wheel drive light trucks.

(f) The actions which the petitioner would undertake to comply with the fuel economy standard for 4-wheel drive light trucks in the model year for which relief is sought and which the petitioner believes would result in severe economic impacts.

(g) The economic effects (such as reduction in employment or plant closings) which would result from undertaking the actions specified under paragraph (f) of this section. Provide information to support the conclusion that these impacts would result from attempted compliance. If reductions in employment or plant closings are projected, identify the plants which may be affected and the number of employees at each plant which are involved in the production of 4-wheel drive light trucks.

§ 526.5 Earning offsetting monetary credits in future model years.

Each plan submitted under section 6(b) of the Automobile Fuel Efficiency Act of 1980 must contain the following information:

(a) Projected average fuel economy and production levels for the class of automobiles which may fail to comply with a fuel economy standard and for any other classes of automobiles from which credits may be transferred, for the current model year and for each model year thereafter ending with the last year covered by the plan. For light truck credit transfers which may occur between different classes of light trucks, provide the information specified in section 526.4(e).

(b) A list and full description of each planned product action (e.g., new model, mix change) which will affect the average fuel economy of the class of automobiles subject to the credit earning plan, for each model year beginning with the current model year and ending with the last year covered by the credit earning plan.

(c) The portion of the petitioner's fleet affected by each product action (e.g., all K-cars with 6-cylinder engines) and the number of affected vehicles.

(d) The fuel economy effect of each product action specified under paragraph (b) of this section per affected vehicle.

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

§ 533.5 [Amended]

2. 49 CFR Part 533 is amended in § 533.5(a) by designating the table specifying standards for model years 1979–1982 as "Table I" and by designating the table specifying standards for model years 1983–1985 as "Table II".

3. 49 CFR Part 533 is amended by removing the model year 1982 standards from the first table (Table I) in section 533.5(a) and by revising the second table (Table II) to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE II

Model year	Combined standard		2-wheel drive light trucks		4-wheel drive light trucks	
	Captive imports	Others	Captive imports	Others	Captive imports	Others
1982	17.5	17.5	18.0	18.0	15.0	15.0
1983	19.0	19.0	19.5	19.5	17.5	17.5
1984	20.0	20.0	20.3	20.3	18.5	18.5
1985	21.0	21.0	21.8	21.8	19.0	19.0

§ 533.5 [Amended]

3. The lead-in to § 533.5(d) of Title 49 of the Code of Federal Regulations is amended by revising it to read as follows:

* * * * *

(d) For model years 1982–85, each manufacturer may: * * *

* * * * *

[FR Doc. 82-4066 Filed 2-11-82; 4:51 pm]
BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 76–06, Notice 12 and Docket No. 1–18, Notice 22]

Federal Motor Vehicle Safety Standards; Speedometers and Odometers; Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes Standard No. 127, *Speedometers and Odometers*. This action is based on the agency's conclusion that such a standard is unlikely to yield any significant safety benefits. Revocation of the standard will result in cost savings for manufacturers and consumers.

DATES: The revocation is effective on March 25, 1982. Petitions for reconsideration must be received by March 22, 1982.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers and be submitted to the Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket Room hours: 8:00 a.m.–4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. John Carson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–2720.

SUPPLEMENTARY INFORMATION: On October 22, 1981 (46 FR 51788), the agency proposed revoking Standard No. 127, *Speedometers and Odometers* (49 CFR 571.127). After evaluating all of the comments submitted on the proposal, the agency has decided to revoke the standard. Significant comments to the docket are addressed below.

Preemption

General Motors and Renault raised the issue of what effect the revocation of Standard No. 127 would have on the ability of states to adopt their own safety laws on speedometers and odometers. GM requested the agency to declare that speedometers and odometers not be subject to regulation by the States because the agency has determined that only Federal regulation of the subject is appropriate.

The legislative history of the National Traffic and Motor Vehicle Safety Act shows that one goal of the Act is to establish a uniform national safety program that applies to all vehicles before they are first sold to consumers. Congress directed that the agency establish and maintain Federal safety standards on significant safety problems. The Senate Report on the Act stated that the agency is to issue safety standards for those "vehicle characteristics that have a significant bearing on safety" (S. Rep. No. 1301, 89th Cong., 2d Sess. 6 (1966)).

In the case of Standard No. 127, the agency recognizes that there is a nexus between safety and having a speedometer and odometer. Based on available data, however, the agency has determined that the current requirements are not yielding and cannot be expected to yield significant safety benefits.

In revoking this standard, NHTSA intends that other levels of government be preempted from establishing similar requirements. The agency believes that regulation of speedometers and odometers is not appropriate at this time at any level based on the absence of data indicating regulatory methodologies exist which would in fact yield significant safety benefits. Contrary regulatory decisions at other levels of government would negate the agency's exercise of discretion and undermine the Congressional goal of uniform national standards.

Further, refraining from regulation will facilitate experimentation by the manufacturers in providing more effective ways of improving speedometer and odometer performance and thus possibly providing significant safety benefits. Manufacturers indicated in their comments that they voluntarily intend to continue meeting many of the speedometer requirements. They also indicated that they would continue to provide anti-tampering odometer features that they voluntarily adopted prior to implementation of the standard. During this rulemaking, some manufacturers, such as GM, have indicated that they will continue their odometer development programs. GM said it may install additional cost-effective anti-tampering features. In addition, the technology of odometers is rapidly advancing as manufacturers begin developing electronic odometers.

Because the agency continues to recognize the safety nexus in the area of speedometer and odometer regulation, NHTSA will continue to monitor manufacturer development programs and the effectiveness of anti-tampering features voluntarily adopted by manufacturers. If speedometer and

odometer features are developed that provide a significant safety benefit, the agency will consider whether a Federal safety standard would be appropriate and necessary under the Safety Act. Exercise of the agency's authority in this fashion will allow the market place to function freely to develop new, more effective designs.

Speedometer Requirements

Most of the commenters supported the agency's proposal to delete the speedometer requirements of the standard because of their apparent lack of significant safety benefits. Those requirements provided that each speedometer be graduated in miles per hour and kilometers per hour, have the numeral "55" highlighted on the miles per hour scale and indicate a maximum speed on the scale of not more than 85 mph or 140 km/h.

All of the vehicle manufacturers commenting on the proposal indicated that they would voluntarily continue to provide some of the features formerly required by the standard. American Motors, Chrysler, Ford, General Motors, Mack, Renault, Subaru, and Volvo White Truck Corporation said they would maintain a maximum scale reading of 85 mph or less. Honda said it would modify its speedometers to show the maximum speed capabilities of its vehicles. Many of the vehicle manufacturers, such as Ford, General Motors and Honda, said that they also would continue to provide speedometers graduated in both miles and kilometers per hour.

American Motors, Ford, Mack, Renault, Subaru, and Volvo White said they would also continue to highlight the "55" mph position on the speedometer scale. General Motors said it would continue to highlight "55" on its speedometers with analog scales; however, it may not continue to include the numeral "55" on all speedometer scales. Honda said it would drop the highlighting. Chrysler and Volkswagen did not indicate what action they would take on highlighting the 55 mile per hour position.

Subaru supported the retention of the requirement to limit the maximum speed shown on the speedometer scale to 85 miles per hour, arguing that it would help minimize the temptation for young drivers to drive at excessive speeds. Similar arguments were raised by the Center for Auto Safety (CFAS).

Subaru also supported retaining the requirement that the numeral "55" be highlighted on the speedometer scale, arguing that it reminded drivers of the national speed limit. Again, similar arguments were raised by CFAS. Private individuals submitting comments on the maximum speed, dual scale calibrations and highlighting issues split equally between those supporting the revocation and those opposing it.

The agency has concluded that the limitation on the maximum speed shown on the speedometer scale is unnecessary. The limitation was, at best, only a psychological deterrent. Consumers are voluntarily placing far more effective limits on maximum speed by the shift to vehicles with four cylinder engines. In addition, most manufacturers limited the maximum speed shown on their speedometer scales before the standard went into effect and have indicated that they will continue to do so in the absence of a Federal standard.

The highlighting of the numeral "55" was intended to provide an easily visible reminder as to whether the national speed limit was being exceeded. The agency does not have any data, nor was any provided in the comments, indicating that the reminder has been effective.

The requirement that the speedometer scale be calibrated in kilometers and miles per hour no longer serves a safety purpose since the Federal Highway Administration has dropped its plans to add metric values to roadside signs.

Odometer Requirements

Most of the commenters favored the revocation of the odometer requirements. Those requirements specified that, as of September 1, 1982, odometers must indicate when they have advanced or have been advanced beyond a reading of either 89,999 or 99,000 miles or kilometers. In addition, the odometer must have been designed so as to either prevent reversal or provide an indication that they have been reversed. Finally, replacement odometers would have to be differentiated from original equipment odometers so that new replacement odometers with low distance readings cannot be substituted for original equipment odometers with high mileage readings.

Vehicle manufacturers unanimously supported revocation of the odometer requirements. Most of the comments from individual citizens favored retaining the odometer requirements. However, the principal reason mentioned for supporting the requirement was to prevent consumer fraud rather than to promote safety. The State of Wisconsin and the CFAS also opposed the revocation.

Wisconsin and CFAS argued that the mileage of the vehicle is an important indication of its safe operating condition. CFAS said that, for example, if an odometer reads 2,000 miles, instead of the actual mileage of 30,000, a consumer will not check the brake lining on the vehicle. Wisconsin argued that many used vehicles are maintained with minimal costs and may not be given the check-up needed to detect impending or existing vehicle equipment failures. CFAS also repeated the agency's rationale for originally adopting the odometer standard by arguing that an altered odometer might cause a purchaser to fail to check his or her vehicle adequately, forego preventive maintenance or be unwilling to make necessary repairs.

Wisconsin also noted that in the statement of purpose (section 401) for the odometer disclosure provisions of the Motor Vehicle Information and Cost Savings Act, Congress said that an accurate odometer can assist a purchaser in determining a vehicle's safety.

The purpose of the Cost Savings Act is to provide purchasers with legal remedies to pursue against persons who tamper with odometers. The Act neither authorizes the issuance of equipment standards to accomplish that purpose nor does it govern the issuance of safety standards.

The agency can issue and maintain a safety standard only under the National Traffic and Motor Vehicle Safety Act and only if it can demonstrate that the standard meets the need for motor vehicle safety by yielding significant safety benefits. As already noted, the legislative history of the Act shows that the agency is to concentrate on standards addressing significant safety problems. The agency has never disputed that mileage is a factor that may influence some drivers to take preventive maintenance measures. The primary issue is whether other factors, such as vehicle appearance and performance, play a more important role in influencing drivers regarding vehicle systems that have a direct relationship to safety.

The Tri-Level Study of the Causes of Accidents, discussed in the notice proposing to revoke the standard, indicates that of all the vehicle-related causes of accidents, there were four predominant categories of problems. Those categories are (1) brake system problems, (2) tire and wheel problems, (3) steering system problems, and (4) communication system problems (problems with lights, signals, glazed surfaces, etc.). All of those categories involve components which must be periodically replaced or serviced regardless of mileage. Deterioration in

the performance, such as brakes pulling to one side, or in appearance, such as low tire tread depth, are readily apparent to the driver and should do more to alert the driver to potential safety-related problems than does the mileage of the vehicle. Thus, the findings of the Tri-Level study support the agency's conclusion that the role of mileage and thus the odometer in alerting drivers to potential safety problems is apparenty not crucial, while the role of appearance and performance is significant.

Effects of Revocation

The agency has evaluated the economic and other effects of this final rule and determined that the rule is neither major as defined by Executive Order 12291 nor significant as defined by the Department of Transportation's regulatory policies and procedures. A final regulatory evaluation of the effects of the final rule has been prepared and placed in the public docket. Copies of the regulatory evaluation are available in the Docket Section at the address given at the beginning of this notice.

Effects on Speedometers

Revocation of Standard No. 127's requirements for speedometers will have little, if any, effect on safety. As the comments submitted by the vehicle manufacturers demonstrated, vehicles had speedometers long before the standard went into effect and will continue to have them even after the standard has been revoked. In addition, manufacturers indicated that they will voluntarily continue to equip their speedometers with most of the features formerly required by the standard.

The potential safety effect of the standard's speedometer requirement for highlighting the numeral "55" is unquantifiable. The requirement for calibration of the speedometer scale in mph and km/h is no longer necessary since the Federal Highway Administration has dropped its proposal to add metric distances on roadside highway signs.

The agency's 1976 regulatory evaluation on Standard No. 127 projected that the requirement that the limitation on the maximum speed shown on the speedometer scale would be five percent effective in reducing accidents involving young drivers. The projected effectiveness was based on the assumption that the 85 mph maximum speed indication would be a psychological deterrent to high speed driving. However, the agency has no data indicating that the speedometer scale limitation is effective to any extent in reducing the tendency to drive too fast and in reducing the resultant accidents and injuries. Also, the commenters provided no data indicating that the limitation had any actual effect.

The agency expects little or no economic effect from the revocation of the speedometer requirements on consumers, vehicle manufacturers or speedometer manufacturers. As mentioned previously, vehicle manufacturers intend to retain most of the features previously installed in response to the standard. The costs of those features are minimal.

Effects on Odometers

As discussed above, revocation of the anti-tampering requirements for odometers should have little effect on vehicle safety. Revocation of the odometer requirement should produce a small consumer saving resulting from the use of less expensive odometers. All of the vehicle manufactures indicated that they would not install odometers meeting the full anti-tampering requirements in the absence of a standard. Manufacturers, such as Chrysler, Ford, and General Motors, indicated that they would continue to provide odometers equipped with anti-tampering equipment that the manufacturers voluntarily installed prior to the standard. In addition, manufacturers have indicated that they will continue their odometer development programs. General Motors, for example, said it will consider equipping its vehicles with additional anti-tampering features if cost-effective methods are developed.

The agency is concerned that based upon its review of the facts and record, the actual positive benefits (i.e., the prevention or inhibition of actual odometer tampering as a result of the relatively slight but expensive changes which would be required by the rule) would be minimal. Because of the uncertainties regarding the effectiveness of the odometer requirements in preventing tampering, the agency is unable to estimate the extent to which the odometer provisions would prevent tampering and thus decrease the amount of any economic injury suffered by consumers.

On the other hand, revocation of the odometer requirements could result in more tampering than might otherwise have occurred with respect to odometers of used vehicles built after September 1, 1982. The amount of any potential increase will, however, be reduced by any further development and voluntary installation of new anti-tampering features by vehicle manufacturers. Increased tampering which does occur would cause an increase in the amount of economic injury to consumers as a result of their overpaying for used vehicles with lowered odometer readings. Such economic harm, however, if any, is unrelated to the agency's safety mission and can be redressed in other forums as well. NHTSA is separately exploring alternative methods of addressing the problem of odometer tampering.

Revocation of the odometer requirements will provide economic benefits both for vehicle manufacturers, in a savings of capital expenditures necessary to comply with the provisions and in variable cost savings, and for all consumers purchasing such cars. The potential consumer cost savings are estimated to be approximately $12,000,000 annually.

Standard No. 101

Revocation of Standard No. 127 necessitates a minor amendment to Standard No. 101, *Controls and Displays*. Standard No. 101 requires speedometers to be identified by the words "MPH and Km/h." Since speedometers are no longer required to be graduated in miles and kilometers per hour, the agency is modifying the requirement of Standard No. 101. Speedometers must be identified by the abbreviation "MPH" unless the speedometer is graduated in both miles per hour and kilometers per hour, in which case the identification phrase will be "MPH and Km/h." GM noted that the commonly accepted abbreviation for kilometer per hour is "km/h" rather then "Km/h." Because the difference between a capital or lower case "k" is insignificant, the agency will allow the use of either version.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Based on that evaluation, the Administrator certifies that the revocation of Standard No. 127 will not have a significant effect on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Few, if any, of the speedometer or odometer manufacturers are small businesses as defined in the Regulatory Flexibility Act. Small organizations and governmental jurisdictions which purchase fleets of motor vehicles would probably not be significantly affected by the revocation of the standard. As already discussed, the speedometer provisions have little safety value and impose little cost. Since these entities typically buy new vehicles, they are not

subject to the problems of odometer tampering.

National Environmental Policy Act

The agency has also analyzed this action for the purposes of the National Environmental Policy Act. The agency has determined that revocation of the standard will not have any significant effect on the human environment.

Effective Date

The agency proposed that the revocation become effective upon publication of the final rule in the **Federal Register.** Ford and Volkswagen both urged that agency to publish a final rule before the end of January to avoid the unnecessary expenditure of funds. Ford said that if the rule is not revoked before then, it will have to spend additional capital funds at a rate of $25,000 per week. Volkswagen did not provide a specific estimate of its expenditures.

Volvo White objected to the revocation becoming effective on publication. It said that most of its vehicles are manufactured in two or more stages and must be accompanied by a chassis cab certification label and incomplete vehicle document that is presented to the final stage manufacturer. Volvo White said that if the standard is revoked on the date of publication of the final rule, some of its vehicles will have pre-printed certification labels and documents which would incorrectly certify that the vehicles are in compliance with Standard No. 127.

Volvo White requested the agency either to retain a portion of the current standard by requiring speedometers to have dual calibrations and display a maximum speed of 85 miles per hour; or permit manufacturers to certify to nonexistent safety standards; or revoke the standard effective on September 1, 1982.

As previously discussed, the agency has decided not to retain any of the speedometer requirements because of their limited safety benefits. Setting a September 1, 1982, effective date could result in manufacturers' unnecessarily spending funds to continue complying with the speedometer requirements which the agency has found have limited safety benefits. Allowing manufacturers to certify to non-existent standards is not appropriate, since purchasers would interpret the manufacturer's certification to mean that the vehicle actually complied with the standard even though it is no longer in effect.

To account for the problems faced by manufacturers of two-stage vehicles and to avoid the unnecessary expenditure of funds by manufacturers, the agency has decided to make the revocation effective in 35 days. This will allow two-stage manufacturers to make the changes to their certification labels and incomplete vehicle documents to delete the certification to Standard No. 127; the cost of those changes should be minor. The agency therefore finds, for good cause shown, that an early effective date for the revocation of the standard is in the public interest since it will avoid the unnecessary expenditure by manfuacturers on requirements that have no significant safety benefits.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, the following amendments are made in Part 571 of Title 49 of the Code of Federal Regulations:

§ 571.127 [Removed]

1. Section 571.127 is removed.

§ 571.101–80 [Amended]

2. In Table 2 of 571.101–80, the identifying word or abbreviation for the speedometer display (row 8, column 3) is revised to read: "MPH [6]."

3. A footnote 6 is added to Table 2 of § 571.101–80 to read:

[6] If the speedometer is graduated in miles per hour and in kilometers per hour, the identifying words or abbreviation shall be "MPH and km/h" in any combination of upper or lower case letters.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on January 6, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82–4084 Filed 2–11–82; 4:51 pm]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 81–14; Notice 1]

Federal Motor Vehicle Safety Standards; Matter Incorporated by Reference

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Motor Vehicle Safety Standards issued by NHTSA incorporate by reference a number of standards and test procedures adopted by voluntary standards associations, such as the American Society for Testing and Materials. Part 571.5 of the agency's regulations is the procedural rule that incorporates all of the materials found in the agency's safety standards. This notice amends the regulation to specify that the Director of the Federal Register has approved the agency's incorporations by reference and to announce that all the materials are available for inspection and copying at both the agency and the Office of the Federal Register.

DATES: This amendment is effective March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Oesch, Office of Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2992).

SUPPLEMENTARY INFORMATION: The Federal Motor Vehicle Safety Standards issued by the agency incorporate by reference a number of standards and test procedures adopted by voluntary standards associations, such as the American Society for Testing and Materials and the Society of Automotive Engineers. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the **Federal Register** and thus has the force and effect of law. The agency only uses incoporation by reference when the referenced material is of a detailed, technical nature and would unnecessarily add to the volume of matter printed in the **Federal Register.** In all instances, the material incorporated by reference is easily available to the public for inspection and copying.

In accordance with section 552(a) of the Administrative Procedure Act (5 U.S.C. 552(a)) and 1 CFR Part 51, the Director of the Federal Register must review and approve all incorporations by reference before they are effective. On March 28, 1979 (44 FR 18630), the Office of the Federal Register (OFR) established new procedures that agencies must follow to maintain approval from the Director of the Federal Register for the incorporation of materials by reference in the Code of Federal Regulations (CFR). Each agency is required to submit annually to the Director of the Federal Register a list identifying all material which the agency has incorporated by reference in the CFR. Part of the OFR's review of the list is a check of the incorporating languge in the regulatory text to confirm that it meets OFR's drafting requirements (1 CFR Part 51). NHTSA is making several editorial changes in 49 CFR Part 571.5 of its regulations, which is the provision that incorporates by reference all of the material cited in the agency's safety standards, to conform to OFR's drafting requirements.

This notice amends Part 571.5 to add language stating that the Director of the Federal Register has approved all of the incorporations by reference. In addition, the agency is amending Part 571.5 to state that any proposed changes to material incorporated by reference will be published in the **Federal Register.** When the agency has incorporated material by reference, it has always specified the precise version (i.e., date, edition, etc.) of the material being incorporated by reference. Subsequent versions of material incorporated by reference are not automatically adopted. The agency has always proposed any change to any incorporated material in the **Federal Register.** Part 571.5 also is amended to state that all of the materials incorporated by reference are available for inspection and copying both at the agency and at the Federal Register.

The agency has determined that this procedural amendment is not a major rule within the meaning of Executive Order 12291. Likewise, it is not a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. The amendments made by this notice do not impose any substantive requirements or restrictions on the public. They merely make minor modifications in the agency's incorporation by reference procedure. Since the amendments concern a procedural matter, the agency is not required by the Administrative Procedure Act to provide notice and opportunity to comment on them. Because of this, the amendments are also not covered by the requirements of the Regulatory Flexibility Act. Since these procedural amendments are so minor and technical, the agency does not believe that any useful purpose would be served by voluntarily providing any opportunity to comment on them.

In addition these minor amendments are of such limited scope that clearly they do not significantly affect the quality of the human environment and therefore NHTSA is not required by the National Environmental Policy Act or the agency's regulations to prepare an environmental impact statement or environmental assessment.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, the following amendments are made to Title 49, Chapter V, § 571.5 of the Code of Federal Regulations:

§ 571.5 [Amended]

1. Section 571.5(a) is revised to read as follows:

(a) *Incorporation.* There are hereby incorporated, by reference, into this part, all materials referred to in any standard in Subpart B of this part that are not set forth in full in the standard. These materials are thereby made part of this regulation. The Director of the **Federal Register** has approved the materials incorporated by reference. For materials subject to change, only the specific version approved by the Director of the **Federal Register** and specified in the standard are incorporated. A notice of any change in these materials will be published in the **Federal Register.** As a convenience to the reader, the materials incorporated by reference are listed in the Finding Aid Table found at the end of this volume of the Code of Federal Regulations.

* * * * *

2. A new paragraph (b)(5) is added to § 571.5 to read as follows:

* * * * *

(b) * * *

(5) All of the above materials, as well as any other materials incorporated by reference, are available for inspection and copying at the Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. The materials are also available for inspection and copying at the Office of the **Federal Register,** 1100 L Street, NW. Washington, D.C.

3. The undesignated paragraph following paragraph (b)(4) of § 571.5 is removed.

(Sec. 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82–4061 Filed 2–11–82; 4:51 pm]

BILLING CODE 4910–59–M

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49 CFR Part 571

[Docket No. 74–14; Notice 24]

Federal Motor Vehicle Safety Standards; Improvement of Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; partial response to petitions for reconsideration; delay of effective date.

SUMMARY: The purpose of this notice is to delay for one year the effective date of the comfort and convenience requirements for seat belts in Safety Standard No. 208, *Occupant Crash Protection.* Standard No. 208 was amended Janaury 8, 1981, to promote the installation of more comfortable and convenient belts by specifying additional performance requirements for both manual and automatic seat belts installed in motor vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less. Petitions for reconsideration of these new performance requirements were received from seven vehicle manufacturers.

The agency has determined that the recent rescission of the automatic restraint requirements of Standard 208 has made it necessary to review the comfort and convenience requirements in their entirety. The changed circumstances have made it difficult to respond to the substantive issues raised in the petitions for reconsideration at this time. Since the requirements are currently scheduled to become effective September 1, 1982, the agency has concluded that it is necessary to extend the effective date until September 1, 1983, to give the agency sufficient time to re-evaluate these requirements.

ADDRESS: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

DATES: The new effective date for the existing comfort and convenience requirements published January 8, 1981 at 46 FR 2064 is September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Nelson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–2264).

SUPPLEMENTARY INFORMATION: On January 8, 1981, Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), was amended to specify performance requirements to promote the comfort and convenience of both manual and automatic safety belts installed in vehicles with a GVWR of 10,000 pounds or less (46 FR 2064). Type 2 manual belts (lap and shoulder combination belts) installed in front seating positions in passenger cars were excepted from these additional performance requirements since it was assumed such belts would be phased out in passenger cars as the automatic restraint requirements of Standard No. 208 became effective.

Seven petitions for reconsideration of the January 8, 1981 amendment were received from vehicle manufacturers.

These petitions requested that the requirements be revoked entirely, or that at least various modifications be made and that the effective date be delayed.

Since the receipt of these petitions for reconsideration, the agency has revoked the automatic restraint requirements of the standard (46 FR 53419, October 29, 1981). This rescission alters the circumstances which must be considered in determining appropriate requirements for seat belt comfort and convenience. Therefore, it is difficult for the agency to respond to the substantive issues raised in the petitions for reconsideration at the current time. Many of the issues that were raised are no longer pertinent and many of the rationales discussed by the agency when the requirements were first established must be re-evaluated. Therefore, the agency has determined that the comfort and convenience requirements should be reviewed in their entirety.

In light of these conclusions, the agency has decided that it is necessary to delay the effective date of the current comfort and convenience requirements for at least a year (from September 1, 1982, to September 1, 1983). This will give the agency sufficient time to re-evaluate the requirements and the petitions for reconsideration in light of the changed circumstances. Further, manufacturers should not be required to comply with the requirements by September 1, 1982, since they may be altered substantially.

The agency intends to respond to the substantive issues raised in the petitions for reconsideration at a later date. Moreover, the agency is considering additional changes to the comfort and convenience requirements which would encourage and ensure maximum possible technical improvements and enhancements are included in future seat belt designs.

The NHTSA has considered the economic and other impacts of this one-year delay in effective date and determined that the rule is neither a major rule within the meaning of Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory procedures. A regulatory evaluation concerning the one-year delay has been placed in the public docket. This evaluation supplements the regulatory evaluation which was prepared when the regulation was issued in January 1981.

The agency has also analyzed the delay for purposes of the National Environmental Policy Act and has determined that it will not have a significant impact on the quality of the human environment.

No regulatory flexibility analysis has been prepared on this final rule since the proposal underlying this final rule and the January 8, 1981 final rule was issued before the effective date of the Regulatory Flexibility Act.

In consideration of the foregoing, the effective date of the comfort and convenience requirements of 49 CFR 571.208 that were issued January 8, 1981 (46 FR 2064) is hereby delayed from September 1, 1982, to September 1, 1983.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-4082 Filed 2-11-82; 4:52 pm]

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49 CFR Part 571

[Docket No. 75-03; Notice 7]

Motor Vehicle Safety Standards; Bus Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA) DOT.

ACTION: Final rule.

SUMMARY: This notice makes permanent an interim final rule that modified the agency's school bus emergency exit standard. The interim final rule, which was issued in February 1979, was implemented immediately to increase the availability of passenger vans for use as small school buses at reasonable costs. The interim rule slightly altered several emergency exit requirements in a manner that made it easier to mass produce small buses without significantly affecting the level of safety achieved by those vehicles. Concurrent with the issuance of the interim final rule, the agency solicited comments on the amendments to the standard. This notice responds to the comments and makes the interim rule permanent.

EFFECTIVE DATE: Since this notice makes permanent an existing interim final rule, it is effective February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20950 (202-426-2264).

SUPPLEMENTARY INFORMATION: On February 8, 1979, the agency published an interim final rule and a proposal (44 FR 7961) to modify the school bus emergency exit safety standard, Standard No. 217, *Bus Window Retention and Release.* In that notice, the agency made effective immediately some modifications to the school bus emergency exit standard to increase the supply of reasonably priced vehicles suitable for school bus conversion. Among the changes implemented by the interim final rule were a slight decrease in the size of rear emergency exits for vehicles (typically passenger vans) with gross vehicle weight ratings (GVWR) less than 10,000 pounds, and increased flexibility in the location requirements for release mechanisms on the emergency exits of small school buses. The agency concluded at the time the interim rule was issued that the level of safety achieved by small buses would not be diminished by these changes and that the changes would allow more small buses to be mass produced, thereby lowering their prices. The agency also asked in the interim final rule for comments on the advisability of these changes.

In response to the agency's request, Ford, Chrysler, the Center for Auto Safety, and the California Highway Patrol (CHP) submitted comments. The two manufacturers, Ford and Chrysler, both supported the agency's action. The Center and the CHP opposed the action.

The Center and the CHP both argued that the rear emergency exit in small school buses (passenger vans which have GVWR's less than 10,000 pounds and are used as school buses) should not be reduced in size. The Center stated that the exit should be broad enough for two students to exit simultaneously in case of an emergency. The CHP stressed that reducing the size of the exit would make it too small to permit the exiting of children in wheelchairs.

With respect to the argument that the size of the rear exit should allow room to exit students two abreast, the agency stated in the proposal that this argument, while valid for larger school buses, is not meritorious for school vehicles with GVWR's less than 10,000 pounds. Larger school buses frequently transport 60 or more school children. Accordingly, rapid evacuation of those vehicles in an emergency requires that the students be able to exit two abreast. In order to accomplish this, the agency has required that some space be provided behind the rearmost seat in these buses so that students exiting through the narrow center aisles will have room at the exits to get out two abreast.

In small school buses where the number of students carried frequently is 16 or less, the need for exiting two abreast to achieve rapid evacuation is

significantly reduced. In recognition of this factor, the agency has never required bus manufacturers to provide space behind the rear seat of small buses that would allow students to exit two abreast. As a result, the rear seats of small buses are frequently quite near or are against the rear bus wall. Students exiting down a bus aisle, which is normally around 12 inches in width, reach an exit where no space is provided to exit two abreast. Accordingly, any requirement that an exit in small buses be large enough to facilitate exiting two abreast would not accomplish that goal. Small bus manufacturers would need to redesign their bus seat plans in some fashion to provide space behind the rear seat in order to allow exiting two abreast. Such a redesign would significantly decrease the available seating in small buses. Given the fact that evacuating small buses has not been a safety problem, the agency concludes that the costs resulting from the reduced vehicle seating that would be required to accomplish the Center's objectives would far outweigh the benefits. Accordingly, the agency concludes that a broader rear exit is not needed in small school buses.

The CHP objected to the same requirement stating that the new exit door would be too narrow for wheelchairs. The CHP further stated that California has always required wider exits so that wheelchairs can be used in the vehicles.

The agency's new exit requirement is a minimum size requirement for standard school buses. In special instances in which larger exits are desired, such as in buses for carrying the handicapped, the States may require that their buses have such exits. The agency deems that approach to be preferable to its requiring larger exits in all vehicles. The situation with respect to rear door size is analogous to that involving seat back height. The agency requires a minimum seat back height. New York mandates a seat back height greater than the Federal specification. The NHTSA has no objection to the New York requirement and will not object to requirements by other States for wider rear emergency exits. The agency also notes that buses designed for the handicapped constitute a small portion of all buses and usually are equipped with special doors and larger aisles.

The Center also objected to the agency's interpretation that the parallelepiped device used for measuring rear door size could be lifted up to 1-inch to overcome small protrusions near the floor. The agency issued an interpretation permitting this at the time of the implementation of the standard. This interpretation simply reflects real-world conditions. Many doors in vehicles have small door sills or other minor protrusions that sometimes serve necessary functions in the proper operation of the door. These minor protrusions play no significant role in the ability of students to exit from a vehicle in an emergency. Therefore, the agency will not reconsider its interpretation.

The Center objected to the agency's removal of exit release mechanism location and force application requirements for small school buses. The Center agreed that the existing requirements are more appropriate for larger buses, but it insisted that the agency should develop another set of location requirements for smaller buses instead of abandoning the requirements entirely.

The agency is sympathetic to the Center's concerns about this issue. The location of the release mechanism for small school buses in an easily accessible location is important for the rapid evacuation of these vehicles in an emergency. However, the mere setting of location requirements would not ensure that the release mechanisms would be accessible. Due to the limited space in the rear of small buses and the variability of design in those areas, the agency could not readily specify a location which would provide the necessary accessibility. The agency believes that allowing manufacturers the option of locating the release mechanism in any easily accessible location on or near the exit will be more beneficial to achieving the intended safety results than any rigid inflexible location requirement. NHTSA anticipates that product liability concerns and the agency's authority to declare inaccessible release mechanisms to be safety-related defects will suffice to induce the manufacturers to select accessible locations. The agency will closely monitor the location and accessibility of the release mechanisms and, if necessary, use both its defects and rulemaking authority to take corrective action.

Finally, the Center objected to the fact that the agency permitted pull-type release mechanisms. The Center stated that release mechanism standardization is helpful in assuring the safe evacuation of vehicles.

While the agency agrees that standardization has value in this instance, there are competing ways for achieving standardization in the case of small school buses. One way is to require that small school buses have releases that operate with an upward motion as in larger school buses. Another way is to permit small school buses (which, as noted before, are passenger vans) to have the same pull-type releases that are found in other vans and some cars. The agency doesn't believe that either basis for standardization is clearly superior from a safety standpoint to the other. Further, permiting the use of the pull-type releases will enable the manufacturers to achieve cost savings. Accordingly, the agency declines to adopt the Center's recommendation.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In accordance with the foregoing, the interim final amendments made in Title 49 of the Code of Federal Regulations, § 571.217, *Bus Window Retention and Release,* are made permanent without change as set forth below:

1. Section S 5.3.3 has the first sentence revised to read:

S 5.3.3 When tested under the conditions of § 6, both before and after the window retention test required by S 5.1, each school bus emergency door shall allow manual release of the door by a single person, from both inside and outside the bus passenger compartment, using a force application that conforms to paragraphs (a) through (c) except a school bus with a GVWR less than 10,000 pounds does not have to conform to paragraph (a).

2. Section S 5.3.3 paragraph (b) is amended by the addition of the following at the end of the paragraph:

Buses with GVWR less than 10,000 pounds shall provide interior release mechanisms that operate by either an upward or pull-type motion. The pull-type motion shall be used only when the release mechanism is recessed in such a manner that the handle, lever, or other activating device does not protrude beyond the rim of the recessed receptacle.

3. Section S 5.4.2.2 is revised by changing the phrase "24 inches wide" to read "22 inches wide".

Since this notice makes permanent an existing amendment, it is effective immediately. The agency has reviewed the amendment in accordance with E.O. 12291 and concludes that it is not major. Further the agency concludes that the rule is not significant under the Department of Transportation's regulatory procedures. In fact, by permitting these changes, more buses can be mass produced, which may result

in a small decrease in the cost of complying with the standard. Since the economic impact of this rule is minimal, a regulatory evaluation is not required for this amendment.

The agency has also considered the effect of this rule in relation to the Regulatory Flexibility Act and certifies that it would not have a significant economic impact on a substantial number of small entities. The only economic impact might be a reduction in bus prices. There would similarly be no significant impact on a substantial number of small government jurisdictions and small organizations.

Finally the agency has analyzed this rule for purposes of the National Environmental Policy Act and has determined that it would have no significant impact on the human environment.

The principal authors of this notice are Robert Williams of the Crashworthiness Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 202, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50)

Issued on February 10, 1982.

Diane K. Steed,

Acting Administrator.

[FR Doc. 82–4080 Filed 2–11–82; 4:52 pm]

BILLING CODE 4910–59–M

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49 CFR Part 575

[Docket NO. 79–02; Notice 5]

Consumer Information Regulations

AGENCY: National Highway Traffic Safety Administration DOT.

ACTION: Final rule.

SUMMARY: This notice amends the Consumer Information Regulations to permit amendment of previously submitted motor vehicle performance information at any time up to 30 days prior to new model introduction. This amendment is intended to reduce regulatory burdens on industry by allowing greater flexibility in the implementation of pre-introduction product changes.

EFFECTIVE DATE: This amendment is effective June 1, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Zaidman, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington D.C. 20590, 202–426–1740.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act—Information collection requirements contained in this regulation (49 CFR § 575.6) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #2127–0049. The Consumer Information Regulations (49 CFR Part 575) require that manufacturers of motor vehicles and tires provide prospective purchasers and first purchasers with information on the performance of their products in the areas of vehicle stopping ability (49 CFR 575.101), vehicle tire reserve load (49 CFR 575.102), truck camper loading (49 CFR 575.103), and uniform tire quality grading (49 CFR 575.104). In addition to the requirements that information be furnished directly to consumers, manufacturers are required to submit information to the National Highway Traffic Safety Administration (NHTSA) prior to the introduction of new vehicle models and tire lines or modification of existing lines. This advance submission requirement is intended to permit the agency to compile the information supplied by various manufacturers in a comparative format for distribution to consumers.

As originally issued, and presently in force, the regulation requires that all information be submitted to NHTSA at least 30 days prior to the date on which the information is made available to prospective purchasers (49 CFR 575.6(d)). The regulation requires that information must be made available to prospective purchasers not later than the day on which the manufacturer first authorizes the subject product to be put on public display and sold to consumers (49 CFR 575.6(c)).

To enable NHTSA to compile the information in a comparative booklet for distribution early enough in the model year to be useful to most consumers, the agency amended the regulations to require that motor vehicle manufacturers submit information at least 90 days in advance of new model introduction (45 FR 47152; July 14, 1980). The 30-day period was retained for post-introduction vehicle changes and for tire quality grading information. The amendment was originally scheduled to take effect June 1, 1981, but the effective date was postponed until June 1, 1982 (46 FR 29269; June 1, 1981), to allow consideration of a petition from Ford Motor Company requesting greater flexibility in the requirement.

Ford contended that the 90-day advance submission requirement could create hardships for manufacturers when last minute pre-introduction product changes, resulting from component supply difficulties or other factors, affect the performance characteristics covered by Part 575. In such a situation, a manufacturer could be forced to delay introduction of a vehicle model until a new 90-day advance notice period had been completed. To avoid this result, Ford recommended that manufacturers be permitted to amend initial pre-introduction submissions at any time prior to 30 days before model introduction. NHTSA responded with a notice of proposed rulemaking to permit such revisions in the event of unforeseeable pre-introduction modifications in vehicle design or equipment (46 FR 40541); August 10, 1981; Docket 79–02; Notice 4). This proposal was among the deregulatory measures discussed in the Administration's notice of intent on measures to aid the auto industry.

NHTSA received comments from seven motor vehicle manufacturers and importers in response to the notice of proposed rulemaking. All commenters agreed that the proposed amendment would be an improvement over the established 90-day requirement, in that greater flexibility would be provided in the introduction of necessary product changes. As noted by Ford, the amendment would facilitate implementation of product development and marketing schedules, while still providing information adequate for NHTSA's purposes. NHTSA agrees and has determined that the proposed amendment should be adopted with one modification.

General Motors and Volkswagen of America, Inc. commented that limiting changes in performance information to those resulting from "unforeseeable" product changes is inappropriate. Volkswagen argued that only the manufacturer can adequately judge whether product changes are unforeseeable, and that agency attempts to enforce such a requirement could lead to undesirable consequences. Moreover, a manufacturer acting in good faith could be faced with a dilemma if the manufacturer is unable to conclude that a needed product change was unforeseeable, although in fact it had not been anticipated in a particular instance. (Docket 79–02, Notice 4, No. 004). General Motors argued that cost factors alone are a sufficient incentive to manufacturers to avoid last minute product changes and therefore no foreseeability standard is necessary to insure that changes are made in good faith. General Motors suggested that if any qualifier is thought necessary, "unforeseen" or "unanticipated" would be preferable. (Docket 79–02, Notice 4, No. 007).

NHTSA continues to believe that some provision is necessary to assure that only good faith product changes form the basis for modifications of pre-introduction submissions. However, NHTSA does not wish to inhibit product changes which the agency may believe could have been foreseen, but honestly were not. To avoid this result, the agency has concluded that "unforeseen" rather than "unforeseeable" is a more appropriate description of the types of product changes which would justify amendments of pre-introduction consumer information submissions.

Volkswagen and General Motors also commented that the 90-day advance submission requirement is unnecessary and that the original 30-day period should be retained. Volkswagen contended that the agency could not use the manufacturers' submissions until 30 days prior to model introduction in any case because the data would be subject to change. Volkswagen also suggested that manufacturers could circumvent the 90-day requirement by making minimal performance claims in their initial submissions and amending the information at a later date. General Motors commented that the further in advance information is submitted, the less accurate it will be, and that the successful publication of the Environmental Protection Agency's fuel economy guide establishes the feasibility of publishing comparative information with a brief advance submission period.

NHTSA's past experience indicates that 30 days is inadequate for this agency to compile, publish and distribute a useful comparative booklet. Moreover, any design or equipment related inaccuracies inherent in a 90-day advance submission can be corrected under the amendment adopted in this notice. While it is true that the agency could not publish and distribute the information until the period for amendment of initial submissions expired, the agency could compile the information and begin the publishing process, incorporating any necessary changes prior to printing. Comments submitted by Yamaha Motor Corporation, U.S.A. (Docket 79-02, Notice 4, No. 001), suggest that the number of required changes will be small. Finally, the type of abuse noted by Volkswagen would be precluded under the amended regulation because the type of revision described would not have been necessitated by unforeseen product changes.

Commenters also suggested rescinding the advance submission requirement completely or rescinding the stopping distance and tire reserve load provisions. Still other commenters recommended that the agency reassess the costs and benefits of the Consumer Information Regulations as a whole. The rationale for these recommendations centered on the alleged lack of consumer interest in the information and the limited amount of information provided under the program.

As noted by commenters, NHTSA has proposed rescission of the requirement that auto manufacturers provide tire reserve load information to the public and the agency (46 FR 47100; September 24, 1981). However, in conjunction with the Administration's efforts to ease regulatory burdens on the auto industry, the agency wishes to maintain a functioning consumer information program as a possible substitute for mandatory safety regulations. As part of the agency's ongoing program to identify and eliminate unnecessary regulatory burdens, NHTSA plans to review the benefits of and need for the Consumer Information Regulations as a component of the agency's total regulatory program. If this review indicates that the consumer information program is not useful and cost-beneficial, the future of the regulation will be addressed in a later rulemaking proceeding.

NHTSA has evaluated this relieving of a restriction and found that its effect will be to provide minor cost savings for motor vehicle manufacturers. Accordingly, the agency has determined that the action is not a major rule within the meaning of Executive Order 12291 and is not significant for purposes of Department of Transportation policies and procedures for internal review of regulatory actions. The agency has further determined that the cost savings are so minimal as to not warrant preparation of a regulatory evaluation under the procedures. The agency certifies pursuant to the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities because the cost savings will be modest and few, if any, motor vehicle manufacturers can be considered small entities within the meaning of the statute. Finally, the agency has concluded that the environmental consequences of the proposed change will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

In order to coincide with the effective date of the 90-day advance submission requirement, this amendment is effective June 1, 1982.

PART 575—CONSUMER INFORMATION REGULATIONS

§ 575.6 [Amended]

In consideration of the foregoing, 49 CFR 575.6(d) is amended:

1. By designating the first sentence as paragraph (d)(1)(i) and adding "Except as provided in paragraph (d)(1)(ii) of this section," to the beginning of the sentence.

2. By addition of a new paragraph designator "(2)" before the second sentence of paragraph (d).

3. By addition of a new paragraph (d)(1)(ii) to read as follows:

* * * * *

(d) * * *

(1) * * *

(ii) Where an unforeseen pre-introduction modification in vehicle design or equipment results in a change in vehicle performance for a characteristic included in Subpart B of this part, a manufacturer of motor vehicles may revise information previously furnished under paragraph (d)(1)(i) of this section by submission to the Administrator of 10 copies of revised information reflecting the performance changes, at least 30 days before information on the subject vehicles is first provided to prospective purchasers pursuant to paragraph (c) of this section.

* * * * *

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on: February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-4086 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Car Service Order; Burlington Northern Railroad Company and Fort Worth and Denver Railway Co. and Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Seventh Revised Service Order No. 1495.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes the Burlington Northern and Fort Worth and Denver to provide interim service over the Chicago, Rock Island and Pacific

Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., February 15, 1982, and continuing in effect until 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840, 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: February 10, 1982.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96–254, (RITEA), the Commission is authorizing Burlington Northern Railroad Company (BN) and Fort Worth and Denver Railway Company (FWD) to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits BN and FWD to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Appendix A, of the previous order, is revised by deleting the following:

Item 1. B. Mossville, Illinois to Peoria, Illinois, including the Keller Branch.
C. Phillipsburg, Kansas to Caruso, Kansas.

BN's request to limit its operations, granted herein, is effective at 12:01 a.m., February 15, 1982, and permits time for a phased transition of service at both locations. The remaining authorities are relettered accordingly.

It is the opinion of the Commission that an emergency exists requiring that the BN and FWD, as indicated in the attached appendix, be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1495 Car Service Order No. 1495.

(a) *Burlington Northern Inc. and Fort Worth and Denver Railway Company authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* Burlington Northern Inc. (BN) and Fort Worth and Denver Railway Company (FWD) are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the BN and FWD to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the BN and FWD; or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least thirty (30) days notice to the Railroad Service Board and affected shippers.

(e) BN and FWD, as authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of operations over the RI lines authorized in paragraph (a), BN and FWD shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by BN and FWD over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, the interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, the carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 15, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254)

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland.

Bernard Gaillard, and John H. O'Brien. J. Warren McFarland not participating.

James H. Bayne,

Acting Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operator

1. *Burlington Northern Railroad Company (BN):*

A. Burlington, Iowa (milepost 0 to milepost 2.06).

*B. At Okeene, Oklahoma.

*C. At Lawton, Oklahoma.

2. *Fort Worth and Denver Railway Company (FWD):*

A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. North Fort Worth, Texas (milepost 603.0 to 611.4).

*Changed.

[FR Doc. 82-4315 Filed 2-17-82: 8:45 am]

BILLING CODE 7025-01-M

V 47 / 33 FEB 18 82 UMI

Proposed Rules

Federal Register
Vol. 47, No. 33
Thursday, February 18, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[EDR-436A; Economic Regulations Docket 39932]

Denied Boarding Compensation Rules; Comprehensive Review; Extension of Comment Period

AGENCY: Civil Aeronautics Board.

ACTION: Extension of comment period.

SUMMARY: The CAB is extending for 2 weeks the period to file comments and reply comments in its rulemaking proceeding concerning oversales and denied boarding compensation. The Aviation Consumer Action Project requested a 30-day extension because more time is needed to evaluate the proposed changes.

DATES: Comments: March 8, 1982. Reply Comments: March 23, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In EDR-436, 46 FR 62285, December 23, 1981, the Board proposed either to eliminate or to significantly amend its oversales and denied boarding compensation rules as part of its examination of consumer protection rules prior to sunset. Interested persons were invited to file comments by February 22, 1982, and reply comments by March 9, 1982.

On February 5, 1982, the Aviation Consumer Action Project requested the Board to extend the deadline for comments and reply comments for 30 days. ACAP stated that because of the large number of important public policy and economic issues raised, both ACAP and other commenters needed additional time to evaluate the proposal and to consult with outside parties as to its merits.

The Board recognizes the importance and complexity of the issues involved. Although the issues raised in the oversales rulemaking should be addressed as soon as possible in order to provide a smooth transition to deregulation, we want interested persons to have sufficient time to prepare their comments. Because a short delay will not cause significant harm, a 2-week extension for submission of both comments and reply comments will be granted.

Accordingly, good cause is found to extend the time for preparation of comments and reply comments. Under authority delegated by the Board in 14 CFR 385.20(d), the time for filing comments and rely comments is extended to March 8, 1982, and March 23, 1982, respectively.

(Secs. 204, 403, 411, and 1002 of Pub. L. 85-726, as amended; 72 Stat. 743, 758, 769, 788; 49 U.S.C. 1324, 1373, 1381, 1482)

By the Civil Aeronautics Board.

Richard B. Dyson,

Associate General Counsel, Rules & Legislation.

[FR Doc. 82-4362 Filed 2-17-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Reg. Nos. 4 and 16]

Experiment To Improve the Hearing Process by Having SSA Represented at the Hearing

AGENCY: Social Security Administration, HHS.

ACTION: Notice of reinstatement of NPRM.

SUMMARY: SSA is reconsidering its earlier proposal to experiment with SSA representation at a limited number of social security disability hearings. The plans for this experiment were published as a Notice of Proposed Rulemaking (NPRM) on January 11, 1980 (45 FR 2345). Public hearings regarding the experiment were conducted at four sites during February 1980. The NPRM was later withdrawn by a notice published on July 14, 1980 (45 FR 47162).

We are hereby notifying the public that the NPRM noted above is reinstated. We will provide the public with a 30-day comment period following publication of this notice. We will consider all comments which were received on the January 1980 proposed regulations and any additional comments in deciding whether to publish a final regulation. For more information about the experiment, the reader is referred to the NPRM and subsequent withdrawal notice cited above.

DATE: We will consider additional comments about the experiment if these comments are received by March 22, 1982.

ADDRESS: Send your written comments to: Executive Secretariat, Office of Hearings and Appeals, Room 408 Braedon Building, P.O. Box 2518, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Joy Loving, Director, Division of Program Development, Office of Hearings and Appeals, (703) 235-8524.

SUPPLEMENTARY INFORMATION: The January 1980 proposed regulations for the SSA representative experiment elicited many written comments from claimants, claimant representatives and other interested parties. In addition, a number of individuals and organizations presented testimony at four public hearings which were held at various sites in February 1980.

Briefly, the regulations proposed that in a limited number of disability cases under title II and title XVI of the Social Security Act, SSA would be represented at the hearing when the claimant was represented in order to present SSA's views on the case. In addition, the SSA representative would prepare the record for hearing. Many commenters opposed the concept of SSA representation and partly for this reason SSA published its notice withdrawing the proposed rules.

In the July 1980 withdrawal notice, we cited the adverse public reaction and SSA's own interest in making improvements at lower levels of the adjudicatory process as the reasons for withdrawing the proposed rules. SSA has since undertaken the Disability Appeals Reform Experiments (DARE) to test alternative methods for improving the quality of State agency disability determinations.

Since publication of our proposed rules and subsequent withdrawal notice, SSA has reexamined the premises of the SSA representative experiment. It is increasingly clear that despite any improvements that might be made at the

lower levels of adjudication, the differences between decisions made at the hearing level and the determinations made at the lower levels present a serious problem. These differences have been criticized by Members of Congress and other interested observers in recent years. Because of this growing concern about the quality and consistency of hearing decisions, we believe it is important to give serious consideration to reviving the hearing experiment in the use of SSA representatives. We have also concluded that many of the commenters opposed to the experiment are not aware of its experimental intent, but instead appear to criticize it more as a permanent change in policy than as a limited experiment of very limited duration. Thus, we believe that many of the comments on the January 1980 proposed rules do not offer compelling reasons for not proceeding with a small scale, limited experiment in the use of SSA representatives.

For these reasons, then, we are considering the publication of regulations to enable the experiment to proceed. We have evaluated the comments received and if we publish final regulations they will reflect our consideration of the comments offered in response to the proposed rules. Since all earlier comments are being considered, it is not necessary for members of the public to resubmit comments submitted in the past. However, any additional comments will be considered if received on or before March 22, 1982.

The NPRM has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major rule. Therefore, a regulatory impact analysis is not required.

We certify that the NPRM does not have a significant economic impact on small entities because the rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

The NPRM imposes no reporting or recordkeeping requirements requiring OMB clearance.

Accordingly, the public is hereby advised that SSA is reinstating the January 1980 proposed rules regarding the SSA Representative Experiment. We may publish final regulations based on the proposed regulations in the near future. Any forthcoming final rules will take into consideration all comments received on the proposed rules, including testimony from the public hearings held in February 1980, as well as any additional comments received on or before March 18, 1982.

Dated: January 8, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: February 4, 1982.

Richard S. Schweiker,

Secretary, Department of Health and Human Services.

[FR Doc. 82-4480 Filed 2-17-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPA 17]

Receipt of Proposed Program Amendment From Oklahoma, Continuation of Proceedings Under 30 CFR 733.12 and Schedule for Public Comment Period and Hearing

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On January 22, 1982, the State of Oklahoma submitted to OSM a proposed amendment to the Oklahoma State regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of a new set of State rules intended to replace those rules rescinded by the Oklahoma Legislature on February 12, 1981.

This notice describes the nature of Oklahoma's proposed amendment, sets forth information concerning public participation in the Director's determination whether the amendment is adequate to comply with statutory and regulatory requirements of SMCRA and 30 CFR Chapter VII and requests comments on the proposed program amendment. This notice also reopens the public comment period to allow interested persons to submit additional information concerning the status of the Oklahoma program in accordance with the proceedings begun by OSM under 30 CFR 733.12 announced in the Federal Register on October 30, 1981 (46 FR 53695-53697).

DATES: A public hearing will be held on the proposed amendment on March 16, 1982, at the address listed below under "Addresses" from 1:00 p.m. to 4:00 p.m. C.S.T., or until all comments have been heard. Written comments must be received on or before 4:00 p.m. C.S.T. on March 19, 1982, at the address shown below under "Addresses."

Written comments may be submitted to the State Director at the address shown below under "Addresses" at any time prior to the close of the public comment period (4:00 p.m. C.S.T., March 19, 1982). Written comments will also be accepted by the State Director at the public hearing. Comments received after the close of the public comment period will not necessarily be considered in the Director's approval decision on the proposed amendment or findings on the status of the Oklahoma program.

ADDRESSES: The public hearing will be held at: Holiday Inn, 800 South 32nd, Muskogee, Oklahoma 74401.

Written comments should be sent to: Mr. Robert Markey, State Director, Oklahoma State Office, Office of Surface Mining—Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103.

Copies of the full text of the Oklahoma program, all written comments, and the proposed amendment are available for inspection during regular business hours at:

Office of Surface Mining Reclamation and Enforcement, Oklahoma State Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103.

Oklahoma Department of Mines, 4040 North Lincoln, Suite 107, Oklahoma City, Oklahoma 73105.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240.

Each requestor may receive from the State Director, free of charge, one copy of the proposed amendment to the Oklahoma program.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markey, State Director, Oklahoma State Office, Office of Surface Mining—Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103, Telephone (918) 581-7927.

SUPPLEMENTARY INFORMATION: At the public hearing, all persons wishing to comment on the proposed amendment will have the opportunity to do so. Persons who wish to make arrangements to comment at a specific time at the hearing may contact Robert Markey at the OSM Oklahoma State Office or by phone at (918) 581-7927. In addition, the State Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1). Individual testimony at the hearing will be limited to 15 minutes. For good cause, the hearing officer has the discretion to extend this time limit. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. The public hearing will continue until all

persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

In addition to the public hearing, representatives of OSM will be available to meet between now and March 23, 1982, at the request of the public to receive the public's advice and recommendations concerning the adequacy of the proposed amendment. Persons wishing to meet with representatives of OSM during this period may place such a request with Robert Markey, State Director, Telephone (918) 581–7927 at the State Director's Office above. Meetings may be scheduled between 9:00 a.m. and noon and 1:00 p.m. and 4:00 p.m., Monday through Friday, excluding holidays at the State Director's Office.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both State officials and members of the public.

Background of the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved Oklahoma's State regulatory program to control surface coal mining and reclamation operations (46 FR 4902–4910). Part of the approved program consisted of a body of State regulations needed for program implementation. The Oklahoma Legislature rescinded the State's regulations on February 12, 1981. Furthermore, a January 9, 1981, court injunction barring Oklahoma from enforcing its program and ordering the State to continue the interim regulatory program established by Section 502 of SMCRA and 30 CFR Chapter VII, Subchapter B, was lifted on July 20, 1981. The injunction resulted from a challenge to the State's program regulations, but was mooted as a result of the action of the Oklahoma Legislature.

On October 8, 1981, the Director, OSM, gave notice under the provisions of 30 CFR 733.12 that OSM had reason to believe that Oklahoma might not be able to implement, administer, maintain or enforce its approved program (46 FR 49846–49847). OSM held an informal conference with Oklahoma officials, a public hearing and a public comment period in an effort to obtain information on the status of the Oklahoma program (See 46 FR 49846–49847, October 8, 1981, and 46 FR 53695–53697, October 30, 1981). Transcripts of the informal conference (OK–323) and the public hearing (OK–333) and copies of written material and exhibits submitted through the end of the public comment period (November 27, 1981) have been placed in the Administrative Record and are available at the locations listed above under "Addresses."

On December 11, 1981, the Oklahoma Department of Mines submitted to OSM a set of emergency regulations (OK–355). The emergency regulations became effective on December 14, 1981, under an emergency rulemaking provision of the Oklahoma Administrative Procedures Act.

On January 22, 1982, the Oklahoma Department of Mines submitted a set of new permanent regulations to OSM as an amendment to the Oklahoma program (OK–356).

Summary of the Proposed Amendment

The regulations submitted by Oklahoma as a State program amendment establish criteria and procedures relating to:

(1) Permit requirements and performance standards for coal exploration and surface coal mining and reclamation operations (including underground mining operations).
(2) Inspection and enforcement procedures.
(3) Procedures for the designation of lands as unsuitable for mining.
(4) Bonding requirements.
(5) Performance standards for special categories of mining.
(6) Conflict of interest prohibitions for State employees.

Criteria for Approval of State Program Amendments

A complete listing of the requirements which the Oklahoma State program must be able to meet can be found at 30 CFR 732.15. That section establishes the criteria for approval or disapproval of State programs. The procedures governing the approval or disapproval of amendments to State programs are contained in 30 CFR 732.17, as amended January 23, 1981 (45 FR 7909 *et seq.*). The provisions of 30 CFR 732.17(h)(9) state that the applicable criteria for approval or disapproval of State programs set forth in 30 CFR 732.15 shall be utilized by the Director, OSM, in approving or disapproving State program amendments.

Details on Public Participation

The public comment period and public hearing being announced today invite interested persons to provide OSM information related to the adequacy of Oklahoma's new permanent regulations. Specifically, OSM is seeking information to be used in determining whether the proposed amendment to the Oklahoma program meets the requirements of SMCRA and the Federal rules contained in 30 CFR Chapter VII.

At the same time, OSM is reopening the public comment period for the proceedings the Director initiated under 30 CFR 733.12. As discussed earlier in this notice under the section entitled "Background on the Oklahoma Program," the Director invoked the procedures of 30 CFR 733.12, including a public comment period and public hearing, in an effort to determine the status of Oklahoma's program.

The Director's October 30, 1981, notice (46 FR 53695–53697), stated that subsequent to the public hearing and review of all available information, the Director would publish his findings on the status of the Oklahoma program. However, because Oklahoma submitted the proposed amendments before the Director completed his findings, OSM has decided to reopen the comment period to allow the proposed amendment, and public comments on the proposed amendment, to be considered in the Director's findings. Accordingly, OSM is requesting public comment on the proposed amendment for purposes of the Director's findings on the status of the Oklahoma program to be made in accordance with the provisions of 30 CFR 733.12(e), in addition to seeking public comment for the purposes of 30 CFR 732.17, as discussed above.

Other Information

If the Director decides to approve the amendment to the Oklahoma program, his approval will consist of an amendment to the Federal rules contained in 30 CFR Part 936. That Part is reserved for the codification of decisions related to the State of Oklahoma.

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 regarding all actions taken to approve or conditionally approve State regulatory programs, actions, or amendments. Therefore, this proposed program amendment is exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 11, 1982.

J. R. Harris,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82-4357 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 944

Public Comment and Opportunity for Public Hearing on Modified Portions of the Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Utah Permanent Regulatory Program (hereinafter referred to as the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Utah program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public must be received by 4:30 p.m. M.S.T. on March 19, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions of approval.

A public hearing on the proposed amendments has been scheduled for March 16, 1982. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by March 5, 1982. If no person has contacted Mr. Hagen by this date to express an interest to participate in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

ADDRESSES: The public hearing will be held between 1 p.m. and 5 p.m. at the Conference Room, Room No. 4108, 4241 State Office Building, Salt Lake City, Utah. Written comments and requests for an opportunity to speak at the public hearing should be sent to: Mr. Robert Hagen, State Director, Office of Surface Mining Reclamation and Enforcement, New Mexico State Office, 219 Central N.W., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM State Office above and at the OSM Headquarters office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah, Telephone: (801) 533-5771.

Office of Surface Mining, Interior South Building, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the Federal Register on October 24, 1980 (45 FR 70481-70510). The State of Utah resubmitted its program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Utah program, including the resubmission, did, with minor exceptions, meet the requirements of SMCRA, and the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 Federal Register (46 FR 5899-5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 Federal Register (46 FR 5899-5915).

In accepting the Secretary's conditional approval, Utah agreed to correct deficiencies "a"-"e" by December 1, 1981, and deficiencies "f"-"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f," "g," and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant the State's request.

Utah recently requested a second extension of the deadline for the State to meet conditions "f" and "h" until January 1, 1983. A proposed rule to extend the time allowed the State to meet those conditions will be published in the Federal Register.

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"-"e," "g," and "f"-"l." A description of the provisions submitted by the State and of the conditions they are intended to satisfy is provided below.

Condition (a) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully enacted statutes which delete the condition in Section 40-10-10(d) UCA of the Utah CMRA which limits the Small Operator Assistance Program to receipt of funding from OSM, to be consistent with Section 507(c) of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which shows the words "contingent upon receipt of funding from the Federal Office of Surface Mining" deleted from Section 40-10-10(d)(3).

Condition (b) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully enacted statutes revising the dates for certain determinations to be consistent with the dates of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which shows the following changes:

(1) The date for the establishment of the "grandfathering" date of alluvial valley floors under Section 40-10-11(2)(e)(ii) UCA/Section 510(b)(5)(B) of SMCRA is changed to read "in the year preceding August 3, 1977. . ."

(2) The dates for prime farmland permit application requirements under Section 40-10-11(4) UCA/Section 510(d)(2) of SMCRA is changed to read "August 3, 1977."

(3) The date for the establishment of valid existing rights in Section 40–10–24(4) UCA/Section 522(e) of SMCRA is changed to read "August 3, 1977."

(4) The date for the determination of substantial legal and financial commitments in Section 40–10–24(1)(3) UCA/Section 522(a)(6) of SMCRA is changed to read "January 1, 1977."

Condition (c) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully executed statutes correcting errors in Sections 40–10–17(2)(j)(ii)(B) UCA and 40–10–16(4) UCA to be consisent with Sections 515(b)(10)(B)(ii) and 519(d) of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which makes corrections to these sections.

Condition (d) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully executed statutes revising the jurisdiction of the Utah courts such that a suit against the United States cannot be conducted in a State court but only in a Federal court under Section 40–10–21 UCA of the Utah CMRA, to be consistent with Section 520 of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which deletes the words "United States" from Section 40–10–21(1)(a) of UCA.

Condition (e) of the Secretary's conditional Utah program approval states that Utah must submit to the Secretary by December 1, 1981, copies of fully enacted statutes recognizing "private" mineral estates under Section 40–10–11(f) UCA to be consistent with Section 510(b)(6) of SMCRA.

In response to this condition, the State has submitted House Bill No. 66, which shows the word "private" substituted for "State" in Section 40–10–11(2)(f).

Condition (g) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations adopting a sediment pond exemption provision in UMC 817.42(a)(3) consistent with 30 CFR 817.42(a)(ii)(A).

In response to this condition, the State has submitted the following amended sections UMC 817.42(a)(3)(i) and 817.42(a)(3)(ii)(A)(B):

817.42(a)(3)(i): The person who conducts the underground coal mining activities demonstrates, by the use of alternative sediment control measures, that the drainage will:

(A) Either meet all applicable State and Federal effluent limitation standards, or

(B) Not degrade the quality of receiving waters.

817.42(a)(3)(ii)(A): There shall be no mixture of undisturbed drainage with a discharge from the underground workings.

(B) Any mixing of disturbed area drainage with a discharge from underground mine workings shall:

(1) Be passed through approved treatment facilities, as necessary, and

(2) Meet all applicable State and Federal effluent limitation standards, where it leaves the permit area.

Condition (i) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations adopting well transfer liability provisions in UMC 817.53(c) consistent with 30 CFR 817.53(c).

In response to this condition, the State has submitted the following amended sections UMC 817.53(c) and SMC 816.53(c): (c) Upon an approved transfer of a well, the transferor shall be secondarily responsible to the regulatory authority for the transferee's obligations under subparagraphs (b)(2) and (b)(3) of this section until final release of the bond or other equivalent guaranty required by Subchapter J for the area in which the well is located. Any legal liability of the transferor for damage to persons or property from the well shall be determined in accordance with applicable law.

Condition (j) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations providing for surface owner protection from the potential effects of subsidence in UMC 817.124(b)(1) and (3) consistent with 30 CFR 817.124(b)(1) and (3).

In response to this condition, the State has submitted the following amended section UMC 817.124(b):

(b) Each person who conducts underground mining which results in subsidence that causes material damage or reduces the value or reasonable forseeable use of the surface lands shall, with respect to each surface area affected by subsidence—

(1) Restore, rehabilitate, or remove and replace each damaged structure, feature or value, promptly after the damage is suffered, to the condition it would be in if no subsidence had occurred and restore the land to a condition capable of supporting reasonable foreseeable uses it was capable of supporting before subsidence;

(2) Purchase the damaged structure or feature for its fair market, pre-subsidence value and shall promptly after subsidence occurs, *to the extent technologically and economically feasible,* restore the land surface to a condition capable and appropriate of supporting the purchased structure, and other foreseeable uses it was capable of supporting before mining. Nothing in this paragraph shall be deemed to grant or authorize an exercise of the power of condemnation or the right of eminent domain by any person engaged in underground mining activities; or

(3) Compensate the owner of any surface structure in the full amount of the diminution in value resulting from subsidence, by purchase prior to mining of a noncancellable premium prepaid insurance policy or other means approved by the Division as assuring before mining begins that payments will occur; indemnify every person owning an interest in the surface for all damages suffered as a result of the subsidence; and, to the extent technologically and economically feasible, fully restore the land to a condition capable of maintaining reasonably foreseeable uses which it could support before subsidence.

Condition (k) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a).

In response to this condition, the State has submitted the following amended section UMC 817.101(c):

(c) The following materials shall be prevented from being placed in the downslope of a steep slope as defined in UMC 700.5, except that nothing in this section shall prohibit the placement of material in road and portal pad embankments located on the downslope, so long as the material used and the embankment design comply with the applicable requirements of UMC 817.150–817.180 and the material is moved and placed in a controlled manner.

(1) Spoil;

(2) Waste materials including waste mineral matter;

(3) Debris, including that from clearing and grubbing of land road construction or portal pad construction, and;

(4) Abandoned or disabled equipment.

Nothing in this subsection (c) prohibits placement of the following materials on steep slopes in accordance with provisions of other performance standards.

Condition (l) of the Secretary's conditional Utah program approval states that Utah must submit by July 1, 1981, copies of fully enacted regulations which allow monitoring as a subsidence

control measure in UMC 784.20(c)(3)(v) consistent with 30 CFR 784.20(c)(3)(v).

In response to this condition, the State has submitted the following amended section UMC 784.20(b)(3)(v):

(v) Monitoring, if any, to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage.

The provisions submitted by the State are available for public review at the addresses listed above. The Secretary seeks comment on whether the provisions submitted correct the deficiencies. If the program amendments are approved, the conditions specified in 30 CFR 944.11(a)–(e), (g), and (i)–(l) will be removed.

Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance With the Regulatory Flexibility Act

The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. Compliance With Executive Order No. 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, state regulatory programs, actions, or amendments. Therefore a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

Dated: February 9, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-4358 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 944

[SPA 34]

Permanent State Regulatory Program of Utah

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for Utah to meet conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Also being considered is the removal of conditions of approval on Utah's program if OSM determines any are moot as a result of revised Federal standards for State program approval.

DATE: Comments must be received by March 22, 1982 at the address below, no later than 5:00 p.m.

ADDRESS: Written comments must be mailed to: Office of Surface Mining, Administrative Record Office (SPA 34), Room 5315 L, 1951 Constitution Avenue NW., Washington, D.C. 20240.

Comments may be hand carried to: Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. or Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

The Utah program was conditionally approved on January 21, 1981 (46 FR 5899–5915). In that document the Secretary published a schedule for the State to meet each of the 12 conditions on the State program. That schedule called for Utah to submit provisions to satisfy conditions "a"–"e" by December 1, 1981, and provisions to meet condition "f"–"l" by July 1, 1981.

Since the Secretary's conditional approval of the Utah program OSM has proposed several revisions to the Federal permanent program rules which served as the standard for approval of Utah's program. Because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension of time to meet. Utah requested that the deadline for the State to meet conditions "f," "g," and "h" be extended until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant Utah's request. On June 29, 1981, the State submitted provisions intended to satisfy conditions "a"–"e," "g," and "i"–"l." These provisions are currently being reviewed by OSM. The public will be provided an opportunity to review and comment on the materials submitted by the State under separate rulemaking. This notice is for the purpose of addressing the State's request for a second extension that would establish a new deadline for the State to meet conditions "f" and "h". The State offered as its reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. Some of these amendments may directly affect Utah's satisfaction of the two conditions. In accordance with the State's request, OSM is proposing that the deadline for the State to meet those two conditions be extended until January 1, 1983.

OSM is considering alternatives to a January 1, 1983, deadline for the State to meet those conditions. Other options to be considered will be based on OSM's reexamination of the two conditions in light of several factors.

1. The first is the promulgation of revisions of the Federal regulations at 30 CFR 730–732 which govern the standards for approval of State programs. The revised standards which were published October 28, 1981 (46 FR 53376–53384), allow States to adopt alternatives to the Federal regulations, provided they are "no less effective than" the Federal rules in meeting the purposes of the Act.

If the Agency determines that the provisions which are the subject of conditions "f" and "h" are approvable under the revised standard, it will remove the conditions. This notice will be the only notice of proposed rulemaking if OSM decides to remove

either one or both of the conditions. Therefore, the Secretary wishes to make clear that this notice invites comment not only on the State's request for an extension of the deadline to meet the two conditions but also on the Agency's proposal to remove one or both of the conditions if judged to be moot in light of the revised standard of State program approval.

2. In making a final decision on the State's request for an extension, OSM will also consider the revisions to the Federal permanent program regulations that have been or will be proposed, but have not yet been finalized. OSM will reexamine both of the conditions to determine whether revisions to the Federal rules are likely to have a bearing on changes the State is required to make to satisfy the conditions.

The Secretary requests comments not only on the proposed January 1, 1983, deadline but on the other options which have been discussed in this notice including the proposal to remove one or both of the conditions if deemed unnecessary as a result of the modified standard for State program approval.

I have determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. I have further certified that the proposed rules will not have a significant economic effect on a substantial number of small entities as the rules are essentially a timing change with no direct or indirect impact on small entities.

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exemption from Section 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this proposed extension.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Text of Proposed Amendment

PART 944—UTAH

§ 944.11 [Amended]

30 CFR 944.11 (f) and (h) are proposed to be amended by substituting January 1, 1983, for January 1, 1982, each time it appears.

[FR Doc. 82-4342 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2049-3]

Approval and Promulgation of Implementation Plans; Arizona; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 30, 1981 (46 FR 58098), a notice of proposed rulemaking was published concerning the sulfur oxides control strategy and regulations for existing nonferrous smelters in the State of Arizona. In response to extension requests from the Inspiration Consolidated Copper Company and the Environmental Defense Fund, the public comment period is being extended to February 28, 1982.

DATE: Comments are due on or before February 28, 1982.

ADDRESSES: Comments should be submitted to: Chuck Seeley, Chief, Compliance Section (A-1-3), Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105, ATTN: Larry Bowerman (415) 974-8213.

Dated: February 3, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-4325 Filed 2-17-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-9-FRL-2026-5]

Approval and Promulgation of Implementation Plans; Clark County Health District Air Pollution Control Regulations; State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Parts C and D of the Clean Air Act requires states to revise their State Implementation Plan (SIP) to include an acceptable program for pre-construction review of new and modified major stationary sources. The Clark County Health District (CCHD) adopted New Source Review (NSR) and Prevention of Significant Deterioration (PSD) regulations to satisfy these requirements. These regulations were officially submitted to EPA by the Governor of Nevada as a revision to the SIP on November 17, 1981. In this notice, EPA is proposing to approve these revised regulations.

The EPA invites public comments on whether these regulations should be approved, disapproved or conditionally approved, especially with respect to the requirements of Parts C and D of the Clean Air Act.

DATE: Comments may be submitted until March 22, 1982.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Stationary Source Section, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105.

Copies of the revisions and EPA's associated evaluation report are contained in document file NAP-NV-04-NSR/PSD, and are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City, NV 89710;

Clark County Health District, 625 Shadow Land, Las Vegas, NV 89106;

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Wallace Woo, Chief, Stationary Source Section, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9 (415) 556-8063.

SUPPLEMENTARY INFORMATION:

Background

PSD—Part C(Section 160 to 169) of the Clean Air Act contains requirements for the Prevention of Significant Deterioration (PSD) in areas which are designated either attainment or unclassified for the criterias (Section 109) pollutants. The PSD requirements apply to these attainment pollutants as well as the non-criteria pollutants (regulated under the Sections 111 and 112 of the Act), (Las Vegas Valley is currently designated as attainment for SO_2 and NO_x; the remainder of Clark County is attainment or unclassified for *all* the criteria pollutants). Part C also contains a classification system for designating areas as either Class I, II or III. The class of an area determines what incremental increases in ambient pollutant concentrations are allowed for the area. Preconstruction requirements for new or modified major stationary sources locating in attainment or unclassified areas are all outlined in Part C.

The detailed requirements for a PSD program are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality". Presently, EPA is administering the PSD program in Clark County under the federal regulation 40 CFR 52.21, "Prevention of Significant Deterioration of Air Quality". When PSD regulations for Clark County are approved, the federal regulation 40 CFR 52.21 will be rescinded as applicable for Clark County and the PSD program will be administered by the CCHD.

The primary requirements for a PSD program include: (1) The application of "Best Available Control Technology" (BACT) to new or modified major stationary sources; (2) A requirement that the applicant demonstrate that the increased emissions in the area affected by the new or modified source will not violate any National Ambient Air Quality Standard (NAAQS) or the applicable air quality increment; (3) Administrative procedures to handle sources impacting Class I areas, and (4) Procedures for redesignating the PSD classification of an area.

NSR—Section 110 and Part D (Section 173) of the Clean Air Act specify requirements for a permit program for new or modified major stationary sources constructing in areas which are designated as nonattainment. Las Vegas Valley is currently designated as nonattainment for total suspended particulates (TSP), ozone (major new or modified sources of volatile organic compounds are considered major for ozone) and carbon monoxide. The detailed requirements for an NSR program are contained in 40 CFR 51.18, "Review of New Sources and Modifications".

The primary requirements for an NSR program include; (1) A requirement that the applicant certify state/wide compliance with applicable air pollution regulations for other sources owned or controlled by the applicant, (2) A requirement for the application of control technology which is consistent with the "Lowest Achievalbe Emission Rate" (LAER) to the new or modified equipment; and (3) A requirement for a reduction in emissions from existing air pollution sources such that there is a net air quality benefit and "Reasonable Further Progress" (RFP) toward attainment of the standards. This last requirement may be met by either establishing a growth increment as part of a nonattainment area plan (Section 172) or by requiring the new source to obtain sufficient offsetting emission reductions from existing air pollution sources.

On April 14, 1981 EPA published a notice of final rulemaking (46 FR 21758) approving revisions to Clark County's NSR rules on the basis of EPA's NSR regulations in effect at the time the revisions were submitted.

Revisions to NSR and PSD Requirements—On May 13, 1980 [45 FR 31307] and August 7, 1980 [45 FR 52676] EPA published major amendments to its NSR and PSD regulations. Included were amendments to 40 CFR 51.24, 40 CFR 52.21, and 40 CFR 51.18. These amendments were in response to the changes mandated by the "Alabama Power" court decision, 13 ERC 1993. Clark County is required to adopt PSD rules and amend their NSR rules to meet the new May 13 and August 7, 1980 criteria.

Description of Regulations

In response to the revised NSR and PSD criteria published by the EPA on May 13 and August 7, 1980, the CCHD drafted revisions to their air quality regulations and held a public hearing to consider their adoption on July 23, 1981. In response to the public comments, these draft revisions were amended on August 13, 1981 and then adopted by the District Board of Health on August 27, 1981. These revisions were officially submitted to EPA by the Governor as revision to the SIP on November 17, 1981.

Included in the changes to the CCHD's regulations that were submitted on November 17, 1981, were revisions, additions and deletions to the following sections of their existing NSR regulations (which were previously approved by EPA):

Section 1—Definitions, 1.7, 1.13, 1.14, 1.15, 1.32, 1.48, 1.50, 1.52, 1.57, 1.67, 1.72, 1.90 and the addition of the following unnumbered definitions: "Emission Unit", "Criteria Pollutant", "Non-Criteria Pollutant", "Baseline Area", "Begin Actual Construction", "Building, Structure, Facility, or Installation", "Particulate Precursor", "Secondary Emissions", and "Significant".

Section 15—Source Registration, 15.5; Preconstruction Review for New and Modified Sources, 15.6, 15.6.1, 15.6.1.1, 15.6.1.2 (deleted), 15.6.1.6, 15.6.2, 15.6.2.1 (deleted), 15.6.2.2, 15.6.2.3, 15.6.2.4, 15.6.2.5, 15.6.3, 15.6.3.1, 15.6.3.2 to 15.6.3.5 (added), 15.6.6, 15.7, 15.11, 15.12; Prevention of Significant Deterioration, 15.13 (added); Preconstruction Review Requirements for New or Modified Sources in Areas Exceeding Air Quality Standards ("Offset" Rules), 15.14.1, 15.14.1.2, 15.14.1.3 (added), 15.14.3.1, 15.14.3.2, 15.14.4, 15.14.4.1, 15.14.4.3, 15.14.3.3 (added), 15.14.4.3.4 (added), 15.14.4.3.5 (added) and 15.14.4.4 (deleted).

EPA's evaluation of the NSR and PSD regulations considers the acceptability of CCHD's entire set of NSR and PSD regulations. In addition to the proposed regulations listed above, EPA has also considered those unamended portions of Sections 1 and 15 (except 1.79 and 1.94) submitted on July 24 and September 18, 1979. These sections were approved by EPA on April 14, 1981 [46 FR 21758].

Evaluation

EPA has evaluated the regulations listed above to determine whether they satisfy all of the criteria for an acceptable NSR and PSD program. EPA believes that the CCHD regulations will: (1) Require the necessary preconstruction review of sources which would be subject to the federal guidelines, (2) require BACT, and air quality protection in a manner consistent with EPA's PSD criteria (40 CFR 51.24) and (3) require certification of statewide compliance, application of LAER, and offsets in a manner consistent with EPA's NSR criteria (40 CFR 51.18). In addition, the CCHD regulations contain adequate guidelines and procedures for the administration and enforcement of the NSR and PSD programs. A detailed discussion and evaluation of the CCHD regulations is contained in EPA's Evaluation Report (available at the locations listed in the ADDRESSES section of this notice).

Proposed Action

EPA proposes to approve under Section 110 and Parts C and D of the Clean Air Act, the CCHD rules which were submitted on November 17, 1981 (See **Description of Regulations** section). EPA believes that the regulations are consistent with Sections 110, 160 to 169 and 173 of the Clean Air Act, 40 CFR 51.18, and 40 CFR 51.24 and should therefore be approved for inclusion in the SIP. In addition, EPA proposes to rescind 40 CFR 52.1485, "Significant deterioration of air quality" as it applies to Clark County, which incorporated the Federal PSD regulations, 40 CFR 52.21, into the applicable SIP for the State of Nevada.

The Administrator has certified (46 FR 8709) that this action will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110, 129, 160 to 169, 171 to 173 and 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470 to 7479, 7501 to 7503, and 7601(a))

Dated: December 22, 1981.
Sonia F. Crow,
Regional Administrator.
[FR Doc. 82-4311 Filed 2-17-82; 8:45 am]
BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

Medicare Program; Reduction in the Number of Providers Dealing Directly With HCFA

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to modify Medicare regulations concerning the option available to Medicare providers to elect to receive payment directly from HCFA, rather than through an intermediary, for covered services furnished to beneficiaries. The regulations would clarify that HCFA may contract with any organization for the purpose of making payments to providers that have not elected to receive payment through an intermediary.

DATE: To assure consideration, comments should be mailed by March 5, 1981.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309—G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 793, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPO–28–P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Norman Fairhurst, (3012) 594–9498.

SUPPLEMENTARY INFORMATION:

I. Background

In the Medicare program, the Secretary is responsible for making payment to a provider of services (such as a hospital or skilled nursing facility) for the covered services it furnishes to Medicare beneficiaries, either through a fiscal intermediary acting on HCFA's behalf or by HCFA directly. The current Medicare regulations give providers the option of selecting an intermediary subject to the consent of both HCFA and the intermediary (Section 1816 of the Social Security Act and 42 CFR 421.103) or of dealing directly with HCFA (42 CFR 421.103). About 720 hospitals and skilled nursing facilities (SNFs), out of the approximately 12,800 providers that currently participate in the program, receive payment directly from HCFA. In addition, 144 comprehensive health clinics and 371 home health agencies (HHAs) also receive direct payment form HCFA.

A. Reduction in the Number of Providers Dealing Directly With HCFA

Section 1874 of the Social Security Act gives the Secretary the authority to perform directly or by contract, as he or she deems necessary, any of his or her functions under Medicare. Under that authority, we are proposing to contract out the functions of making payment determinations, disbursing payments, and related activities with respect to providers that are currently serviced directly by HCFA. Thus, we would require some hospitals, SNFs, and hospital-affiliated home health agencies that currently deal directly with HCFA to deal instead with contractors that already are under contract with HCFA to perform fiscal intermediary functions. This would be carried out in a phased manner in order to assure an orderly transition with no disruption in cash flow to providers.

The decision to use the Secretary's authority to contract out his responsibility for servicing providers is based on considerations that indicate that this would result in the more effective and efficient administration of the Medicare program at this time. HCFA's Office of Direct Reimbursement (ODR), the component that handles the claims from direct dealing providers, receives and processes approximately 2,300,000 hospital and SNF claims per year. ODR's operations represent a significant portion of HCFA's internal operating budget. During FY 1982, the resources available to HCFA to maintain its internal operations have been reduced. Therefore, it is essential that these limited resources be used as effectively as possible.

For the reasons set forth below, we believe that the costs to the Federal government for the activities connected with servicing providers directly have been higher than they would have been if the provider had been receiving payment through a contractor. Moreover, utilization of the alternative of contracting out the servicing of providers would enable HCFA to focus its internal operating resources on the overall management of the Medicare and Medicaid programs nationally. Therefore, we are proposing to have contractors service hospitals, SNFs and hospital-affiliated HHAs that have been serviced by ODR.

The reduction in ODR's workload would increase our ability to control costs and administer the program more efficiently for the following reasons:

1. It would be more efficient to have a contractor use its accountants to conduct cost report audits than for HCFA to locate and contract with accounting firms, as is now the case. We intend to contract with existing Medicare fiscal intermediaries, whose accountants are specialists in Medicare principles of provider reimbursement. Reducing ODR functions would also permit a more consistent application of coverage and reimbursement rules by auditors in those cases where all providers in an area have the same intermediary or intermediaries.

2. Contracting out the servicing of these providers to existing intermediaries would enhance our ability to identify aberrant service and utilization practices of providers, as well as fraud and abuse, because more locally consistent guidelines would be utilized.

3. Bill processing would be improved for those providers that would be serviced by contractors. First, providers and beneficiaries would have easier access to the intermediary to resolve difficulties. Second, query systems by which providers gather eligibility data for beneficiaries would be the same for most providers. Some providers that deal directly with HCFA funnel their inquiries to HCFA through Social Security Administration district offices. This is an inefficient process that imposes an extra workload on the district offices. Last, coverage decisions and reconsideration determinations would be more consistent among providers.

4. We estimate that there would be an immediate reduction in operating costs to the Federal government by contracting out the servicing of providers currently being serviced by ODR.

5. Also, there would be more effective coordination between Medicaid and Medicare. Contracting with intermediaries would make it easier to achieve consistency concerning coverage decisions especially in cases when an individual is both a Medicare and Medicaid beneficiary. At present, an intermediary, a Medicaid State agency and ODR (which as the Federal "intermediary" must maintain a national perspective) are often involved in this process. Under our proposal, ODR would be eliminated from this processing in many cases.

B. Effect on Providers

These regulations would affect hospitals, SNFs, and hospital-affiliated home health agencies only. Freestanding home health agencies have been reassigned to designated regional intermediaries under section 930(o) of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), which added section 1816(e)(4) to the Act. Affected providers under this proposal would start sending claims to their intermediaries after the effective date of the final regulations.

No change is being made to the right of a provider to elect to deal with an existing fiscal intermediary of its choice See 42 CFR 421.104–421.106 for the process involved. A hospital, SNF, or hospital-affiliated HHA that currently deals with ODR may atill exericse its right to elect to deal with a fiscal intermediary (subject to the approval of the intermediary and HCFA).

HCFA will send a notice to each affected provider, requesting a preference. Thereafter, a provider would still be able to elect to deal with an existing fiscal intermediary of its choice, under the usual rules, procedures, timetables, and limitations.

At this time, it is not our intention to eliminate all direct-dealing hospitals and SNFs from ODR's workload. For example, we do not now expect to eliminate New York City and New York State hospitals, Federal hospitals, and hospitals and SNFs in Puerto Rico from the ODR workload. However, we may do so in the future.

Affected providers would be notified, individually, by mail of procedures to follow in the change-over to an intermediary. We would arrange for an orderly transition of service from ODR to the contractors.

II. Provisions of the Regulation

We are amending 42 CFR Part 421 to clarify the application of section 1874 of the Act to providers that chose not to nominate or elect fiscal intermediaries. The amendments would clarify HCFA's authority to contract with intermediaries or other organizations to make payments to those providers that do not elect to exercise the option to deal with an intermediary. We propose to add a paragraph to § 421.103 to state that HCFA may, as it determines it to be appropriate, contract with any organization (including an intermediary with which HCFA has previously entered into an agreement under 42 CFR 421.105) to make payments to any provider or group of providers. The amendments would preserve the option now available to providers of choosing to receive payment through intermediaries, but would modify the providers' option to deal directly with HCFA.

We propose to add a paragraph (c) to § 421.1, Basis and scope, to clarify that the Part does not apply to HHAs that must receive payment for covered services from designated regional intermediaries under section 1816(e)(4) of the Act. Section 930(o) of the 1980 Reconciliation Act added section 1861(e)(4) to the Act, to require all freestanding HHAs to be serviced by regional intermediaries.

We propose also to make technical changes to § 421.104, Nominations for intermediary, as well as to § 421.105, Notification of action on nomination, to reflect the manner in which a provider's option may be exercised. In addition, we would change the title of § 421.106 and the text of § 421.106(a) to delete specific references to direct payment.

We would also reference section 1874 of the Act in § 421.1 and update the entire authority citation.

III. Impact Analyses

A. Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291.

That is, the proposed regulations would not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic import markets.

Although we expect some Federal savings to result from these regulations, the impact of these regulations would be primarily one of improved program effectiveness.

B. Regulatory Flexibility Act

Section 603(a) of Pub. L. 96-354 (the Regulatory Flexibility Act of 1980) requires that a Federal agency prepare, and make available to the public, an initial regulatory flexibility analysis (IRFA) when it publishes a proposed rule that would have a significant economic impact on a substantial number of small businesses or other small entities.

Some providers may be defined as small businesses, but these regulations would not adversely affect a significant number, with respect to economic impact under the Regulatory Flexibility Act.

IV. 15-Day Comment Period

We are providing 15 days for the public to comment on these proposed regulations because of budgetary implications, and the efficiency and economics to be realized under this proposal. Further, we are immediately furnishing a copy of this proposal to each potentially affected provider now being serviced by ODR, as well as to all Medicare intermediaries.

Because of the large number of comments we often receive on notices of proposed rulemaking, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments received and will respond to them in the preamble to that rule.

V. List of Subjects in 45 CFR Part 421 [1]

Administrative practice and procedure
Contracts (Agreements)
Courts
Health care
Health facilities
Health maintenance organizations (HMO)
Health professions
Information (Disclosure)
Lawyer
Medicare
Professional Standards Review Organizations (PSRO)
Reporting requirements

42 CFR Part 421, is amended as set forth below.

PART 421—INTERMEDIARIES AND CARRIERS

1. The authority citation for Part 421 is revised to read as follows:

[1] The Health Care Financing Administration is providing this list in compliance with 1 CFR 18.20. That regulation requires agencies to include a list of index terms for each CFR past affected in Rules and Proposed Rules documents published in the Federal Register beginning April 1, 1982.

Authority: Secs. 1102, 1815, 1816, 1842, 1861(u), 1871, 1874 and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

2. In the Table of Contents for Subpart B, the title of § 421.106 is revised to read as follows:

Subpart B—Intermediaries

* * * * *

421.106 Change to another organization for payment of services.

* * * * *

3. Section 421.1 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c). As revised, § 421.1 reads as follows:

§ 421.1 Basis and scope.

(a) This part is based on sections 1815, 1816, 1842 and 1874 of the Social Security Act and 42 U.S.C. 1395b–1 (experimental authority).

(b) The provisions of this part apply to agreements with Part A (Hospital Insurance) intermediaries and contracts with Part B (Supplementary Medical Insurance) carriers. They specify criteria and standards to be used in selecting intermediaries and evaluating their performance; in assigning or reassigning a provider or providers to particular intermediaries, and in designating regional or national intermediaries for certain classes of providers and for dealing with providers that do not nominate or elect to receive payment from a fiscal intermediary. The provisions set forth the opportunity for a hearing for intermediaries and carriers affected by certain adverse actions. The adversely affected intermediaries may request a judicial review of hearings decisions on (1) assignment or reassignment of a provider or providers or (2) designation of an intermediary or intermediaries to serve a class of providers.

(c) The provisions of this part do not apply to home health agencies that must receive payments for covered services from designated regional intermediaries under section 1816(e)(4) of the Act.

4. Section 421.103 is revised as follows:

§ 421.103 Option available to providers.

(a) Subject to the provisions of paragraph (b) of this section, a provider may elect to receive payment for covered services furnished to Medicare beneficiaries:

(1) Directly from HCFA or

(2) Through an intermediary, when both HCFA and the intermediary consent.

(b) Whenever HCFA determines it appropriate, it may contract with any organization (including an intermediary with whom HCFA has previously entered into an agreement under § 421.105 and § 421.110) for the purpose of making payments to any provider that does not elect to receive payment from an intermediary.

5. Section 421.104 is amended by revising the introductory language of paragraph (b), by revising paragraph (b)(2), and by adding a new paragraph (b)(3) as follows:

§ 421.104 Nominations for intermediary.

* * * * *

(b) Action by nonmembers or nonconcurring members. Providers that nonconcur in their association's nomination, or are not members of an association, may:

* * * * *

(2) Elect to receive payments from a fiscal intermediary with which HCFA already has an agreement, if HCFA and the intermediary agree to it (see § 421.106); or

(3) Elect to receive payment from HCFA as provided in § 421.103.

* * * * *

6. Section 421.105 is amended by revising paragraph (b) as follows:

§ 421.105 Notification of action on nomination.

* * * * *

(b) Any member of a group or association having more than one nominated intermediary approved by HCFA to act on its behalf shall withdraw its nomination from all but one or exercise the option provided in § 421.103(a), subject to § 421.103(b) to receive payment directly from HCFA.

7. Section 421.106 is amended by revising the title and paragraph (a) as follows:

§ 421.106 Change to another organization for payment of services.

(a) Any provider may request to change the organization from which it receives payments for covered services under § 421.103 by:

(1) Giving HCFA written notice of its desire at least 120 days before the end of its current fiscal year; and

(2) Concurrently giving written notice to its intermediary.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Insurance)

Dated: February 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approve: February 9, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-4379 Filed 2-17-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 42

[CGD 79–153]

Freeboards; Load Line Regulations; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on load line regulations that appeared on page 5266 in the Federal Register of Thursday, February 4, 1982, (47 FR 5266). This action is necessary because the Inter-Governmental Maritime Consultative Organization (IMCO) Resolution A.320(IX), referenced as an appendix to the proposed rule, was inadvertantly left out of the document published.

FOR FURTHER INFORMATION CONTACT: Mr. William Cleary, Office of Merchant Marine Safety (G–MMT–5/12), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–2187.

Dated: February 10, 1982.

A. D. Utara,

Commander, U.S. Coast Guard Regulations Officer.

Note.—This action publishes the IMCO Resolution A.320(IX) referenced in the proposed rule published February 4, 1982.

Resolution A.320(IX)—Regulation Equivalent to Regulation 27 of the International Convention on Load Lines, 1966

Adopted: November 12, 1975.

The Assembly, noting Article 16(i) of the IMCO Covention concerning the functions of the Assembly,

Bearing in mind Article 8 of the International Convention on Land Lines, 1966, concerning Equivalents,

Recalling that it adopted in Resolution A.172(ES.IV) the Recommendation for Uniform Application and Interpretation of Regulation 27 of the International Convention of Load Lines, 1966,

Recognizing the need for improvement in the text of Regulation 27 of the

Convention, having regard to provisions of the Recommendation (Annex to Resolution A.172(ES.IV)) and experience gained in applying that Regulation,

Having considered the proposed Regulation equivalent to Regulation 27 of the International Convention on Load Lines, 1966, approved by the Maritime Safety Committee at its thirty-second session,

Adopts the text of the regulation which is at Annex to this Resolution as equivalent to Regulation 27 of the International Conventional on Land Lines, 1966, which supersedes the Recommendation annexed to Resolution A.172(ES.IV),

Recommends governments concerned to accept the application of the Regulation as being equivalent to Regulation 27 of the International Convention on Load Lines, 1966,

Requests the Maritime Safety Committee to continue its consideration of improvements to the International Convention on Load Lines, 1966, including Regulation 27 thereof.

Types of Ships

(1) For the purposes of freeboard computation, ships shall be divided into Type "A" and Type "B".

Type "A" Ships

(2) A Type "A" ship is one which:

(a) Is designed to carry only liquid cargoes in bulk;

(b) Has a high integrity of the exposed deck with only small access openings to cargo compartments, closed by watertight gasketed covers of steel or equivalent material; and

(c) Has low permeability of loaded cargo compartments.

(3) A Type "A" ship, if over 150 metres (492 feet) in length to which a freeboard less than Type "B" has been assigned, when loaded to its summer load waterline, shall be able to withstand the flooding of any compartment or compartments, with an assumed permeability 0.95, consequent upon the damage assumptions specified in paragraph (12) of this Regulation, and shall remain afloat in a satisfactory condition of equilibrium as specified in paragraph (13) of this Regulation. In such a ship, if over 225 metres (738 feet) in length, the machinery space shall be treated as a floodable compartment, but with a permeability of 0.85.

(4) A Type "A" ship shall be assigned a freeboard not less than that based on Table A of Regulation 28.

Type "B" Ships

(5) All ships which do not come within the provisions regarding Type "A" ships in paragraph (2) and (3) of this Regulation shall be considered as Type "B" ships.

(6) Type "B" ships, which in position 1 have hatchways fitted with hatchcovers which comply with the requirements of Regulation 15, other than paragraph (7), shall be assigned freeboards based upon the values given in Table B of Regulation 28, increased by the values given in the following table:

FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" SHIPS, FOR SHIPS WITH HATCH COVERS NOT COMPLYING WITH REGULATION 15(7) OR 16

Length of ship (metres)	Freeboard increase (millimetres)	Length of ship (metres)	Freeboard increase (millimetres)	Length of ship (metres)	Freeboard increase (millimetres)
[1] 108	50	139	175	170	290
109	52	140	181	171	292
110	55	141	186	172	294
111	57	142	191	173	297
112	59	143	196	174	299
113	62	144	201	175	301
114	64	145	206	176	304
115	66	146	210	177	306
116	70	147	215	178	308
117	73	148	219	179	311
118	76	149	224	180	313
119	80	150	229	181	315
120	84	151	232	182	318
121	87	152	236	183	320
122	91	153	240	184	322
123	95	154	244	185	325
124	99	155	247	186	327
125	103	156	251	187	329
126	108	157	254	188	332
127	112	158	258	189	334
128	116	159	261	190	336
129	121	160	264	191	339
130	126	161	267	192	341
131	131	162	270	193	343
132	136	163	273	194	346
133	142	164	275	195	348
134	147	165	278	196	350
135	153	166	280	197	353
136	159	167	283	198	355
137	164	168	285	199	357
138	170	169	287	200	358

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.
Ships above 200 metres in length shall be dealt with by the Administration.
[1] 108 and below.

FREEBOARD INCREASE OVER TABULAR FREEBOARD FOR TYPE "B" SHIPS, FOR SHIPS WITH HATCH COVERS NOT COMPLYING WITH REGULATION 15(7) OR 16

Length of ship (feet)	Freeboard increase (inches)	Length of ship (feet)	Freeboard increase (inches)
[1] 350	2.0	510	9.6
360	2.3	520	10.0
370	2.6	530	10.4
380	2.9	540	10.7
390	3.3	550	11.0
400	3.7	560	11.4
410	4.2	570	11.8
420	4.7	580	12.1
430	5.2	590	12.5
440	5.8	600	12.8
450	6.4	610	12.1
460	7.0	620	13.4
470	7.6	630	13.6
480	8.2	640	13.9
490	8.7	650	14.1
500	9.2	660	14.3

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.
Ships above 660 feet in length shall be dealt with by the Administration.
[1] 350 and below.

(7) Type "B" ships, which in position 1 have hatchways fitted with hatchcovers complying with the requirements of Regulations 15(7) or 16, shall, except as provided in paragraphs (8) to (13) inclusive of this Regulation, be assigned freeboards based on Table B of Regulation 28.

(8) Any Type "B" ship of over 100 metres (328 feet) in length may be assigned freeboards less than those required under paragraph (7) of this Regulation, provided that, in relation to the amount of reduction granted, the Administration is satisfied that:

(a) The measures provided for the protection of the crew are adequate;

(b) The freeing arrangements are adequate;

(c) The covers in positions 1 and 2 comply with the provisions of Regulation 16 and have adequate strength, special care being given to their sealing and securing arrangements; and

(d) The ship, when loaded to its summer load waterline, shall be able to withstand the flooding of any compartment or compartments, with an assumed permeability of 0.95, consequent upon the damage assumptions specified in paragraph (12) of this Regulation, and shall remain afloat in a satisfactory condition of equilibrium as specified in paragraph (13) of this Regulation. In such a ship, if over 225 metres (738 feet) in length, the machinery space shall be treated as

floodable compartment, but with a permeability of 0.85.

(9) In calculating the freeboards for Type "B" ships which comply with the requirements of paragraphs (8), (11), (12) and (13) of this Regulation, the values from Table B of Regulation 28 shall not be reduced by more than 60 percent of the difference between the "B" and "A" tabular values for the appropriate ship lengths.

(10)(a) The reduction in tabular freeboard allowed under paragraph (9) of this Regulation may be increased up to the total difference between the values in Table A and those in Table B of Regulation 28 on condition that the ship complies with the requirements of:

(i) Regulation 26 other than paragraph (4) as if it were a Type "A" ship;

(ii) Paragraphs (8), (11) and (13) of this Regulation; and

(iii) Paragraph (12) of this Regulation, provided that throughout the length of the ship any one transverse bulkhead will be assumed to be damaged, such that two adjacent fore and aft compartments shall be flooded simultaneously, except that such damage will not apply to the boundary bulkheads of a machinery space.

(b) In such a ship, if over 225 metres (738 feet) in length, the machinery space shall be treated as a floodable compartment, but with a permeability of 0.85.

Initial Condition of Loading.

(11) The initial condition of loading before flooding shall be determined as follows:

(a) The ship is loaded to its summer load water line in an imaginary even keel.

(b) When calculating the vertical centre of gravity, the following principles apply:

(i) Homogeneous cargo is carried.

(ii) All cargo compartments, except those referred to under (iii) of this sub-paragraph but including compartments intended to be partially filled, shall be considered fully loaded except that in the case of fluid cargoes each compartment shall be treated as 98 per cent full.

(iii) If the ship is intended to operate at its summer load water line with empty compartments, such compartments shall be considered empty provided the height of the centre of gravity so calculated is not less than as calculated under sub-paragraph (ii) of this paragraph.

(iv) Fifty per cent of the individual total capacity of all tanks and spaces fitted to contain consumable liquids and stores is allowed for. It shall be assumed that for each type of liquid, at least one transverse pair or a single centre line tank has maximum free surface, and the tank or combination of tanks to be taken into account shall be those where the effect of free surfaces is the greatest; in each tank the centre of gravity of the contents shall be taken at the centre of volume of the tank. The remaining tanks shall be assumed either completely empty or completely filled, and the distribution of consumable liquids between these tanks shall be effected so as to obtain the greatest possible height above the keel for the centre of gravity.

(v) At an angle of heel of not more than 5 degrees in each compartment containing liquids, as prescribed in (ii) of this sub-paragraph except that in the case of compartment containing consumable fluids, as prescribed in (iv) of this sub-paragraph of this paragraph, the maximum free surface shall be taken into account.

Alternatively, the actual free surface effects may be used, provided the methods of calculation are acceptable to the Administration.

(vi) Weights shall be calculated on the basis of the following values for specific gravities:

salt water	1.025
fresh water	1.000
oil fuel	0.950
diesel oil	0.900
lubricating oil	0.900

Damage Assumptions

(12) The following principles regarding the character of the assumed damage apply:

(a) The vertical extent of damage in all cases is assumed to be from the base line upwards without limit.

(b) The transverse extent of damage is equal to B/5 or 11.5 metres (37.7 feet), whichever is the lesser, measured inboard from the side of the ship perpendicularly to the centre line at the level of the summer load water line.

(c) If damage of a lesser extent than specified in sub-paragraphs (a) and (b) of this paragraph results in a more severe condition, such lesser extent shall be assumed.

(d) Except where otherwise required by paragraph (10)(a) the flooding shall be confined to a single compartment between adjacent transverse bulkheads provided the inner longitudinal boundary of the compartment is not in a position within the tranverse extent of assumed damage. Transverse boundary bulkheads of wing tanks, which do not extend over the full breadth of the ship shall be assumed not to be damaged, provided they extend beyond the transverse extent of assumed damage prescribed in sub-paragraph (b) of this paragraph.

If in a transverse bulkhead there are steps or recesses of not more than 3.05 metres (10 feet) in length located within the transverse extent of assumed damage as defined in sub-paragraph (b) of this paragraph, such transverse bulkhead may be considered intact and the adjacent compartment may be floodable singly. If, however, within the transverse extent of assumed damage there is a step or recess of more than 3.05 metres (10 feet) in length in a transverse bulkhead, the two compartments adjacent to this bulkhead shall be considered as flooded. The step formed by the after peak bulkhead and the after peak tank top shall not be regarded as a step for the purpose of this Regulation.

(e) Where a main transverse bulkhead is located within the transverse extent of assumed damage and is stepped in way of a double bottom or side tank by more than 3.05 metres (10 feet), the double bottom or side tanks adjacent to the stepped portion of the main transverse bulkhead shall be considered as flooded simultaneously. If this side tank has openings into one or several holds, such as grain feeding holes, such hold or holds shall be considered as flooded simultaneously. Similarly in a ship designed for the carriage of fluid cargoes, if a side tank has openings into adjacent compartments, such adjacent compartments shall be considered as empty and flooded simultaneously. This provision is applicable even where such openings are fitted with closing appliances, except in the case of sluice valves fitted in bulkheads between tanks and where the valves are controlled from the deck. Manhole covers with closely-spaced belts are considered equivalent to the unpierced bulkhead except in the case of openings in topside tanks making the topside tanks common to the holds.

(f) Where the flooding of any two adjacent fore and aft compartments is envisaged main transverse watertight bulkheads shall be spaced at least $1/3L^{2/3}$ or 14.5 metres ($0.495L^{2/3}$ or 47.6 feet), whichever is the lesser, in order to be considered effective. Where transverse bulkheads are spaced at a lesser distance, one or more of these bulkheads shall be assumed as non-existent in order to achieve the minimum spacing between bulkheads.

Condition of Equilibrium

(13) The condition of equilibrium after flooding shall be regarded as satisfactory provided:

(a) The final water line after flooding, taking into account sinkage, heel, and trim, is below the lower edge of any

opening through which progressive flooding may take place. Such openings shall include air pipes, ventilators and openings which are closed by means of weathertight doors (even if they comply with Regulation 12) or hatch covers (even if they comply with Regulation 16 or Regulation 19(4)), and may exclude those openings closed by means of manhole covers and flush scuttles (which comply with Regulation 18), cargo hatch covers of the type described in Regulation 27(2), hinged watertight doors in an approved position which are secured closed while at sea and so logged, remotely operated sliding watertight doors, and side scuttles of the non-opening type (which comply with Regulation 23).

(b) If pipes, ducts or tunnels are situated within the assumed extent of damage penetration as defined in paragraph 12(b) of this Regulation, arrangements are to be made so that progressive flooding cannot thereby extend to compartments other than those assumed to be floodable in the calculation for each case of damage.

(c) The angle of heel due to unsymmetrical flooding does not exceed 15 degrees. If no part of the deck is immersed, an angle of heel of up to 17 degrees may be accepted.

(d) The metacentric height in the flooded condition is positive.

(e) When any part of the deck outside the compartment assumed flooded in a particular case of damage is immersed, or in any case where the margin of stability in the flooded condition may be considered doubtful, the residual stability is to be investigated. It may be regarded as sufficient if the righting lever curve has a minimum range of 20 degrees beyond the position of equilibrium with a maximum righting lever of at least 0.1 metre (4 inches) within this range. The area under the righting lever curve within this range shall be not less than 0.0175 metre-radians (0.689 inch-radians). The Administration shall give consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability.

(f) The Administration is satisfied that the stability is sufficient during intermediate stages of flooding.

Ships without means of Propulsion

(14) A lighter, barge, or other ship without independent means of propulsion shall be assigned a freeboard in accordance with the provisions of these regulations. Barges which meet the requirements of paragraphs (2) and (3) of this Regulation may be assigned Type "A" freeboards:

(a) The Administration should especially consider the stability of barges with cargo on the weather deck. Deck cargo can only be carried on barges to which the ordinary Type "B" freeboard is assigned.

(b) However, in the case of barges which are umanned, the requirements of Regulations 25, 26(2) and (3), and 39 shall not apply.

(c) Such unmanned barges which have on the freeboard deck only small access openings closed by watertight gasketed covers of steel or equivalent material may be assigned a freeboard 25 per cent less than those calculated in accordance with these Regulations.

[FR Doc. 82-4067 Filed 2-17-82; 8:45 am]
BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-64; RM-4014]

FM Broadcast Station in Lakeview, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 292A to Lakeview, Michigan, as its first FM assignment, in response to a petition filed by Daniel L. Pettengill.

DATES: Comments must be filed on or before March 22, 1982, and reply comments must be filed on or before April 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 8, 1982.

In the matter an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lakeview, Michigan); BC Docket No. 82-64, RM-4014; notice of proposed rule making.

1. A petition for rule making was filed by Daniel L. Pettengill ("petitioner"), proposing the assignment of Channel 292A to Lakeview, Michigan, as that community's first FM assignment. Petitioner states that he will apply for authority to construct and operate on Channel 292A, if assigned.

2. Lakeview (population 1,139),[1] in Montcalm County (population 47,555) is located approximately 216 kilometers (135 miles) northwest of Detroit, Michigan. It is without local broadcast service.

3. In support of his proposal, petitioner states that the economy of Lakeview is primarily based on agriculture, with tourism adding to its economic vitality. Local retail trade and support units to the automobile industry are also said to enhance Lakeview's economy. Petitioner further states that although the community is served by a local weekly newspaper, the proposed assignment could serve the community needs and interests by providing 24-hour coverage of news, current weather information, job opening information, local events and sports.

4. Since Lakeview is within 420 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 292A to Lakeview, Michigan, requires coordination with the Canadian Government.

5. In view of an apparent need for a first FM channel assignment at Lakeview, the Commission believes it appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Rules) with regard to Lakeview, Michigan, as follows:

City	Channel No.	
	Present	Proposed
Lakeview, Michigan		292A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 22, 1982, and reply comments on or before April 6, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend sections 73.202(b), 73.504 and 73.606(b)*

[1] Population figures are taken from the 1980 U.S. Census.

of the Commission's Rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4304 Filed 2-17-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST-3, Notice No. 3]

Track Safety Standards; Miscellaneous Proposed Amendments

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the Track Safety Standards. The proposed amendments would revise and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before March 22, 1982. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on March 16, 1982. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before March 10, 1982.

ADDRESSES: Written Comments: Written comments should identify the docket number and the notice number and should be submitted in triplicate to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 7321A of the Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(2) Public Hearing: A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Persons desiring to make an oral statement at the hearing should notify the Docket Clerk by telephone (202–426–2761) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Edward R. English, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202–426–9252.

Principal Attorney: Lawrence L. Wagner, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Phone 202–426–8836.

SUPPLEMENTARY INFORMATION:

I. Background

During 1978 the FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. The inquiry and the hearings related to the Track Safety Standards portion of the regulatory program were announced in the May 8, September 25 and October 4, 1978 issues of the **Federal Register** (43 FR 19696, 43 FR 43339, and 43 FR 45905).

Based on those hearings, research findngs, technical innovations, available accident data and seven years experience with the existing standards, the FRA proposed extensive changes to the standards. The NPRM containing these changes was published in the **Federal Register** on September 9, 1979 (44 FR 52104). The proposal generated considerable controversy. After analyzing the comments in response to this proposal, the FRA concluded that it was not possible to develop an appropriate final rule on the basis of that NPRM. Accordingly, the FRA published a notice withdrawing that NPRM. This withdrawal notice was published on June 25, 1981 in the **Federal Register** (46 FR 32898).

Since withdrawing the original proposal, the FRA has been reviewing the comments received in order to develop a new proposal. The FRA has concluded that many of the controversial features of the prior NPRM, including the imposition of "strict liability" for non-compliance with the standards, imposition of speed limitations based upon weight of rail and elimination of the differential for speeds of passenger trains, require long term study and analysis. However, some of the initial proposals do not require such lengthy review and the FRA has decided to address these proposals in this NPRM.

In selecting the areas for change that are reflected in this proposal, the FRA has had the benefit of joint letters submitted by the Association of American Railroads (AAR) and the Railway Labor Executives Association (RLEA). The joint AAR/RLEA letters were delivered to FRA on November 6, 1981 and December 18, 1981 and copies have been included in the public docket in this proceeding. The docket, including those letters, is available for inspection during regular business hours in Room 7321A of the Nassif Building.

After reviewing the joint AAR/RLEA letters, which indicate that AAR and RLEA agree that specific portions of these standards need to be changed, the FRA has decided to use the AAR/RLEA letters as the basis for proposing the technical revisions and updating of the existing standards that are contained in this NPRM. In their joint letters, the AAR and RLEA provided specific regulatory language that they agreed would be an appropriate substitute for existing provisions of several sections of the standards and identified thirteen provisions that should be entirely deleted.

The FRA appreciates the assistance of the AAR and RLEA in focusing attention on those provisions that they believe are in need of revision and in furnishing specific regulatory language expressing their agreement on the revisions required.

II. DISCUSSION OF PROPOSAL

A. Objectives of the Proposed Track Safety Standards

In October of 1971, the initial FRA Track Safety Standards were issued (36 FR 20336) in response to the congressional mandate of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*). The original standards were based on the safety practices of the rail industry at that time, available track-related data, and public comments and testimony. The goal of these initial standards was to establish "minimum requirements for safety," rather than to include all "preferred or recommended practices from an economic and engineering standpoint." The standards were not intended as the last word on track safety conditions, but as an evolving set of safety requirements: "* * * the standards * * * will be continually reviewed and revised by FRA in light of technical innovations, the results of the FRA research and development program, and experience under these standards," 36 FR 20336.

The approach taken when the initial standards were introduced was used in developing the amendments proposed in this notice. FRA seeks to set forth the minimum necessary requirements for safe track rather than a comprehensive list of all potentially hazardous conditions. The railroads, not FRA will remain directly responsible for finding and correcting all unsafe track conditions. The proposal is not a major overhaul of the standards; instead, it is intended to refine in a limited manner the existing requirements.

The limited nature of this proposal is best illustrated by the fact that the FRA is proposing to modify nine substantive provisions and to delete another group of provisions that have no demonstrable effect on track safety.

B. Section-by-Section Analysis

§ 213.3 Application

The existing § 213.3 extends application of 49 CFR Part 213 (Track Safety Standards) to all standard gage track in the general system of transportation with the exception of trackage located inside an installation that is not part of the general system, and track that is used exclusively for rapid transit, commuter or other short haul passenger service in a metropolitan or suburban area.

The changes proposed in the previous NPRM sought to clarify application of the Track Safety Standards in several ways: (1) By resolving ambiguity concerning the phrase "general railroad system of transportation" in paragraph (a); (2) by eliminating the exclusion of track used exclusively for rapid transit, commuter or other short haul passenger service in paragraph (b)(2); and (3) by eliminating the provisions of paragraph (c) which indicate when various subparts went into effect.

In light of the comments received, the FRA has decided to propose a more limited change to this section. The new proposal would only eliminate paragraph (c) of the existing regulation and add a new paragraph (b)(3) to this section.

The new paragraph (b)(3) would exempt certain track from the minimum requirements for Class 1 track if that track meets the parameters established in proposed § 213.4.

§ 213.4 Excepted Track

In this section the FRA is proposing to permit certain yard and low density branch lines to be excepted from the application of the standards.

The purpose of this exception is to address an important reality that has plagued the administration of the current standards. There are many track segments, particularly on low density branch lines, that are used only for the transportation of cargo at low speeds. FRA believes that these segments are generally on comparatively level terrain and pass through areas where it is highly unlikely that a derailment would endanger persons along the railroad right-of-way. Moreover, the risk of injury to train crew members in a derailment in these circumstances is remote. Consequently, only property would be seriously endangered by derailments on excepted track segments.

In formulating the language for this section, the FRA has reviewed the prior NPRM, the comments received in response to that NPRM and the regulatory language suggested jointly by

the AAR and RLEA. To be eligible for the excepted status under this proposal, the track segment would have to be located more than 30 feet from any adjacent track where trains could operate simultaneously at speeds in excess of 10 miles per hour and could not be situated on a bridge, bridge approach or public street if cars containing hazardous materials are to be hauled. The eligible track would have to be identified by the railroad and be subjected to specific operational constraints. The operational constraints would preclude the operation of revenue passenger trains; limit the speed of all trains; and restrict the volume of hazardous materials moved over that track. Additionally, the railroads would have to continue inspecting these segments to monitor their condition.

§ 213.5 Responsibility of Track Owners

The FRA proposes to revise only the provisions of paragraph (a) of § 213.5. That paragraph currently requires that any track owner who knows or has notice that a segment of track does not comply with the standards must either halt operations or immediately bring the track into compliance. The immediate compliance language of this section has been viewed by some parties as requiring immediate restoration or renewal of the track to eliminate the particular defective condition even though other sections permit alternate remedial actions.

The FRA proposes to revise this paragraph to provide a clear regulatory link between this section and other provisions of the standards, such as § 213.9 and § 213.113, which permit remedial actions that do not constitute either restoration or renewal. The FRA believes that this proposed cross referencing will more clearly express the intent of the regulation.

§ 213.9 Class of Track: Operating Speed Limits

The current provisions of § 213.9(b) require that any track which does not comply with all of the requirements for its intended class must be reclassified to the next lower class of track for which it does meet all of the requirements. Additionally, if a segment of track does meet at least Class 1 requirements, operations may not continue unless restoration work is immediately instituted under the provisions of § 213.11.

The requirement to immediately institute restoration work under the supervision provisions of § 213.11 has proven to be too inflexible a response to deteriorated track. Therefore, the FRA proposes to revise the language of this section to permit railroads to have some additional flexibility in resolving defective conditions while maintaining vital rail service over that track.

The proposed change would require that a qualified person inspect the defective condition to determine whether trains can continue to operate safely over that track segment. If necessary, that person would impose appropriate safety restrictions. To assure that defective track conditions are corrected in a reasonable time, the FRA proposes to limit the time that operations may be conducted over the defective condition to a period of not more than 30 days.

The proposed change will permit a railroad to utilize more effectively its limited resources and to perform track work in a more systematic fashion. It is based on FRA's experience in granting temporary waivers of compliance and comments received in response to the prior NPRM indicating that the inflexibility of the existing standards frequently hinder or impair the performance of planned maintenance activities.

§ 213.11 Restoration or Renewal of Track Under Traffic Condition

Only a minor modification is proposed in § 213.11. Section 213.11 currently provides that if track, which does not comply with these standards, continues to handle traffic while it is being restored or renewed, it must be under the continuous supervision of a person designated to perform this function. Because of past misunderstanding by some railroads as to what constitutes "continuous supervision," the FRA proposes to add language to explain the concept of "continuous supervision." The purpose of this change is to express more clearly the original intent of this section that a qualified person must be present and continuously observe and supervise work on track that is being restored or renewed and does not comply fully with the requirements of the Track Safety Standards. The added language explicitly states that, if the work is being performed over a large work area, it will not be necessary that the qualified person be in personal observation of each phase or segment of the work being performed.

§ 213.53 Gage

The current provisions of § 213.53(b) specify the minimum and maximum distance between the heads of the rails. The minimum distance is uniform for all tracks and the maximum distance varies by Class of track and by the existence of curvature in the track.

In responding to the prior NPRM, the commenters urged that the FRA give consideration to increasing the gage requirements because the existing regulations fail to adequately take into consideration factors such as manufacturers' allowable tolerances found in rail base dimensions, tie plate shoulders and tie plate spike holes and the slight gage widening attributed to normal rail wear.

After further review, the FRA has decided to propose revisions to portions of these specifications to more accurately reflect needed safety tolerances. The proposal would permit additional distances from those currently specified for tangent track in Class 1 through 6 and additional distances from those currently specified for curved track in Classes 1, 3 and 6. These proposed changes should alleviate problems of manufacturing tolerances and normal rail wear that can produce non-compliance with these standards without creating an unsafe condition.

§ 213.109 Crossties

The current provisions of § 213.109 identify the conditions that render a crosstie defective and specify the number and location of crossties without defective conditions that must be present to support each Class of track. The FRA proposes to reword, restructure and revise this section. Proposed § 213.109 would eliminate the reference to timber materials for crossties and redefine what constitutes a crosstie that is without defective conditions. The revision also proposes to alter the positioning of such crossties at joint locations. Additionally, the proposal would delete the existing prohibition in paragraph (e) against using interlaced crossties because that constraint is not necessary from a safety standpoint.

§ 213.113 Defective Rails

The current provisions of § 213.113 identify a variety of rail defects and prescribe specific remedial actions to be taken once a railroad has learned of the defect. The FRA proposes to alter the provisions of this section in two ways.

The proposal would modify some of the specific remedial action requirements of the existing section to permit the track owner some additional flexibility in determining the necessary remedial action to be taken until the defective rail is replaced. The proposal would also delete § 213.113(b) and (c)(12–14) which concern minor rail surface imperfections.

In developing the existing standards, the FRA was faced with the absence of reliable data that would permit reasonable predictions about the growth of a rail flaw from the point of detectability to the point of in-service failure. The FRA responded to this situation by placing stringent operational constraints on movements over known defects. This approach placed a premimum on removing a rail from service so as to eliminate operational limitations.

An unanticipated consequence of FRA's approach has been that railroads now limit or defer rail flaw inspection activities in order to avoid the stringent operational constraints imposed by this section. To the degree that this section fosters an "ignorance is bliss" mentality, the FRA is defeating the effort to improve rail safety. Consequently, the FRA has been reviewing its conceptual approach to this section.

As part of that review, FRA ascertained the status of the research work concerning the predictability of rail flaw growth, that has been conducted since the formulation of this section. Unfortunately, the many variables, such as temperature fluctuations, axle loadings, total tonnage, train speed and general maintenance practices, have impeded the development of predictable general patterns of defect growth. As a result, the FRA is not able to revise this section to prescribe specific remedial actions tailored to effectively encompass the wide spectrum of predictable growth patterns to ensure removal of defective rail prior to in-service failure.

The FRA also examined the available accident data to identify instances where a railroad continued operations over known rail flaw defects to the point where an in-service failure caused a derailment. Only one known instance has been identified in which a railroad experienced a derailment by operating over a known defect for which the appropriate remedial action was not taken. This accident data strongly indicates that once a rail flaw has been detected the railroads take effective remedial action to prevent an in-service failure and resulting derailment.

Based on this accident data, the absence of research data to revise the remedial action requirements with concise tailored provisions and the current discouragement or more extensive rail flaw inspections, the FRA has decided to revise this section to permit the railroads some additional flexibility in prescribing the remedial action that must be taken once a rail flaw defect has been identified. The FRA believes that this proposal will permit the railroads to more effectively use their resources and will provide the necessary incentive to increase the use of rail flaw detection inspections.

§ 213.127 Rail Fastenings

Changes to this section are being proposed in recognition of the increased use of rail fastening other than spikes. The proposed language would change the caption of existing § 213.127 from "Track Spikes" to "Rail Fastenings." The proposed § 213.127 also attempts to structure this provision in terms of a performance standard by focusing on the major functioning of rail fastenings which is to effectively restrain lateral rail movement. This proposal replaces the existing provision that focuses on the number of rail spikes rather than the ability of those devices to provide restraint.

The remaining proposed revisions are described below and all involve deletions from the existing standards. These deletions basically follow the proposed deletions contained in the prior NPRM because FRA did not receive adverse comment in response to the prior proposal to delete these provisions. The FRA believes that these deletions will not have any adverse safety impact and will remove at least one burdensome recordkeeping requirement.

§ 213.61 Curve Data for Classes 4 through 6 Track

Under current § 213.61, a railroad is required to maintain records on curve data for track Classes 4 through 6. It is proposed to delete § 213.61 because it is primarily a recordkeeping requirement that has no direct bearing on track safety. Moreover, between 1975 and 1977, FRA inspectors noted only 13 deviations from this section—less than 5 defects per year. This deletion would reduce paperwork and related costs for the railroads.

§ 213.105 Ballast and Disturbed Track

It is proposed to delete § 213.105 because its provisions concerning the condition of ballast in disturbed track are not sufficiently specific to provide meaningful guidance to railroad personnel and are virtually unenforceable. In the three year period from 1975 through 1977, FRA filed only one defect under this section. Research has not established specific, measurable guidelines for determining when "ballast is sufficiently compacted" in disturbed track. This section may be re-established in the future as a result of further research and additional reliable data.

§ 213.117 Rail End Batter

The existing § 213.117 prescribes limits on the amount of "batter" (damage or disfiguration) that rail ends may sustain. When the ends of adjoining rails are vertically or laterally mismatched, they may be damaged by the battering and pounding they receive from the wheels of passing equipment. The proposed changes would delete § 213.117 in its entirety because its provisions are maintenance rather than safety standards. FRA recognizes that if rail end batter is left uncorrected, it may eventually lead to broken and/or cracked angle bars, defective rails, and deteriorated surface conditions. However, each of these hazardous conditions is addressed elsewhere in the standards. FRA plans to conduct futher research on the effect of rail tread mismatch and rail end batter on rail life and wheel damage. This research may lead to establishing safety requirements in this area.

§ 213.115 Rail Anchoring

FRA proposes to delete § 213.125 concerning use of rail anchors. While rail anchors are in important aspect of lateral track stability, the existing rule is virtually unenforceable because of the vagueness of the term "effectively controlled." It is recognized that if longitudinal rail movement is permitted to exist, conditions may develop that lead to either track buckling or pull-aparts, both of which can and do cause train accidents. Therefore, FRA is conducting research in this area in order to more thoroughly understand track structure. This section may be re-established when research results identify specific, measureable requirements for safe operations.

§ 213.129 Track Shims and Planks Used in Shimming

FRA proposes to delete §§ 213.129 and 213.131 that address the use of track shims and planks, which are pieces of wood that are placed between the base of the rail and the top of a tie. They are particularly useful to restore track to the required geometric threshold after it has been displaced by frost heaves and ground thaws. As long as the requirements of the other sections of this part, such as § 213.63, are met, the maintenance method used to achieve this result is immaterial from the standpoint of safety. Furthermore, there is no evidence that shims or planks have ever been the sole cause of a derailment or other train accident.

§ 213.109 Continuous Welded Rail

Current § 213.119 provides that continuous welded rail must be installed at or adjusted for a rail temperature range that should not result in forces that will produce lateral displacement of the track or the pulling apart of rail ends or welds. It also provides that after installation, continuous welded rail should not be disturbed at rail temperatures higher than its installation or adjusted temperature. FRA proposes to delete this section in its entirety because it is so general in nature that it provides little guidance to railroads and is difficult to enforce. From 1975 through 1978, a total of only 14 defects were reported by FRA inspectors and 1 violation was filed under this section. While the importance of controlling thermal stresses within continuous welded rail has long been recognized, research has not advanced to the point where specific safety requirements can be established. Continuing research may produce reliable data in this area in the future.

§ 213.123 Tie Plates

FRA proposes to delete § 213.123(b) which prohibits the shoulders of tie plates from being under the base of rail. While this prohibition reflects good maintenance practice, it is not necessary for safe operations. While a tie plate shoulder under the base of rail may in time result in a broken base rail, FRA feels that this subject is adequately addressed in § 213.113.

Track Appliances and Track-Related Devices

It is proposed that a portion of Subpart E, Track Appliances and Track-Related Devices, be deleted. These appliances and devices do not have a significant impact on track safety. A review of the accident history for the four years from 1975 through 1978 revealed a total of only 12 accidents involving track appliances and devices, all of which occurred at speeds of 10 miles per hour or less, and none of which resulted in a death or personal injury. The FRA proposes to retain the existing provisions of section 205(a) concerning derails.

III. Regulatory Impact

This proposal has been evaluated in accordance with existing regulatory policies including Executive Order 12291 issued on February 17, 1981 (46 FR 1391). The proposal primarily contains technical revisions to the existing standards.

In general, the revision will serve to reduce the economic burdens of the existing regulation by exempting some track from full compliance with these standards. Additionally, a reduction in recordkeeping burdens and their associated costs may produce some savings. The FRA has not been able to quantify these economic impacts because it is not clear how extensively the railroads can utilize these changes.

Because the proposal is primarily technically oriented, the FRA has concluded that the proposal will not constitute a major rule under the terms of Executive Order 12291 or a significant rule under DOT's regulatory policies and procedures. The FRA will review this determination in the light of any comments received in response to this proposal prior to issuance of a final rule.

The proposal will only have a direct economic impact on railroads and its primary impact will be on large railroads which own hundreds of miles of track. The proposal does not place any new requirements or burdens on the public and to some extent it is deregulatory in nature. The proposal will not have a significant economic impact on any small entity. Based on these facts, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1164, September 19, 1980).

Additionally, the proposal has also been reviewed in light of the FRA procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA," 42 U.S.C. 4321 *et seq.*), other environmental statutes, executives orders, and DOT Order 5610.113.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve diverse factors, including environmental controversiality; and availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of track requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed revision of Part 213, Track Safety Standards, does not constitute a major FRA action requiring an environmental assessment.

Participation in This Proceeding

Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring receipt of their communications to be acknowledged should attach a stamped pre-addressed postcard to the first page of each communication. Communications received before March 22, 1982 will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on March 16, 1982 in Washington, D.C. at 10:00 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and will be a matter of public record. Any persons who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (Phone 202–426–2761), before March 10, 1982.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

Secs. 202 and 208 of the Federal Railroad Safety Act of 1970, as amended, 49 U.S.C. 431 and 437; Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)))

Issued in Washington, D.C. on February 11, 1982.

Robert W. Blanchette,

Administrator.

PART 213—TRACK SAFETY STANDARDS

In consideration of the foregoing, the FRA proposes the following:

1. To revise § 213.3 to read as follows:

§ 213.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all standard gage track in the general railroad system of transportation.

(b) This part does not apply to track—

(1) Located inside an installation which is not part of the general railroad system of transportation;

(2) Used exclusively for rapid transit, commuter or other short-haul passenger service in a metropolitan or suburban area; or

(3) Designated as excepted track under the provisions of § 213.4.

2. To add a new § 213.4 to read as follows:

§ 213.4 Excepted track.

A track owner may designate a segment of track as excepted track provided that:

(a) The segment is identified in the timetable, special instructions, general order or other appropriate records which are available for inspection during regular business hours;

(b) The identified segment is not located within 30 feet of an adjacent track which can be subjected to simultaneous use at speeds in excess of 10 miles per hour;

(c) The identified segment is inspected in accordance with § 213.233(c) at the frequency specified for Class 1 track;

(d) The identified segment of track is not located on a bridge including the track approaching the bridge for 100 feet on either side, public street or highway if railroad cars containing commodities, required to be placarded by the Hazardous Materials Regulations (49 CFR Part 172), are moved over that track; and

(e) The railroad conducts operations on the identified segment under the following conditions:

(1) No train shall be operated at speeds in excess of 10 miles per hour;

(2) No revenue passenger train shall be operated; and

(3) No freight train shall be operated that contains more than 5 cars required to be placarded by Hazardous Materials Regulations (49 CFR Part 172).

3. To amend § 213.5 by revising paragraph (a) to read as follows:

§ 213.5 Responsibility of track owners.

(a) Any owner of track to which this part applies who knows or has notice that the track does not comply with the requirements of this part, shall—

(1) Bring the track into compliance;

(2) Halt operations over that track; or

(3) Operate under authority of a person designated under § 213.7(a)(1)(i) subject to conditions set forth in §§ 213.4, 213.9, 213.11, 213.33, 213.37, and 213.113.

* * * * *

4. To amend § 213.9 by revising paragraph (b) to read as follows:

§ 213.9 Class of track: Operating speed limits.

* * * * *

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the next lowest class of track for which it does meet all of the requirements of this part. However, if the segment of track does not at least meet the requirements for Class 1 track, operations may continue, for a period of not more than thirty days without bringing the track into compliance, under the authority of a person designated under § 213.7(a)(1)(i) after that person determines that operations may safely continue and subject to any limiting conditions specified by such person.

* * * * *

5. To revise § 213.11 to read as follows:

§ 213.11 Restoration or renewal of track under traffic conditions.

If, during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work on the track must be under the continuous supervision of a person designated under § 213.7(a)(1)(i). The term "continuous supervision" as used in this section means the physical presence of the appropriate person at a job site. However, since the work may be performed over a large area, it is not necessary that each phase of the work be done under the visual supervision of such person.

6. To amend § 213.53 by revising paragraph (b) to read as follows:

§ 213.53 Gage.

* * * * *

(b) Gage must be within the limits prescribed in the following table:

Class of track	The gage must be at least	But not more than
1	4' 8"	4' 10"
2 and 3	4' 8"	4' 9¾"
4 and 5	4' 8"	4' 9½"
6	4' 8"	4' 9¼"

7. To revise § 213.109 to read as follows:

§ 213.109 Crossties.

(a) Crossties shall be made of a material to which rail can be securely fastened.

(b) Each 39 foot segment of track shall have:

(1) A sufficient number of crossties which in combination provide effective support that will:

(i) Hold gage within the limits prescribed in § 213.53(b);

(ii) Maintain surface within the limits prescribed in § 213.63; and

(iii) Maintain alinement within the limits prescribed in § 213.55.

(2) The minimum number and type of crossties specified in paragraph (c); and

(3) At least one crosstie of the type of specified in paragraph (c) which is located at a joint location as specified in paragraph (d).

(c) Class 1 track shall have 5 crossties, Classes 2 and 3 track shall have 8 crossties, Clasess 4 and 5 track shall have 12 crossties and Class 6 track shall have 14 crossties which are not:

(1) Broken through;

(2) Split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners;

(3) So deteriorated that the tie plate or base of rail can move laterally more than ½ inch relative to the crossties; or

(4) Cut by the tie plate through more than 40 percent of a tie's thickness.

(d) Class 1 and Class 2 track shall have one crosstie whose centerline is within 24 inches of the rail joint location and Classes 3 through 6 track shall have one crosstie whose centerline is within 18 inches of the rail joint location. The relative position of these ties is described in the following table.

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Classes 1 and 2

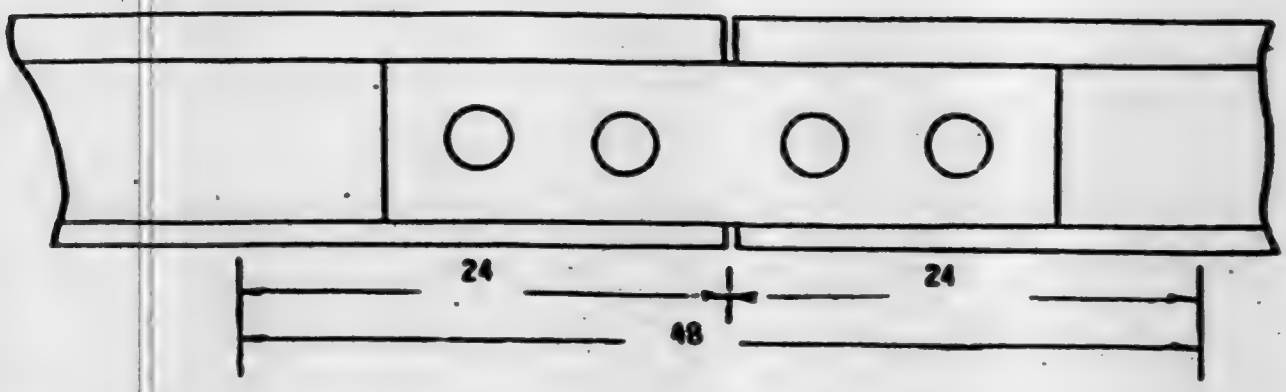

Each rail joint in Classes 1 and 2 track shall be supported by a least one crosstie specified in paragraph (c) whose centerline is within the 48" shown above.

Classes 3 through 6

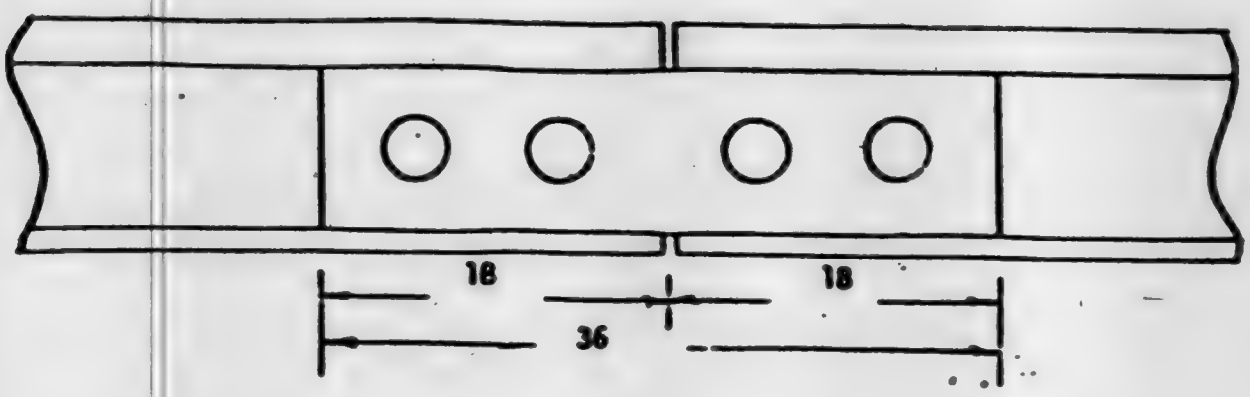

Each rail joint in Classes 3 through 6 shall be supported by at least one crosstie specified in paragraph (c) whose centerline is within the 36" shown above.

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8. To revise § 213.113 to read as follows:

§ 213.113 Defective rails.

(a) When an owner of track to which this part applies learns, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under § 213.7 shall determine whether or not the track may continue in use. If he determines that the track may continue in use, operation over the defective rail is not permitted until—

(1) The rail is replaced; or

(2) The remedial action prescribed in the table is initiated:

Defect	Length of defect (inch)		Percent of rail head cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Transverse fissure			20		B.
			100	20	B.
				100	A.
Compound fissure			20		B.
			100	20	B.
				100	A.
Detail fracture			30		C.
Engine burn fracture			100	20	D.
Defective weld				100	A or E and H.

	Length of defect (inch)		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	
Horizontal split head	0	2	H and F.
	2	4	I and G.
Vertical split head	4		B.
	(1)	(1)	A.
Split web	0	½	H and F.
Piped rail	½	2	I and G.
Head web separation	2		B.
	(1)	(1)	A.
Bolt hole crack	0	½	H and F.
	½	1½	G.
	1½		B.
	(1)	(1)	A.
Broken base	0	6	E.
	6		A or E and I.
Ordinary break			A or E.
Damaged rail			C.

[1] (Break out in rail head).

Remedial Action

Note:

A—Assign person designated under § 213.7 to visually supervise each operation over defective rail.

B—Limit operating speed over defective rail to that authorized by a person designated under § 213.7(a)(1)(i).

C—Apply joint bars bolted only through the outermost holes to defect within 20 days after it is determined to continue the track in use. In the case of classes 3 through 6 track, limit operating speed over defective rail to 30 m.p.h. until angle bars are applied.

D—Apply joint bars bolted only through the outermost holes to defect within 10 days after it is determined to continue the track in use. Limit operating speed over defective rail to that authorized by a person designated under § 213.7(a)(1)(i) until angle bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

E—Apply joint bars to defect and bolt in accordance with § 213.121 (d) and (e).

F—Inspect rail ninety days after it is determined to continue the track in use.

G—Inspect rail thirty days after it is determined to continue the track in use.

H—Limit operating speed over defective rail to 60 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

I—Limit operating speed over defective rail to 30 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.

(b) As used this section—

(1) "Transverse Fissure" means a progressive crosswise fracture starting from a crystalline center or nucleus inside the head from which it spreads outward as a smooth, bright, or dark, round or oval surface substantially at a right angle to the length of the rail. The distinguishing features of a transverse fissure from other types of fractures or defects are the crystalline center or nucleus and the nearly smooth surface of the development which surrounds it.

(2) "Compound Fissure" means a progressive fracture originating in a horizontal split head which turns up or down in the head of the rail as a smooth, bright, or dark surface progressing until substantially at a right angle to the length of the rail. Compound fissures require examination of both faces of the fracture to locate the horizontal split head from which they originate.

(3) "Horizontal Split Head" means a horizontal progressive defect originating inside of the rail head, usually one-quarter inch or more below the running surface and progressing horizontally in all directions, and generally accompanied by a flat spot on the running surface. The defect appears as a crack lengthwise of the rail when it reaches the side of the rail head.

(4) "Vertical Split Head" means a vertical split through or near the middle of the head, and extending into or through it. A crack or rust streak may show under the head close to the web or pieces may be split off the side of the head.

(5) "Split Web" means a lengthwise crack along the side of the web and extending into or through it.

(6) "Piped Rail" means a vertical split in a rail, usually in the web, due to failure of the shrinkage cavity in the ingot to unite in rolling.

(7) "Broken Base" means any break in the base of a rail.

(8) "Detail Fracture" means a progressive fracture originating at or near the surface of the rail head. These fractures should not be confused with transverse fissures, compound fissures, or other defects which have internal origins. Detail fractures may arise from shelly spots, head checks, or flaking.

(9) "Engine Burn Fracture" means a progressive fracture originating in spots where driving wheels have slipped on top of the rail head. In developing downward they frequently resemble the compound or even transverse fissure with which they should not be confused or classified. (10) "Ordinary Break" means a partial or complete break in which there is no sign of a fissure, and in which none of the other defects described in this paragraph are found. (11) "Damaged Rail" means any rail broken or injured by wrecks, broken, flat, or unbalanced wheels, slipping, or similar causes.

9. To revise § 213.127 to read as follows:

§ 213.127 Rail fastenings.

Each 39 foot segment of rail shall have a sufficient number of fastenings which, in the determination of a qualified Federal or state track inspector, effectively maintain gage within the limits prescribed in § 213.53(b). The term "qualified state track inspector" as used in this section means a track inspector who meets the qualification requirements of 49 CFR 212.75.

§ 213.123 [Amended]

10. To amend § 213.123 *Tie Plates* by removing paragraph (b) in its entirety.

§ 213.205 [Amended]

11. To amend § 213.205 *Derails* by removing paragraph (b) in its entirety.

§§ 213.61, 213.105, 213.117, 213.119, 213.125, 213.129, 213.131 and 213.207 [Removed]

12. To remove the following sections in their entirety:

Sec.
213.61 *Curve data for Classes 4 through 6 track;*
213.105 *Ballast; disturbed track;*
213.117 *Rail end batter;*
213.119 *Continuous welded rail;*
213.125 *Rail anchoring;*
213.129 *Track shims;*
213.131 *Planks used in shimming;* and
213.207 *Switch heaters.*

[FR Doc. 82-4297 Filed 2-17-82; 8:45 am]
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49 CFR Part 232

[Docket No. PB-6, Notice No. 1]

Railroad Power Brakes and Drawbars; Miscellaneous Proposed Amendments

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the rules pertaining to railroad power brakes. The proposed amendments would eliminate or modify certain costly and controversial rules no longer considered necessary for safety and clarify other provisions. The proposed changes are (1) modification of the interchange inspection, (2) extension of the 500 mile inspection to 1000 miles, (3) extension of the maximum permissible piston travel limit from 10 inches to 10½ inches, (4) elimination of the requirement for a single car test of brake equipment on a date of last test basis (IDT) and (5) revision of the initial terminal test requirements to ensure that the engineer has adequate notice that the test has been satisfactorily performed. This action is taken by FRA in an effort to reduce unnecessary and burdensome regulation and to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before March 22, 1982. Comments received after that date will be considered to the extent possible without incurring additional expense or delay. A 30-day comment period has been chosen instead of a 60-day period in light of the recent power brake safety inquiry and the fact that this proposed rule reflects a broad consensus for updating the power brake regulations.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on March 17, 1982. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before March 10, 1982, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 7321A of the Nassif Building at the above address.

(2) Public Hearing: A public hearing will be held in room 2230 of the Nassif Building. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202-426-8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, at the above address.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Program Person: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-0897. Principal Attorney: Michael E. Chase, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-8836.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Reform

On February 17, 1981, the President issued Executive Order 12291. In that Order, he established procedures applicable to all Executive agencies to improve existing and future regulations. The Order set a policy of reducing the burdens of existing and future regulations, increasing agency accountability for regulatory actions, providing for presidential oversight of the regulatory process, minimizing duplication and conflict of regulations, and ensuring well-reasoned regulations. To achieve the policy objective, the Order requires Agencies to adhere to the following requirements:

(1) Administrative decisions shall be based on adequate information concerning the need for and consequences of proposed government action;

(2) Regulatory action shall not be undertaken unless the potential benefits to society from the regulation outweigh the potential costs to society;

(3) Regulatory objectives shall be chosen to maximize the net benefits to society;

(4) Among alternative approaches to any given regulatory objective, the alternative involving the least net cost to society shall be chosen; and

(5) Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

In response to the regulatory policies exemplified in Executive Order 12291, DOT received from the public numerous recommendations for regulatory change. The power brake rule was identified in early 1981 by the Association of American Railroads (AAR) and by other interested persons as a prime candidate for revision. The AAR's statement of recommendations for change in FRA's safety regulations and in the statutes relating to rail safety, entitled "Federal Railroad Safety Statutes and Safety Regulations Must Be Reexamined," has been included in the docket. Also included in the docket is an analysis prepared by AAR at the request of FRA of the costs associated with certain current regulatory requirements.

In addition, a review of railroad power brake regulations was part of FRA's General Safety Inquiry conducted in 1978 and 1979. A two-day public hearing on railroad power brakes was held September 13 and 14, 1978. Information developed as part of the General Safety Inquiry was considered in the development of this notice, which proposes elimination or modification of five specific requirements in the current rule. Other possible changes to the current rule, which generally are technical in nature, will be considered at a later date when FRA proposes a general update and revision of 49 CFR Part 232.

Finally, the changes in this proposal are responsive to a joint recommendation by rail labor and rail management regarding possible regulatory changes. Their agreement is reflected in a letter to the FRA Administrator, dated November 6, 1981 and signed by J. R. (Jim) Snyder, Chairman, Safety Committee, Railway Labor Executives' Association and by William H. Dempsey, President and Chief Executive Officer, Association of

American Railroads. A copy of the letter is also in the docket.

The five requirements proposed for revision or elimination are the interchange inspection requirement (49 CFR 232.12(a)(3)), the maximum permissible piston travel limit for body mounted brakes (49 CFR 232.11(c)), the 500 mile intermediate inspection (49 CFR 232.12(b)), the single car test requirement (49 CFR 232.17), and the initial terminal test requirements. The changes are proposed to reduce unnecessary and burdensome regulation and improve FRA's safety regulatory program.

Background on the Train Air Brake System and the Individual Car Air Brake System

The train air brake system is complex and sensitive. A simplified and summarized understanding of its operation is useful in analyzing the impact of the proposed regulatory changes. Conceptually, the train air brake system has three major parts—(1) A signal sender, (2) a signal relayer, and (3) a signal receiver/responder.

The *brake valve* on the locomotive is the signal sender. Operation of the valve permits air to be pumped into or released from the brake pipe. The pressure change resulting from the additional or reduced air supply in the brake pipe is the "signal".

The *brake pipe*, also known as the train air line, is the signal relayer. It is the continuous air line running from the front of the train to the rear of the train. The continuity of the air line from car-to-car is accomplished by means of flexible air hoses. The brake pipe is closed (sealed) at the rear of the train and pressurized so that, apart from air leakage in the system, changes in the brake pipe pressure are made through operation of the brake valve on the locomotive.

When the engineer on a locomotive "sets the brakes", air is released from the brake pipe through the locomotive brake valve. This release of air reduces the pressure of the brake pipe (the signal), beginning at the front of the train. The pressure reduction moves down the brake pipe (propagates) to the rear of the train. Thus, the signal (pressure reduction) is relayed by the brake pipe to entire train. Similarly, when the brakes are released, the locomotive brake valve is positioned so that air is pumped into the brake pipe, sending a pressure increase through the brake pipe. A pressure reduction in the brake pipe rather than a pressure increase initiates a brake application. Thus, the train air brake system is said to be "failsafe". For example, if an air hose bursts, the resulting loss of air pressure in the brake pipe will initiate a brake application.

The changes in the brake pipe pressure are received and interpreted by valves located on each car. These *signal receiving valves* initiate the application or release of the brakes on each individual car. The degree of braking effort is determined by the degree of the brake pipe pressure drop, generally described as a partial service reduction, a full service reduction, or an emergency application.

The individual car air brake system is also complex and varies from car-to-car depending upon the features of each car's brake system. An individual car air brake system has several manor components: (1) A signal receiving/responding valve (actually a series of valves); (2) air reservoirs (auxiliary and emergency); (3) brake cylinder(s); (4) brake rigging; and (5) brake beam and shoes. When a brake application signal is received by the signal receiving valve, the valve causes air to be transferred from the air reservoir(s) to the brake cylinder. (Whether air is transferred from both reservoirs or only the auxiliary reservoir is a function of the degree of the brake pipe pressure reduction.) The pressure of the transferred air causes the piston in the brake cylinder to move. The piston pushes the brake rigging (a series of rods and levers designed to increase the braking ratio) which moves the brake beam. The brake beam pushes the brake shoe against the wheel causing the braking action. (Truck mounted brakes and certain other types of brakes operate somewhat differently; the differences are not pertinent to this analysis or the proposed changes to the rule.)

Although a pressure reduction in the brake pipe signals a brake application, stored air under pressure from the air reservoirs is necessary to actually apply the brakes to stop the train. The brake pipe, which is pressurized, supplies air to the car reservoirs. The process of filling the reservoirs on each of the cars in a train is called "charging the train". The train is charged before it is tested. It takes about six minutes to charge a single car if the car air reservoir are empty and the air pressure is being generated by an air compressor on a locomotive. However, numerous cars can be charged at the same time. Thus, a fifty car train can be charged in approximately twenty minutes.

There is a limit to the number of brake applications that can be made in a short period of time. This is true because each application reduces the air in the reservoirs, and some time must elapse before the reservoirs are recharged. Thus, several brake applications in a short time interval can sharply reduce the braking effectiveness of the system.

Background on the Initial Terminal Road Train Air Brake Tests and the Road Train and Intermediate Terminal Train Air Brake Tests

The cornerstone of the test procedures involving power brakes is the initial terminal test. This test or inspection procedure is designed to ensure that the train air brake system and each individual car's air brake system are operating properly. Indeed, there is agreement by all knowledgeable groups, including rail labor and rail management, that a good initial terminal inspection is vital to the safe operation of trains. The effectiveness of this test is the basis for proposing to relax or eliminate other current requirements.

The test procedure is detailed in 49 CFR 232.12, and involves several different aspects. First, the train must be charged and the angle cocks (train line continuity) and cutout cocks (individual car brake system) properly positioned. The condition of the air hose must be checked and system leakage must be reduced to a minimum (49 CFR 232.12(c)). This aspect of the procedure ensures, among other things, that leakage from any single source in the train is not substantial. A large single source of leakage could send an unintended pressure reduction signal through the brake pipe or disrupt a desired signal from the brake valve.

Second, a brake pipe leakage test is made. After the system is charged to the prescribed minimum air pressure measured at the rear of the train, a 15 pound brake pipe service reduction is made in automatic brake operation. The brake valve is then closed (lapped), thus "sealing" the system. Leakage is determined by visual inspection of the brake pipe gauge for one minute. The gauge reflects changes in brake pipe (train line) pressure resulting from leakage (49 CFR 232.12(d)). Brake pipe leakage may not exceed five pounds per minute (49 CFR 232.12(e)).

The leakage test serves several safety functions. It ensures that the total brake pipe leakage is limited in amount and that signals will be transmitted (propagated) through the train line. It also provides evidence that the train is properly charged, i.e., that the air reservoirs on the individual cars are pressurized with air. This is true because leakage would be excessive (over five pounds per minute) if air were being taken from the brake pipe to charge individual car air reservoirs.

The third aspect of the initial terminal test requires a car-by-car inspection to determine that the brakes apply on each car and that the brake rigging does not bind or foul (49 CFR 232.12(d)). After a signal to release the brakes, it must be determined that the brakes actually release on each car. Thus, the condition of the brakes on each car must be observed, both from the standpoint of the mechanical operation (brake rigging) and from the standpoint of the operation of the valves that apply and release the brakes under normal braking (service reduction). Because the brakes must apply and release on every car in the train, including the last car, train line continuity is assured. Visually checking that the brakes release on each car prevents a train leaving an initial terminal with "stuck brakes."

Fourth, as part of the car-by-car inspection, the piston travel of each brake cylinder must be observed. In the case of body mounted brake cylinders with a 12-inch stroke, piston travel must be adjusted to nominally 7 inches if the piston travel is less than 7 inches or more than 9 inches (49 CFR 232.12(f)). The piston travel adjustment requirement prevents excessive piston travel resulting from brake shoe wear during the trip. The current maximum permissible piston travel for a brake cylinder with a 12 inch stroke is 10 inches. Thus, if the piston travel adjustments are made to cars that have piston travel in excess of 9 inches, each car in the train will have 1 to 3 inches of remaining piston travel before the current 10 inch maximum is reached.

The initial terminal test is a comprehensive and time-consuming procedure. It verifies the basic integrity of the train air line, the train brake system as a whole, and the basic functional capability of the individual air brake system on each car in the train. The initial terminal test is the critical test that ensures the effectiveness of the train air brake system. The other train brake air tests are essentially derivative and are designed to deal with specific events that potentially undermine the previously determined effectiveness of the train air system. These "events" are outlined and the test procedures briefly discussed in the next section.

Road Train and Intermediate Terminal Train Air Brake Tests

Many of the events that cause interruption to the brake pipe continuity are easily anticipated. First, a locomotive or group of locomotives (locomotive consist) may be detached from a train for refueling or servicing and then returned. Section 232.13(b) provides that the train brakes must be applied before the locomotive is uncoupled. After the locomotive is recoupled to the train and the angle cocks reopened, it must be known that air is being restored, as indicated by the caboose gauge, and that the brakes on the rear car are released.

These abbreviated procedures are appropriate to the limited nature of the interruption to the train air brake system. The critical concern resulting from the interruption is whether train line continuity is restored. Restoration of air at the rear of the train is evidence that there is continuity. The requirement that the brakes on the rear car release also assures that the signal to release sent by the locomotive brake valve has been received and implemented by the rear car of the train.

Since the cars in the train are not directly affected by this "event", no additional inspection of the train is warranted or required. Similar abbreviated procedures are followed where a locomotive or caboose is changed or where one or more consecutive cars are cut off from the rear end or the head end of train with the train otherwise remaining intact (49 CFR 232.13(c)).

Another specific "event" occurs when cars are added to a train enroute. When cars are added at a point other than a terminal, a leakage test is required. This assures that the added cars have not introduced leakage to the train air brake system which would impair its effectiveness. In addition, it must be known that the brakes apply and release on each added car and on the rear car of the train. This assures train line continuity, the absence of stuck brakes on the added cars, and the ability of the brakes on each added car to apply. Finally, it must be known that air is being restored at the end of the train (49 CFR 232.13(d)(1)).

Thus, something close to an initial terminal test is required for those cars added to a train. Even so, cars which have not been fully inspected as prescribed for an initial terminal test must be so inspected and tested at the next terminal where facilities are available. Hence, a thorough inspection of the brake rigging, piston travel, and air hoses is ultimately required for cars added enroute.

If the added cars are put into the train at a terminal where they have been previously charged and tested according to the initial terminal test procedures, these pretested cars can be added subject only to the requirement to set and release the brakes on the rear car and know that air is being restored at the rear of the train. This requirement assures train line continuity. (There are different test procedures for transfer train and yard train movements not exceeding 20 miles. These limited movements are not pertinent to this analysis or the proposed changes.)

It is apparent from the analysis of these current air brake test requirements that mandating test procedures which reduplicate all or part of the initial terminal test should be based on objective events that interrupt or disturb the train air brake system. It is also apparent that the degree of reduplication should be based on the degree of interruption to the system. These premises, together with the preceding background information on the operation of the entire train air brake system, provide a basis of reevaluating the safety significance of the other required train test procedures.

Interchange Inspection

The interchange test (49 CFR 232.212(a)(3)) requires a complete reinspection of the train, utilizing the comprehensive initial terminal test procedures, at every interchange point. The "event" giving rise to the requirement is a change in ownership of the right of way, which has no direct impact on the integrity of the train air brake system or any individual car's air brake system. The test is required solely because of corporate boundaries and for historical reasons. In certain situations, joint trackage agreements have eliminated the basis for requirement, i.e., an interchange. Also, rail mergers have eliminated many other instances where interchange tests had previously been required. However, it is not uncommon for a train to receive an interchange test after a relatively short distance (less than 100 miles).

The revised rule provides that a solid block of cars may be removed from the head end or the rear end of the train, that motive power can be changed, that the caboose may be removed or changed, or that any combination of the preceding events may take place at interchange without giving rise to a requirement to repeat the initial terminal test procedures. However, these events will give rise to a requirement for the appropriate intermediate terminal air brake test. Changes in the train consist beyond those specified will give rise to the requirement for an initial terminal air brake test at interchange.

There is no logical or empirically demonstrable basis for the current interchange test as a necessary safety standard. Without the interchange test, any event occurring at interchange that

interrupts the brake pipe will automatically invoke the test procedure appropriate for the interruption. If cars are added or removed, if the locomotive is changed, or if the entire train is broken up, the remaining test requirements in Part 232 address the safety need. If no change in the makeup of the train is made, then no additional procedures are warranted. This last proposition is the basis for the current run-through train provisions in 49 CFR § 232.19, which permits a train to go through an interchange point without an interchange inspection under specified conditions. The key condition of those provisions is that no change in the makeup of the train is permitted other than the addition or removal of a block of cars.

The traditional rationale for the interchange inspection was that it allows the receiving carrier to determine whether the cars being received are in compliance with the applicable statutory and regulatory requirements. However, the carrier is in the best position to determine what steps, if any, it believes are necessary at each interchange point to identify non-complying cars. Under the Safety Appliance Acts, there is absolute liability against the carrier for moving any car with a power brake defect, unless it is being moved for repair under very narrowly prescribed conditions. Hence, elimination of the requirement for an interchange test would not prevent FRA safety enforcement activities.

However, in order to avoid confusion regarding what events disrupting the brake pipe give rise to whcih requirements for air brake inspections at interchange, FRA is not proposing to delete the current language about interchange tests. Rather, FRA is adding language specifying what changes in the train consist may be made without requiring an initial terminal air brake test at the interchange.

Piston Travel Requirements

Section 232.11(c) of the current rule provides that air brakes cannot be considered in effective condition when piston travel is in excess of 10 inches (for a 12 inch brake cylinder). Although the term "effective condition" is not defined in the rule, the concept behind the provision is that a maximum permissible piston travel limit, as determined in a static test such as the initial terminal test, is necessary to ensure that the brakes will apply effectively under operating (dynamic) conditions.

FRA has analyzed the 10-inch limit and has concluded that increasing the limit to 10½ inches would not significantly diminish the braking effort and, thus, would not adversely affect safety.

FRA's analysis begins with a determination of the theoretical point at which the brakes cease to apply with sufficient force against the wheel under static conditions; it then considers the consequences of dynamic forces.

From a theoretical perspective, a brake cylinder with a 12-inch piston will remain fully effective until the piston is fully extended (12 inches). This is true because the brake cylinder pressure is relatively constant even as the piston is pushed out (less than 10% change in pressure from 7 inches to 12 inches of piston travel) and the leverage action of the brake rigging is likewise relatively constant for the full range of piston travel. (In fact, the brake will still apply after the piston is fully extended because of the resiliency of the brake rigging at the point the piston can travel no further.)

Piston travel, of course, can be measured by a person only when the car is not moving. Piston travel on a moving car is longer than on a stationary car and, thus, the static test piston travel limit needs to be less than the theoretical maximum of 12 inches. The longer piston travel results from the jostling that the brake rigging is subject to when the car is in the motion. Piston travel may also be affected by the curvature of the track and other factors. The degree of dynamic effect varies from car to car based on car condition, car design, and type of brakes. While there is no agreement on a single figure, FRA believes, based on the available research, that one-half inch is the approximate average amount of additional travel resulting from the dynamic effects.

There is also additional piston travel that results in an emergency application of the brakes because of the higher pressures involved. (Piston measurement is made during a service reduction at the initial terminal test.) The additional piston travel resulting from an emergency application is approximately ⅜ inch. Hence, approximately ⅞ inch of piston travel is "lost" due to the dynamic factor. This loss should be taken into account to ensure the full availability of the braking effort in an emergency brake application. It should be recognized, however, that the theoretical limit is based on the overall car fleet. For example, some individual cars that have 11 inches of piston travel during a static service brake application may not have the full additional braking effort in a dynamic emergency application. Hence, FRA is only proposing an extension to 10½ inches. This limit provides full braking effectiveness even for the typical worst case situation for individual cars. It also provides a sustantial margin of safety for the car fleet viewed as a whole.

The foregoing analysis of the piston travel issues applies to less than one third of the fleet of cars and the portion is declining. Approximately seventy percent of rail cars are equipped with either truck mounted brakes or automatic slack adjusters and all new cars with body mounted brakes are equipped with automatic slack adjusters. For cars with these components, the maximum piston travel limit is not a major issue. (It would have an occasional impact, for example, when the automatic slack adjuster is defective.) Indeed, the safety significance of the proposed 10½ inch limit appears to be totally inconsequential since piston travel must be adjusted at the initial terminal test. Since no car may leave an initial terminal with more than 9 inches of piston travel, it should be quite rare for a car to reach or even come close to the 10½ inch limit if the initial terminal test is properly made. FRA intends to strictly enforce the initial terminal test requirements relating to piston travel adjustment.

500 Mile Test

The 500 mile test is prescribed in 49 CFR 232.12(b). The test procedure requires a leakage test, an inspection of the brake rigging on each car, and an inspection to determine that brakes apply on each car. While less comprehensive than an initial terminal test, it is nevertheless a costly and time consuming procedure since the train must be traversed from end to end to inspect every car.

The "event" that gives rise to this test is train operation to a given mileage limit—500 miles. As an event, mileage is not *prima facie* a totally arbitrary inspection criterion as in a change in corporate boundaries. However, the passage of 500 miles does not signal any special impact on the train air brake system. What is necessary is an analysis of the impact of mileage generally on the effectiveness and intergrity of the train air brake system and the reasonableness of the absolute mileage limit. What things happen as a result of mileage? What are the consequences, from a safety standpoint, of those things happening? What is special about 500 miles as an interval in relationship to those things? Will those things that are possible safety concerns

be identified and corrected at the 500 mile inspection?

There are four possible problem areas: (1) car valve failure; (2) brake rigging failure (binding); (3) excessive leakage; and (4) excessive piston travel. Joint FRA/AAR tests have indicated that the likelihood of an enroute car valve failure is minimal if the valve operated properly in applying and releasing the brakes at the initial terminal test. This is true of trips which are substantially longer than 500 miles. Moreover, the failure of the car valve will usually affect only the individual car. An occasional car with brakes that do not apply as a result of an enroute car valve failure is not a safety hazard since it is recognized that this does not significantly impair the train brake system.

The situation with brake rigging is somewhat similar. If brake rigging failure on a car affects only the application of the brakes on that car, as it usually does, then the problem is not major. The critical failure mode is dragging brake rigging that can result in a derailment. But as with the car valve, the possibility of brake rigging failure of any type is remote if a proper initial terminal test is made. Moreover, dragging brake rigging is discernable by wayside inspections and detectors and is not directly linked to the 500 mile inspection interval. There is no evidence, for example, that the likelihood of a brake rigging related derailment occurring on a 1000 mile trip without a 500 mile inspection is greater than the likelihood of a derailment on the same 1000 mile trip with a 500 mile inspection.

The third potential problem area, excessive air brake system leakage, does not argue for retention of the 500 mile test. This is true for several reasons. First, if the system has minimal leakage at the initial terminal test, there is no reason to believe that it will have an unacceptable level of leakage during a train trip of up to 1000 miles as compared to a trip of 500 miles. There is nothing inherent in additional train mileage that results in a progressive increase in leakage. It is not like, for example, wear on an automobile tire that is directly related to mileage.

Second, significant additional leakage enroute is generally caused by a traumatic occurrence, not by mileage. The likelihood of such an event occurring on a lengthy trip is no greater than the likelihood of the event occurring on two successive 500 mile segments.

Third, it is likely that a leakage test will be made enroute to satisfy other test requirements. Any time cars are added to a train, unless they have been pretested, a leakage test must be made (49 CFR 232.13(d)).

Fourth, leakage problems can often be detected enroute. If the locomotive of a train is equipped with an air flow meter, the meter will indicate the amount of air being pumped into the brake pipe to maintain a constant pressure. An excessive amount indicates a leakage problem. If the locomotive is not equipped with that device, an engineer can sometimes detect excessive leakage by the way the train handles and, in situations of extremely large leakage, by utilizing the regular air gauges.

The last area where mileage may have an impact on the train air brake system is piston travel. As previously discussed, the maximum piston travel of body mounted 12-inch brake cylinders can be safely extended from 10 to 10½ inches. The FRA has concluded that the current 500 mile limit is not necessary to ensure that the piston travel on individual cars will not exceed 10½ during the train movement.

There are approximately 1.7 million railroad cars in the United States, of which about 1.2 million (70%) are equipped with either truck mounted brakes or automatic slack adjusters. Cars equipped with operative automatic slack adjusters or truck mounted brakes do not routinely require any piston travel adjustment. Hence, we are dealing with a small, but significant portion of the fleet that requires piston travel adjustment. The portion is declining since the AAR requires new construction cars with body mounted brakes to be equipped with automatic slack adjusters.

However, even for the non-equipped cars, a worst case set of assumptions does not indicate a need for the 500 mile test. Assuming that an entire train was comprised of cars not equipped with automatic slack adjusters, and assuming that all of the cars had 9 inches of piston travel at the initial terminal test (cars with over 9 inches would have to be adjusted back to 7 inches), there would still be at least 1½ inches of remaining piston travel before the 10½ inch maximum is reached. This 1½ inches of piston travel translates to well over 1,000 miles of train operation even if metal shoes, which wear faster than composition shoes, are being utilized.

The mileage figure is based on AAR testimony at the Power Brake Safety Inquiry in 1978 that approximately $\frac{3}{32}$ inch of metal shoe wear is normal per thousand miles. This figure is multiplied by the braking ratio because the brake rigging on the car accentuates the impact of shoe wear on piston travel. The ratio selected is eight, since that is typical of most of the relevant car designs.

The view that the 500 mile test can be extended is supported by Canadian experience. In Canada, a railroad may undertake a train movement of any distance after an initial terminal test is made. It should be noted, however, that precise comparison with Canadian experience is not possible since other aspects of rail operations differ.

The conclusion of FRA's analysis is that the 500 mile test can be extended to 1000 miles without any reduction in safety. Further extension may be appropriate if actual experience over the next several years so indicates.

Initial Terminal Test Procedure

As indicated previously, the initial terminal air brake test and inspection is the critical procedure that ensures the effectiveness of the brake system. In addition, it also assures the road train engineer and crew that the train is safe to operate. In order to raise the confidence level that the test has been performed, and performed in a satisfactory manner, FRA agrees with the AAR and RLEA proposal to specify that the test be made by a qualified person and to require that the engineer be notified that the test has been properly performed.

Hence, the proposed rule requires that the initial terminal test be made by a person determined by the inspecting railroad to be qualified. It also requires that the engineer be notified that the test has been satisfactorily performed by a qualified person participating in the test or who has knowledge that the test has been made. The notice shall be in writing if the train will move excess of 500 miles without being subjected to another test pursuant to §232.12 or §232.13. It shall also be in writing when the road engineer will report for duty after the qualified person participating in the test goes off duty. The written notifications shall be made by a qualified person participating in the test.

Single Car Test

Section 232.17(a) specifies requirements for testing and repairing brakes on cars while on shop or repair tracks. One requirement applicable to freight cars in paragraph (a)(i) is that the brake equipment on a car is to be tested using a single testing device unless the car has received a single car test within the last 90 days. This requirement generally is referred to as the "in-date test" or IDT.

The IDT is a time related test requirement rather than one that arises as a result of an identified brake defect.

While it can be said to be a screening mechanism to detect brake equipment problems, the IDT does not have the direct safety link of other brake tests. The requirement of the initial terminal test that the brakes on each car apply and release provides a predeparture check of the functioning of the brake equipment.

Hence, FRA proposes to delete the requirement for a single car test based on the date of the last test (IDT). However, under the proposed rule a single car test would be required when a car is on the shop or repair track because of an air brake defect and when the brake equipment is due for periodic attention under § 232.17. The periodic attention, commonly known as "COT&S", is required every 8 to 16 years depending on the type of air brake equipment on the car. In addition, the proposed rule would require that all freight cars on a shop or repair track be inspected to determine that the brakes apply and release, and that piston travel be adjusted to within the prescribed limits.

FRA Enforcement Posture

IN the past the FRA has recognized the critical importance of the initial terminal air brake test and inspection as a means of achieving railroad safety. At numerous hearings on proposed waivers or changes in the Power Brake Rules, witnesses have affirmed the necessity of a proper initial terminal air brake test. Likewise, FRA's existing penalty schedule for violations of the Power Brake Rules (Appendix A to 49 CFR Part 209) states that the failure to fully and adequately perform an initial terminal air brake inspection indicates a serious lack of safety procedures and that for each failure FRA will seek to impose not the ordinary penalty of $1,000 but the maximum penalty of $2,500.

The industry itself, including both management and labor, also agrees that the initial terminal air brake test is essential for safety. Industry testimony at FRA hearings has repeatedly emphasized the importance of the initial terminal air brake test. That recognition was reaffirmed in the letter to the FRA Administrator dated November 6, 1981, co-signed by the Chairman of the Safety Committee of the Railway Labor Executives' Association and the President of the Association of American Railroads, recommending that the initial terminal air brake test provisions be strengthened.

FRA reaffirms the overriding importance of the initial air brake test as the foundation of power brake safety. This test would gain greater importance than in the past if FRA's proposals are adopted to extend the 500-mile inspection to 1000 miles, revise the interchange inspection requirement, and relax certain other requirements. FRA intends to vigorously enforce the initial terminal air brake provision. Violations of this provision will be cited, at the discretion of the FRA field inspector, without prior notice to the carrier and without regard to whether the carrier properly performs the test after being notified by the inspector.

Because of the great safety value of the initial terminal air brake test, penalty assessments for violations of the Power Brake Rules requiring an initial terminal air brake test will not be compromised pursuant to the Federal Claims Collection Act, except in compelling circumstances and insofar as they involve significant litigative risks. It is the intention of the FRA to secure full compliance with all of the prescribed initial terminal air brake test procedures and to use the full panoply of its legal remedies, including injunctions and emergency orders, to achieve that necessary result.

Accident History and Technological Change

The conclusion that several requirements of the current power brake regulations can be modified or eliminated while maintaining the same level of safety is supported by an analysis of the accident history relating to power brake failures and a review of the major technolgical changes or improvements since 1958.

A trend analysis of accidents caused by equipment-related brake failures shows a marked decline over the past five years. The annual rate of decline for mechanical failures is 5.4 percent using a least-square regression method over a 5 year period. Accidents involving human-error show an annual increase of 3.9 percent. The annual rates applied over the entire five year period show a 24.1 percent decline in accidents due to mechanical failure and a 21.1 percent increase in accidents due to human error. These trends suggests that equipment quality has been improving and contributing to a reduction in brake-caused accidents, while the greater need is in the area of reducing human-error accidents.

In absolute terms, the number of accidents caused by equipment-related brake failures is very small, although the ultimate goal is to eliminate all accidents. According to FRA railroad accident statistics, a total of 8,451 train accidents (other than grade crossing accidents) occurred in 1980, resulting in 29 fatalities and 665 injuries. Of this total, equipment-related brake failures caused 187 accidents (2.2%), resulting in no fatalities and 15 injuries (2.3%).

During the five year period 1976–1980, a total of 50,078 train accidents (other than grade crossing accidents) occurred, resulting in 165 fatalities and 5,114 injuries. Of this total, brake failures caused only 1,168 train accidents (2.3%) resulting in no fatalities and 62 injuries (1.2%). (One fatality in 1977 was reported to FRA as resulting from a "brake valve malfunction, undesired emergency." However, FRA has concluded that the primary cause of the fatality was not related to a power brake failure.)

Both the accident trend and the limited number of accidents caused by equipment-related brake failures suggest that lessening the regulatory burden is possible while maintaining, or even improving safety. This is especially true if the particular brake failures that cause accidents are not likely to increase as a result of the regulatory changes that reduce the burden. An analysis of equipment-related brake failures indicates that most are caused by conditions that are discoverable before a train departs its initial terminal. The conditions that are not discoverable at the initial terminal or intermediate terminal inspection would likewise not be discoverable at the inspections proposed to be revised, i.e., the 500 mile inspection and the interchange inspection. The conditions that are discoverable in most instances during an initial terminal inspection include: air hose uncoupled or burst; broken brake pipe or connections; obstructed brake pipe, e.g., closed angle cock; other brake components damaged, worn, broken or disconnected; brake valve malfunction-undesired emergency brake application; brake valve malfunction, e.g., stuck brakes; rigging down or dragging; handbrake broken or defective; and handbrake linkage or connections broken or defective.

From the standpoint of the conditions occurring enroute, for the most part, the likelihood of their occurring is either fairly remote or the conditions would be detected in any event, e.g., uncoupled or burst air hose and broken brake pipe or connection would probably cause the train brakes to apply in an emergency application. In sum, the accident analysis does not lead to a conclusion that either the 500 mile inspection or the interchange inspection needs to be retained in their present form, although it does demonstrate the importance of the initial terminal and other intermediate terminal inspections.

Technological Change

FRA believes that the major reason that equipment-related power brake accidents are so few and are declining in number is technological improvement. An outline of the major improvements in brake equipment since adoption of the current rules in 1958 and the contribution those improvements make to the overall brake system is set forth below. The conclusion to be drawn is simply that the total train brake system in 1981 is vastly superior to the system in 1958. Moreover, the system will continue to improve not only as new new technology is developed, but because the AAR requires many of the improvements to be installed on new construction cars, e.g., the ABD brake valve and automatic slack adjusters.

Major Improvements in Brake Equipment Since 1958

1. Dynamic Braking:

- Supplements the air brake system
- Electrically converts power developed by the locomotive momentum into an effective retarding force
- Improves train handling performance by controlling train speed on descending grades and during slow downs and stops
- Controls slacks; gives smoother braking performance
- Reduces wear on brake equipment during long grade brake applications, thus reducing chance of derailment from thermal crack failures in wheels

2. ABD and ABDW Brakes Valves:

- Decrease stopping distances via quicker brake application and release
- Reduce number of train separations and derailments caused by sticking brakes
- Mandatory on new equipment
- Over 50% of fleet now equipped

3. Composition Brake Shoe:

- Decreases stopping distance of train
- Smoother brake application; greatly reduces grabbing and sliding of wheels
- Causes less wear on wheel, thus reducing probability of derailments resulting from cracked wheels
- Extends brake shoe life, thus reducing probability of accidents resulting from brake shoe failures
- Over 50% of fleet now equipped

4. Empty-Load Brake Device:

Senses difference in weight of loaded versus empty car
Prevents over application of brakes, thus preventing locking and sliding of wheels

5. Truck Mounted Brake Cylinders:

Increase control of train slack
Provide for shorter braking distances and smoother stopping

- Reduce possibility of brake failure because of redundant brake piston cylinders
- Over 13% of fleet equipped

6. Double-Acting Automatic Slack Adjustors:

- Improve train handling performance by controlling slack
- Improve braking efficiency through more consistent piston travel
- Adjust brake rigging to compensate for wear of brake shoes, wheels, pins, levers, etc.
- Mandatory on new equipment with body mounted brakes
- Over 60% of fleet now equipped

7. Locomotive Main Reservoir Air Supply Systems:

- Improved air compressors
- Improved air filtering systems
- Improved automatic drain valve equipment
- Improved moisture separators
- Improved quality and quantity of air in brake system reduces chance of accidents due to brake system failure

8. Pressure Maintaining 26–L Brake Control Valve (Locomotive):

- Compensates for brake pipe and brake system leakage
- Increases ability to maintain degree of brake application
- Increases smoothness of brake application, thus preventing locked and sliding wheels
- Over 50% locomotive fleet now equipped

9. Welded Brake Pipes and Improved Angle Cocks:

- Greatly reduce brake pipe leakage
- Decrease number of brake failures resulting from leakage

10. Improved Air Hose:

- Improved materials and clamps decrease amount of brake system leakage
- Standard hose lengths and improved couplings decrease possibility of hose connections being pulled apart in service
- Decreased number of brake failures due to system leakage and loss of air pressure

In addition to improvements in the air brake system, other improvements in rail equipment and track also have improved the safety of railroad operations. These improvements include welded rail, use of roller bearings, low carbon steel wheels, and wayside detectors.

Impact of the Proposed Changes

It is FRA's view that the changes in the current requirements proposed in this notice are consistent with operating safety and are justified by the accident history and improvements to the air brake system. Indeed, train operations in 1981 under the proposed less burdensome regulatory scheme would be safer than train operations in 1958 under the existing rules. Finally, the elimination of unnecessary regulation has the potential to improve railroad safety in two ways. First, the money saved will be available for other railroad safety related activities, e.g., improving track conditins. Second, elimination of unnecessary reguations helps focus industry and FRA attention on the necessary remaining requirements.

Environmental Impact

On June 16, 1980, the FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act (49 U.S.C. 1651 *et seq.*), other environmental statues, executive orders, and DOT Order 5610.1C.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures categorically exempt certain actions from the requirement for an environmental assessment because they are not major actions. The exemptions include technical or minor amendments to regulations and FRA actions concerning maintenance (normally periodic care) of existing railroad equipment. In this case, the proposed revision of Part 232 involves power brake inspection requirements that are related to the normal periodic testing and care of the air brake system.

The FRA environmental procedures also contain a provision that enumerates seven criteria which, if met, demonstrate that a non-categorically exempt action is not a "major" action for environmental purposes. These critera involve diverse factors, including the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by §4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of the power brake inspection requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed amendments of Part 232, power brake

inspection requirements, do not constitute a major FRA action requiring an environmental assessment.

Economic Impact

FRA has reviewed this notice under the standards established by Executive Order 12291. Preliminary data indicates that the cost saving to the rail industry of the proposed changes could be in excess of $100 million on an annual basis. Hence, FRA has determined that it is a major proposed rule. However, FRA has not prepared a complete Regulatory Impact Analysis because the Office of Management and Budget has granted a waiver of the requirements of Executive Order 12291.

This notice has been reviewed according to the requirements of the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1184, September 19, 1980). FRA has not identified any significant economic impact from the proposed rule changes that will affect small entities. The basis for this conclusion was reached after reviewing recent power brake studies, contacting railroad industry representatives, and studying the 1978 safety inquiry docket on power brakes. The recommended rule changes primarily benefit carriers having annual operating revenues over $50 million. Small entity impacts will be indirect. No measureable impact on small businesses supplying materials or services to the groups directly affected has been forecasted. Based on these facts, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexility Act.

Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before March 22, 1982, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing at 10:00 a.m. on March 17, 1982, in Room 2230, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The hearing will be informal, and not a judicial hearing. It will be conducted in accordance with FRA's published rules of practice in 49 CFR Part 211. The purpose of the hearing is to provide FRA with information that will assist in making final decisions regarding the proposed revisions.

A staff member of FRA will make an opening statement outlining the matter set for the hearing. Interested persons will then have the opportunity to present their oral statements. At the conclusion of all statements, each person will be permitted to make an additional comment or, if deemed appropriate by that person, a rebuttal statement. These rebuttal statements will be made in the same order in which the original statements were made.

The FRA hearing panel may ask questions of the persons making statements. In addition, the hearing officer will receive questions from persons attending the hearing that they wish to be asked of a person making a statement. The hearing officer will pose, as appropriate, the questions so received.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

The Proposed Rule

PART 232—RAILROAD POWER BRAKES AND DRAWBARS

In consideration of the foregoing, the FRA proposes the following:

1. To revise 49 CFR 232.11(c) to read as follows:

§ 232.11 Train air brake system tests.

* * * * *

(c) Each train must have the air brakes in effective operating condition, and at no time shall the number and location of operative air brakes be less than permitted by Federal requirements. When piston travel is in excess of 10½ inches, the air brakes cannot be considered in effective operating condition.

* * * * *

2. To revise 49 CFR 232.12 to read as follows:

§ 232.12 Initial terminal road train air brake tests.

(a)(1) Each train must be inspected and tested as specified in this section by a person determined to be qualified by the inspecting railroad at points—

(A) Where the train is originally made up (initial terminal); and

(B) Where train consist is changed, other than by adding or—removing a solid block of cars, and the train brake system remains charged; and

(C) Where the train is received in interchange if the train consist is changed other than by—

(i) Removing a solid block of cars from the head end or rear end of the train;

(ii) Changing motive power;

(iii) Removing or changing the caboose; or

(iv) Any combination of the changes listed in (i), (ii), and (iii) of this subparagraph.

(2) A qualified person participating in the test and inspection or who has knowledge that it was made shall notify the engineer that the initial terminal road train air brake test has been satisfactorily performed. The qualified person shall provide the notification in writing if the road crew will report for duty after the qualified person goes off duty. The qualified person also shall provide the notification in writing if the train that has been inspected is to be moved in excess of 500 miles without being subjected to another test pursuant to either this section or § 232.13 of this part.

(b) Each carrier shall designate additional inspection points not more than 1000 miles apart where intermediate inspection will be made to determine that—

(1) Brake pipe pressure leakage does not exceed 5 pounds per minute;

(2) Brakes apply on each car in response to a 20-pound service brake pipe pressure reduction; and

(3) Brake rigging is properly secured and does not bind or foul.

* * * * *

3. To revise 49 CFR 232.17(a) to read as follows:

§ 232.17 Freight and passenger train car brakes.

(a) Testing and repairing brakes on cars while on shop or repair tracks.

(1) When a freight car having brake equipment due for periodic attention is on shop or repair tracks where facilities are available for making air brake repairs, brake equipment must be given attention in accordance with the requirements of the currently effective AAR Code of Rules for cars in interchange. Brake equipment shall then be tested by use of a single car testing device as prescribed by the currently effective AAR Code of Tests.

(2)(i) When a freight car having an air brake defect is on a shop or repair track, brake equipment must be tested by use of a single car testing device as prescribed by currently effective AAR Code of Tests. All freight cars on shop

or repair tracks shall be tested to determine if the air brakes apply and release. Piston travel must be adjusted to nominally 7 inches on all cars having standard single capacity brake. Piston travel of brake cylinders on all freight cars equipped with other than standard single capacity brake, must be adjusted as indicated on badge plate or stenciling on car located in a conspicuous place near brake cylinder. After piston travel has been adjusted and with brakes released, sufficient brake shoe clearance must be provided.

* * * * *

§ 232.19 [Removed]

4. To remove 49 CFR 232.19 in its entirety.

(72 Stat. 86, 45 U.S.C. 9; sec. 6 (e), (f), 80 Stat. 939, 49 U.S.C. 1655; and 1.49(c) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c))

Issued in Washington, D.C., on February 11, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82-4296 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-01; Notice 1]

Evaluation Report on Head Restraints; Request for Public Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comments on evaluation report.

SUMMARY: This notice announces the publication by NHTSA of an Evaluation Report concerning Safety Standard No. 202, *Head Restraints.* This staff report evaluates the effectiveness and costs of head restraints in current passenger cars. The purpose of a head restraint is to prevent whiplash injury of the neck in rear impact crashes. The report was developed in response to Executive Order 12291, which provides for government-wide review of existing major Federal regulations. The NHTSA seeks public review and comment on this evaluation, as well as additional information on certain issues addressed by the report. Comments received will be used to complete the review required by Executive Order 12291 and as a basis for possible future rulemaking on head restraints.

DATE: Deadline for submission is April 19, 1982.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornickle, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0674). All comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C., 20590. [Docket hours, 8:00 a.m.-4:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 202 (49 CFR 571.202) requires the installation of head restraints at the driver's and right front seating positions of passenger cars. It also sets height, width and strength requirements for the restraint. If an adjustable restraint is used to meet the standard, the height requirement need only be satisfied when the restraint is in the up position. The purpose of a head restraint is to limit rearward motion of the head in a rear impact crash, thereby preventing whiplash injury due to hyperextension of the neck. The standard became effective for passenger cars in January 1969.

Pursuant to Executive Order 12291, NHTSA recently conducted an evaluation of Standard No. 202 to determine the effectiveness of the technology selected by the manufacturers in terms of preventing injuries and to determine the costs of that technology to consumers. Under the executive order, agencies are to review existing regulations to determine whether the regulations are achieving the order's policy goals, i.e., achieving legislative goals effectively and efficiently and without imposing any unnecessary burdens on those affected.

The principal findings and conclusions of the report are the following:

- Both integral and adjustable head restraints significantly reduce the overall injury risk in rear impact crashes: integral restraints by approximately 17 percent; adjustable restraints by 10 percent.
- Head restraints are effective because they have been performing as intended: they support the neck and prevent hyperextension. This conclusion is based primarily on crash and laboratory test results and is consistent with the overall effectiveness findings.
- The restraints do not appear to have had any unforeseen benefits, such as reducing rear impact fatalities, nonwhiplash injuries or forms of whiplash other than hyperextension.
- The restraints do not appear to have significant negative side effects, such as increasing rear impact fatalities, aggravating injuries to rear-seat occupants in frontal crashes of causing accidents because they block a driver's view of traffic to the sides and rear.
- Integral restraints are nearly twice as effective as adjustable head restraints because 75 percent of the latter are left in the down position by occupants—an adjustable head restraint in the down position does not adequately protect an occupant of average height.
- Integral restraints cost about one third as much as adjustable restraints: integral restraints add $12 (in 1981 dollars) to the lifetime cost of owning and operating a car; adjustable restraints, $40.
- Adjustable restraints, despite their higher cost and lower benefit, continue to be installed in the majority of cars. On most makes and models, the car purchaser is offered a choice of integral and adjustable restraints, the latter usually as part of an extra-cost seating option: in these circumstances, the majority of purchasers chooses the option which includes adjustable restraints. (The preference, of course, may in many cases be due to features of the deluxe seat option other than the adjustable restraints.) Customer preference for adjustable restraints seems to be motivated primarily by a perception that they are more stylish and comfortable than integral restraints. Vision obstructions experienced with integral restraints are an annoyance to short drivers (e.g., 5 feet 2 inches or less) but are less important than styling and comfort issues in the perception of most car purchasers. These conclusions are based on analyses of sales data, not an actual survey of car purchasers.
- The current mix of integral, correctly positioned and mispositioned adjustable restraints in cars on the road eliminates about 65,000 injuries per year.
- An all-integral restraint fleet would eliminate 85,000 injuries per year, at much lower cost.
- A similar gain in benefits, but without the cost-savings, could be achieved if all adjustable restraints were to measure at least 27.5 inches tall in the *down* position. (currently, Standard No. 202 only requires

adjustable restraints to measure 27.5 inches in the *up* position.)

• Significant gains in benefits might be achieved by increasing the height of the restraints. A 30 or 31 inch integral restraint (or an adjustable restraint 30 or 31 inches tall in the *down* position) may give improved protection for tall occupants, persons of average standing height who sit tall, and persons in crashes where vehicle forces displace them several inches upwards as well as rearwards.

The report was developed from statistical analyses of Texas accident files as well as the Agency's National Accident Sampling System, National Crash Severity Study and Fatal Accident Report System data, cost analyses of actual head restraint assemblies, and a review of laboratory and crash tests and multidisciplinary accident investigations.

NHTSA welcomes public review of the Standard No. 202 Evaluation Report and invites the public to submit comments. In addition to comments on the contents of the report, NHTSA seeks additional data and information relating to the following questions, which deal with subjects addressed by the report:

1. Are there any car purchaser surveys or other data to explain why so many more adjustable restraints than integral restraints are produced and sold?

2. Do car owners regard adjustable restraints primarily as a safety device, a way to minimize visibility obstructions, or a comfort device?

3. Would a requirement that adjustable restraints measure at least 27.5 inches tall in the *down* position make them about as effective as current integral restraints? Would the introduction of such a requirement affect the market shares for adjustable and integral restraints?

4. The report suggests that 30–31-inch head restraints would be significantly more effective than current restraints, in part because occupants are displaced several inches upwards in some rear impact crashes. Is there any evidence from in-depth accident investigations and laboratory or crash tests, besides the evidence cited in the report, that substantiates (or contradicts) the conclusion that taller restraints would be more effective?

5. Has there been any testing of vision obstructions experienced with restraints taller than 28 inches?

6. Has there been any testing of vision obstructions experienced with see-through restraints? With see-through restraints taller than 28 inches? Are there any data on consumer attitudes towards see-through restraints?

7. Would a reduction of the head restraint width requirement from 10 inches to 6.75 inches, on bench seats, lead to an increase in the production and sale of integral restraints? Are there any data on the possible safety consequences of reducing the width requirement? (The width requirement for bucket seats is currently 6.75 inches.)

8. Are there any statistical studies, in-depth accident data or test results, other than those presented in the report, that shed light on the effect of head restraints on fatal and serious injuries, on rear-seat occupant injuries or on accidents attributed to vision obstructions?

NHTSA seeks information on these questions in order to complete the review requirements of Executive Order 12291 and as a basis for possible future rulemaking on head restraints.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 82–4091 Filed 2–11–82; 4:52 pm]

BILLING CODE 4910–59–M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Air Brakes

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates a rulemaking action commenced at the request of the California Highway Patrol (CHP). CHP petitioned the agency to amend Standard No. 121, *Air Brake Systems*, to require that when a spring brake is applied due to low air pressure that it remain applied even when the pressure has returned to a safe level. This request was made to resolve a potential safety problem involving school buses. Subsequent to the rulemaking petition, manufacturers have modified their brake systems to use essentially the same brake system requested by the CHP. Accordingly, no further regulatory proceeding is required, and this rulemaking action is terminated

FOR FURTHER INFORMATION CONTACT: Mr. John Machey, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1715).

SUPPLEMENTARY INFORMATION: On September 5, 1979, the California Highway Patrol (CHP) petitioned the agency to amend Standard No. 121, *Air Brake Systems*, to require intentional drive release of air actuated spring brakes. On June 19, 1980 (45 FR 41463) the agency granted this rulemaking action and began research on the problem identified by the CHP.

The CHP has stated that a problem of inadvertent brake release was occurring in some school buses. Apparently, school bus drivers are required to perform pre-trip inspections of their vehicles. Part of the inspection involves starting the engine and testing the brakes for the low pressure warning device, air compressor buildup time, and air compressor "cut in" setting. This test is conducted with the parking brakes released. To perform these tests, the brakes have their air supply depleted which causes the automatic application of the vehicle's spring brakes. When the test is completed, drivers sometimes leave the vehicle with the engine running and forget to apply the manual parking brake control. As the compressor continues to supply air to the brake system, a designated air pressure is reached, and the spring brakes automatically release. At this point the vehicle has no brakes applied and is unattended. According to CHP, this condition has resulted in vehicle runaway problems.

The agency researched this problem and discovered that it existed only in one vehicle whose brake system was modified in 1979 to correct this problem. All school buses now are equipped with a spring loaded parking brake device which activates when air pressure falls below a certain level, and the spring brakes are applied. The subsequent buildup of air pressure will not release these parking brakes. The brakes may only be released by manual operation of the parking brake control. Accordingly, the problem of a runaway unattended vehicle is averted.

Since the problem identified by the CHP existed in only one vehicle type and since the brake system on that vehicle was modified by the manufacturer, the agency concludes that the industry has resolved this problem itself and that no government regulation

is needed at this time. Accordingly, this rulemaking action is terminated.

The principal authors of this notice are Mr. John Machey of the Crash Avoidance Division and Mr. Roger Tilton of the Office of Chief Counsel.

(Secs. 103 and 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-4060 Filed 2-11-82; 4:51 pm]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 82-02; Notice 01]

Federal Motor Vehicle Safety Standards; Brake Hose

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for rulemaking; request for comments.

SUMMARY: This notice grants a petition for rulemaking submitted by the B. F. Goodrich Company and solicits comments regarding the issues raised by the petition. The petition requests two related changes in the adhesion test for air brake hoses contained in Safety Standard No. 106, *Brake Hoses*. The adhesion test is included in the standard to assure that the various layers of a brake hose do not separate in service. The petition requests that adhesion value, i.e., the force required to separate adjacent layers of a brake hose, be determined by an averaging technique rather than by the present method of using the minimum force recorded during the test. According to that company, the use of an averaging technique would be a more valid method of determining the force required for separation of adjacent layers of brake hoses. The petition also requests that the force levels recorded in separating the layers of the brake hose at the beginning and end of the test be disregarded.

DATE: Comment closing date: April 5, 1982.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Vern Bloom, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2153).

SUPPLEMENTARY INFORMATION: The B. F. Goodrich Company has submitted a petition for rulemaking that requests two related changes in the adhesion test for air brake hoses contained in Safety Standard No. 106, *Brake Hoses*. The adhesion test is included in the standard to assure that the various layers of a brake hose do not separate in service.

The first step of the adhesion test procedure is to cut a specimen of brake hose, 1 inch or more in length. The specimen is then cut longitudinally along its entire length to the level of contact with a lower layer. The layer to be tested is peeled back along the longitudinal cut so as to create a flap large enough to be attached to a test apparatus. The test apparatus applies tension in a direction essentially perpendicular to the axis of the brake hose so as to separate, i.e., unroll, the layer being tested from the rest of the brake hose. A chart is produced which has inches of separation as one coordinate and applied tension as the other. Section S7.3.7 requires that except for hose reinforced by wire, an air brake hose must withstand a tensile force of 8 pounds per inch of length before separation of adjacent layers.

Both changes requested by B. F. Goodrich concern how the test chart is interpreted to determine adhesion value. (Adhesion value is the force required to separate adjacent layers of a brake hose.) Section S8.6.4 of the standard provides that adhesion value is the minimum force recorded on the portion of the chart corresponding to the actual separation of the part being tested.

According to B. F. Goodrich, the definition of adhesion value contained in section S8.6.4 can lead to problems of interpretation. That company does not explain that assertion. The petition does, however, state that an averaging of recorded forces presents a more relevant and valid adhesion value than a single minimum value on the chart. According to B. F. Goodrich, an averaging procedure has been standard practice for testing textile reinforced industrial hose for years.

The petition states that extensive tests conducted by B. F. Goodrich indicate that the minimum values recorded on the chart can be influenced by such factors as sample preparation, operator intervention, inherent structural details such as longitudinal yarns, and by the normal variation within a sample of hose. That company concludes that the minimums recorded on the chart may not represent the force required for actual separation of adjacent layers.

The first change requested by B. F. Goodrich's petition is that the adhesion test of Standard No. 106 be amended to adopt an averaging technique rather than using the minimums recorded on the chart.

B. F. Goodrich's petition also requests that the portion of the test chart showing the force used to separate the layers of the brake hose at the beginning and end of the test be disregarded. According to that company, the adhesion between layers may be disturbed during sample preparation by pulling the flap loose for attachment to the jaws of the test machine. Also, if the sample distorts near the end of the test, erratic values may occur. That company concludes that only the center portion of the test chart truly represents the force of actual separation.

The specific amendment to Safety Standard No. 106 requested by B. F. Goodrich, which incorporates the two changes discussed above, is to amend section S8.6.4(a) of the standard to read:

> The adhesion value shall be determined by drawing on the chart the best average line between the maximum and minimum force values recorded. In determining the average, disregard that portion of the chart which corresponds to the first and last 20% of the separation distance along the horizontal axis of the chart.

The agency believes that the changes suggested by B. F. Goodrich warrant further consideration. Therefore, to that extent, the agency grants B. F. Goodrich's petition.

The agency solicits comments concerning the issues raised by B. F. Goodrich's petition. Both the petition and a letter of further explanation received from B. F. Goodrich regarding the petition have been placed in the docket. The agency is particularly interested in receiving comments related to the following questions:

1. Are there any problems of interpretation about the present definition of adhesion value?

2. What advantages would result from adopting changes along the lines suggested by B. F. Goodrich's petition? What types and amount of cost savings might accrue?

3. What safety consequences would result from the changes? If an averaging test is proposed, what limitations, if any, should be placed on the extent to which the test measurements fall below 8 pounds per inch of length of the sample?

4. If an averaging technique is proposed, what type of average should be used? For example, if the agency decides to propose an averaging technique, it would contemplate specifying that the adhesion value is the

arithmetic mean of the force values recorded on the relevant portion of the test chart. Is arithmetic mean the best type of average? Should a specific method of calculating the arithmetic mean (or other type of average, if appropriate) be included in the standard? For example, the standard might specify use of a discrete number of points at regular intervals across the test chart in calculating the arithmetic mean or use of a planimeter to measure the area under the curve, which is divided by the abscissa to obtain the average ordinate.

5. What portion, if any, of the ends of the test chart should be disregarded?

Neither the granting of B. F. Goodrich's petition nor the issuance of this request for comments necessarily means that a rule will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

NHTSA has considered the impacts of this action in accordance with the Department of Transportation's regulatory policies and procedures and has concluded that it is nonsignificant within the meaning of those procedures. The expected impacts are too indeterminate at this time to conclude whether a regulatory evaluation would be appropriate. Should the agency decide to proceed with a notice of proposed rulemaking, the decision whether it is necessary to prepare a regulatory evaluation would be made at that time.

Interested persons are invited to submit comments on the issues raised by this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4087 Filed 2-11-82; 4:52 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[No. 36135]

Rules Governing Publication of Exceptions Ratings Higher Than Classification Ratings

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking; notice of granting of replies.

SUMMARY: In its notice of proposed rulemaking, the Commission sought comments on the merits of a petition seeking the removal of 49 CFR 1310.7(r), and on the merits of modifying rather than removing the paragraph. The paragraph requires motor common carriers to submit justification statements with any tariff that results in rates and charges higher than what would be applicable under classification ratings. In response to a letter petition filed by the National Small Shipments Traffic Conference *et al.*, the Commission is granting the request for the filing of replies to comments.

DATE: Replies are due May 16, 1982.

ADDRESS: Submit replies to Room 5356, Interstate Commerce Commission, Washington, D.C. 20423. Comments may be viewed in: Room 1221, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Commission published its notice of proposed rulemaking in this matter at 46 FR 56629, November 18, 1981. By notice published at 47 FR 59, January 4, 1982, the dates for filing comments was extended from January 4, 1982 to April 16, 1982. A letter petition was filed on January 14, 1982, by the National Small Shipments Traffic Conference *et al.*, requesting that parties be granted the right to file replies 30 days after comments are submitted.

The petition shall be granted. Although our comment extension decision was served on December 31, 1981, it was not published in the **Federal Register** until January 4, 1982, the original comment date. A number of parties, unaware of the extension, filed comments on that date. In order to avoid any potential unfairness in parties replying in their April 16 comments to the January 4 comments, we shall give all parties the right to file replies on May 17, 1982, 30 days after the comment date. Comments may be viewed at the Interstate Commerce Commission, Room 1221, Washington, D.C.

It is ordered;

The petition is granted.

By the Commission, Reese H. Taylor, Jr., Chairman.

Decided: February 11, 1982.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-4314 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 33
Thursday, February 18, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket No. 39975]

Trenton Hub Express Airline Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on February 17, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

The issues in the proceeding will be those prescribed by the Board in Order 81–12–146. Parties will present at the conference requests for any evidence in addition to that submitted with the application and be prepared to propose further procedural dates.

Dated at Washington, D.C., February 11, 1982.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 82 4390 Filed 2–17–82; 8:45 am]
BILLING 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 41–3, Amdt. 2; D.O.O. Reference 10–3, 40–1]

Assistant Secretary for International Economic Policy; Statement of Organization and Functions and Delegation of Authority

Effective date: January 4, 1982.

ITA Organization and Function Order 41–3 of January 19, 1981, as amended (46 FR 19950 and 46 FR 35328), is further amended to amend the delegation under the International Investment Survey Act of 1976 and to reflect the establishment and delegate authority to the Deputy Assistant Secretary for Trade Adjustment Assistance.

1. Part III, Section 2 is amended to read:

Section 2. Principal Functions

.01 The Assistant Secretary for International Economic policy shall assist and advise the Secretary and the Under Secretary on the Research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance, investment and services and those of a multilateral or regional nature (excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade), and shall operate a program to provide trade adjustment assistance to industries, communities and firms adversely affected by imports.

.02 The Assistant Secretary shall direct the activities of:

a. The Deputy Assistant Secretary for International Economic Policy

b. The Deputy Assistant Secretary for Finance, Investment and Services

c. The Deputy Assistant Secretary for Trade Agreements

d. The Deputy Assistant Secretary for Policy Planning and Analysis

e. The Deputy Assistant Secretary for Textiles and Apparel

f. The Deputy Assistant Secretary for Trade Adjustment Assistance

2. Part V, Section 1.01d is amended to read:

d. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976, (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103 (a) and (b), and 3104(c)), and Section 4(e) of the International Investment Survey Act, as amended by Pub. L. 97–33, (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, (DOO 35–1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act shall be issued by the Under Secretary for International Trade in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to be undertaken pursuant to the Act, shall be issued by the Secretary.

3. Part IX is renumbered Part X and a new Part IX is added to read:

Part IX. Deputy Assistant Secretary For Trade Adjustment Assistance

Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretary for Trade Adjustment Assistance ("the DAS/TAA"):

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States;

b. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended, (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (See Department Organization Order 35–5A). Except that the right to award grants, loans or loan guarantees to eligible firms, industries and communities shall be reserved to the Under Secretary.

.02 Except as otherwise provided, the DAS/TAA may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

Section 2. Office of the Deputy Assistant Secretary

.01 The "Deputy Assistant Secretary for Trade Adjustment Assistance" shall direct the trade adjustment assistance program; develop policies to implement the trade adjustment assistance program; direct the certification of firms as eligible to apply for assistance; direct the provision of technical and financial assistance to certified firms; direct the provision of trade adjustment assistance to trade-impacted industries and communities; develop a monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establish procedures for

dealing with delinquent firms; evaluate the performance of firms which have received trade adjustment assistance; coordinate the trade adjustment assistance program with other federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR), and provide representation for the Commerce Labor Adjustment Action Committee (CLAAC).

.02 The DAS/TAA shall direct the Office of Trade Adjustment Assistance.

Section 3. Office of Trade Adjustment Assistance

.01 The "Office of Trade Adjustment Assistance" shall be headed by the DAS/TAA who shall direct the following Divisions:

.02 The "Certification Division" shall develop policies, plans and procedures to certify firms eligible to apply for Trade Adjustment Assistance; review certification petitions for acceptance or rejection, prepare notices of actions taken, conduct investgations for all accepted petitions, and issue certificates of eligibilty to (or deny the petitions of) firms according to the Trade Act of 1974; maintain control under the appropriate reporting system of TAA activities and be responsible for regular reports to the appropriate offices within ITA and the Department; provide policy guidance and direction to ITA District Offices regarding trade adjustment and industry to ITA District Offices regarding trade adjustment and industry assistance projects, including specialized training for staff; and develop and direct the outreach and information system to inform the general public and businesses in particular of trade adjustment assistance programs available under the Trade Act.

.03 The "Technical Assistance Division" shall develop policies, guidelines and procedures for providing technical assistance to impacted firms, industries, and communities under the Trade Act; establish, supervise, coordinate and monitor the operation of Trade Adjustment Assistance Centers (TAACs) to assure uniform operations; evaluate the effectiveness of assistance provided to eligible firms and assist in inproving each TAAC performance; provide assistance to impacted firms that prefer not to work with a TAAC, by providing grants or cooperative agreements to industry experts; review recovery plans submitted by certified firms and offer advice to the DAS/TAA on the feasibility of the firm to implement such a plan; review, process, supervise and monitor all technical assistance projects referred by DOC industry teams; develop, analyze and process proposals for interagency transfers of funds to benefit trade impacted industries and monitor results of such transfers; provide advice and guidance about technical assistance to impacted firms, industries, and communities, as requested; develop, review, process, supervise and monitor industry assistance cooperative agreements to industry associations or other appropriate organizations for studies of new markets, new technology, new products, export development, and industry evaluation or analysis; coordinate technical assistance activities with other Federal agencies and departments; and assess program results and provide program status reports or other special studies needed by the DAS/TAA and other Department officials relative to firms, industry, and community technical assistance.

.04 The "Financial Assistance Division" shall develop policies, procedures and guidelines for evaluation adjustment proposals and applications for loans and loan guarantees to be provided to certified firms; review formal adjustment proposals submitted as part of an application to determine if the firm can either recover from the impact of foreign competition in its existing market area or successfully penetrate a new market area; review all proposals and applications to ensure compliance with all applicable regulatory and statutory requirements such as environment, civil rights, or flood hazard, as well as special requirements of the Trade Act; negotiate loan terms and conditions to attain reasonable assurance of loan repayment, recovery of firm and the permanent employment opportunities to be created or maintained by the project; evaluate and make recommendations regarding comprehensive financing, after processing of such applications; monitor trade adjustment recipients to ensure adherence to adjustment plans and recommend any necessary modifications; supervise the provision of specialized assistance to recipients of TAA loans of loan guarantees who may have repayment or other problems in meeting program objectives; supervise and monitor construction projects processed by the Division, including certifications for loan disbursements; and de-obligate trade assistance loan funds not required because of withdrawals, cancellations, and underruns.

4. The attached organization chart supersedes the chart attached to Amendment 1 of ITA Organization and Function Oder 41–3 dated May 11, 1981.

Raymond J. Waldmann,

Assistant Secretary for International Economic Policy.

Approved:

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-4382 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 41-1, Amdt. 4; D.O.O. Reference 10-3, 40-1]

International Trade Administration; Statement of Organization and Functions and Delegations of Authority

Effective date: January 4, 1982.

ITA Organization and Function Order 41–1 of January 30, 1980, as amended (45 FR 11862, 46 FR 13537, 46 FR 35329, and 46 FR 51948), is further amended to amend the delegation under the International Investment Survey Act of 1976; reflect the establishment of, and delegate authority to, the Deputy Assistant Secretary for Trade Adjustment Assistance; delegate authority for international exhibitions held in the United States; delegate authority for the small business export grant program; establish the Coal Export Staff and the position of Deputy Assistant Secretary for Trade Development; and establish four offices reporting to the Director General for the Foreign Commercial Service.

1. Part III., Section 1.01g is amended to read:

"g. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976, (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103(a) and (b), and 3104(c)), and Section 4(e) of the International Investment Survey Act, as amended by Pub. L. 97–33 (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, (DOO 35–1A), including, to the extent feasible, the division or assignement of responsibilities. All regulations established to carry out functions under the Act shall be issued by the Under Secretary for International Trade in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to

undertake pursuant to the Act, shall be issued by the Secretary."

2. Part III., Section 1.01i is added to read:

"i. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (See Department Organization Order 35–5A). Except that the right to award grants, loans or loan guarantees to eligible firms, industries and communities shall be reserved to the Under Secretary.

3. The first paragraph of Part III, Section 2 is amended to read:

"The *Assistant Secretary for International Economic Policy* ("the Assistant Secretary") shall advise on the research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance, investment and services and those of a bilateral, multilateral or regional nature (excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade), and shall operate a program to provide trade adjustment assistance to industries, communities and firms adversely affected by imports. The Assistant Secretary shall carry out these functions through:"

4. Part III, Section 2.06 is added to read:

".06 The *Deputy Assistant Secretary for Trade Adjustment Assistance* shall direct the trade adjustment assistance program, including the development of policies to implement the program, and shall direct the following office:

a. The *Office of Trade Adjustment Assistance* shall certify firms as eligible to apply for assistance and provide technical and financial assistance to certified firms; provide trade adjustment assistance to trade-impacted industries and communities; develop a monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establish procedures for dealing with delinquent firms; evaluate the performance of firms which have received trade adjustment assistance; coordinate the trade adjustment assistance program with other federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR); and provide representation for the Commerce Labor Adjustment Action Committee (CLAAC)."

5. The "and" at the end of Part V, Section 1.01e is deleted, the periods at the end of Section 1.01f and 1.01g are changed to semi-colons, and Sections 1.01h, 1.01i and 1.01j are added to read:

"h. The Act of May 27, 1970 (Pub.L. 91–269, 22 U.S.C. 2801 *et seq.*) relating to U.S. participation in international expositions;

"i. The Act of December 29, 1979 (Pub. L. 96–169, 93 Stat. 1281) regarding U.S. participation in the International Energy Exposition to be held in Knoxville, Tennessee in 1982; and

"j. Title III of Pub. L. 96–481 (15 U.S.C. 649a–649d), relating to making grants (including contracts and cooperative agreements) for small business international marketing programs."

6. The first paragaph of Part V., Section 2 is amended to read:

"The *Assistant Secretary for Trade Development* shall be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment posture of the U.S. The Assistant Secretary serves as the National Export Expansion Coordinator. The Office of the Assistant Secretary includes the Coal Export Staff which advises the Assistant Secretary in the latter's capacity as coordinator of the National Coal Export Program. The Assistant Secretary shall carry out these functions through:"

7. Part V., Sections 2.01, 2.02 and 2.03 are renumbered as 2.02, 2.03 and 2.04, respectively. A new section 2.01 is added to read:

".01 *The Deputy Assistant Secretary for Trade Development* shall serve as the principal deputy to the Assistant Secretary, perform such duties as the Assistant Secretary shall assign, and perform the functions of the Assistant Secretary in the latter's absence."

8. The first paragraph of the new Part V., Section 2.02 is amended to read:

".02 The *Deputy Assistant Secretary for Export Development* shall develop, plan and direct the export development activities in free-world countries and areas to be carried out by the U.S. and Foreign Commercial Services; plan, develop, and implement an automated export information transfer system; provide for staff support to the President's Export Council and in this capacity, communicate the President's Export Council recommendations through the Secretary of Commerce to the President. The Office of the DAS shall contain the International Expositions Staff which shall be responsible for Federal recognition and participation in international expositions to be held in the United States. The DAS shall direct the following offices:"

9. Part VI., Section 2 is amended to read:

"Section 2. Organization and Functions

The *Foreign Commercial Service* is headed by the *Director General* who reports to the Under Secretary and is responsible for administrative management of the Foreign Commercial Service, including development and implementation of policies determining the recruitment, appointment, assignment, evaluation and career development of officers in the Foreign Commercial Service. The Director General administers the overseas network in ITA and is responsible for resolving any Foreign Commercial Service post resource conflicts which ITA program activities may impose. The Director General also serves as the ITA representative to other U.S. agencies for administrative and management issues affecting the Foreign Commercial Service. For activities relating to the delivery of services in support of the Department's trade development programs, the Director General reports and is responsible to the Assistant Secretary for Trade Development. The Director General directs the following elements:

.01 The *Office of Career Development and Assignment* shall establish and provide operational support for FCS officer assignment panels; develop and manage education and career development programs for FCS officers and Foreign Service National employees; develop and administer the FCS Officer Evaluation System and related selection boards; and administer a consultation program for FCS officers and nationals.

.02 The *Office of Personnel Administration* shall conceptualize and supervise a system to monitor FCS personnel records and processing; maintain liaison with ITA, Departmental, State Department, other Government agency personnel officers for administration of Foreign Service Act personnel policies and developments; provide support for all FCS recruitment and selection panels and for the Department's activities on the Board of the Foreign Service and the Board of Examiners of the Foreign Service; administer FCS grievance, labor-management relations and EEO programs; and provide for the movement of personnel, shipment of household goods, and medical coverage for FCS employees.

.03 The *Office of Managment Operations* shall be responsible for FCS fiscal planning and monitoring, evaluation of FCS performance overseas, and overall administrative support in headquarters and abroad; oversee the evaluation and analysis of the post's workload plans (PCAP's); recommend long-term staffing and resource allocation decisions; monitor the State Department's shared administrative support policies; evaluate the provision of administrative support for FCS activities at overseas posts; provide support to posts in business management techniques, management information systems and equipment, and telecommunications support; maintain liaison with Commerce and State security offices to provide for the security of FCS installations; and maintain liaison between the ITA administrative elements and the FCS headquarters operation.

.04 The *Office of Plans and Coordination* shall coordinate with Trade Development and with input from the Office of Management Operations the post's workload planning process (PCAP) and plan implementation; maintain liaison with other government agencies, industry groups, the U.S. Chamber of Commerce, and academe to develop more effective techniques for promoting U.S. commercial interests abroad; serve as ombudsman for FCS clients to resolve program delivery problems; coordinate the FCS role in MTN implementation; establish and monitor the use of small business facilities abroad; in conjunction with the Office of Management and Systems, maintain liaison with GAO, State/IG and Commerce/IG on FCS activities; and provide management oversight of the commercial libraries abroad.

.05 The *FCS Overseas* shall be responsible for promotion of U.S. commercial interests abroad; implementing the full range of the Department's overseas commercial programs and activities, including those administered by ITA, other Commerce agencies, and other U.S. Government agencies; and coordinating, within the areas of its jurisdiction, the activities of all assigned overseas personnel."

10. The attached organization chart supersedes the chart attached to Amendment 3 of ITA Organization and Function Order 41–1 of September 17, 1981.

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-4391 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00328. Applicant: La Jolla Cancer Research Foundation, 2945 Science Park Road, La Jolla, CA 92037. Article: Electron Microscope, Model H–600–2. Manufacturer: Hitachi Scientific Instruments, Ltd., Japan. Intended use of article: See Notice on page 43730 in the Federal Register of August 31, 1981. Article ordered: February 26, 1981.

Docket No. 81–00338. Applicant: NINCDS–Lab of Neuro-Otolaryngology, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope, Model JEM–100CX/SEG with Accessories. Manufacturer: Japan Electron Optics Ltd., Japan. Intended use of article: See Notice on page 45791 in the Federal Register of September 15, 1981. Article ordered: July 15, 1981.

Docket No. 81–00351. Applicant: National Eye Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Application received by Commissioner of Customs: August 21, 1981.

Docket No. 81–00352. Applicant: Northwestern University, 633 Clark Street, Evanston, IL 60201. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Article ordered: February 26, 1981.

Docket No. 81–00353. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Electron Microscope, Model JEM 200–CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Application received by Commissioner of Customs: August 21, 1981.

Docket No. 81–00356. Applicant: Northwestern University/Medical School, Department of Cell Biology and Anatomy, 303 East Chicago Avenue, Ward 7–315, Chicago, IL 60611. Article: Electron Microscope, Model JEM 100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 48278 in the Federal Register of October 1, 1981. Article ordered: March 30, 1981.

Docket No. 81–00357. Applicant: North Carolina State University, Raleigh, North Carolina 27650. Article: Electron Microscope, Model EM 400–T with Accessories. Manufacturer: Philips Electronic Instruments Inc., The Netherlands. Intended use of article: See Notice on page 48279 in the Federal Register of October 1, 1981. Article ordered: June 9, 1981.

Docket No. 81–00361. Applicant: Harper-Grace Hospitals, Harper Division, 3990 John R. Street, Detroit, MI 48201. Article: Electron Microscope, Model EM–10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 48279 in the Federal Register of October 1, 1981. Article ordered: July 30, 1981.

Docket No. 81–00364. Applicant: Harrington Cancer Center, 1500 Wallace Blvd., Amarillo, TX 79106. Article: Electron Microscope, H–600–2. Manufacturer: Hitachi Ltd., Japan. Intended use of article: See Notice on page 48280 in the Federal Register of October 1, 1981. Article ordered: June 15, 1981.

Docket No. 81–00366. Applicant: St. Elizabeth's Hospital, 736 Cambridge Street, Boston, MA 02135. Article: Electron Microscope, Model JEM 100S with Sheet Film Camera. Manufacturer: Jeol Ltd., Japan. Intended use of Article: See Notice on page 48280 in the Federal Register of October 1, 1981. Article ordered: June 15, 1981.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a

comparable CTEM is pertinent to the puposes for which each is intended to be used. We know of no CTEM which was being manfactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such puposes as these articles are intended to be used, which was being manufactured in the Unites States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-4423 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee, which will meet to examine and provide recommendations to the Council on the development of fishery management plans for Shallow-water Reef Fish, Coastal Migratory Pelagic Resources and a Generic Plan for the Fishery Resources of the Puerto Rican and St. Croix Geological Platforms.

DATES: The public meetings will convene on Wednesday, March 10, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m., reconvene on Thursday, March 11, 1982, at approximately 9 a.m., and adjourn at approximately noon.

ADDRESS: The meetings will take place at the Council Headquarters Office, 1108 Banco de Ponce Building, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753–4926.

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4383 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to discuss the Bluefish and Summer Flounder Fishery Management Plans; discuss the status of other fishery management plans; discuss advisory panel nominations, as well as other fishery management and administrative matters.

DATES: The public meetings will convene on Wednesday, March 10, 1982, at approximately noon and will adjourn on Friday, March 12, 1981, at approximately noon. The meetings may be lengthened or shortened depending upon progress on the agenda.

ADDRESS: The meetings will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, (Telephone–302–674–2331).

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4384 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee, which will meet to discuss Executive Order 12291 and the National Marine Fisheries Service's guidelines for compliance with the Order, as well as other Council business.

DATES: The public meeting will convene on Friday, March 12, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m., and may be lengthened or shortened, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Samoset Inn, Rockport, Maine.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway—Route One, Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4385 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Groundfish Subpanel; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Groundfish Subpanel, which will meet to discuss the proposed groundfish regulations and other groundfish matters.

DATES: The Groundfish Subpanel's public meeting will convene on Thursday, March 4, 1982, at approximately 1 p.m., and adjourn on Friday, March 5, at approximately 5 p.m.

ADDRESS: The public meetings will take place at the Oregon Department of Fish and Wildlife Commissioner's meeting room, 5th and Mill Streets, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: February 12, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4386 Filed 2-17-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From Mexico

February 12, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products imported from Mexico.

SUMMARY: The Governments of the United States and Mexico exchanged letters dated December 23 and 24, 1981, further amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the two Governments to extend its term four years, from January 1, 1982 through December 31, 1985. The agreement, as amended and extended, establishes specific levels of restraint for certain cotton and man-made fiber textile products, among others, in Categories 335 (Women's, Girls' and Infants' Cotton Coats), 347/348 (Cotton Trousers) and 641 (Woven Blouses of Man-Made Fibers), produced or manufactured in Mexico and exported during the twelve-month period beginning on January 1, 1982. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409))

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT:
William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

February 12, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles doine at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on February 22, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Mexico, in excess of the following levels of restraint:

Category	12-mo level of restraint
335	39,302 dozen.
347/348	645,139 dozen of which not more than 387,084 dozen shall be in Cat. 347 and not more than 387,084 dozen shall be in Cat. 348.
641	224,909 dozen.

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Mexico, which have been exported on and after January 1, 1981 and extending through December 31, 1981, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period which began on January 1, 1981 and extended through December 31, 1981. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this notice.

The levels set forth above are subject to adjustment in the future, according to the provisions of the bilateral agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, which provide, in part, that: (1) Specific limits or specific sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton and man-made fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-4363 Filed 2-17-82; 8:45 am]
BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Restrictions Applicable to Certain Contract Market and Clearing Organization Employees

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of staff interpretative position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing the position of its Division of Trading and Markets concerning the propriety of contract market employees and the employees of the contract market's clearing organization trading commodities or otherwise misusing sensitive, nonpublic information which such employees may obtain in their official capacity. In December, 1980[1] the Commission proposed regulation § 1.57 which, if adopted, would have made it unlawful for contract market or clearing organization employees to participate in commodity futures, commodity options, and investment transactions in actual commodities. Instead of adopting proposed regulation § 1.57 the Commission has decided to give guidance to the contract markets by publishing the following position of its Division of Trading and Markets.

FOR FURTHER INFORMATION CONTACT:
Donald R. Levine, Assistant Director, or Lawrence B. Patent, Special Counsel, Contract Markets Section, Division of Trading and Markets, Commodity

[1] 45 FR 84084 (December 22, 1980).

Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Background

A. Proposed rule § 1.57

The publication for comment of proposed rule 1.57 was prompted by the Commission's recognition of the important responsibilities which self-regulatory compliance personnel bear. The Commission expressed its concern, in the **Federal Register** release announcing the proposal of § 1.57 [2] about the potential for abuse, in addition to the appearance of impropriety, if employees with access to sensitive nonpublic information, particularly that regarding the market positions of contract market members, are permitted to trade futures contracts. Because of the expanding self-regulatory responsibilities of the contract markets and their clearing organizations and the concomitant growth in the number of compliance, audit, and market surveillance personnel, an increasing number of employees have access to the books and records of contract market members. Further, while they are engaged in the conduct of investigations of alleged rule violations, or while they conduct financial audits or routine market surveillance, employees so engaged can be expected to have access to information which relates, among other things, to market positions of members. The Commission notes that such information frequently relates to member positions in all markets. If these employees are permitted to trade futures contracts while at the same time having access to member books and records, they could use the confidential position information obtained in their official capacity for their personal benefit. The Commission believes that such conduct, or even the potential for such conduct, seriously undermines the concept of self-regulation and reduces public confidence in contract markets and their clearing organizations as regulators of their respective marketplaces.

As proposed, § 1.57 generally would have made it unlawful for contract market or clearing organization officers, staff members, employees or other persons occupying a similar status or performing similar functions (hereinafter referred to collectively as "employees") to participate in commodity futures transactions, commodity option transactions, or investment transactions in actual commodities. Section 1.57 also would have required each contract market to adopt and enforce rules approved by the Commission prohibiting such activities, and rules prohibiting employees from misusing sensitive, nonpublic information.

B. Comments on the Proposed Rule

The Commission received fifteen written comments on the proposal. The commentators included nine contract markets, two clearing organizations, a futures commission merchant, a commodity trading advisor, and two individuals not directly identified with any particular aspect of the commodities industry.

There were certain general comments on proposed rule § 1.57. Several commentators stated that proposed rule § 1.57 was unnecessary because neither contract market nor clearing organization personnel have ever been accused of trading in a manner which would violate the provisions of the proposed regulation.[3] Two commentators questioned whether any exchange employee would have access to information which would provide such a person with an advantage in the commodity markets unavailable to a brokerage firm employee, and they pointed out that a brokerage firm employee would not be subject to the restrictions of proposed rule § 1.57. In addition, two commentators asserted that the Commission lacks the statutory authority to promulgate rule § 1.57.[4]

Two exchanges which commented on the proposal also pointed out that contract market rules apply only to contract market members, and those exchanges stated their belief that contract market rules are an inappropriate method of addressing the problem of commodity trading or the abuse of sensitive, nonpublic information by employees. Those commentators asserted that this subject should be treated as a personal matter and that an exchange, as employer, should be able to discipline, suspend or terminate its employees quickly and without the need for the elaborate and formal procedures which would be involved in determining whether an exchange rule was violated.

Several commentators discussed the types of persons and the types of activities which should be covered by proposed rule § 1.57. Seven commentators stated that the application of proposed § 1.57 to any "officer, staff member, or employee (or any person occupying a similar status or performing similar functions) of a contract market or of its clearing organization" was too broad. Two of those commentators stated that various contract market and clearing organization by-laws require certain officers to be contract market members or clearing organization members, and, therefore, proposed § 1.57 would bar such persons from trading. Two other commentators stated that the regulation as proposed would be discriminatory. Those commentators pointed out that certain exchange and clearing organization officers are also members of the governing board and, as officers, would be barred from trading by § 1.57, while non-officer board members would not be so barred. Five of the seven commentators addressing the issue of the types of persons who should be covered by the proposed regulation stated that § 1.57 should be limited to in-house, full-time, paid employees and should specifically exclude any officer whose prinicpal employment is outside of the contract market or clearing organization, and whose only compensation from the contract market or clearing organization consists of director's fees. Three commentators stated that there should be no restrictions on commodity trading for those contract market employees who do not have access to confidential data.

Finally, several commentators stated that certain types of trading activities should be excluded from the general ban which proposed § 1.57 would impose. Two commentators stated that exchange personnel should be permitted to engage in hedging transactions. Those two commentators, joined by a third, also stated that exchange personnel should be allowed to purchase participation units in commodity pools, or to have a managed commodity account, provided that the trading authority for any such pool or account was exercised by another party. Several commentators stated that the proposed ban on direct or indirect participation in investment transactions in any actual commodity was too broad and would restrict exchange personnel from participating in traditional types of investment

[2] *Id.*

[3] On one recent occasion, however, the Commission expressed its concern to a contract market that one of its employees with significant compliance responsibilities had initiated futures transactions.

[4] The Division notes, however, that several provisions of the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 1 *et seq.* (1976 & Supp. III 1979)) and the regulations adopted thereunder place responsibilities on commodity exchanges to act in the public interest and to adopt and enforce rules to fulfill such responsibilities. *See, e.g.*, Sections 5a(8) and 5a(9) of the Act (7 U.S.C. 7a (8) and (9) (1976)) and Commission regulations §§ 1.51 and 1.52 (17 CFR 1.51 and 1.52 (1981), as amended 46 FR 54500, 54525 (November 3, 1981)). Thus, exchanges must have suitable personnel to carry out those responsibilities, and such employees must be free of conflicts of interest and the appearance of impropriety in the performance of their duties. The avoidance of such conflicts was the intended purpose of proposed § 1.57, and it forms the basis for the Division's interpretative statement on this subject. *See also* sections 5(d), 5(g) and 8a(7) of the Act (7 U.S.C. 7(d), 7(g) and 12a(7) (1976)).

vehicles used by many members of the public.

II. Interpretative Statement [5]

Section 5a(8) of the Act requires each contract market to enforce all of its rules which have been approved by the Commission pursuant to Section 5a(12) of the Act (7 U.S.C. 7a(12) (Supp. III 1979)).[6] Section 1.51 of the Commission's regulations requires each contract market to use due diligence in maintaining a continuing affirmative action program to meet its rule enforcement obligations under the Act. To meet these obligations, each exchange must have a suitable staff to fulfill its self-regulatory functions. The Division believes that restrictions on employees who could otherwise engage in commodity transactions or potentially abuse information obtained by virtue of their employment are necessary to ensure a suitable staff to meet those obligations. Public confidence in the ability of a self-regulatory organization to perform its regulatory duties cannot be achieved if improprieties in the use of confidential regulatory information or even the appearance of such improprieties exist.[7]

The Division recognizes that the exchanges are different entities due to the varied types of activities which particular exchanges engage in, and that they may have different types of employees. The Division will inquire, in conducting its rule enforcement reviews, whether the exchange has a policy suited to its particular employees regarding participation in commodity futures transactions, commodity option transactions, and investment transactions in actual commodities, as well as the misuse of sensitive, nonpublic information. The exchanges should consider the function and activities of the employee involved, the employee's access to sensitive, nonpublic information, and the type of commodity investment involved.

Contract market and clearing organization employees who are involved in compliance, audit or market surveillance activities, and who have routine access to the books and records of members, and thus have position information available to them concerning the particular exchange where they are employed and, perhaps, other exchanges as well, should generally be barred from all commodity transactions, including those which would be executed on other exchanges. The key element which should be considered is access to confidential information, and such access should disqualify an employee from engaging in commodity transactions even if the employee is not full-time, in-house, paid employee, and even if the person's principal employment is outside of the contract market or clearing organization. A full-time employee could, therefore, be subject to less restrictions than a part-time employee if the full-time employee did not have access to confidential information, while the part-time employee has such access on a routine basis.[8]

The commodity investments in which employees who have access to sensitive nonpublic information should be prohibited from trading include commodity futures, commodity options, and investment transactions in actual commodities involving those commodities on which futures contracts are traded. The Division recognizes, however, that a blanket application of such investment restrictions would in many cases be impractical and not necessary to assure the independence and integrity of self-regulatory compliance personnel. The recent growth in the financial futures markets perhaps best illustrates the impracticability of a blanket prohibition against employee transactions in commodities underlying futures contracts. For example, under such a prohibition, compliance personnel could be prevented from investing in many securities issued by the United States as well as such common investment instruments as bank certificates of deposit. The Division does not believe that an exchange policy which permits its employees to use such investment vehicles would raise any problems under §§ 1.51 or 1.52.[9]

In determining what types of commodity investments should be permitted, factors such as the employee's degree of control over the investment, whether the employee could make use of confidential information for personal benefit, and whether such investment activity would interfere with the employee's job performance should be considered. For example, it may be permissible for an employee without routine access to confidential information, and whose responsibilities on behalf of the contract market or clearing organization do not require the employee's full time and attention, to engage in legitimate hedging activities. An exchange should consider seriously, however, whether it would be appropriate to employ someone on a full-time basis in a position with substantial responsibilities if such a person would have to be in frequent contact with the market to carry on hedging activities.

With respect to whether commodity pools or managed accounts are appropriate investment vehicles for contract market or clearing organization employees, consideration must be given to the potential control over such an account which an employee could exercise, irrespective of whether general trading authority is controlled by someone else, and consideration must also be given to whether the employee has access to confidential information which could easily be passed along to a commodity pool operator or commodity trading advisor, even if the employee does not make specific trading decisions.

Concerning other types of commodity or commodity related transactions, the exchanges should consider whether information to which the employee has access would affect a particular investment, and the amount of interference any investment might cause to performance of the employee's responsibilities. The Division recognizes that, due to the growth and widening

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[5] The Division belives this interpretative statement would also be applicable to personnel of the National Futures Association, as well as contract market and clearing organization employees.

[6] Such rules are those which relate to terms and conditions in contract of sales to be executed on or subject to the rules of such contract market or related to other trading requirements except those relating to the setting of levels of margin.

[7] Indeed, Congress has found that restrictions on Commission personnel with respect to commodity transactions are necessary to ensure public confidence in the regulatory activities of the Commission. *See* sections 9(d) and 9(e) of the Act (7 U.S.C. 13(d) and 13(e) (Supp. III 1979)). *See also* section 2(a)(7)(A) of the Act (7 U.S.C. 4a(f)(1) (Supp. III 1979)), and the Commission's Code of Conduct, 17 CFR 140.735–1 *et seq.* (1981). Of course, the Division does not intend that contract market and clearing organization employees should be held to more stringent standards than are Commission employees.

[8] An individual who sits on a contract market or clearing organization governing board or committee and is not an employee, and contract market and clearing organization officers who are required to be members or affiliated with members, are not intended to be covered by the Division's interpretative statement. Such persons must be guided, however, by general conflict of interest principles, and they should strive to conduct themselves in such a way as to avoid even the appearance of impropriety. *See* Rule Enforcement Review of the Commodity Exchange, Inc. by the Commodity Futures Trading Commission, Division of Trading and Markets, at 67–75 (September 29, 1981), and Discussion Paper on Standards for the Prevention of Conflicts of Interest in Actions Authorized by the Governing Boards of Contract Markets, Office of the General Counsel (December 8, 1980).

[9] Trading in options on such instruments, however, raises different questions which, depending on the nature of the individual's information access and other responsibilities, may well require that such trading be prohibited by the contract market.

utilization of the financial futures markets and the development of such vehicles as money market funds, employee participation in a pension fund, money market fund, or the purchase of life insurance, may involve an indirect investment in a commodity interest. The Division realizes that the commodity component in such a transaction frequently is tangential to the main purpose for such a transaction, and that the commodity component may be sufficiently removed from an employee's control so that any confidential information to which an employee might have access would be of no use. The Division further recognizes that such transactions do not generally require continuous monitoring. Accordingly, the Division does not believe that its policies stated here would be contradicted if contract market policies permit participation in investment vehicles which meet the above criteria.

Each contract market should establish a policy concerning participation in commodity futures transactions, commodity option transactions, and investment transactions involving actual commodities, as well as the misuse of sensitive, nonpublic information by employees of the contract market and its clearing organization, taking into account the guidelines set forth in this interpretative statement and other factors within the market's expertise. Such a policy should be widely disseminated and each employee of the contract market and clearing organization should be made aware of the policy at the time employment commences or at the time when a policy goes into effect. The contract market also should establish procedures to monitor compliance with such a policy. Three exchanges which commented on proposed rule § 1.57 suggested, as an alternative approach to the promulgation of a regulation, that contract market and clearing organization personnel be required to report on their trading activities to appropriate officials. Exchanges may want to consider such an approach for any employees who, under the exchange's policy, would be allowed to make certain commodity investments. The Division expects that exchanges would discipline, suspend or terminate employees who violate their policy in this area.

By issuing this interpretative statement, the Division wishes to emphasize that it will consider the guidelines set forth herein during rule enforcement reviews to determine whether contract markets are fulfilling their rule enforcement responsibilities under sections 5a(8) and 5a(9) of the Act and §§ 1.51 and 1.52 of the regulations. Such responsibilities include having a suitable staff at the contract market and the clearing organization consisting of persons whose interests in possible commodity transactions do not conflict with their employment responsibilities and who do not misuse confidential information obtained by virtue of their employment.

Dated: February 12, 1982.

By the Division of Trading and Markets.

John L. Manley,

Director, Division of Trading and Markets.

[FR Doc. 82-4387 Filed 2-17-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 8, 1982.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will meet at the Pentagon, Washington, D.C. on March 10, 11, and 12, 1982. The purpose of the meeting will be to review the progress of programs originally recommended by the Panel and to determine what new areas the Panel should be concerned with in the future. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-4388 Filed 2-17-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Force Enhancement Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 10-11, 1982, from 9:00 a.m. to 5:00 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of the Outer Air Battle and potential "soft kill" investments which will make a Soviet attack more difficult and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Lieutenant K. M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311, Phone (703) 756-1205.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-4334 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-AE-M

Long Range Planning Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Long Range Planning Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 5, 1982, from 8:30 a.m. to 4:30 p.m. at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The agenda for the meeting will consist of discussions involving assessments of alternative surveillance systems and their implications for future naval warfare. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Captain J. C.

McLaurin, Program Planner, CNO Long Range Planning Group, 2000 North Beauregard Street, Room 568, Alexandria, Virginia 22311, Phone (202) 694–8422.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

February 12, 1982.

[FR Doc. 82-4335 Filed 2-17-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Migrant Education High School Equivalency Program (HEP); Application to Serve as Field Readers

AGENCY: Education Department.

ACTION: Notice for individuals interested in reviewing high school equivalency program applications submitted under programs administered by the migrant education programs office in fiscal year 1982.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education, Department of Education, invites qualified and interested individuals to apply to serve as field readers for the Migrant Education High School Equivalency Program (HEP), Catalog of Federal Domestic Assistance Programs, No. 84.141. The final regulations for HEP were published as 34 CFR Part 206 in the **Federal Register** (July 6, 1981). Interested parties are encouraged to review these regulations before applying for reader candidacy.

Each year the Secretary selects field readers who have expertise in the secondary education of migrant and seasonal farmworker youth, particularly "dropouts," or related fields; to evaluate grant applications under criteria contained in the final regulations. Once received, reader candidate information is stored in a computer. The initial selection of qualified individuals is made from a computerized roster containing names, personal information, and qualifications of prospective field readers. Final selection of field readers is made following a review of the reader application forms and resumes maintained on file. The existence, characteristics and use of this system of records were announced in a notice (09–400079) published on October 7, 1979 in the **Federal Register** (44 FR 58218). Applications to serve as field readers for the fiscal year 1982 funding cycle should be mailed as soon as possible, to the address indicated below, and should be received by March 1, 1982 in time for a planned panel meeting in late March. You may obtain an application by calling or writing Mr. Joseph P. Bertoglio.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph P. Bertoglio, Migrant Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3608, ROB–3), Washington, D.C. 20202. Telephone: (202) 245–2222.

Dated: February 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.141; High School Equivalency Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4283 Filed 2-17-82; 8:45 am]

BILLING CODE 4000-01-M

Migrant Education College Assistance Migrant Program (CAMP); Applications to Serve as Field Readers

AGENCY: Education Department.

ACTION: Notice for individuals interested in reviewing College Assistance Migrant Program applications submitted under programs administered by the Migrant Education Programs office in Fiscal Year 1982.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education, Department of Education, invites qualified and interested individuals to apply to serve as field readers for the Migrant Education College Assistance Migrant Program (CAMP), Catalog of Federal Domestic Assistance Programs, No. 84.149. The final regulations for CAMP were published as 34 CFR Part 206 in the **Federal Register** (July 6, 1981). Interested parties are encouraged to review these regulations before applying for reader candidacy.

Each year the Secretary selects field readers who have expertise in the postsecondary education of migrant and seasonal farmworker or related fields to evaluate grant applications under criteria contained in the final regulations. Once received, reader candidate information is stored in a computer. The initial selection of qualified individuals is made from a computerized roster containing names, personal information, and qualifications of prospective field readers. Final selection of field readers is made following a review of the reader application forms and resumes maintained on file. The existence, characteristics, and use of this system of records were announced in a notice (09–40–0079) published on October 7, 1979 in the **Federal Register** (44 FR 58218). Applications to serve as field readers for the fiscal year 1982 funding cycle should be mailed as soon as possible to the address indicated below, and should be received by March 1, 1982 in time for a planned panel meeting in late March. You may obtain an application by calling or writing Mr. Joseph P. Bertoglio.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph P. Bertoglio, Migrant Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3608, ROB–3), Washington, D.C. 20202. Telephone: (202) 345–2222.

Dated: February 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.149; College Assistance Migrant Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4284 Filed 2-17-82; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Grants to Local Educational Agencies Serving Areas With Concentrations of Children From Low-Income Families; Intent To Compromise Claim

AGENCY: Education Department.

ACTION: Notice of intent to compromise claim.

SUMMARY: Notice is given that under Section 452(f) of the General Education Provisions Act, 20 U.S.C. 1234a(f), the Secretary intends to compromise a claim against the Colorado State Department of Education after a decision of the Education Appeal Board, Docket No. 6–(42)–78.

DATE: Interested persons may submit written comments or objections on or before April 5, 1982.

ADDRESS: Additional information may be obtained by writing to Mr. Richard B. Mellman, Office of the General Counsel, Department of Education, 400 Maryland Avenue, SW., (Room 4091, FOB–6), Washington, D.C. 20202.

FOR INFORMATION CONTACT:

Mr. Richard B. Mellman, Telephone: (202) 426–6300.

SUPPLEMENTARY INFORMATION: Section 111 of Title I of the Elementary and Secondary Education Act (ESEA), 20 U.S.C. 2711, authorizes grants for programs operated by local educational agencies (LEAs) that are designed to meet the special educational needs of educationally deprived children residing in low income areas. The current regulations governing the local educational agency programs under Title I ESEA are found in 34 CFR Parts 200 and 201. These regulations were published in the **Federal Register** on January 19, 1981 (46 FR 5138).

The claim in dispute arose out of an audit conducted by the former Department of Health, Education, and Welfare Audit Agency which concluded that the Denver and Pueblo, Colorado LEAs had improperly spent Title I funds during the 1972–73 school year.

Specifically, the audit questioned the Denver, Colorado LEA's use of $42,936 of Title I funds to provide services in a Follow Through project that it administered, and the Pueblo, Colorado LEA's use of $1,901 of Title I funds to provide services in its occupational training program. The auditors had found that, in violation of the Title I regulations, both LEAs had failed to specify in their applications for Title I assistance that these Title I funds would be spent on those projects. In addition, they found that neither the Colorado State Department of Education nor either LEA had been able to demonstrate that the funds in question were nonetheless expended for permissible Title I purposes.

On April 19, 1978, the Office of Education (OE) notified the Colorado State Department of Education that it was responsible for refunding to OE the $44,537 because of the actions of the two LEAs. The Colorado Department of Education appealed this final determination to OE's Title I Audit Hearing Board.

Under Section 451(a) of the General Education Provisions Act, 20 U.S.C. 1234, the former U.S. Commissioner of Education established the Education Appeal Board (EAB) as successor to the Title I Audit Hearing Board, and conferred on it jurisdiction to, among other things, conduct audit appeal hearings. The procedures of the EAB were published as final regulations in the **Federal Register** on April 3, 1980 (45 FR 22634). Revised regulations governing procedures before the EAB were published in the **Federal Register** on May 18, 1981 (46 FR 27304).

The EAB conducted proceedings on the appeal of the Colorado State Department of Education during 1980 and 1981. During the course of those proceedings, the parties stipulated to a reduction of the Department's claim to $10,773 (amounting to $10,294 and $479 that were attributed to the Denver and Pueblo, Colorado LEAs respectively) due to the applicability of the statute of limitations (20 U.S.C. 884 (1976)).

On September 13, 1981, the EAB issued its decision and transmitted it to the Secretary for review. In that decision, the EAB determined that the Colorado State Department of Education had failed to establish that the services provided by the Denver and Pueblo, Colorado LEAs were designed to meet the special educational needs of the children who were enrolled in the respective programs as required by the Title I regulations, and that it had not otherwise refuted the findings of the audit. The EAB concluded that the Colorado State Department of Education therefore had to submit repayment to the United States Department of Education in the amount of $10,773 because of the Title I misexpenditures made by the Denver and Pueblo, Colorado LEAs during the 1972–73 school year.

On November 25, 1981, the Secretary issued a final decision in this case accepting the EAB's decision, but compromising the claim of $10,773. Under the proposed terms of the compromise, the Secretary would require the Denver and Pueblo, Colorado LEAs to supplement their present Title I programs from non-Federal sources to the extent of not less than the $10,294 and $497 that the Secretary had determined were misspent, instead of requiring the Colorado State Department of Education to repay the $10,773. Under the terms of the proposed compromise, the Colorado State Department of Education would be responsible for verifying the nature, extent, and source of supplementation.

The Secretary would give to the Denver and Pueblo, Colorado LEAs, the discretion to determine the form that the supplementation would take, which might be direct financial assistance to their respective Title I programs or a shift of existing non-title I services to those Title I programs.

In this case, the Secretary determined that collection of the $10,773 in question would not be in the public interest, and that the practices giving rise to the Department's claim have been corrected and will not recur. This proposed compromise will not adversely affect any other audit proceeding currently pending before the Education Appeal Board.

The Secretary proposes to compromise the claim in this manner in order to achieve the goals of (1) resolving the differences that gave rise to the claim, (2) correcting any and all practices that may be in violation of Title I requirements, and (3) providing increased benefits to eligible disadvantaged children in the respective LEAs without diverting valuable and limited resources from the public education system in the State of Colorado.

The Secretary intends that the responsibilities of the Denver and Pueblo, Colorado LEAs and the Colorado State Department of Education under the terms of the proposed compromise in this notice will be formalized by an agreement that is executed by the Denver and Pueblo Colorado LEAs, the Colorado State Department of Education, and the United States Department of Education.

The public is invited to comment on the Secretary's intent to compromise the claim under the terms specified in this notice. Additional information may be obtained by writing to Mr. Richard B. Mellman whose address is at the beginning of this notice.

(20 U.S.C. 1234 and 1234a(f))

Dated: February 10, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4282 Filed 2-17-82; 8:45 am]
BILLING CODE 4000-01-M

Office of Postsecondary Education; Comprehensive Program; Fund for the Improvement of Postsecondary Education; Extension of Closing Date for Transmittal of Application

AGENCY: Education Department.

ACTION: Notice of extension of closing date for transmittal of applications under the comprehensive program for fiscal year 1982.

SUMMARY: This notice extends the closing date of March 2, 1982 to March 9, 1982 for the transmittal of applications under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education. The application notice for this program, published in the **Federal Register** on November 13, 1981 (46 FR 56008), provides detailed information concerning the Comprehensive Program.

FOR FURTHER INFORMATION: Inquiries concerning this extension date and the program should be addressed to the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 3100), Washington, D.C. 20202 regarding 84.116A, the Comprehensive Program; Telephone: (202) 245–8091.

SUPPLEMENTARY INFORMATION: Only those applicants who submitted preapplications on or before December 14, 1981 are eligible for assistance under the Comprehensive Program.

Dated: February 10, 1982.

(Catalog of Federal Domestic Assistance No. 84.116A, Fund for the Improvement of Postsecondary Education)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4281 Filed 2-17-82; 8:45 am]
BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AEN-FRL-1975-3]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Summary of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reconsideration of Waiver of Federal preemption.

SUMMARY: This decision reconsiders and affirms a prior EPA waiver of Federal preemption under section 209(b) of the Clean Air Act, as amended (Act), for California to enforce its "Specifications for Fill-Pipes and Openings of Motor Vehicle Fuel Tanks" as they apply to motorcycles. EPA cannot make the findings necessary to revoke California's waiver of Federal preemption; thus, this action will permit California to continue implementing its motorcycle fill-pipe and fuel tank opening regulations.

ADDRESSES: The complete decision document and other relevant information is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Manufacturers Operations Division, 499 South Capitol St., SW., Washington, D.C., (202) 382-2521. Interested parties may also obtain copies of the decision document from the Manufacturers Operations Division by contacting Michael Chernekoff, as noted below.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney-Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2495.

SUPPLEMENTARY INFORMATION: I have decided to affirm EPA's prior waiver of Federal preemption to permit the State of California to enforce its motorcycle fill-pipe and fuel tank opening regulations. Section 209(b) of the Act requires me to grant the State of California a waiver of Federal preemption unless I can make certain findings, including a finding that the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act in that they are not technologically feasible within available lead time, considering cost.

EPA decided to reconsider the prior decision because subsequent Executive Orders issued by the Director of the California Air Resources Board (CARB) to implement the specifications called into question findings EPA made in its prior decision regarding technological feasibility. (42 FR 1503 (January 7, 1977)). The record on reconsideration does not support revocation of the waiver of Federal preemption. The motorcycle manufacturers have not established that the specifications are inconsistent with section 202(a) of the Act. Specifically, the manufacturers have not shown that the designs that CARB suggested would meet its requirements are not technologically feasible within available lead time, considering cost. A full explanation of my decision to affirm the prior waiver is contained in the decision document, which may be obtained from EPA as noted above.

My decision will affect not only persons in California but also the manufacturers located utside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to determine whether a "rule" it intends to issue is a major rule and to prepare Regulatory Impact Analyses (RIA) for all major rules. Section 1(b) of the Order defines "major rule" as any "regulation" (as defined in the Executive Order) that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this action is not a "major rule" requiring preparation of an RIA. This decision reaffirms a prior waiver of Federal preemption to permit the State of California to enforce its motorcycle fill-pipe and fuel tank opening regulations. Thus, it does not impose any new burdens on motorcycle manufacturers. Further, the annual effect on the economy of the California regulations themselves will be less than $100 million, particularly since most of the manufacturers affected are foreign. While there may be an increase in costs to consumers associated with these California regulations, any increase will not be "major." Since the regulations fall on all motorcycle manufacturers, there will not be any significant adverse effects on competition. There are no anticipated adverse effects on employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign compaines.

This regulation was submitted to the Office of Managment and Budget (OMB) for review as required by Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The motorcycle manufacturers are not "small entitites," as defined by the Act. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 11, 1982.

John W. Hernandez,

Acting Administrator

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision of the Administrator

I. Introduction

This decision, issued under section 209(b) of the Clean Air Act (Act),[1] reconsiders and affirms the waiver of Federal preemption that EPA granted California on January 7, 1977,[2] permitting it to enforce its motorcycle fill-pipe and fuel tank opening requirements. The reconsideration is in light of subsequent California Air Resources Board (CARB) Executive Orders implementing its fill-pipe and fuel tank opening specifications as they apply to motorcycles.[3] The Executive Orders call into question the findings made in the previous waiver decision.

Section 209(b) of the Act requires me to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. I may not grant a waiver if I find that the protectiveness determination of the State of California is arbitrary and capricious, that the State does not need its own standards to meet compelling and extraordinary conditions, or that the State standards and accompanying enforcement

[1] 42 U.S.C. 7543(b), as amended (1977).

[2] 42 FR 1503 (January 7, 1977).

[3] The CARB Executive Order now in effect that implements "Specifications for Fill-Pipes and Openings of Motor Vehicle Fuel Tanks," 13 California Administrative Code, Section 2290, (hereinafter "specifications"), is Executive Order G-70-16-E, dated July 3, 1980, and is reproduced at 45 FR 49133 (July 23, 1980).

procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California certification and test procedures are inconsistent. The only issue that I am reconsidering here is whethre CARB's modified fill-pipe and fuel tank opening regulations are inconsistent with section 202(a) of the Act.

On the basis of the record before me, I cannot make the findings required to vacate that portion of the waiver granted previously under section 209(b) of the Act pertaining to California's motorcycle fill-pipe and fuel tank opening specifications. Therefore, the January 7, 1977, waiver decision is affirmed.

II. Background

On March 24, 1976, CARB adopted "Specifications for Fill-Pipes and Openings of Motor Vehicle Fuel Tanks" for 1977 and later model year gasoline powered vehicles, including motorcycles. CARB intended the specifications to require compatibility between vehicle fuel tanks and service station nozzles equipped with vapor recovery devices.[4] On January 7, 1977, EPA published a decision granting the State of California a waiver of Federal preemption to enforce these specifications including that portion applicable to motorcycles.[5]

That waiver decision was based in part on a finding that specific technology was then available to the motorcycle industry that would permit compliance with the specifications. That technology involved relocating the fuel tank opening offcenter so that the fill nozzle could be fully inserted into the tank without striking the center hump where the tank is shallow to accommodate the vehicle frame.

I decided to reconsider the previous waiver decision because Executive Orders subsequently issued by CARB may affect one of the determinations made in that decision. Specifically, they may affect the determination that CARB's specifications are not inconsistent with section 202(a) because they are technologically feasible within available lead time, considering the cost of compliance.[6] By Executive Orders issued to implement these specifications, CARB made a number of changes in the schedule for achieving full compliance with the specifications.[7] The Executive Order currently in effect [8] requires full compliance for all newly-introduced 1983 and subsequent model year motor-cycle models and all models that undergo fuel tank design changes in 1983 and later model years. Certain models are exempt from these requirements.[9] Manufacturers also have the option of obtaining an exemption from compliance with the specifications through the use of alternative means of achieving the same degree of vapor emissions control as the specifications.[10]

The Executive Order also states that "full compliance" with the specifications includes the requirement that the fuel tank is capable of being filled with the service station nozzle in "normal resting position." It is this requirement that most directly caused EPA to question the finding of consistency with section 202(a) that EPA made in the earlier waiver decision.

The specific technology deemed available in EPA's earlier waiver decision [11] to meet the specifications no longer appeared to be capable of achieving "full compliance" in light of the recent Executive Order, since a motorcyclist might not be able to fill the tank with the nozzle in "normal resting position" using that technology. The gas pump's shut-off mechanism might stop the flow of fuel well before the tank was filled because the nozzle would extend at least three inches into the fuel tank. As a result, in order to fill the motorcycle to capacity the consumer most likely would have to unseal and withdraw the nozzle. Since the earlier determinations regarding consistency with section 202(a) of the Act were possibly no longer applicable, EPA decided to reconsider the issue.

III. Discussion

The only issue I am reconsidering is whether the California fill-pipe and fuel tank opening regulations are consistent with section 202(a) of the Act.[12] I have already determined that the specifications are at least as protective of public health and welfare as applicable Federal standards, and that California needs its regulations to meet compelling and extraordinary circumstances,[13] and the new Executive Orders do not affect these determinations.

CARB described examples of technologies that it believes would comply with the specifications or would qualify as alternative designs which it would exempt from compliance under

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[4] Transcript of July 24, 1980, Public Hearing on Reconsideration of Waiver of Federal Preemption Granted to California (hereinafter "Tr.") at 41.

[5] 42 FR 1503.

[6] Shortly after EPA published its decision, Kawasaki Motors Corporation (Kawasaki) sought judicial review of the waiver grant insofar as it would permit California to enforce its fill-pipe and fuel tank opening specifications with regard to motorcycles.("Kawasaki Motors Corp., U.S.A. v. Environmental Protection Agency," D.C. Cir., No. 77-1103.) After EPA decided to reconsider the waiver decision in light of subsequent California regulatory developments, Kawasaki voluntarily withdrew its lawsuit.

[7] Executive Order G-70-4, dated July 8, 1977, first established a compliance schedule for motorcycles to comply with the specifications, and exempted certain small and off-road mopeds and motorcycles.

Executive Order G-70-16, dated March 16, 1978, extended that date of compliance for motorcycles for one model year.

Executive Order G-70-16-D, dated April 4, 1980, extended the date of compliance again. It also established new exemptions covering motorcycles with substantially unchanged fuel tank designs, small and off-road motorcycles, motorcycles that qualify for an evaporative emission trade-off, and motorcycles that use qualifying alternative designs, and clarified the term "full compliance."

The Executive Order currently in effect does not differ markedly from G-70-16-D.

[8] Executive Order G-70-16-E, dated July 3, 1980.

[9] "The classes of motorcycles that are exempt from the specifications are:

(1) All 1979 to 1982 model year motorcycles;

(2) All Class III 1983 model year motorcycles;

(3) All 1983 and subsequent model year motorcycles with fuel tank designs which remain unchanged from their 1982 designs;

* * * * *

(7) Motorcycles equipped with evaporative emission control systems certified at U.2 gm/test, or more, below the applicable evaporative emission standard."

Executive Order G-70-16-E, dated July 3, 1970.

[10] "The criteria for evaluation of alternative designs shall be:

(1) The alternative system shall allow the service station vapor recovery system to provide vapor recovery performance as efficient as its certification value as determined using the Board's Test Procedures for determining the Efficiency of Gasoline Vapor Recovery Systems at Service Stations, (Title 17 California Administrative Code Section 94001), or, if any onboard recovery system is used, no less than 90 percent (by weight) of the vapors which would be displaced during refueling an uncontrolled motorcycle shall be contained;

(2) The fuel tank shall be capable of being filled to its rated capacity when the vapor recovery system is operated in its design mode;

(3) The alternative means of recovery shall not encourage or readily allow the consumer to intentionally defeat the vapor recovery system; and

(4) The manufacturer's normal standard for safety, reliability, and customer acceptance shall be observed."

Executive Order G-70-16-E, dated July 3, 1980.

Formerly motorcycle manufacturers were able to obtain exemptions for a particular model year on a case-by-case basis if they could demonstrate that compliance was not technonogically feasible (Executive Order G-70-4, dated July 8, 1977). This provision is no longer part of the fill-pipe regulations.

[11] 42 FR 1506 (January 7, 1977).

[12] 45 FR 45356 (July 3, 1980).

[13] 45 1503, 1504 (January 7, 1977).

the Executive Order.[14] One possibility is the "side-fill" which would entail constructing the fuel tank with a raised lip containing an opening facing to one side of the motorcycle so that the service station nozzle is inserted from the side, rather than the top, into a slanted fill-pipe extending into the tank. CARB stated that this design should permit the tank to fill almost completely before the flow is stopped by the fuel pump nozzle's automatic shut-off mechanism.[15] Another possible design that CARB suggested would meet its requirements and still permit complete fuel tank fill up involves the use of a false top to the fuel tank. A manufacturer could combine this design with a change in the location of the opening (e.g., by also employing a side-fill design) so that tank capacity would not be excessively reduced. CARB also discussed the use of collapsible or telescoping filler necks to which the station nozzle could be locked and used in the "normal resting position" while still permitting the tank to be completely filled.

Motorcycle manufacturers objected to the regulations, as interpreted by the Executive Orders, on the grounds of technological infeasibility regardless of lead time, insurmountable safety problems, lack or cost effectiveness of the regulations, and marketing problems.

A. *Technology and Lead Time.* Kawasaki stated at the hearing that it has primarily been working on a collapsible or telescoping filler neck as a means of complying with the regulations.[16] It said, and CARB acknowledged, that there are a number of problems remaining with the design, including long-term durability and reliability of the filler neck.[17] Kawasaki also discussed other means of compliance, and identified some potential problems with manufacturing fuel tanks incorporating the side-fill design due to the additional complexity of fabricating an asymmetrical tank.[18]

Suzuki Motor Co., Ltd. (Suzuki) said that it had no specific comments concerning the technological feasibility of the specifications or of CARB's design proposals.[19]

Yamaha Motor Corporation (Yamaha) argued that the specifications, read literally, are not technologically feasible for motorcycles generally in that they require a fill-pipe that either would extend into the tank, thereby making complete fueling impossible, or would protrude above the surface of the tank creating a safety hazard.[20] Yamaha claimed that possible designs mentioned by CARB such as the telescoping fill-pipe, side-fill and false top do not meet the specifications exactly, nor would they qualify as "alternative fill-pipe designs" pursuant to the Executive Order because the suggested designs do not permit the tank to be completely filled without sacrificing safety or consumer acceptability.[21] Finally, Yamaha stated that apart from these objections to the regulations, after examining CARB's suggested designs Yamaha believes that it would encounter various problems manufacturing motorcycles that implement those designs.[22]

American Honda Motor Co., Inc. (Honda) stated that it would most likely attempt to qualify for an exemption under the trade-off provision of the Executive Order[23] because it concluded that no technology exists that complies with the specifications and meets Honda's own safety and consumer acceptance criteria.[24] Honda also pointed out that the technoligical feasibility of the evaporative emission standard for motorcycles, on which the trade-off provision is based, has not yet been established.[25]

The manufacturers that appeared at the hearing did not have many specific comments concerning lead time. Kawasaki argued that EPA's original lead time determination no longer applies since the amount of lead time changed each time CARB altered its regulations by executive order.[26] Suzuki mentioned that it might have lead time problems resulting from the interaction of the fill-pipe and evaporate emission regulations. Specifically, Suzuki said that meeting the evaporative emission regulations might entail changing the fuel tank design, which would require compliance with the fill-pipe regulations under the Executive Order.[27] The evaporative emission regulations require compliance by 1983 for class I and II, and by 1984 for class III motorcycles.[28] Suzuki stated that it risks failure to meet both sets of regulations simultaneously but provided no information to substantiate the probability of its potential inability to comply.[29] Neither Yamaha nor Honda had specific comments concerning lead time.

In spite of their objections to the regulations, no manufacturer has shown that it is unable to comply with the regulations. Virtually, no evidence was presented at the hearing or in supplemental submissions to indicate that the motorcycle industry would be unable to incorporate designs that would be acceptable to California as complying with the fill-pipe and fuel tank opening regulations. Kawaskai and Suzuki both admitted that it would be possible for them to produce motorcycles with fill-pipe or fuel tank designs that were suggested by CARB.[30] Kawasaki indicated that it could produce a fuel tank with a collapsible filler neck that would satisfy CARB.[31] It also said that although there were engineering questions to be resolved, it would be able to incorporate the side-fill fuel tank into its motorcycle designs.[32] Suzuki stated that it could most likely design and manufacture motorcycles that would comply with the regulations, although it would prefer not to.[33]

Finally, CARB testified that its suggested designs have been shown to be feasible.[34] CARB held a number of workshops for motorcycle manufacturers to explore possible

[14] Tr. 41. *See* "Summary of Motorcycle Fill-Pipe Workshops." The examples CARB provided were not intended as exclusive examples of technologies that it believes will comply with the regulations. Tr. 36.

[15] Tr. 38.

[16] Tr. 71.

[17] Tr. 100; Kawasaki Supplemental Comments to EPA Reconsideration of California Motorcycle Fill-Pipe Waiver (hereinafter "Kawasaki Supplemental Comments") at 2.

[18] Kawasaki Supplemental Comments at 2.

[19] Tr. 114.

[20] Tr. 120. *See*, section III of this decision for further discussion of the safety issue.

[21] Tr. 121.

[22] Yamaha submitted information that it requested be held confidential that raised concerns similar to those mentioned by Kawasaki and discussed above.

[23] Tr. 135.

[24] Comments of American Honda Motor Co., Inc. to EPA's Reconsideration of Waiver of Federal Preemption (hereinafter "Honda Comments") at second unnumbered page.

[25] Honda Comments at 3. EPA has provided the public with an opportunity for a public hearing to consider California's request for a waiver of Federal preemption covering its evaporative emission standard for motorcycles. *See* 46 FR 10851 (February 4, 1981). Since no party expressed an intention to testify at the hearing on this or the other issues scheduled for EPA's consideration that day, EPA cancelled the hearing. EPA will decide on that waiver request on the basis of the written record. *See* 46 FR 18348 (March 24, 1981).

[26] Tr. 59.

[27] *See* note 7, *supra*.

[28] "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Gasoline-Powered Motor Vehicles," adopted April 16, 1975, amended April 23, and June 26, 1980.

[29] Tr. 115–117.

[30] One of the arguments that has been an undercurrent in this proceeding is that CARB's suggested designs would not meet its own specifications or qualify as alternative designs. CARB has said that it would be satisfied with implementation of these suggested techologies. *See* Tr. 41.

[31] Tr. 90.

[32] Tr. 96.

[33] Suzuki said that it would probably choose the evaporative emission trade-off exemption provided in the Executive Order because it felt that in order to meet the specifications it would have to employ a design that it considers commercially unacceptable. Tr. 113.

[34] Tr. 39.

means of compliance with the fill-pipe regulations. Based on the designs shown to CARB at those workshops, and designs developed by CARB's own technical staff, CARB concluded that, "in view of the cost effectiveness and relative ease of implementation of various types of fuel tank or fill-pipe modifications * * * technology is clearly available to meet California's fill-pipe specifications."[35]

The motorcycle manufacturers have failed to establish that they have any lead time problem in complying with CARB's requirements. According to the terms of the Executive Order in effect, after model year 1982 manufacturers must comply with the regulations when they redesign existing models, or introduce new models. Not all models would need to be brought into compliance in the same year.[36] Kawasaki testified at the hearing that one of the CARB's suggested designs could be incorporated into a fuel tank within normal redesign cycle,[37] and stated that motorcycle models are typically redesigned every 4–5 years.[38] Suzuki stated that it intends to use the evaporate emission trade-off to comply with the refueling emission regulations, and that although some risks remain,[39] it appears to be on schedule for meeting the evaporative standard and thus using the trade-off exemption.[40] No other manufacturer presented evidence as to its actual redesign needs, or showed that it was under manufacturing constraints that would prevent it from making necessary changes in time to meet the vapor recovery requirements.

CARB testified that it intended the Executive Orders to provide manufacturers with sufficient lead time to develop the details of an appropriate design capable of complying with the regulations with a minimum of disruption and additional cost to the industry.[41] Because the implementation date of the specifications is geared to the date of redesign of the fuel tank or the introduction of a new model, CARB pointed out that the manufacturers may delay compliance until they have worked out the details of the technology and are confident they would be able to comply.[42]

I cannot conclude on the basis of the record that the fill-pipe and fuel tank opening regulations are not technologically feasible within available lead time. Representatives of the motorcycle industry have not established that the manufacturing difficulties they mentioned are insoluble within the time constraints CARB has presented.

B. *Cost of Compliance.* With regard to the cost of compliance with the motorcycle fill-pipe and fuel tank opening regulations, Kawasaki estimated the cost of compliance per pound hydrocarbon (HC) controlled to be $19, or $18 per vehicle,[43] while Honda's estimate was $65–$93 per pound HC.[44] None of the other manufacturers submitted information regarding the cost of compliance.

Even using the motorcycle manufacturers' cost estimates, the cost of compliance per vehicle amounts to a small fraction of the price of a new vehicle.[45] Further, Honda's cost estimate included an allocation of die cost over the number of vehicles produced.[46] If the requisite technology were introduced during redesign of the vehicle, some portion of the cost of retooling would have been incurred anyway and would not be directly attributable to manufacturers' efforts at compliance with the regulations.[47] Thus, the cost of compliance per vehicle would be considerably lower. Moreover, it might not be necessary to use completely different stampings for those motorcycles sold in California market than for those motorcylces destined to be sold nationally. Kawasaki stated, for instance, that it could probably incorporate its telescoping fill-pipe design in most of its larger models and would probably not require two entirely different stampings for the California and national markets.[48] Thus, the manufacturers probably would not incur substantial additional manufacturing costs to produce California vehicles that comply with the fill-pipe and fuel tank opening regulations than it would to produce Federal vehicles.

Finally, CARB testified that the cost of meeting the regulations was not excessive.[49] CARB estimated the cost effectiveness of the regulation to be between $1.80 and $14.80 per pound HC.[50] Although these figures represent only the cost of the hardware, the Executive Orders changed the compliance schedule to minimize additional retooling expenses.[51] Therefore, I cannot conclude that the cost of compliance with these regulations is so excesive as to warrant revocation of the waiver on these grounds.[52]

C. *Other Objections.* The motorcycle manufacturers raised safety concerns that they claimed make CARB's suggested designs infeasible. The best articulated safety concern is the risk associated with any protrusion from the surface of the fuel tank.[53] For example, Kawasaki indicated that use of a telescoping fill-pipe, a false top, or side-fill could present a safety hazard in that a higher tank or protruding top, possibly combined with 2½ inches of fill-tube inside the false top, could increase the risk of groin injury or fuel spills in the event of a collision.[54]

The manufacturers have not submitted evidence to show that the false top or recessing the cap and/or fill-pipe would not solve this potential

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[35] Tr. 39–40.

[36] Tr. 117.

[37] Tr. 96.

[38] Tr. 86–87.

[39] *See* text accompanying note 29, *supra.*

[40] Tr. 118.

[41] Tr. 44–45. The earliest model year that motorcyles are no longer covered by blanket exemptions is 1983 for class I and II motorcyles (50–279 cubic centimeters) and 1984 for class III (280 cubic centimeters or larger) motorcycles. CARB Executive Order G–70–16–E, dated July 3, 1980.

[42] Tr. 117.

[43] Tr. 62–63.

[44] Honda Comments, at 8.

[45] The Kawasaki representative estimated the average price of its motorcycles to be $1800. Tr. 88. Thus, at an estimated cost of compliance of $18 per vehicle, the cost of compliance represents only one percent of the price of the vehicle.

[46] Honda Comments at 8.

[47] Tr. 49.

[48] Tr. 103–104.

[49] Tr. 39–40.

[50] Tr. 39.

[51] Tr. 44. *See* footnotes 7–9 and accompanying text, *supra* for an explanation of CARB's compliance schedule.

[52] The low end of the CARB cost effectiveness estimate ($1.80 per pound HC removed (1979 dollars)) is greater than EPA's estimate for its 1980 and subsequent model year Federal motorcycle HC exhaust emissions standard ($0.43 to $0.72 per pound (1979 dollars)). *See* Environmental and Economic Impact Statement, Exhaust and Crankcase Regulations for 1978 and Later Model Year Motorcycles, December 1976; Summary of Group I Control Technique Guideline Documents for Control of Volatile Emissions from Existing Stationary Sources, Document No. EPA–450/3–78–120; and Cost Effectiveness of EPA Motorcycle Exhaust Emission Standards, Memorandum from George Kittredge, Office of Mobile Source Air Pollution Control, to Michael Chernekoff, Manufacturers Operations Division. However, as then Administrator Train stated in the January 7, 1977 waiver decision I am affirming:

> arguments concerning the wisdom of California's actions, the cost effectiveness of compliance with the specifications, and the degree of improvements in air quality that will result are all outside my permissible scope of inquiry. These are matters of public policy which are left to California's judgment.

44 FR 1504, 1506, 1507. *See also* 41 FR 44209 (October 7, 1976).

[53] Several manufacturers referred to a study performed by the University of Denver to support their contention that tank-top protrusions have the ability to injure a motorcycle rider in the event of a crash. "Dynamics of Motorcycle Impact Vol. II Motorcycle Crash Test Program", University of Denver, Denver Research institute, July 1971.

[54] Tr. 92; Kawasaki Supplemental Comments at 4–5.

problem.[55] The evidence does not show an increased incidence of actual rider injury due to protrusions, or that the incidence or severity of injuries would increase if manufacturers were to employ one of CARB's suggested designs to meet the fill-pipe vapor recovery regulations. CARB stated that its designs are reasonably safe. It said that the false top is designed to eliminate protrusion of the fill-pipe, and that there is no reason to expect a telescoping fill-pipe to protrude more than a noncollapsible one.[56]

A second potential safety concern the manufacturers expressed is the possibility of fuel spillage due to overfilling the tank. This problem is not unique to motorcycles. The manufacturers did not submit evidence establishing that spills would occur with greater frequency using technology that meets the regulations than with technology not meeting the regulations. CARB has examined the designs that the motorcycle industry has been exploring to meet the specifications, or as alternatives to the specifications, and is convinced that the safety problems can be overcome. Moreover, as CARB pointed out, compatibility of motorcycle fill inlets with vapor recovery nozzles should help prevent spills that result when motorcyclists must retract the vapor recovery boot in order to fill a noncompatible tank.[57] Thus, the manufacturers have not substantiated their own claims that complying with the regulations poses safety concerns that they would be unable to resolve.

Kawasaki, as well as other motorcycle manufacturers, argued that the regulations will not be effective because consumers will defeat the vapor recovery device.[58] The manufacturers also objected on the grounds that California does not need the fill-pipe regulations because they will not have a significant impact on air quality, and on the grounds that they would encounter marketing difficulties due to a lack of consumer acceptance of design changes that might be incorporated in order to comply with the regulations.[59]

In deciding on a request for waiver of Federal preemption, I am not empowered under the Act to consider the effectiveness of California regulations, since Congress intended that California should be the judge of "the best means to protect the health of its citizens and the public welfare." [60] CARB is concerned with effectiveness, and has testified that compliance by the motorcycle industry with the regulations as implemented by the Executive Orders will result in significant air quality benefits.[61] Furthermore, the manufacturers have not presented adequate evidence substantiating their claims that motorcyclists would opt to defeat the vapor recovery system.[62]

I am not required to make a determination as to California's need for a particular regulation.[63] EPA has determined in prioir waiver decisions that California's regulatory program is necessary to meet compelling and extraordinary cicumstances. I am not reconsidering that determination in today's decision.

With regard to the manufacturers' consumer acceptability arguments, no manufacturer has demonstrated that lost sales due to consumer dissatisfaction with manufacturers' design modifications intended to effectuate compliance with the regulations would be substantial.[64] No party submitted information to show how much tank capacity would be reduced by various designs, or by how much tank size would be increased, and to what degree these changes would be likely to affect sales. Finally, as Suzuki acknowledged, marketing concerns can be accommodated by choosing to comply with the regulations through the use of the evaporative emissions trade-off.[65]

The Act does not authorize me to deny California a waiver on the grounds supplied in these other objectives. The decision on such matters of public policy is properly left to California's judgment.[66]

IV. Findings and Decision

I have reconsidered EPA's prior decision to waive Federal preemption for California motorcycle fill-pipe and fuel tank opening specifications in light of subsequent Executive Orders of the CARB implementing those specifications. The thrust of the modifications appears to be an attempt to insure the effectiveness of the specifications by more clearly defining "full compliance" while providing manufacturers more lead time and greater flexibility. CARB submitted information as to the feasibility of a number of technologies that it believes would satisfy the regulations. I cannot conclude that the fill-pipe and fuel tank opening regulations are not technologically feasible if there is a reasonable means of satisfactory compliance. Several motorcycle manufacturers have indicated that they would be able to implement at least one of CARB's suggested technologies, although they questioned their effectiveness, safety and consumer acceptability. I have evaluated the various concerns that were raised by manufacturers. Based on all the information in the record before me, I have determined that I cannot make the findings necessary to revoke California's waiver of Federal preemption for its motorcycle fill-pipe and fuel tank opening regulations.

Dated: February 11, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-4312 Filed 2-17-82; 8:45 am]

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[55] Kawasaki admitted that this problem could be mitigated by recessing the filler cap into the fuel tank. Tr. 71. A false top could also eliminate the problem of a protruding fill-pipe or cap.

[56] Tr. 51–52.

[57] Memorandum to all Motorcycle Manufacturers from CARB, dated October 15, 1979. *See also* Tr. 141.

[58] Tr. 56, 64–65, 70, 110, 113, 124.

[59] One of Kawasaki's major objections to the use of a false top, alone or in conjunction with a side-fill or telescoping-fill, is that it would require using a tank that would be commercially undesirable either because it would have to hold less fuel or be unattractively large in order to accommodate the same volume. Kawasaki Supplemental Comments at 5, Tr. 71, 79–80, 89, 90.

[60] H.R. Rep. No. 95–294, 95th Cong., 1st Sess., 301–302 (1977).

[61] CARB pointed out that local governments in Southern California have already considered and will implement pollution control measures that produce similar air quality benefits to those expected from implementation of the motorcycle fill-pipe and fuel tank opening regulations. CARB feels that it needs even small programs such as the control of motorcycle refueling emissions so that the State government can carry its fair share, *vis-a-vis* local governments, of the burden of protecting the environment. Tr. 140–141; Memo to All Motorcycle Manufacturers, dated October 15, 1979, at 2.

[62] CARB pointed out that it had not seen any empirical evidence that motorcyclists intentionally defeat the vapor recovery system. Tr. 97, 141–142. The representative from Kawasaki stated that he had observed motorcyclists defeating the system but that Kawasaki had no surveys or data concerning the incidence of this behavior. *Id.* 97–98.

[63] *See* 44 FR 38660, 38661 (July 2, 1979).

[64] Kawasaki testified that if all manufacturers had to comply with the regulations by using designs that would make the tank larger, there would be no individual marketing detriment, because there would be no problem for one manufacturer that would not be shared by all. Tr. 85.

[65] Tr. 117.

[66] 43 FR 1829 (January 12, 1978).

[OPTS-513971; TSH-FRL-2052-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacuture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim

policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of three PMNs and provides a summary of each.

DATES: Written comments by:

PMN 82–70, April 4, 1982.
PMN 82–71, April 5, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51397]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St. SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M. St. SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–70

Close of Review Period. May 4, 1982.

Manufacturer's Identity. CIBA–GEIGY Corporation, P.O. Box 18300, Greensboro, NC 27419.

Specific Chemical Identity. α-[(1,3-dioxolan-2-ylmethoxy)imino]benzeneacetonitrile.

Use. The manufacturer states that the PMN substance will be used as a herbicide antidote.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—White crystalline solid.
Specific gravity—1.33.
Melting point—78° C.
Heat of fusion—7.8 kcal/mole.
Solubility: water @ 20° C—20 parts per million (ppm). Density @ 20° C—1.33 g/cm ^{3}.
n-Octanol/Water Partition Coefficient—575.
Vapor pressure @ 20° C—3.9×10^{-6} torr.
Molecular weight—232.24 g/mole.
Heat of evaporation—19 kcal/mole.
Heat of sublimination—26.8 kcal/mole.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—> 5,000 mg/kg.
Acute oral toxicity LD_{50} (mouse)—> 5,000 mg/kg.
Acute oral toxicity LD_{50} (chinese hamster)—> 3,000 mg/kg.
Acute oral toxicity LD_{50} (bob white quail)—> 2,000 mg/kg.
Acute oral toxicity LD_{50} (mallard ducks)—> 2,000 mg/kg.
Acute dermal toxicity LD_{50} (rat)—> 5,000 mg/kg.
Primary skin irritation (rabbit)—Minimally irritating.
Primary eye irritation (rabbit)—Minimally irritating.
Ames salmonella—Not a mutagen.
Skin sensitization (guinea pig)—Not a sensitizer.
Acute intraperitoneal LD_{50} (rat)—> 2,000 mg/kg.

Environmental Test Data

Acute LC_{50} 96 hr. (bluegill sunfish)—12 mg/1.
Acute LC_{50} 96 hr. (rainbow trout)—7.1 mg/1.
Acute LC_{50} 48 hr. (daphnia magna)—8.5 mg/1.
Subacute dietary LC (8 day) to bob white quail—5,000 ppm.
Subacute dietary LC (8 day) to mallard ducks—> 5,000 ppm.

Exposure. The manufacturer states that during manufacture workers may experience dermal exposure per 12 hr/shift during sampling and drumming.

Environmental Release/Disposal. The manufacturer states that release to the environment will be minimal from accidental release or agricultural use.

PMN 82–71

Close of Review Period. May 5, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$500,000,000 and up.
Manufacturing site—West South Central region.
Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkyl aryl amino polyol.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Amber viscous liquid.
Specific gravity 20°/20° C—1.059.
Boiling point—Decomposes before boiling.
Flash point, closed cup—260° F.
Viscosity @ 25° C—8,000–10,000 cps.
Solubility: water—Insoluble. acetone—Soluble. methanol—Soluble. methylene chloride—Soluble.
Volatility—Nil.
Reactivity—Reacts vigorously.

Toxicity Data. No data were available.

Exposure. The manufacturer states that during manufacture a total of 2 workers may experience dermal exposure up to 2 hrs/day, up to 330 days/yr during sampling, transfer, loading and filling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land and water. Disposal is by incineration.

PMN 82–72

Close of Review Period. May 5, 1982.

Manufacturer's Identity. Celanese Plastics and Specialties Company, 1 Riverfront Plaza, Louisville, KY 40202.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkenoic acid ester of a halogenated alkyl aryl ether.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as an industrial component of coating.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	10,000
2d year	5,000	20,000
3d year	5,000	50,000

Physical/Chemical Properties

Viscosity @ 25° C—Solid.
Acid value SMT 9L—< 5.
% non-volatile—Assumed.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing a total of 170 workers may experience dermal exposure up to 8 hrs/day, up to 15 days/yr during filling, sampling, cleaning operations and transfer.

Environmental Release/Disposal. The manufacturer states that 10—10,000 kg/yr will be released to land 24 hrs/day, 250 days/yr. Disposal is by Resource Conservation Recovery Act (RCRA), landfill or incineration.

Dated: February 5, 1982.

James A. Combs, Jr.,

Acting Director, Management Support Division.

[FR Doc. 82–4095 Filed 2–17–82; 8:45 am]

BILLING CODE 6560–31–M

[OPTS 140005; TSH-FRL-2052-7]

Maxima Corp.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with Maxima Corporation of Bethesda, Maryland to provide typing and editing services to the Office of Toxic Substances. Some of the material which Maxima will have access to may contain confidential business information.

DATE: Access to confidential business information will occur no sooner than March 1, 1982.

FOR FURTHER INFORMATION CONTACT: John G. Davidson, Management Support Division (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-521, 401 M St. SW., Washington, D.C. 20460, (202-382-3783).

SUPPLEMENTARY INFORMATION: EPA has contracted with Maxima Corporation (Contract Number 68-01-6466) to provide typing and editing services to the Office of Toxic Substances (OTS). OTS needs the assistance of Maxima because it does not have sufficient staffing for the amount of work it must perform within certain time constraints.

Some of the drafts which Maxima will receive to type and edit may contain information claimed confidential, including Toxic Substances Control Act (TSCA) confidential business information. Pursuant to 40 CFR 2.306(j), it has been determined that such disclosure of confidential business information to Maxima is necessary for the satisfactory performance of this contract.

At no time will Maxima be permitted to remove any confidential business information from EPA premises. Maxima employees will have access to confidential business information only while working on site at EPA.

Maxima is legally required under the terms of its contract to safeguard confidential business information from any unauthorized disclosure. It is especially prohibited from revealing such information to any third party in any form without written authorization from EPA. Maxima's employees will have signed nondisclosure agreements and will be briefed on appropriate security procedures which must be followed before they will be allowed access to any confidential business information.

Dated: February 7, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-4103 Filed 2-17-82; 8:45 am]

BILLING CODE 6560-31-M

[WEN-9-FRL-2015-7]

Issuance of Final General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) Off Southern California

AGENCY: Environmental Protection Agency.

ACTION: Notice of final general NPDES permit.

SUMMARY: The Regional Administrator of Region 9 is today issuing a final general NPDES permit for certain dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. This general NPDES permit establishes effluent limitations, standards, prohibitions and other conditions on discharges from oil and gas facilities. The facilities covered by this permit are located offshore of southern California and seaward of the territorial seas of the State of California.

EPA regulations and this permit contain a procedure which allows the owner or operator of a point source to obtain an individual permit. This final general NPDES permit is based on the administrative record which includes the support document "Preliminary Report: An Environental Assessment of Drilling Fluids and Cuttings Released Onto the Outer Continental Shelf." The fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in issuing this permit. A copy of the permit is reprinted as required by 40 CFR 122.59.

ADDRESSES: Notifications and requests should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont St., San Francisco, CA 94105.

FOR FURTHER INFORMATION AND COPIES OF FINAL PERMIT CONTACT: Eugene Bromley, Region 9, U.S. Environmental Protection Agency, 215 Fremont St., San Francisco, CA 94105. Telephone: (415) 974-8062.

SUPPLEMENTARY INFORMATION:

Request for an individual NPDES Permit: Any operator authorized by this permit may request to be excluded from the coverage under this permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator.

A source located within the general permit area, excluded from coverage under this permit solely because it already has an individual permit, may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply.

FACT SHEET AND SUPPLEMENTARY INFORMATION

I. Background

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination system (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of general permits to categories of dischargers (40 CFR 122.59). EPA may issue a single general permit to a category of point sources located within the same geographic area, whose discharges warrant similar pollution control measures. The director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by a final general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request. The Regional Administrator may require any person authorized by this general permit to apply for and obtain an individual permit. In addition, any interested person may petition the Regional Administrator to take this action. However, an individual permit will not be issued for an oil or gas facility covered by a general permit unless it can be clearly demonstrated that inclusion under a general permit is inappropriate. The Regional

Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.59(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in 40 CFR 122.59(a) and identified in the previous paragraphs are not met.

B. Oil and Gas Operations on the Outer Continental Shelf Offshore of California

On January 30, 1981, EPA received a request from Chevron U.S.A. for the issuance of a general NPDES permit for Offshore California. This request was followed by numerous requests from oil and oil-related industries that the Agency proceed with the development and expedite issuance of a final general permit. On March 23, 1981, Region 9 notified Chevron of its intent to develop a general permit and notified state and local agencies, as well as interested parties by letter dated June 15, 1981. To date Region 9 of the U.S. Environmental Protection Agency has issued individual NPDES permits for 15 exploratory drilling vessels and 12 production platforms. These facilities are located seaward of the outer boundary of the territorial seas of the State of California. A review of these NPDES permits, their effluent limitations and monitoring requirements, and the criteria for establishing a general permit clearly indicated that these facilities would be more appropriately controlled by a single general permit. A general permit has been most recently issued for a similar category of point source discharges in the Gulf of Mexico. General permits eliminate, for the Agency, the time-consuming and resource intensive process of reviewing and evaluating individual permit applications, and significantly reduce the regulatory burden imposed on industry in applying for and obtaining individual permits. For the point source discharges from offshore oil and gas operations where the principal issue is the environmental fate and effects of drilling fluid discharges, the provisions for general permits allow the Agency to address cumulative effects of multiple facilities operating in one area in permit reissuance, modification, and revocation. In addition, environmental monitoring can be defined and imposed on facilities operating in a permit area reducing the cost per facility and providing the Agency a better mechanism to address environmental degradation.

In view of the national effort to identify and develop the nation's natural resources and in view of the Department of the Interior's efforts to accelerate offshore oil and gas lease sales, it is particularly important that EPA expedite issuance of NPDES permits for these facilities where discharges will not significantly affect the marine environment. Facilities entering the areas covered by this permit will be required to notify the Agency of their intent to be covered. The use of general permits is particularly appropriate for mobile drilling units used in exploratory operations on the OCS which drill a limited number of wells at a given site to identify oil reserves. These operations require a permitting action which will allow maximum flexibility, i.e., the ability to move efficiently from one location to another within the general permit area without having to obtain a new permit.

II. Nature of Discharges From Offshore Oil and Gas Facilities

The Offshore Subcategory of the Oil and Gas Extraction Point Source Category includes facilities engaged in field exploration, drilling, production, well production, and well treatment in the oil and gas extraction industry which are located seaward of the inner boundary of the territorial seas (40 CFR Part 435).

Operations within the Offshore Subcategory can be divided into three distinct phases: exploration, development, and production. Exploratory operations involve drilling to determine the nature and extent of potential hydrocarbon reserves. These operations are usually of short duration at a given site, involve a small number of wells, and are generally conducted from mobile drilling units. These include units with traditional ship's hulls or semisubmersible craft—essentially floating platforms with submerged hulls which support the units above water.

Development operations involve the drilling of wells once a hydrocarbon reserve has been identified. Developmental drilling averages a large number of wells (20–40) and is usually conducted from a fixed platform. However, in some instances development wells can be drilled from mobile drilling units.

Production operations usually begin once the drilling unit used in well development operations has been removed and the actual recovery of hydrocarbons from underground geologic formations begins. Production platforms are usually fixed for long periods of time.

The discharges which accompany the recovery of offshore oil and gas resources are discussed below. The discharges are similar for drilling vessels (exploration and development operations) and production platforms with the exception of produced water which does not result from well drilling but from actual hydrocarbon recovery. Produced water from production platforms may be discharged or reinjected into the well. Region 9 has identified a total of fourteen discharges which are discussed below.

A. Drilling Muds, and Drill Cuttings (Discharge 001)

Drilling mud is defined as any fluid sent down the hole including, gelling compounds, weighting agents, and any specialty products, from the time a well is begun until final cessation of drilling in that hole. There are two basic types of muds, water-based and oil-based muds. Water-based muds are usually mixtures of fresh water or sea water with clays. Oil-based muds (invert emulsion muds) are mistures of diesel oil and clays with water or brine emulsified in the oil.

Drilling muds are used in both exploration and production drilling to maintain hydrostatic pressure control in the well, lubricate the drilling bit, and remove drill cuttings from the well. Oil-based muds are used for special drilling requirements such as tightly consolidated subsurface formations, water sensitive clays, and shales. Specific needs of a drilling program may require other additives in the drilling muds.

Drill cuttings are mineral particles generated by drilling into subsurface geologic formations. Drill cuttings are carried to the surface of the well with the circulation of the drilling muds and separated from the fluids on the platform by solid separation equipment (screens and shakers).

B. Produced Water (Formation Water or Brine) (Discharge 002)

Produced water includes water and suspended particulate matter, brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations.

Produced waters are primarily generated during the production phase of oil and gas operations with the amount generated dependent upon the method of recovery and the nature of the formation. Geologic formations contain different oil-water or gas-water mixtures which are produced at different times:

1. In some formations, water is produced with the oil and gas in the early stages of production;
2. In others, water is not produced until the formation has been significantly depleted; and
3. In still others, water is never produced.

C. Produced Sands (Discharge 003)

Produced sands include sands and other solids removed from the produced waters.

D. Well Completion Fluids (Discharge 004)

Well completion fluids include fluids pumped downhole to enhance oil recovery.

E. Deck Drainage (Discharge 005)

Deck drainage includes all water resulting from platform washings, deck washings, tank cleaning operations, and runoff from curbs, gutters, and drains including drip pans and work areas.

F. Sanitary Wastes (Discharge 006)

Sanitary wastes include human body waste discharges fro toilets and urinals.

G. Domestic Wastes (Discharge 007)

Domestic wastes include materials discharged from sinks, showers, laundries, and galleys.

H. Miscellaneous Discharges (Discharges 008–014)

Desalinization Unit Discharge (Discharge 008). Desalinization unit discharge means any wastewater associated with the process of creating fresh water from seawater.

Cooling Water (Discharge 009). Cooling water means once-through, non-contact cooling water.

Bilge Water (Discharge 010). Bilge water is water that accumulates in the bilge of the drilling vessel.

Ballast Water (Discharge 011). Water used by a drilling vessel to maintain proper stability.

Excess Cement (Discharge 012). Excess cement is unused cement discharged after a well cementing operation.

Blow-out Preventer Fluid (Discharge 013). Blowout preventer fluid is a mixture of water and 1–2% hydraulic fluid vented at the ocean floor during periodic testing of the blow-out preventer system as requried by U.S. Geological Survey.

Fire System Test Water. (Discharge 014). Fire system water is sea water discharged during periodic testing of the fire control system.

III. Conditions in the General NPDES Permit

A. Geographic Areas of General Permit

The general permit published today is applicable to dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435) operating in Federal waters on the outer continental shelf (OCS) off the coast of Southern California.

These waters are described in final environmental impact statements for OCS lease sales 35, 48, and 53. These areas include waters west and northwest of Point Arguello, south and west of Point Conception, of the Santa Barbara Channel from Point Conception to Goleta Point, of the Santa Barbara Channel from Santa Barbara to Ventura, south of Santa Rosa and Santa Cruz Island, of the San Pedro Channel between San Pedro and Laguna, and west of San Clemente Islands in the Tanner Bank area. Under the regulatory provisions of general permits, new information on any portion of the permit area which indicates that the terms and conditions of the permit are inappropriate or do not provide adequate protection of the marine environment under Section 403 of the Act, would require the Regional Administrator to modify the permit or require a facility owner or operator to apply for and obtain an individual permit.

This general permit does not authorize discharges into the territorial seas of the State of California, nor does it authorize discharges into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters (facilities in the Onshore and Coastal Subcategories as defined in 40 CFR Part 435).

The Bureau of Land Management (BLM) has identified a special lease stipulation (Stipulation 7 in Lease Sale No. 48) for certain tracts in the Tanner-Cortes Bank area. The stipulation prohibits the discharge of drill cuttings and drilling muds within an area defined by the 80 meter isobath and a 1500 meter buffer zone surrounding the 80 meter isobath for each designated parcel including OCS parcel P–0368. Lease parcel P–0368 which was included within the proposed draft general permit has been excluded from the final permit because this parcel is within the 1500 meter buffer zone. Discharge within this lease parcel may be authorized only after issuance of a separate NPDES permit.

B. Application of the General Permit Program

The Regional Administrator of Region 9 has determined that oil and gas facilities operating within the areas described in this permit are more appropriately controlled by a general permit than by individual permits. There are several reasons for this determination. In accordance with 40 CFR 122.59, these facilities involve similar types of operations, discharge the same types of wastes, require the same effluent limitations and operating conditions, and require the same monitoring requirements. These similarities are discussed in Part II of this fact sheet. Additionally, as discussed earlier, the provisions for general permits allow the Agency to address cumulative effects of multiple facilities operating in one geographic area, and to impose an area-wide monitoring program that can more effectively assess environmental degradation.

The Agency will be permitting a relatively large number of exploratory operations with this permitting action. These facilities remain at a site for a short period of time and drill a limited number of wells at each site. The general permit provides these facilities the flexibility to move within a permitted area without applying for and obtaining a new permit. Moreover, the Agency is unable to impose the more stringent new discharger provisions to mobile drilling units operating in this permit area.* Therefore, the general permit is the best regulatory mechanism available to the Agency to impose uniform effluent limitations and conditions upon all facilities entering the permit area.

The Regional Administrator has also concluded that oil and gas facilities operating under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment. This determination is based on a review of all of the material available for a determination of the issues in this general permit. The major type of waste water generated by these facilities is produced waters; these discharges are discussed in Part III D. of the fact sheet. No effluent limitations have been established for other waste

*American Petroleum Inst. v. Costle Civ. No. 79–0858 (W. D. La. decided July 16, 1981).

water pollutents because they are normally reduced incidentally with the removal or reduction of another pollutant parameter, or do not represent a threat to marine water quality.

Environmental concerns appear to center around the environmental fate and effects of drilling muds in the marine environment. In the past year the Agency has undertaken several efforts to examine this issue. The Agency has prepared an extensive analysis of the available information on the environmental fate and effects of drilling muds and cuttings discharged from oil and gas facilities which is appropriate for this permitting action. The document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf" presents the scientific basis for the decision to allow the discharge of drilling muds and cuttings in the issuance of three general permits to oil and gas facilities in the Gulf of Mexico. A review of this document combined with the fact that the permit contains limitations on these discharges supports the conclusion that oil and gas facilities operating under the effluent limitations and conditions of this permit will not cause unreasonable degradation of the marine environment.

Efforts are presently underway to address the long-term fate and effects of drilling muds and cuttings. EPA's Gulf Breeze Laboratory has also completed a Summary Report of the status of the Agency's Drilling Fluids Hazard Assessment Program which is also part of the administrative record of this permit. In addition, continuing monitoring programs at the Flower Garden Banks in the Gulf of Mexico, and the monitoring program of the interagency Biological Task Force for Georges Bank, as well as on-going bioassay studies to be conducted by industry and the Gulf Breeze Laboratory will provide the Agency additional information to address the potential for long-term fate and effects, bioaccumulation, and food-chain concentration of the constituents of drilling muds and cuttings, as well as other discharges from oil and gas facilities. Under Section 403(c) of the Clean Water Act this permit contains a reopener clause (Part I.A.6 of the permit authorized by 40 CFR 125.123(d)(4)) which requires the Regional Administrator to modify or revoke this general permit if new data indicates that continued discharges may cause unreasonable degradation of the marine environment. Permit modificaion or revocation would be conducted in accordance with 40 CFR 122.15, 122.16 and 124.5 pursuant to Part II.B.5 of the general permit.

This general permit will expire on December 31, 1983. Discharges during the short term of this permit should not allow unreasonable degradation of the marine environment and the new information on the long-term fate and effects of drilling fluid discharge obtained during the term of the permit will be considered in permit reissuance.

C. Notification by Permittees

Part I.A.6 of the draft general permit requires each permittee within the general permit area to notify the Regional Administrator in writing of the commencement and termination of discharge from each facility. This written notification must include the permittee's legal name and address, lease block number, and the number and type of facilities located within the lease block or area. Failure to provide this written notification means that the facility is not authorized to discharge under this general permit. Individual permit applications are not required to be submitted by persons discharging within the general permit area.

D. Technology-Based Effluent Limitations

The Act requires all dischargers to meet effluent limitations based on the technological capacity of dischargers to control the discharge of their pollutants. Section 301(b)(1)(A) of the Act requires the application of "Best Practicable Control Technology Currently Available" (BPT). On April 13, 1979, EPA promulgated final effluent limitations guidelines establishing BPT for the Offshore Subcategory (40 CFR Part 435). These limitations have been incorporated into this final general permit.

The BPT guidelines restrict the concentration of oil and grease in produced waters to a monthly average of 48 mg/1 and daily maximum of 72 mg/1. Because of the relative inaccessibility of the production platforms, EPA has concluded that it is impracticable to specify the monthly average effluent limitation for oil and grease and to require the additional more frequent monitoring necessary to demonstrate compliance with this limitation. See 44 FR 22069, April 13, 1979, for more detailed explanation.)

BPT effluent guidelines require a "no discharge of free oil" limitation for all other discharges associated with drilling operations (deck drainage, drilling fluids, drill cuttings, and well treatment fluids). The term "no discharge of free oil" means that a discharge shall not cause a film or sheen upon a discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR Part 435).

The BPT limitation requires that in sanitary wastes from facilities housing ten or more persons the concentration of chlorine be maintained as close to 1 mg/1 as possible. This general permit provides that any exploratory drilling vessel facility using an approved marine sanitation device that complies with Section 312 of the Act shall be in compliance with the permit.

E. Other Discharge Limitations

In addition to the BPT effluent limitations, these permits contain several other conditions.

1. Drilling Muds and Cuttings. (Discharge 001). The Agency has conducted bioassay testing of seven generic types of drilling muds and has approved these muds for discharge based on the bioassay results. The permit prohibits the discharge of drilling mud in a volume and/or concentration which, after allowance for initial dilution, would result in exceedances of the limiting permissible concentration (LPC) for a particular drilling mud. The definition of the LPC (Part III C. 17) was derived from the Ocean Discharge Regulations (40 CFR 227.27(a)). (The mud compositions and bioassay results are contained in the administrative record.)

Variation from the list of approved muds will require the facility owner or operator to conduct bioassay tests and to submit the analyses to the Regional Administrator within six months of the commencement of discharge. Specifically, the bioassay is required if the mud does not meet the definition of a "generic" mud in Part III C. 18 of the permit. Based on the results of these bioassay tests, authorization for continued discharge will be at the discretion of the Regional Administrator.

The discharge of oil-based drilling muds consitutes the discharge of free oil and, in accordance with 40 CFR Part 435, is prohibited.

A provision which provides for permit modification or revocation based on new data or information on the toxicity or long-term fate and effects of drilling muds or their constituents is included in Part I.A. 5 of the permit.

2. Produced Waters. (Discharge 002). This general permit includes effluent limitations for heavy metals in produced waters. The limits are the daily maximum concentration in the California Ocean Plan. Compliance with

these limits, is determined through the use of the following equation:

Ce = Co + Dm (Co − Cs)
where:
Ce = the maximum allowable concentration,
Co = the concentration from the California Ocean Plan which is to be met at the completion of initial dilution.
Cs = background seawater concentration (See Part III.C.19),
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

Computer models such as PLUME which was developed by EPA are available for use at the Environmental Protection Agency, Region 9.

3. Dispersants, Surfactants, and Detergents. The facility operator is also required to minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and the United States Geological Survey. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. This restriction is imposed because detergents disperse and emulsify oil, thereby enhancing toxicity and making the detection of a discharge of oil more difficult. These limitations have been established pursuant to Section 403 of the Act and 40 CFR 125.123(d)(3).

4. The discharge of halogenated phenol compounds is prohibited in accordance with a U.S. Geological Survey Operations Order.

F. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The final 403(c) Ocean Discharge Criteria guidelines published on October 3, 1980 (45 FR 65952), set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of an NPDES permit. If sufficient information is unavailable on the proposed discharge or on its potential effects to make this determination the Director may require the applicant to submit additional information. If EPA determines that there will be no unreasonable degradation, the permit may be issued. If a determination of unreasonable degradation cannot be made, the Director must then determine whether a discharge will cause irreparable harm to the marine environment. In assessing the probability of irreparable harm, the Regional Administrator is required to make a reasonable determination that the discharger operating under a permit with monitoring requirements and effluent limitations, will not cause permanent and significant harm to the environment. If further data gathered through monitoring indicates that the continued discharge of a pollutant will produce unreasonable degradation, the discharge must be halted or additional permit limitations established.

The regulations identify ten factors which are to be considered in making the determination of unreasonable degradation: these factors include: (1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged: (2) The potential transport of such pollutants by biological, physical or chemical processes; (3) The composition and vulnerability of the biological communities which may be exposed to such pollutants including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act or the presence of those species critical to the structure or function of the ecosystem such as those important for the food chain; (4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways or areas necessary for other functions or critical stages in the life cycle of an organism; (5) The existence of special aquatic sites including but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs; (6) The potential impacts on human health through direct and direct and indirect pathways; (7) Existing or potential recreational and commercial fishing, including finfishing and shellfishing; (8) Any applicable requirements of an approved Coastal Zone Management plan; (9) Such other factors relating to the effects of the discharge as may be appropriate, and (10) marine water quality criteria developed pursuant to Section 304(a)(1).

Factors 1, 2 and 3 relate to the composition of the pollution to be discharged, the physical, chemical and biological transport of the pollutants, and the effects of the pollutants on biological communities, critical species, and endangered species.

The document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf" includes an extensive analysis of the bioassay test studies which address the toxicity of whole drilling muds and their constituents on marine organisms. A summary of current bioassay studies indicates that 72 species of organisms including all major groups from invertebrates to fin fish have been tested. The results of these tests indicate that the concentrations of most drilling mud discharges after dilution and dispersion in the water column will not have any significant adverse effect on marine organisms. In addition, this permit limits the discharge of drilling muds and additives to an approved list for which the Agency has bioassay test data, and for which the concentration after initial dilution will not exceed 0.01 of the concentration found to be toxic. Variation from the approved drilling muds and additives list requires the facility owner or operator to conduct bioassay tests with appropriate sensitive marine species. Such muds must also meet the toxicity test noted above for previously tested muds. At this time the Agency is working with scientists within the Agency, in industry, and in other Federal agencies to develop a list of appropriate species to be used in further bioassay tests. The Regional Administrator may waive the bioassay requirement upon determination by the Regional Administrator that concentrations of components in the drilling mud do not pose a significant threat to marine organisms. The criteria which will be applied in making the determination will be the ranges of component concentrations in the seven drilling muds referred to in the document "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf" and additional bioassay analysis or related information.

Factors 5, 7, and 8 relate to the geographic areas covered by these general permits. The general permit areas are described in Part III.A. of the Fact Sheet. The National Oceanic and Atmospheric Administration, under the authority of the Marine Protection, Research and Sanctuaries Act, has designated the Channel Islands Marine Sanctuary as a special aquatic site and has promulgated regulations applicable to the Sanctuary. This general permit is consistent with all of the requirements of these regulations even though these requirements have been suspended, as of the time of issuance of this permit. The Bureau of Land Management has identified, in Lease Sale No. 48, aquatic sites in Tanner and Coites Bank and, in a lease stipulation, has applied conditions which limit discharges associated with any exploratory or production activities on these lease parcels. Lease parcel P–0368, which was

included in the proposed draft general permit, is subject to this stipulation and has, therefore, been excluded from the general permit. The Agency has not identified other special aquatic sites or potential recreational and major commercial fishing areas in the general permit area. These effluent limitations or operating conditions in this general permit should provide adequate protection of the marine sanctuary and remainder of the permit area.

Factor 4 addresses the importance of the receiving water of the permit area to non-resident species and critical habitats. This factor is intended to ensure that potential impacts on spawning sites, nursery/forage areas, migratory pathways, or other critical functions are considered. In considering this factor, the Agency has reviewed the Environmental Impact Statements prepared by the Bureau of Land Management. These sources and the conclusions of the technical support document indicate that discharges from oil and gas facilities operating under the terms and conditions of these general permits will not adversely affect marine species or marine communities beyond the immediate area of the discharges.

The potential impacts to human health (Factor 6) are examined in the technical summary "Preliminary Report: An Environmental Assessment of Drilling Fluids and Cuttings Released onto the Outer Continental Shelf." Discharges authorized by the general permit should not pose a threat to human health.

Factor 10 requires that the Agency identify conventional, non-conventional, and toxic pollutants in the discharge to be permitted and establish that numeric units in applicable marine water quality criteria will be met with permit limitations. The technical support document contains a thorough analysis of the components of drilling fluids, and summaries of the applicable marine water quality criteria have been prepared from the EPA publication, "Quality Criteria for Water" (the "Red Book"), and from the water quality criteria for toxic pollutants published November 28, 1980 at 45 FR 79318.

The application of dispersion/dilution models from the technical summary indicates that the dilution of drilling fluid components within the mixing zone will be sufficient to reduce the concentrations of pollutants to levels below the numeric limits set in the marine water quality criteria. The report, "Analysis of Potential for Violations of Marine Water Quality Criteria Resulting from Oil and Gas Operations," has been placed in the Administrative Record for this general permit. For those drilling muds not previously tested, the permit requires biological toxicity testing. The permit prohibits discharge of muds or any other pollutant if, after initial dilution, the concentration in the receiving water will exceed 0.01 of the concentration found to be toxic or applicable marine water quality criteria.

In the preparation of this general NPDES permit a review has been made of all of the material in the administrative record, all of the material in the file, and all material either admitted or offered in evidence in the evidentiary hearing titled: In re Diamond M Drilling Company (Diamond M General) et al.; Docket No. IX–WP–80–3, now pending before the Administrator and assigned to Administrative Law Judge Thomas B. Yost. A review of all of the material available for a determination of the issues in this general permit discloses that the state of knowledge on these subjects is extensive but not perfect. Areas of uncertainty remain. A complete factual support in the record is not possible or required. It is necessary to make policy judgments as to these matters where no factual certainties exist or are possible.

Based on a consideration of the criteria for unreasonable degradation, the available factual data, and exercising the best judgment possible in the circumstances, the Regional Administrator has determined that the discharges associated with oil and gas facilities located in the general permit area and operating in compliance with this permit will not cause unreasonable degradation of the marine environment.

G. Monitoring and Enforcement

This general permit requires dischargers to monitor monthly the concentrations of oil and grease in produced water discharges and the chlorine in sanitary waste discharges. In addition, monthly monitoring or estimates of the produced water flow rate is required, as well as annual sampling to demonstrate compliance with the numeric limits placed on heavy metals in produced water discharges. Monthly volume estimates are required for drilling muds, drill cuttings, deck drainage, produced sand, and well treatment fluids. Discharge Monitoring Reports (DMRs) must be submitted annually. A chemical inventory of all materials actually added down the well must be maintained and all records retained for three years.

H. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. In the 1978 amendments to Section 311, Congress clarified the relationship between this Section and discharges permitted under Section 402 of the Act. It was the intent of Congress that routine discharges permitted under Section 402 be excluded from Section 311. Discharges permitted under Section 402 are not subject to Section 311 if they are:

1. In compliance with a permit under Section 402 of the Act;
2. Resulting from circumstances identified, reviewed and made part of the public record with respect to a permit issued or modified under Section 402 of the Act, and subject to a condition in such permit; or
3. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under Section 402 of this Act, which are caused by events occurring within the scope of the relevant operating or treatment systems.

To help clarify the relationship between discharges permitted under Section 402 and Section 311 discharges, EPA has compiled the following list of discharges which it considers to be regulated under Section 311 rather than under a Section 402 permit. The list is not to be considered all-inclusive.

1. Discharges from a platform or structure on which oil or water treatment equipment is not mounted.
2. Discharges from burst or ruptured pipelines, manifolds, pressure valves or atmospheric tanks.
3. Discharges from uncontrolled wells.
4. Discharges from pumps or engines.
5. Discharges from oil gauging or measuring equipment.
6. Discharges from pipeline scraper, launching, and receiving equipment.
7. Spills of diesel fuel during transfer operations.
8. Discharges from faulty drip pans.
9. Discharges from well head and associated valves.
10. Discharges from gas-liquid separators, and
11. Discharges from flare lines.

I. Other Legal Requirements

The Endangered Species Act requires that each Federal Agency shall ensure that any of its actions, such as permit issuance, does not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modifications of their habitats. The Bureau of Land Management has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service and the Department of the Interior, Fish and Wildlife Service, with respect to all oil and gas leasing in

the general permit area. EPA has concluded that the discharges authorized by this general NPDES permit will neither jeopardize the continual existence of any endangered or threatened species nor adversely affect its critical habitat. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred with this conclusion. EPA recognizes its obligation to comply with the requirements of the Endangered Species Act, and will initiate consultation should new information reveal impacts not previously considered or should the activities affect a newly listed species.

The *Coastal Zone Management Act* (CZMA) and its implementing regulations (15 CFR Part 930) require that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. EPA's Region 9 has determined that this general NPDES permit is consistent with the CZMP. Operations within 1000 meters seaward of the territorial sea of the State of California may have some effect on the coastal zone of California. For that reason operations under this permit may not be conducted within 1000 meters of the territorial sea of the State of California until the plan of exploration or development has been certified to the Coastal Commission of the State of California as consistent with the CZMP and has been concurred upon by that Commission.

Section 306 of the Act directs the Administrator to promulgate standards of performance for categories of sources identified in 306(b)(1)(A) which reflect the greatest degree of effluent reduction achievable through best available demonstrated control technology. The Agency has not proposed nor finally promulgated such standards, new source performance standards, for the Offshore subcategory of the Oil and Gas Extraction Point Source Category. Until new source performance standards are finally promulgated, and EPA determines that it is appropriate to modify this general permit to include an environmental review for the issuance of this general NPDES permit under the National Environmental Policy Act (NEPA).

J. Economic Impact

EPA has reviewed the effect of Executive Order 12291 on this final general permit and has determined that it is not a major rule under that order. The permit will result in substantially reduced paperwork required of regulated facilities by eliminating permit applications and reducing reporting requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

K. Effective Date

The final NPDES general permit issued today is effective immediately. Ordinarily, EPA would issue this permit and allow 30-days before making the final permit effective. However, EPA may, under 5 U.S.C. Section 553(d)(1) make the permit effective immediately because it relieves a restriction on the regulated community by authorizing the discharge of pollutants in compliance with its terms. Without a permit, discharges of pollutants are prohibited under Section 301 of the Clean Water Act. Moreover, because the thirty day period between the date of issuance and the date of effectiveness is provided to afford administrative appeal, a procedure which is not available for general permits, no purpose is served by delaying the effective date.

Dated: January 22, 1982.

Sonia F. Crow,

Regional Administrator, Region 9.

Note.—After review of the facts presented in the Notice of Intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that the general permit will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

Dated: February 11, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

Appendix A—Public Comments

A public hearing was held on October 16, 1981 in Santa Barbara, California to receive public comment regarding a proposed general NPDES permit covering discharges associated with the development of oil and gas resources on the Pacific Outer Continental Shelf, adjacent to southern California. Numerous comments were submitted to EPA at the public hearing and within the public comment period which closed on October 30, 1981. The following parties responded with comments:

California Coastal Commission;
Research and Development Associates of Denver;
Ocean Drilling and Exploration Company;
Chevron, U.S.A.;
Texaco, U.S.A.;
Lois S. Sidenberg for Get Oil Out, Inc.;
Santa Barbara Chamber of Commerce;
California Regional Water Quality Control Board, Los Angeles Region; California Department of Fish and Game;
Whitman College, Walla Walla, WA;
Arco Oil and Gas Co.;
American Cetacean Society;
U.S. Department of the Interior;
U.S. Department of Energy;
County of Santa Barbara;
Baker and Hostetler, Counsellors at Law;
Shell Oil Co.;
County of San Luis Obispo;
IMCO Services of Halliburton Co.;
Exxon Company U.S.A.;
Union Oil Company;
League of Women Voters, Santa Maria;
Conoco;
McMoRan, Metaire, LA;
Gulf Oil Exploration and Production Co.;

and the following individuals:

Angela Aiena, San Luis Obispo, CA;
Susan N. Atlee, San Luis Obispo, CA;
J. L. Mohr, Los Angeles, CA;
Susan L. Anderson, Davis, CA;
Maxine Staszak, Santa Barbara, CA;
Joan Kerns, Santa Barbara, CA; and
Pauline Spaulding, Santa Barbara, CA.

The following parties testified at the October 16 public hearing:

F. T. Weiss, John Herring, Ronald Kolpack, Robert P. Merk, Edward Gilfillan and Frank Hester, all for the Ad Hoc General NPDES Permit Group;
Mari Gottdeiner, California Coastal Commission;
William Master, Santa Barbara County;
Gregory Mohr, City of Santa Barbara;
John Huddleson, California State Water Resources Control Board;
Martin Byhower, American Cetacean Society;
Jim Steele, California Department of Fish and Game;
Michael Wabner, Seafood Specialties;
Peter Reis, Texaco, Incorporated;
Eric Hanscum, Sierra Club;
Ralph Hicks, Sierra Club;
Fred Eissler, Scenic Shoreline; Friends of the Earth;
Ralph W. Hazard, Keel D.;

and the following individuals:

Margaret Ann Blankley;
Thomas P. Smith;
Dorothy Taylor Knife;
John Mohr;
Alice Alldredge;
Douglas Stow;
Kenneth S. Johnson;
Rae Richardson;
Beatrice M. Sweeney;
William Gesner;
Michael David Cox; and
Mark Page.

The following parties submitted comments which were received after the public comment period which concluded on October 30, 1981:

Frank R. Bush for the Santa Lucia Chapter, Sierra Club;
Victor R. Husbands, County of Ventura;
Phillips Petroleum Company;
Joan Leon for the League of Women Voters, San Luis Obispo;
Marion Schillo for the League of Women Voters, Ventura County;

Barbara Plummer for the League of Women Voters of Santa Barbara, Inc.;
National Oceanic and Atmospheric Administration;
California State Water Resources Control Board;
Jennifer Silva, San Jose, CA;
Denise Gibson, Santa Cruz, CA;
Ruth W. Piper, Cupertino, CA;
Gerald P. Lorentz, San Jose, CA;
Jan E. Jorgensen, Santa Cruz, CA;
Richard A. Davis, Santa Cruz, CA; and
Edith Nelson, Santa Cruz, CA.

Comments presented during the public comment period and at the public hearing were reviewed by EPA and considered in the formulation of the final decision regarding the proposed permit. Our response to these comments is as follows:

Comment: The reopener clause of the general permit (Part I.A.5) should be modified to require that the procedures outlined in the Consolidated Permit Regulations (40 CFR 122 and 124) would be followed in any future permit modification or revocation proceedings.

Response: Part I.A.5 was obtained from 40 CFR Part 125 Subpart M (Ocean Discharge Criteria). Several commenters expressed concern that the condition specified in the draft general permit would allow the agency to modify or revoke the permit with no opportunity for comment by an affected party. However, 40 CFR Part 125 Subpart M does not affect the applicability of the procedures in the Consolidated Permit Regulations. Accordingly, any revision, suspension or revocation of the permit would be required to be conducted in accordance with 40 CFR Part 122 and 124. The permit does not change this requirement.

Comment: Many commenters objected to the drilling mud bioassay requirement (Part I.A.1.h) and the accompanying limiting permissible concentration (LPC) requirements.

Response: The EPA believes that bioassay studies have demonstrated that many drilling mud discharges will not cause unreasonable degradation of the marine environments. However, the combinations of possible drilling mud additives and formulations is too extensive to conclude that all drilling muds which would be utilized will pose no threat to the marine environment. To ensure that no unreasonable degradation of the marine environment will occur we have, in accordance with 40 CFR 125.123(a) and 40 CFR 125.123(d), included the bioassay and LPC requirements.

The preamble to the Ocean Dumping Criteria (FR 65946 Oct. 3, 1980) clearly indicates that the Regional Administrator may include the requirements of 125.123(d) to ensure no unreasonable degradation even if the permit is issued pursuant to 125.123(a). The permit does not require bioassay testing of muds which have already been tested and found acceptable for discharge based on the bioassay results and demonstrated dispersion in the marine environment. To clarify when a bioassay is required Part III.C.18 (Definition of generic mud) was added to the permit. A mud need not be tested if it satisfies any of the requirements of Part III.C.18. Industry has indicated that the generic types of mud already tested are utilized for most drilling operations. As such, the bioassay requirement should not prove overly burdensome.

Comment: Condition I.A.1.h.(d) is flawed in that computer programs have replaced graphical techniques, such as graphical extrapolation, for determination of the LC_{50} from bioassay data.

Response: The reference to the extrapolation has been deleted to allow the permittee to determine the LC_{50} in accordance with the procedures of the Mid-Atlantic Joint Industry Bioassay Program or other methods approved by EPA.

Comment: Models for determining the dilution of drilling muds are not reliable.

Response: Condition III.C.16 defines the mixing zone as "the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge or to boundary of the zone of initial dilution as calculated by a plume model or other method approved by the Regional Administrator." In the case of drilling mud discharges, compliance with permit limitations may by more accurately determined by comparing the required dilution for a given mud discharge with observed dilution in field studies such as the Tanner Banks Mud and Cuttings Study (Ecomar, 1978), studies in the Cook Inlet (Dames & Moore, 1977), Baltimore Canyon (Ayers, 1980), and the Gulf of Mexico (Ayers, 1980). As such, Part III.C.16 has been modified to allow determination of initial dilution "by a plume model or other method approved by the Regional Administrator."

Comment: The LPC is not properly used in the general permit. The continuous discharges of drilling muds are so small that they should be considered negligible, and the bulk discharges are of short duration and will not subject organisms to the same exposure as in a 96 hour bioassay.

Response: The permittee is authorized to discharge drilling muds without specific limitation on the rate, volume or duration of discharge of pollutants contained in the drilling muds except to the extent that the discharge not cause exceedence of a limiting permissible concentration at the edge of the mixing zone. Absent limitations on specific pollutants in the drilling muds, a limiting permissible concentration has been specified in the permit, in accordance with the authority of 40 CFR 125.123(d), and based upon bioassays, which will guard against unreasonable degradation of the marine environment. The permittee is responsible for compliance with this requirement and may be required to regulate the rate of discharge of drilling muds. For short-term bulk discharges where there is evidence submitted by the permittee that marine organisms are exposed only briefly to the drilling muds pollutants, the Regional Administrator may approve the use of an alternative application factor for calculation of the limiting permissible concentration.

Comment: Many commenters objected to the heavy metals, cyanides and phenols limits placed on the produced water discharge. They also objected to the methods used for deriving the permit limits.

Response: EPA believes that these limits should be retained to ensure compliance with requirements of Section 403(c) of the Clean Water Act. The available data show that the heavy metals concentrations in produced water vary widely but in some cases the concentrations may approach or exceed the acute toxicity level for marine organisms. The dilution achieved at the edge of the mixing zone is a function of the volume and depth of the discharge, local currents and the difference in the specific gravity between the wastewater and the receiving water. Circumstances could arise whereby heavy metals concentrations could exceed marine water quality criteria outside the zone of initial mixing. EPA is directed by Section 403(c) to ensure that this does not occur. We believe that the likelihood of degradation of the marine environment from this discharge is minimal and have, therefore modified the permit to require annual monitoring for these pollutants, rather than semi-annual monitoring. The regulations do not specify that any particular modeling technique be utilized to predict ocean dispersion. EPA uses the program PLUME (developed by the EPA laboratory in Corvallis, OR) which was suggested in the preamble to the proposed Section 403(c) regulations (FR 9550 February 12, 1980). Although it was developed for municipal discharges the program is sufficiently general to be applicable to produced water discharges also. One commenter also pointed out

that PLUME includes the assumption that there is no ocean current and that greater dispersion would be expected with ocean currents. Our response to this point is that the program is basically used as a "worse case" screening tool. The permittee may provide his own proposed analysis (including effects of currents) of the dilution occurring for a given discharge if he believes that PLUME underestimates the dilution.

The commenter also objected to the derivation of the marine water quality criteria for the heavy metals in the draft permit. Specifically the commenter pointed out that the use of ambient ocean concentrations as a limit guarantees violations of the permit if the produced water adds an incremental amount of pollutant above ambient concentrations. In addition the commenter pointed that the use of the six month median concentrations from the California Ocean Plan is not appropriate since the permit requires a single semi-annual 24-hour composite sampling. In response to these concerns EPA has revised the permit for heavy metals limitations and procedures for determining compliance as follows:

Constituent	Daily maximum concentration (mg/l) [1]
Arsenic	0.032
Cadmium	0.012
Total chromium	0.008
Copper	0.020
Lead	0.032
Mercury	0.00056
Nickel	0.08
Silver	0.0016
Zinc	0.08
Cyanide	0.02
Phenolic compounds	0.12

[1] Water Quality Control Plan for Ocean Waters of California, 1978.

Compliance with these limits is determined through the use of the following equation:

$$Ce = Co + Dm - Dm\ (Co - Cs)$$

where:
Ce = the maximum allowable concentration,
Co = the concentration in Part I.A.2.a which is to be met at the completion of initial dilution,
Cs = background seawater concentration (See Part III.C.19)
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

Part I.A.2 of the general permit has been modified to reflect the above changes in limits and method for determining compliance.

Comment: State certification of the permit (Section 401(a)(1) of the Clean Water Act) is not necessary and should not be requested.

Response: Section III.H of the fact sheet mentions that State certification of the permit has been formally requested of the State of California. EPA recognizes that certification of this permit is not mandated by the Clean Water Act since the dischargers are operating beyond the territorial seas of the State of California. Certification of the permit by the State will not be pursued further.

Comment: The area encompassed by the general permit is not uniform and therefore a general permit applicable to the entire region is not appropriate.

Response: EPA has discretionary authority for defining the geographic area to which the general permit applies, as indicated in the Consolidated Permit Regulations (40 CFR 122.59(a)(1)). The Agency has concluded that the geographic area of this general permit should include lease sales 35, 48, and part of the Santa Maria Basin of lease sale 53 because, based on a review of previously issued permits for discharges from comparable facilities in lease sales 35 and 48, the same permit requirements would apply for most, if not all facilities; the discharges are to moderately deep ocean waters which are at least three miles from shores of the continent and any island, and for those circumstances or conditions where this general permit would not be appropriate, a separate NPDES permit may be specifically required under 40 CFR 122.59(b)(2).

Comment: Exploratory drilling and actual production are distinct operations and a separate general permit should be issued to cover each operation.

Response: EPA, in accordance with the Consolidated Permit Regulations (40 CFR 122.59(a)(2)(ii)), may issue a general NPDES permit to regulate a category of point sources if all of the sources (a) involve the same or substantially the same type of operations, (b) discharge the same type of wastes, (c) require the same effluent limitations or operating conditions, (d) require the same monitoring, and (e) in the opinion of the Regional Administrator, are more appropriately controlled under a general permit. In promulgating effluent guidelines for discharges from production, exploration, drilling, well completion and well treatment, EPA considered such factors as age, size of the facility, manufacturing processes, products produced and treatment technology available, and promulgated a uniform set of effluent limitations for discharges from facilities which are included within the scope of this general permit. EPA has reviewed additional information which characterizes these discharges and has concluded that a general permit is applicable to discharges from both exploratory drilling and production facilities.

Comment: A site-specific environmental review should be performed before any discharges are permitted.

Response: In the Environmental Impact Statements for lease sales 35, 48 and 53, each lease parcel received individual environmental review prior to being leased by the Bureau of Land Management (BLM). Special biological stipulations were developed for some of these parcels based on the parcel-specific review. For example, the prohibition of discharge of drilling muds and cuttings in the Tanner Banks area is a result of a BLM lease stipulation. Another stipulation requires that if the Deputy Conservation Manager (USGS) has reason to believe that biological populations or habitats exist which require special protection on a given parcel, a biological survey is required prior to any exploratory drilling or placement of a production platform. This stipulation has been invoked by BLM for many of the parcels for lease sales 48 and 53, primarily those with rocky subrates. All the parcels in the Tanner Banks area and the Santa Rosa-Cortez Ridge area require this survey. Should the results of any survey indicate the need for special protection beyond requirements of the general permit, an individual permit would be required with special conditions and effluent limitations reflecting the level of protection necessary for that specific location.

Comment: The general permit will allow unlimited oil and gas development on the Outer Continental Shelf.

Response: Industry has estimated that 69 exploratory wells and development wells for two platforms may be drilled from facilities not already covered by existing NPDES permits, during the term of the two year permit. This contrasts with approximately 3600 wells which have been drilled in the general permit area to date. Thus, the commenter's fears appear to be unfounded.

Comment: Toxicity tests should be performed on produced water prior to discharge.

Response: The general permit contains limitations, applicable to discharge of produced water, that require that marine water quality criteria not be exceeded beyond the zone of mixing. The water quality criteria which were taken from the California Ocean Plan are based upon bioassays and an application factor to further ensure that no chronic toxicity will be caused. Therefore, additional toxicity tests are not required.

Comment: Several commenters pointed out that rare and valuable animals have been discovered in the Tanner Banks area and the Santa Rosa-Cortes Ridge area. Concern was expressed regarding how the general permit provides protection for these biological resources.

Response: The Bureau of Land Management, in recognition of the valuable biological communities in the Tanner and Cortes Bank area, has placed limitations on discharges which affect specified lease parcels. Lease parcel P-0368 which was included in the draft general permit has been excluded from the final permit because this parcel is subject to and within the area defined by the lease stipulation. EPA believes that excluding from the general permit those lease parcels to which the BLM stipulation applies and the conditions of the general permit, for discharges at other lease parcels, provide sufficient protection to these biological resources.

Comment: The dispersion characteristics in the general permit area are variable and the dilution which the Agency assumes with respect to the drilling mud discharge may not actually occur everywhere.

Response: It is true that the dilution will vary depending on exactly where, in the general permit area, a discharge occurs. However, the dilution of drilling mud has been studied at a number of locations including Tanner Banks (Ecomar, 1978), Mid-Atlantic (Ayers, 1980), the Gulf of Mexico (Ayers, 1980) and the Cook Inlet (Dames and Moore, 1977). The variability of the results is modest and the studies show that the drilling muds are rapidly diluted. We would expect these results to be reasonably representative for waters of the general permit area.

Comment: Monitoring is necessary to determine compliance with the "no free oil" limit applicable to various discharges. The commenter suggested visual observations at frequent intervals.

Response: The permit has been modified to require visual observations of the receiving water, in the vicinity of discharge, for the presence of any free oil.

Comment: Effluent guidelines require a chlorine residual (1 mg/l) in the sanitary discharge for disinfection. A commenter suggested that a maximum level would be appropriate due to the toxic effects of a high chlorine concentration in the marine environment.

Response: The general permit requires that the chlorine residual be maintained as close to 1 mg/l as possible. Given the very low volume of the sanitary discharge, we can expect substantial dilution within 100 meters and that the discharge will not represent a threat to marine biota beyond a mixing zone. In reviewing discharge monitoring reports, it is the practice of EPA to notify operators reporting residual chlorine levels of greater than 10 mg/l to reduce chlorine concentration to as close to 1 mg/l as possible. The permit, therefore, has not been modified.

Comment: The general permit should not limit discharges to the 152 lease parcels listed in the permit. As a minimum the permit should cover the present parcels and all parcels to be leased in the upcoming Lease Sale No. 68. This would eliminate the time consuming process of modifying the general permit when Lease Sale No. 68 parcels are awarded.

Response: EPA does not believe it is appropriate to authorize discharges on any lease parcel until a final EIS has been completed and reviewed. When EPA has completed a review of the final EIS for Lease Sale No. 68, we will consider proposing a permit modification to include as authorized discharge sites all parcels which are offered for sale.

Comment: The use of biocides should be prohibited.

Response: The permit prohibits the use of halogenated phenols which include many of the biocides which could be considered for use on the OCS (such as pentachlorophenol, Dowicide, and Surflo). Other biocides, such as paraformaldehyde, may be used but in quantities such that the bioassay and LPC conditions of the permit for discharge of drilling muds are met.

Comment: Compliance with marine water quality criteria should be achieved at the point of discharge rather than after initial mixing.

Response: The Ocean Discharge Criteria (40 CFR Part 125 Subpart M) provide for a zone of mixing within which the pollutants of a discharge may be diluted to levels which comply with marine water quality criteria. The regulations do not require that water quality standards be met at the discharge point. Studies have shown that the required dilution does occur within a relatively small mixing zone, as allowed by the regulations and the general permit.

Comment: The permit contains inadequate mechanisms to ensure compliance with permit limits. The commenter suggested that industry compensate EPA for additional monitoring and sampling.

Response: There is no statutory or regulatory authority upon which to base a requirement that a permittee compensate EPA for costs attributable to monitoring and sampling by EPA.

Comment: A commenter suggested that the permit explicitly prohibit the discharges in areas not covered in the general permit.

Response: The general permit explicitly identifies the parcels to which the general permit applies. Discharge at any other location, except as authorized by another NPDES permit would be unlawful under the Clean Water Act and we, therefore, do not believe further clarification is necessary.

Comment: Several research projects are ongoing in the Santa Barbara Channel. Consultation with researchers is needed before discharges are allowed.

Response: Research study areas may be of sufficient scientific value as to require protection from over-exposure to drilling muds which would be discharged in the course of well drilling required for development of an oil field. The relatively small amount of drilling muds discharged as the result of exploration at a single location appear to represent neither a probable nor significant threat to such research sites. For those research sites where the scientific value associated with continuing research merits further protection, EPA may require a separate NPDES permit, as provided for in Part III.A of the General Permit, which establishes conditions necessary for protection of this use. EPA will, in reviewing the plans for development which each leasee must prepare for the U.S. Geological Survey, prior to their proceeding with onsite development, consider the scientific values and need for any additional protection which may be appropriate via a separate NPDES permit.

Comment: No discharges should be allowed in the Channel Islands marine Sanctuary. Also, unique biological areas such as the transition zone off Point Conception need special attention.

Response: The Channel Islands Marine Sanctuary (designated a sanctuary in September, 1980) consists of the Channel Islands from Anacapa Island to Richardson Rock and a six nautical mile buffer zone surrounding these islands. The northern boundary of the Sanctuary overlaps certain areas in several OCS lease parcels. The National Oceanic Atmospheric Administration has promulgated regulations implementing the designation of the Sanctuary. These regulations (15 CFR 935) exempt, from prohibition, discharges into the Sanctuary from hydrocarbon exploration, development and production activities where the lease parcels were sold prior to the

effective date of 15 CFR 935.6. The effective date of 15 CFR 935.6, at the time of issuance of this permit, has been suspended. EPA has concluded that the requirements of this general permit are adequate to ensure against unreasonable degradation of the marine environment in the Sanctuary and the transition zone located off Point Conception.

Comment: A revision of Section II.B. 8 (State Coastal Zone Management Plan consistency) was suggested to reflect Section 307(3)(b)(iii) of the Coastal Zone Management Act.

Response: Section 307(3)(b)(iii) would allow EPA to issue a permit without certification of consistency if the Secretary of Commerce finds that the plan is consistent with the objectives of the Act or is otherwise necessary in the interest of national security. EPA does not believe this modification is necessary since the intent of section 307(3)(b)(iii) will be achieved under the present conditions of the permit. As such, Section II.B.8 has been left unchanged.

Comment: Many of the studies upon which EPA based its decision are defective. The commenters were particularly critical of studies performed on the environmental fate and effects of drilling muds and note that the studies have not received sufficient peer review. A commenter stated that many of the authors are not cited in *Scientific Citation* and that EPA should not rely so heavily on these studies.

Response: The record shows that the studies in question (such as the Tanner Banks Mud and Cuttings Study) have received the review of various parties including extensive review by EPA. While these studies may have deficiencies, EPA does not believe the alleged flaws are sufficient to negate the basic conclusions.

Comment: Inadequate notice of agency actions has been given to the scientific community.

Response: The Consolidated Permit Regulations provide that public notice of agency actions be provided as described in 40 CFR 124.10. Persons to be informed of NPDES permit actions include applicants, affected federal and state agencies, the public at large via notice in a newspaper of wide distribution, and all other persons and organizations who have shown an interest in similar permits in the past. EPA has disseminated information on the general permit to a wide audience including all of the above groups. Notices of Agency actions have been published in the Santa Barbara News Press, Los Angeles Times, and San Diego Union. As such, we believe that there has been sufficient notification and that the requirements of 40 CFR 124.10 have been satisfied.

Comment: A commenter suggested that Part II.B.5 (Permit Actions) be modified to specify that the procedures of 40 CFR 122 and 124 regarding permit modification and revocation would be followed.

Response: The Consolidated Permit Regulations (Ref. 40 CFR 122.15, 122.16, and 124.5) prescribe procedures to be followed for permit modification, revocation, and reissuance. These procedures will be followed if any permit action described in Part II.B.5 is initiated by the agency. EPA has cited the applicable sections of the regulations in the permit but does not believe that it is necessary to describe the procedures outlined in the above regulations in the permit itself.

Comment: Parcel P–0300 was omitted in the draft general permit.

Response: This was a typographical error. Parcel P–0300 is included in the final general permit.

Comment: Trivalent chromium in the drilling mud will ultimately be converted to the more toxic hexavalent form in the marine environment. As such, drilling mud discharges should be prohibited or restricted in the amount of chromium used.

Response: The speciation of chromium in the marine environment is not fully understood. Nevertheless, studies have been completed which indicate that trivalent chromium tends to be absorbed on particles and is not readily available for further oxidation and that oxidation to the hexavalent form proceeds very slowly. The hexavalent form of chromium is more mobile and may be expected to diffuse. EPA has therefore concluded that chromium discharged in accordance with the general permit will not cause significant acute of chronic toxicity.

Comment: The existence of mercury in the drilling mud and cuttings needs to be more fully reviewed.

Response: Mercury has been detected as a contaminant of barite which is one of the principle components of drilling mud. The exact level of mercury contamination varies with the source of the barite. Analysis for trace metals was performed for the types of drilling mud and the mercury concentration, in each mud, was found to be 1 ppm or less on a whole-mud basis, a level which will not cause unreasonable degradation of the marine environment.

The general permit allows use of drilling muds where the mercury concentration does not exceed one part per million, as defined in Part III.C.18, or other drilling muds which have been determined to be satisfactory by appropriate bioassay and demonstration of compliance with a limiting permissible concentration. EPA believes that these requirements provide adequate regulation of the discharge of mercury.

Comment: Two offshore drilling contractors suggested that the permittee referred to in the permit should be identified as the lease holder for a given parcel. Region 9 has in the past assigned responsibility for permit compliance to the owner of an exploratory drillship or offshore platform. The commenter enumerated some advantages of the change including consistency with other EPA regions.

Response: The effect of the commenter's suggestion would be to shift responsibility for permit compliance from the drilling contractor to the lease holder. In many cases the lease holder may be directly involved in the operation of an exploratory drilling vessel and in decisions which could affect compliance with the permit. However, this is not always the case. If the lease holder agrees to assume full responsibility for permit compliance and provides certification to this effect to the Regional Administrator along with the written notification of commencement of operations required by Part I.A.6 of the permit, then the permittee shall become the lease holder. Otherwise compliance with permit requirements for exploratory drilling operations shall remain the responsibility of the owner of the exploratory drillship. The permit has been modified accordingly.

Comment: A commenter suggested that Part II.B.8 (Coastal Zone Management Plan Consistency) could be interpreted to require resubmission of plans for exploration and development for facilities constructed prior to approval of the Coastal Zone Management Plan. In order to eliminate this possibility, the commenter suggested that some language be added to Part II.B.8 in the permit to clarify this requirement.

Response: EPA believes that the Coastal Zone Management Act makes it clear that facilities constructed prior to approval of the Coastal Zone Mangement Plan need not resubmit plans for consistency review. EPA does not believe it necessary to repeat the intent of the above section of the Coastal Zone Management Act in the general permit.

Comment: Many offshore facilities have a combined outfall for sanitary and domestic wastes and it is not possible to monitor each stream prior to commingling with any other waste

stream as required by Part I.A.3.b of the proposed permit.

Response: We have modified the permit, for this circumstance, to require that the wastewater effluent limitation apply to the effluent consisting of the combination of the sanitary and domestic wastewaters.

Comment: Many commenters expressed concern over a wide range of potential adverse effects associated with discharge of drilling mud into the marine environment. Concerns were expressed about possible acute and chronic toxicity, bioaccumulation, biomagnification, smothering of benthic organism and other effects. Commenters felt that more information is needed before this discharge is permitted and called for a thorough study of the issue. Other commenters stated that sufficient information is already available to conclude that drilling muds are safe for ocean disposal.

Response: Drilling muds which may be discharged in accordance with the general permit are subject to bioassay criteria which are intended to limit the discharge of toxic substances. The dispersion which can be expected for discharges to water of the Outer Continental Shelf will reduce the quantities in the water columns to concentrations which should cause neither acute nor chronic toxicity. There will probably be limited amounts of accumulated drilling muds near platforms where, as the result of well development, substantial quantities of drilling muds will be discharged. The area affected, however, will be relatively small.

Chromium which may be discharged with drilling muds in limited quantities will be predominantly in the trivalent form. Oxidation to the hexavalent form proceeds at a very slow rate and EPA expects no significant increases or build-up of hexavalent chromium.

The general permit will be effective for a period of approximately two years. During this time, industry estimates that there will be 69 wells drilled for exploration and that there will be two new platforms. This represents a very modest number of new wells for the area to which the permit applies.

EPA has, after considering the information which has been made available, concluded that discharges authorized in accordance with the general NPDES permit will not cause an unreasonable degradation of the marine environment. Should information subsequently become available which would give cause for changing this conclusion, EPA may modify or revoke the permit.

Comment: The meaning of the phrase "no discharge of free oil" is not clear and the requirement should be in terms of the "discharge of free oil."

Response: This requirement is applicable to several wastewater streams including deck drainage, drill cutting and drilling mud and is specified in the permit in accordance with promulgated effluent guidelines (40 CFR Part 435). The term "no discharge of free oil" is defined in Part III.C.6 of the permit.

Comment: Part I.D.1. of the permit (anticipated noncompliance) was described as unclear by a commenter since no specific guidance is offered with respect to which changes must be reported.

Response: This condition applies to all permit requirements. Any change which could result in noncompliance with any permit condition must be reported.

Comment: A commenter pointed out that the barging of mud and cuttings has been accomplished in the past. The commenter asked about the costs involved and why barging should not be required now.

Response: A discussion of this subject is provided in a recent draft environmental impact report (DEIR) prepared by the California State Lands Commission (Resumption of Exploratory Drilling Operations by the Shell Oil Company, Lease PRC 3314.1, Pierpont Prospect). The review concluded that the costs of barging, trucking, and disposing of the mud would not be insignificant although they would be expected to represent a small fraction of the total project cost. The costs of land disposal of wastes generated by operations in the general permit area would be somewhat larger than for Lease PRC 3314.1 due to greater distance from land. The DEIR also stressed that suitable disposal sites are in short supply in the area.

Other commenters have pointed out that barging of the wastes, particularly from an exploratory drillship, is a hazardous operation. In view of the demonstrated low toxicity of approved drilling muds the Regional Administrator has concluded that barging of the wastes for land disposal is not justified.

Comment: A commenter argued in favor of additional dispersion studies if they might demonstrate that the .01 application factor was too stringent.

Response: The application factor is used for estimating acceptable pollutant concentrations outside a mixing zone and is based on acute toxicity data. Dispersion of the effluent is a determination which is independent of the application factor.

Comment: A commenter was unclear whether Part II.A.1 of the permit applies only to the facilities operated by the permittee or also commercial laboratories the services of which were used by the permittee.

Response: Part II.A.1 applies to the operation and maintenance of facilities operated by the permittee and defined in 40 CFR Part 435 Subpart A. The permittee is also responsible for ensuring that sampling and analyses performed by a commercial laboratory under contract are conducted in accordance with provisions of the general permit and 40 CFR Part 136.

Comment: A commenter felt that the application factor of .01 used to determine acceptable water concentration based on bioassay results is overly conservative.

Response: The application factor of .01 was obtained from 40 CFR Part 227.27(a)(2). Part III.C.17 provides for the use of other factors when justified by reasonable scientific evidence. EPA does not believe this requirement to be overly conservative.

Comment: A commenter suggested a change in the definition of "composite sample" (Part III.C.15 of the permit). The commenter felt that "equal time intervals" should be replaced by "over a period of." The commenter felt that Part I.C.1 would ensure representative sampling.

Response: We have left the definition of composite sample unchanged to ensure no uncertainty over the meaning of representative sampling.

Comment: Several commenters questioned the EPA's decision to issue a 2-year permit rather than a regular 5-year permit.

Response: EPA believes that, prior to extending or reissuing the permit, operating experience with the general permit and additional information which may subsequently become available should be reviewed. The term of the permit has, therefore, not been changed.

Comment: Drilling mud will accumulate on the pycnocline where an increased impact could be expected.

Response: While the record does contain a study where the dispersion of wastes was restricted temporarily above a pycnocline, there have been other studies which indicate that well developed gradients are infrequent and temporary on the California Outer Continental Shelf. The dispersion assumptions, upon which the general permit is based, have been confirmed in the field. As such, we believe that the dispersion of these discharges will be adequate to protect marine organisms.

Comment: A commenter questioned why an individual permit must be requested "not later than 90 days after the publication" (Part III.B of the draft permit).

Response: This was a error in the draft permit and has been deleted from the final permit. An individual permit may be requested at any time in accordance with the procedures outlined in Part III.B of the permit.

Comment: A commenter suggested that to clarify the permit on page 7 "the following outfalls" at the top of the page should be changed to Outfall number 003–007."

Response: We agree that this change would clarify the permit and have modified the permit in accordance with the suggestion.

Comment: A commenter suggested that the term "discrete sample" which is defined in Part III.C.14 of the permit be deleted because that term does not appear in any other part of the permit.

Response: A discrete sample is specified in Part I.A.3.a of the permit. The definition has, therefore, been retained.

Comment: One commenter states that he had appealed an NPDES permit previously issued to Diamond M. General which is comparable in its content, to the general permit and asked whether issuance of the general permit nullifies the appeal proceedings which are currently underway.

Response: Whether or not issuance of this final general permit will nullify the evidentiary hearing proceedings for permits issued to Diamond M. General and to other permittees involved in the same proceedings will be the decision of the Administrative Law Judge.

Comment: Bioassays should be performed on marine organisms which are indigenous to the area of discharge.

Response: Data upon which bioassay requirements of the general permit have been based were obtained from bioassays with marine organisms which are sufficiently sensitive to be indicative of the relative toxicity of these drilling muds. The low toxicities which have been observed for these drilling muds support the conclusion that discharge will not cause unreasonable degradation of the marine environment.

[Permit No. CA0110516]

General Permit—Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.; the "Act"), the following discharges are authorized:

Drill Cuttings and Drilling Muds—(discharge 001)
Produced Water—(discharge 002)
Produced Sand—(discharge 003)
Well Completion and Treatment Fluids—(discharge 004)
Deck Drainage—(discharge 005)
Sanitary Wastes—(discharge 006)
Domestic Wastes—(discharge 007)
Desalinization Unit Discharge—(discharge 008)
Cooling Water—(discharge 009)
Bilge Water—(discharge 010)
Ballast Water—(discharge 011)
Excess Cement Slurry—(discharge 012)
BOP Control Fluid—(discharge 013)
Fire Control System Test Water—(discharge 014)

from offshore oil and gas facilities (defined in 40 CFR Part 435, Subpart A) to receiving waters named the Pacific Ocean, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II and III thereof.

Offshore permittees who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized to discharge to the specified receiving waters unless an individual permit has been issued to the facility by EPA, Region 9.

The authorized discharge sites are (by OCS lease parcel number):

In waters west and northwest of Point Arguello, P–0393, P–0394, P–0395, P–0396, P–0397, P–0400, P–0401, P–0402, P–0403, P–0404, P–0405, P–0406, P–0407, P–0408, P–0409, P–0410, P–0411, P–0412, P–0413, P–0414, P–0415, P–0416, P–0418, P–0419, P–0420, P–0421, P–0422, P–0424, P–0425, P–0426, P–0427, P–0429, P–0430, P–0431, P–0432, P–0433, P–0434, P–0435, P–0436, P–0437, P–0438, P–0439, P–0440, P–0441, P–0443, P–0444, P–0445, P–0446, P–0447, P–0448, P–0449, P–0450, P–0451, P–0452, P–0453;

In waters south and west of Pt. Conception, P–0315, P–0316, P–0317, P–0318, P–0319, P–0320, P–0321, P–0322, P–0323, P–0324, P–0325, P–0327, P–0328, P–0330, P–0331, P–0332, P–0333, P–0338;

In the Santa Barbara Channel from Pt. Conception to Goleta Point, P–0180, P–0181, P–0182, P–0183, P–0184, P–0185, P–0186, P–0187, P–0188, P–0189, P–0190, P–0191, P–0192, P–0193, P–0194, P–0195, P–0196, P–0197, P–0326, P–0329, P–0334, P–0335, P–0336, P–0339, P–0340, P–0341, P–0342, P–0343, P–0344, P–0345, P–0348, P–0349, P–0350, P–0351, P–0352, P–0353, P–0354, P–0355, P–0356, P–0357, P–0358, P–0359, P–0360;

In the Santa Barbara Channel from Santa Barbara to Ventura, P–0166, P–0202, P–0203, P–0204, P–0205, P–0208, P–0209, P–0210, P–0215, P–0216, P–0217, P–0231, P–0232, P–0233, P–0234, P–0238, P–0240, P–0241, P–0337, P–0346, P–0347, P–0361;

In waters south of Santa Rosa and Santa Cruz Islands, P–0248, P–0251, P–0362, P–0363, P–0364;

In the San Pedro Channel between San Pedro and Laguna, P–0295, P–0296, P–0300, P–0301, P–0306, P–0366;

In waters west of San Clemente Island in the Tanner Bank Area, P–0367, P–0369.

This permit does not authorize discharges from "new sources" as defined in 40 CFR 122.3.

The permit shall become effective on

This permit and the authorization to discharge shall expire at midnight, December 31, 1983.

Signed this 22nd day of January, 1982.

Sonia F. Crow,

Regional Administrator, Region 9.

Part I—Permit No. CA0110516

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through December 31, 1983, the permittee is authorized to discharge from outfall(s) serial number 001 (drill cuttings and drilling muds).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations				Monitoring requirements	
	Kilograms per day (pounds per day)		Other units (specify)		Measurement frequency	Sample type
	Daily average	Daily maximum	Daily average	Daily maximum		
Total volume (cubic meters) [1]					Once/month	Estimate.

[1] The total volume of drill cuttings and drilling muds discharged for the prior month at each site shall each be monitored by an estimate sample type.

b. There shall be no discharge of free oil as a result of the discharge of drill cuttings and/or drilling muds. The permittee shall make visual observations for the presence of free oil on the surface of the receiving water in the vicinity of the discharge on each day of the discharge.

c. There shall be no visible floating solids in the receiving waters as a result of these discharges.

d. The discharge of oil-base drilling muds is prohibited.

e. There shall be no discharge of toxic materials in a concentration and/or volume which after allowance for initial mixing, exceeds the limiting permissible concentration defined in Condition III.C.17. The discharge of generic drilling muds, as defined in Part III.C.18 of this permit, shall constitute compliance with this provision.

f. Drilling Muds Inventory. The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling mud additives used to meet specific drilling requirements.

g. Additional Monitoring Requirements: Bioassay of Spent Drilling Muds.

Within six (6) months of the initiation of drilling mud discharges, the permittee shall demonstrate compliance with condition I.A.1.e. by conducting and reporting the results of a drilling mud bioassay performed for each type of drilling mud discharged. A sample of spent drilling mud, immediately prior to its intended discharge, shall be collected for analysis. The bioassay shall be conducted in accordance with the procedures developed by the Mid-Atlantic Joint Industry Bioassay Program, or other methods approved by the Regional Administrator, Region 9. The following shall be submitted to the Regional Administrator:

(a) The date the sample was collected;

(b) The average rate of discharge and total volume of spent drilling mud discharged on the date of the sample;

(c) The water depth into which the drilling muds were discharged;

(d) The results of bioassays, including the survival percentages of all dilutions tested;

(e) A list of all components, including the weights, in pounds per barrel, used to compose the drilling muds which are discharged. If commercial names are listed, their chemical constituents shall also be provided.

The bioassay requirements shall be deemed satisfied where the permittee discharges a drilling mud for which bioassay test data, obtained through procedures defined above, has previously been submitted to the Regional Administrator without regard to whether the permittee was originally responsible for obtaining the test data.

2. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through December 31, 1983, the permittee is authorized to discharge from outfall(s) serial number(s) 002 (produced water).

a. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations				Monitoring requirements	
	Kilograms per day (pounds per day)		Other units (specify)		Measurement frequency	Sample type
	Daily average	Daily maximum	Daily average	Daily maximum		
Flow-m³/day (MGD)					Once/month	Composite.
Oil and grease				[1]72.0	do	Do.
Arsenic (milligrams per liter)				[1].032	Once/year	Do.
Cadmium				[1].012	do	Do.
Total chromium				[1].006	do	Do.
Cooper				[1].020	do	Do.
Cyanides				[1].020	do	Do.
Lead				[1].032	do	Do.
Mercury				[1].00056	do	Do.
Nickel				[1].080	do	Do.
Silver				[1].0018	do	Do.
Zinc				[1].660	do	Do.
Phenols				[1].120	do	Do.

[1] This limit is applicable after initial dilution within a mixing zone defined in Condition III.C.19. Compliance with these limits, shall be determined through the use of the following equation:

$Ce = Co + Dm\ (Co - Cs)$

where:

Ce = the maximum allowable concentration,
Co = the concentration in Part I.A.2.a. which is to be met at the completion of initial dilution,
Cs = background seawater concentration (See Part III.C.19),
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater.

b. Samples taken in compliance with the monitoring requirements specified in Condition A.2.a., above, shall be taken at the following location: at a point in discharge 002 prior to entry into the waters of the Pacific Ocean.

3. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through December 31, 1983, the permittee is authorized to discharge from outfall serial numbers 003–007.

a. Such discharges shall be limited and monitored by the permittee as specified below:

Serial Nos./outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
003—Produced Sand [1]	Quantity (m³)		Once/month	Estimate.
004—Well Completion and Treatment Fluids [1]	Volume (bbl/mo)		do	Do.
005—Deck Drainage [1]	Volume (bbl/mo)		do	Do.
006—Sanitary Waste	Flow Rate (MGD)		do	Do.
007—Domestic Waste	Residual Chlorine (milligrams per liter)	[2] 1.0	do	Discrete.

[1] There shall be no discharge of free oil as a result of this discharge. The permittee shall make visual observations for the presence of free oil on the surface of the receiving water in the vicinity of the discharge on each day of discharge.

[2] Minimum of 1 mg/T and maintained as close to this concentration as possible. This requirement is not applicable to facilities intermittently manned or to facilities permanently manned by nine (9) or fewer persons.

b. Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Pacific waters. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitation shown above for sanitary waste shall apply to the mixed waste stream.

4. a. During the period beginning the date notification of commencement of operations is received by the Regional Administrator and lasting through the permittee is authorized to discharge from outfall(s) serial number(s) 008–014 (miscellaneous discharges).

Discharge:

008—Desalinization Unit Discharge
009—Cooling water
010—Bilge Water
011—Ballast Water
012—Excess Cement Slurry
013—Control Fluid From Blow-Out Preventer
014—Fire Control System Test Water

b. There shall be no free oil in the receiving waters as a result of these discharges.

5. *Reopener Clause.* In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

6. *Commencement and Termination of Operations—Notification Requirements.* Written notification of commencement of operations including name and address of permittee, description and location of operation and of accompanying discharges shall be provided to the Regional Administrator at least fourteen (14) days prior to initiation of discharges. Permittees shall also notify the Regional Administrator upon permanent termination of discharge from these facilities. The permittee shall be the owner of the exploratory drillship or offshore platform or the leaseholder upon certification, in writing, to the Regional Administrator, prior to commencement of operation, that he shall assume full responsibility for compliance with this general permit.

7. *Effective Date for Monitoring Requirement.* The monitoring requirements shall take effect upon commencement of discharge.

8. *Notification of Relocation by Exploratory Drilling Vessel.* No less than fourteen (14) days prior to any relocation and initiation of discharge activities at an authorized discharge site the permittee shall provide to the Regional Administrator written notification of such actions. The notification shall include the parcel number and exact coordinates of the new site and the initial date and expected duration of drilling activities at the site.

B. Other Discharge Limitation

1. Floating Solids or Visible Foam. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Halogenated Phenol Compounds. There shall be no discharge of halogenated phenol compounds.

3. Surfactants, Dispersants, and Detergents. The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

4. Sanitary Wastes. Any facility using a marine sanitation device that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

C. Monitoring and Records

1. Representative Sampling. Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. Reporting Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. Penalties for Tampering. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. Reporting of Monitoring Results. Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form, EPA No. 3320–1 (DMR). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g., drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMR's.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be submitted to the Regional Administrator at the following address: Director, Enforcement Division, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. Averaging of Measurements. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least three (3) years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator an any time.

8. Record Contents. Records of monitoring information shall include:

a. The date, place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

9. Inspection and Entry. The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. Anticipated Noncompliance. The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Monitoring Reports. Monitoring results shall be reported at the intervals specified in Part I.C. of this permit.

3. Twenty-Four Hour Reporting of Noncompliance. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit;

b. Any upset which exceeds any effluent limitations in the permit; and

c. Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone #415–974–8050. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. Other Noncompliance. The permittee shall report all instances of noncompliance not reported under Part I.D.3. at the time monitoring reports are submitted. The reports shall contain the information listed in Part I.D.3.

5. Signatory Requirements. All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR § 122.6.

6. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

Part II—Permit No. CA0110516

A. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate permittee staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost.

3. Bypass of Treatment Facilities.

a. Definitions.

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which are reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section.

c. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I.D.3. (24-hour notice).

d. Prohibition of bypass.

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There was no feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c. of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed above in paragraph d.(1) of this section.

(4). Upset Conditions. a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before and action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I.D.3. (24-hour notice); and

(4) The permittee complied with any remedial measures required under Part II.B.4 (duty to mitigate).

d. Burden of proof. In any enforcement proceeding the permittee seeking to estalish the occurrence of an upset has the burden of proof.

5. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. Duty to Comply with Toxic Effluent Standards. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. Penalties for Violation of Permit Conditions. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 303, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. Duty to Mitigate. The Permittee shall take all reasonable steps to minimize or correct any adverse impact on the enironment resulting from noncompliance with this permit.

5. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause, as provided in 40 CFR 122.7(f) and in 122.15, 122.16, and 122.17 (1980). The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Civil and Criminal Liability. Except as provided in permit conditions on "Bypasses" (Part II.A.3.) and "Upsets" (part II.A.4.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalities to which the permittee is or may be subject under Section 311 of the Act.

8. State Coastal Zone Management Plan Consistency. Discharge from drilling vessels, production platforms or other facilities engaged in exploratory drilling or production of oil and gas within 1000 meters seaward of the territorial seas of California is prohibited until the plan of exploration or development, for each affected parcel, is determined to be consistent with the Coastal Zone Management Plan by the Coastal Commission of the State of California.

9. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority perserved by Section 510 of the Act.

10. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

11. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Part III—Permit No. CA0110516

Part III Other Requirements

A. When the Regional Administrator May Require Application for an Individual NPDES Permit

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this permit;

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

d. Effuent limitation guidelines are promulgated for point sources covered by this permit;

e. A Water Quality Management Plan containing requirements applicable to such point source is approved; or

f. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that a permit application is required.

B. When an Individual NPDES Permit May Be Requested

a. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The permittee shall submit an application together with the reasons supporting the request to the Regional Administrator.

b. When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of this permit to that owner or permittee is automatically terminated on the effective date of the individual permit.

c. A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

C. Definitions

1. "Cooling water" means once through non-contact cooling water.

2. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

3. "Deck Drainage" means all waste resulting from platform washing, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

4. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

5. "Domestic waste" includes discharges from galleys, sinks, showers, and laundries.

6. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

8. "Drilling muds" means any fluid sent down the well hole, including any specialty products, from the time a well is begun until final cessation of drilling in that hole.

9. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

10. "Produced sands" means sands and other solids removed from the produced waters.

11. "Sanitary waste" means human body waste discharged from toilets and urinals.

12. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

13. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

14. A "discrete sample" means any individual sample collected in less than fifteen minutes.

15. For flow rate measurements, a "composite sample" means the arithmetic mean of no fewer than eight individual measurements taken at equal intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

For oil and grease measurements, a "composite sample" means four samples taken over a twenty-four hour period analyzed separately and the four samples averaged. The daily maximum limitation for oil and grease is based on this definition of a composite sample.

For measurements other than flow rate or oil and grease, a composite sample means a combination of no fewer than eight individual samples obtained at equal time intervals for twenty-four hours or for the duration of the discharge, whichever is shorter.

16. Mixing Zone—the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge point or to the boundary of the zone of initial dilution as calculated by a plume model or other method approved by the Regional Administrator.

17. Limiting Permissible Concentration—that concentration which, outside the boundaries of a mixing zone as defined in Part III.C.16 above, will not exceed 0.01 of a concentration shown to be acutely toxic (96 hr. LC 50) to appropriate sensitive marine organisms in a bioassay carried out in accordance with Condition I.A.1.h. When there is reasonable scientific evidence on a specific waste material to justify the use of an application factor other than 0.01, the Regional Administrator may approve the use of such alternative factor in calculating the LPC.

18. Generic Drilling Mud. a. A drilling mud where the components and the heavy metal concentrations in the whole mud do not exceed the below maximum values:

Drilling mud components		Maximum heavy metal concentration	
Component	Number per barrel	Species	Concentration, parts per million
Barite	176.0	Arsenic	[1]
Bentonite	32.1	Barium	141,000
Chrome lignosulfonate	4.0	Cadmium	1.0
Lignite	5.0	Chromium (total)	[illegible]
Polyonionic cellulose	1.0	Copper	26.0
Salt	10.0	Lead	34.0
Caustic	1.5	Mercury	1.0
Cellex	0.1	Nickel	8.0
Extractable organics	[1]	Vanadium	35.0
Drill solids	52.0	Zinc	161.0
Lime	1.5		

[1] 0.8 mg/g.

b. Alternatively, a drilling mud for which the 96 hour LC 50 concentrations, obtained via bioassay procedures defined in Part I.A.1.h of this permit, are equal to or greater than 53,000 ppm for the suspended particulate phase and 283,000 ppm for the liquid phase, or;

c. A drilling mud which, on the basis of information provided by the permittee, including the concentrations of components of the drilling muds, any bioassay data for similar drilling muds, and the rate and quantities of drilling muds discharged, as determined by the Regional Administrator, would not constitute, when discharged, a significant threat to the marine environment.

19. Background Seawater Concentration.

Waste constituent	Cs [milligrams per liter]
Arsenic	0.003
Cadmium	0.000
Total Chromium	0.000
Copper	0.002
Lead	0.000
Mercury	0.00006
Nickel	0.00
Silver	0.00016
Zinc	0.006
Cyanide	0.000
Phenolic Compounds	0.0

[FR. Doc. 82-4309 Filed 2-17-82; 8:45 am]
BILLING CODE 6560-38-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2175]

Cougar International Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean

freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Cougar International Corporation, P.O. Box 523358, Miami, FL 33152 was cancelled effective February 6, 1982.

By letter dated January 12, 1982, Cougar International Corporation was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2175 would be automatically revoked unless a valid surety bond was filed with the Commission.

Cougar International Corporation has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2175 be and is hereby revoked effective February 6, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2175 issued to Cougar International Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Cougar International Corporation.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-4291 Filed 2-17-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Ramon E. Delgado, d.b.a. Delgado, P.O. Box 3239, Carolina, PR 00628

Tedomiro J. Perez, d.b.a. Perez International, 608 Fannin, Suite 1703, Houston, TX 77002

Endo Freight Forwarders, Inc., 428 West Redondo Beach Blvd., Gardena, CA 90258, Officers: Yoshihisa Takeda, Vice President/Treasurer/Manager, Tsuguo Endo, President/Director, Satoru Iiguchi, Secretary/Director

Terramar New Orleans Forwarders, Inc., 610 Poydras Street, Room 300, New Orleans, LA 70130, Officers: Rolf Wartenberg, President, Bruce Block, Vice President/Director, Lawrence Sturm, Secretary/Treasurer/Director, Roberto Mejia, 2nd Vice President/Director.

By the Federal Maritime Commission.

Dated: February 12, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-4290 Filed 2-17-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, descreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 12, 1982.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

First National Boston Corporation, Boston, Massachusetts (data processing activities; Florida): To engage, through its subsidiary, FBC, Inc., in providing bookkeeping and data processing services for the internal operation of a single named bank; and storing and processing banking, financial or related data (including demand deposit, savings, direct and indirect installment loans, commercial loans, mortgages, general ledger and central information account) for such bank and indirectly for institutions who may enter into a data processing agreement with such bank. These activities would be conducted from an office in Miami, Florida serving the State of Florida.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York 10045:

Citicorp, New York, New York (consumer finance and insurance activities; Colorado): To expand the activities and service area of an office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., engaged in the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the purchasing and servicing for its own account of sale finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., to the extent permissible under applicable state insurance laws and regulations; and the servicing, for any person, of loans and other extensions of credit. The new activity in which the office proposes to engage *de novo* is: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. The proposed expanded service area for all aforementioned previously approved and proposed activities shall be the entire State of Colorado, except that the sale of credit related property and casualty insurance is not included in

this notification. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. Such activities would be conducted from an office in Denver, Colorado serving the entire State of Colorado.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bank America Corporation, San Francisco, California (investment advising and real restate appraisal activities; *de novo* offices; all fifty (50) states and the District of Columbia): To engage, through its proposed direct subsidiary, BA Appraisals, Inc., a proposed Delaware corporation, in the activities of providing portfolio investment advice (real estate) to any person; furnishing general economic information and advice; providing financial advice to state and local governments on methods of financing real estate development projects and performing real estate appraisals. These activities will be conducted from *de novo* offices located in Walnut Creek, California; El Monte, California; Miami, Florida; Chicago, Illinois; New York, New York; Houston, Texas and Washignton, D.C., serving all fifty (50) States and the District of Columbia.

D. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4270 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

BNW Bancorp; Formation of Bank Holding Company

BNW Bancorp, Eugene, Oregon, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of the Northwest, Eugene, Oregon. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4272 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Fairfield Bancshares, Inc.; Formation of Bank Holding Company

Fairfield Bancshares, Inc., Fairfield, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Fairfield State Bank, Fairfield, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4273 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

First San Benito Bancshares, Inc.; Formation of Bank Holding Company

First San Benito Bancshares, Inc., San Benito, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of San Benito, San Benito, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4274 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Heart of Texas Bancshares, Inc.; Formation of Bank Holding Company

Heart of Texas Bancshares, Inc., Lampasas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Peoples National Bank of Lampasas, Lampasas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4275 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Security Bancorporation, Inc.; Formation of Bank Holding Company

Security Bancorporation, Inc., Boulder, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.2 per cent or more of the voting shares of Security

Bank of Boulder, Boulder Colorado. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4276 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

Texas Independent Bancshares, Inc.; Acquisition of Bank

Texas Independent Bancshares, Inc., Hitchcock, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Gulf National Bank, Texas City, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.

Assistant Secretary of the Board.

[FR Doc. 82-4277 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

West Carroll Bancshares, Inc.; Formation of Bank Holding Company

West Carroll Bancshares, Inc., Oak Grove, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80 percent of the voting shares of West Carroll National Bank of Oak Grove, Oak Grove, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4278 Filed 2-17-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Disease Control

Safety and Occupational Health Study Section; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Safety and Occupational Health Study Section

Date: March 9, 10, 11, 1982

Place: Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Time and type of meeting: Open—8:45 a.m. to 9:15 a.m.—March 9
Closed—9:15 a.m. to 5 p.m.—March 9
Closed—8:30 a.m. to 5 p.m.—March 10-11

Contact Person: Mark R. Green, Ph.D., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 8-63, Rockville, Maryland 20857

Telephone: 301/443-4493

Purpose: The committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting and administrative reports. Beginnning at 9:15 a.m., March 9, through March 11, 1982, the Study Section will be performing the initial review of research, demonstration and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Public Law 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: February 11, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-4362 Filed 2-17-82; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: New York Zoological Society, Bronx, NY—PRT 2-8817.

The applicant requests a permit to import two (2) female St. Vincent's parrots (*Amazona guildingii*) from the Jersey Wildlife Preservation Trust, United Kingdom for enhancement of propagation.

Applicant: Los Angeles Zoo, Los Angeles, CA—PRT 2-8810.

The applicant requests a permit to import one (1) male marbled cat (*Felis marmorata*) from the Rotterdam Zoo, The Netherlands, for enhancement of propagation.

Applicant: Rene Bollengier, U.S. Fish and Wildlife Service, Concord, NH—PRT 2-8797.

The applicant requests a permit to take Peregrine falcons (*Falco peregrinus anatum* and *F. p. tundrius*) in the New England region for banding, radio-telemetry, color-marking, holding eggs for artificial incubation, collect egg shells and shell fragments, and holding of eggs and/or birds indefinitely from eyries which are jeopardized. All activities are for enhancement of propagation and survival and scientific research.

Applicant: Refuge Manager, Kern National Wildlife Refuge Complex, U.S.

Fish and Wildlife Service, Delano, CA—PRT 2–8792.

The applicant requests a permit to take (capture) San Joaquin kit fox (*Vulpes macrotis mutica*) during a population density study using radio telemetry equipment or reflective neck collars. The study is for scientific research and enhancement of survival.

Applicant: Mr. Peter Conroy, Raptor Institute, Greenville, SC—PRT 2–8807.

The applicant requests a permit to acquire and possess injured endangered raptors for rehabilitation purposes and for enhancement of survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 10, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–4407 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Nevada; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby revoked as the Monte Neva Hot Springs known geothermal resources area, effective January 13, 1982:

(28) Nevada

Monte Neva Hot Springs Known Geothermal Resources Area

Mount Diablo Meridian, Nevada

T. 21 N., R. 63 E.,
Secs. 13 through 15, 22 through 27, and 34 through 36.
T. 21 N., R. 64 E.,
Secs. 18, 19, 30, and 31.

The revoked area described aggregates 10,301.56 acres, more or less.

Dated: January 13, 1982.

Richard M. Bloyd,

Conservation Manager, Western Region.

[FR Doc. 82–4410 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–MR–M

Nevada; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby revoked as the Salt Wells Basin known geothermal resources area, effective January 11, 1982:

(28) Nevada

Salt Wells Basin Known Geothermal Resources Area

Mount Diablo Meridian, Nevada

T. 17 N., R. 30 E.,
Secs. 1 through 4.
T. 18 N., R. 30 E.,
Secs. 22, 27, 28, and 32 through 36.
T. 17 N., R. 31 R.,
Secs. 1, 2, 3, 5, 6, 8, 10 through 15, 22 through 26, and 36.

The revoked area described aggregates 19,232.36 acres, more or less.

Dated: January 11, 1982.

Richard M. Bloyd,

Conservation Manager, Western Region.

[FR Doc. 82–4409 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Appointment of Members To National Public Lands Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Appointment of Members to National Public Lands Advisory Council.

SUMMARY: Secretary of the Interior James G. Watt has appointed 21 individuals to serve on the National Public Lands Advisory Council. The Council will offer advice and counsel on policies and procedures governing management of over 328 million acres of public lands administered by the Bureau of Land Management (BLM). The Council will report to the Secretary through BLM national Director Robert F. Burford.

The new members were selected from 284 names submitted for Council membership. A nationwide call for nominations was published in the **Federal Register** on October 26, 1981.

Appointed to the Council for three-year terms were: Robert H. Adams, Valley Center, California; Ben Avery, Phoenix, Arizona; John E. Butcher, Logan, Utah; Raymond L. Friedlob, Denver, Colorado; Verna M. Green, Helena, Montana; Bob Jones, Alamogordo, New Mexico; and David Schaenen, Billings, Montana.

Appointed for two-year terms were: Calvin Black, Blanding, Utah; Paula P. Easley, Anchorage, Alaska; Ray B. Hunter, Jackson, California; David Little, Emmett, Idaho; Dr. Guy T. McBride, Jr., Golden, Colorado; Thomas F. Stroock, Casper, Wyoming; and Robert R. Wright, Clover Valley, Nevada.

Appointed for one-year terms were: David S. Herrington, Rancho Santa Fe, California; Lowell N. Jones, Klamath Falls, Oregon; Cecil Miller, Tolleson, Arizona; B. Wells O' Brien, Reno, Nevada; Marlene J. Simons, Beulah, Wyoming; J. William Swan, Rogerson, Idaho; and April Westbrook, Hobbs, New Mexico.

All meetings of the National Public Lands Advisory Council will be open to the public.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Bureau of Land Management (150), Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343–2054.

February 12, 1982.

James M. Parker,

Acting Director.

[FR Doc. 82–4444 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–84–M

[ES 27254, Survey Group 115]

Filing of Plat of Survey

1. On February 9, 1981, the plats representing the survey of one island in Susan Lake, one island in Sunset Lake and ten islands in Vermilion Lake, T. 63 N., R. 18 W., Fourth Principal Meridian, Minnesota, which were omitted from the original survey, were accepted. They will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m., on (90 days from date of publication).

T. 63 N., R. 18 W.,
Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48.

2. The character of Tract Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 is

similar in all respects to that of the adjacent surveyed lands.

a. Elevations on the island Tract No. 37 range up to approximately 5 feet above the ordinary high water mark of Susan Lake. Timber consists of pine and alder. Borings of the pine trees showed several to be up to 110 years old.

b. Elevations on the island Tract No. 38 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir and birch. Borings of the pine trees showed several to be up to 85 years old.

c. Elevations on the island Tract No. 39 range up to approximately 3 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine and birch. Borings of the pine trees showed several to be up to 80 years old.

d. Elevations on the island Tract No. 40 range up to approximately 15 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, birch, spruce and maple. Borings of the pine trees showed several to be up to 110 years old.

e. Elevations on the island Tract No. 41 range up to approximately 15 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch. Borings of the pine trees showed several to be up to 70 years old.

f. Elevations on the island Tract No. 42 range up to approximately 5 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine. Borings of the pine trees showed several to be up to 100 years old.

g. Elevations on the island Tract No. 43 range up to approximately 4 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, aspen and alder. Borings of the pine trees showed several to be up to 80 years old.

h. Elevations on the island Tract No. 44 range up to approximately 2 feet above the ordinary high water mark of Vermilion Lake. Timber consists of cedar.

i. Elevations on the island Tract No. 45 range up to approximately 4 feet above the ordinary high water mark of Sunset Lake. Timber consists of pine, birch and spruce. Borings of the pine trees showed several to be up to 130 years old.

j. Elevations on the island Tract No. 46 range up to approximately 10 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar and birch. Borings of the pine trees showed several to be up to 105 years old.

k. Elevations on the island Tract No. 47 range up to approximately 7 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, aspen and birch.

l. Elevations on the island Tract No. 48 range up to approximately 30 feet above the ordinary high water mark of Vermilion Lake. Timber consists of pine, cedar, fir, aspen, birch, spruce, maple and elm. Borings of the pine trees showed several to be up to 125 years old.

m. The undergrowth of Tracts Nos. 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 consists of hazel, willow, brush and native grasses. The soil composition of the above mentioned tracts is of a thin layer of organic matter on a base of glacial till.

3. The tracts mentioned above were found to be over 50 percent upland in character within the purview of the Swamp Land Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the land will not be subject to application, petition, location or selection under any public law until a further order is issued.

All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals Operations, Bureau of Land Management, 350 S. Pickett Street, Alexandria, Virginia 22304 on or before May 18, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-4354 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Non-Competitive Occupancy Lease; Public Land in Benton County, Oregon

February 5, 1982.

The following described land has been examined and found suitable for lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732):

T. 13 S., R. 7 W., Willamette Meridian,
Oregon,
Sec. 19, portion of SE¼NE¼.
Containing approximately 0.44 acres

The above-described land is presently improved with a portion of a residence and a fence owned by Mrs. Mary France. A proposal was submitted to Mrs. France to authorize her continued use of the land as a homesite until the land could be sold to her. Because of Mrs. France's improvements, the land will not be offered for lease through competitive bidding but will be offered for lease directly to her at the approved fair market rental value.

The lease will have a term of 10 years subject to periodic appraisal to reflect changes in the fair market value. Mrs. France will have the right to renew the lease if the land is not conveyed to her before the end of the lease term.

Detailed information concerning the lease offer, including planning documents and environmental assessment, is available for review at the Salem District Office, (1717 Fabry Rd. SE.) P. O. Box 3227, Salem, Oregon 97302.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salem District Manager, Bureau of Land Management, P. O. Box 3227, Salem, Oregon 97302. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Joseph M. Dose,

District Manager.

[FR Doc. 82-4361 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Call for Expression of Leasing Interest in Oil Shale in Piceance Creek Basin, Colorado

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of call for expression of oil shale leasing interest.

SUMMARY: This call for expression of interest in oil shale leasing is to determine industry interest in prototype leasing of one or more of the six tracts the Department of the Interior is considering offering. These tracts are located in Piceance Creek Basin, Colorado, and are described by legal subdivision under Supplementary Information in this notice. The data received from this call will be used to determine which of the six described tracts (as identified in the White River Management Framework Plan) will be considered for possible competitive leasing.

DATE: Responses to this notice should be submitted by March 22, 1982.

ADDRESSES: Responses to this call should be sent to the following address: State Director (910), Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Robert E. Leopold, Bureau of Land Management (910), 1037 20th Street, Denver, Colorado 80202, 303-837-5435.

SUPPLEMENTARY INFORMATION: The six tracts being considered by the

Department of the Interior for possible prototype oil shale leasing in Piceance Creek Basin, Colorado, are described as follows:

Sixth Principal Meridian, Colorado

Rio Blanco County

Tract I

T. 1 S., R. 97 W., 6th P.M.,
Sec. 29: W½SW¼;
Sec. 30: Lots 1, 2, 3, and 4, E½W½, E½;
Sec. 31: Lots 1, 2, 3, and 4, E½W½, E½;
Sec. 32: W½W½.
T. 1 S., R. 98 W., 6th P.M.,
Sec. 34: NE¼;
Sec. 35: All;
Sec. 36: All.
T. 2 S., R. 97 W., 6th P.M.,
Sec. 5: Lot 4, SW¼NW¼, NW¼SW¼;
Sec. 6: Lots 1 through 7, inclusive, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 7: Lot 1, NE¼NW¼, N½NE¼.
T. 2 S., R. 98 W., 6th P.M.,
Sec. 1: Lots 5 through 20, inclusive;
Sec. 2: Lots 5 through 20, inclusive;
Sec. 3: Lots 5, 6;
Sec. 12: Lots 1, 2.

Tract II

T. 1 S., R. 97 W., 6th P.M.,
Sec. 2: Lots S½ 3, 4; S½NW¼, SW¼;
Sec. 3: All;
Sec. 4: All;
Sec. 5: All;
Sec. 8: All;
Sec. 9: All;
Sec. 10: N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 11: NW¼.

Tract III

T. 1 S., R. 99 W., 6th P.M.,
Sec. 35: SE¼, S½SW¼;
Sec. 36: S½, S½NW¼, NE¼.
T. 2 S., R. 99 W., 6th P.M.,
Sec. 1: All;
Sec. 2: All;
Sec. 11: E½NE¼;
Sec. 12: N½.
T. 1 S., R. 98 W., 6th P.M.,
Sec. 31: All;
Sec. 32: All.
T. 2 S., R. 98 W., 6th P.M.
Sec. 5: W½NW¼, NW¼SW¼;
Sec. 6: All;
Sec. 7: All.

Tract IV

T. 2 S., R. 98 W., 6th P.M.,
Sec. 33: S½NE¼, NE¼SW¼, S½SW¼SE¼;
Sec. 34: All;
Sec. 35: All.
T. 3 S., R. 98 W., 6th P.M.,
Sec. 2: Lots 1, 2, 3, 4; S½N½, S½;
Sec. 3: Lots 1, 2, 3, 4; S½N½, S½;
Sec. 4: Lots 1, 2, 3, 4; S½N½, S½;
Sec. 5: Lot 1, S½NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 8: All;
Sec. 9: All.

Tract VIII

T. 1 N., R. 98 W., 6th P.M.,
Sec. 14: All;
Sec. 15: All;
Sec. 16: E½;
Sec. 21: E½;
Sec. 22: All;
Sec. 23: All;
Sec. 26: W½;
Sec. 27: All;
Sec. 28: E½;
Sec. 33: NE¼;
Sec. 34: N½;
Sec. 35: NW¼.

Sodium Lease Tract

T. 1 S., R. 98 W., 6th P.M.,
Sec. 13: All;
Sec. 14: All;
Sec. 15: E½, SE¼NW¼, SW¼;
Sec. 16: W½, N½NE¼, SW¼NE¼, NW¼SE¼;
Sec. 17: All;
Sec. 19: SE¼NE¼, E½SE¼;
Sec. 20: N½, SW¼, W½SE¼;
Sec. 21: E½NE¼, SW¼NE¼, W½NW¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 22: All;
Sec. 23: All;
Sec. 24: All;
Sec. 25: All;
Sec. 26: All;
Sec. 27: All;
Sec. 28: All;
Sec. 29: NW¼NE¼, SE¼NE¼, NW¼, S½S½, NE¼SE¼;
Sec. 30: Lots 1, 2, 4, NE¼, E½NW¼, E½NW¼, SE¼SW¼, S½SE¼;
Sec. 33: All;
Sec. 34: NW¼.

The purpose of this call is to obtain information needed to complete the leasing phase of the prototype oil shale program by offering one or two tracts which would allow demonstration of certain recovery methods, specifically the combined development of oil shale and associated minerals in the saline zone as well as true *in situ* development if appropriate. Based on current data, one or more of the described tracts appears to contain appropriate mineral resources to meet these requirements.

The sodium lease tract is currently under lease for sodium. Before the sodium lease tract can be offered competitively for prototype oil shale leasing, it will be necessary for the present sodium lessee to enter into an agreement with the government to provide for the joint development of the sodium, dawsonite, and oil shale. Furthermore, because an oil shale lease is limited to 5,120 acres, any prototype oil shale lease tract would be limited to that maximum size after considering information received in response to this call.

Expressions of leasing interest should include the following data for each tract of interest:

1. Type of mine: a. Surface or Underground, b. Technique of Mining (i.e., room and pillar, strip mining, *in situ*, etc.).
2. Type of mineral separation.
3. Type of retorting.
4. Type of waste disposal (spent shale, gangue, etc.).
5. Proposed used of each of the three minerals (Nahcolite, Dawsonite, and Oil Shale).
6. Transportation needs (i.e., railroads, pipelines, etc.).
7. Proposed surface facilities.
8. Proposed water needs and source.

An expression of interest is not an application.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual or business entity may participate and submit expressions of leasing interest under this call.

Robert E. Leopold,

Oil Shale Program Manager, Colorado State Office.

[FR Doc. 82-4406 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-DES 82-6]

Closed Basin Division, San Luis Valley Project, Colorado; Availability of Draft Supplement to Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Supplement to the Final Environmental Statement for the Closed Basin Division, San Luis Valley Project, Colorado.

The supplement presents a revised plan to mitigate projects effects on wetlands in the Closed Basin and other project changes which have occured since filing of the FES in 1979. The amount of wetlands to be affected is significantly less than believed in 1979. Also, the results of pump tests and the vegetation monitoring program are discussed. Updated information on waterfowl production and other bird use is presented. More extensive cultural resource investigations have been done to determine project impacts. Other project feature changes, such as conveyance channel alinement and additional wells, are also described. The nature of and probable impacts of the revised proposed action are presented.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Bureau of Reclamation, Department of the Interior, Room 7622, Washington, DC 20240, Telephone (202) 343-4991
Library Branch, Division of Management Support, E&R Center, Denver Federal

Center, Denver, CO 80225, Telephone (303) 234–3019
Office of the Regional Director, Bureau of Reclamation, 714 South Tyler Street, Suite 201, Amarillo, TX 79101, Telephone (806) 378–5467
New Mexico Representative, Bureau of Reclamation, 505 Marquette Avenue, NW., Albuqueque, NM 87103, Telephone (505) 766–2272
Project Construction Engineer, Bureau of Reclamation Post Office Box 449, Alamosa, CO 81001
Carnegie Public Library, 120 Jefferson, Monte Vista, CO 81144
Adams State College Library, Alamosa, CO 81101
Library Center Branch, 400 South Worth Center, CO 81125
Public Library, 416 Gasper, San Luis, CO 81152
Ms. Ruth Tabor, Memorial Library, South Fork, CO 81154
Southern Peaks Library, 424 Fourth, Alamosa, CO 81101
Del Norte Public Library, Del Norte, CO 81132
Saguache County Public Library, Saguache, CO 81149

Single copies of the draft statement may be obtained on request to the Office of Environmental Affairs, Regional Director, or New Mexico Representative. Please refer to the statement number above.

Written comments may be submitted to the Regional Director within 60 days of this notice.

Dated: February 11, 1982.

Eugene Hinds,

Assistant Commissioner.

[FR Doc. 82-4308 Filed 2-17-82; 8:45 am]

BILLING CODE 4310-09-M

Office of the Secretary

Privacy Act of 1974; Revision of System of Records Notice

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise an existing system of records. The bureau of Reclamation records system being revised to titled "Payroll, Attendance and Leave Records (PAY/PERS)—Interior, Reclamation—24", and was previously published in the **Federal Register** on April 11, 1977 (42 FR 19102). The records system is being revised to add an additional disclosure to non-Federal auditors performing audits for the Bureau of Reclamation. The revised system notice is published in its entirety below.

5 U.S.C. 522a(e)(11) requires that the public be provided a 30 day period in which to comment. Therefore, written comments on this proposed change can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the **Federal Register** will be considered. This system shall be effective as proposed without further notice unless comments are received which would result in a contrary determination.

As required by Section 3 of the Privacy Act of 1974 (5 U.S.C. 552a(o)), the Director, Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives have been notified of this action.

Dated: February 10, 1982.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

Contents of System Notice:

INTERIOR/LBR—24

SYSTEM NAME:

Payroll, Attendance, and Leave Record (PAY/PERS)—Interior, Reclamation-24.

SYSTEM LOCATION:

(1) Division of Management Support, Engineering and Research Center, P.O. Box 25007, Denver Federal Center, Denver, Colorado 80225. (2) Input documents supplied by Commissioner's Office, Washington, D.C., all Regional and Field Offices. (See appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Reclamation employees with permanent, temporary, or indefinite appointments are maintained in the active files. Pay and leave information on all Reclamation employees who were paid during the year until the end of the calendar year.

CATEGORIES OF RECORDS IN THE SYSTEM:

An individual record is maintained and updated for each employee biweekly and lists basic historical and current pay, leave, and personnel data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The primary uses of the records are (a) for leave records and to prepare payrolls. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of payroll checks and payroll deduction and other checks to Federal, State and local government agencies, non-governmental organizations and individuals; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local governments for tax purposes; (3) to the Office of Personnel Management in connection with the Civil Service Retirement system; (4) to other Federal agencies to which employees have transferred; (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation order or license; (7) from the record of an individual in response to an Inquiry from a Congressional office made at the request of that individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (10) to non-Federal auditors under contract with the Departments of Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer media, with input forms and printed outputs in manual form.

RETRIEVABILITY:

Indexed by name and indentifying number of the employee.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computer and manual records.

RETENTION AND DISPOSAL:

In accordance with approved Retention and Disposal Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Management Support, Bureau of Reclamation, Engineering and Research Center, Denver Federal Center, P.O. Box 25007, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

An individual may inquire whether or not the system contains a record pertaining to him/her from the System Manager or the head of the office at which he/she is (or was) employed. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as Notification. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employes, timekeepers and supervisors.

[FR Doc. 82-4439 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-09-M

Office of Surface Mining Reclamation and Enforcement

Reorganization of the Office of Surface Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of address changes for Office of Surface Mining Operations; Correction.

SUMMARY: On January 8, 1982, 47 FR 1038, the Office of Surface Mining (OSM) issued a **Federal Register** Notice listing addresses and telephone numbers for Western State Offices and the Western Technical Service Center. Due to recent developments, three of the listings have change.

DATES: Effective date: February 18, 1982.

ADDRESSES:

New Mexico State Office

FTS Telephone: 474–1486.
Commercial Telephone: (505) 766–1486.
Address: Office of Surface Mining, New Mexico State Office, 219 Central N.W., Albequerque, New Mexico 87102.

Wyoming State Office

FTS Telephone: 328–5776.
Commercial Telephone: (307) 261–5551—Ext. 5776.
Address: Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644.

Denver Technical Service Center

FTS Telephone: 327–5421.
Commercial Telephone: (303) 837–5421.
Address: Office of Surface Mining, Technical Service Center, Brooks Tower, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT
Ray Booker, Program Evaluation Officer, Office of the Director, (202) 343–4781.

Dated: February 11, 1982.

James R. Harris,
Director, Office of Surface Mining.

[FR Doc. 82-4307 Filed 2-17-82; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative, Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

February 12, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

A. (1) Agate Elevator Agricultural and Livestock Cooperative Association; (2) P.O. Box 4, Agate, CO 80101; (3) Colorado 40984, Highway 40, Agate, CO 80101; (4) Robert L. Benjamin, P.O. Box 4, Agate, CO 80101.

B. (1) Dairy Valley Growers Association, Inc.; (2) Col. Cinco del Chenck, Valle de Mexicali, BC; (3) Col. Cinco del Chenck, Valle de Mexicali, BC; (4) Amado Solorzano L., Apartado Postal #1–124, Mexicali, Baja California, Mexico.

C. (1) Western Dairymen Cooperative, Inc.; (2) 7720 South 700 East, Midvale, UT 84047; (3) 7720 South 700 East, Midvale, UT 84047; (4) Earl L. Teter, 7720 South 700 East, Midvale, UT 84047.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4323 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 311]

Motor Carriers; Expedited Procedures for Recovery of Fuel Costs

February 10, 1982.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.8-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, or the 2.0-percent surcharge for United Parcel Service. However, the bus carrier surcharge is ordered reduced to 6.6-percent.

In our decision of January 27, 1982, we issued a revised compliance schedule for our decision in Ex Parte No. 311 (Sub-No. 4), *Modification of the Motor Carrier Fuel Surcharge Program*, served October 8, 1981.

Beginning February 12, 1982, and for the ensuing 60 days, carriers may fold into their base rates the lesser of the existing surcharge or that portion of the existing surcharge necessary (1) to cover increased fuel costs since January 1979, and/or (2) to cover the new mileage payment to owner-operators. Under the terms of the October, 1981 decision and the formula employed there, that payment will be 14 cents per mile for carrier-related business. The fold-in shall be filed to become effective on not less than 30 days' notice. Any fuel surcharge remaining in effect after April 13, 1982 will be null and void.

The revenue-based surcharge levels established in this decision are ordered frozen at the levels authorized above for the 60-day transition period. During this period and until the fold-in is effected each carrier shall continue to pay its owner-operators the 18-percent surcharge.

Notice shall be given to the general public by mailing a copy of this decision

to the Governor of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m., February 12, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,

Acting Secretary.

APPENDIX—FUEL SURCHARGE

Base date and price per gallon (including tax)

Jan. 25, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

Feb. 8, 1982 ..... 130.3¢

	Transportation performed by—			
	Owner-Operator [1] (1)	Other [2] (2)	Bus carrier (3)	UPS (4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.8	3.1	6.6	[3] 2.8
Percent surcharge allowed	16.0	3.1	5.6	[4] 2.0

1 Apply to all truckload rated traffic.
2 Including less-than-truckload traffic.
3 The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 25, 1979 (3.3 percent).
4 The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 82-4316 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commissions rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of the decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 11, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC–F–14782, filed January 15, 1982, amended February 8, 1982. GEORGE L. CULLENS, SR., and GEORGE L. CULLENS, JR. d.b.a. GEORGIA TRAILWAYS (Cullens) (RFD No. 1 Harrison, GA 31035)—PUR (P)—TRAILWAYS TAMIAMI, INC. (Tamiami) (1500 Jackson Street Dallas, TX 75201). Representative; Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. Cullens, a partnership, d.b.a. Georgia Trailways, seeks to purchase a portion of the interstate and intrastate operating authorities of Tamiami. The operating rights sought to be purchased are contained in Certificate No. MC–74761 (Sub 23) and Deviation No. 14, and Georgia Certificate Nos. 1439, 2011, 2020, 4336, 4745, 1397, and 1249. The interstate operating rights to be purchased authorize the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Savannah and Macon, GA via U.S. Hwys 80 and 280, GA Hwys. 29, 57, and 18 and Interstate Hwy 16. Cullens is a newly formed partnership presently holding no operating authority from the Commission. George L. Cullens, Sr., one of the partnership members, is the president and principal shareholder of the C&N Bus Lines, Inc., a motor common carrier of passengers operating under Certificate No. MC–114957 (Sub-No. 1).

MC–F14792, filed February 1, 1982. CCG CORP. (CCG) (P.O. Box 500, Camden, SC 29020)—Control—J&M TRANSPORTATION CO., INC. (J&M) (P.O. Box 488. Milledgeville, GA 31061). Representative: K. Edward Wolcott and Paul M. Daniell, 1200 Atlantic Gas Light Tower, 235 Peachttree St., NE, Atlanta, GA 30303. CCG, a non-carrier holding company, seeks authority to acquire control of J&M through the purchase of stock. Charles C. Gay, the sole stockholder of CCG, seeks authority to acquire control of said rights and property through the transaction. CCG controls Builders Transport Inc., a motor carrier operating under MC–124839 and MC–145219. J&M holds authority under MC–115311 to transport *general commodities* (except classes A and B explosives), between points in the U.S. as well as *numerous specified commodities* between specified points throughout the U.S. Condition: CCG

Corp., a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for these issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, CCG Corp. need only file such special reports as the Commission may from time to require. CCG Corp. is not made subject to the accounting requirements of 49 U.S.C. 11142.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4321 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notice within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79579. By decision of February 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TISCHLER EXPRESS, INC., of Philadelphia, PA, of Certificate No. MC-16634 (except that portion previously transferred to C. Harrell, Inc., in No. MC-FC-79182), and Certificate Nos. MC-16634 (Sub-Nos. 6, 8, 13, 14, 17, and 19), issued to STRANG TRANSPORTATION, INC., of Elmer, NJ, which authorize the transportation, as summarized, of (1) *filtering plant equipment and apparatus,* (2) *sand,* (3) *grain and grain products,* (4) *paper stock and waste paper,* (5) *ground fish meal and ground crab meal,* (6) *animal and poultry feed and ingredients,* (7) *agricultural commodities,* (8) *baker's supplies,* (9) *fertilizer and fertilizer materials,* and (10 *seed,* between specified points in DE, MD, NJ, NY, PA, and DC. Representatives: John E. Fullerton, 407 North Front Street, Harrisburg, PA 17101 and Martin Werner, 888 Seventh Avenue, New York, NY 10106.

Note.—Transferee holds authority as a common carrier under MC-60612.

MC-FC-79585. By decision of February 1, 1982, Review Board No. 3 approved purchase by GEETINGS, INC., (MC 34027 and Subs), Pella, IA, of a portion of the operating rights of BILL LITTLEFIELD TRUCKING, INC., Medford, OR. No application is being filed for temporary lease. The operating rights to be acquired are Certificates MC-144054 (Sub-Nos. 17 and 19), authorizing: (1) horticultural equipment, plastic articles, insecticides, plant foods, and fertilizer, between the facilities of Ross Daniel, Inc., in IA, on the one hand, and, on the other, points in the US, and (2) general commodities (except class A and B explosives), between the facilities of Ralston Purina Company and its subsidiaries at points in the US, on the one hand, and, on the other, points in the US. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309.

MC-FC-79589. By decision of February 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to R.N.B., INC. of Flora, IL, of Certificate No. MC-116740 and sub-numbers 2, 3, 6, and 9F issued October 15, 1958; April 24, 1967; March 7, 1968, April 1, 1976; and December 11, 1980 to Lee N. Hickox of Flora, IL authorizing transportation of (1) *lumber, wood and wood and timber products* from named points in IL and IN to named points in KY and IN; (2) *fertilizer* from named points in IN to named points in IL; and (3) *Aluminum wire and rods, steel wire, strand, cable and empty reels,* from facilities of Southwire Co. at Hawesville, KY to Flora, IL, restricted to traffic originating at the named origin. Representative: Edward D. McNamara, Jr., 907 So. 4th St., Springfield, IL.

MC-FC-79590. By decision of February 3, 1982 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133.1 Review Board Number 3 approved the transfer to Sara Louise Spinetti of License No. MC-12675 (Sub-2) issued November 15, 1985, to Pauline E. Snodgrass authorizing the holder to engage in operations as a broker at Martins Ferry, OH, for the transportation of *passengers and their baggage,* in charter operations, beginning and ending at points in Belmont, Jefferson, and Monroe Counties, OH, and Brooke, Hancock, and Ohio Counties, WV., and extending to points in the United States, including AK and HI. Applicants are representing themselves: Pauline E. Snodgrass, 811 Elm Street, Martins Ferry, OH 43935; Sara Louise Spinetti, RD #1 Ferryview Road, Martins Ferry, OH 43935.

MC-FC-79601. By decision of February 4, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to F.E. Kerr Company of Certificate No. MC-123984 (Sub-Nos. 1 and 5) issued August 7, 1970 to Copey's Moving & Storage Co., Inc., generally authorizing the transportation of (1) retail store commodities, general commodities, with certain exceptions, between certain points in PA, on the one hand, and, on the other, certain points in PA and OH; and (2) household goods between certain points in PA, on the one hand, and, on the other, points in OH, WV, MO, NJ, NY and PA. Representative is: Martin Cusick, Esq., Cusick, Madden, Joyce, and McKay, First Federal Building, Sharon, PA 16146.

MC-FC-79610. By decision of February 4, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to Hatcher Trucking, Inc., of

Asley, IL, Permit No. MC–133822 (Sub-No. 2), issued on November 26, 1974, to Clarence C. Hatcher and Richard L. Hatcher, a partnership, d.b.a. C.C. and R.L. Hatcher, of Alsey, IL, authorizing the transportation of *brick, tile, clay products* and *refractory cements,* over irregular routes, between Alsey, IL, on the one hand, and, on the other, points in IA, IN, KY, MI, MO, NE, and WI, under a continuing contract with Alsey Refractories Company, of Alsey, IL. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transferee is not an ICC carrier.

MC–FC–78741 (supplemental publication) By decision of February 3, 1982, Review Board Number 3 modified the decision of former Review Board Number 5 and approved the transfer of Certificate No. MC–127238 Sub-11 to AIR DELIVERY SERVICE, INCORPORATED (Scranton, PA) from DORTHY R. ZUMMO, d.b.a. AIR DELIVERY SERVICE (Scranton, PA). See the prior publication of October 6, 1980. The certificate authorizes the transportation of general commodities with exceptions between Scranton, PA, and the Scranton-Wilkes Barre Airport, PA, on the one hand, and, on the other, Stewart Field Airport (Orange County), NY, restricted to traffic having a prior or subsequent movement by air. Representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006.

MC–FC–79547. By decision of February 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer of GORDON & FORANCE MOVING & STORAGE CO., of Acton, MA, of Certificate No. MC–63971 issued to James L. Wile, of Ipswich, MA, authorizing household goods, over irregular routes, between Haverhill, MA, and points in MA within 20 miles of Haverhill, MA, on the one hand, and, on the other, points in MA, NH, ME, VT, RI, CT, NY, and NJ. Applicant's representative: Gordon R. Cash, 3 Keefe Road, Acton, MA 01720. TA lease is not sought. Transferee is not a carrier.

MC–FC–79570. By decision of February 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JOYCE TRUCKING COMPANY of Certificate No. MC–119434 and Sub 5 issued to JOYCE TRUCKING CO. thereunder authorizing (1) *concrete slabs and articles* and *materials to be used in the installation of such slabs,* over irregular routes, from North Judson, IN, to points in IL and MI; (2) *petroleum and petroleum products,* in containers, and empty containers on return, over irregular routes; and (3) *automobile parts,* over irregular routes, from the facilities of Ford Motor Company at Chicago Heights, IL, to O'Hare International Airport and Midway Airport at Chicago, IL, with specified restrictions. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. TA lease is sought. Transferee is not a carrier.

Note.—A directly related application seeking a conversion of the Certificate of Registration issued to Midland Transport, Inc. (an affiliate of transferee) in MC–97257 (Sub-1) into a Certificate of Public Convenience and Necessity has been filed in MC–97257 (Sub-2), published in this same **Federal Register** issue.

MC–FC–79578. By decision of February 1, 1982 Review Board 3 approved the transfer to ACE DELIVERY SERVICE, INC., of Wilmington, DE of Permit No. MC–113856 (Sub-2) issued to WILLIAM M. HAZZARD, JR., d.b.a. ACE DELIVERY SERVICE, of Wilmington, DE (Evelyn R. Hazzard, Administratrix), authorizing electrical appliances, sound equipment, household equipment and appliances, and musical instruments, from Wilmington, DE, to those points in Cecil County, MD, Chester and Delaware Counties, PA, and Cumberland, Salem, and Gloucester Counties, NJ, located within 25 miles of Wilmington, under contract(s) with retail stores specializing in household appliances. Applicant's representative: Stephen W. Spence, 200 W. 9th St., 3rd Fl., Wilmington, DE 19801. TA lease is not sought. Transferee is not a carrier.

MC–FC–79582. By decision of February 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to H. J. NOLL of Certificate No. MC–117836 (Sub-13) issued March 25, 1981 to EDWARD J. STINSON d.b.a. STINSON MOTOR LINES authorizing the transportation of bananas from (1) New Orleans, LA to points in TX, (2) Houston, TX to Albuquerque, NM, and (3) Galveston, TX to Albuquerque, NM, Monroe, LA, Little Rock, AR, Clovis, and Roswell, NM and points in TX, OK, and AR (except Little Rock). Applicants' representatives are: Clayte Binion, 623 South Henderson, 2nd Floor, Ft. Worth, TX 76104, Joe G. Ferder, 9601 Katy Freeway, Suite 320, Houston, TX 77024.

MC–FC–79592. By decision of 2/4/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to STEWART TRUCKING COMPANY, INC., of Manchester, NH, of Certificate No. MC–87523 (Sub-No. 119)X issued 10/8/81, which supersede Certificate No. 87523 and Sub.-Nos. 93, 95, 96F, 97F, 99F, 109F, 108F, 112, 113F, 114F, and 116 to STEWART TRUCKING COMPANY, INC., of Manchester, NH, authorizing the movement of named commodities between various points in the United States. Representative: Edward J. Kiley, Attorney, 1730 "M" Street NW., Suite 501, Washington, DC 20036, Phone: (202) 296–2900. TA lease is not sought. Transferee is not a carrier.

MC–FC–79598. By decision of 2/3/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to AMERICAN DELIVERY SYSTEMS, INC. of Kansas City, KS of Certificate No. MC–117327 Sub 9X (which supercedes No. MC–117327 and Sub-No. 8), and Subs 10 and 11 issued June 5, 25, and 29, 1981, respectively to AIR CARGO TERMINALS, INC. of Kansas City, KS authorizing transportation as a motor common carrier over irregular routes transporting (a) *general commodities* (except classes A and B explosives) between (1) Kansas City, KS and Kansas City, MO, and points in KS and MO, and (2) St. Louis, MO and East St. Louis, IL, on one hand, and, on the other hand, Kansas City, KS and Kansas City, MO; (b) *general commodities,* with exceptions, between points in the U.S. for the Federal government; and (c) shipments weighing 100 pounds or less between points in the U.S. Representative: Wilmer B. Hill, 6666 11th Street NW., Suite 805, Washington, DC 20001.

MC–FC–79602. By decision of 2–2–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, and 1132.3(d) Review Board Number 3 approved the transfer by lease for one year only to Gumm Trucking, Inc. of Certificate No. MC–152736 (Sub No. 1) issued to Lucy Morningstar dba Morningstar Freight Lines authorizing the transportation over irregular routes of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Fayette County, KY, on the one hand, and, on the other, points in the United States. Applicants' representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602, Tel No. 1–502–875–3493.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special

Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved preceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: February 11, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 97257 (Sub-2), filed January 6, 1982. Applicant: MIDLAND TRANSPORT, INC. (formerly Chicago Heights Motor Freight, Inc.)—Conversion 56 E. 25th St., Chicago Heights, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. To operate as a *common carrier*, over irregular routes, transporting: *general commodities* (except class A & B explosives, commodities in bulk, and household goods); (1) between points in Lake, Cook, Kane, DuPage, Kendall, Grundy, Ford, Will, Kankakee, Livingston and Iroquois Counties, IL; and (2) between points in the counties specified in (1) on the one hand, and, on the other, points in IL.

Note.—The purpose of this application is to convert the certificate of registration in MC-79257 (Sub-No. 1) into a certificate of public convenience and necessity. This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 10926 in MC-FC-79570 published in this same Federal Register issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4324 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification

[Permanent Authority Decision Volume No. OP4-VOL-50]

February 11, 1982.

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 147886 (Sub-14) (republication) filed May 18, 1981; published in the **Federal Register** issue of June 3, 1981; and republished this issue. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. In a decision by the Commission, Division 2, Acting as an Appellate Division, decided November 24, 1981, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *lumber and wood products*, between points in Alabama, Arkansas, and Mississippi, on the one hand, and, on the other, points in Tennessee; (2) *metal products*, between Jacksonville, FL, and points in Jefferson County, AL; Los Angeles County, CA; Troup and Bulloch Counties, GA; Jackson, Clinton, Eaton, and Ingham Counties, MI; Strafford County, NH; Montgomery County, NC; Mercer County, PA; and Anderson, Ector, Harris, Harrison, and Gray Counties, TX, on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (3) *lighting fixtures*, between points in Blair County, PA, on the one hand, and, on the other, points in the United States, will serve a useful public purpose, responsive to a public demand or need. That the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to modify the grant of authority in part (2) above.

MC 149497 (Sub-17) (republication) filed October 5, 1981; published in the **Federal Register** issue of October 22, 1982; and republished this issue. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), Phone: (715) 359-2907. In a decision by the Commission, Review Board Number 3, decided January 15, 1982, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *machinery*; (2) *snowmobiles*; and (3) *snow removal equipment* (not otherwise included in (1) above), between points in the United States, will serve a useful public purpose, responsive to a public demand or need. That the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to correct the commodity description in (1) above.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4322 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 233]

Motor Carriers Restriction Removals; Decision-Notice

Decided: February 12, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 4963 (Sub-129)X, filed February 5, 1982. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Road, Spring City, PA 19475. Representative: Robert C. Bamford, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Lead and Subs 61F, 62F, 64F and 124F: (1) broaden general commodities (with exceptions) to "general commodities (except classes A and B explosives, commodities in bulk and household goods)", lead and Subs 61F, 62F, 64F, and 124F; (2) allow services at all intermediate points (except on alternate routes), lead and Subs 61F and 64F; (3) change one-way regular routes to two-way authority, and one-way irregular routes to radial authority, lead; (4) expand service to the entire commercial zone of Wilmington, DE, and Bristol and Bluefield, VA, lead; (5) expand Boroughs of Norristown and Bridgeport, Montgomery County, PA to Montgomery County, PA, lead; (6) remove delivery only and pickup only restrictions and ex-rail restriction, lead; (7) remove facilities limitations at Bridgeton, MO, Lititz, PA, Putnam County, IL, Seaford, DE, Farmington, NH, Fairfield, PA, Kingsport, TN, and Fairfield, PA, lead, and Cleveland, Shelby, Strongsville and Willard, OH, Westfield, MA, Brownsville, TN, and Indianola, MS, Sub 124F; (6) remove the originating at and destined to restriction, lead; and (7) expand off-route point authority to serve a portion of Chicago Commercial Zone to include all of the Chicago Commercial Zone, lead.

MC 28956 (Sub-28)X, filed December 14, 1981, previously noticed in the **Federal Register** of January 7, 1982, republished as follows: Applicant: McKAY'S TRUCK LINE, INC., P.O. Box 634, Albany, OR 97321. Representative: Lawrence V. Smart, 419 N.W. 23rd Avenue, Portland, OR 97210. Applicant seeks to remove restrictions in its lead certificate. This Board previously broadened the territorial description from "between points within 3 miles of Portland" to "Multnomah, Clackamas and Washington Counties, OR." This was an error on our part. Applicant had sought broadening from "between points within 3 miles of Portland, OR, including Portland" to "Multnomah, Washington, Clackamas and Columbia Counties, OR, and Clark County, WA." Therefore, the Restriction Removal Board has decided to republish this aplication with respect to the proposed expansion of applicant's Portland, OR authority contained in its lead certificate. Notice is hereby given that applicant seeks to expand "between points within 3 miles of Portland, OR, including Portland" to the aforementioned five counties.

MC 26825 (Sub-70)X, filed February 5, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Sub 11 certificate: Broaden household goods authority by adding "furniture and fixtures".

MC 69472 (Sub-7)X, filed February 8, 1982. Applicant: CORDIN MOTOR FREIGHT, 8600 Joliet Road, McCook, IL 60525. Representative: Scott Cordin (same address as applicant). Sub 5: Change one-way authority to radial authority, between Chicago, IL, on the one hand, and, on the other, points in IN, IA, KY, MN, MO, NE, TN, and WI.

MC 72729 (Sub-9)X, filed February 4, 1982. Applicant: GOLDEN GATE VAN LINES, INC., P.O. Box 17005, San Antonio, TX 78217. Representative: Zoe Ann Pace, Suite 2373, One World Trade Center, New York, NY 10048. Sub 7G certificate broaden household goods to "household goods and furniture and fixtures."

MC 114132 (Sub-11)X, filed July 7, 1981, previously noticed in the **Federal Register** of July 30, 1981 and August 28, 1981, republished as follows: Applicant: CHURN'S TRUCK LINES, INC., P.O. Box 188, Eastville, VA 23347. Representative: James F. Flint, 406 World Center Bldg., 918-16th Street, N.W., Washington, DC 20006. Consistent with the Commission's decision in applicant's appeal served 1-25-82 and the decision in No. MC-114132 (Sub-No. 11)X, *Stewart Trucking Co, Inc.-Administrative Appeal* (not printed) served 12-24-81, the Board is republishing to provide notice of applicant's proposal to broaden Philadelphia, PA to "points in Philadelphia, Bucks, Montgomery, Chester, and Delaware Counties, PA, Gloucester, Salem, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ and New Castle County, DE"; Newark, NJ to "points in Essex, Middlesex, Somerset, Morris, Union, Hudson, Bergen and Passaic Counties, NJ": Chicago, IL to "points in Cook, Will, DuPage, and Lake Counties, IL and Lake and Porter Counties, IN"; and points in that part of the NYC commercial zone to "New York, NY"; and those points in NJ within 5 miles of New York, NY and all of any municipality in NJ any part of which is within 5 miles of New York to "points in Monmouth, Middlesex, Somerset, Mercer, Union, Morris, Passaic, Bergen, Wayne, Essex, and Hudson Counties, NJ."

MC 117797 (Sub-8)X, filed January 29, 1982. Applicant: R. D. LEWIS BANANA CO., INC., P.O. Box 387, Fowler, CO 81039. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Lead and Sub-Nos. 2 and 7: Broaden (1) bananas and agricultural commodities exempt from regulations to "food and related products" in all Subs, (2) delete mixed loads restriction; (3) broaden (a) in the lead New Orleans, LA, to Orleans Parish; Denver, CO, to Adams, Arapahoe, Denver and Jefferson Counties; Galveston, TX, to Galveston County; Scottsbluff, NE, to Scottsbluff County; Casper, WY, to Natrona County; (b) in Sub 2 Freeport, TX, to Brazoria

County; Denver and Pueblo, CO, to Adams, Arapahoe, Jefferson and Pueblo Counties; (c) in Sub 7, Hueneme, CA, to Ventura County; and (4) to radial service in all authorities.

MC 119875 (Sub-15)X, filed January 28, 1982. Applicant: WAR-HUNT TRUCKING CO., INC., RD #8, P.O. Box 129, Allentown, PA 18104. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, D.C. 20036. Lead and Subs 2, 3, 4, 5, 6, 7, 8, 10, 11F, 12F, 13F and 14F certificates: (A) Broaden to (1) "food and related products" from (a) confectionery and/or confectionery products, and/or materials and supplies used in the manufacturing and distribution of confectionery products, Subs 2, 5, 10, 11F, 12F and 14F; and (b) foods, food products, food ingredients, animal foods, animal food ingredients and meat by-products, Sub 8; (2) "building materials" from (a) composition board, insulating materials, gutters, downspouts, soffits, roofing materials, construction materials and building materials and materials, supplies, and accessories, Sub 3; (b) poles, Subs 4 and 6; (3) "metal products and building materials" from metal roofing, including metal roofing combined with cellular or expanded plastic insulation and metal roofing backed with paper, foil or film, aluminum siding and aluminum suspension articles, Sub 7; (4) "pulp, paper and related products" from (a) waxed wrapping paper, Sub 5; and (b) paper and paper products, Sub 13F; (B) remove (1) all exceptions from the general commodities description, except classes A and B explosives, lead; (2) "mixed loads", "mechanical refrigeration" or "specified commodity" restriction, Subs 2, 3, 7, 10, 11F and 12F; (3) "commodities in bulk" restriction, Subs 2, 3, 8, 10, 11F, 12F and 14F; (4) "originating at or destined to" restriction, Subs 3, 5, 6, 8, 10 and 14F; and (5) restriction prohibiting service to Providence, RI, Sub 12F (part 1a); and, (C) broaden to (1) county-wide authority: (a) Steuben County, NY (Corning); Albany, Bronx, Broome, Chemung, Chenago, Columbia, Cortland, Delaware, Dutchess, Greene, Herkimer, Madison, Montgomery, Nassau, New York, Orange, Ostego, Putnam, Queens, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster and Westchester Counties, NY, (points in that part of N.Y. within 150 miles of Newark, NJ); and, Fairfield and New Haven Counties, CT (those points on U.S. Highway 1 between the New York-Connecticut State line and New Haven), lead; (b) Lancaster County, PA (facilities-Elizabethtown), Sub 2; (c) Nelson County, KY (facilities-Bardstown); and Providence County, RI (East Providence), Sub 3; (d) Luzerne County, PA (facilities-Hazelton and/or Hazel Township), Subs 4, 5 and 6; (e) Franklin County, MA (Monroe Bridge), Sub 5; (f) Schuylkill County, PA (facilities-Port Carbon), Sub 7; (g) Lackawanna and Lehigh Counties, PA (facilities-Scranton and Allentown), Sub 8; (h) Warren County, NJ and Lancaster County, PA (facilities-Hackettstown, NJ and Elizabethtown, PA), Sub 10; (i) Dauphin, Lancaster, and Cumberland Counties, PA (facilities-Derry, East Hempfield and Hampden Townships), Sub 11F; (j) Warren County, NJ (facilities-Hackettstown); Lancaster County, PA (Elizabeth); Baltimore County, MD (facilities-Cockeysville); Union County, NJ (Elizabeth); Norfolk County, MA (facilities-Foxboro); and Camden County, NJ (facilities-Gloucester City, NJ), Sub 12F; and (k) Norfolk, Suffolk and Hampden Counties, MA (facilities-Canton, Hyde Park, Palmer, Norwood and Springfield); Butler, Montgomery and Hamilton Counties, OH (Monroe, Dayton, Lockland, Middletown and Norwood); Grundy, Kane and Will Counties, IL (Morris, St. Charles, and Wilmington, IL), Sub 13F; and (2) radial authority, Subs 2, 3, 4, 5, 6, 7, 8, 10, 11F and 12F.

MC 121683 (Sub-14)X, filed February 8, 1982. Applicant: JACKSON EXPRESS, INC., P.O. Box 3310, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Sub 2 certificate, (1) remove all exceptions from general commodities except classes A and B explosives; (2) authorize service on all intermediate points (except on alternate routes); (3) remove restrictions on service at Memphis, TN, and at Tupelo, MS.

MC 123272 (Sub-54)X, filed August 13, 1981, previously noticed in the **Federal Register** of September 11, 1981, republished as follows: Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, Suite 2108, 33 North LaSalle Street, Chicago, IL 60602. Applicant seeks to remove restrictions in its lead certificate (sheet 2). This Board previously broadened the commodity description from malt beverages, and from empty malt beverage containers to "food and related products." Applicant had sought expansion of empty malt beverage containers to "metal products, and clay, concrete, glass or stone products," but was denied this authority on the assumption that the containers could be shipped under implied authority for food and related products. However, the empty container authority is independent of food and related products. Therefore, the Restriction Removal Board has decided to renotice this application with respect to the expansion of the container authority. Notice is hereby given that applicant seeks to expand empty malt beverage containers to the aforementioned description.

MC 134689 (Sub-7)X, filed Feb. 4, 1982. Applicant: LA ROSA DEL MONTE EXPRESS, INC., 1133–1135 Tiffany St., Bronx, NY 10459. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. Subs 3F, 4F and 5F certificates: Broaden from used household goods to "household goods and furniture and fixtures" and remove "prior or subsequent movement by water or rail" restriction.

MC 138073 (Sub-4)X, filed Dec. 8, 1981, previously noticed in the **Federal Register** of Jan. 8, 1982, republished as follows: Applicant: BUF-AIR FREIGHT, INC., 495 Aero Drive, Cheektowaga, NY 14225. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. MC 128073 and Sub-Nos. 1 and 2 certificates, (1) remove all restrictions in the general commodities authority "except classes A and B explosives, household goods, and commodities in bulk"; (2) remove restrictions in: lead and Sub-No. 2, which limit transportation of traffic to that having a prior or subsequent movement by air; and (b) Sub-No. 1, which limit transportation of individual articles moving in shipments not exceeding 500 pounds in weight, on bills of lading of surface interstate freight forwarders; and (3) broaden airports to countywide authority: in the lead, (1) "Erie and Niagara Counties, NY" for the Greater Buffalo International Airport; "Livingston, Monroe, Ontario and Wayne Counties, NY" for Rochester-Monroe County Airport; "Bergen, Essex, Hudson, Middlesex, Morris, Passaic and Somerset Counties, NJ, and Kings, New York, Queens and Richmond Counties, NY" for Newark Airport; "Albany, Rensselaer, Saratoga and Schenectady Counties, NY" for Albany County Airport; "Broome County, NY, and Susquehanna County, PA" for Broome County Airport; "Cattaraugus County, NY" for Olean Municipal Airport; "Chautauqua County, NY" for Jamestown Municipal Airport; "Chemung County, NY and Bradford County, PA" for Chemung County Airport; "Jefferson County, NY" for Watertown Airport; "Herkimer and Oneida Counties, NY" for Oneida

County Airport; "Madison, Onondaga and Oswego Counties, NY" for Clarence E. Hancock Airport; "New York, NY", for La Guardia Airport and John F. Kennedy International Airport; "St. Lawrence County, NY" for Massena Airport; "Tompkins County, NY" for Tompkins County Airport; "Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit Counties, OH" for "Cleveland-Hopkins Municipal Airport, and "McKean County, PA, and Chautauqua County, NY" for Bradford-McKean County Airport; and (2) Sub No. 2, to "Erie and Niagara Counties, NY" for The Greater Buffalo International Airport.

MC 145338 (Sub-6)X, filed Feb. 5, 1982. Applicant: MEDICAL EMERGENCY TRANSPORTATION, CORP., d.b.a. METCOR, P.O. Box 386, Califon, NJ 07831. Representative: James F. Flint, 406 World Center Building, 918 Sixteenth Street NW., Washington, DC 20006. Subs 1, 3F, and 4F permits: broaden (1) to "medical and scientific equipment, materials, and supplies," from radiopharmaceuticals, medical isotopes, medical and diagnostic test kits, medical instruments and devices, radiochemicals, and accessories; (2) to "between points in the U.S.," under continuing contract with the named shippers; and (3) eliminate restrictions (a) limiting service to shipments having a prior movement by air; (b) precluding shipments from one consignor to one consignee on any one day exceeding 300 pounds; and (c) precluding transportation of packages or articles from one consignor to one consignee on any one day weighing in the aggregate more than 40 pounds.

MC 150211 (Sub-19)X, filed Feb. 8, 1982. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Lead: (1) eliminate except plastic pipe and commodities in bulk restrictions; and (2) remove the facilities limitation at Jackson, TN.

[FR Doc. 82-4320 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29835]

Rail Carriers; Burlington Northern Railroad Company—Merger—Walla Walla Valley Railway Company; Exemption

Decided: February 11, 1982.

On January 14, 1982, the Walla Walla Valley Railway Company (WWV) and Burlington Northern Railroad Company (BN) jointly filed a notice of exemption of the proposed merger of WWV into BN, under 49 CFR 1111.5(c)(3), as amended by *Railroad Consolidation Procedure*, 363 I.C.C. 200, 244 and 266 (1980), 45 FR 6299 (September 23, 1980).

WWV is a wholly owned subsidiary of BN. BN operates the WWV as a freight line between Walla Walla, WA where connection is made with BN and Milton-Freewater, OR. Total trackage operated is 18 miles.

The BN–WWV merger is intended to simplify the BN corporate structure. It will involve no changes in operations and will have no impact on shippers or rail service. The merger benefits are limited to administrative and incidental savings resulting from corporate simplifications, the elimination of separate recordkeeping, intercompany billing and accounting, and the administrative burden of maintaining the separate corporate existence of WWV. The effect on corporate employees is limited as WWV employs only nine workers of its own.

This is a transaction within a corporate family which is exempt because it does not realt in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family (49 CFR 111.5(c)(3)).

Under 49 U.S.C. 10505, as amended by section 213 of the Staggerts Rail Act of 1980, Pub. L. NO. 96–448 (1980), the Commission cannot exempt a transaction if it will relieve a carrier of its obligation to protect the interests of employees as required by 49 U.S.C. Subtitle IV. The Commission has determined that the employee protective provisions found in *New York Dock. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for the protection of employees involved in merger transactions. Therefore, BN and WWV must comply with those provisions as a condition to exercise of this exemption.

By the Commission Reese H. Taylor, Jr., Chairman.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4319 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 47N)]

Rail Carriers; Conrail Abandonment Between Rand and Phillipsburg, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Rand and Phillipsburg in the County of Warren, NJ, a total distance of 0.7 miles effective on January 6, 1982.

The Commission has decided that the net liquidation value of this line is $10,115. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4317 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-31N)]

Rail Carriers; Conrail Abandonment Between Wharton and Mt. Hope, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Wharton and Mt. Hope in the County of Morris, NJ, a total distance of 2.7 miles effective on December 23, 1981.

The Commission has decided that the net liquidation value of this line is $43,339. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4318 Filed 2-17-82; 8:45 am]
BILLING CODE 7035-01-M

[AB 35 SDM]

Rail Carriers; Los Angeles & Salt Lake Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Los Angeles & Salt Lake Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 35 SDM. The Commission on February 3, 1982, received a certificate

of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting Docket No. AB 35 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4313 Filed 2-17-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 93 (Revised)]

Assistant to the Administrator for Management (AA/M); Functions and Authorities

Pursuant to the authority delegated to the Administrator by Delegation of Authority No. 1 of October 1, 1979 from the Director of the United States International Development Cooperation Agency and Executive Order 12163 of September 29, 1979, and in furtherance of my decision relating to the establishment of the Bureau for Management as announced in A.I.D. General Notice dated December 18, 1981, it is hereby ordered as follows:

Section 1. There is delegated to the Assistant to the Administrator for Management all of the authorities and functions which are specified in any regualtion (published or unpublished), manual order, Handbook, policy directive or determination, circular or instruction or communication of any nature relating to the central responsibility for the planning, implementation and evaluation of the Agency for International Development's major management activities including personnel management, financial management, direct contracting, commodity management, management planning, management operations and data management.

Section 2. the title "Assistant Administrator for Program and Management Services" is deleted from each delegation of authority within the Agency for International Development, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof. These delegations of authority shall include, but not be limited to:

a. Delegation of Authority No. 36 dated April 8, 1964 (29 FR 5353) as amended;

b. Delegation of Authority No. 40 dated February 20, 1981 (46 FR 15237 and 15238) as amended;

c. Delegation of Authority No. 41 dated May 8, 1964 (29 FR 6892) as amended;

d. Delegation of Authority No. 56 dated November 19, 1964 (29 FR 15928);

e. Delegation of Authority No. 57 dated December 8, 1964 (29 FR 18392);

f. Delegation of Authority No. 64 dated July 14, 1966 (31 FR 9811) as amended;

g. Delegation of Authority No. 67 dated March 1, 1967 (32 FR 3781) as amended;

h. Delegation of Authority No. 99 dated April 27, 1973 (38 FR 12834) as amended;

i. Delegation of Authority No. 110 dated September 23, 1975 (40 FR 45451);

j. Delegation of Authority No. 122 dated May 11, 1977 (42 FR 26496); and

k. Delegation of Authority No. 137 dated October 9, 1980 (45 FR 70348 and 70349).

Section 3. Currently effective redelegations of authority issued by the Assistant Administrator for Program and Management Services shall continue in effect according to their terms until modified or revoked by appropriate authority. The Offices of Management Planning, Management Operations, Data Management, Contract Management, Commodity Management, and related activities which comprised the Bureau for Program and Management Services shall comprise the Directorate for Program and Management Services. The title "Assistant Administrator for Program and Management Services" is deleted from each redelegation of authority issued by that official, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof.

Section 4. The title "Director, Office of Personnel Management" is deleted from each delegation of authority within the Agency for International Development, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof. These delegations of authority shall include, but not be limited to:

a. Delegation of Authority No. 27 dated October 25, 1978 (43 FR 52084–52086) as amended; and

b. Delegation of Authority No. 137 dated October 9, 1980 (45 FR 70348 and 70349). The title to this delegation of authority shall read "Assistant to the Administrator for Management; Delegation of Authority."

Section 5. Delegation of Authority No. 27 dated October 25, 1978 (43 FR 52084–52086) as amended is further amended by adding a new paragraph to Section I after paragraph 24 as follows:

25. All authorities under the Foreign Service Act of 1980 which may properly be exercised and delegated by the Administrator of the Agency for International Development. References in this or any other delegation of authority to provisions of law superseded by this or other Acts shall be deemed to include reference to the corresponding provisions of the appropriate Act.

Section 6. Delegation of Authority No. 137 dated October 9, 1980 (45 FR 70348 and 70349) is amended by adding a new paragraph to Section 2 after paragraph (e) as follows:

All authorities under the Foreign Service Act of 1980 which may be exercised and delegated by the Administrator of the Agency for International Development. References in this or any other delegation of authority to provisions of law superseded by this or other Acts shall be deemed to include reference to the corresponding provisions of the appropriate Act.

Section 7. Delegation of Authority No. 98 dated January 15, 1980 (45 FR 9866 and 9867) is amended by deleting "(3) Assistant Administrator, Bureau for Program and Management Services" in its entirety.

Section 8. The titles "Controller, AID", "Controller", and "Office of the Controller" are deleted from each delegation of authority within the Agency for International Development, and the title "Assistant to the Administrator for Management" is substituted in lieu thereof. These delegations of authority shall include, but not be limited to:

a. Delegation of Authority No. 80 dated April 27, 1980 (45 FR 31239 and 31240);

b. Delegation of Authority No. 85 dated April 27, 1980 (45 FR 31240);

c. Delegation of Authority No. 135 dated April 27, 1980 (45 FR 31239) as amended; and

d. Delegation of Authority No. 136 dated July 24, 1980 (45 FR 57604).

Section 9. The authorities delegated to the Assistant to the Administrator for Management may be exercised by an officer serving in an acting capacity and may be redelegated to the extent specified in the delegations of authority affected thereby, and shall be subject to

the same limitations or restrictions as are provided in such delegations.

Section 10. Actions heretofore taken by officials designated herein are ratified and confirmed.

Section 11. This Delegation of Authority shall be effective immediately.

Dated: January 19, 1982.

M. Peter McPherson,

Administrator.

[FR Doc. 82-4393 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 135.1]

Controller, Agency for International Development; Redelegation of Authority Regarding the Office of Financial Management

Section 1. Pursuant to the authority delegated to me by Agency for International Development Delegations of Authority Nos. 80, 85, 93, 135 and 136 I hereby redelegate to the Controller the following authorities:

(a) All of the authorities delegated to me by Delegations of Authority Nos. 80, 85, 135 and 136.

(b) All of the authorities delegated to me by Delegation of Authority No. 93 which are required for the efficient administration and proper functioning of the Office of Financial Management.

Section 2. The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity.

Section 3. This Redelegation of Authority shall be effective immediately.

Dated: January 22, 1982.

R. T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 82-4306 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 93.1]

Deputy Assistant to the Administrator for Management Redelegation of Authority Regarding the Directorate for Program and Management Services

Section 1. Pursuant to the authority delegated to me by the Agency for International Development Delegations of Authority Nos. 36, 40, 41, 56, 57, 64, 67, 93, 99, 110, 122 and 137 I hereby redelegate to the Deputy Assistant to the Administrator for Management the following authorities:

(a) All of the authorities delegated to me by Delegations of Authority Nos. 36, 40, 41, 56, 57, 64, 67, 99, 110, 122 and 137.

(b) All of the authorities delegated to me by Delegation of Authority No. 93 which are required for the efficient administration and proper functioning of the Directorate for Program and Management Services.

Section 2. The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity. Currently effective redelegations of authority issued by the Assistant Administrator for Program and Management Services continue in effect according to their terms until modified or revoked by appropriate authority.

Section 3. This Redelegation of Authority shall be effective immediately.

Dated: January 22, 1982.

R. T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 82-4304 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 27.3 (Revised)]

Director, Office of Personnel Management Redelegation of Authority Regarding Personnel

Section 1. Pursuant to the authority delegated to me by Agency for International Development Delegations of Authority Nos. 27, 93 and 137, I hereby redelegate to the Director, Office of Personnel Management the following authorities:

(a) All of the authorities delegated to me by Delegation of Authority No. 27;

(b) All of the authorities delegated to me by Section 2 of Delegation of Authority No. 137; and

(c) All of the authorities delegated to me by Delegation of Authority No. 93 which are required for the efficient administration and proper functioning of the Office of Personnel Management.

Section 2. The authorities redelegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity.

Section 3. Redelegation of authority No. 27.3 to the Director, Office of Personnel and Manpower, dated March 7, 1974 is hereby revoked.

Section 4. This Redelegation of Authority shall be effective immediately.

Dated: January 22, 1982.

R. T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 82-4305 Filed 2-17-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-148, 149, and 150 (Preliminary)]

Carbon Steel Wire Rod From Brazil, Belgium, and France

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and the scheduling of a conference to be held in connection with the investigations.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigations Nos. 701-TA-148, 149, and 150 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Belgium, and France of carbon steel wire rod. For the purposes of these investigations, carbon steel wire rod is defined as a coiled, semifinished, hot-rolled, carbon steel product of approximately round, solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound. As defined, carbon steel wire rod is provided for in item 607.17 of the Tariff Schedules of the United States.

EFFECTIVE DATE: February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam A. Bishop, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street, NW., Washington, D.C. 20436; telephone 202-523-0291.

SUPPLEMENTARY INFORMATION:

Background: These investigations are being instituted in response to a petition filed on February 8, 1982, by counsel on behalf of Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan Steel Co., all of which are U.S. producers of carbon steel wire rod. The

Commission must make its determinations in these investigations within 45 days after the date of the filing of the petition, or by March 25, 1982 (19 CFR 207.17). The investigations will be subject to the provisions of Part 207 of the Commission's rules of practice and procedure (19 CFR 207, 44 FR 76457), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before March 8, 1982.

Any business information which the submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions except for confidential business data will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10 a.m., on Wednesday, March 3, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for these investigations, Ms. Miriam A. Bishop (202–523–0291) not later than February 26, 1982 to arrange for their appearance. The conference in these investigations will be held concurrently with that for antidumping investigation No. 731–TA–88 (Preliminary), Carbon Steel Wire Rod From Venezuela. It is anticipated that parties in support of the petition for countervailing and antidumping duties and parties opposed to the petition will each be allocated one hour within which to make an oral presentation at the conference.

Inspection of the petition.—A copy of the petition filed with the Department of Commerce in this case in available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigations and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR 201). Further information concerning the conduct of the conference will be provided by Ms. Bishop.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

By order of the Commission.

Issued: February 11, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4397 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-88 (Preliminary)]

Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigation and the scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–88 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of carbon steel wire rod. For the purposes of this investagation, carbon steel wire rod is defined as a coiled, semifinished, hot-rolled, carbon steel product of approximately round, solid cross section, not under 0.20 inch or 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound. As defined, carbon steel wire rod is provided for in item 607.17 of the Tariff Schedules of the United States.

EFFECTIVE DATES: February 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam A. Bishop, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street, N.W., Washington, D.C. 20436; telephone 202–523–0291.

SUPPLEMENTARY INFORMATION:

Background: This investigation is being instituted in response to a petition filed on February 8, 1982, by counsel on behalf of Atlantic Steel Corp. Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan Steel Co., all of which are U.S. producers of carbon steel wire rod. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by March 25, 1982 (19 CFR 27.17). The investigation will be subject to the provisions of Part 207 of the Commission's rules of practice and procedure (19 CFR Part 207, 44 FR 76457), and particularly Subpart B thereof.

Written submission.—Any person may submit to the Commission a written statement of information pertinent to the subject of the investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before March 8, 1982.

Any business information which the submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CRF 201.6). All written submission except for confidential business data will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., on Wednesday, March 3, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for this investigation, Ms. Miriam A. Bishop (202–523–0291) not later than February 26, 1982 to arrange for their appearance. The conference in this investigation will be held concurrently with those for countervailing duty investigations Nos. 701–TA–148, 149, and 150 (Preliminary), Carbon Steel Wire Rod From Brazil, Belgium, and France. It is anticipated that parties in support of the petition for countervailing and antidumping duties and parties opposed to the petition will each be allocated one hour within which to make and oral presentation at the conference.

Inspection of the petition.—A copy of the petition filed with the Department of Commerce in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation and rules of

general application, consult the Commission's rules of practice and procedures, Part 207, Subpart A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201). Further information concerning the conduct of the conference will be provided by Ms. Bishop.

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

By order of the Commission.

Issued: February 11, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4398 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Grant of Application for Interlocutory Review of Order No. 123, Reversal of Order No. 123, and Suspension of Investigation

AGENCY: International Trade Commission.

ACTION: Grant of application to review Order No. 123, reversal of Order No. 123, and suspension of investigation.

SUMMARY: Notice is hereby given that the Commission has granted an application for interlocutory review filed by respondents National Business Systems, Inc. (Canada), and National Business Systems, Inc. (U.S.), reversed the presiding officer's denial of a motion by respondents to suspend the investigation, and suspended the investigation for a limited period. The Commission has additionally denied motions by the Commission investigative attorney that respondents' application for interlocutory review be stricken (Motion 104-179C) and that review of Order No. 123 be denied (Motion 104-180C).

AUTHORITY: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 210.15 and 210.60(b) of the Commission's rules of practice and procedure (19 CFR §§ 210.15 and 210.60(b)).

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by AM International, Inc., and Bartizan Corporation the Commission instituted investigation N. 337-TA-104 to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of certain card data imprinters, alleged to infringe claim 7 of U.S. Letters Patent 3,272,120 and claim 12 of U.S. Letters Patent 3,340,800. Notice of the Commission's investigation was published at 46 FR 31094 (June 12, 1981).

Respondents National Business Systems, inc. (Canada) and National Business Systems, Inc. (U.S.) moved on December 18, 1981, for a limited suspension of the investigation until ten days after completion of trial in United States district court litigation involving the patents that are at issue in this investigation (Motion 104-130). The motion was opposed by complainants and the Commission investigative attorney. On January 19, 1982, the presiding officer denied the motion but granted respondents leave to file and interlocutory appeal with the Commission (Order No. 123).

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission. telephone 202-523-1626..

By order of the Commission.

Issued: February 9, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4399 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Change of the Commission Investigative Attorney

The Notice of Investigation published in the **Federal Register** on January 7, 1982, stated that Ralph Elsas-Patrick, Esq. of the Unfair Import Investigations Division would be the Commission Investigative Attorney in this case. M. Brooke Murdock, Esq. of the Unfair Import Investigations Division is now the Commission Investigative Attorney.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: February 5, 1982.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 82-4400 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-101]

Certain Hot Air Corn Poppers and Components Thereof; Settlement Agreements, Recommended Termination, and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of three parties as respondents in the above-captioned investigation.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has issued an order recommending that the Commission grant three joint motions by the complainant and three respondents to terminate the investigation with respect to those respondents. The recommended termination is based on settlement agreements entered into by the parties. Before taking final action on the motions, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before March 22, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investgation No. 337-TA-101 to determine whether threre is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States of certain hot air corn poppers and components thereof, or in the sale of such articles, which are alleged to infringe claims 1, 2, 3, and 5 of U.S. Letters Patent 4,178,843 ('843 patent), the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On January 5, 1982, the complainant, Wear-Ever Aluminum, Inc. (Wear-Ever), and respondents Sunbeam Corp. (Sunbeam), Yamada Electric Industries Ltd. (Yamada), and Maxim Associates Corp. (Maxim) filed joint motions (collectively docketed as Motion No. 101-41) to terminate the investigation insofar as it concerns those respondents. The movants seek termination on the basis of settlement agreements. Supplements to the Wear-Ever/Yamada and the Wear-Ever/Maxim motions were filed on January 12, 1982. They contained supplemental settlement agreements embodying an additional release and discharge. The Commission investigative attorney supported the motions and recommended that they be granted. On January 19, 1982, the presiding officer issued an order recommending that Motion No. 101-41 be granted. The settlement agreements and the proposed termination are now before the Commission for final action.

The presiding officer has summarized the agreements as follows:

A. *The Wear-Ever/Sunbeam agreement:*

1. Sunbeam agrees not to place any further purchase orders with Yamada for the importation of the accused corn poppers.

2. Except for its stock of accused corn poppers now on hand and additional shipments made by Yamada under the outstanding purchase order, Sunbeam agrees not to import the accused corn poppers except pursuant to a license under U.S. Patent No. 4,178,843. It also agrees not to import any device which infringes the '843 patent, or any component thereof which constitutes a material part of the invention claimed therein and is not a staple article or commodity of commerce.

3. Sunbeam admits that the '843 patent is valid and enforceable.

4. Sunbeam agrees to pay a certain sum for the right to dispose of accused corn poppers on hand and those under the outstanding purchase order. However, no license is granted to Sunbeam under the '843 patent.

5. Wear-Ever waives all claims for damages for past infringement of the '843 patent as to Sunbeam and its customers.

6. Wear-Ever and Sunbeam agree to enter a joint motion to terminate this investigation and related civil action.

7. Sunbeam agrees to give Wear-Ever at least 4 months' notice of its intent to import hot air corn poppers, or components thereof which are not staple articles or commodities of commerce, and both agree to exert their best efforts to resolve any issues surrounding said importation. The agreement states that the burden of establishing infringement with respect to any product made, sold, or imported by Sunbeam shall remain on Wear-Ever or the owner of the '843 patent.

8. Sunbeam's obligation under this agreement relating to future imports will cease upon any determination by the U.S. International Trade Commission or any court that the '843 patent is invalid or unenforceable.

B. *The Wear-Ever/Yamada agreement:*

1. Except for the corn poppers covered by the outstanding purchase order mentioned above, Yamada agrees not to sell for importation into the U.S. any corn poppers substantially identical to those it has sold to Sunbeam or to G.E.

2. No license is granted to Yamada under the 843 patent.

C. *The Wear-Ever/Maxim agreement:*

1. Maxim agrees not to import or aid or abet the importation of corn poppers substantially identical to those sold by Yamada to Sunbeam or to General Electric Co. (G.E.).

2. No license is granted to Maxim under the '843 patent.

In each of the agreements, Wear-Ever has discharged the respective respondent from all claims relating to the sale of the accused corn poppers in the past or under the outstanding purchase order.

Prior to the execution of the foregoing agreements, Wear-Ever entered into a settlement agreement with respondent G.E. That agreement concerned the accused hot air corn poppers which were made for G.E. by Yamada and those which Maxim aided Yamada in selling to G.E. or importing into the United States (46 FR 62342, Dec. 23, 1981). However, inasmuch as the Wear-Ever/G.E. agreement expressly provided that Yamada and Maxim could accept the release and discharge contained therein, Yamada and Maxim have each entered into supplemental settlement agreements with Wear-Ever which embody that release and discharge. The key provisions of the supplemental agreements are as follows:

1. Yamada agrees not to make or sell for importation into the United States, and Maxim agrees not to import or aid and abet the importation of, the hot air corn poppers and components thereof which constitute a material part of the accused hot air corn poppers and are not a staple article or commodity of commerce, identical to or substantially identical to those Yamada has made or sold to Sunbeam.

2. With respect to the accused hot air corn poppers which Yamada has previously made or sold to G.E. and which Maxim has aided Yamada in selling to G.E., Wear-Ever releases and discharges Yamada and Maxim together with their officers, directors, agents, and so forth from all causes of action and all claims for damage that Wear-Ever may have against them relating to unfair methods of competition and unfair acts arising out of importation, use, or sale of the accused corn poppers; Wear-Ever also agrees to take no action against Yamada and Maxim only to the extent that Yamada has made or sold, and Maxim has assisted Yamada in selling, accused corn poppers to G.E.

Nonconfidential versions of the settlement agreements are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

All comments must conform to the requirements of section 201.8 of the Commission's rules (19 CFR 201.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Room 224, Washington, D.C. 20436, telephone 202–523–0350.

By order of the Commission.

Issued: February 9, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc 82-4401 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–46 (Final)]

Certain Steel Wire Nails From Korea

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation.

SUMMARY: As a result of the affirmative preliminary determination on January 29, 1982, by the International Trade Administration, United States Department of Commerce, that certain steel wire nails provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS) from certain Korean companies are being sold in the United States, at less than fair value, within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 731–TA–46 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry is materially retarded by reason of imports of such merchandise. For purposes of this investigation, the term "steel wire nails" refers to nails of one-piece construction which are made of round steel wire and which enter the United States under item numbers 646.25 and 646.26 of the TSUS.[1] The Commission's investigation encompasses imports of nails as defined above from Korea, produced by all firms, except Samchok, which was found not to be selling at less than fair value.

EFFECTIVE DATE: January 29, 1982.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck, Office of Investigations, U.S. International Trade Commission, (202–523–0339).

SUPPLEMENTARY INFORMATION: On August 11, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 731–TA–46 (Preliminary), that there was a reasonable indication that an industry in

[1] For purposes of this investigation, brads, spikes, staples and tacks are not included.

the United States is materially injured, or is threatened with material injury, by reason of imports from Korea of steel wire nails which were possibly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before April 15, 1982.

Written submissions: Any person may submit to the Commission a written statement of information pertinent to the subject of the investigation. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before April 15, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information". Confidential submissions and request for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of facts will be available to all interested parties on March 31, 1982.

Public hearing: The Commission will hold a public hearing in connection with this investigation at 10:00 a.m. on April 21, 1982, in the Hearing Room of the U.S. International Trade Commission Building. Request to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 25, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 9:30 a.m., on March 31, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules of practice and procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. All legal arguments, economic analysis, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22. Post hearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20).

By order of the Commission.

Issued: February 12, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4404 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[332-138]

Competitive Assessment of the U.S. Metalworking Machine Tool Industry

AGENCY: International Trade Commission.

ACTION: The Commission, on its own motion, instituted investigation No. 332-138, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of gathering and presenting information on the competitive position of the U.S. metalworking machine tool industry. This study will assess the impact of the growing competition from imports on the U.S. metalworking machine tool industry, explore the related development of further competition in the industry's overseas markets, and examine the steps that have been taken and may be taken to counteract these developments.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Donald M. Terry, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202-523-0262 or 202-523-0169).

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than June 30, 1982. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: February 11, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-4405 Filed 2-17-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-86 (Preliminary) Through 701-TA-93 (Preliminary) and Investigations Nos. 731-TA-53 (Preliminary) Through 731-TA-60 (Preliminary)]

Hot-Rolled Carbon Steel Plate

AGENCY: International Trade Commission.

ACTION: Amendment of the scope of captioned countervailing duty investigations and antidumping investigations being conducted in accordance with the provisions of the Tariff Act of 1930. The notice of the institution of these investigations was published in the **Federal Register** on Wednesday, January 20, 1982, at 47 FR 2955.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the amendment of the scope of investigations Nos. 701-TA-86 (Preliminary) through 701-TA.93 (Preliminary) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany of hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants are alleged to be paid. For the purpose of this investigation semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included within the scope of hot-rolled carbon steel plate.

The Commission also gives notice of the amendment of the scope of investigations Nos. 731-TA-53 (Preliminary) through 731-TA-60 (Preliminary) to determine whether

there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Belgium, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany of hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules, which are alleged to be sold in the United States at less than fair value. For the purpose of this investigation, semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included within the scope of hot-rolled carbon steel plate.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0312.

This notice is published pursuant to § 207.13 of the Commission rules of practice and procedure (19 CFR 207.13).

By order of the Commission.

Issued: February 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–4402 Filed 2–17–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation Nos. 701–TA–100 (Preliminary), 701–TA–108 (Preliminary), and 731–TA–73 (Preliminary)]

Hot-Rolled Carbon Steel Sheet and Cold-Rolled Carbon Steel Sheet From the United Kingdom

AGENCY: International Trade Commission.

ACTION: Amendment of the scope of the countervailing duty investigations and the antidumping investigation as it appeared in the notices for the institution of these investigations on Wednesday, January 20, 1982, at 47 FR 2955 and 47 FR 2952.

SUMMARY: On January 15, 1982, the Commission issued a notice in investigation No. 701–TA–100 (Preliminary) concerning the institution of a countervailing duty investigation of imports of hot-rolled carbon steel sheet and strip from the United Kingdom. That notice stated that imports of hot-rolled carbon steel strip provided for in items 608.1920, 608.2120, and 608.2320 of the Tariff Schedules of the United States Annotated (TSUSA), were within the scope of that investigation. The Commission hereby gives notice of the amendment of the scope of investigation No. 701–TA–100 (Preliminary) to exclude hot-rolled carbon steel strip.

On January 15, 1982, the Commission issued a notice in investigations Nos. 701–TA–108 (Preliminary) and 731–TA–73 (Preliminary) concerning the institution of a countervailing duty investigation and an antidumping investigation, respectively, of cold-rolled carbon steel sheet and strip from the United Kingdom. That notice stated that imports of cold-rolled carbon steel strip, provided for in TSUSA items 608.1940, 608.2140, and 608.2340, were within the scope of those investigations. The Commission hereby gives notice of the amendment of the scope of investigations 701–TA–108 (Preliminary) and 731–TA–73 (Preliminary) to exclude cold-rolled carbon steel strip.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission; telephone: 202/523–0379.

This notice is published pursuant to § 207.13 of the Commission's rules of practice and procedure (19 CFR 207.13).

By order of the Commission.

Issued: February 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–4403 Filed 2–17–82; 8:45 am]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–329 and 50–330]

Consumers Power Co.; Availability of Draft Environmental Statement for Midland Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG–0537) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Midland Plant, Units 1 and 2, located in Midland County, Michigan, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and in the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan. The Draft Statement is also being made available at the Office of Intergovernmental Relations, Department of Management and Budget, Lewis Cass Building, Lansing, Michigan 48909 and at the East Central Michigan Planning and Development Region, 500 Federal Avenue, Post Office Box 930, Saginaw, Michigan 48606. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The applicant's Environmental Report, as supplemented, submitted by Consumers Power Company is also available for public inspection at the above-designated locations. Notice of availability of the applicant's Environmental Report was published in the **Federal Register** on May 4, 1978 (43 FR 19304).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by April 5, 1982. Comments by Federal, State and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of February 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82–4356 Filed 2–17–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-58, and Amendment No. 37 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments change the temperature requirements for the refueling water storage tank and make several editorial changes.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 26, 1981, (2) Amendment Nos. 52 and 37 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of February, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-4352 Filed 2-17-82; 8:45 am]

BILLING 7590-01-M

[Docket No. 50-201]

Nuclear Fuel Services, Inc. and New York State Energy Research and Development Authority (Western New York Nuclear Service Center) Issuance of Amendment to Facility License No. CSF-1

Nuclear Fuel Services, Inc. (NFS) and New York State Energy Research and Development Authority (as successor to the New York State Atomic and Space Development Authority) (the Authority) hold Provisional Operating License No. CSF-1. The license, issued under section 104b. of the Atomic Energy Act, had authorized the operation of a spent nuclear fuel reprocessing and radioactive waste disposal facility at the Western New York Nuclear Service Center in West Valley, New York (the Center).

Under the West Valley Demonstration Project Act, Pub. L. 96-368, the Department of Energy has been authorized to carry out a high-level radioactive waste management demonstration project at the Center for the purpose of demonstrating solidification techniques which can be used for preparing high-level liquid radioactive waste for disposal.

On September 30, 1981, the U.S. Nuclear Regulatory Commission (the Commission) issued an amendment to the license which would permit transfer of the facility to the Department of Energy for purposes of the project (46 FR 49237).

On October 6, 1981, the Commission received from NFS an application for amendment of License No. CSF-1 to relieve NFS of all operational responsibility under the license. Notice of receipt of this application was published in the Federal Register on November 13, 1981 (46 FR 56086). The Commission denied the application on January 11, 1981, without prejudice, in order to avoid adjudication before the Commission of issues of law and fact that are being litigated between NFS and the Authority in the Federal court system.

NFS submitted a further application to the Commission on February 1, 1982. The new application requests that the authority and responsibility of NFS under the license be terminated upon the occurrence of certain events. A supporting letter, dated February 9, 1982, was filed by the Authority. The Department of Energy, by letter of February 10, 1982, advised the Commission that it has no objection to the issuance of the requested amendment.

In accordance with 10 CFR 2.106, notice is hereby given that the Commission has today issued an amendment to License No. CSF-1, substantially as requested by NFS, which provides for termination of the authority and responsibility of NFS under said license, effective upon 1) acceptance of surrender of the facility by the Authority from NFS, 2) DOE's assumption of exclusive possession of the facility, and 3) the Settlement Date of a Settlement Agreement in pending civil actions in the United States District Court for the Western District of New York. The Commission has determined that the application for the amendment complies with the requirements of the Atomic Energy Act and the regulations of the Commission (10 CFR Chapter I). The Commission has determined that this amendment involves no significant hazards consideration. Copies of the amendment to the license and the NRC staff's safety evaluation are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Local Public Document Rooms maintained at the Buffalo and Erie County Public Library, Lafayette Square, Buffalo, New York; and the Town of Concord Public Library, 23 North Buffalo Street, Springville, New York.

Dated at Silver Spring, Maryland, this 11th day of February 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel, Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 82-4355 Filed 2-17-82; 8:45 am]

BILLING CODE 7590-01-M

Nuclear Power Plant Staff Working Hours

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of Policy Regarding Nuclear Power Plant Staff Working Hours.

SUMMARY: The Nuclear Regulatory Commission has been concerned that excessive work hours by personnel at nuclear power plants could lead to situations where fatigued personnel might not be alert, might use poor judgment, or might make poor decisions

affecting the safety of the nuclear plant, which could potentially jeopardize the health and safety of the public. In attempts to assure that utility organizations avoid situations where fatigued personnel might be on shift, the NRC has issued previous guidance regarding overtime restrictions. However, the policy has been evolving and it appears that earlier guidance should be revised.

On July 22, 1981, the NRC staff submitted a paper, "Nuclear Power Plant Staff Working Hours," SECY 81–440, for consideration by the Commissioners. The paper was intended to resolve the inconsistencies in the previous guidance and to serve the purpose of the NRC in protecting public health and safety while recognizing the practical aspects of working hour limitations as they affect nuclear power plant operation.

After consideration of this NRC staff paper, the Nuclear Regulatory Commission has now issued the following policy statement concerning fatigue at nuclear plants:

Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors

Licensees of operating plants and applicants for operating licenses shall establish controls to prevent situations where fatigue could reduce the ability of operating personnel to keep the reactor in a safe condition. The controls should focus on shift staffing and the use of overtime—key job-related factors that influence fatigue.

The objective of the controls would be to assure that, to the extent practicable, personnel are not assigned to shift duties while in a fatigued condition that could significantly reduce their mental alertness or their decisions making capability. The controls shall apply to the plant staff who perform safety-related functions (e.g., senior reactor operators, reactor operators, health physicists, auxiliary operators, and key maintenance personnel).

Enough plant operating personnel should be employed to maintain adequate shift coverage without routine heavy use of overtime. However, in the event that unforeseen problems require substantial amounts of overtime to be used, on a temporary basis, the following guidelines shall be followed:

a. An individual should not be permitted to work more than 16 hours straight (excluding shift turnover time).

b. An individual should be not permitted to work more than 16 hours in any 24-hour period, nor more than 24 hours in any 48-hour period, nor more than 72 hours in any seven day period (all excluding shift turnover time).

c. A break of at least eight hours should be allowed between work periods (including shift turnover time).

d. The use of overtime should be considered on an individual basis and not for the entire staff on a shift.

Recognizing that very unusual circumstances may arise requiring deviation from the above guidelines, such deviation shall be authorized by the plant manager or his deputy, or higher levels of management. The paramount consideration in such authorization shall be that significant reductions in the effectiveness of operating personnel would be highly unlikely.

In addition, procedures are encouraged that would allow licensed operators at the controls to be periodically relieved and assigned to other duties away from the control board during their tour of duty.

Utility holders of operating licenses and construction permits are being advised of this Commission policy. Utilities who hold operating licenses will be requested to amend the Administrative Section of the Technical Specifications for their operating plants to require administrative procedures regarding working hour restrictions which conform to the new Commission policy. Applicants for operating licenses will be requested to develop appropriate administrative procedures and Technical Specifications prior to fuel loading. At the same time, Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," and NUREG–0737 (Item I.A.1.3) are being revised to incorporate the guidance of the policy statement.

For Further Information Contact: Mr. Lawrence P. Crocker, (301) 492–8357.

Dated at Bethesda, Maryland, this 11th day of February 1982.

For the Nuclear Regulatory Commission.

Lawrence P. Crocker,

Acting Section Leader, Management Technology Section, Licensee Qualifications Branch, Division of Human Factors Safety.

[FR Doc. 82–4353 Filed 2–17–82; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.1, Revision 1, "Use of Borosilicate-Glass Raschig Rings as a Neutron Absorber in Solutions of Fissile Material," describes procedures acceptable to the NRC staff for implementing the Commission's regulations concerning the prevention of criticality accidents in solutions of fissile material by the use of borosilicate-glass raschig rings as a neutron absorber. The guide was revised after additional staff review to endorse ANSI/ANS 8.5–1979, "Use of Borosilicate-Glass Raschig Rings as a Neutron Absorber in Solutions of Fissile Material."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publication Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Md. this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82–4354 Filed 2–17–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the White House Science Council is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, Office of Science and Technology Policy, by the Presidential Science and Technology Advisory Organization Act of 1976 and other applicable law. This determination follows consultation with the General Services Administration, pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and Office of Management and Budget (OMB) Circular Number A–63, Revised.

1. Name of Group: White House Science Council.

2. Purpose: The purpose of the White House Science Council is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern. The Council shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. Effective Date of Establishment and Duration: The establishment of the White House Science Council is effective upon filing of the charter with the Director, OSTP, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The White House Science Council will terminate on December 31, 1983, unless sooner extended.

4. Membership: Members of the White House Science Council will be appointed by the Director, Office of Science and Technology Policy. That appointment shall be subject to review every 365 days unless earlier terminated. The Council shall consist of no more than 15 members. Additional technical experts will be utilized as needed to constitute panels and study groups.

5. Advisory Group Operation: The White House Science Council will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), OMB Circular No. A–63, Revised and other directives and instructions issued in implementation of the Act.

Robert D. Linder,

Executive Director.

February 16, 1982.

Charter

White House Science Council

1. *Committee's Official Designation:* White House Science Council (WHSC).

2. *Objectives and Scope of Activities and Duties:* • The Purpose of the WHSC is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern.

• In furtherance of this mission the WHSC shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. *Duration:* The Council will terminate on December 31, 1983, unless sooner extended.

4. *Official to Whom the Council Reports:* The WHSC will report to the Director, OSTP.

5. *Agency Responsible for Providing Necessary Support for this Board:* Office of Science and Technology Policy.

6. *Description of Duties:* The duties of the Council are solely advisory and are stated in paragraph 2 above.

7. *Costs:* The estimated annual operating cost of the Council is $50,000.

8. *Estimated Number and Frequency of Meetings:* The White House Science Council shall normally meet six times each year at regular intervals, and at such other times as may be called by the Director, OSTP. In addition, 10–15 meetings each year by subgroups are anticipated.

9. *Subgroups:* Subgroups may be formed to conduct studies on specific issues assigned by the Director, OSTP.

10. *Members:* WHSC members will be appointed by the Director, OSTP. That appointment shall be subject to review every 365 days unless earlier terminated. The WHSC shall consist of no more than 15 members. The Council will utilize additional technical experts as needed to constitute its panels and study groups.

This Charter for the Advisory Committee named above is hereby approved on: February 16, 1982.

Date filed: February 16, 1982.

Robert D. Linder,

Committee Management Officer.

[FR Doc. 82-4478 Filed 2-16-82; 12:02 pm]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18461; File No. S7-787]

Filing of Proposed Transaction Reporting Plan for National Market System Securities

On February 5, 1982, pursuant to Rules 11Aa3–1 and 11Aa3–2 under the Securities Exchange Act of 1934 (the "Act"), the National Association of Securities Dealers, Inc. ("NASD") filed with the Commission its proposed transaction reporting plan for national market system ("NMS") securities.[1]

I. Description of Plan

The proposed plan's transaction reporting system will be operated by the NASD's wholly-owned subsidiary, NASD Market Services, Inc. ("MSI"), and will make use of the existing NASDAQ processing facilities and communications network. The system will parallel the existing Third Market Trade Reporting system and the NASDAQ quotation dissemination system. The NASD will be responsible for surveillance of its members to ensure compliance with all applicable rules.

The proposed plan requires that all NASD members report their transactions in NMS securities to MSI via NASDAQ Level II/III terminals, telephones, telex, TWX or by utilizing the NASD's Computer Assisted Execution System ("CAES") (which will automatically report CAES transactions to MSI). This information, in turn, will be made available to any interested parties, and in particular to vendors of securities information, NASDAQ Level II/III subscribers, and newswire services. The transaction report data will be transmitted to vendors over a separate communication line in a format substantially similar to that utilized by the Consolidated Tape Association. Vendors will not be charged for this information, but they will be responsible for costs incurred in accessing the service. In addition, subscribers will be subject to appropriate fees to be established, with Commission approval, at a later date.

II. Request for Comment

Publication of notice of the submission of the transaction reporting plan for NMS securities is expected to be made in the **Federal Register** during the week of February 15, 1982. In order to assist the Commission in determining whether to approve the transaction reporting plan, interested persons are invited to submit written data, views, and arguments concerning the submission to Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. The Commission has determined that it is necessary to limit the comment period until February 24, 1982 since the effective date for the designation of the first NMS securities is March 1, 1982. All comments should refer to File No. S7–787.

Copies of the submission, all written statements with respect to the transaction reporting plan which are filed with the Commission, and all written communications relating thereto between the Commission and any person, other than those which may be withheld from the public,[2] will be

[1] As reported securities. NMS securities will be subject to, among other things, the Commission's last sale reporting rule, Rule 11Aa3–1 under the Act. Under that rule, the NASD is required to file with the Commission a transaction reporting plan for NMS securities. For a further discussion of NMS securities, see Securities Exchange Act Release No. 18397 (January 7, 1982) 47 FR 2079.

[2] *See* 17 CFR 240.246–2.

available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

February 10, 1982.

[FR Doc. 82-4286 Filed 2-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18480]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Philadelphia Stock Exchange, Inc. 1900 Market Street, Philadelphia, Pennsylvania, submitted on December 30, 1981, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, which narrows the exchange's opening price guideline for options. The guideline requires opening options transactions to occur at a price at or between the previous options session's closing bid or offer plus or minus any difference between the opening price and the previous day's closing price of the underlying security.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18400, January 8, 1982) and by publication in the **Federal Register** (47 FR 2445, January 15, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 10, 1982.

[FR Doc. 82-4285 Filed 2-17-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12223]

Stewardship Money Fund, Inc., Filing of an Application Pursuant to Section 6(c) of the Act for an Order of Exemption From Rules 2a-4 and 22c-1 Thereunder

Notice is hereby given that Stewardship Money Fund, Inc. ("Applicant"), 104 East Jackson Street, P.O. Box 288, Bolivar, Missouri 65613, (812-5058) an open-end, diversified, management investment company, filed an application on December 28, 1981, and an amendment thereto on January 15, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the Applicant from the provisions of Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Applicant to compute its price per share to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by the Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it expects to operate as a "money-market" fund whose investment objective is maximum current income and stability of principal and that its portfolio may, as a matter of fundamental investment policy, be invested only in short-term, fixed income securities issued by or guaranteed as to principal by the United States Government or its agencies or instrumentalities and repurchase agreements pertaining to such securities, all portfolio securities must mature in or have been called for redemption in twelve months or less from the date of purchase or be subject to repurchase agreements so maturing.

Applicant states that it expects that as a result of rounding the net asset value per share to the nearest $0.01 on an $1.00 price, Applicant's price per share for the purpose of sales, redemptions and repurchases should remain at $1.00, but that this might not be the case if Applicant were required to value its shares at a 1/10 of 1% accuracy under Release No. IC-9786.

Applicant represents that it expects that its stockholders will use its shares for investment of cash reserves or temporary cash balances and that the maintenance of a constant net asset value per share will be a crucial factor in their purchase and holding of Applicant's shares. By meeting the conditions set forth below and valuing its shares to the nearest one cent on a share value of one dollar, Applicant states that it believes that it can maintain a constant value for its stockholders along with full liquidity and a satisfactory yield.

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In Release No. IC-9786 the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that, within the meaning of section 6(c) of the Act, the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and

provisions of the Act. Applicant also submits that the stockholders of Applicant who purchase its shares with the expectation of realizing its objective of maximum current income and stability of principal would not be fairly treated if the net asset value of their shares were to deviate from $1.00 per share. Applicant also submits that Applicant's adherence to the conditions set forth below will substantially reduce the likelihood of significant variation from a constant share price and the likelihood of any dilution of the assets and returns of incoming or outgoing stockholders.

Applicant represents that, to the extent necessary, its board of directors will consider the advisability of temporarily suspending the payment of dividends or making a capital gains distribution (if and to the extent that capital gains have not been reflected in prior dividends) to maintain a $1.00 price per share if the net asset value per share declines to a value below $0.997 or rises to a value of above $1.003, respectively. Applicant also represents that in order to attempt to assure the stability of its net asset value per share, it will (so long as it relies on the exemptive relief requested) also adhere to the following conditions:

(1) Applicant's board of directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes (as a particular responsibility within its overall duty of care owed to Applicant's stockholders) to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

(2) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and Applicant will not (i) maintain a dollar-weighted average portfolio maturity in excess of 120 days; or (ii) purchase a portfolio security unless it matures, or has been called for redemption, in one year or less, or is subject to a repurchase agreement so maturing.[1]

[1]Applicant states that in the case of a security called for redemption in one year or less, the risk of that such redemption will not take place shall have been determined by Applicant's investment adviser to be minimal; in the case of a security subject to a repurchase agreement, such repurchase agreement shall be with a financial institution believed by Applicant's investment adviser to present minimal credit risks.

(3) Applicant will limit its portfolio investments, including repurchase agreements and securities called for redemption, to those instruments which are denominated in the United states dollars and which the directors of the Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or in the case of any instrument that is not rated, of comparable quality as determined by the directors.

Notice is hereby given that any interested person may, not later than March 8, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issued, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided in Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing on request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–4287 Filed 2–17–82; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–6001]

The Tappan Co., 5½% Convertible Subordinated Debentures (Due 5/15/94); Application To Withdraw From Listing and Registration

February 11, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The debentures of The Tappan Company ("Company") have been listed on the NYSE since 1969. As a result of a tender offer in October 1979, AB Electrolux purchased approximately 96% of the Company's outstanding common stock and subsequently the NYSE delisted the Company's common stock.

In addition, in July 1980 AB Electrolux offered to purchase any and all outstanding debentures leaving 250 recordholders of the debentures. In February 1981, the remaining shares of the Company's common stock were converted into the right to receive $18 per share in cash as a result of a merger with a wholly-owned subsidiary of AB Electrolux. In conjunction with that merger, the holders of the debentures also were given the right to convert their debentures into cash.

Because of the above, there are 196 recordholders of the Company's debentures. The Company has determined that because of the continued expense of listing the debentures and the lack of sufficient trading on the NYSE, listing of the debentures is no longer suitable. The NYSE has posed no objection in this matter.

Any interested person may, on or before March 5, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–4411 Filed 2–17–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

United Oriental Capital Co.; Application for a License to Operate as a Small Business Investment Company

[Application No. 09/09-5298]

An application for a license to operate as a small business investment company under the provisions 301(d) of the Small Business Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by United Oriental Capital, Co. (applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1981).

The officers, directors and shareholders are as follows:

Don Jeng Wang, 15915 River Roads Dr., Houston, Texas 77079, Director, President and 45% Stockholder
Jai Min Tai, 14 Robinwood, Houston, Texas 77024, Director, Vice President and 45% Stockholder
Kuan Chih Lee, 13900 S. Main Street, Houston, Texas 77040, Director, Treasurer and 5% Stockholder
Lien Chun Chen, 21307 Park York Dr., Katy, Texas 77450, Director, Secretary and 5% Stockholder

The Applicant, a Texas corportion, with its principal place of business at 13432 Hemstead Highway, Houston, Texas will begin operations with $500,000 paid-in capital and paid-in surplus. The applicant will conduct its activities principally in the State of Texas.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than March 5, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-4412 Filed 2-17-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/488]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Saturday, March 6, 1982 at 10:00 a.m. in the Diplomatic Reception Rooms. The meeting will last approximately until 11:30 a.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in March 1981, the announcement of all gifts and loans in calendar year 1981 and a discussion of the role of the Fine Arts Committee in the decade ahead.

Public access to the Department of State is controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, March 1, 1982, telephone (202) 632-0298 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: January 25, 1982.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 82-4331 Filed 2-17-82; 8:45 am]
BILLING CODE 4710-06-M

[Public Notice CM-8/490]

Secretary of State's Advisory Committee on Private International Law, Study Group on International Child Abduction; Meeting

There will be a meeting of the Study Group on International Child Abduction, a study group of the subject Advisory Committee, at 10:00 a.m. on Friday, March 12, 1982 in Room 1408 of the Department of State. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instruction of the Chairman.

The purpose of the meeting will be to review the various aspects of eventual United States implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The Convention, signed by the United States on December 23, 1981, requires the advice and consent of the U.S. Senate before the United States could ratify it and before it can come into force for the United States.

Entry to the Department of State building is controlled and members of the general public should use the "C" Street entrance. As entry will be facilitated by advance arrangements, members of the general public planning to attend should, prior to March 12, 1982, notify Ms. Rochelle B. Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State (telephone (202) 632-8134), of their name, affiliation, address, and phone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law; Vice Chairman, Secretary of State's Advisory Committee on Private International Law.

February 1, 1982.

[FR Doc. 82-4332 Filed 2-17-82; 8:45 am]
BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-014]

Towing Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Towing Safety Advisory Committee. The meeting will be held on Wednesday and Thursday March 10 and 11, 1982 in Room 3201, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. On both days the meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The agenda for the meeting consists of the following items:

New Discussion Items

1. Impact of Coast Guard Planned and anticipated reductions to district offices, licensing offices, documentation offices, VTS stations and the aids to navigation program
2. Status of new Rules of the Road Council
3. Marine transport of solids in bulk
4. Restricted gauging requirements for shipment of benzene hydrocarbon mixtures

5. NAPHTHALENE as a subchapter "O" commodity
6. Waterfront facilities (CGD 77–128)
7. Marine sanitation devices (CGD 81–097)

Old Items To Be Discussed/Reported On

1. Qualification of person in charge of oil transfer operations. (CGD 79–116 and 116a)
2. Coast Guard plans for noise level standards
3. Port and Tanker Safety Act Delegations
4. Ramifications of Moran Maritime vs. USCG
5. Modification of internal inspection interval for pressure vessel type cargo tanks holding hazardous cargoes
6. Oil tank barge construction standards
7. Computer generated COI's
8. User Fees
9. Signals for drawbridges (CGD 75–237)
10. Vessel casualty reporting (CGD–170)

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Additional information may be obtained from Commander A. D. Utara, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G–CMC), Washington DC 20593, telephone number (202) 426–1477.

Dated: February 11, 1982.

A. D. Utara,

Commander, Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 82–4139 Filed 2–17–82; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement; Richmond County, Georgia and Aiken County, South Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Richmond County, Georgia and Aiken County, South Carolina.

FOR FURTHER INFORMATION CONTACT: David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, NE, Atlanta, Georgia 30309, telephone (404) 881–4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696–4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal identified as F–117–1(7), Richmond County. The project extends the existing Bobby Jones Expressway in Augusta, Georgia, to the terminus of the approved Bobby Jones Expressway in Aiken County, South Carolina. Three alternatives are being proposed for the four lane, fully controlled access facility.

1. No-Build Alternate.

2. Alternate 'A' would begin at Old Savannah Road in Augusta, Georgia, and proceed 8.4 miles to its terminus on U.S. 1 in Aiken County, South Carolina. It would require some modification of a portion of the already completed expressway between Old Savannah Road and New Savannah Road. This alternate would also require a full diamond interchange at both Sand Bar Ferry Road and New Savannah Road and a full directional interchange at U.S. 1 in Aiken County, South Carolina. The State of South Carolina has received location approval of the Bobby Jones Expressway in South Carolina from U.S. 1 to I–20.

3. Alternate 'B' would be an extension of the existing Bobby Jones Expressway on new location. It would begin at New Savannah Road in Augusta, Georgia, and extend 7.5 miles to the same terminus on U.S. 1 in Aiken County, South Carolina. An interchange would be required at the New Savannah Road and at Sand Bar Ferry Road. Both interchanges are proposed as full diamonds. There would also be a full directional interchange at the project terminus on U.S. 1 in Aiken County, South Carolina. This alternate, in part, parallels the approved Southern Railway Corridor location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting will be held in mid-1982 to receive input from interested State and Federal agencies. Written notice will be given of the time and place of the scoping meeting. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(The catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction.* The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: February 8, 1982.

David H. Densmore,

Development Engineer, Atlanta, Georgia.

[FR Doc. 82–4421 Filed 2–17–82; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. Ex 79–1; Notice 6]

Shay Motors Corp.; Grant of Petition for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standards

This notice grants the petition by Shay Motors Corp. (previously known as Model A and Model T Motor Car Reproduction Corp.) of Detroit, Michigan, ("Model A" herein) for renewal of certain 1-year exemptions from several Federal motor vehicle safety standards. The basis of the petition is that compliance would cause substantial economic hardship.

Notice of Model A's original petition was published on July 23, 1979 (44 FR 43135) and notice of grant of the petition on September 27, 1979 (44 FR 55687). Notice of its initial renewal petition was published on August 4, 1980 (45 FR 51700) and of its grant on January 29, 1981 (46 FR 9842). Notice of receipt of the current petition for renewal was published on August 17, 1981, and an opportunity afforded for comment (46 FR 41670).

Model A produces a replica of a 1928 Ford Model A roadster and pickup truck. It was exempted from all or a portion of seven Federal motor vehicle safety standards, expiring September 1, 1980. The petitioner was able to achieve compliance with three of these standards, but requested a further 1-year exemption from the four remaining standards for the reasons discussed below.

Standard No. 202, Head Restraints

The company has not succeeded in its efforts to conform. The petitioner's original request was based upon the

theory that design changes necessitated by conformance could destroy the character of the vehicle and its sales market. Model A said that it has considered several alternative designs since its last petition. It incorporated a "narrow integral head restraints" into the seat back, but found that it obstructed the driver's rearward vision. A horse-shoe style restraint was then designed but the structural components required interfered with the folding top resulting in "total blockage of the driver's rear vision." It also tried lowering the seat cushion but found that this made operation of the pedals awkward. The company, therefore, requested an additional year of exemption.

Standard 203, Impact Protection for the Driver From the Steering Control System

Petitioner employs the "energy absorbing" steering column and steering wheel used on Ford Fairmont vehicles that are certified as complying with Standard No. 203. The company thus believes it may comply, but it appears to consider testing costs prohibitive in seeking a further exemption.

Standard No. 214, Side Door Strength

In its original petition Model A argued that its configuration met the intent of the standard to provide protection against impacts from the side. The height above the pavement of the vehicle's 4-inch box frame approximates that of the front bumper heights required by the bumper standard 49 CFR Part 581, so that in a side crash, the bumper should impact Model A's frame, not its door. In granting the petition, NHTSA commented that a 1-year exemption would allow Model A to verify its theory or to take remedial measures. During the exemption period, the company prepared drawings of the frame system and Part 581 bumper systems which support its theory. Therefore, Model A feels that it meets the spirit of the standard. However, it appears to consider testing costs prohibitive in seeking a further exemption.

Standard No. 301, Fuel System Integrity

In 1979 petitioner explained that:

> The fuel system was specially designed * * * utilizing Ford engine compartment components and a fuel tank of 14-gauge welded steel construction * * *. This same tank is being used on Ford, Chevrolet, Dodge, International Harvester and Jeep Truck products as an auxiliary tank and is located in the Model A replica forward of the rear axle between the steel frame of the vehicle.

Cost of testing was given as the primary argument for hardship. NHTSA provided a 1-year exemption with the comment that this time would allow a better judgment both by the manufacturer and the agency of the actual state of the vehicle's compliance. Model A reported that engineering studies have been conducted and demonstrate a "close compliance" based upon Ford's previous testing. Presumably the cost of testing is still burdensome for the company.

Model A has produced 4,500 Model A cars as of June 25, 1981. From its second fiscal year of operation ending March 31, 1980, it had a net loss before taxes of approximately $300,000, but it turned the corner in its third fiscal year with a net profit of over $1,400,000. The company has invested substantial capital in its second product, the Shay 55 Bird, which was exempted from a single standard, and of which about 500 had been produced as of July 1981. The company argued that a renewal of its exemption would be in the public interest as providing continuing employment for its personnel, many of whom have been temporarily laid off because of the economic down-turn. It hopes to recall a number of these to build out the Model A run (scheduled by September 1, 1982) and to increase production of the Bird. Petitioner presented no new arguments that continued exemption would be consistent with traffic safety objectives, but its previous arguments were that the vehicles would be used only occasionally and their limited number would insure that no significant hazard to traffic safety would be presented.

No comments were received on the petition.

Pursuant to section 123(c)(1) (15 U.S.C. 1410(c)(1)), an exemption granted on a hardship basis may be renewed upon the same findings under which the original exemption was granted—that compliance would cause the petitioner substantial economic hardship, that the petitioner has in good faith attempted to conform, and that the renewal is consistent with the public interest and the objectives of the National Traffic and Motor Vehicle Safety Act.

The NHTSA notes with approval the ability of the manufacturer to achieve compliance with three safety standards from which it had been originally exempted in 1979. With respect to two of the four remaining standards, Standards Nos. 203 and 301, the manufacturer may, in fact, conform since it has employed hardware used in vehicles certified as meeting those standards. Although the manufacturer has a basis for certification of compliance with Standards Nos. 203 and 301 it has pursued the conservative but legally appropriate course of petitioning for temporary exemption. As for Standard No. 214, a similarly conservative course is followed even though the drawings prepared while the exemption was in effect appear to verify its theory of compliance. Its problems of compliance with Standard No. 202 continue even though alternative designs have been considered. NHTSA notes also that petitioner's production to date of 4,500 units is far less than 10,000 anticipated and that funds which might have been used for testing have not been generated.

Since the Regulatory Flexibility Act may apply to a proceeding to exempt a single manufacturer, the agency certifies that the exemption does not have a significant economic impact on a substantial number of small entities. While, as noted above, denial of the exemption extension would cause substantial economic hardship, only a single small business, Shay Motors Corporation, is affected. Accordingly, a regulatory flexibility analysis has not been prepared.

In summary, to require compliance, or demonstration of compliance, at this time, with standards that the petitioner has in good faith attempted to meet, would cause substantial economic hardship.

In addition, the same public interest factors that supported the original petition continue to exist, principally, the necessity of providing continuing employment for people in an economically depressed area. The limited number of vehicles likely to be produced makes it unlikely that they will present a significant hazard to traffic safety.

Accordingly, petitioner has met its burden of pursuasion, and NHTSA Exemption No. EX79–1 to Shay Motors Corp. is hereby extended to September 1, 1982, with respect to the following Federal motor vehicle safety standards; 49 CFR 571.203, Standard No. 203, *Impact Protection for the Driver From Steering Control System,* 49 CFR 571.202, Standard No. 202, *Head Restraints,* 49 CFR 57.214, Standard No. 214, *Side Door Strength,* and 49 CFR 571.301, Standard No. 301, *Fuel System Integrity.*

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on: February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82–4086 Filed 2–11–82; 4:52 pm]

BILLING CODE 4910–59–M

[Docket No. EX81-2; Notice 3]

Vintage Reproductions, Inc.; Grant of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

This notice corrects a misstatement in the notice of grant of petition published on October 1, 1981 (46 FR 48382).

In that notice, the statement appeared that Vintage Reproductions had been granted an exemption from, among others, Federal Motor Vehicle Safety Standard No. "111". That statement was incorrect; Vintage did not apply for an exemption from the standard on rearview mirrors. The standard from which Vintage is properly exempted is the one on theft protection (Standard No. 114), and the notice of grant is hereby corrected to change "111" to "114".

(Sec. 102, Pub. L. 93-492, 49 Stat. 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50)

Issued on February 11, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-4089 Filed 2-11-82; 4:52 pm]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Technical Pipeline Safety Standards Committee; Advisory Committee Charter

This notice announces the renewal of the Technical Pipeline Safety Standards Committee under section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 1 section 10; Pub. L. 92-463) and sets forth the new charter of the Committee prepared in accordance with section 9 of that Act.

The purpose of the Technical Pipeline Safety Standards Committee is to review proposed gas pipeline safety standards and report to the Associate Director for Pipeline Safety Regulation, on the technical feasibility, reasonableness, and practicability of each such proposal. The Committee may propose safety standards to the Associate Director for his consideration for gas pipeline facilities.

It has been determined that renewal of the Technical Pipeline Safety Standards Committee is in the public interest in connection with the performance of duties imposed by law on the Department under section 4 of the Natural Gas Pipeline Safety Act of 1968, as amended by section 102 of the Pipeline Safety Act of 1979 (49 U.S.C. 1673).

The charter of the Committee is set forth below:

Charter—Technical Pipeline Safety Standards Committee

1. *Purpose.* This charter of the Technical Pipeline Safety Standards Committee is prepared and renewed in accordance with the Federal Advisory Committee Act enacted October 6, 1972.

2. *Background.* Section 4 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) authorizes the establishment and prescribes the duties of the Technical Pipeline Safety Standards Committee. The Committee was established on January 2, 1969, by the appointment of 15 members. Since its establishment, the Committee has met from time to time to review and report on proposed Federal gas pipeline safety standards submitted to it by the Department.

3. *Sponsor.* The Office of Pipeline Safety Regulation is the Committee sponsor. The Associate Director for Pipeline Safety Regulation of the Materials Transportation Bureau is designated the Executive Director of the Committee and shall be the Department of Transportation (DOT) official authorized to call or adjourn meetings, approve the agenda, and otherwise monitor the Committee's meetings and progress.

4. *Committee Objectives and Duties.* The Associate Director for Pipeline Safety Regulation shall submit to the Committee for its consideration any notice of proposed gas pipeline safety standards published in the Federal Register (including both new standards and amendments to existing standards). Within 90 days after receipt by the Committee of any such proposal, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of the proposal. Each report by the Committee, including any minority views, shall, if timely made, be published and form a part of the proceedings for the promulgation of standards. The Director, Materials Transportation Bureau, may prescribe a final standard at any time after the 90th day after a proposal's submission to the Committee, whether or not the Committee has reported on such proposal. The Committee may propose safety standards to the Associate Director for his consideration for gas pipeline facilities. The Associate Director shall not be bound by conclusions of the Committee, but in the event that the conclusions of the majority of the current members of the Committee are rejected, the reasons for rejection shall be incorporated in the preamble published with the final rule (NGPSA, Section 4, and 49 CFR 1.53). The Committee may also review and report on other matters related to the Department's gas pipeline safety rulemaking function as are presented by the Associate Director.

5. *Membership.* a. The Committee shall be composed of 15 members, each of whom shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities. Members shall be appointed on the basis of their experience in the safety regulation of the transportation of gas and of pipeline facilities, or their training, experience, or knowledge in one or more fields of engineering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

(1) Five members shall be selected from Federal, State, or local governmental agencies, and two of the five shall be State commissioners selected after consultation with representatives of the national organization of State commissions;

(2) Four members shall be selected from the natural gas industry, after consultation with industry representatives, and not less than three of the four shall be currently engaged in the active operation of natural gas pipelines; and

(3) Six members shall be selected from the general public.

b. The membership shall be fairly balanced in terms of the points of view represented, and the advice and recommendations of the Committee shall be the result of its independent judgment (FACA, section 5(b)(2) and (3)).

c. Members are appointed for a term of 3 years except that a member may serve until his successor is appointed, but for not more than a total of 6 years.

6. *Appointment of Officers.* At the first meeting of each calendar year, the Associate Director shall appoint a Chairman and Vice-Chairman, and the Committee shall, by majority vote of the members present, elect a Secretary. These three officers, who will serve until their successors are appointed, shall constitute an executive committee.

Meetings and Procedures. a. *Calling meetings.* The Associate Director for Pipeline Safety Regulation shall approve in advance the scheduling and agenda of each Committee meeting (FACA, section 10(f)). The Committee may recommend agenda items to the Associate Director. A designated officer or employee of the Federal government shall attend each

Committee meeting, and is authorized to adjourn the meeting whenever he determines it to be in the public interest (FACA, section 10(e)).

b. *Presiding at meetings.* The Chairman shall preside at all meetings of the Committee and of the Executive Committee, except that the Associate Director or his delegate may preside whenever the Committee is, at the request of an official of the Department of Transportation, advising the Department on matters other than notices of proposed rulemaking. The Vice-Chairman shall assume and perform the duties of the Chairman in the event of his absence. A majority of the current member of the Committee must be present at a meeting to perform the Committee's statutory duties.

c. *Duties of Secretary.* The Committee Secretary shall, as directed by the Chairman, monitor records, summarize activities, prepare and process letter ballots, and prepare reports for submission to the Associate Director. In the absence of the Secretary, the Chairman appoints a member of the Committee to perform the duties of the Secretary.

d. *Notice of meetings.* Notice of each Committee meeting shall be published in the **Federal Register** at least 15 days in advance of the meeting, except in emergency situations. Other forms of notice are to be used to the extent practicable (FACA, section 10(a)(2)).

e. *Frequency of Committee meetings.* the Committee meets at least once every 6 months. In addition, Committee members may be polled or asked for comments on notices of proposed rulemaking or other matters at any time without formally assembling at one place.

f. *Public participation.* Each Committee meeting shall be open to the public, and interested persons shall be permitted to attend, appear before, or file written statements with the Committee, subject to the limitations contained in the exceptions to the Freedom of Information Act (5 U.S.C. 552(b)), and also subject to reasonable rules prescribed concerning availablity of space, time, etc. (FACA, section 10(a)(1) and (3)).

g. *Minutes.* Detailed minutes of each Committee meeting shall be kept and certified to by the Committee Chairman. The minutes shall contain a record of the persons participating, a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Committee (FACA, section 10(c)).

h. *Availability of records.* The records, reports transcripts, minutes, and other documents of the Committee shall be available for public inspection and copying at the Office of Pipeline Safety Regulation, 400 Seventh Street, S.W., Washington, D.C. 20590, subject to the limitations contained in the exceptions to the Freedom of Information Act, 5 U.S.C. 552(b) (FACA, section 10(b)).

8. *Compensation.* Members of the Committee other than Federal employees shall be compensated at the rate of $150 per day (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

9. *Duration of the Committee.* Under the provisions of the NGPSA, the Committee's purposes are continuing in nature; therefore, the Committee has an indefinite duration. The Committee itself must be renewed at successive 2-year intervals by the appropriate action of the Secretary (FACA, section 14 (c)).

10. *Administrative Support.* The Associate Director for Pipeline Safety Regulation is responsible for providing office space, equipment, supplies, clerical help, and other administrative and financial support for the Committee.

11. *Annual Operating Cost.* Estimated annual operating cost is approximately $40,000 for salaries, travel, and recording the proceedings, plus about one-eighth person-year of staff support.

12. *Public Interest.* The formation and use of the Technical Pipeline Safety Standards Committee is determined to be in the public interest in connection with the performance of duties imposed on the Department by law. In fact, the NGPSA specifically requires the DOT to submit all proposed gas pipeline safety standards to the Committee as part of the proceedings for the promulgation of such standards.

13. *Filing Date. December 16, 1981.* This is the effective date of the charter which will expire 2 years from that date unless sooner terminated.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 82-4422 Filed 2-17-82; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

[Notice No. 82-2]

Transfer of Services from Washington National Airport; Delay of Meeting

Note.—This document orginally appeared in the **Federal Register** for Friday Feb. 12, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Department of Transportation.

AGENCY: Department of Transportation.

ACTION: Notice of delay of meeting.

SUMMARY: A meeting of air carriers and other interested parties to discuss the transfer of services out of Washington National Airport orginally scheduled for February 16, 1982, at the Departmental Headquarters in Washington, D.C., will be delayed approximately two weeks. The original schedule did not leave enough time for the participants to adequately prepare for the general negotiating session. The time and place of the rescheduled meeting will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Greogory Wolfe, Department of Transportation, C–10, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone: (202) 426–4710.

Issued in Washington, D.C., on February 11, 1982.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 82-4120 Filed 2-11-82; 1:02 pm]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

[Docket No. 82-A]

Rolling Stock Procurement: Additional Statutory Requirements and Program Guidelines

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is issuing these guidelines in order to establish interim procedures and to implement the new requirements affecting the procurement of rolling stock that were mandated by the FY 1982 Appropriation Act for DOT. The additional requirements affect the procurement of any rolling stock, including buses, under Urban Discretionary Grants or Urban Formula Grants programs.

DATES: 1. The guidelines in this notice are effective February 18, 1982.

2. Comments on these quidelines must be received by May 19, 1982.

ADDRESS: Comments on the guidelines should be submitted to UMTA Docket No. 82–A, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590. All

comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

for further information contact: Wilbur Hare, Office of Program Management, UMTA, Room 9306, 400 Seventh Street, SW., Washington, D.C. 20590, 202/426-1428.

SUPPLEMENTARY INFORMATION: On December 23, 1981, the President signed into law the DOT and Related Agencies Appropriation Act, 1982 ("the Act") (Pub. L. 97-102). The Act contained new requirements affecting the procurement of rolling stock under both the Urban Formula Grants (Section 5) and the Urban Discretionary Grant (Sections 3 and 16(b)(2)) programs.

Previously, both the fiscal years 1980 and 1981 DOT Appropriation Acts required that rolling stock be awarded based on *consideration* of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. The effect of that language was to require that UMTA be assured that the factors mentioned were taken into consideration by grantees prior to awarding contracts for rolling stock using FY 1980 or 1981 funds under sections 3, 5 or 16(b)(2).

The new legislative language affecting the capital grant programs for rolling stock, including buses, under section 3, section 16(b)(2), and section 5 states:

> *Provided,* That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only by awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

The effect of this language is to require that UMTA be assured that the factors mentioned in the Act are *evaluated* by a grantee prior to awarding a procurement contract for any type of rolling stock using FY 1982 section 3, 16(b)(2) or 5 funds. This requirement applies to the procurement of all rolling stock, including advanced design buses. Whenever requested by a grantee, UMTA will assist the grantee in developing the procedure during the process once it is in place, but not conducting an evaluation consistent with both the Act and OMB requirements.

It is UMTA's intent to encourage grantees to utilize procurement methods that will allow grantees maximum flexibility to make the most cost-effective purchases. UMTA encourages grantees to use procurement techniques which offer incentives for manufacturers to develop better products, offer new components, and invest in research and development programs. To this end, grantees may wish to consider using existing procurement methods, in which formally advertised bids are evaluated, based on data supplied by the bidders and the grantees, to detemine which vehicle represents the lowest cost over the life of the vehicle. If this method is used, such an evaluation should be based on those cost factors which have a substantial effect on the life-cycle cost of the rolling stock. UMTA has conducted studies to find better means by which to implement the factors described in the Act, and will continue to look for ways to improve the procurement evaluation techniques. Since the currently developed techniques may not be appropriate in every instance, grantees are encouraged to modify them as appropriate to improve existing techniques, or to use alternative methods of implementing the legislative requirement. Such alternatives may include the use of methods other than conventional formally advertised procurements (single-step competitive sealed bids). Examples may include the use, where appropriate, of competitive negotiated or two-step formally advertised procurement methods. The latter procedure may provide for necessary technical proposal clarification discussions resulting from the life-cycle cost requirements prior to introducing competitive sealed bidding. Carefully documented evaluation of performance, standardization and life-cycle cost factors in the development of procurement specifications can meet this requirement.

Specific methods of implementing these requirements are not being prescribed in order to allow grantees the maximum flexibility possible in meeting these requirements.

However, regardless of the manner in which a grantee chooses to implement the new requirement, the method of evaluation should be clearly set out in the solicitation document so that all bidders can understand the basis upon which contract award will be made.

UMTA wishes to emphasize that the procurement cannot be designed in a manner which unduly restricts competition. UMTA is prohibited by section 3 of the Urban Mass Transportation Act of 1964, as amended, from funding procurements which use exclusionary or discriminatory specifications. Grantees must therefore be prepared to demonstrate that they have not unduly restricted competition in structuring their procurement to evaluate performance, standardization and life-cycle costs and other factors. Furthermore, grantees will continue to be bound by the procurement requirements contained in Attachment "O" to Office of Management & Budget (OMB) Circular A-102.

Any protest involving the application of life-cycle cost procurement methods is considered a local issue, and should be resolved by the parties to the procurement. UMTA will not entertain protests involving life-cycle cost issues but will defer to the decisions of the grantees. However, UMTA will offer technical assistance when requested in connection with the development of the procedure.

All interested parties are invited to submit written views or comments concerning the guidelines. In particular, UMTA requests comments concerning three areas: (a) Suggestions regarding improvement of existing methods of implementing this statutory requirement; (b) suggested alternative methods of implementing the requirement which are discussed in this Notice; (c) identification of major or significant operating cost; (d) identification of major or significant standardization; (e) identification of major or significant life-cycle cost factors; and (f) identification of other potentially significant factors to be considered in the procurement decision process. With respect to the latter area, please note Exhibit 1, which is a sample list of operative cost factors for buses which was developed by an UMTA consultant on the basis of comments received from grantees. This list is not meant to be minimal or exhaustive and UMTA is interested in receiving information relative to other cost factors not listed, and in receiving comments concerning the relative importance of these factors. Each comment should include the name and address of the person submitting the comment, reference the docket number, identify the specific section of the guidelines to which the comment applies, and include sufficient detail to indicate the basis for each comment. All comments received before the expiration of the comment period will be considered before any changes are made to the guidelines.

The guidelines are being published in order to give notice to all interested and affected parties as well as to provide an opportunity to comment. The guidelines

have been carefully developed in such a manner as to fully implement the requirements of the Act without creating undue burden on transit authorities and equipment manufacturers, particularly with respect to procurements which have already been advertised. The Administrator has determined that these guidelines are effective immediately but has determined that it is in the public interest to solicit comments in order to assist UMTA in assessing the guidelines.

Guidelines: Rolling Stock Procurement Under the Section 3, 5, and 16(b)(2) Programs

In order to respond to the requirements of the DOT and Related Agencies Appropriation Act, 1982 (Pub. L. 97–102), a modification to the standard grant agreement has been developed for use in all affected procurements of rolling stock. The last part of this Notice describes the change to be incorporated into Part I of the standard grant agreement for all section 3, section 5, and section 16(b)(2), grants for rolling stock using FY 1982 funds. Additionally, grantees using FY 1982 funds under one of these sections for the procurement of rolling stock (as indicated below) will be required, as a condition of the grant agreement, to certify to UMTA after the procurement award that they have evaluated performance, standardization and life-cycle costs in awarding their procurement contracts. This amendment is immediately applicable to existing grant agreements covering procurements to which this Notice applies.

In order to explain best how this new provision affects UMTA's present and prospective grantees, several categories of grants under varying circumstances are described below.

1. *Capital Grants for Rolling Stock Using FY 1982 Funds.* All section 3, section 16(b)(2) and section 5 capital grants, that were approved after December 23, 1981, using FY 1982 funds for the procurement of rolling stock are subject to the new provision. With regard to grants using FY 1982 funds that were approved by UMTA prior to December 23, 1981, application of the requirement depends on when bids were advertised. If bids were solicited prior to December 23, 1981, the procurement is exempt from the requirements. If bids were solicited after December 23, 1981, the new requirements apply, and grantees must ensure that these factors will be evaluated in awarding the contracts.

2. *Holders of a Letter of No Prejudice (LONP) which Request Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock Using FY 1982 Funds.* Holders of an LONP who will request a FY 1982 section 3, section 16(b)(2) or section 5 grant from UMTA for the reimbursement of a procurement contract that has not yet been awarded, must evaluate the factors mentioned in the Act in making the award of a contract for rolling stock. Holders of a LONP that have already awarded a procurement contract must demonstrate that the factors were evaluated in the procurement award before UMTA may make a section 3, section 16(b)(2) or section 5 grant using FY 1982 funds. This applies even in those cases in which a procurement contract was previously concurred in by UMTA and awarded by the LONP holder prior to the Act. The important element in determining the applicability of the new provision is whether the grant will be financed using FY 1982 funds.

3. *Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock, That are Minor Amendments to Pre-FY 1982 Capital Grants, In Which the Project Scope is Not Changed.* Any grant made after December 23, 1981, for rolling stock using FY 1982 funds which supplements an existing pre-FY 1982 grant and is applied against a procurement initiated by the earlier grant is not governed by the new provision, as long as the scope of the original project is not changed by the grant amendment. Where a grant amendment changes the scope of the original project, the grantee must comply with the requirements of the provision and, in accordance with the amendment to Part I of the standard grant agreement, must certify that the factors were evaluated in the award of the procurement contract before UMTA may make the new grant.

4. *Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock Which are Amendments to Pre-FY 1982 Capital Grants for Multi-Year Phased Projects.* Any grant using FY 1982 grant funds to provide planned supplementary funding, subject to the availability of funds, for a multi-year phased project which was initiated by a pre-FY 1982 grant, is subject to the new requirements only in two instances: (1) If the initial contract has not been awarded or advertised prior to December 23, 1981, or (2) if the FY 1982 grant changes the scope of the multi-year phased project. In all other cases, the Act will not apply. UMTA does not believe that it was the intent of Congress to apply retroactively new legislative requirements for such multi-year procurement projects that were approved by UMTA, subject to the availability of funds, and actually initiated by grantees based upon the legislative requirements in effect at an earlier time.

5. *Recipients of Section 3, Section 16(b)(2) or Section 5 Capital Grants for Rolling Stock Using Pre-FY 1982 Funds Which Have Yet to Award Procurement Contracts.* The new provision does not apply to grants made by UMTA using pre-FY 1982 funds, even in those cases in which grantees have not yet awarded or advertised procurement contracts. Because applicable law at the time did not require UMTA to ensure evaluation of the factors in the Act, any future procurement contracts awarded by grantees using these pre-FY 1982 funds are not subject to the requirements of the new provision. For these grantees, the DOT and Related Agencies Appropriation Acts for FY 1980 and FY 1981 required that such contracts shall only be awarded based on *consideration* of performance, standardization, life-cycle costs, and other factors the Secretary deemed relevant. Section 12(b)(2) of the Urban Masss Transportation Act of 1964, as amended, allows grantees to consider these factors in the procurement award, if the grantees so desire, and UMTA encourages them to do so.

The following change will be made both to existing and future grants, and will be included in Part I of UMTA's standard grant document for any section 3, section 16(b)(2) and section 5, grant:

In accordance with guidelines issued by UMTA, the grantee/recipient shall make third party contract awards for the acquisition of rolling stock, including buses, only after evaluation of performance, standardization, and life cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. The grantee/recipient shall also submit a certification to UMTA, following the award of any contract for rolling stock, that these factors have been evaluated in accordance with the Act. Where necessary, the Secretary will assist the grantee/recipient in making such evaluations.

Issued on February 4, 1982.

Arthur E. Teele, Jr.,

Administrator.

Exhibit 1—LCC Cost Factors

This list is not meant to be minimal or exhaustive and UMTA is interested in receiving information relative to other cost factors not listed, and in receiving comments concerning the relative importance of these factors.

Body

Shell

Exterior and Applied Panels
Finish
Skirt Aprons
Floors

Steps and Stepwells
Wheel Housing
Passenger Doors
Service Compartment Service Doors

Operating Components

Door Actuators
Windshield Wiper/Washer
Light Control and Instruments
Fare Box
Loading System
Signals

Interior

Mirror
Passenger Seats
Driver Seats
Floor Covering
Panels and Bulkheads
Access Doors
Stanchions and Handrails

Windows

Driver's Windows
Side Windows

Chassis

Propulsion System

Engine
Cooling System
Transmission
Engine Accessories
Hydraulic Drive

Final Drive

Rear Axle
Drive Shaft

Suspension

Springs and Shocks
Front Axle
Kneeling

Steering

Brakes

Hubs and Drums
Air System
Friction Material

General Chassis

Wheels
Fuel System
Bumper System
Frame
Electrical System
Electrical Components

Climate Control

Heating
Air Conditioning
Ventilation

Radio and Public Address System

Mobile Radio System
Public Address System

Road Calls

Preventive Maintenance

Oil Change
Tuneup
Inspections
Lubrications
Cleaning and Washing

Operating Factors

Fuel
Tires
Oil

[FR Doc. 82-4423 Filed 2-17-82; 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82-34]

Reimbursable Services—Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning March 7, 1982.

Installation	Biweekly excess cost
Montreal, Canada	$18,917
Toronto, Canada	29,629
Kindley Field, Bermuda	11,765
Nassau, Bahama Islands	11,284
Vancouver, Canada	10,368
Winnipeg, Canada	3,267
Freeport, Bahama Islands	9,534
Calgary, Canada	8,589
Edmonton, Canada	3,912

Mitchell A. Levine,
Acting Comptroller.

[FR Doc. 82-4328 Filed 2-17-82; 8:45 a.m.]
BILLING CODE 4820-02-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Section 22 Tobacco Investigation Decision

On August 21, 1981, the International Trade Commission (ITC) submitted a report to the President on its investigation of certain tobacco under Section 22 of the Agricultural Adjustment Act of 1933, as amended. The ITC found that tobacco imports did not materially interfere with the domestic price support program and that the conditions for imposing restrictions under Section 22 of the Agriculture Adjustment Act did not exist.

The ITC tobacco investigation was instituted on January 18, 1981, to determine whether imported tobacco provided for in terms 170.3210, 170.3500, 170.6040 and 170.6045 of the Tariff Schedules of the United States is materially interfering with or rendering ineffective the domestic tobacco program of the U.S. Department of Agriculture.

In view of the investigation and report by the ITC, the Administration will take no further action regarding the Section 22 investigation of tobacco imports.

C. Michael Hathaway,
Deputy General Counsel.

[FR Doc. 82-4280 Filed 2-17-82; 8:45 am]
BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 33
Thursday, February 18, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Monday, February 22, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Urea-Formaldehyde Foam Insulation*
The Commission will consider whether to finalize or withdraw a proposed consumer product safety rule that would declare urea-formaldehyde foam insulation to be a banned hazardous product hazardous product under section 8 of the Consumer Product Safety Act.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Room 342, 5401 Westbard Ave., Bethesda, Maryland 20207; Telephone (301) 492–6800.

[S–234–82 Filed 2–16–82; 10:34 am]
BILLING CODE 6355–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 9, 1982, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, N.W. Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open:

1. Freedom of Information Act Appeal No. 81–11–FOIA–74–DA, concerning a request for certain documents from a closed Title VII file and a closed Equal Pay file.

2. Freedom of Information Act Appeal No. 81–12–FOIA–069–MK, concerning a request for certain documents from a closed ADEA file.

3. Freedom of Information Act Appeal No. 81–12–FOIA–57–NO, concerning a request for access to records in a charge file.

4. A report on Commission Operations by the Executive Director.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

FOR MORE INFORMATION CONTACT: Treva McCall, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued February 2, 1982.

[S–232–82 Filed 2–16–82; 9:37 am]
BILLING CODE 6570–06–M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 11th Closed Meeting

The following item has been deleted at the request of the Office of Chairman Fowler from the list of agenda items scheduled for consideration at the February 22, 1982, Closed Meeting and previously listed in the Commission's Notice of February 3, 1982.

Agenda, Item No., and Subject

Hearing—3—Applications for Review in the Gulf Coast Communications, Inc., Tampa, Florida Public Coast III–B Maritime Mobile Radio proceeding. (PR Docket No. 78–259–60).

Issued: February 11, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–235–82 Filed 2–16–82; 11:16 am]
BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 11th Open Meeting

The following item has been deleted at the request of the Private Radio Bureau from the list of agenda items scheduled for consideration at the February 11, 1982, Open Meeting and previously listed in the Commission's Notice of February 3, 1982.

Agenda, Item No., and Subject

Private Radio—2—*Title:* Report and Order to provide for the use of automatic aviation weather observation systems at certain airports. *Summary:* The FCC will consider whether to amend Part 87 to provide for the use of automatic weather observation systems at airports with neither a full-time control tower nor a full-time FAA flight service station. These automatic observation systems are designed to provide pilots with such aeronautical information as the wind, weather, visibility, altimeter setting and other pertinent information.

Issued: February 11, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–236–82 Filed 2–16–82; 11:16 am]
BILLING CODE 6712–01–M

5

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 11th Open Meeting

The following item has been deleted at the request of the Office of Commissioner Rivera from the list of agenda items scheduled for consideration at the February 11, 1982, Open Meeting and previously listed in the Commission's Notice of February 3, 1982.

Agenda, Item No., and Subject

Aural—1—*Subject:* Memorandum Opinion and Order in re petition for review filed by ICBC Corporation, New York, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in declining to waive Section 73.37(a) so as to accept for filing the applicant's request to change frequencies and operate on an unlimited time basis.

Issued: February 10, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–237–82 Filed 2–16–82; 11:16 am]
BILLING CODE 6712–01–M

6

FEDERAL COMMUNICATIONS COMMISSION

Rescheduling of a Previously Deleted Item for the Open Meeting of February 11, 1982

Due to an Administrative Error the Federal Communications Commission announced on February 5, 1982, the deletion of the item listed below from the list of items scheduled for the February 11, 1982 Open Meeting. This previously deleted item will be considered at this meeting.

Agenda, Item No., and Subject

Television—1—*Title:* Applications for review of the Broadcast Bureau's action denying the Joint Request for Production of Documents filed by Channel 50, Inc., STVGW and New Vision, Inc. *Chesapeake Television, Inc.*, Mimeo No. 003696, released October 1, 1981. *Summary:* Channel 50, Inc., licensee of WCQR(TV), Washington, D.C., STVGW (Channel 50's STV franchisee), and New-Vision, Inc., permittee of WNUV-TV, Baltimore, Maryland, seek review of the Bureau's denial of their Joint Request for Production of Documents whereby they requested that Chesapeake Televsion, Inc., licensee of WBFF(TV), Baltimore, Maryland, be ordered to produce certain documents referred to by Chesapeake in its opposition to a petition to deny Chesapeake's STV proposal filed by applicants herein. The issue is whether applicants have made a showing justifying grant of their application for review.

Deletion of Agenda Item From February 11th Closed Meeting

The following item has been deleted at the request of the Office of the General Counsel from the list of agenda items scheduled for consideration at the February 11, 1982, Closed Meeting and previously listed in the Commission's Notice of February 4, 1982.

Agenda, Item No., and Subject

Hearing—5—Exceptions to the Initial Decision in the Simon Geller, WVCA-FM comparative renewal proceeding, Gloucester, Massachusetts (Docket Nos. 21104 and 21105).

Issued: February 9, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-238-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION

Special Open Commission Meeting, Thursday, February 18, 1982

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Thursday, February 18, 1982, at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* In re application for the establishment of interim direct broadcast satellite systems in the 12.2–12.7 GHz frequency band. *Summary:* The Commission will consider petitions for reconsideration of Commission decision to reject certain DBS applications.

General—2—*Title:* Report of the United States Delegation to the Regional Administrative MF Broadcasting Conference (Region 2), Second Session, Rio de Janeiro, 1981. *Summary:* The United States participated in a conference in Rio de Janeiro which developed an agreement and master assignment plan governing AM broadcasting in the Western Hemisphere. The Chairman of the U.S. Delegation will report on the outcome of the Conference and its potential effect on the AM broadcasting service in the U.S.

Common Carrier—1—*Title:* Interconnection Arrangements Between and Among the Domestic and International Record Carriers. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rulemaking soliciting comments on the manner of record carrier interconnection mandated by the Record Carrier Competition Act of 1981.

Common Carrier—2—*Title:* Application by AT&T and United for Section 214 authority to provide 1.344 Mbps data service to R. R. Donnelley & Sons. *Summary:* The Commission will consider requests for earth stations authorization at the midwestern locations, and for terrestrial facilities between ML and an existing AT&T earth station in Coram, New York. The carrier has also submitted proposed tariff revisions to govern the service if authorized.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: February 11, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-239-82 Filed 2-16-82; 11:16 am]

BILLING CODE 6712-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:55 p.m. on Friday, February 12, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Metropolitan Bank and Trust Company, Tampa, Florida, which was closed on February 12, 1982 by the Comptroller of Florida; (2) accept the bid for the transaction submitted by Great American Bank of Tampa, Tampa, Florida, a subsidiary of Great American Banks, Inc., subject to approval of the appropriate court; and (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 16, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-242-82 Filed 2-16-82; 3:10 pm]

BILLING CODE 6714-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, February 16, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,108-NR—United States National Bank, San Diego, California

Memorandum and Resolution re: Monthly Report of Income of Selected Mutual Savings Banks

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: February 16, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-243-82 Filed 2-16-82; 3:10 pm]

BILLING CODE 6714-01-M

10

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Tuesday, February 16, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Requests for consent to elect trustees:
Buffalo Savings Bank, Buffalo, New York
Harlem Savings Bank, New York, New York
Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Memorandum and Resolution re: Surety Bank and Trust Company, Wakefield, Massachusetts

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(B), and (c)(10)).

Dated: February 16, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-244-82 Filed 2-16-82; 3:11 pm]

BILLING CODE 6714-01-M

11

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 23, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, February 24, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Continuation of executive session of February 23, 1982, if necessary.

* * * * *

DATE AND TIME: Thursday, February 25, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1981-54: David H. Stoughton, Fairchild Industries
Draft AO 1981-56: John J. Duffy, Satellite Business Systems
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-245-82 Filed 2-16-82; 3:42 pm]

BILLING CODE 6715-01-M

12

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 8, 1982.

Amendment to Previously Announced Meeting

TIME AND DATE: 10 a.m., Thursday, February 11, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: This meeting was previously scheduled for Wednesday, February 10, 1982. The Commission will consider and act upon the following.

1. Eastover Mining Company, Docket No. VA 80-145. (Issues include interpretation and application of 30 CFR 75.1710-1.)
2. U.S. Steel Corporation, Docket No. BARB 76-95, IBMA 77-1. (Issues include whether imminent danger order was properly issued to operator under the 1969 Coal Act.)

It was determined by a unanimous vote of Commissioners that Commission business required that the above change be made and that no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen; (202) 653-5632.

[S-231-82 Filed 2-16-82; 9:36 am]

BILLING CODE 6820-12-M

13

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 10, 1982.

TIME AND DATE: 10 a.m., Wednesday, February 17, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Frederick G. Bradley v. Belva Coal Co., Docket No. WEVA 80-708-D. (Issues include the effect be given to state board's finding of no discrimination under the state statute).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen; (202) 653-5632.

[S-240-82 Filed 2-16-82; 2:28 pm]

BILLING CODE 6820-12-M

14

FEDERAL RESERVE SYSTEM
(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, February 24, 1982.

PLACE: 20th Street and Constitution Avenue, N.W, Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 16, 1982.

James McAfee,

Assistant Secretary of the Board.

[S–246–82 Filed 2–16–82; 3:51 pm]

BILLING CODE 6210–01–M

15

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–4]

TIME AND DATE: 9 a.m., February 25, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594

STATUS: The first three items will be open to the public; the fourth will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Miller Transporters, Inc., Tractor Cargo Tank-Semitrailer/Southern Railway System Freight Train Collision and Fire, Huntsville, Alabama, September 15, 1981, and *Recommendations* to the State of Alabama, City of Huntsville, and Miller's Transporters, Inc.

2. *Marine Accident Report:* Collision of the Washington State Ferry *Klahowya* and the Liberian Freighter *Sanko Grain* in Seattle Harbor, Washington, January 13, 1981, and *Recommendations* to the U.S. Coast Guard and Washington State Ferries.

3. *Recommendation* to the Federal Aviation Administration regarding takeoff and landing minimums and associated visibility observations.

4. *Opinion and Order:* Administrator v. Moore, Dkt. SE–4776; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–382–6525.

February 12, 1982.

[S–241–82 Filed 2–12–82; 3:42 pm]

BILLING CODE 4910–58–M

16

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 15, 1982 (revised) and Week of February 22, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, February 16:*

10:00 a.m.:
Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting) (as announced)

1:30 p.m.:
Continuation of Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting) (as announced; time changed)

Friday, February 19:

10:00 a.m.:
Presentation by GE on BWR Mark III Containment Design Basis (public meeting) (as announced)

2:00 p.m.:
Affirmation/Discussion Session (public meeting) (items revised)
Items to be affirmed and/or discussed:
a. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations (postponed from February 11)
b. Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System
c. Final Rule (1) to Eliminate Requirements with Respect to Financial Qualificaions for Power Reactor Applicants, and (2) to Require Power Reactor Licensees to Maintain Property Damage Insurance

Thursday, February 25:

2:00 p.m.:
Briefing and Possible Vote on Staff Recommendations on Diablo Canyon Program Plan and Independence of Audit (public meeting) (approximately 2 hours)

4:00 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Proposed Rule Change on Technical Specifications
b. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings (postponed from February 11)
c. FOIA Appeal (81–A–21)

Friday, February 26:

9:30 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (closed meeting) (approximately 1 hour)

10:30 a.m.:
Discussion of Regulatory Reform Task Force Proposals (public meeting/portions may be closed)

2:00 p.m.:
Discussion of Revised Licensing Procedures (closed meeting)

ADDITIONAL INFORMATION: By a vote of 5–0 on February 5, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Pending Litigation (closed meeting), held that day, be held on less than one week's notice to the public. By a vote of 5–0 on February 9, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion of Phase II of Diablo Canyon Report (closed meeting), held that day, be held on less than one week's notice to the public. By a vote of 5–0 on February 11, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Affirmation of West Chicago Order, held at 10:00 a.m. that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

February 12, 1982.

Walter Magee,

Office of the Secretary.

[S–233–82 Filed 2–16–82; 9:37 am]

BILLING CODE 7590–01–M

federal register

Thursday
February 18, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Erosion and Attendant Air Pollution; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Erosion and Attendant Air Pollution

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement proposes to amend §§ 816.95 and 817.95 of 30 CFR relating to air resources protection for surface and underground coal mining operations, respectively. The office also is proposing to delete 30 CFR 816.106 and 817.106 relating to regrading or stabilizing rills and gullies for surface and underground coal mining operations, respectively.

Sections 816.95 and 817.95 were remanded to the Secretary of the Interior for revision to reflect the finding that Congress only intended to regulate air pollution related to erosion, not air pollution from the entire surface coal mining operation.

The proposed revisions to §§ 816.95 and 817.95 would delete specified fugitive dust control measures and would require only that all exposed surface areas be protected to control erosion and attendant air pollution.

DATES: The comment period for the proposed amendments will extend unti March 22, 1982. Public hearings are scheduled for March 11, 1982. Public meetings may be held between February 18, 1982 and March 22, 1982.

ADDRESS: Written comments must be mailed to the Office of Surface Mining, Administrative Record Room TSR–24.18, 1961 Constitution Ave., NW., Room 5315–L, Washington, D.C. 20240, or hand-delivered to room 240 South Interior Bldg, 1951 Constitution Ave., NW., or Room 5315, 1100 L Street, NW., Washington, D.C. All comments, notices of public meetings and summaries of the meetings will be available for inspection at Room 5315, 1100 L Street, NW., Washington, D.C.

Public hearings will be held on March 11, 1982 at the following locations:

Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW., Washington, D.C. 20240, from 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m.

Lexington, Kentucky—Hilton Inn, Keeneland Hall, I–74 and Newton Pike, Lexington, Kentucky 40505, from 4:00 p.m. to 7:00 p.m. and 8:00 p.m. to 10:00 p.m.

Denver, Colorado—Brooks Tower, 2nd Floor Conference Room 1020, 15th Street, Denver, Colorado 80202, from 4:00 p.m. to 7:00 p.m. and 8:00 p.m. to 10:00 p.m.

For addresses where additional copies of these proposed amendments are available, see "AVAILABILITY OF COPIES" under "SUPPLEMENTARY INFORMATION."

FOR FURTHER INFORMATION CONTACT: Robert Goldberg, P.E., Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior: 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters

Public Comment Period

The comment period on the proposed revisions will extend until March 22, 1982. All written comments must be received by 5:00 p.m. on that date. Comments received after that time may not be considered or included in the Administrative Record for the final rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than those specified above will be considered and included in the Administrative Record for the final rulemaking.

Public Comments

Written comments should be as specific as possible. Comments not pertaining to the issues proposed cannot be considered under this rulemaking. OSM appreciates any and all comments, but those most useful and likely to influence decisions on these revisions will be those which include citation to legislative history, case law, technical literature or other relevant reasons for any given recommendation. Written comments will be accepted until 5:00 p.m. on March 22, 1982 at the addresses indicated above under "ADDRESSES."

Availability of Copies: Copies of the proposed regulations may be obtained at the following offices:

OSM Headquarters, U.S. Department of the Interior, Room 5315, 1100 L Street, NW., Washington, D.C. 20240 202–343–4728.

OSM Region I, 603 Morris Street, Charleston, West Virginia 25301, 304–342–8125.

OSM Region II, Suite 500, 539 Gay Street, SW., Knoxville, Tennessee 37902, 615–637–8060.

OSM Region III, Room 502, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, 317–269–2600.

OSM Western Technical Center, Brooks Tower, 1020 15th Street, Denver, Colorado 80202, 303–837–5511.

Public Hearings

Public hearings on these proposed rules will be held on March 11, 1982 to hear all those who wish to testify. Persons wishing to testify at the public hearings on this proposed revision should contact the person listed under "For Further Information Contact" on or before March 4, 1982. Individual testimony at the hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearings would greatly assist OSM officials who will attend the hearings. Advance submission will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

Public hearings will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. Hearings will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

The public hearing may be cancelled unless there are a significant number of requests for a hearing during the comment period. If time permits, a notice of cancellation of public hearing will be published in the **Federal Register.**

Public Meetings

Representatives of OSM will be available to meet between February 18, 1982, and March 22, 1982 at the request of members of the public, State representatives, and other organizations to listen to advice and recommendations concerning the content of these proposed amendments. Persons wishing to meet with representatives of OSM during this time period may request a meeting at the Washington office, any of the three regional offices or the Western Technical Center. Persons to contact to schedule such meetings are as follows:

Washington—Robert Goldberg, P.E. 202–343–4022.

Charleston—Jesse Jackson, 304–345–4720.

Knoxville—William Thomas, 605–637–8060 ext. 200.

Indianapolis—Allen Perry, 317–269–2656.

Denver—Richard Dawes, 303–837–4072.

OSM representatives will be available at the Washington office, the three regional offices and the Western Technical Center for these meetings between 9:00 am and noon, and 1:00 pm and 4:00 pm local time, Monday through Friday excluding holidays. The location of such meetings will be publicly posted in advance in Room 5315, 1100 L Street, NW., Washington, DC. A written summary of the meetings will be made a part of the Administrative Record and will be available to the public.

II. Background

Section 515(b)(4) of the Surface Mining Control and Reclamation Act of 1977 (hereinafter referred to as the Act), 30 U.S.C. 1201 *et seq.*, requires that all surface coal mining and reclamation operations:

> Stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution.

Section 516 of the Act imposes similar requirements on underground coal mining operations.

Sections 816.95 and 817.95 of the permanent program regulations in 30 CFR were promulgated by the Office of Surface Mining (OSM) in accordance with Sections 515(b)(4) and 516 of the Act, respectively. Section 816.95 of the regulations, addressing surface coal mining operations, and § 817.95, addressing the surface effects of underground coal mining operations, now contain identical language and describe measures to be used in controlling fugitive dust emissions. Such measures include, but are not limited to: periodic watering and chemical stabilization of unpaved roads, restricting travel and speed of vehicles on unpaved roads, paving of unpaved roads, stabilizing surface areas of adjoining roads and revegetation or regarded and disturbed lands. These regulations additionally specify that for those operations requiring an air monitoring plan pursuant to 30 CFR 780.15 and 784.26, monitoring equipment shall be installed and operated.

Sections 816.106 and 817.106 address the regrading or stabilizing of rills and gullies for surface and underground coal mining operations, respectively, and require the stabilization of rills or gullies deeper than 9 inches which form in areas that have been regraded or stabilized.

In "In Re: Permanent Surface Mining Regulation Litigation," CA 79–1144 (D.D.C.), May 16, 1981, Sections 816.95 and 817.95 of the regulations were remanded to the Secretary of the Department of the Interior for revision because Section 515(b)(4) of the Act, quoted above, was found to be ambiguous with respect to whether the phrase "attendant air and water pollution" applied only to erosion or to all surface areas affected by a surface coal mining and reclamation operation.

Judge Flannery found that the legislative history to Section 515(b)(4) of the Act indicated that Congress only intended to regulate air pollution related to erosion, not air pollution from the entire surface coal mining operation. The regulations were remanded to the Secretary for revision to reflect this finding.

III. Explanation of Proposed Amendments

Sections 816.95 and 817.95 currently require that each person who conducts surface and related underground mining activities plan and employ fugitive dust control measures as an integral part of the total coal mining operation. The regulatory authority, pursuant to Section 508(a)(9) of the Act, possesses the authority to approve the control measures appropriate for use in such planning in accordance with applicable Federal and State air quality standards, climate, existing air quality in the area affected by mining, and available control technology. The measures to control fugitive dust emissions by the person conducting surface or underground mining activities are required to be submitted to the regulatory authority pursuant to Sections 508(a)(9) and 516 of the Act and §§ 780.15 and 784.26 of the permanent program regulations.

OSM proposes to delete the portions of §§ 816.95(a) and 817.95(a) pertaining to planning and development of fugitive dust control measures as these measures exceed the scope of "erosion and attendant air pollution" of Section 515(b)(4) of the Act. OSM would substitute the requirement that all exposed surface areas must be stabilized and protected to effectively control erosion and attendant air pollution. These revisions properly limit the scope of air resources protection under Section 515(b)(4) of the Act to erosion and attendant air pollution in order to comply with Judge Flannery's decision in *"In Re: Permanent Surface Mining Regulation Litigation, supra."* Fugitive dust emissions would not be specifically addressed.

The regulatory authority may require the submission of a fugitive dust control plan as part of an air pollution control plan required under §§ 780.15 and 784.26 of the permanent regulatory program.

OSM proposes to delete §§ 816.95(b) and 817.95(b) which enumerate specific control measures that may be used to control fugitive dust emissions. This deletion would not alter the requirement to control fugitive dust emissions in accordance with applicable Federal and State air quality standards, but rather would allow the regulatory authority to specify the control measures necessary pursuant to Section 508(a)(9) of the Act and §§ 780.15 and 784.26 of the permanent program regulations.

OSM proposes to delete §§ 816.95(c) and 817.95(c), which authorize the regulatory authority to require additional measures to control fugitive dust emissions when the measures in existing subsection (b) of each section are inadequate. The regulatory authority already has the authority to determine the appropriate control measures to be used to control erosion and attendant air pollution, which may include fugitive dust emissions, under the proposed revisions to §§ 816.95 and 817.95 and pursuant to §§ 780.15 and 784.26.

OSM proposes to delete §§ 816.95(d) and 817.95(d), which currently provide that air monitoring equipment be installed if required in the air monitoring plan. Air monitoring equipment may be installed if the regulatory authority determines that the criteria of §§ 780.15 and 784.26 require such equipment in the air pollution control plan.

A significant source of erosion and attendant air pollution for an underground mining operation is roads used to facilitate such operation. The classification and maintenance of these roads are governed by §§ 817.150 through 817.176 of the permanent program regulations. However, OSM suspended §§ 817.150 through 817.176 in response to Judge Flannery's decision in *"In Re: Permanent Surface Mining Regulation Litigation, supra,"* which remanded § 816–150 through 816–176 to the Secretary of the Department of the Interior, 45 FR 51547 (August 4, 1980). OSM currently is working on revisions to the roads regulations which will include provisions relating to erosion and attendant air pollution.

In proposing these revisions to § 817.95, OSM is aware that the requirements to control erosion and attendant air pollution relating to underground mining activities may overlap with the following revision of

§§ 817.150 through 817.176 addressing the classification and maintenance of roads. If this occurs the proposed revisions to § 817.95 may not be adopted and § 817.95 instead may be deleted.

Additionally, OSM proposes to delete §§ 816.106 and 817.106 of the permanent regulatory program which require the regrading or stabilizing of rills and gullies. This would not eliminate entirely the requirement that rills and gullies be regraded or stabilized because the proposed revisions to §§ 816.95 and 817.95 would require that all exposed surface areas must be stabilized and protected to effectively control erosion. Since rills and gullies would be exposed surface areas they would be required to be stabilized and protected pursuant to that section.

A draft of earlier proposed revisions to §§ 816.95 and 817.95 was distributed for public comment and several comments were received.

A comment was received that air pollution controls should take into account "the potential impact of dust on persons residing near or travelling by the minesite, taking particular note of the proximity of dwellings and public roads to dust sources in the permit area." When proper dust erosion control methods are proposed and implemented, the amount of dust pollution travelling off the minesite should be reduced to the point where it will not affect receptors outside the permit area.

Two comments were received stating that OSM had not considered the remand by the District Court of §§ 816.95, and 817.95, Air Resources Protection, to make them applicable only to erosion related air pollution. OSM is proposing that these regulations apply "to control erosion and attendant air pollution," thus complying with the remand by the District Court.

Determinations Under Executive Order 12291, the Regulatory Flexibility Act and the National Environmental Policy Act

The Department of the Interior (DOI) has examined these proposed rules under the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed regulations emphasize the use of performance standards instead of design criteria which will allow operators to utilize the most cost-effective means of achieving the performance standards.

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed regulations will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an interim finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Records Office at the address listed in the "Addresses" section of the preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule. OSM also is preparing an EA of the cumulative impacts on the human environment of this rulemaking and related rulemakings under SMCRA. This cumulative EA also will be completed before this rule is made final.

Accordingly, 30 CFR Parts 816 and 817 are proposed to be amended as set forth herein.

Dated: February 1, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

(Pub. L. 95–87, 30 U.S.C/ 201 *et seq.*)

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

1. Part 816 is amended by revising § 816.95 to read as follows:

§ 816.95 Erosion and attendant air pollution.

Each person who conducts surface mining activities shall stabilize and protect all exposed surface areas to effectively control erosion and attendant air pollution.

§ 816.106 [Removed]

2. Section 816.106 is removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

3. Part 817 is amended by revising § 817.95 to read as follows:

§ 817.95 Erosion and attendant air pollution.

Each person who conducts underground mining activities shall stabilize and protect all exposed surface areas to effectively control erosion and attendant air pollution.

§ 817.106 [Removed]

4. Section 817.106 is removed.

[FR Doc. 82–4446 Filed 2–17–82; 8:45 am]

BILLING CODE 4310–05–M

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing February 3, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C 20402 (telephone 202–275–3030).

H.J. Res. 389 / Pub. L. 97–147 Making an urgent supplemental appropriation for the fiscal year ending September 30, 1982, for the Department of Agriculture. (Feb. 15, 1982; 96 Stat. 4) Price: $1.50.

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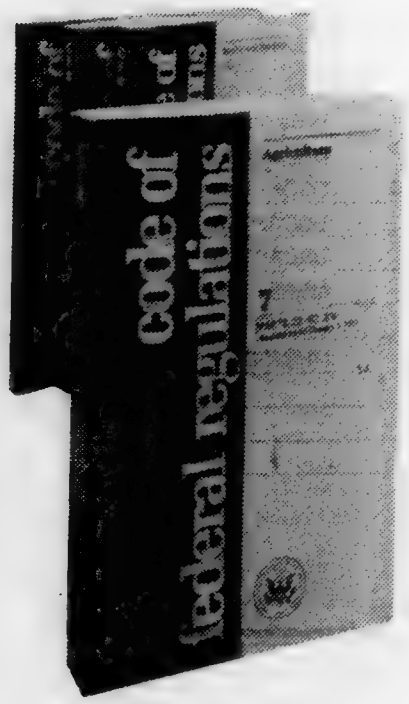

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federal register

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Highlights

Highlights and Dial-a-Reg Beginning with the **Federal Register** issue of Monday, February 22, 1982, the Highlights listing will be discontinued. A related user aid, the recorded phone message, Dial-a-Reg, will also be discontinued on the same date.
This reduction in service is due to diminished resources at the Office of the Federal Register.

7604 **Grant Programs—Education** ED issues Talent Search Program rules. (Part III of this issue) ED invites applications for FY 82 Talent Search Program awards.

7501 **Grant Programs—Retirement** HHS seeks applicants for research and analysis of retirement policies.

7529 **Antitrust—Auto Industry** Justice/Antitrust files proposed modified final judgment and competitive impact statement in *U.S.* v. *Motor Vehicle Manufacturer's Ass'n.*

7425 **Child Support** HHS/Office of Child Support Enforcement issues rule on collection of past-due support from Federal tax refunds.

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

7556 **Grant Programs—Patented Research** OMB/FPPO issues circular on inventions made by small business firms, non-profit organizations and universities under Federal funding agreements.

7461 **Grant Programs—Environmental Protection** EPA announces draft revision of financial assistance rules for support of State and local environmental programs.

7437 **Agriculture—Guaranteed Loan Programs** USDA/FmHA proposes to prohibit guarantee of loans which involve tax-exempt bond funds.

7460 **Veterans** VA proposes rules to help promote on-the-job training.

7469 **Summer Food Service Program for Children** USDA/FNS announces 1982 reimbursement rate adjustments.

7391 **Banking** FRS redefines "arranger of credit" in truth in lending provisions.

7458 **Prescription Drug Products** HHS/FDA proposes to revoke patient package insert requirements.

7498 **Drugs** HHS/FDA announces availability of guidelines for clinical evaluation of radiopharmaceutical drugs in humans.

7441 **National Credit Unions** NCUA proposes to revise involuntary liquidation policy.

7399 **Securities** SEC amends rule on collection and dissemination of quotation information.

7408 **Customs** Treasury/Customs revises liability guidelines for failure to declare articles upon entry into United States.

7456 Treasury/Customs proposes to amend rules on immediate delivery and consumption entry bond.

7476 **Antidumping** Commerce/ITA issues preliminary results of administrative review of finding on calcium pantothenate from Japan.

7478, 7479 **Privacy Act Documents** DOD/AF (2 documents).

7569 **Sunshine Act Meetings**

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7604 **Part III, ED**

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Rules and Regulations

Federal Register
Vol. 47, No. 34
Friday, February 19, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department; Protection of Farmland

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document provides delegations of authority to the Assistant Secretary of Agriculture for Natural Resources and Environment and the Chief, Soil Conservation Service, relating to authority for implementing the Farmland Protection Policy Act, Title XV, Subtitle I of the Agriculture and Food Act of 1981, Pub. L. 97–98.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Howard C. Tankersley, Director of Land Use, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, 202–382–1855.

SUPPLEMENTARY INFORMATION: Policy statements regarding the protection of farmland from conversion to nonagricultural uses had been adopted by several Federal agencies, including the U.S. Department of Agriculture (USDA), Environmental Protection Agency (EPA), and Council on Environmental Quality (CEQ), over a period of years preceding the adoption of the Agriculture and Food Act of 1981. A National Agricultural Lands Study (NALS) cosponsored by USDA and CEQ was completed in January 1981. It focused the attention of the Federal Government and the general public on the seriousness of the national problem of protecting the Nation's limited supply of high-quality farmland. Farmland protection bills were introduced in both the House and Senate leading to their eventual inclusion in the Agriculture and Food Act of 1981.

The new legislation establishes a national policy to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, units of local government, and private programs and policies to protect farmland.

USDA is designated as the agency primarily responsible for implementing the policy. The Secretary of Agriculture is delegating the authority for implementation to the Assistant Secretary for Natural Resources and Environment, and the Assistant Secretary is redelegating this authority to the Chief, Soil Conservation Service. The Assistant Secretary heads the Department's Natural Resources and Environment Committee, which brings together all of the Department's agencies concerned with land use policy.

The Farmland Protection Policy Act was signed into law on December 22, 1981. Its provisions become effective 6 months after enactment.

Also, this final rule removes the words "Administrator, Soil Conservation Service" and inserts in their place the words "Chief, Soil Conservation Service". This is pursuant to 7 CFR Part 600.

This rule relates to internal agency management and organization. Therefore, pursuant to 5 U.S.C. 553, it is found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register**. Since this rule relates to internal agency management and organization, it is exempt from provisions of Executive Order 12291 and Secretary's Memorandum 1512–1.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. At each place in 7 CFR Part 2 where the words "Administrator, Soil Conservation Service" appear, it is changed to read "Chief, Soil Conservation Service".

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. In § 2.19, paragraph (f)(2) is revised to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(f) * * *

(2) Evaluate and coordinate land use policy and administer responsibilities and functions assigned under the Farmland Protection Policy Act, Title XV, Subtitle I of the Agriculture and Food Act of 1981, Pub. L. 97–98.

* * * * *

Subpart G—Delegation of Authority by the Assistant Secretary for Natural Resources and Environment

3. Section 2.62(a) (introductory text) and (2) are revised to read as follows:

§ 2.62 Chief, Soil Conservation Service.

(a) Delegations. Pursuant to § 2.19 (b), (f), and (i), subject to reservations in § 2.20(f), the following delegations of authority are made by the Assistant Secretary for Natural Resources and Environment to the Chief, Soil Conservation Service:

(1) * * *

(2) Participate in evaluating and coordinating land use policy and provide national leadership in implementing the Farmland Protection Policy Act, Title XV, Subtitle I of the Agriculture and Food Act of 1981, Pub. L. 97–98.

* * * * *

For Subpart C:

Dated: February 5, 1982.

John R. Block,
Secretary of Agriculture.

For Subpart G:

Dated: February 5, 1982.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

[FR Doc. 82-4534 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 346, Amdt. 1; Lemon Reg. 347]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 21–27, 1982, and increases the quantity of lemons that may be shipped during the period February 14–20, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective February 21, 1982, and the amendment is effective for the period February 14–20, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in Califorina and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on February 16, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.647 is added as follows:

§ 910.647 Lemon Regulation 347.

The quantity of lemons grown in California and Arizona which may be handled during the period February 21, 1982, through February 27, 1982, is established at 230,000 cartons.

2. Section 910.646 Lemon Regulation 346 (47 FR 6421) is revised to read as follows:

§ 910.646 Lemon Regulation 346.

The quantity of lemons grown in California and Arizona which may be handled during the period February 14, 1982, through February 20, 1982, is established at 235,000 cartons

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 16, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-4777 Filed 2-18-82; 12:13 pm]

BILLING CODE 3410-02-M

7 CFR Part 993

Dried Prunes Produced in California; Independent Producer Election Districts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the district boundaries for independent producer membership positions on the Prune Marketing Committee. The marketing order requires that these districts be divided as equally as practicable in terms of the number of independent producers and their collective dried prune production. Some producer and production shifts have occurred which require changes in the current districts to bring them in line with order requirements. This rule reinstates producer and handler nomination voting procedures which were deleted inadvertently in prior rulemaking.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 13 handlers.

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The districts serve as the basis for selecting independent producer members of the Prune Marketing Committee; (2) nominations for producer members are required to be submitted to the Secretary before April 15, 1982; (3) in order for the Committee to meet that deadline, nominations must begin in late February; and (4) the redistricting must be completed promptly for the nominations to begin at that time.

This final rule would revise paragraph (a) of § 993.128 of Subpart—Administrative Rules and Regulations (7 CFR Part 993.101–993.174) to change independent producer election districts and reinstate nomination voting procedures. The subpart is operative pursuant to the marketing agreement and Order No. 993 (7 CFR Part 993; 46 FR 61635), both as amended, regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601–674).

The Prune Marketing Committee, which works with USDA in administering the order, recommended these boundary changes for five of the seven independent producer election districts defined in § 993.128(a). The districts are for the purpose of obtaining nominations for producer members to represent independent producers on the Committee. Section 993.28 of the order provides that the Committee shall, with the approval of the Secretary, divide the area into districts giving, insofar as practicable, equal representation to numbers of independent producers and production of prune tonnage by such producers. Changing production patterns within the current districts have caused substantial imbalances which make this realignment necessary.

To bring the current districts in line with order requirements, the final rule removes Napa County from District No. 4 and Yolo County from District No. 7 and adds them to District No. 3. All of current District No. 6 is incorporated into District No. 4. Consequently, District No. 4 will include the Counties of Santa Clara, San Benito, Contra Costa, Solano, Kern, Tulare, Fresno, Merced, Stanislaus, San Joaquin, Sacramento, Placer, and all other Counties not specified in Districts No. 1, No. 2, No. 3, No. 5, and No. 6. Butte and Yuba Counties which make up currently District No. 5, will be separated into District No. 5 (Butte County) and District No. 6 (Yuba County). The boundaries of Districts No. 1 and 2 remain unchanged. Some of the Counties now named in Districts No. 3, No. 4, and No. 6 are not named in the redistricting because they are no longer significant prune-producing Counties.

In addition, producer and handler nomination voting procedures are reinstated in § 993.128(b). These procedures were omitted inadvertently in prior rulemaking.

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, and other available information it is further found that § 993.128 should be revised. Section 993.128 is revised to read as follows:

§ 993.128 Nominations for membership.

(a) *Districts.* In accordance with the provisions of § 993.28, the districts referred to therein are described as follows:

District No. 1. That portion of Sutter County south of a line extending along Nuestro Road, easterly to the Yuba County line, and westerly to the Colusa County line.

District No. 2. That portion of Sutter County not included in District 1.

District No. 3. The Counties of Sonoma, Napa, Yolo, Lake, Mendocino, Humboldt, Trinity, Del Norte, and Siskiyou.

District No. 4. The Counties of Santa Clara, San Benito, Contra Costa, Solano, Kern, Tulare, Fresno, Merced, Stanislaus, San Joaquin, Sacramento, Placer, and all other Counties not specified in Districts No. 1, 2, 3, 5, 6, and 7.

District No. 5. Butte County.

District No. 6. Yuba County.

District No. 7. The Counties of Shasta, Tehama, Glenn, and Colusa.

(b) *Voting procedures.*—(1) *Independent producers.* Prior to March 8 of each election year, the Committee shall cause a meeting to be held, in each of the election districts established pursuant to § 993.28(a) for the purpose of obtaining names of proposed candidates for nomination to the Secretary for selection as members and alternate members for the respective districts. Each such candidate must be a producer in the district for which he is proposed. Prior to March 15 of that election year, the Committee shall prepare for each district and mail to each independent producer of record in such district a ballot as prescribed in § 993.28(a). Each voter shall be entitled to cast only one vote for a member nominee and only one vote for an alternate member nominee in a district in which he is a producer, and no voter shall vote for candidates in more than one district. In case he is a producer in more than one district he shall elect in which of such districts he will vote and notify the Committee as to his choice. In order to be counted, such a mail ballot must be executed and returned to the Committee postmarked not later than the following March 31. One nominee for member and one nominee for alternate member for each district shall be submitted to the Secretary by the Committee on the basis of those receiving the plurality of the mail ballots cast for the respective positions in the particular district. Returns shall be considered in light of the voting by each district separately.

(2) *Independent handler nominees.* (i) Prior to March 15 of each election year, the Committee shall notify each independent handler of record of the group of independent handlers in which he has been classified pursuant to the provisions of § 993.28(c) and of the number of independent handler positions on the Committee for the ensuing term of office pursuant to the provisions of § 993.24 (b) and (c). Prior to April 1 of each election year, each of the two independent handlers classified in the group specified in § 993.28(c)(1) shall notify the Committee in writing of his nominee for member and nominee for alternate member as prescribed therein.

(ii) In any election year in which four member positions and four alternate member positions are assigned to independent handlers for the ensuing term of office, the Committee shall, prior to April 1 of such year, cause to be held a meeting of the three independent handlers classified in the group specified in § 993.28(c)(2) and a separate meeting of all other independent handlers classified in the group specified in § 993.28(c)(3). Each group at its meeting shall, from among that group, elect one member nominee and one alternate member nominee by plurality vote. Each handler present at the meeting of his group shall be entitled to one vote for a candidate for each position assigned to that group.

(iii) In any election year in which only three member positions and three alternate member positions are assigned to independent handlers for the ensuing term of office, the Committee shall, prior to April 1 thereof, cause to be held a meeting of all independent handlers except those classified in the group specified in § 993.28(c)(1). At such meeting one member nominee and one alternate member nominee shall be elected in accordance with the applicable provisions of § 993.28(c).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 10, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-4571 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 82-015]

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry Area Released from Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Orange County in California from areas

quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to exotic Newcastle disease concerning only one premises, and that premises is not owned by a small entity.

This amendment releases a portion of Orange County in California from the areas quarantined because of exotic Newcastle disease. The restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 82.3 [Amended]

1. In § 82.3(c)(3)(i), relating to the State of California, the following premises is removed: (i) John Nichol, 8581 Bayonne Drive, Huntington Beach, Orange County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141))

Done at Washington, D.C., this 12th day of February 1982.

John W. Walker,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-4873 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 82-001F]

Termination of Designation of the State of South Carolina With Respect to the Inspection of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule and termination of designation.

SUMMARY: A representative of the Governor of South Carolina had advised the Department that the State of South Carolina would no longer be in a position to continue administering the State meat and poultry inspection program after February 21, 1982. Therefore, the Secretary of Agriculture designated the State of South Carolina as required under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act with an effective date of application of Federal provisions of February 22, 1982. Since then, representatives of the Governor of South Carolina have advised the Department that South Carolina will now continue its meat and poultry inspection programs and requested that the designation of South Carolina under the Acts be terminated. Therefore, such designations of South Carolina are hereby terminated.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. J. Blair, Director, Federal-State Relations Branch, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6313.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By terminating the designation of the State of South Carolina, the status quo regarding meat and poultry inspection operations would be maintained and, therefore, no impact would be anticipated.

Effect of Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. As stated above, terminating the designation of South Carolina would merely result in maintaining the status quo regarding meat and poultry inspection operations and, therefore, no impact is anticipated.

Background

A representative of the Governor of the State of South Carolina had advised this Department that the State of South Carolina would no longer be in a position to continue administering the State meat and poultry inspection programs after February 21, 1982, and

requested the Department to assume the responsibility for carrying out the provisions of Titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, or at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary determined that in view of the proposed termination date for the South Carolina programs, South Carolina was not effectively enforcing requirements at least equal to those imposed under Titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act, inasmuch as those requirements contemplate continuous ongoing programs.

Accordingly, on January 22, 1982, a notice was published in the **Federal Register** (47 FR 3089) designating the State of South Carolina, effective January 22, 1982, under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act; and February 22, 1982, was specified as the effective date of application of Federal provisions for both programs.

Since then, representatives of the Governor have informed the Department that South Carolina will now continue its meat and poultry inspection programs and requested that the designation of South Carolina under the Acts be terminated. The Secretary has now determined that since South Carolina will continue its meat and poultry inspection programs, South Carolina will enforce State meat and poultry inspection requirements at least equal to the requirements under Titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act.

Therefore, the designation of the State of South Carolina with respect to meat and meat products and poultry and poultry products under the Acts is hereby terminated.

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Accordingly, Part 331 of the Federal meat inspection regulations (9 CFR Part 331) is revised as follows:

1. The authority citation for § 331.2 reads as follows:

Authority: Secs. 21 and 301, 81 Stat. 584, 588, 592, 593, 595 (21 U.S.C. 621, 661).

§ 331.2 [Amended]

2. Section 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is hereby amended by deleting "South Carolina" from the "State" column and by deleting the date which was added on the line with "South Carolina".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Further, Part 381 of the poultry products inspection regulations (9 CFR Part 381) is revised as follows:

1. The authority citation for § 381.221 reads as follows:

Authority: Secs. 5(c) and 14, 71 Stat. 441, as amended (21 U.S.C. 454(c), 463).

§ 381.221 [Amended]

2. Section 381.221 of the poultry products inspection regulations (9 CFR 381.221) is hereby amended by deleting "South Carolina" from the "State" column and by deleting the date which was added on the line with "South Carolina".

This amendment of the meat and poultry inspection regulations is necessary to reflect the determination of the Secretary of Agriculture under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspections Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the **Federal Register.**

Done at Washington, D.C. on February 17, 1982.

L. L. Gast,

Acting Associate Administrator, Food Safety and Inspection Service.

[FR Doc. 82-4722 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0368]

Truth in Lending; Definition of Arranger of Credit

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Final rule.

SUMMARY: The Truth in Lending Act and the Board's implementing Regulation Z in certain circumstances cover those who arrange credit. On October 23, 1981, the Board published for comment a proposed amendment to revised Regulation Z to define "arranger of credit" more specifically. It requested comment on what activities should constitute arranging credit and asked whether real estate brokers who arrange for seller financing of homes should be considered arrangers of credit. In light of the comments received, and the possibility of Congress' addressing the question of whether arrangers of credit should have the responsibility for providing Truth in Lending disclosures, the Board has decided not to adopt the amendment as proposed at this time. The Board believes the ultimate resolution of this matter should be made by the Congress and it does not wish to require the industry to prepare to comply with a regulation when the Congress may later exempt brokers who arrange seller financing from the act's coverage. Therefore, the Board is now amending the definition of "arranger of credit" to state that it does not include anyone who arranges for seller financing of a dwelling. However, depending on the Congress' action, the Board will review the matter in early 1983.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Werthan or Steven Zeisel, Staff Attorneys, Division of Consumer and Community Affiars, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–3867.

SUPPLEMENTARY INFORMATION:

(1) Introduction.

Effective April 1, 1981, the Federal Reserve Board substantially revised

Regulation Z (46 FR 20848, April 7, 1981) to reflect the amendments to the Truth in Lending Act made by the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221, 94 Stat. 170, March 31, 1980). The revised regulation does not become mandatory until October 1, 1982. One of the amendments required that Truth in Lending disclosures be given by those who regularly "arrange" for credit to be extended by persons who do not meet the "creditor" definition. However, the amendment did not specify what activities constitute "arranging credit," and the formal legislative history does not describe what groups were intended to be covered. On October 23, 1981, the Board published for comment a proposed amendment to the revised Regulation Z to define "arranger of credit" more specifically (46 FR 51920).

The proposal covered those who regularly (1) develop or negotiate the credit terms, and (2) assist in completing the documents containing the binding credit terms. Under the proposal, most real estate brokers who arrange for home sellers to provide part or all of the financing to the home purchaser would be covered because, in doing so, they would meet these two tests. The Board requested comment on what activities should constitute "arranging credit" and asked whether real estate brokers or salespersons who arrange seller financing should be considered arrangers.

The Board received approximately 3,000 written comments, the vast majority of which opposed requiring real estate brokers to give Truth in Lending disclosures for seller-financed transactions. About 60% of the comments consisted of form letters opposing the proposal. Commenters on both sides of the question, however, presented strong arguments. Commenters in favor of covering brokers that arrange seller financing, for example, argued that disclosures are necessary because certain terms, such as a large balloon payment due after a few years, may not be adequately described absent Truth in Lending disclosures. They argued that the need for disclosures in particularly important because of the large amount of money involved. These commenters also suggested that the responsibilities of compliance would be no greater than those imposed on all others subject to the act's requirements.

Commenters opposing the proposal stressed that the real estate industry is experiencing many serious problems at this time and would be greatly burdened by additional disclosure responsibility and liability. They also argued that Truth in Lending disclosures would be of little use to consumers in these cases for two reasons: (1) Much of the disclosure information is provided in other documents and the credit terms, though "creative," are generally quite simple; and (2) little comparison shopping can be done since seller financing is generally used only when conventional financing is unavailable. Commenters also pointed out the numerous operational problems that coverage would present, including, for example: how to define which entity is the arranger (sales agent, licensed broker, or brokerage firm; selling broker or listing broker); how to provide disclosures for the numerous offers and counter-offers the parties may exchange before an agreement is finally reached; and how to keep a broker's failure to comply from complicating any later litigation between the seller and the buyer.

The question of whether arrangers of credit should have Truth in Lending disclosure responsibilities was under active consideration by Congress during the last session. Although the bill was not passed, it is anticipated that the Congress may consider it again this session. Several dozen congressional letters and phone calls received by the Board indicate that interest continues in this issue.

Resolving the question of whether real estate brokers who arrange seller financing should be required to provide Truth in Lending disclosures calls for a difficult balancing of the benefits to consumers against the burdens to brokers. The Board believes that this is such a substantive decision that ideally it should be made by the Congress. Since the matter has already been taken up by the Congress, and since it may be dealt with in this congressional session, the Board believes it would be inappropriate at this time to extend coverage of the regulation to real estate brokers. Moreover, if the regulation were amended now to cover brokers, and they were later exempted by the Congress, the expense that the industry would incur in preparing to comply by October 1, 1982, would have been wasted. However, depending on the Congress' action, the Board will review the question of coverage in early 1983. Therefore, the Board is interested in learning whether the incidence of seller financing remains high and whether problems of consumer misinformation are developing.

The Board therefore is not adopting the amendment as proposed, but instead is defining "arranger of credit" to exclude certain real estate brokers on an interim basis in order to allow the Congress to decide the question. It is adopting an amendment to the definition of "arranger of credit" in revised Regulation Z to clarify that the term does *not* include a real estate broker of salesperson who arranges for the seller of a home to finance, in whole or in part, the purchase of the home. The term continues to include anyone (including a real estate broker) who regularly arranges for a third party (that is, someone other than the seller) to provide credit if the third party is not itself a creditor.

PART 226—TRUTH IN LENDING

(2) *Authority.* Pursuant to section 105 of the Truth in Lending Act (15 U.S.C. 1604, as amended), the Board revises § 226.2(a)(3) of revised Regulation Z (46 FR 20848), by adding a sentence at the end, so that it will read as follows:

§ 226.2 Definitions and rules of construction.

(a) *Definitions.* * * *

(3) "Arranger of credit" means a person who regularly arranges for the extension of consumer credit [2] by another person if:

(i) A finance charge may be imposed for that credit, or the credit is payable by written agreement in more than four installments (not including a downpayment); and

(ii) The person extending the credit is not a creditor.

The term does not include a person (such as a real estate broker) when arranging seller financing of a dwelling or real property.

* * * * *

By order of the Board of Governors of the Federal Reserve System, February 12, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-4491 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

[2] A person regularly arranges for the extension of consumer credit only if it arranged credit more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[Reg. PR-243; Amdt. No. 67]

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Editorial amendment.

SUMMARY: The CAB makes clear that applications and other documents filed in certificate proceedings must be served only on airlines providing service at the communities involved and not on all airlines authorized to provide service there.

DATES: Adopted: February 11, 1982. Effective: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

By PR-238, 47 FR 138, January 5, 1982, the Board amended 14 CFR 302.1705 in light of the termination of its domestic route authority under section 1601 of the Federal Aviation Act. Section 302.1705 says who must be served with documents in certificate proceedings. Paragraph (a) of that section describes the points affected by a certificate application. Paragraph (b) lists the carriers and persons at those points that must be served with the documents. Paragraph (b)(1) states that all air carriers certificated under section 401 of the Act and authorized to engage in the type of air transportation applied for at one of those points must be served.

The reference in paragraph (b)(1) to air carriers "authorized to engage in" the type of air transportation applied for was an inadvertent holdover from the previous rule. Since January 1, 1982, domestic air carriers have been authorized to engage in air transportation at all U.S. points, so that the language of paragraph (b)(1) taken literally would require documents in certificate proceedings to be served on all certificated carriers. That is contrary to the purpose of PR-238, which was to limit the service obligations of carriers, and not what the Board intended in that action. We are amending paragraph (b)(1) so that only carriers actually providing the type of air transportation applied for at the point will have to be served with the application and other documents.

This editorial amendment is issued under the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385.

PART 302—RULES OF PRACTICE IN BOARD PROCEEDINGS

Accordingly, the Board amends 14 CFR Part 302, *Rules of Practice in Board Proceedings*, as follows:

1. The authority for Part 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91-90, 42 U.S.C. 4321; 84 Stat. 772, 39 U.S.C. 5402.

2. In § 302.1705, paragraph (b)(1) is revised to read:

§ 302.1705 Service of documents.

* * * * *

(b) *Persons to be served.* Documents shall be served for each point as described in paragraph (a) of this section, on the following persons:

(1) All air carriers certificated under section 401 of the Act and providing the type of air transportation (scheduled or charter) applied for at one or more of the points;

* * * * *

By the Civil Aeronautics Board.

David M. Kirstein,

General Counsel.

[FR Doc. 82-4636 Filed 2-18-82; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 323

[Reg. PR-244; Docket 39632; Amdt. No. 6]

Terminations, Suspensions, and Reductions of Service

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB limits the requirement that a certificated airline file a notice when ending service to a community to situations where that airline is the only, or next-to-last, certificated carrier serving that community or is reducing service below the essential level. The CAB also eliminates the requirement that airlines file a 60-day notice when ending nonstop or single-plane service in a foreign or domestic market. At the same time, the CAB requires certificated airlines to file a 90-day notice when reducing total available capacity at a community by 33 percent or more. These actions are in response to the sunset and small community air service provisions of the Federal Aviation Act.

DATES: Adopted: January 7, 1982. Effective: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

Background

By PDR-74, 46 FR 29282, June 1, 1981, the Board proposed to amend 14 CFR Part 323, *Terminations, Suspensions, and Reductions of Service*, to reflect the change in the Board's statutory authority after December 31, 1981. Currently, a certificated carrier must file a notice 90 days before it terminates or suspends all service at an eligible point, reduces service at an eligible point below the level that the Board has determined to be essential for that point, reduces service so that there is no FAA-designated hub from which the eligible point receives two round trips per day, or terminates or suspends all-cargo air service to a foreign point. A certificated carrier must file a notice 60 days before terminating or suspending the last nonstop or single-plane service in a domestic or foreign market. A commuter air carrier must file notice 30 days (90 days if it is being paid a subsidy) before it reduces service at an eligible point below the level that the Board has determined to be essential for that point or reduces service so that there is no FAA-designated hub from which the eligible point receives two round trips per day. There is a special provision applicable only to Alaska (§§ 323.3(a)(4) and (c)(3)) which is not in issue here. An eligible point is a point that was listed on an airline's certificate on October 24, 1978, or a point that the Board designates as eligible under 14 CFR Part 270.

Section 1601 of the Federal Aviation Act sets forth a schedule for the phasing out of various Board functions. Paragraph (a)(1)(D) of that section abolishes the notice provisions of section 401(j) of the Act, which is the statutory basis for the notices described above, except to the extent that those provisions involve essential air transportation. Essential air transportation is defined by section 419(f) of the Act and 14 CFR Part 398.

PDR-74 responded to this change in our statutory authority by proposing to eliminate all 60-day notices, all notices involving foreign air transportation, and some of the 90-day notices. The 30-day notices filed by commuters were not affected. Under this proposal, rather than filing a 90-day notice whenever it

wanted to terminate all its service at a point, a certificated carrier would have to file such notice only if it were the last or next-to-last certificated carrier to terminate service at that point. In addition PDR-74 proposed to add one completely new notice. This would apply only to certificated carriers and would require them to file a notice 90 days before terminating, suspending, or reducing service at an eligible point so that the total available seats of all carriers linking that point to all FAA-designated hubs would be reduced by 25 percent or more during a 90-day period. This notice was proposed so that the Board and the community would have advance warning of a major transitional problem where the major carrier at a multi-carrier point terminated or significantly reduced its service.

Elimination of Notices

In response to PDR-74, comments were filed by seven airlines and six State agencies. No airline objected to the elimination of the 90- and 60-day notices described above. The Michigan Aeronautics Commission and the California Department of Transportation did oppose these changes. Michigan was concerned that this action would impose a greater burden on the communities. It stated that the abrupt withdrawal, without notification, of a carrier from a community increases the difficulties of finding a suitable replacement. California agreed that Part 323 should be changed but called for further study. It recommended that no changes be made until the U.S. Department of Transportation assumes responsibility for the essential air service program (now scheduled for 1985).

On the other hand, the Arizona Department of Transportation argued for the elimination of almost all notices. It stated that only carriers providing service with a government subsidy should be required to file a notice before terminating or reducing that service. Arizona considered the notice requirements to be inconsistent with deregulation and noted that other businesses are not required to provide advance notice of their actions.

We do not accept either of these two positions. The Board has the responsibility under section 419 of the Federal Aviation Act to monitor and ensure essential air service levels at eligible points. In order to fulfill this statutory responsibility, it is necessary that airlines notify the Board and the community when they intend to terminate or reduce service so as to affect essential air service. Furthermore, the Act itself mandates certain notices so that the Board can fulfill its responsibilities and communities and State agencies can receive advance warning of important air service changes.

The Act also reduced the Board's statutory authority to require notices under section 401(j) at the beginning of this year. It is therefore not possible to wait until 1985 to conform the notice requirements in our rule to the Act. Elimination of some notices by this rule will not create significant problems for eligible points because they will continue to receive notice of the most important air service changes, those that affect essential air services.

We are including a specific exemption from the requirements of section 401(j) of the Act for notices involving foreign air transportation. Section 401(j)(2) requires carriers to provide 60 days' notice prior to terminating or suspending the last nonstop or single-plane service in a foreign or domestic market. Although in PDR-74 the Board stated that it would no longer require carriers to file these notices after December 31, 1981, it did not propose a specific exemption from section 401(j)(2). This appeared to be unnecessary because, under section 1601 of the Act, the requirements of section 401(j) terminate after December 31, 1981.

After further study, however, we have concluded that the section 1601 termination of Board authority to require notices under section 401(j) applies only to interstate and overseas air transportation, and that foreign air transportation is not covered. We have not changed our view, however, that notices involving foreign air transportation are not needed. To remove any doubt about carriers' obligations when ending such service, we are including an exemption from section 401(j) in a new § 323.8. A similar exemption from section 401(j) for domestic service is not necessary as that service is already covered by the sunset provision of section 1601.

Addition of New Notices

Although proposing to eliminate most 90-day notices, the Board, in PDR-74, proposed that a certificated carrier still be required to file such notices in the following situations:

(1) When it intends to terminate all service at an eligible point and there is no other certificated carrier serving that point;

(2) When it intends to terminate all service at an eligible point and there is only one other certificated carrier serving that point; and

(3) When it intends to terminate, suspend, or reduce service at an eligible point so that the total available seats of all carriers linking that point to all FAA-designated hubs will be reduced by 25 percent or more during a 90-day period.

Notices (1) and (2) above actually represent a reduced filing burden because previously a certificated carrier had to file a 90-day notice when terminating all service at a point regardless of how many other certificated carriers served that point. Now it will have to file a notice only if there is one or no other certificated carrier serving that point. The only wholly new notice is the third one, "the 25 percent notice."

Several carriers claimed that adoption of any of these notices would exceed the Board's statutory authority. They argued that the Board may require notices only for terminations or reductions that would cause service to drop below the level that the Board has determined to be essential for a point. The Board sets essential air service levels only for eligible points that are served by fewer than two certificated air carriers (Section 419(a)(2)). The effect of their interpretation would be that certificated carriers could terminate or reduce service without warning at a point that was served by at least one other certificated carrier. It could do this even if the termination or reduction might leave the point without essential air service.

We do not consider such a result to be mandated by the Act. The specific notice requirements of section 419 are not necessarily exclusive. The Board is responsible for monitoring essential air service levels. We must ensure that all eligible points, not merely single-carrier points for which an essential air service determination must be issued, receive essential service. Congress intended that all eligible points, including medium-sized communities, be protected by the essential service guarantee. Contrary to the carriers' assumptions about the limited number of intended beneficiaries of this guarantee, members of Congress made it clear that their concern over the potential loss of vital air service was not restricted to the smallest points. Congressman McHugh, who on the floor proposed the amendment to the House bill that was largely the same as the present section 419, stated that "the amendment which I am offering is of vital importance to small and medium size communities," 124 Cong. Rec. H10319 (daily ed., September 21, 1978).

Specifically, Congress included paragraph (a)(10) in section 419. This provision empowers the Board to prohibit any termination or reduction of service if it reasonably appears that that

service change would deprive a community of essential service. Section 419(a)(10), by its terms, applies to any eligible point for which an essential air service determination has not been issued. In order to fulfill our responsibility under section 419(a)(10) and protect the statutory right of all eligible points to essential service, the Board must have notice that a significant termination or major reduction in air service is about to occur. The new notices adopted here give us that ability and are fully justified under sections 419(a)(10) and 204 of the Act. Without these notices, the Board would be unable to ensure that essential air service is maintained at multi-carrier and medium-size eligible points.

Independently of section 419(a)(10), we also find authority to require these new notices in section 407 of the Act. That section empowers the Board to require "special reports from any air carrier" and "to prescribe the manner and form in which such reports shall be made." This broad grant of authority permits the imposition of the notice requirements adopted here.

Republic also objected to the proposed notices generally on the grounds that they would inhibit carriers from reacting to market conditions and give greater significance to certification at a time when the distinction between certificated and commuter carriers is fading. Piedmont and United suggested relying on the affected communities in most cases to bring terminations and reductions to the Board's attention, rather than adopting additional notices.

We recognize that the notices required by Part 323 affect a carrier's ability to react to market conditions as quickly as it may like. This, however, is a necessary consequence of the statutory scheme. Although the Act calls for greater reliance on competitive market forces to provide the needed air transportation system (section 102(a)(4)), it also requires "the maintenance of comprehensive and convenient system of continuous scheduled airline service for small communities . . ." [Section 102(a)(8)]. In order to achieve this latter policy goal, it is necessary for the Board to receive advance notice of some service changes. This allows us to monitor service levels, hold in incumbent carriers, and arrange for replacement service where necessary. We cannot merely rely on the communities to inform us of important service changes because, without advance notice requirements, they may not know about terminations or reductions either until shortly before, or even after, they occur.

Republic is correct that the distinction between certificated and commuter carriers is fading and may be eliminated altogether. Nevertheless, the notice requirements in the Act are currently tied to a carrier's certificate status. Certificated carriers must file a notice 90 days prior to a termination or reduction in service while uncertificated carriers (commuters) generally must give only 30 days' notice. In our view, the Board's notice rules should continue to distinguish between these two types of carriers until the statutory scheme is changed.

Last Certificated Carrier

Proposed § 323.3(a)(1) would require a certificated carrier to file a 90-day notice prior to terminating all its service at an eligible point if it were the only certificated airline providing service there. Some carriers opposed this notice specifically on the grounds that it was unnecessary. They noted that where there were no other carriers providing essential service to the point, the termination would be subject to the notice requirements of § 323.3(a)(2) in any event. Where commuter air carriers were serving the point, the carriers argued that notice would still be unnecessary if those commuters were providing essential service. Republic claimed that the Board has testified before Congress that loss of certificated service has little impact on small communities and that reliable commuters are able to pick up the slack.

We have decided to adopt this notice. To ease compliance problems, we are shortening the notice period to 60 days. While commuter air carriers generally are capable of providing essential service at points that a certificated carrier is leaving, the Board must ensure that the particular commuter involved is fit, willing, and able to provide the essential service and that it can do so in a reliable manner. This may require financial and operational audits of the commuter. Performing these tasks and any others that may be necessary to ensure that essential service at the eligible point will not be adversely affected typically takes about 60 days.

Next-to-Last Certificated Carrier

Proposed § 323.3(a)(1) would also require a certificated carrier to file a 90-day notice prior to terminating all its service at an eligible point if there were only one other certificated airline providing service there. Most carriers did not specifically object to the adoption of this notice, but made two suggestions. Some suggested that this notice should be required only for terminations of service at eligible points for which the Board has not made an essential air service determination under section 419(a)(2), because it is only at these points that the termination would trigger a Board action, *i.e.* and essential air service determination. Others argued that the notice should be required only 30, rather than 90, days in advance because the Board has an additional 6 months to issue the essential service determination under section 419(a)(2). Illinois and New York supported the 90-day period. Illinois argued that where essential service is affected, a notice period of 90 days is necessary in order to give the community and the Board sufficient time to find replacement service. If the termination would not jeopardize essential air service at a point, the carrier could request an exemption from the 90-day period. By maintaining the 90-day period but entertaining exemption requests, the carrier would, in Illinois's view, have a strong incentive to coordinate its plans with the affected community. New York favored the 90-day period because it considered that period necessary for making the essential air service determination. If the determination were made within that period and indicated that essential service would not be affected by the proposed termination, New York would not object to a waiver of the remaining notice period.

We have decided to adopt this notice with the modifications suggested by the carriers, and to codify it as § 323.3(a)(3). The notice adopted here requires the next-to-last certificated carrier to file a notice when it is terminating all its service at a point only if the Board has not yet issued an essential service determination for that point. It must be filed 30 days in advance. If the Board has already made an essential service determination for the point, the carrier's notice obligation will be governed by that determination and § 323.3(a)(2).

We have decided to require this new notice to be filed only 30 days in advance of the proposed termination because it is primarily intended to inform the Board of the need to issue an essential air service determination under section 419(a)(2)(B). Under section 419(a)(2)(B), the Board has 6 months from the time it receives the notice from the next-to-last carrier to issue the determination. The time provided by a 90-day notice is therefore superfluous for this purpose.

A 30-day period is also sufficient time for the Board to determine whether essential service reasonably appears to be affected by the proposed termination. If it would be, the Board may, under

section 419(a)(10) of the Act, require the carrier to continue providing service for successive 30-day periods. This will provide the Board and the community enough time to find replacement service.

The "25 Percent Notice"

The proposal that drew the strongest opposition was the "25 percent notice." This would require a certificated carrier to file a 90-day notice before terminating or reducing service at an eligible point so that the total available seats of all carriers linking that point to all FAA-designated hubs would be reduced by 25 percent or more during a 90-day period. The purpose of this notice was to permit the Board to monitor air service levels and to receive advance warning of major transitional problems. A major transitional problem occurs when the dominant carrier at a point terminates or reduces service there to such an extent that a significant portion of the point's traffic will not be accommodated, and it does not appear that market forces will quickly correct the problem. In such cases, the Board would issue an essential service determination for the point under section 419 of the Act, make a finding under section 419(a)(10) of the Act, or revise its essential service determination under section 419(a)(2)(C), and require the carrier to continue to provide the level of service that reasonably appeared to be essential or that the Board then determined to be essential. Such action is called for by 14 CFR 398.6(b)(4).

Republic argued that this notice is not necessary. It claimed that a termination notice by the next-to-last carrier is adequate to inform the Board of a major transitional problem. We do not agree. Without a percentage-based reduction notice, the dominant carrier at a point could terminate all its service without having to file a notice as long as there were small certificated carriers still providing some service. The possibility of this occurring is increasing as many small commuter carriers obtain certificate authority under the unused authority provisions of the Act (Section 401(d)(5)) or other Board rules. The dominant carrier could also reduce its service level significantly at a point without filing notice as long as it did not terminate all service. This could also cause a significant portion of a community's traffic to be suddenly left without access to the nation's air transportation system. Market forces might not correct this problem quickly enough, because other carriers might be reluctant to enter the market and compete against the better-known incumbent.

Several carriers complained that the "25 percent notice" would be burdensome in that it would force them to "count seats" prior to each schedule change. As a practical matter, however, it will very seldom be necessary for a carrier to have to count seats. A carrier can clearly rule out the need to file this notice at any point where it provides less than 25 percent of the capacity. Given the level of sophistication in current airline scheduling and marketing, it is unlikely that a certificated carrier does not know its share of the capacity in a market. Since the carrier will know what percentage of its own capacity it is eliminating, it will only have to determine how this relates to the overall number of seats at a point. In most cases, it should be able to estimate whether its reduction is in the area of 25 percent of the total capacity. Only in close cases would it have to count seats.

United and USAir were concerned that in some cases merely a change to smaller aircraft at a point could trigger the "25 percent notice" even though no change was made in the number of flights provided. USAir cited a case where a change from DC–9–30 to BAC–1–11 aircraft would cause a 26.2 percent capacity reduction. It suggested that 33 percent be the standard to avoid this problem. We have decided to adopt that suggestion. Although the Board has found major transitional problems at points that have suffered service reductions as small as 25 percent, most such cases have been caused by larger reductions. Raising the standard to 33 percent will tend to avoid the problems projected by USAir and United. It will also minimize the incidents where carriers will have to count seats.

It is of course still possible that a situation would arise where a 33-percent standard would not avoid the problem of a change in aircraft triggering a notice. Such situations, however, would be extremely rare. In our view, the importance of this notice to the essential service program justifies its adoption.

USAir noted that carriers may configure their aircraft for different numbers of seats. It asked how a carrier was to determine capacity in a market in light of this. For determining the number of seats in a market, a carrier should use the actual number of seats in its own aircraft and the aircraft performance statistics table in the Official Airline Guide (OAG) for other carriers' aircraft. Where the OAG lists a range of seats, the carrier may use the most advantageous number from its own standpoint. Usually this would be the higher number.

Several carriers complained that this notice requirement will be hard for them to administer. TWA stated that capacity reductions at a point are not finalized 90 days in advance. Carriers also noted that their service reductions will be affected by other carriers' actions. A carrier may initially determine that its planned reduction in service would not reduce available capacity by 33 percent but may find itself prohibited from implementing the reduction on the intended date if another carrier reduces service to the same point in the interim.

These problems will always be present where one's actions depend on giving proper notice in advance. This is especially true where the notice requirement depends, at least in part, on the actions of other carriers. The same problem currently exists with respect to the filing of 60-day notices under section 401(j)(2) by two carriers each planning to suspend nonstop or single-plane service in a market. The Board is aware of these problems and thus will look favorably upon requests for waivers from the full notice period where the reason is that the carrier itself did not realize 90 days in advance that a notice would be required.

The New York DOT favored this notice and asked that commuters be subject to it as well. While at first glance this suggestion has merit, we have decided not to add this notice requirement for commuters. It appears that it may be unnecessarily burdensome for them and thus inconsistent with the national policy of reducing regulation of small businesses. At points that are also served by a certificated carrier, it is unlikely that a service reduction by a commuter would create a major transitional problem. If the point is served solely by commuters, a major reduction in service by a commuter would probably trigger the notice requirement of 14 CFR 323.3(c)(1) governing reductions in service below the level that the Board has determined to be essential. In those few cases where this would not be the case, we would expect a major reduction by the commuter to quickly prompt new entry by another carrier in any event, if there were a significant number of potential passengers available.

Although we have focused on the additional notices in the discussion above, this rule change in its entirety represents a decreased burden for certificated carriers. Such is not the case with respect to commuters. Their notice obligations are already less than those of the certificated carriers and no changes were proposed in PDR–74. To add the percentage reduction notice for

commuters would represent an increase in their burden with no corresponding decrease in other notices.

Other Matters

Delta and United called for the elimination of § 323.3(a)(3). That provision requires certificated carriers to file a notice 90 days before reducing service to an eligible point for which the Board has not made an essential air service determination, if that reduction would leave the point without at least two round trip flights per day, 5 days per week, to any FAA-designated hub. Delta considered this requirement to be too stringent because it would require a carrier to file a notice if it intended to provide only one round trip at a point. Delta cited cases where the Board had set essential service levels at one round trip per day. United viewed this notice requirement as representing the "tenacious grasp of the regulators as their ship sinks slowly into the sunset" (somewhat irrelevantly, since the essential air service program is not scheduled for sunset in the near future).

In fact, § 323.3(a)(3) has been in effect since the rule was first adopted (PR–200, 44 FR 20635, April 6, 1979). The only change proposed in PDR–74 was the removal of the phrase "listed on its certificate" which had been added by PR–219, 45 FR 20065, March 27, 1980. This phrase was added to make clear that only reductions at eligible points listed on a carrier's certificate, not those that it was serving under exemption authority, were subject to the notice requirement. The Board proposed to eliminate the phrase in this and other paragraphs to reflect the end of its statutory authority to list points on domestic certificates. Section 1601(a)(1)(C).

The purpose of § 323.3(a)(3) was to ensure that the Board and the community received notice of service reductions at points where an essential service determination had not been made. It incorporated the two-round-trips-per-day standard of section 419(f) of the Act. This was important during the year after the Airline Deregulation Act was passed, when the Board was in the process of setting essential service levels for more than 550 eligible points. Now this task has been completed, so there appears to be little remaining need for this notice requirement. The Board had not focused on the need for § 323.3(a)(3) when issuing PDR–74. Upon reflection, we have decided to delete it. Reductions previously subject to this notice requirement will now be subject to notice under § 323.3(a)(2) or the other notices adopted here.

Transamerica asked that service operated less than 5 days per week and domestic fill-up services in conjunction with foreign air transportation not be subject to any notice requirement when they are terminated or reduced, even if the termination or reduction would reduce service at an eligible point below the essential air service level. Transamerica argued that it would make no sense to require and subsidize the continuation of these services. We disagree. If the domestic leg of an international flight or service operated less than 5 days per week made up all or part of the essential service of a community, its continuation would not only make sense but would be required by section 419 of the Federal Aviation Act. Advance notice of its termination or reduction is therefore required under § 323.3(a)(2). It is not necessary for fill-up service to be subject to other notices adopted here. An exemption from those notices for that service is included in § 323.8.

Proposed § 323.18 would require carriers to contact all passengers booked on flights being terminated. This would apply even if the reduction in flights was not subject to notice under this rule. Indeed it was specifically intended to ensure that the elimination of all 60- and most 90-day notices was not construed as relieving airlines of their obligation to attempt to provide notice to individual passengers. Delta, however, considered this provision to be unnecessary. It noted that carriers would contact all passengers on cancelled flights in any event in order to maintain customer good will.

While we would expect most carriers to make every effort to contact passengers on cancelled flights even in the absence of a government regulation, the original rationale for proposing § 323.18 still holds. This rule will ensure that individual passengers are not adversely affected by the lessening of Board oversight. To the extent that carriers would have contacted passengers in any event, they are not burdened by this regulation. Section 323.18 merely continues the Board practice, followed in its orders allowing a carrier to terminate service, of conditioning the permission to terminate service on the carrier's efforts to inform affected travelers.

Delta asked the Board to delete sections 323.4 (a)(4)(iii), (a)(5)(i), and (a)(5)(ii). These provisions set forth some of the requirements as to the contents of the notices. The argument for their elimination was premised on Delta's narrow view of the Board's authority to require termination and reduction notices. Since, for the reasons discussed above, we have not adopted that view, we are not adopting these changes in Part 323.

The California DOT favored a 180-day notice period for certificated carriers and at least a 90-day notice for commuters. The Act, however, establishes a 90-day notice period for terminations and reductions in service by certificated carriers and a 30-day notice period for unsubsidized commuters. We are for that reason not adopting California's suggestion.

California's comment raises the question, however, of the notice period for termination notices filed by dual authority carriers. Dual authority carriers are certificated carriers that may use small aircraft (less than 60 seats) in some of their operations. In Subpart I of 14 CFR Part 298, the Board has exempted these carriers from some provisions of the Federal Aviation Act as if they were air taxi operators, but not from the notice requirements of sections 401(j) or 419. Since they are certificated carriers subject to sections 401(j) and 419, dual authority carriers will have to comply with the same notice requirements as other certificated carriers on all their routes.

The New Hampshire Aeronautics Commission asked that these notices be served on the Chief Executive and the State Aviation official of the State concerned, in addition to the Chief Executive of the eligible point. Service on the State aviation agency is already required by § 323.7(a)(3). This should usually be sufficient. If there is no State agency that oversees air transportation in that State, then service of the notice should be made on the governor of that State. A sentence is added to § 323.7(a)(3) to that effect.

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule pursuant to 5 U.S.C. 604. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428 ((202) 673–5432); by referring to the "PR" number at the top of the document.

Information collection requirements contained in Part 323 (§§ 323.4, 323.9, 323.11, 323.14, and 323.15) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB #3024–0030. The amendments below do not make substantive changes in any of those sections except paragraph (b) of § 323.4, which has been removed. Changes, however, have been made in § 323.3, which states who is required to file

notices under Part 323. Sections 323.3(a)(3) and 323.3(b) have been removed, so that carriers are no longer obligated to comply with them. Minor language changes have been made in §§ 323.3 (a)(2) and (a)(4). Carriers must still comply with them. The reporting burden of § 323.3(a)(1) has been reduced and is now included in revised § § 323.3 (a)(1) and (a)(3). Thus, carriers remain subject to its requirements as revised. The only new provision in § 323.3 is paragraph (a)(5), the "33 percent notice." In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), this provision has been or will be submitted for approval to OMB. It is not effective until OMB approval has been obtained. We are, however, hereby extending the requirement of ordering paragraph 1(d) of Order 81–11–57 so that carriers will still have to file a notice before terminating or reducing service at an eligible point so as to cause the total available capacity of all the carriers linking that point to FAA-designated hubs to be reduced by 25 percent or more during a 90-day period. This requirement will be replaced by the "33 percent notice" when OMB approval is received.

Since the statutory basis for requiring termination and reduction notices from carriers changed on January 1 of this year (section 1601(a)(1)(D)), the Board finds good cause for making these amendments to Part 323 effective on less than 30 days' notice.

Member Smith filed the following concurring and dissenting statement:

Smith, Member, Concurring and Dissenting

While I agree with the decision to continue notice requirements for the last and next to last carriers seeking to terminate/suspend service at a point, the total elimination of the notice requirements for the last carrier in a particular market or pair of points may increase the difficulty of finding suitable replacement carriers as pointed out by civic parties.

Rather than totally eliminate this type of notice, it would be preferable to revise and reduce the requirement so as to provide adequate notice to communities which will have the burden of seeking replacement service and at the same time provide adequate flexibility to carriers in serving markets according to the demand for service. This could be done by allowing notice to applicable airport operators of service suspensions of the last carrier in a market concurrently with the respective carrier notices to the publishers of airline schedules.

Airline deregulation aptly allows air carriers to make decisions on communities to be served based on air travel demand, as opposed to a government determination of "convenience and necessity", as was done before deregulation. However, communities and airport operators now share the burden of "marketing" their aviation services and facilities in seeking air service commensurate with demand.

Airlines may, on occasion, suspend service in a particular market for any number of noneconomic reasons, such as flight equipment availability, crew time, and artificial constraints such as "slots", among others. It follows, therefore, that a particular market may go unserved for a period of time regardless of the fact that demand would justify economic service. Under perfect competition, it is assumed that eventually the market would be served by a willing entrant. However, a period of suspension may result in a diversion of traffic to other modes of transportation and a downward spiral of demand which increases the difficulty of achieving successful replacement service. Thus, adequate notice requirements would, at least, afford communities and airport operators a measure of relief to allow their marketing efforts for a replacement carrier to begin as early as possible.

The "market notice" requirement could be significantly streamlined to allow for notice to applicable airport operators eliminating notice to other associated parties and reduced further by revising the definition of terminations or reductions in service. The market notices would also preclude the need for the 33% or "seat counting" notice for carriers, as their market notices to airport operators could signal any major transitional problems which might occur and, subsequently, respective airport operators could seek relief from the Board through present transitional guidelines.

/s/ James R. Smith.

PART 323—TERMINATIONS, SUSPENSIONS, AND REDUCTIONS OF SERVICE

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 323, *Terminations, Suspensions, and Reductions of Service,* as follows:

1. The authority for Part 323 is:

Authority: Secs. 204, 401, 407, 411, and 419, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 769, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1377, 1381, 1389.

2. The table of contents is amended by revising § 323.8 and by adding at the end a new § 323.18, to read:

Sec.

* * * * *

323.8 Exemptions.

* * * * *

323.18 Carriers' obligations when terminating, suspending, or reducing air service.

3. The definition of "certificated carrier" in 323.2 is revised to read:

§ 323.2 Definitions.

* * * * *

"Certificated carrier" means a direct air carrier holding a certificate of public convenience and necessity issued by the Board under section 401 of the Act, authorizing scheduled route service.

* * * * *

4. In § 323.3, paragraphs (a) (introductory text), (a)(1) to (a)(3), (a)(4) (introductory text) and (a)(5) are revised and paragraph (b) is removed and reserved so that the section reads:

§ 323.3 Who shall file notices.

(a) *Terminations, suspensions, or reductions by certificated carriers.* The notice described in § 323.4(a) shall be filed by any certificated carrier that intends to:

(1) Terminate or suspend all passenger air transportation that it is providing to any eligible point in the United States when that termination or suspension will leave no certificated carriers serving that point. Service shall be considered to be terminated or suspended whenever it is operated less than 5 days per week, with three or more intermediate stops, or in one direction only between the two points;

(2) Reduce passenger air transportation so that any eligible point receives less than the level of essential air transportation determined by the Board;

(3) Terminate or suspend all passenger air transportation that it is providing to any eligible point in the United States for which the Board has not issued an essential air service determination under either § 325.5 or § 325.7 of this chapter, when that termination or suspension will leave only one certificated carrier serving that point. Service shall be considered to be terminated or suspended whenever it is operated less than 5 days per week, with three or more intermediate stops, or in one direction only between the two points;

(4) Reduce passenger air transportation to any eligible point in Alaska for which the Board has not determined the level of essential air transportation so that the service between that point and every other point served by a certificated carrier is either—

* * * * *

(5) Terminate, suspend, or reduce passenger air transportation so that the total available seats of all the carriers linking the eligible point to FAA-designated hubs will be reduced by 33 percent or more during a 90-day period. Service to a hub shall be considered to be terminated or suspended whenever it is operated less than 5 days per week, with three or more intermediate stops, or in one direction only between the two points.

(b) [Reserved]

* * * * *

5. In § 323.4, paragraph (b) is removed and reserved so that it reads:

§ 323.4 Contents of notices.

* * * * *

(b) [Reserved]

* * * * *

6. Section 323.5 is revised to read:

§ 323.5 Time for filing notices.

(a) Except as specified by paragraph (b) of this section, a notice required by § 323.3 shall be filed at least—

(1) 90 days before the intended termination, suspension, or reduction, if it is filed by a certificated carrier or by an uncertificated carrier receiving compensation under section 419 of the Act for service to the point;

(2) 30 days before the intended termination, suspension, or reduction, if it is filed by an uncertificated carrier not receiving compensation under section 419 of the Act for service to the point.

(b) The notice required by §323.3(a)(3) shall be filed at least 30 days, and the notice required by § 323.3(a)(1) shall be filed at least 60 days, before the intended termination or suspension.

§ 323.6 [Amended]

7. In § 323.6, paragraph (c) is removed:

8. In § 323.7 paragraphs (a) (introductory text), (a)(1), and (a)(3) are revised and paragraphs (a)(2) and (b) are removed and reserved as follows:

§ 323.7 Service of notices.

(a) A copy of each notice required by § 323.3 shall be served upon:

(1) The chief executive of the principal city or other unit of local government at the affected point. The principal city is the one named, or previously named, in the section 401 certificate by virtue of which the point qualifies as an eligible point. For points in Alaska or Hawaii that are designated by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point.

(2) (Reserved)

(3) The State agency with jurisdiction over transportation by air in the State containing any community required to be served under paragraph (a)(1) of this section. If there is no such State agency, the notice shall be sent to the governor of that State.

* * * * *

(b) (Reserved)

* * * * *

9. Section 323.8, is revised to read:

§ 323.8 Exemptions.

Carriers are exempted from the following provisions of the Act or this part:

(a) Section 401(j) of the Act to the extent that that provision would otherwise require them to file a notice when terminating, suspending, or reducing service in foreign air transportation; and

(b) Paragraphs (a)(1), (a)(3), and (a)(5) of § 323.3 to the extent that those provisions require them to file a notice when terminating or suspending the domestic leg of an international flight (fill-up service).

§ 323.12 [Amended]

10. In § 323.12, *General requirements for objections and answers*, paragraph (c) is removed.

11. In § 323.14, paragraph (d) is revised to read:

§ 323.14 Temporary suspension authority for involuntary interruption of service.

* * * * *

(d) The notice required by paragraph (b) or (c) of this section shall be marked for the attention of the Director, Bureau of Domestic Aviation.

12. In § 323.15, paragraph (b) is revised to read:

§ 323.15 Report to be filed after strikes.

* * * * *

(b) The report shall be marked for the attention of the Director, Bureau of Domestic Aviation.

13. Section 323.16 is revised to read:

§ 323.16 Listings in schedule publications.

Each air carrier filing a notice under paragraphs (a)(2), (a)(4), (a)(5), or (c) of § 323.3 shall continue to list the affected flights in all generally-distributed schedule publications in which the flight was listed before the notice. The listings shall continue until the Board permits the flights to be discontinued. The listings may include a notice stating that the flights are "to be discontinued as of (date) subject to government approval."

14. A new § 323.18 is added to read:

§ 323.18 Carriers' obligations when terminating, suspending, or reducing air service.

Any air carrier that terminates, suspends, or reduces air service, whether or not subject to the notice requirements of this part, shall make reasonable efforts to contact all passengers holding reservations on the affected flights to inform them of the flights' cancellation.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4570 Filed 2-18-82; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18482; File No. S7-548]

Amendment of Quotation Dissemination Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule Amendment.

SUMMARY: The Commission adopts amendments to its rule governing the collection and dissemination of quotation information to remove quotation requirements that have been ineffective in improving market information and encouraging market maker competition. The amendments would, under certain specified circumstances, permit market centers to disseminate quotations on a voluntary, rather than mandatory, basis. These amendments should reduce problems arising from mandatory quotation dissemination and remove unnecessary regulatory burdens.

EFFECTIVE DATE: March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Colby, 202-272-2888, Room 390, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") announced today the adoption of amendments to Rule 11Ac1-1 [1] under the Securities Exchange Act of 1934 ("Act") [2] which permit market centers, under certain specified circumstances, to disseminate quotations on a voluntary rather than a mandatory basis.

I. Introduction

On January 26, 1978, the Commission adopted Rule 11Ac1-1 ("Quote Rule") [3] under the Act, which requires all national securities exchanges and associations to establish and maintain

[1] 17 CFR 240.11Ac1-1.

[2] 15 U.S.C. *et seq.*, as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975), 89 Stat. 97, ((1975)) U.S. Code Cong. & Ad. News 97.

[3] *See* Securities Exchange Act Release No. 14415 (January 26, 1978), 43 FR 4342 ("Rule 11Ac1-1 Adoption Release").

procedures for collecting from their members bids, offers, and quotation sizes with respect to any reported security,[4] and for making such bids, offers, and quotation sizes available to vendors of quotation information. It also requires that every exchange member and third market maker [5] promptly communicate to his exchange or association (as the case may be) his bids, offers and quotation sizes, pursuant to the procedures established by the exchange or association.[6] In addition, the Quote Rule requires, subject to certain exceptions, the broker or dealer responsible for communicating a quotation for a reported security to execute any order presented to him, other than an odd-lot order, at a price at least as favorable as his published bid or offer, in any amount up to his published quotation size.[7] Finally, the Quote Rule has been interpreted by the Commission to require all exchange specialists and third market makers to make available continuous two-sided quotations throughout the trading day.[8]

In its release proposing amendments to the Quote Rule,[9] the Commission recognized that, as a general matter, the mandatory dissemination requirement has not achieved its objective of fostering increased competition for order flow through requiring dissemination of firm quotations by market makers. While certain regional exchange specialists do actively compete for order flow by disseminating competitive quotations in a limited number of actively traded stocks, regional exchanges (and their specialists) by and large prefer to continue to use other methods to compete with the primary markets, the NYSE and Amex, for order flow.[10] Even where regional exchanges have elected to compete on the basis of displayed quotations, that competition has not, for the most part, had any significant effect on order flow patterns. First, retail brokerage firms commonly route, on an automated basis, most of their customer orders directly to the primary exchanges irrespective of the displayed quotations of other market centers.[11] Second, specialists on the primary exchanges often provide brokers on the floors of those exchanges with executions which match superior quotations from the regional exchanges, thereby lessening the extent to which regional exchange specialists are able to attract order flow (either directly or through the Intermarket Trading System ("ITS")) [12] by disseminating competitive quotations.

Given the current market environment in which regional exchange specialists and third market makers cannot, in most cases, expect to receive any order flow on the basis of their displayed quotations, the Commission believed it would be appropriate to reconsider whether the mandatory dissemination requirement of the Quote Rule should continue to be applied to secondary markets which operate for the most part, on a derivative pricing basis.

Reconsideration of the mandatory feature of the Quote Rule also was impelled by a number of problems which have developed during the three years the Rule has been in effect. These problems stem primarily from the practice of both regional exchange specialists and third market quotations in many securities.

The first problem concerns the reliability of the quotations published by secondary market makers. In particular, third market makers, which are not currently linked to the primary exchange markets through the ITS [13] and which thus lack direct access to order flow routed to exchange markets, have little incentive to disseminate up-to-date competitive quotations in most exchange-traded securities. Instead, third market makers frequently disseminate quotations with broad spreads, or, on occasion, establish quotations at the outset of each day's market making without updating them during the course of trading. These unmonitored third market quotations will often "lock" or "cross" the prevailing market,[14] reducing the accuracy and utility of the best bid and offer display ("BBO") mandated by Rule 11Ac1-2 under the Act, [15] and resulting in third market quotations generally being regarded as unreliable.

Similarly, regional exchange specialists have in many cases sought to satisfy the Quote Rule's mandatory dissemination requirement by disseminating nominal away-from-the-market quotations. Regional exchange specialists are commonly allocated a large number of stocks, many of which lack a steady order flow. In order to furnish continuous quotations in these securities as required by the Quote Rule,

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[4] The term "reported security" refers to any security for which last sale information is collected, processed, and made available pursuant to an effective transaction reporting plan filed under Rule 11Aa3-1 under the Act. Transaction reports and last sale data for all securities listed on the American Stock Exchange, Inc. ("Amex") and New York Stock Exchange, Inc. ("NYSE") and those securities listed on regional exchanges which substantially meet Amex listing criteria, are reported in the consolidated transaction reporting system ("consolidated system") pursuant to Rule 11Aa3-1. In addition, certain securities traded exclusively over-the-counter will become designated as national market system securities in March, 1982, and will therefore become subject to last sale reporting at that time. *See* note 18, *infra*.

[5] Paragraph (a)(1) of the Quote Rule defines the term "third market maker" to mean: Any broker or dealer who holds himself out as being willing to buy and sell a reported security for his own account on a regular and continuous basis otherwise than on a national securities exchange in amounts less than block size (including any such person who also represents, as agent, orders to buy and sell reported securities on behalf of any other person and communicates bids and offers to a national securities association * * * pursuant to (the Rule) on behalf of such other persons as well as for his own account). Rule 11Ac1-1(a)(1).

[6] Rule 11Ac1-1(c)(1). This is referred to as the "mandatory dissemination" requirement of the Quote Rule.

[7] Rule 11Ac1-1(c)(2). This is referred to as the "firmness" requirement of the Quote Rule.

[8] *See* Rule 11Ac1-1 Adoption Release, *supra* note 3, at 25, 43 FR at 4345.

[9] Securities Exchange Act Release No. 17589 (February 27, 1981), 46 FR 15713 published March 8, 1981 ("Proposal Release").

[10] These methods include reductions in charges for execution and clearing services and guarantees (either to individual retail brokerage firms or on individual orders) against transactions occurring on the primary exchanges at equal or superior prices.

[11] Retail brokerage firms have argued, in the past, that the cost savings of automatically routing small or moderately-sized customer orders to the primary exchanges exceed any benefit to customers (in terms of the total cost of execution) which would result from individual order processing. In addition, retail firms have argued that by automatically routing customer orders to the primary exchanges, they are more likely to obtain "best execution" for their customer orders because any undisclosed buying and selling interest in the crowd on the primary exchanges would provide a better price than might otherwise be disclosed by the consolidated system. The extent to which this can actually occur depends, of course, upon the existence of a crowd and the interest represented therein. *See* Proposal Release *supra* note 9 at 8, 46 FR at 15715.

[12] The ITS, which commenced operation on a pilot basis on April 17, 1978, is an intermarket order routing facility which permits orders for the purchase and sale of multiply-traded securities to be sent directly from one market center to another. At present, seven market centers are linked through the ITS: The Amex; the Boston Stock Exchange, Inc. ("BSE"); the Cincinnati Stock Exchange, Inc. ("CSE"); the Midwest Stock Exchange, Inc. ("MSE"); the NYSE; the Pacific Stock Exchange, Inc. ("PSE"); and the Philadelphia Stock Exchange, Inc. ("Phlx").

[13] The Commission has, however, ordered the development, by March, 1982, of an automated interface between the ITS and the Computerized Automated Execution System ("CAES") of the National Association of Securities Dealers, Inc. ("NASD"). *See* Securities Exchange Act Release No. 17744, (April 21, 1981), 46 FR 23656.

[14] A quotation "locks" the quotation of another market center whenever the bid of one market center is equal to the offer of another market center, or vice-versa. A quotation "crosses" the quotation of another market center whenever the bid of one market center is higher than the offer of another market center, or the offer of the one market center is lower than the bid of another market center.

[15] Rule 11Ac1-2 under the Act (17 CFR 240.11Ac1-2), which became effective on October 1, 1981, requires vendors displaying transaction or quotation information from any market center in a reported security also to provide a display of consolidated information on that security, including a BBO display (with size) identifying the market center comprising each side of the BBO.

many regional exchange specialists disseminate quotations through the use of automatic quotation generation devices.[16] As discussed more fully in the Proposal Release, this practice has raised questions concerning the reliability of quotations furnished by regional exchange specialists, and has discouraged reference to these quotations by market participants.

Another problem caused by the mandatory dissemination requirement involves the impact upon vendors of the large volume of quotations disseminated by secondary market makers. As indicated in the Proposal Release, the task of compiling and processing the substantial volume of quotations generated by regional exchange specialists and third market makers has significantly strained vendor systems, which are already taxed by the tremendous growth in new derivative financial products and the accompanying demand for displays of trading information with respect to these products.

In order to address the problems caused by the mandatory dissemination requirement, the Commission proposed several amendments to the Quote Rule which would remove Commission regulatory compulsion where it has proven ineffective. With respect to exchange traded securities (other than securities subject to Rule 19c–3 under the Act ("Rule 19c–3 securities")),[17] The Commission proposed amending the Quote Rule to provide that only the market center with the largest percentage of the aggregate trading volume as reported in the consolidated system ("principal market") would continue to be subject to the mandatory dissemination requirement of the Quote Rule. Secondary market makers, on the other hand, would be permitted to disseminate quotations on a voluntary basis, subject, however, to compliance with the firmness requirement of the Rule.

With respect to securities traded exclusively in the over-the-counter market which are designated as national market system securities ("NMS securities"),[18] the Commission's proposal would have amended the Quote Rule to require each market maker responsible for more than one percent of the aggregate trading volume in a NMS security (as reported in the consolidated system) to disseminate quotations in that security on a mandatory basis.

The Commission received eleven comments with respect to the proposed amendments.[19] As a general matter, the exchanges opposed the proposed amendments, arguing that, in view of existing ITS requirements,[20] the amendments would be ineffective in altering existing exchange quotation practices in any significant respect. In addition, several exchanges indicated that, in their view, the proposed amendments made improper differentiations between primary and secondary market quotations.[21]

On the other hand, the proposed amendments were supported in comments submitted by the NASD, one quotation vendor, and a third market maker. These commentators indicated that the proposed amendments would permit secondary market makers to disseminate quotations in response to real economic incentives and thus would significantly reduce the problems resulting from mandatory quotation dissemination.

After reviewing the comments received, the Commission has determined to adopt the proposed amendments, with certain changes.[22] The Commission believes the adoption of the amendments will ameliorate existing problems arising from mandatory dissemination in several respects, and will serve to remove unnecessary regulatory compulsion. At the same time, the amendments permit the self-regulatory organizations to determine the extent of quotation dissemination necessary for the operation of the ITS system through self-initiated cooperative measures, in place of Commission action.

II. Exchange Traded Securities

(a) *Comments.*

The proposed removal of the mandatory dissemination requirement with respect to exchange traded securities from secondary market makers, and, in particular, third market makers, received a favorable reception from a number of commentators. In particular, the NASD strongly supported the concept of voluntary quotation dissemination, arguing that compulsory quotation dissemination by market makers which lack an economic incentive to publish quotations only results in meaningless quotations and increased costs for market makers.[23]

The one third market maker which submitted a comment also strongly supported the proposed amendments. That third market maker pointed out that the mandatory dissemination requirement imposed substantial burdens on third market makers without

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[16] The BSE, MSE and PSE use a computerized quotation system named Autoquote, developed and operated by Quotron Systems, Inc.; the Phlx, on the other hand, uses its own computerized system. (In this release, the term "Autoquote" is used to refer to these systems collectively.) Autoquote systems permit specialists on the various regional exchanges to track the quotations of the primary exchanges and to disseminate quotations automatically in response to changes in those quotations. In the absence of Autoquote, regional exchange specialists would have significant difficulty in manually monitoring and updating quotations (at least without incurring substantial additional clerical expenses).

[17] Rule 19c–3 (17 CFR 240.19c–3) was adopted by the Commission in June, 1980, and became effective on July 18, 1980. *See* Securities Exchange Act Release No. 16888 (June 11, 1980), 45 FR 41125. Rule 19c–3 eliminated exchange off-board trading restrictions with respect to securities listed on an exchange after April 26, 1979 thus permitting exchange members to make off-board markets in these securities.

The amendments as proposed would not substantially change the existing requirements of the Quote Rule with respect to Rule 19c–3 securities. *See* discussion, *infra*, at pp. 30–33.

[18] As noted above, pursuant to Rule 11Aa2–1 (17 CFR 240.11Aa2–1) and amendments to Rule 11Aa3–1 (17 CFR 240.11Aa3–1) adopted by the Commission on February 17, 1981 (*See* Securities Exchange Act Release No. 17549 (February 17, 1981) 46 FR 13982), certain securities traded exclusively over-the-counter will become designated as national market system securities beginning in March, 1982, and consequently will be subject to the Quote Rule and the reporting requirements of Rule 11Aa3–1.

[19] The Commission received comments from the primary exchanges, three regional exchanges, two vendors, one third market maker, the NASD, the U.S. Department of Justice, and a professor of law. Letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated June 24, 1981 ("NYSE Letter"); Letter from Robert J. Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated June 24, 1981 ("Amex Letter") Letter from James Dowd, President, BSE, to George A. Fitzsimmons, Secretary, SEC, dated April 14, 1981 ("BSE Letter"); Letter from Kenneth I. Rosenblum, Executive Vice President, MSE, to George A. Fitzsimmons, Secretary, SEC, dated November 18, 1981 ("MSE Letter"); Letter from Nicholas Giordano, President Phlx, to George A. Fitzsimmons, Secretary, SEC, dated May 14, 1981 ("Phlx Letter"); Letter from Bruce Brafman, General Counsel, GTE Telenet Information Services, Inc. to George A. Fitzsimmons, Secretary, SEC, dated June 8, 1981 ("GTE Letter"); Letter from Jerome Pustilnik, Chairman of the Board, Instinet, to George A Fitzsimmons, Secretary, SEC, dated May 12, 1981 ("Instinet Letter"); Letter from John F. Briggs, Vice President, American Securities Corporation, to George A. Fitzsimmons, Secretary, SEC, dated May 7, 1981 ("American Securities Letter"); Letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, SEC, dated May 11, 1981 ("NASD Letter"); Letter from David A. Lipton, Associate Professor of Law, the Catholic University of America, to George A. Fitzsimmons, Secretary, SEC, dated April 30, 1981; Comments of the United States Department of Justice In the Matter of Dissemination of Quotations for Reported Securities—Proposed Rule Amendments, dated May 8, 1981 ("Department of Justice Comments"). These letters are contained in File S7–848.

[20] *See* discussion at note 32, *infra*.

[21] The BSE, MSE, and Amex, however, supported in part the voluntary quotation proposals, in view of the small share of the primary market order flow attracted by secondary market makers.

[22] In particular, the Commission has refrained from imposing the one percent mandatory dissemination requirement upon NMS securities at the present time.

[23] *See* NASD Letter, *supra* note 19, at 1.

achieving the Rule's main objective of ensuring accurate competitive quotations from all market makers in a security. It emphasized that, in the absence of economic benefit derived from the ability to attract substantial additional order flow through quotations, third market makers have no incentive to maintain competitive, up-to-date quotations:

> Basically, the problem is one of economic justification. We derive no economic benefit from displaying our quotes since they are not exposed to primary market order flow * * *. We can see no impediment to competition by eliminating mandatory third market quotes. When automation in the industry reaches the stage where voluntary third market quotes can interact in a national marketplace, then competition will be enhanced.[24]

In addition, voluntary quotation dissemination by secondary market makers was endorsed by a vendor of securities information, GTE. GTE emphasized the extent of the burden imposed on vendors by the large volume of noncompetitive secondary market quotations. In view of this burden, the low level of investor interest in secondary market quotations, and the resultant diversion of resources from publication of other more valuable market information, GTE argued that no market center other than the principal market in a security should be required to disseminate quotations.[25]

The exchange community generally opposed the proposed amendments,[26] although exchange commentators expressed differing views concerning voluntary quotation dissemination by secondary market makers as a conceptual matter. The NYSE opposed the amendments on the ground that mandatory dissemination of quotations by all market makers was necessary for fair and open market making in exchange-traded securities.[27] The Amex, on the other hand, indicated that since secondary markets receive a very small portion of the order flow in securities traded on the primary exchanges, regional exchanges and third market makers should be free from the mandatory dissemination requirement,[28] except where the security involved is included in the ITS.

The MSE supported allowing third market makers to disseminate quotations on a voluntary basis, in view of the lack of an ITS linkage between exchange markets and the third market in listed securities.[29] However, the MSE opposed voluntary quotation dissemination by other markets, arguing that the Quote Rule had not been in effect long enough to allow time for the implementation of corollary rules and systems necessary to ensure the meaningful operation of the Quote Rule.[30]

The Phlx similarly opposed the voluntary dissemination of quotations on the basis that the Quote Rule has not been operational long enough to accurately assess its impact. In addition, the Phlx emphasized that the continuous presence of a market center's quotation (generated manually or through Autoquote) is important in reinforcing public awareness and acceptance of the market center's market making function.[31]

The NYSE, Amex, MSE, and Phlx each expressed concern about the ramifications of voluntary quotation dissemination by secondary markets for the integrity of the ITS Plan. They pointed out that the ITS Plan currently requires each market center participating in the ITS to furnish to other participants its current quotation in each ITS security traded on its floor;[32] thus, they argued that even if quotation dissemination were no longer mandated by the Quote Rule, dissemination of quotations would still be necessary to obtain access to ITS in a security, unless the ITS Plan were amended either by the participants or the Commission. At the same time, these commentators opposed amendment of the ITS Plan, arguing that the dissemination of continuous two-sided quotations by all participants is fundamental to the operation of the ITS in order to provide equal and open access to all participating markets in a security.

These exchange commentators also pointed out that, in the absence of amendment, regional exchanges participating in ITS would continue to publish quotations in most, if not all, ITS securities. Since ITS securities make up the majority of multiply-traded securities, they asserted that the proposed amendment would not significantly reduce the volume of regional exchange quotations.[33]

Discussion

The Commission has long viewed the development of a composite quotation system as an integral component of a national market system. The adoption of Rule 11Ac1–1 by the Commission in a form requiring mandatory quotation dissemination by all exchanges and third market makers was intended to facilitate the prompt development of such a system, and to provide a mechanism which would result in increased opportunities for best execution of agency orders by brokers and foster increased competition in market making.

After three years' experience with the Quote Rule, however, the Commission believes that the mandatory feature of the Rule, as it has been applied to date, has been unsuccessful in improving competitive opportunities in market making, and has, in fact, resulted in cost burdens to market makers and vendors which do not appear to be offset by corresponding benefits to the markets and to investors. As a result, the Commission believes that the mandatory dissemination requirement should continue to be imposed by the Quote Rule only where the information

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[24] *See* American Securities Letter, *supra* note 19, at 2.

[25] *See* GTE Letter, *supra* note 19 at 2. Also, the U.S. Department of Justice indicated its view that the proposed amendments were well designed to reduce regulatory compulsion which has not achieved its purpose, while improving the reliability and accuracy of quotation information made available to market participants. *See* Department of Justice Comments, *supra* note 19, at 14.

[26] The proposed amendments were supported, however, by the BSE. The BSE recognized the problems of reliability and vendor costs arising from mandatory quotation dissemination, and noted the Quote Rule's ineffectiveness in enhancing opportunities to attract order flow through widespread quotation dissemination. *See* BSE Letter, *supra* note 19, at 2.

[27] The NYSE also argued that the timing of the proposal was inappropriate in light of the industry's preoccupation with the implementation of the automated linkage between the ITS and CAES mandated by Commission order. *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23556.

[28] However, as discussed more fully below, the Amex suggested a more inclusive principal market standard than that proposed by the Commission. *See* Text at note 43, *infra*.

[29] *See* MSE Letter, *supra*, note 19 at 10.

[30] *See* MSE Letter, *supra* note 19 at 3. The MSE also argued that the Quote Rule should be enforced more effectively to increase the accuracy of displayed quotations, particularly those of the NYSE.

[31] *See* Phlx Letter, *supra* note 19, at 7. In addition, the Phlx argued that the problems identified in the Proposal Release as arising from the mandatory dissemination of quotations and use of Autoquote were smaller than the Release suggested. In particular, it asserted that the perception of Autoquote quotations as unreliable is incorrect. The Phlx also pointed out that without Autoquote a regional exchange specialist maintaining numerous quotations would be less able to respond quickly to changes in the principal market, and thus more stale quotations and greater inaccuracy in the BBO display would result. *See* Phlx Letter, *supra* note 19, at 3, 6.

[32] *See* Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to Section 11A(3)(B) of the Securities Exchange Act of 1934, File No. 4–208, Section 5(a).

[33] Furthermore, the commentators indicated that in these circumstances Autoquote would remain important to regional exchange specialists, in order to satisfy the mandatory quotation requirements of the ITS Plan.

required to be made available is necessary to assure pricing efficiency or to enable investors to monitor the quality of executions.

Accordingly, the Commission believes that, because of the important role played by principal market quotations in providing public investors with information for purposes of pricing and monitoring broker executions, mandatory dissemination of quotations by the principal markets should be retained to ensure that this information is available to the public.

Similarly, with respect to Rule 19c–3 securities, the Commission believes the retention of the Quote Rule's mandatory dissemination requirement is essential to ensure that full quotation information for these securities continues to be available as trading pursuant to Rule 19c–3 develops. Rule 19c–3 was adopted to provide experience with trading by competing market makers in an environment free from exchange off-board trading restrictions. In these circumstances, it is especially important that market makers make their quotations publicly available, in order to provide an accurate and complete indication of the market for a Rule 19c–3 security, and to increase the effectiveness of competition between market makers. Accordingly, the Commission has determined to retain the mandatory dissemination requirement for Rule 19c–3 securities.[34]

The Commission also recognizes the important function of quotation information in the operation of linkage facilities such as the ITS, and the legitimate interest of the ITS participants in conditioning access to that system on dissemination of quotations. However, it is not clear that the Quote Rule's mandatory dissemination requirement for secondary market makers substantially enhances this function, or that the removal of these requirements would reduce the quality of publicly available market information in any significant respect. Rather, it is the Commission's belief that removal of the Quote Rule's mandatory dissemination requirement for secondary market makers would serve to reduce regulatory compulsion in a manner consistent with the principles expressed above. At the same time, it would allow the self-regulatory organizations participating in the ITS or other linkage facilities to determine for themselves the extent to which mandatory quotation dissemination is necessary or useful.[35]

The Commission recognizes that, as a result of the current quotation dissemination requirements of the ITS Plan, the proposed amendments may not reduce the volume of regional exchange quotations by any significant amount. Still, the proposed amendments would have the beneficial effect of freeing regional exchange specialists from the requirement of quotation dissemination in those securities which are not included in ITS.

Moreover, the amendments should have several positive effects with respect to third market makers. As discussed above, third market makers at present are not linked to ITS, and thus lack access to order flow in exchange-traded securities routed to the primary markets.[36] Consequently, third market makers have little incentive to display competitive quotations. Removing the mandatory dissemination requirement from third market makers will allow them to display quotations in response to valid economic incentives rather than in response to regulatory compulsion. Thus, with the removal of the Quote Rule's mandatory dissemination requirement, third market makers can be expected to reduce the number of quotations they display. This, to a certain extent, should ease the burden on vendors of disseminating secondary market quotations. In addition, with third market makers displaying quotations in a smaller number of securities, they can be expected to display competitive quotations and to update these quotations on a regular basis.[37] As a result, the number of locked and crossed markets caused by stale away-from-the-market quotations should be significantly reduced, which in turn should substantially improve the quality and the usefulness of the BBO display.

After giving careful consideration to the comments received the Commission has determined to adopt the amendments with respect to exchange traded securities as proposed.[38]

The Commission believes the benefits resulting from the removal of ineffective regulatory compulsion from secondary market makers more than outweigh the limited concerns expressed by certain commentators.[39]

III. NMS Securities

In the Proposal Release the Commission proposed a standard with respect to NMS securities [40] requiring quotation dissemination by each market maker responsible for more than one percent of the aggregate trading volume in that security. Only two comments, submitted by the NASD and GTE, specifically addressed this standard. Both of these comments argued that dissemination of quotations in the over-the-counter markets should be on a wholly voluntary basis. The NASD in particular emphasized that the over-the-counter market at present operates effectively without mandatory quotation dissemination. Indeed, the NASD argued that in the competitive dealer environment which characterizes most securities traded only over-the-counter, market makers have sufficient incentives to furnish quotations voluntarily because of their ability to

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[34] The precise standards for mandatory quotation dissemination with respect to Rule 19c–3 securities are discussed below. *See* discussion *infra* at pp 30–33.

[35] In this regard, the Commission has determined not to propose any changes in the ITS Plan with respect to the dissemination of quotations by participating market centers.

[36] As noted previously, however, the Commission on April 21, 1981 issued an order requiring implementation of an automated interface between the ITS and CAES, permitting market makers to route orders efficiently between the exchange and over-the-counter markets. *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856. Although the linkage mandated in the Order only encompassed Rule 19c–3 securities, the Commission believes that ultimately the type of linkage between exchange and the over-the-counter markets contemplated by the order with respect to Rule 19c–3 securities should be extended to include all listed securities in which a market is being made over-the-counter.

[37] The Commission recognizes that third market makers may continue to display quotations in a substantial number of securities in order to advertise their interest in these securities. However, with the removal of the mandatory dissemination requirement the Commission expects each secondary market maker to monitor and update its quotations in a timely fashion. The Commission would view any consistent failure to maintain up-to-date quotations as a violation of the Quote Rule's requirement that a market centers' quotations accurately reflect the existing market in that market center.

[38] The standard for determining the "principal market" and comments on the standard are discussed below. *See* text at notes 43–44 *infra*.

[39] In reaching these conclusions, the Commission also considered the role played by Autoquote in the dissemination of quotations by secondary market makers. The Commission was persuaded by commentators that in today's environment, Autoquote may provide a valuable tool for regional exchange specialists. Accordingly, the Commission has concluded that no regulatory action prohibiting or limiting the use of Autoquote is necessary. However, the Commission continues to expect market makers employing Autoquote to comply fully with the Quote Rule's firmness requirement with respect to these quotations, and to reflect accurately their true market in the quotations disseminated through Autoquote.

[40] As noted above, the Commission in February, 1981 adopted Rule 11Aa2–1, which establishes procedures by which certain securities will be designated as qualified for trading in a national market system. The Commission also amended Rule 11Aa3–1 so as to make designated securities subject to the transaction reporting requirements of Rule 11Aa3–1 and the mandatory quotation dissemination standards of the Quote Rule.

attract additional order flow through those quotations.

The Commission recognizes that at present the market in most securities traded over-the-counter is dispersed among several market makers. In the absence of a dominant market center which receives the preponderance of the order flow in those securities, these market makers find it to their advantage to publish quotations indicating the prices at which they are willing to effect transactions. In light of the effectiveness of voluntary quotation dissemination in the over-the-counter markets, the Commission does not consider imposition of a mandatory obligation on market makers in NMS securities to be necessary, where no clear need for such regulation has been show.[41] Accordingly, the Commission has determined to refrain from imposing the mandatory dissemination requirement of the Rule upon NMS securities at the present time.[42]

IV. Technical Comments

In addition to the comments discussed above, the Commission received several comments addressing technical aspects of the Rule.

A. Mandatory Quotation Dissemination Standards for Exchange Traded Securities

With respect to exchange traded securities (other than Rule 19c–3 securities), the proposed amendments' principal market standard would require quotation dissemination only by the exchange or OTC market maker responsible for the largest percentage of the aggregate trading volume during the most recent calendar quarter (as reported in the consolidated system). Seven commentators specifically addressed the proposed principal market standard. The Amex suggested that, in place of the proposed standard, each market center accounting for more than 5 percent of a security's aggregate monthly trading volume should be required to furnish quotations in that security, while Instinet proposed a 10 percent standard.[43] The NYSE, however suggested applying an aggregate principal market concept. Under this approach, in situations where no one market captured the large preponderance of aggregate trading volume in a security (for example 80 percent), the "principal market" would consist of the two or more largest markets whose combined trading volume accounted for a specified level of volume in that security.

While the Commission has considered the various standards proposed by the commentators, the Commission believes that the principal market standard set forth in the proposed amendments should be retained. At present, the primary exchanges for the most part receive the large preponderance of the total consolidated order flow.[44] In the few securities where regional exchanges account for a substantial percentage of the trading volume, much of that volume is attributable to ITS transactions. Consequently, the Commission believes that there will be sufficient incentives in those securities to ensure that the regional exchange specialists voluntarily disseminate competitive quotations. In view of the predominant position currently occupied by the primary exchanges, the Commission regards the inclusive mandatory dissemination standard suggested by the Amex (five percent of aggregate trading volume) and by Instinet (ten percent of aggregate trading volume) as unnecessary to ensure continued pricing efficiency. Similarly, the aggregation standards proposed by the NYSE appear to the Commission to be unnecessarily complex, given the present state of the markets; however, the Commission will monitor the effects of the amendments and will remain alert to the need for a new standard should market conditions alter in the future.

B. Mandatory Quotation Dissemination Standards for Rule 19c–3 Securities

As discussed above, the proposed amendments would require each market center responsible for more than one percent of the quarterly aggregate trading volume in a Rule 19c–3 security (as reported in the consolidated system) to disseminate quotations in that security on a mandatory basis.[46] Six commentators addressed the standards for Rule 19c–3 securities. Although the commentators generally did not object to a separate standard for Rule 19c–3 securities, two commentators, the NASD and GTE, took the position that this standard was overinclusive. They suggested that if mandatory quotation dissemination was to be required at all, it should not apply to any market maker whose quarterly trading volume in a security was less than ten percent of the aggregate. The BSE and Amex, however, indicated that the proposed one percent standard was acceptable.[46] Finally, the NYSE argued against a uniform one percent exception from quotation dissemination; rather, it advocated that the Commission continue to grant exemptive relief to market makers on a case-by-case basis where appropriate.[47]

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[41] After designation, market makers furnishing quotations in NMS securities must also furnish an indication of quotation size. Rule 11Ac1–1(c)(1). Although these market makers are not required to furnish quotation size in excess of the normal trading unit, they may provide larger size voluntarily. The Commission does not expect this size requirement to affect market makers' willingness to furnish quotations. Furthermore, it should be noted that the Commission has approved a NASD rule change permitting the voluntary dissemination through the NASDAQ system of quotation size in excess of the normal unit of trading. Securities Exchange Act Release No. 17870 (June 18, 1981), 46 FR 32720.

[42] It should be noted, however, that the Quote Rule would still require quotations in NMS securities to be firm when published. *See* Rule 11Ac1–1(c)(2).

[43] The BSE, on the other hand, approved of the proposed principal market standard, while the NASD and GTE advocated elimination of the principal market standard entirely, thus permitting voluntary quotation dissemination by all market centers. Finally, the MSE objected to the use of a principal market concept generally as according the primary exchanges undue importance and recognition.

[44] The third market accounts for a substantial percentage of the market in certain Rule 19c–3 securities. *See* U.S. Securities and Exchange Commission, A Monitoring Report on the Operation and Effects of Rule 19c–3 under the Securities Exchange Act of 1934, (August, 1981), at 7. However, as discussed *infra*, Rule 11Ac1–1 will continue to require market makers which account for more than one percent of the aggregate volume in a Rule 19c–3 security to disseminate continuous two-sided markets in that security.

[46] In addition, the quotation dissemination requirements of the current ITS Plan, noted previously, would require exchange participants to disseminate continuous two-sided quotations in Rule 19c–3 securities, irrespective of the Quote Rule's requirements, in order to maintain access to ITS in that security. In the event this provision is extended to the NASD's CAES, in the context of the linkage between the ITS and CAES discussed in note 13 *infra*, continuous two-sided quotations will be required of CAES market makers using ITS as well as exchange participants without regard to the proposed one percent criteria.

[46] In addition, the Amex suggested that in light of the current environment of rapid changes in Rule 19c–3 security markets, the ratio of each market center's volume to aggregate trading volume should be calculated on a monthly rather than a quarterly basis. The Commission believes calculating this ratio on a monthly basis would give an exaggerated impact to isolated large transactions during a month. But the Commission is also concerned that quarterly calculation would allow a large well-capitalized firm to begin trading a Rule 19c–3 security in one quarter and obtain a significant market share in that security without being subject to quotation dissemination requirements until the following quarter. Accordingly, the Commission is amending the Rule to require a market maker trading a Rule 19c–3 security to disseminate quotations in that security, unless it executed trades in that security in the previous calendar quarter, and its volume of trades in that quarter comprised one percent or less of the aggregate trading volume for such security (as reported in the consolidated system).

[47] The Commission has consistently granted exemptions to market makers responsible for less than one percent of the aggregate trading volume in security, pursuant to paragraph (d) of the Quote Rule. *See, e.g.*, Securities Exchange Act Release No. 15747 (April 19, 1979). The Commission has also granted exemptive relief to certain exchanges which

Continued

As discussed above, the Commission believes that the retention of the Quote Rule's mandatory dissemination requirement for Rule 19c–3 securities is essential to ensure that full quotation information in these securities continues to be available as trading pursuant to Rule 19c–3 develops. At the same time, the Commission recognizes that the task of displaying continuous quotations is extremely burdensome for market makers which only occasionally effect transactions in a particular security. Accordingly, the Commission has followed an established policy under the Quote Rule of granting exemptive relief to market makers which receive a *de minimis* share of the order flow in a particular security. In effect, the proposed one percent mandatory dissemination standard for Rule 19c–3 securities merely incorporates this established policy concerning exemptive relief, and applies it in a consistent and efficient manner to all market makers in Rule 19c–3 securities.

In the Commission's view, the 10 percent standard suggested by the NASD and GTE would fail to include market makers that could be of significance in the overall markets for Rule 19c–3 securities. The Commission believes that the proposed one percent standard appropriately balances the need to exempt market makers with *de minimis* market shares and the importance to the Rule 19c–3 experience of publicly displayed quotations reflecting the prices at which all significant market makers are prepared to trade a Rule 19c–3 security. Moreover, in light of the minimal market impact of the excepted market makers, the one percent standard should not adversely affect the pricing efficiency of the markets for Rule 19c–3 securities. Accordingly, the Commission has decided to adopt the amendments with respect to Rule 19c–3 securities as proposed.

C. Notification Requirements

The proposed amendments in sections (b)(5) (i) and (ii) establish notification requirements for exchanges and OTC market makers which, though not subject to mandatory quotation requirements, desire to furnish quotations on a voluntary basis.[48] Specifically, the amendments would have required (1) exchanges to notify all specified persons and (2) OTC market makers to notify all specified persons and their association; prior to disseminating quotations and sizes in reported securities in which they are not subject to mandatory quotation requirements. The proposed Amendments defined specified persons as including each quotation vendor, each plan processor, and, in certain instances; the processor for the Option Price Reporting Authority.[49]

The proposed notification requirements were discussed in four comments. In general, the commentators indicated that the proposal provided insufficient detail about the notification process under consideration, but expressed concern that the notification procedure discussed in the proposal might prove cumbersome. In addition, certain commentators, and in particular GTE, indicated that where a security was not previously traded by more than one market center, and thus was not the subject of consolidated information, vendors might face technical problems in disseminating quotations in that security from an additional market center immediately upon receipt of a notification that such market center intended furnishing quotations.

The Commission intends the notification process to operate in as convenient a manner as possible, consistent with the needs of vendors for advance notice before market centers disseminate quotations in a security. Accordingly, in the case of a security which is traded on more than one exchange or on an exchange and by an OTC market maker, the proposed notification requirements have been redrafted to allow OTC market makers and exchanges to make an election to furnish quotations in that security, effective merely upon the dissemination of quotations. In the case of a security previously traded only on one exchange (and not traded by any OTC market maker) the amendments require that an exchange notify each specified person, and an OTC market maker notify his association and each specified person, by the business day prior to the day quotations in that security are to be disseminated.

The Commission believes that the details of the notification process can best be determined by mutual agreement among the parties involved, and in particular, the vendors and the Operating Committee of the Consolidated Quotation Plan, as representatives of the exchanges and the OTC market makers. Although the Rule as amended requires notice by the business day prior to the dissemination of quotations, the Commission is prepared to provide exemptive relief from this requirement if a lesser notification period can be mutually agreed upon by the parties. In the event that the parties fail to reach agreement on an acceptable procedure, the Commission will readdress the matter at that time.

V. Effects on Competition, and Regulatory Flexibility Consideration

Section 23(a)(2) of the Act[50] requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has examined the amendments to Rule 11Ac1–1 in light of the standards cited in Section 23(g)(2), and concludes that adoption of the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. For the most part the amendments will have no appreciable impact on the competitive positions of the various market subject to the amendments. Although distinctions are made between the principal market and all other markets in an exchange traded security (other than Rule 19c–3 security) the Commission believes these distinctions are appropriate in view of the relative competitive positions of these markets.

Section 603(a)[51] of the Administrative Procedure Act,[52] as amended by the Regulatory Flexibility Act ("Flexibility Act"),[53] generally requires the Commission to undertake a regulatory flexibility analysis of the impact of a rule or amendment on "small entities," unless exempted under Section 605(b) on the basis that the rule or rule amendments would not have a significant impact on a substantial number of small entities. As noted in Proposal Release,[54] the Chairman certified that the Rule amendments, if promulgated, will not have significant

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accounted for a *de minimis* share of consolidated volume in any reported security. *See* Securities Exchange Act Release No. 15012 (July 25, 1972), 43 FR 33978 (Intermountain Stock Exchange); Securities Exchange Act Release No. 15011 (July 28, 1978), 43 FR 33983 (Spokane Stock Exchange); Securities Exchange Act Release No. 15011 (July 28, 1978) 43 FR 33978 (Cincinnati Stock Exchange).

[48] Pursuant to the notification requirements, market makers and exchanges which voluntarily disseminate quotations are subject to the other requirements of the Quote Rule, including the firmness requirement.

[49] The processor for the Options Price Reporting Authority is a specified person for the purposes of a notification with respect to a subject security which is a class of securities underlying options admitted to trading on an exchange.

[50] 15 U.S.C. 78w(a)(2).

[51] 5 U.S.C. 603(a).

[52] 5 U.S.C. 551 *et seq.*

[53] Pub. L. No. 96–354, 94 Stat. 1164, (September 19, 1980).

[54] *See* Proposal Release, *supra* note 9, at 46 FR 15720.

economic impact on a substantial number of small entities. No comments concerning the Chairman's certification were received following publication of the Proposal Release.

VII. Text of Rule Amendments

Part 240 of Title 17, Chapter II, of the Code of Federal Regulations is amended by revising paragraphs (a)(1), (a)(3)(ii), (a)(15), (b)(1) (i) and (ii) and (2) to (4), and (c)(1) to (3) of § 240.11Ac1–1, and by adding new paragraphs (a)(16) to (21), (b)(5), and (c)(4) thereto to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.11Ac1–1 Dissemination of quotations for reported securities.

(a) *Definitions.* For the purposes of this section:

(1) The term "OTC marker maker" shall mean any dealer who holds himself out as being willing to buy and sell a reported security for his own account on a regular and continuous basis otherwise than on a national securities exchange in amounts of less than block size (including any such person who also represents, as agent, orders to buy or sell reported securities on behalf of any other person and communicates bids and offers to a national securities association ("association") pursuant to this section on behalf of such other persons as well as for his own account).

(2) * * *

(3) * * *

(i) * * *

(ii) When used with respect to bids and offers communicated by a member of an association to another broker or dealer or to a customer otherwise than on an exchange, the member communicating the bid or offer (regardless of whether such bid or offer is for his own account or on behalf of another person).

* * * * *

(15) The term "specified persons," when used in connection with any notification required to be provided pursuant to paragraph (b)(3) of this section or any election (or withdrawal thereof) permitted under paragraph (b)(5) of this section, shall mean:

(i) Each quotation vendor;

(ii) Each plan processor; and

(iii) The processor for the Options Price Reporting Authority (in the case of a notification with respect to a subject security which is a class of securities underlying options admitted to trading on any exchange).

(16) The term "consolidated system" shall mean the consolidated transaction reporting system contemplated by § 240.11Aa3–1 (Rule 11Aa3–1) under the Act).

(17) The term "exchange-traded security" shall mean any reported security or class of reported securities listed and registered, or admitted to unlisted trading privileges, on an exchange.

(18) The term "Rule 19c-3 security" shall mean any exchange-traded security which is not a "covered security," as that term is defined in § 240.19c–3 under the Act).

(19) The term "national market system security" or "NMS security" shall mean any reported security which is not an exchange-traded security.

(20) The term "principal market" shall mean, with respect to an exchange-traded security, the exchange or OTC market maker responsible, during the most recent calendar quarter, for the largest percentage of the aggregate trading volume as reported in the consolidated system.

(21) The term "subject security" shall mean:

(i) With respect to an exchange:

(A) Any exchange-traded security with respect to which such exchange is the principal market;

(B) Any Rule 19c-3 security other than a Rule 19c-3 security with respect to which the executed volume of such exchange, during the most recent calendar quarter, comprised one percent or less of the aggregate trading volume for such security as reported in the consolidated system; and

(C) Any other reported security with respect to which such exchange has in effect an election, pursuant to paragraph (b)(5)(i) of this section, to collect, process, and make available to quotation vendors, bids, offers, quotation sizes, and aggregate quotation sizes communicated on the floor of such exchange; and

(ii) With respect to a member of an association;

(A) Any exchange-traded security with respect to which such member acts in the capacity of an OTC market maker and is the principal market for such security;

(B) Any Rule 19c-3 security with respect to which such member acts in the capacity of an OTC market maker unless the executed volume of such member, during the most recent calendar quarter, comprised one percent or less of the aggregate trading volume for such security as reported in the consolidated system; and

(C) Any other reported security with respect to which such member acts in the capacity of an OTC market maker and has in effect an election, pursuant to paragraph (b)(5)(ii) of this section, to communicate to his association bids, offers and quotation sizes for the purpose of making such bids, offers and quotation sizes available to quotation vendors.

(b) Dissemination requirements for exchanges and associations

(1) * * *

(i) Every exchange shall at all times such exchange is open for trading, collect, process and make available to quotation vendors the highest bid and the lowest offer communicated on the floor of that exchange (or, in the event such exchange maintains more than one trading floor, communicated on any of such floors) by any responsible broker or dealer (excluding any such bid or offer which is executed immediately after communication and any such bid or offer communicated by a responsible broker or dealer other than an exchange market maker which is cancelled or withdrawn if not executed immediately after communication) for each reported security listed or admitted to unlisted trading privileges on that exchange which is a subject security except during any period when trading in that security has been suspended or halted, or prior to the commencement of trading in that security on any trading day, or that exchange;

(ii) Every association shall, at all times last sale information with respect to reported securities is reported pursuant to an effective transaction reporting plan, collect, process and make available to quotation vendors the highest bid and lowest offer communicated otherwise than on the floor of an exchange by each member of such association acting in the capacity of an OTC market maker for each reported security which is a subject security and the identity of that member (excluding any such bid or offer which is executed immediately after communication), except during any period when over-the-counter trading in that security has been suspended; and

(iii) * * *

(2) Each exchange shall, with respect to each published bid and published offer representing a bid or offer of a member with respect to a subject security, establish and maintain procedures for ascertaining and disclosing to other members of that exchange, upon presentation of orders sought to be executed by them in reliance upon paragraph (c)(2) of this section, the identity of each responsible broker or dealer who made such bid or

offer and the quotation size associated with it.

(3)(i) If, at any time an exchange is open for trading, such exchange determines, pursuant to rules and regulations approved by the Securities and Exchange Commission pursuant to section 19(b)(2) of the Act, that the level of trading activities or the existence of unusual market conditions is such that the exchange is incapable of collecting, processing, and making available to quotation vendors the data with respect to a subject security required to be made available pursuant to paragraph (b)(1) of this section in a manner which accurately reflects the current state of the market on the floor of such exchange, such exchange shall immediately notify all specified persons of that determination. Upon such notification, responsible brokers or dealers who are members of that exchange shall be relieved of their obligation under paragraphs (c)(2) of this section and such exchange shall be relieved of its obligations under paragraphs (b) (1) and (2) of this section with respect to that security: *Provided, however,* That such exchange will continue, to the maximum extent practicable under the circumstances, to collect, process, and make available to quotation vendors such data for that security in accordance with paragraph (b)(1) of this section.

(ii) During any period an exchange, or any responsible broker or dealer who is a member of that exchange, is relieved of any obligation imposed by this section with respect to any subject security by virtue of a notification made pursuant to paragraph (b)(3)(i) of this section, such exchange shall monitor the activity or conditions which formed the basis for such notification and shall immediately renotify all specified persons when that exchange is once again capable of collecting, processing, and making available to quotation vendors the data with respect to that security required to be made available pursuant to paragraph (b)(1) of this section in a manner which accurately reflects the current state of the market on the floor of such exchange. Upon such renotification, any exchange or responsible broker or dealer which had been relieved of any obligation imposed by this section as a consequence of the prior notification shall again be subject to such obligation.

(4) Nothing in this section shall preclude any exchange or association from making available to quotation vendors indications of interest or bids and offers with respect to a subject security at any time such exchange or association is not required to do so pursuant to paragraph (b)(1) of this section.

(5)(i) Any exchange may make an election for purposes of paragraph (a)(21)(ii)(C) of this section with respect to any reported security, by collecting, processing, and making available bids, offers, quotation sizes, and aggregate quotation sizes in that security; except that with respect to any reported security previously listed or admitted to unlisted trading privileges on only one exchange and not traded by any OTC market maker, such election shall be made by notifying all specified persons, and shall be effective at the opening of trading on the business day following such notification.

(ii) Any member of an association acting in the capacity of an OTC market maker may make an election for purposes of paragraph (a)(21)(ii)(C) of this section with respect to any reported security, by communicating to his association bids, offers, and quotation sizes in that security; except that with respect to any other reported security listed or admitted to unlisted trading privileges on only one exchange and not traded by any other OTC market maker, such election shall be made by notifying his association and all specified persons, and shall be effective at the opening of trading on the business day following such notification.

(iii) The election of an exchange or member of an association with respect to any reported security pursuant to this paragraph (b)(5) shall cease to be in effect if such exchange or member ceases to make available or communicate bids, offers, and quotation sizes in such security.

(c) Obligations of responsible brokers and dealers.

(1) Every responsible broker or dealer shall promptly communicate to his exchange or association (as the case may be), pursuant to the procedures established by that exchange or association, his bids, offers, and quotation sizes with respect to any subject security.

(2) Subject to the provisions of paragraph (c)(3) of this section, every responsible broker or dealer shall be obligated to execute any order to buy or sell a subject security, other than an odd-lot order, presented to him by another broker or dealer, or any other person belonging to a category of persons with whom such responsible broker or dealer customarily deals, at a price at least as favorable to such buyer or seller as the bid price or offer price comprising such responsible broker's or dealer's published bid or published offer (exclusive of any commission, commission equivalent or differential customarily charged by such responsible broker or dealer in connection with execution of any such order) in any amount up to his published quotation size.

(3)(i) If, (A) prior to the presentation of an order for the purchase or sale of a subject security, a responsible broker or dealer has communicated to his exchange or association (as the case may be), pursuant to paragraph (c)(1) of this section, a quotation size superseding his published quotation size (a "revised quotation size"), or, (B) at the time an order for the purchase or sale of a subject security is presented, a responsible broker or dealer is in the process of effecting a transaction in such subject security, and immediately after the completion of such transaction, he communicates to his exchange or association (as the case may be) a revised quotation size, such responsible broker or dealer shall not be obligated by paragraph (c)(2) of this section to purchase or sell that subject security in an amount greater than such revised quotation size.

(ii) No responsible broker or dealer shall be obligated to execute a transaction for any subject security as provided in paragraph (c)(2) of this section if,

(A) before the order sought to be executed is presented, such responsible broker or dealer has communicated to his exchange or association (as the case may be) pursuant to paragraph (c)(1) of this section, a bid or offer superseding his published bid or published offer (a "revised bid or offer"); or

(b) at the time the order sought to be executed is presented, such responsible broker or dealer is in the process of effecting a transaction in such subject security, and, immediately after the completion of such transaction, such responsible broker or dealer communicates to his exchange or association (as the case may be) pursuant to paragraph (c)(1) of this section, a revised bid or offer: *Provided, however,* That such responsible broker or dealer shall nonetheless be obligated to execute any such order in such subject security as provided in paragraph (c)(2) of this section at his revised bid or offer in any amount up to his published quotation size or revised quotation size (as the case may be).

(4) Subject to the provisions of paragraph (b)(4) of this section:

(i) No exchange or OTC market maker may make available, disseminate or otherwise communicate to any quotation vendor, directly or indirectly,

for display on a terminal or other display device any bid, offer, quotation size, or aggregate quotation size for any reported security which is not a subject security with respect to such exchange or OTC market maker; and

(ii) No quotation vendor may disseminate or display on a terminal or other display device any bid, offer, quotation size, or aggregate quotation size from any exchange or OTC market maker for any reported security which is not a subject security with respect to such exchange or OTC market maker.

* * * * *

(Secs. 2, 3, 6, 9, 10, 15, 17, 23, Pub. L. No. 78-291, 48 Stat. 881, 882, 885, 889, 891, 895, 897, 901, as amended by secs. 2, 3, 4, 11, 14, 18, Pub. L. No. 94-29, 89 Stat. 97, 104, 121, 137, 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q, 78w, as amended by Pub. L. No. 94-29 (June 4, 1975)); sec. 1, Pub. L. No. 75-719, 52 Stat. 1070, as amended by sec. 12, Pub. L. No. 94-29, 89 Stat. 127-131 (15 U.S.C. 78o-3, as amended by Pub. L. No. 94-29 (June 4, 1975)); sec. 7, Pub. L. No. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1))

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

February 11, 1982.

[FR Doc. 82-4424 Filed 2-18-82; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 171

[T.D. 82-35]

Declaration of Articles Upon U.S. Entry; Disposition of Liabilities; Interim Guidelines

AGENCY: Customs Service, Treasury.

ACTION: Interim guidelines.

SUMMARY: The Customs Service and Treasury Department have revised the guidelines used for the disposition of liabilities incurred under section 497, Tariff Act of 1930, for the failure to declare articles to Customs upon entry into the United States. This document gives notice that the guidelines will be used on an interim basis in processing petitions for relief from the forfeiture of merchandise and personal penalty liabilities incurred under section 497. However, written comments are invited and will be considered in determining whether any change is required before final guidelines are published.

EFFECTIVE DATE: February 19, 1982.

DATES: Comments (preferably in triplicate) must be received on or before May 20, 1982.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20029.

FOR FURTHER INFORMATION CONTACT: Joseph E. Priddy, Miscellaneous Penalties Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of section 498, Tariff Act of 1930, as amended (19 U.S.C. 1498), and § 148.11, Customs Regulations (19 CFR 148.11), persons arriving in the United States from a foreign place are generally required to declare to Customs officers, at the first port of arrival in the United States, all articles and/or merchandise which they are bringing in with them.

As provided by section 497, Tariff Act of 1930 (19 U.S.C. 1497), failure to declare articles or merchandise, when required by law, subjects the undeclared articles or merchandise to forfeiture to the Government, and the individual that fails to declare the articles or merchandise to a personal penalty equal to the domestic value of the undeclared articles or merchandise.

Ordinarily, the full statutory liability would be imposed only by judicial process. Section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), provides for an administrative process which permits the person interested in any seized article or merchandise, or who has incurred, or is alleged to have incurred, any fine or penalty, to petition for resolution of these liabilities for amounts less than the full statutory liability. This provision authorizes the Secretary of the Treasury to remit or mitigate any fine, penalty, or forfeiture, incurred under Customs or navigation laws when he finds that such fine, penalty, or forfeiture was incurred without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances to justify such action. Part 171, Customs Regulations (19 CFR Part 171), contains provisions for the filing of petitions for relief from fines, penalties, and forfeitures incurred for violations of Customs and other laws. Section 171.11, Customs Regulations (19 CFR 171.11), requires that petitions for relief be filed with the Customs Service.

The overwhelming majority of violations of section 497 are disposed of administratively pursuant to the provisions of section 618. District Directors of Customs throughout the United States have been delegated authority by § 171.21, Customs Regulations (19 CFR 171.21), to resolve cases in which the statutory liability does not exceed $25,000, on such terms and conditions as, under the law and in view of the circumstances, they deem appropriate. The Commissioner of Customs exercises jurisdiction over cases between $25,000 and $100,000. The Secretary of the Treasury has retained authority to decide petitions for relief from liabilities arising under section 497 when those liabilities exceed $100,000.

National guidelines were developed for use in mitigating and thereby disposing of violations of section 497 administratively, in part, because many different Customs officers have authority to act on petitions for relief. Guidelines were issued in 1964, and revised and reissued in 1974 to Customs field officers.

The primary objective of the guidelines is to encourage compliance with the entry declaration requirements. They should be sufficiently punitive to deter future violations. Customs experience with the 1974 guidelines has been that they were too inflexible to serve this objective. Furthermore, the 1974 guidelines failed to provide adequate guidance for certain categories of violations.

As a result, numerous Customs districts have developed practices, both formal and informal, of taking amounts less than those specified in the 1974 guidelines, when factors justifying such mitigation were found. Although guidelines are not absolute rules and the Customs field officers acted within their discretionary authority, these actions emphasized the need for attention to uniform guidelines on a national basis.

In response to the above situation, projects were commenced at Customs and the Department of the Treasury to reexamine section 497 guidelines. The interim guidelines which now have been established are a product of these projects, and are being published with the specific approval of the Treasury Department so that everyone will be aware of them.

Customs considered several approaches to revising the guidelines. The approach adopted is to base the mitigation upon the duty on the undeclared merchandise (duty-based). The 1974 guidelines are duty-based in that the statutory liability is mitigated to an amount that is a multiple (1 times, 2 times, 3 times, etc.) of the duty which would have been owed if the merchandise had been properly declared.

The interim guidelines establish certain mitigating and aggravating factors which vary the multiple of the

duty to be applied. This differs from the 1974 guidelines which provided only one multiple for the vast majority of cases. Furthermore, guidance is now provided for mitigating violations involving merchandise which, if properly declared, would have been entitled to duty-free entry, either conditionally or unconditionally.

At present, the only standards available for mitigating violations of section 497 which involve conditionally or absolutely free merchandise are contained in § 148.18, Customs Regulations (19 CFR 148.18). This provision, however, applies only when Customs finds that the violator was neither willfully negligent nor committed the violation with fraudulent intent, but that he was no more than ordinarily negligent in committing the violation.

As a practical matter, it is difficult to find that a violator was ordinarily negligent under conventional definitions of that term. Even when Customs is able to so find, there still remains a large number of other cases in which the violation was clearly the result of more than ordinary negligence. In the latter category there has been no clear, uniform, national policy or standard.

The interim guidelines will rectify this situation. These guidelines are consistent with the provisions of § 148.18, and provide guidance for cases which fall outside of the limits of that section.

By elaborating mitigating factors which justify a reduced mitigated amount, the interim guidelines provide a basis for more mitigation. However, the interim guidelines will continue the practice of dealing harshly with violations involving aggravated factors.

Accordingly, because of the additional guidance and flexibility provided, and because the interim guidelines are consistent with the practice in many Customs field offices, the interim guidelines for administrative dispostion of violations of section 497 have been approved by the Treasury Department and will take effect upon publication. These guidelines are attached to this document as Appendix A.

Solicitation of Comments on the Guidelines

Customs invites all interested parties to express their comments concerning the interim guidelines.

Consideration will be given to any written comments timely submitted to the Commissioner of Customs. Customs will review and analyze the comments and modify the interim guidelines as appropriate. The interim guidelines then will be published in final form as an appendix to Part 171, Customs Regulations.

Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William T. Archey,

Acting Commissioner of Customs.

Approved: February 8, 1982.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

Appendix A—Guidelines for Disposition of Violations of 19 U.S.C. 1497

A violation of section 497, Tariff Act of 1930 (the Act) (19 U.S.C. 1497), occurs when a traveler brings articles into the United States which are subject to declaration and fails to declare those articles. Generally, all articles are required to be declared under the provisions of section 498 of the Act (19 U.S.C. 1498) and § 148.11, Customs Regulations (19 CFR 148.11). An individual is entitled to seek administrative mitigation or remission of the liabilities imposed under section 497 by petitioning pursuant to section 618 of the Act (19 U.S.C. 1618). The following revised guidelines are to be used in disposing of these violations.

The guidelines do not change or add to existing delegated authority, and will be used within the framework of that authority. Previous guidelines for disposition of violations of section 497, set out in Customs Circular ENF–4–R:E:P, dated August 5, 1974, and the pertinent material in Appendix AA, Part 2 of the Customs Fines, Penalties and Forfeitures Handbook (March 1979 Revision, P&PM Handbook 4400–01 (old number 3000–01)) are hereby superseded.

I. Classification of Violations

A. Dutiable Merchandise

For violations involving articles subject to duty and for which there is no applicable exemption from duty, the following rules apply:

1. Mitigated Penalty for First Offense. For violations which are the first offense, where there is knowledge of the declaration requirements, and where the undeclared articles are discovered by the Customs officers, the liabilities shall be remitted upon payment of THREE TIMES THE DUTY, but not less than $50, or the domestic value, whichever is less.

2. Additional Mitigating Factors. When one or more of the following additional mitigating factors are present, the deciding officer may within his discretion remit the liabilities upon payment of between one and one half and three times the duty:

a. After examination of the person or baggage has begun (including referral for secondary examination), but before discovery by the Customs officer, the individual declares the merchandise;

b. Language barrier, mental condition, physical ailment;

c. Violator cooperates with Customs officers after discovery of the violation by providing additional information which facilitates conclusion of the case;

d. Violator is an inexperienced traveler;

e. There is contributory Customs error (violator demonstrates he was given incorrect advice by a Customs officer).

3. Aggravating Factors. When one or more of the following aggravating factors are present, the deciding officer may within his discretion remit the liabilities upon payment of between THREE AND SIX TIMES THE DUTY or the domestic value, whichever is lower:

a. Documentary or other evidence discovered establishes violator's intent;

b. Informant provides information leading to discovery of the violation;

c. Violator is an experienced traveler;

d. Undeclared articles are concealed to evade U.S. law;

e. Undeclared articles are commercial merchandise;

f. There is extreme lack of cooperation including rude behavior, verbal or physical abuse, attempted escape (all tending to demonstrate a lack of respect for law and authority).

4. Extraordinary Mitigating Factor. a. When an individual who has been cleared through Customs without discovery of any undeclared merchandise returns to the examination area and declares that merchandise, the deciding officer may within his discretion remit the liabilities upon payment of ONE TIME THE DUTY.

b. An individual who declares merchandise some time later (hours, days, weeks, etc.) may be treated similarly.

5. Extraordinary Aggravating Factors. a. When the offense is a second or subsequent violation, the deciding officer may within his discretion remit the liabilities upon payment of between

six and eight times the duty or the domestic value, whichever is lower.

b. When it is a second or subsequent offense and there are aggravating factors present, generally there shall either be a denial of relief or mitigation to no less than EIGHT TIMES THE DUTY or the domestic value, whichever is lower. Customs agents should also be advised for consideration of referral for criminal prosecution.

c. When there is evidence of an ongoing scheme to defraud the revenue involving multiple entries without declaration of merchandise subject to declaration, the deciding officer shall act in accordance with the preceding paragraph.

B. Absolutely or Conditionally Free Merchandise

For violations involving articles either entitled to entry free of duty absolutely (classifiable under a duty-free provision in schedules 1–7, TSUS) or entry free of duty conditionally (entitled to treatment under GSP or schedule 8, TSUS) the following rules apply:

1. Mitigated Penalty for First Offense. a. For violations which are first offense, and involve merchandise entitled to the benefit of GSP or schedule 8, TSUS, the liabilities shall be remitted upon payment of ONE TIME THE DUTY which would have been due if the merchandise had not been entitled to the benefit.

b. For violations which are first offense, and involve absolutely duty-free merchandise, the liabilities shall be remitted upon payment of between ONE AND FIVE PERCENT OF THE DOMESTIC VALUE, but not less than $50 (or the domestic value, whichever is less) nor more than $1,000.

2. Additional Mitigating Factors. When additional mitigating factors such as those outlined above are present, the deciding officer may in his discretion reduce the mitigated amount to a lower figure.

3. Aggravating Factors. a. When aggravating factors such as those outlined above are present, the deciding officer may in his discretion remit the liabilities for conditionally free articles upon the payment of between ONE AND TWO TIMES THE DUTY.

b. For absolutely free articles, he may remit the liabilities upon payment of between FIVE AND TEN PERCENT OF THE DOMESTIC VALUE.

II. Other Applicable Rules

a. Customs officers shall document mitigating and aggravating factors found in each case in the case file. There must be a basis shown for mitigated amounts.

b. Customs officers may within their discretion consider other factors not here delineated as aggravating or mitigating and apply the guidelines accordingly. These additional factors must also be documented in the case file.

c. These guidelines are not authority for admitting into the commerce merchandise which is conditionally or absolutely prohibited from entry.

d. The presence of extraordinary aggravating factors may be basis for denial of relief.

e. When the violator is being prosecuted criminally, the civil (1497) liability generally is administratively settled only after completion of the prosecution or with the express approval of the appropriate United States attorney. Criminal prosecution of the violator, however, is insufficient grounds to delay indefinitely determination of the civil administrative aspect of the case. District and area directors should discuss with either the regional counsel, the U.S. attorney, or Customs Headquarters the best course of action to follow in any particular case. Consideration should be given to immediate referral of the forfeiture action to the U.S. attorney so that he might take appropriate action to protect the government's case.

[FR Doc. 82-4577 Filed 2-18-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 78N-0369]

GRAS Status of Whey, Whey Products and Hydrogen Peroxide; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: In the rule on the GRAS Status of whey, whey products and hydrogen peroxide, FR Doc. 81-25547 appearing at page 44434 in the issue for Friday, September 4, 1981, the following correction is made on page 44439. In § 184.1979 *Whey* (21 CFR 184.1979), in paragraph (a)(1), in the fourth sentence, "Hydrochloride" is changed to read "hydrochloric acid."

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

Dated: February 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4294 Filed 2-18-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Kay Dee Feed Co. providing for safe and effective use of two premixes containing 5 or 10 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Kay Dee Feed Co., 1919 Grand Ave., Sioux City, IA 51107, is the sponsor of NADA 128-255 submitted on its behalf by Elanco Products Co. The NADA provides for use of premixes containing 5 or 10 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis; prevent swine dysentery (vibrionic); and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco's approved NADA's 12-491 and 41-275. Use of the data in NADA's 12-491 and 41-275 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau

of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data in NADA's 12-491 or 41-275.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by revising paragraph (b)(8) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(8) To 011490, 026186, 026848: 5 or 10 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. This amendment is effective February 19, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: February 9, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-4386 Filed 2-18-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 198

Deletion of Part; Technical Manual (TM) Management

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense has canceled the source document of 32 CFR Part 198, "Technical Manual (TM) Management." This action removes this Part from the CFR since it is no longer valid.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: M. S. Healy, Office of the Secretary of Defense, Washington, D.C. 20301, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION: 32 CFR Part 198 represents DoD Instruction 4151.9, subject as above, which was superseded February 4, 1982. The new document is entitled "DoD Technical Manual Program Management," and carries the same number. Copies may be obtained under 32 CFR Part 289.

PART 198—TECHNICAL MANUAL (TM) MANAGEMENT [REMOVED]

Accordingly, 32 CFR is amended by removing Part 198.

M. S. Healy,

Chief, Directives Division, C&D, and OSD Federal Register Liaison Officer, Department of Defense.

February 16, 1982.

[FR Doc. 82-4503 Filed 2-18-82; 8:45 am]

BILLING CODE 3810-01-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1602-1605, 1609, 1618, 1621-1628, 1630-1633, 1636, 1639, 1641, 1642, 1645, 1648, 1651, 1653, 1655, 1659, 1661, and 1680

Deferment or Exemption from Military Service; Correction

AGENCY: Selective Service System.

ACTION: Correction.

SUMMARY: In FR Doc. 82-2430, appearing at pages 4640-4665 in the issue for Monday, February 1, 1982, the amendatory language which appears in the middle column of page 4643, as corrected by 47 FR 5716, should read as set forth below:

"32 CFR Chapter XVI is amended by revoking Parts 1603, 1604, 1622, 1623, 1625, 1626, 1628, 1631, 1632, 1641, 1655, 1661, and 1680; by revising Parts 1602, 1609, 1621, 1624, 1627 and 1630; and by adding new Parts 1605, 1618, 1633, 1636, 1639, 1642, 1645, 1648, 1651, 1653 and 1659 to read as set forth below:"

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435, Phone: (202) 724-0895.

Date: February 11, 1982.

Thomas K. Turnage,

Director of Selective Service.

[FR Doc. 82-4575 Filed 2-18-82; 8:45 am]

BILLING CODE 8015-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-36

[FPMR Amdt. F-51]

ADP Management; Hardware and Data Transmission Standards

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides standard terminology to be used in solicitation documents regarding application of Federal Information Processing Standards Publications (FIPS PUBS) 70, 79, 81, 84, and 85 and Federal Telecommunication Standards (FED-STD) 1007, 1008, 1020A, 1030A, and 1061. This regulations also makes minor changes to other sections of Subpart 101-36.13 dealing with standards. The intended effect of this action is to provide in Subpart 101-36.13 standard terminology for Government-wide use that brings to the attention of potential offerors on specific solicitations the requirement for pertinent Federal Standard compliance.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: David Mullins or William Loy Procurement Policy and Regulations Branch, Policy and Analysis Division (202-566-0194).

SUPPLEMENTARY INFORMATION: (a) FIPS PUBS are developed by the National Bureau of Standards (NBS) and issued by the Secretary of Commerce. FED-STD are prepared by the National Communications System (NCS) for issuance by GSA.

(b) Regardless of the provisions or effective date of this regulation, the effective dates of the individual Federal standards are as follows:

FIPS PUB 70, April 24, 1981
FIPS PUB 79, October 17, 1981
FIPS PUB 81, June 2, 1981
FIPS PUB 84, October 31, 1980

FIPS PUB 85, November 7, 1980
FED–STD 1007, March 24, 1981
FED–STD 1008, June 16, 1980
FED–STD 1020A, January 1, 1980
FED–STD 1030A, January 31, 1980
FED–STD 1061, March 24, 1981

(c) FIPS PUB 85, Optical Character Recognition (OCR) Inks is not mandatory when an agency determines that new OCR equipment or a new ink can meet its requirements at a lower overall cost.

(d) Standard terminology for FED–STD 1031 was included in the draft of this amendment that was distributed for comments in July 1981. Because of highly negative comments from many sources, GSA is considering cancelling FED–STD 1031. Therefore, FED–STD 1031 is not being recognized in this FPMR Amendment.

(e) The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to: Have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or result in significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101–36—ADP MANAGEMENT

1. The table of contents for Part 101–36 is amended by revising, reserving and adding the following entries to read as follows:

Sec.
101–36.1304–1 FIPS PUB 1–1, Code for Information Interchange.
101–36.1304–6 FIPS PUB 14–1, Hollerith Punched Card Code.
101–36.1304–20 FIPS PUB 60–1, Input/Output (I/O) Channel Level Interface.
101–36.1304–24 [Reserved]
101–36.1304–25 [Reserved]
101–36.1304–26 [Reserved]
101–36.1304–27 FIPS PUB 81, DES Modes of Operation.
101–36.1304–28 FIPS PUB 84, Microfilm Readers.
101–36.1304–29 FIPS PUB 85, Optical Character Recognition (OCR) Inks.
101–36.1305–5 FIPS PUB 79, Magnetic Tape Labels and File Structure for Information Interchange.
101–36.1308–2 [Reserved]
101–36.1308–3 [Reserved]
101–36.1308–4 FED–STD 1005, Coding and Modulation Requirements for Non-diversity 2400 Bit/Second Modems.
101–36.1308–5 FED–STD 1006, Coding and Modulation Requirements for 4800 Bit/Second Modems.
101–36.1308–6 FED–STD 1007, Coding and Modulation Requirements for Duplex 9600 Bit/Second Modems.
101–36.1308–7 FED–STD 1008, Coding and Modulation Requirements for Duplex 600 and 1200 Bit/Second Modems.
101–36.1308–8 [Reserved]
101–36.1308–9 [Reserved]
101–36.1308–10 [Reserved]
101–36.1308–11 [Reserved]
101–36.1308–12 [Reserved]
101–36.1308–13 [Reserved]
101–36.1308–14 [Reserved]
101–36.1308–15 FED–STD 1020A, Electrical Characteristics of Balanced Voltage Digital Interface Circuits.
101–36.1308–16 [Reserved]
101–36.1308–17 [Reserved]
101–36.1308–18 FED–STD 1030A, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.
101–36.1308–19 [Reserved]
101–36.1308–20 FED–STD 1061, Group 2 Facsimile Apparatus for Document Transmission.

Subpart 101–36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards into Solicitation Documents

2. Section 101–36.1303–4 is revised to read as follows:

§ 101–36.1303–4 Applications standards.

"Applications standards" means that category of standards that includes areas of standardization, such as payroll, personnel, inventory, and accounting.

3. Section 101–36.1304–1 is revised and the caption is changed to read as follows:

§ 101–36.1304–1 FIPS PUB 1–1, Code for Information Interchange.

(a) FIPS PUB 1–1 promulgates the American National Standard Code for Information Interchange (ASCII) and specifies the code and character set for use in Federal information processing systems, communications systems, and associated equipment. (Technical specifications of the standard are not included with FIPS PUB 1–1.)

(b) The Standard terminology for use in solicitation documents is:

ASCII System Requirements

The system, upon receiving a hardware or software command, must accept data on magnetic tape, paper tape, or any other input media covered by an approved Federal Information Processing Standards Publication (FIPS PUB) in ASCII code and collating sequence prescribed in FIPS PUB 1–1 and in the format prescribed in FIPS PUBS 2, 3–1, 25, 50, or other applicable FIPS PUBS. Such data may be translated, if necessary, into a form that the proposed equipment can internally process, provided that, upon receiving a hardware or software command, the proposed equipment can produce the processed data on magnetic tape, paper tape, and other output media in the ASCII code and collating sequence prescribed in FIPS PUB 1–1 and in the format prescribed in FIPS PUBS 2, 3–1, 25, 50, or other applicable FIPS PUBS.

4. Section 101–36.1304–6 is revised and the caption is changed to read as follows:

§ 101–36.1304–6 FIPS PUB 14–1 Hollerith Punched Card Code.

(a) FIPS PUB 14–1 specifies the representation of the Code for Information Interchange, FIPS PUB 1–1, in 12-row 3¼-inch wide, rectangular hole punched cards used in Federal information processing systems, communications systems, and associated equipment. This standard does not apply to other types of punched cards, such as those with round holes, or to "edge-punched" cards whose holes resemble those used in perforated tape. (Technical specifications of the standard are not included with FIPS PUB 14–1.)

(b) The standard terminology for use in solicitation documents is:

All punching or reading equipment utilizing 12-row 3¼-inch wide rectangular hole punched cards used in data processing, communications, and similar operations must be capable of punching or reading the Code for Information Interchange, FIPS PUB 1–1, or one of the approved Subsets of the Standard Code for Information Interchange, FIPS PUB 15, in the hole pattern specified in FIPS PUB 14–1, Hollerith Punched Card Code.

5. Section 101–36.1304–20 is revised by changing the caption to read as follows:

§ 101–36.1304–20 FIPS PUB 60–1, Input/Output (I/O) Channel Level Interface.

* * * * *

§§ 101–36.13—101–36.1309–5 (Subpart 101–36.13) [Amended]

6. Wherever the phrase "FIPS PUB 60" appears in Subpart 101–36.13, change it to read "FIPS PUB 60–1."

§ 101–36.1304–24 [Reserved]

§ 101–36.1304–25 [Reserved]

§ 101–36.1304–26 [Reserved]

7. Sections 101–36.1304–24 through 101–36.1304–26 are added and reserved as follows:

8. Section 101–36.1304–27 is added to read as follows:

§ 101–36.1304–27 FIPS PUB 81, Data Encryption Standard (DES) Modes of Operation.

(a) FIPS PUB 81 defines four modes of operation that shall be used with the Data Encryption Standard (DES) described in FIPS PUB 46. These modes

specify how sensitive computer data will be encrypted (cryptographically protected) and decrypted (returned to original form). This standard shall be used by Federal agencies when procuring equipment or services that implement the DES in accordance with the provisions of § 101–36.1304–15(a).

(b) FIPS PUB 81 specifies the recommended modes of operation for the DES but does not contain requirements for their secure implementation in particular applications. This standard anticipates the development of a set of application standards to achieve this objective.

(c) The standard terminology for use in solicitation documents issued on or after the effective date of FIPS PUB 81 is:

Equipment and services offered as a result of this solicitation that implement the Data Encryption Standard (FIPS PUB 46) and that are intended for use in the cryptographic protection of sensitive but unclassified computer data, shall use one or more of the modes of operation specified in FIPS PUB 81.

9. Section 101–36.1304–28 is added to read as follows:

§ 101–36.1304–28 FIPS PUB 84, Microfilm Readers.

(a) FIPS PUB 84 announces the adoption of the American National Standard for Microfilm Readers (ANSI/NMA MS20–1979). This standard defines the minimum levels of image quality, illumination, and related characteristics for equipment that displays computer-generated microforms that conform to FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16mm and 105mm. (See § 101–36.1304–19.) FIPS PUB 84 also specifies the maximum safe temperatures and noise levels for microform readers.

(b) The standard terminology for use in solicitation documents is:

Microform readers offered as a result of this solicitation that display computer-generated microforms conforming to FIPS PUB 54 shall comply with the provisions of FIPS PUB 84.

10. Section 101–36.1304–29 is added to read as follows:

§ 101–36.1304–29 FIPS PUB 85, Optical Character Recognition (OCR) Inks.

(a) FIPS PUB 85 defines the spectral band for read inks and provides spectrophotometric curves for red and blue nonread inks. FIPS PUB 85 is applicable to the acquisition and use by Federal agencies of inks and preprinted forms that will be read by OCR techniques when the interchange of machine-readable information between different systems will be required.

(b) Because of the widely diverse nature of OCR applications, FIPS PUB 85 may not include all of the necessary specifications or considerations for a successful OCR system. American National Standard X3.86–1980 (which is adopted in whole by FIPS PUB 85) recommends consultation among users, suppliers, and manufacturers when new equipment or a new ink with a spectral band different from that specified in the standard is available. When an agency determines that new OCR equipment or a new ink can meet its functional requirements at a lower overall cost, a functional product description may be substituted for FIPS PUB 85.

(c) The standard terminology for use in solicitation documents is:

Inks and preprinted forms offered as a result of this solicitation shall be required to conform to the provisions of FIPS PUB 85 if they will be read by OCR techniques and if the interchange of machine-readable information between different systems may be required.

11. Section 101–36.1305–5 is added to read as follows:

§ 101–36.1305–5 FIPS PUB 79, Magnetic Tape Labels and File Structure for Information Interchange.

(a) FIPS PUB 79 establishes four levels of labeling, label formats, blocking structure, and tape-mark relationships on magnetically recorded tapes so that the tapes can be used for information interchange. Information processing systems that either generate or accept magnetic tapes for information interchange shall have the capability of generating and processing magnetic tape labels and file structure in accordance with FIPS PUB 79.

(b) Specifications described in FIPS PUB 79 must be used in the interchange of magnetic tapes unless the interchanging parties can agree on an alternative interchange format that is more efficient and cost effective.

(c) The standard terminology for use in solicitation documents issued on or after the effective date of FIPS PUB 79 is:

Information processing systems using nine-track tape drives and new tape label processing facilities that will be part of an information processing system, offered as a result of this solicitation shall be capable of generating and processing tape labels and file structures that conform to one of the four levels of FIPS PUB 79 if the information processing system either generates or accepts magnetic tapes for information interchange. Offerors shall specify the level of conformance and certify that a copy of the current users manual is on file with the National Bureau of Standards as required by FIPS PUB 79.

12. Section 101–36.1307–1(b) is revised to read as follows:

§ 101–36.1307–1 FIPS PUB applicable to the interchange of machine processable data between and among agencies.

* * * * *

(b) The standard terminology for use in solicitation documents is:

All application programs resulting from this solicitation that have been identified as those that will be interchanged, or that will record data that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing Standards (FIPS):

FIPS PUB 4, Calendar Date.
FIPS PUB 5–1, States and Outlying Areas of the United States.
FIPS PUB 6–3, Counties and County Equivalents of the States of the United States and the District of Columbia.
FIPS PUB 8–4, Standard Metropolitan Statistical Areas.
FIPS PUB 9, Congressional Districts of the United States.
FIPS PUB 10–2, Countries, Dependencies, and Areas of Special Sovereignty.
FIPS PUB 58, Representations of Local Time of the Day for Information Interchange.
FIPS PUB 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.
FIPS PUB 66, Standard Industrial Classification (SIC) Codes.
FIPS PUB 70, Representation of Geographic Point Locations for Information Interchange.

13. Sections 101–36.1308–2 and 101–36.1308–3 are removed and reserved as follows:

§ 101–36.1308–2 [Reserved]

§ 101–36.1308–3 [Reserved]

14. Sections 101–36.1308–4 and 101–36.1308–5 are added to read as follows:

§ 101–36.1308–4 FED–STD 1005, Coding and Modulation Requirements for Nondiversity 2400 Bit/Second Modems.

(a) FED–STD 1005 establishes the coding and modulation requirements for 2400 bit per second modems used by the Federal Government over analog transmission channels other than those derived from high-frequency radio facilities.

(b) The standard terminology for use in solicitation documents is:

All nondiversity 2400 bit per second modems offered as a result of this solicitation for use with 4kHz channels derived from either switched networks or dedicated lines shall comply with FED-STD 1005.

§ 101-36.1308-5 FED-STD 1006, Coding and Modulation Requirements for 4800 Bit/Second Modems.

(a) FED-STD 1006 requires that all Federal departments and agencies shall comply with the standard in the design and procurement of telecommunication systems and equipment having a requirement of 4800 bit per second modems used with nominal 4kHz analog channels.

(b) The standard terminology for use in solicitation documents is:

All 4800 bit per second modems (and equipment containing 4800 bit per second modems) offered as a result of this solicitation for use with nominal 4kHz analog channels shall comply with FED-STD 1006.

15. Section 101-36.1308-6 is added to read as follows:

§ 101-36.1308-6 FED-STD 1007, Coding and Modulation Requirements for Duplex 9600 Bit/Second Modems.

(a) FED-STD 1007 establishes coding and modulation requirements for duplex 9600 bit per second modems used by the Federal Government over four-wire nominal 4kHz analog transmission channels. Typically, these channels are derived from frequency division multiplex equipment associated with microwave, coaxial cable, and satellite transmission systems.

(b) The standard terminology for use in solicitation documents is:

All duplex 9600 bit per second modems offered as a result of this solicitation for use with nominal 4kHz analog transmission channels shall comply with FED-STD 1007.

16. Section 101-36.1308-7 is added to read as follows:

§ 101-36.1308-7 FED-STD 1008, Coding and Modulation Requirements for Duplex 600 and 1200 Bit/Second Modems.

(a) FED-STD 1008 establishes coding and modulation requirements for duplex 600 bit per second and/or 1200 bit per second modems for use over 4kHz analog transmission channels terminated by "two-wire" circuits. Federal departments and agencies shall comply with the requirements of this standard in the design and procurement of such modems except when they are to be acoustically coupled to telephone instruments.

(b) The standard terminology for use in solicitation documents is:

All two-wire duplex 600 bit per second and/or 1200 bit per second modems (except those to be acoustically coupled to telephone instruments) offered as a result of this solicitation for use with nominal 4kHz analog channels shall comply with FED-STD 1008.

17. Section 101-36.1308-8 through 101-36.1308-14 are added and reserved as follows:

§ 101-36.1308-8 [Reserved]

§ 101-36.1308-9 [Reserved]

§ 101-36.1308-10 [Reserved]

§ 101-36.1308-11 [Reserved]

§ 101-36.1308-12 [Reserved]

§ 101-36.1308-13 [Reserved]

§ 101-36.1308-14 [Reserved]

18. Section 101-36.1308-15 is added as follows:

§ 101-36.1308-15 FED-STD 1020A, Electrical Characteristics of Balanced Voltage Digital Interface Circuits.

(a) FED-STD 1020A specifies the electrical characteristics of balanced voltage digital interface circuits employed for the interchange of serial binary information conveyed at the DC baseband level at signaling rates of up to 10 megabits per second. It adopts, with the additional requirements stated therein, Electrical Industries Association (EIA) Standard RS-422-A. Federal agencies shall use this standard in the design and/or procurement of equipment requiring these interface circuits. Note that some digital interfaces; e.g., EIA RS-232C or CCITT V.35, do not require the use of these circuits. Therefore, FED-STD 1020A is required only to the extent that user applications or specific digital interfaces dictate the use of these circuits.

(b) The standard terminology for use in solicitation documents is:

All equipment using balanced voltage digital interface circuits that is offered as a result of this solicitation shall comply with the electrical characteristics addressed by FED-STD 1020A.

19. Sections 101-36.1308-16 and 101-36.1308-17 are added and reserved as follows:

§ 101-36.1308-16 [Reserved]

§ 101-36.1308-17 [Reserved]

20. Section 101-36.1308-18 is added to read as follows:

§ 101-36.1308-18 FED-STD 1030A, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.

(a) FED-STD 1030A specifies the electrical characteristics of unbalanced voltage digital interface circuits employed for the interchange of serial binary information conveyed at the DC baseband level at signaling rates of up to 100 kilobits per second. It adopts, with the additional requirements stated therein, Electronic Industries Association (EIA) Standard RS-423-A. Federal agencies shall use this standard in the design and/or procurement of equipment requiring these interface circuits. Note that some digital interfaces; e.g., EIA RS-232-C or CCITT V.35, do not require the use of these circuits. Therefore, FED-STD 1030A is required only to the extent that user applications or specific digital interfaces dictate the use of these circuits.

(b) The standard terminology for use in solicitation documents is:

All equipment using unbalanced voltage digital interface circuits that is offered as a result of this solicitation shall comply with the electrical characteristics addressed by FED-STD 1030A.

21. Section 101-36.1308-19 is added and reserved as follows:

§ 101-36.1308-19 [Reserved]

22. Section 101-36.1308-20 is added to read as follows:

§ 101-36.1308-20 FED-STD 1061, Group 2 Facsimile Apparatus For Document Transmission.

(a) FED-STD 1061 establishes the machine specifications for Group 2 facsimile apparatus used on voiceband analog circuits. This group exploits bandwidth compression techniques to achieve a transmission time of approximately 3 minutes for a 216-millimeter (mm) by 297-mm size document with a nominal resolution of four (4) lines per mm.

(b) The standard terminology for use in solicitation documents is:

All Group 2 facsimile apparatus offered as a result of this solicitation for use with voiceband analog circuits shall comply with FED-STD 1061.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Dated: January 26, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-4302 Filed 2-18-82; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6170

[C-28270, et al.]

Colorado; Revocation and Partial Revocation of National Forest Administrative and Recreation Site Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes the withdrawal orders of approximately 29,972 acres of national forest lands, and opens them to operation of the general

mining laws and such other forms of disposition as may be made of national forest lands.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

SUPPLEMENTARY INFORMATION:

By the authority vested in the Secretary of the Interior by Section 204, Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The following public land orders and Secretary of the Interior orders withdrawing the following described national forest lands for the uses indicated are hereby revoked insofar as they pertain to these lands:

Sixth Principal Meridian

1. C–28270, Order of the Secretary of the Interior of October 26, 1906.

Grand Mesa National Forest

Surface Creek Administrative Site

T. 12 S., R. 94 W.,
Sec. 13, NE¼.
160 acres in Delta County.

2. C–28275, Order of the Secretary of the Interior of December 29, 1906.

Routt National Forest

Coal Creek Administrative Site

T. 1 N., R. 86 W.,
Sec. 15: NE¼.
160 acres in Routt County.

3. C–28276, Order of the Secretary of the Interior of January 17, 1907.

San Isabel National Forest

Hardscrabble Administrative Site

T. 21 S., R. 69 W.,
Sec. 34: SW¼NE¼, N½SE¼, SE¼SE¼.
160 acres in Custer County.

4. C–28285, Order of the Secretary of the Interior of November 25, 1907.

Gunnison National Forest

Willow Administrative Site

T. 14 S., R. 82 W.,
Sec. 21: NE¼SE¼SE¼;
Sec. 22: W½SW¼SE¼, SE¼SW¼, E½SW¼SW¼, NW¼SW¼SW¼.
100 acres in Gunnison County.

5. C–28284, Order of the Secretary of the Interior of November 25, 1907.

Routt National Forest

Rabbit Ears (Five Spruce) Administrative Site

T. 5 N., R. 83 W., unsurveyed,
Sec. 20: An irregular tract.
58.60 acres in Routt County.

6. C–28712, Order of the Secretary of the Interior of June 29, 1908.

Arapaho National Forest

Bear Creek Ranger Station Administrative Site

T. 5 S., R. 73 W.,
Sec. 13: SE¼NW¼.
40 acres in Gilpin County.

7. C–28301, Order of the Secretary of the Interior of September 26, 1908.

White River National Forest

Capitol Creek Administrative Site

T. 9 S., R. 87 W.,
Sec. 25: N½NW¼, NW¼NE¼.
120 acres in Pitkin County.

New Mexico Principal Meridian

8. C–28302, Order of the Secretary of the Interior, October 8, 1908.

San Juan National Forest

Fish Creek Ranger Station

T. 40 N., R. 12 W.,
Sec. 18: NE¼SW¼, SE¼NW¼.
80 acres in Dolores County.

9. C–28303, Order of the Secretary of the Interior of October 19, 1908.

San Juan National Forest

Willow Springs Administrative Site

T. 39 N., R. 14 W.,
Sec. 4: S½NE¼, NE¼SE¼.
120 acres in Dolores County.

10. C–28327, Public Land Order 694 of 12/26/1950.

Rio Grande National Forest

Wolf Creek Pass Winter Sports Area

T. 37 N., R. 2 E.,
Sec. 5: Lots 3, 4, S½NW¼, W½SW¼;
Sec. 6: Lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7: N½NE¼.
T. 38 N., R. 2 E.,
Sec. 28: SW¼SW¼, E½SW¼, W½SE¼;
Sec. 29: SE¼SE¼;
Sec. 31: NE¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼, SW¼SE¼, SE¼SW¼;
Sec. 32: E½NE¼, SW¼NE¼, SE¼NW¼, N½SE¼, N½SW¼, SE¼SW¼, N½SW¼SW¼, SE¼SW¼SW¼;
Sec. 33: W½NW¼.
1,660.49 acres in Mineral County.

Sixth Principal Meridian

11. C–013628, Public Land Order 1381 of January 14, 1957

Routt National Forest

Base Campground

T. 5 N., R. 83 W., unsurveyed,
In approximate Sec. 1 by metes and bounds, beginning at a point from which the west ¼ corner of Sec. 6, T. 5 N., R. 82 W., bears S. 28° E. a distance of 30 chains; thence West 20 chains; North 20 chains; East 20 chains; South 20 chains to point of beginning.

Lake Dinosaur Recreation Area

T. 6 N., R. 83 W., unsurveyed by metes and bounds,
In approximate Sec. 10 by metes and bounds, beginning at a point from which the junction of the stream leaving Lake Dinosaur and Buffalo Creek bears N. 56° W. a distance of 37 chains, thence East 40 chains; South 20 chains; West 40 chains; North 20 chains to point of beginning.

Long Lake Recreation Area

T. 6 N., R. 83 W., unsurveyed,
In approximate Secs. 22 and 23 by metes and bounds, beginning at a point from which the outlet of the Long Lake dam bears S. 45° E. a distance of 10 chains, thence East 50 chains; South 25 chains; West 50 chains; North 25 chains to point of beginning.

Round Lake-Lake Percy Recreation Area

T. 6 N., R. 83 W., unsurveyed,
In approximate Sec. 24 by metes and bounds, beginning at a point which is the west ¼ corner of Sec. 19, T. 6 N., R. 82 W., thence South 35 chains; West 50 chains; North 35 chains; East 50 chains to point of beginning.

Lake Elmo Recreation Area

T. 6 N., R. 83 W., unsurveyed,
In approximate Sec. 25 by metes and bounds, beginning at a point from which the southwest corner of Sec. 19, T. 6 N., R. 82 W., bears N. 69° E. a distance of 27 chains, thence South 25 chains; West 25 chains; North 25 chains; East 25 chains to point of beginning.

Fishhook Lake Recreation Area

T. 6 N., R. 83 W., unsurveyed,
In approximate Sec. 36 by metes and bounds, beginning at a point from which the west ¼ corner of Sec. 31, T. 6 N., R. 82 W., bears due east a distance of 20 chains, thence West 20 chains; North 30 chains; East 20 chains; South 30 chains to point of beginning.

Big Creek Lakes (Hahns Peak) Recreation Area

T. 8 N., R. 83 W., unsurveyed,
In approximate Secs. 7 and 18 by metes and bounds, beginning at a point from which the outlet of lower Big Creek Lake bears S. 56° 30' E. a distance of 396 feet, thence East 1,287 feet; South 1,353 feet; West 1,287 feet; North 1,353 feet to point of beginning.

Wolverine Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Sec. 27 by metes and bounds, beginning at a point from which the outlet of Wolverine Lake bears S. 69° E. a distance of 495 feet, thence East 1,188 feet; South 1,089 feet; West 1,188 feet; North 1,089 feet to point of beginning.

Beaver Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Sec. 11 by metes and bounds, beginning at a point from which

the outlet of Beaver Lake bears S. 55° 30' W. a distance of 396 feet, thence West 1,402 feet; South 1,254 feet; East 1,402 feet; North 1,254 feet to point of beginning.

Pristine Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Sec. 35 by metes and bounds, beginning at a point from which the outlet of Pristine Lake bears S. 54° 30' E. a distance of 561 feet, thence East 842 feet; South 1,485 feet; West 842 feet; North 1,485 feet to point of beginning.

Ptarmigan Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Sec. 35 by metes and bounds, beginning at a point from which the outlet of Ptarmigan Lake bears S. 84° W., a distance of 380 feet, thence West 776 feet; South 693 feet; East 776 feet; North 693 feet to point of beginning.

Dome Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Sec. 33 by metes and bounds, beginning at a point from which the outlet of Dome Lake bears S. 69° W., a distance of 627 feet, thence West 1,634 feet; South 1,584 feet; East 1,634 feet; North 1,584 feet to point of beginning.

Three Island Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Sec. 10 by metes and bounds, beginning at a point from which a rock cairn monument at northeast corner of rock slide area bears N. 27° E. a distance of 1,617 feet, thence South 18° W. 1,304 feet; S. 36° E. 1,864 feet; N. 78° E. 2,426 feet; N. 4° W. 2,128 feet; N. 84° W. 2,615 feet to point of beginning.

North Lake Recreation Area

T. 9 N., R. 83 W., partly unsurveyed,
In approximate Secs. 22 and 23 by metes and bounds, beginning at a point from which the inlet of North Lake bears S. 60° W. a distance of 346 feet, thence West 1,023 feet; South 858 feet; East 1,023 feet; North 858 feet to point of beginning.

Gold Lake Recreation Area

T. 10 N., R. 83 W., partly unsurveyed,
In approximate Sec. 35 by metes and bounds, beginning at a point from which the outlet of Gold Lake bears N. 30° E. a distance of 808 feet, thence N. 15° W. 1,188 feet; N. 75° 30' E. 2,311 feet; S. 14° W. 1,303 feet; S. 74° W. 1,551 feet to point of beginning.

Mica Lake Recreation Area

T. 10 N., R. 83 W., partly unsurveyed,
In approximate Sec. 16 by metes and bounds, beginning at a point from which the outlet of Mica Lake bears N. 45° E. a distance of 627 feet, thence North 1,172 feet; East 1,485 feet; South 1,172 feet; West 1,485 feet to point of beginning.

Gilpin Lake Recreation Area

T. 10 N., R. 83 W., partly unsurveyed,
In approximate Sec. 25 by metes and bounds, beginning at a point from which a scribed rock adjacent to trail at the top of the grade bears S. 81° 30' E. a distance of 1,172 feet, thence N. 56° E. 1,716 feet; N. 4° E. 2,442 feet; S. 67° W. 2,797 feet; S. 23° E. 2,558 feet to point of beginning.

Gem Lake Recreation Area

T. 11 N., R. 83 W., partly unsurveyed,
In approximate Sec. 30 by metes and bounds, beginning at a point from which the outlet of Gem Lake bears N. 42° W. a distance of 726 feet, thence North 924 feet; West 1,716 feet; South 924 feet; East 1,716 feet to point of beginning.

Lake Diana Recreation Area

T. 11 N., R. 83 W., partly unsurveyed,
In approximate Sec. 32 by metes and bounds, beginning at a point from which the outlet of Lake Diana bears S. 61° E. a distance of 1,069 feet, thence East 1,848 feet; South 1,320 feet; West 1,848 feet; North 1,320 feet to point of beginning.

Manzanares Lake Recreation Area

T. 11 N., R. 84 W., unsurveyed,
Sec. 9: SE¼SW¼NE¼, SW¼SE¼NE¼, NW¼NE¼SE¼, NE¼NW¼SE¼.

West Fork Lake Recreation Area

T. 11 N., R. 84 W., unsurveyed,
Sec. 13: W½SW¼SW¼;
Sec. 14: SE¼SE¼.

Sanchez Lake Recreation Area

T. 11 N., R. 84 W., unsurveyed,
Sec. 25: S½SW¼NE¼, S½SE¼NW¼, N½NE¼SW¼, N½NW¼SE¼.

1,425.50 acres in Routt and Jackson Counties.

12. C–012317, Public Land Order 1467 of August 9, 1957.

Routt National Forest

Rock Creek Campground

T. 1 N., R. 82 W.,
Sec. 7: Lot 15
T. 1 N., R. 83 W.,
Sec. 12: E½SE¼SE¼.

Little Oak Creek Campground

T. 3 N., R. 86 W.,
Sec. 31: Lots 16, 17.

Trout Creek Campground

T. 3 N., R. 86 W.,
Sec. 18: Lots 20, 21.

Rabbit Ears Lake Recreation Area

T. 5 N., R. 82 W.,
Sec. 6: S½SW¼, NW¼SW¼, S½NE¼SW¼.

Upper South Fork Campground

T. 6 N., R. 77 W.,
Sec. 26: SW¼SW¼NW¼, NW¼NW¼SW¼;
Sec. 27: SE¼SE¼NE¼, NE¼NE¼SE¼.

Roxy Ann Lake Recreation Area

T. 6 N., R. 82 W.,
Sec. 7: Lot 4;
Sec. 18: Lots 1, 2.
T. 6 N., R. 83 W., unsurveyed,
Sec. 12: SE¼SE¼;
Sec. 13: E½NE¼.

Slide Lake Recreation Area

T. 8 N., R. 83 W., unsurveyed,
Sec. 24: NE¼.

Bear Lake Recreation Area

T. 9 N., R. 82 W.,
Sec. 5: SE¼SW¼, SW¼SE¼;
Sec. 8: NW¼NE¼.

Bighorn Lakes Recreation Area

T. 9 N., R. 82 W.,
Sec. 18: SE¼NW¼.

Lake Katherine Recreation Area

T. 9 N., R. 82 W.,
Sec. 18: SE¼SE¼;
Sec. 19: N½NE¼.

Blue Lake Recreation Area

T. 10 N., R. 82 W.,
Sec. 21: N½SW¼.

Twin Lakes Recreation Area

T. 10 N., R. 82 W.,
Sec. 28: E½NW¼.

Helena Campground

T. 11 N., R. 82 W.,
Sec. 27: SE¼.

Ute Lake Recreational Area

T. 10 N., R. 82 W.,
Sec. 33: NW¼NE¼.

Silver City Campground

T. 11 N., R. 85 W.,
Sec. 24: NW¼SW¼NE¼.

Big Red Park Campground

T. 11 N., R. 85 W.,
Sec. 24: NE¼NE¼SW¼.

Lower Whiskey Creek Campground

T. 12 N., R. 85 W., unsurveyed,
Sec. 33: SE¼NE¼.

1,476.34 acres in Grand, Jackson, and Routt Counties.

13. C–012368, Public Land Order 1481 of September 5, 1957.

San Isabel National Forest

Orr Picnic Ground

T. 20., S., R. 70 W.,
Sec. 19: NE¼NW¼.

New Mexico Principal Meridian

Bear Creek Picnic Ground

T. 49., N., R. 9 E.,
Sec. 34: SE¼NW¼
80 acres in Fremont County.

Sixth Principal Meridian

14. C–011662, Public Land Order 1492 of September 9, 1957.

Oak Creek Administrative Site

T. 3 N., R. 87 W.,
Sec. 36: W½ Lot 10, E½SE¼SW¼.

Parkview Campground

T. 5 N., R. 78 W.,
Sec. 23: E½SE¼SE¼;
Sec. 24: W½SW¼SW¼;

Sec. 25: W½NW¼NW¼;
Sec. 26: E½NE¼NE¼.

Bundy Park Campground

T. 5 N., R. 80 W.,
Sec. 14: SW¼SW¼.

Teal Lake-Tiago Lake Recreation Area

T. 7 N., R. 82 W.,
Sec. 16: NW¼NW¼NE¼, NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, W½SW¼NW¼, N½SE¼SW¼NW¼, NW¼NW¼SW¼.

Rainbow Lake Recreation Area

T. 8 N., R. 82 W.,
Sec. 19: E½SE¼;
Sec. 20: SW¼, NW¼SE¼.

Slater Park Campground

T. 10 N., R. 87 W.,
Sec. 9: N½NW¼NE¼.

Whiskey Park Administrative Site

T. 12 N., R. 85 W.,
Sec. 27: SW¼SW¼NW¼, W½NW¼SW¼;
Sec. 28: SE¼SE¼NE¼, E½NE¼SE¼.

Whiskey Creek Campground

T. 12 N., R. 85 W.,
Sec. 22: W½SE¼SW¼, E½SW¼SW¼.

665 acres in Grand, Jackson, Rio Blanco, and Routt Counties.

15. C–016619, Public Land Order 1493 of September 9, 1957.

Roosevelt National Forest

Hooligan Roost Campground

T. 10 N., R. 76 W.,
Sec. 29: S½NW¼SE¼, N½SW¼SE¼.

Skyline Campground

T. 8 N., R. 75 W.,
Sec. 19: E½ Lot 1, NE¼ Lot 2.

Sheep Creek Campground

T. 11 N., R. 74 W.,
Sec. 12: W½SW¼, SE¼SW¼, S½NE¼SW¼.

210 acres in Larimer County.

New Mexico Principal Meridian

16. C–016735, Public Land Order 1494 of September 9, 1957.

San Juan National Forest

Aspen Guard Station Administrative Site

T. 37 N., R. 12 W.,
Sec. 8: S½SE¼NE¼, SW¼NE¼;
Sec. 9: SW¼SW¼NW¼.

Jersey Jim Lookout Administrative Site

T. 37 N., R. 12 W.,
Sec. 4: W½SW¼NE¼.

Glade Mtn. Lookout Administrative Site

T. 41 N., R. 16 W.,
Sec. 36: S½NE¼NW¼, N½SE¼NW¼.

130 acres in Dolores and Montezuma Counties.

17. C–07384, Public Land Order 1510 of September 24, 1957.

Cascade Campground

T. 39 N., R. 9 W.,
Sec. 2: W½SW¼NE¼.

Geyser Springs Recreational Area

T. 40 N., R. 11 W.,
Sec. 6: W½SE¼, NE¼SW¼.

C–014643,

Rio Grande National Forest

Crooked Creek Recreation Area

T. 41 N., R. 3 W., unsurveyed,
Sec. 23: SE¼SW¼, SE¼SE¼;
Sec. 26: N½NE¼, NE¼NW¼.

Palisade Recreation Area

T. 40 N., R. 2 E.,
Sec. 3: SW¼NW¼;
Sec. 4: Lot 2, NW¼ and the S½ of Lot 3, Lot 4, S½NE¼, SE¼NW¼, N½SE¼.
T. 41 N., R. 2 E.,
Sec. 32: NE¼SE¼, S½SE¼;
Sec. 33: S½SW¼.

South Clear Creek Campground

T. 41 N., R. 2 W.,
Sec. 18: Lot 1, W½NE¼, E½NW¼.
T. 41 N., R. 3 W.,
Sec. 13: E½NE¼ (Lots 1, 2).

Rio Grande Recreation Area

T. 41 N., R. 1 W.,
Sec. 32: SW¼.
T. 41 N., R. 1 W.,
Sec. 32: SW¼.

River Hill Recreation Area

T. 40 N., R. 3 W.,
Sec. 18, Lots 1, 2, 3, 4, E½NW¼, NE¼SW¼.

South Clear Creek Falls Recreation Area

T. 41 N., R. 3 W.,
Sec. 12, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼.

1,787.08 acres in Dolores, Hinsdale, Mineral, and San Juan Counties.

Sixth Principal Meridian

18. C–018352, Public Land Order 1605 of March 24, 1958.

White River National Forest

Dowd Campground

T. 5 S., R. 81 W.,
Sec. 21, Lot 6.

42.50 acres in Eagle County.

19. C–016666, Public Land Order 1659 of June 17, 1958.

Cattle Creek Guard Station

T. 7 S., R. 86 W., unsurveyed,
Sec. 8, S½NW¼NW¼, N½SW¼NW¼, NW¼SE¼NW¼.

Woody Creek Guard Station

T. 9 S., R. 84 W., unsurveyed,
Sec. 19, S½SW¼, SW¼SE¼;
Sec. 30, N½NE¼NW¼, N½NW¼NE¼.

157 acres in Eagle and Pitkin Counties.

20. C–020392, Public Land Order 1686 of July 21, 1958.

Roosevelt National Forest

Four Mile Campground

T. 1 N., R. 73 W.,
Sec. 23, NE¼NE¼; less patented mineral claims.
Sec. 24, NW¼, NE¼SW¼, N½SE¼, less patented mineral claims.

Halloway Picnic Ground

T. 2 N., R. 72 W.,
Sec. 30, Lot 5.

Jim Creek Recreation Area

T. 2 N., R. 72 W.,
Sec. 31, Lots 3, 4, 21.

418.38 acres in Boulder County.

New Mexico Principal Meridian

21. C–020387, Public Land Order 1687 of July 21, 1958.

Gunnison National Forest

Big Meadows Administrative Site

T. 44 N., R. 1 E.,
Sec. 17, W½NW¼NW¼;
Sec. 18, E½NE¼NE¼.

40 acres in Saguache County.

Sixth Principal Meridian

22. C–021758, Public Land Order 1746 of October 8, 1958.

Routt National Forest

Lost Lake Recreation Area

T. 1 N., R. 87 W., unsurveyed,
Sec. 7, S½N½, S½;
Sec. 8, SW¼NE¼, W½SE¼, SW¼, S½NW¼.
T. 1 N., R. 88 W., unsurveyed,
Sec. 1, SW¼;
Sec. 2, S½;
Sec. 11, N½, SE¼;
Sec. 12, S½NE¼, SE¼, W½.

2,360 acres in Garfield County.

23. C–06296, Public Land Order 1825 of March 26, 1959.

Arapaho National Forest

Bethel Campground

T. 4 S., R. 76 W., unsurveyed,
Sec. 14, E½SW¼SW¼, SW¼SW¼SW¼.

Falls Trail Picnic Ground

T. 5 S., R. 71 W.,
Sec. 31, NE¼NW¼NE¼.

40 acres in Clear Creek and Jefferson Counties.

New Mexico Principal Meridian

24. C–024415, Public Land Order 1873 of June 4, 1959.

San Juan National Forest

Middle Mountain Trailer Campsite

T. 37 N., R. 6 W.,
Sec. 33, Lots 1 to 5, inclusive, E½NE¼, NE¼SE¼;
Sec. 34, Lot 1, NW¼SW¼.

305.58 acres in Montezuma County.

Sixth Principal Meridian

25. C–023168, Public Land Order 1884 of June 19, 1959.

Routt National Forest

Summit Lake Administration Site

T. 7 N., R. 83 W., unsurveyed,
In approximate Sec. 35 by metes and bounds, beginning at a point from which the westerly most point of Summit Lake bears N. 20° W. a distance of 36 chains, thence South, 20 chains; West, 20 chains; North, 20 chains; East, 20 chains to the point of beginning.
40 acres in Routt County.

26. C–022828, Public Land Order 1901 of July 14, 1959.

Pike National Forest

Jefferson Creek Administrative Site

T. 7 S., R. 76 W.,
Sec. 23, NW¼NE¼.
40 acres in Park County.

New Mexico Principal Meridian

27. C–024419, Public Land Order 1915 of July 22, 1959.

San Isabel National Forest

Brush Creek Picnic Ground

T. 46 N., R. 12 E.,
Sec. 28, S½N½NE¼, N½S½NE¼.

South Brush Creek Picnic Ground

T. 46 N., R. 12 E.,
Sec. 33, E½SE¼NE¼, E½NE¼SE¼;
Sec. 34, W½SW¼NW¼, W½NW¼SW¼.
160 acres in Custer County.

Sixth Principal Meridian

28. C–024417, Public Land Order 1943 of August 12, 1959.

Arapaho National Forest

Crater Lake Campground

T. 1 N., R. 74 W.,
Sec. 3, S½SW¼NE¼, NW¼SE¼, E½NE¼SW¼, NE¼SE¼SW¼, N½SW¼SE¼.

Grand Mesa National Forest

Buzzard Campground

T. 9 S., R. 92 W.,
Sec. 20, SW¼SW¼.

New Mexico Principal Meridian

San Juan National Forest

Bear Campground Site

T. 36 N., R. 13 W.,
Sec. 4, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 9, NE¼NW¼.

Deer Campground Site

T. 40 N., R. 13 W.,
Sec. 24, N½SW¼, E½SW¼SW¼.

Mancos Hill Campground Site

T. 36 N., R. 12 W.,
Sec. 32, S½NW¼SW¼, N½SW¼SW¼.
494 acres in Dolores, Grand, Mesa, and Montezuma Counties.

29. C–025884, Public Land Order 2279 of February 28, 1961.

Gunnison National Forest

Copper Creek Recreation Area

T. 51 N., R. 1 E.,
Sec. 11, SE¼SW¼SE¼;
Sec. 14, E½W½NE¼, W½E½NE¼.

Sixth Principal Meridian

Gunnison National Forest

Five Mile Recreation Area

T. 15 S., R. 83 W.,
Sec. 17, Lots 2, 3, W½NW¼;
Sec. 18, Lots 7 to 11, inclusive, Lots 13 to 16, inclusive, S½NE¼NE¼, NE¼NE¼NE¼.

Second Bridge Recreation Area

T. 15 S., R. 84 W.,
Sec. 31, SE¼SE¼SE¼;
Sec. 32, SE¼SW¼NW¼, E½NE¼NW¼, SE¼NW¼, NW¼NE¼, N½NE¼NE¼, S½NW¼SW¼, NE¼NW¼SW¼, NW¼NE¼SW¼, SW¼SW¼.
720.01 acres in Gunnison County.

30. C–026637, Public Land Order 2280 of February 28, 1961.

San Isabel National Forest

Cisneros Picnic Ground

T. 24 S., R. 69 W.,
Sec. 9, S½SE¼SE¼;
Sec. 10, SW¼SW¼;
Sec. 16, NE¼NW¼NE¼, S½NW¼NE¼, NW¼NE¼NE¼.
100 acres in Custer County.

New Mexico Principal Meridian

31. C–027679, Public Land Order 2282 of February 28, 1961.

Rio Grande National Forest

Platoro Campground

T. 36 N., R. 4 E., unsurveyed,
Sec. 22: SW¼NE¼NE¼, SE¼NW¼NE¼.

Aspen Glade Campground

T. 33 N., R. 6 E.,
Sec. 25: SW¼NW¼, NW¼NW¼SW¼;
Sec. 26: S½SE¼NE¼, N½NE¼SE¼.

Lake Fork Campground

T. 35 N., R. 4½ E.,
Sec. 1: Lots 4, 5, 12, N½ of Lot 13.
236.47 acres in Conejos County.

Sixth Principal Meridian

32. C–024418, Public Land Order 2286 of February 28, 1961.

Routt National Forest

Rock Creek Recreation Area

T. 1 N., R. 82 W.,
Sec. 6: Lot 22, SW¼SE¼;
Sec. 7: Lots 5 to 11, inclusive, E½NE¼.

Slater Park Picnic Area

T. 10 N., R. 87 W.,
Sec. 23: NE¼NE¼.
330 acres in Grand and Routt Counties.

33. C–023759, Public Land Order 2297 of March 14, 1961.

Roosevelt National Forest

Seaman Reservoir Recreation Area

T. 9 N., R. 70 W.,
Sec. 21: W½NE¼, E½NW¼SE¼, SW¼SE¼.
140 acres in Larimer County.

34. C–028983, Public Land Order 2302 of March 14, 1961.

Devils Gulch Picnic Area

T. 5 N., R. 72 W.,
Sec. 4: SW¼NE¼.

Left-Hand Canyon Picnic Ground

T. 1 N., R. 72 W.,
Sec. 10: S½NW¼NW¼, N½SW¼NW¼.

Peak-to-Peak Campground

T. 2 N., R. 72 W.,
Sec. 20: SE¼NW¼.

Peak View Picnic Ground

T. 2 N., R. 72 W.,
Sec. 32: Lot 3.

Muggins Gulch Picnic Ground

T. 4 N., R. 72 W.,
Sec. 12: SW¼SW¼, W½SE¼SW¼.

Lion Gulch Picnic Ground

T. 4 N., R. 72 W.,
Sec. 13: S½NW¼NE¼, SW¼NE¼, W½SE¼NE¼, S½NE¼NW¼, N½SE¼NW¼.

Buckhorn Picnic Ground

T. 7 N., R. 72 W.,
Sec. 15: NE¼ of Lot 5 (in NW¼SW¼), SW¼ of Lot 3 (in SE¼NW¼).

Zimmerman Lake Recreation Area

T. 7 N., R. 76 W.,
Sec. 25: E½SE¼SW¼, S½NW¼SE¼, SW¼SE¼, W½SE¼SE¼.

Big Bend Campground

T. 8 N., R. 75 W.,
Sec. 33: S½NW¼NW¼, SW¼NW¼, W½SE¼NW¼.

Trail Creek Campground

T. 11 N., R. 73 W.,
Sec. 12: NE¼.

Sheep Creek Campground Extension

T. 11 N., R. 74 W.,
Sec. 12: SW¼SE¼, W½SE¼SE¼, S½SE¼SE¼SE¼.

Arapaho National Forest

Idlewild Administrative Site

T. 2 S., R. 75 W., unsurveyed,
Sec. 10: N½, that part described as follows: By metes and bounds, beginning at corner No. 1, which is identical with corner No. 1 of Homestead Entry Survey No. 117 from which the SE corner of Sec. 34, T. 1 S., R. 75 W. bears N. 25°16' E., 99.14 chs. thence S. 14° W., 2.60 chs., to corner No. 2; S. 4°22' E., 11.00 chs., to corner No. 3; S. 19° E., 1.59 chs., to corner No. 4; West, 24.84 chs., to corner No. 5; North, 14.80 chs., to corner No. 6; East,

24.39 chs., to corner No. 1, the place of beginning.

Gilsonite Administrative Site

T. 4 N., R. 78 W.,
Sec. 13: N½ of Lot 1, S½NE¼, N½NW¼SE¼.

Soda Creek Administrative Site

T. 4 S., R. 73 W.,
Sec. 10: SW¼NW¼, NE¼NW¼SW¼.

Indian Peaks Campground

T. 2 S., R. 74 W.,
Sec. 30: Lots 3, 4, N½NE¼SW¼;
Sec. 31: Lot 1.

Empire Administrative Site

T. 3 S., R. 73 W., unsurveyed,
Sec. 25: N½, that part described as follows: By metes and bounds, beginning at corner No. 1 from which the NW corner of Sec. 30, T. 3 S., R. 74 W. bears N. 53° E., 1,390 ft; thence S. 86°30' W., 10.91 chs., to corner No. 2; S. 26° W., 2.43 chs., to corner No. 3; S. 63° W., 14.38 chs., to corner No. 4; South, 9.46 chs., to corner No. 5; N. 75°30' E., 10.30 chs., to corner No. 6; N. 53° E., 13.40 chs., to corner No. 7; N. 70°30' E., 4.30 chs., to corner No. 8; North, 6.74 chs., to corner No. 1, the place of beginning.

New Mexico Principal Meridian

Rio Grande National Forest

Aspen Glade Campground

T. 33 N., R. 6 E.,
Sec. 26: S½NE¼NE¼, SE¼NW¼NE¼.

Big Springs Picnic Ground

T. 44 N., R. 3 E.,
Sec. 18: NE¼NE¼.

Rito Hondo Camp and Picnic Ground

T. 42 N., R. 3 W.,
Sec. 15: SE¼SE¼SW¼;
Sec. 22: E½E½NW¼.

River Springs Administrative Site

T. 33 N., R. 6 E.,
Sec. 25: S½NW¼NE¼, S½NE¼NW¼, N½S½NW¼NW¼;
Sec. 26: Lot 4, NW¼SW¼NE¼, S½SW¼NE¼, S½S½SE¼NE¼.

Alder Administrative Site Addition

T. 40 N., R. 5 E.,
Sec. 22: W½NW¼SW¼.

Geronimo Administrative Site

T. 42 N., R. 5 E.,
Sec. 19: N½SE¼.

LaManga Campground

T. 33 N., R. 5 E.,
Sec. 1: S½SW¼SW¼;
Sec. 12: NW¼NW¼.

North Crestone Campground

T. 44 N., R. 12 E., unsurveyed,
Sec. 31: NE¼SE¼NE¼, S½SE¼NE¼, N½NE¼SE¼;
Sec. 32: SW¼NW¼, N½NW¼SW¼.

Road Canyon Campground

T. 40 N., R. 3 W.,
Sec. 4: SE¼NE¼, N½NE¼SE¼.

Sixth Principal Meridian

Mosca Pass Campground

T. 27 S., R. 72 W.,
Sec. 5: S½S½NE¼, N½N½SE¼.

1,789.01 acres in Boulder, Clear Creek, Conejos, Grand, Hinsdale, Huerfano, Larimer, Rio Grande, and Saguache Counties.

35. C–030420, Public Land Order 2314 of March 29, 1961.

Pike National Forest

Lower Michigan Creek Campground

T. 8 S., R. 75 W.,
Sec. 35: SW¼SW¼.

40 acres in Park County.

36. C–023758, Public Land Order 2390 of May 17, 1961.

San Isabel National Forest

Bigelow Divide Picnic Ground

T. 22 S., R. 69 W.,
Sec. 29: S½SW¼.

St. Charles Peak Administrative Site

T. 23 S., R. 69 W.,
Sec. 28: SE¼NW¼.

Upper Beaver Picnic Ground

T. 23 S., R. 69 W.,
Sec. 29: SW¼SW¼.

Head Waters Picnic Ground

T. 23 S., R. 69 W.,
Sec. 31: NW¼SE¼.

Meadow Divide Picnic Ground

T. 24 S., R. 69 W.,
Sec. 5: SW¼SW¼.

Lower Oak Creek Picnic Ground

T. 20 S., R. 70 W.,
Sec. 8: SE¼SE¼;
Sec. 9: SW¼SW¼SW¼;
Sec. 16: NW¼NW¼NW¼;
Sec. 17: N½NE¼NE¼.

Orr Picnic Ground

T. 20 S., R. 70 W.,
Sec. 19: NE¼NE¼.

Ophir Creek Administrative Site

T. 23 S., R. 70 W.,
Sec. 24: N½SW¼.

Horn Creek Recreation Area

T. 23 S., R. 73 W.,
Sec. 21: E½SW¼NE¼, W½SE¼NE¼, NW¼SE¼, W½NE¼SE¼, E½NE¼SW¼, SE¼SW¼, W½SW¼SE¼.

Macey Creek Rrecreation Area

T. 23 S., R. 73 W.,
Sec. 27: S½SW¼NW¼, SE¼NW¼, W½SW¼NE¼, N½NW¼SW¼, SW¼NW¼SW¼;
Sec. 28: NE¼SE¼, N½SE¼SE¼.

790 acres in Custer and Fremont Counties.

37. C–033334, Public Land Order 2553 of December 11, 1961.

Arapaho National Forest

Trestle Campground

T. 2 S., R. 74 W., unsurveyed,
A tract of land in approximately the SW¼ of Sec. 5: beginning at corner No. 1 from which the southeast corner of Sec. 36, T. 1S., R. 75 W., 6th P.M., Colorado, bears N. 55° W., 70 chains.
From corner No. 1, by metes and bounds,
East, 32 chains;
South, 20 chains;
West, 32 chains;
North, 20 chains, to point of beginning.

Strawberry Campground

T. 2 N., R. 75 W.,
Sec. 32: Lots 5, 6, SW¼SE¼.

Ruby Campground

T. 7 S., R. 78 W.,
Sec. 25: S½SE¼ (except patented land);
Sec. 36: N½NE¼ (except patented land).

San Isabel National Forest

Bassam Park Organization Camp

T. 15 S., R. 77 W.,
Sec. 24: NW¼NW¼, W½NE¼NW¼, NW¼SE¼NW¼, N½SW¼NW¼.

342.62 acres in Chaffee, Grand, and Summit Counties.

38. C–048874, Public Land Order 2558 of December 11, 1961.

Roosevelt National Forest

Caribou Picnic Ground

T. 1 S., R. 73 W.,
Sec. 5: Lots 44, 45.

Todd Gulch Campground

T. 1 N., R. 72 W.,
Sec. 17: SE¼NW¼, N½NE¼SW¼.

Meadow Campground

T. 1 N., R. 72 W.,
Sec. 18: NW¼SE¼.

Gordon Gulch Campground

T. 1 N., R. 72 W.,
Sec. 31: Lots 1, 2, W½E½NW¼.

Ward Picnic Ground

T. 1 N., R. 73 W.,
Sec. 13: S½N½NE¼.

Park Creek Recreation Area

T. 2 N., R. 73 W.,
Sec. 13: SW¼NE¼.

Manhattan Recreation Area

T. 9 N., R. 73 W.,
Sec. 17: S½N½SE¼SW¼, S½SE¼SW¼;
Sec. 20: NW¼NE¼, N½SW¼NE¼, NE¼NW¼, N½SE¼NW¼.

Sheep Creek Fish Habitat Study Area

T. 11 N., R. 74 W.,
Sec. 2: Lot 17, S½ Lot 18.

Grace Creek Campground

T. 11 N., R. 77 W.
Sec. 21: S½N½NW¼, N½S½ NW¼.

New Mexico Principal Meridian

Rio Grande National Forest

Platora Picnic and Campground

T. 36 N., R. 4 E.,
Sec. 14: S½SW¼SW¼;
Sec. 15: S½SE¼SE¼, SE¼SW¼SE¼;
Sec. 22: NE¼NW¼NE¼, N½NE¼NE¼, SE¼NE¼NE¼;
Sec. 23: NW¼NW¼.

Adams Fork Campground

T. 36 N., R. 4 E.,
Sec. 31: Lot 1.

Conejos Falls Campground

T. 35 N., R. 3 E.,
Sec. 16: S½SE¼SW¼, S½SW¼SE¼, SE¼SW¼SW¼;
Sec. 21: N½NW¼NE¼, N½NE¼NW¼, NE¼NW¼NW¼.

Fisher Gulch Organization Camp

T. 36 N., R. 4½ E.,
Sec. 23: SE¼SE¼SE¼;
Sec. 24: SW¼SW¼SW¼;
Sec. 25: SW¼NW¼NE¼, W½NW¼, S½SW¼NE¼, S½NE¼NW¼, N½NE¼SW¼, SE¼NW¼, N½NW¼SE¼, NW¼SW¼NE¼;
Sec. 36: Lot 2, N½ Lot 3, E½NE¼, N½NE¼SE¼.

Haskell Rincon Campground

T. 36 N., R. 3 E.,
Sec. 27: SW¼SE¼, SW¼SE¼SE¼;
Sec. 34: N½NE¼, N½SW¼NE¼, N½SE¼NE¼;
Sec. 35: NW¼SW¼NW¼.

Middle Forks Meadow Campground

T. 35 N., R. 3 E.,
Sec. 15: S½SW¼SW¼, S½SE¼SW¼;
Sec. 22: N½NW¼NW¼, NW¼NE¼ NW¼.

Rock Lake Campground

T. 36 N., R. 4 E.,
Sec. 36: SE¼SW¼.

Saddle Creek Campground

T. 35 N., R. 4½ E.,
Sec. 11: S½NE¼, N½NW¼SE¼, NW¼NE¼SE¼.

Telluride Mountain Picnic Ground

T. 36 N., R. 4 E.,
Sec. 15: S½SW¼NE¼, NW¼SW¼NE¼, SE¼NW¼, N½NE¼SE¼, N½NW¼ SE¼, SW¼NW¼SE¼.

Three Forks Campground

T. 35 N., R. 3 E., unsurveyed,
Sec. 14: S½NW¼NE¼, S½NE¼NW¼, S½NW¼NW¼, N½SW¼NW¼, SE¼NW¼, N½SW¼NE¼.

McEntyre Campground

T. 35 N., R. 4½ E.,
Sec. 1: Lot 6, Lot 11, W½ Lot 14, W½ Lot 19;
Sec. 2: Lot 13.

2,132.83 acres in Boulder, Conejos, and Larimer Counties.

Sixth Principal Meridian

39. C–048805, Public Land Order 2589 of January 15, 1962.

Routt National Forest

Lower Bear River Recreation Area

T. 1 N., R. 86 W.,
Sec. 1: S½SE¼NE¼, N½NE¼SE¼, SW¼NE¼SE¼ (N½ & SW¼ of Lot 17), NE¼NW¼SE¼, S½NW¼SE¼, N½SW¼SE¼, NE¼SE¼SW¼, S½SE¼SW¼;
Sec. 11: E½SE¼NE¼, SW¼SE¼NE¼, N½NE¼SE¼, SW¼NE¼SE¼, E½NW¼SE¼, SW¼NW¼SE¼, N½SW¼SE¼, SW¼SW¼SE¼, S½SE¼SW¼;
Sec. 12: W½NE¼NW¼, E½NW¼NW¼, SW¼NW¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼;
Sec. 14: N½NE¼NW¼, SW¼NE¼NW¼, NW¼NW¼.

Coal Creek Recreation Area

T. 1 N., R. 86 W.,
Sec. 4: SW¼SW¼SW¼;
Sec. 9: N½NW¼NW¼.

Upper Mandall Recreation Areas

T. 1 N., R. 87 W., unsurveyed,
Sec. 11: S½SE¼NE¼, E½SE¼, S½SW¼SE¼;
Sec. 12: SW¼SW¼NW¼, NW¼NW¼SW¼, S½NW¼SW¼, SW¼SW¼.

Lower Mandall Recreation Area

T. 1 N., R. 87 W., unsurveyed,
Sec. 13: NW¼NW¼, SW¼NE¼NW¼, S½NW¼, N½SW¼, N½S½SW¼, SW¼SW¼NE¼, W½NW¼SE¼, SE¼NW¼SE¼, SW¼NE¼SE¼, NW¼SE¼SE¼, E½SE¼SE¼;
Sec. 14: E½NE¼, E½W½NE¼, NW¼NW¼NE¼, NE¼SE¼, E½NW¼SE¼.

Smith Lake Recreation Area

T. 1 N., R. 87 W., unsurveyed,
Sec. 23: SE¼NE¼, E½SW¼NE¼, N½NE¼SE¼, NE¼NW¼SE¼.

Causeway Recreation Area

T. 1 N., R. 87 W., partly unsurveyed,
Sec. 22: S½SW¼SE¼, SE¼SE¼SW¼;
Sec. 27: E½W½NE¼, W½NW¼NE¼, NW¼SW¼NE¼, NE¼NW¼SE¼, NE¼NE¼NW¼.

Rainbow Lake Recreation Area

T. 1 N., R. 87 W., partly unsurveyed,
Sec. 27: S½NE¼SE¼, SE¼NW¼SE¼, S½SE¼, SE¼SW¼, S½SW¼SW¼;
Sec. 28: E½SE¼;
Sec. 33: NE¼NE¼, SE¼NW¼NE¼, N½SE¼NE¼, SE¼SE¼NE¼, NE¼SW¼NE¼;
Sec. 34: N½N½NE¼, SW¼NW¼NE¼, NW¼.

Mosquito Lake Recreation Area

T. 1 N., R. 87 W., unsurveyed,
Sec. 33: E½E½SE¼;
Sec. 34: N½NE¼SW¼, SW¼NE¼SW¼, W½SW¼.
T. 1 S., R. 87 W., unsurveyed,
Sec. 4: W½E½NE¼, E½SW¼NE¼, NW¼NE¼SE¼, E½W½SE¼.

2,190 acres in Garfield and Routt Counties.

40. C–046749, Public Land Order 2624 of March 9, 1962.

Lost Lake Recreation Area

T. 6 N., R. 82 W.,
Sec. 30: Lot 4;
Sec. 31: Lot 1.
T. 6 N., R. 83 W., unsurveyed, in approximate,
Secs. 25 and 36;
Beginning at corner No. 1, the west ¼ corner of Sec. 31, T. 6 N., R. 82 W. From corner No. 1 by metes and bounds, West, 20 chains; North, 30 chains; West, 20 chains; North, 30 chains; East, 40 chains; South, 60 chains, to point of beginning.

Lake Percy Recreation Area

T. 6 N., R. 83 W., unsurveyed, in approximate,
Sec. 24;
Beginning at corner No. 1, the west ¼ corner of Sec. 19, T. 6 N., R. 82 W. From corner No. 1, by metes and bounds, West, 40 chains; North, 30 chains; East, 40 chains; South, 30 chains to point of beginning.

Lake Dinosaur Recreation Area

T. 6 N., R. 83 W., unsurveyed, in approximate,
Sec. 10;
Beginning at corner No. 1, from which the southwest corner of Sec. 7, T. 6 N., R. 82 W., bears east, 180 chains. From corner No. 1 by metes and bounds, West, 40 chains; North, 40 chains; East, 20 chains; North, 16 chains; East, 40 chains; South, 16 chains; West, 20 chains; South, 40 chains to point of beginning.

Lake Martha Recreation Area

T. 7 N., R. 83 W., unsurveyed,
Beginning at corner No. 1, from which the southwest corner of Sec. 30, T. 7 N., R. 82 W., bears east 70 chains. From corner No. 1 by metes and bounds, West, 80 chains; North, 100 chains; East, 80 chains; South, 100 chains to point of beginning. The tract does not include the 40.0 acre Summit Lake Recreation Area withdrawn on January 14, 1957 under Public Land Order 1381 (Colorado 013628).

New Mexico Principal Meridian

Uncompahgre National Forest

Sanborn Park Administrative Site

T. 45 N., R. 12 W.,
Sec. 4: Lot 2.
T. 46 N., R. 12 W.,
Sec. 33: S½SW¼SE¼.

1,319.87 acres in Jackson, Montrose, and Routt Counties.

Sixth Principal Meridian

41. C–043548, Public Land Order 2625 of March 9, 1962.

Grand Mesa National Forest

Aspen Cove Campground

T. 11 S., R. 90 W.,

Sec. 36: SE¼SW¼NW¼, S½SE¼NW¼, NW¼NE¼SW¼.

Griffith Lake Campground

T. 11 S., R. 96 W.,
Sec. 25: Lot 4, S½NE¼SW¼, SE¼SW¼, S½NW¼SE¼, SW¼SE¼.

High Picnic Ground

T. 11 S., R. 95 W.,
Sec. 30: Lot 8, W½SE¼SW¼;
Sec. 31: Lot 5, NW¼NE¼NW¼.

Lost Lake Back Area Development

T. 12 S., R. 96 W.,
Sec. 2: NW¼NE¼SW¼, NE¼NW¼SW¼.

Mesa Creek Winter Sports Area

T. 11 S., R. 96 W.,
Sec. 27: SW¼NW¼NE¼, W½SW¼NE¼, S½NE¼NW¼, E½SW¼NW¼, SE¼NW¼, NE¼SW¼, NW¼SW¼, N½SW¼SW¼, N½SE¼SW¼, W½NW¼SE¼, NW¼SW¼SE¼.

South Mesa Back Area Development

T. 11 S., R. 96 W.,
Sec. 35: Lot 2.

Skyway Point Overlook and Picnic Ground

T. 11 S., R. 96 W.,
Sec. 36: S½NE¼SW¼.

Waterdog Lake Campground

T. 11 S., R. 96 W.,
Sec. 28: SE¼SW¼.

Reed Reservoir Campground

T. 12 S., R. 94 W.,
Sec. 6: Lot 19;
Sec. 7: Lot 7.

White Deer Park Campground

T. 11 S., R. 94 W.,
Sec. 26: E½SW¼NE¼, W½SE¼NE¼.

Deep Slough Campground

T. 12 S., R. 95 W.,
Sec. 3: SW¼NE¼SE¼, SE¼NW¼SE¼, E½SW¼SE¼, SE¼SE¼;
Sec. 10: NE¼NE¼NE¼, W½NE¼NE¼, E½NW¼NE¼.

Land's End Picnic Ground

T. 12 S., R. 97 W.,
Sec. 10: S½SE¼NW¼.

912.52 acres in Delta and Mesa Counties.

New Mexico Principal Meridian

42. C–071589, Public Land Order 2732 of July 19, 1962.

Rio Grande National Forest

Buffalo Pass Campground

T. 45 N., R. 4 E.,
Sec. 3: Lots 2, 3, SW¼NE¼, W½SE¼NE¼, E½SE¼NW¼, N½NW¼SE¼.

Milk Cow Pass Campground

T. 42 N., R. 4 E.,
Sec. 29: NW¼SE¼.

Wannamaker Campground

T. 43 N., R. 3 E.,
Sec. 31: Lots 1, 2, W½NE¼NW¼.

327.45 acres in Saguache County.

Sixth Principal Meridian

43. C–066553, Public Land Order 2783 of October 10, 1962.

Pike National Forest

Eagle Rock Picnic Ground

T. 15 S., R. 68 W.,
Sec. 22: W½NW¼NE¼, NE¼NE¼NW¼.

30 acres in Teller County.

44. C–071590, Public Land Order 2785 of October 15, 1962.

White River National Forest

Gore Creek Ranger Station and Administrative Site

T. 5 S., R. 80 W.,
Sec. 5: SW¼SW¼.

40 acres in Eagle County.

New Mexico Principal Meridian

45. C–078071, Public Land Order 2922 of January 30, 1963.

San Juan National Forest

Barlow Creek Campground

T. 41 N., R. 10 W.,
Sec. 33: SW¼, N½SE¼.

Cushman Gulch Campground

T. 38 N., R. 12 W.,
Sec. 2: Lot 4, SW¼NW¼.

Goose Neck Picnic Ground

T. 38 N., R. 3 W.,
Sec. 17: E½SW¼, E½SW¼SW¼;
Sec. 20: E½NW¼, NE¼NW¼NW¼.

Groundhog Campground

T. 41 N., R. 12 W.,
Sec. 19: Lot 4, SE¼SW¼;
Sec. 30: Lots 1, 2, E½NW¼.

Scotch Creek Campground

T. 39 N., R. 11 W.,
Sec. 11: SE¼SW¼, SW¼SE¼;
Sec. 14: NW¼NE¼, NE¼NW¼.

915.89 acres in Dolores and Montezuma Counties.

Sixth Principal Meridian

46. C–071591, Public Land Order 2976 of March 18, 1963.

Gunnison National Forest

High Point Recreation Area

T. 14 S., R. 82 W.,
Sec. 9: E½;
Sec. 16: E½.

Willow Creek Recreation Area

T. 14 S., R. 82 W.,
Sec. 21: SE¼SE¼SE¼, W½SE¼SE¼, SW¼SE¼;
Sec. 22: SW¼SW¼SW¼.

New Mexico Principal Meridian

Gunnison National Forest

Soap Creek Administrative Site

T. 49 N., R. 4 W.,
Sec. 8: S½SW¼NE¼, N½NW¼SE¼.

760 acres in Gunnison County.

47. C–066611, Public Land Order 3051 of April 29, 1963.

San Juan National Forest

Berri Park Campground

T. 37 N., R. 6 W.,
Tract 38: SE¼;
Sec. 15: Lots 7, 8;
Sec. 16: Lots 5, 6.

325.58 acres in Montezuma County.

Sixth Principal Meridian

48. C–066554, Public Land Order 3092 of May 22, 1963.

Roosevelt National Forest

Mt. Meeker Campground Extension #2

T. 3 N., R. 73 W.,
Sec. 11: N½SW¼SW¼.

Limber Pines Campground

T. 7 N., R. 73 W.,
Sec. 18: NE¼NE¼.

Aspen Vail Campground

T. 8 N., R. 75 W.,
Sec. 33: NW¼SW¼.

Waconda Meadows Campground

T. 10 N., R. 73 W.,
Sec. 35: N½S½SE¼.

Ironclad Mountain Campground

T. 2 N., R. 72 W.,
Sec. 5: NW¼SE¼, S½SW¼NE¼, E½NE¼SW¼.

San Isabel National Forest

Trout Creek Pass Campground

T. 13 S., R. 77 W.,
Sec. 23: E½NE¼NW¼.

New Mexico Principal Meridian

San Isabel National Forest

Fooses Creek Campground

T. 49 N., R. 6 E.,
Sec. 2: S½NW¼SE¼, N½SW¼SE¼.

Boss Lake Back Area Camp

T. 50 N., R. 6 E.,
Sec. 29: Lots 7, 8, 9, 10.

Hunt's Lake Back Area Camp

T. 50 N., R. 6 E.,
Sec. 30: S½NE¼SE¼, N½SE¼SE¼.

Grizzly Lake Back Area Camp

T. 51 N., R. 6 E.,
Sec. 17: Lot 14;
Sec. 20: NW¼NW¼, W½NE¼NW¼, E½SW¼NW¼, W½SE¼NW¼.

Lower Pomroy Lake Back Area Camp

T. 51 N., R. 6 E.,
Sec. 30: N½, Lots 9, 10, 13, 15 (Duplication: Lots 9, 10 fall in N½).

730.09 acres in Boulder, Chaffee, and Larimer Counties.

Sixth Principal Meridian

49. C–0101298, Public Land Order 3143 of July 30, 1963,

Routt National Forest

Transfer Campground

T. 2 N., R. 88 W., unsurveyed,
Sec. 23: NE¼SE¼.

Heart Lake Recreation Area

T. 2 N., R. 86 W.,
Sec. 28: W½SE¼, SW¼NE¼SE¼, NW¼SE¼SE¼, NE¼SE¼SW¼, SE¼NE¼SW¼.

Rabbit Ears Lake Recreation Area Addition

T. 5 N., R. 82 W.,
Sec. 8: SE¼, N½NE¼SW¼.

Adams Park Recreation Area

T. 10 N., R. 87 W.,
Sec. 21: NE¼.

Sheriff Reservoir Recreation Area

T. 2 N., R. 87 W., unsurveyed,
Sec. 10: SE¼SE¼SE¼;
Sec. 11: SW¼SW¼SW¼;
Sec. 14: W½W½NW¼;
Sec. 15: E½E½NE¼.

West Fork Lake Recreation Area Addition

T. 11 N., R. 84 W.,
Sec. 13: W½NW¼SW¼;
Sec. 14: NE¼SE¼.

Beaver Creek Campground

T. 11 N., R. 82 W.,
Sec. 5: E½SW¼NW¼, SE¼NW¼, SW¼NE¼, W½SE¼NE¼.

Long Lake Recreation Area Addition

T. 6 N., R. 83 W., unsurveyed. In approximate Secs. 22 and 23 by metes and bounds, beginning at a point 10 chains north of the northwest corner of the Long Lake Recreation Area withdrawn under Public Land Order 1381, thence: 60 chains East, 45 chains South, 70 chains West, 45 chains North, 10 chains East to the point of beginning.

Round Lake Recreation Area Addition

T. 6 N., R. 83 W., unsurveyed. In approximate Sec. 24 by metes and bounds, beginning at the northwest corner of the Round Lake-Lake Percy Recreation Area withdrawn under Public Land Order 1381, thence: West, 10 chains, South 35 chains, East 10 chains to the southwest corner of the Round Lake-Lake Percy Recreation Area, North, 35 chains to the point of beginning.

Lake Elmo Recreation Area Addition

T. 6 N., R. 83 W., unsurveyed. In approximate Secs. 24 and 25 by metes and bounds, beginning at a point which is 35 chains south of the west quarter corner of Sec. 19, T. 6 N., R. 82 W., thence: South 65 chains along the range line to the northeast corner of the Lost Lake Recreation Area withdrawal under Public Land Order 2624, thence: West, 60 chains, North, 65 chains to the southwest corner of the Round Lake Recreation Area Addition withdrawal, East, 60 chains to the point of beginning, excluding, however, from this withdrawal the Lake Elmo Recreation Area withdrawal under Public Land Order 1381.

1,232.50 acres in Grand, Jackson, Rio Blanco and Routt Counties.

50. C–099612, Public Land Order 3149 of July 30, 1963.

Pike National Forest

Michigan Creek Campground

T. 7 S., R. 76 W.,
Sec. 27: S½NW¼NW¼, SW¼NW¼;
Sec. 28: NE¼NE¼, N½SE¼NE¼.

New Mexico Principal Meridian

San Isabel National Forest

Hermit Spring Roadside Rest Area

T. 50 N., R. 6 E.,
Sec. 25: S½SW¼SW¼.

Sixth Principal Meridian

Trout Creek Pass Picnic Area

T. 13 S., R. 77 W.,
Sec. 22: NE¼NE¼, E½SE¼NE¼;
Sec. 23: NW¼NW¼, SW¼NW¼.

280 acres in Chaffee and Park Counties.

New Mexico Principal Meridian

51. C–0125415, Public Land Order 3769 of August 10, 1965.

San Juan National Forest

Crater Creek Campground

Tps. 39 N., and 40 N., R. 8 W., unsurveyed. By metes and bounds, beginning at the junction of Lime Creek and Crater Creek, from the initial point: West, 10 chains; South, 100 chains; East, 20 chains; North, 40 chains; East, 20 chains; North, 40 chains; West, 20 chains; North, 20 chains; West, 10 chains to the place of beginning.

280 acres in San Juan County.

52. C–0123127, Public Land Order 4579 of January 17, 1969.

San Juan National Forest

Blanco Picnic Ground

T. 34 N., R. 1 W.,
Sec. 35: NE¼SW¼.

Blanco River Campground

T. 34 N., R. 1 E.,
Sec. 31: Lots 2, 3.
T. 34 N., R. 1 W.,
Sec. 36: SE¼NE¼, NE¼SE¼.

Niger Draw Campground

T. 38 N., R. 12 W.,
Sec. 4: S½SE¼, NE¼SE¼;
Sec. 9: NW¼NE¼.

Sixth Principal Meridian

Gunnison National Forest

Mysterious Lake Campground

T. 13 S., R. 83 W.,
Sec. 17: W½NE¼NW¼, NW¼NW¼, SW¼NW¼, W½SE¼NW¼, NW¼NE¼SW¼, N½NW¼SW¼.

488.80 acres in Archuleta, Gunnison, and Montezuma Counties.

53. C–1308, Public Land Order 4928 of October 20, 1970.

Gunnison National Forest

Castleview Campground

T. 15 S., R. 87 W., unsurveyed,
Sec. 8: SW¼NE¼NW¼, S½NW¼NW¼, N½SW¼NW¼, NW¼SE¼NW¼.

Costo Lake Black Area Camp

T. 15 S., R. 88 W., unsurveyed,
Sec. 12: E½SW¼SE¼, SW¼SE¼SE¼.

90 acres in Gunnison County.

54. C–2486, Public Land Order 5107 of August 6, 1971.

Routt National Forest

Causeway Lake Recreation Area

T. 1 N., R. 87 W., unsurveyed, Protraction Diagram No. 3, In approximate Sec. 20 by metes and bounds, beginning at the outlet of Causeway Lake thence east a distance of 6½ chains, thence south 20 chains, east 10 chains, south 5 chains, east 5 chains, south 10 chains, west 35 chains, north 10 chains, west 5 chains, north 15 chains, east 10 chains, north 10 chains, east 8½ chains to the outlet of Causeway Lake, the point of beginning.

Crosho Lake Recreation Area-Addition

T. 2 N., R. 86 W.,
Sec. 4: South 5 chains of west 10 chains of Lot 9, W½SW¼NW¼, W½E½ SW¼NW¼;
Sec. 5: S½SE¼NE¼NE¼, E½SE¼NE¼.

Chapman Reservoir

T. 3 N., R. 86 W.,
Sec. 31: West 10 chains of Lot 14, east 10 chains, south 5 chains of west 10 chains of Lot 15, north 15 chains of west 15 chains of Lot 16.

Medicine Tree Campground

T. 3 N., R. 87 W.,
Sec. 36: Lot 8, south 10 chains of Lot 5.

Parkview Campground-Addition

T. 5 N., R. 78 W.,
Sec. 23: W½SE¼SE¼.

Spruce Divide Campground

T. 1 N., R. 83 W.,
Sec. 4: South 10 chains of Lot 2, the south 10 chains of east 5 chains of Lot 3, E½NE¼SE¼NW¼, SW¼NE¼, W½W½SE¼NE¼.

Rabbit Ears Lake Recreation Area-Addition

T. 5 N., R. 82 W.,
Sec. 7: SE¼SE¼SE¼NE¼, E½NE¼ NE¼SE¼;
Sec. 8: S½S½SW¼NW¼.

Divide Campground

T. 5 N., R. 82 W.,
Sec. 17: SW¼NE¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, W½SE¼SE¼, exclusive of 600-foot roadside zone withdrawal, PLO 3060.

Highway Campground

T. 5 N., R. 83 W., unsurveyed, Protraction Diagram No. 28,

Sec. 32: The west 15 chains of the NW¼ exclusive of 600-foot roadside zone withdrawal, PLO 3069.

Fishhook Lake Recreation Area-Addition

T. 6 N., R. 83 W., unsurveyed, Protraction Diagram No. 2B,
Sec. 36: E½E½SE¼SE¼.

Buffalo Pass Roadside Rest

T. 7 N., R. 84 W.,
Sec. 36: S½SW¼NW¼NW¼, NW¼SW¼NW¼.

Elk River Recreation Area-Addition

T. 9 N., R. 84 W.,
Sec. 17: Lot 9, north 10 chains of Lot 8;
Sec. 18: Lot 15.

Adams Creek Campground

T. 10 N., R. 87 W.,
Sec. 15: S½SW¼NE¼, N½N½NW¼SE¼.

Upper Solomon Campground

T. 11 N., R. 85 W.,
Sec. 26: S½SE¼NW¼, N½NE¼SW¼.

531.20 acres in Garfield, Jackson, Rio Blanco, and Routt Counties.

55. C–1329, Public Land Order 5121 of September 10, 1971.

Pike National Forest

Halfway Valley Campground

T. 12 S., R. 72 W.,
Sec. 33, N½SE¼NW¼, S½NE¼NW¼, S½NW¼NE¼, NW¼SW¼NE¼.

Puma Hills Campground

T. 13 S., R. 72 W.,
Sec. 7, lots 7, 8, 9, 10, 15, 16, 17.

Michigan Lake Campground

T. 7 S., R. 78 W.,
Sec. 7, NE¼SE¼SE¼.

Water Gap Campground

T. 8 S., R. 77 W.,
Sec. 13, The north 10 chains of lot 9.

369.08 acres in Park County.

The areas described contain 29,972.39 acres.

2. At 7:45 a.m. on March 16, 1982 the lands described above shall be open to location and entry under the U.S. mining laws and to such other forms of disposition as may by law be made of national forest lands, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Colorado State Office, 2000 Arapahoe Street, Denver, Colorado 80205.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 10, 1982.

[FR Doc. 82–4532 Filed 2–16–82; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6251]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or March 20, 1982, whichever is later.

FOR FURTHER INFORMATION CONTACT: Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six month period shall be considered to begin March 22, 1982, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin March 22, 1982, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community. This rule imposes no new requirements or regulations on participating communities.

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

State	Ident. No.	Community and county name	Panels printed (# and suffix)	Inland/ coastal	Hazard	50.3 Code	Program status	Status of FHBM	Status of Firm	Previous map dates FHBM	Previous map dates Firm	Revision code(s)	Rescission	Floodways panels printed	Location of map repository
Effective date: February 2, 1982															
ND	380234	Township of Kenmare (Ward Co.).	0001A	I	FL	B	4	2	1	NA	NA	NA	NA	NA	Mr. James Schoemer, Chairman, Kenmare TWP Supervisors, Route 1, Kenmare, ND 58746.
ND	380324	City of Belle's Acres (Cass Co.).	0001A	I	FL	B	1	2	1	NA	NA	NA	NA	NA	Mayor David McDougall, Post Office Box 2612, Fargo, ND 58108
Effective date: February 5, 1982															
MI	260097	City of Ionia (Ionia Co.).	0001B	I	FL	B	1	3	1	6/7/74 6/4/76	NA	9 10 16	NA	NA	Fred Thwaites, Mayor, 114 N. Kidd St., Ionia, MI 48846, 616-527-4170.
MI	260206	City of Three Rivers (St. Joseph Co.).	0001B	I	FL	B	1	3	1	6/28/74 7/2/76	NA	9 10 16	NA	NA	Gary Word, City Manager, 333 W. Michigan Ave., Three Rivers, MI 49093 616-273-1075.
OH	390191	Village of Chardon (Geauga Co.).	0001B	I	FL	B	1	3	1	1/9/74 5/21/76	NA	10	NA	NA	Dan Anslinger, Jr., Village Manager, 108 S. Hambden St., Chardon, OH 44024, 216-285-3525.
PA	421285	Township of Fawn (Allegheny Co.).	0001A	I	FL	A	1	3	1	11/29/74	NA	9 10 16	NA	NA	Allen Kennedy, Chairman, TWP Bd. of Supervisors, Route 2, Box 385C, Tarentum, PA 15084, 412-266-0566.
VA	510081	Town of Smithfield (Isle of Wight Co.).	0001B	I	FL	B	1	3	1	6/21/74 5/21/76	NA	9 10 16	NA	NA	R. L. Thompson, Mayor, P.O. Box 404, Smithfield, VA 23430.
VA	510157	Surry County (Uninc. areas).	0001A thru 0007A.	I	FL	B	1	3	1	12/6/74	NA	9 10 16	NA	NA	M. Sherlock Homes, Chairman, County Bd. of Supervisors, Surry County Courthouse, P.O. Box 65, Surry, VA 23883 (804-294-3137).
WI	550384	City of New Richmond (St. Croix Co.).	0001B	I	FL	B	1	3	1	12/28/73 5/28/76	NA	9 10 16	NA	NA	Gerald Frey, Mayor 156 E. First St., New Richmond, WI 54017, 715-246-4268
Effective date: February 9, 1982															
CA	065048	City of Oakland (Alameda Co.).	0001A 0002A 0003A 0005A 0006A	C	FL	B	4	3	1	1/3/75	NA	8 9	NA	NA	Lionel J. Wilson, Mayor 14th & Washington Sts, Oakland, CA 94612 (415-444-2489).
MT	300145	Broadwater County Index—0005A, 0006A, 0008A, 0009A, 0012A, 0014A, 0015A, 0016A.		I	FL	B	4	2	1	NA	NA	NA	NA	NA	William E. Duede, County Commissioner, Broadwater Co. Courthouse, Townsend, MT 59644 (406-266-3443).
Effective date: February 12, 1982															
WV	540009	Braxton County (unincorporated areas).	0001A thru 0006A.	I	FL	B	1	3	1	1/24/75	NA	9 10 16	NA	NA	Ledra Argabrite, President, County Commissioners, Braxton Co. Courthouse Box 486, Sutton, WV 26601 (204-765-2661).
WI	550480	Village of Dousman (Waukesha Co.).	0001B	I	FL	B	1	3	1	5/6/74 6/11/76	NA	9 10 16	NA	NA	Village President, Kathleen Ahrens, P.O. Box 325, Dousman, WI 53118.
WI	550300	Village of Suring (Oconto Co.).	0001B	I	FL	B	1	3	1	5/3/74 6/4/76	NA	9 10 16	NA	NA	O.J. Kane, Village President, Suring, WI 54174, 414-842-2333.
Effective date: February 16, 1982															
ID	160035	City of Fairfield (Camas Co.).	0001B	I	FL	B	1	3	1	9/13/77	NA	9 10	NA	NA	Russell Hollenback, Mayor, P.O. Box 326, Fairfield, ID 83327 (208-764-2251).
MT	300047	City of White Sulphur (Meagher Co.).	0001B	I	FL	B	4	3	1	1/16/76	NA	8 9	NA	NA	Elmer Schye, Mayor, P.O. Box 442, White Sulpher Springs, MT, 59645 (406-547-3911).
Effective date: February 19, 1982															
WV	540040	Greenbrier County (unincorporated areas).	0001A thru 0016A.	I	FL	B	1	3	1	7/18/75	NA	9 10 16	NA	NA	W. W. McClung, President, County Commissioners, Greenbrier Co. Courthouse, Lewisburg, WV 24901 (304-645-2773).

State	Identif. No.	Community and county name	Panels printed (# and suffix)	Inland/ coastal	Hazard	Bill 3 Code	Program status	Status of FHBM	Status of Firm	Previous map dates FHBM	Previous map dates Firm	Revision code(s)	Rescission	Floodways panels printed	Location of map repository
WV	550428	Village of Kohler (Sheboygan Co.).	0001B	I	FL	B	1	3	1	2/1/74 4/23/76	NA	10	NA	NA	Wesley L. Prangle, Vil. President, 119 Kohler Memorial Dr., Kohler, WI 53044 (414–459–3873).
TX	480578	Real County uninc. areas Index—0025A, 0050A, 0075A, 0100A, 0125A, 0150A, 0175A, 0200A, 0225A, 0250A, 0275A.		I	FL	B	1	2	1	NA	NA	NA	NA	NA	G. W. Twilligear, Mayor, Box M, Leakey, Texas 78873.
TX	481217	Edwards County (Index) 0025A, 0050A, 0075A, 0100A, 0125A, 0150A, 0175A, 0200A, 0225A, 0250A, 0275A, 0300A, 0325A, 0350A, 0375A, 0400A, 0425A, 0450A, 0475A, 0500A, 0525A, 0550A,.		I	FL	B	1	2	1	NA	NA	NA	NA	NA	F. L. Bobby Fred, Mayor Edwards County Courthouse, P.O. Box 348, Rock Springs, TX 78880.
ND	340497	Township of Independence (Warren Co.).	0005B 0010B	I	FL	B	1	2	1	7/26/74 5/21/76	NA	3 2	NA	NA	C. Joe Cook, Municipal Building, Regina Lane, Great Meadows, NJ 07838.
Effective date: February 23, 1982															
ND	380049	City of Kenmare (Ward County).	0001A	I	FL	B	1	2	1	NA	NA	12 20	NA	NA	Lester Hansen, Mayor P.O. Box 816, Kenmare, ND 58746, 701–385–4252.
Effective date: February 26, 1982															
TX	481150	San Augustine County (Index) 0025A, 0050A, 0075A, 0100A, 0125A, 0150A, 0175A, 0200A, 0225A.		I	FL	B	1	2	1	NA	NA	NA	NA	NA	Judge Wyatt C. Teel, San Augustine County, County Courthouse—1, 104 Courthouse, San Augustine, TX 75972.
WV	540283	Pocahontas County (unincorporated areas).	0001A thru 0014A	I	FL	B	1	3	1	1/24/75	NA	2 10 10	NA	NA	Walt Helwick, County Commissioner, 900 10th Avenue, Marlington, WV 24954, 304–799–4548.
WI	550490	Village of Sussex (Waukesha Co.).	0001B	I	FL	B	1	3	1	4/12/74 8/6/76	NA	8 16 16	NA	NA	John Tews, Village President, N. 63 W. 23626 Silver Spring Drive, Sussex, WI 53089, 414–246–5044.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 4, 1982.

Lee Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-4303 Filed 2-18-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302 and 303

Collection of Past-Due Support From Federal Tax Refunds

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: These regulations implement section 2331 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. Section 2331 amplifies statutory authority for collection of past-due support from Federal tax refunds by making such collection a State plan requirement of the Child Support Enforcement program. Under section 2331, only AFDC cases are eligible for referral to the IRS for collection by tax refund offset. Amounts that may be referred to the IRS under this section are past-due support obligations set by administrative or court order and amounts reflecting support owed on behalf of a child or a child and a spouse (or former spouse) living with the child. Child support agencies must reimburse the IRS for the cost of applying the offset procedure.

DATE: These regulations are effective on publication; however, consideration will be given to comments received by April 20, 1982.

ADDRESSES: Address comments to: Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. in the Department's office at the address above.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Effective October 1, 1981, section 2331 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, provides for collection of past-due child and spousal support from Federal tax refunds. This section provides separate statutory authority and contains specific procedures for tax refund offset that are distinct from the full IRS collection process authorized by section 452(b) of the Social Security Act (the Act).

Under the IRS full collection process, States may request the IRS to collect delinquent support using any means the IRS has at its disposal, such as garnishment, attachment and sale of property, or Federal tax refund offset. To initiate the IRS full collection process, States must provide detailed information identifying the case and describing the prior actions taken by the State to enforce the obligation, the reasons why these actions failed, and the reasons why further actions by the State would be unproductive. (See 45 CFR 302.71 for regulations governing the IRS full collection process.) This document, which implements section 2331, contains new procedures that States must use in making requests for IRS collection of support by Federal tax refund offset only. These procedures, which are available in addition to those in 45 CFR 302.71, are considerably less burdensome than those required under the IRS full collection process.

Section 2331 of Pub. L. 97–35 adds a new section 464 and a new paragraph 454(18) to title IV–D of the Act and amends section 6402 of the Internal Revenue Code of 1954.

The new section 464 of the Act provides that, upon receiving notice from a State IV–D agency that an individual owes past-due support that has been assigned to the State, the IRS shall determine whether any tax refund is payable to the individual. Section 464 defines "past-due support" as the amount of a delinquency, determined under a court order or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living. If a refund is due, the IRS shall withhold from the refund an amount up to the amount of the past-due support and pay the amount to the State IV–D agency with a notice of the individual's home address. The amount paid to the State is to be distributed in accordance with section 457(b)(3) of the Act.

Section 464 further provides that the Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, prescribing the time at which the State must submit notices of past-due support to the IRS and the information that must be contained in or accompany the notices. The IRS regulations shall also specify the minimum amount of past-due support to which the offset procedure may be applied, and the fee that the State must pay the IRS. For each State, the Secretary of the Treasury must report to the Secretary of Health and Human Services at least annually on numbers of cases, amounts of support sought, and amounts collected. Section 464, as enacted, places the responsibility for implementing and operating the Federal tax refund offset program with the IRS. Under section 464, it is the responsibility of the IRS to set standards and requirements for child support enforcement agencies to follow in requesting tax refund offsets. In this context, it is OCSE's role to participate in the process by acting as the agent of the IRS.

The new paragraph 454(18) of the Act specifies that the State plan for child support enforcement must provide that the State has in effect procedures necessary to obtain payment of past-due support from Federal tax refunds as set forth in the new section 464 of the Act and that the State will take all steps necessary to implement and use the procedures.

The amended section 6402 of the Internal Revenue code of 1954 contains procedures for the IRS to follow in reducing a tax refund by the amount of past-due support an individual owes. It also requires the IRS to notify an individual that an offset has occurred.

Statutory Effective Date

The provisions being implemented by these regulations have a statutory effective date of October 1, 1981, unless a State effectively demonstrates to the Secretary of Health and Human Services that the effective date should be postponed for the State. Section 2331 of Pub. L. 97–35 added an IV–D State plan requirement that a State have and use procedures to obtain payment of past-due support by Federal tax refund offset. Under the Child Support Enforcement program, failure to meet a State plan requirement may lead to imposition of a financial penalty on the State for noncompliance with the provisions of the plan. These regulations, based on IRS regulations which contain the procedures States must follow in making requests for refund offset, could not be published before October 1, 1981. Therefore, it would be unreasonable to require a State to have and use procedures for making a submittal to the IRS by that date, and it would be unreasonable to consider imposition of a penalty for noncompliance as of that date. With the publication of these regulations in the **Federal Register**, however, all States must now have and use procedures for collection of past-due support by tax refund offset, unless a postponement is approved for a State.

Under section 2336(b) of Pub. L. 97–35, the Secretary may postpone the effective date of the provisions covered by these regulations if the State IV–D agency demonstrates to the Secretary's satisfaction "that it cannot, by reason of State law, comply with the requirements" by October 1, 1981. Section 2336(b) further provides that, if the Secretary approves a postponement, the provisions covered by these regulations will be effective in a State with the first month after the close of the first session of the State's legislature ending on or after October 1, 1981. The term "session of a State's legislature" is defined by the statute to include any regular, special, budget, or other session of a State legislature.

We have issued OCSE–AT–81–32, dated December 4, 1981 containing a State plan preprint that enables a State to specify that existing State law prohibits it from implementing these provisions as of October 1, 1981. It also requires an attachment to be submitted which provides documentation in support of the State's position that it could not implement as of October 1, 1981. The documentation needed is either a copy of the State law containing the specific prohibition, or an opinion from the State's Attorney General indicating how State law precludes implementing the provisions as of October 1, 1981. The preprint also requires that the State provide the date on which the provisions will become effective in the State; that is, no later than the first month after the close of the first session of the State's legislature ending on or after October 1, 1981.

The information collection requirement contained in this regulation (§ 302.60) has been approved by the Office of Management and Budget under

the provisions of 44 U.S.C. Chapter 35 and has been assigned OMB No. 0960–0253.

State Plan Requirement

We are adding a new 45 CFR 302.60 to IV–D regulations that contains the State plan requirement for tax refund offset as specified in the new paragraph 454(18) of the Act. Under this new regulation section, the State plan must provide that the IV–D agency has in effect procedures to obtain payment of past-due support from Federal tax refunds, and that the IV–D agency shall take the steps necessary to implement and use the procedures. The proposed § 302.60 cross-references the requirements of section 464 of the Act, the new 45 CFR 303.72 which is discussed below, and IRS regulations at 26 CFR 304.6402–1.

Standards for Requesting Collections From Federal Tax Refunds

We are adding a new 45 CFR 303.72 to our regulations entitled Requests for Collection of Past-Due Support From Federal Tax Refunds. Its purpose is to set forth procedures which States must follow in making requests to IRS. By agreement with IRS, OCSE is acting as its agent in processing State requests. These procedures, therefore, represent the views of both IRS and OCSE as to what is the most efficient and cost effective manner of handling them. This new section begins with a definition of past-due support at paragraph (a) which is the same as the one which appears in the IRS regulation. This definition is taken directly from the new section 464 of the Act. The definition of past-due support provides important specifications concerning amounts that may be referred to the IRS for collection by Federal tax refund offset. First, past-due support is defined as "the amount of a delinquency * * *". This rules out requesting that current support be collected by refund offset. Secondly, the definition refers to a delinquency "determined under a court order or an order of an administrative process established under State law * * *". This introduces authorization for requesting the IRS to collect past-due support owed under court or administrative order. Third, the definition refers to a delinquency "for support and maintenance of a child or of a child and the parent with whom the child is living." Under this part of the definition, collection by refund offset is available not only for support owed on behalf of a child, but also on behalf of the parent with whom the child is living.

Paragraph (b) of § 303.72 specifies which past-due support qualifies for offset. Under this paragraph, the support must be assigned under 45 CFR 232.11 to the State making the request for offset. Under the statute, collection by refund offset is not available on behalf of individuals who are not receiving AFDC. Cases may be submitted only by the State that has taken an assignment in order to avoid the possibility of more than one State submitting a request for IRS collection of the same debt when interstate procedures are being used. This provision should eliminate confusion on the part of States and the IRS in handling interstate cases. We discussed this situation with many of the States at meetings held in July 1981. The majority of States preferred having the State that secures the assignment process the IRS collection request, since that State has the ultimate responsibility for managing the case and because that State is where distribution of the collection will be made under section 457 of the Act.

The remaining criteria in paragraph (b) that qualify past-due support for offset are that the State has made reasonable efforts to collect the amount of the obligation, the amount of past-due support is not less than $150, the past-due support has been delinquent for three months or longer, and a notification of liability for past-due support has been received by the IRS as prescribed by paragraph (c) of § 303.72 as discussed below. These criteria are specified by the IRS in their regulations at 26 CFR 304.6402–1 as requirements of the offset process. The purpose of the $150 minimum is to avoid inundating the IRS with requests for collection of very small amounts. The purpose of the three month delinquency period is to ensure that enough time has elapsed to account for late payments. The purpose of requiring the State to make reasonable efforts to collect prior to making a submittal for IRS collection is to avoid treating IRS collection as the primary method of enforcement when, in fact, other effective means are readily available for the State to use.

Paragraph (c) of the regulations contains criteria for acceptable notification to OCSE of liability for past-due support. These criteria specify that the IV–D agency (defined for purpose of the refund offset process as the *State* IV–D agency) shall submit, by October 1 of each year, a notification of liability for past-due support on magnetic tape to OCSE as specified in instructions. The reason we have not included detailed instructions in the regulation itself is that it is too cumbersome to incorporate items such as computer tape specifications in a regulation. In addition, these items are subject to change if the IRS implements a system change or a procedural change affecting the refund offset process. In order to be responsive to any changes that the IRS may require, we believe these procedural and technical items are best discussed via instructions. (The submittal of the magnetic tape is required by IRS regulations published in the **Federal Register** at 47 FR 5712 on February 8, 1982.)

The statutory and regulatory requirement that only State IV–D agencies may submit requests for refund offset has two purposes. First, we believe that it is important for the State to maintain strict controls over the process to insure that the information provided is accurate and that requests are properly prepared. It is our contention that the State is in the best position to assume this responsibility under the State plan. Secondly, permitting only State submissions will greatly facilitate project management at the Federal level which we believe will enhance the utility of the project by keeping costs to a minimum.

States are to submit requests to OCSE because the IRS believes that editing of the requests by OCSE will provide a second level of control that will maximize the ease with which the IRS can implement this procedure.

Paragraph (c) further requires that requests be submitted on magnetic tape and that specified information be provided for each debtor. The required information is the minimum needed by the IRS and OCSE to process a refund offset case. It consists of the individual's name and social security number, the amount of the arrearage, and the State code. In addition, the State IV–D agency may submit the county code where the case originated and the individual's case number if the agency wants this information to accompany any collection sent to the State.

Paragraph (d) of § 303.72 specifies that the Deputy Director, OCSE will review each request to determine whether it meets all of the requirements of § 303.72. Requests that do not meet all requirements will be forwarded to the IRS only if they can be corrected in consultation with the State. Requests that cannot be corrected will be returned to the State with a written explanation of why the request could not be transmitted to the IRS for processing.

Paragraphs (e), (f) and (g) of § 303.72 contain provisions intended to protect the State in case of an error in a submittal or the individual debtor in case of a payment that lowers the

arrearage after a request for refund offset is made.

Paragraph (e) stipulates that the State IV–D agency shall notify OCSE in writing of any decrease in, or elimination of, an amount referred for collection by Federal tax refund offset. The notification must contain the individual's name, social security number, the reduced arrearage amount (which may be zero), and the State code.

Paragraph (f) specifies that the IRS will provide a notice to an individual upon offset of his or her tax refund. The notice will inform the individual of the amount and date of the offset for past-due support and of the State to which the amount has been paid.

Paragraph (g) contains procedures that States must follow in the event of a complaint from an individual concerning a tax refund offset. Upon receipt of a complaint, the IV–D agency must insure that the individual's concerns are investigated to determine if an error has been made. After investigation, no further action is necessary if a correct amount was offset. If the amount offset is found to exceed the past-due support owed, the child support agency must refund the excess to the individual under the requirements of paragraph (h).

Paragraph (h) of § 303.72 specifies how amounts collected by refund offset are to be distributed by the child support agency. In accordance with the new section 464 of the Act, we have specified that these collections are to be distributed as past-due support under 45 CFR 302.51(b)(4). That regulation provides for amounts to be retained by the State to reimburse past assistance payments made to the family. Paragraph (h) further requires that any amounts collected which exceed past-due support owed must be repaid to the individual whose refund was offset within a reasonable period in accordance with State law. We included this provision in the regulations because the statute provides for collection and distribution of past-due support only. We believe, therefore, that any collections in excess of past-due support must be returned to the individual taxpayer. This excess may not be applied toward any remaining unreimbursed assistance provided to the family under the AFDC program, nor may it be used to satisfy a current month support obligation or a future obligation since the statute does not authorize these uses of a collection made via Federal tax refund offset.

Paragraph (i) of § 303.72 specifies that a refund offset fee will be billed and collected by the Secretary of Health and Human Services, or designee, and credited to the IRS appropriation accounts that bore the costs involved in making the collection. The amount of the fee will be agreed to by the Secretary of the Treasury and the Secretary of Health and Human Services and will be sufficient to reimburse the IRS for the full cost of the offset procedure. For offsets occurring in 1982, the fee will be $17 per offset.

Waiver of Proposed Rulemaking

These regulations are being published in final form with a comment period. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable or contrary to the public interest, it may dispense with the notice if it incorporates a brief statement in the final regulations of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking procedures with respect to these changes for the following reasons. First, section 2331 of Pub. L. 97–35 was effective on October 1, 1981 leaving insufficient time for the Department of Treasury (IRS), which has the responsibility to administer this provision, to publish a proposed rule, receive public comments, consider the comments and publish final regulations on or near October 1, 1981. These regulations add two new provisions to the regulations published by IRS. A new 45 CFR 302.60 implements the State plan requirement in section 454(18) of the Act, which was enacted as part of section 2331 of Pub. L. 97–35. This new statutory provision is nondiscretionary in nature and the regulation merely follows the statute. Since OCSE is only assisting the IRS in administering section 2331, the other regulatory provision, 45 CFR 303.72, merely repeats the Federal policy set forth in the IRS regulation and contains no additional information of a substantive nature. Rather, this provision is purely technical, i.e., setting forth routine administrative procedures which are to be applied in order to permit IRS to effectively process requests for tax refund offsets. Since these regulations are nondiscretionary we believe they can be published as an interim final rule. Furthermore, in order for States to be able to voluntarily implement as of October 1, 1981 it was necessary for OCSE to issue, in conjunction with and as the agent of the IRS, an Action Transmittal (OCSE–AT–81–19, dated September 11, 1981) containing temporary OCSE and the IRS procedures for submittal of requests for offset. Forty eight States voluntarily submitted requests under the instructions on October 1, 1981, although it was made clear that submittal in 1981 was not required. In these regulations, we have made few changes to the instructions in the Action Transmittal. The overwhelmingly positive response to the offset program as introduced in the Action Transmittal instructions leads us to conclude that it is unnecessary and contrary to the public interest to issue proposed regulations when the program has already been voluntarily implemented by a majority of States under the same basic criteria as are contained in these regulations.

For these reasons, OCSE believes that there is sufficient cause to dispense with proposed rulemaking. Nonetheless, we wish to have the advantage of the information and opinions we may receive through public comments. We will consider any comments received and revise the regulations if necessary.

PART 302—STATE PLAN REQUIREMENTS

1. 45 CFR Part 302 is amended by adding a new § 302.60 to read as follows:

§ 302.60 Collection of past-due support from Federal tax refunds.

The State plan shall provide that:

(a) The IV–D agency has in effect procedures necessary to obtain payment of past-due support from Federal tax refunds as set forth in section 464 of the Act, § 303.72 of this chapter, and regulations of the Internal Revenue Service at 26 CFR 304.6402–1; and

(b) The IV–D agency shall take the steps necessary to implement and use these procedures.

(Approved by the Office of Management and Budget under OMB No. 0960–0253.)

PART 303—STANDARDS FOR PROGRAM OPERATIONS

2. 45 CFR Part 303 is amended by adding a new § 303.72 to read as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) *Definition.* "Past-due support" means the amount of a delinquency, determined under a court order or an order of an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living.

(b) *Past-due support qualifying for offset.* Past-due support qualifies for offset if:

(1) There has been an assignment of the support obligation under 45 CFR 232.11 of this title to the State making

the request for offset and that State has made reasonable efforts to collect the amount of the obligation;

(2) The amount of the past-due support is not less than $150;

(3) The support has been delinquent for three months or longer; and

(4) A notification of liability for past-due support has been received by the Secretary of the Treasury as prescribed by paragraph (c) of this section.

(c) *Notification to OCSE of liability for past-due support.* (1) A State IV–D agency shall, by October 1 of each year, submit a notification (or notifications) of liability for past-due support on magnetic tape to the Office.

(2) The notification of liability for past-due support shall contain with respect to each delinquency:

(i) The name of the taxpayer who owes the past-due support;

(ii) The social security number of that taxpayer;

(iii) The amount of past-due support owed;

(iv) The State codes as contained in the Federal Information Processing Standards (FIPS) publication of the National Bureau of Standards and also promulgated by the General Services Administration in *Worldwide Geographical Location Codes.*

(3) The notification of liability for past-due support may contain with respect to each delinquency the taxpayer's IV–D case number and the FIPS code for the local IV–D agency where the case originated.

(d) *Review of requests by the Office.* (1) The Deputy Director will review each request to determine whether it meets the requirements of this section.

(2) If a request meets all requirements, the Deputy Director will transmit the request to the Secretary of the Treasury by December 1 of each year and will notify the IV–D agency in writing of the transmittal.

(3) If a request does not meet all requirements, the Deputy Director will attempt to correct the request in consultation with the State IV–D agency.

(4) If a request cannot be corrected through consultation, the Deputy Director will return it to the State IV–D agency with a written explanation of why the request could not be transmitted to the Secretary of the Treasury.

(e) *Notification of changes in case status.* The State IV–D agency shall notify the Deputy Director in writing of any decrease in, or elimination of, an amount referred for collection by Federal tax offset. The notification shall contain the information specified in paragraph (c) of this section, as well as the amount originally referred for collection by Federal tax refund offset.

(f) *Notice to taxpayer of offset.* The Internal Revenue Service shall notify the taxpayer in writing of the amount and date of the offset for past-due support and of the State to which this amount of past-due support has been paid.

(g) *Complaint procedure.* (1) Upon receipt of a complaint from an individual concerning a tax refund which has been offset, the State IV–D agency shall take steps to investigate the complaint to determine its validity.

(2) If the offset is found to exceed the amount of the past-due support owed, the State IV–D agency shall take steps to refund the excess amount to the individual as specified in paragraph (h) of this section.

(h) *Distribution of collections.* (1) Collections received by the IV–D agency as a result of refund offset shall be distributed as past-due support as required under § 302.51(b)(4) of this chapter.

(2) If the amount collected is in excess of the amounts required to be distributed under § 302.51(b)(4) of this chapter, the IV–D agency must repay the excess to the individual whose refund was offset within a reasonable period in accordance with, State law.

(i) *Payment of fee.* A refund offset fee, in such amount as the Secretary of the Treasury and the Secretary of Health and Human Services have agreed to be sufficient to reimburse the Internal Revenue Service for the full cost of the offset procedure, shall be billed and collected from the IV–D agency by the Secretary of Health and Human Services or designee and credited to the appropriation accounts of the Internal Revenue Service which bore all or part of the costs involved in making the collection.

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Sec. 1102, Social Security Act (42 U.S.C. 1302)), Sec. 464, Social Security Act (42 U.S.C. 664), and Sec. 454(18), Social Security Act (42 U.S.C. 654(18))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: January 4, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: January 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-4086 Filed 2-18-82; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-581; RM-3825, RM-3843]

FM Broadcast Station in Williston and Micanopy, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 249A to Micanopy, Florida, as its first commercial FM channel in response to a request by Charles T. Woods; and Channel 221A to Williston, Florida, as its first commercial FM channel, in lieu of Channel 249A, requested by Wanda N. Denny.

DATE: Effective April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: February 4, 1982.

Released: February 12, 1982.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Williston and Micanopy, Florida), BC Docket No. 81–581, RM–3825, RM–3843.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 43714, published August 31, 1981, in response to two separate petitions. Wanda N. Denny ("Denny") has requested the assignment of FM Channel 249A to Williston, Florida. Charles T. Woods ("Woods") has filed for the assignment of Channel 249A to Micanopy, Florida. The assignment of Channel 249A to Williston can be made in compliance with the minimum distance separation requirements of § 73.207 of the Rules. The assignment of 249A to Micanopy can be made to comply with a site restriction of .8 mile

southwest of the city. Both Denny and Woods have stated that they will apply for the channel, if assigned.

2. Williston (population 2,240) [1] is located in Levy County (population 19,870) approximately 152 kilometers (95 miles) north of Tampa.

3. Micanopy (population 737) is located in Alachua County (population 151,348) approximately 17 kilometers (11 miles) from Gainesville, Florida.

4. Presently, neither Williston nor Micanopy has any local aural broadcast service.

5. Since the distance between Williston and Micanopy is only 13 miles, and 65 miles is required for co-channel Class A channels, the two proposals are mutually exclusive.

6. The Notice of Proposed Rule Making herein pointed out that, according to a staff study, there are no other drop-in channels available to Micanopy. However, Channel 221A is available for assignment to Williston with a site restriction of approximately 7 miles west-northwest of the community. We stated that any interest in this channel should include a showing that a transmitter located at this distance could provide the required 70 dBu signal over the city. We, therefore, proposed Channel 221A for Williston so that an FM assignment may be made to both communities.

7. Sufficient information has been submitted to justify assignment of a first FM channel to either community.

8. Woods filed comments reaffirming his intention to apply for the channel, if assigned. He stated that the public would be better served by the assignment of different channels to Micanopy and Williston, thus affording the opportunity of two new services instead of one. Accordingly, Woods supported the Commission's proposal.

9. Denny filed comments in which she stated that the proposed assignment of Channel 221A to Williston was unacceptable because of the seven-mile site restriction. Denny stated that if Channel 249A is assigned to Williston, she would apply for a construction permit to operate a station on the channel. Denny further stated that if Channel 249A is assigned to Micanopy, she would apply for a construction permit to build a station there, indicating that "Since the Micanopy transmitter site must be located approximately 0.8 miles (sic) southwest of the city, (she) believes that a station licensed to Micanopy could provide adequate service to Williston as well."

[1] Population figures are derived from the 1980 U.S. Census.

10. For the reasons set forth below, we conclude that the public interest would be served by assigning Channel 249A to Micanopy and Channel 221A to Wiilliston. The assignment would make available the implementation of a first local aural broadcast service to both communities. We believe that solution is the most efficient use of the available frequencies in keeping with our statutory mandate of providing a fair, efficient and equitable distribution of radio service to the several States and communities.

11. Although Denny indicates that the Channel 221A assignment to Williston is not acceptable to her because of the site restriction, she does not claim that she could not provide adequate service to Williston from the restricted site. She does, however, reaffirm her interest in serving Williston and in fact seems to believe that the Micanopy channel could be used to serve Williston even though such use would most likely necessitate a site further from Williston than that required for Channel 221A. Consequently, we fail to understand her objection to the proposed Channel 221A assigment. Our own study of the area between the city of Williston and the restricted transmitter location (west-northwest) reveals low terrain. We believe that city grade service should be received in Williston from the distance of 7 miles west-northwest.

12. It is the Commission's general policy not to assign a channel to a community unless there has been an expressed interest to utilize it. However, under the novel circumstances of this case, where the expressed interest in Williston still exists and the difference in proposed channels does not provide a basis for favoring Williston to the exclusion of a first local aural service to Micanopy, Denny's bare insistence in using Channel 249A is not sufficient to deny a first local aural service to each community.

13. In view of the foregoing, we find it in the public interest to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as indicated:

14. Accordingly, it is ordered, that effective April 13, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assigments, is amended with regard to the following communities.

City	Channel No.
Micanopy, Fla	249A
Williston, Fla	221A

15. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

16. It is further ordered, that this proceeding is terminated.

17. For further information concerning the above, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4500 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-323; RM-3757 and RM-3936]

FM Broadcast Station in Sandpoint and Bonners Ferry, Idaho; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 221A to Bonners Ferry, Idaho, as its first FM assignment rather than to Sandpoint, Idaho, as its second FM assignment, as requested by Radio Bonners Ferry, Inc. and Tri-County Broadcasting, respectively.

DATE: Effective April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip Cross, Broadcast Bureau (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: February 4, 1982.

Released: February 12, 1982.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Sandpoint and Bonners Ferry,[1] Idaho), BC Docket No. 81-323, RM-3757, RM-3936.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 26511, published May 13, 1981, in response to a petition filed by Gerald E. Carpenter, Eric E. Carpenter and Louis Musso, d/b/a Tri-County Broadcasting ("Tri-County"), proposing the assignment of FM Channel 221A to Sandpoint, Idaho, as that community's second FM assignment. A counter-proposal was submitted by Radio

[1] This community has been added to the caption.

Bonners Ferry, Inc., licensee of AM broadcast Station KBFI, Bonners Ferry, Idaho ("Radio Bonners"), advocating that FM Channel 221A be assigned to Bonners Ferry as that community's first FM assignment.[2] The distance between Sandpoint and Bonners Ferry is approximately 36 miles while a separation of 65 miles is required under § 73.207 of the Commission's rules.

2. Radio Bonners subsequently filed a supplement to its counterproposal noting that during the pendency of this proceeding, Channel 221 had been assigned by the Canadian government to Moyie, British Columbia, Canada. Since the assignment would preclude the use of Channel 221A in Bonners Ferry, Radio Bonners proposed that the Commission work with the Canadian government to free Channel 221A for use in Bonners Ferry.

3. Tri-County and Radio Bonners each submitted comments in which it affirmed its intent to file for the channel, if assigned.

4. Sandpoint, population 4,460,[3] is the seat of Bonner County, population 24,163. It is located at the northern tip of Idaho, approximately 545 kilometers (340 miles) north of Boise, Idaho. Sandpoint is presently served by full-time AM Station KSPT and FM Station KPND (Channel 237A). Channel 221A can be assigned to Sandpoint in accordance with the Commission's minimum distance separation requirements. However, the channel would require a site restriction of approximately 8.7 kilometers (5.4 miles) south of the community to avoid short-spacing with Channel 221A in Moyie, British Columbia, Canada.

5. Bonners Ferry, population 1,906,[4] the seat of Boundary County, population 7,289, is located north of Sandpoint on the northern tip of Idaho, approximately 560 kilometers (350 miles) north of Boise, Idaho. Bonners Ferry is presently served by full-time AM Station KBFI.

6. Tri-County filed reply comments with respect to the counterproposal of Radio Bonners, stating that Channel 221A is precluded from use in Bonners Ferry, Idaho, due to the assignment of that channel in Moyie, British Columbia.

7. An opposition to Tri-County's proposal for Sandpoint was filed by Blue Sky Broadcasting, Inc. ("Blue Sky") licensee of FM Station KPND (Channel 237A), Sandpoint, Idaho. Blue Sky points out that Sandpoint is presently served by two local full-time radio stations, AM Station KSPT and FM Station KPND, and that there is no public need for a third full-time local radio service. Blue Sky states that the growth experienced by Sandpoint and its surrounding area since 1970 has been substantially arrested in the recent past. It contends that increased competition from a third local service would impair the ability of Station KPND to provide its full range of public services.

8. In reply comments, Tri-County bases its claim of need for the assignment to Sandpoint on the population "in the Sandpoint *market and listening area,* a more relevant area than the city limits." Tri-County states that Bonner County's population has increased 50.7 percent between 1970 and 1980 and that most of the growth has been in a semi-rural area within a ten-mile radius of Sandpoint.

9. Radio Bonners, in comments supporting its counterproposal for Bonners Ferry, contends that the fair, efficient and equitable distribution of broadcast facilities will be better served by providing a first FM service to Bonners Ferry and Boundary County than a third full-time local service to Sandpoint, a similar-size community. Radio Bonners states that the AM station which operates in Bonners Ferry is a full-time Class IV facility which can be heard nighttime by only a few people living outside the community and, thus, are unable to receive local information of severe weather conditions during those hours.

10. In response to a request from the F.C.C., the Government of Canada, Department of Communications, notified the F.C.C. that it had no objection to the substitution of Channel 288A for Channel 221A at Moyie, British Columbia, so that Channel 221A could be freed from assignment to Bonners Ferry.

11. The basic issue before us then is whether Channel 221A should be assigned to Sandpoint or to Bonners Ferry. A key factor in our priorities used to resolve such conflicts is the availability of local broadcast service. Sandpoint has two local services, AM Station KSPT and FM Station KPND. Bonners Ferry has only one station, KBFI(AM). On this basis, Bonners Ferry must be preferred. This determination is consistent with the mandate of section 307(b) of the Communications Act of 1934, as amended, for a fair efficient and equitable distribution of radio service among the various communities, and is, further, in accordance with the criteria we have historically utilized to implement section 307(b) requirements. See, in this regard, Third Report, Memorandum Opinion and Order, Docket No. 14185, 40 F.C.C. 747, 758 (1965); Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520, 524 (1974); see also South Pittsburg, Tennessee and Stevenson, Alabama, 37 R.R. 2d 121 (Broadcast Bureau, 1976).

12. Thus, we believe that the public interest would be served by the assignment of Channel 221A to Bonners Ferry, Idaho. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local FM broadcast service. As stated before, Canadian concurrence in this assignment has been obtained.

13. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

14. Accordingly, it is ordered, that effective April 13, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Bonners Ferry, Idaho	221A

15. It is further ordered, That this proceeding is terminated.

16. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4501 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

[2] Public Notice of the counterproposal was given on July 17, 1981, Report No. 1299.

[3] Population figures are taken from the 1980 U.S. Census.

[4] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-771; RM-3923]

TV Broadcast Station in Greenwood, South Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 48 to Greenwood, South Carolina, in response to a petition filed by Metro Communications South, Inc. The assignment could provide for a first commercial television service to Greenwood.

DATE: Effective April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: February 5, 1982.

Released: February 12, 1982.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Greenwood, South Carolina), BC Docket No. 81–771, RM–3923.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 56831, published November 19, 1981, proposing the assignment of UHF television Channel 48 to Greenwood, South Carolina, as its first commercial television assignment. The Notice was issued in response to a petition filed by Metro Communications South, Inc. ("petitioner"). Supporting comments were filed by the petitioner and by the Greenwood Chamber of Commerce. No oppositions to the proposal were received.

2. Greenwood (population 21,613),[1] seat of Greenwood County (population 54,847) is located in the western part of South Carolina, approximately 210 kilometers (130 miles) northeast of Atlanta, Georgia. It is presently assigned UHF Channel *38 (application pending).

3. Petitioner in comments to the proposal, restated the information in the Notice which demonstrated the need for a commercial television assignment to Greenwood. It again urged the Commission to adopt the proposal, citing the substantial public interest benefits to the community, as a result of the proposed assignment. Petitioner also stated its intent to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 48 to Greenwood, inasmuch as it would provide the community with an opportunity for a first commercial television station. The transmitter site is restricted to 3.5 miles south of Greenwood to avoid short-spacing to Station WRET–TV (Channel 49), Spartanburg, South Carolina.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective April 13, 1982, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Greenwood, S.C.	*38, 48+

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–4502 Filed 2–18–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 81–575; RM–3849]

Radio Broadcast Services; FM Broadcast Station in Riverton, Wyoming; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a second Class C FM channel to Riverton, Wyoming, in response to a petition filed by Wind River Communications, Inc.

DATE: Effective April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 4, 1982.

Released: February 12, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Riverton, Wyoming); BC Docket No. 81–575, RM–3849; *report and order* (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making,* 46 FR 43212, published August 27, 1981, which seeks the assignment of Class C Channel 223 to Riverton, Wyoming, as that community's second FM assignment. The *Notice* was issued in response to a petition filed by Wind River Communications, Inc. ("petitioner"). Supporting comments were filed by the petitioner, reaffirming its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Riverton (population 9,588),[1] in Fremont County (population 40,251), is located approximately 360 kilometers (225 miles) northwest of Cheyenne, Wyoming. It is served locally by commonly-owned full-time AM Station KVOW and FM Station KTAK (Channel 230), and by noncommercial educational Station KCWC (Channel 201).

3. In its comments, petitioner incorporated by reference the information in the *Notice* which demonstrated the need for an additional FM assignment to Riverton. Petitioner also noted the economic growth and development at Riverton as a need for a second FM service to the community, as well as a first service to the outlying area.

4. In the *Notice,* we indicated that the assignment of Channel 223 to Riverton would cause preclusion on Channel 221A within 65 miles; Channel 222 within 150 miles; Channel 223, within 180 miles; Channel 224A within 105 miles and Channel 226 within 65 miles. However, alternate channels are available to the communities with a population greater than 1,000 precluded by the proposed assignment. We also noted that the petitioner did not use reasonable facilities for Station KDLY, Lander, Wyoming, in its consideration of first service.

5. The Commission believes that the petitioner has adequately demonstrated the need for an additional FM assignment to Riverton, and that the public interest would be served by assigning Channel 223 to that community. The preclusion impact is insignificant since alternate channels are available to the precluded area.

6. Authority for the adoption of the amendment herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. Accordingly, it is ordered, That effective April 13, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, IS AMENDED with respect to the following community:

City	Channel No.
Riverton, Wyo.	223, 230

8. It is further ordered That this proceeding is terminated.

[1] Population figures are taken from the 1980 U.S. Census.

[1] Population figures are derived from the 1980 U.S. Census.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4489 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 81, 83, and 87

Maritime and Aviation Services; Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's rules concerning the maritime and aviation services to revise or remove redundant and obsolete sections, addresses and associated language. These sections, addresses and associated language have become outmoded and have no present or future utility. This action is being taken to bring the rules up to date.

EFFECTIVE DATE: February 22, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Linda R. Figueroa, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

In the matter of editorial amendment of Parts 81, 83 and 87 of the Commission's rules and regulations.

Adopted: February 5, 1982.
Released: February 8, 1982.

1. We are editorially amending Parts 81, 83 and 87 of the Commission's rules to revise or delete redundant and obsolete sections, addresses and associated language. These sections, addresses and associated language have long since become outmoded and have no present or future utility or effect. The affected sections are: 81.21(a), 81.32, 81.43, 81.45, 81.46, 81.708, 83.26, 83.32, 83.38, 83.116, 83.171, 87.23, 87.119, 87.183, 87.195, 87.201, 87.211, 87.501(g) and 87.507.

2. Authority for this action is contained in sections 4(i), and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on the matter covered in this document contact Linda R. Figueroa, (202) 632–7175.

4. In view of the above, it is ordered, that the rule amendments set forth in the attached Appendix are adopted effective February 22, 1982.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81, 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

§ 81.21 [Amended]

1. In § 81.21, paragraph (a) is removed and designated reserved.

§ 81.32 [Removed]

2. Part 81 is amended by removing § 81.32.

§ 81.43 [Removed]

3. Part 81 is amended by removing § 81.43.

§ 81.45 [Removed]

4. Part 81 is amended by removing § 81.45.

5. In § 81.46, paragraph (b) is revised to read as follows:

§ 81.46 Applications for authority to discontinue, reduce or impair service provided by a public coast station.

* * * * *

(b) Licensees of public coast stations who propose to discontinue service at the end of any license period shall file an appropriate application for discontinuance of service as provided in Part 63 of this chapter.

4. In § 81.708, the table in paragraph (a) is revised and subparagraph (1) of paragraph (b) is added to read as follows:

§ 81.708 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of use	
	Section	Limitation
149.6	81.709	13.
1643	81.710	19.
1646	81.710	10.
1649	81.710	10.
1652	81.710	10.
1657	81.710	10.
1660	81.710	10, 21.
1706	81.710	19.
1708	81.710	10.
1712	81.710	10, 22.
2003	81.710	10, 23.
2006	81.710	10, 23, and 24.
2115	81.709	10.
2118	81.709	10.
2253	81.711	10, 33.
2256	81.711	10, 33.
2312	81.711	10, 44.
2400	81.711	1.
2419	81.710	10.
2422	81.710	10.
2427	81.710	10, 24.
2430	81.710	10, 24, and 30.
2447	81.710	10.
2450	81.710	10, 24.
2463	81.711	10, 34, and 43.
2466	81.711	10, 34, and 43.
2471	81.711	10, 35, and 45.
2474	81.711	10, 43.
2479	81.710	10, 24, and 30.
2482	81.710	10, 24, and 30.
2506	81.710	10, 27.
2509	81.710	10.
2512	81.710	10.
2535	81.710	10, 24.
2538	81.710	10, 24.
2560	81.710	10.
2566	81.710	10, 24.
2601	81.711	10.
2604	81.711	10.
2616	81.710	10, 34.
2629	81.711	10, 36, and 43
2632	81.711	10, 36, and 43
2691	81.711	10, 37.
2694	81.711	10, 37.
2773	81.711	10, 32.
2776	81.711	10, 36.
2781	81.711	19.
2784	81.711	19.
3164.5	81.711	19.
3167.5	81.711	19.
3180	81.711	19.
3183	81.711	19.
3196	81.709	10, 17.
3201	81.709	10, 17.
3256	81.711	19.
3241	81.711	19.
3256	81.710	19, 29.
3261	81.710	19, 29.
3303	81.711	1.
3354	81.711	10.
3357	81.711	10, 39.
3362	81.711	10, 40.
3365	81.711	10, 40.
4035	81.711	1.
4791.5	81.710	20.
5134.5	81.711	10, 43.
5137.5	81.711	10, 43.
5164.5	81.709	10, 16.
5167.5	81.709	10, 16.
5204.5	81.711	10, 42, and 43.
5207.5	81.711	10, 42, and 43.
5370	81.711	10.
6946.5	81.710	20.
7366.5	81.710	20.
8067	81.709	10, 19.
8070	81.709	10, 19.
11,437.0	81.710	20.
11,601.5	81.710	20.

(b) * * *

(1) This frequency is available for assignment to an Alaska-public fixed station.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

§ 83.26 [Removed]

1. Part 83 is amended by removing § 83.26.

§ 83.32 [Amended]

2. In § 83.32, paragraph (d) is amended by removing the address "Federal Co nmunications Commission,

Washington, D.C. 20554" and inserting in its place, the address "Federal Communications Commission, Gettysburg, Pa., 17325".

§ 83.38 [Amended]

3. Section 83.38 is amended by removing the words "in accordance with" in the first sentence and inserting in their place, the words "randomly selected from the pool set forth in".

§ 83.116 [Removed]

4. Part 83 is amended by removing § 83.116.

§ 83.171 [Removed]

5. Part 83 is amended by removing § 83.171.

PART 87—AVIATION SERVICES

§ 87.23 [Amended]

1. Section 87.23 is amended by removing the address "Federal Communications Commission, Washington, D.C. 20554" and inserting, in its place, the address "Federal Communications Commission, Gettysburg, Pa., 17325".

§ 87.119 [Amended]

2. In § 87.119, paragraph (b) is amended by removing the words "10 days" and "10-day" and inserting, in their place the words "20 days" and "20-day" respectively; and paragraph (c) is revised to read as follows:

§ 87.119 Notice of violations.

* * * * *

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge shall be given.

§ 87.183 [Amended]

3. Section 87.183(bb) is amended by removing "§§ 89.156, 91.162 and 93.164" and inserting in their place "§ 90.423".

§ 87.201 [Amended]

4. In § 87.201, paragraph (a) is removed and designated as reserved.

§ 87.211 [Removed]

5. Part 87 is amended by removing § 87.211.

§ 87.501 [Amended]

6. In § 87.501, paragraph (g) is removed and designated as reserved.

§ 87.507 [Removed]

7. Part 87 is amended by removing § 87.507.

[FR Doc. 82-4238 Filed 2-18-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 97

[FCC 82-48]

Expired Club and Military Recreation Station Licenses

AGENCY: Federal Communications Commission.

ACTION: Order authorizing reinstatement.

SUMMARY: Because certain station licensees in the amateur radio service misunderstood the actions taken in Docket No. 21135 and the necessity for filing timely renewal of their station licenses, the Commission authorized the Chief, Private Radio Bureau, under certain conditions, to grant reinstatement of expired Club and Military Recreation station licenses. In Docket No. 21135 of June 13, 1980, the Commission decided to continue granting modification and renewal of existing licenses for these stations, but not to grant any new station licenses for Club and Military Recreation stations.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964, Room 5218.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

Adopted: January 28, 1982.

Released: February 2, 1982.

1. By a Notice of Proposed Rule Making, released March 11, 1977, (42 FR 15438), we proposed to simplify the amateur licensing structure by discontinuing the issuance of all amateur station licenses other than primary and space station. The goal was to conserve the Commission's resources by such a streamlining of the application processing system.

2. In response to the comments filed to the original Notice, a Further Notice of Proposed Rule Making in the proceeding was issued on February 23, 1978 (43 FR 7332). It proposed to continue licensing Club and Military Recreation stations but to do so in such a way that the greatest savings could be realized by the Commission. The Further Notice generated many comments, the gist of which was that Club and Military Recreation stations should continue to be licensed in the same way that they had traditionally been licensed. Responding to the comments, we decided to continue granting modification and renewal of existing licenses for these stations, but not to grant any new station licenses for Club and Military Recreation stations (see Third Report and Order, Docket No. 21135, 45 FR 40117 (June 13, 1980)).

3. By letter of December 4, 1981, the American Radio Relay League, Inc. (ARRL) requested that the Commission authorize the Private Radio Bureau to reinstate Club and Military Recreation station licenses that had expired and had not been timely renewed before the expiration date (or within the one-year grace period). Attached to the ARRL letter was Application Form 610-B filed by the U.S. Coast Guard station at Alexandria, Virginia, Thomas J. Warren, Trustee, to modify and renew Military Recreation station K4CG. The license for K4CG expired April 12, 1979. The application for modification and renewal was filed after the grace period, April 12, 1980.

4. In support of its request, ARRL states that there was a misunderstanding of the intermediate steps in Docket No. 21135. It points out that unless the Commission acts favorably on its request, clubs that did not timely renew their licenses, or renew within the grace period, will never be able to obtain another license. Military Recreation stations are also affected. ARRL requests, specifically, that the pending application of K4CG be granted and that the Chief, Private Radio Bureau, be authorized to act on applications filed by Club and Military Recreation station licensees in the same circumstance.

5. We did intend to allow existing licensees for these stations to continue to be licensed. We are not disposed to penalize them since there was a misunderstanding on their part concerning filing for renewal of license. However, we emphasize that we will not entertain any additional licensing extensions beyond the consideration that we are herein ordering.

6. In view of the foregoing, it is ordered, that the Chief, Private Radio Bureau, is authorized to grant the application of K4CG and all other applications for renewal of Club and

Military Recreation station licenses, provided that:

(a) The station license expired between March 11, 1977, and July 14, 1980, the effective date of the amended rules.

(b) The application for renewal is received by the Commission on or before June 1, 1982.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-4541 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 540, Amdt. 1; Navel Orange Reg. 541]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 19–February 25, 1982, and increases the quantity of such oranges that may be so shipped during the period February 12–February 18, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective February 19, 1982, and the amendment is effective for the period February 12–18, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on February 16, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

1. Section 907.841 is added as follows:

§ 907.841 Navel Orange Regulation 541.

The quantities of navel oranges grown in Arizona and California which may be handled during the period February 19, 1982, through February 25, 1982, are established as follows:

(1) District 1: 1,262,000 cartons;
(2) District 2: 188,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.840 Navel Orange Regulation 540 (47 FR 6248), is hereby amended to read:

§ 907.840 Navel Orange Regulation 540.

* * * * *

(1) District 1: 1,392,000 cartons;
(2) District 2: 208,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 17, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-4778 Filed 2-18-82; 12:22 pm]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 47, No. 34
Friday, February 19, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

Tobacco Loan Program; Deductions From Advances Paid to Producers

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would remove the one dollar per hundredweight limitation on the amount which producer associations, through which the Commodity Credit Corporation (CCC) makes price support available to tobacco producers, may deduct from price support advances made to producers. The amount of any such deduction, which is to be used to help defray administrative overhead costs incurred by the associations, must be approved by CCC.

DATE: Written comments must be received not later than April 20, 1982 in order to be assured of consideration.

ADDRESS: Interested persons are invited to send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, 202–447–4281. The Final Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing the rule is available upon request from Harry D. Millner.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". The provisions of this proposed rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs to consumers, individual industries, Federal, State, or local Government agencies, or geographical regions; or (3) significant adverse effects on competition, employment, investment, production, innovation, or ability of United States-based enterprises to compete with foreign enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this proposed rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local Government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

Section 1109 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) expresses the intent of Congress that the tobacco price support and production adjustment program be carried out in such a manner as to result in no net cost to the taxpayers other than administrative costs of the Government which may be incidental to the implementation of any commodity program. In order to accomplish this objective, the 1981 Act directs the Secretary to promulgate by January 1982 such regulations and policies as are within his existing authority. This proposed rule is one of the administrative actions the Department of Agriculture proposes to undertake to comply with the provisions of Section 1109.

The program regulations authorize the associations to deduct from price support advances paid to producers under the tobacco price support program an amount to be used to defray administrative overhead costs which are incurred by the association. Until the 1965 crop, the authorized deduction for all tobacco marketed at auction warehouses was 12 cents per hundredweight of green tobacco placed under loan. From 1965 through the 1973 crop, the deduction was 25 cents. Since 1974, the deduction has remained at $1.00 per hundredweight. With continuing increases in administrative costs for all associations and the downtrend in the volume of tobacco placed under loan, the $1.00 deduction is no longer sufficient to cover these costs. If the amount deducted does not completely cover the administrative overhead costs of the association, the association borrows amounts from CCC to cover such expenses. Increasing the amount deducted would result in the association borrowing less from CCC and reduce the cost of the program to CCC when proceeds from sale of loan collateral are not sufficient to repay CCC in full.

Thus, it is proposed that the regulations governing the tobacco loan program be amended to allow associations to deduct from price support advances paid to producers a fee to cover overhead expenses in such amounts as may be authorized or approved by CCC.

Proposed Rule

PART 1464—TOBACCO

Accordingly, it is proposed that the regulations at 7 CFR 1464.4(a) be revised to read as follows:

§ 1464.4 Deductions from advances.

(a) There may be deducted from price support advances made to tobacco producers amounts to help defray administrative overhead costs incurred by producer associations through which price support is made available to the tobacco producers. Such deductions shall be in such amounts as (1) are commensurate with the services performed by the associations with respect to the tobacco serving as collateral for price support loans and (2) are approved by CCC.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b, 714 c); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1446,1421,1423))

Signed at Washington, D.C. on February 12, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82–4343 Filed 2–18–82; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Parts 1980 and 1990

Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations pertaining to transactions which will not be guaranteed under any of its guaranteed loan programs. The intended effect of this change is to prohibit FmHA from guaranteeing loans which involve tax-exempt bond funds, either directly or indirectly. This action is being taken in response to agency recommendations to corrrect deficiencies in regulations as suggested by the Department's Office of Inspector General and concerns expressed by the General Accounting Office.

DATE: Written comments must be received on or before April 20, 1982.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, DC 20250, telephone: (202) 382–9725. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FURTHER INFORMATION CONTACT: Wilton L. Ward, Acting Deputy Director, Farm Real Estate and Production Loan Division, USDA, FmHA, Washington, D.C. 20250, telephone: (202) 447–2288. The Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the Chief, Directives Management Branch, FmHA, USDA, Room 6348, Washington, D.C. 20250, telephone: (202) 382–9725.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 which implements Executive Order 12291 and has been determined to be major. This determination was made because (1) the volume of Federal credit activity is one of the major reasons that interest rates have increased to present levels. FmHA's guaranteeing of such loans would represent a significant intrusion into the capital market and would likely add to the overall problem of high interest rates; (2) the commitment of the Federal government to repay loans, should defaults occur, provides the bond issues a significantly more favorable position in the competition for investment capital.

The following Preliminary Regulatory Impact Analysis presents the options considered by FmHA in prohibiting loan guarantees when funds are obtained from tax-exempt obligations.

Title: Restricting Loan Guarantees with Tax-Exempt Obligations

Nature of Proposed Action and Groups Impacted

The proposed action establishes regulatory policy regarding FmHA guarantees when the proceeds of tax-exempt bond issues are directly or indirectly involved.

The option selected (Option C of this analysis) would prohibit FmHA from guaranteeing loans made from the proceeds of tax-exempt bond issues. The option would permit, however, FmHA to guarantee loans (involving funds obtained from sources other than tax-exempt bonds) to finance portions of projects when other parts of the projects are financed with the proceeds of tax-exempt bonds. In such guarantees, however, the security for FmHA's loan guarantee must, at a minimum, have a parity position with the security of the tax-exempt financing.

Present FmHA regulations do not preclude the guaranteeing of loans made from the proceeds of tax-exempt bond issues for eligible applicants providing the participation fees associated with such bond issues (normally about 4 percent of the face value of the loan) are not paid from loan funds. FmHA loan guarantee programs affected by present regulations include: Business and Industry, Recreation, Soil and Water, Emergency (Disaster), Farm Operating, Farm Ownership, Economic Emergency, Biomass Energy and Alcohol Fuels and Above Moderate Income Housing Loans.

The groups impacted are State and local governments or special purpose public authorities issuing tax-exempt bonds, financial institutions dealing in such security instruments, and borrowers of money generated by the sale of such.

Background

States and their political subdivisions and, more recently, special purpose public authorities use tax-exempt bond issues to capitalize projects that cannot be financed from general revenue accounts. The exemption from taxes of interest earned on such bond issues has been a part of the Internal Revenue Code since 1913.

To qualify for the tax-exemption, the State(s) must have had enacted enabling legislation empowering a governing entity or special purpose authority to issue such bonds and the bonds must be for a public purpose.

The public use criteria has led to a wide variety of purposes being declared public in nature, i.e., education facilities, hospitals and health centers, parking lots, sports arenas, convention and trade centers, port facilities, industrial parks, etc. Many such purposes have been tested in court, as has the right of special purpose authorities to issue tax-exempt bonds.

The expanded use of tax-exempt financing began in the early part of the 20th century and has continued to grow to the extent that some $56 billion in tax-exempt issues were sold in 1980. (This figure includes all tax-exempt financing, i.e., school systems, publicly owned utility systems, etc., as well as issues for municipal services and housing. The total amount of issues commonly referred to as "municipals" was $48 billion.)

The total amount of tax-exempt issues sold began increasing significantly in the mid 1960's. The rate of increase between 1967 and 1976 was 134 percent. The growth rate between 1976 and 1981 was 35 percent. Much of that increase is explained by the fact that more State and local governments, through special purpose public authorities, began using tax-exempt issues to finance industrial development projects for the purpose of attracting new industry or providing facilities to accommodate expanding industries. These efforts, in some respects, are an inducement for industries to relocate. These issues work in a variety of ways but generally the proceeds of the bond issues are used to acquire and improve an industrial site. The debt is then retired through rental revenues.

State and local housing financing authorities also began increasing their use of tax-exempt issues in the mid 1960's to generate revenue to construct housing for low-income and moderate-income families. The total amount of "Housing" bonds sold in 1975 was $1.4 billion. The amount sold has increased to $13.5 billion in 1980. The proceeds from these bond issues generally are used to purchase or originate home mortgage loans, thereby generating new capital for home mortgages, or they are used as permanent financing for low income housing projects.

It is evident that the use of the tax-exempt bonds is a significant source of revenue for a variety of public projects and will continue to attract significant

portions of investment capital as long as the rate of return is greater than the after tax return on taxable investments. Historically, tax-exempt interest rates have been approximately 30 percent below taxable rates.

The tax-exempt feature of "municipal" bonds has been the subject of a long standing debate concerning tax policy. The debate generally focuses on the following issues: (1) is it more efficient for the Federal government to subsidize state and local governments by not taxing the interest earned on municipal bonds or through direct lending programs, (2) does the intrusion into the capital market by state and local governments reallocate limited investment capital to projects that otherwise would be difficult to justify, (3) do tax-exempt bonds inequitably distribute the benefits, do investors gain more than the individuals benefiting from the project, and (4) does tax-exempt financing represent an indirect tax imposed by one entity on others not benefiting from the project.

Guaranteeing Loans made from Tax-Exempt Bond Issues

Revenue bonds generally do not enjoy the same high quality credit rating as do general obligation issues which carry the full faith and credit of the issuing entity. Therefore, there have been various attempts to find other sources of investment security, such as direct or indirect federal guarantees of such issues.

Interest rates perform the function of price in the allocation of investment capital among alternative uses. When the Federal Government through a loan guarantee assumes the risk, the impact is lower interest rates to the borrower. The allocation of investment capital is then shifted in favor of borrowers for whom the Government has assumed the risk. Because such borrowers tend to use more debt financing than they would normally, there will be less investment capital available for other borrowers. And, because less capital is available, competition for available funds will tend to force the price up. The result is that the federal guarantee performs the similar function as a transfer payment from borrowers not benefiting from federal loan guarantees to borrowers who do.

The use of federal loan guarantees in conjunction with tax-exempt issues exacerbates arguments for and against tax-exempt bond issues. Some view the federal guarantee of a loan made from the proceeds of a tax-exempt security as a "double subsidy." The combination of the tax-exempt and guarantee features results in the creation of a debt instrument, which it is argued, is superior to issues of the U.S. Treasury. The ability of the Treasury to borrow is thereby affected.

Others argue that direct or indirect guarantees of tax-exempt issues, particularly for industrial development projects, give new and small businesses more equitable access to capital markets and will in the long term generate sufficient new tax revenue to offset the short term loss to the Treasury.

Proponents also argue that the combination of a federal loan guarantee and the tax-exemption feature does not create a security instrument of higher quality than those offered by Treasury because the guarantees usually are for less than 100 percent of loan value. Hence, they have little real affect on interest rates.

Purpose and Need for Action

Federal policy on the issue has been unclear.

Some agencies have statutory guidance on the issue of guaranteeing loans made from the proceeds of tax-exempt issues. For example:

- The Small Business Administration (SBA) has statutory authority to guarantee loans made from the proceeds of tax-exempt industrial revenue bonds when such loans are to be used for the acquisition of pollution control equipment. However, SBA's policy regarding participation in projects financed with tax-exempt bonds has been restrictive. The policy drew Congressional concern in 1979 when SBA declined to participate in several projects that would have been financed with industrial development bonds with a collateral position ahead of SBA's loan guarantees.
- The Department of Housing and Urban Development (HUD) also has such statutory authority in connection with the purposes of the Urban Development Action Grant Program which is geared essentially to the overall economic development of a community. HUD has for several years financed low-income housing projects capitalized by tax-exempt bond issues. Public Housing authorities are financed by tax-exempt issues secured by an annual pledge of rental revenues and by contracts through which the Department of Housing and Urban Development obligates the Government, unconditionally, to pay the amount necessary to cover the difference between rental revenues and the principal and interest cost of the bond issue. This practice, in effect, incorporates the characteristics of guaranteeing loans made from tax-exempt issues.
- The Economic Development Administration has, in the past, been willing to subordinate its debt position to tax-exempt issues which indirectly has the effect of guaranteeing the bond issue but has not directly guaranteed loans made from the proceeds of tax-exempt issues. This practice has now been terminated.
- FmHA generally has prohibited direct guarantees of such loans made from the proceeds of tax-exempt issues but has, on a limited number of occasions, guaranteed loans that were purchased with the proceeds of such issues.

FmHA is seeking to change its position especially since new uses for such financing are being developed, as discussed below.

Agricultural Development Bonds

In recent months there has been an extensive effort by State legislatures, investment counselors and packagers of bond issues to promote the sale of tax-exempt Agricultural Development bonds to make low-interest capital available to farmers.

Many States have enacted the necessary enabling legislation and some development authorities have issued tax-exempt bonds. Other States have similar legislation under active consideration. The prospectus of one of the bond issues raises several points of immediate concern to the Farmers Home Administration. First, the prospectus states that each loan made from the proceeds of the bond issue will be guaranteed by the United States through the loan guarantee programs of FmHA. FmHA does not now have, nor is it contemplated that it will have, loan guarantee authority to cover the amounts issued or envisioned by such bond issues. The level of loan guarantees in the farm ownership program for fiscal year 1981 is $50 million. Between 15 and 20 States have enacted or are considering such legislation and the amounts of the bond issues passed or being discussed range from $25 to $100 million. Second, the prospectus includes provisions for the payment of participation and origination fees ranging in total from 3 to 4.5 percent which would be paid by the borrower. The Department's Office of General Counsel has determined that present FmHA regulations do not permit the payment of such fees by the borrowers from loan proceeds.

A peripheral issue is that the payment of such fees by the borrower would have the effect of raising the effective interest rate and in so doing partially negate the

benefits gained through a loan guarantee.

Some loans made from the proceeds of tax-exempt agricultural development bonds were guaranteed by FmHA when the initial State programs became operational. FmHA is not encouraging further guarantees of this type.

Options

A. *Status Quo.* Retain existing language, which is not specific, regarding the use of loan guarantees in connection with tax-exempt bond issues. This option could result in additional pressure to use FmHA's loan guarantee programs in conjunction with tax-exempt issues as more States enact such enabling legislation and prepare bond issues. The level of loan guarantee authority is controlled by the budget process, hence, there would be pressure to raise these levels to accommodate all States enacting such legislation.

B. *Prohibit direct, indirect and supplemental use of the loan guarantees in conjunction with projects financed with tax-exempt issues.* This would prohibit the use of guarantees when loans are made with the proceeds of a tax-exempt issue (direct), when loans are purchased with the proceeds of a guaranteed issue and when loans are collateralized with the proceeds of a tax-exempt issue (indirect). It would also prohibit the use of loan guarantees which only constitute a portion of the total project cost even when there is distinct separation of all funds used in the project (supplemental). The latter provision may be too restrictive in that projects designed to meet national objectives, such as the stimulation of business development and job creation in various areas, would not be able to derive the benefits of a loan guarantee program.

C. *Prohibit the direct and indirect use of loan guarantees involving tax-exempt bond issues but permit the use of loan guarantees (involving funds obtained from sources other than tax-exempt obligations) when such loan guarantees constitute only a portion of the cost of a project.* The option was selected because it would permit FmHA to participate in financing of projects that are consistent with FmHA's mission and national objectives. The prohibition of direct and indirect use of guarantees of loans made from the proceeds of tax-exempt bond issues will limit further intrusion into the capital markets by the Government and by enterprises sponsored by the Government, thereby relieving some of the pressure on interest rates. In addition, such prohibitions will prevent such tax-exempt bond issues from using Federal loan guarantees to leverage a more favorable position in the competition for capital.

D. *Prohibit direct and indirect use of guarantees but allow certain exemptions.*—(1) *Housing and Community Programs.* This option would permit the direct and indirect use of loan guarantees for projects meeting an identifiable national objective, e.g., increasing the quantity and quality of housing stock available to low-income families or alleviating health and environmental hazards by improving water supply, waste disposal or health facilities.

This option has obvious drawbacks in that other activities that could benefit from the use of loan guarantees could claim equal status and pressure would begin to build to include those activities in such a program.

(2) *Farm Programs.* This would facilitate participation in the Agricultural Development bond issues but has the same drawbacks discussed above.

USDA or other Federal Costs

There are costs to the Federal Government associated with financing programs that utilize tax-exempt bonds. The exact level of those costs is difficult to determine because it involves calculating nominal and effective tax rates for all purchasers of tax-exempt bonds, as well as determining the level of additional income taxes generated by private and public investments utilizing the proceeds of tax-exempt bonds. The determination of those costs is beyond the scope of this impact analysis.

It is useful, however, to discuss the nominal cost of tax-exempt borrowing compared to the cost of insured farm ownership loans. As an example, the attached Table I compares the costs and benefits of three methods of financing $100 million in loans. When the Federal Government, in this example, chooses to permit the States to raise funds for farm loans through a tax-exempt bond issue, it is also deciding to forgo the tax receipts of $6 million associated with the taxable approach. The same is true for the program in which the Federal Government guarantees the loans made with the proceeds of tax-exempt bonds. As shown in the attached Table I, the program utilizing tax-exempt financing in conjunction with federal loan guarantees does effect a significant reduction in the interest rate charged the borrower, but does so at an equally significant cost to the Treasury.

Further, the introduction of a new tax-exempt security into the market, particularly one that has direct or indirect federal guarantees associated with it, will undoubtedly cause some shift from private and taxable public securities but the extent of such a shift is not known nor is it known how much investment in tax-exempt securities is shifted from other tax shelters. In addition the impact of a new use of tax-exempt financing would be to erode the capacity of state and local governments to issue general obligation bonds because the supply of tax-exempts would increase to the extent that the competition would force an increase in the yield. It has been estimated by the State University of New York that each billion dollars of tax-exempt issues introduced on the market causes interest rates to rise by 3 to 5 basis points.

Distribution of Effects

Only the farmers in those states enacting legislation authorizing the issuance of Agricultural Development bonds could benefit from federal guarantees of such loans, thereby denying others the benefit of such a subsidy. That would put FmHA in an untenable position, or it would intensify the pressure to enact similar legislation in other states. In addition, other groups have been denied such subsidies in the past. To change the policy for this group would seem inequitable.

TABLE I.—COST OF FINANCING $100 MILLION PROGRAM FOR FARM LOANS

	Federal program taxable approach	State program tax-exempt approach	State program tax-exempt with Federal loan guarantees
Interest paid to investor	15 percent	10 percent	7 percent.
Interest rate charged to borrower	13.25 percent	10.25 percent	8 percent.
Interest payment to investor	15 million	10 million	7 million.
Average effective tax bracket of investor	40 percent	40 percent	40 percent.
Income tax receipts to U.S. Treasury	6 million		

Option C was selected since this option is consistent with the recommendations of the Department's Office of Inspector General and the concerns of the General Accounting Office, and with FmHA's mission and National objectives.

Clearinghouse Review

The FmHA programs which are affected by this regulation are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

Programs Affected

CFDA No. 10.404, Emergency Loans; No. 10.406, Farm Operating Loans; No. 10.407, Farm Ownership Loans; No. 10.413, Recreation Facility Loans; No. 10.416, Soil and Water Loans; No. 10.422, Business and Industrial Loans; No. 10.428, Economic Emergency Loans; No. 10.429, Above-Moderate Income Housing Loans (Guaranteed Rural Housing Loans); and No. 10.432, Biomass Energy and Alcohol Fuels Loans and Loan Guarantees.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Discussion of Proposed Rule

The intended effect of this action is to change FmHA's position on guaranteeing loans involving tax-exempt obligations. As proposed, § 1980.6(a)(9) is revised and § 1980.23 is added in Subpart A of part 1980 and § 1990.10(d) is revised in Subpart A of part 1990 to enumerate those conditions under which FmHA will not be involved in financing business, individuals, or other entities with its guarantees when tax-exempt obligations are also involved, either directly or indirectly. This form of financing provides a double benefit (i.e., the Government guaranteeing a loan and a tax-exempt obligation being sold to the general public to cover the financing). Appendix A of 1980–A is also revised to redefine "holder" on Form FmHA 449–34, "Loan Note Guarantee." This change prohibits the "holder" from using proceeds obtained from tax-exempt obligations. § 1980.308(c) is added in Subpart D of part 1980 and § 1980.413(c) is added in Subpart E of part 1980 to reference the proposed § 1980.23 of Subpart A of part 1980.

On December 10, 1979, FmHA published in the **Federal Register** (44 FR 70741) a notice of proposed rulemaking setting forth this issue as it related to the Business and Industry Guarantee Program (B&I). Interested parties were given the opportunity to submit any comments, views or recommendations regarding the proposed changes.

Fifteen individuals and associations responded to the B&I proposed rule. Twelve respondents were equally divided on the issue and three respondents recommended no changes. Several of those opposing the amendment acknowledged that the double-benefit effect created by these types of transactions was not necessary or desirable and should be eliminated. Their primary concern with the proposed rule was the prohibition of a loan guarantee as one independent and unrelated part of the financing package when tax-exempt funds make up some or all of the other financing. One individual stated: "It is our position that a government guarantee should not be used in the form of collateral with respect to a tax-exempt bond issuance. However, a guarantee loan should not be prohibited when the proceeds of tax-exempt bonds are merely another planned source of project funding." Another respondent agreed by stating, "We do not believe it is the intent of the FmHA to so severely restrict participants in its B&I loan program with respect to the availability of future financing. Moreover, we do not believe that the intent of the proposed regulation is or should be to prohibit the financing of qualified business undertakings in part by FmHA guaranteed loans and in part through the issuance of tax-free bonds (so long, of course, as the FmHA guarantee does not directly extend to or otherwise collateralize the bond)."

The above referenced proposed rule was finalized and submitted to the **Federal Register** as a Final Rule, but was withdrawn before publication. The Administration felt that a rule needed to be promulgated that applied to all FmHA guaranteed loan programs, rather than to just one program. The previous proposal applied only to the B&I program.

Accordingly, to provide a solution for these problems and to clarify FmHA's position concerning tax-exempt financing, FmHA proposes to amend Subparts A, D and E of part 1980 and Subpart A of part 1990, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1980—GENERAL

1. As proposed, § 1980.6(a)(9) is revised to read as follows:

§ 1980.6 Definitions and abbreviations.

(a) *General Definitions.* * * *

(9) *Holder.* The person or organization other than the lender who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a holder only when Form FmHA 449–36, "Assignment Guarantee Agreement" is used.

* * * * *

2. As proposed, § 1980.23 is added and reads as follows:

§ 1980.23 Prohibition of the guaranteeing of tax-exempt transactions.

(a) FmHA will not guarantee any loan made with the proceeds of any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). Funds generated through the issuance of tax-exempt obligations as defined above may not be used to purchase the guaranteed portion of any FmHA guaranteed loan nor may an FmHA guaranteed loan serve as collateral for a tax-exempt issue as defined above.

(b) The only time FmHA may guarantee a loan for a project which involves tax-exempt financing is when the guaranteed loan funds are (1) used to finance a part of the project which is separate and distinct from the part of the project which is financed by the tax-exempt issue and (2) the guaranteed loan has at least a parity security position with the tax-exempt obligation.

3. As proposed, Appendix A is amended by revising the second paragraph of paragraph B.2., "Definition of Holder," to read as follows:

Appendix A—Form FmHA 449–34, "Loan Note Guarantee."

* * * * *

B. * * *

2. * * *

Definition of Holder. The Holder is the person or organization other than the Lender who holds all or part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation the interest on which is excludable

from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the Lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a Holder when Form FmHA 449–36, "Assignment Guarantee Agreement," is used.

* * * * *

4. As proposed, § 1980.308 is amended by adding paragraph (c) as follows:

§ 1980.308 Transactions which will not be guaranteed.

* * * * *

(c) *Prohibition of loans which involve tax-exempt obligations.* Regulations pertaining to loans which involve tax-exempt obligations are set forth in § 1980.23 of Subpart A of this part.

5. As proposed, § 1980.413 is amended by adding paragraph (c) as follows:

§ 1980.413 Transactions which will not be guaranteed.

* * * * *

(c) The prohibition of the guaranteeing of loans involved in tax-exempt obligations is set forth in § 1980.23 of Subpart A of this part.

PART 1990—BIOMASS ENERGY AND ALCOHOL FUELS LOANS AND GUARANTEES

6. As proposed, § 1990.10(d) is revised to read as follows:

§ 1990.10 Ineligible projects.

* * * * *

(d) *Prohibition of the guaranteeing of tax-exempt transactions.* (1) FmHA will not guarantee any loan made with the proceeds of any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). Funds generated through the issuance of tax-exempt obligations as defined above may not be used to purchase the guaranteed portion of any FmHA guaranteed loan nor may an FmHA guaranteed loan serve as collateral for a tax-exempt issue as defined above.

(2) The only time FmHA may guarantee a loan for a project which involves tax-exempt financing is when the guaranteed loan funds are (i) used to finance a part of the project which is separate and distinct from the part of the project which is financed by the tax-exempt issue and (ii) the guaranteed loan has at least a parity security position with the tax-exempt obligation.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70; Biomass Energy and Alcohol Fuels Act of 1980 (Pub. L. 96–294, Title II))

Dated: February 12, 1982.

Ruth A. Reister,

Deputy Under Secretary for Small Community and Rural Development, Farmers Home Administration.

[FR Doc. 82-4572 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-07-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 747

Rules and Procedures Applicable to Proceedings Relating to the Suspension or Revocation of Charters and to Involuntary Liquidation

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration Board proposes to revise its policy on involuntary liquidation of insolvent Federal credit unions by eliminating the availability of administrative hearings. This proposed action will protect the National Credit Union Share Insurance Fund and creditors of the insolvent Federal credit unions by reducing the delay and financial losses that have occurred during the hearing process. This action will also reduce the costs to the National Credit Union Administration in carrying out the mandate of Section 207 of the Federal Credit Union Act (12 U.S.C. 1787).

DATE: Comments must be received on or before April 19, 1982.

ADDRESS: Send comments to Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Anne K. Scully, Attorney-Advisor, Office of General Counsel at the above address. Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION:

I. Background

Under its existing policy, the National Credit Union Administration (NCUA) has provided an administrative hearing for a Federal credit union which is found to be insolvent by the NCUA Board. (12 CFR 747.702–747.704) These hearings are not required by the Federal Credit Union Act. Further, involuntary liquidation hearings do not appear to be necessary to protect any Constitutional due process rights.

Upon reviewing this policy, the NCUA Board has found that an inordinate amount of time lapses between the issuance of a Notice of Intent to Suspend Charter and to Place Into Involuntary Liquidation to the insolvent credit union and the issuance of a final order of liquidation. During this period of time, it has been NCUA's experience that the value of the credit union's assets, including the loan portfolio, often decrease, its overall financial condition frequently worsens, and management improperties continue to occur. In addition, the hearing process involves considerable administrative expense and staff time which is borne by financially healthy credit unions through their contributions to the National Credit Union Share Insurance Fund (NCUSIF) and their payment of operating fees to NCUA. The NCUA Board believes any benefits that may be derived from these hearings do not outweigh the costs to the agency, to the NCUSIF, and to the credit union's members and creditors, and, therefore, the NCUA Board proposes to eliminate these hearings.

II. Effect on Federal Credit Unions

The NCUA Board believes that elimination of administrative hearings for insolvency liquidations will neither harm the interests of those credit unions affected by such determinations nor treat them unfairly.

It is important to note that NCUA's determination of insolvency is based upon a vast array of evidence and staff experience within the agency. Examination reports are prepared by onsite examiners who examine the institution on a regular basis and are familiar with the issues and problems peculiar to that credit union. Further, once a credit union exhibits problems which may be potentially harmful to its financial wellbeing, the examiner contacts the institution on a more frequent basis to determine if progress is being made to correct noted deficiencies. If the problems noted persist after several supervisory contacts, the examiner recommends to the Regional Director that a Problem Case/Preliminary Warning Letter (PC–PW) be issued to the credit union. A PC–PW Letter is the preliminary step to an administrative action. The PC–PW letter forewarns the credit union that unless the persisting serious problems are corrected or reasonable progress is made toward the elimination of the problems, the Regional Director will recommend that the NCUA Board initiate administrative action, which, in the case of insolvency, is placing the credit union into involuntary liquidation. PC–PW letters are issued on a regular basis and serve to give the credit union,

within a reasonable amount of time, an opportunity to take the necessary corrective action. If the credit union is unable or unwilling to remedy those conditions which cause it to be insolvent after the PC–PW letter is issued, the Regional Director, pursuant to his delegated authority, issues a Notice of Intent to suspend the charter of the credit union and to place it into involuntary liquidation.

Of course, where the examiner determines either during a regularly scheduled examination or a supervisory contact that circumstances warrant that immediate action be taken to prevent the dissipation of the credit union's assets and to protect the interests of members, creditors and the NCUSIF, the examiner will recommend to the Regional Director the immediate suspension of the insolvent credit union's charter. In this case no PC–PW letter will be issued.

Throughout this process, the examiner's reports will have documented the credit union's past operations. The reports also form a foundation for projecting the credit union's future condition. Thus, the NCUA Board believes that through the supervisory examination process, all possible information relevant to a determination of a credit union's financial condition is collected and analyzed. The Board does not authorize the action of involuntary liquidation based upon insolvency unless it has developed sufficient findings of fact to support such an action. Historically, every insolvency action initiated by NCUA, when subsequently challenged by the credit union, has withstood judicial review. Based upon the current intra-agency guidelines for the examination of credit unions, the Board believes that NCUA performs fact finding functions sufficient to protect both the agency and the credit union's rights.

III. Effect on NCUA

The NCUA Board has found that preclosure administrative hearings based upon a finding of insolvency have resulted in financial and economic consequences detrimental to the Administration and to the NCUSIF.

First, providing such hearings results in financial loss to the NCUSIF. On average, approximately 12 months lapse between the date the notice of intent to liquidate is issued and the date the order of liquidation is issued. During this time, NCUA is delayed in the collection and sale of the assets acquired from the insolvent credit union. As a result, the loans in the credit union's portfolio age and lose value. When the portfolio is sold, the price received generally is lower because of the advanced delinquency of the loans. The NCUSIF will incur an increased loss through making up the difference.

Second, the Board has noted that certain improprieties have occurred during the time between the notice of intent to liquidate and the date of liquidation. In certain instances, officials of the credit union, who had knowledge of their institution's insolvent financial condition, have written favorable loans to themselves. In other cases, boards of directors have voted their officers bonuses prior to the closure of their credit unions. Finally, boards of directors of insolvent credit unions have in some cases authorized payments of illegal dividends, even where their credit unions not only have negative earnings but also have inadequately funded their loan loss account. All of these activities have the effect of depleting the credit union's assets and requiring the NCUSIF to make a larger payout at liquidation.

Finally, the Board believes that NCUA is also adversely affected by the administrative costs and expenses incurred. Examiner field time would change very little if NCUA were to eliminate the insolvency hearings. However, NCUA attorney staff time consumed in preparing for, traveling to and conducting hearings would be reduced. Moreover, substantial travel expense and administrative costs (such as court reporting expenses and reimbursement for Administrative Law Judge's time) would be saved by eliminating the insolvency hearing.

The Board emphasizes that the right to a preclosure hearing shall continue to remain available to solvent credit unions which are subject to administrative actions (other than insolvency) pursuant to sections 120(b) and 206 of the Federal Credit Union Act (12 U.S.C. 1766(b), 1786). The Board believes that in those instances where the administrative action arises from an allegation of an unsafe and unsound practice or violation of the Federal Credit Union Act, NCUA Rules and Regulations, or Federal Credit Union Bylaws, the credit union so charged should be afforded the opportunity either to refute the charges or to present evidence of corrective measures that it has taken.

IV. Regulatory Flexibility Act

The NCUA Board certifies that these proposed revisions, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the rules pertain only to Agency practice and procedure, and will minimize the risk of loss to creditors of insolvent credit unions, and reduce costs to NCUA, to the NCUSIF, and (through the impact on fees and assessments) to all federally insured credit unions. In addition, based on past history, few of any, small credit unions avail themselves of a hearing in insolvency liquidation actions. Therefore, a flexibility analysis is not required, 5 U.S.C. 605(b).

By order of the National Credit Union Administration Board, February 11, 1982.

Rosemary Brady,

Secretary of the Board.

(12 U.S.C. 1766, 1787)

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, AND RULES OF PRACTICE AND PROCEDURE

Accordingly, Part 747 (12 CFR Part 747) is proposed to be amended as follows:

§ 747.01 [Amended]

1. Section 747.01 is proposed to be amended by revising the second sentence of paragraph(a) to read as follows:

(a) * * * The administrative actions described herein, as well as the grounds and hearing procedures for each, are controlled by sections 120(b) (except where the Federal credit union is closed due to insolvency), 206 and 304(c)(3) of the Federal Credit Union Act.* * *

* * * * * *

2. Section 747.101(a)(5) is proposed to be revised to read as follows:

§ 747.101 Scope.

(a) * * *

(5) Those held pursuant to section 120(b) of the Act, pertaining to the suspension or revocation of the charter of any solvent Federal credit union, and the placing of such a credit union into involuntary liquidation (Subpart G) and * * *

3. Section 747.701 is proposed to be revised to read as follows:

§ 747.701 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board pursuant to section 120(b)(1) to suspend or revoke the charter of a solvent Federal credit union, and to place a solvent Federal credit union into involuntary liquidation.

4. Section 747.702 is proposed to be revised to read as follows:

§ 747.702 Grounds for suspension or revocation of charter and for involuntary liquidation.

(a) *Grounds in general.* The Board may suspend or revoke the charter of any Federal credit union, and place such credit union into involuntary liquidation and appoint a liquidating agent therefor, upon its finding that the credit union has violated any provision of its charter or bylaws or of the Federal Credit Union Act or regulations issued under said Act.

(b) *Immediate suspension.* In any case where the Board determines that the grounds set forth in paragraph (a) of this section, exist and that immediate action is necessary in order to prevent further dissipation of credit union assets or earnings, or further weakening of the credit union's condition, or to otherwise protect the interests of the credit union's insured members or the National Credit Union Share Insurance Fund, it may order without prior notice, the immediate suspension of the charter of such credit union, and if the circumstances so warrant, may take possession of all books, records, assets, and property of every description of such credit union.

5. The last sentence of § 747.705(a) is proposed to be revised to read as follows:

§ 747.705 Issuance of order.

(a) * * * Additionally, the Board shall appoint a liquidating agent or agents.

* * * * *

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BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212, 294, 298, and 380

[Economic Regulations, Special Regulations Docket 40336; EDR-439; SPDR-86]

Public Charters; Proposed Revision

February 1, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its rules concerning charters. The proposal seeks comments on replacing the current rules governing public charters with a new registration and bonding requirement for indirect air carriers or, alternatively, keeping some combination of a bonding and escrow requirement and some or all of the requirements designed to protect participants' expectations while eliminating all filing requirements on indirect air carriers. The proposal would also eliminate restrictions on eligible groups and dealings between charter operators and air carriers. The rulemaking is at the Board's own initiative, with a view to reducing the rules concerning charters to the minimum necessary for public protection.

DATES: Comments by: April 20, 1982. Reply comments by: March 10, 1982. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable. Requests to be put on the Service List by: March 8, 1982. The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40336 Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia Szrom, Special Authorities Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5066 or Patricia DePuy, Regulatory Affairs Division, Bureau of International Aviation, 202-673-5878; Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: As part of its progress toward sunset, the Board is conducting a comprehensive review of all of its regulations, and requirements in other forms such as "tariff rules," that pertain to the protection of the public, to determine which ones should be retained, modified, or repealed. By this notice, the Board is proposing to revise its charter rules so as to eliminate unnecessarily restrictive provisions that hamper charters' competitiveness in the marketplace. Our aim is to retain only such provisions as are needed to provide basic public protection and the regulatory tools to carry out the nation's international aviation policy.

The Board's current charter rules, although they have been substantially liberalized over the last two decades, still impose limitations on direct and indirect air carriers that are relatively stringent compared to the situation with scheduled air service. The rules applicable to most direct air carrier charters (14 CFR Parts 207, 208, and 212) still have detailed requirements, for example, concerning contracts with charterers, records and record retention, time of payment, financial protection for deposited payments, and dealings with "affinity groups" and who may be included in them. Similarly detailed requirements apply to indirect air carriers organizing charters sold to the general public (14 CFR Part 380), and they also include many specific provisions relating to the contracts between the charterer and the passengers. One of the most important restrictive features of these rules is that they specify the types of charters that may be performed, and prohibit all others. 14 CFR 207.11, 208.6, 212.8, 380.10.

With the move to deregulation that culminated in the Airline Deregulation Act of 1978, Pub. L. 95-504, some of the original reasons for the charter rules disappeared. When the scheduled air transportation system was maintained by the Board as a carefully allocated network of routes, with a limited number of major airlines whose prices were also closely regulated, charters were seen as a potential threat to scheduled service, because they could "divert" significant numbers of passengers from the scheduled flights and thereby alter the traffic assumptions and economics upon which the scheduled system was based. With the policy change to allow market forces to determine which carriers would fly, their levels of service, and within limits the prices they would charge, this rationale for restrictive rules disappeared. One result was the Public Charter rule, 14 CFR Part 380 (SPR-149, 43 FR 36804, August 18, 1978), which removed many of the restraints on the operation and sale of charters.

The substantial body of remaining charter requirements can be divided into four areas: (1) Protection for public charter participants' funds, in the form of requirements for both carriers and charter operators to post bonds and set up depository accounts, (2) protection of participants' expectations, in the form mainly of detailed rules concerning the contents of operator-participant contracts, such as price changes, cancellations, and itinerary changes, (3) a body of rules dealing with nonpublic charters, such as "affinity group" and "single-entity" charters, and (4) the remainder, a miscellaneous collection of rules dealing mainly with the relations between the direct air carrier and the charterer.

Considering these categories in reverse order, the Board finds little basis in a system that will depend primarily

on market forces to determine the services and the prices offered, for rules intended to protect business enterprises from the effects of commercial adversity and irregular dealings of other enterprises. In this category would fall rules such as those requiring charterer-carrier contracts to be in writing and specifying what details they must cover (14 CFR 207.4a, 208.31b, 212.3a). The Board assumes in this context that the persons managing the enterprises involved are capable of choosing carefully the businesses they deal with, and arranging their contracts with appropriate protections. The very existence of a body of government rules in this area that must be learned and observed by those who would use the charter form, even if the rules considered individually are not onerous, deters entry by limiting flexibility of contract and by imposing added costs with little if any corresponding public benefit. The rules proposed will therefore omit this type of requirement.

The third category listed, rules for specific nonpublic types of charters such as those for affinity groups and single entities, has been allowed to continue largely as a way of distinguishing these charters from those sold to the general public, so that the protective rules for public charters, i.e., the operator-participant contract and financial security provisions could not be evaded. For example, detailed rules have been necessary for affinity or pro rata charters, to ensure that the members of the groups were genuinely associated, and not just members of the public assembled by operators seeking to evade the Public Charter rules. If we adopt a rule abolishing most of the rules for Public Charters we have tentatively concluded that the need to distinguish between nonpublic charters and public charters would disappear. Such rules are therefore also omitted from the scheme proposed by this notice.

One type of special-purpose charter, those for overseas military personnel under Part 372, would not be affected by this proposal. Those charters are limited to a narrow group of eligible participants, and reflect arrangements with foreign host countries that have been worked out over the years. The Board will consider the need for amendments to Part 372 when it responds to the petition for rulemaking that the Davis Agency recently filed on that subject in Docket 40213.

The second category concerns rules to protect the expectations of members of the public flying on Part 380 Public Charters. Unlike the other categories, this group of requirements was fairly recently issued (SPR–156; 44 FR 12978; March 9, 1979). They were put out at a time when charters were growing rapidly in popularity, and beginning to handle a significant fraction of the vacation travel in major long-haul markets such as the transatlantic. The Board has been receiving numerous complaints about changes in the advertised itineraries by tour operators, and of failures to deliver the accommodations expected by the passengers. In response, the Board issued specific rules on the contents of operator-participant contracts, notably a list of "major changes" (hotels, flight dates, origin and destination cities, price) that would entitle passengers to claim a refund. (14 CFR 380.30–33a)

It was recognized when these requirements were issued that they would impose additional costs on charter operation, which would ultimately be borne by the traveling public. At that time, these costs were found to be justified. For one thing, the increment of cost that they added was minimized by the fact that public charters were (then as now) already heavily regulated, with detailed requirements for prospectus filing with the Board, written contracts with all passengers, and bonding and escrow arrangements for protective handling of passengers' money. The expansion of the charter market, and the increase in complaints from dissatisfied passengers, brought about petitions for rules to make clear just what public charter passengers could depend on—i.e., what their rights were in the event of variations from the features they understood were included in their trips. The rules appear to have succeeded in clarifying participants' rights in this area, and in lowering the incidence of public complaints.

The Board now desires to reassess whether this group of requirements is still justified, when regulation of the airline industry has been drastically reduced. As one alternative, the Board is proposing to eliminate the charterer-participant contract rules as discussed above, including prospectus filing and other requirements that involve the Board in fairly detailed supervision of charter operations.

Keeping in existence the rules intended to protect participants' expectations may be more costly than justified by the benefits, and a significant factor in the recent decline in charter competitiveness. For all types of service, the Board seeks to remove regulatory impediments to competition wherever it appears that the market and the normal processes of private dispute resolution will, in the main, arrive at satisfactory results for the concerned public. In the case of problems with passengers' expectations as to the contents and details of their charter trips, the operators' own commercial interest in reasonably satisfying their customers, along with the possibility of legal action where significant problems remain unresolved, may be sufficient as a general matter. The Board and probably its successor agency in this area will be available for aid in dispute resolution, possible enforcement action, or possible new rules where the difficulties amount to fraud or deceptive practices. Individual airlines that depend on charter flights for much-needed revenue may also step in to assure adequate performance by operators. Leaving airlines and charter operators free of regulation in their day-to-day charter activities would minimize administration and opportunity costs and allow charters to be more readily available, flexible, uncomplicated, and competitive.

On the other hand, CAB intervention has been predicated on the belief that in the past the market has been too imperfect to discipline charter performance adequately, and that the costs of government control have been outweighed by the benefits to consumers. To some extent, this has been borne out by our experience with complaints in this area. Market conditions may not yet be sufficiently different to warrant complete elimination of regulation of the operator-participant contract. If so, some reduction of CAB oversight still suggests itself as desirable, and we ask that proponents of rules make specific suggestions in this regard. The Board will give detailed attention to the issue of whether or not to remove the operator-participant contract requirements, and specifically invites data and arguments on the benefits of the requirements, their costs, including their deterrent effect on charter offerings, and the effects of removing them.

The first category involves protection for charter participants' funds. The airlines flying charters have been subject to detailed financial regulation, with their own escrow and bonding requirements (14 CFR 207.17, 208.40, and 212.12). Historically, airlines specializing in charters have tended to be smaller and less financially stable than the scheduled lines. With the advent of airline deregulation in the last 4 years, however, the historic differences between charter and scheduled airlines in the United States have gradually

become obliterated. One early reason was the granting of scheduled-route certificates to what had been charter-only carriers, a practice previously thought contrary to the Act, but upheld in *World Airways, Inc.* v. *CAB*, 547 F.2d 695 (D.C. Cir. 1976). Another important factor has been the large number of new entrants into the scheduled-certificate field. Some of these have been former commuter carriers continuing to operate small aircraft but with certificates; some have been former regional carriers such as Frontier and Texas International who have expanded into national and international routes; and some have been new entrants such as Midway and People Express. A third factor, which may become more important in the future, is the introduction of new air-transportation-marketing forms, such as group contractor fares and Southwest's Ticknet, that bear some characteristics of both charter and scheduled service. The result of these changes is that, where previously there were basically three types of air service—scheduled service by the large trunklines and local service carriers, charter service by charter specialists or trunklines, and air taxi operations—there is now a continuum of air services and air carriers.

With this background, the Board tentatively concludes that justification for imposing financial protection requirements should not be based on the type of service provided. Although it is true that some airlines flying charters may still be underfinanced, and charters typically involve long hauls with large total passenger payments, the same is true of many scheduled and hybrid services. Moreover, direct air carriers usually have some unencumbered assets that can be tapped if the carrier defaults in its service. The Board believes the expansion of carrier and service options outweighs the potential risks posed by elimination of the requirements for protection of funds going to airlines flying charters.

For these reasons, the Board proposes to revoke the direct air carrier bonding and escrow requirements found in Parts 207, 208, and 212. In addition, some U.S. direct carrier charters are governed by the Board's air taxi rule, 14 CFR Part 298, rather than by Part 207 or 208. Part 298 covers charters by air taxi operators and, under the dual authority provisions added by ER–1251, 46 FR 51371, October 20, 1981, certain small-aircraft charters performed by certificated carriers. In ER–1278, 47 FR 604, January 6, 1982, the Board amended the dual authority provisions to bring all of a certificated carrier's small-aircraft operations under Part 298. Charters that are covered by Part 298 are already unrestricted, except for § 298.36. This section requires an air taxi operator or dual authority carrier performing a Public Charter under Part 380 to have a bond or depository account unless payments from the charter operator are delayed until after the flight has been completed. The Board proposes to revoke this section for the reasons discussed above. The corresponding section in Part 294, the Board's recently adopted Canadian charter air taxi rule (ER–1257, 46 FR 52590, October 27, 1981), would be similarly revoked.

Charter Operator Financial Protection

We are not, however, prepared to eliminate all financial protection requirements for indirect air carriers. The indirect carriers are entrusted with large amounts of money, but there may be no assets or back-up provided by the direct carrier if something goes wrong. The Board therefore proposes to retain a financial protection scheme, consisting principally of a bond of $200,000. These rules would replace, for reasons set forth below, the detailed rules now governing the activities of charter operators in 14 CFR Part 380, *Public Charters*. We are alternatively proposing to retain the present escrow account system, in addition to or instead of a bond. These are the main features of the proposed bond-only rule.

It would apply to any air transportation sold through an indirect air carrier where the direct air carrier did not bear responsibility, either directly or as a guarantor, for the passenger's money at the time of sale. If at the time of sale the passengers received a ticket that would be honored by the airline regardless of any actions by the indirect air carrier that sold it, the rule would not apply. The group contractor sales for which the Board has granted exemption authority would not require coverage under this rule, since the direct air carrier there assumes responsibility for transportation or refunds to all ticket-holders. The same is true of Southwest's Ticknet plan. In contrast, if the indirect air carrier required a deposit from the customer without immediately giving in exchange a right against the direct carrier in the event of indirect carrier default, the rule would apply. Thus, the rule would apply only where the public must for some period of time look to the indirect air carrier for the safety of its payments.

Application of the rule would not depend on how the transportation was labeled—whether it was called a public charter, or any other type of charter. The key element, besides the lack of direct air carrier responsibility described above, would be the presence of an indirect air carrier as a middleman selling to the public. True affinity groups, where no sales are made to the general public, have never been subject to bonding or escrow requirements, and would not be covered by the proposed rule.

The requirement for indirect air carriers would be a one-time filing or registration with the Board (described below), which would include a bond for $200,000, or the total payments for uncompleted charters, if less than that amount. The bond coverage would be similar to that of today's charterer bonds: claims for which the indirect air carrier has been held legally liable or that the securer determines to be valid.

Although an acceptable bond form, similar to the present ones for charters, would be set forth in the rule, other forms of protection such as insurance or an industry fund would be permitted, as long as they met or exceeded the basic requirements of the rule.

The rule would cover both domestic and foreign indirect air carriers.

The financial protection provisions of the rule would cover only U.S.-originating charters. The present charter rules similarly do not cover foreign-originating charters, and the Board has over the years found little or no reason to wish to regulate such activities closely.

The bond would have to be maintained at its full amount of coverage as long as the indirect air carrier was authorized to make further sales. The bond would not be considered "impaired" (and require replenishment of coverage), however, until either a judgment was obtained against the principal or the securer admitted a claim.

The securer's exposure to each passenger, as at present, would be limited to the charter price, and to claims made within 60 days after completion of the charter.

Ground accommodations advertised together with the air transportation would be considered as part of the charter and covered by the financial protection.

The securer's obligation, to guarantee payment of a judgment on the basis of failure to provide transportation or a refund, would be explicitly stated in the rule, and failure of the securer to pay would be a violation of it.

U.S. indirect air carriers would file with the Board's Special Authorities Division a simple form giving name, address, telephone number, principal stockholders (*i.e.*, over 10 percent), and

a certification of a security instrument required by the rule. This identifying information is intended not as an advance screening device but rather as a means to enable the Board to make appropriate contacts if later events make it necessary. Once a proper filing was made, a U.S. indirect air carrier could begin operations immediately, without waiting for any Board action. Further filings, to notify the Board of any changes in the required information, would be made within 30 days after the changes took place.

The treatment of foreign indirect air carriers would be slightly different. To enable the Board to make sure that adequate reciprocity was afforded by their homelands, they would have to be registered before beginning operations. A registration application would be filed with the Board's Bureau of International Aviation. It would include the same information as the domestic filings, along with the applicant's country of citizenship and an indication of whether the applicant sought authority to provide interstate, overseas, or foreign public charter air transportation. The registration procedure, under which the Board would normally respond to an application within 60 days after receiving it, is modeled on the one recently adopted for foreign charter operators in SPR–179 (46 FR 56605; November 18, 1981). The provision for interstate and overseas transportation by foreign indirect air carriers is based on the Board's recent proposal in Docket 39744 to allow such transportation when there is adequate reciprocity (EDR–427/SPDR–82; 46 FR 35664; July 10, 1981). If this rulemaking proceeding is completed before the one in Docket 39744, the simplified charter rules proposed here will not include domestic authority for foreign indirect air carriers.

Modest fees would be established for these indirect air carrier filings. The Board will address these fees in a separate rulemaking that it is now developing, which will conform its filing fees to the requirements of the Independent Offices Appropriations Act of 1952. (See NPRM in Docket 30586, dated February 1, 1982.)

Compliance with the bonding and the filing/registration requirements would entitle indirect air carriers to exemptions from sections 401 (certificates for U.S. carriers) and 402 (permits for foreign carriers), as applicable, section 403 (tariff filing), and other provisions of the Federal Aviation Act. The exemptions from sections 408 and 409 (antitrust provisions) are modeled on the ones recently adopted for dual authority carriers (ER–1251; 46 FR 51371; October 20, 1981; additional discussion in ER–1278; 47 FR 604, January 6, 1982). The Board could withdraw the exemptions from an individual indirect air carrier if it found, after notice and an opportunity for responses, that there was a failure of effective reciprocity (for foreign entities only) or that the indirect air carrier had failed to adhere to the requirements of the Act or the Board's rules (for all indirect carriers).

The Board is also considering, and hereby proposes in the alternative, not requiring any type of identification filing for U.S. charter operators, so that only foreign indirect air carriers would have a filing requirement. This alternative would prevent domestic operators from misrepresenting the significance of having filed with the government. Advertising that the charterer had "complied with all the registration requirements of the U.S. Government," or implying that the government had made a judgment concerning the operator's financial and operational fitness would be misleading, since the receiving agency would normally merely accept and file the documents if they were complete on their face. On the other hand, an advantage of requiring identification is the ease with which the exempted entities can be located and contacted in the event of problems warranting exercise of the Board's oversight responsibilities.

This proposal supersedes three earlier Board proposals on the protection of charter passengers' funds: (1) To place in a new Part 389 a completely revised set of detailed rules (SPDR–63; 42 FR 61408; December 2, 1977; Docket 31735); (2) to simplify the depository accounting procedures (SPDR–69, 42 FR 32399; June 6, 1970; Docket 35705); and (3) to allow the use of insurance policies and clarify the rules on letters of credit (EDR–407; 45 FR 63500; September 25, 1980; Docket 36958). The proceedings in Dockets 31735, 35705, and 36958 are therefore hereby terminated.

Justification and Alternatives

One obvious alternative would be to have no financial protection at all for charter participants. This would have the advantage of leaving the field largely free of regulation, with consequent cost savings to the industry and the public.

On the basis of experience to date, the Board considers that course of action an unnecessarily risky one, especially in light of the fact that a substantial degree of protection at minimal cost per passenger may be afforded by the changes proposed today. Indirect air carriers are often very thinly capitalized. An indirect carrier can take in several hundred thousand dollars for a single planeload of charter passengers, with very little expenditure of capital other than advertising costs, and no backing from the direct air carrier. Over the years, there have been cases in which both large and small charter operators (indirect air carriers) have ceased operations in the middle of charter programs and have been unable to provide their passengers with either the promised transportation or refunds. In these cases the Board's financial security requirements have provided the affected passengers with a source of funds in addition to whatever assets the operator had remaining. On the other hand, present financial security requirements, especially the depository requirements, restrict the operator's use of its revenues and may have contributed to the decline of charters *vis-a-vis* scheduled service.

While a bond or alternative security would be a compromise requirement that might cover only a small fraction of the total outstanding payments for a group of flights, the proposed scheme would offer some important protections as compared to no rule at all. It would act as a minimal financial screening device, and introduce another party, the securer, who would be interested in the indirect air carrier's competence, honesty, and solvency. Industry representatives have indicated that bonds of the type discussed here have added no more than one to two dollars per passenger to the cost of a Public Charter. Given the unique financial risk inherent in the sale of air travel by indirect air carriers that are not backed up by direct carriers, the Board tentatively concludes that the public benefits of the proposed requirements outweigh the minimal cost of compliance. Commenters are encouraged to provide specific costs of compliance if they disagree with this assessment.

Another course of action, which the Board hereby proposes in the alternative, would be to retain the requirement for a depository bank to handle participants' funds as at present, in addition to or instead of a bond. This system requires the indirect air carrier to dedicate each group of passengers' payments to their own flight. There is no question that the present depository requirement provides additional protection for participant's funds. If participants make their checks payable to the depository bank, they are of course protected by law if the checks are not deposited there. The depository bank itself comes within the reach of

our regulations, so that if it participates in any diversion of funds to improper use (*i.e.*, anything other than the charters for which they were paid), it is independently liable for the shortage. Furthermore, the presence of the depository requirement acts as another screening device to keep marginal operators out of the business. The system is already in place, familiar to banks that have been acting as depository agents, and administered by banks that in many cases are the commercial banks of the charter operators.

The Board especially invites comments on the relative merits of these financial protection systems: which system, combination, or absence of systems provides the most favorable balance of cost and benefits. Specific data on the costs of the current security requirement and depository requirement would be useful.

Remaining Direct Carrier Charter Rules

Under this proposal, Parts 207, 208, and 212 would be consolidated into a revised Part 212. That part would apply to all charter flights by domestic certificated air carriers and foreign direct air carriers holding permits under section 402 of the Federal Aviation Act, other than flights performed by a domestic certificated carrier with small aircraft under the dual authority provisions of the Board's air taxi rule, 14 CFR Part 298, or by an Alaskan air carrier under Part 292. The revised Part 212 would contain a basic provision allowing charter flights without limitation except as restricted by statute or Board action, thus reversing the traditional posture of the Board in this regard. It would continue to allow "part charters," *i.e.*, sales of seats on scheduled flights to indirect air carriers for resale. Part 212 would also contain the provisions requiring a statement of authorization from the Board for certain types of foreign charter operations, primarily long-term "wet leases" (aircraft plus crew) with a foreign air carrier as lessor, lessee, or both, and "fifth-freedom" charters (origin and destination both outside the home country) or part charters by foreign air carriers. The revised Part 212 would continue the authorization for sales of charters directly to the public by direct carriers or affiliated charterers presently in Parts 207, 208, and 212 although the 7-day advance purchase requirement would be eliminated, granting the petition filed by Transamerica in Docket 39988. It would also continue the prohibition, presently in § 207.7, of charters within the State of Alaska.

For reasons discussed above, the Board is proposing to revoke the provisions of Parts 207, 208, and 212 limiting charter flight operations, regulating direct carriers' relationships with charter operators, establishing recordkeeping standards, setting forth requirements for pro rata, single-entity, and mixed charters, or requiring bonding and depository accounts by direct air carriers.

Charter cargo would receive somewhat different treatment, under this proposal, from charter passengers. The Board finds no need to institute a financial protection system for cargo shippers, charter or otherwise. The effect of the rules under this proposal would be to allow carriers to carry cargo on a charter basis whenever they and the shippers wished to do so. Charter cargo would accordingly be defined as any cargo on a charter flight, and any other cargo for which air transportation had been sold by the direct air carrier other than on an individually-waybilled basis. Those foreign air carriers whose permits authorize only nonscheduled cargo carriage would be allowed to remain outside the charter category, however, by a provision to that effect in the definition of "charter flights."

The Board also proposes to delete the special provisions for amenities during charter flight delays by charter air carriers in Part 208. Charter flight delays have been the subject of a separate proposal (EDR-343; 42 FR 64905; December 29, 1977; Docket 31229). Both direct and indirect air carriers have a strong commercial interest in providing suitable amenities for passengers who are caught in flight delays. In line with the views set forth above concerning rules regulating the relation between air carriers and their customers, the Board is of the opinion that the marketplace will deal adequately with this need as it does with most others, and that rules are no longer called for. That proceeding is therefore hereby terminated.

In another proceeding, the Board proposed to prohibit direct carriers from using a "force majeure" clause in their contracts with charterers to exempt themselves from the obligation to return stranded charter passengers (EDR-405; 45 FR 46812; July 11, 1980, Docket 37169). Such a regulatory prohibition would be inconsistent with some of the other changes proposed above. We will act in Docket 37169 consistently with our final decision here.

In Docket 29359 (EDR-314/ODR-14/SPDR-52; 41 FR 48371; November 3, 1976), the Board proposed to establish detailed rules authorizing a special class of "business oriented charters." That proposal was largely superseded by adoption of the Public Charter rule in 1978, and is completely superseded by this proposal. The proceeding in Docket 29359 is therefore hereby terminated.

When this proposal was at an advanced stage of development, the National Air Carrier Association filed a lengthy petition for rulemaking in Docket 40215. NACA stated that the volume of charter traffic has declined in recent years as a result of competition from discount fare offerings on scheduled flights. It stated that the decline is attributable as least in part to requirements that the Board has imposed on charter service but not on scheduled service. It argued that these requirements are discriminatory and burdensome, and should be eliminated. Using the requirements that the Board established in Order 81-7-109 for group contractor sales on scheduled flights as a guide, it suggested that the Board eliminate or substantially liberalize the charter rules in several ways. Specifically, NACA would eliminate the requirement that charter operators file a prospectus and wait 10 days for Board review before marketing charter transportation, in favor of a rule that merely prohibits sales of a charter until there is a contract between the charter operator and the direct carrier, and perhaps a one-time, after-the-fact notice to the Board of the operator's name and address. NACA would also eliminate the detailed requirements for a written operator-participant contract, to allow charters to be sold under "normal airline ticketing procedures." Along with this change, NACA would eliminate the provisions in the charter rules that define "major changes" and prescribe passenger rights to receive notification, cancel, and receive refunds when such changes occur. NACA would instead allow competitive forces and common law to dictate cancellation terms and refund offerings, on both charter and scheduled tours. At most, NACA would have the Board require consumer notices as set forth in the group contractor order, with the notices applicable to all types of air transportation sold by independent operators, rather than merely charters. The notice would be in a form selected by the operator, and would cover special conditions such as cancellation penalties or, if true, the fact that flight dates and times are not guaranteed. Further, NACA would eliminate all Board regulation of ground packages sold in conjunction with air transportation, all prescribed notices for charters sold by direct air carriers without independent middlemen, and all

prescription of the contents of charter solicitation materials. Finally, NACA would replace the bonding and escrow rules for the protection of charter passengers' funds with a contributory issurance program administered for the benefit of all passengers, which would be funded by a fee added to all scheduled and charter tickets. In the alternative, NACA would have the Board retain the existing rules, but with changes to reflect the non-coverage of ground packages, including a reduction from $200,000 to $50,000 in the amount of the bond for operators using a bond/escrow combination.

Many of the issues raised by the NACA petition in Docket 40215 are addressed by the changes proposed by this notice. The Board is therefore consolidating that docket into this rulemaking proceeding. NACA is especially invited to comment on this notice with a view to the concerns that it expressed in its petition.

If the revisions hereby proposed are adopted, conforming amendments (cross-references, etc.) will be made as appropriate to other parts of 14 CFR Chapter II.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

The analysis is required to describe the need, objectives, legal basis for, and flexible alternatives to the actions proposed here. These requirements are met by the discussion above.

In addition, the analysis must include a description of the small entities to which this proposal would apply, the reporting, recordkeeping or other compliance requirements of this proposed rule, and any other Federal rules that may duplicate, overlap or conflict with it. The proposed rules would relieve substantial restrictions on charter operators, most of which are small businesses, and direct air carriers, some of which are small businesses. The proposed rules would not impose any reporting, recordkeeping, or compliance requirements. There are no other Federal rules that conflict with the proposal.

The Regualtory Flexibility Act also requires agencies to review those of their existing rules that have a significant economic impact on a substantial number of small entities. 5 U.S.C. 610. This rulemaking proceeding constitutes that review for the Board's charter rules.

Proposed Rule

PART 207—CHARTER TRIPS AND SPECIAL SERVICES—[REMOVED]

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION—[REMOVED]

Accordingly, the Board proposes to amend Title 14, Code of Federal Regulations, as follows:

1. Parts 207, *Charter Trips and Special Services*, and 208, *Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation*, would be removed.

2. Part 212, *Charter Trips by Foreign Air Carriers*, would be retitled and revised to read:

PART 212—CHARTER RULES FOR DIRECT AIR CARRIERS

Sec.
212.1 Scope.
212.2 Definitions.
212.3 Charter flights generally.
212.4 Exemptions for direct sales.
212.5 Prior authorization requirements.
212.6 Application for authorization.
212.7 Issuance of authorization.
212.8 Charter trips and other special services within the State of Alaska.

§ 212.1 Scope.

(a) Except as set forth in paragraph (b) of this section, this part applies to all charter flights, and all other flights carrying charter passengers or cargo, in air transportation by certificated carriers or foreign carriers.

(b) This part does not apply to any flights performed by a certificated carrier under Part 298 of this chapter *(Classification and Exemption of Air Taxi Operators)*.

§ 212.2 Definitions.

For purposes of this part:

"Certificated carrier" means an air carrier holding a certificate issued under section 401 of the Act, other than an air carrier classified under § 292.1 of this chapter as an "Alaskan air carrier."

"Charter flight" means any flight other than a regularly scheduled flight, but does not include a nonscheduled flight carrying only individually waybilled cargo by a foreign air carrier whose permit authorizes only nonscheduled cargo carriage.

"Foreign carrier" means a foreign air carrier that holds a permit issued under section 402 of the Act authorizing direct air transportation.

"Charter cargo" includes any cargo carried on a charter flight, and any cargo for which air transportation has been sold by the direct air carrier other than on an individually waybilled basis.

"Charter passengers" includes any passengers carried on a charter flight, and any passengers traveling in "public charter air transportation" as defined in § 380.2 of this chapter.

"Third freedom charter" means a charter flight carrying traffic that originates in the carrier's home country and terminates in another country.

"Fourth freedom charter" means a charter flight carrying traffic that terminates in the carrier's home country and originates in another country.

"Fifth freedom charter" means a charter flight carrying traffic that originates and terminates in countries other than the carrier's home country, regardless of whether the flight operates via the home country.

"Long-term wet lease" means a lease by which the lessor provides both an aircraft and its crew, which either (a) lasts more than 60 days, or (b) is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

§ 212.3 Charter flights generally.

Certificated carriers and foreign carriers may without limitation operate charter flights, and carry charter passengers or cargo on scheduled or unscheduled flights carrying individually-ticketed or individually-waybilled traffic, subject to the requirements of this chapter and any orders of, or specific conditions imposed by, the Board. However, nothing in this section authorizes a foreign carrier to provide interstate or oversees air transportation.

§ 212.4 Exemptions for direct sales.

Certificated carriers are hereby exempted from section 401(a)(4) of the Act to the extent necessary to allow them to sell or offer for sale charter flights directly to the public, or through agents, or through any other persons authorized by the Board to make such sales regardless of any control relationship between such persons and the air carriers.

§ 212.5 Prior authorization requirements.

(a) A certificated carrier or a foreign carrier shall not perform any charter flight, or any regularly scheduled flight carrying charter passengers (hereafter "part charter"), for which a statement of authorization is required until one has been granted by the Board.

(b) Certificated carriers shall obtain a statement of authorization for each long-term wet lease to a foreign carrier.

(c) Foreign carriers shall obtain a statement of authorization for each—

(1) Fifth freedom charter flight, or the carriage of charter cargo on a fifth freedom scheduled flight, to or from the United States,

(2) Long-term wet lease to a certificated carrier or foreign carrier,

(3) Charter flight, or any carriage of charter cargo, for which the Board specially requires prior authorization under paragraph (e) or (f) of this section, or

(4) Part charter.

(d) The Board may issue blanket statements of authorization to foreign carriers to conduct fifth freedom charters or part charters. The standards for issuing such blanket authorizations shall be those stated in § 212.7. The Board may revoke any authority granted under this paragraph at any time without hearing.

(e) The Board may at any time, with or without hearing, but with at least 30 days' notice, require a foreign carrier to obtain a statement of authorization before operating any charter flight. In deciding whether to impose such a requirement, the Board will consider (but not be limited to considering) whether the country of the carrier's nationality—

(1) Requires prior approval for third or fourth freedom charter flights by U.S. air carriers,

(2) Has, over the objection of the U.S. government, denied rights of a U.S. air carrier guaranteed by a bilateral agreement, or

(3) Has otherwise impaired, limited, or denied the operating rights of U.S. air carriers, or engaged in unfair, discriminatory, or restrictive practices with respect to air transportation services to, from, through, or over its territory.

(f) The Board, in the interest of national security, may require foreign airline(s) to provide prior notification or to obtain a statement of authorization before operating any charter over U.S. territory.

§ 212.6 Application for authorization.

(a) Application for a statement of authorization shall be submitted on CAB Form 433 (Appendix C), except that for part charters or long-term wet leases the application may be in letter form. An application for a long-term wet lease shall describe the purpose and terms of the wet lease agreement. Applications shall be submitted in three copies to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. Upon a showing of good cause, the application may be transmitted by cablegram or telegram or may be made by telephone.

(b) A copy of the application for a long-term wet least to a certificated carrier or foreign carrier shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated carrier that is authorized to serve the general area in which the proposed transportation is to be performed.

(c) The application shall include documentation to establish the extent to which the foreign country involved deals with U.S. air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement and—

(1) The Board has not established that the country accords reciprocity,

(2) The Board has found reciprocity defective in the most recent prior approval application involving the country, or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question.

(d)(1) Applications shall be filed at least 5 business days before commencement of the proposed flight, except as specified in paragraphs (d)(2), (d)(3), and (d)(4) of this section. Late applications may be considered by the Board upon a showing of good cause for the lateness.

(2) Applications for a part charter or for a long-term wet lease to a certificated carrier or foreign carrier shall be filed at least 45 calendar days before the date of the first proposed flight.

(3) Applications specially required under § 212.5(e) shall be filed at least 30 calendar days before the proposed flight (10 calendar days for cargo charters), unless otherwise specified by the Board.

(4) Applications required by a Board order under § 212.5(f) shall be filed at least 14 calendar days before the proposed flight, unless otherwise specified by the Board.

(5) Where an application is required by more than one provision of this part and/or order of the Board, only one application need be filed, but it must conform to the earliest applicable filing deadline.

(e)(1) Any party in interest may file with the Director, Bureau of International Aviation, a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application or before the date of the proposed flight, whichever is earlier. Memoranda will be considered to the extent practicable; the Board may act on an application without waiting for supporting or opposing memoranda to be filed.

(2) Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(3) A copy of each memorandum shall be served on the certificated carrier or foreign carrier applying for approval.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response will be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications will be published in the Board's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Board finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

§ 212.7 Issuance of authorization.

(a) The Board will issue a statement of authorization if it finds that the proposed charter trip, part charter, or wet lease meets the requirements of this part and that it is in the public interest. Statements of authorization may be conditioned or limited.

(b) In determining the public interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which the carrier's home country (and, in the case of a long-term wet lease, the lessee's home country) deals with United States air carriers on the basis of substantial reciprocity.

(3) Whether the applicant or its agent has previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease—

(i) Whether the lessor (applicant) or its agent or the lessee (charterer) or its agent has previously violated the provisions of Part 207, 208, or 218 of this chapter.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the lessor owns and controls the lessee, or is owned and controlled by the lessee.

(c) The Board will submit any denial of an authorization specially required under § 212.5(e) to the President of the United States at least 10 days before the proposed departure. The denial will be subject to stay or disapproval by the President within 10 days after it is submitted. A shorter period for Presidential review may be specified by the Board where the application for authorization is not timely or properly filed. Denial of a late-filed application need not be submitted to the President. For the purposes of this paragraph, an application for a cargo charter will be considered as timely filed only if it is filed at least 30 calendar days before the proposed flight, notwithstanding the 10-day filing requirement for cargo charters in § 212.8(d)(3).

(d) The Board will publish notice of its actions on applications for statements of authorization in the Status of Charter Applications attachment to the Weekly List of Applications Filed. Interested persons may upon request obtain copies of letters or endorsed forms advising applicants of action taken on their applications.

§ 212.6 Charter trips and other special services within the State of Alaska.

A certificated carrier shall not perform any charter trip or other special service in interstate commerce within the State of Alaska.

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

§ 294.32 [Removed]

3. Part 294, *Canadian Charter Air Taxi Operators*, would be amended by removing § 294.32, *Security arrangements for operating Public Charters.*

PART 298—EXEMPTION FOR AIR TAXI OPERATORS

§ 298.59 [Removed]

4. Part 298, *Classification and Exemption of Air Taxi Operators*, would be amended by removing § 298.59, *Security arrangements for operating Public Charters.*

5. Part 380, *Public Charters*, would be revised to read:

PART 380—PUBLIC CHARTERS

Sec.
380.1 Scope.
380.2 Definitions.
380.3 Basic requirement.
380.4 CAB Form ——— (for U.S. citizens).
380.5 Registration procedure (for foreign citizens).
380.6 Security instrument.
380.7 Exemptions.
380.8 Effect of exemptions on antitrust laws.
380.9 Waiver of sovereign immunity.

§ 380.1 Scope.

This part applies to public charter air transportation of passengers in interstate, overseas, or foreign air commerce, except that §§ 380.3–380.6 do not apply to public charter transportation that originates outside the United States.

§ 380.2 Definitions.

For purposes of this part:

"Public charter air transportation" means air transportation that is sold, directly or through one or more intermediaries, by an indirect air carrier, under conditions where the direct air carrier (*i.e.*, the air carrier or foreign air carrier conducting the flight operation) does not, at the time of sale, bear the responsibility for safeguarding the passengers' money (*i.e.*, either refunding it or providing the transportation for which it was paid) in the event of insolvency or malfeasance of a person selling the transportation.

"Indirect air carrier" means a person of either U.S. or foreign citizenship that, directly or through one or more intermediaries, sells passenger air transportation to the public, other than as a direct air carrier or as an agent.

§ 380.3 Basic requirement.

No person shall sell public charter air transportation as an indirect air carrier unless it has on file with the Board a CAB Form ——— (for U.S. citizens, § 380.4) or an approved registration (for foreign citizens, § 380.5), including a certification, signed by the securer and continuously correct in all respects, that a security instrument is in effect covering all passengers using that transportation, in accordance with this part.

§ 380.4 CAB Form ——— (for U.S. citizens).

(a) A U.S. citizen indirect air carrier shall file in duplicate a completed CAB For ——— with the Board's Special Authorities Division, Bureau of Domestic Aviation. The information required by the form is a certification of a security instrument as specified in § 380.6, and the indirect air carrier's name, address, telephone number, and principal stockholders (*i.e.*, over 10 percent). The form is obtainable from the Board's Publications Services Division, Washington, D.C. 20428.

(b) The indirect air carrier shall notify the Board of any changes in the information contained in its CAB Form ——— within 30 days after the change.

§ 380.5 Registration procedure (for foreign citizens).

(a) To be registered with the Board as an indirect air carrier, a foreign citizen shall file in duplicate a completed CAB Form ——— (obtainable from the Board's Publications Services Division, Washington, D.C. 20428) with the Board's Regulatory Affairs Division, Bureau of International Aviation. The information required by the form is that set forth in § 380.4 for U.S. citizens filing CAB Form ———, along with the applicant's country of citizenship and an indication whether the applicant seeks authority to engage in foreign, interstate, or overseas air transportation (or any combination).

(b) The indirect air carrier shall notify the Board of any changes in the information contained in its registration within 30 days after the change.

(c) The Board will list in its Weekly Summary of Filings the names and nationalities of all foreign citizens applying for registration or notifying the Board of changes in the information contained in their registrations.

(d) Any person objecting to a filing by a foreign citizen under paragraph (a) or (b) of this section shall file an objection with the Regulatory Affairs Division within 28 days after the Board receives the filing.

(e) After the registration application is filed, the Board will take one of the following actions:

(1) Approve the application by stamping the effective date of the registration on the form and returning the duplicate copy to the indirect air carrier;

(2) Request additional information from the applicant;

(3) Disapprove the application if it does not comply with the requirements of this part, or for reasons relating to reciprocity or other foreign policy considerations, or if the Board finds it in the public interest to do so;

(4) Approve the application subject to such terms, conditions, or limitations as the Board may find necessary in the public interest.

(f) The Board will normally take action on a registration filing within 60 days of its receipt. An applicant may request faster action, giving a full explanation of the need and of why application was not made earlier.

§ 380.6 Security instrument.

(a) A security instrument that satisfies the requirements of this part shall be either—

(1) A bond issued by a company listed in *Best's Key Rating Guide, Property-Casualty* with a general policyholders'

rating of "A" or better, or a surety trust agreement issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, in the form set forth in Appendix *A* or *B* respectively; or

Note.—Under this proposal Appendix A and B would be substantially the same as Appendix A and E of the present 14 CFR Part 380.

(2) Another instrument (*e. g.*, insurance, letter of credit, or an industry fund) approved by the Board as providing substantially equivalent protection.

(b) The security instrument shall in effect require the securer to pay each charter passenger any amount of money, not to exceed that passenger's charter price, that—

(1) Is determined by the securer or adjudged by a court of competent jurisdiction to be due from the indirect air carrier to the passenger because of failure to refund the money or provide the transportation or associated accommodations for which the money was paid; and that

(2) The indirect air carrier does not or cannot pay.

(c) An indirect air carrier security instrument shall have a coverage limit of at least the lesser of—

(1) The total charter price to the passengers of all charter flights for which money is solicited but the claim period (at least 60 days after completion under paragraph (h) of this section) has not expired; or

(2) $200,000.

(d) An indirect air carrier may use more than one security instrument to meet the requirements of this part, as long as all passengers are covered, and the coverage limit for each flight is at least the lesser of $200,000 or the total passenger charter price.

(e) The security instrument shall cover the price of any ground accommodations that are included in the charter. Ground accommodations advertised together with air transportation shall be considered included in the charter.

(f) Whenever any judgment creates a claim against the securer in accordance with the terms of the security instrument or with paragraph (b) of this section, the indirect air carrier shall make no further sales of public charter air transportation until either the judgment is paid or the Board receives a new certification of security instrument coverage in the full amount required by this part.

(g) Any securer that provides the certification required by § 380.3 shall be deemed to have agreed to provide the coverage described in paragraph (b) of this section, any terms of the security instrument notwithstanding. Failure by the securer to make payment as specified by that paragraph shall be a violation of this part.

(h) The security instrument shall allow each charter passenger at least 60 days after the termination of a charter to make claims against the indirect air carrier. Termination means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the return flight. If there is no return flight in a participant's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary.

§ 380.7 Exemptions.

(a) Indirect air carriers are hereby relieved from the following provisions of the Federal Aviation Act, if and so long as they comply with the provisions of this part, and to the extent necessary to enable them to provide public charter air transportation as indirect air carriers:

(1) Section 401.
(2) Section 402.
(3) Section 403.
(4) Section 404(a).
(5) Section 405(b).
(6) Section 407(b) and (c).
(7) Section 408(a) and section 409, for transactions and relationships to which those sections apply only because of the involvement of operations under this part.

(8) For foreign indirect air carriers that receive interstate or overseas air transportation rights, any other provision of the Act that would otherwise prohibit them from providing interstate or overseas public charter air transportation as indirect air carriers.

(b) The exemptions from section 408(a) and 409 of the Act that are granted to indirect air carriers by paragraph (a)(7) of this section are hereby granted to all other parties to the transaction or relationship.

(c) The Board may withdraw or condition the exemptions granted by this part if any of the following occurs:

(1) The indirect air carrier files a written notice with the Board that it is discontinuing its operations under this part;

(2) A substantial ownership interest is acquired by persons who are not citizens of the same country as the indirect air carriers; or

(3) The Board finds, after notice and an opportunity for responses, that the indirect air carrier has violated the Act or the Board's regulations. With respect to an indirect air carrier of foreign citizenship, the Board will also consider the reciprocity afforded to U.S. indirect air carriers by that indirect air carrier's home country.

§ 380.8 Effect of exemptions on antitrust laws.

The exemptions granted in § 380.7 do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the antitrust laws or any other statute except the Act.

§ 380.9 Waiver of sovereign immunity.

By accepting an approved registration form under this part, a foreign indirect air carrier waives any right it may have to assert any defense of sovereign immunity from suit in any proceeding against it, in any court or other tribunal of the United States, that is based upon a claim arising out of operations by the indirect air carrier under this part.

Alternative Proposals

The Board also proposes the following alternatives, as discussed in the preamble above:

1. Retaining the existing requirements for operator-participant contracts (14 CFR 380.31–33a);

2. Not requiring any identification filing by U.S. tour operators; and

3. Retaining the existing depository requirements, (14 CFR 380.34–35), in addition to or instead of a security requirement.

(Sec. 204, 401, 402, 403, 404, 407, 408, 409, 411, 416, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 757, 758, 760, 765, 767, 768, 769, 771, 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1378, 1378, 1380, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4001 Filed 2-18-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Texas-20)]

High-Cost Gas Produced from Tight Formations; Monte Christo Vicksburg 9000' Formation; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas

where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Monte Christo Vicksburg 9000' Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 15, 1982.
Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 12, 1982.

I. Background

On January 8, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Monte Christo Vicksburg 9000' Formation, located in Hidalgo County, Texas, be designated as a tight formation. On January 26, 1982, Texas filed an additional exhibit to its recommendation clarifying the description of the recommended area. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Monte Christo Vicksburg 9000' Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Monte Christo Vicksburg 9000' Formation (Vicksburg 9000') is located in a portion of Hidalgo County, Texas (Railroad Commission District 4). The geographic area recommended consists of the following surveys: Jackson Subdivision of the San Salvador Del Tule Grant, Juan Jose Balli Survey A–290; Section 203, Tex.-Mex. Ry. Co. Survey A–124; Section 206, Tex.-Mex. Ry. Co. Survey A–637; Section 207, Tex.-Mex. Ry. Co. Survey A–126; Section 210, W.T. Bomar Survey A–624; Section 211, Tex.-Mex. Ry. Co. Survey A–128; Section 214, Macedonio Vela, Jr. Survey A–623.

The recommended formation, within this geographically defined area, lies within the Rio Grande Embayment and is bounded on the west by the Monte Christo Fault (an apparent northward extension of the Tabasco Fault) and on the east by another major fault (an apparent northward extension of the Mission Fault).

The Vicksburg 9000' Formation is a distinct Vicksburg formation, composed of lower Oligocene clastic sands and shales that were laid down in varying depositional environments associated with outflowing deltas. The depth of the formation ranges from approximately 9000 feet to a known depth of approximately 9700 feet, with a gross average thickness of approximately 650 feet. The bottom of the formation may extend as deep as 10,400 feet in the undeveloped down dip areas.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations will assure that development of the Monte Christo Vicksburg 9000' Formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Monte Christo Vicksburg 9000' Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM–79–76 (Texas–20), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (94) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(65) through (93) [Reserved]

(94) *Monte Christo Vicksburg 9000' Formation in Texas.* RM79–76 (Texas–20)

(i) *Delineation of formation.* The Monte Christo Vicksburg 9000' Formation is located in a portion of Hidalgo County, Texas and is encountered in portions of the following surveys: Jackson Subdivision of the San Salvador Del Tule Grant, Juan Jose Balli Survey A–290; Section 203, Tex.-Mex. Ry. Co. Survey A–124; Section 206, Tex.-Mex. Ry. Co. Survey A–637; Section 207, Tex.-Mex. Ry. Co. Survey A–126; Section 210, W. T. Bomar Survey A–624; Section 211, Tex.-Mex. Ry. Co. Survey A–128; Section 214, Macedonio Vela, Jr. Survey A–623.

(ii) *Depth.* The Monte Christo Vicksburg 9000' Formation ranges from a depth of approximately 9,000 feet to approximately 9,700 feet, with a gross average thickness of approximately 650 feet. The bottom of the formation may extend as deep as 10,400 feet in the undeveloped down dip areas.

[FR Doc. 82-4596 Filed 2-18-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM 79-76 (Wyoming-11)]

High-Cost Gas Produced from Tight Formations; Lewis Formation; Wyoming

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Wyoming that the Lewis Formation be designated as a tight formation under § 271.709(d).

DATE: Comments on the proposed rule are due on March 15, 1982.
Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:
Issued: February 12, 1982.

I. Background

On February 4, 1982, the State of Wyoming (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Lewis Formation located in Carbon and Sweetwater Counties, Wyoming, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Lewis Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located in southern Wyoming. The area contains approximately 2.8 million acres in Sweetwater and Carbon Counties, Wyoming, and includes all or portions of:

Townships 21 and 22 North, Range 89 West
Townships 19 through 25 North, Range 90 West
Townships 13, 14, 18 through 21, and 23 through 25 North, Range 91 West
Townships 13 through 21 and 23 through 25 North, Range 92 West
Townships 13 through 23 North, Range 93 West
Townships 12 through 25 North, Range 94 West
Townships 12 through 25 North, Range 95 West
Townships 12 through 26 North, Range 96 West
Townships 12 through 26 North, Range 97 West
Townships 12 through 17 and 22 through 26 North, Range 98 West
Townships 12 through 16 and 22 through 26 North, Range 99 West
Townships 14 through 16 and 23 through 26 North, Range 100 West

The vertical limits of the Lewis Formation are the Fox Hills Formation above, or in the case where the Fox Hills Formation is not present, the Lance Formation above, and the Mesaverde Formation below. The depth to the top of the Lewis Formation averages about 7,800 feet, and gross thickness varies from 1,500 to 3,000 feet.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. 1, Order No. 1, Docket No. 93–81 convened by Wyoming on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Lewis Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Wyoming–11), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed

with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Request should be filed with the Secretary of the Commission no later than March 1, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (92) as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(68) through (91) [Reserved]

(92) *Lewis Formation in Wyoming.* RM79–76 (Wyoming–11).

(i) *Delineation of formation.* The Lewis Formation is found in Carbon and Sweetwater Counties, Wyoming, encompassing all or parts of:

Townships 21 and 22 North, Range 89 West.
Townships 19 through 25 North, Range 90 West.
Townships 13, 14, 18 through 21, and 23 through 25 North, Range 91 West.
Townships 13 through 21 and 23 through 25 North, Range 92 West.
Townships 13 through 25 North, Range 93 West.
Townships 12 through 25 North, Range 94 West.
Townships 12 through 25 North, Range 95 West.
Townships 12 through 26 North, Range 96 West.
Townships 12 through 26 North, Range 97 West.
Townships 12 through 17 and 22 through 26 North, Range 98 West.
Townships 12 through 16 and 22 through 26 North, Range 99 West.
Townships 14 through 16 and 23 through 26 North, Range 100 West.

(ii) *Depth.* The Lewis Formation's vertical limits are defined by the Fox Hills Formation above, or in the case where the Fox Hills Formation is not present, the Lance Formation above, and the Mesaverde Formation below. The average depth to the top of the Lewis Formation is 7,800 feet.

[FR Doc. 82-4535 Filed 2-18-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM 79-76 (Wyoming-12)]

High-Cost Gas Produced from Tight Formations; Notice of Proposed Rulemaking; Nugget Formation; Wyoming

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Comisssion determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Wyoming that the Nugget Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 15, 1982.
Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

I. Background

On February 4, 1982, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Nugget Formation located in Carbon County, Wyoming, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Nugget Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located in southern Wyoming entirely in Carbon County, Wyoming. It is situated in the Johnson Springs Area of the Laramie Basin approximately two miles northwest of the Big Medicine Bow Field. The recommended area consists of Township 21 North, Range 79 West, Sections 3 through 10, and 15 through 18; and Township 22 North, Range 79 West, Sections 31 through 34. Fifty percent is fee acreage, 44 percent is federal acreage and the remaining 6 percent is state land. The average depth to the top of the producing interval is 11,690 feet. The Nugget Formation measures approximately 50 feet in uniform thickness throughout the proposed area. The vertical limits of the Nugget Formation are the Basal Sundance Formation above and the Chugwater Formation below.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. 1, Order No. 1, Docket No. 195–81 convened by Wyoming on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Nugget Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 15, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM 79-76 (Wyoming-12), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342)

Accordingly, the Commission proposes to amend the regulations in part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (93) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * * * *

(68) through (92) [Reserved]

(93) *Nugget Formation in Wyoming.* RM79-76 (Wyoming-12).

(i) *Delineation of formation.* The Nugget Formation is found in Carbon County, Wyoming, in Township 21 North, Range 79 West, Sections 3 through 10, and 15 through 18; and Township 22 North, Range 79 West, Sections 31 through 34.

(ii) *Depth.* The vertical limits of the Nugget Formation are the Basal Sundance Formation above and the Chugwater Formation below. The average depth to the top of the Nugget Formation is 11,690 feet.

[FR Doc. 82-4537 Filed 2-18-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Change in the Customs Service Field Organization; San Luis and Douglas, Ariz. Ports of Entry

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the Customs Regulations to change the field organization of the Customs Service by extending the port limits of the San Luis and Douglas, Arizona, Customs ports of entry. The proposed geographical limits of the port of Douglas, Arizona, would include parts of Cochise County, Arizona. The proposed geographical limits of San Luis, Arizona, would include the City of Yuma and Yuma International Airport. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATE: Comments must be received on or before April 20, 1982.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2420, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joseph E. O'Gorman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

In accordance with Customs continuing program to provide the most economical and efficient service to the public and to provide better coordination of Customs services and more efficient use of available resources, it was requested that the port limits of the Customs ports of entry of Douglas and San Luis, Arizona, both in the Nogales, Arizona, Customs District (Region VII), be extended. The growth of these communities has resulted in many services being provided outside port limits on a reimbursable basis. By extending the port limits of Douglas and San Luis, Customs will be able to keep pace with the expansion of Customs-related activities in these areas without increasing the Customs workload.

Douglas, Arizona

The expansion of Douglas is proposed so that a Class 7 bonded facility, which is scheduled to open soon, will be within the port limits. The extension would reduce the expense to the facility operator by eliminating reimbursable travel expenses.

As extended the boundaries of the port of Douglas would include the area in Cochise County, Arizona, described as follows:

Sections 11, 12, 13, and 14, Township 24 South, Range 27 East; that portion of sections 23 and 24, Township 24 South, Range 27 East lying in the United States; sections 7, 8, 9, 16, 17, and 18, Township 24 South, Range 28 East; and that portion of sections 19, 20, and 21, Township 24 South, Range 28 East lying in the United States.

San Luis, Arizona

The city of Yuma, Arizona, currently is outside the port limits of San Luis. However, numerous transactions involving in-bond merchandise are conducted in Yuma. Additionally, Yuma International Airport, designated as an international airport by the Secretary of the Treasury, also is outside the port limits. Extending the port limits to include Yuma and the airport would benefit the community by reducing

expenses to the public without increasing Customs workload.

As extended, the port limits of the port of San Luis would include that area of Yuma County bounded by the Colorado River on the west, the California/Arizona border on the north, Avenue 4E. on the east, and the United States/Mexican border on the south.

Proposed Amendments

If the proposed changes are adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), would be amended accordingly.

Comments

Before adopting these proposals, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

This proposed amendment does not meet the criteria for a "major" regulation as defined by section 1(b) of E.O. 12291. Accordingly, the regulatory impact analysis prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, et seq.), the Secretary of the Treasury has determined that, if promulgated, the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this proposal may have a limited effect upon some small entities in the Douglas and San Luis areas, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (46 FR 9336).

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: February 8, 1982.

John W. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-4370 Filed 2-18-82; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 113

Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Customs Regulations provide that the Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, required to be filed by importers to protect the revenue of the United States or to assure compliance with applicable laws and regulations, shall be in the amount of $10,000, or such larger amount as the district director may deem necessary. Based on this regulation, the bond is often fixed in an amount equal to the value of the imported merchandise plus estimated duties and taxes compiled from the entries of an importer during the previous year. The fixing of the amount of the term bond in such a rigid manner may result in a financial hardship on some importers because they are often required to file term bonds in amounts that are unnecessarily high. To assure that Customs fixes the amount of the term bond sufficient to protect the revenue, while at the same time not imposing an unnecessary financial burden on the importer, this document proposes to amend the Regulations to provide that the term bond be in an amount of $10,000, or such larger amount as the district director may deem necessary to accomplish the purpose for which the bond is given. Proposed guidelines are set forth to assist district directors in setting the amount of the term bond.

DATE: Comments must be received on or before April 20, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: William Rosoff, Carriers, Drawback and Bonds Division (202-566-5856); Operational aspects: Herb Geller, Duty Assessment Division (202-566-5307); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

To protect the revenue of the United States or to assure compliance with any pertinent law, regulation, or instruction, Customs bonds or other security are required by law in many instances, and may be authorized by regulation or specific instructions in other instances (section 623, Tariff Act of 1930, as amended (19 U.S.C. 1623)). Part 113, Customs Regulations (19 CFR Part 113), sets forth the procedures and requirements relating to Customs bonds.

Section 113.2, Customs Regulations, provides that whenever a bond is required or authorized by law, regulations, or instructions, the Commissioner of Customs may:

1. Prescribe the conditions and form of such bond, and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided for by law;

2. Provide for the approval of sureties on the bond, without regard to any general provisions of law;

3. Authorize the execution of a term bond the conditions of which extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period as he may fix; and

4. Authorize the taking of a consolidated bond (single entry or term) in place of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions.

Customs bonds may be approved by the Commissioner of Customs or a district director of Customs. Bonds approved by the Commissioner are described in § 113.13, Customs Regulations, and bonds approved by the district director are described in § 113.14, Customs Regulations.

Section 113.14(g)(2) Customs Regulations, provides that the Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, shall be in the amount of $10,000, or such larger amount as the district director may deem necessary. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more that one port. The last sentence of this section provides that the rules under § 113.14(g)(1) for determining the amount of the single entry immediate delivery and consumption entry bond shall be applied in making charges against immediate delivery and consumption entry term bonds.

Customs believes that the reference in the last sentence of § 113.14(g)(2) to "paragraph (g) (1)" is in error. Paragraph (g) (1) refers to the entire section dealing with the single entry bond amount. Historically, § 113.14(g)(2) contained a cross reference to § 113.14(g)(1)(iii), which concerns a single entry bond covering unconditionally free merchandise. This inconsistency in the regulations may be a cause of some difficulty Customs has experienced.

A problem has surfaced because in determining the dollar amount of the term bond, Customs Form 7553, for importers, district directors often fix the amount of the bond equal to the value of the merchandise imported plus estimated duties and taxes compiled from the entries of each importer during the previous year.

The fixing of the amount of the term bond in such a rigid manner may result in hardships on some importers. Importers are often required to file term bonds in amounts that are unnecessarily high when Customs in concerned primarily with guaranteeing payment *only* of supplemental duties (increased or additional duties found due upon liquidation).

In the case of merchandise released under the entry documentation listed in § 142.3, Customs Regulations (19 CFR 142.3), before filing the entry summary, estimated duties generally are deposited when the entry summary is filed, *i.e.*, within 10 days after the time of entry. For merchandise released under a special permit for immediate delivery under § 142.21, Customs Regulations (19 CFR 142.21), estimated duties generally are deposited when the applicable documentation is filed, *i.e.*, within 10 days after the merchandise is authorized for released.

Furthermore, in the case of quota class merchandise on which estimated duty is deposited before release, it does not appear necessary for the protection of the revenue to use the amount of any duty that is to be deposited before release of the merchandise in fixing the term bond amount.

Therefore, because (1) estimated duties generally are deposited within 10 days after release of the merchandise, and (2) entries often are liquidated during the course of a year unchanged, thereby reducing the liability for payment of supplemental duties which would have been charged against the term bond for those entries, Customs often is concerned primarily with securing payment only of any supplemental duties found due upon liquidation. Therefore, it is desirable for district directors to fix the amount of the term bond in a more meaningful manner.

By way of comparison, § 113.14(s), Customs Regulations, provides that a general term bond for entry of merchandise, Customs Form 7595, be in the amount of $100,000, or such larger amount as may be fixed by the district director. However, Customs guidelines provide that the district director, in approving a bond on Customs Form 7595, fix the amount in the multiple of $100,000 nearest to 10 percent of the duties and taxes paid during the calendar year preceding the date of importation.

Customs believes that in fixing the amount of a term bond, the amount so determined generally should be sufficient to accomplish the primary purpose of that bond, *i.e.*, to guarantee payment of duty and taxes due. In this regard, Customs proposes to establish guidelines in fixing the amount of a term bond in a manner similar to that used for a General Term Bond.

Guidelines for Term Bond

Customs proposes that a district director, in approving a term bond, Customs Form 7553, fix the amount in the multiple of $10,000 nearest to 10 percent of the duties and taxes paid by an importer during the previous calendar year. If no imports were made during the preceding calendar year, the amount of the bond shall be in the multiple of $10,000 nearest to 10 percent of the duties and taxes which the applicant estimates will accrue on imports during the current year. In no event shall the amount of the bond be less than $10,000.

Proposed Regulation Changes

To eliminate an unintended burden on the importing community, it is proposed that the first sentence of § 113.14(g)(2) be amended to assure that the district director fix a more meaningful amount for the term bond. The words "to accomplish the purpose for which the bond is given" would be added to the end of the first sentence of § 113.14(g)(2). The purpose of the additional language is to assure that Customs fix the dollar amount of the term bond sufficient to protect the revenue of the United States, while at the same time not impose an unnecessary financial burden on the importer.

It is also proposed to delete the last sentence of § 113.14(g)(2), discussed above, because it is misleading and is subject to improper interpretation.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 623, 46 Stat. 759, as amended (19 U.S.C. 1623), section 624, 46 Stat. 759 (19 U.S.C. 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

E.O. 12291

The proposed amendment does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared for this regulatory project.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, *et seq.*), the Secretary of the Treasury has determined that the proposed regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, this regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Proposed Amendments

PART 113—CUSTOMS BONDS

It is proposed to revise § 113.14(g)(2), Customs Regulations (19 CFR 113.14(g)(2)), to read as follows:

§ 113.14 Bonds approved by the district director.

* * * * *

(g) *Immediate Delivery and Consumption Entry Bond.* (1) * * *

(2) *Term bond, Customs Form 7553.* Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, in the amount of $10,000, or such larger amount as the district director may deem necessary to accomplish the purpose for which the bond is given. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port.

* * * * *

Approved: February 8, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 82-4576 Filed 2-18-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket Nos. 79N-0196 and 80N-0370]

Prescription Drug Products; Proposal to Revoke Patient Package Inserts Requirements

Note.—This document originally appeared in the Federal Register for Wednesday, Feb. 17, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Food and Drug Administration. This document also contains a correction to the telephone number listed under "For further information contact."

AGENCY: Food and Drug Administration.

ACTION: Proposal to revoke final rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revoke its final rule establishing requirements and procedures for the preparation and distribution of patient package inserts (PPI's) for prescription drug products for human use. On the basis of its further review of its PPI program, FDA believes the goals of providing patients with information about prescription drugs can be reached more effectively and efficiently by cooperating with health professionals and others in both the public and private sector to expand upon current initiatives in patient education, rather than by pursuing a more limited mandatory program through Federal regulations.

DATE: Comments by April 20, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eileen Hodkinson, Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6400.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 12, 1980 (45 FR 60754), FDA issued a regulation requiring patient package inserts for certain prescription drug products. This regulation was an effort to deal with the complex problem of providing patients using prescription drugs with useful information on drug use.

There appears now to be a general consensus among the health care professions, the related industries, and the government that patients should be provided with more information about prescription drugs. Nonetheless, there remains significant disagreement among the same parties as to the best approaches to providing such information.

The Food and Drug Administration's regulation would have required leaflets to be given to patients at the time prescription drugs were dispensed. These leaflets, commonly known as patient package inserts or "PPI's," were to be distributed under a system that borrowed heavily on the regulatory mechanisms by which the agency has routinely regulated the manufacture and sale of prescription drugs. Manufacturers would have been obligated to prepare the leaflets and to provide them to dispensers who were then obligated to provide them to patients with each new prescription dispensed.

While FDA originally, in proposing its program (44 FR 40016; July 6, 1979), planned to require the dispensing of leaflets for virtually all prescription drugs, the agency subsequently decided, because of continuing concerns about the cost and effectiveness of the program, to limit it to a 3-year pilot program involving 10 classes of drugs (approximately 150 to 200 drug products) (45 FR 60754; September 12, 1980). This "pilot" program was intended to provide more definite data about the costs and benefits of PPI's.

The pilot program was to be effective for three drugs (cimetidine, clofibrate, and propoxyphene) on May 25, 1981 (45 FR 78516; November 25, 1980); and for two other drugs (ampicillin and phenytoin) on July 1, 1981 (46 FR 160; January 2, 1981). Effective dates for the remaining five drugs were not established.

On February 17, 1981, shortly after assuming office, President Reagan issued Executive Order 12291 (46 FR 13193; February 19, 1981). Section 2 of that Order requires each agency to adhere to certain principles in promulgating new regulations and reviewing existing regulations. Because these factors generally echoed in large measure the concerns expressed about mandatory PPI's, the Department of Health and Human Services and FDA decided that a review of the PPI rule would be a proper response to the Executive Order.

In the Federal Register of April 28, 1981, the agency stayed the effective dates for the five drugs for which the rule was then scheduled to take effect (46 FR 23815, 23739). The stays were justified on the basis that there needed to be further review of the questions that had continued to be raised about the program. Numerous comments had been received expressing the view that mandatory PPI's were unnecessarily burdensome, costly, and not consistent with Executive Order 12291. The agency noted in the stay notices that additional review of the PPI program was consistent with the spirit of the Executive Order.

On September 30 and October 1, 1981, the agency held a public meeting in Washington, DC, on the PPI program. Individuals and organizations representing all sides of the debate surrounding PPI's presented testimony at the meeting, which was chaired by the Commissioner and Deputy Commissioner of FDA.

The Commissioner of Food and Drugs has reviewed the information that was presented at the public meeting, the information in the agency's administrative record of the patient package insert program, and the results of a 3-year study conducted under contract for the agency by the Rand Corp. on the effects of prototype PPI's. The review included an analysis of the suitability of the pilot program for producing reliable data on the effectiveness of PPI's; a consideration of alternative means of providing needed information to patients about drugs prescribed for their use; and an examination of the cost effectiveness of PPI's and other sources of drug

information. On the basis of that review, FDA is proposing to revoke the regulation of September 12, 1980.

Rationale for Agency Decision

At the time it decided to implement the 10-drug pilot program, FDA recognized that additional studies would be needed to confirm the program's utility, to determine whether its costs would be reasonable in terms of the benefits the program might provide, and ultimately to determine whether such a program was the best way to convey information about prescription drug products to patients. For these reasons; the pilot program was to be evaluated before the agency would apply the requirements to additional drugs.

On the basis of its review, however, FDA no longer believes it can justify the 10-drug pilot program. The decision to propose its revocation is based both on new information and on a different view and evaluation of some of the same factors that were present in the decision to implement the program. The agency still believes strongly that informing patients more fully about prescription drugs will significantly improve the quality of their health care. It is no longer convinced, however, that a mandatory program that would provide patients with individualized, drug-specific leaflets at the time of dispensing is the most effective way of accomplishing this goal.

One of the program's shortcomings, the Commissioner believes, is that the pilot program would not likely have achieved its principal objective, that of making it possible to determine whether a mandatory, pharmacy-oriented, drug leaflet program is the only practical way of accomplishing patient education on drugs. While the pilot program might have shown that the program is technically viable, i.e., that pharmacists are able to provide PPI's and that patients will read them, it would likely not show whether the program's ultimate goal—improving patient knowledge of prescription drugs in an effort to reduce the level of misuse of prescription drugs—could be achieved by other initiatives, including those sponsored by the private sector, or whether other methods might produce even better results.

Moreover, since the promulgation of the pilot program, new initiatives in patient information programs have been taken by the private sector. These initiatives appear to be accompanied by considerable enthusiasm in providing patients with meaningful drug information. The agency is concerned that, although the mandatory program would not preclude further private sector efforts, it might significantly discourage them. Therefore, consistent with government efforts at regulatory reform, the agency now believes that encouraging these efforts is preferable to the more rigid constraints of the mandatory government program.

Further, the agency believes that this variety of private sector initiatives, if effectively implemented, can provide consumers with more information than may have been possible under the agency's pilot program. Such initiatives would not be limited to only 10 drugs or drug classes and could be quickly applied to many prescription drugs. Moreover, FDA's cooperation with the private sector should encourage experimentation with diverse systems for delivering patient information, thereby promoting innovation in delivery systems and giving the agency the opportunity to assess the relative merits of alternative means of increasing patients' knowledge about drugs.

Other factors, as well, have played a significant role in this decision:

1. The mandatory pilot program is significantly deficient as a regulatory model. This is because it requires providing patient information at the time of dispensing, a time that is less optimal than the time of prescribing. Among private sector initiatives of which FDA is aware is a planned effort to supply physicians with drug information that can be given to and discussed with patients at the time of prescribing. At that point, the patient is better able to have questions resolved and to be informed of correct drug use and expected results. As many comments have pointed out, a patient who obtains a PPI at the time of dispensing has already purchased the drug, and will certainly find it more difficult to discuss the information with the prescribing physician.

2. FDA acknowledges that the cost of the program are of some concern, particularly when viewed in the context of other limitations in the program. Even accepting FDA's original estimate of $21 million, costs of this magnitude should produce a better information delivery scheme.

3. There was strong disagreement about the design and value of the program on the part of the key health professionals who would implement it, and from the drug industry as well. For example, pharmacists were intended to play the major role in actually dispensing PPI's to patients. Consequently, although the national organizations of pharmacists and pharmacy owners agreed with the goal of better patient education with respect to prescription drugs, pharmacists felt particularly singled out as having most of the program's burden placed on their shoulders.

The medical profession and the drug industry, although less burdened with obligations under the mandatory program, also did not support the program (with rare exceptions). Reasons for this lack of support included the views that patient information on prescription drugs is best provided by the physician, that the plot program is too costly, that any PPI program should await well-documented evidence of a positive impact on health care, and that the other voluntary approaches to providing patients with information should be tried.

FDA agrees that the disproportionate impact of the PPI regulation on pharmacists should be taken into consideration in deciding whether the PPI program is the best public policy. While pharmacists bear only part of the health professions' responsibility for the education of consumers about prescription drugs, the current regulation does in fact place on them most of its practical and legal burdens.

In addition, the failure of the health professions and the drug industry to agree with the worth of the regulation is itself a legitimate consideration in deciding whether to go forward with the program when there are equally effective and possibly superior alternative means of achieving the goal of increased patient information. Success in a major new informational program for consumers is far more likely if accompanied by broad support of the health professions.

In sum, given the need for Federal regulations to be both necessary and cost-effective, a principle reflected most clearly in Executive Order 12291, it is fully appropriate that FDA propose the withdrawal of its mandatory pilot PPI regulation. It views the imposition of this regulation as unjustifiable, particularly given the increasingly visible efforts to implement various programs of patient information, efforts that should not now be preempted by a single, limited Federal program of less-than-proven utility.

Committee on Patient Education

Regardless whether FDA ultimately determines to revoke its PPI regulation, it intends nonetheless to continue to perform a significant role in providing proper drug information to consumers and patients. The agency intends to work closely with the private sector and with other public sector agencies to identify and implement methods of providing information about prescription

drugs to consumers, to promote patient education, to monitor changes in patient awareness of drug information, and to develop and evaluate the effectiveness of information dissemination activities. To accomplish these goals, the Commissioner of Food and Drugs has established within FDA a Committee on Patient Education to coordinate the department's efforts to educate consumers about prescription drugs and to serve as a catalyst for private sector initiatives in this area. Both public and private sectors are being asked to suggest ideas about the best ways to provide information to consumers and to make a commitment to carry out those ideas.

Some of the functions of the agency to be guided by the Committee are to: (1) Evaluate existing patient information systems as well as new ones; (2) encourage the formation of, and serve as a liaison for, outside organizations that are or want to become active in patient information systems; (3) provide guidance and serve as a clearinghouse for firms that want to draft prescription drug information; (4) alert consumers and health professionals to the usefulness and availability of prescription drug information; (5) identify the need for patient information in the use of other products regulated by FDA, such as medical devices, x-ray machines, and biological products; and (6) report its activities to the Secretary of Health and Human Services on a regular basis.

PPI Requirements for Certain Drugs

This proposal to revoke FDA's patient package insert regulation would not affect the agency's authority to require individual patient package inserts through notice and comment rulemaking and would not revoke the existing requirements for PPI's to be distributed with oral contraceptives, certain intrauterine devices, estrogens, and progestational drug products.

Discretion To Establish PPI Requirements

Questions have been raised regarding FDA's legal authority to revoke this regulation in litigation filed by Public Citizen, a consumer group. *Public Citizen* v. *Schweiker*, No. 81-0820 (D.D.C., July 31, 1981) order holding matter in abeyance, No. 81-1896 (D.C. Cir., November 30, 1981). FDA believes it is fully authorized to revoke the program should it determine, on the basis of this rulemaking, to do so. The regulation requiring PPI's for prescription drugs is a discretionary one, issued under sections 502(a), 201(n), 505, and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(a), 321(n), 355, and 371(a)). The legal authority for the regulation is discussed at length at 45 FR 60758–60759 (September 12, 1980). This authority justified, but did not mandate, the agency's action, nor does any other statutory directive compel its action. In that the regulation is a discretionary one, it may be revoked under the same discretionary authority that permitted its issuance.

Continuation of Stays

This notice continues in effect stays of the guidelines and regulation issued on April 28, 1981 (45 FR 23739, 23815). The stays were issued to permit further examination of the costs and utility of the patient labeling program. That examination has now resulted in this proposal of revocation.

The Commissioner finds good cause to continue the stays in effect, without prior opportunity for comment, pending the conclusion of this rulemaking proceeding. Agency estimates of the costs of compliance were $21 million per year, and industry estimates have been much higher. Most costs, moreover, particularly for pharmacists, involved start-up costs, e.g., the purchasing of storage cabinets, racks, etc., to hold patient labeling leaflets or from which the leaflets might be dispensed. It would be patently impracticable, and not in the public interest, to implement these costly requirements for what may be only the period of the proposed rulemaking, as would be the case if the PPI regulation is ultimately revoked. As it is only this interim period of compliance on which comment on the stays would be concerned, FDA does not believe separate formal public process on the single issue of the interim stays to be necessary or in the public interest. Nonetheless, persons filing comments on the proposed revocation are welcome to comment on the propriety of the interim stays, and these comments will be considered in the agency's review.

Impact Analysis

FDA, in accordance with the Regulatory Flexibility Act (Pub. L. 96-354; 94 Stat. 1164–1170), and Executive Order 12291, has determined that because the patient package insert final regulation was never implemented, its revocation has no economic impact.

PART 203—[REMOVED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 506, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 356, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under 21 CFR 5.11 (see 46 FR 26052; May 11, 1981) it is proposed that Part 203 be revoked.

Interested persons may, on or before April 20, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: February 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: February 12, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-4479 Filed 2-18-82; 12:29 pm]
BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Development of On-the-job Training for Veterans

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The proposed regulations state Veterans Administration policy concerning promotion of the development of on-the-job training for veterans under the GI Bill. Although the Veterans Administration has helped to develop these programs, no mention of this was included in the Code of Federal Regulations. The law now requires that the policy be made regulatory. This proposal will carry out the requirement of the law.

DATES: Comments must be received on or before March 22, 1982. It is proposed to make this proposal effective October 1, 1980.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except

holidays), until March 31, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: Sections 21.4261 and 21.4262, Title 38, Code of Federal Regulations are amended to provide that the Veterans Administration will promote the development of apprenticeships and other on-job training for veterans. The Veterans Administration will use the services of disabled veterans' outreach program specialists when this is feasible.

These changes are required by statute, and simply incorporate into the regulations the Veterans Administration's longstanding policy and practice. They, therefore, do not come within the definition of a "major rule" under Executive Order 12291.

The Administrator of Veterans Affairs hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 through 612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the regulatory analysis requirements of sections 603 and 604. The reason for this certification is that the regulations are required by law and merely state longstanding Veterans Administration policy and practice. They will not of themselves have any significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations and small government jurisdictions).

(Catalog of Federal Domestic Assistance Program number is 64.111)

Approved: February 2, 1982.

Robert P. Nimmo,
Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as follows:

1. In § 21.4261, paragraph (d) is added as follows:

§ 21.4261 Apprentice courses.

* * * * *

(d) *Promotion and development.* As funding permits, Veterans Administration employees will promote development of apprenticeships. They will—

(1) Visit employers and joint apprenticeship committees, and

(2) Coordinate their efforts with similar activities of the Department of Labor and State employment security agencies as provided by written agreements covering these activities, including utilization of disabled veterans' outreach program specialists. (38 U.S.C. 1772(d); Pub. L. 96-466, 94 Stat. 2171)

2. In § 21.4262, paragraph (d) is added as follows:

§ 21.4262 Other training on-the-job courses.

* * * * *

(d) *Promotion and development.* As funding permits, Veterans Administration employees will promote the development of on-the-job training courses. They will—

(1) Visit employers, and

(2) Coordinate their efforts with similar activities of the Department of Labor and State employment security agencies as provided by written agreements covering these activities including utilization of disabled veterans' outreach program specialists. (38 U.S.C. 1772(d); Pub. L. 96-466, 94 Stat. 2171)

[FR Doc. 82-4533 Filed 2-18-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[GH-FRL 2054-7]

Financial Assistance for Environmental Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: EPA has begun the process of revising its regulations for financial assistance to support State and local environmental programs. The objectives of the revision are (1) to eliminate unnecessary requirements and (2) to develop consistency across programs for all remaining requirements. We have prepared a draft revision of these regulations which replaces 40 CFR Part 35, Subparts B, F and G with a new Subpart A.

We will make copies of this draft revision available to anyone who is interested. We would like to receive comments on it. We intend to publish the revised regulation as an Interim Final Rule in April 1982, in time for the negotiation and award of FY 1983 financial assistance in support of State and local government environmental programs.

DATE: In order to have your comments considered in the development of the Interim Final Rule, please submit them by March 12, 1982.

ADDRESS: You should submit your comments (in duplicate) to: Central Docket Section (A-130), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Attn.: Docket No. G-82-02.

Docket No. G-82-02, which contains material relevant to this rulemaking, is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, 401 M Street, SW, Washington, D.C. 20460. You may inspect the docket between 8 a.m. and 4 p.m. on weekdays. We may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: George Alapas, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, telephone (202) 755-0850.

Dated: February 11, 1982.

John L. Horton,
Assistant Administrator for Administration.

[FR Doc. 82-4328 Filed 2-18-82; 8:45 am]
BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

41 CFR Part 101-41

Issuing Office Records; Eliminate Notification to Paying Office

AGENCY: Transportation and Public Utilities Service.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations by eliminating the requirement that the issuing office

notify the paying office when a certified substituted transportation document is received for payment. Current procedures in paying offices have established safeguards against duplicate payments. The proposed procedural change would help reduce paperwork and the man-hours needed to perform the required tasks at both the issuing and paying offices.

DATE: Comments must be received by March 24, 1982.

ADDRESS: Written comments should be sent to the General Services Administration (TACP), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202–275–0664).

SUPPLEMENTARY INFORMATION: The GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

GSA proposes to amend 41 CFR Part 101–41 as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

Subpart 101–41.3—Freight Transportation Services Furnished for the Account of the United States

Section 101–41.307–3 is revised as follows:

§ 101–41.307–3 Issuing office records.

The issuing office shall enter each certification of a substituted document in its GBL accountability record.

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: January 20, 1982.

Janice K. Mendenhall,

Deputy Commissioner.

[FR Doc. 82-4493 Filed 2-18-82; 8:45 am]

BILLING CODE 6820-AM-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[BC Docket No. 81–742]

Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; correction to extension of time for replies.

SUMMARY: This document corrects an error made in the reply comment date which was extended in a previous document published on February 4, 1982 on page (47 FR 5270) in BC Docket No. 81–742, Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sheldon Guttman, Office of General Counsel, (202) 632–6990.

SUPPLEMENTARY INFORMATION: In the matter of Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming From the Comparative Hearing Process, BC Docket No. 81–742.

On January 29, 1982, the Commission adopted an Order extending the time in which to file reply comments in the above captioned proceeding, published in the **Federal Register** on February 4, 1982 on page (47 FR 5270). The new date for reply comments was stated as being February 15, 1982, which is a legal holiday. This document corrects that oversight. The correct date in which reply comments are due is February 16, 1982.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-4492 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[BC Docket No. 82–75; RM–3963]

TV Broadcast Station in Forest City, North Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 66 to Forest City, North Carolina, in response to a petition filed by Rutherford Broadcasting, Inc. The assignment could provide Forest City with its first local television service.

DATES: Comments must be filed on or before March 29, 1982, and reply comments on or before April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Released: February 12, 1982.

Adopted: February 4, 1982.

In the matter of an Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Forest City, North Carolina); BC Docket No. 82–75, RM–3963; notice of proposed rulemaking.

1. A petition for rulemaking [1] was filed by Rutherford Broadcasting Inc. ("petitioner") seeking the assignment of UHF television Channel 66 to Forest City, North Carolina, as that community's first television assignment. The assignment could be made consistent with the minimum distance separation requirements of § 73.610 of the Commission's rules. Petitioner has failed to indicate that it will apply for the channel, if assigned, and should correct this deficiency in its supporting comments. No oppositions to the proposal were received.

2. Forest City (population 7,688),[2] in Rutherford County (population 53,787), is located in western North Carolina approximately 90 kilometers (56 miles) west of Charlotte. It presently has no local television channel assignment.

3. Petitioner advises that Forest City, a growing community, is attracting numerous industries to its rapidly expanding market. According to petitioner, its economic base is derived from major manufacturing industries such as textile, metal, fiberglass and agriculture. In sum, petitioner has demonstrated a need for the proposed assignment to Forest City.

4. In view of the foregoing and the fact that the proposed television channel assignment would provide a first local television broadcast service to Forest City, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's rules, as follows:

[1] Public Notice of the petition was given August 24, 1981, Report No. 1306.

[2] Population figures are obtained from the 1980 U.S. Census, Advance Reports.

City	Channel No.	
	Present	Proposed
Forest City, North Carolina		66+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 29, 1982, and reply comments on or before April 13, 1982.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules. See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4486 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-74; RM-4008]

FM Broadcast Station in Fort Smith, Arkansas, and Poteau, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes an exchange of FM channels between Ft. Smith, Arkansas, and Poteau, Oklahoma, in response to a joint petition from Hernreich Community Broadcasting, Inc. and Collins Broadcasting Corp. The proposal would eliminate an intermixture of channels in Ft. Smith and permit the Poteau operation to remain viable.

DATES: Comments must be filed on or before March 29, 1982, and reply comments on or before April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: Feburary 4, 1982.

Released: February 12, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Fort Smith, Arkansas, and Poteau, Oklahoma); BC Docket No. 82-74, RM-4008; notice of proposed rule making.

1. Before the Commission is a joint petition for rule making filed by Hernreich Community Broadcasting, Inc. licensee of Station KXXI (FM), Ft. Smith, Arkansas, and by Collins Broadcasting Corporation, licensee of FM Station KLUP, Poteau, Oklahoma. The petitioners request that their channels of operation be exchanged pursuant to an agreement reached by the parties whereby Ft. Smith would receive Channel 250 from Poteau and Poteau would obtain Channel 265A from Ft. Smith. Also, the licenses for the present stations are requested to be modified to specify the new channel.

2. Fort Smith (1980 population 71,384), [1] the seat of Sebastian County (1980 population 94,930) is located on the Arkansas-Oklahoma border approximately 200 kilometers (125 miles) west of Little Rock, Arkansas. It is served by four AM stations (KFPW, KFSA, KWHN, KTCS) and four FM stations (KISR (Channel 229); KMAG

[1] Population data are taken from the 1970 and 1980 U.S. Censuses.

(Channel 256); KTCS–FM (Channel 260); and KXXI (Channel 265A)).

3. Poteau (1970 population 5,500), the seat of LeFlore County (1970 population 32,137), is located approximately 264 kilometers (165 miles) east of Oklahoma City, Oklahoma. It is served by AM Station KLCO and two FM stations (KINB (Channel 297) and KLUP (Channel 250)).

4. In support of their request, petitioners state that Ft. Smith is the major economic, social and cultural center for a large area. They note that substantial gains in the population of Ft. Smith and its SMSA have occurred during the last decade. Petitioners relate that Ft. Smith presently has an undesirable intermixture situation in which Station KXXI operates on the only Class A channel in competition with three Class C stations. Noting that Ft. Smith is the type of community that is designed for wide area coverage, petitoners assert that by upgrading Station KXXI to a Class C operation, the outlying areas, which depend on Ft. Smith for their commercial and social needs, would receive a new service. This Class C channel would come from Poteau, which has been described as an isolated community dependent on Ft. Smith (25 miles northeast) as its regional center. The assignments of two Class C channels to this small community were made on a finding of substantial "white" and "grey" area service. The first Class C channel (Channel 297) was allocated in 1967 on a finding that a transmitter location to the southeast would provide coverage to large unserved areas. The second Class C channel was assigned in 1973 (in place of a Class A channel) to provide additional coverage to the outlying rural areas.

5. The licensee of Poteau Station KLUP (which was upgraded to a Class C operation) now complains that the costs of operating a Class C facility have been too great and the revenues so inadequate that it is willing to convert back to a Class A station. As a result, Collins Broadcast Corp. has entered into an agreement with Hernreich Community Broadcasting to exchange facilities. The public interest benefits of this proposal are said to be a deintermixing at Ft. Smith without a loss of service to the surrounding areas. The key element of this plan is the use of Station KLUP's present site by the Ft. Smith station (KXXI) thereby replacing the existing signal while also reaching Ft. Smith with a city grade signal. The Poteau Class A facility on Channel 265A would be required to move its present site to avoid a short-spacing to McAlester, Oklahoma, Station KNED–FM (Channel 267). The assignment of Channel 265A to Poteau would be restricted by 1.5 miles. However, Collins has agreed to select a new site to comply with this restriction. Finally, petitioners note that as a result of this assignment plan, a new FM channel (Channel 265A) becomes available for assignment to Tahlequah, Oklahoma (1970 population 9,254).

6. We find the plan set forth by the joint petitioners to be of sufficient public interest to seek comments. A second Poteau FM station could remain viable and Ft. Smith could gain a more competitive fourth FM station. No loss of service will occur by the transfer of the Class C channel from Poteau to Ft. Smith. As long as Collins is willing to operate a Class A station in competition with the existing Class C station in Poteau, we have no objection to its doing so. Thus, we see no obstacle to the exchange of channel assignments.

7. As far as the requested modifications of license to specify the new channels are concerned, our policy, as set forth in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), is to permit any interested party to express its interest in either the proposed Class C assignment to Ft. Smith or the proposed Class A assignment to Poteau. Only in the absence of an expression of interest could the modification be accomplished.

8. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, for the following communities.

City	Channel	
	Present	Proposed
Ft. Smith, Ark	229, 256, 260, 265A,	229, 250, 256, 260
Poteau, Okla	250, 297	265A, 267

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before March 29, 1982, and reply comments on or before April 13, 1982.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. *See*, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel

than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who file comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4405 Filed 2-18-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-155; RM-3660, RM-3708, RM-3858]

FM Broadcast Station in Bend and Coos Bay, Oregon; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and order to show cause; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time filing comments and reply comments in a proceeding involving proposed channel allocations to Coos Bay, Oregon, in response to a request from SGB Broadcasting, Inc. Counsel states that additional time is needed to complete an engineering study.

DATES: Comments must be filed on or before February 12, 1982, and reply comments must be filed on or before March 1, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b) *Table of Assignments,* FM Broadcast Stations. (Bend and *Coos Bay, Oregon),* BC Docket No. 81-155, RM-3660, RM-3708, RM-3858.

Adopted: February 4, 1982.

Released: February 10, 1982.

1. On December 14, 1981, the Commission adopted a Further Notice of Proposed Rule Making and Order to Show Cause, 46 FR 62878, published December 29, 1981, in the above-entitled proceeding. Comments were due January 29, 1982, [1] and reply comments are presently due February 16, 1982.

2. On January 27, 1982, counsel for SGB Broadcasting, Inc. ("SGB"), license of FM Station KYNG, Coos Bay, Oregon, and the proponent in RM-3858, filed a request for extension of time in which to file comments to and including February 12, 1982, noting that the request is late pursuant to the provisions of § 1.46(b) of the Commission's rules.

3. Counsel states that additional time is necessary to enable petitioner's engineer to perform a study to determine the accessibility of Channels 254 and 293 for assignment to Coos Bay, in lieu of Channels 239 and 247, as proposed by the Commission. Petitioner's engineer has determined that Channel 247, the channel specified by the Commission for its operation, would be short-spaced from its proposed transmitter site.

4. We are of the view that, under the circumstances mentioned an extension of time is warranted to afford petitioner a moderate period in which to complete its study. Therefore, we will have waive the requirements of § 1.46(b), since the Commission believes it would be in the public interest to have the material available to it in arriving at a decision herein.

5. Although SGB does not indicate the consent of other parties to the extension, they were served with a copy. Therefore, we will grant the instant request.

Accordingly, it is ordered, that the request for extension of time filed by SGB Broadcasting, Inc., is granted, and the time for filing comments and reply comments is extended to and including February 12, 1982, and March 1, 1982, respectively.

[1] Two comments in the form of counterproposals were filed on the January 29, due date. The first counterproposal was received from Southwest Broadcasters, Inc., seeking the assignment of Channel 298 to Coquille, Oregon, and the second from Bay Radio Corporation to assign Channel 254 or 298 to North Bend, Oregon. However, neither of these proposals conflict with the pending Coos Bay assignment under consideration. Therefore it is our present intention to give separate treatment to those requests.

7. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4402 Filed 2-18-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-77; RM-3981]

FM Broadcast Station in Klamath Falls, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 240A to Klamath Falls, Oregon, in response to a petition filed by Wynne Broadcasting Co., Inc. The assignment could provide Klamath Falls with a third local commercial FM service.

DATES: Comments must be filed on or before March 29, 1982, and reply comments on or before April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 4, 1982.

Released: February 12, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Klamath Falls, Oregon); BC Docket No. 82-77, RM-3981; notice of proposed rule making.

1. A petition for rule making [1] was filed by Wynne Broadcasting Co., Inc. ("petitioner"), [2] requesting the assignment of Channel 240A to Klamath Falls, Oregon, as that community's third commercial FM assigment. No responses to the petition were received. The channel can be assigned consistent with the minimum distance separation requirements of Section 73.207 of the Commission's Rules, and petitioner indicates that it will apply for the channel, if assigned.

[1] Public Notice of the petition was given October 22, 1981, Report No. 1314.

[2] Petitioner herein is also the licensee of AM Station KFLS in Klamath Falls.

2. Klamath Falls (population 16,661,[3] the seat of Klamath County (population 59,117), is located approximately 312 kilometers (195 miles) southeast of Salem, Oregon. It is served locally by two fulltime AM stations (KAGO and KFLS), one daytime only AM station (KLAD), two commercial FM stations (KAGO–FM, Channel 258, and KJSN, Channel 223), and one noncommercial educational station (KTEC).

3. The assignment of Channel 240A to Klamath Falls would result in intermixing a Class A channel in a community dominated by Class C stations. The Commission has a policy of permitting such intermixture where, as here, we have an expressed interest to operate a Class A station in competition with existing Class C operations, in spite of any unfavorable competitive situation which may result. See, *Yakima, Washington,* 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida,* 45 F.C.C. 2d 142, 145 (1974).

4. In support of its request for a Class A assignment, petitioner states that the existing Class C stations in Klamath Falls, because of their higher power, concentrate on serving the county-wide area with a format consisting principally of music, with lesser emphasis on localized news and information. While not faulting the existing stations' format, *per se,* petitioner states its belief that Klamath Falls' residents need broader coverage of news and community-oriented programming from an FM station, such as that which it intends to present.

5. From information provided by the Klamath County Chamber of Commerce, it is revealed that Klamath Falls serves as the trading center for an area encompassing approximately a 100 mile radius. Additionally, that data reflects that in 1979, Klamath County had retail sales totalling $270,493,000 and effective buying income in the amount of $387,755,000.

6. Petitioner did not submit a preclusion study for the proposed assignment herein. Since this proposal seeks a third commercial assignment to a community of less than 50,000, preclusion data is important to justify an exception to our population criteria which places a limit of two channels to such a community. Additionally, the purpose of such a study is to put other communities on notice that the opportunity to receive an FM assignment may be foreclosed. Therefore, petitioner should provide a list of all precluded communities containing a population in excess of 1,000 persons, which would sustain preclusion as a result of the proposed assignment, and a list of alternate channels for all precluded communities without local service. This information should be supplied in its supporting comments.

7. In order to give further consideration to the request, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Klamath Falls, Oreg	223, 258	223, 240A, 258

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 29, 1982, and reply comments on or before April 13, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat, as amended, 1066, 1082; 47 U.S.C. 154,303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. it should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in intial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is atached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four

[3] Population figures are derived from the 1980 U.S. Census, Advance Reports.

copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-4496 Filed 2-18-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-76; RM-3933]

TV Broadcast Station in Salem and Bend, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action, at the request of the Oregon Educatiqnal and Public Broadcasting Service, licensee of noncommercial educational Station KVDO, Channel *3, Salem, Oregon, proposes to reassign Channel *3 from Salem to Bend, Oregon.

DATES: Comments must be filed on or before March 29, 1982, and reply comments on or before April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Adopted: February 4, 1982.
Released: February 12, 1982.

In the matter of an amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Salem and Bend, Oregon); BC Docket No. 82-76; RM-3933; notice of proposed rule making.

1. The Commission has before it a petition for rule making,[1] filed by the Oregon Educational and Public Broadcasting Service ("petitioner"), licensee of noncommercial educational Station KVDO-TV, Channel *3, Salem, Oregon. Petitioner proposes to amend the Television Table of Assignments (§ 73.606(b) of the Commission's rules) by reassigning Channel *3 from Salem to Bend, Oregon, and removing the reservation of Channel *15 as a noncommercial educational station in Bend.

2. In support of its proposal, petitioner states that the public interest would benefit from the elimination of a serious short-spacing problem and of the duplication presently existing between petitioner's television stations in the Portland area and surrounding areas.

3. Petitioner points out that, in 1963, Station KATU-TV, Channel 2 in Portland, Oregon, was authorized to relocate its transmitter site to a place 42.6 miles from Salem, a short-spacing of 17.4 miles with the Channel *3 assignment in Salem. By reassigning Channel *3 to Bend, petitioner states that the short-spacing between Stations KVDO-TV and KATU-TV would be eliminated, thus providing interference-free service to a greater number of people.

4. Moreover, petitioner states that the proposal would enable it to spread its service over a much wider area with the elimination of certain duplicated service in the Portland area. Petitioner operates not only Station KVDO-TV in Salem but also Stations KOAP-TV in Portland and KOAC-TV in Corvallis, Oregon. The Salem station (KVDO-TV) duplicates a significant amount of programming from the other two stations, according to petitioner. Petitioner does not operate a station in what it describes as the growing central Oregon area and concludes that the proposed reassignment would allow it to provide service to this underserved area.

5. The reassignment would not leave Salem without the opportunity for local TV service, according to petitioner, as two UHF channels, 22 and 32, are assigned to the community. A construction permit has been granted for the operation of a station on Channel 22. Also, Salem (population 89,223) [2] the capital of Oregon, partly in Marion County (204,692) and Polli County (45,203) is located 45 miles south of Portland. It is served by Television Stations KVDO-TV (Channel *3) and KECH (Channel 22—CP issued). Channel 32 is presently unoccupied and unapplied for. Salem also receives service from Portland Stations KATU (Channel 2, ABC); KOIN-TV (Channel 6, CBS), KGW-TV (Channel 8 NBC); KOAP-TV, Portland (Channel *10, ETV); KPTV (Channel 12, Ind.); and from Station KOAC-TV, Corvallis (Channel *7, ETV).

6. Bend (population 17,263) seat of Deschutes County (population 62,142), located 120 miles south of Portland, has one television station, KTVZ, a primary CBS affiliate with secondary NBC affiliation, operating on Channel 21. Petitioner contends that any impact on the existing station by its noncommercial educational station operation "should be *de minimus.*" Petitioner points out that a second channel, Channel 15, is assigned to Bend as a reserved channel and suggests that the reservation, as a noncommercial channel, be removed for further television development in that section of the State; but that the suggestion is not an essential part of its petition.

7. Fisher Broadcasting, Inc., licensee of Television Station KATU, Portland, Oregon, filed a statement supporting the petition on the grounds that the proposal would remedy the "severe" short-spacing problem and would not deprive Salem of an opportunity for local television service since two UHF channels remain there.

8. Ponderosa Television, Inc., licensee of Station KTVZ, Channel 21, Bend, Oregon, filed comments in opposition to the petition. Ponderosa contends that the petition must be dismissed because it fails to make a threshold showing of any need for an additional allocation at Bend, Oregon; and moreover, if Channel *3 is proposed to be reallocated in a rule making proceeding, uses of the channel, other than assignment to Bend, Oregon, should also be given full consideration. Ponderosa states that petitioner does not explain why it cannot apply for a station on the existing low-band UHF Channel *15 already allocated to provide noncommercial educational broadcast service to the Bend area. Ponderosa also contends that "[r]ather than conserving spectrum to better serve the public * * * the * * * proposal would unnecessarily deprive Salem, the state capital, of local service it now receives * * *".

9. We do not agree that petitioner has failed to make even a threshold showing of need for its proposal. The need for noncommercial educational programming to be offered to central Oregon by petitioner appears to be of great benefit to this relatively unserved area. Moreover, we place great value on eliminating the short-spacing situation now affecting Channel 2 in Portland. As for petitioner's preference in utilizing Channel *3 rather than Channel *15 in Bend, we have in the past recognized the economic advantages in utilizing the VHF channel. See *Booneville, Mississippi,* 27 R.R. 2d 246 (1973); *Hays, Kansas, et al.,* (*Notice*) BC Docket No. 82-43, adopted January 27, 1982.

Our policy in refusing to recognize a difference in TV channels does not restrict a public interest finding that a lower channel can be of public benefit. Here the deletion of Channel *3 from Salem eliminates a short-spacing situation. The reassignment of Channel *3 to Bend would likely expedite the initiation of noncommercial educational service to central Oregon where there

[1] Public Notice of the petition was given on July 17, 1981, Report No. 1299.

[2] Population figures are derived from the 1980 U.S. Census.

has been no interest in utilizing Channel *15 but where the interest in Channel *3 would permit an early commencement of service. Unlike the situation in the case of Houston, Texas, BC Docket 81-469, 47 FR ——— (1982), the use of a lower channel would not be at the expense of another (commercial or noncommercial) use. Contrary to Ponderosa's suggestion that we should undertake to determine the most efficient use of Channel *3 at Salem or elsewhere, we need only determine whether the use of Channel *3 at Bend is efficient and has public interest benefits. We shall also remove the reservation from Channel 15 to make it available for commercial use at Bend.

10. In view of the foregoing, the Commission believes it appropriate to propose amending the TV Table of Assignments, § 73.606(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Salem, Oreg	*3+, 22, 32	22, 32
Bend, Oreg	*15, 21+	*3+, 15, 21+

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before March 29, 1982, and reply comments on or before April 13, 1982.

13. For further information concerning this proceeding, contact Philip Cross, Broadcast Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignment. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat, as amended, 1066, 1082; 47 U.S.C. 154, 305)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-4497 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 34
Friday, February 19, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children; Program Reimbursement Rates for 1982

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of adjustments in the Program reimbursement rates to reflect changes in the Consumer Price Index. These adjustments are required by the statute and regulations governing the Program.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, 703–756–3886.

EFFECTIVE DATE: January 1, 1982.

SUPPLEMENTARY INFORMATION: Pursuant to Section 13 of the National School Lunch Act (42 U.S.C. 1761) and regulations governing the Summer Food Service Program for Children (7 CFR Part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the Summer Food Service Program for Children during the 1982 Program. Adjustments are based on changes in the food away from home series of the Consumer Price Index for All Urban Consumers for the period November 1980 through November 1981. The new reimbursement rates are as follows:

Maximum Per Meal Reimbursement Rates for Operating Costs

Breakfast	74.75¢
Lunch or supper	134.25¢
Supplement	35.25¢

Maximum Per Meal Reimbursement Rates for Administrative Costs

a. For meals served at rural or self-preparation sites:

Breakfast	7.00¢
Lunch or supper	12.75¢
Supplement	3.50¢

b. For meals served at other types of sites:

Breakfast	5.50¢
Lunch or supper	10.50¢
Supplement	2.75¢

The total amount of payments to State agencies for distribution to Program sponsors shall be based upon these Program reimbursement rates and the number of meals of each type served. The above reimbursement rates, before being rounded-off to the nearest quarter-cent, represent a 7.37 percent increase in the payment rates prescribed for 1981. This represents the percentage of increase during 1981 (from 275.30 in November, 1980 to 297.2 in November 1981) in the food away from home series of the Consumer Price Index, for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

(Catalog of Federal Domestic Assistance Program No. 10.559)

(Sec. 2, Pub. L. 95–166, 91 Stat. 1325, (42 U.S.C. 1761); sec. 5, Pub. L. 95–627, 92 Stat. 3620, (42 U.S.C. 1761), sec. 809, Pub. L. 97–35, 95 Stat. 527, (42 U.S.C. 1761))

Dated: February 16, 1982.

Gene P. Dickey,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-4483 Filed 2-18-82; 8:45 am]
BILLING CODE 3410-30-M

Rural Electrification Administration

Brazos Electric Power Cooperative, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact (FONSI) for the proposed financing assistance by REA for Brazos Electric Power Cooperative, Inc., (Brazos) of Waco, Texas for the following projects in Hood, Johnson, Navarro, and Hill Counties, Texas:

1. Construct 52.0 km (33 mi) of 138 kV transmission line in Johnson and Hood Counties.
2. Construct the Concord Substation and a Microwave tower in Johnson County.
3. Convert the Grandview and Keene Substations in Johnson County.
4. Expand the Acton and Hood Substation in Hood County.
5. Modify the Emmett and Purdon Substations in Navarro County.
6. Construct a new 69 kV substation in Hill County.
7. Construct 33.68 kV (21 mi) of 138 kV transmission line in Navarro and Hill Counties.

This finding, in accordance with REA Bulletin 20–21:320–21, Part 1, was based on REA's independent evaluation, REA's Environmental Assessment and Brazos' Environmental Report.

REA has determined: (1) That the proposed project will not have a significant impact on prime farmland and that the minimal conversion of prime farmland is justified by the need for these projects; (2) that there is no alternative to crossing floodplains and wetlands and that all practicable mitigation measures will be taken to minimize harm to these areas; and (3) that there will be no effect on federally listed threatened or endangered species and on known historic or archaeological resources.

The portion of the project in Johnson and Hood Counties will cross approximately 1.83 km (1.17 mi) of floodplain and 0.55 km (0.34 mi) of wetland. The project will also cross approximately 38 km (23.7 mi) of prime farmland, however, the impact will be minimal as only 0.2 ha (0.5 a) will actually be removed from production due to pole placement.

In Navarro and Hill Counties approximately 304.8 m (100 ft) of floodplain will be spanned, and 19.4 km (12.08 mi) of prime farmland will be crossed. Of the prime farmland crossed, only 128.3 sq m (138.2 sq yds) would actually be removed from farming production.

Various alternatives were considered to the proposed projects including taking no action, instituting conservation measures, alternate interconnections, alternate construction materials and methods, alternate routes, and alternate communication sources. After reviewing these alternatives, REA has determined

that the projects as proposed are the preferred alternatives because they meet Brazos' needs with a minimum of adverse impacts.

Copies of REA's Finding of No Significant Impact, REA's Environmental Assessments, and Brazos' Environmental Report may be obtained from or reviewed in the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, or at the offices of Brazos Electric Power Cooperative, Inc., 2404 La Salle Avenue, Waco, Texas 76706.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 13th day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-4854 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-15-M

L and O Power Cooperative; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to proposed financing assistance to L and O Power Cooperative (L & O) of Rock Rapids, Iowa, for construction of the following 230 kV facilities in Lyon County, Iowa: a 19–22 km (12–14 mi) transmission line from Pahoja to Cleveland, a tap switchstation at the Pahoja terminus and a substation at the Cleveland terminus.

REA determined that a Borrower's Environmental Report (BER) submitted by L & O is an accurate assessment of the environmental aspects of the project. Based upon the BER and other information, REA prepared an Environmental Assessment addressing the impacts of the proposed project. REA concludes that the proposed project would not be a major Federal action significantly affecting the quality of the human environment.

REA determined that the proposed project: (1) Will have no effect on threatened or endangered species or known cultural resources. (2) Will have not significant adverse effect on wetlands or floodplains. While a few poles may be located in floodplains, they will not be incompatible with the ecological function of a floodplain. The transmission line will span a few minor wetlands, but there should not be any long-term effects from construction. (3) Will affect prime farmland. All pole structures and all station facilities will be on prime farmland. All reasonable measures will be taken to minimize the amount of prime farmland affected. There is no practicable alternative to the use of these quantities of wetlands, floodplains and prime farmland. Construction, operation and maintenance of the project will not, in REA's judgment, result in any unacceptable environmental impacts.

Alternatives examined include no action, constructing a new source of generation, alternative routes, and alternative construction materials and methods. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it will meet L & O's needs with minimal environmental impact.

The FONSI, Environmental Assessment and BER may be reviewed at or requested from the Office of the Director, Power Supply Division, Room 0230, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: (202) 382–1400, or at the office of L & O Power Cooperative, 315 First Ave., Rock Rapids, Iowa 51246, telephone: (712) 472–2531.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 13th day of February, 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 82-4855 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Anson County Schools, RC&D Measure, North Carolina; Finding of no Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755–4210.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Moore County Schools RC&D Measure, Moore County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an evironmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on three school grounds. The planned works of improvement include installing pipe inlets, grassed waterway, gravel and riprap, and diversions. Grading and shaping will be done to dispose of surface water at a nonerosive velocity. All disturbed areas will be seeded with adapted premanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Coy A. Garrett. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 25, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82-4443 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

City of Maplesville Recreation Park RC&D Measure Plan, Alabama; Finding of No Significant Impact

AGENCY: Soil Conservation Service. Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Ernest V. Todd, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Alabama 36830, telephone number (205) 821–8070. Regular work hours are from 7:45 a.m. to 4:30 p.m. (C.S.T.).

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for City of Maplesville Recreation Park RC&D Measure, Chilton County, Alabama.

The environmental assessment of this federally assisted action indicates that the proposed measures will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Ernest V. Todd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of basic recreational facilities adjacent to a perennial stream. The planned works of improvement include picnic sites, water supplies, sanitary facilities, electrical services and distribution facilities, access roads and parking spaces, access trails and walks, group shelter, field sports area, tennis courts, and nature study areas.

The basic data developed during the environmental evaluation and environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Ernest V. Todd. A combined environmental assessment and finding of no significant impact has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the combined environmental assessment and finding of no significant impact are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 12, 1982.

Ernest V. Todd,

State Conservationist.

[FR Doc. 82–4440 Filed 2–18–82; 8:45 am]

BILLING CODE 3410–16–M

Montgomery County Schools RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755–4210.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Montgomery County Schools RC&D Measure, Montgomery County, North Carolina.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on three school grounds. The planned works of improvement include installing catch basins, pipes, and subsurface drainage tubing and grading and shaping to dispose of surface water at a nonerosive velocity. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 25, 1982.

Coy A Garrett,

State Conservationist.

[FR Doc. 82–4442 Filed 2–18–82; 8:45 am]

BILLING CODE 3410–16–M

Moore County Schools, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755–4210.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Moore County Schools RC&D Measure, Moore County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on six school grounds. The planned works of improvement include installing catch basins, pipes, and subsurface drainage tubing. Grading and shaping will be done to dispose of surface water at a nonerosive velocity. All disturbed areas

will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 25, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82-4445 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Richmond County Schools, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (450 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Richmond County Schools RC&D Measure, Richmond County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on five school grounds. The planned works of improvement include installing catch basins, pipes, and subsurface drainage tubing and grading, applying mulch, shaping, and filling to dispose of surface water at a nonerosive velocity. All disturbed areas will be seeded with adapted permanent vegetation, and certain specified areas will be fenced to control pedestrian traffic.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 25, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82-4444 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Spring Creek Subwatershed, Central Sonoma Watershed, Sonoma County, Calif.; Intent To Prepare Revised Joint Environmental Impact Statement/Report

AGENCIES: Soil Conservation Service, Agriculture, as the Lead Agency under NEPA, and the Sonoma County Water Agency, as Lead Agency Under CEQA.

ACTION: Notice of Intent to prepare a revised joint environmental impact statement/report (State Clearinghouse #80030105).

FOR FURTHER INFORMATION CONTACT:

Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, CA 95616, Phone: (916) 758-2200

Robert F. Beach, General Manager, Sonoma County Water Agency, 2425 Cleveland Avenue, Santa Rosa, CA 95401, Phone: (707) 526-5370

Notice

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), the Soil Conservation Service Guidelines (7 CFR Part 650), and the California Environmental Quality Act and Guidelines, the Soil Conservation Service, U.S. Department of Agriculture, and the Sonoma County Water Agency give notice that a revised environmental impact statement/report (EIS/EIR) is being prepared for the Spring Creek Subwatershed of the Central Sonoma Watershed, Sonoma County, California.

The project is a federally-assisted action, with the Soil Conservation Service providing assistance to the Sonoma County Water Agency and the other local project sponsor, the Sotoyome-Santa Rosa Resource Conservation District.

A draft EIS/EIR for this project was distributed for review in May 1980. The final EIS/EIR was distributed in November 1980. The Sonoma County Water Agency's approval of the project was challenged in the Superior County of Sonoma County and the court has required reconsideration of the project based on completion of a revised EIR. After reviewing the court's findings, Francis C. H. Lum, State Conservationist, has also determined that preparation and review of a revised EIS are needed for this project, with particular emphasis on consideration of alternatives.

The project concerns a plan for flood prevention along Spring Creek in the City of Santa Rosa, Sonoma County, California. Alternatives considered include channel enlargement, channel lining, floodwater storage ponds, buried conduits, bypass conduits or channels, and nonstructural measures. The current proposed plan extends from just below Farmers Lane upstream to Summerfield Road and includes installation of 0.6 mile of concrete-lined channel and 0.5 mile of enlarged unlined channel on Spring Creek, 0.2 mile of enlarged earth channel on Sierra Creek, and 0.4 mile of buried conduit. Probable environmental effects of the project were identified in the previous EIS/EIR to which reference is made.

The Soil Conservation Service and the Sonoma County Water Agency will prepare a new draft EIS/EIR and distribute it for review by agencies and the public. The Lead Agencies are in the

process of determining the scope of the issues to be addressed in the revised EIS/EIR. The scope will be based primarily on three sources of information:

(1) The material in the original EIS/EIR and the comments made on it;

(2) The findings of the court;

(3) Responses to this notice of intent.

The Soil Conservation Service and the Sonoma County Water Agency invite participation and consultation of agencies and individuals that have special expertise, legal jurisdiction or interest in the preparation of the revised draft EIS/EIR. Written comemnts should be sent to Francis C. H. Lum, State Conservationist, Soil Conservation Service, and/or to the Sonoma County Water Agency at the above addresses. Please send comments at the earliest possible date but not later than March 18, 1982.

The scope of the EIS/EIR will also be discussed at a meeting to be held on the evening of Wednesday, March 10, 1982, in the City Council Chambers, Santa Rosa City Hall, located at the corner of Santa Rosa and Sonoma Avenues, Santa Rosa, CA. Registration will be at 7:00 p.m. and the discussion will begin at 7:30 p.m. Verbal and written comments will be received at that time.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable

Dated: February 11, 1982.

Gene Andreuccetti,

Deputy State Conservationist.

[FR Doc. 82-4441 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Fogland Marsh R.C. & D. Measure, Rhode Island; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Donald M. McArthur, State Conservationist, Soil Conservation Service, 46 Quaker Lane, West Warwick, Rhode Island 02893, telephone, (401) 828-1300.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fogland Marsh R.C. & D. Measure, Newport County, Rhode Island.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald M. McArthur, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for sand dune stabilization and protection. The measure, as proposed, includes: the installation of 500 feet of snow fence in selected locations to trap windblown sand. Wood support posts will be placed at 10 foot intervals. Planting 30,000 beachgrass culms in denuded areas of the dunes to stabilize them from erosion and trap sand. The beachgrass plantings will cover one-half acre of sand dunes. Three foot diameter boulders will be placed at right angles to the beach on the westside of the property. This 300 foot line of boulders will extend from below the low water elevation to the dune area. The boulders will control vehicle access to the beach and dune areas. An informational sign will be erected at the entrance to explain the barrier and plantings.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Donald M. McArthur. An environmental assessment has been prepared and sent to various federal, state, and local agencies and interested parties. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: February 4, 1982.

Donald M. McArthur,

State Conservationist.

[FR Doc. 82-4132 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Balls Branch Watershed, Nebraska; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Albert E. Sullivan, State Conservationist, Soil Conservation Service, Federal Building, Room 345, 100 Centennial Mall N., P.O. Box 82502, Lincoln, Nebraska 68501, telephone 402-471-5300.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Balls Branch Watershed, Thayer and Jefferson Counties, Nebraska.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Albert E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan that will reduce soil depletion by sheet and rill erosion, increase production, reduce voiding and depreciation of land by gully erosion, reduce flood plain deposition, improve water quality, and reduce sediment yields. The planned works of improvement include terraces, grassed waterways or outlets, diversions, and grade stabilization structures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Albert E. Sullivan.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse

review of Federal and federally assisted programs and projects is applicable.)

B. C. Graham,

Acting State Conservationist.

February 4, 1982.

[FR Doc. 82-4413 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Bibb County Recreation Park RC&D Measure, Alabama; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest V. Todd, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Alabama 36830, telephone number (205) 821-8070.

NOTICE: pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bibb County Recreation Park RC&D Measure, Bibb County, Alabama.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Ernest V. Todd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of basic recreational facilities on an existing lake. The planned works of improvement include picnic sites, group shelters, a pedestrian trail, parking lot, access road, play areas, boat ramp, fishing pier, tennis court, sanitary facility, water supply, and swimming beach.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Ernest V. Todd. A combined environmental assessment and finding of no significant impact has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the combined environmental assessment and finding of no significant impact are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 9, 1982.

Bobby Reeves,

Acting State Conservationist.

[FR Doc. 82-4414 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Mt. Hood Watershed, Oregon; Finding of No Significant Impact.

AGENCY: Soil Conservation Service, Department of Agriculture

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Stanely N. Hobson, Acting State Conservationist, Soil Conservation Service, 1220 SW. 3rd, 16th Floor, Portland, Oregon 97204, telephone 503-221-2751.

NOTICE: Pursuant to Section 102(s)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guideline (40 CFR Part 1500); and the Soil Conservation Guidelines (7 CFR Part 650): the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mt. Hood Irrigation District Watershed Project, Hood River County, Oregon.

The environmental assessment of this action indicates that Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Stanley N. Hobson, Acting State Conservationist, has determined that an environmental impact statement is not needed for this action.

The project concerns a plan to convert the present open-ditch irrigation system into a pipeline gravity pressure system. Planned works of improvement include 44,320 feet of pressure pipeline, two diversion structures, two booster pumps, an intake structure and well for winter water, and 153 meter takeouts.

The Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Stanley N. Hobson, Acting State Conservationist, Soil Conservation Service, 1220 SW. 3rd, 16th Floor, Portland, Oregon 97204. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the enironmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be initiated until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10,904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 USC 1001-1008)

Dated: December 22, 1981.

Stanley N. Hobson,

Acting State Conservationist.

[FR Doc. 82-4417 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

NorthEast Texas RC&D Area; Cane and Maxwell Creeks Critical Area Treatment RC&D Measure, Texas; Finding of No significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76503, telephone 817-774-1214.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cane and Maxwell Creeks Critical Area Treatment RC&D Measure, Lamar County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. Conservation practices include the shaping and vegetation of gullied areas, construction and vegetation of grade stabilization structures, and fencing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting George C. Marks. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resources Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: February 5, 1982.

George C. Marks,

State Conservationist.

[FR Doc. 82-4418 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Critical Area Roadside Treatment; Dickson County, Tennessee in the Five Rivers R.C. & D. Area; Finding of No Significant Impact

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dickson County, Tennessee Critical Area Roadside Treatment Measure in the Five Rivers Area.

The environmental assessment of this Federally assisted action indicated that the measure will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental statement is not needed for this measure.

This measure concerns plan for treatment of eroding roadbanks and fills along county roads in Dickson County, Tennessee. The planned works of improvement includes sloping, fertilizing, liming, and seeding to perennial grasses and legumes.

The notice of findings of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the assessment are on file and may be reviewed by interested parties through the Soil Conservation Service at the SCS Field Office, Dickson, Tennessee.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87-703, 16 U.S.C. 590a–f,g.)

Dated: February 8, 1982.

Billy K. Benson,

Deputy State Conservationist.

[FR Doc. 82-4415 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

Government Canyon R.C. & D. Measure, Nebraska; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Albert E. Sullivan, State Conservationist, Soil Conservation Service, Federal Building, Room 345, 100 Centennial Mall N., P.O. Box 82502, Lincoln, Nebraska 68501. Telephone: 402–471–5300.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Government Canyon, RC&D Measure, Cherry County, Nebraska.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Albert E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing floodwater damages to the Valentine Fish Hatchery, a state facility, and the city of Valentine sewage treatment plant. The planned works of improvement include two floodwater retarding structures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Albert E. Sullivan.

No administrative action on implementation of the proposal will be taken until March 22, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable

Dated: February 8, 1982.

B. C. Graham,

Acting State Conservationist.

[FR Doc. 82-4416 Filed 2-18-82; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95–202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on February 5, 1982 that the service of the members of the group known as the OSS Civilians in World War II not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

For further information contact: Technical Sergeant Stephen J. Koegle, USAF, telephone: 694–5380, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), The Pentagon, Washington, DC 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-4400 Filed 2-18-82; 8:45 am]

BILLING CODE 3910-01-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended February 12, 1982

The due date for answers, conforming application, or motions to modify scope

are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 11, 1982	40451	Frontier Airlines, Inc., 8250 Smith Road, Denver, Colorado 80207. Application of Frontier Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal of the authority granted to Frontier by Order 79-6-153 to provide nonstop service between the terminal point Spokane, Washington and the terminal point Vancouver, British Columbia, Canada, and incorporated into Frontier's Certificate of Public Convenience and Necessity for Route 73F. Conforming Applications, motions to modify scope, and Answers may be filed by March 11, 1982.
Feb. 11, 1982	39034	Kuwait Airways Corporation, c/o G. Joseph Minetti, Dickstein, Shapiro & Morin, 2101 L Street, N.W., Washington, D.C. 20037. Amendment to the Application of Kuwait Airways Corporation pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a permit authorizing its April, 1980 Permit Application to be amended authorizing it to engage in foreign air transportation of persons, property and mail between any point in Kuwait and the point New York, New York, via the intermediate point London, England at a frequency of three flights per week in each direction. Answers may be filed by March 12, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4538 Filed 2-18-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40101; Order 82-2-78]

Application of Yute Air Alaska for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (82-2-78).

SUMMARY: The Board is proposing to find Yute fit, willing and able and to authorize it to provide interstate and overseas transportation of persons and property and to provide all-cargo service between and among the points listed in its application.

DATE: Objections: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than March 12, 1982 a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40101, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, copies of such filings should be served upon Yute Air Alaska, Inc.; the mayors and airport managers of each city to which the pleading refers; the Alaska Transportation Commission; the Governor of Alaska; the Federal Aviation Administration; and the Airline Pilots Association.

FOR FURTHER INFORMATION CONTACT: Carol Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428, (202) 673-5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-2-78 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-2-78 to that address.

By the Civil Aeronautics Board: February 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4539 Filed 2-18-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40253]

Northeast Sunrise, Inc. Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., February 16, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-4540 Filed 2-18-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-049]

Calcium Pantothenate From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on calcium pantothenate from Japan. The review covers 21 manufacturers or exporters and 10 third-country shippers of this merchandise to the United States currently covered by the finding, generally for the period January 1, 1980 through December 31, 1980. This review indicates the existence of dumping margins in particular periods for certain of these firms.

As a result of the review the Department has preliminarily determined to assess dumping duties for these individual firms equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review.

Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Sheila E. Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209).

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 10518-19) the final results of its first administrative review of the antidumping finding on calcium pantothenate from Japan (39 FR 2066, January 17, 1974). The Department announced in the **Federal Register** of March 16, 1981 (46 FR 16921) its intent to conduct the next administrative review by the end of January 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all

unliquidated entries made prior to January 1, 1980.

Scope of the Review

The imports covered by this review are shipments of calcium pantothenate, a member of the B-complex vitamin family, which is produced in two grades: D-Cal Pan (USP Grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL-Cal Pan (Feed Grade, which is used as a food supplement for swine and poultry). Both grades of calcium pantothenate are currently classifiable under item 437.8225 of the Tariff Schedules of the United States Annotated (TSUSA).

This review covers 21 Japanese firms and 10 third-country shippers engaged in the manufacture or exportation of calcium pantothenate to the United States and currently covered by the finding. Two new third-country shippers, Kompanie Ultramar Sievers and Co. GmbH (W. Germany) and Peak International Products (Netherlands), were covered in a separate notice. Six additional firms, Fuji Chemical Industries Ltd., Daiichi Seiyaku Co., Ltd., Takeda Chemical Industries Ltd., Mitsubishi Corporation, Tanabe Seiyaku Co., and Chugai Boyeki, were previously excluded or exempted from the finding. This review covers the period January 1, 1980 through December 31, 1980. In addition it covers shipments in other periods by nine of the covered firms.

Fourteen exporters indicated that they had not exported to the United States during the review period. For firms with no exports to the United States the cash deposit rate of estimated duties is based on the most recent information for each firm.

Three exporters declined to respond to our questionnaire. Those companies are First Enterprise Inc. (Japan), Siemsgluss A.G. (Switzerland), and Siemsgluss & Sohn (W. Germany). For these "non-responsive" exporters we used the best information available to determine the assessment and estimated deposit rates. For two firms the best information available is the most recent rate for each firm, since it is higher than the highest rate for responding firms in the current period. For one firm for which no information is available, the best information is the highest rate for responding firms in the current period since it is higher than the highest rate found during the original fair value investigation.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act or sections 203 and 204 of the 1921 Act, as appropriate.

Purchase price was based either on the CIF or FOB packed price to an unrelated purchaser in the United States, or to an unrelated Japanese trading company for export to the United States, as appropriate. Exporter's sales price was based on the packed price to the firm's unrelated purchaser in the United States. Where applicable, deductions were made for ocean freight, postage, handling charges, interest, commissions to unrelated parties, insurance, U.S. duty, foreign & U.S. inland freight, warehousing and selling expenses, in accordance with § 353.10 of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate, since sufficient quantities existed in the home market to provide a basis of comparison. Home market sales were at least 7.27 percent of all sales for export to countries other than the U.S. during the period covered. For third-country shippers, since there is no evidence that the Japanese Manufacturers intended to export these shipments to the U.S., the Department used the third-country shippers' home market price for Japanese calcium pantothenate, or the price to purchasers in other countries when sufficient sales did not exist in the home market. The foreign market values were adjusted, where applicable, for ocean freight, insurance, foreign inland freight, differences in credit costs, commissions to unrelated parties, and, in exporter's sales price comparisons, indirect selling expenses to offset the amount of selling expenses incurred in the United States, in accordance with section 353.15 of the Commerce Regulations and section 153.10 of the Customs Regulations. Adjustments were also made for differences in packing costs. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

	Time period	Margin (percent)
Manufacturer/Exporter		
Agropol Limited	1/1/80–12/31/80	[1] 4.27
Alps Pharmaceutical Ind. Co.	1/1/80–12/31/80	0
Byron Chemical Co.	1/1/80–12/31/80	[1] 6.6
Eisai Co., Ltd.	7/1/76–12/31/80	0
First Enterprise Inc.	1/1/74–12/31/80	0.89
Helm Japan	7/1/76–12/31/80	0
Ishe Inc. Corp.	1/1/80–12/31/80	0.49
Iwaki & Co.	1/1/80–12/31/80	[1] 0
Kamisagi Chemical Co., Ltd.	1/1/80–12/31/80	0
Kamiyama Corp.	1/1/80–12/31/80	[1] 16.87
Kanematsu-Gosho Ltd.	1/1/80–12/31/80	6.99
Marubeni Corp.	1/1/80–12/31/80	[1] 3.95
Manizen Chemicals Co.	1/1/80–12/31/80	[1] 9.57
Mitsui & Co.	1/1/80–12/31/80	[1] 16.87
Nagase & Co.	6/1/74–12/31/80	0
Nippon Roche, K. K.	10/1/77–12/31/80	0
Sankei Pharmaceutical Co.	1/1/80–12/31/80	[1] 16.87
Sankyo Company	1/1/80–12/31/80	[1] 3.56
Toho Bussan Co.	1/1/80–12/31/80	[1] 16.87
Toyo Menka Kaisha	1/1/80–12/31/80	[1] 1.87
Yamanouchi Pharmaceutical Co., Ltd.	1/1/77–12/31/80	0
Third Country Shipper (Country)		
Blembel Gebruder (W. Germany)	1/1/81–6/30/81	0
Chemeta BV (Netherlands)	1/1/80–12/31/80	1.4
Chemical & Feeds Ltd. (U.K.)	1/1/80–12/31/80	[1] 16.87
Deutsch-Norwegische Vitamin Gesellschaft G.m.b.H.(W. Germany)	1/1/74–12/31/79	
	1/1/80–12/31/80	3.66
		2.42
M. Gurvey & Berry Co., Inc. (Canada)	1/1/80–12/31/80	3.30
Karl O. Helm (W. Germany)	1/1/74–12/31/77	
	1/1/78–12/31/80	5.66
		0
Lenk Chemical Corp. (Netherlands)	1/1/80–12/31/80	[1] 16.87
Marsing & Co., Ltd. (Denmark)	1/1/80–12/31/80	[1] 16.87
Siemsgluss A. G. (Switzerland)	1/1/80–12/31/80	16.87
Siemsgluss & Sohn (W. Germany)	1/1/80–12/31/80	16.87

[1] No shipments during period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 15 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates or export dates, as appropriate, during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of calcium pantothenate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the

final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: February 12, 1982.

Melinda Carmen,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-4553 Filed 2-18-82; 8:45 am]

BILLING CODE 3510-35-M

National Oceanic and Atmospheric Administration

Issuance of General Permits; Hochseefischerei Nordstern AG

General permits were issued on January 27, 1982, to the Hochseefischerei Nordstern AG, Bremerhaven, West Germany and on February 9, 1982, to the S. E. E. Okeansky Ribolov, Bourgas, Bulgaria to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit to the Hochseefischerei Nordstern AG allows the taking of not more than 10 cetaceans, 10 phocid seals and 10 otariid seals within the U.S. fishery conservation zone during 1982. The general permit to the S. E. E. Okeansky Ribolov allows a taking not to exceed 8 cetaceans, 8 phocid seals and 8 otariid seals during 1982.

These general permits are available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: February 16, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-4567 Filed 2-18-82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Marine Mammal Permit; Northwest Alaska Fisheries Center

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Northwest and Alaska Fisheries Center (P77–1).

b. Address 2725 Montlake Boulevard, East, Seattle, Washington 98112.

2. Type of Permit Scientific Research.

3. Name and Number of Animals:

Dall Porpoise mature adults (Phocoenoides dalli)—640.

Dall Porpoise calves (Phocoenoides dalli)—up to 320.

4. Type of Take: Take by killing from the wild for reproductive studies.

5. Location of Activity: Various areas of North Pacific Ocean.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before March 22, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: February 12, 1982.

R.B. Brumstead,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-4566 Filed 2-18-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

New Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATE: This system shall be effective as proposed without further notice on March 22, 1982, unless comments are received which would result in a contrary determination.

ADDRESSES: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD, Room 4A1088I, The Pentagon, Washington, D.C. 20330, telephone 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a), Public Law 93–579 have been published to date in the **Federal Register** at:

FR Doc. 81–897 (46 FR 6443) January 21, 1981

FR Doc. 82–674 (47 FR 2544) January 18, 1982

FR Doc. 82–2886 (47 FR 5285) February 4, 1982

The Department of the Air Force has submitted a new system report January 7, 1982 under the provision of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A–108, Transmittal Memoranda, No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Febraury 12, 1982.

F01101 TAC A

SYSTEM NAME:

Mobility Automated Training System (MATS).

SYSTEM LOCATION:

Tactical Air Command (TAC) bases.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force members assigned to TAC who have mobility training requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listings contain the name, rank, SSN, nonavailability code, duty phone and unit of individuals; used to track

mobility training required and/or completed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties: delegation by, as implemented by TAC Manual 171–582, Volume I, Automated Data Processing Systems and Procedures, Mobility Automated Training System MATS A64/AM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To manage the base/wing mobility training programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape and ADP punch cards.

RETRIEVABILITY:

Retrieved by name or SSN.

SAFEGUARDS:

Access is authorized to persons responsible for records in performance of their duties. Tapes are maintained in libraries which are limited access, controlled areas.

RETENTION AND DISPOSAL:

Printouts are retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Tapes are erased or degaussed.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, Mobility Data Automation Section. HQ TAC/LGXSM, Langley AFB, VA 23665.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from the Superintendent, Mobility Data Automation Section, HQ TAC/LGSXM, Langley AFB, VA 23556, telephone (804) 764–3331.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access to records in the system from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

All records will originate from the Advanced Personnel Data System (APDS) (F03004 AFDPMDB).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–4481 Filed 2–18–82; 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974; New Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATES: This system shall be effective as proposed without further notice on March 22, 1982, unless comments are received which would result in a contrary determination.

ADDRESSES: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD, Room 4A1088I, The Pentagon, Washington, DC 20330, telephone 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a), Public Law 93–579 have been published to date in the **Federal Register** at:

FR Doc. 81–897 (46 FR 6443) January 21, 1981

FR Doc. 82–674 (46 FR 2544) January 18, 1982

The Department of the Air Force has submitted a new system report December 30, 1981 for this new system notice under the provision of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A–108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 12, 1982.

F06703 USAFE A

SYSTEM NAME:

Government Furnishings Issue Record.

SYSTEM LOCATION:

Housing Supply offices at all USAFE installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military and DOD civilians to whom government furnishings are issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

PCS orders, rental agreement, receipt for furnishings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9832, Property accountability: regulations, implemented by USAFE Manual 140–378, Housing Supply.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To maintain authority for issue and accountability of Government furnishings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYETEM:

STORAGE:

Paper records stored in vertical file folders and computer output products.

RETRIEVABILITY:

Filed by name in manual file systems. Filed by SSN in computer storage.

SAFEGUARDS:

Stored in file cabinets in locked rooms. Records are accessed by custodian of the record system. Records are accessed by persons responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in file until furnishings are returned and then destroyed or returned to the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics, Headquarters United States Air Forces in Europe.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the systems manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the system manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determination may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-4462 Filed 2-18-82; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

[M 369361]

Decision on Application by Northern Tier Pipeline Co. To Construct Crude Oil Pipeline Crossings Beneath the Missouri River; Big Dry Creek; Flatwillow Creek; Musselshell River, Montana; and the Little Muddy River in North Dakota

December 17, 1981.

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of decision.

SUMMARY: The Omaha District Corps of Engineers has determined that construction and operation of pipeline crossings proposed by Northern Tier Pipeline Company to transport crude oil from the West Coast to Clearbrook, Minnesota across waters of the United States within the Omaha District, to be in the public interest. In view of this and pursuant to Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act, Department of the Army permits were issued to Northern Tier Pipeline Company to construct 30-inch diameter pipeline crossings beneath the Missouri River at river mile 1388.70; the Musselshell River and Flatwillow Creek near Winnett, Montana, two (2) crossings of Big Dry Creek near Jordan, Montana; and the Little Muddy River near Williston, North Dakota. The final review of this proposal by Northern Tier Pipeline Company indicated that the probable impacts of the project within the Omaha District are minor in nature and would not affect the quality of the human environment. An environmental impact statement was prepared by the U.S. Department of Interior, Bureau of Land Management, which addressed the entire project. This document was reviewed and found to be adequate.

EFFECTIVE DATE: December 17, 1981.

ADDRESS: Department of the Army, Omaha District, Corps of Engineers, U.S. Post Office and Court House, 215 No. 17th St., Omaha, Nebraska 68102.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Miller, (402) 221-4133 at the above address.

V. D. Stipo,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-4559 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Construction of Fresh Water Pipeline From Puerto Rico to Virgin Islands

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to Prepare a draft environmental impact statement (DEIS).

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare an Environmental Impact Statement on the feasibility of constructing an underwater pipeline to convey up to 10 MGD of potable water from an impoundment located on the Fajardo River in Puerto Rico to St. Thomas, Virgin Islands, with a spur to the island of Culebra. St. Thomas is experiencing potable water shortages and at present water is barged in.

The proposed impoundment would flood an area of approximately 220 acres. The land portions of the four alternative pipeline routes would vary from 5.1 to 18.7 miles, while the underwater portions would vary from 45.3 to 49.6 miles. The length of the spur would vary from 0.1 to 2.4 miles, depending on which alternative is selected. The following alternatives are being considered:

a. No action (continue barging water to St. Thomas).

b. Route 1—10.9 miles overland to Punta Fajardo, Puerto Rico, 45.3 miles underwater (including an overland portion on the island of Culebra), with landfall at Crum Bay, St. Thomas, with a 0.1 mile spur to the existing water supply facility on Culebra for a total of 56.3 miles.

c. Route 2—5.1 miles overland to Bahia Demajagua, Puerto Rico, 45.8 miles underwater to Crum Bay, St. Thomas with a 5 mile spur to Culebra for a total length of 55.9 miles.

d. Route 3—Similar to route 2 except submarine portion extends around unexploded ordnance area and clears coral reefs southwest of Culebra. Overland portion—5.1 miles, undersea portion 7.3 miles, 7.3 mile spur to Culebra. Total 62.0 miles.

e. Route 4—18.7 miles overland to Punta Lima, Puerto Rico, 49.5 miles underwater (including an overland portion on the island of Vieques), with landfall at Crum Bay, St. Thomas, with a 9.3 mile spur to Culebra for a total of 77.5 miles.

Scoping will be accomplished by the sending of letters of intent to prepare the document to those individuals and organizations that have expressed interest and the solicitation of comments from affected Federal Territorial and local agencies. A scoping meeting(s) will be held if deemed necessary after a review of the written comments.

Coordination, and if necessary, consultation will be accomplished with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) in accordance with Section 7 of the Endangered Species Act as well as with the Historic Preservation Officers of Puerto Rico and the Virgin Islands in accordance with the Archeological and Historic Preservation Act. If discharge of material into waters of the United States is involved, the discharge will be specified by application of the criteria of Section 404(b), Federal Water Pollution Control Act.

Issues to be analyzed in the DEIS will be determined upon completion of scoping.

The DEIS will be made available to the public in November 1982 unless circumstances warrant additional time for preparation.

Questions concerning the DEIS can be answered by: Dan Malanchuk, Environmental Studies Section, Environmental Resources Branch, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232, Telephone: (904) 791-1069, FTS 946-1069.

Dated: February 9, 1982.

Alfred B. Devereaux, Jr.,

Colonel, Corps of Engineers, Commander and District Engineer.

[FR Doc. 82-4556 Filed 2-18-82; 8:45 am]

BILLING CODE 3710-AJ-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Talent Search Program; Application Notice for New Awards for Fiscal Year 1982

Applications are invited for new awards under the Talent Search Program.

Authority for this program is contained in sections 417A and 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d, 1070d–1)

The Secretary awards grants under this program to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools. Combinations of institutions are no longer eligible to apply for Talent Search Program grants.

The purpose of the awards is to allow applicants to carry out projects designed to enable disadvantaged youths to continue in and graduate from secondary school and to enroll in postsecondary educational programs.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by April 16, 1982.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.044 (Talent Search), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Applicants are advised that the Education Amendments of 1980 made several changes in the Talent Search Program. For example, at least two-thirds (⅔) of the participants must be low-income individuals who are potential first-generation college students.

A "low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project.

A "potential first-generation college student" means a person neither of whose parents received a bachelor's degree.

The applications for new awards will be evaluated competitively under the selection criteria for new awards (34 CFR 643.31) published in this issue of the **Federal Register**. In addition, applicants who have been funded to operate a Talent Search project within the previous three years may receive additional points on the basis of their successful experience. The past performance section of the application will be accepted on the basis of final regulations soon to be published in the **Federal Register**. The notice of proposed rulemaking on past performance was published in the **Federal Register** on December 14, 1981 (45 FR 81062–81063).

Talent Search Program grants may be awarded for project periods of up to three years. The Department of Education may not, however, fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting multi-year funding must submit information that shows why a multi-year project is needed; a budget for the first year of the project, and an estimate of the Federal funds needed for each additional year requested.

The Secretary approves requests for the additional year(s) if:

1. The Congress has appropriated sufficient funds under the program;

2. The Secretary believes that the grantee will satisfactorily complete the budget period that is about to end;

3. The grantee has submitted all required reports that must be submitted before the date of the continuation award; and

4. Continuation of the project is in the best interest of the Federal Government.

Available funds: The Third Continuing Resolution, which expires on March 31, 1982, authorizes $16,416,000 to be made available for new awards under the Talent Search Program in Fiscal Year 1982. It is estimated that these funds could support approximately 160 new awards averaging $102,600.

However, the President's final revised Fiscal Year 1982 budget request, which was released on February 8, 1982, proposes to rescind $928,000 from the amount authorized for the Talent Search Program under the Third Continuing Resolution. Therefore, the revised level would be $15,488,000, which would fund an estimated 150 new awards averaging $103,250.

Although processing of new applications will proceed with the above considerations in mind, it should be noted that the final level of funding will not be known until Congress takes final action on the Fiscal Year 1982 budget.

In addition, although the Department of Education is accepting applications for project periods of up to three years, the President's budget proposes no funding for the Talent Search Program in Fiscal Year 1983. It is recommended that applicants seek other sources of funding for subsequent budget periods.

Application forms: Application forms and program information packages are expected to be ready for mailing by March 2, 1982. Application packages will not automatically be mailed to all institutions of higher education. However, they will be mailed to all currently funded Special Programs projects. Application packages may be obtained by contacting the Division of Student Services, Information Systems and Program Support Branch, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone: (202) 245–7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Secretary further suggests that only the information required by the application form be submitted.

Applicable regulations: Regulations applicable to this program are:

(a) Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions). (These

parts were previously codified as 45 CFR Parts 100a and 100c respectively);

(b) Regulations governing the Talent Search Program (34 CFR Part 643) which are published in this issue of the Federal Register; and

(c) When published as final regulations, the notice of proposed rulemaking on past performance which was published in the Federal Register on December 14, 1981 (45 FR 81062–81063). (If any substantive changes are made in the final regulations applicants will be given an opportunity to revise their applications, if needed.)

Further information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone: (202) 245–2511.

(20 U.S.C. 1070d, 1070d–1)

(Catalog of Federal Domestic Assistance Number: 84.044—Talent Search Program)

Dated: February 12, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-4510 Filed 2-18-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Elementary and Secondary Education

Title IV of the Elementary and Secondary Education Act; Intent To Waive a Statutory Requirement for American Samoa

AGENCY: Department of Education.

ACTION: Notice of intent.

SUMMARY: Notice is given that, under Section 1003(a) of the Elementary and Secondary Education Act of 1965 (ESEA), The Secretary intends to waive the applicability of a certain Title IV, ESEA requirement pertaining to American Samoa.

EFFECTIVE DATE: The proposed waiver will not be granted until at least March 22, 1982. All comments must be received on or before March 22, 1982.

ADDRESS: Submit written comments to Mr. Edwin L. Battiste, Acting Director, Division of State Educational Assistance, U.S. Department of Education, 400 Maryland Avenue, SW, (Room 3010, ROB–3), Washington, D.C. 20202–3301.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin L. Battiste. Telephone: (202) 245–2582.

SUPPLEMENTARY INFORMATION:

A. Authority for Granting a Waiver

The Elementary and Secondary Education Act of 1965 (ESEA) was amended by the Education Amendments of 1978 (Pub. L. 95–561), to authorize the Secretary to waive certain ESEA requirements for American Samoa. In particular, Section 103(a)(1) of the Act states "(i) if the (Secretary) determines that compliance with any of the requirements of this Act by * * * American Samoa * * * is impractical or inappropriate because of conditions or circumstances particular to (American Samoa), he may waive any of those requirements upon the request of (its) State educational agency * * *"

B. Waiver Request

On November 20, 1981, the Director of Education of American Samoa requested the Secretary to waive the applicability of the Title IV, ESEA requirement in Section 432(b) of ESEA, 20 U.S.C. 3112(b).

This section requires that each jurisdiction participating in Title IV, ESEA allocate for activities "for improved school management and the coordinated use in schools of all available resources: (i) In fiscal year 1981 and in each succeeding fiscal year, not less than 10 percent of any amount by which the amount available for (Title IV, Part C, ESEA) in such year exceeds the amount so available in fiscal year 1979."

The November 20, 1981 waiver request describes why the Title IV, ESEA requirement that American Samoa establish a large set-aside for projects for improved school management and the coordinated use in schools of all available resources is impractical or inappropriate in light of conditions in American Samoa. In general, the request is based on the very large increase in Title IV, Part C, ESEA funds available to American Samoa from the consolidation of grants under the provisions of Title V of Pub. L. 95–134 and 34 CFR 75.125–76.135 which caused the set-aside to be too large for the needs of American Samoa.

In fiscal year 1979, American Samoa received a grant of $122,670 for Title IV, Part C, ESEA. In fiscal year 1981, after using the authority in Title V of Pub. L. 95–134 (48 U.S.C. 1469a) to consolidate a number of formula grants from the U.S. Department of Education into three programs, American Samoa received a grant of $1,900,803 for Title IV, Part C, ESEA, or an increase of $1,788,133. Thus, the mandatory set-aside for improved school management for fiscal year 1981 is $178,613.

The purpose of the set-aside—activities for improved school management and the coordinated use in schools of all available resources—is not one that would require an annual expenditure of over $176,000 in this jurisdiction. American Samoa is both a State and a local educational agency. There is a school population in both public and private schools of approximately 11,873 students. There are only 28 public schools. Functioning as a local educational agency, this jurisdiction is automatically coordinating the use of Federal, State, and local resources which are administered and controlled by the Department of Education central office.

In light of these facts, the requirement imposed by Section 432(b) of Title IV, ESEA is impractical and inappropriate for American Samoa to implement.

C. Notice of the Secretary's Intent To Grant a Waiver

Section 1003(a)(1) of the ESEA requires that at least 30 days prior to approving such a request for a waiver, the Secretary shall "publish in the Federal Register a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted."

In accordance with this requirement, notice is hereby given that the Secretary intends to waive the requirement contained in Section 432(b) of Title IV, ESEA. If granted, this waiver would apply to funds received by American Samoa in fiscal year 1981. As a condition, the Secretary is requiring a plan for the management of the Title IV, Part C, ESEA funds, as provided in Section 1003(a)(2) of the ESEA. This plan was contained in the November 20, 1981 waiver request.

D. Opportunity for Public Comment

Public comment is invited on this notice of intent to waive a certain Title IV, ESEA requirement of American Samoa. Interested persons may send written comments to Mr. Edwin L. Battiste at the address at the beginning of this notice. All comments must be received on or before March 22, 1982. All comments will be considered before a final determination is made regarding this waiver request.

(Catalog of Federal Domestic Assistance No. 84.038, Improvement in Local Educational Practices)

Dated: February 16,1982.
T. H. Bell,
Secretary of Education.
[FR Doc. 82-4617 Filed 2-18-82; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact for Financial Incentives for Production of up to 60,000 Barrels Per Day of Ethanol

AGENCY: Department of Energy.

ACTION: Finding of No Significant Impact and Notice of Availability of Environmental Assessment.

SUMMARY: The Department of Energy (DOE) announces the availability of a programmatic environmental assessment (EA) on the proposed provision of financial incentives for production of ethanol. The assessment addresses the potential impacts of a national production level of up to 60,000 barrels per day. DOE has determined, based on the findings of this EA, that the proposed DOE action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C.4321 *et seq.* Therefore, an environmental impact statement (EIS) will not be prepared and a finding of no significant impact, pursuant to the Council on Environmental Quality regulations for compliance with NEPA, is hereby issued.

ADDRESSES: Single copies of the EA may be obtained from: James G. Stearns, Director, Office of Alcohol Fuels (CE-80), U.S. Department of Energy, Washington, D.C. 20585 (202) 252-9487.

For further information regarding the NEPA process contact: Steven R. Woodbury, NEPA Affairs Division (EP-33), U.S. Department of Energy, Washington, D.C. 20585 (202) 252-4610.

SUPPLEMENTARY INFORMATION: This programmatic EA addresses actions proposed by the Department to increase the production of ethanol through the provision of financial incentives to private firms. Since the programmatic impacts of ethanol production undertaken with the support of the Department are inseparable from the impacts of other production, the assessment addresses the cumulative impacts of production and use of 60,000 barrels per day of ethanol, regardless of the source of funding. This represents the maximum production goal identified for 1982 in the Energy Security Act.

The EA supports the conclusion that the production of 60,000 barrels per day of ethanol in the United States will not significantly affect the quality of the human environment, within the meaning of NEPA, for the reasons identified below.

- Crop production to support a 60,000 barrel per day industry would require an increase of less than one percent in land under cultivation, even assuming (as a worst case) no substitution of protein byproducts for other animal feedcrops. Additional feedstock production, at this scale, will be widely dispersed, and will not lead to a significant increase in soil erosion or sedimentation. The magnitude of other impacts from feedstock production, such as fertilizer and pesticide use, will also be small.
- The assessment, and other studies cited (including those by the Office of Technology Assessment and the U.S. National Alcohol Fuels Commission), conclude that alcohol fuel production levels below 1 or 2 billion gallons per year (65,000 to 130,000 barrels per day) would have minimal impacts on food prices or availability.
- Conversion of feedstocks to ethanol generates air emissions, water emissions, and solid wastes, which can be readily controlled with existing technology. Individual plants will be dispersed throughout the country. Aggregate national air emissions (7,000 tons/yr of hydrocarbons, 15,600 tons/yr of sulfur dioxide, 12,700 tons/yr of particulates, 17,700 tons/yr of nitrogen oxides) are not significant.
- Individual facilities receiving DOE financial assistance will be subject to site-specific NEPA reviews.
- Health and safety risks to those handling ethanol or gasoline-ethanol blends are, in general, similar to the risks from gasoline.
- Increased use of gasohol in automobiles may lead to increased hydrocarbon and aldehyde emissions, and decreased carbon monoxide emissions. The EA shows that the use of 60,000 barrels per day of ethanol in gasohol could decrease nationwide automotive carbon monoxide emissions by 2.4 percent, decrease exhaust hydrocarbon emissions by 1.2 percent, increase evaporative hydrocarbon emissions by 4.7 percent, and slightly increase nitrogen oxide emissions. Use of pure ethanol, in vehicles designed for its use, would have a smaller impact. Due to production and distribution patterns, some areas may experience greater impacts than the national average. Regional emissions loadings in selected major metropolitan areas are examined in the EA, assuming that all gasoline is replaced by gasohol. Even this worst-case assumption leads to only a 1–2 percent increase in regional hydrocarbon emissions and a 0–3 percent increase in regional nitrogen oxide emissions by the year 2000. In addition, evaporative alcohol emissions are lower in reactivity (in smog formation) than gasoline-based hydrocarbon emissions. In light of all these considerations, ethanol use at a 60,000 barrel per day level is not expected to result in a significant impact on air quality.

Four alternatives are evaluated in the EA: (1) No action; (2) a "most probable" feedstock scenario (70 percent corn); (3) a 100 percent corn feedstock scenario; and (4) a low (20 percent) corn, high (45 percent) food processing waste feedstock scenario, with the remainder comprised of a mix of other feedstocks. The most probable feedstock scenario (70 percent corn, 16 percent other grains, 10 percent food processing wastes, 4 percent others) reflects current feedstock composition and resource availability in the near term. This scenario was used as a baseline for defining and comparing the impacts of the alternative scenarios. If a 100 percent corn feedstock is considered, feedstock production impacts are likely to be greater than the "most probable" scenario. Even under this alternative, however, the impacts are not significant.

Date Issued: September 10, 1981.
Berton R. Hesse,
Acting Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.
[FR Doc. 82-4625 Filed 2-18-82; 8:45 am]
BILLING CODE 6450-01-M

Uranium Hexafluoride; Separative Work Charges and Base Charges For Natural Uranium

The Department of Energy (DOE) hereby announces revisions to the Notice entitled "Uranium Hexafluoride: Separative Work Charges, and Base Charges for Natural Uranium" published in the **Federal Register** on September 29, 1977 (42 FR 51636), as amended by 43 FR 49831 on October 25, 1978, 44 FR 51297 on August 31, 1979, 45 FR 50928 on July 31, 1980, and 46 FR 25338 on May 6, 1981, hereinafter referred to as the Notice.

Paragraph 1 of the Notice is deleted and the following paragraph 1 is inserted in lieu thereof:

1. *Separative Work Charges.* (a) The charge per separative work unit furnished pursuant to Requirements-type contracts is $141.15 or the ceiling charge computed in accordance with the provisions of such contracts, whichever

is the lesser charge. Effective August 21, 1982, the charge per separative work unit furnished pursuant to Requirements-type contracts will be $149.85 or the ceiling charge computed in accordance with the provisions of such contracts, whichever is the lesser charge.

(b) The charge per separative work unit furnished pursuant to Adjustable Fixed-Commitment contracts is $130.75. Effective August 21, 1982, the charge per separative work unit furnished pursuant to Adjustable Fixed-Commitment contracts will be $138.65.

(c) The charge per separative work unit furnished pursuant to other than Requirements-type and Adjustable Fixed-Commitment contracts is $130.75. Effective August 21, 1982, the charge per separative work unit furnished pursuant to other than Requirements-type and Adjustable Fixed-Commitment contracts will be $138.65.

Issued in Washington, D.C., February 22, 1982.

Thomas A. Dillon,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 82-4551 Filed 2-18-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

National Petroleum Council, Subcommittee on Environmental Conservation; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Environmental Conservation of the National Petroleum Council.

Date and time: Tuesday, March 9, 1982—10:00 a.m.

Place: The Madison Hotel, Mount Vernon Room, Fifteenth and M Streets, NW, Washington, DC

Contact: Gloria Decker, Advisory Committee Management Office, Department of Energy, 1000 Independence Avenue, SW, Forrestal Building—Room 4D-024, Washington, DC 20585, Telephone: 202-252-5187

Purpose of the parent committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tenative Agenda

- Review the final draft report on Environmental Conservation—The Oil and Gas Industries
- Discuss any other matters pertinent to the overall assignment from the Secretary of Energy
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisosry Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on February 12, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-4552 Filed 2-18-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed; Period of December 21, 1981 Through January 1, 1982

During the period of December 21, 1981 through January 1, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceedings the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 by March 11, 1982. The Office of Hearings and Appeals will then determine those pesons who may participate on an active basis in the proceedings and will prepare official service lists, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service lists as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: February 9, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Marathon Oil Co., Findlay, Ohio, HRO-0024

On December 29, 1981, Marathon Oil Company, 539 South Main St., Findlay, Ohio 45840; James F. Flug, Lobel, Novins & Lamont, 1523 L St., NW, Suite 200, Washington, D.C. 20005, on behalf of Special Assistant Attorney General, State of Ohio, and Attorney General, State of Michigan; William W. Scott, Collier, Shannon, Rill & Scott, 1055 Thomas Jefferson St., N.W., Washington, D.C. 20007 on behalf of Committee of Marathon Customers; and A. T. Paglia, Jr., Paglia & Assoc., 24240 Mound Rd., Suite 204, Warren, Michigan 48091 on behalf of Township Oil Co., filed Notices of Objection to a proposed Remedial Order No. RNNM 00101 which the DOE Office of Special Counsel for Compliance, Northeast District, issued to the firm on October 27, 1981.

In the PRO the OSC for the Northeast District found that during September 1973 to December 31, 1979, Marathon inaccurately reported cost recoveries for gasoline, No. 2 oil and general refinery products.

The PRO requires Marthon to make refunds, totalling approximately $77,310,000 to customers who purchased those products.

Marathon Oil Co., Findlay, Ohio, HRO-0025

On December 29, 1981, Marathon Oil Company, 539 South Main St., Findlay, Ohio 45840; James F. Flug, Lobel, Novins & Lamont, 1523 L St., NW, Suite 200, Washington, D.C. 20005, on behalf of Special Assistant Attorney General, State of Ohio, and Attorney General, State of Michigan; William W. Scott, Collier, Shannon, Rill & Scott, 1055 Thomas Jefferson St., NW, Washington, D.C. 20007 on behalf Committee of Marathon Customers; and A. T. Paglia, Jr., Paglia & Assoc., 24240 Mound Rd., Suite 204, Warren, Michigan 48091 on behalf of Township Oil Co., filed Notices of Objection to a Proposed Remedial Order No. RMNM 01701 which the DOE Office of Special Counsel for Compliance, Northeast District, issued to the firm on October 27, 1981.

The Mandatory Petroleum Price Regulations generally permitted refiners to increase the prices of covered products by the amounts necessary to recoup increased costs on a dollar-for-dollar basis. OSC found in its audit of the increased product costs which Marathon reported for the period August 19, 1973 through December 31, 1979 that Marathon overstated these costs by $36,271,975. OSC's findings are set forth in this Proposed Remedial Order.

OSC determined that the largest portion of the overstatement was caused by Marathon's failure to use consistent methods of accounting to measure its crude oil costs for May 1973 and each month of measurement. Marathon utilized a weighted average method to calculate its domestic crude oil costs for May 1973, but used the "last in, first out" (LIFO) method to calculate each month of measurement.

According to OSC, Marathon also overstated its cost by including unrecouped June and July 1973 costs in its banks for September 1973 through January 1974. (The first month of measurement under the Phase IV regulations was not until August 1973). OSC found that those costs from June and July which were not passed on in Marathon's increased prices, due to the Freeze Price Rule then in effect, could not be banked for use in later months.

In addition, from January 1977 through December 1979, Marathon reported imputed interest costs as available for pass-through for two of its equity status vessels which were obtained through lease/purchase arrangements. OSC determined that since the imputed interest on the purchase of these vessels represented a cost of capital, it was not a permissible cost under the regulations.

In compensation for the violations identified in this Proposed Remedial Order and Proposed Remedial Order No. RMNM00101, for the period August 1, 1973 through December 1, 1976, OSC proposed that Marathon refund $49,120,261 plus interest to its gasoline customers, and $13,660,548 plus interest to its No. 2 oil customers, and $14,530,702 plus interest to its general refinery products customers. Marathon would also have to refund to its covered product customers those additional overcharges which resulted from the violations identified for the period January 1, 1977 through December 31, 1979.

Marathon Oil Co., Findlay, Ohio, HRO–0026

On December 29, 1981, Marathon Oil Company, 539 South Main St., Findlay, Ohio 45840; James F. Flug, Lobel, Novins & Lamont, 1523 L St., NW, Suite 200, Washington, D.C. 20005, on behalf of Special Assistant Attorney General, State of Ohio, and Attorney General, State of Michigan; William W. Scott, Collier, Shannon, Rill & Scott, 1055 Thomas Jefferson St., NW, Washington, D.C. 20007 on behalf Committee of Marathon Customers; and A. T. Paglia, Jr., Paglia & Assoc., 24240 Mound Rd., Suite 204, Warren Michigan 48091 on behalf of Township Oil Co., filed Notices of Objection to a Proposed Remedial Order No. RMNL 00001 which the DOE Office of Special Counsel for Compliance, Northeast District, issued to the firm on October 27, 1981.

OSC's audit included a review of Marathon's reported crude oil and nonproduct cost increases for the period January 1, 1977 through December 31, 1979. OSC's audit also included a review of Marathon's reported cost banks for the years 1977, 1978 and 1979, and of Marathon's compliance during this period with the regulations which limited bank use. OSC's findings are set forth in this Proposed Remedial Order.

OSC's review disclosed that during the 1977–1979 audit period, Marathon included, as part of its marine transportation cost for imported crude oil, expenses for vessels which carried no Marathon crude oil to the United States. OSC also found that Marathon improperly included imputed interest for two equity status vessels in its marine transportation cost calculations, and improperly claimed marine transportation costs in 1978 which exceeded those actually incurred by Marathon during that year.

In addition, OSC review disclosed that during the 1977–1979 audit period, Marathon failed to allocate base period and month of measurement marketing costs to individual covered product categories before calculating its marketing cost increases, failed to calculate its marketing cost increases on a firm-wide basis, and failed to apply the cents per gallon limitations on its marketing cost increases in computing maximum allowable prices. OSC's audit also found that Marathon double counted certain additive cost increases, and failed to report net decreases in individual non-product cost categories.

OSC's review also disclosed that throughout the audit period, and during the months of February through December 1976, Marathon neither segregated its unrecouped costs into crude oil, purchased product, and nonproduct cost banks, nor distinguished these banks according to the period in which the costs were originally incurred, as required by the regulations. OSC further found that Marathon also disregarded the regulatory limitations on the amount of unrecouped costs which could be included in its maximum allowable price calculations, and created negative banks to justify excessive selling prices for covered products in certain months.

In addition, OSC's review revealed that Marathon refiled its Refiners' Monthly Cost Allocation Reports for the months of measurement of April 1979 through December 1979, claiming cost bank totals which included increased crude oil costs attributable to exempt products. As a result, OSC found that Marathon overstated its gasoline and general refinery products cost banks for these months by a cumulative total of $23,728,296,000.

As a remedy for these violations, OSC proposed that Marathon refund $165,407,000 plus interest, to its gasoline customers to compensate for the effects of the regulatory violations committed during the period 1977 through 1979 which are described in this Proposed Remedial Order and in Proposed Remedial Order Case Nos. RMNM01701 and RMNM00101.

[FR Doc. 82–4523 Filed 2–18–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of January 4 Through January 8, 1982

During the week of January 4 through January 8, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: February 12, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

BPM, Ltd, 1–6–82, HFA–00020

BPM, Ltd., filed an Appeal from a denial by the Director of the Special Investigations Division (Director), Office of General Counsel, DOE, of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the Director correctly determined that the documents requested by BPM were within Exemption 7(A) because their release could interfere with a pending criminal proceeding involving the firm. The DOE held that when Exemption 7(A) documents are involved, it is not necessary to show that actual interference with an enforcement proceeding would occur if the material were released, but only that the documents are of a type whose release could generally interfere with the kind of enforcement proceeding involved. Accordingly, BPM's appeal was denied.

Electricians Union, Local 701, 1–5–82, HFA–0012

The Electricians Union Local 701 filed an Appeal from a partial denial by the Manager of the Chicago Operations Office of a Request for Information submitted under the Freedom of Information Act (the FOIA). The Union requested information filed by a DOE subcontractor to demonstrate the subcontractor's compliance with the Davis-Bacon Act. The information consisted of gross and net pay, and related information, with respect to three employees who performed work on the subcontract. The DOE found that with the exception of the applicable wage rate, the Manager had already released information that would allow the Union to determine whether the firm had complied with the Davis-Bacon Act. With the understanding that applicable wage rate figure would be disclosed, the DOE found that the invasion of personal privacy that would result from the release of the requested information outweighed the public interest in disclosure. Accordingly, the Appeal was denied.

Remedial Order

Wolfe's Union Service, 1–6–82, BRO–1541

Wolfe's Union Service Station objected to a Proposed Remedial Order (PRO) which the Western District Office of Enforcement of the Economic Regulatory Administration (ERA) issued to the firm on June 12, 1980. The ERA found that Wolfe's violated the provisions of 10 CFR 212.93 by selling motor gasoline to its retail customers at prices in excess of its maximum lawful selling prices. The DOE upheld the findings in the PRO and therefore concluded that the PRO should be issued as a

final order. The important issues discussed in this Decision and Order include (1) whether or not a gasoline retailer can add its unrecouped vapor recovery costs to its MLSP under Section 324 of the Clean Air Act, 42 U.S.C. 7624 (1977), and (2) the applicability of Section 555(d) of the Administrative Procedures Act, 5 U.S.C. 555 to a firm which refuses to produce documents for a DOE audit without a valid subpoena.

Request for Exception

McDonald Oil Compnay, 1-18-82, BEE-1678

McDonald Oil Company filed an Application for Exception from the reporting requirements in Form EIA-9A ("No. 2 Distillate Price Monitoring Report") The DOE determined that the firm had failed to show that it experienced any unusual difficulty in completing the form. Accordingly, the exception request was denied.

Request for Stay

The Crude Company, 1-7-82, HES-0004

The Crude Company filed an Application for Stay from the requirement that it submit Forms FEA-P-124-M-0 and FEA-P-124-M-1 for the period February 1976 through August 1979, pending action on its Motion for Reconsideration of our Decision and Order issued to the firm on December 16, 1981. The December 16 decision denied the firm's request that its obligation to file these reports be stayed until criminal proceedings pending against the firm are concluded, but permitted the firm to file the reports in an amended format. In considering the present application, the DOE found that although the firm had not demonstrated a likelihood that it would succeed on the merits of its Motion for Reconsideration, the firm met the remaining criteria for stay relief.

The DOE found that requiring the firm to file the reports might cause irreparable injury to its defense in the criminal proceeding and the public interest favored a stay in this case in view of the important and sensitive constitutional issues raised by the applicant. Accordingly, the stay request was granted.

Special Refund Procedures

Name of Petitioner, 1-6-82, Case No.

Office of Enforcement, Economic Regulatory Administration: In the Matters of—
Alfred B. Alkek, DFF-0002
Jack Guenther, DFF-0004
Beta Development Co., BEF-0009
PGP Gas Products, Inc., BEF-0010
J. R. Parten, BEF-0011
Vaughn Petroleum, Inc., BEF-0012
Lundell's Inc., BEF-0013
Graner Oil Co., BEF-0015
Hixon Development Co., BEF-0016
Newmont Oil Co., BEF-0017
Tipperary Oil and Gas Corp., BEF-0018
Crystal Oil Co., BEF-0019
Frank W. Michaux, BEF-0020
McFarland Energy, Inc., BEF-0023
Quintin Little Co., BEF-0024
Union Texas Petroleum Corp., BEF-0025
McCulloch Oil and Gas Corp., McCulloch Oil Corp. of Texas, BEF-0028
Coral Petroleum Inc., BEF-0031
Gladys O'Donnell, d.b.a. Gladys O'Donnell Co., BEF-0035
Natomas North America Inc., BEF-0037
Shawnee Oil and Gas Corp., BEF-0039
John H. Hendrix Corp., BEF-0040
James M. Forgotson, BEF-0043
Delta Drilling Company, BEF-0044
Enserch Exploration, Inc., BEF-0045

The Office of Enforcement of the Economic Regulatory Administration (OE) filed a Petition for the Implementation of Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, requesting that this Office establish procedures for the distribution of funds received by the DOE through (1) consent orders entered into by Alfred B. Alkek and 23 other firms and individuals and (2) a remedial order issued to James M. Forgotson. OHA established a first-stage refund procedure and announced it would accept Applications for Refund from all claimants who can affirmatively demonstrate that they have been directly injured by the violations described in the orders.

Supplemental Order

Miller Oil Purchasing Co., 1-6-82, BEX-0191

Miller petitioned this Office to modify the Decision and Order issued to the Citronelle Unit on December 31, 1980, requesting that we order an alternate method of refunding tertiary incentive revenues held by Miller on behalf of the Citronelle Unit.

OHA agreed and restructured the refund method so that Miller did not bear a disproportionate burden and the tertiary incentive revenues were channeled back to the participants in the Entitlements Program. To reach this result, the refund mechanism was modified to make Miller a buyer of entitlements in an amount equal to the tertiary incentive revenues held in the escrow account.

[FR Doc. 82-4522 Filed 2-18-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51398; TSH-FRL-2054-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nine PMNs and provides a summary of each.

DATES: Written comments by:
PMN 82-73, 82-74, 82-75, 82-76 and 82-77, April 6, 1982.
PMN 82-78, 82-79, 82-80 and 82-81, April 9, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51398]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St. SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-73

Close of Review Period. May 6, 1982.

Manufacturer's Identity. The Kelco Division of Merck and Company, Inc., 8355 Aero Drive, San Diego, CA 92123.

Specific Chemical Identity. De-acetylated anionic heteropolysaccharide of D-glucose, 6-deoxy L-mannose and D-glucuronic acid.

Use. The manufacturer states that the PMN substance will be used as an industrial stabilizer, thickener, gelling and suspending agent.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Powder.
Melting point—Decomposes @ 150° C.
Solubility: Water—Soluble. Water miscible solvents—Soluble. Lower alcohols—Soluble. Acetone—Soluble.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5,000 mg/kg.

Acute eye irritation, Draize (rabbit)—Non-irritating.

Environmental Test Data. Inhalation toxicity LC_{50} 4 hr. (rat)—>6.09 mg/1.

Exposure. The manufacturer states that during manufacture workers may experience dermal, inhalation and occular exposure when weighing out the dry powder and adding it to water during packing, sampling and testing.

Environmental Release/Disposal. Disposal is by landfill.

PMN 82-74

Close of Review Period. May 6, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Carbomonocyclic diester.

Use. The manufacturer states that the PMN substance will be used as an industrial polymer additive.

PRODUCTION ESTIMATES

	Kilograms per year
	Maximum
1st year	150
2d year	300
3d year	600

Physical/Chemical Properties

Appearance—Tan, crystalline solid.
Specific gravity—>1.0.
Boiling point—274° C.
Melting point—61.5–63° C.
Solubility: water—<.1%.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—<5,000 mg/kg.

Acute dermal toxicity LD_{50} (rat)—<2,000 mg/kg.

Skin irritation (rabbit)—Slight irritant.

Eye irritation (rabbit)—Moderate irritant.

Exposure. The manufacturer states that during manufacture 2 workers may experience dermal, inhalation and occular exposure 2 hrs/day, 6 days/yr.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 82–75

Close of Review Period. May 6, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Northeast region.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted pyridinium bromide.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a closed use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	100	1,000
2d year	1,000	5,000
3d year	1,000	5,000

Physical/Chemical Properties

Melting point—>100° C.
Solubility: water—>10 g/1 @ 20° C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture processing and disposal a total of 328 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 355 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air with less than 10–100 kg/yr released to land and less than 10–1,000 kg/yr released to water. Disposal is by a publicly owned treatment works (POTW), an approved landfill, or treatment or recovery.

PMN 82–76

Close of Review Period. May 6, 1982.

Manufacturer's Identity. The Sherwin-Williams Company, P.O. Box 6027, 101 Prospect Avenue, Cleveland, OH 44101.

Specific Chemical Identity. Petroleum resin, polymer with mixed vegetable oil acids; 1,3 isobenzofurandione; and 2,2-bis(hydroxymethyl)-1,3-propanediol.

Use. The manufacturer states that the PMN substance will be used as an industrial coatings material.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	3,000,000	3,000,000
2d year	3,000,000	3,000,000
3d year	3,000,000	3,000,000

Physical/Chemical Properties

Specific gravity—0.897.
Visocosity—50 cs.
Acid number—10 maximum.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and disposal a total of 10 workers may experience exposure up to 8 hrs/day, up to 24 days/yr.

Environmental Release/Disposal. The manufacturer states that release to the environment will be the result of an accidental spill. Disposal is to a proper treatment facility.

PMN 82–77

Close of Review Period. May 6, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Mid Atlantic region.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Higher alkyl acrylatecopolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Specific gravity @ 20° C—0.882.
Flash point, (PMCC)—40° F.
Average molecular weight—>35,000.

Toxicity Data. No data were available.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 82–78

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500 million.

Manufacturing site—Midwest region.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkyl acrylate alkylmethacrylate polymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a site limited raw material.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No date were submitted.

Exposure. The manufacturer states that workers may experience exposure from accidental spill during transfer and drumming.

Environmental Release/Disposal. Claimed confidential business information.

PMN 82–79

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$10,000,000–$99,999,999.

Manufacturing site—Northeast region.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Resorcinol modified phenoxy-S resin.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Solid.

Solubility: 2-methoxy ethanol—Very soluble.

Color—Pale yellow.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture workers may experience exposure from accidental spill only.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 82–80

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Claimed condifential business information. Organization information provided:

Annual sales—$10,000,000–99,999,999.

Manufacturing site—Northeast region.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed condifential business information. Generic name provided: Resorcinol modified phenoxy-S resin.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Solid.

Solubility: 2-methoxy ethanol—Very soluble.

Color—Pale yellow.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture workers may experience exposure from accidential spill only.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

PMN 82–81

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyurethane from aromatic isocyanate and alkanois.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	0	1,000
2d year	1,000	5,000
3d year	2,000	10,000

Physical/Chemical Properties

Flash point—150° F.

Viscosity—X–Y.

Percent solids—70.0.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use a total of 59 workers may experience dermal exposure up to 8 hrs/day, up to 250 days/yr during extraction, sampling, filling and cleanup.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 10–100 kg/yr released to land. Disposal is by distillation and incineration.

Dated: February 9, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-4539 Filed 2-18-82; 8:45 am]

BILLING CODE 6560-31-M

[ER-FRL-2056-4]

Availability of Environmental Impact Statements Filed February 8 Through 12, 1982 Pursuant to 40 CFR Part 1506.9

Responsible Agency: Office of Federal Activities, Ms. Kathi Wilson (202) 245–3006.

Corps of Engineers

EIS No. 820065, Final, COE; WI; State Road Coulee Area Flood Control Project, La Crosse County (Due: 3/22/82)

EIS No. 820072, Report, COE; NB; West Branch Papillion Creek Damsite 20, Sarpy County (Due: ——)

Department of Commerce

EIS No. 820077, D Suppl., NOA; AK; High Seas Salmon Fishery Management Plan (Due: 3/22/82)

EIS No. 820078, D Suppl, NOA; Several, PAC, WA, OR, CA; Salmon Commercial/Recreational Fishery Management Plan (Due: 3/15/82)

Department of Interior

EIS No. 820064, Draft, BLM; MT; Big Dry Resource Area Vegetation Allocation and Grazing Management (Due: 4/5/82)

EIS No. 820075, D Suppl., IBR; CO; San Luis Valley Project, Water Resources, Alamosa and Saguache Cos. (Due: 4/11/82)

Department of Transportation

EIS No. 820062, Draft, FHW; MN; Anoka County, Rd., 116 Extension and Bridge Construction Over Rum River (Due: 4/5/82)

EIS No. 820068, D Revised, FHW; GA; North Thomasville Bypass Construction, Thomas County (Due: 4/5/82)

EIS No. 820070, Final, FHW; RI; RI–4 Extension RI–2/South County Trail to RI–4/Colonel Rodman Hwy. (Due: 3/22/82)

Environmental Protection Agency

EIS No. 820067, Draft, EPA; Several, ATL, NY, NJ; New York Dredged Material Ocean Disposal Site Designation (Due: 4/5/82)

Department of Agriculture

EIS No. 820066, Draft, AFS; NM; Santa Fe National Forest Land and Resource Management Plan (Due: 5/15/82)

EIS No. 820069, Draft, SCS; KS; Middle Creek Watershed Flood Control Project (Due: 4/5/82)

EIS No. 820063, Draft, SCS; PR; Guayanes River Watershed Multipurpose Project Municipality of Yabucoa (Due: 4/5/82)

General Services Administration

EIS No. 820073; Final, GSA; DC; Federal Triangle Master Plan (Due: 3/22/82)

Department of Housing and Urban Development

EIS No. 820076, Draft, HUD; NM; Eagle Ranch Subdivision, Mortgage Insurance, Bernalillo County (Due: 4/5/82)

EIS No. 820074, Final, HUD; WA; Clark County Areawide Study, Mortgage Insurance, Clark County (Due: 3/22/82)

Nuclear Regulatory Commission

EIS No. 820079, Draft, NRC; MI; Midland Plant Units 1 and 2, Startup and Operation, License (Due: 4/5/82)

EIS No. 820071, Final, NRC; MO; Callaway Plant Unit 1 Startup and Operation, License, Callaway County (Due: 3/22/82)

Amended Notices

EIS No. 810817, Draft, *DOI; Several, KS; OK; Chiskaskia Water Supply Project (Due: 3/4/32); *Incorrect agency published FR 2/5/82

EIS No. 800927, Final, FHW; WA; Mulilteo Ferry Terminal and Access Improvement, Snohomish County (Due: ——); Published FR 12/12/80—Officially Withdrawn

EIS No. 800981, D Suppl., SCS; IL; Lusk Creek Area Fluorspur Prospecting, Shawnee NF, Pope County (Due: ——); Published FR 12/24/80—Officially Withdrawn

Dated: February 10, 1982.

Paul C. Cahill,

Director, Office of Federal Activities

[FR Doc. 82-4586 Filed 2-18-82; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-2056-4]

EPA Comments on Environmental Impact Statements and Other Actions Impacting the Environment—Availability of Report

AGENCY: Office of Federal Activities (A–104), Environmental Protection Agency (EPA).

SUMMARY: Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, EPA has reviewed and commented in writing on Federal agency actions impacting the environment. A report which identifies EPA's comments released during January 1982 is being prepared and is available upon request. To obtain a copy of this report you should contact: Management Information Unit, Office of Federal Activities (A–104), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dated: February 16, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-4569 Filed 2-18-82; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82–21; File No. BPCT–810728KI; BC Docket No. 82–22, File No. BPCT–810910KM]

Apogee, Inc. and 6923 Bonnee Corp.; Applications

In the matter of applications of Apogee, Inc., Muskegon, Michigan (BC Docket No. 82–21, File No. BPCT–810728KI) and 6923 Bonnee Corporation, Muskegon, Michigan (BC Docket No. 82–22, File No. BPCT–81091KM). Hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: January 18, 1982.

Released: January 20, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Apogee, Inc. (Apogee) and 6923 Bonnee Corporation (Bonnee) for a new commercial television broadcast station on Channel 54, Muskegon, Michigan.

2. No determination has been reached that the tower heights and locations proposed by Apogee and Bonnee would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

6923 Bonnee Corporation

3. Bonnee estimates that it will require $760,750 to construct its proposed facility for three months, itemized as follows:

Equipment	$495,000
Land and Building (leased; included in operating costs):	
Other items	37,000
Operating costs (3 months)	228,750
Total	760,750

To meet these expenses, Bonnee intends to rely upon $900,000 in loans from stockholders. Additionally, applicant states that a verbal commitment has been given to it by the President of the Mercantile National Bank of Hammond, Indiana for a $600,000 line of credit. This will not be considered as part of the applicant's financial plan since FCC Form 301, Section III, page 3, item 4(e) requires the applicant to submit a copy of the document by which the bank shows its willingness to extend credit and the terms of the agreement. Of the $900,000 in loans from stockholders, only, Messrs. Ehinger, Johnson and Reilly have shown that they can meet their commitments which total $400,000. The other stockholders have not demonstrated that they can meet their commitments as required by Form 301, Section III, page 3, item 4(b). Since Bonnee has shown the availability of only $400,000, a financial issue will be specified to determine whether the applicant has an additional $360,750 available.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to each applicant whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine with respect to 6923 Bonnee Corporation:

(a) Whether applicant has an additional $360,750 available;

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

7. It is further ordered, That to avail themselves to the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities, Broadcast Bureau.

[FR Doc. 82-4470 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 82–29, 82–30; File Nos. 20292–CD–P–80, 21011–CD–P–80]

Larry D. Swartz and Radio Telephone Company of Daytona Beach, Inc.; Memorandum Opinion and Order; Correction

In re applications of Larry D. Swartz, for a construction permit to establish a new two-way station to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service at Flagler Beach, Florida, CC Docket No. 82–29, File No. 20292–CD–P–80; Radio Telephone Company of Daytona Beach, Inc., for a construction permit to add two-way frequency 454.175 MHz to existing Station KWU540 in the Domestic Public Land Mobile Radio Service at Bunnell, Florida, CC Docket No. 82–30, File No. 21011–CD–P–80.

1. On February 2, 1982, we released a *Memorandum Opinion and Order* (Order), Mimeo 1899, published 47 FR 5773, February 8, 1982 in the captioned proceedings which designated these applications for a comparative hearing. That Order inadvertently failed to contain language denying the "Petition to Dismiss Amended Application" filed by Radio Telephone Company of Daytona Beach, Inc. Accordingly, the following instructions are added to paragraph 8 of that Order (47 FR 5774, Feb. 8, 1982):

It is further ordered, that the "Petition to Dismiss Amended Application" filed by Radio Telephone Company of Daytona Beach, Inc. in File No. 20292-CD-P-80 is denied.

2. The Secretary shall cause a copy of this Erratum to be published in the **Federal Register.**

William F. Adler,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-4474 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-66—82-73; File Nos. BPCT-810206KF, etc.]

Venton Corp.; et al; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Venton Corporation, San Diego, California, BC Docket No. 82-66, File No. BPCT-810206KF; Christian Communications Network, San Diego, California, BC Docket No. 82-67, File No. BPCT-810611KE; Federal Broadcasters, Inc., San Diego, California, BC Docket No. 82-68, File No. BPCT-810615KE; San Diego Family Television, Inc., San Diego, California, BC Docket No. 82-69, File No. BPCT-810615KF; LLMR Broadcasting, Inc., San Diego, California, BC Docket No. 82-70, File No. BPCT-810615KL; Intersat Communications Corp., San Diego, California, BC Docket No. 82-71, File No. BPCT-810615KN; Local Service Television, Inc., San Diego, California, BC Docket No. 82-72, File No. BPCT-810615KP; Channel 69 Corporation, San Diego, California, BC Docket No. 82-73, File No. BPCT-810615KV; for a television construction permit.

Adopted: January 29, 1982.

Released: February 16, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it: (a) The above-captioned mutually exclusive applications of Venton Corporation (Venton), Christian Communications Network (CCN), Federal Broadcasters, Inc. (Federal), San Diego Family Television, Inc. (Family), LLMR Broadcasting, Inc. (LLMR), Intersat Communications Corp. (Intersat), Local Service Television, Inc. (Local Service), and Channel 69 Corporation (Channel Corp.) for a new commercial television station to operate on Channel 69, San Diego, California; (b) a joint request filed by Venton and Walter Ulloa (president of Intersat) for approval of an agreement seeking dismissal of Intersat's application; (c) a petition to deny filed by Palomar Communications Co., Inc. (Palomar) against all the applicants; and (d) an informal objection filed by the City of San Diego against all the applicants.

Preliminary Matters

2. *Dismissal agreement.* Venton and Walter Ulloa entered into an agreement whereby Ulloa would receive 135 shares of Venton common stock, thereby becoming 12.74% shareholder and director of Venton and, if Venton's application is granted, would become a full-time management-level employee of the proposed station. In addition, Ulloa would serve as a consultant to Venton at a salary of not less than $25,000 per annum. Further, Ulloa would receive a $20,000 credit towards the purchase of additional common stock in Venton or $15,000 in cash. In return, Ulloa would request Commission consent to dismiss Intersat's application, pursuant to Section 73.3568 of the Commission's Rules. To accomplish that, Ulloa would first acquire the 66⅔% combined interests of Roland Ulloa and Ronald Ulloa, thereby achieving 100% ownership of Intersat. In addition, Ulloa, would divest himself of any interest in Valle Verde Broadcasting Corp.'s application for a construction permit for a new commercial television station to operate on Channel 40 in Tucson, Arizona (BPCT-801224KH).

3. Although the dismissal agreement is accompanied by a recitation of the history of the negotiations and documentation of expenses legitimately and prudently expended by Intersat in the preparation, filing and prosecution of its application, we are unable to determine the total value of stock, credit for future stock purchases, cash, and consultancy salary to be received by Ulloa. Since the Commission cannot determine the amount or value of the consideration to be paid to Ulloa for the dismissal of the Intersat application, we are unable to make the statutory finding that the consideration to be paid would not be in excess of the aggregate amount legitimately and prudently expended by Ulloa in connection with preparing, filing and advocating the grant of Intersat's application. Accordingly, the joint request of Venton and Ulloa must be denied. See Section 311(c)(3) of the Communications Act.

4. On August 17, 1981, Venton filed an amendment to its application, together with the joint request. Among other changes, the amendment would make Walter Ulloa a 12.74% stockholder of Venton. That part of the amendment obviously contemplates grant of the joint request. Since the joint request is being denied, acceptance of the amendment would make Ulloa a principal in both Venton and Intersat in violation of § 73.3520 of the Commission's rules. That rule prohibits multiple television applications by the same party for the same community. Acceptance of the amendment, therefore, would result in the dismissal of the Venton application under § 73.3568(a) of Commission's rules. To avoid that result, the amendment will be returned to the applicant with the understanding that the other parts of the amendment may be resubmitted to the presiding Administrative Law Judge at the proper time. No comparative advantage is to accrue to Venton by reason of the acceptance of the remaining parts of the amendment.

5. *Petition to Deny and Informal Objection.* In support of its petition to deny, Palomar, a major supplier of land mobile radio equipment in the San Diego area, argues that licensing an additional television broadcast channel in San Diego is unwise and unwarranted, since San Diego is amply served by television and cable television. It further argues that the utilization of Channel 69 would interfere with the operation of land mobile stations in the area. Palomar also states that if the Commission deems the assignment of Channel 69 to be appropriate, Palomar requests that special consideration be given to those applications proposing minimum visual and aural power and to those applicants who propose to take steps to minimize potential deleterious emissions from their transmitters. The City of San Diego also opposes the utilization of Channel 69, alleging that it would interfere with land mobile radio usage in the San Diego area.

6. The appropriate forum in which to oppose the allocation of a channel to a community is in a rulemaking proceeding, and Palomar participated in the rulemaking proceeding that allocated Channel 69 to San Diego. "TV Broadcast Station in San Diego, California; Changes Made in Table Assignments," 45 FR 55204 (released Aug. 13, 1980). The Commission there considered Palomar's arguments, along

with those of others who filed comments, and rejected them. Palomar may not use this proceeding as the vehicle for a collateral attack on the allocation of Channel 69 to San Diego. "Focus Broadcasting Company (WFBN(TV)"), FCC 81–489, released October 27. Moreover, it would clearly not be in the public interest to limit any station operating on Channel 69 in San Diego to minimum power. We will, however, provide that the permittee of the Channel 69 station in San Diego shall take adequate measures to provide protection against objectionable interference to existing land mobile radio stations in the 806–816 MHz band prior to the commencement of program tests. For the reasons stated, Palomar's petition to deny and the informal objections of the City of San Diego will be denied.

7. *Local Public Notice.* Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's rules. They must then file proof of publication of such notice with the Commission; however, we have no evidence that Intersat and Channel Corp. have published the required notice. If they have not already done so, Intersat and Channel Corp. will be required to publish local notice of the filing of their applications and to file a statement of publication with the presiding Administrative Law Judge within 40 days of the mailing of this Order.

Christian Communications Network

8. Douglas Shaw, a citizen of India, is a Director of the applicant; however, Section 310(b)(3) of the Communications Act of 1934, as amended, provides that broadcast station licenses shall not be granted to or held by "any corporation of which any officer or director is an alien * * *" Accordingly, an appropriate issue will be specified.

9. CCN estimates that $350,750 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment rent (six months)	[1] $174,000
Studio rent (five months)	8,250
Tower site rent (five months)	8,250
Legal, engineering, installation and other miscellaneous costs	57,500
Operating costs	106,750
Total	350,750

[1] Five months of studio and tower site rent (two months for construction and three months for operation) will be required. A sixth month will be required for equipment rent, since, pursuant to its agreement with the equipment supplier, the final month's rent must be paid in advance.

To meet these expenses, CCN intends to rely on a $1,000,000 (net $892,500) loan from the Miguel Mortgage Corporation (Miguel); however, Miguel has specified that such funds must be used for the purchase of telecommunications equipment. Since CCN propose to rent its equipment, the loan from Miguel will be unavailable. Since the applicant has not demonstrated the availability of any other funds, an appropriate financial issue will be specified.

Federal Broadcasters, Inc.

10. Federal estimates that $1,341,197 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment (downpayment)	$448,250
(three months)	121,027
Transmitter site lease (five months)	20,835
Building	42,000
Legal, engineering, installation, and other miscellaneous costs	267,745
Operating costs	441,340
Total	1,341,197

To meet this requirement, Federal intends to rely on a $1,500,000 loan from the La Jolla Bank and Trust Company in La Jolla, California, and $20,000 in existing capital. The applicant, however, cannot rely on the bank letter, since it does not specify the rate of interest and terms of repayment, as required by Question 4(a) of Section III of FCC Form 301. Consequently, we can determine the availability of only $20,000, and an appropriate issue will be specified.

San Diego Family Television, Inc.

11. Family estimates that $480,156 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment lease (five months)	$175,156
Building	25,000
Legal, engineering, installation, and other miscellaneous costs	70,000
Operating costs, including transmitter site lease (three months)	210,000
Total	480,156

To meet this requirement, Family intends to rely on a $500,000 loan from the First Citizens Bank, Cleveland, Tennessee, and $1,000 in existing capital. Family does not set out the cost of leasing its transmitter site for two months of construction; however, since it is unlikely that the two months rent would exceed $20,844 (the amount available to the applicant after it meets its other expenses), we will not specify a financial issues.

LLMR Broadcasting, Inc.

12. LLMR estimates tha $1,251,786 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment lease (six months)	[1] $214,706
Land	4,000
Building	100,000
Legal, installation, and other miscellaneous costs	356,000
Operating costs (three months)	526,075
Total	1,251,786

[1] Six months will be required for equipment rent (two months for construction, three months for operation, and the final month's rent, which pursuant to the agreement with the equipment supplier, must be paid in advance).

To meet this requirement, LLMR intends to rely on a $1,250,000 loan from the National Bank of Washington, D.C. As security for its loan, the bank requires a pledge of LLMR's corporate stock/assets and guaranties of principals; however, the principals have not indicated a willingness to furnish such pledges and guaranties.[1] consequently, we cannot determine the availability of any funds to the applicant, and an appropriate financial issued will be specified.

Intersat Communications Corp.

13. Intersat estimates that $468,250 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment lease (downpayment)	$56,000
(five months)	125,000
Transmitter site:	
(site improvement)	10,000
(five months lease)	25,000
Studio (remodeling)	20,000
(five months lease)	20,000
Legal, installation, and other miscellaneous costs	50,000
Operating costs (three months)	153,250
Total	468,250

Intersat has estimated the cost of leasing equipment, but has supplied neither the total value of its proposed equipment nor a lease agreement with an equipment supplier. Accordingly, appropriate issues will be specified.

14. To meet its expenses, Intersat intends to rely on a $480,000 bank loan; however, the applicant has not submitted a letter from a bank. Consequently, we cannot determine the availability of any funds to the applicant, and an appropriate financial issue will be specified.

Conclusion and Order

15. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commisson is unable to make the statutory finding that their grant will serve the public

[1] Even if the principals undertook to provide the requisite pledges and guaranties, there would still be a $1,787 shortfall. Since the shortfall is inconsequential, we will assume that the applicant could obtain this minimal additional amount, and it will not be required, therefore, to show that it has the additional $1,787 available.

interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

16. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Christian Communications Network:

(a) Whether CCN's application is consistent with Section 310(b)(3) of the Communications Act of 1934 and, if not, the effect thereof on the applicant's basic qualifications;

(b) Whether the applicant has $350,750 available for its construction and three month operating costs;

(c) Whether, in light of the evidence adduced pursuant to (b) above, the applicant is financially qualified.

2. To determine with respect to Federal Broadcasters, Inc.:

(a) Whether the applicant has available an additional $1,321,197 for its construction and three month operating costs;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine with respect to LLMR Broadcasting, Inc.:

(a) Whether the applicant has $1,251,786 available for its construction and three month operating costs;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine with respect to Intersat Communications Corp.:

(a) The cost of leasing equipment for five months;

(b) Whether the applicant has $278,250 plus the cost of leasing equipment available for its construction and three month operating costs;

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

17. It is further ordered, that the joint request filed by Venton and Walter Ulloa for approval of an agreement seeking dismissal of Intersat's application is denied, and Venton's amendment of August 17, 1981, is returned.

18. It is further ordered, that the petition to deny filed by Palomar and the informal objection filed by the City of San Diego are denied.

19. It is further ordered, that, in the event of a grant of any application in this proceeding, the construction permit shall contain the following condition:

During equipment tests, authorized by § 73.1610 of the Commission's rules, the permittee shall take adequate measures to identify and substantially eliminate objectionable interference to existing land mobile facilities in the 806–816 MHz band prior to program test authorization. The permittee will be required to file documentation that objectionable interference will not be caused to existing land mobile facilities and must request program test authorization at the time the license application is filed.

20. It is further ordered, that, within 40 days of the mailing of this Order, Intersat and Channel Corp. shall, if they have not already done so, publish local notice of the filing of their applications and file a statement of publication with the presiding Administrative Law Judge.

21. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

22. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-4475 Filed 2-18-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Senior Executive Service Performance Awards

Notice is hereby given pursuant to 5 U.S.C. 5384 of the Senior Executive Service performance awards made by the Federal Mediation and Conciliation Service. The awards are as follows:

Bernard M. O'Keefe, Director, Central Region, Chicago, IL; $10,000

John C. Zancanaro, Director, Office of Policy and Resource Management, Washington, D.C.; $10,000

Kenneth E. Moffett,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 82-4454 Filed 2-18-82; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, March 4, 1982
Thursday, March 11, 1982
Thursday, March 18, 1982
Thursday, March 25, 1982

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act

(Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415 (202–632–0710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

February 11, 1982.

[FR Doc. 82-4478 Filed 2-18-82; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Fertile Bancshares, Inc.; Formation of Bank Holding Company

Fertile Bancshares, Inc., Fertile, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82 percent or more of the voting shares of First State Bank of Fertile, Fertile, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4480 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

First Tazewell Bancorp, Inc.; Formation of Bank Holding Company

First Tazewell Bancorp, Inc., Peoria, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank in East Peoria, East Peoria, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4481 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

Lincoln Bancorp; Formation of Bank Holding Company

Lincoln Bancorp, Sherman Oaks, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Lincoln National Bank, Sherman Oaks, California, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4482 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

Halo Bancorporation, Inc.; Formation of Bank Holding Company

Halo Bancorporation, Inc., Devils Lake, North Dakota, has applied for the Board's approval under section 3(a)(1) o the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92 per cent or more or the voting shares of the The First National Bank of Devils Lake, Devils Lake, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4483 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

Merchants Bancorp, Inc.; Formation of Bank Holding Company

Merchants Bancorp, Inc., Allentown, Pennsylvania, has applied for the Board's approval under section 3(a)(1) o the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the The Merchants Bank of Allentown, Allentown, Pennsylvania. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4469 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

Northwest International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Northwest International Bank, Minneapolis, Minnesota, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Miami, Florida. Northwest International Bank operates as a subsidiary of Northwestern National Bank of Minneapolis, Minneapolis, Minnesota.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4470 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

Thurman State Corporation; Formation of Bank Holding Company

Thurman State Corporation, Thurman, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 89 percent or more of the voting shares of Thurman State Bank, Thurman, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Thurman State Corporation, Thurman, Iowa, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2), for permission to acquire voting shares of Thurman Insurance Services, Thurman, Iowa.

Applicant states that the proposed subsidiary would engage in general insurance activities in a community that has a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Thurman, Iowa, and the geographic area to be served is Thurman, Iowa. Such activities have been specified by the Board in 2254(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of 225.4(b).

Interested person may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would-not-suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than March 9, 1982.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4471 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

Trust Company of Georgia; Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The First National Bank of Athens, Athens, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 11, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4472 Filed 2-18-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M-0005]

Amcon, Inc.; Premarket Approval of The Amcon Way

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of The Amcon way salt tablets for all hydrophilic contact lenses, sponsored by Amcon, Inc., Shawnee, KS. The Amcon Way is intended for use in the preparation of 15 milliliters of normal saline (0.9 percent) solution to be used

in heat disinfection of all hydrophilic contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petition for administrative review by March 24, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On December 15, 1980, Amcon, Inc., Shawnee, KS, submitted to FDA an application for premarket approval of The Amcon Way salt tablets for all hydrophilic contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On November 27, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), salt tablets for preparing solutions for use in heat disinfection of hydrophilic contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval).

As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the above use comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310), until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Request should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of The Amcon Way states that the solution prepared from the salt tablets is designed for use in heat disinfection of all hydrophilic contact lenses. Sponsors of any hydrophilic contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of new salt tablets or a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new salt tablets or solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions or salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 24, 1982, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–4065 Filed 2–18–82; 8:45 am]

BILLING CODE 4160–01–M

[FDA 225–79–2401]

Cooperative Inspection and Food Manufacturing Violation Referral; Memorandum of Understanding With the U.S. Department of Agriculture, Food Safety and Inspection Service

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS). The purpose of this memorandum is to minimize duplication of inspectional effort through an exchange of information for work planning and to provide a means of referring violative conditions concerning food manufacturers whose facilities are under the jurisdiction of both FDA and FSIS.

DATE: The memorandum of understanding became effective June 25, 1981.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1583.

SUPPLEMENTARY INFORMATION: This is a revision of the MOU signed in 1979 (see

44 FR 53578; September 14, 1979). This MOU takes into account the provisions of the Infant Formula Act of 1980. FDA's policy is to publish in the Federal Register all agreements and memoranda of understanding between FDA and others (21 CFR 20.108(c)). Therefore, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding

Between the

Food Safety and Inspection Service, United States Department of Agriculture

And the

Food and Drug Administration, Department of Health and Human Services

The Food Safety and Inspection Service and the Food and Drug Administration hereby jointly agree to the following terms and conditions as described herein.

I. Purpose

To minimize duplication of inspectional effort through an exchange of information for work planning and to provide a means of referring violative conditions concerning food manufacturers whose facilities are under the jurisdiction of both the Food and Drug Administration (FDA) and the Food Safety and Inspection Service (FSIS).

II. Statutes Relating to the Agreement

A. The Food and Drug Administration of the Department of Health and Human Services is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. The Food and Drug Administration conducts unannounced inspections and examinations of food products other than meat and poultry for the purpose of determining their status under the statute.

B. The Food Safety and Inspection Service of the U.S. Department of Agriculture is responsible for enforcing the Federal Meat Inspection Act and the Poultry Products Inspection Act. In carrying out its responsibility, FSIS has inspectors stationed on-site in certain meat and poultry processing plants while one inspector on patrol may be responsible for several smaller plants in other situations.

Nothing in this agreement shall lessen the responsibilities of the Food Safety and Inspection Service under the Federal Meat Inspection Act or the Poultry Products Inspection Act, nor of the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, or the Infant Formula Act.

III. Background

A limited GAO survey conducted during 1975 disclosed inspectional overlap by FSIS and FDA at certain processors of meat products. The two agencies agreed to study the overlap problem to assure that their responsibilities were being carried out efficiently. In October 1978, officials of the agencies determined that the amount of avoidable overlap was not great enough to justify introducing a management system to prevent it. They agreed that by exchanging information on inspections, the agencies may be able to reduce overlap through better planning of surveillance activities. Both agencies will continue to perform inspections under their own programs and priorities.

On September 26, 1980, President Carter signed the Infant Formula Act of 1980. This Act amends the FD&C Act and establishes a new section 412 (21 U.S.C. 350a), which gives FDA strict regulatory authority over the processing, manufacturing, quality control procedures, and testing of infant formulas. In addition, the new law requires that all infant formulas contain necessary nutrients at specified levels and gives FDA the inspectional authority to review and copy all infant formula records bearing on the formula's nutritional quality and safety. See sections 412(g) and 704(e)(3) of the FD&C Act.

On November 20, 1980, officials of FSIS and FDA met to discuss the impact of the Infant Formula Act of 1980 on their respective responsibilities and programs. It was determined that it was not necessary to introduce a new coordinated interagency management system or to revise current procedures involving inspections of infant formula manufacturers because the amount and extent of overlap of each agency's inspectional and other activities did not warrant such action.

IV. Substance of Agreement

A. The Food Safety and Inspection Service will:

1. Provide the Food and Drug Administration with a copy of an annual summary report for those plants manufacturing, packaging or holding food products which are under FDA jurisdiction. Such summary reports should be forwarded to the FDA District Office in whose area the plant is located (see attachment A).

2. Upon completion of any inspection during which products under FDA's jurisdiction are being handled under insanitary conditions or are otherwise believed to be adulterated, the appropriate FDA District Office should be informed by telephone of the conditions found.

3. To the extent possible, consider information provided by FDA to minimize duplication of effort.

4. Provide FDA with information concerning the quality control programs of manufacturers of meat-based infant formulas.

5. Provide FDA, prior to approval, with a copy of the proposed labeling or proposed changes in labeling for meat-based infant formulas and information concerning new formulas as well as information regarding proposed changes in the formulation or processing of existing formulas. This information should be submitted to the Director, Division of Regulatory Guidance, Bureau of Foods.

B. The Food and Drug Administration will:

1. Instruct all its investigators to (a) attempt to contact any on-site FSIS inspectors on their arrival at a plant; (b) invite the FSIS inspectors' participation in the FDA inspection; and (c) report any adverse findings involving meat and poultry products to on-site FSIS inspectors prior to leaving the premises.

2. Provide the Food Safety and Inspection Service with a copy of a report of findings of each inspection of a plant which is also inspected by the FSIS. Such reports should be forwarded to the FSIS office in whose area the plant is located (see attachment B).

3. Upon completion of any inspection during which products under FSIS's jurisdiction are being handled under insanitary conditions or are otherwise believed to be adulterated, the appropriate office of the Food Safety and Inspection Service should be informed by telephone. Such telephone contact may not be necessary if the FDA investigator has reported his findings to an FSIS inspector at the plant location.

4. After receipt of that information specified in paragraph A. 5. above, review and provide comments on proposed labels for meat-based infant formulas, on proposed new formulations or processes, and proposed changes in the formulation or processing as these may affect the nutrients required by section 412(g) of the FD&C Act.

5. To the extent possible, consider information provided by FSIS to minimize duplication of effort.

V. Name and Address of Participating Agencies

Food Safety and Inspection Service, U.S. Department of Agriculture, 12th St. and Independence Ave. SW., Washington, DC 20250.

Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

VI. Liaison Officers

Deputy Administrator, MPI Operations, Food Safety and Inspection Service.
Director, Division of Field Investigations (HFO–500), Office of the Executive Director of Field Operations, Food and Drug Administration.

VII. Period of Agreement

This agreement, when accepted by both parties, covers an indefinite period of time and may be modified by mutual consent of both agencies or terminated by either agency upon 30 days' written notice.

Approved and Accepted for the Food Safety and Inspection Service.

Dated: June 25, 1981.

Donald L. Houston,

Administrator.

Approved and Accepted for the Food and Drug Administration.

Dated: June 4, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

Effective date. This memorandum of understanding became effective June 25, 1981.

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–4096 Filed 2–18–82; 8:45 am]
BILLING CODE 4160–01–M

[FDA–225–82–8000]

Coordination of Public Health Measures; Memorandum of Understanding With the Centers for Disease Control, Department of Health and Human Services

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the Centers for Disease Control, U.S. Department of Health and Human Services. The purpose of the memorandum is to provide a framework for orderly exchange of information and for coordination of actions of both agencies involving public health measures that impact on each other's missions.

DATE: This memorandum of understanding became effective January 12, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1583.

SUPPLEMENTARY INFORMATION: FDA's policy is to publish in the **Federal Register** all agreements and memoranda of understanding between FDA and others (21 CFR 20.108(c)). Therefore, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the Centers for Disease Control and the Food and Drug Administration

I. Purpose

The purpose of this agreement between the Centers for Disease Control (CDC) and the Food and Drug Administration (FDA), both agencies of the Department of Health and Human Services (HHS), is to provide a framework for orderly exchange of information and for coordination of actions of both agencies involving public health measures that impact on each other's missions. This agreement will set forth the responsibilities of each agency in epidemiologic investigations and related activities. It is understood that nothing in this agreement alters other agreements or relationships which already exist between CDC and FDA or precludes establishment of future agreements or relationships which would be mutually beneficial.

II. Background

FDA is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act, the Radiation Control for Health and Safety Act, and certain sections of the Public Health Service Act. In fulfilling its responsibilities, FDA protects the public health of the nation by ensuring that foods, drugs, and medical devices are safe and labeled honestly and informatively. In addition, FDA monitors radiation emitting electronic products to assure safety.

CDC is responsible for the general advancement of the public health by the Public Health Service Act and the Occupational Health and Safety Act of 1970. Additional responsibilities are also given to CDC by the Clinical Laboratory Improvement Act of 1963 (42 U.S.C. 263a).

Each agency has a responsibility to contribute to the total effort of the Federal Government in those areas where it has recognized capability and experience.

III. Substance of Agreement and Responsibilities of Each Agency

A. CDC will:

1. Provide epidemiologic alert information promptly to FDA when there is a possible association with the use of foods, drugs, cosmetics, medical devices, biologic products, diagnostics, and any other products regulated by FDA. Information concerning the effectiveness of disease control measures (biologics, drugs, medical devices) will also be provided to FDA.

2. Supply laboratory data promptly to FDA whenever information concerning the safety or efficacy of articles regulated by FDA is generated by CDC laboratories in conjunction with pursuit of activities.

3. Provide technical advice in areas of recognized expertise, whenever possible, on request of FDA.

4. Provide FDA with expert witnesses to support regulatory efforts, where possible and when requested.

5. Collaborate with FDA in all investigations of mutual concern. Primary responsibilities in each investigation will be determined on a case-by-case basis.

B. FDA will:

1. Provide alert information promptly to CDC concerning product-associated infections, and collaborate with CDC in establishing the epidemiologic relevance of products associated with disease.

2. Provide technical advice in areas of recognized expertise, whenever possible, on request of CDC.

3. Alert CDC promptly of all disease outbreaks encountered as part of its activities, whether or not these disease occurrences are related to FDA-regulated products.

4. Collaborate with CDC in all investigations of mutual concern. Primary responsibilities in each investigation will be determined on a case-by-case basis.

C. It is mutually agreed that:

1. Each agency will cooperate and coordinate with the other agency, to the maximum extent permitted by available resources, in activities that relate to joint interests.

2. Both agencies will participate in periodic joint meetings to promote better communication and understanding of regulations, policies, and statutory responsibilities, and to serve as a forum for questions and problems that may arise. Each agency will specify a person who will be responsible for coordinating the above activities, establishing agenda items for discussion, and for assuring that appropriate persons within each agency are involved in and/or informed of these discussions and maintaining a general scientific information exchange mechanism.

3. Each agency will consult with the other before issuing press or scientific releases or publications which

importantly affect the actions and programs of the other agency.

4. Each agency will keep its customary records and make those related to the operation of this agreement available to the other agency. The agencies will exchange reports or papers before publication or delivery if that exchange will facilitate needed regulatory action.

5. When either agency is unable to carry out any of its responsibilities under this agreement, the other agency will be notified immediately.

6. Regulations or recommendations proposed by either agency that may have an impact on the other agency will be referred to that agency for review and comment before publication.

7. Each agency will designate central contact points where communications for the other agency dealing with matters covered by this agreement should be referred.

8. Each agency will make personnel, equipment, and facilities available to the other when necessary and feasible.

9. Nothing in this agreement modifies other existing agreements or memoranda of understanding, nor does it preclude entering into other agreements which may set forth procedures for special programs which can be handled more efficiently and expertly by other agreements.

IV. Name and Address of Participating Parties

A. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Ga. 30333.

B. Department of Health and Human Services, Public Health Service, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

V. Liaison Officers

A. For the Centers for Disease Control: Deputy Director, Centers for Disease Control, Currently William C. Watson, Jr., Atlanta, Ga. 30333.

B. For the Food and Drug Administration, Deputy Commissioner, Food and Drug Administration, Currently Mark Novitch, M.D., 5600 Fishers Lane, Rockville, Md. 20857.

VI. Period of Agreement

This agreement becomes effective upon signature of both parties and will continue indefinitely. It may be modified by mutual consent or terminated by either party upon 120 days written notice.

Approved and Accepted for the Centers for Disease Control:

Dated: January 12, 1982.

Willian H. Foege, M.D.,

Assistant Surgeon General Director, Centers for Disease Control.

Approved and Accepted for the Food and Drug Administration:

Dated: January 12, 1982.

Arthur Hull Hayes, Jr., M.D.,

Commissioner of Food and Drugs.

Effective date. This memorandum of understanding became effective January 12, 1982.

Dated: February 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4288 Filed 2-18-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81D-0250]

Investigation of Radiopharmaceutical Drugs in Humans; Availability of Clinical Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised clinical guidelines entitled "Guidelines for the Clinical Evaluation of Radiopharmaceutical Drugs" (HHS (FDA) 81-3120). It is a revision of the guidelines bearing the same title, issued in 1977 under identification number HEW (FDA) 77-3045. It is intended to inform interested persons of what the agency's Bureau of Drugs views as acceptable procedures and standards for conducting clinical investigations for this class of drugs.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Bureau of Drugs (HFD-102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4330.

SUPPLEMENTARY INFORMATION: FDA is making available revised guidelines for the clinical investigation of radiopharmaceutical drugs in humans. These revisions represent an update of the guidelines originally issued in 1977 under identification number HEW (FDA) 77-3045. This effort is consistent with the agency's commitment to periodic review of the clinical guidelines every 18 to 24 months. The revisions in the guidelines are organizational and editorial. No substantive changes have been made. The original guidelines, HEW (FDA) 77-3045, are hereby revoked. Because no substantive change has been made in the revisions of the original guidelines, studies conducted in accordance with those guidelines remain acceptable to FDA.

This notice of availability of the revised guidelines is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of the guidelines to outline procedures or standards of general applicability that are acceptable to FDA for a subject matter that falls within the laws administered by FDA. Although use of these guidelines is not a legal requirement, a person may be assured that in following an agency guideline the procedures and standards will be acceptable to FDA. A person may also choose to use alternative procedures or standards for which there is scientific rationale even though they are not provided for in the guideline. A person who chooses to use procedures or standards not in a guideline may discuss the matter further with the agency to prevent an expenditure of money and effort on work that FDA may later determine to be unacceptable.

The guidelines document subject to this notice is as follows:

HHS (FDA) No.	Guidelines title	GPO stock No.	Cost
81-3120	Guidelines for the Clinical Evaluation of Radiopharmaceutical Drugs.....	[017-012-00001-0]	$2.00

Copies of the revised guidelines can be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402, at the cost shown above. Orders for copies must include the GPO stock number, which is also shown.

Users of the revised guidelines should note the following error in the revised guidelines. On page 11, paragraph 1, line 4, the word "negative" should be amended to read "positive." The agency will correct this error in the next printing. Until the error is corrected an erratum sheet will be included with copies of the revised guidelines.

Interested persons may submit written comments on the revised guidelines to the Dockets Management Branch (address above). Such comments will be considered in determining whether further amendments to, or revisions of, the guidelines are warranted. Comments should be in two copies (except that individuals may submit single copies), indentified with the docket number found in brackets on the heading of this document. The revised guidelines and received comments may be seen in the

Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4289 Filed 2-18-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0026]

Chemical Compounds in Food-Producing Animals; Availability of New Threshold Assessment Criteria for Guideline

Correction

In FR Doc. 82-2560 appearing at page 4972 in the issue of Tuesday, February 2, 1982, make the following changes:

(1) On page 4972, first column, under "DATES:", first line, "1983" should read "1982"

(2) On page 4972, middle column, third paragraph, tenth line from bottom, "decision-free" should read "decision-tree"

(3) On page 4973, third column, under "1. General", letter "c.", a period should appear after "carcinogenicity".

BILLING CODE 1505-01-M

Health Resources Administration

Health Professions Education National Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1982:

Name: National Advisory Council on Health Professions Education

Date and Time: March 15-17, 1982, 9:00 a.m.-5:30 p.m.

Place: Conference Room 8, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205

Closed March 15, 9:00 a.m.-5:30 p.m.

Open for remainder of meeting

Purpose. The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda. The open portion of the meeting will cover: Welcome and opening remarks; report of the Acting Administrator; budget update; legislative update; institutional commitment and basic educational opportunity grants; and future agenda items. The meeting will be closed to the public on March 15, 1982, from 9:00 a.m. to 5:30 p.m., for the review of grant applications for the Family Medicine Residency Program and Graduate Programs in Health Administration. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Acting Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources Administration, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

Dated: February 8, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, Health Resources Administration.

[FR Doc. 82-4463 Filed 2-18-82; 8:45 am]

BILLING CODE 4160-15-M

Advanced Financial Distress Review Panel; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1982:

Name: Advanced Financial Distress Review Panel

Date and Time: February 25, 1982, 8:30 a.m.-5:30 p.m.

Place: Room 4-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Closed for entire meeting

Purpose: The Panel reviews and evaluates plans to achieve financial solvency submitted by applicants for Advanced Financial Distress and advises the Secretary on the likelihood of success of these plans.

Agenda: The meeting will be closed to the public on February 25, 1982, from 8:30 a.m. to 5:30 p.m., for the review of applications for the Advanced Financial Distress Program. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 United States Code, and the Determination by the Acting Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, Advanced Financial Distress Review Panel, Bureau of Health Professions, Health Resources Administration, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

Dated: February 17, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, Health Resources Administration.

Note.—This notice is late because this is a recently established Panel. The coordination of available dates for Panel members to meet together precluded the submission of this notice within the prescribed time period.

[FR Doc. 82-4700 Filed 2-18-82; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Cancer Institute Committees; Renewal and Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), the Acting Director, National Institutes of Health, announces the renewal and establishment by the Director, NCI, of the following committees:

Committees Renewed and Termination Date

Bladder and Prostatic Cancer Review Committee—September 15, 1983

Board of Scientific Counselors, Division of Cancer Cause and Prevention—September 15, 1983

Cancer Control Grant Review Committee—September 15, 1983

Large Bowel and Pancreatic Cancer Review Committee—September 15, 1983

Committees Established and Termination Date

Cancer Center Support Review Committee—September 15, 1983

Clinical Cancer Program Project Review Committee—September 15, 1983

Authority for these committees will expire on the dates indicated, unless renewed by appropriate action as authorized by law.

Dated: February 7, 1982.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 82-4513 Filed 2-18-82; 8:45 am]

BILLING CODE 4140-01-M

Advisory Committee to the Director; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on March 8-9, 1982, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9:00 a.m. to 5:00 p.m. on March 8, and from 8:30 a.m. to approximately 12:30 p.m. on March 9, in Building 31, Conference Room 6, C Wing. The entire meeting will be open to the public.

The meeting will be devoted to discussions of Private Sector Responsibilities in Management and

Administration of Public Funds, Governance of Science, and Planning and Budgeting at NIH. Status reports will be given by two ad hoc working groups of the Committee, the Working Group on Costs of Biomedical Research and the Working Group on Cooperative Research Relationships with Industry.

The Acting Executive Secretary, Michael I. Goldberg, Ph.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland, 301–496–3152, will furnish summaries of the meeting, rosters of Committee members and consultants, and substantive program information

Dated: February 5, 1982.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 82-4514 Filed 2-18-82; 8:45 am]

BILLING CODE 4140-01-M

Blood Resources and Blood Substitutes Working Group; Meeting

Notice is hereby given of the meeting of the Working Group on Blood Resources and Blood Substitutes, sponsored by the National Heart, Lung, and Blood Institute, on April 21, 1982, from 9:00 a.m. to 12:30 p.m., Building 31, C Wing, Conference Room 6 at the National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The entire meeting, will be open to the public. The Working Group on Blood Resources and Blood Substitutes is meeting to examine and coordinate federal research activities which concern human blood and its substitutes. Attendance by the public will be limited to space available.

For detailed program information, a list of meeting participants, and a meeting summary contact: Dr. David M. Robinson, Co-Chairman, IATC Working Group on Blood Resources and Blood Substitutes, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 5A03, 9000 Rockville Pike, Bethesda, MD 20205, 301–496–1051.

Dated: February 10, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-4512 Filed 2-18-82; 8:45 am]

BILLING CODE 4140-01-M

Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, April 5–6, 1982, National Institutes of Health, Conference Room A, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area, reports from subcommittees, and consideration of future needs and opportunities.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Acting Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20205, phone (301) 495–5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

(NIH Programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular)

Dated: February 5, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-4516 Filed 2-18-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in Conference Room 425–403A, Hubert H. Humphrey Building, Department of Health and Human Services, 330 Independence Avenue, SW, Washington, D.C., on March 9, 1982.

The meeting will be open to the public from 9:30 a.m. until adjournment for the purpose of providing peer review of the data from the chronic carcinogenesis bioassay of D and C Green No. 5 in Sprague-Dawley rats and CD–1 mice of both sexes. The bioassay was sponsored by the Cosmetic, Toiletry and Fragrance Association, Inc., conducted by Hazleton Laboratories America, Inc., and submitted to the Food and Drug Administration (FDA) in support of permanent listing of D and C Green No. 5.

The meeting will commence with an overview of the study. This will be followed by presentations from pathologists and biostatisticians from the Bureau of Foods, FDA, concerning the pathology findings and statistical analysis of the bioassay. Sufficient time will be allowed for public comment.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will furnish summary minutes of the review and other meeting information.

Dated: February 11, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-4511 Filed 2-18-82; 8:45 am]

BILLING CODE 4140-01-M

National Institutes of Health

Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, April 2, 1982. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, Building 31, Conference Room 9, C-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (301) 496–4236, will provide summaries of the meeting and roster of the Committee members.

Clarice D. Reid, M.D., Chief, Sickle Cell Disease Branch, DBDR, NHLBI, Federal Building, Room 504, (301) 496–6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular)

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-4515 Filed 2-18-82; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation; Retirement Policy Studies; Applications for Grants

Pursuant to Section 232 of the Community Services Act of 1974 and Title 45, Part 63, of the Code of Federal Regulations, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications for grants for research and policy analysis in the area of retirement policy. The studies supported by the grants will be directed at providing information and policy analysis on issues of pressing national concern in the retirement policy area, principally in one or more of five high priority areas, which are described in detail below.

A. Type of Application Requested

This announcement seeks applications for projects to develop and conduct a program of research and analysis relating directly to pressing current policy concerns in the area of retirement policy and the economics of transfer programs for the elderly, principally in five areas articulated below. These studies are intended to be of short duration, to be directly focused on the current issues facing policy makers and their advisers in and out of government, and to develop and present their conclusions in a fashion accessible to these policy makers and advisers. The following paragraphs describe the topics; the questions they contain are intended as illustrations of specific concerns in these areas.

1. High priority areas for which applications are most desired are as follows:

a. Effects of changes in Old Age, Survivors and Disability Insurance on Disability Insurance and other programs. A large number of public and private programs provide income for elderly and disabled citizens. Unfortunately, very little is known about the interrelationships among these programs. This issue is of particular salience at a time when substantial reforms are being contemplated for the social security system. Specific questions investigators may wish to consider include:

(i) What is the likely effect of raising retirement ages or other possible changes in Old Age and Survivors Insurance (OASDI) on the Disability Insurance (DI) program? Would more older workers apply for DI as an alternative to early retirement? At issue is the effect of changes in OASDI on DI costs and caseloads.

(ii) Disability Insurance recipients frequently draw benefits from a number of other programs including OASI, Supplemental Security Income (SSI), Food Stamps, and private sector disability, medical insurance, and workers' compensation programs. If changes are made in eligibility standards or other features of the DI program, costs and caseloads of other programs may change as well, for at least two reasons. First, current multiple recipients may receive higher benefits from other programs. Second, changes in DI may induce greater participation in alternative programs. At issue here is how other public and private programs will be affected by changes in DI.

b. Private pension/IRA response to changes in social security. Private pensions plan the timing and level of benefit payments to mesh with benefits workers receive from social security. They do this either explicitly through measures such as pension offsets and supplemental benefits for retirement prior to the social security retirement age, or implicitly in targeting benefit levels. Hence, the overall effects of changes in social security depend, in part, on the manner in which private pensions respond to these changes.

For example, raising the age of retirement in social security has implications both for revenues and for outlays in the system. Revenues would increase to the extent workers continue in the labor force longer. However, if pensions adjust to preserve the current package of retirement income, workers are less likely to change their work behavior, thus reducing any revenue effects.

At issue, then, is the response of private pensions to possible changes in social security, particularly increases in the retirement age, changes in the actuarial reduction and the delayed retirement credit, and decreases in the overall generosity of the program (as reflected, say, in replacement rates). Specific aspects of this issue investigators may wish to consider include:

(i) If social security raises the age of early and normal retirement, will private pension plans follow suit or will they adjust the timing of benefits to offset these changes?

(ii) If total replacement rates from social security are reduced, can we expect increases in the level of pension benefits? Will the general availabilty of Individual Retirement Accounts (IRAs) influence this response?

(iii) Will adjustments reflect new cost to private pensions or a rearrangement of cash flows over time? If the former, who will bear these costs? In either case, will there be repercussions due to changes in the asset holdings of pension plans?

Evaluation of the behavior of pension providers to changes in OASDI is likely to be highly speculative. Careful attention to the financial and managerial incentives they face, however, should allow investigators to place some bounds on likely responses and hence to explore the impact of changes under some plausible variety of response patterns. The situation is complicated by the increased availability of IRAs, which may affect how both providers and participants respond.

c. Transfers within OASDI. The OASDI program can be characterized as a tax-transfer system that redistributes monies among cohorts and among individuals within particular cohorts. Within-cohort transfers can be analyzed along three dimensions: family composition, life-time earnings, and risk of disability or death. OASDI can also be characterized as a mandatory savings program, which because of these transfers, implicitly provides different rates of return.

One of the goals of the social security system is to help insure an adequate income for workers and their dependents at retirement or in the event of death or disability. This goal is partially achieved through the transfer elements of the program. However, these transfers are allocated on the basis of presumed rather than actual need. If the two do not in fact correspond, a strong case can be made for changing certain parts of the program.

What are the size and distribution of the various within-cohort transfers, and how do they affect rates of return? What changes may we expect in these patterns over time? Specify aspects of these questions that investigators may wish to consider include:

(i) What is the effect of ancillary benefits, such as dependent spouse's benefits or children's benefits, on the adequacy of benefit payments and on the rate of return to payroll tax contributions?

(ii) Social security can be viewed as an insurance program, providing, among other forms of protection, survivors and disability insurance. Because tax rates do not vary across individuals, OASDI implicitly provides subsidized insurance for high-risk groups. How large are these subsidies, across risk groups such as those recognized in private disability and life insurance programs or across other dimensions such as expected lifetime earnings?

(iii) The progressive benefit-calculation formula implicitly redistributes income among individuals within particular cohorts on the basis of life-time earnings. Alternative transfer mechanisms for insuring social adequacy (e.g., the SSI program) typically condition benefits on monthly measures of economic status. As a result, removing the "tilt" from the OASDI benefit formula, while relying on a—possibly expanded—means-tested program, alone or in conjunction with a universal demogrant, to insure adequacy, represents a major shift in the accounting period adopted for needs assessment. What would be the distributional and efficiency impacts of shifting to variants of a "two-tiered" system?

d. The relationship between taxable payroll and total compensation. The growth in average wages is a critical determinant of future OASDHI revenues and benefit levels. Money wages are only one part of total compensation, however. The other component is fringe benefits, which are not subject to OASDHI payroll taxes and which are not counted as earnings for purposes of benefit calculation.

Intermediate projections of the financial status of the OASDI system forecast an average deficit over the next seventy-five years of 1.52 percent of taxable payroll. This estimate assumes that fringes will continue to grow faster than money wages at an average annual rate of 0.4 percent, which has been the historical experience over the past thirty years. If fringes instead grew at the same rate as money wages, the projected average long-term deficit would be 1.20 percent of taxable payroll, a drop of nearly 35 percent. Moreover, the implications for social security are very different depending on the way in which fringes grow, whatever the total growth rate. If the growth is primarily in deferred compensation, this reduces the relative importance of OASI in providing retirement income.

As total compensation grows in the future, how will this growth be distributed between growth in money wages and growth in fringe benfits? Specific aspects of this question that investigators may wish to consider include:

(i) Will fringes continue to grow faster than money wages as they have over the past thirty years, or will the ratio of fringes to total compensation remain constant or decline?

(ii) Whatever the growth rate in fringes, how will this growth be divided between fringes that provide current protections (health and life insurance) and fringes that provide deferred compensation (pensions)?

(iii) What are the likely effects of current government policies on the growth in fringes?

e. Labor market implications of potential increases in the labor supply of the elderly. The last several decades have witnessed a dramatic decrease in the level of labor force participation of older Americans. Earlier retirement, together with substantial increases in longevity and the after-effects of swings in fertility rates, is playing an important role in increasing the size of the retired population relative to the working population. In light of the increasing economic burden of supporting the retired, consideration is being given to restructuring social security (e.g., increasing the retirement age, restructuring the actuarial reduction and the delayed retirement credit, and decreasing the overall generosity of the program). If these reforms are enacted, it seems probable that many elderly citizens will respond, in part, by seeking increased market employment. What would be the ramifications of any such increase in the labor supply of the elderly?

Evaluating labor market responses to desires for increased employment on the part of the elderly poses a number of analytical challenges. The major issues with respect to the well-being of the elderly, themselves, are the ease with which they would be retained by or absorbed into the job structure and the nature of the employment they would find. However, the extent and manner in which these workers would be retained or absorbed also has important implications for the rest of the economy. Would new jobs be created, so that the net national product would be increased? Alternatively, would younger workers be displaced from existing jobs? Even if the number of jobs expanded more or less in step with the increase in labor force participation, would the character and distribution of employment opportunities change (e.g., can shifts in relative wages be predicted from known substitution patterns across various types of workers)? Will the deceleration of labor market entry by youths and women serve to mitigate any problems? How sensitive are these estimates to alternative levels of unemployment?

2. Types of projects excluded. In consideration of the intent of this announcement, applications proposing field survey operations, or concentrating primarily on the concerns of a local service delivery organization, will not be considered for funding.

3. Content and organization of the application. The application must begin with a cover sheet followed by the required application forms and a short overview and summary of the application. The cover sheet should clearly specify which of the policy areas described above the application addresses, and each application should be limited to a single policy area. Applicants may, however, apply in more than one area, using separate applications. Each application should carefully describe the issues to be examined, hypotheses to be tested, methodology proposed for testing the hypotheses, data sources to be used, and anticipated products of the research, as well as relating the expected products to policy issues. Resumes of staff should be included, as should a full budget for the proposed grant.

4. Dissemination. Grantees will be expected to bear major responsibility for dissemination of the results of their studies to the scientific and policy-making communities, as appropriate. Toward this end, applicants are urged to budget for a trip to Washington by one or two senior investigators to present their results to policy makers and their advisers in the Executive Branch and in Congress.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the *Code of Federal Regulations* on October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), which was published in the *Code of Federal Regulations* on June 9, 1981.

3. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouse under the procedures in OMB Circular A–95.

C. Effective Data and Duration

1. The grant award or awards pursuant to this announcement are expected to be made on or about May 15, 1982. Applications can be for periods of up to one year. The grants are designed, however, to encourage short-term projects with immediate relevance to current policy questions. Projects are more likely to be judged responsive to this concern if they anticipate at least substantial results, if not final conclusions, within the first six months.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. The closing dates for

applications are specified in Section F and G below.

D. Statement of Funds Availability

1. The Assistant Secretary has available about $200,000 for the Fiscal Year ending September 30, 1982, for the award of grants pursuant to this announcement. It is expected that awards will be in the range of $30,000 to $50,000. Grants may be made in only one of the priority areas, or in more; the funds available will not necessarily permit grants in all of them.

2. Projects will be limited to a period of one year.

E. Applications Processing

1. Applications will be initially screened for relevance to current policy issues. If judged irrelevant, the application will not be considered further. If judged relevant, the application will then be reviewed by a government review panel, possibly augmented by outside experts. Ten (10) copies of each application are required.

2. Applications will be judged as to eligibility, quality, and relevance to policy issues, according to the criteria set forth in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with communication with the reviewers. In no case should an application be longer than 35 double-spaced pages, exclusive of forms, resumes, and the proposed budget; it should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parentheses.

a. The potential usefulness of the objectives and anticipated results of the proposed project for informing the development of policy relating to the areas discussed in Section A above. (30 points.)

b. The potential usefulness of the proposed project for the advancement of scientific knowledge. (10 points.)

c. The clarity of statement of objectives, methods, and anticipated results. (5 points.)

d. The appropriateness and soundness of methodology, including research design, statistical techniques, modeling strategies, choice of data, and other procedures. (25 points.)

e. The qualifications and experience of personnel. (30 points.)

6. Nothing in this application should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than April 7, 1982, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service. Applicants who submit by mail, and have not received notification of receipt of their application by April 14, 1982, should contact the Grants Officer at the address listed below promptly and make arrangements for express delivery of a second set of copies of their application if necessary. In no case will applications that have been mailed be accepted if they are received after close-of-business April 16, 1982.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between 9:00 a.m. and 4:30 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close-of-business on April 7, 1982.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as are deemed necessary or desirable for the enhancement of policy analysis for the needs of the Assistant Secretary; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW, Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201. Questions concerning the preceding information should be submitted to the Grants Officer at the same address.

Dated: February 11, 1982.

Robert J. Rubin,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 82-4521 Filed 2-18-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Hannahville Indian Community of Michigan; Tribal Plan for Use of the Sixty Percent Program Funds of Certain Judgment Funds

February 5, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

A plan for the use of judgment funds in Dockets Nos. 15–K, 29–J, 217 and Dockets Nos. 15–M, 29–K and 146 apportioned to the Potawatomi Indians of the Hannahville Indian Community of Michigan, pursuant to the provisions of the Act of October 19, 1973, 87 Stat. 466, became effective on March 6, 1978. Under the plan, sixty percent (60%) of the tribe's share of the Potawatomi funds were set aside for the program aspect of the plan to be developed at a later date. A plan for the use of the program funds was submitted to the Congress by a letter dated October 22, 1981, and was received (as recorded in the Congressional Record) by the Senate on October 27, 1981, and House of Representatives on October 28, 1981. The program plan became effective on December 3, 1981, since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The program aspect of the plan established by the Potawatomi Indians of the Hannahville Indian Community of Michigan, pursuant to the Act of October 19, 1973, 87 Stat. 466, provides that the 60% portion of the tribe's share of the judgment funds awarded in Dockets Nos. 15–K, 29–J and 217 and Dockets Nos. 15–M, 29–K and 146 shall be programed as follows:

Hannahville Indian Community of Michigan. The funds for the programing aspects of the community plan shall be invested by the Secretary until such time the community develops a further plan for the use of the funds, which plan shall be subject to Secretarial approval. The

Secretary shall approve no plan for the use of the program funds of the community until at least thirty days after the plan has been submitted to the Congress.

Pursuant to the provisions of the above plan, which became effective on March 6, 1978, the tribe proposes, in accordance with the resolution (unnumbered) adopted by the Executive Council of the Hannahville Tribal Council on September 8, 1980, that the totality of the sixty percent (60%) program funds, including the interest and investment income accruing thereon, be utilized in a tribal land acquisition program, to meet developmental needs of the Hannahville Indian Community in the areas of economic development, community development, and housing development, as are set forth in the detailed tribal plan for the use and distribution of the judgment funds in Dockets Nos. 15–K, 29–J and 217, and Dockets Nos. 15–M, 29–K and 146, which plan is made a part of the record herein.

The program funds will continue to be invested by the Secretary of the Interior (hereinafter 'Secretary'), pursuant to 25 U.S.C. 162a until such time the funds are needed in the implementation of the land acquisition program. Should any funds be determined in excess of needs of the program, appropriate adjustments may be made to utilize such funds in the areas of economic, community and housing development described in the tribal plan. Such adjustments may be made in annual tribal budgets, with the approval of the Secretary."

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 82–4659 Filed 2–16–82; 8:45 am]

BILLING CODE 4310–02–M

Uintah Indian Irrigation Project, Utah; Annual Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: General Notice.

SUMMARY: The purpose of this general notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the Uintah Indian Irrigation Project to properly reflect the actual costs for labor, materials, equipment and services. The change is from $7.50 to $8.50 per assessable acre per annum.

EFFECTIVE DATE: This general notice shall become effective April 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Thomas Neumann, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Arizona 85011 (FTS 261–2285, COM (602) 241–2285).

SUPPLEMENTARY INFORMATION: Studies were made in 1981 to determine the increase in assessments needed to operate and maintain the Uintah Irrigation Project. Adjustment to assessment rate is primarily a result of increased cost of labor, materials, power, equipment, and services. Notices were published in local newspapers during December 1981 and January 1982 requesting written comments from the public by January 24, 1982. Several letters were received from individuals. One letter was received from the Ute Indian Tribe. All letters were given careful consideration and answers prepared.

Pursuant to § 191.1(e) of Part 191, Chapter I, Subchapter R, of Title 25 of the Code of Federal Regulations, this general notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The General Notice shall read as follows:

Uintah Indian Irrigation Project, Utah

Annual Operation and Maintenance Charges

1. Basic Water Charges

Pursuant to the provisions of the Acts of June 21, 1906 (34 Stat. 375), and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387), the reimbursable costs expended in the operation and maintenance of the Uintah Indian Irrigation Project, Utah are apportioned on a per acre basis against the irrigable lands of all units of the project; and for the calendar year 1982 and each succeeding year unless changed by further general notice, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of $8.50 per acre per annum, where not otherwise established by contract. No bill shall be rendered for less than $10.00.

2. Payment and Penalties

(a) The assessments fixed by this general notice shall become due on April 1 of each year, and are payable on or before that date.

(b) Assessments remaining unpaid on October 1, following the due date, shall be subject to the current penalty being assessed by the Office of Management and Budget charged to monies owed the United States Government, from the due date until paid.

(c) Indian water users who are financially unable to pay the assessment on the due date may be furnished water provided the Superintendent of the reservation certifies to the project engineer that such Indian is not financially able to pay his assessment. Under such conditions, the assessment shall be entered on the accounts as a lien against the land, without penalty.

3. Delivery of Water

(a) No water will be delivered to Indians farming their own land until the Superintendent of the reservation has issued a certificate to the project engineer certifying that the Indian has paid or will pay such charges through the Superintendent or that such Indian is financially unable to pay the charges.

(b) No water will be delivered to a lessee of Indian trust patent land until the Superintendent of the reservation has furnished the project engineer with a certificate stating that the lessee has fully complied with the terms of the lease relative to the payment of the annual operation and maintenance charges.

(c) No water will be delivered to land under lease to non-Indians until the Superintendent of the reservation certifies to the project engineer that the lessee has fully complied with the lease contract relative to the payment of the operation and maintenance charges.

(d) No water will be delivered to patent in fee land, until at least 50 percent of the annual charges assessed are paid, and water delivery will not be continued after July 1, unless the total charges have been paid.

(e) The Superintendent may authorize the delivery of water without payment of the operation and maintenance charges for the leaching of alkali and as an aid in reclaiming temporarily non-assessable land. The amount and delivery of free water will be made only under predetermined terms and conditions that have been mutually agreed to by the land operator and the Superintendent. Use of free water will be terminated and the land will be reclassified as assessable when, in the opinion of the Superintendent, the reclamation work is completed. In no event will free water be delivered for more than two years.

Note.—It is hereby certified that the economic and inflationary impacts of this

general notice have been evaluated in accordance with Executive Order 12291.

William F. Streitz,

Acting Assistant Area Director.

[FR Doc. 82-4458 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

California; District Managers: Redelegation of Authority

February 9, 1982.

1. Pursuant to the authority contained in Sec. 1.1 of BLM Order No. 701 (20 FR 10526, July 29, 1964) as amended, the following authority is hereby delegated to the District Managers to take action for the State Director in matters listed under Section 1.9—LAND USE. The District Manager may take all the listed action on:

(d) Exchanges. Take all actions subject to the title opinion of the Field Solicitor, in all matters relating to exchanges of lands and of timber for lands, except for appraisal reports on any proposed transaction, signing of realty actions and issuance of patents.

(g) Material other than forest products. Take all actions relating to any sale or contract for sale of material other than forest products not exceeding $50,000, or the free use of materials other than forest products, under 43 CFR Part 3600.

(i) Sites for recreational or any public purpose. Take all actions with respect to leases to Federal, State, Local government units and to nonprofit associations and corporations pursuant to 43 CFR Part 2912 and to other applicable regulations.

(j) Sales of public lands. (1) Take all actions on sales pursuant to 43 CFR 2710 except signing of realty actions, preparations of Final Certificates, issuance of patents and Notices of Conveyance. (2) Expressions of interest by and sales to aliens, associations having an appreciable number of alien members, and corporations whose stock to an appreciable extent is held by aliens, are subject to approval by the Secretary of Interior.

(m) Rights-of-way. Grant right-of-way permits and easements over public and acquired lands pursuant to 43 CFR Part 2800.

(o) Leases, permits, and easements. Take all actions in issuing: (1) leases or permits for public lands, pursuant to 43 CFR Part 2920; (2) leases, permits and easements for acquired lands under the administration of the Bureau of Land Management, under the principles embodied in 43 CFR Part 2920. No land use authorization may be issued under this authority to Federal Departments or agencies.

2. This delegation continues the authority delegated by order effective June 16, 1980, (45 FR 40673) and further authorized by order dated December 9, 1980 (45 FR 81128).

Ed Hastey,

State Director.

[FR Doc. 82-4434 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 51343 OK]

Oklahoma; Exploration of Coal Deposits

February 11, 1982.

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 51343 OK, qualified members of the public are hereby invited to participate with Great National Corporation, on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in LeFlore County, Oklahoma, and are described as follows:

T. 8 N., R. 26 E., IM, Oklahoma,
Sec. 12: SE¼SE¼SW¼, S½S½SE¼, NE¼SE¼SE¼;
Sec. 13: N½N½NE¼, SW¼NW¼NE¼, N½NW¼N½SW¼NW¼;
Sec. 14: S½NE¼NE¼, SE¼NW¼NE¼, S½NE¼.
T. 8 N., R. 27 E., IM, Oklahoma
Sec. 7: S½NE¼SW¼, SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, S½NW¼SE¼, N½SW¼SE¼;
Sec. 18: NW¼NW¼NW¼.
Containing 460.00 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Great National Corporation, 2320 South Tower, L. B. 174, Plaza of the Americas, Dallas, Texas 75201. Such written notice must be received no later than March 21, 1982.

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Geological Survey and the Bureau of Land Management. A copy of the exploration plan as submitted by Great National Corporation may be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico.

Larry L. Woodard,

Associate State Director.

[FR Doc. 82-4431 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

Resource Management Planning; Initiation of Wilderness Studies in the Caliente, Folsom, and Hollister Resource Areas, Bakersfield District, California

February 19, 1982.

In accordance with 43 CFR 1601.3(g), notice is hereby given of resource planning activity now underway.

The proposed action is the preparation of five Management Framework Plan Amendments for 10 Wilderness Studies Areas (WSAs) in the Caliente, Folsom, and Hollister Resource Areas, Bakersfield District. The plan amendments will involve the Temblor-Caliente, Sierra, Fresno-San Benito, Monterey, and South Sierra Foothills planning areas. The plans will be incorporated under a single Environmental Impact statement (EIS), and will carry out the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976.

The purpose of these planning amendments is to determine the highest and best use of the subject lands and, through such a determination, the suitability or nonsuitability of the WSAs for wilderness designation. The process will result in recommendations by the Secretary of the Interior to the President as to which areas, or portions of areas, should be designated as wilderness. The final decision as to whether the WSAs should be designated components of the National Wilderness Preservation System will be made by Congress. The plan amendments and the EIS are scheduled for completion by September 30, 1982.

The affected resource areas are located in central California. The 10 WSAs that will be addressed, along with their size and general location, are:

a. Merced River (CA-040-203), 12,635 acres, Mariposa County, Folsom Resource Area;

b. Panoche Hills North (CA-040-301A), 6,677 acres, Fresno County, Hollister Resource Area;

c. Panoche Hills South (CA-040-301B), 11,267 acres, Fresno County, Hollister Resource Area;

d. Pinnacles Wilderness Contiguous (CA-040-303), 5,838 acres, San Benito and Monterey Counties, Hollister Resource Area;

e. Ventana Wilderness Contiguous (CA–040–308), 640 acres, Monterey County, Hollister Resource Area;

f. Caliente Mountain (CA–010–042), 19,018 acres, San Luis Obispo County, Caliente Resource Area;

g. Sheep Ridge (CA–010–022), 4,905 acres, Tulare County, Caliente Resource Area;

h. Milk Ranch/Case Mountain (CA–010–023), 6,382 acres, Tulare County, Caliente Resource Area;

i. Owens Peak (CA–010–026), 22,560 acres, Tulare and Kern Counties, Caliente Resource Area;

j. Piute-Cypress (CA–010–046 and Forest Service A5213), 3,578 acres and 1,949 acres, respectively, Kern County, Caliente Resource Area.

The Sequoia National Forest Cypress RARE II area (A5213) is being studied with the Piute-Cypress WSA (CA–010–046) as a single roadless area in accordance with the February 20, 1981, Cooperative Agreement between the U.S. Forest Service and the Bureau of Land Management regarding joint wilderness studies.

The study process will analyze all resource values and uses within each WSA to determine whether the area, or a portion of the area will be recommended as suitable or nonsuitable for wilderness designation. This process will address such issues as the grazing of livestock, motorized vehicle access, all forms of mineral activity, land tenure, watershed, and recreational uses.

Disciplines to be represented on the Interdisciplinary Study Team are: wildlife biology, range management, wilderness, outdoor recreation planning, land and minerals management, and visual resources.

The public is invited to participate in the planning process by surfacing issues, commenting on the planning criteria which will be developed to guide the planning effort, providing information to be considered in the planning process, and commenting on the proposals and analysis incorporated in the draft plans and EIS when developed. The availability of the issues and planning criteria will be announced in the **Federal Register**. Public hearing dates, times, and locations will also be announced in the **Federal Register** at least 30 days prior to any hearing date.

For further information, or to be placed on the mailing lists for the planning efforts, contact Garold W. Lamb, Acting District Manager, Bakersfield District, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301, (805) 861–4191.

Richard F. Johnson,

Acting State Director, California.

[FR Doc. 82–4433 Filed 2–18–82; 8:45 am]

BILLING CODE 4310–84–M

Wyoming; Management Framework Plans for the Overland and Divide Resource Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Open House, Public Meeting and Public Hearing on Proposed Coal Management Decisions.

SUMMARY: this notice sets forth the schedule and proposed agenda of the open house, public meeting and public hearing on the proposed coal management decisions contained in the Management Framework Plans (MFP) for the Overland and Divide Resource Areas.

DATES: The open house, public meeting, and public hearing are scheduled for March 15, 1982, in Rawlins, Wyoming. Open house 9 a.m. to 12 p.m., public meeting 2 p.m. to 5 p.m., and public hearing from 7 p.m. to conclusion.

The open house will be held at the BLM Divide Resource Area Office. BLM staff will be available to answer questions regarding the proposed coal management decisions. The proposed coal decisions are summarized in "Coal, Wyoming Land Use Decisions, Overland and Divide Resource Areas, Management Framework Plans."

This brochure is available at the BLM's Rawlins District Office. Comments on the proposed decisions will be accepted during the 30 day public comment period beginning February 16, 1982.

The area involved in these proposed decisions covers the western half of Carbon County, Wyoming, and the eastern half of Sweetwater County, Wyoming. The proposed coal decisions in the MFP reflect current statutory requirements and policies, and carry out the Surface Mining Control and Reclamation Act of 1977. The standards and procedures for the MFP are contained in the **Federal Register** Vol 44, No. 140, 42584–42652 of July 19, 1979; and Vol 44, No. 153, 46386–46401 of August 7, 1979. The standards for this revision are also discussed in a final environmental statement describing the Secretary of the Interior's preferred coal program and alternatives, released in April 1979.

The public meeting will begin at 2 p.m., March 15, 1982, at the Rawlins District Office and will conclude when everyone present has had an opportunity to discuss the proposed coal decisions. The public hearing will take place at 7 p.m., March 15, 1982, at the Rawlins District Office and will conclude after all testimony has been offered for the official record. Oral and written testimony will be received.

Any person having an interest in the proposed decisions will be afforded the opportunity to express their opinions at the hearing. Advance registration of those persons wishing to testify is required. After the registered witnesses have been heard, the presiding officer will consider the requests of any other persons present and wishing to testify. Oral testimony is limited to ten minutes; however, oral testimony may be supplemented by filing a written text of any prepared comments offered at the hearing. Any single organization's viewpoint must be presented by a single representative. Other members of that organization may present their views or opinions as a private citizen.

Registration forms may be obtained at the Rawlins district Office and will also be available at the hearing. Registration forms should identify the organization represented (if any) and should be signed by the prospective witness. Persons wishing to register in advance of the hearing may submit their registration request prior to close of business on March 15, 1982. Anyone who is unable to attend the hearing may submit written comments to the address listed below within the 30-day public comment period ending March 16, 1982. All written comments received during this period will be included in the official record.

Dates: Open House—March 15, 1982
Public Meeting—March 15, 1982
Public Hearing—March 15, 1982

ADDRESS: BLM, Rawlins District Office; P.O. Box 670, Rawlins, WY 82301.

David J. Walter,

District Manager.

[FR Doc. 82–4435 Filed 2–18–82; 8:45 am]

BILLING CODE 4310–84–M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Winnemucca District Grazing Board will be held on April 1, 1982. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Expanded role of District Grazing Advisory Boards

2. Range Improvement Projects:
a. Recommendations Concerning Distribution and Use of Range Betterment Funds (8100 Funds)
b. Explanation of Annual Work Plan with Regard to 25% Limitation on Wages for 8100 Projects
3. Rangeland Management Policy
a. Allotment Categories
4. Range Decisions in Management Framework Plans
5. Update on Wild Horse/Burro Program
6. Whitetop Infestations
7. Arrangements for Next Meeting and Discussion of Agenda Items

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, NV 89445, by March 18, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: February 10, 1982.

Frank C. Shields,

District Manager, for State Director, Nevada.

[FR Doc. 82-4430 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Intent To Hold Public Scoping Meetings

February 11, 1982.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Public Scoping Meetings to assist in preparing an Environmental Assessment (EA) on the construction of a gas transmission system from the Cave Creek and Deep Yellow Creek fields to the Whitney Canyon gas plant, Uinta County, Wyoming.

SUMMARY: This notice describes the action to be analyzed in the EA; the geographic area that would be affected; the preliminary list of issues and concerns; the scoping process to be used, including the public scoping meeting time and place; the location of offices which have information available for public review both during and at the completion of the process; and the BLM contact for further information.

SUPPLEMENTARY INFORMATION: The action to be analyzed in the EA consists of the construction of a 24-inch sour gas (H_2S) transmission pipeline, a 6.6-inch sour gas condensate transmission pipeline, a 4.5-inch sweet fuel gas transmission pipeline, a combination of 8.6-inch and 6.6-inch (H_2S) gathering systems flowlines, and a 4.5-inch fuel gasline. A central facility for dehydration, separation, and heating would also be constructed.

The proposed pipelines would mostly cross private land involving a maximum of 4.5 miles of public lands administered by the BLM. The maximum length involved for the entire system would be 39 miles. The route extends from the Cave Creek and Deep Yellow Creek fields in Summit County, Utah, and Uinta County, Wyoming, to the Whitney Canyon gas plant north of Evanston, Wyoming.

GEOGRAPHIC AREA: The geographic area to be analyzed for effects is generally in Uinta County, Wyoming.

ISSUES AND CONCERNS: Important issues and concerns which have been identified to date include:

1. Potential socioeconomic impacts on Evanston, Wyoming.
2. Potential impacts on terrestrial and aquatic wildlife and their habitat.
3. Potential health and safety problems associated with hydrogen sulfide (H_2S) in natural gas.
4. Potential impacts on air quality and water quality.
5. Potential impacts to land use.

The public is encouraged to present their ideas at the scoping meeting on these and other issues and concerns including alternative routing for consideration in the EA. All issues and concerns will be considered in preparation of the EA.

DATE: A public scoping meeting will be held on March 30, 1982, at 7:00 p.m. at the Ramada Inn in Evanston, Wyoming, for the purpose of identifying issues and concerns for the EA.

ADDRESSES: Information and materials providing a description of the project are available for review at the following locations:

—Bureau of Land Management, Rock Springs District Office, North Highway 187, Rock Springs, Wyoming 82901
—Bureau of Land Management, Kemmerer Area Office, Highway 189, Kemmerer, Wyoming 83101

In addition, copies of a public scoping document will be available after March 8, 1982, and can be obtained by writing to the following address: Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82901.

Any person wishing to submit any issues or suggestions for alternate routes for consideration in the scoping process are encouraged to do so. Such written scoping input should be sent to the office listed above and received no later than March 19, 1982, in order to be considered in determining the scope of the EA.

FOR FURTHER INFORMATION CONTACT: Steve Howard, Area Manager, Kemmerer Resource Area Office, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101, (307) 877-3933.

All attendees of the public scoping meeting will be given an opportunity to participate and raise issues for consideration in the EA.

In addition, if at any time during the EA process any persons wish to raise issues for consideration, they should feel free to do so by contacting the following office: Bureau of Land Management, Kemmerer Resource Area Office, P.O. Box 632, Kemmerer, Wyoming 83101.

Should this EA uncover significant impacts, an EIS would be prepared. In addition, should the results of the scoping meeting or else the identification of unanticipated impacts and/or the scope of the project change during the preparation of the EA, consideration would be given at those times to the preparation of an EIS. If it should become the case that an EIS is to be prepared, no further scoping meetings will be held, however, any written comments, separate and/or in addition to those previously submitted and concerning the scope of alternatives and impacts, will be considered if received within 60 days of such a decision.

Maxwell T. Licurance,

State Director.

[FR Doc. 82-4432 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Non-Competitive Occupancy Lease; Public Land in Clackamas County, Oregon

February 10, 1982.

The following described land has been examined and found suitable for lease under Section 302 of the Federal Land Policy and Mangement Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732):

T. 6 S., R. 2 E., Willamette Meridian, Oregon,
Sec. 5, portion of SE¼NW¼.

Containing approximately 0.3 acre.

A proposal has been submitted by Associates Financial Services, to lease the above-mentioned land for their use as a homesite. The land is presently improved with a trailer residence and a

pump house owned by Associates Financial Services. A recent survey revealed that the improvements are actually located on public land. Because of the improvements, the land will not be offered for lease through competitive bidding but will be offered for lease directly to Associates Financial Services at the appraised fair market rental value.

The lease will be inconsistent with the Bureau of Land Mangement's land use plan but will not not conflict with any State or local government programs or regulations. The land is best suited for multiple use management with timber production as the primary resource. The direct lease of the land to Associates Financial Services will protect their equity investment in the improvements. The lease will have a term of 15 years and will not be renewed. Upon termination of the lease, the improvements will have to be removed.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salem District Manager, Bureau of Land Management, P.O. Box 3227, Salem, Oregon 97302. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Kenneth W. Jensen,

Acting District Manager.

[FR Doc. 82-4567 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

Moab District Grazing Advisory Board; Meeting

February 11, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Moab District Grazing Advisory Board Meeting.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Moab District Grazing Advisory Board will be held on March 25, 1982 at 10 a.m. in the conference room of the Bureau of Land Management District Office at 125 West 200 South in Moab, Utah. All grazing advisory board meetings are open to the public.

The agenda for the meeting will include:

1. Election of officers.
2. Discussion of the advisory board election and new charter.
3. Status reports on Price River Grazing EIS.
4. Status report on Soil and Vegetation Inventory in Grand and San Juan Resource Areas.
5. Status report on Range Improvement Maintenance Policy.
6. Report on Range Society Presentation on controlled burns.
7. Report by area managers on range improvements proposed. Discuss range problems and ask advice of advisory board.

Gene Nodine,

District Manager.

[FR Doc. 82-4558 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Training and Qualification of Personnel in Well-Control Training

AGENCY: Minerals Management Service, Interior.

ACTION: Issuance of the Minerals Management Service Outer Continental Shelf Standard No. T 1 (MMSS-OCS-T 1), "Training and Qualification of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," Second Edition, formerly GSS-OCS-T 1.

SUMMARY: Proposed revisions to GSS-OCS-T 1, First Edition, were published in the **Federal Register** Notice, Volume 45, No. 105, Page 36172, May 29, 1980. The primary purpose for revising the GSS-OCS-T 1 training standard is to clarify the requirements and to combine with them the guidelines for implementing those requirements into one document. The program requirements contained in the MMSS-OCS-T 1, Second Edition training standard, will be effective as of May 1, 1982. Comments were received from the following organizations:

American Petroleum Institute
Chevron U.S.A. Inc.
Conoco Inc.
Delta Drilling Company
Exxon Company, U.S.A.
Fluor Drilling Services, Inc.
Gulf Oil Exploration and Production Company
International Association of Drilling Contractors
Louden-Rehm Resource Development Corporation
Marathon Oil Company
Marine Drilling Company
Ocean Drilling & Exploration Company
Prentice & Records Enterprises, Inc.
Santa Fe Drilling Company
Shell Oil Company
Sonat Exploration Company
Zapata Offshore Company

Summaries of the comments received, discussions for accepting or rejecting the suggestions of the commenters, and the final version of MMSS-OCS-T 1, Second Edition, are published below.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall L. Courtois, Chief, Certification and Accreditation Section, Branch of Offshore Field Operations, Minerals Management Service, Mail Stop 640, Reston, Virginia 22092, (703) 860-6831.

Booklet copies of MMSS-OCS-T 1, Second Edition, will be available at the address listed above on or before May 20, 1982. During the interim time, a copy of this **Federal Register** Notice may be obtained from the address above.

Dated: February 11, 1982.

Richard B. Krahl,

Acting Deputy Chief, Offshore Minerals Management.

Comments on the May 29, 1980, Publication With Minerals Management Rationale

Section 2

Subsection 2.1

Comment: One commenter suggested that the requirement that each candidate will be provided with a manual containing the course materials for future reference and review is expensive and unnecessary "in view of the very frequent requalification of candidate * * *."

Discussion: The Minerals Management Service (MMS) believes that because of the volume of material to be covered in the well-control schools, candidates should be provided with a copy of the manual for future reference and review so that candidates may study on their own if desired. The suggestion of deleting the manual requirement has not been adopted.

Subsections 2.2 and 2.4

Comments: It was suggested that the Rotary Helper and Derrickman schools be combined because they were redundant.

Discussion: The MMS considered this suggestion but after careful review felt that the combining of the two rates would not benefit the training program. Combining of the rates would require the approved schools to restructure their existing courses, change their current teaching methods, and put undue burden on new Rotary Helpers required to complete this training in their initial 6 months of employment. Furthermore, with the change to subsection 2.3.1 recognizing equivalent experience, some of the redundancy has been eliminated.

Subsection 2.2.2

Comment: One commenter stated that the Rotary Helper is a laborer, and it seems unreasonable to present him with copies of regulations. The regulations should be used in training and made available to him if he desires them.

Discussion: The suggestion has not been adopted. The training organization has the option of presenting the candidate with a total copy of the regulations, Orders, *or* abstracts of pertinent sections. The option of "presenting abstracts of pertinent sections" does not seem "unreasonable."

Subsections 2.2.2, 2.3.2 and 2.4.2

Comments: A commenter suggested that the first sentence of these subsections which read "the candidate shall receive general instructions on Government regulations that are pertinent to his work and to well-control activities" be amended to agree with the wording found in subsection 2.4.2 which reads "the candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment."

A commenter stated that the requirement that a candidate for the job of either Rotary Helper or Derrickman shall "receive general instructions on Government regulations that are pertinent to his work *and* to well-control activities" exceeds the scope of GSS–OCS–T 1 which states, "This standard provides the minimum criteria for the qualification of drilling personnel in well-control equipment, operations, and techniques to ensure safety and prevent pollution during drilling on offshore locations." The commenter also stated that the wording found in subsection 2.2.2 and 2.3.2 implies that the candidates for Rotary Helper and Derrickman are to receive general instructions on all Government regulations pertaining to their overall work. In fact, they should only receive instructions with regard to Government regulations that pertain to their work in regard to well-control operations and equipment as is required of Drillers, Toolpushers, and Operators' Representatives.

Discussion: The MMS agrees with the intent of the suggestion and, accordingly, the second sentence of subsections 2.2.2 and 2.3.2 has been changed to read, "The candidate shall receive general instructions on Government regulations that are pertinent to the work in regard to well-control activities." Subsection 2.4.2 is unchanged.

Subsections 2.2.3, 2.2.3.1, and 2.3.3

Comment: One commenter recommended replacing "general maintenance" with "care" as maintenance is not a part of the Rotary Helper's or Derrickman's duties and is beyond the scope of well-control school training.

Discussion: The MMS agrees that the word "care" would be more appropriate than maintenance. The second sentence in subsection 2.3.3 and the first sentence in subsection 2.2.3.1 have been changed to read "general care." In the first sentence of subsection 2.3.3, the word "maintenance" has been changed to "care."

Subsection 2.4.2

Comment: One commenter stated that he does not understand the reason for inclusion of "field drillng rules" in subsections 2.4.2, 2.5.2, and 2.6.2 as there are many sets of field drilling rules. The commenter further stated that the candidates are most unlikely to know where they will be working and what "field drilling rules" will be applicable to their workplace.

Discussion: The requirement to teach "drilling procedures including field drilling rules" does not require instruction on any specific field drilling rules but only the general concept of field drilling rules and how they modify OCS Orders. Accordingly, no change in the wording has been adopted for subsections 2.4.2, 2.5.2, and 2.6.2.

Subsection 2.4.3

Comment: One commenter asked why a candidate for Driller qualification "shall have completed training as a Rotary Helper and Derrickman" (subsection 2.4.1), which includes drilling fluids (subsection 2.3.4), should have to repeat this instruction (subsection 2.4.3) for Driller qualification.

Discussion: The MMS feels that the instructions on drilling fluids given to Drillers is somewhat more indepth and conclusive than those given to Rotary Helpers and Derrickmen and should be included in the Drillers' well-control training because of its importance in well-control. Subsection 2.4.1 states, "The candidate shall have completed the training as a Rotary Helper and Derrickman or possess equivalent experience before enrolling in the Driller's course."

Possessing of equivalent experience does not mean that the candidates have had to complete the training as a Rotary Helper and Derrickman and, accordingly, may not have had the instruction on drilling fluids. Therefore, no change has been adopted in subsection 2.4.3.

Subsection 2.4.4

Comment: One commenter suggested that an Item f, "Effect of too rapid lowering of pipe in the hole" be added to subsection 2.4.4 as a major cause of kicks.

Discussion: Subsection 2.4.4 is not an all-inclusive list of the causes of kicks but just examples of the *major* causes of kicks. Subsection 2.4.4 does not try to list them all. The MMS agrees that the effect of too rapid lowering of pipe in the hole can be considered as a major cause of kicks. Subsection 2.4.4 has been changed to reflect this by adding Item f, "Effect of too rapid lowering of pipe in the hole."

Subsection 2.4.7.1e

Comment: One commenter stated that "Pressure limitations on casing" is poorly placed and, as so placed, requires classroom calculations for pressure limitations on casing. The commenter feels that this is a design and metallurgy feature and beyond the scope of a Driller's course.

Discussion: The MMS disagrees with this rationale and did not receive from any of the other commenters that the present wording implies that a detailed design and metallurgical discussion be given when discussing pressure limitations on casing. The MMS feels that the present wording is clear and, accordingly, no change has been adopted.

Subsection 2.4.9c

Comments: Several commenters objected to teaching "use of marine riser" for all Drillers as "less than 5 percent of the rigs use the marine riser." The commenters contend that only personnel who work on floaters should be required to learn about the marine riser.

Discussion: The MMS agrees that the teaching of marine risers to students attending a well-control school for surface stack certification should not have to spend time on learning about marine risers. Subsection 2.4.9, Items c is for subsea courses only.

Subsection 2.4.10.1

Comment: One commenter recommended that Items a through h be deleted as they are cited for Rotary Helpers and Derrickmen.

Discussion: The purpose of this section is to assure that all Drillers are thoroughly familiar with all the equipment listed in subsections 2.4.10 and 2.4.10.1. It is also felt that well-

control schools for Drillers will expose the Driller to different types of equipment and methods for its use whereas Rotary Helpers and Derrickmen training is a hands-on type of training on the rig on which they are employed.

In addition, some Drillers do not go through the Rotary Helper and Derrickman courses because they possess "equivalent experience." There is no way to assure that they have the training unless the items in subsections 2.4.10 and 2.4.10.1 are required in the Driller's course. The request to delete subsection 2.4.10.1 has not been adopted.

Subsection 2.4.10.1b

Comment: Several commenters stated that "Mud-volume measuring device" is too vague and needs clarification.

Discussion: This is precisely the same wording as is found in OCS Order No. 2 subsection 6.2.b which states, "Mud-volume measuring device for accurately determining mud volumes required to fill the hole on trips." Accordingly, no change in subsection 2.4.10.1b has been adopted.

Subsection 2.5.5

Comment: A commenter recommended rewording Item b as follows: "Bleeding volume from a shut-in well during gas migration." The commenter feels that the rewording would clarify this to be a volumetric method of well-control.

Discussion: The MMS agrees with the commenter's recommended wording as it is technically more correct. The recommended wording has been adopted. Subsection 2.5.5. Item "b" has been changed to read, "Bleeding volume from a shut-in well during gas migration."

Subsection 2.6.4

Comment: One commenter stated that "Subsection 2.6.4 should be titled 'Stripping and Snubbing Operations.' Stripping refers to the movement of pipe into or out of a well under its own pressure. Normally, it is not possible to strip all the way into or out of a well under pressure. This is done with snubbing equipment under a snubbing process."

Discussion: The MMS agrees that this suggestion has merit and, accordingly, the title of subsection 2.6.4 has been changed to read "Stripping and Snubbing Operations."

Section 3

Subsections 3.3.3.2, 3.4.3.2, and 3.5.3.2

Comment: A comment was received suggesting a biennial rather than annual refresher course. The use of frequent pit drills and blowout preventer (BOP) tests on the rigs was presented as justification for this change.

Discussion: It is felt that an annual refresher will serve the important function of keeping a candidate abreast of established practices and new techniques and technologies. Therefore, this suggested change has not been adopted.

Subsection 3.4.3.2. and 3.5.3.2

Comment: One commenter stated that the "Basic job of a Toolpusher or Operator's Representative is supervision, not turning of handles." Therefore, "The successful individual control of a well kick" was unnecessary.

Discussion: The MMS believes that the experience of hands-on practice will make the Toolpusher and/or Operator's Representative a more knowledgeable individual and more aware of what he is supervising. Therefore, no change will be made to this subsection.

Section 4

Comment: A commenter stated that "Prescribing a time" for each crew member to perform his duties during a well-control drill is meaningless. It was further stated that only the time to complete the total drill has meaning.

Discussion: There are many variables that will effect a crew member's time performance during a drill, some of them beyond his control. But an individual time is required by subsections 3.1.3. and 3.2.3 for maintenance of qualification. Further, it serves as a "goal" for the crew member to reach and exceed. In a situation where seconds count, this emphasis on individual performance is important. This requirement is not likely to cause difficulty in that unrealistic times are not likely to be set by the company. Therefore, this change has not been adopted.

Section 4—3rd Paragraph

Comment: Paragraph 3 of subsection 4 says, "BOP drills shall be initiated by the Toolpusher through raising the float on the pit level device or the equivalent." This should be expanded or further clarified to permit kicks to be simulated by actuation of the flow-line flapper which the USGS terms "mud-return indicator" in subsection 2.2.3 c.

Discussion: The MMS agrees with the commenter. Section 4, paragraph 3 has been changed to read, "All drills shall be initiated by the Toolpusher through the raising of the float on the pit level device, activating the mud-return indicator or its equivalent."

Section 5–Relief Assignments

Comment: Most comments concerning this section indicated that provisions of the present standard should be restored to allow an individual to perform relief assignments at the higher classification when performed under direct supervision of an employee of higher classification.

Discussion: We received a large number of comments in regard to this section. The MMS agrees with these comments, and Section 5—Relief Assignments has been changed to read, "Any employee who acts as assigned relief for another employee with a higher classification (as covered by this Standard) shall meet the requirements of the higher classified job, unless such temporary duties are performed under direct supervision of an employee of higher classification. (Example: In the event that a Derrickman relieves a Driller, the Derrickman shall be qualified as a Driller unless performing these duties under the direct supervision of the Toolpusher or Operator's Representative.)"

Appendix I

Item I.2

Comment: Several commenters stated, "The total recapitulation of all filings originally necessary to establish the school seems unnecessary, especially in light of the fact that any changes made in the school subsequent to its initial application have had to go through a USGS approval procedure."

Discussion: It is agreed that the original process for recertification is not necessary. Item I.2 has been changed to read as follows:

Previously approved schools will forward to the Deputy Chief, Offshore Minerals Management, at least 90 days prior to their 4-year anniversary date, a letter requesting recertification and state any changes, additions, or deletions, if any, to their previously approved course material and curriculum.

Appendix II

Section I, Item C (1)

Comment: A commenter stated that limiting the class size to 20 students was overly restrictive.

Discussion: This comment is rejected. The MMS believes that the class size should remain at a maximum of 20 students for optimum instructor/student ratio.

Section I, Item G (5)

Comments: A commenter stated that provisions should be made to ensure

that subsea candidates receive training in surface BOP stacks.

Discussion: Subsea BOP stack training generally includes training for surface BOP stacks. Therefore, no changes are made.

Section I, Item L

Comment: One commenter requested that the meaning of "practice run" in this section be defined. The commenter asks, "Does a student's participation as a Driller during a problem constitute a practice run for him?"

Discussion: Appendix II, Section I, Item L requires that schools applying for MMS approval of their well-control program show the method they will use to evaluate the students for the required hands-on portion of the qualification test. The method presented must contain provisions for each student to participate in at least three well-kill problems on the simulator and/or test well with his position rotated prior to the administration of the official test problem. The primary purpose of the requirement of this section is to provide each student with total exposure to a well-killing exercise, regardless of the qualification sought, whether it is a Driller, Toolpusher, or Operator's Representative. This section has not been changed.

Section II, Item H

Comment: One commenter suggested that the proposed certificate of completion should include the "date of last basic course completion." Another commenter suggested that there "should be a system (for certified schools) showing how to label cards and a way to define at a glance whether the refresher course the student is attending is 1st, 2nd, or 3rd."

Discussion: We agree with both commenters that a more effective data gathering, recording, and reporting system for each student by each approved school is needed. Both suggestions are adopted and are incorporated in Appendix II, Section I, Item O of the revision as proposed in the May 29, 1980, **Federal Register** Notice and in Appendix II, Section II, Item K which was inadvertently omitted in the revisions as proposed. It is our thinking that systematic gathering, recording, and storing the additional data will make it less difficult for obtaining or reporting necessary information for all concerned.

Section II, Item I

Comment: A commenter stated that the meaning of this section is not clear, and the 45-day time limit was too restrictive.

Discussion: We agree that perhaps the 45-day time limit is too restrictive, and the subsection has been changed to read as follows: "Refresher course training is required on an annual basis and must be accomplished 60 days before or after the candidate's anniversary date. The anniversary date is established upon the candidate's successful completion of a *basic* course in well-control."

Section II, Item J

Comment: A commenter stated that any change in qualifications including changes from a higher classification to a lower classification as well as upgrading changes should only be allowed through completion of a basic course.

Discussion: The Standard (MMSS–OCS–T 1) is written such that a person qualified at a higher level would have satisfied the training requirement for the next lower level. However, a point of note; if a person chooses to take a refresher course at a lower level than qualified, that person would lose the higher-level rating. Therefore, no change is made.

Appendix III

Section I, Item B

Comment: One commenter stated, "Paragraph I(B) should be amended or interpreted to allow training department representatives and other specialists to present specific portions of the subject matters being taught where such matter is so technical in nature that they may be more qualified to teach it than operations personnel could be."

Discussion: The interpretation is hereby provided that this section as written does not prohibit the use of specialists as instructors. The section does require that the applicant school training plan identify the personnel responsible for administering the program. If such personnel is a Driller, Toolpusher, or Operator's Representative, then they should be qualified in accordance with the applicable requirements of MMSS–OCS–T 1. In the case where the personnel responsible for conducting the training is of another job classification, a résumé of work and teaching experience should be provided.

MMSS–OCS–T 1, Second Edition

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1. Introduction and Scope

This Standard provides the minimum criteria for the qualification of drilling personnel in well-control equipment, operations, and techniques to ensure safety and to prevent pollution during drilling on offshore locations. This standard is applicable to the following drilling personnel classifications:

a. Rotary Helper.
b. Derrickman.
c. Driller.
d. Toolpusher.
e. Operator's Representative.

This Standard is intended for use in the development of training courses and includes recommendations for testing to ensure that all candidates are qualified upon completion of the course. It shall be used in developing and conducting a qualification program as outlined herein. Section 2, 3, and 4 provide the *basic guidelines* for qualifying personnel employed on drilling rigs utilizing either a surface- or subseablowout preventer stack.

In accordance with the provisions of this Standard, the employer shall maintain a record of training for each employee. Each employee shall be furnished documentation upon successful completion of each level of training.

2. Guidelines for Course Curricula

2.1 *Introduction.* This portion of the Standard describes the materials and instructions to be presented to the candidiate through classroom lectures and hands-on demonstrations. Curriculum content is described on a general basis for each drilling crew member classification. Specific details will be developed using the criteria contained in this section as a guideline. Training programs presented by an operator or contractor will be directed toward the well-control equipment and techniques most widely used in their respective operations. Other organizations offering training programs may develop a detailed curriculum

directed toward well-control equipment and techniques most widely used offshore.

Generally, training programs or portions thereof may be conducted wherever they can be presented most effectively: Job site, classroom, or in training facility at another location. However, for this job classification or Rotary Helper and Derrickman, the hand-on training and qualification drills must be performed at their respective job sites. Each candidate will provide with a manual containing the course materials for future reference and review.

2.2 *Rotary Helper Training Criteria for Qualification in Well-Control Operations.*

2.2.1 *Prerequisites for Rotary Helper Qualification.* The candidate shall have satisfied the employment requirements specified by the employer.

2.2.2 *Government Regulations.* The candidate shall receive general instructions on Government regulations that are pertinent to the work in regard to well-control activities. Copies of the regulations, Orders, or abstracts or pertient sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minmum:

a. Drilling procedures.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.2.3 *Blowout Prevention Equipment.* The candidate shall receive general instructions on blowout prevention equipment consistent with the type of blowout preventer stack utilized on the drilling rig upon which the candidate is employed. These instructions shall consist of the purpose, operations, and general care of the following:

a. Annular blowout preventer with and without diverter system.
b. Diverter system
c. Ram-type blowout preventer.
d. Accumulator system.
e. Drill string inside blowout preventer.
f. Drill string safety value.
g. Kelly cock.
h. Choke manifold.

2.2.3.1 In addition to the above, the candidate shall receive instruction on the purpose, operation, and general care of the following auxiliary equipment:

a. Mud-pit level indicator.
b. Mud-volume measuring device.
c. Mud-return indicator.
d. Gas detector.
e. Mud-gas separator.
f. Trip tank.

2.2.4 *The More Obvious Warning Signals of Kicks.* The candidate shall receive instructions on the more obvious warning signals of kicks including, but not limited to, the following:

a. Gain in pit volume and/or increase in mud-return rate.
b. Hole not taking proper amount of mud during trips.
c. Well flowing with pump shutdown.

2.2.5 *Well-Control Operations.* The candidate shall receive hands-on training at the job site for operation of the choke manifold, stand pipe, and mud-room valves which require settings for kill operations different from those used in normal drilling operations.

2.3 *Derrickman Training Criteria for Qualification in Well-Control Operations.*

2.3.1 *Prerequisites for Derrickman Qualifications.* The candidate shall have completed the training as a Rotary Helper or possess equivalent experience before enrolling in the Derrickman course.

2.3.2 *Government Regulations.* The candidate shall receive general instructions on Government regulations that are pertinent to the work in regard to well-control activities. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.3.3 *Blowout Prevention Equipment.* The candidate shall receive general instructions on blowout prevention equipment consistent with the type of blowout preventer stack utilized by the drilling rig upon which the candidate is employed, the candidate shall receive instructions on the purpose, operation, and care of the following equipment:

a. Equipment listed under subsections 2.2.3 and 2.2.3.1.
b. Degasser.
c. Adjustable choke.

2.3.4 *Drilling Fluids.* The candidate shall receive general instructions on drilling fluids with emphasis on the following:

a. Density.
b. Viscosity.
c. Fluid loss.
d. Salinity.
e. Gas-cutting.
f. Procedure for increasing mud density.

2.3.5 *Warning Signals of Kicks.* The candidate shall receive general instructions consistent with his assigned duties on warning signals that indicate a kick or conditions that can lead to a kick such as, but not limited to, the following:

a. Items in subsection 2.2.4.
b. Sloughing shale and its appearance at surface.
c. Drilling rate change.
d. Change in salinity.
e. Change in flow properties of drilling fluid.
f. Trip, connection, and background gas changes.

2.3.6 *Well-Control Operations.* The candidate shall receive hands-on training at the job site on the items covered in subsection 2.2.5 and general instructions on well-killing operations.

2.4 *Driller Training Criteria for Qualification in Well-Control Operations.*

2.4.1 *Prerequisites for Driller Qualification.* The candidate shall have completed training as a Rotary Helper and Derrickman or possess equivalent experience before enrolling in the Driller's course.

2.4.2 *Government Regulations.* The candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures including field drilling rules.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.4.3 *Drilling Fluids.* The candidate shall receive instructions on drilling fluids with emphasis on the following:

a. Density.
b. Viscosity.
c. Fluid loss.
d. Salinity.
e. Gas-cutting.
f. Procedure for increasing mud density.

2.4.4 *Causes of Kicks.* The candidate shall receive instructions on the major causes of kicks. These causes include:

a. Failing to keep the hole full.
b. Swabbing effect of pulling the pipe.
c. Loss of circulation.
d. Insufficient density of drilling fluid.
e. Abnormally pressured formations.
f. Effect of too rapid lowering pipe in the hole.

The importance of measuring the mud required to fill the hole during trips and methods for measuring and recording hole-fill volumes shall be emphasized. Such importance shall be further emphasized for shallow gas conditions.

2.4.5 *Warning Signals of Kicks.* The candidate shall receive instructions on the warning signals that indicate a kick or condition that can lead to a kick. These warning signals include:

a. Gain in pit volume.
b. Increase in return mud-flow rate.
c. Hole not taking proper amount of mud during trips.
d. Drilling rate change.
e. Decrease in circulating pressure or increase in pump strokes.
f. Trip, connection, and background gas changes.
g. Gas-cut mud.
h. Water-cut mud or chloride change.
i. Sloughing shale and its appearance at the surface.
j. Well flowing with pump shutdown.
k. Change in flow properties of drilling fluid.

2.4.6 *Shutting-in a Well for Well-Control Purposes.* The candidate shall receive instructions on the correct procedures for controlling a well with the blowout preventer system, the choke manifold, and/or the diverter system. These instructions shall include the sequential steps to be followed to be consistent with the type of blowout preventer stack utilized by the drilling rig on which the candidate is employed.

2.4.7 *Well-Control Operations.* The candidate shall receive instructions on one of the following constant bottom-hole pressure methods of well-control:

a. Driller's.
b. Wait and weight.
c. Concurrent (circulate and weight).
d. Other applicable constant bottom hole pressure methods.

2.4.7.1 The instruction process for the above shall include those conditions which may be unique to either the surface- or subsea-blowout preventer stack utilized by the drilling rig upon which the candidate is employed. An adequate simulator is an acceptable alternate to the model well. A complete well-killing exercise shall be carried out using a simulator or a model well. Classroom instructions shall cover well-control calculations and the reasons for their use. These instructions include:

a. Mud density increase required to control kick.
b. Conversion between mud density and pressures and the importance of the conversions in understanding formation breakdown, particularly with shallow casing setting.
c. Drop in pump pressure as mud density increases during kill operations.
d. Relationships between pump pressure, pump rate, and mud density.
e. Pressure limitations on casings.

2.4.8 *Unusual Well-Control Operations.* The candidate shall receive instructions on unusual well-control situations to include as a minimum:

a. When drill pipe is off bottom.
b. When out of hole.
c. When lost circulation occurs.
d. When drill pipe is plugged.
e. Excessive casing pressure.
f. Hole in drill pipe.

2.4.9 *Controlling Shallow Gas.* The candidate shall receive instructions on the following:

a. Controlling shallow gas kicks.
b. Use of diverters.
c. Use of marine risers (subsea candidates only).

s2.4.10 *Blowout Preventer and Diverter System.* The candidate shall receive instructions on the Blowout Preventer and Diverter Systems:

a. Installation.
b. Operation.
c. Maintenance.
d. Testing.

2.4.10.1 In addition to the above, the candidate shall receive instructions on the purpose, installation, operation, and general maintenance of the following auxiliary equipment:

a. Mud pit level indicator.
b. Mud-volume measuring device.
c. Mud-return indicator.
d. Gas detector.
e. Trip tank.
f. Mud-gas separator.
g. Degasser.
h. Adjustable choke.

2.4.11 *Closing Units.* The candidate shall receive instructions on proper accumulator precharge pressures and the relationship between precharge pressure, operating pressure, and usable volumes using appropriate problems. In addition, maintenance of equipment shall be included.

2.5 *Toolpusher Training Criteria for Qualification in Well-Control Operations.*

2.5.1 *Prerequisites for Toolpusher Qualification.* The candidate shall have completed the training described in subsection 2.4 for the Driller or possess the equivalent experience.

2.5.2 *Government Regulations.* The candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures including field drilling rules.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.5.3 *Well-Control Calculations.* The candidate shall receive instructions on the calculations required for well-control operations. Example calculations shall be practiced in class problems. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.5.4 *Equipment Limitations.* the candidate shall receive instructions on the limitations of the various items of equipment which will be subjected to pressure and/or wear.

2.5.5 *Mechanics Involved in Well-Control Situations.* The candidate shall receive instructions on the mechanics involved in various well-control situations. The instructions shall include the following subjects:

a. Gas bubble migration and expansion.
b. Bleeding volume from a shut-in well during a gas migration.
c. Excessive annular surface pressures.
d. Differences between a gas kick and a salt water and/or oil kick.
e. Procedures and problems involved in stripping operations with drill pipe.
f. Special well-control techniques such as, but not limited to, barite plugs and cement plugs.
g. Procedures and problems involved when experiencing loss circulation in well-killing operations.

2.5.6 *Supervision of Well-Control Operations.* The candidate shall receive instructions on organizing and directing a well-killing operation and shall subsequently direct such an operation using a model well or equivalent simulation device. In addition, the candidate shall receive instructions on a diverter operation.

2.5.7 *Closing Units.* The candidate shall receive instructions on the purpose and usage of closing units, including the following:

a. Charging Procedures.
(1) Precharge pressure.
(2) Operating pressure.
b. Fluid Volumes.
(1) Usable.
(2) Required.
c. Fluid pumps.
d. Maintenance.
(1) Charging fluid.
(2) Inspection procedures.

2.6 *Operator's Representative Training Criteria for Qualification in Well-Control Operations.*

2.61 *Prerequisites for Operator's Representative Qualification.* All candidates shall be familiar with the basic duties and training of the Rotary Helper, the Derrickman, the Driller, and the Toolpusher during well-control situations.

2.62 *Government Regulations.* The candidate shall receive instructions on all applicable Government regulations that pertain to his work in regard to well-control operations and equipment. Copies of the regulations, Orders, or abstracts of pertinent sections shall be furnished to the candidate. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the Government requirements. These instructions shall include as a minimum:

a. Drilling procedures including field drilling rules.
b. Plugging and abandonment.
c. Pollution and waste disposal.

2.6.3 *Well-Control Operations.* The candidate shall receive instructions on one of the constant bottom-hole pressure methods of well-control as set out under subsection 2.4.7 of this Standard. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.6.4 *Stripping and Snubbing Operations.* The candidate shall receive instructions on the use of the entire blowout preventer system for working pipe in or out of a wellbore which is under well pressure.

2.6.5 *Detecting Abnormally Pressured Formations.* The candidate shall receive instructions on accepted practices used for detecting entry into abnormally pressured formations and the accompanying warning signals. These signals include:

a. Penetration rate change.
b. Shale density change.
c. Mud chloride change.
d. Shale cutting characteristics.
e. Trip, connection, and background gas changes.

2.6.6 *Supervision of Well-Control Operations.* The candidate shall receive instructions on organizing and directing a well-killing operation and shall subsequently direct such an operation using a model well or equivalent simulation device. In addition, the candidate shall receive instructions on a diverter operation.

3. Qualification Procedures

3.1 *Rotary Helper.*

3.1.1 *Prerequisites.* Prior to qualification as a Rotary Helper, the candidate shall have satisfied the training criteria of subsection 2.2 within the first 6 months of his initial employment.

3.1.2 *Type of Test.* The Rotary Helper qualification test will be a crew performance drill that requires the Rotary Helper to carry out his assignment in a well-control drill within a prescribed time limit (see section 4).

3.1.3 *Maintenance of Qualification.* To maintain his qualification, the candidate must participate in well-control drills, as described in section 4, and carry out his assignments within the time limit prescribed for the drill.

3.1.4 *Documentation of Test Results.* The time required for the candidate to complete the drill shall be recorded on the driller's log. Appropriate documentation of initial qualification shall be furnished to the successful candidate.

3.2 *Derrickman.*

3.2.1 *Prerequisites.* The candidate shall have satisfied the criteria of subsections 2.3 and 3.1.

3.2.2 *Type of Test.* The Derrickman qualification test will be a crew performance drill that requires the Derrickman to carry out his assignment in a well-control drill within a prescribed time limt (section 4).

3.2.3 *Maintenance of Qualification.* To maintain his qualfication, the candidate must participate in well-control drills, as described in section 4, and carry out his assignments within the time limit prescribed for the drill.

3.2.4 *Documentation of Test Results.* The time required for the candidate to complete the drill shall be recorded on the driller's log. Appropriate documentation of initial qualification shall be furnished to the successful candidate.

3.3 *Driller.*

3.3.1 *Prerequisites.* The candidate shall have completed the training for Rotary Helper and Derrickman or possess the equivalent experience. He shall have completed the training criteria outlined in subsection 2.4.

3.3.2 *Qualification Tests.* Written and/or verbal tests and hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well-control equipment and techniques outlined in subsection 2.4.

3.3.3 *Maintenance of Qualification.* The candidate shall maintain qualification by:

1. Successful repetition of the criteria set forth in subsections 2.4 and 3.3 every 4 years.
2. Successful completion of an annual refresher course in well-control operations during the intermediate period.

This refresher course shall be a minimum of 8 hours and shall include instruction and training in the most recent improvements in equipment and methods for blowout prevention using a test well or simulator.

3.3.4 *Documentation of Test Results.* Test results shall be entered in the candidate's training record, and appropriate documentatoin shall be furnished the candidiate upon successful completion.

3.4 *Toolpusher.*

3.4.1 *Prerequisites.* The candidate shall have completed the training for Driller or possess the equivalent experience. He shall have completed the training requirements outlined in subsection 2.5.

3.4.2 *Qualification Tests.* Written and/or verbal tests and hands-on demonstratoins shall be used to verify that the candidate has a thorough understanding of the well-control equipment, techniques, and principles outlined in subsection 2.5.

3.4.3 *Maintenance of Qualification.* The candidiate shall maintain qualification by:

1. Successful repetition of the criteria set forth in subsections 2.5 and 3.4 every 4 years.
2. Successful completion of an annual refresher course in well-control operations during the intermediate period.

This refresher course shall be a minimum of 8 hours and shall include instruction and training in the most recent improvements in equipment and methods for blowout prevention and shall include the successful individual control of a well kick using a test well or simulator.

3.4.4 *Documentation of Test Results.* Test results shall be recorded in the candidate's training file, and appropriate documentation shall be furnished the candidate upon successful completion.

3.5 *Operator's Representative.*

3.5.1 *Prerequisites.* The candidate shall be familiar with the basic duties of Rotary Helper, Derrickman, Driller, and Toolpusher during well-control operations and shall have completed the training requirements outlined in subsection 2.6.

3.5.2 *Qualification Tests.* Qualification tests and hands-on demonstration shall be used to assure that the Operator's Representative candidate has a thorough understanding of the well-control equipment principles and practices, outlined in subsection 2.6, and is qualified to organize and direct a well-control operation.

3.5.3 *Maintenance of Qualification.* The candidate shall maintain his qualification by:

1. Successful repetition of the criteria set forth in sections 2.6 and 3.5 every 4 years.
2. Successful completion of an annual refresher course in well-control operations during the intermediate period.

This refresher course shall be a minimum of 8 hours and shall additione

instruction and training in the most recent improvements in equipment and methods for blowout prevention and shall include the successful individual control of a well kick using a test well or simulator.

3.5.4 *Documentation of Test Results.* Test results shall be recorded in the candidate's training file, and appropriate documentation shall be furnished the candidate upon successful completion.

4. Well-Control Drills

The individual assignments for the crew members during a well-control operation will, of necessity, vary with the equipment on the offshore unit and with the type of operations being performed. Thus, the drills shall be designed to acquaint each crew member with his function on the particular test station so he can perform it promptly and efficiently.

The steps described below are general and are based upon the essentials of the operation and should be varied to fit the equipment, personnel, and specific needs of each site. A well-control drill plan, applicable to the particular site, shall be prepared for each crew member outlining the assignments he is to fulfill during the drill and establishing a prescribed time for the completion of his portion of the drill. A copy of the complete well-control drill plan shall be posted on the rig's floor and/or bulletin board.

The actual drill shall be carried out during periods of activity which would minimize the risk of sticking the drill pipe or otherwise endangering the operation. In each of these drills, the reaction time shall be measured up to the point when the designated person is in the position to begin the closing sequence of the blowout preventer. The total time for the crew to complete its entire pit drill assignment shall also be measured. This operation shall be recorded on the driller's log as "Well-Control Drill." All drills shall be initiated by the Toolpusher through the raising of the float on the pit level device, activating mud-return indicator, or their equivalent. This operation shall be performed at least one each week (well conditions permitting) with each crew. The drills shall be timed so they will cover a range of different operations which include on-bottom drilling and tripping. A diverter drill shall be developed and conducted in a similar manner for shallow operations.

Suggested items for inclusion in "On-Bottom Drilling" and "Tripping Pipe" drills are set out in subsections 4.1 and 4.2 respectively. The listing of these items does not necessarily constitute a recommendation that each of the items be included in the drill or that the drill sequence be the same as the listing.

4.1 *On-Botton Drilling.* A drill conducted while on bottom may include the following:

a. Detect kick and sound alarm.
b. Position kelly and tool joints so connections are accessible from floor, but tool joints are clear of sealing elements in stack; stop pumps; check for flow; close in the well.
c. Record time.
d. Record drill pipe pressure and casing pressure.
e. Measure pit gain and mark new level.
f. Estimate volume of additional mud in pits.
g. Weigh sample of mud from suction pit.
h. Check all valves on choke manifold and blowout preventer stack for correct position (open or closed).
i. Check blowout preventer stack and choke manifold for leaks.
j. Check flow line and choke exhaust lines for flow.
k. Check accumulator pressure.
l. Prepare to extinguish sources of ignition.
m. Alert standby boat or prepare safety capsule for launching.
n. Place crane operator on duty for possible personnel evacuation.
o. Prepare to lower escape ladders and prepare other abandonment devices for possible use.
p. Determine materials needed to circulate out kick.
q. Time drill and enter drill report on driller's log.

4.2 *Tripping Pipe.* A drill conducted during a trip may include the following:

a. Detect kick and sound alarm.
b. Install safety valve; close safety valve.
c. Position pipe; prepare to close annular preventer.
d. Install inside preventer; open safety valve.
e. Record time.
f. Record casing pressure.
g. Check all valves on choke manifold and blowout preventer stack for correct position (open or closed).
h. Check for leaks on blowout preventer stack and choke manifold.
i. Check flowline and choke exhaust lines for flow.
j. Check accumulator pressue.
k. Prepare to extinguish sources of ignition.
l. Alert standby boat or prepare safety capsule for launching.
m. Place crane operator on duty for possible personnel evacuation.
n. Prepare to lower all escape ladders and prepare other abandonment devices for possible use.
o. Prepare to strip back to bottom.
p. Time drill and enter drill report on driller's log.

5. Relief Assignments

Any employee who acts as assigned relief for another employee with a higher classification (as covered by this Standard) shall meet the requirements of the higher classified job, unless such temporary duties are performed under direct supervision of an employee of higher classification. (Example: In the event that a Derrickman relieves a Driller, the Derrickman shall be qualified as a Driller unless performing these duties under the direct supervision of the Toolpusher or Operator's Representative.)

Appendix I—General Well-Control Training Guidelines

The following guidelines are provided for those organizations submitting well-control programs for review. These guidelines delineate the requirements utilized by the Minerals Management Service in the evaluations of submitted programs as meeting the criteria of the MMSS–OCS–T 1 training standard.

General Well-Control Program Guidelines

A. Mail all programs and related correspondence to the Deputy Chief, Offshore Minerals Management, Minerals Management Service, MS 640, National Center, Reston, Virginia 22092.

B. Submit three copies of the information required in Appendices II and III, including a listing of the materials contained therein, except for Items, I.H and II.B of Appendix II and Item H of Appendix III.

C. Submit two copies of the information required in Items I.H and II.B of Appendix II and Item H of Appendix III.

D. A training plan submitted by an applicant school shall contain a cross-reference of its training manual to MMSS–OCS–T 1.

E. A training manual shall be representative of the subject matter addressed during the course of the school.

F. A student is required to attend the entire class. Students who are absent from any part of the class must make up the missed portion of the course before credit will be awarded.

G. Schools shall furnish the Minerals Management Service onsite evaluators a copy of their training manual during the onsite evaluation.

H. Certified basic and refresher well-control schools shall retain all required records for the first 5 years from the date of school approval. At the end of the fifth year, a school may destroy the records of the first year, and, at the end of the sixth year, a school may destroy the records of the second year, etc.

I. Recertification.

1. Basic well-control courses and refresher courses will be approved for a maximum of 4 years.

2. Previously approved schools will forward to the Deputy Chief, Offshore Minerals Management, at least 90 days prior to their 4-year anniversary date, a letter requesting certification and state any changes, additions, or deletions, if any, to their previously approved course material and curriculum.

J. Certified schools are subject to unannounced onsite evaluations by Minerals Management Service personnel.

Appendix II—Basic and Refresher Well-Control Training Program Guidelines

Well-Control program requirements for job classification of Drillers (DR), Toolpushers (TP), and Operators' Representatives (OR) of surface and subsea operation are as follows:

I. Basic Well-Control Course Guidelines

Organizations are required to submit a training plan to the Minerals Management Service for approval. This plan shall contain the following:

A. A curriculm outline describing subject matter content in relation to the MMSS–OCS–T 1 training standard. The outline submitted will be similar to the format listed below:

Job Classification—Driller
First Day—10 hours
Subject X—5 hours
  Detail A
  Detail B
  Detail C
Subject Y—3 hours
  Detail D
Subject Z—2 hours
  Detail E
  Detail F
Second Day—10 hours
Subject M—5 hours
  Detail G
  Detail H
  Detail I
Subject N—5 hours
  Detail J
  Detail K

B. Qualifying credentials of instructors including education and experience (both work experience and teaching experience).

C. Class Size.

1. No more than 20 candidates per lecture.
2. No more than four candidates per (hands-on) lab exercise.
3. A daily record of student attendance shall be maintained.

D. A description of classroom and lab facilities including equipment and simulator/test well.

E. Classroom/lab time ratio.

F. Material presentation method (lecture, video, filmstrip, etc.) indicating approximate percentages of overall instructional time presented by each method as follows, i.e.:

Lecture—70 percent
Video tape—10 percent
Film strips—10 percent
Simulator—10 percent

Method of presentation, i.e.:

Subject X—4-hour lecture plus 1-hour video tape
Subject Y—2-hour lecture plus 1-hour filmstrip

G. Testing methods (including a sample of the tests to be given). Take-home tests will not be permitted.

(1) The candidate must satisfactorily and completely perform the hands-on test.

(2) The candidate must answer at least 70 percent of all test questions correctly.

(3) The school must submit the methods they will use to assure that the test will be nonrepetitive and will remain confidential.

(4) Retest (written or simulator) is authorized if accomplished within 48 hours. Test questions or problems on retest must be different than those given candidates originally. If the candidate fails either the written or simulator retest, the candidates must repeat the entire course.

(5) Personnel trained and qualified for subsea blowout preventer (BOP) stacks will be automatically qualified for surface BOP stacks.

H. A copy of handouts or materials to be provided candidates for use and retention for future reference. These handouts shall form a complete training manual.

I. A copy of the proposed certificate of successful completion shall include the following:

(1) Candidate's full name.
(2) Course and school.
(3) Date candidate successfully completed course.
(4) Job classification for which certification is awarded.
(5) Surface or subsea qualification.

J. Differences in instructional material for qualifying personnel employed on drilling rigs utilizing a surface BOP stack versus a subsea BOP stack.

K. School's method of updating curriculum and/or facilities to reflect technological advances, Government regulation changes, etc., i.e.:

(1) Attendance at technical meetings.
(2) Review of technical publications.
(3) Review of course by technical and industry advisory boards (e.g., IADC, API, etc.).
(4) Feedback from prior students.
(5) Input from company R&D Programs.

L. Methods for performing student's hands-on qualification test. This should include at least three practice problems with the student's position rotated as part of a team and one official test problem.

M. Means to verify student entrance prerequisites.

N. A course schedule will be submitted to the MMS after acceptance of training plan and on at least a semiannual basis thereafter.

O. A school will notify the Deputy Chief, Offshore Minerals Management, by letter of all the students that have successfully completed the course. This letter will contain the following information:

(1) Candidate's full name.
(2) Name of school.
(3) Course type (Basic or Refresher).
(4) Date candidate successfully completed course.
(5) Name of instructor teaching each class.
(6) Student's social security number (optional).
(7) Student's employer.
(8) Job title of students.
(9) Job classification for which certification is awarded.
(10) Qualification achieved/awarded students (surface, subsea).
(11) Test score for each candidate awarded certificate.
(12) Name of last school attended by student.
(13) Date of last well-control course taken by candidate.

P. The applicant shall also state the method they will use to instruct and test those individuals believed to be qualified but nonresponsive to conventional education and testing techniques. The methods employed may include, but not be limited to, oral tests, use of an interpreter, or tutorial assistance.

II. Refresher Course Guidelines

Schools applying for refresher course certification should submit the following information:

A. Refresher course "Training Plan."

1. Curriculum outline.

a. As a minimum, one constant bottom-hole pressure method.
b. Simulated well-kick control (as a minimum, one practice, one test run).
c. Improvements in blowout prevention equipment and methods.
d. New Government requirements applicable to offshore operations.

2. Qualifying credentials of instructors including education and experience (both work experience and teaching experience).

B. A copy of a training manual comprised of the handouts or materials to be furnished the candidates for their use and retention for future reference

(not required for schools certified for a basic well-control course).

C. Refresher courses conducted by schools not certified for a basic well-control course will require an onsite evaluation prior to approval.

D. Refresher courses shall include a minimum of 8 hours of instruction of subject matter covered in their course curriculum outline.

E. Class size.

1. No more than 20 candidates per lecture.
2. No more than four candidates per (hands-on) lab exercise.
3. A daily record of student attendance shall be maintained.

F. The candidate must satisfactorily and completely perform the hands-on test.

G. Hands-on retest is authorized if accomplished within 48 hours. Test problems must be different than those given candidate originally. If the candidate fails the retest, he must repeat the entire course.

H. The proposed certificates of successful completion shall include the following:

1. Candidate's full name.
2. Course and school name.
3. Date of succesful completion.
4. Job classification.
5. Surface or subsea qualification.

I. Refresher course training is required on an annual basis and must be accomplished within 60 days before or after candidate's anniversary date. The anniversary date is established upon the candidate's successful completion of a *basic* course in well-control.

J. Candidates cannot upgrade their qualifications, i.e., surface to subsea, Driller to Toolpusher, etc., via a refresher course. Upgrading of qualification can be accomplished only by attendance at an approved basic course.

K. A school will notify the Deputy Chief, Offshore Minerals Management, by letter of all the students that have successfully completed the course.

Note.—See Appendix II, Section I, Item O for details of information required to be recorded and provided.

Appendix III—Rotary Helper and Derrickman Well-Control Training Program Guidelines

Well-Control program requirement for the job classification of Rotary Helper and Derrickman are as follows:

Organizations are required to submit a training plan to the Minerals Management Service for approval. This plan shall contain the following:

A. A Curriculum outline describing subject matter content in relation to the MMSS–OCS–T 1 training standard for Rotary Helper and Derrickman classifications. The outline submitted will be similar to the format listed below:

First Day—8 hours
Subject X—3 hours
  Detail A
  Detail B
  Detail C
Subject Y—3 hours
  Detail D
Subject Z—2 hours
  Detail E
  Detail F
Second Day—8 hours
Subject M—2 hours
  Detail G
  Detail H
Subject N—6 hours
  Detail I
  Detail J

B. Personnel responsible for providing the instructions shall be identified and qualified to the applicable requirements of MMSS–OCS–T 1 for their respective classification.

C. Class Size.

1. No more than 20 candidates per lecture.
2. Hands-on completed with a representative rig crew.

D. Description of classroom facilities unless training is conducted at the job site.

E. Classroom/lab time ratio.

F. Material presentation method (lecture, video, filmstrip, etc.) indicating approximate percentages of overall instructional time presented by each method as follows, i.e.:

Lecture—70 percent
Video tape—10 percent
Film strips—10 percent
Hands-on—10 percent

Method of presentation, i.e.:

Subject X—4-hour lecture plus 1-hour video tape
Subject Y—2-hour lecture plus 1-hour filmstrip

G. Testing method to measure the candidate's successful completion of training course.

H. A copy of handouts or materials to be provided candidates for their use and retention for future reference. These handouts shall form a complete training manual.

I. A copy of proposed certificates of successful completion shall include the following:

1. Candidate's full name.
2. Course location.
3. Date candidate successfully completed initial qualification.
4. Job classification for which certification is awarded.

J. School's method of updating curriculum to reflect technological advances, Government regulation changes, etc.

K. Means to verify candidate's entrance prerequisite.

[FR Doc. 82-4494 Filed 2-18-82; 8:45 am]
BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit Agreement No. 14–08–001–3847, submitted on January 28, 1982, a proposed annual plan of development/production describing the activities it proposes to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Date: February 12, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-4453 Filed 2-18-82; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Getty Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Getty Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4242, Block 76, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of title 30 of the Code of Federal Regulations.

Dated: February 12, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–4450 Filed 2–18–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Tenneco Oil Exploration and Production, Unit Operator of the East Cameron Block 353 Federal Unit Agreement No. 14–08–0001–16147, submitted on January 28, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the East Cameron Block 353 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Mangement Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Date: February 12, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–4452 Filed 2–18–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Co. of California

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Union Oil Company of California, Unit Operator of Vermilion Block 14 Federal Unit Agreement No. 14–08–0001–12339, submitted on February 2, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Vermilion Block 14 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Date: February 12, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–4451 Filed 2–18–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Amoco Production Co. (USA)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposed to conduct on Lease OCS–G 3088, Block 623, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Conservation Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and

procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 9, 1982.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-4408 Filed 2-18-82; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: February 9, 1982.

Scott Transfer Co. (MC-116947 and MC-117956) and Bacon Motor Express, Inc. (MC-106863) have filed a petition for waiver of Subpart B, §§1057.11 and 1057.12 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), with respect to equipment augmented between them.

Findings:

1. Petitioners are commonly controlled and administer a common safety program.
2. Petitioners have acceptable fitness records.
3. Greater economy and efficiency would result if the waiver were granted in part.

It is ordered:

1. The petition of Scott Transfer Co. and Bacon Motor Express for waiver of Subpart B §§ 1057.11 and 1057.12), is granted, except for paragraph (b) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and responsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until possession of the equipment is returned to the lessor and the receipt required under paragraph (b) of § 1057.11 is received by the lessee or possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.
2. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4407 Filed 2-18-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficent protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated February 10, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-F-14783F, filed January 15, 1982. MONTANA CONSULTANTS, INC. d.b.a. TOMAHAWK TRANSPORTATION, INC. (Montana), 5400 Laurel Road, Billings, MT 59101—PURCHASE—TOMAHAWK TRUCKING, INC., (Tomahawk), 5400 Laurel Road, Billings, MT 59101. Representatives: David A. Sutherland, 1150 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036 and William S. Richards, 48 Post Office Place, Salt Lake City, UT 84100. Montana seek authority to purchase the operating rights of Tomahawk. T. M. O'Neill, Charles E. Cornett, and Myra E. Cornett, who jointly control Montana, seek in turn to acquire control of said rights through the transaction. Montana is purchasing the operating rights of

Tomahawk contained in Certificates No. MC–115092 (Sub-Nos. 109, 111, 112, 124, 125, 126, 127, 128, 129, 130, and 131), which authorize the transportation, as a motor carrier, over irregular routes of various commodities, such as furniture fixtures, building materials, rubber and plastic products, clay products, throughout numerous points in the continental United States. Montana presently has an application pending in No. MC–158288.

Note.—An application for temporary authority has been filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4489 Filed 2-18-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–28

Decided: February 5, 1982.

By the Commission, Review Board 1, Members Parker, Chandler, and Fortier.

MC 160072, filed January 11, 1982. Applicant: W. RICKEY FRENCH d.b.a. FRENCH TRUCKING, Route 2, Box 234, Lexington, TN 38351. Representative: W. Rickey French (same address as applicant), (901) 968–8433. Transporting *food and other edible products and byproducts intended for human comsumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160132, filed January 18, 1982. Applicant: THOMAS C. DAY, d.b.a. DAYCO TRUCKING, 1510 Lithia Way, Talent, OR 97540. Representative: Thomas C. Day, P.O. Box 351, Talent, OR 97540, 503–535–5468. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160153, filed January 18, 1982. Applicant: JOHN DOWNES, 81 Charles Diersch Street, E. Weymouth, MA 02189. Representative: John Downes (same address as above). As a broker of *general commodities,* (except household goods), between points in the U.S.

MC 160173, filed January 19, 1982. Applicant: WILLIAM DUNN, 25553 S. Springwater Rd., Estacada, OR 97023. Representative: William Dunn (same address as applicant), 503–630–4052. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160193, filed January 20, 1982. Applicant: J & R BROKERAGE LIMITED, 5500 Military Road, Sioux City, IA 51103. Representative: D. Douglas Titus, 340 Insurance Exchange Building, Sioux City, IA 51101 (712) 277–1434. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160253, filed January 25, 1982. Applicant: DANIELS TRUCKING, P.O. Box 215, Whitewood, SD 57793. Representative: Arthur D. Daniels (same address as applicant) 605–269–2433. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S, and (3) Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP1–26

Decided: February 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160360, filed February 1, 1982. Applicant: JOHN AMMONS, Route 4, Box 72, Zebulon, NC 27597.

Representative: Archie W. Andrews, 617 F Lynrock Terrace, Eden, NC 27288, (919) 627–0555. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160361, filed February 2, 1982. Applicant: INDUSTRIAL TRANSPORT, LTD., 1445 South Main Street, Waterbury, CT 06706. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160381, filed February 1, 1982. Applicant: UNITY TRUCK BROKER, 8600 S.W. Ellingsen Rd., PO Box 451, Wilsonville, OR 97070. Representative: David M. Mottley (same address as applicant). As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP5–34

Decided: February 10, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 141398 (Sub-1), filed February 2, 1982. Applicant: J&W MOVING & STORAGE CO., INC., 3129 Dial St., Prichard, AL 36610. Representative: John W. Jones, Sr. (same address as applicant), (205) 456–4539. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–4486 Filed 2–18–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–25

Decided: February 9, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 29090 (Sub-41), filed December 21, 1981, previously noticed in the **Federal Register** on January 18, 1982. Applicant: ROCKLAND COACHES, INC., 126 N. Washington Ave., Bergenfield, NJ 07621. Representative: W. C. Mitchell, 370 Lexington Ave., Suite 1201, New York, NY 10017, (212) 532–5100. Transporting *passengers and their baggage*, in the same vehicle with passengers, over regular routes, (1) between junction U.S. Hwy 9–W and NY Hwy 303 at or near Congers, NY, and junction Lake Rd. and NY Hwy 303 at or near Congers, NY, over NY Hwy 303; (2) between junction NY Hwy 303 and Rockland Lake Rd., at or near Valley Cottage and Orangeburg, NY, over NY Hwy 303; and (3) between junction Gay's Hill Rd. and U.S. Hwy 9–W at or near Tomkins Cove, NY, and Stony Point, NY, over U.S. Hwy 9–W, serving all intermediate points in Routes (1) thru (3) above.

Note.—Applicant intends to tack this authority with its existing regular route authority.

Note.—This republication corrects the route description.

MC 66571 (Sub-14), filed February 4, 1982. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24031. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (203) 629–2818. Transporting *furniture and fixtures*, between Johnson City, TN, and points in GA, NC, and VA, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, MD, NC, NJ, NY, OH, PA, SC, TN, VA, WV, and DC.

MC 117940 (Sub-372), filed February 2, 1982. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359, (612) 479–1984. Transporting *general commodities* (except classes A and B explosives and

household goods), between points in the U.S., under continuing contract(s) with Carrier Corporation, of Syracuse, NY.

MC 118341 (Sub-6), filed February 2, 1982. Applicant: VALLEY TRUCKING CO., INC., P.O. Box 2298, Brownsville, TX 78520. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting *transportation equipment*, between points in Cameron County, TX, on the one hand, and, on the other, points in CA, DE, GA, IL, KS, KY, LA, MA, MD, MS, MO, NJ, NY, OK, PA, WI, WV and TX.

MC 125710 (Sub-4), filed February 2, 1982. Applicant: SCHIPPERS SERVICE, INC., 1049 Buskhill Drive, Easton, PA 18042. Representative: Paul B. Kemmerer, 1620 N. 19th St., Allentown, PA 18104, (215) 432–7946. Transporting *petroleum, natural gas and their products*, (a) between points in Lehigh, Northampton and Philadelphia Counties, PA, and points in NJ, (b) between points in Lehigh County, PA, and points in NY, (c) between points in Essex, Middlesex, Union and Warren Counties, NJ, and Richmond County, NY, on the one hand, and, on the other, points in PA, and (d) between points in Hudson and Union Counties, NJ, and points in NY.

MC 136511 (Sub-113), filed February 4, 1982. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main St., Altavista, VA 24517, (804) 369–5661. Transporting *plastic articles*, between points in Frederick County, VA, and Johnson County, TX, on the one hand, and, on the other, points in the U.S.

MC 144630 (Sub-63), filed February 2, 1982. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *food and related products*, between points in Franklin County, OH, Coles County, IL, and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S.

MC 147570 (Sub-7), filed January 25, 1982. Applicant: KABAT EXPRESS, INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254, (216) 948–2531. Transporting *(1) building materials, (2) chemicals and related products, (3) such commodities as are dealt in by retail drug, variety, and discount stores, (4) earth moving equipment and parts, (5) machinery, (6) metal products, and (7) rubber and plastic products*, between those points in the U.S. in and east of MT, WY, CO, and NM.

MC 148341 (Sub-5), filed February 2, 1982. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211, (213) 655–3573. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of picture frames, albums, wall decor, clocks, and mirrors, between points in the U.S., under continuing contract(s) with Intercraft Industries Corp., of Carson, CA.

MC 148380 (Sub-21), filed February 4, 1982. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 29 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *metal products and construction materials*, between points in the U.S. (except AK and HI).

MC 150301 (Sub-18), filed February 3, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with Packaging Corporation of America, Inc. and Spartan Stores, Inc., both of Grand Rapids, MI.

MC 151430 (Sub-2), filed February 4, 1982. Applicant: SAN-DEE TRUCKING CORP., 19–41 Chapel Street, Newark, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904, (201) 572–5551. Transporting *food and related products*, between New York, NY, Philadelphia, PA, and points in Atlantic County, NJ, and Windham County, CT, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 151611 (Sub-4), filed February 2, 1982. Applicant: WAYFARE TRUCKING, INC., 725 Industrial Ave., Port Hueneme, CA 93041. Representative: Ronald C. Chauvel, 100 Pine St., San Francisco, CA 94111, (415) 986–1414. Transporting *foundry supplies and products*, between points in the U.S. (except AK and HI).

MC 154631 (Sub-3), filed February 3, 1982. Applicant: TRANSPORT SPECIALISTS, INC., 545 Front Street, Woonsocket, RI 02895. Representative: Richard J. Wood, Jr. (same address as applicant), (401) 765–3800. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with (1) Food Container Corporation, of Warren, RI, (2) Mobile Chemical Company, of Macedon, NY, (3) Oak Laminates Group, Inc., of Franklin, NH, and (4) Doehla, Inc., of Nashua, NH.

MC 155411, filed February 4, 1982. Applicant: S & C TRANSPORT, INC., 16657 Kennebec, Southgate, MI 48195. Representative: Neill T. Riddell, 900 Guardian Building, Detroit, MI 48226, (313) 963–3750. Transporting *petroleum and petroleum products and hazardous material*, between points in the U.S., under continuing contract(s) with (1) General Oil Company, Inc., of Redford Township, MI, (2) Industrial Petroleum Specialties, Inc., of Ferndale, MI, (3) D. A. Stuart Oil Company of America, of Willowbrook, IL, and (4) Polar, Inc. of Dayton, OH.

MC 158191 (Sub-1), filed February 2, 1982. Applicant: OZARK TRUCK BROKERS, INC., P.O. Box 429, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *food and related products*, between points in Sebastian County, AR, on the one hand, and, on the other, points in the U.S.

MC 160351, filed February 1, 1982. Applicant: AMRY, INC., 1935 Red Coach Rd., N.W., N. Canton, OH 44720. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting (1) *general commodities* (except classes A and B explosives), between Canton, OH, on the one hand, and, on the other, points in the U.S., and (2) *such commodities* as are dealt in or used by manufacturers and distributors of clay, concrete, glass or stone products, between points in Carroll, Mahoning, and Tuscarawas Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 160391, filed February 1, 1982. Applicant: WILLIAM H. WERTZ, JR., d.b.a. TRANSPORT SPECIALTIES, 9722 East 6th Street, Cucamonga, CA 91730. Representative: William H. Wertz, Jr. (same address as applicant), (714) 980–2343. Transporting *printed matter and book cases*, between points in the U.S., under continuing contract(s) with Encyclopedia Brittanica, of Chicago, IL.

Volume No. OP2–29

Decided: February 5, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 682 (Sub-31), filed January 12, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave. N.W., Suite 1112, Washington, DC

20036–5391, (202) 887–5868. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Palm Beach Miriam Collins Laboratories, Inc., of Minneapolis, MN.

MC 96813 (Sub-8), filed January 25, 1982. Applicant: FISK TRUCKING & TRANSFER COMPANY, P.O. Box 65978, Los Angeles, CA 90065. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202, 303–892–6700. Transporting *metal products*, between the facilities used by Martin Marietta, Inc., at points in the U.S., on the one hand, and, on the other, points in CA.

MC 97642 (Sub-2), filed January 18, 1982. Applicant: YOUNG TRUCKING, INC., P.O. Box 9197, Corpus Christi, TX 78408. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (718) 437–1768. Transporting (1) *machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof,* between points in (a) AR, CA, LA, MS, NM, OK, and TX, and (b) AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (2) *agricultural machinery, implements and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (3) *road construction machinery and equipment,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (4) *industrial machinery, equipment and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (5) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with* (a) *the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment,* (b) *the completion of holes or wells drilled,* (c) *the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and* (d) *the injunction or removal of commodities into and from holes and/or wells,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (6) *iron and steel articles,* between points in TX, MO, NM, OK, and LA, and (7) *metal buildings, parts and equipment,* (a) between Houston, TX, on the one hand, and, on the other, points in the U.S., and (b) between Houston, TX, on the one hand, and, on the other, Galveston, Freeport, Corpus Christi, Brownsville, Barbers Cut, Port Arthur, Beaumont and Orange, TX, Lake Charles, New Orleans, and Baton Rouge, LA, Gulfport, Biloxi, and Pascagoula, MS, and Mobile, AL.

MC 135152 (Sub-54), filed January 27, 1982. Applicant: CASKET DISTRIBUTORS, INC., P.O. Box 327, Harrison, OH 45030. Representative: Jack B. Josselson, 700 Atlas Bank Bldg., 524 Walnut St., Cincinnati, OH 45202, (513) 241–4037. Transporting *general commodities* (except Classes A and B explosives, and household goods), between points in IN, OH, and KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140633 (Sub-6), filed January 25, 1982. Applicant: CAPITAL DELIVERY SYSTEMS, INC., P.O.B. 161115, Sacramento, CA 95816. Representative: John F. Parks III (same address as applicant), 916–929–4702. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of cosmetics, between points in the U.S., under continuing contract(s) with Avon Products, Inc., of Pasadena, CA.

MC 142723 (Sub-9), filed January 25, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219–2383, 412–471–1800. Transporting *general commodities* (except Classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Morris Paper Company, of Pittsburgh, PA.

MC 144883 (Sub-8F), filed January 26, 1982. Applicant: EARL MOORE, d.b.a. S&M Marketing, 1133 Chess Dr., P.O. Box 4020, Foster City, CA 94404. Representative: Daniel J. Custer, 360 Pine St., San Francisco, CA 94104, (415) 434–0551. Transporting *food and related products,* between points in Monterey, Santa Cruz, San Mateo, San Francisco, Fresno, Merced, San Benito, Santa Clara, Alameda, Stanislaus, San Joaquin, Sacramento, Solano, Contra Costa, Napa, Sonoma, and Marin Counties, CA, and points in AZ.

MC 145282 (Sub-5), filed January 25, 1982. Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew NY 14043, 716–681–7190. Transporting *seamless steel tubing* between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146213 (Sub-17), filed January 22, 1982. Applicant: WISCONSIN FARM LINES, LTD., P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Transporting *pulp, paper and related products* and *printed matter,* between points in WI, on the one hand, and, on the other, points in the U.S.

MC 147943 (Sub-5), filed January 25, 1982. Applicant: E.W.K. CARTAGE, INC., 4855 South Leamington, Chicago, IL 60638. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312/782–8880. Transporting *general commodities* (except Classes A & B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Acme Fast Freight, Inc., and (b) Clipper Express, Inc., both of Chicago, IL.

MC 149582 (Sub-2), filed January 26, 1982. Applicant: SAWYER-EASTERN, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: Richard L. Loftus (same address as applicant) 219–926–7575. Transporting *metal products, rubber, plastic, clay, concrete, glass or stone products, machinery, and chemicals,* between points in Jefferson and St. Clair Counties, AL, Riverside County, CA, Hillsborough and Orange Counties, FL, Mahaska County, IA, Boone County, KY, Norfolk County, MA, Oakland County, MI, Monroe, Queens, and Saratoga Counties, NY, Coshocton, Cuyahoga, and Montgomery Counties, OH, Philadelphia County, PA, Wichita County, TX, Upshur County, WV, and Kansas City, MO, and points in IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 151753 (Sub-4), filed January 22, 1982. Applicant: M.W. CYCLE HAULER, INC., 11909 Santa Fe Dr., Lenexa, KS 66215. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, 913–233–9629. Transporting *general commodities* (except Classes A and B explosives, household goods and

commodities in bulk), between railroad facilities in Kansas City, KS, on the one hand, and, on the other, points in KS, MO and IA.

MC 152243 (Sub-2), filed January 21, 1982. Applicant: DISTRIBUTORS, LTD., East Forest Ave., Box 189, Antigo, WI 54409. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719 (608) 273–1003. Transporting *chemicals, fertilizers, packaging and paper products,* between points in the U.S. under continuing contract(s) with Jay-Mar, Inc., of Stevens Point, WI.

MC 152813 (Sub-2), filed January 15, 1982. Applicant: FRESH EXPRESS, INC., 55 Produce Row, St. Louis, MO 63103. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *general commodities* (except Classes A and B explosives and commodities in bulk), between St. Louis, MO, and points in Jefferson, Franklin, Warren, St. Charles and St. Louis Counties, MO, and St. Clair and Madison Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153442 (Sub-1), filed January 18, 1982. Applicant: TEXAS EASTERN TRANSPORT COMPANY, INC., 2500 Spence, Lufkin, TX 75901. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting (1) *machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof,* between points in (a) AR, CA, LA, MS, NM, OK, and TX, and (b) AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (2) *agricultural machinery, implements and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other points in the U.S., (3) *road construction machinery and equipment,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (4) *industrial machinery, equipment and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (5) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with* (a) *the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment,* (b) *the completion of holes or wells drilled,* (c) *the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and* (d) *the injunction or removal of commodities into and from holes and/or wells,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (6) *iron and steel articles,* between points in TX, MO, NM, OK, and LA, and (7) *metal buildings, parts and equipment,* (a) between Houston, TX, on the one hand, and, on the other, points in the U.S., and (b) between Houston, TX, on the one hand, and, on the other, Galveston, Freeport, Corpus Christi, Brownsville, Barbers Cut, Port Arthur, Beaumont and Orange, TX, Lake Charles, New Orleans, and Baton Rouge, LA, Gulfport, Biloxi, and Pascagoula, MS, and Mobile, AL.

MC 159973, filed January 11, 1982. Applicant: APPLE CITY EXPRESS, INC., P.O. Box AB, Murphysboro, IL 62966. Representative: L. W. Ward (same address as applicant), (618) 687–1912. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis, MO, and Brookport, IL: From St. Louis, over Interstate Hwy 64 to Junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 146, then over IL Hwy 146 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Brookport, and return over the same route, serving all intermediate points and points in St. Clair, Clinton, Marion, Wayne, Edwards, Wabash, Monroe, Washington, Jefferson, Hamilton, White, Perry, Randolph, Franklin, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Massac and Pulaski Counties, IL as off-route points.

MC 160073, filed January 12, 1982. Applicant: HURRICANE EXPRESS, INC., P.O. Box 2039, Gulfport, MS 39503. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. Transporting (1) *bananas,* between Gulfport, MS and Galveston, TX, on the hand, and, on the other, points in the U.S. and (3) *meat,* between points in the U.S.

MC 160082, filed January 11, 1982. Applicant: SEAWAY FREIGHT LINES, INC., 38 Mill St., Lockport, NY 14094. Representative: Roy D. Pinsky, Suite 1020, State Tower Bldg., Syracuse, NY 13202, (315) 422–2384. Transporting *general commodities* (except classes A and B explosives), between points in NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI and DC.

MC 160113, filed January 15, 1982. Applicant: ROADRUNNER MOTOR LINES, INC., 65 West Union St., Ashland, MA 01721. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, 413–732–1136. Transporting *general commodities* (except Classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with N.E. Traffic Consultants, Inc., of North Grafton, MA.

MC 160143, filed January 18, 1982. Applicant: BURL RATHMANN d.b.a., 3-STAR TRANSPORTATION CO., 7403 Burleson Rd., Austin, TX 78744. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, 713–437–1768. Transporting (1) *machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof,* between points in (a) AR, CA, LA, MS, NM, OK, and TX, and (b) AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (2) *agricultural machinery, implements and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (3) *road construction machinery and equipment,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (4) *industrial machinery, equipment and parts,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (5) *earth drilling machinery and equipment, and machinery, equipment, materials,*

supplies and pipe incidental to, used in or in connection with (a) *the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment,* (b) *the completion of holes or wells drilled,* (c) *the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and* (d) *the injunction or removal of commodities into and from holes and/or wells,* between points in (a) AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S., (6) *iron and steel articles,* between points in TX, MO, NM, OK, and LA, and (7) *metal buildings, parts and equipment,* (a) between Houston, TX, on the one hand, and, on the other, points in the U.S., and (b) between Houston, TX, on the one hand, and, on the other, Galveston, Freeport, Corpus Christi, Brownsville, Barbers Cut, Port Arthur, Beaumont and Orange, TX, Lake Charles, New Orleans, and Baton Rouge, LA, Gulfport, Biloxi, and Pascagoula, MS, and Mobile, AL.

MC 160212, filed January 22, 1982. Applicant: DALE ERLANDSON d.b.a. DALE ERLANDSON TRUCKING, 417 6th Street SE, Le Mars, IA 51031. Representative: Dale Erlandson, (712) 546–7093. Transporting *meats, meat products, meat by-products, dairy products, and articles distributed by meat packing houses,* under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 160213, filed January 22, 1982. Applicant: TEX-KING TRUCKING COMPANY, 12805 Nimitz, Houston, Texas 77015. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, Texas 77024, 713–455–2585. Transporting *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, GA, LA, MS, NM and OK.

MC 160232, filed January 25, 1982. Applicant: TRI-GAS & OIL CO., INC., Box 465 (Md. Rt. 313–North), Federalsburg, MD 21632. Representative: Robert E. Blades (same address as applicant), 301–754–8184. Transporting *ethanol* between points in the U.S., under continuing contract(s) with American Syn-Fuels, Inc., of Federalsburg, MD.

MC 160272, filed January 27, 1982. Applicant: H & H PIGGYBACK, INC., 65 Wilson Bridge Rd., Worthington, OH 43085. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, 614–486–0448. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Rail-Van, Inc. of Mentor, OH.

Volume No. OP3–26

Decided: February 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 2934 (Sub-114), filed February 3, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant) (317) 875–1000. Transporting *telephone equipment,* between points in the U.S., under continuing contract(s) with Rolm Corporation, of Santa Clara, CA.

MC 79434 (Sub-3), filed February 1, 1982. Applicant: BENNETT TRUCK LINE, INC., 200 E. Walnut, Paragould, AR 72450. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103 (901) 526–4114. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (A) Between Paragould, AR, and Kennett, MO, serving all intermediate points, and the off-route points in Dunklin County, MO: (1) From Paragould over AR Hwy 25 to the AR–MO State line, then over MO Hwy 25 to Kennett, MO, and return over the same route; and (2) From Paragould over U.S. Hwy 49 to Rector, AR, then over AR Hwy 90 to the MO–AR State line, then over MO Hwy 84 to Kennett, and return over the same route; (B) Between Blytheville, AR, and Steele, MO, serving all intermediate points, and the off-route points in Dunklin and Pemiscot Counties, MO, over U.S. Hwy 61; and (C) Between Blytheville, AR and Kennett, MO, serving all intermediate points and the off-route points in Dunklin and Pemiscot Counties, MO: (1) From Blytheville over Interstate Hwy 55 to Steele, MO, then over MO Hwy 164 to Arbyrd, MO, then over MO Hwy 25 to Kennett, and return over the same route; and (2) From Blytheville over Interstate Hwy 55 to Hayti, MO, then over MO Hwy 84 to Kennett, and return over the same route.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 136774 (Sub-26), filed February 1, 1982. Applicant: MC–MOR–HAN TRUCKING CO., INC., P.O. Box 368 Shullsburg, WI 53586. Representative: Donald B. Levine, 29 South LaSalle Street, Chicago, IL 60603. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Chicago Sweeteners, Inc., of Hillside, IL.

MC 139895, filed February 3, 1982. Applicant: BAYLINER MARINE CORP., Route 5, Arlington Airport, Arlington, WA 98223. Representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, WA 98101 (206) 623–7580. Transporting (1) *boats,* (2) *boat parts,* and (3) *boat accessories,* between points in the U.S.

MC 141614 (Sub-4), filed February 1, 1982. Applicant: J. D. AND BILLY HINES TRUCKING, INC., 1110½ West First St., Prescott, AR 71857. Representative: J. D. Hines (same address as applicant) (501) 887–2601. Transporting *saw dust and shavings,* between points in AR, on the one hand, and, on the other, points in the U.S.

MC 144624 (Sub-6), filed February 2, 1982. Applicant: AMERICAN STREVELL TRANSPORT, INC., P.O. Box 26828, 2205 West 15th South, Salt Lake City, UT 84125. Representative: Eugene D. Anderson, 1001 Connecticut Ave., NW., Suite 838, Washington, D.C. 20036 (202) 296–2550. Transporting *general commodities* (except household goods, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Huish Distributing, of Salt Lake City, UT, Enpro, Inc., of Ammett, ID, The Amalgamated Sugar Company, of Ogden, UT, and Plex Chemical Corporation, of Union City, CA.

MC 144715 (Sub-21), filed February 3, 1982. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 770 W. Lebanon, Mt. Airy, NC 27030–1523. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., N.W., Washington, D.C. 20005, (202) 347–9332. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in NC and VA, on the one hand, and, on the other, points in the U.S.

MC 145875 (Sub-12), filed February 2, 1982. Applicant: SWAIN & SONS TRANSPORTS, INC., 208 Poplar Ave., Memphis, TN 38103. Representative: William R. Swain, Jr. (same address as applicant), (901) 525–5443. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, LA, MS, TN, and TX.

MC 146314 (Sub-8), filed February 3, 1982. Applicant: G & T TRUCKING CO., Rt. #1, County Rd. 2 and 35 So., Elko, MN 55020. Representative: Thomas Zwiers (same address as applicant), (612) 461–2181. Transporting *chemicals and related products,* between points in Scott County, MN and Will County, IL,

on the one hand, and, on the other, points in the U.S.

MC 147344 (Sub-24), filed February 1, 1982. Applicant: RED'S EXPRESS, INC., 309 Beech St., Modesto, CA 95351. Representative: B. W. Rossio (same address as applicant), (209) 527–5960. Transporting *general commodities* (except classes A and B explosives), between points in CA, on the one hand, and, on the other, points in WA, OR, and NV.

MC 149104 (Sub-1), filed February 5, 1981. Applicant: MARC LARGENT, INC., 841 Solano Avenue, No. 6, Albany, CA 94706. Representative: Ellis Ross Anderson, 256 Montgomery Street, Fifth Floor, San Francisco, CA 94104, (415) 421–6743. Transporting *general commodities* (except classes A and B explosives), between points in CA.

MC 154275 (Sub-1), filed February 4, 1982. Applicant: HOPPEL ENTERPRISES, INC., 13290 E. Liverpool Rd., P.O. Box 245, West Point, OH 44492. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives), between Fairmont and Wheeling, WV, and points in OH, on the one hand, and, on the other, points in the U.S.

MC 160385, filed February 3, 1982. Applicant: GLEEN BOWEN, d.b.a. BOWEN'S TRUCKING, 15509 66th Avenue East, Puyallup, WA 98371. Representative: (same as above), (206) 535–6349. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, CO, ID, MT, NV, OR, TX, UT, NM, and WY.

MC 160394, filed February 1, 1982. Applicant: ARNOLD C. RIGBY, d.b.a. ARNOLD TRAVEL, Dover Neck Rd., Dover, NH 03820. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. As a *broker*, at Dover, NH, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

MC 160395, filed February 3, 1982. Applicant: JOHNSON TRUCKING COMPANY, INC., P.O. Box 751, Highway 23 South, Red Bay, AL 35582. Representative: John Paul Jones, P.O. Box 3140, Front St. Station, 189 Jefferson Ave., Memphis, TN 38103, (901) 527–2482. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of pet food, between points in Lee County, MS, and Franklin County, AL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted in (1) above to the transportation of traffic originating at or destined to the facilities of Sunshine Mills, Inc.; (2) *textile mill products*, between points in CT, FL, GA, IL, KY, MA, MD, NC, NY, NJ, OH, PA, SC, and WV, on the one hand, and, on the other, points in Lee County, MS, restricted in (2) above to the transportation of traffic originating at or destined to the facilities of Hancock Textile Company, Inc.; and (3) *fabricated metal products*, between points in Tishomingo County, MS, on the one hand, and, on the other, points in the U.S., restricted in (3) above to the transportation of traffic originating at or destined to the facilities of The Heil Company.

Volume No. OP5–33

Decided: February 10, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 4709 (Sub-4), filed February 1, 1982. Applicant: M & S TRANSFER, INC., 340 3rd St., David City, NE 68632. Representative: Marshall D. Becker, 7171 Mercy Rd., Suite 610, Omaha, NE 68106, (402) 392–1220. Transporting *such commodities* as are dealt in or used by manufacturers of precision electronic components, between points in York, Madison, and Platte Counties, NE, on the one hand, and, on the other, points in Yankton County, SD.

MC 100439 (Sub-13), filed February 4, 1982. Applicant: DAVID W. HASSLER, INC., R.D. #8, York, PA 17403. Representative: Harold G. Hernly, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313, 703–836–6115. Transporting (1) *petroleum, natural gas and their products*, between points in York County, PA, on the one hand, and, on the other, points in VA, (2) *lime, limestone, and limestone products*, between points in Clarke, Frederick and Shenandoah Counties, VA, on the one hand, and, on the other, points in MD.

MC 110288 (Sub-25), filed February 2, 1982. Applicant: HARRY HENERY, INC., 3517 W. Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *lumber and forest and wood products* between points in the U.S.

MC 139858 (Sub-47), filed February 2, 1982. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H. Street N.W., Washington, DC 20006, 202–337–6500. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with American Tourister Inc., a Division of Hillenbrand Industries, Inc. of Warren, RI.

MC 146809 (Sub-3), filed February 4, 1982. Applicant: BARRY JACOBSON, d.b.a. BARRY JACOBSON TRUCKING, South Shore Dr., Albert Lea, MN 56007. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Honeymead Products Company of Mankato, MN and Holsum Foods Co., a division of Honeymead Products Co., of Albert Lea, MN.

MC 148758 (Sub-4), filed January 27, 1982. Applicant: C. F. LIEBERT, INC., d.b.a. GATEWAY AIR FREIGHT SERVICE, No. 8, 12th St., Blaine, WA 98230. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, 206–235–1111. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between ports of entry on the international boundary line between the United States and Canada in WA, on the one hand, and, on the other, points in Pierce, King, Snohomish, Skagit and Whatcom Counties, WA.

MC 150339 (Sub-43), filed January 29, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Stephen J. Hammer (same address as applicant), (301) 673–7151. Transporting (1) *rubber and plastic products*, (2) *transportation equipment*, and (3) *such commodities* as are sold and used in automotive service and repair centers, between points in the U.S., under continuing contract(s) with The Firestone Tire & Rubber Company, of Akron, OH.

MC 151118 (Sub-17), filed January 7, 1982, previously noticed in (republication), **Federal Register** on January 26, 1982. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting *such commodities* as are dealt in or used by manufacturers, distributors or retailers of footwear, between points in Bristol and Plymouth Counties, MA, Gibson, Montgomery, Williamson and Wilson Counties, TN, Christian and Todd Counties, KY, and points in AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Purpose of republication is to include Montgomery County, TN in territorial description.

MC 152308 (Sub-2), filed February 1, 1982. Applicant: KENNETH WOODWARD, d.b.a. KEN WOODWARD TRUCKING, 4239 N.E. Simpson, Portland, OR 97218. Representative: Louis A. Santiago, 1200 S.W. Main Bldg., Portland, OR 97205, 503–221–1772. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in OR and WA, on the one hand, and, on the other, points in CA.

MC 156318 (Sub-1), filed February 2, 1982. Applicant: SUNRISE FREIGHT SERVICES, INC., P.O. Box 171, Nutley, NJ 07110. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting (1) *confectionery*, under continuing contract(s) with CeDe Candy, Inc., of Union, NJ, (2) *textile mill products and clothing*, under continuing contract(s) with Northern Feather, Inc., of Newark, NJ, (3) *electrical machinery, equipment, and supplies*, under continuing contract(s) with Action Tungsram, Inc., of East Brunswick, NJ, and (4) *metal products* under continuing contract(s) with Speedline, Inc., of Philadelphia, PA, between points in the United States.

MC 157569 (Sub-1), filed February 1, 1982. Applicant: MIDWEST GENERAL, INC., 3512 Rockville Rd., Building 123–E, Indianapolis, IN 46220. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *pulp, paper, and related products* between points in the U.S., under continuing contract(s) with Inland Container Corporation, Division of T.I.M.E., Inc., of Indianapolis, IN.

MC 158579, filed February 2, 1982. Applicant: MD ASSOCIATES—NORTHEAST, One Ararat Blvd., Harrisburg, PA 17110. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *malt beverages* between Milwaukee, WI, points in Peoria County, IL, and Merrimack County, NH, and points in NJ, NY, PA, MD, MI, OH, GA, NC, and VA, on the one hand, and, on the other, points in NH, MA, ME, VT, NY, NJ, MI, CT, RI, PA, DE, OH, VA, WV, GA, NC, SC, and DC.

MC 160289, filed January 26, 1982. Applicant: HARDING EXPRESS, INC., 38 Mill St., Lockport, NY 14094. Representative: Roy D. Pinsky, Suite 1020, State Tower Bldg., Syracuse, NY 13202, (312) 422–2384. Transporting *general commodities* (except classes A and B explosives), between points in Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, and Orleans Counties, NY.

MC 160349, filed February 1, 1982. Applicant: JAMM TRUCKING COMPANY, 1050 North Beltline Hwy., P.O. Box 8857, Mobile, AL 36689. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203, 205–251–5223. Transporting (1) *food and related products*, and (2) *pulp, paper and related products*, between points in Mobile and Baldwin Counties, AL, on the one hand, and, on the other, those points in FL, on and north of FL State Hwy 44, and those points in GA, on and south of U.S. Hwy 84.

MC 160358, filed February 1, 1982. Applicant: DALE E. SMITH, d.b.a. DALE'S CHARTER SERVICE, Route 3, McCue Rd., Sterling, IL 61081. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Bureau, LaSalle, Lee, Ogle, and Whiteside Counties, IL, and extending to points in the U.S.

MC 160369, filed February 2, 1982. Applicant: STONEHAM AUTO BODY & SERVICE CO., INC., 16 Gould St., Stoneham, MA 02181. Representative: Edward R. Lembo, 129 Concord St., P.O. Box 104, Framingham, MA 01701, 617–872–1284. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in MA, ME, VT, RI, CT, NY, NJ, PA, MD, DE, VA, NC, NH, SC, and DC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–4490 Filed 2–18–82; 8:45 am]

BILLING CODE 7035–01–M

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation and Address of Principal Office: Allegheny International, Inc., 1800 Two Oliver Plaza, Pittsburgh, Pennsylvania 15222.

2. Wholly-owned Subsidiaries which will participate in the operations, and States of incorporation:

Swan International, Inc. (Delaware)
Swan Manufacturing Corporation (Delaware)
Almet, Inc. (Delaware)
Almet International, Inc. (Delaware)
Carmet Company (New Jersey)
Precision Products, Inc. (Delaware)
Alka Tool & Die Co. (Michigan)
Alloy Rods International, Inc. (Delaware)
IPM Corporation (Pennsylvania)
The Arnold Engineering Co. (Illinois)
Burton Plating Co. (California)
AI Export Corporation (Delaware)
Almet Inc. (California)
THB Furniture, Inc. (Delaware)
Continental Testing Laboratories, Inc. (Florida)
F. W. Bell, Inc. (Ohio)
Kennedy Domestic International Sales Corporation (California)
Kennedy Company (Delaware)
Special Metals Corporation (Delaware)
Standard-Thomson Corporation (Delaware)
Grove Manufacturing Company (Delaware)
Joseph Pollak Corporation (Delaware)
Thomson International Corporation (Delaware)
Chemetron Corporation (Delaware)
Allied Healthcare Products, Inc. (Delaware)
Chemetron Process Equipment, Inc. (Delaware)
Chemetron International Sales Corporation (Delaware)
Chemetron-Railway Products, Inc. (Delaware)
Universal X-Ray, Inc. (Delaware)
True Temper Corporation (Delaware)
Wilkinson Match (U.S.A.) Inc. (Delaware)
Wilkinson Sword, Inc. (Delaware)
Wilkinson International Corporation (Delaware)
HTL Industries, Inc. (Delaware)
HTL Export Sales Corporation (California)
HTL Caribe, Inc. (Delaware)
Electro Kinetics Corporation (California)
True Temper Export Company (Delaware)
Kennedy Caribe, Inc. (Delaware)
Kennedy Holdings, Inc. (Delaware)
True Temper Railway Appliances, Inc. (Ohio)
True Temper Sports, Inc. (Ohio)
The Perfection Manufacturing Co. (Missouri)
The Nelson Co. of Kentucky (Maryland)
Amex, Ltd. (Missouri)
Magnetics and Electronics, Inc. (Delaware)
Kilgore Corporation (Delaware)
S. R. Smith Co., Inc. (Delaware)
Vitamaster Industries, Inc. (Delaware)
Cardox Corporation (Delaware)
New Bra-Con Industries, Inc. (Delaware)
Rob-Con, Ltd. (Delaware)
Sunbeam Corporation (Delaware)
Bally Case & Cooler, Inc. (Delaware)
Belshaw Bros., Inc. (Delaware)
Fabriactors/International, Inc. (Texas)
Hurst Performance, Inc. (Pennsylvania)
Illinois Water Treatment Company (Delaware)
John Zink Company (Delaware)
Mile High Equipment Company (Colorado)
Schaefer Corporation (Alabama)
Sunbeam Equipment Corporation (Delaware)
The Frymaster Corporation (Louisiana)
Thermco Products Corporation (California)

(1) Parent corporation and address of principal office: Nabisco Brands, Inc., 9W 57th St., New York, NY 10019.

(2) Wholly-owned subsidiaries which will participate in the operations, and respective states of their incorporation.

All Brand Importers, Inc., New York
American Distilled Spirits Co., Inc., Delaware
Associated Products, Inc., Delaware
Everlon Fabrics Corp., New Jersey
The Hervin Company, Oregon
Hygiene Industries, California
Clinton Corn Processing Co., Inc., Delaware
De Leon Peanut Co., Texas
Fireside Food Products Co., Delaware
Freezer Queen Foods, Inc., Delaware
Julius Wile Sons & Co., New York
Life Savers, Inc., Delaware
Nabisco Confections, Inc., Massachusetts
Nabisco, Inc., New Jersey
National Peanut Corp., Delaware
Standard Brands Incorporated, New York
The J. B. Williams Co., New Jersey

1. Parent Corporation: Osborne Distributing Co., Inc., 3908 Wilbarger Street, Vernon, TX 76384.

2. Wholly-owned subsidiaries which will participate in the operations and state of incorporation:

(i) DLO, Inc.—Texas.

(ii) COD, Inc.—Texas.

(iii) Osborne Trucking, Inc.—Texas.

1. Parent corporation and address of principal office: R. J. Reynolds Industries, Inc., Reynolds Boulevard, Winston-Salem, North Carolina 27102.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Alaska Packers Association, Inc., P.O. Box 3326, Bellevue, Washington 98009.

(b) Del Monte Banana Company, P.O. Box 011940, Miami, Florida 33101.

(c) Del Monte Corporation, P.O. Box 3575, San Francisco, California 94119.

(d) Del Monte Frozen Foods, Inc., P.O. Box 3575, San Francisco, California 94119.

(e) D & O—Fairchild, Inc., P.O. Box 2276, San Leandro, California 94577.

(f) Fairchild General Freight, Inc., P.O. Box 2276, San Leandro, California 94577.

(g) Ida-Cal Freight Lines, Inc., Drawer M, Nampa, Idaho 83651.

(h) Oak Grove Trucking Corporation, P.O. Box 2276, San Leandro, California 94577.

(i) Paddison Truck Lines, Inc., P.O. Box 2276, San Leandro, California 94577.

(j) R. J. Reynolds Tobacco Company, P.O. Box 2959, Winston-Salem, North Carolina 27102.

(k) RJR Archer, Inc., Reynolds Boulevard, Winston-Salem, North Carolina 27102.

(l) Shippers Imperial, Inc., 2277 7th Street, Oakland, California 94607.

(m) Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, Arkansas 72728.

(n) Amtane, Inc., 9717 East 42nd Street, Suite 100, Tulsa, Oklahoma 74145.

(o) Aminoil Marketing, Inc., 9717 East 42nd Street, Suite 100, Tulsa, Oklahoma 74145.

(p) Morton Frozen Foods, Inc., P.O. Box 3575, San Francisco, California 94119.

1. Parent corporation and address of principal: UGI Corporation, Box 858, Valley Forge, Pennsylvania 19482.

2. Wholly-owned subsidiary which will participate in the operations, State of incorporation and address of its principal office: AmeriGas, Inc., a Pennsylvania corporation, Box 965, Valley Forge, Pennsylvania 19482.

1. Parent corporation and address of principal office: Whittaker General Medical Corporation, 8741 Landmark Road, Richmond, Virginia 23261.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Whittaker Medical Manufacturing Company, incorporated in the State of Virginia on March 4, 1981.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4486 Filed 2-18-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36 (Sub-No. 13F)]

Oregon Short Line Railroad and Union Pacific Railroad Co.—Abandonment—Near Fairfield and Hill City, in Camas County, ID; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Oregon Short Line Railroad to abandon its line of railroad and for the Union Pacific Railroad Company to discontinue service on the Hill City Branch, extending from milepost 44.46 near Fairfield to the end of the line at milepost 58.34 near Hill City, a distance of 13.88 miles, all in Camas County, ID, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the effectiveness of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. No. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4484 Filed 2-18-82; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Volume No. OP-5-35]

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this Federal Register notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

MC 98089 (Sub-5) (republication), filed August 17, 1981, published in the Federal Register issue of October 20, 1981, and republished this issue. Applicant: D. A. BROWN TRUCKING CO., P.O. Box 1383, 4319 Rosedale Hwy, Bakersfield, CA 93308. Representative: Fred H. Mackenson, c/o Murchinson & Davis,

2029 Century Park East #4150, Los Angeles, CA 90067. A decision of the Commission, Review Board 3, decided January 18, 1982, and served February 3, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *construction and maintenance equipment, materials and supplies*, (a) between points in Utah, Montana, and Idaho, on the one hand, and, on the other, points in California, Texas and Oklahoma; (b) between points in California, on the one hand, and, on the other, points in Oklahoma, Texas, Wyoming, and Colorado; (c) between points in Utah, on the one hand, and, on the other, points in Kansas, and (d) between points in Texas, on the one hand, and, on the other, points in Nevada, that applicant is fit, willing, and able properly to perform such service and conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 155109 (republication) filed October 8, 1981, published in the **Federal Register** issue of February 9, 1982, and republished this issue. Applicant: ATLAS TRUCKING, INC., Hwy. 101 W., Port Angeles, WA 98362. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, 206–228–3807. A decision of the Commission, Review Board 1, decided January 25, 1982, and served Febraury 9, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate of foreign commerce, as a common carrier, by motor vehicle, over irregular routes, transporting (1) *machinery, and pulp paper and related products*, between points in Oregon, Washington, California, Idaho, Nevada, Arizona, Utah, Michigan, Colorado, Nebraska, Kansas and Wyoming, and (2) *building materials*, between points in Clallam County, WA, on the one hand, and, on the other, points in the territory specified in (1) above, that applicant is fit, willing, and able properly to perform such service and conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

[FR Doc. 82–4485 Filed 2–18–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.95, Amdt. No. 1]

Principal Aid Officers, Latin America, Asia, Near East; Redelegation of Authority Regarding Operational Program Grants

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.95, dated May 26, 1978, as follows:

In the first paragraph, subpart (1), substitute, "$1,000,000" for "$500,000."

Except as provided herein the Redelegation of Authority remains unchanged and continues in full force and effect. This amendment is effective December 23, 1981.

Dated: February 5, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82–4436 Filed 2–18–82; 8:45 am]

BILLING CODE 6116–01–M

[Redelegation of Authority No. 99.1.106, Amdt. No. 1]

Regional Development Officer, Suva, Fiji; Redelegation of Authority Regarding Operational Program Grants

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.106, dated December 18, 1978, as follows:

In the first paragraph, subpart (1), substitute, "$1,000,000" for "$500,000."

Except as provided herein the Redelegation of Authority remains unchanged and continues in full force and effect. This amendment is effective December 23, 1981.

Dated: February 5, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82–4437 Filed 2–18–82; 8:45 am]

BILLING CODE 6116–01–M

[Redelegation of Authority No. 99.1.96, Amdt. No. 2]

Principal Aid Officers, Africa; Redelegation of Authority Regarding Operational Program Grants

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.96, dated October 31, 1978, as amended, as follows:

In the first paragraph, subpart (1), substitute, "$1,000,000" for "$500,000."

Except as provided herein this Redelegation of Authority remains unchanged and continues in full force and effect. This amendment is effective December 23, 1981.

Dated: February 5, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82–4438 Filed 2–18–82; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Motor Vehicle Manufacturers Ass'n; Proposed Modified Final Judgment and Competitive Impact Statement

Take notice that a proposed Modified Final Judgment has been lodged in a civil antitrust suit, *United States* v. *Motor Vehicle Manufacturers Ass'n*, Civ. No. 69–75–JWC (C.D. Cal.), popularly known as the "Smog" Case. The complaint in the case, filed in January 1969, charged that the four major domestic automakers (General Motors Corp., Ford Motor Co., Chrysler Corp. and American Motor Corp.), and their trade association, the Automobile Manufacturers Ass'n. (now the MVMA), had conspired to eliminate competition in research, development, installation and sale of motor vehicle emission control devices in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The final judgment, entered on October 29, 1969, sought to eliminate the anticompetitive effects of the alleged conspiracy and to restore industry competition.

The proposed modification seeks to remove any impediment to the defendants' participation in activities which are not anticompetitive. To this end, it would eliminate those provisions which prohibit agreements which provide for: (a) Cross-licensing of future

patents; (b) restrictions on publicity of emission control research efforts; (c) joint-assessment of third party patent rights; and (d) licensing of patents on a most-favored-purchaser basis, although copies of such agreements must be submitted to the government for review. The modification would also eliminate those provisions which have expired (including two provisions which imposed restrictions on exchanges of confidential information on emission control technology and presentation of joint statements to federal or state agencies with jurisdiction over automobile emission control or safety standards), or those provisions which otherwise no longer have any force or effect. Finally, the modified decree would terminate five years after its entry, following which the automakers' activities would continue to be subject to the antitrust laws.

A competitive impact statement (CIS) filed by the United States discusses the complaint and the final judgment, the government's decision to discontinue its litigation to extend the two expiring provisions, the proposed modification and its anticipated competitive effects, the procedures available for modifying that proposal, and the remedies available to potential private plaintiffs.

Copies of the final judgment, the proposed modification, and CIS are available for examination and copying at the Office of Clerk of the Court, United States District Court for the Central District of California, Los Angeles, California 90012, and at the U.S. Department of Justice, Room 7416, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. Interested persons may address comments to Bernard M. Hollander, Chief, Judgment Enforcement Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, within the statutory sixty (60) day time period.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

Bernard M. Hollander, Gregory B. Hovendon, Anthony E. Harris, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Telephone: (202) 633–2494, Kendra S. McNally, Office of the U.S. Attorney, Room 1435A, U.S. Courthouse, 312 North Spring Street, Los Angeles, California 90012, Telephone: (213) 688–6564, *Attorneys for Plaintiff;* Lloyd N. Cutler, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006, Telephone: (202) 872–6100, Marcus Mattson, Lawler, Felix & Hall, 700 South Flower Street, Los Angeles, California 90017, Telephone: (213) 629–9300, *Attorneys for Defendants.*

U.S. District Court—Central District of California

United States of America, Plaintiff, v. *Motor Vehicle Manufacturers Association of the United States, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation,* Defendants.

Civil Action No. 69–75–JWC, Stipulation.

It is hereby stipulated by and between the parties, through their respective counsel and subject to the approval of the Court, that in connection with the parties' joint motion for a judgment modification and the Court's orders of November 19, 1981, and January 14, 1982:

1. The Modified Final Judgment, lodged with the Court on November 9, 1981, may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (1976), has been reported to the Court, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Modified Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or the proposed Modified Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: February 8, 1982.

For plaintiff: Bernard M. Hollander, Gregory B. Hovendon, Anthony E. Harris, *Attorneys for the United States*

For defendants: Wilmer, Cutler & Pickering, By: Howard P. Willens, *a Member of the Firm.*

Attorneys for Motor Vehicle Manufacturers Association of the United States, Inc., General Motors Corporation, Ford Motor Company, Chrysler Corporation, and American Motors Corporation.

Bernard M. Hollander, Gregory B. Hovendon, Anthony E. Harris, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Telephone: (202) 633–2494, Kendra S. McNally, Office of the U.S. Attorney, Room 1435A, U.S. Courthouse, 312 North Spring Street, Los Angeles, California 90012, Telephone: (213) 688–6564.

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Motor Vehicle Manufacturers Association of the United States, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation,* Defendants.

Civil Action No. 69–75–JWC, Competitive impact statement.

I. The Nature and Purpose of this Proceeding

On November 9, 1981, the United States and the defendants filed a joint motion to modify the Final Judgment entered in this civil antitrust proceeding on October 29, 1969 (hereinafter, "Judgment" or "decree"). The proposed modification would vacate several provisions of the Judgment, substantially revise certain other provisions, and impose a five year termination date on the modified Judgment, as so revised. The Modified Final Judgment would eventually bring to an end nearly two decades of regulation by the Court regarding the defendants' development, manufacture and installation of motor vehicle emission control devices.

On January 14, 1982, the Court ordered the United States to comply with the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C §§ 16(b)–(h), both with respect to the proposed modification and to the United States' withdrawal of its request for an extension of two decree provisions which otherwise would have expired. While not believing that compliance with the APPA is required in this situation, the United States is nonetheless complying with the Court's directive in order to avoid further delay in the Court's consideration of the proposed modification. Accordingly, this Competitive Impact Statement summarizes the previous proceedings in this action, discusses the withdrawal of the Government's request for an extension of the expiring provisions, and describes the proposed modification and its anticipated competitive impact.

II. The Events Giving Rise to the Proposed Modification

A. Procedural Background

1. *The Complaint and the Final Judgment.* The civil complaint that initiated this antitrust action was filed on January 10, 1969, following a lengthy grand jury investigation. The complaint charged that, beginning in 1955, and continuing at least until the filing of the suit, the four major domestic automobile manufacturers, General Motors, Ford, Chrysler and American Motors, and their trade association—now the Motor Vehicle Manufacturers Association—conspired with others to eliminate competition in the development and installation of motor vehicle emission control devices in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. Specifically, the complaint alleged that the defendants agreed to delay installation of existing emission control devices and to forestall the development of improvements to such devices. It also charged that the defendants conspired to misrepresent the industry's technological progress in order to delay the imposition of more stringent motor vehicle emission control standards.

On October 29, 1969, this action was settled by the entry of a Final Judgment to which the parties consented. The Judgment requires the defendants to terminate the complex network of cross-licensing and patent pooling restraints into which they had entered,[1] and to grant royalty-free licenses under the patent rights and make available the technological know-how, which had been acquired and licensed pursuant to that arrangement.[2] The Judgment further enjoins the defendants from conspiring with others to prevent or delay development or installation of emission control devices.[3] It also specifically prohibits agreements restricting

[1] Judgment, §§ IV and V.

[2] *Id.*, § VI.

[3] *Id.*, §§ IV(A)(1) and (A)(2)(c).

publicity of research relating to such devices,[4] conditioning the acquisition of patent rights upon the availability of such rights to others on a most-favored-purchaser basis,[5] or providing for joint assessment of any third person's patent rights [6] or the cross-licensing of future patent rights.[7]

As an added prophylactic measure, two provisions of the Judgment, Sections IV(A)(2)(a) and (g), prohibited the defendants from colluding to retard development and installation of vehicle emission control and safety devices by less obvious means. Section IV(A)(2)(a) enjoined the defendants from agreeing to exchange "restricted information," *i.e.*, company confidential information relating to applied emission control research. Section IV(A)(2)(g) enjoined the defendants from filing joint statements with government agencies charged with promulgating motor vehicle emission control or safety standards. Although the other provisions of the Judgment are perpetual, these two provisions were expressly limited to ten years, unless the United States should apply for their extension.[8]

2. The Request for an Extension of Sections IV(A)(2) (a) and (g) of the Judgment. On October 27, 1978, the United States filed a motion for an extension of Sections IV(A)(2) (a) and (g) of the Judgment. The motion was supported by factual material prepared by officials of the U.S. Environmental Protection Agency, the National Highway Traffic Safety Administration, and the California Air Resources Board. The defendants strenuously opposed the motion and submitted numerous counter-affidavits from company executives, engineers and economic consultants.

The Court initially granted the United States' request. United States v. *Motor Vehicle Manufacturers Ass'n.*, 1979–1 Trade Cas. ¶62,557 (C.D. Cal. 1979). On reconsideration, however, it vacated that decision and denied the motion, holding that an extension of the expiring sections was unwarranted under the facts which had been presented. 1979–2 Trade Cas. ¶62,759 (1979). The Court found that circumstances had changed so dramatically since the entry of the Judgment in 1969, that an extension of the expiring provisions would be "inappropriate, counterproductive, and unjust" (*Id.* at 77,232), a conclusion it reiterated in also denying the United States' request for a temporary extension of the expiring provisions pending the resolution of its appeal. Subsequently, however, the Court of Appeals did extend the provisions for the duration of the appeal.

The litigation culminated in a mixed ruling by the Court of Appeals for the Ninth Circuit on April 23, 1981. *United States* v. *Motor Vehicle Manufacturers Ass'n.*, 643 F.2d 644 (9th Cir.). The Court of Appeals set aside the Court's denial of the motion, but did not reinstate the extension. Instead, it remanded the matter for wide-ranging evidentiary hearing on the merits of the motion for extension, leaving the Court free to reach the same adverse conclusion as before, after entering appropriate findings of fact. 643 F.2d at 651–52.

B. *Reassessment of the Judgment*

On April 6, 1981, as one of many steps taken by the Administration in its Automobile Industry Program, the President requested the Department of Justice to review the continued need for each of the provisions of the Judgment,[9] which review was undertaken in early May, 1981, immediately after the pending appeal had been resolved.

1. The Expiration of Sections IV(A)(2) (a) and (g). As a result of its review, the Department concluded that its motion for an extension could no longer be sustained, since each of the agencies that had supplied factual material in its support had either abandoned or substantially moderated its previous position.

During the pendency of the appeal, the National Highway Traffic Safety Administration (NHTSA) indicated that it no longer viewed the restriction on submission of joint statements (Section IV(A)(2)(g)) as essential to competition in the development of motor vehicle safety devices or relevant to NHTSA's regulatory efforts.[10] It thereafter invited the defendants to submit joint statements on any motor vehicle safety subject.[11]

The Environmental Protection Agency took no formal position on an extension of the expiring provisions. It did, however, adopt a "liberal waiver policy" with respect to the restriction on submission of joint statements,[12] and that, in our view, significantly undermined the case for an extension of the expiring ban on exchanges of restricted information (Section IV(A)(2)(a)).[13]

Finally, the California Air Resources Board (CARB) informally advised the department that, while it continued to support an extension of the restriction on submission of joint statements, it believed that the ban on exchanges of restricted information had become an anachronism. CARB indicated that motor vehicle emission control and fuel economy technology had become so intertwined that many devices now perform both functions. It reasoned that since there are sufficient economic incentives for defendants to produce fuel efficient vehicles, a relaxation of the ban on exchanges of restricted information should not appreciably affect the development of emission control devices.

In light of the erosion of support for an extension, the United States concluded that its evidence was insufficient to persuade the Court to extend the expiring provisions. It therefore permitted the temporary extension of the provisions to expire, and withdrew its motion for extension from further consideration by the Court. Subsequently, the parties stipulated to a removal of that moot motion from the Court's calendar.

2. Review of the Remaining Provisions of the Judgment. After reviewing the other provisions of the decree and considering the superseding industry developments, the United States concluded that the Judgment should be modified to allow the defendants to engage in joint activities which are not anticompetitive. Representatives of the parties thereupon engaged in intensive negotiations over the course of several months to produce a modified judgment that would continue to stimulate diverse and competitive solutions to motor vehicle emission control problems, without exacerbating the industry's depressed economic condition.

The proposed modification is the product of the United States' extensive review of the Judgment and its subsequent negotiations with the defendants. However, the decision to permit the expiration of Sections IV(A)(2) (a) and (g) was made by the United States alone in an exercise of its prosecutorial discretion.

III. Explanation of the Proposed Modification of the Judgment

The proposed Modified Final Judgment seeks to remove any impediment to the defendants' participation in joint business arrangements which are not anticompetitive. To this end, it would revise the Final Judgment in three significant respects.

First, the defendants would no longer be prohibited from entering into any agreement which cross-licensed after acquired patents, restricted publicity of research and development efforts, jointly assessed third party patent rights, or licensed patent rights on a most-favored-purchaser basis.[14] They would, instead, be required to file copies of such agreements with the United States for review.[15] If circumstances warrant it, the United States could then challenge any such agreement under the antitrust laws, or under the remaining injunctive provisions of the decree, which broadly prohibit any agreement that limits, restrains or prevents the development, manufacture, installation, or sale of motor vehicle emission control devices.[16]

Second, two exemptions would apply to these broad remaining injunctions. One would enable a defendant to pursue an otherwise lawful joint research and

[4] Judgment, § IV(A)(2)(d).
[5] *Id.*, § IV(A)(2)(f).
[6] *Id.*, § IV(A)(2)(e).
[7] *Id.*, § IV(A)(2)(b).
[8] *Id.*, § IX.

[9] *Statement by the President on the Program for the U.S. Automobile Industry*, 17 Weekly Comp. Pres. Doc. 403 (April 6, 1981).
[10] Office of the White House Press Secretary, *Fact Sheet on Actions to Help the U.S. Automobile Industry*, p. 6 (April 6, 1981) (attached as Exhibit 1).
[11] Letter from Raymond A. Peck, NHTSA Administrator, to V. J. Adduci, MVMA President (August 17, 1981) (attached as Exhibit 2).
[12] *Fact Sheet, supra*, at 6.
[13] The two restraints are closely interrelated; the efficacy of each rests upon the continued existence of the other. For example, an extension of the restriction on submission of joint statements would be meaningless if the defendants were permitted to tacitly coordinate their responses to regulatory initiatives by pooling restricted information. Conversely, it would not make much sense to extend the ban on exchanges of restricted information if the defendants were free to meet and prepare joint statements concerning their individual abilities to comply with any actual or proposed emission control standard. Such open-ended discussions would make it virtually impossible for the Government to police the ban on exchanges of restricted information.

[14] *See* Judgment, §§ IV(A)(2) (b), (d), (e) and (f).
[15] Modified Judgment, § V.
[16] *Id.*, §§ IV(A) and (B)(1).

development project.[17] The other would permit a defendant to undertake a lawful joint venture with any non-defendant firm in which the defendant holds a significant equity interest, or with any firm that holds such an interest in it.[18]

Third, the Modified Final Judgment would be subject to a five-year termination date.[19]

In addition, the Modified Judgment would revise the original Judgment in a number of minor respects. For example, it would eliminate those outdated provisions which require dismantlement of the long-abandoned AMA cross-licensing agreement, or which define or otherwise limit terms employed in the now-expired restrictions on exchanges of confidential information and presentation of joint statements.[20] It would also eliminate the publication requirement of the old decree (Judgment, § VII), and slightly revise former Section IV(B)(3) to eliminate any need for the table listed in Appendix A. *See* Modified Judgment, § VI(B)(1). Further, it would make it crystal clear that since the ban on presentation of joint statements has now expired, the decree is no longer intended to prevent the filing of such statements. Modified Judgment, § VI(C).

Several minor changes are proposed in the retention of jurisdiction and visitation clauses of the old decree (Judgment, §§ X and VIII) to conform them to corresponding provisions in more recent antitrust consent decrees. The changes proposed for the retention of jurisdiction clause are not substantive. The revised visitation clause, however, would accord the defendants somewhat greater protection with respect to confidential documents, while giving the United States the right to demand sworn compliance reports and to use information obtained pursuant to the Modified Judgment for lawful purposes other than judgment enforcement.

IV. Anticipated Competitive Effects of the Proposed Modification

The Final Judgment was intended to eliminate the anticompetitive effects of the defendants' conspiracy and to restore and maintain the competitive climate which might have prevailed had the defendants not entered into their anticompetitive arrangement. The proposed modification is intended to encourage the continuation of such a pro-competitive climate.

Four of the activities enjoined by the Judgment are not unlawful in isolation. There are undoubtedly circumstances under which an agreement to cross-license future patents, to restrict publicity concerning joint research efforts, to jointly assess the value of another's patent rights, or to license a patent on a most-favored-purchaser basis might be reasonably ancillary to an otherwise procompetitive research joint venture, and thus offer offsetting economic efficiencies despite an incidental effect upon market competition.[21]

But there are also situations in which each of these types of agreements may be anticompetitive notwithstanding any theoretical benefit to the economy, because of the percentage of the market affected, the purpose of the restraint, its effect on market competition, or other factors.[22]

The point is that these four types of restraints are not so plainly anticompetitive in all circumstances that they should be condemned in perpetuity without reference to the peculiar facts of each case. To ban all such agreements outright, as the Judgment in many respects does, may deny the public the benefit of what might otherwise prove to be a procompetitive arrangement.

It is anticipated that the proposed relaxation of these injunctive restraints, coupled with vigilant case-by-case review of any such agreement into which the defendant subsequently enter, might have the following procompetitive effects: (a) actual competition in research, development and sale of motor vehicle emission control devices might be enhanced by permitting entry into certain potentially competitive arrangements from which the defendants manufacturers are currently excluded; (b) economic incentives might be created for less capable defendants to concentrate on independent lines of research and development (rather than duplicating the successful research efforts of others), thereby increasing the diversity of competition in the markets for emission control devices; and (c) potential and actual competition in development and sale of motor vehicles might be stimulated since any savings resulting from joint arrangements could be reinvested in new product development.

No adverse competitive impact would result from deleting those decree provisions which dismantled the AMA cross-licensing agreement or which relate to the now-expired restrictions on defendents' exchanges of restricted information and presentation of joint statements. Those provisions no longer have any force or effect.

Finally, bringing this matter to a conclusion five years after the entry of the proposed modification is not likely to have any adverse competitive effect. The original Judgment, entered over a a decade ago, sought to undo the effects of an alleged violation and prevent its recurrence. Many of its objectives have already been accomplished. It is reasonable to expect that an additional five years is sufficient for the accomplishment of any that remain unfulfilled. Laws of general applicability will sufficiently protect the public against any future anticompetitive conduct once the Modified Judgment has expired.

In consenting to a modification and eventual termination of this Final Judgment, the United States does not intend to sanction any future agreement which has the purpose or effect of delaying, limiting or retarding research, development, installation or sale of emission control devices, and nothing in the propose modification would provide any such sanction.[23] Indeed, the United States would not hesitate to initiate a criminal action against any future agreement that significantly impedes progress in this area. This modification merely recognizes that the passage of time since the original conspiracy, the availability of stiff criminal fines and prison terms for conviction upon any new antitrust violation, and the potentially over-restrictive effect of certain perpetual judgment provisions are all factors which indicate that a continuation of the Judgment in its present form is no longer required.

V. Remedies Available to Potential Private Plantiffs

The proposed modification was not precipitated by any alleged violation of the antitrust laws. Consequently, it is not believed that there are any potential private plantiffs. However, assuming that such plantiffs do exist, they will retain the same legal rights which they would have had if the proposed modification were not entered. The Modified Final Judgment may not be used as a prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, 15 U.S.C. § 15(a).

VI. Procedures Available for Future Modification of the Modified Final Judgment

The proposed Modified Final Judgment is subject to a stipulation between the parties which provides that the United States may withdraw its consent at any time before the Court has entered the modification. During the sixty (60) day statutory period, any person may submit written comments to: Bernard M. Hollander, Chief, Judgment Enforcement Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530.

The Department of Justice will, prior to entry of the proposed Modified Final

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[17] *Id.*, § IV.

[18] *Id.*, § IV(B)(2).

[19] Judgment, §§ II(B), IV(B)(1), IV(C), V and IX.

[20] Modified Judgment, § X.

[21] *See, e.g., Technograph Printed Circuits, Ltd.* v. *Bendix Aviation Corp.*, 218 F. Supp. 1 (D. Md. 1963), *aff'd on other grounds*, 327 F. 2d 497 (4th Cir. 1964); *Congoleum Industries, Inc.* v. *Armstrong Cork Corp.*, 366 F. Supp. 220 (E.D. Pa. 1973), *aff'd*, 510 F. 2d 334 (3rd Cir.), *cert. denied*, 421 U.S. 968 (1975) (most-favored-purchaser provision lawful); *United States* v. *Birdsboro Steel Foundry and Machine Co.*, 139 F. Supp. 244 (W.D. Pa. 1956) (licensing of future patents not *per se* unlawful); *Imperial Chemical Industries, Ltd.* v. *National Distillers & Chemical Corp.*, 342 F. 2d 737 (2d Cir. 1964); *United States* v. *Imperial Chemical Industries, Ltd.*, 254 F. Supp. 685, 692 (S.D.N.Y. 1966) (dictum) (restriction on publicity of trade secret not illegal *per se*). *See generally*, U.S. Department of Justice, *Antitrust Guide Concerning Research Joint Ventures* (1980) (hereinafter, *Antitrust Guide*).

[22] *E.g., United States* v. *United States Gypsum Co.*, 340 U.S. 76, 84 (1950); *In re Yarn Processing Patent Availability* Litigation, 541 F. 2d 1127, 1136 (5th cir. 1976), *cert. denied*, 433 U.S. 910 (1977) (pervasive use of most-favored-purchaser provision *per se* unlawful). *See also Antitrust Guide, supra*, 11–12, 19–21. For example, because of their sheer size, economic power, and substantial capacity and incentive for independent development efforts, if General Motors and Ford entered into any sort of arrangement to jointly assess the value of third party patent rights, the United States would be inclined to take action under the antitrust laws or the decree. Such an arrangement smacks of price-fixing. Whatever possible benefits it could have would probably be outweighed by all the varieties of economic inefficiency and waste which invariably attend price-fixing arrangements. *United States* v. *Topco Associates, Inc.*, 405 U.S. 596, 609–612 (1972). On the other hand, a similar agreement between two smaller defendants with less capability for independent research and development efforts might pass antitrust muster.

[23] See Modified Judgment, §§ IV(a), (B)(1) and (2).

Judgment, evaluate all such comments and determine whether there is any reason to withdraw its consent. Such comments and the Antitrust Division's responses thereto will be filed with the Court and published in the **Federal Register.**

Upon entry of the proposed Modified Final Judgment, the Court retains jurisdiction to enforce it and to enable the parties to apply for construction or modification of any of its provisions.

VII. Alternatives Considered by the United States

After reviewing the Judgment, the United States was persuaded that its modification would be in the public interest. No other course was considered.

As an alternative to allowing Sections IV(A)(2)(a) and (g) to expire, the United States considered whether an evidentiary hearing would likely result in their extension. However, because support for such an extension had significantly diminished during the period of the Government's appeal, it was decided that the motion for extension could not be sustained.

VIII. Determinative Documents

There were no materials or documents considered determinative in formulating the proposed modification or in deciding to permit expiration of Sections IV(A)(2)(a) and (g).

Dated: February 8, 1982.

Bernard M. Hollander, Gregory B. Hovendon, Anthony E. Harris *Attorneys for the United States.*

EXHIBIT 1

Actions To Help the U.S. Auto Industry

April 6, 1981.

The White House, Office of the Press Secretary

April 6, 1981.

Fact Sheet

President Reagan's Program for the U.S. Automobile Industry

Promptly after taking office, President Reagan appointed a Cabinet-level Task Force to examine the problems of the U.S. auto industry. Based on the advice of the Task Force and other Presidential advisers, he has adopted a positive program to address directly the immediate problems of depressed sales, record losses, and severe unemployment. The program also addresses the industry's critical longer term needs to offer new competitive models and to reduce unit costs.

Background on the Auto Industry

The Situation Is Serious

- In 1980 a stagnant and inflationary economy reduced sales of U.S.-made cars to the lowest point in 19 years. Compared with only three years earlier, total auto sales (domestic and imported) were down 20 percent, and sales of light trucks and vans were down 35 percent.
- The domestic companies incurred unprecedented losses of $4.3 billion in 1980.
- The downturn in auto sales has exacted a severe human toll. Over 180,000 auto workers are on indefinite layoff, 300,000 more are estimated to be unemployed in supplier industries, and another 100,000 are out of work in the dealer network.

The Problems Are Longer Term As Well As Cyclical

- Not only are sales depressed because of the stagnant economy, but the U.S. auto industry has experienced a dramatic change in its markets, induced by escalating energy prices. As gasoline increased from 70¢ per gallon in January 1979 to $1.35 per gallon in February 1981, consumer demand shifted dramatically to small cars. Partly as a result, imports increased from 18 percent to 28 percent of all auto sales during that same period.
- The auto industry is also burdened with stringent regulatory requirements which add hundreds of dollars to the cost of each vehicle and billions to the industry's capital requirements. Regulation also diverts engineering and managerial talent from the industry's adjustment problems.

The Industry Retains Tremendous Strenghts

- Despite its unprecendented problems, the U.S. auto industry has tremendous economic and competitive strengths. It is now engaged in a $70–$80 billion program of new investment to modernize its plants and make its products more competitive. This program has already resulted in lower production costs and the introduction of technologically advanced, fuel-efficient, front-wheel drive models.

To address the problems and exploit the strengths of this important sector of our economy, the President has adopted a program of economic recovery, regulatory relief, and other important measures.

The Economic Recovery Program

The cornerstone of the President's initiative for the auto industry is his Economic Recovery Program, including spending cuts, tax reforms, and general regulatory relief. There is simply no doubt that revitalization of the economy is the single most important remedy for the auto industry's problems.

Stimulating Sales, Profits, and Jobs

The Economic Recovery Program will provide immediate relief to the industry by stimulating the sales of new cars and trucks:

- Renewed growth in real incomes and higher employment will give consumers added income to by new cars.
- Reduced interest rates will lower the costs of automobile financing, further encouraging new car sales.
- The investment tax credit provided under the Accelerated Cost Recovery System will increase commercial and fleet purchases of new cars and trucks.
- A stable economic environment will renew consumer confidence and encourage individuals who have deferred purchases in recent years to buy new cars and trucks.

The sales recovery induced by the President's program will improve the industry's financial condition and restore job opportunities:

- Sales of new cars (foreign and domestic) should rise from approximately 9 million units in 1980 to 11 million units by 1982 and 12 million by 1983; truck sales should show similar growth.
- Since every 500,000 units of additional car or truck sales generate nearly $1 billion in additional net operating income, by 1983 this should amount to an additional $6 billion per year (before taxes) for U.S. auto makers.
- Increased production should permit the rehiring of most unemployed auto workers by the end of 1982.

Improving Productivity and Lowering Unit Costs

Over the longer term, the most important effect of the Economic Recovery Program will be to reduce production costs, thereby improving the industry's international competitive position:

- Higher production volumes will mean lower unit costs due to economies of scale.
- Lower inflation rates and reduced federal borrowing will lower the cost to the industry of capital necessary for plant modernization.
- Tax reductions for individual taxpayers and lower rates of inflation should also moderate pressures for costly wage settlements and contribute to a more stable environment for collective bargaining and labor relations.

Regulatory Relief

President Reagan is committed to reducing the excessive burdens of regulation throughout the economy and has established a Task Force on Regulatory Relief, chaired by the Vice President, to oversee that process. The Presidential Task Force and the Executive branch regulatory agencies will give high priority to relief for the auto industry. These measures will result in considerable savings in capital costs to the industry and even greater savings to consumers.

The President recognizes the importance of protecting health, safety, and the environment. Nevertheless, some of the regulations governing the auto industry's plants and products are unnecessarily stringent, and can be relaxed or rescinded with little or no cost to worthwhile regulatory goals. Other regulations now pending may be needed over the long run, but can be safely postponed until the industry has completed its structural adaptation.

Regulatory relief will benefit the auto industry and its customers by:

- Reducing substantially the cost of producing and operating a new car or truck. This will not only benefit consumers but further stimulate sales.
- Freeing capital needed for essential investments in new plant and equipment.
- Improving U.S. manufacturers' international competitive position.

Working together, the Auto Industry Task Force, the Presidential Task Force on Regulatory Relief, and the major regulatory agencies have developed a four-part program:

(1) *34 Specific Regulatory Actions.* The Acting Administrators of the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) have today submitted to the *Federal Register* notices of intent to rescind, revise, or repropose a total of 34 specific

regulations. EPA and NHTSA estimate that over the next five years these actions would save the auto industry more than $1.3 billion in capital that can be used instead for needed plant modernization. In addition, these actions will save consumers more than $8.0 billion over the next five years. The actions are described in considerable detail in the attachment.

(2) *Statutory Requirements for High Altitude Emissions.* As part of the proposed amendments to the Clean Air Act, EPA will ask Congress to eliminate the requirement that all passenger cars meet 1984 emmissions standards at high altitudes. This action alone would save $38 million in capital costs and $1.3 billion in consumer costs over five years.

As shown in the table below, the combined savings generated by this legislative change and by the 34 specific regulatory actions just described amount to $1.4 billion in capital costs and $9.3 billion in consumer costs, or about $150 per car or truck.

SAVINGS FROM ACTIONS TO BE TAKEN BY EPA AND NHTSA

[$ billions over 5 years]

Agency	Capital	Consumer
EPA	$0.8	$4.3
NHTSA	.6	5.0
Total	1.4	9.3

Estimates include savings for high altitude requirements and for 27 of 34 regulatory actions; estimated savings on remaining 7 actions are not available. Source of estimates: EPA and NHTSA (industry estimates typically run much higher).

(3) *Regulations Earmarked for More Intensive Review.* EPA and NHTSA have identified additional regulations on which immediate action is not possible, but which are important candidates for regulatory relief. These regulations, also listed in the attachment, will be reviewed to see whether they should be revised or rescinded.

(4) *Longer Range Reforms.* The President's program to reduce the regulatory burden on the auto industry will be expanded to include:

- Regulations administered by executive agencies other than EPA and NHTSA.
- Regulations where potential cost savings are not as immediate as the other announced actions.
- Additional changes in the Clean Air Act and other basic regulatory statutes.

Other Policy Initiatives

The President's program of economic recovery and regulatory relief will materially improve the condition of the U.S. auto industry, but more can—and will—be done to reinvigorate this industry:

Antitrust

- The President has asked the Attorney General to expedite consideration of the industry's request to vacate the 1969 "smog decree" as soon as a pending appeal has been concluded. The decree prohibits certain joint statements by the industry to governmental agencies concerned with auto emission and safety standards and exchanges of certain technical information on emission control devices.
- The Department of Transportation (NHTSA) will waive the prohibition on joint submissions on all of its future regulatory initiatives.
- EPA will adopt a liberal waiver policy and consider requests to make joint statements on a case-by-case basis.
- The Federal Trade Commission has on its own initiative withdrawn subpoenas for records in its long-standing investigation of the auto industry. The FTC has concluded that substantial changes in the industry have occurred since the investigation began in 1976.

Labor

- The Department of Labor is proposing to provide increased assistance to displaced auto workers by restructuring Federal programs for retraining and relocation through the existing employment and training delivery system.

Accelerated Federal Procurements

- The Administration is proposing to accelerate the Federal procurement of motor vehicles by $100 million in the current fiscal year, an action which would also reduce operating costs of the federal automobile fleet.

In summary, the President's program addresses those fundamental problems of the industry fostered by the Government itself, thereby restoring needed sales, jobs, and profitability in the short term, while also encouraging the retooling, productivity improvements, and cost reductions that are critical for the industry over the longer term.

Attachment: Regulatory Relief for the Auto Industry

Actions Taken by the Environmental Protection Agency (EPA)
Notice of Intent Transmitted to Federal Register
Fact Sheets on Individual Actions
List of Items for Further Study
Actions Taken by the National Highway Traffic Safety Administration (NHTSA)
Notice of Intent Transmitted to Federal Register
Fact Sheets on Individual Actions
List of Items for Further Study
Summary Table on Individual Actions

Attachment, pp. A–2 through A–58, have been deleted from Exhibit. Material was published in previous issues of the **Federal Register.**

Summary Table on Individual EPA and NHTSA Actions

SUMMARY TABLE, POTENTIAL SAVINGS FROM PROPOSED ACTIONS

Agency action	Five Year Savings [1] (millions of dollars)	Comments	
		Capital	Consumer
EPA			
Relax the statutory HC and CO standards for heavy trucks	108	536	Industry says that this action would save $110 million. General Motors estimates $900 per engine in consumer savings.
Relax the 10 percent AQL to 40 percent for light and heavy trucks.	16	128	International Harvester estimates it will save $14 million by this action.
Delay assembly line testing for heavy trucks	57	84	Chrysler claims a savings of $3 million for this change; General Motors $44 million, International Harvester $22 million.
Relax the NO_x level for heavy trucks	150	563	
Emissions averaging for diesel particulate emissions	All	523	
Eliminate 1984 high altitude auto emission standards	38	1,300	Requires amendment to Clean Air Act. Ford estimates that this change will save them about $56 million with a savings to consumers of $500 million.
Adopt self-certification for vehicles sold at high altitude	1	1	Would save manufacturers the time and expense of transporting test cars to high altitude areas and eliminate scheduling problems.
Not requiring use of onboard control technology for refueling emissions.	100	1,200	Industry says that this action would save consumers $1.5 billion.
Reduce the annual number of assembly line test orders	1	1	
Explore deferring standards for paint shops	300		Unable to estimate savings to consumer as action by states is unknown.
Savings from EPA Actions	817	4,317	
NHTSA			
Delay First Year Implementation of Passive Restraint Standard	20	105	Additional savings of as much as $600 million in investments and $1 billion annually in consumer costs are possible, depending on subsequent action taken by the Department.
Modify bumper standard		2,250	Some capital costs required to modify standard.
Rescind fields of direct view	174	85	Capital investment estimates are by GM and Ford.
All Other NHTSA Actions	362	1,540	
Savings from NHTSA Actions	556	3,981	

SUMMARY TABLE, POTENTIAL SAVINGS FROM PROPOSED ACTIONS—Continued

Agency action	Five Year Savings [1] (millions of dollars)	Comments	
		Capital	Consumer
Total Savings (EPA and NHTSA)	1,373	9,297	About $150 per car and truck in potential consumer savings.

[1] In addition to these savings, the notices of intent identify 7 other actions (plus a number of other longer term initiatives) that will result in further regulatory relief but for which estimates of savings are not available. The savings estimates shown in this table are in 1981 dollars and are undiscounted 5-year cumulative totals.

EXHIBIT 2

U.S. Department of Transportation, National Highway Traffic Safety Administration,
Washington, D.C.
August 17, 1981.

Mr. V. J. Adduci,
President and Chief Executive Officer, Motor Vehicle Manufacturers Association, 1909 K Street, N.W., Suite 300, Washington, D.C.

Dear Mr. Adduci: This responds to your recent letter asking the National Highway Traffic Safety Administration (NHTSA) to recommend to the Department of Justice (DOJ) that it vacate the provision of the emission control consent decree that prohibits the submission of joint comments to NHTSA. Further, you ask that the agency by letter waive that provision for purposes of your member companies.

NHTSA is a minor participant in the consent decree relating to emission control devices. The major participants are DOJ, the Environmental Protection Agency and the manufacturers. I have already indicated to DOJ that this agency would not be impaired should the provisions of the consent decree relating to joint comments on safety standards be vacated. This is in line with our regulatory philosophy of reducing unnecessary restrictions upon the industry. I am sending a copy of this letter to DOJ to reiterate my position on this issue.

As you correctly note, this agency has already indicated its intention to authorize joint statements by the defendants in *United States of America* v. *Automobile Manufacturers Association, Inc.*, as provided in section IV(A)(2)(g) of the consent decree entered in that case. I agree that this step should be taken forthwith. By this letter, I authorize those parties to submit joint comments on any subject relating to Federal motor vehicle safety standards and regulations, including ". . . the ability of one or more of the defendants to comply with a particular standard or regulation or to do so by a particular time . . ." This authorization becomes effective on the date of this letter. Further, as provided in that section of the decree, I request that any defendant joining in a joint statement on any rulemaking notice concerning a Federal motor vehicle safety standard or regulation also file an individual statement on that notice.

Sincerely,

Raymond Deck, Jr.,
Administrator.

cc:
Anthony Harris, U.S. Department of Justice, Room 3724, Washington, D.C. 20530, James H. MacNee III, Associate General Counsel, Ford Motor Company, Carl J. Schuch, Overton, Lyman & Prince, Appellee Ford Motor Co., Paul A. Beinen, Vice President, Secretary and General Counsel, Chrysler Corporation, Forrest A. Hainline, Jr., Vice President and General Counsel, Appellee American Motors Corp., Marcus Mattson, Lawler, Felix & Hall, Appellee General Motors Corp., Otis H. Smith, Vice President & General Counsel, General Motors Corporation, John H. Pickering, Wilmer & Pickering, Appellee Motor Vehicle Manufacturers Assoc. of the United States, Inc.

Certificate of Service

I, Anthony E. Harris, hereby certify that on February 12, 1982, I mailed copies of the foregoing Stipulation and Competitive Impact Statement in duly-addressed, franked envelopes, to be delivered to the following addresses:

Marcus Mattson, Lawler, Felix & Hall, 700 South Flower Street, Los Angeles, California 90017
Lloyd N. Cutler, Howard P. Willens, M. Carolyn Cox, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006

Counsel for Defendants

Harold J. Kwalwasser, 609 South Grand Avenue, Los Angeles, California 90017
David C. Vladeck, Alan B. Morrison, Suite 700, 2000 P Street, N.W., Washington, D.C. 20036

Counsel for Intervenor

Anthony E. Harris

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Motor Vehicle Manufacturers Association of the United States, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation, Defendants.*

Civil Action No. 69–75–JWC, *Modified final judgment.*

Plaintiff and defendants having jointly filed a motion for a modification of the Final Judgment entered herein on October 29, 1969; the parties having consented to the entry of this Modified Final Judgment before any testimony has been taken and without trial or adjudication of or finding on any issue of fact or law herein and without this Modified Final Judgment constituting evidence or an admission by any of them in respect to any such issue; and the Court having considered the matter and having been duly advised, it is hereby

Ordered that the decretal sections of and appendices to the Final Judgment of October 29, 1969, be and hereby are modified to read in full as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Antitrust Act, as amended.

II

As used in this Modified Final Judgment, "Devices" means air pollution emission control designs, devices, equipment, methods, or parts thereof, for motor vehicles.

III

The provisions of this Modified Final Judgment shall be binding upon each defendant and upon each of its subsidiaries, officers, directors, agents, servants, employees, successors and assigns, and upon all other persons in active concert or participation with any of them who shall have received actual notice of this Modified Final Judgment by personal service or otherwise, but shall not apply to any transaction between or among a parent company, its subsidiaries, officers, directors, agents, servants and/or employees. Nothing in this Modified Final Judgment shall have any effect with respect to any activities outside the United States which do not adversely and substantially affect the foreign commerce of the United States.

IV

Each defendant is enjoined and restrained from:

(A) Combining or conspiring to prevent, restrain or limit the development, manufacture, installation, distribution or sale of Devices; or

(B) Entering into, adhering to, enforcing or claiming any rights under any provisions of any agreement, arrangement, understanding, plan or program (hereinafter "agreement") with any other defendant or manufacturer of motor vehicles or Devices:

(1) to delay installation of Devices or otherwise restrain individual decisions as to installation dates; or

(2) not to file individual statements with any governmental regulatory agency in the United States authorized to issue emission standards or regulations for new motor vehicles or Federal motor vehicle safety standards or regulations;

provided, however, that it shall not be deemed a violation of this section for a defendant to enter into an otherwise lawful agreement for joint research and development of Devices or engage in any otherwise lawful conduct pursuant to such an agreement.

V

At the time any defendant enters into an agreement with any manufacturer of motor vehicles or Devices:

(A) to cross-license patents or patent rights on Devices which cross-license includes patents or patent rights acquired subsequent to the date of any such cross-license;

(B) to restrict publicity of research and development relating to Devices;

(C) to employ joint assessment of the value of patents or patent rights of any third party relating to Devices; or

(D) to require that acquisition of patent rights relating to Devices be conditioned upon availability of such rights to others upon a most-favored-purchaser basis,

such defendant shall file copy of the agreement with the Assistant Attorney General in charge of the Antitrust Division. Upon written request of the Antitrust Division, and subject to any legally recognized privilege, such defendant shall provide any relevant supporting material. The failure of plaintiff to take any action following receipt of an agreement or material pursuant to this section shall not operate as a bar to any action or proceeding, civil or criminal, in this or any case, that may be pending or later brought pursuant to any law of the United States.

VI

Nothing is this Modified Final Judgement shall require contemporaneous notification of or prohibit any defendant from:

(A) entering into or performing under any otherwise lawful agreement with any other person or conducting *bona fide* negotiations looking to any such agreement:

(1) for the purchase or sale of specific commercial products;

(2) for the license of specific existing patent rights or from including in any such agreement provision for a nonexclusive grant or grant-back of patent rights on improvements obtained by the licensor or licensee during the term of the license or a reasonable period thereafter; or

(3) for the purchase, sale or license of specific engineering services relating to Devices or from including in any such agreement provision for a nonexclusive grant or grant-back of patent rights on improvements obtained by the licensor or licensee during the term of the license or a reasonable period thereafter;

(B) entering into, renewing or performing under any otherwise lawful agreement with any non-defendant person, firm or corporation (1) which does no account for more than 2 percent of world production of motor vehicle passenger car, truck and bus units in the calendar year preceding the entering into or renewing such agreement, as determined by the most recent edition of *Ward's Automotive Yearbook* or any successor publication; or (2) in which it has a significant direct or indirect equity interest or which has any such interest in such defendant;

(C) filing a joint statement, along with one or more other defendants, unaccompanied by its individual statement, with any government branch or agency in the United States regarding any aspect of any actual or proposed motor vehicle emission control or safety standard or regulation; or

(D) entering into, renewing or performing under any agreement which is submitted in writing to the plaintiff and to which plaintiff consents in writing.

VII

(A) Upon written request therefor and subject to the conditions set forth herein:

(1) Each manufacturing defendant is ordered and directed to grant to any person, to the exent that it has power to do so, a nonexclusive, nontransferable and royalty-free license to make, have made, use, lease or sell Devices under any claim of any United States patent or any United States patent application owned or controlled by said defendant or under which it has sublicensing rights, which patent was issued or application was filed prior to October 29, 1969, and licensed under the AMA cross-licensing agreement of July 1, 1955, as amended, provided that if the manufacturing defendant is obligated to pay royalties to another on the sales of the licensee the license under this paragraph may provide for the payment of those same royalties to the defendant; and

(2) Each manufacturing defendant shall grant to any licensee under (1) above, to the extent that it has the power to do so, an immunity from suit under any foreign counterpart patent or patent application for any product manufactured in the United States under the license for sale abroad or for any product manufactured abroad and sold in the United States, provided that if the manufacturing defendant is obligated to pay royalties to another on the sales of the licensee the license may provide for the payment of those same royalties to the defendant.

(B) Any existing licensee of any manufacturing defendant shall have the right to apply for and receive a license or licenses under this Modified Final Judgment in substitution for its existing license or licenses from any manufacturing defendant, insofar as future obligations and licenses are concerned. Any licensee shall be free to contest the validity and scope of any licensed patent.

(C) Within sixty (60) days from the date of entry of this Modified Final Judgment, defendant Motor Vehicle Manufacturers Association is ordered and directed to donate to the United States Environmental Protection Agency copies of all technical reports in its possession or control prepared or exchanged by defendants pursuant to the AMA cross-licensing agreement within two years prior to October 29, 1969, which are identified in Appendix A.

VIII

For the purpose of determining or securing compliance with this Modified Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

(1) Access, during the office hours of such defendant, who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant which relate to any matters contained in this Modified Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters;

(B) A defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Modified Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Modified Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Modified Final Judgment, or as otherwise required by law;

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

IX

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this Modified Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Modified Final Judgment, for the modification or vacating of any of the provisions hereof, for the enforcement of compliance herewith, and the punishment of any violation hereof.

X

This Modified Final Judgment shall expire on the fifth anniversary of the date of its entry.

XI

Entry of this Modified Final Judgment is in the public interest.

Dated:

Jesse W. Curtis,

United States District Judge.

Appendix A

Pursuant to Section VII(C) of the Modified Final Judgment, the following technical reports are identified:

Subcommittee Reports to the Vehicle Combustion Products Committee, January 1968

1. Atmospheric Chemistry Panel Report.
2. Diesel Emission Panel Report.
(a) Proposed Standards for Motor Vehicle Exhaust Order and Irritation—California Department of Public Health Bureau of Air Sanitation—March 1, 1966—8 pages.
(b) Proposed Additions to the California Administrative Code—Standards for Motor Vehicle Emissions, State Board of Public Health Meeting—June 10, 1966—prepared by the State of California Department of Public Health—May 4, 1966—6 pages.
3. Ad Hoc Engine Deposits Panel Report.
(a) A Proposed Program to Establish the Effect of Combustion Chamber Deposits on Exhaust Emissions—prepared by Engine Deposit Panel—January 3, 1967—19 pages.
(b) Proposed Joint AMA—API Engine Deposits Program—September 14, 1967—7 pages.
4. Engine and Vehicle Modification Panel Report.
5. Exhaust Emission Measurement Panel Report.
(a) EEMP—Status Report on Future Exhaust Emission Standards—undated—6 pages.
6. Ad Hoc Group on Exhaust System Heat Report.
7. Fuel System Emission Panel Report.
(a) FSEP—Report of Fuel System Emission Panel to VCP—July 20, 1967—9 pages.
(b) AMC Evaporation Systems—undated—6 pages.
(c) Chrysler Closed Vent System—C.V.S.—prepared by Chrysler—undated—8 pages.
(d) Crankcase Storage of Evaporative Emission—prepared by General Motors Corp.—October 25, 1967—9 pages.
(e) Charcoal Canister Evaporative Emission Control System—prepared by General Motors Corp.—October 25, 1967—9 pages.
(f) History of Evaporative Control Studies—prepared by Ford Motor Company—December 1, 1967—12 pages.
(g) Crankcase Storage System for Control of Fuel Evaporative Emissions—prepared by Ford Motor Company—December 1, 1967—14 pages.
(h) Carbon Air Cleaner Evaporative Control System—prepared by Ford Motor Company—December 1, 1967—9 pages.
8. Ad Hoc Health Committee Report.
9. Heavy Vehicle Panel Report.
(a) Differences between California and HEW Truck Test Cycles—prepared by Heavy Truck Panel—June 6, 1967—3 pages.
10. New Devices Committee Report.
11 Ad Hoc Traffic Survey Panel Report.
(a) Comparison of General Durability Schedules—prepared by Ad Hoc Traffic Survey Panel—undated—1 page.
12. Vehicle Emission Surveillance Panel Report.
(a) Analysis of California Surveillance Data—prepared by the Auto Club of Southern California and Scott Research Laboratories—dated April 20, 1967—8 pages.

Subcommittee Reports to the Vehicle Combustion Products Committee, May 23, 1968

1. Atmospheric Chemistry Panel Interim Report.
2. Engine and Vehicle Modification Panel Interim Report.
3. Exhaust Emission Measurement Panel Interim Report.
(a) State of California Air Resources Board—Specification for Simplified Instrument Console for Emission Measurements—13 pages—December 27, 1967.
(b) State of California Air Resources Board—Test Procedure for Approval of Instruments for Garages, Vehicle Assembly Line and Field Station Use—March 6, 1968—8 pages.
4. Fuel System Emission Panel Interim Report.
(a) Laboratory Crosscheck Charts—undated—5 pages.
5. Heavy Vehicle Panel Interim Report.
(a) 1969 California Exhaust Emission Standard and Test Procedure for Heavy Trucks contained in the Federal Register publication of January 4, 1968—23 pages.
6. Ad Hoc Traffic Survey Panel Interim Report.
(a) Considerations in Traffic Survey and Test Cycle Development—NCAPC Meeting of March 29, 1968—prepared by the Ad Hoc Traffic Survey Panel—April 5, 1968—2 pages.
7. Vehicle Emission Surveillance Panel Interim Report.
(a) Hot vs. Cold Start Surveillance Testing—prepared by VESP—March 27, 1968—2 pages.
(b) VESP Future Surveillance Program—undated—2 pages.
(c) Summary of Analysis—undated—5 pages.
(d) VESP reply letter (draft) to Mr. John Raymond of CMVPCB—May 7, 1968.
(e) Effect of Tune-Up—undated—2 pages.
8. Engine and Vehicle Modification Panel Reports.
(a) 1970 California Evaporative Control Standard and Test Procedure for Passenger Cars contained in the Federal Register of January 4, 1968—23 pages.
(b) Intake Valve Throttling (IVT)—A Sonic Throttling Intake Valve Engine—prepared by General Motors for the SAE meeting—May 20–24, 1968—11 pages.
(c) EVMP—Present Status of Steam Power for Road Vehicles—May 8, 1968—11 pages.
(d) Preliminary Test Results with Non-Flame After Burner Exhaust Manifold F4–134 cu. in. Engine—prepared by Kaiser Jeep Corporation—May 8, 1968—5 pages.
(e) Ad Hoc Subpanel—Valve Timing Proposal Submitted to EVMP—April 9, 1968—2 pages.

Subcommittee Reports to the Vehicle Combustion Products Committee, September 27, 1968.

1. Atmospheric Chemistry Panel Interim Report.
2. Diesel Emission Panel Interim Report.
3. Engine and Vehicle Modification Panel Interim Report.
(a) Report on New Engine Idle Stability—prepared by EVMP members—September 10, 1968—18 pages.
(b) Driveability Procedure—August 6, 1968—8 pages.
(c) Vehicle Inspection Procedure for Emission Control Systems and Devices, Gasoline Powered Vehicles—Inspection Old Format—August 1, 1967—5 pages Inspection—New Format—5 pages.
(d) Mass Flow Data—prepared by Chrysler Corporation—September 10, 1968—11 pages.
(e) EVMP Panel Report on 1968 Engine Idle Setting Procedures—July 10, 1968 Revision including Shop Manual Instructions Furnished by several member companies.
(f) EVMP Valve Timing Proposal—undated—2 pages.
(g) Excerpt from EVMP Memorandum Report dated June 11, 1968 on Catalytic Converters and Afterburners—1 page.
(h) Catalytic Converters for Emission Control—prepared by Toyota Motor Company—August 6, 1968—8 pages.
(i) Ceramic Exhaust Manifold Reactors—prepared by Ford Motor Company—August 5, 1968—7 pages.
4. Exhaust Emission Measurement Panel Interim Report.
(a) Status Report on Assembly Line Testing by EEMP—August 5, 1968—2 pages.
(b) Report on Measurement Procedure for Nitric Oxide for California—1970 by EEMP—August 5, 1968—16 pages.
(c) Report on Exhaust Emission Reactivity Criterion from the Atmospheric Chemistry Panel and the EEMP—July 30, 1968—6 pages.
(d) Proposal—Exhaust Emission Correlation Program HEW—AMA Laboratories—prepared by EEMP Panel member—October 24, 1967—4 pages.
(e) Fast Response Flame Ionization Instrument—letter prepared by Chrysler Corporation—dated June 19, 1968—2 pages.
(f) Bay Toll Crossing Letter—answer sent to Mr. E. R. Foley by Mr. Sherman—August 21, 1968 with attachments—7 pages.
5. Fuel System Emission Panel Interim Report.
(a) Fuel System Emission Panel report on Proposed Test Procedure for the Determination of Liquid Fuel Losses from Vehicle Fuel Tanks—September 17, 1968—8 pages.
(b) Fuel System Emission Panel report on Proposed Program for Circulation and Cross-Check of 1970 Evaporative Cars—September 27, 1968—2 pages.
6. Heavy Vehicle Panel Interim Report.
(a) Recommended Application Procedure for Certification of New Gasoline Engines for Use in Heavy Duty Vehicles 1970 Model Year—prepared by the National Air Pollution Control Administration—dated September 23, 1968—19 pages.
7. Ad Hoc Traffic Survey Panel Interim Report.

8. Vehicle Emission Surveillance Panel Interim Report.

Subcommittee Reports to the Vehicle Combustion Products Committee, December 10, 1968

1. Atmospheric Chemistry Panel Interim Report.

2. Engine & Vehicle Modification Panel Interim Report.

(a) Driveability Demonstration—prepared by the Driveability Subpanel of EVMP—November 4, 1968—14 pages.

(b) Summary—1969 Emission Control Systems as presented by the companies to the Engine and Vehicle Modification Panel—undated—12 pages.

(c) Comments to ESC by the EVMP on the Feasibility of a Two Minute Emission Inspection System—October 14, 1968—3 pages.

(d) AMA Recommendations in *AMA Inspection Handbook*, Section IX, Vehicle Control Systems—5 pages—dated September 10, 1968.

(e) Report of visit to New Jersey Inspection Station November 21, 1968—by the EVMP—7 pages.

(f) Comments to ESC from EVMP on California Proposals for Emission Control Standards on 1970 and Later Model Vehicles—October 21, 1968—5 pages.

3. Exhaust Emission Measurement Panel Interim Report.

(a) EEMP comments and Recommendations to AMA ESC on California AB 357 Requirements for Assembly Line Testing for Vehicle Emissions—December 2, 1968—10 pages.

(b) Letter from EEMP of September 6, 1968 to Mr. K. D. Mills at Willow Run and Mr. Mills answer of October 14, 1968 re AMA Exhaust Emission Measurement Correlation Program.

(c) Fuel System Emission Panel and Heavy Vehicle Panel report to the Emission Standards Committee on Measuring Evaporative Losses—undated—4 pages.

(d) Recommended Application Procedure for Certification of New Gasoline Engines for Use in Heavy Duty Vehicles—1970 Model Year—prepared by National Air Pollution Control Administration—September 23, 1968—19 pages.

4. Fuel System Emission Panel Interim Report.

5. Heavy Vehicle Panel Interim Report.

6. Ad Hoc Traffic Survey Panel Interim Report.

Subcommittee Reports to the Vehicle Combustion Products Committee, March 27, 1969

1. Engine & Vehicle Modification Panel Interim Report.

2. Exhaust Emission Measurement Panel Interim Report.

(a) Report from Exhaust Emission Measurement Panel on California ARB proposed Assembly Line Test Procedure for Motor Vehicle Exhaust—January 28, 1969—6 pages.

(b) Effect of Engine Intake Air Moisture on Nitrogen Oxides Emissions—prepared by Ethyl Corporation, March 14, 1969—23 pages.

(c) Humidity Correction K Factor—prepared by Nissan Motor Company—undated—16 pages.

(d) Mass Emission Test Procedures—undated—4 pages.

(e) Effect of Fuel Composition (% Aromatics) on Exhaust Hydrocarbon Concentration—Based Upon DuPont data and a Report by GM dated January 22, 1969—5 pages

(f) Report on Measurement Procedure for Nitric Oxide for California—1970—prepared by EEMP—August 5, 1968—16 pages.

(g) Critique—California AB 690 Test Method for Measuring Vehicle Exhaust Emissions on a Mass Basis—undated—4 pages.

3. Fuel System Emission Panel Interim Report.

4. Health Committee Interim Report.

5. Heavy Vehicle Panel Interim Report.

6. Ad Hoc Traffic Survey Interim Report.

Subcommittee Reports to the Vehicle Combustion Products Committee, June 19, 1969.

1. Heavy Vehicle Panel Interim Report.

2. Atmospheric Chemistry Panel Interim Report.

(a) Exhaust Emission Reactivity Criterion—prepared by the Atmospheric Chemistry Panel and the EEMP—May 28, 1969—6 pages.

3. Vehicle Emission Surveillance Panel Interim Report.

(a) Surveillance Data Summary—prepared by VESP—June 9, 1969—5 pages.

4. Exhaust Emission Measurement Panel Interim Report.

(a) Proposed Items of Discussion on May 12, 1969 at Willow Run—Prepared by Messrs. Mick, Fagley, and Hagen—8 pages.

(b) Analysis of AMA data for HC Emissions during the Federal Cycle—prepared by Ethyl Corporation—June 2, 1969—8 pages.

(c) Analysis of AMA data for HC Emissions during the California Cycle Tests—Changes to improve.

Response Time—prepared by Chrysler Corporation—April 29, 1969—3 pages.

(d) Proposal Exhaust Emission Correlation Program HEW–AMA Laboratories—prepared by Ford Motor Company—April 7, 1969—4 pages.

5. Engine & Vehicle Modification Panel Interim Report.

(a) Transmission Controlled Spark—An Evaluation of NOx Emissions—prepared by General Motors Corporation—April 15, 1969—10 pages.

(b) Presentation on the Effect of Valve Overlap on Oxides of Nitrogen Emissions—prepared by General Motors Corporation—undated—6 pages.

(c) IH Spark Advance Monitoring System—prepared by International Harvester Company—March 4, 1969—4 pages.

(d) Performance of a Catalytic Converter on Non-leaded Fuel prepared by General Motors Corporation and published in SAE—undated—13 pages.

(e) Comments on Performance of a Catalytic Converter on Non-leaded Fuel—prepared by Ford Motor Co.—presented before the SAE mid Year Meeting May 22, 1969—18 pages.

(f) Panel Charge—prepared by J. P. Charles—dated May 27, 1969—1 page.

(g) Engine Tune-up Data for 1970 Year Model Toyota Vehicles—prepared by Toyota Motor Company dated June 10, 1969—2 pages.

(h) Engine Idle Setting Procedure—prepared by KAISER Jeep CORPORATION—undated—1 page.

(i) Committee Correspondence re New Jersey Vehicle Emission Inspection—dated April 7th, May 8th, June 9th, 1969 describing telephone conversation with Mr. Elston.

(j) Inspection Handbook Distribution—dated June 4, 1969.

(k) Quality Car Care Schedule—prepared by Toyota Motor Company—undated—3 pages.

(l) Layman's Nomenclature—undated—2 pages.

6. Fuel System Emission Panel Interim Report.

(a) Laboratory Cross-Check Program—prepared by Fuel System Emission Panel—May 5, 1969—11 pages.

(b) Fuel Tank Heating Methods—prepared by Fuel System Emission Panel—May 5, 1969—22 pages.

(c) Emission Control Calculations on Total Motor Vehicle HC & CO Emissions—dated June 17, 1969—pages.

Additional Subcommittee Reports to the Vehicle Combustion Products Committee (In Preparation and To Be completed by Oct. 31, 1969)

1967 Annual Report of Engine & Vehicle Modification Panel

1. Status Report No. 5 of the Engine & Vehicle Modification Panel to the Vehicle Combustion Products Committee—1967—27 pages.

2. Tables I and II on 6 Cylinder and 8 Cylinder Camshafts.

Figure 1—American Motors Report on 6 Cylinder Camshafts—1 page.

Figure 2—Field Survey of Combustion Testers.

Figure 3—Response to Exhaust Gas with and without Air Injection using a Johnson-Williams Combustibles Analyzer.

Figure 4—Variable Dilution System—Exhaust Gas (missing).

Figure 5—Blow-by Emission Measurement—prepared by New Jersey State Department of Health.

Figure 6—1968 Engine Information Decals.

Figure 7—Cross Section of 199 C.I.D. Combustion Chamber—Quench and Low Quench.

Figure 8—Cross Section of 232 C.I.D. Combustion Chamber—Quench and Low Quench.

Figure 9—Head Gasket Bore Configuration user with Low Quench Engines 199 and 232 C.I.D.

Figure 10—Effect of Air-Fuel Ratio on Exhaust NO Concentrations for Various Speed-Load Combinations.

Figure 11—Effect of Spark Timing on Exhaust NO Concentrations of Various Speed-Load Combinations.

Figure 12—Effect of Intake Manifold Vacuum on Exhaust NO Concentrations for Various Air-Fuel Ratios.

Figure 13—Effect on Coolant Temperature on Exhaust NO Concentrations for Duplicate Runs.

3. Appendices.

(A) Camshaft and Valve Timing—EVMTG Proposal.

(B) Proposed AMA Engine Idle Setting Procedures—EVMPTG June 27, 1967.

(C) Reply to New Jersey Regarding State Vehicle Inspection by VCP—November 10, 1967.

(D) Reply to Air Pollution Control Administration—December 22, 1966.

(E) Bibliography of Papers on Emission Control Devices Submitted to EVMP by Member Companies.

1968 Annual Report of Engine & Vehicle Modification Panel

1. Status Report No. 6 of the Engine and Vehicle Modification Panel to the Vehicle Combustion Products Committee—1968—23 pages.

2. Appendices.

(A) Control of Oxides of Nitrogen—Chrysler Study Curves, data, and Sketches illustrating Chrysler Studies in NOx control.

(B) Exhaust System Devices for Emission Control—International Harvester Company.

(C) Vehicle Inspection Procedures.

(D) 1969 Emission Control Systems.

(E) Mass Flow.

(F) Idle Setting Procedures—A detailed description of the shop manual procedures for each manufacturer.

(G) Manifold Reactors—Preliminary Test Results with Non-Flame After Burner Exhaust Manifold, F4–134 cu. in. Engine.

(H) Air Injection Modifications—Toyota Motor Co., Ltd. Nippon Denso Co., Ltd.

(I) Steam-Powered Road Vehicles—Present Status.

(J) Valve Timing Proposal.

(K) Driveability—Driveability Demonstration.

(L) Comments on California 1970 Proposals.

Date of presentation	Subject	Prepared by	Number of pages
	Engine And Vehicle Modification Panel Reports		
1. Oct. 17, 1967	Combustion Chamber Quench Changes, 1968 Models	Chrysler Corp	1
2. Do	1968 Ford Emissions Systems	Ford Motor Co	1
3. Do	Idle Adjustments	Chrysler Corp	1
4. Do	Idle Mixture, Effect of Miles on Idle Speed, and Timing Changes	General Motors Corp	1
5. Do	Emission Control by Engine Design and Development	American Motors Corp	17
6. Nov. 15, 1967	New Jersey Emissions Inspection Program	EVMP	10
7. Nov. 17, 1967	Engine Idle Setting Procedures	American Motors, Chrysler Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp.	37
8. Dec. 5, 1967	Changes in Idle Speed Re. Mixture	Ford Motor Co	2
9. Do	Emission Control Labels	Kaiser Jeep Corp	1
10. Do	AMA–HEW Exhaust Flow Equations	EVMP	5
11. Jan. 2, 1968	Idle Service Instructions—CAS	Chrysler Corp	1
12. Do	Exhaust Volume Measurements on Cycle Tests	Chrysler Corp	1
13. Dec. 5, 1967	Survey of Emission Control Devices in Use on 1968 Models	American Motors, Chrysler Corp., Ford Motor Co., General Motors Corp.	17
14. Jan. 1968	Exhaust Emission Control Devices	Kaiser Jeep Corp	2
15. Jan. 4, 1968	Idle Mixture, Speed and Spark Timing Adjustment	General Motors Corp	1
16. Jan. 2, 1968	Exhaust System Devices for Emission Control	International Harvester Co	1
17. Do	Exhaust Manifold Reactors	International Harvester Co	3
18. Do	Heavy Truck Emission Control Systems	International Harvester Co	1
19. Dec. 15, 1967	Adjusting Idle Mixture	Ford Motor Co	7
20. Feb. 13, 1968	Changes in Idle Tune During First 1,000 Miles 1968 G.M. Cars	General Motors Corp	1
21. Feb. 2, 1968	Diesel Code	Chrysler Corp	1
22. Feb. 9, 1968	Test Data on Catalytic System	Kaiser Jeep Corp	3
23. Feb. 13, 1968	Ceramic Exhaust Manifold Reactors	Ford Motor Co	1
24. Do	Test Data Exhaust Emissions	Kaiser Jeep Corp	7
25. Mar. 21, 1968	Air Control Valve to Improve Running Stability After Starting on an Air Injected Gasoline Engine.	Toyota Motor Co. Ltd.; Nippon Denso Co. Ltd	1
26. Mar. 12, 1968	Engines for Toyota 1968 Models	Toyota Motor Co., Ltd	7
27. Do	Engine Stalling on Deceleration	Nissan Motor Co., Ltd	1
28. Do	Surface to Volume Ratio 4 Cylinder Vehicle	Kaiser Jeep Corp	7
29. Apr. 4, 1968	Data on Idle Stability and Exhaust Gas Volume of Toyota Vehicles	Toyota Motor Co. Ltd	1
30. Apr. 9, 1968	Mass Flow Data	Nissan Motor Co. Ltd	5
31. Apr. 4, 1968	Idle Settings 4,000 Miles or Under	Chrysler Corp	1
32. May 8, 1968	Report on Present Status with Steam Powered Road Vehicles and Their Emission Characteristics.	EVMP	1 A5 1 B3 1 C2 1 D1
33. Do	Preliminary Test Results with Non-Flame After Burner Exhaust Manifold F–4—134 cu. in. Engine.	Kaiser Jeep Corp	5
34. Do	Valve Timing Proposal Submitted to EVMP	Kaiser Jeep Corp., General Motors Corp., Ford Motor Co	2
35. June 11, 1968	1969 Engine Idle Setting Procedures	American Motors Corp., Chrysler Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp., Nissan Motor Co., Toyota Motor Co.	7
36. Do	Vehicle Inspection Procedure for Emission Control Systems and Devices, Gasoline Powered Vehicles.	American Motors Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp., Toyota Motor Co., Ltd.	5
37. July 10, 1968	1968 Idle Setting Procedures Shop Manual Instructions	American Motors Corp., Chrysler Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp., Nissan Motor Co., Ltd., Toyota Motor Co., Ltd.	35
38. Aug. 6, 1968	Driveability Procedure	EVMP	1
39. Do	Valve Timing Proposal	EVMP	2
40. Do	Catalytic Converter or Emission Control	Toyota Motor Co., Ltd	1
41. Aug. 5, 1968	Ceramic Exhaust Manifold Reactor	Ford Motor Co	7
42. Aug. 6, 1968	Throttle Positioner	Toyota Motor Co., Ltd	20
43. Aug. 21, 1968	Valve Timing	EVMP	2
44. Sept. 10, 1968	Report on New Engine Idle Stability	Ford Motor Co., American Motors Corp., General Motors Corp., Toyota Motor Co., Ltd., Chrysler Corp., International Harvester Co., Nissan Motor Co., Ltd.	11
45. Aug. 27, 1968	Emission Inspection Presentation to AAMVA on Vehicle Emission Inspection	ESC Chairman	18
46. Sept. 10, 1968	Mass Flow Data	Chrysler Corp	12
47. Aug. 22, 1968	Rating Idle Quality	International Harvester Co	5
48. Aug. 16, 1968	Vehicle Evaluation Rating System	Ford Motor Co	1
49. Aug. 9, 1968	Idle Quality Evaluations	American Motors Corp	1
50. Sept. 7, 1968	Engine Idle Stability Evaluation Procedure	Nissan Motor Corp	1
51. Sept. 10, 1968	Exhaust Manifold Reactors	International Harvester Co	4
52. Sept. 1968	Exhaust Manifold Reactors	Nippon Denso Co., Ltd	1
53. Oct. 8, 1968	1969 Emission Control Systems	Toyota Motor Co., Ltd	1
54. Oct. 10, 1968	AMA Driveability Demonstration	EVMP	12
55. Oct. 7, 1968	1969 Emisson Control Systems	American Motors Corp	1

Date of presentation	Subject	Prepared by	Number of pages
56. Oct. 8, 1968	1969 Chrysler Cleaner Air System Compared to the 1968 System	Chrysler Corp	3
57. Do	1969 Emission Control Systems	Ford Motor Co	3
58. Nov. 1, 1968	Summary of 1969 G.M. Exhaust Emission Control Systems	General Motors Corp	1
59. Nov. 12, 1968	1969 Emission Control Systems	International Harvester Co	1
60. Jan. 1969	Exhaust Emission Control Systems	Kaiser Jeep Corp	1
61. Dec. 17, 1968	Control Systems for 1970	American Motors Corp	5
62. Do	Chrysler 1970 Emission Controls	Chrysler Corp	5
63. Do	1970 Emission Control Systems	Ford Motor Co	4
64. Do	Summary of Proposed 1970 Emission Control Systems	General Motors Corp	7
65. Do	1970 Light Duty Vehicle Prototype Emission Control Systems	International Harvester Co	11
66. Nov. 1968	Projected Vehicle Emission Control System for Toyota 1970 Model Vehicles	Toyota Motor Co., Ltd	27
67. Dec. 17, 1968	Control of Oxides of Nitrogen	Chrysler Corp	9
68. Do	Inspection of Emission Control Systems	General Motors Corp	3
69. Do	Supplementary Information on 1969 Emission Control Systems	International Harvester Co	7
70. Jan. 7, 1969	Investigations of NO_x Control Systems	Ford Motor Co	35
71. Do	Oxides of Nitrogen from Smaller Gasoline Engine	Toyota Motor Co., Ltd	62
72. Do	Summary of Proposed 1970 Emission Control Systems	Kaiser Jeep Corp	5
73. Dec. 1968	The Effects of the Ignition System on Exhaust Emissions	Mitsubishi Electric Corp	26
74. Mar. 24, 1969	Engine Idle Quality Test Procedure of Toyota	Toyota Motor Co., Ltd	6
75. Mar. 27, 1969	Reduction of Nitrogen Oxides in Automobile Exhaust	Nippon Denso Co., Ltd	11
76. Mar. 11, 1969	Description of Ignition Advance Monitoring Systems	International Harvester Co	5
77. June 10, 1969	Engine Idle Setting	Kaiser Jeep Corp	1
78. May 13, 1969	Quality Car Care Schedule	Toyota Motor Co	3
79. May 19, 1969	Performance of a Catalytic Converter on Non-leaded Fuel SAE Paper No. 690503 Procedure.	General Motors Corp	10
80. May 22, 1969	Comments by J. H. Jones & E. E. Weaver—Car Systems Research on SAE Paper No. 690503.	Ford Motor Co	16

Exhaust Emission Measurement Panel Reports

1. Sept. 8, 1967	A Proposal for an Interim Mass Exh. Emission Test Procedure	Ford	3
2. Do	A Proposal for 1970 Stds. Based on Mass Equivalents	General Motors	4
3. Sept. 7, 1967	Calculations of Exhaust Mass Emissions	General Motors	8
4. Sept. 8, 1967	Interim Mass Emission Test Procedure (Sept. 21 1967) EEMP to VCP	EEMP	8
5. Oct. 25, 1967	Proposal—Exhaust Emission Correlation Program for EEMP	Ford	4
6. Nov. 20, 1967	Curves and Tables Emissions vs. Vehicle Weight	Chrysler	17
7. Do	Interim Mass Standards for 1970	General Motors	4
8. Do	Assumptions for 1970 Certification Based on Mass	Ford	3
9. Do	Curves—F3/Cycle vs. Engine Displacement—Inertia Weight	American Motors	3
10. Jan. 18, 1968	EEMP Notes to ESC on HEW Stds. published Jan. 4, 1968	EEMP	16
11. Jan. 31, 1968	EEMP Proposed Revision of Cal. Specs. for Assy. Line Instrument	EEMP	14
12. Mar. 13, 1968	Computer Print-Out of Best Fit Equation for Cal. Gases	General Motors	4
13. Do	Propane Response	General Motors	1
14. Do	FIA of Propane Cal. Gases Using Olson Gravimetric Stds.	EEMP	1
15. Do	Daimler-Benz Response to HEW 1970 Stds. dated Jan. 4, 1968	Mercedes-Benz	11
16. Mar. 29, 1968	Consideration in Traffic Survey and Test Cycle Development	TSP	8
17. Apr. 17, 1968	Effect of Emission Control System on Reactivity	Ford	3
18. Do	Relative Efficiencies of Control Systems—Table	Chrysler	1
19. May 9, 1968	Report on Variable Dilution Sampling—Clark	General Motors	8
20. Do	Report on NO_x Measurement—Lang	General Motors	13
21. Do	Production Line Test—Instrument and Test Procedure	American Motors & Calif. ARB Staff	1
22. May 28, 1968	Table—Spread Between NDIR and FID Analyses	American Motors	8
23. Do	Comparison Between 7-mode and 10-mode cycle NDIR vs. FID	International Harvester	5
24. Do.	Whittaker Method of Measuring NO—Strip Chart	Chrysler	2
25. Do.	Proposed answer to Cal. Bay Toll Crossings Division	EEMP	7
26 June 5, 1968	Strip Chart of NO Measurement Using Whittaker Method—Letter from Whittaker to W. Fagley, Jr..	Chrysler	4
27. July 23, 1968	European Consideration of Atmospheric Pollution Problems	AMA	3
28. July 17, 1968	Comparison of Emission Reactivities—Table I	General Motors	1
29. Do	Number of Hydrocarbons Evaluated Under Controlled Conditions	General Motors	1
30. Do	Graphs plus Computer Summaries—HC Reactivity vs. Conc. by C. G.	General Motors	15
31. Do	Comparison—HC Conc. by C. G. vs. FID	General Motors	8
32. Do	Correlation—Reactivity and Gas Chromotography	Ford	1
33. Do	SAE Paper 680419—FID Technique—HC in Diesel Exhaust	International Harvester	15
34. Do	Correlation Between 7-mode and and USPHS 10-mode cycles—Clark	General Motors	8
35. Do	Schematic Diagram—NO and 02 Inst. Console	General Motors	1
36. Do	Relative Sensitivity—FID Analyzer	Chrysler	8
37. July 30, 1968	Measurement Procedure—NO for Cal. 1970	EEMP	15
38. Do	Background Data for Calculating NO_x for California	Chrysler	3
39. Do	Correlation Program—HEW-AMA Labs.—Westveer	EEMP	8
40. Do	Report on Reactivity to ESC from Joint ACP and EEMP	EEMP	6
41. Aug. 5, 1968	Report on Measurement Procedure for NO California—1970	EEMP	15
42. Sept. 11, 1968	Continuous Trace—Rate of Exh. Flow, 10-mode cycle	Chrysler	3
43. Do	Mass Flow Data—Fagley (7- vs. 10-mode cycles)	Chrysler	14
44. Do	Letter—Jensen to Mage-Mass Emission Measurement Technique	AMA	
45. Do	Table—Fuel Measured Mass Compared w/Calculated Fed. Std. Mass	Chrysler	1
46. Do	Repeatability of NO Measurement Technique—9 Vehicles	General Motors	8
47. Dec. 3, 1968	Comments to ESC on Cal. Law AB 357—Assembly Line Test	EEMP	11
48. Jan. 27, 1969	Report on NO_x Humidity Factor—Maede	Nissan	16
49. Do	EEMP to ESC Report on Cal. ARB Assembly Line Test	EEMP	5
50. Feb. 5, 1969	European Driving Cycle—Report by F. Louis	Renault	8
51. Feb. 2, 1969	Exhaust Flow Method of Mass Measurement—Fagley	Chrysler	19
52. Do	Mass Emission Program—Mick	General Motors	12
53. Mar. 4, 1969	Comments on Calif. Proposed Assembly Line Test Procedures	Toyota	8
54. Mar 18, 1969	Effect of Moisture on NO_x Emissions	Ethyl	24
55. Mar. 20, 1969	Effect on Fuel Composition—on FID/NDIR Ratio—Campau	Ford	11
56. Mar. 26, 1969	Reduction of NO_x-Manifold Reactor—Tanaka *et al*	Nippon Denso	12
57. Apr. 11, 1969	Exhaust Emission Measurement Correlation Program—Westveer	EEMP	4
58. Apr. 14, 1969	Supplement—Moisture on NO_x-RK Factor Calculation	Ethyl	2
59. Apr. 21, 1969	Comments on Foreign Cycles—Lombardi	EEMP	3
60. Apr. 30, 1969	HC Measurement by FID—Improved Response—Teague	ACP/EEMP	3
61 May 29, 1969	Diagrams of Sampling and Analytical Systems—Proposed	EEMP	8

Date of presentation	Subject	Prepared by	Number of pages
62. June 5, 1969	Effective and Economic Control of Auto Emissions—Sarto	EVMP	7
63. July 1, 1969	Preliminary Evaluation of NO_x Analyzer—Jackson	General Motors	3
64. Do	Determination of CO_2 at Wahnsdorf, Germany—*Published*	Mercedes-Benz	2
65. Do	Comparison of 3 dynamometers in Germany	Mercedes-Benz	2
66. Do	Dynamometer Effects on Emissions Using CVS	Nissan	2
67. July 23, 1969	Foreign Cycle Evaluation—Lombardi	EEMP	4
	Heavy Vehicle Panel Reports		
1. Mar. 7, 1969	Evaluative Control Procedures for Heavy Trucks	HVP	4
2. Mar. 26, 1969	Reduction of Nitrogen Oxides in Automobile Exhaust	Nippon Denso	11
3. May 22, 1969	Outline for Research Program for Heavy Vehicle Emission Data	HVP	2
	Ad Hoc Traffic Survey Panel Reports		
1. May 24, 1967	Comparison of Chrysler 50,000 mile and AMA Durability Schedules	Chrylser Corp	4
2. Do	Comparison of Durability Schedules	General Motors Corp	1
3. Mar. 27, 1968	Consideration in Traffic Survey and Test Cycle Development	General Motors Corp., Chrysler Corp., Ford Motor Company	3
4. Sept. 30, 1968	Background of Vehicle Exhaust Gas Text Procedures in Japan	Toyota Motor Co. Ltd	4
5. Feb. 5, 1969	European Driving Cycle	Renault	4
	Atmospheric Chemistry Panel Reports		
1. Mar. 4, 1969	Nitrogen Oxides in the atmosphere	ACP	[illegible]
2. July 8, 1969	HEW meeting—Cincinnati reactivity criteria	ACP	[illegible]
	Vehicle Emission Surveillance Panel Reports		
1. Oct. 11, 1967	1967 Surveillance Program on High Mileage Exhaust Emission Equipped Vehicles	Ford Motor Co	[illegible]
2. Mar. 27, 1969	Hot vs. Cold Start Surveillance Testing	VESP	[illegible]
3. June 9, 1969	Surveillance Data Summary Report to ESC	VESP	[illegible]
	Fuel Systems Emission Panel Reports		
1. Oct. 18, 1967	Letter from AMA to NAPC outlining available data on Evap Control Systems	AMA–VCP, General Motors	[illegible]
2. Oct. 25, 1967	Charcoal Canister Evaporative Emissions Control System	General Motors	[illegible]
3. Do	Crankcase Storage of Evaporative Emissions	General Motors	10
4. Dec. 1, 1967	Carbon Air Cleaner Evaporative Control	Ford	10
5. Do	Crankcase Storage System—Evaporative Control	Ford	15
6. Do	History of Evaporative Control Studies	Ford	13
7. Jan. 1968	Chrysler Closed Vent System	Chrysler	[illegible]
8. Do	AMC Evaporative Systems	American Motors	[illegible]
9. Apr. 24, 1968	Results of Lab Cross Program	FSEP	[illegible]
10. June 14, 1968	Evaporative Loss Data	FSEP	[illegible]
11. July 1968	Absorption of HC Vapor by Charcoal	Toyota	[illegible]
12. Aug. 23, 1968	Proposed Test Procedure for Determination of Liquid Fuel Losses from Vehicle Fuel Tank.	FSEP	[illegible]
13. Sept. 27, 1968	Same		[illegible]
14. Oct. 15, 1968	Joint (FSEP & HVP) Report to ESC on Test Procedure for Heavy Truck Losses	FSEP	[illegible]
15. Mar. 18, 1969	Prelim. Progress Report of Shed Test Procedure	FSEP	[illegible]
16. Mar. 24, 1969	Fuel Temp vs. Vapor Temperature	Kaiser Jeep	3
17. Do	Comparison of Evap Test Procedures	Ford	2
18. Do	GN Test on Effect of Heating Test on Evap Emission	General Motors	[illegible]
19. Mar. 25, 1969	Deterioration Factor of Evap Emission Data	Toyota	2
20. Apr. 8, 1969	Comparative Shed Tests	General Motors	7
21. Apr. 18, 1969	Report of Evap Testing	Ford, General Motors, Chrysler, American Motors	[illegible]
22. Apr. 23, 1969	Effect of Heating Method of Fuel Tank on Evap Emission	Missan	2
23. Do	Heating Pad Installation vs. Fuel Tank Emissions	Kaiser Jeep	7
24. Apr. 28, 1969	Review of Shed Testing Data	Ford, American Motors, Chrysler	[illegible]
25. May 5, 1969	Fuel Tank Heating Methods	FSEP	[illegible]
26. May 6, 1969	Laboratory Cross Check Program	FSEP	[illegible]
27. May 16, 1969	Shed Test on Control Equipped Cars	General Motors	11
28. July 1, 1969	Comparison of Evap Test Sequences	FSEP	2
29. July 16, 1969	Proposals for Engineering Acceptance of Evap Control Systems	FSEP	[illegible]

[illegible] Attachment.
[illegible] Charts.

[FR Doc. 82-4447 Filed 2-18-82; 8:45 am]

BILLING CODE 4410-01-M

United States v. Kahan & Lessin Co., et al.; Proposed Settlement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement (as set forth below) have been filed with the United States District Court for the Central District of California in *United States* v. *Kahan & Lessin Co., et al.*, Civil Action No. 81-0186-MML. The complaint alleged that four companies, Kahan & Lessin Co., Landstrom Distributors, Inc., Nature's Best, and Tree of Life West, Inc., had conspired to fix the wholesale prices and terms and conditions of sale of natural foods, vitamins, and cosmetics from 1974 to 1978.

The proposed consent judgment would terminate the litigation as to all four defendants, and would enjoin them from entering into, adhering to, or maintaining: (a) Any agreement with any other distributor to fix, maintain or stabilize prices, discounts, or terms or conditions of sale of natural foods, vitamins or cosmetics; and (b) any agreement with any other distributor to coerce any manufacturer or supplier from selling natural foods, vitamins, or cosmetics directly to retail stores. The proposed judgment also would enjoin the defendants from communicating to or discussing with another distributor,

prices or terms or conditions of sale of natural foods, vitamins, or cosmetics, except in connection with a *bona fide* purchase or sale. Additionally, the proposed judgment would require that the defendants' employees be notified of the judgment and that a purchaser of all or substantially all of a defendant's assets agree to be bound by the judgment.

The complaint was filed following the return of an indictment charging the same defendants with a criminal price-fixing violation. Two of the defendants pleaded *nolo contendere* to the criminal charge. Landstrom Distributors and Kahan & Lessin were convicted following a five-week jury trial in June 1981.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Alan L. Marx, Acting Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6329).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

D. Bruce Pearson, Kenneth L. Jost, Richard W. Pierce, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Telephone: (202) 724–6468, United States Attorney, U.S. Department of Justice, 312 N. Spring Street, Los Angeles, CA 90012, Telephone: (213) 688–2434. *Attorneys for the United States.*

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Kahan & Lessin Co.; Landstrom Distributors, Inc.; Nature's Best; and Tree of Life West, Inc.,* Defendants.

Civil No. 81–0186–MML, *Stipulation.*

Filed: February 5, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that the Court may file and enter a Final Judgment in the form attached to this stipulation on the Court's own motion or on the motion of any party at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), and without further notice to any party or other proceedings, if plaintiff has not withdrawn its consent, which it may do at any time before the entry of the judgment by serving notice of its withdrawal on defendant and filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff: William F. Baxter, *Assistant Attorney General, Antitrust Division;* Mark Leddy, Charles F. B. McAleer, Alan L. Marx, D. Bruce Pearson, Kenneth L. Jost, Richard W. Pierce, *Attorneys for the United States, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530.*

For the defendants: John C. Fricano, Esq., C. Benjamin Crisman, Jr., Esq., Skadden, Arps, Slate, Meagher & Flom, 1775 Pennsylvania Ave., N.W., Washington, D.C. 20006, (202) 293–9233, and C. Forrest Bannan, Esq., Adams, Duque, & Hazeltine, 523 W. Sixth Street, Los Angeles, CA 90014, (213) 488–7000, *Attorneys for Kahan & Lessin Co.;* Edwin C. Schreiber, Esq., Law Offices of Keltner & Schreiber, Inc., 315 South Beverly Drive, Suite 412, Beverly Hills, CA 90212, (213) 553–9911, *Attorneys for Nature's Best;* Edward P. Davis, Esq., Rankin, Oneal, Center, Luckhardt, Marlais, Lund & Hinshaw, Suite 300, Bank of the West Building, 2 West Clara Street, San Jose, California 95113, (408) 293–0463, *Attorneys for Landstrom Distributors, Inc.;* Stephen V. Wilson, Esq., Hochman, Salkin & DeRoy, 9100 Wilshire Boulevard, Seventh Floor—West Tower, Beverly Hills, CA 90212, (213) 273–1181, *Attorneys for Tree of Life West, Inc.*

D. Bruce Pearson, Kenneth L. Jost, Richard W. Pierce, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Telephone: (202) 724–6468, United States Attorney, U.S. Department of Justice, 312 N. Spring Street, Los Angeles, CA 90012, Telephone: (213) 688–2434, *Attorneys for the United States*

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Kahan & Lessin Co.; Landstrom Distributors, Inc.; Nature's Best; and Tree of Life West, Inc.,* Defendants.

Civil No. 81–0186–MML *Final Judgment.*

Filed: February 5, 1982.

Plaintiff, United States of America, having filed its complaint herein on January 14, 1981, and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II

As used in this Final Judgment:

A. "Person" means any individual, partnership, firm, corporation, association or other business or legal entity.

B. "Distributor" means any person that purchase, natural foods, vitamins, or cosmetics from manufactures for resale to health food retail stores or other consumer outlets.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assign, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to any transaction between a parent corporation and its subsidiaries, officers, directors, agents, servants or employees, or between any of them.

IV

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the distribution and sale of natural foods, vitamins and cosmetics that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

V

Each defendant is enjoined and restrained from directly or indirectly:

A. Entering into, adhering to, or maintaining any contract, agreement, understanding, plan or program with any other distributor to fix, maintain or stabilize the prices, discounts, or terms or conditions of sale of natural foods, vitamins or cosmetics;

B. Entering into, adhering to, or maintaining any contract, agreement, understanding, plan or program with any other distributor to coerce any manufacturer or supplier of natural foods, vitamins or cosmetics from selling directly to retail stores; and

C. Communicating to or discussing with another distributor prices or terms or conditions of sale of natural foods, vitamins or cosmetics, except that nothing contained in this subsection shall prohibit (a) any communication made in connection with a *bona fide* proposed or actual purchase or sale of natural foods, vitamins, or cosmetics between the parties to the communication, or (b) the publication of prices or terms or conditions of sale by a distributor for general distribution to its customers.

VI

A. Each defendant shall, within 60 days after entry of this Final Judgment, furnish a copy of it to each of its employees who have management responsibility for the sale of natural foods, vitamins or cosmetics.

B. Each defendant shall furnish a copy of this Final Judgment to each person who becomes an employee described in subsection A of this section within 60 days after that person assumes the position that brings him or her within that description.

C. Each defendant shall file with this Court and serve on the plaintiff, within 90 days from the date of entry of this Final Judgment, an affidavit concerning the fact and manner

of its compliance with subsection A of this section.

D. Each defendant shall annually, for 10 years from the date of entry of this Final Judgment, notify each of its employees who have management responsibility for the sale of natural foods, vitamins, or cosmetics of the obligations imposed on each of them by this Final Judgment.

E. Each defendant shall, for 10 years from the date of entry of this Final Judgment, maintain copies of all written communications with any other distributor, exclusive of invoices and bills of lading.

F. Each defendant shall for a period of 5 years, on the anniversary of the date of entry of this Final Judgment, inform plaintiff of actions taken to ensure compliance with this Final Judgment.

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedures," then plaintiff shall give ten days notice to the defendant before divulging the material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to appy to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with it or for the punishment of any violation of it.

IX

This Final Judgment shall be in effect for the period of ten years following the date of its entry.

X

Entry of this Final Judgment is in the public interest.

Dated:

Honorable Malcolm M. Lucas,

United States District Judge.

D. Bruce Pearson, Kenneth L. Jost, Richard W. Pierce, Antitrust Division, U.S. Department of Justice, Washington, DC 20530, Telephone: (202) 724–6468, United States Attorney, U.S. Department of Justice, 312 N. Spring Street, Los Angeles, CA 90012, Telephone: (213) 688–2434, *Attorneys for the United States.*

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Kahan & Lessin, Co.; Landstrom Distributors, Inc.; Nature's Best; and Tree of Life West, Inc.,* Defendants.

Civil No. 81–0186–MML, Competitive Impact Statement.

Filed: February 5, 1982.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), the United States files this Competitive Impact Statement, relating to the proposed Final Judgment submitted for entry in this case.

I

Nature and Purpose of the Proceeding

On January 14, 1981, the United States filed a civil antitrust suit alleging that Kahan & Lessin Co., Landstrom Distributors, Inc., Nature's Best, and Tree of Life West, Inc., engaged in a conspiracy to fix the prices and terms and conditions of sale of natural foods, vitamins and cosmetics from 1974 to 1978. All of the defendants were wholesale distributors of natural foods, vitamins and cosmetics during the conspiracy period. All of the defendants are located in California and their annual sales during the conspiracy were about fifty million dollars.

In the Prayer to its Complaint, the Government asked the Court: to find that the defendants had engaged in an unlawful combination and conspiracy in restraint of trade in violation of Section 1 of the Sherman Act (15 U.S.C. § 1); to enjoin the defendants from continuing the conspiracy; and to require each defendant to notify its employees and its suppliers of the terms of any final judgment, to report for 10 years to the United States on actions taken to ensure compliance with the final judgment, and to create and maintain memoranda of oral communications with any other health food distributor.

On the same day that the Government filed its complaint in this proceeding, an Indictment was returned by a federal grand jury in Los Angeles charging the same price-fixing offense against the defendants named in the Complaint. Two of the defendants, Nature's Best and Tree of Life West, pleaded *nolo contendere* to the charges in the Indictment. Judge A. Wallace Tashima accepted the *nolo contendere* pleas. Landstrom Distributors and Kahan & Lessin were convicted following a five week jury trial in June, 1981.

Entry by the Court of the proposed Final Judgment will terminate this litigation. The Court will retain jurisdiction for possible future proceedings which might be required to interpret, modify or enforce the proposed provisions of the Final Judgment.

II

The Nature of the Alleged Violation

Natural foods, vitamins and cosmetics are sold and shipped to health food retail stores and other customers by health food distributors who are also referred to as jobbers or wholesalers. Health food distributors purchase natural foods, vitamins and cosmetics from manufacturers and other suppliers.

The National Nutritional Foods Association (NNFA) is a trade association serving the health food industry. NNFA holds annual conventions and it, or its regional affiliates, sponsor regional trade shows. At the NNFA convention, and at regional trade shows, distributors frequently maintain booths or exhibits at which they solicit and accept orders from customers. "Convention specials" are discounts offered to customers by distributors in connection with a NNFA or regional convention in which the discounts originate with the manufacturers and are passed along by the distributors. "Trade show discounts" are discounts offered and originated by distributors at the conventions.

Each of the defendants is a health food distributor and is incorporated in the State of California. Kahan & Lessin has its principal place of business in Compton, California. Its primary market is southern California, but it also has sales throughout the western United States. Landstrom's principal place of business is in South San Francisco, California. Its primary market is northern California, but it has significant sales in southern California and throughout the western United States. Nature's Best has its principal place of business in Torrance, California, and its primary market is southern California. Tree of Life West has its principal place of business in Sun Valley, California, and its primary market is southern California.

The complaint alleges that between October 1974 and October 1978 the defendants conspired to fix the prices and terms and conditions of sale of natural foods, vitamins and cosmetics. The defendants carried out the conspiracy by participating in

a number of meetings and having other communications during which they:

(a) Discussed prices and terms and conditions of sale of natural foods, vitamins and cosmetics;

(b) Agreed to eliminate trade show discounts at the NNFA convention and at regional trade shows;

(c) Agreed to limit the time period during which they offered convention specials to customers;

(d) Agreed to prevent manufacturers and other suppliers from selling directly to retail stores;

(e) Agreed to eliminate and restrict discounts offered by the defendants based upon the dollar volume of purchases by their customers;

(f) Agreed to maintain the wholesale list price of certain products so as to provide a 25% gross margin to distributors;

(g) Agreed to standardize various terms and conditions of sale to customers; and

(h) Communicated with one another as to agreements reached at prior meetings in order to ensure compliance with the agreements.

According to the Complaint, the alleged conspiracy had the following effects, among others:

(a) Prices paid for natural foods, vitamins and cosmetics by customers of the defendants were fixed, stabilized and maintained at artificial and non-competitive levels;

(b) Competition in terms and conditions of sale of natural foods, vitamins and cosmetics was restrained and suppressed; and

(c) Customers of the defendants were denied the benefits of free and open competition in the market for natural foods, vitamins and cosmetics.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that a Final Judgment, in the form filed with the Court, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against, or admission by, any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon the Court finding that its entry will be in the public interest.

The proposed Final Judgment contains two principal forms of relief. First, defendants are enjoined from repeating the behavior that characterized the conspiracy. Second, the proposed Final Judgment places an affirmative obligation on defendants to provide certain persons with notice of this action, and requires defendants to maintain copies of communications between themselves and other distributors.

A. Prohibited Conduct

Section V of the proposed Final Judgment enjoins defendants from entering into, adhering to, or maintaining any contract, agreement, understanding, plan or program with any other distributor either (1) to fix, maintain or stabilize the prices, discounts, or terms or conditions of the sale of natural foods, vitamins or cosmetics, or (2) to coerce any manufacturer or supplier of natural foods, vitamins or cosmetics from selling directly to retail stores. Defendants are also forbidden by this section from communicating to or discussing with another distributor, prices or terms or conditions of sale of natural foods, vitamins or cosmetics, except in relation to a proposed or actual *bone fide* purchase or sale of natural foods, vitamins or cosmetics between the parties to the communication or the publication of price lists for general distribution to customers.

B. Affirmative Obligations of the Defendants

Section IV requires each defendant, as a condition of the sale of all or substantially all of its assets used by it as a distributor, to require the purchaser to agree to be bound by the Final Judgment and to file the agreement with the Court.

Section VI(A) of the proposed Final Judgment orders defendants to furnish a copy of the Final Judgment within 60 days of its entry to each of its employees who have management responsibility for the sale of natural foods, vitamins or cosmetics. Section VI(C) requires each defendant to file with the Court and the plaintiff, an affidavit concerning compliance with Section VI(A). Thereafter, by Section VI(B), each defendant shall furnish a copy of the Final Judgment to each person who becomes a management employee described in Section VI(A) within 60 days after that person assumes that position. By Section VI(D), each defendant will notify annually its management employees of the obligations imposed upon them by the Final Judgment.

Section VI(E) requires each defendant to maintain copies of all written communications with any other distributor, exclusive of invoices and bills of lading.

Section VI(F) requires each defendant for a period of 5 years on the anniversary date of entry of the Final Judgment to inform plaintiff of actions taken to ensure compliance with the Final Judgment.

Finally, under Section VII of the proposed Final Judgment, the Justice Department will have access, upon reasonable notice, to the defendants' records and personnel to determine their compliance with the Final Judgment and may require a defendant to submit written reports with respect to any of the matters contained in the Final Judgment.

C. Scope of Proposed Judgment

(1) *Persons Bound by the Decree.* The proposed Final Judgment expressly provides in Section III that its provisions apply to the defendants, and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of the Final Judgment. Section IV provides that a defendent cannot sell all or substantially all of its assets unless the purchaser agrees to be bound by the Final Judgment.

(2) *Duration of the Decree.* Section IX provides that the Final Judgment will be in effect for a period of ten years following the date of its entry.

D. Effect of the Proposed Final Judgment on Competition

The relief encompassed in the Final Judgment is aimed at preventing any recurrence of the activities alleged in the complaint. Such activities interfere with the normal operation of competitive forces in the marketplace, and accordingly, result in artificially determined price levels. Entry of the Final Judgment will insure that each defendant's prices, discounts, and terms and conditions of sale for natural foods, vitamins and cosmetics are arrived at independently. This assurance is primarily provided by Section V(C) which forbids management employees of defendants from discussing prices or terms or conditions of sale of natural foods, vitamins and cosmetics with any other distributor. Forbidding such discussions should insure that each defendant will make its pricing decisions independently. Accordingly, it is the opinion of the Antitrust Division that the proposed Final Judgment adequately remedies the alleged violation.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed judgment has no *prima facie* effect in any private lawsuit that may be brought against these defendants. The convictions of Landstrom Distributors and Kahan & Lessin in *United States v. Kahan & Lessin Co., et al.*, CR 81-0029-AWT (C.D. Cal.), may have a *prima facie* effect in a private antitrust action under 15 U.S.C. § 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

The proposed Final Judgment is subject to a stipulation between the United States and defendants which provides that the United States may withdraw its consent to the proposed Final Judgment any time before its entry. By its terms, the Final Judgment also provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, any person wishing to comment upon the proposed judgment may submit, within the statutory sixty-day period, written comments to the United States Department of Justice, Attention: Alan L. Marx, Acting Chief, General Litigation Section, Antitrust Division, U.S. Department of Justice, Washington, D.C.

20530. Such comments, and the United States' response to them, will be filed with the Court and published in the **Federal Register**. The United States will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

VI

Alternatives to the Proposed Final Judgment

This proceeding does not involve any unusual or novel issues of fact or law which might make litigation against the defendants a more desirable alternative than entry of the Final Judgment. The only relief requested in the Complaint which is not substantially included in the terms of the proposed Final Judgment are a prayer requiring the defendants to make annual reports for 10 years, a prayer that each defendant notify the manufacturers from whom it makes purchases of the substance of the Final Judgment, and a prayer requiring defendants to create a memorandum of each price communication with another distributor.

During negotiations with defendants, the Government agreed to limit the filing of annual reports by defendants to a five-year period and abandoned its efforts to have the decree include the notification to manufacturers and the creation of memoranda. The notification requirement was abandoned because of the great number of manufacturers from whom each defendant makes purchases and because of the publicity given to this and the criminal case by health food trade publications. Finally, the Government agreed not to include relief that would have required defendants to create memoranda of oral communications relating to price with another distributor during negotiations in which the defendants abandoned their opposition to Sections IV, V (B), V (C) and VI (F) of the proposed Final Judgment.

In other respects the proposed Final Judgment provides the relief which was requested in the Complaint. Consequently, the Government believes that disposition of this case without further litigation is in the public interest since the proposed Final Judgment affords the form and scope of relief that the Government may have obtained in a litigated judgment.

VII

Other Materials

There are no materials or documents which the Government considered determinative in formulating this proposed Final Judgment. Therefore, none are being filed along with this Competitive Impact Statement.

Dated:

By: D. Bruce Pearson,
Kenneth L. Jost,
Richard W. Pierce,
United States Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6468, Attorneys for the United States of America.

[FR Doc. 82-4446 Filed 2-18-82; 8:45 am]
BILLING CODE 4410-01-M

Attorney General

Proposed Consent Decree in Action To Remedy Imminent and Substantial Endangerment to Health and the Environment Caused by the Disposal of Hazardous Waste at 1141 West Vermont Avenue, Calumet Park, Illinois

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 1, 1982, a proposed consent decree in *United States of America* v. *Andrew and Mae L. Ciszar et al.*, Civil Action No. 80 C 3385, was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree requires that all hazardous wastes be removed from 1141 West Vermont Avenue, Calumet Park, Illinois within 90 days of the lodging of the decree. The removal must be accomplished in accordance with all applicable federal, state, and local requirements.

The proposed consent decree may be examined at the office of the United States Attorney, Room 1500, 219 S. Dearborn Street, Chicago, Illinois 60604; at the Region V office of the United States Environmental Protection Agency, 13th floor, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice (March 22, 1982). Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Andrew and Mae L. Ciszar et al.*, N.D. Ill., Civil Action No. 80 C 3385, D.J. Ref. 90–7–1–155.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-4448 Filed 2-18-82; 8:45 am]
BILLING CODE 4410-01-M

Proposed Settlement Decree in Action Under the Resource Conservation and Recovery Act, in Which the United States Seeks Abatement of Pollution

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 8, 1982, a proposed settlement decree in "United States v. Spectron, Inc., and Paul J. Mraz", Civil Action No. HM–80–1552 was lodged in the United States District Court for the District of Maryland.

The settlement decree concerns a solvent recycling facility owned and operated by the defendants in Providence, Maryland. The decree provides for remedial actions relating to groundwater contamination and contamination of Little Elk Creek. The Department of Justice will receive for thirty (30) days from the date of publication of this notice (March 22,1982) written comments related to the proposed settlement decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to United States v. Spectron, Inc., and Paul J. Mraz, DJ Ref. 90–7–1–70.

The proposed decree may be examined at the office of the United States Attorney, 8th Floor, U.S. Courthouse, 101 West Lombard Street, Baltimore, Maryland 21201, at the Region III office of the Environmental Protection Agency, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1254, 10th and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. All requests for copies must be accompanied by a check covering production costs (0.10 per page) in the amount of $2.30 made payable to the Treasury of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-4462 Filed 2-18-82; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment

assistance issued during the period February 1, 1982 to February 5, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–11,580; Jay Garment Co., Inc., Clarksville, TN

TA–W–11,858; Hillcrest Garment Co., Inc., New York, NY

In the following case the investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tanned & finished cattlehide did not increase as required for certification.

TA–W–12,214; H. Swoboda and Sons, Div. of Trans-Continental Leathers Co., Philadelphia, Pa.

Affirmative Determinations

TA–W–11,609; H. L. Friedlen and Co., Inc., Allegan, MI

The investigation revealed that all criteria have been met. All workers certified eligible on or after October 25, 1979 and before October 31, 1980.

TA–W–11,294; Julius Resnick, Inc., Syracuse, NY

The investigation revealed that all criteria have been met. All workers of the Syracuse, New York plant of Julius Resnick, Inc. separated on or after October 4, 1979 and before October 31, 1981 are certified eligible to apply for adjustment assistance.

I hereby certify that the aforementioned determinations were issued during the period February 1–5, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 9, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–3795 Filed 2–18–82; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility to Apply for Worker Adustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 8–February 12, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–11,820; The Wurlitzer Co., Corinth, MS

TA–W–11,903; International Shoe Co., Hopkinsville, KY

TA–W–11,916; Munsingwear, Inc., Arkadelphia, AR

TA–W–12,317; Tandra Dress, Inc., West Islip, NY

TA–W–11,091; M & A Manufacturing, Newark, NJ

TA–W–12,107; Keystone Fireworks Manufacturing Co., Inc., Dunbar, PA

TA–W–11,541; Dayton Malleable, Inc., Ironton Div., Ironton, OH

TA–W–11,625; Youthcraft Coats & Suits, Inc., Kansas City, MO

TA–W–11,338; Simon Ellis, Inc., New York, NY

TA–W–12,147; Tectonic Industries, Inc., Berlin, CT

TA–W–11,111; FX Systems Corp., Kingston, NY

TA–W–11,960; International Shoe Co., Batesville, AR

TA–W–11,686; Leslie Fashions, Inc., Newark, NJ

TA–W–11,838; Pathfinder Mines Corp., Big Eagle Mine, Jeffrey City, WY

TA–W–11,839; Pathfinder Mines Corp., Lucky McMine, Riverton, WY

TA–W–11,840; Pathfinder Mines Corp., Shirley Basin Mine, Shirley Basin, WY

TA–W–11,325; Dayton-Walther Corp., The Morain Div., Dayton, OH

TA–W–11,478; Dayton-Walther Corp., The Muncie Div., Muncie, IN

TA–W–11,655; Dayton-Walther Corp., The Dayton Div., Dayton, OH

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,511; Metalloy Corp., Shannon, MS

TA–W–11,697; Lone Star Industries, Inc., St. Stephens, AL

TA–W–11,439; Deere & Co., Component Works, Waterloo, IA

TA–W–11,440; Deere & Co., Engine Works, Waterloo, IA

TA–W–11,441; Deere & Co., Foundry, East Moline, IL

TA–W–11,442; Deere & Co., Tractor Works, Waterloo, IA

TA–W–11,447; Deere & Co., Dubuque Works, Dubuque, IA

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified; *TA–W–12,565; Penchansky Brothers, Inc., Jersey City, NJ.*

Aggregate U.S. imports of meat did not increase as required for certification; *TA–W–12,194; Beach Engineering, Inc., Novi, MI.*

Aggregate U.S. imports of automotive testing, measuring and analyzing instruments are negligible.

In the following case the investigation revealed that criterion (2) has not been met; *TA–W–10,641; George E. Keith Co., Walkover Div., Bridgewater, MA.*

A significant number or proportion of the workers were not totally or partially separated from the firm during the period under investigation.

Affirmative Determinations

TA–W–12,556; Jacana Sportswear, Inc., Bayshore, NY

The investigation revealed that all criteria have been met. All workers of Jacana Sportswear, Inc., Bayshore, NY

separated on or after March 23, 1980 and before January 1, 1981 are certified eligible to apply for adjustment assistance.

TA–W–11,219; Suspension Components Div., Rockwell International, New Castle, PA

A certification was issued in response to a petition received on September 30, 1980 covering all workers separated on or after September 26, 1979.

TA–W–11,295; Lady Arrow, Brantley, AL

A certification was issued in response to a petition received on October 14, 1980 covering all workers separated on or after February 6, 1980.

TA–W–11,296; Lady Arrow, Evergreen, AL

A certification was issued in response to a petition received on October 14, 1980 covering all workers separated on or after June 11, 1980.

I hereby certify that the aforementioned determinations were issued during the period February 8–12, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 16, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-4544 Filed 2-18-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Periods in the States of California and Nevada

This notice announces the beginning of new Extended Benefit Periods in the States of California and Nevada, effective on February 7, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "on" Indicator

The heads of the employment security agencies of the States of California and Nevada have determined that the rate of insured unemployment in each State, for the period consisting of the week ending on January 23, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rates, so that for that week there was an "on" indicator in each State.

Therefore, new Extended Benefit Periods commenced in these States with the week beginning on February 7, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the States of California or Nevada, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on February 11, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-4542 Filed 2-18-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M–81–74–M]

Cathedral Bluffs Shale Oil Co.; Petition for Modification of Application of Mandatory Safety Standard

Cathedral Bluffs Shale Oil Company, P.O. Box 2687, Grand Junction, Colorado 81502 has filed a petition to modify the application of 30 CFR 57.4–58 (underground fires) to its Cathedral Bluffs Mine retort area located in Rio Blanco County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fires shall not be built underground.

2. Petitioner is presently working on a project for engineering development and technical feasibility demonstration of a vertical modified in situ oil shale retorting process (MIS process) at the mine.

3. As an alternate method, petitioner proposes to operate its CB Mine Retorts using a number of safeguards, including monitoring for various gases such as nitrogen, hydrogen and methane; ventilation proposals; rescue equipment and training; and evacuation and contingency plans.

4. Based on extensive experience over the years, petitioner states that all anticipated relevant factors have been taken into account to guarantee the greatest degree of safety during retort operations and that these will provide miners the same degree of safety as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 22, 1982. Copies of the petition are available for inspection at that address.

Dated: February 9, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4545 Filed 2-18-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-264-C]

Harlan-Bell Coal, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Harlan-Bell Coal, Inc., P.O. Box 743, Harlan, Kentucky 40831 has filed a petition to modify the application of 30 CFR 75.805 (couplers) to its Harlan No. 1 and Highsplint No. 2 Mine located in Harlan County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner is seeking a modification of the standard to allow the use of junction boxes manufactured by Pemco Corporation and equipped with a Micro switch wired in series with the ground check circuit to cause the power circuit to be deenergized in the event the cover is removed. The boxes are constructed of ⅛ inch steel and equipped with insulated strain clamps.

2. In support of this request, petitioner states that the following stipulations will be observed:

a. Junction boxes shall be located in dry, well rock-dusted areas or supported above wet locations. The boxes may be supported on concrete blocks or the equivalent;

b. All junction boxes shall be identical to Pemco Corporation part number 23617-C5816-Nema A-300.

c. When different size cables are used, fittings for the cable entrance shall be properly sized and secured to prevent strain on the electrical connections;

d. The high-voltage cables shall be terminated in accordance with the termination kit manufacturer's recommendations;

e. The junction boxes and cables shall be protected in accordance with the provisions of 30 CFR 75.807 and 30 CFR 75.1107-1(a)(3).

3. Petitioner states that the proposed alternate method will at all times guarantee no less protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 22, 1982. Copies of the petition are available for inspection at that address.

Dated: February 9, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4546 Filed 2-18-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-270-C]

Mary Lou Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Mary Lou Coal Corporation, Route 1, Box 31, Hurley, Virginia 24620 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 Mine located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Numerous roof falls in the return airway have made travel of the airway hazardous. Rehabilitation of the airway would expose miners to hazardous conditions.

3. These roof falls have not hampered airflow through the airway.

4. As an alternative method, petitioner proposes to establish and maintain three air measuring stations at specified locations. Methane and air readings will be taken at each station by a certified person and results of such examinations will be recorded in a date book at each location. Methane will not be allowed to accumulate above legal limits.

5. For these reasons, petitioner requests a modfication of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 22, 1982. Copies of the petition are available for inspection at that address.

Dated: February 9, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4547 Filed 2-18-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-275-C]

McDaniel Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

McDaniel Mining Company, Inc., Box 98, Piney View, West Virginia 25906 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 2 located in Fayette County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Numerous roof falls have rendered the return airways impassable. Entries not blocked with roof falls are mired in muck and water as deep as 36 inches.

3. Rehabilitating these return entries would expose miners to hazardous conditions. Current testing procedures reveal that very little methane is being discharged from the entries involved.

4. As an alternative method, petitioner proposes to establish and maintain three specified air measuring stations underground and one station on the surface. Examinations will be made at each station weekly as required by the standard, except that the surface station at the fan would be measured daily. Methane and air quantity readings will be made by a certified competent person and results will be recorded on a date board at each station and in a book kept in the mine office. Methane would not be allowed to accumulate in the return air courses beyond legal limits.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 22, 1982. Copies of the petition are available for inspection at that address.

Dated: February 9, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4548 Filed 2-18-82; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Indiana State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On March 6, 1974, notice was published in the **Federal Register** (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z to Part 1952 containing the decision.

1910 Revocation to Standards

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated March 13, 1979, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR Part 1910 Revocations to Selected Safety & Health Standards as published in the **Federal Register** (43 FR 49744), October 24, 1978. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on December 15, 1978, by a notice published in a newspaper of general circulation within the State. A public hearing was held on January 26, 1979, at which time the standard was adopted. The Attorney General approved its legality on March 1, 1979, the Governor approved it on March 5, 1979, it was filed with the Secretary of State on March 6, 1979, and it was registered with the Legislative Council on March 6, 1979, pursuant to the Indiana Administrative Adjudication Act.

29 CFR Part 1910 Correction to Revocation of Standards

By letter dated March 13, 1979, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR Part 1910 Corrections to Revocations of Standards, as published in the **Federal Register** (43 FR 51760) dated November 7, 1978. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on December 15, 1978, by a notice published in a newspaper of general circulation within the State. A public hearing was held on January 6, 1979, at which time the standard was adopted. The Attorney General approved its legality on March 1, 1979, the Governor approved it on March 5, 1979, it was filed with the Secretary of State on March 6, 1979, and it was registered with the Legislative Council on March 6, 1979, pursuant to the Indiana Administrative Adjudication Act.

29 CFR 1910.1018 Corrections to Occupational Exposure to Inorganic Arsenic

By letter dated February 6, 1969, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.1018 Corrections to Occupational Exposure to Inorganic Arsenic published in the **Federal Register** (43 FR 28472), dated June 30, 1978. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on October 6, 1978, by a notice published in a newspaper of general circulation within the State. A public hearing was held on December 1, 1979, at which time the standard was adopted. The Attorney General approved its legality on January 24, 1979, the Governor approved it on January 31, 1979, it was filed with the Secretary of State on February 1, 1979, and it was registered with the Legislative Council on February 1, 1979, pursuant to the Indiana Administrative Adjudication Act.

29 CFR 1910.309 Ground Fault Protection (GFCI)

By letter dated June 17, 1977, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted the following Occupational Safety Standards, Deletions, Revisions, Corrections and/or Amendments as published in the **Federal Register**.

A. 1. Part 1910.309, Occupational Safety and Health Standards, National Electrical Code, Ground-Fault Protection. Part 1926.400, Occupational Safety and Health Standards, General Requirements, Ground-Fault Protection, as Published in the **Federal Register**, Volume 41, Number 246—Tuesday, December 21, 1976.

2. Correction: Part 1910 and 1926, Occupational Safety and Health Standards, Ground-Fault Protection, as Published in the **Federal Register**, volume 42, Number 10—Friday, January 14, 1977.

These amendments which are contained in the Indiana Occupational Safety and Health Standard, were promulgated after public comment was requested on March 21, 1977, by a notice published in a newspaper of general circulation within the State. A public hearing was held April 22, 1977, at which time the amendments were adopted. The Attorney General approved its legality on May 26, 1977, the Governor approved it on June 8, 1977, it was filed with the Secretary of State on June 6, 1977, and it was registered with the Legislative Council on June 8, 1977, pursuant to the Indiana Administrative Adjudication Act.

29 CFR 1910.1044 1,2-Dibromo-3-Chloropropane, (DBCP)

By letter dated July 14, 1978, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.1044, 1,2-Dibromo-3-Chloropropane, as published in the **Federal Register** (43 FR 11527) dated March 17, 1978. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on April 7, 1978, by a notice published in a newspaper of general circulation within the State. A public hearing was held on May 5, 1978, at which time the standard was adopted. The Attorney General approved its legality on June 28, 1978, the Governor approved it on July 6, 1978, it was filed with the Secretary of State on July 7, 1978, and it was registered with the Legislative Council on July 7, 1978, pursuant to the Indiana Administrative Adjudication Act.

29 CFR 1910.1043 Corrections to Cotton Dust Standard

By letter dated September 11, 1980, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administrator, and incorporated as part of the plan, the State submitted a State standard addition comparable to Part 1910 of Title 29 of the Code of Federal Regulations (CFR) as were published in **Federal Register** as follows, concerning occupational exposure to cotton dust.

1. Corrections to § 1910.1043; as published in **Federal Register**, Volume 43, No. 127, Friday, June 30, 1978; on page 28474.

2. Corrections to § 1910.1043; as published in **Federal Register**, Volume 43, No. 153, Tuesday, August 8, 1978; on page 35035.

3. Corrections to § 1910.1043; as published in **Federal Register**, Volume 43, No. 234, Tuesday, December 5, 1978; on page 56893.

These standards, which are contained in the Indiana Occupational Safety and Health Standard, were promulgated after public comment was requested on June 4, 1980, by a notice published in a newspaper of general circulation within the State. A public hearing was held June 27, 1980, at which time the standard was adopted. The Attorney General approved its legality on August 11, 1980, the Governor approved it on August 13, 1980, it was filed with the Secretary of State on August 14, 1980, and it was registered with the Legislative Council on August 14, 1980, pursuant to the Indiana Administrative Adjudication Act.

29 CFR 1910.1000 Chlorine-Correction to Table Z

By letter dated March 13, 1979, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State revision comparable to the following, amendments to Part 1910 of Title 29 Code of Federal Regulations:

1. Revision of Paragraph (C) of § 1910.19; as published on page 45809 of the **Federal Register**, Volume 43, No. 192—Tuesday, October 3, 1978.

2. A deletion in § 1910.1000 (from Table Z–1); as published on page 45809 of the **Federal Register**, Volume 43, No. 192—Tuesday, October 3, 1978.

3. Revision of § 1910.1045; as published on pages 45809 through 45819 of the **Federal Register**, Volume 43, No. 192—Tuesday, October 3, 1978.

These amendments, which are contained in the Indiana Occupational Safety and Health Standard, were promulgated after public comment was requested on December 15, 1978 by a notice published in a newspaper of general circulation within the State. A public hearing was held on January 26, 1979, at which time the standard was adopted. The Attorney General approved its legality on March 1, 1979, the Governor approved it on March 5, 1979, it was filed with the Secretary of State on March 6, 1979, and it was registered with the Legislative Council on March 6, 1979, pursuant to the Indiana Administrative Adjudication Act.

29 CFR 1910.1025 Corrections to Lead Standard

By letter dated July 1, 1979, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.1025 Correction to Lead Standard, as published in the **Federal Register** (44 FR 5446) dated January 26, 1979. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on April 16, 1979, by a notice published in a newspaper of general circulation within the State. A public hearing was held on May 11, 1979, at which time the standard was adopted. The Attorney General approved its legality on June 14, 1979, the Governor approved it on June 18, 1979, it was filed with the Secretary of State on June 19, 1979, and it was registered with the Legislative Council on June 19, 1979, pursuant to the Indiana Administrative Adjudication Act.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standard is identical to the Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the Indiana standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Indiana, Division of Labor, 1013 State Office Building, Indianapolis, Indiana 46204; and the Office of the Directorate of Federal Compliance and State Programs, Room N3619, 200 Constitution Ave., NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Indiana State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is identical to the Federal standard and is therefore deemed to be at least as effective.

2. The standard was adopted in accordance with the procedural requirements of the State law and further participation would be unnecessary.

This decision is effective February 19, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Chicago, Illinois, this 27th day of November, 1981.

Alan C. McMillan,

Acting Regional Administrator.

[FR Doc. 82–4549 Filed 2–18–82; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Notice of Approval of Revised Developmental Schedule was further published on April 1, 1974 in the **Federal Register** (39 FR 11881).

The Oregon plan provides for the adoption of Federal standards as State standards after comments and/or public hearing. Section 1952.108 of Subpart D sets forth the State's schedule for the adoption of Federal standards.

By letter dated June 18, 1980 from Darrel D. Douglas, Administrator, Accident Prevention Division, Workers' Compensation Department, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted a standard comparable to 29 CFR 1910.1043, Cotton Dust, as published in the **Federal Register** (43 FR 27394) on June 27, 1978. The Oregon Cotton Dust standard was reviewed and returned to the State for minor corrections on August 22, 1980. The State amended the rules and submitted a revised standard to Region X on August 4, 1981. The State standard was identical to the Federal standard and included corrections to the Federal standard as published in **Federal Registers** (43 FR 28473) on June 30, 1978, (43 FR 35032) on August 8, 1978, and (45 FR 12416) on February 26, 1980.

These standards, which are contained in OAR 437, Division 146, Oregon Occupational Safety and Health Code, were originally promulgated by the State after a notice was published in the Secretary of State's Administrative Rules Bulletin on March 15, 1980 pursuant to ORS Chapter 183.335. Amendments were published April 15, 1981. No written comments nor requests for a public hearing were received. The original Oregon Cotton Dust standard was adopted May 20, 1980 and became effective July 1, 1980 while the amendments were adopted June 5, 1981 and became effective July 1, 1981.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is identical to the Federal Standard except that amendments to the Federal standard as published in the **Federal Register** (45 FR 67340) on October 10, 1980, have not been included. The amendment has been placed in the Oregon Industrial Hygiene Field Operations Manual and will be placed in the Oregon Cotton Dust standard at a later date.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N–3613, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective February 19, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 30th day of September, 1981.

James W. Lake,

Regional Administrator.

[FR Doc. 82–4550 Filed 2–18–82; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction exemption 82–39; Exemption Application Nos. D–2975, D–2978, and D–2979]

Exemption from the Prohibitions for Certain Transactions Involving the Bell System Trust, New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits (1) transactions relating to the proposed purchase by Atel I, Inc. (the Feeder Corp.) for the Bell System Pension Plan Trust and the Bell System Management Pension Plan Trust (the Plans) of equity interests and mortgage interests in certain improved real property (the Property); (2) the proposed continuation by the Feeder Corp. of existing leases of space in the Property to three tenants, including a Plan fiduciary, who provide services to the Plans; and (3) the proposed leasing of space in the Property to other current or future tenants who will provide services to the Plans in the future.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523–8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 29, 1981, notice was published in the **Federal Register** (46 FR 62973) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1), and 406(b) (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c) (1) (A) through (E) of the Code, for the transactions mentioned above. The notice set forth a Summary of Facts and Representations (the Summary) contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption.

Counsel for the Plans represents that to the best of his knowledge and belief, notice to interested persons has been provided in accordance with the provisions of the proposed exemption. He certifies that all companies participating in the Plans received the notice to interested persons prior to January 7, 1982. He explains that as the notice of proposed exemption was published December 29, 1981, rather than December 28 as initially expected, the posting was completed on January 7, 1982 (six business days after December 29, 1981); therefore, pursuant to discussions with the Department, the notice to interested persons specifically informed them that the comment period was extended to February 8, 1982. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the

Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c) (2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a) (1) (B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) (3) of the Act and section 4975(c) (1) (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c) (2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations.

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the following transactions:

(1) The grant by First Chicago Realty Services Corporation (Lender 1) to the G. A. Dexter Company (the Realtor) of an assignable option to acquire Lender 1's interest in the mortgage loan pertaining to the Property, as described in paragraph 15 of the Summary;

(2) The grant of The Citizens and Southern National Bank (Lender 2) to the Realtor of an assignable option to acquire Lender 2's interest in the mortgage loan pertaining to the Property, as described in paragraph 16 of the Summary;

(3) The acquisition from the Realtor by the Feeder Corp., acting through Eastdil Advisers, Inc. (the Fiduciary) as investment manager for certain assets of the Plans, of the equity interests in the Property and of the options granted by Lender 1 and Lender 2, all as described in paragraph 14 of the Summary, provided that the aggregate purchase price paid by the Feeder Corp. for such equity interests and such option does not exceed the fair market value of such equity interests and such options on the closing date of the purchase;

(4) The acquisition by the Feeder Corp., acting through the Fiduciary as investment manager for certain assets of the Plans, of Lender 1's interests in the mortgage loan pertaining to the Property by means of the exercise by the Feeder Corp. of the option granted to the Realtor by Lender 1, as described in paragraph 15 of the Summary, provided that the price paid by the Feeder Corp. to exercise such options does not exceed the fair market value of such mortgage interests on the closing date of the purchase;

(5) The acquisition by the Feeder Corp., acting through the Fiduciary as investment manager for certain assets of the Plans, of Lender 2's interests in the mortgage loan pertaining to the Property by means of the exercise by the Feeder Corp. of the option granted to the Realtor by Lender 2, as described in paragraph 16 of the Summary, provided that such price paid by the Feeder Corp. to exercise such option does not exceed the fair market value of such mortgage interests on the closing date of the purchase;

(6) The continuation by Equitable Life Assurance Society of the United States (Equitable) of its status as a tenant in the Property, including the potential future exercise by Equitable of its additional space and first refusal options and its renewal options under its existing lease, and including renegotiations of its lease under terms and conditions which are no less favorable to the Feeder Corp. than the lease terms and conditions which are customary for similarly situated tenants in similarly situated buildings in the Atlanta, Georgia area;

(7) The continuation by the Realtor of its status as a tenant in the Property under its current lease, including the renegotiation of such lease under terms and conditions which are no less favorable to the Feeder Corp. than the lease terms and conditions which are customary for similarly situated tenants in similarly situated buildings in the Atlanta, Georgia area;

(8) The continuation by Georgia Building Services, Inc. of its status as a tenant in the Property under its current lease, including the renegotiation of such lease under terms and conditions which are no less favorable to the Feeder Corp. than the lease terms and conditions which are customary for similarly situated tenants in similarly situated buildings in the Atlanta, Georgia area; and

(9) The leasing of space in the Property by other present or future tenants in the Property who may provide services (including Plan fiduciaries) to the Plans in the future, provided that the terms and conditions of any such lease are no less favorable to the Feeder Corp. than the lease terms and conditions which are customary for similarly situated tenants in similarly situated buildings in the Atlanta, Georgia area, and provided further that any such lease is approved and monitored on behalf on the Feeder Corp. by a Plan trustee or investment manager which is not affiliated or otherwise related to such service provider in any manner which would affect the exercise of such trustee's or investment manager's judgment as a Plan fiduciary.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 10th day of February 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-4199 Filed 2-12-82; 11:40 am]

BILLING CODE 4510-29-M

[Exemption Application No. L-2865]

Proposed Exemption for Certain Transactions Involving the United Mine Workers of America 1950 Benefit Plan and Trust

AGENCY: Department of Labor.

ACTION: Notice of hearing.

SUMMARY: This document contains a notice of public hearing with respect to an application by the United Mine Workers of America 1950 Benefit Plan and Trust. The application is for an exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974. The public hearing will allow persons who would be affected by the proposed exemption to present oral comments to the Department of Labor (the Department).

DATES: The hearing will be held on March 15, 1982 at 10:00 A.M. Persons who wish to present oral comments at the hearing shall submit a statement to that effect, which must be received by the Department on or before March 5, 1982.

ADDRESS: Statements and any written comments on the proposed exemption should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216. Attention: Hearing, Application No. L-2865. The application for exemption and the comments received will be available for public inspection in the Public Document Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held before the Department with respect to a proposed exemption from the restrictions of section 406(a) and 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption was requested in an application filed by the trustees (the Trustees) of the United Mine Workers of America 1950 Benefit Plan and Trust (the Plan), pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The proposed exemption, if granted, would allow the Trustees to resolve certain disputes arising in connection with provision of health and other benefits through employee welfare benefit plans established by individual employers pursuant to the National Bituminous Coal Wage Agreement of 1981.

A Notice of Pendency of the proposed exemption was published in the **Federal Register** on Friday, November 20, 1981 (46 FR 57194). By means of the Notice of Pendency, interested persons were invited to submit written comments and requests for a public hearing in which substantive objections to the proposed exemption were raised were received by the Department on or before January 30, 1981, which was the final date specified for receipt of such comments and hearing requests.

Accordingly, the Department has determined that a public hearing regarding the proposed exemption will be held on March 15, 1982, beginning at 10:00 A.M., in Room N-5437 A and B of the Department of Labor Building, 200 Constitution Avenue NW, Washington, D.C.

Any person who desires to present oral comments at the hearing, and who wishes to be assured of being heard, shall submit a statement to that effect, indicating the amount of time he wishes to devote to his oral comments. Such statement and any written comments that such person wishes to be considered in conjunction with his presentation should be submitted to the address specified in "ADDRESS" above, within the time period set forth in "DATES" above.

An agenda will be prepared by the Department, containing the order or presentation of oral comments. Copies of the agenda will be available at the hearing. Information concerning contents of the agenda may be obtained on or after March 9, 1982, by telephoning the person whose name and number are shown above.

Ordinarily ten minutes will be allowed each person for making an oral presentation. In addition, persons presenting such oral comments should be prepared to answer questions relating to the proposed exemption. At the conclusion of presentation of comments by persons listed on the agenda, other comments will be received, to the extent that time permits. The public hearing will be transcribed.

Signed at Washington, D.C this 12th day of February 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-4420 Filed 2-18-82; 8:45 am]
BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-3)]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to Xomed, Inc., Division of Bristol Myers, Jacksonville, Florida, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,308,868 for "An Implantable Electrical Device," issued January 5, 1982, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments on this notice must be received by April 20, 1982.

ADDRESS: National Aeronautics and Space Administration, Code GP-4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 755-3954.

Dated: February 11, 1982.

John E. O'Brien,

Acting General Counsel.

[FR Doc. 82-4427 Filed 2-18-82; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 318]

Baltimore Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 65 and 47 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

The amendments to the Technical Specifications address the operability and test requirements for the containment purge intake and exhaust isolation valves.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated December 7, 1981, (2) Amendments Nos. 65 and 47 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 1st day of February, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-4859 Filed 2-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-317, 50-318]

Baltimore Gas and Electrtic Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 66 and 48 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs, Nuclear Power Plant, Units Nos. 1 and 2 located in Calvert County, Maryland. The amendments are effective as of the date of issuance.

These amendments allow start up and power operation with one inoperable reed switch position indicator channel per control element assembly (CEA) group provided that the associated CEAs can be moved to the full out position and confirmed to be in this position.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated July 27, 1977, (2) Amendment Nos. 66 and 48 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of February, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-4860 Filed 2-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317, 50-318]

Baltimore Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 67 and 49 to Facility Operating License Nos. DPR-53 and DPR-69 issued to the Baltimore Gas and Electric Company (the licensee), which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2 (the facility) located in Calvert County, Maryland. The amendments are effective within 30 days after entering MODE 1, as defined by Technical Specification 1.4, following completion of the reload for operation during Cycle 6 for Unit 1 and during Cycle 5 for Unit 2.

The amendments require operability and verification of the auxiliary feedwater system throttle valves.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated December 21, 1981, (2) Amendments Nos. 67 and 49 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 8th day of February, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-4561 Filed 2-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-317, 50-318]

Baltimore Gas and Electric Co.; Granting of Relief From ASME Section XI, Inservice Testing Requirements

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Baltimore Gas and Electric Company (the licensee), which revised the inservice testing program for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires on May 8, 1985 for Calvert Cliffs Unit 1 and April 1, 1987 for Calvert Cliffs Unit 2.

The NRC has provided the following relief from ASME Boiler and Pressure Vessel Code, Section XI:

- Relief from the observation of certain pump performance parameters since these parameters are not readily observable or are meaningless,
- Relief from pump high differential pressure alert and action levels in that overly tight levels result in unnecessary pump testing,
- Relief from monthly pump performance tests; safety related pumps are to be run monthly and performance tested quarterly,
- Relief from valve exercising where: (1) If the valve is in its safety related position, and not required to change position for safe shutdown of the plant or following an accident, no valve exercising is required, or (2) if the valve is required to be operated for safe shutdown of the plant or following an accident, alternate testing has been reviewed and found acceptable.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's letters dated February 5, 1980, May 1, 1980, May 9, 1980, and January 1, 1981, (2) the requests for relief from code requirements dated July 28, 1976, May 24, 1977, November 5, 1981, (3) the letters to the licensee dated December 10, 1976, June 17, 1977 and February 8, 1982, (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated this 8th day of February 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-4562 Filed 2-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-483]

Callaway Plant, Unit No. 1; Availability of Final Environmental Statement

Notice is hereby given that the Final Environmental Statement (NUREG-0813) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Callaway Plant, Unit No. 1. The station is located in Callaway County, appproximately 25 miles east-northeast of Jefferson City, Missouri.

The Final Environmental Statement (NUREG-0813) is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. 20555 and in the Fulton City Library, 709 Market Street, Fulton, Missouri and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri. The Final Environmental Statement is also being made available at the Office of Administration, Division of Budget and Planning, P.O. Box 809, State Capital Building, Jefferson City, Missouri and at the Mid-Missouri Council of Governments, 830 E. High Street, Jefferson City, Missouri.

The notice of availability of the Draft Environmental Statement (DES) for the Callaway Plant, Unit No. 1 and request for comments was published in the Federal Register on October 16, 1981 (46 FR 51098) and clarified on November 6, 1981 (46 FR 55170). The comments received from Federal, State and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-0813) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md., this 10th day of February 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-4563 Filed 2-18-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338, 50-339]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendments No. 37 and No. 17 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the NA-1&2 Technical Specifications by removing the specific values of the F_x, and the axial power distribution surveillance limits, P_m, and specifying that the specific values for these limits shall be provided in a special Core Surveillance Report to the NRC 60 days prior to a reload cycle startup for either NA-1 or NA-2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Price public notice

of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated December 15, 1981, (2) Amendment No. 37 and No. 17 to Facility Operating Licenses No. NPF–4 and NPF–7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of February 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–4504 Filed 2–18–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Schedule for Awarding Senior Executive Service Performance Awards (Bonuses)

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice of Schedule for Awarding Senior Executive Service Performance Awards (Bonuses).

SUMMARY: Notice is hereby given of the schedule for awarding Senior Executive Service bonuses.

EFFECTIVE DATE: This notice is effective upon February 18, 1982.

FOR FURTHER INFORMATION CONTACT: William G. Laxton, Personnel Director, Office of the Federal Inspector, (ANGTS), Room 2317, Post Office Building, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20044 (202) 275–1157.

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The Office of the Federal Inspector intends to award Senior Executive Service bonuses for the performance rating cycle of October 1, 1980, through September 30, 1981, with payouts scheduled by March 12, 1982.

Dated: February 16, 1982

John T. Rhett,

Federal Inspector.

[FR Doc. 82–4504 Filed 2–17–82; 8:45 am]

BILLING CODE 8116–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Circular No. A–124, Patents—Small Firms and Non-Profit Organizations

AGENCY: Office of Federal Procurement Policy, OMB.

ACTION: Notice.

SUMMARY: This Circular, issued pursuant to the authority contained in Pub. L. 96–517, sets forth policies, procedures and a standard clause for executive branch agency use with regard to inventions made by small business firms and non-profit organizations and universities under funding agreements (contracts, grants and cooperative agreements) with Federal agencies where a purpose is to perform experimental, developmental and research work. This supersedes OMB Bulletin No. 81–22 and reflects public comments received on OMB Bulletin No. 81–22 (46 FR 34776, July 2, 1981).

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Fred H. Dietrich, Associate Administrator, Office of Federal Procurement Policy, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–6810.

SUPPLEMENTARY INFORMATION: This Circular is a revision of OMB Bulletin No. 81–22 which was issued on July 1, 1981, accompanied by a request for comments from the public and Federal agencies. Approximately 138 comments were received from individuals, universities, nonprofit organizations, industrial concerns, and Federal agencies.

Copies of all the comments are available on record at OFPP. A compilation of summaries of the comments organized by Bulletin section along with a rationale for their disposition can be obtained by writing to: Fred Dietrich, address as above.

The Bulletin has been reformated for easier reading and simplified reference to its provisions. For example, the standard clause has been moved from the body of the Circular to Attachment A. Instructions and policies on the use of the standard clause have been consolidated in Part 7. Instructions for modification or tailoring of the clause have been consolidated in Part 8. Other general policies relating to the clause or the Act have been treated in separate parts. Some of the more significant changes that were made as a result of the comments are discussed below. Explanations are also given as to why certain comments were not adopted.

I. Comments Relating to Policy and Scope Sections

A. Subcontracts

A number of comments indicated that more clarification on the application of the Circular to subcontracts was needed. Revisions were made in Part 5 and Part 7c. to address this concern.

B. Limitation to Funding Agreements Performed in the United States

There were also a large number of comments questioning the limitation of the Bulletin to funding agreements performed in the United States. The Circular has been revised to eliminate any distinctions based on where the funding agreement is performed. However, the definition of "nonprofit organization" at 35 U.S.C. 201 has been interpreted to cover only *domestic* nonprofit organizations. The definition of "small business" in SBA regulations which are referenced in the Act excludes foreign business. A strong argument can be made that the Congress did not include foreign nonprofits. For example, that part of the statutory definition referencing organizations "qualified under a *State* nonprofit organization statute" clearly is limited to U.S. organizations. Similarly, that part of the definition referencing Section 501 of the Tax Code manifest an intention to cover U.S. based organizations, since foreign corporations are not subject to U.S. tax except if they are doing business in the United States.

C. Inventions Made Prior to July 1, 1981

Part 5 of the Circular was revised, as suggested by commentors, to encourage agencies to treat inventions made under funding agreements predating the Act in a manner similar to inventions under the

Act, if such action is consistent with law.

D. Collaborative Research and "de minimus" Recommendations

There were several comments that some "de minimus" standard be established to define a threshold contribution of government funding to the making of a jointly funded invention below which the Circular regulations should not apply. These recommendations were rejected as being inconsistent with the Act which does not define subject invention in terms of the size of the government financial contribution in making the invention.

These comments appear to be based on a concern that the Circular does not provide adequate guidance on the obligations of a recipient of government research funds when such research is closely related to other research sponsored by an industrial concern. Since one of the primary purposes of Pub. L. 96-517 is to foster cooperative research arrangements among government, universities and industry in order to more effectively utilize the productive resources of the nation in the creation and commercialization of new technology, it is important to remove any doubt as to the propriety of such cooperative arrangements and the proper application of the Circular to them.

Traditionally there have been no conditions imposed on research performers by the government which would preclude them from accepting research funding from other sources to expand, to aid in completing or to conduct separate investigations closely related to research activities sponsored by the government. Such complex funding arrangements are a necessity given the limited financial resources of individual sponsors, the unpredictable nature and continual expansion of research, the sharing of expensive resources, and the dynamic interactions among scientists at research institutions.

Notwithstanding the right of research organizations to accept supplemental funding from other sources for the purpose of expediting or more comprehensively accomplishing the research objectives of the government sponsored project, it is clear that the Act would remain applicable to any invention "conceived or first actually reduced to practice in performance" of the project. Separate accounting for the two funds used to support the project in this case is not a determining factor.

To the extent that a non-government sponsor establishes a project which, although closely related, falls outside the planned and committed activities of a government funded project and does not diminish or distract from the performance of such activities, inventions made in performance of the non-government sponsored project would not be subject to the conditions of the Act. An example of such related but separate projects would be a government sponsored project having research objectives to expand scientific understanding in field with a closely related industry sponsored project having as its objectives the application of such new knowledge to develop usable new technology. The time relationship in conducting the two projects and the use of new fundamental knowledge from one in the performance of the other are not important determinants since most inventions rest on a knowledge base built up by numerous independent research efforts extending over many years. Should such an invention be claimed by the performing organization to be the product of non-government sponsored research and be challenged by the sponsoring agency as being reportable to the government as a "subject invention", the challenge is appealable as described in Part 14.c.

An invention which is made outside of the research activities of a government funded project but which in its making otherwise benefits from such project without adding to its cost, is not viewed as a "subject invention" since it cannot be shown to have been "conceived or first actually reduced to practice" in performance of the project. An obvious example of this is a situation where an instrument purchased with government funds is later used, without interference with or cost to the government funded project, in making an invention all expenses of which involve only non-government funds.

E. Reports to the General Accounting Office

In response to the comment of one agency, Part 7.b.(2) was amended to avoid the necessity of agencies that do not enter into research grants or contracts with nonprofit organizations or small businesses from having to make reports to the Comptroller General.

F. Right to Sublicense Foreign Governments

Several commentators expressed concern that the optional language authorized for addition to the standard clause to permit sublicensing in accordance to treaties or international agreements was too open-ended. In response to this Part 8.d. now requires that existing treaties and international agreements be identified when the optional language is used. However, in view of the broad wording of the statute, agencies may continue to use the optional language for "future" treaties at their discretion. However, specific language has been added to encourage agencies to drop the reference to future treaties unless shown to be in the national interest.

One agency also expressed the concern that the language in the Bulletin was too limited and implied only a right to sublicense, whereas some international agreements call for more extensive rights. Section 8.d. has been revised to make clear that more than the right to sublicense can be taken.

G. Publication or Release of Invention Disclosures

Some agencies expressed the concern that the language in Part 5.b.(4) of the Bulletin required agencies to delay publication for excessive periods. Careful review of the language of Part 5.b.(4) indicated that it needed to be restructured to more clearly distinguish between situations where the publication of technical reports was involved and situations where the release or publication of invention disclosures provided as required under the standard clause was involved. Part 9 has been revised to distinguish between the two and to clarify the policies in the two situations.

H. Reporting on Utilization of Subject Inventions

In response to the comments of one agency and to minimize the burden on contractors, Part 10 provides that agencies shall not implement their rights to obtain utilization reports under the standard clause until a Government-wide reporting format is established. This will be one of the first tasks of the Department of Commerce as lead agency.

Also adopted was the recommendation of one commentor that utilization reports be afforded maximum protection from disclosure as authorized by Pub. L. 96-517. Accordingly, language was revised to provide that such reports "shall not" be disclosed under FOIA to the extent permitted by 35 U.S.C. 202(c.)(5).

I. Procedures for Exercise of March-in Rights

35 U.S.C. 203 requires that march-in rights be exercised in accordance with OFPP regulations. There were extensive comments on the procedures included in the Bulletin and a number of changes

have been made as a result of the comments.

Several agencies felt the procedures were too formal and cumbersome. Some universities were also concerned that there did not appear to be a way for an agency to reject a march-in without going into a full-blown procedure. To address these concerns Part 13.b. was added to provide for an informal and rapid agency decision making process as to whether or not to begin a more formal proceeding. Part 13.h. was also added to make clear that an agency could discontinue a proceeding at any time it is satisfied that march-in is not warranted. This emphasizes that march-in is strictly a matter for agency discretion. Even though an agency may begin march-in because of the complaints of a third-party, that third party does not have standing and cannot insist on either the initiation or continuation of a march-in proceeding.

A number of universities asked that time limits be placed on the duration of a march-in proceeding. It is not believed to be practical to place an overall time limit on a march-in proceeding, particularly since delays in fact-finding might be the result of contractor requests for delays. However, Part 13.b. includes a procedure for informal agency decision-making, as noted above, with specified time restraints. In addition, Part 13.g. places a 90 day time limit on the issuance of a determination after fact-finding is completed.

Several universities also recommended that march-in determinations be appealable to the lead agency. However, this recommendation was not adopted. It is believed the procedures established will ensure that march-ins are only exercised after careful consideration. Contractors may also appeal any arbitrary decisions or those not conducted in accordance with proper procedures to the courts.

Part 13.j. was added to clarify the relationship of the procedures of the Contract Disputes Act to the march-in procedures of Part 13 c.–g. to the extent a determination to march-in is considered a contract dispute.

Several universities also recommended that march-in proceedings be closed to the public where confidential information might be disclosed. Language has been included in Part 13.e. to require this. The information on utilization obtained as part of a march-in is considered within the scope of the utilization information which agencies are required to obtain the right to under 35 U.S.C. 202(c)(5), and the same statutory exclusion from disclosure is applicable to it. It can also be expected that the same information would be trade-secret information exempt from public disclosure.

J. Appeals

As a result of a number of comments, it was determined that the appeals provisions of Part 5.g. of the Bulletin did not address the full scope of appealable decisions and that particularly in forfeiture cases more detailed procedures should be followed. Part 14 has been revised accordingly. However, other recommendations to allow appeal to the lead agency were not adopted since a number of agencies were concerned that this would interfere with their prerogatives.

Since it is anticipated that in contract situations a number of these actions would be subject to the Contract Disputes Act, language was added to Part 14 to expressly acknowledge that procedures under that Act would fully comply with the requirements established in Part 14.

K. Multiple Sources of Agency Support

One university suggested that there was a need for additional guidance in cases when a subject invention can be attributed to more than one agency funding agreement. To address this concern Part 16c. was added to require agencies to select one agency to administer a given subject invention when there have been multiple agencies providing support. It is intended that only that agency could then exercise march-in or take other actions under the clause. It would be a matter between the agencies as to how any actions of the selected agency would be coordinated with the others.

L. Lead Agency

Bulletin 81–22 noted that the lead agency concept was under discussion and solicited comments on this matter. The Department of Commerce has been selected as the new lead agency based on its prior experience and wide ranging interest in technology transfer, productivity, innovation and Government patent policy. The lead agency will, among other assignments, review agency implementing regulations; disseminate and collect information; monitor administrative or compliance measures; evaluate the Pub. L. 96–517's implementation; and recommend appropriate changes to OMB/OFPP.

M. Optional Clause Language at Section 5b(1)(vi) of the Bulletin

The most commented upon aspect of the Bulletin was the optional reporting language authorized by Part 5.b.(1)(vi). Approximately 70 comments were received from universities and nonprofit organizations objecting to its use. The premises underlying the rationale for the optional language was brought in question by a number of commentors. Many others made the point that the use of the clause would undermine their licensing efforts, result in nonreporting of inventions by inventors, and would generally be counterproductive. By way of contrast no agency provided any rationale for the need for these provisions.

In view of the comments and lack of any established need for the optional language, Part 5b(1)(vi) of the Bulletin has been eliminated from the final Circular. As will be discussed, below, some changes have been made to paragraph c. of the standard clause of Attachment A of the Circular that relate to the issues raised by the optional language.

II. Comments on Standard Patent Rights Clause

A. Paragraph b.—License to State and Local Governments

One agency suggested that the right to license state and local governments be made part of the standard rights of the Government. This, however, has not been done since the granting of licenses to state and local governments is not consistent with Pub. L. 96–517. That statute defines the Government's license rights, and any expansion of these rights, would have to be justified under the "exceptional circumstances" language of 35 U.S.C. 202 on a case-by-case basis. It is not anticipated that the taking of such rights would ordinarily be consistent with the policy and objectives of the Act since such licenses have acted as a disincentive to general commercialization. Thus, while appearing to be useful to state and local governments such licenses have actually acted to their disadvantage to the extent they have precluded private development of inventions useful to state and local governments.

B. Paragraph c.—Reporting, Election, and Disclosure

There were a number of comments on various aspects of paragraph c. As a result some changes have been made. In general, these changes were designed to provide a reasonable accommodation to the interests of several agencies in obtaining early knowledge of inventions and to minimize the possibility of statutory bars being created in situations where the agency might wish to seek patents if the contractor does not elect rights. Thus, the reporting

period was lowered from six months to two months after contractor personnel become aware of the invention. Paragraph (c)(1) also contains revised language to ensure that contractors keep the agency informed as to initiation of the one year statutory period within which a patient application must be filed in order to obtain a valid patent in the United States. The period in which an agency may require an election of rights has also been increased from 45 days prior to a U.S. statutory bar to 60 days. However, the requirements that a contractor also file 45 days prior to the bar date has been eliminated, but paragraph (c)(3) has been revised to require the contractor to file before the U.S. bar date in all cases. It is believed that it would be rare for a contractor to elect and not file within this time. It is also expected that an interested agency should be able to discuss with a contractor its plans for filing. If the contractor has subsequently changed its mind, the agency should be able to either convince the contractor to rescind its election or to take title under paragraph (d) on the grounds that the contractor has, in effect, abandoned its application. Should any real problems in this area develop in the future, consideration would be given to tightening up the clause provisions to cover cases when a contractor elects but makes no progress towards the timely preparation for filing.

One commentor expressed the concern that the clause requires a contractor to file foreign patents if it elects rights. It should be clear that while there is an implicit obligation to file an initial patent application when an election is made, the language is not intended to require the filing of foreign applications. Instead, it is intended to establish a cut-off point so that the sponsoring agency can file foreign applications if the contractor decides not to.

In short, the clause provisions have been written to ensure that agencies are able to make U.S. filings in cases when contractors have received reports from their inventors in time to allow this but are not themselves interested. Where such initial filings have been made, the clause is designed to protect the opportunity for the filing of foreign patents in cases when a bar was not created prior to the initial filing. However, it has been determined to be unreasonable to require contractors to forfeit domestic rights because publication creates an immediate bar to valid patent protection in some foreign countries.

C. Paragraph k

There were several comments on paragraph k. Some Commentators were apparently unware that these restrictions are required by Pub. L. 96–517. One commentator incorrectly interpreted paragraph k. (2) as requiring agency approval of exclusive licenses to large firms, whereas the language only requires approval of licenses to such firms which would exceed the five and eight year periods in the statute.

Probably the most significant comments in this area were related to the use of the word "any" in paragraph k. (3). It was pointed out that the use of the word "any" could be interpreted as requiring sharing of gross royalties, whereas many universities have sharing formulas based on net royalties. In response to these comments, the word "any" has been dropped since it is not in the statutory language. The intent is that nonprofit organizations share either on a net or gross basis in accordance with their usual policies.

There were also a few comments that some minimum sharing formula be established. However, this suggestion was rejected as being inconsistent with the legislative intent as manifest on p. 33 of Senate Report 96–480.

Paragraph l—Communications

A new paragraph has been added at the end of the clause in which agencies are instructed to designate a central point of contact for administration of the clause. This paragraph was added as a result of a number of comments suggesting this in lieu of the provision in the bulletin that contact points be indentified throughout the clause whenever notices or communications to the agency were required.

OMB Circular No. A–124 follows.

Donald E. Sowle,

Administrator.

Circular No. A–124

February 10, 1982.

To the Heads of Executive Departments and Establishments.

Subject: Patents—Small Business Firms and Nonprofit Organizations.

1. *Purpose.* This Circular provides policies, procedures, and guidelines with respect to inventions made by small business firms and nonprofit organizations, including universities, under funding agreements with Federal agencies where a purpose is to perform experimental, developmental, or research work.

2. *Rescissions.* This Circular supersedes OMB Bulletin 81–22 effective March 1, 1982.

3. *Authority.* This Circular is issued pursuant to the authority contained in 35 U.S.C. 206 (Section 6 of Pub. L. 96–517, "The Patent and Trademark Amendments of 1980").

4. *Background.* After many years of public debate on means to enhance the utilization of the results of Government funded research, Pub. L. 96–517 was enacted. This Act gives nonprofit organizations and small businesses, with limited exceptions, a first right of refusal to title in inventions they have made in performance of Government grants and contracts. The Act takes precedence over approximately 26 conflicting statutory and administrative policies.

Under the Act, the Office of Federal Procurement Policy (OFPP) is responsible for the issuance of the regulations implementing 35 U.S.C. 202–204 after consultation with the Office of Science and Technology Policy (OSTP). On July 2, 1981, OMB Bulletin 81–22 was issued to provide interim regulations while agency and public comments were sought. Based on a review of these comments, this Circular is issued to establish permanent implementing regulations and a standard patent rights clause.

5. *Policy and Scope.* This Circular takes effect on March 1, 1982, and will be applicable to all funding agreements with small business firms and domestic nonprofit organizations executed on or after that date. This includes subcontracts at any tier made after March 1, 1982, with small business firms and nonprofit organizations even if the prime funding agreement was made prior to March 1, 1982. Unless prohibited by law, agencies are encouraged to treat subject inventions made under funding agreements made prior to July 1, 1981, in substantially the same manner as contemplated by Pub. L. 96–517 and this Circular for inventions made under funding agreements entered into subsequent to July 1, 1981. This can be accomplished through the granting of waivers of title on terms and conditions substantially similar to those set forth in the standard clause of Attachment A.

Agencies should be alert to determining whether amendments made after March 1, 1982, to funding agreements entered into prior to July 1, 1981, result in new funding agreements subjects to this Circular and the Act. Renewals and continuations after March 1, 1982, of funding agreements entered into prior to July 1, 1981, should be normally treated as new funding agreements.

This Circular is intended to establish uniform and coordinated

implementation of 35 U.S.C. 200–206 so as to foster the policy and objectives set forth in 35 U.S.C. 200.

6. *Definitions.* As used in this Circular—

a. The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement, as herein defined.

b. The term "contractor" means any person, small business firm or nonprofit organization that is a party to a funding agreement.

c. The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

d. The term "subject invention" means any invention of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement.

e. The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

f. The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

g. The term "small business firm" means a small business concern as defined at section 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this Circular, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 121.3–12, respectively, will be used.

h. The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in section 501(c) (3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

7. *Use of the Patent Rights (Small Business Firm or Nonprofit Organization) (March 1982) Clause.*

a. Each funding agreement awarded to a small business firm or domestic nonprofit organization which has as a purpose the performance of experimental, development or research work shall contain the "Patent Rights (Small Business Firm or Nonprofit Organization) (March 1982)" clause set forth in Attachment A with such modifications and tailoring as may be authorized in Part 8, except that the funding agreement may contain alternative provisions—

(1) When the funding agreement is for the operation of a Government-owned research or production facility; or

(2) In exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of Chapter 38 of Title 35 of the United States Code; or

(3) When it is determined by a Government authority which is authorized by statute or executive order to conduct foreign intelligence or counterintelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities.

b. (1) Any determination under Part 7.a.(2) of this Circular will be in writing and accompanied by a written statement of facts justifying the determination. The statement of facts will contain such information as the funding Federal agency deems relevant and, at minimum, will (i) identify the small business firm or nonprofit organization involved, (ii) describe the extent to which agency action restricted or eliminated the right to retain title to a subject invention, (iii) state the facts and rationale supporting the agency action, (iv) provide supporting documentation for those facts and rationale, and (v) indicate the nature of any objections to the agency action and provide any documentation in which those objections appear. A copy of the each such determination and written statement of facts will be sent to the Comptroller General of the United States within 30 days after the award of the applicable funding agreement. In cases of determinations application to small business firms, copies will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(2) To assist the Comptroller General to accomplish his or her responsibilities under 35 U.S.C. 202, each Federal agency that enters into any funding agreements with nonprofit organizations or small business firms during the applicable reporting period shall accumulate and, at the request of the Comptroller General, provide the Comptroller General or his or her duly authorized represenative the total number of prime agreements entered into with small business firms or nonprofit organizations that contain the patent rights clause of Attachment A during each period of October 1 through September 30, beginning October 1, 1982.

c. (1) Agencies are advised that Part 7.a. applies to subcontracts at any tier under prime funding agreements with contractors that are other than small business firms or nonprofit organizations. Accordingly, agencies should take appropriate action to ensure that this requirement is reflected in the patent clauses of such prime funding agreements awarded after March 1, 1982.

(2) In the event an agency has outstanding prime funding agreements that do not contain patent flow-down provisions consistent with either this Circular or OMB Bulletin 81–22 (if it was applicable at the time the funding agreement was awarded), the agency shall take appropriate action to ensure that small business firms or domestic nonprofit organization subcontractors under such prime funding agreements that received their subcontracts after July 1, 1981, will receive rights in their subject inventions that are consistent with Pub. L. 96–517 and this Circular. Appropriate actions might include (i) amendment of prime contracts and/or subcontracts; (ii) requiring the inclusion of the clause of Attachment A as a condition of agency approval of a subcontract; or (iii) the granting of title to the subcontractor to identified subject inventions on terms substantially the same as contained in the clause of Attachment A in the event the subcontract contains a "deferred determination" or "acquisition by the Government" type of patent rights clause.

d. To qualify for the clause of Attachment A, a prospective contractor may be required by an agency to certify that it is either a small business firm or a domestic nonprofit organization. If the agency has reason to question the status of the prospective contractor as a small business firm or domestic nonprofit organization, it may file a protest in accordance with 13 CFR 121.3–5 if small business firm status is questioned or require the prospective contractor to

furnish evidence to establish its status as a domestic nonprofit organization.

8. *Instructions for Modification and Tailoring of the Clause of Attachment A.*

a. Agencies should complete the blank in paragraph g.(2) of the clause of Attachment A in accordance with their own or applicable Government-wide regulations such as the FPR or DAR. The flow-down provisions of the clause cited by the agency should, of course, reflect the requirement of Part 7.c.(1).

b. Agencies should complete paragraph 1. "Communications" at the end of the clause of Attachment A by designating a central point of contact for communications on matters relating to the clause. Additional instructions on communications may also be included in paragraph 1.

c. Agencies may replace the italicized or underlined words and phrases with those appropriate to the particular funding agreement. For example *"contract"* could be replaced by "grant", *"contractor"* by "grantee", and *"contracting officer"* by "grants officer." Depending on its use, *"Federal agency"* can be replaced either by the identification of the agency or by the specification of the particular office or official within that agency.

d. When the agency head or duly authorized designee determines at the time of contracting with a small business firm or nonprofit organization that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing treaty or agreement, a sentence may be added at the end of paragraph b. of the clause of Attachment A as follows:

> This license will include the right of the Government to sublicense foreign governments and international organizations pursuant to the following treaties or international agreements: ; or pursuant to any future treaties or agreements with foreign governments or international organizations.

The blank in the above should be completed with the names of applicable existing treaties or international agreements. The above language is not intended to apply to treaties or agreements that are in effect on the date of the award which are not listed. The above language may be modified by agencies by deleting the reference to future treaties or agreements or by otherwise more narrowly defining classes of future treaties or agreements. The language may also be modified to make clear that the rights granted to the foreign government or international organization may be for additional rights beyond a license or sublicense if so required by the applicable treaty or international agreement. For example, in some cases exclusive licenses or even the assignment of title in the foreign country involved might be required. Agencies may also modify the language above to provide for the direct licensing by the contractor of the foreign government or international organization.

e. To the extent not required by other provisions of the funding agreement, agencies may add additional subparagraphs to paragraph (f) of the patent rights clause of Attachment A to require the contractor to do one or more of the following:

(1) Provide periodic (but no more frequently than annually) listings of all subject inventions required to be disclosed during the period covered by the report;

(2) Provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none;

(3) Provide notification of all subcontracts for experimental, developmental, or research work; and

(4) Provide, upon request, the filing date, serial number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

Part 9. *Publication or Release of Invention Disclosures.*

a. 35 U.S.C. 205 provides as follows:

> Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

b. To the extent authorized by 35 U.S.C. 205, agencies shall not disclose to third parties pursuant to requests under the Freedom of Information Act (FOIA) any information disclosing a subject invention for a reasonable time in order for a patent application to be filed. With respect to subject inventions of contractors that are small business firms or nonprofit organizations, a reasonable time shall be the time during which an initial patent application may be filed under paragraph c. of the clause of Attachment A or such other clause that may be used in the funding agreement. However, an agency may disclose such subject inventions under the FOIA, at its discretion, after a contractor has elected not to retain title or after the time in which the contractor is required to make an election if the contractor has not made an election within that time. Similarly, an agency may honor an FOIA request at its discretion if it finds that the same information has previously been published by the inventor, contractor, or otherwise. If the agency plans to file itself when the contractor has not elected title, it may, of course, continue to avail itself of the authority of 35 U.S.C. 205.

c. As authorized by 35 U.S.C. 205, Federal agencies shall not release copies of any document which is part of an application for patent filed on a subject invention to which a small business firm or nonprofit organization elected to retain title.

d. A number of agencies have policies to encourage public dissemination of the results of work supported by the agency through publication in Government or other publications of technical reports of contractors or others. In recognition of the fact that such publication, if it included descriptions of a subject invention, could create bars to obtaining patent protection, it is the policy of the executive branch that agencies will not include in such publication programs, copies of disclosures of inventions submitted by small business firms or nonprofit organizations, pursuant to paragraph c. of the clause of Attachment A, except that under the same circumstances under which agencies are authorized to release such information pursuant to FOIA requests under Part 9.b. above, agencies may publish such disclosures.

e. Nothing in this Part is intended to preclude agencies from including in the publication activities described in the first sentence of Part 9.d., the publication of materials describing a subject invention to the extent such materials were provided as part of a technical report or other submission of the contractor which were submitted independently of the requirements of the patent rights provisions of the contract. However, if a small business firm or nonprofit organization notifies the agency that a particular report or other submission contains a disclosure of a subject invention to which it has elected or may elect title, the agency will use reasonable efforts to restrict its publication of the material for six months from date of its receipt of the report or submission or, if earlier, until the contractor has filed an initial patent application. Agencies, of course, retain the discretion to delay publication for additional periods of time.

f. Nothing in this Part 9 is intended to limit the authority of agencies provided

in 35 U.S.C. 205 in circumstances not specifically described in this Part 9.

10. *Reporting on Utilization of Subject Inventions.*

a. Paragraph h. of the clause of Attachment A provides that agencies have the right to receive periodic reports from the contractor on utilization of inventions. In accordance with such instructions as may be issued by the Department of Commerce, agencies shall obtain such information from their contractors. Pending such instructions, agencies should not impose reporting requirements. The Department of Commerce and the agencies, in conjunction with representatives of small business and nonprofit organizations, shall work together to establish a uniform periodic reporting system.

b. To the extent any such data or information supplied by the contractor is considered by the contractor, or its licensee or assignee, to be privileged and confidential and is so marked, agencies shall not, to the extent permitted by 35 U.S.C. 202(c)(5), disclose such information to persons outside the Government.

11. *Retention of Rights by Inventor.* Agencies which allow an inventor to retain rights to a subject invention made under a funding agreement with a small business firm or nonprofit organization contractor, as authorized by 35 U.S.C. 202(d), will impose upon the inventor at least those conditions that would apply to a small business firm contractor under paragraphs d. (ii) and (iii); f.(4); h.; i.; and j. of the clause of Attachment A.

12. *Government Assignment to Contractor of Rights in Invention of Government Employee.* In any case when a Federal employee is a co-inventor of any invention made under a funding agreement with a small business firm or nonprofit organization and the Federal agency employing such co-inventor transfers or reassigns the right it has acquired in the subject invention from its employee to the contractor as authorized by 35 U.S.C. 202(e), the assignment will be made subject to the same conditions as would apply to the contractor under the clause of Attachment A.

13. *Exercise of March-in Rights.*

a. The following procedures shall govern the exercise of the march-in rights of the agencies set forth in 35 U.S.C. 203 and the clause at Attachment A.

b. Whenever an agency receives information that it believes might warrant the exercise of march-in rights, before initiating any march-in proceeding in accordance with the procedures of Part 13.c.-h. below, it shall notify the contractor in writing of the information and request informal written or oral comments from the contractor. In the absence of any comments from the contractor within 30 days, the agency may, at its discretion, proceed with the procedures below. If a comment is received, whether or not within 30 days, then the agency shall, within 60 days after it receives the comment, either initiate the procedures below or notify the contractor, in writing, that it will not pursue march-in rights based on the information about which the contractor was notified.

c. A march-in proceeding shall be initiated by the issuance of a written notice by the agency to the contractor and its assignee or exclusive licensee, as applicable, stating that the agency is considering the exercise of march-in rights. The notice shall state the reasons for the proposed march-in in terms sufficient to put the contractor on notice of the facts upon which the action would be based and shall specify the field or fields of use in which the agency is considering requiring licensing. The notice shall advise the contractor (assignee or exclusive licensee) of its rights, as set forth in this Circular and in any supplemental agency regulations. The determination to exercise march-in rights shall be made by the head of the agency or designee, except as provided in Part 13.j. below.

d. Within 30 days after receipt of the written notice of march-in, the contractor (assignee or exclusive licensee) may submit, in person, in writing, or through a representative, information or argument in opposition to the proposed march-in, including any additional specific information which raises a genuine dispute over the material facts upon which the march-in is based. If the information presented raises a genuine dispute over the material facts, the head of the agency or designee shall undertake or refer the matter to another official for fact-finding.

e. Fact-finding shall be conducted in accordance with the procedures established by the agency. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures should afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as the agency may present. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and the agency. Any portion of a fact-finding hearing that involves testimony or evidence relating to the utilization or efforts at obtaining utilization that are being made by the contractor, its assignee, or licensees shall be closed to the public, including potential licensees.

f. The official conducting the fact-finding shall prepare written findings of fact and transmit them to the head of the agency or designee promptly after the conclusion of the fact-finding proceeding. A copy of the findings of fact shall be sent to the contractor (assignee or exclusive licensee) by registered or certified mail.

g. In cases in which fact-finding has been conducted, the head of the agency or designee shall base his or her determination on the facts found, together with any other information and argument submitted by the contractor (assignee or exclusive licensee), and any other information in the administrative record. The consistency of the exercise of march-in rights with the policy and objectives of 35 U.S.C. 200–206 and this Circular shall also be considered. In cases referred for fact-finding, the head of the agency or designee may reject only those facts that have been found that are clearly erroneous. Written notice of the determination whether march-in rights will be exercised shall be made by the head of the agency or designee and sent to the contractor (assignee or exclusive licensee) by certified or registered mail within 90 days after the completion of fact-finding or the proceedings will be deemed to have been terminated and thereafter no march-in based on the facts and reasons upon which the proceeding was initiated may be exercised.

h. An agency may, at any time, terminate a march-in proceeding if it is satisfied that it does not wish to exercise march-in rights.

i. The procedures of this Part shall also apply to the exercise of march-in rights against inventors receiving title to subject inventions under 35 U.S.C. 202(d) and, for that purpose, the term "contractor" as used in this Part shall be deemed to include the inventor.

j. Notwithstanding the last sentence of Part 13.c., a determination to exercise march-in in cases where the subject invention was made under a contract may be made initially by the contracting officer in accordance with the procedures of the Contract Disputes Act. In such cases, the procedures of the Contract Disputes Act will apply in lieu of those in Parts 13.d.-g. above (except that the last sentence of Part 13.e. shall continue to apply). However, when the procedures of this Part 13.j. are used, the contractor, assignee, or exclusive

licensee will not be required to grant a license and the Government will not grant any license until after either: (1) 90 days from the date of the contractor's receipt of the contracting officer's decision, if no appeal of the decision has been made to an agency board of contract appeals, or if no action has been brought under Section 10 of the Act within that time; or (2) the board or court, as the case may be, has made a final decision in cases when an appeal or action has been brought within 90 days of the contracting officer's decision.

k. Agencies are authorized to issue supplemental procedures, not inconsistent herewith, for the conduct of march-in proceedings.

14. *Appeals.*

a. The agency official initially authorized to take any of the following actions shall provide the contractor with a written statement of the basis for his or her action at the time the action is taken, including any relevant facts that were relied upon in taking the action:

(1) A refusal to grant an extension under paragraph c.(4) of the clause of Attachment A.

(2) A request for a conveyance of title under paragraph d. of the clause of Attachment A.

(3) A refusal to grant a waiver under paragraph i. of the clause of Attachment A.

(4) A refusal to approve an assignment under paragraph k.(1) of the clause of Attachment A.

(5) A refusal to approve an extension of the exclusive license period under paragraph k.(2) of the clause of Attachment A.

b. Each agency shall establish and publish procedures under which any of the agency actions listed in Part 14.a. above may be appealed to the head of the agency or designee. Review at this level shall consider both the factual and legal basis for the action and its consistency with the policy and objectives of 35 U.S.C. 200–206 and this Circular.

c. Appeals procedures established under Part 14.b. above shall include administrative due process procedures and standards for fact-finding at least comparable to those set forth in Part 13.e.–g. of this Circular whenever there is a dispute as to the factual basis for an agency request for a conveyance of title under paragraph d. of the clause of Attachment A, including any dispute as to whether or not an invention is a subject invention.

d. To the extent that any of the actions described in Part 14.a. are subject to appeal under the Contracts Dispute Act, the procedures under that Act will satisfy the requirements of Parts 14. b. and c. above.

15. *Licensing of Background Patent Rights to Third Parties.*

a. A funding agreement with a small business firm or a domestic nonprofit organization will not contain a provision allowing a Federal agency to require the licensing to third parties of inventions owned by the contractor that are not subject inventions unless such provision has been approved by the agency head and a written justification has been signed by the agency head. Any such provision will clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The agency head may not delegate the authority to approve such provisions or to sign the justification required for such provisions.

b. A Federal agency will not require the licensing of third parties under any such provision unless the agency head determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve practical application of the subject invention or work object. Any such determination will be on the record after an opportunity for an agency hearing, and the contractor shall be given prompt notification of the determination by certified or registered mail.

16. *Administration of Patent Rights Clause.*

a. It is important that the Government and the contractor know and exercise their rights in subject inventions in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts should be so administered that:

(1) Inventions are identified, disclosed, and an election is made as required by the contract clause.

(2) The rights of the Government in such inventions are established;

(3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;

(4) The rights in patent applications are documented by formal instruments such as licenses or assignments;

(5) Expeditious commercial utilization of such inventions is achieved.

b. With respect to the conveyance of license or assignments to which the Government may be entitled under the clause of Attachment A, agencies should follow the guidance provided in 41 CFR 1–9.109–5 or 22 CFR 9–109.5.

c. In the event a subject invention is made under funding agreements of more than one agency, at the request of the contractor or on their own initiative, the agencies shall designate one agency as responsible for administration of the rights of the Government in the invention.

17. *Modification of Existing Agency Regulations.*

a. Existing agency patent regulations or other published policies concerning inventions made under funding agreements shall be modified as necessary to make them consistent with this Circular and 35 U.S.C. 200–206. Agency regulations shall not be more restrictive or burdensome than the provisions of this Circular.

b. After March 1, 1982, this Circular and 35 U.S.C. 200–206 shall take precedence over any conflicting agency regulations or policies.

18. *Lead Agency Designation.* In order to assist the Office of Federal Procurement Policy to ensure that 35 U.S.C. 200–206 and this Circular are implemented in a uniform and consistent manner, the following responsibilities are assigned to the Department of Commerce (hereafter referred to as "The Department"). Other agencies shall fully cooperate and assist in the carrying out of these responsibilities:

a. The Department will monitor agency regulations and procedures for consistency with the Act and this Circular, and it shall provide recommendations to OFPP and agencies whenever it finds inconsistencies.

b. The Department will consult with representatives of agencies and contractors to obtain advice on—

(1) the development of the periodic reporting system required under Part 10 of this Circular, and

(2) changes in this Circular which may be needed based on actual experience under the Circular.

c. The Department will accumulate, maintain, and publish such statistics and analysis on utilization and activities under this Circular and under Government patent policies and practices generally, as may be agreed to between the Department and OFPP.

d. The Department will make recommendations to OFPP on changes that may be needed in this Circular.

19. *Sunset Review Date.* This Circular shall have a policy review no later than three years from the date of its issuance.

20. *Inquiries.* All questions or inquiries should be submitted to the Office of Management and Budget,

Office of Federal Procurement Policy, telephone number (202) 395-6810.

Donald E. Sowle,
Administrator.

David A. Stockman,
Director.

Attachment A—Circular A-124

The following is the standard patent rights clause to be used in funding agreements as provided in Part 7.

Patent Rights (Small Business Firms and Nonprofit Organizations) (March 1982)

a. Definitions

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract.*

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Pub. L. 85.536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

b. Allocation of Principal Rights

The *contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *contractor* retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

c. Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.

(1) The *contractor* will disclose each subject invention to the *Federal agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the *agency* shall be in the form of a written report and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency,* the *contractor* will promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor.*

(2) The *contractor* will elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within twelve months of disclosure to the *contractor: Provided,* That in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the *agency* to a date that is no more than 60 days prior to the end of the statutory period.

(3) The *contractor* will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The *contractor* will file patent applications in additional countries within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the *agency,* election, and filing may, at the discretion of the *funding Federal agency,* be granted.

d. Conditions When the Government May Obtain Title

(1) The *contractor* will convey to the *Federal agency,* upon written request, title to any subject invention:

(i) If the *contractor* fails to disclose or elect the subject invention within the times specified in c. above, or elects not to retain title.

(ii) In those countries in which the *contractor* fails to file patent applications within the times specified in c. above: *Provided, however,* That if the *contractor* has filed a patent application in a country after the times specified in c., above, but prior to its receipt of the written request of the *Federal agency,* the *contractor* shall continue to retain title in that country.

(iii) In any country in which the *contractor* decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Contractor

(1) The *contractor* will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the *contractor* fails to disclose the subject invention within the times specified in c., above. The *contractor's* license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *funding Federal agency* except when transferred to the successor of that party of the *contractor's* business to which the invention pertains.

(2) The *contractor's* domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations. This license will not be revoked in that field of use or the geographical areas in which the

contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the *funding Federal agency* will furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor* will be allowed thirty days (or such other time as may be authorized by the *funding Federal agency* for good cause shown by the *contractor*) after the notice to show cause why the license should not be revoked or modified. The *contractor* has the right to appeal, in accordance with applicable regulations in the Federal Property Management Regulations concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

f. Contractor Action to Protect the Governments Interest

(1) The *contractor* agrees to execute or to have executed and promptly deliver to the *Federal agency* all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the *contractor* elects to retain title, and (ii) convey title to the *Federal agency* when requested under paragraph d. above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The *contractor* agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the *contractor* each subject invention made under contract in order that the *contractor* can comply with the disclosure provisions of paragraph c. above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by c.(1) above. The *contractor* shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The *contractor* will notify the *Federal agency* of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The *contractor* agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by (identify the *Federal agency*). The Government has certain rights in this invention."

g. Subcontracts

(1) The *contractor* will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the *contractor* in this clause, and the *contractor* will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The *contractor* will include in all other subcontracts, regardless of tier, for experimental, developmental or research work the patent rights clause required by *(cite section of agency implementing regulations, FPR, or DAR)*.

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to those matters covered by this clause.

h. Reporting on Utilization of Subject Inventions

The *contractor* agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the *contractor* or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the *contractor*, and such other data and information as the *agency* may reasonably specify. The *contractor* also agrees to provide additional reports as may be requested by the *agency* in connection with any march-in proceeding undertaken by the *agency* in accordance with paragraph j. of this clause. To the extent data or information supplied under this section is considered by the *contractor*, its licensee or assignee to be privileged and confidential and is so marked, the *agency* agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

i. Preference for United States Industry

Notwithstanding any other provision of this clause, the *contractor* agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the *Federal agency* upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

j. March-in Rights

The *contractor* agrees that with respect to any subject invention in which it has acquired title, the *Federal agency* has the right in accordance with the procedures in OMB Circular A–124 (and agency regulations at) to require the *contractor*, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the *contractor* assignee, or exclusive licensee refuses such a request, the *Federal agency* has the right to grant such a license itself if the *Federal agency* determines that:

(1) Such action is necessary because the *contractor* or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which

are not reasonably satisfied by the *contractor*, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the *contractor*, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph i. of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

k. Special Provisions for Contracts with Non-profit Organizations

If the *contractor* is a non-profit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the *Federal agency*, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the *contractor*);

(2) The *contractor* may not grant exclusive licenses under United States patents or patent applications in subject inventions to persons other than small business firms for a period in excess of the earlier of:

(i) Five years from first commercial sale or use of the invention; or

(ii) Eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention.

(3) The *contractor* will share royalties collected on a subject invention with the inventor; and

(4) The balance of any royalties or income earned by the *contractor* with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education.

l. Communications

(Complete According to Instructions at Part 8.b. of this Circular).

[FR Doc. 82-4359 Filed 2-18-82; 8:45 am]

BILLING CODE 3110-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 1982, shall be at the rate of 17 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 1982, 20.8 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 79.2 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: February 8, 1982.

By Authority of the Board:

James T. Brown,

Chief Executive Officer.

[FR Doc. 82-4429 Filed 2-18-82; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 12, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Marcade Group, Inc., Common Stock, $.10 Par Value (File No. 7-6143)

Laser Industries Ltd. Ordinary Shares, $.10 Par Value (File No. 7-6142)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 8, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-4506 Filed 2-18-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22389; 70-6385]

Kingsport Power Co.; Proposal To Amend Term Loan Agreement

Kingsport Power Company ("Kingsport"), 40 Franklin Road, Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission, a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and rule 50 (a)(2) thereunder.

By order dated January 21, 1980 (HCAR No. 21401), Kingsport was authorized to enter into a term loan agreement ("Agreement") with Manufacturers Hanover Trust Bank ("Manufacturers") and First Eastern National Bank ("First Eastern") (collectively "Banks") dated as of January 21, 1980. Under the Agreement Manufacturers and First Eastern have agreed to lend Kingsport the principal sum of $14 million and $1 million, respectively. Kingsport has borrowed the principal sum of $15 million under

the Agreement, evidenced by its unsecured promissory notes due December 31, 1987, each of which bears interest prior to maturity at a fluctuating rate per annum equal to: (i) the prime lending rate of Manufacturers ("Prime Rate") in effect from the date of such Note to December 31, 1982; (ii) 102 of the Prime Rate from December 31, 1982 to December 31, 1985; and (iii) 104% of the Prime Rate from December 31, 1985 to December 31, 1987. These notes bear interest from maturity at a fluctuating rate annum equal to 1% plus the Prime Rate.

Kingsport and the Banks now propose to enter into an amendment ("Amendment") to the Agreement pursuant to which the Banks would agree to lend Kingsport up to an additional $5 million: in the case of Manufacturers, up to $4,650,000; and in the case of First Eastern, up to $350,000. The Banks' commitments under the Agreement, as amended, would thereupon be in an aggregate amount of up to $20 million. Kingsport shall pay to each Bank commitment fees with respect to the additional commitments of the Banks calculated at the rate of ⅜ of 1% per annum on the daily average unused portion thereof from the Amendment date (defined as the date of this Commission's order permitting this post-effective amendment to become effective) to March 31, 1982, the date upon which such additional commitments expire. The Amendment also provides that Kingsport's unsecured notes evidencing both the original borrowings and the additional borrowings shall bear interest at a fluctuating rate per annum equal to the Prime Rate to December 31, 1987. Assuming a Prime Rate of 16.5%, the effective cost of borrowing would be 16.5%. All other terms, conditions, restrictions and obligations in the Agreement, to the extent not modified by the Amendment, will remain unchanged.

Each additional borrowing under the Agreement, as amended, would be evidenced by a note of Kingsport ("Note(s)"), due and payable on December 31, 1987, and bearing interest on the unpaid principal amount from the date thereof to the date of payment in full, payable quarterly on the last day of March, June, September and December in each year, at the maturity thereof (whether by acceleration or otherwise), and after such maturity on demand. The Notes will be prepayable in whole at any time or in part from time to time, without premium or penalty, upon at least three business days' notice to the Banks.

The proceeds from the additional borrowings, together with other funds available to Kingsport, shall be used to pay maturing obligations of Kingsport and to repay short-term indebtedness, to finance construction, and for other corporate purposes. Kingsport's estimated construction expenditures for 1982 are approximately $3,156,000.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing shall submit their views in writing by March 8, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-4505 Filed 2-18-82; 8:45]

BILLING CODE 8010-01-M

[Release No. 18489; File No. SR-PDTC-82-1]

Philadelphia Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 5, 1982, the Philadelphia Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change permits PDTC to pass through to participants transfer agent rejection fees. These rejection fees can arise in several situations. For example, when a participant deposits securities in PDTC, PDTC forwards the securities to the appropriate transfer agent for transfer into PDTC's nominee name. If, However, the participant fails to prepare the securities correctly for transfer or fails to include all necessary documentation, the transfer agent will reject the securities and will charge PDTC a rejection fee. The proposed rule change allows PDTC to require the participant to reimburse PDTC for the rejection fee. PDTC states further that the proposed rule change is based on section 17A(b)(3)(F) of the Act because it promotes the prompt and accurate settlement of securities by facilitating the transfer of securities for the investing public.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropirate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before March 11, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PDTC-82-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-4507 Filed 2-18-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5425]

Securities Exchange Act of 1934 Section 12(d)

Research-Cottrell, Inc.; Application to Withdraw From Listing and Registration

February 12, 1982.

In the Matter of Research-Cottrell, Inc. Capital Stock, $1 Par Value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The capital stock of Research-Cottrell, Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on February 24, 1981, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 8, 1982 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-4500 Filed 2-18-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5131]

R.P.B. Investment Enterprises, Inc.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1981)), R.P.B. Investment Enterprises, Inc., Falls Building, 22 North Front Street, Memphis, Tennessee 38103, incorporated under the laws of the State of Tennessee, has surrendered its License Certificate No. 04/04-5131, issued by SBA on November 27, 1978.

R.P.B. Investment Enterprises, Inc., has complied with the conditions set forth by SBA for surrender of its License. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited Regulation, the license of R.P.B. Investment Enterprises, Inc. is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catolog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 11, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-4520 Filed 2-18-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 34
Friday, February 19, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9 a.m. (eastern time), Tuesday, February 23, 1982.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal Nos. 81–12–FOIA–337 and 81–12–FOIA–71–ME, concerning a request for access to information contained in an open Commissioners charge file.
2. A Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued February 16, 1982.

[S–249–82 Filed 2–17–82; 10:42 am]

BILLING CODE 6570–06–M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 24, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Report on Notation Items disposed of during January 1982.
2. Report of the Secretary on Applications for Admission to Practice approved during January 1982, pursuant to delegated authority.
3. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during January 1982.
4. Agreement No. 3302–12: Restatement of the Association of West Coast Steamship Companies Agreement.
5. Agreements Nos. 7100–26, 7670–22, 7770–22 and 9214–28: Modifications of four North Atlantic/European Conferences' Agreement to include ratemaking authority for the consolidation of cargo.
6. Proposed Notice of Inquiry Regarding Regulation of the Domestic Offshore Trades.
7. Docket No. 81–18: Exemption of Certain Credit Information Agreements from the Requirements of Section 15, Shipping Act, 1916—Draft Final Rule.

Portions closed to the public:

1. Docket No. 81–1: Universal Transcontinental Corporation and J. S. Stass Co. Division of Universal Transcontinental Corporation—Independent Ocean Freight Forwarder License No. 394–R—Consideration of the Record.
2. Docket No. 71–29: Baton Rouge Marine Contractors, Inc. v. Cargill, Inc.—Proceedings on Remand.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary; (202) 523–5725.

[S–248–82 Filed 2–17–82; 10:26 am]

BILLING CODE 6730–01–M

3

SECURITIES AND EXCHANGE COMMISSION

DATE AND TIME: February 16, 1982, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Open/closed meeting.

The Commission will hold an open meeting on Thursday February 18, 1982, at 10:00 a.m., followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis and Evans voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, February 18, 1982, at 10:00 a.m., will be:

Consideration of a request by Mr. Louis A. Brusati that the Commission review the Division of Corporation Finance's determination concerning a shareholder proposal submitted to General Electric Company. For further information, please contact William E. Morley at (202) 272–2573.

The subject matter of the closed meeting scheduled for Thursday, February 18, 1982, following the 10:00 a.m. open meeting, will be:

Procedural matter in connection with a proposed offer of settlement of an administrative proceeding.
Formal order of investigation.
Consideration of amicus participation.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272–2468.

February 16, 1982.

[S–250–82 Filed 2–17–82; 12:39 pm]

BILLING CODE 8010–01–M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 22, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, February 23, 1982, at 10:00 a.m. An open meeting will be held on Wednesday, February 24, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis and Evans voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 23, 1982, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Settlement of administrative proceedings of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Freedom of Information Act appeals.
Formal orders of investigation.
Institution of injunctive actions.
Regulatory matter bearing enforcement implications.
Litigation matter.
Opinion.

The subject matter of the open meeting scheduled for Wednesday, February 24, 1982, at 10:00 a.m., will be:

1. Consideration of what response to make to the Freedom of Information Act ("FOIA") appeal of Melford Berns. The FOIA Officer denied Mr. Berns' request for access to an investigative file pursuant to FOIA Exemptions 5 and 7(C), 5 U.S.C. 552 (b)(5) and (b)(7)(C). For further information, please contact Alex White at (202) 272–2444.

2. Consideration of what response to make to the Freedom of Information Act ("FOIA") appeal of Lawrence S. Ottinger. The FOIA Officer denied Mr. Ottinger's request for a waiver of fees for further search of Commission records. For further information, please contact Harlan W. Penn at (202) 272–2454.

3. Consideration of whether to issue a release adopting the final components of the Commission's integrated disclosure system. The matters to be considered are:

(a) The adoption of three new registration froms (Forms S–1, S–2 and S–3) which will serve as the basic framework for the registration of securities under the Securities Act (Catherine Collins McCoy at (202) 272–2589);

(b) The adoption of amendments to Regulation S–K, the central repository of uniform disclosure requirement under the Securities Act and the Exchange Act, which expand and reorganize this regulation (Robert Pincus at (202) 272–2589);

(c) The adoption of amendments to the procedural requirements of Regulation C under the Securities Act and Regulation 12B under the Exchange Act (W. Scott Cooper at (202) 272–2589);

(d) The adoption of Rule 176 under the Securities Act, relating to the responsibility in an integrated disclosure system of persons subject to Section 11 of the Securities Act (Gregory H. Mathews at (202) 272–2589);

(e) The adoption of Rule 415 under the Securities Act governing the registration of securities to be sold in delayed or continuous offerings (Catherine Collins McCoy at (202) 272–2589);

(f) The publication of a statement of policy in Regulation S–K to permit the voluntary disclosure of security ratings in registration statements and reports and the adoption of facilitating amendments to Rules 134 and 436 (Susan P. Davis at (202) 272–2804);

(g) The adoption of amendments to certain existing Securities Act registration forms to coordinate those forms with the other aspects of the integrated disclosure system and the rescission of certain other Securities Act registration forms (William L. Larsen at (202) 272–2804); and

(h) The adoption of amendments to certain existing Exchanger Act rules, forms and schedules to coordinate those rules, forms and schedules with the other aspects of the integrated disclosure system and the rescission of certain other Exchange Act forms (Susan P. Davis at (202) 272–2804).

4. Consideration of whether to publish for public comment proposed amendments to Form S–18, a simplified registration form, which would expand the availability of the Form in order that non-corporate issuers and issuers engaged, or to be engaged, in oil and gas related operations may utilize the registration statement for the offer and sale of their securities. In addition, the Commission will consider proposing technical conforming amendments to several Form S–18 General Instructions and disclosure items in response to the proposed elimination of the Securities Act Registration Guides for the Preparation and Filing of Registration Statements and Reports and the proposed revisions to Regulation C and Regulation S–K. Finally, consideration will be given to modifying the Form S–18 financial statement requirements to reflect recent revisions to Regulation S–X, and to provide accounting standards and financial statement disclosure requirements applicable to oil and gas and non-corporate registrants. For further information; please contact Daniel J. Abdun-Nabi at (202) 272–2644.

5. Consideration of whether to publish for comment amendments to Rules 10b–6 and 10b–8 under the Securities Exchange Act of 1934. Among other things, the amendments would define the term "distribution" for purposes of Rule 10b–6, and would permit participants in a distribution of securities to continue trading such securities until three business days before the commencement of sales of the securities being distributed. In addition, the amendments would codify several existing staff positions under the rule with respect to the applicability of the exceptions to the rule. The amendment to Rule 10b–8 would extend the scope of that rule to cover purchasing activity by broker-dealers who act as "standby underwriters" in connection with a call for redemption by an issuer of its convertible securities. For further information, please contact Mary Chamberlin at (202) 272–2880.

6. Consideration of whether to rescind Accounting Series Release Nos. 119 and 122 relating to the computation of the ratio of earnings to fixed charges. These interpretive releases would no longer be necessary upon adoption by the Commission of the integrated disclosure system. For further information, please contact John W. Albert at (202) 272–2133.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Richard Starr at (202) 272–2467.

February 16, 1982.

[S–251–82 Filed 2–17–82; 12:39 pm]

BILLING CODE 8010–01–M

federal register

Friday
February 19, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ81–5142	Aug. 14, 1981.
Colorado:	
CO81–5146	Sept. 4, 1981.
CO81–5148	Sept. 4, 1981.
Connecticut:	
CT81–3032	May 15, 1981.
CT82–3001	Feb. 5, 1982.
Idaho: ID81–5157	Oct. 9, 1981.
Kansas: KS81–4053	Oct. 2, 1981.
Montana: MT82–5101	Feb. 5, 1982.
New Jersey:	
NJ81–3053	Oct. 9, 1981.
NJ81–3083	Dec. 12, 1981.
Pennsylvania:	
PA80–3031	Aug. 29, 1980.
PA80–3056	Sept. 12, 1980.
PA80–3075	Dec. 5, 1980.
PA81–3051	Sept. 4, 1981.
PA81–3058	Sept. 25, 1981.
PA81–3059	Sept. 25, 1981.
PA81–3076	Oct. 9, 1981.
PA81–3077	Oct. 9, 1981.
PA81–3080	Oct. 23, 1981.
PA81–3081	Oct. 23, 1981.
Vermont: VT82–3003	Jan. 22, 1982.
Washington:	
WA81–5100	Mar. 6, 1981.
WA81–5163	Dec. 4, 1981.
California:	
CA81–5154	Sept. 25, 1981.
CA81–5129	July 6, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL81–1190 (FL82–1003)	Mar. 6, 1981.
FL79–1118 (FL82–1004)	Aug. 17, 1979.
FL81–1240 (FL82–1005)	June 5, 1981.
Georgia:	
GA81–1191 (GA82–1007)	Mar. 6, 1981.
GA81–1196 (GA82–1006)	Mar. 20, 1981.
Missouri: MO81–4031 (MO82–4007)	May 8, 1981.

Signed at Washington, D.C. this 12th day of February 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 2

MODIFICATION PAGE 1

MODIFICATION PAGE 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AZ81-5142 - Mod. #6 (46 FR 41299-August 14, 1981) Statewide, Arizona Omit: Landscape Gardener and Nurseryman classifications from Laborers, Group 1					
DECISION NO. CO81-5146 - Mod. #7 (46 FR 44607-September 4, 1981) El Paso County, Colorado Change: Modification Number 5 dated February 12, 1982 to read Modification Number 6					
DECISION NO. CO81-5148 - Mod. #7 (46 FR 44616-September 4, 1981) Las Animas, Otero, and Pueblo Counties, Colorado Change: Modification Number 5 dated February 12, 1982 to read Modification Number 6					

MODIFICATION PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CT81-3032 - MOD. #8 (46 FR 27040 - May 15,1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONNECTICUT					
CHANGE: TRAFFIC CONTROL and HIGHWAY LIGHTING:					
Linemen, techanicians & cable splicers	14.25	.70	3%+1.00		.10
Equipment operator	12.11	.70	3%+1.00		.10
Driver groundmen	10.69	.70	3%+1.00		.10
Groundmen	9.98	.70	3%+1.00		.10
PLUMBERS; STEAMFITTERS: Area 3: HARTFORD COUNTY; Berlin, Bristol, East Berlin, Plainville and remainder of Newington and Farmington Townships Area 5: MIDDLESEX COUNTY: Essex, Old Saybrook and Saybrook Townships; New London County					
DECISION NO. CT82-3001 - MOD. #1 (47 FR 5621 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONNECTICUT					
ADD: TRAFFIC CONTROL, ILLUMINATION & MAINTENANCE (LITCHFIELD COUNTY, WINDHAM COUNTY & FAIRFIELD COUNTY) (except Darien, Greenwich, New Canaan, Stamford & that portion of Norwalk west of Five Mile River)					
Linemen, technicians, & cable splicers	14.25	.70	3%+1.00		.10
Equipment Operator	12.11	.70	3%+1.00		.10
Driver groundmen	10.69	.70	3%+1.00		.10
Groundmen	9.98	.70	3%+1.00		.10

MODIFICATION PAGE 3

DECISION NO. ID81-5157 - Mod. #6 (46 FR 50223 - October 9, 1981) Statewide Idaho	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: PLUMBERS AREA DESCRIPTIONS: Area 1: Benewah, Bonner, Boundary, Clearwater, Idaho (North of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce (North of the 46th Parallel), and Shoshone Cos. Area 2: Remaining Counties including Idaho and Nez Perce Counties South of the 46th Parallel					
DECISION #KS81-4053-Mod. #3 46FR48847-October 2, 1981 Leavenworth County, Kansas					
CHANGE: UNDER ELECTRICIANS: ZONE I Delaware, High Prairie and Kickapoo Townships; the City of Leavenworth, and the Fort Leavenworth Military Reservation	$16.18	.69	3%+1.00	7%	.12
DECISION NO. MT82-5101 - Mod. #1 (46 FR 5630 - February 5, 1982) Statewide, Montana					
Change: Change Decision Number on Pages 25 through 30 to read "Decision No. MT82-5101" instead of "Decision No. MT82-5102"					

MODIFICATION PAGE 4

DECISION NO. NJ81-3053 - MOD. #6 (46 FR 50243 - October 9, 1981) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
DOCK BUILDERS & PILEDRIVERMEN	14.86	1.85	2.23	1.05	.10
IRONWORKERS - STRUCTURAL REINFORCING & ORNAMENTAL: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex & Union Counties	15.35	1.30	2.85	1.15	.11
LABORERS, HEAVY & HIGHWAY CONSTRUCTION:					
LABORERS - FREE AIR TUNNEL JOBS:					
GROUP 1	11.75	1.00	1.15		.10
GROUP 2	11.35	1.00	1.15		.10
GROUP 3	11.20	1.00	1.15		.10
GROUP 4	10.70	1.00	1.15		.10
TRUCK DRIVERS:					
ZONE 2					
GROUP 1	11.72	1.03	1.575	h+i	
GROUP 2	11.95	1.03	1.575	h+i	
GROUP 3	12.00	1.03	1.575	h+i	
GROUP 4	12.10	1.03	1.575	h+i	
GROUP 5	12.20	1.03	1.575	h+i	
ZONE 3					
GROUP 1	11.72	k	1.53	h+i	
GROUP 2	11.95	k	1.53	h+i	
GROUP 3	12.00	k	1.53	h+i	
GROUP 4	12.10	k	1.53	h+i	
GROUP 5	12.20	k	1.53	h+i	
IRONWORKERS - STRUCTURAL REINFORCING & ORNAMENTAL:					
Warren County	13.45	1.34	1.36		

MODIFICATION PAGE 5

MODIFICATION PAGE 6

DECISION NO. NJ81-3053 - CONT'D

FOOTNOTES:

h. All Employees who are assigned to work on Sundays or the following holidays: NEW YEARS DAY, MARTIN LUTHER KING'S BIRTHDAY, LINCOLN'S BIRTHDAY, WASHINGTON'S BIRTHDAY, GOOD FRIDAY, DECORATION DAY, INDEPENDENCE DAY, LABOR DAY, GENRAL ELECTION DAY, COLUMBUS DAY, VETERANS' DAY, THANKSGIVING DAY, CHRISTMAS DAY, and any new holiday proclaimed by the Federal Government (not days of mourning), shall be paid two and one half times the rates listed for all hours worked which includes the holiday pay.

i. Employees working or receiving pay for 80 days within a year receive one week's vacation (48 hours); 125 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours).

k. Employer contribution of $165 per month per employee to Health & Welfare funds.

DECISION NO. NJ81-3063 - MOD. #3 (46 FR 62746 - December 12, 1981)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY					
CHANGE:					
IRONWORKERS - STRUCTURAL, ORNAMENTAL AND REINFORCING:					
ZONE 2	12.18	1.49	3.46		
LINE CONSTRUCTION (EXCLUDING RAIL ROAD CONSTRUCTION):					
ZONE 4					
LINE MEN	15.49	7%	3%+1.10		3/4%
LINE DIGGER, TRUCK DRIVERS	11.02	7%	3%+1.10		3/4%
GROUNDMEN	12.07	7%	3%+1.10		3/4%

DECISION NO. PA80-3031 MOD. NO. 10 (45 FR 59747 - August 29, 1980) Bradford, Tioga, & Union Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$13.83	.80	.90		.01
Elevator Constructors	12.84	1.345	1.085	a+b	.035
Elevator Constructors Helpers	70%JR	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	50%JR				
Glaziers					
Zone 1	11.85	.75	1.20		
Plumbers & Steamfitters					
Zone II	15.06	.94	.95		.05
Roofers:					
Compositions & Kettleman	12.05	1.00	1.10		
DECISION NO. PA80-3056 MOD. NO. 10 (45 FR 60748 - September 12, 1980) Lackawanna, Susquehanna, Wayne & Wyoming Counties, Pennsylvania					
CHANGE:					
Asbestos Workers	13.83	.80	.90		.01
Bricklayers & Stonemasons:					
Carbondale in Lackawanna Co.	13.25	1.50	.40		
DECISION NO. PA 80-3075 MOD. NO. 9 (45 FR 80638 - December 5, 1980) Northampton County, Pennsylvania					
CHANGE:					
Glaziers	11.54	.75	.70		.015
Sheet metal workers	13.51	1.17	2.17		.23

MODIFICATION PAGE 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3051 MOD. NO. 1 (46 FR 44653 - September 4, 1981) Luzerne County, Pennsylvania					
CHANGE:					
Asbestos Workers	$11.83	.80	.90		.01
Roofers:					
Composition & Kettlemen	11.05	1.00	1.10		
DECISION NO. PA81-3068 MOD. NO. 4 (46 FR 47403 - September 25, 1981) Lebanon County, Pennsylvania					
CHANGE:					
Glaziers:					
Twps. of Bethel, Jackson, Mill Creek, Lebanon, E. of Rte. 72, Heilberg & Richland	11.54	.75	.70		.015
DECISION NO. PA81-3069 MOD. NO. 3 (46 FR 47401 - September 25, 1981) Berks County, Pennsylvania					
CHANGE:					
Glaziers	11.54	.75	.70		.015
Sheet Metal Workers	13.51	1.17	2.17		.23
DECISION NO. PA81-3076 MOD. NO. 2 (46 FR 50263 - October 9, 1981) Schuylkill County, Pennsylvania					
CHANGE:					
Glaziers	11.54	.75	.70		.015

MODIFICATION PAGE 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3077 MOD. NO. 2 (46 FR 50265 - October 9, 1981) Lancaster County, Pennsylvania					
CHANGE:					
Bricklayers & Stonemasons	$11.05	.65	.55		
Sheet Metal Workers	13.51	1.17	2.17		.23
DECISION NO. PA81-3080 MOD. NO. 2 (46 FR 52078 - October 23, 1981) Lehigh County, Pennsylvania					
CHANGE:					
Glaziers	11.54	.75	.70		.015
Sheet Metal Workers	13.51	1.17	2.17		.23
DECISION NO. PA81-3081 MOD. NO. 1 (46 FR - 52080 - October 23, 1981) Sullivan County, Pennsylvania					
CHANGE:					
Plumbers & Steamfitters	14.66	.94	.95		.05
Roofers	12.05	1.00	1.00		
DECISION NO. VT82-3003 - MOD. #1 (47 FR 3275 - January 22, 1982) STATEWIDE VERMONT					
CHANGE:					
LABORERS:					
BLASTERS:					
STATEWIDE	$ 7.25				
POWER EQUIPMENT OPERATORS:					
BULLDOZER:					
WINDHAM CO.	8.60			b	.05
COMPACTOR:					
REMAINDER OF COS.	8.65			b	
GRADALL					
WASHINGTON CO.	8.57			b	

MODIFICATION PAGE 9

MODIFICATION PAGE 10

DECISION NO. WA81-5100 - Mod #2 (46 FR 15636 - March 6, 1981) King & Kitsap Cos. Washington	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
King County	$11.95	.98	3% + .10		.05
DECISION NO. WA81-5163 - Mod. #5 (46 FR 59457 - Dec. 4, 1981) Statewide Washington					
OMIT:					
POWER EQUIPMENT OPERATORS (DREDGING - AREAS 1 and 2)					
ADD:					
POWER EQUIPMENT OPERATORS: (DREDGING - AREA 1)					
All Counties and portions of Counties East of the 120th Meridian					
Group 1	$16.17	1.30	2.00		.10
Group 2	16.27	1.30	2.00		.10
Group 3	16.61	1.30	2.00		.10
Group 4	16.66	1.30	2.00		.10
Group 5	17.03	1.30	2.00		.10
(DREDGING - AREA 2)					
All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in Area 3) and the Northern part of Pacific Co.					
Group 1	16.14	1.20	1.75		.16
Group 2	16.24	1.20	1.75		.16
Group 3	16.58	1.20	1.75		.16
Group 4	16.63	1.20	1.75		.16
Group 5	17.00	1.20	1.75		.16

GROUP DESCRIPTIONS
(DREDGING AREAS 1 and 2)

Group 1: Assistant Mate (Deckhand)

Group 2: Oiler

Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen

Group 4: Craneman, Engineer Welder

Group 5: Leverman, Hydraulic

DECISION NO. CA81-5154 - Mod. #8 (46 FR 47384 - September 25, 1981) Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Area 4:					
Brush; Pot Tender	$16.73	$1.25	$2.08		.03
Paperhangers; Paste Machine Operators, Iron and Steel	16.98	1.25	2.08		.03
Spray; Sandblaster; Water Blaster	17.23	1.25	2.08		.03
Taper (drywall)	16.86	1.25	2.08		.03
Steeplejack	17.73	1.25	2.08		.03
DECISION NO. CA81-5129-Mod. #6 (46 FR 34961 - July 6, 1981) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino San Luis Obispo, Santa Barbara, and Ventura Counties, California					
Change:					
Painters:					
Area 4:					
Brush; Pot Tender	$16.73	$1.25	$2.08		.03
Paperhanger; Paste Machine Operators; Iron and Steel	16.98	1.25	2.08		.03
Spray; Sandblaster; Waterblaster	17.23	1.25	2.08		.03
Taper (drywall)	16.86	1.25	2.08		.03
Steeplejack	17.73	1.25	2.08		.03

SUPERSEDEAS DECISION

STATE: Florida COUNTIES: Martin & Palm Beach
DECISION NO.: FL82-1003 DATE: Date of Publication
Supersedes Decision No.: FL81-1190 dated March 6, 1981 in 46 FR 15643.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes or apartments of four stories or less).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.79	.70	1.19		.06
BOILERMAKERS	15.50	1.375	1.50		.04
BRICKLAYERS: Bricklayers, Cement Masons, Marble Setters, Plasterers, Stonemasons, Tile & Terrazzo Workers	13.20	.65	.70		.04
CARPENTERS & SOFT FLOOR LAYERS	11.60	.90	.55		.08
ELECTRICIANS:					
Wiremen	14.80	4.5%	9%	6%	1.5%
Cable Splicers	16.28	4.5%	9%	6%	1.5%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.115	1.345	1.085	a	.035
Helpers	9.88	1.345	1.085	a	.035
GLAZIERS	10.24	.55	.40		
IRONWORKERS	12.60	.85	1.23		.10
LABORERS:					
a. (Permit Value 500,000 & Over)					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	8.75	1.07	.50		.01
Plasterers Tenders	8.93	1.07	.50		.01
Unskilled laborers	8.65	1.07	.50		.01
b. (Permit Value Up to 500,000)					
Air Tool Operators, Mason Tenders, Mortar Mixers, & Pipelayers	7.05	1.07	.50		.01
Plasterers Tenders	7.23	1.07	.50		.01
Unskilled Laborers	6.95	1.07	.50		.01
LATHERS	9.73		.10		.025
LINEMEN:					
Heavy Equipment Operators & Linemen	14.58	.45	9%		.75%
Winch Truck Operators	11.60	.45	9%		.75%
Cable Splicers	14.88	.45	9%		.75%
Truck Drivers	9.37	.45	9%		.75%
Groundmen	7.74	.45	9%		.75%
MILLWRIGHTS	12.67	.70	.70		.10

FL82-1003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	$ 9.78	.75	.80		.05
Paperhanger, Roller	10.03	.75	.80		.05
Spray, Taper	10.18	.75	.80		.05
PILEDRIVERS	12.15	.70	.70		.10
PLUMBERS:					
a. Commercial - 51 or more plbg. fixtures, with 41 or more tons A/C	12.84	.77	1.5%		.16
b. Commercial - 50 or less plbg. fixtures, with 40 or less tons A/C	11.7%	.77	1.55		.16
c. Industrial - all manufacturing and processing plants	16.12	.77	1.5%		.1%
ROOFERS:					
Roofers	12.90	.40	.50		.015
Pot Firemen/Mud Mixers	9.03	.40	.50		.015
SHEET METAL WORKERS	13.45	.80	.84		.04
SPRINKLER FITTERS	14.15	.85	1.20		.13
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Group I	13.70	.74	.80		.17
Group II	13.55	.74	.80		.17
Group III	13.05	.74	.80		.17
Group IV	12.60	.74	.80		.17
Group V	12.45	.74	.80		.17
Group VI	12.10	.74	.80		.17
Group VII	11.85	.74	.80		.17
Group VIII	11.75	.74	.80		.17
Group IX	11.15	.74	.80		.17

Group I - All tower cranes (must have 2 operators; mobile, rail, climbers, static mount), cranes with boom length 250 ft. & over (with or without jib), derricks, helicopters, all types of flying cranes & all nuclear powered equipment, single station hydro cranes over 18 tons but not more than 50 tons, finish grader

Group II - All cranes with boom length 150 ft. & over (with or without jib; friction, hydro, electric, or otherwise), cranes 150 tons & over with boom length less than 250 ft., gantry & overhead cranes

FL82-1003

SUPERSEDEAS DECISION

POWER EQUIPMENT OPERATORS cont'd:

Group III - Cranes with boom length less than 150 ft. (with or without jib), single station hydro cranes 18 tons & under, single station hydro cranes over 50 tons, dual station hydro cranes, clam shell, shovel, backhoe, gradall, dragline, piledriver, drilling of piling, tugger (all types), hoist (all types), mechanic, sideboom, or tractor boom, concrete mixer, cableway
Group IV - Boring & drilling machine, concrete pumping machine (all types), batching plant (on job sites), inside elevator, forklift (with vertical lift of over 20 ft)
Group V - Locomotive operator, motor mixing pump (all types), winch truck, A-frame truck, grease truck operator, front end loader, bulldozer, pan, motor grader, forklift
Group VI - Trenching & ditching machine, roller, fireman, distributor (bituminous), finish machine (paving), wellpoint system (installation and/or operation), siphon, vacuum pump, tractor, conveyor
Group VII - Utility operator (any combination of equipment up to and including 4 pieces of equipment listed in Group VIII), welding machines (3-4)
Group VIII - Pump (s) or any combination over 2 1/2 inch, compressors or any combination over 125 CFM, generator (s) or any combination over 5 KW
Group IX - Oiler, fuel truck driver, mechanical helper, boom hauling truck driver, lowboy truck driver

FOOTNOTE:
a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for Employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for Employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: FLORIDA COUNTY: PINELLAS
DECISION NO.: FL82-1004 DATE: Date of Publication
Supersedes Decision No.: FL79-1118 dated August 17, 1979 in 44 FR 48564.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$14.03	.70	1.10		.10
BRICKLAYERS/BLOCKLAYERS	12.25	.60	.80		.10
CARPENTERS	6.56				
CEMENT MASONS	6.30				
ELECTRICIANS	6.27				
ELEVATOR CONSTRUCTORS	9.785				
GLAZIERS	6.13				
IRONWORKERS	6.36				
LABORERS	4.26				
LATHERS	7.36				
PAINTERS	5.26				
PLASTERERS	8.76				
PLUMBERS & PIPEFITTERS	14.03	.70	1.10		.10
ROOFERS	4.32				
SHEET METAL WORKERS	5.81				
SOFT FLOOR LAYERS	5.25				
SPRINKLER FITTERS	14.15	.85	1.20		.13
TILE SETTERS	6.79				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	5.25				
Compactor	9.185	.625	.60		
Crane	10.89	.65	.60		.05
Grader	4.79				
Piledriver	7.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: FLORIDA COUNTY: DUVAL
DECISION NUMBER: FL82-1005 DATE: Date of Publication
Supersedes Decision No.: FL81-1240 dated June 5, 1981 in 46 FR 30248
DESCRIPTION OF WORK: Building Construction (does not include single family homes or apartments of four stories or less).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.93	.65	1.10		.08
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS	11.65	.55	.50		.06
CARPENTERS & PILEDRIVERMEN	11.32	.72	.80		.06
CEMENT MASONS	10.31	.45	.40		.01
ELECTRICIANS:					
Wiremen	13.30	.65	3%+.81	.81	.10
Cable Splicer	13.65	.65	3%+.81	.81	.10
ELEVATOR CONSTRUCTORS:					
Mechanics	12.19	1.345	1.085	a	.035
Helper	8.53	1.345	1.085	a	.035
Probationary Helper	6.095				
IRONWORKERS	11.65	.70	.90		.03
LABORERS:					
Gunnite Workers, Mechanical Tool Operators, Power Buggy Operators, & Pipelayers	7.41	.30	.25		
Unskilled	7.22	.30	.25		
LINEMEN:					
Linemen	12.00	.45	3%+1.00	.70	.10
Cable Splicer	12.20	.45	3%+1.00	.70	.10
Heavy Equipment Operator	10.60	.45	3%+ .85	.64	.10
Winch Truck Operator	8.41	.45	3%+ .68	.51	.10
Groundmen	5.86	.45	3%+ .47	.35	.10
MILLWRIGHTS	11.64	.72	.80		.05
PAINTERS	11.05	.70	.60		
PLASTERERS	9.00	.40	.30		
PLUMBERS	14.05	.70	.80		.12
ROOFERS:					
Roofers	11.66	.50	.50		.025
Kettlemen	8.75	.50	.50		.025
SHEET METAL WORKERS	12.75	3%+1.01	1.08		.15
SPRINKLER FITTERS	14.15	.85	1.20		.13
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Group I	12.18	.55	.50		.06
Group II	11.00	.55	.50		.06
Group III	8.80	.55	.50		.06

FL82-1005 cont'd

POWER EQUIPMENT OPERATORS cont'd -- Definitions

Group I - Crane or derrick operator, clam shell operator, dragline operator, piledriver operator including auger and boring machine operator for drilling in piling, backhoe operator, hydra crane operator, gradeall operator, shovel operator, shovel operator, patrol operator, cable ways operator, tug boat captain (150 HP or more), multi-bowl operator (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), side boom cat operator, multi-drum hoist operator for rigging work, mechanic (heavy equipment), tower crane operator (stationary, climbing, and travelling), gantry crane operator, locomotive crane operator, bridge crane operator (over 20 ton capacity), concrete pump with boom (mobile) operator, high lift or forklift operator (10 ft. or higher).

Group II - Bulldozer operator, bridge crane operator (20 tons and under), highlift or forklift operator (less than 10 ft), straddle buggy operator, hoist operator (other than rigging work) including winch truck operator where winch truck is not mobile and used as a hoist, trenching machine operator (ladder & wheel type) over 6 ft cut and over 24 inches in width, concrete paver operator, scraper operator, front end loader operator, fireman-floating equipment, mobile winch truck operator, self propelled sub-grader operator, asphalt paving machine operator, lubricating engineer (mobile plant), pavement breaker operator.

Group III - Tractor operated sweeper operator, trenching machine operator (ladder & wheel type) maximum cut 6 ft and maximum width 24 inches fireman, self-propelled roller operator, wellpoint pump operator & supervise installation (one operator for 3 pumps, not including standby units, within 300 ft radius), asphalt distributor operator, water truck driver, motor boat operator, oiler, pumpman (other than wellpoint) up to and including pumps within 300 ft radius, conveyor operators (motor operated), welding machine operator (3 or more combustion type), pulver mixer operator, compressor operator (from 1 up to and including 3 compressors) within 300 ft. radius, self-propelled sweeper operator, combination pump, compressor & combustion type welding machine operator, (any group of 3 units) with 300 ft. radius, concrete mixer operator, concrete pump operator, tractor, tractor operator, street sweeping machine operator.

FOOTNOTE:

a. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 8% for employee who has worked in business more than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKALB, & FULTON

DECISION NUMBER: GA82-1007

DATE: DATE OF PUBLICATION

Supersedes Decision Number GA81-1191, dated March 6, 1981, in 46 FR 15645.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.10	.85	1.00		.10
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS & STONE MASONS	12.62	.95	.90		.10
CARPENTERS, DRYWALL HANGERS, & RESILIENT FLOOR LAYERS	13.00	.82	.65		.05
CARPET LAYERS	9.80	.70	.55		.02
CEMENT MASONS	12.45	.60	.80		
ELECTRICIANS:					
Wiremen	13.95	7%	13%		½ of 1%
Cable splicers	14.85	7%	13%		½ of 1%
ELEVATOR CONSTRUCTOR MECHANICS	12.51	1.345	1.085	a + b	.035
ELEVATOR CONSTRUCTOR HELPERS	8.76	1.345	1.085	a + b	.035
GLAZIERS	13.05	1.00	.73		.11
IRONWORKERS	13.65	.70	.97		.07
LATHERS	11.80	.25	.35		.06
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	12.62	.95	.90		.03
MARBLE, TILE, & TERRAZZO FINISHERS	8.70	.35	.10		.05
MILLWRIGHTS	13.38	.82	.65		.10
PAINTERS:					
Brush, roller, & drywall finishers	12.50	.85	1.30		.05
Paperhangers	12.75	.85	1.30		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (not floored solid)	13.00	.85	1.30		.05
Spray, steamcleaning, waterblasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	13.50	.85	1.30		.05

DECISION NO. GA82-1007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$13.15	.82	.65		.05
PLASTERERS	12.67	.70	.95		
PLUMBERS & PIPEFITTERS	13.80	1.00	1.10		.14
ROOFERS	9.85	.35	.20		
SHEET METAL WORKERS	14.50	.70	.91		.12
SPRINKLER FITTERS	13.69	.95	1.40		.08

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5 (a) (1) (ii)).

DECISION NO. GA82-1007

LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.96	.40	.47		.10
Group 2	9.18	.40	.47		.10
Group 3	9.46	.40	.47		.10
Group 4	9.71	.40	.47		.10
Group 5	10.03	.40	.47		.10
Group 6 (25¢ above rate for classification under which employed)					

Group 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck-spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

Group 2 - All tool operators: air, electric or gas powered, such as jackhamer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; flagman; form setter, steel; mixer, mortar, cement, grout, clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; mortorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot man; slip form raiser, steel or wood, jack or screw type; wheelbarrow operator, motorized.

Group 3 - Powderman tender; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

Group 4 - Caisson work, hole man; tunnel laborer.

Group 5 - Nozzleman, concrete pneu.; powderman.

Group 6 - Chimneys or stacks, isolated.

DECISION NO. GA82-1007

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.49	.78	1.00		.10
GROUP A-1	12.49	.78	1.00		.10
GROUP B	12.14	.78	1.00		.10
GROUP B-1	11.92	.78	1.00		.10
GROUP C	9.71	.78	1.00		.10
GROUP D-1	10.51	.78	1.00		.10
GROUP D-2	8.90	.78	1.00		.10
GROUP E	9.12	.78	1.00		.10
GROUP F	7.87	.78	1.00		.10

GROUP A - Crane operator (truck, tower, crawler, or locomotive);

GROUP A-1 - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, derrick operator, dragline operator, drill operator - caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel, elevating grader operator, hoisting engine operator, locomotive operator, mechanics - heavy duty, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 feet depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over, furnishing air simultaneously for more than one contractor;

GROUP B - Bulldozer operator, dewatering system operator - where multiple pumps are used, dozer shovel operator, drill operator - Quarry Master type, fireman - stationary or portable, forklift operator, generator operator - 75 K.V.A. and over, motor grader operator, motor scraper operator (pans), oilers on cranes with earth boring drill attached with a separate power source, pusher dozer operator, self propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 feet depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor;

GROUP B-1 - Elevator operator - inside electric permanent house elevator used to haul building materials and personnel;

GROUP C - Air compressor - 600 Cubic feet and over, air compressor operator - battery of two, 300 cubic feet and over, hydrohammer operator, concrete batch plant operator;

GROUP D-1 - Oiler-grease truck, truck or locomotive crane;

GROUP D-2 - Oiler - unspecified, pump operator - over 4", up to 4 batteries, welding machine operator - 4 or more batteries, portable, gas, or diesel driven;

GROUP E - Concrete mixer operator - skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator - asphalt type, well drill operator - not performing foundation work;

GROUP F - Air compressor operator - over 150 CFM but less than 600 Cubic feet, conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4 inches and over, up to and including three welding machines do not require an operator.

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: GEORGIA
DECISION NUMBER: GA82-1006
COUNTIES: DEKALB & FULTON
DATE: DATE OF PUBLICATION
Supersedes Decision Number GA81-1196, dated March 20, 1981, in 46 FR 17987.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (does not include Sewer & Water Lines Construction Projects).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICK MASONS	$12.62	.95	.90		.10
CARPENTERS	13.00	.82	.65		.05
CEMENT MASONS/FINISHERS	12.45	.60	.80		
ELECTRICIANS	13.95	7%	13%		½ of 1%
IRONWORKERS	13.65	.70	.97		.07
LABORERS:					
Unskilled	8.96	.40	.47		.10
Air tool operators (air, electric, or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipe layers	9.18	.40	.47		.10
Tunnel laborers	9.71	.40	.47		.10
Powdermen	10.03	.40	.47		.10
Miners	11.56	.40	.47		.10
PAINTERS:					
Brush & Roller	12.50	.85	1.30		.05
Spray	13.50	.85	1.30		.05
PILEDRIVERMEN	13.15	.82	.65		.05
PLUMBERS & PIPEFITTERS	13.80	1.00	1.10		.14
SHEET METAL WORKERS	14.50	.70	.91		.12
TRUCK DRIVERS	7.17				
WATERPROOFERS (ROOFERS)	9.85	.35	.20		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Backhoe, Crane, Mechanic, & Mucker	12.49	.78	1.00		.10
Bulldozer, Front end loader, & Motor grader	12.14	.78	1.00		.10
Oiler/Greaser, & Pump	8.90	.78	1.00		.10

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri
COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren, and City and County of St. Louis
DECISION NUMBER: MO82-4007
DATE: Date of Publication
Supersedes Decision No. MO81-4031 dated May 8, 1981, in 46 FR 25923
DESCRIPTION OF WORK: Building projects, excluding single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Asbestos Workers	$15.49	$1.00	$1.26		
Swing Stage of Bosun's Chair	15.99	1.00	1.26		
Asbestos Workers requiring spray in application	15.99	1.00	1.26		
BOILERMAKERS	15.12	1.375	1.15		.05
BRICKLAYERS: Stonemasons	13.35	.72	.95	1.00	.09
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN:*					
Zone 1	14.26	1.00	1.05		.18
CARPENTERS:*					
Zone 2:					
Contracts $200,000.00 and under	10.35	.70	.80		.18
Contracts over $200,000.00	14.26	1.00	1.05		.18
Zone 3:					
Contracts $25,000.00 and under	13.16	.90	.95		.15
Contracts over $25,000.00	14.26	1.00	1.05		.18
Zone 4:					
Contracts under $250,000.00	11.35	.70	.80		
Contracts over $250,000.00	14.26	1.00	1.05		.18
Zone 5:					
Contracts $250,000.00 and under	10.65	.70	.80		
Contracts over $250,000.00	14.26	1.00	1.05		.18
CEMENT MASONS:*					
Zone 1	12.85	1.50	1.00		
Zone 2:					
Projects less than $700,000.00	12.15	1.50	1.10		
Projects over $700,000.00	12.85	1.50	1.00		
ELECTRICIANS:*					
Zone 1	14.79	.91	3%+5½%	15½%	.12
Zone 2	14.79	.91	3%+5½%	15½%	.12
Zone 3	13.84	.83	3%+5½%	15½%	.12

*ZONE DESCRIPTIONS -
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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$14.19	$1.345	$1.085	3%+a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.345	1.085	3%+a	.035
GLAZIERS:					
Glaziers	14.79	1.43	2.65	13.2%	.05
St. Louis County: Glaziers (installing of art glass; repairing, cleaning, cementing and waterproofing in connection with the restoration of stained and leaded glass windows)	8.86	50% of premium	1.00	a+b	
IRONWORKERS	14.725	.80	1.05		.09
LABORERS:*					
Zone 1:					
General Laborers	12.475	.65	1.05		.05
Wrecking Laborers	12.35	.65	1.05		.05
Dynamiter or Powderman	12.975	.65	1.05		.05
Plasterers' Tenders	13.425	.65	1.05		
Mason Tenders, brick	12.85	.65	1.10		.10
Plumber, Labor	12.85	.65	1.05		
Zone 2: Contracts $500,000.00 or less:					
General Laborers	10.75	.60	.50		
Mason Tenders; Plumbers' Laborers; Plaster Tender	10.95	.60	.50		
Contracts over $500,000.00:					
General Laborers	12.25	.60	.50		
Mason Tenders; Plumbers' Laborers; Plaster Tender	12.45	.60	.50		
Zone 3:					
Laborers	11.70	.60	.60		.10
Powderman; Mason Tenders; Plaster Tenders	12.20	.60	.60		.10
Zone 4:					
General Laborer	13.275	.60	.90		.03
Dynamiter or Powderman	13.775	.60	.90		.03

*ZONE DESCRIPTONS - Page 3

ZONE DESCRIPTIONS

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN:
Zone 1: St. Louis City and County
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County
Zone 5: Lincoln and Warren Counties

CEMENT MASONS:
Zone 1: St. Louis City and County; Jefferson and St. Charles Counties
Zone 2: Franklin, Lincoln, and Warren Counties

ELECTRICIANS:
Zone 1: City and County of St. Louis, and St. Charles County
Zone 2: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contracts exceeds $15,000.00
Zone 3: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contract does not exceed $15,000.00

LABORERS:
Zone 1: City and County of St. Louis
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County

FOOTNOTES

ELEVATOR CONSTRUCTORS:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

GLAZIERS:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day
b. Employee with one (1) year of service, the employer pays 2% of all hours worked at straight time, the negotiated inside wage rate; employee with three (3) years or more of service, the employer pays 4% of all hours worked at straight time, the negotiated inside wage rate; employee with twelve (12) years or more, the employer pays 6% of all hours worked at straight time, the negotiated inside wage rate; employee with fifteen (15) years or more of service, the employer pays 8% of all hours worked at straight time, the negotiated inside wage rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:* (Cont'd)					
Zone 5:					
Projects under one (1) million dollars	$12.275	.60	.90		.03
Projects one (1) to ten (10) million dollars	12.775	.60	.90		.03
Projects ten (10) million dollars and over	13.275	.60	.90		.03
MARBLE SETTERS	12.86	1.60	1.305		
MARBLE FINISHERS	13.65				
PAINTERS:*					
Zone 1:					
Brush	8.20				
Spray	8.70				
Zone 2:					
Brush	14.98	.68	.37		.15
Spray	16.98	.68	.37		.15
PIPEFITTERS:*					
Zone 1	15.45	2.435	1.64		
PIPEFITTERS and PLUMBERS:*					
Zone 1	15.45	2.435	1.64		
PLASTERERS	12.755	.78	.80		.04
PLUMBERS:*					
Zone 1	14.005	1.00	1.25	.90	.20
ROOFERS:					
Composition; Slate and Tile	13.85	.92	.85		.03
SHEET METAL WORKERS	14.03	.82	.96	1.13	.06
SPRINKLER FITTERS	17.46	.95	1.40		.12
TERRAZZO WORKERS	16.05				
TILE SETTERS	12.73	1.60	1.305		
TILE WORKERS' FINISHERS	11.70	.05	.755		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					

*ZONE DESCRIPTIONS - Page 5

ZONE DESCRIPTIONS

LABORERS: (Cont'd)
Zone 5: Lincoln and Warren Counties

PAINTERS:
Zone 1: Lincoln County
Zone 2: Franklin, Jefferson, St. Charles, and Warren Counties; and City and County of St. Louis

PIPEFITTERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis, and Warren Counties

PIPEFITTERS and PLUMBERS:
Zone 1: Lincoln County

PLUMBERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis, and Warren Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$14.32	$1.05	$1.25		.20
Group 2	13.02	1.05	1.25		.20
Group 3	12.57	1.05	1.25		.20
Group 4:					
(a)	15.02	1.05	1.25		.20
(b)	15.87	1.05	1.25		.20
(c)	16.32	1.05	1.25		.20
(d)	17.07	1.05	1.25		.20
(e)	14.82	1.05	1.25		.20

Group 1: Backhoe; Cableway; Crane, Crawler or Truck; Crane, Hydraulic-truck or crusier mounted-16 tons and over; Crane, Locomotive; Derrick, steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradeall, crawler or tire mounted; Locomotive, gas, steam and other power; Piledriver; Land or scoop Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boat; Whirley; Air Tugger with air compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Back-filling Machine; Boat Operator-Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Truck, placing or erecting; Boring Machine, footing foundation; Bullfloat; Cherry Picker, combination concrete hoist and mixer such as Mixer-mobile; Compressor-welder combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine, Concrete Spreader; Compressor (when operator run throttle); Compressor-generator combination; Compressor-pump combination; Generators, two 30 KW or over, or any number developing over 30 KW; Generator-pump combination Conveyor, large (not self-propelled) hoisting or moving brick and concrete into and/or on floor level, one or both; Crane, hydraulic, Rough Terrain, self-propelled; Crane hydraulic-truck or crusier mounted, under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any hand drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment); Elevating Grader; Engine Man, dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Forklift; Grader, road with power blade; Highlift; Hoist, concrete and brick (brick cages on concrete skips operating in or on tower, Towermobile or similar equipment); Hoist, stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mixer-mobile, Mucking Machine, Pipe Cleaning Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or ready-mix, job site; Plant, heating, job site; Plant, mixing, job site; Plant, power generating, job site; Pumps, two self-powered, over 2" through 6" pumps, electric submersible, one through three over 4" Quad-track; Roller, asphalt, top or subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor, crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; Trenching Machine; Tunnel Boring Machine; Vibrating Machine, automatic, automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine; Mechanic on job site; Mixer, paving; Compressors, two, not more than 50 feet apart

POWER EQUIPMENT OPERATORS (Cont'd)

Group 2: Air Tugger with plant, air; Boiler, for power or heating on construction projects; Boiler, temporary; Compressor, air, one; Compressor, air (mounted on truck); Concrete Saw, self-propelled; Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine; Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator, other hoisting; Manlift; Mixer, asphalt, over 8 cu. ft. capacity; Mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; Mixer, without side loader, 2 bag capacity or more; Mixer with side loader, regardless of size, not Paver; Oiler on dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump, self-powered, automatic controller over 2" during use in connection with construction work; Sweeper, street; Welding Machine, one over 400 amp.; Winch operating from truck; Scissor Lift (used for hoisting); Curb Finishing Machine; Tractor, small wheel type, 50 HP and under with Grader, blade and similar equipment

Group 3: Boat Operator, outboard motor (job site); Conveyor (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Group 4:
(a) Air Pressure Oiler Engineer, operating under ten (10) pounds
(b) Air Pressure Oiler Engineer, operating over ten (10) pounds
(c) Air Pressure Engineer, operating under ten (10) pounds
(d) Air Pressure Engineer, operating over ten (10) pounds
(e) Crane, piledriving and extracting; Crane using rock socket tool; Dragline, 7 cu. yds. and over; Shovel, power, 7 cu. yds. and over; Crane, climbing (such as Linden); Derrick, diesel, gas or electric hoisting material and erecting steel 150' or more above ground; Hoist, three or more drums; Scoop, Tandem; Tractor, Tandem Crawler

(Crane, with boom, including jib, over 100' from pin to pin add 1¢ per foot to maximum of $1.00 above basic rate for Cranes)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses (29 CFR, 5.5 (a)(1)(ii))

federal register

Friday
February 19, 1982

Part III

Department of Education

Talent Search Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 643

Talent Search Program

AGENCY: Education Department.

ACTION: Final regulations.

SUMMARY: The Secretary of Education is issuing final regulations for the Talent Search Program. These regulations reflect statutory changes contained in the Education Amendments of 1980. They also clarify and simplify requirements governing the program.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Mary Kathleen Smith, Office of Postsecondary Education, Department of Education, (Room 3514 ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the Commissioner of Education published in the **Federal Register** the final regulations for the Talent Search Program. Those regulations governed the grant awards made during fiscal year 1981. The Education Amendments of 1980 changed the Talent Search Program in several respects, and proposed regulations that reflected these changes were published as a notice of proposed rulemaking in the **Federal Register** on December 31, 1980 (45 FR 86908–86912). These final regulations will govern grant awards made in fiscal year 1982 and thereafter.

These regulations incorporate by reference 34 CFR Parts 75 and 77 of the Education Department General Administrative Regulations (EDGAR); therefore, the regulations do not repeat certain types of information and requirements found in EDGAR. However, the general selection criteria found in EDGAR (34 CFR 75.202 through 75.206) have been repeated in these regulations for the convenience of the applicant (§ 643.31(a) through (e)).

To avoid any implication of overregulation, the Secretary has deleted from these final regulations all of the non-required project activities that had been included in § 643.10 (a) and (b) of the notice of proposed rulemaking.

However, to aid potential applicants, the following is a list of *examples* of activities the Secretary may consider for funding under this program in addition to the required activities in § 643.10(a) and the optional activity in § 643.10(b). Projects may—

(1) Collect and disseminate information regarding the variety of postsecondary educational opportunities, student financial aid, academic assistance, and career options available to participants;

(2) Advise and counsel each participant regarding available student financial assistance, career options, and the appropriate postsecondary institution or institutions for that person;

(3) Assist participants in applying for admission to postsecondary institutions;

(4) Assist participants in applying for readmission to secondary schools or postsecondary institutions that provide supportive services needed by participants;

(5) Assist participants in applying for student financial aid;

(6) Determine each participant's interests, career goals, academic potential, and need for services through the use of standardized measurement instruments or other verifiable indicators such as written recommendations from educators, counselors, or employers;

(7) In conjunction with schools, agencies, and organizations in the target area, develop, publicize, and implement strategies that will—

(i) Increase the probability of participants completing secondary school;

(ii) Increase the probability of participants being admitted to postsecondary school;

(iii) Increase the probability of dropouts being readmitted to secondary or postsecondary school;

(8) Establish a relationship with service agencies in the target area—so that the grantee is aware of the various services available to participants—and refer participants to these service agencies as appropriate; and

(9) Establish a relationship with postsecondary institutions to determine current admission requirements, filing and deadline dates for required application materials—such as admission and financial aid applications—course requirements, academic policies, and the availability of appropriate supportive services.

In addition, an applicant submitting an application for a Talent Search project that would also serve veterans may propose to carry out under its grant appropriate related activities. For example, such projects may—

(1) Refer veterans to high school equivalency certification programs, if necessary; and

(2)(i) Establish a relationship with the Veterans Administration, State veterans agencies, and other veterans associations so that the grantee is aware of the various benefits and services available to veterans; and

(ii) Refer veterans to these agencies and associations, as appropriate.

In the notice of proposed rulemaking, the Secretary invited comments on the proposed regulations. A summary of the substantive comments received and the Secretary's responses to those comments, including any changes, is contained in the appendix to these regulations.

The Secretary has made a number of other changes in these regulations in an effort to deregulate and to reduce burdens on applicants, participants, and grantees. Each of these changes is also described in the appendix together with an explanation for the change.

In addition, some technical and editorial revisions have been made in the language of the regulations.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Invitation to Comment

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.044, Talent Search Program)

Dated: February 12, 1982.

T. H. Bell,

Secretary of Education.

The Secretary revises Part 643 of Title 34 of the Code of Federal Regulations to read as follows:

PART 643—TALENT SEARCH PROGRAM

Subpart A—General

Sec.
643.1 Talent Search Program.
643.2 Eligible applicants.
643.3 Eligible project participants: General.
643.4 Eligible project participants: Selection requirements.
643.5 Regulations that apply to the Talent Search Program.
643.6 Definitions that apply to the Talent Search Program.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

643.10 Kinds of projects the Secretary assists under the Talent Search Program.

Subpart C—How Does One Apply for a Grant?

643.20 Assurances.

Subpart D—How Does the Secretary Make a Grant?

643.30 How the Secretary evaluates an application for a new award.
643.31 Selection criteria the Secretary uses.
643.32 Past performance.

Subpart E—What Conditions Must Be Met by a Grantee?

643.40 Allowable costs.
643.41 Nonallowable costs.
643.42 Other requirements of a grantee.

Authority: Secs. 417A and 417B of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d, 1070d–1), unless otherwise noted.

Subpart A—General

§ 643.1 Talent Search Program.

The Talent Search Program provides Federal financial assistance to projects designed to assist participants to continue in and graduate from secondary schools and enroll in postsecondary educational programs.

(20 U.S.C. 1070d, 1070d–1)

§ 643.2 Eligible applicants.

The following are eligible to apply for a grant to carry out a Talent Search project:

(a) Institutons of higher education.

(b) Public and private agencies and organizations.

(c) Secondary schools, in exceptional cases, if there are no other applicants capable of providing this program in the target areas to be served by the proposed projects.

(20 U.S.C. 1070d, 1070d–1)

§ 643.3 Eligible project participants: General.

(a) An individual is eligible to participate in a Talent Search project if the individual—

(1)(i) Is a citizen or national of the United States;

(ii) Is a permanent resident of the United States;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(iv) Is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Resides in the target area or attends a target school;

(3) Has completed the sixth grade or is at least 12 years old and is not older than 27. However, if there is no Educational Opportunity Center serving the same target area as the Talent Search project, an individual may be older than 27 and still be an eligible participant;

(4) In the case of an individual enrolled in or graduated from secondary school, has potential for education at the postsecondary level, and needs one or more of the services provided by the project to undertake a program of postsecondary education, and, if necessary, to complete a program of secondary education;

(5) In the case of an individual who has not completed a program of education at the secondary or postsecondary level, has the ability to re-enter and complete a program of education at the secondary or postsecondary level, and needs one or more of the services provided by the project to re-enter and complete such a program; and

(6) Is not currently enrolled in a program of postsecondary education.

(b) *Veterans.* A veteran, regardless of age, is eligible to participate in a Talent Search project if he or she satisfies the eligibility requirements in paragraph (a) of this section other than the age requirement of paragraph (a)(3).

(20 U.S.C. 1070d–1)

§ 643.4 Eligible project participants: Selection requirements.

(a) At least two-thirds of the eligible individuals an applicant proposes to serve under a Talent Search project must be low-income individuals who are potential first-generation college students.

(b) A "low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project. Poverty level income is determined by using criteria of poverty established by the Bureau of the Census, U.S. Department of Commerce.

(c)(1) A "potential first-generation college student" means a person neither of whose parents received a bachelor's degree.

(2) With respect to an individual 18 years and under, only the natural or adoptive parents who are currently residing with the individual are considered the individual's parents in determining whether the individual meets the criterion of being a potential first-generation college student.

(3) With respect to an individual over 18, only the natural or adoptive parents who were residing with the individual before the individual's eighteenth birthday are considered the individual's parents in determining whether the individual meets the criterion of being a potential first-generation college student.

(20 U.S.C. 1070d–1; House Report 96–520, 96 Cong. 1st Sess. p. 26 (1979) and Senate Report 96–733, 96 Cong. 2nd Sess. p. 26 (1980))

§ 643.5 Regulations that apply to the Talent Search Program.

The following regulations apply to the Talent Search Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions).

(b) The regulations in this Part 643.

(20 U.S.C. 3474, 1070d, 1070d–1, 1221e–3)

§ 643.6 Definitions that apply to the Talent Search Program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
EDGAR
Equipment
Facilities
Fiscal year
Grant
Grantee
Nonprofit
Private
Project
Public
Secondary school
Secretary
State
Supplies

(20 U.S.C. 1070d, 1070d–1, 1221e–3)

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

(20 U.S.C. 1001 *et seq.*)

"Institution of higher education" means an educational institution as defined in sections 1201(a) and 481 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a), 1088)

"Postsecondary education" means a program of education beyond the secondary school level.

(20 U.S.C. 1070d, 1070d–1)

"Target area" means a discrete geographic area—as determined by the applicant—that will be served by a Talent Search project.

(20 U.S.C. 1070d, 1070d–1)

"Target school" means a secondary school that will be served by a Talent Search project.

(20 U.S.C. 1070d, 1070d–1)

"Veteran" means a person as defined in 38 U.S.C. 1652(a).

(38 U.S.C. 1652(a))

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 643.10 Kinds of projects the Secretary assists under the Talent Search Program.

(a) The Secretary gives consideration to an applicant for a Talent Search project that, in its target area, proposes to—

(1) Identify qualified individuals with potential for education at the postsecondary level;

(2) Encourage qualified individuals to complete secondary school and undertake a program of postsecondary education;

(3) Publicize the availability of student financial assistance to persons who pursue a program of postsecondary education; and

(4) Encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete those programs, to reenter the programs.

(b) A Talent Search project may provide tutorial services for a participant who—

(1) Is being encouraged to enter or reenter a program of postsecondary education; and

(2) Is not enrolled in an Upward Bound project.

(c) The Secretary will consider an application that proposes to carry out activities in addition to the ones listed in paragraphs (a) and (b) of this section if the activities support the purposes of the Talent Search Program.

(20 U.S.C. 1070d, 1070d–1)

Subpart C—How Does One Apply for a Grant?

§ 643.20 Assurances.

An applicant shall submit, as part of its application, the following assurances:

(a) That the project will be located in a setting or settings that are accessible to participants;

(b) That, if the grantee is an institution of higher education, it will not use the project as a part of its recruitment program; and

(c) That individuals participating in the project will not have access to services from another Talent Search project or from an Educational Opportunity Center.

(20 U.S.C. 1070d–1)

Subpart D—How Does the Secretary Make a Grant?

§ 643.30 How the Secretary evaluates an application for a new award.

(a) The Secretary evaluates an application on the basis of the criteria in § 643.31.

(1) The Secretary awards up to 100 points for these criteria.

(2) The maximum possible score for each complete criterion is indicated in parentheses next to the heading of that criterion.

(b) For applicants that have conducted a Talent Search project within the three fiscal years prior to the fiscal year for which the applicant is applying, the Secretary considers the experience of the applicant on the basis of § 643.32.

(c) In the final selection of similarly rated applications, the Secretary considers the relative need for a project in the area the applicant proposes to serve as compared to the need in areas other applicants propose to serve.

(20 U.S.C. 1070d, 1070d–1)

§ 643.31 Selection criteria the Secretary uses.

The Secretary uses the following criteria—in paragraphs (a) through (h)—to evaluate applications for new awards:

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women; and

(C) Handicapped persons.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have traditionally been underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows

the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need for the project.* (25 points)

(1) The Secretary reviews each application for information that shows a need for a Talent Search project in the area the applicant plans to serve;

(2) The Secretary looks for information that shows—

(i) (6 points) The number and percentage of individuals who are eligible to be served by a Talent Search project including those who reside in the target area and those who attend target schools;

(ii) (7 points) The extent to which the target area lacks the services and activities that are provided by a Talent Search project or an Educational Opportunity Center;

(iii) (6 points) For each of the three preceding years, the estimated dropout rates for each of the target schools; and

(iv) (6 points) For each of the three preceding years, the estimated number and percentage of students from each target school who enrolled in postsecondary institutions.

(g) *Likelihood of success.* (20 points)

(1) The Secretary reviews each application for information that shows the likelihood of success of the proposed project.

(2) The Secretary looks for information that shows—

(i) (12 points) The extent to which the project is likely, in the target area—

(A) To increase the secondary school completion rate of participants;

(B) To increase the postsecondary school admission rate of participants; and

(C) To increase the secondary and postsecondary readmission rates of those participants who have not completed secondary or postsecondary education; and

(ii) (8 points) The comprehensiveness of the applicant's plan for providing the services and activities listed in § 643.10.

(h) *Community support.* (15 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to involve the community in implementing the project.

(2) The Secretary looks for information that shows—

(i) (8 points) The extent to which the applicant plans to publicize and inform the target schools and residents of the target area of the services provided by the Talent Search project; and

(ii) (7 points) The extent to which the applicant has received and has included in its application written commitments by community organizations and other appropriate groups for the use of community and other resources to supplement authorized activities.

(20 U.S.C. 1221e-3(a)(1); 1070d, 1070d-1)

§ 643.32 Past performance. [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee?

§ 643.40 Allowable costs.

Allowable project costs not specifically covered by 34 CFR Part 74 may include the following costs reasonably related to carrying out a Talent Search project:

(a) Transportation and meal costs for participants and staff for—

(1) Approved visits to postsecondary educational institutions in the area;

(2) Participation in "College Days" activities; and

(3) Field trips to observe and meet with persons who are employed in various career fields and who can act as role models for participants.

(b) Purchase of testing materials.

(c) In-service training of project staff.

(d) Tutorial services if none are available to participants through an Upward Bound project in the target area.

(e) Rental of space if space is not available at the host institution and the space rented is not owned by the host institution.

(20 U.S.C. 1070d, 1070d-1)

§ 643.41 Nonallowable costs.

Costs that may not be charged against a grant under this program include the following:

(a) Tuition, fees, stipends, or other forms of direct financial support for participants.

(b) Application fees for enrollment or financial aid.

(c) Lodging for project participants.

(d) Duplication of services that are available to participants through—

(1) State, local, or private sources;

(2) The institution or agency sponsoring the project; or

(3) Other Federal programs.

(e) Research not directly related to the evaluation or improvement of the project.

(f) Purchase of major equipment unless the grantee demonstrates to the Secretary's satisfaction that purchase is less expensive than renting.

(g) Construction, renovation, or remodeling of any facilities.

(20 U.S.C. 1070d, 1070d-1)

§ 643.42 Other requirements of a grantee.

Each grantee shall—

(a) Engage a full-time project director. However, the Secretary may waive the full-time requirement as specified in EDGAR, 34 CFR 75.511; and

(b)(1) Determine the eligibility of each participant at the time that the individual is selected to participate in the project.

(2) The grantee does not have to revalidate a participant's eligibility after this time.

(20 U.S.C. 1070d, 1070d-1)

Note.—This Appendix is included for information, it is not to be codified in the Code of Federal Regulations.

Appendix—Summary of Comments and Responses

In the notice of proposed rulemaking published in the **Federal Register** on December 31, 1980 (45 FR 86906-86912), the Secretary invited comments on the proposed regulations.

The following includes a summary of the substantive public comments received and the Secretary's reponses to those comments, including any changes. The comments and responses and any changes are organized in the same order as the referenced sections are organized in these final regulations.

Section numbers and section headings in parentheses are the numbers and headings that appeared in the notice of proposed rulemaking but that have been renumbered, retitled, or deleted in these final regulations.

§ 643.1 Talent Search Program.

Comment. One comenter noted that in § 643.1 the statement of purpose does not correspond to the three part statement of program purpose found in 20 U.S.C. 1070d-1(a).

Response. A change has been made. The three required activities and the one optional activity specified in the status (Section 417B (a) and (b)) are listed in § 643.10 of these regulations.

§ 643.2 Eligible applicants.

Comment. One commenter suggested that there is no statutory authority for § 643.2(b) of the notice of proposed

rulemaking (NPRM): "combinations of institutions of higher education."

Response. The Secretary agrees and has deleted § 643.2(b) of the NPRM from these final regulations.

Comment. One commenter suggested that § 643.2 include an additional paragraph that would specify as eligible Indian tribes, tribal governments, inter-tribal councils and Indian organizations.

Response. No change has been made. These groups are covered as eligible applicants under § 643.2(b) "public and private agencies and organizations."

§ 643.3 Eligible participants.

Comment. Three commenters suggested that § 643.3(a)(3) would be more appropriate if it were revised to read, "has completed the ninth grade or is at least 16 years old and not older than 21 years old."

Response. No change has been made. The law requires that eligible participants be persons who either have completed six years of elementary education or are at least 12 years of age but not more than 27 years of age, except in the case of veterans or "unless the imposition of any such limitation with respect to any person would defeat the purposes of this section (Talent Search) or the purposes of section 417E (Educational Opportunity Centers)."

who are either low-income individuals *or* potential, first-generation college students.

Response. No change has been made. The law requires that not less than two thirds of the project participants be low-income individuals who are potential first-generation college students.

Comment. One commenter questioned how Talent Search projects would document the "first-generation" criterion for each participant.

Response. A grantee may satisfy this requirement if it obtains a written statement from the applicant or the applicant's parents attesting to that fact. This can be done on a participant eligibility form.

Comment. One commenter was concerned because § 643.4(a)(2) of the NPRM (§ 643.4(b)) of these regulations limits the eligibility of the target population to those individuals below 150 percent of the poverty level.

Response. The law (Section 417B(c)(1) of the Higher Education Act of 1965 (HEA)) requires that two-thirds of the participants be low-income, as well as potential first-generation college students. Further, the law (Section 417A(d)(2) of the HEA) defines a "low-income individual or a person from a family whose taxable income for the

that "* * * individuals participating * * *" must give assurances that they "* * * do not have access to services from another project funded under this section or under section 417E."

Response. A change has been made. Section 643.4(b) of the proposed regulations has been removed. The requirement has been placed under paragraph (c) of § 643.20 of these final regulations (Assurances) and has been revised.

Comment. Five commenters suggested that § 643.4(c) of the proposed regulations be deleted. The commenters pointed out that paragraph (c) contradicted the intent of the legislation to provide program administrators at the local level with the discretion to choose from among the eligible population those students who are most in need of the services.

Response. The Secretary agrees and has deleted from these regulations § 643.4(c) of the NPRM. (§ 643.5) (*Target area.*)

Comment. Several commenters suggested that § 643.5 of the NPRM should be dropped because the provisions are not needed.

Response. The Secretary agrees and has deleted this section

concept of a target area being a project's service area. The Secretary believes it essential for responsible program and project management that each applicant define its proposed service area. The notion of a target area being a discretely defined service area is supported by the House and Senate reports. In discussing the placement of Talent Search projects and Educational Opportunity Centers, the reports direct the Secretary to assure that there is no overlap of target areas if more than one project or center is funded at a particular location.

Comment. Two commenters noted that the law, unlike the proposed regulations, defined a veteran according to Section 1652(a) of Title 38 of the United States Code (U.S.C.)

Response. A change has been made. The Secretary has deleted the definition for veteran as used in the proposed regulations and has defined that term in accordance with Section 1652(a) of Title 38 U.S.C.

Comment. One commenter suggested that the regulations include a definition of "postsecondary education."

Response. The Secretary agrees and has included in § 643.6(b) of these regulations a definition of

However, the Secretary has deleted the reference to the Special Services Program since a participant in a Special Services project must be enrolled in a postsecondary institution, and, therefore, would be ineligible under § 643.3(a)(6) to participate in a Talent Search project.

(§ 643.11) (Project location.)

Comment. One commenter noted that the language used in § 643.11 was less inclusive than the language used in the statute. Another commenter questioned whether "project location," as described would allow for rural projects that are mobile to take their services to the participants.

Response. A change has been made. This requirement was not intended to prevent Talent Search projects from providing mobile services if they are funded to do so. The Secretary has moved the requirement to § 643.20 (Assurances) and rewritten it to read: "An applicant shall submit * * * an assurance that the project is located in a setting or settings that are accessible to the participants."

§ 643.20 Assurances. (How to apply for funds.)

Comment. Three commenters questioned why consideration was given to only adding points for experience in § 643.30(b). The commenters suggested that poor experience should receive a negative rating.

Response. Paragraph (b) has been revised. The sentence concerning the awarding of up to 30 points for experience has been deleted. Point assignment for past performance appeared in a separate notice of proposed rulemaking for § 643.32.

§ 643.31 Selection criteria the Secretary uses.

Comment. One commenter suggested that § 643.31(f) of the NPRM be rewritten to conform more with the statutory authority.

Response. A change has been made. The Secretary has deleted § 643.31(f)(2)(i) of the proposed regulations. It is no longer applicable in relation to the new definition of "target area."

Comment. Two commenters suggested with regard to § 643.31(f)(3) (i), (ii) and (iii) of the NPRM that the requirements for the inclusion of data from the past three years to assess prejudicial [illegible]

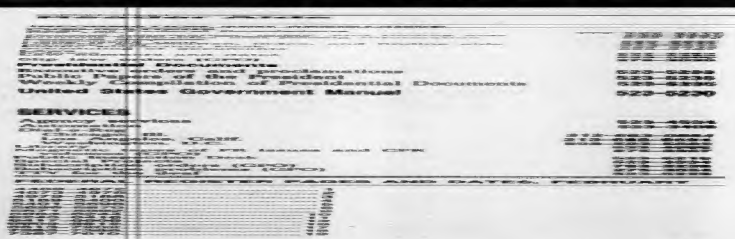

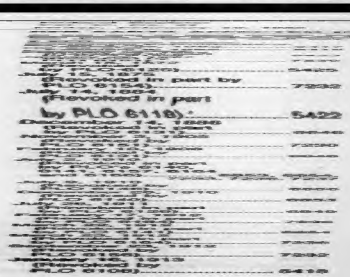

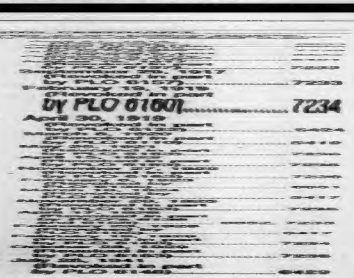

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